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VOL 3

INDEX

INDEX

A

Page

A. G. & S. MINING CO., ET AL., notice of hearing, etc., by National Bituminous Coal Commission__ 217, 347, 470
ACCOUNTS AND DEPOSITS. *See* Treasury Department.
ACE BUSINESS BUILDERS, notice of hearing by Federal Trade Commission_____ 834
ACUSHNET PROCESS CO.:
  Findings, etc., cease and desist order by Federal Trade Commission; manufacture, etc., of golf balls____ 501
  Notice of hearing_____ 271
ADAMS, CHARLES TRUE (Trustee, Utilities Power & Light Corp.):
  Notice of hearings by Securities and Exchange Commission_____ 757, 789
  Order on maximum interim allowance for fees, expenses, etc_____ 1011
ADAMS EXPRESS CO., orders by Securities and Exchange Commission_____ 50, 66, 978, 1012
ADAMS, STEWART W., complaint by Federal Trade Commission; manufacture, etc., of snow fence____ 225
ADJUSTED SERVICE BONDS. *See* Bonds.
ADKINS MANUFACTURING CO., notice of hearing by Federal Trade Commission_____ 506
ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER, regulations_____ 1013
AGRICULTURAL ADJUSTMENT ADMINISTRATION. *See* Agriculture, Department of.
AGRICULTURAL CONSERVATION PROGRAM, 1936, 1937, 1938. *See* Agriculture, Department of: Agricultural Adjustment Administration.
AGRICULTURAL ECONOMICS, BUREAU OF. *See* Agriculture, Department of.
AGRICULTURAL LABORATORIES, INC., findings, etc., cease and desist order by Federal Trade Commission; development, etc., of nitrogen fixing bacteria_____ 93
AGRICULTURAL PRODUCTS, countervailing duties revoked on certain, from Germany_____ 710
AGRICULTURE, DEPARTMENT OF:
  Agricultural Adjustment Administration:
    Agricultural conservation program, 1936:
      Insular region, basis for determining performance_____ 240
      North central region, Bulletin No. 2–D_____ 717
    Agricultural conservation program, 1937:
      East central region, Bulletin No. 101:
        Amendments_____ 1009
        Guilford County, North Carolina, Supplement (a)_____ 659
        West Virginia, Supplement (c)_____ 259
      North central region, Bulletin No. 101, Supplement No. 7_____ 519
      Southern region, Bulletin 101:
        Amendment 18_____ 2
        Kemper County, Miss., Amendment 4_____ 11
        Pulaski County, Ark., Amendment 3_____ 11
      Western region, Bulletin No. 101, supplements:
        Arizona_____ 327
        California_____ 328
        Colorado_____ 328
        Idaho_____ 329

Page

AGRICULTURE, DEPARTMENT OF—Continued.
  Agricultural Adjustment Administration—Con.
    Agricultural conservation program, 1937—Con.
      Western region, Bulletin No. 101—Continued.
        Kansas_____ 329
        Montana_____ 329
        Pondera County_____ 330
        Nevada_____ 330
        New Mexico_____ 331, 599
        North Dakota_____ 331
        Oregon_____ 332
        Utah_____ 332
        Weber and Davis Counties_____ 333
        Washington_____ 333
        Wyoming_____ 333
    Agricultural conservation program, 1938, bulletin__ 487
      Alaska_____ 620, 778
      Hawaii_____ 622, 778
      Puerto Rico_____ 626, 778
      Supplement No. 1_____ 41
      Supplement No. 2_____ 259
      Supplement No. 3_____ 634
      Supplement No. 4_____ 616
      Supplement No. 5_____ 736
      Supplement No. 6_____ 754
      Supplement No. 7_____ 778
      Supplement No. 8_____ 829
      Supplement No. 9_____ 1000
      Upshur County, W. Va_____ 749
  Cantaloupes and honeyball and honeydew melons, handling of, California and Arizona:
    Base period to be used, proclamation_____ 959
    Proposed marketing agreement, etc., notice of hearing_____ 761
    Regulatory order_____ 960
  Corn, acreage allotment in commercial corn-producing area_____ 475
  Cotton:
    Marketing quotas on 1938 crop, instructions for holding referenda_____ 426, 428, 430, 507, 562
    National allotment for 1938_____ 425
    Referendum results, proclamation_____ 651
  Grapes, handling of, Counties of Benton, Madison and Washington, Arkansas, notice of hearing_____ 348
  Hops, handling of, Oregon, California, and Washington, hearing on proposed marketing agreement, etc_____ 999, 1030
  Lettuce, peas, celery, and cauliflower, handling of, Western Washington, hearing on proposed marketing agreement, etc_____ 853
  Milk, handling of:
    Cincinnati, Ohio, Marketing Area:
      Base period to be used, etc., proclamation____ 630
      Proposed marketing agreement, etc., notice of hearing_____ 80
      Regulatory order_____ 817
    La Porte County, Ind., Marketing Area, hearing on proposed regulatory order, etc., amendments_____ 1031
    New York Metropolitan Marketing Area, hearing on proposed marketing agreement, etc__ 844
    Philadelphia, Pa., Marketing Area, notice of hearing_____ 478
    St. Louis, Mo., Marketing Area, notice of reopening of hearing, etc_____ 122

AGRICULTURE, DEPARTMENT OF—Continued. Page
Agricultural Adjustment Administration—Con.
Milk, handling of—Continued.
Toledo, Ohio, Marketing Area, hearing on proposed marketing agreement, etc 829
Pears, plums, and Elberta peaches, marketing agreement and order regulating shipping of, California 276
Notice of hearing to include J. H. Hale Peaches 417
Potatoes, handling of:
Alabama, Louisiana, Arkansas, California, Florida, Georgia, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, hearing on proposed marketing agreement, etc., and amendment 712, 736
California, Colorado, Idaho, Maine, Michigan, Minnesota, Nebraska, etc., hearing on proposed marketing agreement, etc 1030
Louisiana, Texas, Mississippi, Alabama, and Florida, hearing on proposed marketing agreement, etc.; regulatory order 659, 907
Prunes (fresh), handling of, Umatilla County, Oreg., and Walla Walla County, Wash., hearing on proposed marketing agreement, etc 764
Range Conservation Program Bulletin, 1938; supplements 42, 295, 568, 1001
Sugar Act of 1937:
Florida, price determination for 1937 sugarcane crop 986
Hawaii, sugarcane production:
Farming practices, determination for 1938 crop 630, 975
Price determination 703
Wage rate determination; hearings, etc 500, 690
Liquid sugar quotas for foreign countries, 1938, notice of hearing, etc 85, 188
Louisiana:
Price determinations, 1937 and 1938 crops, amendment; notice of hearing 456, 911
Wage rates, notice of hearings, etc., 1938 crop 348
Mainland cane sugar area:
Farming practices, determination for 1938 crop 803
Payment eligibility for farm abandonment and crop deficiency, determination 777
Proportionate shares for producers, determination for 1937 and 1938 crops 651, 754
Sugar commercially recoverable, determination 777, 786
Wage rate determination 664
Puerto Rico:
Direct-consumption portion allotment, 1938 sugar quota 665, 786, 821, 938, 1077
Price determination, 1938 sugarcane crop 556
Proportionate shares for producers, 1938 and 1939 sugarcane crops 75
Quota allotment, notice of hearing, etc 2
Wage rate determination, 1938 crop 456
Sugar beets:
Farming practices, determination for 1938 crop 440, 634
Payment eligibility for farm abandonment and crop deficiency, determination 785
Price determination, 1937 and 1938 crops 702
Sugar commercially recoverable per acre, determination, 1937 program 656, 748
Wage rate determinations, 1937 and 1938 crops 189, 215, 707
Wage rates, production, etc., 1938 crop, notice of hearings, etc 90
Sugar beets or sugarcane, determination of producers who are also processors 999

AGRICULTURE, DEPARTMENT OF—Continued. Page
Agricultural Adjustment Administration—Con.
Tobacco, 1938 crop:
Burley, instructions for holding referendum 657
Referendum result on marketing quota 901
Total supply for marketing year, proclamation 657
Fire-cured and dark air-cured, national marketing quotas 440
Referenda on marketing quotas 430, 562, 651
Flue-cured, national marketing quotas, etc 439
Referenda on marketing quotas 428, 507, 651
Agricultural Economics, Bureau of:
Bankhead-Jones Farm Tenant Act, administration of land conservation and utilization program 986
Burley Tobacco, official grain standards amended 189
Export Apple and Pear Act, grades, requirements, and regulations 671
Perishable Agricultural Commodities Act, 1930, revised regulations for carrying out provisions of 508
Rice:
Certificates of origin, inspection and certification regulations amended 893
Rough, standards for determination of milling quality 1009
United States Grain Standards Act:
Districts and headquarters designated for purposes of administration 969
Fees and charges in appeals, regulations amended 980
Alaska Game Commission, regulations for guides, poisons, trapping and hunting licenses 813
Animal Industry, Bureau of:
Breeds and purebred animals, regulations governing recognition of 822, 1010
Livestock:
Domestic, etc., importation from all countries except Mexico, regulations amended 1010
Interstate movement, regulations amended 1009
Nebraska Stockgrowers Assn., authorized to conduct brand inspection 941
Packers and Stockyards Act, notices under:
Dearman & Martin Commission Co., Meridian, Miss 478
Ellington and Cook Livestock Com. Market, Alexandria, La 630
Fairbury Livestock Co., Fairbury, Nebr 457
Gallatin Livestock Market, Inc., Gallatin, Tenn 821
Greater Little Rock Stock Yards, Inc., North Little Rock, Ark 673
Jackson Livestock Commission Co., Jackson, Miss 86
Jones-Neuhoff Commission Co., Macon, Ga 29
Kearney Livestock Commission Co., Kearney, Nebr 334
LaGrande Livestock Commission Co., LaGrande, Oreg 457
Little Rock Stock Yards Commission Co. (W. W. Chronister, et al.), North Little Rock, Ark 973
McCook Livestock Exchange (C. W. Poore, et al.), McCook, Nebr 821
Morgan County Livestock Auction Co., Fort Morgan, Colo 80
Nampa Livestock Commission Co., Nampa, Idaho 276
Ontario Livestock Commission Co. (Ross Smeed and Walter Shimp), Ontario, Oreg 29
Patterson, H. R., and Son, Miami, Okla 198
Simon, Victor (American Union Stock Yards and Victor Simon Sale Stable), Baton Rouge, La 457
Stockyard owners, market agencies, dealers, etc., rules and regulations 432

AGRICULTURE, DEPARTMENT OF—Continued. Page
Animal Industry, Bureau of—Continued.
Rinderpest and foot-and-mouth disease, order to prevent introduction of; amendments 63, 91, 223, 973, 1031
Splenetic or tick fever quarantine release, Polk and Osceola Counties, Fla 927
Tuberculosis-free accredited areas, names of counties 85, 348, 571, 737, 915
Biological Survey, Bureau of:
Alaska, game and land fur-bearing animals, game and non-game birds, etc., regulations 803
Chautauqua Migratory Waterfowl Refuge, Ill., fishing permitted 673
Migratory birds, Tex., order prohibiting taking of 1011
National wildlife refuges, administration regulations amended 915
Pea Island Migratory Waterfowl Refuge, N. C., closed area designated 581
Upper Mississippi River Wild Life and Fish Refuge, Minn., trapping regulations 515
Wichita Mountains Wildlife Refuge, Okla., fishing permitted in certain lakes 987
Commodity Exchange Administration:
Commodity Exchange Act, regulations of Secretary of Agriculture amended 674, 781, 893
San Francisco Grain Exchange, designated contract market for wheat and barley 478
Wheat, corn, oats, etc., delivery period after close of trading in futures 418
Wool Associates of New York Cotton Exchange, Inc., designated contract market for wool tops 1068
Entomology and Plant Quarantine, Bureau of:
Broomcorn and broomcorn brooms (imported), disinfection methods 916
Japanese Beetle Quarantine, revised regulations 718
Articles exempt from certification requirements 610
Potatoes, fumigation by methyl bromide as certification of moving by refrigerator car, etc 854
Mexican fruitfly quarantine, sterilization of grapefruit and oranges by heat 729
Plants and plant products, movement into and out of District of Columbia, regulations revised 829
White-pine blister rust quarantine, regulations revised 1066
Farm Security Administration:
Bankhead-Jones Farm Tenant Act:
Delegations of authority for tenant purchase program 708
Land acquired for resettlement purposes, authorizing use of 388
Deputy Administrator, powers and functions 212
Designation of counties for loans:
Arizona 334
California 334
Colorado 519
Connecticut 572
Delaware 527
Hawaii 630
Idaho 91
Maine 386
Maryland 500
Massachusetts 457
Michigan 91
Minnesota 91
Montana 527
Nevada 418
New Hampshire 572
New Jersey 224, 610
Oregon 91
Pennsylvania 91, 674
Rhode Island 527
South Dakota 2

AGRICULTURE, DEPARTMENT OF—Continued. Page
Farm Security Administration—Continued.
Designation of counties for loans—Continued.
Utah 91
Vermont 572
Washington 224
Wisconsin 92
Wyoming 519
Loans to community and cooperative associations for projects, labor standards of wages, hours, etc., to be maintained 189
Northeast Washington Project, Wash., lands transferred to Forest Service for administration, etc 844
Resettlement type projects, tenure agreements and leases 386
Federal Crop Insurance Corporation:
Board of Directors, appointment of 441
Wheat crop insurance, regulations 854
Food and Drug Administration:
Naval Stores Act, enforcement regulations revised 941
Tea Act, standards established under 516
Forest Service:
Minidoka National Forest, occupancy, use, protection, etc 343
National forests, regulations governing occupancy, use, protection, etc 343, 782, 822
Mining within Custer State Park Game Sanctuary, Harney National Forest, S. Dak 1001
Public lands, Wash., transferred to 844
Public land withdrawals for use of Department:
Arkansas 764
Louisiana 767
Secretary of:
Capital stock held by, designating Secretary of the Treasury to receive 632
Public lands, jurisdiction over certain, transferred to Secretary of the Interior 134, 767, 1057

AIR COMMERCE, BUREAU OF. *See* Commerce, Department of.

AIR NAVIGATION SITES. *See* Interior, Department of the: General Land Office.

AIRLINES, issuance of competency certificates 123

AIRPORTS OF ENTRY. *See* Treasury Department: Customs, Bureau of.

ALABAMA:
Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
Potatoes, handling of:
Proposed marketing agreement, etc., notice of hearing 659, 712, 736
Regulatory order; determination 907
Talladega National Forest, lands added 928

ALABAMA COALS, INC., approval as marketing agency extended by National Bituminous Coal Commission 237

ALASKA. *See also* Alaska Railroad.
Agricultural conservation program, 1936, 1938, insular region. *See* Agriculture, Department of.
Alaska Road Commission, lands reserved for aviation-field purposes 10
Amaknak Island, portion transferred to control and jurisdiction of Secretary of the Navy 385
Animals (game and land fur-bearing) and birds (game and non-game), etc., regulations 803
Chugach National Forest, land excluded from, amendment 1
Fishery regulations, amendments 380, 860
Game Commission; regulations for guides, poisons, trapping and hunting licenses 813
Professional radio operator licenses, order by Federal Communications Commission 631

ALASKA—Continued. Page
Public lands:
Placing under control and jurisdiction of Secretary of the Treasury for Federal buildings 925
Withdrawal for classification, etc 951
Withdrawal for use of Navy Department 615
Withdrawal revoked 564
Radio stations, other than broadcast and amateur, licenses extended 902
Tongass National Forest, land placed under control of Secretary of War for radio receiving station at Juneau, description corrected 195
ALASKA RAILROAD:
Freight service; tariffs 669, 715, 758, 848, 979
Freight shipments, information for 559
Local passenger tariff 280
Long distance telephone tariff 558
Passenger and freight service on Tanana and Yukon Rivers 559
Passenger service, revised schedule 669
Public land withdrawal, Alaska, for use of 591
Terminal tariff 649
Transit permits covering corpses 796
ALBANY LIGHTING CO., notice of hearing by Federal Power Commission 522
ALCOHOL. *See* Treasury Department: Internal Revenue, Bureau of.
ALDRED, JOHN EDWARD, order for hearing by Federal Power Commission 796, 1032
ALIENS. *See also* Labor, Department of: Immigration and Naturalization Service.
Bona fide seamen, documents required for entry into United States 216
Documents required of, entering the United States 753
Immigration quotas, fiscal year ending June 30, 1938, etc 841
ALLEN, F. JEROME, order for hearing by Federal Power Commission 796, 1032
ALLEN, W. D., MFG. CO., findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities 12
ALLEY DWELLING AUTHORITY, designating Architect of the Capitol as a member of 51
ALLIED GIFT SHOP, notice of hearing by Federal Trade Commission 835
ALLIED PRODUCTS CORP., order by Securities and Exchange Commission 260, 529
ALLIED SPECIALTIES, INC., notice of hearing by Federal Trade Commission 966
ALLNER, F. ABELS, order for hearing by Federal Power Commission 796, 1032
AMAKNAK ISLAND, ALASKA, portion transferred to control and jurisdiction of Secretary of the Navy 385
AMBROSIA CANDY CO., notice of hearing by Federal Trade Commission 845
AMERICAN FLANGE & MANUFACTURING CO., INC., complaint, etc., by Federal Trade Commission; sale, etc., of "Tri-Sure" closure parts 872
AMERICAN GAS AND POWER CO., notice of hearing by Securities and Exchange Commission 987
AMERICAN LIGHT & TRACTION CO.:
Effective date of declaration, etc., by Securities and Exchange Commission 603
Notice of hearing 523
AMERICAN NOVELTY CO., notice of hearing by Federal Trade Commission 583
AMERICAN SOUTH AFRICAN LINE, application for operating-differential subsidy contract, public hearing 668, 752
AMERICAN STEEL FOUNDRIES, order for hearing by Securities and Exchange Commission 586
AMERICAN UTILITIES CORP., notice of hearing, etc., by Securities and Exchange Commission 119
AMERICAN WATER WORKS AND ELECTRIC CO., INC.:
Effective date of declaration by Securities and Exchange Commission 192
Plan of reorganization, etc., findings and order 8
ANCHORAGE GROUNDS. *See also* Quarantine.
Hampton Roads and harbors of Norfolk and Newport News, Va., regulations 741
Port of New York, regulations amended 11
Turners Creek, Ga., regulations 862
Wilmington River, Thunderbolt Harbor, Ga., regulations 862
ANDRIOTES, C. G., & C., cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
ANIMAL INDUSTRY, BUREAU OF. *See* Agriculture, Department of.
ANIMALS. *See also* Agriculture, Department of: Animal Industry, Bureau of.
Alaska Game Commission, regulations for guides, poisons, trapping and hunting licenses 813
Bears, feeding of, etc., prohibited in national parks 36
Domestic, duty-free return when straying, etc., across foreign county boundary line 1
Game and land fur-bearing, Alaska, regulations 803
Wild, consular certificates required for entry:
Imported from China 280, 564, 905
Imported from Japan 664
ANNAPOLIS DAIRY PRODUCTS CO., order by Securities and Exchange Commission 86
ANNETT, HUGH W., order for hearing by Federal Power Commission 738, 860
ANTHRACITE COAL AND BRIQUETTING CO., INC., hearing by National Bituminous Coal Commission 28
ANTIDUMPING, action by customs appraiser where no finding has been published 636
APALACHICOLA RIVER, opening of Louisville & Nashville Railroad Drawbridge at River Junction, Fla 596
APPLES, grades, requirements, and regulations under Export Apple and Pear Act 671
APPRAISERS (CUSTOMS):
Action by, on nonpublication of antidumping findings 636
Duties of, at New York 67
ARANSAS MIGRATORY WATERFOWL REFUGE, TEX., establishment 10
ARCHITECT OF THE CAPITOL, designated member of the Alley Dwelling Authority 51
ARFARAS, N. G., cease and desist order by Federal Trade Commission; sale of sponges 995
ARGO PEN-PENCIL CO., INC., notice of hearing by Federal Trade Commission 472
ARIZONA:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Air navigation site withdrawal 592
Boulder Dam Recreational Area, regulations for operation of boats, etc., on Lake Mead 914
Cantaloupes and honeyball and honeydew melons, handling of:
Base period to be used; regulatory order 959
Proposed marketing agreement, etc., notice of hearing 761
Loans by Farm Security Administration, designation of counties for 334

ARIZONA—Continued. Page
Navajo and Hopi Indian Reservations:
Grazing regulations 526
Law and order regulations 953
Public lands:
Withdrawal revoked for national monument classification 791
Withdrawal revoked for use as target range for National Guard 951
Withdrawal revoked 554
San Carlos Project, operation and maintenance charges 776
Stock driveway withdrawal enlarged 1029
Yuma Irrigation Project, annual water charges 785
ARKANSAS:
Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
Bituminous coal in intrastate commerce, etc., investigation of nature and extent 567
Grapes, handling of, notice of hearing 348
Hot Springs National Park, regulations governing use and administration of waters of, etc 262
Little Rock Stock Yards Commission Co., notice under Packers and Stockyards Act 973
Ouachita River, regulations modified governing use, administration, etc 828
Potatoes (Irish), handling of, hearing on proposed marketing agreement 712, 736
Public land withdrawal for use of Department of Agriculture 764
Recreational land withdrawal revoked 592
White River Migratory Waterfowl Refuge, closed area designated 591
ARMOUR & CO. (ILL.), unlisted trading privileges extended by Securities and Exchange Commission 707
ARMS AND MUNITIONS CONTROL, OFFICE OF. *See* State, Department of.
ARMY DAY, proclamation 604
ARMY, allowances for quarters and subsistence to enlisted men, regulations amended 555
ARNOLD & CO., suspension and expulsion order by Securities and Exchange Commission 507
ARONSON, G. A., order for hearing by Federal Power Commission 797
AROUND THE WORLD GUM CO., notice of hearing by Federal Trade Commission 474
ASHLAND COAL & COKE CO., notice of hearing by National Bituminous Coal Commission 937
ASHTABULA HARBOR, OHIO, regulations governing use, administration, etc 982
ASSOCIATED GAS & ELECTRIC CORP., unlisted trading privileges extended, etc., by Securities and Exchange Commission 206
ASSOCIATED INDUSTRIES OF NEW YORK STATE, INC., notice of hearing by National Bituminous Coal Commission 262
ATCHAFALAYA RIVER, LA., drawbridge regulations 795
ATLANTA, GA., minimum prices for coals produced, hearing by National Bituminous Coal Commission 239, 470
ATLANTIC CITY ELECTRIC CO., unlisted trading privileges extended by Securities and Exchange Commission 204
ATLANTIC COAST LINE RAILROAD CO., ET AL., order by Interstate Commerce Commission 560
ATLANTIC COMMISSION CO., complaint by Federal Trade Commission; sale, etc., of fresh fruits and vegetables 527
ATLANTIC OCEAN, use, administration, etc., of all tributary waterways south of Chesapeake Bay, etc 933
ATLANTIC SMOKELESS COAL CO., notice of hearing by National Bituminous Coal Commission 937
ATLAS, CHARLES, LTD., notice of hearing by Federal Trade Commission 733
ATLAS COAL CO., reclassification of coals of Capito Mine, order by National Bituminous Coal Commission 233
ATLAS CORP., unlisted trading privileges extended by Securities and Exchange Commission 77
ATTORNEY GENERAL OF THE UNITED STATES:
Authorized to reject bids for certain property at Savannah, Ga., pursuant to Trading With the Enemy Act 688
Delegated certain powers under Trading With the Enemy Act 998, 1055
ATTORNEYS:
Indian tribe representatives, recognition by Office of Indian Affairs 745
Negotiation and execution of contracts with Indian tribes, regulations 1007
Powers of, Customs Regulations amended 801
Registration of, entitled to practice before United States Maritime Commission 273
AUGUSTA, GA., operation of bridges over Savannah River, regulations 968
AUSTRALIA, application of duties proclaimed in certain trade agreements to products of 231
AUSTRIA:
Products of:
Duties, application proclaimed in certain trade agreements to 728
Marking to indicate Germany as country of origin 735
AUTOLINE OIL CO., registration of securities withdrawn by Securities and Exchange Commission 530
AUTOMOTIVE TEST LABORATORIES OF AMERICA, cease and desist orders by Federal Trade Commission; certificates of merit, etc., on Hytense and Hypower products 894, 897

B

BAIRD FISH HATCHERY, CALIF., establishment revoked 327
BAKER, CHAS. F., & CO., INC., findings, etc., cease and desist order by Federal Trade Commission; sales, etc., of commodities 12
BALBOA, CANAL ZONE, naval radio station reserve modified 734
BALDWIN LOCOMOTIVE WORKS, order for hearing by Securities and Exchange Commission 587
BALLAST, dumping in Hillsboro Bay, Fla., regulations revoked 1006
BALTIMORE, FEDERAL LAND BANK OF, loan fees for extension of indebtedness and security releases 435, 894
BALTIMORE MAIL STEAMSHIP CO.:
Minimum manning scales for individual subsidized vessels 904
Vessels owned by, application to transfer to intercoastal trade 979
BANKHEAD-JONES FARM TENANT ACT:
Land conservation and utilization program, administration 986
Resettlement purposes, use of land and loans authorized 388
Tenant purchase program, delegations of authority 708

BANKS. *See also* Board of Governors of the Federal Reserve System; Farm Credit Administration; Federal Deposit Insurance Corporation; Federal Home Loan Bank Board.
Commodity Credit Corporation ¾ percent notes, Series C, offering of — 801
Federal Reserve, collateral security on special deposits of public moneys, etc — 842
Government checks and warrants, payment regulations — 842
Indian funds, deposit regulations — 937
Loans to corn producers, instructions — 123
BANTA, GUY J., notice of hearing by Federal Trade Commission — 631
BARCLAY CLOTHING CO., notice of hearing, etc., by Federal Trade Commission — 128
BARLEY:
Delivery period after close of trading in futures — 418
San Francisco Grain Exchange designated contract market for — 478
BARNSDALL OIL CO., unlisted trading privileges denied by Securities and Exchange Commission — 707
BARRACK BAGS, ETC., extension of minimum wage determination for Cotton Garment Industries to manufacture of, decision — 257
BARRETT, ANDREW J., order for hearing, etc., by Securities and Exchange Commission — 584, 655
BATON ROUGE ELECTRIC CO.:
Notice of hearing by Federal Power Commission — 600
Notice of hearing by Securities and Exchange Commission — 523, 655
BAUER & BLACK, notice of hearing by Federal Trade Commission — 924
BAUM, ARTHUR, notice of hearing by Federal Trade Commission — 726
BAXTER, MARCUS L., notice of hearing by Securities and Exchange Commission — 706
BEARS, feeding, etc., prohibited in national parks — 36
BEASLEY, I. M. (Jackson Livestock Commission Co.) designated stockyard owner at Jackson, Miss — 86
BELL & ZOLLER COAL MINING CO., notice of hearing, etc., by National Bituminous Coal Commission — 88, 386, 470
BELLINGHAM, WASH., airport of entry redesignated — 801
BERGER, ALBERT E., notice of hearing by Federal Trade Commission — 1081
BERKEY & GAY FURNITURE CO., unlisted trading privileges extended by Securities and Exchange Commission — 77
BERLO VENDING CO., notice of hearing by Federal Trade Commission — 603
BERNSTEIN, SAMUEL E., AND PHILIP J., notice of hearing by Federal Trade Commission — 560
BERWIND-WHITE COAL MINING CO., notice of hearing, etc., by National Bituminous Coal Commission — 218, 347, 470
BETHLEHEM STEEL CORP. (DEL.), unlisted trading privileges denied by Securities and Exchange Commission — 707
BIERY, RALPH J., notice of hearing by Federal Trade Commission — 966
BIG LUMP COAL CO., notice of hearing by National Bituminous Coal Commission — 877, 906
BIG TIMBER CREEK, N. J., opening of Gloucester Turnpike Company Drawbridge, regulations revoked — 795
BINKLEY MINING CO., order by National Bituminous Coal Commission — 71
BIOLOGICAL SURVEY, BUREAU OF. *See* Agriculture, Department of.
BIRDS. *See also* Refuges.
Alaska Game Commission, regulations for guides, poisons, trapping and hunting licenses — 813
Game, non-game, etc., Alaska, regulations — 803
Parrots, importations to be inspected by Public Health officers — 998
Wild, importation from China, Customs Regulations — 280, 564, 905
BIRMINGHAM GAS CO., notice of hearing by Securities and Exchange Commission — 987
BISHOP JONES CO., notice of hearing, etc., by Federal Trade Commission — 1002
BITUMINOUS COAL. *See* Interior, Department of the: National Bituminous Coal Commission.
BLACHER, NATHAN C., notice of hearing by Federal Trade Commission — 560
BLACK CANYON, GUNNISON NATIONAL MONUMENT, COLO., enlargement — 975
BLACK COULEE MIGRATORY WATERFOWL REFUGE, MONT., establishment — 231
BLACK HARDWARE CO., findings, etc., cease and desist order by Federal Trade Commission; sales, etc., of commodities — 12
BLACK RIVER, WIS., drawbridge regulations — 929
BLACKBERRY WINE, sale of misbranded bulk shipments — 346
BLOCH, ALBERT, AND SONS, INC., cease and desist order by Federal Trade Commission; sale, etc., of sponges — 995
BLOCK, SAMUEL R., notice of hearing by Federal Trade Commission — 845
BLODGETT, THOMAS HARPER, order for hearing by Federal Power Commission — 797
BLOMQUIST, EDWIN O., notice of hearing by Federal Trade Commission — 845
BLUE DIAMOND COAL CO., notice of hearing by National Bituminous Coal Commission — 877, 906
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM:
Credit, extension and maintenance by brokers, dealers, etc., Regulation T amended — 610
Member banks, reserves required to be maintained — 782
Special omnibus accounts, additional time for obtaining statements, Regulation T revised — 3
BOARD OF TAX APPEALS. *See* United States Board of Tax Appeals.
BOATS. *See also* Vessels.
Motor boats, regulation of — 991
BOEHM, ALFRED, notice of hearing by Federal Trade Commission — 272
BOEING AIRPLANE CO.:
Orders for hearings by Securities and Exchange Commission — 585, 587
Unlisted trading privileges denied — 707
BOISE BARRACKS MILITARY RESERVATION, IDAHO, portion transferred to control and jurisdiction of Veterans' Administration — 217
BOISE IRRIGATION PROJECT, IDAHO–OREG., annual water charges, public notice — 425
BOISE PROJECT, IDAHO, reclamation withdrawal — 982
BONDED WAREHOUSE:
Merchandise in, extensions of warehousing period — 99
Proprietor's bond, necessity for approval of Collector of Internal Revenue eliminated — 223
BONDHOLDERS' PROTECTIVE COMMITTEE, notice of hearing by Securities and Exchange Commission — 577

BONDS. *See also* Banks.
Adjusted Service, authority to witness and certify requests for payment — 715, 729
Federal Home Loan Banks, special deposits of public moneys, etc — 842
General term bond for entry of merchandise — 987
Retirement Fund, regulations by Home Owners' Loan Corporation — 30
Surety, Federal Savings and Loan Associations, regulations amended — 418
Treasury, 1948, offering of, etc — 526
United States Savings, officers authorized to witness and certify requests for payment — 715
Warehouse-entry, merchandise in bonded warehouse — 99
BOONE COUNTY COAL CORP., notice of hearing by National Bituminous Coal Commission — 34
BOSTON, MASS., Engineer District, fishing regulations modified — 893
BOTANY CONSOLIDATED MILLS INC., order by Securities and Exchange Commission — 214, 612
BOTWIN, PAUL AND EAULA LOUISE, notice of hearing by Federal Trade Commission — 518
BOUCHARD TRANSPORTATION CO., INC., NEW YORK, N. Y., temporary exemption from radiotelegraph installation requirements — 81
BOULDER DAM RECREATIONAL AREA, operation of privately owned boats, etc., on Lake Mead — 914
BRACH, E. J., & SONS, ET AL, notice of hearing by Federal Trade Commission — 845
BRADLEY, JOE:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls — 501
Notice of hearing — 271
BRADLEY, JOSEPH C., notice of hearing by Federal Trade Commission — 471
BRAHENEY, BERNARD FRANCIS, notice of hearing by Federal Power Commission — 212
BRAIDS, ETC. (IMPORTED), additional facts required on customs invoice — 729
BRANDY:
Distillers exempted from provisions of Internal Revenue laws — 346
Standards of identity revisions, hearing on proposed regulation amendments — 774
BRANDYWINE RIVER, highway drawbridge regulations, Wilmington, Del — 930
BRAUN, ARTHUR E., AND CARL J., order for hearing by Federal Power Commission — 738, 860
BREGSTONE, JOHN MILTON, ET AL., notice of hearing by Federal Trade Commission — 836
BRESLIN, FRIEDA E., notice of hearing by Federal Trade Commission — 471
BREWER, CHAUNCEY M., order for hearing by Federal Power Commission — 739
BREWERTON CO., THE, order by National Bituminous Coal Commission — 416, 438
BRILL, H. C., CO., INC. (E-ZEE FREEZ):
Complaint by Federal Trade Commission; sale, etc., of ice cream preparations — 126
Findings of fact and conclusion — 419
BRITISH COLONIAL EMPIRE, trade agreement negotiations with United Kingdom on behalf of, public notice — 52, 231
BROADCAST STATIONS. *See* Federal Communications Commission.
BROOKLYN UNION GAS CO., order by National Bituminous Coal Commission — 292, 342
BROOKSIDE-PRATT MINING CO., minimum prices established for coals produced by "Lindbergh" Mine — 437
BROOMCORN (imported), etc., disinfection methods under quarantine regulations — 916
BROTHERHOOD OF LOCOMOTIVE ENGINEERS, order by Interstate Commerce Commission — 560
BROWN, EVA O., notice of hearing by Federal Trade Commission — 473
BRUNDAGE, AVERY, notice of hearing by Securities and Exchange Commission — 577
BUCHER, JACOB H., order for hearing by Federal Power Commission — 797
BUCKNER, MORTIMER N., order for hearing by Federal Power Commission — 796, 1032
BUCKSTAFF, NOEL H., order for hearing by Federal Power Commission — 739, 860
BUFFALO COAL & COKE CO., order by National Bituminous Coal Commission — 40
BUFFALO HARBOR, N. Y., regulations governing use, administration, etc — 982
BUFFALO INDUSTRIAL CO., complaint by Federal Trade Commission; manufacture of snow fence — 225
BUFFALO RAPIDS PROJECT, MONT., reclamation withdrawal — 208
BUHMAN & GOETZE, notice of hearing by Federal Trade Commission — 518
BURLEY TOBACCO. *See* Tobacco.
BURLINGTON IMPROVEMENT CO., notice of hearing, etc., by Securities and Exchange Commission — 119
BURLINGTON RAILWAY AND LIGHT CO., ET AL., notice of hearing, etc., by Securities and Exchange Commission — 119
BURNS, ALAN E., order for hearing by Federal Power Commission — 797
BUSHONG, MARVIN E., order for hearing by Federal Power Commission — 796, 1032
BUTLER CONSOLIDATED COAL CO., notice of hearing, etc., by National Bituminous Coal Commission — 35, 198, 347, 470
BYLLESBY CORP., notice of hearing by Securities and Exchange Commission — 1012
BYLLESBY, H. M., & CO., notice of hearing by Securities and Exchange Commission — 1005

C

CABOT, GODFREY L., INC., notice of hearing by Securities and Exchange Commission — 119
CADET OFFICERS, ETC., regulations governing appointment, etc., on subsidized vessels — 554, 667
CAL-A-MO LABORATORIES, notice of hearing by Federal Trade Commission — 631
CALEXICO, CALIF., airport of entry redesignated at — 82
CALIFORNIA:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Air navigation site withdrawal — 875
Baird Fish Hatchery on McCloud River, establishment revoked — 327
Calexico, airport of entry redesignated at — 82
Cantaloupes, handling of:
Base period to be used; regulatory order — 959
Proposed marketing agreement, etc., notice of hearing — 761
Channel Islands National Monument, establishment — 827
Drawbridges crossing all navigable waterways, regulations amended — 843

Page

CALIFORNIA—Continued.
Golden Gate International Exposition, 1939, San Francisco:
Admission of aliens for participation 724
Entry of articles for exhibition 578
Grazing district modifications 562, 774
Honeyball and honeydew melons, handling of, base period to be used; regulatory order 959
Hops, handling of, hearing on proposed marketing agreement, etc 999, 1030
Klamath Irrigation Project, annual water charges 557
Loans by Farm Security Administration, designation of counties for 334
Northwestern Pacific Railroad Drawbridge across Sonoma Creek at Wingo, special regulations 33
Pala Indian Irrigation Project, operation and maintenance charges 775
Pears, plums, and Elberta peaches, proposed marketing agreement, etc., for shipping of 276
Notice of hearing to include J. H. Hale Peaches 417
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 712, 736, 1030
Public lands:
Transfer to control and jurisdiction of Secretary of the Navy, description corrected 278
Withdrawal authorized to be added to Yosemite National Park 1028
Withdrawal for construction and maintenance of public roads, etc 913
Rincon Indian Irrigation Project, operation and maintenance charges 775
San Diego vicinity, small passenger vessels exempted from radiotelegraph installation requirements 902
San Francisco Grain Exchange, designated contract market for wheat and barley 478
San Leandro Bay, between Alameda and Bay Farm Island, drawbridge regulations 33
Sequoia National Park, local subsidiary regulations 760
Yuma Irrigation Project, annual water charges 785

CALIFORNIA WATER SERVICE CO., unlisted trading privileges extended by Securities and Exchange Commission 205

CAMBRIA CLAY PRODUCTS CO., notice of hearing by National Bituminous Coal Commission 877, 906

CAMBRIA IRON CO.:
Order for hearing by Securities and Exchange Commission 586, 667
Unlisted trading privileges, application for extension withdrawn 793

CAMEL HAIR (BONDED), period extended for furnishing proof of use in manufacture of 192

CAMPAGNOLI & CO., INC., registration revoked by Securities and Exchange Commission 297

CANADA:
Pacific Halibut Fishery Convention, regulations adopted 551
Red cedar shingles from, importation limited 474
Red clover seed shipments 526
Trade agreement negotiations with, public notice 252

CANAL CONSTRUCTION CO., notice of hearing, etc., by Securities and Exchange Commission 846, 998

CANAL ZONE. *See also* Panama Canal, The.
Fort William D. Davis Military Reservation, lands set apart as 278
Naval radio station reserve, Balboa, modification 734

CANCER CONTROL MONTH, proclamation 656

CANO, A. A., order for hearing by Federal Power Commission 797

CANTALOUPES, handling of, Calif., and Ariz.:
Base period to be used; regulatory order 959, 960
Proposed marketing agreement, notice of hearing 761

Page

CANTON ISLAND, placed under control and jurisdiction of Secretary of the Interior 525

CAPE VINCENT, N. Y.:
Airport of entry redesignated 801
St. Lawrence River, regulations governing use, administration, etc 967

CAPITAL STOCK TAX RETURNS, authorizing inspection of; regulations 639, 641, 645

CARBON DIOXIDE MANUFACTURING INDUSTRY, promulgation of trade practice rules by Federal Trade Commission 601

CARRIERS TAXING ACT OF 1937, services excepted from "employment" under the Social Security Act 847

CARSON, JOHN, notice of hearings on petitions by National Bituminous Coal Commission 262, 274, 275

CARSON, WINFIELD B., order for hearing by Federal Power Commission 738, 860

CARTER CARBURETOR CORP., notice of hearing by Federal Trade Commission 473

CARTER COAL CO., orders by National Bituminous Coal Commission 63, 197

CASCADES CANAL, COLUMBIA RIVER, regulations revoked governing use, administration, etc 828

CATTLE. *See also* Livestock.
Countervailing duties revoked, Union of South Africa 637
Rinderpest and foot-and-mouth disease, order to prevent introduction of; amendments 63, 91, 223, 973, 1031
Splenetic or tick fever quarantine release, Polk and Osceola Counties, Fla 927
Tuberculosis-free accredited areas, names of counties 85, 348, 571, 737, 915

CAULIFLOWER, handling of, Western Washington, hearing on proposed marketing agreement, etc 853

CEASE AND DESIST ORDERS. *See* Federal Trade Commission.

CELERY, handling of, Western Washington, hearing on proposed marketing agreement, etc 853

CENTRAL BROADCASTING CO. (WHO), hearing postponed by Federal Communications Commission 903

CENTRAL ILLINOIS COAL MINING CO., order by National Bituminous Coal Commission 416, 438

CENTRAL MAINE POWER CO., notice of hearing, etc. by Securities and Exchange Commission 890, 1051

CENTRAL MASSACHUSETTS LIGHT & POWER CO., effective date of declarations, etc., by Securities and Exchange Commission 65

CENTRAL NEW HAMPSHIRE POWER CO.:
Notice of hearing by Securities and Exchange Commission 120
Order declaring company has ceased to be a holding company 382

CENTRAL PATTERN & FOUNDRY CO., cease and desist order by Federal Trade Commission; sale and distribution of aluminum castings 987

CENTRAL SERVICE CORP., notice of hearing, etc., by Securities and Exchange Commission 789, 1011

CENTRAL STATE COLLIERIES, INC., notice of hearing by National Bituminous Coal Commission 197

CENTRAL WEST UTILITIES CO., notice of hearing, etc., by Securities and Exchange Commission 119

CERTIFIED SALES SERVICE, notice of hearing by Federal Trade Commission 835

CHANNEL ISLANDS NATIONAL MONUMENT, CALIF., establishment 827

Page

CHARLOTTE SUPPLY CO., findings, etc., cease and desist order by Federal Trade Commission; sale etc., of commodities 12

CHAUTAUQUA MIGRATORY WATERFOWL REFUGE, ILL., fishing permitted 673

CHELAN NATIONAL FOREST, WASH., public land withdrawal for lookout station 261

CHEMICAL PRODUCTS, MNFRS., cease and desist order by Federal Trade Commission; certificates of merit, etc., on Hytense and Hypower products 894

CHENILLE CORP., OF AMERICA, notice of hearing by Federal Trade Commission 472

CHEQUAMEGON NATIONAL FOREST, WIS., lands reserved as part of 122

CHERRY SPECIALTY CO., notice of hearing by Federal Trade Commission 824

CHESAPEAKE AND DELAWARE CANAL, DEL., AND MD., regulations governing use, navigation, etc 68

CHESAPEAKE BAY, use, administration, etc., of all waterways tributary to Atlantic Ocean, etc 933

CHICAGO CURB EXCHANGE ASSOCIATION, registration withdrawn by Securities and Exchange Commission 507

CHILD HEALTH DAY—1938, proclamation 710

CHILDREN'S BUREAU. *See* Labor, Department of.

CHINA:
Aliens:
Admission, status, etc., of wife and minor children of lawful resident of United States 725
Documents required of, entering the United States 753
Transits, departure and deportation 725
Arms and munition exports to, regulations 695, 696
Wild animals and birds imported from, Customs Regulations 280, 564, 905

CHINA (VITREOUS OR VITRIFIED) INDUSTRY, prevailing minimum wage determination 901

CHIPPEWA INDIAN RESERVATIONS, MINN., restoration order 567

CHOCOLATE SALES CORP., notice of hearing by Federal Trade Commission 603

CHOLLAR EXTENSION MINING CO.:
Hearing postponed by Securities and Exchange Commission 77
Proceedings dismissed 214

CHORBA, FRANCIS, notice of hearing by Federal Trade Commission 752

CHRISTIANA RIVER, DEL., drawbridge regulations 892

CHRISTON, VASILIO, cease and desist order by Federal Trade Commission; sale, etc., of sponges 995

CHUGACH NATIONAL FOREST, ALASKA, land excluded from, amendment 1

CIMARRON PETROLEUM TRUST, stop order by Securities and Exchange Commission 485

CINCINNATI, OHIO, MARKETING AREA:
Milk, handling of, hearing on proposed marketing agreement, etc 80
Base period to be used, proclamation 630
Regulatory order 817

CITIES SERVICE CO., unlisted trading privileges extended, etc., by Securities and Exchange Commission 207

CITIZENS UTILITIES CO., order by Securities and Exchange Commission 715

CITY OF LOS ANGELES, notice of hearing by Federal Power Commission 1051

CIVIL AIR REGULATIONS. *See* Commerce, Department of: Air Commerce, Bureau of.

Page

CIVIL AIRWAYS OF THE UNITED STATES, designations of Federal airways systems as 63

CIVIL SERVICE RETIREMENT ACT, provisions extended to employees appointed under authority of Civil Service Rule II 951

CIVIL SERVICE RULES, AMENDMENTS:
Air Commerce, Department of Commerce, positions acquired upon noncompetitive examination 664
Lighthouse Service, Department of Commerce, positions excepted from examination 663
Public Health Service:
Attendants in hospitals, sanatoriums, etc 846
Employees in leprosy, yellow fever, etc., investigation stations 327
Unclassified laborers, appointment of 339
United States Housing Authority, field service positions, low-rent housing projects 795
United States Military Academy at West Point, civilian professors, instructors, etc 384

CIVILIAN CONSERVATION CORPS, selection to compose Veterans' Contingent of 1075

CLADAKIS, GEORGE, cease and desist order by Federal Trade Commission; sale, etc., of sponges 995

CLARK, ROBERT L., order for hearing by Federal Power Commission 739, 860

CLAYTON ANTITRUST ACT:
Bids of commerce carriers for securities, supplies, etc 344
Violations of, complaints, etc., by Federal Trade Commission 12, 93, 97, 126, 225, 243, 381, 419, 501, 527, 732, 756, 798, 832, 872

CLEVELAND-CLIFFS IRON CO., exemption from provisions of Public Utility Holding Company Act of 1935 793

CLEVELAND HARBOR, OHIO, regulations governing use, administration, etc 982

CLEVELAND HOT-HOUSE VEGETABLE GROWERS COOPERATIVE ASSN., registration as Farmers' Cooperative Association denied by National Bituminous Coal Commission 438

CLIFFS CORP., exemption from provisions of Public Utility Holding Company Act of 1935 793

COAL. *See also* Interior, Department of the: National Bituminous Coal Commission.
Countervailing duties revoked, imported from Spain 637
Import tax exemption, imported from Union of Soviet Socialist Republics 843, 900
Import tax on, and allied fuels 842
Mining methods and safety and welfare of miners on leased lands on public domain, operating regulations 444
Taxable status of, imported from certain countries 564

COAST GUARD, UNITED STATES, medical treatment and hospitalization for enlisted men, etc 25

COCA LEAVES, ETC., narcotic regulations on imports and exports 1058

CODFISH ROE, countervailing duties revoked on imports from French fisheries 637

COE, MINNETHA, notice of hearing by Federal Trade Commission 473

COHN, CHARLES M., order for hearing by Federal Power Commission 796, 1032

COLLINS AND AIKMAN CORP., unlisted trading privileges, application denied by Securities and Exchange Commission 978

COLONIAL DAMES, INC., ET AL., cease and desist order by Federal Trade Commission; sale, etc., of cosmetics 996

Page

COLORADO:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Black Canyon of the Gunnison National Monument, enlargement 975
Grazing district modifications 558, 1035
Loans by Farm Security Administration, designation of counties for 519
Morgan County Livestock Auction Co., stockyard determined not a public market 80
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
Public land withdrawals revoked 195, 640, 681, 1005

COLUMBIA BASIN PROJECT, WASH., reclamation withdrawal 280

COLUMBIA ENGINEERING CORP.:
Declaration order by Securities and Exchange Commission 790
Notice of hearing 384

COLUMBIA GAS & ELECTRIC CORP.:
Notice of hearing by Securities and Exchange Commission 584
Unlisted trading privileges granted 707

COLUMBIA RIVER, use, administration, etc., of Cascade Canal, regulations revoked 828

COMINSKY, JOSEPH, notice of hearing, etc., by Federal Trade Commission 128

COMMERCE, DEPARTMENT OF:
Air Commerce, Bureau of:
Civil Air Regulations, amendments:
Air traffic rules 530
Airline competency certificate, provision for issuance 123
Airline dispatchers 823
Pilot competency certificate 822
Second pilots 823
Civil Service Rules amended with respect to 664
Federal Airways System, designations as civil airways of the United States 63
Fisheries, Bureau of:
Alaska fishery regulations amended 380, 860
Whaling, joint regulations of Secretaries of the Treasury and Commerce 989
Foreign and Domestic Commerce, Bureau of:
Statistics of foreign commerce and navigation of the United States, collection of 1069
Lighthouses, Bureau of:
Civil Service Rules amended with respect to seamen, deck-hand, etc 663
Public land reservation, Hawaii, for use of 261
Wrecks, marking to protect navigation, regulations 974
Marine Inspection and Navigation, Bureau of:
Board of Supervising Inspectors, notice of meeting of Executive Committee to consider amendments of rules and regulations, etc 572, 974
Certificates of Service and Efficiency, Identification, Discharge, etc., regulations for issuance 916
Continuous Discharge Book, Certificates of Identification and Discharge, method of accounting for monies received from sale of duplicates 220
Danish passenger vessels, pre-sailing examination and collection of fees 796
General Rules and Regulations, miscellaneous amendments 1044–1050
Adjusted service pressures 335
Alarm bells and loudspeaker systems 335
Boiler stop valves and mountings 335
Bulkheads 336
Equipment, approval of miscellaneous items 336, 665, 1050
Passenger vessels, construction of 665

COMMERCE, DEPARTMENT OF—Continued.
Marine Inspection and Navigation, Bureau of—Con.
Hawser regulations amended, inland waters of Atlantic and Pacific Coasts, etc 516
Intercollegiate Regatta, Poughkeepsie, N. Y., regulations to promote safety of life 991
Merchant vessels, load lines established for voyages by sea or Great Lakes, regulations corrected 270
Motor Boats, regulation of 991
Vessels, admeasurement of, regulations amended 921

COMMERCIAL SPONGE CO., cease and desist order by Federal Trade Commission; sale, etc., of sponges 995

COMMODITY CREDIT CORPORATION:
Corn loans, instructions 123
Loans on security of wool or mohair represented by warehouse receipts, 1938 993
Notes, ¾ percent, Series C, offering by Secretary of the Treasury 801
Securities, regulations governing issuance, transactions, etc 831

COMMODITY EXCHANGE ADMINISTRATION. *See* Agriculture, Department of.

COMMON CARRIERS. *See* Interstate Commerce Commission.

COMMONWEALTH GAS & ELECTRIC COS., effective dates of declarations, etc., by Securities and Exchange Commission 65

COMMUNICATIONS ACT OF 1934. *See* Federal Communications Commission.

COMMUNITY POWER AND LIGHT CO., notice of hearing by Securities and Exchange Commission 221

COMO MINES CO., order by Securities and Exchange Commission 899

COMPENSATION:
Railroad Retirement Act, employers' monthly reports 19
Social Security Board; certification of State unemployment laws to Secretary of the Treasury 10

CONFECTION CABINET CO., notice of hearing by Federal Trade Commission 603

CONNEAUT HARBOR, OHIO, regulations governing use, administration, etc 982

CONNECTICUT:
Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
Loans by Farm Security Administration, designation of counties for 572
Motor carrier rates, investigation by Interstate Commerce Commission 762, 825
Niantic River, drawbridge regulations 70

CONSOLIDATED AIRCRAFT CORP., order for hearing by Securities and Exchange Commission 587

CONSOLIDATED COAL CO., order by National Bituminous Coal Commission 416, 438

CONSOLIDATED EDISON CO., OF NEW YORK, INC., order by National Bituminous Coal Commission 293, 342

CONSULAR REGULATIONS, amendment 485

CONSUMERS' COUNSEL, notice of hearing by National Bituminous Coal Commission 238, 470

CONSUMERS LIGNITE CO., certificate of exemption granted by National Bituminous Coal Commission 875

CONSUMERS LUMBER AND VENEER CO., notice of hearing by Federal Trade Commission 506

CONSUMERS MINING CO., order on petition for rehearing by National Bituminous Coal Commission 346, 385

Page

CONTINENTAL RUBBER CO., notice of hearing by National Bituminous Coal Commission 275

CONTRACT CARRIERS. *See* Interstate Commerce Commission.

CORDIALS, class and type designations 521

CORN:
Acreage allotment in commercial corn-producing area 475
Delivery period after close of trading in futures 418
Loans by Commodity Credit Corporation to producers, instructions 123

CORNER, JAS., & SONS, findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities 12

CORONADO MANUFACTURING CO., notice of hearing by Federal Trade Commission 1032

CORONADOS ISLANDS, small passenger vessels in vicinity of, exempted from radiotelegraph installation requirements 902

COTTON:
Marketing quotas on 1938 crop, instructions for holding referenda 426, 428, 430, 507, 562
National allotment for 1938 425
Referendum results, proclamation 651

COTTON GARMENT, ETC., INDUSTRIES, extension of minimum wage determination to manufacture of barrack bags and bandoleers, decision 257

COTTON YARD GOODS (WOVEN), shrinkage properties of, proposed trade practice rules by Federal Trade Commission 44

COUNTERVAILING DUTIES:
Fish, dried salt, from Nova Scotia 193
German agricultural products, revocation 710
Sugar (refined) imported from Great Britain and Ireland 208

COWGILL MINE, notice of hearing by National Bituminous Coal Commission 877, 906

CRANDALL, E. V., OIL & PUTTY MFG. CO., INC., findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities 12

CRARY, GORDON B.:
Order for hearing by Securities and Exchange Commission 9
Proceedings discontinued 997

CROCKER, THEODORE E., order for hearing by Federal Power Commission 739, 860

CROP AND FEED LOANS. *See* Farm Credit Administration.

CROSLEY RADIO CORP. (WLW), hearing postponed by Federal Communications Commission 903

CROW INDIAN IRRIGATION PROJECT, MONT., operation and maintenance charges 775

CROW INDIAN RESERVATION, MONT.:
Law and order regulations, amendment 952
Leasing of lands for mining purposes, regulations 867

CROWN LABORATORIES, INC., notice of hearing by Federal Trade Commission 752

CRUSADER AIRCRAFT CORP., stop order by Securities and Exchange Commission 383

CUBA:
Exportation of arms and munitions to, regulations 695, 696
Lands transferred to control and jurisdiction of Secretary of the Navy 223

CUDAHY PACKING CO., unlisted trading privileges extended by Securities and Exchange Commission 204

CUMBERLAND COUNTY POWER AND LIGHT CO.:
Acquisition of securities approved by Securities and Exchange Commission 3

CUMBERLAND COUNTY POWER AND LIGHT CO.—Continued.
Authorized securities exempted 521
Notice of hearing 251
Unlisted trading privileges denied 204

CUMMER SONS CYPRESS CO., notice of hearing by Federal Trade Commission 506

CUMMINGS, WILBER L., order for hearing by Federal Power Commission 797

CUMMINS, HENRY CLINTON, notice of hearing by Federal Power Commission 212

CURTICE BROTHERS CO., complaint by Federal Trade Commission; sale, etc., of fruits and vegetables 798

CURTIS, ROBERT W., order for hearing by Federal Power Commission 732

CURTISS, RALPH C., cease and desist order by Federal Trade Commission; certificates of merit, etc., on Hytense and Hypower products 894

CURTISS WRIGHT CORP., unlisted trading privileges, decision reserved by Securities and Exchange Commission 707

CUSI MEXICANA MINING CO., orders by Securities and Exchange Commission 441, 838

CUSTER STATE PARK GAME SANCTUARY, Harney National Forest, S. Dak., mining permits 1001

CUSTOMS, BUREAU OF. *See* Treasury Department.

CUSTOMS PORT OF ENTRY, designating St. Joe, Fla., as 435

CZECHOSLOVAKIA, application of duties proclaimed in certain trade agreements to products of 773

D

DANTE, JIM:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271

DARK HOLLOW COAL CO., notice of hearing by National Bituminous Coal Commission 877, 906

DATES, fresh or dried, liquidation of entries suspended 273

DAVIS, C. A., cease and desist order by Federal Trade Commission; sale, etc., of Hytense and Hypower products 894

DAVIS, CHARLES N., order for hearing by Federal Power Commission 797

DAVIS, ROY B., notice of hearing by Federal Trade Commission 836

DAWSON, JOHN A., notice of hearing by Securities and Exchange Commission 577

DAY-LITE ILLUMINATING CORP., notice of hearing by Federal Trade Commission 637

DEARMAN & MARTIN COMMISSION CO., Meridian, Miss., notice under Packers and Stockyards Act 478

DEBARDELEBEN COAL CORP., minimum prices established for coals produced at "Hull" Mine 437

DEINLEIN, J. H., order for hearing by Federal Power Commission 739

DELAWARE:
Agricultural conservation program, 1937, 1938, east central region. *See* Agriculture, Department of.
Christiana River, drawbridge regulations 892
New Castle County Bridge, Christiana 892
Inland Waterway (Chesapeake and Delaware Canal), regulations governing use, administration, etc 68
Loans by Farm Security Administration, designation of counties for 527
Motor carrier rates, investigation ordered by Interstate Commerce Commission 635, 1082

Page

DELAWARE—Continued.
Wilmington, regulations governing highway bridge across Brandywine River 930
DELAWARE RIVER, DEL., AND MD., regulations governing use, navigation, etc., to Chesapeake Bay 68
DENATURED ALCOHOL. *See* Treasury Department: Internal Revenue, Bureau of.
DENMARK, pre-sailing examination of passenger vessels and collection of fees 796
DENMARK LIGHT AND TELEPHONE CORP., notice of hearing, etc., by Securities and Exchange Commission 119
DENNING, J. M., ET AL., complaint by Federal Trade Commission; sale, etc., of snow fence 225
DEPEW CHEMICAL CO., cease and desist order by Federal Trade Commission; sale, etc., of eye preparations 874
DERMAY PERFUMERS, INC., notice of hearing by Federal Trade Commission 272
DIAMANDIS AND CARDULIS, cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
DIESEL ENGINEERS, ASSOCIATED, notice of hearing, etc., by Federal Trade Commission 1003
DISEASE ORGANISMS, ETC., importation of, quarantine regulations amended 555
DISTILLED SPIRITS. *See* Treasury Department: Federal Alcohol Administration Division; Internal Revenue, Bureau of.
DISTINGUISHED FLYING CROSS, award to eligible persons in the Army and Navy, regulations 39
DISTRICT OF COLUMBIA, movement of plants and plant products in, regulations revised 829
DONALDSON, RODERICK D., order for hearing by Federal Power Commission 797
DRAWBRIDGES. *See* War Department.
DRAYTON, JOHN W., order for hearing by Federal Power Commission 796, 1032
DULUTH, SOUTH SHORE AND ATLANTIC RAILWAY CO., orders by Securities and Exchange Commission 483, 838
DUNBAR, WILLIAM K., order for hearing by Federal Power Commission 797
DUNLOP TIRE AND RUBBER CO.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
DURKIN, M. M. (MISS), order for hearing by Federal Power Commission 797
DURO-TEST CORP., notice of hearing by Federal Trade Commission 471
DUTY RATE. *See* Treasury Department: Customs, Bureau of.
DUVALL, BEN F., notice of hearing by Federal Trade Commission 472

E

EASTERN SHORE GAS CORP., notice of hearing by Securities and Exchange Commission 573
EASTERN STEAMSHIP LINES, INC.:
Exemption from radiotelegraph installation requirements 81
Order for public hearing by United States Maritime Commission 1033
EATON, CYRUS S., exemption from provisions of Public Utility Holding Company Act of 1935 793
EAULA CANDY CO., notice of hearing by Federal Trade Commission 518

Page

EBENSBURG COAL CO., notice of hearing, etc., by National Bituminous Coal Commission 218, 347, 470
EDISON LIGHT AND POWER CO., notice of hearing by Securities and Exchange Commission 927
EDMUNDSON, RAY, order by National Bituminous Coal Commission 650
EDSON, ARTHUR W., notice of hearing by Federal Trade Commission 473
EDUCATIONAL FINANCE CO., notice of hearing by Federal Trade Commission 740
ELBERTA CRATE AND BOX CO., notice of hearing by Federal Trade Commission 506
ELECTRIC BOAT CO., order for hearing by Securities and Exchange Commission 587
ELLINGTON AND COOK LIVESTOCK COM. MARKET, notice under Packers and Stockyards Act 630
EMANUEL, VICTOR, order for hearing by Federal Power Commission 738, 860
EMERGENCY CROP AND FEED LOANS. *See* Farm Credit Administration.
EMERGENCY RELIEF APPROPRIATION ACT OF 1937, supply fund established for materials, equipment, etc., for projects of Works Progress Administration 575
EMPEROR COAL CO., order on petition for rehearing by National Bituminous Coal Commission 346, 385
EMPLOYERS AND EMPLOYEES:
Disability cash relief, The Panama Canal 574, 840
Income tax, regulations amended:
Employees' pension trusts, payments to 193
Employer claiming deductions, information to be furnished by 194
State employees' compensation, immunity from 62
Railroad Retirement Act:
Death of employees, notification to Railroad Retirement Board by employers 191
Employees, registration of; employers' reports of monthly compensation 19
Social Security Act, Title VIII:
Services excepted from "employment" by reason of Carriers Taxing Act of 1937 847
Taxable wages, reporting of 2
ENDERBURY ISLAND, placed under control and jurisdiction of Secretary of the Interior 525
ENGINEERS PUBLIC SERVICE CO., INC., notice of hearing by Securities and Exchange Commission 523, 654
ENGLE & ENGLE, registration revoked by Securities and Exchange Commission 766
ENGLE, ISADORE M., notice of hearing, etc., by Federal Trade Commission 129
ENOS COAL MINING CO., order by National Bituminous Coal Commission 71
ENTOMOLOGY AND PLANT QUARANTINE, BUREAU OF. *See* Agriculture, Department of.
ENVELOPE INDUSTRY, prevailing minimum wage determination 889
ERBE, A. R., notice of hearing by Federal Trade Commission 471
ERIE, PA., notice of hearing on behalf of, by National Bituminous Coal Commission 275
ESTATE TAX RETURNS, authorizing inspection of; regulations 639, 641, 645
ESTES, S. LEROY, order for hearing, etc., by Securities and Exchange Commission 518, 524
EUCALYPTUS OIL, use as approved denaturant discontinued, Customs Regulations amended 31
EXCESS PROFITS TAX RETURNS, authorizing inspection of; regulations 639, 641, 645

Page

EXECUTIVE ORDERS. *See* President of the United States.
EXPLOSIVES, transportation regulations 129, 652
EXPORT APPLE AND PEAR ACT, grades, requirements, and regulations of Secretary of Agriculture 671
EXPRESS COMPANIES, uniform system of accounts by Interstate Commerce Commission 660
E-ZEE FREEZ, (H. C. Brill Co., Inc.), complaint by Federal Trade Commission; sale, etc., by bakers' supplies and ice cream 126

F

FABER, DONALD W., order for hearing by Federal Power Commission 739
FABRICS (Navajo all-wool woven), regulations for use of Government certificate of genuineness 759
FAIRBANKS CO., orders by Securities and Exchange Commission 484, 838
FAIRPORT HARBOR, OHIO, regulations governing use, administration, etc 982
FALL RIVER ELECTRIC LIGHT CO.:
Exemption from provisions of Public Utility Holding Company Act of 1935 949
Notice of hearing by Securities and Exchange Commission 705
FAN TAN CO., INC., notice of hearing, etc., by Federal Trade Commission 1002
FARM CREDIT ADMINISTRATION:
Emergency crop and feed loans:
Continental United States 295, 413, 516, 517
Hawaii 675
Puerto Rico 729
Regional managers authorized to subordinate liens for unpaid drought feed loans 600
Federal Farm Mortgage Corporation, fee charges for extension of indebtedness on Land Bank Commissioner loans 77
Federal land bank loans:
Indebtedness, conditional payments by borrowers for subsequent credit 550
Method of computing maximum amount to one borrower 794
Special interest rates approved 927
Federal Land Bank of Baltimore:
Fees for extension of indebtedness on loans 435
Loan fees for security releases 894
Federal Land Bank of Columbia, schedule of loan fees 676
Federal Land Bank of Houston, charges for reamortizing loans 215
Federal Land Bank of Saint Paul, fees and charges:
Loans reamortized 947
Mortgage subordinations, partial releases, etc 947
Federal Land Bank of Spokane, schedule of loan fees 761
Land Bank Commissioner, functions, powers, authority and duties 814
National Farm Loan Associations, regulations amended governing consolidation of 77
Production Credit Associations, conversion of Class A stock, regulations amended 611
Production Credit Corp., of Columbia, interest rates on loans 6
Regional Agricultural Credit Division, functions, powers, duties, etc., of Director and Assistant Director 216
Secretary of the Treasury designated to receive certain capital stock held by the Governor of 632

Page

FARM CREDIT ADMINISTRATION—Continued.
Soil Conservation and Domestic Allotment Act, authority to execute payment assignments, Form ACP-69 948
FARM LOANS. *See* Farm Credit Administration.
FARM SECURITY ADMINISTRATION. *See* Agriculture, Department of.
FARM TENANT ACT. *See* Bankhead-Jones Farm Tenant Act.
FASCINATION CANDY CO., notice of hearing by Federal Trade Commission 845
FASHION INSTITUTE, INC., notice of hearing by Federal Trade Commission 981
FASSOL AND SACIARIDES, cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
FEDERAL AIRWAYS SYSTEM, designations as civil airways of the United States 63
FEDERAL ALCOHOL ADMINISTRATION DIVISION. *See* Treasury Department.
FEDERAL COMMUNICATION COMMISSION:
Broadcast operations for 1937, financial report 703
Broadcast stations:
Licenses and permittees, reports required as to ownership, control, etc., Rule 340.01 adopted 1002
Non-commercial educational:
Operation rules 312
Standards of good engineering practice 814
Power authorized on clear channels, hearing on Rule 117 amendment 522, 731
Standard stations, hearing on Rule 117 modification 903
Central Broadcasting Co. (WHO), hearing postponed 903
Crosley Radio Corp. (WLW), hearing postponed 903
Commissioners, etc., assigned to act on classes of applications, order amended 713, 815
Common carriers by wire and radio, uniform systems of accounts 500
Communications Act of 1934, radiotelegraph installation requirements, exemptions:
Bouchard Transportation Co., Inc., New York, N. Y. 81
Eastern Steamship Lines, Inc., Boston, Mass 81
Passenger vessels less than 100 gross tons, vicinity of Tampa Bay, Fla., and New Orleans, La 737
Philadelphia & Norfolk Steamship Co., Philadelphia, Pa 202
Sport-fishing passenger vessels less than 100 gross tons:
Calcasieu Pass, La., and Sabine Bank, Tex., vicinity 902
San Diego, Calif., and The Coronados Islands vicinity 902
United States passenger vessels, to and including 15 gross tons 1002
Employee and program questionnaires, hearing on Rule 117 modification 901
Frequencies available for aeronautical and aircraft stations, Rule 262 A, B, b, and 262 D amended 312
Frequency allocations 903, 932, 1002
Frequency monitor, Rule 981 extended 703
Government telegraph communications, rates of pay 1079
Professional radio operator licenses, Rule 443 amended 311
Alaska, effective date of Rule extended 631
Radio stations, Alaska, licenses extended other than broadcast and amateur 902
Radio stations engaged in chain broadcasting, special regulations required in public interest, etc., public hearing 637

FEDERAL COMMUNICATIONS COMMISSION—Con. Page
Radiotelegraph common carriers, statements to be filed by 349
Ship Radiotelegraph Safety Rules, modification as to transmitters 240
State and municipal police station emergency messages, Rule 337a extended 80
Telephone and telegraph companies, Commissioner to act upon annual report requests, Order No. 28 amended 581
Telephone carriers, Classes A and B, annual report Form M 311
Telephone companies, uniform system of accounts, Order No. 7-C amended 202
FEDERAL CROP INSURANCE CORPORATION. *See* Agriculture, Department of.
FEDERAL DEPOSIT INSURANCE CORPORATION:
Federal Reserve Act:
Agents upon whom service of process may be made 976
Certified statement forms, approval 932
Insured State Nonmember Banks, reports of condition and of earnings and dividends required 32
FEDERAL FARM MORTGAGE CORPORATION. *See* Farm Credit Administration.
FEDERAL HOME LOAN BANK BOARD:
Bank Rules and Regulations, amendments:
Advances to Members, acceptance of prepayments by Banks 660
Directors of Banks, procedure for election 581
Insurance policies furnished by borrowers, acceptance by banks without discrimination 738
Securities, purchase or sale approvals by an investment committee 705
Federal Savings and Loan Associations, regulations amended:
Income shares, full paid, voluntary repurchases credited upon purchase requests 738
Loans:
Insured by Federal Housing Administrator, permission to purchase, sell, etc 501
Insured under National Housing Act, permission to lend to percentage of appraised value 550
Powers to sell and service limited 522, 974
Surety bonds 418
Federal Savings and Loan Insurance Corporation:
Insurance of Accounts, regulations amended 517, 582, 583
Home Owners' Loan Corporation:
Bond Retirement Fund, regulations 30
Consolidated Manual amendments:
Accounting Chapter, consolidation of loan and advance accounts 794
General Chapter, determination and disposition of Corporation losses 338
Legal Chapter:
Mechanics' liens, assumption of risk of loss within certain limits 43
Tax searches of public records 976
Taxes, payment, reports of disbursements, and status 337
Loan Service Chapter:
Claims against decedents' estates 270
Delinquent taxes; approving payment of tax items 337
Miscellaneous credits, payment provisions changed 751
Personal servicing of accounts, procedure 611
Security and indebtedness, changing requirements for division of 823
Property Management Chapter, Regional Manager's authority to authorize reconditioning 441
Purchase and Supply Chapter, General Manager and Director authorized to incur expenses 457

FEDERAL HOME LOAN BANK BOARD—Continued. Page
Home Owners' Loan Corporation—Continued.
Consolidated Manual amendments—Continued.
Rental and Contracts Chapter, contracts for electric service 815
Treasury Chapter:
Escrow account provisions revoked 713
Imprest Cash Fund, vouchers for reimbursement, etc 923
Relief to owners of lost, stolen, etc., securities or coupons 338
Investments in securities of Savings and Loan Associations, regulations amended 738
Lands in Maryland, authority to acquire reversionary interest where Corporation owns leasehold estate 418
FEDERAL HOUSING ADMINISTRATION:
National Housing Act, rules and regulations:
Insurance, multifamily and group housing 367
Mutual mortgage insurance 361
Property improvement loans 349, 755
FEDERAL KNITTING MILLS CO., order by Securities and Exchange Commission 898
FEDERAL LAND BANKS. *See* Farm Credit Administration.
FEDERAL POWER COMMISSION:
Notice of hearings, etc.:
Albany Lighting Co 522
Aldred, John Edward 796, 1032
Allen, F. Jerome 796, 1032
Allner, F. Abels 796, 1032
Annett, Hugh W 738, 860
Aronson, G. A 797
Barr, John W., Jr 739
Baton Rouge Electric Co 600
Blodgett, Thomas Harper 797
Braheney, Bernard Francis 212
Braun, Arthur E., and Carl J 738, 860
Brewer, Chauncey M 739
Bucher, Jacob H 797
Buckner, Mortimer N 796, 1032
Buckstaff, Noel H 739, 860
Burns, Alan E 797
Bushong, Marvin E 796, 1032
Cano, A. A 797
Carson, Winfield B 738, 860
City of Los Angeles, et al., *v.* Nevada-California Electric Corp 1051
Clark, Robert L 739, 860
Cohn, Charles M 796, 1032
Crocker, Theodore E 739, 860
Cummings, Wilber L 797
Cummins, Henry Clinton 212
Curtis, Robert W 732
Davis, Charles N 797
Deinlein, J. H 739
Donaldson, Roderick D 797
Drayton, John W 796, 1032
Dunbar, William K 797
Durkin, M. M (Miss) 797
Emanuel, Victor 738, 860
Faber, Donald W 739
Finlay, Walter Stevenson, Jr 797
Fitch, H. D 797
Frazer, John G 797, 860
Gleason, Irvin W 796, 1032
Grand River Dam Authority, Vinita, Okla 43
Grenacher, Henry 739, 860
Gross, Joseph W 796, 1032
Gunby, Graham 797
Hanna, Roscoe E 738, 860
Harris, Philip H 797
Hill James A 797

FEDERAL POWER COMMISSION—Continued. Page
Notice of hearings, etc.—Continued.
Holub, Frank J 738, 860
James, Norman 796, 1032
Johnson, Mitchell 796, 1032
Judy, Edward W 738
Kaap, Theodore F 739
Kane, Leo F 738, 860
Kellett, Ernest G 739, 860
Kentucky Utilities Co 572
King, Emmett R 797
Koch, A. E. (Miss) 797
Kohlhepp, Charles E 739
Lee, Addison W., Jr 739
Lehmhuhl, Paul August 212
Lepper, Charles W 738, 860
Louisiana Steam Generating Corp 600
Lukenbill, Walter I 739
Lynch, Bernard William 212
McCall, Richard 738, 860
McKenna, John J 739
MacKenzie, J. H 797
Madden, James Joseph 212
Maloney, Walter Joseph 212
Mange, John I 797
Megahan, Howard D 738, 860
Mitchell, Curtis S 738, 860
Mitchell, Harry L 797
Molyneaux, John J 739, 860
Montgomery, Robert 739
Moore, William S., Jr 797
Morissey, Peter J 797
Morrison, Matthew Aloysius 212
Niagara Falls Power Co 419
O'Connor, James E 796, 1032
Oklahoma Gas and Electric Co 242, 297, 479, 573, 782
Pacific Gas and Electric Co 43
Pack, Robert F 739, 860
Pardee, J. H 797
Payne, Lewis 797
Pennsylvania Power & Light Co 871, 932
Peter, Arthur 739
Pfeiffer, Frank J 739
Phenicie, Carroll R 739
Phillips, Frank R 797, 860
Philadelphia Electric Power Co 338
Porter, H. Hobart 797
Porter, Seton 797
Portland General Electric Co 6
Pulliam, John P 739
Quinn, James L 796, 1032
Reiber, William A 797
Rintoul, James L 796, 1032
Robinson, W. C 797
Rork, Glen V 739, 860
Ross, Philip L 797
Rowe, T. F 797
Schmidt, William, Jr 796, 1032
Seagrave, Louis H 738, 860
Smith, R. Paul 797
Southern Nebraska Power Co 242
Spurr, A. Clinton 797
Starch, Daniel 797
Steybe, Irving P 739
Susquehanna Power Co 338
Taylor, Harold P 739
Thompson, Earle S 797
Union Public Service Co 213
Voorhis, Warren R 797
Wagner, Herbert A 796, 1032
Walls, John Abbet 796, 1032
Walworth, Joseph 796, 1032
Washabaugh, Edison W 738, 860
Webb, Phillips W 797

FEDERAL POWER COMMISSION—Continued. Page
Notice of hearings, etc.—Continued.
Weinberger, E. (Miss) 797
Werner, E. H 797
Western Light and Power Corp 242, 297, 479
Williams, David E., Jr 796, 1032
Wilson, Thomas B 212
Wisconsin Public Service Corp 36, 213
Wolfram, Otto J 738, 860
Wood, Edwin Dow 739
Wood, Frederick W 796, 1032
Young, Harold E 739, 860
FEDERAL RANGE CODE, rules for administration of grazing districts 604
FEDERAL REGISTER, regulations of the Administrative Committee 1013
FEDERAL RESERVE ACT. *See* Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation.
FEDERAL RESERVE BANKS. *See also* Board of Governors of the Federal Reserve System.
Government checks and warrants, payment regulations 842
Public moneys, colateral security on special deposits 842
FEDERAL SAVINGS AND LOAN ASSOCIATION. *See* Federal Home Loan Bank Board.
FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION. *See* Federal Home Loan Bank Board.
FEDERAL TRADE COMMISSION:
Cease and desist orders; findings and conclusions:
Acushnet Process Co 271, 501
Agricultural Laboratories, Inc 93
Allen, W. D., Mfg. Co 12
Andriotes, C. G., & Co 995
Aefaras, N. G 995
Automotive Test Laboratories of America 894, 897
Baker, Chas. F., & Co., Inc 12
Black Hardware Co 12
Bloch, Albert, and Sons, Inc 995
Bradley, Joe 271, 501
Brill, H. C., Co., Inc 419
Central Pattern & Foundry Co 987
Charlotte Supply Co 12
Chemical Products, Mnfrs 894
Christon, Vasilio 995
Cladakis, George 995
Colonial Dames, Inc., et al 996
Commercial Sponge Co 995
Corner, Jas., & Sons 12
Crandall, E. V., Oil & Putty Mfg. Co., Inc 12
Curtiss, Ralph C., alias C. A. Davis 894
Dante, Jim 271, 501
DePew Chemical Co., The 874
Diamandis and Cardulis 995
Dunlop Tire and Rubber Co 271, 501
Fassol and Saciarides 995
Ferguson, W. F 995
Forrester, Jack 271, 501
Fox, Jack 271, 501
Globe Crayon Co., Inc 12
Golf Ball Manufacturers' Assn 271, 501
Gonatos, Michael 995
Great Atlantic & Pacific Tea Co 243
Hagen, Jack 271, 501
Hansen Inoculator Co., Inc 94
Industrial Florida Sponge Co 995
Inglis, John 271, 501
Irwin, C. M 271, 501
Jacobi Hardware Co 12
Kerrigan, Tom 271, 501

FEDERAL TRADE COMMISSION—Continued. Page

Cease and desist orders; findings and conclusions—Continued.
- Keystone Emery Mills 12
- Kotis, Anastacios 995
- LaSalle Extension University 996
- Leonis, Diamandis 995
- MacDonald, R. C 271, 501
- Macrenaris, Em. and Nic 995
- Main, Alex 271, 501
- Matthews & Boucher 12
- Newman, Morris E 894, 897
- Nitragin Co., Inc 97
- Oliver Brothers, Inc 12
- Professional Golfers Association of America 271, 501
- Reilly, James A 12
- Rock Island Sponge Co 995
- Schroeder and Tremayne, Inc 995
- Serval-System 911
- Simeon and Halipilias 995
- Smitzes and Drivas 995
- Spalding, A. G., and Brothers 271, 501
- Sponge Fishing Co 995
- Sponge Producers' Corp 995
- Stefanidi, Alec 995
- Tarapina, A. L 995
- Tarpon Springs Sponge Exchange, Inc 911
- Townsley, Waldo W 995
- Tropical Sponge Co 271, 501
- U. S. Rubber Products Co 95
- Urbana Laboratories 12
- Virginia-Carolina Hardware Co 271, 501
- Wanamaker, John, Inc 948
- West Penn Distilling Co., Inc 95
- Whiting, Albert L., and Lucille D 271, 501
- Wilson Sporting Goods Co 874
- Wing, Nelle K 271, 501
- Worthington Ball Co 271, 501
- Young, L. A., Golf Co 271, 501

Complaints, etc.:
- American Flange & Manufacturing Co., Inc 872
- Atlantic Commission Co 527
- Brill, H. C., Co., Inc. (E-Zee-Freez) 126
- Buffalo Industrial Co., et al 225
- Curtice Brothers Co 798
- Illinois Wire and Manufacturing Co., etc 225
- King, Vivian L., et al 756
- Lavine, Arthur S., et al 756
- Lindabury, H. R., and Sons 225
- Master Lock Co 832
- Mattson Wire and Manufacturing Co 225
- Merck & Co., Inc 732
- Miami Wholesale Drug Corp 756
- Nebraska Bridge Supply and Lumber Co 225
- Pullen, Rodney S., Jr 756
- Rowe Manufacturing Corp 225
- U. S. Hoffman Machinery Corp 381
- United Fence Manufacturers Assn., et al 225

Notice of hearings, etc.:
- Ace Business Builders 834
- Adkins Manufacturing Co 506
- Allied Gift Shop 835
- Allied Specialties, Inc 966
- Ambrosia Candy Co 845
- American Novelty Co 583
- Argo Pen-Pencil Co., Inc 472
- Around the World Gum Co 474
- Atlas, Charles, Ltd 733
- Banta, Guy J 631
- Barclay Clothing Co 128
- Bauer & Black 924
- Baum, Arthur 726
- Berger, Albert E 1081
- Berlo Vending Co 603
- Bernstein, Samuel E., and Philip J 560

FEDERAL TRADE COMMISSION—Continued. Page

Notice of hearings, etc.—Continued.
- Biery, Ralph J 966
- Bishop Jones Co 1002
- Blacher, Nathan C 560
- Block, Samuel R 845
- Blomquist, Edwin O 845
- Boehm, Alfred 272
- Botwin, Paul and Eaula Louise 518
- Brach, E. J., & Sons, et al 845
- Bradley, Joseph C 471
- Bregstone, John Milton, et al 836
- Breslin, Frieda E 471
- Brown, Eva O 473
- Buhman & Goetze 518
- Cal-A-Mo Laboratories 631
- Carter Carburetor Corp 473
- Certified Sales Service 835
- Chenille Corp., of America 472
- Cherry Specialty Co 824
- Chocolate Sales Corp 603
- Chorba, Francis 752
- Coe, Minnetha 473
- Cominsky, Joseph 128
- Confection Cabinet Co 603
- Consumers Lumber and Veneer Co 506
- Coronado Manufacturing Co 1032
- Crown Laboratories, Inc 752
- Cummer Sons Cypress Co 506
- Davis, Roy B 836
- Day-Lite Illuminating Corp 637
- Dermay Perfumers, Inc 272
- Diesel Engineers, Associated 1003
- Duro-Test Corp 471
- Duvall, Ben F 472
- Eaula Candy Co 518
- Edson, Arthur W 473
- Educational Finance Co 740
- Elberta Crate and Box Co 506
- Engel, Isadore M 129
- Erbe, A. R 471
- Fan Tan Co., Inc 1002
- Fascination Candy Co 845
- Fashion Institute, Inc 981
- Fee & Stemwedel, Inc 472
- Fireside Industries, Inc 1081
- General Distilleries Corp 270
- Georgia Crate and Basket Co 506
- Georgia Veneer and Package Co 506
- Glubok, Yale I 1003
- Goetze, William L 518
- Good Humor Corp., of America 740
- Goudey Gum Co 474
- Graff, Joseph W 823
- Grand Gaslight, Inc 471
- Great Lakes Novelty Co., et al 836
- Greenville Veneer and Crate Co 506
- Gro Pres Co 1002
- Gutgsell, Emil J 845
- Harris, Edward and Dorothy 834
- Hector Supply Co 506
- Henderson, J. J 835
- Herb, Harland L 923
- Herrschner, Fred W., Jr 835
- Hershey Chocolate Corp 603
- Hild Floor Machine Co 924
- Hilkemeyer, A. L 6
- Hirshbein, Alexander 752
- Hochschild, Kohn & Co 874
- Ideal Gift Co 824
- Ink Co., of America 924
- Ireland, William M 471
- Jackson University of Business, et al 740
- John Hancock Pen Co 933
- Kehr, Albert C 473

FEDERAL TRADE COMMISSION—Continued. Page

Notice of hearings, etc.—Continued.
- Kendall Co., The 924
- Kerwin, Edward M 845
- Keystone Distilling Co 271
- Keysville Lumber Co 506
- Kimball, W. W., Co 472
- Koolish, Philip H., Jr 825
- Koolish, Theodore H 823
- Kranz, George H 472
- Lake Crate and Lumber Co 506
- Lamont, Corliss and Co 603
- Larson, William J 473
- Lednew Corp 471
- Levoy, Leopold 560
- Lincoln Locker Corp 1051
- Lloyd's Distributing Co 583
- Lou Ray Co 1002
- Louisiana Hatcheries 6
- Louisville Pottery Co 948
- Lowe, Joe, Corp 740
- Lynx Knitting Co 272
- Mayfair Clothing Co 128
- Mendels, Hyman 835
- Merco Sales Co 860
- Merrill Candy Co 834
- Merritt, John C 861
- Metropolitan Distributing Co 824
- Meyer, Peter and Wyette 752
- Montbrook Crate Co 506
- More, Robert, Co 271
- Moretrench Corp 473
- Mutual Printing, Inc., et al 834
- Nannette, Inc 473
- Nants Manufacturing Co 506
- National Pottery Distributors 740
- National Sales & Novelty Co 825
- National Scientific Products Co 923
- National Silver Co 560
- New York Pattern Co., Inc 981
- Nocatee-Manatee Crate Co 506
- Novelty Distributing Co 834
- Ocala Manufacturing, Ice and Packing Co., Inc 506
- Osceola Crate Mills, Inc 506
- Pacific Coast Specialty Co 825
- Parkinson, G. N 845
- Patterson School, et al 473
- Peter Cailler Kohler Swiss Chocolate Co 603
- Philadelphia Rubber Waste Co 129
- Philco Auto Supply, et al 129
- Philco Rubber Co., et al 129
- Picard, Richard 726
- Pierpont Manufacturing Co 506
- Pioneer Advertising Co 924
- Popsicle Corp., of the United States 740
- Pounds, Frank R., Crate Co 506
- Prendergast-Davies Co., Ltd 277
- Rainbow Gum Co 474
- Raritan Distillers Corp 242
- Ray, Rudolph Y. (Ray Individual Mausoleum Co.) 230
- Reed, Roy E., and Florence A 1003
- Reichgott, Donald 583
- Reliable Sales Co 1003
- Reliable Specialty Corp 528
- Rex Merchandise Corp., of America 752
- Rightway Institute 583
- Rippner, Harry A., and Louis G 933
- Robertson, J. C 834
- Rose, J., & Co 1003
- Rosenfeld, Jack 1003
- Rosenfeld, Joseph 583
- Ross, S. C 824
- Rothschild, Harold L 1032

FEDERAL TRADE COMMISSION—Continued. Page

Notice of hearings, etc.—Continued.
- Roux Crate and Lumber Co., Inc 506
- Run-Proof Laboratories, Inc 1081
- Russ Crate Co 506
- Sachnoff, Harry 472
- Saks & Co 709
- Sanitary Automatic Candy Corp 603
- Sarasin, Celia 836
- Scadron, Irwin 824
- Schulz, John M 471
- Schwartz, Albert, et al 129
- Schwartz, Irving 583
- Schwartz, J. A 825
- Serval-System 230
- Shapiro, Morris R., Charles, et al 271
- Sheray, Inc., et al 752
- Shinholzer, Stephen O 506
- Shollar Crate and Box Co., Inc 506
- Sifers, Samuel I 1003
- Silver, James I., et al 824
- Slaton, Martin M 835
- Southern Container Co 506
- Southern Crate and Veneer Co 506
- Specialties, Inc 506
- Sperberg, Simon 129
- Sperry Corp 243
- Spors, Frank 923
- Standard Container Manufacturers' Assn., Inc 506
- Starr, Abraham 752
- Steffy, William C., and Lorina 845
- Stempfel, Theodore 845
- Stringer, Anne 966
- Sunbeam Laboratories 560
- Superior Textile Mills 752
- Sylvan Co 823
- Townsley, Waldo W 230
- Tricou, R. J. C 6
- Twentieth Century Sales Co 835
- UCA Manufacturing Co., et al 271
- U. S. Hoffman Machinery Co 795
- Universal Advertisers' Service 836
- Universal Handkerchief Manufacturing Co., Inc 129
- Universal Specialties Co 823
- Van Schaack, Cornelius P., Jr 924
- Veltrola Co., The 836
- Walling Crate Co 506
- Waterman, Robert E 740
- Waverley Tailors 128
- Weglein, Arthur A. J 752
- Weitzman, Sidney A 835
- West Penn Distilling Co., Inc 271
- White, William G 966
- Williams Music Store, et al 472
- Wilshire Sales Corp 752
- Woodbury, William A., Sales Co., Inc 726
- Woodman, James M 473
- World's Desire Bureau 740
- World-Wide Radio Co 824
- Wright, John Howie 981
- Zachary Veneer Co 506

Trade Practice Rules:
- Carbon Dioxide Manufacturing Industry 601
- Fur Industry 573
- House Dress and Wash Frock Mfg. Industry 15
- Macaroni, Noodles, and Related Products Industry 1081
- Metal Clad Door and Accessories Manufacturing Industry 190
- Popular Priced Dress Mfg. Industry 17
- Toilet Brush Manufacturing Industry 7
- Wholesale Jewelry Industry 592
- Wood Cased Lead Pencil Manufacturing Industry 573
- Woven cotton yard goods, shrinkage properties of 44

FEDERAL WATER SERVICE CORP.:
Acquisition of securities approved; effective date of declaration fixed by Securities and Exchange Commission 898
Notice of hearing 574
FEE & STEMWEDEL, INC., notice of hearing by Federal Trade Commission 472
FENTRESS COAL AND COKE CO., order by National Bituminous Coal Commission 293
FERGUSON, W. F., cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
FERROCARRILES NACIONALES DE MEXICO (National Railways of Mexico), orders by Securities and Exchange Commission 484, 838
FILIPINOS, voluntary emigration from the United States 413
FINLAY, WALTER STEVENSON, JR., order for hearing by Federal Power Commission 797
FIRESIDE INDUSTRIES, INC., notice of hearing by Federal Trade Commission 1081
FISH (DRIED SALT), countervailing duty on, from Nova Scotia 193
FISHERIES, BUREAU OF. *See* Commerce, Department of.
FISHING. *See also* Commerce, Department of: Fisheries, Bureau of.
Boston, Mass., Engineer District, trap regulations modified 893
Chautauqua Migratory Waterfowl Refuge, Ill., regulations 673
Wichita Mountains Wildlife Refuge, Okla., regulations 987
FITCH, H. D., order for hearing by Federal Power Commission 797
FIVE CIVILIZED TRIBES, OKLA.:
Funds appropriated in aid of common schools 745
Leasing of restricted lands for mining purposes 877
FLATHEAD INDIAN IRRIGATION PROJECT, MONT., operation and maintenance charges 777
FLATHEAD INDIAN RESERVATION, MONT., land restoration order 5
FLAXSEED, ETC., delivery period after close of trading in futures 418
FLORENCE-CASE GRANDE IRRIGATION PROJECT, operation and maintenance charges 776
FLORIDA:
Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
Hillsboro Bay, dumping of ballast, regulations revoked 1006
Potatoes (Irish), handling of:
Proposed marketing agreement, etc., notice of hearing 659, 712, 736
Regulatory order; determination 907
Public lands, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior 767
River Junction, opening of Louisville & Nashville Railroad Drawbridge across Apalachicola River 596
St. Joe, designated customs port of entry 435
St. Marks, regulations for use, etc., of waterways tributary to Gulf of Mexico, etc 863, 933
Splenetic or tick fever (cattle) quarantine release, Polk and Osceola Counties 927
Sugarcane, 1937 crop, price determination 986
Tampa Bay:
Anchorage ground quarantine regulations 595
Quarantine anchorage off Gadsden Point, boundaries designated 327
Vicinity of, small passenger vessels exempted from radiotelegraph installation requirements 737
FLORIDA POWER CORP., unlisted trading privileges extended by Securities and Exchange Commission 205
FLUSHING CREEK, draw span regulations revoked for Strongs Causeway Bridge, New York City 828
FLYING CROSS, DISTINGUISHED, award to eligible persons, regulations amended 39
FOOD AND DRUG ADMINISTRATION. *See* Agriculture, Department of.
FOOT-AND-MOUTH DISEASE, order to prevent introduction of, amendments 63, 91, 223, 973, 1031
FOREIGN AND DOMESTIC COMMERCE, BUREAU OF. *See* Commerce, Department of.
FOREIGN CORPORATIONS, income tax regulations amended 100
FOREIGN MONEYS, values of 31, 710
FOREIGN-TRADE ZONES BOARD, publication, filing, etc., of rate and charge schedules for services and privileges 1069
FOREMAN AND CO., INC., registration revoked by Securities and Exchange Commission 272
FOREST SERVICE. *See* Agriculture, Department of.
FORESTS. *See* National Forests.
FORRESTER, JACK:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
FORT MARION NATIONAL MONUMENT, regulations for guide fees, etc 802
FORT PULASKI NATIONAL MONUMENT, regulations for guide fees, etc 802
FORT WILLIAM D. DAVIS MILITARY RESERVATION, CANAL ZONE, lands set apart and reserved as 278
FOX, JACK:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
FRANCE, countervailing duties revoked on codfish roe from fisheries of 637
FRAZER, JOHN G., order for hearing by Federal Power Commission 797, 860
FRUITS:
Export Apple and Pear Act, grades, requirements, and regulations 671
Grapefruit and oranges, sterilization by heat under Mexican fruitfly quarantine 729
Grapes, handling of, Arkansas, notice of hearing 348
Pears, plums, and peaches grown in California, proposed marketing agreement, etc 276, 417
FUEL. *See* Coal.
FUR INDUSTRY, proposed trade practice rules by Federal Trade Commission 573

G

GADSDEN POINT, TAMPA BAY, FLA., designating boundaries of quarantine anchorage 327
GALLATIN LIVESTOCK MARKET, INC., notice under Packers and Stockyards Act 821
GANDER, H. S., COAL CO., notice of hearing by National Bituminous Coal Commission 877, 906
GARBER, A. L. (Morgan County Livestock Auction Co.), stockyard determined not a public market 80
GARDNER ELECTRIC LIGHT CO.:
Effective date of declaration fixed by Securities and Exchange Commission 655, 663
Notice of hearing 553

GAS:
Helium:
Exportation of, international traffic in arms regulations 699
Production and sale for medical, scientific and commercial use 463, 647
Lease applications for lands near certain reserves, regulations 669
Leasing of lands for mining purposes:
Crow Indian Reservation, Mont 867
Indian Tribal lands 885
Oklahoma, restricted lands belonging to Five Civilized Tribes of Indians 877
Wind River Indian Reservation, Wyo 850
Rights of way for pipe lines 1035
GAULEY MOUNTAIN COAL CO., order by National Bituminous Coal Commission 39
GEM IRRIGATION DISTRICT, IDAHO, public lands opened to entry; availability of water 209
GENERAL CLAY PRODUCTS CO., notice of hearing by National Bituminous Coal Commission 877, 906
GENERAL DISTILLERIES CORP., notice of hearing by Federal Trade Commission 270
GENERAL FOODS CORP., unlisted trading privileges extended by Securities and Exchange Commission 707
GENERAL LAND OFFICE. *See* Interior, Department of the.
GENESEE VALLEY GAS CO., INC.:
Notice of hearing 1075
Plan of reorganization disapproved by Securities and Exchange Commission 214
GEOLOGICAL SURVEY. *See* Interior, Department of the.
GEORGIA:
Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
Anchorage grounds, regulations:
Turners Creek 862
Wilmington River, Thunderbolt Harbor 862
Atlanta City, minimum prices for coals produced, hearing by National Bituminous Coal Commission 239, 470
Jones-Neuhoff Commission Co., Macon, stockyard designated a public market 29
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 712, 736
Savannah, authorizing Attorney General to reject bids for certain property pursuant to Trading With the Enemy Act 688
Savannah River at Augusta, drawbridge regulations 968
Tybee Migratory Bird Refuge, establishment 912
GEORGIA CRATE AND BASKET CO., notice of hearing by Federal Trade Commission 506
GEORGIA POWER CO., notice of hearing by Securities and Exchange Commission 734
GEORGIA VENEER AND PACKAGE CO., notice of hearing by Federal Trade Commission 506
GERMAN CENTRAL BANK, order by Securities and Exchange Commission 1005
GERMANY:
Austrian products, marking to indicate country of origin 735
Countervailing duties revoked on certain agricultural products from 710
GIFT TAX RETURNS, authorizing inspection of; regulations 639, 641, 645
GILBERT, ARTHUR H., notice of hearing by Securities and Exchange Commission 706
GILLESPIE COAL CO., order by National Bituminous Coal Commission 416, 438
GLACIER NATIONAL PARK, timber disposal regulations amended 867
GLEASON, IRVIN W., order for hearing by Federal Power Commission 796, 1032
GLOBE CRAYON CO., INC., findings, etc., cease and desist order by Federal Trade Commission; sale of commodities 12
GLOUCESTER TURNPIKE CO., drawbridge regulations across Big Timber Creek, Westville, N. J. 795
GLUBOK, YALE I., notice of hearing, etc., by Federal Trade Commission 1003
GOETZE, WILLIAM L., notice of hearing by Federal Trade Commission 518
GOLD DUST MINING & MILLING CO., stop order by Securities and Exchange Commission 81
GOLDEN GATE INTERNATIONAL EXPOSITION, 1939, San Francisco, Calif.:
Admission of aliens for participation 724
Entry of articles for exhibition 578
GOLF BALL MANUFACTURERS' ASSN., ET AL.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
GONATOS, MICHAEL, cease and desist order by Federal Trade Commission; sale, etc., of sponges 994
GOOD HUMOR CORP., OF AMERICA, notice of hearing by Federal Trade Commission 740
GOUDEY GUM CO., notice of hearing by Federal Trade Commission 474
GOVERNMENT CHECKS, ETC., payment regulations 842
GOVERNMENT EMPLOYEES. *See also* Civil Service Rules.
Annual leave regulations 612, 905
Civil Service Retirement Act, provisions extended to appointees under Civil Service Rule II 951
Income tax, cases where no return is required 62
Interior Department, order prohibiting holding of State, Territorial, etc., offices, amendment 197
Panama Canal, cash relief for certain employees 574, 840
Sick leave regulations 614, 905
Virgin Islands, employees of Police or Prison Departments authorized to be appointed to positions in office of U. S. Marshal 1005
GRAFF, JOSEPH W., notice of hearing by Federal Trade Commission 823
GRAIN STANDARDS ACT:
Districts and headquarters designated for purposes of administration 969
Fees and charges in appeals, regulations amended 980
GRAND GASLIGHT, INC., notice of hearing by Federal Trade Commission 471
GRAND RIVER DAM AUTHORITY, VINITA, OKLA., hearing on Declaration of Intention filed with Federal Power Commission 43
GRAPEFRUIT, sterilization by heat under Mexican fruitfly quarantine 729
GRAPES, handling of, Ark., notice of hearing 348
GRAZING, DIVISION OF. *See* Interior, Department of the.
GREAT ATLANTIC AND PACIFIC TEA CO.:
Findings and conclusions by Federal Trade Commission; retail grocery business 243
Order to cease and desist 250
GREAT BRITAIN. *See* United Kingdom of Great Britain.

Page

GREAT LAKES NOVELTY CO., ET AL., notice of hearing by Federal Trade Commission 836
GREAT SMOKY MOUNTAINS NATIONAL PARK, local subsidiary regulations 670
GREATER LITTLE ROCK STOCK YARDS, INC., notice under Packers and Stockyards Act 673
GREENE, EDWARD B., exemption from provisions of Public Utility Holding Company Act of 1935 793
GREENHOUSE VEGETABLE PACKING CO., registration as Farmers' Cooperative Association denied by National Bituminous Coal Commission 438
GREENVILLE ELECTRIC LIGHT & POWER CO., notice of hearing by Securities and Exchange Commission 442
GREENVILLE VENEER AND CRATE CO., notice of hearing by Federal Trade Commission 506
GRENACHER, HENRY., order for hearing by Federal Power Commission 739, 860
GRO PRES CO., notice of hearing, etc., by Federal Trade Commission 1002
GROSS, JOSEPH W., order for hearing by Federal Power Commission 796, 1032
GROZDON, JOE, notice of hearing by National Bituminous Coal Commission 877, 906
GULF OF MEXICO, use, administration, etc., of tributary waterways from St. Marks, Fla., to Rio Grande, etc 863, 933
GULF STATES UTILITIES CO.:
  Effective date of declaration fixed by Securities and Exchange Commission 816,
  Notice of hearing 523, 611
GUNBY, GRAHAM, order for hearing by Federal Power Commission 797
GUNDLACH COAL CO., notice of hearing by National Bituminous Coal Commission 197
GUNNISON NATIONAL MONUMENT, COLO., enlarging the Black Canyon of 975
GUTGSELL, EMIL J., notice of hearing by Federal Trade Commission 845

H

HAGEN, JACK:
  Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
  Notice of hearing 271
HAMMERMILL PAPER CO., notice of hearing by National Bituminous Coal Commission 274
HANDKERCHIEF INDUSTRY, prevailing minimum wage determination 64
HANNA COAL CO. OF OHIO, notice of hearing by National Bituminous Coal Commission 937
HANNA, ROSCOE E., order for hearing by Federal Power Commission 738, 860
HANSEN INOCULATOR CO., INC., findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of bacteria inoculation 94
HARNEY NATIONAL FOREST, S. DAK., mining permits within Custer State Park Game Sanctuary 1001
HARRIS, EDWARD AND DOROTHY, notice of hearing by Federal Trade Commission 834
HARRIS, PHILIP H., order for hearing by Federal Power Commission 797
HART MOUNTAIN ANTELOPE REFUGE, OREG., enlargement 998
HAWAII:
  Agricultural conservation program, 1936, 1938, insular region. *See* Agriculture, Department of.
  Emergency crop and feed loans, regulations 675

Page

HAWAII—Continued.
  Loans by Farm Security Administration; designation of counties for 630
  Public lands:
    Reservation for Lighthouse Service, Department of Commerce 261
    Restoration for aeronautical purposes; reservation for military purposes 989
    Restoration for highway purposes 975
  Sugarcane production. *See also* Sugar Act of 1937.
    Farming practices, determination of 630, 975
    Price determination 703
    Wage rates, notice of hearings; determination 500, 690
HAWSERS. *See* Commerce, Department of: Marine Inspection and Navigation, Bureau of.
HEARINGS. *See* agency holding hearings *or* name of person concerned.
HECTOR SUPPLY CO., notice of hearing by Federal Trade Commission 506
HEISLEY COAL CO., notice of hearing, etc., by National Bituminous Coal Commission 218, 347, 470
HELIUM GAS:
  Exportation, regulations governing international traffic in arms 699
  Production and sale for medical, scientific and commercial use 463, 647
HENDERSON, J. J., notice of hearing by Federal Trade Commission 835
HERB, HARLAND L., notice of hearing by Federal Trade Commission 923
HERRSCHNER, FRED W., JR., notice of hearing by Federal Trade Commission 835
HERSHEY CHOCOLATE CORP., notice of hearing by Federal Trade Commission 603
HEWITT LAKE MIGRATORY WATERFOWL REFUGE, MONT., establishment 555
HICKOK OIL CORP., notice of hearing by Securities and Exchange Commission 978
HICKORY CLAY PRODUCTS CO., notice of hearing by National Bituminous Coal Commission 877, 906
HIGHWAYS:
  Construction and maintenance on Indian Reservations, regulations 700
  Lands restored to Territory of Hawaii for 975
  Rights of way for 1035
HILD FLOOR MACHINE CO., notice of hearing by Federal Trade Commission 924
HILKEMEYER, A. L., notice of hearing by Federal Trade Commission 6
HILL-ANDERSON COAL CO., minimum prices established for coals produced at "Willis Branch" Mine 436
HILL, JAMES A., order for hearing by Federal Power Commission 797
HILL, SAMUEL E. (LaGrande Livestock Commission Co.), LaGrande, Oreg., notice under Packers and Stockyards Act 457
HILLSBORO BAY, FLA., dumping of ballast, regulations revoked 1006
HILLSBORO MINING CO., order by National Bituminous Coal Commission 416, 438
HIRSHBEIN, ALEXANDER, notice of hearing by Federal Trade Commission 752
HOCHSCHILD, KOHN & CO., notice of hearing by Federal Trade Commission 874
HOLUB, FRANK J., order for hearing by Federal Power Commission 738, 860
HOLDING COMPANIES. *See also* Securities and Exchange Commission.
  Foreign personal, income tax regulations amended 100

Page

HOME OWNERS' LOAN CORPORATION. *See* Federal Home Loan Bank Board.
HOME UTILITIES CO., notice of hearing, etc., by Securities and Exchange Commission 120
HOMESTAKE MINING CO., order for hearing by Securities and Exchange Commission 588
HOMESTEADS, cultivation requirements eliminated as to certain entries 926
HONDURAS, exportation of arms and munitions to, regulations 695, 696
HONEYDEW MELONS, ETC., handling of, Calif., and Ariz., base period to be used; regulatory order 761, 959, 960
HOPI INDIAN RESERVATION:
  Grazing regulations modified 526
  Law and order regulations 953
  Standards for silver and turquoise products; use of Government mark 759, 760
HOPS, handling of, Oreg., Calif., and Wash., hearing on proposed marketing agreement, etc 999, 1030
HOSENFELD, JOS. F., notice of hearing by National Bituminous Coal Commission 877, 906
HOSPITALS (INDIAN), admission of patients, regulations 735
HOT SPRINGS NATIONAL PARK, ARK., regulations for administration and use of waters of, etc 262
HOUSE DRESS AND WASH FROCK MFG. INDUSTRY, trade practice rules by Federal Trade Commission 15
HOUSTON LIGHTING & POWER CO., unlisted trading privileges extended by Securities and Exchange Commission 207
HOUSTON NATURAL GAS CORP., notice of hearing by Securities and Exchange Commission 988
HOWEL, CLAYTON J., notice of hearing by Securities and Exchange Commission 577
HURON HARBOR, OHIO, regulations governing use, administration, etc 982
HURON MIGRATORY BIRD REFUGE, MICH., establishment 195
HURON NATIONAL FOREST, MICH., lands reserved as part of 122
HUTCHINSON, LEON L., complaint by Federal Trade Commission; manufacture, etc., of snow fence 225
HUTTON, E. F., & CO.:
  Order for hearing by Securities and Exchange Commission 9
  Proceedings discontinued 997

I

IDAHO:
  Agricultural conservation program, 1937, western region. *See* Agriculture, Department of.
  Boise Barracks Military Reservation, portion transferred to control and jurisdiction of Veterans' Administration 217
  Boise Irrigation Project, annual water charges 425
  Boise Project, first form reclamation withdrawal 982
  Grazing district modification 758
  Loans by Farm Security Administration, designation of counties for 91
  Nampa Livestock Commission Co., Nampa, notice under Packers and Stockyards Act 276
  Owyhee Irrigation Project:
    Annual water rental charges 784
    Lands opened to entry; availability of water 209
  Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
  Public lands, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior 767

IDEAL GIFT CO., notice of hearing by Federal Trade Commission 824
ILLINOIS:
  Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
  Cache River to The Passes, La.; vessel regulations where bank protection works have been provided 891
  Chautauqua Migratory Waterfowl Refuge, fishing permitted 673
  Ohio River, Mississippi River, etc., regulations modified for use, administration, etc., above Cairo 1006
ILLINOIS-POCAHONTAS COAL CO., notice of hearing by National Bituminous Coal Commission 198
ILLINOIS WIRE AND MANUFACTURING CO., complaint by Federal Trade Commission; manufacture of snow fence 225
IMMIGRATION AND NATURALIZATION SERVICE. *See* Labor, Department of.
IMMIGRATION QUOTAS, determination for fiscal year ending June 30, 1938, etc 841
INCOME TAX. *See* Taxes.
INDIAN AFFAIRS, OFFICE OF. *See* Interior, Department of the.
INDIAN ARTS AND CRAFTS BOARD. *See* Interior, Department of the.
INDIAN RESERVATIONS. *See* Public Lands.
INDIANA:
  Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
  Milk, handling of, La Porte County Marketing Area, hearing on proposed regulatory order, etc., amendments 1031
INDIANA & ILLINOIS COAL CORP., order by National Bituminous Coal Commission 416, 438
INDIVIDUAL MAUSOLEUM CO., notice of hearing by Federal Trade Commission 230
INDUSTRIAL FLORIDA SPONGE CO., cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
INDUSTRIAL INVESTMENT CORP., order for hearing, etc., by Securities and Exchange Commission 631, 656
INGLIS, JOHN:
  Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
  Notice of hearing 271
INK CO., OF AMERICA, notice of hearing by Federal Trade Commission 924
INSPIRATION CONSOLIDATED COPPER CO., order for hearing by Securities and Exchange Commission 588
INSURANCE. *See also* Veterans' Administration.
  Multifamily and group housing 425
  Mutual mortgage, regulations 419
  Wheat crop, regulations 1013
INSURANCE COMPANY OF NORTH AMERICA:
  Order for hearing by Securities and Exchange Commission 586, 667
  Unlisted trading privileges, order 793
INSURANCE POLICIES, acceptance by Federal Home Loan Banks 738
INTERCOLLEGIATE REGATTA, Poughkeepsie, N. Y., regulations to promote safety of life 991
INTERIOR, DEPARTMENT OF THE:
  Employees, order amended prohibiting holding of State, Territorial, etc., offices by 197

INTERIOR, DEPARTMENT OF THE—Continued. Page

General Land Office:
Air navigation site withdrawals:
Arizona 592
California 875
Nevada 980
Utah 875, 980
Wyoming 33
Arkansas, recreational withdrawal revoked 592
Homesteads, cultivation requirements eliminated as to certain entries 926
Oil and gas lease applications:
Lands within one mile of naval petroleum, military, and naval helium reserves 669
Red River, Okla., lands subject to disposition 670
Rights of way for canals, ditches, water pipe lines, etc., regulations 1035
Stock driveway withdrawals enlarged, etc.:
Arizona 1029
Montana 914
New Mexico 913, 914, 1029
Washington 980
Wyoming 802, 875, 900, 914
Geological Survey:
Coal-mining methods and safety and welfare of miners on leased lands on public domain, operating regulations 444
Grazing, Division of:
Federal Range Code, administration of grazing districts 604
Grazing district modifications, etc.:
California 562, 774
Colorado 558, 1035
Idaho 758
Montana 280, 565, 1035
New Mexico 555, 785, 817, 893
Oregon 469, 565
Utah 487
Wyoming 758
Indian Affairs, Office of:
Attorneys:
Employment by tribes, regulations amended 745
Negotiation and execution of contracts with tribes, regulations 1007
Chippewa Indian Reservations, Minn., restoration order 567
Crow Indian Reservation, Mont.:
Law and order regulations, amendment 952
Leasing of lands for mining purposes, regulations 867
Five Civilized Tribes, Okla.:
Funds appropriated in aid of common schools, regulations 745
Leasing of restricted lands for mining purposes 877
Flathead Indian Reservation, Mont., restoration order 5
Highway regulations, road and bridge construction and maintenance on reservations 700
Hospitals and sanitoria, admission of patients, regulations 735
Indian fund deposits in banks, regulations 937
Irrigation projects, operation and maintenance charges:
Crow Indian, Mont 775
Flathead Indian, Mont 777
Florence-Casa Grande 776
Pala Indian, Calif 775
Rincon Indian, Calif 775
San Carlos, Ariz 776
Wapato, Wash 5
Wind River Indian, Wyo 775
Zuni Pueblo, N. Mex 776
Menominee Indian Reservation, sale of timber products, regulations amended 711

INTERIOR, DEPARTMENT OF THE—Continued. Page

Indian Affairs, Office of—Continued.
Navajo and Hopi Reservations, Ariz., and N. Mex.:
Grazing regulations modified 526
Law and order regulations 953
Public school tuition for Indian children, regulations 746
Red Lake Indian Reservation, Minn., sale of forest products, regulations 442
Rights of way over Indian lands, regulations 984
Roadless and wild areas established on Indian Reservations 606
Rosebud Reservation, S. Dak., restoration order 343
Tribal lands, leasing for mining purposes 885
Tribes organized under Act of June 18, 1934, application of Law and Order Regulations to 952
Wind River Indian Reservation, Wyo., leasing of lands for oil and gas mining purposes, regulations 850
Indian Arts and Crafts Board:
Navajo all-wool woven fabrics, use of Government certificate of genuineness, regulations 759
Silver products (Navajo, Pueblo, and Hopi):
Government mark, regulations for use of 759, 760
Standards and specifications 759
Turquoise products, standards 759
Mines, Bureau of:
Helium, production and sale of, for medical, scientific and commercial use, regulations 463, 647
National Bituminous Coal Commission:
Bituminous coal in intrastate commerce, etc., applications for exemption:
Wheeling Steel Corp., Emperor Coal Co., Consumers Mining Co 346, 385
Bituminous coal in intrastate commerce, investigation of nature and extent, etc.:
Arkansas 567
Kansas 566
Michigan 71
Missouri 291
Montana 29
New Mexico 598
North Carolina 598
Utah 27
Virginia 237
Washington 28
West Virginia 415
Wyoming 27
Classification of coals of code members:
District No. 1, Supplement No. 1 340
District No. 2:
Jamison Coal & Coke Co., hearing on reclassification 294, 347, 470
Keystone Coal & Coke Co., hearing on reclassification 294, 347, 470
District No. 8, Atlas Coal Co., Capito Mine, reclassification 233
Classification of coals of code members, revocation of orders relating to establishment 565
Coal, determination of character of, etc., public hearings:
Montana 619
Virginia 28, 347
Anthracite Coal and Briquetting Co., Inc., Pulaski, Va 28
Coal, determination of character of, applications for certificate of exemption:
Consumers Lignite Co 875
McAlester Fuel Co 876
Malakoff Fuel Co 876
Morton Salt Co 876
Notice of hearings:
Big Lump Coal Co 877, 906
Blue Diamond Coal Co 877, 906

INTERIOR, DEPARTMENT OF THE—Continued. Page

National Bituminous Coal Commission—Continued.
Coal, determination of character of, applications for certificate of exemption—Continued.
Cambria Clay Products Co 877, 906
Cowgill Mine 877, 906
Dark Hollow Coal Co 877, 906
Gander, H. S., Coal Co 877, 906
General Clay Products Co 877, 906
Grozdon, Joe 877, 906
Hamilton Trenner Coal Co 877, 906
Hickory Clay Products Co 877, 906
Hosenfeld, Jos. F 877, 906
Jackson Iron and Steel Co 906
Kennard, James 877, 906
Luman, T. E 877, 906
M'Connell, M. R 877, 906
Mattern, Ross 877, 906
Metropolitan Paving Brick Co 877, 906
Muskingum Coal Co 877, 906
Plainview Coal Co 877, 906
Portsmouth Clay Products Co 906
Robinson Clay Product Co 877, 906
Sharratt Coal Co 877, 906
Sunshine Anthracite Coal Co 999, 1043
Thompson and Edmiston 877, 906
Wisecarver, J. H 877, 906
Coal, determination of character of, Texas; applications for exemption; findings and conclusions 930
Code members:
Maximum discounts or price allowances to distributors, etc., hearing 234, 347, 470, 566
Questionnaire as to analysis, methods of mining, preparation of coals, etc., to be filed by 597
Report required to Statistical Bureaus of change in name of producing company, management, or ownership 906
Sale agent appointments and applications as registered wholesalers or farmers' cooperative organizations, reports required 26
Contracts, thirty-day limitation:
Districts Nos. 15, 16, 17, 18, 19, 20, 22, 23, effective after February 1, 1938 235
Rules 689
Sales to Government agency 717
District Boards:
Analyses of samples of coals produced at mines required 36
Code members delinquent in assessment payments, list required 980
Maximum discounts, etc., to distributors, proposals to be filed by 688
Plant performance, physical characteristics of coals, and coal analyses data to be secured 597
Marketing agencies, applications for approval as:
Alabama Coals, Inc., extension 237
Appalachian Coals, Inc., extension 237
Smokeless Coal Corp., extension 237
Marketing Rules and Regulations:
Advertising, deductions or allowances from invoices prohibited 90
Coal resales by distributors, hearing 566
Discounts, payment or allowance to wholesalers and farmers' cooperative organizations 236
Districts Nos. 1 to 13, incl., Supplement No. 1 74
Districts Nos. 14, 15, 16, 17, 18, 19, 20, 22, and 23, Supplement No. 1 75, 235
Farmers' Cooperative Organization, applications for registration as:
Cleveland Hot-House Vegetable Growers Cooperative Assn., denial 438
Greenhouse Vegetable Packing Co., denial 438
Toledo Hot-House Cooperative Assn., denial 439

INTERIOR, DEPARTMENT OF THE—Continued. Page

National Bituminous Coal Commission—Continued.
Marketing Rules and Regulations—Continued.
Revocation of orders, Districts Nos. 1 to 20, incl., and Nos. 22 and 23 469
Minimum prices for coals produced by code members:
Base rates and freight rate adjustments, Districts Nos. 1 to 8, incl., hearing 286, 347, 470
Coals having maximum top size of three-eighths inch, Districts Nos. 1, 2, 3, 4, 6, and 7 198, 214
District No. 1:
Supplement No. 4 115
Supplement No. 5 339
District No. 2:
Supplement No. 4 83
Supplement No. 5 116
Supplement No. 6 235
District No. 3, Supplement No. 4 117
District No. 7:
Supplement No. 1, effective date of definition of Domestic and Standard Run of Mine Coal and Prices extended 416
Supplement No. 3 72
Supplement No. 4 117
Supplement No. 5 341
District No. 8:
New River Pocahontas Group freight rates, order rescinded 36
Supplement No. 1, effective date of definition of Domestic and Standard Run of Mine Coal and Prices extended 417
Supplement No. 3 83
Supplement No. 4 118
Supplement No. 5 258
Supplement No. 6 341
District No. 9, Supplement No. 2 274
District No. 10, Supplement No. 3 236
District No. 11:
Supplement No. 3 84
Supplement No. 4 257
District No. 13, Supplement No. 3 84
District No. 14, Supplement No. 1 73
District No. 19, Supplement No. 1 437
Revised Truck Mine Schedule No. 1:
District No. 1 137
District No. 2 147
District No. 3 166
District No. 4 169
District No. 6 179
District No. 7 286
District No. 8 297
District No. 9 305
District No. 10 181
District No. 11 160
District No. 12 185
District No. 15 281
Minimum price proposals required for coals produced by code members, orders revoked 566
Minimum prices, establishment:
Atlas Coal Co., Capito Mine, revision 233
Brookside-Pratt Mining Co., "Lindbergh" Mine 437
Debardeleben Coal Corp., "Hull" Mine 437
Hill-Anderson Coal Co., "Willis Branch" Mine 436
Layton, D. R., Coal Co., "Layton" Mine 436
New Anchor Block Coal Co., "Anchor Block Mine", revision 436
Walker & Olson, "Maxwell" Mine 436
Minimum prices for coals produced by code members, hearings, etc., on petitions:
A. G. & S. Mining Co., et al 217, 347, 470
Associated Industries of New York State, Inc 262, 470
Bell and Zoller Coal and Mining Co., et al 88, 386, 470

INTERIOR, DEPARTMENT OF THE—Continued. Page
National Bituminous Coal Commission—Continued.
Minimum prices for coals produced by code members, hearings, etc., on petitions—Continued.
Berwind-White Coal Mining Co 213, 347, 470
Binkley Mining Co 71
Boone County Coal Corp 34
Brewerton Co 416, 438
Brooklyn Union Gas Co 292, 342
Buffalo Coal & Coke Co 40
Butler Consolidated Coal Co., by Marten A. Reiber, Receiver 35, 198, 347, 470
Carter Coal Co 63, 197
Central Illinois Coal Mining Co 416, 438
Central State Collieries, Inc 197
City of Atlanta, Ga 239, 470
City of Cleveland, Ohio 470
City of Erie, Pa 275
City of Rochester, N. Y 240, 470
City of St. Louis, Mo 239, 470
Consolidated Coal Co 416, 438
Consolidated Edison Co., of New York, Inc 293, 342
Consumers' Counsel 238, 470
Continental Rubber Co 275
District Board No. 1 217, 347, 470
District Board No. 2 89, 347, 470
District Board No. 4 89
District Board No. 6 89
District Board No. 7 219, 347, 470
District Board No. 14 310
District Board No. 15 219
District Board No. 16 35, 219
Ebensburg Coal Co 218, 347, 470
Enos Coal Mining Co 71
Fentress Coal and Coke Co 293
Gauley Mountain Coal Co 39
Gillespie Coal Co 416, 438
Gundlach Coal Co 197
Hammermill Paper Co 274
Heisley Coal Co 218, 347, 470
Hillsboro Mining Co 416, 438
Illinois-Pocahontas Coal Co 198
Indiana & Illinois Coal Corp 416, 438
Jones, George M., Co 292, 385
Keystone Coal and Coke Co 294, 470
Koppers Co.—Seaboard Division 292, 342
Livingston-Mt. Olive Coal Co 416, 438
Lovell Manufacturing Co 274
McLaren Coal Co 415
Marion County Coal Co 416, 438
Marshall Mining Co 41
Midland Coal & Mining Co 347, 470
Mine "B" Coal Co 416, 438
Monroe Coal Mining Co 218, 347, 470
Mt. Olive & Staunton Coal Co 416, 438
Nokomis Coal Co 416, 438
North Park Coal Co 72
Pana Coal Co 416, 438
Panther Creek Mines, Inc 416, 438
Patoka Coal Co 88
Peabody Coal Co 416, 438
Penwell Coal Mining Co 416, 438
Pittsburgh Coal Co 35, 198, 220, 347, 470
Pittsburgh Terminal Coal Corp 35, 198, 347, 470
Powhattan Mining Co 34, 198, 347, 470
Providence Gas Co 33
Pursglove Coal Mining Co 198, 347, 470
Pyramid Coal Corp 88
Rochester & Pittsburgh Coal Co., et al 217, 347, 470
Ruberoid Co 276
Sahara Coal Co 34
Shirley Gas Coal Corp 89
Stanley Coal Co 219
State of New York, City of New York, etc 238, 239, 261, 470

INTERIOR, DEPARTMENT OF THE—Continued. Page
National Bituminous Coal Commission—Continued.
Minimum prices for coals produced by code members, hearings, etc, on petitions—Continued.
Truax-Traer Coal Co 88
Truax-Traer Coal Co., of West Virginia 40
Union Collieries Co 35, 198, 220, 275, 347, 470
Union Iron Works 275
United Electric Coal Co 88
West Virginia Coal and Coke Corp 39
Wilmington Coal Mines, Inc 218
Minimum prices, revocation of all orders relating to establishment of 469
Orders issued by the Commission, revocation 689
Producers:
Cost and realization data reports required 619
Cost data, introduction in evidence; hearings on petitions 689
Ashland Coal & Coke Co 937
Atlantic Smokeless Coal Co 937
Hanna Coal Co. of Ohio 937
Jamison Coal & Coke Co 937
Mallory Coal Co 937
Pittsburgh Coal Co 937, 1076
Rochester and Pittsburgh Coal Co 968, 1076
Westmoreland Coal Co 937
Wheeling Coal Co 937
Distribution data for 1937 to be furnished by 764
Progressive Miners of America v. Ray Edmundson and United Mine Workers of America, petition dismissed 650
Railroad locomotive fuel sales:
Commissions or discounts on, hearing 347, 469
Minimum prices and marketing rules, hearing to review and revise 234, 346, 474
Reports required 32
Sales to State, Territorial, or Federal Governments, price reduction permitted 90
Substitution on spot order or contract, hearing continued 347, 470
Tonnage, weighted average of total costs:
Compilation for 1936 available for inspection 32
Computations and determinations, 1936, to be submitted by District Boards 794
Determination of, Minimum Price Areas 6, 7, 9 and 10, notice of hearing 1006, 1029
Determination revoked, Minimum Price Areas Nos. 1 to 7, 9 and 10 565
National Park Service:
Bears, regulations amended prohibiting feeding, etc., in national parks 36
Boulder Dam Recreational Area, operation of privately owned boats, etc., on Lake Mead, regulations 914
Glacier National Park, timber disposal regulations amended 867
Guide fees, Fort Marion and Fort Pulaski National Monuments, regulations amended 802
Hot Springs National Park, Ark., regulations governing administration, use of waters, etc 262
Local subsidiary regulations:
Great Smoky Mountains National Park 670
Lassen Volcanic National Park 817
Sequoia National Park 760
Shenandoah National Park 774
Yosemite National Park 774, 900
Salem Maritime National Historic Site, Mass., designation 671
Petroleum Conservation Division:
Petroleum, interstate and foreign commerce regulation, forms prescribed and approved 689
Reclamation, Bureau of:
Boise Irrigation Project, Idaho-Oreg., annual water charges 425

INTERIOR, DEPARTMENT OF THE—Continued. Page
Reclamation, Bureau of—Continued.
Boise Project, Idaho, reclamation withdrawal 982
Buffalo Rapids Project, Mont., reclamation withdrawal 208
Columbia Basin Project, Wash., reclamation withdrawal 280
Klamath Irrigation Project, Oreg.-Calif., annual water charges 557
Owyhee Irrigation Project, Oreg.-Idaho:
Annual water charges 784
Public lands opened to entry; availability of water 209
Yuma Irrigation Project, Ariz.-Calif., annual water charges 785
Secretary of:
Canton and Enderbury Islands placed under control and jurisdiction of 525
Public lands:
Jurisdiction over certain, transferred from Secretary of Agriculture 767
New Mexico, jurisdiction transferred from Secretary of Agriculture 134
Rhode Island, jurisdiction transferred from Secretary of Agriculture 1057
Territories and Island Possessions, Division of:
Alaska Railroad:
Freight service 669, 979
Freight shipments, information for 559
Freight tariffs 669, 715, 758, 848
Local passenger tariff 280
Long distance telephone tariff 558
Passenger and freight service on Tanana and Yukon Rivers 559
Passenger service, revised schedule 669
Terminal tariff 649
Transit permits covering corpses 796
INTERNAL REVENUE, BUREAU OF. *See* Treasury Department.
INTERNATIONAL FISHERIES COMMISSION:
Pacific Halibut Fishery Convention between United States and Canada, regulations 551
INTERNATIONAL HYDRO-ELECTRIC SYSTEM, order for hearing by Securities and Exchange Commission 588
INTERNATIONAL PAPER & POWER CO., order for hearing by Securities and Exchange Commission 589
INTERSTATE COMMERCE COMMISSION:
Common carriers subject to Clayton Antitrust Act, bids for securities, supplies, etc 344
Common carriers by rail, annual reports of block signal, interlocking, train control, etc., statistics 19
Electrical railways, statistical data 519
Explosives, transportation regulations 129, 652
Express Companies, uniform system of accounts 660
Motor Carrier Act, 1935:
Common carriers by motor vehicle, construction, filing, etc., of tariffs, regulations 44
Common carriers of household goods, proposed regulations governing practices and charges; investigation ordered 616
Contract carriers, publication and inspection of schedules, regulations 44
Motor carrier rates, investigations and hearings:
Central territory 733, 734
Income statements to be submitted by Class I common carriers 783
New England States 762, 825
New York, New Jersey, Pennsylvania, and Delaware 635
Income statements to be filed 1082
Motor carrier employees, maximum hours of service, regulations 7

INTERSTATE COMMERCE COMMISSION—Contd. Page
Motor Carrier Act, 1935—Continued.
Security for protection of public, approval of surety bonds, insurance policies, etc 99
Railroads, petitions to increase rates, fifteen percent case, 1937, notice of oral argument 119
Steam locomotives and tenders, rules amended (A. Johnston, et al. v. Atlantic Coast Line Railroad Co., et al.) 560
Steam railways, switching and terminal companies:
Annual reports, Class I and II 19
Monthly reports of revenues and expenses, Class I 202
Periodical reports of operating statistics, Class I 202
Steam roads:
Destruction of records, issue of 1914, regulations amended 36
Uniform system of accounts 277, 981
INTERSTATE UTILITIES CO., notice of hearing, etc., by Securities and Exchange Commission 120
IOWA:
Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
National Labor Relations Board territory, placed in 18th Region 927
IOWA POWER AND LIGHT CO.:
Effective date of declaration; acquisition of assets approved by Securities and Exchange Commission 925
Notice of hearing 740
IRELAND, countervailing duties on sugar imported from 208
IRELAND, WILLIAM M., notice of hearing by Federal Trade Commission 471
IRRIGATION PROJECTS:
Annual water charges:
Boise, Idaho-Oreg 425
Klamath, Oreg.-Calif 557
Owyhee, Oreg.-Idaho 784
Yuma, Ariz.-Calif 785
Operation and maintenance charges fixed:
Crow Indian, Mont 775
Flathead Indian, Mont 777
Florence-Casa Grande 776
Pala Indian, Calif 775
Rincon Indian, Calif 775
San Carlos, Ariz 776
Wapato, Wash 5
Wind River Indian, Wyo 775
Zuni Pueblo, N. Mex 776
Owyhee, Oreg.-Idaho, lands opened to entry; availability of water 209
IRWIN, C. M.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
ISLE OF SHOALS, use, administration, etc., of area between Portsmouth Harbor, N. H 828

J

JACKSON IRON AND STEEL CO., notice of hearing by National Bituminous Coal Commission 906
JACKSON LIVESTOCK COMMISSION CO., stockyard designated public market at Jackson, Miss 86
JACKSON UNIVERSITY OF BUSINESS, ET AL., notice of hearing by Federal Trade Commission 740
JACOBI HARDWARE CO., findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities 12
JAMES, NORMAN, order for hearing by Federal Power Commission 796, 1032

Page

JAMISON COAL & COKE CO., notice of hearings by National Bituminous Coal Commission ... 294, 347, 470, 937

JAPAN, consular certificates required for entry of wild animals from ... 664

JAPANEES BEETLE QUARANTINE:
Articles exempt from certification requirements ... 610
Fumigation of potatoes by methyl bromide as certification of moving by refrigerator car ... 854
Regulations revised ... 718

JEFFERSON, THOMAS, proclamation commemorating birth ... 618

JEWELRY INDUSTRY, WHOLESALE, trade practice rules promulgated by Federal Trade Commission ... 592

JOHN HANCOCK PEN CO., notice of hearing by Federal Trade Commission ... 933

JOHNSON, MITCHELL, order for hearing by Federal Power Commission ... 796, 1032

JOHNSTON, A., order by Interstate Commerce Commission ... 560

JONES, GEORGE M., CO., order by National Bituminous Coal Commission ... 292, 385

JONES-NEUHOFF COMMISSION CO., designated stockyard owner at Macon, Ga ... 29

JUDY, EDWARD W., order for hearing by Federal Power Commission ... 738

JUMBO EXTENSION MINING CO., order by Securities and Exchange Commission ... 272

JUNEAU, ALASKA, land placed under control of Secretary of War for radio receiving station, description corrected ... 195

K

KAAP, THEODORE F., order for hearing by Federal Power Commission ... 739

KANE, LEO F., order for hearing by Federal Power Commission ... 738, 860

KANSAS:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Bituminous coal in intrastate commerce, etc., investigation of nature and extent ... 566

KANSAS ELECTRIC POWER CO., notice of hearing by Securities and Exchange Commission ... 897

KEARNEY LIVESTOCK COMMISSION CO., notice under Packers and Stockyards Act ... 334

KEHR, ALBERT C., notice of hearing by Federal Trade Commission ... 473

KELLETT, ERNEST G., order for hearing by Federal Power Commission ... 739, 860

KENDALL CO., notice of hearing by Federal Trade Commission ... 924

KENNARD, JAMES, notice of hearing by National Bituminous Coal Commission ... 877, 906

KENNECOTT COPPER CORP., notice of hearing by Securities and Exchange Commission ... 443

KENTUCKY, agricultural conservation program, 1937, 1938, east central region. *See* Agriculture, Department of.

KENTUCKY SECURITIES CO., acquisition of securities approved by Securities and Exchange Commission ... 4

KENTUCKY UTILITIES CO., order for hearing by Federal Power Commission ... 572

KERRIGAN, TOM:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls ... 501
Notice of hearing ... 271

KERWIN, EDWARD M., notice of hearing by Federal Trade Commission ... 845

KEYSTONE COAL AND COKE CO.:
Order by National Bituminous Coal Commission ... 294
Reclassification of certain coals, hearing ... 294, 347, 470

KEYSTONE DISTILLING CO., notice of hearing by Federal Trade Commission ... 271

KEYSTONE EMERY MILLS, findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities ... 12

KEYSTONE PIPE & SUPPLY CO., notice of hearing by Securities and Exchange Commission ... 594

KEYSTONE UTILITIES, INC., notice of hearing by Securities and Exchange Commission ... 925

KEYSVILLE LUMBER CO., notice of hearing by Federal Trade Commission ... 506

KIMBALL, W. W., CO., notice of hearing by Federal Trade Commission ... 472

KING, EMMETT R., order for hearing by Federal Power Commission ... 797

KING, HERBERT, suspension and expulsion order by Securities and Exchange Commission ... 507

KING, VIVIAN L., ET AL., complaint and notice by Federal Trade Commission; wholesale drug business ... 756

KLAMATH IRRIGATION PROJECT, OREG.-CALIF., annual water charges ... 557

KNUDSEN CREAMERY CO., OF CALIFORNIA, orders by Securities and Exchange Commission ... 277, 727

KOCH, A. E. (MISS), order for hearing by Federal Power Commission ... 797

KOHLHEPP, CHARLES E., order for hearing by Federal Power Commission ... 739

KOOLISH, PHILIP H., JR., notice of hearing by Federal Trade Commission ... 825

KOOLISH, THEODORE H., notice of hearing by Federal Trade Commission ... 823

KOPPERS CO.—SEABOARD DIVISION, order by National Bituminous Coal Commission ... 292, 342

KOTIS, ANASTACIOS, cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995

KRANZ, GEORGE H., notice of hearing by Federal Trade Commission ... 472

L

LA PORTE COUNTY, IND., MARKETING AREA, handling of milk, hearing on proposed regulatory order, etc., amendments ... 1021

LABOR, DEPARTMENT OF:
Children's Bureau:
Social Security Act, grants to States for maternal and child welfare ... 199, 931
Immigration and Naturalization Service:
Aliens:
Admission of, to participate in Golden Gate International Exposition and New York World's Fair, 1939 ... 724
Applicants for nonquota or preference quota immigration visas, based on citizenship ... 224
Chinese, Rules Governing Admission of:
Transits, departure and deportation ... 725
Wife or minor children, etc., of lawful resident or citizen, admissibility, status, pre-investigation ... 725
Naturalization of, married to citizens of the United States ... 92
Repatriated, application for admission ... 509
Seamen, detention on board vessels on which employed ... 600

Page

LABOR, DEPARTMENT OF—Continued.
Immigration and Naturalization Service—Continued.
Aliens—Continued.
Transit, documents required of, Immigration Rules amended ... 224
Filipinos, voluntary emigration from the United States ... 413
Secretary, Office of the:
Minimum wage determinations:
Cotton Garment and Allied Industries, decisions in extension of determination to:
Manufacture of barrack bags and bandoleers ... 257
Manufacture of wool and wool-lined jackets ... 896
Envelope Industry ... 889
Handkerchief Industry ... 64
Leather and Sheep-Lined Jackets Industry, redetermination ... 895
Men's Hat and Cap Industry, reconsideration ... 224
Vitreous or Vitrified China Industry ... 901

LACASSINE MIGRATORY WATERFOWL REFUGE, LA., establishment ... 1

LACES (IMPORTED), additional facts required on customs invoice ... 729

LAKE CRATE AND LUMBER CO., notice of hearing by Federal Trade Commission ... 506

LAKE MEAD, Boulder Dam Recreational Area, operation of privately owned boats, etc ... 914

LAMONT, CORLISS AND CO., notice of hearing by Federal Trade Commission ... 603

LAND BANKS. *See* Farm Credit Administration.

LAND CONSERVATION, ETC., administration of program authorized by Bankhead-Jones Farm Tenant Act ... 986

LAND, EMORY S., designated Chairman of United States Maritime Commission ... 435

LARSEN, CARL F., complaint by Federal Trade Commission; manufacture, etc., of snow fence ... 225

LARSEN, MARGARET C., complaint by Federal Trade Commission; manufacture, etc., of snow fence ... 225

LARSON, WILLIAM J., notice of hearing by Federal Trade Commission ... 473

LASALLE EXTENSION UNIVERSITY, cease and desist order modified by Federal Trade Commission; sale, etc., of correspondence courses ... 996

LASSEN VOLCANIC NATIONAL PARK, local subsidiary regulations ... 817

LAVINE, ARTHUR S., ET AL., complaint and notice by Federal Trade Commission; wholesale drug business ... 756

LAYTON, D. R., COAL CO., minimum prices established for coals produced at "Layton" Mine ... 436

LEATHER AND SHEEP-LINED JACKETS INDUSTRY, prevailing minimum wage redetermination ... 895

LEAVE REGULATIONS, Government employees ... 612, 614, 905

LEDNEW CORP., notice of hearing by Federal Trade Commission ... 471

LEHIGH VALLEY COAL CO., orders by Securities and Exchange Commission ... 484, 838

LEHMHUHL, PAUL AUGUST, notice of hearing by Federal Power Commission ... 212

LEONIS, DIAMANDIS, cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995

LEPPER, CHARLES W., order for hearing by Federal Power Commission ... 738, 860

LETTUCE, handling of, Western Washington, hearing on proposed marketing agreement, etc ... 853

LEVOY, LEOPOLD, notice of hearing by Federal Trade Commission ... 560

LEWIS AND CLARK RIVER, OREG., drawbridge regulations revoked ... 828

LEXINGTON UTILITIES CO., acquisition of securities approved by Securities and Exchange Commission ... 4

LIGHTHOUSES, BUREAU OF. *See* Commerce, Department of.

LIMA CORD SOLE AND HEEL CORP., order setting hearing by Securities and Exchange Commission ... 790

LINCOLN LOCKER CORP., notice of hearing by Federal Trade Commission ... 1051

LINDABURY, H. R., AND SONS, ET AL., complaint by Federal Trade Commission; manufacture of snow fence ... 225

LIQUORS. *See* Treasury Department: Federal Alcohol Administration Division; Internal Revenue, Bureau of.

LITTLE ROCK STOCK YARDS COMMISSION CO., North Little Rock, Ark., notice under Packers and Stockyards Act ... 973

LIVESTOCK:
Brands, authorizing Nebraska Stockgrowers Association to conduct inspections ... 941
Breeds and purebred animals, regulations amended governing recognition of ... 822, 1010
Countervailing duties revoked, Mandate Territory of South West Africa ... 637
Domestic, etc., imported from all countries except Mexico, regulations amended ... 1010
Interstate movement of, regulations amended ... 1009
Notices under Packers and Stockyards Act ... 29, 80, 86, 198, 276, 334, 432, 457, 478, 638, 673, 821, 973
Watering of, rights of way for reservoirs ... 1037

LIVINGSTON-MT. OLIVE COAL CO., order by National Bituminous Coal Commission ... 416, 438

LOANS. *See also* Farm Credit Administration.
Bankhead-Jones Farm Tenant Act, improvements on land acquired under ... 388
Insurance property improvement, regulations under National Housing Act ... 349, 755

LOBBYING ACTIVITIES, U. S. SENATE, inspection of income, excess-profits, and capital stock tax returns by Special Committee ... 783

LOCOMOTIVE FUEL. *See* Railroads.

LOEB, GERALD M.:
Notice of hearing by Securities and Exchange Commission ... 9
Order discontinuing proceedings ... 997

LORAIN HARBOR, OHIO, regulations governing use, administration, etc ... 982

LOS ANGELES CITY, ET AL., notice of hearing by Federal Power Commission ... 1051

LOU RAY CO., notice of hearing, etc., by Federal Trade Commission ... 1002

LOUISIANA:
Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
American Union Stock Yards, et al, Baton Rouge, notice under Packers and Stockyards Act ... 457
Atchafalaya River, drawbridge regulations ... 795
Calcasieu Pass vicinity, small passenger vessels exempted from radiotelegraph installation requirements ... 902
Ellington and Cook Livestock Com. Market, Alexandria, notice under Packers and Stockyards Act ... 630

Page

LOUISIANA—Continued
Lacassine Migratory Waterfowl Refuge, establishment 1
New Orleans vicinity, small passenger vessels exempted from radiotelegraph installation requirements 737
Ouachita River, regulations modified governing use, administration, etc 828
Passes to Cache River, Ill., vessel regulations where bank protection works have been provided 891
Potatoes (Irish), handling of:
Proposed marketing agreement, etc., notice of hearing 659, 712, 736
Regulatory order; determination 907
Public land withdrawal for use of Department of Agriculture 767
Starks, opening of Louisiana Highway Commission Drawbridge across Sabine River 596
Sugarcane production:
Price determinations, 1937 and 1938 crops, amendment; notice of hearing, etc 456, 911
Wage rates, 1938 crop, notice of hearings, etc 348
LOUISIANA HATCHERIES, notice of hearing by Federal Trade Commission 6
LOUISIANA STEAM GENERATING CORP.:
Effective date of declaration fixed by Securities and Exchange Commission 816
Notice of hearings, etc 523, 600, 611, 655
LOUISVILLE POTTERY CO., notice of hearing by Federal Trade Commission 948
LOVELL MANUFACTURING CO., notice of hearing by National Bituminous Coal Commission 274
LOWE, JOE, CORP., notice of hearing by Federal Trade Commission 740
LOWER SOURIS MIGRATORY WATERFOWL REFUGE, N. DAK., enlargement 222
LUMAN, T. E., notice of hearing by National Bituminous Coal Commission 877, 906
LYNCH, BERNARD WILLIAM, notice of hearing by Federal Power Commission 212
LYNX KNITTING CO., notice of hearing by Federal Trade Commission 272

M

McALESTER FUEL CO., certificate of exemption granted by National Bituminous Coal Commission 876
McCALL, RICHARD, order for hearing by Federal Power Commission 738, 860
M'CONNELL, M. R., notice of hearing by National Bituminous Coal Commission 877, 906
McCOOK LIVESTOCK EXCHANGE (C. W. Poore, et al.), notice under Packers and Stockyards Act 821
McLAREN COAL CO., order by National Bituminous Coal Commission 415
MACARONI, NOODLES, AND RELATED PRODUCTS INDUSTRY, proposed trade practice rules by Federal Trade Commission 1081
MACDONALD, R. C.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
MACKENZIE, J. H., order for hearing by Federal Power Commission 797
MACON, GA., designating Jones-Neuhoff Commission Co., as stockyard owner 29
MACRENARIS, EM., AND NIC, cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
MADDEN, JAMES JOSEPH, notice of hearing by Federal Power Commission 212
MAIN, ALEX:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
MAINE:
Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
Loans by Farm Security Administration, designation of counties for 386
Motor carrier rates, investigation by Interstate Commerce Commission 762, 825
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 712, 736, 1030
MALAKOFF FUEL CO., certificate of exemption granted by National Bituminous Coal Commission 876
MALLORY COAL CO., notice of hearing by National Bituminous Coal Commission 937, 1076
MALONE, N. Y., airport of entry redesignated 801
MALONEY, WALTER JOSEPH, notice of hearing by Federal Power Commission 212
MALT BEVERAGES, labeling and advertising regulations, hearing on proposed amendments 632
MANGAN, P. J., registration revoked by Securities and Exchange Commission 529
MANGE, JOHN I., order for hearing by Federal Power Commission 797
MANILA FIBER, ETC., operation of Act approved June 14 ,1935, extended for three years 222
MANZELMAN, GEORGE F., notice of hearing by Securities and Exchange Commission 577
MARINE CORPS, awarding of distinguished flying cross to eligible persons, regulations amended 39
MARINE INSPECTION AND NAVIGATION, BUREAU OF. *See* Commerce, Department of.
MARION COUNTY COAL CO., order by National Bituminous Coal Commission 416, 438
MARITIME DAY, NATIONAL, 1938, proclamation 817
MARKET STREET RAILWAY CO., orders setting hearings, etc., by Securities and Exchange Commission 66, 789, 933
MARSHALL MINING CO., order by National Bituminous Coal Commission 41
MARYLAND:
Agricultural conservation program, 1937, 1938, east central region. *See* Agriculture, Department of.
Inland Waterway (Chesapeake and Delaware Canal), regulations governing use, administration, etc 68
Lands acquired by Home Owners' Loan Corporation, reversionary interest in 418
Loans by Farm Security Administration, designation of counties for 500
State Highway Bridge across Oak Creek, Talbot County, drawbridge regulations modified 936
MASSACHUSETTS:
Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
Boston Engineer District, fishing regulations modified 893
Eastern Steamship Lines, Inc., Boston, temporary exemption from radiotelegraph installation requirements 81
Loans by Farm Security Administration, designation of counties for 457
Motor carrier rates, investigation by Interstate Commerce Commission 762, 825
Salem Maritime National Historic Site, designation 671

Page

MASSACHUSETTS LIGHTING COS., effective date of declarations, etc., by Securities and Exchange Commission 65
MASSACHUSETTS UTILITIES ASSOCIATES, effective dates of declarations, etc., by Securities and Exchange Commission 65
MASTER LOCK CO., complaint by Federal Trade Commission; manufacture, sale, etc., of padlocks 832
MATHER, WM. G., ET AL., exemption from provisions of Public Utility Holding Company Act of 1935 793
MATTERN, ROSS, notice of hearing by National Bituminous Coal Commission 877, 906
MATTHEWS & BOUCHER, findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities 12
MATTSON WIRE AND MANUFACTURING CO., complaint by Federal Trade Commission; manufacture of snow fence 225
MAYFAIR CLOTHING CO., notice of hearing, etc., by Federal Trade Commission 128
MEGAHAN, HOWARD D., order for hearing by Federal Power Commission 738, 860
MELONS (honeyball and honeydew), handling of, Calif., and Ariz., base period to be used; regulatory order 959
MENDELS, HYMAN, notice of hearing by Federal Trade Commission 835
MENOMINEE INDIAN RESERVATION, sale of timber products, regulations amended 711
MEN'S HAT AND CAP INDUSTRY, reconsideration of prevailing minimum wage determination 224
MERCHANDISE. *See also* Countervailing Duties.
Abandoned or forfeited, subject to internal-revenue tax, disposition of 899
Austrian, marking to indicate Germany as country of origin 735
Bonded warehouse, extensions of warehousing period 99
Drawback, extending period for exportation 99
Entry of, general term bond, Customs Regulations amended 987
Examination of, imported in packages, special regulation 423
Examined packages, customs release upon stipulation to pay increased or additional duties 415
Export declarations, Customs Regulations amended 519
Liquidation of warehouse withdrawals, etc., Customs Regulations amended 688
Value not exceeding $100, exemption from consular invoices 728
Vessels' supplies, stores or equipment, exemption from consular invoice requirements 728
MERCHANTS PETROLEUM CO., order by Securities and Exchange Commission 483
MERCK & CO., INC., complaint by Federal Trade Commission; manufacture, sale, etc., of chemicals 732
MERCO SALES CO., notice of hearing by Federal Trade Commission 860
MERRILL CANDY CO., notice of hearing by Federal Trade Commission 834
MERRITT, JOHN C., notice of hearing by Federal Trade Commission 861
METAL CLAD DOOR AND ACCESSORIES MANUFACTURING INDUSTRY, trade practice rules promulgated by Federal Trade Commission 190
METROPOLITAN DISTRIBUTING CO., notice of hearing by Federal Trade Commission 824
METROPOLITAN EDISON CO., unlisted trading privileges extended by Securities and Exchange Commission 205
METROPOLITAN PAVING BRICK CO., notice of hearing by National Bituminous Coal Commission 877, 906
MEXICAN FRUITFLY QUARANTINE, sterilization of grapefruit and oranges by heat 729
MEYER, PETER AND WYETTE, notice of hearing by Federal Trade Commission 752
MIAMI WHOLESALE DRUG CORP., complaint and notice by Federal Trade Commission; wholesale drug business 756
MICHIGAN:
Agricultural conservation program, 1937, 1938, north central region. *See* Agriculture, Department of.
Bituminous coal in intrastate commerce, investigation to determine nature and extent, etc 71
Huron Migratory Bird Refuge, establishment 195
Huron National Forest, lands reserved as part of 122
Loans by Farm Security Administration, designation of counties for 91
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
Public lands, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior 767
MICHIGAN-UTAH CONSOLIDATED MINES CO., order by Securities and Exchange Commission 260
MIDDLE WEST CORP.:
Acquisition of securities approved, etc., by Securities and Exchange Commission 422
Notice of hearings 222, 790
MIDLAND COAL & MINING CO., hearing continued by National Bituminous Coal Commission 347, 470
MIGRATORY BIRD REFUGES. *See* Refuges.
MIGRATORY BIRD TREATY ACT:
Closed areas designated:
Pea Island Migratory Waterfowl Refuge, N. C. 581, 912
White River Migratory Waterfowl Refuge, Ark. 591
Migratory birds in Texas, order prohibiting taking of 1011
MILITARY RESERVATIONS:
Boise Barracks, Idaho, portion transferred to control and jurisdiction of Veterans' Administration 217
Fort William D. Davis, Canal Zone, lands set apart and reserved as 278
MILITARY SECRETS, regulations governing international traffic in arms 695
MILK, HANDLING OF. *See* Agriculture, Department of: Agricultural Adjustment Administration.
MINE "B" COAL CO., order by National Bituminous Coal Commission 416, 438
MINES, BUREAU OF. *See* Interior, Department of the.
MINIDOKA NATIONAL FOREST, order for occupancy, use, protection, etc 343
MINIMUM WAGE:
Cotton Garment and Allied Industries, decision in extension to:
Manufacture of barrack bags and bandoleers 257
Manufacture of wool and wool-lined jackets 896
Envelope Industry, determination 889
Handkerchief Industry, determination 64
Leather and Sheep-Lined Jackets Industry, decision on redetermination 895
Men's Hat and Cap Industry, reconsideration 224
Subsidized vessels:
Baltimore Mail Steamship Co 904
Members of Purser's Department and Ship's Surgeons employed on, hearings 1033
Vitreous or Vitrified China Industry, determination 901
MINIMUM MANNING SCALES, ETC. *See* United States Maritime Commission.

MINING:
Coal, methods and safety and welfare of miners on leased lands on public domain, operating regulations 444
Leasing of lands for, regulations 850, 867, 877, 885
MINNEAPOLIS-MOLINE POWER IMPLEMENT CO., orders by Securities and Exchange Commission 524, 839
MINNEAPOLIS, ST. PAUL AND SAULT SAINTE MARIE RAILWAY CO., operation of drawbridge over St. Croix River, Wis., special regulations 905
MINNEAPOLIS-ST. PAUL STOCK EXCHANGE, exemption from registration as national securities exchange, order amended 791
MINNESOTA:
Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
Chippewa Indian Reservation, restoration order 567
Loans by Farm Security Administration, designation of counties for 91
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
Public lands:
Jurisdiction over certain, transferred from Secretary of Agriculture to Secretary of the Interior 767
Reservation for War Department for river and harbor purposes 728
Red Lake Indian Reservation, regulations for sale of forest products 442
Tamarac Migratory Waterfowl Refuge, establishment 1055
Upper Missisippi River Wild Life and Fish Refuge, trapping regulations 515
MINNESOTA RIVER, drawbridge regulations 930
MINTS, U. S. COINAGE:
Silver received for coinage or addition to monetary stocks, proclamation; modification 4, 842, 843
Regulations of the Secretary of the Treasury; revocation 67, 843
MISSION OIL CO., declaration dismissed by Securities and Exchange Commission 134
MISSISSIPPI:
Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
Jackson Livestock Commisison Co., stockyard designated a public market 86
Potatoes (Irish), handling of:
Proposed marketing agreement, etc., notice of hearing 659, 712, 736
Regulatory order; determination 907
MISSISSIPPI RIVER:
Rules for vessels where bank protection works have been provided 891
Use, administration, etc., above Cairo, Ill., regulations 1006
MISSOURI:
Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
Bituminous coal in intrastate commerce, investigation of nature and extent, etc 291
St. Louis:
Marketing Area, handling of milk, notice of reopening of hearing, etc 122
Minimum prices for coals produced, hearing by National Bituminous Coal Commission 239, 470
MISSOURI PACIFIC RAILROAD CO., order for hearing by Securities and Exchange Commission 413, 474, 563
MISSOURI POWER & LIGHT CO., unlisted trading privileges extended by Securities and Exchange Commission 205
MITCHELL, CURTIS S., order for hearing by Federal Power Commission 738, 860
MITCHELL, HARRY L., order for hearing by Federal Power Commission 797
MOHAIR, loans on security of, represented by warehouse receipts, 1938 993
MOLYNEAUX, JOHN J., order for hearing by Federal Power Commission 739, 860
MONEYS (FOREIGN), values of 31, 710
MONONGAHELA WEST PENN PUBLIC SERVICE CO., notice of hearing by Securities and Exchange Commission 1004
MONROE COAL MINING CO., notice of hearing by National Bituminous Coal Commission 218, 347, 470
MONTANA:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Bituminous coal:
Determination of character of, public hearing by National Bituminous Coal Commission 619
Intrastate commerce, hearing to determine nature and extent, etc 29
Black Coulee Migratory Waterfowl Refuge, establishment 231
Buffalo Rapids Project, reclamation withdrawal 208
Crow Indian Irrigation Project, operation and maintenance charges 775
Crow Indian Reservation:
Law and order regulations, amendment 952
Leasing of lands for mining purposes, regulations 867
Flathead Indian Irrigation Project, operation and maintenance charges 777
Flathead Indian Reservation, restoration order 5
Grazing district modifications 280, 565, 1035
Hewitt Lake Migratory Waterfowl Refuge, establishment 555
Loans by Farm Security Administration, designation of counties for 527
Power-Site Restoration No. 487, etc 52
Public lands:
Jurisdiction over certain, transferred from Secretary of Agriculture to Secretary of the Interior 767
Withdrawal revoked 554
Stock driveway withdrawal reduced 914
MONTBROOK CRATE CO., notice of hearing by Federal Trade Commission 506
MOORE, WILLIAM S., JR., order for hearing by Federal Power Commission 797
MORE, ROBERT, CO., notice of hearing by Federal Trade Commission 271
MORETRENCH CORP., notice of hearing by Federal Trade Commission 473
MORGAN COUNTY LIVESTOCK AUCTION CO. (A. L. Garber), stockyard determined not a public market 80
MORISSEY, PETER J., order for hearing by Federal Power Commission 797
MORRIS, HUGH M.:
Declared not a holding company 1083
Notice of hearing by Securities and Exchange Commission 924
MORRISON, H. TERRY:
Notice of hearing by Securities and Exchange Commission 9
Order discontinuing proceedings 997

MORRISON, MATTHEW ALOYSIUS, notice of hearing by Federal Power Commission 212
MORTGAGES. *See also* Farm Credit Administration: Federal Land Banks.
National Housing Act, regulations:
Multifamily and group housing insurance 367
Mutual mortgage insurance 361
Property improvement loans 349, 755
MORTON SALT CO., certificate of exemption granted by National Bituminous Coal Commission 876
MOTHER LODE COALITION MINES CO., registration order by Securities and Exchange Commission 690
MOTOR BOAT ACT, regulations prescribed 991
MOTOR CARRIER ACT, 1935. *See* Interstate Commerce Commission.
MT. OLIVE & STAUNTON COAL CO., order by National Bituminous Coal Commission 416, 438
MUNITIONS, ETC., laws and regulations governing international traffic in 690
MUSKINGUM COAL CO., notice of hearing by National Bituminous Coal Commission 877, 906
MUTUAL PRINTING, INC., ET AL., notice of hearing by Federal Trade Commission 834

N

NY PA NJ UTILITIES CO., notice of hearing by Securities and Exchange Commission 925
NAMPA LIVESTOCK COMMISSION CO., NAMPA, IDAHO, notice under Packers and Stockyards Act 276
NANNETTE, INC., notice of hearing by Federal Trade Commission 473
NANTS MANUFACTURING CO., notice of hearing by Federal Trade Commission 506
NARCOTICS, BUREAU OF. *See* Treasury Department.
NASH-KELVINATOR CORP., unlisted trading privileges extended by Securities and Exchange Commission 790
NATIONAL ARCHIVES, THE:
Administrative Committee of the Federal Register: Federal Register Regulations 1013
NATIONAL BITUMINOUS COAL COMMISSION. *See* Interior, Department of the.
NATIONAL FARM LOAN ASSOCIATIONS. *See* Farm Credit Administration.
NATIONAL FORESTS:
Chelan, Wash., public land withdrawal for lookout station 261
Chequamegon, Wis., lands reserved as part of 122
Chugach, Alaska, land excluded from 1
Huron, Mich., lands reserved as part of 122
Minidoka, order for occupancy, use, protection, etc 343
Nicolet, Wis., lands reserved as part of 121
Regulations governing occupancy, use, protection, etc 343, 782, 822
Mining within Harney National Forest 1001
Talladega, Ala., lands added to 928
Toiyabe, Nev., reestablishment 913
Tongass, Alaska, land placed under control of Secretary of War for radio receiving station 195
NATIONAL GAS AND ELECTRIC CORP., notice of hearing by Securities and Exchange Commission 706
NATIONAL HOUSING ACT. *See also* Federal Housing Administration.
Federal Savings and Loan Associations permitted to lend on insured loans 550
NATIONAL LABOR RELATIONS BOARD:
Territories changed, Iowa placed in 18th Region 927
NATIONAL LEAD CO., order for hearing by Securities and Exchange Commission 589
NATIONAL MARITIME DAY—1938, proclamation 817
NATIONAL MONUMENTS:
Arizona, public land withdrawals for classification revoked 791
Channel Islands, Calif., establishment 827
Fort Marion and Fort Pulaski, regulations for guide fees, etc 802
Gunnison, Colo., enlarging Black Canyon of 975
NATIONAL PARK SERVICE. *See* Interior, Department of the.
NATIONAL POTTERY DISTRIBUTORS, notice of hearing by Federal Trade Commission 740
NATIONAL RAILWAYS OF MEXICO (Ferrocarriles Nacionales De Mexico), orders by Securities and Exchange Commission 484, 838
NATIONAL SALES & NOVELTY CO., notice of hearing by Federal Trade Commission 825
NATIONAL SCIENTIFIC PRODUCTS CO., notice of hearing by Federal Trade Commission 923
NATIONAL SILVER CO., notice of hearing by Federal Trade Commission 560
NATIONAL WILDLIFE WEEK—1938, proclamation 384
NATURALIZATION, aliens married to citizens of the United States 92
NAVAJO INDIAN RESERVATION, ARIZ., N. MEX.:
Fabrics, all-wool woven, use of Government certificate of genuineness 759
Grazing regulations modified 526
Law and order regulations 953
Silver and turquoise products, standards; use of Government mark 759, 760
NAVAL RADIO STATION, reservation modified, Balboa, Canal Zone 734
NAVAL STORES ACT, enforcement regulations 941
NAVIGATION. *See also* War Department; Vessels.
United States foreign and domestic, collection of statistics 1069
NAVY DEPARTMENT:
Enlisted men, allowances for quarters and subsistence, regulations amended 555
Public land withdrawal, Alaska, for use of 615
Secretary of:
Distinguished flying cross, awarding to eligible persons, regulations amended 39
Public lands transferred to control and jurisdiction of:
Amaknak Island, Alaska 385
California, description corrected 278
Cuba 223
Virgin Islands 82
NEBRASKA:
Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
Fairbury Livestock Co., Fairbury, notice under Packers and Stockyards Act 457
Kearney Livestock Commission Co., notice under Packers and Stockyards Act 334
McCook Livestock Exchange, notice under Packers and Stockyards Act 821
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
NEBRASKA BRIDGE SUPPLY AND LUMBER CO., complaint by Federal Trade Commission; manufacture of snow fence 225
NEBRASKA STOCKGROWERS ASSN., authorized to conduct brand inspection 941

NEVADA:
- Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
- Air navigation site withdrawal — 980
- Boulder Dam Recreational Area, operation of boats, etc., on Lake Mead, regulations — 914
- Loans by Farm Security Administration, designation of counties for — 418
- Toiyabe National Forest, reestablishment — 913

NEVADA-CALIFORNIA ELECTRIC CORP., ET AL., notice of hearing by Federal Power Commission — 1051

NEW ANCHOR BLOCK COAL CO., minimum prices revised for coals produced at "Anchor Block Mine" — 436

NEW CASTLE COUNTY BRIDGE, draw span regulations revoked, Christiana River, Del — 892

NEW ENGLAND POWER CO.:
- Acquisition of utility assets, order by Securities and Exchange Commission — 846
- Notice of hearing — 563
- Unlisted trading privileges extended — 204

NEW HAMPSHIRE:
- Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
- Loans by Farm Security Administration, designation of counties for — 572
- Motor carrier rates, investigation by Interstate Commerce Commission — 762, 825
- Portsmouth Harbor, regulations governing use, administration, etc., of area between Isle of Shoals — 828

NEW JERSEY:
- Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
- Gloucester Turnpike Company Drawbridge across big Timber Creek, Westville, regulations revoked — 795
- Loans by Farm Security Administration, designation of counties for — 224, 610
- Motor carrier rates, investigation ordered by Interstate Commerce Commission — 635, 762, 825, 1082
- Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc — 1030

NEW MEXICO:
- Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
- Bituminous coal in intrastate commerce, investigation to determine nature and extent, etc — 598
- Grazing district modifications — 526, 555, 785-817, 893
- Navajo and Hopi Indian Reservations, law and order regulations — 953
- Public lands:
  - Jurisdiction over certain, transferred from Secretary of Agriculture to Secretary of the Interior — 134
  - Transfer to control and jurisdiction of Treasury Department for federal building site — 816
  - Withdrawal revoked — 951
- Public Water Restoration No. 80 — 564
- Stock driveway withdrawals reduced, etc — 913, 914, 1029
- Zuni Pueblo Irrigation Project, operation and maintenance charges — 776

NEW YORK:
- Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
- Airports of entry designated:
  - Cape Vincent — 801
  - Malone — 801
  - Wellesley Island — 895
- Bituminous coal minimum prices, notice of hearings, etc., by National Bituminous Coal Commission — 238, 239, 261, 262, 470
- Bouchard Transportation Co., Inc., New York, temporary exemption from radio-telegraph installation requirements — 81
- Buffalo Harbor, regulations governing use, administration, etc — 982
- Customs, duties of Chief Assistant Appraiser and Deputy Appraiser — 67
- Intercollegiate Regatta at Poughkeepsie, regulations to promote safety of life — 991
- Motor carrier rates, investigation ordered by Interstate Commerce Commission — 635, 762, 825, 1082
- New York Metropolitan Marketing Area, handling of milk, hearings on proposed marketing agreement, etc — 844
- New York World's Fair, 1939:
  - Admission of aliens for participation — 724
  - Entry of articles for exhibition — 579
- Port of New York, anchorage ground regulations — 11
- Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc — 1030
- Rochester (Charlotte) Harbor, regulations governing use, administration, etc — 982
- St. Lawrence River at Cape Vincent, use, administration, etc., of harbor and United States breakwater, regulations — 967
- Strongs Causeway Bridge across Flushing Creek, New York City, draw span regulations revoked — 828

NEW YORK, CHICAGO & ST. LOUIS RAILROAD CO., order by Securities and Exchange Commission — 277

NEW YORK COTTON EXCHANGE, INC., Wool Associates designated contract market for wool tops — 1068

NEW YORK DOCK CO., order by Securities and Exchange Commission — 967

NEW YORK PATTERN CO., INC., notice of hearing by Federal Trade Commission — 981

NEW YORK STATE ELECTRIC & GAS CORP.:
- Exemption from provisions of Public Utility Holding Company Act of 1935 — 890
- Notice of hearings by Securities and Exchange Commission — 763, 765, 981

NEW YORK STEAM CORP., orders by Securities and Exchange Commission — 485, 839

NEW YORK WORLD'S FAIR, 1939:
- Admission of aliens for participation — 724
- Entry of articles for exhibition — 579

NEWFOUNDLAND, public notice of trade agreement negotiations with The United Kingdom on behalf of — 52, 231

NEWMAN, MORRIS E., cease and desist order by Federal Trade Commission; certificates of approval, etc., on Hytense and Hypower products — 894, 897

NEWPORT NEWS, VA., anchorage ground regulations for Hampton Roads and harbors — 741

NEWSPAPER PHOTOGRAPHERS, term cutter passes for, Customs Regulations amended — 66

NIAGARA FALLS POWER CO., order for hearing by Federal Power Commission — 419

NIAGARA HUDSON POWER CORP., order for hearing by Securities and Exchange Commission — 589

NIANTIC RIVER, drawbridge regulations, Niantic, Conn — 70

NICARAGUA, exportation of arms and munitions to, regulations — 695

NICHOLAS-BEAZLEY AIRPLANE CO., INC., orders by Securities and Exchange Commission — 525, 839

NICOLET NATIONAL FOREST, WIS., lands reserved as part of — 121

NITRAGIN CO., INC., findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of nitrogen fixing bacteria — 97

NOCATEE-MANATEE CRATE CO., notice of hearing by Federal Trade Commission — 506

NOKOMIS COAL CO., order by National Bituminous Coal Commission — 416, 438

NORFOLK HARBOR, VA., use and navigation of Thimble Shoal Channel, regulations modified — 926

NORFOLK, VA., anchorage ground regulations in Hampton Roads and harbors — 741

NORTH CAROLINA:
- Agricultural conservation program, 1937, 1938, east central region. *See* Agriculture, Department of.
- Bituminous coal in intrastate commerce, investigation to determine nature and extent, etc — 598
- Great Smoky Mountains National Park, local subsidiary regulations — 670
- Pea Island Migratory Waterfowl Refuge:
  - Closed areas designated — 581, 912
  - Establishment — 734
- Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc — 712, 736

NORTH DAKOTA:
- Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
- Lower Souris Migratory Waterfowl Refuge, enlargement — 222
- Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc — 1030
- Public lands, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior — 767

NORTH PARK COAL CO., order by National Bituminous Coal Commission — 72

NORTHEASTERN WATER AND ELECTRIC CORP., notice of hearings by Securities and Exchange Commission — 758, 766

NORTHERN STATES POWER CO. (MINN.), unlisted trading privileges extended by Securities and Exchange Commission — 208

NORTHWESTERN PACIFIC RAILROAD DRAWBRIDGE, Sonoma Creek at Wingo, Calif., special regulations — 33

NORWAY, reciprocal enforcement of certain treaty provisions — 727

NOTICE OF HEARINGS. *See* agency holding hearings *or* name of person concerned.

NOVA SCOTIA, countervailing duty on dried salt fish from — 193

NOVELTY DISTRIBUTING CO., notice of hearing by Federal Trade Commission — 834

O

OAK CREEK, drawbridge regulations for Maryland State Highway Bridge, Talbot County — 936

OBRA MINES CORP., registration orders by Securities and Exchange Commission — 51, 666

OCALA MANUFACTURING, ICE AND PACKING CO., INC., notice of hearing by Federal Trade Commission — 506

OCEANIC STEAMSHIP CO., order for public hearing by United States Maritime Commission — 1033

O'CONNOR, JAMES E., order for hearing by Federal Power Commission — 796, 1032

OHIO:
- Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
- Cleveland, minimum price for coals produced, hearing by National Bituminous Coal Commission — 470
- Coal produced, determination of character of, notice of hearings by National Bituminous Coal Commission — 877, 906
- Huron, Lorain, Cleveland, Fairport, Ashtabula and Conneaut Harbors, regulations governing use, administration, etc — 982
- Milk, handling of:
  - Cincinnati Marketing Area:
    - Base period to be used, etc — 630
    - Notice of hearing, etc — 80
    - Regulatory order — 817
  - Toledo Marketing Area, public hearing on proposed marketing agreement, etc — 829
- Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc — 1030
- Sandusky Harbor, use, administration, etc., regulations — 967

OHIO OIL CO.:
- Notice of hearing by Securities and Exchange Commission — 221
- Unlisted trading privileges extended — 707

OHIO RIVER, regulations modified for use, administration, etc., above Cairo, Ill — 1006

OIL:
- Lease applications for lands, regulations — 669
- Leasing of lands for mining purposes:
  - Crow Indian Reservation, Mont — 867
  - Indian tribal lands — 885
  - Oklahoma, restricted lands belonging to Five Civilized Tribes of Indians — 877
  - Wind River Indian Reservation, Wyo — 850
- Rights of way for pipe lines — 1035

OKLAHOMA:
- Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
- Five Civilized Tribes of Indians:
  - Funds appropriated in aid of common schools, regulations — 745
  - Leasing of restricted lands for mining purposes — 877
- Grand River Dam Authority, Vinita, hearing on Declaration of Intention for construction of a dam, etc — 43
- Patterson, H. R., and Son, Miami, designated as stockyard owner — 198
- Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc — 712, 736
- Public lands, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior — 767
- Red River, lands opened to oil and gas lease applications — 670
- Wichita Mountains Wildlife Refuge, fishing permitted in certain lakes — 987

OKLAHOMA GAS AND ELECTRIC CO., notice of hearing, etc., by Federal Power Commission — 242, 297, 479, 573, 782

OLINDA LAND CO., orders by Securities and Exchange Commission — 382, 727

OLIVER BROTHERS, INC., findings, etc., and cease and desist order by Federal Trade Commission; commodity information and purchasing service — 12

ONTARIO LIVESTOCK COMMISSION CO., designated stockyard owner at Ontario, Oreg — 29

OPERATING-DIFFERENTIAL SUBSIDY:
- Contractors, uniform system of accounts prescribed — 313
- Contracts, applications for:
  - American South African Line — 668, 752
  - Seas Shipping Co — 668, 752

OPIUM, narcotic regulations on imports and exports — 1058

ORANGES, sterilization by heat under Mexican fruitfly quarantine — 729

OREGON:
- Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
- Boise Irrigation Project, annual water charges — 425
- Cascades Canal, Columbia River, regulations revoked governing use, administration, etc — 828

Page

OREGON—Continued.
Grazing district modifications 469, 565
Hart Mountain Antelope Refuge, enlargement 998
Hops, handling of, hearing on proposed marketing agreement, etc 999, 1030
Klamath Irrigation Project, annual water charges 557
LaGrande Livestock Commission Co., notice under Packers and Stockyards Act 457
Lewis and Clark River, drawbridge regulations revoked 828
Loans by Farm Security Administration, designation of counties for 91
Ontario Livestock Commission Co., stockyard designated public market 29
Owyhee Irrigation Project:
Annual water rental charges 784
Lands opened to entry; availability of water 209
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
Power-Site Restorations No. 486 and No. 488 326
Prunes, handling of, Umatilla County, hearing on proposed marketing agreement, etc 764
Public land withdrawal revoked 555
OSCEOLA CRATE MILLS, INC., notice of hearing by Federal Trade Commission 506
OSCEOLA, WIS., operation of drawbridge over St. Croix River, special regulations 905
OUACHITA RIVER, ARK., AND LA., regulations modified governing use, administration, etc 828
OWYHEE IRRIGATION PROJECT, OREG.-IDAHO:
Annual water rental charges 784
Lands opened to entry; availability of water 209

P

PACIFIC COAST SPECIALTY CO., notice of hearing by Federal Trade Commission 825
PACIFIC GAS AND ELECTRIC CO., order for hearing by Federal Power Commission 43
PACIFIC HALIBUT FISHERIES CONVENTION, United States and Dominion of Canada, regulations adopted 551
PACIFIC LIGHTING CORP., unlisted trading privileges extended by Securities and Exchange Commission 206
PACK, ROBERT F., order for hearing by Federal Power Commission 739, 860
PACKERS AND STOCKYARDS ACT. *See* Agriculture, Department of: Animal Industry, Bureau of.
PALA INDIAN IRRIGATION PROJECT, CALIF., operation and maintenance charges 775
PANA COAL CO., order by National Bituminous Coal Commission 416, 438
PANAMA CANAL, THE:
Employees, disability cash relief for 574, 840
Navigation rules, amendment 383
Supplies, open market purchases not exceeding $500, regulations 817
PANTHER CREEK MINES, INC., order by National Bituminous Coal Commission 416, 438
PARAMOUNT PICTURES, INC.:
Order for hearing by Securities and Exchange Commission 590
Unlisted trading privileges extended 707
PARDEE, J. H., order for hearing by Federal Power Commission 797
PARKINSON, G. N., notice of hearing by Federal Trade Commission 845
PARROTS, importations of privately owned birds required to be inspected by public health officers 998
PASSPORTS, rules governing issuing and granting of, in the United States 681

Page

PATOKA COAL CO., notice of hearing by National Bituminous Coal Commission 88
PATTERSON, H. R., AND SON, designated stockyard owners at Miami, Okla 198
PATTERSON SCHOOL, ET AL., notice of hearing by Federal Trade Commission 473
PAYNE, LEWIS, order for hearing by Federal Power Commission 797
PEA ISLAND MIGRATORY WATERFOWL REFUGE, N. C.:
Closed areas designated under Migratory Bird Treaty Act 581, 912
Establishment 734
PEABODY COAL CO., order by National Bituminous Coal Commission 416, 438
PEACHES (Elberta and J. H. Hale), shipping of, Calif., proposed marketing agreement, etc 276, 417
PEARS:
Export Apple and Pear Act, grades, requirements, and regulations 671
Shipping of, Calif., hearing on proposed marketing agreement, etc 276
PEAS, handling of, Western Washington, hearing on proposed marketing agreement, etc 853
PEDICO CO., order by Securities and Exchange Commission 529
PENCIL MANUFACTURING INDUSTRY, proposed trade practice rules by Federal Trade Commission 573
PENN WESTERN GAS & ELECTRIC CO.:
Declaration and application, conditional approval by Securities and Exchange Commission 666
Notice of hearing, etc 203
PENNSYLVANIA:
Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
City of Erie, notice of hearing by National Bituminous Coal Commission on behalf of 275
Loans by Farm Security Administration, designation of counties for 91, 674
Motor carrier rates, investigation ordered by Interstate Commerce Commission 635, 1082
Philadelphia:
Customs port of entry, limits extended 591
Marketing Area, handling of milk, notice of hearing 478
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
PENNSYLVANIA POWER & LIGHT CO., order for hearing by Federal Power Commission 871, 932
PENSIONS. *See* Veterans' Administration.
PENWELL COAL MINING CO., order by National Bituminous Coal Commission 416, 438
PEOPLES GAS AND ELECTRIC CO., ET AL., notice of hearing, etc., by Securities and Exchange Commission 119
PEOPLES GAS AND IMPROVEMENT CO., notice of hearing, etc., by Securities and Exchange Commission 119
PEOPLES GAS LIGHT & COKE CO., unlisted trading privileges extended by Securities and Exchange Commission 204
PEOPLES LIGHT AND POWER CORP.:
Notice of hearing by Securities and Exchange Commission 924
Trustees of, declared not a holding company 1083
PEOPLES WATER AND GAS CO., notice of hearing by Securities and Exchange Commission 221
PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930, regulations for carrying out provisions of 508

Page

PERMIAN OIL & GAS CO., notice of hearing, etc., by Securities and Exchange Commission 120
PERSONAL HOLDING COMPANIES. *See* Holding Companies.
PETER CAILLER KOHLER SWISS CHOCOLATES CO., INC., notice of hearing by Federal Trade Commission 603
PETROLEUM CONSERVATION DIVISION. *See* Interior, Department of the.
PHELPS DODGE CORP.:
Exemption from provisions of Public Utility Holding Company Act of 1935 1032
Notice of hearing by Securities and Exchange Commission 574
PHENICIE, CARROLL, R., order for hearing by Federal Power Commission 739
PHILADELPHIA ELECTRIC POWER CO., order for hearing by Federal Power Commission 338
PHILADELPHIA & NORFOLK STEAMSHIP CO., exemption from radiotelegraph requirements extended 202
PHILADELPHIA, PA.:
Customs port of entry, limits extended 591
Marketing Area, handling of milk, notice of hearing 478
PHILADELPHIA RUBBER WASTE CO., notice of hearing, etc., by Federal Trade Commission 129
PHILCO AUTO SUPPLY, ET AL., notice of hearing, etc., by Federal Trade Commission 129
PHILCO RUBBER CO., ET AL., notice of hearing by Federal Trade Commission 129
PHILIP MORRIS & CO., LTD., INC., order for hearing by Securities and Exchange Commission 590
PHILIPPINES, COMMONWEALTH OF:
Act to protect American and Philippine labor, etc., operation extended for three years 222
Aliens:
Documents required to enter the United States 753
Voluntary emigration from the United States 413
PHILLIPS, FRANK R., order for hearing by Federal Power Commission 797, 860
PICARD, RICHARD, notice of hearing by Federal Trade Commission 726
PIERCE OIL CORP., order by Securities and Exchange Commission 898
PIERPONT MANUFACTURING CO., notice of hearing by Federal Trade Commission 506
PIONEER ADVERTISING CO., notice of hearing by Federal Trade Commission 924
PITTSBURGH COAL CO., notice of hearing, etc., by National Bituminous Coal Commission 35, 198, 220, 347, 470, 937, 1076
PITTSBURGH TERMINAL COAL CORP., notice of hearing, etc., by National Bituminous Coal Commission 35, 198, 347, 470
PLAINVIEW COAL CO., notice of hearing by National Bituminous Coal Commission 877, 906
PLANTS, ETC., movement in and out of District of Columbia, regulations revised 829
PLUMS, shipping of, Calif., proposed marketing agreement, etc 276
POPSICLE CORP., OF THE UNITED STATES, notice of hearing by Federal Trade Commission 740
POPULAR PRICED DRESS MFG. INDUSTRY, trade practice rules by Federal Trade Commission 17
PORTER, H. HOBART, order for hearing by Federal Power Commission 797

Page

PORTER, SETON, order for hearing by Federal Power Commission 797
PORTLAND GENERAL ELECTRIC CO., notice of hearing by Federal Power Commission 6
PORTSMOUTH CLAY PRODUCTS CO., notice of hearing by National Bituminous Coal Commission 906
PORTSMOUTH HARBOR, N. H., regulations governing use, administration, etc., of area between Isle of Shoals 828
POSTAGE STAMPS, printing of black-and-white illustrations permitted, regulations 385, 636
POTATOES:
Fumigation by methyl bromide as certification of interstate movement by refrigerator car 854
Handling of, in interstate commerce:
Alabama, Louisiana, Arkansas, California, Florida, Georgia, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Texas and Virginia, hearing on proposed marketing agreement, etc 712, 736
California, Colorado, Idaho, Maine, Michigan, Minnesota, Nebraska, etc., hearing on proposed marketing agreement, etc 1030
Louisiana, Texas, Mississippi, Alabama, and Florida:
Proposed marketing agreement, etc., notice of hearing 652
Regulatory order; determination 907
POUGHKEEPSIE, N. Y., regulations to promote safety of life at Intercollegiate Regatta 991
POUNDS, FRANK R., CRATE CO., notice of hearing by Federal Trade Commission 506
POWELLS CREEK, VA., regulations revoked governing Washington Southern Railway Bridge 828
POWER SITES. *See* Public Lands.
POWHATAN MINING CO., notice of hearing, etc., by National Bituminous Coal Commission 34, 198, 347, 470
PRENDERGAST-DAVIES CO., LTD., notice of hearing by Federal Trade Commission 277
PRESIDENT OF THE UNITED STATES:
Executive Orders:
Alaska:
Amaknak Island, portion transferred to control and jurisdiction of Secretary of the Navy 385
Chugach National Forest, land restored to entry, etc., amendment 1
Public lands:
Placed under control and jurisdiction of Secretary of the Treasury for public building sites 925
Reserved for Alaska Road Commission for aviation-field purposes 10
Withdrawal for classification, etc 951
Withdrawal for use of Alaska Railroad 591
Withdrawal for use of Navy Department 615
Withdrawal revoked 564
Tongass National Forest, land placed under control of Secretary of War for radio receiving station at Juneau, description corrected 195
Aliens entering the United States, documents required 216, 753
Alley Dwelling Authority, designating Architect of the Capitol as a member of 51
Arizona, public lands:
Withdrawal for national monument classification, revocation 791
Withdrawal for War Department as target range, revocation 951
Withdrawal revoked 554
Arkansas, public land withdrawal for use of Department of Agriculture 764

PRESIDENT OF THE UNITED STATES—Continued. Page
Executive Orders—Continued.
Army, Navy, etc., allowances for quarters and subsistence to enlisted men 555
Attorney General, delegated certain powers under Trading With the Enemy Act 688, 998, 1055
California:
Baird Fish Hatchery on McCloud River, establishment revoked 327
Public lands:
Transfer to control and jurisdiction of Secretary of Navy, description corrected 278
Withdrawal authorized to be added to Yosemite National Park 1028
Withdrawal for construction, etc., of public roads and projects 913
Canada, limiting importation of red cedar shingles from 474
Canal Zone:
Balboa, reservation for naval radio station modified 734
Fort William D. Davis Military Reservation, lands set apart as 278
Canton and Enderbury Islands placed under control and jurisdiction of Secretary of the Interior 525
Civil Service Retirement Act, provisions extended to certain employees 951
Civil Service Rules, amendments:
Air Commerce, Department of Commerce, positions acquired on noncompetitive examination 664
Lighthouse Service, Department of Commerce, positions excepted from examination 663
Public Health Service:
Attendants in hospitals, sanatoriums, etc 846
Employees in leprosy, yellow fever, etc., investigation stations 327
Unclassified laborers, appointment of 339
United States Housing Authority, field service positions 795
United States Military Academy at West Point, civilian professors, instructors, etc 384
Colorado, public land withdrawal revocations 195, 640, 681, 1005
Consular Regulations, amendment 485
Cuba, certain lands transferred to control and jurisdiction of Secretary of the Navy 223
Distinguished flying cross award to eligible persons, regulations amended 39
Florida, designating St. Joe as customs port of entry 435
Georgia, establishing Tybee Migratory Bird Refuge 912
Government employees:
Annual leave regulations 612, 905
Interior Department, certain employees permitted to hold State, territorial offices, etc., order amended 197
Sick leave regulations 614, 905
Hawaii, public lands:
Reserved for Lighthouse Service, Department of Commerce 261
Restoration for aeronautical purposes; reservation for military purposes 989
Restoration for highway purposes 975
Idaho, portion of Boise Barracks Military Reservation transferred to control and jurisdiction of Veterans' Administration 217
Louisiana:
Lacassine Migratory Waterfowl Refuge, establishment 1
Public land withdrawal for use of Department of Agriculture 767

PRESIDENT OF THE UNITED STATES—Continued. Page
Executive Orders—Continued.
Michigan, establishing Huron Migratory Bird Refuge 195
Minnesota:
Land reserved for War Department for river and harbor purposes 728
Tamarac Migratory Waterfowl Refuge, establishment 1055
Montana:
Black Coulee Migratory Waterfowl Refuge 231
Hewitt Lake Migratory Waterfowl Refuge, establishment 555
Power-Site Restoration No. 487 52
Public land withdrawal revoked 554
Nevada, reestablishing Toiyabe National Forest 913
New Mexico, public lands:
Jurisdiction over certain, transferred from Secretary of Agriculture to Secretary of the Interior 134
Public Water Restoration No. 80 564
Transfer to control and jurisdiction of Treasury Department for federal building site 816
Withdrawal revoked 951
North Carolina, establishing Pea Island Migratory Waterfowl Refuge 734
North Dakota, enlarging Lower Souris Migratory Waterfowl Refuge 222
Oregon:
Hart Mountain Antelope Refuge, enlargement 998
Power-site restorations 326
Public land withdrawal revoked 555
Panama Canal:
Employees, cash relief for 574
Navigation rules, amendment 383
Passports, issuing and granting of, in the United States 681
Pennsylvania, extending limits of customs port of entry of Philadelphia 591
Public lands in certain States, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior 767
Puerto Rico:
District Court of the United States for, Honorable Martin Travieso designated Acting Judge 422
Public lands transferred to 687
Puerto Rico Reconstruction Administration, housing or slum-clearance projects transferred to 575
Rhode Island, jurisdiction over certain lands transferred to Secretary of the Interior 1057
Silver, delivery required to United States mints, order revoked 842
Tax returns:
Income, excess profit and capital stock, estate and gift, and returns under Social Security Act, inspection of 639
Income, excess profits, and capital stock, inspection by Special Committee to Investigate Lobbying Activities, U. S. Senate 783
Texas, establishing Aransas Migratory Waterfowl Refuge 10
Treasury, Secretary designated to receive certain capital stock from Reconstruction Finance Corporation, Secretary of Agriculture, and Governor of Farm Credit Administration 632
United States Maritime Commission, designating Emory S. Land as Chairman 435
Utah, public land withdrawal revoked 383
Virgin Islands:
Employees of Police or Prison Departments, appointment in office of U. S. Marshal 1005
Lands transferred to control and jurisdiction of Secretary of the Navy 82

PRESIDENT OF THE UNITED STATES—Continued. Page
Executive Orders—Continued.
Washington:
Power Site Restoration No. 489, etc 912
Public land withdrawal for forest lookout station 261
Wisconsin, public land withdrawal revoked 384
Works Progress Administration, supply fund established for materials, supplies, etc., for projects under Emergency Relief Appropriation Act of 1937 575
Wyoming, Public Water Restoration No. 80 564
Proclamations:
Act to protect American and Philippine labor and to preserve an essential industry (Manila fiber, etc.), period of operation extended 222
Army Day 604
Black Canyon of the Gunnison National Monument, Colo., enlargement 975
Cancer Control Month 656
Channel Islands National Monument, Calif., establishment 827
Chequamegon National Forest, Wis., lands reserved as part of 122
Child Health Day—1938 710
Huron National Forest, Mich., lands reserved as part of 122
Immigration Quotas, fiscal year ending June 30, 1938, etc 841
Jefferson, Thomas, commemoration of birth 618
Migratory Bird Treaty Act, closed areas designated:
Pea Island Migratory Waterfowl Refuge, N. C. 912
White River Migratory Waterfowl Refuge, Ark. 591
National Maritime Day—1938 817
National Wild Life Week—1938 384
Nicolet National Forest, Wis., lands reserved as part of 121
Norway, reciprocal enforcement of certain treaty provisions 727
Silver, receipt by United States mints for coinage or addition to monetary stocks 4, 841
Talladega National Forest, Ala., lands added 928
Trade agreements, application of duties proclaimed to products of certain countries 594
Australia 231
Austria 728
Czechoslovakia, modification 773
PRIMA CO.:
Order for hearing, etc., by Securities and Exchange Commission 86
Registration of securities withdrawn 577
PROCLAMATIONS. *See* President of the United States.
PRODUCTION CREDIT ASSOCIATIONS. *See* Farm Credit Administration.
PRODUCTION CREDIT CORPORATION. *See* Farm Credit Administration.
PROFESSIONAL GOLFERS ASSOCIATION OF AMERICA:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
PROGRESSIVE MINERS OF AMERICA, order dismissing petition by National Bituminous Coal Commission 650
PROJECTS. *See also* Irrigation Projects.
Boise, Idaho, first form reclamation withdrawal 982
Federal low-rent housing, positions in field service, Civil Service Rules amended 795
Housing or slum-clearance, transferred to Puerto Rico Reconstruction Administration 575

PROJECTS—Continued. Page
Land conservation and utilization program, administration authorized by Bankhead-Jones Farm Tenant Act 986
Northeast Washington, lands transferred to Forest Service for administration, etc 844
Public land withdrawal, Calif., for construction and maintenance of public roads, etc 913
Resettlement community, labor standards of wages, hours, etc., to be maintained with loan agreements 189
Resettlement type, tenure agreements and leases 386
Works Progress Administration, supply fund established for materials, equipment, etc 575
PROVIDENCE GAS CO., PROVIDENCE, R. I., order by National Bituminous Coal Commission 33
PRUNES (FRESH), handling of, Umatilla County, Oreg., and Walla Walla County, Wash., hearing on proposed marketing agreement, etc 764
PUBLIC CONTRACTS ACT. *See* Labor, Department of: Secretary, Office of the.
PUBLIC DEBT SERVICE. *See* Treasury Department.
PUBLIC HEALTH SERVICE. *See* Treasury Department.
PUBLIC LANDS. *See also* Interior, Department of the: General Land Office; Grazing, Division of; Reclamation, Bureau of; Irrigation Projects; National Forests; Refuges.
Alaska:
Amaknak Island, portion transferred to control and jurisdiction of Secretary of the Navy 385
Placing under control and jurisdiction of Secretary of the Treasury for Federal buildings 925
Road Commission, reservation for aviation-field purposes 10
Withdrawal for classification, etc 951
Withdrawal for use of Alaska Railroad 591
Withdrawal for use of Navy Department 615
Withdrawal revoked 564
Arizona:
Withdrawal for national monument classification, revocation 791
Withdrawal for War Department as target range 951
Withdrawal revoked 554
Arkansas, withdrawal for use of Department of Agriculture 764
California:
Transfer to control and jurisdiction of Secretary of the Navy, description corrected 278
Withdrawal for construction and maintenance of public roads, etc 913
Withdrawal to be added to Yosemite National Park 1028
Canal Zone:
Fort William D. Davis Military Reservation 278
Naval radio station reserve, Balboa, modified 734
Canton and Enderbury Islands, placed under control and jurisdiction of Secretary of the Interior 525
Colorado:
Black Canyon of the Gunnison National Monument, enlargement 975
Withdrawals revoked 195, 640, 681, 1005
Cuba, transfer to control and jurisdiction of Secretary of the Navy 223
Georgia, authorizing Attorney General to reject bids for certain property at Savannah 688
Great Smoky Mountains National Park, local subsidiary regulations 670
Hawaii, Territory of:
Reservation for Lighthouse Service, Department of Commerce 261

PUBLIC LANDS—Continued. Page
Hawaii, Territory of—Continued.
Restoration for aeronautical purposes; reservation for military purposes 989
Restoration for highway purposes 975
Idaho, portion of Boise Barracks Military Reservation transferred to control and jurisdiction of Veterans' Administration 217
Indian Reservations:
Highway regulations, construction and maintenance of roads and bridges 700
Jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior for use of 767
Leasing for mining purposes, regulations 885
Menominee, sale of timber products, regulations 711
Right-of-way regulations 984
Roadless and wild areas established 606
Jurisdiction in certain States transferred from Secretary of Agriculture to Secretary of the Interior 767
Lassen Volcanic National Park, local subsidiary regulations 817
Louisiana, withdrawal for use of Department of Agriculture 767
Minnesota:
Chippewa Indian Reservation, restoration order 567
Red Lake Indian Reservation, sale of forest products 442
Reservation for War Department for river and harbor purposes 728
Montana:
Crow Indian Reservation, leasing for mining purposes 867
Flathead Indian Reservation, restoration order 5
Power-Site Restoration No. 487, withdrawal revoked 52
Withdrawal revoked 554
Navajo and Hopi Reservations, grazing regulations modified 526
New Mexico:
Public Water Restoration No. 80 564
Transfer from Secretary of Agriculture to Secretary of the Interior 134
Transfer to control and jurisdiction of Treasury Department 816
Withdrawal revoked 951
Oklahoma, leasing lands of Five Civilized Tribes of Indians for mining purposes 877
Oregon:
Power-site restorations 326
Withdrawal revoked 555
Public domain, coal-mining methods and safety and welfare of miners on, operating regulations 444
Puerto Rico, transfer to 687
Rhode Island, jurisdiction over certain lands transferred to Secretary of the Interior 1057
Salem Maritime National Historic Site, Mass., designation 671
Sequoia National Park, local subsidiary regulations 760
Shenandoah National Park, local subsidiary regulations 774
South Dakota, restoration order for Rosebud Reservation 343
Utah, withdrawal revoked 383
Virgin Islands, transfer to the control and jurisdiction of the Secretary of the Navy 82
Washington:
Power Site Restoration No. 489, etc 912
Transfer to Forest Service for administration, etc 844
Wapato Irrigation Project, operation and maintenance charges 5
Withdrawal for forest lookout station 261
Wisconsin, withdrawal revoked 384
Wyoming:
Public Water Restoration No. 80 564

PUBLIC LANDS—Continued. Page
Wyoming—Continued.
Wind River Indian Reservation, leasing for oil and gas mining purposes 850
Yosemite National Park, local subsidiary regulations 774, 900
PUBLIC MONEYS. *See* Treasury Department: Accounts and Deposits.
PUBLIC SERVICE CO. OF NEW HAMPSHIRE, notice of hearing, etc., by Securities and Exchange Commission 890, 1052
PUBLIC SERVICE CORP. OF TEX., order by Securities and Exchange Commisison declaring corporation has ceased to be a holding company 51
PUBLIC UTILITY HOLDING COMPANY ACT OF 1935. *See* Securities and Exchange Commission.
PUEBLO INDIANS, standards for silver and turquoise products; use of Government mark 759, 760
PUERTO RICO:
Agricultural conservation program, 1936, 1938, insular region. *See* Agriculture, Department of.
District Court of the United States for, designating Honorable Martin Travieso as Acting Judge 422
Emergency crop and feed loans, regulations 729
Lands no longer needed for purposes of United States transferred to 687
Sugar. *See also* Sugar Act of 1937.
Determination of fair and reasonable wage rates and prices, 1938 crop 456, 556
Direct-consumption portion allotment, 1938 665, 786, 821, 938, 1077
Proportionate shares for producers, 1938 and 1939 crops 75
Quota allotment, 1938, notice of hearing, etc 2
PUERTO RICO RECONSTRUCTION ADMINISTRATION, certain housing or slum-clearance projects transferred to 575
PUGET SOUND DISTILLERY, INC., stop order by Securities and Exchange Commission 816
PUGET SOUND POWER & LIGHT CO., notice of hearing by Securities and Exchange Commission 763
PULLEN, RODNEY S., JR., complaint and notice by Federal Trade Commission; wholesale drug business 756
PULLIAM, JOHN P., order for hearing by Federal Power Commission 739
PURE OIL CO., order by Securities and Exchange Commission 529
PURSGLOVE COAL MINING CO., hearing continued by National Bituminous Coal Commission 198, 347, 470
PYRAMID COAL CORP., notice of hearing by National Bituminous Coal Commission 88

Q

QUARANTINE. *See also* Agriculture, Department of: Entomology and Plant Quarantine, Bureau of.
Anchorage grounds, Florida:
Gadsen Point, boundaries designated 327
Tampa Bay, regulations 595
Living disease organisms and vectors, importation of, regulations amended 555
Splenetic or tick fever (cattle), quarantine release, Polk and Osceola Counties, Fla 927
QUINN, JAMES L., order for hearing by Federal Power Commission 796, 1032

R

RADIO. *See also* Federal Communications Commission.
Equipment and operators on board ship, Customs Regulations amended 899

RADIO CORP., OF AMERICA, order for hearing by Securities and Exchange Commission 590
RADIOTELEGRAPH INSTALLATION. *See* Federal Communications Commission.
RAILROAD RETIREMENT BOARD:
Annuity payments under Railroad Retirement Act of 1935, designation or change of beneficiary 638
Appeals, decisions by the Claims Service, Appeals Council, etc., regulations; amendment 133, 216
Employees:
Death of, notification to the Board by employers, regulations 191
Registration of, and employers' reports of monthly compensation 19
Employment relation, existence or non-existence of, regulations 713
RAILROADS. *See also* Interstate Commerce Commission; Railroad Retirement Board.
Locomotive fuel:
Minimum prices for sales, hearing by National Bituminous Coal Commission 234, 346, 474
Commissions or discounts on 347, 469
Produced and sold by Bituminous Coal code members, reports required 32
RAINBOW GUM CO., notice of hearing by Federal Trade Commission 474
RANGE CODE, rules for administration of grazing districts 604
RANGE CONSERVATION PROGRAM BULLETIN, 1938. *See* Agriculture, Department of: Agricultural Adjustment Administration.
RARITAN DISTILLERS CORP., notice of hearing by Federal Trade Commission 242
RAY, RUDOLPH Y. (Ray Individual Mausoleum Co.), notice of hearing by Federal Trade Commission 230
RECLAMATION, BUREAU OF. *See* Interior, Department of the.
RECONSTRUCTION FINANCE CORPORATION:
Loans by agencies to corn producers, instructions 123
Secretary of the Treasury designated to receive certain capital stock held by 632
RED CEDAR SHINGLES, limiting importation from Canada 474
RED LAKE INDIAN RESERVATION, MINN., regulations for sale of forest products 442
RED RIVER, OKLA., lands opened for oil and gas lease applications 670
REED, ROY E., AND FLORENCE A., notice of hearing, etc., by Federal Trade Commission 1003
REFUGES:
Aransas Migratory Waterfowl, Tex., establishment 10
Black Coulee Migratory Waterfowl, Mont., establishment 231
Chautauqua Migratory Waterfowl, Ill., fishing permitted 673
Hart Mountain Antelope, Oreg., enlargement 998
Hewitt Lake Migratory Waterfowl, Mont., establishment 555
Huron, Mich., establishment 195
Lacassine Migratory Waterfowl, La., establishment 1
Lower Souris Waterfowl, N. Dak., enlargement 222
National wildlife, administration by Bureau of Biological Survey, regulations amended 915
Pea Island Migratory Waterfowl, N. C.:
Closed areas designated 581, 912
Establishment 734
Tamarac Migratory Waterfowl, Minn., establishment 1055
Tybee Migratory Bird, Ga., establishment 912
Upper Mississippi River Wild Life and Fish, Minn., trapping regulations 515

REFUGES—Continued. Page
White River Migratory Waterfowl, Ark., closed area designated 591
Wichita Mountains Wildlife, Okla., fishing permitted in certain lakes 987
REGIONAL AGRICULTURAL CREDIT DIVISION. *See* Farm Credit Administration.
REIBER, MARTEN A., receiver, Butler Consolidated Coal Co., notice of hearing by National Bituminous Coal Commission 35, 198
REIBER, WILLIAM A., order for hearing by Federal Power Commission 797
REICHGOTT, DONALD, notice of hearing by Federal Trade Commission 583
REILLY, JAMES A., findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities 12
RELIABLE SALES CO., notice of hearing, etc., by Federal Trade Commission 1003
RELIABLE SPECIALTY CORP., notice of hearing by Federal Trade Commission 528
REMINGTON RAND, INC., unlisted trading privileges denied by Securities and Exchange Commission 707
REPUBLIC ELECTRIC POWER CORP., notice of hearings by Securities and Exchange Commission 259, 435, 792, 928
REPUBLIC STEEL CORP., unlisted trading privileges extended by Securities and Exchange Commission 707
RESERVATIONS. *See* Public Lands.
RESETTLEMENT TYPE PROJECTS. *See* Projects.
RESOURCES CORPORATION INTERNATIONAL, registration statement withdrawal denied by Securities and Exchange Commission 1013
REX MERCHANDISE CORP., OF AMERICA, notice of hearing by Federal Trade Commission 752
RHODE ISLAND:
Agricultural conservation program, 1938, northeast region. *See* Agriculture, Department of.
Loans by Farm Security Administration, designation of counties for 527
Motor carrier rates, investigation by Interstate Commerce Commission 762, 825
Providence Gas Co., Providence, order by National Bituminous Coal Commission 33
Public lands, jurisdiction transferred to Secretary of the Interior 1057
RICE:
Certificates of origin, inspection and certification regulations amended 893
Rough, standards for determination of milling quality on lot of rice as a whole 1009
RICHFIELD OIL CORP., order by Securities and Exchange Commission 214
RICKER, EDWARD G., notice of hearing by Securities and Exchange Commission 706
RIGHTS OF WAY, regulations:
Applications for, over public lands, etc 1035
Indian lands 984
RIGHTWAY INSTITUTE, notice of hearing by Federal Trade Commission 583
RINCON INDIAN IRRIGATION PROJECT, CALIF., operation and maintenance charges 775
RINDERPEST, cattle disease, order to prevent introduction of; amendments 63, 91, 223, 973, 1031
RINTOUL, JAMES L., order for hearing by Federal Power Commission 796, 1032
RIPPNER, HARRY A., AND LOUIS G., notice of hearing by Federal Trade Commission 933

Page

RIVER AND HARBOR ACT. *See* War Department.
RIVER JUNCTION, FLA., drawbridge regulations across Apalachicola River 596
ROBERTSON, J. C., notice of hearing by Federal Trade Commission 834
ROBINSON CLAY PRODUCT CO., notice of hearing by National Bituminous Coal Commission 877, 906
ROBINSON, W. C., order for hearing by Federal Power Commission 797
ROCHESTER & PITTSBURGH COAL CO., notice of hearings by National Bituminous Coal Commission 217, 347, 470, 968, 1076
ROCHESTER (CHARLOTTE) HARBOR, N. Y., regulations governing use, administration, etc 982
ROCHESTER, N. Y., minimum prices for coals produced, hearing by National Bituminous Coal Commission 240, 470
ROCK ISLAND SPONGE CO., cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
RORK, GLEN V., order for hearing by Federal Power Commission 739, 860
ROSE, J., & CO., notice of hearing, etc., by Federal Trade Commission 1003
ROSEBUD INDIAN RESERVATION, S. DAK., restoration order 343
ROSENFELD, JACK, notice of hearing, etc., by Federal Trade Commission 1003
ROSENFELD, JOSEPH, notice of hearing, etc., by Federal Trade Commission 583
ROSETTA MINES CO., order by Securities and Exchange Commission 261
ROSIN, classification and grading standards, etc., under Naval Stores Act 941
ROSS, PHILIP L., order for hearing by Federal Power Commission 797
ROSS, S. C., notice of hearing by Federal Trade Commission 824
ROTHSCHILD, HAROLD L., notice of hearing by Federal Trade Commission 1032
ROUX CRATE AND LUMBER CO., INC., notice of hearing by Federal Trade Commission 506
ROWE MANUFACTURING CORP., ET AL., complaint by Federal Trade Commission; manufacture of snow fence 225
ROWE, T. F., order for hearing by Federal Power Commission 797
RUBEROID CO., notice of hearing by National Bituminous Coal Commission 276
RURAL ELECTRIFICATION ADMINISTRATION:
Allocation of funds for loans 30, 65, 81, 202, 259, 313, 479, 520, 529, 556, 557, 563, 584, 611, 617, 638, 639, 705, 709, 710, 762, 792, 816, 861, 875, 903, 933, 976, 997, 1051, 1074
Amendments 479, 557, 584, 611, 638, 639, 705, 709, 792, 933, 1074
RURAL REHABILITATION, administration of State corporation funds, etc 212
RUSS CRATE CO., notice of hearing by Federal Trade Commission 506
RUTLAND RAILROAD CO., orders by Securities and Exchange Commission 525, 603, 839, 978

S

ST. ANTHONY GOLD MINES, LTD., orders by Securities and Exchange Commission 562, 766, 826
ST. CROIX RIVER, WIS., operation of Minneapolis, St. Paul and Sault Sainte Marie Railway Company and Village of Osceola Drawbridges 905

Page

ST. JOE, FLA., designated customs port of entry 435
ST. LAWRENCE RIVER, use, administration, etc., of harbor and United States breakwater at Cape Vincent, N. Y 967
ST. LOUIS, MO.:
Bituminous coal produced, hearing on minimum prices by National Bituminous Coal Commission 239, 470
Marketing Area, handling of milk, notice of re-opening of hearing, etc 122
SABINE RIVER, drawbridge regulations between Starks, La., and Deweyville, Tex 596
SACHNOFF, HARRY, notice of hearing by Federal Trade Commission 472
SAHARA COAL CO., order by National Bituminous Coal Commission 34
SAKS & CO., notice of hearing by Federal Trade Commission 709
SALEM MARITIME NATIONAL HISTORIC SITE, MASS., designation 671
SAN ANTONIO PUBLIC SERVICE CO.:
Effective date of declaration, etc., by Securities and Exchange Commission 603, 1013
Notice of hearings 523, 726
SAN CARLOS PROJECT, ARIZ., operation and maintenance charges 776
SAN FRANCISCO, CALIF.:
Golden Gate International Exposition, 1939:
Admission of aliens for participation 724
Entry of articles for exhibition 578
Grain Exchange, designated contract market for wheat and barley 478
SAN FRANCISCO CURB EXCHANGE, permission by Securities and Exchange Commission to withdraw registration as national securities exchange 861
SAN LEANDRO BAY, CALIF., drawbridge regulations 33
SANDUSKY HARBOR, OHIO, use, administration, etc., regulations 967
SANITARY AUTOMATIC CANDY CORP., notice of hearing by Federal Trade Commission 603
SANITORIA (INDIAN), admission of patients, regulations 735
SARASIN, CELIA, notice of hearing by Federal Trade Commission 836
SAVANNAH, GA., Attorney General authorized to reject bids for certain property pursuant to Trading With the Enemy Act 688
SAVANNAH RIVER, drawbridge regulations at Augusta, Ga 968
SCADRON, IRWIN, notice of hearing by Federal Trade Commission 824
SCHMIDT, WILLIAM, JR., order for hearing by Federal Power Commission 796, 1032
SCHOLEY, S. PAGE, complaint by Federal Trade Commission; manufacture, etc., of snow fence 225
SCHOOLS (PUBLIC), tuition for Indian children, regulations 746
SCHROEDER AND TREMAYNE, INC., cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
SCHULZ, JOHN M., notice of hearing by Federal Trade Commission 471
SCHUTT, HAROLD S.:
Declared not a holding company 1083
Notice of hearing by Securities and Exchange Commission 924
SCHWARTZ, ALBERT, notice of hearing, etc., by Federal Trade Commission 129
SCHWARTZ, J. A., notice of hearing by Federal Trade Commission 825

Page

SCULLIN STEEL CO., order by Securities and Exchange Commission 50
SEAGRAVE, LOUIS H., order for hearing by Federal Power Commission 738, 860
SEAMEN:
Bona fide alien, documents required for entry into United States 216
Certificates of Service and Efficiency, Identification, Discharge, etc., issuance regulations 916
Continuous Discharge Books, Certificates of Identification and Discharge, method of accounting for monies received from sale of duplicates 220
Detention on board vessels on which employed, Immigration Rules amended 600
Discharge of, Consular Regulations amended 485
SEARS, H. B., notice of hearing, etc., by Securities and Exchange Commission 443, 530, 618, 710
SEAS SHIPPING CO., application for operating-differential subsidy contract, public hearing 668, 752
SEATTLE STOCK EXCHANGE, exemption from registration as national securities exchange, order amended 791
SECURITIES AND EXCHANGE COMMISSION:
Notice of hearings, etc.:
Adams, Charles True 757, 789
American Gas and Power Co 987
American Light & Traction Co 523
American Steel Foundries 586
American Utilities Corp 119
Baldwin Locomotive Works 587
Barrett, Andrew J 584, 655
Baton Rouge Electric Co 523, 655
Baxter, Marcus L 706
Birmingham Gas Co 987
Boeing Airplane Co 585, 587
Bondholders' Protective Committee 577
Brundage, Avery 577
Burlington Improvement Co., et al 119
Burlington Railway and Light Co., et al 119
Byllesby Corp 1012
Byllesby, H. M., & Co 1005
Cabot, Godfrey L., Inc 119
Cambria Iron Co 586, 667
Canal Construction Co 998
Central Maine Power Co 890
Central New Hampshire Power Co 120
Central Service Corp 789
Central West Utilities Co 119
Chollar Extension Mining Co 77
Columbia Engineering Corp 384
Columbia Gas & Electric Corp 584
Community Power and Light Co 221
Consolidated Aircraft Corp 587
Cumberland County Power and Light Co 251
Dawson, John A 577
Denmark Light and Telephone Corp 119
Eastern Shore Gas Corp 573
Edison Light and Power Co 927
Electric Boat Co 587
Engineers Public Service Co., Inc 523, 654
Estes, S. Leroy 518, 524
Fall River Electric Light Co 705
Federal Water Service Corp 574
Gardner Electric Light Co 553
Genesee Valley Gas Co., Inc 1075
Georgia Power Co 734
Gilbert, Arthur H 706
Greenville Electric Light & Power Co 442
Gulf States Utilities Co 523, 611
Hickok Oil Corp 978
Home Utilities Co 120
Homestake Mining Co 588
Houston Natural Gas Corp 988
Howel, Clayton J 577

SECURITIES AND EXCHANGE COMMISSION—Con.
Notice of hearings, etc.—Continued.
Industrial Investment Corp 631, 656
Inspiration Consolidated Copper Co 588
Insurance Company of North America 586, 667
International Hydro-Electric System 588
International Paper and Power Co 589
Interstate Utilities Co 120
Iowa Power and Light Co 740
Kansas Electric Power Co 897
Kennecott Copper Corp 443
Keystone Pipe & Supply Co 594
Keystone Utilities, Inc 925
Lima Cord Sole and Heel Corp 790
Louisiana Steam Generating Corp 523, 611, 655
Manzelman, George F 577
Middle West Corp 222, 790
Monongahela West Penn Public Service Co 1004
Morris, Hugh M 924
NY PA NJ Utilities Co 925
National Gas & Electric Corp 706
National Lead Co 589
New England Power Co 563
New York State Electric & Gas Corp 763, 765, 981
Niagara Hudson Power Corp 589
Northeastern Water and Electric Corp 758, 766
Ohio Oil Co 221
Paramount Pictures, Inc 590
Penn Western Gas & Electric Co 203
Peoples Gas and Electric Co., et al 119
Peoples Gas and Improvement Co 119
Peoples Light and Power Corp 924
Peoples Water and Gas Co 221
Permian Oil & Gas Co 120
Phelps Dodge Corp 574
Philip Morris & Co., Ltd., Inc 590
Public Service Co., of New Hampshire 890
Puget Sound Power & Light Co 763
Radio Corp., of America 590
Republic Electric Power Corp 259, 435, 792, 928
Ricker, Edward G 706
San Antonio Public Service Co 523, 726
Schutt, Harold S 924
Sears, H. B 443, 530, 618, 710
Sloss-Sheffield Steel & Iron Co 1012
Smallwood, Billie 727, 795
South Carolina Utilities Co 706
Southern Natural Gas Co 339
Southwest Royalties Co 585
Stone & Webster and Blodget, Inc 230
Sulzbach, Fred X 194, 422
Teck-Hughes Gold Mines, Ltd 260
Tri States Power Corp 119
Twin State Gas & Electric Co 661
United Aircraft Corp 586
United Corp 591
United Light and Power Engineering and Construction Co 655
Utilities Holding Corp 120
Utilities Power & Light Corp. (Charles True Adams, trustee) 757, 789
Van Buren Light and Power Co 119
Walnut Electric & Gas Corp 706
Warren, Frank H 119
Washington and Suburban Cos 121
Washington Gas Light Co 121, 949, 1004
Western Securities Co 119
Witwer, L. H 631, 677
York Railways Co 904
Public Utility Holding Company Act of 1935:
Acquisition of assets or securities, approval, etc.:
Cumberland County Power and Light Co 3
Federal Water Service Corp 898
Iowa Power and Light Co 925
Kentucky Securities Co 4
Lexington Utilities Co 4

SECURITIES AND EXCHANGE COMMISSION—Con. Page
- Public Utility Holding Company Act of 1935—Con.
  - Acquisition of assets or securities, approval, etc.—Continued.
    - Middle West Corp 422
    - New England Power Co 846
    - Sioux City Gas & Electric Co 87
    - Southern Natural Gas Co 617
  - Acquisitions of securities exempted, Rule 9C–3 amended 977
  - Adams, Charles True, application for fees, expenses, etc., as trustee 1011
  - Central New Hampshire Power Co., declared not to be a holding company 382
  - Central Service Corp., application for fees, expenses, etc 1011
  - Cumberland County Power and Light Co., authorized securities exempted 521
  - Declarations, effective dates, etc.:
    - American Light & Traction Co 603
    - American Water Works and Electric Co., Inc 192
    - Central Massachusetts Light & Power Co 65
    - Columbia Engineering Corp 790
    - Commonwealth Gas & Electric Cos 65
    - Gardner Electric Light Co 655, 663
    - Gulf States Utilities Co 816
    - Louisiana Steam Generating Corp 816
    - Massachusetts Lighting Cos 65
    - Massachusetts Utilities Associates 65
    - Mission Oil Co 134
    - Penn Western Gas & Electric Co 666
    - San Antonio Public Service Co 603, 1013
  - Exemptions from provisions of:
    - Central Maine Power Co 1051
    - Citizens Utilities Co., amendment 715
    - Cleveland Cliffs Iron Co 793
    - Cliffs Corp 793
    - Eaton, Cyrus S 793
    - Fall River Electric Light Co 949
    - Greene, Edward B 793
    - Mather, Wm. G., et al 793
    - New York State Electric & Gas Corp 890
    - Phelps Dodge Corp 1032
    - Public Service Co., of New Hampshire 1052
    - South Carolina Utilities Co 826
    - Wade, G. G 793
    - Walnut Electric & Gas Corp 826
  - Findings and order on plan of reorganization, etc.:
    - American Water Works and Electric Co., Inc 8
    - Genesee Valley Gas Co., Inc 214
  - Investment programs for current funds of registered holding companies, etc., applications for approval, Rule 9C–4 adopted 837
  - Morris, Hugh M., declared not a holding company 1083
  - Peoples Light and Power Corp., trustees declared not a holding company 1083
  - Public Service Corp., of Tex., declared not a holding company 51
  - Registration statements, form and time of filing, Rule 5B–1 amended 977
  - Annual supplements, Rule 14–2 amended 977
  - Reorganization, Rules 11F–1 and 11F–2:
    - Plans, application for approval 3, 911
    - Proceedings, approval of fees 520, 977
  - Schutt, Harold S., declared not a holding company 1083
  - Securities and assets, sales by registered holding companies, Rule 12D–1 adopted 786
  - Securities, reports of acquisitions by holding companies, Rule 14–1 amended 65
  - Twin State Gas and Electric Co., declared not a holding company 998
  - Utilities Power & Light Corp., fees, expenses, etc., to trustee 1011
- Registration applications, withdrawals, etc.:
  - Adams Express Co 50, 66, 978
  - Allied Products Corp 260, 529
  - Annapolis Dairy Products Co 86
  - Autoline Oil Co 530
  - Botany Consolidated Mills, Inc 214, 612
  - Campagnoli & Co., Inc 297
  - Canal Construction Co 846
  - Chicago Curb Exchange Association 507
  - Chollar Extension Mining Co 214
  - Como Mines Co 899
  - Cusi Mexicana Mining Co 441, 838
  - Duluth, South Shore and Atlantic Railway Co 483, 838
  - Engle & Engle 766
  - Fairbanks Co 484, 838
  - Federal Knitting Mills Co 898
  - Ferrocarriles Nacionales De Mexico (National Railways of Mexico) 484, 838
  - Foreman and Co., Inc 272
  - German Central Bank 1005
  - Jumbo Extension Mining Co 272
  - Knudsen Creamery Co., of California 277, 727
  - Lehigh Valley Coal Co 484, 838
  - Mangan, P. J 529
  - Market Street Railway Co 66, 789
  - Merchants Petroleum Co 483
  - Michigan-Utah Consolidated Mines Co 260
  - Minneapolis-Moline Power Implement Co 524, 839
  - Missouri Pacific Railroad Co 413, 474, 563
  - Mother Lode Coalition Mines Co 690
  - New York, Chicago & St. Louis Railroad Co 277
  - New York Dock Co 967
  - New York Steam Corp 485, 839
  - Nicholas-Beazley Airplane Co., Inc 525, 839
  - Obra Mines Corp 51, 666
  - Olinda Land Co 382, 727
  - Pedigo Co 529
  - Pierce Oil Corp 898
  - Prima Co 86, 577
  - Pure Oil Co 529
  - Resources Corporation International 1013
  - Richfield Oil Corp 214
  - Rosetta Mines Co 261
  - Rutland Railroad Co 525, 603, 839, 978
  - St. Anthony Gold Mines, Ltd 562, 766, 826
  - Scullin Steel Co 50
  - Silex Co 524
  - Southwest Royalties Co 639
  - Stratton, William J., Co 444
  - Stutz Motor Car Co., of America, Inc 525, 840
  - Teck-Hughes Gold Mines, Ltd 25
  - Trusteed Collateral Corp 313
  - United Towns Electric Co., Ltd 383
  - Walker, Virgil E 192
  - Wiley, Edward J 1013
- Rules of Practice, amendments 313, 561
- Securities Act of 1933:
  - General Rules and Regulations, amendments 482
  - Financial statements, prohibition of use of, Rule 170 adopted 25
  - Instruction Book amendments, Form A–2 800
  - Oil royalty trust or unincorporated association, etc., exemptions to interests in, Regulation B–T 479
  - Securities:
    - Guarantee, etc., registration, Forms D–1 and E–1 861
    - Registered on national securities exchanges, Form 1–MD amended 203
    - Sold for cash in compliance with State law, general exemption, Rule 210 adopted 799
  - Stop orders:
    - Cimarron Petroleum Trust 485
    - Crusader Aircraft Corp 383
    - Gold Dust Mining & Milling Co 81

SECURITIES AND EXCHANGE COMMISSION—Con. Page
- Securities Act of 1933—Continued.
- Stop orders—Continued.
  - Puget Sound Distillery, Inc 816
  - South Umpqua Mining Co 554
  - Sunbeam Gold Mines Co 707
  - T. I. S. Management Corp 485
  - Trenton Valley Distillers Corp 134
  - Ypres Cadillac Mines, Ltd 78
- Securities Exchange Act of 1934:
  - Annual reports of registrants, Rule MD1 amended 966
  - Bonds of Foreign Private Issuers, Form 21–K amended 763
  - Evidences of indebtedness, Rule AN21 amended 677
  - National securities exchange, registration exemptions, suspensions, withdrawals, etc.:
    - Arnold & Co 507
    - Crary, Gorden B 9, 997
    - Hutton, E. F., & Co 9, 997
    - King, Herbert 507
    - Loeb, Gerald M 9, 997
    - Minneapolis-St. Paul Stock Exchange order 791
    - Morrison, H. Terry 9, 997
    - San Francisco Curb Exchange 861
    - Seattle Stock Exchange 791
    - Stern, Norman 507
    - Wheeling Stock Exchange 791
    - Wright, Charles C 507
    - Wright & Sexton 507
  - Pro forma balance sheets, Rule MC9 adopted 25
  - Securities not registered on a national securities exchange, use of manipulative or deceptive devices, etc., Rule GB4 846, 895
  - Securities of Foreign Private Issuers, Form 20–K amended 763
  - Securities registered on national securities exchanges, Forms 1–MD and 12–K amended 203
  - Short-selling, rules for regulation of 213, 382, 765
  - Unlisted trading privileges, extension, etc.:
    - Adams Express Co 1012
    - Armour & Co. (Ill.) 707
    - Associated Gas & Electric Corp 206
    - Atlantic City Electric Co 204
    - Atlas Corp 77
    - Barnsdall Oil Co 707
    - Berkey & Gay Furniture Co 77
    - Bethlehem Steel Corp. (Del.) 707
    - Boeing Airplane Co 707
    - California Water Service Co 205
    - Cambria Iron Co 793
    - Cities Service Co 207
    - Collins and Aikman Corp 978
    - Columbia Gas & Electric Corp 707
    - Cudahy Packing Co 204
    - Cumberland County Power & Light Co 204
    - Curtiss Wright Corp 707
    - Florida Power Corp 205
    - General Foods Corp 707
    - Houston Lighting & Power Co 207
    - Insurance Company of North America 793
    - Market Street Railway Co 933
    - Metropolitan Edison Co 205
    - Missouri Power & Light Co 205
    - Nash-Kelvinator Corp 790
    - New England Power Co 204
    - Northern States Power Co. (Minn.) 203
    - Ohio Oil Co 707
    - Pacific Lighting Corp 206
    - Paramount Pictures, Inc 707
    - Peoples Gas Light & Coke Co 204
    - Remington Rand, Inc 707
    - Republic Steel Corp 707
    - Socony Vacuum Oil Co., Inc 707
    - Standard Gas and Electric Co 251
- Securities Exchange Act of 1934—Continued.
  - Unlisted trading privileges, extensions, etc.—Con.
    - Studebaker Corp 707
    - Swift & Co 707
    - Twentieth-Century Fox Film Corp 707, 967
    - United Aircraft Corp 707
  - Unlisted trading privileges, Rule JF7 amended 654
- SEED, RED CLOVER, evidence as to country where produced, Customs Regulations amended 526
- SENATE, UNITED STATES, inspection of income, excess-profits, and capital stock tax returns by Special Committee to Investigate Lobbying Activities 783
- SEQUOIA NATIONAL PARK, local subsidiary regulations 760
- SERVAL-SYSTEM:
  - Cease and desist order by Federal Trade Commission; sale, etc., of bookkeeping system 911
  - Notice of hearing 230
- SHAPIRO, MORRIS R., CHARLES, ET AL., notice of hearing by Federal Trade Commission 271
- SHARRATT COAL CO., notice of hearing by National Bituminous Coal Commission 877, 906
- SHENANDOAH NATIONAL PARK, local subsidiary regulations 774
- SHERAY, INC., ET AL., notice of hearing by Federal Trade Commission 752
- SHIMP, WALTER (Ontario Livestock Commission Co.), designated stockyard owner at Ontario, Oreg 29
- SHINHOLZER, STEPHEN O., notice of hearing by Federal Trade Commission 506
- SHIP RADIOTELEGRAPH SAFETY RULES, modification 240
- SHIRLEY GAS COAL CORP., order by National Bituminous Coal Commission 89
- SHOLLAR CRATE AND BOX CO., INC., notice of hearing by Federal Trade Commission 506
- SIFERS, SAMUEL I., notice of hearing, etc., by Federal Trade Commission 1003
- SILEX CO., order by Securities and Exchange Commission 524
- SILVER:
  - Bullion, tax on transfers of interests in, regulations amended 1028
  - Delivery required to United States mints, orders revoked 842
  - Importations of, consular invoice requirements revoked 843
  - Products of Navajo, Pueblo, and Hopi Indians; standards and use of Government mark 759, 760
  - Receipt and coinage by United States mints, regulations; proclamation 4, 841
  - Regulations of Secretary of the Treasury; revocation 67, 843
- SILVER, JAMES I., ET AL, notice of hearing by Federal Trade Commission 824
- SIMEON AND HALIPILIAS, cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
- SIMON, VICTOR (American Union Stock Yards and Victor Simon Sale Stable), Baton Rouge, La., notice under Packers and Stockyards Act 457
- SIOUX CITY GAS & ELECTRIC CO., acquisition of securities approved by Securities and Exchange Commission 87
- SLATON, MARTIN M., notice of hearing by Federal Trade Commission 835
- SLOSS-SHEFFIELD STEEL & IRON CO., notice of hearing by Securities and Exchange Commission 1012

SMALLWOOD, BILLIE, order for hearing, etc., by Securities and Exchange Commission ... 727, 795
SMEED, ROSS (Ontario Livestock Commission Co.), designated stockyard owner at Ontario, Oreg ... 29
SMITH, R. PAUL, order for hearing by Federal Power Commission ... 797
SMITZES AND DRIVAS, cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995
SMOKELESS COAL CORP., approval as marketing agency extended by National Bituminous Coal Commission ... 237
SOCIAL SECURITY ACT. *See also* Social Security Board.
  Employees subject to Railroad Retirement Act, registration of ... 23
  Grants to States for maternal and child welfare, regulations amended ... 199, 931
  Services excepted from "employment" by reason of Carriers Taxing Act of 1937 ... 847
  Tax returns under Title IX of, inspection authorized ... 639, 641, 645
  Taxable wages, reporting of, under Title VIII ... 2
SOCIAL SECURITY BOARD:
  State unemployment compensation laws, certification to Secretary of the Treasury for taxable year 1937 ... 10
SOCONY VACUUM OIL CO., INC., unlisted trading privileges extended by Securities and Exchange Commission ... 707
SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, authority to execute payment assignments of Agricultural Adjustment Administration Form ACP-69 ... 948
SONOMA CREEK, regulations for Northwestern Pacific Railroad Drawbridge at Wingo, Calif ... 33
SOUTH CAROLINA:
  Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
  Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc ... 712, 736
SOUTH CAROLINA UTILITIES CO.:
  Exemption from provisions of Public Utility Holding Company Act of 1935 ... 826
  Notice of hearing by Securities and Exchange Commission ... 706
SOUTH DAKOTA:
  Agricultural conservation program, 1936, 1937, 1938, north central region. *See* Agriculture, Department of.
  Custer State Park Game Sanctuary, Harney National Forest, mining permits ... 1001
  Loans by Farm Security Administration, designation of counties for ... 2
  Public lands, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior ... 767
  Rosebud Indian Reservation, restoration order ... 343
SOUTH UMPQUA MINING CO., stop order by Securities and Exchange Commission ... 554
SOUTH WEST AFRICA, MANDATE TERRITORY, countervailing duties revoked on livestock imported from ... 637
SOUTHERN CONTAINER CO., notice of hearing by Federal Trade Commission ... 506
SOUTHERN CRATE AND VENEER CO., notice of hearing by Federal Trade Commission ... 506
SOUTHERN NATURAL GAS CO.:
  Acquisition of utility assets approved by Securities and Exchange Commission ... 617
  Notice of hearing ... 339
SOUTHERN NEBRASKA POWER CO., notice of hearing by Federal Power Commission ... 242
SOUTHWEST ROYALTIES CO., order for hearing, etc., by Securities and Exchange Commission ... 585, 639
SOVIET SOCIALIST REPUBLICS. *See* Union of Soviet Socialist Republics.
SPAIN:
  Arms and munitions exported to, regulations ... 696
  Coal imported from, countervailing duties revoked ... 637
SPALDING, A. G., AND BROTHERS, findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls ... 271, 501
SPECIALTIES, INC., notice of hearing by Federal Trade Commission ... 506
SPERBERG, SIMON, notice of hearing, etc., by Federal Trade Commission ... 129
SPERRY CORP., notice of hearing by Federal Trade Commission ... 243
SPLENETIC OR TICK FEVER (CATTLE), quarantine release, Polk and Osceola Counties, Fla ... 927
SPONGE FISHING CO., cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995
SPONGE PRODUCERS' CORP., cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995
SPORS, FRANK, notice of hearing by Federal Trade Commission ... 923
SPURR, A. CLINTON, order for hearing by Federal Power Commission ... 797
STAMPS, UNITED STATES POSTAGE, regulations relating to illustrations ... 385, 636
STANDARD CONTAINER MANUFACTURERS' ASSN., INC., ET AL, notice of hearing by Federal Trade Commisison ... 506
STANDARD GAS AND ELECTRIC CO., unlisted trading privileges continued by Securities and Exchange Commission ... 251
STANLEY COAL CO., order by National Bituminous Coal Commission ... 219
STARCH, DANIEL, order for hearing by Federal Power Commission ... 797
STARR, ABRAHAM, notice of hearing by Federal Trade Commission ... 752
STATE, DEPARTMENT OF:
  Arms and Munitions Control, Office of:
    Arms, ammunition, and implements of war, international traffic laws and regulations ... 690
    Exportation to China, Cuba, Honduras, Nicaragua, and Spain ... 695, 696
    General Regulations ... 692
    Helium gas, exportation ... 699
    Joint Resolution of Congress ... 691
    Military secrets ... 695
    Proclamation ... 691
    Records of manufacture, export, and import ... 695
    Tin-plate scrap, exportation ... 698
  Trade agreement negotiations, public notice:
    Canada ... 252
    Turkey ... 78
    United Kingdom, and on behalf of Newfoundland and British Colonial Empire ... 52, 231
STEAM ROADS, ETC. *See* Interstate Commerce Commission.
STEFANIDI, ALEC, cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995
STEFFY, WILLIAM C., AND LORINA, notice of hearing by Federal Trade Commission ... 845
STEMPFEL, THEODORE, notice of hearing by Federal Trade Commission ... 845

STERN, NORMAN, suspension and expulsion order by Securities and Exchange Commission ... 507
STEYBE, IRVING P., order for hearing by Federal Power Commission ... 739
STOCK DRIVEWAYS. *See* Interior, Department of the: General Land Office.
STOCKYARD OWNERS, ETC., Packers and Stockyards Act:
  Notices, livestock public markets ... 29, 80, 86, 198, 276, 334, 457, 478, 630, 673, 821, 973
  Rules and regulations by Secretary of Agriculture ... 432
STONE & WEBSTER AND BLODGET, INC., notice of hearing by Securities and Exchange Commission ... 230
STRATTON, WILLIAM J., CO., registration revoked by Securities and Exchange Commission ... 444
STRINGER, ANNE, notice of hearing by Federal Trade Commission ... 966
STRONGS CAUSEWAY BRIDGE, Flushing Creek, New York City, draw span regulations revoked ... 828
STUDEBAKER CORP., unlisted trading privileges extended by Securities and Exchange Commission ... 707
STUTZ MOTOR CAR CO., OF AMERICA, INC., orders by Securities and Exchange Commission ... 525, 840
SUGAR:
  Countervailing duties on imports from Great Britain and Ireland ... 208
  Liquid form, etc., statement of percentage of weight on invoices ... 385
  Sugar Act of 1937:
    Florida, fair and reasonable price determination, 1937 sugarcane crop ... 986
    Hawaii:
      Farming practices, determination for 1938 crop ... 630, 975
      Price determination ... 703
      Wage rates, hearing and determination ... 500, 690
    Liquid sugar quotas, 1938, for foreign countries, notice of hearing, etc ... 85, 188
    Louisiana:
      Price determination for 1937 and 1938 crops, hearing ... 456, 911
      Wage rates, notice of hearings, etc, 1938 crop ... 348
    Mainland cane sugar area:
      Farming practices, determination for 1938 crop ... 803
      Payment eligibility for farm abandonment and crop deficiency, determination ... 777
      Proportionate shares for farms, determination for 1937 and 1938 crops ... 651, 754
      Sugar commercially recoverable, determination ... 777, 786
      Wage rates, determination ... 664
    Puerto Rico:
      Direct-consumption portion allotment, 1938 crop ... 665, 786, 821, 938, 1077
      Price determination, 1938 crop ... 556
      Proportionate shares for producers, 1938 and 1939 crops ... 75
      Quota allotment, notice of hearing, etc ... 2
      Wage rate determination, 1938 crop ... 456
    Sugar beets:
      Farm abandonment and crop deficiency, determination of payment eligibility ... 785
      Farming practices, determination for 1938 crop ... 440, 634
      Price determination, 1937 and 1938 crops ... 702
      Sugar commercially recoverable per acre, determination ... 656, 748
      Wage rates, hearings and determination, 1937 and 1938 crops ... 90, 189, 215, 707
    Sugar beets or sugarcane, determination of producers who are also processors ... 999
SULZBACH, FRED X., notice of hearing, etc., by Securities and Exchange Commission ... 194, 422
SUNBEAM GOLD MINES CO., stop order by Securities and Exchange Commission ... 707
SUNBEAM LABORATORIES, notice of hearing by Federal Trade Commission ... 560
SUNSHINE ANTHRACITE COAL CO., notice of oral argument before National Bituminous Coal Commission ... 999, 1043
SUPERIOR TEXTILE MILLS, notice of hearing by Federal Trade Commission ... 752
SUSQUEHANNA POWER CO., order for hearing by Federal Power Commission ... 338
SWIFT & CO., unlisted trading privileges extended by Securities and Exchange Commission ... 707
SYLVAN CO., notice of hearing by Federal Trade Commission ... 823

T

T. I. S. MANAGEMENT CORP., stop order by Securities and Exchange Commission ... 485
TALLADEGA NATIONAL FOREST, ALA., lands added ... 928
TAMARAC MIGRATORY WATERFOWL REFUGE, MINN., establishment ... 1055
TAMPA BAY, FLA.:
  Gadsden Point, boundaries of quarantine anchorage designated ... 327
  Quarantine anchorage ground, regulations ... 595
TARAPINA, A. L., cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995
TARPON SPRINGS SPONGE EXCHANGE, INC., cease and desist order by Federal Trade Commission; sale, etc., of sponges ... 995
TAXES:
  Bituminous coal sales to State, Territorial, or Federal Governments, exemption ... 90
  Coal, coke, etc.:
    Imports from certain countries ... 564
    Imports from Union of Soviet Socialist Republics ... 843, 900
  Income:
    Employees' pension trusts, payments to, deduction ... 193
    Employer claiming deductions, information to be furnished by ... 194
    Foreign personal holding companies ... 100
    Form of return, etc., Regulations 94 amended ... 619
    Returns for taxable periods ending after December 31, 1937, information required ... 79
    State officers and employees, compensation of ... 62
    United States employees, cases where no return is required ... 62
  Internal revenue:
    Abandoned or forfeited articles subject to, disposition of ... 899
    Distilled spirits smuggled, etc., into United States ... 981
  Returns (income, excess profits and capital stock, estate and gift, and returns under Social Security Act), authorizing inspection of; regulations ... 641, 645
  Returns (income, excess-profits, and capital stock), inspection by Special Committee to Investigate Lobbying Activities, U. S. Senate ... 783
  Search of public records, protection of Home Owners' Loan Corporation ... 976
  Silver bullion, tax on transfers of interests in ... 1028
  Social Security Act, Title VIII:
    Reporting of wages ... 2

TAXES—Continued. Page
Social Security Act, Title VIII—Continued.
Services excepted from "employment" by reason of Carriers Taxing Act of 1937 847
Sugar in liquid form, etc., import compensating tax 385
TAYLOR, HAROLD P., order for hearing by Federal Power Commission 739
TEA ACT, standards established under 516
TECK-HUGHES GOLD MINES, LTD., order by securities and Exchange Commission 25, 260
TELEGRAPH, ETC. *See* Federal Communications Commission.
TELEPHONE COMPANIES. *See* Federal Communications Commission.
TENNESSEE:
Agricultural conservation program, 1937, 1938, east central region. *See* Agriculture, Department of.
Gallatin Livestock Market, Inc., notice under Packers and Stockyards Act 821
Great Smoky Mountains National Park, local subsidiary regulations 670
TERRITORIES AND ISLAND POSSESSIONS, DIVISION OF. *See* Interior, Department of the.
TEXAS:
Agricultural conservation program, 1937, 1938, southern region. *See* Agriculture, Department of.
Aransas Migratory Waterfowl Refuge, establishment 10
Brazos Island Harbor, regulations for use, administration, etc., of waterways tributary to Gulf of Mexico 863
Coal produced, determination of character of, etc., findings and conclusions by National Bituminous Coal Commission 930
Deweyville, opening of Louisiana Highway Commission Drawbridge across Sabine River 596
Migratory birds, order prohibiting taking of 1011
Potatoes (Irish), handling of:
Proposed marketing agreement, etc., notice of hearing 659, 712, 736
Regulatory order; determination 907
Sabine Bank vicinity, small passenger vessels exempted from radiotelegraph installation requirements 902
THIMBLE SHOAL CHANNEL, NORFOLK HARBOR, Va., use and navigation of, regulations modified 926
THOMPSON AND EMISTON, notice of hearing by National Bituminous Coal Commission 877, 906
THOMPSON, EARLE S., order for hearing by Federal Power Commission 797
THUNDERBOLT HARBOR, GA., anchorage grounds in Wilmington River, regulations 863
TIMBER:
Disposal regulations, Glacier National Park 867
Sales regulations, Menominee Indian Reservation 711
TIN-PLATE SCRAP, exportation of, regulations governing international traffic in arms 698
TOBACCO:
Burley:
Official grain standards amended 189
Referendum instructions and results on marketing quotas 657, 901
Total supply for marketing year, etc., proclamation 657
Fire-cured and dark air-cured, national marketing quotas, etc 440
Referenda on marketing quotas, instructions 430, 562, 651

TOBACCO—Continued. Page
Flue-cured, national marketing quotas 439
Referenda on marketing quotas, instructions 428, 507, 651
Manufacturers of, penalty and forfeiture for removing, etc., articles with intent to defraud 926
TOILET BRUSH MANUFACTURING INDUSTRY, trade practice rules by Federal Trade Commission 7
TOIYABE NATIONAL FOREST, NEV., reestablishment 913
TOLEDO HOT-HOUSE COOPERATIVE ASSN., registration as Farmers' Cooperative Association denied by National Bituminous Coal Commission 439
TOLEDO, OHIO, MARKETING AREA, handling of milk, public hearing on proposed marketing agreement, etc 829
TONGASS NATIONAL FOREST, ALASKA, portion placed under control of Secretary of War for radio station at Juneau, description corrected 195
TOWNSLEY, W. WALDO:
Cease and desist order by Federal Trade Commission; sale, etc., of bookkeeping system 911
Notice of hearing 230
TRADE AGREEMENTS:
Application of duties proclaimed to products of certain countries 594
Australia 231
Austria 728
Czechoslovakia, modification 773
Negotiations, public notice:
Canada 252
Turkey 78
United Kingdom and on behalf of Newfoundland and British Colonial Empire 52, 231
TRADE PRACTICE RULES. *See* Federal Trade Commission.
TRADING WITH THE ENEMY ACT, delegating certain powers to the Attorney General under 688, 998, 1055
TRAPPING, regulations for Upper Mississippi River Wild Life and Fish Refuge, Minn 515
TRAVIESO, HONORABLE MARTIN, designated Acting Judge of District Court of the United States for Puerto Rico 422
TREASURY DEPARTMENT:
Accounts and Deposits:
Government checks and warrants, payment regulations 842
Special deposits of public moneys, collateral security 842
Customs, Bureau of:
Airports of entry designated:
Bellingham, Wash 801
Calexico, Calif 82
Cape Vincent, N. Y 801
Malone, N. Y 801
Wellesley Island, N. Y 895
Austria, products to be marked to indicate Germany as country of origin 735
Bonded wool and camel hair, period extended for furnishing proof of use in manufacture of 192
China, importation of wild animals and birds from 280, 564, 905
Coal, etc.:
Import tax assessments 842
Imports from certain countries, taxable status 564
Imports from Union of Soviet Socialist Republics, free entry 900
Countervailing duties:
Coal from Spain, revocation 637

TREASURY DEPARTMENT—Continued. Page
Customs, Bureau of—Continued.
Countervailing duties—Continued.
Codfish roe from French fisheries 637
Fish, dried salt, from Nova Scotia 193
German agricultural products, revocation 710
Livestock from Mandate Territory, South West Africa, revocation 637
Slaughter cattle and beef from Union of South Africa, revocation 637
Sugar from Great Britain and Ireland 208
Customs Regulations of 1937, amendments:
Antidumping, action by appraiser where no finding has been published 636
Articles abandoned or forfeited, subject to internal-revenue tax, disposition of 899
Baggage declaration and entry for steerage and cruise passengers 700
Bond for manufacturing warehouse 223
Chief Assistant Appraiser and Deputy Appraiser at New York, duties 67
Examined packages, release upon stipulation to pay increased or additional duties 415
Export declarations, bond for goods to Canada or Mexico 519
Invoices of braids, plaits, laces, willow sheets or squares, additional facts required 729
Merchandise:
General term bond for entry of 987
Value not exceeding $100, exemption from consular invoices 728
Vessels' supplies, stores or equipment, exemption from consular invoice requirements 728
Warehouse withdrawals for consumption, liquidation 688
Navigation fees 640
Patrol Inspectors, marks of rank 925
Postage stamps, black-and-white illustrations permitted for philatelic purposes 636
Powers of attorney 801
Radio equipment and operators on board ship 899
Seed, red clover, evidence as to country where produced 526
Seized property, release upon payment of appraised domestic value 635
Silver, consular invoices required for importations, revocation 843
Term cutter passes for newspaper photographers 66
Vegetable oils, discontinuing oil of eucalyptus as approved denaturant 31
Vessel supplies 604
Vessels, exemption from entry at customhouse; tonnage duty exemption 801
Dates, fresh or dried, liquidation of entries suspended 273
Domestic animals, time extended for returning duty-free when straying, etc., across foreign country boundary line 1
Golden Gate International Exposition, 1939, San Francisco, Calif., entry of articles for exhibition 578
Japan, consular certificates required for entry of wild animals from 664
Merchandise, imported:
Bonded warehouse, extensions of warehousing period 99
Drawback, extending period for exportation 99
Examination of, special regulation 423
New York World's Fair, 1939, entry of articles for exhibition 579
Parrots, importations of privately owned birds to be inspected by public health officers 998

TREASURY DEPARTMENT—Continued. Page
Customs, Bureau of—Continued.
Sugar in liquid form, etc.; statement of percentage by weight on invoices 385
Federal Alcohol Administration Division:
Blackberry Wine, sale of misbranded bulk shipments 346
Cordials or liqueurs, class and type designations 521
Distilled spirits:
Brandy standards of identity, proposed regulation amendments 774
Imported, statement of age 258
Labeling of whiskey stored in reused cooperage, etc., regulations amended 486
Malt beverages, labeling and advertising regulations, hearing on proposed amendments 632
Retailers, establishment of maximum credit periods, etc., hearing on proposed regulation amendments 633
Wine, labeling and advertising regulations, hearing on proposed amendments 632
Internal Revenue, Bureau of:
Brandy, exemption of distillers from provisions of Internal Revenue laws 346
Denatured alcohol formulas:
No. 11, revocation 848
No. 14, authorization 848
No. 29, modification 87
Distilled spirits smuggled, etc., into the United States, collection of taxes 981
Distilleries, waiver of survey requirements 576
Income tax, regulations amended:
Employees' pension trusts, payments to 193
Employer claiming deductions, information to be furnished by 194
Foreign personal holding companies 100
Form of return 619
Regulations amended to accord with Revenue Act of 1937 100
Returns for taxable periods ending after December 31, 1937, information required 79
State officers and employees, compensation of 62
United States employees, cases where no returns required 62
Silver bullion tax on transfers of interests in, Regulations 85 amended 1028
Social Security Act, Title VIII:
Reporting of taxable wages 2
Services excepted from "employment" by reason of Carriers Taxing Act of 1937 847
Tax returns (income, excess-profits, and capital stock), inspection by Special Committee to Investigate Lobbying Activities, U. S. Senate 783
Tax returns (income, profits, capital stock, and returns under Social Security Act), regulations governing inspection of 641, 645
Tobacco manufacturers, penalty and forfeiture for removing, etc., articles with intent to defraud 926
Whiskey, marking packages of 641
Wine production, fortification, tax-payment, etc., regulations 735
Narcotics, Bureau of:
Appeals from Commissioner's orders, etc.; cooperation with States in court cases 1034
Coca leaves or opium, importation, transshipment, etc., regulations 1058
Public Debt Service:
Adjusted Service Bonds, authority revoked to witness and certify requests for payment 715, 729
Commodity Credit Corporation ¾ percent notes, Series C, offering of 801
Treasury Bonds of 1948, offering of, etc 526

Page

TREASURY DEPARTMENT—Continued.
Public Debt Service—Continued.
United States Savings Bonds, authority to witness and certify requests for payment 715
Public Health Service:
Civil Service Rules amended:
Attendants in hospitals, etc 846
Employees in leprosy, yellow fever, etc., investigation stations 327
Living disease organisms and vectors, importation of, quarantine regulations amended 555
Parrots, importations of privately owned birds required to be inspected by officers of 998
Quarantine anchorage off Gadsden Point, Tampa Bay, Fla., boundaries designated 327
United States Coast Guard, medical treatment and hospitalization for officers, enlisted men, etc., regulations amended 25
Public land, N. Mex., transferred to control and jurisdiction of Department 816
Secretary of:
Designated to receive certain capital stock from Reconstruction Finance Corporation, Secretary of Agriculture, and Governor of Farm Credit Administration 632
Foreign moneys, values of 31, 710
Postage stamps, regulations relating to illustrations 385
Public land, Alaska, placed under control, etc., of, for Federal buildings 925
Silver, newly-mined domestic, receipt and coinage by United States mints, regulations 67, 843
State unemployment compensation laws, certification to, by Social Security Board 10
Whaling, joint regulations 989
TREATIES, reciprocal enforcement of certain, with Norway 727
TRENNER, HAMILTON, COAL CO., notice of hearing by National Bituminous Coal Commission 877, 906
TRENTON VALLEY DISTILLERIES CORP., stop order by Securities and Exchange Commission 134
TRI STATES POWER CORP., notice of hearing, etc., by Securities and Exchange Commission 119
TRICOU, R. J. C., notice of hearing by Federal Trade Commission 6
TROPICAL SPONGE CO., cease and desist order by Federal Trade Commission; sale, etc., of sponges 995
TRUAX-TRAER COAL CO., notice of hearing by National Bituminous Coal Commission 88
TRUAX-TRAER COAL CO., OF WEST VIRGINIA, order by National Bituminous Coal Commission 40
TRUSTEED COLLATERAL CORP., registration revoked by Securities and Exchange Commisison 313
TUBERCULOSIS (CATTLE), modified accredited areas, names of counties 85, 348, 571, 737, 915
TURKEY, public notice of trade agreement negotiations with 78
TURNERS CREEK, GA., anchorage ground regulations 862
TURPENTINE, standards, etc., under Naval Stores Act, regulations revised 941
TURQUOISE PRODUCTS, standards for Navajo, Pueblo, and Hopi Indians; use of Government mark 759, 760
TWENTIETH-CENTURY FOX FILM CORP., unlisted trading privileges, orders by Securities and Exchange Commission 707, 967
TWENTIETH CENTURY SALES CO., notice of hearing by Federal Trade Commission 835

Page

TWIN STATE GAS & ELECTRIC CO.:
Notice of hearing by Securities and Exchange Commission 861
Order declaring company has ceased to be a holding company 998
TYBEE MIGRATORY BIRD REFUGE, GA., establishment 912

U

UCA MANUFACTURING CO., ET AL., notice of hearing by Federal Trade Commission 271
U. S. HOFFMAN MACHINERY CORP.:
Complaint by Federal Trade Commission; manufacture, etc., of pressing machines 381
Notice of hearing 795
U. S. RUBBER PRODUCTS CO.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
UNCLASSIFIED LABORERS, appointment of, Civil Service regulation amended 339
UNEMPLOYMENT, certification of State compensation laws to Secretary of the Treasury 10
UNION COLLIERIES CO., notice of hearing by National Bituminous Coal Commission 35, 198, 220, 275, 347, 470
UNION IRON WORKS, notice of hearing by National Bituminous Coal Commission 275
UNION OF SOUTH AFRICA, countervailing duties revoked on slaughter cattle and beef from 637
UNION OF SOVIET SOCIALIST REPUBLICS, import tax exemption of coal from 842, 900
UNION PUBLIC SERVICE CO., order for hearing by Federal Power Commission 213
UNITED AIRCRAFT CORP.:
Order for hearing by Securities and Exchange Commission 586
Unlisted trading privileges extended 707
UNITED CORP., order for hearing by Securities and Exchange Commission 591
UNITED ELECTRIC COAL CO., notice of hearing by National Bituminous Coal Commission 88
UNITED FENCE MANUFACTURERS ASSN., ET AL., complaint by Federal Trade Commission; manufacture of snow fence 225
UNITED KINGDOM OF GREAT BRITAIN:
Sugar imported from, countervailing duties 208
Trade agreement negotiations with, and on behalf of Newfoundland and British Colonial Empire, public notice 52, 231
UNITED LIGHT AND POWER ENGINEERING AND CONSTRUCTION CO., notice of hearing by Securities and Exchange Commission 655
UNITED MINE WORKERS OF AMERICA, order by National Bituminous Coal Commission 650
UNITED STATES BOARD OF TAX APPEALS:
Rules of Practice and Procedure, burden of proof, Rule 32 amended 81
UNITED STATES COAST GUARD, medical treatment and hospitalization for officers, enlisted men, etc., regulations of Public Health Service amended 25
UNITED STATES GRAIN STANDARDS ACT. *See* Agriculture, Department of; Agricultural Economics, Bureau of.
UNITED STATES HOUSING AUTHORITY, positions in field service, Federal low-rent housing projects, Civil Service Rules amended 795

Page

UNITED STATES MARITIME COMMISSION:
Cadet officers and cadets upon subsidized, etc., vessels, regulations 554, 667
Chairman of, designating Emory S. Land as 435
Merchant Marine Act, 1936:
Baltimore Mail Steamship Co.:
Minimum manning scales for individual subsidized vessels 904
Vessels owned by, application to transfer to intercoastal trade 979
Order for hearings:
Eastern Steamship Lines, Inc., application for financial aid 1033
Oceanic Steamship Co., operating-differential subsidy adjustment 1033
West Indies Co., application for construction loan and subsidy 1033
Subsidized vessels, minimum wage scales, etc., for members of Purser's Department and Ship's Surgeons, hearings 1033
Operating-Differential Subsidies:
Contractors, uniform system of accounts prescribed 313
Contracts, hearings on applications for:
American South African Line 668, 752
Seas Shipping Co 668, 752
Registration of persons entitled to practice before the Commission, rules 273
UNITED STATES MILITARY ACADEMY, WEST POINT, civilian professors, instructors, etc., excepted from competitive civil service requirements 384
UNITED TOWNS ELECTRIC CO., LTD., registration of securities withdrawn by Securities and Exchange Commission 383
UNIVERSAL ADVERTISERS' SERVICE, notice of hearing by Federal Trade Commission 836
UNIVERSAL HANDKERCHIEF MANUFACTURING CO., INC., notice of hearing, etc., by Federal Trade Commission 129
UNIVERSAL SPECIALTIES CO., notice of hearing by Federal Trade Commission 823
UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE, MINN., trapping regulations 515
URBANA LABORATORIES, findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of bacteria inoculation for seeds 95
UTAH:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Air navigation site withdrawals 875, 980
Bituminous coal in intrastate commerce, hearing to determine nature and extent, etc 27
Grazing district modification 487
Loans by Farm Security Administration, designation of counties for 91
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
Public land withdrawal revoked 383
UTILITIES HOLDING CORP., notice of hearing, etc., by Securities and Exchange Commission 120
UTILITIES POWER & LIGHT CORP., notice of hearings, etc., by Securities and Exchange Commission 757, 789, 1011

V

VAN BUREN LIGHT AND POWER CO., notice of hearing by Securities and Exchange Commission 119
VAN SCHAACK, CORNELIUS P., JR., notice of hearing by Federal Trade Commission 924

Page

VEGETABLE OILS, discontinuing use of oil of eucalyptus as approved denaturant, Customs Regulations amended 31
VELTROLA CO., notice of hearing by Federal Trade Commission 836
VERMONT:
Loans by Farm Security Administration, designation of counties for 572
Motor carrier rates, investigation by Interstate Commerce Commission 762, 825
VESSELS. *See also* Drawbridges; Seamen; War Department.
Accident reports 1044
Admeasurement of, regulations amended 921
Adjusted service pressures 335
Alarm bells and loudspeaker systems 335
Baltimore Mail Steamship Co.:
Minimum manning scales for individual subsidized vessels 904
Vessels owned by, application to transfer to intercoastal trade 979
Boiler and machinery examination 1047, 1048
Boiler stop valves and mountings, examination of 335
Bulkheads 336
Cadet officers and cadets, regulations for appointment, etc 554, 667
Certificated tanker men 1048
Construction, new methods or designs 1044
Customhouse entry and tonnage duty exemptions, arriving in distress or for fuel 801
Denmark passenger, pre-sailing examination and collection of fees 796
Eastern Steamship Lines, Inc., application for financial aid 1033
Equipment, approval of miscellaneous items 336, 665, 1050
Fire-fighting equipment 1049
Flue openings 1044
Furnace crown repairing 1045
Gaskets 1044
Hawser regulations amended, inland waters of Atlantic and Pacific Coasts, etc 516
Inland Waterway (Chesapeake and Delaware Canal), Del., and Md., navigation regulations, etc 68
License, parting with; suspension or revocation 1047, 1048
Licensed officers to be furnished rules and laws 1047
Merchant, load lines established by sea or Great Lakes, regulations corrected 270
Misconduct of licensed officers 1047
Mississippi River from Cache River, Ill., to The Passes, La., regulations for bank protection works 1055
Motion picture booth construction 1048
Motor boats, regulation of 991
Navigation fees, Customs Regulations amended 640
Norway, reciprocal enforcement of certain treaty provisions 727
Operating-differential subsidy:
Contractors, uniform system of accounts 313
Contracts, applications for:
American South African Lines 668, 752
Oceanic Steamship Co., adjustment of amount 1033
Seas Shipping Co 668, 752
Panama Canal and adjacent waters, navigation rules amended 383
Passenger, construction of 665
Radio equipment and operators, Customs Regulations amended 899
Radiotelegraph installation requirements, exemption from requirements of Communications Act of 1934 81, 202, 737, 902, 1002
Seal and tank welding 1045

VESSELS—Continued. Page
Searchlights 1045, 1046
Steam vessels, inspection 1045
Subsidized, minimum wage scales, etc., for members of Purser's Department and Ship's Surgeons, hearings 1033
Supplies, Customs Regulations amended 604, 728
Transmitters, modification of Ship Radiotelegraph Safety Rules 240
Unauthorized lights prohibited 1046
Welded sea chests 1045
Welding rods and electrodes 1045
West Indies Co., application for construction loan and subsidy 1033
Whistling, unnecessary sounding 1046
Wrecked, destroyed, etc., Consular Regulations amended 485
Wrecks, marking for protection of navigation 974

VETERANS' ADMINISTRATION:
Boise Barracks Military Reservation, Idaho, portion transferred to control and jurisdiction of 217
Civilian Conservation Corps, selection to compose Veterans' Contingent 1075
Regulations revised:
Claimants and beneficiaries:
Information concerning, release of 678
Transportation and traveling expenses 459
Death benefits, survivors of World War veterans 1052
Death occurring while in Administration facility, payment of burial and funeral expenses 678
Dental examinations 462
Indian wars, veterans' service connection and evaluation 752
Insurance, yearly renewable term, total and permanent disabilities 30
Legal services—supervision of fiduciaries 677
Medical and domiciliary care 458
Medical examinations, employee-claimants 87
Medical services (unauthorized), reimbursement or payment for expenses 949
Orthopedic and prosthetic appliances 462
Pensions, concurrent payment of two benefits to the same person 258
Subpoenas and witnesses 677
Trainees, sales to 753
Veterans' claims—adjudication 677

VIRGIN ISLANDS:
Employees of Police or Prison Departments, appointments to positions in office of U. S. Marshal 1005
Lands transferred to control and jurisdiction of Secretary of the Navy 82

VIRGINIA:
Agricultural conservation program, 1937, 1938, east central region. *See* Agriculture, Department of.
Anchorage ground regulations, Hampton Roads and harbors of Norfolk and Newport News 741
Bituminous coal produced:
Determination of character of, etc., hearing continued by National Bituminous Coal Commission 28, 347
Intrastate commerce, investigation of nature and extent, etc 237
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 712, 736
Shenandoah National Park, local subsidiary regulations 774
Thimble Shoal Channel, Norfolk Harbor, use and navigation of, regulations modified 926
Washington Southern Railway Bridge across Powells and Neabsco Creeks, regulations revoked 828

VIRGINIA-CAROLINA HARDWARE CO., findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of commodities 12

VITREOUS OR VITRIFIED CHINA INDUSTRY, prevailing minimum wage determination 901
VOORHIS, WARREN R., order for hearing by Federal Power Commission 797

W

WADE, G. G., exemption from provisions of Public Utility Holding Company Act of 1935 793
WAGES, taxable, reporting under Title VIII of Social Security Act 2
WAGNER, HERBERT A., order for hearing by Federal Power Commission 796, 1032
WALKER & OLSON, minimum prices established for coals produced at "Maxwell" Mine 436
WALKER, VIRGIL E., registration revoked by Securities and Exchange Commission 192
WALLING CRATE CO., notice of hearing by Federal Trade Commission 506
WALLS, JOHN ABBET, order for hearing by Federal Power Commission 796, 1032
WALNUT ELECTRIC & GAS CORP.:
Exemption from provisions of Public Utility Holding Company Act of 1935 826
Notice of hearing by Securities and Exchange Commission 706
WALWORTH, JOSEPH, order for hearing by Federal Power Commission 796, 1032
WANAMAKER, JOHN, INC.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls 501
Notice of hearing 271
WAPATO IRRIGATION PROJECT, WASH., operation and maintenance charges 5
WAR DEPARTMENT:
Cascades Canal, Columbia River, regulations revoked governing use, administration, etc 828
Distinguished flying cross award to eligible persons, regulations amended 39
Drawbridge regulations:
Atchafalaya River, La 795
California, all navigable waterways of, amendment 843
Gloucester Turnpike Company Bridge across Big Timber Creek, Westville, N. J., revocation 795
Lewis and Clark River, Oreg., revocation 828
Maryland State Highway Bridge across Oak Creek, Talbot County, Md 936
New Castle County Bridge across Christiana River, Christiana, Del., revocation 892
Strongs Causeway Bridge across Flushing Creek, New York City, revocation 828
Washington Southern Railway Bridge across Powells and Neabsco Creeks, Va., revocation 828
Hillsboro Bay, Fla., dumping of ballast in, regulations revoked 1006
Ohio River, Mississippi River, etc., above Cairo, Ill., regulations for use, administration, etc 1006
Ouachita River, Ark. and La., regulations modified governing use, administration, etc 828
Public lands for use of Department:
Arizona, withdrawal revoked for use of National Guard as target range 951
Minnesota, reservation for river and harbor purposes 728
River and Harbor Act:
Anchorage grounds, regulations:
Hampton Roads and harbors, Norfolk and Newport News, Va 741
New York, Port of 11
Tampa Bay, Fla 595
Turners Creek, Ga 862
Wilmington River, Thunderbolt Harbor, Ga 862

WAR DEPARTMENT—Continued. Page
River and Harbor Act—Continued.
Atlantic Ocean south of Chesapeake Bay, etc., use, administration, etc., of all tributary waterways 933
Boston, Mass., Engineer District, fishing regulations modified 893
Buffalo Harbor, N. Y., use, administration, etc., regulations 982
Drawbridge regulations:
Apalachicola River, River Junction, Fla., opening of Louisville & Nashville Railroad Drawbridge 596
Black River, Wis 929
Brandywine River Highway Bridge, Wilmington, Del 930
Christiana River, Del 892
Minnesota River, between its mouth and Le Sueur, Minn 930
Niantic River at Niantic, Conn 70
Northwestern Pacific Railroad Company Drawbridge across Sonoma Creek, Wingo, Calif 33
St. Croix River, Wis., operation of Minneapolis, St. Paul and Sault Ste. Marie Railway Company and Village of Osceola bridges 905
Sabine River, between Starks, La., and Deweyville, Tex., opening of Louisiana Highway Commission Drawbridge 596
San Leandro Bay, between Alameda and Bay Farm Island, Calif 33
Savannah River at Augusta, Ga 968
Gulf of Mexico, use, administration, etc., of tributary waterways from St. Marks, Fla., to Rio Grande 863, 933
Huron, Lorain, Cleveland, Fairport, Ashtabula, and Conneaut Harbors, Ohio, regulations governing use, administration, etc 982
Inland Waterway (Chesapeake and Delaware Canal), Del. and Md., regulations governing use, administration, etc 68
Mississippi River from Cache River, Ill., to The Passes, La., rules governing vessels where bank protection works have been provided 891
Portsmouth Harbor, N. H., and Isle of Shoals, regulations governing use, administration, etc., of area between 828
Rochester (Charlotte) Harbor, N. Y., use, administration, etc., regulations 982
St. Lawrence River at Cape Vincent, N. Y., use, administration, etc., of harbor and United States breakwater, regulations 967
Sandusky Harbor, Ohio, regulations governing use, administration, etc 967
Secretary of, portion of Tongass National Forest, Alaska, placed under control of, for radio station at Juneau, description corrected 195
Thimble Shoal Channel, Norfolk Harbor, Va., use and navigation regulations modified 926
WAR MUNITIONS, ETC., international traffic laws and regulations 690
WAREHOUSE. *See* Bonded Warehouse.
WARREN, FRANK H., notice of hearing, etc., by Securities and Exchange Commission 119
WASHABAUGH, EDISON W., order for hearing by Federal Power Commission 738, 860
WASHINGTON:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Bellingham, airport of entry redesignated at 801
Bituminous coal in intrastate commerce, hearing to determine nature and extent, etc 28
Columbia Basin Project, reclamation withdrawal 280

WASHINGTON—Continued. Page
Hops, handling of, hearing on proposed marketing agreement, etc 999, 1030
Lettuce, peas, celery, and cauliflower, handling of, hearing on proposed marketing agreement, etc 853
Loans by Farm Security Administration, designation of counties for 224
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc 1030
Power Site Restoration No. 489, etc 912
Prunes (fresh), handling of, Walla Walla County, hearing on proposed marketing agreement, etc 764
Public lands:
Northeast Washington Project, transfer to Forest Service for administration, etc 844
Withdrawal for forest lookout station, Chelan National Forest 261
Stock driveway withdrawal 980
Wapato Irrigation Project, operation and maintenance charges 5
WASHINGTON AND SUBURBAN COS., notice of hearing, etc., by Securities and Exchange Commission 121
WASHINGTON GAS LIGHT CO., notice of hearings, etc., by Securities and Exchange Commission 121, 949, 1004
WASHINGTON SOUTHERN RAILWAY BRIDGE, across Powells and Neabsco Creeks, Va., regulations revoked 828
WATERFOWL REFUGES. *See* Refuges.
WATERMAN, ROBERT E., notice of hearing by Federal Trade Commission 740
WAVERLEY TAILORS, notice of hearing, etc., by Federal Trade Commission 128
WEBB, PHILLIPS W., order for hearing by Federal Power Commission 797
WEGLEIN, ARTHUR A. J., notice of hearing by Federal Trade Commission 752
WEINBERGER, E. (MISS), order for hearing by Federal Power Commission 797
WEITZMAN, SIDNEY A., notice of hearing by Federal Trade Commission 835
WELLESLEY ISLAND, N. Y., airports of entry designated at 895
WERNER, E. H., order for hearing by Federal Power Commission 797
WEST INDIES CO., order for public hearing by United States Maritime Commission 1033
WEST PENN DISTILLING CO., INC.:
Cease and desist order by Federal Trade Commission; distillation process claims on whiskies, etc 948
Notice of hearing 271
WEST POINT, civilian professors, instructors, etc., at Military Academy excepted from competitive civil service requirements 384
WEST VIRGINIA:
Agricultural conservation program, 1937, 1938, east central region. *See* Agriculture, Department of.
Bituminous coal in intrastate commerce, investigation of nature and extent, etc 415
WEST VIRGINIA COAL AND COKE CORP., order by National Bituminous Coal Commission 39
WESTERN LIGHT AND POWER CORP., notice of hearing, etc., by Federal Power Commission 242, 297, 479
WESTERN SECURITIES CO., notice of hearing, etc., by Securities and Exchange Commission 119
WESTMORELAND COAL CO., notice of hearing by National Bituminous Coal Commission 937

WHALING, joint regulations of Secretary of the Treasury and Secretary of Commerce---- 989
WHEAT:
Crop insurance regulations---- 854
Delivery period after close of trading in futures---- 418
San Francisco Grain Exchange designated contract market---- 478
State acreage allotments, 1938 Agricultural Conservation Program---- 754
WHEELING COAL CO., notice of hearing by National Bituminous Coal Commission---- 937
WHEELING STEEL CORP., order on petition for rehearing by National Bituminous Coal Commission---- 346, 385
WHEELING STOCK EXCHANGE, exemption from registration as national securities exchange---- 791
WHISKEY:
Labeling of, stored in reused cooperage, regulations amended---- 486
Marking packages of; gauging manual amended---- 641
WHITE-PINE BLISTER RUST, quarantine regulations revised---- 1066
WHITE RIVER MIGRATORY WATERFOWL REFUGE, ARK., closed area designated---- 591
WHITE, WILLIAM G., notice of hearing by Federal Trade Commission---- 966
WHITING, ALBERT L., AND LUCILLE D., findings, etc., cease and desist order by Federal Trade Commission; sale of bacteria inoculation for seeds---- 95
WHOLESALE JEWELRY INDUSTRY, trade practice rules promulgated by Federal Trade Commission---- 592
WICHITA MOUNTAINS WILDLIFE REFUGE, OKLA., fishing permitted in certain lakes---- 987
WILDLIFE REFUGES. *See* Refuges.
WILD LIFE WEEK, NATIONAL, proclamation---- 384
WILEY, EDWARD J., registration suspended by Securities and Exchange Commission---- 1013
WILLIAMS, DAVID E., JR., order for hearing by Federal Power Commission---- 796, 1032
WILLIAMS, JULIUS J. (Fairbury Livestock Co.), Fairbury, Nebr., notice under Packers and Stockyards Act---- 457
WILLIAMS MUSIC STORE, ET AL, notice of hearing by Federal Trade Commission---- 472
WILLOW SHEETS, ETC. (IMPORTED), additional facts required on customs invoice---- 729
WILMINGTON COAL MINES, INC., order by National Bituminous Coal Commission---- 218
WILMINGTON, DEL., highway bridge across Brandywine River, draw regulations---- 930
WILMINGTON RIVER, GA., vicinity of Thunderbolt Harbor, anchorage ground regulations---- 862
WILSHIRE SALES CORP., notice of hearing by Federal Trade Commisison---- 752
WILSON SPORTING GOODS CO.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls---- 501
Notice of hearing---- 271
WILSON, THOMAS B., notice of hearing by Federal Power Commission---- 212
WIND RIVER INDIAN IRRIGATION PROJECT, WYO., operation and maintenance charges---- 775
WIND RIVER INDIAN RESERVATION, WYO., leasing of land for oil and gas mining purposes, regulations---- 850
WINE:
Blackberry, sale of misbranded bulk shipments---- 346
Labeling and advertising regulations, hearing on proposed amendments---- 632
Production, fortification, taxpayment, etc., regulations amended---- 735
WING, NELLE K., cease and desist order by Federal Trade Commission; sale, etc., of eye preparations---- 874
WINGO, CALIF., regulations for Northwestern Pacific Railroad Drawbridge across Sonoma Creek---- 33
WISCONSIN:
Agricultural conservation program, 1936, 1938, north central region. *See* Agriculture, Department of.
Black River, drawbridge regulations---- 929
Chequamegon National Forest, lands reserved as part of---- 122
Loans by Farm Security Administration, designation of counties for---- 92
Nicolet National Forest, lands reserved as part of---- 121
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc---- 1030
Public lands:
Jurisdiction over certain, transferred from Secretary of Agriculture to Secretary of the Interior---- 767
Withdrawal revoked---- 384
St. Croix River, operation of Minneapolis, St. Paul, and Sault Sainte Marie Railway Company and Village of Osceola Drawbridges---- 905
WISCONSIN PUBLIC SERVICE CORP., hearing continued by Federal Power Commission---- 36, 213
WISECARVER, J. H., notice of hearing by National Bituminous Coal Commission---- 877, 906
WITWER, L. H., order for hearing, etc., by Securities and Exchange Commisison---- 631, 677
WOLFRAM, OTTO J., order for hearing by Federal Power Commission---- 738, 860
WOOD CASED LEAD PENCIL MANUFACTURING INDUSTRY, proposed trade practice rules by Federal Trade Commission---- 573
WOOD, FREDERICK W., order for hearing by Federal Power Commission---- 796, 1032
WOODBURY, WILLIAM A., SALES CO., INC., notice of hearing by Federal Trade Commisoisn---- 726
WOODMAN, JAMES M., notice of hearing by Federal Trade Commission---- 473
WOOL:
Bonded, period extended for furnishing proof of use in manufacture of---- 192
Loans on security of, represented by warehouse receipts, 1938---- 993
Wool Associates of New York Cotton Exchange, Inc., designated contract market---- 1068
WOOL JACKETS, minimum wage determination in manufacture of, etc---- 896
WORKS PROGRESS ADMINISTRATION, supply fund established for materials, etc., for projects under Emergency Relief Appropriation Act of 1937---- 575
WORLD'S DESIRE BUREAU, notice of hearing by Federal Trade Commission---- 740
WORLD-WIDE RADIO CO., notice of hearing by Federal Trade Commission---- 824
WORTHINGTON BALL CO.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls---- 501
Notice of hearing---- 271
WOVEN COTTON YARD GOODS, proposed trade practice rules by Federal Trade Commission concerning shrinkage properties of---- 44

WRIGHT, CHARLES C., suspension and expulsion order by Securities and Exchange Commission---- 507
WRIGHT, JOHN HOWIE, notice of hearing by Federal Trade Commission---- 981
WRIGHT & SEXTON, suspension and expulsion order by Securities and Exchange Commission---- 507
WYOMING:
Agricultural conservation program, 1937, 1938, western region. *See* Agriculture, Department of.
Air navigation site withdrawal---- 33
Bituminous coal in intrastate commerce, hearing to determine nature and extent, etc---- 27
Grazing district modification---- 758
Loans by Farm Security Administration, designation of counties for---- 519
Potatoes (Irish), handling of, hearing on proposed marketing agreement, etc---- 1030
Public Water Restoration No. 80---- 564
Stock driveway withdrawals enlarged, etc---- 802, 875, 900, 914
Wind River Indian Irrigation Project, operation and maintenance charges---- 775
Wind River Indian Reservation, leasing of lands for oil and gas mining purposes---- 850

Y

YORK RAILWAYS CO., notice of hearing by Securities and Exchange Commission---- 904
YOSEMITE NATIONAL PARK, CALIF.:
Local subsidiary regulations---- 774, 900
Public land withdrawal authorized to be added to---- 1028
YOUNG, HAROLD E., order for hearing by Federal Power Commission---- 739, 860
YOUNG, L. A., GOLF CO.:
Findings, etc., cease and desist order by Federal Trade Commission; sale, etc., of golf balls---- 501
Notice of hearing---- 271
YPRES CADILLAC MINES, LTD., stop order by Securities and Exchange Commission---- 78
YUMA IRRIGATION PROJECT, ARIZ.-CALIF., annual water charges---- 785

Z

ZACHARY VENEER CO., notice of hearing by Federal Trade Commission---- 506
ZUNI PUEBLO IRRIGATION PROJECT, N. MEX., operation and maintenance charges---- 776

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TABLE OF CONTENTS

	Page
Documents filed with the Division of the Federal Register, The National Archives, from January 1, 1938, through June 3, 1938	1
Federal Register Regulations	1013
Parallel page reference tables	1085
Table of related documents	1091
Index of documents	1125

Documents filed with the Division of the Federal Register, The National Archives, from January 1, 1938, through June 3, 1938, with index and ancillaries.

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PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

ESTABLISHING THE LACASSINE MIGRATORY WATERFOWL REFUGE

Louisiana

By virtue of and pursuant to the authority vested in me as President of the United States and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands acquired or to be acquired by the United States within the following-described area, comprising approximately 33,400 acres, in Cameron Parish, Louisiana, be, and they are hereby, reserved and set apart, subject to existing valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the area described shall become a part of the refuge hereby established upon the acquisition of title thereto or lease thereof by the United States:

LOUISIANA MERIDIAN

T. 12 S., R. 4 W. (partly unsurveyed):
sec. 16, that part of the W½E½ described as follows: Beginning at the one-quarter corner of secs. 9 and 16, thence with line between secs. 9 and 16, N. 89°30' E., 1.50 chains to a point; thence passing within sec. 16, S. 0°06' W., 20.00 chains; S. 49°46' E., 4.10 chains; S. 5°50' E., 6.40 chains; S. 45°38' E., 5.70 chains; S. 18° 25' E., 4.72 chains, to the north bank of the Mermentau River; thence downstream with the north bank of the Mermentau River with the meanders thereof, S. 60°29' W., 6.16 chains; S. 86°52' W., 1.36 chains; N. 50°20' W., 1.25 chains; S. 81°19' W., 3.30 chains, to the north-south center line of sec. 16; thence with said center line, N. 0°06' E., 40.15 chains, to the place of beginning;
secs. 17, 18, and 19;
secs. 20, 28, and 29, all north and west of the Mermentau River and Grand Lake;
secs. 30 and 31.
T. 12 S., R. 5 W. (unsurveyed):
secs. 13 to 17, inclusive;
sec. 18, S½NE¼, NW¼, and S½;
secs. 19 to 36, inclusive.
T. 13 S., R. 5 W. (unsurveyed):
secs. 1 and 2, all lying north and west of Grand and Mud Lakes and Bayou Misere;
secs. 3 to 9, inclusive;
secs. 10, 11, and 15, all lying north and west of Bayou and Lake Misere;
sec. 16, all;
secs. 17 and 18, all north of Lake Misere.
T. 12 S., R. 6 W. (unsurveyed):
secs. 13, 14, 23, 24, 25, 26, 35, and 36.
T. 13 S., R. 6 W. (unsurveyed):
secs. 1, 2, 11, 12, 13, and 14.

This reservation shall be known as the Lacassine Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Dec. 30, 1937.

[No. 7780]

[F. R. Doc. 38-10; Filed, December 31, 1937; 1:00 p. m.]

EXECUTIVE ORDER

AMENDING EXECUTIVE ORDER NO. 5517 OF DECEMBER 17, 1930, EXCLUDING A TRACT OF LAND FROM THE CHUGACH NATIONAL FOREST

Alaska

By virtue of and pursuant to the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U. S. C., title 16, sec. 473), Executive Order No. 5517 of December 17, 1930, excluding a certain tract of land from the Chugach National Forest, in Alaska, and restoring it to entry under the applicable public-land laws, is hereby amended so as to make the metes-and-bounds description of the said tract of land conform to the survey designated "U. S. Survey No. 2267, Alaska," a plat of which is on file in the General Land Office, Washington, D. C.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 30, 1937.

[No. 7781]

[F. R. Doc. 38-11; Filed, December 31, 1937; 1:00 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49316]

DOMESTIC ANIMALS

PROCLAMATION OF THE PRESIDENT EXTENDING THE TIME WITHIN WHICH DOMESTIC ANIMALS, STRAYING OR DRIVEN ACROSS THE BOUNDARY LINE INTO A FOREIGN COUNTRY, TOGETHER WITH THEIR OFFSPRING, MAY BE RETURNED TO THE UNITED STATES FREE OF DUTY, PUBLISHED FOR THE INFORMATION OF COLLECTORS OF CUSTOMS AND OTHERS CONCERNED

DECEMBER 28, 1937.

To Collectors of Customs and Others Concerned:

There is published below for your information and guidance a proclamation by the President dated December 6, 1937, issued under the authority of section 318 of the Tariff Act of 1930 (46 Stat. 696; U. S. C., title 19, sec. 1318), extending the temporary pasturage privilege provided for by subparagraph (c) of paragraph 1606 of section 201 of the said act (46 Stat. 673; U. S. C., title 19, sec. 1201, par. 1606) from eight months to twelve months:

[*The original document as filed with the Division of the Federal Register, The National Archives, here contains the text of Proclamation No. 2262 which may be found at 2 F. R. 2750.*]

The provisions of article 485 of the Customs Regulations of 1937 are hereby extended in so far as applicable to govern the free entry of domestic animals, together with their off-

spring, claimed to be free of duty under the authority of the above-quoted proclamation.

[SEAL] ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3; Filed, December 31, 1937; 11:31 a. m.]

Bureau of Internal Revenue.

[T. D. 4786]

REPORTING OF TAXABLE WAGES UNDER TITLE VIII OF THE SOCIAL SECURITY ACT

REGULATIONS 91, AMENDED

To Collectors of Internal Revenue and Others Concerned:

Regulations 91, approved November 9, 1936, relating to the employees' tax and the employers' tax under Title VIII of the Social Security Act, as amended, are further amended by inserting the following new article immediately after article 402 thereof:

"ART. 402½. *Taxable wages—when to be reported.*—Taxable wages shall be reported in the tax return for the period in which they are actually paid unless they were constructively paid in a prior tax-return period, in which case such wages shall be reported only in the return for such prior period; except that if taxable wages for a pay roll period ending within a tax-return period prior to January 1, 1940, are actually or constructively paid after such return period but before the return for such period is filed, the employer may report such wages in the return for such period."

This Treasury Decision is prescribed under the authority contained in sections 807 and 808 of the Social Security Act.

[SEAL] CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

Approved December 29, 1937.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2; Filed, December 31, 1937; 11:31 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

SUGAR QUOTAS FOR PUERTO RICO

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of the said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to sections 202 and 203, respectively, of the said act, is necessary to prevent disorderly marketing and importation of such sugar, and hereby give notice that a public hearing will be held at Washington, D. C., in the auditorium of the United States Department of Agriculture, on January 14, 1938, at 10 a. m.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient and equitable distribution of the above-mentioned quotas among persons who market sugar locally in Puerto Rico and those who bring Puerto Rican sugar (including direct-consumption sugar) into the continental United States, and such other evidence as may be pertinent to the exercise of the powers vested in the Secretary of Agriculture under section 205 (a) of the said act.

Mr. Robert B. Tyler and Mr. John C. Bagwell are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Done at Washington, D. C., this 31st day of December 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-9; Filed, December 31, 1937; 12:40 p. m.]

1937 AGRICULTURAL CONSERVATION PROGRAM

SOUTHERN REGION, BULLETIN 101

Amendment 18

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Southern Region Bulletin 101, as amended, is hereby further amended by deleting practice number 51, section 85, and substituting in lieu thereof the following practice number 51:

Practices and Conditions

Practice Number 51. *Reseeding by deferred grazing.*—For withholding twenty-five percent (25%) of the ranch from grazing for a period of 6 months, beginning May 1, 1937, or beginning with the start of forage growth in the spring of 1937, except that credit for this practice may be given where the State committee finds, after considering all available facts and the recommendation of the county committee, that reseeding has been accomplished even though the grazing has been deferred less than 6 months but more than 165 calendar days from May 1, 1937, or the start of forage growth. (If grazing is deferred on less than twenty-five percent (25%) of the ranch, a proportionate payment will be made.) Payment will not be made for this practice if the operator permits the remainder of the range land on the ranch to be over-grazed to an extent that causes deterioration of such range land.
Rate: One-third (⅓) of the range building allowance.

The provisions of this Amendment 18 shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances, Deductions, and Rates of Payment Under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern, and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.

Done at Washington, D. C., this 31st day of December, 1937. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-7; Filed, December 31, 1937; 12:41 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

SOUTH DAKOTA

DECEMBER 31, 1937.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the South Dakota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Brookings, Hand, Pennington.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-8; Filed, December 31, 1937; 12:40 p. m.]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

ADDITIONAL TIME FOR OBTAINING STATEMENTS IN CONNECTION WITH SPECIAL OMNIBUS ACCOUNTS UNDER REVISED REGULATION T

On December 28, 1937, the Board of Governors of the Federal Reserve System adopted the following resolution:

Whereas, section 4 (b) of Regulation T, as revised effective January 1, 1938, provides that in a special omnibus account carried by a member of a national securities exchange for a customer, transactions may be effected in reliance upon a signed statement which the member has accepted from the customer in good faith, and a duplicate original of which has been filed by the member with the secretary of a national securities exchange of which he is a member, that the customer is a broker or dealer who is subject to the provisions of Regulation T or has places of business only in foreign countries;

Whereas, section 4 (b) also provides that in a special omnibus account no security shall have loan value and no short sales of securities shall be carried except securities and short sales as to which the member shall have accepted in good faith a signed statement of the customer that he is in turn carrying such securities and such short sales for the account of his customers other than his partners; now, therefore, be it

Resolved, That, in order to facilitate the transition from the old regulation to the revised regulation, the Board hereby prescribes that a member who on December 31, 1937 was carrying for a customer an account that complied with the provisions of section 3 (b) of Regulation T as then in effect, may, until March 1, 1938 or such earlier time as he may be able to obtain from the customer the statements referred to above, use in lieu of such statements of the customer, the member's own signed statement that he believes the facts to be as they are required to be stated by the customer in such statements under the revised regulation.

Adopted by the Board of Governors of the Federal Reserve System on December 28, 1937.

[SEAL] S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 38-1; Filed, December 30, 1937; 2:49 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

ADOPTION OF RULE UNDER PUBLIC UTILITY HOLDING COMPANY ACT

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Sections 11 (f) and 20 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out the purposes of said Act, the Securities and Exchange Commission hereby adoptes Rule 11F-1 to read as follows:

RULE 11F-1. APPLICATIONS FOR APPROVAL OF REORGANIZATION PLANS

(*a*) Any person proposing to submit to a court of the United States (in any proceeding whether under section 11 or otherwise) a reorganization plan for a registered holding company or any subsidiary company thereof, shall, prior to submission of such plan to the court, file with the Commission an application for approval of such plan. Such application may be filed by any person having a bona fide interest (as defined in paragraph (*e*) of Rule 12E-1) in such reorganization and may be combined with any application or declaration with respect to such reorganization filed pursuant to any requirement of section 11 (g) or 12 (e) of the Act or of any rule thereunder.

(*b*) Each such application shall comply with the provisions of rule 2 as to number of copies, form, and execution.

(*c*) Each such application shall contain the statements prescribed by rule 12E-4 with respect to applications for reports on plans.

(*d*) If the plan proposed includes acquisition of assets or securities or issuance of securities, the application, in addition to other appropriate matters, shall include the information required by sections 6 (b), or 7, or 10 and the rules, regulations and forms thereunder. The Commission, at the time when it issues its order approving or withholding approval of the plan, will determine whether or not the requirements of said sections are satisfied, subject, however, to retention of jurisdiction as provided in paragraph (*e*) hereof. If it is not feasible to set forth in such application, as initially filed, all the terms and conditions of any such transaction, or definitive documents and specifications with respect thereto, or for all of the persons required by any such rule or form or provision of the Act to join in applications thereunder, to join in such application, such matters, together with such definitive documents and specifications, may be supplied and such persons may so join by amendment. Such amendment may be filed either prior or subsequent to the order of the Commission approving such plan, but shall be filed prior to the carrying out of any such act or transaction proposed in such plan. In the case of any person so joining by amendment in an application with respect to a plan theretofore filed by any other person, such amendment shall specify the extent to which the person executing such amendment ratifies and adopts the statements contained in the application as theretofore filed or amended.

(*e*) Notwithstanding that the Commission shall have approved any plan of reorganization, it shall, however, retain jurisdiction to consider any amendments filed subsequent to such approval pursuant to paragraph (d) of this rule, or any amendments modifying the plan. In the case of amendments not substantially modifying the plan as approved by the Commission or only submitting definitive documents and specifications pursuant to the requirements of said paragraph (d), the Commission's inquiry shall be limited to whether or not any matter not theretofore passed upon by it is appropriate to carry out the provisions of the plan as theretofore approved and consistent with the requirements of the Act.

(*f*) Any proceeding upon any amendment within the scope of paragraph (d) or (e) of this rule shall be deemed to be supplementary to, and a part of, the proceedings initiated by the filing of an application for the approval of such plan. Unless otherwise required by order of the Commission, notice of such supplementary proceedings need not be given to any person who has not theretofore entered his appearance in the proceedings with respect to such plan.

By the Commisison.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-5; Filed, December 31, 1937; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of December, A. D. 1937.

[File No. 46-84]

IN THE MATTER OF CUMBERLAND COUNTY POWER AND LIGHT COMPANY

ORDER APPROVING ACQUISITION OF SECURITIES

Cumberland County Power and Light Corporation, a subsidiary of a registered holding company, having filed an application and amendments thereto with the Commission,

pursuant to Section 10 of the Public Utility Holding Company Act of 1935, for approval of the acquisition by it, from The Twin State Gas & Electric Company, of 9,770 shares of $25 par value common stock and of $224,000 principal amount of First and Refunding Mortgage 5% Gold Bonds, due 1953, of The Berwick & Salmon Falls Company;

A hearing on such application having been held after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such acquisition of the aforesaid securities be and the same hereby is approved subject to the terms and conditions set forth in, and for the purposes represented by, said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-6; Filed, December 31, 1937; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1937.

[File No. 46-85]

IN THE MATTER OF LEXINGTON UTILITIES COMPANY AND KENTUCKY SECURITIES COMPANY

ORDER PURSUANT TO SECTION 10 OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Lexington Utilities Company and Kentucky Securities Company, both subsidiaries of The Middle West Corporation, having filed with this Commission a joint application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 for the approval of the acquisition by Lexington Utilities Company of 5,488 shares of 6% Convertible Preferred Stock, $20 par value, and 23,124 shares of Common Stock, $10 par value, to be issued by Southeastern Greyhound Lines, and for the approval of the acquisition by Kentucky Securities Company of 22,633 shares of 6% Convertible Preferred Stock, $20 par value, and 95,368 shares of Common Stock, $10 par value, to be issued by Southeastern Greyhound Lines;

A hearing having been held on such application after appropriate notice; the record in the matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the acquisition of the aforesaid securities in the manner set forth in the application be and the same hereby is approved; provided, that the issuance and sale by Southeastern Greyhound Lines of the securities to be acquired is permitted by an order of the Interstate Commerce Commission, and further provided that such acquisition be effected by the applicants within thirty days from the date of this order, but, if not so effected, without prejudice to the right of the applicants to request an extension of time;

It is further ordered, That within ten days after the acquisition of the securities referred to above, the applicants shall file with this Commission a Certificate of Notification showing that such acquisition was effected in accordance with the terms and conditions of and for the purposes represented by such application; and within such period of ten days the applicants shall file with this Commission a copy of the order of the Interstate Commerce Commission permitting the issuance of the securities which were acquired.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-4; Filed, December 31, 1937; 12:36 p. m.]

Tuesday, January 4, 1938 *No. 2*

PRESIDENT OF THE UNITED STATES.

RELATING TO NEWLY-MINED DOMESTIC SILVER

By the President of the United States of America

A PROCLAMATION

WHEREAS, by Proclamation of the twenty-first day of December, 1933, as modified by Proclamations of the ninth day of August, 1934, and the tenth and twenty-fourth days of April, 1935, the United States coinage mints are directed to receive for coinage and addition to the monetary stocks of the United States silver mined subsequent to December 21, 1933, from natural deposits in the United States or any place subject to the jurisdiction thereof; and

WHEREAS, such Proclamation as so modified states in part that:

"This proclamation shall remain in force and effect until the thirty-first day of December, 1937, unless repealed or modified by Act of Congress or by subsequent proclamation." and that

"Notice is hereby given that I reserve the right by virtue of the authority vested in me to revoke or modify this proclamation as the interest of the United States may seem to require."

NOW, THEREFORE, finding that the interests of the United States require further modification of said Proclamation of the twenty-first day of December, 1933, as so modified; by virtue of the power in me vested by the Act of Congress cited in said Proclamation, and other legislation designated for national recovery, and by virtue of all other authority in me vested;

I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby further modify the said Proclamation of the twenty-first day of December, 1933, so that the same shall remain in force and effect until the 31st day of December, 1938, and so that the amount of deduction for seigniorage, brassage, coinage and other mint charges from the monetary value of silver delivered thereunder which has been mined on or after January 1, 1938, shall be 50% of such monetary value; and I do proclaim and direct that, with respect to all silver received by a United States coinage mint under the provisions of the said Proclamation of the twenty-first day of December, 1933, which such mint, subject to regulations prescribed hereunder by the Secretary of the Treasury, is satisfied has been mined on or after January 1, 1938, from natural deposits in the United States or any place subject to the jurisdiction thereof, the deduction for seigniorage and services performed by the Government shall be 50% and there shall be returned therefor, in standard silver dollars, silver certificates, or any other coin or currency of the United States, the monetary value of the silver so received (that is, $1.2929+, per fine ounce), less such deduction of 50%, and that the said Proclamation of the twenty-first day of December, 1933, as heretofore and hereby modified shall remain in force and effect until the 31st day of December, 1938 unless repealed or further modified by Act of Congress or by subsequent Proclamation.

Notice is hereby given that I reserve the right by virtue of the authority vested in me to revoke or modify this Proclamation as the interests of the United States may seem to require.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 30th day of December, in the year of our Lord nineteen hundred and thirty-seven, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL] FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2268]

[F. R. Doc. 38-14; Filed, December 31, 1937; 6:07 p. m.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

FLATHEAD INDIAN RESERVATION, MONTANA

ORDER OF RESTORATION

DECEMBER 11, 1937.

Whereas pursuant to authority contained in the Act of Congress approved June 21, 1906 (34 Stat. L., 354), certain townsites and villa sites were established within the Flathead Indian Reservation, Montana, and

Whereas there are a number of undisposed of lots within the townsites and villa sites referred to which are desired by the Indians and for which there appears to be no public demand, and

Whereas the Tribal Council, the Superintendent of the Flathead Agency, and the Commissioner of Indian Affairs, have recommended restoration of the lands involved to tribal ownership.

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the Act of June 18, 1934 (48 Stat. L., 984), I hereby find that restoration to tribal ownership of the lands included in the townsite and villa-site lots listed below will be in the public interest and the said lands are hereby restored to tribal ownership for the use and benefit of the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation, Montana, and are added to and made a part of the existing reservation, subject to any valid existing rights:

Townsite Lots

Name	Block	Lot
Camas	28	1, 11, 12, 15, 16.
	35	3, 4.
	36	1-7, inclusive.
Camas	37	1-8, inclusive.
	38	1-4, inclusive.
	41	1-6, inclusive, 8-11, inclusive.
	42	1-6, inclusive.
D'Aste Tract	1	All.
	2	All.
	3	"
	4	"
	5	"
	6	"
	36	"
	57	"
	58	"
	59	1, 2, 3, 4, 5, 6, 7, 8, 11, 12.
	61	All.
	62	"
	63	"
	64	"
	65	"
	66	"
	67	"
	68	"
	69	"
Tract	7	"
	8	"
Lonepine	4	2-12, inclusive.
	5	1-14, inclusive.
	11	1-5, inclusive, 10-12, inclusive.
	12	1-14, inclusive.
Pablo	16	5.
	22	3, 4.
	28	5.
	29	3, 4, 5.
	31	1, 2, 3, 4.
	32	7, 8, 9, 10, 11, 12.
	33	7, 8, 9, 10, 11.
	34	10, 11, 12.
	35	10, 11, 12.
	39	7, 8.
	41	1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12.
	42	1, 2, 3, 4.

Townsite Lots—Continued

Name	Block	Lot
Tabor (Charlo)	8	2, 3.
	30	1, 2, 3, 4.
	31	1-6, inclusive, 8-12, inclusive.
	32	1-12, inclusive.
	33	1-12, inclusive.
	34	1-12, inclusive.
	35	1-12, inclusive.
	37	9-12, inclusive.
	38	2, 3, and 7-12, inclusive.
	39	4, and 8-12, inclusive.
Yellow Bay	1	1-6, inclusive.
	2	1-12, inclusive.
	3	1-10, inclusive.
	6	1-12, inclusive.
	7	1-12, inclusive.
	8	1-6, inclusive.
	9	1, 2, 3.
	10	1-12, inclusive.
	11	1-12, inclusive.
	12	1, 2, 3, and 7-12, inclusive.
	13	1-12, inclusive.
	15	1-5, inclusive.
	16	1-12, inclusive.
	17	1-12, inclusive.
	18	1-12, inclusive.
	19	1-6, inclusive.
	20	1-12, inclusive.

Villa Site Lots

Name	Block	Lot
Big Arm	3	1, 2, 5.
	4	1, 2, 7.
	5	4-10, inclusive.
	7	1.
	9	1, 2, 6, 8.
Daycrom	1	2-5, inclusive.
	2	1-10, inclusive.
	3	1-12, inclusive, 14.
	4	1-12, inclusive.
Festou	1	3-5, inclusive.
	2	8-10, inclusive.
Finley Point	1	1-12, inclusive, 14.
	2	2-5, inclusive.
	3	2.
	4	1-3, inclusive.
Safety Bay	3	6, 12, 13.
	4	6, 7, 13, 22, 23.
	5	1, 3.
	6	1.
	7	2, 4, 5.
	11	5, 10.
	12	10, 11, 12.
	13	1, 2.
	14	1-7, inclusive.
	15	6, 7.
	16	7, 11.
Station	2	1-5, inclusive, 7.
White Swan	4	4, 15.

CHARLES WEST,
Acting Secretary of the Interior.

[F. R. Doc. 38-15; Filed, January 3, 1938; 9:38 a. m.]

WAPATO IRRIGATION PROJECT, WASHINGTON

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

DECEMBER 10, 1937.

In compliance with the provisions of the Act of August 1, 1914 (38 Stat., 582-583) the operation and maintenance charges for assessable lands under the Wapato Project for the calendar year 1938 and subsequent years until further notice, are hereby fixed as follows:

1. *Minimum Charges.* For all tracts in noncontiguous single ownership $5.00
2. *Flat Rate.* Upon all farm units or tracts, for each assessable acre 1.30
3. *Storage Operation and Maintenance.* For all lands with a storage water right, known as "B" lands, in addition to other charges ..... .30

Time of payment.—The charges as herein fixed shall become due April 1, and are payable on or before that date.

To all such charges assessed against owners of patent in fee lands or lessees paying Project direct, remaining unpaid on July 1, following, there shall be added a penalty of one-half of 1 per cent for each month or fraction of month from the due date of April 1, until the charges are paid.

Conditions of payment.—No water shall be delivered to:

1. *Patent in fee landowners*, until all irrigation charges both for construction cost repayment and for operation and maintenance, assessed against their lands, together with any penalties that may have accrued, have been paid in full.

2. *Indians farming their own land*, until the charges are paid to the Indian Irrigation Service, as required in this order of patent in fee owners, or the Superintendent of the reservation shall have issued a certificate to the Project Engineer, certifying that the Indian will pay such charges through the Superintendent or that the Indian is financially unable to pay the charge.

3. *Lessees of trust Indian lands*, until lessees shall have paid as required in the order of patent in fee owners. Or, in cases where the terms of the lease provide that the landowner shall pay the operation and maintenance charges from the lease rental, no water shall be delivered until the Superintendent of the reservation shall have furnished the Project Engineer a certificate stating that the lessee has fully complied with the terms of the lease.

Maximum delivery on bench lands.—To protect adjoining lands against seepage and erosion by the excessive use of water on tracts located in the so-called bench areas, the maximum delivery of water is fixed at four and one-half acre feet per acre.

Assessable lands.—The following lands of the Wapato Project will be assessable under this order:

All Indian trust (A or B) land, designated as assessable by the Secretary of the Interior, except land which has not heretofore been cultivated, if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased for agricultural purposes.

All Indian trust (A or B) land, not designated as assessable by the Secretary of the Interior, for which application is made for water or on which water had been charged during the preceding year on the project books.

All patent in fee land covered by a water right contract, except land that because of inadequate drainage is no longer productive. The adequacy of the drainage is to be determined by the Project Engineer.

In all cases where a landowner refuses or fails to clean waste ditches, the Project Engineer is hereby authorized to have such ditches cleaned and include the cost of such cleaning in the operation and maintenance assessments against the land benefited, provided that before such cleaning shall be done by the Project Engineer the landowner shall first be duly notified of his failure and of the necessity for action by the Project Engineer.

Any patent in fee land, in the discretion of the Project Engineer, on which a water right contract has been applied for or is being amended, upon the payment of charges; without prejudice to the rejection or approval of such contract.

Water for leaching alkali.—Water may be delivered for leaching purposes, without the payment of operation and maintenance charges, to any Indian trust land or patent in fee land covered by water right contract, which because of inadequate drainage facilities in the past has become impregnated with alkali to such an extent as to become nonproductive, provided the land has been classed as irrigable. In the case of patent in fee land all assessments on account of construction cost repayment, must be paid before water may be delivered.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-16; Filed, January 3, 1938; 9:38 a. m.]

FARM CREDIT ADMINISTRATION.

[FCA 69]

PRODUCTION CREDIT CORPORATION OF COLUMBIA

INTEREST RATE ON LOANS BY PRODUCTION CREDIT ASSOCIATIONS

To All Production Credit Associations in the States of North Carolina, South Carolina, Georgia and Florida.

The following regulation is prescribed pursuant to Section 23 of the Farm Credit Act of 1933:

The interest or discount rate to be charged borrowers from a production credit association in the States of North Carolina, South Carolina, Georgia and Florida, from the date of each loan or advance shall be three (3%) per centum per annum above the rediscount rate of the Federal Intermediate Credit Bank of Columbia at the time the loan or advance is made.

[SEAL] PRODUCTION CREDIT CORPORATION OF COLUMBIA,
By ERNEST GRAHAM, *President.*

[F. R. Doc. 38-12; Filed, December 31, 1937; 1:04 p.m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Docket No. IT-5503]

APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY

ORDER FIXING DATE OF HEARING

Upon application filed December 28, 1937, pursuant to Section 203 of the Federal Power Act, by Portland General Electric Company, a corporation organized under the laws of the State of Oregon and having its principal business office in the Electric Building, Portland, Oregon, for an order authorizing it to merge with its wholly-owned subsidiaries, Yamhill Electric Company, Molalla Electric Company, Electric Supplies and Contracting Company, Electric Appliance and Construction Company, and the Clackamas Power and Irrigation Company, all corporations organized under the laws of the State of Oregon;

The Commisison orders:

That a hearing on said application be held on January 24, 1938, at 10 a. m. in the Commission's hearing room in the Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

Adopted by the Commission on December 31, 1937.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-17; Filed, January 3, 1938; 9:42 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of December, A. D. 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[Docket No. 2956]

IN THE MATTER OF A. L. HILKEMEYER AND R. J. C. TRICOU, COPARTNERS TRADING AS LOUISIANA HATCHERIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (28 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, January 17, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 300, New Orleans Association of Commerce Building, New Orleans, Louisiana.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-18; Filed, January 3, 1938; 10:11 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 31st day of December, A. D., 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[File No. 21-293]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE TOILET BRUSH MANUFACTURING INDUSTRY

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding be, and the same are, hereby promulgated for the Toilet Brush Manufacturing Industry.

TRADE PRACTICE RULES, TOILET BRUSH MANUFACTURING INDUSTRY

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or other illegal practices prohibited, within the purview of the Federal Government, by acts of Congress as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. *Misbranding.*—The false or deceptive marking or branding of products of the industry for the purpose or with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public with respect to the grade, quality, quantity, use, size, material, content, origin, preparation, manufacture or distribution of such products, or in any other material respect, is an unfair trade practice.

RULE 2. *Misrepresentation or concealment as to foreign handles or blocks.*—(a) The passing off, selling or offering for sale of tooth brushes, hair brushes, or other toilet brushes made from imported handles or blocks on which the identification mark of the country of origin has been omitted or has been obliterated or concealed in the fabrication of the finished article, which brushes have been marked, stamped or branded in such manner as to mislead or deceive purchasers, prospective purchasers or the consuming public into the erroneous belief that said brushes have been manufactured wholly within the United States, or that said brushes have been manufactured wholly from materials produced in the United States, is an unfair trade practice.

(b) In the case of tooth brushes, hair brushes, or other toilet brushes manufactured in the United States with handles or blocks made in and imported from a foreign country, nothing in these rules shall prohibit branding or marking the handles or blocks of such brushes, or the cartons thereof, with the words or letters 'Brush Made in U. S. A." or words, letters or phrases of like import, provided such mark or brand contain or be immediately accompanied by words, letters or phrases which are of at least equal prominence and conspicuousness and which truthfully and unequivocally disclose the fact that such handles or blocks have been manufactured or produced in, or imported from, the foreign country wherein such handles or blocks have been manufactured or produced, such as, for example: "Handle from England", "Block from England", "Handle from France", "Block from France", "Handle from Japan", "Block from Japan", or branding or marking with words of like import.

RULE 3. *Deceptive advertisements or descriptions.*—Making, or causing to be made or published; directly or indirectly, any false, untrue or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, use, size, material, content, origin, preparation, manufacture or distribution of any product of the industry, or in any other material respect, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 4. *Misrepresentation as to bristles.*—The false marking, branding or labeling of tooth brushes, hair brushes, or other toilet brushes with the words "bristle" or "pure bristle" when such brushes are made in whole or in part of horse hair, fiber or other adulterant and such fact is not disclosed, or the making of any false representations with respect to the terms "bristle" or "pure bristle", through advertising or otherwise, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 5. *Misrepresentation as to Kind of Wood in Handle or Back.*—The false marking, branding, labeling, or advertising of the handles or backs of tooth brushes, hair brushes, or other toilet brushes as containing or being composed of ebony, satinwood, or other costly wood or woods, when the handles or backs of such brushes are made from an imitation of the above wood or woods and such fact is not disclosed, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

Entered December 31, 1937.

[F. R. Doc. 38-19; Filed, January 3, 1938; 10:11 a. m.]

INTERSTATE COMMERCE COMMISSION.

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of December, A. D. 1937.

[Ex Parte No. MC-2]

ORDER IN THE MATTER OF MAXIMUM HOURS OF SERVICE OF MOTOR CARRIER EMPLOYEES

It appearing, That by order dated July 30, 1936, the Commission, by Division 5, entered upon an investigation into and concerning the above-entitled matter;

It further appearing, That a full investigation of the matters and things involved has been had and that the Commission, by Division 5, on the date hereof, has made and filed a report containing its findings of fact and conclusions

thereon, which said report is hereby referred to and made a part hereof [1]:

It is ordered, That the rules and regulations printed as the appendix to said report be, and they are hereby approved, adopted, and prescribed, effective July 1, 1938, and shall be observed by common and contract carriers subject to the Motor Carrier Act, 1935.

By the Commission, Division 5.

[SEAL] W. P. BARTEL, *Secretary*.

APPENDIX A

MOTOR CARRIER SAFETY REGULATIONS

Part V.—Hours of Service of Drivers

Regulations prescribed under authority of section 204 (a), (1) and (2) of the Motor Carrier Act, 1935, with respect to maximum hours of service of drivers of motor vehicles operated in interstate or foreign commerce by common and contract carriers, including motor vehicles engaged in operations specified in section 203 (b) of said act.

REGULATIONS EFFECTIVE JULY 1, 1938

Rule 1

As used in these regulations—

(*a*) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, and any combination of such vehicles, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(*b*) The term "driver" means any individual who drives in interstate or foreign commerce any motor vehicle as defined in paragraph (*a*) above.

(*c*) A driver is on duty from the time he begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. Time spent by a driver resting or sleeping in a berth [2] as defined in paragraph (*g*) of this rule shall not be included in computing time on duty.

(*d*) A driver is at work when he is engaged in loading, unloading, driving, handling freight, preparing reports, preparing vehicles for service, or performing any other duty pertaining to the transportation of passengers or property.

(*e*) The term "week" means any 7 consecutive periods of 24 hours each.

(*f*) The term "24 consecutive hours" means any such period starting at the time the driver first reports for duty, as defined in paragraph (c) of this rule.

(*g*) The term "berth" [2] means a berth or bunk on the motor vehicle which is properly equipped for the purpose of sleeping, including springs and a mattress, or an inner spring mattress, pillow, adequate bed clothing, adequate ventilation, and ready means of entering and leaving the berth.

(*h*) Where any other terms used in these regulations are defined in section 203 (*a*) of the Motor Carrier Act, 1935, such definitions shall be controlling. Where terms are used in the regulations which are neither defined herein nor in said section 203 (*a*), they shall have the ordinary practical meaning of such terms.

Rule 2

Every motor carrier and his or its officers, agents, employees, and representatives shall comply with the following regulations, and every such motor carrier shall require that his or its officers, agents, employees, and representatives shall be conversant with these regulations.

Rule 3

No carrier subject to these regulations shall permit or require any driver in his employ to remain on duty, as defined in paragraph (c) of Rule 1, for a total of more than 60 hours in any week or more than a total of 15 hours in any period of 24 consecutive hours, provided, however, that carriers operating vehicles on every day of the week may permit drivers in their employ to remain on duty as defined in paragraph (c) of Rule 1 for a total of not more than 70 hours in any period of 8 consecutive days but not in excess of 15 hours in any period of 24 consecutive hours.

Rule 4

No carrier subject to these regulations shall permit or require any driver in his employ to work, as defined in paragraph (*d*) of Rule 1, more than a total of 12 hours in any period of 24 consecutive hours.

Rule 5

No carrier subject to these regulations if himself a driver shall remain on duty or at work for longer periods than those prescribed in Rules 3 and 4 hereof for employed drivers.

Rule 6

Each carrier subject to these regulations shall require that a driver's log in duplicate shall be kept by every driver in his employ who operates a motor vehicle engaged in interstate or foreign commerce, and, if himself an owner-driver, shall keep such a log. Entries in said driver's log shall be made by the driver, and shall show the place of origin and destination of the trip, the times of reporting for duty and of going off duty, the times and number of rest stops, and any other information found desirable.

Each carrier shall make monthly reports to the Bureau of Motor Carriers, Interstate Commerce Commission, Washington, D. C., prior to the 15th day of each succeeding month, of every instance where a driver has been required or permitted to be on duty or at work for hours in excess of those prescribed by these regulations, and shall fully explain the reasons for and circumstances surrounding such violations. Such reports shall be in writing and sworn to.

Rule 7

In case of flood, storm, accident, or similar emergency, a driver may complete his run without being in violation of the provisions of these regulations, if such run would reasonably have been completed without violation except for the delay caused by such emergency.

Rule 8

These regulations shall not apply to any carrier subject thereto when transporting passengers or property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence or other calamitous visitation or disaster.

[F. R. Doc. 38-20; Filed, January 3, 1938; 11:44 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of December, A. D. 1937.

[File No. 54-1]

IN THE MATTER OF AMERICAN WATER WORKS AND ELECTRIC COMPANY, INCORPORATED

FINDINGS AND ORDER

For the reasons indicated in the foregoing opinion,[1] and based upon the record in this matter, the Commission makes the following findings:

1. The Commission finds that the public-utility subsidiaries of the applicant constitute a single integrated public-utility system.

2. The Commission finds that the retention by applicant of the water properties (other than those controlled through American Communities Company) and the coal and appliance businesses of the applicant is reasonably incidental and economically appropriate to the operation of the applicant's integrated public-utility system.

3. The Commission reserves its decision with respect to applicant's retention of its interest in American Communities Company system to afford an opportunity to effectuate the elimination of American Communities Company as an intermediate company, and the recapitalization or reorganization of its System and an increase of applicant's equity therein.

4. The Commission finds that the applicant's retention of its interest in its electric railway, bus transportation and bridge businesses is appropriate in the public interest and is not presently detrimental to the proper functioning of applicant's integrated public-utility system, provided that without first obtaining the express approval of this Commission the applicant shall not expand its transportation interests, except to the extent necessary to furnish adequate service in the territory now being served or to substitute bus transportation necessitated by the abandonment of electric railway service.

5. The Commission finds that the applicant's interests in its agricultural properties in California and in the Woodbridge Building Corporation are not reasonably incidental or economically necessary or appropriate to its utility operations. (Applicant, however, will be given a reasonable period of time to dispose of these interests.)

6. The Commission finds that the distribution of voting power in the applicant and its subsidiaries, especially in the event of nonpayment of preferred stock dividends, is not fair and equitable. (The applicant will be given a reasonable period of time to effect appropriate changes in that respect.)

7. The Commission finds that, upon the consummation of the simplification plan under consideration, the corporate structure of the applicant's System, except as relates to distribution of voting power, will, subject to the approval of a plan to simplify and reorganize the American Communities Company system and to increase applicant's equity therein, conform to the requirements of Section 11 (b) (2).

8. The Commission reserves jurisdiction to approve or disapprove the amount at which the securities and assets of the constituent companies in the system are carried on the books of such companies, either pursuant to the Commission's accounting rules or otherwise.

9. The Commission at this time does not pass upon any method of financing.

And to that effect *it is so ordered*.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-21; Filed, January 3, 1938; 12:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of December, A. D. 1937.

TO DETERMINE WHETHER GERALD M. LOEB AND GORDON B. CRARY, INDIVIDUALLY AND AS PARTNERS OF E. F. HUTTON & CO., AND H. TERRY MORRISON SHOULD BE SUSPENDED OR EXPELLED FROM MEMBERSHIP ON CERTAIN NATIONAL SECURITIES EXCHANGES

ORDER FOR HEARING

I

It appearing to the Commission:

That Gerald M. Loeb and Gordon B. Crary are now, and at all times hereinafter mentioned were, partners of E. F. Hutton & Co., a partnership, and, as such, members (as defined in Section 3 (a) (3) of the Securities Exchange Act of 1934) of the New York Stock Exchange, the New York Curb Exchange, The Board of Trade of the City of Chicago, and the Los Angeles Stock Exchange, all national securities exchanges registered pursuant to Section 6 of the Securities Exchange Act of 1934; and

That H. Terry Morrison is now, and at all times hereinafter mentioned was, a member (as defined in Section 3 (a) (3) of the Securities Exchange Act of 1934) of the New York Stock Exchange; and

II

It appearing to the Commission:

That at all times hereinafter mentioned there were issued and outstanding approximately 228,237 shares of capital stock, without par value, of Auburn Automobile Co., all of which were registered pursuant to Section 12 of the Securities Exchange Act of 1934 on the New York Stock Exchange (such security being hereinafter referred to as "Auburn stock", and the New York Stock Exchange being hereinafter referred to as "the exchange"); and

That, as respondents well knew, on October 1, 1935, Cord Corporation owned 43,218 shares of Auburn stock, or approximately 19% of such stock outstanding, and at all times herein mentioned E. L. Cord (hereinafter referred to as "Cord"), an official of Cord Corporation and Chairman of the Board of Auburn Automobile Co., dominated Cord Corporation; and

That, as respondents well knew, on October 19, 1935 Cord Corporation underwrote a proposed offering by Auburn Automobile Co. of $2,809,125, principal amount of Three Year 4¾% Debentures, convertible into Auburn stock at the rate of $50 per share; and

That, as respondents well knew, after the expiration on December 24, 1935 of the subscription rights of stockholders of Auburn Automobile Co., Cord Corporation, pursuant to its underwriting commitment, purchased $1,925,912.50 principal amount of the debentures; and in January and February, 1936 sold $60,000.00 of these debentures to E. F. Hutton & Co., and $30,000.00 of these debentures to respondent Crary; and

III

The Commission having reason to believe that during the period beginning on or about December 26, 1935 and continuing to on or about March 12, 1936, respondents by the use of the mails and means and instrumentalities of interstate commerce, and of the facilities of the exchange, directly and indirectly effected, alone and with other persons, series of transactions in Auburn stock, creating actual and apparent active trading in such security and raising the price thereof, for the purpose of inducing the purchase thereof by others, contrary to the provisions of Section 9 (a) (2) and Section 20 (b) of the Securities Exchange Act of 1934; and

IV

The Commission having reason to believe with reference to the particulars of the violations hereinbefore charged in Paragraph III hereof:

That, during the period and for the purpose described in Paragraph III hereof, pursuant to a common scheme and plan devised by them on or before December 26, 1935 to create actual and apparent active trading in, and raise the price of, Auburn stock on the exchange, respondents, directly and indirectly effected on the exchange purchases of approximately 69,400 shares of Auburn stock, or approximately 29% of the total volume of approximately 238,300 shares traded on the exchange during such period, of which 12,300 shares were purchased by respondents for Cord Corporation and 57,100 shares for other accounts, which purchases created actual and apparent active trading in such security on the exchange and raised the price thereof, contributing substantially to the increase in price from $38 per share at the close of the market on December 24, 1935 to a high of $54¼ per share on March 5, 1936; and

That in furtherance of said scheme and plan, respondents, during the period and for the purpose aforesaid, among other things:

(*a*) In the exercise of discretion conferred upon them in connection with orders given by Cord to purchase Auburn

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[2] Referred to in the report as a "sleeper cab."

[1] Requests for copies should be addressed to the Securities and Exchange Commission.

stock for the account of Cord Corporation, effected transactions at or towards the close of the market as well as at other times significant to specialists, floor brokers and traders, professional speculators and tape readers, which transactions created both actual and apparent active trading in and raised the price of such security on the exchange;

(*b*) Effected, directly for their own and for controlled and discretionary accounts, and indirectly for the accounts of persons whose purchases they induced, purchases of Auburn stock on the exchange which created both actual and apparent active trading in and raised the price of the security on the exchange;

(*c*) From time to time in effecting transactions for Cord Corporation and for others, as hereinbefore alleged, purchased Auburn stock on the exchange at prices higher than any at which the stock previously had sold during the said period between December 26, 1935 and March 12, 1936; and from time to time in effecting transactions for Cord Corporation and for others, as hereinbefore alleged, checked price recessions in Auburn stock and again raised the price of the stock from the points to which it had receded to the levels to which respondents previously had raised it;

(*d*) Induced and effected numerous purchases of Auburn stock on the exchange by the dissemination, throughout the United States and in foreign countries, of extravagant statements concerning the prospects for sensational profits by Auburn Automobile Co., and concerning the likelihood of a spectacular price advance in Auburn stock; and

V

The Commission being of the opinion that pursuant to Section 19 (a) (3) of the Securities Exchange Act of 1934, a hearing should be held to determine whether the charges hereinabove made are true, and whether Gerald M. Loeb and Gordon B. Crary should be suspended for a period not exceeding twelve months or expelled from membership on the New York Stock Exchange, the New York Curb Exchange, The Board of Trade of the City of Chicago, and the Los Angeles Stock Exchange, or from membership on any of such exchanges; and whether H. Terry Morrison should be suspended for a period not exceeding twelve months or expelled from membership on the New York Stock Exchange;

It is therefore ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 31st day of January, 1938, at 10:00 o'clock A. M., at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, Edward C. Johnson, an officer of the Commission, be and he is hereby designated and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and to require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-22; Filed, January 3, 1938; 12:40 p. m.]

SOCIAL SECURITY BOARD.

CERTIFICATION OF STATE UNEMPLOYMENT COMPENSATION LAWS TO THE SECRETARY OF THE TREASURY

Pursuant to section 903 (a) of the Social Security Act, approved August 14, 1935, as amended, the Social Security Board has heretofore approved the unemployment compensation laws of the following states:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

In accordance with the provisions of section 903 (b) of said Act, the Social Security Board hereby certifies the foregoing states to the Secretary of the Treasury for the taxable year 1937.

December 31, 1937.

[SEAL] SOCIAL SECURITY BOARD.
By A. J. ALTMEYER, *Chairman.*

[F. R. Doc. 38-13; Filed, December 31, 1937; 3:51 p. m.]

Wednesday, January 5, 1938 *No. 3*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

MODIFYING EXECUTIVE ORDER NO. 1919½ OF APRIL 21, 1914, AND SETTING APART CERTAIN LANDS FOR THE USE OF THE ALASKA ROAD COMMISSION FOR AVIATION-FIELD PURPOSES

Alaska

By virtue of and pursuant to the authority vested in me by the act of March 12, 1914, ch. 37, 38 Stat. 305, and the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. Executive Order No. 1919½ of April 21, 1914, withdrawing and reserving certain lands for townsite purposes, is hereby modified to the extent, and only to the extent, necessary to permit the Alaska Road Commission to use the following-described townsite lots for aviation-field purposes:

TALKEETNA TOWNSITE

Lots 1, 2, 13 and 14, block 15
Lot 1, block 16,
" 3, block 17,
Lots 7 and 8, block 18,
" 7 and 8, block 19.

SECTION 2. The following-described tract of public land is hereby reserved and set apart for the use described in section 1 hereof:

Beginning at a point on the south boundary of the Talkeetna townsite (survey No. 1260) 488.70 feet west of corner No. 9; thence south 1,880 feet to the bank of the Susitna River; thence north 41° west 639.98 feet approximately following bank of Susitna River; thence north 1,380.42 feet to south boundary of townsite; thence east 400 feet along south boundary of townsite to point of beginning, comprising parts of Lots 1 and 2, sec. 25, T. 26 N., R. 5 W., S. M.,—containing 14.97 acres, more or less.

SECTION 3. This order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Dec. 31, 1937.

[No. 7783]

[F. R. Doc. 38-26; Filed, January 3, 1938; 3:33 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE ARANSAS MIGRATORY WATERFOWL REFUGE

Texas

By virtue of and pursuant to the authority vested in me as President of the United States and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands acquired, or to be acquired, by the United States within the following-described area, comprising approximately 47,215 acres, in Aransas and Refugio Counties, Texas, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the area described shall become a part of the refuge hereby established upon the acquisition of title thereto or lease thereof by the United States:

All that part of Blackjack Peninsula, including Bludworth Island, Cape Carlos, and the small island near the westernmost point of Cape Carlos, lying between St. Charles Bay and San Antonio Bay, south of the following-described line:

Beginning at a point at the head of St. Charles Bay, on the west bank and at the mouth of Twin (Willow) Creek, said point being marked with a U. S. Biological Survey standard concrete post;

Thence from said initial point, upstream with the west bank meanders of Twin (Willow) Creek, northwesterly, 122.304 chains, to a point;

Thence crossing Twin (Willow) Creek and Blackjack Peninsula N. 13°39' E., 48.90 chains; N. 18°06' E., 42.81 chains; N. 12°13' E., 2.271 chains; S. 0°49' E., 80.08 chains; N. 89°12' E., 94.53 chains; N. 0°43' W., 39.85 chains; N. 89°11' E., 119.08 chains; N. 0°51' W., 80.04 chains; N. 89°15' E., 120.03 chains; N. 0°44' W., 61.58 chains; N. 89°07' E., 76.70 chains; S. 1°30' E., 40.44 chains; S. 89°28' E., 40.27 chains; South, 0.352 chain; East, 0.188 chain; S. 0°28' E., 6.85 chains; N. 89°31' E., 163.06 chains, to a point on Webb Point on the west shore of San Antonio Bay, said point being marked with a U. S. Biological Survey standard concrete post set in a shell bank.

This reservation shall be known as the Aransas Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Dec. 31, 1937.

[No. 7784]

[F. R. Doc. 38-27; Filed, January 3, 1938; 3:33 p. m.]

WAR DEPARTMENT.

AMENDMENT TO RULES AND REGULATIONS GOVERNING ANCHORAGE GROUNDS IN THE PORT OF NEW YORK, PRESCRIBED BY THE SECRETARY OF WAR, DECEMBER 24, 1935.

Sheepshead Bay Anchorages Nos. 48–A, 48–B, and 48–C, are amended to read:

48–A. Within an area at the western end of the bay to the southward of a line 25 feet south of and parallel to the bulkhead wall along the south side of Emmons Avenue; to the eastward of a line 200 feet easterly of and parallel to the prolonged west side of East 15th Street; to the northward of a line 200 feet northerly of and parallel to the south side of Shore Boulevard, said line extending easterly to a point 60 feet easterly of its intersection with the prolonged easterly side of Dover Street; to the northward of a line from the last-mentioned point to a point 25 feet westerly of the prolonged west side of Ocean Avenue and 250 feet southerly of the south side of Emmons Avenue; and to the westward of a line parallel to and 25 feet west of the prolonged west side of Ocean Avenue.

48–B. Within an area on the north side of, and in the east end of the bay to the southward of the established United States pierhead line on the north side of the bay; to the westward of the prolonged west side of Coyle Street; to the northward of a line from a point 90 feet south of said pierhead line in said prolonged west side of Coyle Street, ranging toward the intersection of the curb lines at the southwest corner of Shore Boulevard and Kensington Avenue; and to the northward of a line (intersecting said last-mentioned line westward of Brown Street, prolonged) extending westerly parallel to and 450 feet north of the south side of Shore Boulevard; to the northeastward of a line extending northwesterly from the point of intersection of the last described line with the prolonged east side of East 28th Street, to a point on the prolonged east side of East 27th Street and 245 feet south of the established United States pierhead line on the north side of the bay, and to the eastward of the prolonged east side of East 27th Street.

48–C. Within an area on the south side of the bay to the southward of a line extending from a point 300 feet northerly from the south side of Shore Boulevard (perpendicular distance) and in the prolonged west side of Hastings Street, to a point on the prolonged east side of Mackenzie Street 250 feet north of the south side of Shore Boulevard, and southward of a line extending thence easterly parallel to, and 250 feet north of, said south side of Shore Boulevard; to the westward of the prolonged west side of Coyle Street; to the northward of a line parallel to, and 150 feet north of, the south side of Shore Boulevard; and to the eastward of the prolonged west side of Hastings Street.

Approved, December 20, 1937.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-28; Filed, January 4, 1938; 10:17 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1937 AGRICULTURAL CONSERVATION PROGRAM—SOUTHERN REGION

BULLETIN 101—KEMPER COUNTY, MISSISSIPPI, AMENDMENT 4

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Section 62 of Southern Region Bulletin 101, Kemper County, Mississippi, is hereby amended by adding the following new subsection:

(*g*) Notwithstanding any other provisions of this bulletin, all adjacent or nearby farm land to which one person holds legal title, all or part of which is field-rented to and operated by other persons, may be covered by one work sheet and one application for payment with the consent (indicated by signatures on the application for payment) of all persons who have an interest in the crops (or the proceeds thereof) grown in 1937 on such land.

The provisions of this Amendment 4 shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances, Deductions, and Rates of Payment Under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern, and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.

Done at Washington, D. C., this 3rd day of January 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-35; Filed, January 4, 1938; 12:47 p. m.]

1937 AGRICULTURAL CONSERVATION PROGRAM—SOUTHERN REGION

BULLETIN 101—PULASKI COUNTY, ARKANSAS, AMENDMENT 3

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, section 32 of Southern Region Bulletin 101—Pulaski County, Arkansas, is hereby amended by adding the following new subsection:

(*g*) Notwithstanding any other provision of this bulletin, all adjacent or nearby farm land to which one person holds legal title, all or part of which is field-rented to and operated by

other persons, may be covered by one work sheet and one application for payment with the consent (indicated by signatures on the application for payment) of all persons who have an interest in the crops (or the proceeds thereof) grown in 1937 on such land.

The provisions of this Amendment 3 shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances, Deductions, and Rates of Payment Under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern, and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.

Done at Washington, D. C., this 3rd day of January 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-36; Filed January 4, 1938; 12:47 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of December, A. D. 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[Docket No. 3088]

IN THE MATTER OF OLIVER BROTHERS, INC., A CORPORATION; AND W. D. ALLEN MFG. CO., A CORPORATION, BLACK HARDWARE CO., A CORPORATION, JACOBI HARDWARE CO., A CORPORATION, MATTHEWS & BOUCHER, A CO-PARTNERSHIP COMPOSED OF WILLIAM G. FISHER AND WILLIAM S. JOHNSON, CHARLOTTE SUPPLY CO., A CORPORATION, VIRGINIA-CAROLINA HARDWARE COMPANY, A CORPORATION; AND GLOBE CRAYON CO., INC., A CORPORATION, E. V. CRANDALL OIL & PUTTY MFG. CO., INC., A CORPORATION, CHAS. F. BAKER & CO., INC., A CORPORATION, KEYSTONE EMERY MILLS, A CORPORATION, JAS. CORNER & SONS, A SOLE PROPRIETORSHIP, JAMES A. REILLY, SOLE PROPRIETOR, RESPONDENTS

FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914 as amended (U. S. C. title 15, Sec. 13) and for other purposes," the Federal Trade Commission on January 13, 1937, issued and served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with violating the provisions of Subsection C of Section 2 of the said Act as amended. After the issuance of said complaint and the filing of respondents' answers thereto, the taking of testimony and other evidence herein was waived by a stipulation entered into on November 5, 1937, between W. T. Kelley, Chief Counsel for the Commission and Grosvenor Calkins, Attorney for Charles F. Baker & Co., Inc., F. L. Degener, Jr., Attorney for Keystone Emery Mills, and Felix H. Levy, Attorney for all the other above-named respondents, which stipulation was thereafter duly approved by the Commission and filed in the office of the Commission. Said stipulation was so executed in conformity with and as supplemental to a certain stipulation entered into between the said parties above named on April 27, 1937. By the terms of the stipulations above referred to and in the answers to the complaint filed herein respondents admitted certain facts alleged in said complaint and certain other facts then before the Commission in this and another proceeding (respondents reserved, however, the right to contest this proceeding upon any review before the U. S. Circuit Court of Appeals or the U. S. Supreme Court with respect to any conclusions of fact or conclusions of law drawn herein by the Commission), and by said stipulations respondents agreed that the Commission might proceed to dispose of this proceeding on the record. And a final hearing before the Commission on the said record, briefs in support of the complaint and in opposition thereto, and oral arguments of counsel aforesaid, having been waived by the stipulations aforesaid, and the Commission having considered the record and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

PARAGRAPH 1. Respondent Oliver Brothers, Inc., hereinafter at times referred to as Oliver, is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 417-421 Canal Street, in the City and State of New York.

PAR. 2. Respondent W. D. Allen Manufacturing Company is a corporation organized and existing under and by virtue of the laws of the State of Illinois, with an office and principal place of business located at 566 West Lake Street in the City of Chicago, State of Illinois. Respondent Black Hardware Company is a corporation organized and existing under and by virtue of the laws of the State of Texas, with an office and principal place of business located at 2217 Avenue B in the City of Galveston, State of Texas. Respondent Jacobi Hardware Company is a corporation organized and existing under and by virtue of the laws of the State of North Carolina, with an office and principal place of business located at 12 South Front Street in the City of Wilmington, State of North Carolina. Respondent Matthews & Boucher is a co-partnership composed of William G. Fisher and William S. Johnson, with an office and principal place of business located at 26 Exchange Street, in the City of Rochester, State of New York. Respondent Charlotte Supply Company is a corporation organized and existing under and by virtue of the laws of the State of North Carolina, with an office and principal place of business located at 500 South Mint Street, in the City of Charlotte, State of North Carolina. Respondent Virginia-Carolina Hardware Company is a corporation organized and existing under and by virtue of the laws of the State of Virginia, with an office and principal place of business located at 1316 East Main Street, in the City of Richmond, State of Virginia.

PAR. 3. Respondent Globe Crayon Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with an office and principal place of business located at 383 Third Avenue, in the City of Brooklyn, State of New York. Respondent E. V. Crandall Oil & Putty Manufacturing Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with an office and principal place of business located at 1105 Metropolitan Avenue, in the City of Brooklyn, State of New York. Respondent Charles F. Baker & Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with an office and principal place of business located at 113 State Street, in the City of Boston, State of Massachusetts. Respondent Keystone Emery Mills is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, with an office and principal place of business located at 4329 Paul Street, Frankford, in the City of Philadelphia, State of Pennsylvania. Respondent James Corner & Sons is a sole proprietorship, owned by James A. Reilly, sole proprietor, with an office and principal place of business located at 438 North Front Street, in the City of Baltimore, State of Maryland.

PAR. 4. Respondent Oliver Brothers, Inc., is engaged in the business of selling a market information service and also purchasing services to over 300 distributing concerns scattered over the United States, who are principally wholesalers of automobile, electrical, radio, mill, machine, plumbing, steam and hardware supplies. These distributing concerns are located in many cities in forty-two States of the United States, and in the District of Columbia, Canada and Haiti. Respondents named in Paragraph Two hereof are among the distributing concerns purchasing the market information service and the purchasing services of respondent Oliver Brothers, Inc., and they are representative members of the entire group, insofar as the practices charged in the complaint are concerned. This group will hereafter be referred to as buyers. In making available and providing its purchasing services to the said buyers, the respondent Oliver Brothers, Inc., agrees to and does purchase merchandise for said buyers from several hundred individual manufacturers, processors, importers or producers who are scattered over the United States. Respondent manufacturers, processors and producers named in Paragraph Three hereof are representative of this entire group, all of whom in making sales to the buyers above mentioned through respondent Oliver Brothers, Inc., use the same methods as the named respondents. This group will hereafter be referred to as sellers.

PAR. 5. Respondent sellers are engaged in selling commodities in the course of interstate commerce. Respondent buyers are engaged in purchasing commodities in the course of interstate commerce. Respondent Oliver Brothers, Inc., transmits orders for merchandise from respondent buyers to respondent sellers, as a result of which commodities are shipped from sellers to buyers usually from one State to another. All of said respondents are engaged in interstate commerce in participating in the commercial transactions hereafter more specifically described.

PAR. 6. Respondent Oliver Brothers, Inc. was incorporated under the laws of the State of New York on July 19, 1905, and has a branch office in Chicago, Illinois. It has a force of several salesmen who habitually travel throughout the United States to solicit distributing concerns to purchase the Oliver market information service and purchasing services. These men at times also contact manufacturers and processors. It also has a number of buyers and assistant buyers who place orders for Oliver subscribers and who contact manufacturers, processors and producers on behalf of Oliver clients. Respondent Oliver Brothers, Inc., often examines and tests the wares of such manufacturers and producers and gets descriptions of goods and prices, which information is sent to the Oliver subscribers. Oliver also furnishes to said buyers a loose-leaf price book containing price lists on, and sources of supply from which can be obtained, the majority of the types of commodities purchased and resold by said buyers, which said loose-leaf price book Oliver keeps current by the issuance of revised sheets from time to time as market prices and sources of supply change. It is in a favorable position to furnish accurate, constant, regular and reliable market information service. It handles, through its buying operations, the goods upon which it reports to its clients. Among its employees are specialists who have devoted many years to their respective lines of merchandise and who are in constant contact with the markets in performing their duties with said respondent.

PAR. 7. The Oliver Brothers, Inc. subscribers severally employ Oliver at a stipulated monthly sum ranging from $25.00 upward. This employment is evidenced by a contract between Oliver and the subscriber which is in the following form:

OLIVER BROTHERS, INC. (Established 1892),
200 Hudson Street, New York, N. Y.

RESIDENT BUYERS FOR WHOLESALERS OF HARDWARE, IRON, STEEL, METALS, BLACKSMITHS, RAILWAY, MILL, MINING, MACHINERY, ENGINEERS, AUTOMOBILE, ELECTRICAL, RADIO, PLUMBERS AND STEAMFITTERS SUPPLIES

Cable Address: Oliveleaf, New York. Codes Used: A. B. C. (5th Edition), Bentleys, Rudolph Mosse General Motors, Lieber's Standard-Lieber's 5 letter edition, Western Union Universal and 5 letter edition, United States Steel Corporation.

Branch Offices: Chicago, Illinois: 59 E. Van Buren Street.
Pittsburgh, Pennsylvania: P. O. Box 6462 North Side Station
Please mark your reply: Dept. A.B.C.
Telephone 16 lines.

DEAR SIRS:

Subject: Contract for----------

We hereby agree to act as your New York, Chicago and Pittsburgh Resident Representatives in the capacity of Purchasing Agents.

We agree to furnish you our loose-leaf Price Book and send you our General Service covering lines as per the subject hereof; also to send you Oliver Brothers' Comment Letters, letters on Market Conditions, lists of special offerings, and submit to you other information in the way of prices and market information which we may consider to be of interest to you.

We will use our best efforts to secure the lowest possible prices on your inquiries or orders. We will forward to the manufacturers or parties with whom we have favorable arrangement such orders for merchandise as you may send to us.

Orders which we may receive from you or letters which we may receive are to be regarded as authority to act as your Agents in connection with any transaction which may transpire between us. While we will use our best efforts in acting as your Agent it is understood that we will not be liable for the failure of any manufacturer or supplier to perform his agreements or promises in connection with quotations or shipments.

It is mutually agreed that all communications between us in the way of correspondence, Comment Letters, letters on Market Conditions or Confidential Price Sheets, shall be treated as strictly confidential and used solely in connection with your own business and shall not be divulged to other parties nor procured for the use of other parties.

All business transacted between us is to be subject to satisfactory credit arrangements. In some instances, we secure special prices by reason of having the merchandise charged to our own account.

You agree to pay us for performing the services mentioned above the sum of $ ------ Dollars per month, to be paid in equal monthly installments. This agreement shall commence ---------- and shall continue from year to year thereafter withqut further notice but with the understanding that either of us may terminate this agreement at the end of any period of one year after date by giving to the other notice in writing of an intention to do so at least sixty days before the end of such yearly period.

It is agreed that upon the termination of this contract you will return our loose-leaf Price Book and Private Code.

Accepted ----------
OLIVER BROTHERS, INC.
Per ----------

No subscriber has any exclusive right to the Oliver services, but they are sold to any wholesaler who wants them, subject only to the requirement that he have good credit rating. The Oliver services are quite often bought by several dealers in the same line in the same town. Oliver yearly buys for its subscribers from said sellers several million dollars worth of commodities for resale by the buyers and as a result of said purchases such merchandise is shipped and transported from the state in which the same is located when the order is placed into and through other states of the United States, where they are delivered to purchasers who are Oliver subscribers. Oliver receives daily from its subscribers approximately one hundred orders. When a subscriber forwards an order to Oliver, usually at a specified price, Oliver transmits the order to the seller. The seller ships the product direct to the buyer, in most cases billing the buyer at the price specified in the order. The buyer in most cases makes payment direct to the seller. The seller then sends a commission or brokerage on the transaction and Oliver pays this to the buyer or credits it to his account. If a buyer fails to name the purchase price, he expects to get the last price quoted by Oliver in its bulletins, or a lower price. If Oliver finds that the market has advanced he communicates with the buyer and confirms the order at the new price before transmitting it to the seller. The buyer in some cases names the seller whose products are wanted, but in some cases he relies upon Oliver to transmit the order to some producer who will supply goods of the quality and standard required.

PAR. 8. All respondent sellers have made sales of commodities in interstate commerce through Oliver Brothers, Inc. to respondent buyers and other Oliver buyers and have paid brokerage fees on such transactions to respondent Oliver Brothers Inc., which brokerage fees were later paid over or credited by respondent Oliver Brothers, Inc. to the particular respondent buyer or other buyer. Respondent Keystone Emery Mills, after the service of the complaint herein, discontinued the practice of paying Oliver Brothers, Inc. brok-

erage on sales made to the Oliver buyers through Oliver Brothers, Inc. All of the respondent sellers at the time of payment of brokerage fees to respondent Oliver Brothers, Inc. had knowledge of the fact that Oliver Brothers, Inc. paid such fees over to the buyer placing the order and to whom the goods were shipped.

PAR. 9. The sellers from whom respondent Oliver Brothers, Inc. buys for its clients pay to Oliver brokerage fees at the same rate that they pay other brokers who sell goods for them. This rate ranges from 1% to 10%, but being usually from 2½ to 5%, of the invoice price of the commodities sold. It is a matter of common knowledge in the trade that Oliver Brothers, Inc. receives these fees for the use of its subscribers and pays them over in their entirety to the buyers. Respondent Oliver Brothers, Inc. receives and accepts these brokerage fees for the use and benefit of its subscribers and does not claim any right, title or interest in such fees. The buyers receive and accept these brokerage fees from respondent Oliver Brothers, Inc. and know that they are to receive them at the time they place orders for merchandise for execution by Oliver. The Oliver buyers, by reason of the fact that they receive the brokerage fees paid to Oliver, get a lower price on commodities, purchased through Oliver from the sellers than other buyers who are not members of the Oliver organization get on similar goods in like quantity bought direct from said sellers.

PAR. 10. In all of the purchasing transactions which the respondent Oliver Brothers, Inc. executes for its buyers, Oliver Brothers, Inc. is the agent and representative of the buyer, and acts in fact for such buyer and in his behalf, and is subject to his control, insofar as such purchasing transaction is concerned. Said respondent Oliver Brothers, Inc. in such purchasing transactions is neither the agent nor representative of the seller nor does it act for or in behalf or is it under the control of such seller. Such services as respondent Oliver Brothers, Inc. may render to the seller in selling his commodities are incidental to the particular purchase and sale transaction, and if any services are so rendered by Oliver in connection with the sale or purchase of such commodities, such services are donated by Oliver Brothers, Inc. to the seller. There is not, in fact, any payment of brokerage commissions made by any of respondent sellers to respondent Oliver Brothers, Inc., which is not intended for the buyer and which does not reach the buyer. Such brokerage commissions, being intended for the buyers, are not in fact paid in satisfaction of any contractual or other indebtedness due from the seller to respondent Oliver Brothers, Inc. for services rendered, or otherwise. These payments, in effect, are actually made from the seller to the buyer and the buyer receives a discount in price equivalent to the brokerage fee paid to him. Respondent buyers render no service to respondent sellers in connection with the purchase of commodities through respondent Oliver Brothers, Inc. Respondent buyers render no service to respondent Oliver Brothers, Inc. in connection with the purchase of goods, wares and merchandise made for them by said respondent Oliver Brothers, Inc.

PAR. 11. The contract between respondent Oliver Brothers, Inc. and its subscribers is construed by the parties thereto as being a contract for the sale and purchase of the Oliver market information service with a privilege extended to the buyers of using the Oliver purchasing services at their option. The buyers pay the monthly fee stipulated in the contract for the market information service. The buyers exercise their option to use the purchasing services of Oliver Brothers, Inc. in order to secure a discount in price from the current market price and the buyers when purchasing commodities through Oliver compute the net price at which the purchase is made as being the quoted price less the fee or commission paid by the seller as brokerage to Oliver and by Oliver transmitted to them. The buyers, in their bookkeeping, do not treat the brokerage fees and commission received from respondent Oliver Brothers, Inc. as being an offset to the monthly fee paid by them to Oliver. The amount of the monthly fee paid by the buyers to Oliver is fixed at the time the contract is made, but the amount of the brokerage fees and commissions which may be received by a given buyer from the utilization of the Oliver purchasing services is unknown and incapable of ascertainment at the time the contract is entered into.

PAR. 12. All payments of brokerage fees made by respondents as hereinabove set forth are made as a part of a general plan or scheme which contemplates and results in payment of brokerage fees from the seller to the buyer through the respondent Oliver Brothers, Inc., and which enables the buyers to secure discounts in price from the sellers under the guise of brokerage payments.

CONCLUSION

The Commission concludes that the respondents Globe Crayon Company, Inc., E. V. Crandall Oil & Putty Manufacturing Company, Inc., Charles F. Baker & Company, Inc., Keystone Emery Mills and James Corner & Sons, have violated and are violating Subsection C, Section 2 of the Clayton Act as amended, by paying fees and commissions as brokerage to respondent Oliver Brothers, Inc., in the sale of commodities to respondent buyers and other buyers, with knowledge of the fact that such fees and commissions were and are intended to be and were and are being paid over by said respondent Oliver Brothers, Inc., to said buyers.

The Commission further concludes that respondents W. D. Allen Manufacturing Company, Black Hardware Company, Jacobi Hardware Company, Matthews & Boucher, Charlotte Supply Company and Virginia-Carolina Hardware Company have violated and are violating the provisions of Subsection C, Section 2 of the said statute, by receiving and accepting fees and commissions paid as brokerage by said respondent sellers and other sellers, in connection with the purchase of commodities by said buyers through respondent Oliver Brothers, Inc.

The Commission further concludes that respondent Oliver Brothers, Inc. has violated and is violating the provisions of Subsection C, Section 2 of said statute, by receiving such fees and commissions as brokerage from respondent sellers and transmitting and paying over the same to respondent buyers; further, that said respondent Oliver Brothers, Inc. is the instrumentality and means by which respondent sellers unlawfully are enabled to make payment of such fees and commissions as brokerage to respondent buyers, and by which respondent buyers are enabled to receive and accept the same.

The Commission further concludes that the violations of said statute referred to are in pursuance of a general plan and scheme whereby fees and commissions paid by the sellers are made available to and transmitted to the buyers.

By the Commission.

[SEAL] W. A. AYRES, *Chairman.*

Dated this 31st day of December, A. D. 1937.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of December, A. D. 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[Docket No. 3088]

IN THE MATTER OF OLIVER BROTHERS, INC., A CORPORATION; AND W. D. ALLEN MFG. CO., A CORPORATION, BLACK HARDWARE CO., A CORPORATION, JACOBI HARDWARE CO., A CORPORATION, MATTHEWS & BOUCHER, A CO-PARTNERSHIP COMPOSED OF WILLIAM G. FISHER AND WILLIAM S. JOHNSON, CHARLOTTE SUPPLY CO., A CORPORATION, VIRGINIA-CAROLINA HARDWARE COMPANY, A CORPORATION; AND GLOBE CRAYON CO., A CORPORATION, E. V. CRANDALL OIL & PUTTY MFG. CO., INC., A CORPORATION, CHAS. F. BAKER & CO., INC., A CORPORATION, KEYSTONE EMERY MILLS, A CORPORATION, JAS. CORNER & SONS, A SOLE PROPRIETORSHIP, JAMER A. REILLY, SOLE PROPRIETOR, RESPONDENTS

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents and the stipulations as to certain facts entered into by counsel for the Commission and said respondents, in which stipulations and answers respondents admitted certain facts contained in the said complaint and certain other facts before the Commission in this and another proceeding and waived formal hearings herein and agreed that without further evidence or other intervening procedure the Commission might proceed to dispose of this proceeding. And the Commission having made its findings as to the facts and its conclusion that said respondents had violated and were violating the provisions of Subsection C, Section 2 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies' approved October 15, 1914 as amended (U. S. C. Title 15, Sec. 13) and for other purposes":

It is ordered, That respondents Globe Crayon Company, Inc., E. V. Crandall Oil & Putty Manufacturing Company, Inc., Charles F. Baker & Company, Inc., Keystone Emery Mills and James Corner & Sons, and their officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commodities in interstate commerce or in the District of Columbia, do forthwith cease and desist from paying or granting to respondent Oliver Brothers, Inc. any fee or commission on sales of commodities, as brokerage or as an allowance in lieu thereof, which fee or commission is intended to be paid over or which is in fact subsequently to be paid over, in whole or in part, by said respondent Oliver Brothers, Inc. to any purchaser of such commodities;

It is further ordered, That respondents W. D. Allen Manufacturing Company, Black Hardware Company, Jacobi Hardware Company, Matthews & Boucher, Charlotte Supply Company and Virginia-Carolina Hardware Company, and their officers, representatives, agents and employees, in connection with the purchase of commodities in interstate commerce or in the District of Columbia, do forthwith, cease and desist from accepting or receiving from respondent Oliver Brothers, Inc., any fee or commission which has been paid or granted to said Oliver Brothers, Inc., as brokerage or as an allowance in lieu thereof, by a seller of commodities on sales made by such seller to said respondents.

It is further ordered, That respondent Oliver Brothers, Inc., its officers, representatives, agents and employees, in connection with the purchase or sale of commodities in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Receiving or accepting any fee or commission, as brokerage or as an allowance in lieu thereof, from any seller of commodities, which fee or commission is intended to be paid over to the purchaser of such commodities, or which is to be applied for the use and benefit of such purchaser;

(2) Paying or granting to any purchaser of commodities any fee or commission received or accepted by said Oliver Brothers, Inc., as brokerage or an allowance in lieu thereof, from the seller of such commodities.

It is further ordered, That the respondents and each of them shall within ninety (90) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-25; Filed, January 3, 1938; 3:30 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 31st day of December, A. D., 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[File No. 21-288]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE HOUSE DRESS AND WASH FROCK MANUFACTURING INDUSTRY

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding and the rules in Group II which have been received by the Commission as expressions of the industry be, and the same are, hereby promulgated for the House Dress and Wash Frock Manufacturing Industry.

TRADE PRACTICE RULES, HOUSE DRESS AND WASH FROCK MANUFACTURING INDUSTRY

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or other illegal practices prohibited, within the purview of the Federal Government, by acts of Congress as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. Making, or causing to be made or published, directly or indirectly, any false, untrue or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, substance, character, nature, origin, size, serviceability, color, color fastness, workmanship, washability, fiber content or identification, shrinkage properties, manufacture or distribution of any product of the industry, or in any other material respect, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 2. The false or deceptive marking or branding of products of the industry for the purpose or with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public with respect to the grade, quality, quantity, substance, character, nature, origin, size, serviceability, color, color fastness, workmanship, washability, fiber content or identification, shrinkage properties, manufacture or distribution of such products, or in any other material respect, is an unfair trade practice.

RULE 3. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies or services, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 4. Wilfully enticing away the employees of competitors, with the purpose and effect of unduly hampering, injuring or embarrassing competitors in their businesses, is an unfair trade practice.

RULE 5. Wilfully inducing or attempting to induce the breach of existing contract or contracts between competitors

and their customers or their suppliers by any false or deceptive means whatsoever, or wilfully interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 6. The practice of selling industry products below the seller's cost, with the intent and with the effect of injuring a competitor and where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably restrain trade, is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 7. Securing information from competitors concerning their businesses by false or misleading statements or representations or by false impersonation of one in authority and the wrongful use thereof to unduly hinder or stifle the competition of such competitors is an unfair trade practice.

RULE 8. Directly or indirectly to give, or permit to be given, or offer to give, money or anything of value to agents, employees or representatives of customers or prospective customers, or to agents, employees or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

RULE 9. Withholding from or inserting in invoices any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 10. It is an unfair trade practice for any member of the industry to use the practice of shipping goods on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade: Provided, however, that nothing herein shall be construed or used as restricting or preventing consignment shipping or marketing of commodities in good faith and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

RULE 11. (*a*) *Prohibited discriminatory rebates, refunds, discounts, credits and other price differentials.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit or other price differential, where such rebate, refund, discount, credit or other price differential effects a discrimination in price between different purchasers of goods of like grade and quality and where either or any of the purchases involved therein are in commerce[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce[1] or to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(*b*) *Prohibited brokerages and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(*c*) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(*d*) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(*e*) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[1] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

RULE 12. *Discriminatory returns.*—It is an unfair trade practice for any member of the industry, engaged in commerce,[1] to discriminate in favor of one customer-purchaser against another customer-purchaser of dresses, bought from such member of the industry for resale, by contracting to furnish or furnishing in connection therewith, *upon terms not accorded to all customer-purchasers on proportionally equal terms*, the service or facility whereby such favored purchaser is accorded the privilege of returning dresses so purchased and receiving therefor credit or refund of purchase price: *Provided, however*, nothing in any of the rules herein shall prohibit or be used to prevent the return of merchandise by purchaser, for credit or refund of purchase price, when and because such merchandise has not been properly labeled by the seller as to fiber content, or has been otherwise falsely or deceptively labeled or represented, or when and because such merchandise is defective in material, workmanship or in any other respect contrary to warranty or purchase contract.

[1] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That this shall not apply to the Philippine Islands.

Group II

The trade practices embraced in these Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. However, the failure to observe them under certain circumstances may result in an unfair method of competition contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. In view of the fact that certain fabric may be damaged or destroyed by contact with certain types of deodorants or depilatories, the industry recommends that in the case of garments made of such fabric a tag or label be placed thereon by the manufacturer informing the purchasing public of such fact and of the desirability of avoiding contact between the fabric and such deodorants or depilatories which will damage or destroy the fabric.

RULE B. *Return of merchandise—Expression of industry.*—The practice, by members of the industry, of selling merchandise and later permitting the purchaser to return it for credit or refund of purchase price, without just cause, creates waste and loss, increases the cost of doing business to the detriment of both the industry and the public and is condemned by the industry, subject, however, to requirements and limitations set forth in the provisions of Rule 12 of Group I, herein.

RULE C. The industry approves the practice of handling business disputes between members of the industry and their customers in a fair and reasonable manner, coupled with a spirit of moderation and good will, and every effort should be made by the disputants themselves to compose their differences. If unable to do so they should, if possible, submit these disputes to arbitration.

RULE D. Contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

RULE E. The industry recommends that truthful and accurate descriptions of the washability, color fastness, and shrinkage properties of fabrics used be attached to the dress or frock or be printed on the labels used by members of the industry on such dresses or frocks.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-24; Filed, January 3, 1938; 3:28 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 31st day of December, A. D. 1937.

Commissioners: William A. Ayres, Chairman; Garland S. Ferguson, Jr.; Charles H. March, Ewin L. Davis, Robert E. Freer.

[File No. 21-300]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE POPULAR PRICED DRESS MANUFACTURING INDUSTRY

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding and the rules in Group II which have been received by the Commission as expressions of the industry be, and the same are, hereby promulgated for the Popular Priced Dress Manufacturing Industry.

TRADE PRACTICE RULES, POPULAR PRICED DRESS MANUFACTURING INDUSTRY

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or other illegal practices prohibited, within the purview of the Federal Government, by acts of Congress as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. Wilfully inducing or attempting to induce the breach of existing contract or contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or wilfully interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 2. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies or services, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 3. Making, or causing to be made or published, directly or indirectly, any false, untrue or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, substance, character, nature, origin, size, or preparation of any product of the industry, or in any other material respect, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 4. Wilfully enticing away the employees of competitors, with the purpose and effect of unduly hampering, injuring or embarrassing competitors in their businesses, is an unfair trade practice.

RULE 5. (*a*) *Prohibited discriminatory rebates, refunds, discounts, credits and other price differentials.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit or other price differential, where such rebate, refund, discount, credit or other price differential effects a discrimination in price between different purchasers of goods of like grade and quality and where either or any of the purchases involved therein are in commerce[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce[1] or to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in

[1] See footnote on page 18.

the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (*a*) the market for the goods concerned, or (*b*) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(*b*) *Prohibited brokerages and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(*c*) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(*d*) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(*e*) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[1] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

RULE 6. *Discriminatory returns.*—It is an unfair trade practice for any member of the industry, engaged in commerce,[1] to discriminate in favor of one customer-purchaser against another customer-purchaser of dresses, bought from such member of the industry for resale, by contracting to furnish or furnishing in connection therewith, *upon terms not accorded to all customer-purchasers on proportionally equal terms*, the service or facility whereby such favored purchaser is accorded the privilege of returning dresses so purchased and receiving therefor credit or refund of purchase price: *Provided, however*, nothing in any of the rules herein shall prohibit or be used to prevent the return of merchandise by purchaser, for credit or refund of purchase price, when and because such merchandise has not been properly labeled by the seller as to fiber content, or has been otherwise falsely or deceptively labeled or represented, or when and because such merchandise is defective in material, workmanship or in any other respect contrary to warranty or purchase contract.

RULE 7. The practice of selling industry products below the seller's cost, with the intent and with the effect of injuring a competitor and where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably restrain trade, is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 8. Directly or indirectly to give, or permit to be given or offer to give, money or anything of value to agents, employees or representatives of customers or prospective customers, or to agents, employees or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

RULE 9. The imitation or simulation of the trade-marks, trade names, labels or brands of competitors, with the purpose or with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 10. Securing information from competitors concerning their businesses by false or misleading statements or representations or by false impersonation of one in authority, and the wrongful use thereof to unduly hinder or stifle the competition of such competitors, is an unfair trade practice.

RULE 11. It is an unfair trade practice for any member of the industry to use the practice of shipping goods on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade: *Provided, however*, That nothing herein shall be construed or used as restricting or preventing consignment shipping or marketing of commodities in good faith and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

RULE 12. Withholding from or inserting in invoices any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

Group II

The trade practices embraced in these Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. However, the failure to observe them under certain circumstances may result in an unfair method of competition contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

[1] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That this shall not apply to the Philippine Islands.

RULE A. *Return of merchandise—Expression of industry.*—The practice, by members of the industry, of selling merchandise and later permitting the purchaser to return it for credit or refund of purchase price, without just cause, creates waste and loss, increases the cost of doing business to the detriment of both the industry and the public and is condemned by the industry, subject, however, to requirements and limitations set forth in the provisions of Rule 6 of Group I, herein.

RULE B. Contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

RULE C. In the interest of consumer protection, the industry records itself as favoring, and recommends, the practice of members making fair and truthful disclosure, in their advertisements, labels, or other available means, of the fiber content of their garments.

RULE D. The industry records its approval of distributing information covering delinquent and slow accounts in so far as it may be lawfully done.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-23; Filed, January 3, 1938; 3:28 p. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER IN THE MATTER OF ANNUAL REPORTS OF BLOCK SIGNALS, INTERLOCKING, AUTOMATIC TRAIN STOP, TRAIN CONTROL AND CAB SIGNAL AND TRAIN ORDER STATISTICS REQUIRED TO BE FILED BY ALL COMMON CARRIERS BY RAIL SUBJECT TO THE INTERSTATE COMMERCE ACT

Present: Frank McManamy, Commissioner, to whom the above-entitled matter has been assigned for action thereon.

The matter of annual reports of block signal, interlocking, automatic train stop, train control and cab signal and train order statistics required to be filed by all common carriers by rail subject to the Interstate Commerce Act, being under consideration,

It is ordered, That the date on which the above reports as of January 1, 1938, are required to be filed with the Commission by its order of November 3, 1937, be and the same is hereby extended from January 15, 1938, to March 1, 1938.

Dated at Washington, D. C., this thirty-first day of December, 1937.

By the Commission, Commissioner McManamy.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-30; Filed, January 4, 1938; 12:14 p. m.]

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of December, A. D. 1937

ORDER IN THE MATTER OF ANNUAL REPORTS FROM STEAM RAILWAY COMPANIES AND SWITCHING AND TERMINAL COMPANIES OF CLASS I AND CLASS II

The subject of the requirement of annual reports from steam railway companies and switching and terminal companies of Class I and Class II being under consideration:

It is ordered:

1. That the Order of this Commission dated January 27, 1937, In the Matter of Annual Reports from Steam Railway Companies and Switching and Terminal Companies of Class I and Class II is hereby annulled.

2. That all steam railway companies and switching and terminal companies of Class I and Class II subject to the Interstate Commerce Act be, and they hereby are, required to file annual reports for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form A (Large and Medium Steam Roads and Switching and Terminal Companies), which is hereby approved and made a part of this order.

It is further ordered, That the annual report shall be filed in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-29; Filed, January 4, 1938; 12:14 p. m.]

RAILROAD RETIREMENT BOARD.

REGULATIONS COVERING THE PREPARATION OF EMPLOYERS' REPORTS OF MONTHLY COMPENSATION OF EMPLOYEES AND REGISTRATION OF EMPLOYEES SUBJECT TO THE RAILROAD RETIREMENT ACT

The following regulations will, upon the effective dates, supersede all other instructions on the same subjects previously issued by the Railroad Retirement Board. Section A, "Preparation of Employers' Reports of Monthly Compensation of Employees," will become effective with the quarterly period ending March 31, 1938. Section B, "Registration of Employees Subject to the Railroad Retirement Act," will become effective as of January 1, 1938.

SECTION A

Preparation of Employers' Reports of Monthly Compensation of Employees

To facilitate administration of the Railroad Retirement Act of 1937, and in order to make possible compliance with Section 8 thereof, it is necessary that a record be maintained by the Railroad Retirement Board showing the monthly earnings of each individual for employment covered by the Act in any calendar month subsequent to December 31, 1936.

The Board desires to cooperate with the employers in every way possible, subject to limitations imposed by available funds for administrative purposes, in order to reduce to a minimum the cost of reporting compensation. The Board may accept punched tabulating cards in substitution of report forms hereinafter prescribed.[1] The Board cannot permit substitution of report forms which would materially increase the cost of recording, or provide for reporting at longer intervals than those prescribed herein for regular reports.

Unless otherwise specifically agreed heretofore or hereafter, in writing approved by the Director of the Bureau of Accounts of the Railroad Retirement Board, every employer as defined in and subject to the Railroad Retirement Act of 1937 shall forward to the Board on or before the expiration of thirty days after the close of each quarter ending March 31, June 30, September 30 and December 31, of each year a report of compensation earned by each employee for service during each month of such quarter. Generally, an individual is an employee if he is in the service of one or more employers. An individual is in the service of an employer if he is subject to the continuing authority of the employer to supervise and direct the manner in which he renders services for compensation. Questions may arise as to whether or not specific individuals such as doctors, lawyers, and other professional people may be employees or independent contractors. In such cases a letter should be forwarded to the Board giving full particulars and a determination will be made with respect to each individual based on the particular facts of the case. The report of compensation of employees shall consist of:

1. Form BA-3, "Report of Compensation of Employees for 3 Months Ended ---------- 193--."

2. Form BA-4 (Revised December 31, 1937), "Report of Compensation Adjustments for the 3 Months Ended ---------- 193--."

3. Form BA-5 (Revised December 31, 1937), "Summary Report of Compensation of Employees for the 3 Months Ended ---------- 193 ---."

A brief description of the items for which provision is made follows:

1. *Employer.*—The corporate name of the employer shall be shown on each sheet of the report.

2. *Employer number.*—The identification number assigned by the Railroad Retirement Board to the employer shall be shown on each sheet of the report.

3. *Employee account number.*—The 9-digit number assigned either by the Social Security Board or the Railroad Retirement Board and shown on the employee's account number card shall be shown. If, at the time of preparing the report there are employees to whom account numbers have not been assigned, but for whom Forms CER–1 have been forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C., such employees should be reported on Form BA–3 in the regular manner except that the "Account Number" column should be left blank. These employees should then be re-listed on a separate BA–3 made up in duplicate, leaving the "Account Number" column blank and reporting to the right of the name in the remaining columns the notation "CER–1 submitted on _____," (Date) together with the Sheet Number and Line Number on which the employee is reported on the regular Form BA–3. An employer who regularly assigns account numbers should show no employees without account numbers except those individuals who applied for a number while working for another employer but who never received one, or who lost their original number and do not recall it. In both cases Forms CER–1 should have been forwarded to this Bureau with the proper explanation on line 14.

4. *Employee name.*—The last name, or surname, of the employee shall be shown in full as it appears on the account number card, together with the first name or initials. The order in which this information is shown is optional with the employer and may follow the method used in preparation of his payroll. The Board prefers the surname first, followed by either the first name and middle initial, or by both initials.

5. *I. C. C. occupation classification.*—The number of the occupation classification to be shown on each quarterly report shall be that to which the employee is assigned in reports to the Interstate Commerce Commission during the first month in which the individual was employed in each reporting period. No employee should be reported under more than one occupation classification on any one quarterly report. In assigning the occupation classification code the predominant type of service rendered should govern. Since certain employers do not submit a "Monthly Report of Employees, Service and Compensation" to the Interstate Commerce Commission they may not be familiar with the I. C. C. Occupation Classification. For the benefit of these employers excerpts from the complete "List of Occupations of Positions in Each Reporting Division" for those divisions which appear to be applicable to the employees of such employers are shown hereunder together with explanatory notes:

Code	*Description*
	EXECUTIVES, OFFICIALS, AND STAFF ASSISTANTS
1	Executives, General Officers, and Assistants: Executive officer or assistant. General officer or assistant. NOTE.—Executive officers and general officers, assistant executive officers and assistant general officers of railroad and other associations and of national railway labor organizations should be reported under this classification.
2	Division Officers, Assistants, and Staff Assistants: Division officer. Official staff assistant. NOTE.—Division or district officials occupying positions of importance comparable to "Superintendent of Shops" in a railroad organization shall be reported under this classification.
	PROFESSIONAL, CLERICAL AND GENERAL
3	Attorney: Legal Assistant. Draftsman. Assistant Engineer. Chemist. NOTE.—Employees whose work is comparable to the duties generally performed by employees of carriers in the positions indicated shall be reported under this classification.
5	Chief Clerk and Assistant Chief Clerk, and Supervising Cashiers. Supervisor or chief clerk. Supervising cashier.
6	Clerks and Clerical Specialists: Clerk. Accountant. Statistician. Cashier or teller. NOTE: This classification should include all clerks who are performing work of a very difficult nature comparable to that performed by accountants, statisticians, cashiers and tellers in carrier organizations.
7	Clerks: Clerk. Ticket clerk.
9	Secretaries.
10	Stenographers and Typists.
15	Messengers and Office Boys.
16	Elevator Operators and Other Office Attendants: Elevator operator. Elevator starter. Office matron. Office porter.
18	Patrolmen and Watchmen.
19	Traffic and Various Other Agents, Inspectors and Investigators.
20	Claim Agents or Investigators.
26	Janitors and Cleaners: Cleaner (brass, marble, etc.). Janitor and cleaner. Head janitor.
	MAINTENANCE OF WAY AND STRUCTURES
27	Roadmasters, General Foremen, and Assistants.
40	Gang or Section Foremen.
42	Section Men.
47	Linemen and Groundmen: Electrical worker.
	MAINTENANCE OF EQUIPMENT AND STORES
50	General, Assistant General, and Department Foremen: Shop Foreman. Enginehouse Foreman.
57	Carmen (Includes Inspector).
61	Machinists (Includes engine inspectors).
71	General Laborers.
73	Stationary Engineers.
	TRANSPORTATION (OTHER THAN TRAIN, ENGINE AND YARD)
76	Train Dispatchers.
79	Station Agents (non-telegraphers): Station agent. Assistant station agent. Station agent—non-supervisory. Station agent—part time.
80	Station Agents (telegraphers and telephoners): Agent—telegrapher. Agent—telephoner.
83	Telegraphers, Telephoners and Towermen.
90	Gang Foremen (freight station, grain elevator, warehouse and dock labor).
92	Truckers.
94	Common Laborers.
98	Officers, Workers, and Attendants on Barges, Launches, Ferry Boats, Towing Vessels and Steamers; and Shore Workers.
102	Bridge Operators and Helpers.
103	Crossing and Bridge Flagmen and Gatemen.
105	Yardmasters.
107	Switch Tenders.
108	Hostlers.
	TRANSPORTATION (TRAIN AND ENGINE)
111	Road Passenger Conductors.
114	Road Freight Conductors.
115	Road Passenger Baggagemen.
116	Road Passenger Brakemen and Flagmen.
118	Road Freight Brakemen and Flagmen.
119	Yard Conductors and Yard Foremen.
120	Yard Brakemen and Yard Helpers.

[1] Forms were a part of original document filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Railroad Retirement Board.

Code	*Description*
	TRANSPORTATION (TRAIN AND ENGINE)—Continued
121	Road Passenger Engineers and Motormen.
123	Road Freight Engineers and Motormen.
124	Yard Engineers and Motormen.
125	Road Passenger Firemen and Helpers.
127	Road Freight Firemen and Helpers.
128	Yard Firemen and Helpers.
	EXPRESS COMPANIES WILL USE THE FOLLOWING CLASSIFICATION: EXECUTIVES, OFFICIALS AND STAFF ASSISTANTS
301	Executives and general officers.
302	Staff officials, division officers and assistants.
	PROFESSIONAL, CLERICAL AND GENERAL
303	Professional and subprofessional assistants.
304	Chief Clerks A.
305	Chief clerks B, head clerks and clerical specialists.
306	Clerks.
307	Non-listing adding and calculating machine operators.
308	Stenographers and typists.
309	Office attendants.
310	Route agents.
311	Agents—office, depot, and terminal.
312	Foremen—vehicle, depot and platform.
313	Warehouse and platform clerks.
314	Warehouse and platform laborers.
315	Vehicle employees.
316	Police.
317	Claim agents and claim adjusters.
	TRAIN TRANSPORTATION
318	Train messengers.
319	Train helpers and guards.
	MAINTENANCE AND STORES
320	Foremen.
321	Machinists.
322	Other craftsmen.
323	Apprentices and helpers—all trades.
324	Garage employees.
325	Laborers, unclassified.

In the event any employer has employees who do not appear to be includable in any of the classifications shown herein, a statement giving a brief description of the duties of such employees should be transmitted to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C., in duplicate, and the copy of that statement will be returned to the employer showing the classification in which the employee should be included.

The following account classifications have been provided by the Bureau of Accounts of the Railroad Retirement Board for use by all employers to cover employees not presently included in the "Monthly Report of Employees, Service and Compensation:"

Code	*Description*
201	Station caretakers and other persons regularly employed on a part time basis.
210	Miners, Laborers and other employees used in the operation of mines.
211	Doctors.
212	Hospital employees other than doctors.

6. *Compensation.*—The total compensation shown on a payroll or other disbursement document for a particular calendar month shall be shown on Form BA–3 for every employee, with two exceptions:

(*a*) Compensation for employees in I. C. C. Occupation Classification 1, Executives, Officials and Staff Assistants, and 2, Division Officers, Assistants, and Staff Assistants, which exceeds $300 in any one month may be reported on the basis of total compensation or $300, unless such employees receive compensation from two or more employers, in which case the full amount of the compensation received from the reporting employer should be shown. (See *Adjustments*, paragraph 7.)

(*b*) Compensation for employees whose earnings are carried on weekly payrolls, provided such payrolls are required by State laws, shall include the total compensation received for all payroll weeks, all or a major portion of which falls within a particular calendar month, except that compensation earned in one calendar year shall not be reported as compensation earned in another calendar year, further provided that:

(1) The total compensation of any individual for a four-week month shall not exceed $275, or

(2) The total compensation of any individual for a five-week month shall not exceed $300, or

(3) No amount shall be reported as compensation for a particular calendar month which represents the only earnings of a particular individual in another calendar month.

All compensation for employees whose earnings are carried on weekly payrolls, the total of which exceeds $275 in any four-week month, or $300 in any five-week month, and: Amounts, the inclusion of which as a part of the compensation for a particular month would affect the service months creditable, shall be separated and allocated to the calendar month in which earned and shall be reported in accordance with the general instructions applicable to all employers.

The practice of reporting under exceptions (a) and (b) above shall be constant for a particular employer and may be changed only after approval by the Director, Bureau of Accounts, Railroad Retirement Board.

7. *Adjustments.*—Any adjustment of compensation shown on a payroll or other disbursement document for a current month, and included in the report as compensation for the month which represents an adjustment of compensation shown on the payroll for a prior month, or any adjustment of compensation shown on a payroll or other disbursement document for a prior month which was made subsequent to the filing of the report and therefore not included as compensation for that month shall be reported on Form BA–4 (Revised December 31, 1937), "Report of Compensation Adjustments for the 3 Months Ended _____ 193__," provided, (*a*) it affects the service period, or (*b*) it affects creditable earnings.

The total amount earned in the service of the reporting employer by an employee who concurrently performs compensated service for two or more employers under the Act shall be reported on Form BA–3 regardless of occupation classification. If the total earnings of an individual from all employers under the Act exceed $300, adjustment should be made on Form BA–4 to reduce the creditable earnings and to increase the non-creditable earnings in such manner as to accomplish a net of creditable earnings equivalent to the proportion of $300 that the amount of total earnings from the reporting employer bears to the total earnings from all employers under the Act. If the total earned by such an employee from the reporting employer exceeds $300, the amount in excess of $300 should be included on Form BA–5 as the amount of compensation reported in excess of $300 for any individual in any one month.

If an employee is paid for all service by a single employer who is reimbursed for a portion of those earnings by another employer, the employee shall be considered as the employee of the employer initially making the payment of earnings for the purposes of reports herein required.

It is the intent of instructions concerning the reporting of adjustments that any adjustment of compensation shown on a payroll or other disbursement document for a current month which would not affect the amount of annuity if reported as a part of current earnings instead of as an adjustment of prior earnings, shall be reported on Form BA–3 as a part of the compensation earned during the month covered by the payroll or other disbursement document on which the adjustment is made.

Example.—An employee is shown on August payrolls for $260. On *November* payrolls the same employee is carried for $270 current earnings plus $10 underpay for *August*, or $280. Form BA–3 shall include $260 for August and $280 for *November*. No entry is required on Form BA–4 since the employee is entitled to credit for two service months and $540 earnings which are credited from Form BA–3 reportings.

The examples illustrated on Form BA–4 attached and hereunder explained all show adjustments affecting either the service period or creditable earnings under varying conditions. It will be noted that these adjustments are made so as to reflect not only the adjustment between the current and the prior reports, but to show the effect of the adjustments upon the employee's creditable earnings as previously recorded by the Board.

In considering these adjustments it should be borne in mind that all amounts up to but not exceeding $300 per month reported on Form BA–3 are considered by the Bureau to be creditable earnings, and are transcribed as such to a punch card, and all amounts in excess of $300 per month are considered to be non-creditable earnings and are transcribed to another punch card. By punching these two cards the Bureau is able to balance to the total compensation reported on Form BA–3 and to the excess and net compensation reported on the upper portion of Form BA–5.

(*a*) *Adjustment affecting the service period.*—An employee, C. G. Jones, was shown on the September payroll for $200. On the January payroll the same employee is carried for $25 omitted time from September without any current earnings. As this adjustment affects service months it must be reported on the BA–4 Revised. The proper entries on Form BA–4 are to decrease gross earnings for January (Col. 6) and increase gross earnings in like amount for September (Col. 5). Since the amounts involved are less than $300, the only adjusting entries necessary to correct the employee's account as carried by the Board are to decrease the employee's creditable earnings and service in January (Col. 10) and to increase the creditable earnings in September (Col. 9).

(*b*) *Adjustment affecting creditable earnings.*—An employee, S. L. Armstrong, was shown on the February payroll and reported for $200. On the March payroll the same employee is carried for $300 current earnings and $100 omitted from February, or a total of $400. Form BA–4 Revised should adjust February and March so that the employee's account may be corrected to include $600 creditable earnings instead of $500 as the BA–3's would accomplish. Since this change affects both the non-creditable and creditable earnings of this employee as carried by the Board, the BA–4 should show in addition to the BA–3 adjustment a reduction by $100 in the non-accreditable established in March (Col. 8) and an increase in the creditable earnings as established in February (Col. 9).

(*c*) *Adjustment affecting earnings reported for two or more prior months.*—An employee, R. S. Smith, was shown on the March payroll for $350. Of this amount $150 was earned during the current month and the balance of $200 represents and adjustment increasing the reported earnings for the three previous months, December, January and February, to $150 each. Since the amount as reported in March exceeds $300, the BA–4 should reflect adjustments to correct both the non-creditable and creditable earnings as entered by the Board based on the BA–3. In the case of December, January and February, since neither service months nor non-creditable earnings are involved, it is only necessary to increase the creditable earnings for the individual months by the exact amount of the payroll increases.

(*d*) *Adjustment in case of an employee who earns in excess of $300 from two or more carriers.*—T. V. Wilson received compensation from two carriers totalling $600. Of this sum $350 was paid by the carrier whose report is illustrated in example (*d*). Form BA–3 should report the amount actually earned, namely, $350. Form BA–4 should reflect the adjustments necessary to reduce this amount to a creditable basis and to correct the employee's records as carried by the Board. In this case $350 represents $^7/_{12}$ of the employee's total earnings and $^7/_{12}$ of $300, or $175, represents this carrier's portion of the total creditable earnings. However, non-creditable earnings must be corrected to show not $50 as indicated by the BA–3 but $175, or the total difference between the creditable amount $175 and the reported amount $350. The creditable earnings should be decreased $125, making a total net for the month of $175. When both carriers have correctly reported on this employee his account with the Board will show creditable earnings of $300, of which $175 will be reported by one carrier and $125 by the other. An explanation of this adjustment should be made in the column headed "Employee Name," similar to the example shown.

(*e*) *Adjustment affecting earnings prior to January 1, 1937.*—J. C. Kline was shown on the January payroll for $625. Of this amount $75 was earned during the current month and the balance of $550 represents an adjustment of earnings prior to January 1, 1937. Since the amount as reported in January 1938 exceeds $300, the BA–4 should reflect adjustments to correct both the non-creditable and creditable earnings as entered by the Board based on the Form BA–3. In the case of the earnings applicable to 1936, the entire amount represents non-creditable earnings and should be so reported.

(*f*) *Adjustment affecting both non-creditable and creditable earnings.*—An employee, A. A. Harper, was shown on the December payroll and reported for $296. On the January payroll the same employee is carried for $303 current earnings and $12 omitted from December, or a total of $315. In increasing December earnings from $296 to $308 it is necessary to adjust both the non-creditable and creditable earnings as previously entered by the Board. The adjustments to be made are these: Decrease non-creditable earnings in January $12 and increase non-creditable and creditable earnings for December $8 and $4 respectively.

(*g*) *Adjustment covering recovery of overpayments from employees who leave the service.*—An employee, F. W. Marsh, was shown on the December payroll for $100, which included an overpayment of $5. As he had left the service this amount was subsequently recovered through the issuance of an Accounts Receivable Bill. The proper entries on Form BA–4 are to decrease gross earnings for December (Col. 6) $5 and, since this change affects only the creditable earnings as carried by the Board to decrease creditable earnings (Col. 10) in a like amount.

8. *Summary and Recapitulation.*—The total for each sheet of Form BA–3 shall be shown and recapitulated on additional sheets of Form BA–3, using the name column for sheet number and the last three columns for the amounts. If the report is of sufficient size to justify a grand recapitulation, the same forms shall be used for that purpose. In addition to the summary of total compensation reported, a summary of amounts shown on BA–3 in excess of $300 shall be shown by Department, State, Division, or any other convenient segregation conforming with the reporting divisions used in the preparation of the detail Form BA–3. The employer may show "excess" totals at the bottom of each sheet if he desires to do so. In summarizing excess earnings any amount reported on the detail Form BA–3 in excess of $300 should be considered as non-creditable. No amounts shown on the BA–3 should be considered as excess unless the amount shown exceeds $300, irrespective of the fact that some of these amounts not so considered may be non-creditable earnings. The latter should be adjusted by use of Form BA–4 Revised.

The grand total of the reports for each carrier as reflected on the recapitulations shall be shown on Form BA–5 (Revised December 31, 1937), "Summary Report of Compensation of Employees for the 3 Months Ended ---------- 193...." This form permits an orderly accumulation of a net creditable earnings amount which can be readily compared with the amount of taxable compensation shown on Form CT–1, "Employer's Return Under the Carriers Taxing Act of 1937." The upper half of this form is for use in reporting gross, excess, and net compensation for each month, together with a crossfooting of these amounts to show the total gross, excess, and net for the quarter as included in the detail Form BA–3. The lower section will represent the total figures for the quarter, a summary of the adjustments, and the revised gross, non-creditable, and creditable earnings for the quarter.

The declaration shall be signed by an authorized responsible official of the employer, and the jurat completed by a notary public.

SECTION B

Registration of Employees Subject to the Railroad Retirement Act

On July 1, 1937 the Railroad Retirement Board took over the assignment of account numbers to employees covered by the Railroad Retirement Act, and the cooperative arrangement in effect with the Post Office Department was discontinued. All numbers previously issued to employees under the Social Security Act were issued on the basis of an application Form SS–5 while those issued to employees under the Railroad Retirement Act were issued on the basis of an application Form CER–1. The information shown on the application Form SS–5 or Form CER–1 was transcribed to Form OA–702. The original Forms OA–702 based on Form SS–5 are on file in the office of the Bureau of Old-Age Insurance of the Social Security Board, Balitimore, Maryland. The original Forms OA–702 based on Form CER–1 are on file in the office of the Bureau of Accounts, Railroad Retirement Board, Washington, D. C.

Account numbers assigned under the direction of the Railroad Retirement Board shall continue to be referred to as "Social Security Account Numbers" and Form CER–1 ("Social Security—Carrier Employee Registration Application for Account Number") shall continue in use.

The principal change resulting from the transfer of the assignment of account numbers to the Railroad Retirement Board was the cooperative arrangement entered into between the Railroad Retirement Board and certain large employers whereby these employers secure supplies of pre-numbered office record forms and make direct assignments of account numbers.

Assignment of Account Numbers

It is essential that all persons who perform compensated service for an employer, and who are employees under the Act be assigned an account number. The account number is a 9-digit number under which a record of service and compensation is maintained for an employee under either the Railroad Retirement Act or the Social Security Act. A block of numbers, the first three digits of which are in the series of 700 to 739, has been allocated to the Railroad Retirement Board for assignment to employees under the Railroad Retirement Act of 1937 who have not previously received account numbers. The separation of the number into groups of three digits representing "area," two digits representing "group," and four digits representing "serial," with a dash between each group, has no meaning and is merely for convenience in writing the number.

Employees engaged in the future by employers in whose service they have not previously been engaged will come into one of the following classifications:

1. Persons who have not, since January 1, 1937, had any employment requiring an account number. These persons should fill out Form CER–1.

2. Persons having a number in other than the series seven hundred (700) to seven hundred thirty-nine (739) will continue to use such numbers, but should fill out Form CER–1 if they have not already done so while in prior service with some other employer under the Railroad Retirement Act, and turn it over to their employer for filing with the Board.

3. Persons holding account numbers of which the first three digits are in the seven hundred (700) to seven hundred thirty-nine (739) series, and persons holding account numbers in any series who have performed service for an "Employer" after June 30, 1937, should have been registered on Form CER–1, and there should be no necessity, so far as the Railroad Retirement Board is concerned, to secure their re-registration. But, if a person with an account number in this series works for an employer after June 30, 1937, and subsequently works for another employer under the Retirement Act, such subsequent employer may wish to maintain a complete file of Forms CER–1; in such case, however, no such form need be sent to the Board.

The procedure to be followed in filling out Form CER–1 and making account number assignments in the above cases is prescribed hereunder:

1. "Employers" will requisition the estimated number of Forms CER–1, "Social Security—Carrier Employee Registration Application for Account Number," for periods of six months in advance. The Board's Form BA–1, "Requisition for Forms CER–1," should be used for this purpose.

2. "Employers" will secure a properly executed Form CER–1 from each new employee who has not previously received an account number, the first three digits of which are within the series seven hundred (700) to seven hundred thirty-nine (739), unless such employee has previously completed such form. After entering the previously assigned account number on the original and duplicate of such form, it should be examined with particular reference to the following items:

(*a*) Is each question answer in full? If the answer to any question is unknown, the word "unknown" should be written. If on Line 1 the employee has no middle name, this should be indicated by a line; otherwise, middle name should be required.

(*b*) Addresses should be complete.

(*c*) The name on Line 1 should be the correct name of the applicant. If this name differs from the name signed on Line 16, an explanation should be attached to the CER–1 application. This applies to such cases as abbreviations of long foreign names, married women working under their maiden names, and other persons working under a name different from their correct name.

3. "Employers" who are supplied with Forms OA–702 will transcribe the information on Form CER–1 to the Form OA–702, in the case of each employee who has not previously received an account number. Before transcribing this information the same examination of Form CER–1 as described in paragraph 2 above should be made. In typing Form OA–702 the following rules should be adhered to:

(*a*) The lower part of the identification card which contains the employee account number can be detached and used by the employer or can be turned over to the employee at the discretion of the employer.

(*b*) Capitalize the first letter only of each name on the Form OA–702.

(*c*) If a name is too long to be typed in full on the account number card, initials may be typed for the middle name or for the first and middle names, if necessary. Include "Jr." or "Sr." if part of name given.

(*d*) Erasures are permitted if the result is neat and legible.

(*e*) Numerical sequence of Forms OA–702 should be maintained.

(*f*) If necessary to void a form, mark it "void" but include it in series sent to this office.

(*g*) When OA–702's are prepared and account numbers assigned, the account number should be transcribed from OA–702's to the upper right hand corner of the corresponding CER–1 in the space between the heading and the black corner.

The original account number card (right hand portion) of Form OA–702 should be delivered to the employee. The original of Form OA–702 (left hand portion) and Form CER–1 should be forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. The carrier may retain the right hand portion of the duplicate Form OA–702 (Duplicate Account Number Card Portion) if desired, or it may be forwarded to the Bureau of Accounts. The left hand

portion of the duplicate copy of Form OA–702 should be sent to:

Washington Regional Office
Social Security Board
Bond Building
New York Avenue & 14th St., N. W.
Washington, D. C.

The duplicate copy of Form CER–1 may be retained by the employer.

4. "Employers" who do not have a supply of Forms OA–702 will forward to the Bureau of Accounts, Railroad Retirement Board, Forms CER–1, covering employees who have not previously received an account number. The Board will thereupon prepare Form OA–702 and forward the account number card to the "Employer" for recording the number, and delivery to the employee.

Other problems which may arise at the time of filling out Form CER–1 and with which the employer should be familiar in order to expedite delivery of the account numbers to employees are set forth below:

1. *Corrections.*—All applications for correction of data previously furnished by the employee as a basis for the issuance of the account number, or correction in the account number card should be made over the signature of the employee concerned. This includes changes in names on account of marriage. The employee should prepare a corrected Form CER–1, inserting the correct information in all cases. The form should also show the word "correction" at the top of the form. The employee's account number should be shown under Item 14, if he has been assigned one. All applications for corrections in records (Form CER–1) should be forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. If the correction involves a change of the name on the account number card, this card should be returned with the Form CER–1 and a corrected Account Card will be forwarded to the employer for delivery to the employee.

2. *Applications for duplicate account number cards.*—Applications for duplicate account number cards will be made on Form CER–1 over the signature of the employee. Applications for duplicate account number cards should be addressed to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. In all applications for duplicate account number cards the reason should be indicated in the answer to question 14 as to why a duplicate card is necessary. Usually this will be because the original has been lost. If insufficient room is available in which to supply this explanation, a supplementary statement should be attached.

3. *Cancellations.*—The question of cancellations of account numbers for employees who hold two or more numbers should be handled as follows: If an employee holds two or more numbers, the first number issued, regardless of origin, should be retained by him, and subsequent account number cards should be picked up from the employee and forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C., with a letter of explanation indicating the account number which was retained by the employee.

4. *Assignment of numbers to former employees who have left the service before receiving an account number.*—

(a) If an employee applies for an account number on Form CER–1 but leaves the service of his employer before receiving his account number card, every possible effort should be made to deliver the employee's account number card to him. Where such delivery is impossible, the account number card should be forwarded to the Bureau of Accounts, Railroad Retirement Board, for filing and for reference in case of future inquiries concerning such number.

(b) If an employee leaves the service of his employer before having applied for an account number, an effort should be made to locate the former employee and have him prepare Form CER–1, at the same time getting his mailing address for delivery of account number upon assignment. If the former employee cannot be located, the employer should prepare Form CER–1, inserting all available information concerning the employee, including any information that might be helpful to subsequent identification even though not provided for by the form. This type of application should clearly state on Line 14 that the employer filed the Form CER–1 because he was unable to locate the former employee. The signature of the employer should be entered on Line 16, followed by the word "employer." If signature is stamped or typed, it should be initialed. If the employer cannot furnish the complete information called for on CER–1, an account number may be assigned subject to the minimum requirement of the name, place of employment, occupation, race and sex.

Employers who are supplied with Forms OA–702 should prepare this form and forward it without detaching the identification card to the Bureau of Accounts, Railroad Retirement Board, accompanied by the CER–1. The lower portion of the identification card should be noted "Undeliverable."

5. *Employees who refuse to sign CER–1.*—Where employees refuse to sign Forms CER–1 for religious or other reasons, the necessary information should be secured from employee, if possible. If the employee refuses any information, all data available to the carrier should be inserted on both the Form CER–1 and the Form OA–702, if in use, together with an explanation such as "Employee refuses to sign—religious conviction," or whatever the reason may be. The account number card should be delivered to the employee. Form CER–1 and Form OA–702 should be forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C.

6. *Employees who previously submitted application for an account number not yet received.*—An employee who has previously submitted an application Form CER–1 or SS–5 but has not received an account number should prepare Form CER–1, indicating on Line 14 the name of the employer for whom he was working at the time the original application was filed. All CER–1 forms of this type should be forwarded immediately to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. If our alphabetical files show that the employee has been assigned an account number, either the original account number card or a duplicate bearing the account number will be mailed to the present employer for delivery to the employee concerned. If a check develops the fact that no number has been assigned the employee, the CER–1 will be treated as an original and a number assigned and mailed to the employer for delivery to the employee. If the account number is not received by the date reports are prepared, the account number column of Form BA–3 should be left blank and the employees without numbers re-listed on additional sheets of Form BA–3, as prescribed under Section A, Paragraph 3, "Employee Account Number."

7. *Account number cards undelivered because of death of employee.*—If an employee dies before an account number card is received, the account number card should be delivered to his wife or next surviving relative. If this is impossible, make appropriate notation on the account number cards and forward to the Bureau of Accounts, Railroad Retirement Board, where they will be filed.

These Regulations are adopted by the Board pursuant to the authority conferred by Sections 8 and 10 of the Railroad Retirement Act of 1937.

By direction of the Board.

[SEAL] R. B. BRONSON, *Secretary.*

DECEMBER 31, 1937.

[F. R. Doc. 38–31; Filed, January 4, 1938; 12:25 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES ACT OF 1933

ADOPTION OF RULE 170 UNDER ARTICLE 6

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, and deeming such action necessary to carry out the provisions of the Act and necessary and appropriate in the public interest and for the protection of investors, hereby takes the following action:

The following new rule is adopted, to be inserted under a new Article, Article 6, of the "General Rules and Regulations under the Securities Act of 1933" as follows:

Article 6. Prohibition of Use of Certain Financial Statements

RULE 170. *Prohibition of use of certain financial statements.*—Financial statements which purport to give effect to the receipt and application of any part of the proceeds from the sale of securities for cash shall not be used unless the sale of such securities is underwritten and the underwriters are to be irrevocably bound, on or before the date of the public offering, to take the issue. The caption of any such financial statement shall clearly set forth the names of the underwriters and the assumptions upon which such statement is based. The caption shall be in type at least as large as that used generally in the body of the statement.

The foregoing action shall be effective March 1, 1938.
By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–32; Filed, January 4, 1938; 12:39 p. m.]

SECURITIES EXCHANGE ACT OF 1934

ADOPTION OF RULE MC9

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 15 (c) and 23 (a) thereof, hereby adopts the following rule:

RULE MC9. *Use of pro forma balance sheets.*—The term "manipulative, deceptive, or other fraudulent device or contrivance", as used in Section 15 (c) of the Act, is hereby defined to include the use of financial statements purporting to give effect to the receipt and application of any part of the proceeds from the sale or exchange of securities, unless the assumptions upon which each such financial statement is based are clearly set forth as part of the caption to each such statement in type at least as large as that used generally in the body of the statement.

The foregoing action shall be effective March 1, 1938.
By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–33; Filed, January 4, 1938; 12:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of January, 1938.

[File No. 1–1530]

IN THE MATTER OF TECK-HUGHES GOLD MINES, LTD. COMMON STOCK, PAR VALUE $1.00

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Teck-Hughes Gold Mines, Ltd., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, Par Value $1.00, from listing and registration on the New York Curb Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 A. M., on Wednesday, February 2, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–34; Filed, January 4, 1938; 12:39 p. m.]

Thursday, January 6, 1938 *No. 4*

TREASURY DEPARTMENT.

Public Health Service.

AMENDMENT TO THE REGULATIONS FOR THE GOVERNMENT OF THE UNITED STATES PUBLIC HEALTH SERVICE, 1931

To Commissioner Officers and all others Concerned:

Pursuant to the authority contained in the Act of August 4, 1894, as amended by section 2 of the Act of July 30, 1937 (Public, No. 234, 75th Congress), paragraphs 603 (2) and 632 to 638, inclusive, of the Regulations for the Government of the United States Public Health Service, approved June 18, 1931, as amended, are hereby amended so as to read as follows:

603. • • • 2. Officers, cadets, and enlisted men of the United States Coast Guard, active and retired, including those on shore duty and those on detached duty, and dependent members of families of officers and enlisted men.

632. Officers, cadets, and enlisted men of the United States Coast Guard on active duty, including those on shore duty and those on detached duty, shall receive hospital or out-patient relief at all relief stations of the Public Health Service without regard to length of service, on certificate of officers of the United States Coast Guard, identifying the applicant. Commissioned officers and officers in charge of units may sign their own certificates.

633. Retired officers and retired enlisted men of the United States Coast Guard shall, upon presentation of evidence establishing their status, be furnished with hospital care at any United States marine hospital, and with out-patient relief at any first, second, or third class station and dental relief at any station where there is a full-time dental officer on duty. When hospital care is required, the patient shall present himself at a marine hospital for admission; the expense of transfer from second and third class stations shall not be a charge against appropriations of the Public Health Service.

634. In emergency, at places where there is no Public Health Service relief station, officers of the United States Coast Guard may procure either hospital or out-patient relief for officers, cadets, and enlisted men of the Coast Guard on active duty, including those on shore duty and those on detached duty, requiring it, and shall immediately

report to the Surgeon General of the Public Health Service, through Coast Guard headquarters, forwarding as a part of the report the certificate of the attending physician as to the necessity for immediate treatment and the probable duration of the treatment required. Vouchers on proper forms duly certified by the said officer and signed by the person rendering the bill shall be forwarded to the Surgeon General through Coast Guard headquarters.

634a. At ports where there is a relief station of the Public Health Service, when officers, cadets, and enlisted men of the United States Coast Guard on active duty, including those on shore duty and those on detached duty, on account of injury or illness, require the immediate attention of a physician, and on account of the exigency of the case it is impossible to convey the patient to the relief station, temporary provision for medical attendance or care may be made by an officer of the United States Coast Guard, who will immediately report his action to the Public Health Service relief station at the port, and the treatment thereafter will be conducted by the Public Health Service, if in the judgment of the proper officer of the Public Health Service it may be done without detriment to the patient. Vouchers for such emergency treatment will be forwarded to the Surgeon General through said officer for approval and payment. Unreasonable charges for emergency relief will not be allowed.

635. Officers, cadets, and enlisted men of the United States Coast Guard on active duty, including those on shore duty and those on detached duty, shall be admitted to hospital only in cases where the gravity of the disease or injury from which they suffer is such as to require hospital treatment, in the opinion of an officer of the Public Health Service, or of a reputable physician designated by the department to act at a place where no regular relief station has been established, or of a physician temporarily employed as provided in paragraphs 634 and 634a.

636. Officers, cadets, and enlisted men of the United States Coast Guard, including those on shore duty and those on detached duty, while on authorized leave or sick leave may receive medical and surgical relief only at regularly established relief stations of the Public Health Service.

637. Officers and cadets who receive subsistence allowance as part of their compensation shall, while receiving hospital treatment, reimburse the Government in the amount of one subsistence allowance as fixed by law.

638. Upon written application, in approved form, by officers and enlisted men of the United States Coast Guard, active or retired, the dependent members of families of such officers and enlisted men shall be furnished medical advice and out-patient treatment at first, second, and third class relief stations of the Public Health Service, and hospitalization at marine hospitals, if suitable accommodations, as determined by the medical officers in charge, are available therein, at a per-diem cost to the officer or enlisted man concerned equivalent to the uniform per-diem reimbursement rate for Government hospitals as approved by the President for each fiscal year.

The term "dependent members of families" shall include only those relatives who are wholly dependent upon the officer or enlisted man for support and shall not include persons employed by him.

The relationship of dependents, such as wife, son, daughter, etc., including full name, shall be stated in the application, and dependents shall be identified to the relief officer by certification of the applicant's commanding officer. Dependents of retired personnel will be identified by means of a certificate furnished by Coast Guard headquarters at time of retirement. Retired personnel will produce this certificate when seeking relief for dependents and execute necessary application for treatment at the station on blank forms provided for the purpose. At any second or third class relief station, except in cases of emergency, medical advice and out-patient treatment will be furnished dependent members of families only during the regular office hours of the relief station.

[SEAL] W. F. DRAPER,
Acting Surgeon General.

Approved December 9, 1937.
STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

Approved December 27, 1937.
FRANKLIN D ROOSEVELT
The White House.

[F. R. Doc. 38-39; Filed, January 4, 1938; 4:21 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 170]

AN ORDER REQUIRING REPORTS FROM CODE MEMBERS WHO HAVE FILED, OR UNTIL JANUARY 31, 1938 HEREAFTER FILE, CONTRACTS APPOINTING SALES AGENTS WITH THE COMMISSION'S STATISTICAL BUREAUS 1 TO 13 INCLUSIVE, AND FROM PERSONS WHO HAVE APPLIED, OR UNTIL JANUARY 31, 1938 HEREAFTER APPLY, TO THE COMMISSION FOR REGISTRATION AS REGISTERED WHOLESALERS OR REGISTERED FARMERS' COOPERATIVE ORGANIZATIONS PURSUANT TO THE MARKETING RULES AND REGULATIONS OF THE COMMISSION FOR DISTRICTS 1 TO 13 INCLUSIVE

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs as follows:

1. That all code members who have filed, or until January 31, 1938 hereafter file, contracts appointing sales agents with the Commission's Statistical Bureaus 1 to 13 inclusive, pursuant to the Marketing Rules and Regulations of the Commission, shall file in duplicate a report showing all coal sold and shipped by such sales agents for code members within Districts 1 to 13 inclusive during the period December 16, 1937, through December 31, 1937, all as more fully set forth and specified in Commission's N. B. C. C. Form No. 238–ST.

2. That all persons who have filed, or until January 31, 1938 hereafter file, with the Commission application for registration as Registered Wholesalers of bituminous coal or as Registered Farmers' Cooperative Organizations pursuant to the Marketing Rules and Regulations of the Commission for Districts 1 to 13, inclusive, shall file, in duplicate, with the Commission, a report showing all coal purchased from code members within Districts 1 to 13, inclusive, for resale in not less than carload or cargo lots and resold by them in not less than carload or cargo lots during the period December 16, 1937, through December 31, 1937, all as more fully set forth and specified in Commission's N. B. C. C. Form No. 239–ST.

3. That each code member who has filed, or until January 31, 1938 hereafter files, an agency contract with the proper statistical bureau and each person who has applied, or until January 31, 1938 hereafter applies, to the Commission for registration as a Registered Wholesaler or as a Registered Farmers' Cooperative Organization shall, within ten (10) days from the receipt of this Order, mail postage prepaid, the required report, duly verified, to the Commission at the following address:

National Bituminous Coal Commission
Attention: Statistical Division
Washington, D. C.

4. That the Secretary of the Commission shall forthwith cause to be mailed a copy of this Order together with the necessary forms to each code member in Districts 1 to 13, inclusive, who has filed, or until January 31, 1938 hereafter files an agency contract with the proper statistical bureau and to each person who has applied, or until January 31, 1938 hereafter applies, to the Commission for registration as a Registered Wholesaler or as a Registered Farmers' Cooperative Organization pursuant to the Marketing Rules and Regulations of the Commission for Districts 1 to 13, inclusive, and shall cause additional copies of the same to be made available at the office of the statistical division of the Commission in Washington, D. C.

By order of the Commission.

Dated this 4th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-41; Filed, January 5, 1938; 11:43 a. m.]

[Order No. 171]

AN ORDER PROVIDING FOR A HEARING TO DETERMINE THE NATURE AND EXTENT OF INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF WYOMING AND THE EFFECT OF SUCH COMMERCE UPON INTERSTATE COMMERCE IN SUCH COAL, TO BE HELD AT CHEYENNE, WYOMING, ON JANUARY 21, 1938, BEFORE AN EXAMINER, AND NOTICE THEREOF

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon being advised that substantially all transactions in bituminous coal in intrastate commerce within the State of Wyoming directly affect interstate commerce in such coal and will cause undue and unreasonable advantage, preference or prejudice as between such commerce in Wyoming on the one hand and interstate commerce in such coal on the other hand as such interstate commerce is provided to be regulated by the Bituminous Coal Act of 1937, and that a hearing to determine the effect of intrastate transactions in bituminous coal upon interstate transactions in bituminous coal in the State of Wyoming would be desirable, and upon investigation hereby orders:

1. That on January 21, 1938, commencing at the hour of ten (10) o'clock A. M., at the Hearing Room of the Commission in the Plains Hotel, Cheyenne, Wyoming, a public hearing will be held to determine the nature and extent of intrastate commerce in bituminous coal in the State of Wyoming, and the effect of such commerce upon interstate commerce in such coal and to determine what, if any, undue or unreasonable advantage, preference or prejudice, will exist between localities in Wyoming in such commerce on the one hand and interstate commerce as regulated by the Bituminous Coal Act of 1937 on the other hand and what, if any, undue, unreasonable or unjust discriminations against interstate commerce in coal have occurred or will occur under the administration of Section 4 of said Act to the end that the Commission may, after hearing, take such action as is necessary to give effect to the Bituminous Coal Code and to the provisions of Section 4–A of said Act.

2. That said hearing will be conducted by an Examiner designated by the Commission.

3. That interested parties may appear and present evidence at such hearing.

4. That any producer believing that particular transactions in intrastate commerce in bituminous coal are not subject to the provisions of the first paragraph of Section 4–A will, subsequent to the final order of the Commission in the proceeding herein noticed, be afforded full opportunity to file an application for exemption as provided in said section, upon which application a hearing will thereafter be held by the Commission upon proper notice given.

5. That failure of any producer to appear and present evidence at the hearing herein noticed to be held in Cheyenne, Wyoming, on January 21, 1938, will not prejudice the case of any producer to be heard upon such application.

6. That the Secretary of the Commission shall forthwith mail a copy of this notice to the Consumers' Counsel, to each known producer of bituminous coal in the State of Wyoming, and to the secretaries of all of the district boards, and shall cause to be published at the expense of the Commission copy of this order and notice for three (3) days in newspapers of general circulation in the counties of Wyoming in which bituminous coal is produced.

By order of the Commission.

Dated this 4th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-42; Filed, January 5, 1938; 11:43 a. m.]

[Order No. 172]

AN ORDER PROVIDING FOR A HEARING TO DETERMINE THE NATURE AND EXTENT OF INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF UTAH AND THE EFFECT OF SUCH COMMERCE UPON INTERSTATE COMMERCE IN SUCH COAL, TO BE HELD AT SALT LAKE CITY, UTAH, ON JANUARY 31, 1938, BEFORE AN EXAMINER, AND NOTICE THEREOF

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon being advised that substantially all transactions in bituminous coal in intrastate commerce within the State of Utah directly affect interstate commerce in such coal and will cause undue and unreasonable advantage, preference or prejudice as between such commerce in Utah on the one hand and interstate commerce in such coal on the other hand as such interstate commerce is provided to be regulated by the Bituminous Coal Act of 1937, and that a hearing to determine the effect of intrastate transactions in bituminous coal upon interstate transactions in bituminous coal in the State of Utah would be desirable, and upon investigation hereby orders:

1. That on January 31, 1938, commencing at the hour of ten (10) o'clock A. M., at the Hearing Room of the Commission in the Hotel Utah, Salt Lake City, Utah, a public hearing will be held to determine the nature and extent of intrastate commerce in bituminous coal in the State of Utah, and the effect of such commerce upon interstate commerce in such coal and to determine what, if any, undue or unreasonable advantage, preference or prejudice, will exist between localities in Utah in such commerce on the one hand and interstate commerce as regulated by the Bituminous Coal Act of 1937 on the other hand and what, if any, undue, unreasonable or unjust discriminations against interstate commerce in coal have occurred or will occur under the administration of Section 4 of said Act to the end that the Commission may, after hearing, take such action as is necessary to give effect to the Bituminous Coal Code and to the provisions of Section 4–A of said Act.

2. That said hearing will be conducted by an Examiner designated by the Commission.

3. That interested parties may appear and present evidence at such hearing.

4. That any producer believing that particular transactions in intrastate commerce in bituminous coal are not subject to the provisions of the first paragraph of Section 4–A will, subsequent to the final order of the Commission in the proceeding herein noticed, be afforded full opportunity to file an application for exemption as provided in said section, upon which application a hearing will thereafter be held by the Commission upon proper notice given.

5. That failure of any producer to appear and present evidence at the hearing herein noticed to be held in Salt Lake City, Utah, on January 31, 1938, will not prejudice the case of any producer to be heard upon such application.

6. That the Secretary of the Commission shall forthwith mail a copy of this notice to the Consumers' Counsel, to each known producer of bituminous coal in the State of Utah, and to the secretaries of all of the district boards, and shall cause to be published at the expense of the Commission copy of this order and notice for three (3) days in newspapers of general circulation in the counties of Utah in which bituminous coal is produced.

By order of the Commission.

Dated this 4th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-43; Filed, January 5, 1938; 11:43 a. m.]

[Order No. 173]

AN ORDER PROVIDING FOR A HEARING TO DETERMINE THE NATURE AND EXTENT OF INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF WASHINGTON AND THE EFFECT OF SUCH COMMERCE UPON INTERSTATE COMMERCE IN SUCH COAL, TO BE HELD AT SEATTLE, WASHINGTON, ON FEBRUARY 8, 1938, BEFORE AN EXAMINER, AND NOTICE THEREOF

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon being advised that substantially all transactions in bituminous coal in intrastate commerce within the State of Washington directly affect interstate commerce in such coal and will cause undue and unreasonable advantage, preference or prejudice as between such commerce in Washington on the one hand and interstate commerce in such coal on the other hand as such interstate commerce is provided to be regulated by the Bituminous Coal Act of 1937, and that a hearing to determine the effect of intrastate transactions in bituminous coal upon interstate transactions in bituminous coal in the State of Washington would be desirable, and upon investigation hereby orders:

1. That on February 8, 1938, commencing at the hour of ten (10) o'clock A. M., at the Hearing Room of the Commission in the Olympic Hotel, Seattle, Washington, a public hearing will be held to determine the nature and extent of intrastate commerce in bituminous coal in the State of Washington, and the effect of such commerce upon interstate commerce in such coal and to determine what, if any, undue or unreasonable advantage, preference or prejudice, will exist between localities in Washington in such commerce on the one hand and interstate commerce as regulated by the Bituminous Coal Act of 1937 on the other hand and what, if any, undue, unreasonable or unjust discriminations against interstate commerce in coal have occurred or will occur under the administration of Section 4 of said Act to the end that the Commission may, after hearing, take such action as is necessary to give effect to the Bituminous Coal Code and to the provisions of Section 4-A of said Act.

2. That said hearing will be conducted by an Examiner designated by the Commission.

3. That interested parties may appear and present evidence at such hearing.

4. That any producer believing that particular transactions in intrastate commerce in bituminous coal are not subject to the provisions of the first paragraph of Section 4-A will, subsequent to the final order of the Commission in the proceeding herein noticed, be afforded full opportunity to file an application for exemption as provided in said section, upon which application a hearing will thereafter be held by the Commission upon proper notice given.

5. That failure of any producer to appear and present evidence at the hearing herein noticed to be held in Seattle, Washington, on February 8, 1938, will not prejudice the case of any producer to be heard upon such application.

6. That the Secretary of the Commission shall forthwith mail a copy of this notice to the Consumers' Counsel, to each known producer of bituminous coal in the State of Washington, and to the secretaries of all of the district boards, and shall cause to be published at the expense of the Commission copy of this order and notice for three (3) days in newspapers of general circulation in the counties of Washington in which bituminous coal is produced.

By order of the Commission.

Dated this 4th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-44; Filed, January 5, 1938; 11:43 a. m.]

[Order No. 174]

AN ORDER PROVIDING FOR A PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE TO ENABLE THE COMMISSION TO DETERMINE WHETHER CERTAIN COALS IN THE STATE OF VIRGINIA ARE SUBJECT TO THE PROVISIONS OF THE BITUMINOUS COAL ACT OF 1937, AND FOR THE FURTHER PURPOSE OF HEARING APPLICATIONS FOR EXEMPTION AS PROVIDED FOR BY ORDER NO. 28

Whereas the Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, provides (Section 17 (b)) that "The term 'bituminous coal' includes all bituminous, semi-bituminous, and subbituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more"; and

Whereas the Commission deems it necessary to conduct a public hearing in the State of Virginia for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Virginia are subject to the provisions of the Bituminous Coal Act of 1937, and, further, to hear and determine at the same time all Virginia applications for exemption filed in accordance with or pursuant to Order No. 28;

Now, therefore, in order to determine whether the coal in said state or any part thereof does not come within the definition of "bituminous coal" as set forth in Section 17 (b) of the Act, and in order to hear applications filed in accordance with or pursuant to Order No. 28 of the Commission, the Commission hereby orders and directs:

1. That a public hearing shall be held at the Hearing Room of the Commission in the City of Washington, D. C., on the 17th day of January, 1938, commencing at the hour of ten (10) o'clock A. M., for the purpose of receiving evidence to enable the Commission to determine whether any part of the coal produced in the State of Virginia does not come within the purview of Section 17 (b) of the Act.

2. That the public hearing so provided by this order, at the time and place designated, shall include the hearing of the application for exemption filed by the Anthracite Coal and Briquetting Co., Inc., Pulaski, Virginia, in accordance with or pursuant to the Commission's Order No. 28, and, in addition, any other applications for exemption filed for the State of Virginia in accordance with or pursuant to Order No. 28.

3. That any producer of coal, whether bituminous, semi-bituminous, subbituminous, anthracite, or lignite, or the Consumers' Counsel, or code members, and all other interested parties may appear at said hearing and submit evidence.

4. Notice of said hearing shall be given under the direction of the Secretary of the Commission by mailing a copy of this order to the Consumers' Counsel, to the Commissioner of Internal Revenue, to the Secretaries of District Boards No. 7 and No. 8, to the Anthracite Coal and Briquetting Co., Inc. and to all known producers of coal in Virginia, anthracite or otherwise, and by publication of a notice upon two consecutive days in two newspapers of general circulation in the State of Virginia. The notice published in said newspapers shall contain the date and place of the hearing and a concise statement of the purpose thereof.

By order of the Commission.

Dated this 4th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-45; Filed, January 5, 1938; 11:44 a. m.]

[Order No. 175]

AN ORDER PROVIDING FOR A HEARING TO DETERMINE THE NATURE AND EXTENT OF INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF MONTANA AND THE EFFECT OF SUCH COMMERCE UPON INTERSTATE COMMERCE IN SUCH COAL, TO BE HELD AT BILLINGS, MONTANA, ON FEBRUARY 17, 1938, BEFORE AN EXAMINER, AND NOTICE THEREOF

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon being advised that substantially all transactions in bituminous coal in intrastate commerce within the State of Montana directly affect interstate commerce in such coal and will cause undue and unreasonable advantage, preference or prejudice as between such commerce in Montana on the one hand and interstate commerce in such coal on the other hand as such interstate commerce is provided to be regulated by the Bituminous Coal Act of 1937, and that a hearing to determine the effect of intrastate transactions in bituminous coal upon interstate transactions in bituminous coal in the State of Montana would be desirable, and upon investigation hereby orders:

1. That on February 17, 1938, commencing at the hour of ten (10) o'clock A. M., at the Hearing Room of the Commission in the Northern Hotel, Billings, Montana, a public hearing will be held to determine the nature and extent of intrastate commerce in bituminous coal in the State of Montana, and the effect of such commerce upon interstate commerce in such coal and to determine what, if any, undue or unreasonable advantage, preference or prejudice, will exist between localities in Montana in such commerce on the one hand and interstate commerce as regulated by the Bituminous Coal Act of 1937 on the other hand and what, if any, undue, unreasonable or unjust discriminations against interstate commerce in coal have occurred or will occur under the administration of Section 4 of said Act to the end that the Commission may, after hearing, take such action as is necessary to give effect to the Bituminous Coal Code and to the provisions of Section 4-A of said Act.

2. That said hearing will be conducted by an Examiner designated by the Commission.

3. That interested parties may appear and present evidence at such hearing.

4. That any producer believing that particular transactions in intrastate commerce in bituminous coal are not subject to the provisions of the first paragraph of Section 4-A will, subsequent to the final order of the Commission in the proceeding herein noticed, be afforded full opportunity to file an application for exemption as provided in said section, upon which application a hearing will thereafter be held by the Commission upon proper notice given.

5. That failure of any producer to appear and present evidence at the hearing noticed to be held in Billings, Montana, on February 17, 1938, will not prejudice the case of any producer to be heard upon such application.

6. That the Secretary of the Commission shall forthwith mail a copy of this notice to the Consumers' Counsel, to each known producer of bituminous coal in the State of Montana, and to the secretaries of all of the district boards, and shall cause to be published at the expense of the Commission copy of this order and notice for three (3) days in newspapers of general circulation in the counties of Montana in which bituminous coal is produced.

By order of the Commission.

Dated this 4th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-46; Filed, January 5, 1938; 11:44 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE

JANUARY 4, 1938.

To JONES-NEUHOFF COMMISSION COMPANY,
Macon, Ga.

Whereas Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Jones-Neuhoff Commission Company, at Macon, State of Georgia, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-47; Filed, January 5, 1938; 12:39 p. m.]

NOTICE

JANUARY 4, 1938.

To ROSS SMEED and WALTER SHIMP,
Doing business as Ontario Livestock Commission Company, Ontario, Oreg.

Whereas Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appur-

tenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Ontario Livestock Commission Company, at Ontario, State of Oregon, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-48; Filed, January 5, 1938; 12:39 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

BOND RETIREMENT FUND

Whereas Section 4 (k) of the Home Owners' Loan Act of 1933, as amended May 28, 1935, provides:

• • • All payments upon principal of loans made by the Corporation shall under regulations made by the Corporation be applied to the retirement of the bonds of the Corporation • • •; and

Whereas it is desired to formulate revised regulations (in pursuance of enabling legislation hereinabove referred to) in lieu of and superseding regulations heretofore approved; Therefore

Be it resolved, That, pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Sections 4 (a) and 4 (k) of said Act as amended, for the purpose of this resolution, "principal of loans made by the Corporation" shall be defined to mean:

(a) The principal balance of borrowers', vendees' and transferees' obligations, including all advances charged thereto, and, in cases of reamortization when unpaid accrued interest or other charges are merged with principal, the amount of such unpaid accrued interest or other charges so merged;

(b) The capitalized ledger values of properties, whether owned or in process of acquiring title;

(c) The amount invested by the Corporation in the stock of the Federal Savings and Loan Insurance Corporation, or in securities pursuant to authorization in Section 4 (n) of the Home Owners' Loan Act of 1933, as amended; and

Be it further resolved, That exclusive of interest and dividends on (a) and (c) all cash and bonds applied to principal in the Corporation's accounts shall be available for clearance and deposit to the Bond Retirement Fund heretofore established; and

Be it further resolved, That, where property is redeemed subsequent to foreclosure or is purchased by a third party at foreclosure sale, or where the Corporation sells any of its mortgages or other securities, for amounts less than the total amount due the Corporation (including any unpaid accrued interest), irrespective of whether payment is all cash or part cash and extended terms, the amount of the insufficiency, to the extent of the unpaid accrued interest, shall be treated as a reduction of interest earned, and proper adjustment therefor shall be made before the collection is applied on the books of the Corporation; and

Be it further resolved, That "all payments upon principal • • • be applied to the retirement of the bonds of the Corporation" shall be construed to mean that the cash in the Bond Retirement Fund shall be available to meet maturing principal on outstanding bonds; and further, to make open market purchases of the Corporation's bonds for the Bond Retirement Fund (excluding accrued interest thereon) at net price of par or less than par for cancellation and retirement; discounts realized from cancellation and retirement of the Corporation's bonds purchased at less than par to be credited on the books of the Corporation to an account entitled "Profit from the Operation of the Bond Retirement Fund"; and

Be it further resolved, That the Comptroller is hereby authorized and directed to establish the necessary accounting procedure to control the amounts to be deposited in the Bond Retirement Fund in accordance with the provisions of this resolution, and to issue proper and necessary authorizations or vouchers on or before the twentieth day of each calendar month, showing the amount to be deposited in the Bond Retirement Fund from the accounts for the preceding month; and

Be it further resolved, That the amounts to be made available for the retirement of bonds of the Corporation shall be as is herein provided, and that all resolutions heretofore adopted on the subject are superseded.

Be it further resolved, That all resolutions and regulations heretofore adopted and prescribed which conflict with this resolution are hereby repealed and superseded.

Adopted by the Board of Directors of Home Owners' Loan Corporation on December 21, 1937.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-37; Filed, January 4, 1938; 2:04 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 179]

ALLOCATION OF FUNDS FOR LOANS

JANUARY 3, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Georgia 8017 Burke	$2,000
Georgia 8070W Mitchell	10,000
Iowa 8041W Hancock	10,000
Minnesota 8055 Watonwan	4,000
Minnesota 8065B Dakota	20,000
New Jersey 8004W Monmouth	25,000
Virginia 8022C Caroline	12,000
Wisconsin 8019B Chippewa	3,500
Wisconsin 8019W Chippewa	5,000
Wisconsin 8032W Pierce	15,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-40; Filed, January 5, 1938; 10:07 a. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

YEARLY RENEWABLE TERM INSURANCE

Disabilities Deemed To Be Total and Permanent

R-3140. Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the loss of hearing of both ears, or the organic loss of speech, shall be deemed to be total and permanent disability under yearly renewable term insurance and automatic insurance. Monthly instalments of insurance for any of these specifically enumerated causes of total and permanent disability shall accrue from the date of such total and permanent disability, and any premiums paid after the date of such total and permanent disability shall be refunded without interest. (August 16, 1937.) (Public, No. 304, 75th Congress.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38-38; Filed, January 4, 1938; 3:21 p. m.]

Friday, January 7, 1938 *No. 5*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49324]

CUSTOMS REGULATIONS AMENDED—DENATURING VEGETABLE OILS

DISCONTINUING THE USE OF OIL OF EUCALYPTUS AS AN APPROVED DENATURANT FOR CERTAIN OILS SPECIFIED IN PARAGRAPH 1732 OF THE TARIFF ACT OF 1930

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in paragraph 1732 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1201, par. 1732), paragraph (d) of article 460 of the Customs Regulations of 1937 is hereby amended by deleting item (14) thereof.

The use of oil of eucalyptus alone as an approved denaturant shall be immediately discontinued except that any importer who has used such denaturant heretofore may, at his request and in the discretion of the collector, be permitted to continue its use for such purpose for a period not to exceed 30 days after the date of the publication of this letter in the weekly Treasury Decisions.

Oil of eucalyptus is regarded as a "suitable essential or distilled oil" within the meaning of article 460 (d) (12), Customs Regulations of 1937.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, December 31, 1937.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-50; Filed, January 6, 1938; 9:27 a. m.]

Office of the Secretary.

[1938—Department Circular No. 1]

VALUES OF FOREIGN MONEYS

JANUARY 1, 1938.

Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning January 1, 1938, expressed in any such foreign monetary units: *Provided, however*, That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate, as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

Country	Monetary unit	Value in terms of U. S. money	Remarks
Argentine Republic	Peso	$1.6335	Given valuation is of gold peso. Paper nominally convertible at 44% of face value. Conversion suspended Dec. 16, 1929.
Australia	Pound	8.2397	Control of gold stocks and exports authorized Dec. 17, 1929.
Austria	Schilling	.2382	Exchange control established Oct. 9, 1931.
Belgium	Belga	.1695	By decree of Mar. 31, 1936. One belga equals 5 Belgian francs.
Bolivia	Boliviano	.0180	Conversion of notes into gold suspended Sept. 23, 1931.
Brazil	Milreis	.0000	Conversion of Stabilization-Office notes into gold suspended Nov. 22, 1930.
British Honduras	Dollar	1.6931	Conversion of notes suspended.
Bulgaria	Lev	.0122	Exchange control established Oct. 15, 1931.
Canada	Dollar	1.6931	Embargo on export of gold, Oct. 19, 1931; redemption of Dominion notes in gold suspended Apr. 10, 1933.
Chile	Peso	.2060	Given valuation is of gold peso. Gold pesos are received for conversion at the rate of 4 paper pesos for one gold peso. Conversion of notes suspended July 30, 1931.
China	Yuan		Silver standard abandoned by decree of Nov. 3, 1935; bank notes made legal tender under Currency Board control; exchange rate for British currency primarily fixed at about 1 s. 2½ d., or about 29½¢ U. S., per yuan.
Hong Kong	Dollar		Treasury notes and notes of the three banks of issue made legal tender by silver nationalization ordinance of Dec. 5, 1935; exchange fund created to control exchange rate.
Colombia	Peso	1.6479	Obligation to sell gold suspended Sept. 24, 1931.
Costa Rica	Colon	.7879	Conversion of notes into gold suspended Sept.18, 1914; exchange control established Jan. 16, 1932.
Cuba	Peso	1.0000	By law of May 25, 1934.
Czechoslovakia	Koruna	.0351	By decree of Oct. 9, 1936.
Denmark	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Dominican Republic	Dollar	1.6931	U. S. money is principal circulating medium.
Ecuador	Sucre	.3386	Conversion of notes into gold suspended Feb. 9, 1932.
Egypt	Pound (100 piasters)	8.3692	Conversion of notes into gold suspended Sept. 21, 1931.
Estonia	Kroon	.4537	Conversion of notes into gold suspended June 28, 1933.
Finland	Markka	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
France	Franc		Provisions of Monetary law of Oct. 1, 1936, providing for gold content of franc, superseded by decree of June 30, 1937 which stated that the gold content of the franc shall be fixed ultimately by a decree adopted by the Council of Ministers. Until issuance of such decree a stabilization fund shall regulate the relationship between the franc and foreign currencies.
Germany	Reichsmark	.4033	Exchange control established July 13, 1931.
Great Britain	Pound Sterling	8.2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Greece	Drachma	.0220	Conversion of notes into gold suspended Apr. 26, 1932.
Guatemala	Quetzal	1.6931	Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Honduras	Lempira	.8466	Gold exports prohibited Mar. 27, 1931; lempira circulates as equivalent of half of U. S. dollar.
Hungary	Pengo	.2961	Exchange control established July 17, 1931.
India [British]	Rupee	.6180	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Indo-China	Piaster	.6633	Piaster pegged to French franc at the rate of 1 piaster=10 French francs. Information with regard to the relationship of piaster to franc subsequent to Sept. 25, 1936, not yet available.
Irish Free State	Free State Pound	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Italy	Lira	.0526	New gold content of 46.77 milligrams of fine gold per lira established by monetary law of Oct. 5, 1936.
Japan	Yen	.4440	Embargo on gold exports Dec. 13, 1931.
Latvia	Lat		Currency pegged to sterling Sept. 28, 1936, at 2.522 lati = £100.
Liberia	Dollar	1.6931	British money is principal circulating medium.
Lithuania	Litas	.1693	Free export of gold suspended Oct. 1, 1935.
Mexico	Peso		Decree of Aug. 28, 1936, left the monetary unit, the peso, to be later defined by law.

Country	Monetary unit	Value in terms of U. S. money	Remarks
Netherlands and colonies	Guilder (florin)	.6806	Suspension of convertibility of notes into gold and restrictions placed on free gold exports—Sept. 26, 1936
Newfoundland	Dollar	1.0331	Newfoundland and Canadian notes legal tender.
New Zealand	Pound	8.2397	Conversion of notes into gold suspended and export of gold restricted, Aug. 5, 1914; exchange regulations Dec. 1931.
Nicaragua	Cordoba	1.0933	Embargo on gold exports Nov. 13, 1931.
Norway	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Panama	Balboa	1.0933	U. S. money is principal circulating medium.
Paraguay	Peso (Argentine)	1.0335	Paraguayan paper currency is used; exchange control established June 28, 1932.
Persia (Iran)	Rial	.0824	Obligation to pay out gold deferred Mar. 13, 1932; exchange control established Mar. 1, 1936.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932.
Philippine Islands	Peso	.5000	By act approved Mar. 16, 1935.
Poland	Zloty	.1899	Exchange control established Apr. 27, 1936.
Portugal	Escudo	.0749	Gold exchange standard suspended Dec. 31, 1931.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Salvador	Colon	.8466	Conversion of notes into gold suspended Oct. 7, 1931.
Siam	Baht (Tical)	.7491	Conversion of notes into gold suspended May 11, 1932.
Spain	Peseta	.3267	Exchange control established May 18, 1931.
Straits Settlements	Dollar	.9613	British pound sterling and Straits dollar and half dollar legal tender.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Switzerland	Franc		Order of Federal Council enacted Sept. 27, 1936, instructed the Swiss National Bank to maintain the gold parity of the franc at a value ranging between 190 and 215 milligrams of fine gold.
Turkey	Piaster	.0744	100 piasters equal to the Turkish £; conversion of notes into gold suspended 1916; exchange control established Feb. 26, 1930.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Republics	Chervonetz	8.7123	On Oct. 28, 1936, the Council of People's Commissars issued a decree fixing the value of the ruble in foreign exchanges at 4¼ French francs.
Uruguay	Peso	1.7511	Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931.
Venezuela	Bolivar	.3267	Premium on foreign currencies established Aug. 29, 1934, by agreement of banks.
Yugoslavia	Dinar	.0298	Exchange control established Oct. 7, 1931.

[F. R. Doc. 38–51; Filed, January 6, 1938; 9:27 a. m.]

FEDERAL DEPOSIT INSURANCE CORPORATION.

RESOLUTION REQUIRING REPORT OF CONDITION AND ANNUAL REPORT OF EARNINGS AND DIVIDENDS BY EACH INSURED STATE NONMEMBER BANK

Paragraph (3) of subsection (k) of Section 12B of the Federal Reserve Act, as amended, provides as follows:

Each insured State nonmember bank (except a District bank) shall make to the Corporation reports of condition in such form and at such times as the board of directors may require. The board of directors may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, not less than five days, as the board of directors may require, shall be subject to a penalty of not more than $100 for each day of such failure recoverable by the Corporation for its use.

Pursuant to the provisions of paragraph (3) of subsection (k) of Section 12B of the Federal Reserve Act, as amended, be it resolved that each insured State nonmember bank, except a District bank, be, and hereby is, required to submit to the Federal Deposit Insurance Corporation within ten days after receipt of notice of this resolution a report of its condition as of the close of business Friday, December 31, 1937, on Form No. 64, Call No. 8, and a report of earnings and dividends for the year ending December 31, 1937 on Form 73. Said report of condition and said report of earnings and dividends shall be prepared in accordance with the instructions set forth in a booklet entitled "Instructions for the Preparation of Reports of Condition on Form 64 and Reports of Earnings and Dividends on Form 73."[1]

Adopted by the Board of Directors of the Federal Deposit Insurance Corporation on January 4, 1938.

[SEAL] AGNES C. MURPHY,
Acting Secretary.

[F. R. Doc. 38–49; Filed, January 5, 1938; 1:51 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

NOTICE CONCERNING COMPILATION OF WEIGHTED AVERAGE OF TOTAL COSTS OF ASCERTAINABLE TONNAGE PRODUCED DURING CALENDAR YEAR 1936

Notice is hereby given that the weighted average of the total costs of the ascertainable tonnage produced during the calendar year 1936 in each of the twenty-two districts within the jurisdiction of the Commission, adjusted as provided in Section 4, Part II (a) of the Bituminous Coal Act of 1937, has been compiled in composite form in such manner as shall not be injurious to the interests of any producer, and is on file and available for inspection by interested parties at the office of the Secretary of the Commission, in Washington, D. C.

By order of the Commission.

Dated this 5th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–53; Filed, January 6, 1938; 12:24 p. m.]

[Order No. 176]

AN ORDER REQUIRING REPORTS FROM CODE MEMBERS OF COAL PRODUCED AND SOLD BY EACH CODE MEMBER FOR USE IN RAILROAD LOCOMOTIVES

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs as follows:

1. That each code member shall file with the Commission a report fully setting forth the amount, if any, of bituminous coal produced and sold by him directly or indirectly to any railroad or to any person for resale to any railroad for use in railroad locomotives as more fully set forth and specified in Commission's Form N. B. C. C. No. 232–ST, "Report by Code Members Covering Shipment of Bituminous Coal For Use in Railroad Locomotives for the Period January 1, 1937 through December 31, 1937."

2. That the said report shall be filed in duplicate, setting forth on a separate report the shipments to each railroad from each mine.

VALUES OF FOREIGN MONETARY UNITS (AT PAR AS REGARDS GOLD UNITS; NONGOLD UNITS HAVE NO FIXED PAR WITH GOLD)

3. That any code member who, during the period covered by this report, sold no coal either directly or indirectly for use in railroad locomotives shall so indicate on the said form and shall file the same as herein prescribed.

4. That each code member shall, within ten (10) days from the date of this order, mail, postage prepaid, the required report, duly verified, to the Commission at the following address:

National Bituminous Coal Commission
Attention: Statistical Division
Washington, D. C.

5. That the Secretary of the Commission shall forthwith cause to be mailed a copy of this order together with the necessary forms to each code member and shall make available to code members additional copies of said forms at the office of each of the statistical bureaus of the Commission.

By order of the Commission.

Dated this 5th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–52; Filed, January 6, 1938; 12:24 p. m.]

[1] Forms and Instructions were a part of the original document filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Federal Deposit Insurance Corporation.

Saturday, January 8, 1938 *No. 6*

WAR DEPARTMENT.

MODIFICATION OF REGULATIONS GOVERNING OPERATION OF DRAWBRIDGE OWNED AND OPERATED BY THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY, CALIFORNIA, ACROSS SAN LEANDRO BAY, BETWEEN ALAMEDA AND BAY FARM ISLAND

THE LAW

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 2 F. R. 2422.*]

THE REGULATIONS

The rules and regulations governing the operation of the drawbridges crossing all navigable waters of the United States within the State of California, prescribed by the Secretary of War on the date of March 4, 1936, are hereby modified as follows:

1. Between the hours of 9 p. m. and 5 a. m. throughout the year the drawbridge across San Leandro Bay between Alameda and Bay Farm Island, owned and operated by the Board of Supervisors of Alameda County need not be opened for the passage of water craft.

2. A copy of these regulations shall be conspicuously posted on both the upstream and downstream sides of the bridge in a manner so that it can be easily read at any time.

Approved, December 28, 1937.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38–56; Filed, January 7, 1938; 10:18 a. m.]

SPECIAL REGULATIONS TO GOVERN OPENING OF DRAWBRIDGE OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY ACROSS SONOMA CREEK AT WINGO, CALIFORNIA

Supplemental to Rules and Regulations to Govern the Operation of the Drawbridges Crossing all Navigable Waterways of the United States Within the State of California

THE LAW

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 2 F. R. 2422.*]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the opening of the drawbridge of the Northwestern Pacific Railroad Company across Sonoma Creek at Wingo, California:

1. The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance at the above-named bridge.

2. Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can be easily read at any time, a copy of these regulations, together with a notice stating exactly how the representative specified in paragraph 2 may be reached.

5. The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These special regulations shall be in force on and after the date of approval hereof.

Approved, December 28, 1937.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38–57; Filed, January 7, 1938; 10:18 a. m.]

DEPARTMENT OF THE INTERIOR.

General Land Office.

AIR NAVIGATION SITE WITHDRAWAL NO. 116—WYOMING

DECEMBER 27, 1937.

It appearing that the following-described tract of public land in Wyoming is necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and section four of the act of May 24, 1928 (45 Stat. 728), that such land be, and it is hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

T. 21 N., R. 86 W., 6th P. M., sec. 10, SW¼, 160 acres.

And it is further ordered that departmental order of October 31, 1936, establishing Wyoming Grazing District No. 3, under the above-mentioned act of June 28, 1934, as amended, be, and it is hereby, modified in so far as it affects the herein-described tract and made subject to the withdrawal made by this order.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–55; Filed, January 7, 1938; 10:18 a. m.]

National Bituminous Coal Commission.

[Docket No. 131–FD]

IN THE MATTER OF PETITION OF CONSUMER'S COUNSEL IN BEHALF OF PROVIDENCE GAS COMPANY

TEMPORARY ORDER

John Carson, as Consumers' Counsel, for and on behalf of the Providence Gas Company, Providence, Rhode Island, having on the 22nd day of December, 1937, filed a petition

with the National Bituminous Coal Commission, pursuant to the provisions of Section 4, Part II (d) of the Act, alleging dissatisfaction with certain of the minimum prices established for coals of Code Members produced within District No. 7, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition, and it appearing to the Commission that petitioner has made reasonable showing of necessity for the granting of the temporary relief prayed for therein,

Now, therefore, the National Bituminous Coal Commission pursuant to the provisions of subsection (d) of Part II of Section 4 of the Bituminous Coal Act of 1937 hereby orders:

(1) That pending final disposition of the aforesaid petition, and/or until further order of the Commission, the Schedules of Minimum Prices for coals of Code Members produced within District No. 7, and any and all supplements thereto, established for said district, be and the same hereby are modified and revised to contain the following provision as if the same were fully set forth therein:

"Low volatile coals sold and used for by-product purposes moving through tidewater for delivery and consumption at Providence, Rhode Island (within Market Area No. 1), shall take a minimum price of $2.00 per net ton f. o. b. mine."

(2) That except as herein temporarily revised, the minimum price schedules and supplements thereto, established for District No. 7, shall remain in full force and effect.

(3) That the aforesaid petition is hereby set for hearing before the Commission in the Hearing Room of the National Bituminous Coal Commission at Washington, D. C., on the 17th day of January, 1938, at 10 o'clock a. m. at which time and place all interested parties will be afforded an opportunity to be heard.

(4) That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers Boards, to Code Members within District No. 7, and to the Providence Gas Company; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and with all Statistical Bureaus of the Commission, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By Order of the Commission:

Dated this 6th day of January, 1938.

[SEAL] F. W. McCULLOUGH, *Secretary.*

[F. R. Doc. 38-70; Filed, January 7, 1938; 12:26 p. m.]

[Docket No. 132-FD]

IN THE MATTER OF SAHARA COAL COMPANY

TEMPORARY ORDER

The Sahara Coal Company having filed with the Commission a petition alleging dissatisfaction with certain of the minimum prices of coals of Code Members produced within District No. 10 as set forth in Supplement No. 1 to Price Schedule No. 1—District No. 10, determined and established by the Commission by its Order No. 133, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition, and this matter having been heard on the 27th day of December, 1937, and it appearing to the Commission that the petitioner has made reasonable showing of the necessity for granting of a temporary order:

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition, and/or until further order of the Commission, that Supplement No. 1 to Price Schedule No. 1—District No. 10, of the schedule of minimum prices for coals of Code Members produced within District No. 10, be and the same is temporarily revised and amended by adding thereto base size Group 3/8" x 4 mesh, untreated, to Size Group No. 8 on page 4 of Supplement No. 1 to Price Schedule No. 1—District No. 10, and that this base group 3/8" x 4 mesh, untreated, may be sold at a price 20 cents per net ton lower than the price established for the No. 8 A size.

2. That except as herein temporarily revised, the minimum price schedules and supplements thereto, established for District No. 10, shall remain in full force and effect.

3. That a hearing on said petition will be noticed on further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of the Bituminous Coal Producers' Boards, to the petitioner and to the Code Members within District No. 10; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission, and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of January, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-61; Filed, January 7, 1938; 12:24 p. m.]

[Docket No. 134-FD]

IN THE MATTER OF BOONE COUNTY COAL CORPORATION

NOTICE OF HEARING

A petition having been filed with this Commission by Boone County Coal Corporation, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by Boone County Coal Corporation, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 8, the above entitled proceeding is assigned for hearing on January 13, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 6, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-65; Filed, January 7, 1938; 12:25 p. m.]

[Docket No. 135-FD]

IN THE MATTER OF THE POWHATAN MINING COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by The Powhatan Mining Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by The Powhatan Mining Company, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 4, the above entitled proceeding is assigned for hearing on January 12, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., where opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 5, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-64; Filed, January 7, 1938; 12:25 p. m.]

[Docket No. 137-FD]

IN THE MATTER OF PITTSBURGH TERMINAL COAL CORPORATION

NOTICE OF HEARING

A petition having been filed with this Commission by Pittsburgh Terminal Coal Corporation, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by Pittsburgh Terminal Coal Corporation, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, the above entitled proceeding is assigned for hearing on January 12, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 5, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-67; Filed, January 7, 1938; 12:26 p. m.]

[Docket No. 138-FD]

IN THE MATTER OF PITTSBURGH COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Pittsburgh Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by Pittsburgh Coal Company, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, the above entitled proceeding is assigned for hearing on January 12, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 5, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-63; Filed, January 7, 1938; 12:24 p. m.]

[Docket No. 141-FD]

IN THE MATTER OF UNION COLLIERIES COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Union Collieries Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by Union Collieries Company, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, the above entitled proceeding is assigned for hearing on January 12, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 5, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-66; Filed, January 7, 1938; 12:25 p. m.]

[Docket No. 142-FD]

IN THE MATTER OF MARTEN A. REIBER, RECEIVER, BUTLER CONSOLIDATED COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Marten A. Reiber, Receiver, Butler Consolidated Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by Marten A. Reiber, Receiver, Butler Consolidated Coal Company, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, the above entitled proceeding is assigned for hearing on January 12, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 5, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-60; Filed, January 7, 1938; 12:24 p. m.]

[Docket No. 143-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 16

TEMPORARY ORDER

The Bituminous Coal Producers Board for District No. 16, having on the 4th day of January, 1938, filed a petition with the National Bituminous Coal Commission pursuant to the provisions of Section 4, Part II (d) of the Act alleging dissatisfaction with certain of the minimum prices established for coals of code members within District No. 16 and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition, and it appearing to the Commission that petitioner having made reasonable showing of the necessity for the granting of the temporary relief prayed for therein,

Now, therefore, the National Bituminous Coal Commission pursuant to the provisions of sub-section (d) of Part II of Section 4 of the Bituminous Coal Act of 1937 hereby orders:

1. That pending final disposition of the aforesaid petition, and/or until further order of the Commission the Schedule of Minimum Prices for coals of Code Members produced within District No. 16, be and the same hereby is modified and revised to contain the following provisions as if the same were fully set forth therein:

"In the case of coals sold for Railroad Locomotive fuel, the Minimum Prices shall be as follows: Lump or Egg, $2.57 per ton; Mine Run, $2.20 per ton."

2. That except as herein temporarily revised, the Minimum Price Schedule established for coals of code members produced within District No. 16, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel; the secretaries of the Bituminous Coal Producers Boards for the districts within Minimum Price Area No. 6 and to code members within District No. 16; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of January, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary.*

[F. R. Doc. 38-69; Filed, January 7, 1938; 12:26 p. m.]

[Order No. 177]

AN ORDER RESCINDING ORDER NO. 169 ENTITLED "AN ORDER TEMPORARILY REVISING THE SCHEDULE OF PRICES ESTABLISHED FOR DISTRICT NO. 8, IN SO FAR AS THE SAME RELATE TO COALS USING NEW RIVER POCAHONTAS GROUP FREIGHT RATES AS BASE INTO MARKET AREAS 40, 41 AND 42"

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That Order No. 169 of the Commission, entered on December 22, 1937, and entitled "An Order temporarily revising the schedule of prices established for District No. 8, in so far as the same relate to coal using the New River Pocahontas Group freight rates as base into Market Areas 40, 41 and 42", and providing that "Code member mines in District No. 8 having freight rates in excess of the New River Pocahontas Group rates may absorb the exact amount of the differential not exceeding 35¢ per ton into Market Areas 40, 41 and 42. The foregoing provision shall supersede any other provision contained herein to the contrary notwithstanding", be and the same is hereby rescinded.

2. That the minimum prices established for coals of code members within District No. 8, by Order No. 96 as modified by Orders Nos. 132, 157 and 164, shall remain in full force and effect.

3. That the Secretary shall forthwith mail copies of this Order to the Consumers' Counsel; the secretaries of the Bituminous Coal Producer's Board for the districts within Minimum Price Area One; to code members within District No. 8; shall cause copies of this order to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-68; Filed, January 7, 1938; 12:26 p. m.]

[Order No. 178]

AN ORDER EMPOWERING ALL DISTRICT BOARDS TO TAKE SAMPLES OF COALS PRODUCED AT MINES OF CODE MEMBERS FOR THE PURPOSE OF SECURING ANALYSES OF SUCH SAMPLES

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs as follows:

For the purpose of proposing initial classification or reclassification of coals produced at the mines of Code Members within the several districts, all District Boards are hereby authorized to take through duly accredited representatives, samples of coal produced at the mines of Code Members within their respective Districts and secure analyses of such samples in accordance with the provisions of and in the manner provided by subsections 3, 4 and 5 of Section E of Order No. 38 of the Commission.

The Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, to the Secretaries of all District Boards and to all Code Members within the respective Districts.

By order of the Commission.

Dated this 6th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-62; Filed, January 7, 1938; 12:24 p. m.]

National Park Service.

RULES AND REGULATIONS AMENDED

FEEDING, ETC., OF BEARS

Pursuant to the authority granted to the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535), as amended, regulation No. 24 of the National Park Service Rules and Regulations approved June 18, 1936 (1 F. R. 672, 676), is hereby amended so as to read as follows:

"The feeding, touching, teasing, or molesting of bears is prohibited."

Approved, December 22, 1937.

[SEAL] HAROLD L. ICKES, *Secretary of the Interior.*

[F. R. Doc. 38-54; Filed, January 7, 1938; 10:18 a. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly.

[Docket No. DI-134]

APPLICATION OF WISCONSIN PUBLIC SERVICE CORPORATION

ORDER CONTINUING DATE OF HEARING

JANUARY 6, 1938.

Upon application of Adolph Kanneberg of counsel for Orland S. Loomis, Attorney General of the State of Wisconsin, made by telegram dated January 5, 1938, for a continuance of the hearing now set for January 10, 1938, in the matter of the Declaration of Intention filed May 27, 1937, by the Wisconsin Public Service Corporation of Milwaukee, Wisconsin, and for good cause shown;

The Commission orders:

That the hearing of said matter be and is hereby continued to February 10, 1938, at 10 a. m. in the Commission's hearing room in the Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-58; Filed, January 7, 1938; 10:55 a. m.]

INTERSTATE COMMERCE COMMISSION.

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of December, A. D. 1937.

ORDER IN THE MATTER OF REGULATIONS TO GOVERN THE DESTRUCTION OF RECORDS OF STEAM ROADS, ISSUE OF 1914

It is ordered, That the Regulations to Govern the Destruction of Records of Steam Roads, Issue of 1914, be and the same are hereby amended as follows:

DESCRIPTION OF ACCOUNTS; PERIOD TO BE RETAINED

14. Contracts and agreements:

(*b*) Contracts, leases, and agreements, except those provided for in item 184 (Permanently).

32. Unsettled waybills:

(*a*) Record of unsettled waybills, waybills in suspense, etc.

(*b*) Tracers and supporting papers concerning unsettled freight waybills (1 year after disposition until receipt of settlement).

50. Distribution of labor expenditures:

Journals, ledgers, or other records showing the detailed distribution of labor expenditures charged to all accounts, including memoranda and memorandum recapitulation sheets (5 years).

51. Pay-roll records:

(*b*) Applications and authorities for changes in pay-rolls (4 years).

(*e*) Receipted pay checks, receipted time tickets, certificates issued for wages, discharge tickets, and other evidences of payments for services rendered by employees (5 years). (See items 19e, g.)

(*g*) Comparative or analytical statements of pay rolls (Optional).

54. Distribution of expenditures for material and supplies:

Journals, ledgers, or other records and memoranda showing the detailed distribution of expenditures for materials and supplies chargeable to all accounts, including memorandum recapitulation sheets (5 years).

55. Vouchers:

(*a*) Register of audited vouchers and indexes thereto (15 years).

(*c*) Paid and canceled vouchers, audit office copies of vouchers, and supporting papers (15 years).

56. Bills collectible:

(*a*) Register of bills collectible (or accounts receivable bills) and indexes thereto (15 years).

(*b*) Audit office copies of bills issued for collection, and supporting papers which do not accompany the original bills (5 years).

57. Road and equipment records:

(*d*) Records, reports, statements, and memoranda showing the details of all debits and credits on account of the cost of road and equipment property, such as labor and material distribution sheets, copies of individuals' and companies' bills, time books, time tickets, work orders, job tickets, check rolls, material requisitions, and similar records if full details are transcribed into records covered by items (*a*) to (*c*) above (3 years).

(*e*) Records, reports, statements, and memoranda showing the details of all debits and credits on account of the cost of road and equipment property, such as labor and material distribution sheets, copies of individuals' and companies' bills, time books, time tickets, work orders, job tickets, check rolls, material requisitions, and similar records if full details are not transcribed into records covered by items (*a*) to (*c*) above (15 years).

58. Special authorities for expenditures:

(*b*) Detail records and memoranda used in preparation of estimates, if summarized in records covered by item (*a*) above (Optional).

90. Tariffs and other rate authorities:

(*a*) Tariffs, classifications, division sheets, and circulars in which the carriers are interested relative to the transportation of persons or property, in the general files of the traffic or other department in which the complete official file is maintained (4 years after expiration or cancellation).

(*c*) Applications for and file copies of special-rate orders authorizing the sale of passenger fare tickets at reduced rates (3 years).

(*e*) Written requests on carrier from persons and companies for quotations of rates and copies of carrier's quotations (Optional).

(*f*) Copies of concurrences filed with the Interstate Commerce Commission and with other regulating bodies (2 years after cancellation).

(*g*) Authorities for the transportation of property, free or at reduced rates, and supporting papers (4 years).

(*h*) Correspondence and working papers in connection with the making of rates and compilation of tariffs, classifications, division sheets, and circulars affecting the transportation of persons or property (4 years after cancellation of tariff, etc.).

94. Ticket records:

(*b*) Record of ticket stock received, issued, and destroyed (3 years).

95. Baggage check records:

(*b*) Record of baggage, parcel and storage checks received, (distributed and destroyed) (3 years).

96. Tickets and checks:

(*d*) Used caretakers' tickets (3 years).

(*h*) Redeemed tickets, redeemed mileage and scrip book covers, and redeemed credentials (6 months).

110. Material ledgers:

(*a*) Records of material and supplies on hand (10 years).

111. Purchases and sales:

(*a*) Copies of orders for the purchase of materials and supplies (3 years).

(*b*) Invoices for materials and supplies purchased whether attached to vouchers or filed separately (see item 55c) and records or reports of such invoices (15 years).

(*e*) Contracts for the purchase or sale of materials and supplies (6 years).

(*i*) Freight bills covering charges on materials and supplies (6 years).

113. Materials and supplies received:

(*a*) Records or reports of materials and supplies received by carriers (15 years).

(*b*) Records of inspecting and testing materials and supplies (1 year).

(*c*) Records of materials and supplies released and returned to stock (3 years).

114. Materials and supplies issued:

(*a*) Records and reports of material and supplies issued (6 years).

(*b*) Records and reports of materials and supplies transferred from one department or division to another (3 years).

(*c*) Requisitions and receipts for materials and supplies issued (1 year).

116. Manufactured stock:

(*b*) Records and reports of manufactured stock (6 years).

117. Oil and waste reports and records, except requisitions covered by item 114c (2 years).

118. Company fuel:

(*a*) Detailed record of fuel purchased (15 years).

(*b*) Reports and record of fuel delivered to coaling stations (3 years).

(*f*) Reports and records showing the detailed distribution of expenditures for fuel chargeable to all accounts, including coaling station balance sheets (10 years).

168. Locomotive mileage:

(*a*) Records of movement of locomotives (3 years).

171. Passes and free tickets:

(*a*) Copies of orders on print-houses for pass stock (3 years).

(*b*) Records of pass stock received, distributed, and destroyed (3 years).

(*c*) Requests for passes; copies or stubs of requests for passes; and receipts for passes (3 years).

(*d*) Records of passes issued (3 years).

(*e*) Records of passes received from other carriers (3 years).

(*f*) Stubs of trip passes (3 years).
(*g*) Pass identification slips (See item 172f) (2 years).
(*i*) Trip and telegraphic passes collected (2 years).
(*j*) Free passenger fare tickets collected (2 years).
(*m*) Records of free passenger fare tickets issued (3 years).
(*n*) Conductors' reports of passes collected or honored (2 years). (See item 172e)

172. Conductors' passenger and freight and dining car reports:

(*b*) Reports of cash collections, if not transcribed to records covered by item 35 (3 years).
(*d*) Reports of passengers carried, or of tickets, mileage coupons, etc. collected or honored (2 years).
(*e*) Reports of passes honored or collected (2 years). (See item 171n)
(*f*) Pass identification slips (2 years). (See item 171g)
(*h*) Reports of passengers handled in sleeping and parlor cars (2 years).
(*k*) Conductors' monthly balance sheets and supporting papers (4 years).

179. Property protection:

Reports and records in connection with the prevention of loss and damage to freight shipments (3 years).

180. Freight records:

(*a*) Agents' records or registers of waybills made and received (5 years).
(*b*) Agents' records of adjustments on freight waybills (5 years).
(*c*) Transfer records of freight received from and delivered to connecting carriers (5 years).
(*d*) Records of and receipts for delivery of freight to consignees and connecting carriers (5 years).
(*e*) Orders from consignees for delivery of freight (3 years).
(*g*) Orders for the reconsignment of freight (3 years).

181. Freight reports:

(*c*) Passing reports at junction points of through waybills forwarded to and received from connecting carriers (1 year).
(*e*) Reports of shipments received or forwarded, not covered by waybills, such as coal, ore, etc. (3 years).

187. Freight loading records:

(*f*) Records of unloading of cars, showing by whom unloaded and when and by whom inspected (6 years).

189. Ticket records:

(*a*) Records of tickets received, sold, and on hand (3 years).
(*c*) Records of adjustments and corrections on ticket reports (3 years).

190. Ticket reports:

Reports of sale of tickets, sale of mileage books, collection for excess baggage, etc. (3 years). (For duplicates, see item 251a.)

192. Baggage records:

(*b*) Baggage waybills and manifests (2 years).
(*c*) Records of excess and C. O. D. baggage checks issued (2 years).
(*d*) Releases for baggage in bad order (2 years).

193. Miscellaneous collections by agents:

Records and reports of overcollection of freight and other charges (with record of refund or disposition); sale of unclaimed freight, sale of water; icing, weighing, reconsignment, loading, and unloading charges; garnishee fees, etc. (4 years). (For duplicates see item 215a.)

202. Car records and reports:

(*a*) Records and cars received, forwarded, and on hand (3 years).
(*b*) Records of cars received from and delivered to connecting carriers (3 years).
(*c*) Reports of cars received, forwarded, and on hand and wanted, including interchange with connecting lines (3 years).

204. Card waybills:

(*a*) Card waybills, when used as revenue billing (3 years).
(*b*) Card waybills, when shipments are covered by other revenue waybills (1 year).

210. Reports to Interstate Commerce Commission and other regulating bodies:

(*k*) Reports to regulating bodies regarding expenditures of proceeds from sale of authorized securities, file copies of, and supporting papers (10 years).

NOTE.—The supporting papers referred to in item 210 are those requisite to support the reports named, and not elsewhere provided for in these regulations. If figures for such reports are assembled on memorandum sheets, such sheets constitute a part of the supporting papers and shall be retained accordingly.

212. Monthly or other periodical statements of general balance sheet, income, and profit and loss accounts, comparative or otherwise (5 years).

213. Monthly or other periodical statements of revenues and expenses, comparative or otherwise, and analyses of increases and decreases (5 years).

214. Monthly or other periodical statements of tonnage handled, by tons, ton-miles, commodities, divisions, or otherwise (5 years).

215. Monthly or other periodical statements of car-miles, train-miles, and movements of freight and passenger cars (5 years).

216. Monthly or other periodical statements of performances of locomotives (5 years).

217. Monthly or other periodical statements of employees by duties, days, compensation, or otherwise (5 years).

218. Monthly or other periodical statements of passenger traffic, by number of passengers, passenger-miles, divisions, or otherwise (5 years).

238. Demurrage and storage:

(*b*) Reports and statements to carriers of demurrage and storage, and file copies thereof (3 years).
(*c*) Reports from agents of carriers of accruals of demurrage and storage charges, of cars received, placed, and released, of constructive placement, etc. (3 years).

258. Store door pick-up and delivery records:

(*a*) A manifest detailing shipments delivered to freight station by consignor or consignor's authorized drayman on which an allowance is authorized in lieu of pick-up service. (Statement of drayage allowance due shipper or consignee.) (5 years for the copies in agents' files.)
(*b*) Station record of all C. O. D. shipments received and all C. O. D. "Interline" shipments billed (5 years for original; 5 years for office copy; optional for other copies).
(*c*) A manifest of shipments to be delivered by drayman. (Record of delivery service shipments.) (5 years for original; optional for agents' copy.)
(*d*) A manifest of shipments to be picked up by drayman. (Record of pick-up shipments.) (5 years for agents' copy.)
(*e*) A C. O. D. pouch to inclose shipper's invoice and fasten to original waybill (Optional at point of delivery).
(*f*) Notice to consignees of tender of delivery (5 years for duplicate attached to agents' delivery receipts.)
(*g*) Monthly summary of drayage charges paid (5 years for original; 5 years for office copy).
(*h*) Summary of manifest forms (c) and (d) Pick-up and Delivery Service shipments (5 years for agents' originals).
(*i*) Monthly report by agents covering handling of L. C. L. freight at pick-up and delivery stations (No minimum) (5 years for original; 5 years for copy for station file; optional for other copies).
(*j*) Monthly report by agents covering handling of L. C. L. freight at pick-up and delivery stations (With minimum) (5 years for original; 5 years for copy for station file; optional for other copies).
(*k*) Monthly report by agents covering handling of L. C. L. freight at non-pick-up and delivery stations (5 years for original; 5 years for copy for station file; optional for other copies).
(*l*) Pick-up service call sheet (5 years for agents' copy).
(*m*) Card form patrons authority for service desired (Cartage authorities) (5 years after cancellation).

It is further ordered, That the words "Extra fare tickets, water tickets, bridge toll tickets" be and they are hereby added to item 96 (a);

It is further ordered, That the words "See item 57" be and they are hereby eliminated from items 51 (a), 53, 55 (b), 112 (a), 130, 131, 150 (a), 150 (c), 152, 156, 201 (a), and 201 (b);

It is further ordered, That the general heading for items 180 to 206, inclusive, be and it is hereby modified to read "Agencies, Yards, and Accounting Bureaus";

It is further ordered, That this order shall become effective on January 1, 1938.

By the Commission, Division 4:

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-59; Filed, January 7, 1938; 12:15 p. m.]

Tuesday, January 11, 1938 *No. 7*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 4601 OF MARCH 1, 1927, PRESCRIBING REGULATIONS PERTAINING TO THE AWARD OF THE DISTINGUISHED FLYING CROSS

By virtue of and pursuant to the authority vested in me by section 12 of the act of July 2, 1926, 44 Stat. 789 (U. S. C., title 10, sec. 1429), as amended by section 4 of the act of July 30, 1937, 50 Stat. 547, 549, Executive Order No. 4601 of March 1, 1927, prescribing rules and regulations pertaining to the award of the distinguished flying cross, is hereby amended as indicated below:

1. Subdivision (1) of paragraph 1. *a*. is amended to read as follows:

"(1) All members of the Army, Navy, Marine Corps, and Coast Guard of the United States, while participating in an aerial flight, as part of the duties incident to such membership;"

2. Paragraph 2 is amended to read as follows:

"The Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury, acting for the President, will make the award of the distinguished flying cross to eligible persons in their respective departments."

3. Paragraph 12 is amended to read as follows:

"The Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury may promulgate, for the service pertaining to their respective departments, such additional regulations, supplementary to these regulations and not in conflict therewith, as they may deem proper, and may from time to time alter, modify, or rescind such regulations."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 8, 1938.

[No. 7786]

[F. R. Doc. 38-76; Filed, January 10, 1938; 10:08 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 136-FD]

IN THE MATTER OF THE GAULEY MOUNTAIN COAL COMPANY

TEMPORARY ORDER

The Gauley Mountain Coal Company, having filed a petition with the Commission, pursuant to the provisions of Section 4, Part II (d) of the Act, alleging dissatisfaction with certain of the Minimum Prices Established for Coals of Code Members within District No. 7, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of the temporary relief prayed for therein to the extent hereinafter provided;

Now, therefore, The National Bituminous Coal Commission pursuant to the provisions of subsection (d) of Part II of Section 4 of the Bituminous Coal Act of 1937 hereby orders:

1. That pending final disposition of the aforesaid petition and/or until further order of the Commission, the "Schedule of Minimum Prices for Coals of Code Members Produced within District No. 7," and any and all supplements thereto, established for said district, be and the same hereby are modified and revised to contain the following provisions as if the same were fully set forth therein:

"Coals produced at the 'Ansted Mines,' operated by the Gauley Mountain Coal Company in the New River Field, using the Logan-Kanawha freight rates as a base rate (except as hereinafter provided) shall take the following minimum prices f. o. b. mine:

Coals passing over a ½" screen	$2.15 per net ton.
½" x 0" coals	$1.95 per net ton.

Provided, however, that any of such coals moving through Tidewater to Market Area No. 1-A (within the limits of Philadelphia, Pennsylvania, Harbor) shall take the New River-Pocahontas freight rates as base."

2. That except as herein temporarily revised, the minimum price schedules and supplements thereto, established for District No. 7, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. The Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 7; shall cause a copy of this order to be made available for inspection by all interested parties in the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 6th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-80; Filed, January 10, 1938; 12:34 p. m.]

[Docket No. 139-FD]

IN THE MATTER OF WEST VIRGINIA COAL AND COKE CORPORATION

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 27th day of December 1937, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 8, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 3rd day of January 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition and/or until further order of the Commission, the Schedule of Minimum Prices for coals of code members produced within District No. 8 and all Supplements thereto established for said District, be and the same hereby are modified and revised to contain the following provision as if the same were fully set out therein after the Price Indices in Price Schedule No. 1 and Supplements thereto, for District No. 8:

"'Low Grade Reject Coal' in size group No. 16 produced at the Earling, Micco No. 3, Rossmore, Omar No. 4, Omar No. 5, and No. 19 mines of the West Virginia Coal and Coke Corporation may be sold at $1.70 per net ton; provided that all invoices covering the sale of such coals shall describe the coal as 'Low grade reject coal'; and that the West Virginia Coal and Coke Corporation shall make weekly report to the proper Statistical Bureau of the Commission, showing the price received for each car of such coal, car number, consignee and destination."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 8, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to code members within District No. 8; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-78; Filed, January 10, 1938; 12:34 p. m.]

[Docket No. 167-FD]

IN THE MATTER OF TRUAX-TRAER COAL COMPANY OF WEST VIRGINIA

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 6th day of January, 1938, pursuant to provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 8, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 7th day of January, 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition and/or until further order of the Commission, the Schedule of Minimum Prices for Coals of Code Members produced within District No. 8, and any and all Supplements thereto established for said District, be and the same hereby are modified and revised to contain the following provision as if the same were fully set out therein after the Price Indices in Price Schedule No. 1 and Supplements thereto for District No. 8:

"That the code price for size groups 6 and 7 of coals produced by Truax-Traer Coal Company of West Virginia from the Dorothy Seam as shown in said Price Schedule is reduced in the amount of ten cents per net ton from the price established for such coals as shown in said Price Schedule."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 8, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall, forthwith, mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to code members within District No. 8; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and in all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-82; Filed, January 10, 1938; 12:35 p. m.]

[Docket No. 162-FD]

IN THE MATTER OF BUFFALO COAL & COKE COMPANY

TEMPORARY ORDER

The petitioner above named having filed with the Commission pursuant to provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 6, and praying for immediate and temporary relief by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 7th day of January, 1938; and it appearing to the Commission that the matter involved was one of reclassification of petitioner's coals and should be taken up with District Board No. 6 pursuant to Orders No. 38 and No. 43; and it further appearing that the petitioner has made a reasonable showing of necessity for the granting of a temporary order pending determination and recommendation by District Board No. 6 of the matter of reclassification, and pending final disposition by the Commission of the aforesaid petition;

Now, therefore, it is hereby ordered:

1. That the said petition be referred to the Bituminous Coal Producers Board for District No. 6, and that said Board be directed to hold a hearing and permit the petitioner to adduce evidence in support of its allegation concerning reclassification of its coals, and that after hearing and determination by the District Board, said Board shall submit its determination to the Commission for proper action.

2. That pending action by District Board No. 6 upon the reclassification of petitioner's coals and pending final disposition of the aforesaid petition, and/or until further order of the Commission, the Schedule of Minimum Prices for Coals of Code Members produced within District No. 6, and any and all Supplements thereto established for said District, be and the same are hereby modified and revised to contain the following provision as if the same were fully set out therein after the Price Index in Price Schedule No. 1 and Supplements thereto, for District No. 6:

"All coals produced at the Brady Mine of the Buffalo Coal and Coke Company may be sold at a price not more than ten cents per net ton lower than the established price for such coals."

3. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 6, shall remain in full force and effect.

4. That the Secretary of the Commission shall, forthwith, mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to code members within District No. 6; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and in all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-79; Filed, January 10, 1938; 12:34 p. m.]

[Docket No. 163-FD]

IN THE MATTER OF MARSHALL MINING COMPANY

TEMPORARY ORDER

The petitioner above named having filed with the Commission pursuant to provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 6, and praying for immediate and temporary relief by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 7th day of January, 1938; and it appearing to the Commission that the matter involved was one of reclassification of petitioner's coals and should be taken up with District Board No. 6 pursuant to Orders No. 38 and No. 43; and it further appearing that the petitioner has made a reasonable showing of necessity for the granting of a temporary order pending determination and recommendation by District Board No. 6 of the matter of reclassification, and pending final disposition by the Commission of the aforesaid petition;

Now, therefore, it is hereby ordered:

1. That the said petition be referred to the Bituminous Coal Producers Board for District No. 6, and that said Board be directed to hold a hearing and permit the petitioner to adduce evidence in support of its allegation concerning reclassification of its coals, and that after hearing and determination by the District Board, said Board shall submit its determination to the Commission for proper action.

2. That pending action by District Board No. 6 upon the reclassification of petitioner's coals and pending final disposition of the aforesaid petition, and/or until further order of the Commission, the Schedule of Minimum Prices for Coals of Code Members produced within District No. 6, and any and all Supplements thereto established for said District, be and the same are hereby modified and revised to contain the following provision as if the same were fully set out therein after the Price Index in Price Schedule No. 1 and Supplements thereto for District No. 6:

"All coals produced at the Three Springs Mine of the Marshall Mining Company (Halls Brothers Coal Co., Inc.) may be sold at a price not more than ten cents per net ton lower than the established price for such coals."

3. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 6, shall remain in full force and effect.

4. That the Secretary of the Commission shall, forthwith, mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to code members within District No. 6; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and in all Statistical Bureaus of the Commission, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-81; Filed, January 10, 1938; 12:35 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin (ACP-1938) is amended as follows:

(1) Subsections (b) and (c) of Section 1 are amended by striking out the expression "the period from 1928 to 1937, inclusive," in each of such subsections and inserting in lieu thereof the following: "whichever of the periods of five or more consecutive years since 1927 the Agricultural Adjustment Administration finds is most representative of normal conditions,".

(2) The second sentence of footnote 1, subsection (a), Section 2, is amended to read as follows:

"A potato goal will not be established for any farm for which the number of acres of land normally planted to potatoes is determined to be less than three, or less than the number of families living on the farm, whichever is greater."

(3) Footnote 3, subsection (c) of Section 2, is amended by adding at the end of such footnote the following:

"For farms in areas designated by the Agricultural Adjustment Administration where practices Nos. A-1, 5, 6, 7, and 8, and F-1 are not approved as practices which will be counted toward meeting the soil-building goal, one-half of the soil-conserving acreage, rather than one and one-half times the soil-conserving acreage, shall be used under item (1), sub-item (1), in computing the soil-building goal."

(4) Item (2) of Section 4 is amended to read as follows:

"(2) Ten times the payment rates specified in Sec. 3 for the normal yield on the acreages by which the acreages of flue-cured tobacco, Burley tobacco, cigar filler and binder tobacco, Georgia-Florida type 62 tobacco, potatoes, peanuts, and rice exceed the respective goals established for these crops, or, on farms for which potato goals are not established in designated commercial areas, for each acre by which the number of acres of potatoes exceeds three, or the number of families living on the farm, whichever is greater."

(5) Item (3) of Section 4 is amended to read as follows:

"(3) Eight times the payment rates specified in item (1) of Sec. 3 for each acre of soil-depleting crops in excess of the total soil-depleting crop goal for the farm less any acreage on which deductions are made pursuant to items (1), (2), (4) and (8) of this Sec. 4."

(6) Item (8) of Section 4 is amended by adding at the end thereof the following:

"On farms where adjustments for abnormal weather conditions are made in the acreage of commercial vegetables grown in 1936 and 1937 as provided in this item (8), such adjusted acreage shall also be used under item (3) of subsection (c) of Sec. 2 in computing the soil-building goal for the farm and under item (10) of Sec. 3 in computing the payment with respect to the farm."

(7) Subsection (b) of Section 5 is amended by striking out the period at the end of item (3) and inserting in lieu thereof a semicolon and the word "or", and by adding the following new paragraph:

"(4) When, in areas having an average annual precipitation of 30 inches or less, wheat seeded in the fall of 1937 is designated in accordance with instructions issued by the Agricultural Adjustment Administration, is utilized only as a winter cover crop (which may be pastured but not harvested for grain or hay), and is followed by an approved soil-building practice which is instituted prior to a date to be specified by the Agricultural Adjustment Administration."

(8) The second sentence of the paragraph following subsection (g) of Section 5, which reads, "If one or more than one of such crops reach maturity and an individual crop goal is established for only one of such crops, such lahd shall be regarded as devoted to the crop for which an individual crop goal is established", is amended to read as follows:

"If none of such crops reaches maturity or if more than one of such crops reach maturity and an individual crop goal is established for only one of such crops, such land shall be regarded as devoted to the crop for which an individual crop goal is established."

(9) Practice No. A–1, Section 6, is amended to read as follows:

"1. Maintaining until after July 1, 1938, a good stand of perennial grasses or perennial or biennial legumes, or mixtures of such grasses and legumes, seeded or established prior to 1938 on cropland (excluding land in commercial orchards) on which no soil-depleting crop is planted between August 1, 1937, and July 31, 1938."

(10) Practice No. B–1, Section 6, is amended to read as follows:

"1. Seeding approved domestic or Canadian red clover.[8]"

(11) Footnote 8 of Section 6 is amended to read as follows:

[8] "Each acre seeded will be counted as one and one-half acres only when a full seeding is made of domestic or Canadian red clover seed which is approved by the county committee in accordance with instructions issued by the Agricultural Adjustment Administration.

"If approved domestic or Canadian red clover is seeded at a full rate for red clover on land on which a seeding of perennial grass was made under the 1937 Agricultural Conservation Program each acre seeded will be counted as one acre. If the seeding is made at less than a full rate for red clover in combination with timothy or redtop each acre seeded will be counted as one acre, or if the seeding is made at less than a full rate for red clover on land on which a seeding of perennial grass was made under the 1937 Agricultural Conservation Program each acre seeded will be counted as one-half acre.

"If approved domestic or Canadian red clover is seeded in combination with perennial grasses other than timothy or redtop each acre seeded will be counted as two acres.

"In areas where practice B–1 is applicable, credit for the seeding of alfalfa under practice C–1 will be given only if the seed is approved by the county committee in accordance with instructions issued by the Agricultural Adjustment Administration."

(12) Practice No. J–7, Section 6, is amended to read as follows:

"7. Reseeding depleted pastures with adapted pasture grasses or legumes—10 pounds of seed."

(13) Footnote 11, subsection (a) of Section 8, is amended to read as follows:

[11] "Designated classes of farms shall include: (a) Farms for which a cotton or rice goal is established or on which cotton or rice is grown in 1938 in counties where cotton or rice is a major crop (such counties to be designated by the Agricultural Adjustment Administration); (b) farms operated with the aid of sharecroppers; (c) farms on which a change in ownership or a change in tenure occurs during 1938 and the county committee determines, in accordance with instructions issued by the Agricultural Adjustment Administration, that both the predecessor and successor owners or tenants contributed to performance on the farm in 1938; and (d) farms on which restoration land is designated and no soil-depleting goals are established, farms for which potato goals are established, or farms which are combined for the purpose of computing payments in accordance with the provisions of subsection (d) of Sec. 16, and the county committee determines, in accordance with instructions issued by the Agricultural Adjustment Administration, that the application of the formula prescribed in subsection (a) of this Sec. 8 results in a division of payments that more accurately reflects the relative performance of the interested persons than the formula prescribed in subsection (b) of this Sec. 8."

(14) Footnote 12, subsection (a) of Section 8, is amended to read as follows:

[12] "In computing the acreage share of each person each acre of Georgia-Florida type 62 tobacco shall be given a weight of 10; each acre of fire-cured or dark air-cured tobacco, a weight of 7; each acre of cigar filler and binder tobacco, a weight of 5; each acre of flue-cured tobacco, a weight of 4; each acre of potatoes (planted on the farms for which potato goals are established), a weight of 3; each acre of cotton, rice, Burley tobacco, or corn (planted on farms for which corn goals are established), a weight of 2; each acre of other soil-depleting crops (excluding sugar beets and sugarcane for sugar, and general soil-depleting crops on farms where the general soil-depleting goal is as large as the usual acreage of crops in such goal), a weight of 1; each acre of restoration land (which, if any general soil-depleting crops are grown on the farm, shall be divided among the persons who are parties to the lease or operating agreement in the proportion that they share in such crops), a weight of ½; and each acre unit of soil-building practices (excluding the growing of self-reseeded annual legumes and the maintenance of perennial grasses or perennial or biennial legumes or mixtures of such grasses and legumes and excluding soil-building practices which are carried out by the owner of a farm rented to another person for cash or standing or fixed rent and which are not required in meeting the soil-building goal for the farm), a weight of 1. If the county committee determines that two or more persons have contributed to the carrying-out of any soil-building practice, the acreage of such practice with respect to which such persons contributed shall be divided equally among them.

"In lieu of the above method of computing the share of each interested person in the payment, the following method shall be used in States or parts of States designated by the Agricultural Adjustment Administration: The payment computed with respect to each soil-depleting goal (excluding the general soil-depleting goal if such goal is determined to be as large as the usual acreage of general soil-depleting crops grown on the farm) shall be divided among the persons who are parties to the lease or operating agreement in the proportion that such persons are entitled to share in 1938 in the soil-depleting crop(s) in such goal or the proceeds of such crop(s), except that in cases where two or more farms are combined under one application for the purpose of computing payments as provided in Sec. 16 (d) the share of each landlord in the payment computed with respect to each goal shall be determined on the basis of such landlord's interest in that portion of the combined goal which is contributed by the farm or farms with respect to which such person is entitled to the landlord's share of the crops grown thereon. The payment computed with respect to restoration land shall, if a general soil-depleting goal is established for the farm, be divided as the payment computed with respect to the general soil-depleting goal is divided. The remaining payment with respect to the farm shall be divided among eligible persons in accordance with their respective contributions to the units of approved soil-building practices and soil-conserving measures carried out on the farm by such persons in 1938. If no soil-building practice is carried out on the farm the remaining payment with respect to the farm shall be divided pro rata among the interested persons on the basis of their interest in all other farm payments under this program.

"If, prior to the completion of harvest of any soil-depleting crop, there is a change in the ownership or operation of the farm and the county committee determines that both owners, or both operators, as the case may be, have contributed to performance in 1938 on the farm, the acreage of such soil-depleting crop and the units of approved soil-building practices carried out on the farm by such persons in 1938 shall be divided between them on the basis of such contribution to performance by agreement in writing, or in the absence of such agreement by determination of the county committee. Any deductions incurred pursuant to the provisions of Sec. 4 shall be made pro rata from the items making up the maximum payment with respect to the farm."

(15) Footnote 13, subsection (b) of Section 8, is amended by striking out the last sentence thereof.

(16) Subsection (a) of Section 16 is amended to read as follows:

"(a) An application for payment with respect to a farm may be made by any person for whom, under the provisions of Sec. 8, a share in the payment with respect to the farm would be computed and (1) who is growing crops on such farm, is operating such farm or is renting such farm to another person for a share of the crops grown thereon, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land."

Done at Washington, D. C., this 10th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–83; Filed, January 10, 1938; 12:39 p. m.]

1938 RANGE CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Range Conservation Program Bulletin (RCP–1938) is amended as follows:

(1) The rate of payment in connection with practice No. 1, Section 1, entitled "Natural reseeding by deferred grazing", is amended to read as follows:

"Sixty percent of that part of the range-building allowance which is computed under subsection (a) of Sec. 2, provided such rate shall not exceed the equivalent of $1.25 per animal unit of grazing capacity."

(2) Practice No. 3, Section 1, is amended to read as follows:

"3. (a) Contour listing, furrowing, or subsoiling:

"For listing, furrowing, or subsoiling range land on the contour: 50 cents per acre.

"(b) Contour ridging:

"For ridging land on the contour: 10 cents per 100 linear feet."

(3) Practice No. 4, Section 1, is amended to read as follows:

"4. Spreader dams and spreader terraces: Spreader dams and spreader terraces constructed alone or in combination with each other for the diversion of surface water to prevent soil washing of range land: 15 cents per cubic yard for material moved in building the dams, and 40 cents per 100 linear feet of terraces constructed."

(4) Practice No. 15, Section 1, is amended to read as follows:

"15. For the establishment of fire guards not less than 10 feet in width by plowing furrows or otherwise exposing the mineral soil. Payment will not be made if the fire guard is used in connection with controlled burning within the ranching unit: $0.05 per 100 linear feet."

Done at Washington, D. C., this 10th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–84; Filed, January 10, 1938; 12:39 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDMENT TO CHAPTER VI OF THE MANUAL

ASSUMPTION OF RISK OF LOSS BY REASON OF MECHANICS' LIENS WITHIN CERTAIN LIMITS

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Sections 4–a and 4–k of said Act as amended, Chapter VI of the Consolidated Manual, adopted by the Board November 25, 1936 is hereby amended to include an additional section numbered and providing as follows:

SEC. 618. The advice of the General Counsel shall be secured with respect to obtaining releases of mechanics' and materialmen's liens, receipts and waivers, and in other matters pertaining to reconditioning which affect the legal position of the Corporation, provided, that the General Manager with the advice of the General Counsel may waive the obtaining of instruments evidencing releases or waivers of liens which may arise in connection with reconditioning work, and may determine the amount of the risk which the Corporation will assume. The authority vested in the General Manager in this paragraph may be exercised also by Regional or State Managers, with the advice of Regional or State Counsel under procedure or limitations prescribed by the General Manager with the approval of the General Counsel, except that the assumed risk shall not exceed $300.00 in any one case unless such amount has been increased by the General Manager with the advice of the General Counsel with respect to any particular jurisdiction.

Be it further resolved, That the General Manager and General Counsel are hereby authorized to establish necessary procedure to give full force and effect to the provisions of this resolution.

Adopted by the Federal Home Loan Bank Board on January 7, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38–71; Filed, January 7, 1938; 2:20 p. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly.

[Docket No. DI–141]

IN THE MATTER OF DECLARATION OF INTENTION OF THE GRAND RIVER DAM AUTHORITY

HEARING ON DECLARATION OF INTENTION

JANUARY 7, 1938.

Upon Declaration of Intention filed December 15, 1937, by Grand River Dam Authority, Vinita, Oklahoma, a public corporation oragnized and existing under and by virtue of the laws of the State of Oklahoma, under Section 23 (b) of the Federal Power Act, for the construction of a dam and hydro-electric plant across, along, over, and in the Grand River near the town of Pensacola in Mayes County, Oklahoma;

The Commission orders:

That a hearing on said Declaration of Intention concerning such proposed construction and all matters pertinent thereto be held on January 27, 1938 at 10:00 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–73; Filed, January 10, 1938; 10:05 a. m.]

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly.

[Project No. 708]

APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY

ORDER FIXING PLACE OF HEARING

JANUARY 7, 1938.

The Commission having postponed the hearing on the matter of the power capacity of project No. 708, license for which is held by Pacific Gas and Electric Company and upon the annual charges due under said license and a recomputation of such annual charges;

It is ordered:

That said hearing be resumed in Grand Jury Room No. 449, Post Office Building, Seventh and Mission Streets, San Francisco, California, beginning at 10 a. m. on Monday, February 14, 1938.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–75; Filed, January 10, 1938; 10:05 a. m.]

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly.

[Project No. 1391]

APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY

ORDER FIXING PLACE OF HEARING

JANUARY 7, 1938.

The hearing on the application of Pacific Gas and Electric Company for preliminary permit for project No. 1391

having been recessed at the request of the Central Valley Authority of the State of California;

It is ordered:

That said hearing be resumed in Federal Court Room No. 276, Post Office Building, Seventh and Mission Streets, San Francisco, California, beginning at 10 a. m. on Wednesday, February 16, 1938.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-74; Filed, January 10, 1938; 10:05 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-272]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES CONCERNING SHRINKAGE PROPERTIES OF WOVEN COTTON YARD GOODS

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717);

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules concerning the shrinkage properties of woven cotton yard goods to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Communications of such views should be made to the Commission not later than January 27, 1938. Opportunity for oral hearing will be afforded at 10 a. m., January 27, 1938, in the main hearing room, Federal Trade Commission Building, 815 Connecticut Avenue, NW., Washington, D. C., to such persons as may desire to appear, and who shall have made prior written or telegraphic requests to be heard orally. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-72; Filed, January 8, 1938; 12:30 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Tariff Circular MF No. 2[1]]

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 24th day of November, A. D. 1937.

ORDER IN THE MATTER OF REGULATIONS GOVERNING THE CONSTRUCTION, FILING, AND POSTING OF TARIFFS BY COMMON CARRIERS BY MOTOR VEHICLE, AND THE FORM, PUBLICATION AND INSPECTION OF SCHEDULES OF CONTRACT CARRIERS

The matter of regulations governing the construction, filing, and posting of tariffs by common carriers by motor vehicle, also joint tariffs of common carriers by motor vehicle and common carriers by water, other than railroad owned or controlled water carriers, pursuant to section 217 of the Motor Carrier Act, 1935, and governing the form, publication, and inspection of schedules of contract carriers by motor vehicle, filed pursuant to section 218 of the said Motor Carrier Act, being under consideration and good cause appearing therefor:

It is ordered, That tariffs of common carriers of property by motor vehicle, also joint tariffs of common carriers of property by motor vehicle and common carriers by water, other than railroad owned or controlled water carriers, filed pursuant to section 217 of the said act, and schedules of contract carriers of property by motor vehicle, filed pursuant to section 218 of the said act, shall be constructed, published, filed, posted, and kept open for public inspection in accordance with regulations adopted and promulgated in Tariff Circular MF No. 2 which regulations shall cancel and supersede regulations heretofore adopted and promulgated in Tariff Circular MF No. 1 and Supplements Nos. 1 and 2 thereto;

It is further ordered, That the said Tariff Circular MF No. 2 be, and it is hereby, approved and made effective February 1, 1938.

By the Commission, Division 5.

[SEAL] W. P. BARTEL, *Secretary.*

All tariffs and schedules filed on and after February 1, 1938, must conform to these regulations, except as otherwise authorized by the Commission.

The term "tariff" as used herein means a publication stating the rates and charges of a common carrier, and all rules which it applies in connection therewith.

The term "schedule" as used herein means a publication stating the *minimum* rates and charges of a contract carrier, and all rules which it applies in connection therewith.

SECTION 1—COMMON CARRIER TARIFFS

RULE 1. CONSTRUCTION AND FILING OF TARIFFS

(*a*) All tariffs and supplements thereto must be in book, pamphlet, or loose-leaf form of size 8 by 11 inches. They must be plainly printed, mimeographed, planographed, stereotyped, or reproduced by other similar durable process on paper of good quality.

No alteration in writing or erasure shall be made in any tariff or supplement thereto.

A margin of not less than five-eighths of an inch without any printing thereon must be allowed at the binding edge of each tariff and supplement.

(*b*) All tariffs and supplements must be filed and posted at least 30 days prior to the effective date thereof, unless otherwise authorized by the Commission.

(*c*) Issuing carriers or their agents shall transmit to the Commission three copies of each tariff, supplement, or revised page. All copies shall be included in one package accompanied by a letter of transmittal (in duplicate if a receipt is desired) listing all tariffs enclosed and addressed to the Interstate Commerce Commission, Bureau of Motor Carriers, Section of Traffic, Washington, D. C. All postage, etc., must be prepaid.

RULE 2. TITLE PAGE OF EVERY TARIFF AND SUPPLEMENT SHALL SHOW IN THE ORDER NAMED

(*a*) On upper right-hand corner each tariff shall be numbered beginning with No. 1. Such number shall be shown as follows:

MF-I. C. C. No. —

When tariffs are issued canceling a tariff or tariffs previously filed, the MF-I. C. C. number or numbers of the tariff or tariffs canceled must be shown in the upper right-hand corner immediately under the MF-I. C. C. number of the new tariff.

Example:

MF-I. C. C. No. 2
cancels
MF-I. C. C. No. 1

(*b*) Supplements to a tariff in addition to showing the MF-I. C. C. number of the tariff amended thereby shall be numbered beginning with the number 1 and such information shall be shown in the upper right-hand corner. Supplements shall also show in the upper right-hand corner the number of any previous supplement canceled thereby and also the numbers of the supplements containing all changes from the tariff.

Example:

Supplement No. 3
to
MF-I. C. C. No. 1
cancels Supplement No. 2
Supplements Nos. 1 and 3 contain all changes

(*c*) Name of carrier or name of agent issuing tariff.

Whenever two or more carriers join in a through rate the names of all such carriers must be shown. The name of a carrier must be the same as that appearing in the carrier's certificate (or application if no certificate has been issued).

If the carrier is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

Example:

John Doe and William Doe
doing business as
A. B. C. Transportation Co.

Whenever two or more carriers join in a through rate, authority by means of proper power of attorney or concurrence, as provided in rules 10 and 11 of section 3, must be given the agent or carrier publishing the tariff.

(*d*) A brief description of the territories in which, or points from and to or between which, the tariff applies.

(*e*) Date of issue and date effective.

(*f*) Name, title, and street address of officer or agent by whom tariff is issued.

RULE 3. TARIFFS SHALL CONTAIN IN THE ORDER NAMED

(*a*) Table of contents, arranged in alphabetical order showing the number of the page on which each subject may be found. If a tariff contains so small a volume of matter that its title page or interior arrangement plainly discloses its contents, the table of contents may be omitted.

(*b*) A complete index of all commodities on which specific rates are named therein, together with reference to the page or items in which they are shown. No index need be shown in tariffs of less than 5 pages or if all the rates to each destination are alphabetically arranged by commodities.

(*c*) Explanation of all abbreviations, symbols, and reference marks used in the tariff.

(*d*) When a tariff names rates by classes, a classification of articles must be published in the tariff or in a separate tariff. When a classification is published in a separate tariff, reference must be made thereto on the title page of the rate tariff as follows:

> Governed, except as otherwise provided herein, by the [here name] classification [show issuing agent] MF-I. C. C. No. — (or I. C. C. No. —) supplements to or successive issues thereof.

All carriers shown as originating carriers in a rate tariff which is governed by a separate classification must be named as participating carriers in such separate classification.

(*e*) *Table of rates.*—All rates must be explicitly stated in cents or in dollars and cents, per 100 pounds, per mile, per hour, per cubic foot, per ton of 2,000 pounds, per ton of 2,240 pounds, per truckload (of stated amount), or other definable measure.

Where rates are stated in amounts per package or bundle definite specifications of the packages or bundles must be shown.

Tariffs containing tables of rates based on distances from point of origin to destination must show the mileages or indicate a definite method by which such mileages shall be determined.

(*f*) Carriers or their agents may not publish class or commodity rates which duplicate or conflict with rates published by or for account of such carriers.

RULE 4. COMMODITY RATES

Commodity rates may be published on articles in stated truck-load or less-than-truck-load quantities and, if so published, shall take precedence over class rates.

RULE 5. TARIFF CHANGES

(*a*) Rates, charges, and classifications which have been filed with the Commission must be allowed to become effective and remain in effect for a period of at least 30 days before being changed, canceled, or withdrawn, unless otherwise authorized by the Commission.

(*b*) All tariffs, supplements, and revised pages shall indicate changes from preceding issues by use of the following symbols:

- ↓ or (R) to denote reductions.
- ◆ or (A) to denote increases.
- ▲ or (C) to denote changes, the result of which is neither an increase nor reduction.

The proper symbol must be shown directly in connection with each change.

RULE 6. POSTING REGULATIONS

Each carrier must post and file at each of its stations or offices at which an exclusive agent is employed all of the tariffs or schedules applying from, or at, such station or office and must also post and file at its principal place of business all of its tariffs or schedules. All tariffs or schedules must be kept available for public inspection or examination at all reasonable times.

SECTION 2—CONTRACT CARRIER SCHEDULES

RULE 7. PUBLICATION, FILING, AND POSTING OF SCHEDULES

(*a*) *Schedules must be filed by contract carriers.*—Contract carriers shall, under section 218 of the Motor Carrier Act, 1935, file only schedules, which schedules shall conform to these regulations. (This should not be confused with the requirement contained in Ex Parte No. MC-9, *Filing of Contracts by Contract Carriers*, 2 M. C. C. 55, that copies of contracts shall be filed under section 220 (a).)

(*b*) *Agency or joint schedules not permitted.*—Schedules if minimum rates or charges shall be published and filed in the name of the individual carrier performing the transportation service subject to such rates or charges. Schedules may not be filed in the name of an agent, nor may contract carriers participate by concurrence in rates named in any schedule filed by another such carrier.

(*c*) *Schedules must contain all relevant provisions.*—Schedules shall contain all of the minimum rates and charges, and also the rules and other provisions applicable to services covered thereby; and reference shall not therein be made to other publications for any provision affecting the rates or charges (or the method of applying them), except that, after having secured express authority from this Commission to do so, carriers may include in schedules naming rates based on distances reference to a separate publication on file with this Commission containing such distances.

(*d*) *Number of copies filed.*—Issuing carriers shall file with the Commission three copies of each schedule, supplement, or revised page of a schedule. All copies shall be included in one package accompanied by a letter of transmittal (in duplicate if a receipt is desired) listing the publications enclosed, which shall be addressed to the Interstate Commerce Commission, Bureau of Motor Carriers, Section of Traffic, Washington, D. C. All postage or other charges must be prepaid.

(*e*) *Posting of schedules.*—Schedules shall be posted in the same manner as is provided in rule 6 of section 1.

(*f*) *Special permissions.*—No deviation from the regulations relative to publication and filing of schedules will be

[1] Cancels Tariff Circular MF No. 1.

permitted, except that the Commission may in its discretion grant specific authority for waiving any of such regulations in response to an application presented in the manner set forth in rule 9 of section 3, if such application appears to present sufficient justification for such authority.

RULE 8. FORM AND CONTENTS OF SCHEDULES

(a) *Form and manner of preparation.*—All schedules and supplements thereto shall be in book, pamphlet, or loose-leaf form, of size 8 by 11 inches. They shall be plainly printed, mimeographed, planographed, stereotyped, or reproduced by other similar durable process on paper of good quality. Schedules and supplements thereto filed and posted shall contain no alteration or erasure of the contents of such publication. A margin of not less than five-eighths of an inch without any printing thereon shall be allowed at the binding edge of each schedule or supplement.

(b) *Required notice.*—Except as otherwise provided herein or unless otherwise authorized by the Commission, all schedules and supplements thereto which supersede rates and charges previously published and filed with this Commission and which result in reductions in previously filed rates and charges shall be filed and posted at least 30 days prior to the effective date thereof.

(c) *Title page.*—Each schedule submitted for filing shall show on the upper right-hand corner of the front cover or title page the MF–I. C. C. number of the schedule. All schedules shall be numbered consecutively beginning with the MF–I. C. C. number next higher than the last number used on a publication of rates, charges, or rules filed by the same carrier with this Commission. If the issuing carrier shall have previously filed with this Commission no publication of rates, charges, or rules, the first schedule issued shall bear MF–I. C. C. No. 1 and subsequent publications shall be numbered consecutively. Schedules which supersede publications previously filed shall indicate the cancelation of the superseded publication or publications in the manner shown in rule 2 (a) of section 1.

(d) *Name of carrier.*—The name of the carrier issuing the schedule shall be shown in the upper central portion of the title page and such name shall be the same as that appearing in the carrier's permit (or application if no permit has been issued). If the carrier is not a corporation and a trade name is used, the name of the individual or partners shall precede the trade name in the manner shown in rule 2 (c) of section 1. Following the carrier's name there shall be shown the permit number or, if the application shall have not been decided, the docket number of the carrier's application for a permit.

(e) *Territory served.*—On the title page of the schedule, immediately under the carrier's name and permit or docket number shall be shown a brief description of the territories in which, or points from and to which, the minimum rates or charges named in the schedule will apply.

(f) *Issued and effective dates.*—Under the territorial description, on the left-hand side of the title page, the date of issue shall be shown; and on the right-hand side, opposite the date of issue, the effective date shall be shown.

(g) *Issuing officer.*—At the bottom of the title page, under the issued and effective dates, there shall be shown the name, title, and street address of the individual or the officer by whom the schedule is issued. The title "Agent" should not be used.

(h) *Supplements.*—Supplements shall be numbered consecutively beginning with number one, the supplement number being placed in the upper right-hand corner of the title page. Underneath the supplement number shall be shown the MF–I. C. C. number of the schedule amended thereby. When a supplement cancels a previous supplement (or the schedule itself), the cancellation notice shall be shown in the manner prescribed in rule 2 (b) of section 1.

(i) *List of parties with whom carrier has contracts.*—At the top of the page immediately following the title page shall be shown the name and address of each party with whom carrier has a contract and for whom property is transported under the provisions of the schedule.

(j) *Table of contents.*—Following the list of contracting shippers shall be shown a table of contents arranged in alphabetical order indicating the number of the page on which each subject may be found. If the schedule contains so small a volume of matter that its title page or interior arrangement plainly discloses its contents, the table of contents may be omitted.

(k) *Index of commodities.*—A complete index of all the commodities on which rates and charges are shown in the schedule shall follow the table of contents and shall indicate the page number on which rates for each commodity will be found. If no table of contents appears, the index of commodities shall be shown immediately after the list of contracting parties. If the number of commodities involved is small, no index need be shown in a schedule, provided the commodities are arranged in alphabetical order in the tables of minimum rates and charges.

(l) Not used.

(m) *Index of points.*—When a schedule names minimum rates or charges from and to specific points, an index of the points, together with the states in which they are located, shall be shown immediately following the index of commodities, with reference to the page on which the various points will be found in the table of minimum rates or charges.

(n) *Abbreviations and symbols.*—Where abbreviations, symbols, or reference marks are used in a schedule, they shall be explained on each page on which they appear, except that, where the same abbreviation, symbol, or reference mark is used throughout the schedule with the same explanation, this information may be shown under a general explanation following the index of points.

(o) *Rules.*—Any rules or other provisions affecting the application of the minimum rates or charges shall be shown following the general explanation of abbreviations, symbols, and reference marks and preceding the tables of minimum rates or charges. Each rule shall be given a separate number.

(p) *Tables of minimum rates or charges.*—The tables of minimum rates or charges shall be shown immediately following the rules. The commodities on which the rates or charges apply shall be shown on the same page on which the rates or charges are published or there shall be shown on such page a statement of the page or item containing a list or description of such commodities. Minimum rates or charges shall be published on only such commodities and from and to only such points as are included in actual contracts for transportation. Tables of minimum rates or charges shall be arranged alphabetically by points of origin and destination, except that, if it is desired to group points by states, they may be arranged in alphabetical order by states, the points in each state also being shown in alphabetical order. The minimum rates or charges shall be stated in cents or in dollars and cents per 100 pounds, per mile, per hour, per cubic foot, per ton of 2,000 pounds, per ton of 2,240 pounds, per truckload (of stated amount), or other definable measure.

Schedules shall clearly show the points from and to which the minimum rates and charges apply, or indicate briefly by territorial description the territory within which they apply. If minimum rates or charges are determined by use of distances, schedules shall show the distances from and to the points from and to which the minimum rates or charges apply, or shall indicate a definite method by which the distances shall be determined (see rule 7 (c) of this section).

(q) *Changes in minimum rates or charges.*—Minimum rates or charges which have been filed with the Commission shall be permitted to become effective and remain in effect for a period of 30 days before they may be reduced by the publication and filing of a new schedule or supplement. Schedules or supplements thereto which do not reduce the minimum rates or charges formerly filed with the Commission may become effective not earlier than the date on which they are received by the Commission, but a specific effective date must be shown which shall not be prior to the effective date of rates or charges previously filed having the same application. Changes in minimum rates or charges appearing in schedules shall be indicated in the manner prescribed in rule 5 (b) of section 1.

SECTION 3—MISCELLANEOUS RULES AND FORMS

RULE 9. APPLICATIONS FOR SPECIAL PERMISSION

(a) The Motor Carrier Act, 1935, authorizes the Commission in its discretion and for good cause shown to permit changes in rates on less than statutory notice, and also to permit departure from the Commission's regulations. The Commission will exercise this authority only in cases where actual emergency and real merit are shown. Desire to meet the rates of a competing carrier that has given statutory notice of change in rates will not of itself be regarded as good cause for permitting changes in rates or other provisions on less than statutory notice. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the error together with a full statement of the attending circumstances and must be presented with reasonable promptness after issuance of the defective tariff, supplement, or revised page.

(b) When a formal order of the Commission requires publication on a stated number of days' notice, a request addressed to the Bureau of Motor Carriers for authority to file on less notice will not be granted. In any such instance a petition for modification of the order should be filed on the formal docket.

(c) Applications for permission to establish rates, rules, or other provisions on less than statutory notice, or for waiver of the provisions of this Tariff Circular must be made by the carrier or agent that holds authority to file the proposed publication. If the application requests permission to make changes in joint tariffs, it must state that it is filed for and on behalf of all carriers parties to the proposed change.

(d) Two copies of applications (including amendments thereto and exhibits made a part thereof) shall be addressed to the Interstate Commerce Commission, Bureau of Motor Carriers, Washington, D. C. An additional exact copy shall be addressed to the office of the District Director, Bureau of Motor Carriers, Interstate Commerce Commission, of the district in which the main office of the applicant carrier or publishing agent is located. The application shall indicate that an exact copy including exhibits has been furnished the district office.

Applications shall be made on paper 8 by 10½ inches, shall be in substantially the form shown hereinbelow, and shall give all the information required by this rule together with any other pertinent facts. They shall be numbered consecutively and must bear the signature of the carrier or its agent or officer, specifying title.

(Address)

(Date)

To the INTERSTATE COMMERCE COMMISSION,
BUREAU OF MOTOR CARRIERS,
Washington, D. C.

Application No. ------

---, by ---, for and
(Name of carrier) (Name of officer, specifying title)

on behalf of all carriers parties to its Tariff MF–I. C. C. No. —,[1] does hereby petition the Interstate Commerce Commission that he [it] be permitted, under Section 217 of the Motor Carrier Act, 1935, to put in force the following tariff provisions to become effective ---- days after the filing thereof with the Interstate Commerce Commission:

(Here show matter as directed by section (e), paragraph (1) of this rule)

Your petitioner further represents that the said [state whether rates, charges, classification ratings, or other provisions] above mentioned will be published in [here show matter as directed by section (e), paragraph (2) of this rule].

(Here state matter as directed by section (e), paragraph (3) of this rule)

(Here state matter as directed by section (e), paragraph (4) of this rule)

(Here state fully matter as directed by section (e), paragraph (5) of this rule)

(Here set forth the justification as directed by section (e), paragraph (6) of this rule)

(Name of carrier)

By ---
(Name and title)

Verification:[2]
The above statement was subscribed and sworn to before me this ---- day of ----, 19--.

(Notary public)

When the application is made by an agent, appropriate change should be made in the introductory and closing paragraphs of this form.

(e) Applications shall show the following information:

(1) The proposed tariff provisions shall be set forth clearly and completely. An accompanying exhibit may be used if identified by letter, such as Exhibit A, and so referred to in the application. If the proposed provisions consist of rates, all points of origin and destination must be shown or definitely indicated; if permission is sought to establish a rule, the exact wording of the proposed rule must be given.

(2) The application shall show the tariffs and MF–I. C. C. numbers of the publications in which the proposed rates, ratings, rules, or other provisions will be published. If publication is to be made in supplements to tariffs already referred to, this fact shall be shown.

(3) The application shall set forth the rates or tariff provisions which it is desired to change. Where the matter to be shown is voluminous or for other reasons difficult of presentation, it may be included in an accompanying exhibit, properly identified and referred to in the application. Reference shall be made by MF–I. C. C. number and supplement number to the tariffs or supplements in which rates or provisions to be superseded are published. If such provisions are published in numbered items or other units, reference shall be made thereto by number, or, if not so published, the pages of the publication on which the provisions appear shall be shown. The extent to which cancellations will be made must be definitely indicated.

(4) The application shall state the names of carriers known to maintain competitive rates, charges, classification ratings, or rules between the same points or points related thereto, together with the MF–I. C. C. numbers of the tariffs and supplements thereto containing such provisions.

(5) The application shall state whether such carriers have been advised of the proposed rates, charges, classification ratings, or rules and whether they have been advised that it is proposed to establish such provisions on less than statutory notice. If competitive carriers have expressed their views in regard to the proposed provisions, a brief statement of their views shall be given.

(6) The application shall state the special circumstances or unusual conditions which are relied upon as justifying the requested permission together with any related facts or circumstances which may aid the Commission in determining whether the requested permission is justified. If permission to establish provisions on less than statutory notice is sought, the petitioner shall state why the proposed provisions could not have been established upon 30 days' notice.

(f) If the authority granted by special permission is used, it must be used in its entirety and in the manner set forth in the order of special permission. If it is not desired to use all of the authority granted and less or more extensive

[1] If reference to tariff or tariffs does not exactly designate carrier involved, other methods of designating carrier should be employed.

[2] Only the original need be executed.

or different authority is desired, a new application complying with the provisions of this rule in all respects and referring to the previous permission must be filed.

RULE 10. POWERS OF ATTORNEY

(*a*) Whenever a carrier desires to give authority to an agent to publish and file tariffs and supplements in which such carrier participates, this may be accomplished by issuing an appropriate power of attorney either in favor of an individual or of a corporation (not a carrier) which has charter power to publish and file tariffs for common carriers of property by motor vehicle. The forms which follow are to be used. Existing powers of attorney authorizing an individual to act as agent, which are not otherwise objectionable, need not be reissued merely to comply with the form prescribed in paragraph (*b*). Powers of attorney filed after 120 days from the effective date hereof must conform with this rule.

(*b*) The following power of attorney form shall be used in appointing an individual to act as agent.

POWER OF ATTORNEY

MFXA2 No. ------.
Cancels MFXA- No. ------

[Name of carrier] ----------,
[Post office address] ----------,
----------, 19--.

Know all men by this instrument:

That, on the ------ day of ----------, 19--, ----------,
(See Note 1)
a common carrier of property by motor vehicle, does (do) hereby make and appoint ---------- attorney and
(Name of principal agent)
agent to publish and file for such carrier freight rate tariffs and supplements thereto, as permitted or required of common carriers of property by motor vehicle under authority of the Motor Carrier Act, 1935, and the regulations of the Interstate Commerce Commission issued pursuant thereto, and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failure to act of said attorney and agent.

And, further, that ---------- does (do) hereby make
(See Note 1)
and appoint ---------- alternate attorney
(Name of alternate agent)
and agent to do and perform the same acts and exercise the same authority granted herein to ---------- in the
(Name of principal agent)
event and only in the event of the death or disability of ----------.
(Name of principal agent)

(Signed) ----------

Duplicate mailed to ----------. *Agent.*

NOTE.—In the blank space for the name of the carrier, there shall be shown, if the carrier be an individual, the individual name followed by the trade name, if any. If the carrier be a partnership, the correct names of all partners must be given, followed by the trade name, if any. If the carrier be a corporation, the correct corporate name must be used. (See Note 2.)

NOTE 2.—The power of attorney shall be signed only with individual name of the carrier if the carrier be an individual and shall be signed by all of the partners individually, if a partnership. If the carrier be a corporation, the power of attorney shall be signed by the president or vice president, attested by the secretary of the corporation, and the corporate seal affixed. In all cases the name of the carrier shall be identical with the name as it appears in the certificate of convenience and necessity issued by the Commission, or, in the event that such certificate shall not have been issued, the name of the carrier shall be identical with the name appearing in the application for such certificate.

(*c*) The following power of attorney form shall be used in appointing a corporation (see paragraph (*a*) hereof) to act as agent:

POWER OF ATTORNEY

MFXA3 No. ------
Cancels MFXA- No. ------

[Name of carrier] ----------,
[Post office address] ----------,
----------, 19--.

Know all men by this instrument:

That, on the -------- day of ----------, 19--, ----------
(See paragraph
----------, a common carrier of property by motor vehicle, (*b*), Note 1)
does (do) hereby make and appoint ----------
(Name of corporation)
attorney and agent to publish and file for such carrier freight rate tariffs and supplements thereto, as permitted or required of common carriers of property by motor vehicle under authority of the Motor Carrier Act, 1935, and the regulations of the Interstate Commerce Commission issued pursuant thereto and does (do) hereby ratify and confirm all that said attorney and agent may lawfully do by virtue of the authority herein granted and does (do) hereby assume full responsibility for the acts and failure to act of said attorney and agent.

(Signed) ----------

Duplicate mailed to ----------. *Agent.*

(*d*) An official or an employee of a corporation (see paragraph (*a*) of this rule) may not act as agent when such corporation acts as agent, unless otherwise authorized by the Commission.

(*e*) A corporation (see paragraph (*a*) of this rule) accepting powers of attorney making such corporations an attorney and agent shall issue tariffs in the name of the corporation as agent. At the bottom of the title page of each publication filed by the corporation as agent shall be shown the name and title of the official of the corporation who has been appointed by such corporation to handle tariff matters with the Commission.

A corporation (see paragraph (*a*) of this rule) acting as a publishing agent under powers of attorney shall forward to the Commission a certified minute of the meeting of the board of directors of such corporation showing the name and title of the official who has been appointed to handle all tariff matters with the Commission.

(*f*) Powers of attorney authorized by this rule, if executed without modification, confer unlimited authority to publish local rates for the carrier issuing the power of attorney and to publish joint rates for such carrier and such other carriers as shall have issued the necessary authority. If it is desired to limit the authority granted to the agent, the form may be modified by adding at the end of the first paragraph the statement: "This authority is restricted to the filing of the publications or types of publications set forth below," and by clearly stating immediately thereafter the extent of the authority granted. The instrument may limit the authority of the agent to publication of rates from points on the carrier's lines only, or to points on its lines only, or may limit the authority granted to publication of either local or joint rates. The authority granted may be restricted, also, to publication of either class or commodity rates, but it may not be limited to publication of rates on a particular commodity or to publication of specifically named rates.

If it is desired to give to an agent authority for the publication of a classification, a classification exceptions tariff, or a rules tariff, only, the form may be modified by omitting from line four, the words "freight rate tariffs" and substituting therefor the word or words, "classification," "classification exceptions tariffs" or "rules tariffs," or the instrument may be so modified as to authorize the publication of any or all of such tariffs, including rate tariffs. If it is desired to limit the authority granted to publication of a particular tariff or tariffs, this may be done by giving a sufficiently accurate description of the title page of each tariff to identify it and by showing the MF-I. C. C. number, if known. If it is intended that the authority granted shall include reissues of specifically named tariffs, that fact must be made clear by adding after the designation of the tariff, "or successive issues thereof."

(*g*) Powers of attorney shall be printed on good paper of durable quality, 8 by 10½ inches in size, and shall be signed as indicated in note 2, page 12. Each power of attorney shall be given a form and serial number. The form and serial numbers shall be shown on the upper right-hand corner and immediately thereunder shall be shown the form and number of the power of attorney, if any, which is canceled thereby. If the instrument to be canceled contains more authority or is broader in scope than the new instrument, such new instrument must bear an effective date at least 60 days after the date on which it is received by the Commission. When the new instrument is broader in scope than the instrument which is to be canceled, no notice is required. The term "freight rate tariff" as used in this rule means not only rate tariffs

but all other freight publications which in any way affect the value of the service or the measure of the charge. Each instrument shall show, under the serial number, the post office address of the person or persons issuing it and the date of issue. The instrument shall also show, in the lower left-hand corner, the name, title, and address of the person or corporation to whom the duplicate is sent.

(*h*) All instruments must be prepared in triplicate. Except when there is specific instruction in individual rules to send originals to an agent, the original of the instrument shall be filed with the Commission, the duplicate sent to the agent to whom such authorization is directed, and the third copy retained by the issuing carrier.

(*i*) Powers of attorney may not contain authority to delegate to another the power thereby conferred. In giving authority to an agent to publish and file rates for the carrier by whom such authority is issued, care must be taken to avoid duplicating to two or more agents authority which, if used, would result in conflicting rates or other provisions.

(*j*) When a power of attorney is issued to an individual to act as agent (see paragraph (*b*) of this rule), such instrument shall name an alternate agent to act in the event of the death or disability of the principal agent. On or before the date of filing of the first tariff or supplement by the alternate agent under the authority granted in the instrument, such alternate agent shall submit to the Commission a sworn statement setting forth the reason or reasons which justify such exercise of authority. The term "disability" as used in the instrument means resignation, permanent transfer to other duties, or other permanent absence of the principal caused by vacation, illness, or other similar cause. After an alternate agent has once exercised the authority granted by the instrument, the principal agent may not thereafter act under that instrument.

(*k*) When it is desired to transfer authority from one agent to another agent, such transfer may be accomplished by filing a new power of attorney naming the agent (and alternate when necessary) thereafter to serve, which shall specifically cancel the previous power of attorney.

When a power of attorney has been issued to an individual and an alternate (see paragraph (*b*) of this rule), in the event of the death or disability of either the principal or alternate agent, new powers of attorney canceling the previously effective powers of attorney and naming the agent (and alternate when necessary) thereafter to serve shall be filed within 180 days. The new powers of attorney shall bear no effective date. The originals thereof shall not be sent direct to the Commission, but shall be forwarded to the new agent, which agent after all the necessary instruments have been secured, shall file the originals with the Commission all at one time. Such powers of attorney will become effective upon the date they are received by the Commission.

(*l*) Not used.

(*m*) When a new agent is appointed, or when an alternate agent assumes the duties of the principal agent, the new agent, immediately upon receipt of necessary authority, or the alternate agent, upon death or disability of his principal, shall issue a supplement to each of the effective tariffs issued by the agent superseded, which shall bear on its title page no effective date, but which shall contain a statement reading substantially as follows: "On and after [*show here, in the case of a new agent, the date on which authorities are filed with this Commission; or in the case of an alternate agent, the date on which the principal ceased to act*] this publication shall be considered as the issue of [*show here name of new agent or the alternate acting as such*]." In the case of a new agent, such supplement shall also contain a list of participating carriers giving reference to the new authorities. If tariffs issued by the new agent will be numbered in a different MF-I. C. C. series from those of the former agent, supplements filed by the new agent to tariffs issued by the former agent shall show in connection with MF-I. C. C. numbers, that they are in the series of the former agent.

(*n*) A power of attorney may be revoked upon not less than 60 days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the agent in whose favor such power of attorney was executed. Such notice shall not bear a separate serial number, but shall specify the form and number of the power of attorney to be revoked, shall name the agent (and alternate agent when form MFXA2 is being revoked) in whose favor the power of attorney was executed, shall specify a date upon which revocation is to become effective, which must be not less than 60 days subsequent to the date of its receipt by the Commission, and shall be executed in the following manner on paper of good quality, size 8 by 10½ inches:

REVOCATION NOTICE

[Name of carrier] ----------,
[Post office address] ----------,
----------, 19--.

Know all men by this instrument:

Effective ----------, 19--, power of attorney MFXA- No. ------, issued by ---------- [name of carrier] in favor of ---------- [here show name or agent (and alternate agent when form MFXA2 is being revoked) in whose favor power of attorney is executed], is hereby cancelled and revoked.

(Name of carrier)

By ----------
(Title)

[If a corporation]
Attest:

----------, *Secretary.*

[Corporate Seal]
Duplicate mailed to ---------- at ----------
Date duplicate mailed ----------.

RULE 11. CONCURRENCES

(*a*) The following forms shall be used in giving to carriers concurrences in tariffs which are issued and filed by such carriers or their agents and in which the carriers giving concurrences are participants. The provisions of paragraphs (*g*) and (*h*) of Rule 10 will apply also to concurrences. If two or more carriers execute powers of attorney authorizing an agent to publish joint rates for them, it will not be necessary for those carriers to exchange concurrences with each other as to the joint tariffs issued by that agent under that authority.

(*b*) Form MFXC2 shall be used in giving concurrence in a particular tariff that is issued and filed by another carrier. The original of form MFXC2 shall be forwarded to the carrier issuing the tariff and shall by such carrier be transmitted to the Commission with the tariff. This form when not restricted will serve as continuing evidence of participation in the tariff described in the concurrence and in all supplements to and successive issues thereof. If reference to successive issues be stricken out, a new concurrence will be required for each successive issue of the tariff. Except as provided above, this form shall not be qualified in any way but must evidence concurrence in all rates, rules or other provisions contained in the tariff publication named therein.

CONCURRENCE

MFX2 No. ------
Cancels MFXC- No. ------

[Name of carrier] ----------
[Post office address] ----------,
----------, 19--.

To the INTERSTATE COMMERCE COMMISSION,
BUREAU OF MOTOR CARRIERS,
Washington, D. C.

This is to certify that [name of carrier giving concurrence: See Rule 10 (*b*) Note 1] assents to and concurs in the publication and filing of the freight rate tariff described below, filed by [show name of carrier to whom concurrence is given], together with supplements thereto and successive issues thereof, and that such concurring carrier hereby makes itself a party thereto and bound thereby, insofar as such tariff names rates between points on the lines or routes of [show name of carrier to whom concurrence is given], on the one hand, and points on the lines or routes of [show name of carrier giving concurrence], on the other; or rates between points on the lines or routes of [show name of carrier to whom concurrence is given] on the one hand, and points on the lines or routes of other carriers parties to such tariff, on the other, in connection with which [show name of carrier giving concurrence] acts as intermediate line, until this authority is revoked by formal and official notice of revocation filed with the Interstate

Commerce Commission and sent to the carrier to which this concurrence is given.

(Here give an exact description of the title page of the tariff, including the name of the issuing carrier, the MF-I. C. C. number, and dates on which issued and effective.)
Issued by [name and title of officer shown as issuing tariff].
(Signed) ----------

(c) If general concurrence be given by a carrier in tariffs issued by another carrier or its agent, naming rates from or to points on its lines or over its lines, form MFXC3 shall be used. Form MFXC3 may be executed as shown, when it will authorize publication of rates for the concurring carrier from and to points served by such carrier as well as from and to points served by other carriers where the concurring carrier acts as intermediate line. If it is desired to limit the authority granted to exclude publication of rates in connection with which the concurring carrier would act as either origin, intermediate, or destination line, the form may be modified to that extent by substituting the words "from — to" for the words "between — and" or by use of other appropriate language to effect the modification authorized. When authority is given an agent to publish rates for a carrier participating under authority of a concurrence to another carrier for whom such agent acts, care must be exercised that the rates published for the concurring carrier do not exceed the scope of the authority given.

CONCURRENCE

MFXC3 No. ------
Cancels MFXC. No. ------

[Name of carrier]----------
[Post office address]----------
----------, 19--.

To the INTERSTATE COMMERCE COMMISSION,
BUREAU OF MOTOR CARRIERS,
Washington, D. C.:

This is to certify that [name of carrier giving concurrence: See Rule 10 (b) Note 1] assents to and concurs in the publication and filing of any freight rate tariff or supplement thereto, which [name of carrier to whom concurrence is given] or such carrier's agent may publish and file, and in which the said [name of concurring carrier] is shown as a participating carrier, and that such concurring carrier hereby makes itself a party thereto and bound thereby insofar as such tariff names rates between points on the lines or routes of [show name of carrier to whom concurrence is given], on the one hand, and points on the lines or routes of [show name of carrier giving concurrence], on the other; or rates in connection with which [show name of carrier giving concurrence] acts as intermediate line between points on the lines or routes of [show name of carrier to whom concurrence is given], on the one hand, and points on the lines or routes of other carriers parties to such tariff, on the other, until this authority is revoked by formal and official notice of revocation filed with the Interstate Commerce Commission and sent to the carrier to which this concurrence is given.

(Signed) ----------

Duplicate mailed to ----------, at [show complete address].

(d) A concurrence may be revoked upon not less than 60 days' notice to the Commission by filing a notice of revocation with the Commission, serving at the same time a copy thereof on the carrier to which such concurrence was given. Such notice shall not bear a separate serial number, but shall specify the form and number of the concurrence to be revoked, shall name the carrier in whose favor issued, and shall specify a date upon which revocation is to become effective, which must be not less than sixty days subsequent to the date of its receipt by the Commission. The revocation notice shall be as follows:

REVOCATION NOTICE

[Name of carrier] ----------
[Post office address] ----------
----------, 19--.

To the INTERSTATE COMMERCE COMMISSION,
BUREAU OF MOTOR CARRIERS,
Washington, D. C.

Effective ----------, 19--, concurrence form MFXC- No. ------, issued by ---------- [name of carrier] in favor of ---------- [here show name of carrier in whose favor concurrence was issued] is hereby canceled and revoked.

(Name of carrier)

(Sig.) ----------

Duplicate mailed ---------- [name and title of officer].
---------- [name of carrier].
---------- [address]
---------- [date].

(e) When a power of attorney or concurrence is revoked, corresponding revision of the tariff or tariffs should be made effective upon statutory notice not later than the effective date stated in the notice of revocation. In the event of failure to so revise the applicable tariff or tariffs, the rates in such tariff or tariffs remain applicable until lawfully canceled.

(f) In giving concurrences care must be taken to avoid duplicating authority to two or more carriers which, is used, would result in conflicting rates or rules.

[F. R. Doc. 38-77; Filed, January 10, 1938; 12:09 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of January, 1938.

[File No. 1-2091]

IN THE MATTER OF ADAMS EXPRESS COMPANY UNSTAMPED 10-YEAR 4¼% DEBENTURES, DUE AUGUST 1, 1946

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Unstamped 10-Year 4¼% Debentures, due August 1, 1946, of Adams Express Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-86; Filed, January 10, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of January, 1938.

[File No. 1-1060]

IN THE MATTER OF SCULLIN STEEL COMPANY PARTICIPATING CUMULATIVE PREFERENCE STOCK, NO PAR VALUE, AND FIRST MORTGAGE SIX PER CENT SINKING FUND GOLD BONDS, DUE OCTOBER 1, 1941

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The St. Louis Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Participating Cumulative Preference Stock, No Par Value, and First Mortgage Six Per Cent Sinking Fund Gold Bonds, due October 1, 1941, of Scullin Steel Company; and

The Commission having considered the application and information pertinent thereto, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective upon the listing and registration of the securities of Scullin Steel Company, a Missouri corporation, upon said Exchange.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-87; Filed, January 10, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of January, A. D., 1938.

[File No. 30-61]

IN THE MATTER OF PUBLIC SERVICE CORPORATION OF TEXAS

ORDER PURSUANT TO SECTION 5 (D) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Public Service Corporation of Texas, a Delaware corporation, having filed on December 2, 1935, a notification of registration pursuant to Section 5 (a) of the Public Utility Holding Company Act of 1935, and having filed on August 23, 1937, an application pursuant to Section 5 (d) of said Act for an order declaring that it has ceased to be a holding company, opportunity for hearing on said application having been given after appropriate notice, the record in this matter having been examined, and the Commission having made and filed its findings herein;

It is ordered, That Public Service Corporation of Texas has ceased to be a holding company, that this Order is effective immediately and that accordingly the registration of the applicant pursuant to Section 5 (a) of the Public Utility Holding Company Act of 1935 hereby ceases to be in effect. This order shall not be deemed to relieve the applicant from any obligation to register under the Public Utility Holding Company Act if and whenever the status of such applicant so differs from that shown in the record in this proceeding that such applicant is a holding company as defined in Section 2 (a) (7) of said Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-85; Filed, January 10, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of January, A. D., 1938.

IN THE MATTER OF OBRA MINES CORPORATION COMMON CAPITAL STOCK

ORDER TO SHOW CAUSE AND FOR HEARING, DESIGNATING OFFICER AND TIME AND PLACE FOR TAKING TESTIMONY

Whereas, Obra Mines Corporation, a corporation, is the issuer of Common Capital Stock; and

Whereas said Obra Mines Corporation registered such securities on the San Francisco Mining Exchange, a national securities exchange, by filing on or about November 13, 1935, an application with the said Exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

Whereas Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, requires that every issuer of a security registered on a national securities exchange shall file such annual reports as the Commission may by rule and regulation prescribe; and

Whereas said Obra Mines Corporation filed on or about May 15, 1937, an annual report on Form 10-K for the fiscal year ended December 31, 1936, pursuant to Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 promulgated thereunder; and

Whereas said Obra Mines Corporation has failed to comply with the provisions of said Section 13 (a) and (b), said Rules KA1 and KA2, and with the provisions of said Form 10-K and with the provisions of the Instructions for said Form 10-K and the Rules and Regulations of the Commission supplemental thereto, as amended, in that the annual report filed by it for the year ended December 31, 1936, fails to contain financial statements and schedules for the year ended December 31, 1936, and fails to contain the certificate of an independent public or independent certified public accountant, although required by Item 8 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission;

It is ordered, That pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, a hearing be held to determine whether said Obra Mines Corporation has so failed to comply with said provisions of said Section 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with either provision of said Section, or of any rule or regulation promulgated by the Commission under said Section; and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Common Capital Stock on said San Francisco Mining Exchange; and

It is further ordered, That said Obra Mines Corporation appear before an officer of the Commission and show cause why the registration of said Common Capital Stock on said San Francisco Mining Exchange should not be suspended for a period not exceeding twelve months or withdrawn, as provided in Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended; and

It is further ordered, That for the purpose of such proceeding, Howard A. Judy, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That a public hearing for the taking of testimony begin on the 25th day of January, 1938, at 10:00 A. M. at the regional office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as said officer may determine.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-88; Filed, January 10, 1938; 12:52 p. m.]

Wednesday, January 12, 1938 *No. 8*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DESIGNATING THE ARCHITECT OF THE CAPITOL AS A MEMBER OF THE ALLEY DWELLING AUTHORITY

By virtue of and pursuant to the authority vested in me by the District of Columbia Alley Dwelling Act, approved June 12, 1934 (48 Stat. 930), the Architect of the Capitol is hereby designated as a member of the Alley Dwelling Authority *vice* the Director of Housing of the Federal Emergency Administration of Public Works.

Executive Order No. 6868 of October 9, 1934, designating the members of the Alley Dwelling Authority, is modified accordingly.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 5, 1938.

[No. 7784-A]

[F. R. Doc. 38-89; Filed, January 10, 1938; 2:15 p. m.]

EXECUTIVE ORDER

POWER-SITE RESTORATION NO. 487. PARTIAL REVOCATION OF EXECUTIVE ORDER OF JUNE 8, 1909, CREATING TEMPORARY POWER-SITE WITHDRAWAL NO. 20, AND EXECUTIVE ORDER OF JULY 2, 1910, CREATING POWER-SITE RESERVE NO. 20

Montana

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, the Executive Order of June 8, 1909, withdrawing lands for Temporary Power-Site Withdrawal No. 20, and the Executive Order of July 2, 1910, withdrawing lands for Power-Site Reserve No. 20, are hereby revoked as to the following-described lands:

PRINCIPAL MERIDIAN

T. 3 N., R. 5 W.,
sec. 35, NE¼, NE¼NW¼, and NE¼SE¼;
sec. 36, W½NW¼, NW¼SW¼, and S½SW¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Jan 10, 1938.

[No. 7787]

[F. R. Doc. 38-95; Filed, January 11, 1938; 11:46 a. m.]

DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH THE GOVERNMENT OF THE UNITED KINGDOM AND WITH THAT GOVERNMENT ON BEHALF OF NEWFOUNDLAND AND THE BRITISH COLONIAL EMPIRE

PUBLIC NOTICE

JANUARY 8, 1938.

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930", as extended by Public Resolution No. 10, approved March 1, 1937, and Executive Order No. 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of the United Kingdom and with that government on behalf of Newfoundland and the British Colonial Empire.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

CORDELL HULL,
Secretary of State.

Closing Date for Submission of Briefs—February 19, 1938

Closing Date for Application To Be Heard—February 19, 1938

Public Hearings Open—March 14, 1938

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of the United Kingdom, notice of intention to negotiate which has been issued by the Secretary of State on this date, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, February 19, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, Eighth and E Streets NW., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on March 14, 1938, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Written statements must be either typewritten or printed and must be submitted in six copies of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 8th day of January, 1938.

JOHN P. GREGG, *Secretary.*

JANUARY 8, 1938.

LIST OF PRODUCTS ON WHICH THE UNITED STATES WILL CONSIDER GRANTING CONCESSIONS TO THE UNITED KINGDOM, NEWFOUNDLAND, AND THE BRITISH COLONIAL EMPIRE

With reference to his public notice, issued today, of intention to negotiate a trade agreement with the Government of the United Kingdom and with that Government on behalf of Newfoundland and the British Colonial Empire, the Secretary of State announces that, unless supplementary announcement is made, the granting of concessions by the United States will be considered only with respect to the articles listed below. However, interested persons may present to the Committee for Reciprocity Information, in written or oral form, information or views concerning concessions on any article imported into the United States from the United Kingdom, Newfoundland, or the British Colonial Empire, or concerning any article imported into those countries from the United States.

The attached list is not a list of articles on which concessions are proposed, but rather a list of articles which will come under consideration for the possible granting of concessions. Their publication enables interested persons to learn whether or not products in which they are interested may be considered for the granting of concessions to the Government of the United Kingdom. Concessions will not be granted on any article not covered by the present or supplementary listing, and decision to grant a concession on any article covered in the listing will not be made until after the dates set by the Committee for Reciprocity Information for the presentation of briefs and for supplementary oral hearings. Some of the products listed may not be the subject of any concession under the terms of the agreement, and the import duties on those items which are included in the agreement as finally negotiated may or may not be changed.

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930, or, as the case may be, to the appropriate sections of the Revenue Act of 1932, as amended, or of the Revenue Act of 1934, as amended. The descriptive phraseology is however in many cases limited to a narrower field than that covered by the numbered tariff paragraph or section in the Revenue Acts. In such cases only the articles covered by the descriptive phraseology of the list will come under consideration for the granting of concessions. Concessions ultimately granted may cover articles as described in the list, or may be limited to certain specific commodities or groups of commodities falling within the limits of the descriptive phraseology of the list.

United States Tariff Act of 1930

Par.	Description of article	Present rate of duty
1	Carbon dioxide, weighing with immediate containers and carton, 1 lb. or less per carton	1 cent per pound on contents, immediate containers, and carton.
1	Stearic acid	25 percent.
5	Sodium alginate	Do.
5, 23	All medicinal preparations not specially provided for, whether or not in any form or container specified in par. 23	15 or 25 percent.
7	Ammonium carbonate and bicarbonate	2 cents per pound.
13	Blackings, powders, liquids, and creams for cleaning or polishing, not specially provided for and not containing alcohol	25 percent.
20	Chalk or whiting or paris white, precipitated	Do.
27 (a) (2), (5)	Metacresol, orthocresol, and paracresol, all the foregoing having a purity of 75 percent or more, but less than 90 percent, and metaparacresol having a purity of 75 percent or more	40 percent and 7 cents per pound.
27 (b)	Metacresol, orthocresol, and paracresol, all the foregoing having a purity of 90 percent or more	20 percent and 3½ cents per pound.
31 (a) (1)	Cellulose acetate, and compounds, combinations, or mixtures containing cellulose acetate	
	In blocks, sheets, rods, tubes, powder, flakes, briquets, or other forms, whether or not colloided, and waste wholly or in chief value of cellulose acetate, all the foregoing not made into finished or partly finished articles	50 cents per pound.
31 (b) (2)	All compounds of cellulose (except cellulose acetate, but including pyroxylin and other cellulose esters and ethers), and all compounds, combinations, or mixtures of which any such compound is the component material of chief value: Finished or partly finished articles not specially provided for, made in chief value from transparent sheets, bands, or strips	60 percent.
34	Halibut liver oil, natural and uncompounded, not edible, and not specially provided for	10 percent.
38	Extracts, dyeing and tanning: Myrobalan, and mangrove, not specially provided for, and combinations and mixtures thereof, not containing alcohol	15 percent.
39	Flavoring extracts and natural or synthetic fruit flavors, fruit esters, oils, and essences, all the foregoing not containing alcohol, and not specially provided for	25 percent.
41	Isinglass	Do.
42	Glycerine, refined	1⅞ cents per pound.
43	Ink, and ink powders not specially provided for	10 percent.
43	Drawing ink	15 percent.
49	Magnesium carbonate, precipitated	1½ cents per pound.
49	Magnesium oxide or calcined magnesia	7 cents per pound.
52	Sod oil	5 cents per gallon.
52	Sperm oil, refined or otherwise processed	14 cents per gallon.
52	Spermaceti wax	3½ cents per pound.
52	Seal oil	6 cents per gallon (plus 3 cents per pound under sec. 601 (c) (8) of the Revenue Act of 1932, as amended. See below).
52	Wool grease:	
	Containing more than 2 percent of free fatty acids	1 cent per pound.
	Containing 2 percent or less of free fatty acids and not suitable for medicinal use	2 cents per pound.
	Suitable for medicinal use, including adeps lanae, hydrous or anhydrous	3 cents per pound.
52	Marine animal and fish oils, fats, and greases, not specially provided for	20 percent.
53	Linseed or flaxseed oil, and combinations and mixtures in chief value of such oil	4½ cents per pound.
54	Palm-kernel oil	1 cent per pound (also subject to processing tax of 3 cents per pound under sec. 602½ of the Revenue Act of 1934, as amended. See below).
58	Patchouli oil, not containing alcohol	12½ percent.
61	Bath salts:	
	If not perfumed	25 percent.
	If perfumed (whether or not having medicinal properties)	75 percent.
65 (a)	Paints, colors, and pigments, commonly known as artists', school, students', or children's paints or colors:	
	(2) In tubes, jars, cakes, pans, or other forms, not exceeding 1½ pounds net weight each, and valued at 20 cents or more per dozen pieces, and not assembled in paint sets, kits, or color outfits:	
	In tubes or jars	2 cents per tube or jar and 40 percent.
	In cakes, pans, or other forms	1¼ cents per cake, pan, or other form and 40 percent.
	(3) In tubes, jars, cakes, pans, or other forms, not exceeding 1½ pounds net weight each, when assembled in paint sets, kits, or color outfits, with or without brushes, water pans, outline drawings, stencils, or other articles	70 percent on the value as assembled.
	(4) In bulk, or in any form exceeding 1½ pounds net weight each	8¼ cents per ounce.
66	Enamel paints, whether dry, mixed, or ground in or mixed with water, oil, or solutions other than oil, not specially provided for	25 percent.
68	Ultramarine blue, dry, in pulp, or ground in or mixed with oil or water, wash and all other blues containing ultramarine:	
	Valued at more than 10 cents per pound	4 cents per pound.
	Valued at 10 cents per pound or less	3 cents per pound.
72	Lead pigments:	
	Litharge	2½ cents per pound.
	Red lead	2¾ cents per pound.
	All pigments containing lead, dry or in pulp, or ground in or mixed with oil or water, not specially provided for:	
	In chief value of suboxide of lead	3 cents per pound, but not less than 15 nor more than 30 percent.
	Other	30 percent.
73	Umbers, crude or not ground	⅛ cent per pound.
73	Iron-oxide and iron-hydroxide pigments, not specially provided for	20 percent.
75	Spirit varnishes:	
	Containing less than 5 percent of methyl alcohol	$2.20 per gallon and 25 percent.
	Containing 5 percent or more of methyl alcohol	25 percent.
	All other varnishes, including so-called gold size or japan, not specially provided for	Do.
77	Zinc oxide and leaded zinc oxides containing not more than 25 percent of lead:	
	In any form of dry powder	1¾ cents per pound.
	Ground in or mixed with oil or water	2¼ cents per pound.
80	Toilet soap	30 percent.
80	Soap and soap powder, not specially provided for	15 percent.
81	Sodium chloride or salt, in bags, sacks, barrels, or other packages	11 cents per 100 pounds.
82	Sodium hydrosulphite, hydrosulphite compounds, and all combinations and mixtures of the foregoing	35 percent.
201 (a)	Bath brick, not specially provided for	25 percent.
202 (a)	Clay tiles, glazed, ornamented, hand painted, enameled, vitrified, semivitrified, decorated, encaustic, ceramic mosaic, flint, spar, embossed, gold decorated, grooved or corrugated, valued at more than 40 cents per square foot	60 percent.
202 (a)	Quarries or quarry tiles:	
	Valued at not more than 40 cents per square foot	10 cents per square foot, but not less than 50 nor more than 70 percent.
	Valued at more than 40 cents per square foot	60 percent.
205 (a)	Plaster rock or gypsum, ground or calcined	$1.40 per ton.
207	Clays or earths, including common blue clay and Gross-Almerode glass pot clay, not specially provided for:	
	Unwrought and unmanufactured	$1 per ton.
	Wrought or manufactured	$2 per ton.
207	China clay or kaolin	$2.50 per ton.
207	Fuller's earth:	
	Unwrought and unmanufactured	$1.50 per ton.
	Wrought or manufactured	$3.25 per ton.
208 (e)	Mica plates and built-up mica	40 percent.
210	Rockingham earthenware	25 percent.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
211	Earthenware and crockery ware composed of a nonvitrified absorbent body, including white granite and semi-porcelain earthenware, and cream-colored ware, and terra cotta:	
	Any of the foregoing which is tableware, kitchenware, or table or kitchen utensils:	
	Plain white, plain yellow, plain brown, plain red, or plain black, not painted, colored, tinted, stained, enameled, gilded, printed, ornamented, or decorated in any manner.	10 cents per dozen pieces and 45 percent.
	Painted, colored, tinted, stained, enameled, gilded, printed, ornamented, or decorated in any manner	10 cents per dozen pieces and 50 percent.
211	Stoneware, and all articles composed wholly or in chief value of stoneware:	
	Plain white, plain yellow, plain brown, plain red, or plain black, not painted, colored, tinted, stained, enameled, gilded, printed, ornamented, or decorated in any manner, and manufactures in chief value of such ware, not specially provided for.	10 cents per dozen and 45 percent.
	Painted, colored, tinted, stained, enameled, gilded, printed, ornamented, or decorated in any manner, and manufactures in chief value of such ware, not specially provided for.	10 cents per dozen and 50 percent.
212	China and porcelain tableware, kitchenware, and table and kitchen utensils, any of the foregoing containing 25 per cent or more of calcined bone:	
	Plain white, not painted, colored, tinted, stained, enameled, gilded, printed, or ornamented or decorated in any manner.	10 cents per dozen separate pieces and 60 percent.
	Painted, colored, tinted, stained, enameled, gilded, printed, or ornamented or decorated in any manner	10 cents per dozen separate pieces and 70 percent.
213	Graphite or plumbago, crude or refined:	
	Natural amorphous	10 percent.
	Crystalline lump, chip, or dust	30 percent.
214	Ground feldspar	Do.
214	Ground Cornwall stone	Do.
216	Carbons and electrodes, of whatever material composed, and wholly or partly manufactured, for producing electric arc light:	
	If less than ½ inch in diameter or of equivalent cross-sectional area	40 percent.
	If ½ inch or more in diameter or of equivalent cross-sectional area	30 percent.
216	Electrodes, composed wholly or in part of carbon or graphite, and wholly or partly manufactured, for electric furnace or electrolytic purposes.	Do.
216	Brushes, or whatever material composed, and wholly or partly manufactured, for electric motors, generators, or other electrical machines or appliances; plates, rods, and other forms, of whatever material composed, and wholly or partly manufactured, for manufacturing into the aforesaid brushes.	45 percent.
216	Articles or wares composed wholly or in part of carbon or graphite, wholly or partly manufactured, not specially provided for.	30 percent.
217, 810	Bottles, wholly or in chief value of glass, not specially provided for, when filled with any article provided for in schedule 8 of the Tariff Act of 1930, except solid or condensed malt extract:	
	If holding more than 1 pint	½ cent per pound.
	If holding not more than 1 pint and not less than one-fourth of 1 pint	½ cent per pound.
	If holding less than one-fourth of 1 pint	16⅔ cents per gross.
217	Jars, covered or uncovered demijohns, and carboys, any of the foregoing, wholly or in chief value of glass, not specially provided for, when filled with any article provided for in schedule 8 of the Tariff Act of 1930, except solid or condensed malt extract:	
	If holding more than 1 pint	1 cent per pound.
	If holding not more than 1 pint and not less than one-fourth of 1 pint	1½ cents per pound.
	If holding less than one-fourth of 1 pint	50 cents per gross.
218 (a)	Biological, chemical, metallurgical, pharmaceutical, and surgical articles and utensils of all kinds, including all scientific articles, and utensils, whether used for experimental purposes in hospitals, laboratories, schools or universities, colleges, or otherwise, all the foregoing (except articles provided for in pars. 217 or 218 (e) of the Tariff Act of 1930), finished or unfinished, wholly or in chief value of fused quartz or fused silica.	50 percent.
218 (b)	Tubes (except gage glass tubes), rods, cones, and tubing, with ends finished or unfinished, for whatever purpose used, wholly or in chief value of fused quartz or fused silica.	40 percent.
218 (b)	Gage glass tubes, wholly or in chief value of glass	60 percent.
218 (f)	Table and kitchen articles and utensils, and all articles of every description not specially provided for, composed wholly or in chief value of glass, blown or partly blown in the mold or otherwise, if cut or engraved and valued at not less than $1 each.	30 or 60 percent.
226	Ophthalmic lenses of glass or pebble, molded or pressed, or ground and polished to a spherical, cylindrical, or prismatic form, and ground and polished plane or coquille glasses, wholly or partly manufactured, with the edges unground.	40 percent.
227	Optical glass or glass used in the manufacture of lenses or prisms for spectacles, or for optical instruments or equipment, or for optical parts, scientific or commercial, in any and all forms.	50 percent.
228 (b)	Photographic lenses, finished or unfinished, not specially provided for	45 percent.
231	Smalts, frostings, and all ceramic and glass colors, fluxes, glazes, and enamels, all the foregoing, ground or pulverized	30 percent.
301	Iron in pigs and iron kentledge, not containing more than 0.04 percent of phosphorus	$1.12½ per ton.
302 (a)	Manganese ore (including ferruginous manganese ore) or concentrates, and manganiferous iron ore, all the foregoing containing in excess of 35 percent of metallic manganese.	½ cent per pound on the metallic manganese contained therein.
302 (g)	Tungsten metal, tungsten carbide, and mixtures or combinations containing tungsten metal or tungsten carbide, all the foregoing, in lumps, grains, or powder.	60 cents per pound on the tungsten contained therein and 60 percent ad valorem.
302 (g)	Tungstic acid, and all other compounds of tungsten, not specially provided for	60 cents per pound on the tungsten contained therein and 40 percent ad valorem.
302 (k)	Chrome metal or chromium metal	25 percent.
304	Steel ingots, cogged ingots, blooms and slabs, by whatever process made; die blocks or blanks; billets and bars, whether solid or hollow; shafting; pressed, sheared, or stamped shapes, not advanced in value or condition by any process or operation subsequent to the process of stamping; hammer molds or swaged steel; gun-barrel molds not in bars; concrete reinforcement bars; all descriptions and shapes of dry sand loam, or iron molded steel castings; sheets and plates and steel not specially provided for all the foregoing:	
	Valued above 8 and not above 12 cents per pound	2½ cents per pound.
	Valued above 12 and not above 16 cents per pound	3½ cents per pound.
	Valued above 16 cents per pound	20 percent.
305 (l)	Additional duty to be levied, collected, and paid under par. 305 (l) of the Tariff Act of 1930 on any steel or iron in the materials and articles enumerated in pars. 303, 304, 307, 308, 312, 313, 315, 316, 317, 318, 319, 322, 323, 324, 327, and 328 of the said act, and valued at more than 8 cents per pound.	8 percent.
310	Sheets or plates of iron or steel, or taggers iron or steel, coated with tin or lead, or with a mixture of which these metals, or either of them, is a component part, by the dipping or any other process, and commercially known as tin plates, terneplates, and taggers tin.	1 cent per pound.
312	Sashes and frames of iron or steel	25 percent.
316 (a)	Wire rope	35 percent.
316 (a)	Telegraph, telephone, and other wires and cables composed of iron, steel, or other metal (except gold, silver, platinum, tungsten, or molybdenum), covered with or composed in part of cotton, jute, silk, enamel, lacquer, rubber, paper, compound, or other material, with or without metal covering.	Do.
319 (a)	Iron or steel anchors and parts thereof; forgings of iron or steel, or of combined iron and steel, not machined, tooled, or otherwise advanced in condition by any process or operation subsequent to the forging process, not specially provided for.	25 percent.
321	Antifriction balls and rollers, metal balls and rollers commonly used in ball or roller bearings, whether finished or unfinished, for whatever use intended.	8 cents per pound and 35 percent.
327	Castings of malleable iron, not specially provided for	20 percent.
328	Lap-welded, butt-welded, seamed, or jointed wrought-iron pipe, not thinner than sixty-five one-thousandths of 1 inch:	
	If not less than three-eighths of 1 inch in diameter	¾ cent per pound.
	If less than three-eighths and not less than one-fourth of 1 inch in diameter	1¼ cents per pound.
	If less than one-fourth of 1 inch in diameter	1¾ cents per pound.
328	Tubes, finished or unfinished, not specially provided for:	
	Cold-drawn steel	25 percent.
	Seamless wrought-iron	Do.
329	Chains of iron or steel, used for the transmission of power:	
	Of not more than 2-inch pitch and containing more than 3 parts per pitch, and parts thereof, finished or unfinished.	40 percent.
	All other chains used for the transmission of power, and parts thereof	35 percent.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
335	Grit, shot, and sand of iron or steel, in any form	¾ cent per pound.
337	Card clothing not actually and permanently fitted to and attached to carding machines or to parts thereof at the time of importation:	
	When manufactured with round iron or untempered round steel wire	20 percent.
	When manufactured with tempered round steel wire, or with plated wire, or other than round iron or steel wire, or with felt face, wool face, or rubber-face cloth containing wool.	45 percent.
339	Carbonated water siphons which are table, household, kitchen, or hospital utensils, composed wholly or in chief value of copper, brass, steel, or other base metal (other than aluminum), not plated with platinum, gold, or silver, and not specially provided for.	40 percent.
339	Table, household, kitchen, and hospital utensils, and hollow or flatware, not specially provided for:	
	Plated with silver	50 percent.
	Composed wholly or in chief value of copper or pewter, not plated with platinum, gold, or silver, and not specially provided for.	40 percent.
341	Steel plates, stereotype plates, electrotype plates, half-tone plates, photogravure plates, photoengraved plates, and plates of other materials, engraved or otherwise prepared for printing.	25 percent.
343	Crochet needles or hooks	$1.15 per thousand and 40 percent.
343	Tape, knitting, and all other needles, not specially provided for, bodkins of metal, and needle cases or needle books furnished with assortments of needles or combinations of needles and other articles.	45 percent.
345	Saddlery and harness hardware:	
	Buckles, rings, snaps, bits, swivels, and all other articles of iron, steel, brass, composition, or other metal, not plated with gold or silver, commonly or commercially known as harness hardware.	35 percent.
	All articles of iron, steel, brass, composition, or other metal, not plated with gold or silver, commonly or commercially known as saddlery or riding bridle hardware.	50 percent.
	All the foregoing, if plated with gold or silver	60 percent.
346	Belt buckles, trouser buckles, and waistcoat buckles, shoe or slipper buckles, and parts thereof, made wholly or partly of iron, steel, or other base metal, valued at more than 50 cents and not more than $1.66⅔ per hundred.	15 cents per 100 and 20 percent.
349	Buttons of metal, not specially provided for	¾ cent per line per gross and 15 percent.
350	Pins with solid heads, without ornamentation, including hairpins; and brass, copper, iron, steel, or other base metal pins, with heads of glass, paste, or fusible enamel; all the foregoing not plated with gold or silver, and not commonly known as jewelry, and not including safety, hat, bonnet, and shawl pins.	35 percent.
351	Pens, not specially provided for:	
	Of plain or carbon steel	15 cents per gross.
	Wholly or in part of other metal	18 cents per gross.
	Any of the foregoing with nib and barrel in 1 piece	20 cents per gross.
353	All articles suitable for producing, rectifying, modifying, controlling, or distributing electrical energy; electrical telegraph (including printing and typewriting), telephone, signaling, radio, welding, ignition, wiring, therapeutic, and X-ray apparatus, instruments (other than laboratory), and devices; and articles having as an essential feature an electrical element or device, such as electric motors, fans, locomotives, portable tools, furnaces, heaters, ovens, ranges, washing machines, refrigerators, and signs; all the foregoing, and parts thereof, finished or unfinished, wholly or in chief value of metal, and not specially provided for.	17½, 20, 25, or 35 percent.
355	Table, butchers', carving, cooks', hunting, kitchen, bread, cake, pie, slicing, cigar, butter, vegetable, fruit, cheese, canning, fish, carpenters' bench, curriers', drawing, farriers', fleshing, hay, sugar-beet, beet-topping, tanners', plumbers', painters', palette, artists', shoe, and similar knives, forks, and steels, and cleavers, all the foregoing, finished or unfinished, not specially provided for:	
	With handles of mother-of-pearl, shell, ivory, deer, or other animal horn, silver, or other metal than aluminum, nickel silver, iron, or steel.	16 cents each and 45 percent.
	With handles of hard rubber, solid bone, celluloid, or any pyroxylin, casein, or similar material	8 cents each and 45 percent.
	With handles of any other material:	
	If less than 4 inches in length, exclusive of handle	2 cents each and 45 percent.
	If 4 inches in length or over, exclusive of handle (except hay forks and 4-tined manure forks)	8 cents each and 45 percent.
	Any of the foregoing without handles:	
	With blades less than 6 inches in length	2 cents each and 45 percent.
	With blades 6 inches or more in length (except hay forks and 4-tined manure forks)	8 cents each and 45 percent.
355	Hay forks and 4-tined manure forks, all the foregoing, finished or unfinished, not specially provided for, with handles of any material other than those specifically mentioned in par. 355 of the Tariff Act of 1930, if 4 inches in length or over, exclusive of handle.	4 cents each and 22½ percent.
	Hay forks and 4-tined manure forks, finished or unfinished, not specially provided for, any of the foregoing without handles, with blades 6 inches or more in length.	4 cents each and 22½ percent.
356	Planing-machine knives, tannery and leather knives, tobacco knives, paper and pulp mill knives, shear blades, circular cloth cutters, circular cork cutters, circular cigarette cutters, meat-slicing cutters, and all other cutting knives and blades used in power or hand machines.	20 percent.
357	Pruning and sheep shears, and blades for the same, finished or unfinished, valued at more than $1.75 per dozen	20 cents each and 45 percent.
358	Safety razors, and safety-razor handles and frames	10 cents each and 30 percent.
358	Blades for safety razors:	
	In strips	½ cent each and 30 percent.
	All other, finished or unfinished	1 cent each and 30 percent.
359	Surgical needles (other than hypodermic), composed wholly or in chief value of iron, steel, copper, brass, nickel, aluminum, or other metal, finished or unfinished.	55 percent.
360	Scientific and laboratory instruments, apparatus, utensils, appliances (including surveying and mathematical instruments), and parts thereof, wholly or in chief value of metal, and not plated with gold, silver, or platinum, finished or unfinished, not specially provided for (except instruments, apparatus, or appliances for determining the strength of materials or articles in tension, compression, torsion, or shear, and parts thereof).	40 percent.
365	Shotguns and rifles valued at more than $50 each	32½ or 65 percent.
368 (a)	Ships' logs and other nautical mechanisms, devices, and instruments, intended or suitable for measuring time, distance, or speed, whether or not in cases, containers, or housings:	
	(1) If valued at not more than $1.10 each	55 cents each.
	Valued at more than $1.10 but not more than $2.25 each	$1 each.
	Valued at more than $2.25 but not more than $5 each	$1.50 each.
	Valued at more than $5 but not more than $10 each	$3 each.
	Valued at more than $10 each	$4.50 each.
	(2) Any of the foregoing shall be subject to an additional duty of	65 percent.
	(3) Any of the foregoing containing jewels shall be subject to an additional cumulative duty of	25 cents for each jewel.
368 (c)	Parts for any of the foregoing shall be dutiable as follows:	
	(1) Parts (except plates provided for in clause (2) of this subparagraph, and jewels) imported in the same shipment with complete movements, mechanisms, devices, or instruments, provided for in subparagraph (a) of this paragraph (whether or not suitable for use in such movements, mechanisms, devices, or instruments). But this clause of this subparagraph shall not be applicable to that portion of all the parts in the shipment which exceeds in value 1½ percent of the value of such complete movements, mechanisms, devices, or instruments.	45 percent.
	(2) A plate suitable for assembling thereon the clockwork mechanism constituting or contained in any of the foregoing movements, mechanisms, devices, or instruments, shall be subject to one-half the amount of duty which would be borne by the complete movement, mechanism, device, or instrument for which suitable. If 2 or more such plates are imported together they shall be dutiable as 1 plate if they are necessary, as a set, for such assembling.	
	(3) Each assembly or subassembly (unless dutiable under clauses (1) or (4) of this subparagraph) consisting of 2 or more parts or pieces of metal or other material joined or fastened together. For the purpose of this clause and clause (4), bimetallic balance wheels and mainsprings with riveted ends shall each be considered as one part or piece.	65 percent plus 3 cents for each such part or piece of material, except that in the case of jewels the specific duty shall be 25 cents instead of 3 cents.
	(4) Each assembly or subassembly consisting in part of a plate or plates provided for in clause (2) of this subparagraph shall be subject to the rate of duty provided for such plate or plates, plus additional duty.	5 cents for each part or piece of material (except such plate or plates) in such assembly or subassembly, except that in the case of jewels the specific duty shall be 25 cents instead of 5 cents.
	(5) No assembly or subassembly shall be subject to a greater amount of duty than would be borne by the complete movement, mechanism, device, or instrument for which suitable.	
	(6) All other parts (except jewels)	65 percent.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
369 (a)	Automobile trucks valued at $1,000 or more each, automobile truck and motorbus chassis valued at $750 or more each, automobile truck bodies valued at $250 or more each, motorbusses designed for the carriage of more than 10 persons, and bodies for such busses, all the foregoing, whether finished or unfinished.	25 percent.
369 (b)	All other automobiles, automobile chassis, and automobile bodies, and motorcycles, all the foregoing, whether finished or unfinished.	10 percent.
369 (c)	Parts (except tires and except parts wholly or in chief value of glass) for any of the articles enumerated in subpar. (a) or (b), finished or unfinished, not specially provided for.	25 percent.
370	Internal-combustion motorboat engines having as an essential feature an electrical element or device, and parts thereof.	30 percent.
371	Bicycles, and parts thereof, not including tires	Do.
372	Reciprocating steam engines (except locomotives), and parts thereof, not specially provided for, wholly or in chief value of metal or procelain.	15 percent.
372	Sewing machines, not specially provided for and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain (but not including shuttles):	
	Valued at not more than $75 each	15 percent.
	Valued at more than $75 each	30 percent.
372	Steam turbines, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain	20 percent.
372	Embroidery machines, including shuttles for sewing and embroidery machines, lace-making machines, machines for making lace curtains, nets and nettings; and parts not specially provided for, wholly or in chief value of metal or porcelain, of any of the foregoing.	30 percent.
372	Knitting, braiding, lace braiding, and insulating machines, and all other similar textile machinery, finished or unfinished, not specially provided for, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	27½ or 40 percent.
372	Textile machinery, finished or unfinished, not specially provided for, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	40 percent.
372	Wrapping and packing machines, finished or unfinished, not specially provided for, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	27½ percent.
372	Cordage machines, finished or unfinished, not specially provided for, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	Do.
372	Internal-combustion engines not having as an essential feature an electrical element or device, and tractors (except agricultural implements) containing such engines, all the foregoing, finished or unfinished, not specially provided for, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	Do.
372	Machines for preparing or fabricating tobacco or tobacco manufactures, not specially provided for, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	Do.
373	Shovels, spades, scoops, and drainage tools, and parts thereof, composed wholly or in chief value of metal, whether partly or wholly manufactured.	30 percent.
373	Forks, hoes, and rakes, all the foregoing if agricultural hand tools, and parts thereof, composed wholly or in chief value of metal, whether partly or wholly manufactured.	15 percent.
374	Aluminum, and alloys (except those provided for in par. 302 of the Tariff Act of 1930) in which aluminum is the component material of chief value, in coils, plates, sheets, bars, rods, circles, disks, blanks, strips, rectangles, and squares.	7 cents per pound.
381	Seamless brass tubes and tubing	8 cents per pound.
381	Bronze tubes	Do.
389	Nickel, and alloys (except those provided for in par. 302 or 380 of the Tariff Act of 1930) in which nickel is the component material of chief value:	
	Tubes and tubing	25 percent.
	And in addition, if cold-rolled, cold-drawn, or cold-worked	10 percent.
390	Bottle caps of metal, collapsible tubes, and sprinkler tops:	
	If not decorated, colored, waxed, lacquered, enameled, lithographed, electroplated, or embossed in color	30 percent.
	If decorated, colored, waxed, lacquered, enameled, lithographed, electroplated, or embossed in color	45 percent.
395	Used print blocks, of whatever material composed, used for printing, stamping, or cutting, designs	60 percent.
397	Containers, not specially provided for, wholly or in chief value of tin plate, but not plated with platinum, gold, or silver, or colored with gold lacquer.	45 percent.
397	Articles or wares not specially provided for, if composed wholly or in chief value of silver or plated with silver, whether partly or wholly manufactured.	65 percent.
397	Articles or wares not specially provided for, composed wholly or in chief value of iron, steel, or other base metal, but not plated with platinum, gold, or silver, or colored with gold lacquer; typewriter spools; luggage hardware; parts of carbonated water siphons; hair curlers; and cases and sharpening devices for safety razors.	45 percent.
397	Articles or wares not specially provided for, if composed wholly or in chief value of lead, but not plated with platinum, gold, or silver, or colored with gold lacquer, whether wholly or partly manufactured.	Do.
405	Veneers of wood	20 percent.
412	Furniture, wholly or partly finished, and parts thereof, wholly or in chief value of wood, and not specially provided for.	40 percent.
412	Doors, wholly or in chief value of wood, not specially provided for	33⅓ percent.
412	Tennis-rackets and badminton-racket frames, wholly or in chief value of wood	Do.
502	Molasses and sugar sirups, not specially provided for, which contain soluble nonsugar solids (excluding any foreign substance that may have been added) equal to more than 6 percent of the total soluble solids:	
	Testing not above 48 percent total sugars	¼ cent per gallon.
	Testing above 48 percent total sugars	0.275 cent additional for each percent of total sugars and fractions of a percent in proportion.
505	Salicin	60 percent.
506	Sugar candy and all confectionery not specially provided for	40 percent.
603	Manufactured or unmanufactured tobacco, not specially provided for	55 cents per pound.
605	Cigarettes	$4.50 per pound and 25 percent.
704	Venison, fresh, chilled, or frozen, not specially provided for	6 cents per pound.
706	Meat pastes, prepared or preserved, not specially provided for, packed in airtight containers	6 cents per pound, but not less than 20 percent.
712	Birds, dead, dressed or undressed, fresh, chilled, or frozen, except chickens, ducks, geese, guineas, and turkeys	10 cents per pound.
714	Horses, unless imported for immediate slaughter, valued at more than $150 per head	30 percent.
719	Fish, pickled or salted (except fish packed in oil or in oil and other substances and except fish packed in airtight containers weighing with their contents not more than 15 pounds each):	
(2)	Cod, haddock, hake, pollock, and cusk, neither skinned nor boned (except that the vertebral column may be removed), when containing more than 43 percent of moisture by weight.	¾ cent per pound.
(4)	Herring, whether or not boned, in bulk or in immediate containers weighing with their contents more than 15 pounds each and containing each more than 10 pounds of herring, net weight.	1 cent per pound net weight.
720 (a) (3)	Herring, smoked or kippered (except herring packed in oil or in oil and other substances and except herring packed in airtight containers weighing with their contents not more than 15 pounds each), eviscerated, split, skinned, boned, or divided into portions.	1½ or 3 cents per pound.
721 (c)	Fish paste and fish sauce	30 percent.
722	Patent barley and barley flour	2 cents per pound.
726	Oatmeal, rolled oats, oat grits, and similar oat products	80 cents per 100 pounds.
733	Biscuits, wafers, cake, cakes, and similar baked articles, and puddings, all the foregoing by whatever name known, whether or not containing chocolate, nuts, fruits, or confectionery of any kind.	30 percent.
736	Blueberries, prepared or preserved, or frozen, but not in brine and not dried, desiccated, or evaporated, and not specially provided for.	25 percent.
736	Edible berries, frozen, not specially provided for, not including blueberries	35 percent.
738	Cider	5 cents per gallon.
738	Malt vinegar	8 cents per proof gallon.
743	Limes, in their natural state, or in brine	2 cents per pound.
747	Pineapples, prepared or preserved, and not specially provided for	Do.
751	All jellies, jams, marmalades, and fruit butters	35 percent.
753	Cut flowers, fresh, dried, prepared, or preserved	40 percent.
754	Cuttings, seedlings, and grafted or budded plants of deciduous or evergreen ornamental trees, shrubs, or vines, and all other nursery or greenhouse stock, not specially provided for (not including rose stock or rose plants).	25 percent.
758	Cocoanuts	½ cent each.
763	Crimson clover seed	2 cents per pound.
763	White clover seed	6 cents per pound.
763	Clover seed, not specially provided for	3 cents per pound.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
763	Rye grass seed	3 cents per pound.
763	Fescue grass seed	2 cents per pound.
764	Turnip and rutabaga seeds	4 cents per pound.
774	Celery in its natural state	2 cents per pound.
781	Mustard seeds (whole)	Do.
781	Mustard, ground or prepared in bottles or otherwise	10 cents per pound.
781	Curry and curry powder	5 cents per pound.
802	Whisky of all types and classes:	
	Aged in wooden containers 4 years or over	$2.50 per proof gallon.
	Other	$5 per proof gallon.
802	Rum, in containers holding each 1 gallon or less	$2.50 per proof gallon.
802	Gin	Do.
802	Bitters of all kinds containing spirits	$5 per proof gallon.
805	Ale, porter, stout, and beer	50 cents per gallon.
806 (a)	Cherry juice, prune juice, or prune wine, and all other fruit juices and fruit sirups, not specially provided for, containing less than one-half of 1 percent of alcohol.	70 cents per gallon.
806 (a)	Lime juice, not specially provided for, containing less than one-half of 1 percent of alcohol	Do.
806 (b)	Concentrated lime juice, fit for beverage purposes, whether in liquid, powdered, or solid form	70 cents per gallon on the quantity of unconcentrated natural juice contained.
808	Ginger ale, ginger beer, lemonade, soda water, and similar beverages containing no alcohol, and beverages containing less than one-half of 1 percent of alcohol, not specially provided for.	15 cents per gallon.
901 (a)	Cotton yarn, including warps, in any form, not bleached, dyed, colored, combed, or plied:	
	Of numbers exceeding No. 39 but not exceeding No. 90	17 to 32 percent.
	Of numbers exceeding No. 90	32 percent.
901 (b)	Cotton yarn, including warps, in any form, bleached, dyed, colored, combed, or plied (but not including prepared brass-bobbin yarns):	
	Of numbers exceeding No. 39 but not exceeding No. 90	22 to 37 percent.
	Of numbers exceeding No. 90	37 percent.
901 (b)	Prepared brass-bobbin cotton yarns:	
	Of numbers not exceeding No. 90	10 percent and, in addition thereto, for each number, 3/10 of 1 percent ad valorem.
	Of numbers exceeding No. 90	37 percent.
902	Cotton sewing thread	¼ cent per 100 yards, but not less than 20 percent nor more than 35 percent ad valorem.
904 (a)	Cotton cloth, not bleached, printed, dyed, or colored, containing yarns the average number of which—	
	Does not exceed No. 90	10.35 to 41.5 percent, but not less than 8 3/100 of 1 cent per average number per pound.
	Exceeds No. 90	41.5 percent, but not less than 8 3/100 of 1 cent per average number per pound.
904 (b)	Cotton cloth, bleached, containing yarns the average number of which—	
	Does not exceed No. 90	13.35 to 44.5 percent.
	Exceeds No. 90	44.5 percent.
904 (c)	Cotton cloth, printed, dyed, or colored, containing yarns the average number of which—	
	Does not exceed No. 90	16.35 to 47.5 percent.
	Exceeds No. 90	47.5 percent.
904 (d)	Additional duty to be levied, collected, and paid under subpar. 904 (d), Tariff Act of 1930, on cotton cloth woven with 8 or more harnesses, or with Jacquard, lappet, or swivel attachments.	10 percent.
904 (d)	Additional duty to be levied, collected, and paid under subpar. 904 (d), Tariff Act of 1930, on cotton cloth woven with 2 or more colors or kinds of filling (but not including cotton cloth woven with 8 or more harnesses or with Jacquard, lappet, or swivel attachments).	5 percent.
906	Cloth, in chief value of cotton, containing wool	60 percent.
907	Tracing cloth, cotton window hollands, and all oilcloths (except silk oilcloths and oilcloths for floors)	30 percent.
907	Filled or coated cotton cloths not specially provided for	35 percent.
907	Waterproof cloth, wholly or in chief value of cotton or other vegetable fiber, whether or not in part of india rubber	30 percent.
909	Twill-back velveteens, cut or uncut, whether or not the pile covers the entire surface, wholly or in chief value of cotton, and valued at 50 cents or over per square yard.	44 percent.
909	Velveteen polishing cloths, wholly or in chief value of cotton	62½ percent.
911 (b)	Sheets and pillowcases, wholly or in chief value of cotton	25 percent.
911 (b)	Polishing cloths, dust cloths, and mop cloths, wholly or in chief value of cotton, not made of pile fabrics	Do.
912	Fabrics, with fast edges, not exceeding 12 inches in width, wholly or in chief value of cotton and not specially provided for.	35 percent.
912	Spindle banding, and lamp and stove wicking, wholly or in chief value of cotton or other vegetable fiber	30 percent.
912	Boot or shoe lacings, wholly or in chief value of cotton or other vegetable fiber	Do.
913 (a)	Belts and belting, for machinery, wholly or in chief value of cotton or other vegetable fiber or of cotton or other vegetable fiber and india rubber.	Do.
913 (b)	Rope used as belting for textile machinery, wholly or in chief value of cotton	40 percent.
918	Handkerchiefs and woven mufflers, wholly or in chief value of cotton, finished or unfinished, not hemmed, shall be subject to duty as cloth; and, in addition, if hemmed or hemstitched.	10 percent.
919	Clothing and articles of wearing apparel of every description, manufactured wholly or in part, wholly or in chief value of cotton, and not specially provided for.	37½ percent.
919	Shirt collars and cuffs, of cotton, not specially provided for	30 cents per dozen pieces and 10 percent.
920	Lace window curtains, nets, nettings, pillow shams, and bed sets, and all other fabrics and articles, by whatever name known, plain or Jacquard-figured, finished or unfinished, wholly or partly manufactured, for any use whatsoever, made on the Nottingham lace-curtain machine, wholly or in chief value of cotton or other vegetable fiber.	60 percent.
923	Ladder tapes, printers' rubberized blanketing, badminton nets, bandages; all the foregoing, if wholly or in chief value of cotton, and not specially provided for.	40 percent.
924	All the articles enumerated or described in schedule 9 of the Tariff Act of 1930 (except in par. 922) shall be subject to an additional duty on the cotton contained therein having a staple of 1⅛ inches or more in length.	10 cents per pound.
1001	Flax, not hackled	1 or 1½ cents per pound.
1001	Flax, hackled, including "dressed line"	8 cents per pound.
1001	Flax tow and flax noils	1 cent per pound.
1003	Twist, twine, and cordage, composed of 2 or more jute yarns or rovings twisted together, the size of the single yarn or roving of which is—	
	Coarser than 20-pound	3½ cents per pound.
	20-pound up to but not including 10-pound	5 cents per pound.
	10-pound up to but not including 5-pound	6½ cents per pound.
	5-pound and finer	8 cents per pound.
	And in addition thereto, on any of the foregoing twist, twine, and cordage, when bleached, dyed, or otherwise treated.	2 cents per pound.
1004 (a)	Single yarns, of flax, hemp, or ramie, or a mixture of any of them:	
	Not finer than 60 lea	35 percent.
	Finer than 60 lea	25 percent.
1004 (b)	Threads, twines, and cords, composed of 2 or more yarns of flax, hemp, or ramie, or a mixture of any of them, twisted together.	40 percent.
1005 (a) (1)	Cordage, including cables, tarred or untarred, composed of 3 or more strands, each strand composed of 2 or more yarns:	
	Wholly or in chief value of sisal	1 cent per pound.
	If smaller than three-fourths of 1 inch in diameter	1 cent per pound and 7½ percent.
	Wholly or in chief value of manila (abaca), henequen, or other hard fiber	2 cents per pound.
	If smaller than three-fourths of 1 inch in diameter	2 cents per pound and 15 percent.
1006	Gill nettings, nets, webs, and seines, and other nets for fishing, wholly or in chief value of flax, hemp, or ramie, and not specially provided for.	45 percent.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
1007	Hose, suitable for conducting liquids or gases, wholly or in chief value of vegetable fiber	19½ cents per pound and 15 percent
1008	Woven fabrics, wholly of jute, not specially provided for:	
	Not bleached, printed, stenciled, painted, dyed, colored, or rendered noninflammable	1 cent per pound.
	Bleached, printed, stenciled, painted, dyed, colored, or rendered noninflammable	1 cent per pound and 10 percent.
1009 (a)	Woven fabrics, not including articles finished or unfinished, wholly or in chief value of flax (except such as are commonly used as paddings or interlinings in clothing), exceeding 30 and not exceeding 100 threads to the square inch, counting the warp and filling, weighing not less than 4 and not more than 12 ounces per square yard, and exceeding 12 inches but not exceeding 36 inches in width.	55 percent.
1009 (b)	Woven fabrics, such as are commonly used for paddings or interlinings in clothing:	
	Wholly or in chief value of flax, or hemp, or of which these substances or either of them is the component material of chief value, exceeding 30 and not exceeding 120 threads to the square inch, counting the warp and filling, and weighing not less than 4½ and not more than 12 ounces per square yard.	40 percent.
	Wholly or in chief value of jute, exceeding 30 threads to the square inch, counting the warp and filling, and weighing not less than 4½ ounces and not more than 12 ounces per square yard.	50 percent.
1010	Woven fabrics, not including articles finished or unfinished, of flax, hemp, ramie, or other vegetable fiber, except cotton, or of which these substances or any of them is the component material of chief value, not specially provided for.	30 percent.
1011	Plain-woven fabrics, not including articles finished or unfinished, wholly or in chief value of flax, hemp, ramie, or other vegetable fiber, except cotton, weighing less than 4 ounces per square yard.	35 percent.
1013	Table damask, wholly or in chief value of vegetable fiber, except cotton, and all articles, finished or unfinished, made or cut from such damask.	45 percent.
1014	Towels and napkins, finished or unfinished, wholly or in chief value of flax, hemp, or ramie, or of which these substances or any of them is the component material of chief value:	
	Not exceeding 120 threads to the square inch, counting the warp and filling	55 percent.
	Exceeding 120 threads to the square inch, counting the warp and filling	40 percent.
1014	Sheets and pillowcases, wholly or in chief value of flax, hemp, or ramie, or of which these substances or any of them is the component material of chief value.	Do.
1016	Handkerchiefs, wholly or in chief value of vegetable fiber, except cotton, finished or unfinished:	
	Not hemmed	35 percent.
	Hemmed or hemstitched, or unfinished having drawn threads (but not including handkerchiefs made with hand-rolled or hand-made hems).	50 percent.
1017	Shirt collars and cuffs, wholly or in part of flax	40 cents per dozen and 10 percent.
1019	Bagging for cotton, gunny cloth, and similar fabrics, suitable for covering cotton, composed of single yarns made of jute, jute butts, or other vegetable fiber, not bleached, dyed, colored, stained, painted, or printed, not exceeding 16 threads to the square inch, counting the warp and filling, and weighing more than 32 ounces per square yard.	2/10 cent per pound.
1020	Linoleum, including mats and rugs:	
	Inlaid	42 percent.
	Other, including corticine and cork carpet	35 percent.
1020	Floor oilcloth, including mats and rugs	20 percent.
1021	Floor coverings not specially provided for	40 percent.
1023	All manufactures, wholly or in chief value of flax, not specially provided for	Do.
1105 (a) (b)	Wool and hair wastes:	
	Top waste, slubbing waste, roving waste, and ring waste	37 cents per pound.
	Garnetted waste	26 cents per pound.
	Noils, carbonized	30 cents per pound.
	Noils, not carbonized	23 cents per pound.
	Thread or yarn waste	25 cents per pound.
	Card or burr waste, carbonized	23 cents per pound.
	Card or burr waste, not carbonized	16 cents per pound.
	Wool waste, not specially provided for	24 cents per pound.
	Shoddy, and wool extract	Do.
	Mungo	10 cents per pound.
	Wool rags	18 cents per pound.
	Flocks	8 cents per pound.
1106	Wool, and hair of the kinds provided for in schedule 11 of the Tariff Act of 1930, if carbonized, or advanced in any manner or by any process of manufacture beyond the washed or scoured condition, including tops, but not further advanced than roving.	37 cents per pound and 20 percent.
1107	Yarn, wholly or in chief value of wool other than Angora rabbit hair:	
	Valued at not more than $1 per pound	40 cents per pound and 35 percent.
	Valued at more than $1 but not more than $1.50 per pound	40 cents per pound and 45 percent.
	Valued at more than $1.50 per pound	40 cents per pound and 50 percent.
1108	Woven fabrics, weighing not more than 4 ounces per square yard, wholly or in chief value of wool, except fabrics having the warp wholly of cotton or other vegetable fiber:	
	Valued at not more than $1.25 per pound	50 cents per pound and 50 percent.
	Valued at more than $1.25 but not more than $2 per pound	50 cents per pound and 55 percent.
	Valued at more than $2 per pound	50 cents per pound and 60 percent.
1108	Woven fabrics, weighing not more than 4 ounces per square yard, wholly or in chief value of wool, and having the warp wholly of cotton or other vegetable fiber:	
	Valued at not more than $1 per pound	40 cents per pound and 50 percent.
	Valued at more than $1 but not more than $1.50 per pound	40 cents per pound and 55 percent.
	Valued at more than $1.50 per pound	40 cents per pound and 60 percent.
1109 (a)	Woven fabrics, weighing more than 4 ounces per square yard, wholly or in chief value of wool (except woven green billiard cloths, in the piece, weighing more than 11 ounces but not more than 15 ounces per square yard, wholly of wool):	
	Valued at not more than $1.25 per pound	50 cents per pound and 50 percent.
	Valued at more than $1.25 but not more than $2 per pound	50 cents per pound and 55 percent.
	Valued at more than $2 per pound	50 cents per pound and 60 percent.
1109 (b)	Felts, belts, blankets, jackets, or other articles of machine clothing, for paper-making, printing, or other machines, when woven, wholly or in chief value of wool, as units or in the piece, finished or unfinished:	
	Valued at not more than $1.25 per pound	50 cents per pound and 25 percent.
	Valued at more than $1.25 but not more than $2 per pound	50 cents per pound and 27½ percent.
	Valued at more than $2 per pound	50 cents per pound and 30 percent.
1111	Blankets, and similar articles (including carriage and automobile robes and steamer rugs), made of blanketing, as, units or in the piece, finished or unfinished, wholly or in chief value of wool, not exceeding 3 yards in length:	
	Valued at not more than $1 per pound	30 cents per pound and 36 percent.
	Valued at more than $1 but not more than $1.50 per pound	33 cents per pound and 37½ percent.
	Valued at more than $1.50 per pound	40 cents per pound and 40 percent.
1112	Felts, not woven, wholly or in chief value of wool:	
	Valued at not more than $1.50 per pound	30 cents per pound and 35 percent.
	Valued at more than $1.50 per pound	40 cents per pound and 40 percent.
1114 (b)	Hose and half-hose, finished or unfinished, wholly or in chief value of wool:	
	Valued at not more than $1.75 per dozen pairs	40 cents per pound and 35 percent.
	Valued at more than $1.75 per dozen pairs	50 cents per pound and 50 percent.
1114 (c)	Knit underwear, finished or unfinished, wholly or in chief value of wool:	
	Valued at not more than $1.75 per pound	40 cents per pound and 30 percent.
	Valued at more than $1.75 per pound	50 cents per pound and 30 percent.
1114 (d)	Outerwear and articles of all kinds, knit or crocheted, finished or unfinished, wholly or in chief value of wool, and not specially provided for (except hats, bonnets, caps, berets, and similar articles):	
	Valued at not more than $2 per pound	44 cents per pound and 45 percent.
	Valued at more than $2 per pound:	
	Infants' outerwear made or cut from Jersey fabric knit in plain stitch on a circular machine	50 cents per pound and 25 percent.
	Other infants' outerwear	50 cents per pound and 75 percent.
	Other than infants' outerwear	50 cents per pound and 50 percent.
1115 (a)	Clothing and articles of wearing apparel of every description, not knit or crocheted, manufactured wholly or in part, wholly or in chief value of wool (except hats, bonnets, caps, berets, and similar articles, and except bodies, hoods, forms, and shapes for the same, whether or not pulled, stamped, blocked, or trimmed):	
	Valued at not more than $4 per pound	33 cents per pound and 45 percent.
	Valued at more than $4 per pound	50 cents per pound and 50 percent.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
1116 (b)	Carpets, rugs, and mats, of oriental weave or weaves, made on a power-driven loom; chenille Axminster carpets, rugs, and mats; all the foregoing, plain or figured, whether woven as separate carpets, rugs, or mats, or in rolls of any width.	60 percent.
1119	Tapestries and upholstery goods (not including pile fabrics), in the piece or otherwise, wholly or in chief value of wool.	Subject to applicable rates of duty imposed upon woven fabrics of wool in pars. 1108 or 1109.
1120	All manufactures, wholly or in chief value of wool, not specially provided for	50 percent.
1122	Fabrics (except printing-machine cylinder lapping in chief value of flax), in the piece or otherwise, containing 17 per-cent or more in weight of wool, but not in chief value thereof, and whether or not more specifically provided for, shall be dutiable as follows: That proportion of the amount of the duty on the fabric, computed under schedule 11 of the Tariff Act of 1930, as modified, which the amount of wool bears to the entire weight, plus that proportion of the amount of the duty on the fabric, computed as if paragraph 1122 of said tariff act had not been enacted, which the weight of the component materials other than wool bears to the entire weight.	
1208	Hose and half-hose, knit or crocheted, finished or unfinished, wholly or in chief value of silk	60 percent.
1209	Handkerchiefs and woven mufflers, wholly or in chief value of silk, finished or unfinished:	
	Not hemmed	55 percent.
	Hemmed or hemstitched	60 percent.
1309	Hose and half-hose, knit or crocheted, finished or unfinished, wholly or in chief value of rayon or other synthetic textile.	45 cents per pound and 65 percent.
1311	Clothing and articles of wearing apparel of every description, manufactured wholly or in part, wholly or in chief value of rayon or other synthetic textile, and not specially provided for.	Do.
1402	Sheathing paper, roofing paper, deadening felt, sheathing felt, roofing felt or felt roofing, whether or not saturated or coated.	10 percent.
1404	Papers commonly or commercially known as stereotype paper, carbon paper, coated or uncoated, and pottery paper, colored or uncolored, white or printed:	
	Weighing not over 6 pounds to the ream, and whether in sheets or any other form	6 cents per pound and 20 percent.
1404	Weighing over 6 pounds and less than 10 pounds to the ream	5 cents per pound and 15 percent.
1405	India and bible paper weighing 10 pounds or more and less than 20½ pounds to the ream	4 cents per pound and 15 percent.
1405	Simplex decalcomania paper not printed	5 cents per pound and 10 percent.
1405	Unsensitized basic paper, to be sensitized for use in photography	5 percent.
1405	All boxes of paper or papier-mâché or wood covered or lined with paper or vegetable fiber and provided for in par. 1405 of the Tariff Act of 1930.	5 cents per pound and 20 percent.
1406	Pictures, calendars, cards, placards, and other articles, composed wholly or in chief value of paper lithographically printed in whole or in part from stone, gelatin, metal, or other material (except boxes, views of American scenery or objects, and music, and illustrations when forming part of a periodical or newspaper, or of bound or unbound books, accompanying the same), not specially provided for, exceeding twenty one-thousandths of 1 inch in thickness.	8¾ cents per pound.
1407 (a)	Drawing paper weighing 8 pounds or over per ream	
1409	Hanging paper, printed, lithographed, dyed, or colored	3 cents per pound and 15 percent.
1409	Filtering paper	1½ cents per pound and 20 percent.
1409	Unmounted stencil paper, not specially provided for	5 cents per pound and 15 percent.
1410	Unbound books of all kinds, bound books of all kinds except those bound wholly or in part in leather, sheets or printed pages of books bound wholly or in part in leather, pamphlets, music in books or sheets, and printed matter, all the foregoing not specially provided for (except unbound or bound prayer books and sheets or printed pages of prayer books):	30 percent.
	If of bona fide foreign authorship	15 percent.
	All other	25 percent.
1410	Blank books, slate books, engravings, maps, and charts (except diaries, notebooks, and address books)	Do.
1410	Book bindings or covers wholly or in part of leather, not specially provided for	30 percent.
1412	Playing cards	10 cents per package and 20 percent.
1413	Noisemakers, wholly or in chief value of paper, not specially provided for	35 percent.
1501 (a)	Yarn, slivers, rovings, wick, rope, cord, cloth, tape, and tubing, of asbestos, or of asbestos and any other spinnable fiber, with or without wire, and all manufactures of any of the foregoing.	40 percent.
1501 (b)	Molded, pressed, or formed articles, in part of asbestos, containing any binding agent, coating, or filler, other than hydraulic cement or synthetic resin.	25 percent.
1502	Lawn-tennis and table-tennis balls	30 percent.
1502	Golf balls	Do.
1502	Baseballs, footballs, and other balls, finished or unfinished, primarily designed for use in physical exercise (whether or not such exercise involves the element of sport), except balls wholly or in chief value of rubber.	Do.
1502	Field-hockey sticks and guards, polo mallets, table-tennis bats, croquet mallets, golf clubs and tees, soccer guards, and tennis nets.	Do.
1504 (b) (4)	Hats, bonnets, and hoods, composed wholly or in chief value of straw, chip, paper, grass, palm leaf, willow, osier, rattan, real horsehair, Cuba bark, ramie, or manila hemp, whether wholly or partly manufactured, if sewed (whether or not blocked, trimmed, bleached, dyed, colored, or stained).	$3 per dozen and 50 percent.
1506	Tooth brushes and other toilet brushes, the handles or backs of which are composed wholly or in chief value of any product provided for in par. 31 of the Tariff Act of 1930.	2 cents each and 50 percent.
1506	Handles and backs for tooth brushes and other toilet brushes, composed wholly or in chief value of any product provided for in par. 31 of the Tariff Act of 1930.	1 cent each and 50 percent.
1506	Toilet brushes, ornamented, mounted, or fitted with gold, silver, or platinum, or wholly or partly plated with gold, silver, or platinum, whether or not enameled.	60 percent.
1506	Other tooth brushes and other toilet brushes	1 cent each and 50 percent.
1506	All other brushes, not specially provided for	50 percent.
1506	Hair pencils in quills or otherwise	40 percent.
1510	Buttons not specially provided for (except buttons wholly or in chief value of compounds of casein, known as galalith or by any other name, wood, or glass).	45 percent.
1511	Stoppers, wholly or in chief value of artificial composition, or compressed cork:	
	Over three-fourths of 1 inch in diameter, measured at the larger end	10 cents per pound.
	Three-fourths of 1 inch or less in diameter, measured at the larger end	12½ cents per pound.
1513	Toys not specially provided for: Figures or images wholly or in chief value of metal; construction sets wholly or in chief value of metal; and stuffed animal figures.	70 percent.
1514	Emery wheels, emery files, and manufactures of which emery, corundum, garnet or artificial abrasive is the component material of chief value, not specially provided for; and all papers, cloths, and combinations of paper and cloth, wholly or partly coated with artificial or natural abrasives, or with a combination of natural and artificial abrasives; all the foregoing.	20 percent.
1518	Boas, boutonnieres, wreaths, and all articles not specially provided for, composed wholly or in chief value of any of the feathers, flowers, leaves, or other material mentioned in the dutiable provisions of paragraph 1518 of the Tariff Act of 1930.	60 percent.
1519 (a)	Dressed furs and dressed fur skins (except silver or black fox), and plates, mats, linings, strips, and crosses of dressed dog, goat, or kid skins.	25 percent.
	All the foregoing, if dyed	30 percent.
1523	Human hair tops, roving, and yarns, of which human hair is the component material of chief value	6 cents per pound and 25 percent.
1523	Press cloth, of which human hair is the component material of chief value	8 cents per pound, and 40 percent.
1523	Press cloth, of which camel's hair is the component material of chief value	40 percent but not less than 25 cents per pound.
1523	Hair press cloth, not specially provided for	40 percent.
1525	Haircloth (including haircloth known as hair seating), wholly or in chief value of horsehair, not specially provided for.	35 percent.
1526 (a)	Hats, caps, bonnets, and hoods, trimmed or untrimmed, including bodies, hoods, plateaux, forms, or shapes, for hats or bonnets, composed wholly or in chief value of fur of the rabbit, beaver, or other animals:	
	For men's or boys' wear, valued at more than $48 per dozen	$16 per dozen and 25 percent.
	For women's or girls' wear—	
	Valued at more than $18 and not more than $24 per dozen	$9 per dozen and 25 percent.
	Valued at more than $24 and not more than $30 per dozen	$12 per dozen and 25 percent.
	Valued at more than $30 and not more than $48 per dozen	$13 per dozen and 25 percent.
	Valued at more than $48 per dozen	$16 per dozen and 25 percent.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
1526 (b)	Men's silk or opera hats, in chief value of silk	$2 each and 75 percent.
1527 (c) (2)	Articles valued above $5 per dozen pieces, designed to be worn on apparel or carried on or about or attached to the person: Cigar and cigarette lighters, compacts, powder and vanity cases, chains, and charms, all the foregoing, finished or unfinished, composed wholly or in chief value of metal other than gold or platinum (whether or not enameled, washed, covered, or plated, including rolled gold plate), or (if not composed in chief value of metal and if not dutiable under clause (1) of subparagraph 1527 (c) of the Tariff Act of 1930) set with and in chief value of precious or semiprecious stones, pearls, cameos, coral, amber, imitation precious or semiprecious stones, or imitation pearls.	⅗ cent each and ⅗ cent per dozen for each 1 cent the value exceeds 20 cents per dozen, and 25 percent.
1528	Precious stones and semiprecious stones, cut but not set, and suitable for use in the manufacture of jewelry: Cat's-eye and opal.	10 percent.
1529 (a)	Nets and nettings made on bobbinet or Mechlin machines, wholly or in chief value of filaments, yarns, threads, or rayon or other synthetic textile, not embroidered.	65 or 90 percent.
1529 (a)	Flouncings, all-overs, neck ruffings, flutings, quillings, ruchings, and tuckings, all the foregoing, wholly or in chief value of cotton.	45, 50, 60, or 90 percent.
1529 (a)	Hose and half-hose wholly or in chief value of wool:	
	Embroidered with clocking not exceeding 1 inch in width and 6 inches in length exclusive of the fork	75 percent.
	Otherwise embroidered	90 percent.
1530 (b)	Leather (except leather provided for in subpar. (d) of par. 1530 of the Tariff Act of 1930), made from hides or skins of cattle of the bovine species:	
	(1) Sole or belting leather (including offal), rough, partly finished, finished, curried, or cut or wholly or partly manufactured into outer or inner soles, blocks, strips, counters, taps, box toes, or any forms or shapes suitable for conversion into boots, shoes, footwear, or belting.	12½ percent.
	(2) Leather welting	Do.
	(3) Leather to be used in the manufacture of harness or saddlery	10 percent.
	(4) Side upper leather (including grains and splits), and leather made from calf or kip skins, rough, partly finished, or finished, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.	15 percent.
	(4) Patent leather, rough, partly finished, or finished, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.	10 percent.
	(5) Upholstery, collar, bag, case, glove, garment, or strap leather, in the rough, in the white, crust, or russet, partly finished, or finished.	20 percent.
	(6) Leather to be used in the manufacture of footballs, basket balls, soccer balls, or medicine balls	Do.
	(7) All other, rough, partly finished, finished, or curried, not specially provided for	15 percent.
1530 (c)	Leather (except leather provided for in subpar. (d) of par. 1530 of the Tariff Act of 1930), made from reptile skins or shark skins, in the rough, in the white, crust, or russet, partly finished, or finished, if imported to be used in the manufacture of boots, shoes, or footwear, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.	10 percent.
1530 (c)	Pigskin leather, in the rough, in the white, crust, or russet, partly finished or finished:	
	If imported to be used in the manufacture of boots, shoes, or footwear, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.	Do.
	Other	15 percent.
1530 (c)	Vegetable-tanned rough leather made from goat or sheep skins (including those commercially known as India-tanned goat or sheep skins).	10 percent.
1530 (c)	Rough-tanned walrus leather (except leather provided for in subpar. (d) of par. 1530)	25 percent.
1530 (c)	Glove and garment leather (except leather provided for in subpar. (d) of par. 1530 of the Tariff Act of 1930), made from hides or skins of animals (including fish, reptiles, and birds, but not including cattle of the bovine species), in the rough, in the white, crust, or russet, partly finished, or finished.	Do.
1530 (d)	Leather made from hides or skins of cattle of the bovine species, grained, printed, embossed, ornamented, or decorated, in any manner or to any extent (including leather finished in gold, silver, aluminum, or like effects), or by any other process (in addition to tanning) made into fancy leather, and any of the foregoing cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear, all the foregoing by whatever name known, and to whatever use applied.	30 percent.
1530 (e)	Boots, shoes, or other footwear (including athletic or sporting boots and shoes), made wholly or in chief value of leather by the process or method known as welt, not specially provided for.	20 percent.
1530 (f)	Harness valued at more than $70 per set, single harness valued at more than $40, saddles valued at more than $40 each, saddlery, and parts (except metal parts) for any of the foregoing.	35 percent.
1530 (f)	Saddles made wholly or in part of pigskin or imitation pigskin	Do.
1530 (f)	Saddles and harness, not specially provided for, and parts thereof, except metal parts, finished or unfinished	15 percent.
1531	Bags, baskets, belts, satchels, card cases, pocketbooks, jewel boxes, portfolios, and other boxes and cases, not jewelry, wholly or in chief value of leather or parchment, and manufactures of leather, rawhide, or parchment, or of which leather, rawhide, or parchment is the component material of chief value, not specially provided for. Any of the foregoing permanently fitted and furnished with traveling, bottle, drinking, dining or luncheon, sewing, manicure, or similar sets.	35 percent. 50 percent.
1532 (a)	Gloves made wholly or in chief value of leather, whether wholly or partly manufactured:	
	Men's gloves not over 12 inches in length	$6 per dozen pairs.
	For each inch or fraction thereof in excess of 12 inches	50 cents per dozen pairs.
	Women's or children's gloves, lined, or trimmed with fur, not over 12 inches in length	$5.50 per dozen pairs.
	For each inch or fraction thereof in excess of 12 inches	50 cents per dozen pairs.
	Provided, That, in addition thereto, on all the foregoing, there shall be paid each of the following cumulative duties:	
	When machine seamed, otherwise than overseamed	$1 per dozen pairs.
	When seamed by hand	$5 per dozen pairs.
	When lined with cotton, wool, silk, or other fabrics	$3.50 per dozen pairs.
	When trimmed with fur	$4 per dozen pairs.
	When lined with leather or fur	$5 per dozen pairs.
	Provided further, That all the foregoing shall be dutiable at not less than	50 percent.
1532 (b)	Gloves wholly or in chief value of leather made from horsehides or cowhides (except calfskins), whether wholly or partly manufactured	25 percent.
1535	Artificial flies, snelled hooks, leaders' or casts, finished or unfinished	55 percent.
1536	Manufactures wholly or in chief value of wax, not specially provided for	20 percent.
1537 (a)	Manufactures wholly or in chief value of whalebone, not specially provided for	25 percent.
1537 (b)	Manufactures of India rubber or gutta-percha, or of which these substances or either of them is the component material of chief value, not specially provided for: Heels and soles; nursing-bottle covers and nipples; golf-ball centers; and gloves.	Do.
1537 (b)	Molded insulators and insulating materials, wholly or partly manufactured, composed wholly or in chief value of rubber or gutta-percha.	30 percent.
1537 (b)	Manufactures composed wholly or in chief value of India rubber known as "hard rubber," not specially provided for, finished or unfinished.	35 percent.
1537 (c)	Combs of whatever material composed, except combs wholly of metal, not specially provided for:	
	If valued at $4.50 or less per gross	1 cent each and 25 percent.
	If valued at more than $4.50 per gross	2 cents each and 35 percent.
1541 (a)	Musical instruments not specially provided for: Chimes, peals, and sets of tuned bells other than carillons, and parts of any of the foregoing: Jew's-harps, and piano keys with ivory tops.	40 percent.
1541 (c)	Carillons, and parts thereof	20 percent.
1542	Phonograph records, not specially provided for	30 percent.
1545	Sponges:	
	Commercially known as yellow, grass, or velvet	25 percent.
	Hardhead or reef	15 percent.
1547 (a)	Paintings in oil or water colors, pastels, pen and ink drawings, and copies, replicas, or reproductions of any of the same, all the foregoing which are works of art, not specially provided for.	20 percent.
1550 (b)	Stylographic pens, and parts thereof	72 cents per dozen and 40 percent.
1551	Photographic dry plates, not specially provided for	15 percent.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
1551	Photographic-film negatives, imported in any form, for use in any way in connection with moving-picture exhibits, or for making or reproducing pictures for such exhibits:	
	Exposed but not developed, except undeveloped negative moving-picture film of American manufacture exposed abroad for silent or sound news reel.	2 cents per linear foot.
	Exposed and developed	3 cents per linear foot.
1551	Photographic-film positives, imported in any form, for use in any way in connection with moving-picture exhibits, including herein all moving, motion, motophotography, or cinematography film pictures, prints, positives, or duplicates of every kind and nature, and of whatever substance made.	1 cent per linear foot.
1552	Common tobacco pipes and pipe bowls made wholly of clay:	
	Valued at not more than 40 cents per gross	15 cents per gross.
	Valued at more than 40 cents per gross	45 percent.
1552	Tobacco pipe bowls, wholly or in chief value of brier or other wood or root, in whatever condition of manufacture, whether bored or unbored, and tobacco pipes having such bowls, except tobacco pipes, wholly finished, having bowls wholly or in chief value of brier wood, valued at less than $1.20 per dozen.	5 cents each and 60 percent.
1552	Pipes (except tobacco pipes having clay bowls (not including meerschaum) and mouthpieces of material other than clay), pipe bowls, cigar and cigarette holders, not specially provided for, and mouthpieces for pipes, or for cigar and cigarette holders, all the foregoing of whatever material composed, and in whatever condition of manufacture, whether wholly or partly finished, or whether bored or unbored.	Do.
1552	Pouches for chewing or smoking tobacco, and cases suitable for pipes, cigar and cigarette holders, finished or partly finished.	60 percent.
1552	Cigar and cigarette cases and parts thereof, finished or unfinished, not specially provided for, wholly or in chief value of leather.	Do.
1554	Walking canes, finished or unfinished	40 percent.
1606 (a), (b)	Dogs and horses imported by a citizen of the United States specially for breeding purposes	Free, subject to the provisions of par. 1606 (a) and (b).
1609	Annatto and gambier, and extracts thereof, not containing alcohol	Free.
1612	Arrowroot, crude or manufactured, and arrowroot starch and flour	Do.
1616	Chrysotile asbestos, unmanufactured, crudes, fibers, and stucco	Do.
1617	Waste bagging, and waste sugar sack cloth	Do.
1621	Bibles, comprising the books of the Old or New Testament, or both, bound or unbound	Do.
1628	Books, engravings, photographs, etchings, bound or unbound, maps and charts imported by authority or for the use of the United States or for the use of the Library of Congress.	Do.
1629	Hydrographic charts and publications issued for distribution gratuitously by the publishers or exchanges by scientific or literary associations or academies, and publications of individuals for gratuitous private circulation, not advertising matter, and public documents issued by foreign governments; books, maps, music, engravings, photographs, etchings, lithographic prints, bound or unbound, and charts, which have been printed more than 20 years at the time of importation. *Provided*, That where any such books have been rebound wholly or in part in leather within such period, the binding so placed upon such books shall be dutiable as provided in paragraph 1410 of the Tariff Act of 1930.	Do.
1631	Any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or any college, academy, school, or seminary of learning in the United States, or any State or public library, may import free of duty any book, map, music, engraving, photograph, etching, lithographic print, or chart, for its own use or for the encouragement of the fine arts, and not for sale, under such rules and regulations as the Secretary of the Treasury may prescribe.	Do.
1645	Chalk, crude, not ground, boiled, precipitated, or otherwise manufactured	Do.
1647	Chromite or chrome ore	Do.
1650	Anthracite coal; culm and slack; and coke	Do.
1651	Coal-tar products: Acenaphthene, anthracene having a purity of less than 30 percent, benzene, carbazole having a purity of less than 65 percent, cumene, cymene, fluorene, methylanthracene, methylnaphthalene, naphthalene which after the removal of all the water present has a solidifying point less than 79° C., pyridine, toluene, xylene, dead or creosote oil, anthracene oil, pitch of coal tar, tar, pitch of blast-furnace tar, pitch of oil-gas tar, pitch of water-gas tar, crude coal tar, crude blast-furnace tar, crude oil-gas tar, crude water-gas tar, all other distillates of any of these tars which on being subjected to distillation yield in the portion distilling below 190° C. a quantity of tar acids less than 5 percent of the original distillate, all mixtures of any of these distillates and any of the foregoing pitches, and all other materials or products that are found naturally in coal tar, whether produced or obtained from coal tar or other source, and not specially provided for in par. 27 or 28 of title I of the Tariff Act of 1930.	Do.
1653	Cocoa or cacao beans, and shells thereof	Do.
1656	Coir	Do.
1662	Cotton waste	Do.
1665	Curling stones	Do.
1668	Diamonds, rough or uncut, and not advanced in condition or value from their natural state by cleaving, splitting, cutting, or other process whether in their natural form or broken, glaziers' and engravers' diamonds, any of the foregoing not set, miners' diamonds, and diamond dust.	Do.
1669	Cubebs in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, and not containing alcohol.	Do.
1670	Dyeing or tanning materials: Logwood, and mangrove bark, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, and not containing alcohol.	Do.
1681	Furs and fur skins, not specially provided for, undressed: Caracul, ermine, fitch, fox (other than silver or black fox), hare, kolinsky, lamb, kid, sheep, goat, marmot, marten, monkey, pony, sable, skunk, and squirrel.	Do.
1683	Goldbeaters' molds and goldbeaters' skins	Do.
1684	Sisal, not dressed or manufactured in any manner	Do.
1685	Guano, basic slag (ground or unground), manures, and (notwithstanding any other provision of the Tariff Act of 1930), those grades of all other substances used chiefly for fertilizers, or chiefly as an ingredient in the manufacture of fertilizers.	Do.
1686	Gums and resins: Damar, dragon's blood, benzoin, and myrrh	Do.
1691	Hides and skins of the India water buffalo imported to be used in the manufacture of rawhide articles	Do.
1692	Hones, whetstones, and grindstones	Do.
1697	India rubber and gutta-percha, crude, including jelutong or pontianak, gunyule, gutta balata, and gutta siak, and scrap or refuse India rubber and gutta-percha fit only for remanufacture.	Do.
1699	Iridium, osmium, palladium, rhodium, and ruthenium, and native combinations thereof with one another or with platinum.	Do.
1701	Ivory tusks in their natural state or cut vertically across the grain only, with the bark left intact	Do.
1710	Limestone-rock asphalt; asphaltum and bitumen	Do.
1714	Manuscripts, not specially provided for	Do.
1719	Cornwall stone, unmanufactured	Do.
1719	Columbium ores or concentrates	Do.
1721	Monazite sand and other thorium ores	Do.
1722	Carragheen or Irish moss, crude or unmanufactured, not specially provided for	Do.
1724	Needles, hand sewing or darning	Do.
1725	Nets or finished sections of nets for use in otter trawl fishing, if composed wholly or in chief value of manila	Do.
1726	Newspapers and periodicals, unbound	Do.
1727	Palm nuts, and palm-nut kernels	Do.
1731	Oils, distilled or essential: Cinnamon, citronella, and lime, all the foregoing not containing alcohol	Do.
1732	Expressed or extracted palm-kernel oil, rendered unfit for use as food or for any but mechanical or manufacturing purposes, by such means as shall be satisfactory to the Secretary of the Treasury and under regulations to be prescribed by him.	Free (subject to processing tax of 3 cents per pound under sec. 602½ of the Revenue Act of 1934, as amended. See below.)
1735	Duplex decalcomania paper not printed	Free.
1736	Parchment and vellum	Do.
1738	Shells, not sawed, cut, flaked, polished, or otherwise manufactured, or advanced in value from the natural state (except tortoise shell and mother-of-pearl).	Do.
1744	Platinum, unmanufactured or in ingots, bars, sheets, or plates not less than one-eighth of 1 inch in thickness, sponge, or scrap.	Do.
1750	Rag pulp; paper stock, crude, of every description, including all grasses, fibers, rags, waste (including jute, hemp, and flax waste), shavings, clippings, old paper, rope ends, waste rope, and waste bagging, and all other waste not specially provided for, including old gunny cloth, and old gunny bags, used chiefly for paper making, and no longer suitable for bags.	Do.

United States Tariff Act of 1930—Continued

Par.	Description of article	Present rate of duty
1753	Sago, crude, and sago flour	Free.
1759	Sheep dip	Do.
1765	Seal skins (not including fur skins), raw	Do.
1768 (1)	Spices and spice seeds: Cloves; clove stems; cinnamon and cinnamon chips; ginger root, not preserved or candied; mace; nutmegs; and pimento (allspice); all the foregoing, if unground.	
1768 (2)	Coriander seeds	Do.
1771	Stamps: Postage or revenue stamps, canceled or uncanceled, and Government stamped envelopes or post cards bearing no other printing than the official imprint thereon.	Do.
1776	Strontianite or mineral strontium carbonate and celestite or mineral strontium sulphate	Do.
1777	Sulphur in any form	Do.
1782	Locust or carob beans, and pods and seeds thereof	Do.
1783 (b)	Tea not specially provided for	Do.
1786	Tin in bars, blocks or pigs, alloys in chief value of tin not specially provided for, and grain or granulated and scrap tin, including scrap tin plate.	Do.
1787	Tobacco stems not cut, ground, or pulverized	Do.
1790	Turtles	Do.
1801	Witherite, crude, unground	Do.
1803 (2)	Mahogany and satinwood, in the log	Do.
1806	Sticks of rattan in the rough, or not further advanced than cut into lengths suitable for sticks for umbrellas, parasols, sunshades, whips, fishing rods, or walking canes.	Do.
1807	Original paintings in oil, mineral, water, or other colors, pastels, original drawings and sketches in pen, ink, pencil, or water colors, artists' proof etchings unbound, and engravings and woodcuts unbound, original sculptures or statuary, including not more than two replicas or reproductions of the same; but the terms "sculpture" and "statuary" as used in this paragraph shall be understood to include professional productions of sculptors only, whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, or metal, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, or alabaster, or from metal, or cast in bronze or other metal or substance, or from wax or plaster, made as the professional productions of sculptors only; and the words "painting," "drawing," "sketch," "sculpture," and "statuary" as used in this paragraph shall not be understood to include any articles of utility or for industrial use, nor such as are made wholly or in part by stenciling or any other mechanical process; and the words "etchings," "engravings," and "woodcuts" as used in this paragraph shall be understood to include only such as are printed by hand from plates or blocks etched or engraved with hand tools and not such as are printed from plates or blocks etched or engraved by photochemical or other mechanical processes.	Do.
1810	Stained or painted window glass and stained or painted glass windows which are works of art imported to be used in houses of worship, valued at $15 or more per square foot, when imported expressly for presentation to an incorporated religious society.	Do.
	REVENUE ACT OF 1932, AS AMENDED	
Sec. 601 (c) (8)	Seal oil	3 cents per pound.
	REVENUE ACT OF 1934, AS AMENDED	
Sec. 602¼	Palm-kernel oil (for possible binding of present excise treatment)	3 cents per pound.

NOTE.—In the event that articles which are at present regarded as classifiable under the descriptions included in the above list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles and the granting of concessions with regard to them will not be precluded.

[F. R. Doc. 38–90; Filed, January 10, 1938; 3:42 p. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4787]

INCOME TAX

COMPENSATION OF STATE OFFICERS AND EMPLOYEES

To Collectors of Internal Revenue and Others Concerned:

Article 116–2 of Regulations 94, article 116–2 of Regulations 86, article 643 of Regulations 77, article 643 of Regulations 74 and article 88 of Regulations 69 are amended by deleting all of such part of the first paragraph of each of such articles as follows the number of each of such articles and inserting in lieu of such deleted portion of each of such articles the following:

"Compensation of State officers and employees.—Compensation received for services rendered to a State is to be included in gross income unless the person receives such compensation from the State as an officer or employee thereof and such compensation is immune from taxation under the Constitution of the United States."

At the end of article 116–2 of Regulations 94, article 116–2 of Regulations 86, article 643 of Regulations 77, article 643 of Regulations 74 and article 88 of Regulations 69, a new paragraph shall be added, as follows:

"The commissions of receivers appointed by the State courts and the fees received by notaries public are taxable. As used in this article, the term 'State' includes a political subdivision of a State."

This Treasury Decision is issued under the authority of sections 62 of the Revenue Acts of 1936, 1934, 1932 and 1928 and section 1101 of the Revenue Act of 1926.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved January 7, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–92; Filed, January 11, 1938; 9:53 a. m.]

[T. D. 4788]

INCOME TAX

CASES WHERE NO RETURN IS REQUIRED

To Collectors of Internal Revenue and Others Concerned:

Article 147–3 of Regulations 94, relating to cases where no return of information is required, as amended, is amended by inserting the following immediately before the last paragraph thereof:

"(k) Amounts paid by the United States to persons in its service (civil, military, or naval) as an allowance for traveling expenses, including an allowance for meals and lodging, as, for example, a per diem allowance in lieu of subsistence, and amounts paid as reimbursements for traveling expenses."

This Treasury Decision is prescribed pursuant to the provisions of sections 62 and 147 of the Revenue Act of 1936.

[SEAL] CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

Approved January 8, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–94; Filed, January 11, 1938; 10:56 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 90–FD]

IN THE MATTER OF CARTER COAL COMPANY

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 23rd day of December, 1937, pursuant to the provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a supplemental petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 7, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of petitioner's original and supplemental petition; and the petitioner having filed certain affidavits in support of its application for temporary relief; and this matter having come on to be heard before the Commission on the 3rd day of January, 1938, and it appearing to the Commission that the petitioner has made a reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition and supplemental petition, and/or until further order of the Commission, the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 7, and any and all supplements thereto established for said District, be and the same hereby are modified and revised to contain the following provision as if the same were fully set out therein in Group No. 5 Prices as shown on page 23–S–1 of Supplement 1 to Price Schedule No. 1 for District No. 7:

"NOTE.—Prices on pea coal for movement to Market Area No. 1–A (points in the Port of N. Y., including Port Chester, N. Y.), Group No. 5 prices, as shown on page 23–S–1 of Supplement No. 1 to Price Schedule No. 1 for District No. 7, are reduced 30¢ per net ton f. o. b. mines. On shipments moving by tidewater through Hampton Roads, Virginia, and at the Port of New York transferred from deep water vessels to barges for movement and delivery to docks located on shallow water, code members may absorb the actual additional transfer and towage charges on such shipments actually delivered to shallow water docks. Such absorption shall in no case exceed 30¢ per net ton."

2. That except as herein temporarily revised, the Minimum Price Schedule and Supplements thereto, established for District No. 7, shall remain in full force and effect.

3. That a hearing on said petition and supplemental petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall, forthwith, mail copies of this order to the Consumers' Counsel, the Secretaries of all Bituminous Coal Producers' Boards and to code members within District No. 7; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and in all Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 10th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–96; Filed, January 11, 1938; 12:04 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

[Amendment 12 to B. A. I. Order 353]

AMENDMENT OF ORDER TO PREVENT INTRODUCTION INTO UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

JANUARY 10, 1938.

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590, 689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 353), dated June 1, 1935, and effective August 1, 1935, as amended, is hereby further amended by restoring the name "Poland" to the list of countries in said order, as I have determined that foot-and-mouth disease again exists in said country of Poland and I have so officially notified the Secretary of the Treasury.

Amendment 4 to B. A. I. Order 353, effective August 20, 1936, is hereby revoked.

This amendment, which for purpose of identification is designated Amendment 12 to B. A. I. Order 353, shall be effective on and after January 11, 1938.

Done at Washington this 10th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary.

[F. R. Doc. 38–98; Filed, January 11, 1938; 12:50 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Air Commerce.

DESIGNATIONS OF THE FEDERAL AIRWAYS SYSTEM AS CIVIL AIRWAYS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by the Air Commerce Act of 1926, as amended (44 Stat. 570, 49 U. S. C., Sec. 175), I hereby designate the following described air routes as civil airways necessary to foster air commerce and suitable for interstate or foreign air commerce.

Each civil airway designated herein shall include the navigable air space located vertically above an area on the horizontal plane contained within lines encircling each airport (hereinafter called terminal airport) at the ends thereof, with a radius of 25 miles from the center of said airport and also contained within two lines each parallel to and located 25 miles from the center line connecting the terminal airports thereof with such other points as hereinafter specified, to designate the route of said airway. Each civil airway designated herein shall also include the terminal and intermediate airports, emergency landing fields and all other air navigation facilities located or which may be hereafter located and established within the said area.

Provided, That the civil airways designated herein shall not include any air space reservations set aside and protected by Executive Orders pursuant to the Provision of Section 4 of the Air Commerce Act of 1926, or the navigable air space above non-territorial waters or above foreign territory abutting the boundaries of the United States.

CIVIL AIRWAY NO. 8: AVALON-WILMINGTON

Avalon, Catalina Island, California, Catalina Airport, to Wilmington, California, Wilmington Air Service Airport.

CIVIL AIRWAY NO. 9: BOSTON-CARIBOU

Boston, Massachusetts, Municipal Airport, via Portsmouth, New Hampshire, Portsmouth Airport (Auxiliary); Portland, Maine, Portland Airport (Scarboro Commercial); Augusta, Maine, State Airport; Waterville, Maine, Municipal Airport; Bangor, Maine, Municipal Airport; Millinocket, Maine, Milli-

nocket Municipal Airport; Houlton, Maine, Houlton Airport (Auxiliary); Presque Isle, Maine, Presque Isle Airport (Commercial), to Caribou, Maine, Caribou Municipal Airport.

NOTE.—This designation amends prior designation of July 7, 1936, relating to Civil Airway No. 9 (1 F. R. 758).

CIVIL AIRWAY NO. 9–1: BANGOR-BAR HARBOR

Bangor, Maine, Municipal Airport, to Bar Harbor, Maine, Municipal Airport.

CIVIL AIRWAY NO. 11: BALTIMORE-ELMIRA

Baltimore, Maryland, Logan Field (Municipal), via York, Pennsylvania, York Airport (Commercial); Harrisburg, Pennsylvania, Harrisburg Airport (Commercial); Sunbury, Pennsylvania, Municipal Airport; Williamsport, Pennsylvania, Municipal Airport, to Elmira, New York, American Airlines Field (Commercial).

CIVIL AIRWAY NO. 15: CHEYENNE-GREAT FALLS

Cheyenne, Wyoming, Municipal Airport, via Douglas, Wyoming, American Legion Airport; Casper, Wyoming, Wardwell Field (Municipal); Sheridan, Wyoming, Municipal Airport; Hardin, Montana, Municipal Airport; Billings, Montana, Municipal Airport; Judith Gap, Montana; Lewistown, Montana, Municipal Airport, to Great Falls, Montana, Municipal Airport.

NOTE.—This designation amends prior designation of July 7, 1936, relating to Civil Airway No. 15.

CIVIL AIRWAY NO. 18: CHEYENNE-TWIN CITIES

Cheyenne, Wyoming, Municipal Airport, via Scottsbluff, Nebraska, Municipal Airport; Hot Springs, South Dakota, Municipal Airport; Rapid City, South Dakota, Rapid Air Lines Corporation Airport (Commercial); Pierre, South Dakota, Walter J. Smith Airport (Municipal); Huron, South Dakota, W. W. Howes Airport (Municipal); Watertown, South Dakota, Municipal Airport, to Minneapolis, Minnesota, Municipal Airport.

CIVIL AIRWAY NO. 25: COLUMBUS-PHILADELPHIA

Columbus, Ohio, Port Columbus Airport (Municipal), via Wheeling, West Virginia, Scott Field (Commercial); Pittsburgh, Pennsylvania, Allegheny County Airport (Municipal); Harrisburg, Pennsylvania, Harrisburg Airport (Commercial), to Camden, New Jersey, Central Airport (Commercial).

NOTE.—This designation amends prior designation of July 7, 1936, relating to Civil Airway No. 25 (1 F. R. 759).

CIVIL AIRWAY NO. 37–1: DALLAS-ARDMORE

Dallas, Texas, Love Field (Municipal), to Ardmore, Oklahoma, Department of Commerce Intermediate Field (Site 10).

CIVIL AIRWAY NO. 40: GOSHEN-DAYTON

Goshen, Indiana, Department of Commerce Intermediate Field (Site 10), via Fort Wayne, Indiana, Baer Field (Municipal), to Dayton, Ohio, Vandalia Airport (Municipal).

CIVIL AIRWAY NO. 76–1: SALT LAKE-OMAHA VIA DENVER

Salt Lake City, Utah, Municipal Airport, via Laramie, Wyoming, (Site 37); Denver, Colorado, Municipal Airport; Grand Island, Nebraska, Municipal Airport, to Omaha, Nebraska, Municipal Airport.

CIVIL AIRWAY NO. 86: SAN FRANCISCO-WINSLOW

San Francisco, California, Municipal Airport, via Bakersfield, California, Kern County Airport; Randsburg, California, Randsburg-Kern County Airport (Auxiliary); Spangler, California; Kingston, California, Department of Commerce Intermediate Field (Site 20); Boulder City, Nevada, Boulder City Airport (Commercial); Grand Canyon, Arizona, South Rim Airport (Commercial); Navajo Point, Arizona, to Winslow, Arizona, T. & W. A. Airport (Commercial).

CIVIL AIRWAY NO. 98–1: WASHINGTON-PITTSBURGH

Washington, D. C., Washington-Hoover Airport, to Pittsburgh, Pennsylvania, Allegheny County Airport.

CIVIL AIRWAY NO. 101: CHARLESTON-PITTSBURGH

Charleston, West Virginia, Wertz Field (Municipal), via Parkersburg, West Virginia, Parkersburg Airport (Municipal), to Pittsburgh, Pennsylvania, Allegheny County Airport (Municipal).

Approved, to take effect January 10, 1938

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–97; Filed, January 11, 1938; 12:05 p. m.]

DEPARTMENT OF LABOR.

Office of the Secretary.

DECISION OF THE SECRETARY IN THE MATTER OF DETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE HANDKERCHIEF INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes."

At my direction, the Public Contracts Board, created in accordance with Section 4 of the said Act, by Administrative Order dated October 6, 1936, held a public hearing on the prevailing minimum wages in the handkerchief industry on April 20, 1937. Invitations to attend this hearing were sent to the trade associations and labor unions and to the 24 manufacturers listed in directories of the industry and were extended, through the national press, to all other employers and employees interested. Letters were received from several manufacturers of handkerchiefs presenting evidence of wages paid in their establishments and a special study was presented by the Women's Bureau of the Department of Labor. On the basis of this evidence, the Board has submitted findings of fact and recommendations on the prevailing minimum wage in this industry.

The study of the Women's Bureau found that a separation of the wages paid in this industry by occupational groups has practically no significance for the determination of the prevailing minimum wage. The differences in the piece rates paid vary so greatly from firm to firm that an occupational group appearing to receive relatively high earnings in one plant may not receive high earnings in another plant. Nor does any occupational group maintain any constant hourly wage. In fact, according to the record, overlapping of wages occurs to such an extent as to make it impracticable to classify occupations in the industry. Hence it is necessary to examine the wages paid to all employees in the handkerchief industry.

Concentration groups are not sufficiently marked, either in the one cent or five cent intervals, shown in the tables attached as exhibits to the record, to offer a fair basis for a finding. The ten cent interval in the tables between thirty and forty cents shows a concentration of approximately 57% of all the experienced employees in the industry. The midpoint of the interval, 35¢ per hour or $14 per week for a forty hour week, was submitted also by a manufacturer employing more than half the workers in this industry in the State of Pennsylvania as the prevailing minimum wage among his employees. These factors point to 35¢ per hour or $14 per week for a forty hour week as the prevailing minimum wage for this industry.

Due to the smallness of the industry and the national scope of the market there is no basis at all for a geographic differential in the handkerchief industry. Moreover, no request was made at the hearing or elsewhere for the establishment of a differential.

With regard to the question of learners, superannuated and otherwise handicapped workers, the testimony presented at the hearing brought out the fact that no superannuated workers were employed because the industry has only recently been developed. The record is silent as to workers otherwise handicapped. It would therefore seem that there is no necessity for making special provision for superannuated and otherwise handicapped employees.

The Women's Bureau study indicated that less than half the firms investigated in the survey employed any learners. The record fails to show any learners employed in fulfilling government contracts. In any case the work does not appear to be one requiring any high degree of skill, and there seems to be no agreement as to what constitutes a "learning period" in this industry. No reason, consequently, has been shown for recommending any tolerance as to learners.

Therefore, I hereby determine

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Act of June 30, 1936 (49 Stat. 2036), for the manufacture or supply of handkerchiefs shall be 35¢ per hour or $14.00 per week for a week of 40 hours, arrived at either upon a time or piece work basis.

This determination shall become effective and shall apply to all contracts awarded subject to the Act of June 30, 1936 (49 Stat. 2036), on or after January 26, 1938.

Dated this 10th day of January, 1938.

[SEAL] FRANCES PERKINS,
Secretary of Labor.

[F. R. Doc. 38–93; Filed, January 11, 1938; 10:33 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 180]

ALLOCATION OF FUNDS FOR LOANS

JANUARY 6, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Georgia 8058AW Lamar	$5,000
Iowa 8027W Buena Vista	10,000
Mississippi 8022W Leake	15,000
Missouri 8019C Boone	9,000
Tennessee 8019D Rutherford	50,000
Washington 8009B San Juan	33,000
Washington 8014C King	3,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38–91; Filed, January 11, 1938; 9:38 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

AMENDMENT OF RULES UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Acting pursuant to the authority conferred upon it by the Public Utility Holding Company Act of 1935, particularly sections 14 and 20 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers and to carry out the provisions of the Act, the Securities and Exchange Commission hereby amends rule 14–1 to read as follows:

RULE 14–1. REPORTS OF ACQUISITIONS UNDER RULE 9C–3

(*a*) As used in this rule—

"Quarter" means the three months' periods ending respectively on March 31, June 30, September 30 and December 31 in each year;

"Majority-owned subsidiary" means such a subsidiary as defined in rule 9C–2. "Minority-owned subsidiary" means any subsidiary other than a majority-owned subsidiary.

(*b*) Except as otherwise provided in paragraph (c) of this rule, each registered holding company shall, within 30 days after the close of each quarter, file with the Commission a report with respect to acquisitions of securities during such quarter by such company and by all subsidiaries thereof (whether or not majority-owned), which acquisitions were exempted from the requirements of section 9 (a) by any of the provisions of rule 9C–3 except those of paragraphs (1) to (4). If no such acquisitions were made during the quarter, the report shall be made by letter addressed to the Commission stating that fact. If any such acquisitions were made during the quarter, the report shall be made on form U14–1, marked "Adopted January 7, 1938", shall contain the information required by such form, and shall be prepared in accordance with the instructions therein contained.

(*c*) No company shall be required to file such a report for any quarter if a registered holding company of which such company is a subsidiary shall file a report for such period which includes all acquisitions as to which such company would otherwise have been required to report. No report which clearly states that it is made without taking into account any acquisitions that must be reported by one or more (named) minority owned subsidiaries of the reporting company shall be deemed insufficient for that reason if all such minority owned subsidiaries are themselves registered holding companies.

(*d*) Any company preparing a report required by this rule may accept as accurate, and may incorporate by reference or otherwise, any information contained in any report which any subsidiary thereof shall file with the Commission. Any such company may also rely on the accuracy of any written statements supplied to it by any subsidiary thereof if, before procuring such information, it shall have notified such subsidiary that the information to be supplied is to be used in a report to the Commission and if it has no reasonable ground for believing the information supplied to be incorrect. Any information required in any such report may be omitted if the report clearly calls attention to the fact of such omission and sets forth circumstances showing that the company filing such report is unable to procure such information without incurring unreasonable effort or expense.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–101; Filed, January 11, 1938; 1:01 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of January, A. D. 1938.

[File Nos. 50–2, 50–3, 50–4]

IN THE MATTER OF MASSACHUSETTS LIGHTING COMPANIES, CENTRAL MASSACHUSETTS LIGHT & POWER COMPANY, COMMONWEALTH GAS & ELECTRIC COMPANIES AND MASSACHUSETTS UTILITIES ASSOCIATES

ORDER UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Massachusetts Utilities Associates, Massachusetts Lighting Companies, Central Massachusetts Light & Power Company, and Commonwealth Gas & Electric Companies, subsidiary companies of New England Power Association, a registered holding company, having submitted plans of liquidation of said Masachusetts Lighting Companies, Central Massachusetts Light & Power Company and Commonwealth Gas & Electric Companies, pursuant to Section 11 (e) of the Public Utility Holding Company Act of 1935, and having applied for an order approving said plans;

Massachusetts Lighting Companies, Central Massachusetts Light & Power Company and Commonwealth Gas & Electric Companies having applied for reports on said plans, pursuant to Section 11 (g) of said Act and Rule 12E;

Massachusetts Lighting Companies, Central Massachusetts Light & Power Company and Commonwealth Gas & Electric Companies having applied for approval of the payment of liquidating dividends, pursuant to Rule 12C–2;

Massachusetts Lighting Companies, Central Massachusetts Light & Power Company and Commonwealth Gas & Electric Companies having applied for the approval of the retirement of their preferred and common shares, pursuant to Rule 12C–1;

Massachusetts Lighting Companies, Central Massachusetts Light & Power Company and Commonwealth Gas & Electric Companies having filed declarations as to the solicitation of consents to said plans, pursuant to Rule 12E;

Massachusetts Lighting Companies, Central Massachusetts Light & Power Company and Commonwealth Gas & Electric Companies having filed declarations pursuant to Section 7 of the Act, regarding amendments to their respective declarations of trust;

Massachusetts Utilities Associates, having applied for approval of certain accounting entries, pursuant to Section 8C of the Uniform System of Accounts for Public Utility Holding Companies;

A hearing having been held on the said applications and declarations after appropriate notice; the record in these matters having been examined; and the Commission having made and filed its findings herein:

It is ordered, That said declarations be and become effective forthwith and that said applications (except as hereafter provided) be and the same hereby are granted: *Provided, however*, That the Commission does not at this time pass upon the applications of Massachusetts Utilities Associates for approval of certain accounting entries, but reserves jurisdiction to do so at such future time as it may determine.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–100; Filed, January 11, 1938; 1:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of January, 1938.

[File No. 1–2091]

IN THE MATTER OF ADAMS EXPRESS COMPANY COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Adams Express Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Boston Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, February 16, 1938, in Room 1101, Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–102; Filed, January 11, 1938; 1:01 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 10th day of January, 1938.

[File No. 1–957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, $100 PAR VALUE, 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE, 6% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE, 6% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE, AND 7% FIRST MORTGAGE SINKING FUND GOLD BONDS, SERIES A, DUE APRIL 1, 1940

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Market Street Railway Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $100 Par Value, 6% Cumulative Prior Preference Stock, $100 Par Value, 6% Cumulative Preferred Stock, $100 Par Value, 6% Non-Cumulative Second Preferred Stock, $100 Par Value, and 7% First Mortgage Sinking Fund Gold Bonds, Series A, due April 1, 1940, from listing and registration on the San Francisco Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, February 16, 1938, in Room 1301, Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard A. Judy and Charles R. Burr, officers of the Commission, be and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–99; Filed, January 11, 1938; 1:02 p. m.]

Thursday, January 13, 1938 ***No. 9***

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49429]

CUSTOMS REGULATIONS AMENDED—TERM CUTTER PASSES FOR NEWSPAPER PHOTOGRAPHERS

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C., (1934 ed.) title 5, sec. 22) and section 624 of the Tariff Act of 1930 (U. S. C., (1934 ed.) title 19, sec. 1624), article 106 (d) of the Customs Regulations of 1937 is amended as follows

In line 11 cancel the words "one pass" and substitute "two passes"; in line 12 before the word "except" insert "one to a news reporter and the other to a news photographer,"; in line 12 before the word "one" insert "in each case."

[SEAL] JAMES H. MOYLE, *Commissioner of Customs.*

Approved January 6, 1938.

STEPHEN B. GIBBONS, *Acting Secretary of the Treasury.*

[F. R. Doc. 38–106; Filed, January 12, 1938; 10:31 a. m.]

[T. D. 49331]

CUSTOMS REGULATIONS AMENDED—DUTIES OF CHIEF ASSISTANT APPRAISER AND DEPUTY APPRAISER AT NEW YORK

To the United States Appraiser of Merchandise, New York, N. Y., and Others Concerned:

Pursuant to the authority contained in section 2 of the act of March 4, 1923, as amended, and sections 401 (j), 500 (c), and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 6, 1401 (j), 1500 (c), and 1624) and section 161 of the Revised Statutes of the United States (U. S. C., title 5, sec. 22), the Customs Regulations of 1937 are hereby amended as follows:

Paragraph (a) of article 1384 is amended to read as follows:

(a) The chief assistant appraiser at New York shall be the principal administrative assistant to the appraiser. During the absence or disability of the appraiser, or in the event there is no appraiser, the chief assistant appraiser at New York shall exercise the powers and perform the duties of the appraiser.

Paragraph (d) of article 1384 is deleted.

A new article, designated 1384½, reading as follows, is added:

ART. 1384½. *Deputy appraiser at New York.*—The deputy appraiser at New York shall be the principal technical assistant to the appraiser. He is hereby authorized to perform the duties of an appraiser as specified in paragraph (a) of section 500 of the Tariff Act of 1930, and to review, revise, and correct all appraisement reports made at the port of New York.

Section 2 of the act of March 4, 1923, and sections 401 (j) and 500 (c), Tariff Act of 1930, should be cited as marginal references opposite the new article 1384½.

A new paragraph, designated (f), reading as follows, is added to article 1421:

(f) When a vacancy occurs in the position of deputy appraiser at New York it shall be filled, with the approval of the Secretary of the Treasury, by the promotion or transfer of a trained and qualified customs officer, and the deputy appraiser so appointed shall continue in office and shall not be reduced or removed except for cause and in accordance with the civil-service laws and regulations.

Old paragraph (f) of article 1421 is changed to (g) and the words "or deputy appraiser" are added after line two thereof.

[SEAL] JAMES H. MOYLE, *Commissioner of Customs.*

Approved January 6, 1938.

STEPHEN B. GIBBONS, *Acting Secretary of the Treasury.*

[F. R. Doc. 38–103; Filed, January 11, 1938; 3:53 p. m.]

Office of the Secretary.

NEWLY-MINED DOMESTIC SILVER REGULATIONS

JANUARY 10, 1938.

ARTICLE I. GENERAL PROVISIONS

SECTION 1. *Scope.*—These regulations relate to the receipt and coinage by the United States coinage mints of silver, mined in the United States or any place subject to the jurisdiction thereof, pursuant to the proclamation of December 21, 1933, as modified by the proclamations of August 9, 1934, April 10 and April 24, 1935, and December 30, 1937.

SEC. 2. *Authority for regulations.*—These regulations are prescribed under authority of subsection (b) (2), section 43, title III of the act of Congress approved May 12, 1933 (Public, No. 10), as amended, and the President's proclamation of December 21, 1933, as modified by the proclamations of August 9, 1934, April 10 and April 24, 1935, and December 30, 1937.

SEC. 3. *Revocation of the Newly-Mined Domestic Silver Regulations of May 15, 1935.*—The Newly-Mined Domestic Silver Regulations of May 15, 1935, relating to the receipt and coinage of silver, mined in the United States or any place subject to the jurisdiction thereof, pursuant to the President's proclamation of December 21, 1933, as modified, are revoked. The revocation of such regulations shall not affect any act done or any right accruing or accrued or any suit or proceeding had or commenced in any civil or criminal cause prior to this revocation, and all liabilities under said regulations, the Silver Regulations of December 30, 1933, relating to the receipt and coinage of silver, and the Newly-Mined Domestic Silver Regulations of April 16, 1935, shall continue and may be enforced as if said revocation had not been made.

SEC. 4. *Definitions.*—As used in these regulations—

The term "person" means an individual, partnership, association, or corporation.

The term "United States coinage mints" means the following mints: United States Mint, Philadelphia, Pa.; United States Mint, San Francisco, Calif.; United States Mint, Denver, Colo. And whenever authority is conferred in these regulations upon a "mint" such authority is conferred upon the person locally in charge of the mint, acting in accordance with instructions of the Director of the Mint or the Secretary of the Treasury.

SEC. 5. *Forms.*—Any form, the use of which is prescribed in these regulations, may be obtained at any United States mint or assay office or at the Treasury Department, Washington, D. C.

SEC. 6. *Revocation or modification.*—The provisions of these regulations may be revoked or modified at any time.

ARTICLE II. CONDITIONS UNDER WHICH SILVER WILL BE RECEIVED BY COINAGE MINTS

SEC. 20. *Silver which will be received.*—The United States coinage mints, under the conditions hereinafter specified and subject to the appropriate regulations governing the mints, will receive silver which any such mint is satisfied has been mined subsequent to December 21, 1933, from natural deposits in the United States or any place subject to the jurisdiction thereof.

Such mints will also receive silver which forms a part of a mixture of domestic, secondary, and/or foreign silver provided such mints are satisfied that the aggregate amount of such mixture so received does not exceed the amount of such mixture which has been mined subsequent to December 21, 1933, from natural deposits in the United States or any place subject to the jurisdiction thereof, and, provided further, that such mints are satisfied—

(a) That the aggregate amount of such mixture so received pursuant to the proclamation of April 10, 1935, modifying the proclamation of December 21, 1933, as modified, does not exceed the amount of such silver which has been mined on or after April 10, 1935, from natural deposits in the United States or any place subject to the jurisdiction thereof;

(b) That the aggregate amount of such mixture so received pursuant to the proclamation of April 24, 1935, modifying the proclamation of December 21, 1933, as modified, does not exceed the amount of such silver which has been mined on or after April 24, 1935, from natural deposits in the United States or any place subject to the jurisdiction thereof; and

(c) That the aggregate amount of such mixture so received pursuant to the proclamation of December 30, 1937, modifying the proclamation of December 21, 1933, as modified, does not exceed the amount of such silver which has been mined on or after January 1, 1938, from natural deposits in the United States or any place subject to the jurisdiction thereof.

SEC. 21. *Affidavits.*—(a) Every person delivering silver mined subsequent to December 21, 1933, but prior to April 10, 1935, under the provisions of the proclamation of December 21, 1933, as modified, shall file with each such de-

livery a properly executed affidavit on form TS–1 and supporting affidavit or affidavits of the miner or miners on form TS–2 or TS–2A, whichever is appropriate, containing the information called for in such forms and executed under oath before an officer duly authorized to administer oaths.

(b) Every person delivering under such proclamation, as modified, silver which has been mined on or after April 10, 1935, but prior to April 24, 1935, shall file with each such delivery a properly executed affidavit on form TS–100 and supporting affidavit or affidavits on form TS–200 or form TS–200A, whichever is appropriate, containing the information called for in such forms and executed under oath before an officer duly authorized to administer oaths.

(c) Every person delivering under such proclamation, as modified, silver which has been mined on or after April 24, 1935, but prior to January 1, 1938, shall file with each such delivery a properly executed affidavit on form TS–1000 and supporting affidavit or affidavits on form TS–2000 or form TS–2000A, whichever is appropriate, containing the information called for in such forms and executed under oath before an officer duly authorized to administer oaths.

(d) Every person delivering under such proclamation, as modified, silver which has been mined on or after January 1, 1938, shall file with each such delivery a properly executed affidavit on form TS–11 and supporting affidavit or affidavits on form TS–12 or form TS–12A, whichever is appropriate, containing the information called for in such forms and executed under oath before an officer duly authorized to administer oaths.

SEC. 22. *Evidence which may be demanded.*—Persons delivering silver under the provisions of these regulations shall furnish such further evidence as may from time to time be requested by any United States coinage mint or the Director of the Mint, including affidavits, sworn reports, and sworn abstracts from books of account of any mines or any or all smelters or refineries handling such silver.

SEC. 23. *Settlement for silver delivered.*—(a) The Director of the Mint, pursuant to the voluntary consent of the depositor given in the agreement executed on form TS–1, shall, in the case of such silver mined prior to April 10, 1935, retain 50 percent as seigniorage and for services performed by the Government of the United States, and the balance of such silver so received, that is, 50 percent thereof, shall be coined into standard silver dollars and the same, or an equal number of other standard silver dollars, or, at the option of the owner or depositor of such silver, silver certificates in an amount in dollars equal to such standard silver dollars, shall be delivered to the owner or depositor of such silver. Any fractional part of one dollar due hereunder shall be returned in any legal tender coin of the United States.

(b) The Director of the Mint, pursuant to the voluntary consent of the depositor as given in the agreement executed on form TS–100 shall, in the case of such silver mined on or after April 10, 1935, but prior to April 24, 1935, retain, of the silver so received, 45 percent as seigniorage and for services performed by the Government of the United States, and there shall be returned in standard silver dollars, silver certificates, or any other coin or currency of the United States, the monetary value of the silver so received (that is, $1.2929+ a fine troy ounce), less said deduction of 45 percent.

(c) The Director of the Mint, pursuant to the voluntary consent of the depositor as given in the agreement executed on form TS–1000 shall, in the case of such silver mined on or after April 24, 1935, but prior to January 1, 1938, retain, of the silver so received, 40 percent as seigniorage and for services performed by the Government of the United States, and there shall be returned in standard silver dollars, silver certificates, or any other coin or currency of the United States, the monetary value of the silver so received (that is, $1.2929+ a fine troy ounce), less said deduction of 40 percent.

(d) The Director of the Mint, pursuant to the voluntary consent of the depositor as given in the agreement executed on form TS–11 shall, in the case of such silver mined on or after January 1, 1938, retain, of the silver so received, 50 percent as seigniorage and for services performed by the Government of the United States, and there shall be returned in standard silver dollars, silver certificates, or any other coin or currency of the United States, the monetary value of the silver so received (that is, $1.2929+ a fine troy ounce), less said deduction of 50 percent.

ARTICLE III. RECORDS AND REPORTS

SEC. 30. *Records.*—Every person delivering silver under the proclamation of December 21, 1933, as modified, and regulations issued thereunder, and every person owning or operating a smelter or refinery at which silver to be delivered under such proclamation, as modified, and regulations issued thereunder, is mixed with secondary or foreign silver, or both, shall keep accurate records of all acquisitions, by mining or otherwise, and of all dispositions of silver mined subsequent to December 21, 1933, including, among other things, records of the date when such silver was mined, acquired, and disposed of. Such records, as well as records required to be kept under the Silver Regulations of December 30, 1933, April 16, 1935, and May 15, 1935, shall be preserved for at least one year after the last delivery and made available for examination by a representative of the Director of the Mint upon the request of such representative.

SEC. 31. *Reports.*—Every person delivering or who has delivered silver under the proclamation of December 21, 1933, as modified, and regulations issued thereunder, shall file with the Director of the Mint, on or before the 25th day of each month after the date the first delivery is made, a report covering the period of the preceding calendar month, provided that the first report shall cover the period from December 21, 1933, to the end of the calendar month preceding the date of the report. Silver delivered as aforesaid prior to April 1, 1935, shall be reported on form TS–3. Silver delivered as aforesaid on or after April 1, 1935, shall be reported on form TS–300. Such reports shall be executed under oath before an officer duly authorized to administer oaths and shall contain all of the information called for in such forms.

SEC. 32. *Agreement relating to records.*—Every person delivering, under the proclamation of December 21, 1933, as modified, silver which has been mixed with secondary or foreign silver, or both, at a smelter or refinery other than that of the person making the delivery, shall, upon request by any United States coinage mint or the Director of the Mint, also file with each delivery of such silver an agreement properly executed under oath by a duly authorized officer of such other smelter or refinery, that the records will be kept as provided in this article, and that such records will be available for examination by a representative of the Director of the Mint for at least one year after the last delivery.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

Approved:

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 10, 1938.

[F. R. Doc. 38–107; Filed, January 12, 1938; 10:32 a. m.]

WAR DEPARTMENT

RULES AND REGULATIONS TO GOVERN USE, ADMINISTRATION, AND NAVIGATION OF INLAND WATERWAY FROM DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND (CHESAPEAKE AND DELAWARE CANAL)

THE LAW

[*Here follows, in the original document, the text of Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266) which may be found at 2 F. R. 2540.*]

REGULATIONS

In pursuance of the foregoing law, the following rules and regulations are prescribed to govern the use, administration and navigation of the Inland Waterway (Chesapeake and Delaware Canal) from Delaware River to Elk River, Delaware and Maryland.

1. *Limits.*—The canal is a sea-level canal, extending from Reedy Point on the Delaware River 40 miles below Philadelphia, Pennsylvania, to the junction of Back Creek and Elk River, about 4 miles west of Chesapeake City, Maryland, a distance of 19 miles, with a branch channel (the old entrance to the canal) extending from Delaware City, Delaware, for a distance of 1.8 miles to the junction with the main canal from Reedy Point, Delaware. The Delaware River entrance to the main canal is at Reedy Point, about one and three-quarter miles below the old Delaware City entrance. The entrance is between two stone jetties about 800 feet apart at the outer ends, and the channel is located midway between them. The north jetty is marked by a flashing red light, and the south jetty by a flashing white light.

2. *Authority of waterway officers.*—The movement of all boats or craft of every description in the waterway shall be subject to the supervision of the District Engineer, an officer of the United States Engineer Department at Large, in general charge of Federal waterway improvements in the locality.

3. *Dimensions.*—The present project, authorized by Congress August 30, 1935, provides for a channel 27 feet deep at mean low water (referred to canal datum at Reedy Point) and 250 feet bottom width from Delaware River to Elk River (Canal datum is 2.99 below mean sea level). No vessel of greater draft than 25 feet should attempt to enter the waterway.

4. *Projections from vessels.*—No vessel carrying a deck load which overhangs or projects over the sides of the said vessel, nor any vessel which the District Engineer in charge considers a hazard to the canal or to other navigation using the canal, will be permitted to enter or pass through the waterway.

5. *Speed limits.*—The speed limit in any part of the waterway is six miles per hour, and the operations involved in interrupting the stream of vehicular traffic and raising the bridges are based upon this speed. When passing approaching craft or craft tied to the bank, the speed shall be reduced to four miles per hour in order to avoid excessive wash and damage to boats tied at wharves and to the banks of the canal.

6. *Traffic control—lights.*—Navigation in the canal is controlled by a dispatching system, with a chief dispatcher on duty at all times, at the Chesapeake City Office, and patrol boats at each end of the canal. The safe and efficient handling of traffic in the canal is dependent entirely on the compliance and observance of all orders issued through these patrol boats. These boats contact and report each vessel as it enters the waterway and a log of its name, length, beam, draft, height above water line, and speed of travel is kept, and the dispatcher, with this information and knowledge of the tides and channel conditions, is able to dispatch traffic safely.

Navigation in and through the canal shall be governed by the following system of traffic lights. These lights at the eastern entrance to the Canal are located on the outer end of the North Jetty, and at the western entrance on the south bank of the Canal, approximately 6,000 feet west of Chesapeake City bridge, at about station 83+500.

1. *Green light.*—Canal open to navigation.
2. *Purple light.*—Caution, traffic restricted.
3. *Red light.*—Canal closed to traffic. Vessel must tie up.

7. *Handling of tows.*—All ships or tugs engaged in towing vessels not equipped with a rudder, whether light or laden, shall use two towlines, and shall shorten them to the greatest extent possible so as to have full control of their tows. Ships and tugs towing vessels provided with rudders may use one towline, but it must not exceed 100 feet in length. No towboat shall be permitted to enter the canal with more than two loaded, or three light barges, in single file.

Towboats shall not be permitted to enter the canal if considered inadequate to handle their tows with safety.

Vessels transiting the canal abreast must have the towboat on the port side of the vessel being towed.

The beam of any vessel, or the combined beam of tug and barge when towed abreast of the tug, must not exceed ninety (90) feet, except upon special arrangements made for a specific trip to the satisfaction of the District Engineer.

8. *Rafts.*—All tows of rafts must, before entering the canal, tie up and be inspected by a representative of the U. S. Engineer Sub-Office, Chesapeake City, Maryland (Telephone-Chesapeake City 2621). Such tows must not exceed 65 feet in width or 800 feet in length. Ponton rafts exceeding 200 feet in length must be accompanied by two tugs, one forward and one aft, so that the tow can be kept strung out behind the forward tug and on the proper side of the channel. All rafts must be accompanied by sufficient crew to properly care for them at all times, and to see that they are secure when tied up.

Tows of rafts will not be permitted to enter the canal unless the transit of the canal can be completed during daylight hours.

9. *Right of way.*—All vessels proceeding with the tide shall have the right of way over those proceeding against the tide. Large vessels and tows must not overtake and attempt to pass other large vessels or tows in the canal.

10. *Bridges.*—(a) There are four vertical lift type highway bridges and one railroad bridge crossing the main canal. These bridges have the following clearances:

Name of bridge	Vertical clearances above local mean low water		Tide range	Horizontal clearance between fenders
	Closed	Open		
	Feet	*Feet*	*Feet*	*Feet*
Reedy Point	11.5	139.4	5.5	175
St. Georges	21.0	138.8	4.7	175
Penna. R. R.	48.2	138.2	3.2	175
Summit	70.9	138.0	3.3	175
Chesapeake City	11.5	137.9	2.5	240

(b) The branch canal is crossed by a double-leaf bascule highway bridge at Delaware City, which has a vertical clearance, when closed, of 17.0 feet above mean low water, and a horizontal clearance between fenders of 60 feet. This bridge is only open for the passage of vessels between the hours of 8:00 A. M. and 4:00 P. M., Eastern Standard Time.

(c) The signal for the opening of a bridge shall be three blasts of a whistle or horn blown on the vessel or craft desiring to pass.

If at the time of receiving the signal or notice above-prescribed a car, or train of cars, or other vehicle is approaching any draw so closely that it cannot be safely stopped before reaching such draw, two blasts of a whistle or horn shall be blown on the bridge. As soon thereafter as such draw shall be cleared, it shall be promptly opened, and four blasts of a whistle or horn blown on the bridge to indicate such clearance. The navigation lights at the center of the draw span will show:

Red light.—Bridge closed to navigation, vessels must be kept under control so they can be stopped if necessary.

Green light.—Bridge open to navigation, vessel may proceed.

Fixed red and blinking red lights.—Vessel must stop and tie up before reaching bridge.

(d) Vessels shall be held responsible for any damage to the bridges through failure on the part of the vessel to observe prescribed regulations.

11. *Anchorage basins and mooring dolphins.*—An anchorage basin 12 feet deep is available on the south side of the channel, east of the Chesapeake City bridge and a smaller basin 6 feet deep is provided at Delaware City on the north side of the channel.

Mooring dolphins are provided on the north side of the channel at the eastern entrance of the canal at Reedy Point, and at the western entrance of the canal in Back Creek.

about 5,000 feet west of Chesapeake City Bridge. Vessels may tie up at these mooring dolphins, and at the Government Wharf at Chesapeake City.

Such facilities are of a limited nature and occupancy of same for periods longer than absolutely necessary is prohibited. If it becomes necessary to use the facilities for longer than one twenty-four hour period, permission must be obtained from the Resident Engineer at Chesapeake City.

Four emergency dolphins are provided on each side of the five canal bridges at distances of 500 feet from the bridges. These dolphins are to be used for mooring in emergencies only.

12. *Wharfage facilities.*—Free wharfage is available on the west side of the anchorage basin at Chesapeake City, and at the anchorage basin at Delaware City on the north side of the channel. These wharves are for commercial use only, but may be used by pleasure vessels while loading supplies. Commercial vessels will not tie up at the wharves for periods longer than twenty-four hours unless permission is first obtained from the Resident Engineer at Chesapeake City. Any craft using these facilities must have on board at all times a crew adequate to properly care for the craft, and the United States assumes no responsibility for damages which may be sustained while using such facilities.

13. *Stopping in waterway.*—Whenever a vessel stops in the improved portions of the waterway, it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such place and under such conditions as will not obstruct or prevent the passage of other vessels or craft.

When thus tied up all vessels must be moored by not less than two lines each, and shall not be tied up more than one abreast. Sufficient crew to care properly for such vessels shall remain on board at all times.

Stoppages in the improved portions of the waterway shall be only for such period as may be necessary, and no vessel or craft will be allowed to use such portions of the waterway as a permanent or semi-permanent place of mooring without the permission of the District Engineer.

Vessels may anchor in Elk River, but shall not anchor in the channel, and during the night shall display lights as required by navigation rules governing such cases.

14. *Refuse.*—The placing of any ashes or refuse, or of any material likely to cause an obstruction in the waterway or upon the banks or rights of way thereof is prohibited.

15. *Trespass upon waterway property.*—Trespass upon the waterway property or injury to the waterway, lands, banks, bridges, jetties, piers, fences, houses, trees, telephone lines, or to any other property of the United States pertaining to the waterway is prohibited.

16. *Fish and game.*—The fish and game laws of the United States and of the States of Delaware and Maryland, within their respective bounds, will be enforced upon the waters and lands pertaining to the waterway owned by the United States. The use of traps and nets upon the property is forbidden except upon written permission from the District Engineer.

17. *Wrecked or damaged vessels.*—In the event a vessel is grounded or wrecked in the canal or is so damaged by accident as to render it likely to become an obstruction in the canal, the U. S. District Engineer, Philadelphia, Pennsylvania, shall supervise and direct all operations that may be necessary to float the vessel, or clear the wreckage, or move the damaged vessel to a safe locality.

18. *Commercial statistics.*—Masters or pursers of vessels shall furnish the District Engineer or his authorized representative, on each passage through the canal, such written statement of passengers, freight, and vessel data as may be indicated by blank forms furnished for this purpose. Failure to furnish this statement will result in denial of the privilege of the canal to the offending vessel.

Blank forms may be obtained from the following:

District Engineer, U. S. Engineer Office, Customhouse, Philadelphia, Pennsylvania.
District Engineer, U. S. Engineer Office, Post Office Building, Baltimore, Maryland.
Resident Engineer, U. S. Engineer Office, Chesapeake City, Maryland.
The patrol boats in the Canal.
Pilots.

19. *When regulations become effective.*—These rules and regulations regulating the use and administration and navigation of this waterway shall take effect and be in force from and after the date of approval hereof, and shall supersede the regulations approved February 7, 1927, for the government of the Inland Waterway from Delaware River to Chesapeake Bay, Delaware and Maryland (Chesapeake and Delaware Canal).

Approved December 31, 1937.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-104; Filed, January 12, 1938; 9:30 a. m.]

REGULATIONS TO GOVERN OPERATION OF DRAWBRIDGES ACROSS NIANTIC RIVER AT NIANTIC, CONNECTICUT

THE LAW

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 2 F. R. 2422.*]

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are prescribed to govern the opening of the New York, New Haven and Hartford Railroad Bridge and the Connecticut State Highway Bridge across the Niantic River at Niantic, Connecticut, as follows:

1. The owners of, or agencies controlling the above-named bridges shall provide the appliances and personnel necessary for the safe, prompt and efficient operation of the draw.

2. The draw shall be opened promptly when the signal, hereinafter prescribed for the opening of the draw, is received from an approaching vessel or other water craft which cannot pass under the closed draw except as hereinafter provided.

3. *Signals—*

Call signals for opening of draw.—

Sound signals:

Railroad bridge.—One long and two short blasts of horn or whistle.

Highway bridge.—Three short blasts of horn or whistle.

Visual signals:

To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard.

A white flag by day, and a white light by night, swung in full circles at arm's length in full sight of the bridge and facing the draw.

Acknowledging signals.—

By bridge operator.—

Sound signals:

Draw to be opened immediately: Same as call signal.

Draw cannot be opened immediately, or, if open, must be closed immediately: 2 long blasts of a horn or whistle, to be repeated at regular intervals until acknowledged by the vessel.

Visual signals:

To be used in conjunction with sound signals when conditions are such that sound signals cannot be heard.

Draw to be opened immediately: A white flag by day or a green light at night swung up and down vertically a number of times in full sight of the vessel.

Draw cannot be opened immediately, or, if open, must be closed immediately: A red flag by day, a red light by night, swung to and fro horizontally in full sight of the vessel, to be repeated until acknowledged by the vessel.

By the vessel.—

Vessels or other water craft having signaled for the opening of the draw and having received a signal that the draw cannot be opened immediately, or if open must be closed immediately, shall acknowledge said signal by one long blast followed by a short blast, or by swinging to and fro horizontally a red flag by day and a red light by night.

Exceptions

For both bridges.—Between 8 P. M., and 4 A. M. during the period from April 1 to October 31, and 6 P. M. and 6 A. M. during the remaining months of the year the draw shall be opened for the passage of all vessels which cannot pass the closed bridges upon notice given by telephone or otherwise to the operators at least one hour in advance of the time the vessel desires to pass through. The owners of the bridges shall provide arrangements whereby the drawtenders may be reached by telephone or otherwise, and notice of such arrangements shall be kept conspicuously posted on the bridges.

For the railroad bridge.—When a train scheduled to pass beyond the bridge without stop has entered the block in which the bridge is located the draw shall be opened as soon as the train has crossed the bridge, unless another train similarly scheduled and running in the opposite direction to the first train enters the block before the first train clears the bridge, in which case the draw shall be opened as soon as both trains have crossed the bridge. Further delay for train operation across the bridge is prohibited.

4. A copy of those regulations shall be conspicuously posted on both the upstream and downstream sides of the bridges in such manner that it can be easily read at any time.

5. These regulations shall take effect and be in force on and after the date of approval hereof.

Approved December 31, 1937.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-105; Filed, January 12, 1938; 9:30 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

At a Regular Session of the National Bituminous Coal Commission Held at its offices in Washington, D. C., on the 11th day of January, 1938.

[Docket No. 66-FD]

ORDER CONCERNING INVESTIGATION OF NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN STATE OF MICHIGAN AND EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

It appearing that by Orders No. 2 and 51 the Commission upon its own motion entered into and conducted an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Michigan and the effect of such transactions upon interstate commerce in such coal; and

It further appearing that reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 11th day of January, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, it is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Michigan directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in Michigan in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 26th day of January, 1938, all bituminous coal sold, delivered, or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Michigan, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Michigan.

2. That any producer of bituminous coal in intrastate commerce within the State of Michigan, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Michigan who is not upon the date of this Order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Michigan known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this Order.

By order of the Commission.

Dated this 11th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-108; Filed, January 12, 1938; 11:36 a. m.]

[Docket No. 93-FD]

IN THE MATTER OF DISTRICT BOARD NO. 11, ENOS COAL MINING COMPANY AND THE BINKLEY MINING COMPANY

AN ORDER AMENDING TEMPORARY ORDER ENTERED HEREIN ON DECEMBER 14, 1937

The Commission having entered a temporary order in the above entitled matter on the 14th day of December, 1937, and upon being advised that the C. C. C. & St. L. Railroad referred to in the proviso to the Schedule of Minimum Prices for Coals of Code Members produced within District No. 11 established by said temporary order is not an operating company and does not consume any coal, but on the contrary it appearing that the coal is consumed by the New York Central Lines, the Commission upon its own motion hereby orders and directs as follows:

1. That the proviso referred to in paragraph 1 of said temporary order is hereby amended and revised by striking

therefrom the words "the C. C. C. & St. L. Railroad" and substituting therefor the words "and consumption by the New York Central Lines."

2. That said Temporary Order, except as herein amended, shall remain in full force and effect until further Order of the Commission.

3. That the Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to the petitioners; and to Code Members within District Number 11; and shall cause copies of this order to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 10th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-109; Filed, January 12, 1938; 11:36 a. m.]

[Docket No. 173-FD]

IN THE MATTER OF NORTH PARK COAL COMPANY

TEMPORARY ORDER

The North Park Coal Company, having filed a petition with the Commission pursuant to the provisions of Section 4, Part II (d) of the Act, alleging dissatisfaction with certain of the Minimum Prices Established for Coals of the Petitioner within District No. 16, and praying for immediate and temporary relief as therein set forth, by preliminary or temporary order pending final disposition of such petition, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of the temporary relief prayed for therein to the extent hereinafter provided:

Now, therefore, The National Bituminous Coal Commission pursuant to the provisions of subsection (d) of Part II of Section 4 of the Bituminous Coal Act of 1937 hereby orders:

1. That pending final disposition of the aforesaid petition and/or until further order of the Commission, the "Schedule of Minimum Prices for Coals of Code Members Produced within District No. 16", and any and all supplements thereto, established for said district, be and the same hereby are modified and revised to contain the following provisions as if the same were fully set forth therein:

"Coals produced at the 'Moore Mine' in Jackson County, Colorado, operated by the North Park Coal Company in the Lafayette-Marshall #1 Sub-District within District No. 16, shall take minimum prices f. o. b. mine on Rail Shipments on the following sizes as hereinafter set forth:

	Per net ton
Size Group 1	$3.25
Size Group 2	3.00
Size Group 3	3.00"

2. That except as herein temporarily revised, the minimum price schedules, and supplements thereto, established for District No. 16, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. The Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 16, shall cause a copy of this Order to be made available for inspection by all interested parties in the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By Order of the Commission.

Dated this 10th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-110; Filed, January 12, 1938; 11:36 a. m.]

[Order No. 179]

AN ORDER MODIFYING ORDER NO. 95, AS MODIFIED BY ORDERS NOS. 131 AND 163, AND REVISING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 7

The National Bituminous Coal Commission having by its Order No. 95, as modified by Orders Nos. 131 and 163, determined and established the Minimum Prices of Coals of Code Members Produced within District No. 7 as set forth in "Price Schedule No. 1—District No. 7", and "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 7", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Price Schedule and Supplements by a further Supplement as hereinafter provided,

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District No. 7, established in Price Schedule No. 1—District No. 7, and Supplements Nos. 1 and 2 thereto, are hereby corrected and revised as set forth in Supplement No. 3 to Price Schedule No. 1—District No. 7, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such Minimum Prices as shown in said Supplement No. 3 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 7, and shall be and become effective at 12:01 o'clock A. M. on the 17th day of January, 1938.

2. That said Orders Nos. 95, 131 and 163, and Price Schedule No. 1—District No. 7, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Supplement No. 3 to Price Schedule No. 1—District No. 7, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 3 to Price Schedule No. 1—District No. 7 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 7; shall cause copies of this Order and said Supplement No. 3 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 11th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 7

To All Code Members of District No. 7:

Effective January 17, 1938, the following changes in Supplement No. 1 to Price Schedule No. 1, shall be made:

Beckley Fire Creek Coal Company, Penman Mine, Beckley Seam, shall be added and price indexed as follows:

SIZE GROUPS

1	2	3	4	5	6	7	8	9
C	C	C	C	C	B	B	B	B

MacAlpin Coal Company, Poca. #4 Seam Mine, Poca. #4 Seam, shall be added and price indexed as follows:

SIZE GROUPS

1	2	3	4	5	6	7	8	9
C	C	C	C	C	B	B	B	B

Mill Creek Collieries Co., Mill Creek No. 2 Mine shall be changed to read as follows:

SIZE GROUPS

1	2	3	4	5	6	7	8	9	10	11	12	13	14
O	O	O	N	N	N	N	N	G	G	J	J	J	J

By order of the Commission.

Dated this 11th day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-111; Filed, January 12, 1938; 11:37 a. m.]

[Order No. 180]

AN ORDER MODIFYING ORDER NO. 113, AND REVISING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 14

The National Bituminous Coal Commission having by its Order No. 113 determined and established the minimum prices of coals of code members produced within District No. 14 as set forth in Price Schedule No. 1—District No. 14, which together with an appendage "Description of Market Areas" was incorporated therein by reference, and the Commission upon its own motion having reviewed said Price Schedule No. 1—District No. 14, and determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof, will be carried out more effectively by revising said Price Schedule No. 1—District No. 14, as hereinafter provided,

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 14, established in Price Schedule No. 1—District No. 14, are hereby corrected and revised as set forth in Supplement No. 1 to Price Schedule No. 1—District No. 14, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices as shown in said Supplement No. 1, shall be and hereby are determined and established as the minimum prices of coals of code members within the said District No. 14, and shall be and become effective at 12:01 o'clock A. M. on the 17th day of January, 1938.

2. That said Order No. 113, and Price Schedule No. 1—District No. 14, except as modified herein and by said Supplement No. 1 to Price Schedule No. 1—District No. 14, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 1 to Price Schedule No. 1—District No. 14 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 14; shall cause copies of this Order and said Supplement No. 1 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 11th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 1 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 14

Supplemental Schedule of Minimum Prices for Coals Produced by Code Members within District No. 14, Established Pursuant to the Provisions of the "Bituminous Coal Act of 1937."

Effective: 12:01 A. M., January 17, 1938.

Issued January 11, 1938.

By order of the Commission.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS AND EXCEPTIONS

1. The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by Code Members in District No. 14.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

4. All prices herein are per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines unless otherwise designated.

5. When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 15 cents per net ton shall be made.

6. *Crushed Coal:* Where any coal is crushed the minimum price therefor shall be the minimum price established for the original size, before crushing, plus five cents per net ton.

7. Twenty-five cents per net ton extra shall be charged for all coal hand loaded into box cars.

8. Slack coal, Size Groups 11 and 12, moving to Oklahoma County, Oklahoma—In this area a minimum price of 80 cents per ton f. o. b. the mine, will apply on slack coal shipped from mines having a freight rate of not more than 90 cents a ton. All mines having a freight rate to this market area of more than 90 cents per ton shall have a minimum f. o. b. mine price for slack coal moving to that territory which will result in a delivered price of not less than $1.70 per ton.[1]

Price Index [2]

GROUP 4-D

Name of code member	Coal seam	Location of mine
Arkansas Excelsior Coal Co	Upper Hartshorne	Excelsior, Arkansas.
Excelsior Thin Vein Coal Co	Upper Hartshorne	Excelsior, Arkansas.

GROUP 4-E

Sublett Coal Company	Upper Hartshorne	Excelsior, Arkansas.
Mellmier Mining Company	Upper Hartshorne	Excelsior, Arkansas.
Oliver-McQuire Coal Company	Upper Hartshorne	Excelsior, Arkansas.
Excelsior Valley Coal Corp	Upper Hartshorne	Excelsior, Arkansas.
New Excelsior Coal Company	Upper Hartshorne	Excelsior, Arkansas.
Bates Mining Company	Lower Hartshorne	Bates, Arkansas.
Acme Semi Anth. Coal Company.	Lower Hartrhorne	Bates, Arkansas.
Leflore Poteau Coal Company	Panama	Poteau, Oklahoma.
Royal Smokeless Coal Company	Panama	Poteau, Oklahoma.
Quality Coal Company	Panama	Poteau, Oklahoma.
J. F. Turnipseed Coal Co.'s Nos. 1, 2 and 3.	Panama	Poteau, Oklahoma.
Dane Coal Company	Panama	Poteau, Oklahoma.
Black Diamond Coal Company	Panama	Poteau, Oklahoma.
Pioneer Coal Company	Panama	Poteau, Oklahoma.
A. D. Clark Coal Company	Upper Hartshorne	Panama, Oklahoma.
Keener Coal Company	Lower Hartshorne	Bokoshe, Oklahoma.
Gillie Coal Company	Lower Hartshorne	Bokoshe, Oklahoma.

GROUP 5-B

Buck Creek Coal Mining Co.[1]	Upper Hartshorne	Panama, Oklahoma.
Little Ben Coal Company	Lower Hartshorne	Midland, Arkansas.
Midland Coal Mining Company	Lower Hartshorne	Midland, Arkansas.
Great Western Coal Company	Lower Hartshorne	Bonanza, Arkansas.
R. A. Young & Son Coal Co	Lower Hartshorne	Jenny Lind, Arkansas.

[1] Changed from Group 5-A to Group 5-B.

[1] Exception 8 inserted. Cancels and supersedes *Price Instructions and Exceptions* appearing at 2 F. R. 2767.

[2] Cancels and supersedes Groups 4-D to 6-B appearing at 2 F. R. 2768.

Price Index—Continued

GROUP 6-A

Name of code member	Coal seam	Location of mine
Premium Smokeless Coal Co....	Lower Hartshorne....	Bokoshe, Oklahoma.
Banner Mining Company.....	Lower Hartshorne....	Bokoshe, Oklahoma.

Price Index—Continued

GROUP 6-B

Name of code member	Coal steam	Location of mine
Sans Bois Coal Company.....	Lower Hartshorne....	McCurtain, Oklahoma.
Jackson Coal Company.....	Upper Hartshorne....	Midland, Arkansas.

Prices in Cents per Net Ton of 2,000 Pounds for Shipment Into All Market Areas[1]

SIZE GROUP

Mine group		Over 3" Lump	2½" Lump	Grate	Furnace	Egg	Stove	Nut No. 4	Nut No. 1	Buckwheat pea	Nut-run	Slack	Slack	Mine-run
		(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1	R[2]												[3] 225	
2	R-T			470	485	495		520	460					
3-A	R-T	475	475	485	485	485	[3] 425	390	250	185	135	95	80	
3-B	R-T	455	455	465	465	465		370	250	185	135	95	80	
3-C	R-T	440	440	450	450	450		360	250	185	135	95	80	
4-A	R	440	440	440	440	440		365	235	185	135	115	105	
4-B	R	430	430	430	430	430		355	235	185	135	115	105	
4-C	R-T	410	410	410	410	410		355	235	185	135	115	105	
4-D[1]	R	400	400	400	400	400		355	235	185	135	115	105	
4-E[1]	R-T	380	380	380	380	380			235	185	135	115	105	
5-A	R	425	425	425	425	425		365	235	185	135	115	105	
5-B	R	415	415	415	415	415		355	235	185	135	115	105	
6-A	R	400	400	400	400	400		345	235	185	135	115	105	
6-B	R	385	385	385	385	385		330	235	185	135	115	105	270
7-A	R-T	370	350	360	360	360		310	235	185	135	115	105	270
7-B	R-T	360	340								135	115	105	270
7-C	R-T	350	330								135	115	105	
8	R		355											390
9	R-T		435											

[1] Cancels and supersedes table appearing at 2 F. R. 2769.
[2] Prices for this group same as group 2 R-T.
[3] Corrections.

Group #14, Shelly Coal, 330 (8 only).
Group #15, Smithing Coal (Carloads), 500.
Group #16, Smithing Coal (Carloads), 650 (if sacked).

[F. R. Doc. 38-112; Filed, January 12, 1938; 11:37 a. m.]

[Order No. 181]

AN ORDER MODIFYING ORDER NO. 88 BY AMENDING RULE 5 OF SECTION IX OF MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICTS NOS. 1 TO 13 INCLUSIVE, AND SUPPLEMENTING SAID RULES AND REGULATIONS BY ADDING A PROVISION THERETO

The National Bituminous Coal Commission having by its Order No. 88 prescribed and established Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 1 to 13 inclusive, and the Commission upon its own motion having reviewed said Marketing Rules and Regulations, and determined that the provisions of the Act and the purposes thereof, will be carried out more effectively by amending and supplementing said Marketing Rules and Regulations, as hereinafter provided,

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.) known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 1 to 13 inclusive, are hereby amended and supplemented as set forth in "Supplement No. 1 to Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 1 to 13 Inclusive" filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such Marketing Rules and Regulations as shown in said Supplement No. 1, shall be and hereby are prescribed and established as Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 1 to 13 Inclusive, and shall be and become effective at 12:01 o'clock A. M. on the 17th day of January, 1938.

2. That said Order No. 88, and the Marketing Rules and Regulations thereby prescribed and established, except as modified herein and by said Supplement No. 1, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 1 to Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 1 to 13 Inclusive, to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Board and to Code Members within Districts Nos. 1 to 13 inclusive; shall cause copies of this Order and said Supplement No. 1 to be made available for inspection by all interested parties at the Secretary's office of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.
Dated this 11th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 1 TO MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICTS NOS. 1 TO 13 INCLUSIVE

To All Code Members Within Districts Nos. 1 to 13 Inclusive:

Effective January 17, 1938, Rule 5 of Section IX of Marketing Rules and Regulations, incidental to the sale and distribution of coals of code members within Districts Nos. 1 to 13 inclusive, shall read as follows:

"5. Invoices shall be paid in full in United States currency, or funds equivalent thereto, on or before the due date.

"No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

"No sale, delivery, or offer for sale of coal, shall be made upon any condition, expressed or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, or made subject to rebate or refund by the seller, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or of the validity or applicability of any order of the Coal Commission."

Said Marketing Rules and Regulations are further supplemented by adding thereto the following provision:

"If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated."

By Order of the Commission.
Dated this 11th Day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-113; Filed, January 12, 1938; 11:37 a. m.]

[Order No. 182]

AN ORDER MODIFYING ORDERS NOS. 119 AND 139 BY AMENDING RULE 3 OF SECTION IX OF MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICTS NOS. 14, 15, 16, 17, 18, 19, 20, 22 AND 23, AND SUPPLEMENTING SAID RULES AND REGULATIONS BY ADDING A PROVISION THERETO

The National Bituminous Coal Commission having by its Order No. 119 prescribed and established Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within District No. 14, and having by its Order No. 139 prescribed and established Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 15, 16, 17, 18, 19, 20, 22 and 23, and the Commission upon its own motion having reviewed said Marketing Rules and Regulations, and determined that the provisions of the Act and the purposes thereof will be carried out more effectively by amending and supplementing said Marketing Rules and Regulations as hereinafter provided,

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.) known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within District No. 14 as prescribed by Order No. 119, and within Districts Nos. 15, 16, 17, 18, 19, 20, 22 and 23, as prescribed by Order No. 139, are hereby amended and supplemented as set forth in "Supplement No. 1 to Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 14, 15, 16, 17, 18, 19, 20, 22 and 23," filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such Marketing Rules and Regulations as shown in said Supplement No. 1 shall be and hereby are prescribed and established as Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 14, 15, 16, 17, 18, 19, 20, 22, and 23, shall be and become effective at 12:01 o'clock A. M. on the 21st day of January, 1938.

2. That said Order No. 119, the Marketing Rules and Regulations thereby prescribed and established, and Order No. 139, and the Marketing Rules and Regulations thereby prescribed and established, except as modified herein and by said Supplement No. 1, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Supplement No. 1 to Marketing Rules and Regulations Incidental to the Sale and Distribution of Coals of Code Members within Districts Nos. 14, 15, 16, 17, 18, 19, 20, 22 and 23" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Board and to Code Members within Districts Nos. 14, 15, 16, 17, 18, 19, 20, 22 and 23; shall cause copies of this Order and said Supplement No. 1 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.
Dated this 11th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 1 TO MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL OF CODE MEMBERS WITHIN DISTRICTS NOS. 14, 15, 16, 17, 18, 19, 20, 22 AND 23

To All Code Members Within Districts Nos. 14 to 23, Inclusive:

Effective January 21, 1938, Rule 3 of Section IX of marketing rules and regulations, incidental to the sale and distribution of coals of code members within Districts Nos. 14, 15, 16, 17, 18, 19, 20, 22 and 23, shall read as follows:

"3. Invoices shall be paid in full in United States currency, or funds equivalent thereto, on or before the due date.

"No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

"No sale, delivery, or offer for sale of coal shall be made upon any condition, expressed or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, or made subject to rebate or refund by the seller, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or of the validity or applicability of any order of the Coal Commission."

Said Marketing Rules and Regulations are further supplemented by adding thereto the following provision:

"If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated."

By order of the Commission.
Dated this 11th Day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-114; Filed, January 12, 1938; 11:38 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF PROPORTIONATE SHARES FOR SUGARCANE PRODUCERS IN PUERTO RICO FOR THE CROP YEARS 1938 AND 1939, PURSUANT TO THE SUGAR ACT OF 1937

[Revised]

Whereas, Section 302 of the Sugar Act of 1937 provides in part as follows:

(a) The amount of sugar or liquid sugar with respect to which payment may be made shall be the amount of sugar or liquid sugar commercially recoverable, as determined by the Secretary, from the sugar beets or sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm, as determined by the Secretary, of the quantity of sugar beets or sugarcane for the extraction of sugar or liquid sugar required to be processed to enable the producing area in which the crop of sugar beets or sugarcane is grown to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

(b) In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of sugar beets and sugarcane marketed (or

processed) for the extraction of sugar or liquid sugar and the ability to produce such sugar beets or sugarcane, and the Secretary shall, insofar as practicable, protect the interests of new producers and small producers and the interests of producers who are cash tenants, share-tenants, adherent planters, or share-croppers.

and

Whereas, subsection (c) of section 301 of said act provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

"(c) That there shall not have been marketed (or processed) an amount (in terms of planted acreage, weight, or recoverable sugar content) of sugar beets or sugarcane grown on the farm and used for the production of sugar or liquid sugar to be marketed in, or so as to compete with or otherwise directly affect interstate or foreign commerce, in excess of the proportionate share for the farm, as determined by the Secretary pursuant to the provisions of section 302, of the total quantity of sugar beets or sugarcane required to be processed to enable the area in which such sugar beets or sugarcane are produced to meet the quota (and provide a normal carry-over inventory) as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed."

Now, therefore, pursuant to the foregoing sections of the said act, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that proportionate shares for sugarcane producers in Puerto Rico for the crop years 1938 and 1939 shall be established on the following bases:

I

1. For a producer for whom a 1937 marketing allotment was established, pursuant to the provisions of Puerto Rico Sugar Order No. 5, issued November 24, 1936, such 1937 marketing allotment shall constitute his 1937 base, and his proportionate share for the 1938 crop shall be calculated, in terms of short tons of sugar, raw value, by multiplying such 1937 base by a fraction whose numerator shall be the sum of the initial sugar quotas established for Puerto Rico for the calendar year 1938, pursuant to sections 201 and 203 of the said act, plus whatever amount may be required to provide a normal carry-over inventory for Puerto Rico pursuant to section 302 (a) of the said act, and whose denominator shall be the total of such 1937 bases, plus the total of the 1937 bases determined for new growers[1] as provided in 2 and 3 below. A producer for whom a 1937 marketing allotment was established as aforesaid, and who is now growing sugarcane on land covered by a 1937 marketing allotment but from which no sugarcane was harvested during the crop year 1931, 1932 or 1934, or any subsequent crop year, may be considered as a new grower for 1938 with respect to such new production, in accordance with the provisions of 2 and 3 below.

2. For a producer for whom a 1937 marketing allotment was not established pursuant to the provisions of the said Puerto Rico Sugar Order No. 5, and whose current production, as estimated by the Secretary of Agriculture, is 15 tons of sugar, raw value, or less, the production so estimated shall constitute his 1937 base, and his proportionate share for the 1938 crop shall be calculated, in terms of short tons of sugar, raw value, by adjusting such 1937 base in the manner specified in 1 above.

3. For a producer for whom a 1937 marketing allotment was not established pursuant to the provisions of the said Puerto Rico Sugar Order No. 5, and whose current production, as estimated by the Secretary of Agriculture, is more than 15 tons of sugar, raw value, the 1937 base shall be the greater of either:

(*a*) 15 tons, *plus* an amount determined by multiplying the first ton of such estimated production in excess of 15 tons by 98 per centum, and thereafter by multiplying each successive ton by a percentage figure which shall be progressively reduced by 2 per centum for every such ton;

(*b*) 50 per centum of the current production in terms of short tons of sugar, raw value, estimated as aforesaid, provided, however, that such 50 per centum is not in excess of 1,000 tons;

and his proportionate share for the 1938 crop year shall be calculated in terms of short tons of sugar, raw value, by adjusting such 1937 base in the manner specified in 1 above.

II

For the crop year 1939, proportionate shares shall be established in the same manner as set forth above, except that for a producer for whom a proportionate share was established in 1938, such proportionate share plus the base, if any, resulting from new production on land not covered by a 1938 proportionate share, shall constitute the base to be adjusted for the crop year 1939 as provided in 1 above, and the figure resulting from such adjustment shall be the proportionate share for the crop year 1939; and except, further, that for a producer for whom a proportionate share was not established in 1938 (i. e., for a new grower for 1939), the figure obtained pursuant to the provisions of 2 or of alternative (a) of 3 above, or of alternative (b) of 3 above (limited to fall plantings made prior to October 1, 1937 for harvest in 1939), whichever is applicable, shall constitute the base to be adjusted as provided in 1 above, and the figure resulting from such adjustment shall be the proportionate share for the crop year 1939.

III

1. Where a producer wishes to be considered as a new grower for any of the years referred to above, application must be made at such time and in such manner as may be prescribed by the Secretary of Agriculture.

2. In the event that a proportionate share for any year, established in accordance with the foregoing provisions of this determination, is not filled, the unfilled portion thereof shall be prorated, on the basis of the proportionate shares then in effect, among all other producers within the same mill area who are able to supply such unfilled portion.

IV

In addition to the foregoing, the following conditions shall be met:

1. That no change shall have been made in the leasing or cropping agreements for the purpose of, or which shall have the effect of, diverting to any producer any payment to which share-tenants or share-croppers would be entitled if the 1937 leasing or cropping agreements were in effect.

2. That there shall have been no interference by any producer with contracts heretofore entered into by tenants or share-croppers for the sale of their sugarcane.

V

The Chief, or the Acting Chief, of the Sugar Section of the Agricultural Adjustment Administration, and the Officer in Charge of the San Juan office of the Agricultural Adjustment Administration, or the Acting Officer in Charge thereof, are hereby designated to act, jointly or severally, as agents of the Secretary of Agriculture in administering the provisions of this determination.

This determination supersedes the "Determination of Proportionate Shares for Sugarcane Producers in Puerto Rico for the Crop Years 1938 and 1939, Pursuant to the Sugar Act of 1937", issued November 18, 1937.

Done at Washington, D. C. this 11th day of January 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-117; Filed, January 12, 1938; 12:40 p. m.]

[1] A new grower (producer) for the 1938 crop year shall be the person who is the legal owner of the sugarcane crop grown on land for which a 1937 marketing allotment was not established pursuant to the provisions of Puerto Rico Sugar Order No. 5; and for the crop year 1939, a new grower (producer) shall be the person who is the legal owner of the sugarcane crop grown on land for which a proportionate share for 1938 has not been established pursuant to the provisions of this determination.

FARM CREDIT ADMINISTRATION.

[FCA 70]

FEDERAL FARM MORTGAGE CORPORATION

FEES TO BE CHARGED APPLICANTS FOR EXTENSION OF ENTIRE INDEBTEDNESS ON LAND BANK COMMISSIONER LOANS HELD BY THE CORPORATION

Pursuant to Sections 1 and 2 of the Federal Farm Mortgage Corporation Act, as amended (12 U. S. C. 1020 and 1020a), and Section 32 of the Emergency Farm Mortgage Act of 1933, as amended (12 U. S. C. 1016), the executive committee of the Federal Farm Mortgage Corporation on December 23, 1937, adopted a resolution providing that the following fees be charged in connection with the costs of making extensions of the entire indebtedness on Land Bank Commissioner loans held by the Corporation:

1. A fee of not less than $7.50 nor more than $10.00 to be paid by the applicant for each Land Bank Commissioner loan upon which an application for extension of the entire indebtedness is made.

2. The applicant will also be required to pay actual cash outlays for abstract expense, notarial costs, recording fees or other similar disbursements necessary for completion of the transaction.

[SEAL] A. T. ESGATE,
Executive Vice President,
Federal Farm Mortgage Corporation.

[F. R. Doc. 38-115; Filed, January 12, 1938; 12:08 p. m.]

[FCA 71]

AMENDMENT OF REGULATION GOVERNING CONSOLIDATION OF NATIONAL FARM LOAN ASSOCIATIONS

Subparagraph (4) of paragraph 1 of Section 40 of the Rules and Regulations approved June 8, 1926, as amended [FLB 989, NFLA EXAM 236, November 12, 1935; Chapter II, Section 18 (d), FEDERAL REGISTER Compilation], is hereby amended to read as follows:

Each of the constituent associations shall be examined as soon as possible after the consolidation agreement has been approved by the stockholders of all the constituent associations, unless the Farm Credit Administration, upon recommendation of the Federal land bank of the district, shall decide that such an examination is not necessary.

[SEAL] A. S. GOSS,
Land Bank Commissioner.

[F. R. Doc. 38-116; Filed, January 12, 1938; 12:08 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of January, 1938.

[File No. 7-126]

IN THE MATTER OF APPLICATION OF THE SAN FRANCISCO CURB EXCHANGE FOR UNLISTED TRADING PRIVILEGES IN ATLAS CORPORATION, COMMON STOCK

ORDER GRANTING APPLICATION

The San Francisco Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the Atlas Corporation, Common Stock; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the San Francisco Curb Exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the Common Stock of Atlas Corporation, be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-121; Filed, January 12, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of January 1938.

[File No. 7-90]

IN THE MATTER OF APPLICATION OF THE SAN FRANCISCO CURB EXCHANGE FOR UNLISTED TRADING PRIVILEGES IN BERKEY & GAY FURNITURE COMPANY, COMMON STOCK

ORDER GRANTING APPLICATION

The San Francisco Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the Common Stock of Berkey & Gay Furniture Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the San Francisco Curb Exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the Common Stock of Berkey & Gay Furniture Company, be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-120; Filed, January 12, 1938; 12:49 p. m.]

United States of America—Before Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of January, A. D. 1938.

IN THE MATTER OF CHOLLAR EXTENSION MINING COMPANY COMMON STOCK, 10 CENTS PAR VALUE

ORDER POSTPONING HEARING

The Commission having heretofore on December 28, 1937, ordered that a hearing under Section 19 (a) (2) of the Securities Exchange Act of 1934 be held on January 18, 1938, at the Regional Office of the Commission, 625 Market Street, San Francisco, California, to determine whether to suspend for a period not exceeding twelve months or to withdraw the registration of the Common Stock, 10 Cents Par Value, of Chollar Extension Mining Company on the San Francisco Mining Exchange; and

The registrant having requested additional time to meet the requirements of the Commission;

It is ordered, That the hearing heretofore called for January 18, 1938, be held at the same hour and place on January 26, 1938; and

It is further ordered, That for the purpose of such proceeding, Howard A. Judy, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed rele-

vant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-119; Filed, January 12, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of January, 1938.

[File No. 2-3397]

IN THE MATTER OF YPRES CADILLAC MINES LIMITED (NO PERSONAL LIABILITY)

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of Ypres Cadillac Mines Limited (No Personal Liability), an Ontario corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Ypres Cadillac Mines Limited (No Personal Liability), an Ontario corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-118; Filed, January 12, 1938; 12:49 p. m.]

Friday, January 14, 1938 ***No. 10***

DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH TURKEY

PUBLIC NOTICE

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930", as extended by Public Resolution No. 10, approved March 1, 1937, and to Executive Order No. 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of Turkey.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

CORDELL HULL,
Secretary of State.

JANUARY 12, 1938.

Closing Date for Submission of Briefs—February 9, 1938

Closing Date for Application To Be Heard—February 9, 1938

Public Hearings Open—February 23, 1938

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of Turkey, notice of intention to negotiate which has been issued by the Secretary of State on this date, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, February 9, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, Eighth and E Streets NW., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on February 23, 1938, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Written statements must be either typewritten or printed and must be submitted in six copies of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 12th day of January, 1938.

JOHN P. GREGG, *Secretary.*

JANUARY 12, 1938.

LIST OF PRODUCTS ON WHICH THE UNITED STATES WILL CONSIDER GRANTING CONCESSIONS TO TURKEY

JANUARY 12, 1938.

With reference to his public notice, issued today, of intention to negotiate a trade agreement with the Government of Turkey, the Secretary of State announces that, unless supplementary announcement is made, the granting of concessions by the United States will be considered only with respect to the articles listed below. However, interested persons may present to the Committee for Reciprocity Information information or views concerning concessions on any article imported into the United States from Turkey, or concerning any article imported into that country from the United States.

The attached list is not a list of articles on which concessions are proposed, but rather a list of articles which will come under consideration for the possible granting of concessions. Their publication enables interested persons to learn whether or not products in which they are interested may be considered for the granting of concessions to the Government of Turkey. Concessions will not be granted on any article not covered by the present or supplementary listing, and decision to grant a concession on any article covered in the listing will not be made until after the dates set by the Committee for Reciprocity Information for the presentation of briefs and for supplementary oral hearings. Some of the products listed may not be the subject of any concession under the terms of the agreement, and the import duties on those items which are included in the agreement as finally negotiated may or may not be changed.

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930. The descriptive phraseology is however in many cases limited to a narrower field than that covered by the numbered tariff paragraph. In such cases only the articles covered by the descriptive phraseology of the list will come under consideration for the granting of concessions. Concessions ultimately granted may cover articles as described in the list, or may be limited to certain specific commodities or groups of commodities falling within the limits of the descriptive phraseology of the list.

United States Tariff Act of 1930 Paragraph	Description of Article	Present Rate of Duty
38	Valonia extract, not containing alcohol	15 percent.
47	Licorice, extracts of, in pastes, rolls, or other forms	20 percent.
601	Cigarette leaf tobacco, not specially provided for, if unstemmed.	35¢ per lb.
740	Figs, fresh, dried, or in brine	5¢ per lb.
742	Raisins	2½ per lb.
757	Filberts:	
	Not shelled	5¢ per lb.
	Shelled	10¢ per lb.
761	Pistache nuts:	
	Not shelled	2½¢ per lb.
	Shelled	5¢ per lb.
762	Poppy seed	10¢ per 100 lb.
764	Canary seed	1¢ per lb.
1116 (a)	Oriental, Axminster, Savonnerie, Aubusson, and other carpets, rugs, and mats, not made on a power-driven loom, plain or figured, whether woven as separate carpets, rugs, or mats, or in rolls of any width.	50¢ per sq. ft., but less than 45 percent ad valorem.
1541 (a)	Cymbals and parts thereof, not specially provided for	40 percent.
1552	Meerschaum, crude or unmanufactured	20 percent.
1602	Licorice root, natural and uncompounded and in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, not containing alcohol.	Free.
1633	Borax, crude or unmanufactured, and borate of lime, borate of soda, and other borate material, crude and unmanufactured, not specially provided for.	Free.
1647	Chromite or chrome ore	Free.
1670	Valonia, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, not containing alcohol.	Free.
1672	Emery ore	Free.
1681	Furs and fur skins, not specially provided for, undressed: Hare and marten.	Free.
1755	Sausage casings, weasands, intestines, bladders, tendons, and integuments, not specially provided for; all the foregoing produced from sheep, lambs and goats.	Free.

NOTE.—The "present" rates of duty given above are the rates applicable, as of the date of this announcement, to products of Turkey.

NOTE.—In the event that articles which are at present regarded as classifiable under the descriptions included in the above list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles and the granting of concessions with regard to them will not be precluded.

[F. R. Doc. 38-123; Filed, January 12, 1938; 3:24 p. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4789]

INCOME RETURNS

INFORMATION REQUIRED REGARDING THE PREPARATION OF INCOME RETURNS FOR TAXABLE PERIODS ENDING ON OR AFTER DECEMBER 31, 1937

To Collectors of Internal Revenue and Others Concerned:

Title I (Income Tax) of the Revenue Act of 1936, as amended, provides in part:

SEC. 54. *Records and special returns.*—(a) *By taxpayer.*—Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

* * * * * *

SEC. 62. *Rules and regulations.*—The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

Title IA (Additional Income Taxes) of the Revenue Act of 1936, as amended, provides in part:

SEC. 358. *Administrative provisions.*—All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title, except that the provisions of section 131 of that title shall not be applicable.

Title III (Tax on Unjust Enrichment) of the Revenue Act of 1936 provides in part:

SEC. 503. *Administrative provisions.*—(a) All provisions of law (including penalties) applicable with respect to taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this title, be applicable with respect to the taxes imposed by this title, except that the provisions of sections 101, 131, 251, and 252 shall not be applicable.

* * * * *

Pursuant to the authority in the above-quoted provisions of the Act, the following regulations relating to the preparation of income returns are hereby prescribed:

ARTICLE 1. *Scope of regulations.*—(a) These regulations apply to all income returns for taxable periods ending on or after December 31, 1937 required under Title I, Title IA, and Title III of the Revenue Act of 1936, as amended, except—

(A) Returns required to be made by individuals on Form 1040A (returns of net income not exceeding $5,000 and derived from salaries, wages, interest, and dividends);

(B) Returns required under section 143 and 144 (relating to withholding of tax at the source);

(C) Returns required to be made by departing aliens under section 146 (relating to closing of taxable year);

(D) Returns required under sections 147, 148, and 149 (relating to information at source);

(E) Returns by subsidiary corporations included in consolidated returns; and

(F) Returns required under sections 338 (a), 339 and 340 (relating to monthly information returns filed by officers and directors, and also monthly and annual information returns filed by certain shareholders, of certain foreign corporations, and returns as to the formation of foreign corporations).

(*b*) The term "return" as used hereafter in these regulations means an income return to which these regulations are applicable.

(*c*) The term "preparation" as used in these regulations does not refer to mere mechanical assistance or preparation, as for example, the work done by a stenographer or a typist in the preparation of the return.

ART. 2. *Affidavit by person preparing the return for another person.*—If any person or persons actually prepare a return for another person, the prescribed form of affidavit on the return shall be subscribed and sworn to by such person or persons preparing the return.

ART. 3. *Particular cases.*—(*a*) If the return is the separate return of a married person, the requirements of article 2 apply, although the one actually preparing the return is the husband or wife of the taxpayer.

(*b*) If the actual preparation of the return is a regular and usual incident of the employment of one regularly and continuously employed by the person for whom the return is made for the full time of such employee (as clerk, secretary, bookkeeper, accountant, etc.), the requirements of article 2 do not apply. If, however, the employee is not regularly or continuously employed by the person for whom the return is made for full time, or the actual preparation of the return is not a regular and usual incident of such employment, the requirements of article 2 apply. Thus, if the return is prepared by an accountant or firm of accountants making periodical audits of the accounts of the person for whom the return is prepared, the sworn statement required by article 2 shall be made.

(*c*) If, in the course of his official duties, a deputy collector, an internal revenue agent, or other officer or employee of the Bureau of Internal Revenue actually prepares the return, the person for whom the return is made shall make in the return a brief statement to that effect, and it will not be necessary to make the sworn statement required by article 2.

[SEAL] CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

Approved January 10, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-124; Filed, January 12, 1938; 4:12 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-59-1 O-59-1]

NOTICE OF HEARING WITH RESPECT TO AMENDMENT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN CINCINNATI, OHIO, MARKETING AREA

Whereas pursuant to Public Act No. 10, 73rd Congress, as amended and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture held a public hearing at Cincinnati, Ohio, on the 29th day of November 1937 in connection with a proposed marketing agreement and a proposed order regulating the handling of milk in the Cincinnati, Ohio, marketing area, which proposed hearing was reopened by the Secretary on January 4, 1938, and on January 7, 1938, adjourned by the presiding officer to January 20, 1938; and

Whereas an amendment has been proposed to the aforementioned marketing agreement and order, which amendment would amend article I, section 1, subsection 2, by including in the definition of the marketing area the city of Hamilton in Butler County, Ohio;

Now, therefore, notice is hereby given that when the said hearing is resumed on Thursday, January 20, 1938 at 9:30 a. m., eastern standard time, at the Alms Hotel, McMillan and Victory Parkway, Cincinnati, Ohio, evidence, in addition to the evidence called for in the original notice of hearing dated November 12, 1937 and the notice of reopening of the hearing dated December 22, 1937, will be received concerning the proposed amendment set forth above.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area and it is hereby determined that the period of notice of the proposed amendment hereby given is reasonable under the circumstances.

Copies of the proposed amendment may be inspected in or procured from the Hearing Clerk, Office of the Solicitor, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: January 13, 1938.

[F. R. Doc. 38-130; Filed, January 13, 1938; 12:44 p. m.]

Bureau of Animal Industry.

NOTICE

JANUARY 12, 1938.

To A. L. GARBER, *doing business as Morgan County Livestock Auction Company, Fort Morgan, Colo.*

Whereas Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And whereas, the stockyard of the Morgan County Livestock Auction Company, Fort Morgan, Colorado, was posted on the 26th day of October, 1937, as coming within the foregoing definition:

And whereas, after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard of the Morgan County Livestock Auction Company is no longer operated as a public market:

Now, therefore, notice is hereby given that the stockyard of the Morgan County Livestock Auction Company, Fort Morgan, Colorado, no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-131; Filed, January 13, 1938; 12:44 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

TEMPORARY EXTENSION OF RULE 337A

The Commission on December 31, 1937 adopted the following circular to be forwarded to all licensees of police stations:

To All Licensees of Police Stations:

The Commission has received a number of inquiries as to its attitude with respect to the provisions of Rule 337a after January 1, 1938. Rule 337a reads:

"State and municipal police stations, although licensed primarily for communication with mobile police units, may transmit emergency messages to other mobile units such as fire department vehicles, private ambulances and repair units of public utilities, in those cases which require cooperation or coordination with police activities. In addition, such stations may communicate among themselves provided (1) that no interference is caused to the mobile service, and (2) that communication is limited to places between which, by reason of their close proximity, the use of police radiotelegraph stations is impracticable. State and municipal police stations shall not engage in point-to-point radiocommunication beyond the good service range of the transmitting station or transmit or handle communications requiring radiotelephone relay; provided, however, that pending the installation and licensing of the equipment authorized by Rule 328d, but in no event after January 1, 1938, such stations may operate as zone police stations using type A3 emission on their regularly assigned frequencies subject to the condition that no interference is caused to the mobile service. Point-to-point communication between stations in the same local telephone exchange area is likewise prohibited unless the messages to be transmitted are of immediate importance to mobile units."

The Commission is more than ever convinced that long distance point-to-point transmission and the relay of messages by voice, such as is prohibited by Rule 337a, is entirely unsatisfactory from the points of view both of interference and law enforcement. Therefore, no change in the existing rule is contemplated.

It is realized that certain instrumentalities of government cannot possibly obtain by January 1, 1938, the equipment necessary to meet the provisions of this rule because of economic considerations. Therefore, applications received by the Commission from individual licensees requesting temporary extension of time beyond January 1, 1938, will be considered provided that such applications are supported by copies of purchase orders or other equally substantial evidence of an immediate intention to comply with the regulations.

[SEAL] T. J. SLOWIE, *Secretary*

[F. R. Doc. 38-128; Filed, January 13, 1938; 10:39 a. m.]

[Docket No. 4887]

ORDER IN THE MATTER OF BOUCHARD TRANSPORTATION CO., INC., NEW YORK, N. Y. (SHIP "M/V BACOI")

The Commission on December 31, 1937, adopted the following Order:

Whereas on November 5, 1937, a hearing was held before an Examiner in Washington, D. C., upon the application of the said Bouchard Transportation Co., Inc., for exemption of the above-named vessel under the provisions of Section 352 (b) (2) of the Communications Act of 1934, as amended, and

Whereas, the temporary exemption granted to this vessel by the Commission's Order of November 11, 1937 will expire on January 5, 1938, and

It appearing that the Commission cannot render its final decision in this matter until after that date, and

It further appearing that it is unreasonable to require the applicant to comply with the said provisions of the Communications Act for the temporary period pending final decision on the said application for exemption.

It is ordered, That the temporary exemption now in effect be, and it is hereby, extended for a further temporary period pending final decision of the Commission in the above-entitled matter; *subject, however*, to the terms and conditions specified in the said order of November 11, 1937.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-127; Filed, January 13, 1938; 10:39 a. m.]

[Docket No. 4857]

ORDER IN THE MATTER OF THE APPLICATION OF EASTERN STEAMSHIP LINES, INC., BOSTON, MASSACHUSETTS, (SHIPS "FALMOUTH, SANDWICH, CORNISH, NORWALK, WILTON AND MADISON")

The Commission on December 31, 1937, adopted the following Order:

Whereas on November 4, 1937, a hearing was held before an Examiner in Washington, D. C., upon the application of the said Eastern Steamship Lines, Inc., for exemption of the above-named vessels under the provisions of Section 352 (b) (2) of the Communications Act of 1934, as amended, and

Whereas the temporary exemption granted to these vessels by the Commission's Order of November 11, 1937 will expire on January 5, 1938, and

It appearing that the Commission cannot render its final decision in this matter until after that date, and

It further appearing, that it is unreasonable to require the applicant to comply with the said provisions of the Communications Act for the temporary period pending final decision on the said application for exemption,

It is ordered, That the temporary exemption now in effect be, and it is hereby extended for a further temporary period pending final decision of the Commission in the above entitled matter; *subject, however*, to the terms and conditions specified in the said order of November 11, 1937.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-126; Filed, January 13, 1938; 10:39 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 181]

ALLOCATION OF FUNDS FOR LOANS

JANUARY 10, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Louisiana 8009W Lafayette	$15,000
Minnesota 8034W Stearns	10,000
Nebraska 8004W Polk	5,000
Nebraska 8049W Howard	25,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-125; Filed, January 13, 1938; 9:38 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D., 1938.

[File No. 2-3331]

IN THE MATTER OF GOLD DUST MINING & MILLING COMPANY

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant Gold Dust Mining & Milling Company, a Colorado corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Items 5, 9, 13 (c), 17, 18, 25, 29 (c), 31, 33, 34, 41 (a), 60 and 61, Exhibit E, in the failure to file the written consents of experts required by Section 7 of the Securities Act, and in the prospectus, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Gold Dust Mining & Milling Company, a Colorado corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-129; Filed, January 13, 1938; 12:40 p. m.]

UNITED STATES BOARD OF TAX APPEALS.

AMENDMENDT TO RULES OF PRACTICE BEFORE THE UNITED STATES BOARD OF TAX APPEALS

[Revised to January 1, 1938]

Authority: Rules of Practice and Procedure prescribed pursuant to the authority of section 907 (a) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105), as amended by section 601 of the Revenue Act of 1928 (45 Stat. 791, 871). Section 909 (a) (2) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105).

Rule 32—Burden of Proof

The burden of proof shall be upon the petitioner, except as otherwise provided by statute and except that in respect of any new matter pleaded in his answer, it shall be upon the respondent.

[Rule 32 was inadvertently omitted from the 13th Edition of the Board's Rules of Practice (as filed with the Division of the Federal Register, The National Archives, and appearing at 2 F. R. 2950), effective January 1, 1938, and now promulgated as a part of said Rules.]

[SEAL] C. ROGERS ARUNDELL,
Chairman.

[F. R. Doc. 38-122; Filed, January 12, 1938; 1:18 p. m.]

Saturday, January 15, 1938 *No. 11*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 7302 OF FEBRUARY 21, 1936, TRANSFERRING CERTAIN LANDS TO THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE NAVY

Virgin Islands

By virtue of and pursuant to the authority vested in me by the act of March 3, 1917, ch. 171, 39 Stat. 1132, and the Second Deficiency Act, Fiscal Year 1931, 46 Stat. 1552, 1570, and as President of the United States, Executive Order No. 7302 of February 21, 1936, transferring certain lands in the Virgin Islands from the control and jurisdiction of the Secretary of the Interior to the control and jurisdiction of the Secretary of the Navy for use in the establishment, construction, and operation of aviation facilities, as amended by Executive Order No. 7686 of August 5, 1937, is hereby further amended by adding thereto the following:

"It is further ordered that the following-described lands be, and they are hereby, subject to valid existing rights, transferred from the control and jurisdiction of the Secretary of the Interior to the control and jurisdiction of the Secretary of the Navy for use in the establishment, construction, and operation of aviation facilities:

"All the lands designated as parcel 'A', containing 32.7 acres, more or less, on Public Works Drawing D3-41-T37, dated September 8, 1937, entitled 'Survey of Part of Botanical Garden, Estate Lindbergh Bay, St. Thomas, V. I.', shown on plat marked 'Exhibit A', attached hereto and made a part hereof,[1] and more particularly described by metes and bounds as follows:

"Beginning at bound post No. 305, the line runs North 86°-18' West, a distance of 599.0 feet to a point on the western boundary of Lindbergh Bay Estate, said boundary running between bound posts No. 9 and No. 10 as shown on Public Works Drawing No. A3-12-T33, the point being 1,377 feet North of bound post No. 10, thence uphill, North 1°-50' East, a distance of 910 feet to bound post No. 9, thence North 0°-24' West, a distance 1,398 feet to bound post No. 264, thence South 74°-34' East, a distance of 722.8 feet to bound post No. 267, thence downhill, South 3°-09' West, a distance of 2,157.0 feet to bound post No. 305, the point of beginning.

"All the lands designated as parcel "C" on said Public Works Drawing D3-41-T37, shown on Exhibit "A", containing 13.2 acres, more or less, adjoining the land to the north of the public road from the town of Charlotte Amalie, St. Thomas, V. I., to John Brewer's Bay, St. Thomas, V. I., designated as parcel "B" on said drawing and exhibit, containing 29.7 acres, more or less (which said parcel "B" has already been transferred to the control and jurisdiction of the Secretary of the Interior by Executive Order No. 7686 of August 5, 1937), the said parcel "C" lying north of the said public road and south and west of the boundary line described by metes and bounds as follows:

"Beginning at bound post "F" established by U. S. Marines in their survey of December, 1936; thence South 89°-53' East a distance of 170.0 feet to bound post No. 149 shown on Public Works Drawing A3-12-T33 (Map of Homestead Subdivision of Estate Lindbergh Bay) of February 21, 1933; thence South 87°-04' East a distance of 463.4 feet to bound post No. 184, which was the southeast corner of Botanical Garden site; thence North 6°-47' West a distance of 422.0 feet to a point to be marked by bound post after transfer; thence North 82°-49' West a distance of 342.5 feet to a point to be marked later on the east side of road giving access to the present Botanical Garden; thence North 7°-11' East a distance of 49.5 feet alongside of said road to a point to be marked later; thence North 79° 09' West a distance of 17.5 feet to a point on the west side of above-mentioned road, to be marked later; thence North 46°-29' West a distance of 197.8 feet to a point to be marked later; thence North 55°-54' West a distance of 126.0 feet to bound post No. 254, a bound post of the original subdivision shown on Public Works Drawing A3-12-T33; thence following the lines of the original subdivision, North 39°-51' West a distance of 421.0 feet to bound post No. 304; thence North 75°-43' West a distance of 372.5 feet to bound post No. 306; thence North 19°-21' West a distance of 321.5 feet to bound post No. 305. (Said boundary description forms the eastern boundary of that area now occupied by the Civilian Conservation Corps Camp V-1 and a part of the Botanical Garden site).

"*Provided*, that that portion of these areas which is now occupied by the Civilian Conservation Corps Camp V-1, shall continue to be available for the use of the Civilian Conservation Corps until such time as the Secretary of the Interior determines that it is no longer needed for such use: *Provided further*, that the entrance road from the main road to the Botanical Garden shall be available to the public at all times when the Botanical Garden is open to the public: *And provided further*, that there shall be free ingress and egress at all times over the said road for employees of the Botanical Garden."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 12, 1938.

[No. 7790]

[F. R. Doc. 38-132; Filed, January 13, 1938; 2:07 p. m.]

[1] Filed with the original document in the Division of the Federal Register, The National Archives.

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49341]

AIRPORT OF ENTRY

CALEXICO MUNICIPAL AIRPORT, CALEXICO, CALIFORNIA, REDESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

JANUARY 11, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Calexico Municipal Airport, Calexico, California, is hereby redesignated for a period of one year from January 10, 1938, as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)).

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-134; Filed, January 13, 1938; 4:08 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 183]

AN ORDER MODIFYING ORDER NO. 90, AS MODIFIED BY ORDERS NOS. 138, 149 AND 160, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 2, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 2"

The National Bituminous Coal Commission having by its Order No. 90, as modified by Orders Nos. 138, 149 and 160, determined and established the Minimum Prices of Coals of Code Members Produced within District No. 2, as set forth in "Price Schedule No. 1—District No. 2", as supplemented by "Supplements Nos. 1, 2 and 3", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District No. 2, established in Price Schedule No. 1—District No. 2, and Supplements Nos. 1, 2 and 3 thereto, are hereby corrected and revised as set forth in "Supplement No. 4 to Price Schedule No. 1—District No. 2", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices as shown in said Supplement No. 4 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 2, and shall be and become effective at 12:01 o'clock A. M. on the 24th day of January, 1938.

2. That said Orders Nos. 90, 138, 149 and 160, and Price Schedule No. 1—District No. 2, and Supplements Nos. 1, 2 and 3 thereto, except as modified herein and by said Supplement No. 4 to Price Schedule No. 1—District No. 2, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Supplement No. 4 to Price Schedule No. 1—District No. 2" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 2; shall cause copies of this Order and said Supplement No. 4 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 12th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 2

To all Code Members within District No. 2:

Effective January 24, 1938, the following changes in Price Schedule No. 1 and Supplement No. 1 thereto, shall be made:

The following mines shall be indexed "F" instead of "E" for Size Group 9:

Abruzzi Coal Company, Abruzzi Mine.
Abruzzi Coal Company, Winsted Mine.
Ainsley Coal Company, Geneva Mine.
Crawford C & C Co., Donald #2 Mine.
Davidson-Conn'yl. C & C Co., Frederick #1 Mine.
Fancy Hill Coal Company—Eagle Mine.
Gould, Kenneth, Gould Mine.
McManis & Sons Coal Co., Powell Mine.
Martin Mining Company, Martin Mine.
Mapel-Sterling Coal Company, Mapel St. #2 Mine.
Old Home Fuel Co., Griffin No. 1 Mine.
Poland Coal Company, Poland #3 Mine.
Reliance C. Mining Company, Crystal Mine.
South Fayette Coal Company, Melrose Mine.
West Point Marion C. Co., Walnut Hill Mine.

McKeesport Coal & Coke Co., Hubbard Mine, shall be indexed "D" instead of "C" for Group 9.

Union Collieries Co., Renton #3 Mine shall be indexed "C" for washed or mechanically cleaned coal in Size Group 9, and indexed "D" instead of "C" for Raw coal in Size Group 9.

Hillman Coal & Coke Company, Naomi Mine Raw Coal shall be price indexed as follows:

SIZE GROUPS

1	2	3	4	5	6	7	9	12	13	14
C	B	B	B	C	C	C	D	C	C	C

W. J. Rainey, Inc., Clyde #1, 2 and 3 Mines, shall be price indexed as follows:

SIZE GROUPS

	1	2	3	4	5	6	7	9	12	13	14
Clyde #1	C	B	B	B	C	C	C	D	C	C	C
Clyde #2	C	B	B	B	C	C	C	D	C	C	C
Clyde #3 "R"	C	B	B	B	C	C	C	D	C	C	C
Clyde #3 "W"								B			B

By order of the Commission.

Dated this 12th day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-135; Filed, January 14, 1938; 12:03 p. m.]

[Order No. 184]

AN ORDER MODIFYING ORDER NO. 96, AS MODIFIED BY ORDERS NOS. 132 AND 164, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 8, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 8"

The National Bituminous Coal Commission having by its Order No. 96, as modified by Orders Nos. 132 and 164, determined and established the minimum prices of coals of Code Members produced within District No. 8, as set forth in "Price Schedule No. 1—District No. 8", and "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 8", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Price Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District No. 8, established in Price Schedule No. 1—District No. 8, and Supplements Nos. 1 and 2 thereto, are hereby corrected and revised as set forth in Supplement No. 3 to Price Schedule No. 1—District No. 8, filed this day in the office of the Secretary of the Co. mission and made a part hereof by reference as though fully set forth herein, and such Minimum Prices as shown in said Supplement No. 3 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 8, and shall be and become effective at 12:01 o'clock A. M. on the 24th day of January, 1938.

2. That said Orders Nos. 96, 132 and 164 and Price Schedule No. 1—District No. 8, and Supplements Nos. 1 and 2

thereto, except as modified herein and by said Supplement No. 3 to Price Schedule No. 1—District No. 8, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 3 to Price Schedule No. 1—District No. 8 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 8; shall cause copies of this Order and said Supplement No. 3 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 12th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 8

To all Code Members within District No. 8:

Effective January 24, 1938, the following change and addition shall be made in Supplement No. 1 to Price Schedule No. 1:

Octavia Coal Mining Corporation, Octavia Mine, Pond Creek Seam (Top Stratta) shall be indexed "P" instead of "N" for size group 4 and indexed "H" instead of "F" for size group 12.

The following shall be added:

Item "3A Savannah, Georgia. The minimum price for Bunker fuel f. o. b. cars at piers shall be $5.30 per gross ton when delivered to vessels destined to points beyond the harbor limits of Savannah, Georgia."

By order of the Commission.

Dated this 12th day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-136; Filed, January 14, 1938; 12:03 p. m.]

[Order No. 185]

AN ORDER MODIFYING ORDER NO. 99, AS MODIFIED BY ORDERS NOS. 137 AND 154, AND SUPPLEMENTING THE SCHEDULE FOR MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 11, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 11"

The National Bituminous Coal Commission having by its Order No. 99, as modified by Orders Nos. 137 and 154, determined and established the Minimum Prices of Coals of Code Members Produced within District No. 11 as set forth in "Price Schedule No. 1—District No. 11", and "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 11", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Price Schedule and Supplements by a further Supplement as hereinafter provided;

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District No. 11, established in Price Schedule No. 1—District No. 11, and Supplements Nos. 1 and 2 thereto, are hereby corrected and revised as set forth in Supplement No. 3 to Price Schedule No. 1—District No. 11, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such Minimum Prices as shown in said Supplement No. 3 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 11, and shall be and become effective at 12:01 o'clock A. M. on the 24th day of January, 1938.

2. That said Orders Nos. 99, 137 and 154, and Price Schedule No. 1—District No. 11, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Supplement No. 3 to Price Schedule No. 1—District No. 11, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 3 to Price Schedule No. 1—District No. 11 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 11; shall cause copies of this order and said Supplement No. 3 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 12th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 11

To all Code Members within District No. 11:

Effective January 24, 1938, the following addition shall be made on Price Schedule No. 1:

Electric Shovel Coal Corporation, Clinton Mine, Seam VI, shall be added and price indexed as follows:

SIZE GROUPS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
F	F	F	F	F	F	F	F	—	F	F	F	—	F	F

By order of the Commission.

Dated this 12th day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-137; Filed, January 14, 1938; 12:03 p. m.]

[Order No. 186]

AN ORDER MODIFYING ORDER NO. 101, AS MODIFIED BY ORDERS NOS. 114, 135 AND 165, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 13, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 3 TO SCHEDULE NO. 1—DISTRICT NO. 13"

The National Bituminous Coal Commission having by its Order No. 101, as modified by Orders Nos. 114, 135 and 165, determined and established the Minimum Prices of Coals of Code Members Produced within District No. 13, as set forth in "Price Schedule No. 1—District No. 13", as supplemented by "Supplements Nos. 1 and 2," and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Schedule and Supplements by further Supplement as hereinafter provided,

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District No. 13, established in "Price Schedule No. 1—District No. 13", as supplemented by "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 13", are hereby further supplemented as set forth in "Supplement No. 3 to Price Schedule No. 1—District No. 13", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such Minimum Prices, as shown in said Supplement No. 3, shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 13, and shall be and become effective at 12:01 o'clock A. M. on the 24th day of January, 1938.

2. That said Orders Nos. 101, 114, 135 and 165, and Price Schedule No. 1—District No. 13, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Supplement No. 3 to Price Schedule No. 1—District No. 13, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 3 to Price Schedule No. 1—District No. 13 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 13; shall cause copies of this Order and said Supplement No. 3 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 12th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 13

Supplemental Schedule of Minimum Prices for By-Product, Retort and Water Gas Coals of Code Members Produced within District No. 13, Established Pursuant to the Provisions of the "Bituminous Coal Act of 1937."

Effective: January 24, 1938.

Issued: January 12, 1938.

F. W. MCCULLOUGH, *Secretary.*

District No. 13 (Tennessee-Georgia Mines), Prices in Cents per Net Ton of 2,000 Pounds for Shipment Into All Market Areas

SPECIAL BY PRODUCT COALS—SIZE GROUPS 7, 8, 9, 10

Ref.	Mine	Price
301	Battle Creek	235
302	Durham	235
303	College	235
304	Coalmont	235
305	Niack	235
306	Palmer	235
307	Davis	235
308	Whitwell	235

District No. 13 (Alabama Mines) Prices in Cents per Net Ton of 2,000 Pounds for Shipment Into the Market Areas Shown Below for Size Groups 2 and 3

RETORT AND WATER GAS COALS

Market areas	Size groups	
	2	3
42, 43, 44-65-91, 92	285	260
46	290	265
45-50-57-63	295	270
47-52-54-55-62	305	280
49-59-64-87-90	315	290
53-56	320	295
76, 77-79, 80	310	285
51	325	300
61	340	315
35, 36-83, 84, 85, 86-88, 89	345	320
81	345	320
58-60-67-71, 72, 73-75-78	350	325
66-68	360	335
48	375	350
74	375	350
70	385	360
69-82-93, 94, 95, 96, 97, 98-118, 119-123, 124	385	360

[F. R. Doc. 38-138; Filed, January 14, 1938; 12:03 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ALLOTMENT OF 1938 LIQUID SUGAR QUOTAS FOR FOREIGN COUNTRIES

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 liquid sugar quotas for foreign countries, established pursuant to section 208 of the said act, is necessary to afford all interested persons an equitable opportunity to market such sugar, and hereby give notice that a public hearing will be held at Washington, D. C., in the auditorium of the United States Department of Agriculture, on January 24, 1938, at 10 a. m.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the above-mentioned quotas among persons who bring liquid sugar from foreign countries into the continental United States, and such other evidence as may be pertinent to the exercise of the powers vested in the Secretary of Agriculture under section 205 (a) of the said act.

Mr. Robert B. Tyler and Mr. John C. Bagwell are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Done at Washington, D. C., this 13th day of January 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-141; Filed, January 14, 1938; 12:45 p. m.]

Bureau of Animal Industry.

[Amendment 15 to Declaration No. 12]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

JANUARY 3, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Calhoun, January 2, 1941.

Arkansas: Garland, January 2, 1941; Howard, January 2, 1941; Nevada, January 2, 1941; Pike, January 2, 1941; Sevier, January 2, 1941.

Colorado: Chaffee, January 2, 1941; El Paso, January 2, 1941; Fremont, January 2, 1941.

Florida: De Soto, January 2, 1941; Hillsborough, January 2, 1941; Volusia, January 2, 1941.

Georgia: Jenkins, January 2, 1941; Marion, January 2, 1941; Talbot, January 2, 1941; Webster, January 2, 1941.

Idaho: Clark, January 2, 1941.

Indiana: Decatur, January 2, 1941; Grant, January 2, 1941; Jackson, January 2, 1941; Lake, January 2, 1941; Warrick, January 2, 1941.

Iowa: Benton, January 2, 1941; Crawford, January 2, 1941; Dallas, January 2, 1941; Greene, January 2, 1941; Montgomery, January 2, 1941; Wright, January 2, 1941.

Kansas: Ellsworth, January 2, 1941; Mitchell, January 2, 1941; Montgomery, January 2, 1941; Osborne, January 2, 1941; Ottawa, January 2, 1941; Wabaunsee, January 2, 1941.

Kentucky: Bath, January 2, 1941; Warren, January 2, 1941.

Minnesota: Carver, January 2, 1944.

Mississippi: Clay, January 2, 1941; Lee, January 2, 1941.

Missouri: Buchanan, January 2, 1941; Cedar, January 2, 1941; Gentry, January 2, 1941; Lewis, January 2, 1941; Lincoln, January 2, 1941; Nodaway, January 2, 1941; Platte, January 2, 1941; Vernon, January 2, 1941; Worth, January 2, 1941.

Nebraska: Saunders, January 2, 1941.

North Carolina: Alexander, January 2, 1941; Randolph, January 2, 1941.

Ohio: Knox, January 2, 1941; Pike, January 2, 1941.

Pennsylvania: Adams, January 2, 1941; Cameron, January 2, 1941; Forest, January 2, 1941; Lehigh, January 2, 1941; McKean, January 2, 1941; Susquehanna, January 2, 1941.

Tennessee: Anderson, January 2, 1941; Blount, January 2, 1941; Henderson, January 2, 1941.

Texas: Carson, January 2, 1941; Coke, January 2, 1941; Hunt, January 2, 1941; Red River, January 2, 1941; Scurry, January 2, 1941; Wheeler, January 2, 1941; Wilbarger, January 2, 1941.

Virginia: Dinwiddie, January 2, 1941; James City, January 2, 1941; Spotsylvania, January 2, 1941; Warren, January 2, 1941; Warwick, January 2, 1941; York, January 2, 1941.

West Virginia: Calhoun, January 2, 1941.

Declaration No. 12, dated October 1, 1936, as amended, is hereby further amended accordingly.

[SEAL] J. R. MOHLER,
Chief of Bureau.

[F. R. Doc. 38-140; Filed, January 14, 1938; 12:45 p. m.]

NOTICE

JANUARY 13, 1938.

To I. M. BEASLEY, *doing business as Jackson Livestock Commission Company, Jackson, Miss.*

Whereas Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Jackson Livestock Commission Company, at Jackson, State of Mississippi, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-139; Filed, January 14, 1938; 12:45 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of January, 1938.

[File No. 1-1648]

IN THE MATTER OF THE ANNAPOLIS DAIRY PRODUCTS COMPANY 1ST MORTGAGE 15-YEAR 6% GOLD BONDS, DUE 1943

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Annapolis Dairy Products Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its 1st Mortgage 15-Year 6% Gold Bonds, due 1943, from listing and registration on the Baltimore Stock Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on January 23, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*

[F. R. Doc. 38-142; Filed, January 14, 1938; 12:54 p. m.]

United States of America—Before Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of January, A. D. 1938.

IN THE MATTER OF PRIMA COMPANY COMMON STOCK, NO PAR VALUE

ORDER TO SHOW CAUSE AND FOR HEARING, DESIGNATING OFFICER AND TIME AND PLACE FOR TAKING TESTIMONY

Whereas Prima Company, a corporation, is the issuer of Common Stock, No Par Value; and

Whereas said Prima Company registered such securities on the Chicago Stock Exchange, a national securities exchange, by filing on or about May 31, 1935, an application with the said Exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

Whereas Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, requires that every issuer of a security registered on a national securities exchange shall file such annual reports as the Commission may by rule and regulation prescribe; and

Whereas said Prima Company filed on or about May 2, 1936, an annual report on Form 10-K for the fiscal year ended December 31, 1935, pursuant to Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 promulgated thereunder; and

Whereas, said Prima Company has failed to comply with the provisions of said Section 13 (a) and (b), said Rules KA1 and KA2, and with the provisions of said Form 10-K, and with the provisions of the Instructions for said Form 10-K and the Rules and Regulations of the Commission supplemental thereto, as amended, in that the annual report filed by it for the year ended December 31, 1935

(1) Fails to contain the date of incorporation of the registrant on the facing sheet;

(2) Fails to include as part of said annual report, an accountant's certificate to the financial statements which is manually signed, and which is reasonably comprehensive as to the scope of the audit, although required by Item 8 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission;

(3) Fails to include descriptive headings for each column set forth in Schedule VI to properly identify the material contained in said Schedule, although required by Item 8 of said Form 10-K and the Instructions thereto and the Rules and Regulations of the Commission;

(4) Fails to include descriptive headings for each column set forth in Schedule VIII to properly identify the material contained in said Schedule, although required by Item 8 of said Form 10-K and the Instructions thereto and the Rules and Regulations of the Commission;

(5) Fails to contain in Item 12 information with respect to the sale of 5% Mortgage Notes, although required by that Item and the Rules and Regulations of the Commission; and

(6) Fails to contain in the form of an exhibit filed as a part of said annual report, copies of the indenture, mortgage, or other constituent instrument defining the rights of the securities issued during the fiscal year, although required by the Instructions to Form 10-K and the Rules and Regulations of the Commission.

Whereas said Prima Company has failed to comply with Section 13 (a) and (b) of said Securities Exchange Act, as amended, and with Rules KA1 and KA2 promulgated by the Commission thereunder, in that as issuer of said Common Stock, No Par Value, it has failed to file the information and documents required by Rule KA1, adopted by the Commission pursuant to said Section 13 (a) and has failed to file its annual report for the year ended December 31, 1936, on Form 10-K, as required by Rule KA2, adopted by the Commission pursuant to said Section 13 (b);

It is ordered, That pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing be held to determine whether said Prima Company has so failed to comply with said provisions of said Section 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with either provision of said Section, or of any Rule or Regulation promulgated by the Commission under said Section, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Common Stock, No Par Value, on said Chicago Stock Exchange; and

It is further ordered, That said Prima Company appear before an officer of the Commission and show cause why the registration of said Common Stock, No Par Value, on said Chicago Stock Exchange should not be suspended for a period not exceeding twelve months or withdrawn as provided in Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended; and

It is further ordered, That for the purpose of such proceeding, Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That a public hearing for the taking of testimony begin on the 28th day of January at 10:00 A. M. at the Regional Office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as said officer may determine.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-143; Filed, January 14, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of January, A. D. 1938.

[File No. 46-86]

IN THE MATTER OF THE APPLICATION OF SIOUX CITY GAS & ELECTRIC COMPANY

ORDER PURSUANT TO SECTION 10, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Sioux City Gas & Electric Company, a registered holding company, having filed an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935, for approval of the acquisition by it of 2,000 shares of the par value of $25 per share of common stock of Yankton Gas Company, notes in the principal amount of $88,000 of said Yankton Gas Company, together with accrued interest thereon and an open account in the sum of $3,678; a hearing on said application as amended having been held after appropriate notice; the record in this matter having been examined; and the Commission having made appropriate findings herein;

It is ordered, That the acquisition of the securities covered by said application be, and the same hereby is, approved subject to such application being consummated and the accounts of Yankton Gas Company being adjusted substantially as set forth in the application and the amendments thereto.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-144; Filed, January 14, 1938; 12:54 p. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

MEDICAL EXAMINATIONS

R-2095 (D) *Examinations of employee-claimants.*—Examinations of employees of the Veterans' Administration shall be made in a Veterans' Administration facility or regional office elsewhere than at the place of employment except as otherwise approved by the Administrator. (January 15, 1938.) (Veterans' Regulation No. 1-a.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38-133; Filed, January 13, 1938; 3:26 p. m.]

Tuesday, January 18, 1938 *No. 12*

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4790]

MODIFYING SPECIALLY DENATURED ALCOHOL FORMULA No. 29

To District Supervisors, Chemists in Charge, Authorized Chemists, and Others Concerned:

Pursuant to authority conferred by the Act of June 7, 1906 (U. S. C., 1934 Ed., Title 26, Sec. 1320), and Title III of the National Prohibition Act, specially denatured alcohol Formula No. 29 is hereby amended to read as follows:

To every 100 gallons of ethyl alcohol of not less than 190° proof add

1 gallon of 100 per cent acetaldehyde or
5 gallons of an alcoholic solution of acetaldehyde containing not less than 20 per cent acetaldehyde or
5 parts by weight if solid, or volume if liquid, of any chemical produced from ethyl alcohol.

This formula is restricted to processes where the alcohol loses its identity as alcohol by being converted into other chemicals. Where it is desired to use any chemical produced from ethyl alcohol other than acetaldehyde as the denaturant for Formula No. 29, the use of such chemical shall be subject to approval by the Commissioner.

[SEAL] CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

Approved, January 13, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-147; Filed, January 15, 1938; 12:06 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 158-FD]

IN THE MATTER OF PYRAMID COAL CORPORATION

NOTICE OF HEARING

A petition having been filed with this Commission by Pyramid Coal Corporation, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10, the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-151; Filed, January 15, 1938; 12:10 p. m.]

[Docket No. 159-FD]

IN THE MATTER OF PATOKA COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Patoka Coal Company, pursuant to Section 4-11 (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, in competition with District No. 10, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 11, the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-152; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 160-FD]

IN THE MATTER OF TRUAX-TRAER COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Truax-Traer Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10, the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-153; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 161-FD]

IN THE MATTER OF UNITED ELECTRIC COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by United Electric Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10, the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-154; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 181-FD]

IN THE MATTER OF BELL AND ZOLLER COAL AND MINING COMPANY ET AL

NOTICE OF HEARING

A petition having been filed with this Commission by Bell and Zoller Coal and Mining Company et al, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, in competition with District No. 11, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10, the above entitled proceeding is assigned for hearing on February 7th, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-148; Filed, January 15, 1938; 12:10 p. m.]

[Docket No. 184-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 4

NOTICE OF HEARING

A petition having been filed with this Commission by Bituminous Coal Producers Board for District No. 4, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by code members within District No. 4 in competition with District No. 8, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 4, the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-150; Filed, January 15, 1938; 12:10 p. m.]

[Docket No. 185-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 6

NOTICE OF HEARING

A Petition having been filed with this Commission by Bituminous Coal Producers Board for District No. 6, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by Code members within District No. 6 in competition with Districts Nos. 2, 3, 7 and 8, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 6, the above entitled proceeding is assigned for hearing on January 24, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-149; Filed, January 15, 1938; 12:10 p. m.]

[Docket No. 189-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 2

NOTICE OF HEARING

A Petition having been filed with this Commission by Bituminous Coal Producers Board for District No. 2, pursuant to Section 4-11 (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by code members within District No. 2, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, the above entitled proceeding is assigned for hearing on January 31, 1938, at 10:00 A. M. at the Hearing Room of the Commission at Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.
January 14, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-155; Filed, January 15, 1938; 12:12 p. m.]

[Docket No. 123-FD]

IN THE MATTER OF SHIRLEY GAS COAL CORPORATION

TEMPORARY ORDER

The Shirley Gas Coal Corporation, having filed a petition with the Commission pursuant to the provisions of Section 4, Part II (d) of the Act, alleging dissatisfaction with certain of the Minimum Prices Established for Coals of the Petitioner within District No. 2, and praying for immediate and temporary relief as therein set forth by preliminary and temporary order pending final disposition of such petition, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of temporary relief prayed for therein to the extent hereinafter provided:

Now, therefore, The National Bituminous Coal Commission pursuant to the provisions of subsection (d) of Part II of Section 4 of the Bituminous Coal Act of 1937 hereby orders:

1. That pending final disposition of the aforesaid petition and/or until further order of the Commission, the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, be and the same hereby are modified and revised to contain the following provisions as if the same were fully set forth therein:

"Coals produced by the Shirley Gas Coal Corporation at its 'Shirley' mine in the Brookville seam in the Butler-Mercer District within District No. 2 shall take the following minimum prices f. o. b. mine, subject to designated base rate adjustments, as provided for in Price Schedule No. 1 and supplements thereto for District No. 2:

For delivery and consumption within Youngstown, Ohio, in Market Area No. 7:

2" x 0"	$1.74
1¼" x 0"	1.66
¾" x 0"	1.55

For delivery to all other points within Market Area No. 7, within the State of Ohio only:

2" x 0"	$1.65
1¼" x 0"	1.57
¾" x 0"	1.46

For delivery to all points within Market Area No. 8:

2" x 0"	$1.75
1¼" x 0"	1.67
¾" x 0"	1.56

2. That except as herein temporarily revised, the minimum price schedules, and supplements thereto, established for District No. 2, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. The Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, the Secre-

taries of the Bituminous Coal Producers' Boards and to Code Members within District No. 2; shall cause a copy of this Order to be made available for inspection by all interested parties in the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 14th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-171; Filed, January 17, 1938; 12:46 p. m.]

RULING REGARDING DEDUCTIONS OR ALLOWANCES FROM INVOICES FOR ADVERTISING

The Commission directs the attention of Code Members, Sales Agents and Wholesalers who have made application for registration to the Commission, to Section XI of the Marketing Rules and Regulations promulgated by the Commission which prohibits a deduction or allowance from invoices of Code Members or Sales Agents for the purported purpose of defraying advertising costs. Such Marketing Rules and Regulations provide that if advertising is to be conducted, the cost therefor should be defrayed in some other manner.

Any Code Member allowing a deduction or allowance from invoices for advertising, directly or through a Sales Agent, is liable to expulsion from the Code and the registration of any Wholesaler allowing same in like manner may be withheld or revoked.

The Secretary of the Commission is directed to mail a copy of this Ruling to each Code Member and Wholesaler who has made application for registration to the Commission. All Code Members are directed to inform their Sales Agents of this Ruling.

By the Commission.

Dated this 15th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-169; Filed, January 17, 1938; 12:46 p. m.]

RULING REGARDING SALES TO STATE, TERRITORIAL OR FEDERAL GOVERNMENTS

The Commission has received numerous inquiries from Code Members for interpretation of the Bituminous Coal Act of 1937 in so far as it relates to sales for the exclusive use of the United States or any State or Territory of the United States or the District of Columbia, or any political subdivision of any of them, for use in the performance of governmental functions.

Section 3 (e) of the Act provides that the excise tax of 1 cent per ton of two thousand pounds imposed by Section 3 (a) of the Act shall not apply in the case of sales of coal to the above enumerated purchasers when such purchases are for use in the performance of governmental functions. Section 4, Part II (e) provides that no coal subject to the provisions of this section shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum, shall constitute a violation of the code.

The Commission construes the above referred sections of the Act in light of the intent of Congress as permitting a reduction of 1 cent per ton of two thousand pounds below the minimum price established for such coal when sold for the exclusive use of the United States or any State or Territory of the United States or the District of Columbia, or any political subdivision of any of them, for use in the performance of governmental functions.

The Bureau of Internal Revenue has provided in Regulations 98, Chapter IV, Article 31, the procedure by which exemption from tax on such sales may be obtained.

The Secretary of the Commission is directed to mail a copy of this Ruling to all Code Members.

By the Commission.

Dated this 15th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-170; Filed, January 17, 1938; 12:46 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF WAGE RATES, PRODUCTION, ETC., 1938 CROP OF SUGAR BEETS

NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that public hearings will be held as follows:

For northern California, at Sacramento, California, in the Auditorium of the Chamber of Commerce Building, 917 Seventh Street, on January 24, 1938, at 9:00 a. m.

For southern California, at Los Angeles, California, in the Assembly Room of the California State Building, on January 27, 1938, at 9:00 a. m.

For Utah, at Salt Lake City, Utah, in the Hotel Utah, on January 31, 1938, at 9:00 a. m.

For Idaho, Washington, and Oregon, at Pocatello, Idaho, in the Grand Jury Room of the Federal Building, on February 3, 1938, at 9:00 a. m.

For western and southern Colorado, Kansas, and New Mexico, at Pueblo, Colorado, in the Court Room of the County Court House, on February 7, 1938, at 9:00 a. m.

For northern Colorado, at Greeley, Colorado, in the Marble Court Room, 4th floor of the Court House, on February 10, 1938, at 9:00 a. m.

For Nebraska and southern Wyoming, at Scottsbluff, Nebraska, in the Odd Fellows Hall, on February 14, 1938, at 9:00 a. m.

For Montana, northern Wyoming, South Dakota, and western North Dakota, at Billings, Montana, in the Commercial Club, on February 17, 1938, at 9:00 a. m.

For Minnesota, eastern North Dakota, and Iowa, at St. Paul, Minnesota, in the Hotel St. Paul, on February 21, 1938, at 9:00 a. m.

For Wisconsin, Illinois, and the Upper Peninsula of Michigan, at Milwaukee, Wisconsin, in the Court Room, 408 Court House, on February 23, 1938, at 9:00 a. m.

For the Lower Peninsula of Michigan, at Saginaw, Michigan, in the Auditorium of the Board of Commerce Building, on February 24, 1938, at 9:00 a. m.

For Ohio, Indiana, and southeastern Michigan, at Toledo, Ohio, in Room 418 of the New Federal Building, on February 28, 1938, at 9:00 a. m.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1938 crop of sugar beets on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1937 and 1938 crops of sugar beets to be paid under either purchase of toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugar beets.

Any of such hearings, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

R. B. Tyler and William T. Ham are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 14th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-146; Filed, January 15, 1938; 10:12 a. m.]

Bureau of Animal Industry.

[Amendment 13 to B. A. I. Order 353]

AMENDMENT OF ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

JANUARY 14, 1938.

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590-689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 353), dated June 1, 1935, and effective August 1, 1935, as amended, is hereby further amended by adding the Channel Islands (in the English Channel) to the list of countries in said order, as I have determined that foot-and-mouth disease now exists in the said Channel Islands and I have so officially notified the Secretary of the Treasury.

This amendment, which for purpose of identification is designated Amendment 13 to B. A. I. Order 353, shall be effective on and after January 15, 1938.

Done at Washington this 14th day of January 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-145; Filed, January 14, 1938; 4:16 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

IDAHO

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Idaho State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Jerome.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-168; Filed, January 17, 1938; 12:37 p. m.]

DESIGNATION OF COUNTIES

MICHIGAN

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Michigan State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Berrien, Gratiot, Antrim.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-162; Filed, January 17, 1938; 12:36 p. m.]

DESIGNATION OF COUNTIES

MINNESOTA

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Minnesota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Freeborn, Martin, Otter Tail, Roseau, Stevens.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-163; Filed, January 17, 1938; 12:36 p. m.]

DESIGNATION OF COUNTIES

OREGON

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Oregon State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Linn.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-164; Filed, January 17, 1938; 12:36 p. m.]

DESIGNATION OF COUNTIES

PENNSYLVANIA

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Pennsylvania State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Crawford, Franklin, Tioga, Washington.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-167; Filed, January 17, 1938; 12:37 p. m.]

DESIGNATION OF COUNTIES

UTAH

JANUARY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration,

Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Utah State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Utah.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-166; Filed, January 17, 1938; 12:37 p. m.]

DESIGNATION OF COUNTIES

WISCONSIN

JANUARY 15, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Wisconsin State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Dodge, Grant, Langlade, St. Croix.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-165; Filed, January 17, 1938; 12:36 p. m.]

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[General Order No. 255.]

NATURALIZATION OF ALIENS MARRIED TO CITIZENS OF THE UNITED STATES

JANUARY 13, 1938.

By virtue of and pursuant to the authority vested in me under R. S. Section 161 (U. S. C., title 5, section 22), and other provisions of law, the administrative interpretation of Section 4 of the Act of May 24, 1934 (48 Stat. 797; U. S. C., title 8, section 368), amending Section 2 of the Act of September 22, 1922, contained in General Order No. 211, dated August 2, 1934, under the title "Naturalization of Alien Married to a Citizen", is hereby amended to read as follows:

SEC. 4 a. An alien woman who married a citizen of the United States after 12 noon (E. S. T.), May 24, 1934, or whose husband was naturalized after that time, or an alien man who married a citizen of the United States on or after September 22, 1922, or whose wife was naturalized on or after that date, may be naturalized upon full and complete compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention shall be required.

(2) In lieu of the five-year period of residence within the United States, the six-month period of residence in the county, and the one-year period of residence within the State or Territory where the naturalization court is held, he or she shall have resided continuously in the United States, Hawaii, Alaska, or Puerto Rico for at least *three* years immediately preceding the filing of the petition.

b. An alien woman who married a citizen of the United States on or after September 22, 1922, and before 12 noon (E. S. T.), May 24, 1934, or whose husband was naturalized within that period may be naturalized upon full and complete compliance with all requirements of the naturalization laws with the following exceptions:

(1) No declaration of intention shall be required.

(2) In lieu of the five-year period of residence within the United States, the six-month period of residence within the county, and the one-year period of residence within the State or Territory where the naturalization court is held, shall have resided continuously in the United States, Hawaii, Alaska, or Puerto Rico for at least *one* year immediately preceding the filing of the petition.

REGULATIONS

By virtue of and pursuant to authority conferred by Section 28 of the Naturalization Act of June 29, 1906 (34 Stat. 606; U. S. C., title 8, section 356), as amended by Section 8 of the Act of March 2, 1929 (45 Stat. 1515), and Executive Order No. 6166, dated June 10, 1933, Rule 3, Subdivision D, Paragraph 1, subparagraph g, is amended to read as follows:

(1) Where petition is executed by an alien woman who married a citizen of the United States after 12 noon (E. S. T.), May 24, 1934, or whose husband was naturalized after that time, or an alien man who married a citizen of the United States on or after September 22, 1922, or whose wife was naturalized on or after that date—

Strike out all of allegation 4.

Insert allegations 5 "my {husband / wife} is a United States citizen by {birth / naturalization;"} also insert the date and court, if naturalized. Insert in allegation 9 the word "three" in lieu of "five" and strike out from said allegation the words "being a residence within said county of at least six months next preceding the date of this petition."

In the space immediately preceding allegation 10, insert the words "petition filed under Section 2 of the Act of September 22, 1922, as amended."

In the first paragraph after allegation 10, strike out the words "my declaration of intention to become a citizen of the United States."

In certificate following the jurat, strike out the words "together with declaration of intention No. ------ of such petitioner."

(2) Where petition is executed by an alien woman who married a citizen of the United States on or after September 22, 1922, and before 12 noon (E. S. T.), May 24, 1934, or whose husband was naturalized within that period—

Strike out all of allegation 4.

Insert in allegation 5, "my husband is a United States citizen by {birth, / naturalization;"} also insert the date and court, if naturalized.

Insert in allegation 9, the word "one" in lieu of "five" and strike out from said allegation the words "being a residence within said county of at least six months next preceding the date of this petition."

In the space immediately preceding the allegation 10, insert the words "petition filed under Section 2 of the Act of September 22, 1922." In the first paragraph after allegation 10, strike out the words "my declaration of intention to become a citizen of the United States." In certificate following the jurat, strike out the words "together with declaration of intention No. ------ of such petitioner."

(3) Rescinded.

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved.

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-156; Filed, January 17, 1938; 11:10 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular meeting of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3263]

IN THE MATTER OF AGRICULTURAL LABORATORIES, INC., A CORPORATION

FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondent, Agricultural Laboratories, Inc., a corporation, charging it with discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said corporate respondent, Agricultural Laboratories, Inc., now is, and at all times since June 19, 1936, has been a corporation organized under the laws of the State of Ohio, with its principal office and plant located at 3415 Milton Avenue, Columbus, Ohio. At all times herein mentioned, said respondent has been engaged in the business of developing, selling and distributing certain nitrogen fixing bacteria, useful for inoculating the seeds of leguminous plants, from its said place of business in the State of Ohio to various purchasers of said bacteria located in the State of Ohio and the several states of the United States and there has been and is now between respondent and purchasers of said bacteria a course of trade and commerce in said bacteria in and between the State of Ohio and the several states of the United States.

PAR. 2. The respondent is a member of the commercial legume inoculant industry of the United States which industry grows, sells and distributes commercial inoculants to the value of approximately $1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondent confines its sales generally to wholesale distributors and attempts to select one for each trade area in which it sells. Such wholesalers sell to retail dealers as well as directly to farmers. Additionally respondent sells its product to the two largest mail order houses who sell to consumers throughout the United States. The respondent also sells to some farm bureaus which, however, generally do not compete with respondent's wholesale distributors. Respondent sells to a few retailers. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with other of respondent's customers. The farm bureaus compete with retail dealers in selling to the farmers.

PAR. 4. Respondent sells its product to its wholesalers at various prices of from 14¢ to 16¢ for the one bushel size. Retail distributors pay 30¢ for the one bushel size. Some of the product is sold on a delivered basis and some customers, paying the highest price are sold F. O. B. Columbus, Ohio. The farm bureaus all purchase at a price of 14¢ delivered. The mail order houses purchase at 20¢ delivered for the one bushel size with the privilege of returning unsold goods. The farm bureaus are not allowed to return unsold goods but may return empty cans and obtain a credit of 2¢ a can. Wholesalers may return not to exceed 10% of their annual purchases. The respondent sells to a farm bureau at 14¢ and also sells at 14¢ to a competing wholesaler. Respondent departs from its regular policy with this wholesaler and does not allow the return of goods but only the 2¢ credit for each empty can returned. However, the farm bureau purchases on a 14¢ delivered price basis whereas the competing wholesaler purchases on a 14¢ non-delivered price basis, that is in the latter instance, F. O. B. Columbus, Ohio.

PAR. 5. The granting of a lower price to some customers comparatively engaged with other customers in the resale of the inoculant is under the circumstances set forth above a discrimination in price in commerce between purchasers of respondent's product, which purchases are for use, consumption or resale within the United States.

PAR. 6. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which the respondent is engaged and in the line of commerce in which its distributors are engaged; and the effect of said discrimination may be to injure, destroy or prevent competition with the respondent and with certain favored distributors and with customers of such favored distributors.

PAR. 7. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 8. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.

CONCLUSION

The aforesaid acts and practices of respondent, as set out in Paragraph Five hereof, are in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. Title 15, Section 13), and for other purposes."

By the Commission.

[SEAL] GARLAND S. FERGUSON, JR., *Chairman.*

Dated this 12th day of January, A. D. 1938.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part

hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended:

It is ordered, That the respondent, Agricultural Laboratories, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraph Five of the aforesaid Findings as to the Facts and Conclusions.

It is further ordered, That the said respondent, Agricultural Laboratories, Inc., within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-157; Filed, January 17, 1938; 11:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3264]

IN THE MATTER OF HANSEN INOCULATOR COMPANY, INC., A CORPORATION

FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondent, Hansen Inoculator Company, Inc., a corporation, charging it with discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and the conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said corporate respondent, Hansen, Inoculator Company, Inc., now is, and at all times since June 19, 1936, has been a corporation organized under the laws of the State of Illinois, with its principal office and plant located at 808 North Lincoln Avenue, Urbana, Illinois. At all times herein mentioned, said respondent has been engaged in the business of selling and distributing bacteria inoculation for the seeds of leguminous plants to customers located in the several states of the United States, more particularly to customers in states between Maine and Minnesota on the North, and Mississippi and Florida on the South, and including these named states, and there has been and is now a course in trade and commerce in said bacteria in and between the state of Illinois and the several states of the United States.

PAR. 2. The respondent is a member of the commercial legume inoculant industry of the United States which industry grows, sells and distributes commercial inoculants to the value of approximately $1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondent classifies its customers as consumers, retail dealers and jobbers. One who sells to consumers is considered to be a retail dealer and one who sells to dealers a jobber. However, in this industry there are very few distributors who sell only as dealers or jobbers. Generally distributors called jobbers sell both to consumers and to dealers. Additionally a large portion of the respondent's product is sold through farm bureaus which, in turn, sell the inoculant to farmers and occasionally to local elevators and other dealers.

PAR. 4. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with other of respondent's customers. The farm bureaus compete with retail dealers in selling to the farmers. Customers classified by the respondent as jobbers usually purchase in commerce respondent's inoculant, which they re-sell to consumers at a lower price than do other of respondent's customers competing for the same consumer business but who are classified and sold at retailers' list.

PAR. 5. Said respondent, Hansen Inoculator Company, Inc., issued a 1937 Distributor Price List effective January 1, 1937. Respondent has been and now is generally selling its products to its customers at such list prices less 20% off such jobbers' and dealers' lists, said distributor price list being as follows:

1937 DISTRIBUTOR PRICE LIST

(Prices herein shown are effective Jan. 1, 1937, and are subject to change without notice)

ALFALFA, SWEET CLOVER, CLOVERS—GROUPS 1 AND 2

Size	Inoculates	Prepared in—	No. per case	Consumer, price	Dealer, price	Jobber, price
½ bu	30 lbs. seed	Humus only	12, 24, 36	$0.35	$0.21	$0.14
1 bu	60 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
2½ bu	150 lbs. seed	Humus or jelly	12, 24, 36	1.00	.60	.40

SOY BEANS, COWPEAS, GARDEN PEAS AND BEANS—GROUPS 3, 4, 5, AND 6

1 bu	60 lbs. seed	Humus only	12, 24, 36	$0.35	$0.21	$0.14
2 bu	120 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
5 bu	300 lbs. seed	Humus or jelly	12, 24, 36	1.00	.60	.40
10 bu	600 lbs. seed	Humus only	12	1.75	1.05	.70
25 bu	1,500 lbs. seed	Humus only	6	3.00	1.80	1.20

LESPEDEZA—GROUP 7

1 bu	30 lbs. seed	Humus only	12, 24, 36	$0.35	$0.21	$0.14
2 bu	60 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
5 bu	150 lbs. seed	Humus or jelly	12, 24, 36	1.00	.60	.40

AUSTRIAN WINTER PEAS AND VETCH—GROUP 4A

½ bu	30 lbs. seed	Humus only	12, 24, 36	$0.35	$0.21	$0.14
1 bu	60 lbs. seed	Humus or jelly	12, 24, 36	.50	.30	.20
1¾ bu	100 lbs. seed	Humus only	12, 24, 36	.60	.36	.24
5 bu	300 lbs. seed	Humus only	12	1.75	1.05	.70
Garden size.	10 lbs. or less of seed.	Humus only	12	.20	.12	.08

Prices F. O. B. Urbana, Illinois. Terms: 2% 10 days, net 30 days. Left over cultures are returnable, prepaid, for credit or exchange.

The consumer's price is placed on the labels of the products. In many instances the labels, whether they bear private brand names or the Hansen name, resemble each other having green borders and background of leguminous plants and similar language. The inoculant is the same regardless of the label on the container. Prices to county farm bureaus vary and are frequently as low as 14¢ for the one bushel size.

PAR. 6. County farm bureaus retail the one bushel size frequently for 30¢ having purchased the same at 14¢, or retail the 2½ bushel size at 50¢ where they purchase at 28¢. Competing dealers pay 24¢ for the one bushel size and 48¢ for the 2½ bushel size. County farm bureaus sell to non-members also.

PAR. 7. Said respondent distributes its inoculant by means of traveling salesmen in the States of Iowa, Minnesota, Pennsylvania and Ohio. Orders obtained by the salesmen are delivered by the respondent and collections are also made by the respondent. Such salesmen work on a commission basis. These salesmen sell at varying prices which are not related to savings in cost of production, sale or delivery or functions performed by the buyer in the resale of the goods.

PAR. 8. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 9. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to dealers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 10. Respondent sells to a certain dealer-jobber the one bushel size humus or jelly for 15¢ under a private brand. The dealer-jobber, in turn resells and distributes the same in commerce to consumers located in adjoining states for 35¢. The said dealer referred to herein is in competition with other dealer customers of the respondent, who are required to pay 24¢ for the one bushel size of the same inoculant sold under respondent's name. The dealer referred to advertises in commerce that the inoculator "is made for us under our own label, by a reliable manufacturer at Urbana, Illinois" and, as stated in Paragraph Five hereof, the labels are similar regardless of whether they bear the Hansen or private brand name. The differential in price amounts to and is under the circumstances set forth above a discrimination in price in commerce between purchasers of respondent's product, which purchases are for use, consumption and resale within the United States.

PAR. 11. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which the respondent is engaged and in the line of commerce in which its distributors are engaged; and the effect of said discriminations may be to injure, destroy or prevent competition with the respondent and with certain favored distributors and with customers of such favored distributors.

PAR. 12. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 13. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.

CONCLUSION

The aforesaid acts and practices of respondent as set out in Paragraphs Eight, Nine and Ten hereof are in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13) and for other purposes".

By the Commission.

[SEAL] GARLAND S. FERGUSON, Jr., *Chairman*.

Dated this 12th day of January, A. D. 1938.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended:

It is ordered, That the respondent, Hansen Inoculator Company, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraphs Eight, Nine and Ten of the aforesaid Findings as to the Facts and Conclusions.

It is further ordered, That the said respondent, Hansen Inoculator Company, Inc., within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-158; Filed, January 17, 1938; 11:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular meeting of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3265]

IN THE MATTER OF ALBERT L. WHITING AND LUCILLE D. WHITING, INDIVIDUALS TRADING UNDER THE FIRM NAME AND STYLE OF "THE URBANA LABORATORIES", RESPONDENTS

FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondents, Albert L. Whiting and Lucille D. Whiting, trading under the firm style and name "The Urbana Laboratories", a partnership, charging them with discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondents' answer, the Commission, by order entered herein, granted respondents' motion for permission to withdraw said answer and to substitute therefor an answer admitting

all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and the conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said respondents, Albert L. Whiting and Lucille D. Whiting, trade under the firm style and name "The Urbana Laboratories", a partnership, and maintain their principal office and plant at 406 North Lincoln Avenue, Urbana, Illinois. At all times herein mentioned, said respondents have been engaged in the business of selling and distributing bacteria inoculation for the seeds of leguminous plants to customers located in the several states of the United States, more particularly to customers in the states located between Ohio, on the East, and Kansas, on the West, and North and South the width of the country, and there has been and is now a course of trade and commerce in said bacteria in and between the State of Illinois and the several states of the United States.

PAR. 2. Said respondents are members of the commercial legume inoculant industry of the United States which grows, sells and distributes commercial inoculants to the value of approximately $1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondents classify their customers as consumers, retail dealers and jobbers. One who sells to consumers is considered to be a retail dealer and one who sells to dealers a jobber. However, in this industry there are very few distributors who sell only as dealers or jobbers. Generally distributors called jobbers sell both to consumers and dealers. Additionally a large portion of respondents' product is sold through farm bureaus which, in turn, sell the inoculant to farmers and occasionally to local elevators and other dealers.

PAR. 4. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with certain other of respondents' customers. The farm bureaus compete with retail dealers in selling to the farmers.

PAR. 5. Said respondents issued a 1937 dealer price list, effective January 1, 1937. Respondents have and are generally selling their products to their customers at such list prices, said price list being as follows:

ALFALFA, SWEET CLOVERS (GROUP 2)—RED, ALSIKE, WHITE, CRIMSON, MAMMOTH CLOVERS (GROUP 1)

Quantity	1 bu. size	2½ bu. size
Each	$0.38	$0.75
1 dozen	.32	.65
3 dozen	.30	.62
Retail Price	.50	1.00

SOY BEANS (GROUP 5)—COWPEAS, LIMA BEANS, VELVET BEANS (GROUP 3)—PEAS, VETCHES, AUSTRIAN PEAS (GROUP 4)—BEANS (GROUP 6)

Quantity	2 bu. size	5 bu. size
Each	$0.38	$0.75
1 dozen	.32	.65
3 dozen	.30	.62
Retail Price	.50	1.00

SMALLER SIZES

Quantity	Alfalfa, Sweet Clovers, Clovers—½ bu. size	Soy Beans, Cowpeas, Peas, Vetches, Beans—1 bu. size
Each	$0.28	$0.28
1 dozen	.22	.22
3 dozen	.20	.20
Retail Price	.35	.35

Left over cultures are returnable, prepaid, for credit or exchange.

The consumer's price is placed on the labels of the products. Prices to certain county farm bureaus vary and are frequently as low as 17¢ for the one bushel size which is sold to many dealers for 30¢ and to a number for 20¢. County farm bureaus retail the one bushel size frequently at a lower price than small independent merchants, having purchased the one bushel size at from 17¢ to 20¢ or the 2½ bushel size at from 34¢ to 40¢. A typical competitive situation disclosed one dealer selling at 50¢ and purchasing the one bushel size at 30¢. A competing dealer likewise sold at 50¢ and likewise purchased at 30¢ but had the postage paid. Another dealer, competing with the first-named, sells at 40¢ but buys at 20¢ and states that his lower price is made to meet competition created by the county farm bureau. Many county farm bureaus sell to non-members also. These county farm bureaus are direct competitors of independent retail merchants buying at higher prices. Where, in fact, jobbing services are rendered by state or county farm bureaus, nothing herein contained shall preclude jobber prices on that portion which is jobbed.

PAR. 6. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondents' inoculant.

PAR. 7. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three and Five, of inoculant of like grade and quality to customers competitively engaged in reselling the same to dealers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondents' inoculant.

PAR. 8. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which the respondents are engaged and in the line of commerce in which their distributors are engaged; and the effect of said discrimination may be to injure, destroy or prevent competition with the respondents and with certain favored distributors and with customers of such favored distributors.

PAR. 9. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 10. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.

CONCLUSION

The aforesaid acts and practices of respondent, as set out in Paragraphs Six and Seven hereof, are in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. Title 15, Section 13), and for other purposes."

By the Commission.

[SEAL] GARLAND S. FERGUSON, Jr., *Chairman.*

Dated this 12th day of January, A. D. 1938.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended:

It is ordered, That the respondents, Albert L. Whiting and Lucille D. Whiting, trading under the firm style and name "The Urbana Laboratories", a partnership, their officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraphs Six and Seven of the aforesaid Findings as to the Facts and Conclusions.

It is further ordered, That the said respondents, Albert L. Whiting and Lucille D. Whiting, trading under the firm style and name "The Urbana Laboratories", a partnership, within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-159; Filed, January 17, 1938; 11:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular meeting of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3266]

IN THE MATTER OF THE NITRAGIN COMPANY, INC., A CORPORATION

FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), the Federal Trade Commission on November 10, 1937, issued and served its complaint in this proceeding upon the respondent. The Nitragin Company, Inc., a corporation, charging it with discriminating in price between different purchasers of inoculants in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said corporate respondent, The Nitragin Company, Inc., now is, and at all times since June 19, 1936, has been a corporation organized under the laws of the State of Wisconsin, with its principal office and plant located at 3747 North Booth Street, Milwaukee, Wisconsin. At all times herein mentioned, said respondent has been engaged in the business of developing, selling and distributing certain nitrogen fixing bacteria, useful for inoculating the seeds of leguminous plants, from its said place of business in the State of Wisconsin to various purchasers of said bacteria located in the State of Wisconsin and the several states of the United States and there has been and is now between respondent and purchasers of said bacteria a course of trade and commerce in said bacteria in and between the State of Wisconsin and the several states of the United States.

PAR. 2. The respondent is the largest member of the commercial legume inoculant industry of the United States which industry grows, sells and distributes commercial inoculants to the value of approximately $1,000,000 in gross annual sales. There are approximately fourteen members of this industry, all competitively engaged one with the other in the sale and distribution in commerce of commercial inoculants. The bacteria are grown for the inoculation of seeds of leguminous plants. The bacteria are encouraged to multiply from various strains and are then placed in a carrier, which is either a jelly or a humus medium such as peat or charcoal, for commercial distribution. Seeds of leguminous plants are saturated with the bacteria before planting. These bacteria have the function of associating with legume plants, with the result that an adequate number of bacterial nodules are formed on the roots of the plants to extract nitrogen from the air for the purpose of aiding luxuriant growth of the plant. Principally these inoculants are placed upon alfalfa and sweet clover seeds, soy beans, peas and other legumes.

PAR. 3. Said respondent classifies its customers as consumers, retail dealers and jobbers. One who sells to consumers is considered to be a retail dealer and one who sells to dealers a jobber. However, in this industry there are very few distributors who sell only as dealers or jobbers. Generally distributors called jobbers sell both to consumers and to dealers. Additionally a large portion of the respondent's product is sold through county farm bureaus, which, in turn, sell the inoculant to farmers and occasionally to local elevators and other dealers. A considerable portion of the respondent's product is also sold to mail order catalog houses who resell to consumers.

PAR. 4. Some of respondent's customers are competitively engaged in commerce in the resale and distribution of the inoculant product with other of respondent's customers. The farm bureaus compete with retail dealers in selling to the farmers. Customers classified by the respondent as jobbers usually purchase in commerce respondent's inoculant, which they re-sell to consumers at a lower price than do

other of respondent's customers competing for the same consumer business but who are classified and sold at retailers' list. Mail order catalog houses compete with retail dealers in selling to farmers.

PAR. 5. Said respondent, The Nitragin Company, Inc., issued a 1937 Distributor Price List effective January 1, 1937. Respondent has been and now is generally selling its products to its customers at such list prices. However, some mail order catalog houses and some jobbers also receive an additional 20% off jobbers' list price, said distributors' price list being as follows:

ALFALFA AND ALL CLOVERS—CULTURES "A" AND "B"

To inoculate	Jobber price	Dealer price	Consumer price
½ bu.—30 lbs.	$0.17	$0.23	$0.35
1 bu.—60 lbs.	.28	.36	.55
2½ bu.—150 lbs.	.60	.78	1.20

LESPEDEZA—CULTURE "L"

1 bu.—30 lbs.	$0.17	$0.23	$0.35
2 bu.—60 lbs.	.28	.36	.55
5 bu.—150 lbs.	.60	.78	1.20

SOY BEANS—CULTURE "S"—COWPEAS AND LIMA BEANS—CULTURE "E"

1 bu.—60 lbs.	$0.17	$0.23	$0.35
2 bu.—120 lbs.	.28	.36	.55
5 bu.—300 lbs.	.60	.78	1.20

VETCH AND PEAS—CULTURE "C"—BEANS—CULTURE "D"

½ bu.—30 lbs.	$0.15	$0.20	$0.30
1 bu.—60 lbs.	.22	.29	.45
1¾ bu.—100 lbs [1]	.33	.42	.65
5 bu.—300 lbs.	.93	1.20	1.85

[1] Only culture "E" packed in this size.

Left over cultures are returnable, prepaid, for credit or exchange.

The consumer's price is placed on the labels of the products. The inoculant, whether distributed under private label or under the producer's label is of like grade and quality. Prices to county farm bureaus vary but are generally jobbers' prices and in some instances an additional 20% off the jobbers' price is allowed.

PAR. 6. County farm bureaus purchasing at jobbers' price less 20% sell in some instances to jobbers, retailers and consumers and are generally in competition with both jobbers and retailers. Certain of these competing jobbers do not receive the 20% additional discount and thus competition with the county farm bureaus, receiving the additional 20% in addition to the jobbers' discount, is practically impossible. County farm bureaus sell in competition with independent retailers to non-members as well as to their own members.

PAR. 7. Certain jobbers receiving the jobbers' price less the additional 20% sell to county farm bureaus at jobbers' prices whereas other customers not receiving the 20% additional allowance are prevented from doing so.

PAR. 8. The respondent sells to retailers who purchase $100 or more in a year at jobbers' prices. Mail order catalog houses buy at jobbers' prices and some but not all receive an addditional 20% off such jobbers' list.

PAR. 9. The difference in prices, resulting from the said classifications as set forth in Paragraphs Three, Six and Eight, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 10. The difference in prices, resulting from the said classifications as set forth in Paragraphs Six, Seven and Eight, of inoculant of like grade and quality to customers competitively engaged in reselling the same to consumers is, as to that portion of such inoculant under the circumstances hereinbefore set forth, a discrimination in price in commerce between purchasers of respondent's inoculant.

PAR. 11. The effect of said discriminations in price may be substantially to lessen competition and tend to create a monopoly in the line of commerce in which its distributors are engaged; and the effect of said discriminations may be to injure, destroy or prevent competition with the respondent and with certain favored distributors and with customers of such favored distributors.

PAR. 12. The costs of growing, selling and delivery are generally not substantially affected by quantity purchases, largely due to the practice of accepting the return of goods unsold, which returned goods are then practically valueless.

PAR. 13. The discriminations in price set forth above do not make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodity is to such purchasers sold or delivered. That such price differentials were not in response to changing conditions affecting the market for or the marketability of the goods concerned.

CONCLUSION

The aforesaid acts and practices of respondent as set out in Paragraphs Nine and Ten hereof are in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13) and for other purposes".

By the Commission.

[SEAL] GARLAND S. FERGUSON, JR., *Chairman.*

Dated this 12th day of January, A. D. 1938.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusions, which findings and conclusions are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended:

It is ordered, That the respondent, The Nitragin Company, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of commercial inoculant in interstate commerce or in the District of Columbia, do forthwith cease and desist from the unlawful discriminations in price found in Paragraphs Nine and Ten of the aforesaid Findings as to the Facts and Conclusions.

It is further ordered, That the said respondent, The Nitragin Company, Inc., within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–160; Filed, January 17, 1938; 11:53 a. m.]

INTERSTATE COMMERCE COMMISSION.

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 6th day of January, A. D., 1938.

[Ex Parte No. MC 5]

SUPPLEMENTAL ORDER IN THE MATTER OF SECURITY FOR PROTECTION OF PUBLIC AS PROVIDED IN MOTOR CARRIER ACT, 1935, AND OF RULES AND REGULATIONS GOVERNING FILING AND APPROVAL OF SURETY BONDS, POLICIES OF INSURANCE, QUALIFICATIONS AS A SELF-INSURER OR OTHER SECURITIES AND AGREEMENTS BY MOTOR CARRIERS AND BROKERS SUBJECT TO MOTOR CARRIER ACT, 1935

Rules and regulations governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements prescribed by our order entered in this proceeding on August 3, 1936, and relating to the matter of security for the protection of the public, being under consideration;

It is ordered, That Rule IX of said rules and regulations prescribed by said order of August 3, 1936, be, and it is hereby, amended to read as follows:

The Commission may, at any time, refuse to accept or may revoke its approval of any surety bond, policy of insurance (or certificate of insurance in lieu thereof), qualification as a self-insurer, or other securities or agreements if, in its judgment, such security does not comply with these rules or, for any reason, fails to provide satisfactory or adequate protection for the public.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–161; Filed, January 17, 1938; 12:15 p. m.]

Wednesday, January 19, 1938 *No. 13*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49343]

MERCHANDISE IN BONDED WAREHOUSE

EXTENSIONS OF WAREHOUSING PERIOD AUTHORIZED FOR MERCHANDISE IMPORTED DURING 1934 AND 1935

JANUARY 13, 1938.

To Collectors of Customs and Others Concerned:

Reference is made to merchandise imported during 1934, as to which, under the authority of a proclamation issued by the President on December 29, 1936, the statutory three-year warehousing period was extended by the Secretary of the Treasury for one year in Treasury Decision 48759 of January 14, 1937.

Acting under the authority vested in him by section 318 of the Tariff Act of 1930, 46 Stat. 696 (U. S. C. title 19, sec. 1318), the President, on December 29, 1937, issued a proclamation declaring an emergency to exist and authorizing the Secretary of the Treasury to extend the warehousing period for not more than one year in the case of merchandise imported during the calendar year 1934 or 1935, subject to the following conditions:

Provided, however, That in each and every case the Secretary of the Treasury shall require that the principal on the warehouse-entry bond, in order to obtain the benefits under the extension granted, shall either furnish to the collector of customs for the district in which the merchandise is warehoused the agreement of the sureties on such bond to remain bound under the terms and provisions of the bond to the same extent as if no extension were granted, or furnish an additional bond with acceptable sureties to cover the period of extension.

Pursuant to the authority conferred upon me by the proclamation of December 29, 1937, the period during which merchandise imported during the calendar years 1934 and 1935 may remain in warehouse is hereby extended for one year; and collectors of customs are hereby authorized (1) in the case of merchandise imported during the calendar year 1934, to permit such merchandise to remain in warehouse for a total period of not exceeding five years from the date of importation, and (2) in the case of merchandise imported during the calendar year 1935, to permit such merchandise to remain in warehouse for a total period of not exceeding four years from the date of importation, provided that in each case the principal on the warehouse-entry bond shall either furnish the agreement of the sureties on such bond to remain bound under the terms and provisions of the bond to the same extent as if no extension were granted, or furnish an additional bond with acceptable sureties to cover the period of extension.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–172; Filed, January 17, 1938; 3:44 p. m.]

[T. D. 49344]

DRAWBACK MERCHANDISE—EXTENSION OF PERIOD FOR EXPORTATION

EXTENSIONS OF 3-YEAR PERIOD PRESCRIBED IN SECTION 313 (H), TARIFF ACT OF 1930

JANUARY 13, 1938.

To Collectors of Customs and Others Concerned:

Acting under the authority vested in him by section 318 of the Tariff Act of 1930, 46 Stat. 696 (U. S. C., title 19, sec. 1318), the President, on December 29, 1937, issued a proclamation declaring an emergency to exist and authorizing the Secretary of the Treasury—

(1) in the case of articles manufactured or produced in the United States with the use of imported or substituted merchandise for drawback purposes where the imported merchandise involved was imported during the calendar year 1934, to extend the period for exportation of the completed article, or shipment thereof to the Philippine Islands, for not more than 1 year from and after the expiration of the 3-year period prescribed in section 313 (h), Tariff Act of 1930, 46 Stat. 694 (U. S. C., title 19, sec. 1313 (h)), as extended for 1 year under the authority of a proclamation dated December 29, 1936 (T. D. 48773); and

(2) in the case of articles manufactured or produced in the United States with the use of imported or substituted merchandise for drawback purposes where the imported merchandise involved was imported during the calendar year 1935, to extend the period for exportation of the completed article, or shipment thereof to the Philippine Islands, for not more than 1 year from and after the expiration of the 3-year period prescribed in said section 313 (h).

Pursuant to the authority conferred upon me by the President's proclamation of December 29, 1937, the period prescribed in section 313 (h) of the Tariff Act of 1930 for the exportation, or shipment to the Philippine Islands, of articles manufactured or produced in the United States with the use of imported or substituted merchandise is hereby extended to allow the following periods for exportation of the completed article or shipment thereof to the Philippine Islands:—(1) not exceeding 5 years after importation in cases where the imported merchandise involved was imported during the calendar year 1934; and (2) not exceeding 4 years after importation in cases where the imported merchandise involved was imported during the calendar year 1935.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–173; Filed, January 17, 1938; 3:45 p. m.]

Bureau of Internal Revenue.

[T. D. 4791]

INCOME TAX

REGULATIONS 94 AMENDED TO ACCORD WITH THE REVENUE ACT OF 1937

To Collectors of Internal Revenue and Others Concerned:

In order to accord with the Revenue Act of 1937, approved August 26, 1937 (Public, No. 377, Seventy-fifth Congress, Chapter 815, first session), Regulations 94[1] are amended as follows:

The first paragraph of article 1–1 is amended to read as follows:

"ARTICLE 1–1. *Scope of regulations.*—These regulations deal with the taxes upon net income imposed by Title I of the Revenue Act of 1936 and that title, as amended by the Revenue Act of 1937, including the tax imposed by section 102 of Title I of the Revenue Act of 1936 upon the net income of certain corporations, and the tax imposed by Title IA of the Revenue Act of 1936 and that title, as amended by the Revenue Act of 1937, upon the undistributed adjusted net income of personal holding companies. (See section 351.)"

Article 1–1 is further amended by adding at the end thereof a new paragraph to read as follows:

"The references in these regulations to the Revenue Act of 1936 and to titles, sections, subsections, or paragraphs thereof shall be considered, wherever consistent, as references also to such Act, titles, sections, subsections, or paragraphs thereof as amended by the Revenue Act of 1937."

Article 3–1 is amended to read as follows:

"ART. 3–1. *Division of regulations.*—These regulations have been divided into 37 chapters. Chapter I relates to Introductory Provisions, Subtitle A of Title I. Chapter II to IX relate to General Provisions, Subtitle B of Title I. Chapters X to XXII relate to Supplements A to D of Supplemental Provisions, Subtitle C of Title I. Chapters XXIII to XXIX relate to Supplements E to K of Supplemental Provisions, Subtitle C of Title I. Chapters XXX to XXXIV relate to Supplements L to P of Supplemental Provisions, Subtitle C of Title I. Chapter XXXV relates to Title IA, Surtax on Personal Holding Companies, prior to its amendment by the Revenue Act of 1937. Chapter XXXV (A) relates to Title IA, as amended by the Revenue Act of 1937. Chapter XXXVI relates to Title VIII, General Provisions of the Act."

The following is inserted immediately preceding article 4–1, relating to application of regulations to special classes of taxpayers:

"Section 207 (a) of Title II of the Revenue Act of 1937, relating to foreign personal holding companies, provides:

[" 'SEC. 207. *Minor Amendments to Title I of 1936 Act.*]

" '(a) Section 4 of the Revenue Act of 1936 is amended by adding at the end thereof a new subsection to read as follows:

" '"(j) Foreign personal holding companies and their shareholders—Supplement P." '"

Article 4–1, relating to application of regulations to special classes of taxpayers, is amended by adding after the number XXIX appearing for the first time in the first sentence thereof, the following: "and Chapter XXXIV."

Article 4–1 is further amended by inserting the end of the table preceding the last paragraph the following:

"CHAPTER XXXIV—FOREIGN PERSONAL HOLDING COMPANIES"

Article 4–1 is further amended by changing the clause "see articles 351–1 to 351–9, inclusive" appearing in the next to the last sentence thereof to "see articles 351–1 to 351–9, inclusive, and articles 351–1 (1937) to 358–2, inclusive."

Article 4–1 is further amended by inserting between the last two sentences thereof the following: "For provisions relating to the taxation to shareholders of the income of foreign personal holding companies and requiring certain information returns, see articles 331–1 to 340–2, inclusive."

Article 11–1, relating to income tax on individuals, is amended by substituting for the last two sentences thereof, the following: "See section 351 (d) as to shareholders of personal holding companies. See Supplement P as to shareholders of foreign personal holding companies. See section 117 as to the treatment of capital gains and capital losses."

The following is inserted immediately preceding article 12–1, relating to surtax on individuals:

"Section 2 of Title I of the Revenue Act of 1937, relating to personal holding companies, provides in part:

" 'SEC. 2. *Changes in Cross-References.*

" 'Section 12 (c) * * * of the Revenue Act of 1936 are amended by striking out "section 351" and inserting in lieu thereof "Title IA". ' "

The following is inserted immediately before article 14–1, relating to surtax on undistributed profits of corporations:

"Section 2 of Title I of the Revenue Act of 1937, relating to personal holding companies, provides in part:

" 'SEC. 2. *Changes in Cross-References.*

" 'Section * * * 14 (f) * * * of the Revenue Act of 1936 are amended by striking out "section 351" and inserting in lieu thereof "Title IA". ' "

The last sentence of article 21–1 is amended by striking out "and 351" and inserting in lieu thereof "Title IA and Title IA, as amended".

The last sentence of the first paragraph of article 22 (a)–1 is amended to read as follows:

"As to dividends, see sections 115 and 337 (b)."

The following is inserted at the end of Chapter III:

"Section 207 (b) of Title II of the Revenue Act of 1937, relating to foreign personal holding companies, provides:

[" 'SEC. 207. *Minor Amendments to Title I of 1936 Act.*]

" '(b) Section 22 of such Act is amended by adding at the end thereof a new subsection to read as follows:

" '"(g) *Foreign Personal Holding Companies.*—For provisions relating to gross income of foreign personal holding companies and of their shareholders, see section 334." '"

The last paragraph of article 23 (b)–1 is amended by adding at the end thereof the following:

"As to other amounts of interest not deductible under section 23 (b), see section 24 (c), as added by the Revenue Act of 1937."

The first sentence of article 23 (e)–1, relating to losses by individuals, is amended by substituting for the clause, "section 24 (a) (6), relating to losses from sales or exchanges of property between the members of a family or between a corporation and its shareholders," the following:

"section 24 (a) (6) (prior to the amendment of section 24 (a) by the Revenue Act of 1937) relating to losses from sales or exchanges of property between the members of a family or between a corporation and its shareholders; section 24 (b) (as added by the Revenue Act of 1937) relating to losses from sales or exchanges of property between persons designated therein;"

The first sentence of article 23 (f)–1, relating to losses by corporations, is amended to read as follows:

"Losses sustained by domestic corporations during the taxable year and not compensated for by insurance or otherwise are deductible except insofar as not prohibited or limited by sections 23 (g), 24 (a) (6) (prior to the amendment of section 24 (a) by the Revenue Act of 1937), 24 (b) (as added by the Revenue Act of 1937), 112, 117, 118, and 251."

[1] 1 F. R. 1802, 1867, 1947. For other amendments of Regulations 94 made necessary by the Revenue Act of 1937, see Treasury Decisions 4782 and 4784, approved December 7, 1937 and December 15, 1937, respectively (2 F. R. 2774, 2832).

The following is inserted immediately before article 24–1, relating to personal and family expenses:

"Section 301 of Title III of the Revenue Act of 1937, relating to disallowed deductions, provides:

" 'SEC. 301. *Disallowed deductions.*

" '(a) Section 24 (a) of the Revenue Act of 1936 is amended to read as follows:

" '"(a) *General rule.*—In computing net income no deduction shall in any case be allowed in respect of—

" '"(1) Personal, living, or family expenses;

" '"(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

" '"(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

" '"(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy; or

" '"(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this title.

" '"(b) *Losses from sales or exchanges of property.*—

" '"(1) *Losses disallowed.*—In computing net income no deduction shall in any case be allowed in respect of losses from sales or exchanges of property, directly or indirectly—

" '"(A) Between members of a family, as defined in paragraph (2) (D);

" '"(B) Except in the case of distributions in liquidation, between an individual and a corporation more than 50 per centum in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;

" '"(C) Except in the case of distributions in liquidation, between two corporations more than 50 per centum in value of the oustanding stock of each of which is owned by or for the same individual, if—

" '"(i) Either one of such corporations, with respect to the taxable year (if beginning after December 31, 1935) of the corporation preceding the date of the sale or exchange, was a personal holding company as defined in section 352, or

" '"(ii) Either one of such corporations, with respect to the taxable year (if not beginning more than 12 months before the date of the enactment of the Revenue Act of 1937) of the corporation preceding the date of the sale or exchange, was a foreign personal holding company as defined in section 331;

" '"(D) Between a grantor and a fiduciary of any trust;

" '"(E) Between the fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor with respect to each trust; or

" '"(F) Between a fiduciary of a trust and a beneficiary of such trust.

" '"(2) *Stock ownership, family, and partnership rule.*—For the purposes of determining, in applying paragraph (1), the ownership of stock—

" '"(A) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;

" '"(B) An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family;

" '"(C) An individual owning (otherwise than by the application of subparagraph (B)) any stock in a corporation shall be considered as owning the stock owned, directly or indirectly, by or for his partner;

" '"(D) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

" '"(E) *Constructive ownership as actual ownership.*—Stock constructively owned by a person by reason of the application of subparagraph (A) shall, for the purpose of applying subparagraph (A), (B), or (C), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of subparagraph (B) or (C) shall not be treated as owned by him for the purpose of again applying either of such subparagraphs in order to make another the constructive owner of such stock.

" '"(3) *Special rule for year 1936.*—In applying paragraph (1) (C) (i) in a case where the preceding taxable year therein referred to began in the calendar year 1936, the determination as to whether the corporation was a foreign personal holding company shall be made under section 351 (b) (1) before the amendment of Title IA made by section 1 of the Revenue Act of 1937.

" '"(c) *Unpaid expenses and interest.*—In computing net income no deduction shall be allowed in respect of expenses incurred under section 23 (a) or interest accrued under section 23 (b)—

" '"(1) If not paid within the taxable year or within two and one half months after the close thereof; and

" '"(2) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and

" '"(3) If, at the close of the taxable year of the taxpayer or at any time within two and one half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under section 24 (b).

" '(b) Section 24 (b) and section 24 (c) of the Revenue Act of 1936, as in force prior to the amendment to section 24 made by subsection (a) of this section, are amended by striking out "(b)" and "(c)" and inserting in lieu thereof "(d)" and "(e)". ' "

"Section 302 of Title III of the Revenue Act of 1937 provides:

" 'SEC. 302. *Effective Dates.*

" 'The amendments made by this title shall apply only with respect to taxable years beginning after December 31, 1936.' "

The heading and the first paragraph of article 24–5 (exclusive of the example therein given) is amended to read as follows:

"ART. 24–5. *Losses from sales or exchanges between certain classes of persons for taxable years beginning prior to January 1, 1937.*—The application of section 24 (a) (6) (prior to the amendment of section 24 (a) by the Revenue Act of 1937) may be illustrated generally by the following example:"

The last paragraph of article 24–5 is amended to read as follows:

"Under section 24 (a) (6) (prior to its amendment) none of the above-described losses of A are deductible from his gross income."

Article 24–6 is renumbered as article 24–8 and the following new article is inserted after article 24–5, as amended:

"ART. 24–6. *Losses from sales or exchanges between certain classes of persons for taxable years beginning after December 31, 1936.*—(a) *Individuals (including fiduciaries).*—In

the case of sales or exchanges of property, directly or indirectly, between individuals (including fiduciaries) section 24 (b) (1), as added by the Revenue Act of 1937, provides that no deduction shall be allowed with respect to losses arising therefrom in the following cases: (1) between members of a family as defined in section 24 (b) (2) (D); (2) between fiduciaries of trusts having a common grantor; (3) between a grantor and a fiduciary of the same trust; or (4) between a fiduciary of a trust and a beneficiary of such trust.

"(b) *Corporations (including shareholders).*—In the case of sales or exchanges of property where a corporation not acting in a fiduciary capacity is a party to the transaction, section 24 (b) (1) also provides that under certain circumstances no deduction shall be allowed with respect to losses arising from such sales or exchanges, directly or indirectly, between a corporation and an individual shareholder (see section 24 (b) (1) (B)) or between two corporations (see section 24 (b) (1) (C)). Under section 24 (b) (1) (B) it is necessary that there be owned, directly or indirectly, by or for the individual a party to the transaction, more than 50 percent in value of the stock of the other party to the transaction on the date of the sale or exchange. Under section 24 (b) (1) (C), however, as provided therein, not only must more than 50 percent in value of the outstanding stock of each of such corporations be owned, directly or indirectly, on the date of the sale or exchange by or for the same individual, but one of the corporations must be either a personal holding company as defined in section 352, or a foreign personal holding company as defined in section 331, for the taxable year preceding the date of the sale or exchange. Section 24 (b) (3), as added by the Revenue Act of 1937, makes an exception to the rule provided for in paragraph (1) of section 24 (b) (1) (C), by requiring that in a case in which the preceding taxable year referred to in that paragraph is the calendar year 1936 or any fiscal year beginning in 1936, the provisions of section 351 (b) (1) before amendment of Title IA by the Revenue Act of 1937 shall apply in determining whether with respect to such year either of the corporations was a personal holding company. It is not necessary under either rule that either of the corporations be a personal holding company or a foreign personal holding company on the date of the sale or exchange.

"(c) *Stock ownership rule.*—For the purpose of paragraph (b) of this article, the ownership of stock shall be determined in accordance with the rules provided in section 24 (b) (2), as added by the Revenue Act of 1937. In order that an individual shall be considered under section 24 (b) (2) (C) as constructively owning the stock of a corporation owned, directly or indirectly, by or for his partner, such individual must himself own, directly or indirectly, stock of such corporation. On the other hand, under section 24 (b) (2) (B) an individual need not own any stock of a corporation, either directly or indirectly, in order to be considered as constructively owning the stock of such corporation which is owned, directly or indirectly, by or for any member of his family.

"(d) *Illustrations of the application of section 24 (b) as added by the Revenue Act of 1937.*—The application of section 24 (b), as added by the Revenue Act of 1937, may be illustrated by the following examples:

"Example (1).—On July 1, 1937 the M Corporation owned all of the stock of the O Corporation which for the calendar year 1936 was a personal holding company under section 351 (b) (1) before the amendment of Title IA by the Revenue Act of 1937. On that day all of the outstanding stock of the M Corporation was owned by A. By the application of the rule provided in section 24 (b) (2) (A), the stock in the O Corporation owned by the M Corporation is considered to be owned constructively by A, the sole stockholder of the M Corporation. Such constructive ownership of the stock of the O Corporation by A is considered as actual ownership for the purpose of applying the family rule provided in section 24 (b) (2) (B) to make a member of A's family, as, for example, his wife AW, the constructive owner of the stock of the O Corporation. But the constructive ownership of the O Corporation stock by AW may not be considered as actual ownership by AW for the purpose of again applying the family rule so as to make a member of AW's family, for example, her father, AWF, in turn constructive owner of such stock. These rules apply in the same manner and with the same effect in determining the ownership of stock in the M Corporation.

"Accordingly, assuming that A, AW, AWF, the M Corporation and the O Corporation make their income returns on the basis of a calendar year and that there was no distribution in complete or partial liquidation of the M or O Corporation, no deduction is allowable under section 24 (b) (1), as added by the Revenue Act of 1937, with respect to losses from sales or exchanges of property made on July 1, 1937 between any of such individuals or corporations, except as between A and AWF and between AWF and the M or O Corporation.

"Example (2).—On June 15, 1937, all of the stock of the N Corporation was owned in equal proportions by A and A's partner, AP. Except in the case of distributions in complete or partial liquidation by the N Corporation, no deduction is allowable with respect to losses from sales or exchanges of property made on June 15, 1937, between A and the N Corporation or AP and the N Corporation inasmuch as, by the application of section 24 (b) (2) (C), each partner is considered as having owned the stock owned by the other and, therefore, is considered as having owned more than 50 percent in value of the outstanding stock of the N Corporation. Deductions for losses from sales or exchanges between A's brother, AB, and the N Corporation, or between AP and A, or AP and AB are not prohibited by section 24 (b), as added by the Revenue Act of 1937.

"Example (3).—Assuming the same facts as stated in the example given under article 24–5, as amended, except that the losses were incurred during the calendar year 1937, none of the losses of A would be deductible from his gross income."

The following new article is inserted under article 24–6, as amended:

"ART. 24–7. *Disallowance of deductions for unpaid expenses and interest.*"

The application of section 24 (c), as added by the Revenue Act of 1937, may be illustrated by the following example:

"Example.—A is the holder and owner of an interest-bearing note executed by the M Corporation all of the stock of which is owned by him. A and the M Corporation make their income returns on the basis of a calendar year but the M Corporation makes its returns on the accrual basis and A makes his returns on the cash receipts and disbursements basis. The M Corporation does not pay any interest on such note during the calendar year 1937 or within two and one-half months after the close thereof, but claims a deduction for the year 1937 with respect to the interest accruing on the note in that year. A, being on the cash receipts and disbursements basis, does not include such interest in his return for the year 1937. By the application of section 24 (c), as added by the Revenue Act of 1937, no deduction for such interest is allowable in computing the net income of the M Corporation for the year 1937. The provisions of such section 24 (c) do not otherwise affect the general rules governing the allowance of deductions under the accrual basis. Hence in the event the M Corporation should pay such interest after March 15, 1938, no deduction therefor would be allowable in computing its net income for the year in which the payment was made."

The following is inserted immediately before article 48 (e)–1, relating to taxation of mutual investment companies in general:

"Section 602 of Title VI of the Revenue Act of 1937, relating to miscellaneous provisions, provides:

"'SEC. 602. *Mutual investment companies.*

"'(a) Section 48 (e) (1) of the Revenue Act of 1936 is amended by striking out "other than a personal holding company as defined in section 351" and inserting in lieu thereof "except as provided in paragraph (3)".

"'(b) Such section 48 (e) is further amended by adding at the end of such subsection a new paragraph to read as follows:

"'"(3) *Corporations excepted.*—This section shall not apply to any corporation—

"'"(A) With respect to a taxable year beginning after December 31, 1936, if the corporation is with respect to such year a personal holding company as defined in section 352.

"'"(B) With respect to a taxable year beginning before January 1, 1937, if the corporation is with respect to such year a personal holding company as defined in section 351 (b) (1) before the amendment of Title IA by section 1 of the Revenue Act of 1937.

"'"(C) With respect to a taxable year ending after the date of the enactment of the Revenue Act of 1937, if the corporation is with respect to such year a foreign personal holding company as defined in section 331."'"

The first sentence of article 48 (e)–2, relating to the definition of a mutual investment company, is amended to read as follows:

"The term 'mutual investment company' means a corporation, whether chartered or incorporated, or created under a trust instrument or otherwise, as an investment trust, and whether of the fixed or general management type (other than corporations excepted by section 48 (e) (3)), which complies with all the conditions prescribed by section 48 (e)."

The first and second sentences of article 48 (e)–5, relating to records to be kept for the purpose of determining whether a company claiming to be a mutual investment company is a personal holding company, are amended by inserting after the words "section 351" and "section 351 (b) (1)", respectively, the phrase, "prior to the amendment of Title IA by the Revenue Act of 1937."

Article 48 (e)–5 is further amended by adding after the third sentence thereof the following:

"For the purpose of determining whether a foreign corporation claiming to be a mutual investment company with respect to a taxable year ending after August 26, 1937, is a foreign personal holding company as defined in section 331, the permanent records of the foreign corporation with respect to taxable years ending after August 26, 1937, shall show, to the best of the knowledge and belief of the actual owners of its stock, the maximum number of shares of the corporation (including the number and face value of securities convertible into stock of the corporation) to be considered as constructively owned by each of the actual owners of any of its stock at any time during the corporation's taxable year, as provided in section 333 and articles 333 (a)–1 to 337 (a)–7 and article 333 (b)–1. For the purpose of determining whether a corporation claiming to be a mutual investment company with respect to a taxable year beginning after December 31, 1936, is a personal holding company as defined in section 352 of Title IA, as amended by the Revenue Act of 1937, the permanent records of the corporation with respect to taxable years beginning after December 31, 1936, shall show, to the best of the knowledge and belief of the actual owners of its stock, the maximum number of shares of the corporation (including the number and face value of securities convertible into stock of the corporation) to be considered as constructively owned by each of the actual owners of any of its stock at any time during the last half of the corporation's taxable year as provided in section 354 of Title IA, as amended by the Revenue Act of 1937, and articles 354 (a)–1 to 354 (a)–7 and article 354 (b)–1."

Article 48 (e)–5 is further amended by adding at the end thereof the following paragraph:

"The provisions of the first paragraph of this article requiring statements to be demanded not later than thirty days after the close of the company's taxable year, insofar as such statements relate to the maximum number of shares of stock of the company to be considered as constructively owned by an individual at any time during the fiscal year of the company ending after August 26, 1937, and on or before November 30, 1937, shall be considered as having been complied with if such statements are demanded not later than January 31, 1938."

The paragraph numbered (4) of article 48 (e)–6, relating to additional information required in returns of shareholders, is amended by inserting after the words "section 351" the phrase "prior to the amendment of Title IA by the Revenue Act of 1937."

The paragraph numbered (5) of article 48 (e)–6, is amended by striking out the word "and" appearing at the end of that paragraph.

The paragraph numbered (6) of article 48 (e)–6 is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon.

Article 48 (e)–6 is further amended by adding after the paragraph numbered (6) two new paragraphs to provide:

"(7) For taxable years ending after August 26, 1937, the maximum number of shares (including the number and face value of securities convertible into stock of the company) in any foreign corporation claiming to be a mutual investment company to be considered as constructively owned by such individual at any time during the company's taxable year as provided in section 333 and articles 333 (a)–1 to 33 (a)–7 and article 333 (b)–1; and

"(8) For taxable years beginning after December 31, 1936, the maximum number of shares (including the number and face value of securities convertible into stock of the corporation) in any domestic corporation claiming to be a mutual investment company to be considered as constructively owned by such individual at any time during the last half of the corporation's taxable year, as provided in section 354 of Title IA, as amended, and articles 354 (a)–1 to 354 (a)–7 and article 354 (b)–1."

The following is inserted immediately before article 54–1 relating to aids to collection of tax:

"Section 207 (c) of Title II of the Revenue Act of 1937, relating to foreign personal holding companies, provides:

["'SEC. 207. *Minor Amendments to Title I of 1936 Act.*]

"'(c) Section 54 of such Act is amended by adding at the end thereof a new subsection to read as follows:

"'"(e) *Foreign personal holding companies.*—For information returns by officers, directors, and large shareholders, with respect to foreign personal holding companies, see sections 338, 339, and 341. For information returns by attorneys, accountants, and so forth, as to formation, and so forth, of foreign corporations, see sections 340 and 341."'"

The first sentence of article 55 (b)–2 is amended by inserting after the words "Title IA of that Act" the following: "or Title IA of that Act as amended."

The following is inserted immediately before article 102–1, relating to taxation of corporations formed or utilized for avoidance of surtax:

"Section 2 of Title I of the Revenue Act of 1937, relating to personal holding companies, provides in part:

"'SEC. 2. *Changes in Cross-References.*

"'Section * * * 102 (e) of the Revenue Act of 1936 are amended by striking out "section 351" and inserting in lieu thereof "Title IA".'"

"Section 601 of Title VI of the Revenue Act of 1937, relating to miscellaneous provisions, provides:

"'SEC. 601. *Corporations Excepted From Section 102.*

"'(a) Section 102 (a) of the Revenue Act of 1936 is amended by striking out "(other than a personal holding company as defined in section 351)" and inserting in lieu thereof "(except as provided in subsection (f))."

"'(b) Such section 102 is further amended by adding at the end thereof a new subsection to read as follows:

"'"(f) *Corporations Excepted.*—This section shall not apply to any corporation—

"'"(1) With respect to a taxable year beginning after December 31, 1936, if the corporation is with respect to such year a personal holding company as defined in section 352.

"'"(2) With respect to a taxable year beginning before January 1, 1937, if the corporation is with respect to such year a personal holding company as defined in section 351 (b) (1) before the amendment of Title IA by section 1 of the Revenue Act of 1937.

"'"(3) With respect to a taxable year ending after the date of the enactment of the Revenue Act of 1937, if the corporation is with respect to such year a foreign personal holding company as defined in section 331."'"

The following is substituted for the second sentence of the first paragraph of article 102–1, relating to taxation of corporations formed or utilized for avoidance of surtax: "For corporations to which section 102 does not apply, see section 102 (a) prior to its amendment by the Revenue Act of 1937, and section 102 (f)."

The following is substituted for clause numbered (2) of the second paragraph of article 102–1:

"(2) is composed in whole or in part of nonresident alien individuals who, by the application of section 211 (b) or 211 (c), would be subject to surtax with respect to distributions of the corporation which if made would constitute income from sources within the United States (see section 119) or"

The last sentence of the second paragraph of article 102–1 is amended to read as follows:

"On the other hand, the tax imposed by section 102 will not apply even though a foreign corporation, whether resident or nonresident, derives income from sources within the United States, if it is composed entirely of nonresident alien individuals who, by the application of section 211 (a) as amended, would not be subject to surtax with respect to distributions of the corporation if made."

The following is inserted immediately before article 113 (a) (5)–1, relating to the basis of property acquired by bequest, devise, or inheritance:

"Section 204 of Title II of the Revenue Act of 1937 enacted August 26, 1937, relating to foreign personal holding companies, provides:

"'SEC. 204. *Basis of Stock in Foreign Personal Holding Company Acquired From Decedent.*

"'Section 113 (a) (5) of the Revenue Act of 1936 is amended by adding at the end thereof a new sentence to read as follows:

"'"If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decendent, and if the decedent died after the date of the enactment of the Revenue Act of 1937, and if the property consists of stock or securities of a foreign corporation, which with respect to its taxable year next preceding the date of the decedent's death was a foreign personal holding company, then the basis shall be the fair market value of such property at the time of such acquisition or the basis in the hands of the decedent, whichever is lower."'"

Paragraph (b) of article 113 (a) (5)–1, relating to the basis of property acquired by bequest, devise, or inheritance, is amended to read as follows:

"(b) *Basis.*—Section 113 (a) (5) provides two rules for determining the basis of property transmitted at death, a rule governing property generally and a special rule governing stock in a foreign personal holding company.

"(1) *General rule.*—Except as prescribed in paragraph (2) the basis of property acquired from a decedent by will or under the law governing the descent and distribution of the property of decedents is the fair market value at the time of such acquisition. Since under the law governing wills and the distribution of the property of decedents, all titles to property acquired by bequest, devise, or inheritance relate back to the death of the decedent, even though the interest of him who takes the title was, at the date of death of the decedent, legal, equitable, vested, contingent, general, specific, residual, conditional, executory, or otherwise, the time of the acquisition of such property is the death of the decedent. For example, if distribution of personal property left by a decedent is not made until one year after his death, the basis of such property in the hands of the legatee is its fair market value at the time when the decedent died, and not when the legatee actually received the property; or, if the bequest is of the residue to trustees in trust, and the executors do not distribute the residue to such trustees until five years after the death of the decedent, the basis of each piece of property left by the decedent and thus received, in the hands of the trustees, is its fair market value at the time when the decedent dies; or, if the bequest is to trustees in trust to pay to A during his lifetime the income of the property bequeathed, and after his death to distribute such property to the survivors of a class, and upon A's death the property is distributed to the taxpayer as the sole survivor, the basis of such property, in the hands of the taxpayer, is its fair market value at the time when the decedent died.

"The purpose of the Act, in prescribing a general uniform basis rule for property acquired by bequest, devise, or inheritance, is, on the one hand, to tax the gain, in respect of such property, to him who realizes it (without regard to the circumstance that at the death of the decedent it may have been quite uncertain whether the taxpayer would take or gain anything); and, on the other hand, not to recognize as gain any element of value solely from the circumstance that the possession or enjoyment of the taxpayer was postponed. Such postponement may be, for example, until the administration of the decedent's estate is completed, until the period of the possession or enjoyment of another has terminated, or until an uncertain event has happened. It is the increase or decrease in the value of property reflected in a sale or other disposition which section 113 (a) (5) recognizes as the measure of gain or loss.

"(2) *Special rule with respect to stock in a foreign personal holding company.*—In the case of decedents dying after August 26, 1937 the basis of stock of a foreign corporation acquired from the decedent by will or under the law governing descent and distribution of property of decedents, where such foreign corporation with respect to its taxable year next preceding the date of the decedent's death was a foreign personal holding company, is the fair market value of such stock at the time of such acquisition, i. e., the date of the decedent's death, or the basis in the hands of the decedent, whichever is lower."

The following is inserted immediately before article 113 (b)–1, relating to the general rule with respect to the adjusted basis:

"Section 203 of Title II of the Revenue Act of 1937, relating to foreign personal holding companies, provides:

"'SEC. 203. *Adjusted Basis of Stock of Foreign Personal Holding Company.*

"'Section 113 (b) (1) of the Revenue Act of 1936 is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"'"and

"'"(E) to the extent provided in section 337 (f) in the case of the stock of United States shareholders in a foreign personal holding company."'"

Article 113 (b)–1 is amended by adding after the third paragraph from the end thereof a new paragraph to provide:

"In the case of the stock of United States shareholders in a foreign personal holding company the cost or other basis must be adjusted also to the extent provided in section 337 (f)."

The following is inserted immediately before article 142–1, relating to fiduciary returns:

"Section 402 of Title IV of the Revenue Act of 1937, relating to fiduciary returns, provides:

"'SEC. 402. *Fiduciary Returns.*

"'Section 142 (a) of the Revenue Act of 1936 is amended to read as follows:

"'"(a) *Requirement of return.*—Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title and such other information for the purpose of carrying out the provisions of this title as the Commissioner with the approval of the Secretary may by regulations prescribe—

"'"(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

"'"(2) Every individual having a net income for the taxable year of $2,500 or over, if married and living with husband or wife;

"'"(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

"'"(4) (A) Every estate, and every trust entitled to the personal exemption allowed by section 163 (a) (1), the net income of which for the taxable year is $1,000 or over.

"'"(B) Every trust, not entitled to a personal exemption under section 163 (a) (1), which has a net income for the taxable year.

"'"(5) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income;

"'"(6) Every estate or trust of which any beneficiary is a nonresident alien; and

"'"(7) Regardless of the amount of the gross or net income, every trust, though having no net income, which would have a net income if distributions had not been made which under the terms of the trust instrument were in the discretion of the trustee or conditioned upon a contingency; but subject to such conditions; limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, a fiduciary required by this paragraph to file a return may be exempted from the requirement of filing such return."'"

"Section 403 of Title IV of the Revenue Act of 1937 provides:

"'SEC. 403. *Effective Dates.*

"'The amendments made by this title shall apply only with respect to taxable years beginning after December 31, 1936.'"

Article 142–1 is amended by inserting immediately after the first sentence thereof the following:

"In addition to the requirements stated in (*a*) and (*b*), every fiduciary, or at least one of joint fiduciaries, must, with respect to taxable years beginning after December 31, 1936, make a return of income for the trust for which he acts—

"(A) If the trust is not entitled to the personal exemption allowed by section 163 (a) (1), as amended by section 401 of the Revenue Act of 1937 (see article 163–1) and the trust has a net income for the taxable year; or

"(B) If (1) the trust has no net income and (2) under the terms of the trust instrument the income of the trust, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated or the distribution of the income is based upon a contingency, and (3) the net income of the trust computed without the allowance of a deduction for the amount of the income of the trust properly paid or credited during the taxable year to any legatee, heir, or beneficiary, is $1,000 or more."

The following is substituted for the first three sentences of the next to the last paragraph of article 142–1:

"The return in case (*a*) shall be on Form 1040 or 1040A. In case (*b*) for taxable years beginning before January 1, 1937, a return is required on Form 1040 with respect to any taxable net income of the estate or trust computed in accordance with section 162 and a return on Form 1041 with respect to any income deducted under section 162 (b) or 162 (c). For such taxable years, if a portion of the income of the estate or trust is retained by the fiduciary and the remainder is distributable or distributed to beneficiaries, both Forms 1040 and 1041 will be required. For taxable years beginning after December 31, 1936, the return in case (*a*) shall be on Form 1040 or 1040A and in all other cases stated in this article on Form 1041."

Article 142–5, relating to returns for nonresident alien beneficiaries, is amended by substituting for the parenthetical reference at the end of paragraph (*a*) and the sentence immediately preceding such reference, the following:

"In such a case for taxable years beginning after December 31, 1936, the fiduciary shall make a return on Form 1041, as well as on Form 1040B. If there are two or more such nonresident alien beneficiaries, then for all taxable years the fiduciary shall render a return on Form 1041 and also a return on Form 1040B for each nonresident alien beneficiary. (See further article 217–1)."

Article 142–5 is further amended by substituting for paragraph (*b*) the following:

"(*b*) *No United States business or office.*—A citizen or resident fiduciary having the distribution of the income of an estate or trust will not be required to make a return on Form 1040NB for any beneficiary of the estate or trust who is a nonresident alien not engaged in trade or business within the United States and not having an office or place of business therein at any time within the taxable year if the entire amount of the tax on the income payable to such beneficiary has been withheld at the source (see sections 143 and 211 (a)). For taxable years beginning after December 31, 1936, a citizen or resident fiduciary having the distribution of the income of an estate or trust shall make a return on Form 1040NB if a beneficiary, other than a resident of Canada, has gross income for the taxable year of more than $21,600 from the sources specified in section 211 (a), as amended, regardless of the amount of tax withheld at the source. If the beneficiary appoints a person in the United States to act as his agent for the purpose of rendering income tax returns, the fiduciary shall be relieved from the necessity of filing Form 1040NB in behalf of the beneficiary and from paying the tax. In such a case the fiduciary shall make a return on Form 1041 and attach thereto a copy of the notice of appointment. For the calendar year 1936 the fiduciary may either (1) make a return on Form 1042 of the tax at 10 percent on the entire amount of the income payable to the beneficiary, or (2) make a return on Form 1042 of the tax at 10 percent on the portion of the income not paid to the beneficiary before July 2, 1936, and a return on Form 1040NB for the beneficiary, including therein the income paid to him before July 2, 1936. Except for the calendar year 1936 the fiduciary shall make a return on Form 1042 of the tax at 10 percent on the entire amount of the income payable to the beneficiary, except that in the case of a beneficiary, resident of Canada, the rate shall be 5 percent. In addition to such return or returns, the fiduciary shall make a return on Form 1041 for the estate or trust, irrespective of the number of beneficiaries."

The following is inserted immediately before article 145–1, relating to penalties:

"Section 207 (e) of Title II of the Revenue Act of 1937, relating to foreign personal holding companies, provides:

[" 'SEC. 207. *Minor Amendments to Title I of 1936 Act.*]

" '(e) Section 145 of such Act is amended by adding at the end thereof a new subsection to read as follows:

" '"(d) For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 341." '"

The following is inserted immediately after article 150–1, relating to license to collect foreign items:

"Section 207 (d) of Title II of the Revenue Act of 1937, relating to foreign personal holding companies, provides:

[" 'SEC. 207. *Minor Amendments to Title I of 1936 Act.*]

" '(d) Such Act is amended by adding after section 150 a new section to read as follows:

" '"SEC. 151. *Foreign Personal Holding Companies.*

" '"For information returns by officers, directors, and large shareholders, with respect to foreign personal holding companies, see section 338, 339, and 341. For information returns by attorneys, accountants, and so forth, as to formation, and so forth, of foreign corporations, see sections 340 and 341." '"

The following is inserted immediately before article 163–1, relating to credits to an estate, trust, or beneficiary:

"Section 401 of Title IV of the Revenue Act of 1937 provides:

" 'SEC. 401. *Denial of Personal Exemption to Trusts.*

" 'Section 163 (a) of the Revenue Act of 1936 is amended to read as follows:

" '"(a) *Credits of estate or trust.*—

" '"(1) For the purpose of the normal tax and the surtax an estate or trust shall be allowed the same personal exemption as is allowed to a single person under section 25 (b) (1), except that no exemption shall be allowed a trust if the trust instrument requires or permits the accumulation of any portion of the income of the trust and there is not distributed an amount equal to the net income. For the purposes of this paragraph the term 'net income' does not include amounts included in gross income which, under the law of the jurisdiction under which the trust is administered, cannot (even if permitted or required by the trust instrument to be considered as income) be considered as income and are not distributable

" '"(2) If no part of the income of the estate or trust is included in computing the net income of any legatee, heir, or beneficiary, then the estate or trust shall be allowed the same credits against net income for interest as are allowed by section 25 (a)." '"

Paragraph (*a*) of article 163–1 is amended to read as follows:

"(*a*) *Personal exemption of $1,000.*—(1) An estate is allowed for both normal tax and surtax purposes the personal exemption of $1,000 allowed a single person under section 25 (b) (1). A credit for dependents is not allowable to an estate or trust.

"(2) For taxable years beginning prior to January 1, 1937 a trust is allowed for both normal tax and surtax purposes the personal exemption of $1,000 allowed a single person under section 25 (b) (1).

"(3) For taxable years beginning after December 31, 1936, a trust is allowed for both normal tax and surtax purposes the personal exemption of $1,000 allowed a single person under section 25 (b) (1), except that such exemption shall not be allowed if the trust instrument requires or permits the accumulation of any portion of the income and the amount actually distributed during the taxable year is less than the net income of the trust. 'Net income' as used in this paragraph is to be computed in accordance with section 162, except that there shall be excluded any amounts included in gross income which (A) under the law of the jurisdiction controlling the administration of the trust cannot (even if permitted or required under the trust instrument to be considered as income) be considered as income and (B) are not distributable during the taxable year. Typical of such amounts is the profit arising from the sale of trust property which under the applicable State law is considered not as income but as a mere conversion of corpus and which under the terms of the trust instrument is not distributable during the taxable year."

Paragraph (b) of article 163–1 is amended by inserting after "(b)" the following:

"*Credit for interest to estate or trust.*—"

Paragraph (c) of article 163–1 is amended by inserting after "(c)" the following:

"*Credit for interest to beneficiary.*—"

The following is inserted immediately before article 211–1, relating to taxation of aliens in general:

"Section 501 of Title V of the Revenue Act of 1937, relating to nonresident alien individuals, provides:

" 'SEC. 501. *Tax on Nonresident Alien Individuals.*

" '(a) Section 211 (a) of the Revenue Act of 1936 is amended by adding at the end thereof a new sentence to read as follows: "The tax imposed by this subsection shall not apply to any individual if the aggregate amount received during the taxable year from the sources above specified is more than $21,600."

" '(b) Section 211 of the Revenue Act of 1936 is further amended by adding at the end thereof a new subsection to read as follows:

" '"(c) No United States Business or Office and Gross Income of More than $21,600.—A nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein who has a gross income for any taxable year of more than $21,600 from the sources specified in subsection (a), shall be taxable without regard to the provisions of subsection (a), except that—

" '"(1) The gross income shall include only income from the sources specified in subsection (a); and

" '"(2) The deductions (other than the so-called 'charitable deduction' provided in section 213 (c)) shall be allowed only if and to the extent that they are properly allocable to the gross income from the sources specified in subsection (a); and

" '"(3) The aggregate of the normal and surtax under sections 11 and 12 shall, in no case, be less than 10 per centum of the gross income from the sources specified in subsection (a)." '"

" '(c) The amendments made by subsection (a) and (b)—

" '(1) Shall apply only to taxable years beginning after December 31, 1936; and

" '(2) Shall not apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to the date of the enactment of this Act) under which rates of tax under section 211 (a), prior to its amendment by subsection (a), were reduced.' "

Article 211–7 is amended by changing the caption thereof to read as follows:

"*Taxation of nonresident alien individuals for years beginning prior to January 1, 1937.*—"

A new article is added after article 211–7, to read as follows:

"ART. 211–8. *Taxation of nonresident alien individuals for years beginning after December 31, 1936.*—For the purposes of this article and articles 212–1, 213–1, 214–1, and 217–2 nonresident alien individuals, for years beginning after December 31, 1936, are divided into three classes: (a) nonresident alien individuals not engaged in trade or business within the United States and not having an office or place of business therein at any time within the taxable year and deriving in the taxable year not more than $21,600 gross amount of fixed or determinable annual or periodical income from sources within the United States, (b) nonresident alien individuals not engaged in trade or business within the United States and not having an office or place of business therein at any time during the taxable year and deriving in the taxable year more than $21,600 gross amount of fixed or determinable annual or periodical income from sources within the United States, and (c) nonresident alien individuals who at any time within the taxable year are engaged in trade or business in the United States or have an office or place of business therein.

"A nonresident alien individual falling within (a) or (c) is taxable in the same manner as provided in paragraphs (a) and (b), respectively, of article 211–7.

"A nonresident alien individual falling within (b) is subject to tax only upon his fixed or determinable annual or periodical income specified in section 211 (a) determined under the provisions of section 119, minus (1) the deductions properly allocable to such income and (2) the so-called 'charitable contribution' deduction provided in section 213 (c). Such nonresident alien is entitled to the credits against net income allowable to an individual by section 25, subject to the limitations provided in section 214. However, the tax thus computed under sections 11 and 12 shall in no such case be less than 10 percent of the gross amount of such fixed or determinable annual or periodical income from sources within the United States.

"Unless such nonresident alien individual shall file or cause to be filed with the collector a true and accurate return of his total fixed or determinable annual or periodical income from sources within the United States, the tax shall be collected on the basis of gross amount of such fixed or determinable annual or periodical income.

"Where such nonresident alien has various sources of fixed or determinable annual or periodical income from within the United States, as, for instance, from an estate or trust, from stocks or bonds held directly by him, and from securities held for him by a custodian resident in the United States, so that his total gross fixed or determinable annual or periodical income from United States sources is in excess of $21,600 and a return of income was not filed by him or on his behalf, the Commissioner will cause a return of income to be made and include therein the fixed or determinable annual or periodical income from all sources within the United States concerning which he has information without allowance for deductions and credits, and will assess the tax and collect it from one or more of the sources of income of such nonresident alien within the United States.

"Such nonresident alien shall make or have made a full and accurate return on Form 1040NB (a) of all his fixed or determinable annual or periodical income from sources within the United States. As to what constitutes fixed or determinable annual or periodical income, see paragraph (*a*) of article 211–7.

"As to the duty of the representative or agent of such alien to file the return and pay the tax, see paragraph (*b*) of article 217–2.

"Nonresident alien individuals, residents of Canada, are not affected by the provisions of section 501, Title V of the Revenue Act of 1937 or of this Treasury Decision and are subject to tax under the provisions of the Revenue Act of 1936 as modified by the terms of the Tax Convention between the United States and Canada ratified August 13, 1937, effective January 1, 1936. For the taxation of nonresident alien individuals, residents of Canada, not engaged in trade or business within the United States and not having an office or place of business therein, see Treasury Decision 4766, approved October 7, 1937, Internal Revenue Bulletin XVI–42, 8 (1937)."

Paragraph (a) of articles 212–1, 213–1, 214–1, 217–2, and article 215–1 are amended by adding at the end thereof the following sentence:

"As to a nonresident alien individual who derives more than $21,600 gross amount of fixed or determinable annual or periodical income from sources within the United States for any taxable year beginning after December 31, 1936, see article 211–8."

The first two sentences of article 219–1, relating to partnerships, are amended to read as follows:

"Whether a nonresident alien individual who is a member of a partnership is taxable under the provisions of (A) section 211 (a) or 211 (c) or (B) section 211 (b) may depend on the status of the partnership. A nonresident alien individual who is a member of a partnership which is not engaged in trade or business within the United States and has no office or place of business therein is subject to the provisions of section 211 (a) or 211 (c), as the case may be, depending on whether in the taxable year he derives fixed or determinable annual or periodical income from sources within the United States of more than $21,600, if he is not otherwise engaged in trade or business within the United States and has no office or place of business therein."

The following is substituted for the last sentence of the first paragraph of article 231–3, relating to gross income of foreign corporations:

"As to personal holding companies organized under the laws of foreign countries see article 351–3, as amended, of Chapter XXXV, as renumbered, and article 351–1 (1937) of Chapter XXXV (A). As to foreign personal holding companies see Chapter XXXIV."

The following is substituted for the last sentence of article 232–1, relating to deductions allowed foreign corporations:

"As to personal holding companies organized under the laws of foreign countries see article 351–3, as amended, of Chapter XXXV, as renumbered, and article 351–1 (1937) of Chapter XXXV (A). As to foreign personal holding companies see Chapter XXXIV."

The following is inserted immediately before article 275–1, relating to the period of limitation upon assessment of tax:

"Section 206 of Title II of the Revenue Act of 1937, relating to foreign personal holding companies, provides:

" 'SEC. 206. *Period of Limitation Upon Assessment and Collection.*

" '(a) Section 275 of the Revenue Act of 1936 is amended by inserting after subsection (c) thereof a new subsection to read as follows:

" '"(d) Shareholders of Foreign Personal Holding Companies.—If the taxpayer omits from gross income an amount properly includible therein under section 337 (b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed Supplement P net income of a foreign personal holding company) the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within seven years after the return was filed."

" '(b) Subsection (d) of such section 275, before its amendment by subsection (a) of this section, is amended to read as follows:

" '"(e) For the purposes of subsections (a), (b), (c), and (d), a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day."

" '(c) Subsection (e) of such section 275, before its amendment by subsections (a) and (b) of this section, is amended by striking out "(e)" and inserting in lieu thereof "(f)." '"

Article 275–1 is amended by renumbering paragraphs (6), (7) and (8) as (7), (8) and (9) and by inserting immediately before such paragraphs a new paragraph numbered (6), to read as follows:

"(6) If the taxpayer omits from gross income an amount properly includible therein under section 337 (b) as his dis-

tributive share of the undistributed Supplement P net income of a foreign personal holding company, the tax may be assessed at any time within seven years after the return was filed."

Article 275–2, relating to the period of limitation upon the collection of tax, is amended by inserting after the paragraph numbered (3) a new paragraph numbered (4) to read as follows:

"(4) If the taxpayer omits from gross income an amount properly includible therein under section 337 (b) as his distributive share of the undistributed Supplement P net income of a foreign personal holding company, a proceeding in court for the collection of the tax may be begun without assessment at any time within seven years after the return was filed."

A new chapter is added after Chapter XXXV, designated Chapter XXXV (A) and providing as follows:

"CHAPTER XXXV (A)

"SURTAX ON PERSONAL HOLDING COMPANIES

"(Under Title IA of the Revenue Act of 1936 as amended by section 1 of the Revenue Act of 1937)

"Title IA—Additional Income Taxes

"Section 3 of the Revenue Act of 1937 enacted August 26, 1937 provides in part:

"'SEC. 3 [Revenue Act of 1937.] *Effective Dates.*

"'The amendment made by section 1 [Revenue Act of 1937] shall apply only with respect to taxable years beginning after December 31, 1936; * * *.'

[NOTE.—The provisions of this chapter apply *only* to taxable years beginning after December 31, 1936. For taxable years beginning prior to December 31, 1936 see Chapter XXXV.]

"Title I—Personal Holding Companies

"SEC. 1. *Amendment of 1936 Act.*

"Title IA of the Revenue Act of 1936 is amended to read as follows:

"Title IA—Additional Income Taxes.

"SEC. 351. *Surtax on Personal Holding Companies.*

"There shall be levied, collected, and paid, for each taxable year (in addition to the taxes imposed by Title I), upon the undistributed adjusted net income of every personal holding company a surtax equal to the sum of the following:

"(1) 65 per centum of the amount thereof not in excess of $2,000; plus

"(2) 75 per centum of the amount thereof in excess of $2,000."

"ART. 351–1 (1937). *Surtax on personal holding companies.*—Section 351 of Title IA, as amended, imposes for each taxable year beginning after December 31, 1936 (in addition to the taxes imposed by Title I of the Revenue Act of 1936) a graduated income tax or surtax upon corporations classified as personal holding companies. Corporations so classified are exempt from the surtax on corporations improperly accumulating surplus imposed by section 102 of Title I of the Revenue Act of 1936, but are not exempt from the other taxes imposed by that title. Unlike the surtax imposed by section 102, the surtax imposed by section 351 of Title IA, as amended, applies to all personal holding companies defined as such in section 352 and article 352–1, regardless of whether or not they were formed or availed of to accumulate earnings or profits for the purpose of avoiding surtax upon shareholders. The surtax imposed by section 351 of Title IA, as amended, is 65 percent of the amount of the undistributed adjusted net income not in excess of $2,000 and 75 percent of the amount of the undistributed adjusted net income in excess of $2,000.

"A foreign corporation, whether resident or nonresident, which is classified as a personal holding company under section 352 (not including, with respect to taxable years ending after August 26, 1937, a foreign personal holding company as defined in section 331) is subject to the tax imposed by section 351 of Title IA, as amended, with respect to its income from sources within the United States even though such income is not fixed or determinable annual or periodical income specified in section 231 (a). (See section 119.) The term 'personal holding company' as used in Title IA, as amended, does not include a foreign corporation if (1) its gross income from sources within the United States for the period specified in section 119 (a) (2) (B) is less than 50 percent of its total gross income from all sources and (2) all of its stock outstanding during the last half of the taxable year is owned by nonresident alien individuals, whether directly or indirectly through other foreign corporations.

"'SEC. 352. *Definition of Personal Holding Company.*

"'(a) *General rule.*—For the purposes of this title and of Title I the term "personal holding company" means any corporation if—

"'(1) Gross income requirement.—At least 80 per centum of its gross income for the taxable year is personal holding company income as defined in section 353; but if the corporation is a personal holding company with respect to any taxable year, then, for each subsequent taxable year, the minimum percentage shall be 70 per centum in lieu of 80 per centum, until a taxable year during the whole of the last half of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 70 per centum of the gross income is personal holding company income; and

"'(2) Stock ownership requirement.—At any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals.

"'(b) *Exceptions.*—The term "personal holding company" does not include a corporation exempt from taxation under section 101, a bank as defined in section 104, a life insurance company, a surety company, or, except with respect to a taxable year ending on or before the date of the enactment of the Revenue Act of 1937, a foreign personal holding company as defined in section 331.'

"ART. 352–1. *Definition of personal holding company.*—A personal holding company is any corporation (other than a corporation specified in section 352 (b)) which for the taxable year meets (a) the gross income requirement specified in article 352–2, and (b) the stock ownership requirement specified in article 352–3. Both requirements must be satisfied and both must be met with respect to each taxable year.

"ART. 352–2. *Gross income requirement.*—To meet the gross income requirement, it is necessary that either of the following percentages of gross income of the corporation for the taxable year be personal holding company income as defined in section 353:

"(a) 80 percent or more; or

"(b) 70 percent or more if the corporation has been classified as a personal holding company for any taxable year beginning after December 31, 1936, unless—

"(1) a taxable year has intervened since the last taxable year for which it was so classified, during no part of the last half of which the stock ownership requirement specified in section 352 (a) (2) exists; or

"(2) three consecutive years have intervened since the last taxable year for which it was so classified, during each of which its personal holding company income was less than 70 percent of its gross income.

"In determining whether the personal holding company income is equal to the required percentage of the total gross income, the determination must not be made upon the basis of gross receipts, since gross income is not synonymous with gross receipts. For a further discussion of what constitutes 'gross income', see section 22 (a) and the regulations prescribed under that section.

"ART. 352–3. *Stock ownership requirement.*—To meet the stock ownership requirement, it is necessary that at some time during the last half of the taxable year more than 50 percent in value of the outstanding stock of the corporation be owned, directly or indirectly, by or for not more than five individuals. For such purpose, the ownership of the stock must be determined as provided in section 354 and articles 354 (a)–1 to 354 (a)–7 and article 354 (b)–1.

"In the event of any change in the stock outstanding during the last half of the taxable year, whether in the number of shares or classes of stock, or whether in the ownership thereof, the conditions existing immediately prior and subsequent to each change must be taken into consideration.

"In determining whether the statutory conditions with respect to stock ownership are present at any time during the last half of the taxable year, the phrase 'in value' shall, in the light of all the circumstances, be deemed the value of the corporate stock outstanding at such time (not including treasury stock). This value may be determined upon the basis of the company's net worth, earning and dividend paying capacity, appreciation of assets, together with such other factors as have a bearing upon the value of the stock. If a value of stock is used which is greatly at variance with that reflected by the corporate books, the evidence upon which such valuation is based should be filed with the return. In any case where there are two or more classes of stock outstanding, the total value of all the stock should be allocated among the different classes according to the relative value of each class therein.

"The rules stated in the last two preceding paragraphs are equally applicable in determining the stock ownership requirement specified in section 353 (e), relating to personal service contracts and in section 353 (f), relating to the use of corporation property by a shareholder. The stock ownership requirement specified in these sections relates, however, to the stock outstanding at any time during the entire taxable year and not merely during the last half thereof.

"'SEC. 353. *Personal Holding Company Income.*

"'For the purposes of this title the term "personal holding company income" means the portion of the gross income which consists of:

"'(a) Dividends, interest, royalties (other than mineral, oil, or gas royalties), annuities.

"'(b) *Stock and securities, transactions.*—Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

"'(c) *Commodities transactions.*—Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

"'(d) *Estates and trusts.*—Amounts includible in computing the net income of the corporation under Supplement E of Title I; and gains from the sale or other disposition of any interest in an estate or trust.

"'(e) *Personal service contracts.*—(1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

"'(f) *Use of corporation property by shareholder.*—Amouynts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

"'(g) *Rents.*—Rents, unless constituting 50 per centum or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property; but does not include amounts constituting personal holding company income under subsection (f).

"'(h) *Mineral, oil, or gas royalties.*—Mineral, oil, or gas royalties, unless (1) constituting 50 per centum or more of the gross income, and (2) the deductions allowable under section 23 (a) (relating to expenses) other than compensation for personal services rendered by shareholders, constitute 15 per centum or more of the gross income.'

"ART. 353–1. *Personal holding company income.*—The term 'personal holding company income' means the portion of the gross income which consists of the following:

"(1) *Dividends.*—The term 'dividends' means dividends as defined in section 115 (a), and includes amounts required to be included in gross income under section 337 (b). It does not include stock dividends (to the extent they do not constitute income to the shareholders within the meaning of the Sixteenth Amendment to the Constitution), liquidating dividends, or other capital distributions referred to in section 115 (c), as amended, and section 115 (d).

"(2) *Interest.*—The term 'interest' means any amounts, includible in gross income, received for the use of money loaned.

"(3) *Royalties (other than mineral, oil, or gas royalties).*—The term 'royalties' includes amounts received for the privilege of using patents, copyrights, secret processes and formulas, good will, trade marks, trade brands, franchises, and other like property. It does not include rents, nor overriding royalties received by an operating company. As used in this paragraph the term 'overriding royalties' means amounts received from the sublessee by the operating company which originally leased and developed the natural resource property in respect of which such overriding royalties are paid.

"(4) *Annuities.*—The term 'annuities' refers only to annuities to the extent includible in the computation of gross income. (See section 22 (b) (2).)

"(5) *Gains from the sale or exchange of stock or securities.*—The term 'gains from the sale or exchange of stock or securities' as used in section 353 (b) and these regulations applies to all gains (including gains from liquidating dividends and other distributions from capital) from the sale or exchange of stock or securities includible in gross income. The term 'stock or securities' includes shares or certificates of stock, or interest in any corporation (including any joint-stock company, insurance company, association, or other organization classified as a corporation by the Act), certificates of interest or participation in any profit-sharing agreement, or in any oil, gas, or other mineral royalty, or lease, collateral trust certificates, voting trust certificates, stock rights or warrants, bonds, debentures, certificates of indebtedness, notes, car trust certificates, bills of exchange, obligations issued by or on behalf of a Government, State, Territory, or political subdivision thereof, etc. In the case of 'regular dealers in stock or securities' the term does not include gains derived from the sale or exchange of stock or securities made in the normal course of business. The term 'regular dealer in stock or securities' means corporations with an established place of business regularly engaged in the purchase of stock or securities and their resale to customers, but such corporations are not dealers with respect to stock or securities held for speculation or investment.

"(6) *Gains from futures transactions in commodities.*—Gains from futures transactions in commodities include gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange, but do not include gains from cash transactions or

gains by a producer, processor, merchant, or handler of the commodity, which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others. In general, personal holding company income includes gains on futures contracts which are speculative. Futures contracts representing true hedges against price fluctuations in spot goods are not speculative transactions, though not concurrent with spot transactions. Futures contracts which are not hedges against spot transactions are speculative unless they are hedges against concurrent futures or forward sales or purchases.

"(7) *Income from estates and trusts.*—The income from estates and trusts which is to be included in personal holding company income consists of the income from estates and trusts which is required to be included in the gross income of a corporation under sections 161 to 169, together with the gains derived by the corporation from the sale or other disposition of any interest in an estate or trust.

"(8) *Amounts received under personal service contracts.*—Amounts includible in personal holding company income as amounts received under personal service contracts consist of amounts received pursuant to a contract under which the corporation is to furnish personal services, and amounts received from a sale or other disposition of such a contract, if—

"(a) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and

"(b) at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description), as the one to perform such services. For this purpose the stock ownership must be determined as provided in section 354 and articles 354 (a)–1 to 354 (a)–7, article 354 (b)–1 and the last paragraph of article 352–3.

The application of section 353 (e) may be illustrated by the following examples:

"Example (1).—A, whose profession is that of an actor, owns all of the outstanding capital stock of the M Corporation. The M Corporation entered into a contract with A under which A was to perform personal services for the person or persons whom the M Corporation might designate, in consideration of which A was to receive $10,000 a year from the M Corporation. The M Corporation entered into a contract with the O Corporation in which A was designated to perform personal services for the O Corporation in consideration of which the O Corporation was to pay the M Corporation $500,000 a year. The $500,000 received by the M Corporation from the O Corporation constitutes personal holding company income.

"Example (2).—The N Corporation, the entire outstanding capital stock of which is owned by four individuals, is engaged in engineering. The N Corporation entered into a contract with the O Corporation to perform engineering services for the O Corporation, in consideration of which the O Corporation was to pay the N Corporation $50,000. The individual who was to perform the services was not designated (by name or by description) in the contract and no one but the N Corporation had the right to designate (by name or by description) such individual. The $50,000 received by the N Corporation from the O Corporation does not constitute personal holding company income.

"(9) *Compensation for use of property.*—The compensation for the use of, or the right to use, property of the corporation which is to be included in personal holding company income consists of amounts received as compensation (however designated and from whomsoever received) for the use of, or the right to use, property of the corporation in any case in which, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual entitled to the use of the property, whether such right is obtained directly from the corporation or by means of a sublease or other arrangement. The property may consist of a yacht, a city residence, a country house, or any other kind of property. See section 354 and articles 354 (a)–1 to 354 (a)–7, article 354 (b)–1 and the last paragraph of article 352–3.

"(10) *Rents.*—The rents which are to be included in personal holding company income consists of compensation, however designated, including charter fees, etc., for the use of, or the right to use, real property, or any other kind of property, but do not include amounts constituting personal holding company income under section 353 (f) and paragraph (9) of this article. However, rents do not constitute personal holding company income if constituting 50 percent or more of the gross income of the corporation.

"(11) *Mineral, oil, or gas royalties.*—The income from mineral, oil, or gas royalties is to be included as personal holding company income, unless (A) the aggregate amount of such royalties constitutes 50 percent or more of the gross income of the corporation for the taxable year and (B) the aggregate amount of deductions allowable for expenses under section 23 (a) (other than compensation for personal services rendered by the shareholders of the corporation) equals 15 percent or more of the gross income of the corporation for the taxable year.

"The term 'mineral, oil, or gas royalties' means all royalties, except overriding royalties, received from any interest in mineral, oil, or gas properties. The term 'mineral' includes the ores specified in paragraph (d) of article 23 (m)–1. As used in this paragraph the term 'overriding royalties' means amounts received from the sublessee by the operating company which originally leased and developed the natural resources property in request of which such overriding royalties are paid.

"'SEC. 354. *Stock Ownership.*

"'(a) *Constructive ownership.*—For the purpose of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 352 (a) (2), section 353 (e), or section 353 (f)—

"'(1) *Stock not owned by individual.*—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

"'(2) *Family and partnership ownership.*—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"'(3) *Options.*—If any person has an option to acquire stock such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"'(4) *Application of family-partnership and option rules.*—Paragraphs (2) and (3) shall be applied—

"'(A) For the purposes of the stock ownership requirement provided in section 352 (a) (2), if, but only if, the effect is to make the corporation a personal holding company;

"'(B) For the purposes of section 353 (e) (relating to personal service contracts), or of section 353 (f) relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as personal holding company income.

"'(5) *Constructive ownership as actual ownership.*—Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

"'(6) *Option rule in lieu of family and partnership rule.*—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).'

"ART. 354 (a)–1. *Stock ownership.*—For the purpose of determining whether—

"(a) a corporation is a personal holding company, insofar as such determination is based on the stock ownership requirement specified in section 352 (a) (2) and article 352–3, or

"(b) amounts received under a personal service contract or from the sale of such a contract constitute personal holding company income insofar as such determination is based on the stock ownership requirement specified in section 353 (e) and paragraph (8) of article 353–1, or

"(c) compensation for the use of property constitutes personal holding company income insofar as such determination is based on the stock ownership requirement specified in section 353 (f) and paragraph (9) of Article 351–1,

stock owned by an individual includes stock constructively owned by him as provided in section 354. For such purpose constructive ownership of stock shall be determined and applied in accordance with the rules provided in section 354 and articles 354 (a)–2 to 354 (a)–7 and article 354 (b)–1. All forms and classes of stock, however denominated, which represent the interests of shareholders, members, or beneficiaries in the corporation shall be taken into consideration.

"ART. 354 (a)–2. *Stock not owned by individual.*—In determining the ownership of stock for any of the purposes set forth in article 354 (a)–1, stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. For example, if A and B, two individuals, are the exclusive and equal beneficiaries of a trust or estate, and if such trust or estate owns the entire capital stock of the M Corporation, and if the M Corporation in turn owns the entire capital stock of the N Corporation, then the stock of both the M Corporation and the N Corporation shall be considered as being owned equally by A and B as the individuals owning the beneficial interest therein. See also article 354 (a)–6.

"ART. 354 (a)–3. *Family and partnership ownership.*—In determining the ownership of stock for any of the purposes set forth in article 354 (a)–1, an individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of such determination the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"The application of the family and partnership rule in determining the ownership of stock for the purpose set forth in (a) of article 354 (a)–1 is illustrated by the following example:

"Example.—The M Corporation at some time during the last half of the taxable year had 1,800 shares of outstanding stock, 450 of which were held by various individuals having no relationship to one another and none of whom were partners, and the remaining 1,350 were held by 51 shareholders as follows:

Relationships	Shares	Shares	Shares	Shares	Shares
An individual	A 100	B 20	C 20	D 20	E 20
His father	AF 10	BF 10	CF 10	DF 10	EF 10
His wife	AW 10	BW 40	CW 40	DW 40	EW 40
His brother	AB 10	BB 10	CB 10	DB 10	EB 10
His son	AS 10	BS 40	CS 40	DS 40	ES 40
His daughter by former marriage (son's half-sister)	ASHS 10	BSHS 40	CSHS 40	DSHS 40	ESHS 40
His brother's wife	ABW 10	BBW 10	CBW 10	DBW 160	EBW 10
His wife's father	AWF 10	BWF 10	CWF 110	DWF 10	EWF 10
His wife's brother	AWB 10	BWB 10	CWB 10	DWB 10	EWB 10
His wife's brother's wife	AWBW 10	BWBW 10	CWBW 10	DWBW 10	EWBW 110
Individual's partner	AP 10				

By applying the statutory rule provided in section 354 (a) (2) five individuals own more than 50 percent of the outstanding stock as follows:

A (including AF, AW, AB, AS, ASHS, AP)	160
B (including BF, BW, BB, BS, BSHS)	160
CW (including C, CS, CWF, CWB)	220
DB (including D, DF, DBW)	200
EWB (including EW, EWF, EWBW)	170
Total, or more than 50 percent	910

Individual A represents the obvious case where the head of the family owns the bulk of the family stock and naturally is the head of the group. A's partner owns 10 shares of the stock. Individual B represents the case where he is still head of the group because of the ownership of stock by his immediate family. Individuals C and D represent cases where the individuals fall in groups headed in C's case by his wife and in D's case by his brother because of the preponderance of holdings on the part of relatives by marriage. Individual E represents the case where the preponderant holdings of others eliminate that individual from the group.

"The method of applying the family and partnership rule as illustrated in the foregoing example also applies in determining the ownership of stock for the purposes stated in (b) and (c) of article 354 (a)–1.

"ART. 354 (a)–4. *Options.*—In determining the ownership of stock for any of the purposes set forth in article 354 (a)–1, if any person has an option to acquire stock, such stock may be considered as owned by such person. The term 'option' as used in this article includes an option to acquire such an option and each one of a series of such options, so that the person who has an option on an option to acquire stock may be considered as the owner of the stock.

"ART. 354 (a)–5. *Application of family-partnership and option rules.*—The family and partnership rule provided in section 354 (a) (2) and article 354 (a)–3 and the option rule provided in section 354 (a) (3) and article 354 (a)–4 shall be applied—

"(a) for the purpose stated in (a) of article 354 (a)–1, if, but only if, the effect of such application is to make the corporation a personal holding company, or

"(b) for the purpose stated in (b) of article 354 (a)–1, if, but only if, the effect of such application is to make the amounts received under a personal service contract or from the sale of such a contract personal holding company income, or

"(c) for the purpose stated in (c) of article 354 (a)–1, if, but only if, the effect of such application is to make the compensation for the use of property personal holding company income.

The family and partnership rule and the option rule must be applied independently for each of the purposes stated in article 354 (a)–1.

"ART. 354 (a)–6. *Constructive ownership as actual ownership.*—In determining the ownership of stock for any of the purposes set forth in article 354 (a)–1—

"(a) stock constructively owned by a person by reason of the application of the rule provided in section 354 (a) (1), relating to stock not owned by an individual (see article 354 (a)–2) shall be considered as actually owned by such person for the purpose of again applying such rule or of applying the family and partnership rule provided in section 354 (a) (2) (see article 354 (a)–3) in order to make another person the constructive owner of such stock, and

"(b) stock constructively owned by a person by reason of the application of the option rule provided in section 354 (a) (3) (see article 354 (a)–4) shall be considered as actually owned by such person for the purpose of applying either the rule provided in section 354 (a) (1), relating to stock not owned by an individual, or the family and partnership rule provided in section 354 (a) (2) in order to make another person the constructive owner of such stock, but

"(c) stock constructively owned by an individual by reason of the application of the family and partnership rule provided in section 354 (a) (2) shall not be considered as actually owned by such individual for the purpose of again applying such rule in order to make another individual the constructive owner of such stock.

"The application of this article may be illustrated by the following examples:

"*Example (1).*—A's wife, AW, owns all of the stock of the M Corporation, which in turn owns all the stock of the O Corporation. The O Corporation in turn owns all the stock in the P Corporation.

"Under the rule provided in section 354 (a) (1), relating to stock not owned by an individual, the stock in the P Corporation owned by the O Corporation is considered to be owned constructively by the M Corporation, the sole shareholder of the O Corporation. Such constructive ownership of the stock of the M Corporation is considered as actual ownership for the purpose of again applying such rule in order to make AW, the sole shareholder of the M Corporation, the constructive owner of the stock of the P Corporation. Similarly, the constructive ownership of the stock by AW is considered as actual ownership for the purpose of applying the family and partnership rule provided in section 354 (a) (2) in order to make A the constructive owner of the stock of the P Corporation, if such application is necessary for any of the purposes set forth in article 354 (a)–1. But the stock thus constructively owned by A may not be considered as actual ownership for the purpose of again applying the family and partnership rule in order to make another member of A's family, for example A's father, the constructive owner of the stock of the P Corporation.

"*Example (2).*—B, an individual, owns all the stock of the R Corporation which has an option to acquire all the stock of the S Corporation, owned by C, an individual, who is not related to B.

"Under the option rule provided in section 354 (a) (3) the R Corporation may be considered as owning constructively the stock of the S Corporation owned by C. Such constructive ownership of the stock by the R Corporation is considered as actual ownership for the purpose of applying the rule provided in section 354 (a) (1), relating to stock not owned by an individual, in order to make B, the sole shareholder of the R Corporation, the constructive owner of the stock of the S Corporation. The stock thus constructively owned by B by reason of the application of the rule provided in section 354 (a) (1) likewise is considered as actual ownership for the purpose, if necessary, of applying the family and partnership rule provided in section 354 (a) (2), in order to make another member of B's family, for example, B's wife, BW, the constructive owner of the stock of the S Corporation. However, the family and partnership rule could not again be applied so as to make still another individual the constructive owner of the stock of the S Corporation, that is, the stock constructively owned by BW could not be considered as actually owned by her in order to make BW's father the constructive owner of such stock by a second application of the family and partnership rule.

"ART. 354 (a) 7. *Option rule in lieu of family and partnership rule.*—If, in determining the ownership of stock for any of the purposes set forth in article 354 (a)–1, stock may be considered as constructively owned by an individual by an application of both the family-partnership rule provided in section 354 (a) (2) (see article 354 (a)–3) and the option rule provided in section 354 (a) (3) (see article 354 (a)–4) such stock shall be considered as owned constructively by the individual by reason of the application of the option rule.

"The application of this article may be illustrated by the following example:

"*Example.*—Two brothers, A and B, each own 10 percent of the stock of the M Corporation, and A's wife, AW, also owns 10 percent of the stock of such corporation. AW's husband, A, has an option to acquire the stock owned by her at any time. It becomes necessary, for one of the purposes stated in article 354 (a)–1, to determine the stock ownership of B in the M Corporation.

"If the family and partnership rule were the only rule that applied in the case, B would be considered, under that rule, as owning 20 percent of the stock of the M Corporation, namely, his own stock plus the stock owned by his brother. In that event, B could not be considered as owning the stock held by AW since (1) AW is not a member of B's family and (2) the constructive ownership of such stock by A through the application of the family and partnership rule in his case is not considered as actual ownership so as to make B the constructive owner by a second application of the same rule with respect to the ownership of the stock. (See article 354 (a)–6.)

"However, there is more than the family and partnership rule involved in this example. As the holder of an option upon the stock, A may be considered the constructive owner of his wife's stock by the application of the option rule and without reference to the family relationship between A and AW. If A is considered as owning the stock of his wife by application of the option rule, then under article 354 (a)–6, such constructive ownership by A is regarded as actual ownership for the purpose of applying the family and partnership rule so as to make another member of A's family, for example, B, the constructive owner of the stock. Hence, since A may be considered as owning his wife's stock by applying both the family-partnership rule and the option rule, the provisions of section 354 (a) (6) apply and accordingly A must be considered the constructive owner of his wife's stock under the option rule rather than the family-partnership rule. B thus becomes the constructive owner of 30 percent of the stock of the M Corporation, namely, his own 10 percent, A's 10 percent, and AW's 10 percent constructively owned by A as the holder of an option on the stock.

"'[SEC. 354. *Stock Ownership.*]

"'(b) Convertible Securities.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

"'(1) For the purpose of the stock ownership requirement provided in section 352 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a personal holding company;

"'(2) For the purpose of section 353 (e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income; and

"'(3) For the purpose of section 353 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income.

"'The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.'

"ART. 354 (b)–1. *Convertible securities.*—Under section 354 (b), outstanding securities of a corporation, such as bonds, debentures or other corporate obligations, convertible into stock of the corporation (whether or not convertible during the taxable year) shall be considered as outstanding stock of the corporation for the purpose of the stock ownership requirement provided in section 352 (a) (2), but only if the effect of such consideration is to make the corporation a personal holding company. Such convertible securities shall be considered as outstanding stock for the purpose of section 353 (e), relating to amounts received under personal service contracts, or of section 353 (f), relating to compensation for the use of property, but only if the effect of such consideration is to make the amounts therein referred to includible under such sections as personal holding company income. The consideration of convertible securities as outstanding stock is subject to the exception that, if some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be considered as outstanding stock although the others are not so considered, but no convertible securities shall be considered as outstanding stock unless all outstanding securities having a prior conversion date are also so considered. For example, if outstanding securities are convertible in 1937, 1938, and 1939, those convertible in 1937 can be properly considered as outstanding stock without so considering those convertible in 1938 or 1939, and those convertible in 1937 and 1938 can be properly considered as outstanding stock without so considering those convertible in 1939. However, the securities convertible in 1938 could not be properly considered as outstanding stock without so considering those convertible in 1937 and the securities convertible in 1939 could not be properly considered as outstanding stock without so considering those convertible in 1937 and 1938.

"'SEC. 355. *Undistributed adjusted net income.*

"'For the purposes of this title the term "undistributed adjusted net income" means the adjusted net income (as defined in section 356) minus —

"'(a) The amount of the dividends paid credit provided in section 27, computed without the benefit of subsection (b) thereof (relating to the dividend carry-over); and

"'(b) Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness.'

"ART. 355–1. *Undistributed adjusted net income.*—The term 'undistributed adjusted net income' means the adjusted net income (as defined in section 356 and article 356–1) minus (A) the amount of dividends paid credit provided in section 27, computed without the benefit of section 27 (b) (relating to the dividend carry-over) and (B) amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and the terms of such indebtedness (see article 355–2).

"ART. 355–2. *Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934.*—

"(a) *Indebtedness.*—The term 'indebtedness' means an obligation, absolute and not contingent, to pay, on demand or within a given time, in cash or other medium, a fixed amount. The term 'indebtedness' does not include the obligation of a corporation on its capital stock.

"The indebtedness must have been incurred (or, if incurred by assumption, assumed) by the taxpayer prior to January 1, 1934. An indebtedness evidenced by bonds, notes or other obligations issued by a corporation is ordinarily incurred as of the date such obligations are issued and the amount of such indebtedness is the amount represented by the face value of the obligations. In the case of renewal or other changes in the form of an indebtedness, so long as the relationship of debtor and creditor continues between the taxpayer and his creditor, the giving of a new promise to pay by the taxpayer will not have the effect of changing the date the indebtedness was incurred.

"(b) Amounts used or *irrevocably* set aside.—The deduction is allowable, in any taxable year, only for amounts used or *irrevocably* set aside in that year. The use or irrevocable setting aside must be to effect the extinguishment or discharge of indebtedness. Since, therefore, in the case of renewal and other changes in the form of an indebtedness, the relationship of debtor and creditor continues between the taxpayer and his creditor, the mere giving of a new promise to pay by the taxpayer will not result in an allowable deduction. If amounts are set aside in one year, no deduction is allowable for such amounts for a later year in which actually paid. As long as all other conditions are satisfied, the aggregate amount allowable as a deduction for any taxable year includes all amounts (from whatever source) used and, as well, all amounts (from whatever source) *irrevocably* set aside, irrespective of whether in cash or other medium. Double deductions are not permitted.

"(c) Reasonableness of the amounts with reference to the size and terms of the indebtedness.—The reasonableness of the amounts used or *irrevocably* set aside must be determined by reference to the size and terms of the particular indebtedness. Hence, all the facts and circumstances with respect to the nature, scope, conditions, amount, maturity, and other terms of the particular indebtedness must be shown in each case.

"Ordinarily an amount used to pay or retire an indebtedness, in whole or in part, at or prior to the maturity and in accordance with the terms thereof will be considered reasonable, and may be allowable as a deduction for the year in which so used, if no adjustment is required by reason of an amount set aside in a prior year for payment or retirement of the same indebtedness.

"All amounts *irrevocably* set aside for the payment or retirement of an indebtedness in accordance with and pursuant to the terms of the obligation, for example, the annual contribution *to trustees* required by a mandatory sinking fund, will be considered as complying with the statutory requirement of reasonableness. To be considered reasonable it is not necessary that the plan of retirement provide for a retroactive setting aside of amounts for years prior to that in which the plan is adopted. However, if a voluntary plan was adopted prior to 1934, no adjustment is allowable in respect of the amounts set aside in the years prior to 1934.

"(d) *General.*—The burden of proof will rest upon the taxpayer to sustain the deduction claimed. Therefore, the taxpayer must furnish the information required by the return, and such other information as the Commissioner may require in substantiation of the deduction claimed.

"'SEC. 356. *Adjusted Net Income.*

"'For the purposes of this title the term "adjusted net income" means the net income with the following adjustments:

"'(a) *Additional deductions.*—There shall be allowed as deductions—

"'(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 351 (either before or after its amendment by the Revenue Act of 1937), or a section of a prior income-tax law corresponding to either of such sections.

"'(2) In lieu of the deduction allowed by section 23 (q), contributions or gifts made within the taxable year to or for the use of donees described in section 23 (q) for the purposes therein specified, to an amount which does not exceed 15 per centum of the taxpayer's net income, computed without the benefit of this paragraph and section

23 (q), and without the deduction of the amount disallowed under subsection (b) of this section.

"'(3) In the case of a corporation organized prior to January 1, 1936, to take over the assets and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make contributions or gifts to or for the use of donees described in section 23 (o) for the purposes therein specified, to the extent such liability of the decedent existed prior to January 1, 1934. No deduction shall be allowed under paragraph (2) of this subsection for a taxable year for which a deduction is allowed under this paragraph.

"'(b) *Deductions not allowed.*—The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the corporation, shall be allowed only in an amount equal to the rent or other compensation received for the use or right to use the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

"'(1) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

"'(2) That the property was held in the course of a business carried on bona fide for profit; and

"'(3) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.'

"ART. 356–1. *Adjusted net income.*—The term 'adjusted net income' as used in Title IA, as amended, means, in the case of a domestic corporation, the gross income as defined in section 22 less the deductions provided in section 23 subject to the qualifications, limitations and exceptions provided in section 356. In the case of a foreign corporation, whether resident or nonresident, which files or causes a return to be filed, the 'readjusted net income' means the net income from sources within the United States (gross income from sources within the United States as defined in section 119 and the regulations thereunder less statutory deductions) subject to the qualifications, limitations and exceptions provided in section 356. In the case of a foreign corporation, whether resident or nonresident, which files no return the 'adjusted net income' means the gross income from sources within the United States as defined in section 119 and the regulations thereunder less the deductions enumerated in section 356 (a) but without the benefit of any deductions under Title I of the Revenue Act of 1936 (see section 233).

"The 'adjusted net income' includes interest upon obligations of the United States and obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States, except as provided in section 22 (b) (4). The 'adjusted net income' does not include interest on obligations of States or Territories of the United States or any political subdivision thereof or of the District of Columbia or of the possessions of the United States.

"The foreign tax credit permitted by section 131 with respect to the taxes imposed by Title I of the Revenue Act of 1936 is not allowed with respect to the surtax imposed by section 351. However, the deduction of foreign taxes under section 23 (c) is permitted for the purposes of the surtax even if for the purposes of the corporate tax imposed by Title I of that Act a credit for such taxes is taken.

"In addition to the qualifications, limitations, and exceptions provided in section 356 (a), under section 356 (b) the aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the company shall be allowed only in an amount equal to the rent or other compensation received for the use of, or right to use, the property, unless it is established to the satisfaction of the Commissioner:

(1) That the rent or other compensation received was the highest obtainable, or if none was received, that none was obtainable;

"(2) That the property was held in the course of a business carried on bona fide for profit; and

"(3) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

"The burden of proof will rest upon the taxpayer to sustain the deduction claimed. If, in computing its adjusted net income, a personal holding company claims deductions for expenses and depreciation allocable to the operation and maintenance of property owned or operated by the company, in an aggregate amount in excess of the rent or other compensation received for the use of, or the right to use, the property, it shall attach to its income tax return a statement setting forth its claim for allowance of the additional deductions together with a complete statement of the facts, circumstances and arguments on which it relies in support of its claim. Such statement shall set forth:

"(a) A description of the property;

"(b) The cost or other basis to the corporation and the nature and value of the consideration paid for the property;

"(c) The name and address of the person from whom acquired and the date thereof;

"(d) The name and address of the person to whom leased or rented, or the person permitted to use the property, and the number of shares of stock, if any, held by such person and the members of his family;

"(e) The nature and gross amount of the rent or other compensation received for the use of, or the right to use, the property during the taxable year and for each of the five preceding years and the amount of the expenses incurred with respect to, and the depreciation sustained on, the property for such years;

"(f) Evidence that the rent or other compensation was the highest obtainable and, if none was received, a statement of the reasons therefor;

"(g) A copy of the contract, lease or rental agreement;

"(h) The purpose for which the property was used;

"(i) The business carried on by the corporation with respect to which the property was held and the gross income, expenses and net income derived from the conduct of such business for the taxable year and for each of the five preceding years;

"(j) A statement of any reasons which existed for expectation that the operation of the property would be profitable, or a statement of the necessity for the use of the property in the business of the corporation, and the reasons why the property was acquired; and

"(k) Any other information on which the taxpayer relies.

"ART. 356–2. *Illustration of computation of adjusted net income, undistributed adjusted net income, and surtax.*—The method of computation of the adjusted net income, the undistributed adjusted net income, and the surtax under Title IA, as amended, may be illustrated as follows:

"The following facts exist with respect to the O Corporation, a personal holding company, for the calendar year 1937:

"The net income, as computed under Title I of the Act amounts to $190,000.

"Federal income tax aggregates $17,500. This amount includes the surtax under section 14 but does not include excess-profits tax imposed by section 106 of the Revenue Act of 1935, surtax imposed by section 102 of the Revenue Act of 1936, or section 351 of the latter Act either before or after its amendment by the Revenue Act of 1937, or a section of a prior income-tax law corresponding to either of such sections 102 or 351.

"Contributions or gifts made to or for the use of donees described in section 23 (q) for the purposes therein specified amount to $35,000, of which $10,000 is deducted in arriving at the net income under Title I of the Revenue Act of 1936.

"Rent in the amount of $10,000 was received from the principal shareholder of the corporation for the use of a country estate which had been previously acquired from such shareholder in exchange for its capital stock. The expenses of the corporation allocable to the maintenance and operation of the country estate amount to $30,000. The yearly depreciation on the depreciable property of the estate amounts to $5,000. The corporation has not established its right to claim the entire amount of the expenses and depreciation applicable to the estate as provided in section 356 (b) and article 356–1.

"Dividends paid by the corporation to its shareholders during the taxable year which are allowable as a credit under section 27 amount to $40,000.

"The amount used during the year to pay indebtedness incurred by the corporation prior to January 1, 1934, is $31,750.

"The adjusted net income, the undistributed adjusted net income, and the surtax are computed as follows:

Net income under Title I of the Revenue Act of 1936		$190,000
Add:		
Contributions deductible in computing net income under section 21		10,000
Aggregate of expenses and depreciation relating to the country estate in excess of the income derived therefrom		25,000
Net income computed without the benefit of a deduction for contributions and without the benefit of the amount disallowed under section 356 (b)		225,000
Less:		
Federal income taxes	$17,500	
Contributions deductible under section 356 (a) (2) (15 percent of $225,000)	33,750	
		51,250
Adjusted net income		173,750
Less:		
Dividends paid credit	40,000	
Amount used to pay indebtedness	31,750	
		71,750
Undistributed adjusted net income		102,000
Amount taxable at 65 percent (not in excess of $2,000)		2,000
Amount taxable at 75 percent ($102,000 minus $2,000)		100,000
Surtax on $2,000 at 65 percent		1,300
Surtax on $100,000 at 75 percent		75,000
Total surtax		76,300

"'SEC. 357. *Meaning of Terms Used.*

"'The terms used in this title shall have the same meaning as when used in Title I.

"'SEC. 358. *Administrative Provisions.*

"'All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title, except that the provisions of section 131 of that title shall not be applicable.'

"ART. 358–1. *Return and payment of tax.*—A separate return is required for the surtax imposed under section 351 of Title IA, as amended. Such returns shall be made on Form 1120H. In the case of a personal holding company which is a domestic corporation, the return is required to be made within the time provided by section 53 and in the case of a foreign corporation within the time provided in section 235. The tax shown by the corporation on its return must be paid in the case of a domestic corporation within the time provided in section 56 and in the case of a foreign corporation within the time provided in section 236. The same provisions of law relating to the period of limitations for assessment and collection which govern the taxes imposed by Title I of the Revenue Act of 1936 also apply to the surtax imposed under Title IA, as amended. However, since the surtax imposed under Title IA, as amended, is a distinct and separate tax from those imposed under Title I of the Revenue Act of 1936, the making of a return under Title I of that Act will not start the period of limitations for assessment of the surtax imposed under Title IA, as amended. If the corporation subject to section 351 of Title IA, as amended, fails to file a return the tax may be assessed at any time. If the Commissioner finds a deficiency in respect of the tax imposed by section 351 of Title IA, as amended, he is required to follow the same procedure which applies to deficiencies in income tax under Title I of the Revenue Act of 1936. The penalties applicable to the income taxes imposed under Title I of the Revenue Act of 1936, as well as the provisions of Title I of that Act relating to interest and additions to the tax, also apply to the surtax imposed by section 351 of Title IA, as amended. The administrative provisions applicable to the surtax imposed by section 351 of Title IA, as amended, are not confined to those contained in Title I of the Revenue Act of 1936 but embrace all administrative provisions of law which have any application to income taxes.

"ART. 358–2. *Determination of tax, assessment, collection.*—The determination, assessment and collection of the tax imposed by section 351 of Title IA, as amended, and the examination of returns and claims in connection therewith, will be made under such procedure as may be prescribed from time to time by the Commissioner.

"'SEC. 359. *Improper Accumulation of Surplus.*

"'For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102.

"'SEC. 360. *Foreign Personal Holding Companies.*

"'For provisions relating to foreign personal holding companies and their shareholders, see Supplement P of Title I.'"

[SEAL] CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

Approved: January 14, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–179; Filed, January 18, 1938; 11:34 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 187]

AN ORDER MODIFYING ORDER NO. 89, AS MODIFIED BY ORDERS NOS. 126, 148 AND 159, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 1, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 1"

The National Bituminous Coal Commission having by its Order No. 89, as modified by Orders Nos. 126, 148 and 159, determined and established the Minimum Prices of Coals of Code Members Produced within District No. 1, as set forth in "Price Schedule No. 1—District No. 1", as supplemented by "Supplements No. 1, No. 2 and No. 3", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District No. 1, established in "Price Schedule No. 1—District No. 1", as supplemented by "Supplements No. 1, No. 2 and No. 3 to Price Schedule No. 1—District No. 1", are hereby further supplemented as set forth in "Supplement No. 4 to Price Schedule No. 1—District No. 1", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 4, shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 1, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 89, as modified by Orders Nos. 126, 148 and 159, and as modified herein and by Supplement

No. 4 to Price Schedule No. 1—District No. 1, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 4 to Price Schedule No. 1—District No. 1 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards; to Code Members within District No. 1; shall cause copies of this Order and said Supplement No. 4 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 1

Supplemental Schedule of Minimum Prices for By-Product, Retort and Water Gas Coals of Code Members Produced in District No. 1 Established Pursuant to the Provisions of the Bituminous Coal Act of 1937.

Effective: January 27, 1938.

Issued: January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

By-Product Prices (All Sizes)—Prices in Cents per net ton of 2,000 Pounds for Shipment into Market Areas as Shown Below

MARKET AREAS (LISTED BELOW)

Index	1–A outside capes	1–A inside capes	1	2	3	4	7	8	9	10	11 and West[1]	12 and 13
A	[2] 220	235	235	235	235	235	235	235	235	235	205	235
B	[2] 220	235	235	235	235	235	235	235	235	235	205	235
C	[2] 220	235	235	235	235	235	235	235	235	235	205	235
C1	[2] 220	235	235	235	235	235	235	235	235	235	205	235
C2	[2] 220	235	235	235	235	235	235	235	235	235	205	235
D	222	[2] 237	237	237	230	220	215	215	225	215	205	215
E	222	[2] 237	237	237	230	220	215	215	225	215	205	215
F	222	[2] 237	237	237	230	220	215	215	225	215	205	215

[1] Includes Areas Nos. 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 99, 100, 104, 105, 106, 107, 108, 109, 110, 111 and 112.
[2] Denotes changes.

NOTE.—The prices in these areas are net F. O. B. mines with no freight rate adjustment to be made.
Exception: Prices for delivery in Philadelphia Harbor, Pennsylvania, shall be 9¢ per net ton higher than shown for Market Area 1–A Inside Capes.

[F. R. Doc. 38–174; Filed, January 18, 1938; 11:21 a. m.]

[Order No. 188]

AN ORDER MODIFYING ORDER NO. 90, AS MODIFIED BY ORDERS NOS. 138, 149, 160 AND 183, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 2, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 5 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 2"

The National Bituminous Coal Commission having by its Order No. 90, as modified by Orders Nos. 138, 149, 160 and 183, determined and established the Minimum Prices of Coals of Code Members produced within District Number Two, as set forth in "Price Schedule Number One—District Number Two", as supplemented by "Supplements Number One, Number Two, Number Three and Number Four", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members produced within District Number Two, established in "Price Schedule Number One—District Number Two", as supplemented by "Supplements Number One, Number Two, Number Three and Number Four to Price Schedule Number One—District Number Two", are hereby further supplemented as set forth in "Supplement Number Five to Price Schedule Number One—District Number Two", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement Number Five, shall be and hereby are determined and established as the Minimum Prices of Coals of Code Members within District Number Two, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 90, as modified by Orders Nos. 138, 149, 160 and 183, and as modified herein and by Supplement Number Five to Price Schedule Number One—District Number Two, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Supplement Number Five to Price Schedule Number One—District Number Two" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards; to Code Members within District Number Two; shall cause copies of this Order and said Supplement Number Three to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By Order of the Commission:

Dated this 17th day of January, 1938.

[SEAL] F. W. MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 5 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 2

Supplemental Schedule of Minimum Prices for By-Product, Retort and Water Gas Coals of Code Members Produced within District No. 2, Established Pursuant to the Provisions of the "Bituminous Coal Act of 1937".

Effective: January 27, 1938.

Issued: January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

By-Product Prices[1]*—Run of Mine Coal (Unless Otherwise Indicated in Price Index)—Price in Cents per Net Ton of 2,000 Pounds for Shipment Into Market Areas as Shown Below*

MARKET AREAS

Index	1–A outside capes	1–A inside capes	1	2	4	6	7	8	9	10	11 and west[1]	12 and 13
A	205	[2] 220	220	220	220	220	220	220	230	220	205	220
B	200	[2] 215	215	215	215	220	215	215	225	215	200	215
C	195	[2] 210	210	210	210	215	210	210	220	210	195	210
D	190	[2] 205	205	205	205	210	205	205	215	205	190	205
E	185	[2] 200	200	200	200	205	200	200	210	200	185	200

[1] Includes: 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 99, 100, 104, 105, 106, 107, 108, 109, 110, 111, 112.
[2] Exception: Prices for deliveries in Philadelphia Harbor, Pa. shall be 9 cents per net ton higher than for Market Area No. 1–A Inside Capes.

BASIS FOR FREIGHT RATE ADJUSTMENT FOR BY-PRODUCT

Designated Base Rate—Pittsburgh District

Rates higher than base.—On shipments destined within the above named Market Areas the minimum f. o. b. mine price may be reduced by an amount in cents per net ton (not in excess of 35¢) sufficient to equalize the actual freight rate with the Pittsburgh District base rate indicated above.

Rates lower than base.—Where the applying freight rate is less than the Pittsburgh District base rate designated above the minimum f. o. b. mine price *shall* be increased by an amount in cents per net ton sufficient to equalize the actual freight rate with such base rate: provided that the amount of such increase may be limited to a maximum of 35¢.

[1] Cancels and supersedes table appearing at 2 F. R. 2933.

[F. R. Doc. 38–175; Filed, January 18, 1938; 11:21 a. m.]

[Order No. 189]

AN ORDER MODIFYING ORDER NO. 91, AS MODIFIED BY ORDERS NOS. 128, 150 AND 161, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 3, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 4, TO PRICE SCHEDULE NO. 1—DISTRICT NO. 3"

The National Bituminous Coal Commission having by its Order No. 91, as modified by Orders Nos. 128, 150 and 161, determined and established the Minimum Prices of Coals of Code Members Produced within District Number Three, as set forth in "Price Schedule No. 1—District Number Three", as supplemented by "Supplements No. 1, No. 2 and No. 3", and having determined that the provisions of Subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75 Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District Number Three, established in "Price Schedule Number One—District Number Three", as supplemented by "Supplements No. 1, No. 2 and No. 3 to Price Schedule Number One—District Number Three", are hereby further supplemented as set forth in "Supplement No. 4 to Price Schedule Number One—District Number Three", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 4, shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District Number Three, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 91, as modified by Orders Nos. 128, 150 and 161, and as modified herein and by Supplement No. 4 to Price Schedule Number One—District Number Three, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Supplement No. 4 to Price Schedule Number One—District Number Three" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards; to Code Members within District Number Three; shall cause copies of this Order and said Supplement No. 4 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. W. MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 3

Supplemental Schedule of Minimum Prices for By-Product, Retort and Water Gas Coals of Code Members Produced within District No. 3, Established Pursuant to the Provisions of the "Bituminous Coal Act of 1937".

Effective January 27, 1938.

Issued: January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

By-Product Prices[1] *(All Sizes)—Prices in Cents per Net Ton of 2,000 Pounds for Shipment Into Market Areas as Shown Below*

MARKET AREAS

Index	1–A outside capes	1–A inside capes	1	2	4	6	7	8	9	10	11 and West[1]	12
A (Sewell)	210	[2] 225	225	225	225	225	225	210	220	210	210	225
D (Low Sulphur)	195	[2] 210	210	210	195	215	191	195	205	195	195	210

[1] Includes: Market Areas 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 99, 100, 104, 105, 106, 107, 108, 109, 110, 111, and 112.
[2] Exception: Prices for deliveries in Philadelphia Harbor, Pa., shall be 9 cents per net ton higher than for Market Area No. 1–A Inside Capes.

NOTE.—The prices in these areas are net, F. O. B. mines with no freight rate adjustments to be made.

[F. R. Doc. 38–176; Filed, January 18, 1938; 11:21 a. m.]

[Order No. 190]

AN ORDER MODIFYING ORDER NO. 95, AS MODIFIED BY ORDERS NOS. 131, 163, AND 179, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 7, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 7"

The National Bituminous Coal Commission having by its Order No. 95, as modified by Orders Nos. 131, 163 and 179, determined and established the Minimum Prices of Coals of Code Members produced within District No. 7, as set forth in "Price Schedule No. 1—District No. 7", and "Supplements Nos. 1, 2 and 3 to Price Schedule No. 1—District No. 7", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Price Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members produced within District No. 7, established in Price Schedule No. 1—District No. 7, and Supplements Nos. 1, 2 and 3 thereto, are hereby further supplemented as set forth in Supplement No. 4 to Price Schedule No. 1—District No. 7, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices as shown in said Supplement No. 4 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 7, and shall be and become effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Orders Nos. 95, 131, 163 and 179, and Price Schedule No. 1—District No. 7, and Supplements Nos. 1, 2 and 3 thereto, except as modified herein and by said Supplement No. 4 to Price Schedule No. 1—District No. 7, shall remain in full force and effect.

[1] Cancels and supersedes table appearing at 2 F. R. 2933.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 4 to Price Schedule No. 1—District No. 7 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 7; shall cause copies of this Order and said Supplement No. 4 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 7

Supplemental Schedule of Minimum Prices for By-Product, Retort and Water Gas Coals of Code Members Produced within District No. 7, Established Pursuant to the Provisions of the "Bituminous Coal Act of 1937".

Effective: January 27, 1938.

Issued: January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

High Volatile Mines By-Product Retort and Water Gas—Prices in Cents per Net Ton of 2,000 Pounds for Shipment Into All Market Areas,[1] Subject to Exceptions Stated Below

Size groups	Price index				
	A	B	C	D	E
17	1 245	1 240	1 235	1 230	1 225
18	1 235	1 230	1 225	1 220	1 215
19	1 225	1 220	1 215	1 210	1 205
20	1 215	1 210	1 205	1 200	1 195

[1] Above Prices on By-Product coal may be reduced 8¢ per net ton for deliveries in Philadelphia Harbor, Pa., of Market Area No. 1A when shipped via Tidewater from Hampton Roads, Va.

EXCEPTIONS

Mines having freight rates applying for shipment into the market areas shown below, which are lower or higher as the case may be than the base rate indicated for such areas, must increase or may reduce the price applicable to the size and grade of coal shipped by an amount equal to such differential but in no case in excess of twenty (20¢) cents per net ton. No absorption is permitted into areas not specifically excepted.

Market Areas 1, 1A, 2, 40, 41, 42.—Use Kanawha, Logan, Kenova-Thacker Base Rate.

Market Areas 11, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 99, 100, 104, 105, 106, 107, 108, 109, 110, 111, 112.—Use (Inner Crescent) Kanawha, Logan, Kenova-Thacker Base Rate.

Market Areas 39, 43.—Use Virginia District (Group 14) Base Rate.

[F. R. Doc. 38-177; Filed, January 18, 1938; 11:22 a. m.]

[Order No. 191]

AN ORDER MODIFYING ORDER NO. 96, AS MODIFIED BY ORDERS NOS. 132, 164 AND 184, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NUMBER EIGHT, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 4 TO PRICE SCHEDULE NUMBER ONE—DISTRICT NUMBER EIGHT"

The National Bituminous Coal Commission having by its Order No. 96, as modified by Orders Nos. 132, 164 and 184, determined and established the Minimum Prices of Coals of Code Members produced within District Number Eight, as set forth in "Price Schedule Number One—District Number Eight", and "Supplement Nos. 1, 2 and 3 to Price Schedule Number One—District Number Eight", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Price Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members produced within District Number Eight, established in Price Schedule Number One—District Number Eight, and Supplements Nos. 1, 2 and 3 thereto, are hereby further supplemented as set forth in Supplement No. 4 to Price Schedule Number One—District Number Eight, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices as shown in said Supplement No. 4 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District Number Eight and shall be and become effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Orders Nos. 96, 132, 164 and 184 and Price Schedule Number One—District Number Eight, and Supplements Nos. 1, 2 and 3 thereto, except as modified herein and by Supplement No. 4 to Price Schedule Number One—District Number Eight, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 4 to Price Schedule Number One—District Number Eight to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District Number Eight; shall cause copies of this Order and said Supplement No. 4 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 8

Supplemental Schedule of Minimum Prices for By-Product, Retort and Water Gas Coals[1] of Code Members Produced in District No. 8 Established Pursuant to the Provisions of the Bituminous Coal Act of 1937.

Effective: January 27, 1938.

Issued: January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

By-Product, Retort and Water Gas (Size Groups 17, 18, 19, 20)—Prices in Cents Per Net Ton of 2000 pounds for shipment into all Market Areas[1], Subject to Exceptions Stated Below

Size groups	Price index				
	A	B	C	D	E
17	1 245	1 240	1 235	1 230	1 225
18	1 235	1 230	1 225	1 220	1 215
19	1 225	1 220	1 215	1 210	1 205
20	1 215	1 210	1 205	1 200	1 195

[1] Above prices on By-Product coal may be reduced 8¢ per net ton for deliveries in Philadelphia Harbor, Pa., of Market Area No. 1A when shipped via Tidewater from Hampton Roads, Va.

[1] Cancels and supersedes matter appearing at 2 F. R. 2934.

[1] Cancels and supersedes matter appearing at 2 F. R. 2935.

EXCEPTIONS

Mines having freight rates applying for shipment into the market areas shown below, which are higher than the base rate indicated for such areas may reduce the price applicable to the size and grade of coal shipped by an amount equal to such differential but in no case in excess of twenty (20¢) cents per net ton. No absorption is permitted into areas not specifically excepted.

Market Areas 1, 1A, 2, 40, 41, 42.—Use Kanawha, Logan, Kenova-Thacker Base Rate, except as follows:

For Market Areas 1, 1A, 2 and 3, Elk River Coal and Lumber Co. may apply the following prices per net ton without freight absorption: Group 17, 232; Group 18, 222; Group 19, 212; Group 20, 197.

Market Areas 11, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 99, 100, 104, 105, 106, 107, 108, 109, 110, 111, 112.—Use (Inner Crescent) Kanawha, Logan, Kenova-Thacker Base Rate.

Market Areas 39, 43.—Use Virginia District (Southern Ry., Group 14) Base Rate.

Market Areas 44, 45, 46, 55, 56, 65.—Use Harlan District Base Rate.

[F. R. Doc. 38-178; Filed, January 18, 1938; 11:22 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. 123]

FIFTEEN PERCENT CASE, 1937

JANUARY 17, 1938.

Notice To All Concerned:

The above-entitled proceeding is assigned for oral argument at 10 o'clock a. m., standard time, Monday, January 31, 1938, at the offices of the Commission, Washington, D. C.

Requests for allotments of time should be made in writing as soon as possible and must reach the Commission not later than January 27.

Written briefs may be filed on or before February 9, 1938, and the proceeding will be submitted for decision as of that date. Reply or answering briefs will not be received.

In view of the short time permitted for the filing of briefs, the Commission will waive its rules of practice requiring that briefs containing more than 40 pages be printed and that briefs contain an abstract of the evidence relied upon. The briefs may therefore be in the nature of written arguments and memoranda of authorities. The Commission urges parties whose interests are common to cooperate in presenting their contentions in a single argument, and by a single brief, wherever that is possible. The evidence is being currently abstracted by the Commission, and a copy of this abstract is supplied to each member of the Commission.

If the applicants file briefs, they shall serve copies on all protestants. Counsel for protestants who file briefs should send 20 copies to this Commission and 25 copies to R. V. Fletcher, Transportation Building, Washington, D. C., of counsel for the applicants. Counsel for protestants who desire copies of briefs filed on behalf of any other protestants should make a request directly on counsel for the latter, as soon as possible, and counsel who receive such requests in good time will be expected to supply copies to those who so apply.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-180; Filed, January 18, 1938; 12:13 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of January A. D., 1938.

[File No. 31-51]

IN THE MATTER OF THE APPLICATION OF BURLINGTON RAILWAY AND LIGHT COMPANY, AMERICAN UTILITIES CORPORATION, DENMARK LIGHT AND TELEPHONE CORPORATION, TRI STATES POWER CORPORATION, FRANK H. WARREN RECEIVER FOR VAN BUREN LIGHT AND POWER COMPANY, THE BURLINGTON RAILWAY & LIGHT COMPANY, BURLINGTON IMPROVEMENT COMPANY, THE BURLINGTON IMPROVEMENT COMPANY, PEOPLES GAS AND ELECTRIC COMPANY, PEOPLES GAS AND IMPROVEMENT COMPANY, THE PEOPLES GAS AND ELECTRIC COMPANY OF AMERICA, CENTRAL WEST UTILITIES COMPANY, WESTERN SECURITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Burlington Railway and Light Company, American Utilities Corporation, Denmark Light and Telephone Corporation, Tri States Power Corporation, Frank H. Warren, Receiver for Van Buren Light and Power Company, The Burlington Railway & Light Company, Burlington Improvement Company, The Burlington Improvement Company, Peoples Gas and Electric Company, Peoples Gas and Improvement Company, The Peoples Gas and Electric Company of America, Central West Utilities Company and Western Securities Company asking for exemption from the provisions of the Act;

It is ordered, That a hearing on such matter be held on February 9, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 4, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-185; Filed, January 18, 1938; 1:00 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of January, A. D. 1938.

[File No. 31-385]

IN THE MATTER OF THE APPLICATION OF GODFREY L. CABOT, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Godfrey L. Cabot, Inc., asking for exemption from the provisions of the Act;

It is ordered, That a hearing on such matter be held on February 15, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the

room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-184; Filed, January 18, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18 day of January, A. D. 1938.

[File No. 30-31]

IN THE MATTER OF CENTRAL NEW HAMPSHIRE POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Central New Hampshire Power Company, a registered holding company, requesting an order that such applicant has ceased to be a holding company.

It is ordered, That a hearing on such matter be held on February 3, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 29, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-181; Filed, January 18, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of January, A. D. 1938.

[File No. 31-112]

IN THE MATTER OF THE APPLICATION OF THE PERMIAN OIL & GAS COMPANY, THE HOME UTILITIES COMPANY, INTERSTATE UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (4) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by The Permian Oil & Gas Company, The Home Utilities Company, and Interstate Utilities Company for an order declaring them not to be gas-utility companies as that term is defined in Section 2 (a) (4) of the Act;

It is ordered, That a hearing on such matter be held on February 3, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 29, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-183; Filed, January 18, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of January, A. D. 1938.

[File No. 31-403]

IN THE MATTER OF THE APPLICATION OF UTILITIES HOLDING CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Utilities Holding Corporation asking for exemption from the provisions of the Act;

It is ordered, That a hearing on such matter be held on February 23, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-182; Filed, January 18, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of January, A. D. 1938.

[File Nos. 46-88 and 32-78; 46-89 and 54-2]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY AND WASHINGTON AND SUBURBAN COMPANIES

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Washington Gas Light Company, a subsidiary company of Washington and Suburban Companies, a registered holding company, for approval of the acquisition by applicant of all of the outstanding securities of two of applicant's associate companies, Washington Suburban Gas Company and Alexandria Gas Company (except as to two notes of Alexandria Gas Company aggregating $518,269), from said Washington and Suburban Companies, in consideration of the issuance by applicant of 8,100 shares of applicant's $4.50 Cumulative Convertible Preferred Stock.

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by said Washington Gas Light Company for exemption from the provisions of section 6 (a) of said Act of the issue and sale by applicant of 8,100 shares of its $4.50 Cumulative Convertible Preferred Stock, without par value and 24,300 shares of its Common Stock, without par value (said common stock to be issued against exercise of conversion rights), it being stated by applicant that such issue and sale will not be effected unless authorized by the Public Utilities Commission of the District of Columbia, where applicant is organized and does business and that such stock will be issued as the consideration to be paid for all the outstanding securities of two associate public-utility companies, Alexandria Gas Company and Washington Suburban Gas Company (except as to two notes of Alexandria Gas Company aggregating $518,269).

An application pursuant to section 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Washington and Suburban Companies, a registered holding company, for approval of the acquisition by it of 8,100 shares of $4.50 Cumulative Convertible Preferred Stock of Washington Gas Light Company.

An application pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by said Washington and Suburban Companies for approval of a plan for the divestment of control of its subsidiary public-utility and holding companies, involving the sale by applicant of its holdings of 327,588 shares of the Common Stock of Washington Gas Light Company, the sale of all of the outstanding securities of Washington and Suburban Gas Company and Alexandria Gas Company to said Washington Gas Light Company (except as to two notes of Alexandria Gas Company aggregating $518,269), and the sale either of applicant's holdings in eleven intermediate holding companies which in turn control New York and Richmond Gas Company, or of the holdings of such intermediate holding companies in said New York and Richmond Gas Company.

It is ordered, That a hearing on such matters be held on February 3, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 29, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-186; Filed, January 18, 1938; 1:00 p. m.]

Thursday, January 20, 1938 *No. 14*

PRESIDENT OF THE UNITED STATES.

NICOLET NATIONAL FOREST—WISCONSIN

By the President of the United States of America

A PROCLAMATION

WHEREAS certain lands within the exterior boundaries of the Nicolet National Forest, in the State of Wisconsin, have been acquired by the United States through the Farm Security Administration or its predecessors under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that all of such lands are suitable for national-forest purposes and that it would be in the public interest to reserve such lands as part of the said Nicolet National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), the said National Industrial Recovery Act, and the said Emergency Relief Appropriation Act of 1935, do proclaim that all lands which have been acquired by the United States through the Farm Security Administration or its predecessors within the exterior boundaries of the said Nicolet National Forest under the authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935, are hereby included in and reserved as part of the said Nicolet National Forest.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 17" day of January in the year of our Lord nineteen hundred and thirty-

[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

[No. 2269]

[F. R. Doc. 38-191; Filed, January 19, 1938; 12:04 p. m.]

HURON NATIONAL FOREST—MICHIGAN

By the President of the United States of America

A PROCLAMATION

WHEREAS certain lands within the exterior boundaries of the Huron National Forest, in the State of Michigan, have been acquired by the United States through the Farm Security Administration or its predecessors under authority of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears all of such lands are suitable for national-forest purposes and that it would be in the public interest to reserve such lands as part of the said Huron National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), and the said Emergency Relief Appropriation Act of 1935, do proclaim that all lands which have been acquired by the United States through the Farm Security Administration or its predecessors within the exterior boundaries of the said Huron National Forest under authority of the said Emergency Relief Appropriation Act of 1935 are hereby included in and reserved as part of the said Huron National Forest.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 17" day of January in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2270]

[F. R. Doc. 38-192; Filed, January 19, 1938; 12:04 p. m.]

CHEQUAMEGON NATIONAL FOREST—WISCONSIN

By the President of the United States of America

A PROCLAMATION

WHEREAS certain lands within the exterior boundaries of the Chequamegon National Forest, in the State of Wisconsin, have been acquired by the United States through the Farm Security Administration or its predecessors under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that all such lands are suitable for national-forest purposes and that it would be in the public interest to reserve such lands as part of the said Chequamegon National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), the said National Industrial Recovery Act, and the said Emergency Relief Appropriation Act of 1935, do proclaim that all lands which have been acquired by the United States through the Farm Security Administration or its predecessors within the external boundaries of the said Chequamegon National Forest under authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935 are hereby included in and reserved as part of the Chequamegon National Forest.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 17" day of January in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2271]

[F. R. Doc. 38-193; Filed, January 19, 1938; 12:04 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

NOTICE OF RE-OPENING OF HEARING HELD ON DECEMBER 8, 1937, AND NOTICE OF HEARING WITH RESPECT TO AMENDMENT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN ST. LOUIS, MISSOURI, MARKETING AREA

Whereas pursuant to Public Act No. 10, 73rd Congress, as amended and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture held a public hearing at St. Louis, Missouri, on the 8th day of December 1937, in connection with a proposed marketing agreement and a proposed order regulating the handling of milk in the St. Louis, Missouri, Marketing Area, which public hearing was adjourned by the presiding officer subject to being re-opened by the Secretary; and

Whereas the Secretary has determined to re-open said hearing for the purpose of receiving additional evidence as to general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain; and

Whereas an amendment has been proposed to the aforementioned marketing agreement and order, which amendment would amend article I, section 1, subsection 2, by including in definition of "St. Louis Marketing Area" the cities of Kirkwood and Valley Park, Missouri, and the territory within the townships of Normandy, Clayton, and Jefferson, in St. Louis County, Missouri;

Now, therefore, notice is hereby given that the aforesaid hearing be re-opened on January 27, 1938, at 9:30 a. m., in the Roof Solarium, Chase Hotel, Lindell and Kingshighway, St. Louis, Missouri, for the purpose of receiving additional evidence as to general economic conditions in the marketing area and as to the specific provisions which a marketing agreement and order should contain, and, in addition, evidence concerning the proposed amendment set forth above.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area, and it is hereby determined that the period of notice of the re-opening of said hearing hereby given is reasonable under the circumstances.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Office of the Solicitor, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Dated: January 18, 1938.

[F. R. Doc. 38-188; Filed, January 19,1938; 9:25 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Air Commerce.

AMENDMENT NO. 2 TO THE CIVIL AIR REGULATIONS

Pursuant to the authority contained in the Air Commerce Act of 1926 (44 Stat. 568) as amended by the Act of February 28, 1929 (45 Stat. 1404), the Act of June 19, 1934 (48 Stat. 1113), the Act of June 19, 1934 (48 Stat. 1116), and Sections 11 and 12 of the Act of June 12, 1934 (48 Stat. 933, 937), Paragraph 40.40 of the Civil Air Regulations approved to take effect November 1, 1937, is amended to read as follows:

"40.40. *Provision for issuance.*—An airline competency certificate will be issued by the Secretary to an applicant after approval of application made and proofs submitted in connection therewith and if, upon inspection and examination, said applicant is found by the Secretary to meet the general requirements prescribed in CAR 40.1 and the appropriate particular minimum requirements prescribed in CAR 40.2 or 40.3 and is, therefore rated as competent to engage in interstate air commerce for the carriage of mail, goods, or passengers, in scheduled operation as specified in the certificate or appended competency letters (provided for in CAR 40.5). Airlines conducting authorized operations shall have until and including March 31, 1938, to apply for an airline certificate as provided for in CAR 40.41. In the interim and until the issuance or denial of an airline certificate, operations shall be conducted under authority heretofore granted or subsequently amended, unless such authority is sooner suspended or revoked. Any airline which heretofore has proven its competency for safe operation shall be entitled presumptively to the airline certificate so applied for."

Approved, to take effect January 20, 1938

[SEAL]

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-190; Filed, January 19, 1938; 9:50 a. m.]

COMMODITY CREDIT CORPORATION.

[1937-38 C. C. C. Corn Form 1 [1]]

INSTRUCTIONS CONCERNING THE MAKING OF CORN LOANS BY COMMODITY CREDIT CORPORATION

Commodity Credit Corporation, upon the request of the Secretary of Agriculture, has obtained a commitment from the Reconstruction Finance Corporation for the purpose of enabling the Commodity Credit Corporation to make loans to, and/or purchase paper of, producers of corn, secured by pledge or mortgage of corn stored and sealed on the farm. These instructions state the requirements with reference to making such loans and the purchase of such paper.

1. *Definitions.*—As used in these instructions and in the note and loan agreement relating thereto, unless the context requires otherwise, the following terms will be construed to mean—

(a) *Eligible producer.*—Any person, partnership, association, or corporation producing or acquiring corn, either as landowner, landlord, or tenant, who has received or will receive a grant payment in connection with his participation in the 1937 Agricultural Conservation Program.

(b) *Eligible corn.*—Merchantable field corn, husked and in the ear, containing not more than 20½ percent moisture [2] on the basis of a sample taken from each crib of corn offered to be sealed (each sample to be representative of the entire quantity of corn in the crib from which the sample is obtained) which was produced in 1937 by an "eligible producer" on a farm in the areas hereinafter named.

(1) the beneficial title to which is and always has been in the eligible producer; or

(2) purchased by one eligible producer from another eligible producer who has executed the certificate of the seller which is a part of the 1937-38 CCC Corn Form A.

(c) *Eligible crib.*—

Foundation.—Substantial enough to bear the load of corn and crib without the possibility of its settling to an extent which might cause the crib to warp and break open. Floor.—Strongly constructed and high enough above the ground level to facilitate ventilation and afford protection against damage to the stored corn from moisture and rodents.

Walls.—Slatted, cribbed, or ventilated on both sides beginning at the floor line. Width.—Narrow enough to afford ample cross ventilation to dry out the corn under the prevailing climatic conditions of the locality where the crib is located. Roof.—Tight and substantial enough to protect the corn against prevalent weather conditions for a period of 2 years. Structure.—Studs, joists, braces, and cross ties of sufficient dimension and frequency to withstand any ordinary breaking pressures. Sealing structure.—The crib must be completely and securely enclosed, and sealed in such a manner as to require a forceful breaking to make entry into the crib.

(d) *Lending agency.*—Any bank, cooperative marketing association, or other corporation, partnership, or person lending money upon the 1937-38 CCC Corn Form A which has executed the Contract to Purchase on 1937-38 CCC Corn Form D. (A loan agency of the Reconstruction Finance Corporation is not included within this definition.)

(e) *Eligible paper.*—Notes of producers with loan agreements upon 1937-38 CCC Corn Form A, or any form hereafter approved by Commodity Credit Corporation executed on a date subsequent to December 1, 1937, and prior to April 1, 1938, together with supporting documents herein specified. Notes tendered for purchase by lending agencies in the State of Indiana, wherein the original payee is *not* a bank, trust company, building and loan association, rural loan and savings association, guaranty loan and savings association, or insurance company or association, to be acceptable must have affixed thereto stamps evidencing the payment of taxes as provided in Chapter 81, Acts Indiana General Assembly, 1933, as amended.

2. *Areas in which loans will be made.*—Loans will be made pursuant to these instructions in the following counties of the following States:

Illinois.—All counties.

Indiana.—All counties except Brown, Crawford, Jefferson, Ohio, Perry, Scott, Switzerland.

Iowa.—All counties.

Kansas.—Anderson, Atchison, Brown, Cheyenne, Clay, Cloud, Coffey, Decatur, Doniphan, Douglas, Franklin, Geary, Graham, Jackson, Jefferson, Jewell, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Morris, Morton, Nemaha, Osage, Phillips, Pottawatomie, Rawlins, Republic, Riley, Shawnee, Sherman, Smith, Wabaunsee, Washington, Wyandotte.

Minnesota.—Anoka, Big Stone, Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Grant, Hennepin, Houston, Jackson, Kandiyohi, Lac Qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Pope, Redwood, Renville, Rice, Rook, Scott, Sherburne, Sibley, Steele, Stevens, Swift, Traverse, Wabasha, Waseca, Washington, Watonwan, Winona, Wright, Yellow Medicine.

Missouri.—Adair, Andrew, Atchison, Audrain, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Car-

[1] For use only in eligible States having Farm Storage Acts.

[2] Moisture test for determining moisture content are to be made by electric testing machines in State Agricultural Conservation Offices in accordance with methods prescribed for this purpose in the Official Grain Standards Manual.

roll, Cass, Cedar, Chariton, Clark, Clay, Clinton, Cole, Cooper, Dade, Daviess, De Kalb, Franklin, Gasconade, Gentry, Grundry, Harrison, Henry, Holt, Howard, Jackson, Jasper, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Moniteau, Monroe, Montgomery, Morgan, Nodaway, Pettis, Pike, Platte, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, St. Louis, Saline, Schuyler, Scotland, Shelby, Sullivan, Vernon, Warren, Worth.

Nebraska.—Adams, Antelope, Boone, Boyd, Buffalo, Burt, Butler, Cass, Cedar, Chase, Clay, Colfax, Cuming, Custer, Dakota, Dawson, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Howard, Jefferson, Johnson, Kearney, Keith, Knox, Lancaster, Lincoln, Madison, Merrick, Nance, Nemaha, Nuckells, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Saline, Sarpy, Saunders, Seward, Sherman, Stanton, Thayer, Thurston, Valley, Washington, Wayne, Webster, Wheeler, York.

Ohio.—Adams, Allen, Ashland, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Darke, Defiance, Delaware, Erie, Fairfield, Fayette, Franklin, Fulton, Greene, Hamilton, Hancock, Hardin, Henry, Highland, Holmes, Huron, Jackson, Knox, Logan, Lorain, Lucas, Madison, Marion, Mercer, Miami, Montgomery, Morrow, Muskingum, Ottawa, Paulding, Perry, Pickaway, Pike, Preble, Putnam, Richland, Ross, Sandusky, Scioto, Seneca, Shelby, Union, Van Wert, Warren, Williams, Wood, Wyandot.

South Dakota.—Bon Homme, Brookings, Charles Mix, Clay, Davison, Deuel, Douglas, Grant, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Roberts, Sanborn, Turner, Union, Yankton.

Wisconsin.—Columbia, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Kenosha, Lafayette, Racine, Rock, Sauk, Walworth, Washington, Winnebago.

3. *Documents required.*—The following documents must be delivered in connection with every loan made or purchased by the Commodity Credit Corporation. The forms are identified and no reprints or substitutes may be used.

(*a*) Note of producer (1937–38 CCC Corn Form A).

(*b*) Loan Agreement (1937–38 CCC Corn Form A).

(*c*) Original and duplicate producer's Letter of Transmittal (1937–38 CCC Corn Form B), or lending agency's Letter of Transmittal (1937–38 CCC Corn Form C), whichever is appropriate.

(*d*) Farm Warehouse Certificates issued subsequent to December 1, 1937, under authority of the farm storage warehouse laws of States hereinbefore named.

(*e*) Insurance Certificate in form printed at the end of these instructions or in form containing identical terms and conditions, except that hail coverage may be excluded.

4. *Source and preparation of documents.*—With the exception of the farm warehouse certificates, which will be issued by authorized State sealers, forms may be obtained from any County Agricultural Conservation Committee, in the counties listed in Section 2 hereof, or any Loan Agency of the Reconstruction Finance Corporation listed in Section 16 hereof.

All blanks in 1937–38 CCC Corn Form A must be filled in with ink, typewriter, or indelible pencil and no documents containing additions, alterations, or erasures, will be accepted by the Commodity Credit Corporation. The white copy marked "Original" will be executed and the colored copy marked "Duplicate" will be retained by the producer.

The Corn Sealer's Work Sheet (1937–38 CCC Corn Form K) and the Moisture Test Form (1937–38 CCC Corn Form H) will be retained by the County Agricultural Conservation Committee. To be acceptable to Commodity Credit Corporation, the certificate contained in Section 15 of the note and loan agreement must be executed by the County Agricultural Conservation Committee.

5. *Farm warehouse certificates.*—These certificates must be in form approved by the State Warehouse Supervising Authority and the Commodity Credit Corporation. They must be issued by a sealer, or inspector, who is properly authorized by the State Warehouse Supervising Authority.

Each certificate must designate as a delivery point, a railroad loading station convenient to the producer or state that delivery will be made of the corn at a grain elevator or other point designated by the holder of the certificate, which is reasonably convenient to the producer for delivery purposes. All farm warehouse certificates and duplicates thereof must be assigned by all the parties to whom issued with a legend in substantially the following form:

"For value received the undersigned hereby endorses, assigns, transfers, and delivers to the holder of the original of this certificate the corn therein described as collateral security to any indebtedness due said holder."

A duplicate copy of the certificate after assignment must be filed for record with the respective local or county officials as follows:

In all of the States listed in Section 2 hereof, the original certificate and duplicate marked "Duplicate Certificate, No Value," will be issued to the producer by the Sealer or Inspector, except in Minnesota and Nebraska, where they are issued by the Railroad and Warehouse Commission and the State Railway Commission, respectively.

To be acceptable to Commodity Credit Corporation, the original certificate must have stamped or printed thereon the receipt of the proper county official, stating that the duplicate thereof has been filed of record, as authorized by law, in the county in which the corn is stored.

In Kansas, Minnesota, South Dakota, and Wisconsin, the duplicate is to be filed with the Register of Deeds; in Iowa, Indiana, and Ohio, with the County Recorder; in Illinois and Missouri, with the Recorder of Deeds; and in Nebraska, with the County Clerk.

6. *Amount.*—Loans will be made at the rate of 50 cents per bushel, a bushel being determined by using not less than 2½ cubic feet of ear corn testing 14 percent in moisture content. A deduction will be made for moisture content in excess of 14 percent in accordance with the following table:

Moisture content:	Deduction
14% to 14½%	None.
14½% to 15½%	2%.
15½% to 16½%	4%.
16½% to 17½%	6%.
17½% to 18½%	8%.
18½% to 19½%	10%.
19½% to 20½%	12%.
20½% and above	No loan.

7. *Inspection and sealing of corn.*—Any eligible producer with eligible corn desiring to obtain a loan should first "level off" the corn contained in the crib(s) which he is offering as collateral and then completely enclose such crib(s). Completing this, he should arrange with the County Warehouse Board or Authorized State Sealer or Inspector for an inspection of his corn and crib(s). An inspection of the corn crib(s) and the corn contained therein will then be made. It shall be the sealer's duty to secure representative samples of corn from each crib to be sealed, as well as to record on the Corn Sealer's Work Sheet (1937–38 CCC Corn Form K) pertinent information regarding the crib structure and crib measurements. One sample of corn from each crib to be placed under seal shall be submitted by the sealer to the County Agricultural Conservation Committee for the county in which the corn is stored for moisture-test purposes. The moisture content will be determined by the State Agricultural Conservation Committee through the use of Tag Heppenstall electric moisture meters, and the results of the tests will be submitted on the Moisture Test Form (1937–38 CCC Corn Form H) to the county committee submitting the sample.

The sealer, while on the premises, will complete the measurements, secure the representative sample(s) of corn, and seal the crib(s) of corn.

8. *Certificate of seller.*—The Certificate of Seller, as contained in 1937–38 CCC Corn Form A, must be executed by the seller of the corn in connection with all loans in which any part of the corn pledged was not grown by the producer but was purchased from another producer as outlined in part (2) of subsection (b) of Section 1 hereof.

9. *Liens.*—The corn collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in 1937–38 CCC Corn Form A. The names of the holders of all existing liens on the pledged corn, such as landlord, laborers, or mortgagees, must be listed in the space provided therefor in Section 11 of the loan agreement.

Producers should read carefully all real estate or other mortgages previously given by them in order to be sure that crops are not covered thereby. A misrepresentation as to prior liens, or otherwise, will render the producer personally liable for the amount of the loan, plus insurance and other charges under the terms of the loan agreement. Any misrepresentation of fact made in the execution of the note and loan agreement and related forms will render the person or persons parties to the misrepresentation, subject to the provisions of th United States Criminal Code and section 16 (a) of the Reconstruction Finance Corporation Act.

10. *Landlord and tenant.*—Where the borrower is a tenant farmer, the expiration date of the lease must be given in Section 3 (c) of the loan agreement. If the expiration date of the lease is prior to sixty (60) days after the maturity date of the note, the landlord must execute the consent for storage agreement, Section 13 of 1937–38 CCC Corn Form A. The consent agreements must also be signed by any other party or parties entitled to possession.

11. *Insurance.*—All producers who obtain loans are required, at their own expense, to keep the corn collateral insured, so long as the loan is unpaid, against loss by fire, lightning, cyclone, tornado, windstorm, and with or without hail coverage, for not less than the amount of the loan with accrued interest to maturity. Producers must also obtain at their own expense any insurance coverage desired with respect to their equity in the pledged corn.

To comply with this requirement there must be attached to each producer's note a certificate in the form printed at the end of these instructions, issued by a company or association licensed to do business in the State in which the corn is stored. The insurance coverage may be obtained through the customary channels and the form of certificate required will be furnished by the agent writing same. Certificates of insurance issued by official State sealers or inspectors will not be accepted by the Commodity Credit Corporation.

Commodity Credit Corporation has obtained a blanket policy to protect it against loss on account of theft, conversion, and certain other risks not covered by the primary insurance carried by producers. The cost of this coverage is one and one-half (1½) cents per $100 per month on the daily average balance of loans outstanding, and this amount will be added as a charge against the corn while the note is held by Commodity Credit Corporation as provided under the terms of the loan agreement.

Banks and other lending agencies desirous of insurance coverage in addition to the primary insurance carried by the producer, until the notes are purchased by Commodity Credit Corporation, must obtain such coverage at their own expense. Such coverage may be obtained through the customary channels or under the blanket policy carried by the Commodity Credit Corporation.

Banks and other lending agencies desiring coverage under the Corporation's blanket policy should write Commodity Credit Corporation, Washington, D. C., and appropriate instructions will be issued, together with the necessary forms for reporting thereunder.

12. *Liability of producer.*—If the producer has made no misstatement or misrepresentation and complies with the terms of the loan agreement he will not be personally liable for any deficiency upon the sale of the pledged corn. The note and loan agreement governs the liability of the producer and should be read carefully.

13. *Direct loans.*—It is contemplated that producers will ordinarily obtain loans from a local bank or other lending agency which, in turn, may sell the paper evidencing such loans to Commodity Credit Corporation. Arrangements, however, have been made for making direct loans to producers. In such cases the note must be made payable to Commodity Credit Corporation and must be delivered to a Loan Agency of the Reconstruction Finance Corporation shown in Section 16 hereof. Paper for direct loans tendered by mail, in person, or otherwise, must be accompanied by a Producer's Letter of Transmittal on 1937–38 CCC Corn Form B, in duplicate, and must be delivered or postmarked prior to April 1, 1938. The triplicate copy of this letter is to be retained by the producer as a memorandum. Upon delivery of all necessary documents properly executed and upon approval of the loan by the Manager of the Loan Agency, payment will be made pursuant to the letter.

14. *Time and manner of loans and purchases.*—Commodity Credit Corporation will purchase eligible paper, as defined above, only from lending agencies which have executed and delivered to the Loan Agency to which notes are submitted Contract to Purchase 1937–38 CCC Corn Form D, obtainable only from Loan Agencies of the Reconstruction Finance Corporation. Under the terms of this contract, lending agencies are required to report monthly on 1937–38 CCC Corn Form E all payments or collections on producer's notes held by them, and to remit promptly to Commodity Credit Corporation at Washington, D. C., an amount equivalent to one and one-half percent interest per annum on the principal amount collected from the date of the note to the date of payment.

15. *Lending agency.*—The lending agency may endorse the notes of producers to Commodity Credit Corporation without recourse as provided in 1937–38 CCC Corn Form A, provided, however, that the lending agency has executed 1937–38 CCC Corn Form D in accordance with instructions given in subsection (d) of Section 1 hereof.

No producer's notes are to be endorsed to Reconstruction Finance Corporation. A lending agency desiring to tender producer's notes in Commodity Credit Corporation should execute the last form of endorsement printed on the reverse of such notes. Care should be exercised by the lending agency to determine the authenticity of the signatures to the note and loan agreement and to be assured that the warehouse certificates are genuine and represent merchantable corn in existence.

16. *Reconstruction Finance Corporation loan agencies.*—The location of the Loan Agencies of the Reconstruction Finance Corporation previously referred to herein are shown below:

Chicago, Ill.; Minneapolis, Minn.; Omaha, Nebr.; Cleveland, Ohio; Kansas City, Mo.; St. Louis, Mo.

17. *Federal Reserve banks.*—The Federal Reserve banks and branches thereof will act as fiscal agents of the Reconstruction Finance Corporation in making disbursements on eligible paper approved by the Loan Agency of the Reconstruction Finance Corporation in that district. Such notes, together with the farm warehouse certificates securing the same, will be held by the Federal Reserve banks or branches thereof as security for the loans made by the Reconstruction Finance Corporation to Commodity Credit Corporation.

18. *Release of collateral held by Commodity Credit Corporation.*—A producer may obtain the release of the collateral pledged upon his request in writing and payment of the amount due thereon with accrued interest and proper charges. If the release of all collateral is desired the producer's note and loan agreement, with the farm warehouse certificate or certificates securing same, will be transmitted to an approved bank with instructions to deliver the note and the farm warehouse certificate, or certificates, to the producer, or his agent, upon the payment of the amount due thereon with accrued interest and proper charges. Where

such paper is sent to an approved bank for collection instructions will be given to return such paper to the sender if payment and release are not effected within fifteen days. All charges and expenses of the collecting bank are to be paid by the producer.

Partial releases of collateral will be made on the same basis as stated above, except that the certificate or certificates desired to be released must cover separate cribs and will be sent to an approved bank for delivery to the producer, or his agent, upon the payment of the amount loaned thereon together with accrued interest and proper charges. The producer's note will be credited by the Commodity Credit Corporation with the amount of such payment when received. Notwithstanding the privilege of partial release, it is suggested that producers borrowing upon more than one crib of corn, and desiring to obtain the release of a crib, or cribs, before the entire loan is repaid, execute separate notes and loan agreements for crib, or cribs, to be released before the entire loan is repaid.

If the producer's note was made payable directly to Commodity Credit Corporation and he desires to obtain the release of collateral upon payment as aforesaid, he should notify the Federal Reserve bank or branch thereof serving the district in which the corn is sealed as above provided. If his note was made payable to payee other than Commodity Credit Corporation the producer should notify the payee named therein.

Certificate No. ------ Amount, $------
Premium, $------
Term ----------

CERTIFICATE OF INSURANCE

CORN IN STORAGE

Agency at ----------

This certifies that in consideration of ---------- dollars premium (subject to all the terms and conditions of Open Policy No. ------ issued by this company or association) ---------- does insure ----------
(Company or association)
against all direct loss or damage by fire, lightning, cyclone, tornado, windstorm, and hail[1] in the sum of ---------- dollars on ------ bushels of corn as specified in Warehouse Certificate No. ------ stored and sealed in cribs and/or buildings on the ----------quarter of section ---------- township ----------, range ----------, County of ----------, State of ---------- for the term of 1 year from the ------ day of ---------- 19--, at 12 o'clock noon, to the ------ day of ---------- 19--, at 12 o'clock noon.

Any loss which may be ascertained and proven to be due the insured under this contract shall be payable to the insured and/or holder of note and grain storage certificate as their respective interests may appear.

SPECIAL (CORN) ENDORSEMENT PROVIDING THE BASIS OF ADJUSTMENT IN CASE OF LOSS ON CORN PLEDGED UNDER LOAN PLANS OF THE COMMODITY CREDIT CORPORATION

All or any part of the corn described in this policy and/or certificate having been pledged under the CCC Corn Loan Form A of the Commodity Credit Corporation as security for loan granted by said Commodity Credit Corporation or Lending Agencies, it is a condition of this insurance that in event of loss or damage to any of such corn so pledged the basis of adjustment shall be the actual cash value at the time and place of the loss, as set out elsewhere in the printed conditions of this policy or certificate, except that if such actual cash value is less than 50 cents per bushel, plus accrued interest at 4 percent per annum, then such actual cash value shall be disregarded and the value of any corn so pledged shall be deemed to be 50 cents per bushel plus interest.

The provisions of this endorsement shall apply and cover until note has been paid and/or released and/or corn sold.

This special adjustment clause does not apply to any corn not pledged in the manner hereinbefore described.

In witness whereof this company has executed and attested these presents, but this certificate shall not be valid until countersigned by a duly authorized agent of this company or association.

---------- ----------
Secretary President

Countersigned at ----------
this ------ day of ---------- 19--
---------- (Agent)

M. R. BUCK,
Assistant Secretary.

[F. R. Doc. 38-187; Filed, January 18, 1938; 2:31 p. m.]

[1] Optional.

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3299]

IN THE MATTER OF H. C. BRILL COMPANY, INC., A CORPORATION

COMPLAINT

The Federal Trade Commission, having reason to believe that the H. C. Brill Company, Inc., hereinafter called Respondent, since June 19, 1936, has been and is now violating the provisions of Section 2 (a) of the Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, (Public No. 212, the Clayton Act), as amended by Section 1 of the Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936, (Public No. 692, the Robinson-Patman Act), hereby issues this its complaint against respondent and states its charges with respect thereto as follows, to wit:

PARAGRAPH 1. Respondent is a corporation organized and existing under the laws of the State of New Jersey and has its principal office and place of business at 101–111 N. J. Railroad Avenue in the city of Newark, New Jersey.

PAR. 2. For many years prior hereto and since June 19, 1936, respondent has been and is now engaged in the business of manufacturing, selling and distributing certain bakers' supplies such as pie fillings, icings and flavoring preparations and also liquid and powder preparations for the manufacture of home made ice cream. The preparation for making ice cream is a commodity manufactured, sold and distributed under the trade name E–ZEE FREEZ. In the course and conduct of its said business the respondent has been and is now manufacturing said commodity at its place of business in the State of New Jersey and has been and is now selling, shipping, and distributing said commodity in commerce from its said place of business in the State of New Jersey to various purchasers of said commodity located in the several states of the United States and in the District of Columbia. For many years prior hereto and since June 19, 1936, there has been and is now between respondent and purchasers of said commodity a course of trade and commerce in said commodity in and between the State of New Jersey and the several other states of the United States and the District of Columbia. The said respondent in the course and conduct of its business as aforesaid has been and is now in direct active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. Since June 19, 1936, in the course and conduct of its business described in Paragraph Two hereof and while engaged in trade and commerce between the State of New Jersey and the other states of the United States and the District of Columbia as therein described, the respondent has been and is now, in the course of such commerce, discriminating in price between different purchasers of said commodity of like grade and quality sold and shipped in commerce, as aforesaid, by respondent to said purchasers and by them purchased from respondent in commerce for resale within the several states of the United States and the District of Columbia, in that the respondent has been and is now allowing to some of said purchasers a larger rebate from the prices at which said commodity was and is sold to them by respondent than the rebate, if any, which respondent has been and is now allowing to other purchasers of said commodity of like grade and quality purchased from respondent at the same prices.

PAR. 4. Shortly after the effective date of the Robinson-Patman Act, June 19, 1936, a representative of The Great Atlantic & Pacific Tea Company presented a so-called quantity discount agreement to the respondent herein, which agreement was executed by respondent in words and figures as follows:

QUANTITY DISCOUNT AGREEMENT

Purchaser: The Great Atlantic & Pacific Tea Company.
Address: Graybar Building, New York City.
No. of Stores: 14,938.

Manufacturer: H. C. Brill Company, Inc.
Address: Newark, N. J.
Commodity: E-ZEE FREEZ.

The purchaser has obligated itself to buy from the manufacturer a large quantity of merchandise and, in view of the purchases in large quantity, present and prospective, the manufacturer agrees to allow the following quantity discount on amounts bought by the purchaser, between the period commencing on—

June 20, 1936, and expiring on June 19, 1937:
$5,000 to $10,000—1%.
10,000 to 15,000—2%.
15,000 to 20,000—3%.
20,000 to 30,000—4%.
30,000 to over —5%.

Payable at expiration of agreement.

The manufacturer avows its willingness to make the same agreement as is here made with any other purchaser similarly situated and on proportionately equal terms.

This agreement may be cancelled by either the purchaser or the manufacturer upon notice.

H. C. BRILL COMPANY, INC.
Manufacturer.
By HARRY C. BRILL, *Pres.*
THE GREAT ATLANTIC & PACIFIC TEA CO.,
Purchaser.
By G. F. MORROW.

PAR. 5. The respondent sold and shipped from its said plant to The Great Atlantic & Pacific Tea Company's various warehouses between June 20, 1936 and June 19, 1937 said commodity as follows:

Purchases Various A & P Units

	June 20, 1936 to Dec. 31, 1936	Jan. 1, 1937 to June 19, 1937
Altoona, Pa.	$355.71	$126.90
Albany, N. Y.	81.60	
Atlanta, Ga.		729.00
Baltimore, Md.	244.80	545.09
Bronx, N. Y.	458.99	964.58
Brooklyn, N. Y.		184.50
Buffalo, N. Y.	46.32	
Charlotte, N. C.	3.40	
Cincinnati, Ohio	232.05	266.22
Cleveland, Ohio	244.60	119.34
Dallas, Texas	452.20	202.23
Des Moines, Iowa	17.00	550.80
E. Aurora, N. Y.	10.20	
Pittsburgh, Pa.	802.83	540.13
Garden City, N. Y.	173.40	523.01
Grand Rapids, Mich.	85.00	
Indianapolis, Ind.		430.44
Louisville, Ky.	272.25	679.32
Hartford, Conn.	151.72	295.65
Newark, N. J.	913.29	1,081.01
Paterson, N. J.	360.79	721.77
Philadelphia, No. Side	1,225.27	
Philadelphia, So. Side	872.52	951.98
Providence, R. I.	168.26	124.20
Somerville, Mass.	196.22	
Springfield, Mass.	101.89	230.63
St. Louis, Mo.	14.45	86.40
Syracuse, N. Y.	326.40	837.93
Washington, D. C.	153.00	
Youngstown, Ohio	527.00	244.80
Total	$8,144.64	$10,625.93

PAR. 6. The total purchases of the various warehouses of The Great Atlantic & Pacific Tea Company, as aforesaid, amounted to $18,670.57. No single unit purchased in sufficient quantity to earn any rebate under the contract agreement. Each of said warehouses is treated by respondent as an individual customer, sales are solicited independently and the merchandise was shipped and billed to the individual warehouses. On July 21, 1937, respondent sent The Great Atlantic & Pacific Tea Company a check for $260.12. This amount was arrived at by granting to The Great Atlantic & Pacific Tea Company a rebate of 1% on its purchases between $5,000 and $10,000, 2% on its purchases between $10,000 and $15,000, and 3% on its purchases in excess of $15,000.

The Great Atlantic & Pacific Tea Company objected to this method of computing its rebate, claiming that it was entitled to the full 3% rebate on all purchases in excess of $5,000. Accordingly, on July 26th, 1937, respondent paid to The Great Atlantic & Pacific Tea Company an additional sum of $150.00, making the total rebate $410.12.

PAR. 7. Respondent executed a contract in the same form with The Kroger Grocery and Baking Company covering the period commencing on June 20, 1936 and expiring June 19, 1937. The respondent sold and shipped said commodity from its said plant to the various warehouses of The Kroger Grocery and Baking Company between June 20, 1936 and June 19, 1937 as follows:

Purchases Kroger Units

	June 20, 1936 to Dec. 31, 1936	Jan. 1, 1937 to June 19, 1937
Charleston, W. Va.	$280.50	$96.39
Chicago, Illinois	91.80	
Cincinnati, Ohio	2,147.09	600.63
Dayton, Ohio	57.37	33.66
Detroit, Mich.	112.20	
Evanston, Ill.	28.05	
Indianapolis, Ind.	40.80	36.72
Louisville, Kentucky	680.00	549.27
Oak Park, Illinois	55.25	
Pittsburgh, Penna.	91.80	114.75
St. Louis, Mo.	957.36	
	$4,542.22	$1,431.42
	1,431.42	
Total purchases	$5,973.64	
Less Returns 6/20/36–6/19/37	620.20	
Net purchases	$5,353.44	

PAR. 8. The total purchases of the various warehouses of The Kroger Grocery and Baking Company, as aforesaid, amounted to $5,353.44. No single unit purchased in sufficient quantity to earn any rebate under the contract agreement. Each of said warehouses is treated by said respondent as an individual customer, sales are solicited independently and the merchandise is shipped and billed to the individual warehouses. On September 20, 1937 respondent sent The Kroger Grocery and Baking Company a check in the amount of $3.53. This amount was arrived at by granting to The Kroger Grocery and Baking Company a 1% rebate on its purchases in excess of $5,000, namely $353.44.

PAR. 9. Respondent executed a contract in the same form with the American Stores Company covering a period commencing on October 20, 1936 and expiring October 19, 1937, during which period the American Stores Company purchases amounted to the sum of $4,150.01. The respondent sold and shipped said commodity from its said plant to seven warehouses of the American Stores Company located respectively in Baltimore, Maryland; Syracuse, New York; Johnstown, Pennsylvania; Orange, New Jersey; Wilkes Barre, Pennsylvania and two warehouses located in the city of Philadelphia, Pennsylvania. No rebate was paid to the American Stores Company inasmuch as the total purchases did not aggregate more than the sum of $5,000.

PAR. 10. The aforesaid rebate agreements were entered into by respondent with the aforesaid three large corporate chain store companies and with no other customers. Respondent made an additional special arrangement with most customers by which a special discount of 5% on E–ZEE FREEZ powder was allowed and 10% on all purchases of liquid E–ZEE FREEZ in consideration of the distributor contracting for and agreeing to purchase an agreed number of dozens of said commodities during a year's time and such discounts or allowances were granted, paid or allowed to the aforesaid corporate chains in addition to the rebate, if any, which each of said corporate chains received. Purchasers who would not contract for their purchases at the beginning of the year were not allowed the additional special discounts or if they did not take the amount contracted for respondent was entitled to a charge-back of 5% on all E–ZEE FREEZ powder drawn against the said contract or

10% on all liquid E-ZEE FREEZ drawn against said contract.

PAR. 11. Upon the termination of the aforesaid rebate contract with The Great Atlantic & Pacific Tea Company, a second contract in the same form was executed by respondent covering the period commencing on June 20, 1937 and expiring June 19, 1938. This second contract had an additional clause providing that Canadian purchases applied.

PAR. 12. Since June 19, 1936 many purchasers of said commodity, E-ZEE FREEZ, from respondent and who did not receive any rebate have been and are now in substantial competition in the sale, resale and distribution of said commodity with The Great Atlantic & Pacific Tea Company and many units of The Kroger Grocery and Baking Company and American Stores Company, as aforesaid, are likewise in substantial competition with The Great Atlantic & Pacific Tea Company.

PAR. 13. The effect of the discriminations in price referred to in Paragraph Three may be substantially to lessen competition or tend to create a monopoly in the line of commerce in which respondent is engaged or to injure, destroy, or prevent competition with the respondent or The Great Atlantic & Pacific Tea Company, or other beneficiary of like discrimination.

Wherefore, the premises considered, the Federal Trade Commission on this 15th day of January, A. D. 1938, now issues this its complaint against said respondent.

NOTICE

Notice is hereby given you, H. C. Brill Company, Inc., respondent herein, that the 18th day of February, A. D., 1938, at 2: 00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failures to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(a) In cases arising under section 5 of the act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint;

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 15th day of January, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-198; Filed, January 19, 1938; 12:16 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3193]

IN THE MATTER OF JOSEPH COMINSKY, TRADING AS WAVERLEY TAILORS, MAYFAIR CLOTHING COMPANY, AND BARCLAY CLOTHING COMPANY.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law:

It is further ordered, That the taking of testimony in this proceeding begin on Monday, January 24, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-196; Filed, January 19, 1938; 12:15 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3010]

IN THE MATTER OF PHILADELPHIA RUBBER WASTE COMPANY, A CORPORATION, AND ALBERT SCHWARTZ, ISADORE M. ENGEL AND SIMON SPERBERG, COPARTNERS, TRADING AS PHILCO RUBBER COMPANY, PHILCO RUBBER SALES COMPANY, PHILCO AUTO SUPPLY, PHILCO AUTO AND RUBBER SUPPLY AND PHILCO SPARK PLUG COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, January 21, 1938, at ten o'clock in the forenoon of that day (eastern standard time) at court room No. 5, United States Post Office Building, Boston, Massachusetts.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-195; Filed, January 19, 1938; 12:15 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3270]

IN THE MATTER OF UNIVERSAL HANDKERCHIEF MANUFACTURING COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, January 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 500, 45 Broadway, New York City, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-197; Filed, January 19, 1938; 12:15 p. m.]

INTERSTATE COMMERCE COMMISSION.

[No. 3666]

ORDER IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Present: Frank McManamy, Commissioner, to whom the above entitled matter has been assigned for action thereon.

Regulations for the transportation of explosives and other dangerous articles by rail in freight, express, and baggage services, and by water and highway, being under further consideration:

And it appearing, That upon motion of the Commission or applications made by interested parties, certain proposed new and amended regulations should be established pursuant to section 233 of the Criminal Code (Transportation of Explosives Act), and upon full hearing and investigation are found to be in accord with the best-known practicable means for securing safety in transit, covering the packing, marking, loading, handling while in transit, and the precautions necessary to determine whether the material when offered is in proper condition to transport:

It is ordered, That the aforesaid regulations as heretofore published in orders of May 12, 1930, June 27, 1931, Dec. 15, 1931, Oct. 14, 1932, Apr. 8, 1933, Jan 13, 1934, Aug. 24, 1934, Nov. 1, 1934, Dec. 10, 1935, Mar. 12, 1936, Aug. 27, 1936, Dec. 14, 1936, and Mar. 10, 1937, be and they are hereby superseded and/or amended as follows, effective April 15, 1938, except see paragraph 317 of freight regulations herein:

PART I—FREIGHT

Amend dangerous articles list as follows:

Article	Group	Section	Page
(Add) Calcium chlorite	Oxi. M	3	49
(Add) Nickel carbonyl	Inflammable liquid	3	49
(Add) Sodium chlorite	Oxi. M	3	49
(Delete) Trinitroresorcinol, wet (styphnic acid).			

High Explosives

Superseding and amending second subparagraph, paragraph 57 (a), order August 27, 1936, to read as follows (*packing high explosives containing no liquid explosive ingredient*):

When shipped in bulk, such explosives must be in strong sift-proof cloth or paper bags packed in wooden boxes, specification 14, 15A, or 16A, or in fiberboard boxes, specification 23F, lined as described in paragraph 59 (a);

Or in wooden boxes, specification 14, 15A, or 16A, or in fiberboard boxes, specification 23F, with strong sift-proof paper liner with cemented seams and closure;

Or in strong sift-proof cloth or paper bags in wooden kegs or barrels, specification 10B.

Superseding and amending paragraph 57 (b), order June 27, 1931, to read as follows (*packing high explosives containing no liquid explosive ingredient nor any chlorate*):

(b) *High explosives containing no liquid explosive ingredient nor any chlorate* may also be shipped when packed in strong paper or cloth bags of capacity not exceeding 25 pounds, and must be packed with filling ends up, in boxes, specification 14, 15A, 16A, or 23F.

Superseding and amending paragraph 57 (c), order November 1, 1934, to read as follows (*packing high explosives described in paragraph 57 (a)*):

(c) *High explosives described in paragraph 57 (a)*, in combination cartridges, consisting of column of explosive with core of dynamite, may be shipped when packed in outside boxes, specification 14, 15A, 16A, or 23F, with 65 pounds as the maximum gross weight. The column of ex-

plosive must be completely inclosed in waterproofed cloth, or strong waterproofed paper and not exceed 6 inches in diameter, 20 inches in length, or gross weight of 25 pounds.

Amending paragraph 57, order December 10, 1935, as follows (*packing trinitroresorcinol (styphnic acid)*):

Paragraph 57 (e) canceled. (See High explosives.)

Superseding and amending paragraph 58, order May 12, 1930, to read as follows (*packing nitrocellulose*):

58. *Nitrocellulose.*—Inside packages containing not more than 1 pound each of dry uncompressed nitrocellulose, wrapped in strong paraffined paper or suitable spark-proof material, may be shipped if securely packed in an outside container, specification 14, 15A, or 16A, and marked as prescribed in paragraph 61. Outside packages must not contain more than 10 pounds of dry nitrocellulose.

Superseding and amending paragraph 59 (a), order June 27, 1931, to read as follows (*packing high explosives*):

59. (a) All boxes in which high explosives in cartridges, combination cartridges, bags, or in bulk, are packed must comply with specification 14, 15A, 16A, or 23F, and must be lined with strong parafined paper or other suitable material. Lining must be without joints or other openings at the bottom, ends, or sides of boxes, and for explosives with liquid ingredient must be impervious to such ingredient and also to water. Covers of boxes must be protected from contact with explosives by lining paper or other suitable material. (See specification 2L for approved lining paper.)

Superseding and amending paragraph 60 (c), order May 12, 1930, to read as follows (*dry nitrocellulose, weight of package*):

(c) The gross weight of a container of dry nitrocellulose, not compressed, packed as prescribed in paragraph 58 must not exceed 35 pounds. Compressed sticks or blocks of dry nitrocellulose (guncotton) wrapped in strong paraffined paper may be shipped in outside packages, specification 14, 15A, or 16A, with a gross weight not exceeding 75 pounds.

Black Powder and Low Explosives

Superseding and amending first subparagraph, paragraph 63 (c), order May 12, 1930, to read as follows (*packing black powder and low explosives*):

(c) In wooden boxes, specification 14, 15A, or 16A, with inside containers which must be:

Superseding and amending subparagraph added to paragraph 63 (c), order June 27, 1931, to read as follows (*packing black powder and low explosives*):

Cartridges described in subparagraphs 4 and 5, in addition to outside wooden boxes, specification 14, 15A, or 16A, may also be shipped when packed in fiberboard boxes, specification 23F, of gross weight not exceeding 65 pounds. Lining of fiberboard boxes must conform to paragraph 59 (a).

Superseding and amending paragraph 63 (e), order January 13, 1934, to read as follows (*packing low explosives*):

(e) *Low explosives* (not black powder) may also be packed for shipment in strong paper bags of capacity not exceeding 25 pounds, in wooden boxes, specification 14, 15A, or 16A, or in fiberboard boxes, specification 23F.

Superseding and amending added paragraph 63 (f), order December 10, 1935, to read as follows (*packing black powder*):

(f) *Black powder* may also be packed for shipment in cloth or paper bags, of capacity not exceeding 25 pounds net weight, provided the completed shipping package shall be capable of standing a drop of 4 feet without rupture of inner or outer container; the bags to be packed in wooden boxes, specification 14, 15A, or 16A, or fiberboard boxes, specification 23F. When fiberboard boxes, specification 23F, are used, the tubes may be eliminated and a single tube, as specified in specification 23F, may be substituted. The completed package shall not contain more than 50 pounds, net weight, of black powder.

Nitro Mannite

Superseding and amending paragraph 69T, order December 10, 1935, to read as follows (*packing nitro mannite*):

69T. *Packing.*—Nitro mannite in bulk form must contain not less than 40 percent by weight of water and in this wet condition be placed in bags made of at least 10 ounce cotton duck, and the bags securely closed. The nitro mannite in cotton bags must then be placed in a rubber bag in a barrel or drum, specification 10B, 5, or 5B. Any empty spaces in the rubber bag must be filled with water and the rubber bag securely closed.

Sufficient outage in outside container must be allowed to prevent rupturing of container in freezing weather, or a mixture of denatured alcohol and water may be used to prevent freezing in transit.

Pentaerythrite Tetranitrate

Superseding and amending paragraph 69W, order March 12, 1936, to read as follows (*packing pentaerythrite tetranitrate*):

69W. *Packing.*—Pentaerythrite tetranitrate in bulk form must contain not less than 40 percent by weight of water and in this wet condition be placed in bags made of at least 10 ounce cotton duck, and the bags securely closed. The pentaerythrite tetranitrate in cotton bags must then be placed in a rubber bag in a barrel or drum, specification 10B, 5, or 5B. Any empty spaces in the rubber bag must be filled with water and the rubber bag securely closed.

Sufficient outage in outside container must be allowed to prevent rupturing of container in freezing weather, or a mixture of denatured alcohol and water may be used to prevent freezing in transit.

Blasting Caps

Superseding and amending paragraphs 79 (c), 79 (d), 79 (f), and 79 (g), order May 12, 1930, as amended by order October 14, 1932, to read as follows (*packing blasting caps*):

(c) *For not more than 5,000 caps containing not to exceed 50 grains of explosive composition each*, the inside containers, in cartons or wrappings, must be packed in an outside box, specification 14, 15A, or 16A, and they must be separated from the outside box by at least 1 inch of tightly packed sawdust, excelsior, or equivalent cushioning material.

(d) *For more than 5,000 caps containing not to exceed 50 grains of explosive composition each*, the inside containers, in cartons or wrappings, must be packed in an inside box made of sound lumber or in a hermetically sealed metal box of metal not less than 30 gage United States standard, and this inside wooden or metal box must then be packed in an outside box, specification 14, 15A, or 16A. Tightly packed sawdust, excelsior, or equivalent cushioning material, at least 1 inch thick at all points, must separate the inside box from the outside wooden box.

(f) *Ten or less of the interior containers of not more than 100 blasting caps each, containing not to exceed 50 grains of explosive composition each*, may be packed in the same outside container with safety fuse. These inner packages of blasting caps must be placed in the center of a coil of fuse, and so secured and cushioned therein as to prevent movement therefrom. The outside box must comply with specification 14, 15A, or 16A.

(g) *Blasting caps containing in excess of 50 grains of explosive composition each*, must be placed in strong interior containers, in which they must fit snugly, and the caps must be closed securely against leakage of contents by suitable elastic material placed over the caps. Not more than 10 such blasting caps may be packed in a single inside container. All inside containers must then be packed snugly in cartons or wrappings made of paper or pasteboard. The inside containers, in cartons or wrappings, must be packed in an outside box, specification 14, 15A, or 16A, and cartons or wrappings must be separated from outside box by at least 1 inch of tightly packed sawdust, excelsior, or equivalent cushioning material. Not more than 500 caps containing in excess of 50 grains of explosive composition each may be placed in one outside package.

Superseding and amending paragraph 79 (h), order May 12, 1930, as amended by order October 14, 1932, to read as follows (*packing electric blasting caps*):

(h) *Electric blasting caps* must be packed in pasteboard cartons containing not more than 50 caps each. These cartons must be packed in a wooden box, specification 14, 15A, or 16A.

Superseding and amending paragraph 79 (i), order January 13, 1934, to read as follows (*packing electric blasting caps*):

(i) *Electric blasting caps*, in addition to containers specified in paragraph 79 (h), may also be packed for shipment in outside wooden boxes, specification 14, 15A, or 16A, when each cap is inclosed in a pasteboard tube with the wires, or with the wires wrapped around the tube. Gross weight of package must not exceed 75 pounds.

Specification Containers Prescribed-Tank Cars

Superseding and amending paragraph 219, order April 8, 1933, to read as follows (*retests of tanks and safety valves*):

219. Metal tanks and safety valves of tank cars listed in the table in paragraph 216 must be retested within the periods and by methods prescribed in the respective specifications and in paragraph 432 of these regulations. For cars listed in the second column of table, retests must conform to footnotes, and to specifications for cars listed on corresponding lines in first column of table as amended. Retests of all tanks and safety valves must be certified by party making tests to owners of tank cars and to the Bureau of Explosives. Certifications must show initials and number of cars and service for which suitable, date of test, place of test, and by whom test is made.

Inflammable Liquids

Amending list of articles paragraph 228 (c), order May 12, 1930, as follows:

Article	Exemption	Packing (pars.)
(Add) Nickel carbonyl	No exemption	230, 231, 233, 252.

Special Packing Index

Amending list of articles, paragraph 233, order May 12, 1930, as follows:

Article	Paragraph
(Add) Nickel carbonyl	252.

Special Packing, Inflammable Liquids

Amending order May 12, 1930, as follows (*packing nickel carbonyl*):

(Add) 252. *Nickel carbonyl* must be packed in any cylinder as prescribed for any compressed gas, except acetylene.

Inflammable Solids and Oxidizing Materials

Superseding and amending list of articles, paragraph 277 (c), order May 12, 1930, as follows:

Article	Group	Exemption (pars.)	Packing (pars.)
(Add) Calcium chlorite	Oxi. M	(1)	279, 280 to 282, 324B.
(Change) Chlorate of potash	do	278, 328	279, 280, 282, 283, 317.
(Change) Potassium chlorate	do	278, 328	279, 280, 282, 283, 317.
(Add) Sodium chlorite	do	(1)	279, 280 to 282, 324B.

[1] No exemption.

Special Packing Index

Amending list of articles, paragraph 281, order May 12, 1930, as follows (*add*):

Article	Paragraph
Calcium chlorite	324B.
Chlorate of potash	317.
Chlorate of soda	317.
Potassium chlorate	317.
Sodium chlorite	324B.

Special Packing, Inflammable Solids and Oxidizing Materials

Superseding and amending paragraph 317, order May 12, 1930, to read as follows (*packing chlorate of soda and chlorate of potash*):

317. *Chlorate of soda and chlorate of potash* must be packed as follows:

In containers as prescribed in paragraph 283, except that wooden barrels or kegs, specification 10A, 10B, 10C, or 11B, are not authorized for bulk shipments. (Effective 10 months from date of approval of this amendment.)

When chlorate of soda is wet with not less than 10 percent water, it may only be shipped in tank cars, specification 103, provided that the commodity must not be loaded to exceed one-third of the shell capacity of the tank and must be equally distributed therein.

Amending order May 12, 1930, as follows (*packing calcium chlorite and sodium chlorite*):

(Add) 324B. *Calcium chlorite and sodium chlorite* must be packed as follows:

In wooden boxes, specification 15A, 15B, or 15C, with inside containers which must be: Glass or earthenware not over 2¼ pounds capacity each, or metal not over 5 pounds capacity each;

Or in metal barrels or drums, specification 6A, 6B, or 6C; or 5E or 6D (single-trip containers).

Corrosive Liquids—Special Packing

Superseding and amending 7th subparagraph added to paragraph 352 (b), order December 10, 1935, to read as follows (*packing phosphorus trichloride*):

Phosphorus trichloride may also be shipped in metal barrels or drums, specification 5A, or in tank cars, specification 103A, when these cars are lead-lined.

Compressed Gases

Superseding and amending list of articles, paragraph 396 (c), order May 12, 1930, as follows:

Article	Group	Exemption (par.)	Packing (pars.)
(Change) Liquefied carbon dioxide.	Noninf	397	398 to 405, 426 to 433.
(Change) Nitrogen	do	397	398 to 404, 407, 426 to 431.
(Change) Oxygen	do	397	398 to 404, 407, 426 to 431.

Compressed Gases in Tank Cars

Superseding and amending table No. 1, paragraph 430, order May 12, 1930, as follows:

Article	Max. filling (%)	Required car (spec.)
(Add) Liquefied carbon dioxide	(*)	ICC-105A500**
(Add) Nitrogen	See par. 427	ICC-107A****
(Add) Oxygen	See par. 427	ICC-107A****

[1] The liquid portion of the gas at 0° F. must not completely fill the tank.

**Before an ICC 105A500 tank car may be used for the transportation of liquefied carbon dioxide, the following requirements must be met: Tank must be lagged with cork at least 10 inches in thickness. Tank must be equipped with one safety valve of approved design set to open at a pressure not exceeding 375 pounds per square inch and one frangible disk device of approved design set to function at a pressure less than the test pressure of the tank. The discharge capacity of each of these safety devices must be sufficient to prevent building up of pressure in tank in excess of 375 pounds per square inch. Tank must be equipped with two pressure-regulating valves of approved design, one set to open at 300 pounds per square inch pressure and one set to open at 340 pounds per square inch pressure. Each regulating valve and safety device must have its final discharge piped to the outside of the dome.

Superseding and amending second subparagraph, paragraph 431 (a), order December 15, 1931, to read as follows:

Before a tank car may be used for the transportation of any compressed gas other than that gas for which it is currently equipped and authorized as indicated by the name of the commodity stenciled on the tank, the owner of the car, or party authorized by the owner, must secure approval for changes in the stenciled name, manhole closure, safety valve, induction and education valves and pipes, and such other changes as are necessary to make the car suitable for the new service. The date these changes are made, the initials of the owner, or party making these changes, must be stenciled on the tank under commodity name. A certificate showing the changes which were approved and made must be filed with the Bureau of Explosives and the secretary, mechanical division, Association of American Railroads.

Superseding and amending second subparagraph, paragraph 432, order August 27, 1936, to read as follows:

Tank cars of other than ICC 106A type, used for shipping chlorine, must have the eduction pipes equipped with check valves, and the test prescribed in paragraph 14 of specification 105A300 must be made at intervals of 2 years or less.

Poisonous Liquids Class B—Special Packing

Superseding and amending sixth subparagraph, paragraph 485, order May 12, 1930, to read as follows (*packing aniline oil*):

Or in tank cars, specification 103 or 103A.

Poisonous Solids Class B—General Packing

Amending Note, paragraph 499, order May 12, 1930, as follows (*packing poisonous solids class B*):

(Add) **EXCEPTION:** Tape not required on manufacturer's joint that is both glued and stitched.

Poisonous Solids Class B—Special Packing

Superseding and amending fourth subparagraph, paragraph 501, order October 14, 1932, to read as follows (*packing arsenical dust, arsenic trioxide, and sodium arsenate*):

Arsenical dust not subject to dangerous spontaneous heating and *arsenic trioxide or sodium arsenate* when delivery is made to plants with private sidings, only, may also be shipped in sift-proof, self-clearing, hopper or bottom-outlet steel cars, equipped with waterproof and dust-proof covers well secured in place for all openings.

PART II—EXPRESS

Amend dangerous articles list as follows:

Article	Group	Section	Page
(Add) Calcium chlorite	Oxi. M	3	204.
(Add) Sodium chlorite	Oxi. M	3	204.

Inflammable Solids and Oxidizing Materials

Amending list of articles, paragraph 136 (c), order May 12, 1930, as follows:

Article	Group	Maximum quantity	Packing marking (pars.)
(Add) Calcium chlorite	Oxi. M	100 pounds	14, 164, 165.
(Add) Sodium chlorite	Oxi. M	100 pounds	14, 164, 165.

Special Packing, Inflammable Solids and Oxidizing Materials

Amending order May 12, 1930, as follows (*packing calcium chlorite and sodium chlorite*):

(Add) 164. *Calcium chlorite and sodium chlorite* must be packed as follows:

In wooden boxes, specification 15A, 15B, or 15C, with inside containers which must be: Glass or earthenware not over 2¼ pounds capacity each, or metal not over 5 pounds capacity each;

Or in metal barrels or drums, specification 6A, 6B, or 6C; or 5E or 6D (single-trip containers).

Poisonous Solids Class B—General Packing

Amending Note, paragraph 249, order May 12, 1930, as follows (*packing poisonous solids, class B*):

(Add) **EXCEPTION.**—Tape not required on manufacturer's joint that is both glued and stitched.

PART IV—SHIPPING CONTAINER SPECIFICATIONS

Shipping Container Specification 5C

Amending specification 5C, order May 12, 1930, as follows:

(Add) 7. Thickness of steel in body and heads of drums made under this specification is authorized to be 2 gauges lighter than as specified in specification 5A.

Shipping Container Specification 5G

Superseding and amending paragraph 2, *specification 5G*, order March 10, 1937, to read as follows:

2. In place of paragraph 2, the following:

The use of an austenitic 18- and 8-chrome nickel alloy steel with carbon content not over 0.12 percent is required, except for rolling hoops and chime reinforcements, in the manufacture of these containers.

Shipping Container Specification 22A

Amending *specification 22A*, order May 12, 1930, as follows:

(Add) 14. *Special closure.*—Bung hole closed by 28 gauge steel push-in closure with an outside flange of approximately ½ inch and held securely in place by expanding the closure below the inside face of head is also authorized.

Shipping Container Specification 24B

Superseding and amending item of table, paragraph 4, *specification 24B*, order December 14, 1936, to read as follows:

Box	Weight	Body	Liner	Pads	Partitions, etc.
1 piece double-faced...	90* (See Note 1).	275	200	200	

*Authorized only when boxes are to be metal strapped before shipment.

NOTE 1.—For pyroxylin sheets only.

Shipping Container Specification 24C

Amending *specification 24C*, order May 12, 1930, as follows:

(Add) 5. Joints stitched as follows also authorized for boxes made of double-faced board: Lapped 1½ inches; stitched at 2½ inch intervals and within 1 inch of each end of joint; double-stitched (2 parallel stitches) at each end of joint over 18 inches long.

Shipping Container Specification 104A

Superseding and amending paragraph 19, *specification 104A*, order May 12, 1930, to read as follows:

19. *Retest of tanks and safety valves.*—Same as specification 103, except that tanks and valves must be retested at intervals of five years or less after the original test, and that if the jacket and lagging are not removed, the tank must hold the prescribed pressure for at least 20 minutes. A drop in pressure shall be evidence of leakage, and such portion of the jacket and lagging must be removed as may be necessary to locate the leak and make repairs. After the repairs have been made, the tank must be again subjected to the prescribed test.

Shipping Container Specification 105A300

Superseding and amending paragraph 14, *specification 105A300*, order December 10, 1935, to read as follows:

14. *Retests of tanks, anchor rivet covers, and safety valves.*—Tanks must be retested to a pressure of 300 pounds per square inch, anchor rivet covers to a pressure of 100 pounds per square inch, and safety valves to a pressure as prescribed in paragraph 9 (b), by the methods prescribed for original tests in paragraphs 12 and 13, at intervals of 5 years or less, except as prescribed in paragraph 432 of freight regulations. Tanks must also be retested before being returned to service after any repairs requiring welding. Reports must be rendered as prescribed in paragraph 16.

PART V—WATER REGULATIONS

Recommended Stowage for Explosives and Other Dangerous Articles

Amending stowage chart, order August 24, 1934, as follows:

Article	Properties	Label	Outside containers	Stowage
(Add) †Box toe board containing pyroxylin or nitrocellulose.	Inflammable solid.	Yellow.	Fiberboard boxes, fiber drums, wooden boxes.	C, keep cool.
(Add) Nickel carbonyl.	Inflammable liquid (poisonous).	Red.	Cylinders	Freight vessels A, keep cool.

† Articles indicated by reference symbol (†) are those designated as dangerous by express regulations but not by freight regulations.

It is further ordered, That the aforesaid regulations as further amended herein shall be and remain in force on and after April 15, 1938, except see paragraph 317, freight regulations, and shall be observed until further order of the Commission;

It is further ordered, That compliance with the aforesaid amendments made effective by this order is hereby authorized on and after the date of approval and publication thereof;

And it is further ordered, That copies of this order be served upon all the respondents herein, and that notice to the public be given by posting in the office of the Secretary of the Commission at Washington, D. C.

Dated at Washington, D. C., this 7th day of January, 1938.

By the Commission, Commissioner McManamy.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-194; Filed, January 19, 1938; 12:13 p. m.]

RAILROAD RETIREMENT BOARD.

REGULATIONS GOVERNING APPEALS WITHIN THE RAILROAD RETIREMENT BOARD

Pursuant to the authority conferred by section 10 of the Railroad Retirement Act of 1937, the Railroad Retirement Board hereby prescribes the following regulations governing appeals within the Railroad Retirement Board:

I. INITIAL DECISIONS BY THE CLAIMS SERVICE

1. Claims will be adjudicated and initial decisions made by the Claims Service upon the basis of the application, the evidence submitted by the applicant, and evidence otherwise available. Adjudication and initial decision will be in accordance with instructions issued by the Board.

2. Notice of an initial decision shall be communicated by the Claims Service to the applicant in writing within thirty days after such decision is made.

II. APPEAL FROM AN INITIAL DECISION OF THE CLAIMS SERVICE

1. Every applicant shall have a right to appeal to the Appeals Council from any initial decision of the Claims Service by which he claims to be aggrieved. The Appeals Council shall consist of five members, one of whom shall have legal training and shall be the chairman. Each other member shall have a background of experience in the railroad industry calculated to familiarize him with the practices, procedures, and conduct prevailing in the railroad industry; two of such members shall have a background of experience in the representation of employee organizations, and two shall have had experience calculated to familiarize them with the problems of railway management.

2. Appeal from an initial decision of the Claims Service shall be made by the execution and filing of the appeal form prescribed by the Board, and must be filed with the Appeals Council within one year from the date upon which notice of the initial decision is mailed to the applicant at the address furnished by him. As used herein, a month shall be considered to have elapsed between any date and the date corresponding thereto in the next succeeding month.

3. The right to further review of an initial decision of the Claims Service shall be forfeited unless formal appeal is filed in the manner and within the time prescribed herein.

4. In the event that the applicant makes informal complaint without taking formal appeal, which complaint is not eliminated by explanation of the basis of the initial decision of the Claims Service, the Appeals Council shall endeavor to ascertain, by correspondence or conference with the applicant, whether he takes issue with any point of fact or law involved in the initial decision of the Claims Service, and, if so, whether the applicant desires to take a formal appeal to the Appeals Council. In the latter event, he shall be supplied with the appeal form prescribed by the Board, which form shall be duly executed and filed before the applicant is considered to have made an appeal.

5. The appellant, or his representative, shall be afforded full opportunity to present further evidence upon any controversial question of fact, orally or in writting or by means of exhibits; to examine and cross-examine witnesses; and to present argument in support of the appeal. If, in the judgment of the Appeals Council, evidence not offered by the appellant is available and relevant and is material to the merits of the claim, the Appeals Council shall obtain such evidence upon its own initiative. The Appeals Council shall protect the record against scandal, impertinence and irrelevancies, but the technical rules of evidence shall not apply.

6. In the development of appeals, the Appeals Council shall have power to hold hearings, require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations.

7. All oral evidence presented at any hearing shall be reduced to writing. All evidence presented by the appellant and all evidence developed by the Appeals Council shall be preserved. Such evidence, together with a record of the arguments, oral or written, and the file previously made in the adjudication of the claim, shall constitute the record for decision of the appeal. After an appeal form is filed, the compilation of the record shall be initiated by the inclusion therein of the file made in the adjudication of the claim; the compilation of the record shall be kept up to date by the prompt addition thereto of all parts of the record subsequently developed. The entire record at any time during the pendency of an appeal shall be available for examination by the appellant or his representative.

8. Upon completion of the record, the Appeals Council shall render decision thereon as soon as practicable, and within thirty days after the making thereof, such decision shall be communicated to the appellant in writing. Decision shall be taken by unanimous vote of the members of the Appeals Council, and such decision shall be either a decision upon the merits of the appeal, or a decision to certify the entire record as an automatic appeal to the Board.

III. FINAL APPEAL FROM A DECISION OF THE APPEALS COUNCIL

1. Every appellant shall have a right to a final appeal to the Railroad Retirement Board from any decision of the Appeals Council by which he claims to be aggrieved.

2. Final appeal from a decision of the Appeals Council shall be made by the execution and filing of the final appeal form prescribed by the Board, except as provided in paragraph 8 of Part II, and must be filed with the Board within four months from the date upon which notice of the decision by the Appeals Council is mailed to the appellant at the address furnished by him. As used herein, a month shall be considered to have elapsed between any date and the date corresponding thereto in the next succeeding month.

2. The right to further review of a decision of the Appeals Council shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed herein.

4. Upon final appeal to the Board, no additional evidence shall be received. In the event that the appellant shows that he is ready to present further material evidence, which for any reason he was not able to present to the Appeals Council, the claim shall be referred back to the Appeals Council for presentation of the further evidence. Upon receipt of such further evidence the Appeals Council shall transmit to the Board a transcript thereof together with its recommendation to the Board for final decision.

5. The decision of the Board shall be made upon the record of evidence and argument which has been made in the handling of the case before final appeal to the Board. Further argument will not be permitted except upon a showing by the appellant that he has arguments to present which for valid reasons he was unable to present at an earlier stage, and in cases where the Board requests further elaboration of the appellant's arguments. In such cases, the further argument shall be submitted orally or in writing, as the Board may indicate in each case, and shall be subject to such restrictions as to form, subject matter, length and time as the Board may indicate to the appellant.

IV. EFFECTIVE DATE OF THESE REGULATIONS AND APPLICATION THEREOF TO DECISIONS MADE PRIOR TO SUCH DATE

1. The effective date of these regulations shall be February 1, 1938.

2. All decisions upon applications for annuities or death benefits made by the Board prior to the effective date of these regulations shall be subject to review and reconsideration under these regulations, and for such purpose any such decision shall constitute an initial decision by the Claims Service as that term is used in these regulations.

3. For the purpose of applying the several limitations of time contained in these regulations, every decision made prior to the effective date of these regulations, by the Board or by the Claims Service, upon any application for annuity or death benefits, shall be considered to have been mailed to the applicant on the effective date of these regulations.

By direction of the Board:

[SEAL] R. B. BRONSON, *Secretary.*

JANUARY 17, 1938.

[F. R. Doc. 38-189; Filed, January 19, 1938; 9:35 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of January, A. D. 1938.

[File No. 43-97]

IN THE MATTER OF THE APPLICATION OF THE MISSION OIL COMPANY

ORDER DISMISSING DECLARATION

The Mission Oil Company, a registered holding company, having filed a declaration with this Commission, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by Commerce Trust Company of Kansas City, Missouri, to the stockholders of declarant, of $911,865 principal amount of trustee certificates of beneficial interest in and to $911,865 principal amount of unsecured 4% promissory notes of Southwestern Development Company maturing July 1, 1943;

Notice and opportunity for hearing on said declaration having been duly given; the record in this matter having been duly considered; the Commission having made appropriate findings of facts; and being of the opinion that a declaration regarding the issue and sale of such trustee certificates is not necessary under Section 7 of the Act;

It is ordered, That said declaration be and hereby is dismissed.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-200; Filed, January 19, 1938; 12:28 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the — day of January, A. D. 1938.

[File No. 2-1879]

IN THE MATTER OF TRENTON VALLEY DISTILLERS CORPORATION

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant, Trenton Valley Distillers Corporation, a Michigan corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Items 19, 20, 25, 28, 29, 31, 34, 35, 36 and 39 and in the prospectus, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the registrant having consented to the issuance of this order, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Trenton Valley Distillers Corporation, a Michigan corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-199; Filed, January 19, 1938; 12:28 p. m.]

Friday, January 21, 1938 ***No. 15***

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

New Mexico

WHEREAS certain lands, together with the improvements thereon, largely contiguous or in close proximity to existing Indian Reservations, in the State of New Mexico, have been, or are in the process of being, acquired in connection with the projects hereinafter designated, under authority of Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of Title I of the act of August 24, 1935, 49 Stat. 750, 781; and

WHEREAS it appears that the transfer of jurisdiction over such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me under the aforesaid National Industrial Recovery Act the Emergency Relief Appropriation Act of 1935, and the act of August 24, 1935, it is hereby ordered that jurisdiction over the hereinafter-described lands, together with the improvements thereon, acquired or in the process of acquisition by the United States in connection with the hereinafter-designated projects, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior: *Provided, however*, that the Secretary of Agriculture shall retain such jurisdiction over the lands now in process of acquisition by the United States as may be necessary to enable him to complete the purchase of such lands; and the Secretary of the Interior is hereby authorized (1) to administer, through the Commissioner of Indian Affairs, such lands for the uses for which they were, or are in the process of being, acquired, and, insofar as consistent with such uses, for the benefit of such Indians as he may designate, (2) in connection with the administration of such lands to exercise all powers and functions, insofar as they may relate to these lands, conferred upon the Secretary of Agriculture by Executive Order No. 7530 of December 31, 1936, and Executive Order No. 7557 of February 19, 1937, and (3) to prescribe such rules and regulations as may be necessary to carry out the purposes of this order:

ZIA-SANTA ANA PROJECT, LI-NM 6

SANDOVAL COUNTY, NEW MEXICO

New Mexico Principal Meridian

T. 14 N., R. 1 E.,
secs. 1, 3, 11, 13, 15, 23, 25, 27 and 35;
T. 15 N., R. 1 E.,
sec. 1, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
sec. 2, lots 1 and 2, and that part lying within the San Ysidro Land Grant;
sec. 3, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
secs. 4 and 5, those parts lying within the San Ysidro Land Grant;
sec. 11, all;
sec. 12, N½NE¼, SE¼NE¼, and N½NW¼;
sec. 13, NW¼, SW¼, and SE¼;
secs. 15 and 23, all;
sec. 24, NE¼, NW¼, SW¼, and N½SE¼;
secs. 25, 27, and 35, all;
T. 16 N., R. 1 E.,
secs. 31 to 36, inclusive, those parts lying within the San Ysidro Land Grant;
T. 14 N., R. 2 E.,
sec. 3, lots 9 to 12, inclusive, S½SW¼, and S½SE¼;
sec. 5, lots 9 to 12, inclusive, S½SW¼, and S½SE¼;
sec. 7, lots 1 to 4, inclusive, NE¼, E½NW¼, E½SW¼, and SE¼;
sec. 9, all;
sec. 11, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 15, 19 and 21, all;
sec. 23, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 27, 29, 31 and 33, all;
sec. 35, lots 2 to 4, inclusive, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
T. 15 N., R. 2 E.,
secs. 1 and 2, those parts lying within the San Ysidro Land Grant;
sec. 3, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
sec. 4, that part lying within the San Ysidro Land Grant;
sec. 5, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant;
Sec. 6, that part included in Claim No. 4163 F. C.-302, patented May 16, 1934, and that part lying within the San Ysidro Land Grant;
sec. 7, lots 1 and 2, SE¼, NW¼, W½SW¼, and that part included in Claim No. 4163 F. C.-302, patented May 16, 1934;
sec. 9, lots 1 to 4, inclusive, N½NE¼, and N½NW¼;
sec. 11, lots 2 to 4, inclusive, NW¼NE¼, and N½NW¼;
sec. 19, lots 1 to 4, inclusive, and SW¼;
sec. 31, lots 1 to 4, inclusive, NW¼, and SW¼;
T. 16 N., R. 2 E.,
secs. 31 to 36, inclusive, those parts lying within the San Ysidro Land Grant;
T. 15 N., R. 3 E.,
secs. 1 to 4, inclusive, those parts lying within the Ojo de Borrego Land Grant:
secs. 5 and 6, those parts lying within the San Ysidro Land Grant;
secs. 9 to 12, inclusive, those parts lying within Ojo de Borrego Land Grant;

T. 16 N., R. 3 E.,
secs. 13 to 16, inclusive, those parts lying within the Ojo de Borrego Land Grant;
sec. 17, SW¼SW¼;
sec. 18, SE¼SE¼;
sec. 19, NE¼NE¼;
sec. 20, NW¼NW¼;
secs. 21 to 28, inclusive, those parts lying within the Ojo de Borrego Land Grant;
sec. 31, that part lying within the San Ysidro Land Grant;
secs. 33 to 36, inclusive, those parts lying within the Ojo de Borrego Land Grant;
T. 15 N., R. 4 E.,
secs. 5 to 8, inclusive, those parts lying within the Ojo de Borrego Land Grant;
sec. 29, NE¼NE¼;
T. 16 N., R. 4 E.,
secs. 8, 17 to 20, inclusive, and 29 to 32, inclusive, those parts lying within the Ojo de Borrego Land Grant.

LAGUNA PROJECT, LI-NW 7

SANDOVAL, BERNALILLO, AND VALENCIA COUNTIES, NEW MEXICO

New Mexico Principal Meridian

T. 9 N., R. 1 W.,
sec. 7, lot 1;
T. 10 N., R. 1 W.,
secs. 5 and 7, all;
sec. 9, lots 1 to 4, inclusive, NW¼, and SW¼;
secs. 17 and 19, all;
sec. 21, lots 1 to 4, inclusive, W½NW¼, and W½SW¼;
secs. 29 and 31, all;
sec. 33, lots 1 to 5, inclusive, W½NW¼, W½SW¼, and SE¼SW¼;
T. 11 N., R. 1 W.,
secs. 4 to 9, inclusive, 16 to 21, inclusive, and 28 to 30, inclusive, those parts lying within the Bernabe de Montano Land Grant;
T. 12 N., R. 1 W.,
secs. 4 to 9, inclusive, 16 to 21, inclusive, and 28 to 33, inclusive, those parts lying within the Bernabe de Montano Land Grant;
T. 13 N., R. 1 W.,
secs. 19 to 21, inclusive, and 28 to 33, inclusive, those parts lying within the Bernabe de Montano Land Grant;
T. 10 N., R. 2 W.,
secs. 1 and 3, all;
sec. 4, lots 2 to 4, inclusive, SW¼NE¼, S½SW¼, and S½SE¼;
secs. 5, 7, 9 and 11, all;
sec. 12, SW¼;
secs. 13 to 15, inclusive, and 17, all;
sec. 19, lots 3 and 4, E½SW¼, and SE¼;
secs. 21 to 23, inclusive, all;
sec. 24, NE¼ and NW¼;
secs. 25, 27 and 29, all;
sec. 31, E½NW¼ and E½SW¼;
sec. 32, N½NE¼, SE¼NE¼, and NE¼SE¼;
secs. 33 and 35, all;
T. 11 N., R. 2 W.,
secs. 1 and 2, those parts lying within the Bernabe de Montano Land Grant;
sec. 3, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant;
secs. 5, 7 and 9, all;
secs. 10 to 14, inclusive, those parts lying within the Bernabe de Montano Land Grant;
sec. 15, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant;
sec. 17, all;
sec. 18, lots 1 and 2, E½NW¼, and SE¼;
secs. 19 and 21, all;
secs. 22 to 24, inclusive, those parts lying within the Bernabe de Montano Land Grant;
sec. 25, lots 1 to 4, inclusive, SW¼, SE¼ and that part lying within the Bernabe de Montano Land Grant;
sec. 26, that part lying within the Bernabe de Montano Land Grant;
sec. 27, lots 1 to 5, inclusive, SW¼, SE¼, and that part lying within the Bernabe de Montano Land Grant;
sec. 29, all;
sec. 30, E½NE¼ and E½SE¼;
sec. 31, all;
sec. 32, NE¼SW¼, N½SE¼, and SE¼SE¼;
secs. 33 and 35, all;
T. 12 N., R. 2 W.,
secs. 1 and 2, those parts lying within the Bernabe de Montano Land Grant;
sec. 3, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant;
sec. 5, all;
sec. 7, lots 1 to 5, inclusive, NE¼, and SE¼;
sec. 9, all;

T. 12 N., R. 2 W.—Continued.
secs. 10 to 14, inclusive, those parts lying within the Bernabe de Montano Land Grant;
sec. 15, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant;
secs. 17, 19 and 21, all;
secs. 22 to 26, inclusive, those parts lying within the Bernabe de Montano Land Grant;
sec. 27, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant;
sec. 29, 31 and 33, all;
secs. 34 to 36, inclusive, those parts lying within the Bernabe de Montano Land Grant;
T. 13 N., R. 2 W.,
sec. 21, lots 1 to 4, inclusive, S½SW¼, and SE¼;
secs. 22 to 26, inclusive, those parts lying within the Bernabe de Montano Land Grant;
sec. 27, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant;
sec. 29, lots 1 and 2, NE¼, S½NW¼, SW¼, and SE¼;
sec. 31, lots 1 to 4, inclusive, E½NE¼, and E½SE¼;
sec. 33, all;
secs. 34 to 36, inclusive, those parts lying within the Bernabe de Montano Land Grant;
T. 9 N., R. 3 W.,
secs. 1, 3, 5, 7, and 9, all;
sec. 11, lots 1 to 5, inclusive;
sec. 15, NE¼, N½NW¼, SE¼NW¼, E½SW¼, and SE¼;
secs. 17, 19 and 21, all;
sec. 23, lots 1 and 2;
sec. 27, SW¼ and SE¼;
secs. 29, 31 and 33, all;
sec. 35, lots 1 and 2;
T. 10 N., R. 3 W.,
sec. 5, lot 1;
sec. 9, lots 1 to 5, inclusive, NE¼, E½NW¼, SE¼SW¼, and SE¼;
sec. 15, SW¼NE¼, NW¼, SW¼, and W½SE¼;
sec. 17, lots 1 to 5, inclusive, E½NE¼, S½SW¼, and SE¼;
secs. 19, 21, 27, 29, 31, and 33, all;
T. 11 N., R. 3 W.,
sec. 1, lots 1, 2, 5, 6, and 7, SW¼NE¼, SW¼, and W½SE¼;
sec. 3, lots 1 to 4, inclusive, S½NE¼, S½NW¼, SW¼, and SE¼;
sec. 5, lots 1, 3 and 4, SE¼NE¼, S½NW¼, SW¼, and SE¼;
sec. 7, lots 1 to 4, inclusive, NE¼, E½NW¼ E½SW¼, and SE¼;
sec. 8, W½NE¼, N½SW¼, SW¼SW¼, and W½SE¼;
sec. 9, all;
sec. 10, W½NW¼ and NW¼SW¼;
sec. 11, NE¼, NW¼, SW¼, NW¼SE¼, and S½SE¼;
secs. 13, 15 and 17, all;
sec. 18, NE¼;
sec. 19, lots 1 to 7, inclusive, N½NE¼, and NE¼NW¼;
secs. 21, 23, 25, and 27, all;
sec. 29, lots 1 and 2, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, and S½SW¼;
sec. 31, lots 1 and 2 and NE¼NE¼;
sec. 33, lots 1 to 4, inclusive, NE¼, NW¼, N½SW¼, and N½SE¼;
sec. 35, all;
T. 12 N., R. 3 W.,
sec. 7, lots 1 to 4, inclusive;
sec. 9, lots 1 to 4, inclusive;
sec. 11, lots 1 to 4, inclusive;
sec. 13, lots 1 to 7, inclusive, W½NE¼, NW¼, N½SW¼, and NW¼SE¼;
secs. 15, 17 and 21, all;
sec. 25, lots 1 to 4, inclusive;
sec. 27, all;
sec. 29, NW¼NE¼, N½NW¼, SW¼NW¼, SW¼ and SE¼;
sec. 33, all.

ACOMA PROJECT, LI–NM 8

VALENCIA COUNTY, NEW MEXICO

New Mexico Principal Meridian

T. 6 N., R. 6 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 7 N., R. 6 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 6 N., R. 7 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17 to 21, inclusive, 23, 25, 27 to 31, inclusive, 33, and 35;
T. 6 N., R. 8 W.,
secs. 1, 3, 5, 7, and 9, all;
sec. 10, NW¼;
secs. 11 to 13, inclusive, all;
sec. 14, NE¼ and SE¼;
secs. 15 and 17, all;
sec. 18, NW¼ and SW¼;
sec. 19, all;
sec. 20, SE¼;

T. 6 N., R. 8 W.—Continued.
secs. 21 and 23, all;
sec. 24, NW¼NE¼, S½NE¼, and NW¼SE¼;
secs. 25, 27 and 29, all;
sec. 30, SW¼;
secs. 31, 33 and 35, all;
T. 6 N., R. 9 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, and 25, all;
sec. 26, SW¼ and SE¼;
secs. 27, 29, 31, and 33, all;
sec. 34, SE¼;
sec. 35, all;
T. 7 N., R. 9 W.,
secs. 1, 3, 5, and 7, all;
sec. 8, NE¼SE¼;
secs. 9, 11, 13, 15, 17, 19, 21, and 23, all;
sec. 24, E½SW¼ and N½SE¼;
secs. 25, 27, 29, 31, 33, and 35, all;
T. 8 N., R. 9 W.,
sec. 3, all;
sec. 4, lots 1 and 2, S½NE¼, N½SW¼, SW¼SW¼, and N½SE¼;
sec. 5, all;
sec. 6, lots 5 and 6, SE¼NW¼, and NE¼SW¼;
T. 8 N., R. 9 W.,
secs. 7 to 9, inclusive, all;
sec. 11, lots 1 to 4, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 15 and 17, all;
sec. 18, NE¼ and SE¼;
secs. 19 and 21, all;
sec. 23, lots 1 to 4, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
sec. 25, lots 1 to 4, inclusive, SW¼, and SE¼;
secs. 27, 29, 31, 33, and 35, all;
T. 6 N., R. 10 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 7 N., R. 10 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 8 N., R. 10 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, and 23, all;
sec. 24, N½NE¼, SE¼NE¼, and E½SE¼;
secs. 25, 27, 29, 31, 33, and 35, all;
T. 6 N., R. 11 W.,
secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 26, 27, 29, 31, 33, and 35.

JEMEZ PROJECT, LI–NM 9

SANDOVAL COUNTY, NEW MEXICO

New Mexico Principal Meridian

Tps. 15, 16, 17 and 18 N., Rs. 1 E. and 1 W.,
those parts lying within the Ojo del Espiritu Santo Land Grant, as described in U. S. Survey No. 44;
Tps. 15 16 and 17 N., R. 2 W.,
those parts lying within the Ojo del Espiritu Santo Land Grant as described in U. S. Survey No. 44.

ISLETA PROJECT, LI–NM 11

BERNALILLO AND VALENCIA COUNTIES, NEW MEXICO

New Mexico Principal Meridian

T. 7 N., R. 1 W.,
secs. 5 and 7, all;
sec. 9, lots 1 to 4, inclusive, W½NW¼, NW¼SW¼, and S½SW¼;
sec. 15, lot 1;
sec. 17, lots 1 to 4, inclusive;
T. 8 N., R. 1 W.,
sec. 1, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 3, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 5, lots 1 to 6, inclusive;
sec. 7, lot 1;
sec. 31, lots 1 to 4, inclusive;
sec. 33, lots 1 to 3, inclusive;
T. 7 N., R. 2 W.,
sec. 1, all;
sec. 11, lot 1;
sec. 13, lots 1 and 2, and NE¼NE¼;
T. 8 N., R. 1 E.,
sec. 1, lots 1 to 4, inclusive, NE¼, and NW¼;
sec. 3, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 4, lots 1 to 4, inclusive, S½NE¼, and S½NW¼;
sec. 5, lots 1 to 8, inclusive, S½NE¼, and S½NW¼;
sec. 6, lots 1 and 2, NE¼, and E½NW¼;
T. 8 N., R. 2 E.,
sec. 5, lots 1 to 4, inclusive, NE¼, and NW¼;
T. 7 N., R. 3 E.,
that part lying within the tract described in U. S. Land Office Record No. 067415, Santa Fe Series, and known as the "Peralta tract of the Southern Part of the Lo de Padilla Grant";

T. 7 N., R. 4 E.,
sec. 6, SE¼ and that part lying within the tract described in U. S. Land Office Record No. 067415, Santa Fe Series, and known as the "Peralta tract of the Southern Part of Lo de Padilla Grant."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE
January 18, 1938

[No. 7792]

[F. R. Doc. 38-208; Filed, January 19, 1938; 2:10 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 192]

AN ORDER MODIFYING ORDER NO. 89, AS MODIFIED BY ORDERS NOS. 126, 148, 159 AND 187, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 1, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 1"

The National Bituminous Coal Commission having by its Order No. 89, as modified by Orders Nos. 126, 148, 159 and 187, determined and established the minimum prices of coals of code members produced within District Number 1, as set forth in "Price Schedule No. 1—District No. 1", as supplemented by Supplements Nos. 1, 2, 3 and 4, and having determined that the provisions of sub-sections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number 1, established in "Price Schedule No. 1—District No. 1", as supplemented by Supplements Nos. 1, 2, 3 and 4 to Price Schedule No. 1—District No. 1, are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 1", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District Number 1, and shall be effective at 12:01 o'clock A. M., on the 29th day of January, 1938.

2. That said Order No. 89 as modified by Orders Nos. 126, 148, 159 and 187 and Price Schedule No. 1—District Number 1, and Supplements Nos. 1, 2, 3 and 4 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 1, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 1" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 1; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 1 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By Order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

REVISED TRUCK MINE PRICE SCHEDULE NO. 1 SUPERSEDING SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 1

Revised Truck Mine Schedule of Minimum Prices for Coals of Code Members Produced within district no. 1 established pursuant to the provisions of the "Bituminous Coal Act of 1937,"

Effective January 29, 1938.

Issued January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size of Bar Screens

	Round hole equivalent
¾''	1⅛''
1''	1¾''
1¼''	2''
1½''	2⅜''
2''	4⅜''
2½''	4⅞''
3''	5½''
4''	6''
5''	7¾''

Size Groups

Base size group	Includes—		
	Lump—Maximum screen sizes [1]	Double screened sizes	
		Maximum top sizes [1]	Maximum bottom sizes [1]
1	All lump over 4''	Over 6''	4''
2	4''	6''	1''
3	3''	6''	3''
4	2''	6''	2''
5	1¼''	5''	2''
6		4''	1¼''
7		2''	1¼''.
9		Mine run.	
12		2'' N-S	0''
13		1¼'' Slk	0''
14		¾'' Slk	0''

[1] All maximum screen sizes mentioned herein are based on round hole or the equivalent thereof.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher size group and priced accordingly.

Code Member Index

PENNSYLVANIA

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL	
		1	2	3	4	5	6	7	9	12	13	14	
Alberter, Charles G	Alberter	C	C	C	C	C	C	C	C	C	C	C	
Allegheny River Mining Co	Cadogan	C	C	C	C	C	C	C	C	C	C	C	
	Mohican	C	C	C	C	C	C	C	C	C	C	C	
	Chickasaw	C	C	C	C	C	C	C	C	C	C	C	
Almes, E. B	Almes	B	B	B	B	B	B	B	B	B	B	B	
Alto Coal Co	Alto No. 3	C	C	C	C	C	C	C	C	C	C	C	
Anderson, Emory	Anderson	C	C	C	C	C	C	C	C	C	C	C	
Anderson, Vernon	Anderson	C	C	C	C	C	C	C	C	C	C	C	
Ankney, Myles	Lohr Mine	C	C	C	C	C	C	C	C	C	C	C	
Anzinger, R. J	Anzinger	C	C	C	C	C	C	C	C	C	C	C	
Appalachia Coal Co	Appalacha	C	C	C	C	C	C	C	C	C	C	C	
Apple Coal Co	Apple #1 & #2	C	C	C	C	C	C	C	C	C	C	C	
Argyle Coal Co	Argyle #2	A	A	A	A	A	A	A	A	A	A	A	
	Bennington "B"	B	B	B	B	B	B	B	B	B	B	B	
	Tunnel #1	C	C	C	C	C	C	C	C	C	C	C	
Armagost, Thomas J	Armagost	C	C	C	C	C	C	C	C	C	C	C	
Armstrong, C. A	C. A. Armstrong	C	C	C	C	C	C	C	C	C	C	C	
Arrow Coal Corp	Arrow Nos. 5-6	B	B	B	B	B	B	B	B	B	B	B	
Ashville Coal Co	Shaver #7	C	C	C	C	C	C	C	C	C	C	C	
Axelson, J. R	Spring Creek	C	C	C	C	C	C	C	C	C	C	C	
	Beachwoods	C	C	C	C	C	C	C	C	C	C	C	
Ayers, A. D	Peacock	B	B	B	B	B	B	B	B	B	B	B	
"B" Quality Coal Co., The	"B" Quality #2	C	C	C	C	C	C	C	C	C	C	C	
	"B" Quality #3	C	C	C	C	C	C	C	C	C	C	C	
Baer Coal Co	Baer	C	C	C	C	C	C	C	C	C	C	C	
Baker Coal Co., H. B	Baker	C	C	C	C	C	C	C	C	C	C	C	
Bambling Coal Co	Cambria #2	C	C	C	C	C	C	C	C	C	C	C	
Banner Coal Co	Banner	C	C	C	C	C	C	C	C	C	C	C	
Barron, Ira R	Barron	C	C	C	C	C	C	C	C	C	C	C	
Barry & Hamm	B. & H	A	A	A	A	A	A	A	A	A	A	A	
Basile, John	Basile #1	C	C	C	C	C	C	C	C	C	C	C	
Baughman, W. J	Baughman	C	C	C	C	C	C	C	C	C	C	C	
Beadle & McCauley Coal Co	Beadle & McCauley Coal Co.	C	C	C	C	C	C	C	C	C	C	C	
Bear Hill Coal Co	Bear Hill	A	A	A	A	A	A	A	A	A	A	A	
Beck, Anna	Beck	B	B	B	B	B	B	B	B	B	B	B	
Beck, J. K	J. K. Beck	C	C	C	C	C	C	C	C	C	C	C	
Beer, W. A	Beer's	C	C	C	C	C	C	C	C	C	C	C	
Bellfield Coal & Coke Co	Dean No. 10	C	C	C	C	C	C	C	C	C	C	C	
Benshoff Coal Co	Benshoff #3	C	C	C	C	C	C	C	C	C	C	C	
Berger Coal Co	Acco	C	C	C	C	C	C	C	C	C	C	C	
Berkebile Brothers	Berkebile Bros	A	A	A	A	A	A	A	A	A	A	A	
Berkey, Joe	Windberknow	C	C	C	C	C	C	C	C	C	C	C	
Bernard, John	Bernards	C	C	C	C	C	C	C	C	C	C	C	
The Berwind-White Coal Mining Co	Eureka #35	A	A	A	A	A	A	A	A	A	A	A	
	Eureka #37	A	A	A	A	A	A	A	A	A	A	A	
	Eureka #40	A	A	A	A	A	A	A	A	A	A	A	
	Eureka #42	A	A	A	A	A	A	A	A	A	A	A	
	Maryland Shaft	A	A	A	A	A	A	A	A	A	A	A	
	Miller Run No. 6	C	C	C	C	C	C	C	C	C	C	C	
Beunler Coal Mining Co	Irvona #6	B	B	B	B	B	B	B	B	B	B	B	
Big Bend Coal Mining Co., The	Bittner Bros	C	C	C	C	C	C	C	C	C	C	C	
Bittner Bros	E. L. Bittner	C	C	C	C	C	C	C	C	C	C	C	
Bittner, E. L	Black Diamond No. 1	C	C	C	C	C	C	C	C	C	C	C	
Black Diamond Coal Co	Black Diamond No. 2	C	C	C	C	C	C	C	C	C	C	C	
	Blackner	C	C	C	C	C	C	C	C	C	C	C	
Blackner, J. R	Hickory Hill	B	B	B	B	B	B	B	B	B	B	B	
Blair Engineering & Supply Co	Bland 1	C	C	C	C	C	C	C	C	C	C	C	
Bland Bros. Coal Co	Bland #1, 2, 3, 4	C	C	C	C	C	C	C	C	C	C	C	
Bland, Fred Jr	Bland Coll. #2	C	C	C	C	C	C	C	C	C	C	C	
Bland, L. B	Bleakney	C	C	C	C	C	C	C	C	C	C	C	
Bleakney, Thos. B	Blessel	C	C	C	C	C	C	C	C	C	C	C	
Blessel, Fred J	Perry Hill (known as Eiler)	C	C	C	C	C	C	C	C	C	C	C	
Blose, Clair	McQuown	C	C	C	C	C	C	C	C	C	C	C	
Blose, G. C	Blough	C	C	C	C	C	C	C	C	C	C	C	
Blough Coal Co	Blue Ridge Coal Co	C	C	C	C	C	C	C	C	C	C	C	
Blue Ridge Coal Co	Keeler	C	C	C	C	C	C	C	C	C	C	C	
Blystone, Ralph	Bolden-Swearman	A	A	A	A	A	A	A	A	A	A	A	
Bolden-Swearman Brothers	Bower 5	C	C	C	C	C	C	C	C	C	C	C	
Bower Coal Co	Bowers	C	C	C	C	C	C	C	C	C	C	C	
Bowers, A. G	Bowman	C	C	C	C	C	C	C	C	C	C	C	
Bowman, M. P	Bradford #2	B	B	B	B	B	B	B	B	B	B	B	
Bradford Coal Co	Bradford #4	A	A	A	A	A	A	A	A	A	A	A	
	Smith	C	C	C	C	C	C	C	C	C	C	C	
Brickell, Roy	Melrose	C	C	C	C	C	C	C	C	C	C	C	
Britten, J. B	Brock	C	C	C	C	C	C	C	C	C	C	C	
Brock Mining Co	Larimer	C	C	C	C	C	C	C	C	C	C	C	
Brockway Coal Co	Brookdale	C	C	C	C	C	C	C	C	C	C	C	
Brookdale Coal Co	Brown	C	C	C	C	C	C	C	C	C	C	C	
Brown, H. L. & Brown, W. F	Sykesville	C	C	C	C	C	C	C	C	C	C	C	
Buffalo & Susquehanna C. & C. Co	Sagamore	C	C	C	C	C	C	C	C	C	C	C	
Buffalo Coal Co	Pine Hill #2	C	C	C	C	C	C	C	C	C	C	C	
Bumbernick Coal Co	Bumbernick	B	B	B	B	B	B	B	B	B	B	B	
Burket, Anthon	Brubaker	C	C	C	C	C	C	C	C	C	C	C	
Burkett, A. R	Lick Run	C	C	C	C	C	C	C	C	C	C	C	
Burnwell Coal Co	Burnwell	B	B	B	B	B	B	B	B	B	B	B	
Burnsworth, H. C	Burnsworth	C	C	C	C	C	C	C	C	C	C	C	
Burton & Taylor	Fairview	C	C	C	C	C	C	C	C	C	C	C	
Buskirk, Frank	Buskirk's	B	B	B	B	B	B	B	B	B	B	B	
Butterworth Bros. Coal Mng. Co	Keystone #1, 2, 3, 4	B	B	B	B	B	B	B	B	B	B	B	
Byers, T. O	Lydick	C	C	C	C	C	C	C	C	C	C	C	
Byrnes Coal Co	Byrnes	C	C	C	C	C	C	C	C	C	C	C	
Cable, Scott	Cable	C	C	C	C	C	C	C	C	C	C	C	
Camberg, Carl	Carl Camberg	C	C	C	C	C	C	C	C	C	C	C	
Cambria-Lochrie Coal Co	Cambria-Lochrie #1	C	C	C	C	C	C	C	C	C	C	C	
	Cambrie-Lochrie #2	C	C	C	C	C	C	C	C	C	C	C	

Code Member Index—Continued

PENNSYLVANIA—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL	
		1	2	3	4	5	6	7	9	12	13	14	
Cameron Mining Co	Cameron	B	B	B	B	B	B	B	B	B	B	B	
Campbell, C. C	Campbell	C	C	C	C	C	C	C	C	C	C	C	
Carles, Maurice	Carles	C	C	C	C	C	C	C	C	C	C	C	
Carlson, John E	Bear Creek	A	A	A	A	A	A	A	A	A	A	A	
Carr, Wm. M	Carr	C	C	C	C	C	C	C	C	C	C	C	
Carroll Coal Co., E. J	Lutz	C	C	C	C	C	C	C	C	C	C	C	
Carroll-Gatesman Coal Co	Carroll	C	C	C	C	C	C	C	C	C	C	C	
Carlson, Lander	Carlson	C	C	C	C	C	C	C	C	C	C	C	
Carson, O. R	Bache	A	C	A	A	C	A	C	A	C	A	C	
Catalano, Arch	Catalano	C	C	C	C	C	C	C	C	C	C	C	
Centennial Smokeless Coal Co	Centennial	C	C	C	B	C	B	C	B	C	B	C	
Center Coal Co	Idabelle	B	B	B	B	B	B	B	B	B	B	B	
Chamberlain Bros	Chamberlain	A	A	A	A	A	A	A	A	A	A	A	
Chambers Coal Co., R. A	Clarence #1	C	C	C	C	C	C	C	C	C	C	C	
Cherry Run Coal Mng. Co	Cherry Run #1	B	B	B	B	B	B	B	B	B	B	B	
Chester Hill Coal Co	Chester Hill	C	C	C	C	C	C	C	C	C	C	C	
Chittister, C. C	Mill Creek	C	C	C	C	C	C	C	C	C	C	C	
Christner, H. R	Christner	C	C	C	C	C	C	C	C	C	C	C	
Chuhran Coal Co	Chuhran	C	C	C	C	C	C	C	C	C	C	C	
Christy, H. J	Baxter	C	C	C	C	C	C	C	C	C	C	C	
Christy, H. J	McNees-Reese	C	C	C	C	C	C	C	C	C	C	C	
Citizens Coal Co	Dale	C	C	C	C	C	C	C	C	C	C	C	
Clauson, G. W	Clauson	C	C	C	C	C	C	C	C	C	C	C	
Claypoole, M. J	Claypoole	C	C	C	B	C	B	C	B	C	B	C	
Clevenger, John R	Rhine	B	B	C	C	B	C	B	C	B	C	B	
Clites, John R	John R. Clites	B	B	C	C	B	C	B	C	B	C	B	
Clymer-Moshannon Coal Co	Charley-Frank #1	C	C	C	C	C	C	C	C	C	C	C	
Coleman & Son, O. B	Coleman	C	C	C	C	C	C	C	C	C	C	C	
Commercial Coal Mng. Co	Commercial #5	B	B	C	B	C	B	C	B	C	B	C	
Consolidation Coal Co	Consol. #119	C	C	C	C	C	C	C	C	C	C	C	
Consolidation Coal Co	Consol. #120-121	C	C	C	C	C	C	C	C	C	C	C	
Consolidation Coal Co	Consol. #123	C	C	C	C	C	C	C	C	C	C	C	
Confer, Berton J	Confer Coal	A	C	A	A	C	A	C	A	C	A	C	
Connor & Sarlouis	Nau & Hillbrecht	C	C	C	C	C	C	C	C	C	C	C	
Cook, J. M	Cook	C	C	C	C	C	C	C	C	C	C	C	
Coons, Wm. T	Coons	C	C	C	C	C	C	C	C	C	C	C	
Corbin & Son, J. H	Corbin	C	C	C	C	C	C	C	C	C	C	C	
Cornely, A. J	Cornely	B	B	B	B	B	B	B	B	B	B	B	
Coupe, Percy	Coupe	A	A	A	A	A	A	A	A	A	A	A	
Craft & Sons, M. O	Craft	C	C	C	C	C	C	C	C	C	C	C	
Crago, Harry F	Chester	C	C	C	C	C	C	C	C	C	C	C	
Craig, W. J	Craig	B	B	B	B	B	B	B	B	B	B	B	
Craighead, S. J	Rose Bud	B	C	B	B	C	B	C	B	C	B	C	
Cree, W. Herman	Cree	C	A	C	C	A	C	A	C	A	C	A	
Cromwell & Son, H. L	Cromwell #7	A	A	A	A	A	A	A	A	A	A	A	
Crotsley & Thomas	Crotsley & Thomas	B	C	B	B	C	B	C	B	C	B	C	
Dahlin Brothers	Stanley #1	C	C	C	C	C	C	C	C	C	C	C	
Dahlin Brothers	Copeland	C	C	C	C	C	C	C	C	C	C	C	
Dahlin Brothers	Sunnyfield	C	C	C	C	C	C	C	C	C	C	C	
Darr, Charles F	Darr	C	C	C	C	C	C	C	C	C	C	C	
Daugherty Est., W. A	Daugherty	C	C	C	C	C	C	C	C	C	C	C	
David, A. E	A. E. David	C	C	C	C	C	C	C	C	C	C	C	
David, A. E	David Dibert	C	C	C	C	C	C	C	C	C	C	C	
David, George	George David	C	C	C	C	C	C	C	C	C	C	C	
Davidson, S. Earn, Dickey, Clyde F., & Ruppert, James.	Davidson	C	C	C	C	C	C	C	C	C	C	C	
Davis, Claire J	Davis Coal	C	C	C	C	C	C	C	C	C	C	C	
Davis Coal & Coke Co., The	Orenda #2	C	C	C	C	C	C	C	C	C	C	C	
Davis, Joseph A	Davis	C	C	C	C	C	C	C	C	C	C	C	
Daywood Coal Co	Daywood	C	C	C	C	C	C	C	C	C	C	C	
Decker, H. C	Decker #1	C	C	C	C	C	C	C	C	C	C	C	
DeHaven, Edward F	DeHaven	C	C	C	C	C	C	C	C	C	C	C	
Demchak, John	Demchak	C	C	C	C	C	C	C	C	C	C	C	
Demo, Simon	Demo	C	C	C	C	C	C	C	C	C	C	C	
Derringer Fuel Co	Woodland #2	C	C	C	C	C	C	C	C	C	C	C	
Deter, John	Deter	C	C	C	C	C	C	C	C	C	C	C	
Detrick, John	Detrick	C	C	C	C	C	C	C	C	C	C	C	
Diamond Coal Co	Randolph #2	C	C	C	C	C	C	C	C	C	C	C	
Diehl, Frank	Frank Diehl	C	C	C	C	C	C	C	C	C	C	C	
Diehl & Son, J. C	Diehl	A	A	A	A	A	A	A	A	A	A	A	
Dillon, A. J	Kibler	C	C	C	C	C	C	C	C	C	C	C	
Dippold, Joe	Joe Dippold	C	C	C	C	C	C	C	C	C	C	C	
Dix Run Coal Co	Dix Run #1	C	C	C	C	C	C	C	C	C	C	C	
Dorko, A. J	Dorko #1	C	C	C	C	C	C	C	C	C	C	C	
Dougherty Coal Co	Dougherty	C	C	C	C	C	C	C	C	C	C	C	
Douglass, John B	Douglass	C	C	C	B	C	B	C	B	C	B	C	
Dugan, Edward L. (Sterling Moshannon Coal Mining Co.)	Penn #4	B	B	B	B	B	B	B	B	B	B	B	
Dumbleton Brothers	Dumbleton	C	C	C	C	C	C	C	C	C	C	C	
Dougherty Mountain Coal Co	Butler #1	C	C	C	C	C	C	C	C	C	C	C	
Dupin, Frank	Benshoff	C	C	C	C	C	C	C	C	C	C	C	
DuShan Coal Mng. Co	DuShan #1	C	C	C	C	C	C	C	C	C	C	C	
Dwyer, Thos. P	Thos. P. Dwyer	C	C	C	C	C	C	C	C	C	C	C	
East Winber Coal Co	East Winber #4	A	A	A	A	A	A	A	A	A	A	A	
East Winber Coal Co	East Winber #5	A	C	A	A	C	A	C	A	C	A	C	
Echo Mining Co	Lumsted	C	C	C	C	C	C	C	C	C	C	C	
Eddy, Joseph	Eddy	C	C	C	C	C	C	C	C	C	C	C	
Edmonds & Haines	Edmonds & Haines	C	C	C	C	C	C	C	C	C	C	C	
Eichelberger & Co., E	Bacon #4	A	A	A	A	A	A	A	A	A	A	A	
Eichelberger & Co., E	Bacon #2	A	A	A	A	A	A	A	A	A	A	A	
Eichelberger & Co., E	Bacon #5	A	C	A	A	C	A	C	A	C	A	C	
Eichenlaub Coal Co., G. F	Russett #1	C	C	C	C	C	C	C	C	C	C	C	
Eichenlaub Coal Co., G. F	Russett #4	C	C	C	C	C	C	C	C	C	C	C	
Eichenlaub Coal Co., G. F	Brookville #2	C	C	C	C	C	C	C	C	C	C	C	
Eichenlaub Coal Co., G. F	Brookville #3	C	C	C	C	C	C	C	C	C	C	C	
Eichenlaub Coal Co., G. F	McNelis	C	C	C	C	C	C	C	C	C	C	C	
Eichenlaub Coal Co., G. F	Tollon Hill	C	C	C	C	C	C	C	C	C	C	C	

Code Member Index—Continued

PENNSYLVANIA—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL	
		1	2	3	4	5	6	7	9	12	13	14	
Eichenlaub Coal Co., G. F.	Brookville #3	C	C	C	C	C	C	C	C	C	C	C	
Elk Mining Co.	Elk	C	C	C	C	C	C	C	C	C	C	C	
Elk Mountain Mng. Co.	Elk Mountain	C	C	C	C	C	C	C	C	C	C	C	
Eberhart, Earl	J. F. McClain	C	C	C	C	C	C	C	C	C	C	C	
Fairman, K. C.	Sugar Run #2	B	B	B	B	B	B	B	B	B	B	B	
Fall Brook Coal Mng. Co.	Ben-Allan	A	A	A	A	A	A	A	A	A	A	A	
Fall Brook Coal Mng. Co.	Fall Brook #2	A	A	A	A	A	A	A	A	A	A	A	
Falller Coal Co.	Falller	C	C	C	C	C	C	C	C	C	C	C	
Feeney Coal Co.	McIntyre	A	A	A	A	A	A	A	A	A	A	A	
Fasenmyer & Ditz	Fasenmyer	C	C	C	C	C	C	C	C	C	C	C	
Fasenmyer & Ditz	Niederater	C	C	C	C	C	C	C	C	C	C	C	
Fiddler, Wm. H.	Fiddler	C	C	C	C	C	C	C	C	C	C	C	
Finberg Coal Co.	Jordan #2	C	C	C	C	C	C	C	C	C	C	C	
Fisher, Donald E.	Bucky Run	A	A	A	A	A	A	A	A	A	A	A	
Fleegle, Irwin	Fleegle	C	C	C	C	C	C	C	C	C	C	C	
Fleming, L. O.	Fleming	C	C	C	C	C	C	C	C	C	C	C	
Flenner Coal Co.	Flenner #1	C	C	C	C	C	C	C	C	C	C	C	
Fogle Coal Co.	Fogle	C	C	C	C	C	C	C	C	C	C	C	
Forks Coal Mng. Co.	Hughes #1	C	C	C	C	C	C	C	C	C	C	C	
Forks Coal Mng. Co.	Hughes #3	C	C	C	C	C	C	C	C	C	C	C	
Forks Coal Mng. Co.	Iron Springs	C	C	C	C	C	C	C	C	C	C	C	
Formeck, Joseph	Lantry	C	C	C	C	C	C	C	C	C	C	C	
Forsberg, Theodore	Forsberg	C	C	C	C	C	C	C	C	C	C	C	
Forsythe, Robert L.	Reitz #4—Upper	C	C	C	C	C	C	C	C	C	C	C	
Frazer, David G	Mortimer's	C	C	C	C	C	C	C	C	C	C	C	
Frazer & Son, J.	Frazer's	A	A	A	A	A	A	A	A	A	A	A	
Friendly City Coal Co.	Fishter	C	C	C	C	C	C	C	C	C	C	C	
Fritz, Homer Y.	Fritz	C	C	C	C	C	C	C	C	C	C	C	
Frostburg Coal Co.	Frostburg	C	C	C	C	C	C	C	C	C	C	C	
Fryburg Motor Co.	Weaver	C	C	C	C	C	C	C	C	C	C	C	
Fulton, C. M.	Paramount	C	C	C	C	C	C	C	C	C	C	C	
Fyock, S. H.	Fyock	C	C	C	C	C	C	C	C	C	C	C	
Gardner, Ray	Gardner	C	C	C	C	C	C	C	C	C	C	C	
Garman, A. L.	Klondike	C	C	C	C	C	C	C	C	C	C	C	
Garman Brothers	Dysart Klondike	C	C	C	C	C	C	C	C	C	C	C	
Garman, E. W.	Garman	C	C	C	C	C	C	C	C	C	C	C	
Garman, Margaret L.	Garman	C	C	C	C	C	C	C	C	C	C	C	
Garman, Charles W.	C. W. Garman	C	C	C	C	C	C	C	C	C	C	C	
Garman, E. F.	New House	C	C	C	C	C	C	C	C	C	C	C	
Gauntner Coal Company	Gauntner	C	C	C	C	C	C	C	C	C	C	C	
Geiger Brothers Coal Co.	Frank Lohr	B	B	B	B	B	B	B	B	B	B	B	
George, A. A.	George	C	C	C	C	C	C	C	C	C	C	C	
Gerber & Gahr	Gerber & Gahr	C	C	C	C	C	C	C	C	C	C	C	
Gertz, Fred	Gertz	C	C	C	C	C	C	C	C	C	C	C	
Geocomelli, Elio	St. Clair	C	C	C	C	C	C	C	C	C	C	C	
Gibson, J. I.	Orr Farm	C	C	C	C	C	C	C	C	C	C	C	
Gilligan, Harry E.	Harry E. Gilligan	C	C	C	C	C	C	C	C	C	C	C	
Gindlesperger & Brandt	Barkley	C	C	C	C	C	C	C	C	C	C	C	
Glasgow, Edward	Reynolds	C	C	C	C	C	C	C	C	C	C	C	
Glass Brothers	Glass Brothers	C	C	C	C	C	C	C	C	C	C	C	
Glasser, John F.	Glasser	C	C	C	C	C	C	C	C	C	C	C	
Glen White Coal & Lumber Company	Glen White #2	C	C	C	C	C	C	C	C	C	C	C	
	Glen White #1	C	C	C	C	C	C	C	C	C	C	C	
Globe Coal Co.	Virginia #14	C	C	C	C	C	C	C	C	C	C	C	
Gonzales Coal Sales Co.	Gonzales #1	C	C	C	C	C	C	C	C	C	C	C	
Good Coal Co.	Good	C	C	C	C	C	C	C	C	C	C	C	
Graham, Walter	Graham	C	C	C	C	C	C	C	C	C	C	C	
Greenhill Coal Co.	Greenhill	C	C	C	C	C	C	C	C	C	C	C	
Gregg, Frank S.	F. S. Gregg Coal Co.	C	C	C	C	C	C	C	C	C	C	C	
Greibel Brothers	Mottmiller's	C	C	C	C	C	C	C	C	C	C	C	
Griffith Est. Mine, E. W.	E. W. Griffith Estate	C	C	C	C	C	C	C	C	C	C	C	
Griffith, George W.	Griffith	C	C	C	C	C	C	C	C	C	C	C	
Groe, A. A.	Seven Mile Run	C	C	C	C	C	C	C	C	C	C	C	
Guinn, Harper J.	Peerage #1	C	C	C	C	C	C	C	C	C	C	C	
Haggerty, Patrick	Haggerty's	C	C	C	C	C	C	C	C	C	C	C	
Hamler Coal Mng. Co.	Hamler	C	C	C	C	C	C	C	C	C	C	C	
Handel & Son, Wm.	Wm. Handel & Son	C	C	C	C	C	C	C	C	C	C	C	
Hanna, Jr., W. H.	Hanna	C	C	C	C	C	C	C	C	C	C	C	
Harlan Coal Co.	Harlan	C	C	C	C	C	C	C	C	C	C	C	
Harman, Walter, Brewer, James, Jewart, Glen and Ray, Ralph.	Brown	B	B	B	B	B	B	B	B	B	B	B	
Hart & Son, E. M.	Rattler	A	A	A	A	A	A	A	A	A	A	A	
Hassinger, C. P.	Hasslinger	C	C	C	C	C	C	C	C	C	C	C	
Hauger Mine	Hanger	C	C	C	C	C	C	C	C	C	C	C	
Hauk, George	Hauk	C	C	C	C	C	C	C	C	C	C	C	
Hayes & Callahan	Superior	C	C	C	C	C	C	C	C	C	C	C	
Hays, George J. (Hays Coal Co.)	Hays	C	C	C	C	C	C	C	C	C	C	C	
Heath Brothers	B. Mine	C	C	C	C	C	C	C	C	C	C	C	
Heath Brothers	C. Mine	C	C	C	C	C	C	C	C	C	C	C	
Hegarty's Sons, S.	Oakland #2	C	C	C	C	C	C	C	C	C	C	C	
Heisley Coal Co.	Heisley #3	C	C	C	C	C	C	C	C	C	C	C	
Helmer Johnson Coal Co.	Troxel	C	C	C	C	C	C	C	C	C	C	C	
Henderson, Clarence & Davis, David	Pollock's	C	C	C	C	C	C	C	C	C	C	C	
Henderson, Loyal T.	Loyal T. Henderson	C	C	C	C	C	C	C	C	C	C	C	
Henry, Enos	McCreary	C	C	C	C	C	C	C	C	C	C	C	
Henrietta Coal Mng. Co.	Henrietta #2	C	C	C	C	C	C	C	C	C	C	C	
Hensal, Gus	Hensal	C	C	C	C	C	C	C	C	C	C	C	
Hershberger, Walter C.	Hersberger	C	C	C	C	C	C	C	C	C	C	C	
Hertlein, Bessie	Hertleins	C	C	C	C	C	C	C	C	C	C	C	
Heseltine, Robert	Heseltine	C	C	C	C	C	C	C	C	C	C	C	
Heberly, James H.	Heberly	C	C	C	C	C	C	C	C	C	C	C	
Higgins Coal Co.	Fall Creek	C	C	C	C	C	C	C	C	C	C	C	
Hi-Grade Coal Corp.	Hi-Grade Coal Corp.	C	C	C	C	C	C	C	C	C	C	C	
Hillman Coal & Coke Co.	Jerome #2 & 3	C	C	C	C	C	C	C	C	C	C	C	
Hillman Coal & Coke Co.	Jerome #1	C	C	C	C	C	C	C	C	C	C	C	
Hillside Coal Co.	Hillside	C	C	C	C	C	C	C	C	C	C	C	

Code Member Index—Continued

PENNSYLVANIA—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL	
		1	2	3	4	5	6	7	9	12	13	14	
Hillside Coal Co.	Moshannon #11	C	C	C	C	C	C	C	C	C	C	C	
Hilvitz, Joseph	Moore #1	C	C	C	C	C	C	C	C	C	C	C	
Himes Coal Co., A. J.	Himes	A	A	A	A	A	A	A	A	A	A	A	
Himes, R. M.	Himes	C	C	C	C	C	C	C	C	C	C	C	
Hochstein, Conrad	Hochstein	C	C	C	C	C	C	C	C	C	C	C	
Hoffman & Swope Coal Co.	Hoffman & Swope	C	C	C	C	C	C	C	C	C	C	C	
Hoffman, Albert	Hoffman	C	C	C	C	C	C	C	C	C	C	C	
Holmberg Coal Co.	Holmberg	C	C	C	C	C	C	C	C	C	C	C	
Holtz, A. F.	Holtz	C	C	C	C	C	C	C	C	C	C	C	
Honesty Coal Co.	Honesty	C	C	C	C	C	C	C	C	C	C	C	
Holtz, C. B.	Holtz	C	C	C	C	C	C	C	C	C	C	C	
Holtz, Isadore	Holtz	C	C	C	C	C	C	C	C	C	C	C	
Homestead Coal Co.	Homestead	C	C	C	C	C	C	C	C	C	C	C	
Horne, Oscar B.	Forrest	C	C	C	C	C	C	C	C	C	C	C	
Hotcap Coal Co.	Hotcap	C	C	C	C	C	C	C	C	C	C	C	
Houck & Altobelli	Double Buck	A	A	A	A	A	A	A	A	A	A	A	
Houck, Carl M.	Carl M. Houck	C	C	C	C	C	C	C	C	C	C	C	
Howell & Sill	Anns S	A	A	A	A	A	A	A	A	A	A	A	
Huber Street Coal Co.	Huber Street	C	C	C	C	C	C	C	C	C	C	C	
Hughes, B. F., Jr.	Hughes	C	C	C	C	C	C	C	C	C	C	C	
Hughes & Co., C. A.	Hughes #2	A	A	A	A	A	A	A	A	A	A	A	
Hughes & Co., C. A.	Lilly #3	A	A	A	A	A	A	A	A	A	A	A	
Hughes, Frank C.	Frank C. Hughes	C	C	C	C	C	C	C	C	C	C	C	
Huskin Coal Co.	Huskin #3, 4, 6	C	C	C	C	C	C	C	C	C	C	C	
Hutton, A. B.	Hutton	C	C	C	C	C	C	C	C	C	C	C	
Hygrade Coal Co.	Shanil Mine #2	B	B	B	B	B	B	B	B	B	B	B	
Jackson Hill Coal Co.	Jackson	A	A	A	A	A	A	A	A	A	A	A	
Jacob Punter Coal Co.	Punter	C	C	C	C	C	C	C	C	C	C	C	
Jefferson & Indiana Coal Company	Adrian	C	C	C	C	C	C	C	C	C	C	C	
Jeschonek, Wm.	Wm. Jeschnek	C	C	C	C	C	C	C	C	C	C	C	
Johns, Joseph and Loar, James	Johns & Loar Coal	C	C	C	C	C	C	C	C	C	C	C	
Jones, Herbert	Jones	C	C	C	C	C	C	C	C	C	C	C	
Johnson, Arthur T.	Arthur T. Johnson	A	A	A	A	A	A	A	A	A	A	A	
Johnson & Palm	Johnson & Palm	A	B	A	B	A	B	A	B	A	B	A	
Johnston, Eugene	Johnston	B	B	B	B	B	B	B	B	B	B	B	
Johnson, Thorval	West Moshannon	B	C	B	C	B	C	B	C	B	C	B	
Johnstown Smk. Coal Co.	Shaft	C	C	C	C	C	C	C	C	C	C	C	
Johnstown Smk. Coal Co.	#7	C	C	C	C	C	C	C	C	C	C	C	
Jones Coal Co.	Jones #1	C	C	C	C	C	C	C	C	C	C	C	
Jones Coal Co.	Jones #2	C	C	C	C	C	C	C	C	C	C	C	
Jones Coal Co., Roy A.	Sutton #9 & 10	C	C	C	C	C	C	C	C	C	C	C	
Jones, E. A.	Markleton	C	C	C	C	C	C	C	C	C	C	C	
Kasmark, Ben	Kasmark	C	C	C	C	C	C	C	C	C	C	C	
Kassab, Casper	Kassab	C	C	C	C	C	C	C	C	C	C	C	
Kato Coal Mining Co.	Kato #3, 2, 4	C	C	C	C	C	C	C	C	C	C	C	
Kavanaugh, Edwin T.	Kavanaugh #1	C	C	C	C	C	C	C	C	C	C	C	
Kay Coal Mng. Co.	Tussey #1	C	A	C	A	C	A	C	A	C	A	C	
Kay Coal Mng. Co.	Tussey #2	A	A	A	A	A	A	A	A	A	A	A	
Kay Coal Mng. Co.	Shannil	A	B	A	B	A	B	A	B	A	B	A	
Kearney Coal Co.	Kearney-Barnett	C	C	C	C	C	C	C	C	C	C	C	
Keeler, John T.	Keeler Shelocta	C	C	C	C	C	C	C	C	C	C	C	
Kelley, Logan M.	Kelmer #22	C	C	C	C	C	C	C	C	C	C	C	
Kelso Coal Co.	Secary	C	C	C	C	C	C	C	C	C	C	C	
Kennedy, Clarence E.	Kennedy	C	C	C	C	C	C	C	C	C	C	C	
Kennell, W. K.	Kennell #1	C	C	C	C	C	C	C	C	C	C	C	
Kenney's Mine	Kenney's	C	C	C	C	C	C	C	C	C	C	C	
Kennedy, Wm.	Sipe Estate	C	C	C	C	C	C	C	C	C	C	C	
Kenrock Coal Co.	Franklin #2	C	A	C	A	C	A	C	A	C	A	C	
Kester, S. L.	S. L. Kester	A	B	A	B	A	B	A	B	A	B	A	
Keystone Coal Co.	Keystone	C	C	C	C	C	C	C	C	C	C	C	
Keystone Coal Mining Co.	Collier	C	C	C	C	C	C	C	C	C	C	C	
Kibler, Thad	Kibler	C	C	C	C	C	C	C	C	C	C	C	
Kibler, Raymond	Kibler	C	C	C	C	C	C	C	C	C	C	C	
Killius, J. R.	J. R. Killius	C	C	C	C	C	C	C	C	C	C	C	
King, A. C.	King	C	C	C	C	C	C	C	C	C	C	C	
King Coal Co.	King #1	C	C	C	C	C	C	C	C	C	C	C	
King, Henry	Moss	C	C	C	C	C	C	C	C	C	C	C	
Kinnan, H. B.	Cokeville	C	C	C	C	C	C	C	C	C	C	C	
Kline, C. P.	Lantzy #1	C	C	C	C	C	C	C	C	C	C	C	
Kline, Victor	Kline	C	C	C	C	C	C	C	C	C	C	C	
Klingensmith, Wm. I.	Seward Smokeless	C	C	C	C	C	C	C	C	C	C	C	
Klink, Glen F.	Klink	C	C	C	C	C	C	C	C	C	C	C	
Knupp, Wm. D.	Bittner #1	C	C	C	C	C	C	C	C	C	C	C	
Kollak, Gottlieb	Kollak's	C	C	C	C	C	C	C	C	C	C	C	
Koshko, Micheal	Koshko #2	C	C	C	C	C	C	C	C	C	C	C	
Kuhstos Bros.	Lehigh #26	C	C	C	C	C	C	C	C	C	C	C	
Kuhstos & Bamkilog	Cambria #1	C	C	C	C	C	C	C	C	C	C	C	
Kunes, Haskell G.	Cambria	C	C	C	C	C	C	C	C	C	C	C	
Lamb & Helman	Haskell G. Kunes	C	C	C	C	C	C	C	C	C	C	C	
Lanark Coal Co.	Lamb & Helman #3	C	C	C	C	C	C	C	C	C	C	C	
Langdon Coal Co.	Lanark #1	C	A	C	A	C	A	C	A	C	A	C	
Lantzy Brothers	Glendale	C	C	C	C	C	C	C	C	C	C	C	
Lantzy Coal Co.	Lantzy's	C	C	C	C	C	C	C	C	C	C	C	
Larson, W. J.	Greenwich	C	C	C	C	C	C	C	C	C	C	C	
Laurel Run Coal Mining Co.	Larson's	C	C	C	C	C	C	C	C	C	C	C	
Leadbetter Coal Co.	Laurel Run	C	C	C	C	C	C	C	C	C	C	C	
Lee & Sons, D. M.	Empire "G"	C	C	C	C	C	C	C	C	C	C	C	
Leland No. 1 Coal Co.	Tressler	C	B	C	B	C	B	C	B	C	B	C	
Lemmon, W. H.	Leland No. 1	B	C	B	C	B	C	B	C	B	C	B	
Lenox Coal Co.	Lemmon	C	A	C	A	C	A	C	A	C	A	C	
Lewis, Matthew	Termal #5	A	B	A	B	A	B	A	B	A	B	A	
Lilly-Benscreek Coal Co.	Max	C	C	C	C	C	C	C	C	C	C	C	
Lincoln Coal Co., Inc.	Lilly-Benscreek	B	C	B	C	B	C	B	C	B	C	B	
Lindquist & Johnson	Lincoln	C	C	C	C	C	C	C	C	C	C	C	
Linglet & Lansberry	Lindquist & Johnson												
	Foxburg No. 1												

Code Member Index—Continued

PENNSYLVANIA—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Logan Coal Co	Logan #1½	C	C	C	C	C	C	C	C	C	C	C
Long & Little	Lanark #1	C	C	C	C	C	C	C	C	C	C	C
Loyal Hanna Coal & Coke Co	Loyal Hanna #3	C	C	C	C	C	C	C	C	C	C	C
	Loyal Hanna #6	B	B	B	B	B	B	B	B	B	B	B
	Loyal Hanna #7	B	B	B	B	B	B	B	B	B	B	B
Lucas, Harry G	Lucas	C	C	C	C	C	C	C	C	C	C	C
Luke, Milton C	Luke	C	C	C	C	C	C	C	C	C	C	C
Lumandue, Jos. B	Lumandue	C	C	C	C	C	C	C	C	C	C	C
Luther, R. M	Luther	C	C	C	C	C	C	C	C	C	C	C
Lydic, W. A	W. A. Lydic	C	C	C	C	C	C	C	C	C	C	C
Lytle, Arthur M	Sunnyside	B	B	B	B	B	B	B	B	B	B	B
Mack Coal Co	Flickinger	B	B	B	B	B	B	B	B	B	B	B
Mapes, C. W	Mapes	C	C	C	C	C	C	C	C	C	C	C
Martin Bros Coal Co	Louise #5	A	A	A	A	A	A	A	A	A	A	A
Mattern, Carl	Mattern	C	C	C	C	C	C	C	C	C	C	C
Matthews, E. G	Matthews	C	C	C	C	C	C	C	C	C	C	C
Matthews & Sons, R. L	Belfast No. 2	C	C	C	C	C	C	C	C	C	C	C
McAninch Bros	McAninch Bros	C	C	C	C	C	C	C	C	C	C	C
McCartney, T. V	T. V. McCartney #1	C	C	C	C	C	C	C	C	C	C	C
McClain Coal Co	Black #4	A	A	A	A	A	A	A	A	A	A	A
McComble, Frank C	McComble #2	C	C	C	C	C	C	C	C	C	C	C
McConnell, C. J	McConnell	C	C	C	C	C	C	C	C	C	C	C
McConnell, Henry	Henry McConnell	C	C	C	C	C	C	C	C	C	C	C
McConnell & Berish	Sodmont	C	C	C	C	C	C	C	C	C	C	C
McCracken, T. W	McCracken	C	C	C	C	C	C	C	C	C	C	C
McDowell, Edward	McCracken	B	B	B	B	B	B	B	B	B	B	B
McGarey Coal Mining Co	McCarey	C	C	C	C	C	C	C	C	C	C	C
McGarvey, Walter	McGarvey	C	C	C	C	C	C	C	C	C	C	C
McGuire Coal Co	McGuire	C	C	C	C	C	C	C	C	C	C	C
McGonigal Brothers	Moore No. 1	C	C	C	C	C	C	C	C	C	C	C
McIntyre & Co., James	Shreeve Run #1	C	C	C	C	C	C	C	C	C	C	C
	Shreeve Run #2	A	A	A	A	A	A	A	A	A	A	A
McKee, G. B., Holt, V. A., McKee, W. G., McKee, H. S., Spencer, Albert.	Betsford	C	C	C	C	C	C	C	C	C	C	C
McLaughlin, & Co., J. M	McLaughlin	C	C	C	C	C	C	C	C	C	C	C
McMinn, Nell	Phillips #1	C	C	C	C	C	C	C	C	C	C	C
Meredith and Dunlap	M & D	C	C	C	C	C	C	C	C	C	C	C
Mellot & Sons, L. W	Chevington #5	A	A	A	A	A	A	A	A	A	A	A
Merrbach Brothers	Merrbach Bros	C	C	C	C	C	C	C	C	C	C	C
Meyer, J. Bruce	Peters #2	C	C	C	C	C	C	C	C	C	C	C
Middle Branch Coal Mine	Middle Branch	A	A	A	A	A	A	A	A	A	A	A
Middle Pa. Coal Corp	Cammes. #1	B	B	B	B	B	B	B	B	B	B	B
	Mid Pen #4	C	C	C	C	C	C	C	C	C	C	C
Midway Coal Co	Midway #1	C	C	C	C	C	C	C	C	C	C	C
Miller, Howard	Miller	C	C	C	C	C	C	C	C	C	C	C
Mills, C. B. & Mills, Robert W	Mills	C	C	C	C	C	C	C	C	C	C	C
Mills, W. H	Moss	C	C	C	C	C	C	C	C	C	C	C
Mohawk Coal Mining Co	Mohawk 1 & 2	B	B	B	B	B	B	B	B	B	B	B
Monroe Coal Mining Co	Revloc	B	B	B	B	B	B	B	B	B	B	B
Moose, H. W	Moose	C	C	C	C	C	C	C	C	C	C	C
Morley & Davis Mine	Morley & Davis	C	C	C	C	C	C	C	C	C	C	C
Morris, Edward	Morris	C	C	C	C	C	C	C	C	C	C	C
Morris & Sons, Harry	Morris	C	A	A	C	C	C	C	C	C	C	C
Morris Run Coal Mining Co	Morris Run	A	A	A	A	A	A	A	A	A	A	A
Morrison, Herman J	Morrison	A	A	A	A	A	A	A	A	A	A	A
Morrison, Millard R	Morrison	C	C	C	C	C	C	C	C	C	C	C
Moss & Hoffman	Moss	C	C	C	C	C	C	C	C	C	C	C
Mortimer, L. R	Mortimer's	C	C	C	C	C	C	C	C	C	C	C
Moshannon Coal Co	Moshannon #10	C	C	C	C	C	C	C	C	C	C	C
Moshannon Smithing Co	Glenmar No. 1	B	B	B	B	B	B	B	B	B	B	B
Mott Coal Co	Carbon Run	A	A	A	A	A	A	A	A	A	A	A
Mountain Branch Coal Co	Mountain Branch	C	C	C	A	C	C	C	C	A	C	C
Mountain Top Coal Co	Mountain Top #1	A	A	A	A	A	A	A	A	A	A	A
Mountain Top Coal Co	Scalp Level #2	A	A	A	A	A	A	A	A	A	A	A
Murray Hill Coal Co	Murray Hill Coal Co. Smith #1.	C	C	C	C	C	C	C	C	C	C	C
Murray, Simon	Crab Hole	C	C	C	C	C	C	C	C	C	C	C
Myers Brothers	Myers Brothers	C	C	C	C	C	C	C	C	C	C	C
Myers, Eva (Mrs.)	Myers #2	C	C	C	C	C	C	C	C	C	C	C
Nau & Hillbrecht	Nau & Hillbrecht	C	C	C	C	C	C	C	C	C	C	C
Nau Coal Co	Nau	C	C	C	C	C	C	C	C	C	C	C
Naughton, Harvey	Naughton	C	C	C	C	C	C	C	C	C	C	C
Neatrour, A. G. (Asbestos Coal Co.)	Moss	C	C	C	C	C	C	C	C	C	C	C
Nelson, A. I	Nelson	C	C	C	C	C	C	C	C	C	C	C
Neeman Brothers	Neeman	C	C	C	C	C	C	C	C	C	C	C
Nevling, Harry	Little Beaver	B	B	B	B	B	B	B	B	B	B	B
New Castle Coal Co	New Castle #1	C	C	C	C	C	C	C	C	C	C	C
	Lobb #1	C	C	C	C	C	C	C	C	C	C	C
Newton, Wm	Newton	C	C	C	C	C	C	C	C	C	C	C
Nightingale, Thos. (Nightingale Co.)	Nightingale	C	C	C	C	C	C	C	C	C	C	C
Nimmo, Robert	Salem-Coal Hill	C	A	A	C	C	C	C	C	C	A	A
Norman and Guy	Flower Run	A	A	A	A	A	A	A	A	A	A	A
North Point Fuel Co	Bear Lick #1	A	A	A	A	A	A	A	A	A	A	A
	Bear Lick #2	A	A	A	A	A	A	A	A	A	A	A
Northwestern Mining & Exchange Co	Kramer	C	C	C	C	C	C	C	C	C	C	C
	Oyster	C	C	C	C	C	C	C	C	C	C	C
	Toby	C	C	C	C	C	C	C	C	C	C	C
	Kyler	C	C	C	C	C	C	C	C	C	C	C
Norris & Co., C. O	C. O. Norris & Co	B	B	B	B	B	B	B	B	B	B	B
Nowell, A. S	Nowell	C	C	C	C	C	C	C	C	C	C	C
Obenreder, Jos. G	Zithler	C	C	C	C	C	C	C	C	C	C	C
O'Connor Bros	O'Connor	C	C	C	C	C	C	C	C	C	C	C
O'Hala, Andy	O'Hala	C	C	C	C	C	C	C	C	C	C	C
Olson, Richard R	Olson's	B	C	B	C	B	C	B	C	B	C	C
O'Neill & Co., H	O'Neill No. 3	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

PENNSYLVANIA—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Oroz, John	Oroz	C	C	C	C	C	C	C	C	C	C	U
Orr, Glen R	Orr	B	B	B	B	B	B	B	B	B	B	C
O'Shell, M. J	Oak Ridge	C	C	C	C	C	C	C	C	C	C	C
Ott, John	Otts Mines	C	C	C	C	C	C	C	C	C	C	C
Owens, Ray W	Owen's	C	C	C	C	C	C	C	C	C	C	C
Page & Sons, Inc., James A	Page 1 and 2	C	C	C	C	C	C	C	C	C	C	C
Page Coal Co. (Elsie B. Davis & Jas. R. Houston, Receivers).	Joseph Page	C	C	C	C	C	C	C	C	C	C	C
Painter, M. E	Painter	C	C	C	C	C	C	C	C	C	C	C
Palmer, O. B	Palmer	C	C	C	C	C	C	C	C	C	C	C
Palmer & Son, Ralph	Palmer	C	C	C	C	C	C	C	C	C	C	C
Parkes, Jos	Jos. Parkes	C	C	C	C	C	C	C	C	C	C	C
Patton Coal Mining Co., Inc	Cambria	C	C	C	C	C	C	C	C	C	C	C
Peacock Coal Co	Peacock	C	C	C	C	C	C	C	C	C	C	C
Penn Smokeless Fuel Co	Hiyasota #1	C	C	C	C	C	C	C	C	C	C	C
Pennsylvania Coal & Coke Corp	Penna. #2	C	C	C	C	C	C	C	C	C	C	C
	Penna. 3	B	B	B	B	B	B	B	B	B	B	B
	Penna. 8	B	C	B	C	B	C	B	C	B	C	C
	Penna. 9E	C	C	C	C	C	C	C	C	C	C	C
	Penna. 9Ii	A	A	A	A	A	A	A	A	A	A	A
	Penna. 10	C	C	C	C	C	C	C	C	C	C	C
	Penna. 17E	C	C	C	C	C	C	C	C	C	C	C
	Penna. 21-22	C	C	C	C	C	C	C	C	C	C	C
	Penna. 35	C	C	C	C	C	C	C	C	C	C	C
	Penna. 42	C	C	C	C	C	C	C	C	C	C	C
	Penna. 46	C	C	C	C	C	C	C	C	C	C	C
Pentz, J. H. & R. H	Wildcat	C	C	C	C	C	C	C	C	C	C	C
Peterson, Albert	Albert Peterson	C	C	C	C	C	C	C	C	C	C	C
Peterson, John B. (John B. Peterson & Sons)	Peterson	C	C	C	C	C	C	C	C	C	C	C
Pettit, J. Theo	Foster #4	A	A	A	A	A	A	A	A	A	A	A
Pflester, L. V	Pflester	C	C	C	C	C	C	C	C	C	C	C
Pheasant, Elbie J	Pheasant	C	C	C	C	C	C	C	C	C	C	C
Phillips & Sons, Curtis	Phillips	C	C	C	C	C	C	C	C	C	C	C
Phillips, Reese	Phillips	C	C	C	C	C	C	C	C	C	C	C
Plunkard, H. H	Plunkard	C	C	C	C	C	C	C	C	C	C	C
Porter and Harding	Porter & Harding	A	A	A	A	A	A	A	A	A	A	A
Powell, Griffith (Powell Coal Co.)	Powell	C	C	C	C	C	C	C	C	C	C	C
Pounds & Palmer	Pounds & Palmer	C	C	C	C	C	C	C	C	C	C	C
Primavara, Ralph	Otts	C	C	C	C	C	C	C	C	C	C	C
Putman, Lindsay H	Fallen Timber	C	C	C	C	C	C	C	C	C	C	C
Ralphton Coal Co	Ralphton #1	C	C	C	C	C	C	C	C	C	C	C
Rattlesnake Coal Co	Rattlesnake	C	C	C	C	C	C	C	C	C	C	C
Raybould Coal Co	Raybould No. 1	C	C	C	C	C	C	C	C	C	C	C
Rea, C. H	Rea	C	C	C	C	C	C	C	C	C	C	C
Ream, John O	Ream No. 1 & 2	C	C	C	C	C	C	C	C	C	C	C
Redding Coal Co	Redding	C	A	A	C	C	C	C	C	C	C	C
Reed Coal Co., W. W	Midlothian	A	A	A	A	A	A	A	A	A	A	A
Reed Brothers (Reed, Joseph)	Keller	C	C	C	C	C	C	C	C	C	C	C
Reed, Warren H. (Warren H. Reed Coal Co.)	Reed	C	C	C	C	C	C	C	C	C	C	C
Reese, C. E	Reese	C	C	C	C	C	C	C	C	C	C	C
Reid Coal Co., Inc	Reid	C	C	C	C	C	C	C	C	C	C	C
Reiter, Jr., Steve	Beers & Reiter	C	C	C	C	C	C	C	C	C	C	C
Reitz Fuel Co	Reitz Fuel Co. #1	C	C	C	C	C	C	C	C	C	C	C
	Reitz Fuel Co. #2	C	C	C	C	C	C	C	C	C	C	C
Rensel, Alfred G	Rensel	A	A	A	A	A	A	A	A	A	A	A
Rensel, Geo. A	Summit	A	A	A	A	A	A	A	A	A	A	A
Ressler, Charles	Ressler	C	C	C	C	C	C	C	C	C	C	C
Reynolds Coal Co	Reynolds	C	C	C	C	C	C	C	C	C	C	C
Reynolds, W. S	Reynolds	C	C	C	C	C	C	C	C	C	C	C
Richards, J. W	Richards	C	C	C	C	C	C	C	C	C	C	C
Ridgway Coal Co	Talbot No. 1	C	C	C	C	C	C	C	C	C	C	C
	Talbot No. 2	C	C	C	C	C	C	C	C	C	C	C
Rigby & Shaffer Coal Co	Rigby & Shaffer	C	C	C	C	C	C	C	C	C	C	C
Ringgold Coal Co., Inc	Ringgold 1 & 2	C	C	C	C	C	C	C	C	C	C	C
Risbon, William S	Black Rat	A	A	A	A	A	A	A	A	A	A	A
Riverside Coal Co	Riverside	C	C	C	C	C	C	C	C	C	C	C
Rizzi, Henry	Rizzi	C	C	C	C	C	C	C	C	C	C	C
Robertson, William A	Robertson	C	C	C	C	C	C	C	C	C	C	C
Robuck & Co., M. J	Mannion	C	C	C	C	C	C	C	C	C	C	C
Rochester & Pittsburgh Coal Co	Kent #1-2	C	C	C	C	C	C	C	C	C	C	C
Rock Oak Coal Co	Rock Oak	C	C	C	C	C	C	C	C	C	C	C
Rodgers, John S	Rodgers	C	C	C	C	C	C	C	C	C	C	C
Romesberg, Frank	Romesberg	C	C	C	C	C	C	C	C	C	C	C
Romesberg, Leonard L	Taylor	C	C	C	C	C	C	C	C	C	C	C
Rose, William	Rose	C	C	C	C	C	C	C	C	C	C	C
Rounsley Coal Co	Rounsley	B	B	B	B	B	B	B	B	B	B	B
Rowe-Sweitzer Coal Co	Blue Lick	C	C	C	C	C	C	C	C	C	C	C
Rummel Coal Co	Rummel	C	C	C	C	C	C	C	C	C	C	C
Rupert, H. L., Dunmire, Ell, & Dunmire, Morris.	Hayden	B	B	B	B	B	B	B	B	B	B	B
Russell, Thomas A	Russell	C	A	A	C	A	C	A	C	A	C	A
Ruth Coal Co	Ruth #1	A	A	A	C	A	C	A	C	A	C	A
Rydberg Brothers	Rydberg	C	C	C	C	C	C	C	C	C	C	C
Rydesky, John E	Rydesky	C	B	B	B	B	B	B	B	B	B	B
St. Clair, Rinn & Co	Twolick	C	C	C	C	C	C	C	C	C	C	C
Salem Coal & Coke Co	Black	C	C	C	C	C	C	C	C	C	C	C
Sandy Run Coal Co	Sandy Run No. 1	C	C	C	C	C	C	C	C	C	C	C
Sandy Run Coal Co	Sandy Run	C	A	A	C	C	C	C	C	C	A	A
Sankey, E. Guy & Graft, Max	Sankey & Craft	C	C	C	C	C	C	C	C	C	C	C
Saupp, Charles R., Sr	Saupp & Co	C	C	C	C	C	C	C	C	C	C	C
Scalese, T. J	Junita	C	C	C	C	C	C	C	C	C	C	C
Schill-Staub Coal Co	Ess-Ess-See	C	C	C	C	C	C	C	C	C	C	C
Schirer Coal Co	Schirer	C	C	C	C	C	C	C	C	C	C	C
Schmader Coal Co	Schmader	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

PENNSYLVANIA—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL	
		1	2	3	4	5	6	7	9	12	13	14	
Schnars Coal Co., R. R.	Belfast No. 14	C	C	C	C	C	C	C	C	C	C	C	
Schnable & Hamberger	Schnable & Hamberger	C	C	C	C	C	C	C	C	C	C	C	
Schuckers, G. L., H. C. & R. M.	Schuckers	C	A	C	C	A	C	C	C	C	C	C	
Schultz, Alfred W.	Schultz	A	A	A	A	A	A	A	A	A	A	A	
Schwab Coal Co.	Schwab Coal Co	C	C	C	C	C	C	C	C	C	C	C	
Scotko Coal Co.	Scotko	C	C	C	C	C	C	C	C	C	C	C	
Scott Brothers Coal Co.	Ridge No. 1	C	C	C	C	C	C	C	C	C	C	C	
Scurfield, W. E.	Scurfield	C	C	C	C	C	C	C	C	C	C	C	
Seaboard Coal Mining Co.	Seaboard No. 1	A	A	A	A	A	A	A	A	A	A	A	
Seckinger Coal Mining Co.	Seckinger No. 1	B	B	B	B	B	B	B	B	B	B	B	
Selker Coal Co.	Gruber	C	C	C	C	C	C	C	C	C	C	C	
Senior & Senior	Senior	C	C	C	C	C	C	C	C	C	C	C	
Shaffer & Sons, I.	Shaffer	C	C	C	C	C	C	C	C	C	C	C	
Shaffer, Charles K.	Shaffer No. 4	A	A	A	A	A	A	A	A	A	A	A	
Shaffer, Orlo	May	C	C	C	C	C	C	C	C	C	C	C	
Shallmar Mining Corp.	Maple Ridge #2	C	C	C	C	C	C	C	C	C	C	C	
	Bethel #3	C	C	C	C	C	C	C	C	C	C	C	
Shannon Co., The	Ocean No. 5	A	A	A	A	A	A	A	A	A	A	A	
Shaw, J. W.	Shaw	C	C	C	C	C	C	C	C	C	C	C	
Shannon, Wm. E.	Shannon	C	C	C	C	C	C	C	C	C	C	C	
Shawmut Mining Co.	Shawmut No. 5	C	C	C	C	C	C	C	C	C	C	C	
	No. 5 C	B	B	B	B	B	B	B	B	B	B	B	
	No. 42	C	C	C	C	C	C	C	C	C	C	C	
	Proctor No. 1	C	C	C	C	C	C	C	C	C	C	C	
	Proctor No. 2	C	C	C	C	C	C	C	C	C	C	C	
Sheeler Coal Co.	Johnson No. 1	C	C	C	C	C	C	C	C	C	C	C	
	Maust	C	C	C	C	C	C	C	C	C	C	C	
Sheesley Coal Co.	Sheesley	C	C	C	C	C	C	C	C	C	C	C	
Sheets Coal Co., E. E.	Green Hill	C	C	C	C	C	C	C	C	C	C	C	
Shimel & Son, Thomas G.	Shimel	C	C	C	C	C	C	C	C	C	C	C	
Shirey, A. B.	Rambo #1	C	C	C	C	C	C	C	C	C	C	C	
Shirey, Chas.		C	C	C	C	C	C	C	C	C	C	C	
Shuttleworth, Joseph	Birgs Run #1	A	A	A	A	A	A	A	A	A	A	A	
Shuttleworth & Lindsey	Birgs Run #1	A	A	A	A	A	A	A	A	A	A	A	
Siegel, Harold A.	Siegel No. 1	C	C	C	C	C	C	C	C	C	C	C	
Simcox & Cann	Drift #1	A	A	A	A	A	A	A	A	A	A	A	
Simon, J. H.	Buffalo	C	C	C	C	C	C	C	C	C	C	C	
Slagle, Jared	Slagle	C	C	C	C	C	C	C	C	C	C	C	
Simon Rizer Estate	Rizer	C	C	C	C	C	C	C	C	C	C	C	
Smith, A. D.	Smith	C	C	C	C	C	C	C	C	C	C	C	
Smith & Son, Thomas H.	Smith	C	C	C	C	C	C	C	C	C	C	C	
Smith, Claude	Smith	C	C	C	C	C	C	C	C	C	C	C	
Smith, Edgar	Edgar Smith	C	B	C	C	B	C	C	C	C	C	C	
Smith, H. B.	Harry Smith	B	C	C	C	C	C	C	C	C	C	C	
Smith, Marling	Smith	C	C	C	C	C	C	C	C	C	C	C	
Smith, L. W.	Penfield	C	C	C	C	C	C	C	C	C	C	C	
Smith, Robert	Robert Smith	C	C	C	C	C	C	C	C	C	C	C	
Smokeless Quomahoning Coal Co.	Alex No.	C	C	C	C	C	C	C	C	C	C	C	
Smouse, Harry F.	Catherine No. 1	A	A	A	A	A	A	A	A	A	A	A	
Snoddy, Ward	Patton	C	C	C	C	C	C	C	C	C	C	C	
Snow Shoe Coal Co.	Redding No. 1	C	C	C	C	C	C	C	C	C	C	C	
Snyder & Son, W. F.	Snyder	B	B	B	B	B	B	B	B	B	B	B	
Snyder Bros.	Snyder Bros.	C	C	C	C	C	C	C	C	C	C	C	
Snyder, J. P.	Snyder	C	C	C	C	C	C	C	C	C	C	C	
Solomon Run Fuel Co.	Solomon Run Fuel Co.	C	C	C	C	C	C	C	C	C	C	C	
Sommerville Coal Co.	Flannigan No. 1	C	C	C	C	C	C	C	C	C	C	C	
Sorgen, Fred W.	Sorgen	C	C	C	C	C	C	C	C	C	C	C	
Speicher Coal Mine	Speicher	C	C	C	C	C	C	C	C	C	C	C	
Sprankle, C. D.	Sprankle's	C	C	C	C	C	C	C	C	C	C	C	
Standard Moshannon Coal Co.	Standard	C	C	C	C	C	C	C	C	C	C	C	
	Morann Slope	C	C	C	C	C	C	C	C	C	C	C	
Stachura, A.	Blue Flame	C	C	C	C	C	C	C	C	C	C	C	
Stark, Thomas & James	Stark's	C	C	C	C	C	C	C	C	C	C	C	
States, John T.	States	C	C	C	C	C	C	C	C	C	C	C	
Steck, Albert	Granville	C	C	C	C	C	C	C	C	C	C	C	
	No. 8	C	C	C	C	C	C	C	C	C	C	C	
Stelmack, A. J.	Stelmack	C	A	C	C	A	C	C	C	C	C	C	
Steuart, Don F.	Steuart	A	B	C	C	B	C	C	C	C	C	C	
Stineman Coal & Coke Co.	Stineman #2 & 4	B	C	C	C	C	C	C	C	C	C	C	
Stitt, L. D.	L. D. Still	C	C	C	C	C	C	C	C	C	C	C	
Stone Bridge Coal Co.	Stone Bridge #1	C	C	C	C	C	C	C	C	C	C	C	
Straitwell Mining Co.	Straitwell	C	C	C	C	C	C	C	C	C	C	C	
Straitiff, D. W.	Straitiff #5	C	C	C	C	C	C	C	C	C	C	C	
	Straitiff #6	C	C	C	C	C	C	C	C	C	C	C	
Streams, S. C.	Black Diamond	B	A	B	B	A	B	B	B	B	B	B	
Stuckey, A. C. & Stuckey, J. K.	Delaware #7	A	B	C	C	B	C	C	C	C	C	C	
Sundberg, Chas. F.	Sundberg	C	C	C	C	C	C	C	C	C	C	C	
Sutter, J. L.	Sutter	C	C	C	C	C	C	C	C	C	C	C	
Swank's Sons, Inc., Hiram	Swank #1	C	C	C	C	C	C	C	C	C	C	C	
	Swank #10	C	C	C	C	C	C	C	C	C	C	C	
	Swank #2	C	C	C	C	C	C	C	C	C	C	C	
	Swank #6	C	C	C	C	C	C	C	C	C	C	C	
Swope Coal Co.	Ridge No. 8	C	C	C	C	C	C	C	C	C	C	C	
Taylor & McCoy Coal & Coke Co., The	Gallitzin Shaft	C	C	C	C	C	C	C	C	C	C	C	
Taylor, Zimmerman & Thomas	R. W. Adams	C	C	C	C	C	C	C	C	C	C	C	
Tedjeske, Bernard J. (Yeager Coal Co.)	Yeager Coal Co	C	C	C	C	C	C	C	C	C	C	C	
Thomas, Alfred P.	Hoaglond Run Coal	A	A	A	A	A	A	A	A	A	A	A	
Thomas, Frank S	Thomas	C	C	C	C	C	C	C	C	C	C	C	
Thomas, R. E.	Ashville Fuel	C	C	C	C	C	C	C	C	C	C	C	
Thomas, J. W.	Thomas	A	A	A	A	A	A	A	A	A	A	A	
Tire Hill Coal Co.	Tire Hill Coal Co	C	C	C	C	C	C	C	C	C	C	C	
Tretnick, Charles	Tretnick	C	C	C	C	C	C	C	C	C	C	C	
Treasure, William	Congress "E"	C	C	C	C	C	C	C	C	C	C	C	
Trexel, Ed.	Trexel	C	C	C	C	C	C	C	C	C	C	C	
Trimble, William	Trimble	C	C	C	C	C	C	C	C	C	C	C	

Code Member Index—Continued

PENNSYLVANIA—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL	
		1	2	3	4	5	6	7	9	12	13	14	
Trout Run Coal Co.	Trout Run No. 1	C	C	C	C	C	C	C	C	C	C	C	
	Trout Run No. 2	C	C	C	C	C	C	C	C	C	C	C	
Troxell, Lloyd	Lloyd Troxell	C	C	C	C	C	C	C	C	C	C	C	
Troyan, William S.	Smokeless	C	C	C	C	C	C	C	C	C	C	C	
Umberger, J. J.	Umberger	C	C	C	C	C	C	C	C	C	C	C	
Underhill Coal Mining Co.	Tyler No. 6	C	C	C	C	C	C	C	C	C	C	C	
Vallimont, Arthur	Ace	C	C	C	C	C	C	C	C	C	C	C	
Van Norman, L. T.	Van Norman	C	C	C	C	C	C	C	C	C	C	C	
Vaughn Bros.	Vaughn	C	C	C	C	C	C	C	C	C	C	C	
Veil, Ralph	Veil	C	C	C	C	C	C	C	C	C	C	C	
Velte, James	James Velte	C	C	C	C	C	C	C	C	C	C	C	
Victor Hill Coal Co.	Victor Hill #1	C	C	C	C	C	C	C	C	C	C	C	
Vinton Colliery Co.	Vinton No. 1	C	C	C	C	C	C	C	C	C	C	C	
Wagner Coal Co.	Wagner	C	C	C	C	C	C	C	C	C	C	C	
Walker & Bro., W. D.	Bradford	C	C	C	C	C	C	C	C	C	C	C	
Wallwork Coal Co.	Hawthorn	C	C	C	C	C	C	C	C	C	C	C	
Walnut Run Coal Co.	Byrnes No. 1	C	C	C	C	C	C	C	C	C	C	C	
	Sunshine	C	C	C	C	C	C	C	C	C	C	C	
Wardo & Sons, Louis	Atlantic No. 2	C	C	C	C	C	C	C	C	C	C	C	
Wargo, Joseph	Wargo	C	C	C	C	C	C	C	C	C	C	C	
Warren, Roger O.	R. O. Warren Mine #1	A	A	A	A	A	A	A	A	A	A	A	
	Mine #2	A	A	C	A	C	A	C	A	C	C	C	
Warshell & Sons, Fred	Warshel	C	C	C	C	C	C	C	C	C	C	C	
Watson Coal Co.	Watson	C	C	C	C	C	C	C	C	C	C	C	
Watson and Watson	Watson	C	C	C	C	C	C	C	C	C	C	C	
Wayne, T. J.	Wayne's Coal	C	C	C	C	C	C	C	C	C	C	C	
Weakland, Leo	Weakland	C	C	C	C	C	C	C	C	C	C	C	
Weber Coal Co.	Weber Coal Co. #1	B	C	B	B	C	B	B	B	B	B	B	
Webster Coal and Coke Co.	Webster No. 14	C	C	C	C	C	C	C	C	C	C	C	
Weiser, A. W.	Weiser's	C	C	C	C	C	C	C	C	C	C	C	
Weld, Louis M.	Keystone #1	C	C	C	C	C	C	C	C	C	C	C	
Wells Creek Smithing Coal Co.	Adams	B	C	B	B	C	B	B	B	B	B	B	
Wertz Coal Co.	Wertz	B	C	C	C	C	C	C	C	C	C	C	
Wertz Coal Co. (Alvin Wertz)	Wertz	C	C	C	C	C	C	C	C	C	C	C	
Wheeler, Fred and McDonald, James	McCutchinson	C	A	C	C	A	C	C	C	C	C	C	
Wheeler, Jos., G. D.	Peoples Coal Co.	A	A	C	C	A	C	C	C	C	C	C	
White Ash Coal Mine (Melvin Hofecker & Walter E. Tyeck).	White Ash	A	C	A	C	C	A	C	C	C	C	C	
Wilbur Coal Mining Co.	Knickerbocker #2	C	C	C	C	C	C	C	C	C	C	C	
	Knickerbocker #4	C	C	C	C	C	C	C	C	C	C	C	
Wilkinson, John H.	Shoff No. 2	C	C	C	C	C	C	C	C	C	C	C	
Williams Coal Co.	Mary Henry	C	C	C	C	C	C	C	C	C	C	C	
Williams Coal Mining Co.	Gem #1	C	C	C	C	C	C	C	C	C	C	C	
Wilson, J. T.	Wilson	C	C	C	C	C	C	C	C	C	C	C	
Wilson, Robert	Meyer	C	A	C	C	A	C	C	C	C	C	C	
Windber High Grade Coal Co.	Windber No. 5	C	B	C	C	B	C	C	C	C	C	C	
Winslow Bros. Coal Co.	Winslow #3	C	B	C	C	B	C	C	C	C	C	C	
Winters, Charles	Winters 1 & 2	C	B	C	C	B	C	C	C	C	C	C	
Woelfel, Lawrence	Lawrence Woelfel	C	C	C	C	C	C	C	C	C	C	C	
Wolbert Brothers	Ochs	C	C	C	C	C	C	C	C	C	C	C	
Wolf Coal Co.	Wolf	C	C	C	C	C	C	C	C	C	C	C	
Wood Coal Mining Co., F. B.	Miller Run #7	C	C	C	C	C	C	C	C	C	C	C	
Woodall, John	Conifel No. 4	C	C	C	C	C	C	C	C	C	C	C	
Woodcock Bros.	Woodcock Bros.	C	C	C	C	C	C	C	C	C	C	C	
Woodling, P. M.	Woodling's	C	C	C	C	C	C	C	C	C	C	C	
Woolridge, J. O.	Woolridge	C	C	C	C	C	C	C	C	C	C	C	
Woomer, Ralph O.	Woomer No. 1	C	C	C	C	C	C	C	C	C	C	C	
Worgul, William	Peak Hill	C	C	C	C	C	C	C	C	C	C	C	
Wyoming Valley Engineering Co., Inc.	Wyoming Valley Engineering Co., Inc.	A	A	A	A	A	A	A	A	A	A	A	
Yeager, Harry L.	Yeager	C	C	C	C	C	C	C	C	C	C	C	
Yeaglin, J. W.	Yeaglin	C	C	C	C	C	C	C	C	C	C	C	
Yingling Bros. Coal Co.	Yingling	C	C	C	C	C	C	C	C	C	C	C	
Young, Frank	Crescent No. 2	C	A	C	C	A	C	C	C	C	C	C	
Young and Son Coal Co.		C	C	C	C	C	C	C	C	C	C	C	
Younker Coal Co.	Younker	C	C	C	C	C	C	C	C	C	C	C	

MARYLAND

Aden Coal Company	Aden	C	C	C	C	C	C	C	C	C	C	C	C
Arnold & Son, M. S.	Table Rock	C	A	C	C	A	C	C	C	C	C	C	C
Barnes & Son, Henry S.	Barnes	A	C	A	A	C	A	A	A	A	A	A	A
Biggs & Martin	Biggs & Martin	A	C	A	A	C	A	A	A	A	A	A	A
Bennett, C. C.	Bennett	A	C	A	A	C	A	A	A	A	A	A	A
Bishields, Mike	Mt. Union Big Vein Coal	C	C	C	C	C	C	C	C	C	C	C	C
Bowman Coal Company	Shade Hollow	C	C	C	C	C	C	C	C	C	C	C	C
Bowman Coal Co., H. L.	Patton	C	C	C	C	C	C	C	C	C	C	C	C
Brennon, Mrs. E. R.	Brennon	C	C	C	C	C	C	C	C	C	C	C	C
Campbell Coal Company	Hampshire	C	C	C	C	C	C	C	C	C	C	C	C
Charlestown Big Vein Coal Company	Bivegel #2	C	C	C	C	C	C	C	C	C	C	C	C
Clark & Brother Coal Co., Thomas J.	Clark	C	A	C	C	A	C	C	C	C	C	C	C
Clark Brothers	Hungry Hill	C	C	C	C	C	C	C	C	C	C	C	C
Consolidation Coal Co.	Consol. #1	B	C	B	B	C	B	B	B	B	B	B	B
	Consol. #3	B	C	B	B	C	B	B	B	B	B	B	B
	Consol. #4	B	C	B	B	C	B	B	B	B	B	B	B
	Consol. #10	B	C	B	B	C	B	B	B	B	B	B	B
	Consol. #12	B	C	B	B	C	B	B	B	B	B	B	B
	Consol. #17	B	C	B	B	C	B	B	B	B	B	B	B
Cosner, Emmett & Cosner, Raymond	German Coal	C	C	C	C	C	C	C	C	C	C	C	C
Deer Park Fuel Company	No. 1	C	C	C	C	C	C	C	C	C	C	C	C
Davis, Clyde C.	Dodson	C	C	C	C	C	C	C	C	C	C	C	C
Davis Coal & Coke Co., The	Kempton #42	C	C	C	C	C	C	C	C	C	C	C	C
Davis, R. T.	North America	C	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

MARYLAND—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Eagan, Charles J	Gilmore	B	B	B	B	B	B	B	B	B	B	B
Evans, H. G	Borden	A	A	A	A	A	A	A	A	A	A	A
Fazenbaker, William	Fazenbaker	C	C	C	C	C	C	C	C	C	C	C
Filer Fuel Mines	Filer	B	B	B	B	B	B	B	B	B	B	B
Fletcher, Clarence	Rose Bud	A	A	A	A	A	A	A	A	A	A	A
Georges Creek Coal Co., Inc.	No. 2	A	A	A	A	A	A	A	A	A	A	A
	No. 3 & 4	C	C	C	C	C	C	C	C	C	C	C
Griffith, Robert	Borden	A	A	A	A	A	A	A	A	A	A	A
Gunstan Coal Company	Gunstan	B	B	B	B	B	B	B	B	B	B	B
Hoffa Coal Co., A. F	Hoffa #2	C	C	C	C	C	C	C	C	C	C	C
Howard & Maybury Coal Co	Ezra Michaels	C	C	C	C	C	C	C	C	C	C	C
Huff, I. L	Lewis	A	A	A	A	A	A	A	A	A	A	A
Jackson Big Vein Georges Creek Coal Company.	Caledonia	A	A	A	A	A	A	A	A	A	A	A
Koontz Coal Co., Inc., The	Swanton	C	C	C	C	C	C	C	C	C	C	C
Langham & Boal	Langham	C	C	C	C	C	C	C	C	C	C	C
Liller, Ralph D	Gilbert	C	C	C	C	C	C	C	C	C	C	C
Lipscomb, J. R	Arnold	A	A	A	A	A	A	A	A	A	A	A
Little Ben Coal Company	Little Ben	B	B	B	B	B	B	B	B	B	B	B
Lowdermilch, Arthur	Lowdermilch	A	A	A	A	A	A	A	A	A	A	A
Maryland Coal Company (of Maryland)	Kingsland	C	C	C	C	C	C	C	C	C	C	C
MacMannis Sons, Andrew	Hoffman Dump	A	A	A	A	A	A	A	A	A	A	A
McDonald Coal Co., The	McDonald	C	C	C	C	C	C	C	C	C	C	C
McNeil & Joyce (Same as Mohigan Coal Co.).	No. 1	C	C	C	C	C	C	C	C	C	C	C
McNitt Coal Co., The	McNitt #2	C	C	C	C	C	C	C	C	C	C	C
Metz Coal Company	Metz	C	C	C	C	C	C	C	C	C	C	C
Michael, A. D	Michael	C	C	C	C	C	C	C	C	C	C	C
Michael Coal Company, Arch	Michael	A	A	A	A	A	A	A	A	A	A	A
Miners Big Vein Coal Co	Bivecol	C	C	C	C	C	C	C	C	C	C	C
Morgart Corp., The	Morgart #1	C	C	C	C	C	C	C	C	C	C	C
Mohigan Coal Co. (Same as McNeil & Joyce)	Mine #1	C	C	C	C	C	C	C	C	C	C	C
Myers Coal Company	Beachy	C	C	C	C	C	C	C	C	C	C	C
Orbin, Frank	Orbin	C	C	C	C	C	C	C	C	C	C	C
Parker Hy-Grade Coal Co	Parker	C	C	C	C	C	C	C	C	C	C	C
Pattison, Charles	Pattison	C	C	C	C	C	C	C	C	C	C	C
Paugh, R. M	R. M. Paugh	C	C	C	C	C	C	C	C	C	C	C
Porter Brothers	Porter	C	C	C	C	C	C	C	C	C	C	C
Potomac Fuel Co., Inc., The	Franklin No. 4	A	A	A	A	A	A	A	A	A	A	A
Pritts Bros. Coal Co	Pritts Bros	B	B	B	B	B	B	B	B	B	B	B
Russell Coal Company	Russell	C	C	C	C	C	C	C	C	C	C	C
Schiver, Frank E	Schiver	C	C	C	C	C	C	C	C	C	C	C
Shaffer, Dewey	Backbone Mt	A	A	A	A	A	A	A	A	A	A	A
Sloan, George E	Shaw	C	C	C	C	C	C	C	C	C	C	C
Stewart Mining Co	Blackberry	C	C	C	C	C	C	C	C	C	C	C
Strube & Walbert	Borden Hill	C	C	C	C	C	C	C	C	C	C	C
Trimble, Victor	Trimble Coal	C	C	C	C	C	C	C	C	C	C	C
Vale Summitt Big Vein Coal Company	Vale Summitt B V C Company.	A	A	A	A	A	A	A	A	A	A	A
Weimer, Melvin	Round Glade	C	C	C	C	C	C	C	C	C	C	C
Winters & Brode	Winters & Brode	A	A	A	A	A	A	A	A	A	A	A
Workman, C. O	Workman	C	C	C	C	C	C	C	C	C	C	C
Brashear, William	Brashear	A	A	A	A	A	A	A	A	A	A	A
Diehl, John F. & Thompson, J. H	Diehl & Thompson	C	C	C	C	C	C	C	C	C	C	C
Frenzel, George	Frenzel	C	C	C	C	C	C	C	C	C	C	C
Michael, Howard C. (Mill Run Georges Creek Coal Company).	Mill Run	A	A	A	A	A	A	A	A	A	A	A
Miller, Everett L. (Miller Coal Company)	Miller	C	C	C	C	C	C	C	C	C	C	C
Stowell & Armstrong	Stowell & Armstrong	C	C	C	C	C	C	C	C	C	C	C
Thomas, Carson (Carson Thomas Coal Company).	Carson, Thomas	A	A	A	A	A	A	A	A	A	A	A
De Shong Coal Co., I. L	Four Foot Hill	C	C	C	C	C	C	C	C	C	C	C
Potomac Big Vein Georges Creek Coal Co., The.	Potomac	A	A	A	A	A	A	A	A	A	A	A
	Elkhart 2	C	C	C	C	C	C	C	C	C	C	C
	Union No. 1	A	A	A	A	A	A	A	A	A	A	A
	Union No. 2	A	A	A	A	A	A	A	A	A	A	A
	Union No. 4	A	A	A	A	A	A	A	A	A	A	A
Shallmar Mining Corp	Wolf Den	A	A	A	A	A	A	A	A	A	A	A
Sullivan, John Coal Co	Clifton #1	B	B	B	B	B	B	B	B	B	B	B
Bond & Foot	Foot	C	C	C	C	C	C	C	C	C	C	C
Engle & Sons, Vincent	Engle	B	B	B	B	B	B	B	B	B	B	B
Roberts, R. C	Bakertown	C	C	C	C	C	C	C	C	C	C	C

WEST VIRGINIA

Alleghany Coal Co	Wiseman	C	C	C	C	C	C	C	C	C	C	C
Arnold, Walter S	Arnold	C	C	C	C	C	C	C	C	C	C	C
Barrick, G. H	East Side	C	C	C	C	C	C	C	C	C	C	C
Bennett, Howard A	Tolle	C	C	C	C	C	C	C	C	C	C	C
Blackwater Coal Co	Cooper	C	C	C	C	C	C	C	C	C	C	C
Clark, M. A	Carry Coal Co	C	C	C	C	C	C	C	C	C	C	C
Cosner, A. E	Moore	C	C	C	C	C	C	C	C	C	C	C
Cumberland Coal Co., of Baltimore City	Douglas #1	B	B	B	B	B	B	B	B	B	B	B
Davis Coal & Coke Co., The	Pendleton #23	C	C	C	C	C	C	C	C	C	C	C
Davis Coal & Coke Co., The	Ceketon #37	C	C	C	C	C	C	C	C	C	C	C
Davis Coal & Coke Co., The	Benbush #38	C	C	C	C	C	C	C	C	C	C	C
Davis Coal & Coke Co., The	Pierce #39	C	C	C	C	C	C	C	C	C	C	C
Davis Coal & Coke Co., The	Pierce #40	C	C	C	C	C	C	C	C	C	C	C
Droppleman, John		C	C	C	C	C	C	C	C	C	C	C
Eddy Coal Co	Eddy No. 1	C	C	C	C	C	C	C	C	C	C	C
Green, L. S	Community Coal Co	C	C	C	C	C	C	C	C	C	C	C
Gross, Earl F	Gross Mine #51	C	C	C	C	C	C	C	C	C	C	C
Hart, Earl	Mineral	C	C	C	C	C	C	C	C	C	C	C
Henry Clay Coal Mng. Co., The	Deep Run	C	C	C	C	C	C	C	C	C	C	C
Howard & Lahman	Howard & Lahman	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

WEST VIRGINIA—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Kuhn Coal Co., The	Kuhn	C	C	C	C	C	C	C	C	C	C	C
Masteller Coal Co., The	Hampshire #9	C	C	C	C	C	C	C	C	C	C	C
Masteller Coal Co., The	New Creek	C	C	C	C	C	C	C	C	C	C	C
Mt. Storm Coal Co	Mine No. 1	C	C	C	C	C	C	C	C	C	C	C
Oakmont Smokeless Fuel Co	Oakmont	C	C	C	C	C	C	C	C	C	C	C
Sharpless & Schwinabart	Sharpless and Schwinabart	C	C	C	C	C	C	C	C	C	C	C
Stony River Coal Co	Stony River	C	C	C	C	C	C	C	C	C	C	C
Tesker, Walter B	Bean	C	C	C	C	C	C	C	C	C	C	C
Tri Towns Fuel Co	Number One	C	C	C	C	C	C	C	C	C	C	C
Varner, Harley	Elk Garden	C	C	C	C	C	C	C	C	C	C	C
Wabash Coal Co	Bernard	C	C	C	C	C	C	C	C	C	C	C
Weese Coal Co. (Weese, J. C.)	Mt. Alto	C	C	C	C	C	C	C	C	C	C	C
Wiseman, Roy E	Wiseman	C	C	C	C	C	C	C	C	C	C	C
Clark, M. A	Clark	C	C	C	C	C	C	C	C	C	C	C
Hart, Earl	Hart	C	C	C	C	C	C	C	C	C	C	C
Kitzmiller, H. J	Kitzmiller	C	C	C	C	C	C	C	C	C	C	C

Truck Mine Prices—Per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN DISTRICT NO. 1

Size group	Prices		
	A	B	C
1. Lump over 4"			
2. 4" Lump			
3. 3" Lump	$3.30	$3.15	$3.00
4. 2" Lump	3.25	3.10	2.95
5. 2" x 4" Egg	3.05	2.90	2.75
6. Nut	2.90	2.75	2.60
7. Pea	2.75	2.60	2.45
9. M. R.	2.75	2.60	2.45
12. 2" N. S	2.45	2.30	1.90
13. 1¼" SL	2.40	2.25	1.82
14. ¾" SL	2.30	2.15	1.71

For sizes not included herein refer to table titled *Size Groups*.

[F. R. Doc. 38-212; Filed, January 20, 1938; 10:26 a. m.]

[Order No. 193]

AN ORDER MODIFYING ORDER NO. 90, AS MODIFIED BY ORDERS NOS. 138, 149, 160, 183 AND 188, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 2, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 2"

The National Bituminous Coal Commission having by its Order No. 90, as modified by Orders Nos. 138, 149, 160, 183 and 188, determined and established the minimum prices of coals of code members produced within District Number 2, as set forth in "Price Schedule No. 1—District No. 2", as supplemented by Supplements Nos. 1, 2, 3, 4 and 5, and having determined that the provisions of sub-sections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number 2, established in "Price Schedule No. 1—District No. 2," as supplemented by "Supplements Nos. 1, 2, 3, 4 and 5 to Price Schedule No. 1—District No. 2", are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 2", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District Number 2, and shall be effective at 12:01 o'clock A. M., on the 29th day of January, 1938.

2. That said Order No. 90 as modified by Orders Nos. 138, 149, 160, 183 and 188 and Price Schedule No. 1—District Number 2, and Supplements Nos. 1, 2, 3, 4 and 5 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 2, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 2" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 2; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 2 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

REVISED TRUCK MINE PRICE SCHEDULE NO. 1 SUPERSEDING SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 2

Revised Truck Mine Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective January 29, 1938.
Issued January 17, 1938.

F. W. MCCULLOUGH. *Secretary*.

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size of Bar Screens

Bar spacing:	Round hole equivalent
¾"	1⅛"
1"	1¾"
1¼"	2"
1½"	2⅞"
2"	4⅜"
2½"	4⅞"
3"	5½"
4"	6"
5"	7¾"

Size Groups

Base size group	Includes— Lump—Maximum screen sizes [1]	Double screened sizes: Maximum top sizes [1]	Double screened sizes: Maximum bottom sizes [1]
1	All lump over 4"	Over 6"	4"
2	4"	6"	4"
3"	3"	6"	3"
4	2"	6"	2"
5	1¼"	5"	2"
6		4"	1¼".
7		2"	1¼".
9		Mine run	
12		2" N–S	0".
13		1¼" Slk	0".
14		¾" Slk	0".

[1] All maximum screen sizes mentioned herein are based on round hole or the equivalent thereof.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher size group and priced accordingly.

Code Member Index

ALLEGHENY COUNTY, PA.

Name	Mine	Sizes and size group numbers: Over 4" (1)	4" L (2)	3" L (3)	2" L (4)	Egg (5)	Nut (6)	Pea (7)	R. M. (9)	2" SL (12)	1¼" SL (13)	¾" SL (14)
American Coal Company	Bedell No. 1	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Austro American C. Co	Smith Mine #2	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Arbosuckos, John	Fort Pitt	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Bower Hill Coal Co	Bower Hill	A	A	A	A	A	A	A	A	A	A	A
Bedell Coal Co	Bedell No. 1	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bertone, Sam	Bertone	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bickerton, Mark, Co	Blaine	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Boston Gas Coal	Yough #2 & 3	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bucur, Ivan	Bucur	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Best Coal Co	Best	B	B	B	B	B	B	B	B	B	B	B
Blank, Charles	Blank	B	B	B	B	B	B	B	B	B	B	B
Brown Bros	Brown	B	B	B	B	B	B	B	B	B	B	B
Butler Cons. Coal Co	Wildwood	B	B	B	B	B	B	B	B	B	B	B
Beighley, Raymond	Beighley	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Brug, Emil	Brug	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Balogh, Andrew	Balogh	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Beck Coal Co., David B	David B. Coal Co	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Condarato, Domenicke	Snyder	A	A	A	A	A	A	A	A	A	A	A
Crawford & Repper Coal Co	Bock	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Case, Nathan	Case	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Cattley, Thomas	Beechmont	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Cherepke, John	Cherepke	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Calchiolo, Ernest	Calchiolo	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Campbell, Charles E		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Crawford Coal Co		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Clinton Coal Co	Craig	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Clinton Block Coal Co	Clinton #1	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Cusano, Patsy		A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Carothers Coal Co., Wm. E		B	B	B	B	B	B	B	B	B	B	B
Culmerville Coal Co	Mutual #3	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Creighton Fuel Co	Creighton	B	B	B	B	B	B	B	B	B	B	B
Campbill Coal Co	Alburn	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Cribbs, Hyatt M	Old Plum Creek	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Cepull, Frank		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Cardis Coal Co		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Chiri, Leon	Wilson	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Clinton Corapolis Coal Corp		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Clinton Lake Coal Co	Clinton Lake	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Coates, J. & T	Coates	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Deemer, J. D		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Dines, Louis	Arbuckle	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Davis, David O	Davis	B	B	B	B	B	B	B	B	B	B	B
Elizabeth Coal Co	Patterson	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
East McKeesport Coal Co	Naser	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Evans, Thomas W	Evans	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2

Code Member Index—Continued

ALLEGHENY COUNTY, PA.—Continued

Name	Mine	Sizes and size group numbers: Over 4" (1)	4" L (2)	3" L (3)	2" L (4)	Egg (5)	Nut (6)	Pea (7)	R. M. (9)	2" SL (12)	1¼" SL (13)	¾" SL (14)
Edwards, T. L	Edwards	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Evans & Bowman		B	B	B	B	B	B	B	B	B	B	B
Evanko Coal Co	Evanko	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Elm Coal Co	Elm	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Fleck Bros. Coal Co	Fleck	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Fishwick Mine (Hugh)	Fishwick	A	A	A	A	A	A	A	A	A	A	A
Frazier, Walter	Mineeh	A	A	A	A	A	A	A	A	A	A	A
Faulkner, Wm	Fisher	A	A	A	A	A	A	A	A	A	A	A
Finkbeiner, Fred F	Ott	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Granger Coal Co., John	Granger	A	A	A	A	A	A	A	A	A	A	A
Greentree Coal Co	Fos	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Gaudio & Son, V	Mack	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Gates Mining Co	Gates	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Gioia, Bernard	Gioia	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Garin Mine (Andy & Nick)	Garin	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Greenville Coal Co	Gregg	B	B	B	B	B	B	B	B	B	B	B
Greenwald, Jacob		B	B	B	B	B	B	B	B	B	B	B
Glen Coal Co	Dale	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Gilbert & Bastide		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Holmes, W. F	Holmes	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Heas, P. J		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Hickman Coal Co	Black Diamond	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Haller, J. A	Haller	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Haas Coal Co	Haas	B	B	B	B	B	B	B	B	B	B	B
Harrison & Quinette Coal Co	Harrison & Quinette	B	B	B	B	B	B	B	B	B	B	B
Heinlein Coal Co	Trunick	B	B	B	B	B	B	B	B	B	B	B
Henery, Arthur	Henery	B	B	B	B	B	B	B	B	B	B	B
Hillsvale Coal Co		B	B	B	B	B	B	B	B	B	B	B
Hillman Coal & Coke Co	Oakmont	B	B	B	B	B	B	B	B	B	B	B
Henry Coal Mining Co		B	B	B	B	B	B	B	B	B	B	B
Heckler, Charles L	Heckler	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Henry Brothers	Henry	H1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Harper Coal Co., Thos	Harper #1	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Hudak, Steve	Hudak	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Irwin Run Coal Co	Irwin Run	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Johnson & Son Coal Co		B	B	B	B	B	B	B	B	B	B	B
Kovarik & Pivirotto		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Krause, Fritz (Greenhill Coal Co.)		B	B	B	B	B	B	B	B	B	B	B
Kaminski, Fred		B	B	B	B	B	B	B	B	B	B	B
Kutsch, A. J	Kutsch, A. J	B	B	B	B	B	B	B	B	B	B	B
Kolen Coal Co	Dawson	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Kinchen, George	Kinchen	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Kurchina, Andy	Kurchina	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Kerin, Frank	Jean	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Liggett Spring & Axle Co	Liggett	A	A	A	A	A	A	A	A	A	A	A
Library Gas Coal Co	Library	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Lee's Coal Co. (Lee, Temple)	Lee	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Logans Ferry Coal Co	Logans Ferry Hill	B	B	B	B	B	B	B	B	B	B	B
Laughner, N. H	Schlegel	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Lutz & Sons, C. H	Lutz	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Latshaw, John	Latshaw	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Laurie, John	Laurie	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Mangone Coal Co., Frank		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
M. O. M. Coal Co		A	A	A	A	A	A	A	A	A	A	A
McBride Coal Co	McBride	A	A	A	A	A	A	A	A	A	A	A
McCormick Coal, W. A	McCormick	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
McLean Coal Co	Vulcan	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Madjerick, Steve	Madjerich	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
McDowell, I. N. & H. M	McDowell	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Miller, W. J	Miller	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
McMahon, John		B	B	B	B	B	B	B	B	B	B	B
Markle, M. M	Markle	B	B	B	B	B	B	B	B	B	B	B
Matta & Son, John	Creighton & Miller	B	B	B	B	B	B	B	B	B	B	B
Mendicino, Thomas		B	B	B	B	B	B	B	B	B	B	B
McFetridge Bros. Coal Co	McFetridge	B	B	B	B	B	B	B	B	B	B	B
McKeesport C. & C. Co	Hubbard	B	B	B	B	B	B	B	B	B	B	B
Madjerick, Fred	Madjerich	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Mayer, Cornelius	Mayer	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Musgrave, John K	Musgrave #1 & 2	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Miller Brothers	Miller	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
McElhinny Company	Snyder #2	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Mazzaro, Mike (Mazzaro & Sons, L.)	Byers	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Miller Coal Co	Miller	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
McLaughlin, Frank C		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
McCartney Brothers (McCartney J. H. & S. A.)		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Mellon Brothers Coal		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Novake, Mike	Novake	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Nolle & Sloan		B	B	B	B	B	B	B	B	B	B	B
Obringer Brothers	Obringer	B	B	B	B	B	B	B	B	B	B	B
Oblock, Anton	Oblock	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Paluselli, Joseph F		B	B	B	B	B	B	B	B	B	B	B
Pittsburgh Coal Co	South Hills	A	A	A	A	A	A	A	A	A	A	A
Pittsburgh Coal Co	Moon Run	A	A	A	A	A	A	A	A	A	A	A
Pittsburgh Terminal Coal Corp	No. 2	A	A	A	A	A	A	A	A	A	A	A
Pittsburgh Terminal Coal Corp	No. 3	A	A	A	A	A	A	A	A	A	A	A
Pittsburgh Terminal Coal Corp	No. 4	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Pittsburgh Coal Co	Montour #10	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Pittsburgh Terminal Coal Corp	No. 8	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Peters, James	Peters	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Paramount Coal Co		A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Paolucci, John	Oblock	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Reiter Coal Co	Reiter	A	A	A	A	A	A	A	A	A	A	A
Rochez Brothers	Bock	A	A	A	A	A	A	A	A	A	A	A

Code Member Index—Continued

ALLEGHENY COUNTY, PA.—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Randall, Monroe	Randall	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Ransom, John	Ransom	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Rodella Coal Co	Rodella Coal Co	B	B	B	B	B	B	B	B	B	B	B
Rarech, John	Finney Farm	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Reiter Bros	Reiter	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Righi Coal Co	Righi Coal Co	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Roy, James	Cholfont	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Relland Coal Co	Reiland	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Rupert, John B		B	B	B	B	B	B	B	B	B	B	B
Schafer Brothers	Schafer	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Snyder Coal Co	Moon Run	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Solar Fuel Co	Solar	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Stump & Young	Grant	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Schillo, Frank W		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Sebastian Coal Co	Sebastian	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Schotting, Paul	Marlene	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Smokey, Charles	Philips	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Snyder, John	Snyder	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Sylves, T. M		A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Stickel, Geno		A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Solar Coal Co	Solar	B	B	B	B	B	B	B	B	B	B	B
Scott & Son, S. H	Scott	B	B	B	B	B	B	B	B	B	B	B
Siler, Jacob	Siler	B	B	B	B	B	B	B	B	B	B	B
Skillsky, Wm	Sylvia	B	B	B	B	B	B	B	B	B	B	B
Stine, Geo		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Suble, Joseph	Old Plum Creek	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Schwartzel & Moller	Schwartzel & Moller	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Stankovich, Frauk		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Sitarik, Joseph	Sitarik	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Stangel, Mike (Penecok Coal Co.)		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Siler Brothers	Siler	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Sindlinger Brothers, Inc		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Tush Coal Co., E. & J	E. & J. Tush	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Taylor, C. L	Taylor	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Thompson, R. L	Louis Run #1	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
	Scott #2	B	B	B	B	B	B	B	B	B	B	B
Traenkner Coal Co	Thompson	B	B	B	B	B	B	B	B	B	B	B
Trumpe, William	Trumpe	B	B	B	B	B	B	B	B	B	B	B
Union Collieries Co	No. 6	B	B	B	B	B	B	B	B	B	B	B
Union Collieries Co	No. 3	A4	A4	A4	A4	A4	A4	A4	A1	A4	A4	A4
Verzini, Guillo	Van Thiel	B	B	B	B	B	B	B	B	B	B	B
Van Thiel Coal Co		A1	A1	A1	A1	A1	A1	A1	A1	A3	A1	A1
Venter Coal Co., Wm		A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Weaver, Duncan		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Wetherell, Thomas (Vanadium Coal Co.)	Vanadium	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Wollstonecroft, Harry C	Wollstonecroft	B	B	B	B	B	B	B	B	B	B	B
Wackeele, Harry	Minervia	B	B	B	B	B	B	B	B	B	B	B
Williams Coal Co	Williams	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Yawczak, Dan	Yawczak	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Quinette, Thomas R												

ARMSTRONG COUNTY, PA.

Antonette, Frank	Antonette	B	B	B	B	B	B	B	B	B	B	B	B
Alsippi & Chioldi		B	B	B	B	B	B	B	B	B	B	B	B
Beck, W. R., Jr	Becks	B	B	B	B	B	B	B	B	B	B	B	B
Bowser, Earl	Bowser	B	B	B	B	B	B	B	B	B	B	B	B
Bradys Bend Coal Co	Snow Hill	B	B	B	B	B	B	B	B	B	B	B	B
Beck Brothers		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Baughman, W. J	Carney	B	B	B	B	B	B	B	B	B	B	B	B
Carney, Martin	Cassella	B	B	B	B	B	B	B	B	B	B	B	B
Cassella, Thomas		B	B	B	B	B	B	B	B	B	B	B	B
Christy, Charles		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Craig, Dr. Robert M		B	B	B	B	B	B	B	B	B	B	B	B
Deluney, Ben S	Evans	B	B	B	B	B	B	B	B	B	B	B	B
Evans, D. W	Fleeger	B	B	B	B	B	B	B	B	B	B	B	B
Fleeger & Co	George & Jamison	B	B	B	B	B	B	B	B	B	B	B	B
George & Jamison Coal Co		B	B	B	B	B	B	B	B	B	B	B	B
Hamilton, Blair		B	B	B	B	B	B	B	B	B	B	B	B
Hollobaugh, Bert		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Hays, William M		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Hellam Coal Co		B	B	B	B	B	B	B	B	B	B	B	B
Johns, David O		B	B	B	B	B	B	B	B	B	B	B	B
Kerr, W. B	King & Clark	B	B	B	B	B	B	B	B	B	B	B	B
King & Clark	Kiski Valley #3	B	B	B	B	B	B	B	B	B	B	B	B
Kiski Valley Coal Co	Listello	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Listello, Peter		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
London, J. M		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
McHadden, W. L	Myers Bros	B	B	B	B	B	B	B	B	B	B	B	B
Myers Brothers		B	B	B	B	B	B	B	B	B	B	B	B
Orr, W. E		B	B	B	B	B	B	B	B	B	B	B	B
Plotchan, Andy & John	Shaner	B	B	B	B	B	B	B	B	B	B	B	B
Shaner, E. E		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Sheakley, Thomas & Hush	Smith	B	B	B	B	B	B	B	B	B	B	B	B
Smith, Wm. C		B	B	B	B	B	B	B	B	B	B	B	B
Smith, Jas. W	Hilty	B	B	B	B	B	B	B	B	B	B	B	B
Ulery, Harry W	Wyant	B	B	B	B	B	B	B	B	B	B	B	B
Wyant & Sons, W. H		B	B	B	B	B	B	B	B	B	B	B	B
Young, George A													

Code Member Index—Continued

BEAVER COUNTY, PA.

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Ashman Coal Co		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Bennet Run Coal Co	Gwinner	B	B	B	B	B	B	B	B	B	B	B
Barksdale, William		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Boots, Dawson		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Bennett Run Coal Co	Douglas	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Bird & Sons, R. F		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Brelin & Gollcic	Laughlin	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Brain, J. C		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Barber, Joseph		B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Boyles, E. M. (Boyles Coal & Supply Co.)	Boyles Coal & Supply Co	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Craft Brothers	Craft	B	B	B	B	B	B	B	B	B	B	B
Carlson, H. T		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Carver, E. W		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Cross & Wardman Coal Co	Cross & Wardman	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
C. & S. Coal & Clay Co	West	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Chamberlain Coal Co	Chamberlain	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Cory, S	S. Cory	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Cox, Chas	Brick Yard	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Cox, Edward		B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Davidson, Ad		B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Dettinger Brothers	Dettinger	B	B	B	B	B	B	B	B	B	B	B
Dettinger, Raymond		B	B	B	B	B	B	B	B	B	B	B
Douglass Brothers	Douglass	B	B	B	B	B	B	B	B	B	B	B
Everett, J. V	J. V. Everett	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Francis Coal Co		B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Faulk Coal Co	Faulk	B	B	B	B	B	B	B	B	B	B	B
Gould Coal Co., Harry A		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Gatti & Gengan	Beaver Coal Co	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Gray, Arthur	Gray	B	B	B	B	B	B	B	B	B	B	B
Herr, Wm	Herr	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Hites, Fred	Hites	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Heckathorne & Sons, Albert		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Henney Coal Co. (C. R. Henney)	Henney	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Industry Coal Co	Hanley	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Johnson, P. E		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Kalcevic, Joe		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Kopriva, Frank	Kopriva	B	B	B	B	B	B	B	B	B	B	B
Kuglies Brothers		B	B	B	B	B	B	B	B	B	B	B
Kelly, John F		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Kelley, Norman		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Kiernan-Courtney Coal Co	Port	B4	B4	B4	B4	B4	B4	B4	B4	B4	B4	B4
Lanner, A. W		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Locust Point Coal Co		B	B	B	B	B	B	B	B	B	B	B
Lindsay, Michael		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
McCarrell, J. B. & McCarrell, D. S		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
McCowin, J. R	McCowin	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
McGinniss, Geo. H	Red Hill	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
McGonigle, Neil		B	B	B	B	B	B	B	B	B	B	B
Marcus Coal Co	Marcus 3, 4, & 5	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Miller & Sons, H. S	Marcus #5	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Mankin, Earl		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Mahon, Harry		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Main, Curtis		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Moore, Ralph K	Moore	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Myers, T. S		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Marquet, O. L	Marquet	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Murphy Coal Co., C. L	C. L. Murphy Coal Co	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Needham, Anthony		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Nagy, Edward		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Newton Coal Co	Newton	B4	B4	B4	B4	B4	B4	B4	B4	B4	B4	B4
Old Furnace Coal Co	Old Furnace	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Owens, Edward		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Sumner, John A		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Smith, J. A		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Spooner Brothers	Spooner	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Shirley Gas Coal Co	Shirley	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Shank, Ray	Ray Shank	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Shane Brothers	Shane Bros	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Stoker Coal Sales	Rhodes & Davis Mines	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Takacs, John		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Tanner, A. W		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Templeton Coal Co	Traders	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3
Underwood, William	White	B	B	B	B	B	B	B	B	B	B	B
Veon, W. L	Veon	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Weeder, Frank	Weeder	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Wilson Refractories Co	Red Hill #2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
White, Fred		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1

BUTLER COUNTY, PA.

Andres, John	Alben	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Alben, Cyrus	Pollock	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Abriozzi Coal Co	Oneida	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Aderhold, D. H	Brier Hill #2	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Boydstown Coal Co., Inc	Baney	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Brier Hill Coal Co., Inc	Barnhouse	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Baney, George	Big Three	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Barnhouse, Floyd E		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Big Three Coal Mine		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Brown, Bert	Bryden #1 & 2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bryden Coal Co	Wildwood, Enterprise, Kinkaid.	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Butler Cons. Coal Co		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bish, J. D												

Code Member Index—Continued

BUTLER COUNTY, PA.—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Bauder & McHale Coal Co		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bell, William	William Bell	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Bowers Brothers	Albin	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Bowser, Joe & Andy	Bowser	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Byers, Earl	Earl Byers	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Bowersox Coal Co., C. A	Basil George	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Batcher Coal Co	Batcher	B	B	B	B	B	B	B	B	B	B	B
Cookson-Carl (Grove City Fuel Co.)	Grove City Fuel	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Carbon Gas Coal Co	Sun	B	B	B	B	B	B	B	B	B	B	B
Coal Run & Coke Co	Coal Run	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Cosco Gas Coal Co	Cosco No. 1 & 2	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Campbell, W. J	Campbell	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Crawford, B. W	Kaknin	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Cooper, Robert M		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Coulter, A. B	Coulter's	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Campbell, Thomas	Campbell	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Cook & Vincent	Veach	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Coreo, Henry R	H. R. Coreo	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Davis, John	Davis	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Davis, Perry	Davis	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Day, R. E	Day	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Deal, Lee	Deal's	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Daugherty, E. C	Daugherty, E. C.	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Dunbar & Christy		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Dollana Coal Co., J. & F	Dollana	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Eiffler Coal Co	Eiffler Coal Mine	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Farren Coal Co	Farrep Coal	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Farrington, R. C	Farrington	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Fennick & Reynolds Coal Co	Fennick & Reynolds	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Fassinger Coal Co	Fassinger	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Force, Joseph	Force	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Fink, George, Jr	Fink	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Grippo Coal Co	Grippo	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Garner Coal Co	Garner Coal Co	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Griffith, Frank E	Griffith	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Gormanl, Ernest	Gormanl	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Gills, Robert	Gills	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Grossman & Barron	Dobson	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Gordon-Frank (Fern Rock Coal Co.)	Fern Rock	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Haney Coal Co	Haney	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Harmon, J. L	Harmon Coal Mine	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Hines & Son, O. B	Stonehouse	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Hindman Coal Co	Kennedy	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Holben, D. O	Holben	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Holmes, Edward	Lindsay	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Humphrey, C. J	Humphrey	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Holben, B. C		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Harper, William	Scheidmantle	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Hawkins, F. C	Hawkins	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Holyoke Coal Co	Holyoke	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Imbrie, Roy S	Imbrie	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Jackson, F. L	Mahood & Blackblock	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Johnson, Earl		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Jordan & Sons, S. O		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Kelley & Sons, James	Kelley	B	B	B	B	B	B	B	B	B	B	B
Ivywood Coal Co	Ivywood	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Knapper, Samuel & Dean Campbell	Knapper	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Kriedler, Harry		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Kerr Coal Co	Kerr No. 2	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Kelley, R. F	Kelley	B	B	B	B	B	B	B	B	B	B	B
K. D. K. A. Coal Co		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Liberty Coal Co	Liberty Coal Co	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Lindey & Dean	Lindey & Dean	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Lindey & Son & Double	Lindey & Son & Double	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Loma Coal Co	Watson	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
LaSalle, Victor C	Cooper	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Lucas Brothers	Lucas Brothers	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
McCormick Coal Co., Inc	McCormick Coal Co	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
McDeavitt, D. F	McDeavitt	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
McFadden Mining Co	McFadden	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
McGinty, Wm. C	McGinty	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Magee & Glass		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Mahood, Bert	Polm	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Meier, E. E	Meier	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Melvin, J. E	Melvin	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Miles, John	Miles	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Miller & Sons, A. J	A. J. Miller & Sons	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Murrinsville Cannel Coal Co	Murrinsville	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
McAnallen, S. M	S. M. McAnallen	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
McKain & Letke	Cherry	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
McNany & Son, Frank E		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
MacRae & Harris	Vincent No. 1	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Martin & Millburn	Martin & Milburn	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Mars Coal Co		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Moore Coal Co	Moore	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Morter & Birch		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Maxwell, W. R. (Spruce Run Coal Co.)	Spruce Run	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Nagy Coal Co	Nagy	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Norris & McDougall	McDougal	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Pettigrew & Mehrenberg	Wahl	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Porto, Domenick	Army and Navy	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Piatt, Perry E	Piatt Mine	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Palmer, Paul		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Rankin and Riddle	Rankin and Riddle	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Rearick Brothers	Rearick Mine	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Reed, Clarence E	Reed Mine	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3

Code Member Index—Continued

BUTLER COUNTY, PA.—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Reynolds, L. B	L. B. Reynolds	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Rankin Coal Mine	Rankin	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Rea and Sons, F. M	Rea	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Rossi, Tony	Rossi Mine	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Risch, G. F		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Ritenour, O. N	Richards Mine	A	A	A	A	A	A	A	A	A	A	A
Renn & Burkhart		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Sanderson, R. C	The Herron	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Sausman Mine	Sausman	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Shidemantle, Blaine	Shidemantle	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Shuler, A. D		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Smith, Wm	Smith	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Snyder Brothers	Snyder	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Sonntag, D. J	Sonntag	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Stone, Wm	Stone	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Straub, Albert, Jr	Straub Coal Co	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Suosio Coal Mine	Suosio	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Suosa Brothers		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Swope, D. W	Brown	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Surrena, Clair F	Surrena	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Surrena Coal Co	Surrena Coal Co	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Simpson Coal Co., Alex	Irwins	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Spitzer, R. E		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Sloan Son & Brandon, Harry		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Spohn, Lillian	Spohn	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Stancin, Charles		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Taylor, R. W	Taylor	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Thompson, P. P	Thompson	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Tuck & Miller	Tuck & Miller	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Van Dyke & Son	Van Dyke #2	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Van Dyke, Eugene	Van Dyke	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
White Ash Coal Co	Christly	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Wigton, C. C	C. C. Wigton	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Wall, John J	Wall	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Wellabaugh, C. C	Wellabaugh	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Weigle, L. S	Weigle Coal	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Welling Coal Co		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Wike and Christian	Oak Grove	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Wheeling & Sons, C. T	McFadden											
	Morrinsville	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Wheeling & Sons, C. T	Williams	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Young Coal Co	McCrea	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Young, Roy S. and W. J	Young	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Zellerino Coal Co., Jas	Zellerino	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1

FAYETTE COUNTY, PA.

Abruzzi Coal Co	Winstead-Abruzzi	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Ainsley Coal Co	Geneva	A	A	A	A	A	A	A	A	A	A	A
Ainsley, Robert	Vail	B	B	B	B	B	B	B	B	B	B	B
Ainsley Co., D. L	Hope #2	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Balkan Coal Co	Balkan	A	A	A	A	A	A	A	A	A	A	A
Bitner Coal Co	Bitner	A	A	A	A	A	A	A	A	A	A	A
Baer & Cooley	Mathiot	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Baird, Albert J	Baird	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bortz Coal Co	Sangston	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Bortz Coal Co	Daugherty	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Bortz Coal Co	Miller Farm	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Bortz Coal Co	Graham	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Brewer Brothers C. Co		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Barney Coal Co	Barney	B	B	B	B	B	B	B	B	B	B	B
Bridegum, Frank	Lynn	B	B	B	B	B	B	B	B	B	B	B
Bute, Harriet A	Bute Mining Co	B	B	B	B	B	B	B	B	B	B	B
Bortz Coal Co	Stambaugh	A	A	A	A	A	A	A	A	A	A	A
Baker Coal Co	Baker	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Crawford C. & C. Co	Crawford 1	A	A	A	A	A	A	A	A	A	A	A
Crawford C. & C. Co	Donald 2	A	A	A	A	A	A	A	A	A	A	A
Commodore C. & C. Co	Oliver 2 and 4	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Calloway, J. J	Bixler	B	B	B	B	B	B	B	B	B	B	B
Cerney, Floyd	Cerney	B	B	B	B	B	B	B	B	B	B	B
C. W. Coal Company		B	B	B	B	B	B	B	B	B	B	B
Davidson-Connellsville C. & C. Co	Frederick #1	A	A	A	A	A	A	A	A	A	A	A
Diamond Coal Co	Diamond	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Dull, William H	Woodward	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Dick & Huhn		B	B	B	B	B	B	B	B	B	B	B
Dillinger, Alvin	Sterling	B	B	B	B	B	B	B	B	B	B	B
Dulik, Frank		B	B	B	B	B	B	B	B	B	B	B
Domestic Coal Co., The		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Duncan Ruane Coal Co		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Estlick Coal Co	Estlick	B	B	B	B	B	B	B	B	B	B	B
Ellsworth, S. R	Swaneg	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Franks, Ben		A	A	A	A	A	A	A	A	A	A	A
Fancy Hill Coal Co	Eagle	A	A	A	A	A	A	A	A	A	A	A
Faywest Coal Co	Crawford 2, 3, 4	A	A	A	A	A	A	A	A	A	A	A
Ford, Lee S. (Ford Coal Co.)		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Fordyce, William	Furgeson	B	B	B	B	B	B	B	B	B	B	B
Goldsboro, James F	Kyle	A	A	A	A	A	A	A	A	A	A	A
Gould, Kenneth	Eddie	A	A	A	A	A	A	A	A	A	A	A
Guseman Hall Coal Co	Mixon Shaft	A	A	A	A	A	A	A	A	A	A	A
Gillin Coal Co., T. J	Gillin	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Gilleland Coke Co	Leon	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Galley & Co., Samuel		B	B	B	B	B	B	B	B	B	B	B
Heckla Coal & Coke Co	Griffin	A	A	A	A	A	A	A	A	A	A	A

Code Member Index—Continued

FAYETTE COUNTY, PA.—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¼" SL
		1	2	3	4	5	6	7	9	12	13	14
Heckla Coal & Coke Co	Thompson	A	A	A	A	A	A	A	A	A	A	A
Heckla Coal & Coke Co	Tower Hill	A	A	A	A	A	A	A	A	A	A	A
Hillman C. & C. Co	Naomi & Pike	A	A	A	A	A	A	A	A	A	A	A
Hegner, Albert	Hegner	B	B	B	B	B	B	B	B	B	B	B
Hill Bros. Coal Co	Davis	B	B	B	B	B	B	B	B	B	B	B
Honsaker & Walters		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Irwin Gas Coal Co	Irwin #11	A	A	A	A	A	A	A	A	A	A	A
Juniata Coal Co	Tormay	A	A	A	A	A	A	A	A	A	A	A
Kendall Coal Co	Puritan 1-2	A	A	A	A	A	A	A	A	A	A	A
Kendall Coal Co	Kendall 1	A	A	A	A	A	A	A	A	A	A	A
Kendall Coal Co	Kendall 2-4	A	A	A	A	A	A	A	A	A	A	A
Kennedy & Arensberg	Hilltop	B	B	B	B	B	B	B	B	B	B	B
King Coal Co	Tipton	B	B	B	B	B	B	B	B	B	B	B
Kuhns, Harry W	Kuhns	B	B	B	B	B	B	B	B	B	B	B
Klondike Fuel Co	G. B.	B	B	B	B	B	B	B	B	B	B	B
Lemont Coal & Coke Co	Continental 1	A	A	A	A	A	A	A	A	A	A	A
Lemont Coal & Coke Co	Lemont 2	A	A	A	A	A	A	A	A	A	A	A
Lincoln Coal & Coke Co	Lincoln	A	A	A	A	A	A	A	A	A	A	A
Lowber Gas Coal Co	Fayette	A	A	A	A	A	A	A	A	A	A	A
Lytle Brothers	Provina	B	B	B	B	B	B	B	B	B	B	B
Mt. Braddock C. & C. Co	Mt. Braddock	A	A	A	A	A	A	A	A	A	A	A
McMannis & Sons Co		A	A	A	A	A	A	A	A	A	A	A
McManis & Sons Coal Co	Powell	A	A	A	A	A	A	A	A	A	A	A
Miller, Frank M	Miller	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Martin Mining Co	Martin	A	A	A	A	A	A	A	A	A	A	A
Mapel, A. S	Gans Hill	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Mallory Coal Co	Mallory	B	B	B	B	B	B	B	B	B	B	B
Mar-Greta Coal Co	Mar-Greta	B	B	B	B	B	B	B	B	B	B	B
Miller & Shong	Dehaven	B	B	B	B	B	B	B	B	B	B	B
Miller Coal Co	Miller	B	B	B	B	B	B	B	B	B	B	B
Moore, Gray & Ford	May	B	B	B	B	B	B	B	B	B	B	B
Moser, Homer	Blue Rock	B	B	B	B	B	B	B	B	B	B	B
Mutual C. & C. Co	Shaw	B	B	B	B	B	B	B	B	B	B	B
Martin, William	Martins	B	B	B	B	B	B	B	B	B	B	B
Monaco, John		B	B	B	B	B	B	B	B	B	B	B
Marensky Bros		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Myers, Geo. M		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
National Coal Co	Harding	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Newman & Sons, A. E	Newman	B	B	B	B	B	B	B	B	B	B	B
Nearhouse, Charles	Marie	B	B	B	B	B	B	B	B	B	B	B
Old Home Fuel Co	Old Home	A	A	A	A	A	A	A	A	A	A	A
Old Home Fuel Co	Griffin #1	A	A	A	A	A	A	A	A	A	A	A
Old Home Fuel Co	Salem	B	B	B	B	B	B	B	B	B	B	B
Old Home Fuel Co	Snyder No. 2	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Peacock Coal Co		A	A	A	A	A	A	A	A	A	A	A
Peoples Coal Co	Star	A	A	A	A	A	A	A	A	A	A	A
Pennconi, Inc	Brownsville Jct	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Pittsburgh & Erie Coal Co	Sumner #4	A	A	A	A	A	A	A	A	A	A	A
Pittsburgh Coal Co	Arnold, Banning 1 and 2	A	A	A	A	A	A	A	A	A	A	A
Pierce & Austin	Spring Grove	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Provance Brothers	Gans	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Pierce, J. A	Pierce	B	B	B	B	B	B	B	B	B	B	B
Provance, E. D	Provance	B	B	B	B	B	B	B	B	B	B	B
Pollick, John F		B	B	B	B	B	B	B	B	B	B	B
Porter, William W		B	B	B	B	B	B	B	B	B	B	B
Pierce, W. M		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Reed Bros. C. & S. Co	Reed	A	A	A	A	A	A	A	A	A	A	A
Rainey, Inc., W. J	Royal, Allison	A	A	A	A	A	A	A	A	A	A	A
Reliance Coal Mining Co	Crystal	A	A	A	A	A	A	A	A	A	A	A
Ramsey, W. H	Sackett	B	B	B	B	B	B	B	B	B	B	B
Revere Coal & Coke Co	Revere	B	B	B	B	B	B	B	B	B	B	B
South Fayette Coal Co	Melrose	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
South Union Coal Co	South Union 1 & 2	A	A	A	A	A	A	A	A	A	A	A
Sesler, Louis W	Margaret	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Shamrock Coal & Coke Co	Shamrock	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Simyak Coal Co	Simyak	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Stewart & Klink Coal & Coke Co	Mtn. View	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Skala Coal Co	Skala	B	B	B	B	B	B	B	B	B	B	B
Swisher & Dawson	Swisher	B	B	B	B	B	B	B	B	B	B	B
Stromick, Mike	Puritan #3	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Stannis, John	Freeport	B	B	B	B	B	B	B	B	B	B	B
Stern Bros., Inc	Eleanor, Snyder #2	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Tremont Coal Company	Tremont	A	A	A	A	A	A	A	A	A	A	A
Victor Coal Co	Victor	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Valentine Coal Co	Valentine	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Williams Brothers	Williams	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Warman, F. C		B	B	B	B	B	B	B	B	B	B	B
Wilson & Sons, J. T	Wilson	B	B	B	B	B	B	B	B	B	B	B
Wilson, John	Bunker Hill	B	B	B	B	B	B	B	B	B	B	B
Walker Coal Co	Wine Street	B	B	B	B	B	B	B	B	B	B	B
Whyel, Geo. W		B	B	B	B	B	B	B	B	B	B	B
Whyel Coke Co	Sharpnack	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Yough-C'ville C & C Co	Lemont #1	A	A	A	A	A	A	A	A	A	A	A
Younkin, Harry	Younkin	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Zward, Martin C	Cover	B	B	B	B	B	B	B	B	B	B	B

Code Member Index—Continued

GREENE COUNTY, PA.

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¼" SL
		1	2	3	4	5	6	7	9	12	13	14
Andish, Roddy	Flannigan	B	B	B	B	B	B	B	B	B	B	B
Ankrom Brothers		B	B	B	B	B	B	B	B	B	B	B
Blackshire, Frank	Blackshire	B	B	B	B	B	B	B	B	B	B	B
Cosgray Coal Co	Cosgray	B	B	B	B	B	B	B	B	B	B	B
Downey Bros. Coal Co	Gopere	B	B	B	B	B	B	B	B	B	B	B
Durbin & McDonald	Durbin & McDonald	B	B	B	B	B	B	B	B	B	B	B
Emerald Coal Co	Emerald	A	A	A	A	A	A	A	A	A	A	A
Fredericktown C. & C. Co	Sandy Run	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Fullick, E. C	Mack	B	B	B	B	B	B	B	B	B	B	B
Grass & Womsly	Lucas	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Hardy, William	Hardy's	B	B	B	B	B	B	B	B	B	B	B
Haring, John F	Moredock	B	B	B	B	B	B	B	B	B	B	B
Hathaway, Tom	Hathaway	B	B	B	B	B	B	B	B	B	B	B
Home Coal Co	Home	B	B	B	B	B	B	B	B	B	B	B
Hopton, L. M	N. M. Hartley	B	B	B	B	B	B	B	B	B	B	B
Handschumaker, Geo. L	Black	B	B	B	B	B	B	B	B	B	B	B
Hudick & Sons, M	Hudick	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
King, Leslie	Herod	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Leonard, Joe	Eberley	B	B	B	B	B	B	B	B	B	B	B
Lewis Coal Co	A. L. Stone	B	B	B	B	B	B	B	B	B	B	B
Mapletown Coal Works	Hardly Able	B	B	B	B	B	B	B	B	B	B	B
Morris Coal Company		B	B	B	B	B	B	B	B	B	B	B
McClain Coal Co	Ethel	A	A	A	A	A	A	A	A	A	A	A
Maple Sterling Coal Co	Maple Sterling #1 and 2	A	A	A	A	A	A	A	A	A	A	A
Mathers Colliers	Mather	A	A	A	A	A	A	A	A	A	A	A
Osborne, Edden		B	B	B	B	B	B	B	B	B	B	B
Poland Coal Co	Poland #3	A	A	A	A	A	A	A	A	A	A	A
Phillips, Homer	Hartley	B	B	B	B	B	B	B	B	B	B	B
Phillips, I. J. & J. L	Cephus Hartley	B	B	B	B	B	B	B	B	B	B	B
West Point Marion Coal Co	Walnut Hill	A	A	A	A	A	A	A	A	A	A	A
Williams & Connor (L. Crayne)	Taylor	B	B	B	B	B	B	B	B	B	B	B
Zaher, John A	Halfin	B	B	B	B	B	B	B	B	B	B	B

INDIANA COUNTY, PA.

Coleman & Kovalski		B	B	B	B	B	B	B	B	B	B	B
Johns, Floyd	John	B	B	B	B	B	B	B	B	B	B	B
Wisen, Gust		B	B	B	B	B	B	B	B	B	B	B

LAWRENCE COUNTY, PA.

Aiden, Dan	Pete Steriniski	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Baker Coal Co	Baker	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Barker, Wm. & Phillip	Shaffer	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Barron Coal Co	Barron No. 4	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Bober, John	Bober	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Brunton, George	Brunton	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Coast, James W		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Cole, D. K		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Collins, Jas. B	Collins No. 1	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Doolin Brothers	Reynolds	B	B	B	B	B	B	B	B	B	B	B
Duncan, James M	Sweinegruber	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Gibbs & Duncan	Sweinegruber	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Guy, Howard F	Guy's Coal Mine No. 1	B	B	B	B	B	B	B	B	B	B	B
Harbor Coal Co	New Castle Road	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Hoover, Bert	Hoover	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Johns, Carl	Johns	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Kelly, Joseph D	Kelly	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
McNeish & Davis		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
McClaymonds, Harry V	McClaymonds	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
McChesney & Smith	Ranch Farm	B	B	B	B	B	B	B	B	B	B	B
McFarland & Sons, E. E	Portersville	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Moran, W. P		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Murphy, J. T	Murphy	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Mt. Hope Coal Co	Servick	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Newton, J. H	Newton	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Newton, LeRoy	Newton	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Pawol, Tony	Owlski Farm	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Presnor, Stanley	Presnor	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Perry, W. L	Perry's	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Rice & Emery	Ault	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Reall, Zak	Reall	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Somski, Jacob		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Stelter, Elmer		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Stelter, Wm	Stelter	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Stuart, John M	Stuart	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Smith, Albert		B2	B2	B2	B2	B2	B2	B2	B2	B2	B1	B1
Strawhecker, J. C		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Tillis Coal Co	Tillis	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Vance Coal Company	Vance	B	B	B	B	B	B	B	B	B	B	B
Vaneman, J. C	Vaneman	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Wardman, William	Wardman	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Yoho, E. J Sons	Yoho	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Zak, Joe	Jack	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3	B3

Code Member Index—Continued

MERCER AND VENANGO COUNTIES, PA.

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Aiken, H. W.	Strain	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Bessemer Coal Co.	Bessemer	A	A	A	A	A	A	A	A	A	A	A
Braine, Arthur S.	Braine	A	A	A	A	A	A	A	A	A	A	A
Bailey, Otis	Bailey	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Bell, Clyde	Bell	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Breese Brothers	Breese	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Briggs, Wm. C.	Walters	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Coyer, I. E.	Coyer	A	A	A	A	A	A	A	A	A	A	A
Crawford Coal Co.	Crawford	A	A	A	A	A	A	A	A	A	A	A
Crissman & Co., J. R.	Crissman, Cream Hill	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Cropp & Co.	Cropp	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Cookson Bros.	Cookson Bros.	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Danielson, C. B.	Graff	A	A	A	A	A	A	A	A	A	A	A
Deniker, George	Deniker	A	A	A	A	A	A	A	A	A	A	A
Draesch, Alfred	Draesch	A	A	A	A	A	A	A	A	A	A	A
Domestic Fuel	McCurdy	A	A	A	A	A	A	A	A	A	A	A
Gilson Brothers	Gilson #1 & 2	A	A	A	A	A	A	A	A	A	A	A
Grinder, William	Hoffman	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Highland Fuel Co.	Highland	A	A	A	A	A	A	A	A	A	A	A
Holter, Frank B.	Holter	A	A	A	A	A	A	A	A	A	A	A
Hassell, P. T.	McFarland	A	A	A	A	A	A	A	A	A	A	A
Himes & Cross	Cross	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Hoffman, E. M.	Hoffman	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Hawkins, O. B.		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Johnson Coal Mine	Johnson Coal	A	A	A	A	A	A	A	A	A	A	A
Johnson, Sam	Johnson	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Kulp, M. J.	Allan	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Laing, R. E.	Laing	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
LeGrand, E. J.	LeGrand	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
McFarland, W. P.	McFarland	A	A	A	A	A	A	A	A	A	A	A
McIntire, George	Box	A	A	A	A	A	A	A	A	A	A	A
McQuaid, J. A.	McQuaid #2	A	A	A	A	A	A	A	A	A	A	A
Mercer Coal Prod. Co.	Chadderton	A	A	A	A	A	A	A	A	A	A	A
Miller & Sons, Geo.	Pone Hill	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Milner, N. A. (Paul Doyle)	Ray	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Murtland & Baker	Murtland & Baker	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Oak Grove Coal Mine	Oak Grove	A	A	A	A	A	A	A	A	A	A	A
Patterson, L. R.	Patterson	A	A	A	A	A	A	A	A	A	A	A
Pine Twp. Coal Co.	Johnson	A	A	A	A	A	A	A	A	A	A	A
Patterson, J. E.	McFadden	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Pierce, O. C.	Hoffman	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Sealand, A. A. & C. A.	Sealand Brothers	A	A	A	A	A	A	A	A	A	A	A
Shaffer Coal Co.	Shaffer Coal Co.	A	A	A	A	A	A	A	A	A	A	A
Shipton Coal Co.	Shipton	A	A	A	A	A	A	A	A	A	A	A
Sopher, O. A.	Sopher	A	A	A	A	A	A	A	A	A	A	A
Stoneboro Mining Co.	Stoneboro No. 1	A	A	A	A	A	A	A	A	A	A	A
Serge, Mike		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Stewart Bros. & Whittall	Haney	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Surrena Coal Co.	Surrena	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Surrena, W. E.	Surrena	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Wheeler, Allen R.	#1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Wheeler, Allen R.	#2	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Wheeler & Son, J. E.	Wheeler	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Wheeling & Son, C. T.	McFadden	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Wike, F. B.	Wike	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Ziccardi & Walters	Ziccardi & Walters	A	A	A	A	A	A	A	A	A	A	A
Ziccardi, James	Jeccard	A	A	A	A	A	A	A	A	A	A	A

WASHINGTON COUNTY, PA.

Arthur & Co., J. S.	Monfinger	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Andreolli, A.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Black Diamond Coal Co.	Black Diamond	A	A	A	A	A	A	A	A	A	A	A
Barney's Run Coal Co.	Barney's Run	A	A	A	A	A	A	A	A	A	A	A
Beechwood Coal Co.		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Big Six Coal Co.		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bruce Coal Co.		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bier, John & Baxter Chas.	Biers	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
B. J. Coal Co.	B. J. Mine	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Boyd, H. F.	Boyd	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Burgettstown Fuel Co.	Burgettstown Fuel Co.	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Courtney Coal Co.	Courtney	A	A	A	A	A	A	A	A	A	A	A
Cramer Fuel Co.	Cramer	A	A	A	A	A	A	A	A	A	A	A
Carnegie Coal Corp.	McDonald	A	A	A	A	A	A	A	A	A	A	A
Carnegie Coal Corp.	Atlas	A	A	A	A	A	A	A	A	A	A	A
Collins, E. W.		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Canonsburg Coal Co.	Hazel	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Chartiers Gas Coal Co.	Magnolia	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Caldwell, Earl S.	Caldwell	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Cooper, Henry	Rodgers	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Collett & Rosiak	Stroird	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5
Domestic Coal & Ice Service	Clyde #1	A	A	A	A	A	A	A	A	A	A	A
Daugherty Coal Co.	River View	A	A	A	A	A	A	A	A	A	A	A
Benfield, W. A.		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Eanottie, Alex.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Fassbach, Fred	Fassbach	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Ford, Lee S. (Ford Coal Co.)		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Gardner, S. M.	Gardner	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Gross, Joseph E. (Beacon Fuel Co.)		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Houston Coal Co.		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
H. M. M. Coal Co.	Strip	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Heslep, Thos.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Henderson Coal Co.	Henderson #1	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Hess Coal Co., T. C.	Hess	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5
Holloway, Wm. T.		A5	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5

Code Member Index—Continued

WASHINGTON COUNTY, PA.—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Klenes, Mike	Junction	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Klenes, Mike	Bowman	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Kelly, J. H.	Eureka	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5
Lazor, Michael	Lazor	A	A	A	A	A	A	A	A	A	A	A
Leaver Ice Co.		A	A	A	A	A	A	A	A	A	A	A
Lincoln Gas Coal Co.	Lincoln	A	A	A	A	A	A	A	A	A	A	A
Loadman, Edw.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Latshaw, Albert		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Lubosynski, Ignatz		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Lepro, L. N.	Lepro	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5
Monongahela Clay Mfg. Co.	Scott's Hollow	A	A	A	A	A	A	A	A	A	A	A
McClane Mining Co.	Rich Hill	A	A	A	A	A	A	A	A	A	A	A
Mitchell, A. L.	Block	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
McMahon, P. J.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Moffitt Coal Co.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
McClain, I. W.	Ethel	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Marcott, Rose Marie	Rose	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5
Melvin, Earl		A5	A5	A5	A5	A5	A5	A5	A5	A5	A5	A5
Pine Coal Co.		A	A	A	A	A	A	A	A	A	A	A
Pittsburgh Coal Co.	Lindley	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Parkes Coal Co.	Midway	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Piersol, S. W.	Piersol	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Point Pleasant Coal Co.		A	A	A	A	A	A	A	A	A	A	A
Renstrom, Sarah	Clipper	A	A	A	A	A	A	A	A	A	A	A
Rider, Simon W.	Rider	A	A	A	A	A	A	A	A	A	A	A
Rea Coal, C/o Wm. Clark	Rea	A3	Q3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Sarchet, Rex		A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Scotch, Vito	Crescent #2	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Stricko, John & Bennsh, Mike	Knox	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Shiahta Mine		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Terchek, Tom	Terchek	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Thompson Brothers	Thompson	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Thomassy, George E. (Union Coal Co.)	Union	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Virgin, Jesse A.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Washington, Gas Coal Corp.	Tyler	A	A	A	A	A	A	A	A	A	A	A
Weise, Paul H.	Piney Fork	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Wilkinson, J. A.	Wilkinson	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Weise, Paul H.	Morris	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4	A4
Yough & Ohio Coal Co.	Charleroi	A	A	A	A	A	A	A	A	A	A	A
	Enterprise	A	A	A	A	A	A	A	A	A	A	A
Young Coal Co.	McCrae	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Zippay, George		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3

WESTMORELAND COUNTY, PA.

Allen & Nole, c/o R. F. Allen		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Andrico Coal Co.		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Armstrong, J. M.		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Aitman Custom Mine		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Armstrong Bros. Coal Co.		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Anderson Bros.		A	A	A	A	A	A	A	A	A	A	A
Bell, T. H.	C. Hart	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Bortz Coal Mine	Bortz	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Boyd, Andrew J.	Boyd	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Brindle, Ralph L.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Buskey, J. Edwin		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Boyd Coal Co.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Blakely Coal Co.		B	B	B	B	B	B	B	B	B	B	B
Bates Brothers		B	B	B	B	B	B	B	B	B	B	B
Borgo, Joseph	Joe Borgo	B	B	B	B	B	B	B	B	B	B	B
Breznik, Matthew	Breznik	B	B	B	B	B	B	B	B	B	B	B
Bethlem, Home		B1	1B	B1	B1	B1	B1	B1	B1	B1	B1	B1
Bold & Sons, C.		B1	1B	B1	B1	B1	B1	B1	B1	B1	B1	B1
Bowman Coal Co.		B	B	B	B	B	B	B	B	B	B	B
Bortz-Central Mine		A	A	A	A	A	A	A	A	A	A	A
Brennen Coal & Coke Co.		A	A	A	A	A	A	A	A	A	A	A
Ben Franklin Coal Co.		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Boyd Coal Co., Albert		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Byars, John W.		B	B	B	B	B	B	B	B	B	B	B
City Coal Co.	City Coal	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
C. & I. Coal Co.	Isabelle	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Conner Coal Co.	Conner	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Cunningham, Jas. E.	Stone Pit Mouth	A3	3A	A3	A3	A3	A3	A3	A3	A3	A3	A3
Casagrande, Antonio		B	B	B	B	B	B	B	B	B	B	B
Clark Coal Co., Edward		B	B	B	B	B	B	B	B	B	B	B
Crosley, W. S.	Crosley	B	B	B	B	B	B	B	B	B	B	B
Clawson, A. J.		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Cramer, John C.		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Charmon Coal Co.		A	A	A	A	A	A	A	A	A	A	A
Coleman & Kovalski		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Carr Coal Co., John		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Dubski & Kalina		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Dunn, Clyde	Dunn	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Dean, Alvie & Robt.		B	B	B	B	B	B	B	B	B	B	B
Demagone, D. C.		B	B	B	B	B	B	B	B	B	B	B
Dezanet, T. J.		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Ednie Brothers	Ednie	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Eshelman, W. A.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Edgecliff Mine		B	B	B	B	B	B	B	B	B	B	B
Fox Coal Co.		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Fryske & Porter	Standard	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Fisher & Sons, Birdie		B	B	B	B	B	B	B	B	B	B	B
Fontanazza, Sam		B	B	B	B	B	B	B	B	B	B	B

Code Member Index—Continued

WESTMORELAND COUNTY, Pa.—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾" SL
		1	2	3	4	5	6	7	9	12	13	14
Farneth Coal Co		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Garlow & Son, Ed C		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Grant & Crivelli		B	B	B	B	B	B	B	B	B	B	B
Gruber, John	Gruber	B	B	B	B	B	B	B	B	B	B	B
Graver, Allan R		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Griffith, H. N		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Hall, Stanley		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Harbaugh, J. C		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Harvan, John	Harvan	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Hull, Joseph	Hull	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Hoke, Harry E	Hoke	B	B	B	B	B	B	B	B	B	B	B
Herman & Friend Coal Co		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Humphries Coal & C. Co		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Irwin Gas Coal Co	Irwin #3-4	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
John, D	John	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Johnston Brothers	Johnston	B	B	B	B	B	B	B	B	B	B	B
Jamison Coal & C. Co	#2 and 3	A	A	A	A	A	A	A	A	A	A	A
Jamison Coal & C. Co	#20	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Kinnan, H. B	Kinnan	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
King Bros. C. & C. Co	Marguerite	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Kintz, Arthur W	Duston	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Kelly, Mrs. E. J		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Kepple, Harry R	Kepple	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Kellerberg, William	Gulfy	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Kerr, Frank		B	B	B	B	B	B	B	B	B	B	B
Kren Coal Co., Frank		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Koracin, Joe, Jr		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Kostello & Son, Jos		B	B	B	B	B	B	B	B	B	B	B
Kelly, L. C. & L. M		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Kren, Anthony		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Keystone Coal & C. Co		A	A	A	A	A	A	A	A	A	A	A
Lobingier Bros		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Laughlin, Henry	Laughlin	B	B	B	B	B	B	B	B	B	B	B
Marcia Coal Co	Marcia	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
McDermott Coal Co		A1	A1	A1	A1	A1	A1	A1	A1	A1	A1	A1
Marguerite Eastern Coal Co	Mary Ann	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Mitchell, E. L	Peoples	B	B	B	B	B	B	B	B	B	B	B
Movle, Lewis		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
McCauley & Son, C. E	Beth-Mar	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
McKenzie Coal Co., Jas		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Millard, T. L		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
McCracken, W. Paul		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Menoher, Ford		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Oliver, Thos		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Poole Coal Co	Poole	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Pierce Brothers		B	B	B	B	B	B	B	B	B	B	B
Powell Gas Coal Co		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Pletcher, W. B	Donley	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Poorman & Freeman		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Pristas, John R		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Pittsburgh Coal Co	Somer	A	A	A	A	A	A	A	A	A	A	A
Ritchey, J. B	Ritchey	B	B	B	B	B	B	B	B	B	B	B
Robertson & Son, Alex		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Ramsey Custome Coal Mine	Custome	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Redstone Coal Mine	Bouser	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Remaley, W. B	Remaley	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Richards, Milford	Richards	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Rubright, J. S. & R. R	Rubright	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Rush, Raymond	Rush	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Rehm, Richard A		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Robb, Walter		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Rupert, Jos. F		B	B	B	B	B	B	B	B	B	B	B
Shaw & Sons, J. M		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Simpson Coal Co. (Alex Simpson)		A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Stony Springs Coal Co	Stony Springs	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Schafer, A. C. (S. Frank, J. E. Boley, E. T. Huey	Schafer	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3 B
Sirofchuck, Jacob		B	B	B	B	B	B	B	B	B	B	
Stoner, J. Blaine	Stoner	B	B	B	B	B	B	B	B	B	B	B
Seanor, M. T	Seanor	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Shaner Coal Mine	Shaner	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Simpson Hollow Coal Co	Stritchik	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Spangler, Ed	Spangler	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Suskis, Samuel S		B	B	B	B	B	B	B	B	B	B	B
Simpson Brothers		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Star Coal Co		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Toracheo, Tony	Toracheo	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Thompson & Son, Wm		A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Thomas, John	Thomas	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Tainton, Thomas		B1	1B	B1	B1	B1	B1	B1	B1	B1	B1	B1
Tomajko, Edward		B2	B2	B2	B2	B2	B2	B2	B2	B2	B2	B2
Ulishney Coal Co	Buck #2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2	A2
Uhlig, Hugo		B	B	B	B	B	B	B	B	B	B	B
Vaia, Raymond	Vaia	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Wilson, H. F		A	A	A	A	A	A	A	A	A	A	A
Wilson, J. C. S	Wilson	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Weis Coal Co		B1	B1	B1	B1	B1	B1	B1	B1	1B	B1	B1
Watkins, Elizabeth		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Wineland, Frank N		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Wineland, S. H		B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Westmoreland Coal Co	Adams	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
	Export	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
	McCullough	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1	B1
Yates, Joseph & Collins, Dennis	Yates	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Zilmore, Fred B	Zilmore	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3
Zufall, Amos	Zufall	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3	A3

Allegheny County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN ALLEGHENY COUNTY

Size group	Prices							
	A	A-1	A-2	A-3	A-4	B	B-1	B-2
1. Lump over 4"	$3.10	$3.00	$2.95	$2.85	$2.75	$2.85	$2.75	$2.70
2. 4" Lump	3.00	2.90	2.85	2.75	2.65	2.75	2.65	2.60
3. 3" Lump	2.90	2.80	2.75	2.65	2.55	2.65	2.55	2.50
4. 2" Lump	2.75	2.65	2.60	2.50	2.40	2.50	2.40	2.35
5. Egg	2.35	2.30	2.35	2.20	2.15	2.40	2.30	2.20
6. Nut	2.30	2.25	2.70	2.15	2.10	2.30	2.20	2.10
7. Pea	2.25	2.20	2.15	2.10	2.05	2.20	2.10	2.00
9. R/M	2.45	2.40	2.20	2.10	2.05	2.30	2.20	2.10
12. 2" N. S	2.05	2.00	1.95	1.85	1.85	1.90	1.85	1.80
13. 1¼" Slack	1.97	1.92	1.87	1.77	1.77	1.82	1.77	1.72
14. ¾" Slack	1.86	1.81	1.76	1.66	1.66	1.71	1.66	1.61

For sizes not included herein, refer to table titled *Size Groups*.

Armstrong County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN ARMSTRONG COUNTY

Size group	Prices	
	B	B-1
1. Lump over 4"	$3.10	$3.00
2. 4" Lump	3.00	2.90
3. 3" Lump	2.90	2.80
4. 2" Lump	2.85	2.75
5. Egg	2.65	2.55
6. Nut	2.50	2.40
7. Pea	2.35	2.25
9. Rim	2.35	2.25
12. 2" N/S	1.80	1.70
13. 1¼" Slack	1.72	1.62
14. ¾" Slack	1.61	1.51

For sizes not included herein refer to table titled *Size Groups*.

Beaver County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES OF CODE MEMBERS IN BEAVER COUNTY

Size group	Prices				
	B	B-1	B-2	B-3	B-4
1. Lump over 4"	$3.10	$3.00	$3.00	$2.95	$2.70
2. 4" Lump	3.00	2.95	2.90	2.85	2.60
3. 3" Lump	2.90	2.85	2.80	2.75	2.50
4. 2" Lump	2.80	2.75	2.70	2.65	2.35
5. Egg	2.70	2.65	2.60	2.55	2.30
6. Nut	2.60	2.55	2.50	2.45	2.20
7. Pea	2.40	2.35	2.30	2.25	2.10
9. Rim	2.40	2.35	2.30	2.25	2.20
12. 2" N/S	2.00	1.85	1.85	1.85	1.75
13. 1¼" Slack	1.92	1.77	1.77	1.77	1.67
14. ¾" Slack	1.81	1.66	1.66	1.66	1.56

For sizes not included herein refer to table titled *Size Groups*

Butler County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN BUTLER COUNTY

Size group	Prices				
	A-1	A-2	A-3	A-4	B
1. Lump over 4"	$3.10	$3.05	$2.90	$2.90	$2.75
2. 4" Lump	3.00	2.95	2.90	2.80	2.65
3. 3" Lump	2.90	2.85	2.80	2.70	2.55
4. 2" Lump	2.85	2.80	2.75	2.65	2.45
5. Egg	2.75	2.70	2.65	2.55	2.40
6. Nut	2.60	2.55	2.50	2.40	2.35
7. Pea	2.40	2.35	2.30	2.30	2.10
9. Rim	2.40	2.35	2.30	2.20	2.35
12. 2" N/S	2.00	1.85	1.85	1.80	1.85
13. 1¼" Slack	1.92	1.77	1.77	1.72	1.77
14. ¾" Slack	1.81	1.66	1.66	1.61	1.66

For sizes not included herein refer to table titled *Size Groups*.

Fayette County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN FAYETTE COUNTY

Size group [1]	Sizes	Prices					
		A	A1	A2	A3	B	B1
1	Lump over 4"	$3.10	$3.00	$2.90	$2.80	$2.75	$2.65
2	4" Lump	3.00	2.90	2.80	2.70	2.65	2.55
3	3" Lump	2.90	2.80	2.70	2.60	2.55	2.45
4	2" Lump	2.75	2.65	2.55	2.50	2.45	2.40
5	Egg	2.60	2.50	2.40	2.35	2.30	2.25
6	Nut	2.50	2.40	2.30	2.20	2.20	2.15
7	Pea	2.40	2.25	2.20	2.15	2.15	2.10
9 [2]	Run of mine	2.50	2.40	2.30	2.20	2.20	2.15
12	2" Nut & Slack	2.05	2.05	2.00	1.95	1.90	1.85
13	1¼" Slack	1.97	1.95	1.95	1.90	1.85	1.80
14	¾" Slack	1.86	1.80	1.80	1.75	1.70	1.65

[1] For sizes not included herein, refer to table titled *Size Groups*.

[2] Straight mine run coal containing more than 45% of minus ¾" slack may be modified by removing that portion of ¾" slack in excess of 45%.

Greene County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN GREEN COUNTY

Size group [1]	Sizes	Prices			
		A	A1	B	B1
1	Lump over 4"	$3.10	$3.00	$2.75	$2.65
2	4" Lump	3.00	2.90	2.65	2.55
3	3" Lump	2.90	2.80	2.55	2.45
4	2" Lump	2.75	2.65	2.45	2.40
5	Egg	2.60	2.50	2.30	2.25
6	Nut	2.50	2.40	2.20	2.15
7	Pea	2.40	2.25	2.15	2.10
9 [2]	Run of Mine	2.50	2.40	2.20	2.10
12	2" Nut & Slack	2.05	1.90	1.85	1.75
13	1¼" Slack	1.97	1.82	1.72	1.67
14	¾" Slack	1.86	1.71	1.66	1.57

[1] For sizes not included herein, refer to table titled *Size Groups*.

[2] Straight mine run coal containing more than 45% of minus ¾" slack may be modified by removing that portion of ¾" slack in excess of 45%.

Indiana County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN INDIANA COUNTY

Size group	Price B	Size group	Price B
1. Lump over 4"	$3.10	7. Pea	2.35
2. 4" Lump	3.00	9. Rim	2.45
3. 3" Lump	2.90	12. 2" N/S	1.80
4. 2" Lump	2.85	13. 1¼" Slack	1.72
5. Egg	2.65	14. ¾" Slack	1.61
6. Nut	2.50		

For sizes not included herein refer to table titled *Size Groups*.

Lawrence County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN LAWRENCE COUNTY

Size group	Price			
	B	B-1	B-2	B-3
1. Lump over 4"	$3.10	$3.05	$3.00	$2.95
2. 4" Lump	3.00	2.95	2.90	2.85
3. 3" Lump	2.90	2.85	2.80	2.75
4. 2" Lump	2.85	2.80	2.75	2.70
5. Egg	2.75	2.70	2.65	2.60
6. Nut	2.60	2.55	2.50	2.45
7. Pea	2.40	2.35	2.30	2.25
9. R/M	2.40	2.35	2.30	2.25
12. 2" N/S	2.00	1.85	1.85	1.85
13. 1¼" Slack	1.92	1.77	1.77	1.77
14. ¾" Slack	1.81	1.66	1.66	1.66

For sizes not included herein refer to table titled *Size Groups*.

Mercer and Venango Counties—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN MERCER AND VENANGO COUNTIES

Size group	Price	
	A	A-1
1. Lump over 4"	$3.10	$3.00
2. 4" Lump	3.00	2.90
3. 3" Lump	2.90	2.80
4. 2" Lump	2.85	2.75
5. Egg	2.65	2.55
6. Nut	2.60	2.50
7. Pea	2.40	2.40
9. R/M	2.40	2.30
12. 2" N/S	1.85	1.85
13. 1¼" Slack	1.77	1.77
14. ¾" Slack	1.66	1.66

For sizes not included herein refer to table titled *Size Groups*.

Washington County—Truck Mine Prices—per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN WASHINGTON COUNTY

Size group[1]	Sizes	Prices					
		A	A1	A2	A3	A4	A5
1	Lump over 4"	$3.10	$2.95	$2.80	$2.75	$2.65	$2.55
2	4" Lump	3.00	2.85	2.70	2.65	2.55	2.45
3	3" Lump	2.90	2.75	2.60	2.55	2.45	2.40
4	2" Lump	2.75	2.65	2.50	2.45	2.35	2.35
5	Egg	2.60	2.50	2.40	2.30	2.15	2.10

[1] For sizes not included herein, refer to table titled *Size Groups*.

Washington County—Truck Mine Prices—per Net Ton of 2,000 Pounds—Continued

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN WASHINGTON COUNTY—Continued

Size group	Sizes	Prices					
		A	A1	A2	A3	A4	A5
6	Nut	$2.50	$2.40	$2.30	$2.20	$2.10	$2.05
7	Pea	2.40	2.25	2.20	2.10	2.05	2.00
9	Run of Mine	2.50	2.40	2.30	2.20	2'10	2.05
12	2" Nut and Slack	1.90	1.90	1.85	1.85	1.80	1.75
13	1¼" Slack	1.77	1.77	1.72	1.72	1.67	1.67
14	¾" Slack	1.66	1.66	1.61	1.61	1.56	1.56

Westmoreland County—Truck Mine Prices—per Net Ton of 2.000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF CODE MEMBERS IN WESTMORELAND COUNTY

Size group	Prices						
	A	A-1	A-2	A-3	B	B-1	B-2
1. Lump over 4"	$3.10	$3.00	$2.90	$2.80	$2.80	$2.75	$2.65
2. 4" Lump	3.00	2.90	2.80	2.70	2.70	2.65	2.55
3. 3" Lump	2.90	2.80	2.70	2.60	2.60	2.55	2.45
4. 2" Lump	2.75	2.65	2.55	2.50	2.50	2.40	2.30
5. Egg	2.60	2.50	2.40	2.35	2.40	2.35	2.10
6. Nut	2.50	2.40	2.30	2.20	2.30	2.30	2.05
7. Pea	2.40	2.25	2.20	2.15	2.20	2.20	2.00
9. Rim	2.50	2.40	2.30	2.20	2.40	2.20	2.10
12. 2" N/S	2.05	2.05	2.00	2.00	1.90	1.90	1.90
13. 1¼" Slack	1.97	1.97	1.92	1.92	1.82	1.82	1.72
14. ¾" Slack	1.86	1.86	1.81	1.81	1.71	1.71	1.61

For sizes not included herein refer to table titled *Size Groups*.

[F. R. Doc. 38-211; Filed, January 20, 1938; 10:25 a. m.]

[Order No. 198]

AN ORDER MODIFYING ORDER NO. 99, AS MODIFIED BY ORDERS NOS. 137 AND 154, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 11, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 11"

The National Bituminous Coal Commission having by its Order No. 99, as modified by Orders Nos. 137 and 154, determined and established the minimum prices of coals of code members produced within District Number 11, as set forth in "Price Schedule No. 1—District No. 11", as supplemented by Supplements Nos. 1 and 2, and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number 11, established in "Price Schedule No. 1—District No. 11", as supplemented by "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 11", are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 11", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District Number 11, and shall be effective at 12:01 o'clock A. M., on the 29th day of January, 1938.

2. That said Order No. 99 as modified by Orders Nos. 137 and 154 and Price Schedule No. 1—District Number 11, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 11, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 11" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 11; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 11 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By Order of the Commission:

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

REVISED TRUCK MINE PRICE SCHEDULE NO. 1 SUPERSEDING SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 11

Revised Truck Mine Schedule of Minimum Prices for Coals of Code Members Produced within District No. 11, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective January 29, 1938.

Issued January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS AND EXCEPTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are pet net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Mechanically cleaned and/or washed Nut and Stoker coals.—All mechanically cleaned and/or washed nut and stoker coals in size groups 6, 7 and 8 shall be priced a minimum of ten cents (10¢) per net ton higher than raw coal of the same size.

Definitions

Raw screenings.—Raw screenings is coal which has passed through round hole screens 2 inch, 1½ inch, 1¼ inch, 1 inch, or ¾ inch in diameter, or the equivalent thereof, to which nothing has been added and from which nothing has been removed.

Washed screenings.—Washed screenings as referred to in this schedule of minimum prices shall consist of 2 inch, 1½ inch, 1¼ inch, 1 inch, and ¾ inch screenings from which no fines greater than ½ millimeter have been removed before or after washing.

Modified screenings.—Modified screenings are screenings from which a portion of the fines have been removed through screens with openings smaller than No. 6 mesh; or, screenings from which sufficient ⅜" x 0" fines have been removed to leave not less than 23.5 percent of ⅜" x 0" fines in the modified screenings.

Picking-table reject coal.—Picking-table reject coal, commonly known as breaker screenings, are screenings made by crushing or breaking, in a Bradford or similar type of breaker, reject coal from picking tables which contains an excessive amount of impurities.

Two-inch screenings.—The prices in all Market Areas of 2" screenings of their respective preparation (raw, washed, dedusted and modified) shall be ten (10) cents per ton higher than the prices of the corresponding preparation of 1½" and 1¼" screenings.

Size Groups

Size group	Sizes	Size group	Sizes
1	6" and larger Lump.	6	1¼ x 1" Nut.
	5" Lump.		1¼ x 1" Nut.
	4" Lump.		1½ x ¾" Nut.
	3" Lump.		1¼ x ⅝" Nut.
	2" Lump.		
	8 x 4" Egg.	7	1¼ x ⅝" to 6 Mesh Nut.
	8 x 3" Egg.		1¼ x ⅜" to 6 Mesh Nut.
	7 x 4" Egg.		
	7 x 3" Egg.	8	1 x ¾" to 6 Mesh Nut.
			¾ x ⅜" to 6 Mesh Nut.
2	6 x 4" Egg.		
	6 x 3½" Egg.	9	1½" Washed Screenings.
	6 x 3" Egg.		1¼" Washed Screenings.
	5 x 4" Egg.		1" Washed Screenings.
	5 x 3" Egg.		¾" Washed Screenings.
	4 x 3" Egg.		
3	1½" Lump.	10	1½" Modified Screenings.
	1¼" Lump.		1¼" Modified Screenings.
	6 x 2½" Egg.		1" Modified Screenings.
	6 x 2" Egg.		¾" Modified Screenings.
	6 x 1½" Egg.	11	1½" Screenings (Raw).
	6 x 1¼" Egg.		1¼" Screenings (Raw).
	6 x ¾" Egg.		
	5 x 2" Egg.	12	1" Screenings (Raw).
			¾" Screenings (Raw).
4	5 x 1½" Egg.		
	4 x 2" Egg.	13	⅛" x 10 Mesh (Raw).
	4 x 1½" Egg.		¾" x 10 Mesh (Raw).
	4 x 1¼" Egg.		
	3 x 2" Nut.	14	Carbon ¾" or less x 0.
		15	Mine Run.
5	3 x 1½" Nut		
	3 x 1½" Nut.		
	3 x 1" Nut.		
	3 x ¾" Nut.		
	2 x 1½" Nut.		
	2 x 1½" Nut.		
	2 x 1" Nut.		

Any size not provided for above shall be included in the group provided for the next larger size of the same grade and classification.

Equivalent Round Hole Size of Bar Screens

Bar spacing:	Round hole equivalent
¾"	1⅛"
1"	1⅜"
1¼"	2"
1½"	2⅞"
2"	4⅜"
2½"	4⅞"
3"	5½"
4"	6"
5"	7¾"

Code Member Index

CLAY COUNTY, IND.

Name	Mine	Sizes and size group numbers														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Bell, Risler Coal Company	Bell, Risler	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Big Bend Coal & Clay Co	Big Bend	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Birch Creek Coal Co., Inc	Birch Creek	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Bonnie Brook Mines, Inc	Bonnie Brook	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Bradway Coal Company	Bradway	A	F	C	C	F	C	C	C	-----	D	C	F	-----	F	F
Brazil Lower Vein Coal Co	Dewey	A	F	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Bridgewater & Sons	Bridgewater	A	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Briggs, Lemuel	Briggs	A	C	C	C	C	C	C	C	-----	D	C	C	C	F	C
Brown & Phegley	Brown & Phegley	C	A	E	C	C	C	C	C	-----	D	E	C	-----	F	C
Burger Coal Co	Burger	A	E	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Burger, John & Allen, Kendle	Burger & Allen	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Delacca, John, Coal Co	Delacca	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Dixon Block Coal Co., Inc	#2	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Dollens, Leonard	#2	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Durkin, J. F	Durkin	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
East End Coal Co	East End	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Egener & Sons	Egener	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Electric Shovel Coal Corp	Staunton	C	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Fougerousse Bros	Fougerousse	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
G. & F. Coal Company	Carbon	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
G. & F. Coal Company	Harmony	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
G. & F. Coal Company	National Coal Tipple B	A	A	F	C	C	C	C	C	-----	D	C	C	-----	F	C
G. & F. Coal Company	Staunton	A	F	A	C	C	C	C	C	-----	D	C	C	-----	F	C
G. & F. Coal Company	Stearleyville	C	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Gordon Coal Co	Gordon	C	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Grafe Coal Co	Hoosierville	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Greenwood, A. D	Greenwood	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Helliger, Rice & Helliger	Helliger	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Hickory Mining Co	Hickory	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Indiana Block Coal Co	Brown	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
James-Knox Coal Co., Inc	James-Knox	A	A	A	C	C	C	C	C	-----	D	C	C	-----	F	C
Job, Green, & Lawson Coal Co	Job, Green & Lawson	A	F	F	F	F	F	F	F	-----	D	F	F	-----	F	F
Jones & Downing	Jones & Downing	F	F	F	F	F	F	F	F	-----	D	F	F	-----	F	F
Jones & Kellar Coal Co	Jones & Kellar	F	F	F	F	F	F	F	F	-----	D	F	F	-----	F	F
Lone Star Coal Co., Inc	Lone Star	F	F	F	F	F	F	F	F	-----	D	F	F	-----	F	F
Lowe Coal Co	Lowe	F	F	A	A	A	A	A	A	-----	D	A	A	-----	F	A
Mackey Coal & Clay Corp	Mackey	A	A	A	A	A	A	A	A	-----	D	A	A	-----	F	A
Martin, Lanam & Ferry	Martin, Lanam & Ferry	A	A	A	A	A	A	A	A	-----	D	A	A	-----	F	A
Maumee Collieries Co	Old Glory #17	A	E	A	F	C	C	C	C	-----	D	C	C	-----	F	C
McKinney, James J. & Peter	Shady Grove	A	E	C	F	C	C	C	C	-----	D	C	C	-----	F	C
Miller & Black Coal Co	Miller & Black	A	A	F	C	C	C	C	C	-----	D	C	C	-----	F	C
Morgan, Ray	Morgan-Asherville	A	F	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Nelson Coal Co	Nelson	A	F	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Perfection Coal Co	Prairie	A	F	A	A	C	C	C	C	-----	D	C	C	-----	F	C
Price, George, Mine	Price	A	F	A	A	C	C	C	C	-----	D	C	C	-----	F	C
Purcell, Ben & Sons	Purcell	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Reynolds, Lattler & Shied	Happy Hollow	A	A	A	A	C	C	C	C	-----	D	C	C	-----	F	C
Rio Grande Coal Corp	Rio Grande No. 1	A	E	A	F	C	C	C	C	-----	D	C	C	-----	F	C
Rockhill Coal & Clay Co	Rockhill	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Row-Sluder Coal Co	Row-Sluder	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Schauwecker Coal Co	Schauwecker	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Siepman, H. S., Coal Co	Oak Leaf	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Smith, Ray, Coal Co	Smith	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Standard Brazil Block Coal Co	Standard	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Staunton Coal Co	Staunton	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Superior Products, Inc	Superior	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Victory Coal Co	Victory	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
West End Coal Co	West End	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C
Wolford Coal Co	Wolford	A	A	C	A	C	C	C	C	-----	D	C	C	-----	F	C

DAVIES COUNTY, IND.

Chesser Coal Corp	Chesser	E	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
Cosgrove Coal Co	Cosgrove	C	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
Daviess County Coal Co	Daviess	C	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
Enkoff Coal Co	Enkoff	C	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
Overton, J. A	Overton	C	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
Simonas Bros	Simonas	C	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
South Washington Coal Co	Sunnyside	C	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
Three "R" Coal Co	Three "R"	C	C	E	C	C	E	C	C	-----	C	C	C	-----	C	C
Wratten, H. V	Glendale	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E

DUBOIS COUNTY, IND.

Fritch, Albert	Fritch	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Huber & Kieffner Coal Co	Huber & Kieffner	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E

FOUNTAIN COUNTY, IND.

Allen, Archie	Allen	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Allen, Willard & Son	Allen	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Allen, William E	Teagarden	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Allen, Zimmie	Allen	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Black Bear Coal Co	Black Bear	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Centennial Coal Co	Centennial	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Crowder, Amos	Oates	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Davis, Earl	Davis	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
East Yeddo Mine	East Yeddo	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Holt & Beck Coal Co	Holt & Beck	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Jarred Bros. Coal Co	Jarred	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Johnson & Towell	Johnson & Towell	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Martin Laurence	Martin	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Mill Creek Coal Co	Hutts	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Schefke, B. J	Ajax Coal	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Stoup & Son	Stoup	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Thomas, Fred S	Black Cat	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C

Code Member Index—Continued

GREENE COUNTY, IND.

Name	Name	Sizes and size group numbers														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Baize & Chapman	Baize & Chapman	C	C	C	C	C	C	C	C	-----	C	C	C	-----	C	C
Buck Creek Coal Co	Buck Creek	C	C	C	C	C	C	C	C	-----	C	C	C	-----	C	C
Central City Mining Co	Central City	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Corbin, Ellsworth	Corbin	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Corns, Ben & Son Coal Co	Corns	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Critchfield Coal Co	Critchfield	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Fougerousse, Joe	B. & B	C	C	E	C	E	F	C	F	-----	C	F	F	-----	C	F
Gall & Wheeler Coal Co	Gall & Wheeler	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Gilliatt & Hostettler	Gilliatt	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Haag Coal Co	Haag	C	C	D	E	E	F	C	F	-----	C	F	F	-----	C	F
Hale, Ralph	Hale	C	E	F	C	E	F	C	F	-----	C	F	F	-----	C	F
Haywood & Courter	Haywood & Courter	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Hickory Grove Coal Mining Corp	Lone Tree	F	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Hi-Grade Coal Co	Hi-Grade	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Jacksonville Fourth Vein Coal Co	Jacksonville 4th Vein	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Keystone Coal Co	Central City	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Linton-Summit Coal Co., Inc	New Hope	C	E	C	E	C	F	C	F	E	C	F	F	-----	C	F
Linton-Summit Coal Co., Inc	Templeton #4	C	C	E	C	E	F	C	F	-----	C	F	F	-----	C	F
Lohr-Young Coal Co	Lohr-Young	C	C	E	C	E	F	C	F	-----	C	F	F	-----	C	F
Maumee Collieries Co	Antioch #18	C	E	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Maumee Collieries Co	Linton #22	C	C	C	C	E	F	C	F	E	C	F	F	-----	C	F
Maumee Collieries Co	Linton #23	C	C	C	C	E	F	C	F	E	C	F	F	-----	C	F
Maumee Collieries Co	Linton Supreme #19	C	C	C	C	E	F	C	F	-----	C	C	C	-----	C	F
Maumee Collieries Co	Sponsler #24	C	E	C	C	E	F	C	F	E	C	F	F	-----	C	F
May & May	May	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
McHenry, John	McHenry	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Mid-Continent Mining Corp	Continental #6	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Morgan, Ray	Linton	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Nicholson, James L	Grant Fulk	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Pine Knot Coal Co	Pine Knot	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Possum Hollow Coal Co., Inc	Queen #5	C	E	C	C	E	F	C	F	-----	C	F	F	-----	C	F
R. & G. 4th Vein Coal Co	R. & G. (Robt. Raney)	E	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Richardson Bros. Coal Co	Richardson	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Rosenberry, Arthur	Rosenberry	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Russell Coal Co	Russell	C	C	D	C	E	F	C	F	-----	C	F	F	-----	C	F
Shonk, Hughy	Shonk	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Stockton Coal Co	Stockton	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Strietelmeier, H. W	Strietelmeir	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Sun-Lite Coal Co	Sun-Lite	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F
Superior 4th Vein Coal Co	Little Daisy	C	C	C	C	E	F	C	F	-----	C	F	F	-----	C	F

GIBSON COUNTY, IND.

Briggs Coal Co	Briggs	E	E	E	E	E	E	E	E	-----	E	E	E	E	E	E
Buckskin Coal Corp	Buckskin	E	E	E	E	E	E	E	E	E	E	E	E	-----	E	E
Donihue Creek Coal Co., Inc	Donihue Creek	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
New Liberty Coal Co	New Liberty	E	E	B	B	B	C	D	D	-----	D	D	D	-----	C	D
Princeton Mining Company	King Station	A	A	A	A	C	C	D	D	-----	D	D	D	-----	C	D

KNOX COUNTY, IND.

Bicknell Coal Company	Pan Handle #2	E	E	E	E	E	F	F	F	-----	F	F	F	-----	F	F
Calmuck Mining Company	Calmuck	C	C	D	E	E	F	F	F	-----	F	F	F	-----	F	F
Gillespie, Thomas	Supply	C	D	D	E	E	F	F	F	-----	F	F	F	-----	F	F
Jones & Brown Coal Company	Jones & Brown	C	D	D	E	E	F	F	F	-----	F	F	F	-----	F	F
Knox Consolidated Coal Corp'n	#1	E	E	C	C	E	F	F	F	-----	F	F	F	-----	F	F
Knox Consolidated Coal Corp'n	#2	E	C	C	C	E	F	F	F	-----	F	F	F	-----	F	F
Knox County Fourth Vein Coal Co	Westphalia	C	C	D	D	E	F	F	F	-----	F	F	F	-----	F	F
North Side Mining Company	North Side	C	C	D	D	E	F	F	F	-----	F	F	F	-----	F	F
Richardson & May Coal & Mining Corp'n	Sunshine	C	C	D	D	E	F	F	F	-----	F	F	F	-----	F	F
Small, Herman		C	C	D	E	E	F	F	F	-----	F	F	F	-----	F	F
Standard Coal Company	Standard #2	C	E	D	D	E	F	F	F	-----	F	F	F	-----	F	F
Wolfe, John & Koenig, John	Bunker Hill Coal Co	C	C	D	D	E	F	F	F	-----	F	F	F	-----	F	F

MARTIN COUNTY, IND.

Chastain, Claude & Baker, Drass	Tipes	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Dillon, Dan W	Dillon	C	C	C	C	C	C	C	C	-----	C	C	C	-----	C	C
George, Opal	Payton	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Martin County Coal Company	Martin County	C	C	C	C	C	C	C	C	-----	C	C	C	-----	C	C

OWEN COUNTY, IND.

Anka Company, Inc	Anka	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Central Block Coal Mining Co	Old Brazil	A	C	C	C	C	C	C	C	-----	D	C	C	D	F	C
Duncan, L. H	Beech Coal Co	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Mid-States Coal Company	Clay City	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Monarch Coal Company	Monarch	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Shouse, Harl	Shouse	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Siepman, H. A. Coal Company	Clipper Block	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C

PARKE COUNTY, IND.

Ace Coal Company	Ace	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Allen, W. M. & Son	Allen	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Ames, Lawrence	Ames	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Armstrong, Fred W	Armstrong	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Batty & Mankin	Batty	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C

Code Member Index—Continued

PARKE COUNTY, IND.—Continued

Name	Mine	Sizes and size group numbers														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Beaty & Harsh Coal Company	Beaty & Harsh	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Bramblett Coal Company	Bramblett	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Brazil Block Coal & Clay Co., Inc	Brazil Block	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Elinich Bros. Coal Company	Elinich	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Galey & Shipley Coal Company	Galey & Shipley	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Hoagland Mine	Hoagland	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Lindsay, Robert	Frog-Pond	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Mankins & Kent	Mankins & Kent	A	F	C	F	C	F	C	C	-----	F	C	F	-----	F	C
Maple Valley Coal Company	Maple Valley	A	F	C	F	C	F	C	C	-----	F	C	F	-----	F	C
Miller Coal Company	Miller	A	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Raccoon Coal Company	Raccoon	A	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Riso, Agatino	Riso	A	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Sneath Bros	Sneath	A	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Summers Coal Company	Summers	A	A	C	C	C	C	C	C	-----	D	C	C	-----	F	C
White Star Coal Mining Co	White Star	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Wimmer Mine	Wimmer	A	C	C	C	C	C	C	C	-----	D	C	C	-----	F	C
Youmans & Cliver	Youmans & Cliver	F	C	F	C	F	C	F	F	-----	F	C	F	-----	F	C

PERRY COUNTY, IND.

Carter, Andrew	Carter	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E

PIKE COUNTY, IND.

Blackfoot Coal Corporation	Blackfoot	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Black Oak Coal Corporation	Black Oak	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Canal Coal Corporation	Canal	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Electric Shovel Coal Corp'n	Ayrshire	E	E	E	E	E	E	E	E	-----	E	E	E	E	E	E
Enos Coal Mining Company	Enos	E	E	E	E	E	E	E	E	F	E	E	E	-----	E	E
Gladstone Coal Company	Gladstone	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Ingle Coal Company	Wick	E	E	E	E	E	E	E	E	E	E	E	E	-----	E	E
Jacobs Bros. Coal Company	Jacobs Bros.	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Maple Grove Coal Company	Maple Grove	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Marshall, Roy	Marshall	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
New Muren Coal Company	New Muren	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Patoka Coal Company	Globe	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Petersburg Mining Corporation	Rosebud	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Pike Coal Company	Pike	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Twentieth Century Coal Co., Inc	20th Century	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Winslow Coal Corporation	Winslow	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E

SPENCER COUNTY, IND.

Cotton, Earl	Cotton	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Lincoln Mining Company	Oak Knob	A	O	E	E	E	E	E	E	-----	D	C	E	-----	F	C
Mariah Hill Super Block Coal Co	Mariah Hill	E	O	E	E	E	E	E	E	-----	E	C	E	-----	F	C
Neyenhaus, Alfred	Sibrel	E	E	E	E	E	E	E	E	-----	E	C	E	-----	F	C
Petrey, Herman	Simon Schum	E	E	E	E	E	E	E	E	-----	E	C	E	-----	F	C
Tucker, Charles E	Tucker	E	E	E	E	E	E	E	E	-----	E	C	E	-----	F	C

SULLIVAN COUNTY, IND.

Central Indiana Coal Co	Allendale #2	C	D	E	E	E	E	E	E	E	E	E	E	-----	E	E
Clark Coal Co	Clark	E	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Dugger Domestic Coal Co	#1	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Dugger Domestic Coal Co	#2	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Glenburnie Coal Co	Glenburnie	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Glenburnie Coal Co. (truck)	Linda Lu	A	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Glendora Coal Co	Glendora #28	A	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Hagerman Coal Co., Millard	Hagerman	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Hamilton Coal Mining Co	Mohawk	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Hickory Grove Coal Mining Corp	Minnehaha	C	D	E	E	E	E	E	E	E	E	E	E	-----	E	E
Jackson Hill Coal & Coke Co	7	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Little Betty Mining Corp	Little Betty	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Little Wonder Coal Co	Little Wonder	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
McNeeley, Minass	Star	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Morris, Oliver P	Whipporwill	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
New Hillside Coal Co	Hillside	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
North Wilford Coal Co	North Wilford	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Peabody Coal Co	48	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Ranard Valley Coal Co	Ranard Valley	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Red Bird #5 Coal Co	Red Bird	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Sheffler Coal Corp	Sheffler	C	D	E	E	E	E	E	E	E	E	E	E	-----	E	E
Sherwood-Templeton Coal Co	Friar Tuck	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Sherwood-Templeton Coal Co	Robin Hood	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Siepman, H. A. Coal Co	Ebony	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Siepman, H. A. Coal Co	Klingkol	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Spencer Coal Co	Hoosier #2	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Templeton Coal Co	Glendora #27	C	D	E	E	E	E	E	E	-----	F	F	F	-----	F	F

VANDERBURGH COUNTY, IND.

Banner Coal Co	Black Crow	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Crescent Coal Co	Crescent	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E

Code Member Index—Continued

VERMILLION COUNTY, IND.

Name	Name	Sizes and size group numbers														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Abernathy & Prulhiere	Fern Hill	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Briggs-Louden	Briggs-Louden	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Clear View Coal Co	Clear View	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Clinton Coal Co	Crown Hill #6	C	C	E	C	E	E	C	E	-----	E	C	E	-----	E	C
Clinton Coal Co	Submarine #2	C	C	E	C	E	E	C	E	-----	E	C	E	-----	E	C
Ditto, Roy	Ditto	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Duchene Bros	Happy Hollow	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Dugger, Charles F	Dugger	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Hedges, Ernest V	Hedges	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Hudson & Williams Coal Co	Hudson & Williams	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Jackson Hill Coal & Coke Co	#6	F	F	E	F	E	E	F	E	-----	F	F	F	-----	F	F
Johnson, Andy M. (Johnson Coal Co.)	Johnson	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Kelley Bros. Coal Co	Kelley	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Lincoln City Coal Co., Inc	Lone Eagle	F	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Little Wonder Coal Co	Little Wonder	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Newport Mining Co., Inc	Newport	A	C	C	E	E	E	E	E	-----	D	E	E	-----	E	E
Northwest Coal Co	Northwest	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Norton Creek Coal Co	Norton Creek	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Range Line Coal Co., Inc	Range Line	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Spring Valley Coal Co	Spring Valley	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
State Line Coal Co	State Line	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
United States Fuel Co	Universal	C	C	F	C	F	C	F	F	-----	F	C	F	-----	F	C
West Clinton Coal Co	Tighe	F	F	F	F	F	F	F	F	-----	F	F	F	-----	F	F

VIGO COUNTY, IND.

Barnard, Wm. & Sons	Barnard	E	C	E	C	E	E	E	E	-----	E	C	E	-----	C	E
Binkley Mining Co. of Indiana	Miami #10	C	E	E	E	E	E	E	E	-----	E	E	F	-----	E	E
Binkley Mining Co. of Indiana	Bobolink	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Black Hawk Coal Corp	Blackhawk	E	E	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Broadhurst, Guy	Broadhurst	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Bledsoe, Walter & Co	Dresser	F	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Christy & Chandler Coal Co	Christy & Chandler	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Collieries Coal & Coke Co	#7	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Dixie Bee Mining Corp	Dixie Bee	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Edgewood Coal Corp	Edgewood	E	F	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Ferndale Coal Corp	Vermillion #1	F	F	E	E	E	E	E	E	-----	F	F	F	-----	F	F
Fick Bros. Coal Co	Fick	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Fleschner, George	Fleschner	E	C	E	C	E	E	E	E	-----	E	C	E	-----	E	C
Hein & Co., Inc	Hein	E	C	E	C	E	E	E	E	-----	E	C	E	-----	E	C
Hulman Street Mining Co., Inc	Hulman Street	E	C	E	C	E	E	E	E	-----	E	C	E	-----	E	C
Kerns, Harry	Spring Hill	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Larimer Hill Coal Co	Larimer Hill	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Leek, Sam	Leek	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Maumee Collieries Co	Chieftain #20	E	F	E	F	E	E	E	E	-----	E	E	E	F	E	E
Mt. Etna Coal Co	Mt. Etna	F	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Mt. Pleasant Coal Co	Mt. Pleasant	E	C	F	E	C	F	E	E	-----	E	C	E	-----	E	C
Saxton Coal Mining Co	Saxton #1	C	F	E	C	F	E	C	F	-----	E	C	E	-----	E	C
Shady Lane Coal Co	Shady Lane	F	E	C	F	E	C	F	E	-----	E	C	E	-----	E	C
Snow Hill Coal Corp	Talleydale	E	C	E	E	C	E	E	E	-----	E	C	E	-----	E	C
Standard Fuel Co., Inc	Glen Ayr	E	C	E	E	C	E	E	E	-----	E	C	E	-----	E	C
Stephens Coal Co	Hot Flash	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Tipton Coal Co. (W. J. Tipton)	Tipton	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Tipton, Frank	Davis	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E

WARRICK COUNTY, IND.

Allen Coal Co	Allen	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Allen, Otis	Sharon	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Binkley Mining Co. of Indiana	Lucky Strike	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Boonville Coal Sales Corp	Star Hill #2	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Cox Coal Co	Wilson	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Decker, Oscar F	Decker	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Fischer, A. W	Wonderland	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Hillenbrand Coal Co	Hillenbrand	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Horton Coal Co	Horton	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Houston Coal Co	Houston	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Howes, Monroe Coal Co	Howes	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Huffman, L. B	Red Brush	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Jacobs, David L	Jacobs	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Koressel Coal Co	Koressel	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Lerch Bros. Coal Co	Lerch	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Lunenburg & Harger, Clemer	Wonderland Coal Co	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Mt. Nebo Coal Co	Mt. Nebo	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Nelson-Fillman	Nelson-Fillman	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Newburg Coal Co	Newburg	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Peacock Mining Co	Peacock	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Ryan, Frank	Square Deal Coal Co	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Shade, A. F	Shade	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Sims, Timothy	Sims	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Southeastern Coal Co	Marts	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Sternberg Coal Corp	Star Hill #1	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Sunlight Coal Co	Sunlight #1	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Walnut Grove Coal Co	Walnut Grove	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Warfeld Coal Co	Elberfeld	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E
Zint, W. P. (Big Four Coal Co.)	Zint	E	E	E	E	E	E	E	E	-----	E	E	E	-----	E	E

Truck Mine Prices—Per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS

Size group	Price					
	A	B	C	D	E	F
1	$3.00		$2.90		$2.65	$2.55
2	2.90	$2.85	2.80	$2.65	2.55	2.45
3		2.75	2.70	2.60	2.45	2.35
4		2.65	2.60	2.50	2.35	2.25
5			2.50	2.40	2.25	2.15
6			2.15	2.10	2.00	1.85
7			2.15	2.10	2.00	1.85
8			2.15	2.10	2.00	1.85
9					1.90	1.85
10			1.95	1.90	1.80	1.65
11			1.85	1.80	1.70	1.55
12			1.75	1.70	1.60	1.45
13					1.70	1.55
14			1.15	1.10	1.00	.85
15			2.10	2.10	2.00	1.90

For sizes not included herein refer to table titled *Size Groups*.

Important.—Price Instructions and Exceptions are part of these prices and must be observed.

[F. R. Doc. 38-210; Filed, January 20, 1938; 10:25 a. m.]

[Order No. 194]

AN ORDER MODIFYING ORDER NO. 91, AS MODIFIED BY ORDERS NOS. 128, 150, 161 AND 189, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 3, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 3

The National Bituminous Coal Commission having by its Order No. 91, as modified by Orders Nos. 128, 150, 161 and 189, determined and established the minimum prices of coals of code members produced within District Number 3, as set forth in "Price Schedule No. 1—District No. 3", as supplemented by Supplements Nos. 1, 2, 3 and 4, and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number 3, established in "Price Schedule No. 1—District No. 3", as supplemented by "Supplements Nos. 1, 2, 3 and 4 to Price Schedule No. 1—District No. 3", are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 3", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District Number 3, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 91 as modified by Orders Nos. 128, 150, 161 and 189 and Price Schedule No. 1—District Number 3, and Supplements Nos. 1, 2, 3 and 4 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 3, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 3" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 3; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 3 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

REVISED TRUCK MINE PRICE SCHEDULE NO. 1 SUPERSEDING SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 3

Revised Truck Mine Price Schedule of Minimum Prices for Coals of Code Members Produced within District No. 3, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective January 27, 1938.
Issued January 17, 1938.

F. W. MCCULLOUGH, *Secretary*.

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subject to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size of Bar Screens

Bar spacng:	*Round hole equivalent*
¾''	1⅜''
1''	1¾''
1¼''	2''
1½''	2⅞''
2''	4⅜''
2½''	4⅞''
3''	5½''
4''	6''
5''	7¾''

Size Groups

Base size group	Includes—		
	Lump, maximum, screen, sizes	Double screened sizes	
		Maximum top sizes [1]	Maximum bottom sizes [1]
1	All lump over 4''	Over 6''	4''.
2	4''	6''	4''.
3	3''	6''	3''.
4	2''	6''	2''.
5	1¼''	5''	2''.
6		4''	1¼''.
7		2''	1¼''.
9	Mine Run		
12		2'' N-S	0''.
13		1¼'' Slk	0''.
14		¾'' Slk	0''.

[1] All maximum screen sizes mentioned herein are based on round hole or the equivalent thereof.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher size group and priced accordingly.

PRODUCTION GROUPS

A. Sewell Seam.
B. Bakerstown, Pittsburgh, Redstone, Freeport, Kittanning.
C. Sewickley.
D. Waynesburg.

Code Member Index

Name	Mine	Sizes and size group numbers										
		Over 4''	4'' L	3'' L	2'' L	Egg	Nut	Pea	R. M.	2'' SL	1¼ SL	¾ SL
		1	2	3	4	5	6	7	9	12	13	14
BARBOUR												
Burner, Harlan A	Burner	C	C	C	C	C	C	C	C	C	C	C
Bryan, J. L	Bryan	C	C	C	C	C	C	C	C	C	C	C
Coonts, G. C	Coonts	B	B	B	B	B	B	B	B	B	B	B
Shomo, George W	Shomo	C	C	C	C	C	C	C	C	C	C	C
Talbott-Crawford Coal Co	Talbott	C	C	C	C	C	C	C	C	C	C	C
Upton, Boyd	Bosworth	C	C	C	C	C	C	C	C	C	C	C
BRAXTON												
Burk Coal Company	Huffman	B	B	B	B	B	B	B	B	B	B	B
Long Brothers Coal Co	Long Bros	B	B	B	B	B	B	B	B	B	B	B
Sutton, O. O	Sutton	C	C	C	C	C	C	C	C	C	C	C
DODDRIDGE												
Harper, H. S	Harper	C	C	C	C	C	C	C	C	C	C	C
GILMER												
Kanawha Valley Coal Co	Kanawha Valley	C	C	C	C	C	C	C	C	C	C	C
HARRISON												
Alexander Coal Co	Gore	C	C	C	C	C	C	C	C	C	C	C
Barnard-Oliverio	Heavener #1	C	C	C	C	C	C	C	C	C	C	C
Barnard-Oliverio	Heavener #2	C	C	C	C	C	C	C	C	C	C	C
Brinkley Coal Company	Goff	C	C	C	C	C	C	C	C	C	C	C
Bunch Brothers Coal Co	Maxwell	C	C	C	C	C	C	C	C	C	C	C
Caputa, Tony	Davissons Run	C	C	C	C	C	C	C	C	C	C	C
Conner, H. I	Stout #1	C	C	C	C	C	C	C	C	C	C	C
Conner, H. I	Pitcairn	C	C	C	C	C	C	C	C	C	C	C
Demary, Carl	Demary	C	C	C	C	C	C	C	C	C	C	C
Dennison, C. O	Dennison	C	C	C	C	C	C	C	C	C	C	C
Elkhart Coal Co	Haub	C	C	C	C	C	C	C	C	C	C	C
Harvey, Raymond E	Harvey	C	C	C	C	C	C	C	C	C	C	C
Ice, John A	Ice	C	C	C	C	C	C	C	C	C	C	C
McVicker & Son	Norman	C	C	C	C	C	C	C	C	C	C	C
Rucker, J. E	Edgewood	C	C	C	C	C	C	C	C	C	C	C
Strother, J. F	South Side	C	C	C	C	C	C	C	C	C	C	C
Strother & Thompson	Limestone	C	C	C	C	C	C	C	C	C	C	C
Thompson, C. E	Thompson	C	C	C	C	C	C	C	C	C	C	C
Titchenal Domestic Coal Co	Rector	C	C	C	C	C	C	C	C	C	C	C
MARION												
Bainbridge, W. R	Bainbridge #1	C	C	C	C	C	C	C	C	C	C	C
Belt and Criss	Belt & Criss	C	C	C	C	C	C	C	C	C	C	C
Frum, Mrs. Gay	Frum	D	D	D	D	D	D	D	D	D	D	D
Harker, David	Sunset	C	C	C	C	C	C	C	C	C	C	C
Harris, H. L	Harris	C	C	C	C	C	C	C	C	C	C	C
Hickman, T. M	Hickman	C	C	C	C	C	C	C	C	C	C	C
Huffman, H. B	White Hall #1	C	C	C	C	C	C	C	C	C	C	C
Koon, J. F	Koon	C	C	C	C	C	C	C	C	C	C	C
Layman Coal Company	Layman	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼ SL	¾ SL	
		1	2	3	4	5	6	7	9	12	13	14	
MARION—continued													
Linear, John	Linear	D	D	D	D	D	D	D	D	D	D	D	
Little, B. F.	White Hall #1	C	C	C	C	C	C	C	C	C	C	C	
Little, W. L.	Little #1	C	C	C	C	C	C	C	C	C	C	C	
Looman, Wayman	Looman	D	D	D	D	D	D	D	D	D	D	D	
Madden & Fulmer Coal Co	Martin	C	C	C	C	C	C	C	C	C	C	C	
Martin, Harvey	Phillips	C	C	C	C	C	C	C	C	C	C	C	
McDonald, Ray	McDaniel #1	C	C	C	C	C	C	C	C	C	C	C	
Rodebeaver, W. A	Fortney #1	C	C	C	C	C	C	C	C	C	C	C	
Rodebeaver, W. A	Fortney #2	C	C	C	C	C	C	C	C	C	C	C	
Rutherford, Earl	Nexon #1	C	C	C	C	C	C	C	C	C	C	C	
Sanders, A. D. & Son	Sanders	C	C	C	C	C	C	C	C	C	C	C	
Satterfield, Bert	Bert Satterfield	C	C	C	C	C	C	C	C	C	C	C	
Satterfield, Dalis	Point View	C	C	C	C	C	C	C	C	C	C	C	
Snyder, Charles W	Snyder #1	C	C	C	C	C	C	C	C	C	C	C	
Springer, W. H	Satterfield	C	C	C	C	C	C	C	C	C	C	C	
Valentine, F. W	Loman Bunner	C	C	C	C	C	C	C	C	C	C	C	
Weaver, J. M	Carl Mutler	C	C	C	C	C	C	C	C	C	C	C	
Meredith, R. D.	Meredith												
MONONGALIA													
Easton Fuel Company	Neese	C	C	C	C	C	C	C	C	C	C	C	
Fife Coal Company	Fife	C	C	C	C	C	C	C	C	C	C	C	
Fox Coal Company	Fox	C	C	C	C	C	C	C	C	C	C	C	
Gabbert, Bruce	Gabbert	C	C	C	C	C	C	C	C	C	C	C	
Hall Coal Company	Hall	D	D	D	D	D	D	D	D	D	D	D	
Haring, John F.	Haring	C	C	C	C	C	C	C	C	C	C	C	
Heston, L. A.	Heston	C	C	C	C	C	C	C	C	C	C	C	
MacEachen, Roderick	Black Diamond	C	C	C	C	C	C	C	C	C	C	C	
Mayle, J. T. & Son	Jamison	C	C	C	C	C	C	C	C	C	C	C	
Provins, A. A.	Provins	C	C	C	C	C	C	C	C	C	C	C	
Rosier Coal Company	Rosier	C	C	C	C	C	C	C	C	C	C	C	
State Hill Coal Company	Reiner	D	D	D	D	D	D	D	D	D	D	D	
Stewart Coal Company	Clark Wade	C	C	C	C	C	C	C	C	C	C	C	
Wade, Ray	Ray Wade												
Warm Hollow Coal Co	Thelma												
Weatherbolt, Isaac & Austie	Weatherbolt												
NICHOLAS													
Baker, Joseph H	Baker	B	B	B	B	B	B	B	B	B	B	B	
Catlette, R. C.	Brown	C	C	C	C	C	C	C	C	C	C	C	
Hinkle, U. W. & Sons Coal Co	Cherry Flats	B	B	B	B	B	B	B	B	B	B	B	
Holcomb, A. B.	Holcomb	A	A	A	A	A	A	A	A	A	A	A	
Matheny, Lee & Fitzwater, J. L.	Matheny and Fitzwater	C	C	C	C	C	C	C	C	C	C	C	
Sparks, C. K.	C. K. Sparks	C	C	C	C	C	C	C	C	C	C	C	
Starcher, D. J.	Fitzwater	C	C	C	C	C	C	C	C	C	C	C	
Ward, John D.	Tioga #2	C	C	C	C	C	C	C	C	C	C	C	
PRESTON													
Adams, C. E.	Adams	C	C	C	C	C	C	C	C	C	C	C	
Christopher, F. R.	Brooks	C	C	C	C	C	C	C	C	C	C	C	
Hebb, Howard	Howard Hebb	C	C	C	C	C	C	C	C	C	C	C	
Hebb, William H	Wm. H. Hebb	C	C	C	C	C	C	C	C	C	C	C	
Knotts, Hubert	Knotts	C	C	C	C	C	C	C	C	C	C	C	
Larew, J. Newton	Larew	C	C	C	C	C	C	C	C	C	C	C	
Larew, O. E.	O. E. Larew	C	C	C	C	C	C	C	C	C	C	C	
Larue, L. R.	DeMoss	C	C	C	C	C	C	C	C	C	C	C	
Mays, C. E.	Mays	C	C	C	C	C	C	C	C	C	C	C	
Messenger, C. G.	Cloverdale	C	C	C	C	C	C	C	C	C	C	C	
Poland, H. H.	Poland	C	C	C	C	C	C	C	C	C	C	C	
Poling, Harold	Poling	C	C	C	C	C	C	C	C	C	C	C	
Street & Lennons Coal Co	Street & Lennons	C	C	C	C	C	C	C	C	C	C	C	
Waddell, D. H	Waddell	C	C	C	C	C	C	C	C	C	C	C	
Walters, W. C	Helms	C	C	C	C	C	C	C	C	C	C	C	
Watson, L. Jay	Hill Top	C	C	C	C	C	C	C	C	C	C	C	
Weaver, Russell	Weaver	C	C	C	C	C	C	C	C	C	C	C	
West Side Planing Mill	West Side Planing Mill Mine #1	C	C	C	C	C	C	C	C	C	C	C	
Williams, W. B. & Sons	Williams #1	C	C	C	C	C	C	C	C	C	C	C	
RANDOLPH													
Antolini Coal Company	Antolini	B	B	B	B	B	B	B	B	B	B	B	
Harding Coal Company	North	B	B	B	B	B	B	B	B	B	B	B	
Reda & Spino Coal Co	Reda & Spino	A	A	A	A	A	A	A	A	A	A	A	
Nelson & Silverster	Hart	A	A	A	A	A	A	A	A	A	A	A	
Rowan, D. H. & Sons	Rowan	B	B	B	B	B	B	B	B	B	B	B	
Roy, E. & Sons	Alpena	A	A	A	A	A	A	A	A	A	A	A	
Silvester Brothers	Silvester Bro	B	B	B	B	B	B	B	B	B	B	B	
Ward, John B. Jr.	Taylor Run	A	A	A	A	A	A	A	A	A	A	A	
TAYLOR													
Bartlett, Ida R.	Bartlett	C	C	C	C	C	C	C	C	C	C	C	
Bennett & Utt Coal Co	Peacock #1	C	C	C	C	C	C	C	C	C	C	C	
Cather Coal Co	Black Diamond	C	C	C	C	C	C	C	C	C	C	C	
Losh, A. O.	Losh	C	C	C	C	C	C	C	C	C	C	C	
Newlon, Howard B	H. B. Newlon	C	C	C	C	C	C	C	C	C	C	C	
Poole, John W	Brooks	C	C	C	C	C	C	C	C	C	C	C	
Sharps, H. P.	Sharps	C	C	C	C	C	C	C	C	C	C	C	
Sinsel Heirs	Sinsel	C	C	C	C	C	C	C	C	C	C	C	
Wolfe, Harrison	Shafer	C	C	C	C	C	C	C	C	C	C	C	

Code Member Index—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼ SL	¾ SL	
		1	2	3	4	5	6	7	9	12	13	14	
WEBSTER													
Britton Coal Company	Britton	A	A	A	A	A	A	A	A	A	A	A	
Crosby, George	Halo	A	A	A	A	A	A	A	A	A	A	A	
Duckworth, A. A.	Duckworth	A	A	A	A	A	A	A	A	A	A	A	
McCourt, R. J.	McCourt	A	A	A	A	A	A	A	A	A	A	A	
Sewell Coal Company	Leah	A	A	A	A	A	A	A	A	A	A	A	
Talbert, Russell	Talbert	A	A	A	A	A	A	A	A	A	A	A	

Truck Mine Prices—Per Net Ton of 2,000 Pounds—Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons of All Code Members in District No. 3

Size group	Sizes	Prices			
		A	B	C	D
1	Over 4" L	$3.10	$3.00	$2.85	$2.65
2	4" L	3.00	2.90	2.75	2.55
3	3" L	2.90	2.80	2.65	2.45
4	2" L	2.90	2.70	2.55	2.35
5	Egg	2.70	2.60	2.45	2.25
6	Nut	2.55	2.50	2.35	2.25
7	Pea	2.50	2.40	2.25	2.20
9	R/M	2.45	2.40	2.25	2.10
12	2" N. & S	2.05	1.90	1.75	1.75
13	1¼" SL	1.97	1.82	1.67	1.67
14	¾" SL	1.86	1.71	1.56	1.56

For sizes not included herein, refer to table titled *Size Groups*.

[F. R. Doc. 38-203; Filed, January 19, 1938; 1:57 p. m.]

[Order No. 195]

AN ORDER MODIFYING ORDER NO. 92, AS MODIFIED BY ORDERS NOS. 129 AND 151, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 4, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 4"

The National Bituminous Coal Commision having by its Order No. 92, as modified by Orders Nos. 129 and 151, determined and established the minimum prices of coals of code members produced within District Number 4, as set forth in "Price Schedule No. 1—District No. 4", as supplemented by Supplements Nos. 1 and 2, and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number 4, established in "Price Schedule No. 1—District No. 4", as supplemented by "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 4", are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 4", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District Number 4, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 92 as modified by Orders Nos. 129 and 151 and Price Schedule No. 1—District Number 4, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 4, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 4" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 4; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 4 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

REVISED TRUCK MINE PRICE SCHEDULE NO. 1 SUPERSEDING SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1 DISTRICT NO. 4

Revised Truck Mine Price Schedule of Minimum Prices for Coals of Code Members Produced within District No. 4, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective January 27, 1938.

Issued January 17, 1938.

F. W. MCCULLOUGH, *Secretary*.

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer

shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size of Bar Screens

Bar spacing:	Round hole equivalent
¾''	1⅛''
1''	1¾''
1¼''	2''
1½''	2⅜''
2''	4⅜''
2½''	4⅞''
3''	5½''
4''	6''
5''	7¾''

Size Groups

Base size group	Includes— Lump—Maximum screen sizes	Double screened sizes: Maximum top sizes [1]	Double screened sizes: Maximum bottom sizes [1]
1	All Lump over 4''	Over 6''	4''.
2	4''	6''	4''.
3	3''	6''	3''.
4	2''	6''	2''.
5	1-1¼''	5''	2''.
6		4''	1-1¼''.
7		2''	1-1¼''.
9		Mine Run	
12		2'' N-S	0''.
13		1-1½'' Slk	0''.
14		¾'' Slk	0''.

[1] All maximum screen sizes mentioned herein are based on round hole or the equivalent thereof.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher size group and priced accordingly.

Code Member Index

ORIGIN MINE GROUP NO. 1

Name	Mine	Sizes and size group number: Over 4'' (1)	4'' L (2)	3'' L (3)	2'' L (4)	Egg (5)	Nut (6)	Pea (7)	R. M. (9)	2'' SL (12)	1¼ SL (13)	¾ SL (14)
OHIO												
Aberts & Hall Coal Co	Aberts & Hall	C	C	C	C	C	C	C	C	C	C	C
Anderson Coal Company	Anderson	C	C	C	C	C	C	C	C	C	C	C
Archer, Elmer	Montgomery	C	C	C	C	C	C	C	C	C	C	C
Bell, Jack	Jack Bell	C	C	C	C	C	C	C	C	C	C	C
Boehm Coal Company	Boehm	C	C	C	C	C	C	C	C	C	C	C
Bradford, W. W. (Bradford Coal Company)	Bradford	C	C	C	C	C	C	C	C	C	C	C
Brandon, Floyd	Thompson	C	C	C	C	C	C	C	C	C	C	C
Brewer, C. H	Brewer	C	C	C	C	C	C	C	C	C	C	C
Brondas, Paul	Brondas	C	C	C	C	C	C	C	C	C	C	C
Chini, Lawrence (Chini & Leone)	Tyrol	C	C	C	C	C	C	C	C	C	C	C
DeCorte, John	De Cortes	C	C	C	C	C	C	C	C	C	C	C
Deshler Heim Coal Co	Deshler Heim	C	C	C	C	C	C	C	C	C	C	C
Dodig Coal & Mining Co	Dodig #1	C	C	C	C	C	C	C	C	C	C	C
Dodig Coal & Mining Co	Dodig #2	C	C	C	C	C	C	C	C	C	C	C
Dudek, Jos	Dudek	C	C	C	C	C	C	C	C	C	C	C
E. & F. Coal Co		C	C	C	C	C	C	C	C	C	C	C
Fair Hill Coal Co	Fair Hill	C	C	C	C	C	C	C	C	C	C	C
Garrett, Oscar	Garrett	C	C	C	C	C	C	C	C	C	C	C
Garrett Bros. Coal Co	Garrett Bros.	C	C	C	C	C	C	C	C	C	C	C
Gault Bros	Gault	C	C	C	C	C	C	C	C	C	C	C
Georges Run R. H. H. Coal Company	Harmony	C	C	C	C	C	C	C	C	C	C	C
Glenview Coal Co	Glenview	C	C	C	C	C	C	C	C	C	C	C
Grozdan, Joe	Grozdan	C	C	C	C	C	C	C	C	C	C	C
Henry, Julius	Julius Henry	C	C	C	C	C	C	C	C	C	C	C
Heschi & Bros., H. C	Heschi	C	C	C	C	C	C	C	C	C	C	C
Hackathorn & Myers	M. L	C	C	C	C	C	C	C	C	C	C	C
Hamilton, Francis F	Elderberry	C	C	C	C	C	C	C	C	C	C	C
Hamilton-Smith Coal Co	Ham-Smith	C	C	C	C	C	C	C	C	C	C	C
Hennen, E. C		C	C	C	C	C	C	C	C	C	C	C
Hufnagel, R. C	Hufnagel	C	C	C	C	C	C	C	C	C	C	C
Kaul Clay Mfg. Co	Kaul	C	C	C	C	C	C	C	C	C	C	C
Lafferty Coal Co	Virginian #44	C	C	C	C	C	C	C	C	C	C	C
Lendon, Leonard	McConnaughy	C	C	C	C	C	C	C	C	C	C	C
Lorain Coal & Dock Co	Blaine	C	C	C	C	C	C	C	C	C	C	C
Lorain Coal & Dock Co	Stanley	C	C	C	C	C	C	C	C	C	C	C
McCoy, J. Stuart	McCoy	C	C	C	C	C	C	C	C	C	C	C
McLain Fire Brick Co	Irondale	C	C	C	C	C	C	C	C	C	C	C
Myers, B. P	B. P. Myers	C	C	C	C	C	C	C	C	C	C	C
National Mining Co	Laughlin	C	C	C	C	C	C	C	C	C	C	C
Nicholson Coal Co., P. R	Nicholson #3	C	C	C	C	C	C	C	C	C	C	C
Owens, Harry & Partners	Owens	C	C	C	C	C	C	C	C	C	C	C
Piney Fork Coal Co. (E. M. Sheline)	Piney Fork	C	C	C	C	C	C	C	C	C	C	C
Pinkerton-Thayer-Conlon		C	C	C	C	C	C	C	C	C	C	C
Thos. Ayers	Patty	C	C	C	C	C	C	C	C	C	C	C
L. D. Cope	Peacock	C	C	C	C	C	C	C	C	C	C	C
Pioneer Fuel Corp	Sehlek	C	C	C	C	C	C	C	C	C	C	C
Pickering & Dougherty	Pickering	C	C	C	C	C	C	C	C	C	C	C
Somers Coal Company	Somers #6	C	C	C	C	C	C	C	C	C	C	C
Starkey, Earl W. (Unity Valley Coal Co.)	Unity Valley	C	C	C	C	C	C	C	C	C	C	C
Steubenville Coal and Mining Co	High Shaft	C	C	C	C	C	C	C	C	C	C	C
Stock Coal Company	Stock	C	C	C	C	C	C	C	C	C	C	C
Taylor, Campbell	Monler	C	C	C	C	C	C	C	C	C	C	C
Taylor, Ernest M	Taylor	C	C	C	C	C	C	C	C	C	C	C
Thornton, O. C. & Son	Thorntons	C	C	C	C	C	C	C	C	C	C	C
United States Coal Co	Crow Hollow #1	C	C	C	C	C	C	C	C	C	C	C
United States Coal Co	Crow Hollow #2	C	C	C	C	C	C	C	C	C	C	C
Warner Fuel Supply Co	Castner	C	C	C	C	C	C	C	C	C	C	C
Wesley, George	Bethel	C	C	C	C	C	C	C	C	C	C	C
Wintersville Coal Co	Almet	C	C	C	C	C	C	C	C	C	C	C
Woods, Leslie		C	C	C	C	C	C	C	C	C	C	C
Youghiogheny & Ohio Coal Company	Florence	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

ORIGIN MINE GROUP NO. 2

Name	Mine	Sizes and size group numbers: Over 4'' (1)	4'' L (2)	3'' L (3)	2'' L (4)	Egg (5)	Nut (6)	Pea (7)	R. M. (9)	2'' SL (12)	1¼ SL (13)	¾ SL (14)
Burris, J. E	Deep Cut	C	C	C	C	C	C	C	C	C	C	C
Burrows Coal Co	Burrows	C	C	C	C	C	C	C	C	C	C	C
Byesville Coal Co., The	Mount Zion	C	C	C	C	C	C	C	C	C	C	C
Callahan, Peter	Lindamood	C	C	C	C	C	C	C	C	C	C	C
Cambridge Collieries Co	Buffalo	C	C	C	C	C	C	C	C	C	C	C
Cats Creek Coal Co. (J. Q. Perry & Sons)	Perry	C	C	C	C	C	C	C	C	C	C	C
Collart Bros	Elm Tree	C	C	C	C	C	C	C	C	C	C	C
Daniels, L	Daniels	C	C	C	C	C	C	C	C	C	C	C
Dickson, Earl	Ables	C	C	C	C	C	C	C	C	C	C	C
Fisher, Russell	Wortman	C	C	C	C	C	C	C	C	C	C	C
Forshey, Mancel	Damulas	C	C	C	C	C	C	C	C	C	C	C
Gander, H. S. Coal Co	Red Bird No. 2	C	C	C	C	C	C	C	C	C	C	C
Gordon, M. E	Boyd	C	C	C	C	C	C	C	C	C	C	C
Kelth, Andy & Chas. McManaway	M & K	C	C	C	C	C	C	C	C	C	C	C
Lewis & Dixon Coal Co	Lewis & Dixon	C	C	C	C	C	C	C	C	C	C	C
Mallett, W. W	Mallett	C	C	C	C	C	C	C	C	C	C	C
Morgan, Roy	Morgan	C	C	C	C	C	C	C	C	C	C	C
Otsego Coal Co., The		C	C	C	C	C	C	C	C	C	C	C
Ross, Everett	Ross	C	C	C	C	C	C	C	C	C	C	C
Seevers, L. A	Moreland	C	C	C	C	C	C	C	C	C	C	C
Sharratt Coal Co	Blackbird No. 2	C	C	C	C	C	C	C	C	C	C	C
Sills & Huffman	Sills & Huffman	C	C	C	C	C	C	C	C	C	C	C
Slifko, George, Jr	Sugar Tree	C	C	C	C	C	C	C	C	C	C	C
Turner, Thomas	Parson	C	C	C	C	C	C	C	C	C	C	C
Wheeler, H. C	Wheeler	C	C	C	C	C	C	C	C	C	C	C
ORIGIN MINE GROUP NO. 3												
Parson Bros	Parson	C	C	C	C	C	C	C	C	C	C	C
ORIGIN MINE GROUP NO. 4												
Abel, Ralph		C	C	C	C	C	C	C	C	C	C	C
Akron Coal Co	German	C	C	C	C	C	C	C	C	C	C	C
Alumbaugh, W	Alumbaugh #3	C	C	C	C	C	C	C	C	C	C	C
Archinal, James & Co	Archinal	C	C	C	C	C	C	C	C	C	C	C
Baer, Delmar	Second St	C	C	C	C	C	C	C	C	C	C	C
Baer, Delmar	Sehindler	C	C	C	C	C	C	C	C	C	C	C
Baker, Earl J	Baker	C	C	C	C	C	C	C	C	C	C	C
Beaber, G. F. Coal Co	Beaber	C	C	C	C	C	C	C	C	C	C	C
Beaver Creek Coal Co	Davis	C	C	C	C	C	C	C	C	C	C	C
Barnes Coal & Mining Co	Best #1 Barnes #7	C	C	C	C	C	C	C	C	C	C	C
Beitzel, Jacob L	Beitzels	C	C	C	C	C	C	C	C	C	C	C
Benchley & Vermillion Coal Co	Benchley & Vermillion	C	C	C	C	C	C	C	C	C	C	C
Benchley & Vermillion Coal Co	Browning	C	C	C	C	C	C	C	C	C	C	C
Bible, Curtis	Bible	C	C	C	C	C	C	C	C	C	C	C
Billman, Melvin & Son	Cook #1	C	C	C	C	C	C	C	C	C	C	C
Billman, Leonard E	Belle Island	C	C	C	C	C	C	C	C	C	C	C
Billman, Leonard E	Big Sandy	C	C	C	C	C	C	C	C	C	C	C
Billman, Leonard	Silver Maple	C	C	C	C	C	C	C	C	C	C	C
Blake Mine Co	Blake	C	C	C	C	C	C	C	C	C	C	C
Blue Bell Coal Mines Ltd	Allison	C	C	C	C	C	C	C	C	C	C	C
Blue Bell Coal Mines Ltd	Hoppingarner	C	C	C	C	C	C	C	C	C	C	C
Blue Flame Coal Co	Blue Flame	C	C	C	C	C	C	C	C	C	C	C
Blue Shaft Coal Co	Blue Shaft	C	C	C	C	C	C	C	C	C	C	C
Bourror, R. L		C	C	C	C	C	C	C	C	C	C	C
Boyles, W. L	Boyles	C	C	C	C	C	C	C	C	C	C	C
Brandywine Coal Co	Brandywine	C	C	C	C	C	C	C	C	C	C	C
Brandywine Coal Co	Plum Run	C	C	C	C	C	C	C	C	C	C	C
Breyer Coal Co	Black Town Gap	C	C	C	C	C	C	C	C	C	C	C
Brookside Mining Co	Sattlers	C	C	C	C	C	C	C	C	C	C	C
B & M Coal Co	Gibson	C	C	C	C	C	C	C	C	C	C	C
Blue Ridge Mining Co	Best	C	C	C	C	C	C	C	C	C	C	C
Boyd, J. C	Thompson	C	C	C	C	C	C	C	C	C	C	C
Bruno, Jacob	Bruno	C	C	C	C	C	C	C	C	C	C	C
Buxton, Mervin		C	C	C	C	C	C	C	C	C	C	C
Callahan Mining Co	Callahan	C	C	C	C	C	C	C	C	C	C	C
Cannon Coal Co., Leroy	Leroy Cannon	C	C	C	C	C	C	C	C	C	C	C
Carrollton Coal Co	Carroll	C	C	C	C	C	C	C	C	C	C	C
Chamberlain Coal Co	Chamberlain	C	C	C	C	C	C	C	C	C	C	C
Cherry Hill Mining Co	Cherry Hill	C	C	C	C	C	C	C	C	C	C	C
Chippewa Mines, Inc	Chippewa	C	C	C	C	C	C	C	C	C	C	C
City Coal Co	City Coal	C	C	C	C	C	C	C	C	C	C	C
Clark Coal Co	Clark	C	C	C	C	C	C	C	C	C	C	C
Clark Roy W	Briar Hill	C	C	C	C	C	C	C	C	C	C	C
Camp Bros	Allen	C	C	C	C	C	C	C	C	C	C	C
Clapper, Arthur	Clapper	C	C	C	C	C	C	C	C	C	C	C
Clinton Mines, Inc	#2	C	C	C	C	C	C	C	C	C	C	C
Clinton Mines, Inc	Chippewa	A	A	A	A	A	A	A	A	A	A	A
Cook, H. L		C	C	C	C	C	C	C	C	C	C	C
Cox Bros	Cox Bros	C	C	C	C	C	C	C	C	C	C	C
Coy Coal Co	Beechgrove	C	C	C	C	C	C	C	C	C	C	C
Craig, Bud		C	C	C	C	C	C	C	C	C	C	C
Crook, Geo. W. & Sons	Crooks	C	C	C	C	C	C	C	C	C	C	C
Cross, E. R	Cross	C	C	C	C	C	C	C	C	C	C	C
Crown Coal Co	Edgefield	C	C	C	C	C	C	C	C	C	C	C
Davis Bros. Coal Co	Davis Bros.	C	C	C	C	C	C	C	C	C	C	C
Davis Coal Co	Davis Coal	C	C	C	C	C	C	C	C	C	C	C
Dawson, R. Forest & S. T. Sisley		C	C	C	C	C	C	C	C	C	C	C
Deuker Coal Co	Deuker	C	C	C	C	C	C	C	C	C	C	C
Dexter Coal Co	Dexter	C	C	C	C	C	C	C	C	C	C	C
Dickerson, Kenneth	Dickerson	C	C	C	C	C	C	C	C	C	C	C
Dixon, Bert	Dixon	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

ORIGIN MINE GROUP NO. 4—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼ SL	¾ SL
		1	2	3	4	5	6	7	9	12	13	14
Donald, John	Donald	C	C	C	C	C	C	C	C	C	C	C
Dougherty Coal Co	Dougherty	C	C	C	C	C	C	C	C	C	C	C
Dummermuth & Kern	Dummermuth	C	C	C	C	C	C	C	C	C	C	C
Dunfee & Newell	Dond's	C	C	C	C	C	C	C	C	C	C	C
Dunn Coal Co	Dunn	C	C	C	C	C	C	C	C	C	C	C
Earle Coal Co	Earle	C	C	C	C	C	C	C	C	C	C	C
East Fairfield Coal Co		C	C	C	C	C	C	C	C	C	C	C
Eberhart, Edwin R	Eberhart	C	C	C	C	C	C	C	C	C	C	C
Eckfeld, Frank	Frank Eckfeld	C	C	C	C	C	C	C	C	C	C	C
Eckels Coal Co	Eckels	C	C	C	C	C	C	C	C	C	C	C
Eddleman, Warren W	#6	C	C	C	C	C	C	C	C	C	C	C
Edgefield Coal Co., The	Edgefield	C	C	C	C	C	C	C	C	C	C	C
Eddleman, Warren W	#5	C	C	C	C	C	C	C	C	C	C	C
Edwards Bros. Coal Co	Edward Bros	C	C	C	C	C	C	C	C	C	C	C
Edwards Coal Co	Edwards	C	C	C	C	C	C	C	C	C	C	C
Edwards & Freed	Edwards & Freed	C	C	C	C	C	C	C	C	C	C	C
Eells Bros. Coal Co	Eells	C	C	C	C	C	C	C	C	C	C	C
Eggert, Ernest A	Eggert	C	C	C	C	C	C	C	C	C	C	C
Ellwood Coal Co	Ellwood Truck	C	C	C	C	C	C	C	C	C	C	C
Eropoli Coal Co	Easton	C	C	C	C	C	C	C	C	C	C	C
Excel Coal Co	Excel	C	C	C	C	C	C	C	C	C	C	C
Fenton, Leo	Fenton	C	C	C	C	C	C	C	C	C	C	C
Fickes & Son, Jesse	Fickes & Son	C	C	C	C	C	C	C	C	C	C	C
Fickes Coal Co., Ray	Ray Fickes	C	C	C	C	C	C	C	C	C	C	C
Finley, Harry	Harry Finley	C	C	C	C	C	C	C	C	C	C	C
Finnicum, C. R	Finnicum	C	C	C	C	C	C	C	C	C	C	C
Franks, Wm. R	Pryor	C	C	C	C	C	C	C	C	C	C	C
Fink, Vince		C	C	C	C	C	C	C	C	C	C	C
Finnell Coal Co	Finnell	C	C	C	C	C	C	C	C	C	C	C
Ford Williams Coal Co	Parker	C	C	C	C	C	C	C	C	C	C	C
Franklin, John, Sr	Stofer	C	C	C	C	C	C	C	C	C	C	C
Fry, Ira	Fry	C	C	C	C	C	C	C	C	C	C	C
Funk Coal Co	Funk	C	C	C	C	C	C	C	C	C	C	C
Garaux Bros., The	Garaux	C	C	C	C	C	C	C	C	C	C	C
Gardner, M. C. & A. A. Graff	Horn	C	C	C	C	C	C	C	C	C	C	C
Garlick, Charles A	Garlick	C	C	C	C	C	C	C	C	C	C	C
Gatten, Herman L	Gardner	C	C	C	C	C	C	C	C	C	C	C
Gerber, B. D	Gerber	C	C	C	C	C	C	C	C	C	C	C
Gibbs Coal Co., The	Gibbs	C	C	C	C	C	C	C	C	C	C	C
Gibler, J. J	J. J. Gibler	C	C	C	C	C	C	C	C	C	C	C
Gillis, Charles	Rosemont	C	C	C	C	C	C	C	C	C	C	C
Gindlesberger, L. W	Glindlesberger	C	C	C	C	C	C	C	C	C	C	C
Ginger Hill Coal Co	Ginger Hill	C	C	C	C	C	C	C	C	C	C	C
Geer, Fred S., Inc	Ulbricht	C	C	C	C	C	C	C	C	C	C	C
	Unity	C	C	C	C	C	C	C	C	C	C	C
Glenwood Coal Mining Co	Glenwood	C	C	C	C	C	C	C	C	C	C	C
Goshen Hill Coal Co	Page	C	C	C	C	C	C	C	C	C	C	C
Goshen Hill Coal Co	Krauss	C	C	C	C	C	C	C	C	C	C	C
Gosser, John F. & Sons	Gosser & Sons	C	C	C	C	C	C	C	C	C	C	C
Grace, Byrl	Grace	C	C	C	C	C	C	C	C	C	C	C
Grace, Hugh D	Hugh D. Grace Coal Co	C	C	C	C	C	C	C	C	C	C	C
Gray Bros	Cooper	C	C	C	C	C	C	C	C	C	C	C
Hahn, J. F	Hahn	C	C	C	C	C	C	C	C	C	C	C
Hahn & Sturtz	Hahn	C	C	C	C	C	C	C	C	C	C	C
Hahn Coal Co	Hahn Coal Co	C	C	C	C	C	C	C	C	C	C	C
Hale, Orr Coal Co., The	Hale Orr	C	C	C	C	C	C	C	C	C	C	C
Hambleton Coal Co	Hambleton	C	C	C	C	C	C	C	C	C	C	C
Hardesty, John A. & Sons	Hardesty	C	C	C	C	C	C	C	C	C	C	C
Hardesty, Paul (Hardesty C. Co.)	Hardesty	C	C	C	C	C	C	C	C	C	C	C
Henderson, E. J. Coal Co		C	C	C	C	C	C	C	C	C	C	C
Hi-Heat Coal Co., The	Philbin	A	A	A	A	A	A	A	A	A	A	A
Hirst, John M. & Co	Sterling	C	C	C	C	C	C	C	C	C	C	C
Hochman Coal Co	Hochman	C	C	C	C	C	C	C	C	C	C	C
Holdsworth Bros	4 Star	C	C	C	C	C	C	C	C	C	C	C
Hook Coal Co	Hook	C	C	C	C	C	C	C	C	C	C	C
Hawkins, Ross K. & Louis Singerman	Hawkins & Singerman	C	C	C	C	C	C	C	C	C	C	C
Homyak Coal Co	Homyak	C	C	C	C	C	C	C	C	C	C	C
Hart Coal Co	Hart	C	C	C	C	C	C	C	C	C	C	C
Huston, Julius	Petry	C	C	C	C	C	C	C	C	C	C	C
Horner, Phillip V	Ellsworth	C	C	C	C	C	C	C	C	C	C	C
Hostetter, Waldo	Hostetter	C	C	C	C	C	C	C	C	C	C	C
Horger Coal Co	Red Monarch	C	C	C	C	C	C	C	C	C	C	C
Howard, Lewis	Howard	C	C	C	C	C	C	C	C	C	C	C
H. K. W. Coal Co	H. K. W	C	C	C	C	C	C	C	C	C	C	C
Hudson, Daniel	Hudson	C	C	C	C	C	C	C	C	C	C	C
Indian Run Coal Co	Indian Run	C	C	C	C	C	C	C	C	C	C	C
Industrial Mining Co	Black Oak #2	C	C	C	C	C	C	C	C	C	C	C
Indian Hill Coal Co	Indian Hill	C	C	C	C	C	C	C	C	C	C	C
Ingham, John	Burt	C	C	C	C	C	C	C	C	C	C	C
J. & R. Coal Co., The	J. & R	A	A	A	A	A	A	A	A	A	A	A
James & Stickle	James & Stickle	C	C	C	C	C	C	C	C	C	C	C
Jennings & Kaley	Jennings & Kaley	C	C	C	C	C	C	C	C	C	C	C
James Bros. Coal Co	Hillcrest	C	C	C	C	C	C	C	C	C	C	C
Jennings Bros. Coal Co		C	C	C	C	C	C	C	C	C	C	C
Jennings, Harold	Jennings	C	C	C	C	C	C	C	C	C	C	C
Johns, William	Johns	C	C	C	C	C	C	C	C	C	C	C
Johnson, C. A	C. A. Johnson	C	C	C	C	C	C	C	C	C	C	C
Johnson, Coal Co	Johnson	A	A	A	A	A	A	A	A	A	A	A
Jollie, Harry T	H. T. Jollie	C	C	C	C	C	C	C	C	C	C	C
Kaserman, O. F. H	Kaserman	C	C	C	C	C	C	C	C	C	C	C
Kaufman Coal Mine (J. W.)	Kaufman	C	C	C	C	C	C	C	C	C	C	C
Kienzle, Chas	Kienzle	C	C	C	C	C	C	C	C	C	C	C
Kilpatrick & Son, R. C	Kilpatrick	C	C	C	C	C	C	C	C	C	C	C
King, Victor	King	C	C	C	C	C	C	C	C	C	C	C
Kirtley-Harvey Coal Co	Kirtley	C	C	C	C	C	C	C	C	C	C	C
Kleen Coal Co	Kleen Coal	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

ORIGIN MINE GROUP NO. 4—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼ SL	¾ SL
		1	2	3	4	5	6	7	9	12	13	14
Klingel, C. H	Klingel	C	C	C	C	C	C	C	C	C	C	C
Kohman, A. E	Kohman	C	C	C	C	C	C	C	C	C	C	C
Kohr, W. M	Kohr	C	C	C	C	C	C	C	C	C	C	C
Kuhn Coal Co., Chas. U	Kuhn	C	C	C	C	C	C	C	C	C	C	C
Kunkelman, S. M	Pleasant Hill	C	C	C	C	C	C	C	C	C	C	C
Klondike Coal Co	Grasshopper	C	C	C	C	C	C	C	C	C	C	C
Kaser, A. A	Kurtz	C	C	C	C	C	C	C	C	C	C	C
Kollar & Stiffler Mine c/o John D. Kollar	Kollar & Stiffler	C	C	C	C	C	C	C	C	C	C	C
Lapp, Melvin	Pleasant Hill	C	C	C	C	C	C	C	C	C	C	C
Lewis, Evan	Lewis	C	C	C	C	C	C	C	C	C	C	C
Lafferty, Geo	Lafferty	C	C	C	C	C	C	C	C	C	C	C
Liberty Coal Co	Liberty	C	C	C	C	C	C	C	C	C	C	C
Lewis Mining Co	Lewis	C	C	C	C	C	C	C	C	C	C	C
Lewis, Stuart		C	C	C	C	C	C	C	C	C	C	C
Lassan, Steve	Mountain King	C	C	C	C	C	C	C	C	C	C	C
Leighley, Frank	Fox Hollow	C	C	C	C	C	C	C	C	C	C	C
Limbach, Chas. H	Limbach	C	C	C	C	C	C	C	C	C	C	C
Lincoln Coal Mining Co	Lincoln	A	A	A	A	A	A	A	A	A	A	A
Loveday, John	Loveday	C	C	C	C	C	C	C	C	C	C	C
Low, Andy	Low	C	C	C	C	C	C	C	C	C	C	C
Lowe, Floyd M	Floyd M. Lowe	C	C	C	C	C	C	C	C	C	C	C
Lyons Bros	Buckhorn	C	C	C	C	C	C	C	C	C	C	C
McCarty, V. A	King	C	C	C	C	C	C	C	C	C	C	C
McClelland & Fisk	McClelland & Fisk	C	C	C	C	C	C	C	C	C	C	C
McCoy, Ed	McCoy	C	C	C	C	C	C	C	C	C	C	C
McKenzie, Geo. W	McKenzie	C	C	C	C	C	C	C	C	C	C	C
McGinnis Coal Co	McGinnis	C	C	C	C	C	C	C	C	C	C	C
McLaughlin & Wilson	McLaughlin & Wilson	C	C	C	C	C	C	C	C	C	C	C
McClusky, F. R	McClusky Coal	C	C	C	C	C	C	C	C	C	C	C
McCoy, Byron	McCoy	C	C	C	C	C	C	C	C	C	C	C
Madison Coal Co	Rock Camp	C	C	C	C	C	C	C	C	C	C	C
Malvern Coal Co	Malvern	C	C	C	C	C	C	C	C	C	C	C
Mapleton Clay Prod. Co	Mapleton	C	C	C	C	C	C	C	C	C	C	C
Marshall Mining Co	Marshall	C	C	C	C	C	C	C	C	C	C	C
Mason & Sons Coal Co	Mason & Sons	C	C	C	C	C	C	C	C	C	C	C
Massillon-Akron Coal Co	Massillon-Akron	A	A	A	A	A	A	A	A	A	A	A
Massillon-Coal & Lime Co	Massillon Coal & Lime	C	C	C	C	C	C	C	C	C	C	C
Massillon-Tuscarawas Coal Co	Central Valley (#4)	C	C	C	C	C	C	C	C	C	C	C
Maurer, O. F	Maurer	C	C	C	C	C	C	C	C	C	C	C
Meadow Valley Coal Co	Meadow Valley	C	C	C	C	C	C	C	C	C	C	C
Meechan Bros. Coal Co	Meechan	C	C	C	C	C	C	C	C	C	C	C
Meissner, John W	Meissner	C	C	C	C	C	C	C	C	C	C	C
Mid-State Coal Co	Magnolia	C	C	C	C	C	C	C	C	C	C	C
Midvale Coal Co	Midvale #4	C	C	C	C	C	C	C	C	C	C	C
Miller, Paul R	Miller	C	C	C	C	C	C	C	C	C	C	C
Miller & Eberhart	Ziegler	C	C	C	C	C	C	C	C	C	C	C
Miller & Stipes	Miller & Stipes	C	C	C	C	C	C	C	C	C	C	C
Minor Coal Co	Busy Bee	C	C	C	C	C	C	C	C	C	C	C
Miller, Montford O	K-O	C	C	C	C	C	C	C	C	C	C	C
Mercer, O. D	Mercer	C	C	C	C	C	C	C	C	C	C	C
Milday, Lawrence	L. Milday	C	C	C	C	C	C	C	C	C	C	C
Moreland, T. W	Preston	C	C	C	C	C	C	C	C	C	C	C
Myers & Son Coal Co	Theo. Myers	C	C	C	C	C	C	C	C	C	C	C
Myers, M. M	Myers	C	C	C	C	C	C	C	C	C	C	C
Muto, Nick	Muto	C	C	C	C	C	C	C	C	C	C	C
Negley Coal Co., The	Negley	C	C	C	C	C	C	C	C	C	C	C
Negley Coal Co., The	Woodworth	C	C	C	C	C	C	C	C	C	C	C
Newman & Shelter	Newman Myers	C	C	C	C	C	C	C	C	C	C	C
Newton Coal Co	Newton	C	C	C	C	C	C	C	C	C	C	C
Noble Coal Co	Noble	C	C	C	C	C	C	C	C	C	C	C
North Alliance Coal Co	No. Alliance	C	C	C	C	C	C	C	C	C	C	C
No. 6 Coal Co	No. 6 Coal Co	C	C	C	C	C	C	C	C	C	C	C
Olivet, B. C	Olivet	C	C	C	C	C	C	C	C	C	C	C
Oakwood Mining Co	Oakwood	C	C	C	C	C	C	C	C	C	C	C
Ohio Block Coal Co., The	Wainwright	C	C	C	C	C	C	C	C	C	C	C
Overholt Coal Co	Shafler	C	C	C	C	C	C	C	C	C	C	C
Parks & Grant Coal Co	Parks & Grant	C	C	C	C	C	C	C	C	C	C	C
Parana Coal Co	Parana	C	C	C	C	C	C	C	C	C	C	C
Penman, W. J. Coal & Lumber Co	#8	C	C	C	C	C	C	C	C	C	C	C
Phillips, R. L	#1, 2, 3	C	C	C	C	C	C	C	C	C	C	C
Pleasant Valley Mining Co	Stark #2	C	C	C	C	C	C	C	C	C	C	C
Pine Hollow Coal Co	Pine Hollow	C	C	C	C	C	C	C	C	C	C	C
Pine Hollow Co-op. Coal Co		C	C	C	C	C	C	C	C	C	C	C
Pleasant Valley Mining Co	Starks #1 & 2	C	C	C	C	C	C	C	C	C	C	C
Poland Coal Co	Poland	C	C	C	C	C	C	C	C	C	C	C
Porcher, J. P	Porcher	C	C	C	C	C	C	C	C	C	C	C
Price, S. P. & Son	Price	C	C	C	C	C	C	C	C	C	C	C
Reed, E. F	Reed	C	C	C	C	C	C	C	C	C	C	C
Red Oak Coal Co., The	Red Oak	C	C	C	C	C	C	C	C	C	C	C
Reeburban Coal & Material Co		C	C	C	C	C	C	C	C	C	C	C
Renner, Lew & L. H. Renner & Sons	Renner	C	C	C	C	C	C	C	C	C	C	C
Rich Creek & Fitch	Rich Creek & Fitch	C	C	C	C	C	C	C	C	C	C	C
Riggs, Basil V	Riggs Coal	C	C	C	C	C	C	C	C	C	C	C
Roberts, Russel & Fred	Royer No. 2	C	C	C	C	C	C	C	C	C	C	C
Ridge Coal Co	Ridge	A	A	A	A	A	A	A	A	A	A	A
Robinson Clay Prod. Co	Robinson Clay Products Co	C	C	C	C	C	C	C	C	C	C	C
Rodgers, Roy J	Rodgers	C	C	C	C	C	C	C	C	C	C	C
Roser Coal Mine	Roser Coal Mine	C	C	C	C	C	C	C	C	C	C	C
Robbins & Son, J. M	Maple	C	C	C	C	C	C	C	C	C	C	C
Rothacher & Emig Coal Co	Spies	C	C	C	C	C	C	C	C	C	C	C
Schneider, Albert & Son	Schneider	C	C	C	C	C	C	C	C	C	C	C
Schneider, Herman	Loveday	C	C	C	C	C	C	C	C	C	C	C
Schneider Bros. Coal Co	Schneider Bros	C	C	C	C	C	C	C	C	C	C	C
Schneitler Coal Co	Schneitler	C	C	C	C	C	C	C	C	C	C	C
Scott Coal Co. (Thos. L. & Roy E.)	Scott Coal	C	C	C	C	C	C	C	C	C	C	C
Scott, Walter	W. Scott	C	C	C	C	C	C	C	C	C	C	C

Code Member Index—Continued

ORIGIN MINE GROUP NO. 4—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼ SL	¾ SL	
		1	2	3	4	5	6	7	9	12	13	14	
Shepperd Coal Co	Shepperd Coal	C	C	C	C	C	C	C	C	C	C	C	C
Silver Creek Mining Co	Silver Creek	C	C	C	C	C	C	C	C	C	C	C	C
Snow Brothers	Pine Grove	C	C	C	C	C	C	C	C	C	C	C	C
Simon, Richard	Richard Simon	C	C	C	C	C	C	C	C	C	C	C	C
Synder, C. W	Snyder	C	C	C	C	C	C	C	C	C	C	C	C
Snyder, T. G	Border	C	C	C	C	C	C	C	C	C	C	C	C
Spencer, S. F	Spencer	C	C	C	C	C	C	C	C	C	C	C	C
Swier & Son	Mt. Healthy	C	C	C	C	C	C	C	C	C	C	C	C
Smith, C. R	Smith's Coal	C	C	C	C	C	C	C	C	C	C	C	C
Service Coal Mine	Service Mine	C	C	C	C	C	C	C	C	C	C	C	C
Jos. Palermo (Sebering Coal Co.)	Palermo	C	C	C	C	C	C	C	C	C	C	C	C
Seibert Bros		C	C	C	C	C	C	C	C	C	C	C	C
Sheeley Coal Co	Turney	C	C	C	C	C	C	C	C	C	C	C	C
Shute, Edward (Sheete)	Smoketch	C	C	C	C	C	C	C	C	C	C	C	C
Sickafoose Bros	Sickafoose	C	C	C	C	C	C	C	C	C	C	C	C
Sicker Coal Co	Sicker	C	C	C	C	C	C	C	C	C	C	C	C
Selway, Stephen	Berry	C	C	C	C	C	C	C	C	C	C	C	C
Stansbery, W. A	Stansbery	C	C	C	C	C	C	C	C	C	C	C	C
Stark Coal Co	Stark	C	C	C	C	C	C	C	C	C	C	C	C
States, Lewis	States	C	C	C	C	C	C	C	C	C	C	C	C
Steinback, Karl	Steinback	C	C	C	C	C	C	C	C	C	C	C	C
Steinbaugh, F. R	Steinbaugh	C	C	C	C	C	C	C	C	C	C	C	C
Stowe Fuller Refractories Co	Stowe Fuller Refractories	C	C	C	C	C	C	C	C	C	C	C	C
Stubbs, Clyde E. & John E	Stubbs Bros	C	C	C	C	C	C	C	C	C	C	C	C
Sun Coal Co., Ltd	Sun Coal	C	C	C	C	C	C	C	C	C	C	C	C
Snyder & Baum	Snyder & Baum	C	C	C	C	C	C	C	C	C	C	C	C
Swearingen, Lloyd R	Swearingen	C	C	C	C	C	C	C	C	C	C	C	C
Taylor Coal Co	Grant	C	C	C	C	C	C	C	C	C	C	C	C
Terrazzi Coal Co		C	C	C	C	C	C	C	C	C	C	C	C
Thiebaud, Louis		C	C	C	C	C	C	C	C	C	C	C	C
Thoma Coal Co	Thoma	C	C	C	C	C	C	C	C	C	C	C	C
Thorley, L. L. & S. E	Blazer #2	C	C	C	C	C	C	C	C	C	C	C	C
Tolloti, Mike	Green Ridge	C	C	C	C	C	C	C	C	C	C	C	C
Ungaro, Dominick	Ward	C	C	C	C	C	C	C	C	C	C	C	C
Union Coal Co. (Stephan Williams)	Kuhn	C	C	C	C	C	C	C	C	C	C	C	C
Wallick, Clyde A	Wallick	C	C	C	C	C	C	C	C	C	C	C	C
Walsh Coal Co	Walsh	C	C	C	C	C	C	C	C	C	C	C	C
Watkins, Wilbert	Watkins	C	C	C	C	C	C	C	C	C	C	C	C
Watson, Jesse M	Oak Grove	C	C	C	C	C	C	C	C	C	C	C	C
Waltner, Henry	Henry Waltner	C	C	C	C	C	C	C	C	C	C	C	C
Weaver Coal Co	Weaver	C	C	C	C	C	C	C	C	C	C	C	C
Weaver, Victor B	Weaver	C	C	C	C	C	C	C	C	C	C	C	C
Wenger, Edward	Wenger	C	C	C	C	C	C	C	C	C	C	C	C
Whitacre Greer Fireproofing Co	Waynesburg	C	C	C	C	C	C	C	C	C	C	C	C
Williams Bros. Coal Co	Williams Bros	C	C	C	C	C	C	C	C	C	C	C	C
Whitacre Greer Fireproofing Co	McCall	C	C	C	C	C	C	C	C	C	C	C	C
Whitacre Greer Fireproofing Co	#1	C	C	C	C	C	C	C	C	C	C	C	C
Wilden, Frand	Wilden	C	C	C	C	C	C	C	C	C	C	C	C
Wilkin, L. R	Wilkin	C	C	C	C	C	C	C	C	C	C	C	C
Williams, D. H		C	C	C	C	C	C	C	C	C	C	C	C
Wolfe, William	Thos. Reed Coal Co	C	C	C	C	C	C	C	C	C	C	C	C
Wright & Weber	Wright	C	C	C	C	C	C	C	C	C	C	C	C
Zorzi, Sylvio	Zorzi	C	C	C	C	C	C	C	C	C	C	C	C

ORIGIN MINE GROUP NO. 5

Agriesti, Leonard	Golf Ridge	B	B	B	B	B	B	B	B	B	B	B	B
Allan Coal Co	Allen	B	B	B	B	B	B	B	B	B	B	B	B
Athens Coal Co	Burlingham	B	B	B	B	B	B	B	B	B	B	B	B
B. & W. Coal Co	B. & W	B	B	B	B	B	B	B	B	B	B	B	B
Bailey, J. O	Keystone #5	B	B	B	B	B	B	B	B	B	B	B	B
Barnhart, Wm. & Son	Standard #2	B	B	B	B	B	B	B	B	B	B	B	B
Bateson Coal Co	Bateson	B	B	B	B	B	B	B	B	B	B	B	B
Beal Coal Co	Beal	B	B	B	B	B	B	B	B	B	B	B	B
Bear Run Coal Co	Bear Run	B	B	B	B	B	B	B	B	B	B	B	B
Big Four Mining Co	Big Four	B	B	B	B	B	B	B	B	B	B	B	B
Bigum & Sons, M. T	Bigum & Sons	B	B	B	B	B	B	B	B	B	B	B	B
Blackbird Coal Co	Blackbird	B	B	B	B	B	B	B	B	B	B	B	B
Black Jewel Coal Co., The	Black Jewel	B	B	B	B	B	B	B	B	B	B	B	B
Blackstone Mine, The	Blackstone	B	B	B	B	B	B	B	B	B	B	B	B
Blossom Grove Coal Co	Blossom Grove	B	B	B	B	B	B	B	B	B	B	B	B
Blosser Coal Co	Blosser	B	B	B	B	B	B	B	B	B	B	B	B
Bowers Brothers	Wm. Bowers	B	B	B	B	B	B	B	B	B	B	B	B
Boyle Brothers	Boyle Brothers	B	B	B	B	B	B	B	B	B	B	B	B
Brown, Walter L	Walter L. Brown	B	B	B	B	B	B	B	B	B	B	B	B
Brown, William G. & Sons	Brown	B	B	B	B	B	B	B	B	B	B	B	B
Bruce & Freer	Bruce & Freer	B	B	B	B	B	B	B	B	B	B	B	B
Buchanan Coal Co	Buchanan	B	B	B	B	B	B	B	B	B	B	B	B
Bussey, W. A	Bussey	B	B	B	B	B	B	B	B	B	B	B	B
Baker, Ivan	Badger	B	B	B	B	B	B	B	B	B	B	B	B
Butts & Son Coal Co	Butts	B	B	B	B	B	B	B	B	B	B	B	B
Campbell, W. G	Elicot No. 2	B	B	B	B	B	B	B	B	B	B	B	B
Carbon Hill Mining Co	Carbon Hill	B	B	B	B	B	B	B	B	B	B	B	B
Carney, J. J. & Son	Carney	B	B	B	B	B	B	B	B	B	B	B	B
Carney, Lester	Carney	B	B	B	B	B	B	B	B	B	B	B	B
Cawthorne Co op Coal Co	Cawthorne	B	B	B	B	B	B	B	B	B	B	B	B
Coe Brothers	Coe Brothers	B	B	B	B	B	B	B	B	B	B	B	B
Cook, John & James	Cook Brothers	B	B	B	B	B	B	B	B	B	B	B	B
Crossan Coal Co	Crossan	B	B	B	B	B	B	B	B	B	B	B	B
Culp & Taylor	Culp Taylor	B	B	B	B	B	B	B	B	B	B	B	B
Dabritz, G. F	Peewee	B	B	B	B	B	B	B	B	B	B	B	B
Dannison & Wilson	Dannison	B	B	B	B	B	B	B	B	B	B	B	B
Devol Coal Co	Devol	B	B	B	B	B	B	B	B	B	B	B	B

Code Member Index—Continued

ORIGIN MINE GROUP NO. 5—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼ SL	¾ SL
		1	2	3	4	5	6	7	9	12	13	14
Dew, C. G	Phoenix Coal Co	B	B	B	B	B	B	B	B	B	B	B
Duffy Brothers	Duffy Bros	B	B	B	B	B	B	B	B	B	B	B
Dupler Brothers Co	Dupler	B	B	B	B	B	B	B	B	B	B	B
Embrey, Dewey	Embrey Bros	B	B	B	B	B	B	B	B	B	B	B
Ensminger Brothers		B	B	B	B	B	B	B	B	B	B	B
Fife Coal Co	Leatherberry	B	B	B	B	B	B	B	B	B	B	B
Flowers Brothers	Flowers Bros	B	B	B	B	B	B	B	B	B	B	B
Floodwood Coal Co	Floodwood	B	B	B	B	B	B	B	B	B	B	B
Forsyth Coal Co	Ensminger	B	B	B	B	B	B	B	B	B	B	B
Gates Coal Co	Gates	B	B	B	B	B	B	B	B	B	B	B
Green Coal Co	Green Coal Co	B	B	B	B	B	B	B	B	B	B	B
Grandy Coal Co	Grandy	B	B	B	B	B	B	B	B	B	B	B
Halsey Coal Co	Halsey	B	B	B	B	B	B	B	B	B	B	B
Hamilton, O. A	Hamilton	B	B	B	B	B	B	B	B	B	B	B
Hammonds Bros	Hammonds	B	B	B	B	B	B	B	B	B	B	B
Happy Hollow Coal Co	Happy Hollow	B	B	B	B	B	B	B	B	B	B	B
Harbaugh & Potts	Harbaugh & Potts	B	B	B	B	B	B	B	B	B	B	B
Hardy & Gibson Coal Co	Hardy & Gibson	B	B	B	B	B	B	B	B	B	B	B
Harris & Son (Jos. Harris)	Harris & Son	B	B	B	B	B	B	B	B	B	B	B
Harris & Son (Phillip Harris)	Harris & Son	B	B	B	B	B	B	B	B	B	B	B
Hawk Coal Co., The	Hawk's	B	B	B	B	B	B	B	B	B	B	B
Hellyer's & Powell	Hellyer's & Powell	B	B	B	B	B	B	B	B	B	B	B
Hill, James B	Hills	B	B	B	B	B	B	B	B	B	B	B
Hinkle Coal Co	Hinkle Coal Co	B	B	B	B	B	B	B	B	B	B	B
Hocking Corp., The	Del Carbo #2	B	B	B	B	B	B	B	B	B	B	B
Holbein Coal Co	Holbein	B	B	B	B	B	B	B	B	B	B	B
Hitchings Bros. Coal Co	Hitchings Bros	B	B	B	B	B	B	B	B	B	B	B
Hope Hollow Coal Co	Hope Hollow	B	B	B	B	B	B	B	B	B	B	B
Iles, Harry J	H. J. Iles	B	B	B	B	B	B	B	B	B	B	B
James Coal Co	James	B	B	B	B	B	B	B	B	B	B	B
J. & S. Coal Co	J & S	B	B	B	B	B	B	B	B	B	B	B
Joyce Bros	Joyce	B	B	B	B	B	B	B	B	B	B	B
Kistler, J. F	Kistler	B	B	B	B	B	B	B	B	B	B	B
Lanning, Leamie	Lanning	B	B	B	B	B	B	B	B	B	B	B
Lemoine, Francis	#24	B	B	B	B	B	B	B	B	B	B	B
Little Poplar Coal Co	Little Poplar Coal Co	B	B	B	B	B	B	B	B	B	B	B
Lewis Bros. No. 6 Coal Company	Peacock	B	B	B	B	B	B	B	B	B	B	B
McAloon, Thomas	McAloon	B	B	B	B	B	B	B	B	B	B	B
McClelland, Wm	McClelland	B	B	B	B	B	B	B	B	B	B	B
McDonald Bros. Coal Co	McDonald Bros	B	B	B	B	B	B	B	B	B	B	B
McGrath, H. H	Johnson	B	B	B	B	B	B	B	B	B	B	B
McMillan & Hardy Coal Company	Keystone #6	B	B	B	B	B	B	B	B	B	B	B
Mahley & Waidy	Mahley	B	B	B	B	B	B	B	B	B	B	B
Matthews & Horden	Matthews	B	B	B	B	B	B	B	B	B	B	B
Maxwell Bros	Maxwell Bros	B	B	B	B	B	B	B	B	B	B	B
Meikel, Thos	Holcomb & Meikel	B	B	B	B	B	B	B	B	B	B	B
Mohler, Arthur	Mohler	B	B	B	B	B	B	B	B	B	B	B
Moore Coal Co. (Widge Moore)	Snake Hollow #2	B	B	B	B	B	B	B	B	B	B	B
Munyan, Walter	Hannond	B	B	B	B	B	B	B	B	B	B	B
Murdock Coal Co	Murdock	B	B	B	B	B	B	B	B	B	B	B
Nelsonville Coal Co	Nelsonville	B	B	B	B	B	B	B	B	B	B	B
New York Coal Co		B	B	B	B	B	B	B	B	B	B	B
Orbiston Coal Co	Muddy Duck	B	B	B	B	B	B	B	B	B	B	B
Parker & Son Coal Co	Parker	B	B	B	B	B	B	B	B	B	B	B
Penrod & Stoneburner	Shoemaker	B	B	B	B	B	B	B	B	B	B	B
Paramount Coal Co	Paramount	B	B	B	B	B	B	B	B	B	B	B
Pemberton, David	Pemberton	B	B	B	B	B	B	B	B	B	B	B
Pierce Bros. Coal Co	Highland	B	B	B	B	B	B	B	B	B	B	B
Pine Ridge Coal Co	Pine Ridge #1	B	B	B	B	B	B	B	B	B	B	B
Plummer Hill Coal Co	Plummer Hill	B	B	B	B	B	B	B	B	B	B	B
Powers, George		B	B	B	B	B	B	B	B	B	B	B
Ross, George		B	B	B	B	B	B	B	B	B	B	B
Ross, Willis	Old King	B	B	B	B	B	B	B	B	B	B	B
Rosser Coal Co	Rosser Coal Co	B	B	B	B	B	B	B	B	B	B	B
Rosser & Hinkle	Rosser & Hinkle	B	B	B	B	B	B	B	B	B	B	B
Sand Run Coal Co	Sand Run	B	B	B	B	B	B	B	B	B	B	B
Sedalia Coal, Inc	Sedalia Coal, Inc	B	B	B	B	B	B	B	B	B	B	B
Service Coal Co. (F. H. Wolfe)	Service	B	B	B	B	B	B	B	B	B	B	B
Severence, L. C		B	B	B	B	B	B	B	B	B	B	B
Shannon Hollow Coal Co	Shannon Hollow	B	B	B	B	B	B	B	B	B	B	B
Shelton Bros	Shelton Bros	B	B	B	B	B	B	B	B	B	B	B
Shea & Hull	Hull's	B	B	B	B	B	B	B	B	B	B	B
Sherrick Bros	Sherrick	B	B	B	B	B	B	B	B	B	B	B
Shingler Coal Co	Shingler Coal Co	B	B	B	B	B	B	B	B	B	B	B
Schofield & Henderson	Schofield & Henderson	B	B	B	B	B	B	B	B	B	B	B
Short Haul Coal Co	Walker	B	B	B	B	B	B	B	B	B	B	B
Sines-Lawson Coal Co	Sines & Lawson	B	B	B	B	B	B	B	B	B	B	B
Skivers Coal Co	Skivers	B	B	B	B	B	B	B	B	B	B	B
Slay, Oliver	Slay	B	B	B	B	B	B	B	B	B	B	B
Snell Schumaker	Schumaker	B	B	B	B	B	B	B	B	B	B	B
Snyder, Charles E	Snyder	B	B	B	B	B	B	B	B	B	B	B
Snyder, Geo. R	Snyder Coal	B	B	B	B	B	B	B	B	B	B	B
Spears, Thomas	Henderson #1	B	B	B	B	B	B	B	B	B	B	B
Spillman, John M	Spillman	B	B	B	B	B	B	B	B	B	B	B
Spohn Brothers	Clayton	B	B	B	B	B	B	B	B	B	B	B
Spung, Delmar	Spung	B	B	B	B	B	B	B	B	B	B	B
Square Deal Coal Co	Square Deal	B	B	B	B	B	B	B	B	B	B	B
Storts Coal Co	Storts	B	B	B	B	B	B	B	B	B	B	B
Tedrow, Chas	Tedrow	B	B	B	B	B	B	B	B	B	B	B
Thorne, David	Shady Hill	B	B	B	B	B	B	B	B	B	B	B
Trout, A. R. & R. O	Trout & Son	B	B	B	B	B	B	B	B	B	B	B
Union Coal Co. (Thad. Carter)	Union	B	B	B	B	B	B	B	B	B	B	B
W. & W. & B. Coal Co	W. W. B.	B	B	B	B	B	B	B	B	B	B	B
Webb & Morgan	Webb	B	B	B	B	B	B	B	B	B	B	B
Weymueller, F. W. & J. W	Weymueller	B	B	B	B	B	B	B	B	B	B	B
Whitmore Brothers	Whitmore	B	B	B	B	B	B	B	B	B	B	B
Williams, John F. & Sons	Gem	B	B	B	B	B	B	B	B	B	B	B

Code Member Index—Continued

ORIGIN MINE GROUP NO. 5—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾ SL	
		1	2	3	4	5	6	7	9	12	13	14	
Wilson Coal Co	Alexander #2	B	B	B	B	B	B	B	B	B	B	B	
Wilson, Evans Coal Co	#6	B	B	B	B	B	B	B	B	B	B	B	
Wilson, Evans Coal Co	#10	B	B	B	B	B	B	B	B	B	B	B	
Wintgens, Otto	Wintgens	B	B	B	B	B	B	B	B	B	B	B	
Wright Coal Co	Wright	B	B	B	B	B	B	B	B	B	B	B	
Yarger & Sons, H. L	Yarger Sons	B	B	B	B	B	B	B	B	B	B	B	
Yost, Roy	Yost	B	B	B	B	B	B	B	B	B	B	B	
Young & Son	Youngs	B	B	B	B	B	B	B	B	B	B	B	
Youtsey Bros	Youtsey	B	B	B	B	B	B	B	B	B	B	B	
Youtsey, Harry	Youtsey	B	B	B	B	B	B	B	B	B	B	B	

ORIGIN MINE GROUP NO. 6

Abbott Bros	Low Ash	B	B	B	B	B	B	B	B	B	B	B	
Adams, M. P	M. P. Adams	B	B	B	B	B	B	B	B	B	B	B	
Advance Mining Co	Irish Rock	B	B	B	B	B	B	B	B	B	B	B	
Ashton, Charles	Irish Rock Coal Co	B	B	B	B	B	B	B	B	B	B	B	
Aston, Charles B	Irish Rock	B	B	B	B	B	B	B	B	B	B	B	
Bates, Everett	Valley	B	B	B	B	B	B	B	B	B	B	B	
Beck, Harry L. (Beck Coal Co.)		B	B	B	B	B	B	B	B	B	B	B	
Bendline, H. G	Bendline	B	B	B	B	B	B	B	B	B	B	B	
Blue Rock Coal Co	Blue Rock	B	B	B	B	B	B	B	B	B	B	B	
Black, T. R	Peach Hill	B	B	B	B	B	B	B	B	B	B	B	
Bowen, Levi	Dickerson	B	B	B	B	B	B	B	B	B	B	B	
Briar Hill Coal Co., The	Briar Hill	B	B	B	B	B	B	B	B	B	B	B	
Chilcote Coal Co	Chilcote	B	B	B	B	B	B	B	B	B	B	B	
Clapper, Elmer P	Alexander	B	B	B	B	B	B	B	B	B	B	B	
Cole, Willis S. Coal Co	W. S. Cole	B	B	B	B	B	B	B	B	B	B	B	
Combs, Harry L	Combs	B	B	B	B	B	B	B	B	B	B	B	
Coyer, John W	Coyer & Moyle	B	B	B	B	B	B	B	B	B	B	B	
Croston, Dewey	Croston	B	B	B	B	B	B	B	B	B	B	B	
Darner White & Davison	Happy Valley	B	B	B	B	B	B	B	B	B	B	B	
Daw, W. P	Walnut Hill	B	B	B	B	B	B	B	B	B	B	B	
Davis, Jas. E	J. E. Davis	B	B	B	B	B	B	B	B	B	B	B	
Deitrick, Raymond	Deitrick	B	B	B	B	B	B	B	B	B	B	B	
Dickenson & Ray		B	B	B	R	B	B	B	B	B	B	B	
Dixie Coal & Mining Co	Pike	B	B	B	B	B	B	B	B	B	B	B	
Dunn, Wm	W. M. Dunn	B	B	B	B	B	B	B	B	B	B	B	
Dunnsweiler Const. Co	Baker Jones	B	B	B	B	B	B	B	B	B	B	B	
Durant Bros	Frick	B	B	B	B	B	B	B	B	B	B	B	
Egbert, C. H	Egbert	B	B	B	B	B	B	B	B	B	B	B	
Emery & Hambel	Russell & Brown	B	B	B	B	B	B	B	B	B	B	B	
Eppley, H. D	Eppley	B	B	B	B	B	B	B	B	B	B	B	
Fisher, Frank H. Coal Co	F. H. Fisher	B	B	B	B	B	B	B	B	B	B	B	
Garrett Coal Co. (J. J. Garrett)	Sycamore	B	B	B	B	B	B	B	B	B	B	B	
Glass, F. B. & Sons		B	B	B	B	B	B	B	B	B	B	B	
Good, Lawrence R	Good	B	B	B	B	B	B	B	B	B	B	B	
Greiner, H. C. Mine	Greiner	B	B	B	B	B	B	B	B	B	B	B	
Grey Eagle Coal Co	Grey Eagle	B	B	B	B	B	B	B	B	B	B	B	
Hagenhaus, C. V	Hagenhaus	B	B	B	B	B	B	B	B	B	B	B	
Hanes, R. M	R. M. Hanes	B	B	B	B	B	B	B	B	B	B	B	
Harper, Chas. Henry	Oak View	B		B	B	B	B	B	B	B	B	B	
Harris, Neal	Wilkins	B	B	B	B	B	B	B	B	B	B	B	
Hodgson & Wahl	Stovertown	B	B	B	B	B	B	B	B	B	B	B	
Houk, Chalmers E	Fultonham Coal	B	B	B	B	B	B	B	B	B	B	B	
Harsch, H. H	H. H. Harsch	B	B	B	B	B	B	B	B	B	B	B	
Harsch, L. H	L. H. Harsch	B	B	B	B	B	B	B	B	B	B	B	
Hyatt, C. E	Hyatt Coal	B	B	B	B	B	B	B	B	B	B	B	
Koehler Coal Co	Koehler Coal	B	B	B	B	B	B	B	B	B	B	B	
Krause, H. E. & A. L	Krause	B	B	B	B	B	B	B	B	B	B	B	
Kreuer, Leo	Kreuers	B	B	B	B	B	B	B	B	B	B	B	
Lane, Granville	Lane	B	B	B	B	B	B	B	B	B	B	B	
Lauvray, F. E	Lauvray	B	B	B	B	B	B	B	B	B	B	B	
Little Coal Co	Little	B	B	B	B	B	B	B	B	B	B	B	
Lutz, Harry A. & Son	Osborne	B	B	B	B	B	B	B	B	B	B	B	
Mantz, Ed	Mantz	B	B	B	B	B	B	B	B	B	B	B	
May & Son, James	May & Son	B	B	B	B	B	B	B	B	B	B	B	
McClennan, Geo	Station No. 2	B	B	B	B	B	B	B	B	B	B	B	
McGrath, Mrs. Grace B	Geo. Maple Hill	B	B	B	B	B	B	B	B	B	B	B	
Merrick, A. N	Fagens	B	B	B	B	B	B	B	B	B	B	B	
Mitchell, Marion	Mitchell	B	B	B	B	B	B	B	B	B	B	B	
Monitor Coal Co	Monitor	B	B	B	B	B	B	B	B	B	B	B	
Moore Bros. Coal Co	Snake Hollow #2	B	B	B	B	B	B	B	B	B	B	B	
Mount Perry Coal Co	Mt. Perry	B	B	B	B	B	B	B	B	B	B	B	
Muskingum Coal Co	No. 1 & No. 2	B	B	B	B	B	B	B	B	B	B	B	
North, A. O., Stobert, Wm. & Stobert, James	Gilbert	B	B	B	B	B	B	B	B	B	B	B	
Ostego Coal Co. (J. E. Gibson)	Ostego	B	B	B	B	B	B	B	B	B	B	B	
Passwaters, Homer	Snurr & Parsons	B	B	B	B	B	B	B	B	B	B	B	
Paul, Frank J	Paul	B	B	B	B	B	B	B	B	B	B	B	
Paynter, C. A	Paynter	B	B	B	B	B	B	B	B	B	B	B	
Perrigo & Co	Beech Grove	B	B	B	B	B	B	B	B	B	B	B	
Prince, Chas. H	Prince	B	B	B	B	B	B	B	B	B	B	B	
Priode, D. V	Young	B	B	B	B	B	B	B	B	B	B	B	
Reitler Bros	Reitler	B	B	B	B	B	B	B	B	B	B	B	
Riverside Coal Co	Riverside	B	B	B	B	B	B	B	B	B	B	B	
St. Clair, Alva	St. Clair	B	B	B	B	B	B	B	B	B	B	B	
Shreve & Forsythe	Ensminger	B	B	B	B	B	B	B	B	B	B	B	
Sines & Embree	Sines & Embree	B	B	B	B	B	B	B	B	B	B	B	
Smith Coal Co	Smith	B	B	B	B	B	B	B	B	B	B	B	
Snell & Shumacher	Shumacher	B	B	B	B	B	B	B	B	B	B	B	
Spiker, C. A	Sandy Ridge Coal	B	B	B	B	B	B	B	B	B	B	B	
Stiers, L. H	L. H. Stiers	B	B	B	B	B	B	B	B	B	B	B	
Thorn Hill Coal Co	Thorn Hill	B	B	B	B	B	B	B	B	B	B	B	
Tilton Delivery & Transfer Co., The	Sunnybank	B	B	B	B	B	B	B	B	B	B	B	
Valentine (A. M.) & Parsons, C. E	Valentine & Parsons	B	B	B	B	B	B	B	B	B	B	B	

Code Member Index—Continued

ORIGIN MINE GROUP NO. 6—Continued

Name	Mine	Sizes and size group numbers											
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾ SL	
		1	2	3	4	5	6	7	9	12	13	14	
Wagner, Everett	Wagner Coal Co	B	B	B	B	B	B	B	B	B	B	B	
Webb, Edward	Water Lilly	B	B	B	B	B	B	B	B	B	B	B	
Westcott & Son (Clyde)	Westcott	B	B	B	B	B	B	B	B	B	B	B	
Wieziski, Pete		B	B	B	B	B	B	B	B	B	B	B	
Wilson (C) Coal Co. (Conrad C. Wilson)	Wilson #1	B	B	B	B	B	B	B	B	B	B	B	
Winegardner, H. K	Winegardner	B	B	B	B	B	B	B	B	B	B	B	
Winn, E. E	Winn	B	B	B	B	B	B	B	B	B	B	B	
Woods, Sanford		B	B	B	B	B	B	B	B	B	B	B	

ORIGIN MINE GROUP NO. 7

Allen, John R	Keystone	B	B	B	B	B	B	B	B	B	B	B	
Barr, H. L	Bauer & Jones	B	B	B	B	B	B	B	B	B	B	B	
Blanchard, E. D. (Blanchard Coal & Lumber Co.)	B & C Coal Co	B	B	B	B	B	B	B	B	B	B	B	
Bowman & Davis Coal Co	Bowman & Davis	B	B	B	B	B	B	B	B	B	B	B	
Burroughs, George	Morehead	B	B	B	B	B	B	B	B	B	B	B	
Burton, Walter	Gilliland	B	B	B	B	B	B	B	B	B	B	B	
Busler Coal Co	Busler	B	B	B	B	B	B	B	B	B	B	B	
Compston, Bernard	Compston	B	B	B	B	B	B	B	B	B	B	B	
Davis Coal & Mining Co	Anna	B	B	B	B	B	B	B	B	B	B	B	
Downard Coal Co	Downard	B	B	B	B	B	B	B	B	B	B	B	
Duhl & Johnson	White Oak	B	B	B	B	B	B	B	B	B	B	B	
Eberts, M. A	M. A. Eberts	B	B	B	B	B	B	B	B	B	B	B	
Eubanks & Stokes Coal Co	Eubanks & Stokes	B	B	B	B	B	B	B	B	B	B	B	
Gettles, Paul H	Nancy	B	B	B	B	B	B	B	B	B	B	B	
Gregory, Melvin	Gregory	B	B	B	B	B	B	B	B	B	B	B	
Herrold, R. M	Herrold	B	B	B	B	B	B	B	B	B	B	B	
Holberg & Leach	Holberg & Leach	B	B	B	B	B	B	B	B	B	B	B	
Johnson, Frank	Frank Johnson	B	B	B	B	B	B	B	B	B	B	B	
K. & H. Coal Co	K. & H.	B	B	B	B	B	B	B	B	B	B	B	
Largent, Tom	Largent	B	B	B	B	B	B	B	B	B	B	B	
Loper, Alfred	Loper	B	B	B	B	B	B	B	B	B	B	B	
McArthur Coal Co	McArthur	B	B	B	B	B	B	B	B	B	B	B	
Mapes, Arthur	Mapes	B	B	B	B	B	B	B	B	B	B	B	
Mitchell, Claude	Claude Mitchell	B	B	B	B	B	B	B	B	B	B	B	
Moore Coal Co	Moore	B	B	B	B	B	B	B	B	B	B	B	
Morgan, John E	John E. Morgan	B	B	B	B	B	B	B	B	B	B	B	
Newman & Cottrill	Newman & Cottrill	B	B	B	B	B	B	B	B	B	B	B	
Peacock, Frank	Peacock	B	B	B	B	B	B	B	B	B	B	B	
Phillips, Harry	Phillips	B	B	B	B	B	B	B	B	B	B	B	
Reed, Calvin R. & Homer Wells	Reed & Wells	B	B	B	B	B	B	B	B	B	B	B	
Ridge, D. W. & D. H	Ridge	B	B	B	B	B	B	B	B	B	B	B	
Roberts, Floyd		B	B	B	B	B	B	B	B	B	B	B	
Rollins, Archie H	Rollins	B	B	B	B	B	B	B	B	B	B	B	
Rupert, Wm. J	Rupert	B	B	B	B	B	B	B	B	B	B	B	
Sell Coal Co	Birch Hollow	B	B	B	B	B	B	B	B	B	B	B	
Steele, Geo. A		B	B	B	B	B	B	B	B	B	B	B	
Scurlock, Border & Pittenger	Scurlock	B	B	B	B	B	B	B	B	B	B	B	
Stroth Bros. Coal Co	Stroth	B	B	B	B	B	B	B	B	B	B	B	
Sunshine Coal Co	Sunshine	B	B	B	B	B	B	B	B	B	B	B	
West Branch Coal Co	West Branch	B	B	B	B	B	B	B	B	B	B	B	
Williams, R. S. Coal Co	Superior Cement Corp'n	B	B	B	B	B	B	B	B	B	B	B	
Williams, R. S. Coal Co	R. S. Williams	B	B	B	B	B	B	B	B	B	B	B	
Wrightsel, S. W	Orchard Hill	B	B	B	B	B	B	B	B	B	B	B	
Zane Oak Mining Co	Oak Hill	B	B	B	B	B	B	B	B	B	B	B	

TRUCK MINE ORIGIN GROUP NO. 8

Addis & Healey Coal Co	Bryant	B	B	B	B	B	B	B	B	B	B	B	
Arms Bros. Coal Co	Arms Bros	B	B	B	B	B	B	B	B	B	B	B	
Baer Bros	Baer Bros	B	B	B	B	B	B	B	B	B	B	B	
Bailey, B. H	B. H. Bailey	B	B	B	B	B	B	B	B	B	B	B	
Bailey, R. C	Bailey	B	B	B	B	B	B	B	B	B	B	B	
Bailey, Wilbur	Bailey	B	B	B	B	B	B	B	B	B	B	B	
Bass, Eber	Stansbury	B	B	B	B	B	B	B	B	B	B	B	
Beam & Merritt	Beam & Merritt	B	B	B	B	B	B	B	B	B	B	B	
Bentz Coal Co	Bentz	B	B	B	B	B	B	B	B	B	B	B	
Big Lump Coal Co	Big Lump	B	B	B	B	B	B	B	B	B	B	B	
Blue Diamond Mining & Powder, Inc	Blue Diamond	B	B	B	B	B	B	B	B	B	B	B	
Bodmer Bros	Bodmer Bros	B	B	B	B	B	B	B	B	B	B	B	
Boll, Andy	Pine Creek	B	B	B	B	B	B	B	B	B	B	B	
Boll, Henry & Joseph	Pine Grove # 1	B	B	B	B	B	B	B	B	B	B	B	
Boll, Henry & Joseph	Pine Grove #2	B	B	B	B	B	B	B	B	B	B	B	
Broce & Geil	Broce & Geil	B	B	B	B	B	B	B	B	B	B	B	
Burns, G. W. & Samuel Davidson		B	B	B	B	B	B	B	B	B	B	B	
Butler, David H	Gold Camp	B	B	B	B	B	B	B	B	B	B	B	
Carson, H. L	Carson	B	B	B	B	B	B	B	B	B	B	B	
Chatfield Coal Co., C. W	Chatfield	B	B	B	B	B	B	B	B	B	B	B	
Clique, W. H	Clique	B	B	B	B	B	B	B	B	B	B	B	
Clary, Henry A	Clary	B	B	B	B	B	B	B	B	B	B	B	
Collins Coal Co. (O. C. Collins)	Collins	B	B	B	B	B	B	B	B	B	B	B	
Cook, John, Jr	Cook's	B	B	B	B	B	B	B	B	B	B	B	
Cox, Marion	Cox	B	B	B	B	B	B	B	B	B	B	B	
Cremeans, Bryan	Cremeans	B	B	B	B	B	B	B	B	B	B	B	
D. D. W. Coal Co	D. D. W.	B	B	B	B	B	B	B	B	B	B	B	
Darst, Harvey	Darst	B	B	B	B	B	B	B	B	B	B	B	
Darst, Walden	Darst	B	B	B	B	B	B	B	B	B	B	B	
Davis, B. J	Davis	B	B	B	B	B	B	B	B	B	B	B	
Davis, Elmer L. Coal Co	Davis Coal Co	B	B	B	B	B	B	B	B	B	B	B	
De Vault, Walter	Black Diamond	B	B	B	B	B	B	B	B	B	B	B	

Code Member Index—Continued

ORIGIN MINE GROUP NO. 7—Continued

Name	Mine	Sizes and size group numbers										
		Over 4"	4" L	3" L	2" L	Egg	Nut	Pea	R. M.	2" SL	1¼" SL	¾ SL
		1	2	3	4	5	6	7	9	12	13	14
Dickens, Arthur C.	Dickens	B	B	B	B	B	B	B	B	B	B	B
Dill Coal Co.	Dill	B	B	B	B	B	B	B	B	B	B	B
Dunfee, Wilbur & Arno	Dunfee #2	B	B	B	B	B	B	B	B	B	B	B
Ebersbach Coal Co., The		B	B	B	B	B	B	B	B	B	B	B
Ebersbach, Walter P.	Square Deal	B	B	B	B	B	B	B	B	B	B	B
Eblin, John	Elite	B	B	B	B	B	B	B	B	B	B	B
Elias & Sons, D. C.		B	B	B	B	B	B	B	B	B	B	B
Edwards, Walter S.	W. Edwards	B	B	B	B	B	B	B	B	B	B	B
Erwin Coal Mine	Erwin Coal	B	B	B	B	B	B	B	B	B	B	B
Evergood Coal Co.	Evergood	B	B	B	B	B	B	B	B	B	B	B
Filkins, Floyd J.	Filkins	B	B	B	B	B	B	B	B	B	B	B
Gossett, E. R.	J. S. Corn #2	B	B	B	B	B	B	B	B	B	B	B
Grueser Bros. Coal Co.	Grueser Bros.	B	B	B	B	B	B	B	B	B	B	B
Heighton, John & Wm.	Heighton	B	B	B	B	B	B	B	B	B	B	B
Hess, Art (Hess & Gilkey)	Hess & Gilkey #1	B	B	B	B	B	B	B	B	B	B	B
Hess, Art (Hess & Gilkey)	Hess & Gilkey #2	B	B	B	B	B	B	B	B	B	B	B
Howard, T. J.	Howards	B	B	B	B	B	B	B	B	B	B	B
Hysell Coal Co.	Clyde Hysell	B	B	B	B	B	B	B	B	B	B	B
Hysell Coal Co., Pearl	Pearl Hysell	B	B	B	B	B	B	B	B	B	B	B
Hysell, Narley	Hysell	B	B	B	B	B	B	B	B	B	B	B
Jacobs & Davis Coal Co.	Jacobs & Davis	B	B	B	B	B	B	B	B	B	B	B
Jay & Rose Coal Co.	Jay & Rose	B	B	B	B	B	B	B	B	B	B	B
Jeffers, John	Karr	B	B	B	B	B	B	B	B	B	B	B
Jeffers & Gobbs Coal Co.	Karr	B	B	B	B	B	B	B	B	B	B	B
Johnson Bros.	Johnson Bros.	B	B	B	B	B	B	B	B	B	B	B
Johnson & Sons Coal Co.	Johnson & Sons	B	B	B	B	B	B	B	B	B	B	B
Johnson, James	Johnson Brothers	B	B	B	B	B	B	B	B	B	B	B
Kaspar Coal Co.	Kaspar	B	B	B	B	B	B	B	B	B	B	B
Kauff, John	Kauffs	B	B	B	B	B	B	B	B	B	B	B
Leading Creek Coll. Co.	Leading Creek	B	B	B	B	B	B	B	B	B	B	B
Malone, Fred	Malone	B	B	B	B	B	B	B	B	B	B	B
Malone, Ozie	Olive	B	B	B	B	B	B	B	B	B	B	B
Mulford, Dale	Elza Mulford	B	B	B	B	B	B	B	B	B	B	B
Mulford, Elza	Mulford	B	B	B	B	B	B	B	B	B	B	B
Neutzling Coal Co.	Neutzling	B	B	B	B	B	B	B	B	B	B	B
New Forest Run Mining Co.	New Forest Run	B	B	B	B	B	B	B	B	B	B	B
Princess Pat Coal Co.		B	B	B	B	B	B	B	B	B	B	B
Poether & Smith	Poether & Smith	B	B	B	B	B	B	B	B	B	B	B
Pure Fuel Coal Co.	Pure Fuel	B	B	B	B	B	B	B	B	B	B	B
Radford, Bros.	Radford	B	B	B	B	B	B	B	B	B	B	B
Rife, John & Clarence	Rifes Peacock	B	B	B	B	B	B	B	B	B	B	B
Rock Springs Coal Co.	Rock Springs	B	B	B	B	B	B	B	B	B	B	B
Roth, Blanch McFann (McFann Coal Co.)	McFann Coal	B	B	B	B	B	B	B	B	B	B	B
Russell, A. E. & J. S.	Russell	B	B	B	B	B	B	B	B	B	B	B
Russell Mine, D. H. (F. L. McKnight)	D. H. Russell	B	B	B	B	B	B	B	B	B	B	B
Rutledge & Son, W. H.	Rutledge	B	B	B	B	B	B	B	B	B	B	B
Shiveler Bros.	Shiveler Bros.	B	B	B	B	B	B	B	B	B	B	B
Shuler, Howard	Shuler	B	B	B	B	B	B	B	B	B	B	B
Side Hill Coal Co.	Side Hill	B	B	B	B	B	B	B	B	B	B	B
Silliman, John	Silliman	B	B	B	B	B	B	B	B	B	B	B
Spears, W. A.	North	B	B	B	B	B	B	B	B	B	B	B
Sprouse & Elias Coal Co.	Charter Oak	B	B	B	B	B	B	B	B	B	B	B
Steed, Albert	Steed	B	B	B	B	B	B	B	B	B	B	B
Steed, D. C.	Steed	B	B	B	B	B	B	B	B	B	B	B
Steed, Wm. & Dewey	Steed	B	B	B	B	B	B	B	B	B	B	B
Stiles, Frank Coal Co.	Stiles	B	B	B	B	B	B	B	B	B	B	B
Stobart & Sons, R. E.	Stobart & Son	B	B	B	B	B	B	B	B	B	B	B
Story & McBade	Story & McBade	B	B	B	B	B	B	B	B	B	B	B
Taylor, Robt. & Pratt, Carl	Taylor	B	B	B	B	B	B	B	B	B	B	B
Terrell, D. A. & Sons	Terrell	B	B	B	B	B	B	B	B	B	B	B
Thaxton & Reeves	Thaxton & Reeves	B	B	B	B	B	B	B	B	B	B	B
Theiss, Samuel E.	Meadwood	B	B	B	B	B	B	B	B	B	B	B
Thomas, Chas. A.	Thomas	B	B	B	B	B	B	B	B	B	B	B
Tipton, Ed., Sr.	Tipton	B	B	B	B	B	B	B	B	B	B	B
Tracy Coal Co.	Peacock	B	B	B	B	B	B	B	B	B	B	B
Triplett, O. P.	Triplett	B	B	B	B	B	B	B	B	B	B	B
Waterloo Coal Co., Inc.	Waterloo	B	B	B	B	B	B	B	B	B	B	B
Webb, T. J.	Webb	B	B	B	B	B	B	B	B	B	B	B
Welman, Carl	Welman	B	B	B	B	B	B	B	B	B	B	B
Werner & Son, John	Werner	B	B	B	B	B	B	B	B	B	B	B
Willow Creek Coal Co.	Little Patty	B	B	B	B	B	B	B	B	B	B	B
Wright (Andrew J.) & Thompson (William) Coal Co.	Wright Thompson	B	B	B	B	B	B	B	B	B	B	B
Zimmerman, Alden	A. Zimmerman	B	B	B	B	B	B	B	B	B	B	B

Truck Mine Prices Per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS IN DISTRICT NO. 4

Size group	Sizes	Prices		
		A	B	C
1	Over 4" Lump	$3.10	$3.00	$2.90
2	4"	3.00	2.90	2.80
3	3"	2.70	2.60	2.50
4	2"	2.70	2.60	2.50
5	Egg	2.50	2.40	2.30
6	Nut	2.35	2.25	2.25
7	Pea	2.30	2.20	2.20
9	R/M	2.40	2.30	2.25
12	2" N-S	1.95	1.85	1.85
13	1¼" N-S	1.87	1.77	1.77
14	¾" N-S	1.76	1.66	1.66

For sizes not included herein, refer to table titled *Size Groups*.

[F. R. Doc. 38-204; Filed, January 19, 1938; 1:59 p. m.]

[Order No. 196]

AN ORDER MODIFYING ORDER NO. 94, AS MODIFIED BY ORDERS NOS. 130 AND 152, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 6, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 6"

The National Bituminous Coal Commission having by its Order No. 94, as modified by Orders Nos. 130 and 152, determined and established the minimum prices of coals of code members produced within District Number 6, as set forth in "Price Schedule No. 1—District No. 6", as supplemented by Supplements Nos. 1 and 2, and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number 6, established in "Price Schedule No. 1—District No. 6", as supplemented by "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 6", are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 6", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District Number 6, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 94 as modified by Orders Nos. 130 and 152 and Price Schedule No. 1—District Number 6, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 6, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 6" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 6; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 6 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

REVISED TRUCK MINE PRICE SCHEDULE NO. 1 SUPERSEDING SUPPEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 6

Revised Truck Mine Schedule of Minimum Prices for Coals of Code Members Produced within District No. 6, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective January 27, 1938.

Issued January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

DISTRICT NO. 6—PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the scedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size of Bar Screens

Bar spacing:	Round hole equivalent
¾"	1⅛"
1"	1¾"
1¼"	2"
1½"	2⅞"
2"	4⅜"
2½"	4⅞"
3"	5½"
4"	6"
5"	7¾"

Size Groups

Base size group	Includes— Lump—Maximum screen sizes	Double screened sizes: Maximum top sizes [1]	Double screened sizes: Maximum bottom sizes [1]
1	All Lump Over 4"	Over 6"	4".
2	4"	6"	4".
3	3"	6"	3".
4	2"	6"	2".
5	1¼"	5"	2".
6		4"	1¼".
7		2"	1¼".
9		Mine run.	
12		2" N. S.	0".
13		1¼" Slk.	0".
14		¾" Slk.	0".

[1] All maximum screen sizes mentioned herein are based on round hole or the equivalent thereof.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher size group and priced accordingly.

Code Member Index

Name	Mine	Sizes and size group numbers: Over 4" (1)	4" L (2)	3" L (3)	2" L (4)	Egg (5)	Nut (6)	Pea (7)	R. M. (9)	2" SL (12)	1¼ SL (13)	¾ SL (14)
BROOKE COUNTY												
Jerome Anderson Coal Mine	Jerome Anderson	C	C	C	C	C	C	C	C	C	C	C
Arnold Company, Inc., J. J.	Arnold	C	C	C	C	C	C	C	C	C	C	C
Barnhart, Allan	Barnhart	C	C	C	C	C	C	C	C	C	C	C
Budny, Matt	Walnut Grove	C	C	C	C	C	C	C	C	C	C	C
Buffalo Coal & Coke Co	Brady	C	C	C	C	C	C	C	C	C	C	C
Dowden, J. P	J. P. Dowden	C	C	C	C	C	C	C	C	C	C	C
Fisher & Son, George	Ferguson	C	C	C	C	C	C	C	C	C	C	C
Humes Coal Comapny, R	Humes	C	C	C	C	C	C	C	C	C	C	C
Johnson, Emil	Johnson	C	C	C	C	C	C	C	C	C	C	C
Louise Coal Corporation	Luoise	C	C	C	C	C	C	C	C	C	C	C
Makara, Steve	Paul Strain	C	C	C	C	C	C	C	C	C	C	C
Martin, Richard	Martins	C	C	C	C	C	C	C	C	C	C	C
Northern Coal Co. (John Velegol)	Northern Coal	C	C	C	C	C	C	C	C	C	C	C
P. V. & K. Coal Company, The	Bethany	C	C	C	C	C	C	C	C	C	C	C
Painter Run Coal Company	Painter Run	C	C	C	C	C	C	C	C	C	C	C
Richards, Jesse V	Thomas	C	C	C	C	C	C	C	C	C	C	C
Standard Coal Mining	Standard	C	C	C	C	C	C	C	C	C	C	C
Superior Coal Company	(None)	C	C	C	C	C	C	C	C	C	C	C
West Virginia-Pittsburgh Coal Company	Gilchrist	C	C	C	C	C	C	C	C	C	C	C
West Virginia-Pittsburgh Coal Company	Locust Grove	C	C	C	C	C	C	C	C	C	C	C
Wheeling Steel Corp	Beech Bottom	C	C	C	C	C	C	C	C	C	C	C
Windsor Power House Coal Company	Beech Bottom	C	C	C	C	C	C	C	C	C	C	C
Barnhart & Turner	Lucas	C	C	C	C	C	C	C	C	C	C	C
Hickman & Zagar	Hickman & Zagar	C	C	C	C	C	C	C	C	C	C	C
Yost, Burl		C	C	C	C	C	C	C	C	C	C	C
HANCOCK COUNTY												
Eastham, Thomas V	T. Eastham	C	C	C	C	C	C	C	C	C	C	C
Gilmer & Son, William	Gilmer	C	C	C	C	C	C	C	C	C	C	C
Hall Brothers Coal Co., Inc	Three Springs	C	C	C	C	C	C	C	C	C	C	C
Hancock Coal Company	Arner	C	C	C	C	C	C	C	C	C	C	C
McMahon, Corbin & Gansler	Hillcrest	C	C	C	C	C	C	C	C	C	C	C
Ross, E. L	Ross	C	C	C	C	C	C	C	C	C	C	C
Talbot, John H	Talbot	C	C	C	C	C	C	C	C	C	C	C
Talbot Brothers Coal Co	Talbot	C	C	C	C	C	C	C	C	C	C	C
Truax, Raymond	Truax	C	C	C	C	C	C	C	C	C	C	C
MARSHALL COUNTY												
Daugherty Coal Company	Boggs Run	C	C	C	C	C	C	C	C	C	C	C
Glendale Gas Coal Co	Alexander	C	C	C	C	C	C	C	C	C	C	C
Hitchman Coal & Coke Co	Hitchman	C	C	C	C	C	C	C	C	C	C	C
Williams Coal Company	Boggs Run	C	C	C	C	C	C	C	C	C	C	C
OHIO COUNTY												
All Quality Coal Company	Greggsville	C	C	C	C	C	C	C	C	C	C	C
Davis, C. B	C. B. Davis	C	C	C	C	C	C	C	C	C	C	C
Davis Coal Co., Lee R	Davis	C	C	C	C	C	C	C	C	C	C	C
City Coal Company	Warwood	C	C	C	C	C	C	C	C	C	C	C
City Coal Company	Glenwood	C	C	C	C	C	C	C	C	C	C	C
Clean Coal Company	Edgewood	C	C	C	C	C	C	C	C	C	C	C
Elm Grove Mining Company	Dartnell	C	C	C	C	C	C	C	C	C	C	C
Elm Grove Mining Company	Mobley	C	C	C	C	C	C	C	C	C	C	C
Mound City Coal Company	McKeefrey	C	C	C	C	C	C	C	C	C	C	C
Reliable Coal Company	Reliable	C	C	C	C	C	C	C	C	C	C	C
Vacheresse, Paul	Reymann	C	C	C	C	C	C	C	C	C	C	C
Wheeling Coal Company	Costanzo	C	C	C	C	C	C	C	C	C	C	C
Wheeling Valley Coal Co	Richland	C	C	C	C	C	C	C	C	C	C	C
Woodsdale Fuel Company	Echo	C	C	C	C	C	C	C	C	C	C	C
Roman, Wm. J. (Roman Coal Co.)	Greggsville	C	C	C	C	C	C	C	C	C	C	C

Truck Mine Prices—Per Net Ton of 2,000 Pounds—Minimum Prices F. O. B. Transportation Facilities at Mines for all Coal Loaded Into Trucks or Wagons at the Mines of all Code Members in District No. 6

Size group	Sizes	Prices: B	Prices: C
1	Over 4" Lump	$2.90	$2.90
2	4"	2.80	2.80
3	3"	2.70	2.60
4	2"	2.70	2.50
5	Egg	2.50	2.40
6	Nut	2.35	2.25
7	Pea	2.30	2.20
9	R/M	2.40	2.35
12	2" N. & S.	1.85	1.85
13	1¼" SL	1.77	1.77
14	¾" SL	1.66	1.66

For sizes not included herein, refer to table titled *Size Groups*.

[F. R. Doc. 38-205; Filed, January 19, 1938; 2:00 p. m.]

[Order No. 197]

AN ORDER MODIFYING ORDER NO. 98, AS MODIFIED BY ORDERS NOS. 133 AND 153, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 10, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 10"

The National Bituminous Coal Commission having by its Order No. 98, as modified by Orders Nos. 133 and 153, determined and established the minimum prices of coals of code members produced within District No. 10, as set forth in "Price Schedule No. 1—District No. 10", as supplemented by Supplements Nos. 1 and 2, and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 10, established in "Price Schedule No. 1—District No. 10," as supplemented by "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 10," are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 10," filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District No. 10, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 98 as modified by Orders Nos. 133 and 153 and Price Schedule No. 1—District No. 10, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 10, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 10" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 10; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 10 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

REVISED TRUCK MINE PRICE SCHEDULE NO. 1 SUPERSEDING SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 10

Revised Truck Mine Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective January 27, 1938.

Issued January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

PRICE EXCEPTIONS AND DEFINITIONS

Price Exceptions

(*a*) Washed or air cleaned coal in these Size Groups shall be priced 10¢ per ton additional; except 1" x 10 mesh Washed and Dustless Treated in Size Group No. 8.

(*b*) 2" Top size in these Size Groups shall be priced 10¢ per ton additional.

(*c*) ⅜" or $\frac{5}{16}$" x 48 mesh (Raw) may be priced 45¢ per ton less.

(*d*) Washed or air cleaned in this Size Group shall be priced 45¢ per ton additional.

Definitions

A. *Raw screenings* is coal passing through round hole screens 2", 1½", 1¼", 1" or ¾" in diameter or the equivalent, to which nothing has been added and nothing removed.

B. *Modified screenings* shall contain not less than 23.5% of coal which will pass through screens with openings $\frac{5}{16}$" in diameter or other shaped opening equivalent in area. This size may be produced either by passing 1½" or 1¼" screenings over screens with perforations $\frac{5}{16}$" in diameter or other shaped openings equivalent in area, to remove $\frac{5}{16}$" x 0" coal or by the standard mechanical dedusters with the use of a 10 mesh screen for coal in Mine Price Groups A, B, and C, and 8 mesh, or its equivalent, for coal from other Mine Price Groups.

Size Groups

All sizes of Coal over 2" and 2 x 1½" to 1" Nut		All Sizes of Coal 2" and under, except except 2 x 1½" to 1" Nut	
Group No.	Sizes of coal	Group No.	Sizes of coal
1	6" Lump and larger. 5" Lump. 4" Lump. 3" Lump. 2" Lump. 8 x 4" Egg. 8 x 3" Egg. 7 x 4" Egg. 7 x 3" Egg.	6	1½ x 1" Nut. 1½ x 1" Nut. 1½ x ¾" Nut. 1¼ x ¾" Nut.
		7	1½ x ⅜" to 6 Mesh Nut. 1¼ x ⅜" to 6 Mesh Nut.
2	6 x 4" Egg. 6 x 3½" Egg. 6 x 3" Egg. 5 x 4" Egg. 5 x 3" Egg. 4 x 3" Egg.	8	1 x ⅜" to 6 Mesh Nut. ¾ x ⅜" to 6 Mesh Nut. 1 x 10 Mesh Washed and Dustless Treated.
		9	1½" Washed Screenings. 1¼" Washed Screenings. 1" Washed Screenings. ¾" Washed Screenings.
3	1½" Lump. 1¼" Lump. 6 x 2½" Egg. 6 x 2" Egg. 6 x 1½" Egg. 6 x 1¼" Egg. 6 x ¾" Egg. 5 x 2" Egg.	10	(See Specification B). 1½" Modified Screenings. 1¼" Modified Screenings. 1" Modified Screenings. ¾" Modified Screenings.
		11	(See Specification A). 1½" Screenings (Raw). 1¼" Screenings (Raw).
4	5 x 1½" Egg. 4 x 2" Egg. 4 x 1½" Egg. 4 x 1¼" Egg. 3 x 2" Nut.	12	(See Specification A). 1" Screenings (Raw). ¾" Screenings (Raw).
5	3 x 1¼" Nut. 3 x 1½" Nut. 3 x 1" Nut. 3 x ¾" Nut. 2 x 1¼" Nut. 2 x 1¼" Nut. 2 x 1" Nut.	13	⅝" x 10 Mesh (Raw). ⅜" x 10 Mesh (Raw).
		14	Carbon ⅜" or less x 0.
		15	Dust 10 Mesh or smaller x 0.
		16	Run of Mine.

Equivalent Round Hole Size of Bar Screens

Bar spacing:	Round hole equivalent
⅜"	1⅛"
1"	1¾"
1¼"	2"
1½"	2⅞"
2"	4⅜"
2½"	4⅞"
3"	5½"
4"	6"
5"	7¾"

Mine Price Group "A"

Name	Mine	Seam
Bell & Zoller Coal & Mng. Co	Zeigler #1	6
Bell & Zoller Coal & Mng. Co	Zeigler #2	6
Blue Bird Coal Co	Blue Bird	5
Carterville Mng. & Eng. Co	Normandie	6
Chicago, Wilmington & Franklin Coal Co	Orient #1	6
Chicago, Wilmington & Franklin Coal Co	New Orient	6
Consolidated Coal Co	Herrin #7	6
Delta Coal Mining Co	Delta	5
Forsythe Carterville Coal Co	Forsythe Carterville	6
Franco Mining Corp	#1	6
Franklin County Coal Corp	Enerry #5	6
Franklin County Coal Corp	Royalton #7	6
Freeman Coal Mining Co	Freeman	6
McLaren Coal Co	McLaren	6
Old Ben Coal Corp	#8	6
Old Ben Coal Corp	#11	6
Old Ben Coal Corp	#14	6
Old Ben Coal Corp	#15	6
Peabody Coal Co	#14 Majestic	6
Peabody Coal Co	#18 Black Arrow	6
Peabody Coal Co	#43 Premium	5
Peabody Coal Co	#47 Haron	6
Perfection Coal Co	Perfection	5
Rex Coal Co	Rex	5
Sahara Coal Co	#1	6
Sahara Coal Co	#3	5
Sahara Coal Co	#10	5
Sahara Coal Co	#12	6
Seymour Coal Mining Co	Freeman Spur	6
Southern Illinois Coal Co	Old Settler	5
Southern Jewel Coal Co. (H. L. Wilson, Prop.).	Southern Jewel #1	6
United States Fuel Co	Middle Fork	6
Valier Coal Co	#1	5
Wasson Coal Co	#1	5
Wasson Coal Co	"A"	5

Mine Price Group "B"

Name	Mine	Seam
Angel & Fry	Cedar Hill	
Askew & White	Askew & White	
B. & L. Coal Co	B. & L.	
Birkner, E. H	Birkner	
Blair, Gus, The Big Muddy Coal Co	Blair Mine #3	
Blue Hill Coal Co	Blue Hill	6
Bradley, Jack	B. and L.	
Brayfield Coal Co	Brayfield	
Brown & Roberts Coal Co	Brown & Roberts	
Buckner, Fred	Buckner Coal Co	
Cambria Coal Co	Cambria Coal Mine	
Carrier Mills Coal Co	Carrier Mills Coal Co	
Carter, L. D	Carter's Mine	
Chamness, Clyde	Blue Ribbon	
Chaney Coal Co	Chaney Coal Co	
Cherry Hill Coal Co	Cherry Hill Coal Co	
Colonl. Augustine	Diamond Coal Co	6
Consumers Coal & Material Co	Consumers Coal & Material Co.	
Corder, Vallie	Vallie Corder Mine	
Cotton, Fred (Prop. M. & E. Coal Mine)	M. & E. Coal Mine	
East Side Coal Co	East Side	
Elkins, H. A	Hillcrest	
	Sunshine	
Elkville Coal Co	Elkville Coal Co	
Equator Coal Co. (Rhea, C. B. & W. S., & Greathouse, Edith L.).	Equator Coal Co	
Gulley & Penrod	Norman Mine	
Heato Coal Co	Heato Mine	
Herrin & McDonald Coal Co	Cedar Hill	
Hickey Coal Co	Hickey Mine	
Hill Coal Co	Hill Coal Co	
Jackson County Coal Co	Rentfro Mine	
Johns Coal Co	Service (Sunrise)	
Keene, Alvie H	Campbell Hill Coal Co	
K. W. S. Coal Mine	K. W. S. Coal Mine	
Logan Highway Coal Co	Logan Highway Coal Co	
Lone Star Coal Co	Lone Star	
Martin, B. E. (Odin Coal Co.)	Odin Coal Co	
Martin, Guy S	DeSoto Mine	
Marvel Coal Co	Marvel	
Matsinger & Harris	Matsinger & Harris	
McClendon, George		
McCluskie, Alex	McCluskie	
McDaniel & Matthews Coal Co	McDaniel & Matthews	
McNelll, Bart	McNeill Coal Co	
McNew, C. C. & Son	McNew	
Mid-City Coal Co	Mid-City Coal Co. (#1)	
Mitchell, Ed & H. Latrip	Mitchell Coal Co	
Monarch Coal Co	Monarch	
Moore & Son Coal Co	Moore & Son Coal Co	
Moren Coal Co	Moren Coal Co	
New Black Diamond Coal Co	Black Diamond #4	
New Carbondale Coal Co	New Carbondale	
Norris Coal Co	Norris Coal Co	
Norris City Coal Co	#1	6
Ogmare Coal Co	Ogmare	
Ozark Minerals Co	Ozark Minerals Co	
Patrick-McCormick Coal Co	Patrick-McCormick	
Peerless Coal Co	Peerless	
Pekin Coal Co	Pekin	
Phillips, Thos. G	Phillips Coal Co	
Pickford, John J	Pickford	
Prosperity Coal Co	Prosperity Coal Co	
Pulley Coal Co	Pulley Coal Co	
Randall, Don	Randall	
Reployle & Son	Reployle & Son	
Rock Creek Coal Co	Rock Creek	
Rushing Coal Co	Rushing Mine	
Sahara Coal Co	Bankston Creek #6	6
Scott Coal Co. (Scott, L., Rogers, C. M., Rogers, Lewis & Stover, V.).	Scott Coal Co	
Scott, Edgar	Edgar Scott	
Scroggins Coal Co. (Earl)	Scroggins Mine	
Sims Coal Co	Sims Mine	
Sims & Harris	Sims & Harris	
Singley, A., Coal Co	Singley	
Sizemore, W. T	Sizemore	
Smith, John H	Dogwood Coal Co	
Spillertown Mining Co	Spillertown Mining Co	
Springhart Coal Co	Springhart Coal Co	
Stroud, W. N	Stroud Coal Co	
Stunson, Jess. F	Scroggins Mine	
Sunny Brook Coal Co	Sunny Brook Coal Co	
Swofford Coal Co	Swofford No. 1 or "A"	
	Swofford No. 2 or "B"	
Templeton Coal Co	Templeton Coal Co	
Thomas, John G	Thomas	
Tick Ridge Coal Co	Tick Ridge	
Treece, Chas. & Son	Treece	
Two Way Coal Co	Two Way Coal Co	
W. H. B. Coal Co	W. H. B. Coal Co	
Wallace Coal Co	Wallace	6
Walnut Valley (C. F. Fry, Prop.)	Walnut Valley	
Welsbrodt Coal Co	Welsbrodt Mine	
West Coal Co	West Coal Co	
Willow Spring Coal Co	Willow Spring	
Wilson Coal Co	Wilson	
Wilson Coal Co	Wilson Coal Co. No. 1	
Wilson, Wayne	Wilson Coal Co. No. 3	
Yates, Harry	Yates Mine	
Young Brothers	Young Brothers	

Mine Price Group "C"

Name	Mine	Seam
Union Colliery Co	Kathleen	6

Mine Price Group "D"

Name	Mine	Seam
Bailey Bros. Coal Co	Diamond	
Baldwin Coal Co	Baldwin Mine	
Beaucoup Coal Co	Pinckneyville	6
Beveridge Coal Co	Mine No. 2	
Beckemeyer Coal Co	Beckemeyer	6
Bilby, Fred A	Bilby	6
Bird & Tauner	Bird & Tanner	
Blair Coal Co	Blair Coal Co	
Bois Coal Co	Bois	6
Bolinski Coal Co	Bolinski Coal Co	
Bullock Mining Co	Bullock	6
Chicopee Coal Co	Troy	6
Citizens Coal Co	East Mine	6
City Coal Co	City Coal Co. Mine	
Clarkson Coal & Mining Co	Nashville	6
Conant Coal Co	Conant	6
Coulterville Coal Co	Perco	6
Crain Coal Co	Crain	6
Culpgrove Coal Co	Culpgrove Coal Co	
Cutler Coal Co	New Wilson	6
Darmstadt Coal Co	Darmstadt Mine	
East Side Coal Co	East Side Coal Co	
Elm Grove Coal Co	Elm Grove Coal Co	
Hepp, Frank (Furity Coal Co.)	Furity Coal Co	
Higgerson Bros. Coal Mine	Higgerson Mine	
Hillside Coal Co	Hillside Coal Co	
Home Coal Co	Big Ben-Interstate #43	
Hot Shot Coal Co. (H. E. Gill, Prop.)	Hot Shot Coal Co	
Howell, T. J. Coal Co	New Moon	
Illinois Pocahontas Coal Co	Pocahontas	
Ill.-Mo. Coal Co. (H. A. Bradbury, Prop.)	Ill.-Mo	6
Jones Bros. Coal Mining Co	Eureka #2	6
K. & E. Coal Co	Little Muddy Mine	
Klondike Coal Co	Klondike Coal Co	
Lemon and McKelvey Coal Co	Lemon and McKelvey Coal Co.	
Lumachi Coal Co	Cantine #2	6
Lumachi Coal Co	Cantine #3	6
Madison County Coal & Mining Co	Thermal	6
Moffat Coal Co	Moffat	6
Moro Coal Co	Moro Coal Co	
New Galum Coal Corp. (Trustees for Employees of).	New Galum	6
No. 5 Pinckneyville Mining Co	No. 5	6
Pyramid Coal Corp	Pyramid	6
Rink Bros. Coal Co	Rink Bros. Coal Mine	
St. Louis Coal Co	Florida	6
St. Louis & O'Fallon Coal Co	Black Eagle #2	6
Southern Coal, Coke & Mining Co	#9 New Baden	6
Southwestern Ill. Coal Corp	Streamline	6
Square Deal Coal Co	Lemman Mine	
Sunrise Coal Co	Sunrise Coal Co	
Sunset Hill Coal Co	Sunset Hill Coal Co	
Syndicate Mining Co	Syndicate	
Truax-Traer Coal Co	Forsyth #1	6
Truck Trade Coal Co	Truck Trade	
United Electric Coal Companies	Fidelity	6
Venedy Coal Co., Inc	Venedy Coal Co	
Welshans, Henry	Welshans Mine No. 1	
Whip-Poor-Will Coal Co	Whip-Poor-Will	6
Wills, Fred H	Wills Mine	

Mine Price Group "E"

Name	Mine	Seam
A. B. & H. Coal Co	A. B. & H. Mine	
Ace High Coal Co	Ace High	
Bell Heat Coal & Mng. Co	Bell Heat Coal & Mng. Co	
Bunker Hill Coal & Mng. Co	Bunker Hill Coal & Mng. Co	
Crown Coal Co	Crown Coal Co	
Collinsville Coal Corp	Collinsville Coal Corp	
East Bell Coal Co	White Rose	
East Side Coal Co	East Side Coal Co	
Edgemont Coal Co	Edgemont Mine	
Fullerton Coal Co	Fullerton & Burdette	
G. E. Coal Co	G. E. Coal Co	
Gill Coal Corp	Lyle	6
Glen Carbon Coal Co	Glen Carbon Coal Co	
Golden Rule Coal Co	Golden Rule	6
Groom Coal Co	Richland	6
Guest Coal Co	Oak Hill	
Gundlach Coal Co	Gundlach	6
Hill Coal Co. (Sam Hill, Prop.)	Hill	
Hippard Coal Co	Devil's Hole	
Lenzburg Coal Co	Lenzburg	6
Lill Coal Co	Lill Coal Co	
Luster, C. R. & Son	Luster Mine	
Marissa Coal Co	O. K	6
Mascoutah Coal & Mng. Co	Mascoutah Coal & Mng. Co	
Midway Coal Co	Midway Coal Co	
Morgan Coal Co., F. C. Ray Morgan, Prop.	Morgan (Millstadt)	6

Mine Price Group "E"—Continued

Name	Mine	Seam
Mulberry Hill Coal Co	Mulberry Hill	6
New Athens Coal & Mng Co	New Athens Coal & Mng Co	
New National Coal & Mng. Co	New National	6
New St. Clair Coal Co	New St. Clair Coal Co	
Patterson Harding Coal Co	Patterson Harding Coal Co	
Pep Coal Co	Pep Coal Co	
Perry Coal Co	Carbon	6
Perry Coal Co	St. Ellen	6
Prairie Coal Co	Prairie	6
Quality Coal & Mining Co	Quality	6
Schubert Coal Co	Schubert Mine	
Service Coal Co	Service	6
Southern Coal, Coke & Mining Co	#1 Avery	6
Southern Coal, Coke & Mining Co	#6 Muren	6
Southern Coal, Coke & Mining Co	#7 Little Oak	6
Southern Coal, Coke & Mining Co	Shiloh	6
Stahlheber, Aug. C	Reinheimer Slope Mine	
Sugar Creek Coal Corp	Sugar Creek Mine	
Sugar Loaf Coal Corp	Sugar Loaf Coal Corp	
Summit Coal & Mng. Co	Summit	
Tower Grove Coal Co	Tower Grove Coal Co	
Travis Coal Co	Travis Coal Mine	
United Electric Coal Companies	Red Ray	6
Vinegar Hill Coal Co	Vinegar Hill	6
West Side Coal Co. (G. C. Brown, Prop.)	West Side Coal Co	
White Coal Co	White	6
Wildwood Coal Co	Wildwood Coal Co	

Mine Price Group "F"

Name	Mine	Seam
Auld & Cruit	Riverdale	
Barr Coal Co	Barr Coal Co	
Bauser Coal Mine	Bauser Coal Mine	
Benner, Alfred	Alfred Benner	
Bennett, Marshall	Athens Coal Co	
Bethel Coal Co	Bethel Coal Co	
Blair, Ray	Riverside No. 2	
Cantrall Coal Co	Cantrall Coal Co	
Central Illinois Coal Mining Co	"A"	5
Centralia Coal Co	Centralia #5	6
Consolidated Coal Co	Mt. Olive #15	6
Consolidated Coal Co	Staunton #7	6
Cosmo Coal Corp	Reynolds	
Cruit, James	Cruit Mine	
Deer Creek Coal Co. (Steve Bennis, Owner)	Deer Creek Mine	
Denkert Coal Co	Denkert Coal Co	
Ditzler, Edward	Ditzler Mine	
Eddy, Bryan	Fisher	
Edinburg Coal Co	Edinburg	
Enders, Toney, Prop. (Lincoln Trail Coal Co.).	Lincoln Trail Coal Co	
Farmingdale Coal Co. (Aldace Young, Prop.).	Farmingdale Coal Co	
Gallagher, Ralph	Gallagher Coal Mine	
Gillespie Coal Co	Gillespie	
Greenview Mining Co	Greenview Mining Co	6
Happy Hollow Coal Co. (Frank L. Miller, Prop.).	Happy Hollow Coal Co	
Hart & Donelson	H. & D. Mine	
Hillsboro Mining Co	Hillsboro	
Hosking Brothers	Hosking Bros. Mine	6
Howard Coal Co	Howard Coal Co	
Indian Creek Coal Co	Indian Creek Coal Co	
Indiana & Illinois Coal Corp	#10 Nokomis	
Jefferson Mine Co-operative Organization	Jefferson	6
Johnson Valley Coal Co	Johnson Valley Coal Co	5
Kingston, Ray	Ray Kingston	6
Klingbell Coal Co	Klingbell Coal Co	
Lincoln Coal Mine	Lincoln Coal Mine	
Lincoln Liquidating Corp	Virden 3	
Little, J. H	Little Coal Mine	
Livingston-Mt. Olive Coal Co	#1 Livingston	
Macon County Coal Co	Macon	6
Mallergren, John W	Black Diamond	5
Marion County Coal Co	Glenridge	
Mine "B" Coal Co	"B"	6
Moore, Roscoe	Moore Coal Mine	5
Mt. Olive Coal Co	Hoosier	
Mt. Olive & Staunton Coal Co	#2	6
Nokomis Coal Co	Reliance	6
Old Salem Coal Co	Old Salem Coal Co	6
Pana Coal Co	#1	
Panther Creek Mines, Inc	#1	6
Panther Creek Mines, Inc	#2	6
Panther Creek Mines, Inc	#3	6
Panther Creek Mines, Inc	#4	5
Panther Creek Mines, Inc	#5	6
Peabody Coal Co	Carter Process Plant	5
Peabody Coal Co	#7 Hawthron	5
Peabody Coal Co	#8 Hawthron	6
Peabody Coal Co	#9 Hawthron	6
Peabody Coal Co	#53 Woodside	6
Peabody Coal Co	#57 Capitol	5
Peabody Coal Co	#58 Hawthron	5
Peabody Coal Co	#59 Peerless	6
Penwell Coal Mining Co	Penwell	5
Plains Mining Co	Plains Mining Co	6
Roote, J. G	Mochel Mine	
Simmons & Hopper	Simmons-Hopper	

Mine Price Group "F"—Continued

Name	Mine	Seam
Springfield & Salisbury Coal Co.	Springfield & Salisbury Coal Co.	
Sterner, Clarence	Sterner Mine	
Stretch, B. F.	Stretch Mine	
Superior Coal Co.	#1	6
Superior Coal Co.	#2	6
Superior Coal Co.	#3	6
Superior Coal Co.	#4	6
Tallman, Arch	Robinson Creek Mine	
Tate, D. W	Tate Mine	
Tebrugge Bros.	Tebrugge Bros.	
Tebrugge, Henry	Tebrugge Bros.	
Virden Coal Co. (Joe Dubinick, Prop.)	Virden	6
Walker, O. S.	Walker Mine	
Wanless Coal Co.	Wanless Coal Co.	
Warrell & Walker	Warrell & Walker	
Wenneborg Coal Co.	Wenneborg Coal Co.	
Whitehurst, Charles	Lloyd Mine	
Wyatt, Burl		

Mine Price Group "H"

Name	Mine	Seam
A. D. L. Coal Co.	A. D. L. Coal Co.	
A. & T. Coal Co.	A. & T.	
Ackerson W	Ackerson Coal Mine	
Anderson Coal Co.	Anderson Coal Co.	
B. & H. Coal Co.	B. & H. Coal Co.	
Baker, A. G.	Perviance	
Bates, Henry	Henry Bates Coal Co.	
Baxter, W. B.	Baxters Mine	
Becker, Harry	Becker	
Beebe & Wallace	Beebe & Wallace	
Bennett, Andrew	Bennett	
Big Four Coal Co.	Big Four Coal Co.	
Big Hollow Colliery Mine	Big Hollow Colliery Mine	
Black Eagle Coal Co.	Black Eagle Coal Co.	
Black Hawk Coal Co.	Black Hawk Coal Co.	
Black Jewel Coal Co.	Black Jewel Coal Co.	
Blakley Coal Co.	Blakley	5
Blender Mining Co.	Domino	
Blue Eagle Coal Co.	Blue Eagle	
Blue Bird Mine No. 2	Blue Bird Mine No. 2	
Bowman Coal Co.	Bowman Coal Co.	
Brady & White Coal Co.	Brady & White Coal Co.	
Bucher, E. G.	Little Dog Mine	
Buckheart Creek Coal Co.	Buckheart Creek Mine	
Buel, D. W.	Avon Coal Co.	
Burgoyne, Glen, Coal Co.	Glen Burgoyne Coal Co.	
Camp Bros.	Camp Bros.	
Carr, Roderick, Coal Co.	Carr Mine	
Central Coal Co.	Central Coal Co.	
Central States Collieries, Inc.	Little Sister	
Cessna Bros. Coal Co.	Cessna Bros.	
Cimo, John	Bell Mountain	
Clarkson, Lorenzo	#1	
Clean Coal Co.	Clean Coal Co.	
Clearview Mine	Clearview Mine	
Clearvinger, Roosevelt		
Clinger, John M.	John Clinger	
Collins Brothers	Shamrock Coal	
Crawford Coal Co.	Crawford Coal Co.	
Crescent Mining Co.	#1 La Marsh	
Crescent Mining Co.	#6 La Marsh	
Cupi, Sam	Cupi	
Curfman, W. J.	Curfman Mine	
D. & D. Coal Co.	D. & D. Mine	
Dallefeld, Walter	Dallefeld Coal Co.	
Davison, Aaron	J. F. Morse Mine	
Dedryvere, Jules, Coal Co.	Jules Dedryvere Coal Co.	
Deep Valley Coal Co.	Deep Valley Coal Co.	
Diamond Coal Co.	Diamond Coal Co.	
Dilts, Chas. & Son	Dilts & Son	
Dodd, John	Hilltop Mine	
Dorthel Coal Co.	#1	5
Dorthel Coal Co.	#3	5
Dowiatt, P. J. & Sons Coal Co.	Mine No. 1 & No. 2	
Dragon Coal Co., The	The Dragon Coal Co.	
Dry Run Coal Co.	Dry Run Coal Co.	
Durant, Ray	Durant Mine	
Edgar County Coal Co.	Edgar County Coal Co.	
Elias Brothers Coal Co.	Elias Brothers Mine	
F. B. & M. Coal Co.	F. B. & M. Coal Co.	
Fairview Coal Co.	Fairview	
Fouts, Richard	Fouts Coal Mine	
Galesburg Mining Co.	#1	1
George Bros. Coal Co.	George Bros. Coal Co.	
Gibson, John, Coal Co.	John Gibson Coal Co.	
Glore Coal Co.	Glore Coal Co.	
Golden Rule Coal Co.	Viryon	
Gorsuch, Otis	Gorsuch Coal Mine	
Greenwalt Coal Co.	Greenwalt	
Grindle, James & Son	James Grindle & Son	
Harper Coal Co.	Harper Coal Co.	
Haun Coal Co.	Haun Coal Co.	
Hegeler Coal Operating Co.	Hegeler	
Hendricks, F. E.	F. E. Hendricks	
Hiland, Eddie	Paradise	
Hornback, Clarence	Star Mine	
Howard, Earl, Coal Co.	Earl Howard Coal Co.	

Mine Price Group "H"—Continued

Name	Mine	Seam
Howards Coal Mine	Howards Coal Mine	
Illinois Colliery Co.	Illinois Colliery	5
Jay Coal Co., (Jay Traux, Gen. Mgr.)	Jay Coal Co.	
Jenkins, Thomas J.	Jenkins Coal Mine	
Johnson, Harry C.	Reed	
Johnson & Largent	Johnson & Largent Coal Co.	
Jones, John W., Jr.	Jones	
Jonosik, Steve, Coal Co.	Steve Jonosik Coal Co.	
Junker, William C.	Junker	
Katzenburger and Lamma	Katzenberger & Lamma	
Kedas, Alex, Coal Co.	Alex Kedas Coal Co.	
Kelly Branch Mine (Perry Bales, Prop.)	Kelly Branch Mine	
Keltz & Rang	Keltz & Rang	
Kickapoo Valley Coal Co.	Kickapoo Valley	
Kirkman, William	Kirkman	
Knaggs, Henry	Sunshine	
Knoxville Mining Co.	Knoxville Mng. Co.	
L. & S. Coal Co.	L. & S. Coal Co.	
Lake Erie Mining Co.	Lake Erie	
Lakeside Coal Co.	Lakeside Coal Co.	
Larner, Edgar	Larner	
Larson, Chester W., Coal Co.	Chester W. Larson	
Larson, John & Sons	Larson & Son	
Lea Bros Coal Co.	Lea Bros. Mine	
Lete & Sons Coal Co.	Lete & Son Coal Co.	
Ley, James W.	Clean Burning Coal	
Lightbody, C. O.	C. O. Lightbody Coal Co.	
Lightbody, Otto W.	O. W. Lightbody Coal Co.	
Lime Spring Coal Co.	Lime Spring Coal Co.	
Lind Coal Co.	Lind Coal Co.	
Little Coal Co.	Little Coal Co.	
Little John Coal Co.	Little John	
Lone Hill Coal Co.	Lone Hill Coal Co.	
Lovett, Ed & Sons	Ed Lovett & Sons	
Lucky Strike Coal Mining Co.	Lucky Strike Coal Mine	
M. & B. Coal Co. (Lewis Buck, Prop.)	M. & B. Coal Co.	
M. & M. Coal Co.	M. & M. Coal Co.	
Manhattan Coal & Mng. Co.	Manhattan	
Mapleton Coal & Mng. Co.	Mapleton Coal & Mng. Co.	
Martin Coal Co.	Martin	
Mauck & Sons	Mauck & Sons	
McCormick, A. H. & Sons	A. H. McCormick & Sons	
McGlaughlin Bros.	McGlaughlin Bros. Coal Mine	
Merritt Bros.	Merritt Bros.	
Mertz, William	Davis Mine	
Middle Road Coal Co.	Middle Road Coal Mine	
Midland Electric Coal Corp.	Middle Grove	6
Milburn, Leslie	Milburn Coal Mine	6
Milburn, Leslie	Milburn Coal Mine	
Mitchell, William	Hubble Mine	
Mohn & Callear Coal Co.	Blue Bell	
Mohn, Edward & Son	Mohn	
Morgan Coal Co., F. C. (Ray Morgan, Prop.).	Morgan (Oakwood)	7
Nixon, D. E.	D. E. Nixon	
Oakwood Coal Co.	Oakwood	7
Ohman, G. A.	G. A. Ohman	
Patton Coal Co.	Patton Coal Co.	
Peabody Coal Co.	#24 Westville	6
Pearson Mine No. 2	Pearson Mine No. 2	
Pekin Mining Co.	Pekin Mining Co.	
Peterson, Benjamin F.	Peterson Coal Co.	
Pheasant, Wilber	White Ash	
Phillips Bros.	Phillips Bros.	
Pichon Coal Co.	Pichon Coal Co.	
Pierce, T. W., Coal Co.	T. W. Pierce Coal Co.	
Plotner, Mark	Plotner Mine	
Pointer, Rolland M.	Premier White Ash	
Pratt & Spenny (Pratt, Johnson)	Pratt & Spenny	
Pschirrer & Sons Coal Co.	Kildee #3	5
Quality Coal Co.	Quality Coal Co.	
Raker, Charles	Raker Coal Co.	
Rawalt Coal Co.	Rawalt	
Reed City Co-op. Coal Co.	Reed City Co-op. Coal Co.	
Renaldo Matthew Mining Co.	Renaldo Matthew Mng. Co.	
Rice Lake Coal Co.	Rice Lake Coal Co.	
Richard, Walter	Richard Coal Mine	
Rinning & Son	Rinning & Son	
Riverside Coal Co.	Riverside Coal Co.	
Robert's Coal Co.	Robert's	
Root Brothers	Root Bros.	
Rudloff Brothers	Big Bear	
Scarce Bros. Coal Co.	Scarce Bros. Coal Co.	
Schafer Bros.	Schafer Bros.	
Schultz Coal Co.	Schultz Coal Co.	
Scott, James	Scott Coal Mine	
Seghi Brothers	Sunnyside	
Shanks, Archie	Shanks Coal Co.	
Sheward, J. P., Coal Co.	J. P. Sheward Coal Co.	
Shroyer Coal Co.	Shroyer Coal Co.	
Skelton Coal Co., J. G.	Skelton	7
Smallberger, Walter	Smallberger	
Snider Coal Co.	Snider	
Spoon River Coal Co.	Spoon River Coal Co.	
Stear, James Lester	Stear	
Stegal, Leonard	Stegal	
Stenstrom, E. H., Coal Co.	Stenstrom	
Stevenson Bros.	Stevenson Bros.	
Stever, S. B.	Stever	
Stoneking & Rebman	Stoneking & Rebman	
Street, George	Street Coal Co.	
Strickland, David	Thurman Mine	
Stroup, James	Stroup's	
Sturm & Son	Sturm & Son	
Sugarville Coal Co.	Sugarville Coal Co.	

Mine Price Group "H"—Continued

Name	Mine	Seam
Sunnyside Coal Co.	Sunnyside	5
Superior Mining Co. (Sepesi, Andrew, Prop.).	Superior Mining Co.	
Swan Coal Co.	Swan Coal Co.	
Taylor, Richard W., Coal Co.	Richard W. Taylor Coal Co.	
Thermal Coal Co.	Thermal Coal Co.	
Thomas, Arthur H.	Plainview	
Thompson Bros. Coal Co.	Thompson Bros. Coal Co.	
Thompson & Son	Thompson & Son	
Thompson Hollow Coal Co.	Thompson Hollow Coal Co.	
Tilton Mining Co.	Tilton	7
Tomlinson, C. A.	C. A. Tomlinson	
Treasure Coal Co.	Treasure Coal Co.	
Truax Traer Coal Co.	St. David	5
Truax Traer Coal Co.	Flatt	5
Turner & Son	Turner & Son	
Ubben Coal Co.	Ubben	5
United Electric Coal Companies	Cuba	5
United Electric Coal Companies	Buckheart	5
United States Fuel Co.	Vermillion	6
United States Fuel Co.	Bunsenville	6
Vicary Brothers	Vicary Mine	
Von Arch, August		
W. W. Coal Co. (Walter Mauck, Prop.)	W. W. Coal Co.	
Walck, Peter S. & Son	Peter S. Walck & Son	
Walsh & Sons	Walsh & Sons	
Walton, Henry, Coal Co.	Henry Walton Coal Co.	
Westerby Bros.	Westerby Bros.	
Whalen & Flack	Whalen & Flack	
Wheelhouse Coal Co.	Wheelhouse Coal Co.	
Williams, Leslie W.	Morse Mine	
Wilson Mine (Mrs. R. C. Wilson, Prop.)	Wilson Mine	
Young, Don B.	Young Coal Co.	

Mine Price Group "J"

Name	Mine	Seam
Four in One Coal Co.	Four in One	
Hodgett, Abb	Abb Hodgett	
Kewanee Coal Co.		
Lamb, Wm. T. & Henry Powers	Rock Bottom Coal Co.	
Long View Coal Co.	Long View Coal Co.	
Midland Electric Coal Corp.	Mecco	2
Mielke Brothers	Mielke Bros.	
New North East Coal Co.	New North East Coal Co.	
Ottman & Sons, Charles	Tip Top Mine	
Pettitt, C. M. & Andrew Head	Pettitt & Head	
Poston, Maverick W.	Rural Coal Mine	
Quality Mining Co.	Quality Coal Mine	
Ratcliffe & Fricke	Ratcliffe & Fricke	
Ripka & Bates Coal Co.	Ripka & Bates Coal Co.	
Ripka, Bates & Wetzel (Crescent Coal Co.)	Crescent Coal Co.	
Shuler Coal Mining Co.	Alpha	
Star Coal Co., The	The Star Coal Co.	
Valley View Coal Co.	Valley View Coal Co.	
Warner Coal Co.	Rex Mine	
Woolley, Peters & Lawson (Hunky-Dory Coal Mine).	Hunky-Dory	

Mine Price Group "K"

Name	Mine	Seam
Adams County Coal Co.	Adams County Coal Co.	
Babcock, J. P.	Ottawa Mining Co.	
Blue Eagle Coal Co.	Blue Eagle Coal Co.	
Brandt, D. C.	Indian Hill	
Brandt, L. F.	Brandt Coal Mine	
Buffalo Rock Coal Co.	Buffalo Rock	2
Carlson, Oscar	Carlson Coal Mine	
Comp, Harvey L.	Comp's Coal Mine	
French Coal Co.	French Coal Co.	
Illinois Zinc Co.	#3	2
Indian Creek Coal Co.	Indian Creek Coal Co.	
Jenkins & Crosland	Jenkins & Crosland	
Kollar, Andrew	Kollar Mine	
Marseilles & Ottawa Coal Co.	M. & O. Coal Mine	
Mitchel & Brown Coal Co.	Mitchel & Brown Coal Co.	
Morris Coal & Mining Co.	Morrooo	
Munts Coal Co.	Munts Mine	
Northern Illinois Coal Corp.	#10 Wilmington	2
Osage Coal Co.	#1	2
Paolucci, Peter	Eagle Coal	
Pollock, Gilbert	Pollock's Mine	
Prairie State Coal Co.	Prairie State	
Roanoke Coal & Tile Co.	Roanoke	3
Silver Clay & Coal Co., Inc.	Silver Clay & Coal Co.	
Skinner Coal Co.	#3	
Spring Valley Coal Mng. Co.	#3	2
Streator Union Coal Co.	Streator Union Mine	
Sutton Coal Co., W. G.	Minonk	2
Union Coal Co.	Union	2
Verona Coal Mining Co.	Verona Coal Mng. Co.	
Wilmington Coal Mines, Inc.	Ottawa Mines, Inc.	2
Wilmington Coal Mng. Corp.	Wilmington Coal Mng. Corp.	

Truck Mine Prices—Per Net Ton of 2,000 Pounds

MINIMUM PRICES F. O. B. TRANSPORTATION FACILITIES AT MINES FOR ALL COAL LOADED INTO TRUCKS OR WAGONS AT THE MINES OF ALL CODE MEMBERS

Size group	Price									
	A	B	C	D	E	F	G	H	J	K
1	$2.75	$2.60	$2.60	$2.75	$2.60	$2.90	.....	$2.90	$2.90	$3.40
2	2.65	2.50	2.50	2.65	2.50	2.80	.....	2.80	2.90	3.30
3	2.55	2.40	2.40	2.55	2.40	2.70	.....	2.70	2.70	3.20
4	2.45	2.30	2.30	2.45	2.30	2.60	.....	2.60	2.60	3.10
5	2.35	2.20	2.20	2.35	2.20	2.50	.....	2.50	2.50	3.00
6 (a)	2.20	2.10	2.15	1.80	1.70	1.95	.....	1.95	1.95	2.05
7 (a)	2.25	2.15	2.20	1.75	1.65	1.90	.....	1.90	1.90	2.00
8 (a)	2.30	2.20	2.25	1.90	1.80	2.05	.....	2.05	2.05	2.15
9 (b)	2.10	2.00	2.05	1.70	1.70	1.85	.....	1.85	1.85	1.95
10 (b)	1.95	1.85	1.90	1.55	1.45	1.70	.....	1.70	1.70	1.80
11 (b)	1.85	1.75	1.80	1.45	1.35	1.60	.....	1.60	1.60	1.70
12	1.75	1.65	1.70	1.35	1.25	1.50	.....	1.50	1.50	1.60
13 (c)	2.00	1.90	1.95	1.60	1.50	1.75	.....	1.75	1.75	1.85
14 (d)	1.25	1.15	1.20	.85	.75	1.00	.....	1.00	1.00	1.10
15	1.05	.95	1.00	.65	.55	.80	.....	.80	.80	.95
16	2.15	2.05	2.10	2.40	2.40	2.40	.....	2.40	2.50	2.85

For sizes not included herein refer to table titled *Size Groups*.
Important.—*Price Exceptions* (a), (b), (c), (d) are a part of these prices, and must be observed.

[F. R. Doc. 38-206; Filed, January 19, 1938; 2:01 p. m.]

[Order No. 199]

AN ORDER MODIFYING ORDER NO. 100, AS MODIFIED BY ORDERS NOS. 134 AND 155, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 12, BY ADDING THERETO A REVISED SCHEDULE OF PRICES TO BE KNOWN AS "REVISED TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 12"

The National Bituminous Coal Commission having by its Order No. 100, as modified by Orders Nos. 134 and 155, determined and established the minimum prices of coals of code members produced within District Number 12, as set forth in "Price Schedule No. 1—District No. 12", as supplemented by Supplements Nos. 1 and 2, and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District Number 12, established in "Price Schedule No. 1—District No. 12", as supplemented by "Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 12", are hereby further supplemented as set forth in "Revised Truck Mine Price Schedule No. 1—District No. 12", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Revised Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District Number 12, and shall be effective at 12:01 o'clock A. M., on the 27th day of January, 1938.

2. That said Order No. 100 as modified by Orders Nos. 134 and 155 and Price Schedule No. 1—District Number 12, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Revised Truck Mine Price Schedule No. 1—District No. 12, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Revised Truck Mine Price Schedule No. 1—District No. 12" to the Consumers' Counsel;

the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 12; shall cause copies of this Order and said Revised Truck Mine Price Schedule No. 1—District No. 12 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By Order of the Commission:

Dated this 17th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

REVISED TRUCK MINE PRICE SCHEDULE NO. 1, SUPERSEDING SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 12

Revised Truck Mine Schedule of Minimum Prices for Coals of Code Members Produced within District No. 12, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective January 27, 1938.

Issued January 17, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies f. o. b. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds f. o. b. transportation facilities at the mines unless otherwise designated.

6. Coal that has been washed and dedusted shall take a minimum price ten cents (10¢) per net ton higher than the price established for raw coal.

7. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

8. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price f. o. b. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

9. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal

Schedule of Sub-districts

FOR THE PURPOSE OF ESTABLISHING MINIMUM PRICES, THE DISTRICT IS DIVIDED INTO THE FOLLOWING SUB-DISTRICTS

Sub-district:	*Name of county*
1	Appanoose. Wayne.
2	Davis. Jefferson. Keokuk. Lucas. Mahaska. Marion. Monroe. Van Buren. Wapello.

Schedule of Sub-districts—Continued

FOR THE PURPOSE OF ESTABLISHING MINIMUM PRICES, THE DISTRICT IS DIVIDED INTO THE FOLLOWING SUB-DISTRICTS—Continued

Sub-district—Continued.	*Name of county*
3	Boone. Dallas. Greene. Guthrie. Jasper. Polk. Webster. Warren.
4	Page. Adams. Taylor.

Code Member Index

SUB-DISTRICT 1

Name of producer	Name of mine	County
Battle Creek Coal Co.	Valkovich	Appanoose
Big Five Coal Co.	Big Five	Appanoose
Big Walnut Coal Co.	Big Walnut	Appanoose
Black Diamond Coal Co.	Black Diamond	Appanoose
Boyles Coal Co.	Boyles	Appanoose
Caldwell Coal Co.	Caldwell	Appanoose
Campbell Coal Co.	Campbell	Appanoose
Centerville Coal Co.	Centerville	Appanoose
Cincinnati Coal Co.	Cincinnati	Appanoose
City Fuel Co.	City Fuel	Appanoose
Clarke Coal Co.	Clarke	Appanoose
Columbus Coal Co.	Columbus	Appanoose
Crozier Coal Co.	Crozier	Appanoose
Dove Coal Co.	Dove	Appanoose
Duer & Fetter Coal Co.	Duer & Fetter	Wayne
Empire Fuel Co.	Empire	Appanoose
Enterprise Coal Co.	Enterprise	Appanoose
Exline Fuel Co.	Exline	Appanoose
Fairlawn Coal Co.	Fairlawn	Appanoose
Fenton Coal Co.	Fenton	Appanoose
First Chance Square (Deal Coal Co.)	First Change	Appanoose
Friendship Coal Co.	Friendship	Appanoose
Garfield Coal Co.	Garfield	Appanoose
Guinn Coal Co.	Guinn	Appanoose
Happy Hollow Coal Co. (C. A. Niday)	Happy Hollow	Wayne
Heavilin, Boon, Coal Co.	Heavilin	Appanoose
Head & Carpenter Coal Co.	Confidence Hi-Test	Wayne
Hillside Coal Co.	Hillside	Appanoose
Hi-Test Coal Co.	Hi-Test	Appanoose
Kanzlarich Coal Co.	Kanzlarich	Appanoose
Liberty Coal Co.	Mine No. 4	Appanoose
Locust Valley Coal Co.	Locust Valley	Wayne
Long Branch Coal Co.	Long Branch	Appanoose
Lowe Coal Co.	Lowe	Appanoose
McConville Coal Co.	Dennis	Appanoose
McConville Coal Co.	Midway	Appanoose
Maddalozza Coal Co.	Maddalozza	Appanoose
Monark Coal Co.	Monark	Appanoose
Monitor Coal Co.	Monitor	Appanoose
Mystic Coal Co.	Rishers	Appanoose
New Block Coal Co.	New Block	Appanoose
New Citizens Coal Co.	New Citizens	Appanoose
New Deal Coal Co.	New Deal	Appanoose
New Rock Valley Coal Co.	New Rock Valley	Appanoose
New Star Coal Co.	New Star	Appanoose
New Star Coal Co.	New Star	Appanoose
Noble Coal Co.	Noble	Wayne
North Charlton Coal Co.	A. R. Green Mine	Appanoose
Numa Coal Co.	Numa	Appanoose
Old King Coal Co.	Old King	Appanoose
Pee Wee Coal Co.	Pee Wee	Appanoose
Plano Coal Co. (Chas. Seals)	Plano	Appanoose
Pugh, Van	New Star	Appanoose
Purdy Coal Co.	Purdy	Appanoose
Rogona Coal Co.	Rogona	Appanoose
Rathbun Coal Co.	Rathbun No. 3	Appanoose
Red Bird Coal Co. (D. Dooley)	Red Bird	Appanoose
Riverside Coal Co. (E. W. Brandon)	Riverside	Appanoose
Seeley Coal Co.	Seeley	Appanoose
Showers & Fuller Coal Co.	Gorman	Appanoose
Silver King Coal Co.	Silver King	Appanoose
Simatovich Coal Co.	Simatovich	Appanoose
Smith Coal Co.	Smith	Appanoose
Stepnoski Coal Co.	Stepnoski	Appanoose
Sunny Slope Coal Co. (Kanzlarich, Fred).	Sunny Slope	Appanoose
Sunshine Coal Co.	Nos. 1, 2 & 3	Appanoose
Turtle Dove Coal Co.	No. 1	Appanoose
Valley Coal Co.	Valley	Appanoose
Violet Valley Coal Co.	Violet Valley	Wayne
Walnut Creek Coal Co.	Walnut Creek	Appanoose
Yocum & Rissler Coal Co.	Yocum	Wayne
Young Coal Co.	Young	Appanoose
Zaputil Coal Co.	Zaputil	Appanoose

SUB-DISTRICT 2

Adair, Jno. W. Coal Co.	No. 1	Marion
Agans & Son Coal Co.	Black Oak	Marion

Code Member Index—Continued

SUB-DISTRICT 2—Continued

Name of producer	Name of mine	County
Ahrweiler, Chas. Mine	Ahrweiler	Mahaska
Anderson & Early	Anderson & Early	Davis
Anderson & Robinson Coal Co.	Anderson-Robinson	Marion
Arkoal Coal Co.	Arkoal	Marion
Atkin, Forrest	Atkin	Mahaska
Atlas Coal Co.	Atlas	Mahaska
Attica Coal Co.	Attica	Marion
Attica Coal Co.	Attica	Marion
Ault, J. W., Coal Co.	Ault	Davis
Bellaltak & Kraber	Bellaltak & Kraber	Marion
Barr Coal Co	Barr	Van Buren
Beard Coal Co.	No. 1	Marion
Belzer, A. C. Coal Co.	Belzer	Mahaska
Bennett Coal Mine	Bennett	Mahaska
Bidwell Fuel Co.	Bidwell	Wapello
Big Six Coal Co	Big Six	Marion
Big Valley Fuel Co.	Big Valley	Marion
Birkenbine, Ralph H. C. Co.	Birkenbine	Wapello
Black Diamond Coal Co.	Black Diamond	Fraser
Black Diamond Coal Co.	Black Diamond	Iowa
Blackstone Coal Co.	Blackstone	Monroe
Blue Valley Coal Co.	Blue Valley	Marion
Bonnett Coal Co.	Bonnett	Jefferson
Bradley Bros. Coal Co.	Bradley	Marion
Briggs Coal Co.	Briggs	Monroe
Briggs, Tom, Coal Co.	Briggs	Monroe
Briney Coal Co.	Briney	Mahaska
Bryant Coal Co.	Bryant	Marion
Burk Bros. Coal Co.	Burk Bros.	Marion
Buy Rite Coal Co.	Buy Rite	Wapello
Carbon Hill Coal Co.	CarLon Hill	Mahaska
Christ Coal Co., W. A.	Christ Coal Co.	Mahaska
Cedar Coal Co.	Cedar	Jefferson
Cedar Bluff Coal Co.	Cedar Bluff	Marion
Cedar Creek Coal Co.	Cedar Creek	Lucas
Cedar View Coal Co.	Cedar View	Marion
Center Coal Co.	Center	Monroe
Central Iowa Fuel Co.	No. 1	Lucas
City Coal Co.	City	Monroe
Clark Coal Co	Clark	Marion
Conner-Smith Coal Co.	Conner-Smith	Lucas
Co-Operative Coal Co.	Co-Operative	Monroe
Covey & Chambers Coal Co.	Covey & Chambers	Mahaska
Cronkhite, G. L. Coal Co.	Cronkhite	Marion
Crowe Coal Co.	Crowe	Wapello
Cummings, L. R.	L. R. Cummings Coal	Van Buren
D. & M. Coal Co.	D. & M.	Marion
Dallas Coal Co.	Dallas	Marion
Daniels Coal Co.	Daniels	Van Buren
Davis Coal Co.	Davis	Lucas
Davis, Wm. Coal Co.	Davis	Mahaska
Deaver Coal Co.	Deaver Coal Co.	Mahaska
DeFrehn & Son Coal Co.	DeFrehn	Mahaska
Diamond Block Coal Co.	Diamond Block	Marion
Dixon Coal Co.	Dixon	Marion
Dobyns & Turnmire Coal Co.	Dobyns & Turnmire	Davis
Eagle Point Coal Co.	Eagle Point	Marion
Edwards, Thos. H. Coal Co.	Edwards	Mahaska
Edwards Bros. Coal Co.	Edwards	Mahaska
Eldon-Star Coal Co.	Eldon-Star	Wapello
Ellis, Roy C. Mining Co.	Nos. 3 & 4	Mahaska
Elm Grove Fuel Co.	Elm Grove	Wapello
Erin Coal Co., Inc.	Erin	Marion
Evans Coal Co., Thos.	Evans	Mahaska
Evans Bros. Coal Co.	Evans	Mahaska
Evans, J. H. & Son Coal Co.	Evans	Wapello
Ex-L Coal Co.	Ex-L	Marion
Evans Coal Company	Evans	Mahaska
Fernleaf Coal Co.	Fernleaf	Marion
Flasler Coal Co.	Flasler	Marion
Flanagan, Forrest D.	Flanagan	Marion
Four Star Coal Co.	Four Star	Mahaska
Gardner Coal Co., A.	Gardner	Wapello
Gibb Coal Company	Gibb Coal Co.	Monroe
Gold Nuget Coal Co.	Gold Nuget	Marion
Graham Coal Co.	No. 2	Monroe
Griffiths & Courtney	Griffiths & Courtney	Wapello
Gross, Jno. Coal Co.	Gross	Marion
Grudgings & Son Coal Co.	Grudgings	Keokuk
Glenn Coal Co.	Glenn	Wapello
Haines, Chas. & Son	Haines Coal Mine	Wapello
Hamlin Bros. Coal Co.	Hamlin	Van Buren
Hart Bros. Coal Co.	Hart	Mahaska
Hayes, Chas. & Son Coal Co.	Hayes	Marion
Hidden Hollow Coal Co.	Hidden Hollow	Marion
Hixon Coal Co.	Hixon	Marion
Honey Creek Coal Co.	Honey Creek	Marion
Honey Creek Coal Co.	Honey Creek No. 1	Marion
Howard Coal Co.	Howard	Ottumwa
Hy-Lo Coal Co. (F. K. Hunt)	Hy-Lo	Marion
Hynick Coal Co.	Hynick	Mahaska
Ideal Coal Co.	Ideal	Wapello
Johns Coal Co.	Johns	Wapello
Johns Bros. Coal Co.	Johns Bros.	Marion
Jones Coal Co.	Jones	Marion
Karpan Coal Company	Karpan	Monroe
Karsten Bros. Coal Co.	Karsten Bros.	Mahaska
Kilfoil, Orville and Ashburn, Ray	Kilfoil-Ashburn	Mahaska
Kirkville Coal Co.	No. 1	Wapello
Lae-z Coal Co.	Lae-z	Marion
Level Coal Co.	No. 2 & No. 3	Marion
Lewis Coal Co., Thos.	Lewis	Mahaska
Liberty Coal Co.	Liberty	Marion
r Coal Co., Jno.	Liter	Marion

Code Member Index—Continued

SUB-DISTRICT 2—Continued

Name of producer	Name of mine	County
Locust Grove Coal Co.	Locust Grove	Ottumwa
Long & Smith Coal Co.	Gearing	Marion
McGruder, Worth Coal Co.	McGruder	Marion
Mahaska Coal Co.	Mahaska	Mahaska
Marysville Coal Co.	Marysville	Marion
Miller Creek Coal Co. (R. G. Harris)	Miller Creek	Monroe
Mitrison, Jno. Coal Co.	Mitrison	Mahaska
Mitten Creek Coal Co.	Mitten Creek No. 1	Monroe
Monich Bros. Coal Co.	Monich Bros. Coal Co.	Mahaska
Montgomery Coal Co.	Montgomery	Mahaska
Morgan Valley Coal Co.	Morgan Valley	Marion
Nelson Coal Co.	Nelson	Marion
New Everist Coal Co.	New Everist	Marion
O. & L. Coal Company	O. & L. Coal Co.	Marion
O. K. Coal Co.	O. K.	Monroe
Old Carver Coal Co.	Old Carver	Wapello
Old North End Coal Co. (Albrecht & McCallum).	Old North End	Keokuk
Olive Coal Co.	Olive	Mahaska
Onder Coal Co., Mike	Onder	Lovilia
Oskaloosa Coal Co.	No. 2	Mahaska
Ottumwa Coal Co., Inc.	Ottumwa	Wapello
Owens Coal Co.	Owens	Mahaska
Patik, F. T. (Patik Coal Company)	Patik Coal	Mahaska
Pearson Coal Co.	Pearson	Wapello
Pee Wee Coal Co.	Pee Wee	Marion
Penrod Bros. Coal Co.	Penrod	Davis
Pershing Fuel Co.	No. 12	Marion
Peter & Burt Coal Co.	Peter & Burt	Lucas
Pleasant Valley Coal Co. (A. Medearis)	Pleasant Valley	Lucas
Quality Coal Co.	Quality	Mahaska
Ramsay-Dooms Coal Co.	Ramsay-Dooms	Marion
Ratcliff Coal Co.	Ratcliff	Van Buren
Red Rock Coal Co.	Red Rock	Marion
Reed, Frank Coal Co.	Reed Coal Co.'s Mine	Marion
Red Oak Coal Co.	Red Oak	Monroe
Reese Coal Co.	Reese	Monroe
Rice Coal Co.	No. 1	Marion
Riggen Coal Co.	No. 3	Marion
Roberts Coal Co., Bob	Bob Roberts	Mahaska
Robinson, T. J. Coal Co.	T. J. Robinson	Marion
Rogers & Dawson Coal Co.	Rogers & Dawson	Wapello
Round Point Coal Co.	Round Point	Wapello
Rowley, Ben, Coal Co.	No. 1	Marion
Royal Coal Co. (Habeltz & Quinn)	Royal	Marion
Sargent Coal Co., H. W.	H. W. Sargent	Mahaska
Seuferer Bros. Coal Co.	Seuferer	Warren
Shaffer Coal Co.	Shaffer	Marion
Simpson Bros. Coal Co.	Simpson Bros.	Wapello
Smith Bros. Coal Co.	Smith Bros.	Monroe
Smith, Rufus, Coal Co.	R. M. Smith No. 1	Mahaska
Smith & Clark Coal Co.	Smith & Clark	Monroe
Smoky Hollow Coal Co.	No. 12	Monroe
Square Deal Coal Co. (D. Henderson)	Square Deal	Marion
Standard Coal Co.	Standard	Mahaska
Standard Coal Co.	Standard	Marion
Sterling Coal Mining Co.	Sterling	Wapello
Stuh Coal Co.	Stuh	Marion
Sumpter Coal Co.	Sumpter	Marion
Teeter Bros. Coal Co.	Teeter Bros.	Wapello
Thatcher Coal Co.	Thatcher	Mahaska
Thomas & Owens Coal Co.	Thomas & Owens Coal Co.	Mahaska
Thomas, E. W.	Thomas	Wapello
Thompson Mining Co.	No. 2	Mahaska
Thompson Mining Co.	No. 2	Mahaska
Tillotson Coal Co.	Tillotson Bros.	Wapello
Trio Coal Co.	Trio	Wapello
Triple X Coal Co.	Triple X	Wapello
Twin Sisters Coal Co.	Twin Sisters	Marion
Tweedy Coal Co.	Tweedy	Van Buren
Valley Forge Coal Co.	Valley Forge	Marion
Vaneaunebrock Coal Co.	No. 5	Marion
Van Loon Coal Co.	Van Loon	Lucas
Victory Coal Co.	Victory	Marion
Vilsint Coal Co.	Vilsint	Marion
Von Seggen, Homer W.	Homer W. Von Seggen	Van Buren
Wagner Coal Co.	Wagner	Wapello
Walker Gilger Coal Co.	Walker Gilger	Wapello
Wallace Coal Co.	Wallace	Marion
Wallace Coal Co.	D. J. Wallace	Mahaska
Walnut Valley Coal Co.	Walnut Valley	Marion
Welch, J. A.	Welch	Marion
Westercamp, Floyd Coal Co.	Westercamp	Mahaska
What Cheer Clay Products	What Cheer	Keokuk
White Ash Cooperative Mng. Co.	White Ash Cooperative Mining Co.	Monroe
White Bros. Coal Co.	No. 2	Mahaska
White Eagle Coal Co.	White Eagle	Marion
Wignall & Jones Coal Co.	Wignall & Jones	Marion
Willhour Coal Co., A. L.	Willhour	Mahaska
Yeutsy Coal Co.	Yeutsy	Marion
Yeutsy & Wallace Coal Co.	Yeutsy	Marion
Young Bros. Coal Co.	Young Bros.	Lucas

SUB-DISTRICT 3

Acme Coal Co.	Acme	Marion
Angus Coal Mining Co.	Angus	Greene
Avon Coal Co.	Avon	Polk
Banner Coal Co.	Banner	Warren
Barron Coal Co.	Barron	Jasper
Beck Coal Co.	Beck	Webster

Code Member Index—Continued

SUB-DISTRICT 2—Continued

Name of producer	Name of mine	County
Beck Coal & Mining Co.	Beck	Polk
Benson Coal Co.	No. 2	Boone
Bishop Bros. Coal Co.	Bishop	Warren
Black Diamond Coal Co.	Black Diamond	Iowa
Bluff Creek Coal Co.	Bluff Creek	Boone
Bolen, Sam (Sam Bolen Coal Co.)	Sam Bolen Coal	Jasper
Boone Coal, Inc.	No. 4	Boone
Carbon Mining Co.	No. 9	Polk
Central Service Co.	No. 6	Polk
Coal Valley Coal Co.	No. 1	Boone
Colfax Coal Co.	No. 9	Jasper
Conway Coal Co.	Conway	Boone
Crescent Coal Co. (Geo. H. Hunter)	Crescent	Jasper
Crouse, F. C., Coal Co.	Crouse	Webster
Dallas Fuel Co.	Dallas Fuel	Dallas
Dawson Coal Co.	Dawson	Dallas
Dixon Coal Co.	Dixon	Boone
Economy Coal Co.	No. 3	Polk
Economy Coal Co.	No. 4	Jasper
Fuller Bros. Coal Co.	Fuller Bros.	Webster
Great Western Coal Co.	Orillia & Rainbow	Warren
Greene Co. Coal & Mng. Co.	No. 1	Greene
Grove Coal Co.	Grove	Boone
Guthrie Coal Co. (J. H. Howard)	Guthrie	Guthrie
Hampton, Chas. H., Coal Co.	Hampton	Jasper
Hendrickson Coal Co.	Hendrickson	Polk
Hewitt Coal Co.	Hewitt	Webster
Hopkins Coal Co.	No. 3 & No. 4	Jasper
Independent Coal Co.	Independent	Polk
Indian Hollow Coal Co. (C. Barr)	Indian Hollow	Warren
Joplin Coal Co.	Joplin	Polk
Keating Stanford Coal Co.	Keating Stanford	Polk
Kring Coal Co.	Kring	Polk
Levey Coal Co.	Levey	Polk
Lincoln & Wheeler Coal Co.	Lincoln & Wheeler	Boone
London Coal Co.	London	Webster
Losee & McCarty		Warren
May Coal Co.	May	Boone
McElheney Coal Co.	No. 1	Greene
Marshall Coal Co.	Marshall	Jasper
Martin Coal Co.	Martin	Boone
Mid West Coal Co.	Mid West	Polk
New Milford Coal Co.	New Milford	Boone
New Riverside Coal Co.	New Riverside	Greene
No. 3 Coal Co.	No. 3	Webster
North River Coal Company	North River	Warren
Norwalk Coal Co.	Norwalk	Warren
Norwood-White Coal Co.	No. 7 Moran	Dallas
Norwood-White Coal Co.	No. 8 Herrold	Polk
Oakdale Coal Co.	Oakdale	Warren
Ogden Superior Coal Co.	Ogden Superior	Boone
Olson Coal Co.	Olson	Boone
Panora Coal Co.	Panora	Guthrie
Panther Creek Coal Co. (Chas. Supon)	Panther Creek	Dallas
Pike Coal Co., O. L.	Pike	Warren
Pilot Mound Coal Co.	Pilot Mound	Boone
Rainbow Coal Co.	Rainbow	Boone
Rider Co-Operative Coal Co.	Rider	Polk
Ridge Block Coal Co.	Ridge Block	Warren
Scally Coal Mining Co.	Scally	Webster
Scandia Coal Co.	No. 4 & No. 6	Boone
Scott Coal Co.	Scott	Guthrie
Shuler Coal Co.	Shuler	Dallas
Sipe Jentz Coal Co.	Sipe Jentz	Guthrie
Spring Coal Co.	Spring	Boone
Spring Hill Coal Co.	Spring Hill	Warren
Urbandale Coal Co.	Urbandale	Polk
Valley Coal Co.	Valley	Warren
Wadle & Sons Coal Co.	Wadle	Warren
Warren Coal Co.	Warren	Boone
White Coal Co.	No. 1	Webster
Williams, Thad	Williams Coal Co.	Boone
Wilson Bridge Coal Co.	Wilson Bridge	Boone
Wolf Creek Coal & Mng. Co.	Wolf Creek	Polk
Zenorville Coal Co.	Zenorville	Boone

SUB-DISTRICT 4

Acton, C. A. & Sons Coal Co.	Acton	Adams
Anderson & Ruben Bros.	Anderson & Ruben	Adams
Bean Coal Co.	Bean	Taylor
Bean Coal Co. (Ed. J. Bean)	Bean	Page
Boham Coal Co.	Boham	Adams
Chatterton Coal Co.	Chatterton	Adams
Clarinda Coal Co.	Clarinda	Page
Evans Coal Co.	Evans	Mahaska
Gebbie Coal Co.	Gebbie	Adams
Hendrickson Coal Co.	Hendrickson	Polk
Henton Coal Co.	Henton	Adams
Henton, Dave C. Coal Co.	Henton	Adams
Hunter Coal Co., J. D.	Hunter	Adams
Jordan, Chas., Mine	Jordan	Adams
Linker & Landrus Coal Co.	Linker & Landrus	Adams
New Market Coal Co.	No. 2	Taylor
Pearson Coal Co.	Pearson	Page
Ruth Coal Co.	No. 8	Adams
Sawhill Coal Co.	Sawhill	Page
Sterns Coal Co., Earl	Sterns	Adams
Thompson Coal Co.	Roy Thompson	Adams
Wainwright Coal Co.	Homer Wainwright	Adams

Equivalent Round Hole Size of Bar Screens

Bar spacing:	Round hole equivalent
¾"	1⅛"
1"	1¾"
1¼"	2"
1½"	2⅞"
2"	4⅜"
2½"	4⅞"
3"	5½"
4"	6"
5"	7¾"

Minimum Truck Mine Prices Per Net Ton of 2,000 Pounds F. O. B. Mines

Size group No.	Size	Sub-Dist. 1	Sub-Dist. 2	Sub-Dist. 3	Sub-Dist. 4
1	6" Chunk & Larger	$2.95	$3.10	$3.90	$3.80
2	Std. Lump & Furnace				
	2" Lump				
	8" x 4"				
	6" x 4"	2.85	3.00	3.80	3.70
	6" x 3"				
3	Egg or Range				
	8" x 2"	2.75	2.90	3.70	3.60
	6" x 2"				
4	Small Egg				
	4" x 2"	2.70	2.80	3.60	3.50
	3" x 1½"				
5	Run of Mine	2.85	2.70	3.00	3.70
6	Nut				
	2" x 1½"	2.75	2.75	3.25	3.50
	1¼" x ¾"				
7	Stoker				
	1¼" x 1"-10 Mesh	2.75	2.80	3.25	3.50
8	Screenings				
	2"-1¼"-1¼"-1"	2.05	2.05	2.20	2.50
	¾" x 0"				

See previous table for Round Hole Equivalent.

[F. R. Doc. 38-207; Filed, January 19, 1938; 2:02 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1938 Liquid Sugar Quotas for Foreign Countries

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICER

Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public No. 414, 75th Congress) and on the basis of the information now before me, I, Harry L. Brown, Acting Secretary of Agriculture, do hereby find that the allotment of the 1938 liquid sugar quotas for foreign countries, established pursuant to section 208 of the said act, is necessary to afford all interested persons an equitable opportunity to market such sugar, and hereby give notice that a public hearing will be held at Washington, D. C., in the auditorium of the United States Department of Agriculture, on February 1, 1938, at 10 a. m.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the above-mentioned quotas among persons who bring liquid sugar from foreign countries into the continental United States, and such other evidence as may be pertinent to the exercise of the powers vested in the Secretary of Agriculture under section 205 (a) of the said act.

Robert H. Shields and John C. Bagwell are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

The "Notice of Hearing and Designation of Presiding Officers" signed by the Secretary of Agriculture on January 13, 1938, is hereby rescinded.

Done at Washington, D. C., this 19th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-209; Filed, January 20, 1938; 10:12 a. m.]

Determination of Fair and Reasonable Wage Rates for Harvesting of the 1937 Crop of Sugar Beets, Pursuant to the Sugar Act of 1937

Whereas Section 301 (b) of the Sugar Act of 1937, approved September 1, 1937, provides as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas Section 301 (e) of the said act provides, in part, as follows:

The conditions provided in * * * sub-section (b) with respect to wage rates, of this section shall not apply to work performed prior to the enactment of this Act; * * *.

and

Whereas the Secretary of Agriculture has held a number of public hearings in the sugar beet area for the purpose of receiving evidence with respect to fair and reasonable wage rates for persons employed in the production, cultivation or harvesting of the 1937 crop of sugar beets.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine a fair and reasonable wage rate with respect to the harvesting, after September 1, of the 1937 crop of sugar beets, which rate for any farm shall be not less than 12 cents per ton harvested in addition to the total amount agreed upon between the producer and the laborer; provided, however, that a producer shall be deemed to have complied with the requirements of Section 301 (b) of the Sugar Act of 1937 in regard to fair and reasonable wages if the following rates have been paid for harvesting acreages yielding more than seven (7) tons per acre:

The number of net short tons of sugar beets harvested per acre:	*Rate per (net) short ton for the total tonnage harvested per acre*
More than 7 tons but less than 8 tons	$1.07
8 tons or more but less than 9 tons	1.03
9 tons or more but less than 10 tons	1.00
10 tons or more but less than 11 tons	.97
11 tons or more but less than 12 tons	.95
12 tons or more but less than 13 tons	.93
13 tons or more but less than 14 tons	.92
14 tons or more but less than 15 tons	.91
15 tons or more but less than 16 tons	.90
16 tons or more but less than 17 tons	.89
17 tons or more but less than 18 tons	.88
18 tons or more but less than 19 tons	.88
19 tons or more	.87

Done at Washington, D. C., this 20th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-215; Filed, January 20, 1938; 12:45 p. m.]

Bureau of Agricultural Economics.

Amendment No. 1 to Official Standard Grades for Burley Tobacco (U. S. Type 31)

By virtue of the authority vested in the Secretary of Agriculture by The Tobacco Inspection Act, approved August 23, 1935 (49 Stat., 731), I, H. A. Wallace, Secretary of Agriculture, do prescribe and promulgate the following amendment, which shall be in force and effect on and after this date, to the Official Standard Grades for Burley Tobacco as established November 25, 1936.

Under the heading, Lugs or Cutters (C-Group), the following three grades are added:

U. S. Grade:	*Grade description and specifications*
C3R	Good Quality Cutters in Red Color. Fairly thin body, otherwise same as C3L.
C4R	Fair Quality Cutters in Red Color. Fairly thin to medium body, otherwise same as C4L.
C5R	Low Quality Cutters in Red Color. Fairly thin to medium body, otherwise same as C5L.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 18th day of January, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-201; Filed, January 19, 1938; 1:08 p. m.]

Farm Security Administration.

[Administration Order 40, Rev. 2, Supp. 6 [1]]

Loans to Community and Cooperative Associations and to Individuals to Participate in Such Associations or in Joint Activities

LABOR STANDARDS OF WAGES, HOURS, AND CONDITIONS OF EMPLOYMENT

1. Effective immediately, paragraph 3i of AO 40 (Rev. 2) is revised to read as follows:

"3. (i) All loan agreements entered into by the FSA and cooperative associations organized or operated in connection with approved resettlement community projects must provide that cooperative associations, insofar as they engage in the cooperative production of goods or performance of services which are to be sold in competition with the goods or services of private enterprises, or insofar as they employ nonmembers in production or in the performance of services, will maintain standards of wages, hours, and conditions of employment, at least equal to those prevailing for similar occupations in private enterprises with which they are in direct competition as determined from time to time by the Administrator acting for the Secretary of Agriculture upon the recommendation of the Directors of the LR and RP Divisions. Such conditions will be set forth in 'Notice of Labor Standards' which may be authorized from time to time by the Administrator acting for the Secretary of Agriculture, and which will be effective for the duration of the FSA's supervision of the cooperative activities. These requirements will not apply to medical and dental cooperatives

[1] Supersedes par. 3i of AO 40, Rev. 2, 9/26/36.

which do not maintain hospital facilities or which are not located on community projects of the FSA."

[SEAL] WILL W. ALEXANDER, *Administrator.*

Approved, January 18, 1938.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-202; Filed, January 19, 1938; 1:08 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 19th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-313]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE METAL CLAD DOOR AND ACCESSORIES MANUFACTURING INDUSTRY

Promulgation of Trade Practice Rules

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding and the rules in Group II which have been received by the Commission as expressions of the industry be, and the same are, hereby promulgated for the Metal Clad Door and Accessories Manufacturing Industry.

TRADE PRACTICE RULES—METAL CLAD DOOR AND ACCESSORIES—MANUFACTURING INDUSTRY

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or other illegal practices prohibited, within the purview of the Federal Government, by acts of Congress as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. Directly or indirectly to give, or permit to be given, or offer to give, money or anything of value to agents, employees or representatives of customers or prospective customers, or to agents, employees or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

RULE 2. Wilfully inducing or attempting to induce the breach of an existing contract or contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or wilfully interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 3. Wilfully enticing away the employees of competitors with the purpose and effect of unduly hampering, injuring or embarrassing competitors in their businesses is an unfair trade practice.

RULE 4. It is an unfair trade practice for any member of the industry to make or publish or cause to be made or published, directly or indirectly, any false, misleading or deceptive statement or representation, by way of advertisement, guarantee, warranty, adjustment policy, or otherwise, concerning the grade, quality, quantity, substance, use, character, nature, origin, size, manufacture or distribution of any product of the industry, or concerning the life or service of such product, or in any other material respect.

RULE 5. The false or deceptive marking or branding of products of the industry, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public with respect to the grade, quality, quantity, use, size, material, content, origin, preparation, manufacture or distribution of such products, or in any other material respect, is an unfair trade practice.

RULE 6. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies or services, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 7. (*a*) *Prohibited discriminatory rebates, refunds, discounts, credits and other price differentials.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebates, refunds, discounts, credits or other price differentials, where such rebates, refunds, discounts, credits or other price differentials effect a discrimination in price between different purchasers of goods of like grade and quality and where either or any of the purchases involved therein are in commerce[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce[1] or to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers or either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(*b*) *Prohibited brokerages and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce[1], in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(*c*) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(*d*) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(*e*) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[1] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public, No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

RULE 8. The practice of selling goods below the seller's cost with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or unreasonably restrain trade is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 9. Representing, through advertising or otherwise, that any products of the industry conform to a standard recognized in or applicable to the industry when such is not the fact, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

RULE 10. The sale or offering for sale of any product of the industry by any false or deceptive means or device which has the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public as to the grade, quality, quantity, substance, use, character, nature, origin, size or preparation of such product, or in any other material respect, is an unfair trade practice.

RULE 11. The practice of using or substituting any product of the industry inferior in grade or quality to, less in quantity than, or of a different design or type from, that specified by the purchaser, without the consent of said purchaser to such use or substitution and with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public, is an unfair trade practice.

[1] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possesion or other place under the jurisdiction of the United States; Provided, That this shall not apply to the Philippine Islands.

Group II

The trade practices embraced in these Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. However, the failure to observe them under certain circumstances may result in an unfair method of competition contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. Contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

RULE B. The industry condemns fake or fictitious bids made for the purpose of deceiving competitors and securing undue advantage. If plans and specifications are changed and new bids called for after the original bids have been submitted and opened, the same fairness should obtain as with the original bid.

RULE C. In cases of competitive bidding, the practice of receiving or making so-called "blind bids", which discount the lowest competitive bid regardless of the amount, tends to destroy competitive bidding, and is condemned by the industry.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

Entered January 19, 1938.

[F. R. Doc. 38-214; Filed, January 20, 1938; 12:37 p. m.]

RAILROAD RETIREMENT BOARD.

REGULATIONS GOVERNING NOTIFICATION BY EMPLOYERS OF THE DEATH OF EMPLOYEES

Pursuant to authority contained in section 10 (b) 4 of the Railroad Retirement Act of 1937, the following regulations are hereby promulgated:

It shall be the duty of every employer coming within the purview of the above Act to notify the Railroad Retirement Board of the death of any employee in active employment and, when known, of the death of any employee in an employment relation, within 30 days following the receipt by the employer of notice of such death. Such notification to the Board shall be made on Form AA-12 and, to the extent known to the employer, shall show, among other things, the date of death, place thereof and the name and address of the surviving spouse or nearest relative.

The notice of death shall also contain a statement of the amount of compensation earned by the deceased for service to the employer for each month of the period beginning with the first month of the last completed calendar quarter and ending with the date of death and any other statement which the Board may deem necessary in carrying out the provisions of the Act.

This report does not take the place of the regular reports of employee's compensation to the Bureau of Accounts but represents an additional report with respect to deceased employees. The regular reports will be rendered when due, including any amounts which may be reported as the result of the death of the employee.

Form No. AA-12 will be used for purposes of this report.

By direction of the Board.

[SEAL] R. B. BRONSON, *Secretary.*

JANUARY 17, 1938.

[F. R. Doc. 38-213; Filed, January 20, 1938; 10:33 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of January, A. D. 1938.

[File No. 43-96]

IN THE MATTER OF AMERICAN WATER WORKS AND ELECTRIC COMPANY, INCORPORATED

ORDER FIXING EFFECTIVE DATE FOR DECLARATION

American Water Works and Electric Company, Incorporated, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by it of $6,000,000 aggregate principal amount of its promissory notes, 3½%, due December 31, 1939, of which $3,000,000 are to be dated on or before January 26, 1938 and the remaining $3,000,000 thereof are to be dated on or before July 15, 1938;

A hearing on said declaration, as amended, having been held after appropriate notice, the record in this matter having been examined, and the Commission having made and filed its findings herein;

It is ordered, That said declaration be and become effective forthwith subject to the terms and for the purposes represented thereby: Subject, however, to the following terms and conditions:

1. That the Commission reserves jurisdiction to revoke, not later than June 15, 1938, this order with respect to the $3,000,000 of notes to be dated July 15, 1938, and to issue an order to declarant to show cause why this declaration should become effective regarding such notes;

2. That, pursuant to its written representation and agreement, declarant shall not, except on order of the Commission giving effect to a declaration with respect thereto, issue any further notes under the exemption provided in the first sentence of Section 6 (b) of the Act, if the aggregate of such notes, together with any then outstanding notes covered by this declaration, shall exceed the five per cent limit prescribed in the said first sentence of Section 6 (b).

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-216; Filed, January 20, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of January, 1938.

IN THE MATTER OF VIRGIL E. WALKER, GENESEE VALLEY TRUST BUILDING, ROCHESTER, NEW YORK

ORDER REVOKING REGISTRATION

Virgil E. Walker, hereinafter called the registrant, having filed with the Commission on July 9, 1935, an application for registration and the registration of the said registrant having become effective on January 1, 1936, and the said registrant being now registered as a broker and/or dealer; and

The Commission having on December 2, 1937, instituted proceedings under Section 15 (b) of the Securities Exchange Act of 1934, as amended, on the question of revocation of said registration alleging that said registrant was enjoined by order of the Supreme Court of the State of New York, Monroe County, on or about January 24, 1936, and by order of the same tribunal on April 6, 1937, from engaging in and continuing certain conduct and practices in connection with the purchase and sale of certain securities, and that the registrant during the period from June 20, 1936 to December 12, 1936 had wilfully violated the Securities Act of 1933, as amended, in the sale of certain securities to divers persons; and

The Commission having further reasonable grounds to believe that it is in the public interest to revoke the said registration; and

The said registrant, on December 15, 1937, having waived notice and opportunity for hearing, and having consented in writing to the revocation of the said registration, and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Virgil E. Walker as broker and/or dealer transacting business on the over-the-counter markets be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-217; Filed, January 20, 1938; 12:51 p. m.]

Saturday, January 22, 1938 ***No. 16***

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49350]

BONDED WOOL AND CAMEL HAIR

EXTENSIONS OF 3-YEAR PERIOD PRESCRIBED IN PARAGRAPH 1101, TARIFF ACT OF 1930

JANUARY 15, 1938.

To Collectors of Customs and Others Concerned:

Acting under the authority vested in him by section 318 of the Tariff Act of 1930, 46 Stat. 696 (U. S. C. title 19, sec. 1318), the President on December 29, 1937, issued a proclamation declaring an emergency to exist and authorizing the Secretary of the Treasury—

(1) In the case of wools or camel hair imported or withdrawn from warehouse under bond during the calendar year 1934, under paragraph 1101 of the Tariff Act of 1930, 46 Stat. 646 (U. S. C. title 19, sec. 1001, par. 1101), to extend the period during which proof of use in manufacture may be furnished for not more than 1 year from and after the expiration of the 3-year period prescribed in said paragraph as extended for 1 year under the authority of a proclamation dated December 30, 1936 (T. D. 48774), and (2) in the case of wools or camel hair imported or withdrawn from warehouse under bond during the calendar year 1935, under paragraph 1101 of the Tariff Act of 1930, to extend the period during which proof of use in manufacture may be furnished for not more than 1 year from and after the expiration of the 3-year period prescribed in said paragraph, subject to the following conditions:

Provided, however, That in each and every case the Secretary of the Treasury shall require that the principal on the bond, in order to obtain the benefits under the extension granted, shall either furnish the collector of customs for the district in which the bond was given the agreement of the sureties on such bond to remain bound under the terms and provisions of the bond to the same extent as if no extension were granted, or furnish an additional bond with acceptable sureties to cover the period of extension

Pursuant to the authority conferred upon me by the President's proclamation of December 29, 1937, the period during which proof of use in manufacture may be furnished is hereby extended for a period of 1 year in the case of wools and camel hair imported or withdrawn from warehouse under bond during the calendar year 1934 or 1935; and collectors of customs are hereby authorized to permit such proof of use to be furnished (1) within 5 years from the date of importation or withdrawal from warehouse in the case of wools or camel hair imported or withdrawn from warehouse during the calendar year 1934, and (2) within 4 years from the date of importation or withdrawal from warehouse in the case of wools or camel hair imported or withdrawn from warehouse during the calendar year 1935, provided that in each case the principal on the bond shall either furnish the agreement of the sureties on the bond to remain bound under the terms and provisions of the bond to the same extent as if no extension were granted, or furnish an additional bond with acceptable sureties to cover the period of extension.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-218; Filed, January 20, 1938; 3:28 p. m.]

[T. D. 49351]

COUNTERVAILING DUTY—DRIED SALT FISH FROM NOVA SCOTIA

COLLECTORS OF CUSTOMS AUTHORIZED TO ACCEPT CERTIFICATES FROM ALL UNITED STATES CONSULAR OFFICERS IN NOVA SCOTIA IN RESPECT OF DRIED SALT FISH

To Collectors of Customs and Others Concerned:

Reference is made to T. D. 49196, dated October 12, 1937, as amended by T. D. 49269, dated November 26, 1937, instructing collectors of customs to impose countervailing duties on importations of certain dried salt fish from Nova Scotia, unless there is filed with the entry a certificate issued by the United States Consul at Halifax, stating that no bounty or grant has been or will be paid or bestowed in respect of such fish.

The said T. D. 49196 is hereby amended by deleting from the last paragraph the words "the United States Consul at Halifax" and substituting therefor the words "a consular officer of the United States stationed in Nova Scotia."

[SEAL] J. H. MOYLE,
Commissioner of Customs.

Approved: January 18, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-220; Filed, January 21, 1938; 12:48 p. m.]

Bureau of Internal Revenue.

[T. D. 4792]

INCOME TAX

ARTICLE 23 (P)-1 OF REGULATIONS 94 AMENDED

To Collectors of Internal Revenue and Others Concerned:

Article 23 (p)-1 of Regulations 94 is amended to read as follows:

"ART. 23 (p)-1. *Payments to employees' pension trusts.*—An employer claiming the benefit of the deduction allowable by section 23 (p) must show himself entitled to such deduction. In no case will any amount be allowed as a deduction for the taxable year under section 23 (p) and this article which was allowable as a deduction from gross income for any prior year. An employer who adopts or has adopted a reasonable pension plan, actuarially sound, and who establishes, or has established, and maintains a pension trust for the payment of reasonable pensions to his employees (if the trust is exempt from tax under section 165, relating to trusts created for the exclusive benefit of employees) shall be allowed to deduct from gross income reasonable amounts paid to such trust, in accordance with the pension plan (including any reasonable amendment thereof), as follows:

"(*a*) If the plan contemplates the payment to the trust, in advance of the time when pensions are granted, of amounts to provide for future pension payments, then (1) amounts paid to the trust during the taxable year representing the pension liability applicable to such year, determined in accordance with the plan, shall be allowed as a deduction for such year as an ordinary and necessary business expense, and in addition (2) one-tenth of a reasonable amount transferred or paid to the trust during the taxable year to cover in whole or in part the pension liability applicable to the years prior to the taxable year, or so transferred or paid to place the trust on a sound financial basis, shall be allowed as a deduction for the taxable year and for each of the nine succeeding taxable years;

"(*b*) If the plan does not contemplate the payment to the trust, in advance of the time when pensions are granted, of amounts to provide for future pension payments, then (1) amounts paid to the trust during the taxable year representing the present value of the expected future payments in respect of pensions granted to employees retired during the taxable year shall be allowed as a deduction for such year as an ordinary and necessary business expense, and in addition (2) one-tenth of a reasonable amount transferred or paid to the trust during the taxable year to cover in whole or in part the present value of the expected future payments in respect of pensions granted to employees retired prior to the taxable year, or so transferred or paid to place the trust on a sound financial basis, shall be allowed as a deduction for the taxable year and for each of the nine succeeding taxable years.

"The right to a deduction under section 23 (p) will be recognized in cases where the pension trust may not be perpetual, provided the trust is of such a character as to evidence good faith on the part of the employer actually to pay the amounts placed in trust for employees' pension purposes. However, should any portion of the funds of a pension trust revert to the possession, ownership, or control of the employer by reason of the termination of the trust or otherwise, such amount (except to the extent that it represents a payment to the pension trust made by the employer in acordance with the pension plan and pursuant to paragraph (a) or (b) of this article, and not theretofore allowed as a deduction to the employer) shall be returned as income by the employer for the taxable year in which it so reverts, unless prior to the close of such year it shall again be placed in trust for the benefit of employees under provisions satisfactory to the Commissioner.

"Reasonable payments made by an employer during the taxable year directly to pensioners on account of pensions in respect of which no payment has been made to a pension trust shall be allowed as a deduction from gross income for such year as an ordinary and necessary business expense.

"Devices of whatever nature for withdrawing profits or paying salaries to officers are not pension trusts within the meaning of the Act and this article.

"A pension trust maintained by affiliated corporations for the exclusive benefit of their employees is within the scope of sections 23 (p) and 165.

"The application of section 23 (p) may be illustrated by the following examples:

"*Example—Accruals in advance of pensions granted:* In 1936 the M Company adopted a reasonable pension plan and established a pension trust which was exempt from tax under section 165. During the year and upon the basis of an actuarial computation the company paid $8,950,000 to the trust. At the time of the payment and in accordance with the pension plan of the company, the pension liability applicable to the years prior to 1936, in respect of employees then on the retired roll, for pensions to be paid in the future, was $2,000,000; the pension liability applicable to the years prior to 1936, in respect of employees on the active roll, for pensions to be paid in the future, was $6,500,000; the payment required to cover the pension liability applicable to the taxable year 1936 for pensions to be paid in the future, was $450,000. The amount paid to retired employees of the M Company by the pension trust as pensions during 1936 was $360,000.

"The deduction for 1936 is computed as follows:

(*a*) Entire amount paid to pension trust representing the pension liability applicable to 1936 for pensions to be paid in the future	$450,000
(*b*) One-tenth of $8,500,000, amount transferred to pension trust to cover the pension liability applicable to the years prior to 1936, in respect of employees on either the retired roll or the active roll, for pensions to be paid in the future	850,000
Total deduction	1,300,000

"The amount of $360,000 paid to pensioners is not allowable as a deduction for income tax purposes since it was paid by the pension trust and not by the M Company.

"*Example—Accruals on basis of pension granted.*—In 1936 the N Company adopted a reasonable pension plan and established a pension trust which was exempt from tax under section 165. During the year and upon the basis of an actuarial computation the company paid $2,300,000 to the trust. At the time of the payment the present value of the expected future payments in respect of pensions granted to employees retired prior to 1936 was $2,000,000; the present value of the expected future payments in respect of pensions granted to employees retired during 1936 was $300,000. The amount paid to retired employees of the N Company by the pension trust as pensions during 1936 was $360,000.

"The deduction for 1936 is computed as follows:

(*a*) Entire amount paid to the pension trust representing the present value of the expected future payments in respect of pensions granted to employees retired during 1936	$300,000
(*b*) One-tenth of $2,000,000, the amount transferred to the pension trust to cover the present value of the expected future payments in respect of pensions granted to employees retired prior to 1936	200,000
Total deduction	500,000

"The amount of $360,000 paid to pensioners is not allowable as a deduction for income tax purposes, since it was paid by the pension trust and not by the N Company."

Regulations 94 are further amended by adding after article 23 (p)-1, as amended, the following article:

"ART. 23 (p)-2. *Information to be furnished by employer claiming deductions.*—If a deduction from gross income is claimed under section 23 (p) in an income return or in a claim for refund on account of payments to an employee's pension trust, the employer shall file with such return or claim for refund a statement describing the pension trust plan, including the basis and method of its operation, together with a copy of the trust indenture, with any amendments thereto, and other documents constituting a part of the plan. If all employees are not included as beneficiaries of the pension trust, a statement showing what classes of employees are excluded, and the general nature of their respective employment and duties, together with the reason why all employees are not covered by the pension trust plan, shall likewise be filed. If such statements have once been filed and if the return contains a statement when and where such statements were filed, they need not again be filed; but, however, if changes in the pension trust plan have been made, a statement showing the nature of such changes (together with copies of any amendments to the trust indenture and other documents constituting a part of the plan) must be filed with the return for the first taxable year for which allowance of deductions under section 23 (p) may be affected by such changes in the pension trust plan.

"In addition the following described data and information shall be kept at all times available for inspection by internal revenue officers at the main office or principal place of business of the employer:

"1. Schedules or work sheets showing the derivation of the basic valuation factors, or, if such data are not available, a statement giving the source of the factors from which the actuarial valuations were made.

"2. (*a*) Schedules showing the computation of the reserve liability for all employees in the active service as determined from the most recent actuarial valuation. For taxable years beginning after December 31, 1936, the most recent actuarial valuation, for the purposes of this article, means such a valuation made not earlier than five years prior to the filing of the return.

"(*b*) A similar schedule based on the next preceding valuation if such a valuation has been made.

"3. A schedule showing by ages the individual current liability factors and the application of these factors in determining the liability accrued during the current taxable year.

"4. (*a*) A schedule showing the computation of the pension liability for all employees retired on pension at the date of the last actuarial valuation.

"(*b*) A schedule showing, by calendar years, the present value of pensions granted from the date of the last actuarial valuation to the end of the taxable year for which the deduction is claimed in an income return or in a claim for refund.

"5. A schedule showing the receipts and disbursements of the pension fund during each taxable year carried forward from the date the pension trust was established. The receipts should include the accruals mentioned in paragraph 3, interest, and any other monies credited to the fund. The disbursements should include actual pension payments made to retired employees and any other expenditures charged to the pension fund.

"If the valuation factors are changed at any time, either because of a change in the pension plan or because of a change in the assumptions upon which the valuation factors are based, the data indicated under 2, 3, and 4 above should be available showing the application of both the old and the new valuation factors to the payroll as of the valuation date coinciding with or next following the date of the change.

"If the pension plan does not contemplate the payment to the trust in advance of the time when pensions are granted, of amounts to provide for future pension payments, the data described under 2 and 3 above need not be furnished."

This Treasury Decision is issued under the authority contained in section 62 of the Revenue Act of 1936.

[SEAL] CHAS. T. RUSSELL,
Acting Commissioner of Internal Revenue.

Approved: January 18, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-219; Filed, January 21, 1938; 12:48 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of January, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET OF PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE MARLARNEE & SHELTON-FLOWERS TRACT, FILED ON DECEMBER 20, 1937, BY FRED X. SULZBACH, RESPONDENT

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

Fred X. Sulzbach, having filed on December 20, 1937, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

In that the information given under Division II, Item 20 (b) concerning the percentage of water in fluid produced is not correctly stated;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 4th day of February, 1938, at 10 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-221; Filed, January 21, 1938; 12:57 p. m.]

Tuesday, January 25, 1938 *No. 17*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 6644 OF MARCH 14, 1934, WITHDRAWING PUBLIC LANDS

Colorado

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 6644 of March 14, 1934, withdrawing public lands in Colorado pending a resurvey, is hereby revoked as to the following-described township:

SIXTH PRINCIPAL MERIDIAN

T. 3 S., R. 82 W.

This order shall become effective upon the date of the official filing of the plat of the resurvey of said township.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 20, 1938.

[No. 7793]

[F. R. Doc. 38-223; Filed, January 21, 1938; 3:05 p. m.]

EXECUTIVE ORDER

CORRECTING DESCRIPTION OF PARCEL OF LAND CONTAINED IN EXECUTIVE ORDER NO. 6050 OF FEBRUARY 27, 1933

WHEREAS by Executive Order No. 6050 of February 27, 1933, two parcels of land situated near Juneau, Territory of Alaska, and comprising part of the Tongass National Forest were assigned to and placed under the control of the Secretary of War for use as a site for the Army radio receiving station at Juneau, Alaska; and

WHEREAS an investigation has revealed errors and inaccuracies in description contained in the said executive order of one of such parcels, designated as Parcel One;

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U. S. C., title 16, sec. 473), it is ordered that the description of the said Parcel One as contined in the said Executive Order No. 6050 of February 27, 1933, be, and it is hereby, corrected to read as follows:

Parcel One

Beginning at corner No. 7 of United States Survey No. 1762, Juneau Elimination Boundary (unapproved), said corner being an iron post 36 in. long, 2 in. in diameter, marked on cap C7 FES 1762 1927, and set 27 in. in the ground, from which a spruce tree 14 in. in diameter marked C7 FES 1762 BT bears N. 19°50' W., 529 lks., and a second spruce tree 14 in. in diameter marked C7 FES 1762 BT bears N. 34°10' E., 376 lks;

Thence from said initial point, by metes and bounds:

S. 78°22' E., 708.18 ft.
N. 62°30' E., 462.0 ft.
S. 44°15' E., 605.0 ft.,
South, 1,228.0 ft.,
West, 2,000.0 ft.,

In a northerly direction, 1,700 ft., more or less, along the easterly line of lots "M", "L", "K", and "I" of Forest Service Homesite Survey,

S. 89°50' E., 586 ft.,
South, 111.50 ft., to the place of beginning.

The tract as described contains an area of 74.30 acres, more or less.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 20, 1938.

[No. 7794]

[F. R. Doc. 38-224; Filed, January 21, 1938; 3:05 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE HURON MIGRATORY BIRD REFUGE

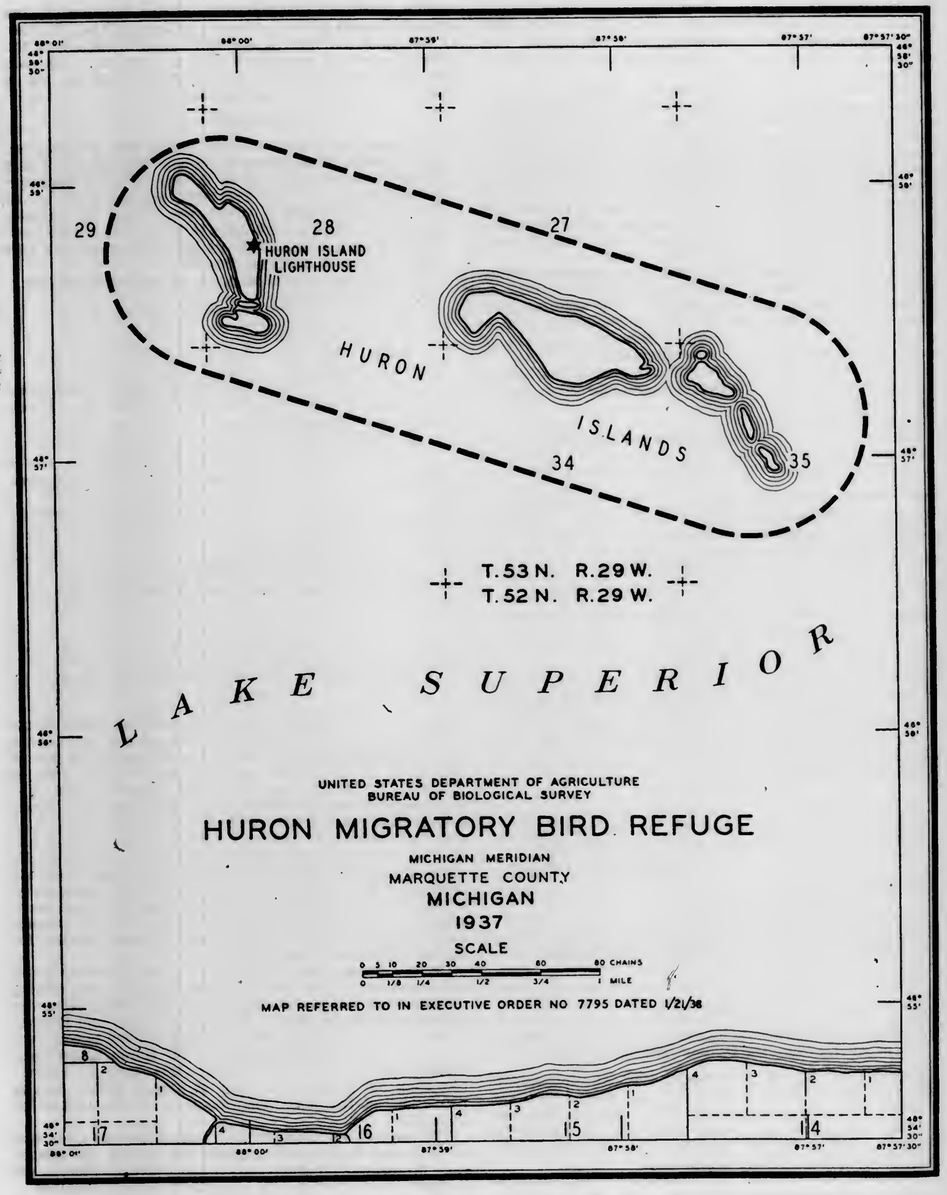
Michigan

By virtue of and pursuant to the authority vested in me as President of the United States and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the islands, surveyed and unsurveyed, of the Huron Islands group, lying near the south shore of Lake Superior and situated in sections 27 to 29, inclusive, and sections 34 and 35, T. 53 N., R. 29 W., Michigan Meridian, comprising approximately 147 acres, as shown on the diagram attached to and made a part of this order,[1] be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife.

Certain of the above-described islands are primarily under the jurisdiction of the War Department and the Department of Commerce, and the reservation thereof made by this order is subject to the respective uses thereof by the said Departments in connection with the quarrying of stone to construct breakwaters and the maintenance of the Huron Island Light Station; and the use thereof by the Department of Agriculture shall not interfere with any existing or future uses or regulations of the War Department or the Department of Commerce.

The reservation made by this order supersedes as to any of the above-described islands affected thereby the temporary withdrawal for classification and other purposes made by Executive Order No. 4430 of April 23, 1926, as modified.

[1] See Page 196.



The Executive Order of October 10, 1905, establishing the Huron Islands Reservation is hereby revoked.

This refuge shall be known as the Huron Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 21, 1938.

[No. 7795]

[F. R. Doc. 38-231; Filed, January 22, 1938; 12:38 p. m.]

EXECUTIVE ORDER

AMENDING EXECUTIVE ORDER OF JANUARY 17, 1873, TO PERMIT CERTAIN EMPLOYEES OF DEPARTMENT OF THE INTERIOR TO HOLD STATE, TERRITORIAL, AND MUNICIPAL OFFICES, ETC.

By virtue of and pursuant to the authority vested in me by section 1753 of the Revised Statutes of the United States (U. S. C., title 5, sec. 631), and as President of the United States, the Executive Order of January 17, 1873, as amended, prohibiting, with certain exceptions, Federal officers and employees from holding state, territorial, and municipal offices, is hereby further amended so as (1) to permit officers and employees of the Department of the Interior, upon approval of the Secretary of the Interior, to hold office under state, territorial, and municipal governments engaged in cooperative and related work with the Department of the Interior, as authorized by Federal and state laws: *Provided,* that the services to be performed by them shall pertain to such work and shall not in any manner interfere or conflict with the performance of their duties as officers or employees of the Federal Government; and (2) to permit state, territorial, and municipal officers or employees engaged in cooperative and related work with the Department of the Interior, unless prohibited by law, to accept appointment in and serve under the Department of the Interior when the Secretary of the Interior deems such employment necessary to secure a more efficient administration of the said work: *Provided,* that the appointment of any such officer or employee to a position subject to the civil-service laws of the Department of the Interior shall be made in accordance with civil-service laws, rules, and regulations.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 21, 1938.

[No. 7796]

[F. R. Doc. 38-232; Filed, January 22, 1938; 12:38 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 90-FD]

IN THE MATTER OF CARTER COAL COMPANY

AN ORDER RESCINDING TEMPORARY ORDER ENTERED HEREIN JANUARY 10, 1938, ON SUPPLEMENTAL PETITION

The petitioner above named having filed with the Commission on the 23rd day of December, 1937, pursuant to the provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a supplemental petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 7, and praying for immediate and temporary relief therein set forth by preliminary or temporary order pending final disposition of said supplemental petition; and this matter having come on to be heard before the Commission on the 3rd day of January, 1938; and the Commission having on the 10th day of January, 1938, entered a temporary order as therein set forth upon such supplemental petition; and the Commission having reviewed such temporary order upon petition of Bituminous Coal Producers Board for District No. 1 and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by rescinding the aforesaid temporary order;

Now, therefore, it is hereby ordered:

1. That the temporary order entered on January 10, 1938, upon the supplemental petition in the above entitled matter and providing:

NOTE.—Prices on pea coal for movement to Market Area No. 1-A. (points in the Port of N. Y., including Port Chester, N. Y.), Group No. 5 Prices, as shown on page 23-S-1 of Supplement No. 1 to Price Schedule No. 1 for District No. 7, are reduced 30¢ per net ton f. o. b. mines. On shipments moving by tidewater through Hampton Roads, Virginia, and at the Port of New York transferred from deep water vessels to barges for movement and delivery to docks located on shallow water, code members may absorb the actual additional transfer and towage charges on such shipments actually delivered to shallow water docks. Such absorption shall in no case exceed 30¢ per net ton,

be and the same is hereby rescinded, effective January 31, 1938.

2. That the minimum prices established for coals of code members within District No. 7 by Order No. 95, as modified by Orders No. 131, 157, 163, 179 and 190 shall remain in full force and effect.

3. That the Secretary shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of the Bituminous Coal Producers' Boards and to code members within District No. 7; and to the Carter Coal Company and District Board No. 1; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 21st day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-237; Filed, January 24, 1938; 12:33 p. m.]

[Docket No. 213-FD]

IN THE MATTER OF GUNDLACH COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Gundlach Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, in competition with District No. 11, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 10, the above entitled proceeding is assigned for hearing on January 28, 1938, at 10:00 A. M., at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 21, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-227; Filed, January 22, 1938; 11:04 a. m.]

[Docket No. 214-FD]

IN THE MATTER OF CENTRAL STATE COLLIERIES, INC.

NOTICE OF HEARING

A petition having been filed with this Commission by Central State Collieries, Inc., pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, in competition with District No. 11, described in the Schedule of Mini-

mum Prices for Coals of Code Members Produced within District No. 10, the above entitled proceeding is assigned for hearing on January 28, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commisison; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 21, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-228; Filed, January 22, 1938; 11:04 a. m.]

[Docket No. 215-FD]

IN THE MATTER OF ILLINOIS-POCAHONTAS COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Illinois-Pocahontas Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, in competition with District No. 11, described in the schedule of Minimum Prices for Coals of Code Members Produced within District No. 10, the above entitled proceeding is assigned for hearing on January 28, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 21, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-229; Filed, January 22, 1938; 11:04 a. m.]

[Order No. 200]

A TEMPORARY ORDER ESTABLISHING, UNTIL FURTHER ORDER OF THE COMMISSION, A MINIMUM PRICE FOR COALS HAVING A MAXIMUM TOP SIZE OF THREE-EIGHTHS INCH PRODUCED BY CODE MEMBERS WITHIN DISTRICTS NOS. 2, 3, 4 AND 6, AND MODIFYING CERTAIN TEMPORARY ORDERS OF THE COMMISSION RELATIVE THERETO

The Pursglove Coal Mining Company, a Code Member within District No. 3, having filed with the Commission on the 10th day of January, 1938, pursuant to the provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition, Docket 174-FD, alleging dissatisfaction with certain Minimum Prices of Coals of Code Members produced within District No. 3, and praying for an immediate and temporary order to establish a minimum price for coals having a maximum top size of 3/8" x 0"; and it appearing to the Commission that the petitioner has made a reasonable showing of necessity for the granting of a temporary order; and the Commission having previously entered temporary orders, pursuant to hearings, in the matters of Powhatan Mining Company, Docket 135-FD, Pittsburgh Terminal Coal Corporation, Docket 137-FD, Pittsburgh Coal Company, Docket 138-FD, Union Collieries Company, Docket 141-FD, and Marten A. Reiber, Receiver for Butler Consolidated Coal Company, Docket 142-FD, temporarily establishing a price for such 3/8" x 0" coal, and it appearing that such prices should apply to all Code Members producing such sizes prior to December 16, 1937;

Now, therefore, it is hereby ordered:

1. That each of the temporary orders previously entered by the Commission in the matters of Powhatan Mining Company, Docket 135-FD, Pittsburgh Terminal Coal Corporation, Docket 137-FD, Pittsburgh Coal Company, Docket 138-FD, Union Collieries Company, Docket 141-FD, and Marten A. Reiber, Receiver for Butler Consolidated Coal Company, Docket 142-FD, be and the same are hereby modified insofar as they are inconsistent with the provisions of this order as hereinafter set forth.

2. That pending final disposition of the aforesaid petitions, or until further order of the Commission, the Schedule of Minimum Prices for Coals of Code Members Produced within Districts No. 2, 3, 4 and 6, and Supplement No. 1 to Price Schedule No. 1 for each of the respective districts, be and the same are hereby modified and revised to contain the following provision as if the same were fully set out therein:

"Code Members who, prior to December 16, 1937, produced and sold 3/8" x 0" or 1/4" x 0" slack are authorized to sell such sizes at a price not in excess of 10¢ under the minimum price established for 3/4" x 0" size for the same mine when for shipment into Market Areas 2, 4, 6, 7, 8, 9 and 10; provided, that no substitution may be made against orders for any 3/8" x 0" or 1/4" x 0" sizes."

3. That except as herein temporarily revised, the Minimum Price Schedules and supplements thereto, established for Districts Nos. 2, 3, 4 and 6, and the temporary orders previously entered in the dockets above set forth, shall remain in full force and effect until further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within Districts Nos. 2, 3, 4 and 6; and shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 21st day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-230; Filed, January 22, 1938; 11:05 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE

JANUARY 19, 1938.

TO HARVE R. PATTERSON AND HAL R. PATTERSON,
Doing business as H. R. Patterson and Son, Miami, Okla.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Miami Stockyards, at Miami, State of Oklahoma, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-222; Filed, January 21, 1938; 2:01 p. m.]

DEPARTMENT OF LABOR.

Children's Bureau.

RULES AND REGULATIONS FOR ADMINISTRATION OF PARTS 1, 2, AND 3 OF TITLE V OF THE SOCIAL SECURITY ACT—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

JANUARY 20, 1938.

By virtue of and pursuant to the authority conferred by Section 1102 of the Social Security Act (Act of August 14, 1935; 49 Stat. 647; 42 U. S. C. 1302), the following rules and regulations are prescribed for the administration of parts 1, 2, and 3 of Title V of the said Act—Grants to States for Maternal and Child Welfare—(49 Stat. 629-634; 42 U. S. C. 701, et seq.):

CHAPTER I. DEFINITIONS

SEC. 1. As used herein, unless the context otherwise requires,

Paragraph *a. State.*—The term "State" includes Alaska, Hawaii, and the District of Columbia.

Par. *b. Act.*—The term "Act" means the Social Security Act (Act of August 14, 1935, c. 531, 49 Stat. 620, 42 U. S. C. 301).

Par. *c. Secretary.*—The term "Secretary" means the Secretary of the United States Department of Labor.

Par. *d. Bureau.*—The term "Bureau" means the Children's Bureau of the United States Department of Labor.

Par. *e. Certify.*—The term "certify" when used in connection with the duty imposed on the Secretary by sections 504, 514 and 521 of the Act, means that action taken by the Secretary in the form of a written statement addressed and delivered to the Secretary of the Treasury, setting forth the amount of funds payable to a State for maternal and child health services, services for crippled children, or child welfare services as contemplated by parts 1, 2, and 3 of Title V of the Act.

Par. *f. Allotment.*—The term "allotment" means that part of an appropriation which the Secretary of Labor determines shall be available to a State under any of the appropriate provisions of parts 1, 2, and 3 of Title V of the Act.

Par. *g. Fund A.*—The term "Fund A" means that part of an appropriation for maternal and child-health services required to be allotted to the States by Section 502 (a) of the Act.

Par. *h. Fund B.*—The term "Fund B" means that part of an appropriation for maternal and child-health services required to be allotted to the States by section 502 (b) of the Act.

Par. *i. Obligation.*—The term "obligation" means a debt properly incurred in accordance with the provisions of an approved State plan.

Par. *j. Official Forms.*—The term "official forms" means forms supplied by the Bureau to State agencies for use in the administration of parts 1, 2, and 3 of Title V of the Act. (Sec. 1102, 49 Stat. 647; 42 U. S. C. 1302.)

CHAPTER II. MATERNAL AND CHILD HEALTH SERVICES

SEC. 2. *Allotments.*—The Secretary shall allot funds to the States for maternal and child health services pursuant to subsections (a) and (b) of section 502 of the Act. Allotments from Fund A shall be available for payment when and to the extent that equal sums are provided (matched) by the States. Allotments from Fund B shall be made upon the basis of the financial need of each State for assistance in carrying out its approved plan for such services, as determined by the Secretary, and shall not be required to be matched by the States. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 502, 49 Stat. 629, 42 U. S. C. 702; Sec. 504, 49 Stat. 630, 42 U. S. C. 704.)

SEC. 3. *Periods allotments remain available.*—The unpaid balance of an allotment to a State from Fund A in the Federal Treasury at the end of the fiscal year shall be available for payment to the State until the end of the second succeeding fiscal year The unpaid balance of an allotment to a State from Fund B in the Federal Treasury at the end of the fiscal year shall cease to be available to such State, except that obligations incurred within the fiscal year against such an allotment may be paid in the first succeeding fiscal year out of the unpaid balance of such allotment. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 502, 49 Stat. 629, 42 U. S. C. 702.)

SEC. 4. *Allotments from Fund B.*—The Secretary shall make an allotment to a State from Fund B only when the Allotment from Fund A and the unobligated and unpaid balances of allotments made to such State from Fund A in previous years under section 502 (a) of the Act have been requested by such State for payment and planned for expenditure by it within the limit of its ability to meet the matching requirements of the Act. The amount of funds available to a State as an adjustment of prior expenditures, described in Sec. 11, shall be taken into consideration in determining the amount of an allotment to such State from Fund B. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 502, 49 Stat. 629, 42 U. S. C. 702.)

SEC. 5. *Submission of plans.*—A State, through its health agency, shall submit on official forms to the Chief of the Bureau for approval a plan for maternal and child health services. The plan shall meet the requirements of section 503 (a) of the Act, in order to make the State eligible to receive payments from funds allotted to it for such services. The plan shall include a budget, prepared on official forms, which shall show the source or sources of all funds to be expended under the plan, and the items, in detail, for which such expenditures are to be made. No plan or budget may be amended without the approval of the Chief of the Bureau. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 503, 49 Stat. 630, 42 U. S. C. 703.)

SEC. 6. *Quarterly estimates.*—Prior to the beginning of each quarter, the executive officer of the State health agency shall submit on official forms to the Chief of the Bureau a statement of estimated expenditures and sources of funds for activities during such quarter. Such statement shall show (1) the sum to be expended out of allotments to the State from Fund A; (2) an equal sum, except for adjustments for a prior quarter or quarters, to be expended out of funds made available by the State from funds of the State, its political subdivisions, and other sources, and (3) the sum to be expended out of allotments to the State from Fund B. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 504, 49 Stat. 630, 42 U. S. C. 704.)

SEC. 7. *Private funds.*—Funds obtained from private sources which are made fully available for expenditure under the approved State plan may be included in the computation of the extent to which the State health agency proposes to match its allotment from Fund A. But on and after July 1, 1938, this shall not apply to funds provided by private agencies or institutions whose facilities are to be used in carrying out the State plan. Private funds shall be placed on deposit in accordance with the State law, but if there is no State law applicable to this procedure, the funds shall be deposited with the State treasurer, the treasurer of a political subdi-

vision, or in a private depository, in a special account to the credit of the State health agency. If the funds are deposited with the State treasurer or the treasurer of a political subdivision, the certificate of the treasurer shall be furnished showing the deposit of such funds in a special account to the credit of the State health agency. If the funds are placed in a private depository, the certificate of an officer of the private depository shall be furnished showing the deposit of such funds in a special account to the credit of the State health agency. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 504, 49 Stat. 630, 42 U. S. C. 704.)

SEC. 8. *Certification for payment to States.*—The Secretary shall certify for payment to a State such portion of its allotment from Fund A as shall be (1) planned for expenditure by it in its approved plan for maternal and child health services in accordance with its quarterly estimates for such expenditures, and (2) matched by funds appropriated or made available by the State or its political subdivisions and by funds obtained from other sources. The amount to be certified shall be reduced or increased, as the case may be, by the extent to which the Secretary finds it necessary to make adjustment to equalize expenditures, in a prior quarter or quarters, of funds paid to the State by the Federal Government from the allotment from Fund A, and expenditures of State and other funds used for matching purposes.

Paragraph *a*. The Secretary shall certify funds for payment to a State from its allotment from Fund B in accordance with its approved plan and quarterly estimates of expenditures. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 504, 49 Stat. 630, 42 U. S. C. 704.)

SEC. 9. *Expenditures.*—A State shall expend all funds paid to it by the Federal Government for expenditure under the approved State plan and all State and other funds used for matching under the plan for the purposes specified in section 501 of the Act. State laws and regulations governing the custody and disbursement of State and other funds used for matching shall control the custody and disbursement of funds paid by the Federal Government to the State in accordance with its approved plan, subject to such amplification or modification as the Chief of the Bureau may find to be necessary under Federal laws, regulations, orders, and decisions. (Sec. 1102, 49 Stat. 642, 42 U. S. C. 1302; Sec. 501, 49 Stat. 629, 42 U. S. C. 701; Sec. 503, 49 Stat. 630, 42 U. S. C. 703.)

SEC. 10. *Quarterly reports of activities.*—Reports prepared by the executive officer of the State health agency shall be submitted on official forms to the Bureau at the end of each quarter. They shall contain a statement of the activities conducted by the State health agency or under its supervision in carrying out the State plan. Such other reports shall be furnished from time to time as required. Financial reports shall be made quarterly on official forms. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 503, 49 Stat. 630, 42 U. S. C. 703.)

SEC. 11. *Adjustments.*—The Bureau shall determine the amounts of adjustments necesasry to equalize expenditures of funds paid to the State by the Federal Government from Fund A allotments and expenditures of State and other matching funds, and shall notify the State of such amounts. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 504, 49 Stat. 630, 42 U. S. C. 704.)

SEC. 12. *Disposition of balances of funds paid to the State.*—A State may retain funds paid to it in accordance with its approved plan not expended or obligated upon the termination of such plan. It may charge such funds as a prepayment against payments to it authorized in accordance with its approved plan for an ensuing period. In the event no new plan is submitted for approval within sixty days after the termination of its prior plan, the balance of unexpended or unobligated funds paid to the State in accordance with that plan shall be returned to the Treasury of the United States through the Bureau. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 502, 49 Stat. 629, 42 U. S. C. 702.)

CHAPTER III. SERVICES FOR CRIPPLED CHILDREN

SEC. 13. *Allotments.*—The Secretary shall allot funds to the States for services for crippled children pursuant to section 512 (a) of the Act. The amount of funds available to a State as an adjustment of prior expenditures, described in Sec. 21, shall be taken into consideration in determining the amount of an allotment to the State. An allotment shall be available for payment when and to the extent that an equal sum is provided (matched) by the State. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 512, 49 Stat. 631, 42 U. S. C. 712.)

SEC. 14. *Period allotments remain available.*—The unpaid balance of an allotment to a State in the Federal Treasury at the end of the fiscal year shall be available for payment to the State until the end of the second succeeding fiscal year. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 512, 49 Stat. 631, 42 U. S. C. 712.)

SEC. 15. *Submission of plans.*—A State, through its appropriate agency, shall submit on official forms to the Chief of the Bureau for approval a plan for services for crippled children. The plan shall meet the requirements of section 513 (a) of the Act in order to make the State eligible to receive payments from funds allotted to it for such services. The plan shall include a budget, prepared on official forms which shall show the source or sources of all funds to be expended under the plan, and the items, in detail, for which expenditures are to be made. No plan or budget may be amended without the approval of the Chief of the Bureau. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 513, 49 Stat. 632, 42 U. S. C. 713.)

SEC. 16. *Quarterly estimates.*—Prior to the beginning of each quarter, the executive officer of the official State agency shall submit on official forms to the Chief of the Bureau a statement of estimated expenditures and sources of funds for activities during such quarter. Such statement shall show (1) the sum to be expended out of funds allotted and paid to the State by the Federal Government for expenditure under the plan, and (2) an equal sum, except for adjustments for a prior quarter or quarters, to be expended out of funds made available by the State from funds of the State, its political subdivisions, and other sources. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 514, 49 Stat. 632, 42 U. S. C. 714.)

SEC. 17. *Private funds.*—Funds obtained from private sources which are made fully available for expenditure under the approved State plan may be included in the computation of the extent to which the State health agency proposes to match its allotment from Fund A. But on and after July 1, 1938, this shall not apply to funds provided by private agencies or institutions whose facilities are to be used in carrying out the State plan. Private funds shall be placed on deposit in accordance with the State law, but if there is no State law applicable to this procedure, the funds shall be deposited with the State treasurer, the treasurer of a political subdivision, or in a private depository, in a special account to the credit of the official State agency. If the funds are deposited with the State treasurer or the treasurer of a political subdivision, the certificate of the treasurer shall be furnished showing the deposit of such funds in a special account to the credit of the official State agency. If the funds are placed in a private depository, the certificate of an officer of the private depository shall be furnished, showing the deposit of such funds in a special account to the credit of the official State agency. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 514, 49 Stat. 632, 42 U. S. C. 714.)

SEC. 18. *Certification for payment to States.*—The Secretary shall certify for payment to a State such portion of its allotment for services for crippled children as shall be (1) planned for expenditure by it in its approved plan for such services in accordance with its quarterly estimates for such expenditures, and (2) matched by funds appropriated or made available by the State or its political subdivisions and by funds obtained from other sources. The amount to

be certified shall be reduced or increased, as the case may be, by the extent to which the Secretary finds it necessary to make adjustment to equalize expenditures, in a prior quarter or quarters, of funds paid to the State by the Federal Government, and expenditures of State and other funds used for matching purposes. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 514, 49 Stat. 632, 42 U. S. C. 714.)

SEC. 19. *Expenditures.*—A State shall expend all funds paid to it by the Federal Government for expenditure under the approved State plan and all State and other funds used for matching under the plan in behalf of children who are crippled or suffering from conditions which lead to crippling for the following purposes only: location; diagnosis; medical and surgical treatment; care in hospitals, institutions and boarding homes during periods of medical or surgical treatment or convalescence; and supervision in their own homes. But such funds shall not be expended for any of the following purposes: academic or vocational education; general preventive health services; orthodontia, except that associated with congenital malformation; or the purchase of glasses to correct defects of vision, except for children receiving treatment for crippling conditions under the State plan.

Paragraph *a*. State laws and regulations governing the custody and disbursement of State and other funds used for matching shall control the custody and disbursement of funds paid by the Federal Government to the State under its approved plan, subject to such amplification or modification as the Chief of the Bureau may find to be necessary under Federal laws, regulations, orders, and decisions. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 511, 49 Stat. 631, 42 U. S. C. 711; Sec. 513, 49 Stat. 632, 42 U. S. C. 713.)

SEC. 20. *Quarterly reports of activities.*—Reports prepared by the executive officer of the official State agency shall be submitted on official forms to the Bureau at the end of each quarter. They shall contain a statement of the activities conducted by the official State agency or under its supervision in carrying out the State plan. Such other reports shall be furnished from time to time as required. Financial reports shall be made quarterly on official forms. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 513, 49 Stat. 632, 42 U. S. C. 713.)

SEC. 21. *Adjustments.*—The Bureau shall determine the amounts of adjustments necessary to equalize expenditures of funds paid to the State by the Federal Government and expenditures of State and other matching funds, and the Bureau shall notify the State of the amounts of such adjustments. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 512, 49 Stat. 631, 42 U. S. C. 712.)

SEC. 22. *Disposition of balances of funds paid to the State.*—A State may retain funds paid to it in accordance with its approved plan not expended or obligated upon the termination of such plan. It may charge such funds as a prepayment against payments to it authorized in accordance with its approved plan for an ensuing period. In the event no new plan is submitted for approval within sixty days after the termination of its prior plan, the balance of unexpended or unobligated funds paid to the State in accordance with that plan shall be returned to the Treasury of the United States through the Bureau. (Sec. 1102, 49 Stat. 642, 42 U. S. C. 1302; Sec. 512, 49 Stat. 631, 42 U. S. C. 712.)

CHAPTER IV. CHILD-WELFARE SERVICES

SEC. 23. *Allotments and submission of plans.*—The Secretary shall allot funds for child welfare services pursuant to section 521 (a) of the Act to States which have approved plans developed jointly by State public welfare agencies and the Bureau. Plans shall include budgets, prepared on official forms, which shall show the source or sources of all funds to be expended under the plan and the items in detail for which expenditures are to be made. No plan or budget may be amended without the approval of the Chief of the Bureau. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

SEC. 24. *Period allotments remain available.*—The unpaid balance of an allotment to a State in the Federal Treasury at the end of the fiscal year shall be available for payment to the State until the end of the second succeeding fiscal year. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

SEC. 25. *Quarterly estimates.*—Prior to the beginning of each quarter, the executive officer of the State public-welfare agency shall submit on official forms to the Chief of the Children's Bureau an estimate of funds to be expended out of the funds allotted and paid to the State by the Federal Government for activities during such quarter. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

SEC. 26. *Certification for payment to States.*—The Secretary shall certify funds for payment to a State from its allotment for child welfare services in accordance with its approved plan and quarterly estimates of expenditures. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

SEC. 27. *Expenditures.*—A State shall expend funds paid to it by the Federal Government for the purpose of establishing, extending, and strengthening, especially in predominantly rural areas, services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent. Such funds shall be used for payment of part of the cost of district, county or other local child welfare services in areas predominantly rural and for developing State services for the encouragement and assistance of adequate methods of community child welfare organization in areas predominantly rural and other areas of special need. A State shall not expend such funds to pay for the cost of care of children in boarding homes or in institutions which provide care for children, other than purely emergency care under conditions specified in the State plan.

Paragraph *a*. State laws and regulations governing the custody and disbursement of State and other funds brought into the plan shall control the custody and disbursement of funds paid by the Federal Government to the State under its approved plan, subject to such amplification or modification as the Chief of the Bureau may find to be necessary under Federal laws, regulations, orders, and decisions. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

SEC. 28. *Reports of activities.*—Reports prepared by the executive officer of the State public welfare agency shall be submitted to the Bureau on official forms. They shall set forth the activities of the agency for such times and periods as may be prescribed by the Chief of the Bureau. Such reports shall show activities conducted by the State agency or under its supervision in carrying out the State plan. Financial reports shall be made quarterly on official forms. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

SEC. 29. *Disposition of balances of funds paid to the State.*—A State may retain funds paid to it in accordance with its approved plan not expended or obligated upon the termination of such plan. It may charge such funds as a prepayment against payments to it authorized in accordance with its approved plan for an ensuing period. In the event no new plan is submitted for approval within sixty days after the termination of its prior plan, the balance of unexpended and unobligated funds paid to the State in accordance with that plan shall be returned to the Treasury of the United States through the Bureau. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

[SEAL] FRANCES PERKINS, *Secretary.*

Approval recommended.

KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 38-233; Filed, January 24, 1938; 9:24 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Order No. 31]

AMENDMENT TO ORDER No. 7–C

The Commission, at a meeting held on January 11, 1938 amended Order No. 7–C as follows:

The Commission having under consideration Telephone Order No. 7–C, promulgating the "Uniform System of Accounts for Telephone Companies, Issue of June 19, 1935, Effective January 1, 1936", as amended by Order No. 7–D, effective January 1, 1937, and instruction 26, "Telephone plant continuing property record required", of said system of accounts:

It is ordered, That Telephone Division Order No. 7–C be amended further so that the said Instruction 26, Paragraph A, in the second sentence thereof, shall read as follows:

"The record shall be completed not later than June 30, 1939, with respect to telephone plant as at December 31, 1936, and with respect to the changes effected therein between the dates of January 1, 1937, and December 31, 1938, both inclusive."

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary*.

[F. R. Doc. 38–225; Filed, January 22, 1938; 9:52 a. m.]

[Docket No. 4833]

IN THE MATTER OF THE APPLICATION OF PHILADELPHIA & NORFOLK STEAMSHIP COMPANY, PHILADLEPHIA, PENNSYLVANIA

FOR EXEMPTION UNDER SECTION 352 (B) (2) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Telegraph Matter

The Commission on January 6, 1938, adopted the following order:

Upon consideration of the petition of the applicant in the above-entitled matter filed January 5, 1938, and of evidence with regard to the deepening of the Chesapeake and Delaware Canal submitted therewith,

It is hereby ordered, That the exemption authorized in the Order of the Commission of November 11, 1937, in the above-entitled matter be and it is hereby extended for a further temporary period expiring March 6, 1938, upon the same terms and conditions and subject to the same limitations as contained in the prior Order of the Commission.

[SEAL] T. J. SLOWIE, *Secretary*.

[F. R. Doc. 38–226; Filed, January 22, 1938; 9:52 a. m.]

INTERSTATE COMMERCE COMMISSION.

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 10th day of November, A. D. 1937.

ORDER RELATIVE TO MONTHLY REPORTS OF REVENUES AND EXPENSES, CLASS I STEAM RAILWAYS

The subject of monthly reports of revenues and expenses being under consideration, the following order was entered:

It is ordered, That—

1. The order of this Commission dated October 23, 1936, in the matter of monthly reports of revenues and expenses of Class I steam railways be, and hereby is, annulled, effective January 1, 1938.

2. Each and every Class I steam railway, excluding Class I switching and terminal companies, subject to the provisions of the Interstate Commerce Act shall make under oath monthly reports of revenues and expenses in accordance with the form of report which is attached hereto and made a part of this order.[1]

It is further ordered, That this order shall become effective as of January 1, 1938.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38–235; Filed, January 24, 1938; 12:13 p. m.]

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 10th day of November, A. D. 1937.

ORDER RELATIVE TO PERIODICAL REPORTS OF OPERATING STATISTICS, CLASS I STEAM RAILWAYS

The subject of periodical reports of operating statistics from carriers by steam railway of Class I being under consideration:

It is ordered, That—

1. The orders of this Commission, dated December 12, 1936, and April 13, 1937, amending the order of November 25, 1935, dealing with railway operating statistics be, and they hereby are, annulled, effective January 1, 1938.

2. The order of November 25, 1935, be, and hereby is, amended by substituting the forms of reports designated OS–A, OS–B, OS–C, OS–D, OS–E, OS–F, and instructions thereon, which forms are hereto attached and made a part of this order.[1]

It is further ordered, That this order shall become effective as of January 1, 1938.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38–236; Filed, January 24, 1938; 12:13 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 182]

ALLOCATION OF FUNDS FOR LOANS

JANUARY 19, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Arkansas 8010W Pulaski	$9,000
Georgia 8022B Colquitt	75,000
Georgia 8022W Colquitt	10,000
Georgia 8037W Douglas	5,000
Georgia 8067W Bacon	25,000
Iowa 8031W Grundy	15,000
Iowa 8034B Jones	80,000
Michigan 8026W Ingham	8,000
Michigan 8033G Charlevoix	55,000
Michigan 8038G Cass	100,000
Michigan 8038B Cass	92,000
Michigan 8038W Cass	15,000
Michigan 8039 Van Buren	165,000
Michigan 8039W Van Buren	10,000
Michigan 8040 Allegan	165,000
Michigan 8040W Allegan	10,000
Minnesota 8065W Dakota	12,000
Nebraska 8054W Cuming	10,000
Ohio 8001B Miami	37,000
Wisconsin 8031W Columbia	15,000

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38–234; Filed, January 24, 1938; 9:46 a. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, the National Archives; copies available upon application to the Interstate Commerce Commission.

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES ACT OF 1933—SECURITIES EXCHANGE ACT OF 1934

AMENDMENT NO. 1 OF FORM 1–MD

The Securities and Exchange Commission, finding—

(1) that the requirements of Form 1–MD, general form for annual reports pursuant to Section 15 (d) of the Securities Exchange Act of 1934, as more specifically defined in the Instruction Book for Form 1–MD, as hereby amended, are necessary and appropriate for the proper protection of investors and to insure fair dealing in such securities as are registered under the Securities Act of 1933 and as to which Form 1–MD is to be used; and,

(2) that the information called for by such Form and the exhibits specified in such Instruction Book, as hereby amended, are required to keep reasonably current the information and documents filed pursuant to Section 7 of the Securities Act of 1933, and are such as may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of similar securities listed and registered on national securities exchanges,

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 (d) and 23 (a) thereof, hereby amends the Instruction Book for Form 1–MD as follows:

The following new paragraph 17 is added after paragraph 16 of the "General Rules as to Preparation and Contents of Annual Report":

17. *Special instruction as to companies reporting under Section 20 of the Interstate Commerce Act and carriers reporting under Section 219 of the Communications Act of 1934.*—Notwithstanding the requirements of any item or instruction in this form, annual reports on this form by any company making annual reports under Section 20 of the Interstate Commerce Act, as amended, or by any carrier making annual reports under Section 219 of the Communications Act of 1934 may contain, in lieu of the information and exhibits required by the items and instructions of this form, the information and exhibits required by Form 12–K or 12A–K, whichever would be appropriate if the securities were registered on a national securities exchange. However, such reports shall be filed under cover of the facing sheet of Form 1–MD, shall be signed in the manner provided in Form 1–MD, and shall be filed in all respects as annual reports under Section 15 (d) of the Act.

The foregoing action of the Commission shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38–238; Filed, January 24, 1938; 12:54 p. m.]

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT NO. 3 TO FORM 12–K

The Securities and Exchange Commission, finding—

(1) that the requirements of Form 12–K, as more specifically defined in the Instruction Book for Form 12–K as hereby amended, are necessary and appropriate for the proper protection of investors and to insure fair dealing in such securities as are registered on national securities exchanges and as to which Form 12–K is to be used; and,

(2) that the information called for by such Form and the exhibits specified in such Instruction Book, as hereby amended, are required to keep reasonably current the information and documents filed pursuant to Section 12 of the Securities Exchange Act of 1934,

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby amends the Instruction Book for Form 12–K as follows:

Paragraph 3 of the *Instructions as to Exhibits* is amended by deleting the number "330;" from the list of required schedules of Form A of the Interstate Commerce Commission.

AMENDMENT NO. 3 TO FORM 12A–K

The Securities and Exchange Commission, finding—

(1) that the requirements of Form 12A–K, as more specifically defined in the Instruction Book for Form 12A–K as hereby amended, are necessary and appropriate for the proper protection of investors and to insure fair dealing in such securities as are registered on national securities exchanges and as to which Form 12A–K is to be used; and,

(2) that the information called for by such Form and the exhibits specified in such Instruction Book, as hereby amended, are required to keep reasonably current the information and documents filed pursuant to Section 12 of the Securities Exchange Act of 1934,

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby amends the Instruction Book for Form 12A–K as follows:

Paragraph 3 of the *Instructions as to Exhibits* is amended by deleting the number "330;" from the list of required schedules of Form A of the Interstate Commerce Commission.

The foregoing action of the Commission shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38–239; Filed, January 24, 1938; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of January, A. D. 1938.

IN THE MATTER OF PENN WESTERN GAS & ELECTRIC COMPANY

[File Nos. 43–99, 51–9]

NOTICE OF AND ORDER FOR HEARING

A joint declaration pursuant to sections 7 and 12 (c) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Penn Western Gas & Electric Company, a registered holding company, for an order approving the reduction of the par value of the 101,904 shares of common stock presently outstanding from $12.00 to $5.00 per share, and for an order approving the declaration and payment of a dividend to common stockholders out of capital or unearned surplus, such dividend to consist of a distribution in kind of certain shares of stock now owned by the declarant.

It is ordered, That a hearing on such matter be held on February 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 3, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38–240; Filed, January 24, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-162]

IN THE MATTER OF THE CUDAHY PACKING COMPANY FIRST MORTGAGE SINKING FUND BONDS, SERIES "A", 3¾% DUE SEPT. 1, 1955

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First Mortgage Sinking Fund Bonds, Series "A", 3¾% due September 1, 1955, of The Cudahy Packing Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage Sinking Fund Bonds, Series "A", 3¾% due September 1, 1955, of The Cudahy Packing Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-241; Filed, January 24, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-163]

IN THE MATTER OF CUMBERLAND COUNTY POWER & LIGHT COMPANY FIRST MOTGAGE BONDS 3½% SERIES DUE OCTOBER 1, 1966

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1 for permission to extend unlisted trading privileges to the First Mortgage Bonds 3½% Series due October 1, 1966, of Cumberland County Power & Light Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage Bonds 3½% Series due October 1, 1966, of Cumberland County Power & Light Company be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-242; Filed, January 24, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-164]

IN THE MATTER OF NEW ENGLAND POWER COMPANY FIRST MORTGAGE BONDS SERIES "A" 3¼% DUE NOVEMBER 15, 1961

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First Mortgage Bonds Series "A" 3¼% due November 15, 1961, of New England Power Company, and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage Bonds Series "A" 3¼% due November 15, 1961, of New England Power Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-243; Filed, January 24, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-167]

IN THE MATTER OF THE PEOPLES GAS LIGHT & COKE COMPANY FIRST & REFUNDING MORTGAGE 4% BONDS SERIES "D" DUE JUNE 1, 1961

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First & Refunding Mortgage 4% Bonds Series "D" due June 1, 1961, of The Peoples Gas Light & Coke Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First & Refunding Mortgage 4% Bonds Series "D" due June 1, 1961, of The Peoples Gas Light & Coke Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-244; Filed, January 24, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-171]

IN THE MATTER OF ATLANTIC CITY ELECTRIC COMPANY GENERAL MORTGAGE BONDS, 3¼% SERIES, DUE JANUARY 15, 1964

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the

Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the General Mortgage Bonds, 3¼% Series, due January 15, 1964, of Atlantic City Electric Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the General Mortgage Bonds, 3¼% Series, due January 15, 1964, of Atlantic City Electric Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-245; Filed, January 24, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-172]

IN THE MATTER OF CALIFORNIA WATER SERVICE COMPANY FIRST MORTGAGE 4% BONDS, SERIES "B", DUE MAY 1, 1961

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First Mortgage 4% Bonds, Series "B", due May 1, 1961, of California Water Service Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage 4% Bonds, Series "B", due May 1, 1961, of California Water Service Company be and the same is hereby denied.

By the Commision.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-246; Filed, January 24, 1938; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-173]

IN THE MATTER OF FLORIDA POWER CORPORATION FIRST MORTGAGE 4% BONDS SERIES "C" DUE DECEMBER 1, 1966

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First Mortgage 4% Bonds Series "C" due December 1, 1966, of Florida Power Corporation; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage Bonds Series "C" due December 1, 1966, of Florida Power Corporation be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-247; Filed, January 24, 1938; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-174]

IN THE MATTER OF METROPOLITAN EDISON COMPANY FIRST MORTGAGE BONDS SERIES "G" 4% DUE MAY 1, 1965

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First Mortgage Bonds Series "G" 4% due May 1, 1965, of Metropolitan Edison Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage Bonds Series "G" 4% due May 1, 1965, of Metropolitan Edison Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-248; Filed, January 24, 1938; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-175]

IN THE MATTER OF MISSOURI POWER & LIGHT COMPANY FIRST MORTGAGE BONDS 3¾% SERIES, DUE DECEMBER 1, 1966

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First Mortgage Bonds 3¾% Series due December 1, 1966, of Missouri Power & Light Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage Bonds 3¾% Series due December 1, 1966, of Missouri Power & Light Company be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-249; Filed, January 24, 1938; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-176]

IN THE MATTER OF PACIFIC LIGHTING CORPORATION 4½% SINKING FUND DEBENTURES DUE OCTOBER 1, 1945

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 4½% Sinking Fund Debentures due October 1, 1945, of Pacific Lighting Corporation; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the 4½% Sinking Fund Debentures due October 1, 1945, of Pacific Lighting Corporation be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-250; Filed, January 24, 1938; 12:58 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-182]

IN THE MATTER OF ASSOCIATED GAS & ELECTRIC CORPORATION 4½% DEBENTURES DUE JUNE 1, 1973

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 4½% Debentures due June 1, 1973, of Associated Gas & Electric Corporation; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the 4½% Debentures due June 1, 1973, of Associated Gas & Electric Corporation be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-251; Filed, January 24, 1938; 12:58 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-183]

IN THE MATTER OF ASSOCIATED GAS & ELECTRIC CORPORATION 5% DEBENTURES DUE JUNE 1, 1973

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 5% Debentures due June 1, 1973, of Associated Gas & Electric Corporation; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the 5% Debentures due June 1, 1973, of Associated Gas & Electric Corporation be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-252; Filed, January 24, 1938; 12:58 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-184]

IN THE MATTER OF ASSOCIATED GAS & ELECTRIC CORPORATION 3½% DEBENTURES DUE MARCH 15, 1978

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 3½% Debentures due March 15, 1978, of Associated Gas & Electric Corporation; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 3½% Debentures due March 15, 1978, of Associated Gas & Electric Corporation be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-253; Filed, January 24, 1938; 12:58 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-185]

IN THE MATTER OF ASSOCIATED GAS & ELECTRIC CORPORATION 4½% DEBENTURES DUE FEBRUARY 1, 1978

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the

Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 4½% Debentures due February 1, 1978, of Associated Gas & Electric Corporation; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the 4½% Debentures due February 1, 1978, of Associated Gas & Electric Corporation be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-254; Filed, January 24, 1938; 12:58 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-186]

IN THE MATTER OF CITIES SERVICE COMPANY 5% GOLD DEBENTURES DUE APRIL 1, 1958

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 5% Gold Debentures due April 1, 1958, of Cities Service Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the 5% Gold Debentures due April 1, 1958, of Cities Service Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-255; Filed, January 24, 1938; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-187]

IN THE MATTER OF CITIES SERVICE COMPANY 5% GOLD DEBENTURES DUE NOVEMBER 1, 1963

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 5% Gold Debentures due November 1, 1963, of Cities Service Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the 5% Gold Debentures due November 1, 1963, of Cities Service Company be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-256; Filed, January 24, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-188]

IN THE MATTER OF CITIES SERVICE COMPANY 5% GOLD DEBENTURES DUE MARCH 1, 1969

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the 5% Gold Debentures due March 1, 1969, of Cities Service Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the 5% Gold Debentures due March 1, 1969, of Cities Service Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-257; Filed, January 24, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-189]

IN THE MATTER OF HOUSTON LIGHTING & POWER COMPANY FIRST MORTGAGE BONDS, 3½% SERIES, DUE DECEMBER 1, 1966

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First Mortgage Bonds, 3½% Series, due December 1, 1966, of Houston Lighting & Power Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First Mortgage Bonds, 3½% Series, due December 1, 1966, of Houston Lighting & Power Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-258; Filed, January 24, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 7-190]

IN THE MATTER OF NORTHERN STATES POWER COMPANY (MINN.) FIRST AND REFUNDING MORTGAGE BONDS, 3½% SERIES DUE FEBRUARY 1, 1967

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the First and Refunding Mortgage Bonds, 3½% Series due February 1, 1967, of Northern States Power Company; and

A hearing having been held in this matter after appropriate notice, and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the New York Curb Exchange pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the First and Refunding Mortgage Bonds, 3½% Series due February 1, 1967, of Northern States Power Company be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-259; Filed, January 24, 1938; 12:59 p. m.]

Wednesday, January 26, 1938 ***No. 18***

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49355]

COUNTERVAILING DUTIES ON BRITISH SUGAR

THE NET AMOUNTS OF BOUNTIES OR GRANTS ON BRITISH REFINED SUGAR DECLARED PURSUANT TO THE PROVISIONS OF SECTION 303 OF THE TARIFF ACT OF 1930 AND COLLECTORS OF CUSTOMS INSTRUCTED TO COLLECT ADDITIONAL DUTIES EQUAL TO SUCH NET AMOUNTS OF BOUNTIES OR GRANTS

To Collectors of Customs and Others Concerned:

The Bureau is in receipt of official information that drawback allowances are paid by the Government of the United Kingdom and Great Britain and Northern Ireland on the exportation of refined sugar produced in the United Kingdom. These allowances in certain instances exceed the amounts of duties collected on imported raw sugar.

Since the excesses of drawback over the duties collected constitute bounties within the meaning of the provisions of section 303 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1303), I have estimated and determined and hereby declare the net amounts of such bounties per pound of refined sugar from the United Kingdom of Great Britain and Northern Ireland to be as follows:

(1) When the British drawback of customs duty is allowed at the rate of 9s/4d per cwt. of 112 lbs., the net amount of the bounty is:

1d—(.94695539d × percentage of sucrose in imported sugar.)

(2) When the British drawback of customs duty is allowed at the rate of 5s/0-2/3d per cwt. of 112 lbs., the net amount of the bounty is:

.54166667d—(.51265881d × percentage of sucrose in imported sugar.)

(3) When the British drawback of customs duty is allowed at the rate of 3s/10.9d per cwt. of 112 lbs., the net amount of the bounty is:

.41875d—(.39653167d × percentage of sucrose in imported sugar.)

(4) When the British drawback of customs duty is allowed at the rate of 2s/9.2d per cwt. of 112 lbs., the net amount of the bounty is:

.29642857d—(.28040454d × percentage of sucrose in imported sugar.)

(5) When the British drawback of customs duty is allowed at the rate of 1s/7.4d per cwt. of 112 lbs., the net amount of the bounty is:

.17321428d—(.16333328d × percentage of sucrose in imported sugar.)

For your information there is set forth below an example for determining the amounts of the additional duties to be collected:

On an importation of sugar from the United Kingdom of Great Britain and Northern Ireland testing 99.9 degrees polarization, where the drawback granted by the British Government is shown by the invoice to have been 9s/4d per cwt. of 112 lbs., the operation would be as follows:

1—(.94695539 × .999) = .05399157d bounty per lb.

Collectors of customs, therefore, will collect additional duties on British refined sugar equal to the net amounts of the bounties or grants in accordance with the rate or rates applicable as set forth above when imported directly or indirectly and entered for consumption, or withdrawn from warehouse for consumption, after the expiration of thirty days after the publication of this decision in the weekly Treasury Decisions.

Consular invoices covering refined sugar produced in the United Kingdom and imported into the United States shall show the rate or rates of the drawback claimed or allowed, or to be claimed or allowed, thereon.

[SEAL] JAMES H. MOYLE, *Commissioner of Customs*.

Approved: Jan. 22, 1938.

WAYNE C. TAYLOR, *Acting Secretary of the Treasury*.

[F. R. Doc. 38-265; Filed, January 25, 1938; 12:18 p. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

FIRST FORM RECLAMATION WITHDRAWAL, BUFFALO RAPIDS PROJECT, MONTANA

DECEMBER 22, 1937.

THE SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976) it is recommended that Departmental order of July 11, 1935 establishing Grazing District No. 2, Montana, under and pursuant to the provisions of the Act of June 28, 1934 (48 Stat. 1269), be revoked in so far as the following described lands are affected, and the said lands be withdrawn from public entry under the first form withdrawal, as provided in Section 3, Act of June 17, 1902 (32 Stat. 388).

BUFFALO RAPIDS PROJECT, MONTANA
Montana Principal Meridian

T. 13 N., R. 53 E.,
Sec. 8, E½NE¼;
Sec. 32, Lot 1;
T. 13 N., R. 54 E.,
Sec. 4, Lot. 1;
T. 14 N. R. 55 E.,
Sec. 8, Lot. 8;
T. 15 N., R. 55 R.,
Sec. 32, Lots. 2 and 3

Respectfully,

R. B. WILLIAMS, *Acting Commissioner*.

I concur:

JULIAN TERRETT, *Acting Director, Division of Grazing, Department of the Interior*.

JAN. 7, 1938.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN, *Assistant Secretary*.

[F. R. Doc. 38-263; Filed, January 25, 1938; 10:00 a. m.]

ORDER OPENING PUBLIC LANDS TO ENTRY AND ANNOUNCING AVAILABILITY OF WATER FOR PUBLIC AND PRIVATE LANDS

OWYHEE IRRIGATION PROJECT, OREGON-IDAHO SUCCOR CREEK DIVISION

JANUARY 3, 1938.

1. *Land for which water will be furnished.*—In pursuance of the Act of June 17, 1902 (32 Stat., 388) and acts amendatory thereof or supplementary thereto, announcement is hereby made that upon proper water rental application being made therefor, water will be furnished on a rental basis under the Succor Creek Division of the Owyhee Irrigation Project, Oregon-Idaho, in the irrigation season of 1938 and thereafter until further notice, for the irrigable lands shown on farm unit plats for Ts. 22 and 23 S., R. 46 E., Ts. 22 and 23 S., R. 47 E., Willamette Principal Meridian; Ts. 3 and 4 N., R. 5 W.; Ts. 3 and 4 N., R. 6 W., Boise Principal Meridian, Idaho, and, beginning on January 31, 1938, entry may be made in accordance with this order for the following described vacant farm units, to-wit:

WILLAMETTE MERIDIAN—OREGON
Owyhee Irrigation District

	Irrigable acres
T. 22 S., R. 46 E.:	
Section 13, farm unit—	
"A"—N½SE¼	64
"B"—S½SW¼	51
Section 14, farm unit—"A"—SW¼NE¼, NW¼SE¼	55
Section 15, farm unit—	
"A"—SE¼NE¼, NE¼SE¼	11
"B"—S½SW¼, S½SE¼	54
Section 23, farm unit—"A"—SE¼NE¼, N½SE¼	44
Section 24, farm unit—	
"A"—E½NW¼, E½SW¼	64
"B"—W½NW¼, NW¼SW¼	66
Section 25, farm unit—	
"B"—S½NE¼, E½SE¼	53
"C"—NE¼SW¼, NW¼SE¼	40
"D"—NW¼SW¼, S½SW¼	100
"G"—SW¼SW¼, Sec. 24, & N½NW¼ Sec. 25	50
T. 22 S., R. 46 E.:	
Section 26, farm unit—	
"A"—NE¼	30
"C"—N½SE¼	57
"D"—SE¼SE¼, Sec. 26 & NE¼NE¼, Sec. 35	75
"E"—SW¼SE¼, Sec. 26, & NW¼NE¼, Sec. 35	74
Section 35, farm unit—	
"A"—S½NE¼, N½SE¼	62
"F"—SE¼SW¼, Sec. 26 & E½NW¼, Sec. 35	61
"G"—SW¼SW¼, Sec. 26 & W½NW¼, Sec. 35	49
T. 23 S., R. 46 E.:	
Section 1, farm unit—	
"A"—Lot 3, N½SE¼NW¼, SE¼SE¼NW¼, SW¼NE¼	57
"B"—Lot 4, SW¼NW¼, SW¼SE¼NW¼	39
T. 22 S., R. 47 E.:	
Section 18, farm unit—	
"A"—Lot 1 and W½NW¼	33
"B"—Lot 4, W½SW¼ Sec. 18, Lot 1, Sec. 19	63
Section 19, farm unit—"A"—Lots 2, 3, 4	76
Section 31, farm unit—"A"—Lot 1 & NW¼NW¼	32

BOISE MERIDIAN—IDAHO
Gem Irrigation District

T. 3 N., R. 5 W.:	
Section 5, farm unit—"B"—S½SW¼ Sec. 5, & E½SE¼, Sec. 6	90
Section 6, farm unit—	
"C"—W½SE¼	73
"D"—Lot 6, & NE¼SW¼	69
"E"—Lot 7, SE¼SW¼, Sec. 6 & NE¼NW¼, Sec. 7	82
Section 7, farm unit—"B"—Lots 2, 3, SE¼NW¼, NE¼SW¼	50
T. 4 N., R. 5 W.:	
Section 31, farm unit—"A"—Lot 2	15
T. 3 N., R. 6 W.:	
Section 1, farm unit—	
"B"—E½SW¼	77
"C"—W½SW¼	75
T. 3 N., R. 6 W.—Continued.	
Section 2, farm unit—	
"A"—Lots 1, S½NE¼	106
"B"—Lots 3, 4, 5, SE¼NW¼	96
"C"—Lots 6, 7, E½SW¼, SW¼SE¼	101
"D"—N½SE¼, SE¼SE¼	105
Section 11, farm unit—	
"A"—E½NE¼, NE¼SE¼	68
"C"—Lots 1, 2, E½NW¼	81
"D"—E½SW¼, W½SE¼	98
Section 12, farm unit—"B"—N½SW¼	51
T. 4 N., R. 6 W.:	
Section 23, farm unit—"A"—Lots 5, 6, E½SW¼, NW¼SE¼	36
Section 25, farm unit—"A"—SW¼NW¼, NW¼SW¼	41
Section 26, farm unit—	
"A"—SE¼NE¼, NE¼SE¼	49
"B"—SW¼NE¼, NW¼SE¼	37
"C"—Lots 3, 4, E½SW¼	52
Section 35, farm unit—	
"A"—E½NE¼	72
"B"—W½NE¼	71
"C"—Lots 1, 2, E½NW¼	88
"D"—Lots 3, 4, E½SW¼	54
"E"—N½SE¼	63

The farm unit plats referred to above were approved on the date of this order and are on file in the office of the Construction Engineer, Bureau of Reclamation, Boise, Idaho, and in the local land offices at The Dalles, Oregon, and Blackfoot, Idaho.

2. *Limit of acreage for which entry may be made or water rental secured.*—For the farm units described above, and any other lands covered by this order which may become subject to homestead entry the limit of area of public land per entry, representing the area which, in the opinion of the Secretary of the Interior, may be reasonably required for the support of a family upon such land, is fixed at the amounts shown upon the said farm unit plats for the respective farm units thereon. The maximum limit of area for which water rental application may be made for lands in private ownership shall be 160 acres of irrigable land for each landowner.

3. *Filing of water rental applications.*—Water rental applications for entered lands and lands in private ownership must be filed in the office of the Construction Engineer and such applications may be made on or after the date of this order. For public land farm units the water rental applications must be made in accordance with the conditions hereinafter stated.

4. *Preference rights to ex-service men.*—Pursuant to the provisions of joint Public Resolution No. 85, 71st Congress, approved June 12, 1930 (46 Stat., 580), and until May 1, 1938 the farm units described above wil be open to entry only by officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States in any war, military occupation, or military expedition, and have been honorably separated or discharged therefrom or placed in the regular Army or Naval Reserve. The same preference rights are applicable to those citizens of the United States who served with the allied armies during the World War and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies was similar to the service with the Army of the United States for which recognition is granted in the aforesaid Public Resolution No. 85; *Provided, however*, That they must be qualified to make entry under the homestead laws and also possess the qualifications as to industry, experience, character, and capital required of all applicants under this order.

5. *Applicants must be qualified.*—No entry shall be accepted by the local land office until the applicant therefor has satisfied the Examining Board appointed for the Owyhee Project to consider such matters, that he is possessed of such qualifications (in addition to the qualifications required under the homestead laws) as to industry, experience, character, and capital, as in the opinion of the board are necessary to give reasonable assurance of success by the prospective settler.

6. *Requirements as to industry, experience, character and capital.*—Each applicant must possess good health and have had at least two years' actual experience in farm work and

farm practice. He must have at least $2,000 in money free of liability, or the equivalent thereof in livestock, farming equipment, or other assets deemed by the Examining Board to be as useful to the applicant as money. *Provided, however,* That for farm units having irrigable areas of not more than twenty acres each applicant must have a net worth of $1,000 or the equivalent thereof.

7. *Examining Board.*—An Examining Board of three members has been appointed by the Secretary of the Interior, to consider the fitness of each applicant to undertake the development and operation of a farm on the Owyhee project. Each applicant, except those described in paragraph 13 (a), must appear in person before the Examining Board, and the Construction Engineer, who is the member representing the United States, and who will act as Secretary of the Board, will notify each applicant of the period of time set for his appearance and examination. The members of the board will be present at the project office when the opening is being held, and interested applicants, and particularly non-residents, will be examined at such times as it is convenient for them to be present. There must be, of course, some limit of time covering this feature, and the board will fix this limit, and will also announce such other incidental rules as will necessitate one appearance only by each applicant. Careful investigation shall be made to verify the statements and representations made by applicants, to the end that no misunderstanding may prevail, either regarding the applicant's fitness or his appreciation of the problem before him.

8. *Determination of relative standing of applicants.*—The relative standing of the applicants will be based upon a percentage rating with the following weights given to the four prescribed qualifications:

	Percent
Character	15
Industry	20
Capital	30
Farm Experience	35

Applicants will be rated according to the following schedules and no applicants will be considered eligible, who fall below the minimum named in any one of the headings of these schedules, or who do not, in the opinion of the board, possess the health and vigor necessary for active farm work:

Character	*Percent*	*Industry*	*Percent*
Fair	5	Fair	5
Good	6 to 10	Good	6 to 10
Excellent	11 to 15	Excellent	11 to 20

Capital

For farm units of more than 20 irrigable acres:

Capital	*Percent*	*Capital*	*Percent*
$2,000 to $2,999	20	$7,000 to $7,999	27
3,000 to 3,999	22	8,000 to 8,999	28
4,000 to 4,999	24	9,000 to 9,999	29
5,000 to 5,999	25	10,000 or above	30
6,000 to 6,999	26		

For farm units of 20 irrigable acres or less:

$1,000 to $1,499	20	$3,500 to $3,999	27
1,500 to 1,999	22	4,000 to 4,499	28
2,000 to 2,499	24	4,500 to 4,999	29
2,500 to 2,999	25	5,000 or above	30
3,000 to 3,499	26		

Farm Experience	*Percent*
2 years in farming other than irrigation	10
2 years in irrigation farming, any time	15
2 years' farming other than irrigation 10% plus 1½% for each additional year's experience up to a total of 12 years (including first two years), or a maximum of	25
2 years in irrigation farming, in last 4 years	20
2 years in irrigation farming, in last 2 years	25
3 years in irrigation farming, in last 4 years	30
3 years or more in responsible charge of irrigation farm in last 4 years	35

9. *When, and how to apply for a farm unit.*—Any person desiring to acquire any of the farm units described in paragraph 1 must, as a first step, secure from the Construction Engineer, Boise, Idaho, or from the Commissioner, Bureau of Reclamation, Washington, D. C., a farm application blank. The blanks will be available on and after the date of this notice, and full answer must be made to each question propounded therein. The farm application must designate in the first paragraph the particular farm desired. If the applicant claims a preference right on account of military service, he shall attach to this application an affidavit setting forth such military service. The affidavit shall state the applicant's time of service, the unit of which he was a member, the date on which he was honorably discharged, or separated, or transferred to the regular Army or Naval Reserve, and that he did not refuse to wear the uniform of such service or to perform the duties thereof. If the applicant claims a preference right on account of military service with the allied armies during the World War, the affidavit should also state, if true, that the service with the allied armies was similar to the service with the Army of the United States for which recognition was granted in the said Public Resolution No. 85. There shall be attached to said affidavit a copy of such honorable discharge or separation from the service, or the order of transfer to the regular Army or Naval Reserve, as the case may be, which copy shall be certified by a notary public to be a true copy of the original.

10. *When and where to file the farm application.*—The farm application with the proof to be furnished by the ex-Service man, must be filed with the Construction Engineer at Boise, Idaho, in person, if convenient, or by mail, or otherwise, prior to January 31, 1938, if the applicant desires to qualify under paragraph 11 below. No advantage will accrue to an applicant presenting his application in person rather than by mail, and, if the applicant does not reside at Boise, his application should be mailed. Farm applications received on or after January 31, 1938, will be filed and noted in the order of their receipt.

11. *Simultaneous filing of farm applications.*—All applications received prior to January 31, 1938, the date of opening, will be held and treated as simultaneously filed.

12. *Preference rights of ex-service men not filing in accordance with Paragraph 11.*—In order that ex-service men may take advantage of the preference right as provided in Paragraph 4 of this order, in the event that they fail to file prior to January 31, 1938, as set forth in Paragraph 11 above, their applications together with the proof to be furnished by them, must be filed in the Office of the Construction Engineer, Boise, Idaho, on or prior to May 1, 1938, the day before the date upon which the farm units herein described, except those units for which applications of ex-service men have been accepted, become open to entry by the general public. No advantage will accrue to an applicant presenting his application in person rather than by mail.

13. *Showing of applicants and selection thereof.*—(a) Where the applicant fails to make a *prima facie* case—that is, where the applicant does not possess good health or does not show at least two years' farm experience, and the assets required in Paragraph 6, the application shall be rejected and the applicant notified thereof by registered mail, and of his right to appeal to the Secretary of the Interior within 10 days from receipt of notice. Like action shall be taken where the evidence of military service is defective or not furnished. All appeals allowed under this order must be filed in the office of the project Construction Engineer at Boise, Idaho, and within 10 days from receipt of notice. (b) Each applicant who makes a *prima facie* case and has not been previously examined by the board shall be notified by the board, by registered mail, of the time within which he must appear before it. After such personal examinations, and after consideration of the showing made in the application, the board will rate the applicant in accordance with the scale set forth above, and place such rating in red ink, with the initials of each member of the board upon the face of the farm application blank. Should the applicant fail to appear for examination after due notice, his application will receive no further consideration by the board at that time. Should he later appear his application may be considered for any farm then remaining unassigned. The date of receipt of his application shall then be considered as being the day he actually appeared before the board. The rating necessary to establish qualification is the minimum named in Paragraph 8 of this order, and the applications of all who fail to attain this minimum shall be rejected and the applicants notified thereof by registered mail, and of the right of appeal to the Secretary within 10 days from receipt of notice. After the expiration of the appeal period and in the absence of any pending appeals, the board shall select the 51 applicants (there being 51 farm units described in paragraph 1 subject to entry) with the highest rating, and notify each of the other applicants that since the number of qualified applicants exceeds the number of available farms, it is necessary to reject all applications below the first 51 in qualification ratings. Each rejected applicant may appeal to the Secretary within ten days. In the event that the number of qualified applicants is less than the number of available farm units, and also if in such case there are several applications for the same farm unit, the board shall assign a farm unit to each of such applicants. Whenever practicable, the board shall allow the applicants to exercise a choice of farms; and if it is found practicable to do so, the applicants will be given the right of selection, regardless of other applications, in the order of their ratings. The intent of the law is to select the best qualified applicants for the farms available, and the Government reserves the right to assign the farms regardless of individual preferences. Where two or more applicants have received identical ratings a drawing shall be made by the examining board to determine the order in which the available farms shall be awarded.

14. *Notification of applicant that he has been selected.*—After the expiration of the appeal periods in all of the contingencies names above, or any other that may arise, and in the absence of any pending appeals, the board shall notify each applicant selected for a farm, by registered mail, and enclose a water rental application for the farm selected, which must be filled in by the applicant and returned to the Construction Engineer within 10 days from receipt of notice with payment of the water rental charges, as specified in Paragraph 21 hereof. Upon receipt by the Construction Engineer of the water rental application, executed by the applicant and accompanied by the required payment, the board shall make appropriate notation on a copy of said water rental application, which will entitle the applicant to file homestead application at the local land office, and the board will return said copy by registered mail to the applicant for that purpose. Such homestead application shall be made within 15 days from the date of receipt of the approved water rental application. Failure to make homestead entry within the period named will render the application subject to rejection.

15. *Failure of selected applicant to complete transaction.*—If the applicant fails to comply with any of the requirements named above the board will select the next highest in qualification rating, and when the list has been exhausted, and if there still remain lands unallotted, the board will consider applications filed thereafter in the order filed, and such applications will otherwise be handled by the board as prescribed in Paragraph 13.

16. *General entry.*—On and after May 2, 1938 any farm units described in paragraph 1 above which remain unentered, shall be subject to entry under this order by any person having the necessary qualifications. If, on May 2, 1938 prior to 2 p. m., the number of applications filed exceeds the number of available farm units, then the right to make entry for any such farm unit shall be determined in accordance with Paragraph 13 of this order, the provisions of which shall continue in effect in a similar manner in the future if the number of applications at any time exceeds the number of remaining available farm units.

17. *Warning against unlawful settlement.*—No person shall be permitted to gain or exercise any right under any settlement or occupation of any of the public lands covered by this order except under the terms and conditions prescribed by this order: *Provided, however,* That this shall not affect any valid existing right obtained by settlement or entry while the land was subject thereto.

18. *All land to be included in an irrigation district.*—Substantially all of the lands covered by this public order are within the Owyhee Irrigation District organized under the laws of the State of Oregon, or the Gem Irrigation District organized under the laws of the State of Idaho. For any of the lands covered by this order which are not within those districts, the water rental applicant will be required to execute a water rental application in which the following clause shall be inserted:

"I agree to the inclusion of my land in the _____ Irrigation District." (The name of the district to which the land should properly be joined to be inserted by the project office.)

19. *Contracts with irrigation districts.*—(a) A contract was entered into October 14, 1926, and a supplementary contract on March 16, 1936, between the United States and the Owyhee Irrigation District, providing for payment of charges and operation of works. (b) A contract was entered into October 14, 1926, and a supplementary contract on March 16, 1936, between the United States and the Gem Irrigation District, providing for payment of charges and operation of works.

20. *Construction charges.*—The construction cost shall be paid in accordance with the contracts dated October 14, 1926, and the supplementary contract dated March 16, 1936, between the United States and the Owyhee Irrigation District and the Gem Irrigation District, which contracts are on file in the office of the Construction Engineer, Bureau of Reclamation, Boise, Idaho, where they may be examined.

21. *Water rental and other charges.*—Water rental charges shall be payable as follows:

(a) Each successful applicant for any of the farm units described above in the Owyhee Irrigation District, and each prospective entryman on any other farm unit covered by this order which may become subject to homestead entry in that district, shall, before making homestead entry, pay to the United States one dollar ($1.00) for each irrigable acre in the farm unit, as an advance initial payment for the rental of water for the season of 1938. Such payment will entitle him to two and six-sevenths (2⅔) acre-feet of water per irrigable acre. Additional water may be furnished during the same season at the rate of thirty-five cents ($0.35) per acre-foot, payments therefor to be made to the Owyhee Irrigation District in advance of its delivery.

(b) Each successful applicant for any of the farm units described above in the Gem Irrigation District, and each prospective entryman on any other farm unit covered by this order which may become subject to homestead entry in that district, shall, before making homestead entry, pay to the United States thirty-five ($0.35) for each irrigable acre in the farm unit as an advance initial payment for the rental of water for the season of 1938. Such payment will entitle him to one acre-foot of water per irrigable acre. Additional water will be furnished during the same season at the rate of thirty-five cents ($0.35) per acre-foot, payments therefor to be made to the Gem Irrigation District in advance of its delivery. Provided, That, in any case where water rental application is not filed until after June 1, 1938, and no water is used during the irrigation season of 1938, initial water rental payments, made as specified in (a) and (b) above, will be credited on water charges coming due for the succeeding irrigation season in the spring of 1939. Otherwise, such initial payments shall be applied as water rental charges for the season of 1938, whether water is used or not.

(c) In addition to the payment of water rental charges specified in (a) and (b) above, payment must also be made to the irrigation district in which the farm unit is included of the annual assessment or assessments for district administrative purposes at the same rate and in the same manner as for similar lands in private ownership in such district.

(d) Water rental charges for privately owned lands covered by this order shall be in accordance with Article

13 H of contract dated March 16, 1936 between the United States and the Owyhee Irrigation District, the Gem Irrigation District and other subscribing districts of the Owyhee project.

22. *Place and manner of payment of water rental charges.*—All initial water rental charges must be paid at the office of the Bureau of Reclamation at Boise, Idaho, by cash or bank draft, cashier's check, certified check, or postal or express money order, payable to Bureau of Reclamation.

23. *Reservation of rights of way for county highways.*—Rights of way are reserved for county highways along all section lines, said rights of way being 30 feet in width on each side of said lines.

24. *Effect of relinquishment prior to one year's residence.*—In the event that any entry of public land shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, the lands so relinquished shall not be subject to entry for a period of 60 days after the filing and notation of the relinquishment in the local land office. During the 10-day period next succeeding the expiration of such 60-day period, any person having the necessary qualifications may file application for said public land. If, on the tenth day of said 10-day period, prior to 2 p. m., the number of applications filed exceeds the number of available farm units, then the right to make entry for such farm units shall be determined in accordance with the proceedure described in Paragraph 13 of this order.

25. *Waiver of mineral rights.*—All homestead entries for any of the above-described farm units, and for any lands covered by this order which may become subject to such entry, will be subject to the laws of the United States governing mineral land and all homestead applicants under this order must waive the right to the mineral content of the land, if required to do so by the Land Office, otherwise the homestead application will be rejected or the homestead entry cancelled.

E. K. BURLEW,
Assistant to the Secretary of the Interior.

[F. R. Doc. 38-264; Filed, January 25, 1938; 10:00 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

POWERS AND FUNCTIONS OF THE DEPUTY ADMINISTRATOR

JANUARY 14, 1938.

1. Pursuant to the authority delegated to the Secretary of Agriculture in Executive Order No. 7530, dated December 31, 1936, as amended, the Administrator of the Farm Security Administration, Department of Agriculture, or in the event of his absence, the Deputy Administrator, is hereby authorized to perform the following powers and functions, subject to the limitations specified in paragraph 2 herein:

(*a*) To administer and expend the assets and funds which have been or may be transferred in trust to the United States by any state Rural Rehabilitation corporation, and to administer affairs in connection therewith, in such manner as shall be deemed necessary or appropriate for the purposes authorized by the agreements of transfer and for the fulfillment of obligations assumed by the Government under such agreements, in coordination with expenditures of funds appropriated by Congress and made available to the Farm Security Administration.

(*b*) To administer the affairs, assets, and funds of any state Rural Rehabilitation corporation which is or may be under the control of the Department pending the transfer of its assets to the United States.

(*c*) To establish rules for the division of proceeds derived from joint investments of United States moneys and corporation or trust fund moneys in accordance with agreements which have been or may be entered into with such corporations, and to prescribe procedures for the actual application of such proceeds.

(*d*) To provide for reimbursement to corporations or trust funds for materials, supplies, equipment, services, and so forth, transferred, leased, or otherwise disposed of, or real estate leased, upon a reimbursable basis to the Farm Security Administration or to any other Government agency, and similarly to provide for the reimbursement of Government appropriation accounts when materials, supplies, equipment, services, and so forth, belonging to such accounts are transferred, leased, or otherwise disposed of, or when real estate is leased, upon a reimbursable basis for activities financed by a corporation or trust fund.

(*e*) To delegate to assistant administrators, or their subordinates, and to regional directors of the Farm Security Administration, or their subordinates, such authority in connection with the foregoing powers and functions as may be considered appropriate.

2. The foregoing paragraph does not confer authority to approve:

(*a*) Basic budgets for the initiation or expansion of any projects involving the construction of buildings or the purchase of land.

(*b*) The transfer to homestead associations of completed projects and the prices at which such projects will be sold.

(*c*) Loans in excess of twenty-five thousand dollars ($25,000) for any one association, group, or individual.

3. Policies and procedures established by Secretary's memoranda, Regulations of the U. S. Department of Agriculture, administration orders and administration instructions for the administration and expenditure of Farm Security Administration assets and funds shall be observed wherever applicable and appropriate.

4. All acts in proper exercise of the foregoing powers and functions which have been performed since January 1, 1937, by the Administrator, the Deputy Administrator, or their agents, are hereby confirmed.

[SEAL] M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38-271; Filed, January 25, 1938; 12:39 p. m.]

FEDERAL POWER COMMISSION.

JANUARY 18, 1938.

Commissioners: Claude L. Draper, Acting Chairman; Basil Manly, John W. Scott.

[Docket Nos. ID-268, ID-515, ID-525, ID-444, ID-446, ID-471, ID-750, ID-239]

APPLICATIONS OF BERNARD FRANCIS BRAHENEY, PAUL AUGUST LEHMKUHL, BERNARD WILLIAM LYNCH, JAMES JOSEPH MADDEN, WALTER JOSEPH MALONEY, MATTHEW ALOYSIUS MORRISON, THOMAS B. WILSON, HENRY CLINTON CUMMINS

ORDER FIXING DATE FOR RESUMPTION OF HEARING

Upon applications of the above named individuals, all of Chicago, Illinois, except Thomas B. Wilson who is of Louisville, Kentucky, for orders authorizing them severally to hold interlocking positions, pursuant to Section 305 (b) of the Federal Power Act, hearing on said applications having commenced on May 4, 1936, and said applications having been variously amended thereafter and the Commission, on December 15, 1936, having ordered that the hearing on said applications as amended, which it had ordered to be held on December 17, 1936, be continued until such date as the Commission should fix by subsequent order, and certain of said applications having been further amended subsequent to said order of December 15, 1936:

The Commission orders that:

The hearing on said applications, as now amended, be resumed beginning on February 28, 1938, at 10 a. m. in the Regional Office of the Commission, Room 988, Merchandise Mart, Chicago, Illinois.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-260; Filed, January 25, 1938; 9:59 a. m.]

JANUARY 18, 1938.

Commissioners: Claude L. Draper, Acting Chairman; Basil Manly, John W. Scott.

[Docket No. IT-5504]

APPLICATION OF UNION PUBLIC SERVICE COMPANY

ORDER SETTING DATE OF HEARING

Upon application filed January 17, 1938, pursuant to Section 203 (a) of the Federal Power Act, by Union Public Service Company, a corporation organized under the laws of the State of Minnesota, having its principal business office in the Pioneer Building, St. Paul, Minnesota, for an order authorizing it to sell and dispose of certain of its electric facilities to the City of Flandreau, South Dakota;

The Commission orders that:

A public hearing on said application be held on February 7, 1938, at 10 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-261; Filed, January 25, 1938; 9:59 a. m.]

JANUARY 18, 1938.

Commissioners: Claude L. Draper, Acting Chairman; Basil Manly, John W. Scott.

[Docket No. DI-134]

DECLARATION OF INTENTION OF WISCONSIN PUBLIC SERVICE CORPORATION

ORDER CONTINUING DATE OF HEARING

Upon its own motion the Commission orders:

That the hearing in the matter of the Declaration of Intention filed May 27, 1937, by the Wisconsin Public Service Corporation of Milwaukee, Wisconsin, which hearing was continued to February 10, 1938, by its order of January 6, 1938, be further continued to February 24, 1938, at 10 a. m. in the Commission's hearing room in the Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-262; Filed, January 25, 1938; 9:59 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

RULES FOR THE REGULATION OF SHORT-SELLING

These rules were adopted pursuant to authority conferred upon the Securities and Exchange Commission by the Securities Exchange Act of 1934, as amended, particularly Sections 3 (b), 10 (a), and 23 (a) thereof. The rules apply to short-selling of securities on National securities exchanges. Rule X-3B-3 defines the term "short-selling". Rule X-10A-1 prohibits short-selling under certain circumstances and is applicable to all persons whether members of national securities exchanges or the public. Rule X-10A-2 is applicable only to members of national securities exchanges and is designed to prohibit the borrowing of securities for deliveries against "long" sales.

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 3 (b) and 23 (a) thereof, hereby adopts the following rule:

"RULE X-3B-3. *Definition of 'short sale'.*—The term 'short sale' means any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller":

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 10 (a) and 23 (a) thereof, hereby adopts the following rules:

"RULE X-10A-1. *Short sales.*—(*a*) No person shall, for his own account or for the account of any other person, by the use of any facility of any national securities exchange effect a short sale of any security at or below the price at which the last sale thereof, regular way, was effected on such exchange.

"(*b*) No member of a national securities exchange shall, by the use of any facility of such exchange, execute any sell order unless such order is marked either 'long' or 'short'.

"(*c*) No member of a national securities exchange shall mark a sell order 'long' unless (1) the security to be delivered after sale is carried in the account for which the sale is to be effected, or (2) such member is informed that the seller owns the security ordered to be sold and, as soon as is possible without undue inconvenience or expense, will deliver the security owned to the account for which the sale is to be effected.

"(*d*) The provisions of paragraph (a) hereof shall not apply to (1) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense; (2) any member in respect of a sale, for an account in which he has no interest, pursuant to an order to sell which is marked 'long'; (3) any sale of an odd-lot; (4) any sale by an odd-lot dealer to offset odd-lot orders of customers; or (5) any sale by an odd-lot dealer to liquidate a long position which is less than a round lot, provided such sale does not change the position of such odd-lot dealer by more than the unit of trading."

"RULE X-10A-2. *Requirements for covering purchases.*—(*a*) No member of a national securities exchange shall lend, or arrange for the loan of, any security for delivery to the broker for the purchaser after sale, or shall fail to deliver a security on the date delivery is due, if such member knows or has reasonable grounds to believe that the sale was effected, or will be effected, pursuant to an order marked 'long', unless such member knows, or has been informed by the seller, (1) that the security sold has been forwarded to the account for which the sale was effected; or (2) that the seller owns the security sold, that it is then impracticable to deliver to such account the security owned and that he will deliver such security to such account as soon as is possible without undue inconvenience or expense.

"(*b*) The provisions of this rule shall not apply to the lending of a security by a member through the medium of a loan to another member."

The foregoing rules shall become effective February 8, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-266; Filed, January 25, 1938; 12:24 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 24th day of January, A. D. 1938.

[File No. 52-1]

IN THE MATTER OF GENESEE VALLEY GAS COMPANY, INC.

ORDER

Genesee Valley Gas Company, Inc. having filed an application pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935, for approval of a plan of reorganization under Section 77B of the Bankruptcy Act, as amended;

A hearing on such application having been held after appropriate notice; oral argument on the plan having been heard and the record in this matter having been duly considered by the Commission; and the Commission having filed its opinion and findings herein;

It is ordered, That such plan of reorganization be and the same hereby is disapproved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-267; Filed, January 25, 1938; 12:24 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of January, A. D. 1938.

IN THE MATTER OF CHOLLAR EXTENSION MINING COMPANY COMMON STOCK, 10 CENTS PAR VALUE

ORDER DISMISSING PROCEEDINGS INSTITUTED PURSUANT TO SECTION 19 (A) (2) SECURITIES EXCHANGE ACT OF 1934

The Commission having heretofore on December 28, 1937, ordered that a hearing under Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, be held on January 18, 1938, to determine whether to suspend for a period not exceeding twelve months or to withdraw the registration of the Common Stock, 10 Cents Par Value, of Chollar Extension Mining Company on the San Francisco Mining Exchange, and having subsequently postponed such hearing to January 26, 1938; and

Chollar Extension Mining Company, prior to the date of said hearing, having filed its Annual Report on Form 10-K for the fiscal year ended December 31, 1936;

It is ordered, That the proceedings heretofore instituted against Chollar Extension Mining Company pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, be and the same hereby are dismissed.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-270; Filed, January 25, 1938; 12:25 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of January, 1938.

[File No. 1-2913]

IN THE MATTER OF RICHFIELD OIL CORPORATION, COMMON STOCK PURCHASE WARRANTS, DATED MARCH 15, 1937 (VOID AFTER MARCH 14, 1947)

ORDER DISMISSING APPLICATION FOR WITHDRAWAL FROM LISTING AND REGISTRATION

Richfield Oil Corporation having made applications to the Commission, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, to withdraw its Common Stock Purchase from listing and registration on the San Francisco Stock Exchange and on the Los Angeles Stock Exchange; and

A hearing having been held in these matters after appropriate notice, and the Commission having duly considered the record therein and having this day made and filed its findings herein;

It is ordered, That said applications be and hereby are dismissed.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-268; Filed, January 25, 1938; 12:24 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of January, 1938.

[File No. 1-2140]

IN THE MATTER OF BOTANY CONSOLIDATED MILLS, INC. CERTIFICATES OF DEPOSIT REPRESENTING TEN-YEAR SECURED 6½% SINKING FUND GOLD BONDS DUE APRIL 1, 1934

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Certificates of Deposit representing Ten-Year Secured 6½% Sinking Fund Gold Bonds due April 1, 1934, of the Botany Consolidated Mills, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on February 9, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-269; Filed, January 25, 1938; 12:25 p. m.]

Thursday, January 27, 1938 *No. 19*

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 201]

A TEMPORARY ORDER AMENDING ORDER NO. 200 AS TO INCLUDE UNTIL FURTHER ORDER OF THE COMMISSION A MINIMUM PRICE FOR COALS HAVING A MAXIMUM TOP SIZE OF THREE-EIGHTHS INCH PRODUCED BY CODE MEMBERS WITHIN DISTRICTS NUMBERS ONE AND SEVEN, AND AMENDING SAID ORDER NO. 200 SO AS TO PROHIBIT THE APPLICATION OF THE TEMPORARY MINIMUM PRICE THEREIN PROVIDED WHEN SALES ARE MADE FOR BY-PRODUCT USE

Order No. 200, issued on the 21st day of January, 1938, provided certain temporary relief by establishing a minimum price for coals having a maximum top size of ⅜" produced by code members within Districts Numbers Two, Three, Four and Six, pending final disposition of petitions therein named or until further order of the Commission, and it now appearing to the Commission that code members within Districts Numbers One and Seven should be afforded such temporary relief as afforded code members within Districts Nos. Two, Three, Four and Six.

Now, therefore, it is hereby ordered:

1. That Order No. 200 is modified and amended and the Schedules of Minimum Prices for Coals of Code Members Produced within Districts Numbers One, Two, Three, Four, Six and Seven, and Supplement No. 1 to Price Schedule No. 1 for each of the respective Districts, be and the same are hereby modified and revised to contain the following provision, as if the same were fully set out therein:

"Code Members who, prior to December 16, 1937, produced and sold ⅜" x 0" or ¼" x 0" slack are authorized to sell such sizes at a price not in excess of 10¢ under the minimum price established for ¾" x 0" size for the same mine when for shipment into Market Areas 2, 4, 6, 7, 8, 9 and 10; provided, that no substitution may be made against orders for any ⅜" x 0" or ¼" x 0" sizes. The temporary price herein provided for ⅜" x 0" or ¼" x 0" slack shall not apply on sales for by-product use."

2. That except as herein temporarily revised the Minimum Price Schedules and Supplements thereto established for Districts Numbers One, Two, Three, Four, Six and Seven, and the temporary orders previously entered in the dockets referred to in Order No. 200, shall remain in full force and effect until further order of the Commission.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within Districts Numbers One, Two, Three, Four, Six and Seven; and shall cause a copy of this order to be made available for inspection to all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 24th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-272; Filed, January 26, 1938; 10:31 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

REVISION OF DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR HARVESTING THE 1937 CROP OF SUGAR BEETS, PURSUANT TO THE SUGAR ACT OF 1937

Whereas Section 301 (b) of the Sugar Act of 1937, approved September 1, 1937, provides as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefore at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however*, That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas Section 301 (e) of the said act provides, in part as follows:

The conditions provided in • • • sub-section (b) with respect to wage rates, of this section shall not apply to work performed prior to the enactment of this Act; • • •.

and

Whereas the Secretary of Agriculture has held a number of public hearings in the sugar beet area for the purpose of receiving evidence with respect to fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1937 crop of sugar beets.

Now, Therefore, I, Henry A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine a fair and reasonable wage rate with respect to the harvesting, after September 1, 1937, of the 1937 crop of sugar beets, which rate for any farm shall be not less than 12 cents per net short ton harvested, in addition to the total amount agreed upon between the producer and laborer; *Provided, however*, That a producer shall be deemed to have complied with the requirements of Section 301 (b) of the Sugar Act of 1937 in regard to fair and reasonable wages if rates have been paid of not less than $7.50 per acre for harvesting sugar beets on farms yielding an average of 7 net short tons or less per acre, and in addition thereto 75 cents per net short ton, and fractions thereof in proportion, for each ton harvested per acre for the farm in excess of an average of 7 net short tons per acre; and *Provided further*, That the foregoing shall not be construed to mean that a producer may qualify for payment who has not paid in full the amount agreed upon between the producer and the laborer.

This determination supersedes the "Determination of Fair and Reasonable Wage Rates for Harvesting of the 1937 Crop of Sugar Beets, Pursuant to the Sugar Act of 1937," made by the Secretary of Agriculture on January 20, 1938.

Done at Washington, D. C., this 25th day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-274; Filed, January 26, 1938; 11:22 a. m.]

FARM CREDIT ADMINISTRATION.

[FCA 72]

THE FEDERAL LAND BANK OF HOUSTON

CHARGES FOR REAMORTIZING LAND BANK LOANS

Pursuant to paragraph "Thirteenth", Section 13 of the Federal Farm Loan Act, as amended, (12 U. S. C. 781 (thirteenth), and by action of the Executive Committee of The Federal Land Bank of Houston on July 29, 1937, with the approval of the Farm Credit Administration granted on September 29, 1937, the following fees shall be charged in the Tenth Farm Credit District (Texas) in connection with each application to reamortize a Federal land bank loan.

A fee of $15.00 shall be paid to The Federal Land Bank of Houston by the applicant in connection with each application to reamortize a land bank loan. Of this sum $5.00 shall be paid to the national farm loan association through which the loan is being serviced, to cover its expense in connection with such application. If, for any reason, the loan is not reamortized, $10.00 of the fee paid by the applicant will be refunded to the national farm loan association for the benefit of the applicant. If the loan is reamortized the full amount of the fee shall be retained by the bank and the association.

The cost of recording the reamortization agreement shall be paid by the bank; all other costs and fees, such as notarial fees, cost of supplemental abstracts, affidavits, and related papers shall be paid by the applicant.

THE FEDERAL LAND BANK OF HOUSTON.

[SEAL] By R. D. JOHNSON,
Vice-President.

[F. R. Doc. 38-275; Filed, January 26, 1938; 11:34 a. m.]

[FCA 73]

FUNCTIONS, POWERS, AUTHORITIES AND DUTIES OF DIRECTOR AND ASSISTANT DIRECTOR OF REGIONAL AGRICULTURAL CREDIT DIVISION OF FARM CREDIT ADMINISTRATION

1. The Director of the Regional Agricultural Credit Division of the Farm Credit Administration is hereby authorized and empowered, subject to the jurisdiction and control of the Governor of the Farm Credit Administration, to execute and perform all functions, powers, authority and duties which the Governor of the Farm Credit Administration is authorized to do and perform relative to all matters and things arising in connection with the administration of the regional agricultural credit corporations and the provisions of law pertaining thereto.

2. The Assistant Director of the Regional Agricultural Credit Division of the Farm Credit Administration is hereby authorized and empowered to execute and perform all functions, powers, authority and duties pertaining to the office of the Director of the Regional Agricultural Credit Division of the Farm Credit Administration in the event the Director is unavailable to act by reason of absence from the Washington office of the Farm Credit Administration or for any other cause.

3. The provisions hereinbefore set forth shall not operate to limit or restrict the Governor of the Farm Credit Administration in the execution and performance (in Washington or elsewhere) of any functions, powers, authority, or duties vested in him.

4. Farm Credit Administration Order No. 47, dated April 16, 1934, and Farm Credit Administration Order No. 59, dated July 6, 1934, are hereby revoked.

5. The provisions of this order shall be effective as of the opening of business on the date above written and shall remain in full force and effect until amended or revoked by subsequent order.

[SEAL] F. F. HILL,
Acting Governor.

[F. R. Doc. 38-276; Filed, January 26, 1938; 11:35 a. m.]

RAILROAD RETIREMENT BOARD.

AMENDMENT TO REGULATIONS GOVERNING APPEALS WITHIN THE RAILROAD RETIREMENT BOARD

Pursuant to the authority conferred by Section 10 of the Railroad Retirement Act of 1937, the Railroad Retirement Board hereby prescribes the following amendment to the Regulations Governing Appeals within the Railroad Retirement Board, promulgated January 17, 1938:

Part II, paragraph 2, of said Regulations is amended by omitting therefrom the final sentence:

"As used herein, a month shall be considered to have elapsed between any date and the date corresponding thereto in the next succeeding month."

The paragraph as amended shall be as follows:

"2. Appeal from an initial decision of the Claims Service shall be made by the execution and filing of the appeal form prescribed by the Board, and must be filed with the Appeals Council within one year from the date upon which notice of the initial decision is mailed to the applicant at the address furnished by him."

By direction of the Board:

[SEAL] R. B. BRONSON, *Secretary.*

JANUARY 25, 1938.

[F. R. Doc. 38-273; Filed, January 26, 1938; 11:19 a. m.]

Friday, January 28, 1938 *No. 20*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DOCUMENTS REQUIRED OF BONA FIDE ALIEN SEAMEN ENTERING THE UNITED STATES

By virtue of and pursuant to the authority vested in me by the act of May 22, 1918, 40 Stat. 559, as extended by the act of March 2, 1921, 41 Stat. 1205, 1217, I hereby prescribe the following regulations governing the entry of alien seamen into the United States:

I

Seamen whose occupational status as such is found to be bona fide, entering the ports of the United States solely in the pursuit of their calling as seamen, may be admitted temporarily in the discretion of the Secretary of Labor and under regulations prescribed by the Secretary without passports or visas if arriving in the United States under the following circumstances:

(a) Seamen who were members of the crew of an American vessel which has been sold and delivered abroad, when the contract of employment provides for the return of the crew or the laws of the United States provide for their return to an American port.

(b) Seamen returned to the United States in accordance with the terms of the articles of outward voyage.

(c) Shipwrecked or cast-away seamen rescued by or transferred to a vessel bound to an American port.

(d) Seamen who are American consular passengers, or are repatriated without expense to the United States Government following and in accordance with the terms of their discharge in a foreign port before an American consular officer, but who, for any reason, cannot be considered as serving as seamen on the vessel on which they arrive at an American port.

(e) Seamen arriving in the United States, sent forward by the owners to join a foreign vessel as members of the crew.

II

Masters of maritime vessels (except government vessels and such other vessels as the Secretary of State, in his discretion, may indicate) of all nationalities sailing for a port of the United States must submit for visa a list of all the alien members of the vessel's crew to the American consular officer at the port from which the vessel commences its voyage. If there is no consular officer stationed at that port, but there is one stationed at a nearby place to whom the list may be submitted by mail for visa without delay of the vessel's departure, the list must be so submitted for visa. If there is no consular officer stationed nearby the list must be submitted for visa at the first port of call where a consular officer is stationed but if the vessel does not call at any such port then no visa of the crew list will be required. The visa of a shipping commissioner in the Canal Zone shall be equivalent to the visa of an American consular officer, but consular agents are not authorized to visa crew lists. The visaed crew list must be delivered to the immigration authorities at the vessel's first port of call in the United States.

Alien seamen whose names are not on a visaed crew list when a visaed crew list is required of the vessel on which they arrive at a port of the United States shall not be allowed to land without the permission of the Secretary of State, except that for such seamen arriving at a port in the Virgin Islands the Governor thereof is authorized to grant such permission.

As used in this order, the term "United States" shall include the Territories of Alaska and Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

The Secretary of State and the Secretary of Labor are hereby authorized to make such additional rules and regulations, not inconsistent with this order, as may be deemed necessary for carrying out the provisions of this order and the statutes mentioned therein.

This order shall take effect immediately and shall supersede Executive Order No. 6722 of May 26, 1934, entitled "Documents Required of Bona Fide Alien Seamen Entering the United States".

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 26, 1938.

[No. 7797]

[F. R. Doc. 38-277; Filed, January 26, 1938; 3:11 p. m.]

EXECUTIVE ORDER

TRANSFERRING A PORTION OF THE BOISE BARRACKS MILITARY RESERVATION, IDAHO, TO THE CONTROL AND JURISDICTION OF THE VETERANS' ADMINISTRATION

By virtue of and pursuant to the authority vested in me by the act of March 3, 1925, 43 Stat. 1212, it is ordered that the following-described portion of the Boise Barracks Military Reservation located in township 3 north, range 2 east, of Boise meridian, County of Ada, State of Idaho, be, and it is hereby, transferred from the control and jurisdiction of the War Department to the control and jurisdiction of the Veterans' Administration:

"Beginning at a stone monument on the westerly boundary line of the Boise Barracks Military Reservation, from which monument, a stone monument marking the northwest corner of the reservation bears N. 20° W., 867.24 feet distant.

"Thence from said initial point, by metes and bounds,

"S. 22°12' E., 669.53 feet, along the said westerly boundary line of the Boise Barracks Military Reservation;
"N. 68°42' E., 75.98 feet;
"S. 83°22' E., 168.85 feet;
"N. 68°40' E., 832.75 feet;
"S. 22°40' E., 593.75 feet;
"N. 84°45' E., 940.20 feet;
"N. 2°15' E., 409.60 feet;
"N. 9°42' W., 49.48 feet;
"N. 1°16' W., 119.80 feet;
"N. 11°17' E., 59.00 feet;
"N. 37°27' E., 59.40 feet;
"N. 57°19' E., 225.70 feet;
"N. 88°56' E. 58.90 feet;
"N. 25°28' W., 1805.40 feet, to a point on the northerly boundary line of the said Military Reservation;
"S. 69°47' W., 1088.80 feet, along said northerly boundary line, to a point on the center line of the Cruzen Irrigation Canal;
"Southwesterly, 1,450 feet, more or less, following the said center line of the Cruzen Irrigation Canal;
"S. 70°03' W., 35.81 feet, to a point on the aforementioned westerly boundary line of the Boise Barracks Military Reservation;
"S. 20°00' E., 348.35 feet, along the said westerly boundary line of the Boise Barracks Military Reservation, to the place of beginning.

"The tract as described contains an area of 110 acres, more or less."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 26, 1938.

[No. 7798]

[F. R. Doc. 38-278; Filed, January 27, 1938; 10:08 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 87-FD]

IN THE MATTER OF ROCHESTER & PITTSBURGH COAL CO., ET AL.

NOTICE OF HEARING

A petition having been filed with this Commission by Rochester & Pittsburgh Coal Co., et al., pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by them and in competition with Districts Nos. 2 and 3, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-283; Filed, January 27, 1938; 12:08 p. m.]

[Docket No. 88-FD]

IN THE MATTER OF A. G. & S. MINING COMPANY, ET AL.

NOTICE OF HEARING

A petition having been filed with this Commisison by A. G. & S. Mining Company, et al., pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by them and in competition with Districts Nos. 2 and 3, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-284; Filed, January 27, 1938; 12:08 p. m.]

[Docket No. 89-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 1

NOTICE OF HEARING

A petition having been filed with this Commission by Bituminous Coal Producers' Board for District No. 1, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by code members within District No. 1 and in competition with Districts No. 2, 3, 7 and 8, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-285; Filed, January 27, 1938; 12:08 p. m.]

[DOCKET No. 95-FD]

IN THE MATTER OF WILMINGTON COAL MINES, INC.

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 13th day of December, 1937, pursuant to provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 10, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 12th day of January 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, the Schedule of Minimum Prices for coals of code members produced within District No. 10 and any and all Supplements thereto established for said District, be and the same hereby are modified and revised to contain the following provision as if the same were fully set out therein after the Price Indices in Price Schedule No. 1 and Supplements thereto for District No. 10:

"Coals produced by the Wilmington Coal Mines, Inc., at its 'Wilmington' Mine in Seam No. 2 within District No. 10, are accorded a reduction of 30¢ per ton below the minimum prices established for sizes designated in Size Groups 1 to 5, inclusive, for District No. 10; and accorded a reduction of 10¢ per ton for sizes designated in Size Groups 11 and 12 for District No. 10."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 10, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 10, and to the petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 25th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-296; Filed, January 27, 1938; 12:11 p. m.]

[Docket No. 97-FD]

IN THE MATTER OF THE BERWIND-WHITE COAL MINING COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by The Berwind-White Coal Mining Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it and in competition with Districts Nos. 2, 3 and 7, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-295; Filed, January 27, 1938; 12:11 p. m.]

[Docket No. 99-FD]

IN THE MATTER OF MONROE COAL MINING COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Monroe Coal Mining Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coal produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-294; Filed, January 27, 1938; 12:11 p. m.]

[Docket No. 100-FD]

IN THE MATTER OF EBENSBURG COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Ebensburg Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-293; Filed, January 27, 1938; 12:10 p. m.]

[Docket No. 101-FD]

IN THE MATTER OF HEISLEY COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Heisley Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 1, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-286; Filed, January 27, 1938; 12:08 p. m.]

[Docket No. 105-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 7

NOTICE OF HEARING

A petition having been filed with this Commission by Bituminous Coal Producers' Board for District No. 7, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by code members within District No. 7 and in competition with Districts Nos. 1, 2, 3 and 8, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 7, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-287; Filed, January 27, 1938; 12:09 p. m.]

[Docket No. 143-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 16

NOTICE OF HEARING

A petition having been filed with this Commission by Coal Producers' Board for District No. 16, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by code members within District No. 16, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 16, the above entitled proceeding is assigned for hearing on February 9, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-288; Filed, January 27, 1938; 12:09 p. m.]

[Docket No. 187-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS BOARD, DISTRICT NO. 15

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 8th day of January 1938, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 15, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 15th day of January 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, the Schedule of Minimum Prices for coals of code members produced within District No. 15, as set forth in Price Schedule No. 1—District No. 15, established for said District, be and the same hereby is modified and revised to contain the following provision as if the same were fully set out therein after Paragraph 8, page no. 1, "Price Instructions and Exceptions" in Price Schedule No. 1—District No. 15:

"The Interstate Commerce Commission's order in Ex Parte 115, granting increases in interstate rates, became effective November 15, 1937. At this date no action has been taken with reference to intrastate rates by the state regulatory bodies in either Kansas or Oklahoma. Therefore, pending such action, the F. O. B. mine prices on coal of Code Members moving into the States of Kansas and Oklahoma via interstate routes may be adjusted to absorb the interstate increase, in no case to exceed 15¢ per net ton, over and above the maximum absorptions permitted in this schedule."

2. That except as herein temporarily revised, the Minimum Price Schedules, established for District No. 15, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 15, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 26th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-289; Filed, January 27, 1938; 12:09 p. m.]

[Docket No. 190-FD]

IN THE MATTER OF STANLEY COAL COMPANY

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 13th day of January, 1938, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 3, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 18th day of January, 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, the Schedule of Minimum Prices for coals of code members produced within District No. 3 and any and all Supplements thereto established for said District, be and the same hereby are modified and revised to contain the following provision as if the same were fully set out therein after the Price Indices in Price Schedule No. 1 and Supplements thereto for District No. 3:

"Machine cuttings of the Stanley Coal Company from its Banner Mine No. 1 in the Kittanning seam within District No. 3 may be priced at $1.10 per net ton f. o. b. mine for shipment into Market Area No. 2, and all invoices shall designate this coal to be low-grade machine cuttings."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 3, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 3, and to the petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 26th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-290; Filed, January 27, 1938; 12:10 p. m.]

[Docket No. 209-FD]

IN THE MATTER OF UNION COLLIERIES COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Union Collieries Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it and in competition with District No. 1, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-291; Filed, January 27, 1938; 12:10 p. m.]

[Docket No. 210-FD]

IN THE MATTER OF PITTSBURGH COAL COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by Pittsburgh Coal Company, pursuant to Section 4-II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals produced by it and in competition with District No. 1, described in the Schedule of Minimum Prices for Coals of Code Members Produced within District No. 2, the above entitled proceeding is assigned for hearing on February 14, 1938, at 10:00 A. M. at the Hearing Room of the Commission at the Walker Building, Washington, D. C., when opportunity will be afforded interested parties to be heard.

A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission; at each of the Statistical Bureaus of the Commission; and at the office of each District Board, as provided by Commission's Order No. 111.

By the Commission.

January 26, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-292; Filed, January 27, 1938; 12:10 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

METHOD OF ACCOUNTING FOR MONIES RECEIVED FROM SALE OF DUPLICATE CONTINUOUS DISCHARGE BOOKS, CERTIFICATES OF IDENTIFICATION, AND DISCHARGE

To Supervising Inspectors, Local Inspectors, Shipping Commissioners, Collectors of Customs and Others Concerned:

Under the provisions of subsection (h) of section 4551 R. S., as amended by the act of March 24, 1937, Public Law No. 25, 75th Congress, if a seaman loses his Continuous Discharge Book, Certificate of Identification, or Certificate of Discharge otherwise than by shipwreck, or other casualty, he will be required to pay for a duplicate an amount equal to the cost of such book or certificate to the Government, which for the current supply will be as follows:

Duplicate Continuous Discharge Book	$1.00
Duplicate Certificate of Identification	.75
Duplicate Certificate of Discharge	.35
Each additional Duplicate Certificate of Discharge issued to the same man at the same time	.05

When payment is made to a Collector or Deputy Collector of Customs, a receipt will be issued on Cat. 1008 and the payments will be scheduled on Standard Form 1044, Schedule of Collections, as "Reimbursement for Loss of Continuous Discharge Books, etc., Bureau of Marine Inspection and Navigation," symbol number 134236. These collections are to be listed on a separate schedule from Navigation Fees, and are also to be listed as a separate item on the Account Current with the title and symbol number as given above.

When the money is collected by a Shipping Commisisoner or Local Inspector, he will issue to the seaman an informal receipt, stating thereon the number of the document issued and the amount collected. The Shipping Commissioner or Local Inspector will pay over to the Collector of Customs of his port all moneys received from this source, such payment to be made at as early a day as practicable. The Collector will issue a receipt to the Shipping Commissioner or Local Inspector on Cat. 1008 for the moneys so paid, and the Collector will follow the procedure outlined in the above paragraph in accounting for the moneys so transferred to him.

The seaman will be required to make affidavit in duplicate as to the loss of his Continuous Discharge Book, Certificate of Identification, or Certificate of Discharge on Form 719-e, which affidavit is to be executed before a Shipping Commissioner, Collector or Deputy Collector of Customs, or United States Local Inspector. The original copy will be forwarded to the Bureau of Marine Inspection and Navigation at Washington and the Director of the Bureau will cause to be prepared a duplicate of the lost document which will be sent to the proper office for completion and delivery to the seaman. The seaman shall be required to pay for the duplicate document at the time he makes the affidavit and in the event the lost document is found he shall be required to surrender same to a U. S. Shipping Commissioner, Collector of Customs or U. S. Board of Local Inspectors. If the seaman requests a certificate of identification in lieu of a lost book or a continuous discharge book in lieu of a lost permanent certificate of identification he shall be required to pay for the duplicate of the lost document at the time he makes affidavit. When the duplicate document is issued to him he may then exchange same in accordance with the regular procedure.

Approved January 26, 1938.

[SEAL] DANIEL C. ROPER, *Secretary of Commerce.*

NOTE.—The second edition of this circular was issued September 22, 1937. This edition supersedes the second, which appears at 2 F. R. 1889.

[F. R. Doc. 38-297; Filed, January 27, 1938; 12:23 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of January, A. D. 1938.

[File No. 34-12]

IN THE MATTER OF COMMUNITY POWER AND LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

Community Power and Light Company, a registered holding company, has filed an application pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935 and the Commission's Rule 12E-4 for a report by the Commission upon the Company's plan of recapitalization and has also filed a declaration pursuant to Rule 12E-5 with respect to solicitation of proxies and assents and a declaration pursuant to Section 7 of the beforementioned Act with respect to the new securities proposed to be issued in connection with such plan of recapitalization. The Company's stock now outstanding consists of First Preferred Stock and Common Stock. Such plan of recapitalization provides for a reclassification of the Company's capital stock and a reduction of its capital. By the terms of the proposed reclassification each share of present First Preferred Stock will be changed into four shares of new Common Stock and the Company will issue in full satisfaction of all unpaid accumulated dividends on each share of present First Preferred Stock one share of new $1.50 cumulative convertible First Preferred Stock; provided however that holders of the present First Preferred Stock who do not accept shares of new $1.50 cumulative convertible First Preferred Stock in satisfaction of dividend arrears will receive dividend arrears certificates therefor. By the terms of the proposed reclassification each share of present Common Stock will be changed into eight shares of new Common Stock. The capital of the Company will be reduced in the amount of $5,837,720, being the difference between the aggregate stated value of the present First Preferred Stock and Common Stock ($9,396,200) and the aggregate stated value of the new Common Stock to be initially outstanding ($3,558,480). Certain transfers and charges set forth in the application are to be made from and against the capital surplus resulting from such reduction of capital, existing capital surplus and earned surplus.

It is ordered, That a hearing on such application and declarations be held on February 23, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-281; Filed, January 27, 1938; 10:44 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of January, A. D. 1938.

[File No. 31-79]

IN THE MATTER OF THE APPLICATION OF OHIO OIL COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Ohio Oil Company for exemption as a holding company from the provisions of said Act;

It is ordered, That a hearing on such matter be held on February 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commisison under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 23, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-279; Filed, January 27, 1938; 10:43 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of January, A. D. 1938.

[File No. 43-102]

IN THE MATTER OF PEOPLES WATER AND GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Peoples Water and Gas Company, a subsidiary of Federal Water Service Corporation and Utility Operators Company, both registered holding companies, for

the reissuance of $400,000 of First Mortgage 5% Gold Bonds, Series A, to replace a like face amount of bonds presently outstanding but which are subject to certain legal defects;

It is ordered, That a hearing on such matter be held on February 15, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-280; Filed, January 27, 1938; 10:44 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1938.

[File No. 46-91]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by The Middle West Corporation for the approval of the acquisition by it of 280,269 shares of the common stock of Central and South West Utilities Company and 36,077$^{38}/_{50}$ shares of the common stock of North American Light & Power Company, which securities were formerly pledged with the applicant as collateral security for the return of other securities lent by the applicant's predecessor to Insull Utility Investments, Inc. and Corporation Securities Company of Chicago, but are now to be acquired by the applicant in settlement of such pledge;

It is ordered, That a hearing on such matter be held on February 7, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 3, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-282; Filed, January 27, 1938; 11:13 a. m.]

Saturday, January 29, 1938 ***No. 21***

PRESIDENT OF THE UNITED STATES.

EXTENDING FOR THREE YEARS THE PERIOD OF OPERATION OF THE ACT APPROVED JUNE 14, 1935

By the President of the United States of America

A PROCLAMATION

WHEREAS section 1 of the act of June 14, 1935 (49 Stat. 340), entitled "An Act to protect American and Philippine labor and to preserve an essential industry, and for other purposes" provides, in part, that, effective May 1, 1935, and for three years thereafter, the total amount of all yarns, twines, cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of Manila (abaca) or other hard fiber, produced or manufactured in the Philippine Islands, coming into the United States from the Philippine Islands, shall not exceed six million pounds during each successive twelve months period, which six million pounds shall enter the United States duty free; and

WHEREAS section 2 of that act reads

"• • • Pending the final and complete withdrawal of American sovereignty over the Philippine Islands, the President of the United States may, by proclamation, at least ninety days prior to the expiration of the three year period provided in section 1 hereof extend the operation of this Act for an additional period of three years or more, provided such extension is accepted by the President of the Commonwealth of the Philippines."

AND WHEREAS the President of the Commonwealth of the Philippines has indicated to me through the United States High Commissioner to the Philippine Islands his acceptance of an extension of the operation of that Act for an additional period of three years:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid Act and in conformity with section 2 thereof, do hereby announce and proclaim the extension of the operation of that Act for an additional period of three years from and including May 1, 1938.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 26'' day of January, in the year of our Lord nineteen hundred and [SEAL] thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2272]

[F. R. Doc. 38-306; Filed, January 28, 1938; 11:04 a. m.]

EXECUTIVE ORDER

ENLARGING LOWER SOURIS MIGRATORY WATERFOWL REFUGE

North Dakota

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands acquired or to be acquired by the United States in the following-described areas, comprising 10,544.74 acres, more or less, in Bottineau and McHenry Counties, North Dakota, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture, as an addition to the Lower Souris Migratory Waterfowl Refuge established by Executive Order No. 7170 of September 4, 1935: *Provided*, that any private lands within the areas described shall become a part of the refuge upon the acquisition of title thereto or lease thereof by the United States:

FIFTH PRINCIPAL MERIDIAN

T. 158 N., R. 75 W.,
sec. 7, lots 3 and 4, and SE¼SW¼;
sec. 18, NW¼NE¼ and NE¼NW¼.
T. 158 N., R. 76 W.,
sec. 1, lot 4 and SW¼;
secs. 2 and 3;
sec. 4, lots 3 and 4, SW¼NE¼, S½NW¼, NE¼SW¼, NW¼SE¼, and S½SE¼;
sec. 5, lots 1 and 2, and S½NE¼;
sec. 9, E½NE¼;
sec. 10, N½, N½SW¼, and SE¼;
sec. 11, all;
sec. 12, NW¼, SW¼, NE¼SE¼, and S½SE¼;
sec. 13, W½;
sec. 14, all;
sec. 15, E½;
sec. 23, N½NE¼;
sec. 24, NW¼NW¼.
T. 159 N., R. 76 W.,
sec. 18, lots 2, 3, and 4, and SE¼SW¼;
sec. 19, lots 1 to 4, inclusive, NE¼NW¼, and SE¼SW¼;
sec. 29, SE¼SW¼, NW¼SE¼, and S½SE¼;
sec. 30, NW¼NE¼, S½NE¼, and E½SE¼;
sec. 31, NE¼NE¼;
sec. 32, SW¼NE¼, W½, and E½SE¼;
sec. 33, NE¼, NW¼SW¼, S½SW¼, and SE¼;
sec. 34, NE¼SW¼, S½SW¼, and SE¼;
sec. 35, S½NW¼ and S½.
T. 159 N., R. 77 W.,
sec. 7, lot 1 and E½NW¼;
sec. 13, E½NE¼, SW¼SW¼, and SE¼;
sec. 14, S½SE¼;
sec. 23, E½NE¼ and NE¼SE¼;
sec. 24, NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, and SE¼;
sec. 25, E½NE¼;
sec. 33, NE¼SW¼, NW¼SE¼, and S½SE¼.
T. 159 N., R. 78 W.,
sec. 4, lot 4, SW¼NW¼, N½SW¼, and S½SE¼;
sec. 5, SE¼NE¼ and NE¼SE¼;
sec. 10, W½SE¼.
T. 160 N., R. 78 W.,
sec. 30, SE¼NW¼, E½SW¼, and SW¼SE¼;
sec. 31, NE¼ and NE¼NW¼;
sec. 32, SW¼NW¼, NW¼NE¼SW¼, S½NE¼SW¼, NW¼SW¼, and S½SE¼.
T. 162 N., R. 79 W.,
sec. 33, NE¼NE¼.
T. 163 N., R. 79 W.,
sec. 6, lot 1, SE¼NE¼, and E½SE¼;
sec. 7, E½NE¼;
sec. 18, SW¼NE¼, SE¼NW¼, NE¼SW¼, E½SE¼SW¼, and NW¼SE¼.
T. 164 N., R. 79 W.,
sec. 31, E½SE¼;
sec. 32, W½SW¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 27, 1938.

[No. 7799]

[F. R. Doc. 38-307; Filed, January 28, 1938; 12:22 p. m.]

EXECUTIVE ORDER

TRANSFERRING CERTAIN LANDS TO THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE NAVY

Cuba

By virtue of and pursuant to the authority vested in me as President of the United States, and by the act of July 11, 1919, 41 Stat. 131, 132 (10 U. S. C., sec. 1274), and in the interest of the national defense, it is ordered that there be, and there is hereby, transferred from the control and jurisdiction of the Secretary of War to the control and jurisdiction of the Secretary of the Navy, all that portion of military reservation No. 1 at Cuzco Hills, Guantanamo Bay, Cuba, created by order of the President dated January 9, 1904, that lies north of an imaginary east and west line 4,000 feet due north of the Windward Point Lighthouse, with the following exceptions:

(1) That portion of military reservation No. 1 that was transferred by the Secretary of War to the Secretary of Commerce and Labor on September 18, 1905, for a lighthouse depot.

(2) Existing rights of certain telegraph and cable companies heretofore granted under Presidential licenses.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 27, 1938.

[No. 7800]

[F. R. Doc. 38-308; Filed, January 28, 1938; 12:22 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49365]

CUSTOMS REGULATIONS AMENDED—BOND FOR MANUFACTURING WAREHOUSE

CUSTOMS REGULATIONS OF 1937 AMENDED TO ELIMINATE NECESSITY FOR SENDING COPY OF PROPRIETOR'S MANUFACTURING WAREHOUSE BOND TO COLLECTOR OF INTERNAL REVENUE FOR APPROVAL

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 311 of the Tariff Act of 1930, as amended (U. S. C. (1934 ed.), title 19, sec. 1311 and U. S. C. (1934 ed., supp. II), title 19, sec. 1311), article 972 of the Customs Regulations of 1937 is hereby amended to read as follows:

"ART. 972. *Bond.*—The procedure outlined in articles 920 and 921 with respect to the application to bond the premises and the execution of the bond shall be followed, except that the bond shall be executed on customs Form 3583."

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: January 24, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-299; Filed, January 27, 1938; 2:44 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

[Amendment 14 to B. A. I. Order 353]

AMENDMENT OF ORDER TO PREVENT INTRODUCTION INTO UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

JANUARY 27, 1938.

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590–689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 353), dated June 1, 1935, and effective August 1, 1935, as amended, is hereby further amended by adding the names of Bechuanaland, Mozambique (Portuguese East Africa), Southwest Africa and the Union of South Africa to the list of countries in said order, as I have determined that foot-and-mouth disease exists in the countries named and I have so officially notified the Secretary of the Treasury.

This amendment, which for purpose of identification is designated Amendment 14 to B. A. I. Order 353, shall be effective on and after January 29, 1938.

Done at Washington this 27th day of January 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-309; Filed, January 28, 1938; 12:42 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

NEW JERSEY

JANUARY 27, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New Jersey State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Burlington.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-311; Filed, January 28, 1938; 12:42 p. m.]

DESIGNATION OF COUNTIES

WASHINGTON

JANUARY 27, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Washington State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Yakima.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-310; Filed, January 28, 1938; 12:42 p. m.]

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[General Order No. 256]

DOCUMENTS REQUIRED OF ALIENS IN TRANSIT

AMENDMENT OF IMMIGRATION RULES OF JANUARY 1, 1930

JANUARY 26, 1938.

Pursuant to the authority conferred by section 24 of the Immigration Act of 1924 (Act of May 26, 1924; 43 Stat. 166; U. S. C., Title 8, Section 222), and Executive Orders 6166 and 6986, dated June 10, 1933, and March 9, 1935, respectively, sub-paragraph (b) of Paragraph 2 of Subdivision F of Rule 3 of the Immigration Rules of January 1, 1930, as amended by General Order No. 232, June 19, 1936, is amended by deleting the following:

"(the term 'citizen' meaning a person who is a native of or who has acquired citizenship by naturalization or by marriage under the laws in force in the territory specified and who has not lost such citizenship)."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-303; Filed, January 28, 1938; 10:30 a. m.]

[General Order No. 257]

STATUS OF ALIEN APPLICANTS FOR NONQUOTA OR PREFERENCE-QUOTA IMMIGRATION VISAS BASED UPON RELATIONSHIP TO CITIZENSHIP

JANUARY 26, 1938.

Pursuant to the authority conferred by section 24 of the Immigration Act of 1924 (Act of May 26, 1924; 43 Stat. 166; U. S. C., Title 8, Section 222), and Executive Order 6166, dated June 10, 1933, the second paragraph of the first amendment of December 22, 1933 to General Order 56 is amended to read as follows:

"In all nonquota or preference quota cases, however, the issuance of a visa will be withheld and approval of petition may be revoked if it is ascertained that the petitioner has since lost his American citizenship, has died, or has become divorced from the beneficiary wife or husband; or, in the case of a child, if application for the visa is not made before reaching the age of 22 years, or if he has become married. In such cases report will be made by the Consular officer in order that the Department may reconsider the approval theretofore granted."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-304; Filed, January 28, 1938; 10:30 a. m.]

Office of the Secretary.

DECISION IN THE MATTER OF THE RECONSIDERATION OF THE MINIMUM WAGE DETERMINATION FOR THE MEN'S HAT AND CAP INDUSTRY

These matters are before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036) for a reconsideration of the minimum wage determination of July 28, 1937 for the Men's Hat and Cap Industry. The Public Contracts Board, created in accordance with Section 4 of the said act by Administrative Order, dated October 6, 1936, has held public hearings in the above-entitled matter as follows:

On October 27, 1937, to take testimony upon which findings of fact might be made to assist me in determining whether the prevailing minimum wages for the Men's Hat and Cap Industry should properly be held applicable to contracts for the manufacture of enlisted men's white sailor hats, described in Navy Specifications No. 73-H-1-B, and, in the event such minimum should be held not applicable, in determining the prevailing minimum wages for employees engaged in the manufacture of this article.

On October 27, 1937, to take testimony upon which findings of fact might be made to assist me in determining whether the prevailing minimum wages for the Men's Hat and Cap Industry should properly be held applicable to contracts for the manufacture of Army service, O. D. hats, described in Army Specifications No. 8-22, and, in the event such minimum should be held not applicable, in determining the prevailing minimum wages for employees engaged in the manufacture of this article.

On December 2, 1937, to take testimony and make findings of fact to assist me in determining whether and to what extent I should, under the powers conferred upon me by the Public Contracts Act, permit a variation from the prevailing minimum wage determination of July 28, 1937, for the Men's Hat and Cap Industry to cover the following and similar occupations in the manufacture of men's cloth stitched hats: clippers, cleaners, stampers, binding cutters, band cutters, turners, markers, examiners, packers and bundlers.

On January 14, 1938, to permit interested parties to show cause why a variation from the minimum wage determination of July 28, 1937, for the Men's Hat and Cap Industry should not be allowed, permitting the payment to auxiliary workers in the uniform cap branch of the industry of a minimum of 37.5 cents per hour or $15.00 for a week of 40 hours, arrived at either upon a time or piece work basis.

On January 14, 1938, to permit interested parties to show cause why a variation from the minimum wage determination of July 28, 1937, for the Men's Hat and Cap Industry should not be allowed, permitting the payment to auxiliary workers in the men's felt hat branch of the industry of a minimum of 37.5 cents per hour or $15.00 for a week of 40 hours, arrived at either upon a time or piece work basis.

Invitations to attend these hearings were sent to all known members of the industry and to trade associations and labor unions and were extended through the national press to all other interested parties. Testimony was presented at all these hearings by the United Hatters, Cap and Millinery Workers International Union. At the hearing on October 27, 1937 on enlisted men's white sailor hats testimony was presented by the National Headwear Manufacturers Association, Inc. At the hearings on felt hats, testimony was presented by the Hat Institute. At each hearing testimony was received from individual manufacturers.

The Board has made findings as a result of the testimony taken at the above listed hearings as follows:

1. That the enlisted men's white sailor hats are cloth, stitched hats, properly within the purview of the decision of July 28, 1937.

2. That the information received as a result of the hearing held October 27, 1937, on felt hats, was not of sufficient probative value to warrant the making of any findings as to the necessity for a modification in the 67.5 cents per hour minimum established in the decision of July 28, 1937, as to that article.

3. The prevailing minimum wage of 67.5 cents as originally determined was based on evidence of record, that no workers other than those possessing a high degree of skill were employed and that no learners, handicapped, or superannuated workers were employed.

4. That the newly admitted evidence has disclosed that in the manufacture of hats and caps on government orders workers possessing no high degree of skill, and performing tasks subservient and supplementary to the basic productive processes of the industry, commonly referred to as auxiliary workers have been employed.

5. That generally in the industry not more than 20 per cent of the productive employees in any one plant are auxiliary workers.

6. That the term "auxiliary workers" in the uniform branch and in the stitched hat branch of the industry is best defined as all employees other than cutters or workers in the cutting room, machine workers or workers on any kind of machine, blockers, pressers, or hand sewers.

7. That 37.5 cents per hour represents the minimum wage prevailing in the industry for auxiliary workers.

On the basis of these findings, the Board recommends that a variation from the decision of July 28, 1937 in the matter of prevailing minimum wages in the Men's Hat and Cap Industry be granted to permit the employment in that industry, on contracts subject to the provisions of the Public Contracts Act, of auxiliary workers at a wage of not less than 37.5 cents per hour or $15 per week for a 40 hour week, arrived at either upon a time or piece work basis;

Provided, That not more than 20 per cent of the workers engaged at any one time in any one plant on the government contract shall be classified as auxiliary workers; and

Provided further, That the term "auxiliary workers" when used in connection with employees in the uniform cap and in the stitched hat branches of the industry shall not be interpreted to include cutters or workers in the cutting room, machine workers, or workers on any kind of machine, blockers, pressers or hand sewers.

I have examined these findings and recommendations, and the record of the hearing, and I am of the opinion that such findings and recommendations are correct and I adopt them as my own.

Therefore, I hereby determine

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of Public Act No. 846, 74th Congress, approved June 30, 1936, for the manufacture or supply of men's hats and caps shall be 67.5 cents per hour or $27.00 per week for a forty hour week to be arrived at either upon a time or piece work basis, and

(2) That a tolerance of not more than 20 per cent of the employees in any one factory whose activities at any given time are subject to the provisions of the Public Contracts Act be granted for auxiliary workers, provided that such auxiliary workers be paid a wage of not less than 37.5 cents per hour or $15 per week for a forty hour week, arrived at either upon a time or piece work basis, and provided further, that the term "auxiliary worker" when used in connection with employees in the uniform cap and in the stitched hat branches of the industry shall not be interpreted to include cutters or workers in the cutting room, machine workers, or workers on any kind of machine, blockers, pressers or hand sewers.

This determination shall be effective and the minimum wages hereby established shall apply to all such contracts awarded on or after February 11th, 1938.

Dated this 24th day of January, 1938.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 38-302; Filed, January 28, 1938; 10:30 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3305]

IN THE MATTER OF THE UNITED FENCE MANUFACTURERS ASSOCIATION, AN UNINCORPORATED BODY; MATTSON WIRE AND MANUFACTURING COMPANY, A CORPORATION; NEBRASKA BRIDGE SUPPLY AND LUMBER COMPANY, A CORPORATION; ROWE MANUFACTURING CORPORATION, A CORPORATION; GLENN A. LINDABURY, MARTIN LINDABURY, AND EDGAR LINDABURY, AS CO-PARTNERS DOING BUSINESS UNDER THE STYLE OF H. R. LINDABURY AND SONS; AND GLENN A. LINDABURY, AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; J. M. DENNING AND J. WAYNE DENNING, AS CO-PARTNERS DOING BUSINESS UNDER THE STYLE OF ILLINOIS WIRE AND MANUFACTURING COMPANY; AND J. M. DENNING, AS TRUSTEE AND VICE-CHAIRMAN OF SAID ASSOCIATION; MARGARET C. LARSEN, DOING BUSINESS UNDER THE STYLE OF BUFFALO INDUSTRIAL COMPANY; LEON L. HUTCHINSON, AS PRODUCER-MEMBER AND AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; STEWART W. ADAMS, AS PRODUCER-MEMBER AND AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; HARRY I. MATTSON, AS CHAIRMAN AND MEMBER OF THE BOARD OF TRUSTEES OF SAID ASSOCIATION; LLOYD DEKATER, AS TRUSTEE OF SAID ASSOCIATION; ALVIN V. ROWE, AS TRUSTEE OF SAID ASSOCIATION; CARL F. LARSEN, AS TRUSTEE OF SAID ASSOCIATION; AND S. PAGE SCHOLEY, AS EXECUTIVE SECRETARY OF SAID ASSOCIATION

COMPLAINT

Pursuant to the provisions of an Act of Congress entitled, "An Act to Create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, and commonly known as the Federal Trade Commission Act, the Commission having reason to believe that the respondents named herein have violated the said act of Congress, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, the Commission hereby issues this its complaint stating its charges in such respect in Count I hereof.

Also pursuant to the provisions of Section 2 of an Act of Congress, approved October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and

monopolies, and for other purposes", commonly known as the Clayton Act, as amended by an Act of Congress approved June 19, 1936, commonly known as the Robinson-Patman Act, the Commission having reason to believe that the respondents named herein have violated the said act, as so amended, the Commission issues this its complaint stating its charges in such respect in Count II hereof.

Count I

PARAGRAPH 1. (*a*) Respondent The United Fence Manufacturers Association, hereinafter referred to as the "Association", is an unincorporated body having as members eight respondent corporations, individuals and co-partnerships, manufacturers of snow fence, described in sub-paragraphs (b) to (i), inclusive, of this Paragraph One, and sometimes referred to herein as "producer-members." The Association was organized in 1936 and has its headquarters at the offices of the respondent co-partnership H. R. Lindabury and Sons, of Burlington, New Jersey. It operates through its respondent officers and trustees.

(*b*) Respondent Mattson Wire and Manufacturing Company is an Illinois corporation, having its principal place of business at Joliet, Illinois, and plants at Menominee, Michigan, West Albany, New York, and at points farther west.

(*c*) Respondent Nebraska Bridge Supply and Lumber Company is a Nebraska corporation, having its principal place of business at 19th Street and Farnum Avenue, Omaha, Nebraska. It has plants at Troy, New York, East Corinth, Maine, and at points in the Middle West and West.

(*d*) Respondent Rowe Manufacturing Company is an Illinois corporation, having its principal place of business at Galesburg, Illinois. It has plants at Portland, Maine, Candia, New Hampshire, and Horseheads, New York.

(*e*) Respondents Glenn A. Lindabury, Martin Lindabury and Edgar Lindabury are co-partners doing business under the style of New Jersey Fence Company. They have their principal place of business and a plant at Burlington, New Jersey, and another plant at Cohoes, New York.

(*f*) Respondents J. M. Denning and J. Wayne Denning are co-partners doing business under the style of Illinois Wire and Manufacturing Company. They have their principal place of business at Market and Pleasant Streets, Joliet, Illinois, and plants at Buffalo, New York, Cumberland Mills, Maine, and several points in the Middle West.

(*g*) Respondent Margaret C. Larsen is a producer doing business under the style of Buffalo Industrial Company and has her principal place of business at 604 Jackson Building, Buffalo, New York, and a plant also at Buffalo.

(*h*) Respondent Leon L. Hutchinson is a producer doing business under the style of L. L. Hutchinson, with his principal place of business and plant at Pavilion, New York.

(*i*) Respondent Stewart W. Adams is a producer doing business under the style of S. W. Adams and having his principal place of business and plant at Oxford, Chenango County, New York.

(*j*) Respondents Harry I. Mattson, J. M. Denning and S. Page Scholey are respectively chairman, vice chairman and executive secretary of the Association.

(*k*) Respondents Harry I. Mattson, J. M. Denning, Glenn A. Lindabury, Lloyd DeKater, Alvin V. Rowe, Carl F. Larsen, Leon L. Hutchinson and Stewart W. Adams are trustees of the Association.

PAR. 2. Snow fence is largely sold in carload lots, eight thousand feet constituting a minimum carload. The carriage charges, on both carload and less than carload lots comprise a substantial element of the average costs of producer-members' snow fence products, sold, as described in Paragraph Five hereof, delivered at customers' locations. Far the greatest part of said snow fence products are sold in standard dimensions and specifications. The fence most in demand is 4 feet in height, with pickets 4 feet by 1½ inches by ½ inch.

PAR. 3. Each producer-member in the regular and ordinary course of his business, in the sale and delivery of snow fence products, causes the same to be shipped from the point of production thereof in one state to customers in other states of the United States. There is competition among producer-members except insofar as it has been hindered, lessened, restricted, frustrated, restrained, or suppressed as alleged in Paragraphs Four to Seven, inclusive, hereof. Respondent Association and its said officers and trustees are not, in their said official capacities, engaged in commerce, but are engaged in aiding producer-members in carrying out the methods of competition and practices alleged in this Count, with the effects set forth in Paragraphs Seven and Eight hereof.

PAR. 4. Respondents have entered into and now maintain an agreement, understanding or conspiracy among themselves unduly to hinder, lessen, restrict, frustrate, restrain or suppress competition in price among producer-members in the course of their commerce within, and to maintain higher initial and resale prices than would otherwise prevail within, the area of the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and Ohio. In the area of said fourteen states, the producer-members sell from 90% to 95% of the snow fence products purchased therein.

PAR. 5. For the purpose and with the effect of making the agreement, understanding or conspiracy, alleged in Paragraph Four hereof, the more effective, respondents have combined or conspired, and continue to combine or conspire to follow and mutually to maintain a system of delivered prices for quotations and sales of snow fence to customers who live within the said fourteen states. Under the said system of delivered prices, each producer-member makes the same prices delivered at the location of every customer within the said fourteen states, from whom said producer-member accepts business, defraying, without additional cost to any such customer, whatever carriage charges, either for carload or for less than carload lots, are necessary for delivery to all such respective destinations.

PAR. 6. For the purpose and with the effect of making the agreement, understanding or conspiracy, alleged in Paragraph Four hereof, more effective, respondents have combined or conspired, and continue to combine or conspire, to follow, in addition to the delivered pricing system, alleged in Paragraph Five, numerous other practices, several of which were employed by respondents, other than the Association and its agents, prior to the formation of the Association. Among these practices, the following are, but by no means exclusively, alleged, to wit:

(*a*) Each Producer-member has formally agreed to file, and in practice has actually filed, with respondent executive secretary his delivered price list, discounts and terms of sale, the same to be maintained for all sales except where bids are requested by any government or sub-division thereof, until such producer-member shall file with said executive secretary, a revised delivered price list not less than ten days before the same shall become effective. Delivered price changes are not generally made effective by all producer-members on the same day, but, to the extent and for the period that the said agreement, understanding or conspiracy has been effective, producer-members cause their revised lists of delivered prices to be filed for their respective standard snow fence products for delivery in the said 14 states, soon after a revised price list has been filed by a fellow producer-member, in order to maintain the price identity set out in sub-paragraph (*b*) next herein set forth.

(*b*) Producer-members concertedly adopt and file, for both carload and less than carload quantities, lists of delivered prices which are in fact actually identical for snow fence products of each standard type, and identical discounts and terms of sale.

(*c*) Notwithstanding the exception formally made in favor of governmental purchasers, as set forth in sub-paragraph (*a*) of this Paragraph Six, respondents have in practice pursued the same price policy as respects public, as well as private, buyers to the end that public and governmental purchasing bodies have been deprived of the benefits of competition in price, among producer-members and among their vendees, in the purchasing of snow fence products.

(*d*) Producer-members maintain the said filed delivered prices without direct or indirect concession to any buyer.

(*e*) They abstain from making shipments upon consignment.

(*f*) They bring instances of price cutting, if deemed to have been indulged in by any producer-member, to the attention of respondent executive secretary, who thereupon undertakes to negotiate the matter with the producer-member charged with price cutting and thus to eliminate further price concessions.

(*g*) Each producer-member has agreed that, if at any time he shall be charged with a violation of any of respondents' undertakings as to prices averred in Paragraphs Five and Six, among others, he will submit to an investigation and to an examination under oath, conducted by the respondent Board of Trustees; and he has also consented in advance to be bound by such corrective steps as the Board may ordain.

(*h*) Producer-members have agreed that "distributors" and "dealers" shall have respective discounts, from the aforesaid filed delivered prices, of 20% and 10%.

(*i*) The definitions of what traders shall belong to the class of "distributors" and of what traders shall belong to the class of "dealers" have been concertedly made by respondents

(*j*) Producer-members file their respective lists of customers with the Association.

(*k*) The Association issues to producer-members a list of distributors who only shall be entitled to the standard distributors' discount.

(*l*) Respondents have taken concerted steps to maintain the resale prices, made by distributors, at list price less 10%, and to maintain the resale prices, of dealers to the public, at list price; each class of said resale price to be without concession and to operate throughout the said fourteen states.

(*m*) Respondents request and urge distributors and dealers to report instances of price cutting in the distribution of snow fence products with the name of vendor and vendee, the prices and terms offered or charged, and the name of the producer. And respondents have at times succeeded in obtaining such reports.

(*n*) Respondents bring persuasion, constraint, and coercion to bear upon the vendees of snow fence to the end that the vendees shall maintain the said resale prices required by respondents.

(*o*) Producer-members have entered into and maintain an understanding that they will not sell to distributors or dealers who quote and charge prices below the prices required by respondents, or to those who make better terms and conditions than are authorized by respondents.

(*p*) Respondents have at various times threatened to cut off the supplies of snow fence products from vendees who make lower prices or better terms and conditions of sale than those authorized by respondents and have actually at times concertedly refused to continue to sell to such vendees.

(*q*) Producer-members have at times apportioned among several of themselves large orders awarded to one producer, as the result of proposals and submission of bids, without the consent or knowledge of the purchaser. They have thus lessened the competitive initiative of producer-members and the advantages to the purchaser of competition, through the issuance of proposals for bids. They have thus also effectuated the passing off upon the purchaser of a make of snow fence other than that made by the producer-member in whose favor the award was made.

PAR. 7. The effects of the said agreement, understanding or conspiracy, the said system of delivered prices and the said other practices employed, all as in Paragraphs Four, Five and Six of this Count set forth, during times when they have been operative, are hereby alleged, but not to the exclusion of other effects, to be as follows, namely:

(*a*) There is no competition in delivered prices, between producer-members, for the business of any private or public buyer located in the above-named fourteen states. All producer-members make delivered prices, identical as respects the customers of each of them, and identical also as respects all producer-members.

(*b*) In numerous instances producer-members thus sell and deliver their products long distances from their plants to customers located much nearer the plant of one or more other producer-members and susceptible of being, more economically and at lower prices, served from the said other plants.

(*c*) Each producer-member obtains his highest net return when he sells to customers located at or near the point where his own plant is also located and from which the delivery charge is accordingly at a minimum; but he does not reduce his delivered price in the slightest to hold or to gain this his most profitable actual or prospective business. Instead of doing so, he refrains from any acts of price competition and makes no effort, so far as price is concerned, to bid for such most profitable business. In return for refraining so to do he reciprocally gains the privilege of quoting and selling to customers in the high net return areas of other producer-members. Each producer-member well knows that, so long as other producer-members adhere to the said concerted delivered pricing system, he will nowhere encounter competition in price.

(*d*) The costs of producing snow fence vary somewhat due to the differing costs, at respective plants, of the lumber, wire and other materials and differing labor costs. By the said pricing system such variations in cost are nullified as an influence or check upon prices. Prices are made by producer-members with no regard to individual costs or to varying local conditions of supply or demand. Said prices are made in terms of the said pricing system and are applied throughout the said fourteen states. Such producer-members maintain an artificial price level little related to and not governed by truly competitive conditions.

(*e*) Under the said pricing system, producers more efficient, and better financed and equipped, and better located, as respects supplies, markets and transportation, in large measure waive their competitive advantages, in the said respects, among others, by adhering to the said identical delivered pricing system. Thus their incentive toward efficiency and economy is weakened. Any saving that might be effected cannot, under the system, be reflected in price concessions, or in the holding of business in high net return areas, or in the obtaining of increased volume of business. The same delivered prices are adhered to by all producer-members alike.

(*f*) Under conditions of true price competition, consumers located at or near points of production normally tend to buy from a local plant. If the local prices advance unduly, the competition of the nearest competitor at once becomes more active and restores a more reasonable price. But under respondents' said pricing system the advantages which would normally accrue to buyers located near snow fence plants are destroyed. Each producer-member charges the same delivered price as every other. All buyers pay the same averaged carriage factor irrespective of location or actual carriage costs, a price factor substantially higher than would prevail under normal competitive conditions. Buyers can choose to purchase from among a greater number of producers than would normally quote or sell under true price competition, but the conditions under which they buy are monopolistic, not competitive.

(*g*) Thus the buying public, as an average, pays prices for snow fence which are enhanced both by freedom from competition and also by an excessive carriage factor.

(*h*) The channels of distribution of snow fence have been crystallized in favor of certain wholesalers and retailers, who are regarded as meeting the views and definitions of respondents and who, irrespective of the rights of others freely to enter trade and compete for success therein, are given exclusive trade recognition through respondents' said agreement, understanding or conspiracy.

(*i*) The resale prices of distributors and dealers, customers of producer-members, have been maintained by concert

of action among respondents and, in some cases, by concert of action among certain distributors and dealers at the instance and with the cooperation of respondents.

(*j*) Distributors and dealers in snow fence have been compelled to adhere to sales prices concertedly forced upon them by respondents.

(*k*) Other important means of price competition, susceptible of being employed in the business, including higher trade and cash discounts and better terms, than those made by competitors, and the gaining as outlets of distributors and dealers sufficiently competent to gain volume of business through competition in price, are waived, and, while respondents' said combination is in effect, are eliminated.

(*l*) Thus the buying public, while respondents have pursued the acts and things set forth in Paragraphs Four, Five and Six hereof, have lost the benefit of price competition in snow fence products among producer-members, and among their distributors and dealers The public has been obliged to pay artificially enhanced and maintained prices for said products.

(*m*) Since producer-members control 90 to 95% of the snow fence products sold in the aforesaid fourteen states, the tendency of the acts and things averred in Paragraphs Four, Five and Six, is to give, and said acts and things have nearly availed to give, producer-members a monopoly in said products in the said fourteen states.

PAR. 8. (*a*) The public interest has been substantially, adversely and unreasonably affected by the agreement, understanding or conspiracy of respondents and the practices and activities in Paragraphs Four, Five and Six averred. Thereby respondents have hindered, lessened, restricted, frustrated and restrained, and still hinder, lessen, restrict, frustrate and restrain the interstate commerce of producer-members in the fourteen states with a direct and substantial tendency to suppress such commerce. Such concerted action exercises a power which individual action could not exercise or possess, and the necessary tendency and the direct and substantial effect of the combination are injury to the public.

(*b*) The Federal Trade Commission alleges moreover, that the public interest directly involved herein and set out more particularly in Paragraph Seven and the preceding subparagraphs of this Paragraph Eight, is a part of the larger public interest, within the meaning of the Federal Trade Commission Act, in the maintenance of the natural regulatory forces of free competition in industry generally. The economic tendency of the respondents' said agreement, understanding or conspiracy upon the public interest, as thus broadly stated, is to lend encouragement to similar impairment of competition in other industries, the effect of which upon the buying power of consumers, the opportunities for independence in business, the necessity that the government undertake by regulation to protect the public interest, and the fluctuations of national prosperity, must increase in severity as the extent of competition is reduced. The leaving to private industry of monopolistic special privileges and franchises is at the expense of the purchasing power of the masses of the country and results inevitably in reducing the opportunity freely to enter industry and commerce.

PAR. 9. The agreement, understanding or conspiracy, and the practices in this Count set forth are all to the prejudice of the public. They constitute unfair methods of competition in the snow fence industry in interstate commerce, within the effect and meaning of the aforesaid Federal Trade Commission Act.

Count II

PAR. 1 to 5, inclusive. As Paragraphs One to Five, inclusive, of Count II of this complaint the Commission hereby incorporates Paragraphs One to Five, inclusive, of Count I hereof to precisely the same extent as if each and all of them were set forth in full and repeated verbatim in this count.

PAR. 6. (*a*) Under the pricing system described in Paragraph Five hereof the said delivered prices quoted and charged by each producer-member are in excess of the net or true prices received for snow fence except where the buyer is located in the same city as that of the producer-member making the sale. Delivered prices to all buyers not located in the same city include not only the price of the fence but the price of transportation and delivery. In order to ascertain the net or true price received the actual carriage charges incurred by the producer-member must be deducted from the delivered price which he receives.

(*b*) Each producer-member receives his highest price from buyers located in the city or town where his plant is also located. As the distances from his plant and the corresponding amounts of the freight charges increase, the net or true prices received by the producer-member diminish. The lowest price received, by any producer-member, is that from the customer to whose location the carriage charge is the highest but from whom, nevertheless, such producer-member accepts business.

(*c*) Respondents' uniform delivered price system is not a system of uniform true prices made by any given producer member. It is a system under which each producer-member makes as many different prices to his customers as there are destinations, at which he delivers his products for sale, having different carriage charges from the location of his plant.

(*d*) The said system of delivered prices is a system wherein the regular, constant and substantial discrimination in prices is inherent and inescapable so long as the said system be employed.

PAR. 7. The discriminations described in Paragraph Six of this count are not indulged in merely for convenience nor through custom. Producer-members have no immediate purpose or wish to obtain higher net prices or greater profits from customers who are their neighbors or residents of the same community or locality, wherein they themselves live, than from other customers. They obtain such higher prices and profits from local buyers but through no motive of ill-will towards them as individuals. They discriminate in price in their sales against buyers in their respective home territories with the purpose to destroy competition in price in interstate commerce on the part of each producer-member, which grants the discrimination, with all other producer-members.

PAR. 8. It is through the said system of discrimination in price, adopted and maintained as in Paragraphs Five, Six and Seven set forth, that respondents have put into operation and maintained their agreement, understanding or conspiracy alleged in Paragraph Four. Among the effects of the said price discrimination, thus systematically pursued, are the following:

(*a*) There is no competition among the producer-members since the delivered prices by them quoted and charged for the business of any private or public buyer located in the above-named 14 states are precisely identical as respects the customers of each of them and identical also as respects all producer-members making or quoting such delivered prices.

(*b*) Each producer-member obtains his highest price when he sells to customers located at or near the point where his own plant is also located and from which the delivery charge is accordingly at a minimum; but he does not reduce his delivered price in the slightest in order to hold or to gain this his most profitable, actual or prospective business. Instead he refrains from any act of price competition and makes no effort, so far as price is concerned, to bid for such most profitable business. In return for refraining from so doing he reciprocally gains the privilege of quoting and selling to customers in the high net return areas of other producer-members. Each well knows that so long as other members adhere to the same system of discrimination in price through employing the same concerted delivered price system, he will nowhere encounter competition in price.

(*c*) The cost of producing snow fence varies somewhat in different localities due to the varying costs at respective plants of the lumber, wire and other materials and varying labor costs. By the same system of discriminatory prices such variations in cost are nullified as an influence and check upon prices. Prices are made by producer-members with no regard to individual costs or to varying local conditions of supply and demand. Said prices are made in terms of the said delivered price system and are applied throughout the said 14 states not as identical prices but as identical delivered prices. Thus producer-members maintain an artificial level of prices little related to and not covered by truly competitive conditions.

(*d*) Under the said system of discriminatory prices, producers more efficient and better financed and equipped and better located, as respects supplies, markets and transportation, in large measure waive their competitive advantages, in the said respects, among others, by adhering to the said system of discriminatory prices. Thus, their incentive towards efficiency and economy is weakened through the identical character of the delivered prices made by them under the system. Any savings, that might be effected cannot, under the system be reflected in price concessions, nor in the holding of business in high net return areas, nor in the obtaining of increased volume of business. The same delivered prices are adhered to by all producer-members alike.

(*e*) Under conditions of true price competition, consumers located at or near points of production, normally tend to buy from a local plant. If its prices advance unduly, the competition of the nearest competitor having similar costs of production and distribution, becomes more active and restores a reasonable price. But under respondents' said pricing system the advantages which would normally accrue to buyers located near snow fence plants are destroyed. Each producer-member charges the same delivered price as every other. All buyers pay the same average carriage price factor irrespective of location or actual carriage cost, a factor substantially higher than would prevail under normal competitive conditions. Buyers may therefore purchase from a greater number of producers than would normally quote or sell under true conditions of price competition but the conditions under which they buy are monopolistic not competitive.

(*f*) Thus the buying public has lost the benefit of price competition in snow fence products among producer-members and has been obliged to pay artificially enhanced and maintained prices for said products.

(*g*) Since producer-members control 90 to 95 per cent of the snow fence products sold in the aforesaid fourteen states, the tendency of the acts and things averred in Paragraphs Four to Seven inclusive hereof is, through the said system of price discrimination, to give producer-members a monopoly in said products in said states.

The effects set forth in this Paragraph Eight are not exclusively alleged. They are set forth as showing some of the effects of the said system of price discrimination upon competition in price in the said industry. The said system of price discrimination, as adopted and maintained by respondents is a vehicle through which they obtain the elimination of price competition and have effectuated a monopoly or near-monopoly in their said industry in the said fourteen states.

PAR. 9. Respondents' agreement, understanding or conspiracy to practice price discrimination and the acts of price discrimination, as alleged in Paragraphs Four to Seven inclusive, are performed in the actual course of interstate commerce in the sale of like grades and qualities of snow fence. These acts not only may substantially lessen competition or tend to create a monopoly in said line of commerce; they have availed actually and substantially to lessen competition therein and they tend directly and powerfully to create a monopoly in said products in the said fourteen states of the northeastern section of the country, in favor of producer-members who grant the benefits of such discrimination in price to those customers who are favored by the system. The said acts of discrimination in price constitute unlawful discrimination in price within the intent and meaning of Section 2 of the aforesaid Clayton Act as amended by the aforesaid Robinson-Patman Act.

Wherefore, the premises considered, the Federal Trade Commission on the 18th day of January, A. D. 1938, now here issues this its complaint, comprising Counts I and II, against said respondents, stating its charges in such respect as hereinabove set out.

NOTICE

Notice is hereby given you, The United Fence Manufacturers Association, an unincorporated body; Mattson Wire and Manufacturing Company, a corporation; Nebraska Bridge Supply and Lumber Company, a corporation; Rowe Manufacturing Corporation, a corporation; Glenn A. Lindabury, Martin Lindabury, and Edgar Lindabury, as co-partners doing business under the style of H. R. Lindabury and Sons; and Glenn A. Lindabury, as trustee of said respondent Association; J. M. Denning and J. Wayne Denning, as co-partners doing business under the style of Illinois Wire and Manufacturing Company; and J. M. Denning, as trustee and vice-chairman of said Association; Margaret C. Larsen, doing business under the style of Buffalo Industrial Company; Leon L. Hutchinson, as producer-member and as trustee of said respondent Association; Stewart W. Adams, as producer-member and as trustee of said respondent Association; Harry I. Mattson, as chairman and member of the Board of Trustees of said Association; Lloyd DeKater, as trustee of said Association; Alvin V. Rowe, as trustee of said Association; Carl F. Larsen, as trustee of said Association; and S. Page Scholey, as executive secretary of said Association, respondents herein, that the 25th day of February, A. D. 1938, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(*a*) In cases arising under section 5 of the Act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade

Commission Act), or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under Section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 18th day of January, A. D. 1938.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-298; Filed, January 27, 1938; 2:16 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3197]

IN THE MATTER OF WALDO W. TOWNSLEY, AN INDIVIDUAL, DOING BUSINESS AS SERVAL-SYSTEM

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 2, 1938, at ten o'clock in the forenoon of that day (central standard time), Hotel Baltimore, Kansas City, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-300; Filed, January 28, 1938; 10:15 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3242]

IN THE MATTER OF RUDOLPH Y. RAY, AN INDIVIDUAL TRADING UNDER THE NAMES OF INDIVIDUAL MAUSOLEUM COMPANY, AND RAY INDIVIDUAL MAUSOLEUM COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, February 4, 1938, at ten o'clock in the forenoon of that day (central standard time) in the U. S. Court Room, third floor, Federal Building, Lincoln, Nebraska.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-301; Filed, January 28, 1938; 10:15 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of January, A. D. 1938.

[File No. 31-405]

IN THE MATTER OF THE APPLICATION OF STONE & WEBSTER AND BLODGET, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (4) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Stone & Webster and Blodget, Inc., for exemption as a holding company from the provisions of said Act;

It is ordered, That a hearing on such matter be held on February 18, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 14, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-305; Filed, January 28, 1938; 10:47 a. m.]

Tuesday, February 1, 1938 *No. 22*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

ESTABLISHING BLACK COULEE MIGRATORY WATERFOWL REFUGE

Montana

By virtue of and pursuant to the authority vested in me as President of the United States and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all the lands now or hereafter owned or controlled by the United States within the following-described area, comprising 1,160 acres in Blaine County, Montana, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided,* that any private lands within the area described shall become a part of the refuge hereby established upon the acquisition of title thereto or control thereof by the United States:

PRINCIPAL MERIDIAN

T. 34 N., R. 25 E.,
sec. 23, all;
sec. 24, N½ and NW¼SW¼;
sec. 26, N½N½.

This reservation shall be known as the Black Coulee Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 28, 1938.

[No. 7801]

[F. R. Doc. 38-327; Filed, January 31, 1938; 10:34 a. m.]

APPLICATION OF DUTIES PROCLAIMED IN CONNECTION WITH CERTAIN TRADE AGREEMENTS TO PRODUCTS OF AUSTRALIA

THE WHITE HOUSE
Washington, January 25, 1938

The Honorable HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

MY DEAR MR. SECRETARY: I refer to my letter addressed to you on June 26, 1936, notifying you that I had found as a fact that the treatment of American commerce by the Commonwealth of Australia was discriminatory and directing that the duties proclaimed in connection with the trade agreements concluded under the authority of the Act to amend the Tariff Act of 1930, approved June 12, 1934, should cease to be applied to products of Australia entered for consumption or withdrawn from warehouse for consumption on or after August 1, 1936; and to my letter addressed to you on July 3, 1937, and in particular to the fourth (unnumbered) paragraph of that letter, concerning the application of duties proclaimed in connection with the trade agreement signed on November 28, 1936, with Costa Rica and all other duties theretofore proclaimed in connection with trade agreements concluded under the authority of the Act to amend the Tariff Act of 1930, approved June 12, 1934 (48 Stat. 943), as extended by the Joint Resolution approved March 1, 1937 (Public Resolution No. 10, 75th Congress).

You are hereby notified that I find as a fact that the Commonwealth of Australia no longer applies to American commerce the treatment which caused me to suspend the application of the aforesaid duties to products of that country. I therefore direct that the aforesaid duties (with the exception of the duties proclaimed in connection with the trade agreement signed on August 24, 1934, with Cuba) shall be applied to products of Australia entered for consumption or withdrawn from warehouse for consumption on or after February 1, 1938.

The above mentioned letter of July 3, 1937, is modified accordingly, and you will please cause notice of this modification to be published in an early issue of the weekly *Treasury Decisions.*

Very sincerely yours,

[SEAL] FRANKLIN D ROOSEVELT

[F. R. Doc. 38-343; Filed, January 31, 1938; 12:34 p. m.]

DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH THE GOVERNMENT OF THE UNITED KINGDOM AND WITH THAT GOVERNMENT ON BEHALF OF NEWFOUNDLAND AND THE BRITISH COLONIAL EMPIRE

PUBLIC NOTICE

Supplementary List of Products

Closing Date for Submission of Briefs—February 26, 1938

Closing Date for Application To Be Heard—February 26, 1938

Public Hearings Open—March 14, 1938

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the supplementary list of products announced by the Secretary of State on this date in connection with the negotiation of a trade agreement with the Government of the United Kingdom, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, February 26, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, Eighth and E Streets NW., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on March 14, 1938, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Written statements must be either typewritten or printed and must be submitted in six copies of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 24th day of January, 1938.

JOHN P. GREGG, *Secretary.*

JANUARY 24, 1938.

SUPPLEMENT TO THE LIST OF PRODUCTS ON WHICH THE UNITED STATES WILL CONSIDER GRANTING CONCESSIONS TO THE UNITED KINGDOM, NEWFOUNDLAND, AND THE BRITISH COLONIAL EMPIRE

JANUARY 24, 1938.

Pursuant to section 4 of an Act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930", as extended by Public Resolution No. 10, approved March 1, 1937, and to Executive Order No. 6750, of June 27, 1934, public notice of intention to negotiate a trade agreement with the Government of the United Kingdom and with that Government on behalf of Newfoundland and the British Colonial Empire was issued on January 8, 1938. In connection with that notice, the Secretary of State published a list of products on which the United States will consider the granting of concessions to the United Kingdom, Newfoundland, and the British Colonial Empire, and announced that concessions on products not included in the list would not be considered unless supplementary announcement were made.

The Secretary of State now announces that the products described below have been added to the list issued on January 8, 1938.

As stated in the announcement of the previous list, only products listed will come under consideration for the possible granting of concessions by the United States. In the case of products ultimately included in the agreement, the existing import duty may be reduced or may simply be bound, without reduction. Moreover, concessions ultimately granted may not apply to all commodities covered by the phraseology of a given description, but may, especially in cases of broad descriptions, be limited to certain specific commodities or groups of commodities of particular interest to the United Kingdom, Newfoundland, or the British Colonial Empire falling within the scope of such phraseology. No further reduction will, of course, be made in any import duty which has already been reduced by 50 percent under the authority of the Trade Agreements Act.

The Committee for Reciprocity Information has prescribed that all information and views in writing and all applications for supplemental oral presentation of views relating to products included in this supplementary list shall be submitted to it not later than 12 noon, February 26, 1938. They should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, 8th and E Streets, Northwest, Washington, D. C." Supplemental oral statements will be heard at a public hearing beginning at 10 a. m. on March 14, 1938, before the Committee for Reciprocity Information, in the hearing room of the Tariff Commission in the Old Land Office Building. Suggestions with regard to the form and content of presentations addressed to the Committee for Reciprocity Information are included in a statement released by that Committee on December 13, 1937.

United States Tariff Act of 1930

Paragraph	Description of article	Present rate of duty
34	Dried pawpaw juice or crude papain, natural and uncompounded, not edible, and not specially provided for.	10%
38	Sumac extract, not specially provided for, and combinations and mixtures of such extract with myrobalan or mangrove extract, or both, not containing alcohol.	15%.
52	Shark-liver oil, not specially provided for	20%.
81	Sodium chloride or salt, in bulk	7¢ per 100 lbs.
207	Fluorspar containing more than 97 per centum of calcium fluoride.	$5.60 per ton.
212	China, porcelain, and other vitrified wares, including chemical porcelain ware and chemical stoneware, composed of a vitrified nonabsorbent body which when broken shows a vitrified or vitreous, or semi-vitrified or semivitreous fracture, and all bisque and parian wares, including clock cases with or without movements, plaques, pill tiles, ornaments, charms, vases, statues, statuettes, mugs, cups, steins, lamps, and all other articles composed wholly or in chief value of such ware:	
	Plain white, not painted, colored, tinted, stained, enameled, gilded, printed, or ornamented or decorated in any manner, and manufactures in chief value of such ware, not specially provided for.	60%.
	Painted, colored, tinted, stained, enameled, gilded, printed, or ornamented or decorated in any manner, and manufactures in chief value of such ware, not specially provided for.	70%.
	In addition to the foregoing there shall be paid on all tableware, kitchenware, and table and kitchen utensils.	10¢ per doz. separate pieces.
228 (a)	Spectrographs, spectrometers, spectroscopes, refractometers, saccharimeters, colorimeters, prism-binoculars, cathetometers, interferometers, haemacytometers, polarimeters, polariscopes, photometers, ophthalmoscopes, slit lamps, corneal microscopes, optical measuring or optical testing instruments, testing or recording instruments or ophthalmological purposes, frames and mountings therefor, and parts of any of the foregoing; all the foregoing, finished or unfinished.	45% or 60%.
304	Hollow bars and hollow drill steel:	
	Valued above 4 cents and not above 8 cents per pound.	20% plus ¾¢ per lb.
	Valued above 8 cents and not above 12 cents per pound.	2½¢ plus ¾¢ per lb.
	Valued above 12 cents and not above 16 cents per pound.	3½¢ plus 3¼¢ per lb.
	Valued above 16 cents per pound	20% plus ¾¢ per lb.
346	Belt buckles, trouser buckles, and waistcoat buckles, shoe or slipper buckles, and parts thereof, made wholly or partly of iron, steel, or other base metal, valued at more than 20 and not more than 50 cents per hundred.	10¢ per 100 and 20%.

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty
359	Dental hypodermic needles, wholly or in part of iron, steel, copper, brass, nickle, aluminum, or other metal, finished or unfinished.	35%.
370	Internal combustion motor-boat engines and parts thereof.	30%.
372	Combination candy-cutting and wrapping machines, finished or unfinished, not specially provided for, and parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	27½%.
372	Machine tools; parts thereof, not specially provided for, wholly or in chief value of metal or porcelain.	30%.
391	Lead-bearing ores, flue dust, and mattes of all kinds	1¼¢ per lb. on the lead content.
397	Articles or wares not specially provided for, composed wholly or in chief value of iron, steel, or other base metal, but not plated with platinum, gold, or silver, or colored with gold lacquer, whether partly or wholly manufactured: Tricycles; baby carriage fittings; styluses; golf club heads; builders' hardware, including wrought steel butts, hinges, door bolts, hasps and staples, corner braces, steel handles, shelf brackets, and corrugated joint fasteners.	45%.
705	Extract of meat, including fluid	15¢ per lb.
718 (b)	Herring, prepared or preserved in any manner, including sardines, when packed in air-tight containers weighing with their contents not more than 15 pounds each (except fish packed in oil or in oil and other substances).	25%.
736	Berries, edible, in their natural condition or in brine (not including strawberries).	1¼¢ per lb.
747	Pineapples not in bulk	35¢ per crate of 2.45 cubic ft.
909	Pile fabrics, cut or uncut, whether or not the pile covers the entire surface, wholly or in chief value of cotton:	
	Corduroys, 52 inches or more in width and valued at 50 cents or more per square yard.	50%.
	Plushes and chenilles, 52 inches or more in width and valued at $1 or more per square yard.	50%.
	Terry-woven fabrics, valued at 25 cents or more per square yard.	40%.
	Terry-woven towels, whether or not the pile covers the entire surface, wholly or in chief value of cotton, finished or unfinished, valued at 45 cents or more each.	40%.
923	All manufactures, wholly or in chief value of cotton, not specially provided for.	40%.
1003	Jute yarns or roving, single:	
	Coarser in size than twenty-pound	2½¢ per lb.
	Twenty-pound up to but not including ten-pound.	4¢ per lb.
	Ten-pound up to but not including five-pound	5½¢ per lb.
	Five-pound and finer	7¢ per lb., but not more than 40%.
1110	Pile fabrics, whether or not the pile covers the entire surface, wholly or in chief value of wool, and all articles, finished or unfinished, made or cut from such pile fabrics:	
	If the pile is wholly cut or wholly uncut	44¢ per lb. and 50%.
	If the pile is partly cut	44¢ per lb. and 55%.
1111	Blankets, and similar articles (including carriage and automobile robes and steamer rugs), made of blanketing, as units or in the piece, finished or unfinished, wholly or in chief value of wool, exceeding 3 yards in length.	Subject to duty as woven fabrics of wool weighing more than four ounces per sq. yd.
1113	Fabrics, with fast edges, not exceeding twelve inches in width, and articles made therefrom; tubings, garters, suspenders, braces, cords, and cords and tassels; all the foregoing, wholly or in chief value of wool.	50¢ per lb. and 50%.
1114 (b)	Gloves and mittens, finished or unfinished, wholly or in chief value of wool, valued at more than $1.75 per dozen pairs.	50¢ per lb. and 50%
1115 (a)	Clothing and articles of wearing apparel of every description, not knit or crocheted, manufactured wholly or in part, wholly or in chief value of wool (except bodies, hoods, forms, and shapes, for hats, bonnets, caps, berets, and similar articles, not blocked or trimmed):	
	Valued at not more than $4 per pound	33¢ per lb. and 45%.
	Valued at more than $4 per pound	50¢ per lb. and 50%.
1115 (b)	Bodies, hoods, forms, and shapes, for hats, bonnets, caps, berets, and similar articles, manufactured wholly or in part of wool felt, if blocked or trimmed (including finished hats, bonnets, caps, berets, and similar articles).	40¢ per lb. and 55% and in addition 12½¢ per article.
117 (a)	Axminster carpets, rugs, and mats, not specially provided for; Wilton carpets, rugs, and mats; Brussels carpets, rugs, and mats; velvet or tapestry carpets, rugs, and mats; and carpets, rugs, and mats, of like character or description; if valued at more than 40 cents per square foot.	60%.
1117 (c)	Floor coverings, including mats and druggets, wholly or in chief value of hair of the Angora goat, not specially provided for:	
	Valued at not more than 40 cents per square foot.	30%
	Valued at more than 40 cents per square foot	60%
1207	Garters, suspenders, and braces, wholly or in chief value of silk or of silk and India rubber, and not specially provided for, whether or not Jacquard-figured.	40%.
1407 (a)	Handmade paper, and paper commonly or commercially known as handmade or machine handmade paper, all the above weighing 8 pounds or over per ream.	3¢ per lb. and 15%

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty
1408	Paper envelopes, filled or unfilled, whether the contents are dutiable or free, not specially provided for.	The same rate of duty as the paper from which made and in addition thereto.
	If plain	5%.
	If bordered, embossed, printed, tinted, decorated, or lined.	10%.
	If lithographed	30%.
1409	Blotting paper	30%.
1502	All clubs, rackets, bats, golf tees, and other equipment, such as is ordinarily used in conjunction with balls primarily designed for use in physical exercise (whether or not such exercise involves the element of sport), not specially provided for.	15% or 30%.
1510	Buttons made in imitation of or similar to pearl, shell, or agate buttons (except buttons commonly known as Roman pearl and fancy buttons with a fish-scale or similar to fish-scale finish).	1¼¢ per line per gross and 25%.
1513	Toy bricks and toy building blocks not specially provided for.	70%.
1530 (c)	Leather (except leather provided for in subparagraph (d) of paragraph 1530 of the Tariff Act of 1930), in the rough, in the white, crust, or russet, partly finished, or finished:	
	If made from reptile, shark, goat, or kid skins, and not imported to be used in the manufacture of boots, shoes, or footwear, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.	25%.
	If made from sheep or lamb skins: Imported to be used in the manufacture of boots, shoes, or footwear, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.	10%.
	Other, not including chamois	25%.
1535	Fishing rods and reels, and parts thereof, finished or unfinished, not specially provided for.	55%.
1537 (b)	Bicycle tires composed wholly or in chief value of rubber.	10%.
1539 (b)	Laminated products (whether or not provided for elsewhere in the Tariff Act of 1930) of which any synthetic resin or resin-like substance is the chief binding agent:	
	In sheets or plates	15¢ per lb. and 25%.
	In rods, tubes, blocks, strips, blanks, or other forms.	50¢ per lb. and 40%.
	Manufactures wholly or in chief value of any of the foregoing, or of any other product of which any synthetic resin or resin-like substance is the chief binding agent.	50¢ per lb. and 40%.
1540	Carragheen or Irish moss, if manufactured or dyed	10%.
1555	Waste, not specially provided for	10%.
1669	Patchouli leaves and shark livers, which are in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, and not containing alcohol.	Free.
1722	Derris root, and tuba or tube root, crude or unmanufactured, not specially provided for.	Free.
1727	Copra	Free.
1811	Works of art (except rugs and carpets made after the year 1700), collections in illustration of the progress of the arts, works in bronze, marble, terra cotta, parian, pottery, or porcelain, artistic antiquities, and objects of art of ornamental character or educational value which shall have been produced prior to the year 1830, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of the Treasury may prescribe. Violins, violas, violoncellos, and double basses, of all sizes, made in the year 1800 or prior year.	Free.

Revenue Act of 1932, as Amended

Section	Description of article	Present rate of duty
601 (c) (4) and 630.	Crude petroleum, fuel oil derived from petroleum, gas oil derived from petroleum, and all liquid derivatives of crude petroleum; lubricating oil and gasoline or other motor fuel; and paraffin and other petroleum wax products; any of the foregoing sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, or vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions.	Exempt from taxes imposed in Sec. 601 (c) (4) of the Revenue Act of 1932, as amended.

NOTE.—The "present" rates of duty shown in the foregoing list and in the initial list of January 8, 1938, are, with a few exceptions, those now applicable to products of the United Kingdom, Newfoundland, and the British Colonial Empire. In a few instances where the description is broad, the rates shown do not include certain rates resulting from changes made under the authority of Sections 336 or 350 of the Tariff Act of 1930, as amended. In such instances, the rates not shown are applicable to only a part of the products covered by the description.

In all instances, however, in the above list and in the list of January 8, 1938, the descriptions of articles as given in the lists are alone controlling in determining whether specific products are or are not included. The references to paragraphs of the Tariff Act of 1930, to sections of the Revenue Acts of 1932 and 1934, as amended, and to rates of duty or tax are given only for convenience of reference and do not qualify in any way the descriptions of articles.

In the event that articles which are at present regarded as classifiable under the descriptions included in the above list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles.

[F. R. Doc. 38-315; Filed, January 29, 1938; 12:32 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 202]

AN ORDER MODIFYING ORDER NO. 83 AND RECLASSIFYING COALS IN CERTAIN SIZE GROUPS OF THE CAPITO MINE OF THE ATLAS COAL COMPANY, A CODE MEMBER WITHIN DISTRICT NO. 8

Pursuant to Act of Congress entitled "An Act to regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bitminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the classifications of coals as set opposite the name of the Atlas Coal Company of its Capito Mine, as the same appear in the Schedule of Initial Classifications of Coals of Code Members within District No. 8, filed on the 26th day of November, 1937, in the office of the Secretary of the Commission and made part of Order No. 83 by reference as though fully set forth therein, be and the same are hereby reclassified from "H" to "J" in size group 6, and from "E" to "H" in size groups 11, 12, 13 and 14, and said reclassifications shall become effective at 12:01 o'clock A. M. on the 31st day of January, 1938.

2. That except as herein modified, the Schedule of Initial Classifications of Coals of Code Members within District No. 8, as established by Order No. 83, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretary of Bituminous Coal Producers' Board for District No. 8, and to code members within said district; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 27th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-312; Filed, January 28, 1938; 2:54 p. m.]

[Order No. 203]

AN ORDER MODIFYING ORDER NO. 96, AS MODIFIED BY ORDERS NOS. 132, 164, 184 AND 191, AND REVISING THE PRICE INDEX OF COALS IN CERTAIN SIZE GROUPS PRODUCED WITHIN DISTRICT NO. 8 AT THE CAPITO MINE OF THE ATLAS COAL COMPANY

The National Bituminous Coal Commission having by its Order No. 96, as modified by Orders Nos. 132, 164, 184 and 191, determined and established the minimum price of coals of code members produced within District No. 8, as set forth in Price Schedule No. 1—District No. 8 and Supplements

Nos. 1, 2, 3 and 4 to Price Schedule No. 1—District No. 8, and having by its Order No. 202 reclassified the coals in certain size groups of the Capito Mine of the Atlas Coal Company, and in order to reflect the said reclassification in the Schedule of Minimum Prices for coals of the Capito Mine of the Atlas Coal Company:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Price Index, as set forth on page 21 S–1 of Supplement No. 1 to the Schedule of Minimum Prices of coals of code members produced within District No. 8 of the Capito Mine of the Atlas Coal Company in the "lower hignite" seam, be changed from "H" to "J" in size group 6, and from "E" to "H" in size groups 11, 12, 13 and 14, the said changes in the Price Index to become effective at 12:01 o'clock A. M. on the 31st day of January, 1938.

2. That the said Orders Nos. 96, 132, 164, 184 and 191 and Price Schedule No. 1—District No. 8 and Supplements Nos. 1, 2, 3 and 4 thereto, except as modified herein, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of Bituminous Coal Producers Boards and to code members within District No. 8; shall cause copies of this order to be made available for insepction at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 27th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–313; Filed, January 28, 1938; 2:54 p. m.]

[Order No. 204]

AN ORDER PROVIDING FOR A HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE RELATING TO THE COMMISSION'S MOTION TO REVIEW AND REVISE MINIMUM PRICES AND MARKETING RULES AND REGULATIONS RELATING TO SALES OF RAILROAD LOCOMOTIVE FUEL, FIXING THE TIME AND PLACE OF SUCH HEARING AND PRESCRIBING THE GIVING OF NOTICE THEREOF

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission pursuant to Section 4–II–(b) of the Act, upon its own motion proposes to review and consider a revision of the present established minimum prices and Marketing Rules and Regulations applying to sales of coal for railroad locomotive fuel, as contained in the schedules of minimum prices now in effect and applying to coals of code members produced within the several districts, the modification of such minimum prices and Marketing Rules and Regulations which will be considered by the Commission being set forth in the following proposal:

That minimum prices established for application to sales of railroad locomotive fuel and based upon a value in use for that purpose be rescinded; and all sales and offers for sale of coal for railroad purposes be made at not less than the minimum prices established by the Commission for general application in the market area in which is located the mine from which shipment is made, subject, however, to the following limitations and conditions:

(*a*) No discount, commission or other allowance or deduction from minimum prices shall be paid or allowed to any sales agent, registered wholesaler or other purchaser of railroad fuel.

(*b*) No substitution may be made upon any order or contract for railroad fuel, of a grade or size of coal taking a minimum price higher than the price stipulated in the order or contract; that is to say, that in every case of sale and purchase of railroad fuel, the seller shall charge and the purchaser shall pay not less than the minimum price established for the grade and size of coal actually delivered.

(*c*) No distinction or difference as to minimum price for railroad fuel shall be made between sales of coal to "on-line" railroads and to "off-line" railroads.

(*d*) Where coal sold for railroad fuel purposes is crushed before delivery (excluding any case where crushing of coal is regularly done preliminary to any cleaning process) the minimum price for such crushed coal shall be the price established for the grade and size of coal before crushing, plus a charge of not less than five cents a ton for crushing.

(*e*) No reduction shall be made in any minimum price applying to sales of railroad fuel by reason of any difference in cost of transportation from the mine to the point of distribution or consumption in the case of "on-line" railroads, or in the case of "off-line" railroads, because of any difference in the amount of freight charges paid on such coal by the "off-line" railroad as between competing mines and districts.

Now, therefore, the Commission hereby orders and directs:

1. That a hearing be held on the 14th day of February, 1938, commencing at the hour of 10 o'clock A. M., in the Hearing Room in the Walker Building, Washington, D. C., at which time all interested parties may submit evidence relating to the proposed revision of railroad fuel prices and Marketing Rules and Regulations, as said proposal is set forth herein.

2. Notice of the time, place and purpose of hearing to be held under this order shall be given by the Secretary of the Commission by causing to be published a copy of this order in a newspaper of general circulation in Districts Nos. 1 to 20, inclusive, and Nos. 22 and 23 and by mailing a copy of this order to the Secretary of each of said District Boards and to all code members in the respective districts and to the Consumers' Counsel and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

3. The hearing provided to be held under Order No. 122 of the Commission and now adjourned to the 7th day of February, 1938, is hereby directed to be further adjourned and to be consolidated with the hearing to be held on the 14th day of February, 1938, as herein provided.

4. The proposal hereinbefore contained is not to be construed as an order of this Commission but merely a proposal under consideration and does not permit sales of railway fuel to be presently made at the prices and on the terms and conditions set forth in said proposal. Railroad locomotive fuel prices and Marketing Rules and Regulations heretofore in effect shall continue until further order of the Commission.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–319; Filed, January 29, 1938; 12:38 p. m.]

[Order No. 205]

AN ORDER PROVIDING FOR A HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE TO ENABLE THE COMMISSION TO PRESCRIBE DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES THAT MAY BE MADE BY CODE MEMBERS TO PERSONS (WHETHER OR NOT CODE MEMBERS), HEREIN REFERRED TO AS DISTRIBUTORS, WHO PURCHASE COAL FOR RESALE AND RESELL IT IN NOT LESS THAN CARGO AND RAILROAD CARGO LOTS, AND TO CONSIDER A PROPOSAL OF THE COMMISSION RELATING TO SUCH DISCOUNTS AND ALLOWANCES

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, and particularly pursuant to Section 4–II (h), the National Bituminous Coal Commission upon its own motion, in order to enable it to prescribe due and reasonable maximum discounts or price allowances that may be made by code members to persons (whether or not code members), sometimes referred to as distributors, who purchase coal for resale and resell it in not less than cargo or railroad cargo lots, now offers for consideration the following proposal with respect to such discounts or allowances:

"That in all cases of sales of coal to or through distributors (whether registered Wholesalers, registered Farmers' Cooperative Organizations or sales agents), the deduction to be allowed or paid by a code member in any transaction of sale shall not exceed eight (8) percentum of the minimum price established by the Commission for the grade and size of coal sold f. o. b. transportation facilities at the mine; provided, that nothing contained herein shall prevent the division of any such allowance between sales agents or registered Wholesalers and Farmers' Cooperative Organizations in proportion to the value of the service actually rendered by each in the transaction of sale."

Now, therefore, it is hereby ordered and directed:

1. That a hearing be held on the 16th day of February, 1938, commencing at the hour of 10:00 A. M. in the Hearing Room of the Commission in the Walker Building, Washington, D. C., at which time all interested parties may submit evidence relating to the proposal of the Commission as set forth herein.

2. Notice of the time, place and purpose of the hearing to be held under this order shall be given by the Secretary of the Commission by causing to be published a copy of this order in the FEDERAL REGISTER and in a newspaper of general circulation in each of the districts and by mailing a copy of this order to the Secretary of each of said District Boards and to all code members in the respective districts and to the Consumers' Counsel.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–320; Filed, January 29, 1938; 12:38 p. m.]

[Order No. 206]

AN ORDER SUSPENDING SECTION 6 OF THE MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICTS Nos. 15, 16, 17, 18, 19, 20, 22 AND 23, RELATING TO CONTRACTS ON AND AFTER FEBRUARY 1, 1938, AND AMENDING MARKETING RULES AND REGULATIONS FOR THE AFORESAID DISTRICTS

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That effective as of the date of this order and until further order of the Commission, Section 6 of the marketing rules and regulations incidental to the sale and distribution of coals of code members within Districts Nos. 15, 16, 17, 18, 19, 20, 22 and 23, authorizing the making of contracts on or after February 1, 1938, for a period in excess of thirty (30) days, is hereby suspended.

2. That said Marketing Rules and Regulations are amended and until further order of the Commission no code member or sales agent of a code member, and no wholesaler or farmers' cooperative organization, registered or proposing to register, shall enter into any agreement or order for the sale or delivery of coal for a period in excess of thirty (30) days from the date of such agreement or order, and no prices shall be less than the minimum prices in effect at the time of delivery; Provided, however, that contracts for periods not exceeding one (1) year at prices not less than the minimum prices established by the Coal Commission, in effect at the time of delivery, may be made with agencies of the Federal Government or with such agencies of State or local governments as are required by law to purchase coal for periods in excess of thirty (30) days. In the case of governmental agencies options may be given for a period not exceeding forty-five (45) days. No option for the sale of coal may be given, except as herein specifically provided.

3. That all quotations shall be made or confirmed in writing, and shall, without notice, become null and void immediately upon the establishment by the Coal Commission of a revised minimum price for the coal covered by the quotation.

4. That except as modified and amended by this order, the Marketing Rules and Regulations incidental to the sale and distribution of coals of code members within Districts Nos. 15, 16, 17, 18, 19, 20, 22 and 23, shall remain in full force and effect.

5. That the Secretary of the Commission shall forthwith mail copies of this order to the secretaries of all District Boards, and to all code members within Districts Nos. 15, 16, 17, 18, 19, 20, 22 and 23; to the Consumers' Counsel and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–321; Filed, January 29, 1938; 12:38 p. m.]

[Order No. 207]

AN ORDER MODIFYING ORDER No. 90, AS MODIFIED BY ORDERS Nos. 138, 149, 160, 183, AND 188, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT No. 2, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT No. 6 TO PRICE SCHEDULE No. 1—DISTRICT No. 2"

The National Bituminous Coal Commission having by its Order No. 90, as modified by Orders Nos. 138, 149, 160, 183, and 188 determined and established the Minimum Prices of Coals of Code Members produced within District No. 2, as set forth in "Price Schedule No. 1—District No. 2," as supplemented by "Supplements No. 1, No. 2, No. 3, No. 4, and No. 5," and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members produced within District No. 2, established in "Price Schedule No. 1—District No. 2," as supplemented by "Supplements No. 1, No. 2, No. 3, No. 4 and No. 5 to Price Schedule No. 1—District No. 2," are hereby further supplemented as set forth in "Supplement No. 6 to Price Schedule No. 1—District No. 2," filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 6, shall be and hereby are determined and established as the Minimum Prices of Coals of Code Members within District No. 2, and shall be effective at 12:01 o'clock A. M., on the 7th day of February, 1938.

2. That said Order No. 90, as modified by Orders Nos. 138, 149, 160, 183 and 188, and as modified herein and by Supplement No. 6 to Price Schedule No. 1—District No. 2, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Supplement No. 6 to Price

Schedule No. 1—District No. 2" to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards, to Code Members within District No. 2; shall cause copies of this Order and said Supplement No. 6 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 27th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 6 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 2

To All Code Members Within District No. 2:

Effective February 7, 1938, the following changes in Price Schedule No. 1 and Supplement No. 1, thereto, shall be made:

The following Truck Mines should be included and coal shipped via rail from these mines shall be price indexed as follows:

	SIZE GROUPS									
	1	2	3	4	5	6	7	9	12	13	14
Wilson Refractories, Inc., Red Hill Mine	E	E	E	E	E	E	D	D	D	D	D
John W. Byars, Jane Mine	D	D	D	D	D	D	D	D	E	E	E
Gilleland Coke Co., Leon Mine	D	D	D	D	D	D	D	D	E	E	E
King Bros. Coal & Coke Co., Marguerite Mine	D	D	D	D	D	D	D	D	E	E	E
Shamrock Coal & Coke Co., Shamrock Mine	C	C	C	C	C	C	C	C	D	D	D
Charles E. Campbell, Mohawk Mine	F	F	F	F	F	F	F	E	F	F	F
Gene Stickel, Russell Mine	F	F	F	F	F	F	F	E	F	F	F
Armstrong Bros. Coal Co., Yukon Mine	C	C	C	C	C	C	C	D	C	C	C

By Order of the Commission.

Dated this 27th day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-339; Filed, January 31, 1938; 11:21 a. m.]

[Order No. 208]

AN ORDER MODIFYING ORDER NO. 98, AS MODIFIED BY ORDERS NOS. 133 AND 153, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 10, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES TO BE KNOWN AS "SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 10"

The National Bituminous Coal Commission having by its Order No. 98, as modified by Orders Nos. 133 and 153, determined and established the minimum prices of coals of code members produced within District No. 10, as set forth in "Price Schedule No. 1—District No. 10," and "Supplements No. 1 and No. 2 to Price Schedule No. 1—District No. 10," and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid price schedule and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 10, established in "Price Schedule No. 1—District No. 10", as supplemented by "Supplements No. 1 and No. 2 to Price Schedule No. 1—District No. 10", are hereby further supplemented as set forth in "Supplement No. 3 to Price Schedule No. 1—District No. 10", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 3, shall be and hereby are determined and established as the minimum prices of coals of code members within said District No. 10, and shall be effective at 12:01 o'clock A. M., on the 7th day of February, 1938.

2. That said Order No. 98, as modified by Orders Nos. 133 and 153, and as modified herein, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this order and Supplement No. 3 to Price Schedule No. 1—District No. 10 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards for the Districts; to code members within District No. 10; shall cause copies of this order and said Supplement No. 3 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all statistical bureaus of the Commission; and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 27th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 3 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 10

To All Code Members Within District No. 10:

Effective February 7, 1938, the following price instruction shall be inserted in Supplement No. 1 to Price Schedule No. 1:

"The f. o. b. mine prices on shipments of coal from mines in Mine Price Group "A" from which the freight rate to Afton, Clinton Junction, Janesville, Riton, and Tiffany, all in Wisconsin, is more than $2.55 per net ton, may be decreased in the amount in cents per net ton (not in excess of 35¢ per net ton) sufficient to equalize the prices delivered at destination with delivered price on shipments from those mines in Mine Price Group "A" on which a freight rate of $2.55 applies to these destinations."

By Order of the Commission.

Dated this 27th day of January, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-340; Filed, January 31, 1938; 11:21 p. m.]

[Order No. 209]

AN ORDER MODIFYING AND AMENDING PARAGRAPH I OF SECTION III, PARAGRAPH I OF SECTION IV AND PARAGRAPHS 2 AND 3 OF SECTION V OF THE MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COALS OF CODE MEMBERS WITHIN DISTRICTS NOS. 1 TO 20 INCLUSIVE AND DISTRICTS NOS. 22 AND 23, RELATING TO THE PAYMENT OR ALLOWANCE OF DISCOUNTS TO WHOLESALERS AND FARMERS' COOPERATIVE ORGANIZATIONS ON AND AFTER FEBRUARY 1, 1938

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That effective February 1, 1938, and continuing until further order of the Commission, paragraph I of Section III, paragraph I of Section IV, and Paragraphs 2 and 3 of Section V of the Marketing Rules and Regulations established by the Commission incidental to the sale and distribution of coals of code members within Districts Nos. 1 to 20 inclusive and Districts Nos. 22 and 23, are hereby modified to the extent necessary to give effect to the following regulation:

A Wholesaler or Farmers' Cooperative Organization which has filed an application for registration with the Coal Commission on or before January 31, 1938, in the manner provided in Sections III and IV of the Marketing Rules and Regulations shall, pending formal approval or denial of such application by the Coal Commission, be entitled to receive discounts upon the same conditions and to the same extent as if the application for such registration had been formally granted.

In the case of a Wholesaler or Farmers' Cooperative Organization which files an application for registration on or after February 1, 1938, such applicant shall be entitled to receive such discounts only upon the granting of said application and formal registration of the applicant by the Coal Commission.

2. That except as modified and amended by this order, the Marketing Rules and Regulations incidental to the sale and distribution of coals of code members within Districts Nos. 1 to 20 inclusive and Districts Nos. 22 and 23, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Secretaries of all District Boards, and to all code members within Districts Nos. 1 to 20 inclusive and Districts Nos. 22 and 23; to all applicants for registration as registered wholesalers or farmers' cooperative organizations; to the Consumers' Counsel; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-341; Filed, January 31, 1938; 11:21 a. m.]

[Docket No. 2-FD]

IN THE MATTER OF THE APPLICATION OF ALABAMA COALS, INCORPORATED

ORDER

The Commission having on the 22d day of September, 1937, granted the application of Alabama Coals, Incorporated, for provisional approval as a marketing agency and by further order dated the 9th day of December, 1937, having further continued such provisional approval to and until the 30th day of January, 1938, and the Commission having in the meantime under its Order No. 123 conducted hearings for the purpose of receiving evidence to enable the Commission to establish permanent rules and regulations governing the organization and operation of marketing agencies under Section 12 of the Act and such permanent regulations not having yet been established.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

That the provisional approval of Alabama Coals, Incorporated, as a marketing agency, be and the same is hereby extended to continue in force until further order of this Commission.

The Secretary of the Commission shall forthwith mail a copy of this order to the petitioner.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-316; Filed, January 29, 1938; 12:37 p. m.]

[Docket No. 3-FD]

IN THE MATTER OF THE APPLICATION OF APPALACHIAN COALS, INCORPORATED

ORDER

The Commission having on the 22d day of September, 1937, granted the application of Appalachian Coals, Incorporated, for provisional approval as a marketing agency and by further order dated the 9th day of December 1937, having further continued such provisional approval to and until the 30th day of January, 1938, and the Commission having in the meantime under its Order No. 123 conducted hearings for the purpose of receiving evidence to enable the Commission to establish permanent rules and regulations governing the organization and operation of marketing agencies under Section 12 of the Act and such permanent regulations not having yet been established.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

That the provisional approval of Appalachian Coals, Incorporated, as a marketing agency, be and the same is hereby extended to continue in force until further order of this Commission.

The Secretary of the Commission shall forthwith mail a copy of this order to the petitioner.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-317; Filed, January 29, 1938; 12:37 p. m.]

[Docket No. 4-FD]

IN THE MATTER OF THE APPLICATION OF SMOKELESS COAL CORPORATION

ORDER

The Commission having on the 22d day of September, 1937, granted the application of Smokeless Coal Corporation, for provisional approval as a marketing agency and by further order dated the 9th day of December, 1937, having further continued such provisional approval to and until the 30th day of January, 1938, and the Commission having in the meantime under its Order No. 123 conducted hearings for the purpose of receiving evidence to enable the Commission to establish permanent rules and regulations governing the organization and operation of marketing agencies under Section 12 of the Act and such permanent regulations not having yet been established.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

That the provisional approval of Smokeless Coal Corporation, as a marketing agency, be and the same is hereby extended to continue in force until further order of this Commission.

The Secretary of the Commission shall forthwith mail a copy of this order to the petitioner.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-318; Filed, January 29, 1938; 12:37 p. m.]

[Docket No. 65-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF VIRGINIA AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 27th day of January, 1938.

It appearing, That by Orders Nos. 2 and 50, the Commission upon its own motion entered into and conducted an investigation under the provisions of Section 4–A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Virginia and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 27th day of January, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Virginia directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in Virginia in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 15th day of February, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Virginia, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Virginia.

2. That any producer of bituminous coal in intrastate commerce within the State of Virginia, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4–A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4–A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Virginia who is not upon the date of this Order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Virginia known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this Order.

By Order of the Commission.

Dated this 27th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38–322; Filed, January 29, 1938; 12:39 p. m.]

[Docket No. 85–FD]

IN THE MATTER OF PETITION OF CONSUMERS' COUNSEL

ORDER AND NOTICE FOR HEARING

A petition having been filed with this Commission by Consumers' Counsel alleging dissatisfaction with coordination of minimum prices of coals produced in Districts Nos. 1 to 13, inclusive, as established by Commission Orders Nos. 89 to 101, inclusive, as amended and revised by subsequent orders:

This matter having come on to be heard before the Commission on December 21, 1937, pursuant to notice, having been continued to January 4, 1938, and on January 4, 1938 having been continued subject to agreement of counsel and to further notice, the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M., at the Hearing Room of the Commission in Washington, D. C., at which time the Commission will introduce evidence pertaining to the establishment of minimum prices for coals of code members within the aforesaid Districts Nos. 1 to 13, inclusive.

A copy of the aforesaid petition, and amendments thereto, are on file and available for inspection by interested parties at the office of the Secretary of the Commission, at each of the Statistical Bureaus of the Commission and at the office of each District Board.

At said hearing the Commission will also present evidence pertaining to the establishment of minimum prices for coals of code members within Districts Nos. 14 to 20, inclusive and Districts Nos. 22 and 23.

At said hearing all interested parties shall be afforded an opportunity to be heard.

The Secretary of the Commission is directed, forthwith, to mail a copy of this order and notice to the Consumers' Counsel; to the Secretary of each District Board for Districts Nos. 1 to 20, inclusive and for Districts Nos. 22 and 23; and to each code member in said districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission for the aforesaid districts, and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38–333; Filed, January 31, 1938; 11:19 a. m.]

[Docket No. 283–FD]

IN THE MATTER OF THE PETITION OF THE CITY OF NEW YORK, STATE OF NEW YORK AND CONSUMERS' COUNSEL

ORDER AND NOTICE FOR HEARING

A petition having been filed, on January 26, 1938, in this Commission by the City of New York, State of New York and Consumers' Counsel alleging dissatisfaction with coordination of minimum prices of coals produced in Districts Nos. 1 to 13, inclusive, as established by Commission Orders Nos. 89 to 101, inclusive, as amended and revised by subsequent Orders:

Now, therefore, it is ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the hearing room of the Commission in Washington, D. C., at which time the Commission will introduce evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within the aforesaid Districts Nos. 1 to 13, inclusive.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission, at each of the Statistical Bureaus of the Commission and at the office of each District Board.

3. At said hearing the Commission will also present evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within Districts Nos. 14 to 20, inclusive, and Districts Nos. 22 and 23.

4. At said hearing all interested parties shall be afforded an opportunity to be heard.

5. The Secretary of the Commission is directed forthwith to mail a copy of this Order and notice to the petitioners above named, to the Consumers' Counsel, to the Secretary of each District Board for Districts Nos. 1 to 20, inclusive, and for Districts Nos. 22 and 23; and to each code member in said Districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission for the aforesaid Districts, and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] W. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38–334; Filed, January 31, 1938; 11:19 a. m.]

[Docket No. 284–FD]

IN THE MATTER OF THE PETITION OF NEW YORK CITY AND NEW YORK STATE

ORDER AND NOTICE FOR HEARING

A petition having been filed in this Commission on January 26, 1938, by New York City and New York State alleging dissatisfaction with coordination of minimum prices of coals produced in Districts Nos. 1 to 13, inclusive, as established by Commission Orders Nos. 89 to 101, inclusive, as amended and revised by subsequent Orders:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the hearing room of the Commission in Washington, D. C., at which time the Commission will introduce evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within the aforesaid Districts Nos. 1 to 13, inclusive.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission, at each of the Statistical Bureaus of the Commission and at the office of each District Board.

3. At said hearing the Commission will also present evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within Districts Nos. 14 to 20, inclusive, and Districts Nos. 22 and 23.

4. At said hearing all interested parties shall be afforded an opportunity to be heard.

5. The Secretary of the Commission is directed forthwith to mail a copy of this Order and notice to the petitioners above named, to the Consumers' Counsel, to the Secretary of each District Board for Districts Nos. 1 to 20, inclusive, and for Districts Nos. 22 and 23; and to each code member in said Districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission for the aforesaid Districts, and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38–335; Filed, January 31, 1938; 11:19 a. m.]

[Docket No. 290–FD]

IN THE MATTER OF THE PETITION OF THE CITY OF ATLANTA, GEORGIA

ORDER AND NOTICE FOR HEARING

A petition having been filed in this Commission on January 27, 1938, by The City of Atlanta, Georgia, alleging dissatisfaction with coordination of minimum prices of coals produced in Districts Nos. 1 to 13, inclusive, as established by Commission Orders Nos. 89 to 101, inclusive, as amended and revised by subsequent Orders:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the hearing room of the Commission in Washington, D. C., at which time the Commission will introduce evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within the aforesaid Districts Nos. 1 to 13, inclusive.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission, at each of the Statistical Bureaus of the Commission and at the office of each District Board.

3. At said hearing the Commission will also present evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within Districts Nos. 14 to 20, inclusive, and Districts Nos. 22 and 23.

4. At said hearing all interested parties shall be afforded an opportunity to be heard.

5. The Secretary of the Commission is directed forthwith to mail a copy of this Order and notice to the petitioners above named, to the Consumers' Counsel, to the Secretary of each District Board for Districts Nos. 1 to 20, inclusive, and for Districts Nos. 22 and 23; and to each code member in said Districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission for the aforesaid Districts, and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By Order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38–336; Filed, January 31, 1938; 11:20 a. m.]

[Docket No. 291–FD]

IN THE MATTER OF THE PETITION OF THE CITY OF ST. LOUIS MO.

ORDER AND NOTICE FOR HEARING

A petition having been filed in this Commission on January 27, 1938, by The City of St. Louis, Mo., alleging dissatisfaction with coordination of minimum prices of coals produced in District No. 10, as established by Commission Order No. 98, as amended and revised by subsequent orders.

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the hearing room of the Commission in Washington, D. C., at which time the Commission will introduce evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within the aforesaid District No. 10.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission, at each of the Statistical Bureaus of the Commission and at the office of each District Board.

3. At said hearing the Commission will also present evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within Districts Nos. 1 to 20, inclusive, and Districts Nos. 22 and 23.

4. At said hearing all interested parties shall be afforded an opportunity to be heard.

5. The Secretary of the Commission is directed forthwith to mail a copy of this Order and notice to the petitioner above named, to the Consumers' Counsel, to the Secretary of each District Board for Districts Nos. 1 to 20, inclusive, and for Districts Nos. 22 and 23; and to each code member in said Districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical

Bureaus of the Commission for the aforesaid Districts, and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-337; Filed, January 31, 1938; 11:20 a. m.]

[Docket No. 292-FD]

IN THE MATTER OF THE PETITION OF THE CITY OF ROCHESTER, NEW YORK

ORDER AND NOTICE FOR HEARING

A petition having been filed in this Commission on January 27, 1938, by the City of Rochester, New York, alleging dissatisfaction with coordination of minimum prices of coals produced in Districts Nos. 1 to 13, inclusive, as established by Commission Orders Nos. 89 to 101, inclusive, as amended and revised by subsequent Orders:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the hearing room of the Commission in Washington, D. C., at which time the Commission will introduce evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within the aforesaid Districts Nos. 1 to 13, inclusive.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission, at each of the Statistical Bureaus of the Commission and at the office of each District Board.

3. At said hearing the Commission will also present evidence pertaining to the establishment of Minimum Prices for Coals of Code Members within Districts Nos. 14 to 20, inclusive, and Districts Nos. 22 and 23.

4. At said hearing all interested parties shall be afforded an opportunity to be heard.

5. The Secretary of the Commission is directed forthwith to mail a copy of this Order and notice to the petitioners above named, to the Consumers' Counsel, to the Secretary of each District Board for Districts Nos. 1 to 20, inclusive, and for Districts Nos. 22 and 23; and to each code member in said Districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission for the aforesaid Districts, and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-338; Filed, January 31,1938; 11:20 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1936 AGRICULTURAL CONSERVATION PROGRAM—INSULAR REGION

DETERMINATION AS TO THE BASIS FOR DETERMINING PERFORMANCE

Pursuant to the authority vested in me under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that soil maps and reports of soil analyses, made either in 1936 or in 1937, when correctly completed and submitted to the local office of the Insular Division, Agricultural Adjustment Administration, on or before May 31, 1937, will be satisfactory for purposes of compliance with the provisions of paragraph (a) of Practice 7, Part IV, of Bulletin No. 1, 1936 Agricultural Conservation Program, Insular Region.

Done at Washington, D. C., this 31st day of January, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-344; Filed, January 31, 1938; 12:42 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

MODIFICATION OF PARAGRAPHS 12 (C) AND 12 (E) OF THE SHIP RADIOTELEGRAPH SAFETY RULES

The Commission on January 18, 1938 [1] adopted the following:

12 (c) A radiotelegraph transmitter installed on board a vessel of the United States subject to Title III, Part II of the Communications Act of 1934, as amended, which complies with the following specifications, is approved as meeting the requirements of paragraph 12 (b):

(1) *Specifications for a Main Transmitter*

Operating radio frequency	Required frequency tolerance	Required type of emission	Minimum permissible modulation percentage	Minimum permissible frequency of modulation	Maximum permissible frequency of modulation	Power required to be developed
500 kc	Plus or minus 0.5 percent [1]	A-2	70	300 cycles per second	1,250 cycles per second	At least *200* watts into an average ship station antenna.
Do	do	A-1				At least *160* watts into an average ship station antenna.
375 kc and one working frequency in the band 350-485 kc.	[1] Plus or minus 0.5 percent	A-2	70	300 cycles per second	1,250 cycles per second	At least *140* watts into an average ship station antenna.
375 kc and one working frequency in the band 350-485 kc.	[1] Plus or minus 0.5 percent	A-1				At least *115* watts into an average ship station antenna.

[1] The Inter-American Radio Conference, convened at Havana, Cuba, November 1, 1937, contains the following provisions with respect to mobile stations: New transmitters of mobile stations operating on frequencies in the band 375-500 kc inclusive, installed and licensed after January 1, 1939, shall maintain a frequency tolerance of plus or minus 0.1 per cent. After January 1, 1942, all transmitters of such mobile stations shall maintain a tolerance of 0.1 per cent.

For the purpose of these specifications, the term "average ship station antenna" means an actual antenna installed aboard ship having a capacity of 750 micro-microfarads and an effective resistance of 4 ohms at 500 kc.

A main transmitter will be considered as capable of developing the above specified power and percentage of modulation if it is demonstrated to the satisfaction of the Commission that the transmitter involved, or a transmitter of the same identical type, will deliver into an artificial antenna having a capacity of 750 micro-microfarads and an effective resistance of 4 ohms at 500 kc, at least 160 watts of A-1 emission, and at least 200 watts of A-2 emission modulated at least 70 per cent, at 500 kc; and at least 115 watts of A-1 emission, and at least 140 watts of A-2 emission modulated at least 70 per cent, at 375 kc and the one required working frequency; provided however, that if deemed necessary this test may be applied to an individual main transmitter installed aboard a ship before initial or continued approval thereof. For the performance of this test, amplitude modulation shall be employed and the power in the antenna shall be determined by the I²R (direct) method.

In addition to the foregoing specifications, a main transmitter shall be provided with an arrangement for conveniently reducing the power supplied to the antenna circuit to approximately one-half of the rated power.

[1] Paragraph 12 (d) was deleted the same date.

(2) *Specifications applicable only to a main transmitter in existence prior to February 1, 1938*

Operating radio frequency	Required frequency tolerance	Required type of emission	Minimum permissible modulation percentage	Minimum permissible frequency of modulation	Maximum permissible frequency of modulation	Power required to be developed
500 kc	Plus or minus 1.0 per cent for transmitters licensed prior to Sept. 3, 1931 which consist of a self-excited oscillator supplying power to the antenna circuit. Plus or minus 0.5 per cent for other transmitters.[1]	A-2	50	100 cycles per second	1650 cycles per second	At least *200* watts into an average ship station antenna circuit or at least 400 watts into the plate circuit of the oscillator or amplifier supplying power to the antenna circuit.
375 kc and one working frequency in the band 350-485 kc.	Plus or minus 1.0 per cent for transmitters licensed prior to Sept. 3, 1931 which consist of a self-excited oscillator supplying power to the antenna circuit. Plus or minus 0.5 per cent for other transmitters.[1]	A-2	50	100 cycles per second	1650 cycles per second	At least *140* watts into an average ship station antenna circuit *or* at least 280 watts into the plate circuit of the oscillator or amplifier supplying power to the antenna circuit.
500 kc, 375 kc and one working frequency in the band 350-485 kc.	Plus or minus 1.0 per cent for transmitters licensed prior to Sept. 3, 1931. Plus or minus 0.5 per cent for other transmitters.	B [2]		100 cycles per second	1650 cycles per second	At least 1000 watts input to the power transformer when the transmitter is supplying power to an average ship station antenna circuit with proper coupling thereto.

[1] The Inter-American Radio Conference, convened at Havana, Cuba, November 1, 1937, contains the following provisions with respect to mobile stations: New transmitters of mobile stations operating on frequencies in the band 375-500 kc inclusive, installed and licensed after January 1, 1939, shall maintain a frequency tolerance of plus or minus 0.1 per cent. After January 1, 1942, all transmitters of such mobile stations shall maintain a tolerance of 0.1 per cent.

[2] The use of a transmitter producing type B emission, which is capable of being operated at a full power input of 300 watts or more, is prohibited after December 31, 1939, by the General Radio Regulations of Madrid, except in cases of distress. See also Commission Rules 209 and 293.

For the purpose of measuring the power developed by a main transmitter in existence prior to February 1, 1938, as specified herein, there may be substituted for an average ship station antenna, an artificial antenna having a capacity of 750 micro-microfarads and an effective resistance of 4 ohms at 500 kc. A transmitter in this classification will be considered as capable of developing the above specified power and percentage of modulation if it is demonstrated to the satisfaction of the Commission that the transmitter involved, or a transmitter of the same identical type, will develop the specified power on the frequencies designated, with the required percentage of amplitude modulation for A-2 emission, when properly coupled either to an average ship station antenna or to an artificial antenna having the values of capacity and resistance herein designated. Power supplied to the antenna circuit shall be measured by the I²R (direct) method. If deemed necessary, this test may be applied to an individual main transmitter installed aboard a ship before initial or continued approval thereof.

(3) A main transmitter which is installed aboard a vessel prior to the effective date of this rule which is not capable of developing the power specified in (2) hereof but which will develop at least 50 watts power, of A-2 emission, into the average ship station antenna circuit or at least 100 watts power into the plate circuit of the oscillator or amplifier supplying power to the antenna circuit, is approved for use in compliance with paragraph 12 (b) until not later than October 1, 1938; provided however, that where two or more transmitters are a part of the radio installation aboard a cargo vessel on the effective date of this rule, one or more of these shall not be removed for the primary purpose of operating the remaining transmitter(s) under the provisions of this rule.

(4) *Specifications for Emergency Transmitters*

The following specifications must be met when the emergency transmitter is energized by a power supply equivalent to the emergency power supply which is or will be available aboard the type of vessel on which the transmitter is or will be installed and operated.

Operating radio frequency	Required frequency tolerance	Required type of emission	Minimum permissible modulation percentage	Minimum permissible frequency of modulation	Maximum permissible frequency of modulation	Power required to be developed
500 kc	Plus or minus 1.0 percent for transmitters licensed prior to Sept. 3, 1931 which consist of a self-excited oscillator supplying power to the antenna circuit. Plus or minus 0.5 per cent for other transmitters.[1]	A-2	50 for transmitters in existence prior to Feb. 1, 1938. 70 for other transmitters.	100 cycles per second for transmitters in existence prior to Feb. 1, 1938. 300 cycles per second for other transmitters.	1650 cycles per second for transmitters in existence prior to Feb. 1, 1938. 1250 cycles per second for other transmitters.	At least 50 watts into an average ship station antenna circuit or at least 100 watts into the plate circuit of the oscillator or amplifier supplying power to the antenna circuit.
375 kc	Plus or minus 1.0 percent for transmitters licensed prior to Sept. 3, 1931 which consist of a self-excited oscillator supplying power to the antenna circuit. Plus or minus 0.5 per cent for other transmitters.[1]	A-2	50 for transmitters in existence prior to Feb. 1, 1938. 70 for other transmitters.	100 cycles per second for transmitters in existence prior to Feb. 1, 1938. 300 cycles per second for other transmitters.	1650 cycles per second for transmitters in existence prior to Feb. 1, 1938. 1250 cycles per second for other transmitters.	At least 30 watts into an average ship station antenna circuit or at least 60 watts into the plate circuit of the oscillator or amplifier supplying power to the antenna circuit.

[1] The Inter-American Radio Conference, convened at Havana, Cuba, November 1, 1937, contains the following provisions with respect to mobile stations: New transmitters of mobile stations operating on frequencies in the band 375-500 kc inclusive, installed and licensed after January 1, 1939, shall maintain a frequency tolerance of plus or minus 0.1 per cent. After January 1, 1942, all transmitters of such mobile stations shall maintain a tolerance of 0.1 per cent.

Operating radio frequency	Required frequency tolerance	Required type of emission	Minimum permissible modulation percentage	Minimum permissible frequency of modulation	Maximum permissible frequency of modulation	Power required to be developed
500 kc, 375 kc and one working frequency in the band 350-495 kc.	Plus or minus 1.0 per cent for transmitters licensed prior to Sept. 3, 1931. Plus or minus 0.5 per cent for other transmitters.	B [1]		100-cycles per second	1,650 cycles per second	At least 500 watts input to the power transformer when the transmitter is supplying power to an average ship station antenna circuit with proper coupling thereto.

[1] The use of a transmitter producing type B emission, which is capable of being operated at a full power input of 300 watts or more, is prohibited after December 31, 1939 by the General Radio Regulations of Madrid, except in cases of distress. See also Commission Rules 209 and 293.

An emergency transmitter will be considered as capable of developing the power herein specified if the actual power developed is demonstrated by the same method as expressly set forth in (2) hereof; provided however that, if deemed necessary, this test may be applied to an individual emergency transmitter installed aboard a ship before initial or continued approval thereof.

(5) Each transmitter which was not in existence prior to February 1, 1938, but which is installed after that date aboard a vessel in order to comply with these rules shall be furnished with a durable nameplate with the month and year of its completion permanently inscribed thereon.

(6) Nothing in these specifications for transmitters shall prevent the use of any additional frequencies or any additional type of emission, by a ship radiotelegraph station, in accordance with the terms of its outstanding license(s) granted by the Commission.

12 (e) The Commission, in an exceptional case, for a passenger vessel of less than 600 gross tons, may waive those parts of the provisions of paragraph (c) hereof relating to the minimum acceptable power of main transmitters, if a satisfactory showing is made that an installation of the specified minimum power is highly impracticable.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-314; Filed, January 29, 1938; 9:37 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5486]

APPLICATIONS OF OKLAHOMA GAS AND ELECTRIC COMPANY AND WESTERN LIGHT AND POWER CORPORATION

ORDER FIXING DATE OF HEARING

JANUARY 25, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application filed September 28, 1937, revised January 20, 1938, pursuant to Section 203 of the Federal Power Act, by Oklahoma Gas and Electric Company, a corporation organized under the laws of the territory of Oklahoma (now State of Oklahoma) and having its principal place of business in Oklahoma City, Oklahoma, for an order authorizing it to acquire the entire physical properties of Western Light and Power Corporation, likewise an Oklahoma corporation, including certain facilities employed in the interstate transmission of electric energy, and to connect such facilities with those owned and operated by the applicant; upon supplement to said applications filed January 24, 1938 by Western Light and Power Corporation, a corporation organized under the laws of the State of Oklahoma and having its principal place of business in Kansas City, Kansas, for authority to sell all of its electric facilities to Oklahoma Gas and Electric Company;

The Commission orders: That a hearing on said applications be held on February 14, 1938 at 10 A. M. in the Commission's hearing room in the Hurley Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-323; Filed, January 31, 1938; 10:02 a. m.]

[Docket No. IT-5506]

APPLICATION OF THE SOUTHERN NEBRASKA POWER COMPANY

ORDER SETTING DATE OF HEARING

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

JANUARY 25, 1938.

Upon application filed January 24, 1938, pursuant to Section 203 (a) of the Federal Power Act, by The Southern Nebraska Power Company, a Nebraska corporation having its principal business office at Superior, Nebraska, for an order authorizing the sale of all of its facilities to The Central Nebraska Public Power and Irrigation District, a Nebraska public corporation;

The Commission orders that: A public hearing on said application be held on February 21, 1938, at 10 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-324; Filed, January 31, 1938; 10:02 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2442]

IN THE MATTER OF RARITAN DISTILLERS CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 7, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 200, Post Office Building, New Brunswick, New Jersey.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-325; Filed, January 31, 1938; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3259]

IN THE MATTER OF THE SPERRY CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, February 1, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-326; Filed, January 31, 1938; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3031]

IN THE MATTER OF THE GREAT ATLANTIC & PACIFIC TEA COMPANY

FINDINGS AS TO THE FACTS AND CONCLUSIONS

Pursuant to the provisions of the Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, (The Clayton Act), as amended by Section One of the Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936, (the Robinson-Patman Act), the Federal Trade Commission on January 13, 1937, issued and served its complaint in this proceeding upon The Great Atlantic & Pacific Tea Company, Respondent herein, charging it with violating the provisions of Paragraph (c) of Section 2 of the said Act as amended. After the issuance of said complaint and the filing of Respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by J. J. Smith, Jr., and W. N. Baughman, attorneys for the Commission, before William C. Reeves, an Examiner for the Commission, theretofore duly designated by it, and in opposition to the allegations of the complaint by Caruthers Ewing, Watson, King & Brode and George J. Feldman, attorneys for the said Respondent, and said testimony and other evidence were duly recorded and filed in the office of the Commission.

Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint, answer, testimony and other evidence, briefs in support of the complaint and in opposition thereto, and the oral arguments of the said J. J. Smith, Jr., for the Commission, and the said Caruthers Ewing for the Respondent, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its Findings as to the Facts and its Conclusions:

Findings

PARAGRAPH 1. The Respondent, The Great Atlantic & Pacific Tea Company, is a corporation organized and existing under the laws of the State of New Jersey, and maintains its principal office and place of business at 420 Lexington Avenue, in the City of New York, New York.

PAR. 2. The Respondent is engaged in the retail grocery business, and, together with its affiliates, owns and operates more than 14,800 retail grocery stores located in thirty-eight states and in the District of Columbia.

PAR. 3. In the course and conduct of its business the Respondent is engaged in competition with many retail grocery concerns in every city in which it operates a store or stores; and the Respondent purchases for resale at its said stores commodities which it causes to be shipped in interstate commerce from the state in which said commodities are located at the time they are purchased by the Respondent across state lines through and into states other than the state in which said commodities are located at the time they are purchased by the Respondent, and the Respondent ships commodities from its warehouses across state lines to its stores located in states other than the states in which its said warehouses are located.

PAR. 4. The Respondent's organization is divided along geographical lines into a number of divisions, each division being composed of several units, a unit being the territory serviced by a central warehouse operated by the Respondent and from which Respondent's various retail stores in that territory obtain most of the commodities sold to the public by the Respondent at its said stores. The purchasing operations of each division are under the general supervision and control of a purchasing director for that division. Each warehouse or unit, however, has a warehouse buyer, or unit buyer, hereinafter referred to as warehouse buyer, who is authorized to, and does, purchase commodities for distribution from that warehouse to the Respondent's stores located in the territory serviced by it.

PAR. 5. Several years prior to the filing of the complaint herein, the Respondent established, and has since continuously maintained and now maintains, geographically convenient to important sources of supply, a number of central buying offices, located in Rochester, New York; Baltimore, Maryland; New Orleans, Louisiana; San Francisco, California; Milwaukee, Wisconsin, and other cities. These central buying offices continuously have been and now are in charge of and operated by agents employed by the Respondent. The duties of said agents continuously have been and now are to find scurces of supply for the Respondent, to furnish the Respondent with market information, and to purchase commodities for the Respondent.

PAR. 6. Both before and after June 19, 1936, the agents in charge of said central buying offices were, and now are, employed by the Respondent on a salary basis, and all of their office expenses were and now are paid by the Respondent. Prior to June 19, 1936, Respondent called said agents "brokers," thereafter, "purchasing agents," "field buying agents" or "buyers," but this change in name involved no change in said agents' aforesaid duties to the Respondent or in their methods of operating in performing those duties. Said agents are hereinafter referred to as field buying agents.

PAR. 7. At all times during the period in which said field buying agents have been employed by Respondent said field buying agents have been, and are now, employed solely by

Respondent, and by no individual, partnership, or corporation whatsoever other than Respondent, and in all matters and transactions participated in by said field buying agents relative to or in connection with the business of Respondent or the purchase of commodities by, or the sale thereof to, the Respondent, said field buying agents acted, and now act, in fact for and in behalf, and as the agents and representatives of Respondent only, and in such matters and transactions said field buying agents did not, and no not now, act in fact for or in behalf, or as the agents or representatives, of any individual, partnership, or corporation whatsoever other than Respondent.

PAR. 8. At all times during the period in which said field buying agents have been employed by Respondent said field buying agents were, and are now, subject to and under the sole control of Respondent in all matters and transactions participated in by said field buying agents relative to or in connection with the business of Respondent or the purchase of commodities by, or the sale thereof to, the Respondent, and in such matters and transactions said field buying agents were not, and are not now, subject to or under the control of, or controlled by, any individual, partnership, or corporation whatsoever other than the Respondent.

PAR. 9. The loyalty and allegiance of Respondent's field buying agents are due solely to the Respondent, and in all matters and transactions participated in by said field buying agents relative to or in connection with the business of Respondent or the purchase of commodities by or the sale thereof to the Respondent, said field buying agents devote their loyalty and allegiance solely to the Respondent.

PAR. 10. The Respondent is the sole direct and intended beneficiary of all activities of said field buying agents in connection with negotiations for the purchase and the purchase of commodities by, or the sale thereof to, the Respondent, and the benefits to sellers from such activities are incidental to the services rendered by said field buying agents to the Respondent.

PAR. 11. The field buying agents of the Respondent operate as follows, to-wit: From persons engaged in the business of manufacturing and selling commodities in the respective territories in which said field buying agents are located, such persons being hereinafter referred to as sellers, the field buying agents obtain prices on commodities being offered for sale by said sellers. If the price and quality of the commodities offered for sale by said sellers meet the approval of said field buying agents they communicate their information to the Respondent's divisional purchasing directors, warehouse buyers and others in the Respondent's employ. If a field buying agent thinks that commodities offered for sale by sellers are not of proper quality or are not offered at a satisfactory price or that it would not be to the interest of the Respondent to purchase said commodities, he either so informs the Respondent's purchasing directors and warehouse buyers or he does not communicate those sellers' offerings to them. When a purchasing director or warehouse buyer desires any commodities concerning which he has received information from a field buying agent, or which he knows a field buying agent can purchase for him, he communicates that fact to the field buying agent whom he instructs to purchase the desired commodities. The field buying agent then negotiates with various sellers of said commodities for price and terms satisfactory to the Respondent, and, if able to come to an agreement with a seller on such price and terms, purchases the desired commodities for the Respondent. Having purchased commodities from a seller, the field buying agent usually confirms his purchase by executing a purchase order or contract which he signs for and on behalf of the Respondent and as its agent and forwards to the seller.

PAR. 12. In the course of performing their duties to the Respondent its field buying agents exchange with sellers, as is customary in the trade, information of all kinds affecting market conditions. At times said field buying agents visit the manufacturing establishments of sellers and advise sellers how to improve the quality of sellers' commodities and in what size containers said commodities should be packed. Said field buying agents also furnish sellers with traffic information concerning the routing of commodities purchased by the Respondent. At times when sellers have made special drives to dispose of carry-overs or surplus commodities which have threatened to unstabilize markets, and at times when some sellers have needed immediately to dispose of large quantities of their commodities to avoid incipient bankruptcy or other acute financial embarrassment, the Respondent's field buying agents, when not contrary to the interests of the Respondent, have brought such matters to the attention of Respondent's divisional purchasing directors and warehouse buyers, requesting them to cooperate with sellers in sellers' efforts to sell said commodities, and on instructions from said divisional purchasing directors and warehouse buyers have purchased for the Respondent large quantities of commodities from such sellers. While sellers benefit from the information and advice of Respondent's field buying agents with respect to market conditions, routing of shipments, improving the quality of commodities, and size of containers, and the activities of said field buying agents in cases of carry-overs, surpluses, and financial distress, it is the duty of Respondent's field buying agents, and it is to the interest of the Respondent, to develop and maintain adequate sources of supply of commodities of good quality packed in popular size containers and to have shipments of commodities routed as desired by the Respondent; it is also to the interest of the Respondent to avoid carry-overs and surpluses which threaten to unstabilize markets. The activities of Respondent's field buying agents in connection with furnishing information and advice to sellers and in bringing to the attention of Respondent's divisional purchasing directors and warehouse buyers sellers' desires or necessities in connection with disposing of large quantities of their commodities and requesting their cooperation with such sellers said field buying agents are rendering services to, and promoting the interest of, the Respondent and are not performing or rendering to sellers any selling of brokerage service or any services whatsoever in connection with the sale of goods by said sellers to the Respondent or the purchase thereof by the Respondent from said sellers.

PAR. 13. On said field buying agents' purchases of commodities for Respondent prior to June 19, 1936, the sellers of such commodities paid monthly to said field buying agents brokerage in the same amount paid by said sellers to brokers who sold commodities as agents of and for said sellers, which brokerage the said field buying agents received for and on behalf of Respondent, and as the property of Respondent, and paid over to the Respondent, said field buying agents neither having nor claiming any right, title or interest therein whatsoever.

PAR. 14. Shortly after June 19, 1936, the Respondent instructed its field buying agents to accept no more brokerage on their purchases of commodities for Respondent, and to make all future purchases of commodities for Respondent on one of the following bases, to which instructions said field buying agents conformed, to-wit:

(*a*) To purchase commodities for Respondent on a net basis reflecting a reduction from sellers current prices to other customers, or from the general market prices at which commodities were being sold by said sellers, of the amount of brokerage paid by said sellers to said field buying agents prior to June 19, 1936, as aforesaid in Paragraph Thirteen, *supra*, and currently being paid by said sellers to their brokers.

(*b*) To execute so-called "quantity discount agreements" with sellers upon the form appearing in the record herein as Respondent's Exhibit 18–C. Said agreement forms were filled in to provide for the payment to the Respondent monthly, as a so-called "quantity discount", of an amount equal to the brokerage paid monthly by said sellers to said field buying agents prior to June 19, 1936, as aforesaid in Paragraph Thirteen, *supra*, and currently being paid by said sellers to their brokers. In some instances said agreements were made retroactive from the date of execution to June 19, 1936, and in some instances where said agreements purported to require the Respondent to purchase a stipulated quantity of commodities during the existence of the agreement in order to earn the "discount" for which provision was therein made, it was understood and agreed between the Respondent's said field buying agents and the sellers that the Respondent was to receive said "discount" regardless of the provisions of said agreements with respect to the quantity of commodities to be purchased by the Respondent thereunder.

(*c*) To make with sellers unwilling to sell on either of the two preceding bases an agreement providing that said sellers were to keep a record of all brokerage which but for the Robinson-Patman Act said sellers would have paid to said field buying agents as aforesaid in Paragraph Thirteen, *supra*, and to pay said brokerage in escrow, or set it up as an "abeyance account" on the sellers' books, said brokerage to be paid to the Respondent when, as, and if, the legality of the payment thereof should be determined.

Since June 19, 1936, the Respondent has purchased commodities in interstate commerce on each of said bases.

PAR. 15. Subsequent to the effective date of the Robinson-Patman Act the said field buying agents of the Respondent knew the current prices at which sellers from whom they were purchasing commodities for the Respondent were selling those commodities to their customers other than Respondent, and were at all times well posted and informed of the general market prices at which commodities being purchased by them for the Respondent were being sold. In computing the net prices at which the said field buying agents purchased commodities for the Respondent subsequent to the effective date of the Robinson-Patman Act, said field buying agents deducted from sellers' current prices to their customers other than Respondent, or from the general market prices at which commodities were being sold, as the case might be, an amount equal to the brokerage which but for the Robinson-Patman Act said sellers would have paid to said agents as aforesaid in Paragraph Thirteen *supra*.

PAR. 16. The Respondent feared the loss of brokerage upon purchases of commodities made other than on the net basis, or on the quantity discount basis, as described respectively in sub-paragraphs (*a*) and (*b*) of Paragraph Fourteen, *supra*, and instructed its field buying agents to make all purchases possible on said net basis or on said quantity discount basis. On purchases of commodities made on said net basis or on said quantity discount basis the Respondent did not request that brokerage be paid in escrow or set up as an "abeyance account" on sellers' books as aforesaid in sub-paragraph (*c*) of Paragraph Fourteen, *supra*, but on all purchases not made on one of said bases the Respondent did request sellers to pay brokerage in escrow, or set brokerage up on their books as an "abeyance account" as aforesaid in sub-paragraph (*c*) of Paragraph Fourteen, *supra*.

PAR. 17. Not all of the net prices at which the said field buying agents purchased commodities for the Respondent subsequent to June 19, 1936 reflected a reduction of the exact amount of brokerage which but for the Robinson-Patman Act said sellers would have paid to said field buying agents as aforesaid in Paragraph Thirteen, *supra*, because an exact reduction frequently resulted in a sale price involving fractions which were not used in the trade, and the Respondent instructed its said field buying agents to avoid the use of such fractions wherever possible in agreeing upon the net price to be paid for commodities by the Respondent so that said net prices would not appear to involve any allowance in lieu of brokerage.

PAR. 18. Other customers of sellers who sold commodities to the Respondent on the bases outlined in Paragraph Fourteen, *supra*, purchased from those sellers in individual quantities as large as those in which the Respondent purchased, but with extremely few exceptions, in no wise affecting the facts in this matter, the Respondent was the only customer of said sellers to whom said sellers sold commodities on said bases and the Respondent's purchases from said sellers were made on one of said bases regardless of the quantity of commodities purchased by it.

PAR. 19. When the Respondent's field buying agents purchase from sellers commodities for the Respondent the services of no brokers are used or invoked by sellers or by the Respondent, and said sellers do not receive or have the benefit of any selling or brokerage services rendered by any broker or by the Respondent or by any agent or employee of the Respondent, but in purchasing commodities on the net price and quantity discount bases above referred to in Paragraph Fourteen the Respondent obtains, receives and accepts the equivalent of brokerage currently paid by sellers to their brokers for brokerage services actually rendered to said sellers by their said brokers in selling commodities for said sellers.

PAR. 20. Some sellers effect savings other than brokerage on purchases made for the Respondent by the Respondent's field buying agents, but the only savings represented by the net prices and quantity discounts above referred to in Paragraph Fourteen were brokerage savings accruing to sellers as a result of having themselves made sales to the Respondent without invoking or using the selling or brokerage services of another, and no savings other than brokerage savings were intended to be, or were, passed on by sellers to the Respondent or received by the Respondent from sellers.

PAR. 21. The function of, and the services performed by, brokers representing sellers in connection with the sale of commodities is to find customers for sellers and, acting under and subject to the control of sellers, to sell commodities to those customers for and on behalf of sellers and as the agents of said sellers; the brokers' function in such cases is a selling function, and the service rendered by them is a selling service rendered to sellers.

PAR. 22. In all matters and transactions wherein the Respondent's field buying agents purchase commodities for Respondent or negotiate or deal with sellers in connection with the purchase of commodities by or the sale thereof to the Respondent all of the services of said field buying agents are intended to be and in fact are rendered to the Respondent solely, and in said matters and transactions said field buying agents intend to and in fact do represent the Respondent solely as its purchasing agents and intend to and in fact do act for and in behalf of the Respondent only and under its sole control, and in said matters and transactions said field buying agents do not intend to and in fact do not represent sellers as their agents or act for or in behalf or under the control of sellers and do not intend to and in fact do not render to sellers any brokerage or selling services whatsoever or any other form of services in connection with the sale of commodities to or the purchase thereof by the Respondent.

PAR. 23. No brokerage or selling services whatsoever, or any other form of services in connection with the purchase of commodities by, or the sale thereof to, the Respondent are intended to be or are rendered to sellers by the Respondent or by any agents or employees of the Respondent.

PAR. 24. Subsequent to June 19, 1936, for resale in its above-mentioned retail grocery stores, the Respondent has purchased commodities in interstate commerce on the basis referred to in sub-paragraph (*a*) of Paragraph Fourteen, *supra*, from many sellers who are engaged in selling commodities through brokers in interstate commerce in competition with other sellers of similar commodities, and in so doing the Respondent has received and accepted allowances and discounts in lieu of brokerage.

PAR. 25. Subsequent to June 19, 1936, for resale in its above-mentioned retail grocery stores, the Respondent has made purchases of commodities in interstate commerce on the basis referred to in sub-paragraph (*b*) of Paragraph Fourteen, *supra*, from many sellers who are engaged in selling commodities through brokers in interstate commerce in competition with other sellers of similar commodities and has received and accepted on said purchases payment of the so-called "quantity discount" referred to in said sub-paragraph (*b*) of Paragraph Fourteen, *supra*, and in receiving and accepting payment of said so-called "Quantity discounts" the Respondent has received and accepted allowances and discounts in lieu of brokerage.

PAR. 26. The effect of the receipt of allowances and discounts in lieu of brokerage by the Respondent has been,

and will continue to be, to cause substantial injury to competition between those sellers who have granted and paid such allowances and discounts to the Respondent and those sellers who have refused to do so, in that there has been and there will continue to be a diversion of Respondent's business from the latter to the former, and the effect of the receipt of allowances and discounts in lieu of brokerage by the Respondent has a direct and immediate tendency substantially to injure, destroy and prevent competition between Respondent and Respondent's competitors in the resale of commodities upon the purchase of which the Respondent receives discounts and allowances in lieu of brokerage in that the Respondent, by the receipt of such discounts and allowances in lieu of brokerage, is enabled to and does purchase commodities at prices substantially lower than the prices at which its competitors can and do purchase the same commodities from the same sellers and the Respondent is thereby enabled to resell said commodities at prices substantially lower than the prices at which its competitors can resell said commodities.

Conclusion

The Respondent takes the position: First—That it has accepted no discounts or allowances in lieu of brokerage. Second—That if it be held to have accepted allowances or discounts in lieu of brokerage it rendered to sellers services therefor within the meaning of Paragraph (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act. Third—That the provisions of Section 2 (c) of said Act, as amended, must be held to be limited by the cost proviso or differentials provisions of Paragraph (a) thereof, which should be construed to permit the passing on of brokerage savings by way of a net price differential or quantity discount.

The Commission is unable to adopt this reasoning, and concludes and finds that the Respondent has received discounts and allowances in lieu of brokerage in violation of said Paragraph (c) of Section 2 of the Clayton Act as amended.

The Respondent contends that there is a vast difference and valid distinction between a differential which merely reflects or is the equivalent of brokerage savings and a discount or allowance in lieu of brokerage; that a discount or allowance made as a part of the price of goods can not come within the scope of Paragraph (c), although equivalent to brokerage and intended to reflect it.

We cannot accept this argument. The supposed distinction between a discount or allowance equivalent to brokerage, made as a part of the price of goods, and a discount or allowance in lieu of brokerage reflected by the price of goods appears to us as too tenuous for approval.

The argument assumes one of the fundamental issues in this case, namely, whether or not brokerage may be passed on to buyers as a savings in cost under the cost proviso or differentials provisions of Paragraph (a) of Section 2 of the Act.

If that may not be done, it cannot successfully be contended that there is any difference between a price reflecting an allowance in lieu of brokerage and a price reflecting brokerage savings—in each instance the price is mathematically the same, and the lower price is lower, by an amount wholly or partly equivalent to brokerage, for no other reason than that that price is given instead of brokerage being paid on the basis of a higher price.

The words "in lieu of," "discount," and "allowance" are well understood and there can be no dispute as to their respective definitions.

"In lieu of" means instead of, in place of, or in substitution for.

"Allowance" means abatement, deductions, or concession.

"Discount" means deduction, allowance from a price asked, or deduction from the usual price made for some special reason.

Taking the plain and simple meaning of these words, it seems impossible to say that a net price arrived at by deducting from a regular price an amount equal to brokerage formerly paid, and now currently paid to brokers, because that brokerage is no longer to be paid, is a price which does not involve a discount or allowance in lieu of brokerage.

If and insofar as intent is an element of an allowance or discount in lieu of brokerage, the intent necessary to characterize as such the Respondent's net prices and quantity discounts, referred to in Paragraph Fourteen, *supra*, existed here. The net price differentials and the quantity discounts in question were generally equal in amount to brokerage paid to the Respondent's field buying agents prior to June 19, 1936, and currently being paid by sellers to independent brokers and were passed on by the sellers and accepted by the Respondent to take the place of, and in substitution for, brokerage paid to the Respondent's field buying agents prior to that date. Counsel for the Respondent conceded in their brief that the net prices and quantity discounts allowed Respondent did not represent any form of savings to sellers whatsoever other than the brokerage savings accruing to sellers as a result of having themselves made sales to the Respondent without incurring any obligation to pay brokerage thereon to an independent broker. The Commission concludes that such net price differentials and quantity discounts were allowances and discounts in lieu of brokerage and were affirmatively intended as such by both sellers and the Respondent.

The Clayton Act, as amended by the Robinson-Patman Act, has a dual purpose which is apparent both from the form of the Act itself and from the reports of the several Congressional Committees which considered and commented upon it. The Act was directed not only at price discriminations but also at certain practices which involved both price discriminations and unfair methods of competition.

Paragraph (a) generally prohibits both direct and indirect discriminations in price. If discriminations in price were the only evils sought to be terminated by the Act there was no necessity for including in it Paragraphs (c), (d), or (e) because the practices thereby condemned, themselves involving indirect price discriminations, could have been terminated under Paragraph (a) insofar as they could be shown injuriously to affect competition in particular cases. By directing those particular paragraphs at those particular practices, it is believed that Congress manifested a purpose and intent to condemn and proscribe such practices, not merely and simply because they involved price discriminations, but because they were considered by Congress to be inherently unfair methods of competition which were *per se* injurious to commerce.

As stated by the report of the House Committee on the Judiciary in reporting the Robinson-Patman Act its purpose was

"• • • to restore, so far as possible, equality of opportunity in business • • • by protecting trade and commerce against unfair trade practices and unlawful price discriminations, and also against restraint and monopoly for the better protection of consumers, workers, and independent producers, manufacturers, merchants, and other businessmen.

"To accomplish its purpose, the bill amends and strengthens the Clayton Act • • •

"More than 20 years' experience and observation with respect to the operation of the Clayton Act, together with new methods of trade and industrial organization that have since developed, have convinced your committee of the shortcomings of existing legislation, and of the need for strengthening existing laws and of fitting them more perfectly to the methods and needs of today. This your committee has striven to do with a careful regard to the preservation of full freedom and sound and honest business methods • • • but with a firm resolve not to permit the desire of privilege to masquerade under the claim of right."

(Report of House Committee on the Judiciary 74th Congress, 2nd Session, House of Representatives Report Number 2287, Pages 3, 6.)

It is thus apparent that the Act is directed at a multiplicity of evils which may be classified generally as price discriminations and unfair trade practices.

The Commission concludes that it was the intention of Congress to proscribe absolutely and unconditionally as an undesirable and unfair trade practice and method of competition, the payment of brokerage and the granting of any allowance or discount in lieu thereof by sellers to buyers on the latters' own purchases of goods, and that the inclusion in Paragraph (c) of the clause "except for services rendered in connection with the sale of goods" was not intended to set up a condition upon which such brokerage could be paid or such allowance or discount be granted. This conclusion is sustained and, indeed, required by the reports of the various committees which dealt with the Act.

As originally introduced in the House and Senate Paragraph (c) (Paragraph (b) at that time) unqualifiedly prohibited the payment of brokerage by a seller to any intermediary acting for the buyer or subject to the buyer's control. It did not prohibit the payment of brokerage directly to a buyer, however, or make any reference to "services rendered." The Paragraph then read:

"(b) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation to an agent, representative, or other intermediary in connection with the sale or purchase of goods, wares, or merchandise, where such intermediary is acting therein for or in behalf or is subject to the direct or indirect control, of any party to such purchase and sale transaction other than the person by whom such compensation is so granted or paid."

Upon being referred to the Committee on the Judiciary of the respective houses the Paragraph was amended to read exactly as it now reads, except that the "services rendered" clause was not inserted by the Senate Committee.

The Senate amendment merely added to the existing prohibition of Paragraph (c) an additional prohibition against the payment of brokerage direct to the buyer, reenforcing the Paragraph with a provision that no discount or allowance in lieu of brokerage should be permitted. The Paragraph as thus amended was reported to the Senate on February 3, 1936, as follows:

"In section (b) the phrases 'or any allowance or discount in lieu thereof', and 'either to the other party to such transaction' are added by your committee's recommendation. As so revised, this section forbids the payment or allowance of brokerage, either to the other principal party, or to an intermediary acting in fact for or under the control of the other principal party, to the purchase and sale transaction.

"Among the prevalent modes of discrimination at which this bill is directed, is the practice of certain large buyers to demand the allowance of brokerage direct to them upon their purchases, or its payment to an employee, agent, or corporate subsidiary whom they set up in the guise of a broker, and through whom they demand that sales to them be made. Whether employed by the buyer in good faith to find a source of supply, or by the seller to find a market, the broker so employed discharges a sound economic function and is entitled to appropriate compensation by the one in whose interest he so serves. But to permit its payment or allowance where no such service is rendered, where in fact, if a 'broker,' so labeled, enters the picture at all, it is one whom the buyer points out to the seller, rather than one who brings the buyer to the seller is but to permit the corruption of this function to the purposes of competitive discrimination. The relation of the broker to his client is a fiduciary one. To collect from a client for services rendered in the interest of a party adverse to him, is a violation of that relationship; and to protect those who deal in the streams of commerce against breaches of faith in its relations of trust, is to foster confidence in its processes and promote its wholesomeness and volume." (74th Congress, 2nd Session, Senate Report Number 1502, Page 7.)

It is clear that Paragraph (c), as it then stood, prohibited the payment of brokerage by a seller to a buyer, and the grant of any discount or allowance in lieu thereof, under all circumstances and without regard to any question of services rendered, and that the Senate so construed it.

On March 31, 1936, the House Committee on the Judiciary, having amended Paragraph (c) to conform to the Senate amendment and added the services rendered clause thereto, reported the Bill to the House with the following comments, the underscored parts of which were adopted word for word from the Senate Report quoted above:

"Section (b) deals with the abuse of the brokerage function for purposes of oppressive discrimination. The true broker serves either as representative of the seller to find him market outlets, or as representative of the buyer to find him sources of supply. In either case he discharges functions which must otherwise be performed by the parties themselves through their own selling or buying departments, with their respective attendant costs. Which method is chosen depends presumptively upon which is found more economical in the particular case; but whichever method is chosen, its cost is the necessary and natural cost of a business function which cannot be escaped. It is for this reason that, when free of the coercive influence of mass buying power, discounts in lieu of brokerage are not usually accorded to buyers who deal with seller direct since such sales must bear instead their appropriate share of the seller's own selling cost.

"*Among the prevalent modes of discrimination at which this bill is directed is the practice of certain large buyers to demand the allowance of brokerage direct to them upon their purchases, or its payment to an employee, agent, or corporate subsidiary whom they set up in the guise of a broker, and through whom they demand that sales to them be made.* But the positions of buyer and seller are by nature adverse, and it is a contradiction in terms incompatible with his natural function for an intermediary to claim to be rendering services for the seller when he is acting in fact for or under the control of the buyer, and no seller can be expected to pay such an intermediary so controlled for such services unless compelled to do so by coercive influences in compromise of his natural interest. *Whether employed by the buyer in good faith to find a source of supply, or by the seller to find a market, the broker so employed discharges a sound economic function and is entitled to appropriate compensation by the one in whose interest he so serves. But to permit its payment or allowance where no such service is rendered, where in fact, if a 'broker', so labeled, enters the picture at all, it is one whom the buyer points out to the seller, rather than one who brings the buyer to the seller,* would render the section a nullity. *The relation of the broker to his client is a fiduciary one. To collect from a client for services rendered in the interest of a party adverse to him, is a violation of that relationship; and to protect those who deal in the streams of commerce against breaches of faith in its relations of trust, is to foster confidence in its processes and promote its wholesomeness and volume.*

"Section (b) permits the payment of compensation by a seller to his broker or agent for services actually rendered in his behalf; Likewise by a buyer to his broker or agent for services in connection with the purchase of goods actually rendered in his behalf; but it prohibits the direct or indirect payment of brokerage except for such services rendered. It prohibits its allowance by the buyer direct to the seller, or by the seller direct to the buyer; and it prohibits its payment by either to an agent or intermediary acting in fact for or in behalf, or subject to the direct or indirect control, of the other." (74th Congress, 2nd Session, House of Representatives Report number 2287, Pages 14, 15.) [Italics supplied.]

This report shows on its face that Paragraph (c) as it now stands, containing the "services rendered" clause, was given the same construction by the House Committee as it had heretofore been given by the Senate Committee before that clause was inserted. This in itself seems sufficient to require the conclusion that the House did not intend the "services rendered" clause to be construed as a condition upon

which brokerage could be paid by sellers to buyers. Definite support for this conclusion is found in the Conference Report of the Committee of Conference of the House and Senate which considered the bills passed by each and reported out the Robinson-Patman Act in the form in which it was enacted. That Report states:

"Subsection (c) deals with brokerage. It is the same as subsection (b) in the House bill, which in turn is the same as sub-section (c) in the Senate amendment, except that the words 'except for services rendered,' as contained in the House bill, do not appear in the Senate amendment. In the conference report these words are retained * * *. With the words of the House bill thus retained, this subsection permits the payment of compensation by a seller to his broker * * * for services actually rendered in his behalf; * * * but it prohibits the direct or indirect payment of brokerage except for such services rendered. It prohibits its allowance * * * by the seller direct to the buyer * * *." (74th Congress, 2nd Session, House of Representatives Report Number 2951, Page 7.)

In line with this Report Representative Utterback, one of the House managers of the Conference Committee, said of Paragraph (c) in reporting the Act from that Committee to the House:

"* * * it prohibits the payment or allowance of * * * brokerage on the purchase * * * of goods * * * to the other party to the transaction * * * that is, the party other than the one who pays the * * * brokerage * * *." (74th Congress, 2nd Session, 80 Congressional Record, Part 9, Page 9418.)

He further stated:

"* * * where sales are made from buyer to seller, in the nature of the case no brokerage services are rendered by either, and no payment or allowance on account thereof can be made * * *." (*Id.*)

It thus seems entirely clear that Paragraph (c) was intended by Congress to prohibit without qualification the payment of brokerage, and the granting of any allowance or discount in lieu thereof, by a seller to a buyer on the latter's purchases, and that the "services rendered" clause was not meant to limit that prohibition in any manner or to any degree whatsoever.

Legislative intent notwithstanding, however, it is urged that this clause must be construed to permit the payment of brokerage to a buyer in return for services rendered to a seller. The arguments are that since Paragraph (c) as originally drawn, without the words "except for services rendered," prohibited only the payment of brokerage by sellers to buyers' agents, the exception to that limited prohibition must be held not to extend the prohibition but to relax it within its original limitations; and, as urged by the Respondent, by writing the exception into Paragraph (c) Congress in fact asserted a belief that a buyer could render services to a seller because the exception of a particular thing from general words proves that, in the opinion of the legislature, the thing excepted would be within the general clause had the exception not been made.

In the light of clear Congressional intent to the contrary, the Commission cannot accept these arguments. Moreover, they ignore the well-established rule of statutory construction that exceptions are to be strictly construed, all doubts being resolved in favor of general provisions rather than exceptions, and the premise of the argument first stated is not entirely accurate.

It will be recalled that Paragraph (c) as originally drawn, without the "services rendered" exception, prohibited the payment of brokerage not simply to anyone acting for the buyer but to any "intermediary * * * acting * * * for or in behalf or * * * subject to the direct or indirect control" of the buyer.

The Commission, in the exercise of its knowledge of the manner in which ordinary business affairs are transacted, knows that the language quoted was susceptible of a construction which might have prohibited in many cases the payment of brokerage by a seller to an independent broker for brokerage services actually rendered. A broker (and the reference is to selling brokers, as distinguished from buying brokers, so to speak) occupies an anomalous position in commerce and in law. He is an independent business man in the sense that he is engaged in business for himself. But the business in which he is engaged is that of acting as a local sales representative for manufacturers. A broker pays the expenses of operating his business and is dependent for his income upon a commission, called "brokerage," paid to him on and measured by sales which he makes for the manufacturers whom he represents. The essential service which he performs for manufacturers, and the only service for which he is paid, is a selling service, although he renders many other services.

In the course of conducting his business a broker must and does also render services to buyers—but those services, unlike the services rendered to the Respondent by its field buying agents, are not buying services. A broker is not employed by buyers. He is employed and paid by sellers as their selling agent and he represents his seller-principals only. His activities in connection with his representation of his seller-principals are controlled by them, but, paradoxically, because of the broker's anomalous position as an independent sales agent in business for himself, he does act for buyers in a sense and he is subject to a degree of control on their part.

This results from requests by buyers that brokers report complaints to their seller-principals, that brokers communicate cancellations of orders to their seller-principals, that brokers submit to their seller-principals offers of buyers to purchase commodities at prices stipulated by buyers, that brokers endeavor to make up "pool" cars of merchandise among several buyers so that the buyers may obtain the advantage of quantity prices and carload rates of freight, that brokers obtain quotations of prices from their seller-principals for the consideration of buyers, and perhaps, in other ways. Naturally it is to the mutual interest and advantage of brokers and sellers to maintain the good will of their common customers, and brokers generally endeavor to comply with the reasonable requests of buyers along the lines indicated. In the course of negotiating sales from seller to buyer and bringing them into agreement brokers are necessarily guided somewhat by instructions from each, but in the essential particular of selling commodities and consummating sales they act for and are controlled by the latter alone, who in the absence of a contract may discharge them and substitute new brokers in their places at any time.

It is therefore apparent that Paragraph (c) of the Robinson-Patman Act, as originally drawn, broadly prohibiting the payment of brokerage to anyone "acting * * * for or in behalf or * * * subject to the direct or indirect control" of buyers, without qualification as to the manner of acting or the degree or importance of control, and irrespective of services rendered to the seller, might possibly have been given a construction prohibiting the payment of brokerage to *bona fide* independent brokers—a construction which Congress manifestly did not intend it to be given.

Thus it is seen that Paragraph (c) was susceptible of a construction extending its prohibitions to others than persons acting for and as agents of buyers. The insertion of the "except for services rendered" clause therein, it is believed, was intended by Congress not to permit the payment of brokerage to a buyer, but to make it clear that payment of brokerage to a bona fide broker in return for selling services rendered was not proscribed, thereby performing a legitimate function of a proviso "to exclude some possible ground of misinterpretation."

This view finds affirmative and authoritative support in the above cited Conference Committee Report on the Robinson-Patman Act and in the remarks of Representative Utterback in reporting the Act to the House.

The Conference Report, after referring to the retention of the words "except for services rendered," stated:

"With (these) words of the House Bill thus retained, this subsection permits the payment of compensation by a seller to his broker * * * for services actually rendered in his behalf * * *."

Mr. Utterback said:

"The bill prohibits payment or allowance of brokerage * * * except for services rendered * * * this refers to true brokerage services rendered in fact for the party who pays for them * * *." (74th Congress, 2nd Session, 80 Congressional Record, Part 9, Page 9418.)

It does not appear that Congress thought a buyer capable of rendering "services" to a seller in connection with the buyer's own purchases of goods. In writing the "services rendered" clause into Paragraph (c) Congress clearly had in mind true brokerage services rendered by bona fide independent brokers employed by sellers as their selling agents. In the opinion of the Commission that clause was inserted not by way of relaxing the limitations of Paragraph (c) insofar as they applied to buyers or buyers' agents, but by way of excluding a possible misinterpretation that the Paragraph might be held to prohibit the payment of brokerage for true brokerage service rendered by bona fide independent brokers.

Even if it were possible to hold that the payment of brokerage to buyers or the granting of any discount or allowance in lieu thereof is permissible under the "services rendered" clause, the services referred to therein, as plainly appears from the Committee Reports heretofore quoted, are brokerage or selling services rendered to the seller, and the Commission finds and concludes no such services were rendered to sellers by the Respondent or by any agent or employee of the Respondent. Whatever character may be ascribed to the various activities of the Respondent's agents from which benefits were derived by sellers, those activities were not selling services nor were any services in connection with the sale of goods to the Respondent rendered to sellers. The Respondent's field buying agents and other employees acted in every case as agents of the Respondent, having in mind and intending to serve and promote its interest, and not acting except when, and as they felt those interests could be served and promoted. The services thus rendered by the Respondent's field buying agents and other employees were not selling services in character, nor were they rendered to sellers; their services were rendered to the Respondent and to no one other than the Respondent, and the benefits derived by sellers from such services were purely incidental.

Passing now to the third point made by the Respondent, the Commission does not believe that Congress intended to permit brokerage savings to be passed on by sellers to buyers under that part of Paragraph (a) of Section 2 of the Clayton Act, as amended, which provides as follows:

Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered.

While Paragraphs (a) and (c) have in common the purpose of eliminating unfair price discriminations, the Commission is of the opinion that the paragraphs were intended by Congress to be separately and independently applied, and that the former was not meant to limit or qualify the prohibitions of application of the latter.

Paragraph (c) is complete on its face. It contains no ambiguous language necessitating reference to Paragraph (a) for the purpose of determining its meaning. It deals specially with a particular trade practice which was regarded by Congress as an unfair method of competition, *per se* injurious to commerce, and therefore to be prohibited. The intention of Congress to treat Paragraph (c) as independent of Paragraph (a) is apparent from both the form of the Robinson-Patman Act and from its legislative history.

As heretofore mentioned, since Paragraph (a) prohibits both direct and indirect discriminations in price, if discriminations in price as such, were the only evils at which the Act was directed there was no necessity for Congress to have enacted Paragraphs (c), (d) or (e). Looking at the Act as a whole it seems evident that the purpose of Congress was not merely to terminate the price discriminations effected by the practice of paying brokerage to buyers but to terminate the practice itself because it was an undesirable practice and constituted an inherently unfair method of competition. Paragraph (c) is expressly limited in its application solely to transactions occurring in course of interstate commerce, while Paragraph (a) is not so limited. In addition to this, Paragraph (b), relating to the burden of proof applies to proceedings instituted under Paragraphs (a), (d) and (e) but, significantly, does not apply to proceedings under Paragraph (c).

There is more than mere form, however, to indicate the independence of Paragraph (c).

Upon reference to the Senate Committee on the Judiciary, the Act was amended in Committee by the addition to Paragraph (a) of the words "other than brokerage" following the above quoted language therein permitting differentials based on differences in cost. In reporting the Bill the Senate Committee stated that the quoted words had been added to "harmonize this subsection (Paragraph (a)) with (the) subsection * * * which deals directly with the question of brokerage." (74th Congress, 2nd Session, Senate Report Number 1052, Page 5.) It is noted that it was Paragraph (a) which was amended to harmonize it with the provisions of Paragraph (c), and that the latter was referred to as the subsection which dealt directly with brokerage. By thus adding to Paragraph (a) an amendment having no other purpose whatsoever than expressly to exclude the cost proviso or differentials provision thereof from application to Paragraph (c), the Committee evidenced an unmistakable intention to subordinate the former to the latter, leaving Paragraph (c) to deal with the question of brokerage irrespective of and unaffected by the contents of Paragraph (a).

Additional affirmative evidence of this legislative intent is found in the action taken by the Committee of Conference of the House and Senate. That Committee struck from the bill as passed by the Senate the words "other than brokerage" inserted in Paragraph (a) as just mentioned. Its reason for doing so was that "the matter of brokerage is dealt with in a subsequent subsection of the bill." (74th Congress, 2nd Session, House of Representatives Report Number 2951, page 6.)

The words "other than brokerage" had never been inserted in Paragraph (a) of the House Bill. Paragraph (c) standing alone clearly was not open to a construction permitting brokerage to be passed on to buyers by way of an allowance or discount based on savings in cost. By striking from Paragraph (a) of the Senate Bill the words "other than brokerage" for the reason stated in the Conference Report, it appears to the Commission that Congress thereby exhibited not only a plain intention that Paragraph (c) exclusively should govern questions of brokerage without regard to the contents of Paragraph (a) but also the view that the words of Paragraph (c) were, in themselves alone, sufficiently broad without the aid of the Senate Amendment of Paragraph (a) to prevent brokerage from being transmitted to buyers in the form of allowances based on savings in cost. Thus the Senate Amendment was struck, in the opinion of the Commission, not for the purpose of changing the meaning of either Paragraph (a) or Paragraph (c), but because it was tautological. This legislative construction of Paragraphs (a) and (c) as mutually independent is binding upon the Commission as a clear manifestation of legislative intent.

The Commission has not overlooked the fact that in reporting the Robinson-Patman Act to the Senate, after the

Senate Committee on the Judiciary had amended Paragraph (a) by the insertion of the words "other than brokerage," Senator Logan said:

"In the second section of the Committee amendment there is a provision that in making discriminations or differentials, or whatever we may choose to call them, all costs other than brokerage shall be allowed; and it has been said that the words 'other than brokerage' in that section ought to go out.

"I have thought a good deal about that suggestion. I think perhaps legitimate brokerage ought to be allowed as a part of the costs; and I think when the bill was drafted * * * perhaps in the amendment which was inserted by the Judiciary Committee of the Senate we had in mind dummy brokerage, sham brokerage." (74th Congress, 2nd Session, 80 Congressional Record, Part 6, Page 6285.)

This statement, however, appears to support rather than to oppose the view that Paragraph (c) is not susceptible of a construction permitting the passing on of brokerage savings as differentials in cost. It demonstrates effectively that the obvious intention and only purpose of the Senate Committee on the Judiciary in adding the words "other than brokerage" to Paragraph (a) was to refute any possible contention that the differentials provisions of that Paragraph could be read into Paragraph (c). That action was thus affirmatively taken by the Committee is clearly indicative of the fact that it was not ever intended that the differentials provisions of Paragraph (a) should be construed as qualifying the scope and application of Paragraph (c). Recognizing an ambiguity inherent in the incompatability of those Paragraphs, the Committee acted to resolve that ambiguity in favor of their incompatability. Had it been intended originally that Paragraphs (a) and (c) were to be construed as interdependent, it seems clear that the Committee would have left the former unaltered or would have taken action to confirm, rather than to refute, their mutuality.

In addition to this primary evidence that Congress intended Paragraph (c) as absolute, a further, and perhaps in itself sufficient and controlling, reason why that Paragraph must be so construed lies in the duty of the Commission to apply a simple and fundamental rule of statutory construction. That rule is that as between general and specific provisions, in apparent contradiction, whether in the same or different statutes, the specific qualifies and overrules the general, that special provisions prevail over general ones which, in the absence of the special provisions, would control.

As heretofore stated, Paragraph (a) is the general paragraph of the Robinson-Patman Act. Paragraph (c) is a special paragraph dealing with the matter of brokerage only. Unquestionably the provisions of Paragraph (c) prohibit without qualification, and without reference to competition or differentials based on savings in cost, every form of concession whatsoever based on brokerage. To the extent that Paragraph (a) requires a showing of injury to competition and permits all differentials based on savings in cost it obviously conflicts and inconsistencies between them must be resolved in favor of the enforcement of the special provisions of the latter unqualified by the general provisions of the former.

If this construction of Paragraphs (a) and (c) as mutually independent and absolute were not adopted, Paragraph (c) would be deprived of all substance. Manifestly there is no difference between paying brokerage to a buyer and giving him credit for it, by way of a net price, on the purchase price of the commodities which he buys. Sellers ordinarily selling through brokers who do their own selling in particular cases always save brokerage in such cases, because no one else having performed a selling service which entitles him to receive brokerage the sellers incur no obligation to pay it. If they are permitted to pass that saving on to buyers Paragraph (c) will be completely eviscerated, and the efforts of Congress to protect commerce against a practice by which it found that price concessions were being transmitted to buyers by way of an inherently unfair method of competition will be rendered vain and useless.

While the Commission finds as a fact in this proceeding that the acceptance of discounts in lieu of brokerage by the Respondent tends to injure competition between the Respondent and its competitors and does injure competition between sellers who grant such discounts and allowances to the Respondent and those who do not, that fact has not been considered by the Commission in arriving at its conclusion herein, for the reason that the Commission concludes as a matter of law that it is unnecessary for an injurious effect upon competition to be shown in proceedings instituted under Paragraph (c).

The Commission concludes that in accepting net prices and quantity discounts, as heretofore referred to Paragraph Fourteen, *supra*, the Respondent, The Great Atlantic & Pacific Tea Company, has been and is now accepting discounts and allowances in lieu of brokerage in violation of Paragraph (c) of Section 2 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13) and for other purposes."

By the Commission.

[SEAL] GARLAND S. FERGUSON, Jr., *Chairman.*

Dated this 25th day of January, A. D. 1938.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of The Great Atlantic & Pacific Tea Company, Respondent, testimony and other evidence, taken before William C. Reeves, an Examiner for the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed in support of said complaint and in opposition thereto and the oral arguments of J. J. Smith, Jr., counsel for the Commission, and Caruthers Ewing, Counsel for the Respondent, and the Commission having made its Findings as to the Facts and its Conclusion that the said Respondent has violated, and is now violating, the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes as amended by an Act of Congress approved June 19, 1936, entitled 'An Act to amend Section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13) and for other purposes' ";

It is ordered, That in purchasing commodities in interstate commerce from sellers who are engaged in selling commodities in interstate commerce to the Respondent, The Great Atlantic & Pacific Tea Company, and to purchasers thereof other than the Respondent, the said Respondent, The Great Atlantic & Pacific Tea Company, do forthwith cease and desist from:

(1) Making purchases of commodities, and the policy and practice of making purchases of commodities, at a so-called net price, and every other price, which reflects a deduction or reduction, or is arrived at or computed by deducting or subtracting, from the prices at which sellers are selling said commodities to other purchasers thereof any amount representing, in whole or in part, brokerage currently being paid by sellers to their brokers on sales of said commodities made for said sellers by, or by said sellers through, their said brokers, and:

(2) Accepting, and the policy and practice of accepting, on its purchases of commodities from sellers any so-called quantity discounts and payments of all kinds representing, in whole or in part, brokerage currently being paid by sellers to their brokers on sales of said commodities made for said sellers by, or by said sellers through, their said brokers, and:

(3) Accepting, and the policy and practice of accepting on its purchases of commodities from sellers prices reflecting, and all allowances and discounts representing, brokerage savings effected by sellers on their sales of commodities to the Respondent.

(4) Accepting, and the policy and practice of accepting, on its purchases of commodities all allowances and discounts in lieu of brokerage, in whatever form said allowances and discounts may be allowed, granted, paid or transmitted to the Respondent.

It is further ordered, That the Respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-342; Filed, January 31, 1938; 11:27 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of January, A. D. 1938.

[File No. 32-79]

IN THE MATTER OF CUMBERLAND COUNTY POWER AND LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Cumberland County Power and Light Company, a subsidiary company of New England Public Service Company, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of 10,000 shares of its Preferred Capital Stock, 5½% Cumulative, par value $100 per share, at a price of not less than $95 per share, it being stated that the net proceeds of said sale will be used in part for the purpose of discharging existing bank loans and the balance, for the regular corporate purposes of applicant, and that such issue and sale have been expressly authorized by the Public Utilities Commission of Maine, the State in which applicant is organized and does business.

It is ordered, That a hearing on such matter be held on February 16, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That, Charles S. Moore, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 11, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-332; Filed, January 31, 1938; 10:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of January, 1938.

[File No. 7-210]

IN THE MATTER OF STANDARD GAS AND ELECTRIC COMPANY CERTIFICATES OF DEPOSIT REPRESENTING 6% CONVERTIBLE GOLD NOTES DUE OCTOBER 1, 1935, ISSUED PURSUANT TO THE PLAN AND EXTENSION AND DEPOSIT AGREEMENT DATED JUNE 18, 1935, THE HOLDERS OF WHICH HAVE ACCEPTED THE PLAN OF REORGANIZATION DATED NOVEMBER 1, 1937

ORDER GRANTING APPLICATION UNDER SECTION 12 (F) AND 23 (A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B) PROMULGATED THEREUNDER

Continuance of unlisted trading privileges on the New York Curb Exchange in Standard Gas and Electric Company 6% Convertible Gold Notes, due October 1, 1935, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby made, effective upon the acceptance by the holders of such certificates of the Plan of Reorganization dated November 1, 1937 of Standard Gas and Electric Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-330; Filed, January 31, 1938; 10:55 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of January, 1938.

[File No. 7-211]

IN THE MATTER OF STANDARD GAS AND ELECTRIC COMPANY CERTIFICATES OF DEPOSIT REPRESENTING 6% CONVERTIBLE GOLD NOTES DUE OCTOBER 1, 1935, ISSUED PURSUANT TO THE PLAN OF REORGANIZATION DATED NOVEMBER 1, 1937

ORDER GRANTING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Continuance of unlisted trading privileges on the New York Curb Exchange in Standard Gas and Electric Company 6% Convertible Gold Notes due October 1, 1935, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application be and the same is hereby made, effective upon the issuance of such certificates pursuant to the Plan of Reor-

ganization dated November 1, 1937 of Standard Gas and Electric Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-328; Filed, January 31, 1938; 10:55 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of January, 1938.

[File No. 7-212]

IN THE MATTER OF STANDARD GAS AND ELECTRIC COMPANY CERTIFICATES OF DEPOSITS REPRESENTING 20-YEAR 6% GOLD NOTES DUE OCTOBER 1, 1935, ISSUED PURSUANT TO THE PLAN AND EXTENSION AND DEPOSIT AGREEMENT DATED JUNE 18, 1935, THE HOLDERS OF WHICH HAVE ACCEPTED THE PLAN OF REORGANIZATION DATED NOVEMBER 1, 1937

ORDER GRANTING APPLICATION UNDER SECTION 12 (F) AND 23 (A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B) PROMULGATED THEREUNDER

Continuance of unlisted trading privileges on the New York Curb Exchange in Standard Gas and Electric Company 20-year 6% Gold Notes due October 1, 1935, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby made, effective upon the acceptance by the holders of such certificates of the Plan of Reorganization dated November 1, 1937 of Standard Gas and Electric Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-331; Filed, January 31, 1938; 10:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of January, 1938.

[File No. 7-213]

IN THE MATTER OF STANDARD GAS AND ELECTRIC COMPANY CERTIFICATES OF DEPOSIT REPRESENTING 20-YEAR 6% GOLD NOTES DUE OCTOBER 1, 1935, ISSUED PURSUANT TO THE PLAN OF REORGANIZATION DATED NOVEMBER 1, 1937

ORDER GRANTING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Continuance of unlisted trading privilege on the New York Curb Exchange in Standard Gas and Electric Company 20-Year 6% Gold Notes due October 1, 1935, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application be and the same is hereby made, effective upon the issuance of such certificates pursuant to the Plan of Reorganization dated November 1, 1937 of Standard Gas and Electric Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-329; Filed, January 31, 1938; 10:55 a. m.]

Wednesday, February 2, 1938 *No. 23*

DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH CANADA

PUBLIC NOTICE

JANUARY 29, 1938.

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930," as extended by Public Resolution No. 10, approved March 1, 1937, and to Executive Order No. 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of Canada.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

CORDELL HULL,
Secretary of State.

Closing date for submission of briefs—March 12, 1938

Closing date for application to be heard—March 12, 1938

Public hearings open—April 4, 1938

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of Canada, notice of intention to negotiate which has been issued by the Secretary of State on this date, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, March 12, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, Eighth and E. Streets NW., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on April 4, 1938, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Written statements must be either typewritten or printed and must be submitted in six copies of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 29th day of January, 1938.

JOHN P. GREGG, *Secretary.*

LIST OF PRODUCTS OF WHICH CANADA IS THE CHIEF OR AN IMPORTANT SOURCE OF SUPPLY

Including all products on which concessions (including bindings) were granted by the United States in the trade agreement with Canada, signed on November 15, 1935.

NOTE.—The rates of duty indicated are those now applicable to products of Canada. Where the rate is one which has been reduced pursuant to a previous trade agreement by 50 percent (the maximum permitted in the Trade Agreements Act) it is indicated by the symbol MR. Where the rate represents a reduction pursuant to a previous trade agreement, but less than a 50 percent reduction, it is indicated by the symbol R. Where a rate has been bound against increase, but has not been reduced, in a previous trade agreement, it is indicated by the symbol B; likewise, items which have been bound free of duty are indicated by the symbol B.

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930, or, as the case may be, to the appropriate sections of the Revenue Act of 1932, as amended. The descriptive phraseology is, however, in many cases limited to a narrower field than that covered by the numbered tariff paragraph or section in the Revenue Act. In such cases only the articles covered by the descriptive phraseology of the list will come under consideration for the granting of concessions.

In the event that articles which are at present regarded as classifiable under the descriptions included in the above list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles.

United States Tariff Act of 1930

Paragraph	Description of article	Present rate of duty	Symbol
1	Acetic acid containing by weight of acetic acid:		
	Not more than 65 per centum	1¾¢ per lb	R
	More than 65 per centum	1¾¢ per lb	R
2	Vinyl acetate, polymerized or unpolymerized, and synthetic resins made in chief value therefrom, not specially provided for.	3¢ per lb. and 15%	MR
10	Fir or Canada balsam, natural and uncompounded, and not containing alcohol.	10%	
11	Synthetic resins made in chief value from vinyl acetate, not specially provided for.	3¢ per lb. and 15%	R
16	Calcium acetate, crude	1¢ per lb	
29	Cobalt oxide	10¢ per lb	MR
34	Halibut-liver oil, natural and uncompounded, not edible, and not specially provided for.	10%	
52	Herring oil	5¢ per gal. plus 3¢ per lb. import excise tax under the Revenue Act of 1932, as amended (see below).	
52	Shark oil, including dogfish oil; and shark-liver oil, including dogfish-liver oil.	20% plus 3¢ per lb. import excise tax under the Revenue Act of 1932, as amended (see below).	
52	Sperm oil, crude	2½¢ per gal	MR
58	Distilled or essential cedar-leaf oil, not containing alcohol.	12½%	MR
71	Black pigments, by whatever name known, dry or ground in or mixed with oil or water, and not specially provided for:		
	Acetylene black	15%	R
	Gas black, including carbon black	20%	
81	Sodium chloride or salt:		
	In bags, sacks, barrels, or other packages.	11¢ per 100 lbs	
	In bulk	7¢ per 100 lbs	
201 (a)	Fire brick, not specially provided for	15%	R
201 (b)	Brick not specially provided for, not glazed, enameled, painted, vitrified, ornamented, or decorated in any manner.	$1.35 per 1,000	
203	Limestone (not suitable for use as monumental or building stone), crude, or crushed but not pulverized.	2½¢ per 100 lbs	MR
203	Lime, not specially provided for	7¢ per 100 lbs., including weight of container.	R
203	Hydrated lime	8¢ per 100 lbs., including weight of container.	R
205 (d)	Cement, not specially provided for	20%	
207	Bentonite:		
	Unwrought and unmanufactured	$1.50 per ton	
	Wrought or manufactured	$3.25 per ton	

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty	Symbol
207	Crude feldspar	35¢ per ton	R
208 (f)	Untrimmed phlogopite mica from which no rectangular piece exceeding two inches in length or one inch in width may be cut.	15%	
208 (g)	Phlogopite mica waste and scrap valued at not more than 5 cents per pound.	25%	
208 (h)	Mica, ground or pulverized	20%	
209	Talc, steatite or soapstone, ground, washed, powdered, or pulverized (except toilet preparations):		
	Valued at not more than $12.50 per ton.	25%	R
	Valued at more than $12.50 per ton	35%	
214	Ground feldspar	30%	
214	Ground nepheline syenite	30%	
214	Stone, not specially provided for, ground, or crushed otherwise than merely for the purpose of facilitating shipment to the United States, except marble chip (granite).	30%	
214	Dead-burned basic refractory material containing 6 per centum or more of lime and consisting chiefly of magnesia and lime.	27½%	R
234 (c)	Freestone, sandstone, limestone, lava, and all other stone suitable for use as monumental or building stone, except marble, breccia, and onyx, not specially provided for, unmanufactured, or not dressed, hewn, or polished.	15¢ per cu. ft	
301	Spiegeleisen containing more than 1 per centum of carbon.	75¢ per ton	
302 (d)	Ferromanganese containing more than 1 but less than 4 per centum of carbon.	1¾¢ per lb. on the metallic manganese contained therein.	
302 (d)	Ferromanganese containing not less than 4 per centum of carbon.	1¢ per lb. on the metallic manganese contained therein.	R
302 (e)	Ferromanganese containing not more than 1 per centum of carbon.	1¾¢ per lb. on the manganese contained therein and 15%.	
302 (i)	Ferrosilicon, containing 8 per centum or more of silicon and less than 30 per centum.	1¾¢ per lb. on the silicon contained therein	R
302 (i)	Ferrosilicon, containing 30 per centum or more of silicon and less than 60 per centum.	2¢ per lb. on the silicon contained therein.	
302 (k)	Ferrochrome or ferrochromium containing:		
	Less than 3 per centum of carbon	25%	R
	3 per centum or more of carbon	1¼¢ per lb. on the chromium contained therein.	MR
302 (l)	Boron carbide	25%	
302 (m)	Ferrotitanium, ferrovanadium, and ferrouranium.	15%	R
302 (o)	Iron manganese alloys, not specially provided for, used in the manufacture of steel or iron and containing more than 1½ per centum of silicon.	25%	
304	Hollow bars and hollow drill steel valued above 8 and not above 12 cents per pound.	2½¢ per lb. plus ¾¢ per lb.	
318	Woven-wire cloth: Gauze, fabric, or screen, made of wire composed of steel, brass, copper, bronze, or any other metal or alloy, not specially provided for:		
	With meshes not finer than thirty wires to the lineal inch in warp or filling.	25%	
	With meshes finer than thirty and not finer than ninety wires to the lineal inch in warp or filling.	40%	
323	Axles and parts thereof, axle bars, axle blanks, and forgings for axles, of iron or steel, without reference to the stage or state of manufacture, not specially provided for, valued at not more than 6 cents per pound.	9/10¢ per lb	
327	Cast-iron fittings for cast-iron pipe	15%	R
327	Cast-iron andirons, plates, stove plates, sadirons, tailors' irons, hatters' irons, but not including electric irons, and castings and vessels wholly of cast iron, including all castings of iron or cast-iron plates which have been chiseled, drilled, machined, or otherwise advanced in condition by processes or operations subsequent to the casting process but not made up into articles, or parts thereof, or finished machine parts.	20%	
327	Molders' patterns, of whatever material composed, for the manufacture of castings.	50%	
329	Chain and chains of all kinds, made of iron or steel:		
	Less than ¾ and not less than 5/16 of 1 inch in diameter.	1¾¢ per lb	
	Less than 5/16 and not less than 5/16 of 1 inch in diameter.	2½¢ per lb	

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty	Symbol
353	Washing machines, having as an essential feature an electrical element or device, and parts thereof; any of the foregoing, finished or unfinished, wholly or in chief value of metal, and not specially provided for.	35%	
353	Cooking stoves and ranges, having as an essential feature an electrical heating element, and parts thereof; any of the foregoing, finished or unfinished, wholly or in chief value of metal, and not specially provided for.	25%	R
370	Motor boats, valued at not more than $15,000 each.	30%	
374	Aluminum, aluminum scrap, and alloys (except those provided for in paragraph 302 of the Tariff Act of 1930) in which aluminum is the component material of chief value, in crude form.	4¢ per lb	
378	Cadmium	15¢ per lb	
389	Nickel, and alloys (except those provided for in paragraph 302 or 380 of the Tariff Act of 1930) in which nickel is the component material of chief value, in pigs or ingots, shot, cubes, grains, cathodes, or similar forms.	3¢ per lb	
391	Lead-bearing ores, flue dust, and mattes of all kinds.	1¼¢ per lb. on lead contained therein.	
392	Lead bullion or base bullion, lead in pigs and bars, lead dross, reclaimed lead, scrap lead, and alloys or combinations of lead not specially provided for.	2½¢ per lb. on lead contained therein.	
393	Zinc-bearing ores of all kinds, except pyrites containing not more than 3 per centum zinc.	1¼¢ per lb. on zinc contained therein.	
394	Zinc in blocks, pigs, or slabs, and zinc dust.	1¼¢ per lb	
401	Timber hewn, sided, or squared, otherwise than by sawing, and round timber used for spars or in building wharves; sawed lumber and timber not specially provided for; all the foregoing, if of fir, spruce, pine, hemlock, or larch. (Imports of sawed timber and lumber of Douglas fir or Western hemlock at reduced rates limited to 250 million feet, board measure, annually.)	50¢ (MR) per M ft., board measure (lumber also subject to import excise tax of $1.50 (MR) per M ft., board measure, under sec. 601 (c) (6) of the Revenue Act of 1932, as amended (see below); lumber imported in excess of quota, $1.00 per M ft., board measure, plus import excise tax of $3.00 per M ft., board measure.	
402	Maple (except Japanese maple), birch, and beech: Flooring.	4%	MR
405	Veneers of birch and maple	20%	
406	Hubs for wheels, heading bolts, stave bolts, last blocks, wagon blocks, oar blocks, heading blocks, and all like blocks or sticks, rough-hewn, or rough-shaped, sawed or bored.	10%	
407	Casks, barrels, and hogsheads (empty), of wood, not specially provided for, but not including beer barrels.	15%	
412	Paint brush handles; broom handles and mop handles, further advanced than rough-shaped; tennis racket frames; toboggans; baby carriages; wheelbarrows; canoes and canoe paddles; carriages, drays, trucks, and other horse-drawn vehicles, and parts thereof, not specially provided for; all the foregoing wholly or in chief value of wood.	33⅓%	
412	Ice-hockey sticks, wholly or in chief value of wood.	20%	R
503	Maple sugar	4¢ per lb	R
503	Maple sirup	4¢ per lb	
701	Cattle, weighing less than seven hundred pounds each:		
	Weighing less than one hundred and seventy-five pounds each, in quantity not to exceed 51,933 head annually.	1½¢ per lb	R
	Other	2½¢ per lb	
	Cattle, weighing seven hundred pounds or more each:		
	Cows, imported specially for dairy purposes, in quantity not to exceed 20,000 head annually.	1¼¢ per lb	MR
	Other, in quantity not to exceed 155,799 head annually.	2¢ per lb	R
	In excess of above specified quantities.	3¢ per lb	
701	Beef and veal, fresh or chilled, but not frozen.	6¢ per lb	
702	Mutton, and goat meat, fresh or chilled, but not frozen.	5¢ per lb	
702	Lamb, fresh or chilled, but not frozen	7¢ per lb	
703	Swine	2¢ per lb	
703	Pork, fresh or chilled, but not frozen	2½¢ per lb	
703	Bacon, hams, and shoulders, and other pork, prepared or preserved, if not cooked, boned, or packed in air-tight containers, or made into sausage of any kind.	3½¢ per lb	

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty	Symbol
706	Edible animal offal	6¢ per lb., but not less than 20%	
707	Cream, fresh or sour	35¢ per gal. (Imports at reduced rate limited to 1,500,000 gallons annually.) Imports in excess of quota, 56.6¢ per gal.	R
707	Whole milk, fresh or sour	1½¢ per gal	
707	Skimmed milk, fresh or sour, and buttermilk.	2½¢ per gal	
708 (b)	Dried buttermilk	3¢ per lb	
710	Cheddar cheese in original loaves	5¢ per lb., but not less than 28%	R
710	Cheddar cheese other than in original loaves, not processed.	7¢ per lb., but not less than 35%	
711	Birds, live: Chickens, ducks, geese, turkeys, and guineas.	4¢ per lb	MR
712	Birds, dead, dressed or undressed, fresh, chilled, or frozen:		
	Chickens and guineas	6¢ per lb	R
	Ducks and geese	10¢ per lb	
713	Eggs of chickens, in the shell	10¢ per doz	
714	Horses, unless imported for immediate slaughter:		
	Valued at not more than $150 per head.	$20 per head	R
	Valued at more than $150 per head	20%	
715	Live silver or black foxes	15%	
716	Honey	2¢ per lb	R
717 (a)	Fish, fresh or frozen (whether or not packed in ice), whole, or beheaded or eviscerated or both, but not further advanced (except that the fins may be removed):		
	Salmon	1½¢ per lb	R
	Swordfish (not including naturally or artificially frozen swordfish).	1½¢ per lb	R
	Chubs, fresh-water mullet (*catostomus*), jacks, lake trout, saucers, tullibees, whitefish, and yellow pike.	¾¢ per lb	R
	Halibut	1¢ per lb	MR
	Eels	½¢ per lb	MR
	Sturgeon, fresh but not frozen	1¢ per lb	
	Mackerel	2¢ per lb	
	Blue pike, ciscoes, lake herring, yellow perch, cod, haddock, hake, pollock, cusk, and shad.	1¢ per lb	
717 (b)	Fish, fresh or frozen (whether or not packed in ice), filleted, skinned, boned, sliced, or divided into portions, not specially provided for.	2½¢ per lb	
719	Fish, pickled or salted (except fish packed in oil or in oil and other substances and except fish packed in air-tight containers weighing with their contents not more than 15 pounds each):		
	(1) Salmon	20%	R
	(2) Cod, haddock, hake, pollock, and cusk, neither skinned nor boned (except that the vertebral column may be removed):		
	When containing not more than 43 per centum of moisture by weight.	1¼¢ per lb	
	When containing more than 43 per centum of moisture by weight.	¾¢ per lb	
	(3) Cod, haddock, hake, pollock, and cusk, skinned or boned, whether or not dried.	2¢ per lb	
	(4) Herring, whether or not boned, in bulk or in immediate containers weighing with their contents more than 15 pounds each and containing each more than 10 pounds of herring, net weight.	1¢ per lb. net wt	
	(4) Mackerel, whether or not boned, in bulk or in immediate containers weighing with their contents more than 15 pounds each.	1¢ per lb. net wt	
	(5) Alewives in bulk or in immediate containers weighing with their contents more than 15 pounds each.	¾¢ per lb. net wt	R
720 (a)	Smoked herring (except herring packed in oil or in oil and other substances and except herring packed in air-tight containers weighing with their contents not more than 15 pounds each):		
	(2) Hard dry-smoked, when whole or beheaded, but not further advanced.	½¢ per lb	MR
	(3) Boned, whether or not skinned	1¼¢ per lb	MR
720 (a)	Fish, smoked or kippered (except fish packed in oil or in oil and other substances and except fish packed in air-tight containers weighing with their contents not more than 15 pounds each):		
	(1) Salmon	25%	

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty	Symbol
720 (a)	Fish, smoked or kippered—Continued.		
	(3) Herring, eviscerated, split, skinned, boned, or divided into portions.	3¢ per lb	
	(4) Cod, haddock, hake, pollock, and cusk, whole, or beheaded or eviscerated or both, but not further advanced (except that the vertebral column may be removed).	2½¢ per lb	
	(5) Cod, haddock, hake, pollock, and cusk, filleted, skinned, boned, sliced, or divided into portions.	3¢ per lb	
720 (b)	Fish, prepared or preserved, not specially provided for:		
	In immediate containers weighing with their contents not more than 15 pounds each.	25%	
	In bulk or immediate containers, weighing with their contents more than 15 pounds each.	1¼¢ per lb. net wt	
721 (b)	Razor clams (*siliqua patula*), packed in air-tight containers.	15%	R
722	Barley, hulled or unhulled	20¢ per bu. of 48 lbs	
722	Barley malt	40¢ per 100 lbs	
723	Buckwheat, hulled or unhulled	25¢ per 100 lbs	
723	Buckwheat flour and grits or groats	1¢ per lb	
726	Hulled oats, unfit for human consumption.	8¢ per bu. of 32 lbs	MR
726	Oats, hulled or unhulled (except hulled oats, unfit for human consumption).	16¢ per bu. of 32 lbs	
726	Unhulled ground oats	45¢ per 100 lbs	
726	Oatmeal, rolled oats, oat grits, and similar oat products.	80¢ per 100 lbs	
728	Rye	15¢ per bu. of 56 lbs	
728	Rye malt	40¢ per 100 lbs	
729	Wheat	42¢ per bu. of 60 lbs	
729	Wheat, unfit for human consumption	10%	B
729	Wheat flour, semolina, crushed or cracked wheat, and similar wheat products not specially provided for.	$1.04 per 100 lbs	
730	Hulls of oats, barley, buckwheat, or other grains, ground or unground.	10¢ per 100 lbs	
730	Dried beet pulp, malt sprouts, and brewers' grains.	$5 per ton	
730	Bran, shorts, by-product feeds obtained in milling wheat or other cereals.	10%	B
730	Mixed feeds, consisting of an admixture of grains or grain products with oil cake, oil-cake meal, molasses, or other feedstuffs.	10%	B
731	Screenings, scalpings, chaff, or scourings of wheat, flaxseed, or other grains or seeds: Unground, or ground	10%	B
732	Cereal breakfast foods, and similar cereal preparations, by whatever name known, processed further than milling, and not specially provided for.	15%	R
734	Apples, green or ripe	15¢ per bu. of 50 lbs	R
736	Blueberries, prepared or preserved, or frozen, but not in brine and not dried, desiccated, or evaporated, and not specially provided for.	25%	R
736	Strawberries in their natural condition or in brine.	5½¢ per lb	R
736	Berries, edible, in their natural condition or in brine, not specially provided for.	1¼¢ per lb	
736	Edible berries, frozen, other than blueberries, and not specially provided for.	35%	
737	Cherries:		
	(1) In their natural state	1¢ per lb	MR
	(4) Prepared or preserved, not specially provided for.	9½¢ per lb. and 20%	R
738	Cider	5¢ per gal	
753	Cut flowers, fresh, dried, prepared, or preserved.	40%	
763	Grass seeds and other forage crop seeds:		
	Alfalfa	4¢ per lb	MR
	Alsike clover	4¢ per lb	MR
	Sweet clover	2¢ per lb	MR
	Timothy	1¢ per lb	MR
	Bluegrass	2½¢ per lb	MR
	Red clover	5¢ per lb	R
	Rye grass	2¢ per lb	
	Common vetch	1½¢ per lb	
	Bent-grass (genus agrostis)	40¢ per lb	
	Grass and forage crop seeds not specially provided for.	2¢ per lb	
764	Tree and shrub seeds	8¢ per lb	
766	Beets, other than sugar beets	17%	
769	Peas, green or unripe, when imported and entered for consumption during the period from July 1 to September 30, inclusive, in any year.	2¢ per lb	R
771	White or Irish seed potatoes, certified by a responsible officer or agency of a foreign Government in accordance with the official rules and regulations of that Government to have been grown and approved especially for use as seed, in containers marked with the foreign Government's official certified seed potato tags, when entered for consumption during the period—		
	From December 1 to the last day of the following February, inclusive, in any years.	60¢ per 100 lbs	R

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty	Symbol
771	White or Irish seed potatoes—Con.		
	From March 1 to November 30, inclusive, in any year. (Imports at reduced rates limited to 750 thousand bushels of 60 pounds in each 12-month period beginning December 1; imports in excess thereof 75¢ per 100 lbs.)	45¢ per 100 lbs	R
771	White or Irish potatoes not specially provided for.	75¢ per 100 lbs	
773	Turnips and rutabagas	12½¢ per 100 lbs	MR
774	Carrots, radishes, cauliflower, and rhubarb, in their natural state.	50%	
779	Hay	$3 per ton of 2,000 lbs	R
779	Straw	$1.50 per ton of 2,000 lbs	
802	Whiskey of all types and classes, aged in wooden containers for at least four years.	$2.50 per proof gal	MR
1001	Flax straw	$3 per ton	
1007	Hose, suitable for conducting liquids or gases, wholly or in chief value of vegetable fiber.	19½¢ per lb. and 15%	
1401	Uncoated papers commonly or commercially known as book paper, and all uncoated printing paper, not specially provided for, not including cover paper.	¼¢ per lb. and 10%	
1402	Pulpboard in rolls for use in the manufacture of wallboard, not plate finished, supercalendered or friction calendered, laminated by means of an adhesive substance, coated, surface stained or dyed, lined or vat-lined, embossed, printed, decorated or ornamented in any manner, nor cut into shapes for boxes or other articles and not specially provided for.	5%	MR
1404	Papers commonly or commercially known as tissue paper, stereotype paper, and copying paper, india and bible paper, condenser paper, carbon paper, coated or uncoated, bibulous paper, pottery paper, tissue paper for waxing, and all paper similar to any of the foregoing, not specially provided for, colored or uncolored, white or printed:		
	Weighing not over 6 pounds to the ream, and whether in sheets or any other form, valued not over 15 cents per pound.	6¢ per lb. and 20%	
	Weighing over 6 pounds and less than 10 pounds to the ream, valued not over 15 cents per pound.	5¢ per lb. and 15%	
1404	Crepe paper, commonly or commercially so known, including paper creped or partly creped inany manner, valued at not more than 15 cents per pound.	6¢ per lb. and 15%	
1409	Hanging paper, not printed, lithographed, dyed, or colored.	10%	
1410	Tourist literature containing historical, geographic, time table, travel, hotel, and similar information, chiefly with respect to places or travel facilities outside the continental United States:		
	If of bona fide foreign authorship	15%	
	All other	25%	
1410	Tourist literature consisting principally of drawings, engravings, etchings, photographs, maps or charts, and containing historical, geographic, time table, travel, hotel, and similar information, chiefly with respect to places or travel facilities outside the continental United States.	25%	
1413	Pulpboard in rolls for use in the manufacture of wallboard, surface stained or dyed, lined or vat-lined, embossed, or printed.	15%	MR
1502	Lacrosse sticks	15%	MR
1502	Ice skates and parts thereof	15%	R
1519 (a)	Dressed furs and dressed fur skins (except silver or black fox), and plates, mats, linings, strips, and crosses of dressed dog, goat, or kid skins, all the foregoing, if dyed.	30%	
1519 (c)	Silver or black fox furs or skins, dressed or undressed, not specially provided for.	50%	
1519 (e)	Articles of wearing apparel of every description (including collars, cuffs, and trimmings), wholly or partly manufactured, wholly or in chief value of silver or black fox fur, not specially provided for.	50%	
1530 (b)	Leather (except leather provided for in subparagraph (d) of paragraph 1530), made from hides or skins of cattle of the bovine species:		
	(3) leather to be used in the manufacture of harness or saddlery.	10%	R
	(4) patent leather, rough, partly finished, or finished, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.	10%	R

United States Tariff Act of 1930—Continued

Paragraph	Description of article	Present rate of duty	Symbol
1530 (e)	Skating boots and shoes, made wholly or in chief value of leather, not specially provided for, if attached to ice skates.	10%, 20%, or 30%	B
1530 (e)	Moccasins, made wholly or in chief value of leather, not specially provided for.	20%	
1532 (b)	Gloves wholly or in chief value of leather made from horsehides or cowhides (except calfskins), whether wholly or partly manufactured.	25%	
1537 (b)	Hose and tubing suitable for conducting liquids or gases, wholly or in chief value of india rubber (not known as "hard rubber") or gutta percha, not specially provided for.	25%	
1541 (a)	Pipe organs or pipe-organ player actions and parts thereof especially designed and constructed for installation and use in a particular church, or in a particular public auditorium at which it is not customary to charge an admission fee, which are imported for that specific use, and which are so installed and used within one year from the date of importation.	25%	B
1541 (a)	Pipe organs or pipe-organ player actions and parts thereof, not specially provided for.	35% or 60%	
1555	Waste, not specially provided for	10%	
1558	Evergreen Christmas trees	10%	
1601	Sulphuric acid or oil of vitriol	Free	B
1604	Agricultural implements: Plows, tooth or disk harrows, headers, harvesters, reapers, combination harvesting and threshing machines, agricultural drills and planters, mowers, horserakes, and cultivators, whether in whole or in parts, including repair parts.	Free	B
1604	Agricultural implements: Threshing machines, cotton gins, machinery for use in the manufacture of sugar, wagons and carts, cream separators valued at not more than $50 each, and all other agricultural implements of any kind or description, not specially provided for, whether in whole or in parts, including repair parts.	Free	
1606 (a) and (b)	Bulls, cows, hogs, and sheep, imported by a citizen of the United States specially for breeding purposes.	Free, subject to the provisions of paragraph 1606 (a) and (b).	
1616	Asbestos, unmanufactured, asbestos crudes, fibers stucco, and sand and refuse containing not more than 15 per centum of foreign matter.	Free	B
1623	Bread: *Provided*, That no article shall be exempted from duty as bread unless yeast was the leavening substance used in its preparation.	Free (certain hard crisp rye bread bound free in Trade Agreement with Sweden).	
1624	Fish sounds	Free	
1641	Calcium: Cyanamid or lime nitrogen	Free	B
1651	Coal-tar products: Benzene, toluene, xylene, crude coal-tar, crude blast-furnace tar, crude oil-gas tar, crude water-gas tar, and all other distillates of crude coal tar, not specially provided for, which on being subjected to distillation yield in the portion distilling below 190 degrees centigrade a quantity of tar acids less than 5 per centum of the original distillate.	Free	
1652	Cobalt and cobalt ore	Free	B
1667	Sodium cyanide	Free	B
1669	Ginseng, senega root, and all drugs of animal origin; all the foregoing which are natural and uncompounded drugs and not edible, and not specially provided for, and are in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to the proper packing of the drugs and the prevention of decay or deterioration pending manufacture, and not containing alcohol.	Free	
1672	Crude artificial abrasives, not specially provided for.	Free	B
1678	Fishskins, raw or salted	Free	
1681	Furs and fur skins, not specially provided for, undressed:		
	Mink, beaver, muskrat, and wolf	Free	B
	Skunk, otter, lynx, fisher and prairie wolf.	Free	
1686	Spruce gum	Free	
1716	Mechanically ground wood pulp, chemical wood pulp, unbleached or bleached.	Free	B
1688	Cattle-body hair (including calf-body hair) and horse-body hair, cleaned or uncleaned, but unmanufactured, not specially provided for.	Free	
1719	Minerals, crude, or not advanced in value or condition by refining or grinding, or by other process of manufacture, not specially provided for:		
	Lignite	Free	
	Uranium ore	Free	
	Natural gas	Free	
	Gravel	Free	
	Nepheline syenite	Free	
1730 (b)	Eulachon oil	Free; see below for Revenue Act of 1932, as amended.	
1734	Nickel ore, nickel matte, and nickel oxide.	Free	B
1741	Pigeons, fancy or racing	Free	
1743	Plaster rock (including anhydrite) and gypsum, crude.	Free	B
1749	Radium, and salts of	Free	
1756	Sea herring and smelts, fresh or frozen, whether or not packed in ice, and whether or not whole.	Free	B
1758	Selenium, and salts of	Free	
1760	Shingles of wood	Free	B
1761	Lobsters, fresh or frozen (whether or not packed in ice), or prepared or preserved in any manner (including pastes and sauces), and not specially provided for.	Free	B
1761	Clams, quahaugs, oysters (except seed oysters), and crabs, fresh or frozen (whether or not packed in ice), and not specially provided for.	Free	B
1761	Scallops, fresh but not frozen (whether or not packed in ice).	Free	B
1772	Standard newsprint paper	Free	B
1775	Stone and sand: Burrstone in blocks, rough or unmanufactured; quartzite; traprock; rottenstone, tripoli, and sand, crude or manufactured; silica; cliff stone, freestone, granite, and sandstone, unmanufactured, and not suitable for use as monumental, paving, or building stone; all the foregoing not specially provided for.	Free	
1792	Uranium, oxide and salts of	Free	
1798	Articles acquired abroad by residents of the United States returning from abroad for personal or household use or as souvenirs or curios, but not bought on commission or intended for sale, up to but not exceeding $100 in value (including distilled spirits, wines, and malt liquors aggregating not more than one wine-gallon).	Free	
1803 (1)	Timber hewn, sided, or squared, otherwise than by sawing, and round timber used for spars or in building wharves; sawed lumber and timber, not further manufactured than planed, and tongued and grooved; all the foregoing, if not of balsa or teak, and not specially provided for. (See below for Revenue Act of 1932, as amended.)	Free	B
1803 (2)	Logs; timber, round, unmanufactured; pulp woods; firewood, handle bolts, shingle bolts; and laths; all the foregoing, not cabinet woods, and not specially provided for.	Free	B
1804	Posts, railroad ties, and telephone, trolley, electric-light, and telegraph poles of cedar or other woods.	Free	B
1805	Pickets, palings, hoops, and staves of wood of all kinds.	Free	B

Revenue Act of 1932, as Amended

Section	Description of article	Present rate of import tax
601 (c) (6)	Lumber, rough, or planed or dressed on one or more sides, except flooring made of maple (except Japanese maple), birch, and beech. (Imports of sawed timber and lumber of Douglas fir or Western hemlock at reduced rate limited to 250 million feet, board measure, annually.)	$1.50 (MR) per thousand feet, board measure; imports in excess of quota, $3 per thousand feet, board measure.
601 (c) (8)	Herring oil; shark oil, dogfish oil, shark-liver oil, and dogfish-liver oil; eulachon oil.	3¢ per lb.

[F. R. Doc. 38-347; Filed, February 1, 1938; 11:39 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 210]

AN ORDER MODIFYING ORDER NO. 99, AS MODIFIED BY ORDERS NOS. 137, 154 AND 185, AND SUPPLEMENTING THE SCHEDULE FOR MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 11, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 11"

The National Bituminous Coal Commission having by its Order No. 99, as modified by Orders Nos. 137, 154 and 185, determined and established the Minimum Prices of Coals of Code Members Produced within District No. 11 as set forth in "Price Schedule No. 1—District No. 11", and "Supplements Nos. 1, 2 and 3 to Price Schedule No. 1—District No. 11", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Price Schedule and Supplements by a further Supplement as hereinafter provided;

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members Produced within District No. 11, established in Price Schedule No. 1—District No. 11, and Supplements Nos. 1, 2 and 3 thereto, are hereby supplemented as set forth in Supplement No. 4 to Price Schedule No. 1—District No. 11, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such Minimum Prices as shown in said Supplement No. 4 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 11, and shall be and become effective at 12:01 o'clock A. M. on the 9th day of February, 1938.

2. That said Orders Nos. 99, 137, 154 and 185, and Price Schedule No. 1—District No. 11, and Supplements Nos. 1, 2 and 3 thereto, except as modified herein and by said Supplement No. 4 to Price Schedule No. 1—District No. 11, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 4 to Price Schedule No. 1—District No. 11 to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 11; shall cause copies of this Order and said Supplement No. 4 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 31st day of January, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

SUPPLEMENT NO. 4 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 11

To All Code Members Within District No. 11:

Effective February 9th the following change shall be made in Supplement No. 1 to Price Schedule No. 1 of District No. 11:

Market Area No. 29:

Coals produced in:	Cents per ton
Linton-Sullivan Group	10
Princeton-Ayrshire Group	22
Boonville Group	25
Evansville Group	30

shall be changed to read:

Market Area No. 29:

Coals produced in:	Cents per ton
Linton-Sullivan Group	10
Princeton-Ayrshire Group	22
Boonville Group	25
Evansville Group	30
Evansville Group (for size groups 11 and 12 from Horton Mine of Horton Coal Company only)	35

By order of the Commission.

Dated this 31st day of January, 1938.

F. W. MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-348; Filed, February 1, 1938; 12:04 p. m.]

DEPARTMENT OF LABOR.

Office of the Secretary.

DECISION IN THE MATTER OF EXTENSION OF MINIMUM WAGE DETERMINATION FOR THE COTTON GARMENT AND ALLIED INDUSTRIES TO THE MANUFACTURE OF BARRACK BAGS AND BANDOLEERS

This case is before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036). The Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held open hearing on December 16, 1937 to afford an opportunity to interested parties to show cause why the Secretary of Labor's decision of July 28, 1937 in the matter of determination of prevailing minimum wages in the Cotton Garment and Allied Industries should not be extended to include the manufacture of Barrack Bags, as described in War Department Specifications No. 6-245, and Bandoleers, as described in War Department Specifications No. 50-1-13-A.

Invitations to attend the above hearing were sent to all known trade associations and labor unions, and to the approximately sixty manufacturers who at any time in the past five years bid upon government contracts, and invitations were extended through the national press to all employers and employees interested.

Representatives of the Division of Public Contracts gave evidence at the hearing with respect to the question at issue, and submitted to the Board a number of letters which the Division had received from members of industry and representatives of organized labor in response to the notice of hearing.

On the basis of this evidence, the Board has submitted findings of fact on the issues presented to it in the above mentioned notice. The Board has found that the Barrack Bags, as described in War Department Specifications No. 6-245, are made from cotton braided sash cord and blue denim material, and that the Bandoleers, as described in War Department Specifications No. 50-1-13-A, are made from cotton material; that both products are manufactured in plants which are included within the scope of the minimum wage determination for cotton garment and allied industries, or in closely similar plants; that in the manufacture of the products the productive processes and the labor requirements are essentially the same as in the manufacture of the products included within the scope of the minimum wage determination for the cotton garment and allied industries; that in the manufacture of these products the prevailing minimum wage corresponds with the minimum wage determination made by the Secretary of Labor for cotton garment and allied industries.

On the basis of these findings the Board recommends that the decision of the Secretary of Labor, dated July 28, 1937, in the matter of the determination for the cotton garment and allied industries be extended to include the manufacture of Barrack Bags as described in War Department Specifications No. 6-245, and Bandoleers as described in War Department Specifications No. 50-1-13-A.

I have examined these findings and recommendations, and the record of the hearing, together with the recommendation of the Administrator of Public Contracts, and I am of the opinion that such findings and recommendations are correct and I adopt them as my own.

Therefore, I hereby proclaim:

That the minimum wage determination of July 28, 1937 for the cotton garment and allied industries is extended to the manufacture of Barrack Bags of the type described in War Department Specifications No. 6–245, and to Bandoleers of the type described in War Department Specifications No. 50–1–13–A. This decision shall become effective on and after February 14, 1938.

Dated this 29th day of January, 1938.

[SEAL] FRANCES PERKINS, *Secretary.*

[F. R. Doc. 38–346; Filed, February 1, 1938; 11:17 a. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

CONCURRENT PAYMENT OF TWO BENEFITS TO THE SAME PERSON

R–2550. (A) For the purposes of the General Law, the service pension acts granting pension to widows and children and dependent parents of veterans of the Civil and Indian Wars, and the pension laws reenacted by Public No. 141, 73d Congress (Act of March 28, 1934), and Public No. 269, 74th Congress (Act of August 13, 1935), not more than one pension shall be allowed at the same time to the same person. (4715 R. S.)

(B) Notwithstanding the provisions of section 7 of "An Act to Provide Compensation for Employees of the United States Suffering Injuries While in the Performance of Their Duties, and for Other Purposes", approved September 7, 1916, pension under any of the service pension acts, including Veterans Regulation No. 1 (a), Part III; or compensation under Public No. 484, 73d Congress, as amended, and compensation under the United States Employees Compensation Act, may not be paid concurrently on account of the same death. In any such case the prospective beneficiary will be required to elect under which statute benefits will be received. (January 31, 1938.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38–345; Filed, January 31, 1938; 1:12 p. m.]

Thursday, February 3, 1938 *No. 24*

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

STATEMENTS OF AGE ON IMPORTED DISTILLED SPIRITS

FEBRUARY 1, 1938.

To All Importers and Bottlers of Distilled Spirits:

Section 39 (b) (2) of Regulations No. 5, requires that, if the age is stated upon labels for rum or brandy, or Scotch, Irish or Canadian whiskey, it shall be stated in substantially the following form: "This rum is ------ years old", "This brandy is ------ years old", or "This whiskey is ------ years old", the blank to contain the age of the youngest distilled spirits in the product.

Under this section of the regulations, the Administration has heretofore permitted imported rums, brandies and whiskeys to be marketed with age statements reading "All over ------ years old", "All more than ------ years old", or "All ------ years or more old", provided the statement is substantiated by an appropriate governmental certificate conforming thereto. It has, however, been brought to the attention of the Administration that the use of statements of this nature has tended to create, in the retail market, a false impression as to the true age of the product.

In view of these facts, the Administration has now concluded that age statements reading "All over ------ years old", "All more than ------ years old", "All ------ years or more old" and similar statements, will no longer be authorized, regardless of the language of the governmental certificate accompanying the importation. In order to bring the age statement into conformity with Section 39 (b) (2) of Regulations No. 5, it will be necessary to eliminate the words "over", "more than", "or more" and similar words, so that the statement in all instances will read "------ years old", "All ------ years old", "This whiskey is ------ years old", etc.

This ruling is not applicable to products now in customs custody or to products entering customs custody prior to May 1, 1938. It will, however, be strictly applied to all imported distilled spirits entering customs custody on and after May 1, 1938.

[SEAL] W. S. ALEXANDER, *Administrator.*

[F. R. Doc. 38–356; Filed, February 2, 1938; 12:03 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 211]

AN ORDER MODIFYING ORDER NO. 96, AS MODIFIED BY ORDERS NOS. 132, 164, 184, AND 191, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 8, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 5 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 8"

The National Bituminous Coal Commission having by its Order No. 96, as modified by Orders Nos. 132, 164, 184 and 191, determined and established the Minimum Prices of Coals of Code Members produced within District No. 8, as set forth in "Price Schedule No. 1—District No. 8", and "Supplements Nos. 1, 2, 3 and 4 to Price Schedule No. 1—District No. 8", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Price Schedule and Supplements by a further Supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Minimum Prices of Coals of Code Members produced within District No. 8, established in Price Schedule No. 1—District No. 8, and Supplements Nos. 1, 2, 3 and 4 thereto, are hereby further supplemented as set forth in Supplement No. 5 to Price Schedule No. 1—District No. 8, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices as shown in said Supplement No. 5 shall be and hereby are determined and established as Minimum Prices of Coals of Code Members within District No. 8 and shall be and become effective at 12:01 o'clock A. M., on the 10th day of February, 1938.

2. That said Orders Nos. 96, 132, 164, 184 and 191 and Price Schedule No. 1—District No. 8, and Supplements Nos. 1, 2, 3 and 4 thereto, except as modified herein and by Supplement No. 5 to Price Schedule No. 1—District No. 8, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 5 to Price Schedule No. 1—District No. 8 to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, and to Code Members within District No. 8; shall cause copies of this Order and said Supplement No. 5 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 1st day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 5 TO PRICE SCHEDULE NO. 1 DISTRICT NO. 8

To All Code Members Within District No. 8:

Effective February 10, 1938 the following change shall be made in Supplement No. 1 to Price Schedule No. 1 of District No. 8:

"Red Jacket Coal Company, Keen Mountain Mine coals shall be price indexed "C" instead of "A" in size groups 8 and 9 and slack coals from this mine having a maximum top size of 3/8" may be priced at 10¢ per net ton lower than size group 9 when shipped into Market Areas Nos. 2, 4, 6, 7, 8, 9, 10 and 11 which Market Areas are in addition to those shown in price schedule to which minus 3/8" slack price applies."

By order of the Commission.

Dated this 1st day of February, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–355; Filed, February 2, 1938; 11:56 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ECR—B–101—W. Va., Supp. (c). Issued Feb. 1, 1938

1937 AGRICULTURAL CONSERVATION PROGRAM—EAST CENTRAL REGION

BULLETIN NO. 101—WEST VIRGINIA, SUPPLEMENT (C)

Growing Green Manure Crops

Subsection b (2) of section 4 of Part I of East Central Region Bulletin 101—West Virginia,[1] is hereby amended to read as follows:

"(2) Crimson clover, or vetch, plowed or disced under; rye, barley, wheat, oats, buckwheat, Italian ryegrass, or mixtures of these, plowed or disced under; Sudan grass, millet, sorghum, or sowed corn, plowed or disced under; sweet clover in orchards, soybeans, or cowpeas, not grazed or pastured and not harvested for grain when all of the forage is left on the land; lespedeza not grazed or pastured when all of the forage is left on the land: $1.00."

The provisions of this amendment shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances, Deductions, and Rates of Payment Under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern, and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.

Done at Washington, D. C., this 1st day of February 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R, Doc. 38–357; Filed, February 2, 1938; 12:37 p. m.]

ACP—1938–2 Issued Feb. 1, 1938

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 2

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended, item (4), subsection (a), section 5 of the 1938 Agricultural Conservation Program Bulletin (ACP–1938) is hereby amended to read as follows:

"(4) Tobacco, except that each acre of Georgia-Florida Type 62 tobacco shall be classified as eight-tenths (8/10) of an acre soil-depleting if—

"(i) An average of at least four top leaves is left on each stalk on all of the acreage of Type 62 tobacco grown on the farm in 1938 and all such stalks are cut within seven days after harvesting of the other leaves is completed and either left on the land for the remainder of 1938 or plowed under, and

"(ii) a cover crop of sorghum, cowpeas, velvet-beans, or crotalaria, or any mixture of these, is seeded in 1938 on all land planted to Type 62 tobacco and a reasonably good stand and good growth of such cover crop is attained and is plowed under or disced in before December 31, 1938, after it has attained at least three months' growth, provided such cover crop shall not be counted toward meeting the soil-building goal regardless of how used."

Done at Washington, D. C., this 1st day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–358; Filed, February 2, 1938; 12:37 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 183]

ALLOCATION OF FUNDS FOR LOANS

JANUARY 31, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Georgia 8068 W 1 Grady	$10,000
Iowa 8014 B 2 Humboldt	22,000
North Dakota 8011 B 1 Cass	60,772
Ohio 8033 B 1 Auglaize	140,000
Ohio 8060 A 2 Seneca	110,000
Ohio 8084 A 1 Carroll	132,000
Tennessee 8022 A 2 Gibson	4,000
Virginia 8020 B 1 Prince Williams	36,000
Wisconsin 8027 W 1 Buffalo	5,000
Wisconsin 8049 W 1 Dunn	15,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38–349; Filed, February 2, 1938; 9:55 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of February, A. D. 1938.

[File No. 43–103]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Republic Electric Power Corporation, a registered holding company, regarding the issue and sale of 11,690 shares of its 5% Noncumulative Preferred Stock, hav-

ing a par value of $100 per share, to Niagara Share Corporation of Maryland in exchange for $1,169,000 aggregate principal amount of 6% promissory notes of declarant presently held by said Niagara Share Corporation of Maryland;

It is ordered, That a hearing on such matter be held on February 24, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect to any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That, Charles S. Moore, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 19, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-350; Filed, February 2, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of January, 1938.

[File No. 1-1530]

IN THE MATTER OF TECK-HUGHES GOLD MINES, LTD., COMMON STOCK, $1 PAR VALUE

ORDER POSTPONING HEARING

The Teck-Hughes Gold Mines, Ltd., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, par value $1, from listing and registration on the New York Curb Exchange; and

The Commission having ordered that the matter be set down for hearing on February 2, 1938, in Washington, D. C.; and

The New York Curb Exchange having requested a postponement of said hearing until March 8, 1938, to which request said issuer has agreed;

It is ordered, That said hearing be postponed until 10:00 A. M. on Tuesday, March 8, 1938, in Room 1102, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as may be determined by the Commission or its officer presiding at said hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-352; Filed, February 2, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of January, 1938.

[File 1-2355]

IN THE MATTER OF ALLIED PRODUCTS CORPORATION CLASS A CONVERTIBLE COMMON SHARES, PAR VALUE $25, COMMON SHARES, PAR VALUE $10

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Class A convertible common shares, par value $25 and the Common shares, par value $10, of the Allied Products Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given the opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on February 17, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-351; Filed, February 2, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of January, 1938.

[File No. 1-341]

IN THE MATTER OF MICHIGAN-UTAH CONSOLIDATED MINES COMPANY CAPITAL STOCK, PAR VALUE 25 CENTS

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding, pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the Salt Lake Stock Exchange of 1,500,000 shares of Common Capital Stock, Par Value 25 Cents, of Michigan-Utah Consolidated Mines Company shall be suspended or withdrawn; and

After appropriate notice, a hearing having been held in this matter on November 19, 1937, in Denver, Colorado, and on December 3, 1937, in Washington, D. C.; and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Section 12 (b) of said Act, as amended, and Rule JB1, Form 10 for Corporations and the Instructions supplemental thereto, prescribed under said Section, and has also failed to comply with Section 13 of said Act, as amended, and Rules KA1 and KA2, Form 10-K and the Instructions supplemental thereto, prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act, as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said Capital Stock on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the Salt Lake Stock Exchange of 1,500,000 shares of Common Capital Stock, Par Value 25 Cents, of Michigan-Utah Consolidated Mines Company shall be and the same is hereby withdrawn, effective as of February 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-353; Filed, February 2, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of January, 1938.

[File No. 1-2252]

IN THE MATTER OF ROSETTA MINES COMPANY COMMON CAPITAL STOCK

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding, pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the San Francisco Mining Exchange of 1,320,150 shares of Common Capital Stock of Rosetta Mines Company shall be suspended or withdrawn; and

After appropriate notice, a hearing having been held in this matter on November 17 and 26, 1937, in San Francisco, California; and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Section 13 (a) and 13 (b) of said Act, as amended, Rules KA1 and KA2, Form 10-K and the Instructions supplemental thereto, prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act, as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said Capital Stock on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the San Francisco Mining Exchange of 1,320,150 shares of Common Capital Stock of Rosetta Mines Company shall be and the same is hereby withdrawn, effective as of February 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-354; Filed, February 2, 1938; 10:52 a. m.]

Friday, February 4, 1938 *No. 25*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR FOREST LOOKOUT STATION

Washington

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. Executive Order No. 6964 of February 5, 1935, as amended, temporarily withdrawing certain lands for classification and other purposes, is hereby revoked as to the following-described tract of public land in Washington:

T. 27 N., R. 22 E., W. M., sec. 26, W½NE¼SE¼ and E½NW¼SE¼, 40 acres.

SECTION 2. Subject to valid existing rights, the tract of land described in section 1 of this order is hereby temporarily withdrawn from settlement, location, sale, or entry and reserved for use by the Forest Service of the Department of Agriculture as a fire lookout station in connection with the administration of the Chelan National Forest.

SECTION 3. The withdrawal made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 2, 1938.

[No. 7803]

[F. R. Doc. 38-370; Filed, February 3, 1938; 11:19 a. m.]

EXECUTIVE ORDER

RESERVATION OF PUBLIC LAND FOR USE OF LIGHTHOUSE SERVICE, DEPARTMENT OF COMMERCE

Territory of Hawaii

By virtue of and pursuant to the authority vested in me by section 91 of the act of April 30, 1900, 31 Stat. 141, 159, as amended by section 7 of the act of May 27, 1910, 36 Stat. 443, 447, it is ordered that the following-described portion of Waikalua-Waho Beach Reserve, Waikalua-Waho, Kaneohe, Koolaupoko, Oahu, Territory of Hawaii, be, and it is hereby, reserved and set aside for the use of the Lighthouse Service, Department of Commerce:

Beginning at a galvanized iron spike driven in root of pine tree at the West corner of this parcel of land and on the South boundary of Land Court Application 726, the coordinates of said point of beginning referred to Government Survey Trig. Station "Puu Pahu" being 3205.60 feet South and 2135.75 feet East, as shown on Government Survey Registered Map 2585, and running by azimuths measured clockwise from true South:

1. 237°00' 91.00 feet along Land Court Application 726 to a pipe;
2. Thence along seashore at highwater mark, the direct azimuth and distance being: 318°06' 40.60 feet to a pipe;
3. 57°00' 76.85 feet along government land to a pipe;
4. 120°00' 45.00 feet along reserve for 8-foot walk to the point of beginning.

The above-described tract contains an area of 3365 square feet, more or less.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Feb. 2, 1938.

[No. 7804]

[F. R. Doc. 38-371; Filed, February 3, 1938; 11:19 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Dockets Nos. 106-FD, 108-FD, 109-FD]

IN THE MATTER OF THE PETITION OF THE STATE OF NEW YORK ON BEHALF OF SAID STATEE; THE PETITION OF THE STATE OF NEW YORK ON BEHALF OF ALL OF THE POLITICAL SUBDIVISIONS OF SAID STATE; THE PETITION OF THE STATE OF NEW YORK ON BEHALF OF TAXPAYERS AND CITIZENS OF THE STATE OF NEW YORK

NOTICE OF HEARING

Petitions having been filed with this Commission by the petitioners above named alleging dissatisfaction with the

minimum prices of coals of code members produced within Districts Nos. 1 to 13, inclusive, as established by Commission's Orders Nos. 89 to 101, inclusive:

Now, therefore, it is hereby ordered:

1. That the above entitled proceedings are assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petitions are on file and available for inspection by interested parties at the office of the Secretary of the commission, at each of the Statistical Bureaus of the Commission, and at the office of each District Board.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioners above named; to the Consumers' Counsel; to the Secretary of each District Board for Districts Nos. 1 to 13, inclusive, and to each code member in said Districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission for the aforesaid Districts, and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 2nd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-372; Filed, February 3, 1938; 12:17 p. m.]

[Docket No. 107-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMERS' COUNSEL, ON BEHALF OF THE ASSOCIATED INDUSTRIES OF NEW YORK STATE, INC.

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within Districts Nos. 1 to 13, inclusive, as established by Commission's Orders Nos. 89 to 101, inclusive:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission, at each of the Statistical Bureaus of the Commission, and at the office of each District Board.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of each District Board for Districts Nos. 1 to 13, inclusive, and to each code member in said Districts; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission for the aforesaid Districts; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 2nd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-373; Filed, February 3, 1938; 12:17 p. m.]

National Park Service.

RULES AND REGULATIONS GOVERNING THE ADMINISTRATION AND USE OF THE WATERS OF HOT SPRINGS NATIONAL PARK

The following rules and regulations for the government of all bathhouses receiving water from the Hot Springs National Park were approved on June 21, 1937, to continue in force and effect until otherwise directed by the Secretary of the Interior.

RULES AND REGULATIONS FOR THE GOVERNMENT OF BATHHOUSES

Water Supply and Rentals

1. Bathhouses or hotels will be allowed such number of tubs as the Secretary of the Interior may, in his discretion, deem proper and necessary for the public service, and the amount of hot water will justify.

2. The constant flow of hot water, even during business hours, or the unnecessary waste of water in any manner, is strictly prohibited, and will, if continued after written notice from the superintendent to stop such waste of water, be considered by the Department sufficient grounds for the cancelation of the lease of such offending lessee.

3. Rentals must be paid quarterly, in advance, at the office of the superintendent, and if not paid within 5 days from the beginning of each quarter the supply of water may be cut off.

Sale, Transfer, and Refund of Bath Tickets, Signing of Permits, Complimentary Tickets, Etc.

4. The charge for baths at the different bathhouses shall be at the rates fixed by the Secretary of the Interior, and no bath ticket shall be sold for other than said rate, and then only to such persons as intend to actually use them for bathing. The rate or rates so fixed for baths shall include, without extra charge, the supplying of each bather with one clean sterilized sheet to envelop the body of the bather while in the bath hall and cooling room. No bath ticket shall be sold except at the office of the bathhouse where the bath is to be given, and tickets must show the date when issued, the serial number, the number of baths for which issued, the full name of the purchaser, and the amount paid therefor. Bath tickets shall be redeemable according to the redemption scale fixed by the Department of the Interior. A copy of the redemption scale must be posted in each bathhouse. No bath ticket or part of a ticket shall be reissued after having been redeemed. Bath tickets are not transferable and cannot be used by any person other than the one to whom they were originally sold. *No bathhouse will be permitted to issue complimentary bath tickets, except that bathhouse lessees may, on written permission of the superintendent, issue complimentary bath tickets in such cases as in his judgment justify such action. The renting and selling of bath robes, towels, mitts, soap, toilet articles, or the solicitation for and sale of any other thing of value in the bathhouses is prohibited.*

5. *Children's tickets.*—No reduction shall be made in the regular rates in the prices of bath tickets sold to children.

6. *Transfers of bath tickets.*—Bath tickets are not transferable and cannot be used by any person other than the one to whom they were originally sold. In case bath tickets are purchased by one person for use by another, the person for whom the ticket is purchased is considered the original purchaser and the ticket can be utilized by him or her only. Any unused part of a bath ticket will be redeemed upon demand to the original purchaser, in accordance with the regulations.

7. *Refunds.*—All refunds on bath tickets shall be made in accordance with the schedule submitted to each bathhouse on July 1, 1928, which is in accordance with the provisions of section 4 of the rules and regulations for the government of all bathhouses and which is approved by the National Park Service. A copy of the schedule must be posted in all bathhouses.

8. *Complimentary bath tickets.*—Rule 20 of the rules and regulations governing the bathhouses is referred to, particularly that part of it which reads as follows:

"No person shall be allowed to bathe without a numbered ticket being issued and a record of same being kept, and a report thereof duly certified by the manager filed with the superintendent on the first day of each month as paid, complimentary, or free baths * * *."

In order to fulfill these requirements, permission must first be had in writing from the superintendent when complimentary bath tickets are issued. Also, complimentary tickets must bear a serial number, and must be entered on the daily reports of the bathhouses. Unless so desired, they need not bear the same serials as paid bath tickets.

9. *Bath permits.*—All bath permits signed by bathers shall be numbered consecutively. Bathers purchasing single tickets on physicians' bathing directions may be considered renewals, and report must show the name of the physician. When a bather has discontinued bathing for a period of 7 days or more and resumes bathing, he shall not be considered a renewal, but shall sign a new permit or present new bathing directions. Bathers shall be considered renewals only when they purchase new tickets within 7 days after the expiration of the original tickets. Bathhouse managers or employees shall write plainly the name of the bather on the blank line of paragraph 3 of the regulation permit form.

10. *Bathing directions.*—Care shall be taken that the date, name of bathhouse, attendant, etc., are placed on each bathing direction presented, before it is sent to the park office. Directions should be complete in every detail before they are submitted for park office records. The bather must read, or have fully explained to him or her, the contents of the certificate upon purchasing a bath ticket. Then each section of the certificate shall be properly filled out. This applies to single bath renewals as well as to original purchases. Baths will be denied bathers who do not comply with these instructions, and the manager accepting incompletely filled out certificates will be held accountable. Attendants and bathhouse employees are not qualified and are not permitted to prescribe or suggest manner or methods of utilizing the baths. They must either follow physicians' directions or confine their treatment to the limits of the so-called "tourist bath." Deviation from this rule will subject individuals concerned to dismissal.

11. *Changes in bathing directions.*—Bath attendants are not permitted to make changes in the baths prescribed by physicians for their patients. Such directions are to be carried out explicitly, and no changes shall be made without the written consent of the physician.

12. *Bather's address.*—Frequently bathers have no local address when tickets are purchased at the bathhouse. As soon as a bather is located, the information should be furnished the park office. It may be put on the daily report in the form of a remark, as "John Jones is now stopping at no. —— Ouachita Avenue."

13. *Lost bath tickets.*—When a bather loses his ticket, the park office is to be notified, giving the name of the bather, the number of the ticket, the permit number, and the number of baths taken. The bathhouse is to keep a memorandum of the number of baths it gives the bather who is without the use of the lost coupon book or ticket. Moreover, the bather is not to pay any additional attendant's fee, but the bathhouse is to pay the attendant as if the bather had his or her ticket. If the ticket should be found and brought back to the bathhouse, it should be cared for in the usual manner. No refund shall be given to a bather whose ticket is lost, but the bather may be permitted to bathe out the remainder of the ticket, even though it is not found at any time.

Schedule of Rates

14. The maximum charges for general massage, including all necessary accessories, at all bathhouses, shall be as follows:

21 treatments	$30.00
10 treatments	14.75
5 treatments	8.00
Single treatments	2.00
Alcohol rubs, each	.75

The charge for treatments in the Titus portable hydromassage whirlpool bath shall be as follows:

21 treatments	$21.00
10 treatments	11.10
5 treatments	5.85
Single treatments	1.25

The maximum charges of mercury rubbers at all bathhouses shall be as follows:

21 rubs	$9.00
14 rubs	6.00
7 rubs	3.00
Single rubs	.50

Pool Rates

[All pool treatment requires a physician's prescription]

Course of 20 treatments with services of physiotherapist	$35.00
Course of 10 treatments with services of physiotherapist	21.00
Single treatments with services of physiotherapist	2.25

The charge for the use of private dressing rooms shall be as follows:

21 days	$5.00
10 days	2.50
5 days	1.25
1 day	.25

Scale of Rates for Baths at Different Bathhouses Receiving Water From the Hot Springs National Park

[Including fee of bath attendant, $0.20 for single bath and $4 for a course of 21 baths]

Bathhouse	Single bath	5 baths	10 baths	21 baths
Arlington	$1.40	$6.60	$12.60	$24.00
Fordyce	1.25	5.85	11.10	21.00
Buckstaff	1.25	5.85	11.10	21.00
Eastman	1.25	5.85	11.10	21.00
Maurice	1.25	5.85	11.10	21.00
Lamar	1.20	5.60	10.60	20.00
Majestic	1.20	5.60	10.60	20.00
Quapaw	1.20	5.60	10.60	20.00
Hale	1.15	5.35	10.10	19.00
Moody	1.15	5.35	10.10	19.00
Ozark	1.15	5.35	10.10	19.00
St. Joseph's Infirmary	1.15	5.35	10.10	19.00
Superior	1.15	5.35	10.10	19.00
Ozark Sanatorium	1.10	5.10	9.60	18.00
Rockafellow	1.10	5.10	9.60	18.00
Alhambra	1.05	4.85	9.10	17.00
Pythian (colored)	1.00	4.60	8.60	16.00

Bath tickets are redeemable according to the redemption scale for baths fixed by the Department, a copy of which is posted in each bathhouse.

Bath towels and bath mitts are to be furnished by the bather, except for single bath purchases and will remain the property of the bather at the close of his treatment period. Laundering of towels is to be handled and paid for by the bathhouse.

OPERATING INSTRUCTIONS

General

15. Owners and managers of bathhouses will provide in their respective bathhouses the requisite number of head bath attendants, who, under the supervision and direction of the superintendent of the Hot Springs National Park, shall supervise the administration of baths, the treatment of patients, matters of hygiene and sanitation in the bathhouses, and the work of bath attendants generally. The hours for operation of all departments of bathhouses receiving hot water shall be those expressly designated by the superintendent, Hot Springs National Park.

16. Each bathhouse manager, clerk, and attendant shall be required to have a full and complete understanding of the bathhouse rules and regulations before entering upon his duties. The superintendent is authorized to require the discharge of any bathhouse manager, clerk, attendant, mercury rubber, or masseur, for bathhouse or doctor drumming, or refusing or neglecting to carry out the bathhouse rules and regulations according to the true intent and meaning thereof.

17. Any person discharged for cause from a bathhouse or removed at the request of the superintendent shall not be again employed by the same or any other bathhouse or permitted to render service in any bathhouse without the written consent of the superintendent. Managers must

promptly report in writing to the superintendent the name of any person so removed.

18. No bath attendant, helper, masseur, mercury rubber, or other employee who comes in direct personal contact with bathers will be permitted to enter on duty without first undergoing physical examination at the United States Public Health Service clinic and being found free from any infectious or communicable diseases.

19. All bathhouses shall be kept in a neat, clean, and sanitary condition, and all sewage and waste water properly conducted away, and all underdrainage kept in perfect order. Bathtubs must be thoroughly scrubbed after each bath, either with strong lye soap or scrubbing powder. The water-closets shall have sufficient and free connection with the public sewers and be kept in the best order and with the best plumbing furnishings and appliances. Lessees of bathhouses in the national park shall, under the direction of the superintendent, cultivate and maintain the parts of the bathhouse park in front of their respective bathhouses, the space for each to cultivate to be allotted by the superintendent.

20. The lessee of each bathhouse shall cause to be kept a full and correct daily register of each bath given, the number and kind of bath tickets sold, and the number of complimentary tickets, if any, issued each day, etc., such form of register to be approved by the superintendent and a copy therefrom of each day's business to be forwarded to the superintendent daily. No person shall be allowed to bathe without a numbered ticket being issued and a record of the same being kept, and report thereof duly certified by the manager filed with the superintendent on the first day of each month as paid, complimentary, or free baths.

21. *Losses in bathhouses.*—All bathhouses receiving deposits of jewelry, money, or other valuables from bathers must provide means for the safe-keeping thereof, satisfactory to the superintendent. It is to be understood, however, that the Government assumes no responsibility in the premises. All losses must be reported in writing to the superintendent promptly by the bathhouse manager. Any losses or thefts, no matter how small, should be reported immediately so that the proper action can be taken for the benefit of the bathhouse and the public.

22. All accidents which occur in bathhouses must be reported in writing to the superintendent.

HOTEL AND DOCTOR DRUMMING, AND INTER-RELATION OF BATHHOUSES, HOTELS, PHYSICIANS, ETC.

23. The proprietor or owner of any bathhouse is prohibited from bathing in said bathhouse any person or persons stopping or registering at or continuing to remain at any hotel, boarding house, rooming house, furnished apartment, or furnished cottage, who knew or had reason to know that the owner or proprietor of such hotel, boarding house, rooming house, furnished apartment, or furnished cottage has a drummer or solicitor on trains, depots or platforms, public car, omnibus cab, street hack, or carriage, or any of the streets, or public places or elsewhere, or that such owner or proprietor drums or solicits on trains, depots or platforms, public car, omnibus, cab, street hack, or carriage or on any of the streets, or public places or elsewhere, business for doctors, masseurs, surgeons, bathhouse or other medical practitioners or accepts solicited business from the above places, or that such owner or proprietor is violating or has been convicted of violating, or has in his employ any person who is violating or has been convicted of violating any ordinance of the city of Hot Springs or any statute of the State of Arkansas prohibiting drumming or soliciting, or that such owner or proprietor has in his employ in or about such house any inside man or person engaged in drumming for doctors or bathhouses. Also the owners or managers and the employees of such bathhouses are absolutely prohibited from either directly or indirectly drumming for doctors or reflecting on or questioning the integrity of the hot-water supply of any other bathhouse; or of claiming superiority of its own supply of hot water over that furnished from the springs on the reservation to other bathhouses. Upon evidence of violation of this rule the superintendent shall report the facts, with his recommendation, to the Director of the National Park Service looking to the shutting off of the water from any bathhouse or canceling the lease, as the Secretary of the Interior may determine.

24. The payment of any sum of money or anything of value, either directly or indirectly, by any bathhouse owner, manager, clerk, or attendant as compensation for drumming customers to any bathhouse, or allowing public drummers, drumming doctors, hotel, or boarding-house proprietors who are drummers, or persons who work with them as inside men, to bring persons or show them through, or to loiter in or about any bathhouse, is positively forbidden. Upon evidence of violation of this rule the superintendent shall report the facts, with his recommendation, to the Director of the National Park Service, looking to the shutting off of the water from any bathhouse or canceling the lease, as the Secretary of the Interior may determine.

25. An applicant for baths who is under medical treatment shall not be permitted to bathe in any bathhouse unless said applicant presents satisfactory evidence that he or she is the patient of a physician who is duly registered at the office of the superintendent as qualified to prescribe the waters of the hot springs, and who is known not to engage in drumming for custom; provided, that every applicant for baths not under the care of a registered physician or person publicly professing to cure or heal shall be required to make a certificate to be filed with the bathhouse manager that he or she is not under the care of any physician or person who shall publicly profess to cure or heal, and should such applicant subsequently employ, consult, or take treatment from any physician or person who shall publicly profess to cure or heal while taking the baths, then in such case he or she will immediately notify the bathhouse manager of such fact. The violation of this rule by the owner, manager, or any employee of a bathhouse will result in the cutting off of the water from the bathhouse or the canceling of the lease, as the Secretary of the Interior may determine.

26. Physicians or persons publicly professing to cure or heal, desiring to prescribe the waters of the hot springs, either internally or through the medium of baths, must first be registered at the office of the superintendent of the reservation, and shall use only such uniform form of bathing directions as meets with the approval of the superintendent. Registration will be accorded only to such physicians or persons publicly professing to cure or heal as are found by the Secretary of the Interior to have proper professional qualifications and character, qualified to make intelligent diagnoses, and who do not engage in drumming for custom. No physician or person publicly professing to cure or heal who shall engage in the solicitation of patronage through the medium of drummers or otherwise, or who shall be convicted of violating any statute of the United States, or any law of the State of Arkansas, or any regulation of the Arkansas State Board of Health, or who shall engage in unprofessional, disreputable, or dishonest conduct, or is addicted to the drug or other habit which disqualifies him for the performance of his professional duties shall be or remain registered. In case any person who, in violation of these regulations, bathes or attempts to bathe, or enters or attempts to enter upon the Hot Springs National Park to bathe, shall have the permit of a physician or person who shall publicly profess to cure or heal therefor, such physician or person who shall publicly profess to cure or heal shall be liable to the penalties provided in the act of April 20, 1904, unless he is regularly registered, but the bather or person attempting to bathe shall not be liable to the penalties of said act unless it shall be made to appear that he knew or had reason to believe that the physician or person who shall publicly profess to cure or heal giving him the permit to bathe was not regularly registered.

27. If a charge is made to the superintendent in writing, under oath, supported by the affidavits of two or more reputable witnesses, that a registered physician has violated any of the laws or regulations pertaining to the government of the bathhouses receiving hot water from said park, such physician shall be immediately notified by the superintendent of the fact that affidavits have been made against him, and in the presence of the superintendent be accorded an opportunity to cross-examine the witness on the subject thereof; and if in the judgment of the superintendent the facts warrant such action he will cite the physician to appear before him on a day to be named within not exceeding 5 days from the date of notice to show cause why his name should not be stricken from the register of physicians authorized to prescribe the waters of said springs; and pending the investigation and final action upon the charges the right of such physician to prescribe the hot waters may be suspended by the Secretary of the Interior. The physician against whom such complaint is made shall have the right to cross-examine said affiants and any witnesses who may appear before the superintendent, or to file written interrogatories pertinent to the issue of such complainants or witnesses, to be answered by them under oath, and may submit within 5 days thereafter counter affidavits in answer to the charges made in the affidavits of the witnesses. The complainant witnesses may file rebuttal affidavits within 5 days after service upon them of said counteraffidavits, and the hearing of said charges shall be had on the record aforesaid, and the recommendation of the superintendent in the premises forwarded to the Secretary of the Interior through the Federal Registration Board, which board, after reviewing the record and the recommendation of the superintendent, shall thereafter promptly submit its findings as a board of review, together with such supplemental recommendations as to it may appear proper, to the Secretary of the Interior.

28. An appeal from the recommendation of the superintendent upon said record may be taken to the Secretary of the Interior within 5 days from the date of service by the superintendent of a copy of his recommendation on the accused. If upon consideration of the complaint the charge is not sustained by the Secretary, the accused will be at once advised and the charges dismissed. If, however, such charge is sustained, the name of the physician shall be stricken from the registered list.

29. A printed copy of the rules and regulations now in force, together with the prices of baths and attendant's fees, both separately and combined, shall be conspicuously posted in the office of each bathhouse.

Sanitation and Bathing

30. *Bath mitts.*—When a single bath ticket is sold, the purchaser is to be informed that no bath mitt will be furnished by the bathhouse. If he desires to be rubbed with a mitt, it will be necessary for him to furnish his own. Each individual mitt must be hung on a rack, so that it does not touch other mitts, or they must be kept in separate compartments. This shall be done to prevent communicable diseases from being transferred from one mitt to another. It is poor policy to permit mitts to come in contact, as the liability of transferring communicable diseases is great, and bathers must be protected by keeping mitts separated.

31. *Towels.*—When a towel is used on a bather, that towel must be sent to the laundry, irrespective of whether it is soiled or not. The practice of washing out soiled towels, drying them, and using them again on the same bather without sending them to the laundry is strictly prohibited. Bathers are to be advised that on Saturdays or Sundays one towel, instead of two or more, should be used, so that a sufficient supply of towels will be on hand on the day when laundry delivery is not made.

When a single bath ticket is taken, the bathhouse will furnish the towels, but when more than a single ticket is purchased the bather will furnish his own towels.

In case a bather has no clean towels, he should be supplied from the laundry stock of the bathhouse towels, but under no circumstances shall towels be used a second time without having been sent to a laundry. Managers shall keep their stock of towels replenished so that a sufficient supply is on hand to care for bathers on Sundays or holidays, when linen is not returned from the laundry.

32. *Sheets.*—The bathhouse must furnish each bather with one freshly laundered sheet for each bath. Furnishing more than one sheet for a bath is optional with the bathhouse.

33. *Blankets.*—No blankets are to be used in the bathhouse except those furnished by the bathers. In the use of blanket packs and other packs, all materials should be furnished by the bather. If blankets are used in the bathhouses, they must be covered by two sheets, one sheet surrounding the bather's body, then the blanket placed over him, then the second sheet covering the blanket so that it will not come in contact with the bather's body. Use of blankets in this manner is optional with the bathhouse. If blankets are used they shall be sterilized each evening by immersion in 5-percent bichloride solution or a 1-percent lysol solution, then hung up to dry. They shall be sent to the laundry as often as is necessary to keep them in proper sanitary condition.

34. *Ice.*—Use of ice in the bathhouses is prohibited, except when called for by physicians' bathing directions, as in a wet pack, or in cooling of water for drinking purposes. Furnishing ice to bathers for use in mitts while in vapors is prohibited, also use of ice in women's departments for massaging the face and other purposes, except when prescribed in a cold pack. Use of ice in mitts in vapors produces a precipitate on the mitt, and the bather is not given full benefit of the value of the water.

35. *Liquid soap.*—Liquid soap, held in containers which will prohibit contamination by bathers, shall be used in all bathhouses. No bather will be required to furnish soap except when a kind other than the liquid soap provided is prescribed by a physician.

36. *Sitz baths.*—Only the plain exterior sitz bath with no irrigation or internal application may be given without a physician's instruction.

37. *Spinal douches.*—Spinal douches shall not be given with the high-pressure nozzles unless the bather has a physician's bathing direction.

38. *Vaginal douches.*—Vaginal douches shall be given in empty tubs. The douche tip and the end of the rubber hose to which the tip is fastened must be effectively cleaned with soap and water. When not in use the rubber douche hose shall not be permitted to fall on the floor or behind tubs, but must be placed in the douche can and kept in a thoroughly sanitary condition at all times.

39. *Vapors.*—The seats of all vapors shall be thoroughly scrubbed with a cleansing agent, or a clean paper or cloth towel placed on the seat each time it is used.

40. *Showers.*—Instructions as to baths for bathers without a physician's bathing direction state that the shower shall be not longer than 90 seconds' duration. You are instructed that for such bathers 90 seconds is the maximum time.

41. *Temperature and duration of "Standard bath."*—Individuals who bathe without physicians' bathing directions shall not be permitted to remain in the tub for more than 20 minutes and the temperature must not exceed 100° F. Attendants breaking this rule are subject to suspension or dismissal.

42. *Cleansing of tubs.*—Each tube is to be thoroughly scrubbed and cleansed after each bath is given. A perfunctory slight rinsing of the tub is not sufficient. Sitz baths are to be given the same careful attention. Lye or soap powder or other cleansing powder shall be used.

RULES AND REGULATIONS FOR PHYSIOTHERAPY POOLS AT HOT SPRINGS NATIONAL PARK, ARK

43. Treatments, manipulations, or exercises shall be given only by or under the direct supervision of a qualified individual who has successfully completed at least a 9 months' course in physical therapy in a school of physical therapy approved by the American Medical Association following graduation from an institution meeting the standards for colleges or universities established by the North Central Association, with a major in physical education, or from a school of nursing which meets the requirements set by law for the respective state in which the physical therapy training is taken.

44. No person shall use the pool except on presenting a prescription describing treatment from a physician permitted to prescribe the waters of Hot Springs National Park.

45. A male attendant must be present at all times when persons are in the pool.

46. Pool water temperature will not be in excess of 98° at any time. No employee of the pool shall be permitted to remain in the pool more than 4 hours in any 1 day.

47. All persons entering the pool must be clad in a freshly laundered bathing suit. Bathers will furnish bathing suits. The bathhouse will launder them as in the case of towels.

48. Each person must be given a preliminary shower bath before entering the pool and required to evacuate the bladder.

49. Corrugated rubber mats must be placed on landings at heads of stairways.

50. Sheets and towels and their care must conform in all respects to rules heretofore prescribed for towels and sheets in use in bathhouses. The same rule applies to blankets.

51. Not more than 30 persons shall be permitted to use the pool without complete emptying and cleansing of the pool thoroughly by mechanical (scrubbing) means and refilling with fresh water.

52. Expectorating in the pool is forbidden.

53. Accounting for receipts will be reported to the superintendent's office on monthly and annual reports as "Receipts from thermal pool."

54. Persons not connected with the pool are expected to refrain from conversation with patients or workers in the pool.

55. Smoking in the room in which the pool is installed, or carrying smoldering cigars or cigarettes, is not permitted.

56. The following persons will not be permitted in the pool.

(*a*) Persons with acute or infectious lesions, of any part of the body, particularly of the skin, throat, or genitalia.

(*b*) Persons with a discharge from the eyes, nose, mouth, ears, or genitalia.

(c) Persons showing abnormal temperature or marked cough.

(*d*) Persons without complete control of the bladder and rectum.

57. A period of 2 weeks must have elapsed since subsidence of abnormal temperature in persons who have had acute infectious disease or acute respiratory disease before they may be permitted to enter the pool.

A period of 1 month must have elapsed since the subsidence of acute features in acute anterior poliomyelitis before the patient may be permitted to enter the pool.

Employees

A. General

58. *Employment and discharge of employees.*—The approval of the superintendent must be had for the employment of any person in the bathhouses of Hot Springs National Park. This includes employment of office help, attendants, helpers, masseurs and masseuses, mercury rubbers, chiropodists, beauty parlor operators, shower and pack room employees, maids; in fact, all employees of the bathhouses.

Failure to comply with this order will result in suspension of employees who have been hired without first obtaining approval of the superintendent's office.

All dismissals and resignations of employees must be reported promptly to the park office.

It is provided in rule 14 that "each manager, clerk, and attendant shall be required to have a full and complete understanding of the bathhouse rules and regulations before entering upon his duties." In the future no persons shall be employed as managers or clerks in bathhouses until they have become familiar with the rules and regulations governing the bathhouses. No person is to go on duty in bathhouse offices until they have become familiar with the rules, have interviewed the superintendent or his representative, and have received approval from his office.

When an employee has been on extended leave of absence a month or longer, the park office must be notified in advance of his or her return to duty, so that a physical examination may be had and other pertinent information obtained for our records.

59. *Physical examination.*—No person who comes in physical contact with bathers shall be permitted to work in the bathhouses without first having a complete physical examination, made by one of the examining physicians at the Government free clinic. A health card will be issued to each employee at the time of examination, which card shall be framed and hung in the room where the employee works.

A physical examination will be given employees monthly, usually on the first of the month unless it falls on Saturday, Sunday, or a holiday. Notification of the date and hour will be given in advance. Employees affected are as follows: Attendants, masseurs and masseuses, physiotherapists and assistants, beauty parlor operators, mercury rubbers, chiropodists, helpers, shower and pack-room employees, maids—in fact, all employees who come in personal contact with bathers. None of these employees will be permitted to bring certificates from private physicians, but must report for the examination at the Government free clinic on the date and at the hour specified.

When reporting for monthly examination, employees shall bring their health cards to be signed by the examining physician.

60. *Tips.*—Soliciting, directly or indirectly for gratuities, commonly called "tips" is forbidden in all bathhouses. Attendants and other employees are to be informed of this ruling for their information and protection. It seems necessary that the bathhouse managers instruct their employees that they are strictly prohibited from borrowing money from patrons of the bathhouses. If it is proved that employees are borrowing money from patrons, they will be suspended or discharged. Attendants and other employees are warned that disciplinary action will be taken against those soliciting tips or failing to give proper service on account of not receiving tips. Attention is called to the fact that soliciting for churches, church dinners, church singing, and other affairs goes on among the personnel of the various bathhouses. Please call to the attention of every one connected with the bathhouse that there must be no more soliciting, either directly or indirectly, of the patrons for anything at all.

61. *Food.*—Bathhouse managers shall not permit the bathhouse personnel to bring food into the bathhouse. All eating must be confined to attendants' quarters. This does not apply, of course, to clerks or office help having lunches sent in to them when necessary.

62. *Card playing.*—Card playing in the bathhouses is strictly prohibited, and violation of this order will subject them to dismissal from the bathhouse service.

63. *Smoking* by patrons may be carried on only in such rooms as are set aside for them by the bathhouse managers • • • subject to the approval of the superintendent. Smoking by attendants may be carried on only in the attendants' quarters.

B. Bath Attendants

64. *Attendants.*—No person shall be permitted to work in the bathhouses as attendant without first having passed (1) a written examination as to his or her qualifications as prescribed by the superintendent, (2) a physical examination, and (3) have paid the privilege fee.

Bathhouse attendants shall be allowed to charge for their services not exceeding 20 cents for a single bath, or $4 per course of 21 baths, to be collected for the attendants by the bathhouse manager and properly accounted for by him to the attendant. The duties of the attendants shall consist in the administration of the baths in strict accordance with the bathing directions of registered physicians and in lieu of these as ordered by the superintendent. They shall be required to clean and care for such parts of the bathhouse as may be assigned them by the manager, subject to the approval of the superintendent; to keep themselves in a neat and cleanly condition both in person and in dress; and to make good any damages accruing from breakage or neglect of duty. They shall not be required to handle helpless individuals; rub mercury, furnish mops, brooms, or cleaning materials; furnish or launder towels, mitts, sheets, or robes; pay for the services of the porter or perform work which properly belongs to him; or incur any expense whatsoever incident to the operation of the house not specifically authorized. No person shall be employed in any bathhouse without the approval of the superintendent first had and obtained; and every person so employed shall be subject and amenable to the rules and regulations.

65. Bath attendants shall be required to take a written examination when ordered by the superintendent, after which successful candidates shall be granted certificates as qualified attendants and furnished with a numbered badge to be worn at all times while on duty, for such time as may be determined by the Secretary of the Interior.

66. Two consecutive failures to qualify as attendant shall debar the applicant from further examination for a period of 1 year.

67. To entitle an applicant to a certificate as a qualified attendant a total mark of not less than 70 points shall be required, to be awarded by the superintendent or examining officer. In the grading of papers the experience and general adaptability of the applicant will be considered in determining the grade. In order to qualify for the position of attendant, an applicant must first serve an apprenticeship of at least 3 months as helper in the bathhouses.

68. Whenever the number of qualified attendants is in excess of the requirements of the service, those not employed shall be entitled to have their names enrolled upon a waiting list in the office of the superintendent.

69. Managers are prohibited from employing as an attendant any person not holding a certificate of qualification as such whenever there are five or more qualified attendants registered on the waiting list in the office of the superintendent; provided, however, that the superintendent may in his discretion authorize the temporary employment of not to exceed one helper by each bath attendant in order that they may serve an apprenticeship before making application for registration as attendants.

70. Managers may suspend or discharge attendants employed by them, but shall not have authority to revoke their licenses or to prohibit their employment in other houses.

71. An attendant suspended by the superintendent shall not be employed in any capacity in any bathhouse during the period of suspension.

72. An attendant discharged by the superintendent shall have his or her certificate of qualification revoked, and shall not again be employed in any capacity in any bathhouse for a period of not less than 6 months.

73. Managers are required to report immediately by letter to the superintendent the employment, suspension, resignation, or discharge of attendants, and to state cause in case of suspension or discharge.

74. Effective July 1, 1932, the superintendent is authorized to collect a fee of $6 per annum to cover the cost of physical examinations from all bath attendants operating in bathhouses receiving hot water from the Hot Springs National Park. Such fee shall be prorated by the superintendent for any fractional part of a year at the rate of 50 cents per month or part thereof, and is payable semiannually at the office of the superintendent within 5 days from July 1 and January 1. In default of such payment the superintendent may, in his discretion, revoke the licenses of delinquent attendants.

The fees prescribed in the foregoing paragraph are payable in advance in the form of postal money order or certified or cashier's check in net amount of the fee, drawn to the order of the Superintendent, Hot Springs National Park, or in legal tender, and are not subject to refund either in whole or in part.

75. *Care of attendants' quarters.*—It is requested that at the beginning of each month, the names of attendants responsible for the care of male and female attendants' quarters be posted in the quarters. At the beginning of each month a list should be posted in each male and female quarters, showing the name of the responsible attendant for each week in the month.

C. Masseurs and Masseuses

76. *Masseurs and masseuses.*—No person shall be permitted to serve in the bathhouses as masseur or masseuse without first presenting himself or herself for examination before a board appointed by the superintendent, to qualify as to his or her competency. Examinations will be both practical and written, and will be given at such times as authorized by the superintendent. No masseur or masseuse will be permitted to work without first having passed the mental and physical examinations and having paid the privilege fee.

77. A treatment (hand massage) by masseur or masseuse must cover a 30-minute minimum period, except where otherwise prescribed by a registered physician.

78. Under the present regulations, masseurs and masseuses are the only bathhouse employees who are permitted to give alcohol rubs to bathers.

79. Each bathhouse masseur or masseuse shall appear when notified by the superintendent before a board appointed by him, to qualify as to his or her competency; and no bathhouse manager shall permit massage to be given by other than a qualified masseur or masseuse. Applicants for the position of masseurs or masseuses must be graduates of reputable schools of massage or furnish evidence of at least 18 months of practical experience in the practice of massage. They will be given a written and practical examination in subjects pertaining to massage. Two consecutive failures to qualify as masseur or masseuse will debar the applicant from further examination for a period of 1 year.

80. Masseurs and masseuses are forbidden to make diagnoses of ailments, to prescribe any drugs, chemicals, or medicines for internal administration; or to prescribe diets or waters. They shall not use in their work clinical thermometers, stethoscopes, or any other instruments employed by physicians.

81. No form of electric current shall be administered or recommended to the patient of any physician without such physician's direction.

82. All tickets shall be sold and collected for by the bathhouse manager and properly accounted for by him to the operator.

83. Except at the Arlington Hotel, where the operator of the massage departments shall receive not less than 60 percent of the gross receipts to cover the cost of operating the department, masseurs and masseuses in all bathhouse massage departments shall receive not less than 95 cents for each massage treatment given. Rental of massage space in the bathhouse from the bathhouse operators is permissible only when such rental arrangements have been approved by the Secretary of the Interior as a supplement to the bathhouse contract, in which case the operator of the rented massage space will not be required to pay the bathhouse any sum exceeding 40 percent of the gross receipts for the privilege of operating in the bathhouse. The operator shall not be required to furnish any materials or equipment necessary in giving treatments, or incur any expense incident to the operation of the massage department; provided, that they shall be required to make good any damage accruing from breakage or neglect of duty. All materials and equipment used in massage departments shall be subject to the approval of the superintendent.

84. Effective July 1, 1932, the Superintendent is authorized to collect a fee of $6 per annum to cover the cost of physical examinations, from all masseurs and masseuses, beauty parlor operators, chiropodists, physiotherapists and their assistants, or anyone not considered by the superintendent as a helper, operating in bathhouses receiving hot water from the Hot

Springs National Park. Such fee shall be prorated by the superintendent for any fractional part of a year at the rate of 50 cents per month or part thereof, and is payable semiannually at the office of the superintendent within 5 days from July 1 and January 1. In default of such payment, the superintendent may, in his discretion, revoke the licenses of delinquent masseurs and masseuses or other operators.

The fees prescribed in the foregoing paragraph are payable in advance in the form of postal money order or certified or cashier's check in net amount of the fee, drawn to the order of the Superintendent, Hot Springs National Park, or in legal tender, and are not subject to refund either in whole or in part.

85. Failure to comply with the above regulations will subject the operator to immediate suspension or dismissal as may be determined by the superintendent.

D. Mercury Rubbers

86. Uniform charges shall be made at all bathhouses for rubs and inunctions by all mercury rubbers. The time consumed and parts to be rubbed shall be in accordance with the directions of the patients physician.

87. Mercury rubbers are forbidden to make diagnoses of ailments; to prescribe any drugs, chemicals, medicines, diets, or waters; or to employ any instruments used by physicians in the diagnosis or treatment of diseases.

88. No mercury rubber shall furnish mercury or be permitted to suggest the size of dose of mercury to be used.

89. Mercurial inunctions shall not be administered or recommended to the patient of any physician without such physician's directions.

90. When mitts, brushes, or the hands are used for rubbing mercury on a patient they must be thoroughly cleansed when the operation has been completed. If mitts or the bare hands are used, they must be washed immediately. If brushes are used, they must be immediately cleansed with a clean cloth. Failure to comply with these instructions will be cause for suspension or dismissal of the person guilty.

All patients using mercury must furnish their own mercury, and no employee in the bathhouse is allowed to furnish it for the use of bathers. Attention is also called to the fact that no bathhouse employee is permitted to prescribe mercury for any bather.

91. Failure to comply with the above regulations will subject the mercury rubber to immediate suspension or dismissal, as may be determined by the superintendent.

Reports

The following reports shall be made by bathhouse managers to the superintendent on forms approved by him:

92. *Daily report.*—To be submitted to the office of the superintendent not later than 1 o'clock on the day following that for which the report is made.

93. *Monthly report.*—To be submitted at the office of the superintendent in affidavit form within 5 days after the expiration of the month for which report is made.

94. *Employees.*—A complete list of employees who come in personal contact with bathers to be submitted on the last day of each month.

95. *Annual report.*—A statistical report to be submitted at the office of the superintendent, in affidavit form, in duplicate, within 5 days after the expiration of the fiscal year for which the report is made. Also within 15 days after calendar year a sworn financial report for calendar year.

96. *Annual report of stockholders.*—At first of each calendar year the secretary of each bathhouse shall submit to the office of the superintendent, in duplicate, a sworn statement of the ownership of the bathhouse, and if a partnership, stock company, etc., a list of the shareholders, their addresses, and the number of shares owned by each shall be submitted.

Transfers of Stock or Interest in Bathhouses

97. Due to the fact that transfers of stock in bathhouses are made at irregular intervals, and due to the further fact that the administrative control over transfers in interest in bathhouses is made obligatory on the National Park Service by act of Congress dated March 3, 1891, it becomes necessary that all proposed transfers of stock in bathhouses receiving water from Hot Springs National Park receive approval, in writing, of the Director of the National Park Service before the transfer is consummated. Transfers of stock or interest in bathhouses will not be valid except those approved in this manner.

Applications for such transfers shall be submitted to the superintendent of Hot Springs National Park, in duplicate, and he will forward them to Washington. The form should be as follows:

HOT SPRINGS, ARK., ----------, 19--.

SUPERINTENDENT, HOT SPRINGS NATIONAL PARK, ARK.:

Approval is requested for the transfer of ------ shares of stock in the ---------- Bathhouse, from ----------
(Owner)
to ---------- ----------'s affidavit that he
(Purchaser) (Purchaser)
(or she) does not own any stock or interest in any other bathhouse receiving hot water from Hot Springs National Park is enclosed.

(To be signed by officer of company or bathhouse manager)

The form of affidavit statement of purchaser is as follows:

HOT SPRINGS, ARK., ----------, 19--.

I, ----------, hereby certify that I own no interest
(Purchaser)
in any bathhouse receiving hot water from Hot Springs National Park, except the ----------.

(To be signed by purchaser)

Witness of notary.

Changing of Equipment

98. The attention of the bathhouse managers is called to the fact that no additional facilities or equipment for bathing, such as sitz baths, showers, cabinet vapors, and the like, are to be installed in any bathhouse without permission having been obtained from the park office. All changes in the bathhouses must have the approval of the superintendent before being made, especially in view of the fact that rates for baths are determined partially by the equipment contained in the bathhouses. Exterior changes to bathhouse buildings, including color of painting, must have prior approval of the superintendent.

RULES FOR THE GOVERNMENT OF THE FEDERAL REGISTRATION BOARD

99. There shall be a president and a secretary elected by the board, who shall each serve for 1 year and until his successor is elected and qualified. Such election shall be held at the annual meeting, which shall be the first regular meeting of the board after the personnel thereof for the ensuing year has been determined by the Secretary of the Interior. Should a vacancy occur in either position by death, resignation, or otherwise, such vacancy shall be filled by the board at its first regular meeting next succeeding the date the vacancy occurs, or at a special meeting called for that purpose.

100. Three members of the board shall constitute a quorum, with full authority to transact any and all business that may come before the board.

101. Minutes of all business transacted by the board shall be reduced to writing and be copied in a record provided for the purpose, and at the next regular or special meeting the minutes of the previous meeting shall be read and approved, with such corrections, if any, as the board may consider proper to make.

102. The regular monthly meetings shall be held on the second and fourth Wednesdays of each month at 8 p. m., and all routine business not filed with the secretary of the board at least 24 hours before the time fixed for the meeting will not be considered, but will be held for consideration until the next regular meeting; provided, however, that the president of the board may waive this provision when in his judgment the exigencies of the case demand it. Such other meetings may be held as the board may deem necessary, prior notice thereof to be duly given.

Examination of applicants for registration shall be held quarterly on a date to be fixed by the board. Any registered doctor hereafter dropped from the list of registered physicians will not be restored until after he successfully passes the regular examination prescribed by the board for original registration, nor shall any such physician be eligible for examination for a period of 5 years from the date on which his name was dropped from the registered list; provided, that the Secretary of the Interior may, in his discretion, authorize the examination of such physician at any time after 1 year from said date.

103. The following rules shall govern applicants for registration:

(*a*) To be entitled to registration applicants must be graduates of some reputable medical school legally authorized to confer the degree of doctor of medicine, or of some reputable school of osteopathy recognized by the American Osteopath Association, and must have complied with the laws of the State of Arkansas relating to the admission of physicians to the practice of medicine and surgery, or either, within said State.

(*b*) Applicants will be required to furnish in writing such evidence as the board may desire touching their personal history and personal and moral character and standing during the 5 years next preceding the date of their applications, such evidence to be placed in the hands of the secretary of the board not later than 10 days prior to the regular date for examination of applicants. Applicants will also be required to submit to such examination as the board may see proper to subject them, touching their qualifications and knowledge of medicine and surgery and to prescribe the hot waters; Provided, that the names of medical officers of the Army stationed at the Army and Navy General Hospital in Hot Springs, Ark., shall be placed on the list of registered physicians without examination while assigned to this hospital.

Physicians who have successfully passed the examination of the National Board of Medical Examiners shall not be required to submit to an examination by the Federal Registration Board provided that their moral and ethical qualifications are satisfactory upon investigation by the board.

(*c*) An applicant who twice fails in his examination before the Federal Registration Board shall not be permitted to again take the examination prescribed by the board until after the lapse of 1 year from the date of his last failure.

(*d*) No registered physician shall be permitted to associate himself in practice looking to the prescribing of the waters of the Hot Springs with a nonregistered physician or other person publicly professing to cure or heal, under penalty of having his name removed from the registered list. Before any assistant is employed by a registered physician, his name must be submitted to the superintendent of the park, together with such other information as may be called for by the superintendent. Registered physicians must also notify the superintendent of any contemplated absence from Hot Springs and give the name of the person in charge of his office during such absence. Registered physicians will be held strictly accountable for the actions of their assistants, and any violation of these regulations by the registered physician or his assistant or assistants will be deemed sufficient cause for the removal of the name of such physician from the registered list. The name of any registered physician who shall give bath directions for the patients of a nonregistered physician shall be removed from the registered list, but this shall not apply to the prescribing of the waters of the Hot Springs for the patients of another practitioner who, while legally licensed by the State of Arkansas to treat ailments of the human system, is not eligible for registration under paragraph (*a*) hereof; Provided, that in all such cases the registered physician so prescribing shall deal directly with the patient and shall receive no fee, commission, or other compensation, either directly or indirectly, from such other practitioner on penalty of having his name removed from the registered list; and provided, that the name of such other practitioner treating such patient shall be given on the bath directions.

(*e*) No registered physician, upon removal of his offices from one location to another, shall publish in any newspaper notice to that effect for a longer period than 1 month, and no registered physician, upon returning from an absence from the city of Hot Springs, shall publish such notice in any newspaper for longer than 1 week.

(*f*) Registered physicians, occupying offices formerly occupied by physicians who have died, retired, or have been placed on the nonactive list of registered physicians are required to have the names of such nonactive physicians removed without delay from signs, windows, and directories in the buildings in which such physicians formerly practiced, and upon noncompliance within 10 days with this provision may be suspended by the Secretary of the Interor until the delinquencies have been remedied.

104. The order for the transaction of business before the board shall be as follows:

(*a*) Reading and approval of minutes of previous meeting.
(*b*) Consideration of new business.
(*c*) Consideration of unfinished business.
(*d*) Examination of applicants for registration.
(*e*) Miscellaneous business.

Applicants for examination preliminary to registration under paragraph 4 hereof will be required to pay the sum of $10 to the superintendent as examination fee prior to admittance to examination.

Persons having complied with the foregoing requirements for registration will be required to pay the sum of $15 to the superintendent as registration fee.

Any physician on the registered list desiring to change his residence from Hot Springs or to retire from active practice longer than 1 year, and during such absence retain his registration, may file application in writing with the superintendent to be placed upon the nonresident list.

If such physician should desire to return to active practice at Hot Springs and have his name again placed upon the list of registered physicians, he may so apply in writing, stating his residence and occupation during the time he has been on the nonresident list, and shall give three references who can vouch for his conduct. The Federal Registration Board shall require an endorsement by the Garland County Hot Springs Medical Society of any physician requesting his name to be restored to the active list of registered physicians. Upon approval of these references by the superintendent, such physician shall be placed upon the list of registered physicians and shall be governed by all the rules applying to registered physicians.

The fees prescribed in the foregoing paragraph are payable in advance in the form of postal money order or certified or cashier's check in net amount of the fee, drawn to the order of the Superintendent, Hot Springs National Park, or in legal tender, and are not subject to refund either in whole or in part.

The provisions of the foregoing paragraphs shall not apply to physicians stationed at the Army and Navy General Hospital not doing outside practice, and upon approval of the Federal Registration Board physicians regularly doing clinical work at the United States Public Health Service Clinic or Leo N. Levi Memorial Hospital may be exempted therefrom.

The foregoing rules are subject to amendment at any regular meeting of the board on the giving of 30 days' notice in writing of the proposed amendment, subject, however, to the approval of the Secretary of the Interior.

Holidays and Use of Flags

The following holidays are legalized by the Federal Government and it is desired that the bathhouses close at noon on such days:

New Year's Day, January 1.
Washington's Birthday, February 22.
Decoration Day, May 30.

Independence Day, July 4, and December 25, Christmas Day, are also legal holidays and it is desired that bathhouses remain closed during these entire days.

Thanksgiving Day, in November, is usually declared a holiday by proclamation of the President, and the bathhouses will close at noon on that day.

On local holidays of importance you will be advised as to whether or not you shall close at noon.

106. It is requested that the bathhouses be suitably decorated on all holidays.

107. *Flags.*—The following are the rules for the use of the flag:

The flag should be displayed from sunrise to sunset only.

When a flag is placed on a building other than on a staff—whether indoors or out—the Union should be uppermost and to the flag's right. In other words, when a person looks at the flag it should be to the observer's left. The blue field must always be to the left of the observer.

On Memorial Day the flag is displayed, when on the flagpole, at half-mast from sunrise until noon, and then at full-mast from noon to sunset.

When the flag is in such condition that it is no longer fit for display, it should be destroyed by burning, so that it cannot be used for any other purpose save that for which it was originally intended.

The flag of the United States is to be used in decorating the buildings only on national holidays and on such days as orders are issued from the office of the superintendent. Flags shall not be put up at the request of the chamber of commerce or any other organization except the National Park Service.

It is desired that all flags be hauled down in the evening at sunset and raised at sunrise as near as possible.

Approved: June 21, 1937.

CHARLES WEST.
Acting Secretary of the Interior.

[F. R. Doc. 38-366; Filed, February 3, 1938; 10:07 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

CORRECTIONS TO AMENDMENTS TO THE GREAT LAKES LOAD LINE REGULATIONS

As printed in the Federal Register, Volume 2, No. 188, page 2319, issue of September 29, 1937:

Par. (j): Delete the word "steel" in the third line. The paragraph will then read:

"(j) Add the followng to Part 2. Rule 1, as a continuation of the last subparagraph: 'Except steel tank barges especially constructed for the carriage of liquids in bulk and cargo barges having only small access hatches in the freeboard deck, the load lines for which may be calculated under Part 5.'"

Par. (m), subparagraph (d): Delete the figure "2½" in the third line and substitute therefor the figure "2¼". This paragraph will then read:

"(d) Where wood hatch covers are used they are to be made of long leaf yellow pine or fir and the finished thickness is not to be less than 2¼ inches in association with a span of 6 feet. The width of each bearing surface is to be at least 2½ inches."

Approved February 3, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-374; Filed, February 3, 1938; 12:30 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

PROVISION FOR FILING OF CLAIMS AGAINST DECEDENTS' ESTATES
AMENDMENT OF LOAN SERVICE CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Sections 4–a and 4–k of said Act as amended, it is hereby ordered that the Loan Service Chapter of the Consolidated Manual be amended by adding the following to Sec. 203 (d), to be designated 203 (d) (1), which shall read as follows:

SEC. 203 (d) (1). In cases where the home owner or other obligor has died, except in jurisdictions where it is legally necessary to file a claim to protect the interests of the Corporation, the General Manager shall determine whether a claim shall be filed against the estate of the decedent. Ordinarily probate claims will not be filed where it appears that any of the following circumstances obtain:

(*a*) That the account will be maintained in good standing or satisfactory payment made.

(*b*) That the assets of the estate are insufficient or of such nature that they cannot be reached by a claim.

(*c*) That the satisfaction of a claim from assets other than the security of the Corporation will deprive the family of its only means of livelihood or otherwise result in extreme hardship.

The General Manager shall refer the cases where he determines a claim should be filed to the Legal Department, and unless there are legal reasons which would make it inadvisable to file the claim the Legal Department shall proceed to file the same.

The authority herein vested in the General Manager may be exercised also by Regional, State or District Managers under procedure and limitations prescribed by the General Manager with the approval of the General Counsel.

Adopted by the Federal Home Loan Bank Board on February 2, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-375; Filed, February 3, 1938; 12:43 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2445]

IN THE MATTER OF GENERAL DISTILLERIES CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission be, and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 9, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-359; Filed, February 2, 1938; 3:44 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2620]

IN THE MATTER OF WEST PENN DISTILLING COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to the authority vested in the Federal Trade Commission under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 9, 1938, at one o'clock in the afternoon of said day, at room 500, 45 Broadway, New York, New York (eastern standard time).

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-360; Filed, February 2, 1938; 3:44 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2714]

IN THE MATTER OF KEYSTONE DISTILLING COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 9, 1938, at three o'clock in the afternoon of that day (eastern standard time), at room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-361; Filed, February 2, 1938; 3:44 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3161]

IN THE MATTER OF GOLF BALL MANUFACTURERS' ASSOCIATION, AN UNINCORPORATED TRADE ASSOCIATION; ITS OFFICERS AS FOLLOWS: LAWRENCE B. ICELY, PRESIDENT, EDWARD C. CONLIN, VICE PRESIDENT, WILLIAM T. BROWN, SECRETARY AND TREASURER, ITS MEMBERS, AND A. G. SPALDING AND BROTHERS, A CORPORATION, JOHN WANAMAKER, INC., A CORPORATION, L. A. YOUNG GOLF COMPANY, A CORPORATION, WORTHINGTON BALL COMPANY, A CORPORATION, WILSON SPORTING GOODS COMPANY, A CORPORATION, U. S. RUBBER PRODUCTS COMPANY, A CORPORATION, DUNLOP TIRE AND RUBBER COMPANY, A CORPORATION, AND ACUSHNET PROCESS COMPANY, A CORPORATION, INDIVIDUALLY AND AS REPRESENTATIVE MEMBERS OF SAID ASSOCIATION, AND THEIR OFFICERS, AGENTS AND EMPLOYEES, PROFESSIONAL GOLFERS ASSOCIATION OF AMERICA, AN UNINCORPORATED ASSOCIATION, ITS OFFICERS AS FOLLOWS: GEORGE R. JACOBUS, PRESIDENT, JACK B. MACKIE, TREASURER, TOM WALSH, SECRETARY, ITS MEMBERS, AND C. M. IRWIN, AN INDIVIDUAL, TOM KERRIGAN, AN INDIVIDUAL, JOE BRADLEY, AN INDIVIDUAL, JIM DANTE, AN INDIVIDUAL, JACK FOX, AN INDIVIDUAL, JACK HAGEN, AN INDIVIDUAL, JOHN INGLIS, AN INDIVIDUAL, R. C. MACDONALD, AN INDIVIDUAL, ALEX MAIN, AN INDIVIDUAL, AND JACK FORRESTER, AN INDIVIDUAL, INDIVIDUALLY AND AS REPRESENTATIVE MEMBERS OF SAID ASSOCIATION, RESPONDENTS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U. S. C. A., Section 41) and (49 Stat. 1526, U. S. C. A., Sec. 13, as amended),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, February 18, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 901, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-362; Filed, February 2, 1938; 3:45 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3191]

IN THE MATTER OF MORRIS R. SHAPIRO, CHARLES SHAPIRO, MARY SHAPIRO AND MRS. ROBERT SHAPIRO, CO-PARTNERS TRADING AS UCA MANUFACTURING COMPANY, UCA MENTHO COMPANY, UCA-MENTHO LABORATORIES, AND ROBERT MORE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal

Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, February 18, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-363; Filed, February 2, 1938; 3:45 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3257]

IN THE MATTER OF DERMAY PERFUMERS, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 7, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-364; Filed, February 2, 1938; 3:45 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of January, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3286]

IN THE MATTER OF ALFRED BOEHM, DOING BUSINESS AS LYNX KNITTING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 7, 1938, at two o'clock in the afternoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-365; Filed, February 2, 1938; 3:46 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of February, A. D. 1938.

IN THE MATTER OF FOREMAN AND COMPANY, INCORPORATED, 209-14 CALIFORNIA BUILDING, DENVER, COLORADO

ORDER REVOKING REGISTRATION

The registration of Foreman and Company, Incorporated, as a broker and dealer on the over-the-counter markets, having come on for hearing before the Commission upon the question of revocation or suspension; and

The Commission having this day made and filed its findings of fact herein;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Foreman and Company, Incorporated, be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-368; Filed, February 3, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of January 1938.

[File No. 1-2587]

IN THE MATTER OF JUMBO EXTENSION MINING COMPANY COMMON CAPITAL STOCK PAR VALUE 10 CENTS, ASSESSABLE

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding, pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the San Francisco Mining Exchange of 4,100,000 shares of Common Capital Stock, Par Value 10 Cents, Assessable, of Jumbo Extension Mining Company shall be suspended or withdrawn; and

After appropriate notice, a hearing having been held in this matter on November 16, 1937, in San Francisco, California; and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Section 12 (b) of said Act, as amended, and Rule JB1, Form 10 for Corporations and the Instructions supplemental thereto, prescribed under said Section, and has also failed to comply with Section 13 of said Act, as amended, and Rules KA1 and KA2, Form 10-K and the Instructions supplemental thereto, prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act, as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said Common Capital Stock, Par Value 10 Cents, Assessable, on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the San Francisco Mining Exchange of 4,100,000 shares of Common Capital Stock, Par Value 10 cents, Assessable, of Jumbo Extension Mining Company, shall be and the same is hereby withdrawn, effective as of February 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-369; Filed, February 3, 1938; 11:06 a. m.]

UNITED STATES MARITIME COMMISSION.

[General Order No. 21]

REGISTRATION OF PERSONS ENTITLED TO PRACTICE BEFORE THE UNITED STATES MARITIME COMMISSION

The United States Maritime Commission, pursuant to authority conferred upon it by the Merchant Marine Act, 1936, particularly Section 204 (b) thereof, hereby prescribes and adopts as necessary and appropriate in the public interest rules for the registration of persons entitled to practice before the Commission, together with Forms 4524 (Revised) and 4525 (Revised) for the filing of applications for permission to practice before the Commission, and Form 4526, the Form of Oath, all of which are attached hereto [1] and made a part hereof as though fully set forth.

A register shall be maintained by the Commission in which will be entered the names of all persons entitled to practice before the Commission.

This order shall be effective immediately. General Order No. 17 is hereby rescinded.

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, JR., *Secretary*.

February 2, 1938.

RULES FOR THE REGISTRATION OF PERSONS ENTITLED TO PRACTICE BEFORE THE UNITED STATES MARITIME COMMISSION

No person shall be admitted to practice before the Commission whose application has not been approved or who has been suspended or disbarred from such practice, nor shall firms or corporations be so admitted. These rules shall not apply, however, to any person who appears before the Commission on his own behalf or on behalf of any corporation, partnership or association of which he is an officer or regular employee.

1. *Classes of persons who may be admitted.*—The following classes of persons of good moral character found by the Commission to possess the requisite qualifications to represent others may be admitted to practice before the Commission for two years:

(*a*) *Attorneys at law.*—Attorneys at law who are admitted to practice before the Supreme Court of the United States or the highest court of any State or Territory or the District of Columbia.

(*b*) *Persons not attorneys.*—Any person not an attorney at law who is a citizen of the United States and who shall file proof to the satisfaction of the Commission that he is possessed with the necessary legal, technical or other qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission.

2. *Applications for admission.*—Application for admission to practice before the Commission shall be made on the forms prescribed therefor which may be obtained from the Secretary of the Commission, and shall be addressed to the United States Maritime Commission, Washington, D. C.

3. *Hearing; withdrawal of application.*—The Commission in its discretion may call upon the applicant for a full statement of the nature and extent of his qualifications. If the Commission is not satisfied as to the sufficiency of the applicant's qualifications, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents to the Commission no request for such hearing within 20 days after receiving the notification above referred to, his application shall be deemed to be withdrawn.

4. *Suspension or disbarment.*—The Commission may, in its discretion, deny admission, suspend, or disbar any person from practice before the Commission who, it finds, does not possess the requisite qualifications to represent others, or is lacking in character, integrity, or proper professional conduct. Any person who has been admitted to practice before the Commission may be disbarred from such practice only after he is afforded an opportunity to be heard.

5. *Statement of interest.*—The Commission, in its discretion, may call upon any registered practitioner for a full statement of the nature and extent of his interest in the subject matter presented by him before the Commission. Attorneys retained on a contingent fee basis shall file with the Commission a copy of the contract of employment.

By order of the United States Maritime Commission.

W. C. PEET, JR., *Secretary*.

[F. R. Doc. 38-367; Filed, February 3, 1938; 10:30 a. m.]

[1] The forms were filed as a part of the original document with the Division of the Federal Register, The National Archives; copies available upon application to the United States Maritime Commission.

Saturday, February 5, 1938 *No. 26*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49377]

PROTEST FILED UNDER SECTION 516 (B), TARIFF ACT OF 1930, AGAINST LIQUIDATION OF AN ENTRY COVERING FRESH OR DRIED DATES

COLLECTORS OF CUSTOMS INSTRUCTED TO SUSPEND LIQUIDATION OF ENTRIES INVOLVED

To Collectors of Customs and Others Concerned:

Reference is made to T. D. 49166 approved September 25, 1937, published in the weekly Treasury Decisions, vol. 72, no. 14, of September 30, 1937, proclaiming the classification of and rate of duty imposed upon fresh or dried dates packed in the manner described in said treasury decision.

Publication of the above-mentioned decision was occasioned by a complaint with respect to the classification of and rate of duty imposed upon the merchandise described in T. D. 49166 filed, under section 516 (b) of the Tariff Act of 1930 (U. S. C., title 19, sec. 1516 (b)), by Van Dyk & Reeves, Inc., 167 41st Street, Brooklyn, New York, an American manufacturer, producer and wholesaler of such merchandise.

Notice of a desire to protest having been filed with the Secretary of the Treasury, and a protest having been filed with the collector of customs at Seattle, Wash., (No. 15618), against the liquidation on December 10, 1937, of Seattle warehouse entry no. 139, in form and substance as in the statute provided, pending the decision of the United States Customs Court on the protest in question collectors of customs will suspend the liquidation of all unliquidated entries covering fresh or dried dates packed in the manner described in T. D. 49166, imported or withdrawn from warehouse after the expiration of thirty days following the publication of T. D. 49166, and will comply in all respects, in connection

with the liquidation or reliquidation of entries of such merchandise, with the provisions of section 516 of the Tariff Act of 1930.

[SEAL] J. H. MOYLE,
Commissioner of Customs.

Approved, February 1, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-376; Filed, February 3, 1938; 1:57 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 212]

AN ORDER MODIFYING ORDER NO. 97, AS MODIFIED BY ORDER NO. 136, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 9, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES TO BE KNOWN AS "SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 9"

The National Bituminous Coal Commission having by its Order No. 97, as modified by Order No. 136, determined and established the minimum prices of coals of code members produced within District No. 9, as set forth in "Price Schedule No. 1—District No. 9", and "Supplement No. 1 to Price Schedule No. 1—District No. 9", and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid price schedule and supplement by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 9, established in "Price Schedule No. 1—District No. 9", as supplemented by "Supplement No. 1 to Price Schedule No. 1—District No. 9", are hereby further supplemented as set forth in "Supplement No. 2 to Price Schedule No. 1—District No. 9", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 2, shall be and hereby are determined and established as the minimum prices of coals of code members within said District No. 9, and shall be effective at 12:01 o'clock A. M., on the 12th day of February, 1938.

2. That said Order No. 97, as modified by Order No. 136 and as modified herein, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this order and Supplement No. 2 to Price Schedule No. 1—District No. 9 to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 9; shall cause copies of this order and said Supplement No. 2 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all statistical bureaus of the Commission; and shall cause to be published a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 2 TO PRICE SCHEDULE NO. 1, DISTRICT NO. 9

To All Code Members Within District No. 9:

Effective February 12, 1938, the following table shall be substituted for the table appearing in Price Schedule No. 1.

By order of the Commission.

Dated this 3rd day of February, 1938.

F. W. MCCULLOUGH, *Secretary.*

Prices in Cents per Net Ton of 2,000 Pounds for Shipment Into Market Area No. 18

Size groups	AA	A	B	Size groups	AA	A	B
1	236	236	216	9 [1]	206	166	166
2	226	226	216	10	196	156	156
3	216	216	216	11	186	146	146
4	206	206	191	12	171	136	136
5	236	196	196	13	181	146	146
6	226	176	176	14	111	76	76
7	226	176	176	15			
8	226	176	176	16	176	176	176

[1] "2" screenings of their respective preparation (Raw or Washed) shall be ten (10) cents per ton higher than the prices of the Size Groups 9 and 11.
"3" screenings of their respective preparation (Raw or Washed) shall be twenty (20) cents per ton higher than the prices of the Size Groups 9 and 11.

Important.—Exceptions are a part of these prices and must be complied with.

[F. R. Doc. 38-380; Filed, February 4, 1938; 11:36 a. m.]

[Docket No. 176-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMERS' COUNSEL, ON BEHALF OF HAMMERMILL PAPER COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum price of coals of code members produced within District No. 2, as established by Commission's Order No. 90, and orders supplemental thereto:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock, A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WICHTER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-388; Filed, February 4, 1938; 11:38 a. m.]

[Docket No. 177-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMERS' COUNSEL, ON BEHALF OF THE LOVELL MANUFACTURING COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within District No. 2, as established by Commission's Order No. 90, and orders supplemental thereto:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-386; Filed, February 4, 1938; 11:38 a. m.]

[Docket No. 178-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMERS' COUNSEL, ON BEHALF OF THE CONTINENTAL RUBBER COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within District No. 2, as established by Commission's Order No. 90, and orders supplemental thereto:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumer's Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-387; Filed, February 4, 1938; 11:38 p. m.]

[Docket No. 179-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMER'S COUNSEL ON BEHALF OF THE CITY OF ERIE, PENNSYLVANIA

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within District No. 2, as established by Commission's Order No. 90 and orders supplemental thereto:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-385; Filed, February 4, 1938; 11:37 a. m.]

[Docket No. 180-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMERS' COUNSEL, ON BEHALF OF THE UNION IRON WORKS

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within District No. 2, as established by Commission's Order No. 90 and orders supplemental thereto:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-384; Filed, February 4, 1938; 11:37 a. m.]

[Docket No. 182-FD]

IN THE MATTER OF THE PETITION OF UNION COLLIERIES COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within District No. 2, as established by Commission's Order No. 90, and orders supplemental thereto:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-383; Filed, February 4, 1938; 11:37 a. m.]

[Docket No. 183-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMERS' COUNSEL, ON BEHALF OF THE SCHOOL DISTRICT OF THE CITY OF ERIE, PENNSYLVANIA

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within

District No. 2, as established by Commission's Order No. 90, and orders supplemental thereto:

Now therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-382; Filed, February 4, 1938; 11:37 a. m.]

[Docket No. 274-FD]

IN THE MATTER OF THE PETITION OF JOHN CARSON, AS CONSUMERS' COUNSEL, ON BEHALF OF THE RUBEROID COMPANY

NOTICE OF HEARING

A petition having been filed with this Commission by the petitioner above named alleging dissatisfaction with the minimum prices of coals of code members produced within District No. 2, as established by Commission's Order No. 90, and orders supplemental thereto:

Now, therefore, it is hereby ordered:

1. That the above entitled proceeding is assigned for hearing on February 8, 1938, at 10:00 o'clock A. M. at the Hearing Room of the Commission in Washington, D. C., when opportunity will be afforded interested parties to be heard.

2. A copy of the aforesaid petition is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

3. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-381; Filed, February 4, 1938; 11:36 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-65 O-65]

NOTICE OF HEARING—PROPOSED MARKETING AGREEMENT AND ORDER REGULATING SHIPPING OF FRESH PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN STATE OF CALIFORNIA

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the shipping in interstate and foreign commerce, and such shipping as directly burdens, obstructs, or affects interstate or foreign commerce, of fresh pears, plums, and Elberta peaches grown in the State of California;

Now, therefore, pursuant to the said act and said general regulations notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such shipping of fresh pears, plums, and Elberta peaches grown in the State of California in the Chamber of Commerce Auditorium, 917 Seventh Street, Sacramento, California, on February 21, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such shipping in interstate and foreign commerce, and such shipping as directly burdens, obstructs, or affects interstate or foreign commerce, of fresh pears, plums, and Elberta peaches grown in the State of California. Among other things, the proposed marketing agreement and order provide for: (a) the establishment of a Control Committee, (b) establishment of commodity committees, (c) reserve pool for fall and winter pears, (d) prohibition of unfair trade practices incident to marketing of Elberta peaches, (e) grade and size regulation of shipments, (f) expenses of administration, and other matters relating to the shipping of fresh pears, plums and Elberta peaches grown in the State of California.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated February 4, 1938.

[F. R. Doc. 38-391; Filed, February 4, 1938; 12:39 p.m.]

Bureau of Animal Industry.

FEBRUARY 3, 1938.

NOTICE

TO DEAN SULLIVAN AND JOHN W. SMEED, *doing business as Nampa Livestock Commission Company, Nampa, Idaho.*

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition.

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Nampa Livestock Commission Company, at Nampa, State of Idaho, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-390; Filed, February 4, 1938; 12:39 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2849]

IN THE MATTER OF PRENDERGAST-DAVIES COMPANY, LTD., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, February 10, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-377; Filed, February 4, 1938; 9:55 a. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER IN THE MATTER OF A UNIFORM SYSTEM OF ACCOUNTS TO BE KEPT BY STEAM ROADS

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 27th day of January, A. D. 1938.

The matter of accounting for revenues from trains operated for the joint benefit of two or more carriers being under consideration:

It is ordered, That Accounting Bulletin No. 15, Interpretations of Accounting Classifications, prescribed by the Interstate Commerce Commission for Steam Roads, effective January 1, 1918, be and it is hereby amended by the addition of the following:

CASE 297

Query: If the revenue from tickets lifted on each pooled passenger train is not readily determinable is it permissible under the provisions of special instructions in operating expenses, section 9, "Joint facility accounts," for each carrier to include in account 102, "Passenger," the revenue from the sales of its tickets applicable to the service of the joint trains and to account for the difference between the revenue thus accrued and the amount of revenue accruing under the joint facility arrangement in accounts 151, "Joint facility—Cr.," and 152, "Joint facility—Dr."?

Answer: It is.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-389; Filed, February 4, 1938; 12:24 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 1st day of February, 1938.

[File No. 1-742]

IN THE MATTER OF THE NEW YORK, CHICAGO & ST. LOUIS RAILROAD COMPANY FIRST MORTGAGE 4% BONDS, DUE OCTOBER 1, 1937

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the First Mortgage 4% Bonds, due October 1, 1937, of The New York, Chicago & St. Louis Railroad Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on February 11, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-378; Filed, February 4, 1938; 10:53 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of February, 1938.

[File No. 1-2949]

IN THE MATTER OF KNUDSEN CREAMERY COMPANY OF CALIFORNIA $1.50 CUMULATIVE CLASS "A" COMMON SHARES, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Knudsen Creamery Company of California, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its $1.50 Cumulative Class "A" Common Shares, No Par Value, from listing and registration on the Los Angeles Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 o'clock A. M. on Thursday, February 24, 1938, at 650 South Spring Street, Los Angeles, California, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard A. Judy and Charles R. Burr, or either of them, officers of the Commission, be

and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-379; Filed, February 4, 1938; 10:53 a. m.]

Tuesday, February 8, 1938 *No. 27*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

CORRECTING DESCRIPTION OF LANDS CONTAINED IN EXECUTIVE ORDER NO. 6897 OF NOVEMBER 7, 1934

WHEREAS an error has been discovered in the description of the western longitudinal limitation contained in Executive Order No. 6897 of November 7, 1934, transferring to the control and jurisdiction of the Secretary of the Navy certain lands off the southern coast of California:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and as President of the United States, it is ordered that the description of the said western longitudinal limitation be, and it is hereby, corrected to read as follows: "118°36'30" W."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 5, 1938.

[No. 7805]

[F. R. Doc. 38-409; Filed, February 7, 1938; 11:17 a. m.]

EXECUTIVE ORDER

FORT WILLIAM D. DAVIS MILITARY RESERVATION

Canal Zone

By virtue of and pursuant to the authority vested in me by section 5 of title 2 of the Canal Zone Code, approved June 19, 1934, and as President of the United States, it is ordered as follows:

SEC. 1. *Setting apart of reservation; boundaries.*—The following-described parcels of land in the Canal Zone are hereby reserved and set apart as, and assigned to the uses and purposes of, a military reservation, which shall be known as Fort William D. Davis Military Reservation, and shall be under the control and jurisdiction of the Secretary of War, subject to the provisions of sections 2 and 3 of this order:

PARCEL NO. 1

Beginning at a concrete monument, 5 inches square, marked "Point of Beginning" on Panama Canal drawing No. M-6105-1, located at the bottom of a small highway fill, 100 feet easterly and at right angles from the center line of the Panama Railroad right-of-way (center line of track span towers), opposite and easterly of the highway and railroad crossing between track span towers 5-17 and 6-1, the geographic position of said monument, referred to the Panama-Colon datum of the Canal Zone triangulation system, is in latitude 9°16' N., plus 4542.3 feet, and longitude 79°55' W., plus 203.5 feet from Greenwich; from this monument the azimuth (measured clockwise from true south) and distance to Military Survey of Panama triangulation station New Gatun is 69°45'57", 263.8 feet, which triangulation station New Gatun is a concrete monument, 6 inches square, located 8 feet from the top edge of a railroad cut, 120 feet westerly of the railroad and about midway between track span towers 6-1 and 6-2, the geographic position of said triangulation station, referred to the Panama-Colon datum of the Canal Zone triangulation system, is in latitude 9°16'44.161" N., and longitude 79°55'04.503" W., from Greenwich; from said triangulation station, the azimuths and distances to other Canal Zone triangulation stations are:

To Gatun, 56°49'02", 4,189.95 meters
To Indio, 94°36'12", 6,069.98 meters
To Fort Davis, 196°56'37", 1,643.81 meters

Thence from said initial point, by metes and bounds:

N. 72°37' E., 409.7 feet, to a monument, marked No. 1 on the map, which is an iron rail set into and flush with the surface at the intersection of two roads;

N. 20°26' W., 232.2 feet, along the road, to a monument, marked No. 2 on the map, which is a concrete block, 5 inches square, marked "M. R. 2";

N. 67°34' E., 102.9 feet, to a monument, marked No. 2-A on the map, which is a 6 inch square concrete monument;

N. 25°58' W., 135.4 feet, to a monument marked No. 2-B on the map, similar to the above;

N. 27°43' W., 201.7 feet, to a monument marked No. 2-C on the map, similar to the above, located at the P. C. of a curve;

On a curve to the right (R=1,935.1 feet) to a monument, marked No. 2-D on the map, similar to the above (The direct bearing and distance from No. 2-C to No. 2-D is N. 18°26' W., 624.6 feet);

On a curve to the right (R=1,935.1 feet) to a monument marked No. 2-E on the map, similar to the above, located at the P. T. of a curve (The direct bearing and distance from No. 2-D to No. 2-E is N. 00°10' E., 624.6 feet);

N. 02°09' E., 393.8 feet, to a monument, marked No. 2-F on the map, similar to the above;

N. 09°27' E., 1,727.7 feet, to a monument, marked No. 2-G on the map, similar to the above, located at the P. C. of a curve;

On a curve to the right (R=1,985.1 feet) to a monument, marked No. 2-H on the map, similar to the above (The direct bearing and distance from No. 2-G to No. 2-H is N. 15°13' E., 399.5 feet);

On a curve to the right (R=1,985.1 feet) to a monument marked No. 2-I on the map, similar to the above, located at the P. T. of a curve (The direct bearing and distance from No. 2-H to No. 2-I is N. 26°47' E., 399.5 feet);

N. 32°32' E., 1,705.5 feet, to a monument, marked No. 2-J on the map, similar to the above;

N. 30°36' W., 569.8 feet, to a monument, marked No. 23 on the map, which is a 1½-inch galvanized iron pipe, located on the northeastern end of the north dike of the Mindi hydraulic fill;

Southerly along the crest of the said dike to a monument, marked No. 24 on the map, similar to the above, located on the southwestern end of the said dike 100.0 feet easterly and at right angles from the center line of the Panama Railroad right-of-way (Center line of track span towers), opposite track span tower 4-16;

Southerly, along a line parallel to and 100 feet easterly and at right angles from the center line of the Panama Railroad right-of-way (Center line of track span towers) to the point of beginning.

PARCEL NO. 2

Beginning at a concrete monument, 6 inches square, marked No. 22-J on Panama Canal drawing No. M-6105-1, from which, monument No. 2-A of Parcel No. 1 is S. 67°34' W. 50.0 feet; the geographic position of No. 22-J, referred to the Panama-Colon datum of the Canal Zone triangulation system, being in latitude 9°16' N., plus 4,940.5 feet, and longitude 79°54' W., plus 5,759.8 feet:

Thence from said initial point, by metes and bounds:

N. 67°34' E., 248.2 feet, to a monument, marked No. 3 on the map, which is a 5 inch square concrete monument;

S. 67°38' E., 782.1 feet, through two brass plugs cemented into the curbs of the Bolivar Highway at 99.7 feet, and 133.7 feet, respectively, from monument No. 3, and through a monument marked No. 3-A on the map, which is an iron rod surrounded by a 6 inch square concrete collar, 682.1 feet from monument No. 3, to a monument, marked No. 4 on the map, which is a 1½ inch galvanized iron pipe;

N. 49°52' E., 835.0 feet, to a monument, marked No. 4-A on the map, which is a 2 inch galvanized iron pipe in an 8 inch square concrete monument;

S. 67°38' E., 1127.4 feet, through monuments marked No. 4-B and 4-C on the map, which are iron rods surrounded by 6 inch square concrete monuments, at distances of 382.5 and 1074.4 feet, respectively, from monument No. 4-A, to a monument, marked No. 4-D on the map, which is a 2 inch galvanized iron pipe in an 8 inch square concrete monument;

N. 49°52' E., 2326.7 feet, through monuments, marked No. 4-E, 4-F, 4-G and 4-H on the map, which are iron rods surrounded by 6 inch square concrete collars, at distances of 84.0 feet, 900.0 feet, 1555.0 feet and 2200.0 feet, respectively, from monument No. 4-D, to a monument, marked No. 4-I on the map, which is a 2 inch galvanized iron pipe in an 8 inch square concrete monument;

S. 87°36' E., 1042.4 feet, through a monument, marked No. 4-J on the map, which is an iron rod surrounded by a 6 inch square concrete collar, at a distance of 500.0 feet from monument 4-I, to a monument marked No. 7 on the map, which is a 5 inch pipe with a brass cap marked "Agua Clara Watershed, Gatun Water Supply";

S. 87°40' E., 2592.3 feet, through a monument marked No. 8 on the map, similar to the above, at a distance of 1872.4 feet from monument No. 7, to a monument marked No. 9 on the map, similar to the above;

S. 87°43' E., 479.5 feet, to a monument marked No. 10 on the map, similar to the above;

S. 87°41' E., 598.6 feet, to a monument marked No. 10-A on the map, similar to the above;

S. 87°19' E., 796.7 feet, to a monument marked No. 11 on the map, which is a 1½ inch galvanized iron pipe 100 feet west of the center line of the Panama Railroad right-of-way (Center line of tract span towers) and about midway between track span towers 10-5 and 10-6;

On a curve to the northwest, concentric with and 100 feet distant from the center line of the Panama Railroad right-of-way (Center line of track span towers) the chord of which curve bears N. 49°36' E., 1,548.4 feet to a monument marked No. 11-A on the map, which is a 3 inch pipe in a concrete base, located on the north slope of a high bank, and marking the point of tangency of said curve, between track span towers 10-13 and 10-14;

S. 88°23' E., 2,084.7 feet, along a line parallel to and 100 feet northerly of the center line of the Panama Railroad right-of-way (Center line of track span towers) to a monument marked No. 12 on the map which is a concrete block, 5 inches square, about midway between track span towers 10-20 and 11-1, on the shore of Quebrancha Arm of Gatun Lake, about one (1) foot above the high-water level;

Northerly along the shore of said Quebrancha Arm of Gatun Lake to a monument marked No. 13 on the map, which is a 1½ inch galvanized iron pipe, about two (2) feet above the high-water level, the geographic position of which is in latitude 9°17' N. plus 4,789.8 feet, and longitude 79°52' W. plus 4,756.2 feet;

Due West, 1,376.8 feet, to a monument marked No. 14 on the map, similar to the above, cemented into the rock bottom of a small stream;

N. 89°56' W., 1,395.8 feet, to a monument marked No. 15 on the map, similar to the above, located on the westerly bank of a small stream;

N. 89°59' W., 515.7 feet, to a monument marked No. 16 on the map, similar to the above, located on the top of a ridge;

Due West, 554.4 feet, to a monument marked No. 17 on the map, similar to the above, located on the top of a ridge;

S. 89°14' W., 300.7 feet, to a monument marked No. 18 on the map, similar to the above;

S. 75°13' W., 896.4 feet, to a monument marked No. 18-A on the map, which is a concrete block, 5 inches square, marked "M. R. 18A";

S. 75°04' W., 4,591.5 feet, through monuments marked No. 18-B, 18-C, 18-D and 19 on the map, similar to the above, at distances of 857.5 feet, 1,714.0 feet, 2,605.0 feet, 3,862.8 feet, respectively, from monument 18-A, to a monument marked No. 20 on the map, which is a brass plug cemented into the concrete floor of a bridge on the old road from Fort William D. Davis to Colon, about 6 inches below the surfacing of gravel and oil; a brass plug is placed in line on the east guard wall of the bridge, and the bearing and distance from monument No. 20 to a similar brass plug placed on the west guard wall of the bridge is S. 75°04' W., 12.9 feet;

Due West, 1,702.1 feet, through a monument marked No. 21 on the map, which is a concrete block, 5 inches square marked "M. R. 21," located on the north side of the old road from Fort William D. Davis to Colon, north of a drainage ditch and just west of a small culvert, at a distance of 410.8 feet from monument No. 20, to a monument marked No. 22 on the map, which is a brass plug cemented into and flush with the surface of the Bolivar Highway, one (1) foot from the westerly edge of the highway and at the north entrance to Fort William D. Davis, between two (2) small masonry towers;

N. 30°36' W., 1,334.4 feet, through monuments, marked No. 22¼, 22½ and 22¾ on the map, which are 6 inch square concrete monuments, at distances of 346.5 feet, 733.8 feet and 991.1 feet, respectively, from monument No. 22, to a monument, marked No. 22-A on the map, similar to the above, from which, monument No. 2-J of Parcel No. 1 is N. 30°36' E., 168.1 feet;

S. 32°32' W., 1,629.6 feet, to a monument, marked No. 22-B on the map, similar to the above, located at the P. C. of a curve;

On a curve to the left (R=1,835.1 feet) to a monument, marked No. 22-C on the map, similar to the above (The direct bearing and distance from No. 22-B to No. 22-C is S. 26°47' W., 369.3 feet);

On a curve to the left (R=1,835.1 feet) to a monument, marked No. 22-D on the map, similar to the above, located at the P. T. of a curve (The direct bearing and distance from No. 22-C to No. 22-D is S. 15°13' W., 369.3 feet);

S. 09°27' W., 1,727.7 feet, to a monument, marked No. 22-E on the map, similar to the above;

S. 16°45' W., 393.8 feet, to a monument, marked No. 22-F on the map, similar to the above, located at the P. C. of a curve;

On a curve to the left (R=1,885.1 feet) to a monument marked No. 22-G on the map, similar to the above (The direct bearing and distance from No. 22-F to No. 22-G is S. 00°10' W., 608.4 feet);

On a curve to the left (R=1,885.1 feet) to a monument, marked No. 22-H on the map, similar to the above, located at the P. T. of a curve (The direct bearing and distance from No. 22-G to No. 22-H is S. 18°26' E., 608.4 feet);

S. 27°43' E., 201.7 feet, to a monument, marked No. 22-I on the map, similar to the above;

S. 25°56' E., 140.0 feet, to the point of beginning.

PARCEL NO. 3

Beginning at a concrete monument, 5 inches square, marked Point of Beginning on Panama Canal drawing No. M-6105-1, located 100.0 feet westerly from the center line of the Panama Railroad right-of-way (Center line of track span towers) and opposite track span tower 5-13 minus 20 feet, the geographic position of which monument, referred to the Panama-Colon datum of the Canal Zone triangulation system, is in latitude 9°16' N., plus 5,925.6 feet, and longitude 79°55' W., plus 697.7 feet; from this monument the bearing and distance to the concrete monument which is the point of beginning of Parcel No. 1, previously described, is S. 19°39'30" E., 1,468.9 feet;

Thence from said initial point, by metes and bounds:

Northerly along a line parallel to and 100.0 feet westerly from the center line of the Panama Railroad right-of-way (Center line of track span towers) to a monument, marked No. 1 on the map, which is a 1½ inch galvanized iron pipe, located opposite track span tower 4-16, from which monument the bearing and distance to monument No. 24 of Parcel No. 1, is S. 89°56' E., 199.6 feet; the geographic position of monument No. 1 being in latitude 9°17' N., plus 4,292.5 feet, and longitude 79°55' W., plus 732.2 feet;

N. 85°59′ W., 997.7 feet, to a monument, marked No. 2 on the map, similar to the above, located on a ridge 500 feet easterly from the center line of the Panama Canal;

N. 86°00′ W., 114.3 feet, to a monument marked No. 3 on the map, similar to the above, located on the east bank of the Panama Canal opposite Panama Canal station 308 plus 10;

N. 86°00′ W., continuing on the last course, to a point marked No. 3–A on the map, located on the shore line of the Panama Canal;

Southerly along the shore line of the Panama Canal 3,100 feet, more or less, to a point marked No. 4 on the map;

Due East, 125 feet, more or less, to a monument marked No. 5 on the map, which is a 1½ inch galvanized iron pipe, the geographic position of which is in latitude 9°17′ N., plus 1,301.7 feet, and longitude 79°55′ W., plus 2,207.6 feet;

S. 89°40′ E., 537.5 feet, to a monument, marked No. 6 on the map, similar to the above;

S. 12°11′ E., 1,593.8 feet, to a monument marked No. 7 on the map, similar to the above;

N. 77°49′ E., 650.6 feet to the point of beginning.

The directions of the lines refer to the true meridian and were determined by deflection angles from known azimuths of the Canal Zone triangulation system.

The above-described tracts contain a total area of 1,502 acres, more or less, divided as follows: Parcel No. 1, 115 acres, more or less; Parcel No. 2, 1,264 acres, more or less; Parcel No. 3, 123 acres, more or less.

The above-described area was surveyed by the 11th Engineers, U. S. Army, in July, 1933; the Quartermaster Corps, U. S. Army, in December, 1935; and by the Section of Surveys, The Panama Canal, in June, 1936, and in May, 1937; and is as shown on Panama Canal Drawing M–6105–1, dated July 30, 1937, on file in the Governor's Office, Balboa Heights, Canal Zone, and in the Department Engineer's Office, Panama Canal Department, U. S. Army, Corozal, Canal Zone.

SEC. 2. *Civil jurisdiction of Canal Zone.*—The areas of land composing this reservation shall continue to be subject to the civil jurisdiction of the Canal Zone Government in conformity with the provisions of the Canal Zone Code:

SEC. 3. *Restrictions respecting use of lands.*—The military authorities shall erect on this reservation no structure within two hundred feet of the banks of the Panama Canal, and The Panama Canal shall have the right to use areas not contiguous to barracks or quarters for the pasturage of cattle, provided that the pasturage areas shall be available for use by troops when required for military maneuvers or target practice.

SEC. 4. *Certain prior orders superseded.*—This order supersedes Executive Orders Nos. 3203 of December 22, 1919, and 6848 of September 15, 1934, relating to the Fort William D. Davis Reservation, Canal Zone; and any lands affected by such orders and not contained within the areas described in this order are hereby released from the said reservation.

THE WHITE HOUSE, FRANKLIN D ROOSEVELT
February 5, 1938.

[No. 7806]

[F. R. Doc. 38–410; Filed, February 7, 1938; 11:17 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49378]

IMPORTATION OF WILD ANIMALS AND BIRDS FROM CHINA

FEBRUARY 3, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to article 622 (c) of the Customs Regulations of 1937 you are advised that under the laws and regulations of China the taking or killing in, or exportation from that country of wild animals and birds is restricted. Consequently, collectors of customs should require consular certificates pursuant to the provisions of section 527 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1527) before permitting the entry of such animals and birds or parts or products thereof imported directly or indirectly from China.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

[F. R. Doc. 38–413; Filed, February 7, 1938; 12: 19 p. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

FIRST FORM RECLAMATION WITHDRAWAL, COLUMBIA BASIN PROJECT, WASHINGTON

The SECRETARY OF THE INTERIOR. JANUARY 11, 1938.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976) it is recommended that the following described lands be withdrawn from public entry under the first form withdrawal as provided in Section 3, Act of June 17, 1902 (32 Stat., 388).

COLUMBIA BASIN PROJECT, WASHINGTON
Willamette Meridian

T. 15 N., R. 24 E.,
sec. 24, SW¼;
T. 15 N., R. 25 E.,
sec. 20, N½;
T. 15 N., R. 26 E.,
sec. 2, SW¼NW¼;
sec. 6, NE¼ and NW¼SE¼.

Respectfully, JOHN C. PAGE, *Commissioner.*

The foregoing recommendation is hereby approved, as recommended, and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary.

JANUARY 14, 1938.

[F. R. Doc. 38–393; Filed, February 5, 1938; 9:55 a. m.]

Division of Grazing.

MONTANA GRAZING DISTRICT NO. 1
MODIFICATION

JANUARY 5, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of July 11, 1935, establishing Montana Grazing District No. 1 is hereby revoked as far as it affects the following-described lands, such revocation to be effective upon the reservation of the lands for the Black Coulee Migratory Waterfowl Refuge:

MONTANA
Principal Meridian

T. 34 N., R. 25 E.,
sec. 23, all;
sec. 24, N½, NW¼SW¼;
sec. 26, N½N½.

OSCAR L. CHAPMAN,
Acting Secretary of the Interior.

[F. R. Doc. 38–395; Filed, February 7, 1938; 10:33 a. m.]

Division of Territories and Island Possessions.

[I. C. C. No. 241 [1]]

THE ALASKA RAILROAD

LOCAL PASSENGER TARIFF NO. 195–A

Naming round trip excursion fares from stations on the Alaska Railroad in Alaska to Anchorage, Alaska account Winter Sports Tournament and Fur Rendezvous, February 19 to 22, 1938.

Issued under authority of Rule 52 Interstate Commerce Commission Tariff Circular No. 18–A. Issued: January 14, 1938. Effective February 15, 1938. Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by: O. F. Ohlson, General Manager, Anchorage, Alaska.

[1] No supplement will be issued to this tariff except for the purpose of cancelling the tariff.

GENERAL RULES AND REGULATIONS

1. *Stations from and to which this tariff applies.*—This tariff applies from all Rail Line stations. This tariff applies only to Anchorage, Alaska. Conductor picking up passenger at non-agency station will handle passenger to first agency station where ticket must be secured from originating station to final destination.

2. *Dates of sale.*—February 15, 16, 17, 18, 19, 20 and 21, 1938.

3. *Final return limit.*—February 27, 1938. Return trip to be completed prior to midnight of final limit.

4. *Stopovers.*—Stopovers will not be permitted in either direction.

5. *Tickets.*—Use Form L–14 Round Trip Excursion Tickets.

6. *Children.*—Tickets may be sold at one-half the fares named herein for children five years of age and under twelve years of age, sufficient to be added to make fare end in "0" or "5". Children under five years of age will be carried free when accompanied by parent or guardian.

7. *Baggage.*—No baggage will be checked on tickets sold under this tariff.

8. *Tickets non-transferable.*—All tickets sold at fares named herein are non-transferable and will be valid only for transportation of passenger for whom originally purchased. Passenger must sign the back of return portion of ticket.

9. *Fares.*—One first class fare for the round trip. First class fares are shown in Local Passenger Tariff No. 42–B, I. C. C. 177, supplements thereto and reissues thereof.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

FEBRUARY 2, 1938.

[F. R. Doc. 38–392; Filed, February 5, 1938; 9:55 a. m.]

National Bituminous Coal Commission.

[Order No. 213]

AN ORDER MODIFYING ORDER NO. 140, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 15 BY ADDING THERETO A SCHEDULE OF PRICES TO BE KNOWN AS "TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 15"

The National Bitmuinous Coal Commission having by its Order No. 140, determined and established the minimum prices of coals of code members produced within District No. 15, as set forth in "Price Schedule No. 1—District No. 15," and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule by a truck mine price schedule as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 15, established in "Price Schedule No. 1—District No. 15," are hereby supplemented as set forth in "Truck Mine Price Schedule No. 1—District No. 15," filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District No. 15, and shall be effective at 12:01 o'clock A. M., on the 18th day of February, 1938.

2. That said Order No. 140, and Price Schedule No. 1—District No. 15, except as modified herein and by said Truck Mine Price Schedule No. 1—District No. 15, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Truck Mine Price Schedule No. 1—District No. 15" to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 15; shall cause copies of this Order and said "Truck Mine Price Schedule No. 1—District No. 15" to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

TRUCK MINE PRICE SCHEDULE NO. 1, DISTRICT NO. 15

Truck mine schedule of minimum prices for coals of code members produced within District No. 15, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective: February 18, 1938.

Issued: February 3, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size of Bar Screens

Bar spacing:	*Round hole equivalent*
¾''	1⅛''
1''	1⅜''
1¼''	2''
1½''	2⅞''
2''	4⅜''
2½''	4⅞''
3''	5½''
4''	6''
5''	7¾''

PRODUCTION GROUPS DEFINED

Group No. 1.—All mines located in Cherokee, Crawford, Bourbon, Neosho, Labette and Wilson Counties, Kansas; and Barton, Jasper, and that portion of Vernon County lying south of an east and west line drawn through the town of Nevada in Missouri.

Group No. 2.—All mines located in Linn County, Kansas; and Bates, Henry, St. Clair and Johnson Counties; and

that portion of Vernon County lying north of an east and west line drawn through the town of Nevada in Missouri.

Group No. 3.—All mines located in Boone, Callaway, Randolph, Macon, Linn, Grundy, Harrison, Adair, Chariton, Schuyler, Putnam, and Ralls Counties, in Missouri.

Group No. 4.—All mines located in Ray, Clay, Caldwell, Daviess, Clinton, and Carroll Counties in Missouri.

Group No. 5.—All mines located in Lafayette County, Missouri.

Group No. 6.—All mines located in Osage, Franklin, and Coffey Counties, Kansas.

Group No. 7.—All mines operating on the genuine McAlester seam in Pittsburg and Latimer Counties, Oklahoma.

Group No. 8.—All mines operating on the Wilburton-Hartshorne seams in Pittsburg and Latimer Counties, Oklahoma.

Group No. 9.—All mines located in Coal County, Oklahoma.

Group No. 10.—All mines located in Okmulgee County, Oklahoma.

Group No. 11.—All mines located in Tulsa, Wagoner, Rogers, Nowata and Craig Counties, Oklahoma.

Group No. 12.—All mines located in Muskogee County, Oklahoma.

Group No. 13.—All mines located in Johnson, Leavenworth, and Wyandotte Counties, Kansas.

Group No. 14.—All mines located in the State of Texas.

Code Member Index

PRODUCTION GROUP NO. 1

Name	County	Mine	Size group[1]
Alston Coal Company	Crawford	Alston	------
Apex Coal Company	Crawford	Apex	------
Atkinson Coal Co	Cherokee	Atkinson #4	------
Arma Coal Company	Crawford	Sheridan #21	------
Bainter Coal Co	Jasper	Bainter	------
Baker, Russell	Cherokee	Russell Baker Coal Co	------
Bennett & Fuller Coal Co	Cherokee	Bennett & Fuller	------
The Ben Hur Coal Co	Crawford	Peerless	------
Blue Ridge Coal Co., The	Vernon	Blue Ridge Strip	------
Brassart, Jos	Cherokee	Jos. Brassart Custom Coal.	------
Brennan Coal Co	Crawford	Brennan	------
Brown & Crowe	Crawford	Mine #1	------
Bunker Hill Coal Works	Crawford	Bunker Hill Coal Works.	------
Calvin Coal Co	Crawford	Calvin Coal Co	------
Cherokee County Line Coal Co	Cherokee	Cherokee County Line	------
Clemens Coal Co	Barton	No. 22	------
Clemens Coal Co	Crawford	No. 23	------
Commercial Fuel Co	Crawford	No. 1	------
Commercial Fuel Co	Cherokee	No. 2	------
Cornell Coal Co	Vernon	Cornell	------
Crescent Coal Co	Crawford	Crescent	------
Cunningham Coal Co	Cherokee	Mine #1	------
Custom Coal Co	Barton	Custom Coal Co	------
D. S. & L. Coal Co	Crawford	D. S. & L. Coal Co	------
Dauben Coal Co	Bourbon	Dauben Coal Co	------
DeGasperi Coal Co	Crawford	DeGasperi	------
Diamond Coal Co	Vernon	Mulberry #2	------
Dittman-Wachter Coal Co	Crawford	No. 2	------
Eagle-Cherokee Coal Mfg Co	Crawford	Eagle	------
Ellis Coal Co	Vernon	Ellis Coal Co	------
Elm Branch Coal Co	Crawford	Mine #1	------
Green & Avery Coal Co	Crawford	Green & Avery Coal Co.	------
Gubbio Coal Co	Crawford	Gubbio	------
H. & H. Coal Mining Co	Barton	H. & H.	------
Robert Holt	Cherokee	Holt No. 1	------
Imperial Fuel Co	Cherokee	Imperial	------
Jewsbury, C. A	Vernon	Jewsbury	------
Johnson & Son, C. F	Dade	Johnson Coal Field	------
Kelly-Carter Coal Co	Crawford & Bourbon	Kelly-Carter	------
Kierl Bros. Coal Co	Cherokee	Kierl "Dinky"	------
Herman Kruger	Crawford		------
Kurent, Adolf	Crawford	Kurent Coal Co	------
Little, Warren	Bourbon	Double Eagle Coal Co	------
Lone Star Coal Co	Crawford	Lone Star	------
McGrath & Son Coal Co	Crawford	McGrath & Son	------
McKay Coal Co	Barton	Mine #1	------
McMahon & Waller Construction Co.	Vernon	Strip Mine #2	------
Machine Coal Co	Crawford	Machine	------
Mayberry, F. M	Vernon	Mayberry Pit	------
Menghini Coal Co	Crawford	Menghini	------
Mertz, Frank	Crawford	Frank Mertz	------
Mineral Products Co	West Mineral	Plant No. 1	------
Mulberry-Cherokee Coal Co	Crawford	Mulberry-Cherokee	------
Neher Coal Co	Crawford	Neher	------
Paterson Coal Co	Cherokee	No. 1	------
Patton, M. G	Cherokee	M. G. Patton	------

[1] Schedule applies on all sizes.

Code Member Index—Continued

PRODUCTION GROUP NO. 1—Continued

Name	County	Mine	Size group[1]
Pioneer Coal Co	Crawford	Pioneer	------
Pittsburgh & Midway Coal Mining Company	Cherokee	No. 15	------
Pittsburg & Midway Coal Mining Company	Crawford	No. 17	------
Royal-Cherokee Coal Co	Barton	Mulberry #2	------
Red Arrow Coal Co	Crawford	Red Arrow	------
Richardson & Bro., Jno. T	Cherokee	Mine #1	------
Roberts & Sons	Cherokee	"Dinky"	------
Smith, Erwin	Cherokee	Erwin Smith	------
South Radley Coal Co	Crawford	Newland & Haynie	------
Thornhill Coal Co	Vernon	Thornhill	------
Tullis Coal Co	LaBette	Tullis	------
Umbria Coal Company	Crawford	Umbria	------
United Coal Co	Crawford	Mackie J	------
Vanduker, Frank, Sr	LaBette	Vanduker	------
Victor Fuel Coal Co	Crawford	Victor	------
Western Coal & Mining Co	Crawford	No. 22	------
Western Coal & Mining Co	Crawford	No. 24	------
West Union Coal Co	Crawford	West Union	------
Whetstone & Kennedy Coal Co	Crawford	Whetstone & Kennedy Coal Co.	------
Wilson Coal Co	Crawford	Wilson Coal Co	------
Wyatt Coal Co	Crawford	Wyatt Coal Co	------

PRODUCTION GROUP NO. 2

Barron, W. M	Linn	Jarred	------
Bowen Coal Co	Henry	Bowen	------
Carpenter & Smith	Henry	Carpenter & Smith	------
Cooper Coal Co	Johnson	Cooper Coal Co	------
Crowe Coal Co	Henry	Reliance	------
Crowe-Brady Coal Co	Henry	Crowe-Brady	------
Crowe-Fulton-Spangler Coal Company.	Henry	Crowe-Fulton-Spangler.	------
County Line Coal Mine	Henry	County Line	------
Donaldson-Ryan Coal Co	Bates	Mine #3	------
Draper, Howard (Draper Coal Co.)	Johnson	Draper	------
Eckles & Son	Pettis	Eckles'	------
Economy Coal Co	Bates	Economy Coal	------
Four Coal Co	Vernon	Four Coal Co	------
Hall Coal Co	Bates	Hall	------
Hamilton Coal Co	Bates	Foster	------
Hestand Coal Co., J. H	Henry	Hestand Coal Co	------
Hollopeter, W. I	St. Clair	Hollopeter Coal Co	------
Hromek, J. W	Linn	Lucky Strike	------
Hudson-Frazer Coal Co	Henry	Hudson-Frazer	------
Hume-Sinclair Coal Mng. Co	Bates	Tiger	------
J. & W. Coal Co	Bates	J & W	------
Jonnum Coal Co	Linn	Jonnum Coal	------
Kramer Coal Co., N	Johnson	Kramer Coal	------
Lane Coal Co	Henry	Lane	------
Laurence, W. P	Linn	Hall's	------
Lee & Phalen Coal Co	Linn	Lee & Phalen	------
McComb, Jack (McComb Coa Co.)	Bates	McComb	------
McMahan & Waller Const. Co	Bates	McMahan & Waller	#1
Miles Bros. Coal Co	Bates	Blue Ribbon	------
Mound City Coal Co	Linn	No. 1	------
Miller Co., Bert	Bates	Bert Miller	------
Nace Bros	Johnson	Nace Bros	------
Panther Creek Coal Co	Bates	Panther Creek	------
Pearson, J. D	Bates	Pearson	------
Pence Coal Co	Henry	Pence	------
Ritchie Coal Co	Bates	Ritchie	------
Robinson Coal Co	Bates	Mohawk	------
Shelton, J. S	Linn	Star Valley Coal Co	------
Star Cooperative Coal Mine	Bates	Star Cooperative	------
Tebo Coal Co	Henry	Tebo	------
Tierney, Tom	Linn	Tierney Coal Co	------
Windsor Coal Co	Henry	Windsor	------

PRODUCTION GROUP NO. 3

Ahlbom Coal Co	Macon	Ahlbom	------
Arthur Scott Mine	Adair	Arthur Scott	------
Atterberry & Kaufman	Randolph	Atterberry-Kaufman	------
Baiotto Coal & Mining Co	Adair	Baiotto	------
Benson Coal Co	Randolph	Benson Coal	------
Binkley Mining Co. of Mo	Macon	Bee-Veer	------
Blacksmith Coal Co	Adair	Blacksmith Coal Co	------
Bradley Coal Co		Bradley	------
Brandow, Wm	Randolph		------
Bucklin Coal Co	Linn	Bucklin	------
Burgin Coal Co., Earl	Randolph	Burgin	------
Cannon, E. E	Randolph		------
Chariton River Coal Co	Adair	Chariton River	------
Clark Coal Co	Putnam	Clark	------
Cribbs Coal Co	Randolph	Cribbs	------
Cross & Sons, Lee	Randolph	Cross Coal	------
Cross & Sons, Lee	Ray	Lee Coal Co	------
Daniels Coal Co	Adair	Daniels Coal Co	------

[1] Schedule applies on all sizes.

Code Member Index—Continued

PRODUCTION GROUP NO. 3—Continued

Name	County	Mine	Size group[1]
Doleshy, Wm	Randolph	Doleshy Coal	------
Dunn, Mode	Callaway	Mode Dunn Coal Co	------
England, Bros	Boone	England Bros	------
Filkins, C. O	Adair	C. O. Filkins Coal	------
Gohring Coal Co	Callaway	Gohring Coal Co	------
Gordon, W. H	Linn	Wine Coal	------
Gorham Coal Co	Randolph	Gorham	------
Hannah & Sons Coal Co	Randolph	Hannan Coal	------
Harris, Martin	Randolph	Harris	------
Hill Coal Company	Randolph	Hill	------
Home Coal Co. of Macon	Macon	No. 1	------
Harris & Morris	Callaway	Harris & Morris	------
Harris & Peneston	Callaway	Harris & Peneston	------
Harrison County Coal Co	Harrison	Harrison County Coal Co.	------
Hedges Coal Co	Randolph	Hedges	------
Hill-Gohring Coal Co	Callaway	Hill-Gohring	------
Huntsville-Sinclair Mng. Co	Randolph	Mark Twain	------
Keota Coal Co	Macon		------
Kribbs Coal Co., W. F	Randolph	W. F. Kribbs	------
Lewis, Mark	Randolph	Lewis	------
Lovell Coal Co	Randolph	Busy Bee	------
McGee Coal Co	Boone	McGee Coal Co	------
Macon County Coal Co	Macon	Mine #68	------
Martinsburg Coal & Mng. Co	Audrain	Martinsburg	------
Medlin & Mark	Putnam	Medlin & Mark	------
Melbourne Coal Co	Harrison	Melbourne Coal Co	------
Middle River Coal Co	Callaway	Middle River Coal Co	------
K. C. Midland Coal & Mng. Co		Midland #8	------
Marriott-Reed Coal Co	Callaway	Marriott-Reed	------
Monteau Coal Co	Randolph	No. 11	------
Miners Coal Co	Callaway	Miners Coal Co	------
Neal Coal Co., Harvey	Boone	Harvey Neal C. Co	------
Nejedly Bros. Coal Co	Randolph	Nejedly Bros	------
Nichols Coal Co	Boone	Nichols Coal Co	------
Nienober Bros. Coal Co. J. M. & Otis.	Boone	Nienober	------
O'Elliott Producers Assn	Randolph	O'Elliott	------
Owen, Henry	Callaway	Henry Owen	------
Pierson Coal Co., Clyde	Callaway	Clyde Pierson Coal Co	------
Pollock, Foster (Warren Co. Coal Co.)	Warren	Warren Co. Coal Co	------
Ransom, Walter R. (Thomas Hill Coal Mng. Co.)	Randolph	Thomas Hill Coal Mng. Co.	------
Riverside Coal Co	Adair	Riverside	------
Rose Hill Coal Co	Adair	Rose Hill	------
Rumsey & Hatfield	Randolph	Rumsey & Hatfield	------
Sartar & Mosley	Callaway	Sartar & Mosley	------
Schaefer, Leo	Linn	Leo Schaefer	------
Schaefer, Raymond	Linn	Raymond Schaefer	------
Shy, Charles	Callaway	Shy Coal Co	------
Smarr, Geo. W	Boone	Garret	------
Tharp, Coal Co., Ed	Boone	Tharp	------
Tharp & Jennings Coal Co	Boone	Tharp & Jennings	------
Trenton Mining Co	Grundy	Trenton Mining Co	------
Vanlaningham, Dee J	Adair	Ewing & Vanlaningham	------
Willsie, James G	Randolph	James G. Willsie	------
Woods Coal Co	Boone	Woods	------

PRODUCTION GROUP NO. 4

Allshire, Jack (R. & H. Coal Co.)	Ray	Richmond-Henrietta	------
Albertson Coal Co	Ray	South Point	------
Anderson, H. L	Ray	Anderson Coal Co	------
Bates Coal Co	Ray	Bates	------
Blair Coal Co	Ray	Blair Coal Co	------
Blair Coal Co., Dave	Ray		------
Boothe Coal Co	Clay	Boothe #1	------
Boyce Coal Co., Thos	Ray	Thos. Boyce Coal Co	------
Camden Coal Co	Ray	No. 2	------
Clark, T. J	Ray	T. J. Clark Coal Co	------
Clark-Wilson Coal Co	Ray	Clark-Wilson Coal Co	------
Conrow Coal Co	Ray	Conrow	------
Crescent Coal Co	Clay	Crescent Lake	------
Desiderio, John	Clay	Desiderio	------
Dockery Coal Co	Ray	Dockery Coal Co	------
Driskell, Claude W	Ray	#21	------
Due Coal Co	Ray	Due Coal Co	------
Earley, Elmer J	Ray		------
Elmira Coal Co	Ray	Elmira	------
Finck-Calvin Coal Co	Ray	Finck-Calvin Coal Co	------
Goddard, Wilbur	Caldwell	Caldwell Coal Co	------
Hill, Okel	Ray	Hill Coal Co	------
Hubeil-Hamilton Coal Co	Ray	No. 14	------
Lee Coal Co	Ray	Lee Coal Co	------
McBrien, Hark	Ray	Elm End	------
McCluskey Coal Co	Ray	McCluskey	------
Major Grimes Coal Co	Ray	Major Grimes	------
Megonnigil, J. A	Ray	Megonnigil	------
Mercantile Coal & Mng. Co	Ray	No. 17	------
Missouri City Coal Co	Clay	Missouri City Coal Co.	------
Moore Coal Co	Ray	Moore Coal Co	------
Moshy Coal & Mining Co	Clay	Moshy	------
Peacock Coal Co	Ray	Peacock Coal Co	------
Pickering Coal Co	Ray	No. 12	------
Pickering Coal Co., Geo	Ray	White	------

[1] Schedule applies on all sizes.

Code Member Index—Continued

PRODUCTION GROUP NO. 4—Continued

Name	County	Mine	Size group[1]
Pickering Dev. Co., Geo	Ray	No. 11	------
Producers Coal Asso	Ray	No. 14	------
Randle Coal Co., Horace	Ray	No. 10	------
Ray Coal Co	Ray	No. 1	------
Ray County Coal Co	Ray	No. 23	------
Rayville Coal Company	Ray	Rayville	------
Rice Coal Co	Clay	Rice	------
Richmond City Coal Co	Ray	Richmond City Coal Co.	------
Sharp, M. H	Ray	Sharp	------
Smith & Sanders Coal Co	Ray	Ward	------
Thomas Bros. Coal Co	Ray	A. L. Bang	------
Vibbard Mining Co	Ray	Vibbard	------
Ward-Shea Coal Co	Ray	Shea	------
Winston Coal Co	Daviess		------
Woods Bros. Coal & Mng. Co	Clay	Mosby No. 2	------

PRODUCTION GROUP NO. 5

Atwood, Geo M	Lafayette	Atwood	------
Banks & Sons, Ira O	Lafayette	Bank's	------
Burrow, James	Lafayette	Black Diamond	------
Caldwell & Curtis	Lafayette	Rocky Branch	------
Cognard, Rene	Lafayette		------
Corder, Austin	Lafayette	Corder's	------
Domestic Coal Co	Lafayette	Imperial	------
Enstabrooks Coal Mine	Lafayette	Estabrooks	------
Fallman, Edward	Lafayette	Fallman	------
Farmers Coal Mining Co	Lafayette	No. 7	------
Farmers Coal Mining Co	Lafayette	No. 10	------
Gann, L. R	Lafayette	Camp Ground	------
Gaskey & Bergstadt	Lafayette	G & B	------
Goring, Frank & Hellker, Ed	Lafayette		------
Hamilton & Son Coal Co	Lafayette	Hamilton	------
Hayward, A	Lafayette	Wegener	------
Heijde, Harry	Lafayette	Heijde	------
Holthoff, Henry	Lafayette	Holthoff	------
Iles, Bradley	Lafayette	Iles	------
Jelleic & Hotmer Coal Co., Inc	Lafayette	No. 1 or Daisy	------
Jelleic & Hotmer Coal Co., Inc	Lafayette	No. 2 or Hartman	------
Jelleic & Hotmer Coal Co., Inc	Lafayette	No. 3	------
Kelso & Hughes	Lafayette	Kelso-Hughes	------
Knehans, Arthur	Lafayette	Arthur Knehans	------
Kosmiski & Son	Lafayette	Komiski & Son	------
Kronshein, Henry	Lafayette	Kronshein's	------
Lafayette County Coal Co	Lafayette	Lafayette County	------
Lexington Coal Co	Lafayette	Lexington	------
Marth, Otto H	Lafayette	Marth	------
Moore, Cain	Lafayette	Cain Moore	------
Murrell, Ted	Lafayette	Murrell	------
Obert, James	Lafayette	Jack's	------
Peek Coal Mining Co., Frank	Lafayette	The Wilson	------
Peek Coal Co., H. S	Lafayette	Peek's	------
Piper, Arthur A	Lafayette	Sand Spring	------
Popejoh, John	Lafayette	Popejoy	------
Schieber, Wm	Lafayette	Schieber	------
Schowengerdt & Muck Coal Co	Lafayette	Schowengerdt & Muck	------
Schumacher, Edward	Lafayette	Schumacher Coal	------
Smith, P. B	Lafayette	P. B. Smith	------
Stalsworth, L. R	Lafayette	Stalsworth	------
Starkebaum, Walter J. C	Lafayette	Starkebaum	------
Summers, Emmet	Lafayette	Summer's	------
Tyler, Bryan	Lafayette	Tyler	------
Wellington Coal Co	Lafayette	No. 3	------
Western Coal & Mining Co	Lafayette	West	------
Western Coal & Mining Co	Lafayette	Woodrow	------
Whitley, Harvey	Lafayette	Stalsworth	------
Wilcoxon & Co., N. T	Lafayette	Wilcoxon	------
Wilson Mining Co	Lafayette	Wilson	------
Winfrey, D. E	Lafayette	Stolin	------
Winfrey, D. E	Lafayette	Riley	------

PRODUCTION GROUP NO. 6

A. & G. Coal Co	Osage	A. & G	------
Bell Coal Co	Osage	Bell No. 2	------
Bell Coal Co	Osage	Bell No. 3	------
Brindle, L. E	Franklin		------
Burlingame Coal Co	Osage	Burlingame	------
Caple, G. H	Franklin		------
Caple, John	Franklin		------
Carr & Morgan (John M. Carr)	Osage	Scranbur	------
Central Coal Co	Osage	Central	------
Couch Coal Co	Franklin	Couch No. 1	------
Coffman Coal Co	Osage	Coffman	------
Didier & Parre	Osage	Didier & Parre	------
Duvall, Calvin (Duvall Coal Co.)	Franklin	Crowsnest	------
Elliott, G. W	Osage	Elliott	------
Fogle Mfg. & Mining Co., Walter	Franklin		------
Hotchkiss Coal Co	Osage	Hotchkiss	------
J. C. Coal Co	Osage	Curley	------
Jones, Perry	Osage		------
Kansas Coal Co	Osage	No. 6	------
Klondike Coal Co	Osage	Klondike	------

[1] Schedule applies on all sizes.

Code Member Index—Continued

PRODUCTION GROUP NO. 6—Continued

Name	County	Mine	Size group[1]
Labor Exchange Coal Co	Osage	Labor Exchange	
Meisner, C. W	Franklin		
Meisner, C. Floyd	Franklin	Meisner	
Mid Western Coal Co	Osage	Mid Western	
Miners Fuel Co	Osage	Miners Fuel Co	
Moore, Art & Moore Hallie	Franklin		
Morgan, Artz F	Osage	Morgan	
No. 7 Coal Co	Osage	No. 7	
Osage City Coal Co	Osage	No. 30	
Parkins Coal Co	Franklin	Parkins No. 2	
Red Top Coal Co	Osage	Red Top	
Standard Coal Co	Osage	Standard	
Sunflower Coal Co	Osage	Sunflower	
Western Fuel Co	Osage	No. 11	
Zimmerman, Paul (Zimmerman Coal Co.)	Osage	Zimmerman	

PRODUCTION GROUP NO. 7

Banner Coal Co	Pittsburg	Banner No. 4	
Blanco Mining Co	Pittsburg	No. 3	
Baker Coal Co	Pittsburg	Baker	
Collins Coal Co	Pittsburg	Collins	
Craig Coal Co	Pittsburg	Craig	
DeFrange Coal Co	Pittsburg	DeFrange	
Dow Pioneer Coal Co	Pittsburg	No. 10	
Homer Bros	Pittsburg	Homer	
Holgens, Raymond	Pittsburg	Holgens	
McAlester-Alderson Coal Co	Pittsburg	No. 1	
McAlester Coal Mining Co	Pittsburg	Banner	
Mullen Coal Co	Pittsburg	Julian	
New Blanko Coal Co	Pittsburg	New Blanko	
Samples Coal Mining Co	Pittsburg	No. 4	
A. L. Stukenis	Pittsburg	No. 4	
T. & F. Coal Co	Pittsburg	T. & F	
Troughler, O. D	Pittsburg	Troughler	
Victor Coal Co	Pittsburg	Adamson #7	

PRODUCTION GROUP NO. 8

A & P Coal Co	Latimer	A & P Coal Co	
Adams, Fred	Latimer	Adams	
Bernardi Coal Co	Pittsburg	Bernardi Mines	
Cecil & Sons Coal Co., Loyd	Pittsburg	Cecil's No. 1	
L. C. Flener	Latimer	Flener	
Gallamore, Ed	Pittsburg	Gallamore	
Gertis, Mike	Latimer		
Hartshorne Coal Co	Latimer	No. 1	
Hartshorne Valley Coal Corp	Latimer	Hartshorne Valley	
Lott, Stanley	Latimer	Lott	
McKinnon & Jones Coal Co	Pittsburg	McKinnon & Jones	
Mud Creek Coal Co	Pittsburg	Mud Creek	
Pfeiffer Coal Co	Pittsburg	Pfeiffer Mine	
Pocahontas Producers Coal Co	Pittsburg	Pocahontas	
Possum Ridge Coal Co	Latimer	Possum Ridge #1	
Johnson & Bates	Pittsburg	Pierce	
Jerry Riedt	Latimer	Kala-Inla #1	
Jerry Riedt	Pittsburg	Kala-Inla #4	
Rogers & French	Pittsburg		
Strukely, Antone	Pittsburg	Mine #4	
T. B. M. Coal Co	Latimer	Old Forty	
Wilburton Coal Co	Latimer	#7-Wilburton	
Woods Coal Co	Latimer	Woods #1	
Zemaitis, Tony	Pittsburg	Mine #1	

PRODUCTION GROUP NO. 9

Adams Coal Co., C. J	Coal	Adams Coal Co	
D. & B. Coal Co	Coal	Cleland	
Dawley & Yalch	Coal		
E. & C. Coal Co	Coal	E. & C. Coal Co	
Glasco & Miller	Coal	Glasco & Miller	
Jones Coal Co., Inc., Tom	Coal	Tom Jones #1	
M. L. & G. Coal Co	Coal	M. L. & G. Coal Co	
Midway Coal Co	Coal	Midway Coal Co	
Samuel's Coal Co., J. W	Coal	Mine #21	
Wells Coal Co	Coal	Wells	

PRODUCTION GROUP NO. 10

Acme Coal & Mining Co	Okmulgee	Acme	
Atlas Coal Corp	Okmulgee	Atlas	
Bertey Coal Co., Joe	Okmulgee	Wadsworth	
Ben Hur Coal Co	Okmulgee	Sun	
Ben Hur Coal Co	Okmulgee	Blackstone	
Brooks & Shepard	Okmulgee	Monkey	

[1] Schedule applies on all sizes.

Code Member Index—Continued

PRODUCTION GROUP NO. 10—Continued

Name	County	Mine	Size group[1]
Big Four Coal Co	Okmulgee	Big Four	
Central Valley Coal Co	Okmulgee	Central Valley Coal Co.	
Coalton Coal Co., The	Okmulgee	Coalton	
McGennis Coal Co	Okmulgee	McGennis	
Monkey Coal Co	Okmulgee		
Purity Mining Co	Okmulgee	P & M	
The Starr Coal Co	Okmulgee	Starr	
Warden-Pullen Coal Co	Okmulgee	Warden	

PRODUCTION GROUP NO. 11

Acme Coal Co	Tulsa	Acme	
Adamson Coal Mining Co	Tulsa	Adamson	
Bennett Coal Co., E. G	Craig	Bennett	
Besse Coal & Inv. Co	Rogers	Steam Shovel	
Carr, Charles E	Tulsa	Acme Coal Co	
Choctaw Coal Co	Tulsa	Choctaw	
Claremore Coal & Coke Co	Rogers	Sequoyah	
Dubois, Chas. R. (Besse Coal Co.)	Rogers	Besse	
Geiger & Veal	Rogers	Catoosa Coal Co	
Hickory Coal Co	Tulsa	Old Hickory	
Independent Coal Co	Tulsa	Independent	
Jenks Coal Co	Jenks	Jenks	
Liberty Coal Co	Tulsa	Liberty	
Lightning Creek Coal Co	Craig	Lightning Creek	
McNabb Coal Co	Rogers	McNabb	
Munson Coal Mine, Ray L	Rogers	Munson	
Norris, W. S	Rogers		
Parker Mine (Guy F. Parker)	Craig	Parker	
Porter Coal Co	Wagoner	Porter	
Scott Coal Co., Robert L	Craig		
Seneca Coal & Coke Co	Wagoner	No. 2	
Seneca Coal & Coke Co	Wagoner	No. 4	

PRODUCTION GROUP NO. 12

Adamson, H. L. (H. L. Adamson Coal Co.)	Muskogee	H. L. Adamson	
Black Jack Coal Co	Muskogee	Black Jack	
Briartown Coal Co	Muskogee	Briartown	
Gray, C. E. & Reeves, R. H	Muskogee	Gray & Reeves	
Hicks, A. L	Muskogee	A. L. Hicks	
Lowe, H. W	Muskogee	Lowe	
McAlpine, Geo	Muskogee	McAlpine	
Frank C. Perry & Bruna Perry	Muskogee	Perry	
Reeves, R. H	Muskogee	Reeves	
Smith Coal Co., A. R	Muskogee	Smith	

PRODUCTION GROUP NO 13

Home Riverside Coal Mines	Leavenworth	No. 1	
Mavity, A. J	Leavenworth	Black Beauty	

PRODUCTION GROUP NO. 14

Butler, John	Wise	Shipley	
Campbell, J. G	Young	Hardy	
Deep Vein Coal Co	Young	Deep Vein	
Deep Vein Coal Co. (Hatfield, P. O., & Castano, Ry.)	Young	Deep Vein	
Farabee, R. J	Young	Whiskey Creek	
House & Byrnes	Wise		
Obel, G. H	Palo Pinto	Obel's	
Singleton, C. B	Wise	Singleton	

[1] Schedule applies on all sizes.

Production Group No. 1—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 1]

Size:	Price
Lump	$2.85
Nut, 3 x 2''	3.00
Nut, 3 x 1¼''	2.85
Nut, 2 x 1¼''	2.70
Chestnut, 1¼ x ¾''	2.45
Mine Run	2.15
Nut-Slack, 2 x 0''	2.10

Production Group No. 1—Truck Mine Prices per Net Ton of 2,000 Pounds—Continued

Size:	Price
Nut-Slack, 3 x 0''	$2.10
Special Stoker, 1 x 5/16''	2.00
Screenings, 1¼ x 0''	1.40

For sizes not included herein refer to table following price instructions.

Production Group No. 2—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 2]

Size:	Price
Lump	$2.80
Nut, 3 x 2''	2.85
Nut, 3 x 1¼''	2.70
Nut, 2 x 1¼''	2.65
Chestnut, 1¼ x ¾''	2.40
Mine Run	2.15
Nut-Slack, 2 x 0''	2.05
Nut-Slack, 3 x 0''	2.05
Screenings, 1¼ x ¼''	1.95
Screenings, 1¼ x ⅛''	1.95
Screenings, 1¼ x 0''	1.75
Screenings, 1¼ x 0'' (Washed)	1.95

For sizes not included herein refer to table following price instructions.

Production Group No. 3—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 3, Except Coal Moving Into Market Areas Nos. 107–108–109–110 (Iowa)[1]]

Size:	Price
Lump	$2.80
Nut, 3 x 2''	2.70
Nut, 3 x 1¼''	2.55
Nut, 2 x 1¼''	2.50
Chestnut, 1¼ x ¾''	2.25
Mine Run	2.15
Nut-Slack, 2 x 0''	1.65
Nut-Slack, 3 x 0''	1.65
Screenings, 1¼ x ¼''	1.80
Screenings, 1¼ x ⅛''	1.80
Screenings, 1¼ x 0''	1.20
Screenings, 1¼ x 0'' (Washed)	1.80

For sizes not included herein refer to table following price instructions.

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 3]

Size:	Price
Lump	$2.80
Nut, 3 x 2''	2.70
Nut, 3 x 1¼''	2.70
Nut, 2 x 1¼''	2.65
Chestnut, 1¼ x ¾''	2.65
Mine Run	2.75
Nut-Slack, 2 x 0''	1.95
Nut-Slack, 3 x 0''	1.95
Screenings, 1¼ x ¼''	1.80
Screenings, 1¼ x 0''	1.80
Screenings, 1¼ x 0''	1.95

For sizes not included herein refer to table following price instructions.

Mines in Grundy, Harrison, Adair, and Putnam Counties selling coal for delivery into Market Areas Nos. 107–108–109–110 (Iowa) shall use the above prices.

Production Group No. 4—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 4]

Size:	Price
Lump	$3.45
Nut, 3 x 2''	3.30
Nut, 3 x 1¼''	3.15
Nut, 2 x 1¼''	3.00
Mine Run	2.95
Nut-Slack, 2 x 0''	2.15
Nut-Slack, 3 x 0''	2.15
Screenings, 1¼ x 0''	1.10

For sizes not included herein refer to table following price instructions.

[1] See next table.

Production Group No. 5—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 5]

Size:	Price
Lump	$3.45
Nut, 3 x 2''	3.30
Nut, 3 x 1¼''	3.15
Nut, 2 x 1¼''	3.00
Mine run	2.95
Nut-Slack, 2 x 0''	2.15
Nut-Slack, 3 x 0''	2.15
Screenings, 1¼ x 0''	1.10

For sizes not included herein refer to table following price instructions.

Production Group No. 6—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 6]

Size:	Price
Lump	$3.45
Mine Run	3.45

For sizes not included herein refer to table following price instructions.

Production Group No. 7—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 7]

Size:	Price
Lump, 2½'' (or over)	$4.95
Egg, 6 x 2½''	4.95
Egg-Nut, 6 x 1¼''	4.45
Nut, 2½ x 1¼''	3.95
Chestnut, 1¼ x ¾''	2.20
Mine Run	3.00
Nut Run, 2½ x 0''	1.80
Screenings, 1¼ x 0''	1.35

For sizes not included herein refer to table following price instructions.

Production Group No. 8—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 8]

Size:	Price
Lump, 2½'' (or over)	$4.95
Egg, 6 x 2½''	4.45
Egg-Nut, 6 x 1¼''	3.95
Nut, 2½ x 1¼''	3.45
Chestnut, 1¼ x ¾''	2.20
Mine Run	3.00
Nut Run, 2½ x 0''	1.80
Screenings, 1¼ x 0''	1.35

For sizes not included herein refer to table following price instructions.

Production Group No. 9—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 9]

Size:	Price
Lump, 2½'' (or over)	$4.45
Egg, 6 x 2½''	4.45
Egg-Nut, 6 x 1¼''	3.95
Nut, 2½ x 1¼''	3.45
Chestnut, 1¼ x ¾''	2.20
Mine Run	3.00
Nut Run, 2½ x 0''	1.80
Screenings, 1¼ x 0''	1.35

For sizes not included herein refer to table following price instructions.

Production Group No. 10—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 10]

Size:	Price
Lump, 2½" (or over)	$3.70
Egg, 6 x 2½"	3.70
Egg-Nut, 6 x 1¼"	3.25
Nut, 2½ x 1¼"	2.80
Chestnut, 1¼ x ¾"	1.70
Mine Run	2.40
Nut Run, 2½ x 0"	1.55
Screenings, 1¼ x 0"	1.10

For sizes not included herein refer to table following price instructions.

Production Group No. 11—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 11]

Size:	Price
Lump, 2½" (or over)	$3.70
Egg, 6 x 2½"	3.70
Egg-Nut, 6 x 1¼"	3.35
Nut, 2½ x 1¼"	3.05
Chestnut, 1¼ x ¾"	1.95
Mine Run	2.25
Nut Run, 2½ x 0"	1.55
Special Stoker, 1 x ⅜"	1.35
Screenings, 1¼ x 0"	1.10

For sizes not included herein refer to table following price instructions.

Production Group No. 12—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 12—Oklahoma "Smithing Coal"]

Size:	Price
Crushed Mine Run, bulk	$5.32 Per Ton.
Crushed Mine Run, sacked	7.27 Per Ton.[1]
Lump, over 2½"	5.82 Per Ton.

[1] From this price of $7.27 per ton may be deducted $1.75 per ton when buyer furnishes sacks.

For sizes not included herein refer to table following price instructions.

Production Group No. 13—Truck Mine Prices per Net Ton of 2,000 Pounds

[Minimum Prices F. O. B. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in Production Group No. 13]

Size:	Price
Lump, 2½" (or over)	$3.45
Mine Run	3.45

For sizes not included herein refer to table following price instructions.

[F. R. Doc. 38-406; Filed, February 7, 1938; 10:43 a. m.]

[Order No. 214]

AN ORDER PROVIDING FOR A HEARING TO RECEIVE EVIDENCE TO ENABLE THE COMMISSION TO REVIEW THE APPLICATION OF BASE RATES AND FREIGHT RATE ADJUSTMENTS BETWEEN AND AMONG DISTRICTS NOS. 1 TO 8 INCLUSIVE, AS NOW ESTABLISHED IN THE PRICE SCHEDULES IN EFFECT FOR THESE DISTRICTS

The National Bituminous Coal Commission, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, hereby orders and directs:

1. That on the 24th day of February, 1938, commencing at the hour of ten o'clock A. M., in the Hearing Room of the Commission in the Walker Building, Washington, D. C., a hearing, at which all interested parties may appear and be heard, will be held for the purpose of receiving evidence to enable the Commission to review the application of base rates and freight rate adjustments between and among Districts Nos. 1 to 8 inclusive, as now established in the price schedules in effect for these districts.

2. That the Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, to the Secretaries of the Bituminous Coal Producers Boards and to Code Members within Districts Nos. 1 to 8 inclusive; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-407; Filed, February 7, 1938; 10:43 a. m.]

[Order No. 215]

AN ORDER MODIFYING ORDER NO. 95, AS MODIFIED BY ORDERS NOS. 131, 163, 179 AND 190, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 7 BY ADDING THERETO A SCHEDULE OF PRICES TO BE KNOWN AS "TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 7"

The National Bituminous Coal Commission having by its Order No. 95, as modified by Orders Nos. 131, 163, 179 and 190, determined and established the minimum prices of coals of code members produced within District No. 7, as set forth in "Price Schedule No. 1—District No. 7," as supplemented by Supplements Nos. 1, 2, 3 and 4, and having determined that the provisions of sub-sections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a truck mine price schedule as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 7, established in "Price Schedule No. 1—District No. 7", as supplemented by Supplements Nos. 1, 2, 3, and 4 to Price Schedule No. 1—District No. 7, are hereby further supplemented as set forth in "Truck Mine Price Schedule No. 1—District No. 7", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District No. 7, and shall be effective at 12:01 o'clock A. M., on the 21st day of February, 1938.

2. That said Order No. 95, as modified by Orders Nos. 131, 163, 179, and 190 and Price Schedule No. 1—District No. 7, and Supplements Nos. 1, 2, 3, and 4 thereto, except as modified herein and by said Truck Mine Price Schedule No. 1—District No. 7, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Truck Mine Price Schedule No. 1—District No. 7" to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 7; shall cause copies of this Order and said "Truck Mine Price Schedule No. 1—District No. 7" to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

TRUCK MINE PRICE SCHEDULE NO. 1 DISTRICT NO. 7

Schedule of minimum prices for truck mines of code members within District No. 7, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective: February 21, 1938.

Issued: February 5, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

LOW VOLATILE COALS

Size Specifications and Base Size Groups

Group number	Base size
No. 1, Lump	Includes all lump coal having a minimum bottom size of ¾" or more.
No. 2, Egg	Includes all sizes of coal having a maximum top size of 8" or less, but more than 3", and a minimum bottom size of ¾" or more.

LOW VOLATILE COALS—continued

Size Specifications and Base Size Groups—Continued

Group number	Base size
No. 3, Stove	Includes all sizes of coal having a minimum top size of 3" or less, but more than 1¼", and a minimum bottom size of ¼" or more.
No. 4, Nut	Includes all sizes of coal having a maximum top size of 1¼" or less, but more than ¼", and a minimum bottom size of ¼" or more.
No. 5, Pea	Includes all sizes of pea coal having a maximum top size of ¾" and a minimum bottom size of ¼" or more. Includes all sizes of screenings from 1¼" x 0" to ¾" x 0" from which any size less than ¼" has been eliminated.
No. 6, Domestic Mine Run	Includes all mine run coal, either straight or modified, that has a maximum coarse coal content for base ("A") coals (except where otherwise stated) of 60% or less and that has a minimum coarse coal content of more than 40%.
No. 7, Standard Mine Run	Includes all mine run coal, either straight or modified, that has a maximum coarse coal content for base ("A") coals of 40% or less and a minimum coarse coal, content that exceeds the size tolerance of 3% on 2¼" screenings.
No. 8, 1¼" Screenings	Includes all sizes of screenings with a maximum top size of 1¼" and a minimum top size of ⅜" from which no elimination of any intermediate size from ¼" to 0" has been made.
No. 9, ¾" Screenings	Includes all sizes of screenings with a maximum top size of ¾" or less from which no elimination of any intermediate size from ¼" to 0" has been made.

Coarse Coal Content—Coarse coal content is defined as such sizes of coal as would pass over a ¾" round-hole screen at the time it leaves the loading boom or chute at the tipple to enter the railroad car or truck.

The definition of Domestic and Standard Run of Mine Coal and Prices thereon as designated herein, will remain in effect for a period not exceeding sixty (60) days, after their effective date, subject to the District Board substantiating the necessity for such designation for these grades.

Any size larger than the maximum top and/or bottom size shown in a group shall be included in the next higher price group.

Code Member Index

GREENBRIER DISTRICT

Code member	Mine	Seam	Size group numbers								
			1	2	3	4	5	6	7	8	9
Bellwood Coal Company	Bellwood	Poca. #6	C	C	C	C	C	B	B	A	A
Burley Coal Co.	Burley	Sewell	C	C	C	C	C	B	B	A	A
Clear Creek Coal Co.	Brooke	Sewell	C	C	C	C	C	B	B	A	A
Douglas, Adrian	Adrian Douglas	Sewell	C	C	C	C	C	B	B	A	A
Greenbrier Fire Cr. Coal Co.	Midland	Fire Creek	C	C	C	C	C	B	B	A	A
Greenbrier Smokeless Coal Co.	Crichton #2	Sewell	C	C	C	C	C	B	B	A	A
Imperial Smokeless Coal Co.	Quinwood	Sewell	C	C	C	C	C	B	B	A	A
Johnstown Coal & Coke Co.	Crichton #1	Sewell	C	C	C	C	C	B	B	A	A
Leckie Smokeless Coal Co.	Anjean	Sewell	C	C	C	C	C	B	B	A	A
Low Ash Smo. Fuel Co.	Green Siding	Fire Creek	C	C	C	C	C	A	B	A	A
Margarette Coal Co.	Margarette	Sewell	C	C	C	C	C	B	B	A	A
New River & Poca. C. C. Co.	Leslie	Sewell	C	C	C	C	C	B	B	A	A
Rader, J. O.	Rader	Sewell	C	C	C	C	C	B	B	A	A
Raine Lumber & Coal Co.	Duo	Sewell	C	C	C	C	C	B	B	A	A
Smith, J. Austin	J. A. Smith	Sewell	C	C	C	C	C	B	B	A	A

NEW RIVER DISTRICT

Babcock Coal & Coke Co.	Babcock #7	Sewell	A	A	A	A	A	A	A	B	B
Bailey, Harvey	Lanark	Sewell	A	A	A	A	A	A	A	B	B
Branch Coal & Coke Co.	Elverton	Sewell	A	A	A	A	A	A	A	B	B
Brockman, C. A., Inc.	Stone Cliff #1	Fire Creek	A	A	A	A	A	A	A	B	B

Code Member Index—Continued

NEW RIVER DISTRICT—Continued

Code member	Mine	Seam	Size group numbers								
			1	2	3	4	5	6	7	8	9
Brockman, C. A., Inc.	Terry	Fire Creek	A	A	A	A	A	A	A	B	B
Callaway Coal Co., C. P.	Cepeee	Sewell	A	A	A	A	A	A	A	C	C
Cedar Branch Coal Co.	Cedar Branch	Sewell	A	A	A	A	A	A	A	B	B
Coal Run Coal Co.	Coal Run	Sewell	A	A	A	A	A	A	A	B	B
Dunedin Coal Co.	Dunedin #1	Fire Creek	A	A	A	A	A	A	A	B	B
Eli Smokeless Coal Co.	Eli	Sewell	A	A	A	A	A	A	A	B	B
Fire Creek Coal & Coke Co.	Fire Creek	Fire Creek	A	A	A	A	A	A	A	B	B
Garten, C. V.	Copeland	Sewell	A	A	A	A	A	A	A	B	B
Greenwood Coal Co.	Greenwood	Fire Creek	A	A	A	A	A	A	A	B	B
Imperial New River Coal Co.	Thurken	Sewell	A	A	A	A	A	A	A	B	B
Koppers Coal Co.	Stanaford #1	Beckley	A	A	A	A	A	A	A	A	A
Koppers Coal Co.	Stanaford #6	Sewell	A	A	A	A	A	A	A	B	B
Lanark Smokeless Coal Co.	Lanark	Fire Creek	A	A	A	A	A	A	A	B	B
Laurel Creek Coal Co.	Laurel	Fire Creek	A	A	A	A	A	A	A	B	B
Laurel Smokeless Coal Co.	Hemlock Hollow	Fire Creek	A	A	A	A	A	A	A	D	D
Lookout Smokeless Coal Co.	Lookout	Sewell	A	A	A	A	A	A	A	B	B
Low Volatile Coal Co.	Erskine	Fire Creek	A	A	A	A	A	A	A	B	B
Low Volatile Coal Co.	Rock Lick #1	Sewell	A	A	A	A	A	A	A	B	B
Macdonald Colliery Co.	Macdonald	Sewell	A	A	A	A	A	A	A	B	B
Maryland New River Coal Co.	Dubree #1	Sewell	A	A	A	A	A	A	A	B	B
Maryland New River Coal Co.	Dubree #2	Sewell	A	A	A	A	A	A	A	B	B
Maryland New River Coal Co.	Dubree #3	Sewell	A	A	A	A	A	A	A	B	B
Maryland New River Coal Co.	Dubree #4	Sewell	A	A	A	A	A	A	A	B	B
Mason Coal Co.	Mason #1	Fire Creek	A	A	A	A	A	A	A	B	B
McKell Coal & Coke Co.	Kilsyth	Sewell	A	A	A	A	A	A	A	B	B
McKell Coal & Coke Co.	Oswald	Sewell	A	A	A	A	A	A	A	B	B
McKell Coal & Coke Co.	Siltix	Sewell	A	A	A	A	A	A	A	B	B
McKell Coal & Coke Co.	Tamroy	Sewell	A	A	A	A	A	A	A	B	B
Mill Creek Colliery Co.	Mill Cr. #1	Sewell	A	A	A	A	A	A	A	B	B
Murdock, J. E.	"B"	Sewell	A	A	A	A	A	A	A	B	B
Newlyn Coal Company	Newlyn	Fire Creek	A	A	A	A	A	A	A	B	B
New River & Poca. C. C. Co.	Kaymoor	Sewell	A	A	A	A	A	A	A	B	B
New River & Poca. C. C. Co.	Layland	Fire Creek	A	A	A	A	A	A	A	B	B
New River & Poca. C. C. Co.	Minden	Sewell	A	A	A	A	A	A	A	B	B
New River, Company, The	Cranberry #1	Sewell	A	A	A	A	A	A	A	B	B
New River Company, The	Cranberry #2	Sewell	A	A	A	A	A	A	A	B	B
New River Company, The	Cranberry #3	Sewell	B	B	B	B	B	B	B	B	B
New River Co., The	Harvey-Prudence	Sewell	A	A	A	A	A	A	A	B	B
New River Co., The	Lochrelly	Sewell	A	A	A	A	A	A	A	B	B
New River Co., The	Mabscott	Sewell	B	B	B	B	B	B	B	B	B
New River Co., The	Oakwood	Sewell	A	A	A	A	A	A	A	B	B
New River Co., The	Summerlee	Sewell	A	A	A	A	A	A	A	B	B
New River Co., The	Whipple	Sewell	A	A	A	A	A	A	A	B	B
Premium Smokeless Coal Co.	Cayerton	Sewell	A	A	A	A	A	A	A	B	B
Price Hill Coll. Co.	Price Hill	Sewell	A	A	A	A	A	A	A	B	B
Raleigh Coal & Coke Co.	Black Knight #3	Beckley	A	A	A	A	A	A	A	A	A
Raleigh Coal & Coke Co.	Black Knight #6	Beckley	B	B	B	B	B	B	B	A	A
Royal Mining Company	Royal	Fire Creek	A	A	A	A	A	A	A	B	B
Scotia Coal & Coke Co.	Brooklyn	Sewell	A	A	A	A	A	A	A	B	B
Skaggs, Henry	Holliday Branch	Sewell	A	A	A	A	A	A	A	B	B
Sked Coal Company	Sked	Fire Creek	A	A	A	A	A	A	A	B	B
South Side Company	South Side	Sewell	A	A	A	A	A	B	B	B	B
Stanley Coal Company	Stanley	Sewell	A	A	A	A	A	A	A	B	B
Star Coal & Coke Company	Star	Sewell	A	A	A	A	A	A	A	B	B
Stone, George T.	House Coal Co.	Sewell	A	A	A	A	A	A	A	B	B

POCAHONTAS DISTRICT

Algoma Coal & Coke Co.	Algoma	Poca. #3	B	B*	B	B	B	B	B	C	C
American Coal Co.	Crane Creek	Poca. #3	B	B	B	B	B	B	B	C	B
American Coal Co.	Piedmont	Poca. #3	C	B	C	B	C	B	B	D	C
Arlington Coal & Coke Co.	Arlington	Poca. #3	B	B	B	B	B	B	B	C	C
Ashland Coal & Coke Co.	Ashland #3	Poca. #3	B	B	B	B	B	B	B	C	C
Ashland Coal & Coke Co.	Ashland #6	Poca. #6	C	C	C	C	C	C	C	G	G
Ashland Coal & Coke Co.	Ashland #9	Poca. #9	D	D	D	D	D	D	D	G	D
Ashland Coal & Coke Co.	Ashland 3, 6 & 9	Poca. 3, 6, 9	B	B	B	B	B	B	B	D	D
Ashland Coal & Coke Co.	Ashland 6 & 9	Poca. 6 & 9	B	B	B	B	B	B	B	D	D
Bassett, C. L.	Brown Eyes	Poca. #3	B	B	B	B	B	B	B	C	C
Booth-Bowen Coal & Coke Co.	Booth-Bowen	Poca. #3	B	B	B	B	B	B	B	C	C
Buckeye Coal & Coke Co.	Buckeye #1	Poca. #3	B	B	B	B	B	B	D	C	C
Buckeye Coal & Coke Co.	Buckeye #2	Poca. #6	B	B	B	B	B	B	B	C	C
Central Pocahontas Coal Co.	No. 2	Poca. #3	B	B	B	B	B	B	B	C	D
Crozer Coal & Coke Co.	Crozer	Poca. #3	B	B	B	B	B	B	B	D	C
Crystal Coal & Coke Co.	Crystal	Poca. #3	C	C	C	C	C	B	B	C	D
Empire Coal & Coke Co.	Empire	Poca. #3	B	B	B	B	B	B	B	D	D
Gilliam Coal & Coke Co.	Gilliam	Poca. #3	B	B	B	B	B	B	B	D	C
Indian Pocahontas Coal Co.	Indiana Poca	Poca. #3	B	B	B	B	B	B	B	C	C
Johnston, A. H.	Johnston Mines	Poca. #3	C	C	C	C	C	C	C	B	B
Kingston Pocahontas Coal Co.	Springton	Poca. #3	C	C	C	C	C	B	B	D	D
Koppers Coal Co., The	Carswell	Poca. #3	B	B	B	B	B	B	B	D	D
Koppers Coal Co., The	Keystone	Poca. #3	B	B	B	B	B	B	B	D	D
Koppers Coal Co., The	Maitland	Poca. #4	B	B	B	B	B	B	B	D	D
Lake Superior Coal Co.	Superior #1	Poca. #3	B	B	B	B	B	B	B	D	E
Lake Superior Coal Co.	Superior #2	Poca. #4	B	B	B	B	B	B	B	E	D
Lamar Colliery Co.	Lamar	Poca. #3	C	C	C	C	C	B	B	B	D
Lynchburg Coal & Coke Co.	Lynchburg	Poca. #3	B	B	B	B	B	B	B	D	D
Mill Creek Coal & Coke Co.	Elkhorn	Poca. #3	B	B	B	B	B	B	B	C	D
New River & Poca. C. C. Co.	No. 9	Poca. #3	B	B	B	B	B	B	B	D	D
Page Coal & Coke Co.	Page	Poca. #3	B	B	B	B	B	B	B	D	D
Peerless Coal & Coke Co.	Peerless	Poca. #3	B	B	B	B	B	B	B	D	D
Pocahontas Corporation, The	Bottom Creek	Poca. #3	B	B	B	B	B	B	B	D	D
Pocahontas Fuel Co., Inc.	Boissevain	Poca. #3	B	B	B	B	B	B	B	D	C
Pocahontas Fuel Co., Inc.	Delta	Poca. #3	B	B	B	B	B	B	B	C	C
Pocahontas Fuel Co., Inc.	Lick Branch	Poca. #3	B	B	B	B	B	B	B	C	C
Pocahontas Fuel Co., Inc.	Nor.-Angle	Poca. #3	B	B	B	B	B	B	B	C	C
Pocahontas Fuel Co., Inc.	Poca. #1	Poca. #3	B	B	B	B	B	B	B	D	D
Pocahontas Fuel Co., Inc.	Poca. #7	Poca. #3	B	B	B	B	B		B	B	
Pocahontas Fuel Co., Inc.	Rolfe	Poca. #3									

Code Member Index—Continued

POCAHONTAS DISTRICT—Continued

Code member	Mine	Seam	Size group numbers								
			1	2	3	4	5	6	7	8	9
Pocahontas Fuel Co., Inc.	Sagamore	Poca. #3	B	B	B	B	B	B	B	C	C
Pulaski Iron Company	Pulaski	Poca. #3	B	B	B	B	B	B	B	D	D
Thomas Coal Co.	No. 1	Poca. #3	B	B	B	B	B	B	B	D	B
Turkey Gap Coal & Coke Co.	Wenonah	Poca. #3	C	C	C	C	C	B	B	B	C
United Pocahontas Coal Co.	Indian Ridge	Poca. #3	B	B	B	B	B	B	B	B	C
Upland Coal & Coke Co.	Upland	Poca. #3	B	B	B	B	B	B	B	B	C
Weyanoke Coal & Coke Co.	Arista	Poca. #3	C	C	C	C	C	B	B	C	B
Weyanoke Coal & Coke Co.	Hiawatha	Poca. #3	C	C	C	C	C	B	B	B	B
Winding Gulf Colliery Co.	Louisville	Poca. #3	B	B	B	B	B	B	B	B	C

TUG RIVER DISTRICT

Atlantic Smokeless Coal Co.	Asc	Davy-Sewell	C	C	C	C	C	B	B	C	C
Atwell & Son, Cleveland	Cleveland Atwell & Son	War Creek	D	D	D	D	D	D	D	C	C
Beamer Pocahontas Coal Co.	Beamer	Davy-Sewell	B	B	B	B	B	B	B	C	C
Beamer Pocahontas Coal Co.	Dells	Red Ash	B	B	B	B	B	B	B	C	C
Beamer Pocahontas Coal Co.	Jack	Red Ash	C	C	C	C	C	B	B	D	D
Bradshaw Coal Co.	Bradshaw	Bradshaw	A	A	A	A	A	A	A	A	A
Cardiff Pocahontas Coal Co.	Cardiff	Bradshaw	A	A	A	A	A	A	A	A	A
Carter Coal Co.	Caretta #5	War Creek	D	D	D	D	D	D	D	D	D
Carter Coal Co.	Olga #1	Poca #4	B	B	B	B	B	B	B	B	B
Carter Coal Co.	Olga #2	Poca #4	B	B	B	B	B	B	B	B	B
Carter Coal Co.	Thelma	Davy-Sewell	B	B	B	B	B	B	B	B	B
Cash Pocahontas Coal Co.	Exclesior #1	War Creek	C	C	C	C	C	B	B	C	C
Edmor Coal Co.	Edmor	Welch	D	D	D	D	D	D	D	D	D
Jacobs Fork Poca. Coal Co.	Jacobs Fork	Poca #3	A	A	A	A	A	A	A	A	A
Jewell Ridge Coal Corp.	Jewell Ridge	Jewell	A	A	A	A	A	A	A	A	A
Jewell Ridge Coal Corp.	Jewell Valley	Jewell	A	A	A	A	A	A	A	A	A
Kingston Pocahontas Coal Co.	Exeter	Poca. 3 & 4	B	B	B	B	B	B	B	B	B
Kingston Pocahontas Coal Co.	Warwick	Welch	B	B	B	B	B	B	B	B	B
Logate Trent Coal Co.	Trent	Red Ash	B	B	B	B	B	B	B	B	B
New River & Poca. C. C. Co.	No. 1	Poca. #3	A	A	A	A	A	A	A	A	A
New River & Poca. C. C. Co.	No. 5	Poca. #5	B	B	B	B	B	B	B	B	B
New River & Poca. C. C. Co.	No. 11	Poca. 3 and 4	B	B	B	B	B	B	B	B	B
Oxford, J. R.	Alex Harman	War Creek	D	D	D	D	D	D	D	D	D
Pocahontas Corporation	No. 31	Poca. # 5	A	A	A	A	A	A	A	A	A
Pocahontas Corporation	No. 32	Poca. #5	A	A	A	A	A	A	A	A	A
Pocahontas Corporation	No. 33	Poca. #3	A	A	A	A	A	A	A	A	A
Pocahontas Red Bird Mng. Co.	Red Bird	Red Ash	B	B	B	B	B	B	B	B	B
Pond Creek Pocahontas Co.	No. 1	Poca. #4	C	C	C	C	C	B	B	C	C
Pond Creek Pocahontas Co.	No. 3	Beckley	D	D	D	D	D	D	D	D	D
Pond Creek Pocahontas Co.	No. 4	Beckley	D	D	D	D	D	D	D	D	D
Premier Poc. Colliery Co.	Premier	Welch	B	B	B	B	B	B	B	B	B
Susanna Pocahontas Coal Co.	Susanna	Fire Creek	D	D	D	D	D	D	D	D	D
U. S. Coal & Coke Co.	All Mines	Poca. 3 and 4	D	D	D	D	D	D	D	C	C
Warrior Coal Company	Warrior	War Creek	D	D	D	D	D	D	D	D	D
Yukon Poca. Coal Co.	Yukon	War Creek	D	D	D	D	D	D	D	L	L

WINDING GULF DISTRICT

Amigo Coal Co.	Amigo	Poca. #3	C	C	C	C	C	B	B	B	B
Black Eagle Smokeless Coal Company	Black Eagle	Poca. #3	C	C	C	C	C	B	B	C	C
Brule Smokeless Coal Co.	Brule	Poca. #3	B	A	A	A	A	A	A	B	B
Buckeye Coal & Coke Co.	Buckeye #3	Poca. #3	C	C	C	C	C	B	B	A	A
Bush, W. F.	Glade Creek	Beckley	B	B	B	B	B	B	B	B	B
Cole Coal Co.	Princewick	Beckley	B	A	A	A	A	A	A	A	A
Collins Colliery Co.	Collins	Sewell	A	B	B	B	B	B	B	B	B
Crab Orchard, Impr. Co.	Eccles #5	Beckley	B	B	B	B	B	B	B	A	A
Crab Orchard, Impr. Co.	Eccles #6	Beckley	B	B	B	B	B	B	B	B	B
Davis, G. E.	Pineville	Sewell	B	C	C	C	C	B	B	B	B
Douglas Coal Co.	Douglas	Fire Creek	C	C	C	C	C	B	B	B	B
Fire Creek Domestic Coal Co.	Hunter	Fire Creek	C	C	C	C	C	B	B	B	B
Fire Creek Fuel Co.	Hunter No. 1	Fire Creek	C	C	C	C	C	B	B	B	B
Fire Creek Fuel Co.	Hunter No. 2	Fire Creek	C	C	C	C	C	B	B	C	C
Furrow Coal Co., J. J.	Furrow	Beckley	B	B	B	B	B	B	B	B	B
Gaston Coal Co.	Alpha Beckley	Beckley	B	A	A	A	A	A	A	A	A
Goode, Jeff	Goode	Beckley	B	B	B	B	B	B	B	B	B
Griffith Coal Co.	Griffith	Sewell	B	B	B	B	B	B	B	B	B
Griffiths, Mrs. Gertrude	Griffiths Dom. Coal Co.	Beckley	B	B	B	B	B	B	B	B	B
Gulf Smokeless Coal Co.	Tams #1	Beckley	B	A	A	A	A	A	A	A	A
Gulf Smokeless Coal Co.	Tams #2	Beckley	B	A	A	A	A	A	A	A	A
Gulf Smokeless Coal Co.	Wyco	Poco. #3	A	C	C	C	C	B	B	B	B
Hall & Meadows	Hall & Meadows	Beckley	B	B	B	B	B	B	B	B	B
Halsey, S. G.	Halsey	Sewell	B	B	B	B	B	B	B	B	B
Henry Furrow Coal Co.	Furrow	Beckley	B	B	B	B	B	B	B	B	B
Hollywood Coal Co.	Hollywood Coal Co.	Beckley	B	B	B	B	B	B	B	B	B
Koppers Coal Co., The	Glen White	Beckley	B	A	A	A	A	A	A	A	A
Koppers Coal Co., The	Helen #5	Beckley	B	B	B	B	B	B	B	B	B
Koppers Coal Co., The	Helen #9	Poco. #3	B	A	A	A	A	A	A	A	A
Koppers Coal Co., The	Pemberton No. 2	Beckley	B	B	B	B	B	B	B	B	B
Koppers Coal Co., The	Stotesbury #5	Beckley	B	A	A	A	A	A	A	A	A
Lecony Smokeless Coal Co.	Stotesbury #8	Poco. #4	B	B	B	B	B	B	B	B	B
Leckie Fire Creek Coal Co.	Besseco	Beck. Poco. 3	B	B	B	B	B	B	B	B	B
Lilly & Hornbrook, Inc.	Willabet #9	Beckley	B	B	B	B	B	B	B	B	B
Lillybrook Coal Co.	Crab Orchard	Beckley	B	B	B	B	B	B	B	B	B
Lillybrook Coal Co.	Killarney #3	Poco. #3	B	B	B	B	B	B	B	B	B
MacAlpin Coal Co.	Lillybrook #3	Poco. #4	B	B	B	B	B	B	B	B	B
MacAlpin Coal Co.	MacAlpin	Beckley	B	B	B	B	B	B	B	B	B
Mead Coal Co., C. H.	MacAlpin #2	Poco #4	B	B	B	B	B	B	B	B	B
Mead Coal Co., C. H.	Mead #2	Poco #3	B	B	B	B	B	B	B	B	B
Meadows Coal Co., E. W.	Mead #1	Poco #3	B	B	B	B	B	B	B	B	B
Minter Coal Co., E. C.	Meadows	Beckley	B	B	B	B	B	B	B	B	B
Morrison Coal Co.	Minter	Beckley Poco #3	B	B	B	B	B	B	B	B	B
Nuriva Smo. Coal Co.	Morrison	Sewell	B	B	B	B	B	B	B	B	B
Pemberton C. & C. Co.	Nuriva #2	Poco #3	B	B	B	B	B	B	B	A	A
	Affinity	Beckley	B	B	B	B	B	B	B	B	A

Code Member Index—Continued

WINDING GULF DISTRICT—Continued

Code member	Mine	Seam	Size group numbers								
			1	2	3	4	5	6	7	8	9
Pemberton C. & C. Co.	Big Stick	Beckley	A	A	A	A	A	A	A	A	A
Porterfield Coal Co.	Myrtle	Poco #6	C	C	C	C	C	B	B	B	B
Raleigh-Wyoming Mng. Co.	Glen Rogers	Beckley	A	A	A	A	A	A	A	C	C
Reed, A. L.	Reed	Beckley	B	B	B	B	B	B	B	B	B
Red Jacket Coal Corp.	Wyoming	Sewell	B	B	B	B	B	B	B	B	B
Sewell Smo. Coal Co.	Semoco	Sewell	A	A	A	A	A	B	B	A	A
Slab Fork Coal Co.	Slab Fork	Beckley	B	B	B	B	B	B	B	B	B
Smith Bros. & Snuffer Coal Co.	Smith Bros. & Snuffer	Beckley	B	C	C	C	C	B	B	B	B
Sterling Smo. Coal Co.	Sterling	Fire Creek	B	B	B	B	B	B	B	B	B
Stewart, F. N.	Ida	Sewell	B	B	B	B	B	B	B	B	B
Stover Coal Co.	Stover Coal #1	Beckley	B	B	B	B	B	B	B	B	B
Stover Coal Co.	Stover Coal #2	Beckley	B	B	C	C	C	B	B	B	B
Waeomah Coal Co.	Waeomah	Poco. #3	C	C	C	C	C	B	B	B	B
White, J. D.	White	Poco. #3	C	C	C	C	C	C	C	C	C
Winding Gulf Coll. Co.	Wind. Gulf 1	Beckley	A	A	A	A	A	A	A	A	A
Winding Gulf Coll. Co.	Wind. Gulf 2	Beckley	A	A	A	A	A	A	A	A	A

Truck Mine Prices in Cents per Net Ton of 2,000 Pounds

Price index	Size groups								
	1	2	3	4	5	6	7	8	9
A	345	355	320	250	250	280	260	210	200
B	330	340	320	250	250	280	260	205	195
C	310	310	310	250	250	270	250	200	190
D	305	315	300	235	235	260	250	195	185
E								190	180
F								180	170
G									
H									
J									
K								160	150
L									

HIGH VOLATILE COALS

Size Groups All Market Areas

Group No.	Sizes	Group No.	Sizes
1	6" and larger Block.		2¼" x 8" Egg. 2" x 8" Egg.
2	4" and 5" Block. 5" x 10" Chunks. 5" x 8" Chunks. 4" x 10" Chunks. 4" x 8" Chunks. 4" x 6" Chunks. 4" x 5" Chunks.	4	¾" to 2" Lump. 2¼" x 6" Egg. 3" x 5" Egg. 2¼" x 5" Egg. 2½" x 5" Egg. 2" x 6" Egg. 3" x 4" Egg.
3	2¼" to 3" Lump. 3" x 8" Egg. 3" x 6" Egg.	5	2" x 5" Egg. 2½" x 4" Egg.

HIGH VOLATILE COALS—continued

Size Groups All Market Areas—Continued

Group No.	Sizes	Group No.	Sizes
	2" x 4½" Egg. 2" x 4" Egg. 1¼" x 6" Egg. ⅝" and under. Screened R. O. M.	12	2" Minus—Nut—Slack with top size not exceeding 2". No fines removed.
6	3" and under Stove.	13	1¼" Minus—Nut—Slack with top size not exceeding 1¼". No fines removed.
7	2" and under top size and ½" and over bottom size Nut.	14	¼" Minus—Pea and Slack with top size not exceeding ¼". No fines removed.
8	1¼" and under top size Double Screened Stoker.	15	⅛" Minus—Slack with top size not exceeding ⅛". No fines removed.
9	Straight Mine Run, 8" Resultant.	16	Low grade reject coal separated at tipple or loaded separately in the mine.
10	6" Resultant. 5" Resultant. 4" Resultant.		
11	2¼" Minus—Nut—Slack with top size not exceeding 2¼". No fines removed.		

Any size larger than the maximum top and/or bottom size shown in a group shall be included in the next higher price group.

HIGH VOLATILE

Code Member Index

Code member	Mine	Seam	Size group numbers														
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Carter Coal Co.	Seaboard	Lower Seaboard	O	M	M	J	G	K	K	K	B				L	L		
Hill-Anderson Coal Co., The	Willis Branch	Eagle	O	M	M	J	G	K	K	K	B	B	A	A	A	A		E
Gauley Mountain Coal Co.	Anstead	No. 2 Gas	O	M	M	J	G	K	K	K	B	G	J	J	J	J		
Gauley Mountain Coal Co.	Rich Creek	Coalburg	O	O	O	N	N	N	N	N	B	B	A	A	A	A		
Koppers Coal Co.	Beards Fork	No. 2 Gas	O	M	M	J	G	K	K	K	B	B	A	A	A	A		
Koppers Coal Co.	Ingram Branch	Eagle	O	M	M	J	G	G	K	K	B	B	A	A	A	A		
Koppers Coal Co.	Long Branch	Eagle	O	M	M	J	G	G	K	K	B	B	A	A	A	A		
Koppers Coal Co.	Midvale	No. 2 Gas	O	M	M	J	G	G	K	K	B	B	A	A	A	A		
Loup Creek Coll. Co.	Loup Creek	Eagle	O	M	M	J	G	G	K	K	B	B	A	A	A	A		
Mill Creek Coll. Co.	Mill Creek #2	No. 2 Gas	O	M	M	J	G	G	K	K	B	B	A	A	A	A		
Vera Pocahontas Coal Co.	Vera No. 1	Big Eagle	O	M	M	J	G	G	K	K	B	B	A	A	A	A		
Wilson, M. T.	Cotton Hill	No. 2 Gas	O	M	M	J			K	K	B							

Truck Mine Price Index

Size groups	Price index																	
	A	B	C	D	E	F	G	H	J	K	L	M	N	O	P	Q	R	S	T	U
1	335	330	325	320	315	310	305	300	295	290	285	280	275	270	265	260	255	250	245	240
2	335	330	325	320	315	310	305	300	295	290	285	280	275	270	265	260	255	250	245	240
3	325	320	315	310	305	300	295	290	285	280	275	270	265	260	255	250	245	240	235	230
4	310	305	300	295	290	285	280	275	270	265	260	255	250	245	240	235	230			
5	300	295	290	285	280	275	270	265	260	255	250	245	240	235	230	225	220			
6	290	285	280	275	270	265	260	255	250	245	240	235	230	225	220	215	210			
7				265	260	255	250	245	240	235	230	225	220	215	210	205	200			
8				265	260	255	250	245	240	235	230	225	220	215	210	205	200			
9	240	235	230	225	220	215	210	205												
10	220	215	210	205	200	195	190	185												
11	210	205	200	195	190	185	180	175	170	165	160	155								
12	205	200	195	190	185	180	175	170	165	160	155	150	145							
13	200	195	190	185	180	175	170	165	160	155	150	145	140	135	130					
14	190	185	180	175	170	165	160	155	150	145	140	135	130							
15																				
16	210	205	200	195	190	185	180	175	170	165										

Code Member Truck Mine Price Index

HIGH VOLATILE GROUP

Code member	Mine	Size group numbers														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Carter Coal Company	Seaboard	270	280	270	270	270	245	235	235	235				150	140		
Hill-Anderson Coal Co., The	Willis Br	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Gauley Mountain Coal Company	Anstead	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Gauley Mountain Coal Company	Rich Creek	270	270	260	250	240	230	220	220	210	190	170	165	160	150		190
Koppers Coal Company	Beards Fork	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Koppers Coal Company	Ingram Br	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Koppers Coal Company	Long Br	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Koppers Coal Company	Midvale	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Loup Creek Coll. Company	Loup Creek	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Mill Creek Coll. Company	Mill Cr. #2	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Vera Pocahontas Coal Company	Vera #1	270	280	270	270	270	245	235	235	235	215	210	205	200	190		
Wilson, M. T.	Cotton Hill	270	280	270	270	270	245	235	235	235	215	210	205	200	190		

[F. R. Doc. 38-396; Filed, February 7, 1938; 10:39 a. m.]

[Docket No. 71-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF MISSOURI AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a Regular Session of the National Bituminous Coal Commission Held at its offices in Washington, D. C., on the 3rd day of February, 1938.

It appearing, That by Orders No. 2 and 64, the Commission upon its own motion entered into and conducted an investigation under the provisions of Section 4–A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Missouri and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 3rd day of February, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Missouri directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in Missouri in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in interstate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 18th day of February, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Missouri, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Missouri.

2. That any producer of bituminous coal in intrastate commerce within the State of Missouri, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4–A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4–A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Missouri who is not upon the date of this Order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Missouri known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this Order.

By Order of the Commission.

Dated this 3rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-401; Filed, February 7, 1938; 10:41 a. m.]

[Docket No. 164-FD]

IN THE MATTER OF GEORGE M. JONES COMPANY

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 6th day of January 1938, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 4, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 8th day of January 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order.

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, Supplement No. 1, Price Schedule No. 1—District No. 4 be and the same is hereby modified and revised to contain the following provision as if the same were more fully set forth therein:

"That 2" Nut and Slack produced at the mines of the George M. Jones Company shall take the minimum price of $1.75 per net ton f. o. b. mines and shall not be subject to any freight rate adjustment."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 4, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 4, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-402; Filed, February 7, 1938; 10:41 a. m.]

[Docket No. 224-FD]

IN THE MATTER OF CONSUMERS' COUNSEL ON BEHALF OF KOPPERS COMPANY—SEABOARD DIVISION

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 14th day of January, 1938, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 7, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 20th day of January, 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, that Supplement No. 2, Price Schedule No. 1—District No. 7 (by-product) be and the same hereby is modified and revised to contain the following provision as if the same were more fully set forth therein:

"Low volatile coals indexed as 'A' in said by-product price schedule, sold and used for by-product purposes, moving through tidewater (Hampton Roads, Virginia) for delivery into Market Area No. 1-A (points at Port of New York including Port Chester, New York) shall take a minimum price of $2.00 per net ton of 2000 lbs. f. o. b. mine."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 7, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 7, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-404; Filed, February 7, 1938; 10:42 a. m.]

[Docket No. 225-FD]

IN THE MATTER OF CONSUMERS' COUNSEL ON BEHALF OF BROOKLYN UNION GAS CO.

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 14th day of January, 1938, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 7, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 20th day of January, 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, that Supplement No. 2, Price Schedule No. 1—District No. 7 (by-product) be and the same hereby is modified and revised to contain the following provision as if the same were more fully set forth therein:

"Low volatile coals indexed as "A" in said by-product price schedule, sold and used for by-product purposes, moving through tidewater (Hampton Roads, Virginia) for delivery into Market Area No. 1-A (Points at Port of New York including Port Chester, New York) shall take a minimum price of $2.00 per net ton of 2,000 lbs. f. o. b. mine."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 7, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 7, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-403; Filed, February 7, 1938; 10:42 a. m.]

[Docket No. 226-FD]

IN THE MATTER OF CONSUMERS' COUNSEL ON BEHALF OF CONSOLIDATED EDISON COMPANY OF NEW YORK, INCORPORATED

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 14th day of January, 1938, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 7, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 20th day of January, 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, that Supplement No. 2, Price Schedule No. 1—District No. 7 (by-product) be and the same hereby is modified and revised to contain the following provision as if the same were more fully set forth therein:

"Low volatile coals indexed as 'A' in said by-product price schedule, sold and used for by-product purposes, moving through tidewater (Hampton Roads, Virginia) for delivery into Market Area No. 1-A (points at Port of New York including Port Chester, New York) shall take a minimum price of $2.00 per net ton of 2,000 lbs. f. o. b. mine."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 7, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 7, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-405; Filed, February 7, 1938; 10:42 a. m.]

[Docket No. 287-FD]

IN THE MATTER OF FENTRESS COAL AND COKE COMPANY

TEMPORARY ORDER

The petitioner above-named having filed with the Commission on the 29th day of January, 1938, an amended petition pursuant to provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 8 and praying for immediate and temporary relief as therein set forth by preliminary or temporary order, pending final disposition of such petition, and the Commission having considered this matter; and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, the Schedule of Minimum Prices for coals of code members produced within District No. 8 and any and all Supplements thereto established for said District, be and the same hereby are modified and revised to contain the following provisions as if the same were fully set out therein after the Price Indices in Price Schedule No. 1 and Supplements thereto for District No. 8:

"The basis for freight rate adjustment into Market Area No. 87 appearing on Page 31 of Supplement No. 1 is cancelled and deleted.

"The heading and all exceptions now occurring on Page 43 of Supplement No. 1 are cancelled and deleted and the following heading and exceptions are inserted in place thereof:

"'*District No. 8*

"'*The following exceptions to price schedule for Market Area No. 87 and to water works, Donaldson and Old Hickory, Tennessee, in Market Area No. 35.*

"'(*a*) On shipments from all mines located on the Tennessee Central Railroad the designated base rate shall be the lowest rate published by the L. & N. Railroad from District 9 mines to the above stipulated areas (now published as $1.35 plus 10¢ surcharge) and mines on Tennessee Central Railroad shall increase their mine price by an amount in cents per net ton to equalize the actual freight rate with such base rate.

"'(*b*) On shipments from all mines in District No. 8, except mines located on the Tennessee Central Railroad, the base rate shall be the actual published rate from such mines, to the above stipulated areas.

"'(*c*) On shipments from all mines located on the Tennessee Central Railroad to the above stipulated areas the following changes shall be made in listed mine prices:

"'Size Groups 1, 2 and 3 shall be increased 30¢ per ton.

"'Size Group 11 may be reduced 10¢ per ton.

"'Size Groups 4, 5, 9 and 12 may be reduced 20¢ per ton.

"'Size Group 13 maye be reduced 25¢ per ton.

"'Size Groups 10, 14 and 15 may be reduced 30¢ per ton.

"'Size Groups 6, 7 and 8 may be reduced 35¢ per ton.

"'(*d*) On shipments from mines located on the H. & N. E. Railroad to the above stipulated areas the listed mine prices on size groups 1, 2 and 3 shall be increased 30¢ per ton.

"'(*e*) On shipments from mines located on the Tennessee Railroad except mines operating in the Pee-Wee seam, to the above stipulated areas, the listed mine prices on size groups 1, 2 and 3 shall be increased 20¢ per ton.

"'(*f*) On shipments from mines located on the Tennessee Railroad, operating in the Pee-Wee seam, to the above stipulated areas, the listed mine prices on size groups 1, 2 and 3 shall be increased 30¢ per ton and on size groups 4 and 5 shall be increased 10¢ per ton.

"'(*g*) On shipments from mines located on the Kentucky and Tennessee Railroad, to the above stipulated areas, the listed mine prices on size groups 1, 2 and 3 shall be increased 20¢ per ton.

"'(*h*) On shipments from all mines in the Southern Appalachian sub-district not located on the Tennessee Central, H. & N. E., Tennessee, and Kentucky and Tennessee Railroads, to the above stipulated areas, the listed mine prices on size groups 1, 2 and 3 shall be increased 10¢ per ton.

"'*The following exceptions to price schedule for Market Area No. 85.*

"'On shipments from all mines located on the Tennessee Central Railroad to all local stations on said railroad and

branches, from and including Daysville to and including Hermitage the base rate shall be the actual published rate from such mines to such destinations.' "

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 8, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 8, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 4th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-397; Filed, February 7, 1938; 10:40 a. m.]

[Docket No. 294-FD]

IN THE MATTER OF KEYSTONE COAL AND COKE COMPANY

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 4th day of February, 1938, pursuant to provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 2, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 4th day of February, 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, that the Price Index, as set forth in Supplement No. 1 to the Schedule of Minimum Prices of coals of Code Members produced within District No. 2, of the Crows Nest Mine of the Keystone Coal and Coke Company in the Pittsburgh Seam be changed from "C" to "D" in size group 14, and that the Price Index appearing on the same page of said supplement, of the Salem Mine of the Keystone Coal and Coke Company in the Pittsburgh Seam be changed from "C" to "D" (raw coal) in size group 14.

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 2, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 2, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission

Dated this 4th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-398; Filed, February 7, 1938; 10:40 a. m.]

[Docket No. 294-FD]

IN THE MATTER OF RECLASSIFICATION OF CERTAIN COALS OF THE KEYSTONE COAL & COKE COMPANY PRODUCED AT ITS SALEM AND CROWS NEST MINES

NOTICE OF HEARING

The Bituminous Coal Producers' Board for District No. 2 having proposed and recommended a reclassification of certain coals of the Keystone Coal & Coke Company produced at its Salem and Crows Nest Mines by changing the classification of size group 8 (¾" slack) from "B" to "C"; and the Commission having considered the proposed reclassification and it appearing that further evidence is necessary in order to determine whether the said proposal shall be approved, modified or disapproved;

Now, therefore, it is hereby ordered:

1. That a hearing shall be held by the Commission on the 17th day of February, 1938, commencing at ten o'clock A. M., in the Hearing Room of the Commission in the City of Washington, D. C., for the purpose of receiving evidence to assist the Commission in determining whether or not the aforesaid proposal for reclassification shall be approved, modified or disapproved.

2. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 4th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-399; Filed, February 7, 1938; 10:40 a. m.]

[Docket No. 299-FD]

IN THE MATTER OF RECLASSIFICATION OF CERTAIN COALS OF THE JAMISON COAL & COKE COMPANY PRODUCED AT ITS JAMISON NO. 2 AND JAMISON NO. 3 MINES

NOTICE OF HEARING

The Bituminous Coal Producers' Board for District No. 2 having proposed and recommended a reclassification of certain coals of the Jamison Coal & Coke Company produced at its Jamison No. 2 and Jamison No. 3 Mines by changing the classification of size group 8 (¾" slack) from "B" to "C"; and the Commission having considered the proposed reclassification and it appearing that further evidence is necessary in order to determine whether the said proposal shall be approved, modified or disapproved;

Now, therefore, it is hereby ordered:

1. That a hearing shall be held by the Commission on the 17th day of February, 1938, commencing at ten o'clock A. M., in the Hearing Room of the Commission in the City of Washington, D. C., for the purpose of receiving evidence to assist the Commission in determining whether or not the aforesaid proposal for reclassification shall be approved, modified or disapproved.

2. The Secretary of the Commission is directed forthwith to mail a copy of this notice to the petitioner above named; to the Consumers' Counsel; to the Secretary of District Board for District No. 2, and to each code member in said District; and shall cause a copy hereof to be filed and made available for inspection at the Statistical Bureau of the Commission for the aforesaid District; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 4th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-400; Filed, February 7, 1938; 10:41 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[RCP—1938-2]

1938 RANGE CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 2

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Range Conservation Program Bulletin (RCP-1938), as amended by Supplement No. 1 thereto, is further amended as follows:

(1) Section 9 is amended to read as follows:

SEC. 9. *Association membership and deduction for expenses.*—Any person who previously has not, in accordance with its Articles of Association, become a member of the County Agricultural Conservation Association of the county in which his ranch or ranches, or farm or farms, are located shall become a member thereof by signing an application under which a payment can be made with respect to such ranches or farms. Any person shall cease to be a member of the association when it becomes evident that he can qualify for a payment in the county in connection with neither the 1938 Agricultural Conservation Program nor the 1938 Range Conservation Program.

There shall be deducted pro rata from the payments made to members of each County Agricultural Conservation Association all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by such association in cooperating in carrying out in such county the purposes of Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

(2) The definition of the term "ranching unit" is amended by adding at the end thereof the following sentence:

In order to facilitate the administration of the program the Regional Director may prescribe that for the purposes of this program tracts shall be deemed ranching units only if they contain more than the minimum acreage of range land fixed by him.

(3) The last paragraph of the introduction immediately proceding Section 1 is amended to read as follows:

The provisions of the 1938 Range Conservation Program contained in this bulletin are not applicable to (1) Hawaii, Puerto Rico, and Alaska; (2) counties for which special range programs under said Act are approved for 1938 by the Secretary of Agriculture; and (3) public domain of the United States, including lands owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

(4) Practice No. A-2, Section 1, is amended to read as follows:

2. *Artificial reseeding.*—For reseeding depleted range land with good seed of adapted varieties of range grasses, legumes, or forage shrubs: 20 cents per pound of seed sown, but not in excess of $2.00 per acre.

Done at Washington, D. C., this 5th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-394; Filed, February 5, 1938; 12:38 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 74]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN THE CONTINENTAL UNITED STATES MADE PURSUANT TO THE ACT OF CONGRESS APPROVED JANUARY 29, 1937 AND THE JOINT RESOLUTION OF CONGRESS, APPROVED FEBRUARY 4, 1938

FEBRUARY 4, 1938.

1. Loans for fallowing, for the production of crops, for planting, cultivating, and harvesting crops, for supplies incident and necessary to such production, planting, cultivating, and harvesting, and for feed for livestock, or for any of such purposes, will be made during the year 1938 by the Governor of the Farm Credit Administration to farmers in the Continental United States.

2. Such loans may be made to farmers who have acreage suitable for cultivation, the necessary equipment for farming operations, and livestock for which feed is required, and who are unable to obtain a loan from other sources, and, further, such loans will be limited to the amount necessary to meet the immediate and actual cash needs, and preference shall be given to the applications of farmers whose cash requirements are small.

3. Such loans shall be secured by a first lien, or by an agreement to give a first lien, upon all crops of which the planting, cultivation, production, or harvesting is to be financed, in whole or in part, with the proceeds of such loan; or, in case of any loan for the purchase and/or production of feed for livestock, a first lien upon the livestock to be fed.

4. Applicants must agree (1) to use seed and methods approved by the Department of Agriculture; (2) to plant a garden for home use; and (3) to plant a sufficient acreage of feed crops to supply feed for their workstock and subsistence cattle.

5. The total amount of loans made to any one borrower during the calendar year 1938 shall not exceed $400. No loan will be made for an amount less than $10. All loans will be made in multiples of $5. Notes will bear interest, from maturity until paid, at the rate of 4 percent per annum; and interest to the maturity date at the same rate will be deducted at the time the loans is made.

6. No such loan will be made:

(*a*) To any applicant who is a standard rehabilitation client of the Farm Security Administration or who has an application pending which is in process of approval, as indicated on lists furnished by the Farm Security Administration.

(*b*) To any applicant who can obtain a loan from other sources, including production credit associations, in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made. An applicant for a loan in an amount in excess of a minimum fixed by the Governor, or his representative, for the territory in which the applicant resides, must first submit written evidence from a production credit association that his application for a loan of the same or less amount has been rejected.

(*c*) To any applicant who has an application for a 1938 crop or feed loan pending with a production credit association.

(*d*) To any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop, feed, or seed loans as follows: has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops on lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.

(*e*) To any applicant in an amount greater than his immediate cash needs for the production of crops, for supplies incident and necessary to such production, and for feeding livestock.

(*f*) To more than one member of a family unit or to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.

(*g*) To applicants who are occupants of the same farm or plantation, or are tenants of the same landlord in any one county (with the exception of tenants on land the

title of which is vested directly in the United States, or in any State or municipal government, or in any drainage district), in an aggregate amount during the calendar year 1938 which (inclusive of all emergency loans theretofore made to them, or any of them, during the calendar year 1938, pursuant to the Act of Congress approved January 29, 1937 and the Joint Resolution of Congress approved February 4, 1938), exceeds the sum of $1,000.

(*h*) To any applicant who has a means of livelihood other than farming.

(*i*) To partnerships, corporations, minors, guardians, agents, executors, or administrators; or, to receivers or trustees.

(*j*) To a wife living with her husband unless the husband joins in the application, note, and mortgage or lien.

(*k*) For the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interest or for any purpose other than as specified herein.

7. Loans may be disbursed in one payment or in installments at the discretion of the regional manager.

8. No loan for the production of crops will be made in an amount greater than the immediate and actual cash needs in the particular case to plant the crop in a manner approved by the Extension Service of the Department of Agriculture.

The immediate and actual cash needs in a particular case must not exceed the actual costs per acre in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per acre:

Maximum allowances per acre.

	1 Without commercial fertilizer	2 Where commercial fertilizer is used	3 Where commercial fertilizer and spray material, including dust, are used [1]
Grain crops	[2] $2.50	[2] $4.00	
Cotton	4.00	6.00	
Tobacco	4.00	12.00	$13.00
Peanuts	3.00	4.50	
Irish potatoes (commercial)	10.00	25.00	27.50
Truck (commercial)	10.00	22.00	25.00
Miscellaneous crops	2.00	3.50	
Sugarcane	12.00	12.00	
Sugar beets	8.00	12.00	
Rice—			
When landlord furnishes water	8.00	8.00	
If landlord does not furnish water	13.00	13.00	
Citrus fruit trees (bearing)	20.00	20.00	20.00
Other fruit trees (bearing)	10.00	14.00	20.00

[1] Where spray material, including dust, is used without commercial fertilizer, the allowance for such spray material and dust will be the difference, if any, between the allowances in column 2 and column 3.

[2] Of the grain allowances shown in the table not more than $1 shall be used for summer fallowing.

These figures include allowances for fuel, oil, and feed for workstock for crop production purposes and incidental expenses, for which no additional alowances will be made.

An additional allowance not to exceed $3 per acre will be made for water charges (including maintenance, electric power, and fuel) for crops other than rice grown on irrigated land.

Allowances for commercial fertilizer will be made only in areas where commercial fertilizer is customarily used.

9. No loan for the production of feed for livestock will be made in an amount greater than is actually necessary to produce sufficient crops to feed the livestock upon which a mortgage has been given to secure the loan. In no event may a loan for the production of feed for livestock be made on a basis which exceeds a maximum allowance of $2.00 per acre.

(1) This figure includes allowances for seed, fuel, oil, feed for workstock while engaged in the production of the feed crops, and incidental expenses, for which no additional allowances will be made.

10. No loan for the purchase of feed for livestock will be made in an amount greater than is actually necessary to maintain the livestock until pasturage and/or forage or until feed is available, and in no case may a loan for the purchase of feed for livestock be made on a basis which exceeds the following rates per head of livestock per month:

Maximum Allowances for the Purchase of Feed for Livestock per Head per Month [1]

Stock horses	$3.00
Dairy and breeding cows	4.00
Stock cattle (from 1 to 2 years old)	2.00
Sheep (1 to 6 years, inclusive)	.50
Breeding hogs	1.00

11. An amount not greater than the actual harvesting and threshing expenses may, in the discretion of the regional manager, be released from the proceeds of the sale of any of the crops covered by a lien given to the Governor in any case where a borrower does not have the necessary funds or credit to pay for the harvesting and threshing of such crops.

12. The amount approved for a loan by the Governor or his representative under these regulations will be paid to the applicant by a disbursing officer upon receipt and approval by the Governor or his representative of the following documents:

(*a*) Application in the form prescribed, signed by the applicant.

(*b*) Promissory note (or bond in Pennsylvania) in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 percent per annum from maturity until paid.

NOTE.—In order to afford adequate protection and preserve the statutory priority of liens, for seed loans made in North Dakota, South Dakota, Minnesota, and Montana, the following requirements will be observed:

North Dakota.—Each applicant in North Dakota who applies for a loan for the purchase of seed, feed for workstock, gas, oil, and minor repairs on farm equipment only, or for one or more of such purposes, shall execute a note for the amount of such loan and secure the repayment of such loan by a crop lien; each applicant in such State who applies for a loan for any or all of the above purposes and for other purposes in addition thereto, shall execute a note for the total amount of such loan and secure the repayment of such loan by a crop mortgage and also shall execute a crop lien to secure the repayment of that part of such loan which is proposed to be used for the purchase of seed, feed for workstock, gas, oil, and minor repairs on farm equipment, or for one or more of such purposes:

Minnesota.—Each applicant in Minnesota who applies for a loan, either for the purchase of seed only or for the purchase of seed and for other purposes, shall execute a note for the total amount of such loan and secure the repayment of the entire loan by a crop mortgage, and in addition thereto shall execute a seed lien to secure the repayment of that part of such loan which is proposed to be used for the purchase of seed;

South Dakota and Montana.—Each applicant in the States of South Dakota and Montana who applies for a loan for the purchase of seed only, shall execute a note for the amount of such loan and secure the repayment thereof by a seed lien; each applicant in the above States who applies for a loan to be used in part for seed and in part for other purposes shall execute a note for the total amount of such loan and secure the repayment thereof by a crop mortgage, and in addition thereto shall execute a seed lien to secure the repayment of that part of such loan which is proposed to be used for the purchase of seed.

(*c*) Lien instruments (including waivers) in the form prescribed, conveying a first lien or a promise and authority,

[1] The allowances set forth in this table apply only to loans for the purchase of feed for the kinds of livestock listed above and are not to be used for the feeding of workstock. Feed for workstock is included in the allowances provided for the production of both cash and feed crops.

properly executed and filed, registered or recorded in the proper office as required by local State law.

(*d*) A voucher for the amount of the loan in the form prescribed, signed by the applicant.

13. Fees for recording, filing, registration, and examination of records (including certificates) shall be paid by the borrower; provided, however, that such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.

14. The right is reserved to revoke, alter, or amend these regulations at any time and without notice.

[SEAL] F. F. HILL,
Acting Governor, Farm Credit Administration.

[F. R. Doc. 38-411; Filed, February 7, 1938; 12:01 p. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Docket No. IT-5486]

APPLICATIONS OF OKLAHOMA GAS AND ELECTRIC COMPANY AND WESTERN LIGHT AND POWER CORPORATION

ORDER POSTPONING HEARING

FEBRUARY 7, 1938.

Upon application of Albert K. Orschel, Esquire, Counsel for Western Light and Power Corporation, one of the applicants in the above matter, for postponement of the hearing heretofore ordered to be held beginning at 10 a. m. February 14, 1938, by the Commission's order of January 25;

It is ordered that: Said hearing be and the same hereby is postponed to begin at 10 a. m. on the 2nd day of March, 1938, in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-412; Filed, February 7, 1938; 12:01 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of February, 1938.

IN THE MATTER OF CAMPAGNOLI & CO., INC., 41 BROAD STREET, NEW YORK, NEW YORK

ORDER REVOKING REGISTRATION

Campagnoli & Co, Inc., a New York corporation, hereinafter called the registrant, having filed with the Commission on June 26, 1935, an application for registration under Section 15 (b) of the Securities Exchange Act of 1934, as amended, and the registration of said registrant having become effective on January 1, 1936, and the said registrant being now registered as a broker and/or dealer; and

The Commission having, on January 18, 1938, instituted proceedings under Section 15 (b) of the Securities Exchange Act of 1934, as amended, on the question of revocation of said registration, alleging that the said registrant, during the period from January 1, 1936, up to and including January 18, 1938, had wilfully violated the provisions of Section 17 (a) of the Securities Act of 1933, as amended, and Sections 8 (b) and 8 (d) of the Securities Exchange Act of 1934, as amended; and that the aid registrant, during the period from October 1, 1937, up to and including January 18, 1938, had wilfully violated the provisions of Section 15 (c) of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder; and

The Commission having further reasonable grounds to believe that it is in the public interest to revoke the said registration; and

The said registrant having been served with appropriate notice of the aforesaid proceedings, and, on January 29, 1938, having consented in writing to the revocation of the said registration, and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Campagnoli & Co. Inc., as a broker or dealer transacting business on the over-the-counter markets be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-408; Filed, February 7, 1938; 10:51 a. m.]

Wednesday, February 9, 1938 *No. 28*

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 216]

AN ORDER MODIFYING ORDER NO. 96, AS MODIFIED BY ORDERS NOS. 132, 164, 184, 191 AND 211, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 8 BY ADDING THERETO A SCHEDULE OF PRICES TO BE KNOWN AS "TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 8"

The National Bituminous Coal Commission having by its Order No. 96, as modified by Orders Nos. 132, 164, 184, 191 and 211, determined and established the minimum prices of coals of code members produced within District No. 8, as set forth in "Price Schedule No. 1—District No. 8", as supplemented by Supplements Nos. 1, 2, 3, 4 and 5, and having determined that the provisions of sub-sections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a truck mine price schedule as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 8, established in "Price Schedule No. 1—District No. 8", as supplemented by Supplements Nos. 1, 2, 3, 4 and 5 to Price Schedule No. 1—District No. 8, are hereby further supplemented as set forth in "Truck Mine Price Schedule No. 1—District No. 8", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District No. 8, and shall be effective at 12:01 o'clock A. M., on the 21st day of February, 1938.

2. That said Order No. 96, as modified by Orders Nos. 132, 164, 184, 191 and 211 and Price Schedule No. 1—District No. 8, and Supplements Nos. 1, 2, 3, 4 and 5 thereto, except as modified herein and by said Truck Mine Price Schedule No. 1—District No. 8, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Truck Mine Price Schedule No. 1—District No. 8" to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code

Members within District No. 8; shall cause copies of this Order and said "Truck Mine Price Schedule No. 1—District No. 8" to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

TRUCK MINE PRICE SCHEDULE NO. 1 DISTRICT NO. 8

Truck Mine Schedule of minimum prices for coals of code members produced within District No. 8, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective: February 21, 1938.

Issued: February 5, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size or Bar Screens

Bar spacing:	Round hole Equivalent
¾"	1⅛"
1"	1⅜"
1¼"	2"
1½"	2⅞"
2"	4⅛"
2½"	4⅞"
3"	5½"
4"	6"
5"	7¾"

Size Groups—All Market Areas

Group No.	Sizes	Group No.	Sizes
1	6" and larger Block.	9	Straight Mine Run. 8" Resultant.
2	4" and 5" Block. 5" x 10" Chunks. 5" x 8" Chunks. 4" x 10" Chunks. 4" x 8" Chunks. 4" x 6" Chunks. 4" x 5" Chunks.	10	6" Resultant. 5" Resultant. 4" Resultant.
3	2½" to 3" Lump. 3" x 8" Egg. 3" x 6" Egg. 2½" x 5" Egg. 2" x 8" Egg.	11	2¼" Minus — Nut — Slack with top size not exceeding 2½". No fines removed.
4	½" to 2" Lump. 2½" x 6" Egg. 3" x 5" Egg. 2½" x 5" Egg. 2½" by 5" Egg 2" x 6" Egg. 3" x 4" Egg.	12	2" Minus — Nut — Slack with top size not exceeding 2". No fines removed.
5	2" x 5" Egg. 2½" x 4" Egg. 2" x 4½" Egg. 2" x 4" Egg. 1½" x 6" Egg. ¾" and Under. Screened R. O. M.	13	1¼" Minus — Nut — Slack with top size not exceeding 1¼". No fines removed.
6	3" and under Stove.	14	¾" Minus—Pea and Slack with top size not exceeding ¾". No fines removed.
7	2" and under top size and ½" and over bottom size Nut.	15	⅜" Minus — Slack with top size not exceeding ⅜". No fines removed.
8	1¼" and under top size Double Screened Stoker	16	Low Grade Reject Coal separated at tipple or loaded separately in the mine.

Any size larger than the maximum top and/or bottom size in a group shall be included in the next higher price group.

Code Member Index

BIG SANDY-ELKHORN DISTRICT

Name	Mine	Seam	Size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Adkins, Kenneth	Adkins Cannel Coal	Cannel	K	K	K	K	K	K	K	K	E	E	F	F	F	F		
Adkins, Lin Boyd	Lee Coll	Cannel	K	K	K	K	K	K	K	K	E	E	F	F	F	F		
Blevins, L. E	Blevins	#6	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Carbon Mining Co	Carbon	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Carroll, Robt	Carroll	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Childers, Sam	#7 White Ash	(#7)	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Clark, Henry	Clark	#6	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Coalton Coal Co	Coalton	(#7)	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Conley, Charles	Pine Grove	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Conley, Delbert	Peta Rock Branch	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Dill, Edward	Dill	#6	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Doty Coal Co	Patton	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Fannin, E. H	Fannin	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Ferguson, George	Ferguson	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Ferguson, James	Ferguson	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Fields, W. J	Wolf Cr	#3	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Friend, B. P	Cannel	(Elkhorn #1)	K	K	K	K	K	K	K	K	E	E	F	F	F	F		
Gallion, V. H	Gallion	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Gussler, O. L	Patton	#6	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Hales, A. G	Hales	#5	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Hamilton Everett	Hamilton	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		

Size Groups—All Market Areas—Continued

BIG SANDY-ELKHORN DISTRICT—Continued

Name	Mine	Seam	Size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Haney, George	Haney	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Haney, William	Haney	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Hensley, William	Hensley	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Hereford, Byron	Norton Branch	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Holley, John	Holley	(#7)	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Hord, John F	Hord	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Jones, Leonard	Jones	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Morrison, Frank B	Morrison	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
O'Neal, James	O'Neal	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Prater, Charles	Hedrick	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Ratcliff, W. O. B	Ratcliff	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Rigsby & Tackett	Pine Ridge	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Schmidt, Henry	No. 8	#6	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Sexton, John	Sexton	#5	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Shawhan & Hutchison	Shawhan	(#7)	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Stanley & Conley	Stanley & Conley	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Sutherland, Dewey	Sizemore	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Thomas Bros	Thomas	#7	O	O	O	M	M	M	M	M	F	F	J	J	J	J		
Thompson, Andrew	Thompson	(#7)	O	K	O	M	K	M	K	M	E	E	F	J	F	J		
Todd, George L	Todd	Cannel	K	O	K	M	M	K	M	K	F	F	J	B	J	B		
West, Thos. D. & Son	Keyes Creek	#6	O	O	K	M	K	M	K	M	E	F	B	C	F	J		
Barrowman Coal Company	Barrowman	Clintwood	N	N	K	M	M	K	K	K	F	B	C	F	D	F		
Beaver C. & Mining Company	Beaver	Elkhorn #2	K	K	K	K	K	K	K	K	F	D	D	D	D	G		
Buchanan Coal Company, Inc	Tip Top	Millers Crk	K	K	M	K	K	K	K	K	F	D	D	D	C	H		
Cameo Elkhorn Coal Company	Big Sheal	Elkhorn #1	M	M	M	O	K	K	K	K	F	D	D	D	C	G		
Carol Mining Company	Carol #1	Ky. #7	O	K	O	M	K	K	K	K	F	D	D	D	C	J		
Central Elkhorn C. Company	#4	Elkhorn #1	O	K	H	O	K	K	K	K	F	D	D	D	C	E		
Central Elkhorn C. Company	#6	Elkhorn #1	O	H	O	H	K	K	K	K	F	D	D	D	C	D		
Central Elkhorn C. Company	#5	Elkhorn #1	O	H	O	H	K	K	K	K	F	D	D	D	C	J		
Clear Branch Mining Company	Clear Branch	Elkhorn #3	H	H	O	H	K	K	K	K	F	D	D	D	C	C		
Consolidation Coal Company	#155	Millers Crk	A	A	H	O	H	K	K	K	F	A	A	B	C	B		
Consolidation Coal Company	#204, 205, 211	Elkhorn #3	A	H	O	H	M	K	K	K	F	B	C	C	B	B		
Edgemont Fuel Company	Edgemont	Elkhorn #1	O	K	K	K	H	K	K	K	F	C	C	B	C	C		
Elkhorn Coal Company	Kons #2	Elkhorn	O	K	K	K	H	K	K	K	F	C	C	B	C	C		
Elkhorn Coal Corp	#1-7, 2, 3-4, 5	Elkhorn	K	K	H	H	H	K	K	K	F	B	B	E	G	G		
Elkhorn Coal Corp	#27, 28-31, 32	Elkhorn #1	H	H	H	M	M	K	K	K	F	B	B	G	G	D		
Elkhorn Coal Corporation	Winters	Elkhorn #3	M	M	M	M	M	K	M	M	F	B	E	E	D	D		
Elkhorn Junior C. Company	Lorraine	Elkhorn	M	M	M	M	L	K	K	K	F	D	D	C	B	B		
Elswick Coal Company	Federal	Elswick	M	K	M	L	L	K	K	K	F	D	D	C	B	B		
Glogora Coal Company	Glo	Elkhorn	K	K	K	K	K	K	K	K	F	D	D	C	B	B		
Goose Creek Mining Company	Goose Creek	Elkhorn #1	K	K	M	K	K	K	K	K	F	E	E	C	B	B		
Greenough Coal Company	Greenough	Up. Elkhorn	M	K	M	K	F	K	K	K	F	E	E	C	B	B		
Inland Steel Company	Wheelwright	Elkhorn #3	F	E	F	E	K	K	K	K	F	E	E	C	B	B		
Koppers Coal Company, The	Weeksbury #1	Elkhorn #3	F	E	K	G	K	K	K	K	H	B	B	C	C	D		
New Elkhorn Coal Corporation	Dorton	Elkhorn #2	K	G	K	G	K	K	K	K	H	B	B	C	C	B		
North East Coal Company	Theatka #3	Millers Crk	G	A	G	G	K	K	K	K	F	A	B	B	C	A		
North East Coal Company	Auxier #7	Millers Crk	A	O	H	K	G	K	K	K	F	B	B	E	C	D		
Paragon Elkhorn Coll. Co	Utilities #22	Elkhorn	O	H	K	G	K	K	K	K	F	B	B	E	C	D		
Payne Baber Coal Co. of Ky	Block & Clear Crk	Elkhorn #3	H	K	G	K	K	K	K	K	F	B	B	C	D	B		
Pivot Elkhorn Mining Co	Osborne	Elkhorn #1	H	K	G	K	K	K	K	K	F	B	B	C	D	B		
Royal Coal Company	Royal #1	Millers Crk	G	K	G	K	K	K	K	K	F	B	B	E	D	B		
Ruth-Elkhorn Coals, Inc	Harold	Elkhorn	K	K	K	M	K	K	K	K	F	B	B	E	D	B		
Sandy Valley Coal Company	Alley	Elkhorn #1	K	M	K	M	K	K	K	K	F	B	B	E	D	B		
Shelby Steam Coal Company	Big Sandy	Elkhorn #1	M	K	M	K	K	K	K	K	F	B	B	E	D	B		
South East Coal Company, Inc	Soco #1																	
South East Coal Company, Inc	LaViers #2	Elkhorn	M	H	M	H	M	K	M	K	F	C	C	D	D	G		
Stephens Elkhorn Fuel Corp	Stephens	Elkhorn #2	H	H	H	K	K	K	K	K	F	B	C	D	D	G		
Superior Mining Company	Superior	Elkhorn #3	K	K	K	K	M	K	K	K	F	B	C	D	D	G		
Turner Elkhorn Mining Co	Turner	Elkhorn #2	O	O	O	K	K	K	K	K	F	B	C	D	D	G		
Twinseam Elkhorn Mining Co	Turner #2	Elkhorn #1	K	K	M	K	K	K	K	K	F	B	C	D	D	G		
United Elkhorn Coal Company	United #21	Elkhorn	O	O	K	K	K	K	K	K	F	B	C	D	D	G		
Utilities Elkhorn Coal Co	Boldman #5 - E	Elkhorn	K	M	M	K	K	K	K	K	F	B	C	D	D	G		
Utilities Elkhorn Coal Co	Virgie 6-F	Elkhorn	M	K	K	K	K	K	K	K	F	B	C	D	D	G		
Utilities Elkhorn Coal Co	Martin 8-H	Elkhorn	K	K	K	K	H	K	K	K	F	B	C	D	D	G		

HARLAN DISTRICT

Name	Mine	Seam	T	T	S	P	O	P	Q	R	H	H	N	N	N	N		
Rose, G. M. (Rose Blue Gem) Wallens Creek, Ky.	Rose Blue Gem	Blue Gem	P	P	N	L	K	P	L	L	E	E	F	F	F	F		H
Bardo Coal Mining Co., Inc	Bardo	Harlan	S	S	R	P	G	D	N	J	C	C	C	C	C	C		
Benito Harlan Corp	Benito	Harlan	F	F	F	C	D	K	J	F	A	A	D	D	D	D		
Berger Coal Mining Co	Silver Star	#5	A	A	B	K	M	M	F	L	F	F	F	H	H	H		E
Black Mountain Corp., The	#90 & 31	#5	M	M	M	M	K	K	N	L	C	C	C	C	C	C		K
Black Star Coal Co	Black Star	Harlan	M	O	O	O	D	D	L	H	D	D	D	D	D	D		
Black Star Coal Co	Dixie Star	Kelliokn	M	M	M	M	H	H	L	N	B	B	B	B	B	B		
Blue Diamond Coal Co	Crown	Harlan	M	A	M	B	J	J	L	L	C	C	C	C	C	C		
Clover Fork Coal Co	Clover Fork	Harlan	M	G	M	G	K	K	L	H	D	D	D	D	D	D		
Clover Splint Coal Co	Clover Splint	High Splint	A	A	G	B	C	C	L	H	B	B	E	E	E	E		H
Cook & Sharpe Coal Co	Upper Harlan	#5	G	A	Q	P	K	K	L	H	E	E	D	D	D	D		
Cornett-Lewis Coal Co	Corlew	High Splint	H	H	Q	L	D	D	L	H	D	D	A	A	A	A		F
Cornett-Lewis Coal Co	Cornett	Harlan	A	A	Q	L	M	M	L	H	B	B	F	F	F	F		
Creech Coal Co	Creech	Wallins	Q	Q	L	M	B	B	L	L	E	E	D	D	D	D		E
Crummies Creek Coal Co	Crummies #1	Harlan	M	A	Q	L	M	B	L	L	E	E	D	D	D	D		
Crummies Creek Coal Co	Crummies #2 & 3	#5	A	S	A	B	Q	P	L	L	E	E	D	D	D	D		
Diamond Ashless Coal Co	R. L. Brown	Kelliokn	S	R	M	O	O	N	M	L	E	E	D	D	D	D		
Elcomb Coal Co	Keeman	Mason	R	M	O	O	K	K	L	L	E	E	D	D	D	D		
Good Coal Co., The	Kentucky King	Wallins	M	O	O	O	N	K	L	L	E	E	D	D	D	D		
Green-Silvers Coal Corp	Malcomson	Wal., Spl. #6	O	O	O	O	K	K	L	L	E	E	D	D	D	D		F
Harlan Central Coal Co., Inc	Harlan Central	Harlan	O	O	O	O	L	L	L	L	E	E	D	D	D	D		
Harlan Collieries Company	Brookside	Harlan	Q	Q	Q	P	N	N	L	L	E	E	D	D	D	D		E
Harlan Crown Mining Company	Draper	Harlan	Q	Q	Q	P	K	K	L	L	E	E	D	D	D	D		
Harlan Fuel Company, Inc	Yancey	Harlan	M	O	M	O	M	K	L	L	E	E	D	D	D	D		F
Harlan-Wallins Coal Corp	Bear Branch	Harlan	Q	O	Q	P	O	M	L	L	E	E	D	D	D	D		
Harlan-Wallins Coal Corp	Darby & Dixie	#5	O	O	O	O	K	K	L	L	E	E	D	D	D	D		
Harlan-Wallins Coal Corp	Marathon	#5	F	S	F	P	K	K	L	L	E	E	D	D	D	D		
			A	A	B	M	G	G	L	L	E	E	D	D	D	D		
						O	D	F	J	J	D	D	C	C	C	C		
									F	H	C	C	B	B	B	B		
										F	B	B	A	A	A	A		
											A	A						

Size Groups—All Market Areas—Continued

HARLAN DISTRICT—Continued

Name	Mine	Seam	Size group numbers															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Harlan-Wallins Coal Corp.	Molus	Harlan	Q	Q	O	M	M	L	L	L	B	B	C	D	D	D	K	
High Splint Coal Company	Hi-Lo	High & Low Spl.	A	A	B	C	D	L	L	L	E	E	D	F	F	F	F	
Kentucky Cardinal Coal Corp.	#1	Harlan	Q	Q	M	K	K	N	N	L	F	F	B	H	H	H	H	
Mahan Ellison Coal Corp.	Mahan Ellison #1	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D	K	
Mahan Ellison Coal Corp.	Mahan Ellison #2	Kellioka	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D	F	
Mary Helen Coal Corp.	Mary Helen	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Perkins-Harlan Coal Co.	Liggett	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
P. V. & K. Coal Company	Glover Gap	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Rex Mining Company	Rex	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Ridgeway Coal Corp., Inc.	Ridgeway	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Southern Harlan Coal Company	Southern Harlan	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Southern Mining Company	Insull	Creech	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Splint Coal Corporation	Splint	High Splint	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D	F	
Three Point Coal Corporation	Three Point	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Tway Coal Company, R. C.	Tway	Harlan	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
U. S. Coal & Coke Company	#30 & 31	"C"	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		
Wisconsin Steel Company	#1	"C" & "B"	Q	Q	M	K	K	L	L	L	D	D	C	D	D	D		

HAZARD DISTRICT

Beattyville Coal Co.	Beattyville	Beattyville	O	O	O	P	P	P	P	P	G	G	K	K	K	K		
Majority, Frank			O	O	M	L	O	O	O	O	F	F	J	J	J	J		
Ajax Coal Co.	Ajax	Hazard #1	O	O	M	O	O	M	M	M	E	E	E	F	F	F		
Algoma Block Coal Co.	Algoma	Hazard #7	O	O	M	O	O	L	L	L	D	D	E	H	H	H		
Algoma Block Coal Co.	#1	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Barwick Coal Co.	Barwick	#4 Rider	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Black Fox C. Mining Co.	Elko	Hazard #1	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Black Gold Mining Co.	Black Gold	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Blue Diamond Coal Co.	Blue Diamond #1	Hazard #6	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Blue Grass Mining Co.	Blue Grass	Haz. #4 & #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Buchanan Coal Co., Inc.	Rytip	Hazard #5-A	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Carbon Glow Mining Co.	Carbon Glow	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Carrs Fork Coal Co., Inc.	Allock	Hazard #3	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Carrs Fork Coal Co., Inc.	Perrone	Hazard #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Chavies Coal Co.	Chavies	Hazard #5-A	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Columbus Mining Co.	#3	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Columbus Mining Co.	#4 and #6	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Columbus Mining Co.	#5	Hazard 5-A & #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Columbus Mining Co.	#9	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Columbus Mining Co.	#10	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Darb Fork Coal Co.	Darb Fork	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Davis Coal Co., Inc., R. T.	Davis	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H	G	
Dixie Diamond Coll., Inc.	Dixie Diamond	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Elkhorn & Jellico Coal Co.	Wolran	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Fourseam Coal Corp.	Fourseam	Hazard #1	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Gorman Coal Sales Co.	Hot Spot #2	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Happy Coal Co.	Happy	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Happy Coal Corp.	Scuddy	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Hardy-Burlingham Mining Co.	Hardburly	Hazard #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Harveyton Coal Corp.	Harveyton	Hazard #6	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Hatfield-Camp Crk. Coal Co.	Glomawr	Hazard #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Indian Head Mining Co., Inc.	Indian Head	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Kenmont Coal Co.	Kenmont	Hazard #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Kentucky Hayslen Coal Co.	Hayslen	Hazard #6	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Knott Coal Corp.	Knott	Hindman	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Marlowe Coal Co.	Defiance	Haz. #1 & #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Meem-Haskins Coal Corp.	Meem-Haskins 2	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
New Solar Coal Co.	Butterfly	Hazard #6	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Old King Mining Co.	Midland	Hazard #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Perkins-Bowling Coal Corp.	Agnes	Hazard #7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Raccoon Coal Corp.	Raccoon	Hazard #4	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Sandlick Coal Co.	Belcraft	Haz-4 & Wg.	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Starling Coal Co., Inc.	Gray Goose	Elkhorn	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Sunfire Coal Co.	Sunfire	Sunfire	O	O	M	O	O	M	M	M	D	D	E	H	H	H		
Wisconsin Coal Corp.	Wiscoal	Haz. #4–#7	O	O	M	O	O	M	M	M	D	D	E	H	H	H		

KANAWHA DISTRICT

Amick, W. C.	Amick	(Sewell)	O	O	M	K	K	K	K	K	C	C	C	H	H	H		
Amick, Tockes	Amick #2	(Sewell)	O	O	M	K	K	L	L	L	C	C	C	H	H	H		
Arbaugh, J. A.	Union	#2 Gas	O	O	M	O	O	M	M	M	E	E	E	J	J	J		
Barker & Lockett	Barker & Lockett	Pitts. #8	H	O	K	O	O	L	L	L	F	F	F	H	H	H		
Blake, J. E.	Blake	#2 Gas	O	O	K	O	O	L	L	L	F	F	F	H	H	H		
Elias, John	Elias	Pitts. #8	H	O	K	O	O	L	L	L	F	F	F	H	H	H		
Farley, Walter	Handley	#2 Gas	O	O	K	O	O	L	L	L	F	F	F	H	H	H		
Fockler, Fay	Fockler	Gilbert	O	O	M	O	O	M	M	M	E	E	E	J	J	J		
Fry, Sam	Fry's	Pitts. #8	H	S	K	O	O	S	S	S	F	F	F	H	H	H		
Henry Coal Co.	Henry	Pitts. #8	S	S	K	O	O	S	S	S	F	F	F	H	H	H		
Hughes, C. A.	Sigmon	Pitts. #8	S	S	K	O	O	S	S	S	F	F	F	H	H	H		
Hunley, D. R.	Ottawa #1	Alma	S	S	K	O	O	S	Q	Q	F	F	F	H	H	H		
Lieving & Son, F. B.	Lieving's	Pitts. #8	S	S	K	O	O	S	S	S	F	F	F	H	H	H		
Linden Coal Co.	Linden	Pitts. #8	H	O	K	O	O	S	S	S	F	F	F	H	H	H		
McClung, B. A.	McClung	Sewell	O	S	K	O	O	S	S	S	F	F	F	H	H	H		
Null, Perry	Null #1	Pitts. #8	H	S	K	O	O	S	S	S	F	F	F	H	H	H		
Roush & Layne	Roush & Layne	Pitts. #8	H	O	K	O	O	S	S	S	F	F	F	H	H	H		
Russell Coal Co.	Russell	Pitts. #8	S	S	K	O	O	S	S	S	F	F	F	H	H	H		
Summers, R. A.	Summers	Gilbert	O	S	K	O	O	S	S	S	F	F	F	H	H	H		
Toney, John C.	Toney	Pitt #8	H	O	K	O	O	S	S	S	F	F	F	H	H	H		
Taylor, J. B. & H. C.	M. A. Coble	Kittanning	O	O	M	O	O	M	M	M	E	E	E	J	J	J		
Van Matre, H. E.	Van Matre Coal Co.	Pitts. #8	H	O	K	O	O	S	S	S	F	F	F	H	H	H		
Ward-Hoyt Mining Co.	Sandy MacGregor		H	O	K	O	O	S	S	S	F	F	F	H	H	H		
Ace Black Band Coal Company	Dorothy Dale	Black Band	O	O	M	O	O	M	M	M	E	E	E	J	J	J		
American Eagle Colliery	#70	Eagle	O	O	M	O	O	M	M	M	E	E	E	J	J	J		
Anchor Coal Company	Anchor #1 & #3	Dorothy	O	O	M	O	O	M	M	M	E	E	E	J	J	J		
Armco Coal Mining Corporation	Marting	Campbells Cr.	O	O	M	O	O	M	M	M	E	E	E	J	J	J		
Birchton Coal Company	Birchton	Hernshaw	O	O	M	O	O	M	M	M	E	E	E	J	J	J		

Size Groups—All Market Areas—Continued

KANAWHA DISTRICT—Continued

Name	Mine	Seam	Size group numbers															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Black Band Coal Company	Reynolds	Black Band	M	M	M	N	N	N	M	N	E	E	G	G	G	G		
Boone County Coal Corporation	Boone No. 2	Chilton	Q	Q	P	M	K	M	M	M	C	C	E	D	D	C		
Cameo Splint Coal Company	Cameo	No. 5 Block	M	O	M	K	J	K	M	K	D	D	B	B	B	E		
Cannelton C. & C. Company	#3	Eagle	O	M	M	R	L	K	M	K	C	D	D	C	C	C		
Cannelton C. & C. Company	#5	#2 Gas	O	P	M	N	M	M	M	M	D	D	C	D	D	E		
Cannelton C. & C. Company	#6	#5 Block	M	M	M	K	K	K	K	K	C	D	C	B	B	C		
Carbon Fuel Company, The	#5 and #10	Dorothy	G	G	G	G	G	K	K	K	D	D	C	D	D	E		A
Carbon Fuel Company, The	#9	Powellton	G	G	G	G	G	K	K	K	D	D	C	D	D	E		K
Carbon Fuel Company, The	#11	Dorothy	G	G	G	G	N	K	K	K	D	D	C	D	D	E		A
Cedar Grove Coll., Inc.	Cedar Grove	Cedar Grove	O	G	O	G	N	K	K	K	D	D	C	D	D	E		
C & O Fuel Mine Operators	Dorothy Eagle	Eagle*	G	G	G	G	G	K	K	K	C	B	B	B	B	C		
Christian Colliery Company	#1	Eagle	G	O	G	M	M	K	K	K	B	B	A	C	C	B		
Christian Colliery Company	#2	Powellton	G	G	G	G	G	K	K	K	B	B	A	C	E	A		
Colcord Coal Company	Montcoal #1	Dorothy	G	G	G	G	G	K	K	K	C	D	D	D	D	E		
Colcord Coal Company	Montcoal #2	Dorothy	G	G	M	G	G	K	K	K	D	D	D	D	D	E		
Colcord Coal Company	Montcoal #4	Hershaw	M	M	J	L	J	K	M	K	D	D	D	D	D	E		
Detroit Mining Company	#1 and #2	Coalburg	M	J	J	K	J	K	M	K	D	D	D	D	D	E		
Dixport Coal Company		Star Slope	J	J	M	J	J	K	M	K	C	E	E	C	C	F	E	
Dorothy Glenn C. Mining Co.	Dorothy Glenn	Coalbg & #5 Bl.	M	M	Q	M	P	K	M	K	E	E	E	F	F	F		
Dry Branch Coal Company	Dry Branch	Coalburg	M	Q	Q	P		N	N	N	E	E	E	F	F	F		
Deep Hollow Coal Co.	Deep Hollow	Peerless											E					
Elk River Coal & Lbr. Co.	#5 Block	#5 Block	M	M	M	K	K	K	M	M	D	D	D	E	E	E	J	
Eureka Coal Company	#5	#5 Block	M	M	M	M	K	K	M	M	D	D	D	E	J	D	J	
Glogora Coal Company	Blue Pennant	Coalburg	M	M	M	O	K	K	N	N	C	D	C	H	N	F	L	
Hartford Coal Co., Inc.	Sliding Hill	Pittsburgh #8	H	S	K	O	O	L	L	L	F	F	F	H	H	H		
Hatfield Campbell Cr. Coal Co., The	#5	Plymouth	S	S	K	O	O	S	S	S	F	F	F	H	H	H		
Harman, Wm. S.		Hallwood #1	H	S	K	O	O	S	S	S	F	F	F	H	H	H		
Harman, Wm. S.		Hallwood #2	H	S	K	O	O	S	S	S	F	F	F	H	H	H		
Hatfield Campbell Cr. Coal Co., The		Putney #1 & 3	S	S	K	O	O	S	S	S	F	F	F	H	H	H		
Hatfield Campbell Cr. Coal Co., The		#4 Gas	S	J	K	O	O	S	J	S	F	F	F	H	H	H		
Imperial Colliery Co.		#2 Gas	J	O	M	O	O	L	L	L	C	C	C	G	G	G		
Imperial Colliery Co.		#5	O	G	M	G	O	J	G	J	C	B	C	G	G	G		
Jackson Coal & Mining Co.	Jackson	Dorothy	O	G	K	O	O	L	G	L	C	C	D	G	G	G		
Kanawha By-Product Coal Co.	Monarch	Pittsburgh #8	H	O	K	O	O	N	G	N	E	E	E	K	K	K		
Kanawha Coals, Inc.		Cedar Grove	O	O	M	O	O	N	N	N	D	D	D	H	H	H		
Kan. & Hocking C & C Co.	#2 Gas	#2 Gas																
Kan. & Hocking C & C Co.	#109	#5 Bl. & Coalbg.	S	S	P	S	O	R	M	R	M	R	M	G	C	L	C	
Kan. & Hocking C & C Co.	#114 and #116	#2 Gas & Eagle	P	P	O	M	M	M	M	M	M	M	M	C	C	C	C	
K&N River Bge. & R. C. Ms. Inc.		Winifrede #1																
Keith Coal Mining Co., Inc.		Winifrede																
Kelley's Cr. Coll. Co.		Darby	O	O	O	N	N	N	N	N	D	D	D	G	D	E	L	
Kelley's Cr. Coll. Co.	#2 and #6	Lewiston	O	Q	O	Q	Q	Q	Q	Q	G	G	G	B	B	E	E	
Kelley's Cr. Coll. Co.	#4	Cedar Grove	O	O	O	O	N	J	N	K	D	D	B	B	B	A	A	
Kingston-Pocahontas Coal Co.	Kingston	Eagle & Powell	O	O	M	M	G	G	K	K	B	B	B	A	A	A	A	
Koppers Coal Co., The	Powellton 2, 3, 5	Powellton	O	G	M	G	G	G	K	K	B	B	B	A	A	A	A	
Koppers Coal Co., The	Powellton #4	#2 Gas																
Koppers Coal Co., The	Powellton #1	Peerless					L	J	K	K	K	K	C	D	D	C	D	
Koppers Coal Co., The	Wharton	Hernshaw	M	M	L	J	G	J	K	M	R	M	D	D	D	E	E	
Leevale Collieries	Leevale	Powellton-B	M	G	M	J	J	K	M	K	D	D	C	D	D	E	E	
Leevale Collieries, Inc.	Leevale	#5 Block	M	M	L	J	G	J	K	M	K	M	D	D	D	E	E	
LeMoyne Coal Co.	LeMoyne	Cedar Grove	S	O	S	O	R	N	R	N	K	K	G	D	D	E	E	
Marinet Coal Co.	Cedar Grove #1	Cedar Grove	O	O	M	O	J	K	K	K	L	L	D	B	B	C	C	
Milburn Ry-Prod. Coal Co.	Milburn #1 & 2	Eagle & Powlt.	O	O	M	O	N	G	N	K	L	M	B	C	C	E	E	
Nellis Coal Corp.	Nellis	Campbells Cr.	O	O	M	O	N	K	L	M	K	K	C	B	B	C	C	
Orlandi Coal Co.	Orlandi #2	#2 Gas	O	O	M	O	M	L	G	K	K	K	B	E	E	C	C	
Princess Dorothy C. Co.	Princess Doro	#5 Block	M	J	M	J	M	G	J	K	K	K	C	B	B	E	E	
Raleigh Wyoming Mining Co.	Edwight #1 & 3	Eagle	O	G	M	G	O	J	G	K	K	K	C	B	E	C	C	
Raleigh Wyoming Mining Co.	#1	Dorothy	O	G	H	G	K	K	K	K	K	K	C	B	E	C	C	
Raymond Clay C. & T. Corp.	Raymond City	Pitts. #8	H	O	K	O	O	S	S	S	F	F	F	H	H	H		
Red Parrot Coal Co.	Red Parrot	#5 Bl. & Lewiston	M	M	O	M	O	M	M	M	E	E	E	J	J	J		
Ridgeview Coal Co.	Ridgeview	#2 Gas	O	M	M	O	M	K	K	K	E	E	E	J	J	J		
Riverton Coal Co.	Riverton	Belmont	O	M	M	O	M	K	K	K	E	E	E	J	J	J		
Riverton Coal Co.	Riverton	Cedar Grove									D	D						
Riverview Coal Mining Co.	Coalburg	Stockton-Lewiston	M	S	M	Q	O	K	N	N	K	K	E	F	H	H	F	H
Spruce River Coal Co.	Spruce River #1	Alma	S	S	G	Q	G	G	N	G	K	K	F	C	D	C	C	E
Truax-Traer Coal Co.	Acme, Raccoon	Dorothy	G	S	G	G	G	G	G	K	K	K	C	D	D	C	E	C
Truax-Traer Coal Co.	Rose	Dorothy	G	G	G	G	G	G	G	K	K	K	C	D	D	C	K	C
Truax-Traer Coal Co.	United	Dorothy	G	G	G	G	G	G	G	K	K	K	C	D	D	C	K	C
Upper Elk & Potomac Coal Co.		Middle Creek	S	S	G	S	G	R	G	J	K	K	C	B	G	C	K	C
Webb Coal Mining Company	Webb	Dorothy	S	G	M	J	J	K	K	K	K	K	C	B	E	C	K	C
Whitesville Mining Company	Whitesville	Powellton	O	J	M	J	J	K	M	K	K	K	C	B	E	C	E	A
Winifrede Collieries	#1	Winifrede	O	J	M	J	J	K	M	K	M	M	C	B	E	C	E	F
Winifrede Collieries	#2	Winifrede	M	M	G	M	L	G	K	K	M	M	C	B	E	C	E	F
Wyatt Coal Company	Laing #1 & #2	Dorothy	G	M	M	G	M	K	M	M	K	M	M	C	E	E	E	E
Wyatt Coal Company	Wymar	Belmont	M	M	M	M	J	J	K	K	M	M	M	C	E	E	E	E
Youghiogheny & Ohio C. Co.	Van	Coalburg	M	M	M	M												

LOGAN DISTRICT

Perry & Frazier	Long Chute	Eagle	S	S	Q	O	N	L	L	L	B	B	B	B	B	B		
Alma Eagle Coal Co.	Aracoma	Alma	U	T	Q	P	N	N	M	N	E	C	C	C	C	C		
Amherst Coal Co.		Island Creek	Q	Q	P	N	N	M	M	M	C	D	C	E	E	E		
Amherst Coal Co.		Amherst #2	Q	Q	P	N	N	M	M	M	C	D	C	E	E	E		
Amherst Coal Co.		Amherst #3	Q	S	P	Q	O	N	N	M	C	D	C	E	E	E		
Avis Eagle Coal Co.		Avis Eagle	S	S	S	Q	Q	O	O	N	M	M	M	C	C	C		
Bertland Coal Co.		Bertland	S	S	S	S	Q	Q	Q	N	M	M	M	C	C	C		
Buffalo Chilton Coal Co.		Buffalo #1	S	S	S	S	Q	Q	Q	O	N	M	M	C	C	C		
Big Creek Coal Co.		Big Creek	S	S	S	S	Q	Q	Q	O	N	M	M	C	C	C		
Buffalo Eagle Mines, Inc.		Alma	O	S	S	S	Q	Q	Q	N	N	M	M	C	C	C		
Buffalo Eagle Mines, Inc.		Riley #2	S	S	S	S	Q	Q	Q	N	N	M	M	C	C	C		
Chafin-Jones-Heatherman Coal Co.		Riley #3	Q	S	Q	S	Q	O	P	N	N	N	N	F	D	C	E	
Chilton Block Coal Co.		#3	S	Q	S	Q	Q	P	Q	N	N	N	N	C	C	C	E	
Chilton Eagle Coal Co.		Ethel #2	S	Q	S	Q	Q	P	Q	N	N	N	N	C	C	C	E	
		Draper	U	S	T	Q	R	P	R	P	N	N	N	G	G	G	G	
Clean Eagle Coal Co.	Clean Eagle	Eagle	S	S	Q	P	O	N	N	N	L	L	L	B	B	B	B	
Crystal Block C & C Co.		Island Creek	Q	Q	P	P	N	N	N	N	E	E	E	E	E	E	E	
Fort Branch Coal Corp.	Fort Branch	Chilton	Q	Q	Q	P	R	P	N	N	E	E	E	G	G	G	G	
Gay Coal & Coke Co., The	Gay #1	Island Creek	Q	Q	Q	T	Q	P	R	P	N	N	M	M	M	C	C	
Gay Coal & Coke Co., The	Gay #2	Eagle	Q	U	Q	T	Q	P	R	P	N	N	M	M	M	C	C	
Georges Creek Coal Co.	Georges Creek	Chilton	U	Q	T	Q	P	P	N	N	M	M	M	C	C	C	K	

Size Groups—All Market Areas—Continued

LOGAN DISTRICT—Continued

Name	Mine	Seam	Size group numbers															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Guyan Eagle Coal Co	Guyan #1	Island Creek	S	S	Q	O	N	N	N	N	D	D	E	E	E	E	----	----
Guyan Eagle Coal Co	Guyan #3	Chilton	Q	Q	P	N	N	M	M	M	C	C	C	C	C	C	----	----
Hutchinson Coal Co	Argyle	Chilton	Q	Q	Q	N	N	M	M	M	C	C	C	C	C	C	----	----
Hutchinson Coal Co	Dabney & MacBeth	Eagle	S	S	P	O	N	N	N	N	E	D	C	F	E	F	----	----
Island Creek Coal Co	#1 & 20	Island Creek	O	O	Q	N	N	N	N	N	D	E	E	E	E	E	H	C
Island Creek Coal Co	#7	Island Creek	O	O	Q	N	N	N	N	N	D	E	E	E	E	E	G	C
Island Creek Coal Co	#11, 14 & 22	Island Creek	Q	U	T	O	N	N	N	N	D	E	E	E	E	E	J	C
Island Creek Coal Co	#21	Island Creek	Q	U	T	O	N	N	N	N	D	E	E	E	E	E	----	----
Logan Eagle Coal Co	Shamrock	Eagle	S	S	S	P	O	N	M	M	C	D	E	G	E	F	----	----
Logan Chilton Coal Co	Rita	Chilton	S	S	Q	R	O	N	M	M	C	D	F	G	C	C	----	----
Logan County Coal Corp	Lundale	Chilton	S	S	Q	P	O	N	M	M	C	D	F	G	E	E	----	----
Logan County Coal Corp	MacGregor	Chilton	Q	S	S	R	O	N	M	M	C	D	F	G	E	E	----	----
Logan County Coal Corp	Paragon	Island Creek	S	S	S	Q	O	N	M	M	C	D	F	G	D	C	----	----
Lorado Coal Mining Co., The	Lorado #1	Chilton	S	S	S	Q	O	N	M	M	C	D	F	G	D	C	----	----
Lorado Coal Mining Co., The	Lorado #2	Chilton	Q	S	Q	Q	O	N	M	M	C	D	F	G	D	C	----	----
Mallory Coal Co	#1	Island Creek	S	S	S	Q	O	N	N	N	D	D	E	E	E	E	----	----
Mallory Coal Co	#2, 3, 4 & 5	Eagle & Powellton	S	S	S	Q	O	N	N	L	C	B	B	B	B	B	----	----
McCall Coal Co	McCall #2	Powellton	S	S	Q	Q	O	N	N	L	C	B	B	B	B	B	----	----
Merrill Coal Mines, Inc	Merrill	Island Creek	S	Q	Q	Q	P	N	N	L	C	B	B	B	B	B	----	----
Monitor C. & Coke Co	Monitor-Eagle #1	Eagle	U	U	T	Q	R	P	N	L	C	B	B	B	B	B	----	----
Norfolk & Chesapeake Coal Co	Wilson #3	Eagle	Q	U	Q	S	R	P	Q	N	C	D	E	G	C	C	----	----
Pritchard, D. H. Contractor	Chilton Block #1	Chilton	Q	S	S	S	P	O	N	N	C	D	E	G	C	C	----	----
Utilities Coal Co	#61	Eagle	Q	S	S	S	P	O	N	M	C	D	E	G	C	C	----	----
W. Va. Cannel Coals, Inc.*	Switzer	Cannel	S	S	S	S	P	O	N	M	C	D	E	G	C	C	----	----
W. Va. C. & C. Corp	Earling	Eagle	S	S	Q	O	N	N	M	M	C	D	E	G	C	E	E	----
W. Va. C. & C. Corp	Micco #3 & Rossmore	Island Creek	S	O	Q	O	N	N	N	M	C	D	E	G	C	E	H	C
W. Va. C. & C. Corp	Omar #4	Island Creek	O	O	Q	O	N	N	N	M	C	D	E	G	C	E	----	C
W. Va. C. & C. Corp	Omar #5	Island Creek	O	O	Q	O	N	N	N	M	C	D	E	G	C	E	----	C
W. Va. C. & C. Corp	#19	Island Creek	O	O	Q	O	N	N	N	M	C	D	E	G	C	E	----	C
Winisle Coal Corp	Winisle #1	Alma	Q	Q	Q	O	N	N	N	M	C	D	E	G	C	C	----	----
Wood Coal Co	Freeze Fork	Chilton	Q	Q	Q	O	P	P	N	M	C	B	----	----	----	----	----	----
Youngstown Mines Corp., The	Dehue	Eagle																

*Refer to table at end of document for prices.

SOUTHERN APPALACHIAN DISTRICT

Abney, Elijah, Jr	Abney	(Horse Cr.)	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Ayers Coal Co	Ayers	Stray	R	R	Q	K	K	P	P	Q	H	H	N	N	N	N	----	----
Bailey, G. A	Piedmont #2	Hooper	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Bailey, J. C	Bone Hollow	Hooper	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Baker, Estate of J. N		Hooper	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Beech Valley Leasing Co	Beech Valley	Coal Creek	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Binder Bros	Binder	Black Dia	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Black Eagle Creek Coal Co	Black Eagle	Coal Creek	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Broden, Ed. & Naynard	Andres Ridge	(Coal Crk.)	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Bullock Coal Co	Bullock	(Black Dia.)	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Bunch Bros	Bunch	Hooper	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Cameron Coal Co	Cameron Coal	(Coal Crk.)	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Carson & Bunch (Blue Gem Coal Co.)	Carson	Blue Gem	A	A	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Centers Coal Co	Centers Coal	(Lily)	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Clark Coal Co	Clark & Lester	Sand Gap	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Cloyd, Jesse L	Cloyd	Jellico	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Cody, Joe and Fred Cody	Poplar Ridge		S	S	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Cornelius & Son	Cornelius	#3	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Crawford & Philpot	Philpot	Lilly	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Croley, Ester	Nevisdale	Blue Gem	A	Q	R	A	O	P	P	Q	H	H	N	N	N	N	----	----
Cummins, W. M	Cummins	Jellico	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Duncan, Hayes	Duncan	Hooper	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Durham, S. V	Wolf Creek	Horse Creek	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Ensley, W. H	Bright Hope	Coal Creek	R	R	Q	P	O	P	P	Q	H	H	N	N	N	N	----	----
Evans, Albert	Reeves Branch	Jellico	R	Q	R	Q	O	P	P	Q	H	G	N	N	N	N	----	----
Fortner Coal Co	Fortner	Poplar Lick	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Goodin, O. L	Cannel Ridge	Horse Creek	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Graves, Doc		Horse Creek	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Gunn Coal Mining Co	Gun Coal		R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Guthrie Coal Co	Bucket Mine	No. Jellico #2	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Hall & Son	Hall	Coal Creek	T	T	Q	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Harris, J. V	Jess Harris	Lilly	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Hibbard, Bert	Hibbard	Lilly	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Highland Mining Co	Highland		R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
House, O. C	House	Lilly	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Householder, Joe	Householder	Jellico	H	H	Q	Q	O	P	P	Q	H	H	N	N	N	K	----	----
Hutson, Floyd L		Straight Creek	R	R	Q	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Jackson, S. H	Blue Gem	Blue Gem	T	T	T	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Jackson & Webster	Blue Gem	Blue Gem	T	T	T	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Kentucky Gem Coal Co	Kentucky Gem	Mason	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Krahenbuhl, Eugene	Krahenbuhl	#2	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Krahenbuhl, Alfred	Krahenbuhl	#2	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
L. & W. Coal Co		L. & W. Coal Co	R	T	R	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Lester & Lee	Lester & Lee	Lilly	T	R	T	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Lindsay Coal Co	Lindsay	Coal Creek	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
London Coal Co	#1 & #2	Peacock	T	T	T	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Loyd, R. L	Loyd	#2	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Mayflower Mining Co	Mayflower	Mayflower	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Miller, Everitt & James	Miller	Black Dia	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Miller, J. D	J. D. Miller		R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Miller, T. E. (Blue Eagle)	Blue Eagle	Coal Crk	T	T	Q	Q	S	P	P	Q	H	H	N	N	N	N	----	----
Mountain Gem Coal Co	Mountain Gem	Lilly	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Monarch Coal Co	Monarch	Barner	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Parker, R. L	Parker	#2	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Patton, Gilbert	Patton	Lilly	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Paul, G. C	Blue Gem C. Co	Coal Crk	T	T	A	R	O	P	P	Q	H	H	N	N	N	N	----	----
Perkins, J. E	Perkins	Blue Gem	A	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Ponder & Mobley	Rockcastle River	Horse Crk	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Reese Coal Co., Milton	Laurel Ridge	Blue Gem	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
S. & S. Coal Co	Cannon Creek	Barner	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Sagerville Coal Co	Sagerville	Lilly	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Seeley, I. J	Seeley	#2	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Siler, John L	Siler	Blue Gem	A	A	B	O	C	P	P	Q	H	B	E	E	E	E	----	----

Size Groups—All Market Areas—Continued

SOUTHERN APPALACHIAN DISTRICT—Continued

Name	Mine	Seam	Size group numbers															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Sproule Coal Co., Henry	Finley	Blue Gem	A	A	B	D	D	F	H	H	B	E	E	E	E	E	----	----
Smith, Ayers	Jay Bird	Coal Creek	T	T	Q	C	O	P	Q	H	H	N	N	N	N	N	----	----
State Lick Coal Co	State Lick	#2	R	R	S	P	O	P	Q	H	H	N	N	N	N	N	----	----
Tennyson, J. D	Tennyson C. Co	Stray	O	T	S	K	O	P	Q	H	H	N	N	N	N	N	----	----
Tuttle, Wm. & Bryant Dave	Butt Mt	Dean #2	T	T	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Vowell, T. K	Vowell	Blue Gem	T	T	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Ward, Chas	Cold Water #1, #2, & #3	Hooper	T	T	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Watts, George R	Watts	Glenmary	R	T	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Webb, W. H	Webb Coal Co	Barner	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Whaley, I. C	Whaley	Coalfield	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
White, J. E. (J. E. White Coal Co.)		Lilly	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Wilkerson, Jim	Wilkerson	#2	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Wilkerson, John	John Wilkerson	Lily	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Woody, W. E	Woody	Black Dia	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Wyrick & Son & Grady	Wyrick	Black Dia	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Yoakum, G. W	Poplar Ridge	Dean	R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
York, William	York's		R	R	Q	P	O	P	Q	H	H	N	N	N	N	N	----	----
Atlas Coal Co	Capito	Lower Hignite	T	K	S	J	O	H	K	M	E	G	K	E	K	E	----	----
Barker Str. Crk. Coal Mng. Co	Barker	Straight Crk	R	P	P	H	O	P	P	M	G	G	K	E	K	E	----	----
Bell Coal Co	Bell	Straight crk																
Bertha Jellico Coal Co	Bertha	Jellico	Q	Q	Q	M	L	M	M	M	G	G	G	G	L	L	L	L
Bessemer C. Iron & Land Co	Wind Rock	Dean	T	G	G	P	O	P	H	Q	H	H	D	D	N	N	E	J
Black Diamond Coal Mng. Co	Marion	Jellico	R	G	G	F	O	F	H	K	H	H	D	D	E	E	E	
Block Coal & Coke Co	Block No. 1	Dean	R	G	K	F	O	F	H	K	H	H	D	D	E	E	E	
Block Coal & Coke Co		Turley	R	G	K	F	O	F	H	K	H	H	D	D	E	E	E	
Blue Diamond Coal Co	Eagan & Westbourne	Dean	R	G	K	Q	O	F	H	K	H	H	D	D	E	E	E	
Bon Jellico Coal Co	Bon Jellico	Jellico	R	G	K	F	O	F	H	K	H	H	D	D	E	E	E	
Brimestone Coal Co	Brimestone	Glenmary	R	G	K	F	O	F	H	K	H	H	D	D	E	E	E	
Broyles Jellico Coal Co	Broyles Jellico	Jellico	G	U	G	G	F	F	H	K	K	H	D	D	E	E	E	
Brush Creek Coal Co	Rock Cliff	Dean	G	U	G	G	F	F	H	K	K	H	D	D	E	E	E	
Burk Hollow Coal Co	Burk Hollow	Blue Gem	A	A	B	C	D	F	H	H	H	H	B	B	E	E	E	
Cairnes Coal Mining Co	Cairnes	Mason	Q	Q	P	M	M	M	M	M	M	M	D	D	E	E	E	
Cambria Coal Co	Cross Mountain	Col Crk	Q	Q	Q	M	K	K	M	M	M	M	D	D	E	E	E	
Cambria Coal Co	Royal	Lower Dean	Q	Q	Q	F	F	D	M	M	M	M	D	D	E	E	E	
Cleage-Wills Coal Co., Inc	Cleage Wills	Jellico	Q	R	Q	Q	P	P	H	K	M	P	D	D	E	E	E	
Clear Fork Coal Co., Inc	Clear Splint #3	Sterling	R	R	Q	Q	P	P	H	K	M	P	D	D	E	E	E	
Clear Fork Coal Co., Inc	Clear Fork	Mason																
Clinchmore Coal Mining Co	Clinchmore	Pee Wee	A	A	B	C	D	F	K	H	H	K	B	F	E	E	E	J
Coleman Fuel Co	Red Bird	Red Bird	L	L	B	J	D	F	H	Q	H	H	F	F	E	E	E	
Croley, Ben	Dixie	Blue Gem	A	A	S	D	O	P	Q	Q	H	H	B	B	N	N	N	
Dean Coals, Inc	Dean Coals	Dean	U	U	N	L	O	P	M	M	H	H	B	B	J	J	J	
Diamond Coal Mining Co	Diamond #1 & #2	Big Mary	T	T	Q	C	F	F	K	K	H	H	F	F	E	E	E	
Dixie Hell Coal Co	Dixie Hell	Hance	P	P	Q	P	O	P	Q	Q	H	H	B	B	N	N	N	
Pineville	Pineville	Str. Crk	G	G	G	L	O	P	M	K	H	H	F	F	E	E	E	
Engine Coal Company, Inc	Fayette-Jellico Coal Co	Dean	M	M	Q	F	O	P	K	K	H	H	F	F	E	E	E	
Fayette-Jellico Coal Co	Wilder No. 3	Bon Air #2	R	R	Q	P	O	P	Q	K	H	H	F	F	E	E	E	
Fentress Coal & Coke Co	Fork Mountain	Dean	T	T	Q	P	O	P	Q	K	H	H	F	F	E	E	E	
Fork Mountain Coal Co	Fork Mountain Coal Co	Pee Wee	K	K	Q	P	O	P	Q	K	H	H	F	F	E	E	E	
Fork Ridge C. & C. Co	Regal	Mason	L	G	R	C	O	P	Q	K	H	H	F	F	E	E	E	
Fox Ridge C. & C. Co	Fork Ridge	Straight Crk	G	E	A	L	O	P	Q	K	H	H	F	F	E	E	E	
Gatliff Coal Co	Fox Ridge & Hanby	Jellico	R	R	Q	P	O	P	Q	K	H	H	F	F	E	E	E	
Harlan Industrial Coll. Co	Gatliff	Dean	R	R	Q	P	O	P	Q	K	H	H	F	F	E	E	E	
Highland Mining Co	Commodore	Bon Air #2	R	C	L	P	O	P	Q	K	H	H	F	F	E	E	E	
High Point Coal Co	Highland	Pee Wee	K	K	R	D	O	P	Q	K	H	H	F	F	E	E	E	
High Point Coal Co	No. 1	Red Ash	R	R	A	L	O	P	Q	K	H	H	F	F	E	E	E	
Hignite Coal Co	No. 2	Lower Hignite	A	K	L	J	O	P	Q	K	H	H	F	F	E	E	E	
Isoline Coal Co	Isoline	Isoline	R	R	A	K	O	P	Q	K	H	H	F	F	E	E	E	
Jellico Coal Mining Co	Mt. Ash	Blue Gem	A	K	L	L	O	P	Q	K	H	H	F	F	E	E	E	
Kentucky Jellico Coal Co	Kay Jay	Dean	R	R	Q	P	O	P	Q	K	H	H	F	F	E	E	E	
Kentucky Ridge Coal Co	Crockett	Crockett	R	R	Q	P	O	P	Q	K	H	H	F	F	E	E	E	
Ky. Straight Crk. Coal Co	Adalia & Belva	Straight Crk	H	H	L	H	O	P	Q	K	H	H	F	F	E	E	E	
LaFollette, Rex C. Co	Rex #2	Rex	H	H	L	H	O	P	Q	K	H	H	F	F	E	E	E	
Lilly Coal Co	Herron	Horse Crk	L	E	L	E	O	P	Q	K	H	H	F	F	E	E	E	
Mahan Jellico Coal Co	Mahan Jellico	Jellico																
Meadow Creek Coal Co	Solon	Bon Air No. 2	T	L	T	L	O	P	J	M	H	H	F	F	E	E	E	
Moore Coal Co	Moore	Dean	L	L	A	G	O	P	M	M	H	H	F	F	E	E	E	
New Anchor Block Coal Co., Inc	Anchor Block	Dean	R	G	L	G	O	P	M	M	H	H	F	F	E	E	E	
New Horse Creek Coal Co	Velma	Horse Crk	L	R	G	L	O	P	M	M	H	H	F	F	E	E	E	
Nevisdale Coal Co	Nevisdale	Blue Gem	A	G	L	Q	O	P	M	M	H	H	F	F	E	E	E	
New Jellico Coal Co	Blue Rose	Jellico	G	L	R	G	O	P	M	M	H	H	F	F	E	E	E	
New Mary Francis Coal Co	New Mary Francis	Horse Crk	L	R	G	J	O	P	M	M	H	H	F	F	E	E	E	
New Morning Glow Coal Co	Morning Glow	Horse Crk	K	G	K	N	O	P	M	M	H	H	F	F	E	E	E	
Pioneer Coal Co	Pioneer	Str. Creek	K	N	H	H	O	P	M	M	H	H	F	F	E	E	E	
Poplar Lick Coal Co	Poplar Lick	Poplar Lick	R	R	Q	Q	O	P	Q	K	H	H	F	F	E	E	E	
Premier Coal Co	Premier	Turner	R	R	Q	Q	O	P	Q	K	H	H	F	F	E	E	E	
Pruden Coal & Coke Co	Back Crk. #2	Mason	T	T	T	Q	S	P	P	Q	H	H	N	N	N	N	N	
Pruden Coal & Coke Co	Valley Crk. #4	Jellico	T	T	T	Q	S	P	P	Q	H	H	N	N	N	N	N	
Rennebaum Coal Co	Rennebaum	Sterling	R	R	R	Q	O	P	P	Q	H	H	N	N	N	N	N	
Southern Coll., Inc	So. Collierles	Pee Wee	A	A	M	M	O	P	P	Q	H	H	N	N	N	N	N	
Southern Mining Co	Balkan	Creech	J	J	J	G	G	G	H	K	K	H	E	E	F	F	F	
Southern Mining Co	Colmar	Mason	J	R	P	P	O	L	K	M	M	M	G	F	H	H	H	
Southland Coal Corp	Southland	Str. Creek	P	P	P	O	O	L	K	M	M	M	F	F	H	H	H	
Stearns Coal & Lbr. Co	"A"	No. 1	G	U	A	Q	Q	Q	Q	R	H	H	N	N	N	N	----	----
Stearns Coal & Lbr. Co	No. 11	No. 1 and 1½	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Stearns Coal & Lbr. Co	Cooperative	No. 1	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Stearns Coal & Lbr. Co	No. 1	No. 2	R	R	Q	Q	O	P	P	Q	H	H	N	N	N	N	----	----
Stearns Coal & Lbr. Co	No. 4	#1½	L	L	K	H	H	M	M	K	E	G	E	F	F	F	F	----
Stearns Coal & Lbr. Co	No. 15	#1½																
Straight Crk. Coal, Inc	Cary	Str. Creek	G	G	G	F	F	O	H	P	K	Q	E	E	F	F	F	----
Straight Fork Coal Co	Straight Fork	Upper Dean	G	T	A	G	S	B	G	K	K	H	B	B	E	E	E	----
Sun Coal Co	Sun	Pee Wee	A	G	A	G	O	B	G	J	K	H	B	B	D	D	D	----
Tenn-Jellico Coal Co	Anthras	Jellico	A	G	A	G	O	B	G	J	K	H	B	B	F	F	F	----
Vermillion, C. C	Wister	Blue Gem	A	G	A	G	O	B	G	J	K	H	B	B	G	G	G	----
Virginia Jellico C. Co., Inc	King Mountain	Jellico	A	G	J	H	O	B	G	J	K	H	B	B	E	E	E	----
White Coal Co	Baker	Horse Creek	J	H	A	B	O	B	G	J	K	H	B	B	J	J	J	----
Williams Coal Mining Co	Nurex	Rex	A	A	B	C	O	C	F	J	K	M	K	F	K	K	K	----
Wooldridge Blue Gem Coal Mng. Co	Powhatan & Washington.	Blue Gem	A	A	B	C	O	C	F	J	G	D	F	K	K	K	K	----
	Blue Gem	Blue Gem	A	A	L	B	O	C	F	J	G	D	F	K	K	K	K	----
Zecchini Blue Gem C. Co	Zenith	White Oak	A	L	A	L	O	B	K	C	H	D	H	K	H	K	B	----
Zenith Coal Co			A	L	A	L	O	B	K	C	H	D	H	K	H	K	B	----

Size Groups—All Market Areas—Continued

VIRGINIA DISTRICT

Name	Mine	Seam	Size group numbers																
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
Bandy, Rex	Bandy	Raven	B	B	N	B	B	B	B	C	C	E	E	H	H	H	H	F	
Barnhart, C. H	Barnhart	Kennedy	N	N	N	M	M	B	L	K	K	E	E	F	H	M	H	F	
Barrett, J. E	Rields Scott	Red Ash	B	B	B	N	M	M	L	K	K	E	D	H	F	D	H	F	
Bond, R. D	Spruce Pine	Kennedy	N	N	N	O	M	M	L	K	K	E	D	F	H	F	D	F	
Bond, N. S	Osborne	Jawbone	Q	Q	Q	O	M	M	L	K	K	E	D	F	H	F	D	F	
Brown & Vernon Coal Co	Widow Kennedy	Kennedy	N	N	N	M	M	M	L	K	K	E	D	F	H	F	D	F	
Brown Coal Co. C. W	Widow Kennedy	Kennedy	N	N	B	B	M	M	L	K	K	E	C	E	H	F	D	F	
Brown Coal Co. C. W	Red Ash	Red Ash	B	B	N	B	B	B	L	K	K	E	E	E	H	F	D	F	
Burn-Up Coal Co., The	Burn-Up		N	N	N	M	G	M	J	K	K	E	E	E	H	F	F	F	
Campbell, R. W	Campbell	#5	G	G	N	G	M	G	J	K	K	E	E	E	H	F	F	F	
Clay, John	Widow Kennedy	Kennedy	N	N	N	M	M	M	L	K	K	E	E	F	H	F	F	F	
Corns Coal Co	Banner	Kennedy	N	N	N	O	M	M	L	K	K	E	E	F	H	F	F	F	
Cox, W. H. Coal Co	Cox	Penn Lee	O	O	O	O	M	M	M	K	K	E	F	F	H	F	H	F	
Crowder & Slogel	No. 3	Up. Banner	N	N	N	X	M	M	L	K	K	E	D	D	H	F	F	F	
Dale Coal Company	Dale	Blair	Q	Q	Q	O	M	M	L	K	K	E	D	D	H	F	D	F	
Davis Coal Co., C. L	Widow Kennedy	Kennedy	N	N	N	N	M	M	L	K	K	E	E	E	H	F	F	F	
Dye, Preston L	Preston Dye	Up. Banner	N	N	N	N	M	M	L	K	K	E	E	E	H	F	F	F	
Franks, J. H	No. 5	Up. Banner	N	N	N	N	M	M	L	K	K	E	E	E	H	F	F	F	
George, A. J	J. Bob Branch	Imboden	Q	Q	N	N	M	M	L	K	K	E	D	D	H	F	H	F	
Gilley & Sayers		Raven	B	B	B	B	M	M	L	B	L	K	C	E	E	H	F	F	
Hale, G. N	Hale	Up. Banner	N	N	N	N	M	M	L	K	K	K	E	E	D	D	D	D	
Ham & Kern	Ham & Kern	Up. Banner	N	N	N	N	M	M	L	K	K	K	E	D	D	F	F	F	
Hillmans, J. M	Hillman	Jawbone	Q	Q	Q	O	M	M	L	K	K	K	D	D	D	D	D	D	
Horne Coal Co., F. B	Horne	Imboden	Q	Q	Q	O	M	M	L	K	K	K	D	D	D	D	D	D	
Hubbard, J. J	Hubbard	Edwards	Q	Q	Q	O	M	M	L	K	K	K	D	D	D	D	D	D	
Kiser, J. T	Kiser's	Blair	Q	Q	Q	O	M	M	L	K	K	K	D	D	D	D	D	D	
Jackson & Clark	#6	Lower Banner	N	N	N	N	M	M	L	K	K	K	E	E	D	F	F	F	
Lawson & Laney	Lawson	Kennedy	N	N	N	N	M	M	L	K	K	K	E	E	D	F	F	F	
McCoy, F. A	McCoy	Jawbone	Q	Q	N	O	M	M	L	K	K	K	D	E	D	F	D	D	
McReynolds, E. M	McReynolds	Kennedy	N	N	Q	N	M	M	L	K	K	K	D	E	D	F	D	F	
Marcum, G. L	#7 & #10	Blair	N	Q	Q	O	M	M	L	K	K	K	D	D	D	F	F	D	
Miller, Garnett B	Miller	Kennedy	N	N	N	N	M	M	L	K	K	K	E	E	E	F	F	F	
Osborn & Bowman	Imboden	Up. Banner	N	Q	Q	O	M	M	L	K	K	K	E	E	E	H	F	F	
Pennington, O. R	Pennington	#5	G	G	G	G	G	J	L	K	K	K	E	E	D	F	D	D	
Quillen, L. L	Quillens	Jawbone	Q	Q	Q	O	M	M	L	K	K	K	D	E	D	F	D	D	
Quillin Coal Co	Widow Kennedy	Kennedy	N	N	N	N	M	M	L	K	K	K	E	E	E	F	F	F	
Quillin, J. E. Co	Quillin	Kennedy	N	N	N	N	M	M	L	K	K	K	E	E	F	F	F	F	
Raines, F. C	Raines'	Up. Banner	N	N	N	N	M	M	L	K	K	K	E	E	F	F	F	F	
Reedy, Will and Jamison, L. G	Reedy & Jamison	Up. Banner	N	N	N	N	M	M	L	K	K	K	E	E	F	F	F	F	
Richardson Coal Co			N	N	N	N	M	M	L	K	K	K	E	E	F	F	F	F	
R. F. D. #1, Swords Creek, Va	Kennedy		N	N	N	N	M	M	L	K	K	K	E	E	F	F	F	F	
Richmond, R. A. & C. L	R. A. & C. L. Richmond.	Norton	Q	Q	Q	O	M	M	L	K	K	K	D	D	D	F	D	D	
Robinett & Nash, C. M. Co	Kennedy	Up. Banner	N	N	N	M	M	M	L	K	K	E	E	E	F	H	F	F	
Robinett & Nash, C. M. Co	Mill Creek #2	Red Ash	B	B	N	B	B	M	M	L	K	K	K	E	E	F	H	F	
Robinett & Nash, C. M. Co	Pine Ridge #1	Up. Banner	N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Sheep Rock Coal Co	Sheep Rock	Up. Banner	N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Shreves Coal Co	Newkennedy	Kennedy	N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Smith Coal Company	Smith	Kennedy	N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Stock Creek Coal Co	Stock Creek	Egan	N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Trent & Stallard	Crab Orchard	Kennedy	N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Upper Elk Coal Co	Freemont	Up. Banner	N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Viers, Stanford, Prater, Va	Viers Coal		N	N	N	N	M	M	M	L	K	K	K	E	E	F	F	F	
Vlake, Vassili	Mohawk	Kelly	G	G	G	G	G	G	G	J	J	J	J	F	F	F	F	F	
Wallen, Harman	Wallen	#5	G	G	G	G	G	G	G	J	J	J	J	F	F	F	F	F	
Welch, Fred	Welch	#5	G	G	G	G	G	G	G	J	J	J	J	F	F	F	F	F	
Wells, W. E		Red Ash	H	B	Q	B	B	O	B	B	L	L	K	K	K	K	K	K	
Wharton, G. C	Wharton #4	Glamorgan	B	Q	N	B	O	M	M	M	L	K	K	K	K	K	K	K	
Whitt, White & Whited	Kennedy	Kennedy	Q	N	N	N	M	M	M	M	L	K	K	K	K	K	K	K	
Wilson, C. L	#7	Kennedy	N	N	N	O	M	M	M	L	L	K	K	K	K	K	K	K	
Banner Fuel Corporation	Black Banner	Up. Banner	O	O	O	O	M	M	L	K	K	K	K	K	K	K	K	K	
Benedict Coal Corporation	No. 7	Benedict #7	O	O	A	O	B	O	M	M	M	M	M	M	M	M	M	M	
Benedict Coal Corporation	Virglow	No. 12	O	O	A	O	B	O	C	M	D	M	F	M	H	M	H	M	L
Blackwood C. & C. Co., Inc	Calvin	Low Splint	O	F	O	F	O	M	D	M	D	F	M	H	H	H	H	H	C
Blackwood C. & C. Co., Inc	Pardee	High Splint	H	B	O	B	O	M	D	M	D	F	M	H	H	H	H	H	
Blue Diamond Coal Co	Bonney Blue	#9 & #10	O	O	A	O	B	C	D	F	M	H	H	J	J	J	J	J	
Blue Diamond Coal Co	Mayflower	H. & L. Splint	O	A	A	O	B	C	D	F	M	H	H	J	J	J	J	J	
Christie Coal Company	Christie	Blair																	
Clinchfield Coal Corp	No. 2, 3 & 52	U & L Banner	O	O	M	O	M	M	L	K	K	K	K	K	K	K	K	K	
Clinchfield Coal Corp	No. 7 & 9	Up. Banner	O	O	M	O	M	J	M	L	K	K	K	K	K	K	K	K	
Dixie Beaver Coal Co., Inc	Crane's Nest	Up. Banner	O	O	O	O	M	M	M	L	L	K	K	K	K	K	K	K	
Fleming & Co., Robert	Fleming	U. & L. Ban'r.	O	O	O	O	M	M	M	L	L	K	K	F	F	F	F	F	
Glamorgan Coals, Inc	Glamorgan #4	Glamorgan																	
Hawthorne Coal Corporation	Hawthorne #1	Edwards																	
Kemmerer Gem Coal Co	Kem Gem	No. 5	G	G	G	G	G	N	G	M	J	L	K	K	K	E	D	E	
Norton Coal Co., W. S. Willits & G. C. McCall, Receivers.	Norton #11	Norton	Q	Q	Q	G	P	N	G	M	J	L	K	K	K	E	D	E	
Penn Lee Corporation	Penn Lee	Penn Lee #1	O	O	K	O	M	M	M	J	M	L	M	K	K	K	K	K	
Ruth-Elkhorn Coals, Inc	Steinman	Up. Banner	K	K	K	M	J	K	J	J	K	K	K	K	K	K	K	K	
Splash Dam Coal Corp	Splashdam	Splashdam	M	M	M	M	K	K	K	J	K	K	K	K	K	K	K	K	
Splash Dam Smo. Coal Corp	Lonesome Br	Splashdam	M	M	M	M	K	K	M	J	J	M	K	K	K	K	K	K	
Standard Banner Coal Corp	Honey Creek	U. Banner	O	O	O	O	M	M	M	L	L	K	K	K	K	K	K	K	
Stonega Coke & Coal Co	Arno	Imboden	Q	Q	Q	O	M	M	M	L	L	K	K	K	K	K	K	K	
Stonega Coke & Coal Co	Derby	Marker	F	E	E	E	M	F	F	F	J	K	K	K	K	K	K	K	
Stonega Coke & Coal Co	Dunbar	Marker	E	E	E	E	M	F	F	K	K	K	K	K	K	K	K	K	
Stonega Coke & Coal Co	Derby	Taggart	M	E	M	E	M	F	F	K	K	K	K	K	K	K	K	K	
Stonega Coke & Coal Co	Gence	Imboden																	
Stonega Coke & Coal Co	Imboden	Imboden	Q	Q	Q	O	M	M	L	K	K	C	C	C	B	C	C	C	
Stonega Coke & Coal Co	Premix Mod	Marker-Imb																	
Stonega Coke & Coal Co	Roda	Taggart	M	M	M	O	K	K	M	J	K	K	K	K	K	K	K	K	
Stonega Coke & Coal Co	Stonega	Imboden	Q	Q	N	O	M	M	M	J	L	L	K	K	K	K	K	K	
Swords Cr. Mining Corp	Swords Creek	L. Banner	N	N	N	N	M	M	M	L	K	K	K	K	K	K	K	K	
United Collieries, Inc	Dominion	No. 5	G	G	G	G	G	M	M	L	K	K	K	K	K	K	K	K	
Va. Iron, C & C Company	Imperial	No. 6 & 7	O	O	O	O	G	M	M	L	J	L	K	K	K	K	K	K	
Va. Iron, C & C Company	Linden	Imboden	Q	O	O	O	G	M	M	L	J	L	K	K	K	K	K	K	
Va. Iron, C & C Company	Monarch	No. 8	G	G	G	O	G	M	G	M	J	L	K	K	K	K	K	K	
Va. Iron, C & C Company	Royal Banner	U. Banner	O	O	G	O	G	M	G	M	J	L	K	K	K	K	K	K	
Va. Lee Co., Inc	Va.-Lee	No. 5	G	G	G	G	O	M	G	M	J	L	K	K	K	K	K	K	
Wise Coal & Coke Company	Dorchester	Blair-Dorch	Q	Q	Q	O	M	M	L	K	K	K	K	K	K	K	K	K	

Size Groups—All Market Areas—Continued

WILLIAMSON DISTRICT

Name	Mine	Seam	Size group numbers																
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
Altizer, W. I	W. I. Altizer	Up. Banner	N	N	N	M	M	L	K	K	E	C	F	F	F	F			
Ball Coal Co	#1	Raven	B	B	B	J	B	M	B	M	D	D	H	M	H	H			
Johnson, David	Splint No. 7	No. 5 Block	J	J	J	B	J	B	M	B	C	C	M	H	C	H			
Strunk Cellier Coal Co	Whipowill	Raven	B	B	B	B	N	M	B	M	C	C	C	C	C	C			
Allburn Collieries Co	Allburn	Alma	Q	Q	P	P	N	M	M	M	C	C	C	C	C	C			
Alma Fuel Co	Alma	Alma	Q	Q	P	P	N	M	M	M	C	C	C	C	C	C			
Armor Coal Co	Katona	Cedar Grove					O					H			K				
Big Creek Winifrede Coal Co	Big Creek	Winifrede	J	J	J	J	J	M	M	M	L	B	H	H	M	M			
Borderland Coll. Co	Borderland #1	Winifrede	J	J	J	J	K	M	M	L	L	B	E	E	G	G			
Buchanan By-Prod. C. Corp	Clintwood	Clintwood	Q	Q	O	O	M	M	L	L	L	B	B	B	B	B			
Buchanan County Coal Corp	Buchanan #1	Clintwood	Q	Q	O	O	M	K	L	L	L	B	B	B	B	B			
Buchanan County Coal Corp	Buchanan #2	Clintwood	Q	Q	O	O	M	K	L	L	L	B	B	B	B	B			
Buchanan Smk. C. Co., Inc	Buchanan Smk	Clintwood	Q	Q	O	O	M	K	L	L	L	B	B	B	B	B			
Buffalo Winifrede C. Co	Buffalo	Winifrede	J	J	J	J	M	M	L	M	L	B	G	B	L	B			
Conoway Coal Corp	Conoway	Clintwood	Q	Q	Q	O	J	M	J	K	L	M	M	B	G	B			
Crystal Blk. C. & C. Co	#1	Winifrede	J	J	J	J	K	L	M	M	L	B	G	B	G	B			
Crystal Blk. Mining Co	Gates	Winifrede	J	J	J	O	J	M	M	M	L	B	G	B	G	B			
Dayton Coal Corp	New Howard	Cedar Grove	O	O	O	O	N	N	N	N	L	B	E	E	E	E			
Earlston Coal Co	Earlston	Warfield	S	S	Q	N	Q	M	M	N	L	D	D	D	D	D			
Eastern Coal Corp	Hardy #1 & 11 & McVeigh #7.	Pond Crk	Q	Q	P	Q	N	N	M	M	L	C	G	C	C	C			
Eastern Coal Corp	Stone #3	Pond Creek	Q	Q	P	P	N	N	N	M	M	K	L	E	E	E			
Emperor Coal Co	Freeburn	Freeb'n-Alma	Q	Q	Q	P	P	N	N	M	M	K	L	C	C	C			
Glen Alum Coal Co	Glen Alum	Glen Alum	Q	Q	Q	Q	P	N	N	K	K	K	L	D	D	D			
Harman Coal Corp., H. E	Harman	Bull Creek	Q	Q	Q	Q	O	M	M	K	K	K	L	A	A	A			
Home Crk. Smk. C. Co., Inc	Home Creek	Clintwood	Q	Q	Q	O	O	M	M	K	K	K	L	B	B	B			
Huddleston C. Co., J. S	Mohawk	Big Eagle																	
Isaban Coal Co	Hardy	Pond Creek	Q	Q	P	P	N	N	N	M	M	M	K	B	C	C			
Leckie Collieries Co	Aflex	Freeburn	Q	Q	P	P	N	N	G	K	M	M	K	L	C	C			
Little War Creek C. Co	Litwar	Big Eagle	Q	Q	M	Q	M	O	J	K	K	K	L	M	C	C			
Lynn Camp Coal Co	Lynn Camp	Clintwood	Q	Q	Q	O	N	N	N	K	K	K	L	M	C	C			
Majestic Collieries Co	Majestic	Pond Creek	Q	Q	Q	Q	O	N	N	M	M	K	L	M	C	C			
Merrimac Coal Co	White Star	Pond Creek	Q	Q	Q	Q	O	N	N	N	M	K	L	M	C	C			
Mingo Mining Co	T-1	Thacker	Q	Q	Q	P	Q	O	N	N	M	K	L	M	C	C			
New Alma Coal Co	New Alma	Alma	Q	Q	S	Q	P	S	N	N	M	K	L	M	C	C			
New Century Coal Co	New Century	Thacker	S	S	S	S	S	S	N	Q	Q	K	L	M	C	C			
New Marietta Coal Co	New Marietta	Pond Creek																	
Octavia Coal Mining Corp	Octavia	Pond Creek	Q	Q	P	N	N	N	M	M	M	K	L	M	C	C			
Octavia Coal Mining Corp	Octavia	Pond Creek																	
		Top Strata																	
Panther Coal Co., Inc	Roseann	Clintwood	Q	Q	Q	O	M	K	L	L	L	B	F	B	B	B			
Pike Fuel Co	Pike Fuel	Pond Creek																	
Pritchard, D. H., Contractor	William Ann	Thacker	S	S	S	S	Q	Q	M	P	M	K	G	G	G	K			
Puritan Coal Corp	Puritan #1	Thacker	S	S	S	S	Q	Q	M	P	M	K	G	G	G	K			
Puritan Coal Corp	Puritan #2	Winifrede	M	S	M	S	M	P	N	O	M	K	G	G	G	K			
Red Jacket Coal Corp	#5	Thacker	S	Q	Q	Q	Q	M	P	M	O	K	G	G	G	K			
Red Jacket Coal Corp	#6	Alma	S	Q	Q	Q	Q	M	P	M	O	K	G	G	G	K			
Red Jacket Coal Corp	#32 Upper Mine	Cedar Grove	Q	Q	Q	Q	Q	M	P	M	O	K	G	F	D	E			
Red Jacket Coal Corp	#32 Lower Mine	Thacker	Q	Q	Q	Q	Q	M	P	M	O	K	G	F	D	E			
Red Jacket Coal Corp	Junior	Ced. Grove & Thack	O	O	O	O	O	N	N	N	N	K	G	F	D	E			
Red Jacket Coal Corp	Mitchell Br	Cedar Grove	O	O	O	O	O	N	N	N	N	K	G	F	D	E			
Standard Block Coal Co	High Steam	Warfield	S	S	S	J	O	N	N	N	N	K	G	C	B	D			
Sycamore Coal Co	Cinderella	Winifrede	J	O	O	O	O	N	N	N	N	K	G	B	D	H			
Syamore Coal Co	Mingo Chief	Mingo	O	O	O	O	O	N	N	N	N	K	G	B	D	H			
Tierney Mining Co	Tierney	Pond Creek	Q	Q	Q	Q	Q	J	N	N	N	K	G	C	B	D			
Va. Lee Coal Corp	Virginia Lee	Clintwood	Q	Q	Q	Q	Q	M	N	N	N	L	G	C	B	D			
War Eagle Coal Co	War Eagle	Thack & #2 Gas	O	O	O	O	O	N	N	N	N	K	G	C	B	D			
Winco Block Coal Co	Winco Block	Winifrede	O	O	O	O	O	N	N	N	N	K	G	B	D	H			

Truck Mine Prices Per Net Ton of 2,000 Pounds—Minimum Prices f. o. b. Transportation Facilities at Mines for All Coal Loaded Into Trucks or Wagons at the Mines of All Code Members in District No. 8

Size groups	Price index																		
	A	B	C	D	E	F	G	H	J	K	L	M	N	O	P	Q	R	S	T	U
1	325	320	315	310	305	300	295	290	285	280	275	270	265	260	255	250	245	240	235	230
2	325	320	315	310	305	300	295	290	285	280	275	270	265	260	255	250	245	240	235	230
3	315	310	305	300	295	290	285	280	275	270	265	260	255	250	245	240	235	230	225	220
4	300	295	290	285	280	275	270	265	260	255	250	245	240	235	230	225	220	215	210	
5	290	285	280	275	270	265	260	255	250	245	240	235	230	225	220	215	210	205	200	
6	280	275	270	265	260	255	250	245	240	235	230	225	220	215	210	205	200	195	190	
7				255	250	245	240	235	230	225	220	215	210	205	200	195	190			
8				255	250	245	240	235	230	225	220	215	210	205	200	195	190			
9	230	225	220	215	210	205	200	195												
10	220	215	210	205	200	195	190	185												
11	210	205	200	195	190	185	180	175	170	165	160	155	150							
12	205	200	195	190	185	180	175	170	165	160	155	150	145							
13	200	195	190	185	180	175	170	165	160	155	150	145	140							
14	190	185	180	175	170	165	160	155	150	145	140	135	130							
15	180	175	170	165	160	155	150	145	140	135	130	125	120							
16	210	205	200	195	190	185	180	175	170	165										

Truck Mine Prices per Net Ton of 2,000 Pounds—Minimum Prices F. O. B. Transportation Facilities at Mines for all Coal Loaded into Trucks or Wagons at the Mines of all Code Members in District No. 8—Price Index—Cannel Coal—Logan District

Size groups:	Price
Block, Chunks and Lumps	$4.00
Egg	3.25
Chips	2.50
Machine Cuttings	1.60

[F. R. Doc. 38-424; Filed, February 8, 1938; 11:02 a. m.]

[Order No. 217]

AN ORDER MODIFYING ORDER NO. 97, AS MODIFIED BY ORDERS NOS. 136 AND 212, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 9 BY ADDING THERETO A SCHEDULE OF PRICES TO BE KNOWN AS "TRUCK MINE PRICE SCHEDULE NO. 1—DISTRICT NO. 9"

The National Bituminous Coal Commission having by its Order No. 97, as modified by Orders No. 136 and 212, determined and established the minimum prices of coals of code members produced within District No. 9, as set forth in

"Price Schedule No. 1—District No. 9", as supplemented by Supplements Nos. 1 and 2, and having determined that the provisions of sub-sections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedule and supplements by a truck mine price schedule as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 9, established in "Price Schedule No. 1—District No. 9", as suplemented by Supplements Nos. 1 and 2 to Price Schedule No. 1—District No. 9, are hereby further supplemented as set forth in "Truck Mine Price Schedule No. 1—District No. 9", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Truck Mine Price Schedule No. 1, shall be and are hereby determined and established as the minimum prices of coals of code members within District No. 9, and shall be effective at 12:01 o'clock A. M., on the 21st day of February, 1938.

2. That said Order No. 97, as modified by Orders Nos. 136 and 212 and Price Schedule No. 1—District No. 9, and Supplements Nos. 1 and 2 thereto, except as modified herein and by said Truck Mine Price Schedule No. 1—District No. 9, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and "Truck Mine Price Schedule No. 1—District No. 9" to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 9; shall cause copies of this Order and said "Truck Mine Price Schedule No. 1—District No. 9" to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

TRUCK MINE PRICE SCHEDULE NO. 1, DISTRICT NO. 9

Truck Mine Schedule of minimum prices for coals of code members produced within District No. 9, established pursuant to the provisions of the "Bituminous Coal Act of 1937."

Effective: February 21, 1938.

Issued: February 5, 1938.

F. W. MCCULLOUGH, *Secretary.*

PRICE INSTRUCTIONS

1. The schedule of prices shown herein applies F. O. B. trucks or wagons at mines, on all coal produced by Code Members in the District shown on the title page hereof.

2. All Prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size.

4. All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size.

5. All Prices herein are per net ton of 2,000 pounds F. O. B. transportation facilities at the mines unless otherwise designated.

6. When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. Not less than the actual cost of transporting coal from the ordinary loading facilities at the mines to any consumer shall be added to the established minimum price F. O. B. transportation facilities at the mine.

The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the Code Member shall have the burden of establishing or proving that the cost so charged was an accurate cost commensurate with the service actually rendered.

8. Any Code Member Mine not listed in this Index for shipment by truck shall observe the schedule of prices applicable to adjacent mines having similar quality coal.

Equivalent Round Hole Size of Bar Screens

Bar spacing:	Round hole equivalent
¾"	1½"
1"	1¾"
1¼"	2"
1½"	2⅞"
2"	4⅜"
2½"	4⅞"
3"	5½"
4"	6"
5"	7¾"

Size Groups

All Sizes of Coal over 2" and 2 x 1½" to 1" Nut		All Sizes of Coal 2" and under, except 2 x 1½" to 1" Nut	
Group no.	Sizes of Coal	Group no.	Sizes of Coal
1	6" Lump and larger. 5" Lump. 4" Lump. 3" Lump. 2" Lump. 8 x 4" Egg. 8 x 3" Egg. 7 x 4" Egg. 7 x 3" Egg.	6	1½ x 1" Nut. 1¼ x 1" Nut. 1¼ x ¾" Nut. 1¼ x ½" Nut. 1¼ x ¼" Nut.
		7	1½ x ¾" to 6 Mesh Nut. 1¼ x ⅜" to 6 Mesh Nut.
		8	1 x ¾" to 6 Mesh Nut. ¾ x ⅜" to 6 Mesh Nut. 1 x 10 Mesh Washed and Dustless Treated.
2	6 x 4" Egg. 6 x 3½" Egg. 6 x 3" Egg. 5 x 4" Egg. 5 x 3" Egg. 4 x 3" Egg.	9	1½" Washed Screenings. 1¼" Washed Screenings. 1" Washed Screenings. ¾" Washed Screenings.
3	1½" Lump. 1¼" Lump. 6 x 2½" Egg. 6 x 2" Egg. 6 x 1¼" Egg. 6 x 1¼" Egg. 6 x ¾" Egg. 5 x 2" Egg.	10	1½" Modified Screenings. 1¼" Modified Screenings. 1" Modified Screenings. ¾" Modified Screenings.
		11	1½" Screenings (Raw). 1¼" Screenings (Raw.)
4	5 x 1½" Egg. 4 x 2" Egg. 4 x 1½" Egg. 4 x 1¼" Egg. 3 x 2" Nut.	12	1" Screenings (Raw). ¾" Screenings (Raw).
		13	5/16" x 10 Mesh (Raw). ⅜" x 10 Mesh (Raw).
5	3 x 1½" Nut. 3 x 1¼" Nut. 3 x 1" Nut. 3 x ¾" Nut. 2 x 1½" Nut. 2 x 1¼" Nut. 2 x 1" Nut. 2 x ¾" Nut. 2 x ¼" Nut.	14	Carbon 5/16" or less x 0. Carbon ⅜" or less x 0. Carbon ¼" or less x 0. Carbon ¼" or less x 0.
		15	Dust 10 Mesh or smaller x 0.
		16	Run of Mine.

Code Member Index

KENTUCKY—BUTLER COUNTY

Name	Mine	Seam	Size Group Numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Benowitz Bros	Hatcher		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Benson & Appling	Benson & Appling		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Coots, O. E	Coots		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Eberman, Harry	Eberman		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Ellis, Mrs. Mattie	Ellis Coal		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Embry Bros	Embry Bros		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Fields, D. B	Fields		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Flener, J. E	Flener		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Green River Coal Co			A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Hatcher, G. D	Hatcher		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Hawes, Sherman	Hawes		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Hunt, C. A	Hunt's		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Johnson & Brothers	Taylor's		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Johnson & Chatman	Johnson & Chatman		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Johnson, Claude			A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Johnson & Embry	A & J		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Johnson, N	Johnson		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Johnson & Woodcock	Johnson & Woodcock		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Martin, C. E	Romans		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Martin, E. J	Martin's		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Martin, R. J			A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
McCormack, C	C. McCormack		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Milton, Charley	Milton		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Morris, Mrs. Hettie	Green River Coal Co		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Romans, G. L	Romans		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Sharers, Omer	Sharers		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Snodgrass, Theo & Burden, G. W	T. C. Phelps		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Taylor, Okley, Besham, Joyce	Taylor & Besham		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West, Jeff	West Mines		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

KENTUCKY—CHRISTIAN COUNTY

K. Y. 6 Coal Mines	K. Y. 6 Coal Mines		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Oates & Stanley	Oates & Stanley		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Puddin Head Mine	Puddin Head		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

KENTUCKY—DAVIESS COUNTY

Alvey Brothers	Alvey's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Corum & Son	Corum		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Crabtree, Earl	Crabtree		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Howell, John	W. Louisville Coal Mine.		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
O'Bryan, I. P	O'Bryan		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
O'Bryan, J. M	O'Bryan		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Scott, Nathan	Nathan Scott		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Stallings, H. C	Stallings		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

KENTUCKY—HENDERSON COUNTY

Clements, Harry	Walden		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Community Coal Co	Community Coal Co		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Connally Coal Co	Connally Coal Co		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Easton Coal Co	Easton Coal Co		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Graham Hill Coal Co	Graham Hill		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Green River Valley Coal Co., Inc	Howne, Riverside & Utopia.		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Peach Orchard Coal Co	Peach Orchard Coal Co.		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Robards Coal Co	Robards Coal Co		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Southland Mining Co	Keystone		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Zion Coal Co., Inc	Zion Coal Co., Inc		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

KENTUCKY—HOPKINS COUNTY

Ayers & Browning	Chamberlain		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Bailey, W. A	Bailey's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Barnes, Austin	Dockery		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Beshear, O. N	Beshear Truck		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Bivins, C. C	Bivins		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Brown, Claude L	Brown's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Brown, M. B	M. B. Brown		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Clark Bros			B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Clayton, Scott	Clayton		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Coriel, Pearl	Ridley		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Crot & Key	Murray		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
E. C. H. Coal Co	E. C. H.		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Fox, Fred H	Hopkins		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Fugate, L. G	Old Curtis		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Gamblin, Etna	Hopkins		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Garrett, T. J	Etna Gamblin		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hall-Luton Coal Mining Co	Hall-Luton C. M. Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hibbs & Wilson	Lant		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Jenkins & Patterson	Jenkins & Patterson		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Kergio Coal Co., Inc	Felkner & Glover		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Kington, H. L	No. 14		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Kyle, Jasper	Sunlight		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Laffoon, Robert	Laffoon		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Lake View Coal Co	Lake View		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Little Six Coals	Little Six Coals		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

Code Member Index—Continued

KENTUCKY—HOPKINS COUNTY—Continued

Name	Mine	Seam	Size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Lucas & Lucas			B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Manire, B. L	B. L. Manire		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Merrill & Dillingham	Oak Hill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Moore, B. D	Moore		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Morris, Basil & Arthur	Morris Bros		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Murray, Arthur C	Arthur C. Murray		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Murray & Phaup	Oak Hill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Nantz, B. C	Nantz		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Ninth Vein Coal Co	Ninth Vein Coal Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Pressley, Beutle	Pressley		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Ratcliff, Lucian	Ratcliff		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Robinson, R. E	Robinson		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Rogers, Lonnie	Sugar Camp Hill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Stanley, H. L	Stanley		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Stanley & Franklin	Hickory Hill		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Sisk, Lloyd	Sisk		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Styles, T. A	Styles		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Utley & Gamblin	Utley & Gamblin		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Winstead, I. E	Martin		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

KENTUCKY—McLEAN COUNTY

Baldwin, L. W	Baldwin		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Blades & Rector	Blades & Rector		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Brown, Roy	Hall's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Devire, Buck	Fox Hollow—Basin Road.		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Greenlee, John W	Greenlee		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hall, Dan	Hall's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hall, J. D	Hall's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Jarvis, Wm. H	Jarvis		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Maddox & Baldwin	Maddox & Baldwin		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Wood Bros	Wood		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Wood, Walter	Walter Wood		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

KENTUCKY—MUHLENBERG COUNTY

Beadnell, G. C	Beadnell		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Bennewitz, Louis	Muhlenberg Coal Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Blackwell, John	Blackwell Coal Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Buck Knob Coal Co	Buck Knob		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
C. & P. Mining Co	C. & P. Mining Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Casebier Bros. & Hatcher	Casebier & Hatcher		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Craycroft, B. L	Crayerolt		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Croxton, H. R	Normwell		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Danner, Jesse	Pond River Coal		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Drakesboro Coal & Mining Co	Drakesboro Coal & Mining Co.		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Dukes Bros	#1 and #2		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Finley & Stovall	Good Night Hill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Fortney, M. L	M. L. Fortney		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Fox, W. K	Clark		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Harris, Henry	G. E. Turner		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hill Mine, J. C	J. C. Hill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Jarvis, Edgar	Ed Jarvis		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Jernigan, H. A	Silvey		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Jernigan, O. S	Jernigan		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Kirk Coal Co., The	Kirk		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Kirtley, Frank	Frank Kirtley		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Knight, C. B	Knight's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Lile, C. L	Snodgrass		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Mallary Bros. & Sons	Dwyer		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Mallory, Melvin	Mallory		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Mercer, J. D. & Son	J. D. Mercer		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Parsons Bros	#1		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Pointer, Lum	Oats		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Perry, Rod	Perry		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Poynter, Lum	Poynter		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Reynolds, Robert	Robert Reynolds		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Rhoades, Richard	Rhoades		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Roark, B. R	Roark		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Roof Coal Co	Roof Coal Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Scroggins, Walter	Johnston		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Skipworth, Barney	Richardson		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Smith, P. M	Smith's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Steele, F. J	F. J. Steele		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Steele, John	Steele		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Stewart, Dee	Harps Hill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Sullivan, S. L	Sullivan		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Turner, Melvin & Denzel	Gibbs		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Vencill, Ray	Vencill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Vincent, Russell	Russell Vincent		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Webb, Noel & Knight, Floyd	Webb & Knight		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
West, Pola	West		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Whitfield, I. K	Whitfield		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Willow Creek Coal Co	Willow Creek Coal Company.		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

KENTUCKY—OHIO COUNTY

Albin, V. M	Lawrence Baize		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Alney Mines	Alney		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Alvey, H. H			B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Blankenship, E	Blankenship		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

Code Member Index—Continued

KENTUCKY—OHIO COUNTY—Continued

Name	Mine	Seam	Size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Bratcher, Claude B	Claude B. Bratcher Coal.		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Bridges Coal Co	Roberts		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Burden Brothers	Wayle Burden		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Chapman, John	Chapman		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Cooper Mine	Cooper Mine		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Crick, W. W	Crick's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Daniel Mines (Chas. E. Daniel)	Daniel		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Daniel Mines (James Daniel)	Daniel		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Dockery & Sons	Dockery		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Doyal Mines	Doyal		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Embry, Newton	Embry		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Faught, N	Faught		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Ford, J. S	J. S. Ford		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Ford, Sam	Sam Ford		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Friaell & Wilkerson	Wilkerson		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
High View Mining Co	Hamilton 1 & 2		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hill & Whitehead	Techner		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hodges Mine	Hodges Mines		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hoheimer, George	Horton Coal Mining Co.		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hoskins Mines	Hoskins Mines		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hudnall, W. T	Hudnall		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
James, Jesse	Jesse James		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Kendall Bros	Kendall		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Kessinger, Noah	Kessinger		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Lloyd, Marshall	Roma Free		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Maddox Coal Co	Maddox Coal Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Martin, Henry C	Martin Mines		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Millard, Scott	Millard		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Mitchell, Jim	Mitchell's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Moorman Mines	Moorman		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Morris, L. E	Horton Coal Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Ogiby & Bennett	Ogiby & Bennett		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Porter, F. D	Porter		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Sheffield Mines	Sheffield		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Spencer, Marion	Burden		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Stevens, W. H. & Son	Stevens		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Stone, Teddy	Stone		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Taylor & Dockery	Dockery		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Woodruff Coal Co	Woodruff Coal Co		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

KENTUCKY—UNION COUNTY

Callaway, R. W	Callaway		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
McCraw, Robert	McCraw		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
McKinley, J. T	Ames		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Syers, John	Syers		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Tripple H. Coal Co	Spring Grove		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Williams, S. B	S. B. Williams		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Wilson, C. H	Wilson Coal		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

KENTUCKY—WEBSTER COUNTY

Duvin Coal Company	Duvin		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Harris, J. F	Harris		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hicks & Jenkins	McCormick		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Howard, L. G	Howard		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Jenkins, L. E			B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Johnson Coal Co	Johnson		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Montezuma Coal Co	Montezuma		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Siglar, Ray	Siglar's		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Wyatt, Wodson	Cedar Hill		B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

KENTUCKY

Beaver Dam Coal Co	Beaver Dam #1	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Beaver Dam Coal Co	Beaver Dam #2	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Beech Creek Coal Co	Beech Creek #1	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Beech Creek Coal Co	Beech Creek #2	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Blue Grass Coal Products Corp	Waco	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Blue Valley Coal Co	Blue Valley	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Black Diamond Coal Mining Co	Black Diamond #2	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Black Diamond Coal Mining Co. (Bridges, W. W., Receiver.)	Black Diamond #3	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Charleston Collieries	Charleston Collieries	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Crescent Coal Co	Crescent #2	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Dawson Collieries Inc	Dawson	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Dawson Daylight Coal Co	Daylight #9	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Dawson Daylight Coal Co	Daylight #6	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Diamond Coal Co	Diamond #1	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Diamond Coal Co	Diamond #2	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Empire Mining Co	Empire	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Flat Creek Coal Co	Flat Creek	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Ft. Hartford Coal Co	Ft. Hartford	No. 14	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Gem Mining Company	Gem Mining Co	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Grapevine Coal Co	Grapevine Coal Co	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Green Valley Coal Co	Green Valley	No. 14	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Greenville Coal Co	Hartwick	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Hall Luton Coal & Mng. Co	Kentucky Derby	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Hart Coal Company	Moss Hill	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Hart Coal Company	Victoria #11	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Highland Creek Coal Co	Highland	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
High View Mining Co	Hamilton #2	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

Code Member Index—Continued

KENTUCKY—Continued

Name	Mine	Seam	Size group numbers														
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Holt Brothers Mining Co	Holt (New Render)	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Kirk Coal Mng. Co	Kirk	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Lick Creek Coal Co	Morris #1 (Charleston)	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Louisville Gas & Elec. Co	Echols	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Low Vein Coal Co	Low Vein	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Luzerne Graham Mng. Corp	Graham & Luzerne	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Maple Creek Coal Co	Maple Creek	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Mesdor Young & Holt of Ky	Luton (Tulne)	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Nelson Creek Coal Co	Nelson	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Newcoal Corporation	Newcoal	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Norton Coal Corp	Nortonville	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Norton Coal Corp	Western C. D	No. 11	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Pacific Coal Mng. Co	Pacific	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Providence Coal Mng. Co	Providence #3	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Reinecke Coal Mng. Co	Reinecke (Eureka)	No. 11	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Richland Coal Co	Richland	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Rogers Bros. Coal Co	Rogers	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Ruckman Coal Co	Ruckman	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Sentry Coal Mining Co	Sentry	Stray	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Shearn Coal Co	Shearn (Volcano)	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Sixth Vein Coal Corp	Sixth Vein	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Southland Coal Co	Southland	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Stirling Coal Co	Daniel Boone #9	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Trio Coal Co. of Ky	Trio	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Wickliffe Coal Co., W. A	Wickliffe (Browder)	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Wevirco Coal Co	Wevirco	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West Kentucky Coal Co	Coll	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
West Kentucky Coal Co	Sunset	No. 11	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
West Kentucky Coal Co	North Diamond	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West Kentucky Coal Co	Fox Run	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West Kentucky Coal Co	No. 2	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West Kentucky Coal Co	No. 3	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West Kentucky Coal Co	No. 6	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West Kentucky Coal Co	No. 8	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
West Kentucky Coal Co	No. 10	No. 9	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Williams Coal Co	Williams	No. 6	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA

*Truck Mine Prices per Net Ton of 2,000 Pounds—Minimum Prices F. O. B. Transportation Facilities at Mines for all Coal Loaded Into Trucks and Wagons at the Mines of all Code Members in District No. 9, *Except for Delivery in Market Area No. 18 (Evansville, Indiana)*

Description of size	AA	A	B
6" Lump	$2.50	$2.50	$2.30
3" Lump	2.30	2.30	2.15
2" Lump	2.25	2.15	2.15
1¼" Lump	2.25	2.10	2.15
6 x 2" Egg	2.30	2.30	2.15
6 x 2" Egg	2.25	2.15	2.15
6 x 1¼" Egg	2.25	2.10	2.10
3 x 2" Small Egg	2.00	2.00	1.85
3 x 1¼" Nut	2.15	1.85	1.85
2 x 1¼" Nut	2.15	1.85	1.85
2 x ¾" Nut	2.15	1.85	1.85
1¼ x ¾" Chestnut	2.00	1.65	1.65
¾ x ¾" Pea	1.85	1.50	1.50
1¼ x ⅜" Chestnut & Pea	1.85	1.50	1.50
1¼ x ⅜" Chestnut & Pea	1.85	1.50	1.50
1¼ x ¼" Chestnut & Pea	1.85	1.50	1.50
1¼ x ¼" Chestnut & Pea	1.85	1.50	1.50
3" Screenings	1.70	1.35	1.35
2" Screenings	1.65	1.25	1.25
1¼" Screenings	1.55	1.15	1.15
¾" Screenings	1.35	1.00	1.00
⅜" Screenings	1.15	.80	.80
¼" Screenings	1.15	.80	.80
⅛" Screenings	1.15	.80	.80
¼" Screenings	1.15	.80	.80
⅛" Screenings	1.15	.80	.80
Mine Run	1.65	1.65	1.65

All washed screenings shall be priced 2¢ per net ton higher than unwashed screenings of the same size.

All washed double screened coals shall be priced 10¢ per ton higher than unwashed double screened coals of the same size.

*See last table for prices for delivery in Market Area No. 18.

Truck Mine Prices per Net Ton of 2,000 Pounds—Minimum Prices F. O. B. Transportation Facilities at Mines for all Coal Loaded in Trucks or Wagons at the Mines of all Code Members in District No. 9 for Delivery in Market Area No. 18 (Evansville, Indiana)

(a) *Size Group No. 1:*

5" Lump	5¢ Less than 6" Lump.
4" Lump	10¢ Less than 6" Lump.
3" Lump	15¢ Less than 6" Lump.
2" Lump	20¢ Less than 6" Lump.

Truck Mine Prices per Net Ton of 2,000 Pounds—Minimum Prices F. O. B. Transportation Facilities at Mines for all Coal Loaded in Trucks or Wagons at the Mines of all Code Members in District No. 9 for Delivery in Market Area No. 18 (Evansville, Indiana)

Size groups	AA	A	B
1 (a)	$2.75	$2.60	$2.40
2	2.65	2.45	2.35
3	2.55	2.35	2.25
4	2.45	2.25	2.15
5	2.35	2.15	2.05
6	2.10	1.90	1.80
7	2.10	1.90	1.80
8	2.10	1.90	1.80
9	2.00	1.80	1.70
10	1.90	1.70	1.60
11	1.80	1.60	1.50
12	1.70	1.50	1.40
13	1.80	1.60	1.50
14	1.00	.90	.80
15	2.10	1.90	1.80

See table titled Size groups for Size Group Index (For application in Market Area No. 18, only)

All mechanically cleaned and/or washed nut and stoker coals in size groups 6, 7 and 8 shall be priced a minimum of ten cents (10¢) per net ton higher than raw coal of the same size.

(a) See foregoing table.

[F. R. Doc. 38-425; Filed, February 8, 1938; 11:02 a. m.]

[Docket No. 188-FD]

IN THE MATTER OF BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 14

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 8th day of January, 1938, pursuant to provisions of Section 4 Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 14, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard before the Commission on the 15th day of January, 1938, and it appearing to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition or until further order of the Commission, the Schedule of Minimum Prices for coals of code members produced within District No. 14 and any and all Supplements thereto established for said District, be and the same hereby are modified and revised to contain the following provision as if the same were fully set out therein after the Price Indices in Price Schedule No. 1 and Supplements thereto for District No. 14:

"'Dead coal' produced within District No. 14 may take a minimum price of $1.85 per net ton f. o. b. mines.

"'Dead coal' is defined for the purpose of this order as a non-coking weathered coal, mined along the outcrop when sold to smelters for use in retorts for the reduction of zinc and lead ores."

2. The Bituminous Coal Producers' Board for District No. 14 is directed to immediately proceed to secure detailed information concerning "dead coal" and its use, including, specifically, the analysis of said coal; and to be prepared to present this information to the Commission at a hearing to be noticed upon further order of the Commission.

3. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 14, shall remain in full force and effect.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 14, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-423; Filed, February 8, 1938; 11:02 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

APPROVAL OF ANNUAL REPORT FORM M, CLASSES A AND B TELEPHONE CARRIERS

The Commission on December 7, 1937, adopted the following report form:

The Commission approved the revised Annual Report Form M for Classes A and B Telephone Carriers for the year 1937. The Commission authorized the release of the "Special Notice to Classes A and B Telephone Carriers" in connection therewith.[1]

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-420; Filed, February 8, 1938; 9:59 a. m.]

PROFESSIONAL RADIO OPERATOR LICENSES

AMENDMENT TO RULE 443

The Commission on January 25, 1938 amended Rule 443 to read as follows; effective April 1, 1938:

RULE 443. The various classes of professional radio operator licenses issued by the Commission authorize the holders thereof to operate radio stations, except amateur, as follows:

Radiotelephone Operator, Third Class

Any station while using type A3 or A4 emission; provided that,

1. Such operator is prohibited from making adjustments that may result in improper transmitter operation.

[1] Filed with the Division of the Federal Register, The National Archives; copies available upon application to the Federal Communications Commission.

2. The equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off frequency operation or result in any unauthorized radiation.

3. Any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by an operator holding a 1st or 2nd class license, either telephone or telegraph.

Exceptions

1. The license is not valid for the operation of any of the various classes of broadcast stations other than a relay broadcast station.

2. The license is not valid for the operation of a coastal harbor station or a coastal telephone station.

3. The license is not valid for the operation of a ship station licensed to use types A3 or A4 emission for communication with coastal telephone stations.

Radiotelephone Operator, Second Class

Any station while using type A3 or A4 emission.

Exceptions

1. The license is not valid for the operation of any of the various classes of broadcast stations other than a television, facsimile, high frequency, relay or experimental broadcast station.

2. The license is not valid for the operation of a ship station of over 100 watts power licensed to use type A3 or A4 emission for communication with coastal telephone stations.

Radiotelephone Operator, First Class

Any station while using type A3 or A4 emission.

Exceptions

1. The license is not valid for the operation of a ship station of over 100 watts power licensed to use type A3 or A4 emission for communication with coastal telephone stations.

Radiograph Operator, Third Class

Any station while using type B, A1, A2, A3, or A4 emission; provided that, in the case of equipment designed for and using type A3 or A4 emission,

1. Such operator is prohibited from making adjustments that may result in improper transmitter operation.

2. The equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off frequency operation or result in any unauthorized radiation.

3. Any needed adjustments of the transmitter which may affect proper operation of the station are regularly made by an operator holding a 1st or 2nd class license, either telephone or telegraph.

Exceptions

1. The license is not valid for the operation of any of the various classes of broadcast stations other than a relay broadcast station.

2. The license is not valid for the operation of a ship station licensed to use types A3 and A4 emission for communication with coastal telephone stations.

3. The license is not valid for the operation of a radiotelegraph station on board a vessel required by treaty or statute to be equipped with a radio installation.

4. The license is not valid for the operation of any ship telegraph, coastal telegraph, or marine-relay station open to public correspondence.

Radiotelegraph Operator, Second Class

Any station while using type B, A1, A2, A3, or A4 emission.

Exceptions

1. The license is not valid for the operation of any of the various classes of broadcast stations other than a relay broadcast station.

2. The holder of this class of license may not act as chief operator on a passenger vessel required by treaty or statute to maintain a continuous radio watch by operators.

3. Nor may he act as chief operator on any vessel having continuous hours of service for public correspondence.

4. The holder of this class license may not act as chief operator on a *cargo vessel* (other than a vessel operated exclusively on the Great Lakes) which maintains a continuous radio watch by operators as required by treaty or statute until he shall have had at least six months' satisfactory service as a qualified radiotelegraph operator on a vessel of the United States.

5. The holder of this class license may not act as sold operator on a vessel (other than a vessel operated exclusively on the Great Lakes) required by statute to have a *radio installation* until he shall have had at least six months' satisfactory service as a qualified radiotelegraph operator on a vessel of the United States.

Radiotelegraph Operator, First Class

Any station while using type B, A1, A2, A3, or A4 emission.

Exceptions

1. The license is not valid for the operation of any of the various classes of broadcast stations other than a relay broadcast station.

2. The holder of this class license may not act as chief or sole operator on a *vessel* (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be *equipped* with a *radiotelegraph* installation until he has had at least six months' satisfactory service as a qualified radiotelegraph operator on a vessel of the United States.

Special Privileges

1. An operator of any professional class may operate any station in the experimental service on a frequency above 30,000 kilocycles in accordance with station license.

2. Subject to the limitations set forth above the holder of any class radiotelephone operator license may operate a radiotelephone point-to-point station or a coastal telephone station while using A1 or A2 emission, for testing or other transmission entirely incidental to the service of such station.

3. The holder of a radiotelephone operator license of any class, when the license also certifies to his proficiency in International Morse Code (16 words per minute plain language, see Rule 436) may operate aircraft stations on *domestic* flights while using any type emission authorized by the station license.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-419; Filed, February 8, 1938; 9:58 a. m.]

ADOPTION OF RULES GOVERNING OPERATION OF "NON-COMMERCIAL EDUCATIONAL" BROADCAST STATIONS

The Commission on January 26, 1938, adopted the following:

RULE 1057. The term "non-commercial educational broadcast station" means a high frequency broadcast station licensed to an organized non-profit educational agency for the advancement of its educational work and for the transmission of educational and entertainment programs to the general public.

RULE 1058. The operation of, and the service furnished by, non-commercial educational broadcast stations shall be governed by the following regulations in addition to the rules and regulations governing high frequency broadcast stations.

(*a*) A non-commercial educational broadcast station will be licensed only to an organized non-profit educational agency and upon a showing that the station will be used for the advancement of the agency's educational program.

(*b*) Each station may transmit programs directed to specific schools in the system for use in connection with the regular courses as well as routine and administrative material pertaining to the school system and may transmit educational and entertainment programs to the general public.

(*c*) Each station shall furnish a non-profit and non-commercial broadcast service. No sponsored or commercial program shall be transmitted nor shall commercial announcements of any character be made. A station shall not transmit the programs of other classes of broadcast stations unless all commercial announcements and commercial references in the continuity are eliminated.

(*d*) The transmitting equipment, installation, and operation as well as the location of the transmitter shall be in conformity with the requirements of good engineering practice as released from time to time by the Commission.

(*e*) Any rule or regulation governing high frequency broadcast stations which permits or requires operation different from or in conflict with the provisions of this rule shall not apply to non-educational broadcast stations.

Rule 1059.

(*a*) The following channels (frequencies) are allotted for assignment to non-commercial educational broadcast stations:

41,020	41,220	41,420	41,620	41,820
41,060	41,260	41,460	41,660	41,860
41,100	41,300	41,500	41,700	41,900
41,140	41,340	41,540	41,740	41,940
41,180	41,380	41,580	41,780	41,980

(*b*) Stations serving the same area will not be assigned to channels separated less than 160 kc.

(*c*) Amplitude modulation shall be employed exclusively unless it can be shown that there is a need for frequency modulation in which case such modulation may be authorized provided sufficient channels can be grouped so as to obtain the required band width without causing interference to established stations or preventing the full expansion of the service.

(*d*) Only one channel (frequency) will be assigned to a station.

(*e*) Since these channels are not assigned on an experimental basis, the requirements for report on experimental work, as specified for high frequency broadcast stations, do not apply.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-418; Filed, February 8, 1938; 9:58 a. m.]

AMENDMENT TO RULE 262A, B, b AND 262 D

The Commission on February 1, 1938 amended Rule 262A, B, b and 262 D to read in part as follows:

NORTHERN TRANSCONTINENTAL CHAIN AND FEEDERS (RED)

Available for aircraft and aeronautical stations.

3,147.5	3,182.5	5,122.5	5,592.5
3,162.5	3,322.5	5,572.5	5,662.5
3,172.5	4,335	5,582.5	5,697.5 day only [10]
	4,480		

SOUTHERN TRANSCONTINENTAL CHAIN AND FEEDERS (BROWN)

Available for aeronautical and aircraft stations.

2,946	3,257.5	3,457.5	5,612.5
3,222.5 [9]	3,242.5	3,467.5	5,632.5
3,232.5	3,447.5	5,602.5	5,652.5
			5,887.5 [8]

NORTHWESTERN CONTINENTAL CHAIN AND FEEDERS (PURPLE)

Available for aeronautical and aircraft stations.

2,854	3,005	5,377.5 day only
2,994	3,127.5	5,887.5 [8]
	4,917.5	

[8] Day only—not to be used within 360 miles of Canada.
[9] Subject to the condition that no interference is caused to the international service.
[10] Subject to the condition that no interference is caused to existing services and that the operating frequency will be maintained within 0.02 percent of the assigned frequency.

D. PUBLIC SERVICE FREQUENCIES

The frequency which may be authorized for public aviation service is as follows:

4,495

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-417; Filed, February 8, 1938; 9:57 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 185]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 4, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Ohio 8029A3 Pike	$6,000
Texas 8041A2 Panola	5,000
Texas 8054A1 Wood	103,000
Virginia 8027C1 Nottoway	67,000
Virginia 8029B1 Nelson	20,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-415; Filed, February 8, 1938; 9:57 a. m.]

[Administrative Order No. 186]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 4, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Colorado 8007C2 Mesa	$5,000
Illinois 8028A1 Champaign	186,000
Iowa 8009A2 Scott	50,000
Maryland 8004G2 St. Marys	1,500
Maryland 8004A3 St. Marys	6,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-416; Filed, February 8, 1938; 9:57 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, AND HOLDING COMPANY ACT

AMENDMENTS TO RULES OF PRACTICE

The Securities and Exchange Commission today amended its Rules of Practice to include certain provisions relating to the taking of exceptions to trial examiners' reports and to the argument thereof in briefs. The text of the Commission's action follows:

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, the Securities Exchange Act of 1934, particularly Section 23 (a) thereof, the Public Utility Holding Company Act of 1935, particularly Section 20 (a) thereof, and finding that it is necessary to carry out the provisions of the Securities Act of 1933, as amended, and the Public Utility Holding Company Act of 1935, and that it is necessary for the execution of the functions vested in the Commission by the Securities Exchange Act of 1934, hereby amends the Rules of Practice of the Commission in the following particulars:

Rule IX is amended by adding thereto the following paragraph:

"(*b*) Objections not urged by exception filed pursuant to Rule IX will be deemed to have been abandoned and may be disregarded."

Paragraph (b) of Rule X is amended to read as follows:

"(*b*) All briefs shall be confined to the particular matters in issue. Each exception shall be supported by a concise argument and by citation of such statutes, decisions and other authorities as may be relevant. If the exception relates to the admission or rejection of evidence, the substance of the evidence admitted or rejected shall be set forth in the brief, with appropriate references to the transcript. Reply briefs shall be confined to matters in original briefs of opposing parties. Any scandalous or impertinent matter contained in any brief may be stricken on order of the Commission. Exceptions not briefed in accordance with Rule X may be regarded as waived, provided, however, that the Commission, in its discretion, may consider objections not urged pursuant to Rule IX or X."

Rule XI is hereby amended by deleting paragraph (c) thereof, which formerly read as follows:

"(*c*) No exception to a trial examiner's report need be considered by the Commission unless such exception shall have been filed with the Commission within the time prescribed in these rules. Exceptions not briefed may be treated as waived."

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-422; Filed, February 8, 1938; 10:42 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of February, 1938.

IN THE MATTER OF TRUSTEED COLLATERAL CORPORATION, 110 EAST 42ND STREET, NEW YORK, N. Y.

ORDER REVOKING REGISTRATION

The registration of Trusteed Collateral Corporation as a broker and dealer on over-the-counter markets having come on for hearing before the Commission upon the question of revocation or suspension pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, and the Commission having entered its findings in a Memorandum Opinion, and the Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors to revoke the said registration;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Trusteed Collateral Corporation as broker and dealer transacting business on over-the-counter markets, be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-421; Filed, February 8, 1938; 10:42 a.m.]

UNITED STATES MARITIME COMMISSION.

[General Order No. 22]

PRESCRIBING UNIFORM SYSTEM OF ACCOUNTS FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACTORS

The United States Maritime Commission at a meeting on the fourth day of February, 1938, and acting pursuant to the authority granted by the Merchant Marine Act, 1936, particularly Section 801 of Title VIII thereof, adopted the following order and the "Uniform System of Accounts for Operating-Differential Subsidy Contractors" referred to in said order and annexed thereto:

It is ordered, That every operating-differential subsidy contractor and such affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, such contractor, as the Maritime Commission shall require, shall keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by an agreement, entered into pursuant to the provisions of Title VI of the Merchant Marine Act, 1936, as prescribed in, and in the manner required by, the "Uniform System of Accounts for Operating-Differential Subsidy Contractors" annexed hereto, provided, however, that this order shall not require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission.

It is further ordered, That as to each contractor with which the Maritime Commission has entered into an operating-differential subsidy agreement pursuant to the provisions of Title VI of the Merchant Marine Act, 1936, this order shall become effective on January 1, 1938. As to every other company included within the terms of this order, the same shall become effective upon the first day of the calendar month during which such company and the Commission enter into an operating-differential subsidy agreement pursuant to the provisions of Title VI of the Merchant Marine Act, 1936.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary*.

GENERAL INSTRUCTIONS

The following general ledger control accounts (indented) are authorized and shall be maintained in each instance where there are transactions of a nature which require their use.

If, however, the volume of transactions in any of these accounts is insufficient to warrant maintenance as a separate general ledger control account, the operator may, with the consent of the Commission, employ the group classification involved as a general ledger control account and the accounts thereunder as subsidiaries, e. g.:

100. Cash

Subsidiary code:

Manual	*Machine*	
100.01	101	Cash on Deposit—Domestic.
100.06	106	Cash on Deposit—Foreign.
100.11	111	Imprest and Petty Cash Funds.
100.16	116	Cash on Hand and in Transit.

The accounts prescribed in this chart have been coded with a view toward adaptation to machine as well as manual accounting. In instances, therefore, where subsidiary detail accounts are prescribed in the chart, the code numbers assigned thereto should be preceded by a decimal point in manual systems, and by the first numeral of the control account code when used in machine accounting, e. g., under account No. 200—Unterminated Voyage Expense, the classification "Wages" should be coded 200.01 in manual systems and 201 in machine accounting systems.

Except in instances where specific instructions for the maintenance of subsidiary accounts are contained herein, such subsidiary accounts will be maintained when, and in the form and detail, required by the Commission, or the operator, taking into consideration the circumstances with respect to the particular lines or services involved. To this end, supplementary instructions, and such modifications thereof as are dictated by experience, will be issued in each instance.

To insure uniformity in accounting, the operator shall submit all questions of doubtful interpretation of the prescribed accounting to the Commission for consideration and decision.

INDEX

Section I

(*a*) Balance Sheet Accounts—arrangement and titles.
(*b*) Description of Balance Sheet accounts.

Section II

(*a*) Income and Expense Accounts—arrangement and titles.
(*b*) Description of Income and Expense accounts.

Section III

(*a*) Classification of Clearing Accounts.
(*b*) Description of Clearing Accounts.

Section IV—Financial and Operating Exhibits

(*a*) Balance Sheet.
(*b*) Income Sheet.
(*c*) Vessel Operating Statement.

SECTION I—GENERAL LEDGER: BALANCE SHEET ACCOUNTS

100. Cash:
101. Cash on Deposit—Domestic.
106. Cash on Deposit—Foreign.
111. Imprest and Petty Cash Funds.
116. Cash on Hand and in Transit.
120. Marketable Securities:
121. U. S. Government Securities.
122. State, County, and Municipal Securities.
125. Other Marketable Domestic Securities.
126. Foreign Marketable Securities.
130. Notes Receivable:
131. Traffic Notes Receivable.
140. Subscriptions to Capital Stock.
149. Miscellaneous Notes Receivable.
150. Accounts Receivable:
151. Traffic Accounts Receivable.
155. Claims Receivable.
160. U. S. Maritime Commission—Accounts Receivable.
165. Miscellaneous Accounts Receivable.
169. Accrued Accounts Receivable.
170. Inventories:
171. Vessels Stores, Supplies, and Equipment Ashore.
175. Other Shipping Inventories.
180. Non-Shipping Inventories—For Sale.
185. Non-Shipping Inventories—For Consumption.
189. Miscellaneous Inventories.
190. Other Current Working Assets:
199. Miscellaneous Current Working Assets.
200. Unterminated Voyage Expense:
Subsidiary Detail:
01. Wages.
10. Subsistence—Purchased Domestic.
14. Subsistence—Purchased Foreign.
15. Stores, Supplies, and Equipment—Purchased Domestic.
24. Stores, Supplies, and Equipment—Purchased Foreign.
25. Other Maintenance Expense.
35. Fuel.
40. Repairs Performed—Domestic.
49. Repairs Performed—Foreign.
55. Insurance—Hull and Machinery.
57. Insurance—P. & I.
59. Insurance—Other.
60. Charter Hire.
64. Other Vessel Expense.
65. Agency Fees and Commissions.
70. Wharfage and Dockage.
79. Other Port Expenses.
80. Stevedoring.
89. Other Cargo Expenses.
90. Freight Brokerage.
93. Passenger Brokerage.
95. Canal Tolls.
99. Other Voyage Expense.
300. Special Funds and Deposits:
301. Capital Reserve Fund.
302. Special Reserve Fund.
303. Insurance Funds.
306. Debt Retirement Funds.
309. Other Special Funds.
312. Special and Guaranty Deposits.
315. Investments:
316. Securities of Holding, Subsidiary, Affiliated, and Associated Companies.
320. Non-Current Receivables from Holding, Subsidiary, Affiliated, and Associated Companies.
325. Cash Value of Life Insurance.
328. Other Investments.
329. Reserve for Valuation Adjustments.
330. Property and Equipment:
331. Floating Equipment—Vessels.
332. Reserves for Amortization and Depreciation—Vessels.
337. Other Floating Equipment.
338. Reserves for Amortization and Depreciation—Other Floating Equipment.
343. Terminal Property and Equipment.
344. Reserve for Amortization and Depreciation—Terminal Property and Equipment.
349. Other Shipping Property and Equipment.
350. Reserve for Amortization and Depreciation—Other Shipping Property and Equipment.
353. Non-Shipping Property and Equipment.
354. Reserve for Amortization and Depreciation—Non-Shipping Property and Equipment.
357. Other Property and Equipment.
358. Reserve for Amortization and Depreciation—Other Property and Equipment.
359. Vessels Under Construction.
360. Other assets:
361. Claims Pending.
364. Notes and Accounts Receivable from Officers and Employees.
368. Other Non-Current Notes and Accounts Receivable.
369. Reserve for Doubtful Notes and Accounts Receivable.
374. Miscellaneous Other Assets.
375. Deferred Charges and Prepaid Expenses:
376. Unexpired Insurance.
380. Advances to Employees for Expenses.
384. Debt Discount and Expense.
385. Leaseholds.
386. Organization and Pre-Operating Expenses.
389. Other Deferred Charges and Prepaid Expenses.
390. Good Will and Other Intangible Assets:
391. Good Will.
399. Other Intangible Assets.
400. Notes Payable:
401. Bank Loans.
410. Insurance Notes.
419. Other Short-Term Notes.

420. Accounts Payable:
421. Trade Accounts Payable.
422. Traffic Accounts Payable.
428. Officers and Employees Accounts Payable.
430. U. S. Maritime Commission—Accounts Payable.
438. Dividends Payable.
439. Miscellaneous Accounts Payable.
440. Accrued Federal Income Tax Payable.
449. Other Accrued Taxes Payable.
459. Other Accrued Accounts Payable.
460. Other Current Working Liabilities:
479. Miscellaneous Current Working Liabilities.
480. Reserves for Unrecorded Liabilities:
499. Miscellaneous Reserves for Unrecorded Liabilities.
500. Unterminated Voyage Revenue:
Subsidiary Detail:
01. Freight—Fcreign.
05. Freight—Coastwise and Intercoastal.
08. Passenger—Foreign.
12. Passenger—Coastwise and Intercoastal.
15. U. S. Mail—Fcreign.
16. U. S. Mail—Coastwise and Intercoastal.
17. Foreign Mail.
19. Ad Valorem.
20. Charter Revenue.
24. Other Voyage Revenue.
525. Long-Term Debt:
526. Mortgage Notes—U. S. Maritime Commission.
530. Mortgage Bonds.
534. Other Secured Long-Term Debt.
535. Debentures.
539. Other Unsecured Long-Term Debt.
540. Other Liabilities:
541. Non-Current Payables to Holding, Subsidiary, Affiliated, and Associated Companies.
549. Other Non-Current Notes and Accounts Payable.
550. Recapture Profits—U. S. Maritime Commission.
554. Miscellaneous Other Liabilities.
555. Deferred Credits:
564. Miscellaneous Deferred Credits.
565. Sundry Operating Reserves:
566. Reserves for Repairs.
570. Reserves for Insurance.
579. Miscellaneous Operating Reserves.
580. Net Worth:
581. Capital Stock.
585. Capital Stock Subscribed.
590. Capital Surplus.
595. Appreciation Surplus.
598. Earned Surplus Appropriated.
599. Earned Surplus Unappropriated.

DESCRIPTION OF BALANCE SHEET ACCOUNTS

Account No. 101—Cash on Deposit—Domestic

This account shall include all cash on deposit in banks in the United States and available for general purposes. If the withdrawal of any portion of the cash recorded in this Account is restricted for any purpose whatsoever, the balance sheet must carry an appropriate notation to that effect.

Cash appropriated for replacement, debt retirement, funded reserves, etc., and cash on deposit to guarantee performance of agreements shall be carried in appropriate accounts Nos. 301 to 314 inclusive.

Account No. 106—Cash on Deposit—Foreign

This account shall include all cash on deposit in foreign banks and available for general purposes. If the withdrawal of any portion of the cash recorded in this account is restricted for any purpose whatsoever, the balance sheet must carry an appropriate notation to that effect.

Account No. 111—Imprest and Petty Cash Funds

This account shall include funds maintained at fixed amounts to be used for minor disbursements requiring immediate payment, the funds being regularly reimbursed therefor from the general cash of the business.

Subsidiary accounts shall be maintained by agents or employees.

Account No. 116—Cash on Hand and in Transit

This account shall include cash transfers between banks and cash in transit from agents, branch houses, and employees.

Account No. 121—United States Government Securities

This account shall include securities evidencing obligations of the United States Government which are available for ready conversion into cash.

Account No. 122—State, County, and Municipal Securities

This account shall include readily marketable securities of states, counties, and other political subdivisions of the United States which are available for general purposes of the business.

Account No. 125—Other Marketable Domestic Securities

This account shall include temporary investments in readily marketable stocks and bonds of domestic corporations other than those of holding, subsidiary, affiliated, and associated companies which are available for general purposes of the business.

Account No. 126—Foreign Marketable Securities

This account shall include temporary investments in readily marketable securities of foreign corporations, (excluding those of holding, subsidiary, affiliated, and associated companies), Governments, and political subdivisions thereof, which are available for general purposes of the business.

Account No. 131—Traffic Notes Receivable

This account shall include short-term notes receivable from other than holding, subsidiary, affiliated, and associated companies, incident to the carriage of passengers, excess baggage, and freight.

Account No. 140—Subscriptions to Capital Stock

This account shall include demand or short-term notes receivable representing subscriptions to Capital Stock.

Subsidiary accounts shall be maintained so as to show separately subscriptions from (*a*) holding, subsidiary, affiliated, and associated companies, (*b*) officers and employees, and (*c*) others.

Account No. 149—Miscellaneous Notes Receivable

This account shall include all short-term notes receivable from other than holding, subsidiary, affiliated, and associated companies for which no other account is specifically provided, including those arising from the charter of vessels to others.

Account No. 151—Traffic Accounts Receivable

This account shall include accounts receivable from shippers, consignees, connecting carriers, and others (excluding holding, subsidiary, affiliated, and associated companies) arising incident to the carriage of passengers, excess baggage, freight, and mail.

Subsidiary accounts shall be maintained by individual debtors or by vessels and voyages subdivided as between (*a*) prepaid freight outward and collect freight inward, (*b*) collect freight outward and prepaid inward (when agents are required to remit in full), (*c*) connecting carriers, (*d*) other government departments, and (*e*) passengers and brokers. Receivables from any agent with whom arrangements are made to disburse vessels from revenue collections shall not be included in this account, but shall be included in Account No. 010—Agents and Branch Houses.

Account No. 155—Claims Receivable

This account shall include claims transferred from Account No. 361—Claims Pending, including insurance claims which have been compiled and presented to underwriters for payment, and other adjusted claims collectible within one year.

Subsidiary accounts shall be maintained in the names of the insurance underwriters or adjusters, connecting carriers, and others.

Account No. 160—United States Maritime Commission—Accounts Receivable

This account shall include operating differential subsidy accruals and such other current receivables as may arise from transactions between the Operator and the Commission.

Account No. 165—Miscellaneous Accounts Receivable

This account shall include all accounts receivable from other than holding, subsidiary, affiliated, and associated

companies for which no other account is specifically provided.

Subsidiary accounts shall be maintained alphabetically by names of debtors.

Account No. 169—Accrued Accounts Receivable

This account shall include monthly or other periodical accruals of unmatured receivables.

Subsidiary accounts shall be maintained as between (*a*) interest, (*b*) rentals, (*c*) dividends, (*d*) charter hire, and such other classes as frequently occur.

Account No. 171—Vessels Stores, Supplies, and Equipment Ashore

This account shall include the cost of all stores, supplies, and equipment held for delivery to vessels at some future date, including quantity purchases warehoused and delivered to vessels as required.

Subsidiary accounts shall be so maintained as to show location of inventories.

Account No. 175—Other Shipping Inventories

This account shall include the cost of all stores, supplies, and equipment held for use in the conduct of the shipping business and its auxiliaries, such as—terminal, cargo handling, tug and lighters, and other incidental shipping operations, for which no other account is specifically provided.

Subsidiary accounts shall be so maintained as to show location of inventories.

Account No. 180—Non-Shipping Inventories for Sale

In instances of companies engaged in non-shipping enterprises, inventories of merchandise for sale shall be included in this account. The account shall be maintained so as to show separately the major classes of inventory such as raw materials, work in process, and finished goods.

Account No. 185—Non-Shipping Inventories for Consumption

This account shall include the cost of all stores, supplies, and equipment, held for use in the conduct of non-shipping enterprises, other than merchandise for sale.

Account No. 189—Miscellaneous Inventories

This account shall include the cost of all stores, supplies, and equipment acquired for use in the conduct of the business, which cannot be allocated as between shipping and non-shipping enterprises.

Account No. 199—Miscellaneous Current Working Assets

This account shall include all working assets for which no classification is elsewhere provided.

Subsidiary accounts shall be maintained so as to show separately each class of other current working assets.

Account No. 200—Unterminated Voyage Expense

This account shall be charged with all vessels expenses while voyages are in progress. After each voyage has terminated, and substantially all expenses have been recorded, the balance in the account shall be transferred to Account No. 700—Operating Expense—Terminated Voyages.

In instances where inventories of vessels stores, supplies, and/or equipment are taken and priced at the end of each voyage, the value of such inventories shall be credited in this account to the terminating voyage and charged to the succeeding voyage.

Subsidiary accounts are to be maintained by vessels and consecutively by voyages, and according to the classification of expenses shown in the chart of accounts.

Account No. 301—Capital Reserve Fund

This account shall be charged with cash and approved securities deposited in this fund, and shall be credited with withdrawals therefrom in accordance with provisions of Section 607 (b) of the Merchant Marine Act, 1936, and under such rules and regulations as the Commission may issue from time to time.

Subsidiary accounts are to be maintained by depositories or trustees, as the case may be, and further subdivided to show the amount of (*a*) cash, and (*b*) marketable securities.

Account No. 302—Special Reserve Fund

This account shall be charged with cash and approved securities deposited in this fund, and shall be credited with withdrawals therefrom in accordance with Section 607 (c) of the Merchant Marine Act, 1936, and under such rules and regulations as the Commission may issue from time to time.

Subsidiary accounts are to be maintained as described in Account No. 301.

Account No. 303—Insurance Funds

This account shall include cash, marketable securities, and other quick assets placed on deposit or in the hands of trustees to guarantee the satisfaction of obligations for losses in instances where the Operator is a self-insurer in whole or in part.

Subsidiary accounts shall be maintained by depositories or trustees, as the case may be, and further subdivided as to (*a*) cash, and (*b*) marketable securities.

Account No. 306—Debt Retirement Fund

This account shall include cash, marketable securities, and other quick assets placed on deposit or in the hands of trustees as a sinking fund to meet obligations maturing in the future, or to carry out such operations as the retirement of preferred stock or the purchase of serial bonds.

Subsidiary accounts shall be maintained by depositories or trustees, further subdivided to show cash or marketable securities and purposes of the fund.

Account No. 309—Other Special Funds

This account shall include cash, marketable securities, and other quick assets appropriated for replacement of unsubsidized vessels, to fund reserves for pensions, and any other special fund for which no specific account is provided.

Subsidiary accounts should be maintained for each class of fund by depositories or trustees, and further subdivided to show (*a*) cash, and (*b*) marketable securities.

Account No. 312—Special and Guaranty Deposits

This account shall include all deposits, of cash or securities, made to guarantee the performance of conference and similar agreements, or with utilities corporations; also deposits on containers, such as oil drums, ammonia cylinders, etc.

Subsidiary accounts shall be maintained by depositories.

Account No. 316—Securities of Holding, Subsidiary, Affiliated, and Associated Companies

This account shall include investments in any class or classes of capital stock or bonds of holding, subsidiary, affiliated, and associated companies.

Account No. 320—Non-Current Receivables From Holding Subsidiary, Affiliated, and Associated Companies

This account shall include all loans, advances, and other receivables from holding, subsidiary, affiliated, and associated companies for other than services rendered, supplies furnished and other transactions customarily subject to current settlement, which latter shall be recorded in Account No. 015.

Subsidiary accounts shall be maintained by companies and shall show all essential detail.

Account No. 325—Cash Value of Life Insurance

This account shall include the cash surrender value of life insurance policies, under which the company is the beneficiary, less the amount of any loans which have been obtained on such policies and not repaid.

Account No. 328—Other Investments

This account shall include more or less permanent investments in unpledged securities of other than holding, subsidiary, affiliated, and associated companies, including exchange, trade, and other commercial membership certificates, as distinguished from investments in marketable securities.

Account No. 329—Reserve for Valuation Adjustment

There shall be credited to this account at the close of each accounting period any reduction in the book value of securities or other assets held for investment, and a corresponding charge shall be made directly to Account No. 599—Earned Surplus Unappropriated.

Appreciation in the value of such investments in excess of any reserve balances applicable thereto shall be recorded in the appropriate investment accounts. Valuation of securities not listed on exchanges, including those of holding, subsidiary, affiliated, and associated companies, shall be based on the proportion of net worth of such companies represented by the relation that the shares held by the Contractor bears to the total outstanding; while valuation of listed securities shall be based on market quotations. When such assets are sold or otherwise disposed of, the reserve balance applicable thereto shall be eliminated.

Account No. 331—Floating Equipment—Vessels

This account shall include the cost of construction or acquisition, betterments, and appreciation (if any) of steamships and motorships used in the operation of the service or services of the Operator.

Subsidiary accounts shall be maintained in such manner as to show by vessels the original cost to the Operator, cost of betterments, and any appreciation of book value.

Account No. 332—Reserve for Amortization and Depreciation—Vessels

This account shall be credited with all depreciation on vessels charged to Account No. 981—Depreciation—Floating Equipment—Vessels, and with amortization of appreciation on vessels charged to Account No. 595—Appreciation Surplus. Credits to this account applicable to subsidized vessels shall be computed on a twenty year life expectancy, except in instances where some other basis is specifically authorized by the Commission, with such allowances for residual values as approved by the Commission.

Subsidiary accounts shall be maintained by vessels.

Account No. 337—Other Floating Equipment

This account shall include the original cost, cost of betterments, and any appreciated book value of tugs, barges, scows, launches, lighters, floating cranes, and similar floating equipment.

Subsidiary accounts should be subdivided as between the various kinds of equipment and be kept in such manner as to show location, original cost, cost of betterments, and any appreciation of book value.

Account No. 338—Reserve for Amortization and Depreciation—Other Floating Equipment

This account shall be credited with all depreciation charged to Account No. 984—Depreciation—Other Floating Equipment, and with amortization of any appreciation thereof.

Subsidiary accounts should be maintained in the same manner as the corresponding accounts supporting Account No. 337.

Account No. 343—Terminal Property and Equipment

This account shall include the original cost, cost of betterments, and any appreciated book value of terminal land and buildings (including improvements to property under long-term lease) shore cranes, trucks, furniture and fixtures, and other terminal gear and equipment.

Subsidiary accounts shall be subdivided as between the various kinds of property and equipment, and shall be kept in such manner as to show location, original cost, cost of betterments, and any appreciation of book value.

Account No. 344—Reserve for Amortization and Depreciation—Terminal Property and Equipment

This account shall be credited with all depreciation on terminal property and equipment which is charged to Account No. 987 Depreciation—Terminal Property and Equipment, and with amortization of any appreciation thereof.

Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting Account No. 343.

Account No. 349—Other Shipping Property and Equipment

This account shall include the original cost, cost of betterments, and any appreciated book value of land and buildings, furniture and fixtures, stevedoring, and other cargo handling gear, repair yards, and any other property and equipment used exclusively in shipping and its auxiliary operations, and which are not applicable to Accounts Nos. 331, 337, and 343.

Subsidiary accounts shall be subdivided as between the various kinds of property, and be kept in such manner as to show location, original cost, cost of betterments and any appreciation of book value.

Account No. 350—Reserve for Amortization and Depreciation—Other Shipping Property and Equipment

This account shall be credited with all depreciation on other shipping property (as described in Account No. 349) which is charged to Account No. 990—Depreciation—Other Shipping Property and Equipment, and with amortization of any appreciation thereof.

Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting Account No. 349.

Account No. 353—Non-Shipping Property and Equipment

In instances where companies are engaged in non-shipping enterprises all property and equipment (including improvements to property under long-term leases) which can be allocated properly to such non-shipping enterprises shall be included in this account.

Subsidiary accounts shall be subdivided as between the various kinds of property and equipment, and be kept in such manner as to show location, original cost, cost of betterments, and any appreciation of book value.

Account No. 354—Reserve for Amortization and Depreciation—Non-Shipping Property and Equipment

This account shall be credited with all depreciation on non-shipping property and equipment which is charged to Account No. 992—Depreciation—Non-Shipping Property and Equipment, and with amortization of any appreciation thereof.

Subsidiary accounts shall be maintained in the same manner as the corresponding accounts supporting Account No. 353.

Account No. 357—Other Property and Equipment

In instances where companies are engaged in both shipping and non-shipping enterprises, this account shall include property and equipment used in common (including improvements to property under long-term lease).

This account and appropriate subsidiary accounts shall be so maintained as to show the location and classes of property, the original cost, cost of betterments, and any appreciation of book value, and shall be supported by such detail information as will permit ready analysis and allocation to shipping and non-shipping operations.

Account No. 358—Reserve for Amortization and Depreciation—Other Property and Equipment

This account shall be credited with all depreciation charged to Account No. 994—Depreciation—Other Property and Equipment, and with amortization of any appreciation thereof.

This account and appropriate subsidiary accounts shall be maintained in the same manner as described in the corresponding Account No. 357.

Account No. 359—Vessels under Construction

This account shall be charged with all payments on vessels under construction which can be properly capitalized in accordance with sound accounting procedure. This ac-

count shall be so kept so as to show fully the facts pertaining to all entries therein.

Account No. 361—Claims Pending

This account shall include any claims in litigation, and insurance claims in process of compilation or adjustment. After adjudication of claims in litigation, or adjustment of insurance claims, this account shall be credited and a charge made to Account No. 155—Claims Receivable. Deductible average insurance losses (if policies provide deductibles) should at the same time be transferred to Account No. 570—Reserves for Insurance.

Subsidiary accounts shall be subdivided as between hull underwriters, P. & I. underwriters, general average claims, connecting carriers, and such further classes as may be necessary. Each group of subsidiary accounts shall be maintained by vessels and voyages supported by sufficient detail to permit ready identification and analysis of each claim.

Account No. 364—Notes and Accounts Receivable from Officers and Employees

This account shall include all amounts due from officers, directors, and employees other than unpaid subscriptions to capital stock. Records supporting entries to this account and subsidiary accounts shall be so maintained as to show separately such major classes as officers' personal accounts, employees' salary advances, and amounts due for such items as group insurance, and retirement annuity deposits.

Account No. 368—Other Non-current Notes and Accounts Receivable

This account shall include all non-current receivables from others than officers and employees, and holding, subsidiary, affiliated, and associated companies which, by agreement, are to run for more than one year from date established.

Subsidiary accounts shall be maintained by individual debtors.

Account No. 369—Reserve for Doubtful Notes and Accounts Receivable

This account shall be credited at the close of each accounting period with the amount charged to Account No. 975 to provide for estimated uncollectible notes and accounts, both current and non-current.

Account No. 374—Miscellaneous Other Assets

This account shall include all assets which cannot be allocated properly to other account classifications.

Account No. 376—Unexpired Insurance

This account shall include the unexpired amount of insurance premiums prepaid, or recorded as a liability in advance. As these premiums accrue periodical charges equivalent to prorata insurance costs are to be made to Account No. 200—Unterminated Voyage Expense, or to other appropriate expense accounts. This account shall be subdivided to show separately prepayments on the several classes of insurance.

Account No. 380—Advances to Employees for Expenses

This account shall include all amounts advanced to officers and employees for travel, entertainment and similar expenses, from which such expenses are to be paid and accounted for. This account shall not include imprest and petty cash funds in fixed amounts held by employees and branch offices for the purpose of making minor expenditures, requiring immediate payment, for which such funds are regularly reimbursed.

Subsidiary accounts shall be maintained by employees, agents or branch offices.

Account No. 384—Debt Discount and Expense

This account shall include all charges for debt discount and expense, and premiums paid on all classes of funded debt, which charges are amortized over a period rather than charged to income in any one year. Amounts included in this account shall be amortized through such annual charges to Account No. 971 as will equitably distribute the items in this account during the life of the debt to which they apply.

Account No. 385—Leaseholds

This account shall include the unamortized balance of the cost of acquiring long-term leases, including rental applicable to future periods paid in advance; and the cost of alterations thereto and fixtures installed in leased property. This account should not include buildings erected on land under long-term lease or improvements thereto which may be carried in appropriate property accounts. Amounts included in this account shall be amortized through such annual charges to Account No. 972 as will equitably distribute the balance of this account during the term of the lease to which it applies.

Account No. 386—Organization and Pre-Operating Expenses

This account shall include the unamortized balance of expenses incurred in the formation and development of the business. The balance of this account shall be amortized by annual charges to Account No. 973.

Account No. 389—Other Deferred Charges and Prepaid Expenses

This account shall include all deferred charges and prepaid expenses not provided for elsewhere, such as—prepaid interest, taxes, rentals, advertising, etc. As the term expires for which prepayment was made, this account shall be credited and a corresponding charge made to the appropriate expense accounts.

Account No. 391—Good Will

This account shall include only Good Will actually purchased in taking over assets, trade name, etc., calculated to enhance future profits of the business.

Account No. 399—Other Intangible Assets

This account shall include the purchase price of such intangible assets as patents, copyrights, etc.

Account No. 401—Bank Loans

This account shall include the face amount of evidences of indebtedness to banks issued or assumed by the company and which mature within one year from the date of issue.

Subsidiary accounts shall be subdivided to show separately (*a*) amount secured, and (*b*) amount unsecured.

Account No. 410—Insurance Notes

This account shall include the face amount of notes issued by the company to cover deferred payments of insurance premiums.

Account No. 419—Other Short-Term Notes

This account shall include notes payable within one year from date of issue, for which no other account is specifically provided, but excluding notes issued to holding, subsidiary, affiliated, and associated companies. This account shall be so kept as to show (*a*) notes secured, and (*b*) notes unsecured.

Account No. 421—Trade Accounts Payable

This account shall include all liabilities currently due to trade creditors for services rendered and supplies furnished in the general conduct of the business.

Account No. 422—Traffic Accounts Payable

This account shall include exchange orders and other amounts due connecting carriers, freight and passenger brokerage, amounts due for hotel reservations and sightseeing tours, custodian funds payable, such as head taxes, freight and passenger manifest stamp taxes, consular fees; advance, prepaid beyond, and transshipping charges, and claims payable—but excluding amounts due holding, subsidiary, affiliated, and associated companies.

Account No. 428—Officers and Employees Accounts Payable

This account shall include amounts due to officers, directors, individual stockholders, and employees, which are payable within one year from the date the liability is incurred.

Account No. 430—United States Maritime Commission—Accounts Payable

This account shall include such current accounts payable to the Commission as may arise from transactions between the Operator and the Commission.

Account No. 438—Dividends Payable

This account shall include the amount of dividends declared on actually outstanding stock. Dividends which are to become payable immediately following the date of the balance sheet shall be included in this account.

Account No. 439—Miscellaneous Accounts Payable

This account shall include all current accounts payable to other than holding, subsidiary, affiliated, and associated companies for which no other account is specifically provided, including unclaimed wages.

Account No. 440—Accrued Federal Income Tax Payable

This account shall include the accrual of unmatured federal income taxes payable.

Account No. 449—Other Accrued Taxes Payable

This account shall include the accruals of all taxes payable other than federal income taxes.

Subsidiary accounts shall be maintained as between (*a*) federal old age pension tax, (*b*) unemployment insurance tax, and other taxes.

Account No. 459—Other Accrued Accounts Payable

This account shall include monthly or other periodical accruals of unmatured payables other than taxes.

Subsidiary accounts shall be maintained as between (*a*) interest, (*b*) rentals, (*c*) voyage payrolls, and such other classes as frequently occur.

Account No. 479—Miscellaneous Current Working Liabilities

This account shall include all working liabilities for which no classification is elsewhere provided.

Subsidiary accounts shall be so kept as to show separately each class of current working liability.

Account No. 499—Miscellaneous Reserves for Unrecorded Liabilities

This account shall include reserves provided to cover known current obligations or commitments either actual or estimated. When the obligation or commitment falls due and the amount thereof is definitely known, this account shall be debited and the proper payable account credited. This account should not be confused with other reserve accounts created for specific purposes.

Account No. 500—Unterminated Voyage Revenue

This account shall be credited with the *gross* freight, passenger, mail, excess baggage, salvage, and other voyage revenue as soon as the manifests are ready for journalization. The account will be charged with the total of the revenue of each terminated voyage, when Account No. 600—Operating Revenue—Terminated Voyages, is credited.

The subsidiary accounts are to be maintained alphabetically by vessels and consecutively by voyages, according to the classification of revenue as shown on the Chart of Accounts.

Postings shall be subdivided as between revenue earned on outward, inward, and intermediate legs of voyages. Revenue earned on coastwise and/or intercoastal legs of voyages, as described in Section 605 (a) of Title VI of the Merchant Marine Act, 1936, shall be so considered for the purposes of the subsidiary detail postings.

Account No. 526—Mortgage Notes—U. S. Maritime Commission

This account shall include all mortgage notes payable to the United States Maritime Commission.

Subsidiary accounts shall be maintained by vessel and subdivided as between (*a*) ship sales, (*b*) construction loans, 1928 Act, and (*c*) construction, 1936 Act.

Account No. 530—Mortgage Bonds

This account shall include the face amount of mortgage bonds, and shall be so maintained as to show full particulars in respect to each issue outstanding. Bonds reacquired shall be charged to this account at par value.

Account No. 534—Other Secured Long-Term Debt

This account shall include all long-term obligations secured by capital assets for which no other account is specifically provided, but excluding amounts due holding, subsidiary, affiliated, and associated companies.

Account No. 535—Debentures

This account shall include debentures secured by a direct or indirect pledge of the company's property, and shall be so kept as to show the full particulars in respect to each issue outstanding, subdivided as between (*a*) secured, and (*b*) unsecured. Reacquired debentures shall be charged to this account at par value.

Account No. 539—Other Unsecured Long-Term Debt

This account shall include all unsecured long-term debt for which no other account has been specifically provided, but excluding amounts due holding, subsidiary, affiliated, and associated companies.

Account No. 541—Non-Current Payables to Holding, Subsidiary, Affiliated, and Associated Companies

This account shall include all loans, advances, and other payables to holding, subsidiary, affiliated, and associated companies for other than services rendered, supplies furnished, and other transactions customarily subject to current settlement, which latter shall be recorded in Account No. 015.

Subsidiary accounts shall be maintained by companies and shall show all essential detail.

Account No. 549—Other Non-Current Notes and Accounts Payable

This account shall include all short-term notes and accounts payable to other than holding, subsidiary, affiliated, and associated companies, which by arrangement become due later than one year from date established, including such obligations to officers, directors, individual stockholders, and employees.

Account No. 550—Recapture Profits—U. S. Maritime Commission

If excess profits accrue to the Commission under the "recapture" clauses in Sections Nos. 606 and 607 of the Merchant Marine Act, 1936, this account shall, at the end of the first accounting year in which such profits accrue, be credited with the amount thereof. At the close of each succeeding year within the contract period, this account shall be adjusted so as to reflect the net amount of such excess profits accrued to the Commission as at that date.

The account shall be charged with amounts transferred to Account No. 430—U. S. Maritime Commission—Accounts Payable.

Account No. 554—Miscellaneous Other Liabilities

This account shall include all liabilities which cannot be allocated properly to any other account classification.

Account No. 564—Miscellaneous Deferred Credits

This account shall include all deferred credits for which no other account is specifically provided, as for example, unexpended proceeds from insurance losses.

Account No. 566—Reserve for Repairs

When reserves are provided for equalization of repair expenses incurred at domestic ports, this account shall be

credited and Account No. 200—Unterminated Voyage Expense, charged. Actual repair expenses incurred at the domestic ports will be charged to this account. Repair expenses incurred at foreign ports will be charged direct to Account No. 200. Any balance in this account applicable to terminated voyages at the end of the accounting year shall be distributed equally to such voyages in Account No. 700—Operating Expense—Terminated Voyages, after all repair expenses actually incurred and all commitments against voyages terminated during the period have been recorded.

Subsidiary accounts shall be arranged alphabetically by vessel and consecutively by voyages.

Account No. 570—Reserves for Insurance

Agreed amounts for Marine and P. & I. Insurance deductibles (if provided in the policies) should be charged to each voyage in Account No. 200—Unterminated Voyage Expense, and the corresponding credits posted to this account. When the amount within the deductibles average chargeable against each voyage is determined, it should be transferred from Account No. 361—Claims Pending, as a charge to this account.

This account may also be used for equalization of other insurance risks carried by the Operator, as for example, self-carried workmen's compensation, and public liability insurance. At the end of each accounting year, any balance in this account applicable to voyages terminated during the preceding accounting year should be transferred to Account No. 090—Adjustments Applicable to Prior Periods.

Subsidiary accounts shall be maintained by the various classes of insurance for which provisions are made and shall be arranged alphabetically by vessel and consecutively by voyage.

Account No. 579—Miscellaneous Operating Reserves

This account shall include all provisions for the equalization of operating expenses for which no other reserve account is specifically provided.

Subsidiary accounts shall be maintained by the various classes of reserve arranged alphabetically by vessels and consecutively by voyages, or by other accounting units.

Account No. 581—Capital Stock

This account shall include the par, stated or assigned value of all Capital Stock actually issued and outstanding, including also the money value of the consideration received for true no par stock, and appropriations of surplus transferred to the no par stock account.

Reacquired Capital Stock, whether held for resale or investment, shall be carried as a charge to this account at a value equivalent to the book liability of the reacquired stock.

The stock ledger or other appropriate subsidiary record should show, for each class and series of stock, the number of shares issued to each stockholder; and the number of shares reacquired, together with the purpose thereof, unless the laws of the state in which the Operator is incorporated prescribe the employment of some other method of keeping the stock ledger.

Account No. 585—Capital Stock Subscribed

This account shall include the value of stock subscribed, but not issued, the corresponding charge being recorded in Accounts Nos. 140, or 368.

Account No. 590—Capital Surplus

This account shall include capital donated or paid in as surplus, and discounts or premiums arising in connection with the issuance or retirement of capital stock. The account should be so maintained as to show: (*a*) available for dividends, and (*b*) unavailable for dividends.

Account No. 595—Appreciation Surplus

This account shall be credited with appreciation of capital assets which have been appraised at a higher value than cost, less depreciation at time of appraisal. The account shall be debited with annual amortization of the amount of appreciation charged to the property accounts.

Entries made to this account must be complete in detail.

Account No. 598—Earned Surplus—Appropriated

Surplus appropriated for replacement of capital assets, debt retirement, contingencies, and other funded reserves shall be credited to this account with a corresponding charge to Account No. 599—Earned Surplus—Unappropriated.

Subsidiary accounts shall be maintained by classes of appropriations.

Account No. 599—Earned Surplus—Unappropriated

All profits or losses shown in Account No. 095—Profit and Loss Account at the end of the accounting year, adjustments shown in Account No. 090—Adjustments Applicable to Prior Periods, and extraneous or non-recurring profits or losses arising from acquisition or disposal of capital assets, or otherwise, shall be recorded in this account.

Any part of earned surplus appropriated for any purpose shall be charged to this account, including excess profits accruing to the U. S. Maritime Commission under the "recapture" clauses in Sections Nos. 606 and 607 of the Merchant Marine Act 1936 which shall be credited to Account No. 550 Recapture Profits—U. S. Maritime Commission.

SECTION II—GENERAL LEDGER: INCOME ACCOUNTS

600. Operating Revenue—Terminated Voyages:
  Subsidiary Detail:
    01. Freight—Foreign.
    05. Freight—Coastwise and Intercoastal.
    08. Passenger—Foreign.
    12. Passenger—Coastwise and Intercoastal.
    15. U. S. Mail—Foreign.
    16. U. S. Mail—Coastwise and Intercoastal.
    17. Foreign Mail.
    19. Ad Valorem.
    20. Charter Revenue.
    24. Other Voyage Revenue.
625. Operating-Differential Subsidy:
    26. Wages of Officers and Crew.
    28. Subsistence of Officers and Crew.
    29. Subsistence of Passengers.
    30. Maintenance.
    32. Repairs Not Compensated by Insurance.
    34. Shore Gang Repairs—Upkeep.
    36. Hull Insurance Premiums.
    37. Hull Insurance Deductible Repairs.
    38. P. & I. Insurance.
645. Income from Terminal Operations.
650. Income from Cargo Handling Operations.
655. Income from Tug and Lighter Operations.
660. Income from Other Shipping Operations.
665. Miscellaneous Operating Income.
670. Agency Fees, Commissions and Brokerage Earned.
675. Interest Earned:
    76. Cash on Deposit.
    77. Notes and Accounts Receivable—Subsidiary and Affiliated Companies.
    78. Notes and Accounts Receivable—Others.
    79. Marketable Securities.
    80. Special Funds and Deposits.
    81. Investments in Subsidiary and Affiliated Companies.
    82. Other Investments.
    84. Miscellaneous.
685. Dividends:
    86. Marketable Securities.
    87. Special Funds and Deposits.
    88. Investments in Subsidiary and Affiliated Companies.
    89. Miscellaneous.
690. Miscellaneous Other Income.
695. Income from Non-Shipping Operations.

General Ledger: Expense Accounts

700. Operating Expense—Terminated Voyages:
  Subsidiary Detail:
    01. Wages.
    10. Subsistence—Purchased Domestic.
    14. Subsistence—Purchased Foreign.
    15. Stores, Supplies, and Equipment—Purchased Domestic.
    24. Stores, Supplies, and Equipment—Purchased Foreign
    25. Other Maintenance Expense.
    35. Fuel.
    40. Repairs Performed—Domestic.
    49. Repairs Performed—Foreign.
    55. Insurance—Hull and Machinery.

700. Operating Expense—Terminated Voyages—Continued.
  Subsidiary Detail—Continued.
    57. Insurance—P. & I.
    59. Insurance—Other.
    60. Charter Hire.
    64. Other Vessel Expense.
    65. Agency Fees and Commissions.
    70. Wharfage and Dockage.
    79. Other Port Expenses.
    80. Stevedoring.
    89. Other Cargo Expenses.
    90. Freight Brokerage.
    93. Passenger Brokerage.
    95. Canal Tolls.
    99. Other Voyage Expense.
800. Inactive Vessel Expense:
    01. Wages.
    07. Subsistence.
    09. Stores, Supplies, and Equipment.
    15. Fuel.
    17. Repairs.
    23. Insurance—Hull and Machinery.
    25. Insurance—P. & I.
    29. Wharfage and Dockage.
    39. Port Expenses.
    49. Miscellaneous.
850. Expense of Terminal Operations.
860. Expense of Cargo Handling Operations.
870. Expense of Tug and Lighter Operations.
880. Expense of Other Shipping Operations.
890. Miscellaneous Operating Expense.
900. Administrative and General Expense:
    01. Salaries of Officers.
    02. Wages of Employees.
    05. Legal and Accounting Fees and Expenses.
    10. Rent, Heat, Light, and Power.
    15. Communication Expenses.
    20. Office Supplies, Stationery, and Printing.
    25. Membership Dues and Subscriptions.
    29. Entertaining and Solicitation.
    30. Traveling Expenses.
    31. Insurance and Bond Premiums.
    33. Postage.
    34. Maintenance of Office Equipment.
    44. Miscellaneous.
945. Management and Operating Commissions.
950. Advertising.
955. Taxes, Other than Federal Income Tax.
960. Interest Expense:
    61. Bank Loans.
    62. Insurance Notes.
    63. Notes and Accounts Payable—Subsidiary and Affiliated Companies.
    64. Notes and Accounts Payable—Others.
    65. Mortgage Notes—U. S. Maritime Commission.
    66. Mortgage Bonds.
    67. Debentures.
    68. Other Long-Term Debt.
    69. Miscellaneous.
970. Amortization:
    971. Amortization—Debt Discount and Expense.
    972. Amortization—Long-Term Leases and Permanent Improvements.
    973. Amortization—Organization and Pre-Operating Expense.
    974. Miscellaneous Amortization Expense.
    975. Uncollectible Notes and Accounts Receivable.
    979. Miscellaneous Deductions from Income.
980. Depreciation:
    981. Depreciation—Floating Equipment—Vessels.
    984. Depreciation—Other Floating Equipment.
    987. Depreciation—Terminal Property and Equipment.
    990. Depreciation—Other Shipping Property and Equipment.
    992. Depreciation—Non-Shipping Property and Equipment.
    994. Depreciation—Other Property and Equipment.
    995. Expense of Non-Shipping Operations.
    999. Provision for Federal Income Tax.

DESCRIPTION OF INCOME AND EXPENSE ACCOUNTS

Except where otherwise indicated, the balances in these accounts at the end of the accounting year shall be transferred to Account No. 095—Profit and Loss Account.

Account No. 600—Operating Revenue—Terminated Voyages

This account shall include all revenue on terminated voyages transferred from Account No. 500—Unterminated Voyage Revenue. Revenue items recorded on terminated voyages, after the transfer has been made, shall be posted in detail direct to this account. Revenue items arising in connection with voyages terminated in prior years shall be posted to Account No. 090—Adjustments Applicable to Prior Periods.

Subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages, according to the classification of revenues, as shown in the Chart of Accounts.

Postings shall be subdivided as between revenues earned on outward, inward, and intermediate legs of voyages. Revenue earned on coastwise and/or intercoastal legs of voyages, as described in Section 605 (a) of Title VI of the Merchant Marine Act 1936, shall be so considered for the purposes of the subsidiary detail postings.

The same subsidiary ledger forms may be used for both Account No. 500 and Account No. 600, and the sheets may be physically transferred or the totals, by classifications, transferred to new sheets, as the Operator elects.

Account No. 625—Operating-Differential Subsidy

This account shall be credited with sums accruing to the Operator under the subsidy provisions of the Operating-Differential Subsidy Agreement.

Subsidiary accounts, to which postings shall be made by vessel and voyage, shall be maintained according to classifications shown in Chart of Accounts.

Account No. 645—Income From Terminal Operations

This account shall be credited with the gross income derived from rental or lease of terminal facilities to others, including dockage or side-wharfage, top-wharfage, storage, use of doorways, lights, etc. The account shall also be credited with agreed amounts where such facilities are used by vessels owned by the Operator, and Account No. 200—Unterminated Voyage Expense shall be correspondingly charged.

Subsidiary accounts shall be arranged to show separately for each terminal the different kinds of revenues earned from outside sources, from vessels operated under contract with the Commission, and from vessels owned by the Operator but not operated under contract with the Commission.

Account No. 650—Income From Cargo Handling Operations

This account shall be credited with gross income derived from the performance of stevedoring, and other cargo handling services such as—checking, tallying, receiving, delivering, coopering, use of gear and equipment, etc. The account shall also be credited with agreed amounts for such services performed for vessels owned by the Operator, and Account No. 200—Unterminated Voyage Expense shall be correspondingly charged.

Subsidiary accounts shall be so arranged as to show separately for each port the different kinds of services earning revenues from vessels operated under contract with the Commission, and from vessels owned by the Operator, but not operated under contract with the Commission.

Account No. 655—Income From Tug and Lighter Operations

This account shall be credited with gross income derived from services performed by tugs, lighters, barges, scows, launches, floating cranes, and similar floating equipment, including rental or charter thereof. The account shall also be credited with agreed amounts for such services performed for vessels owned by the Operator, and Account No. 200—Unterminated Voyage Expense shall be correspondingly charged.

Subsidiary accounts shall be arranged to show separately for each port the different kinds of services earning revenues from vessels operated under contract with the Commission, and from vessels owned by the Operator, but not operated under contract with the Commission.

Account No. 660—Income From Other Shipping Operations

This account shall be credited with gross income derived from the performance of repairs, and any other services or operations incidental to the shipping business for which no other account is specifically provided. The account shall also be credited with agreed amounts for such services performed for vessels owned by the Operator, and Account No. 200—Unterminated Voyage Expense shall be correspondingly charged.

Subsidiary accounts shall be so arranged as to show separately for each port the different kinds of services earning revenues from vessels operated under contract with the Commission, and from vessels owned by the Operator, but not operated under contract with the Commission.

Account No. 665—Miscellaneous Operating Income

This account shall include all gross operating income not directly allocable to vessel operating revenue, or income from other operations incidental to the shipping business and for which no other account is specifically provided.

Account No. 670—Agency Fees, Commissions, and Brokerage Earned

This account shall include gross agency fees, commissions, and brokerage earned, less amounts paid to sub-agents therefrom.

Subsidiary accounts shall be maintained by offices, and postings shall show sources of earnings and classification thereof, such as agency fees, management and operating commissions, freight brokerage, passenger brokerage, and names of sub-agents in instances where such payments are charged to this account.

Account No. 675—Interest Earned

This account shall be credited with all interest earned by the Operator.

Subsidiary accounts shall be maintained according to classifications as shown in the Chart of Accounts.

Account No. 685—Dividends

This account shall be credited with all dividends received or accrued to the company.

Subsidiary accounts shall be maintained according to classifications shown in the Chart of Accounts.

Account No. 690—Miscellaneous Other Income

This account shall include all gross non-operating income for which no specific account is provided as for example—cash discounts.

Account No. 695—Income From Non-Shipping Operations

This account shall include the gross income derived from ventures other than shipping and shipping auxiliary operations.

Separate accounts shall be maintained for each enterprise and location.

Account No. 700—Operating Expense—Terminated Voyages

This account shall be charged with all expenses of terminated voyages transferred from Account No. 200—Unterminated Voyage Expense. Expense items recorded on terminated voyages after the transfer has been made shall be posted in detail direct to this account. Expense items arising in connection with voyages terminated in prior years shall be posted to Account No. 090—Adjustments Applicable to Prior Periods.

Subsidiary accounts shall be maintained alphabetically by vessels and consecutively by voyages, according to the classification of expense as shown in the Chart of Accounts.

The same subsidiary ledger forms may be used for both Account No. 200 and Account No. 700, and the sheets may be physically transferred or the totals, by classifications, transferred to new sheets, as the Operator elects.

Account No. 800—Inactive Vessels Expense

This account shall include all expenses incurred during inactive periods of vessels which are owned and controlled by the Operator.

Subsidiary accounts shall be maintained alphabetically by vessels, further divided as to lay-up periods, and according to classifications of expenses shown in the Chart of Accounts.

Account No. 850—Expense of Terminal Operations

This account shall be charged with the gross expenses incurred in the maintenance and operation of terminal facilities by the Operator, such as—salaries, wages, rent, heat, light, power, repairs, dredging, and insurance.

Subsidiary accounts shall be arranged to show separately the principal classes of expense incurred in the operation of each terminal.

Account No. 860—Expense of Cargo Handling Operations

This account shall be charged with gross expense incurred in the performance of stevedoring, and other cargo handling services, such as—checking, tallying, delivering, coopering, watching, etc.

Subsidiary accounts shall be arranged to show separately the principal classes of expense incurred in the performance of stevedoring and other cargo handling operations at each port.

Account No. 870—Expense of Tug and Lighter Operations

This account shall be charged with gross expense incurred in the maintenance and operation of tugs, lighters, barges, scows, launches, floating cranes, and similar floating equipment.

Subsidiary accounts shall be arranged to show separately the principal classes of expense incurred in the maintenance and operation of such floating equipment at each port.

Account No. 880—Expense of Other Shipping Operations

This account shall be charged with gross expense incurred in the performance of repairs, and any other services or operations incidental to the shipping business, for which no other account is specifically provided.

Subsidiary accounts shall be arranged to show separately the principal classes of expenses incurred in the performance of repairs and other auxiliary operations at each port.

Account No. 890—Miscellaneous Operating Expense

This account shall include all gross operating expense not directly allocable to vessel operating expense, or expense of other operations incidental to the shipping business, and for which no other account is specifically provided.

Account No. 900—Administrative and General Expense

This account shall be charged with all administrative and general expenses incurred in the operation of the business for which no other specific account is provided, including such expenses of branch houses.

Subsidiary accounts shall be maintained separately by offices, and according to classifications as shown in the Chart of Accounts.

Account No. 945—Management and Operating Commissions

This account should include only commissions accruing to the credit of any other person or concern acting as managing or operating agent of the Operator, (with the express written consent of the Commission) in instances where the Operator does not maintain an operating organization. This should not be confused with the customary agency fees, commissions, and brokerage paid general and sub-agents at outports which should be charged to Account No. 200—Unterminated Voyage Expense.

Account No. 950—Advertising

This account shall be charged with the cost of all freight, passenger and other advertising.

Account No. 955—Taxes, Other Than Federal Income Tax

This account shall be charged with all taxes other than Federal Income Taxes and sales taxes.

Subsidiary accounts shall be maintained as between (a) federal old age pension tax, (b) unemployment insurance tax, and other taxes.

Account No. 960—Interest Expense

This account shall be charged with all interest expense incurred by the Operator.

Subsidiary accounts shall be maintained according to classifications as shown in the Chart of Accounts.

Account No. 971—Amortization—Debt Discount and Expense

Amortization of debt discount and expense shall be charged to this account as transferred from Account No. 384.

Account No. 972—Amortization—Long-Term Leases and Permanent Improvements

Amortization of the cost of acquiring long-term leases, and the cost of alterations thereto, and fixtures installed in leased property shall be charged to this account, as transferred from Account No. 385.

Account No. 973—Amortization—Organization and Pre-Operating Expense

Amortization of expenses incurred in the formation or development of the business shall be charged to this account as transferred from Account No. 386.

Account No. 974—Miscellaneous Amortization Expense

Amortization of any deferred charges for which no other account is specifically provided shall be included in this account.

Account No. 975—Uncollectible Notes and Accounts Receivable

This account shall be charged with provisions for reserves against all notes and accounts receivable considered doubtful of collection.

Separate subsidiary accounts shall be maintained for doubtful accounts of holding, subsidiary, affiliated, and associated companies as distinguished from those of non-affiliated companies.

Account No. 979—Miscellaneous Deductions From Income

This account shall include all gross non-operating expenses for which no specific account is provided.

Account No. 981—Depreciation—Floating Equipment—Vessels

The annual or other periodical accrual of depreciation of steamships and motorships used in line operations shall be charged to this account with a corresponding credit to Account No. 332.

Account No. 984—Depreciation—Other Floating Equipment

The annual or other periodical accrual of depreciation of tugs, lighters, barges, scows, launches, floating cranes, and similar floating equipment shall be charged to this account, with a corresponding credit to Account No. 338.

Account No. 987—Depreciation—Terminal Property and Equipment

The annual or other periodical accrual of depreciation of terminal buildings, shore cranes, trucks, furniture and fixtures, and other terminal gear and equipment shall be charged to this account, with a corresponding credit to Account No. 344

Account No. 990—Depreciation—Other Shipping Property and Equipment

The annual or other periodical accrual of depreciation of property and equipment incident to shipping and its auxiliary operations, for which no other account has been specifically provided, including stevedoring and other cargo handling gear and equipment, and repair yards and equipment, shall be charged to this account with a corresponding credit to Account No. 350.

Account No. 992—Depreciation—Non-Shipping Property and Equipment

The annual or other periodical accrual of depreciation of property and equipment used in ventures other than shipping and shipping auxiliary operations, shall be charged to this account with a corresponding credit to Account No. 354.

Account No. 994—Depreciation—Other Property and Equipment

The annual or other periodical accrual of depreciation of property and equipment used in the general conduct of the business of the company and which cannot be accurately allocated as between shipping and non-shipping enterprises, shall be charged to this account with a corresponding credit to Account No. 358.

Account No. 995—Expense of Non-Shipping Operations

This account shall be charged with the gross expense incurred in ventures other than shipping and shipping auxiliary operations.

Separate accounts shall be maintained for each enterprise and location.

Account No. 999—Provision for Federal Income Tax

This account shall be charged with accrued provision for federal income taxes applicable to the accounting year.

SECTION III—GENERAL LEDGER: CLEARANCE ACCOUNTS

This group of accounts is designed to accommodate transactions which cannot be allocated directly to balance sheet or income and expense accounts until such transactions have been completely accounted for. In the preparation of periodical financial and operating statements, it is essential that these clearance accounts be analyzed and the balances reflected therein be distributed to appropriate account classifications on such statements.

The clearance accounts herein provided are those most commonly used in the industry, however, additional clearance accounts may be maintained to accommodate the requirements of individual operators, provided the approval of the Commission is first obtained.

Balances in this group of accounts applicable to terminated voyages, or other accounting units of a closed fiscal year, must not be carried forward to the succeeding fiscal year.

001. Masters and Pursers.
005. Allotments on Wages of Crews.
010. Agents and Branch Houses.
015. Holding, Subsidiary, Affiliated, and Associated Companies—Accounts Current.
025. Collections and Deposits for Passenger Transportation.
030. Collections on Unrecorded Freight Manifests.
035. Advance and Prepaid Beyond Charges, and Miscellaneous Manifested Items.
040. Bar Account.
045. Slop Chest Account.
050. Foreign Exchange Account.
055. Pool Participation.
060. Stores, Supplies, and Equipment Aboard Vessels.
090. Adjustments Applicable to Prior Periods.
095. Profit and Loss Account.

DESCRIPTION OF CLEARANCE ACCOUNTS

Account No. 001—Masters and Pursers

This account shall be charged with amounts advanced to or collected by masters and pursers. The account shall be credited with the net amount of vessels' payrolls, with cash advances to members of the crew, with allowable expenses incurred, with endorsed travelers checks, and unexpended cash balances returned.

Subsidiary accounts shall be arranged alphabetically by masters and pursers, and a separate account maintained for each voyage or other accounting unit.

Account No. 005—Allotments on Wages of Crews

This account shall be charged with payments made to allottees of crews and shall be credited with deductions made therefor on vessels payrolls.

Account No. 010—Agents and Branch Houses

This account shall serve as a clearance account for all current transactions with foreign and domestic agents, and branch houses of the Operator. The account shall be charged with cash advances to agents and branch houses, and with freight and other voyage revenue collectible by the agent or branch house in instances where arrangements are made with them to disburse vessels therefrom. Freight and other voyage revenues collectible by agents who are required to remit in full shall be recorded in Account No. 151—Traffic Accounts Receivable. This account shall be credited with remittances by the agents or branch houses, and with approved disbursements made for the account of the Operator.

Subsidiary accounts shall be maintained alphabetically by names of agents or branch houses.

Account No. 015—Holding, Subsidiary, Affiliated, and Associated Companies—Accounts Current

This account shall be charged with all current receivables for services rendered or supplies furnished, and shall be credited with all current payables for services or supplies received which are customarily subject to current settlement. Under no circumstances shall loans, advances, or other

transactions, the settlement of which is deferred beyond one year, be recorded in this account, Accounts Nos. 320 and 541 having been provided for such transactions.

Subsidiary accounts shall be arranged alphabetically by companies, and a description of each transaction shall be reflected in the accounts.

Account No. 025—Collections and Deposits for Passenger Transportation

Gross passenger ticket sales and deposits, including those for future reservations, hotel accommodations, shore excursions, passenger taxes, etc. shall be credited to this account.

As transportation is furnished to passengers by vessels of the Operator this account shall be charged and Account No. 500—Unterminated Voyage Revenue credited. Deposits or collections for other purposes, including Commissions earned or payable incident thereto, shall be cleared from this account as soon as practicable to appropriate accounts designated in the Chart.

Subsidiary accounts shall be maintained in sections corresponding to the classifications shown on the daily ticket sales report, examples of which are—prepaid orders, one-way tickets, round-trip tickets, exchange orders, railroad fares, hotel reservations, sightseeing tours, head tax, U. S. Government stamp tax, foreign government passenger taxes, commissions due agents and brokers, and commissions earned.

Account No. 030—Collections on Unrecorded Freight Manifests

This account shall be credited with all collections of freight revenue from shippers or consignees prior to the recording of the revenue manifests. When the manifest is recorded the balance in this account applicable thereto shall be cleared with a corresponding credit to Account No. 500—Unterminated Voyage Revenue.

Subsidiary accounts shall be arranged alphabetically by vessels and consecutively by voyages or other accounting units.

Account No. 035—Advance and Prepaid Beyond Charges, and Miscellaneous Manifested Items

When vessels manifests are journalized this account shall be credited with advance charges, prepaid beyond charges, and miscellaneous manifested items, such as—consular fees, cargo insurance, handling, transshipment, and transfer charges. The account shall be charged with expenses incurred in the performance of the services for which these collections were made. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transferred to Account No. 700—Other Voyage Expense, and net credit balances to Account No. 600—Other Voyage Revenue.

Subsidiary accounts should be subdivided as between advance charges, prepaid beyond charges, and miscellaneous manifested items. Each group of accounts should be arranged alphabetically by vessels and consecutively by voyages.

Account No. 040—Bar Accounts

This account shall be charged with inventories of bar supplies aboard vessels at the beginning of each voyage for sale to passengers, and with all purchases of such supplies during the voyage. The account shall be credited with the inventory of bar supplies on hand at the end of each voyage, and with gross sales during the voyage. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transferred to Account No. 700—Other Voyage Expense, and net credit balances to Account No. 600—Other Voyage Revenue. The balance remaining in this account after profits and losses, on sales applicable to voyages terminated during the accounting period, have been cleared to the vessel operating accounts, shall be reported on the balance sheet opposite the classification "Shipping Inventories."

The subsidiary accounts shall be arranged alphabetically by vessels and consecutively by voyages.

Account No. 045—Slop Chest Account

This account shall be charged with inventories of slop chest supplies aboard vessels at the beginning of each voyage for sale to members of the crew, and with all purchases of such supplies during the voyage. The account shall be credited with the inventory of slop chest supplies on hand at the end of each voyage, and with all gross sales during the voyage. As transactions applicable to terminated voyages are completely accounted for, net debit balances in this account shall be transferred to Account No. 700—Other Vessel Expense, and net credit balances to Account No. 600—Other Voyage Revenue. The balance remaining in this account after profits and losses, on sales applicable to voyages terminated during the accounting period, have been cleared to the vessel operating accounts, shall be reported on the balance sheet opposite the classification "Shipping Inventories."

The subsidiary accounts shall be arranged alphabetically by vessels and consecutively by voyages.

Account No. 050—Foreign Exchange Account

All gains or losses in foreign exchange shall be recorded in this account. At the close of each accounting period the balance in the account shall be transferred to Account No. 690—Miscellaneous Other Income, or Account No. 979—Miscellaneous Deductions from Income, as the case may be.

Account No. 055—Pool Participation

This account shall be charged with contributions to pools for the purpose of equalizing revenue in accordance with pooling agreements and shall be credited with gross collections received from pools for the same purpose.

Charges assessed against the operator for expenses incurred in administering the pool shall be recorded in Account No. 900, Administrative and General Expense—Membership Dues and Subscriptions.

Account No. 060—Stores, Supplies, and Equipment Aboard Vessels

Where inventories of vessels stores, supplies, and/or equipment are not taken and priced at the end of each voyage, the value of such inventories shall be charged to this account at the beginning of each contract period and at the beginning of each subsequent accounting period. The account should also be credited with the value of inventories of stores, supplies, and/or equipment at the end of each accounting period, after which any balance therein shall be charged or credited, as the case may be, to the last voyage of each vessel involved terminated during the accounting period.

The account will not be used in instances where inventories of stores, supplies, and/or equipment are taken and priced at the end of each voyage.

The balance in the account at the end of each accounting period, applicable to the subsequent accounting period, will be reflected in balance sheet Account No. 200—Unterminated Voyage Expense.

Account No. 090—Adjustments Applicable to Prior Periods

Adjustments arising during the current year which are applicable to profit and loss of prior accounting years shall be charged or credited to this account as the case may be. At the end of the accounting year the balance in this account shall be transferred to Account No. 599—Earned Surplus—Unappropriated.

Subsidiary accounts shall be arranged by the prior accounting periods to which the adjustments apply, showing vessels and voyage numbers (where applicable thereto) and classes of income and expense involved.

Account No. 095—Profit and Loss Account

At the end of the accounting year this account shall be credited or charged, as the case may be, with the balances in all nominal revenue and expense accounts, except where it has been otherwise specifically indicated. After all entries have been made the account should reflect the net profit or loss for the accounting year. The net balance in this account after adjustments have been made for the accounting year shall be transferred to Account No. 599—Earned Surplus—Unappropriated.

SECTION IV—FINANCIAL AND OPERATING EXHIBITS

All financial and operating statements and supporting schedules shall be typed or printed on good quality unglazed white paper, 8½ by 14 inches in size, or on larger paper folded to that size, i. e., 14 inches from top to bottom and 8½ inches wide. Typed or printed matter shall leave a margin of at least one (1) inch on the left and reports shall be securely bound on the left.

Balance Sheet as at _____

[To be submitted quarterly]

ASSETS

	Account No.	Gross	Reserves	Net
Current Working Assets:				
Cash	101-119	$	$	$
Marketable Securities (Market Value $_____)	121-129			
Notes Receivable	131-149 and 369			
Accounts Receivable	151-169 and 369			
Trade	151			
Claims	155			
Holding, Subsidiary, Affiliated, and Associated Companies	015			
U. S. Maritime Commission	160			
Miscellaneous and Accrued	165-169			
Total				
Inventories	171-189, 040 and 045			
Shipping Inventories	171-175, 040 and 045			
Non-Shipping Inventories	180-185			
Miscellaneous	189			
Total				
Other Current Working Assets	191-199			
Total Current Working Assets				
Voyages in Progress (When a net debit balance):				
Unterminated Voyage Expense	200 and 060			
Less: Unterminated Voyage Revenue	500			
Special Funds and Deposits	301-314			
Capital Reserve Fund	301			
Special Reserve Fund	302			
Insurance Funds	303			
Other Special Funds and Deposits	306-314			
Total				
Investments	316-329			
Securities of Holding, Subsidiary, Affiliated, and Associated Companies	316			
Non-Current Receivables from Holding, Subsidiary, Affiliated, and Associated Companies	320			
Other Investments	325-328			
Total				
Property and equipment	331-359			
Floating Equipment—Vessels	331-332			
Other Shipping Property and Equipment	337-350			
Non-Shipping Property and Equipment	353-354			
Miscellaneous	357-358			
Vessels Under Construction	359			
Total				
Other Assets	361-374			
Claims Pending	361			
Notes and Accounts Receivable—Officers and Employees	364			
Other Non-Current Notes and Accounts Receivable	368			
Miscellaneous	374			
Total				
Deferred Charges and Prepaid Expenses	376-389			
Goodwill and Other Intangible Assets	391-399			
Total				

LIABILITIES AND CAPITAL

	Account No.	Gross	Reserves	Net
Current Working Liabilities:				
Notes Payable	401-419	$	$	$
Accounts Payable	421-459			
Trade	421			
Traffic	422			
Officers and Employees	428			
Holding, Subsidiary, Affiliated, and Associated Companies	015			
U. S. Maritime Commission	430			
Miscellaneous and Accrued	438-459			
Other Current Working Liabilities	461-479			
Reserves for Unrecorded Liabilities	481-499			
Long-Term Debt-Due Within One Year	526-539			
Mortgage Notes—U. S. Maritime Commission	526			
Mortgage Bonds	530			
Other Secured Long-Term Debt	534 and 535			
Unsecured Long-Term Debt	535 and 539			
Total Current Working Liabilities				
Advance ticket sales and deposits	025			
Voyages in Progress (when a net credit balance):				
Unterminated Voyage Revenue	500			
Less: Unterminated Voyage Expense	200			
Long-Term Debt Due After One Year:	526-539			
Mortgage Notes—U. S. Maritime Commission	526			
Mortgage Bonds	530			
Other Secured Long-Term Debt	534 and 535			
Unsecured Long-Term Debt	535 and 539			
Other Liabilities:				
Non-Current Payables to Holding, Subsidiary, Affiliated, and Associated Companies	541			
Other Non-Current Notes and Accounts Payable	549			
Recapture Profits—U. S. Maritime Commission	550			
Miscellaneous	554			
Deferred Credits	556-564			
Sundry Operating Reserves	566-579			
Minority Interests in Capital Stock and Surplus [1]	581-599			
Net Worth:				
Capital Stock:				
Issued and Outstanding	581			
Subscribed	585			
Surplus:				
Capital Surplus	590			
Appreciation Surplus	595			
Earned Surplus (or Deficit):				
Appropriated	598			
Unappropriated	599			
Total				

[1] This classification to be used in consolidated statements only.

Income Sheet for the Period _____ *to* _____

[*Exhibit "B"*—To be submitted monthly with accumulated totals]

	Account No.	Total	Subsidized services	Non-subsidized services
Terminated Voyage Results:				
Revenue	660			
Expense	700			
Pool Participation (Net)	055			
Inactive Vessels Expense	860			
Gross Profit (or Loss) from Vessel Operations before Subsidy				
Operating-Differential Subsidy	625			
Gross Profit (or Loss) from Vessel Operations after Subsidy				
Terminal Operations:				
Income	645			
Expense	850			
Other Shipping Operations:				
Income	650, 655, 660, 665			
Expense	860, 870, 880 and 890			
Gross Profit (or Loss) from Shipping Operations before Overhead and Depreciation				

[*Exhibit "B"*]—Continued

	Account No.	Total	Subsidized services	Non-Subsidized services
Overhead:				
Administrative and General Expense	900			
Less: Agency Fees, Commissions and Brokerage Earned	670			
Management and Operating Commissions	945			
Advertising Expense	950			
Taxes, other than Federal Income Tax	955			
Gross Profit (or Loss) from Shipping Operations before Depreciation				
Depreciation—Shipping Property:				
Floating Equipment—Vessels	981			
Terminal Property and Equipment	987			
Other Shipping Property and Equipment	984, 990 and 994			
Gross Profit (or Loss) from Shipping Operations				
Other Income:				
Interest Earned	675			
Dividends	685			
Miscellaneous	690			
Other Deductions from Income:				
Interest Expense	960			
Amortization of Deferred Charges	971–974			
Miscellaneous	975–979			
Net Profit (or Loss) from Shipping Operations				
Non-Shipping Operations[1]				
Gross Profit (or Loss) before Overhead and Depreciation	695 and 995			
Overhead Expense	995			
Depreciation	992 and 994			
Other Income/Deductions from Income	695 and 995			
Net Profit (or Loss) before Federal Income Tax				
Provision for Federal Income Tax	999			
Net Profit (or Loss)				

[1] If any of the income and expense included in this group is allocated on a prorata or other arbitrary basis, the method employed must be thoroughly explained on the schedule of Non-Shipping Operations.

Vessel Operating Statement for the Period _____

[Schedule "B-1"—To be submitted for each completed voyage account, and as a monthly summary]

Service and type of vessel _____

Number of voyage terminations _____ Number of nautical miles traveled _____

Number of: Voyage days _____ Days at sea _____ Days in port _____

(A separate vessel operating statement must be submitted for operations of freighters and of combination passenger and freight vessels and for each route served by the company. In instances where vessels subsidized under Title VI of the Merchant Marine Act 1936 are operated on the same route with unsubsidized vessels, separate statements must also be submitted.)

	Outward[1]	Intermediate[1]	Inward[1]	Total
Number of Passengers carried:				
First class				
Cabin class				
Second class				
Tourist class				
Third class				
Other classes				
Total				
Number of freight payable tons of cargo carried				
600. Operating Revenue—Terminated Voyages:				
01. Freight—Foreign				
05. Coastwise and Intercoastal				
08. Passenger—Foreign				
12. Coastwise and Intercoastal				
15. U. S. Mail—Foreign				
16. Coastwise and Intercoastal				
17. Foreign Mail				
19. Ad Valorem				
20. Charter Revenue[2]				
24. Other Voyage Revenue				
Total Vessel Operating Revenue				

[1] These columns need not be filled out on statements covering coastwise operations.

[2] Separate vessel operating statements must be submitted covering vessels chartered to and from others—such operations *must not* be included on statements covering vessels owned and operated by the respondent. Exclude "off hire" periods from number of voyage days.

700. Operating expense—terminated voyages:		
Vessel Expense:		
01. Wages	$	
10. Subsistence—Purchased Domestic		
14. Subsistence—Purchased Foreign		
15. Stores, Supplies, and Equipment Purchased Domestic		
24. Stores, Supplies, and Equipment Purchased Foreign		
25. Other Maintenance Expense		
35. Fuel		
40. Repairs Performed Domestic		
45. Repairs Performed Foreign		
55. Insurance—Hull and Machinery		
57. Insurance—P. & I.		
59. Insurance—Other		
60. Charter Hire[1]		
64. Other Vessel Expense		
Total Vessel Expense		$
Port Expense:		
65. Agency Fees and Commissions	$	
70. Wharfage and Dockage		
79. Other Port Expenses		
Cargo Expense:		
80. Stevedoring		
89. Other Cargo Expense		
Brokerage Expense:		
90. Freight		
93. Passenger		
Other Voyage Expense:		
95. Canal Tolls		
99. Other Voyage Expense		
Total Voyage Expense		
Total Vessel Operating Expense		
Direct Profit (or loss) from Vessel Operations		

[F. R. Doc. 38-414; Filed, February 7, 1938; 3:23 p. m.]

Thursday, February 10, 1938 — *No. 29*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

POWER-SITE RESTORATION NO. 486. PARTIAL REVOCATION OF EXECUTIVE ORDER OF APRIL 28, 1917, CREATING POWER-SITE RESERVE NO. 621

Oregon

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, 36 Stat., 847, as amended by the act of August 24, 1912, 37 Stat., 497, the Executive Order of April 28, 1917, creating Power-Site Reserve No. 621, is hereby revoked as to the following-described lands:

WILLAMETTE MERIDIAN

T. 35 S., R. 11 W., Sec. 7, SE¼SE¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 8, 1938.

[No. 7807]

[F. R. Doc. 38-446; Filed, February 9, 1938; 11:21 a. m.]

EXECUTIVE ORDER

POWER-SITE RESTORATION NO. 488. PARTIAL REVOCATION OF EXECUTIVE ORDER OF DECEMBER 12, 1917, CREATING POWER-SITE RESERVE NO. 661

Oregon

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, the Executive Order of December 12, 1917, creating Power-Site Reserve No. 661, is hereby revoked as to the following-described lands:

WILLAMETTE MERIDIAN

T. 10 S., R. 1 E.,
sec. 1, lot 5.
T. 11 S., R. 1 E.,
sec. 17, SW¼SW¼;
sec. 27, NE¼NE¼.

T. 10 S., R. 2 E.,
sec. 15, S½;
sec. 17, S½NE¼;
sec. 23, S½N½, and N½SE¼.
T. 9 S., R. 3 E.,
sec. 17, N½NE¼.
T. 10 S., R. 3 E.,
sec. 19, lot 4, NE¼SW¼, and SE¼SE¼.
T. 12 S., R. 3 E.,
sec. 29, E½SW¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 8, 1938.

[No. 7808]

[F. R. Doc. 38-447; Filed, February 9, 1938; 11:21 a. m.]

EXECUTIVE ORDER

AMENDING PARAGRAPH 13, SUBDIVISION III, SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the Civil Service Act (22 Stat. 403), it is ordered that paragraph 13, Subdivision III, Schedule A of the Civil Service Rules, excepting from competitive civil service requirements all persons actually employed in leprosy, Rocky Mountain spotted fever, yellow fever, and psittacosis investigation stations under the Public Health Service, Treasury Department, be, and it is hereby, amended to read as follows:

"13. Public Health Service: All persons actually employed in leprosy, yellow fever, and psittacosis investigation stations."

This amendment removes from the excepted class all positions at Public Health Service investigation stations the incumbents of which are engaged in Rocky Mountain spotted fever work. The incumbents of such positions may acquire an appropriate civil service status in accordance with the provisions of section 6 of Civil Service Rule II, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 8, 1938.

[No. 7809]

[F. R. Doc. 38-448; Filed, February 9, 1938; 11:21 a. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER OF DECEMBER 9, 1875, ESTABLISHING THE BAIRD FISH HATCHERY ON M'CLOUD RIVER, CALIFORNIA

By virtue of and pursuant to the authority vested in me by the act of February 9, 1871, 16 Stat. 594, and the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, the Executive Order of December 9, 1875, establishing the Baird Fish Hatchery on the McCloud River, California, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 8, 1938.

[No. 7810]

[F. R. Doc. 38-449; Filed, February 9, 1938; 11:21 a. m.]

TREASURY DEPARTMENT.

Public Health Service.

DESIGNATION OF THE BOUNDARIES OF THE QUARANTINE ANCHORAGE OFF GADSDEN POINT, IN TAMPA BAY, FLORIDA

Pursuant to the authority contained in section 10 of the Act of February 15, 1893, as added by the Act of March 3, 1901, 31 Stat. 1086 (U. S. C., title 42, sec. 102), and section 1 of the Act of June 19, 1906, 34 Stat. 299 (U. S. C., title 42, sec. 103), the boundaries of the quarantine anchorage off Gadsden Point, in Tampa Bay, Florida, are hereby designated as follows:

An area to the eastward of a line bearing 341° (N. 19° W.) through a point X, said point being 830 yards on a line bearing 161° (S. 19° E.) from the front range of Tampa Bay Cut E; and to the northward of a line bearing 71° (N. 71° E.) through said point X; the above described area being a rectangle two (2) nautical miles long, along the line bearing 71° from point X, and 2000' wide northerly from this line. (Point X is marked by a second class can buoy.)

[SEAL] ROBERT OLESEN,
Acting Surgeon General.

Approved, February 7, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-454; Filed, February 9, 1938; 12:27 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[WR—B-101—Ariz., Supp. 5]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—ARIZONA, SUPPLEMENT 5

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Arizona, as amended by Supplement 1, Supplement 2, Supplement 3, and Supplement 4, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1,

1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-426; Filed, February 8, 1938; 12:54 p. m.]

[WR—B-101—Calif., Supp. 5]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—CALIFORNIA, SUPPLEMENT 5

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—California, as amended by Supplement 1, Supplement 2, Supplement 3, and Supplement 4, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-428; Filed, February 8, 1938; 12:54 p. m.]

[WR—B-101—Colo., Supp. 6]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—COLORADO, SUPPLEMENT 6

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Colorado, as amended by Supplement 1, Supplement 2, Supplement 3, Supplement 4, and Supplement 5, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determination of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-427; Filed, February 8, 1938; 12:54 p. m.]

[WR—B-101—Idaho, Supp. 4]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—IDAHO, SUPPLEMENT 4

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Idaho, as amended by Supplement 1, Supplement 2, and Supplement 3, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) Productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-429; Filed, February 8, 1938; 12:55 p. m.]

[WR—B-101—Kans., Supp. 7]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—KANSAS, SUPPLEMENT 7

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Kansas, as amended by Supplement 1, Supplement 2, Supplement 3, Supplement 4, Supplement 5, and Supplement 6, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-430; Filed, February 8, 1938; 12:55 p. m.]

[WR—B-101—Mont., Supp. 5]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—MONTANA, SUPPLEMENT 5

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Montana, as amended by Supplement 1, Supplement 2, Supplement 3, and Supplement 4, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity in-

dex; (c) grazing capacity; (d) the division of payment; or (e) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-431; Filed, February 8, 1938; 12:55 p. m.]

[WR—B-101—Pondera County, Mont., Supp. 2]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—PONDERA COUNTY, MONTANA, SUPPLEMENT 2

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Pondera County, Montana, as amended by Supplement 1, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (a) soil-depleting base; (b) productivity index; (c) grazing capacity; (d) the division of payment; or (e) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-439; Filed, February 8, 1938; 12:57 p. m.]

[WR—B-101—Nev., Supp. 4]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—NEVADA, SUPPLEMENT 4

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Nevada, as amended by Supplement 1, Supplement 2, and Supplement 3, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (a) soil-depletion base; (b) productivity index; (c) grazing capacity; (d) the division of payment; or (e) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-432; Filed, February 8, 1938; 12:55 p. m.]

[WR—B-101—N. Mex. Supp. 7]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—NEW MEXICO, SUPPLEMENT 7

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—New Mexico, as amended by Supplement 1, Supplement 2, Supplement 3, Supplement 4, Supplement 5, and Supplement 6, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (a) soil-depleting base; (b) productivity index; (c) grazing capacity; (d) the division of payment; or (e) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-433; Filed, February 8, 1938; 12:56 p. m.]

[WR—B-101—N. Dak., Supp. 5]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—NORTH DAKOTA, SUPPLEMENT 5

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—North Dakota, as amended by Supplement 1, Supplement 2, Supplement 3, and Supplement 4, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (a) soil-depleting base; (b) productivity index; (c) grazing capacity; (d) the division of payment; or (e) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so

request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-434; Filed, February 8, 1938; 12:56 p. m.]

[WR—B-101—Oreg., Supp. 5]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—OREGON, SUPPLEMENT 5

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Oregon, as amended by Supplement 1, Supplement 2, Supplement 3, and Supplement 4, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-435; Filed, February 8, 1938; 12:56 p. m.]

[WR—B-101—Utah, Supp. 4]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—UTAH, SUPPLEMENT 4

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Utah, as amended by Supplement 1, Supplement 2, and Supplement 3, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committees.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) Productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration: provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-436; Filed, February 8, 1938; 12:56 p. m.]

[WR—B-101—Weber & Davis Counties, Utah, Supp. 4]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—WEBER & DAVIS COUNTIES, UTAH, SUPPLEMENT 4

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Weber & Davis Counties, Utah, as amended by Supplement 1, Supplement 2, and Supplement 3, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) grazing capacity (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38]440; Filed, February 8, 1938; 12:57 p. m.–

[WR—B-101—Wash., Supp. 4]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO 101—WASHINGTON, SUPPLEMENT 4

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Washington, as amended by Supplement 1, Supplement 2, and Supplement 3, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1 *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committee shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determination of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-437; Filed, February 8, 1938; 12:57 p. m.]

[WR—B-101—Wyo., Supp. 4]

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—WYOMING, SUPPLEMENT 4

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—

Wyoming, as amended by Supplement 1, Supplement 2, and Supplement 3, is further amended by this supplement as follows:

Part IX, Section 1 is amended to read as follows:

"SEC. 1. *Appeals from determinations of county committee.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to: (*a*) soil-depleting base; (*b*) productivity index; (*c*) grazing capacity; (*d*) the division of payment; or (*e*) any other matter affecting the right to or the amount of his payment with respect to the farm or ranching unit may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination; provided, however, that any such person may file such request at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since notice of the county committee's recommendation or determination was forwarded to or available to him.

"The county committee shall notify such person of its decision within 15 days after receipt of such written request for reconsideration; provided, however, that any time prior to March 1, 1938, the county committee shall notify such person of its decision notwithstanding that more than 15 days have elapsed since the receipt of such person's request for reconsideration.

"If such person is dissatisfied with the decision of the county committee he may within 15 days after such decision appeal in writing to the State committee; provided, however, that any such person may so appeal at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the county committee.

"The State committee shall notify such person of its decision within 30 days after the receipt of the appeal; provided, however, that any time prior to March 1, 1938, the State committees shall notify such person of its decision notwithstanding that more than 30 days have elapsed since the receipt of such appeal.

"If such person is dissatisfied with the decision of the State committee, he may within 15 days thereafter request the Regional Director to review the decision of the State committee; provided, however, that such person may so request the Regional Director at any time prior to March 1, 1938, notwithstanding that more than 15 days have elapsed since the decision of the State committee.

"The determinations of the Regional Director in any appeal case as to the facts, or as to the application of the terms and conditions of the 1937 Agricultural Conservation Program when in conformity with the provisions of said program as approved by the Secretary of Agriculture, shall be final and binding upon all parties."

Done at Washington, D. C., this 8th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-438; Filed, February 8, 1938; 12:57 p. m.]

Bureau of Animal Industry.

NOTICE

FEBRUARY 8, 1938.

To E. T. YORK, *Doing business as Kearney Livestock Commission Company, Kearney, Nebr.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Kearney Livestock Commission Company, at Kearney, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-441; Filed, February 8, 1938; 2:15 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES (ARIZONA)

FEBRUARY 8, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administrative Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Arizona State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Maricopa.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-444; Filed, February 9, 1938; 11:14 a. m.]

DESIGNATION OF COUNTIES (CALIFORNIA)

FEBRUARY 8, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the California State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

San Bernardino; San Joaquin.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-445; Filed, February 9, 1938; 11:14 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

Pursuant to the authority of Section 4405 of the Revised Statutes, the Annual Meeting of the Board of Supervising Inspectors, consisting of R. S. Field, Director; Charles Lyons; George Fried; Eugene Carlson; Cecil Bean; Harry Layfield; Chester Willett; and William Fisher, was held in the hearing room of the auditorium, Department of Commerce, Washington, D. C., from January 19 to January 27, inclusive, 1938.

The following business was transacted by the Board and was approved by the Secretary of Commerce:

Adopted the amendments made by the Executive Committee at its meeting on May 6, 1937 relating to approval of miscellaneous items of equipment, which amendments were published in the FEDERAL REGISTER, Volume 2, No. 101, dated May 26, 1937, and the Bureau's Bulletin of June, 1937.

Adopted amendments made by the Executive Committee at its meeting held October 11 to October 13, inclusive, 1937, relating to amendments to the Tanker Regulations and approval of miscellaneous items of equipment, which amendments were published in the FEDERAL REGISTER, Volume 2, No. 225, dated November 19, 1937, and the Bureau's Bulletin of December, 1937.

The following resolutions were unanimously adopted:

EXAMINATION OF BOILER STOP VALVES AND MOUNTINGS

[Resolution No. 4084]

Resolved, That under authority of Sections 4405 and 4418, R. S., Rule II, Section I–18–5, Paragraph (a), General Rules and Regulations, as amended by Resolution No. 4084, Monthly Bulletin of February, 1937, be and hereby is amended to read as follows:

I–18–5 (a). *Examination of boiler stop valves and mountings.*—It shall be the duty of the Local Inspectors to require stop valves and mountings on boilers to be opened up every four years at the time of annual inspection or at the next regular drydocking period thereafter. Mountings and attachments shall be lifted at least once in every eight years to determine the condition of the stud bolts connecting the mountings to the boiler. These examinations may be made at intermediate periods if there is any evidence to indicate that defects have started or excessive corrosion is existent. A record of the inspection of mountings and attachments shall be made on form 840–B and a notation made on the certificate of inspection, this notation to be carried on each certificate until the next period for the regular examination arrives.

ADJUSTED SERVICE PRESSURES

[Resolution No. 4279]

Resolved, That under authority of Sections 4405, 4418, and 4433, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-first Supplement, Edition of January 1, 1935, be and are amended as follows:

Delete the note at the bottom of page 33 and the table at the top of page 34, immediately following Section M–17–11.

Delete the following words, in Italics, immediately following the words "Table P–3" in Section P–19–8 (d); page 105:

"Dimensions of steel companion flanges for maximum steam service pressures of 150 pounds per square inch (gage) at a temperature of 500° F.[1] (Note 1 immediately following this table, reading 'The alternate ratings of 150 and 100 pounds per square inch at 500° and 750° F., respectively, are applicable to the full range of sizes given and to a single set of patterns over this size range.) and 100 pounds per square inch (gage) at 750° F.[1]"

Delete the following words, in Italics, immediately following the words "Table P–4" in Section P–19–8 (d), page 105:

"Dimensions of steel companion flanges for maximum steam service pressure of 300 pounds per square inch (gage) at a temperature of 750° F."

Delete the following words, in Italics, immediately following the words "Table P–5" in Section P–19–8 (d), page 106:

"Dimensions of steel companion flanges for maximum steam service pressure of 400 pounds per square inch (gage) at a temperature of 750° F."

Delete the following words, in Italics, immediately following the words "Table P–6" in Section P–19–8 (d), page 106:

"Dimensions of steel companion flanges for maximum steam service pressure of 600 pounds per square inch (gage) at a temperature of 750° F."

Delete the following words, in Italics, immediately following the words "Table P–7" in Section P–19–8 (d), page 107:

"Dimensions of steel companion flanges for maximum steam service pressure of 900 pounds per square inch (gage) at a temperature of 750° F."

Insert a new table to be known as "Table P–7–A" in Rule II, Section P–19–8 (d), immediately after Table P–7 on page 107, which will read as follows:

TABLE P–7–A.—*Adjusted Marine Pressure Ratings for Steel Valves, Flanges, and Fittings*

FOR STEAM SERVICES OTHER THAN BOILER FEED-WATER AND BLOW-OFF PIPING

	Pounds per square inch							
Marine steam ratings at 750° F.[1]	80	125	250	350	525	800	1,350	2,250
	Adjusted steam service pressures							
Service temperatures:								
450° F	130	180	325	455	680	1,040	1,755	2,925
500° F	125	170	310	435	655	1,000	1,685	2,815
550° F	115	160	300	420	630	960	1,620	2,700
600° F	105	150	285	400	600	920	1,550	2,590
650° F	100	140	275	385	575	880	1,485	2,475
700° F	90	130	260	365	550	840	1,415	2,365
750° F	80	125	250	350	525	800	1,350	2,250
800° F	70	105	205	280	435	665	1,125	1,875
850° F	55	85	165	235	350	530	900	1,500

FOR EXTERNAL FEED-WATER AND BLOW-OFF PIPING[2]

Saturated steam temperatures:								
450° F	------	------	270	380	565	865	1,460	2,435
500° F	------	------	------	------	545	835	1,405	2,345
550° F	------	------	------	------	------	800	1,350	2,250
600° F	------	------	------	------	------	------	1,290	2,160
650° F	------	------	------	------	------	------	------	2,060

[1] These marine steam pressure ratings given at 750° F. correspond in order to the following A. S. A.: Steam ratings at 750° F., 100, 150, 300, 400, 600, 900, 1,500, 2,500.
[2] In no case shall it be permissible to use valves, fittings, or flanges for feed and blow-off service which have a lower pressure rating than that required for steam service at 750° F.

ALARM BELLS AND LOUDSPEAKER SYSTEMS

[Resolution No. 3865–A]

Resolved, That under authority of Sections 4405, 4417 and 4488, R. S., as amended, Section 20, Rule V, Ocean and Coastwise, as amended by the Fifty-third Supplement, be and hereby is amended by deleting Section 20 and inserting the following in its stead:

ALARM BELLS AND LOUDSPEAKER SYSTEMS

20. *Alarm bells.*—All vessels over 100 gross tons shall have all sleeping accommodations equipped with a sufficient number of alarm bells so located as to warn all the occupants. The alarm bells, if electric, shall be operated from an open switch from the pilot house or bridge. The bells shall be of such size, character, and construction as to provide an alarm throughout the spaces for which they are provided.

Loudspeaker systems (where required).—All passenger vessels the construction of which is begun after January 1, 1937, and certificated to carry 1,000 persons or more including officers and crew, and all existing passenger vessels on which lifeboats are stowed more than 100 feet from the navigating bridge, shall be equipped with a loudspeaker system which shall enable an officer on the bridge to broadcast separately or collectively to the following stations:

1. *Lifeboat stations, port and starboard.* (The deck or decks on which lifeboats are stowed and from which they are launched.)
2. *Embarkation deck, port and starboard.* (The deck or decks, designated by construction design or by the vessel's station bill, used for the embarkation of passengers and crew into lifeboats. If lifeboat stations are used for embarkation purposes, this requirement to be omitted.)
3. *Main quarters for crew.* (The quarters of the emergency squad, deck crew, and stewards assigned to passenger quarters.)
4. *Public spaces.* (The spaces designated by the vessel's station bill where passengers and crew are to assemble in an emergency.)

Speakers, designated by the Bureau, at lifeboat stations and on embarkation deck or decks, shall be arranged for two-way conversation with the bridge.

The Director of the Bureau of Marine Inspection and Navigation may, in special cases, exempt passenger vessels having a small number of especially accessible lifeboats stowed more than 100 feet from the bridge. However, no existing passenger vessel having lifeboats stowed more than 100 feet from the navigating bridge and certificated to carry more than 200 persons including officers and crew, shall be exempted from this requirement.

General Specifications

(*a*) The loudspeaker system shall be of a type embodying rugged construction for marine use and simplicity of operation. The entire system shall be controlled from a single location on the bridge.

(*b*) The type of system, method of operation, and installation to be as approved by the Bureau. Wiring to be of a type and character approved for new construction. Provision shall be made to maintain the operating voltage required for the system under conditions of variations in voltage up to 20 percent plus or minus in either the regular or emergency power supply. The system shall be so designed and installed that grounds, short or open circuits occurring at any point in the distribution system will disable not more than one loudspeaker and shall not reduce the volume on the remaining speaker more than 3 decibels. The amplifier system shall be so designed that grounds, short or open circuits or any part of the system will not cause overloading which will reduce the volume output more than 3 decibels or noticeably affect the quality of reproduction. The system shall be equipped with a call or attention signal, which shall be a distinctive note of about 1,500 cycles frequency. The frequency of the system shall be approximately 100/4,000 cycles; and to insure even reproduction of voice over this range, automatic volume control (not expanding type) shall be provided. Distortion not to exceed 10 percent. For A. C. systems duplicate motor generator sets shall be provided and have automatic transfer between same. Indicating lights shall be installed in the control cabinet for indicating when a two-way speaker desires communication with the bridge. All metal parts for cabinets, panels, transformers cases, shields, and any other metal parts subject to corrosion shall be cadmium-plated or protected by other suitable means, the method of which is to be approved by the Bureau. Soldered joints are not to be used except where absolutely necessary and must be made with rosin flux and coated with an insulating varnish that is not subject to the action of salt water. Speakers in outside locations to be mounted in metal boxes or cases with suitable baffles, so constructed that they are protected against water but open for sound emission. Speakers in inside locations to be mounted in metal boxes or cases for protection, with latticed front for sound emission. All speakers to be of the dynamic cone type, with permanent magnetic field.

Use and operation.—The system shall be used at the discretion of the master and shall function entirely independent of any public address or music distribution system, and the system shall not be used for entertainment purposes.

Approval

(*a*) Plans, including drawings of equipment, wiring diagrams, and detailed technical specifications, shall be submitted to the Bureau for comment and approval.

(*b*) All items of equipment, including amplifiers, microphones, loudspeakers, and control apparatus, shall be of a type that has been tested and approved for such service by the Bureau. Before the loudspeaker system fitted on a particular vessel is approved, it shall be submitted to tests to be conducted by representatives of the Bureau.

Spare parts.—Vessels shall be provided with a complete set of installation plans and operating instructions and an adequate supply of spare parts to include at least the following: 1 spare microphone, 100% vacuum tubes of all types used. A reasonable supply of all damageable items, including relays, condensers, and loudspeaking units of each type.

Tests.—The complete system shall be given an operating test at least once every week. These tests shall be made by a licensed officer of the vessel and the condition of the equipment entered in the vessel's log.

BULKHEADS

[Resolution No. 4262]

Resolved, That under authority of Sections 4405, 4417, and 4426, R. S., Section 2, Rule VII, Great Lakes, Bays, Sounds and Lakes other than the Great Lakes, and Rivers, be and hereby are amended by deletion of present Section 2 and insertion in its stead the following:

2. Every new mechanically propelled ferry vessel carrying passengers for hire shall have a sufficient number of transverse watertight bulkheads so that the vessel will remain afloat and have positive stability in the event any one main compartment is flooded.

A forepeak or collision bulkhead shall be fitted and located not less than 5 percent of the length of the ship, and not more than 10 feet plus 5 percent of the length of the ship from the bow, at load water line.

One bulkhead shall be fitted at the forward end of the machinery space (which includes boiler space) and one bulkhead shall be fitted at the after end of the machinery space. Other transverse bulkheads shall be so located as to meet the above requirements of subdivision and stability.

Main transverse bulkheads shall not be stepped, but may be recessed. No recess shall be fitted nearer the vessel's side than one-fifth of the vessel's beam amidships measured at right angles to the center line at the level of the load water line on which the subdivision is based. Bulkheads shall extend to a deck whose distance above the load water line is sufficient to enable the subdivision and stability requirements to be met with a fair margin of safety.

If the distance between two adjacent main transverse watertight bulkheads is less than 10 feet plus 2 percent of the vessel's load water line, only one of these bulkheads shall be regarded as forming a boundary of a main compartment.

In lieu of bulkheading, the Bureau will allow alternative arrangements wherein sufficient buoyancy is supplied by independent air tanks or other means, to float the vessel when flooded while fully loaded. Such arrangements must be approved by the Bureau in each instance.

Existing mechanically propelled ferry vessels carrying passengers for hire operating over routes where the length of trip between terminals exceeds 10 minutes shall comply with the above requirements for new vessels, unless it can be shown by the owner to the satisfaction of the Bureau that their application is impracticable and unreasonable. (Effective January 1, 1939.)

APPROVAL OF MISCELLANEOUS ITEMS OF EQUIPMENT

[Resolution No. 1511–91]

Resolved, That under authority of Sections 4405 and 4491, R. S., the following equipment be and hereby is approved for use on vessels subject to inspection:

FIRE EXTINGUISHERS

2505. Elkhart 2½-gallon foam fire extinguisher, submitted by the Elkhart Brass Manufacturing Company, of Elkhart, Indiana.

4088. Buffalo-Super 1-quart and 1½-quart Carbon Tetrachloride Fire Extinguishers, submitted by the Buffalo Fire Appliance Corporation, of Buffalo, New York.

4088. Buffalo 2½-gallon Pump Type Calcium Chloride Fire Extinguisher, submitted by the Buffalo Fire Appliance Corporation, of Buffalo, New York.

2523. Safety Release Device for Pyrene 2½-gallon Foam Fire Extinguisher, submitted by the Pyrene Manufacturing Company, Newark, N. J.

APPARATUS FOR EXTINGUISHMENT OF FIRE IN COMPARTMENTS OF VESSELS

4103. Fog Nozzle, 1½-inch fixed type spray nozzle, Type B and Type 3A, submitted by the Fog Nozzle Company, 1520 East Sauson Avenue, Los Angeles, California.

4102. Akr-o-mist 1½-inch fixed type spray nozzle, submitted by the Akron Brass Manufacturing Company, Wooster, Ohio.

4208. Spraco 1½-inch fixed type spray nozzle, submitted by the Spray Engineering Company, 114 Central Street, Summerville, Mass.

4125. Alfcospray 1½-inch fixed type spray nozzle, submitted by the American-La France Foamite Industries, Inc., Elmira, New York.

3744. Mulsifyre Sprinkler System, submitted by the Grinnell Manufacturing Company, Providence, R. I.

LIFE PRESERVERS

4204. Kapok-filled Life Preserver Vest, Nos. AV 1010, AV 1011, AV 1012 and AV 1013, submitted by the Cluff Fabric Products, Inc., New York, N. Y.

3266–III. Expanded Rubber Life Preserver Vest, submitted by the American Pad & Textile Co., of Greenfield, O.

HAND DISTRESS SIGNALS

4209. Hand Distress Signals, manufactured by the Pain's Fireworks Display Company, New York, New York.

WATER LIGHTS

4064. Riner's Electric Water Light, submitted by the War Department.

FLASHLIGHTS

2700–III. "Eveready" Automatic Spotlight No. 8351, submitted by the National Carbon Company, New York, N. Y.

LIFEBOAT LOWERING DEVICES

3160. "Schat's Skates", submitted by Captain M. Ruygrok, 25 West 43rd Street, New York, N. Y., representing Schat Patents.

LIFE BUOYS

2278. Foster Balsa Wood Ring Life Buoy, submitted by the Foster Manufacturing Company, 430 Notre Dame Street, New Orleans, Louisiana.

LIFEBOAT GEAR

4218. Welin Hand-Operated Propelling Device, submitted by the Welin Davit and Boat Corporation, of Newark, New Jersey. (Approved subject to final tests.)

3697. Allen Hand-Operated Propelling Device, submitted by the Allen Manual Motor Company, 695 Castro St., San Francisco, California.

[SEAL]

CHARLES LYONS,
U. S. Supervising Inspector, 1st District.
GEO. FRIED,
U. S. Supervising Inspector, 2nd District.
EUGENE CARLSON,
U. S. Supervising Inspector, 3rd District.
CECIL N. BEAN,
U. S. Supervising Inspector, 4th District.
HARRY LAYFIELD,
U. S. Supervising Inspector, 5th District.
CHESTER W. WILLETT,
U. S. Supervising Inspector, 6th District.
WILLIAM FISHER,
U. S. Supervising Inspector, 7th District.
R. S. FIELD,
Director, Bureau of Marine Inspection and Navigation.

Approved:

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–455; Filed, February 9, 1938; 12:36 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDING THE LEGAL CHAPTER OF THE MANUAL CHANGING THE REGULATIONS FOR PAYMENT OF TAXES WITH RESPECT TO EVIDENCE REQUIRED FROM BORROWERS AND REPORTS OF DISBURSEMENTS AND STATUS OF TAXES

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Sections 4–a and 4–k of said Act as amended, Sections 608 and 613 of the Manual are amended respectively to read as follows:

SEC. 608. (*a*) The General Counsel may waive the provisions of lien instruments which require the forwarding of tax receipts to the Corporation.

(*b*) The Regional Counsel shall, as promptly as is reasonably possible and in a manner approved by the General Counsel and the General Manager, refer to the Loan Service Division for servicing as provided in the Loan Service Chapter, all cases of mortgagors or vendees on whose properties taxes, assessments, or other governmental levies or charges, or ground rents, are unpaid as revealed by searches of the public records or information received from other sources; provided, however, that no case shall be referred to the Loan Service Division in which it appears from the tax search that by reason of tax moratoria or otherwise payment of the tax can not be enforced.

(*c*) Upon request of the Loan Service Division the Regional Counsel shall furnish any information from the tax records of the Legal Department that may be of assistance to that Division.

SEC. 613. (*a*) The General Counsel shall render a monthly report to the members of the Board and to the General Manager showing the amounts paid out from funds of the Corporation for taxes, assessments, ground rents or other levies or charges, including interest and penalties, on the properties owned by the Corporation and properties of mortgagors and vendees.

(*b*) Annually, upon completion of the general tax search for a State or Region, the General Counsel shall render a report to the members of the Board and to the General Manager showing the tax status of properties owned by the Corporation and of properties of mortgagors and vendees.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38–450; Filed, February 9, 1938; 11:37 a. m.]

AMENDING SECTION 206 OF CHAPTER II OF THE CONSOLIDATED MANUAL RELATING TO THE RESPONSIBILITY OF THE LOAN SERVICE DIVISION WITH RESPECT TO DELINQUENT TAXES AND TO APPROVING PAYMENT OF TAX ITEMS IN CERTAIN CASES

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Sections 4–a and 4–k of said Act as amended, Section 206 of the Manual is amended to read as follows:

SEC. 206. (*a*) The Loan Service Division shall be responsible for causing mortgagors and vendees to pay delinquent taxes, assessments, or other governmental levies or charges, or ground rents, notice of which shall be received from the Legal Department, as provided in the Manual.

(*b*) Where the case is not to be handled as an extension and the General Manager considers it in the best interest of the Corporation, he may approve the payment of delinquent taxes, assessments, ground rents or other levies or charges where analysis of the case reasonably shows that the mortgagor or vendee

(1) is at present unable to pay such items and maintain his account in good standing, and

(2) can repay such advance within a reasonable time and in any event in a period not exceeding the remaining life of the loan or other contract, and

(3) can maintain his account in good standing and make prompt payment of insurance premiums, taxes, assessments, or other levies and charges, or ground rents as they become due and payable.

Where so approved, the General Counsel is authorized to act thereon without further investigation and may direct payment of such items or may authorize the Regional Counsel to so act in such cases and to direct payment of such items.

Regional Managers may, under procedure and limitations prescribed by the General Manager with the approval of the General Counsel, approve the payment of such items in such cases.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-451; Filed, February 9, 1938; 11:37 a. m.]

AMENDING THE GENERAL CHAPTER (CHAPTER I) OF THE MANUAL

DETERMINATION AND DISPOSITION OF CORPORATION LOSSES

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647), and particularly by Sections 4-a and 4-k of said Act as amended, the consolidated Manual be amended by adding to the General Chapter (Chapter I) a new section to become effective immediately upon its adoption and to be appropriately numbered and placed in Chapter I when completed, said new section to read as follows:

SEC. —. In all cases where provision is not otherwise made as to whether the Corporation has sustained a loss, the General Manager and the General Counsel are authorized to make such determination and where no provision has otherwise been made for the final disposition of such loss the General Manager and the General Counsel are authorized to direct final disposition thereof: *Provided*, That in cases exceeding $50.00 the concurring approval of three Members of the Board shall be required. The Comptroller shall reflect all such final dispositions on the books of the Corporation. The General Manager and General Counsel are also authorized to determine the responsibility for losses not in excess of $50.00 and what action, if any, shall be taken against parties responsible therefor, and with the concurring approval of three Members of the Board are also authorized to determine the responsibility for losses in excess of $50.00.

The authority herein conferred, up to the prescribed $50.00 limitation, may be exercised also by the Regional, State or District Manager and the respective Regional, State or District Counsel under procedure and limitations prescribed by the General Manager, with the approval of the General Counsel.

Be it further resolved, That the resolution adopted February 23, 1937, relating to loss due to inadvertence or failure on the part of fee personnel or employees of the Corporation to comply with the prescribed regulations, is hereby revoked.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-452; Filed, February 9, 1938; 11:38 a. m.]

AMENDING TREASURER'S CHAPTER OF THE MANUAL

METHOD OF GRANTING RELIEF TO OWNERS OF LOST, STOLEN, DESTROYED, MUTILATED OR DEFACED SECURITIES AND MUTILATED OR DEFACED COUPONS

Be it resolved, That pursuant to the authority vested in the Board by the Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934, and particularly by subsections (a) and (k) of Section 4 of said Act as amended, Section 707 of Chapter VII of the Consolidated Manual is hereby amended to read as follows:

(a) The Statutes of the United States, now or hereafter in force, governing relief on account of the loss, theft, destruction, mutilation or defacement of United States securities, and the regulations of the Treasury Department, now or hereafter in force, governing the issuance of substitute securities or the payment of lost, stolen, destroyed, mutilated or defaced securities and mutilated or defaced coupons of the United States, so far as applicable and as necessarily modified to relate to securities and coupons of the Home Owners' Loan Corporation, are hereby adopted as the regulations of the Corporation for the issuance of substitute securities or the payment of lost, stolen, destroyed, mutilated or defaced securities and mutilated or defaced coupons of the Corporation. The Secretary of the Treasury, or the Acting Secretary of the Treasury, is hereby authorized and empowered, on behalf of the Corporation, to approve applications for relief and bonds of indemnity, and to issue substitute securities or make payment of securities and coupons of the Corporation, in accordance with the provisions of this resolution. The Secretary, the Under Secretary, and any Assistant Secretary of the Treasury are hereby severally authorized to waive in their discretion on behalf of the Corporation such regulations of the Corporation in any particular case where a similar waiver would be allowed with respect to United States securities; and the Secretary of the Treasury, or the Acting Secretary of the Treasury, is hereby authorized and empowered, as agent of the Corporation, to administer the foregoing provisions for relief and the regulations with respect thereto, and to delegate such authority at his discretion to other officers and employees of the United States Treasury Department.

(b) For the purpose of this resolution, the term "securities of the Home Owners' Loan Corporation" means all direct obligations of the Corporation issued pursuant to law for valuable consideration and which by their terms bear interest, or are issued on a discount basis, and includes (but is not limited to) bonds and interim receipts issued for any such security.

(c) The Treasurer of the Home Owners' Loan Corporation is hereby authorized and empowered for and in the name of the Corporation to settle with the Treasury Department all matters of detail concerning the administration of the foregoing provisions.

Be it further resolved, That all actions heretofore taken under the provisions of Section 707 of Chapter VII of the Consolidated Manual are hereby expressly ratified and confirmed.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-453; Filed, February 9, 1938; 11:38 a. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Project No. 405]

IN THE MATTER OF THE SUSQUEHANNA POWER COMPANY, AND PHILADELPHIA ELECTRIC POWER COMPANY, LICENSEES

ORDER FIXING DATE OF HEARING

FEBRUARY 1, 1938.

It appearing to the Commission that the matters involved in the determination of the actual legitimate original cost of the initial Conowingo project No. 405, The Susquehanna Power Company and Philadelphia Electric Power Company, Licensees, are now at issue;

The Commission orders that: A public hearing on said matters be held on March 21, 1938, at 10 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-442; Filed, February 9, 1938; 9:42 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of February, A. D. 1938.

[File No. 47-18]

IN THE MATTER OF SOUTHERN NATURAL GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Southern Natural Gas Company, a registered holding company, for approval of the acquisition by applicant, from Mississippi Power and Light Company, of four branch pipelines, rights of way and appurtenances thereto, extending from applicant's main line to Yazoo City, Kosciusko, Durant and Goodman, Mississippi, for a stated consideration of $97,378.18;

It is ordered, That a hearing on such matter be held on February 25, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before February 21, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-443; Filed, February 9, 1938; 10:57 a. m.]

Friday, February 11, 1938 *No. 30*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF REGULATION VIII OF REGULATIONS GOVERNING APPOINTMENT OF UNCLASSIFIED LABORERS

By virtue of and pursuant to the authority vested in me by section 1753 of the Revised Statutes of the United States (U. S. C., title 5, sec. 631), it is hereby ordered that the first paragraph of Regulation VIII of the civil service regulations governing the appointment of unclassified laborers be, and it is hereby, amended to read as follows:

"A person having an unclassified competitive status, or eligibility for such status through competitive examination, at the time he is separated without delinquency or misconduct from an unclassified laborer position in the Federal service may be reinstated to a similar position under any department or independent establishment subject to physical examination and to the following limitations:"

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 9, 1938.

[No. 7811]

[F. R. Doc. 38-456; Filed, February 10, 1938; 9:58 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 218]

AN ORDER MODIFYING ORDER NO. 89, AS MODIFIED BY ORDERS NOS. 126, 148, 159, 187 AND 192, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 1, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES TO BE KNOWN AS "SUPPLEMENT NO. 5 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 1"

The National Bituminous Coal Commission having by its Order No. 89, as modified by Orders Nos. 126, 148, 159, 187 and 192, determined and established the minimum prices of coals of code members produced within District No. 1, as set forth in "Price Schedule No. 1—District No. 1", as supplemented by Supplements Nos. 1, 2, 3 and 4 and Revised Truck Mine Price Schedule No. 1, and having determined that the provisions of sub-sections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedules and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 1, established in "Price Schedule No. 1—District No. 1", as supplemented by Supplements Nos. 1, 2, 3 and 4 to Price Schedule No. 1—District No. 1 and Revised Truck Mine Price Schedule No. 1—District No. 1, are hereby further supplemented as set forth in "Supplement No. 5 to Price Schedule No. 1—District No. 1", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 5, shall be and hereby are determined and established as the minimum prices of coals of code members within District No. 1, and shall be effective at 12:01 o'clock A. M., on the 17th day of February, 1938.

2. That said Order No. 89, as modified by Orders Nos. 126, 148, 159, 187 and 192 and Price Schedule No. 1—District Number 1, and Supplements Nos. 1, 2, 3 and 4 thereto, and Revised Truck Mine Price Schedule No. 1—District No. 1, except as modified herein and by Supplement No. 5 to Price Schedule No. 1—District No. 1, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 5 to Price Schedule No. 1—District No. 1 to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 1; shall cause copies of this Order and said Supplement No. 5 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT No. 5 TO PRICE SCHEDULE No. 1, DISTRICT No. 1

To All Code Members Within District No. 1:

Effective February 17, 1938 the following changes in Price index of Price Schedule No. 1 of District No. 1 shall be made:

Company	Mine	Size groups											
		1	2	3	4	5	6	7	9	12	13	14
Ajax Coal Company	Ajax No. 2	G	G	G	G	G	G	G	G	G2	G2	G2
Baker-Whitley Coal Company	Elma No. 3	E	E	E	E	E	E	E	E	E	E	E
Bird Coal Company	Bird Nos. 1, 2 and 5	E	E	E	E	E	E	E	E	E	E	E
Dahlin, Roy	Mountain Branch	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2
Davis Coal & Coke Company	No. 37	D	D	D	D	D	D	D	D	D	D	D
	No. 38	D	D	D	D	D	D	D	D	D	D	D
	No. 39	D	D	D	D	D	D	D	D	D	D	D
	No. 40	D	D	D	D	D	D	D	D	D	D	D
	No. 42	D	D	D	D	D	D	D	D	D	D	D
Georges Creek Coal Company, Inc	Nos. 3 and 4	D	D	D	D	D	D	D	D	D	D	D
Johnstown Coal & Coke Company	Portage No. 6	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2
McCombie Coal Mining Co	McCombie #2	G	G	G	G	G	G	G	G	G	G	G
McNitt Coal Co	McNitt No. 2	D	D	D	D	D	D	D	D	D	D	D
Ralphton Coal Co	Ralphton #1	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2	C2
Wilbur Coal Mining Company	Knickerbocker No. 4	E	E	E	E	E	E	E	E	E	E	E

By order of the Commission.
Dated this 7th day of February, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-465; Filed, February 10, 1938; 12:45 p. m.]

[Order No. 219]

AN ORDER MODIFYING ORDER NO. 73, AS MODIFIED BY ORDER NO. 125, AND SUPPLEMENTING THE REVISED SCHEDULE OF INITIAL CLASSIFICATIONS OF COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 1 BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF CLASSIFICATIONS, TO BE KNOWN AS "SUPPLEMENT NO. 1 TO REVISED CLASSIFICATION SCHEDULE 1—DISTRICT NO. 1"

The National Bituminous Coal Commission having by its Order No. 73, as modified by Order No. 125, established the schedule of initial classifications of coals of code members produced within District No. 1, as set forth in "Revised Classification Schedule 1—District No. 1" and having determined that the provisions of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid Revised Classification Schedule 1—District No. 1 by a supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Revised Schedule of Initial Classifications of Coals of Code Members produced within District No. 1 be and the same is hereby supplemented as set forth in "Supplement No. 1 to Revised Classification Schedule 1—District No. 1", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and the classifications in said "Supplement No. 1 to Revised Classification Schedule 1—District No. 1" shall be and are hereby determined and established as the classifications of coals of code members produced within District No. 1.

2. That except as herein modified, the Revised Classification Schedule 1—District No. 1, as established by Order No. 125, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and said Supplement No. 1 to Revised Classification Schedule 1—District No. 1 to the Consumers' Counsel, to the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 1; and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 1 TO REVISED CLASSIFICATION SCHEDULE 1, DISTRICT NO. 1

The Supplemental Revised Schedule of Initial Classifications of Coals of Code Members within District No. 1 as set forth herein has been established by order of the Commission, effective as of this date, subject to such modifications and revisions as the Commission may establish by further orders.

Dated: February 7, 1938.

F. W. MCCULLOUGH, *Secretary.*

Producer	Mine	Run of mine	Nut sized over ¾" x 0 to and including 2" x 0	Slack ¾" x 0 and under
z-Ajax Coal Company	Ajax No. 2	G-z	G_3z	G_3z
c-B Quality Coal Company	B Quality #2 and #3	B	B	C
z-Baker-Whiteley Coal Co	Elma No. 3	E-z	E-z	E-z
z-Bird Coal Company	Bird Nos. 1-2 and 5	E-z	E-z	E-z
c-Burnwell Coal Company	Burnwell	E	E	E
z-Dahlin, Roy	Mountain Branch	C_7-z	C_7-z	C_7-z
z-Davis Coal & Coke Co., The	Mine No. 37	D-z	D-z	D-z
z-Davis Coal & Coke Co., The	Mine No. 38	D-z	D-z	D-z
z-Davis Coal & Coke Co., The	Mine No. 39	D-z	D-z	D-z
z-Davis Coal & Coke Co., The	Mine No. 40	D-z	D-z	D-z
z-Davis Coal & Coke Co., The	Mine No. 42	D-z	D-z	D-z
c-Daywood Coal Company	Daywood No. 1	D	D	D
c-Diamond Coal Company	Randolph No. 2	F	F	F
c-Ednie Fuel, Inc	Ednie	C_3	C_3	C_3
z-Georges Creek Coal Co., incl	Nos. 3 and 4	D-z	D-z	D-z
c-Gould, Thomas V	Midvale No. 3	C_3	C_3	C_3
c-Handel, Wm. & Son	Handel	F	F	F
c-Harlan Coal Company	Harlan	G	G	G
c-Huff, I. L	Lewis	G	G_3	G_3
c-Jackson Hill Coal Company	Jackson	C	C	C
z-Johnstown Coal & Coke Co	Portage No. 6	C_3z	C_3z	C_3z
c-Johnstown Coal & Coke Co	No. 10	C_3	C_3	C
c-Leadbetter Coal Company	Empire "G"	C_3	C_3	C_3
c-Lilly Ben's Creek Coal Co	Ben's Cr. Valley #1	E	E	E
c-Mathews, R. L. & Sons	Belfast No. 2	E	E	E
c-McClain Coal Company	Black No. 3	B	B	B
z-McCombie Coal Mng. Co	McCombie No. 2	G-z	G-z	G-z
z-McNitt Coal Company, The	McNitt No. 2	D-z	D-z	D-z
c-Midway Coal Company	Midway	C_3	C_3	C_3
*-Morrisdale Coal Mng. Co	Shaft No. 3	D*	D*	D*
c-Page Coal Company	Joseph Page	C	C	C
c-Page, James A. & Sons	Page No. 1	E	E	E
c-Page, James A. & Sons	Page No. 2	F	F	F
c-Pennington, C. E	No. 4	F	F	F
z-Ralphton Coal Company	Ralphton No. 1	C_2z	C_2z	C_2z
c-Romesburg, L. L	Saylor	F	F	F
c-Standard Moshannon C. Co	Standard No. 5	F	F	F
c-Straitiff, D. W	Straitiff No. 5	D	D	D
c-Straitiff, D. W	Straitiff No. 6	G	G	G
c-Swanks Sons, Hiram	No. 1	D	D	D
c-Swanks Sons, Hiram	No. 1A	D	D	D
c-Walnut Run Coal Company	Sunshine	E	E	E
c-Walnut Run Coal Company	Byrnes #1	E	E	E
z-Wilbur Coal Mng. Company	Knickerbocker #4	Ez	Ez	Ez

c-Additions. z-Reclassifications. * Correction.

[F. R. Doc. 38-459; Filed, February 10, 1938; 12:43 p. m.]

[Order No. 220]

AN ORDER MODIFYING ORDER NO. 95, AS MODIFIED BY ORDERS NOS. 131, 163, 179, 190 AND 215, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 7, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 5 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 7"

The National Bituminous Coal Commission having by its Order No. 95, as modified by Orders Nos. 131, 163, 179, 190 and 215, determined and established the minimum prices of coals of code members produced within District No. 7, as set forth in "Price Schedule No. 1—District No. 7", as supplemented by Supplements Nos. 1, 2, 3 and 4 and Truck Mine Price Schedule No. 1, and having determined that the provisions of subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedules and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 7, established in "Price Schedule No. 1—District No. 7", as supplemented by Supplements Nos. 1, 2, 3 and 4 to Price Schedule No. 1—District No. 7 and Truck Mine Price Schedule No. 1—District No. 7, are hereby further supplemented as set forth in "Supplement No. 5 to Price Schedule No. 1—District No. 7", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 5, shall be and hereby are determined and established as the minimum prices of coals of code members within District No. 7, and shall be effective at 12:01 o'clock A. M., on the 17th day of February, 1938.

2. That said Order No. 95, as modified by Orders Nos. 131, 163, 179, 190 and 215 and Price Schedule No. 1—District No. 7, and Supplements Nos. 1, 2, 3 and 4 thereto, and Truck Mine Price Schedule No. 1—District No. 7, except as modified herein and by Supplement No. 5 to Price Schedule No. 1—District No. 7, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 5 to Price Schedule No. 1—District No. 7 to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 7; shall cause copies of this Order and said Supplement No. 5 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 5, PRICE SCHEDULE NO. 1, DISTRICT NO. 7

To All Code Members Within District No. 7:

Effective February 17, 1938, the following changes shall be made in price indices:

Company	Mine	Size groups							
		1	2	3	4	5	6	8	9
Jacob's Fork Pocahontas Coal Co.	Jacob's Fork Mine	---	---	---	---	---	---	E	E
Beckley Fire Creek Coal Co.	Penman Mine	A	A	A	A	B	B	B	B
Gaston Coal Co	Alpha Beckley Mine	---	---	---	---	---	---	B	B

By order of the Commission.

Dated this 7th day of February, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-460; Filed, February 10, 1938; 12:43 p. m.]

[Order No. 221]

AN ORDER MODIFYING ORDER NO. 96, AS MODIFIED BY ORDERS NOS. 132, 164, 184, 191, 211 AND 216, AND SUPPLEMENTING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 8, BY ADDING THERETO A SUPPLEMENTAL SCHEDULE OF PRICES, TO BE KNOWN AS "SUPPLEMENT NO. 6, TO PRICE SCHEDULE NO. 1—DISTRICT NO. 8"

The National Bituminous Coal Commission having by its Order No. 96, as modified by Orders Nos. 132, 164, 184, 191, 211 and 216, determined and established the minimum prices of coals of code members produced within District No. 8, as set forth in "Price Schedule No. 1—District No. 8", as Supplemented by Supplements Nos. 1, 2, 3, 4 and 5 and Truck Mine Price Schedule No. 1, and having determined that the provisions of sub-sections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof will be carried out more effectively by supplementing the aforesaid schedules and supplements by a further supplement as hereinafter provided:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of code members produced within District No. 8, established in "Price Schedule No. 1—District No. 8", as supplemented by Supplements Nos. 1, 2, 3, 4 and 5 to Price Schedule No. 1—District No. 8 and Truck Mine Price Schedule No. 1—District No. 8, are hereby further supplemented as set forth in "Supplement No. 6 to Price Schedule No. 1—District No. 8", filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices, as shown in said Supplement No. 6, shall be and hereby are determined and established as the minimum prices of coals of code members within District No. 8, and shall be effective at 12:01 o'clock A. M., on the 17th day of February, 1938.

2. That said Orders Nos. 96, 132, 164, 184, 191, 211 and 216 and Price Schedule No. 1—District No. 8, and Supplements Nos. 1, 2, 3, 4 and 5 thereto, and Truck Mine Price Schedule No. 1—District No. 8, except as modified herein and by Supplement No. 6 to Price Schedule No. 1—District No. 8, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 6 to Price Schedule No. 1—District No. 8 to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 8; shall cause copies of this Order and said Supplement No. 6 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 7th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 6 PRICE SCHEDULE NO. 1—DISTRICT NO. 8

To All Code Members Within District No. 8:

Effective February 17 the following changes shall be made in Price Schedule No. 1 and supplements thereto:

Page No. BP 2:

The prices provided for Elk River Coal & Lumber Co., Rich Run Mine when shipped into Market Areas Nos. 1, 1A, 2 and 3 shall be changed as follows:

Now read	Change to read	Now read	Change to read
Group 17, 232	No Change.	Group 19, 212	207.
Group 18, 222	217[1].	Group 197	No Change.

[1] 2" lump in size group 18 may take a price of "212."

Price Instructions and Exceptions No. 9 shall be changed to read as follows:

Cannel Coal Prices

	All districts except Logan	Logan district		All districts except Logan	Logan district
Block, Chunks and Lumps	400	350	Chips	250	200
Egg	325	300	Machine Cuttings	160	120

The "Note" at bottom of the page shall be changed to read as follows:

"NOTE.—Slack coal having a maximum top size of 3/8" may be priced 10¢ per net ton lower than size group 9 *when shipped into all Market Areas listed above excepting Market Areas Nos. 40, 41, and 42.*"

The following clause shall be inserted:

"NOTE.—Slack coal having a maximum top size of 3/8" may be priced 10¢ per net ton lower than size group 9 when shipped into Market Areas Nos. 2, 4 or 6."

The following clause shall be inserted:

"NOTE.—Slack coal having a maximum top size of 3/8" may be priced 10¢ per net ton lower than size group 9 when shipped into Market Areas Nos. 7, 8, 9, 10 and 11."

By order of the Commission.
Dated this 7th day of February, 1938.

F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-461; Filed, February 10, 1938; 12:43 p. m.]

[Docket No. 224-FD]

IN THE MATTER OF CONSUMERS' COUNSEL ON BEHALF OF KOPPERS COMPANY-SEABOARD DIVISION

AN ORDER AMENDING TEMPORARY ORDER ENTERED HEREIN ON FEBRUARY 5, 1938

The Commission having entered a temporary order in the above entitled matter on the 5th day of February, 1938, and having reviewed the said temporary order, and it appearing that said temporary order should be amended as hereinafter provided,

Now, therefore, it is hereby ordered:

1. That paragraph 1 of said temporary order be and the same is hereby rescinded, and the following paragraph is hereby substituted in lieu thereof:

"1. That pending final disposition of the aforesaid petition or until further order of the Commission, that Supplement No. 2, Price Schedule No. 1—District No. 7 (by-product) be and the same is hereby modified and revised to contain the following provisions as if the same were more fully set forth therein:

" 'Low volatile coals in said by-product price schedule, sold and used for by-product purposes, moving through tidewater (Hampton Roads, Virginia) for delivery into Market Area No. 1-A (points as Port of New York including Port Chester, New York) shall take the following minimum prices per net ton of 2000 lbs. f. o. b. mine, as set opposite the respective price index:' "

"A"	$2.00
"B"	1.95
"C"	1.90
"D"	1.85

2. That said temporary order, except as herein amended, shall remain in full force and effect until further order of the Commission.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 7, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 8th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-462; Filed, February 10, 1938; 12:44 p. m.]

[Docket No. 225-FD]

IN THE MATTER OF CONSUMERS' COUNSEL ON BEHALF OF BROOKLYN UNION GAS COMPANY

AN ORDER AMENDING TEMPORARY ORDER ENTERED HEREIN ON FEBRUARY 5, 1938

The Commission having entered a temporary order in the above entitled matter on the 5th day of February, 1938, and having reviewed the said temporary order, and it appearing that said temporary order should be amended as hereinafter provided,

Now, therefore, it is hereby orderd:

1. That paragraph 1 of said temporary order be and the same is hereby rescinded, and the following paragraph is hereby substituted in lieu thereof:

"1. That pending final disposition of the aforesaid petition or until further order of the Commission, that Supplement No. 2, Price Schedule No. 1—District No. 7 (by-product) be and the same is hereby modified and revised to contain the following provisions as if the same were more fully set forth therein:

" 'Low volatile coals in said by-product price schedule, sold and used for by-product purposes, moving through tidewater (Hampton Roads, Virginia) for delivery into Market Area No. 1-A (points at Port of New York including Port Chester, New York) shall take the following minimum prices per net ton of 2,000 lbs. f. o. b. mine, as set opposite the respective price index:' "

"A"	$2.00
"B"	1.95
"C"	1.90
"D"	1.85

2. That said temporary order, except as herein amended, shall remain in full force and effect until further order of the Commission.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 7, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 8th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-463; Filed, February 10, 1938; 12:44 p. m.]

[Docket No. 226-FD]

IN THE MATTER OF CONSUMERS' COUNSEL ON BEHALF OF CONSOLIDATED EDISON COMPANY OF NEW YORK, INCORPORATED

AN ORDER AMENDING TEMPORARY ORDER ENTERED HEREIN ON FEBRUARY 5, 1938

The Commission having entered a temporary order in the above entitled matter on the 5th day of February, 1938, and having reviewed the said temporary order, and it appearing that said temporary order should be amended as hereinafter provided,

Now, therefore, it is hereby ordered:

1. That paragraph 1 of said temporary order be and the same is hereby rescinded, and the following paragraph is hereby substituted in lieu thereof:

"1. That pending final disposition of the aforesaid petition or until further order of the Commission, that Supplement No. 2, Price Schedule No. 1—District No. 7 (by-product) be and the same is hereby modified and revised to contain the following provisions as if the same were more fully set forth therein:

" 'Low volatile coals in said by-product price schedule, sold and used for by-product purposes, moving through tidewater (Hampton Roads, Virginia) for delivery into Market Area No. 1-A (points at Port of New York including Port Chester, New York) shall take the following minimum prices per net ton of 2,000 lbs. f. o. b. mine, as set opposite the respective price index:' "

"A"	$2.00
"B"	1.95
"C"	1.90
"D"	1.85

2. That said temporary order, except as herein amended, shall remain in full force and effect until further order of the Commission.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 7, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 8th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-464; Filed, February 10, 1938; 12:44 p. m.]

DEPARTMENT OF AGRICULTURE.

Forest Service.

MINIDOKA NATIONAL FOREST

Whereas, a number of horses are grazing in trespass on the Minidoka National Forest; and

Whereas, these horses are consuming forage needed by domestic livestock under permit, are overgrazing the ranges, and causing extra expense to established permittees:

Now, Therefore, by virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat., 628), amendatory of the Act of June 4, 1897 (30 Stat., 11), I [Henry A. Wallace], Secretary of Agriculture, do make and publish the following order for the occupancy, use, protection, and administration of the Minidoka National Forest:

1. The Sublett and Black Pine Divisions of the Minidoka National Forest are hereby closed to the grazing of horses during the period February 10 to March 31, 1938, except those used in connection with operations on the National Forest or by the traveling public.

2. Unless the horses now trespassing on the Sublett and Black Pine Divisions of the Minidoka National Forest are removed on or before February 9, 1938, Forest officers are hereby authorized to dispose of them in the most humane manner.

3. Public notice of intention to dispose of such horses will be given by posting notices in public places or advertising in a newspaper of general circulation in the area in which the Forest is located.

In Witness Whereof, I have hereunto set my hand this 9th day of February, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-457; Filed, February 10, 1938; 11:37 a. m.]

OCCUPANCY, USE, PROTECTION, AND ADMINISTRATION OF NATIONAL FORESTS

MODIFICATION OF REGULATION T-8½

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat., 628), amendatory of the Act of June 4, 1897 (30 Stat., 11, 35), I, H. A. Wallace, Secretary of Agriculture, do hereby amend Regulation T-8½ of the rules and regulations governing the occupancy, use, protection, and administration of the National Forests, to read as follows:

Reg. T-8½. Upon National Forest lands designated under Reg. G-20 A the following acts are prohibited:

Hunting, fishing, trapping, catching, disturbing, or killing any kind of game, non-game, or fur-bearing animals, game or non-game fish, or game or non-game birds, or taking the eggs of any such fish or bird, except during the hunting, trapping, and fishing seasons established by the Secretary, and in accordance with the terms and conditions of a permit issued by a duly authorized officer, which is valid and subsisting at the time.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 9th day of February, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-458; Filed, February 10, 1938; 11:37 a. m.]

Saturday, February 12, 1938 — *No. 31*

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

ROSEBUD RESERVATION, SOUTH DAKOTA

ORDER OF RESTORATION

Whereas, under authority contained in the acts of Congress approved April 23, 1904 (33 Stat. 254), March 2, 1907 (34 Stat. 1230), and May 30, 1910 (36 Stat. 448), providing for the disposal by the United States of large areas of land within the boundaries of the Rosebud Indian Reservation, State of South Dakota, said areas were opened to settlement and entry under the general provisions of the homestead and townsite laws of the United States and of the said acts of Congress by Presidential proclamations of May 13, 1904 (33 Stat. 2354), August 24, 1908 (35 Stat. 2203), and June 29, 1911 (37 Stat. 1691), respectively, and

Whereas, pursuant to authority contained in the act of March 2, 1907, supra, certain tracts of land within the opened portion of the reservation were set aside and reserved for the townsites of Wamblee, Witten, and Wewela, and

Whereas, there are now remaining undisposed of on the said opened portion of the Rosebud Reservation a number of tracts of surplus land, together with a large number of vacant lots within the above mentioned townsites which, while of little value for the original purpose of settlement and entry, upon thorough investigation have been found to be valuable to the Indians of the said reservation, and

Whereas, by relinquishment and cancellation of homestead entries a small additional area of land may be included within the class of undisposed-of surplus land, and

Whereas, the Tribal Council, the Superintendent of the Rosebud Indian Reservation, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of all such undisposed-of lands in the said reservation.

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the act of June 18, 1934 (48 Stat. 984), I hereby find that restoration to tribal ownership of all lands which are now or may hereafter be, classified as undisposed-of, surplus, opened lands of the Rosebud Indian Reservation, together with all unsold lots in the townsites of Wamblee, Witten, and Wewela, will

be in the public interest, and the said lands are hereby restored to tribal ownership for the use and benefit of the Rosebud Sioux Tribe of Indians of the Rosebud Indian Reservation in the State of South Dakota, and are added to and made a part of the existing reservation, subject to any valid existing rights.

HAROLD L. ICKES,
Secretary of the Interior.

January 12, 1938.

[F. R. Doc. 38-466; Filed, February 11, 1938; 10:17 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. 54]

SUPPLEMENTARY REGULATIONS RELATIVE TO BIDS OF CARRIERS SUBJECT TO THE CLAYTON ANTITRUST ACT FOR SECURITIES, SUPPLIES, OR OTHER ARTICLES OF COMMERCE

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 29th day of January, A. D. 1938.

It appearing, that the Commission's order herein dated October 6, 1919, and as amended October 4, 1920, and still in force (56 ICC 847-850), which prescribed regulations to govern bids subject to Section 10 of the Clayton Antitrust Act, for securities, supplies, or other articles of commerce, applied to all carriers subject to the Act to regulate commerce.

And it further appearing that under the provisions of Part II of the Interstate Commerce Act (Motor Carrier Act, 1935) common carriers by motor vehicle, which are engaged in interstate or foreign commerce, now are subject to the Commission's jurisdiction;

It is ordered, that the regulations prescribed in said order dated October 6, 1919, as amended October 4, 1920, be, and they are hereby, made applicable on and after January 29, 1938, to all common carriers subject to Part II of the Interstate Commerce Act (Motor Carrier Act, 1935).

It is further ordered, that notice of this order be given to all interested parties, including common carriers subject to Part II of the Interstate Commerce Act (Motor Carrier Act, 1935) and all others of the general public affected by this order, by publishing it, together with said order of October 6, 1919, as amended October 4, 1920, in the FEDERAL REGISTER, and by depositing copies thereof in the office of the Secretary of the Commission in Washington and the office of each of the District Directors of the Bureau of Motor Carriers of the Commission.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[Ex Parte No. 54]

ORDER [AS AMENDED OCTOBER 4, 1920]

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of October, A. D. 1919.

It appearing; that section 1 of "An Act to Supplement existing Laws Against Unlawful Restraints and Monopolies, and for Other Purposes," approved October 15, 1914, hereinafter called the Clayton Antitrust Act, contains, among others, the following definitions:

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

And it further appearing; that section 10 of the said Act provides:

That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than $50,000, in the aggregate, in any one year, with another corporation, firm, partnership or association when the said common carrier shall have upon its board of directors or as its president, manager or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said Commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding $25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding $5,000, or confined in jail not exceeding one year, or both, in the discretion of the court. (38 Stat. c. 323, p. 730.)

And it further appearing; that by Joint Resolution Congress extended the effective date of section 10 to January 1, 1919, *except* as to corporations organized after January 8, 1918,[1] (39 Stat. c. 427, p. 674; 39 Stat. c. 190, p. 1201; 40 Stat. c. 8, p. 431).

It is ordered; That the following regulations be, and they are hereby, prescribed to become effective on and after January 1, 1920, viz:

1. When any carrier, subject to the Act to regulate commerce, is required by section 10 of the Clayton Antitrust Act to call for bids for securities, supplies, or other articles of commerce, or for the construction or maintenance of any kind or part of its carrier property such carrier shall prepare specifications, form of proposals and contact, setting forth clearly and so far as applicable in each case in detail a description or descriptions of the matters and things for which bids are requested, the terms, times and conditions of delivery and payment, the place or places where delivery or performance is to be made, the character, amount, and terms of securities offered or sought, and a full description of the supplies or other articles required or offered for sale, hypothecation, or purchase, and shall make and attach to such specifications such maps, drawings, and illustrations and state such other substantial facts or conditions as are or may be necessary to a full understanding of the premises and procedure by bidders. Such specifications, drawings and illustrations in each case shall be kept open at the principal office or offices of the carrier for full examination, free of charge, by persons desiring to examine the same with a view to bidding, and, upon request, such carrier shall furnish to any person or persons desiring the same true and accurate copies of such specifications, maps, drawings and illustrations; *provided* that the carrier may make a charge for such copies so furnished, the charge not to exceed the reasonable cost of making and forwarding the copies requested.

[1] Further extended to January 1, 1921, except as to corporations organized after January 12, 1918 (41 Stat. c. 91, p. 499).

The carrier shall publish in each case a request for bids in at least two daily newspapers of general circulation, at least two publications in each week for two weeks, the first publication to be at least two weeks immediately preceding the day when the bids are to be submitted; one such newspaper shall be published or shall be of general circulation in the city or town where the principal operating office of the carrier is located and the other newspaper shall be published in one other of the following cities nearest to the operating or financial office of the carrier or the place where the contract is to be performed, namely: New York, N. Y., Boston, Mass., Chicago, Ill., St. Louis, Mo., Atlanta, Ga., San Francisco, Cal., and Portland, Oreg.; and a printed copy of the published notice in each case shall be posted in plain view, for two weeks immediately preceding the day on which bids are to be received, on a bulletin board, designated for that purpose, in a public and conspicuous place in the building where the principal operating office of the carrier is located. Such published notices shall describe in general but intelligible terms the proposed contract, giving its serial number, and the special matter or things for which bids are requested, and the date on or before which the bids must be submitted, and the person by whom and the office at which the bids submitted will be received and opened as herein provided. The carrier may in said notice reserve the right to reject any and all bids and may, at its option, require each bidder to tender a bond in a reasonable sum to be therein named, with sufficient surety or sureties conditioned upon the faithful and prompt performance of the terms of the contract.

2. Every bid to receive consideration shall be submitted at the place specified in the notice on or before noon of the day on which the bids are to be opened and the bids shall be opened after noon and before six o'clock, on the day and at the place and by the person or persons designated in the notice. Each bidder may attend in person or by duly authorized representative at the opening of the bids, and shall be afforded an opportunity to do so and to examine each bid. The bids shall forthwith be tabulated in conformity with the form of proposal prepared and a copy of such tabulation shall be promptly furnished to any bidder or his authorized representative upon application therefor.

When required by the notice, each bid shall be accompanied by tender of a bond in the amount specified in the notice with sufficient surety or sureties conditioned upon the faithful and prompt performance of the proposed contract. A bond shall be required only in cases where the notice for bids expressly calls for a bond.

Each bid shall be enclosed with accompanying papers in a plain envelope securely sealed bearing no indication of the name of the bidder or the amount of the bid, and shall be marked "Bid under proposed contract No. ——," and shall be addressed to the officer of the carrier designated in the notice to receive the same.

Each bid shall state the name and address of the bidder and, if the bidder be a corporation, the names and addresses of the officers, directors and general manager thereof and of the purchasing or selling officer or agent in that transaction and, if the bidder is a firm, partnership or association, the bid shall give the names and addresses of each member thereof, and of the manager, purchasing or selling officer or agent in that transaction.

3. After receiving and opening bids as aforesaid, the carrier receiving the same shall within 48 hours in cases where the sale or purchase of securities is the undertaking, and within ten days where bids are for supplies, equipment, other articles of commerce and for construction or maintenance work, accept the most favorable bid considering (1) the lowest price or prices for the supplies, equipment, and other articles of commerce, and for the construction or maintenance work, described in the advertisement, and the highest price or prices offered for any securities or property, so described, for sale by the carrier, and (2) the ability and reliability of the bidder, financial and otherwise, to deliver the property or to perform the work or transaction, or to pay for the securities, described in the advertisement, giving due consideration to any bond or security tendered by the bidder. If the right be reserved in the notice all bids may be rejected and the carrier may readvertise for bids. The carrier shall notify the successful bidder of the acceptance of his or its bid, and the bidder shall within ten days execute the required contract, and, if required by the notice, execute a good and sufficient bond for the faithful and prompt performance of the contract. In case the successful bidder shall neglect or fail within said time to execute the contract or bond as aforesaid the carrier may within five days award the contract to the next most favorable bidder, ascertained as herein provided for determining the most favorable bidder. If neither the most favorable bidder nor the next most favorable bidder shall execute a contract and qualify as aforesaid, the carrier shall readvertise for new bids.

4. Each carrier after having made and executed a contract as and in the manner above specified shall within thirty days after the execution of such contract file with the Interstate Commerce Commission a statement of the transaction giving, (a) a copy of the published notice; (b) the names of all bidders, and, if the bidder be a corporation, the names and addresses of the officers, directors and general managers thereof and of the purchasing or selling officer or agent in that transaction, or if the bidder be a partnership or firm, the names and addresses of the members of the firm, the general manager and purchasing or selling agent thereof, and the total amount of each bid; (c) the name of the bidder to whom the contract was awarded together with a copy of the contract; and (d) if any other than the lowest or the highest bid, as the case may be, is accepted as being most favorable to the carrier, the reasons for such acceptance. The statement shall be made in typewriting, in pamphlet form on pages not less than 8 by 10½ inches in size nor greater than 9½ by 12 inches, in size, bound on the longer edge of the page, the paper to be of durable quality fit for permanent record.

5. [*As amended October 4, 1920.*] In the case of each bid so taken as aforesaid, the carrier shall preserve and keep open for examination by the Interstate Commerce Commission or any duly authorized examiner thereof, (a) a copy of the resolution or order of the Board of Directors, Executive Committee, or officers of the said common carrier specifying the purposes and terms of the contract for which the bids were invited; (b) a copy of the specifications, maps, drawings, and illustrations upon which bids were made; (c) copies of the notices published, sworn to by or on behalf of the publisher of each paper, respectively, giving the dates and times of publication; (d) the original bids received, designating the bid accepted and giving a statement of the reasons for accepting the same; (e) a copy of the contract entered into between the carrier and the accepted bidder, together with a copy of the bonds if any; (f) references by number of volume and page to the records of proceedings of the stockholders, directors, or executive committee of the carrier. The files in each transaction shall be securely fastened together and given the contract number and each document therein shall be numbered consecutively and at the conclusion there shall be a sworn statement by the president, a vice president, or the general manager of the carrier, stating that the files in No. —— contain true and complete records and statements of all the negotiations had in connection with the contract therein set forth. Such files shall not be broken or any part destroyed by the carrier or any officer or agent of the carrier without written authorization from the Interstate Commerce Commission.

It is further ordered, That a copy of this order be served upon each common carrier subject to the interstate commerce act, and that notice of this order be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission in Washington, D. C.

By the Commission.

[SEAL.] GEORGE B. MCGINTY, *Secretary.*

[F. R. Doc. 38-467; Filed, February 11, 1938; 12:14 p. m.]

Tuesday, February 15, 1938 *No. 32*

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4793]

EXEMPTION OF DISTILLERS OF CERTAIN BRANDY FROM PROVISIONS OF INTERNAL REVENUE LAWS

REGULATIONS 7 (EFFECTIVE MAY 1, 1930), PARAGRAPH 317, AMENDED

To District Supervisors and Others Concerned:

Pursuant to the authority conferred by Section 3255 R. S., as amended (U. S. C., 1934 ed., title 26, Supp. II, sec. 1176), the first paragraph of Paragraph 317, Page 106, Regulations 7, approved May 1, 1930, is hereby amended to read as follows:

"PAR. 317. Section 3255 R. S., as amended, authorizes the Commissioner, with the approval of the Secretary, to exempt distillers of brandy made exclusively from apples, peaches, grapes, oranges, pears, pineapples, apricots, berries, plums, pawpaws, persimmons, prunes, figs, cherries, dates or citrus fruits (except lemons and limes) from any provision of the Internal Revenue laws relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so. By virtue of this authority distillers producing brandy made exclusively from apples, peaches, grapes, oranges, pears, pineapples, apricots, berries, plums, pawpaws, persimmons, prunes, figs, cherries, dates or citrus fruits (except lemons and limes) are hereby exempted from the provisions of law enumerated herein:"

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved February 10, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-474; Filed, February 12, 1938; 11:46 a. m.]

Federal Alcohol Administration Division.

BLACKBERRY FLAVORED GRAPE WINE

FEBRUARY 10, 1938.

To All Bottlers and Packers of Wine:

The Administration has recently ascertained that certain wine producers, blenders and rectifiers have shipped in bulk, under the designation "Blackberry Wine," a product which does not, in fact, conform to the standard of identity for blackberry wine, in that the product is a base of grape wine, to which blackberry flavor or blackberry wine has been added. Investigations of these shipments are continuing with a view to appropriate regulatory action against the offending permittees.

In this connection, it appears that in many instances such misbranded bulk shipments come into the possession of wholesalers and are bottled by them under the designation "Blackberry Wine."

This is to warn wholesalers and wine manufacturers against the sale of such product unless made entirely from blackberries, if the same is to be labeled as "Blackberry Wine." Wholesalers bottling and marketing products under the designation "Blackberry Wine" may readily ascertain whether the product is made wholly from blackberries by simple chemical analysis.

Proceedings for suspension of permits will in the future be instituted against permittees bottling or offering for sale such misbranded products.

[SEAL] W. S. ALEXANDER, *Administrator.*

[F. R. Doc. 38-469; Filed, February 11, 1938; 2:58 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Dockets No. 53-FD, 31-FD, 30-FD]

IN THE MATTER OF THE APPLICATIONS OF WHEELING STEEL CORPORATION, EMPEROR COAL COMPANY, CONSUMERS MINING COMPANY FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, AS AUTHORIZED BY THE SECOND PARAGRAPH OF SECTION 4-A OF SAID ACT

ORDER DIRECTING ARGUMENT ON PETITION FOR REHEARING

The Wheeling Steel Corporation, applicant in the above entitled matter, Docket No. 53-FD, having filed with the Commission on November 8, 1937, its petition, in which Emperor Coal Company and Consumers Mining Company join, for rehearing and other relief; and the Commission having duly considered the same and it appearing that it would be desirable to have oral argument by petitioner or its counsel and other interested parties for the purpose of determining whether prayer of petitioner should be granted, the Commission hereby orders:

1. That at the hour of ten o'clock A. M., on the 21st day of February, 1938, at the hearing room of the Commission in the Walker Building, Washington, D. C., before the Commission or a Division thereof, all interested parties in the matter of the petition for rehearing filed by the Wheeling Steel Corporation on November 8, 1937, shall be given opportunity to present oral argument to show cause why the prayer of the petitioner should or should not be granted.

2. That pending the completion of the oral argument provided herein or until further order of the Commission, the orders of the Commission in the matters of Wheeling Steel Corporation—Docket No. 53-FD, Emperor Coal Company—Docket No. 31-FD and Consumers Mining Company—Docket No. 30-FD, denying exemption to petitioners from the provisions of Section 4 of the Bituminous Coal Act of 1937, be and the same are hereby suspended, effective as of the date of the entry of said orders, October 13, 1937.

3. The Secretary of the Commission is forthwith directed to mail copies of this order to the petitioners, to the Secretaries of the Bituminous Coal Producers' Boards for Districts Nos. 2, 6 and 8, to the Consumers' Counsel and to the Commissioner of Internal Revenue.

By order of the Commission.

Dated this 10th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-468; Filed, February 11, 1938; 1:54 p. m.]

[Docket No. 4-C]

IN THE MATTER OF ORDER NO. 204, PROVIDING FOR A HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE RELATING TO THE COMMISSION'S MOTION MADE PURSUANT TO SECTION 4 II (B) OF THE ACT, TO REVIEW AND REVISE MINIMUM PRICES AND MARKETING RULES AND REGULATIONS RELATING TO THE SALES OF RAILROAD LOCOMOTIVE FUEL

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 14, 1938, in the above-entitled matter is hereby continued by the Commission, upon its own motion, to February 28, 1938, at the hour of 10 o'clock, A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-487; Filed, February 14, 1938; 11:00 a. m.]

[Docket No. 4-C]

IN THE MATTER OF ORDER NO. 122, RELATING TO COMMISSIONS OR DISCOUNTS ON RAILROAD LOCOMOTIVE FUEL

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 14, 1938, in the above-entitled matter is hereby continued by the Commission, upon its own motion, to February 28, 1938, at the hour of 10 o'clock, A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-488; Filed, February 14, 1938; 11:01 a.m.]

[Docket No. 11]

IN THE MATTER OF ORDER NO. 214 PROVIDING FOR A HEARING TO RECEIVE EVIDENCE TO ENABLE THE COMMISSION TO REVIEW; THE APPLICATION OF BASE RATES AND FREIGHT RATE ADJUSTMENTS BETWEEN AND AMONG DISTRICTS 1 TO 8, INCLUSIVE

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 24, 1938, in the above entitled matter is hereby continued by the Commission, upon its own motion, to March 10, 1938, at the hour of ten o'clock A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-484; Filed, February 14, 1938; 10:58 a. m.]

[Docket No. 294-FD]

IN THE MATTER OF KEYSTONE COAL & COKE COMPANY

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 17, 1938, in the above entitled matter is hereby continued by the Commission, upon its own motion, to March 3, 1938, at the hour of ten o'clock A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-485; Filed, February 14, 1938; 10:59 a. m.]

[Docket No. 299-FD]

IN THE MATTER OF JAMISON COAL & COKE COMPANY

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 17, 1938, in the above entitled matter is hereby continued by the Commission, upon its own motion, to March 3, 1938, at the hour of ten o'clock A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-486; Filed, February 14, 1938; 10:59 a. m.]

[Docket No. 9]

IN THE MATTER OF ORDER NO. 127, RELATING TO SUBSTITUTION

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 14, 1938, in the above entitled matter is hereby continued by the Commission, upon its own motion, to February 28, 1938, at the hour of 10:00 o'clock A. M. at the hearing room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-490; Filed, February 14, 1938; 11:02 a. m.]

[Docket No. 10]

IN THE MATTER OF ORDER NO. 205 PROVIDING FOR A HEARING IN RELATION TO MAXIMUM DISCOUNTS OR PRICE ALLOWANCES

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 16, 1938 in the above entitled matter is hereby continued by the Commission, upon its own motion, to March 2, 1938, at the hour of ten o'clock A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-491; Filed, February 14, 1938; 11:03 a. m.]

[Dockets Nos. 87-89, 97, 99-101, 105, 135, 137, 138, 141, 142, 174, 189, 209, 210, and 253 FD]

IN THE MATTER OF ROCHESTER & PITTSBURGH COAL COMPANY; A. G. & S. MINING COMPANY; DISTRICT BOARD NO. 1; BERWIND-WHITE COAL MINING CO.; MONROE COAL MINING COMPANY; EBENSBURG COAL COMPANY; HEISLEY COAL COMPANY; DISTRICT BOARD NO. 7; THE POWHATTAN MINING COMPANY; PITTSBURGH TERMINAL COAL CORPORATION; PITTSBURGH COAL COMPANY; UNION COLLIERIES COMPANY; MARTEN A. REIBER, RECEIVER, BUTLER CONSOLIDATED COAL COMPANY; PURSGLOVE COAL MINING COMPANY; DISTRICT BOARD NO. 2; UNION COLLIERIES COMPANY; PITTSBURGH COAL COMPANY; MIDLAND COAL & MINING COMPANY, ET AL.

NOTICE OF CONTINUANCE OF HEARINGS

Notice is hereby given that the hearings now scheduled for February 14, 1938, in the above entitled matter, are hereby continued by the Commission, upon its own motion, to February 28, 1938 at the hour of 10:00 o'clock A. M. at the hearing room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-489; Filed, February 14, 1938; 11:01 a. m.]

[Docket No. 152-FD]

IN THE MATTER OF ORDER NO. 174, PROVIDING FOR A HEARING TO DETERMINE WHETHER CERTAIN COALS IN THE STATE OF VIRGINIA ARE SUBJECT TO THE BITUMINOUS COAL ACT OF 1937

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 14, 1938, in the above-entitled matter is hereby continued by the Commission, upon its own motion, to February 28, 1938, at the hour of 10 o'clock, A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 11th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-492; Filed, February 14, 1938; 11:03 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

WAGE RATES UNDER SUGAR ACT OF 1937

NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICER

Pursuant to the authority contained in Section 301 (b) of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that public hearings will be held as follows:

At Baton Rouge, Louisiana, in the Agricultural Auditorium, Louisiana State University and A. & M. College, on February 21, 1938, at 10:00 A. M.

At LaFayette, Louisiana, in the Police Jury Room, Parish Court House, on February 23, 1938, at 9:30 A. M.

At New Orleans, Louisiana, in Room 300, Association of Commerce Building, on February 25, 1938, at 9:30 A. M.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the planting and cultivating of sugarcane during the calendar year 1938 on farms with respect to which applications for payment under the said act are made.

John C. Bagwell, William T. Ham, and G. LaGuardia are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Done at Washington, D. C. this 12th day of February 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-473; Filed, February 12, 1938; 11:34 a. m.]

[Docket No. A-64 O-64]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF GRAPES GROWN IN COUNTIES OF BENTON, MADISON AND WASHINGTON, STATE OF ARKANSAS

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of grapes grown in the counties of Benton, Madison and Washington in the State of Arkansas;

Nor, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such handling of grapes grown in said counties in the Auditorium, Administration Building, University of Arkansas, Fayetteville, Arkansas, on March 3, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of grapes grown in said counties. Among other things, the proposed marketing agreement and order provide for: (*a*) the establishment of a Control Committee, (*b*) grade regulation of shipments, (*c*) regulation of shipments by means of period proration, (*d*) regulation of shipments by requiring price filing and posting, (*e*) expenses of administration, and other matters relating to the handling of grapes grown in said counties.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Room 0518, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: February 12, 1938.

[F. R. Doc. 38-475; Filed, February 12, 1938; 12:15 p. m.]

Bureau of Animal Industry.

[Amendment 16 to Declaration No. 12]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

FEBRUARY 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

California: Santa Clara, February 1, 1941.

Puerto Rico: Bayamon, February 1, 1941; Catano, February 1, 1941; Cidra, February 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Tallapoosa, February 1, 1941.

Arkansas: Boone, February 1, 1941; Desha, February 1, 1941.

California: Del Norte, February 1, 1941.

Colorado: Boulder, February 1, 1941; Eagle, February 1, 1941; Jackson, February 1, 1941.

Florida: Citrus, February 1, 1941; Pinellas, February 1, 1941; Putnam, February 1, 1941; Sarasota, February 1, 1941; Sumter, February 1, 1941.

Georgia: Harris, February 1, 1941; Macon, February 1, 1941; Treutlen, February 1, 1941.

Idaho: Camas, February 1, 1941; Power, February 1, 1941.

Illinois: Greene, February 1, 1941; Iroquois, February 1, 1941.

Indiana: Allen, February 1, 1941; Jay, February 1, 1941; Jefferson, February 1, 1941; Miami, February 1, 1941.

Iowa: Cass, February 1, 1944; Henry, February 1, 1944; Pottawattamie, February 1, 1941.

Kansas: Dickinson, February 1, 1941; Marshall, February 1, 1941; Pottawatomie, February 1, 1941; Riley, February 1, 1941; Washington, February 1, 1941.

Kentucky: Anderson, February 1, 1941; Madison, February 1, 1941; Marshall, February 1, 1941; Martin, February 1, 1941; Russell, February 1, 1941; Webster, February 1, 1941.

Maine: Aroostook, February 1, 1941.

Michigan: Mecosta, February 1, 1941.

Minnesota: Rice, February 1, 1941.

Mississippi: Benton, February 1, 1941; Prentiss, February 1, 1941; Pontotoc, February 1, 1941.

Missouri: Benton, February 1, 1941; Butler, February 1, 1941; Maries, February 1, 1941; Morgan, February 1, 1941; Osage, February 1, 1941; Phelps, February 1, 1941; Ripley, February 1, 1941; Shelby, February 1, 1941.

Montana: Powder River, February 1, 1941.

North Carolina: Duplin, February 1, 1941; Montgomery, February 1, 1941.

Ohio: Jackson, February 1, 1941; Union, February 1, 1941.

Oklahoma: Cleveland, February 1, 1941; Kay, February 1, 1941; Logan, February 1, 1941; Noble, February 1, 1941; Pawnee, February 1, 1941.

Pennsylvania: Beaver, February 1, 1941; Blair, February 1, 1941.

South Carolina: Barnwell, February 1, 1941; Darlington, February 1, 1941; Lee, February 1, 1941; Orangeburg, February 1, 1941.

Texas: Bastrop, February 1, 1941; Cameron, February 1, 1941; Concho, February 1, 1941; Hartley, February 1, 1941; Hardeman, February 1, 1941; Jack, February 1, 1941; Kaufman, February 1, 1941; Kamar, February 1, 1941; Runnels, February 1, 1941; Tom Green, February 1, 1941.

Tennessee: Crockett, February 1, 1941.

Virginia: Lancaster, February 1, 1941.

Washington: Spokane, February 1, 1941.

West Virginia: Preston, February 1, 1941.

Wyoming: Sweetwater, February 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended, is hereby further amended accordingly.

[SEAL] J. R. MOHLER, *Chief of Bureau.*

[F. R. Doc. 38-476; Filed, February 12, 1938; 12:15 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Order No. 33]

ADOPTION OF ORDER RELATIVE TO STATEMENTS TO BE FILED BY RADIOTELEGRAPH COMMON CARRIERS

The Commission at a meeting held February 8, 1938, adopted the following Order:

ORDER NO. 33

Pursuant to Section 308 (b) of the Communications Act of 1934, *it is ordered*, That every radiotelegraph common carrier (except those operating exclusively in Alaska) which holds a point-to-point radiotelegraph station license in the Fixed Public Service or Fixed Public Press Service shall file a statement not later than May 1, 1938, showing:

(*a*) Name of organization operating the other end of each circuit designated in each license held by radiotelegraph common carriers and (to the best of the licensee's information and belief), its relation to other communications operating or holding companies in the same country and any affiliation which it may have with any communications, operating or holding companies or administrations in other countries;

(*b*) The number of paid words of public correspondence transmitted during the month of March 1938 by frequencies to each primary point of communication named in each such license;

(*c*) The number of paid words of public correspondence transmitted during the month of March 1938 by frequencies to each secondary point of communication under terms of secondary communication clause of each such license;

(*d*) The name of each point of communication specifically designated in the license to which no paid words of public correspondence were transmitted during the license period December 1, 1936 to December 1, 1937;

(*e*) The reason for not handling paid words of public correspondence with each point that may be listed under (*d*) above;

(*f*) The specific reason for desire to continue inactive points of communication in the license.

It is further ordered, That the aforementioned common carriers shall at the same time file an additional statement showing the number of paid words of public radiotelegraph correspondence received by them in the United States during the month of March, 1938, from each fixed point outside the Continental United States from which messages are received.

It is further ordered, That the aforesaid common carriers shall file not later than May 1, 1938, an additional statement showing the gross operating revenues by circuits (including profits or losses in the exchange settlements of traffic balances) for all public radiotelegraph correspondence transmitted and received to and from each fixed point of communication outside the Continental United States during the month of March, 1938.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-477; Filed, February 14, 1938; 10:00 a. m.]

FEDERAL HOUSING ADMINISTRATION.

PROPERTY IMPROVEMENT LOANS

REGULATIONS GOVERNING TITLE I OF THE NATIONAL HOUSING ACT

The following Regulations and Questions and Answers issued by the Federal Housing Administrator govern the operation of the insurance property improvement loans under Title I of the National Housing Act, as amended, re-enacted and amended by Act of Congress approved February 3, 1938. These Regulations and Questions and Answers supersede all previous Regulations and Questions and Answers heretofore in effect special Regulations and Questions and Answers governing Section 6 loans designed to assist in the rehabilitation of flood, tornado and other catastrophe areas and will control in the event of any conflict between these Regulations and any explanatory material.

Regulation No. 1

Applicable to All Loans

Promissory notes must be signed by an owner of the real property to be improved, or by a lessee thereof under a lease expiring not less than six calendar months after the maturity of the loan, and must be in a form which is valid and enforceable in the jurisdiction in which they are issued. In addition to owners in fee, owners of real property include life tenants and persons holding an equity under a mortgage, trust or contract.

Question No. 1a.

Reference is made to installment notes and installment payments throughout the Regulations, Questions, and Answers and interpretations pertaining thereto. It is intended that insured institutions using any other form of obligation or a plan whereby deposits are made to an account or a fund which is used to liquidate a note at maturity (similar to the practice followed by industrial banks in many jurisdictions) be allowed to continue to use such methods of procedure, and will such obligations be eligible for insurance?

Answer.

Yes. Whenever the word "note" is used, it is intended to refer to a note, bond, mortgage, or other evidence of indebtedness. Whenever the word "payment" is used, the intent is to include a deposit for an account or a fund. Notes which provide for a deposit to be made in an account or a fund to be used to liquidate the note at maturity are eligible for insurance, and for the purpose of these Regulations any interest paid on such deposit account should be deducted from the charge paid by the borrower on the note in determining whether the net charge to him is within the maximum permitted.

The term "installment payment" includes a method of procedure under which a borrower from an institution, such as a building and loan association, subscribes for shares on receiving a loan, and pays for such shares on an installment basis, the shares to be finally cancelled out against the loan. Where this method is used and the shares do not pay a fixed return, the charge to the borrower may be figured on the basis of the average return on such shares during the preceding three years.

In order that an insured institution may be entitled to make claim under the Contract of Insurance for the full

unpaid balance on a note on which one or more payments are in default, it is necessary that the institution have made demand upon the borrower for payment in full. Notes must, therefore, contain a provision for acceleration of maturity upon default, either automatically, or at the option of the holder.

Question No. 1b.

Will notes in a series be eligible for insurance on the same basis as a single note calling for equal installments?

Answer.

Yes. A series of notes, taken on one transaction, each calling for an equal amount, will be eligible for insurance where each note states on its face that it is one of a series of notes signed by the same maker. Unless the note shows on its face that it is one of a series, it will not be eligible for insurance.

Question No. 1c.

Is a forged note "valid and enforceable" within the meaning of the term as used in this Regulation?

Answer.

Yes. The fact that a note is forged will not disqualify it if taken by the insured institution in good faith. Forgery of a note or falsification of the Credit Statement constitutes a Federal offense under the National Housing Act, subjecting the offender to a fine of not more than $3,000 or to imprisonment for not more than two years, or both. This does not remove from an insured institution the duty of discovering the authority of an agent, as such, signing a note, or the legal capacity of the signer of the note.

Question No. 1d.

What about the effect of interest rate statutes?

Answer.

In most jurisdictions, violations of interest rate statutes do not affect the validity or enforceability of notes, and any such violation would not disqualify a note previously reported for insurance. In a few jurisdictions, a technical legal doctrine prevails, under which a financial institution does not recover upon the note itself if the note is in violation of interest laws, but rather proceeds upon the theory that it is collecting upon a general obligation to repay money advanced. Where such a doctrine as this prevails, the note likewise is not considered invalid or unenforceable.

Regulation No. 2

Applicable to All Loans

An advance of credit, to be eligible for insurance, must not involve a principal amount outstanding at any one time, in respect to any one piece of property, in excess of $10,000 (exclusive of financing charges to the borrower), when made for the purpose of financing repairs, alterations and improvements upon or in connection with existing structures. In the case of loans for financing the building of new structures, the total of all insured advances of credit may not exceed $2,500 (exclusive of finance charges to the borrower) in respect to a single piece of property.

Question No. 2a.

May more than one loan or one series of loans be made to cover repairs, alterations, and improvements upon a single piece of property?

Answer.

Yes. So long as the amount outstanding at any one time does not exceed the maximum provided by this Regulation, any number of loans may be made to cover repairs, alterations and improvements upon any single piece of property, but not more than $10,000, excluding financing charges to the borrower, may be outstanding at any time on any such piece of property.

It must be noted that whereas this Regulation permits a borrower to obtain more than $10,000 for the purpose of financing repairs, alterations and improvements upon existing structures, provided that not more than $10,000 is oustanding at any one time with respect to any single piece of property, not more than $2,500 may be obtained for the purpose of building new structures with respect to any single piece of property. Subject to this limitation, more than one loan or one series of loans may be made for this latter purpose.

Question No. 2b.

Is there any limitation as to the maximum amount which may be procured by any one borrower?

Answer.

No. The maximum amounts refer to the amounts which may be outstanding or advanced, as the case may be, with respect of any single piece of property. One borrower may obtain any number of loans on any number of pieces of property, subject to the limitation contained in Regulation No. 12.

Regulation No. 3

Applicable to All Loans Except New Structure Loans for Residential Purposes (See Regulation No. 22)

A note will be eligible for insurance if the total payment to be made by the borrower for interest, discount, and fees of all kinds in connection with the transaction is not in excess of an amount equivalent to $5 discount per $100 original face amount of a one-year note to be paid in equal monthly installments, calculated from the date of the note. This charge is a permitted maximum and not a mandatory rate, and a loan at any lower rate is eligible for insurance. Such charges correctly based on tables of calculations issued by the Federal Housing Administrator are deemed to comply with this regulation.

Question No. 3a.

Where an insured institution purchases or takes a qualified note but retains part of the purchase price or proceeds of the note as security for payment of it by the borrower, may the institution retain the total finance charge calculated on the face amount of the note?

Answer.

No. If the insured institution takes the maximum charge permitted by Regulation No. 3, but does not advance the entire proceeds of the note, this will increase the ratio of gross return to the institution on the average balance of the insured institution's funds outstanding during the period of the loan, and, therefore, if an insured institution retains a hold-back it must consider this in calculating the finance charges which it collects. The difference between the finance charges calculated on the face amount of the note and the finance charges calculated on the amount advanced by the insured institution must be credited to the account of the dealer or contractor from whom the note was purchased. See also Question and Answer No. 14g.

Question No. 3b.

Does Regulation No. 3 mean that an insured institution may charge the borrower $5 per $100 face amount of the note for each year the loan is outstanding?

Answer.

No. It means that for a job costing $95, a one-year installment note could have a face amount of $100 and the total charge to the borrower could not exceed $5, the borrower to make monthly installment payments of $8.34 (with adjustment on last payment). This charge on a one-year note, non-interest-bearing and payable in equal monthly installments, establishes the basis of charge which may not be exceeded on notes with other maturities. This is a ratio of 0.097166 between the total charge and average amount outstanding on the debt.

Tables of Calculations

Not for New Construction Dwelling Loans

The following factors may be used to facilitate handling of notes under the Property Improvement Plan. In the center column of the first table are figures from 6 to 60 for each possible monthly maturity that may be used for such a note. In the right hand column are Discount Factors. The face amount of a discount note, multiplied by the Discount Factor for any maturity desired, will give the maximum permissible amount of discount that may be charged the borrower. In the left hand column are Gross Charge Factors. The amount of cash proceeds (the principal sum the borrower receives), multiplied by the Gross Charge Factor for any maturity, will give the maximum permissible amount of interest and fees that may be charged.

Operation of the Discount Factor.

A discount of $5 on a $100 note for a period of one year, with provision in the note for equal monthly installment payments, gives a ratio of 0.097166 of total charge paid by borrower to average amount outstanding on the debt during the period of the loan. This is the maximum charge under the Regulations of the Administrator that may be obtained from the borrower on a note of any amount, of any maturity, and regardless of the number of installment payments. The same limit as to the ratio of 0.097166 of total charge paid by the borrower to average amount outstanding on the debt would apply to a former note providing for less than 12 installments a year, or to a note providing for more than 12 installments a year.

On a one-year monthly payment note, the Discount Factor is 0.05. On a 24-month note, however, the Discount Factor is 0.091912; 36-month note, 0.130282, etc. The Discount Factor for each maturity from 6 to 60 months is given in the table herewith. On a discount note of $1,000 face amount, the amount of discount for 12 months would be $50; for 24 months, $91.91; for 36 months, $130.28.

Operation of the Gross Charge Factor.

An insured institution, desiring to ascertain the maximum amount of interest and fees it would be permissible to charge the borrower on any principal sum in order not to exceed the ratio of 0.097166 of total charge to the borrower to average amount outstanding on the debt during the period of the loan, can do so by using the Gross Charge Factor. Thus on a one-year note the Gross Charge Factor is 0.052632; on a 24-month note, 0.101215; on a 36-month note, 0.149798. The Gross Charge Factor for each maturity from 6 to 60 months is given in the tables herewith. Thus by taking a $950 advance and mutliplying by the proper Gross Charge Factor the amount of interest and fees allowed for 12 months will prove to be $50; for 24 months, $96.15; for 36 months, $142.31.

INSTALLMENTS PAYABLE MONTHLY

Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)	Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)
0.028340	6	0.027559	0.109312	26	0.096540
.032389	7	.031373	.113360	27	.101818
.036437	8	.035156	.117408	28	.105072
.040486	9	.038911	.121457	29	.108303
.044534	10	.042636	.125506	30	.111511
.048583	11	.046332	.129554	31	.114695
.052632	12	.050000	.133603	32	.117857
.056680	13	.053640	.137651	33	.120996
.060729	14	.057252	.141700	34	.124113
.064778	15	.060837	.145748	35	.127208
.068826	16	.064394	.149798	36	.130282
.072875	17	.067925	.153846	37	.133333
.076924	18	.071429	.157895	38	.136364
.080971	19	.074906	.161944	39	.139373
.085020	20	.078358	.165992	40	.142361
.089068	21	.081784	.170041	41	.145329
.093117	22	.085185	.174089	42	.148276
.097166	23	.088561	.178138	43	.151203
.101215	24	.091912	.182187	44	.154110
.105263	25	.095238			

INSTALLMENTS PAYABLE MONTHLY—Continued

Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)	Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)
0.186235	45	0.156997	0.218623	53	0.179402
.190283	46	.159864	.222672	54	.182119
.194332	47	.162712	.226720	55	.184818
.198381	48	.165541	.230769	56	.187500
.202429	49	.168350	.234818	57	.190164
.206478	50	.171141	.238866	58	.192810
.210526	51	.173913	.242915	59	.195440
.214575	52	.176667	.246964	60	.198052

INSTALLMENTS PAYABLE QUARTERLY

0.024291	1	0.023715	0.145749	11	0.127208
.036437	2	.035156	.157895	12	.136364
.048583	3	.046332	.170040	13	.145329
.060729	4	.057252	.182186	14	.154110
.072874	5	.067925	.194332	15	.162712
.085020	6	.078358	.206478	16	.171141
.097166	7	.088561	.218623	17	.179402
.109312	8	.098540	.230769	18	.187500
.121457	9	.108303	.242915	19	.195440
.133603	10	.117857	.255061	20	.203226

INSTALLMENTS PAYABLE SEMIANNUALLY

0.048583	1	0.046332	0.170040	6	0.145329
.072874	2	.067925	.194332	7	.162712
.097166	3	.088561	.218623	8	.179402
.121457	4	.108303	.242915	9	.195440
.145749	5	.127208	.267206	10	.210863

INSTALLMENTS PAYABLE ANNUALLY

0.097166	1	0.088561	0.242915	4	0.195440
.145749	2	.127208	.291498	5	.225705
.194332	3	.162712			

Tables are available for the use of savings, building and loan associations, cooperative banks, and similar institutions, covering loans with maturities up to 15 years, or 180 months, only the first five years and thirty-two days of which will be covered by insurance. Copies of these tables may be obtained upon request from the Federal Housing Administration.

Tables are also available setting forth Discount and Gross Charge Factors based on discounts of $3, $3.50, $4, and $4.50 per $100 original face amount of a one-year note to be paid in equal monthly installments. These are provided so that institutions desiring to charge less than the maximum permitted rate will have no difficulty in calculating the finance charge to be taken. The rate set forth in Regulation No. 3 is purely a maximum rate, and it is urged by the Administrator that a lower rate be used wherever compatible with the circumstances surrounding the loan.

Question No. 3c.

If security, such as a mortgage, is taken, may the actual costs of title search, appraisal, etc., be charged the borrower in addition to the charge permitted?

Answer.

No. Any such costs as these must be included within the maximum permitted charge to the borrower.

Question No. 3d.

Where an insured institution requires that a dealer or manufacturer, from whom it purchases notes, present a credit report on the borrower at the dealer's or manufacturer's expense, will such a requirement be considered to increase the finance charge received by the insured institution?

Answer.

No. If the cost of the credit report on the borrower is not passed on to him, either directly or indirectly, the cost of such report need not be considered in calculating the finance charge taken.

Question No. 3e.

Although the standard formula for determining the charge to the borrower contemplates a monthly installment note, is it intended that the same resulting ratio shall apply in the case of a note on which there is only one payment (or any number more or less than 12) per year, as in the case of a farmer or a producer of livestock who is making payments in accordance with the dates on which his income is received?

Answer.

Yes. The same ratio of 0.097166 between total charge to the borrower and average amount outstanding on the debt applies as a maximum which must not be exceeded. It is suggested that an interest-bearing note, at the lowest rate compatible with the locality and credit conditions, should be used where a note calls for seasonal payments.

Question No. 3f.

May an insured institution make a charge on a basis other than that set forth in the Tables of Calculations?

Answer.

Yes. An insured institution may calculate its charges by any method it desires, provided that the total cost to the borrower does not exceed the maximum ratio permitted by Regulation No. 3. Thus, for instance, an institution may take a note which calls for the payment of 6% interest on the decreasing balances and also assess the borrower for a commission, or for recording or filing fees, etc. If the total charge to the borrower at the rate of interest stated in the note, plus the additional fees which the borrower is required to pay in connection with the loan does not exceed the maximum ratio permitted by Regulation No. 3, a note will be eligible for insurance, provided that it otherwise complies with the Regulations.

Question No. 3g.

How should the maximum charge be calculated from factor tables in the case of eligible loans in which the period to the first installment differs from the remaining payment periods?

Answer.

On loans payable monthly no adjustment will be necessary, and the factor corresponding to the full number of installments may be used; even though the charge, so calcalculated, may exceed slightly basis 0.097166 ratio.

On loans payable quarterly, semiannually, or annually the maximum charge may be ascertained by multiplying the proceeds by the gross charge factor corresponding to the number of installments and either adding or deducting, depending on whether the initial period is greater or less than subsequent payment periods, an amount calculated at the rate of 9.7166% per annum (0.8097% per month) on the proceeds for a period equal to the difference between the initial and remaining periods. Thus on an advance of $100 to be paid in 4 quarterly installments, the first due one month from the date of the note, the maximum charge would be the 4 payment factor, 0.060729, multiplied by the proceeds, $100, less 0.008097 times 2 times $100 ($6.07—$1.62), or $4.45. It should be noted that gross charge factors only may be used in this connection and that discount factors are applicable only when no adjustment is made.

Should it be desired to assess the full maximum charge on monthly loans in which the initial period is greater than a month, gross charge factors alone may be used and the calculation should be similar to that described above in connection with quarterly, semiannual, and annual loans.

Regulation No. 4

Applicable to All Loans

Notes may provide for the payment by the maker of a late charge not to exceed five cents for each $1 of each payment more than 15 days in arrears, but not to exceed $5 in respect of any one such late payment. In lieu of, but not in addition to, the late charge, the note may provide for interest on overdue payments from the due date of the payment at a rate not to exceed the maximum legal rate permitted in the jurisdiction where the loan is made. Although late charges, as provided in this regulation, are permitted, if such charges are not collected from the borrower they may not be included in claim for loss made under the contract of insurance.

Question No. 4a.

May the late charge be collected more than once on any single installment?

Answer.

No. Where the late charge of five cents per $1 for each payment more than 15 days in arrears is contracted for, it may be assessed only once for any one particular payment, and the total late charge so assessed on any one particular payment may not exceed $5. However, if in lieu of a late charge the note calls for any rate of interest on a delinquent payment up to the highest legal rate in the jurisdiction where executed, such interest may be collected from the borrower on any such delinquent payment (but not upon the whole remaining principal unless the whole note is matured by such delinquency) from the date it came due and was not paid, until the date upon which it was paid.

Question No. 4b.

Is the amount collected in the form of late charges included in the maximum amount which a financial institution may charge the borrower for discount, interest, or fees?

Answer.

No. The late charge is reimbursement to the institution for work involved in the handling of payments not made on the due dates. As late charges represent a penalty for not paying an installment on its due date there is no connection with the financing charge which is determined at the time the loan is granted, on the basis that the note will be paid in accordance with its terms.

Question No. 4c.

May late charges be deducted from regular installments paid by the borrower and the balance of the installment applied on the note?

Answer.

No. The late charges must be billed and collected as such, and evidence of such billing must be included in the file when a claim for loss is made under the contract of insurance.

Question No. 4d.

Will a provision in a note that interest on principal will be charged after the maturing of the entire balance of the loan by default or otherwise be construed to be in conflict with Regulation No. 4, if the note also provides for late charges or interest on individual late payments?

Answer.

No. Late charges are intended to compensate an institution for the extra collection effort and expense it incurs in furthering the collection of delinquent payments. It is not intended that the late charge shall take the place of interest on the principal after the maturity of the whole obligation. Thus, a provision for such interest will not conflict with the limitation set forth in Regulation No. 4, which refers only to interest or late charges taken on a specific installment for failure to make that payment on its due date.

Regulation No. 5

Applicable to All Loans Except New Structure Loans for Residential Purposes (See Regulation No. 21)

Notes may not have a final maturity in excess of five years and thirty-two days from the date of the note, except in the case of savings, building and loan associations, cooperative banks, and similar institutions.

Question No. 5a.

What is the effect of exception in Regulation No. 5?

Answer.

The Administrator has made a special exception in the case of savings, building and loan associations, cooperative banks, and similar institutions, permitting them to acquire obligations eligible for insurance with a maturity longer than five years and thirty-two days, for a period and at a rate of return not to exceed that of any standard existing plan of such institution, and provided that Regulation No. 3 is complied with.

This ruling makes it possible for those institutions, generally required by law to take mortgage security and further restricted in some cases as to the minimum term of years which may apply to their obligations, to make improvement loans conforming with the Regulations of the Administrator.

The Contract of Insurance shall apply to such long-term obligations only for a period of five years and thirty-two days from the date the obligation is first executed, and any claim for loss must be made as the result of a default occurring at or within five years and thirty-two days from the date of the obligation reported for insurance.

It is suggested that in all cases where a mortgage institution is already carrying an uninsured advance to a borrower who now wishes a further advance under the same mortgage on an obligation eligible for insurance under Title I, whether for a period up to five years and thirty-two days or for a longer period under the special exception permitted in Regulation No. 5, the mortgage institution carry the insured loan in a separate account on its books, so that there will be no confusion in auditing the account in case a claim is made under the Contract of Insurance.

However, if a mortgage institution wishes to carry both the uninsured and insured advances under one mortgage and in one consolidated account, the Administrator will permit the practice but advises against it.

Of course, the insured loan must always be evidenced by a separate obligation.

Where the two transactions are carried in one account it will be assumed, for the purpose of computing the amount outstanding on the insured obligation in event of claim under the Contract of Insurance, that all payments received on the consolidated account subsequent to the date of the insured obligation were applied pro rata on both the insured and the uninsured obligations.

Where a separate mortgage has been taken on an insured obligation, the Administrator will require, in event of a claim under the Contract of Insurance, that this mortgage be assigned to the Administrator. If one mortgage covers both an insured and an uninsured obligation, the proceeds received through foreclosure in excess of all uninsured obligations made prior to the insured obligation and covered by the mortgage (but not exceeding the amount of the claim paid to the mortgage institution on the insured obligation by the Administrator) must be forwarded to the Administrator.

The Administrator imposes only one limitation under this special exception (this limitation does not apply where the loan in question is to be repaid within five years): The Administrator will not insure a portion of a greater advance made at the same time. This does not prohibit the insurance of a loan because of a previously existing debt covered by a mortgage, where the prior obligation was incurred in a bona fide independent transaction, and the Administrator will assume that, if the two transactions are six months apart, they are independent; furthermore, this limitation will not be applied in cases where the mortgage executed at the time of the Improvement Loan also covers a note taken to refund an existing mortgage debt on the same property held by the lending institution or by a third party. Also, where a further advance is made by the insured institution at the same time as the Improvement Loan, for the purpose of paying off delinquent taxes or assessments, this limitation will not apply.

Some institutions covered by this special exception of the Administrator are now charging financing rates within the maximum permitted by the Regulations. Such an institution may check its charges against the maximum permitted. The Gross Charge Factor Table set forth under Regulation No. 3, and Question and Answer No. 3b, has been extended to cover a period of 180 months. To determine whether an obligation complies with Regulation No. 3, it will be necessary only to multiply the net proceeds by the appropriate Gross Charge Factor. By net proceeds is meant the net amount received by the borrower after deduction of all expenses paid by, or chargeable to, the borrower incident to the securing of the loan. If the borrower is not required to pay, whether as principal, interest, fees, or charges of any kind, an amount in excess of the net proceeds received by him plus the gross charge calculated thereon as above, the obligation will comply with Regulation No. 3. If an institution is in doubt about the compliance of its plan with Regulation No. 3, it may send to the Federal Housing Administration a statement of its plan accompanied by a specific example, and the Administration will determine whether or not the plan is in compliance and will notify the institution accordingly.

Question No. 5b.

May the insurance granted in any case exceed a period of five years and thirty-two days beyond the date of the original transaction?

Answer.

No, except as provided in Regulation No. 19 or No. 21. Even where a new note is taken to liquidate a previously insured obligation, as provided for in Regulation No. 18, the total insurance coverage granted shall not extend beyond five years and thirty-two days from the date of the original note. Thus, if the original note had a maturity of five years and thirty-two days, and it became necessary to rewrite this note at the end of the fourth year on a smaller payment which would result in the new note having a maturity of three years, the insurance coverage on the new note would terminate at the expiration of one year and thirty-two days from the date of the new note, or five years and thirty-two days from the date of the original note.

Question No. 5c.

May an equal monthly payment obligation call for more than 60 payments?

Answer.

No. However an obligation may call for the maximum of 60 equal monthly payments with the first payment not more than 2 calendar months after the date of the note. This permissible period from the date of the note to the date of the first payment accounts for the establishment of a maximum maturity of 5 years and 32 days.

Regulation No. 6

Applicable to All Loans

Notes must be payable in equal monthly, semimonthly, or weekly installments. The final installment may be slightly more or less than the other installments, subject to such exceptions as may be made by the administrator. Notes may not provide for a first payment less than six days or more than two calendar months after the date of the note. However, if fifty-one percent or more of the income of the maker is derived directly from the sale of agricultural crops, commodities, or livestock produced by him, a note may be made payable in installments corresponding to income periods shown on the credit statement. In such cases, the first payment must be made within twelve months of the date of the note and at least one payment must be made during each calendar year thereafter and the proportion of total principal to be paid in later years must not exceed the proportion of total principal payable in earlier years.

Question No. 6a.

May the date of the first installment and subsequent payments be arranged to coincide with the day on which it will be most convenient for the borrower to meet his payments?

Answer.

Yes. The date fixed for the start of the periodic payments should be made agreeable to the borrower. An insured institution may arrange the first payment anywhere from six days to two calendar months from the date the note is made, but thereafter each payment should be made on a regular schedule figured from the date of the first payment. Although the time elapsing between the date of the note and the date set for the first payment may slightly increase the ratio of the charge to the amount outstanding on the debt over the maximum set in Regulation No. 3 or No. 22 (new dwelling loans), this will not affect the insurance coverage.

Question No. 6b.

What effect will the acceptance of payment in advance on a note have on its eligibility for insurance in respect of the maximum charge permitted by the Administrator?

Answer.

Where the prepayment is merely voluntary payment of an installment prior to due date, such payment shall not be construed as increasing the ratio provided for in Regulation No. 3 or No. 22 (new dwelling loans). However, if the entire balance outstanding on the note is paid in advance, the insured institution must make a rebate at a rate not less than 5% per annum on the amounts so paid in advance of their due dates, if the insured institution has taken the maximum charge permitted by the Administrator. If a lesser charge has been taken the rebate must be at not less than a proportional rate. The unearned portion of the original charge retained by the insured institution represents compensation to it for making the loan and setting the transaction up on its books. This also is construed as conforming with Regulation No. 3 or No. 22.

A simple formula for arriving at the minimum rebate required is:

$$\frac{\text{Unmatured balance} \times 5\%}{M} \times \frac{N+1}{2}$$

Note.—N=Number of periods anticipated. M=Number of payments per year. "Unmatured balance" does not include past due amounts. Substitution of any greater percentage for 5% is encouraged.

Regulation No. 7

Applicable Only to Existing Structure Improvement Loans

A loan or advance of credit or purchase of an obligation representing a loan or advance of credit not in excess of $10,000, exclusive of financing charges to the borrower, will be eligible for insurance if it is made to finance repairs, alterations, or improvements made after February 4, 1938 upon existing structures or in connection therewith, including the cost of architectural and engineering services if any. Such loan or advance of credit must be made on or after February 4, 1938.

Question No. 7a.

Will loans made by an insured institution prior to February 4, 1938 or obligations purchased by such an institution prior to such date, for the purpose of financing eligible transactions be eligible for insurance under Contracts of Insurance issued on and after February 4, 1938?

Answer.

No. Section 2 of Title I of the National Housing Act, as amended, was re-enacted and amended by the Congress and became effective on February 3, 1938 subject to certain limitations. As new Contracts of Insurance have been issued, only those loans, or purchases of obligations made on and after that date will be eligible for insurance under such contracts. Loans and advances of credit or purchases of obligations representing loans or advances of credit made for the purpose of refinancing existing obligations not previously reported for insurance under these Regulations are ineligible.

Question No. 7b.

What is the meaning of the term "existing structure" as used in the Regulation?

Answer.

An existing structure is a completed building which has or has had a distinctive functional use. The purpose of Section 2 of Title I as re-enacted and amended is to make credit available for the repair, alteration or improvement of existing structures, and not for the purpose of completing unfinished buildings. The Act specifically requires that the structure upon or in connection with which the proceeds of the loan are to be expended be an existing one.

Unless a complete structure exists upon the property upon which the proceeds of the loan are to be expended, the loan will not be eligible for insurance. This does not exclude a loan for the repair of a previously complete structure which has been damaged but not substantially destroyed by deterioration, or flood, fire, or other casualty; nor the construction of an attached garage, or other attached structure in connection with a completed house or other major building. It does, however, make ineligible loans for the purpose of finishing the erection of an incomplete structure or the erection of a detached new structure. The device of erecting a minor structure first, such as a garage, and then obtaining an insured loan not in excess of $10,000 for the erection or completion of a major structure, such as a house, cannot be approved under Title I as re-enacted and amended.

Question No. 7c.

If architectural and engineering services may be included as expenses which may be paid out of the proceeds of a loan, may not such other expenses as fire insurance and taxes also be included?

Answer.

No. Architectural and engineering expenses are as much a part of the cost of alterations, repairs and improvements as the wages of the labor employed. Expenses such as possible increased fire insurance or taxes as a result of the work done are not costs of the job.

Question No. 7d.

Will loans in the amount of $10,000 or less, for the purpose of financing the purchase and installation of equipment and machinery be eligible for insurance?

Answer.

No. Under Section 2 of Title I of the National Housing Act, as re-enacted and amended effective February 3, 1938, loans in the amount of $10,000 or less are specifically limited to loans for the purpose of financing repairs, alterations, and improvements upon or in connection with existing structures. Under the terms of the Act, therefore, only those loans involving repairs, alterations, and improvements upon or in connection with existing structures will be eligible for insurance. Heating, plumbing, wiring and built-in air-conditioning and fire control systems are considered improvements to existing structures, and are therefore eligible. Refrigerators, both commercial and domestic; washers, ironers, cooking stoves, both commercial and domestic; scales, counters, bars, showcases, and so forth, which may have been previously eligible for purchase and installation are ineligible.

Where any doubt exists as to the eligibility of a transaction which is to be financed with an insured loan, the facts of the case, with descriptive material, should be submitted to the Administrator at Washington for a specific ruling.

Regulation No. 8

Applicable to All Loans

Where a real estate mortgage, deed of trust, or a conditional sales contract, chattel mortgage or any other security device has been used to secure the payment of loans for eligible purposes, the insured institution may not both proceed against such security and also make claim under its contract of insurance, but must elect which method it desires to pursue. If claim is made under the contract of insurance, such security device must be assigned, in its entirety, to the United States of America. If the security taken is non-assignable, all rights in such security must be exhausted by the insured institution or the claim against the Administrator reduced by the full face amount of the security taken before claim will be paid by the Administrator.

Question No. 8a.

What is the attitude of the Administrator to taking of security on loans in excess of $2,500?

Answer.

Since loans in excess of $2,500 of the type provided for in the amendment to Title I of the Act involve a substantial sum, usual business precaution in the way of security should be taken.

Question No. 8b.

If a security instrument is taken should it be recorded?

Answer.

Yes. It is always good business practice to record security instruments in accordance with the law of the appropriate jurisdiction.

Regulation No. 9

Applicable to All Loans

A loan is not eligible for insurance if it is made to a borrower who is delinquent, at the time the loan is made, as to either principal or interest, with respect to an obligation owing to or insured by any department or agency of the Federal Government. The lending institution may rely upon the statement as appearing in the borrower's signed credit statement in determining whether a loan complies with this regulation.

Regulation No. 10

Applicable to All Loans

The question of the financial condition of the borrower is left to the reasonable judgment of the insured institution as a credit matter. The borrower must furnish the lending institution a signed statement, approved as to form by the Administrator, which in the judgment of the insured institution shows the borrower to be solvent, with reasonable ability to pay the obligation and in other respects a reasonable credit risk in view of the insurance provided by the National Housing Act.

Question No. 10a.

Does the Administrator impose any minimum requirements as to the borrower's income or credit standing?

Answer.

The Credit Statement furnished by the borrower must reveal such facts as will clearly indicate that he is solvent. It is felt that since insured institutions have by now had considerable experience in what heretofore was for many of them a totally new type of credit, such questions as the minimum income to be required of the borrower should be left to their discretion, since they are undoubtedly more able to judge the extrinsic factors surrounding each transaction which might make a loan advisable or inadvisable. The borrower's ability to repay is an important factor in determining whether credit should be extended. The most careful consideration should be given to this credit factor.

Question No. 10b.

If at a later date, an additional loan is made to the same borrower, is it necessary that the lending institution obtain another Credit Statement?

Answer.

Yes. This Regulation makes it mandatory on the part of the lending institution to obtain a separate Credit Statement in connection with each loan made in order to determine whether there has been any change in the borrower's condition of solvency and ability to pay since the previous loan, and also in order to determine the eligibility of the use of the proceeds of the new loan.

Question No. 10c.

What if the maker of the note uses the proceeds for something other than repairs, alterations, and improvements upon existing structures or the building of new structures as certified in the Credit Statement?

Answer.

So far as the insured institution is concerned, if it acts in good faith, it can rely upon the statement of the borrower who signs the Credit Statement certifying that the entire proceeds will be used exclusively in payment for repairs, alterations, and improvements upon or in connection with existing structures or the building of new structures as certified in the Credit Statement. The Administrator does not place upon the insured institution the burden of verifying the truth of any such statement. Even if such statements are investigated after the loan is made and found to be false, this will not affect in any way the eligibility of the note for insurance. However, any borrower making such a false statement of misusing the funds, or any dealer, contractor, or lender who knowingly assists in such a violation, will be committing a Federal offense under the provisions of the National Housing Act. In all cases where the insured institution discovers a material misstatement in the Credit Statement, or misuse of funds, it must promptly report such a discovery to the Administration.

Regulation No. 11

Applicable to All Loans

If a note on its face complies with the requirements, and if the credit statement reveals the other facts necessary to make the loan eligible, these may be accepted as final and conclusive proof of eligibility and no further evidence will be required by the administrator.

Question No. 11a.

What information should be revealed in the Credit Statement?

Answer.

The Credit Statement should give sufficient information about the borrower's income and credit standing and his ownership of the property, or if he is a lessee, the expiration date of the lease in accordance with Regulation No. 1. It should also contain sufficient specific detailed information as to the purposes for which the proceeds of the loan are to be used to enable the insured institution to determine whether there is a violation of Regulations governing the eligibility of a Title I loan. All questions should be answered and all information called for by the Credit Statement should be supplied. In connection with new dwelling loans, a Certificate of Conformance is a part of the Credit Statement and must accompany the credit statement in order that the institution may determine whether the new dwelling conforms with the required minimum standards of the Administrator.

Question No. 11b.

Will the failure of the insured institution to discover the falsity of the borrower's representations in his Credit Statement make a note ineligible for insurance?

Answer.

No. If the insured institution, after making the loan or purchasing the note in good faith, learns of the falsity of any material statement in the Credit Statement, this will not invalidate the insurance, but the facts of such discovery must be reported to the Federal Housing Administration promptly.

Question No. 11c.

What action may be taken by the Administrator if in his opinion a high ratio of loss results from failure to exercise reasonable credit judgment?

Answer.

While the question of the financial condition of the borrower is left to the reasonable judgment of the insured institution, should there be a high loss ratio, which, in the opinion of the Administrator, is due to a flagrant abuse of the insurance provisions, the Contract of Insurance may be cancelled as to future business.

Regulation No. 12

Applicable Only to Loans Resulting in Excess of $2,500 to One Borrower

Loans, advances of credit, or purchases of obligations representing loans or advances of credit, in excess of $2500 to any individual borrower, exclusive of financing charges, or any loan, advance of credit, or purchase which increases the amount outstanding to any individual borrower to an amount in excess of $2500 will be accepted for insurance only upon prior approval of the Administrator.

Question No. 12a.

Does this Regulation include the outstanding balance, if any, on a loan or advance of credit obtained pursuant to the provisions of Title I of the National Housing Act in effect prior to February 4, 1938?

Answer.

No. The present limitation as to the prior approval of the Administrator on advances of credit in excess of $2,500 to any individual borrower applies only to such advances made after February 4, 1938. Regulation No. 9, however, provides that a loan is not eligible for insurance if it is made to a borrower who is delinquent as to either principal or interest with respect to an obligation previously obtained pursuant to the provisions of the National Housing Act.

Regulation No. 13

Applicable to All Loans

Eligible notes must be reported on the proper form to the Federal Housing Administration, Washington, D. C., within 31 days from the date of the note, or the date upon which it was purchased, in order to be covered by the insurance. All notes refinanced must likewise be reported within 31 days, on the proper form. In any case, the Administrator may, in his discretion, accept a late report.

Regulation No. 14

Applicable to All Loans

Subject to Regulation No. 17, claim may be made only for loss sustained by the insured institution itself, and may include:

(1) Net unpaid amount of advance actually made or the actual purchase price of the note, whichever is the lesser;

(2) Uncollected earned interest (after default interest is not to be claimed at a rate to exceed 4% per annum and will be calculated to the date the claim is approved for payment);

(3) Uncollected courts costs, including fees paid for issuing, serving and filing summons;

(4) Attorney's fees not exceeding 15% of the amount collected on the defaulted note;

(5) Handling fee of $5 for each loan, if judgment is secured, plus 5% of amounts collected subsequent to return of unsatisfied property execution.

Question No. 14a.

On the following statement of facts, how much would an insured institution be entitled to as a claim under the Contract of Insurance? Suppose on a $1,000 three-year note, dated August 1 and payable in monthly installments of $27.78 the maximum discount of $130.28 was taken. Payments were received as follows: The first five payments were made on the dates due; i. e., September 1, October 1, November 1, December 1, and January 1; the payment due February 1 was received 60 days late; i. e., April 1. No further payments were received and the insured institution matured the note, demanded payment of the full unpaid balance, brought suit, obtained judgment, and property execution was returned unsatisfied. (It is not required that the institution do this before filing claim, but it is to its advantage to make every effort to collect the claim in order to preserve its insurance reserve.) On July 1, $50 was collected. Nothing more was received, and claim for loss was made on the Administrator, which claim was approved for payment on August 1.

Answer.

In calculating claims, the date of default from which the institution is entitled to 4% interest is, in this instance, March 1; i. e., the earliest date on which an installment was due and for which full payment was not received prior to the maturing of the note. Therefore, the above claim would include the following items:

1. Charge for full term of loan, $130.28. This charge is to be prorated to the date of default. The proration is figured on the basis of the period elapsed from the date the note was executed until the date of default as determined above.	
Charge prorated to date of default	$45.19
Proceeds of loan (amount received by borrower) ($1,000.00 — $130.28)	869.72
Total to date of default	914.91
Less amount received in regular installments	166.68
Unpaid principal at time of default	748.23
Less amount received other than in regular installments	50.00
Net unpaid principal	698.23
2. Interest earned at 4% on $748.23 from March 1 to July 1	10.00
Interest earned at 4% on $698.23 from July 1 to August 1 (date claim was approved for payment)	2.37
3. Uncollected court costs and disbursements	6.00
4. Attorney's fees, 15% of $50 (amount collected after default)	7.50
5. Handling fee for securing judgment	5.00
Handling fee of 5% of amount collected subsequent to unsatisfied property execution	2.50
Total amount to be paid	$731.60

Question No. 14b.

Does the fact that the note provides for payment of interest at the full legal rate on the unpaid principal at some other rate than 4% after default resulting in a maturing of the entire balance of the obligation, affect the amount for which claim may be made?

Answer.

No. The Federal Housing Administrator assumes no control over the rate of interest to be charged to borrower after default in his payments if the whole obligation is matured, but uncollected interest earned after default will be paid by the Federal Housing Administrator only at the rate of 4%, calculated from the date of default to the date the claim is approved for payment.

Question No. 14c.

What is the meaning of the provision in Regulation No. 14 that attorney's fees not exceeding 15% of the amount collected on a defaulted note may be included in a claim under the Contract of Insurance?

Answer.

The Attorney's fees provided for in Regulation No. 14 are intended to cover the case of a note which has become in final default (a default which results in a claim being made under the Contract of Insurance) and it appears to the insured institution to be necessary to put the note in the hands of an attorney for collection or suit. It is not intended to cover the cost of routine correspondence which may be carried on by an attorney because of occasional delinquencies. The late charge provided for in Regulation No. 4 is intended to compensate the institution for expense of this kind.

Question No. 14d.

Do attorney's fees include fees paid to a collection agency or only actual payments to regular attorneys?

Answer.

Attorney's fees for which claim may be made cover actual expenditures not exceeding 15% of the defaulted amount collected whether such fees have been paid to an attorney or to a collection agency employed by the insured institution.

Question No. 14e.

Suppose an insured institution does not employ an outside attorney but has its own legal staff to effect collections. May it nevertheless make claim for attorney's fees?

Answer.

Yes. An insured institution operating in this manner will be entitled to assess a proper proportion of the cost of maintaining its own legal staff, not exceeding 15% of the defaulted amount collected, as a claim for attorney's fees where actual collection work is carried on in this fashion.

Question No. 14f.

If a borrower is in default, and the note is put in the hands of an attorney for collection, who induces the borrower to agree to pay the amount outstanding if he is not called upon to pay attorney's fees, may the insured institution claim upon the Administrator for attorney's fees up to 15% of the amount collected, after having thus waived any such right against the borrower?

Answer.

No. If the insured institution waives its claim against the borrower, it may not call upon the Administrator for payment of such an item.

Question No. 14g.

On what basis will a claim be paid when an insured institution does not advance the full amount of the note, but retains a part of the face amount as a hold-back or reserve or deducts the finance charge in advance?

Answer.

Since claim may be made only for loss sustained by the insured institution itself, the amount of any reserve or hold-back, or of any unearned discount charge must be shown on the Statement of Facts. If all charges have been calculated correctly, the insured institution would be entitled to the amount actually advanced by it, less the amount of payments received and plus the unpaid earned charge calculated on the amount actually advanced and the other items specifically allowed by Regulation No. 14.

Regulation No. 15

Applicable to All Loans

Claim for reimbursement for loss on a qualified note may be made to the Administrator after default on any installment, provided demand has been made upon the debtor for the full unpaid balance.

For the purpose of this Regulation any payment received on an account, including payments on a Judgment predicated thereon, must be applied to the earliest unpaid installment and whenever any installment is six months in arrears claim must be made within thirty-one days.

In the case of yearly installment notes, whenever an installment is twelve months in arrears then claim must be made within thirty-one days.

Upon presentation to him of the facts of a particular case within the allowable claim period prescribed in this regulation, the Administrator may, in his discretion, extend the time within which claim must be made.

The Administrator, in his discretion, may at any time or from time to time call for a report from any institution on the delinquency status of the obligations held by such institution and reported to him for insurance.

Question No. 15a.

Assuming that a borrower defaults on the payment of two successive installments and then makes the equivalent of one full payment, either before or after Judgment has been obtained, what will be the permissible period within which to make claim?

Answer.

If the equivalent of a full installment is received prior to the expiration of the 6-month period, the amount of such payment should be credited to the installment that first went into default and the 6-month period calculated from the date of the first following installment remaining unpaid.

For example: If the note calls for monthly payments of thirty ($30.00) dollars, due the first of each month, and the borrower defaults on his January, February, March, April, May, June and July installments, claim must be filed by the institution on or before August 1st.

If the borrower had, however, defaulted on his January and February installments but in March made a fifteen ($15.00) dollar payment and in April a twenty ($20.00) dollar payment, the total of these two payments (thirty-five dollars) would be credited back to the January installment, which was the first one to be unpaid. In so doing the January default is cured and the February 1st installment then becomes the first one in default and the six month period is calculated therefrom.

Regulation No. 16

Applicable to All Loans

Claims must be made on forms provided by the Administrator. They must be filled out completely and executed in duplicate by a duly qualified officer of the insured institution. If the regulations have been complied with, payment of the loss will be made upon audit of the claim and upon proper assignment to the United States of America, of the note upon which the loss occurred, together with any security taken to secure payment thereof. Any security or judgment taken must be assigned, and if any claim has been filed in bankruptcy, insolvency or probate proceedings, such claim must likewise be assigned to the United States of America.

Question No. 16a.

In submitting statement of claim on defaulted notes there may be cases in which it would not be practicable to transmit all of the documents required, and if such is the case what provision will the Administrator make to facilitate payment of the claim?

Answer.

In any such case the Administrator will consider arranging with the insured institution for the submission of a proper transcript or copies sufficient to audit the claim adequately, with the understanding that the documents in question will be forwarded upon passing of the claim for payment.

Question No. 16b.

What form of assignment or endorsement must be used in transferring the evidence of the borrower's indebtedness and the security taken on such indebtedness in the event of claim under the Contract of Insurance?

Answer.

The following form of assignment, should be used in assigning a note, judgment, conditional sales contract, chattel mortgage, or real estate mortgage in event of claim under the Contract of Insurance:

All right, title and interest of the undersigned is hereby assigned (without warranty, except that the note qualifies for insurance) to the United States of America.

_____
Financial Institution

By _____

Title _____

In lieu of the above, a note may be transferred by endorsement without recourse.

Regulation No. 17

Applicable to All Loans

Subject to the limitation that his total liability which may be outstanding at any one time plus the amount of claims paid in respect of all insurance heretofore and hereafter granted shall not exceed $100,000,000, the Administrator, in accordance with Regulation No. 14, will reimburse any insured institution for losses sustained by it up to a total aggregate amount equal to 10% of the total amount advanced by it during the time its contract of insurance is in force, on all eligible obligations not previously reported for insurance, taken or purchased by it on and after February 4, 1938, and held by it, or on which it remains liable.

If obligations previously reported for insurance under contracts of insurance issued pursuant to the National Housing Act Amendments of 1938 approved February 3, 1938, are sold to another insured institution endorsed with or without recourse, the buying and selling institutions may agree, with the prior approval of the Administrator, to transfer all or any part of the insurance reserve standing to the credit of the selling institution, to the purchasing institution. Where the parties agree to transfer an insurance reserve in excess of 10% of the actual purchase price of the obligations involved, or in excess of 10% of the net unpaid original advance on the obligations involved, whichever is the lesser, the entire insurance reserve transferred may be used to pay only those claims arising out of defaults occurring in the transferred obligations. When the obligations so transferred have all been fully paid to the purchasing institution, it shall so notify the Administrator, and any insurance reserve remaining unused shall thereupon revert to the institution from which it was originally transferred.

Where the parties agree to transfer an insurance reserve not in excess of 10% of the actual purchase price of the obligations involved, or not in excess of 10% of the net unpaid original advance on the obligations involved, whichever is the lesser, the insurance reserve so transferred will be credited to the general reserve of the purchasing institution in the absence of any agreement to the contrary between the purchasing and selling institutions.

The transfer of insurance reserve in cases of merger or consolidation of two or more insured institutions will be provided for by the Administrator in accordance with the facts of the particular case.

In all cases the reports required by Regulation No. 13 must be filed and must indicate the intent of the parties with regard to the transfer of insurance reserve, and must show that no note to be transferred is delinquent more than one calendar month at the time of such transfer.

Where the notes are transferred without recourse, guarantee, or repurchase agreement and the reports do not indicate the intent of the parties, the insurance reserve will be transferred to the general reserve of the purchasing institution on the basis of 10% of the actual purchase price of the obligations involved, or 10% of the net unpaid original advance on the obligations involved, whichever is the lesser.

Where the transfer of the obligations is with recourse or under a guarantee or purchase agreement and the required reports do not show the intent of the parties, no insurance reserve will be transferred.

The selling price on the transfer of an insured note between insured institutions will not affect the insurance on the note. The calculation of insured loss will be based on the original transaction of the institution first reporting the loan for insurance.

The Administrator may at any time or from time to time call for such reports as he may deem to be necessary in connection with these regulations or he or his authorized representative may inspect the books or accounts of the lending institution as they pertain to the loans reported for insurance.

Question No. 17a.

Where notes reported by one insured institution to the Federal Housing Administration for insurance are pledged to another insured institution as security for a loan, will it be possible for the pledging institution to assign a part of its insurance reserve to cover losses on the notes pledged in the hands of the pledgee?

Answer.

Yes. Such an assignment of the pledging institutions' insurance reserve may be made with the prior consent of the Administrator. Requests for consent to the assignment should be accompanied by a signed agreement between the two institutions.

Question No. 17b.

Will any amounts salvaged by the Administrator, on a note for which an institution has been reimbursed under its Contract of Insurance, be added to the insurance reserve remaining to the credit of the Insured Institution?

Answer.

No. Once a claim has been properly paid by the Administrator the loan is transferred absolutely to him, and any amounts that may be collected thereon in no way accrue to the benefit of the insured institution's insurance reserve.

Regulation No. 18

Applicable to All Loans

New obligations to liquidate loans previously reported for insurance hereunder will be covered by insurance if they meet the requirements of these regulations. They must be reported on the proper form within 31 days from date of execution.

Question No. 18a.

Suppose the insured institution held a $600 discount note maturing in two years, the maximum discount permitted having been taken. At the end of the first year the borrower, having made payments totaling $300, comes in and explains that his circumstances have changed and he requests that he be allowed to make a new note for two years solely to liquidate the existing obligation, so that by spreading the remaining balance over a period of two years he could reduce the amount to be repaid monthly—how will this be figured and what will be the amount of the new note?

Answer.

There are two things the insured institution has to consider. First, how much is required to liquidate the existing note? Second, for what amount should the new note be written to yield the amount required to liquidate the unpaid balance of the existing note and provide for the proper finance charge on the new note? In the instance cited the borrower has repaid $300 and still owes $300.

The insured institution must make a reasonable refund at a rate of not less than 5% per annum on the installments being refinanced. This would amount to a minimum rebate of $8.13 in the example given. The amount required to liquidate the existing note is then the difference between the unpaid face amount of the note—$300—and the rebate of $8.13, or $291.87. This is the same calculation the insured institution would make if the borrower were seeking to pay off his obligation in cash instead of by making a new loan.

Referring to the Tables of Calculations, we find that to finance $291.87 for two years would cost $29.54 and the new note would, therefore, be made for $321.41. The borrower's monthly installments would be $13.39 for 24 months as contrasted with his previous installments of $25 for remaining 12 months of the original note.

In no case, however, may the insurance period of all such loans exceed the maximum provided for in Regulation No. 5 or No. 21 whichever may be applicable.

Question No. 18b.

Is the amount of the new obligation added to the total amount of loans made by the insured institution in calculating its insurance reserve?

Answer.

No. The original advance of credit was added to the total amount of loans made and is not deducted by reason of the fact that it is being refinanced through a new note. The new note could not, therefore, also be added.

Question No. 18c.

Will an agreement to extend or defer payments on a note previously reported for insurance without rewriting the note affect the insurance coverage on the note?

Answer.

No, subject to the terms of Regulation No. 15 and the following limitations:

1. The total cost to the borrower may not be increased, by any charge for the extension, over the maximum chargeable on the basis of the revised Schedule of Payments. It is of the utmost importance that this provision be adhered to as any deviation will be considered to invalidate the insurance on the note.

2. In no case will the insurance period of all such loans exceed the maximum provided for in Regulation No. 5 or No. 21 whichever may be applicable.

3. Where extension charges are paid in advance, but the borrower does not fulfill his contract, the insured institution may retain only that portion of the charge actually earned, and if claim is made under the Contract of Insurance, the balance must be credited as a payment to principal.

It will not be necessary for the institution to report extension agreements under which the original note remains in effect unless claim is made, at which time the original agreement together with a report of collections thereunder must be furnished the Administrator.

Regulation No. 19

Applicable to All Loans

When a lending institution purchases an obligation representing a loan or advance of credit for eligible purposes, or disburses the proceeds to one other than the borrower it must not so disburse the proceeds until it has obtained a completion or installation certificate signed by the borrower, stating that the work has been done or the installation made.

Question No. 19a.

May an insured institution pay the proceeds of a note either in full or by installments to the contractor, supplier, or anyone else to whom it is directed by written authorization of the borrower that payment be made?

Answer.

Yes, in fact, in many cases, this would be considered good practice to make sure that the proceeds are being used for eligible purposes as agreed. In such cases written authority signed by the borrower must first be obtained in addition to the installation or completion certificate.

Regulation No. 20

Applicable Only to New Structure Loans

A loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, not in excess of $2,500, exclusive of financing charges to the borrower and including the cost of architectural and engineering services, for the purpose of financing the building of a new structure will be eligible for insurance, provided, however, that if such new structure is intended for use, in whole or in part, for residential purposes, the following conditions are complied with at the time the new structure is built:

1. *Foundations.*—(*a*) All foundations shall be of masonry pier or wall construction.

(*b*) Foundations shall be carried below the frost line prevailing in the neighborhood.

(*c*) No wood construction shall be less than 18 inches from the ground in unexcavated portions, and 8 inches from the ground on the exterior.

2. *Minimum lot size* (upon which there is no other dwelling).—(*a*) Minimum area shall be 4,000 square feet with a minimum frontage of not less than 40 feet, where public water supply and public sewer are available.

(*b*) Minimum area shall be 7,500 square feet, where public water supply is available and private sewage disposal system (cesspool or septic tank) is used.

(*c*) Minimum area shall be 20,000 square feet where both public water supply and public sewer are not available.

3. *Minimum floor area* of the dwelling shall be 360 square feet.

4. *Windows.*—(*a*) All habitable rooms including bathrooms must be provided with one or more windows to permit adequate natural light and ventilation.

5. *Water supply.*—(*a*) When public water supply is available connection shall be made to public water main.

(*b*) When public water supply is not available a private water supply shall be on the property and may be a drilled, driven or dug well or a natural spring.

6. *Sewage disposal.*—(*a*) When public water supply and public sewers are available a bathroom shall be provided and running water shall be piped and connected to all fixtures and the kitchen sink and connection shall be made to public sewer main.

(*b*) When public water supply is available but a public sewer is not available a bathroom shall be provided and running water shall be piped and connected to all fixtures and the kitchen sink *and a cesspool or septic tank shall be installed.*

(*c*) When public water supply is not available the requirements of *a* and *b* above are not applicable.

7. *Outdoor toilets.*—Outdoor toilets will not be permitted on lots less than 20,000 square feet in area.

8. *Fire insurance.*—(*a*) Fire insurance coverage must be obtained in an amount at least equal to the unpaid principal of the loan and must name the lending institution as beneficiary. In event of loss or damage the proceeds of such insurance shall be payable to the lending institution and shall either be applied to the reduction of the unpaid balance of the loan or if the borrower desires to obtain the use of such proceeds for the purpose of repairing or reconstructing the damaged structure the lending institution may release such proceeds to the borrower for such purpose.

(*b*) The cost of such insurance may be in addition to the maximum finance charge to the borrower permitted in Regulation No. 22, but in no event may such cost be included in the net proceeds advanced to the borrower.

9. *Collateral.*—(*a*) Collateral security for the loan must be obtained in the form of a mortgage or deed of trust covering the property improved by such new structure and must be recorded in accordance with the applicable laws of the jurisdiction. Such mortgage or deed of trust may be subject to outstanding liens, including mechanics' and materialmen's liens, but not including any other liens arising out of, or created in connection with the construction for which the loan or advance was made. At the time of making the loan or advance of credit the institution must obtain and may accept without further investigation the certification of the borrower that there will be no prior obligations arising out of or created in connection with financing the building of the structure and that any mechanics' and materialmen's liens created in connection with the construction for which the loan or advance was made will be satisfied in full upon completion of the structure. Recording fees may be in addition to the maximum finance charge to the borrower permitted in Regulation No. 22, but in no event may such cost be included in the net proceeds advanced to the borrower.

10. *Exceptions.*—The above conditions may be varied under special circumstances and in certain areas upon prior approval of the Administrator.

Question No. 20a.

Will a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit for the purpose of financing the building of a new structure, the building of which was commenced prior to February 4, 1938, be eligible for insurance?

Answer.

No. Only those loans or purchases of obligations made on and after February 4, 1938, to finance the building of new structures, the erection of which started after that date, will be eligible for insurance.

Question No. 20b.

By what means may an institution determine whether the conditions necessary for the eligibility of a new structure for residential purposes complies with the requirements set forth in this Regulation?

Answer.

The borrower must furnish the lending institution a signed Certificate of Conformance, approved as to form or supplied by the Administrator, clearly stating the necessary information from which the institution can determine whether there is conformance with the required conditions set forth in this Regulation and that there will be no prior obligations arising out of or created in connection with financing the building of the structure and that any mechanics' and materialmens' liens created in connection with the construction for which the loan or advance was made will be satisfied in full upon completion of the structure.

The lending institution may rely upon the statements made by the borrower on his signed Certificate of Conformance and need not make any further investigation.

Question No. 20c.

What type of new structures other than those designed in whole or in part for residential purposes are eligible for building with the proceeds of an insured loan as contemplated by this Regulation?

Answer.

Any building having a distinct functional use and which represents an improvement to the realty may be built with the proceeds of an insured loan. Examples of such buildings are barns, wayside stands, garages, and similar rural, commercial or industrial buildings.

Regulation No. 21

Applicable Only to Loans for New Structures for Residential Use

Loans or advances of credit, or purchases of obligations representing loans or advances of credit, not in excess of $2,500, exclusive of financing charges to the borrower, and including the cost of architectural and engineering services, if any, for the purpose of financing the building of new structures intended for use, in whole or in part, for residential purposes will be eligible for insurance if they have a final maturity not in excess of ten years and thirty-two days.

Regulation No. 22

Applicable Only to Loans for New Structures for Residential Use

A note for residential construction will be eligible for insurance only if the total payment to be made by the borrower for interest, discount and fees of all kinds (except fire insurance costs or recording fees as authorized in Regulation No. 20) in connection with the transaction is not in excess of an amount equivalent to $3.50 discount for $100 original face amount of a one year note to be paid in equal monthly installments, calculated from the date of the note. This charge is a permitted maximum and not a mandatory rate, and a loan at any lower rate is eligible for insurance, and such charge correctly based on tables of calculations issued by the Federal Housing Administrator is deemed to comply with this regulation.

NOTE.—The terms of all questions and answers under Regulation No. 3 herein are applicable to this Regulation as if set forth hereunder, provided, however, that all figures are amended to conform with the maximum charge permitted by this Regulation. The resultant ratio between the total charge and the average amount outstanding on the debt is 0.066959 on loans for financing the building of new structures for use in whole or in part for residential purposes. Thus, the following gross charge and discount factors are applicable:

INSTALLMENTS PAYABLE MONTHLY

Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)	Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)
0.005580	1	0.005549	0.172977	61	0.147469
.008370	2	.008300	.175767	62	.149192
.011160	3	.011037	.178557	63	.151505
.013950	4	.013758	.181347	64	.153509
.016740	5	.016464	.184137	65	.155503
.019530	6	.019156	.186927	66	.157488
.022320	7	.021832	.189717	67	.159464
.025110	8	.024495	.192507	68	.161430
.027900	9	.027142	.195297	69	.163388
.030690	10	.029776	.198087	70	.165336
.033479	11	.032395	.200877	71	.167275
.036269	12	.035000	.203667	72	.169205
.039059	13	.037591	.206457	73	.171127
.041849	14	.040168	.209247	74	.173039
.044639	15	.042732	.212037	75	.174942
.047429	16	.045282	.214827	76	.176837
.050219	17	.047818	.217617	77	.178723
.053009	18	.050341	.220407	78	.180601
.055799	19	.052850	.223196	79	.182470
.058589	20	.055346	.225986	80	.184330
.061379	21	.057830	.228776	81	.186182
.064169	22	.060300	.231566	82	.188026
.066959	23	.062757	.234356	83	.189861
.069749	24	.065201	.237146	84	.191688
.072539	25	.067633	.239936	85	.193507
.075329	26	.070052	.242726	86	.195318
.078119	27	.072458	.245516	87	.197120
.080909	28	.074853	.248306	88	.198914
.083699	29	.077234	.251096	89	.200701
.086489	30	.079601	.253886	90	.202479
.089279	31	.081961	.256676	91	.204250
.092069	32	.084307	.259466	92	.206013
.094859	33	.086640	.262256	93	.207768
.097648	34	.088962	.265046	94	.209515
.100438	35	.091271	.267836	95	.211254
.103228	36	.093569	.270626	96	.212986
.106018	37	.095856	.273416	97	.214710
.108808	38	.098131	.276206	98	.216427
.111598	39	.100394	.278996	99	.218136
.114388	40	.102647	.281786	100	.219838
.117178	41	.104888	.284576	101	.221533
.119968	42	.107117	.287366	102	.223220
.122758	43	.109336	.290155	103	.224900
.125548	44	.111544	.292945	104	.226572
.128338	45	.113741	.295735	105	.228237
.131128	46	.115927	.298525	106	.229896
.133918	47	.118102	.301315	107	.231547
.136708	48	.120266	.304105	108	.233191
.139498	49	.122420	0.306895	109	0.234828
.142288	50	.124564	.309685	110	.236458
.145078	51	.126697	.312475	111	.238081
.147868	52	.128819	.315265	112	.239697
.150658	53	.130932	.318055	113	.241306
.153448	54	.133034	.320845	114	.242909
.156238	55	.135126	.323635	115	.244505
.159028	56	.137208	.326425	116	.246094
.161817	57	.139280	.329215	117	.247676
.164607	58	.141342	.332005	118	.249252
.167397	59	.143394	.334795	119	.250821
.170187	60	.145436	.337585	120	.252384

INSTALLMENTS PAYABLE QUARTERLY

0.025110	2	0.024495	0.192507	22	0.161430
.033479	3	.032395	.200877	23	.167275
.041849	4	.040168	.209247	24	.173039
.050219	5	.047818	.217617	25	.178723
.058589	6	.055346	.225986	26	.184330
.066959	7	.062757	.234356	27	.189861
.075329	8	.070052	.242726	28	.195318
.083699	9	.077234	.251096	29	.200701
.092069	10	.084307	.259466	30	.206013
.100438	11	.091271	.267836	31	.211254
.108808	12	.098131	.276206	32	.216427
.117178	13	.104888	.284576	33	.221533
.125548	14	.111544	.292945	34	.226572
.133918	15	.118102	.301315	35	.231547
.142288	16	.124564	.309685	36	.236458
.150658	17	.130932	.318055	37	.241306
.159028	18	.137208	.326425	38	.246094
.167397	19	.143394	.334795	39	.250821
.175767	20	.149492	.343165	40	.255490
.184137	21	.155503			

INSTALLMENTS PAYABLE SEMIANNUALLY

Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)	Gross charge factor (based on $1 of net proceeds)	Number of installment payments in which loan is to be repaid	Discount factor (based on $1 of face amount)
0.033479	1	0.032395	0.200877	11	0.167275
.066959	2	.047818	.217617	12	.178723
.066959	3	.062757	.234356	13	.189861
.083699	4	.077234	.251096	14	.200701
.100438	5	.091271	.267836	15	.211254
.117178	6	.104888	.284576	16	.221533
.133918	7	.118102	.301315	17	.231547
.150658	8	.130932	.318055	18	.241306
.167397	9	.143394	.334795	19	.250821
.184137	10	.155503	.351534	20	.260100

INSTALLMENTS PAYABLE ANNUALLY

0.066959	1	0.062757	0.234356	6	0.189861
.100438	2	.091271	.267836	7	.211254
.133918	3	.118102	.301315	8	.231547
.167397	4	.143394	.334795	9	.250821
.200877	5	.167275	.368274	10	.269152

The Regulations and Questions and Answers contained herein are hereby declared to be effective as of the date hereof, and shall have the same force and effect as if included in and made a part of each Contract of Insurance issued beginning February 4, 1938. The Questions and Answers shall have the same force and effect as the Regulations interpreted thereby.

STEWART MCDONALD,
Federal Housing Administrator.

FEBRUARY 4, 1938.

[F. R. Doc. 38-470; Filed, February 12, 1938; 10:24 a. m.]

MUTUAL MORTGAGE INSURANCE

ADMINISTRATIVE RULES AND REGULATIONS UNDER SECTION 203 OF THE NATIONAL HOUSING ACT

CONTENTS

Administrative Rules Under Section 203

Sec. I. Approval of Mortgagees.
Sec. II. Approval of Acceptable Assignees.
Sec. III. Application and Commitment.
Sec. IV. Eligible Mortgages.
Sec. V. Eligible Mortgagors.
Sec. VI. Eligible Properties.
Sec. VII. Effective Date.

Administrative Regulations Under Section 203

Article I. Citation.
Article II. Definitions.
Article III. Premiums.
Article IV. Insurance Endorsement.
Article V. Classification of Mortgages.
Article VI. Rights and Duties of an Approved Mortgagee Under the Contract of Insurance.
Article VII. Assignments.
Article VIII. Amendments.
Article IX. Effective Date.

ADMINISTRATIVE RULES

SECTION I—APPROVAL OF MORTGAGEES

1. The following institutions are hereby approved as mortgagees under Section 203 (b) of the National Housing Act:

(*a*) National Mortgage Associations,
(*b*) Federal Reserve Banks,
(*c*) Federal Home Loan Banks,
(*d*) Reconstruction Finance Corporation,
(*e*) RFC Mortgage Company, and
(*f*) any other Federal, State or municipal governmental agency that is or may hereafter be empowered to hold mortgages insured under Title II of the National Housing Act as security or as collateral or for any other purpose.

2. Members of the Federal Reserve System, of the Federal Home Loan Bank System, and institutions whose deposits are insured by the Federal Deposit Insurance Corporation will be approved as mortgagees upon application.

3. Any charitable or nonprofit organization which presents evidence that it is responsible, has permanent funds of not less than one hundred thousand dollars ($100,000), and has experience in mortgage investment, may be approved upon application.

4. Any other institution not hereinbefore mentioned will be approved as a mortgagee upon application if it has the following qualifications and meets the following conditions to the satisfaction of the Administrator:

(*a*) it is a chartered institution or other permanent organization having succession;

(*b*) it is subject to the inspection and supervision of a governmental agency; or if not subject to inspection and supervision by a governmental agency, it shall submit an independent detailed audit of its books made by an accountant satisfactory to the Administrator and reflecting a condition satisfactory to him, and also, so long as its approval as a mortgagee continues, shall file with the Administrator similar audits at least once in each calendar year and submit at any time to such examination of its books and affairs as the Administrator may require, and comply with any other conditions that the Administrator may impose

(*c*) its principal activity is lending on or investing in mortgages, funds which are under its own control; and it has sound capital funds properly proportioned to its liabilities and to the character and extent of its operations, which funds shall be of a value of not less than one hundred thousand dollars ($100,000): provided, that this qualification and condition as to the minimum amount of capital funds shall not apply.

(1) to an institution or other permanent organization subject to the inspection and supervision of a governmental agency, or

(2) to an institution or other permanent organization that establishes to the satisfaction of the Administrator that it is a duly authorized loan correspondent of, and if its approval is requested by, an approved mortgagee or assignee which lends on, or invests in, mortgages on a national scale and is subject to the inspection and supervision of a governmental agency, on the condition that the termination of its relationship as such correspondent will be cause (subject to the provisions of subsection (6) of this section) for withdrawal of its approval as an approved mortgagee and on the further condition that the correspondent institution and the institution for which it is authorized to act shall agree to notify promptly the Administrator of the termination of such relationship; and

(*d*) if it is not subject to the inspection and supervision of a governmental agency, it shall submit an agreement in writing: (1) that so long as it continues to be approved as a mortgagee, it will not issue any mortgage participating certificates on which it assumes personal liability, or issue any guaranty with respect to principal or interest of any mortgage, except that any such obligations outstanding on the date of the application of such institution may thereafter be renewed; and (2) that it will segregate all monthly payments under mortgages insured by the Administrator, received by it on account of ground rents, taxes, assessments, and insurance premiums, and will deposit such funds in a special account, or accounts, with some banking institution which is subject to the inspection and supervision of a governmental agency and shall use such funds for no purpose other than that for which they were received.

5. Approval as a mortgagee under this section, of a banking institution or trust company which is subject to the inspection and supervision of a governmental agency, shall be

deemed to constitute approval of such institution or company when lawfully acting in a fiduciary capacity in investing fiduciary funds which are under its individual or joint control. Upon termination of such fiduciary relationship, whether by revocation or otherwise, any insured mortgages held in the fiduciary estate shall be transferred to a mortgagee approved under this or the succeeding section and the fiduciary relationship must be such as to permit such transfer.

Nothing in this section shall be construed to permit the sale to the general public of instruments representing the beneficial interest in all or part of one or more insured mortgages.

6. Approval of an institution as a mortgagee may be withdrawn at any time by notice from the Administrator. In the discretion of the Administrator, the transfer of an insured mortgage to a mortgagee not approved to act under this or the succeeding section, or the failure of a mortgagee not subject to the inspection and supervision of a governmental agency, to segregate all funds received from mortgagors on account of ground rents, taxes, assessments, and insurance premiums, and to deposit such funds in a special account, or accounts, with some banking institution which is subject to the inspection and supervision of some governmental agency, or the use of such funds for any purpose other than that for which they were received will be cause for withdrawal of approval. Withdrawal of approval will in no case affect the insurance on mortgages theretofore accepted for insurance.

SECTION II—APPROVAL OF ACCEPTABLE ASSIGNEES

1. The Administrator will upon application approve a chartered institution or other permanent organization as an acceptable assignee if such institution or organization meets the following conditions to the satisfaction of the Administrator:

(*a*) it is a corporation or other permanent organization having succession;

(*b*) it has sound capital funds of not less than $100,000;

(*c*) it is subject to the inspection and supervision of a governmental agency;

(*d*) its investments in mortgage loans are intended for its own portfolio; and

(*e*) its facilities are such that it will be able properly to service mortgages held by it.

2. Such an acceptable assignee shall be entitled to acquire insured mortgages from approved mortgagees by assignment after the execution and insurance of such mortgages, and to hold such mortgages without invalidating the insurance thereof, and to service them while so held. An acceptable assignee is not authorized to initiate insured mortgage loans originally or to apply for the insurance of mortgages under Section 203 (a) of the National Housing Act; but shall in all other respects be considered as included in the term "mortgagee" as used in these Administrative Rules and the Regulations of the Federal Housing Administrator.

3. Approval of an institution as an acceptable assignee may be withdrawn at any time by notice from the Administrator. Except in individual cases, approved by the Administrator, transfer of an insured mortgage to a mortgagee not approved to act under this or the preceding section will be cause for withdrawal of approval. Withdrawal of approval will in no case affect the insurance on mortgages theretofore accepted for insurance.

SECTION III—APPLICATION AND COMMITMENT

1. Any approved mortgagee may submit an application for insurance of a mortgage about to be executed, or of a mortgage already executed.

2. The application must be made upon a standard form prescribed by the Administrator.

3. The application must be accompanied by the mortgagee's check for a sum computed at a rate of three dollars ($3) per thousand dollars ($1,000) of the original principal amount of the mortgage loan applied for, to cover the costs of appraisal by the Administrator, but in no case shall such sum be less than ten dollars ($10). If an application is refused without an appraisal being made by the Administrator, the fee will be returned to the applicant but no portion of the fee will be returned after appraisal or on account of any difference between the amount applied for and the amount approved for insurance.

If, after insurance, the outstanding principal amount of an insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, the fee herein provided for shall be based upon the amount of such increase but in no case shall be less than ten dollars ($10).

The Administrator may agree on fees different from those fixed in this subsection in cases where substantially all residential mortgages and real estate owned or held by an approved mortgagee are examined for mortgage insurance as one operation.

4. Upon approval of an application, acceptance of the mortgage for insurance will be evidenced by the issuance of a commitment setting forth, upon a form prescribed by the Administrator, the terms and conditions upon which the mortgage will be insured.

SECTION IV—ELIGIBLE MORTGAGES

To be eligible for insurance—

1. The mortgage must be executed upon a form approved by the Administrator for use in the jurisdiction in which the property covered by the mortgage is situated, by a mortgagor with the qualifications hereinafter set forth in Section V, must be a first lien upon property that conforms with the property standards prescribed by the Administrator, and the entire principal amount of the mortgage must have been disbursed to, or for the account of, the mortgagor.

2. The mortgage should involve a principal obligation in an amount of one hundred dollars ($100) or multiples thereof but must not exceed sixteen thousand dollars ($16,000) and must not exceed eighty per centum (80%) of the appraised value of the property as of the date the mortgage is accepted for insurance except under the following circumstances:

(a) If the amount of the mortgage does not exceed $5400 and there is located upon the property a dwelling designed principally for a single family residence, the construction of which

(1) is begun after February 3, 1938, and which is approved for mortgage insurance prior to the beginning of construction, or

(2) the construction of which was begun after January 1, 1937, and before February 3, 1938, and which at the time the mortgage is accepted for insurance has not been sold or occupied since completion.

Such mortgage may exceed 80%, provided at the time the mortgage is insured the mortgagor is the owner and occupant and has paid on account of the property at least 10% of its appraised value, in cash or its equivalent, but must not exceed 90% of the appraised value of the property as of the date the mortgage is accepted for insurance.

(*b*) If the amount of the mortgage does not exceed $8600 and the property complies with all of the conditions set forth in paragraph (a) above, except as to the amount of the mortgage, and has an appraised value (as of the date the mortgage is accepted for insurance) in excess of $6000, the amount of such mortgage must not exceed 90% of $6000 of such value, plus 80% of the balance of such value.

3. The mortgage should come due on the first of a month and must have a maturity satisfactory to the Administrator, not to be less than four nor more than twenty years from the date of insurance, except that until July 1, 1939 a mortgage of the character described in paragraph 2 (*a*) of this section may have a maturity satisfactory to the Administrator, not more than twenty-five years from the date of insurance. The amortization period should be either 5, 8, 10, 12, 15, 17, 19 or 20 years by providing for either 60, 96, 120, 144, 180, 204, 228 or 240 monthly amortization payments except that as to mortgages of the character described in paragraph 2 (*a*) of this section such period may also be either 24 or 25 years by providing for 288 or 300 monthly amortization payments.

4. The mortgage may bear interest at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case shall such interest rate be in excess of five per centum (5%) per annum. Interest shall be payable in monthly installments on the principal then outstanding.

5. The mortgage must contain complete amortization provisions satisfactory to the Administrator, requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Administrator. The sum of the principal and interest payments in each month shall be substantially the same.

6. The mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth (1/12) of the annual mortgage insurance premium payable by the mortgagee to the Administrator. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage should provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in Article III, section 2, of the Regulations, but shall not provide for the payment of any further charge on account of such prepayment.

7. The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize the ground rents, if any, and the estimated amount of all taxes, special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Administrator, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

8. All monthly payments to be made by the mortgagor to the mortgagee as hereinabove provided, in subsections 4 to 7, inclusive, shall be added together and the aggregate amount thereof shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items of the order set forth:

(*a*) premium charges under the contract of insurance;

(*b*) ground rents, taxes, special assessments, and fire and other hazard insurance premiums;

(*c*) interest on the mortgage; and

(*d*) amortization of the principal of the mortgage.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good by the mortgagor prior to, or on, the due date of the next such payment, constitute an event of default under the mortgage.

9. The mortgage may provide for a charge by the mortgagee of a "late charge", not to exceed two (2) cents for each dollar of each payment more than fifteen (15) days in arrears, to cover the extra expense involved in handling delinquent payments.

10. The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage and may be required to pay a further sum equal to the first annual mortgage insurance premium, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

11. The mortgagee may charge the mortgagor the amount of the appraisal fee provided for in subsection 3 of Section III and an initial service charge to reimburse itself for the cost of closing the transaction. Such service charge shall not exceed one per centum (1%) of the original principal amount of the mortgage or a charge of twenty dollars ($20), whichever is the greater, except that in cases of property under construction or to be constructed where the mortgagee makes partial disbursements and inspections of the property during the progress of construction, such initial service charge may be in an amount not in excess of two and one-half per centum (2½%) of the original principal amount of the mortgage or a charge of fifty dollars ($50), whichever is the greater.

12. In addition to the charges hereinbefore mentioned, the mortgagee may collect from the mortgagor only recording fees and such appraisal fees and cost of title search as are approved by the Administrator. Nothing in this and the preceding subsection shall be construed as prohibiting the mortgagor from dealing through a broker, who does not represent the mortgagee, if he prefers to do so, and paying the broker such compensation as is satisfactory to the mortgagor.

13. The mortgage must be executed with respect to a project which, in the opinion of the Administrator, is economically sound.

14. On and after July 1, 1939, no mortgages will be insured except mortgages

(1) that cover property which is approved for mortgage insurance prior to the completion of the construction of such property, or

(2) that cover property, the construction of which was commenced after January 1, 1937, and was completed prior to July 1, 1939, or

(3) that cover property which had been previously covered by a mortgage insured by the Administrator.

SECTION V—ELIGIBLE MORTGAGORS

1. A mortgagor must establish that after the mortgage offered for insurance has been recorded, the mortgaged property will be free and clear of all liens other than such mortgage and that there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

2. A mortgagor must establish that the periodic payments required in the mortgage submitted for insurance bear a proper relation to his present and anticipated income and expenses.

3. A mortgagor must have a general credit standing satisfactory to the Administrator.

4. A mortgagor is not restricted as to place of residence and need not be the occupant of the property covered by the mortgage, except where the principal obligation of the mortgage exceeds 80% of the appraised value under the conditions set out at Section IV, subsection 2 (*a*) and (*b*) above.

SECTION VI—ELIGIBLE PROPERTIES

1. A mortgage to be eligible for insurance must be on real estate held in fee simple, or on leashold under a lease for not less than ninety-nine (99) years which is renewable, or under a lease with a period of not less than fifty (50) years to run from the date the mortgage is executed.

2. At the time a mortgage is insured there must be located on the mortgaged property a dwelling unit designed principally for residential use for not more than four families. Such unit may be connected with other dwellings by a party wall or otherwise.

3. The buildings on the mortgaged property must conform with the standards prescribed by the Administrator.

4. The mortgaged property, if otherwise acceptable to the Administrator, may be located in any community where the housing standards meet the requirements of the Administrator.

SECTION VII

These Administrative Rules are effective as to all mortgages on which a commitment to insure is issued to an approved mortgagee on or after February 15, 1938.

Issued at Washington, D. C., February 4, 1938.

STEWART McDONALD,
Federal Housing Administrator.

REGULATIONS

ARTICLE I

These Regulations may be cited and referred to as "Regulations of the Federal Housing Administrator for Mutual Mortgage Insurance under Section 203 of the National Housing Act, as amended, revised February 15, 1938."

ARTICLE II—DEFINITIONS

As used in these Regulations—

1. The term "Administrator" means the Federal Housing Administrator.

2. The term "Act" means the National Housing Act.

3. The term "mortgage" means such a first lien upon real estate as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the real estate is situated, together with the credit instruments, if any, secured thereby.

4. The term "insured mortgage" means a mortgage which has been insured by the endorsement of the Administrator.

5. The term "mortgagor" means the original borrower under a mortgage and his heirs, executors, administrators, and assigns.

6. The term "mortgagee" means the original lender under a mortgage and its successors and such of its assigns as are approved by the Administrator.

7. The term "contract of insurance" means the endorsement of the Administrator upon the credit instrument given in connection with an insured mortgage, incorporating by reference these Regulations.

ARTICLE III—PREMIUMS

1. The mortgagee shall pay to the Administrator an annual mortgage insurance premium equal to one-half of one per centum (½%) of the average outstanding principal obligation for the twelve-month period following the date on which such premium becomes payable, and calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments, except that such premium charge shall be one-quarter of one per centum (¼%) per annum on such outstanding principal if at the time the mortgage is insured, it meets the following conditions:

(*a*) It has a principal obligation not to exceed $5400 and not to exceed 90% of the appraised value of the property and is accepted for insurance after February 3, 1938, and prior to July 1, 1939, and

(*b*) It covers property upon which there is located a dwelling designed principally for a single family residence,

(1) the construction of which is begun after February 3, 1938, and which is approved for mortgage insurance prior to the beginning of construction, or

(2) the construction of which was begun after January 1, 1937, and prior to February 3, 1938, and which at the time the mortgage is accepted for insurance has not been sold or occupied since completion; and

(*c*) It is made by a mortgagor who is the owner and occupant of the property and who has paid on account of the property at least 10% of its appraised value in cash or its equivalent.

The first such premium is to be paid on the date on which such insurance becomes effective by endorsement and shall be calculated on the average outstanding principal balance for the year beginning with a day thirty (30) days prior to the date of the first monthly payment. Until the mortgage is paid in full or the mortgaged property is acquired by the Administrator as hereinafter set forth, or until the contract of insurance is otherwise terminated, as hereinafter provided the next and each succeeding premium shall be paid annually thereafter on the anniversary of such day, and the amount of the second premium payment will be adjusted accordingly. Such premiums shall be paid either in cash or debentures issued under Title II of the National Housing Act at par plus accrued interest.

The provisions of this section, except in so far as they relate to a premium charge of less than one-half of one per centum (½%) on such outstanding principal, shall also apply to mortgages insured prior to the date of these Regulations, but only in respect to premiums payable after February 3, 1938.

2. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity, the mortgagee shall within thirty (30) days thereafter notify the Administrator of the date of prepayment and shall pay to the Administrator an adjusted premium charge of one per centum (1%) of the original principal amount of the prepaid mortgage, except that if at the time of such prepayment there is placed on the mortgaged property a new insured mortgage in an amount less than the original amount of the prepaid mortgage, such adjusted premium shall be one per centum (1%) of the difference in such amounts.

In no event shall the adjusted premium exceed the aggregate amount of premium charges which would have been payable if the mortgage had continued to be insured until maturity.

No adjusted premium shall be due or payable in the following cases:

(*a*) where at the time of such prepayment there is placed on the mortgaged property a new insured mortgage for an amount equal to or greater than the original principal amount of the prepaid mortgage; or

(*b*) where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments made by the mortgagor which do not exceed in any one calendar year fifteen per centum (15%) of the original face amount of the mortgage; or

(*c*) where the final maturity specified in the mortgage is accelerated solely by reason of payments to principal to compensate for (1) damage to the mortgaged property, or (2) a release of a part of such property if approved by the Administrator; or

(*d*) where payment in full is made of a delinquent mortgage on which foreclosure proceedings have been commenced, or for the purpose of avoiding foreclosure, if the transaction is approved by the Administrator.

Upon such prepayment the contract of insurance shall terminate.

3. If at the time of prepayment a new insured mortgage is placed on the same property, the Administrator will refund to the mortgagee for the account of the mortgagor an amount equal to the pro rata portion of the current annual mortgage insurance premium theretofore paid, which is applicable to the portion of the year subsequent to such prepayment.

ARTICLE IV—INSURANCE ENDORSEMENT

1. Upon compliance, satisfactory to the Administrator, with the terms of his commitment to insure, the Administrator will endorse the original credit instrument in form as follows:

No. ----
Insured under the
National Housing Act
And Regulations of the
Federal Housing Administrator
For Mutual Mortgage Insurance
Dated November 1, 1934
as amended ----------
FEDERAL HOUSING ADMINISTRATOR
By ----------
Authorized agent
Date ----------

The mortgage shall be an insured mortgage from the date of such endorsement. The Administrator and the mortgagee shall thereafter be bound by these Regulations with the same force and to the same extent as if a separate contract had been executed relating to the insured mortgage, including the provisions of these Regulations and of the National Housing Act.

ARTICLE V—CLASSIFICATION OF MORTGAGES

1. Insured mortgages shall be so classified in groups that the mortgages in any group shall involve substantially similar risk characteristics.

2. Premium charges received for the insurance of any mortgage, appraisal and other fees, the receipts derived from the property covered by the mortgage and claims assigned to the Administrator in connection therewith, and all earnings on the assets of the group account shall be credited to the account of the group to which the mortgage is assigned.

3. The principal of, and interest paid or to be paid on, debentures issued in exchange for any property, payments made or to be made to the mortgagee and mortgagor, and expenses incurred in the handling of the property covered by the mortgage and in collection of claims assigned to the Administrator in connection therewith, shall be charged to the account of the group to which such mortgage is assigned.

ARTICLE VI—RIGHTS AND DUTIES OF AN APPROVED MORTGAGEE UNDER THE CONTRACT OF INSURANCE

1. The Administrator shall terminate the insurance as to any group of mortgages

(*a*) when he shall determine that the amounts to be distributed as hereinafter set forth to each mortgagee under an outstanding mortgage assigned to such group are sufficient to pay off the unpaid principal of each such mortgage; or

(*b*) when all the outstanding mortgages in any group have been paid.

Upon such termination, the Administrator shall charge the group account with the estimated losses arising from transactions relating to that group, shall transfer to the General Reinsurance Account an amount equal to 10 per centum of the total premium charges theretofore credited to such group account, and shall distribute to the mortgagees, for the benefit and account of the mortgagors of the mortgages assigned to such group, the balance remaining in such group in such proportions as may be equitable as among such mortgages and in accordance with sound actuarial and accounting practice.

2. The mortgagee shall accept such payment and apply it on account of the obligation, if any, of the mortgagor under the insured mortgage and distribute the balance, if any, to the mortgagor. If such payment is sufficient to satisfy the obligation of the mortgagor in full, the mortgagee shall thereupon deliver to the mortgagor any instrument or instruments necessary or proper to discharge such mortgage.

3. No mortgagor or mortgagee shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Mutual Mortgage Insurance Fund, and the determination of the Administrator as to the amount to be paid by him to any mortgagee or mortgagor shall be final and conclusive.

4. In the event the mortgagee forecloses on the mortgaged property, but does not convey it to the Administrator in accordance with Article VI, section 7, of these Regulations, and the Administrator is given written notice thereof, or in the event the mortgagor pays the obligation under the mortgage in full, prior to the maturity thereof, and the mortgagee pays any adjusted premium required under Article III, section 2, of these Regulations, and the Administrator is given written notice by the mortgagee of such payment by the mortgagor, the obligation to pay any subsequent premium charge for insurance shall cease and all rights of the mortgagee and mortgagor, under Article VI, section 7, shall terminate as of the date of such notice. Upon such termination, the mortgagor shall be entitled to receive a share of the credit balance of the group account to which the mortgage has been assigned in such amount as the Administrator shall determine to be equitable and not inconsistent with the solvency of the group account and of the Fund.

5. If the mortgagor fails to make any payment, or to perform any other covenant or obligation under the mortgage, and such failure continues for a period of thirty (30) days, the mortgage shall be considered in default, and the mortgagee shall, within sixty (60) days thereafter, give notice in writing to the Administrator of such default, unless such default has been cured or unless the Administrator has been notified of a previous default which remains uncured.

6. At any time within one year from the date of default the mortgagee, at its election, shall either—

(*a*) with, and subject to, the consent of the Administrator, acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(*b*) commence foreclosure of the mortgage; provided, that if the laws of the State in which the mortgaged property is situated do not permit the commencement of such foreclosure within such period of time, the mortgagee shall commence such foreclosure within sixty (60) days after the expiration of the time during which such foreclosure is prohibited by such laws.

The mortgagee shall promptly give notice in writing to the Administrator of the institution of foreclosure proceedings and shall exercise reasonable diligence in prosecuting such proceedings to completion.

For the purposes of this section, the date of default shall be considered as thirty (30) days after (*a*) the first uncorrected failure to perform a convenant or obligation, or (*b*) the first failure to make a monthly payment which subsequent payments by the mortgagor are insufficient to cover when applied to the overdue monthly payments in the order in which they became due.

If after default and prior to the completion of foreclosure proceedings, the mortgagor shall pay to the mortgagee all monthly payments in default and such expenses as the mortgagee shall have incurred in connection with the foreclosure proceedings, notice shall be given to the Administrator, and the insurance shall continue as if such default had not occurred.

Nothing contained in this section shall be construed so as to prevent the mortgagee, with the written consent of the Administrator, from taking action at a later date than herein specified.

7. If the default is not cured as aforesaid, and if the mortgagee has otherwise complied with the provisions of section 6 of this Article, and at any time within thirty (30) days (or such further time as may be necessary to complete the title examination and perfect such title) after acquiring possession of the mortgaged property by foreclosure, or by other means in accordance with subsection (a) of section 6 of this Article, tenders to the Administrator possession of, and a deed containing a covenant which warrants against the acts of the mortgagee and all claiming by, through, or under it, conveying good merchantable title (evidenced as hereinafter provided in section 8 of this Article) to, such property undamaged by fire, earthquake, flood, or tornado, and undamaged by waste, except as hereinafter in this section provided, and assigns (without recourse or warranty) any and all claims which it has acquired in connection with the mortgage transaction, and as a result of the foreclosure proceedings or other means by which it acquired such property, except such claims as may have been released with the approval of the Administrator, the Administrator shall promptly accept conveyance of such property and such assignment and shall deliver to the mortgagee:

(*a*) Debentures of the Mutual Mortgage Insurance Fund as set forth in Section 204 of the Act, issued as of the date foreclosure proceedings were instituted or the property was otherwise acquired by the mortgagee after default, bearing interest at the rate of two and three-quarters

per centum (2¾%) per annum payable semi-annually on the first day of January and the first day of July of each year, and having a total face value equal to the value of the mortgage as defined in Section 204 (a) of the Act. Such value shall be determined by adding to the original principal of the mortgage, which was unpaid on the date of the institution of foreclosure proceedings or the acquisition of the property otherwise after default, the amount of all payments, which have been made by the mortgagee for taxes, special assessments and water rates, which are liens prior to the mortgage, insurance on the property mortgaged and any mortgage insurance premium paid after the institution of foreclosure proceedings or the acquisition of the property otherwise after default, and by deducting from such total any amount received on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property otherwise after default and from any source relating to the property on account of rent or other income after deducting reasonable expenses incurred in handling the property between such dates: Provided, however, that with respect to mortgages which are accepted for insurance prior to July 1, 1939 and comply with the conditions set forth in Article III, section 1 (*a*), (*b*), and (*c*) of these Regulations, on which the unpaid principal obligation at the time of the institution of foreclosure proceedings exceeds 80% of the appraised value of the property as of the date the mortgage was accepted for insurance, there will be included in the debentures issued by the Administrator, on account of foreclosure costs actually paid by the mortgagee and approved by the Administrator an amount not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings, but in no event in excess of $75.

Such debentures shall be registered as to principal and interest and all or any such debentures may be redeemed, at the option of the Administrator with the approval of the Secretary of the Treasury, at par and accrued interest on any interest payment day on three (3) months' notice of redemption given in such manner as the Administrator shall prescribe.

(*b*) A Certificate of Claim in accordance with Section 204 (e) of the Act, which shall become payable, if at all, upon the sale and final liquidation of the interest of the Administrator in such property in accordance with Section 204 (f) of the Act. This certificate shall be for an amount which the Administrator shall determine to be sufficient to pay all amounts due under the mortgage and not covered by the amount of debentures and shall include a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise and the conveyance thereof to the Administrator, including reasonable attorney's fees, unpaid interest and cost of repairs to the property made by the mortgagee after default to remedy the waste mentioned in this section. Each such Certificate of Claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such certificate, an increment at the rate of three per centum (3%) per annum.

The term "waste" as used in this section means permanent or substantial injury caused by unreasonable use, or abuse, and is not intended to include damage caused by ordinary wear and tear.

The provisions of this section concerning waste, shall not apply to mortgages on which the unpaid principal obligation at the time of the institution of foreclosure proceedings exceeds 75% of the appraised value of the property as of the date the mortgage was accepted for insurance.

8. Evidence of title of the following types will be satisfactory to the Administrator:

(*a*) a fee or owner's policy of title insurance, a guaranty or guarantee of title, or a certificate of title, issued by a title company, duly authorized by law and qualified by experience to issue such; or

(*b*) an abstract of title prepared by an abstract company or individual engaged in the business of preparing abstracts of title and accompanied by the legal opinion as to the quality of such title signed by an attorney at law experienced in examination of titles; or

(*c*) a Torrens or similar title certificate; or

(*d*) evidence of title conforming to the standards of a supervising branch of the Government of the United States or of any State or Territory thereof.

Such evidence of title shall be furnished without cost to the Administrator and shall be executed as of a date to include the recordation of the deed to the Administrator, and shall show that, according to the public records, there are not, at such date, any outstanding prior liens, including any past due and unpaid ground rents, general taxes, or special assessments.

If the title and title evidence are such as to be acceptable to prudent lending institutions and leading attorneys generally in the community in which the property is situated, such title and title evidence will be satisfactory to the Administrator and will be considered by him as good and merchantable.

The Administrator will not object to the title by reason of the following matters, provided they are not such as to impair the value of the property for residence purposes, or provided they have been brought to the attention of the insuring office for consideration in fixing the valuation:

(*a*) customary easements for public utilities, party walls, driveways, and other purposes; customary building or use restrictions for breach of which there is no reversion and which have not been violated to a material extent;

(*b*) such restrictions when coupled with a reversionary clause, provided there has been no violation prior to the date of the deed to the Administrator;

(*c*) slight encroachments by adjoining improvements;

(*d*) outstanding oil, water, or mineral rights, except those which include the right to sink wells or shafts on the subject property, withdraw the subjacent support, or otherwise impair the value of the property for residence purposes without payment of adequate damages.

ARTICLE VII—ASSIGNMENTS

1. When the insured mortgage is transferred to another approved mortgagee, such transferee shall notify the Administrator of the acquisition of such mortgage within thirty (30) days thereof, and shall thereupon succeed to all the rights and become bound by all the obligations of the transferor under the contract of insurance; but the transferor shall be released from its obligations under the contract of insurance only upon its giving notice to the Administrator of the transfer of the insured mortgage within thirty (30) days thereof.

Whenever the insured mortgage is transferred to another approved mortgagee for the purposes of collateral only, no notice need be given to the Administrator until such collateral is foreclosed, but the transferor shall remain subject to all the obligations of the contract of insurance.

2. The contract of insurance shall terminate upon the happening of either of the following events:

(*a*) the acquisition of the insured mortgage by, or the pledge thereof to, any person, firm, or corporation, public or private, other than an approved mortgage, whether individually or in trust for another; provided, that this subsection (*a*) shall not be applicable to a mortgage acquired or held by an approved mortgagee, which is a banking institution or trust company inspected and supervised by some governmental agency, for a trust held or administered by it in a fiduciary capacity, as long as such fiduciary relationship shall remain in effect;

(*b*) the disposal by an approved mortgagee of any partial interest in an insured mortgage or group of insured mortgages (whether to another approved mortgagee or otherwise) by means of a declaration of trust, or by a participation or trust certificate, or by any other device; provided that this subsection (*b*) shall not be applicable to any mortgage so long as it is held in a common trust fund maintained by a bank or trust company (1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank or trust company in its capacity as a trustee, executor or administrator; and (2) in conformity with the rules and regulations prevailing from time to time of the Board of Governors of the Federal Reserve System, pertaining to the collective investment of trust funds.

Upon the termination of the insurance under this section, the mortgagor shall be entitled to receive a share of the credit balance of the account of the group to which the insured mortgage has been assigned, in such amount as the Administrator shall determine to be equitable and not inconsistent with the preservation of the solvency of such account and of the Mutual Mortgage Insurance Fund.

ARTICLE VIII—AMENDMENTS

These Regulations may be amended by the Administrator at any time and from time to time, in whole or in part, but such amendment shall not affect the contract of insurance on any mortgage already insured, or any mortgage or prospective mortgage on which the Administrator has made a commitment to insure.

ARTICLE IX—EFFECTIVE DATE

These Regulations are effective as to all mortgages on which a commitment to insure is issued to an approved mortgagee on or after February 15, 1938. Wherever a mortgagee so desires, the provisions of these Regulations shall become a part of any contract of insurance heretofore made except that as to mortgages insured prior to May 28, 1935, interest on debentures shall be paid or allowed only from the date of the conveyance of the property to the Administrator.

Issued at Washington, D. C., February 4, 1938.

STEWART MCDONALD,
Federal Housing Administrator.

[F. R. Doc. 38-472; Filed, February 12, 1938; 10:25 a. m.]

MULTIFAMILY AND GROUP HOUSING INSURANCE

ADMINISTRATIVE RULES AND REGULATIONS UNDER SECTIONS 207 AND 210, TITLE II OF THE NATIONAL HOUSING ACT [1]

CONTENTS

PART I

Scope of Operations Under Section 207 and Section 210

PART II

Rules Under Section 207

Sec. I. Application and commitment.
Sec. II. Eligible Mortgages.
Sec. III. Eligible Mortgagors.
Sec. IV. Supervision of Mortgagors.
Sec. V. Eligible Mortgagees.
Sec. VI. Eligible Properties.
Sec. VII. Title.

Effective Date

Regulations Under Section 207

Article I. Citation.
Article II. Definitions.
Article III. Premiums.
Article IV. Contract of Insurance.
Article V. Rights and Duties of a Mortgagee Under the Contract of Insurance.
Article VI. Assignments.
Article VII. Rights in Housing Fund.
Article VIII. Amendments.
Article IX. Effective Date.

PART III

Rules Under Section 210

Sec. I. Approval of Mortgagees.
Sec. II. Application and Commitment.
Sec. III. Eligible Mortgages.
Sec. IV. Eligible Mortgagors.
Sec. V. Eligible Properties.
Sec. VI. Title.
Sec. VII. Insurance of Advances During Construction.
Sec. VIII. Effective Date.

Regulations Under Section 210

Article I. Citation.
Article II. Definitions.
Article III. Premiums.
Article IV. Insurance Endorsement.
Article V. Rights and Duties of a Mortgagee Under the Contract of Insurance.
Article VI. Assignments.
Article VII. Rights in Housing Fund.
Article VIII. Amendments.
Article IX. Effective Date.

PART IV

Project Standards

Part I

Scope of Operations Under Section 207 and Section 210

1. The National Housing Act provides for the insurance of mortgages upon two general classes of property:

(*a*) Properties consisting of one to four-family dwellings. Rules and Regulations with respect thereto are set forth in FHA Form 2010, entitled Mutual Mortgage Insurance.

(*b*) Properties consisting of a larger number of family units either in one or more multifamily buildings or in a group of single-family dwellings. The Rules and Regulations set forth herein apply only to such properties.

2. The general class of properties described in the preceding subparagraph (*b*) is herein termed "multifamily and group housing", which term includes housing intended for rent or for ultimate sale and is intended generally to apply to projects insurable under Section 207 or under Section 210.

In the case of a mortgage containing release clauses whereby individual houses may be sold from time to time, whether insured under Section 207 or under Section 210, the terms and conditions of release will be determined by agreement of the mortgagee, the mortgagor and the Administrator.

3. It should be noted that Sections 207 and 210 are not mutually exclusive, provided the mortgage does not exceed $200,000. A mortgage in excess of that amount may only be insured under Section 207. However, a project involving a mortgage not in excess of such amount may be eligible either under Section 207 or Section 210 as the mortgagor and the mortgagee may determine, provided it conforms to the Rules and Regulations hereinafter set forth. The differences between the two Sections will be noted by comparison of the Rules and Regulations of the respective Sections.

In general, the following are the chief items of distinction:

Under Section 207.

(*a*) Eligible mortgagors may be private corporations, associations, trusts, or cooperative societies which consent to regulation by the Administrator, or may be governmental housing authorities or corporations formed under housing laws.

(*b*) The mortgage insurable has no minimum limit and the maximum limit is $5,000,000.

(*c*) The mortgage per room may not exceed $1350 computed in accordance with the method of determining room count which is set forth upon the application form for such projects.

(*d*) Interest may not exceed 4½% per annum.

(*e*) The term of the mortgage and the amortization provisions are limited only by the Administrator's approval.

(*f*) Principal and interest payments may be monthly or quarterly.

[1] The Rules and Regulations hereinafter contained relate to the insurance of mortgages on housing projects under Section 207 and Section 210 of the National Housing Act. Those contemplating the initiation of such projects or desiring further information on the subject should communicate directly with any insuring office of the Federal Housing Administration.

(*g*) In the event of default under the mortgage the mortgagee has the option of collecting the insurance by (1) assigning the mortgage to the Administrator or (2) acquiring title to the property by foreclosure or otherwise and conveying the property to the Administrator.

(*h*) The Administrator accepts the risk of mechanics' liens during construction and insures, as made, such advances of the mortgage money as are approved by him.

(*i*) The mortgagor (except in the case of a project owned and operated by a public housing authority) must consent to regulation by the Administrator of its rents, charges, capital structure, rate of return and methods of operation. Such regulation is enforced by means of a special class of stock owned by the Administrator, except that in the case of a project under Section 207 involving a mortgage not in excess of $200,000 such regulation is enforced by means of a contract.

(*j*) The mortgage may cover either proposed new construction or existing or rehabilitation projects.

Under Section 210.

(*a*) The mortgage must exceed $16,000 and shall not exceed $200,000.

(*b*) Its maturity is limited to 21 years.

(*c*) Amortization must commence not later than the eleventh month following execution and must be sufficient completely to amortize the mortgage during its term on either a fixed annuity or declining annuity basis.

(*d*) Interest may not exceed 5% per annum.

(*e*) Payments on account of principal, interest, taxes, insurance and mortgage insurance premiums must be made monthly to the mortgagee.

(*f*) The mortgage per room may not exceed $1150.

(*g*) In the event of default under the mortgage the mortgagee may only collect the insurance by acquiring title to the property through foreclosure or otherwise and conveying the property to the Administrator.

(*h*) Construction advances approved by the Administrator may be insured as made; but, to collect the insurance, the mortgagee must convey the property to the Administrator free and clear of mechanics' liens.

(*i*) The mortgage may cover only proposed new construction.

The principal similarities and differences between the two Sections may be briefly summarized as follows:

The Sections are alike in that: (*a*) there is no definite distinction as to physical character between the projects on which mortgages are insurable; (*b*) properties may be constructed either for rental or sale purposes and the mortgage insured may represent in effect a combined construction and permanent loan; (*c*) the principal amount of the mortgage may not exceed 80% of the estimated value of the completed project; (*d*) title will be approved by the Administrator at the time the mortgage is insured, and once approved, he will accept such title upon the conveyance of the property to him following default, as is more particularly set forth in the applicable Regulations of each Section; and (*e*) corporate mortgagors under either Section are specifically exempt from the terms of Section 77 B of the United States Bankruptcy Act.

The Sections differ in that: (*a*) the maximum insurable mortgage under Section 210 is $200,000, and $5,000,000 under Section 207; (*b*) the maximum mortgage per room under Section 210 is $1,150, and under Section 207 it is $1,350; (*c*) under both Sections the mortgage must be fully amortized, but under Section 210 the maximum term is 21 years, whereas under Section 207 the term may be longer; (*d*) under Section 210 the projects are not subject to supervision by the Administrator after construction is completed, whereas under Section 207 the Administrator must exercise certain regulatory controls; and (*e*) to collect the insurance, under Section 210 the mortgagee must convey the property to the Administrator, whereas under Section 207 the mortgagee may at its election either convey the property or assign the mortgage to the Administrator.

Part II

Administrative Rules and Regulations Under Section 207

RULES

Section I—Application and Commitment

1. Information required for preliminary examination of a Rental Housing project under Section 207 shall be submitted by a mortgagee or by the sponsors of such project through the local Federal Housing Housing Administration office on FHA Form 2013, executed in triplicate. No application will be considered unless the exhibits called for by that form are furnished. The submission of Form 2013 will be deemed to be the applicant's agreement to pay in accordance with the provisions of this section an amount computed at the rate of $3.00 per thousand of the original face amount of the mortgage loan applied for, on account of the costs of appraisal and inspection by the Administrator. Such amount shall be payable in two installments:

(*a*) one-half (referred to as "commitment fee") upon the issuance of a commitment, and

(*b*) the remainder (referred to as "closing fee") upon the delivery of the Administrator's Contract of Mortgage Insurance.

However, in the case of a Public Housing project, the fee to be paid under this Paragraph shall be fixed by the Administrator, but shall not exceed $3.00 per thousand of the original face amount of the mortgage.

If the Administrator shall issue a commitment as herein provided and the commitment fee is not paid within the period of time set forth in the commitment letter such commitment shall terminate. If after commitment an application to increase the amount of the insured mortgage is presented, a new commitment fee based upon the amount of such increase must be paid at the time the application for such increase is filed. If after insurance the amount of the insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, the fees herein provided for shall be based upon the amount of such increase.

2. Upon approval of an application and payment of the commitment fee, acceptance of the mortgage for insurance will be evidenced by the issuance of a commitment setting forth the terms and conditions upon which the mortgage will be insured, including special requirements applicable to the project and requiring the submission in final form within a time specified of all appropriate documents, drawings, plans, specifications, estimates, and other instruments evidencing full compliance satisfactory to the Administrator with these Rules and with such terms and conditions. No commitment shall be valid unless signed by the Administrator or his duly authorized agent.

Section II—Eligible Mortgages

1. The Administrator does not furnish mortgage forms for each project or for each jurisdiction. The forms customarily used in any particular jurisdiction if so modified and amplified as to include the matters herein set forth, and if otherwise satisfactory to the Administrator, will be approved.

2. In order to be eligible for insurance under these Rules a mortgage shall create a first lien securing a principal obligation not in excess of $5,000,000, and such part thereof as may be attributable to dwelling use shall not exceed $1,350 per room, depending upon the location of the project and local building costs and rental conditions. The principal obligation of such mortgage shall not exceed eighty per centum (80%) of the amount which the Administrator estimates will be the value of the property or project when the proposed improvement are completed.

3. The mortgage shall have a maturity satisfactory to the Administrator, depending upon the risk involved and the general character of the project, and shall contain complete amortization or sinking-fund provisions satisfactory to the Administrator.

4. The mortgage shall provide for periodic payments by the mortgagor to the mortgagee on account of interest, principal, and mortgage insurance, not less frequently than every three (3) months.

5. The mortgage shall bear interest at such rate, not exceeding four and one-half per centum (4½%) per annum, as may be agreed upon between the mortgagor and the mortgagee. All charges made in connection with the mortgage transaction shall be subject to the approval of the Administrator.

6. The mortgage shall cover the entire property included in the housing project. Where the project consists principally of single-family houses the mortgage may include appropriate provisions for the release from the lien thereof of any such house and the land upon which it is located in consideration of the payment to the mortgagee, in reduction of the principal of the mortgage, of an amount set forth in a schedule attached to and forming part of said mortgage. Such mortgages shall provide that the released property be subject to deed restrictions, approved by the Administrator at the time of the insurance of the mortgage and providing to the properties remaining under the mortgage adequate protection against adverse influences. Where the mortgage does not contain such release provisions no property shall, except with the consent of the mortgagee and the Administrator, be released from the lien thereof so long as the mortgage insurance is in force.

7. The mortgage, except in the case of Public Housing projects, shall contain a covenant against the creation by the mortgagor of liens against the property inferior to the lien of the mortgage.

8. The mortgage shall contain a covenant binding the mortgagor to keep the premises insured against fire and such other hazards as the Administrator may stipulate, in companies and in amounts satisfactory to the Administrator. The policies evidencing such insurance shall have attached standard form mortgagee clause making loss, if any, payable to the mortgagee, and the Administrator, as interest may appear.

9. No mortgage shall be accepted for insurance unless the Administrator finds that the property or project with respect to which the mortgage is executed is economically sound.

10. The mortgage shall provide for payments by the mortgagor to the mortgagee on each interest payment date of an amount sufficient to accumulate in the hands of the mortgagee the next annual mortgage insurance premium payable by the mortgagee to the Administrator. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage shall provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in Paragraph 2 of Article III of the Regulations.

11. All periodic payments to be made by the mortgagor to the mortgagee shall be added together and the aggregate amount thereof shall be paid by the mortgagor upon each periodic payment date in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(*a*) premium charges under the contract of insurance;

(*b*) at its discretion, to any sums due under the terms of the mortgage or the credit instrument which it secures.

Any deficiency in the amount of any such aggregate periodic payment shall constitute an event of default under the mortgage.

Section III—Eligible Mortgagors

1. In order to be eligible for insurance as a mortgagor of a Rental Housing project under Section 207 such mortgagor must be—

(*a*) a private corporation, association, cooperative society which is a legal agent of the owner-occupants, or trust (sometimes referred to in these Rules and Regulations as "mortgagor", "corporation", or "mortgagor corporation"), formed or created, with the approval of the Administrator, for the purpose of (1) rehabilitating slum or blighted areas, or (2) providing housing for rent or sale, and possessing powers necessary therefor and incidental thereto, which corporation, association, cooperative society, or trust, until the termination of all obligations of the Administrator under such insurance, is regulated or restricted by the Administrator as to rents or sales, charges, capital structure, rate of return, and methods of operation. Such regulation or restriction shall remain in effect until such time as the mortgage insurance contract terminates without obligation upon the Administrator to issue debentures as a result of such termination. So long as such contract of insurance is in effect, the corporation, association, cooperative society, or trust shall engage in no business other than the construction and operation of a rental housing project or projects; or

(*b*) a Federal or State instrumentality, a municipal corporate instrumentality of one or more States, or a limited dividend corporation formed under and restricted by Federal or State housing laws as to rents, charges, capital structure, rate of return, or methods of operation (projects of such mortgagors are herein sometimes referred to as "Public Housing projects").

2. The term "slum or blighted area" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

Section IV—Supervision of Mortgagors

In the case of an eligible mortgagor described in subdivision (b) of Paragraph 1 of Section III, the Administrator is not required under the Act to regulate or restrict the mortgagor. Such mortgagor, however, must have initial funds which may be considered in lieu of the equity required of other mortgagors. Such funds (which may be in the form of government loans, grants or subsidies, or in other form) if sufficient in amount will be considered satisfactory provided they do not create a lien against the property prior to that of the insured mortgage. Liens inferior to the lien of the insured mortgage may be allowed against properties of such mortgagors.

Supervision of other mortgagors is required by the provision of Section 207 of the Act that such mortgagors shall be regulated or restricted by the Administrator. In the case of a project involving a mortgage in excess of $200,000 such regulation or restriction will be set forth in the certificate of incorporation or other instrument under which the mortgagor is created (hereinafter referred to as the "charter") and will be made effective through the issuance of certain shares of special stock (or other evidence of a beneficial interest in the mortgagor) which stock or interest will acquire majority voting rights in the event of default under the mortgage or violation of a provision of the charter, but only for a period coexistent with the duration of such default or violation. Such special stock or interest shall be held and all voting rights with respect thereto exercised by the Administrator as such. When the right of the Administrator to regulate or restrict the mortgagor shall terminate as above provided, the shares of special stock or other evidence of interest shall be surrendered by the Administrator.

In the case of a project involving a mortgage not in excess of $200,000 only those regulations or restrictions with respect to dividends and provisions for reserves shall be required to be embodied in the charter of such mortgagor, by provisions satisfactory to the Administrator. The other regulations or restrictions outlined below may be embodied in a regulatory contract to be executed by the mortgagor and the Administrator concurrently with the execution of the contract of insurance.

The following are the items which will be regulated or restricted to the extent indicated, except in the case of mortgagors of Public Housing projects:

1. *Rents and charges.*—Except as hereinafter provided,

(*a*) No charge shall be made by the mortgagor corporation for the accommodations offered by the project in excess of a rental schedule to be filed with the Administrator prior to the opening of the project for rental, which schedule shall be based upon a maximum average rental fixed prior to the insurance of the mortgage. Such schedule shall not thereafter be changed except upon application of the mortgagor corporation and the written approval of the Administrator. In establishing such maximum and in passing upon applications for changes, consideration will be given the following and similar factors:

(1) Rental income necessary to maintain the economic soundness of the project.

(2) Relation of the proposed rentals to those currently being paid in the given community by families for whom this type of housing is intended.

(*b*) The established maximum rental shall be the maximum authorized charge against any tenant for the accommodations offered exclusive of telephone, gas, electric, and refrigeration facilities. Charges in addition to such maximum rental may be made against a tenant for telephone, gas, electric, refrigeration, and other facilities and privileges furnished by the mortgagor, subject to the approval of the Administrator.

(*c*) In the case of a project subject to a mortgage containing release clauses, all matters with respect to the release and all agreements between the mortgagor and its vendees with respect to the amount and terms of sale must first be approved by the Administrator.

2. *Capital structure.*—(*a*) In appraising a project for commitment the Administrator will value the contribution of the sponsors (which shall be in the form of unencumbered land, and such cash and services as the Administrator shall require) at an amount determined by him to represent its value as a component part of the project upon completion, and shall credit sponsors, for appraisal purposes, with the amount of equity so found. The sponsors shall satisfy the Administrator that the cash and services contributed as part of such equity shall, when added to the proceeds of the mortgage, be sufficient to cover all estimated costs of the project and to provide a cash reserve for contingencies, preopening expenses, and other items during the construction period.

(*b*) Such number of shares of capital stock, either with or without par value, in the case of a corporation, or such appropriate evidences of interest, in the case of an association, a cooperative society, or a trust, may be issued as sponsors may deem appropriate. Such stock or interest, together with paid in surplus, if any, shall represent such equity. Additional stock or evidences of interest may be authorized but the charter shall provide that it shall not be issued except with the approval of the Administrator. No stock or interest shall be redeemed, purchased, or paid off by the mortgagor during the period in which the mortgage insurance is in force, except with the approval of the Administrator.

(*c*) The shares of stock or interest issued to the Administrator shall be in sufficient amount to constitute, under the laws of the particular State, a valid special class of stock or interest and shall be issued in consideration of the payment by the Administrator of not exceeding $100.

3. *Rate of return.*—No dividends or distribution of income shall be declared or paid by the corporation in any one fiscal year in excess of an aggregate amount fixed by the Administrator at the time the mortgage is accepted for insurance. Such amount shall not exceed an amount equal to six per centum (6%) per annum of the equity as valued by the Administrator, but the Administrator may permit an additional stated amount not in excess of two per centum (2%) per annum payable out of surplus earnings of the corporation after provision for required reserves, provided that no such additional dividends or distribution shall be declared or paid unless the principal of the insured mortgage shall be prepaid in an amount at least equal to required interest and principal payments for the first amortization year.

4. *Methods of operation.*—(*a*) No compensation shall be paid by the corporation except for necessary services and except as such rate as is fair and reasonable in the locality for similar services, nor, except with the prior written approval of the Administrator, shall any compensation be paid by the corporation to any employee in an amount in excess of eighteen hundred dollars ($1,800) per annum, or to its officers, directors, or stockholders, or to any person or corporation for supervisory or managerial services. No officer, director, stockholder, agent, or employee of the corporation shall in any manner become indebted to the corporation.

(*b*) The corporation shall maintain its project, the grounds, buildings, and equipment appurtenant thereto, in good repair and in such condition as will preserve the health and safety of its tenants.

(*c*) Before the payment of any dividend by the corporation reserves shall be accumulated and so replenished from time to time as to remain intact so long as the mortgage insurance is in force. The amount and types of such reserves and the conditions under which they shall be accumulated, replenished, and used, shall be specified in the charter.

(*d*) The corporation, its property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and papers shall be subject to inspection and examination by the Administrator or his duly authorized agent at all reasonable times.

(*e*) The books and accounts of the corporation shall be kept in accordance with the uniform system of accounting prescribed by the Administrator. The corporation shall file with the Administrator the following reports verified by the oath of such officer of the corporation as the Administrator may designate and in such form as prescribed by the Administrator:

(1) monthly occupancy reports;

(2) semiannual reports to be filed within thirty (30) days after the end of each dividend period established in the charter;

(3) annual reports prepared by a certified public accountant, to be filed within sixty (60) days after the end of each fiscal year; and

(4) specific answers to questions upon which information is desired from time to time relative to the operation and condition of the property and the status of the insured mortgage.

5. *Control of funds during construction.*—Funds involved in the construction of a project representing security for an insured mortgage loan shall be subject to the following restrictions:

(*a*) Funds representing the required cash equity shall, as a condition precedent to the insurance of the mortgage, be placed in a special account with a depositary satisfactory to the Administrator and subject to withdrawal only upon written approval of the Administrator. Upon completion of construction to the satisfaction of the Administrator, any balance then remaining in such special account shall be paid over to the general account of the corporation for the purpose of establishing its reserves.

(*b*) No funds representing the proceeds of an insured mortgage shall be advanced except upon proper requisition approved by the Administrator.

(*c*) Assurance for the completion of the project must be approved by the Administrator prior to the insurance of the mortgage. Such assurance may be (1) the bond of a satisfactory surety company, in the standard A. I. A. form of construction bond and in an amount approved by the Administrator as at least sufficient to cover estimated disbursements under the construction contract for any two (2) month period, or (2) the Administrator may, depending upon the circumstances of each case, accept in lieu of such surety bond such alternate method of assuring completion as he may find adequate.

Section V—Eligible Mortgagees

1. The following are eligible for approval as mortgagees:

(*a*) A chartered institution or other permanent organization having succession.

(*b*) The Federal or a State Government, or an agency, instrumentality, or subdivision thereof.

(*c*) The holder or holders of a credit instrument or instruments given in connection with a mortgage, acting by and through a trustee appointed pursuant to the terms of such mortgage.

2. An eligible institution, organization, agency, or entity may become the mortgagee under an insured mortgage upon its approval by the Administrator for a particular transaction.

3. In the event that bonds are to be issued as a part of the insured mortgage transaction, all arrangements in respect to the issuance and sale of such bonds shall be subject to approval by the Administrator.

Section VI—Eligible Properties

1. In order for property to be eligible as the subject of an insured mortgage, such property must be held in fee simple, or consist of the interest of a lessor or lessee under a lease for not less than ninety-nine (99) years which is renewable, or under a lease having not less than fifty (50) years to run from the date the mortgage was executed. Such mortgage may also cover additional property approved by the Administrator.

2. The property constituting security for the mortgage must be held by an eligible mortgagor as herein defined and must at the time the mortgage is insured be free and clear of all liens other than that of such mortgage.

3. At the time the mortgage is insured:

(*a*) There shall be located on the mortgaged property a building or buildings designed principally for residential use which shall conform to standards satisfactory to the Administrator and may consist of a group of detached, semidetached, or row houses, or multifamily dwellings; or

(*b*) The mortgagor shall be obligated to construct and complete such housing accommodations thereon and shall have furnished such assurance of the performance of such obligation as the Administrator may require.

Section VII—Title

1. In order for the mortgaged property to be eligible for insurance, the Administrator must determine that marketable title thereto is vested in the mortgagor as of the date the mortgage is filed for record. The title will be examined by the Administrator, and if found to be eligible such finding shall be recited in the contract of insurance.

2. Upon insurance of the mortgage, the mortgagee, without expense to the Administrator, shall furnish to the Administrator a survey satisfactory to him and a policy of title insurance as provided in subdivision (*a*) of this Paragraph, or, if the mortgagee is unable to furnish such policy for reasons satisfactory to the Administrator, the mortgagee, without expense to the Administrator, shall furnish such evidence of title as provided in subdivisions (*b*), (*c*), or (*d*) of this Paragraph, as the Administrator may require.

(*a*) A policy of title insurance with respect to such mortgage, issued by a company satisfactory to the Administrator. Such policy shall comply with the "L. I. C. Standard Mortgagee Form" or the "A. T. A. Standard Mortgagee Form," or such other form as may be approved by the Administrator; shall be payable to the mortgagee and the Administrator as their respective interests may appear; and shall become an owner's policy, running to the mortgagee as owner upon the acquisition of the property by the mortgagee in extinguishment of the debt through foreclosure or by other means as provided in subdivision (*b*) (1) of Paragraph 1 of Article V of the Regulations, and to the Administrator as owner upon the acquisition of the property by him pursuant to the mortgage insurance contract.

(*b*) An abstract of title satisfactory to the Administrator, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Administrator, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(*c*) A Torrens or similar title certificate.

(*d*) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or Territory thereof.

Effective Date

These Administrative Rules shall be effective as to all mortgages with respect to which a commitment to insure shall be issued on or after the date hereof.

Issued at Washington, D. C., February 15, 1938.

STEWART MCDONALD,
Federal Housing Administrator.

REGULATIONS

Article I

These Regulations may be cited and referred to as "Regulations of the Federal Housing Administrator under Section 207 of the National Housing Act, revised February 15, 1938."

Article II—Definitions

As used in these Regulations—

1. The term "Administrator" means the Federal Housing Administrator.

2. The term "Act" means the National Housing Act, as amended.

3. The term "mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances (including but not being limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State, district or territory in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby.

4. The term "insured mortgage" means a mortgage with respect to which the Administrator has issued an executed contract of insurance.

5. The term "mortgagor" means the original borrower under a mortgage and its successors and such of its assigns as are approved by the Administrator.

6. The term "mortgagee" means the original lender under a mortgage, and its successors and assigns, and includes the holders of the credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

7. The term "contract of insurance" means the written instrument duly executed by the Administrator and the mortgagee, setting forth the terms, conditions, and provisions of insurance, which terms, conditions, and provisions shall be subject to these Regulations.

8. The term "claim under the contract of insurance" means the assignment, transfer and delivery to the Administrator of the mortgage or the conveyance to him of the property, as provided in Article V.

Article III—Premiums

1. The mortgagee, upon the delivery of the contract of insurance, shall pay to the Administrator a mortgage insurance premium equal to one-half of one per centum (½ of 1%) of the original face value of the mortgage and, upon the anniversary of such date, shall pay a premium in a like sum. Said two premiums shall be known respectively as the first and second interim premiums. On the date on which the first periodic payment of principal is due the mortgagee shall pay to the Administrator, subject to the adjustment hereinafter provided, and annually thereafter on the anni-

versary of such date until the mortgage is paid in full or claim under the contract of insurance is made or until the contract of insurance shall terminate, an annual mortgage insurance premium equal to one-half of one per centum (½ of 1%) of the average outstanding principal obligation of the mortgage for the year following the date on which such premium becomes payable, and calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments. The premium payable on the date on which the first periodic payment of principal becomes due shall be adjusted so as to accord with such date and so that the aggregate of the premiums paid up to and including the premium paid on such adjusted payment date shall equal the sum of (a) one per centum (1%) of the average outstanding principal obligation of the mortgage for the year following the date on which the first interim premium became payable and (b) one-half of one per centum (½ of 1%) of the average outstanding principal obligation of the mortgage for the period from the date when the second interim premium became payable down to and including one year following the date on which such first periodic payment of principal becomes due, and calculated in accordance with the amortization provisions, without taking into account delinquent payments or prepayments. The provisions of this Paragraph shall also apply to mortgages insured prior to February 3, 1938, but only in respect to premiums payable after such date, and no adjustment shall be made with respect to any premium payable on or before such date. All premiums shall be payable in cash or in debentures issued by the Administrator under Title II of the Act at par plus accrued interest.

2. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity, the mortgagee shall within thirty (30) days thereafter notify the Administrator of the date of prepayment and shall collect from the mortgagor and pay to the Administrator an adjusted premium charge of one per centum (1%) of the original face amount of the prepaid mortgage, except that if at the time of such prepayment there is placed on the mortgaged property a new insured mortgage in an amount less than the original face amount of the prepaid mortgage, such adjusted premium shall be one per centum (1%) of the difference in such amounts.

In no event shall the adjusted premium exceed the aggregate amount of premium charges which would have been payable if the mortgage had continued to be insured until maturity.

No adjusted premium shall be collected by the mortgagee in the following cases:

(*a*) where at the time of such prepayment there is placed on the mortgaged property a new insured mortgage for an amount equal to or greater than the original face amount of the prepaid mortgage; or

(*b*) where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments made by the mortgagor which do not exceed in any one calendar year fifteen per centum (15%) of the original face amount of the mortgage; or

(*c*) where the final maturity specified in the mortgage is accelerated solely by reason of payments to principal to compensate for (1) damage to the mortgaged property, or (2) a release of a part of such property if approved by the Administrator; or

(*d*) where payment in full is made of a delinquent mortgage on which foreclosure proceedings have been commenced, or for the purpose of avoiding foreclosure, if the transaction is approved by the Administrator.

Upon such prepayment the contract of insurance shall terminate.

The provisions of this section shall not be construed to prohibit the mortgagee from including in the mortgage and collecting from the mortgagor such charge for prepayment as may be agreed upon between the mortgagee and mortgagor.

Article IV—Contract of Insurance

Upon compliance satisfactory to the Administrator with the terms of the commitment to insure the Administrator and the mortgagee shall execute the contract of insurance and the mortgage shall be an insured mortgage from the effective date of such contract. The Administrator and the mortgagee shall thereafter be bound by the contract of insurance, subject to the provisions of these Regulations which shall form part of each such contract.

Article V—Rights and Duties of a Mortgagee Under the Contract of Insurance

1. The mortgagee shall be entitled to receive the benefits of the insurance, at its option, either as provided in subdivision (a) or subdivision (b) hereunder.

(*a*) If the mortgagor fails to make any payment due under or provided to be paid by the terms of the mortgage and such failure continues for a period of thirty (30) days, the mortgage shall be considered in default, and the mortgagee shall, within thirty (30) days thereafter, give notice in writing to the Administrator of such default. At any time within thirty (30) days after the date of such notice, the mortgagee shall, in such manner as the Administrator may require, assign, transfer, and deliver to the Administrator (without recourse or warranty, except that the mortgagee must warrant that no act or omission of the mortgagee has impaired the validity and priority of the mortgage, that the amount stated in the instrument of assignment is actually due and owing under the mortgage, that there are no offsets or counterclaims thereto, and that the mortgage has a good right to assign the mortgage and the other items enumerated below):

(1) all rights and interests arising under the mortgage so in default;

(2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction;

(3) all policies of title or other insurance or surety bonds or other guaranties, and any and all claims thereunder;

(4) any balance of the mortgage loan not advanced to the mortgagor;

(5) any cash or property held by the mortgagee or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and

(6) all records, documents, books, papers, and accounts relating to the mortgage transaction.

(*b*) If the mortgagor fails to make any payment to the mortgagee required by the mortgage, or to perform any other covenant or obligation under the mortgage, and such failure continues for the period of grace, if any, set forth in the mortgage, the mortgage shall be considered in default, and the mortgagee, within the period set forth in the contract of insurance after the occurrence of a default arising on account of such failure to make any such payment or within the period set forth in the contract of insurance after the mortgagee shall have knowledge of the occurrence of a default arising on account of such failure to perform any other covenant or obligation under the mortgage, shall give notice in writing to the Administrator of such default. At any time within the period set forth in the contract of insurance from the date of such notice, the mortgagee, at its election, shall either—

(1) with, and subject to, the consent of the Administrator, acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(2) institute proceedings for the foreclosure of the mortgage: Provided, That if the laws of the State in which the mortgaged property is situated do not permit the institution of such proceedings within such

period of time, the mortgagee shall institute such proceedings within sixty (60) days after the expiration of the time during which the institution of such proceedings is prohibited by such laws. Nothing contained in this subdivision shall be so construed as to prevent the mortgagee from taking action at a later date than herein specified, provided the Administrator so agrees in writing. The mortgagee shall promptly give notice in writing to the Administrator of the institution of foreclosure proceedings under this subdivision and shall exercise reasonable diligence in prosecuting such proceedings to completion.

If after default and prior to the completion of foreclosure proceedings the mortgagor shall pay to the mortgagee all periodic payments in default and such expenses as the mortgagee shall have incurred in connection with the foreclosure proceedings, notice thereof shall be given to the Administrator by the mortgagee, and the insurance shall continue as if such default had not occurred.

2. If the mortgagee elects to proceed under, and does proceed under and in accordance with, the provisions of subdivision (*a*) of Paragraph 1 of this Article, and furnishes evidence satisfactory to the Administrator that there are no past due and unpaid ground rents, general taxes, or special assessments, and furnishes the warranties described in said subdivision and paragraph, the Administrator shall deliver to the mortgagee—

(*a*) Debentures of the Housing Insurance Fund as set forth in Section 207 of the Act, having a total face value equal to the original face amount of the mortgage plus such amounts as have been paid by the mortgagee for (1) taxes, special assessments, and water rates, which are liens prior to the mortgage; (2) insurance on the property; and (3) expenses for the completion or preservation of the property, subsequent to the default, and which have been approved by the Administrator, as reasonable and necessary; less the sum of (i) that part of the amount of the principal obligation that has been repaid, (ii) an amount equivalent to two per centum (2%) of the principal amount of the mortgage advanced to the mortgagor and unpaid, and (iii) any net income received by the mortgagee from the property: Provided, That such debentures shall be issued in multiples of $50 and any difference, not in excess of $50, between the amount of debentures to which the mortgagee is otherwise entitled hereunder and the aggregate face value of the debentures issued shall be paid in cash by the Administrator to the mortgagee. Such debentures shall be dated as of the date of such assignment, transfer, and delivery, and shall bear interest from such date at a rate to be determined by the Administrator, at the time the mortgage is insured, but not to exceed three per centum (3%) per annum, payable semiannually on the first day of January and the first day of July of each year, and shall mature three (3) years after the first day of July following the maturity date of the mortgage in exchange for which the debentures were issued. Such debentures shall be registered as to principal and interest and all or any such debentures may be redeemed at the option of the Administrator, with the approval of the Secretary of the Treasury, at par and accrued interest on any interest payment date on three (3) months' notice of redemption given in such manner as the Administrator shall prescribe.

(*b*) A certificate of claim in accordance with Section 207 (h) of the Act, which shall become payable, if at all, upon the sale and final liquidation of the interest of the Administrator in such property, in accordance with Section 207 (h) of the Act. This certificate shall be for an amount which the Administrator determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, on the date of the assignment, transfer and delivery to the Administrator provided for in subdivision (a) of Paragraph 1 of this Article, the mortgagor had extinguished the mortgage indebtedness by payment in full of all obligations under the mortgage. Such certificate of claim shall provide that there shall accrue to the holder of such certificate, with respect to the face amount of such certificate, an increment at the rate of three per centum (3%) per annum, which shall not be compounded. If any excess is realized from the mortgage, and all claims in connection therewith so assigned, transferred and delivered, and from the property covered by such mortgage and all claims in connection with such property, after deducting all expenses incurred by the Administrator in handling, dealing with, acquiring title to, and disposing of such mortgage and property and in collecting such claims, such excess shall be applied in payment of the certificate of claim and any balance thereafter shall be paid to the mortgagor, as provided in Section 207 (h) (1) of the Act.

3. If the mortgagee elects to proceed under, and does proceed under and in accordance with, the provisions of subdivision (b) of Paragraph 1 of this Article, and at any time within thirty (30) days (or such further time as may be allowed by the Administrator in writing) after acquiring title to and possession of the mortgaged property in accordance with such subdivision, tenders to the Administrator possession of, and a deed containing a covenant which warrants against acts of the mortgagee and all claiming by, through, or under it conveying title to, such property, satisfactory to the Administrator, as provided in Paragraph 4 of this Article, and assigns (without recourse or warranty) any and all claims which it has acquired in connection with the mortgage transaction and as a result of the foreclosure proceedings or other means by which it acquired such property, including any claim on account of title insurance and fire, or other hazard insurance, except such claims as may have been released with the prior approval of the Administrator, the Administrator shall promptly accept conveyance of such property and such assignment, notwithstanding that the buildings or improvements thereon may be incomplete, or may have been destroyed, damaged, or injured in whole or part, and shall deliver to the mortgagee—

(*a*) Debentures of the Housing Insurance Fund as set forth in Section 204 of the Act, in a principal amount equal to the principal of the mortgage which has been advanced with the written approval of the Administrator and which is unpaid on the date of the institution of foreclosure proceedings or the acquisition of the property after default other than by foreclosure, plus the amount of all payments which have been made by the mortgagee for taxes, special assessments, and water rates, which are liens prior to the mortgage, insurance on the property mortgaged, and any mortgage insurance premium paid after either of such dates, less any amount received on account of the mortgage, and any amount received as rent or other income from the property, after deducting therefrom reasonable expenses incurred in handling the property, subsequent to either of such dates: Provided, That such debentures shall be issued in multiples of $50 and any difference, not to exceed $50, between the amount of debentures to which the mortgagee is otherwise entitled hereunder and the aggregate face value of the debentures issued shall be paid in cash. Such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default, and shall bear interest from such date at a rate to be determined by the Administrator at the time the mortgage is offered for insurance, but not to exceed three per centum (3%) per annum, payable semiannually on the first day of January and the first day of July of each year, and shall mature three (3) years after the first day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued. Such debentures shall be registered as to principal and

interest and all or any such debentures may be redeemed at the option of the Administrator, with the approval of the Secretary of the Treasury, at par and accrued interest on any interest payment date on three (3) months' notice of redemption given in such manner as the Administrator shall prescribe.

(*b*) A certificate of claim in accordance with Section 204 (*e*) of the Act, which shall become payable, if at all, upon the sale and final liquidation of the interest of the Administrator in such property, in accordance with Section 204 (*f*) of the Act. This certificate shall be for an amount which the Administrator shall determine to be sufficient, to pay all amounts due under the mortgage and not covered by the amount of debentures and shall include a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise and the conveyance thereof to the Administrator. Each such certificate of claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such certificate, an increment at the rate of three per centum (3%) per annum, which shall not be compounded. If any excess is realized from the property conveyed to the Administrator and the claims assigned therewith, after deducting all expenses incurred by the Administrator in handling, dealing with, and disposing of such property and in collecting such claims, such excess shall be applied in payment of the certificate of claim and any balance thereafter shall be paid to the mortgagor, as provided in Section 204 (*f*) of the Act.

4. Title satisfactory to the Administrator within the meaning of Paragraph 3 of this Article will be such title as was vested in the mortgagor as of the date the mortgage was filed for record, free and clear of all liens and encumbrances which may have attached, or defects which may have arisen subsequent to the recording of such mortgage, except such liens or other matters as may be approved by the Administrator. The Administrator will not object to the title because of mechanics' liens excepted from the title evidence as unfiled at the date of recording the mortgage or of any advance thereunder, provided that advances under the mortgage are disbursed with the approval of the Administrator and that the certification of a title insurer or title attorney satisfactory to the Administrator be obtained to the effect that, as of the date of each advance, no lien appeared of record and the title policy or title opinion had been extended accordingly.

5. The mortgagee, at the time a deed is tendered in accordance with Paragraph 3 of this Article, shall furnish to the Administrator without expense to him satisfactory evidence of such title. Such title evidence shall be executed as of a date to include the recordation of the deed to the Administrator and, at the option of the mortgagee, may be in the form of an owner's policy of title insurance, or a satisfactory abstract and attorney's opinion covering the period subsequent to the recording of the mortgage, or a satisfactory continuation of the title evidence accepted by the Administrator at the time the mortgage was insured.

6. The mortgagee without cost or expense to the Administrator shall, in default of the mortgagor, keep the mortgaged premises insured against fire and other hazard as provided in the mortgage. In the event the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured and such failure shall continue for fifteen (15) days after receipt of written notice of such failure from the Administrator to the mortgagee, the contract of insurance shall, at the election of the Administrator, thereupon terminate. In the event a loss has occurred to the mortgaged property under any policy of fire or other hazard insurance and the amount of any funds received by the mortgagee in payment of such loss shall be sufficient to pay in full the entire mortgage indebtedness, the mortgage shall, upon receipt of such funds by the mortgagee, be deemed paid and the contract of mortgagee insurance made with the Administrator shall thereupon terminate. If, however, any funds so received shall be insufficient to pay such mortgage indebtedness in full, the mortgagee shall not exercise its option under the mortgage to use the proceeds of such insurance for the repairing, replacing, or rebuilding of such premises or to apply such proceeds to the mortgage indebtedness without prior written approval of the Administrator. If the Administrator shall fail to give his approval to the use or application of such funds for either of said purposes within fifteen (15) days after written request by the mortgagee, the mortgagee may use or apply such funds for any of the purposes specified in the mortgage without the approval of the Administrator.

7. If after the mortgage becomes in default, as provided in Paragraph 1 of this Article, the mortgagee does not make the assignment provided in Paragraph 2 of this Article, or does not foreclose or otherwise acquire the mortgaged property and make the conveyance provided in Paragraph 3 of this Article, and written notice thereof is given to the Administrator, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof and the mortgagee pays the adjusted premium charge required under the provisions of Paragraph 2 of Article III of these Regulations, and written notice thereof is given to the Administrator, the obligation to pay the annual premium charge shall cease, and all rights of the mortgagee and the mortgagor under Paragraphs 2 and 3 of this Article shall terminate as of the date of such notice.

8. In the event that the mortgagee fails to comply with the provisions of Paragraph 1 (a) and 2, or 1 (b) and 3 of this Article, then the contract of insurance shall thereupon terminate.

Article VI—Assignments

1. Bonds or other obligations issued in connection with an insured mortgage executed in the form of an indenture of trust providing for the issue and sale of such bonds or other obligations and appointing a trustee to act on behalf of the holders of such bonds or other obligations may be transferred as provided in the indenture of trust.

2. An insured mortgage other than a mortgage executed in the form of an indenture of trust providing for the issue and sale of bonds or other obligations and appointing a trustee to act on behalf of the holders of such bonds or other obligations may be transferred (but, except with the written approval of the Administrator, only subsequent to full disbursement of the mortgage loan) to a transferee who may be a mortgagee previously approved by the Administrator or who may be approved at the time of such transfer as a mortgagee responsible and able to service such insured mortgage. Upon such approval and transfer and the assumption by the transferee of all obligations under the contract of insurance, the transferor shall be released from its obligations under the contract of insurance.

3. The contract of insurance shall terminate with respect to mortgages described in Paragraph 2 of this Article upon the happening of either of the following events:

(*a*) The acquisition of the insured mortgage by or the pledge thereof to any person, firm, or corporation, public or private, except as specifically provided in such Paragraph 2.

(*b*) The disposal by a mortgagee of any partial interest in the insured mortgage by means of a declaration of trust or by a participation or trust certificate or by any other device, unless with the prior written approval of the Administrator: Provided, That this subdivision (b) shall not be applicable to any mortgage so long as it is held in a common trust fund maintained by a bank or trust company (1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank or trust company in its capacity as a trustee, executor or administrator; and (2) in conformity with the rules and regulations prevailing from time to time of the Board of Governors of the Federal Reserve System, pertaining to the collective investment of trust funds.

Article VII—Rights in Housing Fund

Neither the mortgagee nor the mortgagor shall have any vested or other right in the Housing Insurance Fund.

Article VIII—Amendments

These Regulations may be amended by the Administrator at any time and from time to time, in whole or in part, but such amendments shall not affect the contract of insurance on any mortgage already insured or any mortgage or prospective mortgage on which the Administrator has made a commitment to insure.

Article IX—Effective Date

These Regulations shall be effective as to all mortgages with respect to which a commitment to insure is issued on or after the date hereof. The Administrator with the consent of the mortgagor and the mortgagee may, subject to such conditions as he may impose, amend to conform to these Regulations any contract of insurance or any commitment to insure, issued prior to the date hereof. Any mortgagee entitled to receive debentures upon default of a mortgage insured prior to February 3, 1938, may elect to receive, in lieu of such debentures, a cash adjustment and debentures issued as provided in Paragraph 3 of Article V and bearing interest at the rate current at the time of such election.

Issued at Washington, D. C.
February 15, 1938.

STEWART McDONALD,
Federal Housing Administrator.

Part III

Administrative Rules and Regulations Under Section 210 of Title II

RULES

Section I—Approval of Mortgages

1. The following may become the mortgagee of a mortgage insured under Section 210 of Title II of the National Housing Act:

(*a*) Any institution or organization which is approved as a mortgagee under Section 203 (b) of the National Housing Act; and

(*b*) Any other chartered institution or permanent organization having succession, upon its approval by the Administrator for a particular transaction.

2. As a condition precedent to insurance, the mortgagee must agree that it will ascertain the general physical condition of the mortgaged property at intervals not greater than one (1) year, and that, if at any time it be determined by the mortgagee that, in addition to ordinary wear and tear, the mortgaged property is being subjected to permanent or substantial injury, through unreasonable use, abuse, or neglect, the mortgagee will, unless adequate provision satisfactory to a prudent lender is made for the prompt restoration of the mortgaged property, forthwith take such action as may be available to it under the mortgage and appropriate to the particular case, for the protection and preservation of the mortgaged property and the income therefrom, and the submission of an application for insurance shall evidence such agreement.

3. The Administrator reserves the right to refuse to approve any institution or organization as the mortgagee of a particular mortgage or to withhold any such approval pending compliance by such institution or organization, with additional conditions which in the discretion of the Administrator are required in the particular case.

4. Approval of a mortgagee may be withdrawn by notice from the Administrator upon violation of the agreement mentioned in Subsection 2 of this Section, and such approval may also be withdrawn at any time for other cause sufficient to the Administrator, but no withdrawal will in any way affect the insurance on mortgages theretofore accepted for insurance.

Section II—Application and Commitment

1. Any mortgagee may submit an application for insurance of a mortgage about to be executed, or of a mortgage already executed, but no insurance will be granted unless the property shall have been approved for mortgage insurance and a commitment to insure in respect of the mortgage shall have been issued prior to the beginning of construction.

2. The application must be made upon a standard form prescribed by the Administrator and filed at the local Federal Housing Administration office serving the area in which the property is located.

3. The application must be accompanied by the mortgagee's check for a sum computed at the rate of three dollars ($3) per thousand dollars ($1,000) of the original face amount of the mortgage loan for which application is made, to cover the cost of appraisal and inspection by the Administrator. If an application is refused without an appraisal being made by the Administrator, the fee will be returned to the applicant. If an application is rejected after appraisal, one-half of the fee will be returned to the applicant. If, after insurance, the amount of an insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, the fee herein provided for shall be based upon the amount of such increase.

4. Upon approval of an application acceptance of the mortgage for insurance will be evidenced by the issuance of a commitment setting forth, upon a form prescribed by the Administrator, the terms and conditions under which mortgage insurance will be granted but no commitment will be valid unless executed by the Administrator or his duly authorized agent.

Section III—Eligible Mortgages

To be eligible for insurance—

1. The mortgage must be executed upon a form approved by the Administrator for use in the jurisdiction in which the property covered by the mortgage is situated by a mortgagor with the qualifications hereinafter set forth in Section IV, must be a first lien upon property that conforms with the property standards prescribed by the Administrator, and the mortgagee must be obligated, as a part of the mortgage transaction, to disburse the entire principal amount of the mortgage to, or for the account of, the mortgagor.

2. The mortgage must involve a principal obligation in multiples of one hundred dollars ($100) and in excess of sixteen thousand dollars ($16,000) but not in excess of $200,000 and not in excess of eighty per centum (80%) of the amount which the Administrator estimates will be the value of the property when the proposed improvements are completed. Such part of the mortgage as may be attributable to dwelling use shall not exceed $1,150 per room.

3. The mortgage must have a maturity satisfactory to the Administrator but not less than ten (10) nor more than twenty-one (21) years from the date of its execution, and should come due upon the first day of a month.

4. The mortgage may bear interest at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case shall such interest rate be in excess of five per centum (5%) per annum. Interest shall be payable only on principal outstanding and shall be payable in monthly installments beginning on the date of the first payment on account of principal.

5. The mortgage must contain complete amortization provisions satisfactory to the Administrator requiring either (a) equal monthly payments consisting of principal and interest, or (b) monthly payments consisting of an equal amount on account of principal plus interest on the principal balance outstanding. Amortization of principal must begin not later than the first day of the eleventh month following the execution of the mortgage and the period during which amortization payments are made should be either ten (10), fifteen (15) or twenty (20) years by providing for either one hundred and twenty (120), one hundred and eighty (180) or two hundred and forty (240) monthly payments on account of principal.

6. The mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth (1/12) of the annual mortgage insurance premium payable by the mortgagee to the Administrator. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage should provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the adjusted premium charge referred to in Section 2, Article III, of the Regulations.

7. The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize the ground rents, if any, and the estimated amount of all taxes, special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Administrator, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

8. All monthly payments to be made by the mortgagor to the mortgagee as hereinabove provided, in subsections 4 to 7, inclusive, shall be added together and the aggregate amount thereof shall be paid by the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(*a*) premium charges under the contract of insurance;
(*b*) ground rents, taxes, special assessments, and fire and other hazard insurance premiums;
(*c*) interest on the mortgage; and
(*d*) amortization of the principal of the mortgage.

Any deficiency in the amount of any such aggregate monthly payment shall, unless made good by the mortgagor prior to or on the due date of the next such payment, constitute an event of default under the mortgage.

9. The mortgage may provide for a charge by the mortgagee of a "late charge", not to exceed two (2) cents for each dollar of each payment more than fifteen (15) days in arrears, to cover the extra expense involved in handling delinquent payments.

10. The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment on account of principal under the mortgage and may be required to pay a further sum equal to the initial mortgage insurance premium, plus one-twelfth of the premium next due.

11. The mortgagee may charge the mortgagor the amount of the appraisal fee provided in subsection 3 of Section II of these Rules and an initial service charge to reimburse itself for the cost of closing the transaction. Such initial service charge may be in an amount not in excess of two per centum (2%) of the original principal amount of the mortgage.

12. In addition to the charges hereinbefore mentioned, the mortagee shall collect from the mortgagor only recording fees, mortgage and stamp taxes, if any, and such costs of survey and title search as are approved by the Administrator.

13. Where the project consists principally of single-family dwellings the mortgage may include appropriate provisions for the release from the lien thereof of any such dwelling and the land upon which it is located in consideration of the payment to the mortgagee in reduction of the principal of the mortgage, of an amount set forth in a schedule attached to and forming a part of the mortgage, which schedule shall also provide for such deed restrictions in respect of the released property and other conditions incident to the transaction as the Administrator shall prescribe or approve.

14. The mortgage must contain a covenant against the creation by the mortgagor of liens against the mortgaged property inferior to the lien of the mortgage.

15. The mortgage must contain a provision or provisions, satisfactory to the Administrator, giving to the mortgagee, in event of default or foreclosure of the mortgage, such rights and remedies, for the protection and preservation of the property covered by the mortgage and the income therefrom, as are available under the law or custom of the jurisdiction.

16. The mortgage shall contain a covenant binding the mortgagor to keep the mortgaged property insured against fire and such other hazard as the Administrator, upon the insurance of the mortgage, may stipulate, in companies and in amounts satisfactory to the Administrator. The policies evidencing such insurance shall have attached thereto a standard mortgagee clause making loss, if any, payable to the mortgagee and the Administrator, as interest may appear.

17. The mortgage may contain such other terms, conditions and provisions with respect to advances during construction, assurance of completion, release of parts of the mortgaged property from the lien of the mortgage, insurance, repairs, alterations, payment of taxes, default and management reserves, foreclosure procedings, anticipation of maturity, and other matters as the Administrator may in his discretion prescribe or approve.

18. The mortgage must be executed with respect to a project which, in the opinion of the Administrator, is economically sound.

Section IV—Eligible Mortgagors

1. A mortgagor must establish that as of the date the mortgage is endorsed for insurance, the property covered by the mortgage is free and clear of all liens other than such mortgage, and that after final disbursement of the loan there will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

2. A mortgagor must establish that the periodic payments required in the mortgage submitted for insurance bear a proper relation to anticipated income and expenses in respect to the mortgaged property.

3. The mortgagor must establish that the housing project will be economically sound and that it is not of such type, size and character as to render the mortgage more properly insurable under the provisions of Section 207 of the National Housing Act and Regulations thereunder.

4. A mortgagor must have a general credit standing satisfactory to the Administrator.

Section V—Eligibile Properties

1. A mortgage to be eligible for insurance must be on real estate held in fee simple, or on the interest of the lessor or lessee under a lease for not less than ninety-nine (99) years which is renewable, or under a lease having a period of not less than fifty (50) years to run from the date the mortgage is executed.

2. At the time the morgage is insured the mortgagor shall have constructed and completed, or shall be obligated to construct and complete on the mortgaged property one or more multifamily structures containing a total of not less than five (5) complete family dwelling units, or a group of not less than ten (10) single family dwellings, in accordance with plans and specifications approved by the Administrator, or the property shall previously have been covered by an insured mortgage.

Section VI—Title

1. In order to be eligible for insurance, the Administrator must determine that marketable title to the mortgaged property is vested in the mortgagor as of the date the mortgage is filed for record. The Administrator will examine the title to property covered by a mortgage offered for insurance and in the event a determination of eligibility with respect to title is made as herein provided, such finding shall constitute a part of the contract of insurance evidenced by the insurance endorsement.

2. Upon endorsement of the mortgage for insurance, the mortgagee, without expense to the Administrator, shall furnish to the Administrator a survey satisfactory to him and a policy of title insurance as provided in subsection (*a*) of this section, provided, however, that in the event the mortgagee is unable to furnish such policy for reasons satisfactory to the Administrator, the mortgagee, without expense to the Administrator, shall furnish evidence of title as provided in subsections (*b*), (*c*), or (*d*) of this section as the Administrator may require.

(*a*) A policy of title insurance with respect to such mortgage, issued by a company satisfactory to the Administrator. Such policy shall comply with the "L. I. C. Standard Mortgagee Form" or the "A. T. A. Standard Mortgagee Form", or such other form as may be approved by the Administrator and which offers substantially the same coverage under substantially the same conditions and stipulations. Such policies may contain such "permitted" and other exceptions, restrictions, and limitations as are approved by the Administrator. The policy shall become effective as of the date the mortgage is filed for record and shall run to the mortgagee as owner upon acquisition of the property by the mortgagee in extinguishment of the debt through foreclosure or by other means as provided in Section 2 (*a*) of Article V of the Regulations and to the Administrator upon his acquisition of the property upon the issuance of debentures as provided in Section 3 of Article V of the Regulations and shall be payable to the mortgagee and the Administrator as their respective interests may appear.

(*b*) An abstract of title satisfactory to the Administrator, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Administrator, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(*c*) A Torrens or similar title certificate.

(*d*) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or Territory thereof.

Section VII—Insurance of Advances During Construction

1. The Administrator and the mortgagee shall, prior to the insurance of the mortgage, agree with respect to the manner and conditions under which advances (if any) during construction are to be made by the mortgagee and approved for insurance by the Administrator.

2. Such agreement shall require the mortgagee to notify the Administrator in writing not less than five (5) days prior to the date on which an advance is to be made, of the amount of the advance proposed to be made, and shall require the Administrator to deliver to the mortgagee within four (4) days from the date of such notice a certificate executed by the Administrator on a form prescribed by him, setting forth the amount approved for insurance or advising the mortgagee of the Administrator's non-approval and setting forth the reasons therefor.

3. Such agreement shall be set forth on a form prescribed by the Administrator, shall contain such additional terms, conditions and provisions as the Administrator shall in the particular case prescribe or approve, and when properly executed by the Administrator and the mortgagee, shall constitute a part of the mortgage insurance contract.

Section VIII—Effective Date

These Administrative Rules are effective as to all mortgages on which a commitment to insure is issued, on or after the date hereof.

Issued at Washington, D. C., February 15, 1938.

STEWART MCDONALD,
Federal Housing Administrator.

REGULATIONS

Article I

These Regulations may be cited and referred to as "Regulations of the Federal Housing Administrator under Section 210 of the National Housing Act, dated February 15, 1938."

Article II—Definitions

As used in these Regulations—

1. The term "Administrator" means the Federal Housing Administrator.

2. The term "Act" means the National Housing Act.

3. The term "mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances (including but not being limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State, district, or Territory in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby.

4. The term "insured mortgage" means a mortgage which has been insured by the endorsement of the Administrator.

5. The term "mortgagor" means the original borrower under a mortgage and his personal representatives, successors, and assigns.

6. The term "mortgagee" means the original lender under a mortgage and its successors and such of its assigns as are approved by the Administrator.

Article III—Premiums

1. The mortgagee shall pay to the Administrator an annual mortgage insurance premium equal to one-half of one per centum (1/2 of 1%) of the average outstanding principal obligation of the mortgage for the twelve-month period following the date on which such premium becomes payable and calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments, except that the first mortgage insurance premium shall be equal to one-half of one per centum (1/2 of 1%) of the original face amount of the mortgage, shall be paid on the date on which the mortgage becomes an insured mortgage and shall cover, subject to the adjustment hereinafter provided, the period from the date of endorsement up to and including the date on which the first monthly payment on account of principal is due under the mortgage. The next premium shall be paid on the date on which the first monthly payment of principal is due, and thereafter, until the mortgage is paid in full, or the mortgaged property is acquired by the Administrator as hereinafter set forth, or until the contract of insurance is otherwise terminated, each succeeding premium shall be paid annually on the anniversary of such date, and the amount of the second premium will be adjusted so as to accord with such payment date and so as to render the first premium paid equal to one per centum (1%) of the average outstanding principal obligation of the mortgage during the interval from the date of endorsement up to and including the date on which the first monthly payment on account of principal is due. Such premiums shall be paid either in cash or in debentures issued by the Administrator under Title II of the National Housing Act at par plus accrued interest.

2. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity, the mortgagee shall within thirty (30) days thereafter notify

the Administrator of the date of prepayment and shall collect from the mortgagor and pay to the Administrator an adjusted premium charge of one per centum (1%) of the original face amount of the prepaid mortgage, except that if at the time of such prepayment there is placed on the mortgaged property a new insured mortgage in an amount less than the original face amount of the prepaid mortgage, such adjusted premium shall be one per centum (1%) of the difference in such amounts.

In no event shall the adjusted premium exceed the aggregate amount of premium charges which would have been payable if the mortgage had continued to be insured until maturity. If at the time of prepayment a new insured mortgage is placed on the same property, the Administrator will refund to the mortgagee for the account of the mortgagor an amount equal to the unearned portion of the current annual premium theretofore paid.

No adjusted premium shall be collected by the mortgagee in the following cases:

(*a*) where at the time of such prepayment there is placed on the mortgaged property a new insured mortgage for an amount equal to or greater than the original principal amount of the prepaid mortgage; or

(*b*) where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments made by the mortgagor which do not exceed in any one calendar year fifteen per centum (15%) of the original face amount of the mortgage; or

(*c*) where the final maturity specified in the mortgage is accelerated solely by reason of payments to principal to compensate for (1) damage to the mortgaged property, or (2) a release of a part of such property if approved by the Administrator; or

(*d*) where payment in full is made of a delinquent mortgage on which foreclosure proceedings have been commenced, or for the purpose of avoiding foreclosure, if the transaction is approved by the Administrator.

Upon such prepayment the contract of insurance shall terminate.

The provisions of this section shall not be construed to prohibit the mortgagee from including in the mortgage and collecting from the mortgagor such charge for prepayment as may be agreed upon between the mortgagee and the mortgagor.

Article IV—Insurance Endorsement

1. Upon compliance satisfactory to the Administrator with the terms and conditions of his commitment to insure, the Administrator shall endorse the original credit instrument in form as follows:

No. 210 ------

Insured under Section 210
Of the National Housing Act
and Regulations Thereunder of the
Federal Housing Administrator
To the Extent of Advances
Approved by the Administrator

Dated ----------

As amended ----------

FEDERAL HOUSING ADMINISTRATOR

By ----------

Authorized Agent

Date ----------

2. The mortgage shall be an insured mortgage from the date of such endorsement. The Administrator and the mortagee shall thereafter be bound by these Regulations with the same force and to the same extent as if a separate contract had been executed relating to the insured mortgage, including the provisions of these Regulations and of the National Housing Act.

3. After all advances under the mortgage have been made with the approval of the Administrator, the Administrator will, upon presentation of the original credit instrument, make a notation below the insurance endorsement in form as follows:

A Total Sum of $------
Has Been Approved for Insurance Hereunder
by the Administrator
FEDERAL HOUSING ADMINISTRATOR

By ----------

Authorized Agent

Date ----------

Article V—Rights and Duties of a Mortgagee Under the Contract of Insurance

1. In the event that the mortgagee forecloses on the mortgaged property, or otherwise acquires the property, but does not convey such property to the Administrator in accordance with Section 3 of this Article, and the Administrator is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays the adjusted premium charge required under the provisions of Section 2 of Article III of these Regulations, and the Administrator is given written notice by the mortgagee of the payment of such obligation, the obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under Section 3 of this Article shall terminate as of the date of such notice.

2. If the mortgagor fails to make any payment to the mortgagee required by the mortgage, or to perform any other covenant or obligation under the mortgage, and such failure continues for a period of thirty-one (31) days, the mortgage shall be considered in default, and the mortgagee, within a period of thirty (30) days after the occurrence of a default arising on account of such failure to make any such payment or within such period after the mortgagee shall have knowledge of the occurrence of a default arising on account of such failure to perform any other covenant or obligation under the mortgage, shall give notice in writing to the Administrator of such default. At any time within a period of six (6) months after the date of such notice the mortgagee, at its election, shall either—

(*a*) with, and subject to, the consent of the Administrator, acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(*b*) (1) institute proceedings for the foreclosure of the mortgage, give the Administrator prompt notice thereof, and exercise reasonable diligence in prosecuting such proceedings to completion; and (2) obtain possession of the mortgaged property and the income therefrom through the voluntary surrender thereof by the mortgagor or institute, and prosecute with reasonable diligence, proceedings for the appointment of a receiver of the mortgaged property and the income therefrom or proceed to exercise such other rights and remedies as may be available to it for the protection and preservation of the mortgaged property and the income therefrom under the mortgage and the law of the particular jurisdiction: Provided, That if the laws of the state in which the mortgaged property is situated do not permit the institution of such proceedings within such period of time, the mortgagee shall institute such proceedngs within sixty (60) days after the expiration of the time during which the institution of such proceedings is prohibited by such laws.

If after default and prior to the completion of foreclosure proceedings the mortgagor shall pay to the mortgagee all monthly payments in default and such expenses as the mortgagee shall have incurred in connection with the proceedings mentioned in paragraph (*b*) of this subsection, notice thereof shall be given to the Administrator by the mortgagee, and the insurance shall continue as if such default had not occurred.

Nothing in this section contained shall be construed so as to prevent the mortgagee, with the written consent of the Administrator, from taking action at a later date than herein specified.

3. If the mortgagee has complied with the provisions of Section 2 of this Article, and at any time within thirty (30) days (or such further time as may be allowed by the Administrator in writing) after acquiring title to and possession of the mortgaged property in accordance with Section 2 of this Article, tenders to the Administrator possession of, and a deed containing a covenant which warrants against acts of the mortgagee and all claiming by, through, or under it conveying title satisfactory to the Administrator as provided in Section 5 of this Article, to such property and assigns (without recourse or warranty) any and all claims which it has acquired in connection with the mortgage transaction and as a result of the foreclosure proceedings or other means by which it acquired such property, including any claim on account of title insurance and fire, or other hazard insurance, except such claims as may have been released with the prior approval of the Administrator, the Administrator shall promptly accept conveyance of such property and such assignment, notwithstanding that the buildings or improvements thereon may be incomplete or may have been destroyed, damaged or injured in whole or in part, and shall deliver to the mortgagee:

(*a*) Debentures of the Housing Insurance Fund as set forth in Section 204 of the Act, in a principal amount equal to the principal of the mortgage which has been advanced with the written approval of the Administrator and which is unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property otherwise after default, plus the amount of all payments which have been made by the mortgagee for taxes, special assessments and water rates which are liens prior to the mortgage, insurance on the property mortgaged and any mortgage insurance premium paid after either of such dates, less any amount received on account of the mortgage, and any amount received as rent or other income from the property after deducting therefrom reasonable expenses incurred in handling the property, subsequent to either of such dates: Provided, That such debentures shall be issued in multiples of $50 and any difference, not to exceed $50, between the amount of debentures to which the mortgagee is otherwise entitled hereunder and the aggregate face value of the debentures isued shall be paid in cash. Such debentures shall be dated as of the date foreclosure proceedings were instituted or the property was otherwise acquired by the mortgagee after default and shall bear interest from such date at the rate of two and three-quarters per centum (2¾%) per annum, payable semiannually on the first day of January and the first day of July of each year, and shall mature three (3) years after the first day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued. Such debentures shall be registered as to principal and interest and all or any such debentures may be redeemed at the option of the Administrator, with the approval of the Secretary of the Treasury, at par and accrued interest on any interest payment date on three (3) months' notice of redemption given in such manner as the Administrator shall prescribe.

(*b*) A certificate of claim in accordance with Section 204 (e) of the Act which shall become payable, if at all, upon the sale and final liquidation of the interest of the Administrator in such property, in accordance with Section 204 (f) of the Act. This certificate shall be for an amount which the Administrator shall determine to be sufficient to pay all amounts due under the mortgage and not covered by the amount of debentures and shall include a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Administrator. Each such certificate of claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such certificate, an increment at the rate of 3 per centum (3%) per annum, which shall not be compounded.

4. In the event that the mortgagee fails to comply with the provisions of Sections 2 and 3 of this Article, then the contract of insurance shall terminate and all rights of the mortgagee and mortgagor under this Article shall cease.

5. Title satisfactory to the Administrator within the meaning of Section 3 of this Article will be such title as was vested in the mortgagor as of the date the mortgage was filed for record but must be free and clear of all mechanics' and materialmen's liens filed of record subsequent to the recording of such mortgage regardless of whether such liens attached prior to such recording date and free and clear of all liens and encumbrances which may have attached, or defects which may have arisen subsequent to the recording of such mortgage, except such liens or other matters as may be approved by the Administrator.

6. The mortgagee, at the time a deed is tendered in accordance with Section 3 of this Article, shall furnish to the Administrator without expense to him satisfactory evidence of such title. Such title evidence shall be executed as of a date to include the recordation of the deed to the Administrator and, at the option of the mortgagee, may be in the form of an owner's policy of title insurance, or a satisfactory abstract and attorney's opinion covering the period subsequent to the recording of the mortgage or a satisfactory continuation of the title evidence accepted by the Administrator at the time the mortgage was insured.

7. The mortgagee without cost or expense to the Administrator shall, in default of the mortgagor, keep the mortgaged premises insured in amounts and in companies satisfactory to the Administrator against fire and other hazard as provided in the mortgage. In the event the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured and such failure shall continue for a period of thirty (30) days, then the contract of insurance shall, at the election of the Administrator, thereupon terminate. In the event a loss has occurred to the mortgaged property under any policy of fire or other hazard insurance and the amount of any funds received by the mortgagee in payment of such loss shall be sufficient to pay in full the entire mortgage indebtedness, the said mortgage shall, upon receipt of such funds by the mortgagee, be deemed paid and the contract of mortgage insurance shall thereupon terminate. If, however, any funds so received shall be insufficient to pay such mortgage indebtedness in full, the mortgagee shall not exercise its option under the mortgage to use the proceeds of such insurance for the repairing, replacing, or rebuilding of such premises or to apply such proceeds to the mortgage indebtedness without the prior written approval of the Administrator. If the Administrator shall fail to give his approval to the use or application of such funds for either of said purposes within fifteen (15) days after written request by the mortgagee, the mortgagee may use or apply such funds for any of the purposes specified in the mortgage without the approval of the Administrator.

Article VI—Assignments

1. When the insured mortgage is transferred to a mortgagee approved under Section 203 (b) of the Act, such transferee shall notify the Administrator of the acquisition of such mortgage within thirty (30) days thereof, and shall thereupon succeed to all the rights and become bound by all the obligations of the transferor under the contract of insurance; but the transferor shall be released from its obligations under the contract of insurance only upon its giving notice to the Administrator of the transfer of the insured mortgage within thirty (30) days thereof.

When transfer of the insured mortgage is to be made to other than a mortgagee approved under Section 203 (b) of the Act such transferee must obtain written approval of the Administrator. Upon receipt of such written approval such transferee may become the mortgagee of the insured mortgage upon its transfer and shall succeed to all the

rights and become bound by all of the obligations of the transferor under the contract of insurance; but the transferor shall be released from its obligations under the contract of insurance only upon its giving notice to the Administrator of the transfer of the insured mortgage within thirty (30) days thereafter.

Whenever the insured mortgage is transferred to another approved mortgagee, for the purposes of collateral only, no notice need be given to the Administrator until such collateral is foreclosed, but the transferor shall remain subject to all of the obligations of the contract of insurance.

2. The contract of insurance shall terminate upon the happening of either of the following events:

(a) the acquisition of the insured mortgage by, or the pledge thereof to, any person, firm, or corporation, public or private, other than an approved mortgagee, whether individually or in trust for another: Provided, That this subsection (a) shall not be applicable to a mortgage acquired or held by an approved mortgagee which is a banking institution or trust company inspected and supervised by some governmental agency, for a trust held or administered by it in a fiduciary capacity, as long as such fiduciary relationship shall remain in effect;

(b) the disposal by an approved mortgagee of any partal interest in an insured mortgage or group of insured mortgages (whether to another approved mortgagee or otherwise) by means of a declaration of trust, or by a participation or trust certificate, or by any other device; provided that this subsection (b) shall not be applicable to any mortgage so long as it is held in a common trust fund maintained by a bank or trust company (1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank or trust company in its capacity as a trustee, executor or administrator; and (2) in conformity with the rules and regulations prevailing from time to time of the Board of Governors of the Federal Reserve System, pertaining to the collective investment of trust funds.

Article VII—Rights in Housing Fund

Neither the mortgagee nor the mortgagor shall have any vested or other right in the Housing Insurance Fund.

Article VIII—Amendments

These Regulations may be amended by the Administrator at any time and from time to time, in whole or in part, but such amendment shall not affect the contract of insurance on any mortgage already insured, or any mortgage or prospective mortgage on which the Administrator has made a commitment to insure.

Article IX—Effective Date

These Regulations are effective as to all mortgages insured under Section 210 of the National Housing Act on or after the date hereof.

Issued at Washington, D. C., February 15, 1938.

STEWART MCDONALD,
Federal Housing Administrator.

PART IV

Project Standards

The National Housing Act requires the Administrator to find that the project with respect to which a mortgage is to be executed is economically sound, as a prerequisite to his insurance of such mortgage. The following criteria will guide the Administrator in forming his opinion as to the economic soundness of any project:

1. *Community.*—(a) A satisfactory economic background in general and specifically with reference to sources of employment for the population group for which the housing accommodations are intended.

(b) Existence of a need for dwellings meeting approved physical standards, and available for rent at prices within the rent paying capacity of the income group the project is designed to serve.

(c) The financial condition and administration of the community, with particular reference to the possibility of excessive tax burdens or increased tax rates; the probability of future special assessments and the general tendency in the community with respect to the placing of further levies, and the relation of such added burdens to the sums likely to be available to meet them.

2. *The Neighborhood.*—(a) Appropriate neighborhood zoning, or other regulation of land use; character and age of the neighborhood, its prospective trend of development, and conformity of the proposed improvement thereto; future of the neighborhood as influenced by present or prospective improvements external thereto; and by present or possible inharmonious land uses within it.

(b) Size of the proposed project as a factor in influencing neighborhood development and stabilizing, modifying, or reversing discernible trends; relation of the neighborhood and the project to community plans tending to promote homogeneity of land use, permanent population betterments, and the rehabilitation of blighted or slum areas.

(c) Conformity of the project and its prospective tenants to the needs and characteristics of predominant ethnic groups nearby; probable long term immunity of the neighborhood from adverse influences.

(d) Accessibility of the neighborhood to churches and to centers of employment, trade, education, and recreation; adequacy and economy of public means of transit, and conformity of the project to local custom and habit as regards transportation.

3. *The site.*—(a) Freedom from adjacent adverse influences either topographic, industrial, or psychological.

(b) Adequate and acceptable local land planning, or possibility of modifications thereof.

(c) Freedom from flood danger or other hazards; satisfactory and non-costly foundation conditions; the presence nearby of all necessary utility connections; and topographic adaptability, within the property lines, to the intended use.

(d) General conformity of the proposed improvement to the discernible real estate characteristics of the site, and to appropriate densities, rents, layout, and type of structure as indicated by these characteristics.

4. *The buildings.*—(a) Open land within the project shall be so distributed as to avoid narrow courts and to assure adequate light and air, and a satisfactory outlook for all rooms. Net lot coverage must be kept to the minimum consistent with a sound project based on a reasonable land value. Densities should not ordinarily exceed eight (8) families per gross acre for free standing houses, fifteen (15) families per gross acre for grouped or row houses, and one hundred (100) families per gross acre for multiple family dwellings.

(b) Buildings not over three stories in height are preferred, and no walkup may exceed four stories. Elevators will be required for buildings of greater height which will be acceptable only if appropriate to the location.

(c) Conformity of the land use, buildings and all accessory features with the requirements of all applicable laws, ordinances, and regulations relating to the utilization of land and the safety and sanitation of buildings.

(d) Suitability of the type of construction to the general plan of housing proposed. (Generally, preference will be given to buildings promising slow depreciation and moderate maintenance costs.)

(e) Economical layouts (high ratio of usable building area to gross building area); cross ventilation in a maximum of the dwelling units; privacy of sleeping quarters under maximum possible use of dwelling units; avoidance of narrow courts and shafts.

(f) Suitability of the buildings as quarters for families of average size.

Layouts containing not less than three habitable rooms and one bathroom should be heavily predominant, but a small proportion of smaller units may be included. One of the habitable rooms shall have a floor area of not less than one hundred sixty (160) square feet; one a floor area of not less than one hundred (100) square feet; and one a floor area of not less than seventy (70) square feet; except that a kitchen may have a floor area of not less than fifty (50) square feet. Buildings of the corridor-type plan will ordinarily not be approved for mortgage insurance.

5. *Finance and operation.*—(a) Relation of rental levels of the project to the existing pattern of rentals in the community.

(b) Adequacy of the estimation of costs of administration, operation, and maintenance in conformity with local prices and conditions.

(c) Reasonableness of assumptions as to occupancy ratio in relation to a long-term expectancy.

(d) Possibility of accumulating a surplus in excess of dividend requirements after all expenses and the service of the mortgage.

(e) Land valued to conform to the local pattern of land values and to a capitalized value as determined by the residuals of gross income available for such capitalization.

(f) Sufficiency of the cash and other equity in the project to provide for all improvement costs above the mortgage and to assure continuing interest in the project by the sponsors.

(g) Provisions for a continuing and responsible management organization.

(h) Experience and responsibility of the proposed contractor.

[F. R. Doc. 38-471; Filed, February 12, 1938; 10:25 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3330]

IN THE MATTER OF U. S. HOFFMAN MACHINERY CORPORATION

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", commonly known as the Clayton Act, as amended, being an Act of Congress, approved June 19, 1936 (U. S. C., title 15, sec. 13), commonly known as the Robinson-Patman Act, the Federal Trade Commission having reason to believe that U. S. Hoffman Machinery Corporation, hereinafter referred to as respondent, has violated and is now violating subsection (a) of Section 2 of said Act, as amended, hereby issues its complaint against said respondent, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation, organized, existing and doing business by virtue of the laws of the State of Delaware, with its principal office and place of business located at 105 Fourth Avenue, New York City, New York.

PAR. 2. For many years prior hereto and since June 19, 1936, respondent has been, and is now, engaged in the business of manufacturing, selling and distributing pressing machines. In the course of such business, respondent has been, and is now, distributing and selling said machines in commerce from its place of business in the State of New York to various purchasers in other states of the United States, and has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing pressing machines, in commerce between and among and in the various states of the United States.

PAR. 3. In the course and conduct of its business, as aforesaid, respondent since June 19, 1936 has been, and is now, discriminating in price among different purchasers of pressing machines of like grade and quality, sold for use within the United States, by giving and allowing, through divers means and methods, certain purchasers different prices from those given or allowed other of their said purchasers.

PAR. 4. The effect of said discriminations in price by respondent has been, or may be, substantially to lessen competition, to tend to create a monopoly, or to injure, destroy, or prevent competition in the sale and distribution of pressing machines between respondent and other manufacturers of said machines in commerce between, among and in the various states of the United States.

PAR. 5. The foregoing alleged acts of said respondent, U. S. Hoffman Machinery Corporation, are a violation of Section 2 (a) of said Act of Congress, approved June 19, 1936, entitled, "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13) and for other purposes".

Wherefore, the premises considered, the Federal Trade Commission, on this 9th day of February, A. D. 1938, now issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, U. S. Hoffman Machinery Corporation, respondent herein, that the 18th day of March, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the city of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(a) In cases arising under section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under section 2 of the aforesaid Clayton Act as amended

by "An Act to amend section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, Sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 9th day of February, A. D. 1938.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-478; Filed, February 14, 1938; 10:13 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

RULES FOR THE REGULATION OF SHORT-SELLING AMENDED

These rules were adopted pursuant to authority conferred upon the Securities and Exchange Commission by the Securities Exchange Act of 1934, as amended, particularly Sections 3 (b), 10 (a), and 23 (a) thereof. The rules apply to short-selling of securities on National Securities Exchanges. Rule X-3B-3 defines the term "short-selling". Rule X-10A-1 prohibits short-selling under certain circumstances and is applicable to all persons whether members of national securities exchanges or the public. Rule X-10A-2 is applicable only to members of national securities exchanges and is designed to prohibit the borrowing of securities for deliveries against "long" sales.

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 10 (a) and 23 (a) thereof, hereby amends paragraph (d) of Rule X-10A-1 by striking out the word "or" before the figure (5) and by inserting immediately before the period at the end thereof a semicolon and the following:

"(6) any sale of a security on a national securities exchange effected with the approval of such exchange which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exhange market for such security"

Paragraph (d) of Rule X-10A-1 as amended, reads as follows:

"(d). The provisions of paragraph (a) hereof shall not apply to (1) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense; (2) any member in respect of a sale, for an account in which he has no interest, pursuant to an order to sell which is marked 'long'; (3) any sale of an odd-lot; (4) any sale by an odd-lot dealer to offset odd-lot orders of customers; (5) any sale by an odd-lot dealer to liquidate a long position which is less than a round lot, provided such sale does not change the position of such odd-lot dealer by more than the unit of trading; or (6) any sale of a security on a national securities exchange effected with the approval of such exchange which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security."

The foregoing amendment shall be effective immediately.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-483; Filed, February 14, 1938; 10:49 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of February, A. D., 1938.

[File No. 30-31]

IN THE MATTER OF CENTRAL NEW HAMPSHIRE POWER COMPANY

ORDER PURSUANT TO SECTION 5 (D), PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Central New Hampshire Power Company, a Delaware corporation, having registered on December 1, 1936, pursuant to Section 5 (b) of the Public Utility Holding Company Act of 1935, and having filed on January 15, 1938, an application pursuant to Section 5 (d) for an order declaring that such applicant has ceased to be a holding company.

A hearing on said application having been held after appropriate notice; the record in this matter having been examined; the Commission having made and filed its findings herein:

It is ordered, That since Central New Hampshire Power Company has ceased to be a holding company, the registration of the applicant pursuant to Section 5 (b) of the Public Utility Holding Company Act of 1935, hereby ceases to be in effect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-479; Filed, February 14, 1938; 10:46 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of February, 1938.

[File No. 1-374]

IN THE MATTER OF OLINDA LAND COMPANY COMMON STOCK

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Olinda Land Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock from listing and registration on the Los Angeles Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 o'clock A. M. on Tuesday, March 15, 1938, in Room 426, Securities and Exchange Commission, 650 South Spring Street, Los Angeles, California, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard A. Judy and Charles R. Burr, or either of them, officers of the Commission, be and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-480; Filed, February 14, 1938; 10:47 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of February, 1938.

[File No. 1-2083]

IN THE MATTER OF UNITED TOWNS ELECTRIC COMPANY, LTD., FIRST AND REFUNDED MORTGAGE, 6% SERIES "A" BONDS, DUE 1945

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding, pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the Baltimore Stock Exchange of First and Refunding Mortgage, 6% Series "A" Bonds, due 1945, of United Towns Electric Company, Ltd., amounting to $100,000, shall be suspended or withdrawn; and

After appropriate notice, a hearing having been held in this matter on November 30, 1937, in Washington, D. C., and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Section 12 (b) of said Act, as amended, Rules JB1 and JB3, as amended, Form 10 for Corporations and the Instructions supplemental thereto, prescribed under said Section, and has also failed to comply with Section 13 of said Act, as amended, Rules KA1 and KA2, Form 10-K and the Instructions supplemental thereto, prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act, as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said First and Refunding Mortgage, 6% Series "A" Bonds on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the Baltimore Stock Exchange of First and Refunding Mortgage, 6% Series "A" Bonds, due 1945, of United Towns Electric Company, Ltd., amounting to $100,000, shall be and the same is hereby withdrawn, effective as of February 21, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-482; Filed, February 14, 1938; 10:48 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of February, A. D., 1938.

[File No. 2-3415]

CRUSADER AIRCRAFT CORPORATION

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of Crusader Aircraft Corporation, an Arizona corporation, and the amendment filed December 15, 1937, to such registration statement, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement as amended includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement, as amended, includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, in Items 5, 7, 8, 24, 27, 32, 42, Exhibits A, B, F, N, P, S, V, the accountants' certificates and the prospectus, as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, that the effectiveness of the registration statement filed by Crusader Aircraft Corporation, an Arizona corporation, be and the same hereby is suspended, and

It is further ordered, That the amendment filed by Crusader Aircraft Corporation, an Arizona corporation, on December 15, 1937, not be declared effective.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-481; Filed, February 14, 1938; 10:48 a. m.]

Wednesday, February 16, 1938 *No. 33*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6179 OF JUNE 16, 1933, WITHDRAWING PUBLIC LANDS

Utah

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 6179 of June 16, 1933, withdrawing public lands in Utah, pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the said lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 14, 1938.

[No. 7812]

[F. R. Doc. 38-493; Filed, February 15, 1938; 10:55 a. m.]

EXECUTIVE ORDER

AMENDMENT OF RULE 16 OF EXECUTIVE ORDER NO. 4314 OF SEPTEMBER 25, 1925, ESTABLISHING RULES GOVERNING NAVIGATION OF THE PANAMA CANAL AND ADJACENT WATERS

By virtue of and pursuant to the authority vested in me by section 412 of title 2 of the Canal Zone Code, approved June 19, 1934, Rule 16 of Executive Order No. 4314 of September 25, 1925, establishing rules governing navigation of the Panama Canal and adjacent waters, is hereby amended to read as follows:

"RULE 16. *Tolls for Vessels in Ballast.*—In order for a vessel to secure the reduced rate of tolls for vessels in ballast without passengers or cargo, the volume of the fuel on board for its own consumption must not exceed 125 *per centum* of the volume of its engine room as measured and as shown on its Panama Canal Tonnage Certificate."

This order shall become effective on March 1, 1938.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 14, 1938.

[No. 7813]

[F. R. Doc. 38-494; Filed, February 15, 1938; 10:55 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of February, A. D. 1938.

[File No. 37-22]

IN THE MATTER OF THE APPLICATION OF COLUMBIA ENGINEERING CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Columbia Engineering Corporation, a subsidiary of Columbia Gas & Electric Corporation, with respect to the conduct of its business as a subsidiary service company, pursuant to Rule 13-22;

It is ordered, That a hearing on such matter be held on March 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 3, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-495; Filed, February 15, 1938; 11:06 a. m.]

Thursday, February 17, 1938 *No. 34*

PRESIDENT OF THE UNITED STATES.

NATIONAL WILD LIFE WEEK—1938

By the President of the United States of America

A PROCLAMATION

WHEREAS one of the most important phases of the conservation of our natural resources is the protection and preservation of our wild life; and

WHEREAS this is a work in which virtually our entire citizenship can participate wholeheartedly and enthusiastically, whether resident in the large metropolitan centers, with limited access to the great out-doors, or permitted to enjoy at first hand the wonders of nature; and

WHEREAS the carrying into effect of any program for the conservation of our hereditary wild life—in the past seriously diminished and depleted by destructive exploitation and lack of proper understanding and sympathy—must enlist the support of all of our citizens if the mistakes of the past are to be avoided in the future in dealing with this important resource of incalculable social, economic, esthetic, and recreational value:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby proclaim and designate the week beginning March 20, 1938, as National Wild Life Week and do earnestly appeal to all of our citizens first to recognize the importance of the problem of conservation of these assets in wild life, and then to work with one accord for their proper protection and preservation. To this end I call upon all citizens in every community to give thought during this period to the needs of the denizens of field, forest, and water and intelligent consideration of the best means for translating good intentions into practical action in behalf of these invaluable but inarticulate friends. Only through the full cooperation of all can wild life be restored for the present generation and perpetuated for posterity.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 14" day of February, in the year of our Lord nineteen hundred and [SEAL] thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2273]

[F. R. Doc. 38-501; Filed, February 16, 1938; 10:56 a. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 4430 OF APRIL 23, 1926, AS MODIFIED, WITHDRAWING PUBLIC LANDS

Wisconsin

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 4430 of April 23, 1926, as modified, temporarily withdrawing certain lands in Michigan and Wisconsin pending classification and legislation, is hereby revoked as to the following-described public land:

FOURTH PRINCIPAL MERIDIAN

T. 32 N., R. 9 W., sec. 9, lot 1, .50 of an acre.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 15, 1938.

[No. 7814]

[F. R. Doc. 38-508; Filed, February 16, 1938; 12:11 p. m.]

EXECUTIVE ORDER

AMENDING PARAGRAPH 10 (A), SUBDIVISION IV, SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Third of Section 6 of the Civil Service Act (22 Stat. 403, 406), it is ordered that paragraph 10 (a), Subdivision IV, Schedule A, of the Civil Service Rules, excepting from competitive civil-service requirements certain positions at the United States Military Academy at West Point, be, and it is hereby, amended to read as follows:

"10. (a) Civilian professors, instructors, (except civilian instructor of wrestling, civilian instructor of boxing, civilian instructor of gymnastics, and chapel organist and choirmaster), and teachers in the United States Military Academy at West Point, and the position of librarian when filled by appointment of a graduate of that academy."

The purpose of this order is to place the position of chapel organist and choirmaster at the United States Military Academy in the classified civil service.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 15, 1938.

[No. 7815]

[F. R. Doc. 38-509; Filed, February 16, 1938; 12:11 p. m.]

EXECUTIVE ORDER

TRANSFERRING PORTIONS OF AMAKNAK ISLAND TO THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE NAVY

Alaska

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and as President of the United States, it is ordered that those portions of Amaknak Island, Alaska, withdrawn and set aside by Executive Order No. 1733 of March 3, 1913, as amended by Executive Order No. 5243 of December 19, 1929, and Executive Order No. 6044 of February 23, 1933, for the use of the Department of Agriculture, including the Alaska Game Commission, and for the protection of the fishing rights of Alaska natives, be, and they are hereby, transferred to the control and jurisdiction of the Secretary of the Navy for naval uses, subject to use by the Department of Agriculture and Alaska natives, for the purposes for which such lands were originally withdrawn and set aside, when such use will not interfere with naval activities.

The above-mentioned executive orders are modified accordingly.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 15, 1938.

[No. 7816]

[F. R. Doc. 38-510; Filed, February 16, 1938; 12:11 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49400]

INVOICES—SUGAR AND ARTICLES CONTAINING SUGAR

ADDITIONAL DATA REQUIRED TO BE SHOWN ON ALL CUSTOMS INVOICES COVERING SUGAR IN LIQUID FORM AND ARTICLES COMPOSED IN PART OF MANUFACTURED SUGAR

To Collectors of Customs and Others Concerned:

Reference is made to section 403 of the Sugar Act of 1937 (Public No. 414—75th Congress, approved September 1, 1937 (1937) T. D. 49160), which imposes an import compensating tax on certain sugar in liquid form and on articles composed in chief value of manufactured sugar as defined in section 401, title IV, of that act.

Under the authority contained in section 481 (a) (10) of the Tariff Act of 1930 (U. S. C., title 19, sec. 1481 (a) (10)), all customs invoices of sugar in liquid form are hereby required to contain a statement showing with respect to each lot of such sugar the percentage by weight of total soluble solids (or Brix) and the percentage by weight of total sugars; and all customs invoices of articles composed in part of beet or cane sugar are hereby required to contain a statement showing with respect to each class or kind of such articles the percentage by weight of total sugars derived from sugar beets or sugarcane.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: February 10, 1938.
WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-496; Filed, February 15, 1938; 2:25 p. m.]

Office of the Secretary.

REGULATIONS RELATING TO ILLUSTRATIONS OF UNITED STATES POSTAGE STAMPS

FEBRUARY 14, 1938.

SECTION 1. *Authority for regulations.*—These regulations are issued under authority of section 2 (b) of the Act of Congress of January 27, 1938, entitled "An Act to permit the printing of black-and-white illustrations of United States and foreign postage stamps for philatelic purposes".

SEC. 2. *Finding of fact.*—The Secretary of the Treasury, with the approval of the President, finds that no hindrance to the suppression of counterfeiting and no tendency to bring into disrepute any obligation or other security of the United States will result from the issuance of these regulations.

SEC. 3. *Illustrations permitted.*—The printing, publishing, and importation, and the making and importation of the necessary plates for such printing and publishing, for philatelic purposes in articles, books, journals, newspapers, and albums (including the circulars and advertising literature of legitimate dealers in stamps and publishers of and dealers in philatelic and historical articles, books, journals, and albums) of black and white illustrations of canceled and uncanceled United States postage stamps are permitted, provided that such illustrations are of a size less than three-quarters or more than one and one-half, in linear dimension, of each part of such stamp.

SEC. 4. *Repeal or amendment of regulations.*—These regulations may be amended or repealed at any time, which amendment or repeal shall become effective upon publication thereof in the FEDERAL REGISTER or upon such date as may be specified therein if later than the date of publication.

SEC. 5. *Effective date of regulations.*—These regulations shall become effective upon publication thereof in the FEDERAL REGISTER.

[SEAL] H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Approved: February 14, 1938.
FRANKLIN D ROOSEVELT
The White House.

[F. R. Doc. 38-499; Filed, February 15, 1938; 4:23 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Dockets Nos. 53-FD, 31-FD, 30-FD]

IN THE MATTER OF THE APPLICATIONS OF WHEELING STEEL CORPORATION, EMPEROR COAL COMPANY, CONSUMERS MINING COMPANY, FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, AS AUTHORIZED BY THE SECOND PARAGRAPH OF SECTION 4-A OF SAID ACT

NOTICE OF CONTINUANCE OF ARGUMENT ON PETITION FOR REHEARING

Notice is hereby given that the argument on petition for rehearing now scheduled for February 21, 1938, in the above entitled matters is hereby continued by the Commission upon its own motion to March 7, 1938, at the hour of ten o'clock, A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 14th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-506; Filed, February 16, 1938; 12:10 p. m.]

[Docket No. 164-FD]

IN THE MATTER OF GEORGE M. JONES COMPANY

AN ORDER AMENDING TEMPORARY ORDER ENTERED HEREIN ON FEBRUARY 5, 1938

The Commission having entered a temporary order in the above entitled matter on the 5th day of February, 1938, and having reviewed the said temporary order, and it appear-

ing that said temporary order should be amended as hereinafter provided,

Now, therefore, it is hereby ordered:

1. That paragraph 1 of said temporary order be and the same is hereby rescinded, and the following paragraph is hereby substituted in lieu thereof:

"1. That pending final disposition of the aforesaid petition or until further order of the Commission, that Supplement No. 1, Price Schedule No. 1—District No. 4 be and the same is hereby modified and revised to contain the following provision as if the same were more fully set forth therein:

"'That 2" Nut and Slack produced at the mines of the George M. Jones Company located in the Hocking District of Ohio, when for shipment to Toledo, Ohio, shall take the minimum price of $1.75 per net ton, f. o. b. mines, and shall not be subject to any freight rate adjustment.'"

2. That said temporary order, except as herein modified, shall remain in full force and effect until further order of the Commission.

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of the Bituminous Coal Producers' Boards, and to code members within District No. 4, and to petitioner; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 15th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-505; Filed, February 16, 1938; 12:10 p. m.]

[Docket No. 181-FD]

IN THE MATTER OF BELL & ZOLLER COAL MINING COMPANY

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing now scheduled for February 21, 1938, in the above entitled matter is hereby continued by the Commission, upon its own motion, to March 7, 1938, at the hour of ten o'clock A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C.

By order of the Commission.

Dated this 14th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-507; Filed, February 16, 1938; 12:11 p. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES

MAINE

FEBRUARY 15, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Maine State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Penobscot.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-497; Filed, February 15, 1938; 2:59 p. m.]

[Administration Order 233 [1]]

TENURE AGREEMENTS AND LEASES FOR RESETTLEMENT TYPE PROJECTS

FEBRUARY 15, 1938.

1. *Purpose.*—(a) This Order provides for the necessary delegations of authority: (1) To execute and cancel tenure agreements and leases, (2) to execute waivers of restrictions in options in connection with certain tenure agreements and leases, and (3) to perform other acts in connection with tenure agreements and leases for resettlement type projects.

2. *Delegations of authority.*—(a) Regional directors, or assistant regional directors in charge of RP, when so designated in writing by the regional directors, are authorized, subject to the limitations contained in this and other pertinent Orders, to:

I. Execute Tenure Forms D-1, D-2, D-4, and D-5. In the execution of Tenure Form D-2, however, the rentals will be determined by the RP Division, Washington, D. C., upon information and recommendation to be furnished by regional directors. In all other cases, the rentals will be determined by regional directors, subject to the approval of the RP Division, Washington, D. C.

II. Approve, on behalf of the United States, Tenure Form D-3 and, subject to the requirements of paragraph 1b of AO 98 (Rev. 2) except item (a) thereof, execute waivers of restrictions in options covering the lands being leased under Tenure Form D-3, which restrictions, among other things, prohibit during the operation of such options the sale or lease (or offer to sell or lease) of the property except to the U. S. and the FSA.

III. Execute waivers of restrictions in options when Tenure Form D-5 is to be executed, as provided in this Order, for the purpose of permitting vendors (lessees under Tenure Form D-5) to lease optioned lands to their tenants prior to the date when the U. S. acquires title thereto, and in order that such leases may terminate on a date subsequent to the date of acquisition of title to the land by the U. S., provided that: The waiver requires that any such lease will be terminated on a date not later than the end of the crop year; and the waiver requires the lease to be made expressly subject and subordinate to the options held by the FSA. Where Tenure Form D-5 is executed and the vendor (lessee under Tenure Form D-5) subleases the optioned land to his tenants:

A. The waiver may be made in favor of a person, other than a client of the FSA.

B. The lease may terminate on a date subsequent to the date of acquisition of title to the lands by the U. S. and the FSA; and

C. The lease must have been approved by the FSA.

IV. Execute such copies of Form FSA-LE 178, "Cancelation Agreement", as may hereafter be required in connection with the voluntary cancelation of leases of lessees under Tenure Forms D-1, D-2, D-4, and D-5. No "Cancelation Agreement" will be entered into unless it is to the advantage and best interests of the Government to do so. In all cases, the proportionate part of the rent due at the time of cancelation must be paid by the lessee. Since modification of this "Cancelation Agreement" may be required in particular instances because of unmatured annual crops growing on the property, or for similar reasons, the "Cancelation Agreement" must in all cases be submitted to the regional Office of the Solicitor for approval before it is executed. Where the property is abandoned or the contract is otherwise terminated under such circumstances that the above-mentioned voluntary "Cancelation Agreement" is not executed, Form FSA-MA 138, "Cancelation Notice For General Accounting Office", will be executed. Copies of Form FSA-LE 178 and Form FSA-MA 138 will be distributed to all offices having on file a copy of the Tenure Agreement or Lease so canceled.

(b) The authority conferred in this Order upon regional directors will be construed to cover rural resettlement type projects whether or not a state RR corporation, within the meaning of paragraph 2a of AO 121, has purchased any land for, or participated in any manner in, developing such projects.

(c) The policies and procedure set forth in AO 161, latest revision, supplements, and modifications thereto, will be followed in releasing crops encumbered by the Tenure Agreements and Leases referred to in this Order. The functions indicated in AO 161, latest revision, supplements, and modifications thereto, to be performed by regional RR officials will be performed by the appropriate corresponding regional RP officials for the purposes of this Order.

(d) Regional directors are authorized, in addition to the authority granted in paragraphs 2a, 2b, and 2c of this Order, to execute and perform all notices, consents, and other acts on behalf of the Government under Tenure Forms D-1, D-2, D-4, and D-5, in the manner and form prescribed therein. Provided, however, that the authority herein granted will not be construed to include the determination of rentals under Tenure Form D-2.

3. *Exceptions.*—(a) All delegations of authority to regional directors, as provided in this Order, in paragraph 2f of AO 155 (Suppl. 1), and in paragraph 1 of AO 155 (Suppl. 2), regarding the execution of agreements and the performance of other acts on behalf of the Government and the FSA apply only to projects under the jurisdiction of the regional director. For projects under the jurisdiction of the Director of the RP Division, the authority to execute agreements and perform other acts on behalf of the Government is vested in the Director of the RP Division, Washington, D. C., who may redelegate such of this authority as may be necessary.

4. *Limitations in use of tenure forms.*—(a) *Form FSA-LE 161* (formerly Form RA-LE 161), *Tenure Form D-1*, will be executed between the Government and the lessee only after the U. S. has acquired title to the land, and:

I. Where a farm management plan has not yet been evolved and it is necessary or desirable to have the farm operated in the meantime by a client who has been selected for permanent tenure; or

II. Where a farm management plan has been evolved but no selected client is available and it is desirable to have the farm operated by a farmer who has not been selected for permanent tenure.

III. Whether or not a farm management plan has been evolved but where construction plans or construction has not sufficiently progressed to permit the execution of Tenure Form D-2.

(b) *Form FSA-LE 161, Tenure Form D-1,* may be modified and used:

I. Where the lessee is a client or a person otherwise entitled to rural rehabilitation and where the regional director finds that the rural rehabilitation of such lessee will be promoted by providing that the lessee shall clear, terrace, or otherwise perform minor improvements and repairs upon the leased lands and the buildings and structures thereon. In no case should the modification, hereinafter provided for, be used when the sole purpose is to avoid the expenditure of appropriated or allotted funds for the improvements in question. Where the modification provided for is used, the value of such repairs, clearing, terracing or other improvements shall be taken into account in fixing the rent. In this situation, the following paragraph will be substituted for paragraph 5, page 4, of Form FSA-LE 161:

"5. The Lessee shall utilize the pasture and woodland, and plant, cultivate, and harvest such crops and conduct such livestock, dairy and poultry enterprises on said Property as are in accordance with approved farm organization, management and practices of good husbandry. In order to further the rehabilitation of the lessee and maintain the property for efficient farming operations, the lessee agrees to conduct such farming operations and make such improvements on said property in accordance with the provisions of such farm management plans as may be prescribed by the Government."

(c) *Form FSA-LE 162* (formerly Form RA-LE 162), *Tenure Form D-2*, will be executed between the Government and the lessee only after the U. S. has acquired title to the land and for a term of approximately five years:

I. Where a farm management plan has been evolved and an approved client has been selected; and

II. Where construction plans or construction is sufficiently advanced to permit the execution of a lease for a term of approximately five years.

(d) *Form FSA-LE 163* (formerly Form RA-LE 163), *Tenure Form D-3*,[1] will be executed between the vendor and the lessee only where the U. S. has not yet acquired title to the land and for a term running to the end of the crop year, or until such time as title to the property is acquired by the U. S., whichever period is the shorter, and:

I. Where the U. S. is willing to permit the vendor to lease the land to a client, or a non-client of the FSA or a low-income farmer.

(e) *Form FSA-LE 164* (formerly Form RA-LE 164), *Tenure Form D-4*, will be executed between the Government and the lessee prior to the date of acquisition of title to the land by the U. S., will become operative upon acquisition of title, and:

I. Where it appears desirable to insure continued occupancy of the tenant to the end of the crop year, after the tenancy under Tenure Form D-3 has terminated by reason of acquisition of title to the land by the U. S.

(f) *Form FSA-LE 165* (formerly Form RA-LE 165), *Tenure Form D-5*, will be executed between the Government and the vendor prior to the acquisition of title to the land by the U. S. and will become operative upon acquisition of title and will terminate on a date not later than the end of the crop year, and:

I. Where it appears that title to the land may be acquired by the United States during a crop year and it has been administratively determined that developmental work thereon will not be undertaken during the crop year, and the U. S. is desirous of making such provision as will permit the present owner or his tenants to cultivate the land in order that the land will not remain idle for the entire crop year; or

II. Where it appears desirable to insure continued occupancy of the land to the vendor to the end of the crop year in order that the land will not remain idle for the entire crop year.

(Signed) WILL W. ALEXANDER, *Administrator.*

Approved: February 15, 1938.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-503; Filed, February 16, 1938; 11:28 a. m.]

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[1] Supersedes AO 98 (Rev. 2) (Suppl. 2) and Amends. 2 and 3 thereto; and AO 98 (Rev. 2) (Suppl. 3). Modifies par. 1b (a) of AO 98 (Rev. 2).

[1] In order to correct an error in paragraph 3, page 3, of Form FSA-LE 163, Tenure Form D-3, approved 1/26/37, regional directors or assistant regional directors in charge of RP, when so designated by regional directors, executing waivers of restrictions in options, as provided above, will see that in all cases where Tenure Form D-3 is used, paragraph 3, page 3, of that document reads as follows:

"The Lessee shall pay to the Lessor for said premises rent at the rate of ------ dollars ($------) per ------, payable as follows:"

[Memorandum No. 748]

AUTHORIZING USE OF LAND ACQUIRED FOR RESETTLEMENT PURPOSES IN ACCORDANCE WITH PROVISIONS OF TITLE I OF BANKHEAD-JONES FARM TENANT ACT

FEBRUARY 14, 1938.

Pursuant to the powers vested in me by the Bankhead-Jones Farm Tenant Act, it is hereby ordered as follows:

1. Upon determination by the Administrator of the Farm Security Administration that any land acquired by the United States for resettlement purposes (except lands transferred by a rural rehabilitation corporation under a trust agreement or purchased out of a fund established pursuant to such an agreement) is suitable for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, said Administrator is authorized to utilize said land for the purposes of said title and to authorize the making of loans for the necessary improvements thereon to such individuals and upon such terms as shall be in accordance with the provisions of said title.

2. The sale price of the land shall be the purchase price paid by the Government or the current appraised value as determined by the Administrator (or in the event that the Administrator so authorizes, by the Regional Director) whichever is lower, provided, however, that no such land shall be sold unless the County Committee shall have certified with respect thereto as required by Section 2 of said Act. There shall be added in each case the value of any clearing and developmental work performed upon the land by the Government. Where the sale price is based upon the purchase price to the Government, the price paid for various tracts in the resettlement project involved shall be so adjusted and equalized as to spread the benefits of advantageous purchases to all persons to whom said tracts are to be sold.

3. The Administrator is authorized to approve and execute such deeds and other instruments as may be necessary to accomplish the sale of any such lands. The power to execute such instruments may be redelegated by the Administrator to the respective Regional Directors, but without the power on the part of the Regional Directors to redelegate the same.

4. Any authority conferred upon the Administrator by this order may be exercised by the Deputy Administrator in the event of the absence of the Administrator.

H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-511; Filed, February 16, 1938; 12:44 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Fisheries.

[No. 251-24]

ALASKA FISHERY REGULATIONS

FEBRUARY 15, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), fishing areas are hereby set apart and regulations governing fishing therein are made effective as follows:

I. YUKON-KUSKOKWIM AREA

The Yukon-Kuskokwim area is hereby defined to include all territorial, coastal, and tributary waters of Alaska from Cape Newenham northward to the parallel of 66 degrees north latitude.

Salmon fishery.—1. Commercial fishing for salmon is prohibited except within the following-described districts:

(*a*) Port Clarence district: Waters within a line extending from Cape Douglas to Cape York.

(*b*) Yukon district: All waters of the Yukon River and all waters along the coast between 62 degrees north latitude and 63 degrees 15 minutes north latitude.

(c) Kuskokwim district: All waters of Kuskokwim River, and waters of Kuskokwim Bay, exclusive of Goodnews Bay, within a line extending from the east shore of Kuskokwim Bay at the parallel of 59 degrees north latitude to Cape Avinof. The mouth of the Kuskokwim River shall be considered as at a straight line extending from a marker erected for the purpose at Beacon Point to another marker at Popokamute.

2. Commercial fishing for salmon shall be conducted solely by drift gill nets and set nets: *Provided*, That this shall not apply (*a*) to the use of purse seines in Kuskokwim Bay, exclusive of Goodnews Bay, between 59 degrees north latitude and 59 degrees 40 minutes north latitude westward to Cape Avinof, and (b) to the use of fish wheels in the Yukon and Kuskokwim Rivers by native Indians and bona fide permanent white residents along those rivers for the capture of king salmon. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

3. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 150 fathoms hung measure.

4. King-salmon gill nets shall have a mesh of at least 8½ inches stretched measure between knots, red-salmon gill nets of linen webbing shall have a mesh of at least 5½ inches stretched measure between knots, and red-salmon gill nets of cotton webbing shall have a mesh of at least 5¼ inches stretched measure between knots as measured when actually in use. No red-salmon gill net shall be over 28 meshes deep.

5. Commercial fishing for salmon in the Yukon district shall be conducted solely by king-salmon gill nets having mesh of at least 8½ inches stretched measure between knots as measured when actually in use: *Provided*, That this shall not apply to the use of fish wheels in the Yukon River by native Indians and bona fide permanent white residents along the river for the capture of king salmon.

6. Commercial fishing for salmon is prohibited except in the period from 6 o'clock antemeridian June 1 to 6 o'clock postmeridian July 31, in each year: *Provided*, That such fishing is permitted in the Kuskokwim district until 6 o'clock postmeridian August 15.

7. The combined take of king and red salmon for commercial purposes shall not exceed 300,000 fish in any calendar year: *Provided*, That the take of king salmon in the Yukon district shall not exceed 50,000 fish, of which not more than 25,000 may be taken inside the mouth of the Yukon River, in any calendar year: *And provided further*, That the combined take of red and king salmon in the Kuskokwim district shall not exceed 250,000 fish in any calendar year.

8. Each gill net in operation shall be marked by a cluster of floats or corks at the ends, and double floats or corks shall be attached to the cork line at 25-fathom intervals. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals shall be painted bright red. The clusters at the ends shall also be legibly and plainly marked with the initials of the operator.

9. The trailing of web behind any fishing boat is prohibited above the markers fixing closed waters.

10. The use of motor-propelled fishing boats in catching salmon with gill nets is prohibited.

HERRING FISHERY.—1. Commercial fishing for herring in the waters of Golofnin Bay within a line from the southern extremity of Rocky Point to the southern extremity of Cape Darby is prohibited from January 1 to August 19, both dates inclusive, and from November 1 to December 31, both dates inclusive.

2. Commercial fishing for herring in the waters of Golofnin Bay, within a line from the southern extremity of Rocky Point to the southern extremity of Cape Darby, shall be conducted solely by gill nets of mesh not less than 2¾ inches stretched measure between knots.

3. Commercial fishing for herring, except for bait purposes, by means of any seine is prohibited.

4. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

II. BRISTOL BAY AREA

The Bristol Bay area is hereby defined to include all territorial coastal and tributary waters of Alaska from Cape Newenham to a point on the coast 3 statute miles south of Cape Menshikof.

Salmon fishery.—1. Commercial fishing for salmon is prohibited except within the following-described districts:

(*a*) Hagemeister district: Waters of Hagemeister Strait from 161 degrees 40 minutes west longitude to 160 degrees 38 minutes west longitude.

(*b*) Nushagak district: Waters of Nushagak Bay within a line from Point Protection to Etolin Point.

(c) Kvichak-Naknek district: Waters of Kvichak Bay within a line from Etolin Point to Middle Bluff Light on the eastern side of Kvichak Bay.

(*d*) Egegik district: Waters between a line extending from Etolin Point to Middle Bluff Light and an east and west line at 58 degrees north latitude.

(*e*) Ugashik district: Waters between an east and west line at 58 degrees north latitude and the southern limit of the area at a point on the coast 3 statute miles south of Cape Menshikof.

2. Commercial fishing for salmon shall be conducted solely by drift gill nets, set or anchored gill nets, and stake gill nets. The use of all other forms of fishing gear is prohibited.

3. Each drift gill net in operation shall be marked by a cluster of floats or corks at the ends, and double floats or corks shall be attached to the cork line at 25-fathom intervals. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals shall be painted bright red and legibly and plainly marked with the initials of the operator.

4. Stake nets and set or anchored gill nets shall be operated in substantially a straight line.

5. Commercial fishing for salmon with stake nets or set or anchored gill nets shall be limited to beach areas between high and low water marks, exclusive of bars or flats that at low tide are not connected by exposed land to the shore or places not covered at high tide, and shall be confined to the following places:

(*a*) Nushagak district: Along the beach, except on the west side of Nushagak Bay from a point 2 statute miles south of Bradford Point to Coffee Point, and except along the east side of that bay from a point 1,000 yards southeast of Ekuk Bluff light to Etolin Point.

(*b*) Kvichak Bay: Along the beach on the southeast shore of the bay from Prosper Creek to Coffee Creek.

(c) Naknek Bay: Along the beach on the north side of the bay from a point 1,200 yards above the drift gill net prohibitive markers to a point 1,500 yards outside such markers, and along the beach on the south side of the bay from a point 1,200 yards above the drift gill net prohibitive markers to a point 3,000 yards outside such markers.

(*d*) Egegik Bay: Along the beach on the north side of the bay to a point 4,000 yards outside the drift gill net prohibitive marker, and on the south side of the bay to a point 1,000 yards outside such marker.

(*e*) Ugashik Bay and River: Along the beach on the north side of the bay from Pilot Station to a point 500 yards south of Dago Creek, and along the beach on the east side of the river from a point 200 yards north of the Red Salmon Canning Co.'s cannery to a point 1,200 yards north of that cannery.

6. The combined take of red salmon for commercial purposes in the Hagemeister district shall not exceed 50,000 fish in any calendar year.

7. The total aggregate length of stake nets used by any individual shall not exceed 50 fathoms measured on the cork line.

8. In the Nushagak district the distance by most direct measurement from any part of one stake gill net or set or anchored gill net to any part of another stake gill net or set or anchored gill net shall not be less than 450 feet.

9. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 150 fathoms hung measure.

10. King-salmon nets shall have a mesh of at least 8½ inches stretched measure between knots, and red-salmon nets shall have a mesh of at least 5½ inches stretched measure between knots, as measured when actually in use. No red-salmon nets shall be over 28 meshes deep.

11. Prior to 6 o'clock antemeridian June 24 in each year commercial fishing for salmon with nets of mesh less than 8½ inches stretched measure between knots is prohibited except in the Ugashik district.

12. Commercial fishing for salmon, except in the Ugashik district, is prohibited in the period from 6 o'clock antemeridian July 25 to 6 o'clock antemeridian August 3.

13. Commercial fishing for salmon in the Ugashik district with nets less than 8½ inches stretched measure between knots is prohibited except in the period from 6 o'clock antemeridian June 30 to 6 o'clock antemeridian July 28 in each year.

14. The trailing of web behind any fishing boat is prohibited above the markers fixing closed waters.

15. The use of motor-propelled fishing boats in catching salmon is prohibited.

16. Each salmon-fishing boat in operation shall be legibly and plainly marked with the initials or symbol of the person, company, or corporation owning, operating, or using same, together with a distinctive number which shall identify each particular boat, said letters, symbols, and numbers to be not less than 6 inches in length. Each person, company, or corporation operating two or more salmon-fishing boats shall have said boats numbered consecutively, beginning with number 1 for each plant. Boats operated by Alaska residents shall have, in addition, the letter "A" before the number. Each season, prior to the opening date for commercial fishing, the initials or symbol, and number of each boat shall be furnished in writing to the agent of the Bureau of Fisheries in charge of the district in which said boat shall operate.

17. The use of smelt nets is prohibited in localities where young salmon are migrating.

18. The 36-hour weekly closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock antemeridian Wednesday to 6 o'clock antemeridian Thursday of each week, making a weekly closed period of 60 hours: *Provided*, That in the waters of Kvichak Bay between the line extending across the bay from the marker on a high point on the east bank of Prosper Creek, about 700 yards above the Koggiung cannery of the Alaska Packers Association, to the marker on the opposite side, the course being about north, 44 degrees west, magnetic, and the line extending across the bay from a marker at Jensen Creek, the course being north, 54 degrees west, magnetic, to a marker on the opposite shore about 1½ miles west of Squaw Creek, the 36-hour weekly closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Saturday of each week to 6 o'clock antemeridian of the Tuesday following and the period from 6 o'clock antemeridian Wednesday to 6 o'clock antemeridian Thursday of each week, making a weekly closed period of 84 hours.

19. All commercial fishing for salmon is prohibited as follows:

(*a*) Nushagak Bay: All waters northward of a line from a marker 2 statute miles below Bradford Point to a marker on the opposite shore at Nushagak Point: *Provided*, That stake nets or set or anchored gill nets limited to beach

areas between high and low watermarks will be permitted to the old prohibitive line from Snag Point to the old village on the east bank.

(b) **Kvichak Bay:** All waters above a line extending at right angles across Kvichak Bay from the marker on a high point on the east bank of Prosper Creek, about 700 yards above the Koggiung cannery of the Alaska Packers Association, to the marker on the opposite side, the course being about north, 44 degrees west, magnetic.

(c) **Naknek Bay:** All waters within 1 statute mile of the mouth of the Naknek River: *Provided*, That stake nets or set or anchored gill nets limited to beach areas between high and low watermarks will be permitted on each side of the bay to a point 1,200 yards above the drift gill net prohibitive markers.

(d) **Egegik Bay:** All waters above a line extending at right angles across said bay from a marker on the north bank 250 yards east of Libby, McNeill & Libby's cannery building to a marker on the south bank 175 yards east of the Alaska Packers Association's new cannery building.

(e) **Ugashik River and Bay:** All waters above a line extending at right angles across said river 500 yards below the mouth of King Salmon River: *Provided*, That stake nets or set or anchored gill nets limited to beach areas between high and low watermarks will be permitted on the east side of the river from a point 200 yards north of the Red Salmon Canning Co.'s cannery to a point 1,200 yards north of that cannery.

III. ALASKA PENINSULA AREA

The Alaska Peninsula area is hereby defined to include all territorial coastal and tributary waters of the Alaska Peninsula from a point on the coast 3 statute miles south of Cape Menshikof on the Bering Sea shore, extending in a southwesterly direction to Unimak Pass, thence in a northeasterly direction along the Pacific side of the Alaska Peninsula to Castle Cape (Tuliumnit Point). The waters of Unimak, the Sanak, the Shumagin, and all other adjacent islands are included.

Salmon fishery.—1. In the waters of Nelson Lagoon, and thence along the coast to Cape Seniavin, including Nelson Lagoon, Herendeen Bay, Port Moller, and the fishing grounds off the Bear, Sandy, and Ocean Rivers, the 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the periods from 6 o'clock postmeridian until 6 o'clock antemeridian of each night from Monday to Friday, inclusive, making a weekly closed period in these waters of 96 hours, which shall be effective throughout the entire salmon fishing season of each year.

2. In the waters along the south side of the Alaska Peninsula, including the waters of the Shumagin and other adjacent islands, the 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the periods from 6 o'clock postmeridian Tuesday to 6 o'clock antemeridian Wednesday, and from 6 o'clock postmeridian Wednesday to 6 o'clock antemeridian Thursday of each week, making a weekly closed period of 60 hours: *Provided*, That this extension of 24 hours closed period each week shall not apply to gill nets and shall not be effective for any gear after 6 o'clock antemeridian of July 25 of each year.

3. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 200 fathoms hung measure.

4. Stake and anchored gill nets shall be operated in substantially a straight line: *Provided*, That not to exceed 30 fathoms of each net may be used as a hook. Only one such hook is permitted on a net.

5. The distance by most direct water measurement from any part of one stake gill net, set, or anchored gill net, or beach seine to any part of another stake gill net, set, or anchored gill net, beach seine, or trap shall not be less than 1,800 feet. No purse seine shall operate within ½ statute mile of any trap.

6. No stake gill net nor set or anchored gill net shall exceed 75 fathoms in length measured on the cork line.

7. The use of any beach seine less than 60 fathoms in length or more than 75 fathoms in length is prohibited.

8. No salmon fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind, except one lead having mesh not less than 8 inches stretched measure between knots, shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited.

9. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

10. The use of purse seines for the capture of salmon is prohibited, except that (a) in the waters of the Shumagin Islands and between Cape Aliaksin and Castle Cape, seines not to exceed 100 fathoms in length and 150 meshes in depth may be used, and (b) purse seines are permitted in waters open to commercial fishing from Morgan Point on the west side of the entrance to King Cove westward, thence northward and eastward to Cape Seniavin.

11. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length: *Provided*, That this shall not apply to such boats operated on the north side of the Alaska Peninsula or in the waters of this area west of Morgan Point.

12. In Port Heiden waters the catch of red salmon shall not exceed 50,000 in any calendar year.

13. Commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian May 27 in each calendar year and during the remainder of each calendar year after 6 o'clock postmeridian August 10, except that beach seines and gill nets may be used from September 5 to September 30, both dates inclusive.

14. Commercial fishing for salmon by means of gill nets, including drift nets and set nets, is prohibited west of 161 degrees west longitude, exclusive of waters along the Bering Sea coast and the waters of the Sanak Islands group.

15. Commercial fishing for salmon by means of stake nets, except along the Bering Sea coast, is prohibited.

16. No trolling boat shall operate more than 4 trolling lines.

17. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

18. The use of any trap for the capture of salmon is prohibited, except as follows:

(a) **Unimak Island:** Along the coast on the west and south sides of Ikatan Bay (1) from a point on False Pass (Isanotski Strait) at 54 degrees 48 minutes 54 seconds north latitude, 163 degrees 22 minutes 18 seconds west longitude, to a point at 54 degrees 46 minutes 44 seconds north latitude, 163 degrees 21 minutes 32 seconds west longitude, and (2) from a point at 54 degrees 45 minutes 18 seconds north latitude, 163 degrees 17 minutes 30 seconds west longitude, to a point on Louisiana Cove at 54 degrees 45 minutes 58 seconds north latitude, 163 degrees 8 minutes 52 seconds west longitude.

(b) **Unimak Island:** Along the coast of East Anchor Cove within 2,500 feet, measured along the coast, from a point at 54 degrees 41 minutes 12 seconds north latitude, 163 degrees 3 minutes 36 seconds west longitude.

(c) Along the coast on the west side of Morzhovoi Bay within 2,500 feet measured along the coast from a point at 55 degrees 0 minutes 52 seconds north latitude, 163 degrees 9 minutes 39 seconds west longitude.

(d) Along the coast of Vodapoini Point within 2,500 feet of a point at 55 degrees 2 minutes 5 seconds north latitude, 162 degrees 24 minutes 21 seconds west longitude.

(e) Along the coast of Bold Cape for a distance of 2,500 feet from a point at 55 degrees 1 minute 12 seconds north latitude, 162 degrees 15 minutes 36 seconds west longitude.

(f) **Deer Island:** East coast within 2,500 feet of a point at 54 degrees 51 minutes 20 seconds north latitude, 162 degrees 15 minutes 39 seconds west longitude.

(g) Along the mainland coast between Belkofski Bay and Bear Bay, from a point at 55 degrees 6 minutes 21 seconds north latitude, 161 degrees 57 minutes 54 seconds west longitude, to a point at 55 degrees 8 minutes north latitude, 161 degrees 57 minutes 18 seconds west longitude.

(h) **Dolgoi Island:** East coast within 2,500 feet of a point at 55 degrees 7 minutes 42 seconds north latitude, 161 degrees 38 minutes 24 seconds west longitude.

(i) Along the mainland coast within 2,500 feet, measured along the coast, from a point at 55 degrees 13 minutes 30 seconds north latitude, 161 degrees 52 minutes 36 seconds west longitude.

(j) Mainland coast along the west side of Pavlof Bay from 55 degrees 18 minutes 6 seconds north latitude to 55 degrees 20 minutes north latitude.

(k) Mainland coast along the east side of Pavlof Bay (1) within 2,500 feet of a point at 55 degrees 27 minutes north latitude; and (2) within 2,500 feet of a point at 55 degrees 21 minutes 35 seconds north latitude, 161 degrees 29 minutes 18 seconds west longitude.

(l) Island east of Seal Cape at 55 degrees 21 minutes 16 seconds north latitude, 161 degrees 13 minutes 24 seconds west longitude.

(m) Mainland coast within 2,500 feet of a point near Swedania Point at 55 degrees 28 minutes 43 seconds north latitude, 160 degrees 30 minutes 14 seconds west longitude.

(n) **Unga Island:** East coast (1) within 2,500 feet of a point at 55 degrees 11 minutes 42 seconds north latitude, 160 degrees 27 minutes 38 seconds west longitude; and (2) within 2,500 feet of a point at 55 degrees 13 minutes 29 seconds north latitude, 160 degrees 29 minutes 37 seconds west longitude.

(o) **Popof Island:** East and north coasts (1) within 2,500 feet of a point at 55 degrees 16 minutes north latitude, 160 degrees 19 minutes 40 seconds west longitude; (2) within 2,500 feet of a point at 55 degrees 18 minutes 36 seconds north latitude, 160 degrees 18 minutes 48 seconds west longitude; and (3) within 5,000 feet southwesterly from a point at 55 degrees 21 minutes 54 seconds north latitude, 160 degrees 21 minutes 48 seconds west longitude.

(p) Within 5,000 feet of a point on a reef near Guillemot Island at 55 degrees 33 minutes 10 seconds north latitude, 160 degrees 25 minutes 17 seconds west longitude.

(q) **Korovin Island:** East coast within 1,000 feet of a point at 55 degrees 24 minutes 24 seconds north latitude, 160 degrees 8 minutes 57 seconds west longitude.

(r) Mainland coast (1) within 2,500 feet of a point at 55 degrees 36 minutes 20 seconds north latitude, 159 degrees 36 minutes 40 seconds west longitude, and (2) within 2,500 feet of a point at 55 degrees 40 minutes 5 seconds north latitude, 159 degrees 32 minutes 11 seconds west longitude.

19. All commercial fishing for salmon is prohibited, as follows:

(a) Within 1,000 yards outside the mouths of Bear, Sandy, and Ocean Rivers.

(b) Thin Point Lagoon, East Bay (Long John Lagoon), Kinzaroff Lagoon, Mortensen Lagoon, Swanson Lagoon, Big Lagoon, and Middle or Lambsport Lagoon: All waters within the lagoons and their streams and within a distance of 500 yards outside the entrances to the lagoons.

(c) Captain Harbor, tributary to Belkofski Bay: All waters within the harbor.

(d) Volcano and Bear Bays: All waters west of 162 degrees 1 minute west longitude.

(e) Canoe Bay, tributary to Pavlof Bay.

(f) All waters of Orzinski (Orzenol) Bay.

(g) All waters of Balboa Bay north of a line extending due west from Low Point.

Herring fishery.—1. Commercial fishing for herring, except for bait purposes, is prohibited in the period from January 1 to June 30, both dates inclusive, and from December 1 to December 31, both dates inclusive.

2. During the period from June 1 to October 1, both dates inclusive, commercial fishing for herring, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

3. Commercial fishing for herring, except for bait purposes, is prohibited from 6 o'clock antemeridian of Saturday of each week until 6 o'clock postmeridian of the Sunday following.

4. Gill nets used in catching herring shall not be of smaller mesh than 3 inches stretched measure.

5. Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.

6. Commercial fishing for herring, except for bait purposes, by means of any seine is prohibited.

7. Commercial bait fishing for herring by means of any purse seine more than 1,400 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited.

8. No one shall place, or cause to be placed, across the entrance of any lagoon or bay any net or other device which will prevent the free passage at all times of herring in and out of said lagoon or bay.

9. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

IV. ALEUTIAN ISLANDS AREA

The Aleutian Islands area is hereby defined to include all territorial coastal and tributary waters of the Aleutian Islands westward of and including Unimak Pass.

Salmon fishery.—1. The total aggregate length of gill nets on any salmon fishing boat or in use by such boat shall not exceed 200 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. Commercial fishing for salmon is prohibited during the remainder of each calendar year after 6 o'clock postmeridian August 10, except that beach seines and gill nets may be used from September 5 to September 30, both dates inclusive.

4. The use of any trap is prohibited.

5. The use of any purse seine exceeding 100 fathoms in length or 150 meshes in depth is prohibited. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

Herring fishery.—1. Commercial fishing for herring, except for bait purposes, is prohibited in the period from January 1 to June 15, both dates inclusive, and from November 1 to December 31, both dates inclusive.

2. Commercial fishing for herring, except for bait purposes, by means of any seine is prohibited except in the period from July 15 to October 31, both dates inclusive.

3. Commercial fishing for herring, except for bait purposes, is prohibited from 6 o'clock postmeridian of Saturday of each week until 6 o'clock antemeridian of the Monday following.

4. Gill nets used in catching herring shall not be of smaller mesh than 3 inches stretched measure.

5. Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.

6. Commercial fishing for herring, except for bait purposes, by means of any seine is prohibited west of 166 degrees west longitude.

7. Commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,400 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited.

8. Commercial bait fishing for herring by means of any seine in Unalaska Bay and tributary waters south of 54 degrees north latitude is prohibited.

9. No one shall place, or cause to be placed, across the entrance of any lagoon or bay any net or other device which will prevent the free passage at all times of herring in and out of said lagoon or bay.

10. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

V. CHIGNIK AREA

The Chignik area is hereby defined to include the territorial coastal and tributary waters of Alaska along the mainland shore from Castle Cape (Tuliumnit Point) to Cape Kunmik. The waters of Chankliut, Sutwik, and all other adjacent islands are included.

Salmon fishery.—1. Commercial fishing for salmon by means of any purse seine is prohibited.

2. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 100 fathoms hung measure.

3. No set or anchored gill net shall exceed 75 fathoms in length measured on the cork line.

4. Set or anchored gill nets shall be operated in substantially a straight line: *Provided*, That not to exceed 30 yards of each net may be used as a hook. Only one such hook is permitted on a net.

5. The use of motor-propelled gill-net boats in catching salmon is prohibited.

6. The distance by most direct water measurement from any part of one set, anchored, or drift gill net or seine to any part of another set, anchored, or drift gill net or seine, or to any part of any trap, shall not be less than 600 feet.

7. All set or anchored gill nets shall be removed from the water throughout the weekly closed periods extending from 6 o'clock postmeridian of Saturday of each week to 6 o'clock antemeridian of the Monday following.

8. No salmon fishing boat shall carry or operate more than one beach seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited.

9. No beach seine shall be less than 50 fathoms or more than 100 fathoms in length measured on the cork line. No beach seine shall be less than 100 meshes or more than 200 meshes in depth. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots.

10. All commercial fishing for salmon is prohibited in Chignik Lagoon within a line from a point on the mainland at 56 degrees 17 minutes 26 seconds north latitude, 158 degrees 37 minutes 48 seconds west longitude, to a point on the west side of Chignik Island at 56 degrees 17 minutes 15 seconds north latitude, 158 degrees 36 minutes 24 seconds west longitude, thence to a point on the north shore of Chignik Island at 56 degrees 17 minutes 33 seconds north latitude, 158 degrees 34 minutes 54 seconds west longitude, thence to Rocky Point on the east side of Chignik Lagoon at 56 degrees 17 minutes 30 seconds north latitude, 158 degrees 33 minutes 52 seconds west longitude.

11. The take of salmon within waters in which the runs are tributary to the Chignik River shall not exceed 50 percent of the total run as determined at the weir in Chignik River operated by the Bureau of Fisheries.

12. Commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian June 1 and after 6 o'clock postmeridian October 1 in each year.

13. Commercial fishing for salmon is prohibited in the waters surrounding Unavikshak, Nakchamik, and Chankliut Islands.

14. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile, except in Chignik Lagoon, where there shall be a distance interval of not less than 10 statute miles laterally between any two traps on the north shore or on the south shore of Chignik Lagoon. Chignik Island shall be considered as a part of the south shore of the lagoon.

15. The use of any trap for the capture of salmon is prohibited except as follows:

(*a*) Along the coast of Chignik Lagoon within 2,500 feet from the outer extremity of Hume Point.

(*b*) Along the coast of Chignik Island within 2,500 feet from a point at 56 degrees 17 minutes 30 seconds north latitude, 158 degrees 35 minutes 38 seconds west longitude.

(*c*) Along the east side of the spit at the entrance to Chignik Lagoon from the southern extremity of the spit northwesterly for a distance of 5,000 feet.

(*d*) Along the coast on the east side of Anchorage Bay within 2,500 feet from a point at 56 degrees 19 minutes 17 seconds north latitude, 158 degrees 21 minutes 12 seconds west longitude.

(*e*) Along the east side of the spit on the west side of Lake Bay from the northern extremity of the spit at 56 degrees 18 minutes 53 seconds north latitude to a point at 56 degrees 18 minutes 22 seconds north latitude, 158 degrees 16 minutes 41 seconds west longitude.

(*f*) Along the coast on the west side of Hook Bay within 2,500 feet from a point at 56 degrees 30 minutes 54 seconds north latitude, 158 degrees 9 minutes 12 seconds west longitude.

(*g*) Along the coast on the west side of Aniakchak Bay beginning at a point on the coast 8,000 feet southeasterly of the mouth of the lagoon and extending southeasterly for a distance of 5,000 feet.

(*h*) Along the south side of Aniakchak Bay within 2,500 feet from a point at 56 degrees 39 minutes 18 seconds north latitude, 157 degrees 28 minutes west longitude.

Herring fishery.—1. Commercial fishing for herring except for bait purposes, is prohibited in the period from January 1 to June 30, both dates inclusive, and from December 1 to December 31, both dates inclusive.

2. During the period from June 1 to October 1, both dates inclusive, commercial fishing for herring, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

3. Commercial fishing for herring, except for bait purposes, is prohibited from 6 o'clock antemeridian of Saturday of each week until 6 o'clock postmeridian of the Sunday following.

4. Gill nets used in catching herring shall not be of smaller mesh than 3 inches stretched measure.

5. Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.

6. Commercial fishing for herring, except for bait purposes, by means of any purse seine is prohibited.

7. Commercial fishing for herring, including bait fishing, by means of any beach seine more than 50 fathoms in length is prohibited.

8. Commercial fishing for herring for bait purposes by means of any purse seine more than 1,400 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited.

9. No one shall place, or cause to be placed, across the entrance of any lagoon or bay any net or other device which will prevent the free passage at all times of herring in and out of said lagoon or bay.

10. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

VI. KODIAK AREA

The Kodiak area is hereby defined to include the waters of the mainland shore extending from Cape Douglas southwestward to Cape Kunmik and the territorial coastal and tributary waters of Alaska surrounding Kodiak, Afognak, and adjacent islands, including Chirikof Island and the Semidi Islands.

Salmon fishery.—1. Commercial fishing for salmon by means of any purse seine more than 125 fathoms in length is prohibited. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

2. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

3. Commercial fishing for salmon by means of any beach seine with mesh smaller than 3 inches stretched measure between knots or with mesh larger than 3½ inches stretched measure between knots is prohibited.

4. Beach seines shall be set from the beach only. No beach seine shall be set as a trap or as a lead and left without reasonably prompt completion of the seining operation.

5. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 150 fathoms hung measure.

6. No set or anchored gill net shall exceed 300 yards in length, and each shall be set in substantially a straight line: *Provided*, That not to exceed 50 yards of each net may be used as a hook. Only one such hook is permitted on a net. No wire netting or other device that impedes or obstructs the free passage of fish shall be used in connection with the operation of any set or anchored gill net except that seine webbing may be used on the shore end between the lines of high and low water.

7. The distance by most direct water measurement from any part of one set or anchored gill net to any part of another set or anchored gill net or to any part of any trap shall not be less than 900 feet.

8. All set or anchored gill nets shall be removed from the water throughout all closed periods, including the weekly closed periods extending from 6 o'clock postmeridian of Saturday of each week to 6 o'clock antemeridian of the Monday following.

9. Each powered salmon fishing boat in operation shall be legibly and plainly marked with the initials or symbol of the person, company, or corporation owning, operating, or using same, together with a distinctive number which shall identify each particular boat, said letters, symbols, and numbers to be not less than 8 inches in length.

10. No salmon fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited.

11. Commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian June 1 and for the remainder of each calendar year after 6 o'clock postmeridian September 30.

12. Commercial fishing for salmon in Alitak Bay and all its branches within a line from Cape Trinity to Cape Alitak prior to 6 o'clock antemeridian June 15 and after 6 o'clock postmeridian August 15 in each year is prohibited.

13. All commercial fishing for salmon is prohibited in Olga and Moser Bays, except that such fishing is permitted by gill nets in Olga Bay west of 154 degrees 10 minutes west longitude and in Moser Bay south of 57 degrees north latitude, exclusive of all waters within 1 statute mile of the mouth of any salmon stream.

14. The take of red salmon within waters in which the runs are tributary to Olga Bay shall not exceed 50 percent of the total run as determined at the weirs on tributary waters of Olga Bay operated by the Bureau of Fisheries.

15. The take of red salmon in waters extending from Cape Alitak to Cape Karluk shall not exceed 50 percent of the total run as determined at the weir in Red River operated by the Bureau of Fisheries.

16. The take of red salmon in Karluk waters, extending from Cape Karluk to Broken Point, shall not exceed 50 percent of the total run as determined at the weir in Karluk River operated by the Bureau of Fisheries: *Provided*, That beach seines not to exceed 200 fathoms in length, hung measure, shall be permitted to fish between Cape Karluk and Cape Uyak, except within 1,000 yards of the Karluk River, at any time except during the weekly closed period from 6 o'clock postmeridian Saturday to 6 o'clock antemeridian Monday of each week.

17. Commercial fishing for salmon between Cape Karluk and Cape Uyak except by beach seines and purse seines is prohibited.

18. Commercial fishing for salmon between Cape Karluk and Cape Alitak except by purse seines and gill nets is prohibited.

19. Commercial fishing for salmon is prohibited from August 15 to August 31, both dates inclusive: *Provided*, That this prohibition shall not apply (1) to all gear on the west coast of Kodiak Island from Cape Alitak to Cape Karluk, (2) to beach seines and purse seines on the north coast of Kodiak Island from Cape Karluk to Cape Uyak, (3) to set gill nets on the north coast of Kodiak Island from Cape Uyak to West Point, and (4) to traps on the west coast of Kodiak Island from Cape Uyak to Uyak Post Office, and from Chief Point to Broken Point.

20. The distance by most direct water measurement from any part of one trap to any part of another trap, except in those waters of Alitak Bay in which the runs are tributary to streams where counting weirs are maintained, shall not be less than 1 statute mile.

21. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Raspberry Island: From a point on the north coast at 58 degrees 8 minutes 45 seconds north latitude, 153 degrees 15 minutes west longitude, westward to a point at 58 degrees 9 minutes 10 seconds north latitude, 153 degrees 17 minutes 30 seconds west longitude.

(*b*) Raspberry Island: From Raspberry Cape at 58 degrees 3 minutes 25 seconds north latitude, 153 degrees 25 minutes 30 seconds west longitude, northeast to a point at 58 degrees 5 minutes 10 seconds north latitude, 153 degrees 23 minutes west longitude.

(*c*) Raspberry Island: Within 2,500 feet of a point on the south coast of Raspberry Island at 58 degrees 2 minutes 43 seconds north latitude, 153 degrees 18 minutes 54 seconds west longitude.

(*d*) Raspberry Island: Within 2,500 feet of a point on the south coast of Raspberry Island at 58 degrees 2 minutes 30 seconds north latitude, 153 degrees 15 minutes 17 seconds west longitude.

(*e*) Uganik Island: Within 2,500 feet of a point on the east coast of Uganik Island at 57 degrees 56 minutes north latitude, 153 degrees 23 minutes 11 seconds west longitude.

(*f*) Uganik Island: Within 2,500 feet of a point on the north coast of Uganik Island at 57 degrees 57 minutes 45 seconds north latitude, 153 degrees 30 minutes west longitude.

(*g*) Uganik Island: West coast from a point at 153 degrees 27 minutes west longitude to a point at 57 degrees 54 minutes 20 seconds north latitude, 153 degrees 30 minutes 30 seconds west longitude.

(*h*) Kodiak Island: Within 2,500 feet of a point on the west side of Uganik Bay at 57 degrees 50 minutes 45 seconds north latitude, 153 degrees 38 minutes west longitude.

(*i*) Kodiak Island: Within 5,000 feet easterly of a point on Cape Ugat at 57 degrees 52 minutes 5 seconds north latitude, 153 degrees 51 minutes 9 seconds west longitude.

(*j*) Kodiak Island, near entrance to Uyak Bay: Along the coast (1) within 2,500 feet of a point at 57 degrees 44 minutes 35 seconds north latitude, 153 degrees 56 minutes 30 seconds west longitude, and (2) within 5,000 feet easterly of a point at 57 degrees 41 minutes 48 seconds north latitude, 153 degrees 54 minutes 45 seconds west longitude.

(*k*) Kodiak Island: Coast from the point on the south side of the entrance to Spiridon Bay (or northeast arm of Uyak Bay) southerly to a point at 57 degrees 37 minutes 40 seconds north latitude, 153 degrees 52 minutes 55 seconds west longitude.

(*l*) Kodiak Island: Within 2,500 feet of a point on the east side of Uyak Bay at 57 degrees 35 minutes 40 seconds north latitude, 153 degrees 49 minutes 30 seconds west longitude.

(*m*) Kodiak Island: Within 2,500 feet of a point northwest of Cape Uyak at 57 degrees 38 minutes 6 seconds north latitude, 154 degrees 20 minutes 3 seconds west longitude.

(*n*) Kodiak Island: Coast along east side of Alitak Bay within 800 feet of a point at 56 degrees 52 minutes 12 seconds north latitude, 154 degrees 0 minutes 6 seconds west longitude.

(*o*) Kodiak Island: Coast along east side of Deadman Bay within 800 feet of a point at 56 degrees 57 minutes 35 seconds north latitude, 153 degrees 58 minutes 33 seconds west longitude.

(*p*) Kodiak Island: Coast along west side of Alitak Bay within 800 feet of a point at 57 degrees 0 minutes 39 seconds north latitude, 154 degrees 2 minutes 12 seconds west longitude.

(*q*) Kodiak Island: Coast along west side of Alitak Bay within 800 feet of a point at 56 degrees 57 minutes 55 seconds north latitude, 154 degrees 5 minutes 28 seconds west longitude.

(*r*) Kodiak Island: Coast along west side of Alitak Bay, near Bun Point, within 800 feet of a point at 56 degrees 58 minutes 3 seconds north latitude, 154 degrees 6 minutes 15 seconds west longitude.

(*s*) Miller Island, Alitak Bay: Within 2,500 feet of a point on the eastern extremity of Miller Island at 56 degrees 57 minutes 15 seconds north latitude, 154 degrees 7 minutes 37 seconds west longitude.

(*t*) Afognak Island: Along the coast (1) within 2,500 feet of a point at 58 degrees 12 minutes 4 seconds north latitude, 153 degrees 7 minutes 40 seconds west longitude, and (2) within 2,500 feet of a point on the south side of Paramanof Bay at 58 degrees 18 minutes north latitude, 153 degrees 2 minutes 23 seconds west longitude.

22. All commercial fishing for salmon is prohibited as follows:

(*a*) Portage Bay, tributary to Alitak Bay: All waters of lagoon at head of southeast arm inside of markers placed at entrance, and all waters in the northeast arm within a line from a marker on the north shore 1 statute mile from the stream in the northeast corner of the bay to a marker on the opposite shore.

(*b*) Deadman Bay, tributary to Alitak Bay: All waters of Deadman Bay within 1 statute mile of the head of the bay.

(*c*) Western shore of Kodiak Island: All waters within 1 statute mile of the mouth of Red River.

(*d*) Karluk River: All waters within Karluk River and within 100 yards of its mouth where it breaks through Karluk Spit into Shelikof Strait.

(*e*) Uyak Bay: All waters of the bay south of 57 degrees 19 minutes north latitude.

(*f*) Zachar Bay, tributary to Uyak Bay: All waters of Zachar Bay east of 153 degrees 46 minutes west longitude.

(*g*) Spiridon Bay (or northeast arm of Uyak Bay): All waters of Spiridon Bay east of 153 degrees 42 minutes west longitude.

(*h*) East Arm, Uganik Bay, Kodiak Island: All waters within the arm south of a line extending from Mink Point northeasterly to a point on the northeast shore at 57 degrees 43 minutes 20 seconds north latitude.

(*i*) Terror Bay: All waters within the bay south of 57 degrees 44 minutes north latitude.

(*j*) Pasagshak Bay, at entrance to Ugak Bay: All waters within the bay.

(*k*) Ugak Bay: All waters within the bay west of 152 degrees 49 minutes west longitude.

(*l*) Kiliuda Bay: All waters of the bay west of 153 degrees 7 minutes west longitude.

(*m*) Old Harbor, Sitkalidak Strait: All waters within 1 statute mile of the mouth of the stream approximately 1 statute mile northeast of Old Harbor, Sitkalidak Strait.

(*n*) All bays of Afognak Island: All waters of the bays within lines indicated by markers erected for the purpose.

(*o*) Kaflia Bay, on north shore of Shelikof Strait: All waters within 1 statute mile outside the entrance of the outer lagoon.

Herring fishery.—1. Commercial fishing for herring, except for bait purposes, is prohibited during the period from January 1 to June 14, both dates inclusive.

2. Commercial fishing for herring, except for bait purposes, is prohibited from October 16 to December 31, both dates inclusive: *Provided*, That this prohibition shall not apply to the use of gill nets.

3. Commercial fishing for herring, except for bait purposes, is prohibited from 6 o'clock antemeridian of Saturday of each week until 6 o'clock postmeridian of the Sunday following.

4. During the period from July 15 to October 1, both dates inclusive, commercial fishing for herring, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

5. Gill nets used in catching herring shall not be of smaller mesh than 2½ inches stretched measure.

6. Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.

7. Commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,400 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited.

8. No one shall place, or cause to be placed, across the entrance of any lagoon or bay any net or other device which will prevent the free passage at all times of herring in and out of said lagoon or bay.

9. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

3. Along the mainland coast and nearby islands from Cape Kuliak to Cape Douglas, there shall not be taken in any calendar year a total of more than 500,000 pounds of razor clams, including shells, or 12,500 cases upon the basis of 48 one-half pound cans per case.

VII. COOK INLET AREA

The Cook Inlet area is hereby defined to include Cook Inlet, its tributary waters, and all adjoining waters north of Cape Douglas and west of Point Gore. The Barren Islands are included within this area.

Salmon fishery.—1. South of 60 degrees 22 minutes 23 seconds north latitude, including all the waters within 2,500 feet from the shore line at mean low tide of Kalgin Island, commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian May 25 and after 6 o'clock postmeridian August 8 in each year, except in Chinik Inlet in Kamishak Bay: *Provided*, That this prohibition shall not apply to the use of beach seines south of the latitude of Anchor Point from 6 o'clock antemeridian August 22 to 6 o'clock postmeridian September 10. In Chinik Inlet in Kamishak Bay commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian July 9 and after 6 o'clock postmeridian August 1 in each year. North of 60 degrees 22 minutes 23 seconds north latitude, exclusive of the waters adjacent to Kalgin Island as provided herein, commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian June 25 and after 6 o'clock postmeridian August 8 in each year: *Provided*, That this prohibition shall not apply to the use of gear of a mesh not less than 8½ inches stretched measure between knots after 6 o'clock antemeridian May 25.

2. Commercial fishing for salmon in any bay, estuary, slough, or lagoon less than 300 feet in width at mean low tide is prohibited.

3. The use of purse seines for the capture of salmon is prohibited.

4. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 2,500 feet.

5. Twenty-five feet of the heart walls next to the pot of each hand trap in Cook Inlet shall be constructed of flexible webbing other than wire.

6. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 100 fathoms hung measure.

7. Each gill net in operation shall be marked by a cluster of floats or corks at the ends, and double floats or corks shall be attached to the cork line at 25-fathom intervals. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals shall be painted bright red. The clusters at the ends shall also be legibly and plainly marked with the initials of the operator.

8. No set or anchored gill net shall exceed 35 fathoms in length measured on the cork line.

9. Stake and set or anchored gill nets shall be operated in substantially a straight line: *Provided*, That not to exceed 20 yards of each net may be used as a hook. Only one such hook is permitted on a net.

10. The distance by most direct water measurement from any part of one set or anchored gill net to any part of another set or anchored gill net shall not be less than 600 feet. The distance by most direct water measurement from any part of any set or anchored gill net to any part of any trap shall not be less than 1,000 feet.

11. All set or anchored gill nets shall be removed from the water throughout the weekly closed periods extending from 6 o'clock postmeridian of Saturday of each week to 6 o'clock antemeridian of the Monday following.

12. No salmon fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited.

13. No beach seine shall be less than 125 meshes in depth or less than 90 fathoms in length measured on the cork line. For the purpose of determining the depths of seines measurements will be upon the basis of 3½ inches stretched measure between knots.

14. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Along the mainland coast on the west side of Cook Inlet (1) within 500 feet of a point at 61 degrees 9 minutes 12 seconds north latitude, 151 degrees 3 minutes 24 seconds west longitude; (2) within 300 feet of a point at 61 degrees 7 minutes 21 seconds north latitude, 151 degrees 5 minutes 25 seconds west longitude; (3) within 1,000 feet of a point at 61 degrees 2 minutes 16 seconds north latitude, 151 degrees 13 minutes 35 seconds west longitude; (4) from 61 degrees 0 minutes 25 seconds north latitude, 151 degrees 22 minutes 15 seconds west longitude, to 61 degrees 0 minutes 38 seconds north latitude, 151 degrees 24 minutes 34 seconds west longitude; (5) within 1,000 feet of a point at 60 degrees 46 minutes 35 seconds north latitude, 151 degrees 44 minutes 48 seconds west longitude; (6) within 1,000 feet of a point at 60 degrees 42 minutes 56 seconds north latitude, 151 degrees 45 minutes 27 seconds west longitude; and (7) within 1,000 feet of a point at 60 degrees 24 minutes north latitude, 152 degrees 15 minutes 40 seconds west longitude.

(*b*) Along the east coast of Chisik Island within 1,000 feet of a point at 60 degrees 8 minutes 35 seconds north latitude, 152 degrees 34 minutes west longitude.

(*c*) Along the north coast of Kalgin Island (1) within 1,000 feet of a point at 60 degrees 30 minutes 25 seconds north latitude, 151 degrees 57 minutes 22 seconds west longitude; (2) within 1,000 feet of a point at 60 degrees 30 minutes 20 seconds north latitude, 151 degrees 54 minutes 48 seconds west longitude; and (3) within 1,000 feet of a point at 60 degrees 29 minutes 54 seconds north latitude, 151 degrees 53 minutes 30 seconds west longitude.

(*d*) Along the east coast of Kalgin Island within 300 feet of a point at 60 degrees 26 minutes 38 seconds north latitude, 151 degrees 53 minutes 33 seconds west longitude.

(*e*) Along the west coast of Kalgin Island within 1,000 feet of a point at 60 degrees 21 minutes 38 seconds north latitude, 152 degrees 3 minutes west longitude.

(*f*) Along the mainland coast on the east side of Cook Inlet (1) within 1,000 feet of a point at 61 degrees 1 minute 30 seconds north latitude, 150 degrees 25 minutes 30 seconds west longitude; (2) within 1,000 feet of a point at 61 degrees 0 minutes 50 seconds north latitude, 150 degrees 27 minutes 35 seconds west longitude; (3) within 1,000 feet of a point at 60 degrees 59 minutes 42 seconds north latitude, 150 degrees 32 minutes west longitude; (4) within 1,000 feet of a point at 60 degrees 59 minutes north latitude, 150 degrees 34 minutes 48 seconds west longitude; (5) within 1,000 feet of a point at 60 degrees 57 minutes 40 seconds north latitude, 150 degrees 39 minutes west longitude; (6) within 1,000 feet of a point at 60 degrees 56 minutes 30 seconds north latitude, 150 degrees 42 minutes 20 seconds west longitude; and (7) within 1,200 feet of a point at 60 degrees 55 minutes 22 seconds north latitude, 150 degrees 44 minutes 40 seconds west longitude.

(*g*) Along the mainland coast on the east side of Cook Inlet from a point south of Boulder Point at 60 degrees 46 minutes north latitude, 151 degrees 16 minutes west longitude, southerly to a point at 60 degrees 44 minutes 15 seconds north latitude, 151 degrees 19 minutes west longitude.

(*h*) Along the mainland coast on the east side of Cook Inlet from a point at 60 degrees 40 minutes north latitude, 151 degrees 23 minutes 13 seconds west longitude, southeasterly to a point at 60 degrees 35 minutes 15 seconds north latitude, 151 degrees 20 minutes 30 seconds west longitude.

(*i*) Along the mainland coast on the east side of Cook Inlet from a point south of Kenai River at 60 degrees 28 minutes 45 seconds north latitude, 151 degrees 17 minutes 18 seconds west longitude, southerly to a point at 60 degrees 25 minutes 37 seconds north latitude, 151 degrees 17 minutes 34 seconds west longitude.

(*j*) Along the mainland coast on the east side of Cook Inlet within 1,000 feet of a point at 60 degrees 19 minutes 49 seconds north latitude, 151 degrees 23 minutes 24 seconds west longitude.

(*k*) Along the mainland coast on the east side of Cook Inlet (1) from a point at 60 degrees 16 minutes 45 seconds north latitude, 151 degrees 23 minutes 30 seconds west longitude, southerly to a point at 60 degrees 15 minutes 30 seconds north latitude, 151 degrees 23 minutes 45 seconds west longitude; and (2) within 1,000 feet of a point at 60 degrees 14 minutes 41 seconds north latitude, 151 degrees 24 minutes 5 seconds west longitude.

(*l*) Along the mainland coast on the east side of Cook Inlet (1) from a point at 60 degrees 13 minutes north latitude, 151 degrees 25 minutes 15 seconds west longitude southerly to a point at 60 degrees 12 minutes 15 second

north latitude; (2) from a point at 60 degrees 11 minutes 5 seconds north latitude, southerly to a point at 60 degrees 10 minutes 45 seconds north latitude, 151 degrees 28 minutes 20 seconds west longitude; (3) from a point at 60 degrees 10 minutes 15 seconds north latitude, 151 degrees 29 minutes 15 seconds west longitude, southerly to a point at 60 degrees 8 minutes 30 seconds north latitude, 151 degrees 31 minutes 40 seconds west longitude; and (4) within 1,000 feet of a point at 60 degrees 7 minutes 48 seconds north latitude, 151 degrees 32 minutes 42 seconds west longitude.

(*m*) Along the mainland coast on the east side of Cook Inlet from a point at 60 degrees 7 minutes north latitude, 151 degrees 34 minutes 20 seconds west longitude, southerly to a point at 60 degrees 4 minutes 30 seconds north latitude, 151 degrees 38 minutes 30 seconds west longitude.

(*n*) Along the mainland coast on the east side of Cook Inlet (1) within 1,000 feet of a point at 59 degrees 59 minutes 30 seconds north latitude, 151 degrees 43 minutes 40 seconds west longitude; and (2) within 1,000 feet of a point at 59 degrees 54 minutes 45 seconds north latitude, 151 degrees 45 minutes 47 seconds west longitude.

(*o*) Along the mainland coast on the east side of Cook Inlet south of Cape Starichkof within 500 feet of a point at 59 degrees 50 minutes 34 seconds north latitude, 151 degrees 49 minutes 11 seconds west longitude.

(*p*) Along the mainland coast on the east side of Cook Inlet between Anchor Point and Bluff Point within 1,200 feet of a point at 59 degrees 41 minutes 38 seconds north latitude, 151 degrees 46 minutes 48 seconds west longitude.

(*q*) Along the mainland coast on the east side of Cook Inlet on the west side of Nubble Point Spit within 1,200 feet of a point at 59 degrees 28 minutes 45 seconds north latitude, 151 degrees 35 minutes 6 seconds west longitude.

(*r*) Along the mainland coast on the east side of Cook Inlet from a point at 59 degrees 26 minutes 30 seconds north latitude, 151 degrees 46 minutes west longitude, westerly to a point at 59 degrees 26 minutes 40 seconds north latitude, 151 degrees 46 minutes 45 seconds west longitude.

(*s*) Along the mainland coast on the east side of Cook Inlet east of Flat Island within 1,200 feet of a point at 59 degrees 19 minutes 40 seconds north latitude, 151 degrees 58 minutes 47 seconds west longitude.

15. All commercial fishing is prohibited, as follows:

(*a*) Within 1 statute mile of the mouths of the following salmon streams: Kenai River, Kasilof River, Swanson Creek, Bishop Creek, Ninilchik River, Deep Creek, Starichkof River, Anchor Point River, English Bay Stream, Little Susitna River, Susitna River, Ivan River, Lewis River, Theodore River, Beluga River, Threemile Creek, Chuit River, Nikolai River, McArthur River, Kustatan River, Katnu River, Drift River, and Kalgin Island Stream on the east coast of Kalgin Island.

(*b*) Turnagain Arm and Knik Arm: All waters above a line from Point Possession at 61 degrees 2 minutes 10 seconds north latitude, 150 degrees 24 minutes 5 seconds west longitude, to Point Woronzof at 61 degrees 12 minutes north latitude, 150 degrees west longitude, thence to Point MacKenzie at 61 degrees 14 minutes 10 seconds north latitude, 150 degrees west longitude.

(*c*) Kamishak Bay: All waters within 400 yards outside the entrance to the lagoon at the mouth of McNeil Creek.

(*d*) Kachemak Bay: All waters above a line from Chugachik Island to a point on the opposite shore one-half mile below the mouth of Swift Creek.

Herring fishery.—1. Commercial fishing for herring, except for bait purposes, is prohibited during the period from January 1 to June 30, both dates inclusive, and from November 16 to December 31, both dates inclusive: *Provided*, That this prohibition shall not apply to the use of set and drift gill nets in the period from November 16 to December 31, both dates inclusive.

2. During the period from July 1 to October 1, both dates inclusive, commercial fishing for herring, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

3. Commercial fishing for herring in Halibut Cove, including the waters within a line from the western end of Ismailof Island to the outermost point on Glacier Spit, is limited to gill nets.

4. Commercial fishing for herring in Halibut Cove Lagoon is limited to set gill nets not exceeding 50 fathoms in length, hung measure. All such nets shall be anchored in a substantial manner not less than 150 yards apart.

5. Nets operated within areas marked at the north and south ends of Halibut Cove Lagoon shall be anchored at right angles to the line joining the markers. Nets operated between these areas shall be anchored in a general direction paralleling the shore line.

6. The maintaining of a herring pound in the waters of Halibut Cove and Lagoon is prohibited.

7. The use of purse seines for the capture of herring is prohibited in Kachemak Bay and tributary waters within a line from Nubble Point to Bluff Point.

8. Gill nets used in catching herring shall not be of smaller mesh than 3 inches stretched measure.

9. Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.

10. Commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,400 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited.

11. No one shall place, or cause to be placed, across the entrance of any lagoon or bay any net or other device which will prevent the free passage at all times of herring in and out of said lagoon or bay.

12. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

3. The taking of razor clams for commercial purposes on the west side of Cook Inlet from Cape Douglas northerly to North Foreland is prohibited prior to 6 o'clock antemeridian June 1 and after 6 o'clock postmeridian August 15 in each year.

4. The taking of razor clams for commercial purposes on the east side of Cook Inlet from Anchor Point northerly to Point Possession is prohibited prior to 6 o'clock antemeridian May 1 and after 6 o'clock postmeridian September 30 in each year.

VIII. RESURRECTION BAY AREA

The Resurrection Bay area is hereby defined to include all territorial coastal and tributary waters of the Gulf of Alaska between Point Gore on the west and Cape Fairfield on the east.

Salmon fishery.—1. The use of any trap for the capture of salmon is prohibited.

2. The total aggregate length of gill nets on any salmon-fishing boat, or in use by such boat, shall not exceed 200 fathoms hung measure.

3. No set or anchored gill net shall exceed 300 yards in length, and each shall be set in substantially a straight line: *Provided*, That not to exceed 20 yards of each net may be used as a hook. Only one such hook is permitted on a net. There shall be a distance interval of at least 200 yards, both endwise and laterally, at all times between all set or anchored gill nets operated.

4. King salmon nets shall have a mesh at least 8½ inches stretched measure between knots, and red-salmon nets shall have a mesh at least 5½ inches stretched measure between knots, as measured when actually in use.

5. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

6. Prior to 6 o'clock antemeridian June 4 in each year commercial fishing for salmon with nets of mesh less than 8½ inches stretched measure between knots is prohibited.

7. Commercial fishing for salmon is prohibited during the remainder of each calendar year after 6 o'clock postmeridian September 20.

8. In the waters of Resurrection Bay within a line from Cape Resurrection to the western side of Bear Glacier at its mouth, the 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock antemeridian of Saturday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 48 hours: *Provided*, That this extension shall not be effective after August 23 in each year.

9. Commercial fishing for salmon within 1,000 yards of the mouths of Bear Creek and Resurrection River is prohibited at all times; and in the period from June 7 to August 23, both dates inclusive, commercial fishing for salmon is prohibited within 1,700 yards of the mouths of these streams.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

IX. PRINCE WILLIAM SOUND AREA

The Prince William Sound area is hereby defined to include all territorial, coastal, and tributary waters of the Gulf of Alaska between Cape Fairfield on the west and Point Whitshed on the east.

Salmon fishery.—1. The total aggregate length of gill nets on any salmon-fishing boat, or in use by such boat, shall not exceed 200 fathoms hung measure.

2. No salmon-fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon-fishing boat is prohibited. No purse seine shall be less than 125 meshes nor more than 200 meshes in depth, nor less than 90 fathoms nor more than 150 fathoms in length measured on the cork line. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

3. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

4. No set or anchored gill net shall exceed 300 yards in length and each shall be set in substantially a straight line: *Provided*, That not to exceed 20 yards of each net may be used as a hook. Only one such hook is permitted on a net. There shall be a distance interval of at least 200 yards both endwise and laterally at all times between all set or anchored gill nets operated.

5. The use of purse seines and beach seines for the capture of salmon is prohibited in the waters along the western coast from the outer point on the north shore of Granite Bay (known as Granite Bay Point) to the light on the south shore of the entrance to Port Nellie Juan.

6. Commercial fishing for salmon in Port Valdez east of 146 degrees 40 minutes west longitude is limited entirely to set or anchored gill nets of not to exceed 300 yards each in length.

7. The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock antemeridian of Saturday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 48 hours.

8. Commercial fishing for salmon, except by trolling, is prohibited prior to 6 o'clock antemeridian June 25 in each calendar year.

9. Commercial fishing for salmon by trolling is prohibited prior to April 15 in each calendar year.

10. Commercial fishing for salmon is prohibited during the remainder of each calendar year after 6 o'clock postmeridian August 5: *Provided*, That this prohibition shall not apply (*a*) to trolling and gill netting through August 22 in the waters along the western coast from the outer point on the north shore of Granite Bay (known as Granite Bay Point) to the light on the south shore of the entrance to Port Nellie Juan, and (*b*) to trolling in the period from 6 o'clock antemeridian August 5 to 6 o'clock postmeridian September 20 in the waters of Prince William Sound east of 147 degrees west longitude, exclusive of all waters of Valdez Arm north of Point Freemantle. All trap leads from shore to entrance of hearts must be removed prior to 6 o'clock antemeridian August 9.

11. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1½ statute miles.

12. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Knight Island: From a point on the southeast coast at 60 degrees 9 minutes 50 seconds north latitude southerly to Point Helen, thence northerly to 60 degrees 11 minutes 15 seconds north latitude, 147 degrees 50 minutes 40 seconds west longitude, exclusive of all waters in Little Bay.

(*b*) Along the coast of Squire Island within ½ statute mile of its southern extremity.

(*c*) Bainbridge Island: Within 2,500 feet of a point at 60 degrees 11 minutes 32 seconds north latitude, 148 degrees 3 minutes west longitude.

(*d*) Eastern coast of Chenega Island from a point 1 statute mile southward of its northern extremity to a point 1 statute mile eastward of Chenega village.

(*e*) Mainland coast within 2,500 feet westerly of a point at 60 degrees 24 minutes 48 seconds north latitude, 147 degrees 58 minutes 18 seconds west longitude.

(*f*) Knight Island: East coast within 2,500 feet of a point at 60 degrees 21 minutes 55 seconds north latitude, 147 degrees 37 minutes 29 seconds west longitude.

(*g*) Eastern coast of Culross Island: From the northern side of the entrance to Hidden Bay northerly to a point at 60 degrees 43 minutes 45 seconds north latitude, 148 degrees 6 minutes 35 seconds west longitude.

(*h*) Western side of Valdez Arm (1) within 2,500 feet of a point at 60 degrees 55 minutes 40 seconds north latitude, 146 degrees 58 minutes 35 seconds west longitude, and (2) from 60 degrees 58 minutes north latitude to 60 degrees 59 minutes north latitude.

(*i*) Southwest coast of Bligh Island from 60 degrees 49 minutes 45 seconds north latitude to 146 degrees 44 minutes 20 seconds west longitude.

(*j*) Within ½ statute mile of the southwestern extremity of Bidarka Point.

(*k*) From a point on the east side of Landlocked Bay at 60 degrees 49 minutes north latitude to a point on the north shore of Port Fidalgo at 146 degrees 32 minutes west longitude.

(*l*) Within ½ statute mile of Porcupine Point.

(*m*) Mainland coast, near Knowles Head, within 2,500 feet of a point at 60 degrees 41 minutes 17 seconds north latitude, 146 degrees 40 minutes west longitude.

(*n*) Within 1 statute mile of Red Head.

(*o*) From a point on the coast 1 statute mile northwestward of the light at Gravina Point to a point on the coast 2 statute miles northwestward of the light at Gravina Point, making an open space of 1 statute mile.

(*p*) Along the coast within 1 statute mile southwesterly of the outer point on the southwest side of the entrance to Cedar Bay, Hawkins Island.

(*q*) Within 1 statute mile of Makaka Point, Hawkins Island.

(*r*) Hinchinbrook Island: Within 3,000 feet, measured westerly along the north side of a peninsula, from a point at 60 degrees 28 minutes 47 seconds north latitude, 146 degrees 23 minutes 27 seconds west longitude.

(*s*) Hinchinbrook Island: Within 3,000 feet, measured easterly along the coast, from a point at 60 degrees 27 minutes 58 seconds north latitude, 146 degrees 27 minutes west longitude, on the north side of a spit.

(*t*) Hinchinbrook Island: Within 2,500 feet, measured along the coast, from a point at 60 degrees 28 minutes 54 seconds north latitude, 146 degrees 32 minutes 11 seconds west longitude.

(*u*) Hinchinbrook Island: From a point on the coast at 60 degrees 27 minutes north latitude, 146 degrees 39 minutes 48 seconds west longitude, northward to the light at Johnstone Point.

(*v*) Hinchinbrook Island: Within 2,500 feet of a point at 60 degrees 24 minutes 38 seconds north latitude, 146 degrees 42 minutes 30 seconds west longitude.

(*w*) Hinchinbrook Island: Within ½ statute mile eastward of a point on the south side of Port Etches at 146 degrees 40 minutes west longitude.

(*x*) Montague Island: Along the coast from a point on the south side of Macleod Harbor at 59 degrees 52 minutes 10 seconds north latitude, 147 degrees 51 minutes west longitude, to a point at 59 degrees 52 minutes north latitude, 147 degrees 52 minutes west longitude.

(*y*) Western coast of Montague Island from Point Woodcock to a point south of Hanning Bay at 59 degrees 56 minutes 45 seconds north latitude, 147 degrees 45 minutes 15 seconds west longitude.

(*z*) Western coast of Montague Island (1) from Point Bazil on the north side of the entrance to Hanning Bay northeasterly to 60 degrees 0 minutes 30 seconds north latitude, and (2) from 60 degrees 7 minutes 30 seconds north latitude northeasterly to 60 degrees 9 minutes 45 seconds north latitude (as shown on U. S. Coast and Geodetic Survey Chart No. 8551).

(*aa*) Western coast of Montague Island from 60 degrees 10 minutes 20 seconds north latitude to 60 degrees 11 minutes 45 seconds north latitude.

(*bb*) Montague Island: Northern coast from Graveyard Point to a point at 60 degrees 21 minutes 41 seconds north latitude, 147 degrees 9 minutes 47 seconds west longitude.

13. All commercial fishing for salmon is prohibited, as follows:

(*a*) Constantine Harbor, northwest arm of Port Etches: All waters within the harbor and its tributary waters and within 100 yards outside the narrows at the entrance to the harbor.

(*b*) Anderson Bay and Double Bay, north shore of Hinchinbrook Island: All waters within the bays.

(*c*) Port Etches: All waters within 2 statute miles of the mouth of the salmon stream flowing into the head of Port Etches.

(*d*) Boswell Bay, indenting Hinchinbrook Island: All waters in the bay west of 146 degrees 8 minutes west longitude.

(*e*) Twin Lake Creek: All waters within 1,000 yards of the mouth of Twin Lake Creek flowing into the southeast arm of Simpson Bay.

(*f*) Sheep Bay: All waters within 1,000 yards of the mouth of the stream at the head of the bay.

(*g*) Gravina River: All waters within 1,000 yards of the mouth of the river.

(*h*) Olsen Bay, north side of Port Gravina: All waters within 2,000 yards of the mouth of the stream flowing into the head of the bay.

(*i*) St. Matthew Bay, north side of Port Gravina: All waters within 2,000 yards of the mouth of the stream flowing into the head of the bay.

(*j*) Irish Cove, south side of Port Fidalgo: All waters within the cove south of 60 degrees 46 minutes north latitude.

(*k*) Whalen Bay, south side of Port Fidalgo: All waters east of 146 degrees 15 minutes 30 seconds west longitude.

(*l*) Fish Bay, north side of Port Fidalgo: All waters within 1,000 yards of the mouth of the stream at the head of the bay.

(*m*) Galena Bay, east side of Valdez Arm: All waters within a line from a point on the coast at 60 degrees 55 minutes 30 seconds north latitude, 146 degrees 38 minutes 30 seconds west longitude, northeasterly to a point on the coast at 60 degrees 56 minutes 17 seconds north latitude, 146 degrees 36 minutes 30 seconds west longitude, and all waters within 1,000 yards of the mouth of Indian Creek.

(*n*) Jack Bay, east side of Valdez Arm: All waters east of 146 degrees 36 minutes west longitude.

(*o*) Robe River, Lowe River, and other unnamed streams flowing into Port Valdez in the immediate vicinity of Valdez: All waters wtihin 1 statute mile of the mouths.

(*p*) Long Bay and its tributaries, indenting mainland on north shore of Prince William Sound: All waters within 1,000 yards of the mouth of any salmon stream.

(*q*) Unakwik Inlet and tributary waters, indenting mainland on north shore of Prince William Sound: All waters within 1,000 yards of the mouth of any salmon stream.

(*r*) Wells Passage and tributary waters indenting mainland on north shore of Prince William Sound: All waters of Wells Passage and its tributaries, including Port Wells, Cochrane Bay, Blackstone Bay, and Passage Canal, west of a line extending southwesterly from Point Esther to a point on the east side of the entrance to Cochrane Bay at 60 degrees 45 minutes 42 seconds north latitude, 148 degrees 13 minutes 54 seconds west longitude (as shown on U. S. Coast and Geodetic Survey Chart No. 8551).

(*s*) Long Bay, tributary to Culross Passage: All waters within the bay.

(*t*) Gumboat Creek, on northwest shore of Eshamy Bay: All waters within 1,000 yards of the mouth of the creek.

(*u*) Eshamy Lagoon and its tributary waters: All waters within the lagoon and its tributaries and within 100 yards outside the narrows at the entrance to the lagoon.

(*v*) Jackpot Bay: All waters within a line, indicated by markers, located at the entrance to the narrows in the bay.

(*w*) Port Bainbridge: All waters in the middle north arm of Port Bainbridge.

(*x*) Bay of Isles, indenting east shore of Knight Island: All waters within 1,000 yards of the mouth of the stream at the head of the west arm of the bay.

Herring fishery.—1. Commercial fishing for herring except for bait purposes, is prohibited from January 1 to June 7, both dates inclusive, and from October 16 to December 31, both dates inclusive: *Provided*, That this prohibition shall not apply to the use of set and drift gill nets of mesh not smaller than 2½ inches stretched measure between knots in the period from November 16 to December 15, both dates inclusive.

2. Commercial fishing for herring, except for bait purposes, is prohibited from 6 o'clock antemeridian of Saturday of each week until 6 o'clock postmeridian of the Sunday following.

3. During the period from July 1 to October 1, both dates inclusive, commercial fishing for herring, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

4. Gill nets used in catching herring shall not be of smaller mesh than 2½ inches stretched measure between knots.

5. Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.

6. Commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,400 meshes in depth, more than 150 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited: *Provided*, That in the period from August 1 to November 15, both dates inclusive, commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,400 meshes in depth, more than 180 fathoms in length, or less than 1½ inches stretched measure between knots is prohibited: *And provided further*, That any purse seine may have in addition a strip along the bottom not to exceed 30 meshes in depth and of mesh not less than 4 inches stretched measure between knots. No extension to any seine in the way of leads will be permitted.

7. No one shall place, or cause to be placed, across the entrance of any lagoon or bay any net or other device which will prevent the free passage at all times of herring in and out of said lagoon or bay.

8. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

3. The taking of razor clams for commercial purposes is prohibited from July 1 to August 15, both dates inclusive, in each calendar year.

4. In the open season from January 1 to June 30, both dates inclusive, there shall not be taken in the Prince William Sound, Copper River, and Bering River areas a combined total of more than 1,200,000 pounds of razor clams, including shells, or 30,000 cases upon the basis of 48 one-half pound cans per case.

5. In the open season from August 16 to December 31, both dates inclusive, there shall not be taken in the Prince William Sound, Copper River, and Bering River areas a combined total of more than 280,000 pounds of razor clams, including shells, or 7,000 cases upon the basis of 48 one-half pound cans per case.

Crab fishery—dungeness crab—(Cancer magister).—1. No female of this species shall be taken at any time, and no male of this species measuring less than 7 inches in greatest width shall be taken for commercial purposes.

2. Commercial fishing for the Dungeness crab is prohibited from June 1 to July 31, both dates inclusive.

3. It is prohibited to take for commercial purposes any soft-shell crab. Possession of any such crab will be regarded as prima facie evidence of unlawful taking.

X. COPPER RIVER AREA

The Copper River area is hereby defined to include all territorial coastal and tributary waters of Alaska between Point Whitshed on the west and Point Martin on the east, including Egg Islands and the other islands between these points.

Salmon fishery.—1. Commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian May 1 and from 6 o'clock postmeridian July 5 to 6 o'clock antemeridian August 10 in each year.

2. Prior to 6 o'clock antemeridian May 15 in each year commercial fishing with nets of mesh less than 8½ inches stretched measure between knots is prohibited.

3. Commercial fishing for salmon is prohibited after 6 o'clock postmeridian September 20 in each calendar year.

4. Each season, prior to the opening date for commercial fishing, the number and name of each fishing boat to be operated shall be furnished in writing to the agent of the Bureau of Fisheries in charge of the district.

5. Commercial fishing for salmon shall be conducted solely by drift gill nets without the attachment of anything to obstruct their free movement through the water at all times: *Provided*, That gill nets attached to anchored boats or other anchored floating equipment may also be used from 6 o'clock antemeridian August 10 to 6 o'clock postmeridian September 20 in each calendar year.

6. Each gill net in operation shall be marked by a cluster of floats or corks at the ends, and double floats or corks shall be attached to the cork line at 25-fathom intervals. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals of every red-salmon and silver-salmon gill net shall be painted bright red. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals of every king-salmon gill net shall be painted white. The clusters at the ends of all gill nets shall also be legibly and plainly marked with the initials of the operator. In addition, each red-salmon and silver-salmon gill net shall be marked by red kegs attached to the clusters of floats or corks at the ends, and each king-salmon gill net shall be marked with white kegs attached to the clusters of floats or corks at the ends.

7. Prior to 6 o'clock antemeridian August 10 in each calendar year the total aggregate length of drift gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure: *Provided*, That during the period from 6 o'clock antemeridian May 15 to 6 o'clock postmeridian May 31 any gill-net boat in the Copper River area may carry and operate not to exceed 100 fathoms of net of mesh not less than 8½ inches stretched measure between knots in addition to 250 fathoms of smaller mesh net.

8. Commercial fishing for salmon is prohibited within 500 yards of the Grass Banks, except that from 6 o'clock antemeridian August 10 to 6 o'clock postmeridian September 20 in each calendar year such fishing is permitted within 500 yards of the Grass Banks by means of gill nets not exceeding 200 fathoms each in length attached to anchored boats or other anchored floating equipment. All fishing is prohibited at all times within the sloughs and within 500 yards of their mouths.

9. The trailing of web behind any fishing boat is prohibited above the markers fixing closed waters.

10. Anchored gill nets shall be operated in substantially a straight line.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

3. The taking of razor clams for commercial purposes is prohibited from July 1 to August 15, both dates inclusive, in each calendar year.

4. In the open season from January 1 to June 30, both dates inclusive, there shall not be taken in the Prince William Sound, Copper River, and Bering River areas a combined total of more than 1,200,000 pounds of razor clams, including shells, or 30,000 cases upon the basis of 48 one-half pound cans per case.

5. In the open season from August 16 to December 31, both dates inclusive, there shall not be taken in the Prince William Sound, Copper River, and Bering River areas a combined total of more than 280,000 pounds of razor clams, including shells, or 7,000 cases upon the basis of 48 one-half pound cans per case.

Crab fishery—Dungeness crab (Cancer magister).—1. No female of this species shall be taken at any time, and no male of this species measuring less than 7 inches in greatest width shall be taken for commercial purposes.

2. Commercial fishing for the Dungeness crab is prohibited from June 1 to July 31, both dates inclusive.

3. It is prohibited to take for commercial purposes any soft-shell crab. Possession of any such crab will be regarded as prima facie evidence of unlawful taking.

XI. BERING RIVER AREA

The Bering River area is hereby defined to include all territorial coastal and tributary waters of Alaska between Point Martin on the west and Cape Suckling on the east, including Martin Islands, Kanak Island, Wingham Island, Kavak Island, and any other island between Point Martin and Cape Suckling.

Salmon fishery—1. Commercial fishing for salmon is prohibited prior to 6 o'clock antemeridian May 15 and from 6 o'clock postmeridian July 5 to 6 o'clock antemeridian August 10 in each year.

2. Prior to 6 o'clock antemeridian June 1 in each year commercial fishing with nets of mesh less than 8½ inches stretched measure between knots is prohibited.

3. Commercial fishing for salmon is prohibited after 6 o'clock postmeridian September 20 in each calendar year.

4. Commercial fishing for salmon shall be conducted solely by drift gill nets without the attachment of anything to obstruct their free movement through the water at all times: *Provided*, That gill nets attached to anchored boats or other anchored floating equipment may also be used from 6 o'clock antemeridian August 10 to 6 o'clock postmeridian September 20 in each calendar year.

5. Each gill net in operation shall be marked by a cluster of floats or corks at the ends, and double floats or corks shall be attached to the cork line at 25-fathom intervals. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals of every red-salmon and silver-salmon gill net shall be painted bright red. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals of every king-salmon gill net shall be painted white. The clusters at the ends of all gill nets shall also be legibly and plainly marked with the initials of the operator. In addition, each red-salmon and silver-salmon gill net shall be marked by red kegs attached to the clusters of floats or corks at the ends, and each king-salmon gill net shall be marked with white kegs attached to the clusters of floats or corks at the ends.

6. Prior to 6 o'clock antemeridian August 10 in each calendar year the total aggregate length of drift gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 200 fathoms hung measure: *Provided*, That during the period from 6 o'clock antemeridian June 1 to 6 o'clock postmeridian June 15 any gill-net boat in the Bering River area may carry and operate not to exceed 100 fathoms of net of mesh not less than 8½ inches stretched measure between knots in addition to 200 fathoms of smaller mesh net.

7. The trailing of web behind any fishing boat is prohibited above the markers fixing closed waters.

8. Anchored gill nets shall be operated in substantially a straight line.

9. All commercial fishing for salmon is prohibited in Controller Bay and contiguous waters north of a line extending due east from Point Hey.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

3. The taking of razor clams for commercial purposes is prohibited from July 1 to August 15, both dates inclusive, in each calendar year.

4. In the open season from January 1 to June 30, both dates inclusive, there shall not be taken in the Prince William Sound, Copper River, and Bering River areas a combined total of more than 1,200,000 pounds of razor clams, including shells, or 30,000 cases upon the basis of 48 one-half pound cans per case.

5. In the open season from August 16 to December 31, both dates inclusive, there shall not be taken in the Prince William Sound, Copper River, and Bering River areas a combined total of more than 280,000 pounds of razor clams, including shells, or 7,000 cases upon the basis of 48 one-half pound cans per case.

XII. SOUTHEASTERN ALASKA AREA

The Southeastern Alaska area is hereby defined to include all territorial coastal and tributary waters of Alaska extending from Dixon Entrance on the south to and including Yakutat Bay on the north.

Salmon fishery.—This area is subdivided into the following districts, wherein regulations shall be effective as follows:

Yakutat district.—All territorial waters within a line extending from Cape Fairweather at 58 degrees 49 minutes north latitude, 138 degrees west longitude, to Mount Fairweather, thence following the international boundary to a point at 140 degrees 28 minutes west longitude, thence south to a point at 59 degrees 36 minutes north latitude, 140 degrees 28 minutes west longitude, thence to Cape Fairweather at the point of beginning.

1. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 150 fathoms hung measure in length, or 35 meshes in depth. For the purpose of determining depths of gill nets measurements will be upon the basis of 5½ inches stretched measure.

2. Along the outside coast from Cape Fairweather to Ocean Cape commercial fishing for salmon shall be conducted solely by drift gill nets. The use of all other forms of gear is prohibited.

3. In Situk Inlet, Ahrnklin Inlet, Dangerous Inlet, Ahquay Inlet, and Dry Bay, commercial fishing for salmon shall be conducted solely by stake, set, or anchored gill nets: *Provided*, That such fishing by means of beach seines is permitted in Situk Inlet during the period from August 5 to August 30, both dates inclusive.

4. In Monti Bay and contiguous waters no stake, set, or anchored gill net shall exceed 50 fathoms in length measured on the cork line, and in these waters the total aggregate length of all stake, set, or anchored nets used by any individual shall not exceed 100 fathoms measured on the cork line.

5. In Situk Inlet no stake, set, or anchored gill net shall exceed 25 fathoms in length measured on the cork line, and in these waters the total aggregate length of all stake, set, or anchored nets used by an individual shall not exceed 25 fathoms measured on the cork line.

6. In Ahrnklin Inlet and in Dangerous Inlet no stake, set, or anchored gill net shall exceed 30 fathoms in length measured on the cork line, and in these waters the total aggregate length of all stake, set, or anchored nets used by any individual shall not exceed 60 fathoms measured on the cork line.

7. In Dry Bay and in Ahquay Inlet no stake, set, or anchored gill net shall exceed 25 fathoms in length measured on the cork line, and in these waters the total aggregate length of all stake, set, or anchored nets used by any individual shall not exceed 75 fathoms measured on the cork line.

8. Except in Monti Bay and contiguous waters and in Dry Bay, commercial fishing for salmon is prohibited prior to June 18: *Provided*, That this prohibition shall not apply to trolling.

9. In Monti Bay and contiguous waters and in Dry Bay, commercial fishing for salmon is prohibited prior to May 15 in each year.

10. Each gill net in operation shall be marked by a cluster of floats or corks at the ends, and double floats or corks shall be attached to the cork line at 25-fathom intervals. The clusters of floats or corks at the ends and the double floats or corks at the 25-fathom intervals shall be painted bright red. The clusters at the ends shall also be legibly and plainly marked with the initials of the operator.

11. Commercial fishing for salmon by means of any gill net having mesh of more than 5½ inches stretched measure between knots is prohibited in Situk Inlet prior to August 10 in each year.

12. No salmon-fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon-fishing boat is prohibited.

13. Commercial fishing for salmon by means of any beach seine less than 75 fathoms hung measure in length or less than 4 fathoms hung measure in depth is prohibited. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots.

14. Commercial fishing for salmon, except by trolling, is prohibited for the remainder of each calendar year after September 30.

15. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

16. No trolling boat shall operate more than four trolling lines.

17. The use of any trap or purse seine is prohibited.

18. Stake and anchored gill nets shall be operated in substantially a straight line.

19. The use of power boats in operating drift gill nets is prohibited in all lagoons and inlets.

20. The 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock postmeridian of Friday of each week until 6 o'clock antemeridian of the Monday following, making a weekly closed period of 60 hours.

21. All commercial fishing for salmon is prohibited, as follows:

(*a*) Ankau Creek and Inlet.
(*b*) The "Basin" above Dry Bay.

Icy Strait district.—All territorial waters within a line extending from a point west of Yakobi Island at 58 degrees north latitude, 136 degrees 51 minutes west longitude, to a point at 58 degrees north latitude, 134 degrees 58 minutes west longitude, thence north to the light at Point Augusta, thence to the southeastern extremity of Point Couverden, thence to Mount Harris, thence following the international boundary to Mount Fairweather, thence to Cape Fairweather at 58 degrees 49 minutes north latitude, 138 degrees west longitude, thence to the point of beginning at 58 degrees north latitude, 136 degrees 51 minutes west longitude.

1. The total aggregate length of gill nets on any salmon-fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1½ statute miles.

4. No floating trap shall exceed 900 feet in length when any part of such trap is in a greater depth of water than 100 feet at mean high tide. The length of any such trap shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

5. No salmon-fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon-fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth nor less than 150 fathoms nor more than 200 fathoms in length, measured on the cork line. For the purpose of determining depths of seines measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

6. Commercial fishing for salmon, other than trolling, west of a line from Point Adolphus to Point Gustavus is prohibited prior to 6 o'clock antemeridian June 20, from 6 o'clock postmeridian August 4 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

7. Commercial fishing for salmon, other than trolling, east of a line from Point Adolphus to Point Gustavus is prohibited prior to 6 o'clock antemeridian June 20, from 6 o'clock postmeridian August 7 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

8. Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 15.

9. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

10. The use of any beach seine is prohibited.

11. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

12. No trolling boat shall operate more than four trolling lines.

13. Commercial fishing for salmon, except by gill nets, is prohibited in Dundas Bay north of 58 degrees 21 minutes 8 seconds north latitude.

14. Commercial fishing for salmon by means of any seine is prohibited in Idaho Inlet south of 58 degrees 8 minutes 20 seconds north latitude.

15. Commercial fishing for salmon is prohibited in Port Frederick, northern shore of Chichagof Island, in all waters east of a line from Inner Point Sophia to Game Point and in all waters south of 58 degrees 4 minutes 8 seconds north latitude, except that trolling will be permitted from November 1 to June 1, both dates inclusive. A portion of the waters closed is in the western district.

16. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Mainland: From the east side of Dundas Bay at 58 degrees 20 minutes 8 seconds north latitude to a point 1,000 feet east of Point Dundas.

(*b*) Inian Islands: Along the coast (1) within 2,500 feet of a point at 58 degrees 16 minutes 18 seconds north latitude, 136 degrees 20 minutes 27 seconds west longitude, (2) within 2,500 feet of a point on the northwestern island at 58 degrees 15 minutes 34 seconds north latitude, 136 degrees 23 minutes 35 seconds west longitude, and (3) within 1,000 feet of a point at 58 degrees 14 minutes 9 seconds north latitude, 136 degrees 20 minutes 6 seconds west longitude.

(*c*) Island west of Three Hill Island, Cross Sound: Shore of island west of Three Hill Island located at 58 degrees 10 minutes 11 seconds north latitude, 136 degrees 24 minutes 33 seconds west longitude.

(*d*) Chichagof Island: Along the coast of the north side of Chichagof Island within 2,500 feet of a point at 58 degrees 13 minutes 12 seconds north latitude, 136 degrees 9 minutes 38 seconds west longitude.

(*e*) Chichagof Island: North coast within 1,000 feet westerly from Eagle Point.

(*f*) Chichagof Island: North coast from a point west of Point Adolphus at 58 degrees 16 minutes 38 seconds north latitude southwesterly to a point at 58 degrees 14 minutes 56 seconds north latitude, 135 degrees 53 minutes 34 seconds west longitude.

(*g*) Lemesurier Island: Northwestern coast within 2,500 feet of a point at 58 degrees 17 minutes 30 seconds north latitude, 136 degrees 8 minutes west longitude.

(*h*) Mainland: Within 2,500 feet of a point near Point Gustavus at 135 degrees 53 minutes 42 seconds west longitude.

(*i*) Pleasant Island: Southern coast (1) from the western extremity of the island easterly to 135 degrees 39 min-

utes 51 seconds west longitude, and (2) from 135 degrees 35 minutes 30 seconds west longitude to 135 degrees 33 minutes 1 second west longitude.

(*j*) Porpoise Islands: West coast of southernmost island within 2,500 feet of a point at 58 degrees 19 minutes 8 seconds north latitude, 135 degrees 27 minutes 22 seconds west longitude.

(*k*) Mainland: Along the coast on the east side of Excursion Inlet from 58 degrees 17 minutes 8 seconds north latitude southward to 135 degrees 8 minutes 31 seconds west longitude.

(*l*) Chichagof Island: Northeastern coast (1) within 2,500 feet of a point at 58 degrees 8 minutes 40 seconds north latitude, 135 degrees 23 minutes 59 seconds west longitude, and (2) from 135 degrees 20 minutes west longitude to 135 degrees 11 minutes 11 seconds west longitude.

(*m*) Chichagof Island: Northwestern coast within 2,500 feet of a point at 135 degrees 1 minute 31 seconds west longitude.

17. All commercial fishing for salmon is prohibited in Glacier Bay north of 58 degrees 27 minutes 54 seconds north latitude.

Western district.—All territorial waters within a line extending from a point off Cape Ommaney at 56 degrees 6 minutes north latitude, 134 degrees 51 minutes west longitude, to a point off Cape Edgecumbe at 57 degrees north latitude, 136 degrees 4 minutes west longitude, thence to a point at 58 degrees north latitude, 136 degrees 51 minutes west longitude, thence east to 134 degrees 58 minutes west longitude, thence north to the light at Point Augusta, thence to the southeastern extremity of Point Couverden, thence to Mount Harris, thence following the international boundary to Mount Ogilvie, thence to the northern extremity of Shelter Island, thence to the northern extremity of Mansfield Peninsula, thence following the watersheds on Mansfield Peninsula and Admiralty Island to the southern extremity of Point Gardner thence west to the watershed on Baranof Island, thence following the watershed to the southern extremity of Cape Ommaney, thence to the point of beginning at 56 degrees 6 minutes north latitude, 134 degrees 51 minutes west longitude.

1. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

4. No floating trap shall exceed 900 feet in length when any part of such trap is in a greater depth of water than 100 feet at mean high tide. The length of any such trap shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

5. No salmon fishing boat shall carry or operate more than one seine of any description and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth, nor less than 150 fathoms nor more than 200 fathoms in length measured on the cork line. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

6. Commercial fishing for salmon, other than trolling, north of a true line eastward from the southeastern extremity of Point Couverden is prohibited prior to 6 o'clock antemeridian June 20 and after 6 o'clock postmeridian August 10 in each calendar year: *Provided*, That this prohibition shall not apply to the use of gill nets from 6 o'clock postmeridian August 10 to 6 o'clock postmeridian August 31 in Lynn Canal and contiguous waters north of the north end of Sullivan Island.

7. Commercial fishing for salmon, other than trolling, from a true line eastward from the southeastern extremity of Point Couverden south to 58 degrees north latitude is prohibited prior to 6 o'clock antemeridian July 1, from 6 o'clock postmeridian August 15 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

8. Commercial fishing for salmon, other than trolling, south of 58 degrees north latitude is prohibited prior to 6 o'clock antemeridian July 5, from 6 o'clock postmeridian August 18 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

9. Commercial fishing for salmon by means of any trap is prohibited except in the period (*a*) from 6 o'clock antemeridian June 20 to 6 o'clock postmeridian August 10, north of a true line eastward from the southeastern extremity of Point Couverden, (*b*) from 6 o'clock antemeridian July 1 to 6 o'clock postmeridian August 15, from a true line eastward from the southeastern extremity of Point Couverden south to 58 degrees north latitude, and (*c*) from 6 o'clock antemeridian July 5 to 6 o'clock postmeridian August 18, south of 58 degrees north latitude.

10. Commercial fishing for salmon, other than trolling, is prohibited in Tenakee Inlet from 6 o'clock postmeridian July 24 to 6 o'clock antemeridian October 1 in each year.

11. The use of any beach seine is prohibited.

12. No boat used in operating any purse seine shall be longer than 50 feet as shown by official register length.

13. No trolling boat shall operate more than four trolling lines.

14. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

15. Purse seines are prohibited in Lynn Canal and contiguous waters north of 58 degrees 34 minutes 10 seconds north latitude.

16. Commercial fishing for salmon in Chilkat Inlet is prohibited north of a line from Green Point passing across the southern shore of Pyramid Island to the northern shore of Chilkat Inlet.

17. Commercial fishing for salmon in Chilkoot Inlet within a line 1 statute mile from the mouth of Chilkoot River is prohibited.

18. Commercial fishing for salmon is prohibited (1) in all bays tributary to Tenakee Inlet and in the waters of Tenakee Inlet west of 135 degrees 40 minutes west longitude, and (2) within 1 statute mile of the mouths of all salmon streams in Freshwater Bay: *Provided*, That these prohibitions shall not apply to trolling from January 1 to 6 o'clock postmeridian August 24.

19. Commercial fishing for salmon is prohibited in Port Frederick, northern shore of Chichagof Island, in all waters east of a line from Inner Point Sophia to Game Point, and in all waters south of 58 degrees 4 minutes 8 seconds north latitude, except that trolling will be permitted from November 1 to June 1, both dates inclusive. A portion of the waters closed is in the Icy Strait district.

20. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Baranof Island: Northwest coast beginning at a point 1,000 yards southward of Point Kakul and extending southward ½ statute mile.

(*b*) Baranof Island: Northwest coast within 2,500 feet of a point at 57 degrees 20 minutes 19 seconds north latitude, 135 degrees 40 minutes 13 seconds west longitude.

(*c*) Chichagof Island: Southwest coast within 2,500 feet of a point at 57 degrees 23 minutes 7 seconds north latitude, 135 degrees 39 minutes 56 seconds west longitude.

(*d*) Chichagof Island: East coast (1) within 2,500 feet of a point at 58 degrees 1 minute 43 seconds north latitude, 134 degrees 55 minutes 59 seconds west longitude, (2) within 2,500 feet of a point at 57 degrees 59 minutes 11 seconds north latitude, 134 degrees 54 minutes 34 seconds west longitude, (3) within 2,500 feet of a point at 57 degrees 56 minutes 56 seconds north latitude, 134 degrees 55 minutes 7 seconds west longitude, and (4) within 2,500 feet of a point at 57 degrees 52 minutes 7 seconds north latitude, 134 degrees 57 minutes 51 seconds west longitude.

(*e*) Chichagof Island: East coast (1) from 57 degrees 48 minutes 52 seconds north latitude to 57 degrees 48 minutes 25 seconds north latitude, (2) within 2,500 feet of a point at 57 degrees 44 minutes 18 seconds north latitude, 134 degrees 55 minutes 4 seconds west longitude, (3) within 2,500 feet of a point at 57 degrees 39 minutes 36 seconds north latitude, 134 degrees 53 minutes 45 seconds west longitude, (4) from 57 degrees 36 minutes 37 seconds north latitude to 57 degrees 35 minutes 52 seconds north latitude, and (5) within 2,500 feet of a point at 57 degrees 30 minutes 4 seconds north latitude, 134 degrees 49 minutes 38 seconds west longitude.

(*f*) Chichagof Island. Southeast coast within 1,500 feet of a point at 57 degrees 27 minutes 32 seconds north latitude, 134 degrees 55 minutes 59 seconds west longitude.

(*g*) Baranof Island: East coast from a point ½ statute mile south of Point Thatcher to a point at 57 degrees 23 minutes 37 seconds north latitude.

(*h*) Baranof Island: East coast from a point ½ statute mile southeasterly of South Point to the north side of the entrance to Cosmos Cove.

(*i*) Baranof Island: East coast within 2,500 feet of a point at 57 degrees 11 minutes 3 seconds north latitude, 134 degrees 48 minutes 43 seconds west longitude.

(*j*) Mansfield Peninsula: West coast within 2,500 feet of a point at 58 degrees 16 minutes 2 seconds north latitude.

(*k*) Mansfield Peninsula: West coast (1) from the south point of entrance to Funter Bay to 58 degrees 10 minutes 45 seconds north latitude, and (2) from 58 degrees 9 minutes 37 seconds north latitude to the southern extremity of the peninsula at the north side of the entrance to Hawk Inlet.

(*l*) Admiralty Island: West coast (1) from 57 degrees 38 minutes 7 seconds north latitude to 57 degrees 39 minutes 22 seconds north latitude, (2) from 57 degrees 40 minutes 47 seconds north latitude to 57 degrees 43 minutes 45 seconds north latitude, (3) from 57 degrees 50 minutes 2 seconds north latitude to 57 degrees 51 minutes 7 seconds north latitude, (4) from 57 degrees 53 minutes 30 seconds north latitude to 57 degrees 56 minutes 27 seconds north latitude, and (5) from 57 degrees 57 minutes 24 seconds north latitude to 58 degrees 2 minutes 7 seconds north latitude.

(*m*) Admiralty Island: West coast from 57 degrees 22 minutes 7 seconds north latitude to Distant Point.

(*n*) Killisnoo Island: South coast from 134 degrees 35 minutes 59 seconds west longitude to Point Samuel.

(*o*) Admiralty Island: West coast (1) from a point north of Wilson Cove at 57 degrees 10 minutes 37 seconds north latitude to 57 degrees 10 minutes 47 seconds north latitude, (2) from 57 degrees 12 minutes 37 seconds north latitude to 57 degrees 13 minutes 7 seconds north latitude, and (3) within 1,000 feet of a point at 57 degrees 13 minutes 57 seconds north latitude.

21. All commercial fishing for salmon is prohibited as follows:

(*a*) Wilson Cove, southwestern shore of Admiralty Island: All waters within the cove.

(*b*) Whitewater Bay, southwestern shore of Admiralty Island: All waters within a line from Point Caution to Woody Point.

(*c*) Chaik Bay, southwestern shore of Admiralty Island: All waters east of 134 degrees 28 minutes 59 seconds west longitude.

(*d*) Kootznahoo Inlet, western shore of Admiralty Island: All waters within the inlet.

(*e*) Warm Spring Bay, eastern shore of Baranof Island: All waters within the bay.

(*f*) Kelp Bay, east coast of Baranof Island: All waters in Middle Arm, and all waters in South Arm west of 134 degrees 56 minutes 59 seconds west longitude.

(*g*) Hanus Bay, northeast shore of Baranof Island: All waters in the bay south of a line from Point Hanus to Point Moses.

(*h*) Rodman Bay, northeast coast of Baranof Island: All waters west of 135 degrees 21 minutes 59 seconds west longitude.

(*i*) Sitkoh Bay, southeast shore of Chichagof Island: All waters within 1,000 yards of the mouth of any salmon stream.

(*j*) Basket Bay, east coast of Chichagof Island: All waters within the bay.

(*k*) Hawk Inlet, west coast of Admiralty Island: All waters of the inlet and its tributaries.

(*l*) Salt Lake Lagoon, Takanis Bay, southwest shore of Yakobi Island: All waters in the Lagoon and within 500 yards of its mouth.

(*m*) Redfish Bay, southwest shore of Baranof Island: All waters above a true east and west line passing through the southern end of the Second Narrows.

(*n*) Still Harbor, west coast of Baranof Island: All waters in the harbor.

(*o*) Port Banks, off Whale Bay, west coast of Baranof Island: All waters in Port Banks.

(*p*) Redoubt Bay, west coast of Baranof Island: All waters within 1,000 yards of the mouth of the stream flowing from Redoubt Lake.

Eastern district.—All territorial waters within a line extending from a point near the Hazy Islands at 55 degrees 54 minutes north latitude, 134 degrees 34 minutes west longitude, to the southern end of Cape Decision, thence following the watershed on Kuiu Island to a point on the east side of Kuiu Island at 56 degrees 40 minutes north latitude, 133 degrees 44 minutes 15 seconds west longitude, thence east across Keku Strait, thence across Kupreanof Island, passing north of Duncan Canal, to a point on the east coast of Kupreanof Island at 56 degrees 54 minutes north latitude, thence across Frederick Sound to Horn Cliffs on the mainland, thence to Castle Mountain, thence following the international boundary to Mount Ogilvie, thence to the northern extremity of Shelter Island, thence to the northern extremity of Mansfield Peninsula, thence following the watersheds on Mansfield Peninsula and Admiralty Island to the southern extremity of Point Gardner, thence west to the watershed on Baranof Island, thence following the watershed to the southern extremity of Cape Ommaney, thence to a point at 56 degrees 6 minutes north latitude, 134 degrees 51 minutes west longitude, thence to the point of beginning at 55 degrees 54 minutes north latitude, 134 degrees 34 minutes west longitude.

1. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

4. No floating trap shall exceed 900 feet in length when any part of such trap is in a greater depth of water than 100 feet at mean high tide. The length of any such trap shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

5. No salmon fishing boat shall carry or operate more than one seine of any description and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon-fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth, nor less than 150 fathoms nor more than 200 fathoms in length measured on the cork line. For the purpose

of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

6. Commercial fishing for salmon, except by trolling, is prohibited prior to 6 o'clock antemeridian June 25 in each calendar year: *Provided*, That this prohibition shall not apply to the use of gill nets in Taku Inlet after 6 o'clock antemeridian May 10.

7. Commercial fishing for salmon, other than trolling, north of 57 degrees north latitude is prohibited for the remainder of each calendar year after 6 o'clock postmeridian August 18: *Provided*, That this prohibition shall not apply to the use of drift gill nets in Taku Inlet from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 30: *And provided further*, That commercial fishing for salmon between 57 degrees north latitude and 58 degrees north latitude is permitted from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 15.

8. Commercial fishing for salmon, other than trolling, south of 57 degrees north latitude is prohibited for the remainder of each calendar year after 6 o'clock postmeridian August 18: *Provided*, That commercial fishing for salmon is permitted from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 15.

9. Commercial fishing for salmon in Taku Inlet eastward of a line beginning on the shore northward of Taku Point at 133 degrees 58 minutes 58 seconds west longitude, thence running due north to the opposite shore, thence following the shore line to the mouth of Taku River, is prohibited, except that in these closed waters south of a line extending from a point at 58 degrees 25 minutes 58 seconds north latitude, 133 degrees 58 minutes 35 seconds west longitude, to a point at 58 degrees 25 minutes 8 seconds north latitude, 133 degrees 55 minutes 50 seconds west longitude, such fishing is permitted by gill nets from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 30.

10. Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 15 in each year.

11. The use of any beach seine is prohibited.

12. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

13. No trolling boat shall operate more than four trolling lines.

14. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

15. No gill net used in Taku Inlet shall exceed 150 fathoms in length hung measure.

16. The use of any trap for the capture of salmon is prohibited except as follows:

(*a*) Mainland: From the south side of Limestone Inlet at 58 degrees 1 minute 52 seconds north latitude southward to a point at 58 degrees 1 minute 10 seconds north latitude.

(*b*) Mainland, east side of Stephens Passage from 57 degrees 35 minutes 42 seconds north latitude, 133 degrees 37 minutes 8 seconds west longitude, to 57 degrees 36 minutes 52 seconds north latitude, 133 degrees 39 minutes 17 seconds west longitude.

(*c*) Mainland, east side of Stephens Passage: Within 2,500 feet of a point at 57 degrees 28 minutes 8 seconds north latitude, 133 degrees 30 minutes 42 seconds west longitude.

(*d*) Mainland, east side of Stephens Passage: Along the coast (1) within 2,500 feet of a point at 57 degrees 21 minutes 18 seconds north latitude, 133 degrees 26 minutes 37 seconds west longitude, and (2) within 2,500 feet of a point at 57 degrees 23 minutes 4 seconds north latitude, 133 degrees 27 minutes 42 seconds west longitude.

(*e*) Mainland, Frederick Sound: From a point on the south side of Fanshaw Bay at 133 degrees 32 minutes 27 seconds west longitude to Cape Fanshaw, thence southeasterly to 133 degrees 29 minutes 57 seconds west longitude.

(*f*) Admiralty Island: Southeast coast (1) from Point Pybus to 57 degrees 18 minutes 57 seconds north latitude; and (2) from 57 degrees 20 minutes 7 seconds north latitude, 133 degrees 54 minutes 58 seconds west longitude, to False Point Pybus.

(*g*) Admiralty Island: Southeast coast (1) from 57 degrees 12 minutes 6 seconds north latitude to 57 degrees 11 minutes 21 seconds north latitude; (2) from 57 degrees 10 minutes 36 seconds north latitude to Deepwater Point; (3) within 2,500 feet of a point at 57 degrees 8 minutes 19 seconds north latitude, 134 degrees 17 minutes 16 seconds west longitude; and (4) within 2,500 feet of a point at 57 degrees 7 minutes 28 seconds north latitude, 134 degrees 19 minutes 30 seconds west longitude.

(*h*) Admiralty Island: Southeast coast from a point ½ statute mile southwest of Point Brightman to a point at 57 degrees 3 minutes 25 seconds north latitude, 134 degrees 27 minutes 18 seconds west longitude.

(*i*) Admiralty Island: Southeast coast within 2,500 feet of a point at 57 degrees 1 minute 41 seconds north latitude, 134 degrees 29 minutes 10 seconds west longitude.

(*j*) Kupreanof Island: Northwest coast (1) from a point ½ statute mile southeast of Point Macartney northward to the outer extremity of Point Macartney; (2) from 57 degrees 3 minutes 21 seconds north latitude, 134 degrees 1 minute 13 second west longitude, to 57 degrees 3 minutes 45 seconds north latitude, 134 degrees 0 minutes 58 seconds west longitude; and (3) within 2,500 feet of a point at 57 degrees 4 minutes 54 seconds north latitude, 133 degrees 56 minutes 13 seconds west longitude (as shown on U. S. Coast and Geodetic Survey chart No. 8200).

(*k*) Kuiu Island: Within ¼ statute mile of the western extremity of Cornwallis Point.

(*l*) Kuiu Island: Northwest coast (1) within 2,500 feet of a point at 56 degrees 33 minutes 39 seconds north latitude, 134 degrees 15 minutes 40 seconds west longitude; (2) within 2,500 feet of a point at 56 degrees 33 minutes 15 seconds north latitude, 134 degrees 17 minutes 53 seconds west longitude; (3) from a point 1 statute mile north of the north side of the entrance to Washington Bay to 56 degrees 45 minutes 56 seconds north latitude; (4) from 56 degrees 47 minutes 51 seconds north latitude to 56 degrees 48 minutes 11 seconds north latitude; and (5) from 56 degrees 50 minutes 26 seconds north latitude to the point at the east side of the entrance to Band Cove.

17. All commercial fishing for salmon is prohibited as follows:

(*a*) Port Houghton, indenting mainland: All waters in Sanborn Canal.

(*b*) Windham Bay, indenting mainland: All waters of the bay east of 133 degrees 21 minutes 57 seconds west longitude.

(*c*) Gambier Bay, east coast of Admiralty Island: All waters west of 134 degrees 2 minutes 58 seconds west longitude.

(*d*) Port Camden, east coast of Kuiu Island: All waters of Port Camden south of 56 degrees 40 minutes 7 seconds north latitude.

(*e*) Kadak Bay, east coast of Kuiu Island: All waters of Kadak Bay within a line from a point at 56 degrees 48 minutes 27 seconds north latitude, 133 degrees 56 minutes 15 seconds west longitude, to a point at 56 degrees 48 minutes 47 seconds north latitude, 133 degrees 57 minutes 27 seconds west longitude.

(*f*) Hamilton Bay, west coast of Kupreanof Island: All waters east of 133 degrees 46 minutes 57 seconds west longitude.

(*g*) Keku Strait, east coast of Kuiu Island: Waters of Keku Strait, including all waters of Big Johns Bay, enclosed by a line from a point at 56 degrees 35 minutes 7 seconds north latitude, 133 degrees 42 minutes 32 seconds west longitude, to a point at 56 degrees 35 minutes 7 seconds north latitude, 133 degrees 39 minutes 57 seconds west longitude, and a line from the northern extremity of Point Camden to a point at 56 degrees 48 minutes 47 seconds north latitude, 133 degrees 45 minutes 57 seconds west longitude. A portion of the closed waters of Big Johns Bay is north of 56 degrees 48 minutes 47 seconds north latitude. A part of the waters closed is in the Sumner Strait district.

(*h*) Tebenkof Bay, west coast of Kuiu Island: All waters of Elena Bay north and east of a line extending from a point 56 degrees 29 minutes 56 seconds north latitude, 134 degrees 6 minutes 28 seconds west longitude, southerly to a point at 56 degrees 29 minutes 5 seconds north latitude, 134 degrees 5 minutes 28 seconds west longitude.

(*i*) Bay of Pillars, west coast of Kuiu Island: All waters in south arm of the bay east of 134 degrees 11 minutes 40 seconds west longitude.

(*j*) Security Bay, northwest coast of Kuiu Island: All waters within 1,000 yards of any salmon stream.

(*k*) Saginaw Bay, northwest coast of Kuiu Island: All waters of the bay within a line from a point on the southwest shore at 56 degrees 51 minutes 36 seconds north latitude to a point on the northeast shore at 56 degrees 53 minutes 6 seconds north latitude.

(*l*) Red Bluff Bay, east coast of Baranof Island: All waters in the bay west of 134 degrees 45 minutes 28 seconds west longitude.

(*m*) Gut Bay, east coast of Baranof Island: All waters of the bay west of 134 degrees 43 minutes 28 seconds west longitude.

(*n*) Little Port Walter, east coast of Baranof Island: All waters in Little Port Walter inside the light dolphin in the narrows.

Stikine district.—All territorial waters within a line extending from Horn Cliffs on the mainland to Frederick Point on Mitkof Island, thence to Point Howe, thence to South Craig Point on Zarembo Island, thence to Drag Island in Chichagof Pass, thence to Chichagof Peak on Wrangell Island, thence to Babbler Point on the mainland, thence to Mount Cote, thence following the international boundary to Castle Mountain, thence to the point of beginning at Horn Cliffs.

1. Commercial fishing for salmon shall be conducted solely by trolling and by drift gill nets, which shall not be less than 125 fathoms in length nor more than 300 fathoms in length each.

2. Commercial fishing for salmon, except by trolling, is prohibited during the period from 6 o'clock antemeridian June 1 to 6 o'clock antemeridian June 26 in each calendar year and for the remainder of each year after 6 o'clock antemeridian September 23.

3. No trolling boat shall operate more than four trolling lines.

4. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

Sumner Strait district.—All territorial waters within a line extending from a point near the Hazy Islands at 55 degrees 54 minutes north latitude, 134 degrees 34 minutes west longitude, to the southern end of Cape Decision, thence following the watershed on Kuiu Island to a point on the east side of Kuiu Island at 56 degrees 40 minutes north latitude, 133 degrees 44 minutes 15 seconds west longitude, thence east across Keku Strait, thence across Kupreanof Island, passing north of Duncan Canal, to a point on the east coast of Kupreanof Island at 56 degrees 54 minutes north latitude, thence across Frederick Sound to Horn Cliffs on the mainland, thence to Frederick Point on Mitkof Island, thence to Point Howe, thence to South Craig Point on Zarembo Island, thence to Drag Island in Chichagof Pass, thence to Chichagof Peak on Wrangell Island, thence to Babbler Point on the mainland, thence to Mount Cote, thence following the international boundary to Mount Lewis Cass, thence southerly and westerly along the watershed to a point at 55 degrees 45 minutes 30 seconds north latitude, 132 degrees west longitude, thence in a northwesterly direction through Union Point to the southern extremity of Ernest Point, thence northerly to a point on Etolin Island at 55 degrees 54 minutes 45 seconds north latitude, 132 degrees 21 minutes west longitude, thence in a northerly and westerly direction along the watershed of Etolin Island to a point northwest of the head of Mosman Inlet at 56 degrees 9 minutes 45 seconds north latitude, 132 degrees 37 minutes 15 seconds west longitude, thence southerly to a point at 56 degrees 6 minutes north latitude, 132 degrees 37 minutes 15 seconds west longitude, thence in a northwesterly direction along the watershed to the northern extremity of Point Harrington, thence in a westerly direction to the northern extremity of East Island, thence in a southwesterly direction to the southern extremity of West Island, thence in a westerly direction to a point on the east shore of Prince of Wales Island at 56 degrees 9 minutes 15 seconds north latitude, 133 degrees 2 minutes 45 seconds west longitude, thence southerly along the watershed of Prince of Wales Island to a point at 55 degrees 40 minutes north latitude, 132 degrees 50 minutes west longitude, thence west to a point at 55 degrees 40 minutes north latitude, 134 degrees 17 minutes 10 seconds west longitude, thence to the point of beginning at 55 degrees 54 minutes north latitude, 134 degrees 34 minutes west longitude.

1. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

4. No floating trap shall exceed 900 feet in length when any part of such trap is in a greater depth of water than 100 feet at mean high tide. The length of any such trap shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

5. No salmon fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth nor less than 150 fathoms nor more than 200 fathoms in length, measured on the cork line. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

6. Commercial fishing for salmon, other than trolling, is prohibited prior to 6 o'clock antemeridian July 10 in each calendar year, from 6 o'clock postmeridian August 22 to 6 o'clock antemeridian October 1 in each year, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

7. Commercial fishing for salmon by means of any trap is prohibited except in the period from 6 o'clock antemeridian July 10 to 6 o'clock postmeridian August 22 in each year.

8. The use of any beach seine is prohibited, except in Wrangell Narrows, where beach seines not less than 65 fathoms nor more than 100 fathoms in length may be used.

9. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

10. No trolling boat shall operate more than four trolling lines.

11. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

12. Commercial fishing for salmon, except by trolling, is prohibited in Anita Bay, opening into Zimovia Strait, Etolin Island.

13. Commercial fishing for salmon is prohibited in all waters of Bradfield Canal east of 131 degrees 55 minutes 30 seconds west longitude: *Provided*, That this prohibition shall not apply to trolling prior to 6 o'clock antemeridian June 1 and after 6 o'clock postmeridian September 30 in each year.

14. Commercial fishing for salmon is prohibited in all waters of Blake Channel and Eastern Passage between Bradfield Canal and a line from Babbler Point to a point on Wrangell Island at 56 degrees 27 minutes 50 seconds north latitude, 132 degrees 17 minutes 15 seconds west longitude: *Provided*, That this prohibition shall not apply to trolling prior to 6 o'clock antemeridian June 1 and after 6 o'clock postmeridian September 30 in each year.

15. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Heceta Island: Western and southern coast from a point at 55 degrees 43 minutes 13 seconds north latitude, 133 degrees 37 minutes 20 seconds west longitude, to a point at 55 degrees 41 minutes 36 seconds north latitude, 133 degrees 31 minutes 37 seconds west longitude.

(*b*) Tuxekan Island: Western coast from a point at 55 degrees 52 minutes 56 seconds north latitude southerly to a point at 55 degrees 52 minutes 21 seconds north latitude.

(*c*) Tuxekan Island: Western coast within 1,000 feet of the western extremity of Turn Point.

(*d*) Kosciusko Island: Western coast within 2,500 feet of a point at 55 degrees 55 minutes 20 seconds north latitude, 133 degrees 48 minutes 9 seconds west longitude.

(*e*) Warren Island, near Kosciusko Island: East coast of Warren Island within 2,500 feet of a point at 55 degrees 51 minutes 37 seconds north latitude.

(*f*) Kuiu Island: Southeast coast from a point at 56 degrees 0 minutes 25 seconds north latitude, 134 degrees 7 minutes 45 seconds west longitude, to a point at 56 degrees 2 minutes 15 seconds north latitude, 134 degrees 6 minutes 48 seconds west longitude.

(*g*) Kuiu Island: East coast (1) within 2,500 feet from a point at 56 degrees 13 minutes 25 seconds north latitude, 133 degrees 52 minutes 32 seconds west longitude, and (2) within 2,500 feet from a point at 56 degrees 14 minutes 30 seconds north latitude, 133 degrees 53 minutes west longitude.

(*h*) Kuiu Island: East coast of peninsula between Port Beauclerc and Reid Bay from 56 degrees 18 minutes 36 seconds north latitude northward to 56 degrees 19 minutes 6 seconds north latitude.

(*i*) Kupreanof Island: Southwest coast within 5,000 feet southerly from a point at 56 degrees 26 minutes 52 seconds north latitude, 133 degrees 39 minutes 25 seconds west longitude.

(*j*) Prince of Wales Island: Northwest coast within 2,500 feet of a point at 56 degrees 19 minutes 3 seconds north latitude, 133 degrees 39 minutes 42 seconds west longitude (as shown on U. S. Coast and Geodetic Survey chart No. 8174).

(*k*) Prince of Wales Island: North coast between 133 degrees 29 minutes 1 second west longitude and 133 degrees 33 minutes 27 seconds west longitude.

(*l*) Prince of Wales Island: North coast between 133 degrees 23 minutes 27 seconds west longitude and 133 degrees 24 minutes 22 seconds west longitude.

(*m*) Prince of Wales Island: North coast from Pine Point to Point Colpoys.

(*n*) Kupreanof Island: Southern coast within 2,500 feet from a point at 56 degrees 26 minutes 14 seconds north latitude, 133 degrees 29 minutes 32 seconds west longitude.

(*o*) Zarembo Island: Southwest coast within 2,500 feet of a point at 56 degrees 15 minutes 6 seconds north latitude, 132 degrees 53 minutes 27 seconds west longitude.

(*p*) Etolin Island: West coast (1) from 56 degrees 16 minutes 50 seconds north latitude southerly to a point at 56 degrees 16 minutes 29 seconds north latitude, and (2) between Steamer Point light and Steamer Point.

(*q*) Cleveland Peninsula: West coast within 2,500 feet of a point at 55 degrees 54 minutes 52 seconds north latitude, 132 degrees 3 minutes 29 seconds west longitude.

16. All commercial fishing for salmon is prohibited, as follows:

(*a*) Salmon Bay and tributary waters, northeast coast of Prince of Wales Island: All waters within the bay and its tributary waters and within ½ statute mile outside the mouth of Salmon Bay.

(*b*) Red Bay, north shore of Prince of Wales Island: All waters south of a true east and west line passing through the north shore of Dead Island.

(*c*) Olive Cove, indenting the northeastern shore of Etolin Island.

(*d*) Thoms Place, indenting the southwestern shore of Wrangell Island, Zimovia Strait.

(*e*) Fools Inlet, southeast coast of Wrangell Island: All waters within 1 statute mile of the mouth of the salmon stream flowing into the head of the inlet.

(*f*) Duncan Canal, Kupreanof Island: All waters within 1 statute mile of any salmon stream tributary to Duncan Canal.

(*g*) Kah Sheets Bay, southeast coast of Kupreanof Island: All waters within 1,000 yards of the mouth of the salmon stream flowing into the head of the bay.

(*h*) Totem Bay, south coast of Kupreanof Island: All waters within 1,000 yards of the mouth of any salmon stream flowing into the head of the bay.

(*i*) Barrie Creek, north of Point Barrie, southwest shore of Kupreanof Island: All waters within 1 statute mile of the mouth of the creek.

(*j*) Keku Strait, east coast of Kuiu Island: Waters of Keku Strait, including all waters of Big Johns Bay, enclosed by a line from a point at 56 degrees 35 minutes 7 seconds north latitude, 133 degrees 42 minutes 32 seconds west longitude, to a point at 56 degrees 35 minutes 7 seconds north latitude, 133 degrees 39 minutes 57 seconds west longitude, and a line from the northern extremity of Point Camden to a point at 56 degrees 48 minutes 47 seconds north latitude, 133 degrees 45 minutes 57 seconds west longitude. A portion of the closed waters of Big Johns Bay is north of 56 degrees 48 minutes 47 seconds north latitude. A part of the waters closed is in the eastern district.

(*k*) Three Mile Arm, east coast of Kuiu Island: All waters within 1,000 yards of the mouth of any salmon stream.

(*l*) Seclusion Harbor, east coast of Kuiu Island: All waters within the outermost points of the harbor.

(*m*) Port Beauclerc, southeastern coast of Kuiu Island: All waters within 1,000 yards of the mouth of any salmon stream tributary to Port Beauclerc.

(*n*) Affleck Canal, southeastern coast of Kuiu Island: Bear Harbor north of 56 degrees 15 minutes 6 seconds north latitude, and East Arm north of 56 degrees 17 minutes 36 seconds north latitude.

(*o*) Calder Bay, west coast of Prince of Wales Island: All waters north of 56 degrees 11 minutes 12 seconds north latitude.

(*p*) El Capitan Passage, between Kosciusko Island and Prince of Wales Island: El Capitan Passage and contiguous waters between 56 degrees 7 minutes 36 seconds north latitude and a line extending due north from the point of land on Kosciusko Island at 56 degrees 8 minutes 53 seconds north latitude, 133 degrees 27 minutes 37 seconds west longitude, including all waters of Devilfish Bay.

(*q*) Shipley Bay, west coast of Kosciusko Island: All waters east of 133 degrees 33 minutes 5 seconds west longitude.

(*r*) Sarkar Cove, west coast of Prince of Wales Island, tributary to El Capitan Passage: All waters inside of a line across the entrance.

(*s*) Tuxekan Passage and contiguous waters east of 133 degrees 17 minutes west longitude.

Clarence Strait district.—All territorial waters within a line extending from the southern extremity of Cape Chacon, thence east along the international boundary to a point at 131 degrees 40 minutes west longitude, thence north to a point west of Point Davison at 55 degrees north latitude, 131 degrees 40 minutes west longitude, thence to the southern extremity of Point Davison, thence northerly along the watershed of Annette Island to the northern extremity of Walden Point, thence to the southern extremity of Gravina Point, thence northwesterly to the northern extremity of Vallenar Point, thence to the southern extremity of Caamano Point, thence northeasterly along the watershed of Cleveland Peninsula to a point at 55 degrees 45 minutes 30 seconds north latitude, 132 degrees west longitude, thence in a northwesterly direction through Union Point to the southern extremity of Ernest Point, thence northerly to a point on Etolin Island at 55 degrees 54 minutes 45 seconds north latitude, 132 degrees 21 minutes west longitude, thence in a northerly and westerly direction along the watershed of Etolin Island to a point northwest of the head of Mosman Inlet at 56 degrees 9 minutes 45 seconds north latitude, 132 degrees 37 minutes 15 seconds west longitude, thence southerly to a point at 56 degrees 6 minutes north latitude, 132 degrees 37 minutes 15 seconds west longitude, thence in a northwesterly direction along the watershed to the northern extremity of Point Harrington, thence in a westerly direction to the northern extremity of East Island, thence in a southwesterly direction to the southern extremity of West Island, thence in a westerly direction to a point on the east shore of Prince of Wales Island, at 56 degrees 9 minutes 15 seconds north latitude, 133 degrees 2 minutes 45 seconds west longitude, thence southeasterly along the watershed of Prince of Wales Island to the point of beginning at Cape Chacon.

1. The total aggregate length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

4. No floating trap shall exceed 900 feet in length when any part of such trap is in a greater depth of water than 100 feet at mean high tide. The length of any such trap shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

5. No salmon fishing boat shall carry or operate more than one seine of any description and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth nor less than 150 fathoms nor more than 200 fathoms in length, measured on the cork line. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

6. Commercial fishing for salmon, other than trolling, north of a line extending from Narrow Point to Ernest Point is prohibited prior to 6 o'clock antemeridian July 15, from 6 o'clock postmeridian August 28 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

7. Commercial fishing for salmon, other than trolling, between a line extending from Narrow Point to Ernest Point and a line extending from Approach Point to Caamano Point is prohibited prior to 6 o'clock antemeridian July 15, from 6 o'clock postmeridian August 25 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

8. Commercial fishing for salmon, other than trolling, south of a line extending from Approach Point to Caamano Point and east of a line extending down the middle of Clarence Strait is prohibited prior to 6 o'clock antemeridian July 10, from 6 o'clock postmeridian August 22 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

9. Commercial fishing for salmon, other than trolling, south of a line extending from Approach Point to Caamano Point and west of a line extending down the middle of Clarence Strait is prohibited prior to 6 o'clock antemeridian July 10, from 6 o'clock postmeridian August 23 to 6 o'clock antemeridian October 5, and for the remainder of each calendar year after 6 o'clock postmeridian October 20.

10. Commercial fishing for salmon by means of any trap is prohibited in the period from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 15.

11. The use of any beach seine is prohibited.

12. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

13. No trolling boat shall operate more than four trolling lines.

14. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

15. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Etolin Island: West coast from 56 degrees 9 minutes 20 seconds north latitude southward to 56 degrees 7 minutes 55 seconds north latitude.

(*b*) Etolin Island: West coast from 56 degrees 4 minutes 35 seconds north latitude southeasterly to 56 degrees 3 minutes 35 seconds north latitude.

(*c*) West coasts of Observation Island, Marsh Island, and the northwesternmost island of the Screen Islands group.

(*d*) East Island: East coast within 2,500 feet of a point at 56 degrees 10 minutes 6 seconds north latitude, 132 degrees 54 minutes 13 seconds west longitude.

(*e*) Prince of Wales Island: East coast from a point 1 statute mile south of the mouth of Eagle Creek to 55 degrees 55 minutes 20 seconds north latitude.

(*f*) Prince of Wales Island: East coast from a point at 55 degrees 51 minutes 30 seconds north latitude southeasterly to a point at 55 degrees 50 minutes 50 seconds north latitude.

(*g*) Prince of Wales Island: East coast from a point at 55 degrees 47 minutes 35 seconds north latitude southeasterly to a point at 55 degrees 46 minutes 45 seconds north latitude.

(*h*) Onslow Island: West coast from a point south of Gull Point at 55 degrees 52 minutes 57 seconds north latitude to Ernest Point.

(*i*) Cleveland Peninsula: South side of Ernest Sound within 1,500 feet of a point on the northwestern extremity of Union Point at 55 degrees 48 minutes 10 seconds north latitude, 132 degrees 11 minutes west longitude.

(*j*) Cleveland Peninsula: East side of Clarence Strait within 2,000 feet southerly of a point at 55 degrees 45 minutes 48 seconds north latitude, 132 degrees 17 minutes 5 seconds west longitude.

(*k*) Cleveland Peninsula: West coast (1) from a point at 55 degrees 44 minutes 12 seconds north latitude, 132 degrees 15 minutes 31 seconds west longitude, southerly to 55 degrees 43 minutes 5 seconds north latitude, (2) from 55 degrees 40 minutes 5 seconds north latitude to 55 degrees 39 minutes 35 seconds north latitude, (3) from 55 degrees 36 minutes 15 seconds north latitude to 55 degrees 34 minutes 50 seconds north latitude, (4) from 55 degrees 33 minutes 35 seconds north latitude to 55 degrees 32 minutes 35 seconds north latitude, 132 degrees 3 minutes 55 seconds west longitude, (5) from 55 degrees 31 minutes 27 seconds north latitude, 132 degrees 1 minute 55 seconds west longitude, to 131 degrees 59 minutes 55 seconds west longitude, and (6) within 2,500 feet of a point at 55 degrees 30 minutes 11 seconds north latitude, 131 degrees 59 minutes 19 seconds west longitude.

(*l*) Westerly side of the Vallenar Rock Island located about 800 yards from the northern extremity of Vallenar Point.

(*m*) Gravina Island: West coast (1) from South Vallenar Point to 55 degrees 20 minutes 48 seconds north latitude, (2) from 55 degrees 18 minutes 50 seconds north latitude to 55 degrees 8 minutes 15 seconds north latitude, including the rocky islets adjacent to this coast, and (3) the Bronaugh Islands south of 55 degrees 7 minutes 10 seconds north latitude.

(*n*) Gravina Island: East coast (1) within 2,500 feet of a point at 55 degrees 19 minutes 30 seconds north latitude, and (2) within 2,500 feet of a point at 55 degrees 12 minutes north latitude near the south side of the entrance to Bostwick Inlet.

(*o*) Gravina Island: East coast from 55 degrees 15 minutes north latitude northward to Blank Point at 55 degrees 15 minutes 11 seconds north latitude, 131 degrees 40 minutes 13 seconds west longitude.

(*p*) Annette Island: West coast from Walden Point to Davison Point, including the west shore of Warburton Island, exclusive of the coast between 55 degrees 10 minutes 5 seconds north latitude and 55 degrees 11 minutes 5 seconds north latitude.

(*q*) Grindall Island, off Grindall Point, Prince of Wales Island: Within 3,500 feet northwesterly of the eastern extremity of Approach Point.

(*r*) Prince of Wales Island: East coast (1) from a point on Grindall Point at 55 degrees 28 minutes 10 seconds north latitude northwesterly to a point at 55 degrees 28 minutes 35 seconds north latitude, (2) from 55 degrees 30 minutes 5 seconds north latitude to 55 degrees 31 minutes 5 seconds north latitude, and (3) from 55 degrees 38 minutes 20 seconds north latitude to a point southeasterly of Tolstoi Point at 55 degrees 39 minutes 5 seconds north latitude.

(*s*) Prince of Wales Island: East coast within 2,500 feet southerly of a point at 55 degrees 23 minutes 40 seconds north latitude, 132 degrees 13 minutes 55 seconds west longitude.

(*t*) Prince of Wales Island: East coast (1) from 55 degrees 20 minutes 15 seconds north latitude to 55 degrees 20 minutes 56 seconds north latitude, 132 degrees 9 minutes 38 seconds west longitude, (2) within 2,500 feet of a point at 55 degrees 22 minutes 15 seconds north latitude, 132 degrees 9 minutes 55 seconds, west longitude, and (3) within 2,500 feet of a point at 55 degrees 22 minutes 22 seconds north latitude, 132 degrees 11 minutes 15 seconds west longitude.

(*u*) Prince of Wales Island: East coast (1) Wedge Island, (2) from 55 degrees 11 minutes 25 seconds north latitude to 55 degrees 12 minutes 5 seconds north latitude, and (3) within 4,000 feet northerly from a point on a small island between Halibut Creek and Chasina Point, at approximately 55 degrees 15 minutes 5 seconds north latitude.

(*v*) Prince of Wales Island: East coast within 2,500 feet of a point at 55 degrees 6 minutes 51 seconds north latitude, 131 degrees 59 minutes 40 seconds west longitude.

(*w*) Prince of Wales Island: East coast (1) within 1,000 feet of an unnamed islet at 55 degrees 2 minutes north latitude, and (2) eastern shore of Polk Island.

(*x*) Prince of Wales Island: East coast, including adjacent rocks, from 54 degrees 56 minutes north latitude to 54 degrees 57 minutes 45 seconds north latitude.

(*y*) Prince of Wales Island: From the outer point of land on the north side of Kendrick Bay at approximately 131 degrees 58 minutes 25 seconds west longitude northward for a distance of 2,500 feet.

(*z*) Prince of Wales Island: East coast from a point at 54 degrees 49 minutes 50 seconds north latitude, 131 degrees 57 minutes 35 seconds west longitude, north of the entrance to Gardner Bay, northwesterly to a point on the south side of Kendrick Bay at 131 degrees 58 minutes 55 seconds west longitude.

(*aa*) Prince of Wales Island: East coast from McLean Point to a point 3,500 feet southward.

(*bb*) Prince of Wales Island: East coast from 54 degrees 42 minutes 12 seconds north latitude to 54 degrees 44 minutes 30 seconds north latitude.

16. All commercial fishing for salmon is prohibited, as follows:

(*a*) Moira Sound, east coast of Prince of Wales Island: South Arm south of 54 degrees 57 minutes 34 seconds north latitude, all waters in Frederick Cove, Kegan Cove, and within 1,000 yards of the mouth of any salmon stream in Johnson Cove.

(*b*) Dolomi Bay, tributary to Port Johnson, east coast of Prince of Wales Island: All waters within the outermost points of the bay.

(*c*) Cholmondeley Sound, east coast of Prince of Wales Island: All waters in Dora Bay and Sunny Cove.

(*d*) Skowl Arm, Prince of Wales Island: McKenzie Inlet south of 55 degrees 21 minutes 35 seconds north latitude, and Polk Inlet south of 55 degrees 25 minutes 15 seconds north latitude.

(*e*) Twelvemile Arm, Kasaan Bay: All waters tributary to the west side of Twelvemile Arm within a line from a point at 55 degrees 27 minutes 15 seconds north latitude, 132 degrees 39 minutes 55 seconds west longitude, to a point at 55 degrees 28 minutes 46 seconds north latitude, 132 degrees 38 minutes 25 seconds west longitude.

(*f*) Kasaan Bay, east coast of Prince of Wales Island: Within 1 statute mile of the mouth of any salmon stream in Karta Bay.

(*g*) Thorne and Tolstoi Bays, east coast of Prince of Wales Island: Within 1 statute mile of the mouth of any salmon stream, and all waters of Thorne Bay west of 132 degrees 28 minutes 35 seconds west longitude.

(*h*) Ratz Harbor, indenting the eastern shore of Prince of Wales Island: All waters within the harbor.

(*i*) Eagle Creek, about 1 mile south of Luck Point, northeast coast of Prince of Wales Island: All waters within 1 statute mile of the mouth of the creek.

(*j*) Barnes Lake, at head of Lake Bay, northeast coast of Prince of Wales Island: All waters in Barnes Lake and within 500 yards outside its entrance.

(*k*) Whale Passage, northeast coast of Prince of Wales Island: All waters within 1,000 yards of the mouth of any salmon stream.

(*l*) McHenry Inlet, southwest coast of Etolin Island: All waters within 1,000 yards of the salmon streams emptying into the head of McHenry Inlet.

(*m*) Rocky Bay, west coast of Etolin Island: All waters within 1 statute mile of the head of the bay.

South Prince of Wales Island district.—All territorial waters within a line extending from a point west of the Maurelle Islands at 55 degrees 40 minutes north latitude, 134 degrees 17 minutes 10 seconds west longitude, thence to a point west of Cape Addington at 55 degrees 25 minutes 30 seconds north latitude, 134 degrees west longitude, thence to a point southwest of Forrester Island at 54 degrees 40 minutes north latitude, 133 degrees 35 minutes west longitude, thence to the southern extremity of Cape Muzon, thence to the southern extremity of Cape Chacon, thence in a northwesterly direction along the watershed of Prince of Wales Island to a point at 55 degrees 40 minutes north latitude, 132 degrees 50 minutes west longitude, thence to the point of beginning at 55 degrees 40 minutes north latitude, 134 degrees 17 minutes 10 seconds west longitude.

1. The total aggregate length of gill nets on any salmon-fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

4. No floating trap shall exceed 900 feet in length when any part of such trap is in a greater depth of water than 100 feet at mean high tide. The length of any such trap shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

5. No salmon fishing boat shall carry or operate more than one seine of any description and no additional net of any kind except leads shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth, nor less than 150 fathoms nor more than 200 fathoms in length measured on the cork line. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 75 fathoms in length and having mesh less than 7 inches stretched measure between knots is prohibited.

6. Commercial fishing for salmon, other than trolling, is prohibited prior to 6 o'clock antemeridian July 15 in each calendar year, from 6 o'clock postmeridian August 29 to 6 o'clock antemeridian October 1 in each year, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

7. Commercial fishing for salmon by means of any trap is prohibited except in the period from 6 o'clock antemeridian July 15 to 6 o'clock postmeridian August 29 in each year.

8. The use of any beach seine is prohibited.

9. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

10. No trolling boat shall operate more than four trolling lines.

11. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

12. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Noyes Island: North coast between 133 degrees 39 minutes 57 seconds west longitude and 133 degrees 42 minutes 13 seconds west longitude.

(*b*) Noyes Island: North coast within 2,500 feet of the northern extremity of Cape Ulitka at 55 degrees 33 minutes 42 seconds north latitude, 133 degrees 43 minutes 40 seconds west longitude.

(*c*) Noyes Island: Southwest coast within 2,500 feet along the northwestern shore of an unnamed peninsula from a point at 55 degrees 27 minutes 32 seconds north latitude, 133 degrees 48 minutes 8 seconds west longitude.

(*d*) San Fernando Island: Northern coast from Point Garcia to a point on the coast at 55 degrees 34 minutes 7 seconds north latitude, 133 degrees 23 minutes 57 seconds west longitude.

(*e*) San Fernando Island: Southeastern coast from a point on the coast 1½ statute miles southwest of Fern Point southerly to a point 2 statute miles northeasterly of Point Amargura.

(*f*) St. Philip Island: Within 2,500 feet of the western extremity of the island.

(*g*) Blanquizal Island: Coast west of 133 degrees 23 minutes 57 seconds west longitude.

(*h*) Prince of Wales Island: Coast along San Christoval Channel from a point at 55 degrees 37 minutes 6 seconds north latitude southward to 133 degrees 17 minutes 20 seconds west longitude.

(*i*) St. Ignace Island: Within ⅜ statute mile of the southern extremity of the island.

(*j*) Baker Island: East coast from Point Maria to Point Capones.

(*k*) Suemez Island: Northern coast from 55 degrees 20 minutes north latitude, 133 degrees 23 minutes 38 seconds west longitude, to 133 degrees 20 minutes 36 seconds west longitude.

(*l*) Prince of Wales Island: Coast from a point north of Point Providence at 133 degrees 15 minutes 10 seconds west longitude to a point on the coast between Tranquil Point and Point Batan at 133 degrees 12 minutes 56 seconds west longitude.

(*m*) Dall Island: West coast within 5,000 feet southerly of a point at 54 degrees 44 minutes 26 seconds north latitude, 132 degrees 53 minutes 9 seconds west longitude.

(*n*) Dall Island: Coast from a point on the south side of the entrance to McLeod Bay at 54 degrees 41 minutes 7 seconds north latitude, southeasterly to Kaigani village, including coast line of nearby island within 300 feet of a point at 54 degrees 40 minutes 34 seconds north latitude, 132 degrees 39 minutes 46 seconds west longitude.

(*o*) Long Island, east of Dall Island: West coast within 2,500 feet measured along the coast from 54 degrees 46 minutes 19 seconds north latitude.

(*p*) Sukkwan Island: Southwestern coast (1) from 55 degrees 2 minutes 35 seconds north latitude to 55 degrees 1 minute 20 seconds north latitude; and (2) within 2,500 feet of a point at 55 degrees north latitude, 132 degrees 46 minutes west longitude.

(*q*) Prince of Wales Island: West coast within 2,500 feet of a point at 55 degrees 2 minutes 20 seconds north latitude, 132 degrees 35 minutes 18 seconds west longitude.

(*r*) Prince of Wales Island: From Point Webster southeasterly to 54 degrees 55 minutes 52 seconds north latitude, 132 degrees 32 minutes 30 seconds west longitude.

(*s*) Ship Islands, Cordova Bay: Within 300 yards west of the southern extremity of the eastern large island of the Ship Islands group at 54 degrees 53 minutes 42 seconds north latitude, 132 degrees 30 minutes 21 seconds west longitude.

(*t*) Coast line of a small island near the entrance to Ruth Bay within 2,500 feet of a point at 54 degrees 53 minutes 40 seconds north latitude, 132 degrees 26 minutes 27 seconds west longitude.

(*u*) Coast line within 450 feet of the eastern extremity of the island situated at 54 degrees 42 minutes 55 seconds north latitude, 132 degrees 16 minutes 10 seconds west longitude.

(*v*) Prince of Wales Island: South coast within 3,000 feet northeasterly from the extremity of land at 54 degrees 43 minutes 9 seconds north latitude, 132 degrees 13 minutes 30 seconds west longitude.

(*w*) Prince of Wales Island: South coast from a point at 54 degrees 42 minutes 34 seconds north latitude, 132 degrees 9 minutes 55 seconds west longitude, easterly to a point at 54 degrees 41 minutes 30 seconds north latitude, 132 degrees 7 minutes 46 seconds west longitude.

(*x*) Bean Island: Within 2,500 feet of a point at 54 degrees 41 minutes 15 seconds north latitude, 132 degrees 6 minutes 5 seconds west longitude.

(*y*) Prince of Wales Island: From a point near Nichols Bay at 132 degrees 4 minutes 55 seconds west longitude eastward and southward for a distance of 5,000 feet.

13. All commercial fishing for salmon is prohibited, as follows:

(*a*) Klawak Inlet, west coast of Prince of Wales Island: All waters in the head of the inlet east of 133 degrees 5 minutes west longitude.

(*b*) Klawak Harbor, west coast of Prince of Wales Island: All waters south of 55 degrees 33 minutes 27 seconds north latitude.

(*c*) Trocadero Bay, west coast of Prince of Wales Island: All waters in the bay east of a true north and south line passing through the eastern extremity of the peninsula just south of Copper Mine.

(*d*) Manhattan Arm, west coast of Dall Island: All waters east of 133 degrees 10 minutes west longitude.

(*e*) Sawmill Cove, east coast of Dall Island: All waters of the cove within a line indicated by markers erected for the purpose.

(*f*) Kasook Inlet, southern coast of Sukkwan Island: All waters within 1 statute mile of head of inlet.

(*g*) Hetta Inlet, west coast of Prince of Wales Island: All waters within a true north and south line passing through the western extremity of Gould Island.

(*h*) Deer Bay, Hetta Inlet: All waters within the bay.

(*i*) Hetta Harbor, Hetta Inlet: All waters within the harbor.

(*j*) Eek Inlet, Hetta Inlet: All waters within the inlet.

(*k*) Hunter Bay, southwest coast of Prince of Wales Island: All waters within 1 statute mile outside the mouths of all salmon streams.

Southern district.—All territorial waters within a line beginning at a point on the international boundary at 131 degrees 40 minutes west longitude and following that boundary to Mount Lewis Cass, then southerly and westerly along the watershed to the southern extremity of Caamano Point, thence to Vallenar Point on Gravina Island, thence southerly and easterly along the watershed of Gravina Island to Gravina Point, thence to Walden Point on Annette Island, thence southerly along the watershed of Annette Island to Davison Point, thence west to a point at 55 degrees north latitude, 131 degrees 40 minutes west longitude, thence due south to the point of beginning on the international boundary at 131 degrees 40 minutes west longitude.

1. The total aggregate-length of gill nets on any salmon fishing boat, or in use by such boat, shall not exceed 250 fathoms hung measure.

2. Stake and anchored gill nets shall be operated in substantially a straight line.

3. The distance by most direct water measurement from any part of one trap to any part of another trap shall not be less than 1 statute mile.

4. No floating trap shall exceed 900 feet in length when any part of such trap is in a greater depth of water than 100 feet at mean high tide. The length of any such trap shall be as measured along the lead from shore at mean high tide to the outer face of the pot.

5. No salmon fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any salmon fishing boat is prohibited. No purse seine shall be less than 175 meshes nor more than 250 meshes in depth nor less than 150 fathoms nor more than 200 fathoms in length measured on the cork line. For the purpose of determining depths of seines, measurements will be upon the basis of 3½ inches stretched measure between knots. The extension to any seine in the way of leads exceeding 25 fathoms in length is prohibited.

6. Commercial fishing for salmon, other than trolling, is prohibited prior to 6 o'clock antemeridian July 5, from 6 o'clock postmeridian August 18 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 15.

7. Commercial fishing for salmon by means of any trap is prohibited except in the period from 6 o'clock antemeridian July 5 to 6 o'clock postmeridian August 18 in each year.

8. The use of any beach seine is prohibited.

9. No boat used in operating any purse seine shall be longer than 50 feet, as shown by official register length.

10. No trolling boat shall operate more than four trolling lines.

11. In commercial trolling operations no king salmon shall be caught which when dressed will weigh less than 6 pounds. In the event any such undersized salmon are thus taken, they must be carefully removed from the hook without jerking or other action causing injury and returned to the water alive.

12. Commercial fishing for salmon by trolling is prohibited in Behm Canal and its tributaries within a line from Point Sykes to Point Alava, across the eastern entrance of the canal, and a line from Escape Point to Point Francis, across the western entrance, from 6 o'clock postmeridian April 30 to 6 o'clock postmeridian June 30.

13. Commercial fishing for salmon by trolling is prohibited in Burroughs Bay (indenting mainland north of Revillagigedo Island) for the remainder of each calendar year after 6 o'clock postmeridian August 16: *Provided*, That this prohibition shall not apply to the period from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 15 in each year.

14. Commercial fishing for salmon, except by trolling, is prohibited in the waters of Tongass Narrows between a line from Mountain Point to Gravina Point and a line from Point Higgins to Vallenar Point.

15. The use of any trap for the capture of salmon is prohibited, except as follows:

(*a*) Cleveland Peninsula: From a point near the south side of the entrance to Smugglers Cove at 55 degrees 34 minutes 10 seconds north latitude southwesterly to 55 degrees 31 minutes 30 seconds north latitude.

(*b*) Cleveland Peninsula: Within 1,500 feet of a point on the northeast shore of an unnamed island at the south entrance to Bond Bay at 55 degrees 30 minutes 21 seconds north latitude, 131 degrees 57 minutes 24 seconds west longitude.

(*c*) Annette Island: East coast from Harbor Point to a point at 55 degrees 6 minutes 48 seconds north latitude, including Ham Island.

(*d*) Revillagigedo Island: Southwest coast (1) from Carroll Point southeasterly to a point at 131 degrees 27 minutes 26 seconds west longitude, including the southern shore of the unnamed island at 55 degrees 16 minutes 57 seconds north latitude, 131 degrees 28 minutes 24 seconds west longitude; and (2) within 2,500 feet of a point at 55 degrees 15 minutes 36 seconds north latitude, 131 degrees 21 minutes 15 seconds west longitude.

(*e*) Revillagigedo Island: From Cone Point southeasterly to a point at 55 degrees 11 minutes 41 seconds north latitude, 131 degrees 10 minutes 36 seconds west longitude, including Cone Island.

(*f*) Revillagigedo Island: Within ½ statute mile of Escape Point at 55 degrees 38 minutes 54 seconds north latitude.

(*g*) Revillagigedo Island: Within 5,000 feet southeasterly of a point at 55 degrees 37 minutes 45 seconds north latitude, 131 degrees 42 minutes 54 seconds west longitude.

(*h*) Revillagigedo Island: Within 1⅛ statute miles northeasterly from a point north of Point Higgins at 55 degrees 27 minutes 50 seconds north latitude, 131 degrees 49 minutes 52 seconds west longitude.

(*i*) Betton Island: West coast between the southern extremity of the island and 55 degrees 30 minutes 5 seconds north latitude.

(*j*) Mainland peninsula between Smeaton Bay and Boca de Quadra: Along the coast (1) from Point Sykes at 55 degrees 11 minutes 41 seconds north latitude, 131 degrees 5 minutes 24 seconds west longitude, to a point at 55 degrees 9 minutes 56 seconds north latitude, and (2) from 55 degrees 7 minutes 50 seconds north latitude to a point at 55 degrees 6 minutes 50 seconds north latitude, 131 degrees 3 minutes 11 seconds west longitude.

(*k*) Southwestern coast of island located southwesterly from Kah Shakes Point at 55 degrees 2 minutes 47 seconds north latitude, 131 degrees 0 minutes 27 seconds west longitude.

(*l*) Mainland south of Kah Shakes Cove: From a point at 55 degrees 1 minute 59 seconds north latitude, 130 degrees 59 minutes 54 seconds west longitude, southward to 55 degrees 1 minute 20 seconds north latitude.

(*m*) Mainland south of Foggy Bay: Along the coast (1) from within ½ statute mile northward of Foggy Point to a point at 54 degrees 54 minutes 5 seconds north latitude; (2) from 54 degrees 53 minutes 5 seconds north latitude to 54 degrees 51 minutes 35 seconds north latitude; and (3) from 54 degrees 49 minutes 30 seconds north latitude to 54 degrees 46 minutes 30 seconds north latitude, 130 degrees 52 minutes 42 seconds west longitude.

(*n*) Cape Fox Island and within 1,000 feet of a point on an unnamed island near the western mainland shore at 54 degrees 47 minutes 47 seconds north latitude.

(*o*) Annette Island: South coast from the southern extremity of Davison Point northeasterly to a point at 55 degrees north latitude, 131 degrees 35 minutes 42 seconds west longitude.

(*p*) Percy Islands: Coast along the west and north sides of the westernmost island of the Percy Islands group.

(*q*) Duke Island: East coast within 1,500 feet of the outer extremity of Flag Point.

(*r*) Duke Island: East coast within 2,500 feet of Duke Point.

(*s*) Kelp Island: Southern coast from a point at 131 degrees 16 minutes 6 seconds west longitude to the eastern extremity of the island.

(*t*) Mainland east of Cape Fox: Within 2,500 feet southwesterly of a point at 54 degrees 46 minutes 48 seconds north latitude, 130 degrees 48 minutes 10 seconds west longitude.

(*u*) Tongass Island: West coast within 2,000 feet of a point at 54 degrees 46 minutes 36 seconds north latitude.

(*v*) Kanagunut Island: West coast from 54 degrees 44 minutes 35 seconds north latitude, 130 degrees 43 minutes 12 seconds west longitude, to Garnet Point.

(*w*) Sitklan Island: Within ½ statute mile of the southern extremity of the island.

16. All commercial fishing for salmon is prohibited as follows:

(*a*) Hidden Inlet, indenting mainland: All waters in the inlet north of 55 degrees 0 minutes 5 seconds north latitude.

(*b*) Fillmore Inlet, indenting mainland: All waters east of 130 degrees 29 minutes 54 seconds west longitude.

(*c*) Willard Inlet, indenting mainland: All waters north of 54 degrees 56 minutes 35 seconds north latitude.

(*d*) Ray Anchorage, east coast of Duke Island: All waters in Ray Anchorage.

(*e*) Very Inlet, indenting mainland: All waters within the inlet.

(*f*) Boca de Quadra, indenting mainland: All waters within 1 statute mile of the mouth of Sockeye Creek.

(*g*) George Inlet, southern coast of Revillagigedo Island: All waters north of a line from Bat Point to Tsa Cove.

(*h*) Smeaton Bay, indenting mainland: Within 1 statute mile outside the mouth of the salmon stream in Wilson Arm, and all waters of Bakewell Arm east of 130 degrees 39 minutes 54 seconds west longitude.

(*i*) Rudyerd Bay, indenting mainland: All waters in the north arm within 2 statute miles of the mouth of any salmon stream.

(*j*) Walker Cove, indenting mainland, tributary to Behm Canal: All waters within a line from Ledge Point to Hut Point.

(*k*) Chickamin River: All waters within a line from Fish Point to Trap Point.

(*l*) Yes Bay, Cleveland Peninsula: All waters within the bay and all waters outside the entrance within 1,000 yards of a line from Bluff Point to Syble Point.

(*m*) Shrimp Bay, west coast of Revillagigedo Island: All waters east of a line running south from Dress Point to the opposite shore.

(*n*) Traitors Cove, west coast of Revillagigedo Island: All waters of the cove within a line 50 yards outside the neck of the salt-water lagoon.

(*o*) Naha Bay, west shore of Revillagigedo Island: Within 1 statute mile of the falls at the outlet of Roosevelt Lagoon.

(*p*) Raymond Cove, Behm Canal: All waters of the cove within a line from the southern extremity of Mike Point northeasterly to a point at 55 degrees 37 minutes 45 seconds north latitude, 131 degrees 51 minutes 50 seconds west longitude.

Herring fishery.—1. During the period from June 1 to October 15, both dates inclusive, commercial fishing for herring, including bait fishing, is prohibited in all waters closed throughout the year to salmon fishing.

2. Commercial fishing for herring, except for bait purposes, is prohibited from January 1 to May 31, both dates inclusive, and from October 16 to December 31, both dates inclusive: *Provided*, That this prohibition shall not apply to the use of gill nets of mesh not less than 2½ inches stretched measure between knots, in the period from October 16 to December 31, both dates inclusive.

3. All commercial fishing for herring, except for bait purposes, is prohibited, as follows: All waters of Chatham Strait and contiguous waters along the western shore of Admiralty Island between Point Gardner and a point at 57 degrees 40 minutes north latitude: *Provided*, That this prohibition shall not apply to commercial fishing for herring by means of gill nets of mesh not less than 2½ inches stretched measure between knots in the period from June 1 to December 31, both dates inclusive. The taking of herring for bait, except by salmon trolling boats by means of any gill net of mesh not more than 2½ inches stretched measure between knots, of not greater than No. 20 gill net thread, and not exceeding 10 fathoms in length and 100 meshes in depth, is prohibited in all waters of Kootznahoo Inlet east of a line extending from Danger Point to Kootznahoo Head.

4. All commercial fishing for herring, except for bait purposes, is prohibited prior to July 1 in the waters along the south coast of Baranof Island from Redfish Cape to the light at Port Armstrong.

5. All commercial fishing for herring, including bait fishing, by means of any purse seine is prohibited in the waters on the west side of Cleveland Peninsula between 55 degrees 46 minutes north latitude and 55 degrees 44 minutes north latitude, and east of 132 degrees 17 minutes 30 seconds west longitude.

6. Commercial fishing for herring, except for bait purposes, is prohibited from 6 o'clock antemeridian of Saturday of each week until 6 o'clock postmeridian of the Sunday following.

7. Commercial fishing for herring, including bait fishing, by means of any trap is prohibited.

8. No herring-fishing boat shall carry or operate more than one seine of any description, and no additional net of any kind shall be carried on such boat. The carrying of any additional seine or net of any kind on a boat towed by any herring-fishing boat is prohibited. These prohibitions shall not apply to pound seines used exclusively for impounding herring or to seines used exclusively within waters enclosed by such pound seines.

9. Commercial fishing for herring, including bait fishing, by means of any purse seine more than 1,250 meshes in depth, more than 180 fathoms in length, or of mesh less than 1½ inches stretched measure between knots is prohibited: *Provided*, That any purse seine may have in addition a strip along the bottom not to exceed 30 meshes in depth and of mesh not less than 4 inches stretched measure between knots. No extension to any seine in the way of leads will be permitted.

10. No one shall place, or cause to be placed, across the entrance to any lagoon or bay any net or other device which will prevent the free passage at all times of herring in and out of said lagoon or bay.

11. All commercial fishing, including bait fishing, for herring is prohibited throughout the year in the waters of Kanalku Bay, Admiralty Island.

12. Commercial fishing for herring, including bait fishing, by means of any beach seine on any herring spawning ground is prohibited.

13. Seines used in commercial fishing, including bait fishing, for herring in Klawak Harbor within a true east and west line passing through the northern extremity of Klawak Island shall not exceed 90 fathoms hung measure in length nor 500 meshes in depth. For the purpose of determining depths of such seines measurements will be upon the basis of 1½ inches stretched measure between knots. No such seine shall have a mesh of less than 1½ inches stretched measure between knots.

14. The dumping of offal and dead herring in the waters of any bay in which herring spawn or where they are captured is prohibited.

Clam fishery.—1. It is prohibited to take for commercial purposes any razor clam measuring less than 4½ inches in total length of shell. Possession of any razor clam of less than this length will be regarded as prima facie evidence of unlawful taking.

2. Any razor clam measuring less than 4½ inches in total length of shell shall be returned alive immediately to the hole from which it was removed in the course of digging operations.

3. It is prohibited to take for commercial purposes any butter clam (*Saxidomus*) measuring less than 2 inches in total length of shell. Possession of any butter clam of less than this length will be regarded as prima facie evidence of unlawful taking.

Shrimp fishery.—Commercial fishing for shrimps is prohibited in the period from March 15 to April 30, both dates inclusive, in each year.

Crab fishery—Dungeness crab (Cancer magister).—1. No female of this species shall be taken at any time, and no male of this species measuring less than 7 inches in greatest width shall be taken for commercial purposes.

2. It is prohibited to take for commercial purposes any soft-shell crab. Possession of any such crab will be regarded as prima facie evidence of unlawful taking.

3. Commercial fishing for the Dungeness crab is prohibited from May 15 to July 31, both dates inclusive, in the Sumner Strait and Stikine districts, and from June 15 to August 1, both dates inclusive, in the Icy Strait district.

Trout Regulations

1. Commercial fishing for steelhead trout shall be subject to the provisions of law and the regulations applicable to commercial fishing for salmon.

2. Commercial fishing for trout of any species is prohibited in all streams and lakes: *Provided*, That this prohibition shall not apply to Dolly Varden trout.

3. No person shall take during any one day more than a combined total of 40 trout of all species, except Dolly Varden trout, and no person shall have in his possession at any time more than 80 trout of all species, except Dolly Varden trout: *Provided*, That in Russian River, flowing into Kenai River, and in its tributary lakes and streams, there shall not be taken in any one day, and no one shall have in his possession at any time, more than a combined total of 20 pounds and one fish of all species except Dolly Varden trout.

General Regulations

1. During closed periods the heart walls of all salmon traps within the areas affected shall be lifted or lowered in accordance with the method prescribed by section 5 of the act of June 6, 1924. The tunnels from hearts to pots of all salmon traps shall be constructed of flexible webbing other than wire, and during all closed periods they shall be completely closed by pulling to one side of the pot. In addition, the spillers of all driven traps shall be raised to within 4 feet of the capping and the spillers of floating traps shall be raised to within 4 feet of the surface within 36 hours after the beginning of any seasonal closed period. Within 36 hours after the beginning of any seasonal closed period the tunnels from pots to spillers of all traps shall be entirely disconnected. In respect to traps not provided with spillers, the requirements in regard to spillers shall apply to the pots. In any prescribed fishing area prior to the first date when salmon traps may be operated in any calendar year, no trap or any part thereof, whether under construction or after completion, shall be so arranged or adjusted as to prevent the free and unobstructed passage at all times of all fish.

2. No trap shall have more than two spillers.

3. No salmon trolling boat shall carry or operate any seine or more than one gill net. The gill net shall be of mesh not more than 2½ inches stretched measure between knots, shall not be of greater than No. 20 gill-net thread, and shall not exceed 10 fathoms in length and 100 meshes in depth.

4. In commercial fishing for salmon all forms of gear other than drift gill nets, stake nets, set nets, driven traps, floating traps, purse seines, beach seines, fish wheels, trolling apparatus, hand lines, rods, spears, and gaffs, are prohibited at all times. The use of any other form of gear, including trammel nets, diver nets, trawls, combination nets, hammerhead traps or any modification thereof, is prohibited at all times. No gill net shall include any webbing other than a single sheet hung between cork and lead lines. No gill net shall be used in any form of seining operations.

5. The use of any trawl in commercial fishery operations is prohibited: *Provided*, That this prohibition shall not apply to fishing operations conducted solely for the purpose of taking shrimp, or to commercial fishing for flounders when such fishing does not result in the capture, injury, or destruction of other food fish.

6. The use of dynamite or any other explosive in the taking or killing of any fish is prohibited.

7. The time used in the various areas for the enforcement of the law and the regulations that specify hours and days shall be as follows:

(*a*) In the southeastern Alaska area: Standard time of the one hundred and thirty-fifth meridian of west longitude, which is 1 hour slower than Seattle standard time.

(*b*) In the Bering River, Copper River, Prince William Sound, Resurrection Bay, Cook Inlet, Kodiak, Chignik, Alaska Peninsula, and Bristol Bay areas: Standard time of the one hundred and fiftieth meridian of west longitude, which is 2 hours slower than Seattle standard time.

(*c*) In the Aleutian Islands and Yukon-Kuskokwim areas: Standard time of the one hundred and sixty-fifth meridian of west longitude, which is 3 hours slower than Seattle standard time.

8. All persons engaged in fishery operations are warned to give due regard to all markers erected by the Department of Commerce.

9. In waters where a rack or weir is maintained by the Bureau of Fisheries for the purpose of counting salmon ascending to the spawning grounds, records of the catch of salmon shall be furnished daily by all operators to the local representative of the Bureau of Fisheries in charge, and upon notification by the Commissioner of Fisheries or his authorized representative that an excessive proportion of the run is being taken so that the escapement of any species is less than the 50 percent specified by section 2 of the act of June 6, 1924, all commercial fishing operations shall at once be discontinued and shall not be resumed until permission therefor is granted by the Commissioner of Fisheries or his duly authorized representative. And if in any year it shall appear that the run of salmon in such waters has diminished there shall be required a correspondingly increased escapement, and upon notification by the Commissioner of Fisheries or his authorized representative all commercial fishery operations shall cease and shall not be resumed until such increased escapement has been secured.

10. The driving of salmon downstream and the causing of salmon to go outside the protected area at the mouth of any salmon stream are expressly prohibited.

11. During the inspection of the salmon fisheries by the agents and representatives of this department, they shall have at all times free and unobstructed access to all canneries, salteries, and other fishing establishments and to all hatcheries.

12. All persons, companies, or corporations owning, operating, or using any stake net, set net, trap net, pound net, or fish wheel for taking salmon or other fishes shall cause to be placed in a conspicuous place on said trap net, pound net, stake net, set net, or fish wheel the name of the person, company, or corporation owning, operating, or using same, together with a distinctive number, letter, or name which shall identify each particular stake net, set net, trap net, pound net, or fish wheel, said lettering and numbering to consist of black figures and letters, not less than 6 inches in length, painted on white ground.

13. If in the process of curing salmon bellies the remaining edible portion of the fish is not used, such action will be regarded as wanton waste within the meaning of section 8 of the act of June 26, 1906, and those who engage in this practice will be reported for prosecution as provided for in the act.

14. The taking of salmon for feed for fur-bearing animals shall be considered as commercial fishing and subject to all of the limitations in respect thereto.

15. Any increase in the amount of fishing gear employed or any expansion of fishery operations in any district in any season shall, in the discretion of the Secretary of Commerce, result in the immediate imposition of such additional restrictions as may appear necessary.

16. These regulations shall be subject to such change or revision by the Secretary of Commerce as may appear advisable from time to time. They shall be in full force and effect immediately from and after February 15, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-500; Filed, February 16, 1938; 10:19 a. m.]

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[General Order No. 258]

VOLUNTARY EMIGRATION OF CERTAIN FILIPINOS FROM THE UNITED STATES

FEBRUARY 14, 1938.

By virtue of and pursuant to the authority contained in Section 3 of the Act of July 10, 1935 (49 Stat. 478; 48 U. S. C. 1253), as amended by the Act of May 14, 1937 (50 Stat. 165), Section 2 (a) of the rules and regulations governing the voluntary emigration of certain Filipinos from the United States, prescribed by General Order No. 231, dated March 25, 1936, is amended by substituting the year 1938 for the year 1936.

[SEAL] GERARD D. REILLY,
Acting Secretary.

Approval recommended:

JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 38-498; Filed, February 15, 1938; 3:00 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 75]

AMENDATORY REGULATION NO. 1 OF REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN CONTINENTAL UNITED STATES MADE PURSUANT TO THE ACT OF CONGRESS APPROVED JANUARY 29, 1937, AND THE JOINT RESOLUTION OF CONGRESS APPROVED FEBRUARY 4, 1938

Subparagraph (g) of paragraph 6 of the regulations dated February 4, 1938, is hereby amended to read as follows:

(*g*) To applicants who are occupants of the same farm or plantation, or are tenants of the same landlord in any one county (with the exception of tenants on land the title of which is vested directly in the United States, or in any State or municipal government, or in any drainage district), in an aggregate amount which during the calendar year 1938 (inclusive of all emergency loans theretofore made to them, or any of them, during the calendar year 1938, pursuant to the Act of Congress approved January 29, 1937, and the Joint Resolution of Congress approved February 4, 1938) exceeds the sum of $1,000.00: *provided, however*, That in the area hereinafter designated no such loan will be made to applicants such as are described in this subparagraph (g) in an aggregate amount which (inclusive of all emergency loans aforesaid) exceeds the sum of $2,500.00:

North Dakota.
South Dakota.
Nebraska.
Kansas, counties as follows: Clark, Cheyenne, Decatur, Finney, Ford, Gove, Graham, Gray, Greeley, Grant, Hamilton, Haskell, Hodgeman, Kearney, Lane, Logan, Meade, Morton, Ness, Norton, Rawlings, Sherman, Sheridan, Scott, Stanton, Stevens, Seward, Thomas, Trego, Wallace, Wichita.
Oklahoma, counties as follows: Beaver, Cimarron, Ellis, Harper, Roger Mills, Texas, Woods, Woodward.
Montana, counties as follows: Big Horn, Blaine, Carter, Cascade, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Glacier, Golden Valley, Hill, Judith Basin, Liberty, McCone, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone.
Texas, counties as follows: Armstrong, Bailey, Carson, Castro, Cochran, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hutchinson, Hemphill, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Wheeler, Yoakum.

[SEAL] F. F. HILL, *Acting Governor.*

[F. R. Doc. 38-504; Filed, February 16, 1938; 12:02 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of February, A. D., 1938.

[File No. 1-2139]

IN THE MATTER OF MISSOURI PACIFIC RAILROAD COMPANY FIVE PER CENT CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE, AND COMMON STOCK, $100 PAR VALUE

ORDER FOR HEARING ON SUSPENSION OR WITHDRAWAL OF REGISTRATION

I

It appearing to the Commission:

That the Missouri Pacific Railroad Company, a corporation, is the issuer of Five Per Cent Cumulative Convertible Preferred Stock, $100 Par Value, and Common Stock, $100 Par Value; and

That said Missouri Pacific Railroad Company registered such securities on the New York Stock Exchange, a national securities exchange, by filing on or about September 11, 1935, an application signed for the Company by William Wyer, Treasurer, with the said exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

That pursuant to Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 promulgated by the Commission thereunder, said Missouri Pacific Railroad Company filed on or about May 18, 1936, and on or about April 30, 1937, its annual reports on Form 12A-K for the respective fiscal years ended December 31, 1935, and December 31, 1936, both being signed for the Company by William Wyer, Treasurer; and

The Commission having reason to believe:

That Missouri Pacific Railroad Company has failed to comply with said Section 12 (b) and said Section 13 (a) and (b) and the Rules and Regulations promulgated thereunder, in that the application for registration on Form 12A and the annual reports on Form 12A-K filed by said Missouri Pacific Railroad Company contain financial statements which do not correctly reflect the true financial condition of the company and are false and misleading with respect to material facts at the time and in the light of the circumstances, in that certain financial statements of the registrant, to wit: the balance sheet dated December 31, 1934, filed with and as a part of the application for registra-

tion on Form 12A, and the balance sheets dated December 31, 1935, and December 31, 1936, filed respectively with and as a part of the annual reports on Form 12A–K for the respective fiscal years ended December 31, 1935, and December 31, 1936, fail to disclose a liability to pay the unpaid balance of approximately $14,000,000 on a principal sum of $15,965,201 on the part of the Missouri Pacific Railroad Company pursuant to a contract entered into between the Missouri Pacific Railroad Company and Terminal Shares, Incorporated, on or about December 31, 1930, involving the acquisition of securities of certain railroads and terminal properties by Missouri Pacific Railroad Company theretofore acquired by Terminal Shares, Incorporated; and

That said contract provided in effect

(a) that $15,965,201 in principal amount was to be fully paid on or before January 1, 1936,

(b) that pending the time of full payment quarterly payments of $400,000 each were to be made to the credit of Terminal Shares, Incorporated, with the Guaranty Trust Company of New York, the depositary under the contract, each of which payments was to be applied first to the payment of accrued interest at the rate of 5½% of the principal amount, and second, to the reduction of that principal amount,

(c) that the Missouri Pacific Railroad Company was not to obtain title to the securities until the full amount of $15,965,201 and interest was paid, and that if it should fail to make any quarterly payment falling due, then Terminal Shares, Incorporated, should have the right, subject to the giving of three months written notice, to shorten the time allotted for payment of the full amount of the balance then due of the $15,965,201 and interest; and if Missouri Pacific Railroad Company should fail to pay the entire amount within the shortened period of time, then Terminal Shares, Incorporated, should have the right to sell the securities described as properties in the contract at public or private sale, and in the event the net proceeds of the sale should not be sufficient to pay the aggregate purchase price less periodic payments already made, then the Missouri Pacific Railroad Company should, upon demand, pay any balance due upon such purchase price;

and Missouri Pacific Railroad Company has taken the position that despite the occurrence of any event rendering specific performance on the part of the Missouri Pacific Railroad Company impossible, a definite liability for the purchase price and interest attached to said company under the terms of said contract; and

II

It appearing to the Commission:

That the Missouri Pacific Railroad Company filed a petition in bankruptcy on March 31, 1933, in the District Court of the United States, Eastern Division, Eastern Judicial District of Missouri pursuant to Section 77 of the Bankruptcy Act, that the trustee in bankruptcy on April 28, 1936, gave notice of disaffirmance of the contract between Missouri Pacific Railroad Company and Terminal Shares, Incorporated, and on July 22, 1936, a Barring Order issued from the court; and

That Rule KA1 promulgated pursuant to section 13 (a) of said Securities Exchange Act, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule KA2 promulgated pursuant to Section 13 (b) of said Securities Exchange Act, as amended, did and does prescribe Form 12A–K as the annual report required by Rule KA1 in the case of companies making annual reports under Section 20 of the Interstate Commerce Act, as amended, if such companies were in receivership or in bankruptcy, including proceedings for reorganization pursuant to Section 77 or Section 77B of the Bankruptcy Act, at the close of the fiscal year for which the report is made; and

That in accordance with the provisions of Form 12A–K and the Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, as to the use of said Form 12A–K, in effect at the time the annual report for the fiscal year ended December 31, 1936, was filed and at all subsequent times Item 7 of said form did and does require the registrant in cases where a court order has been entered authorizing, or in cases where the trustee has, pursuant to court order given notice of the affirmance or disaffirmance of any lease or material contract of the registrant or its subsidiaries involving annual payments estimated to be in excess of 10% of gross revenues as reflected by the system income account of the registrant and its subsidiaries filed with this report, or if no such system income account is filed, then as reflected in the income account of the registrant filed with this report, to state in each case, whether

(a) such affirmance or disaffirmance has occurred, or that order has been entered;

(b) the general terms, briefly and concisely stated, of any such lease or contract; and

That the gross revenues for the fiscal year ending December 31, 1936, as reflected by the system income account of said Missouri Pacific Railroad Company and its subsidiaries in the annual report, filed on Form 12A–K for the year ended December 31, 1936, amounted to $90,667,381, whereas the annual payments due on said contract between Missouri Pacific Railroad Company and Terminal Shares, Incorporated, for the year ending December 31, 1936, amounted to approximately $14,000,000; and

The Commission having reason to believe:

That said Missouri Pacific Railroad Company has failed to comply with the provisions of said Section 13 (a) and (b), said Rules KA1 and KA2, and with the provisions of said Form 12A–K and with the provisions of the Instructions for said Form 12A–K and the Rules and Regulations of the Commission supplemental thereto, as amended, in that neither the annual report filed by it for the year ended December 31, 1936, nor any amendment thereto, contains in Item 7 a statement that the court has entered an order providing for the disaffirmance of, or that the trustee has, pursuant to court order, given notice of disaffirmance of, a material contract involving annual payments estimated to be in excess of 10% of gross revenues, and in that Item 7 fails to state briefly and concisely the general terms of such contract, although on April 28, 1936, the trustee gave notice of the disaffirmance of the contract pursuant to a court order entered December 2, 1935, and although such information was required to be set forth by said Item 7 of said Form 12A–K and the Instructions thereto and the Rules and Regulations of the Commission; and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Missouri Pacific Railroad Company has so failed to comply with said provisions of said Section 12 (b) and said Section 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of either of said Sections or of any rule or regulation promulgated by the Commission under either of said Sections; and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Five Per Cent Cumulative Convertible Preferred Stock, $100 Par Value, and said Common Stock, $100 Par Value, on said New York Stock Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated, beginning on the 1st day of March, 1938, at 10:00 A. M. in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, Richard Townsend, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38–502; Filed, February 16, 1938; 11:01 a. m.]

Friday, February 18, 1938 *No. 35*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49410]

RELEASE OF EXAMINED PACKAGES UPON A STIPULATION TO PAY ANY INCREASED OR ADDITIONAL DUTIES

CUSTOMS REGULATIONS OF 1937 AMENDED

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 251 of the Revised Statutes (U. S. C., title 19, sec. 66) and section 624 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1624), article 315 (c) of the Customs Regulations of 1937 is amended to read as follows:

(c) If it be estimated that any increased or additional duties upon all the merchandise covered by the entry will not in the aggregate exceed $50, the collector or such designated appraising officer may likewise permit the release of the examined packages, provided there has been filed with the collector a stipulation undertaking and agreeing to pay such duties in any amount not to exceed $50 on any one entry. No such stipulation shall be accepted unless executed by an individual, partnership, or corporation, other than the importer, found by the collector to be financially and otherwise responsible. Such stipulation by its terms may apply to all entries of a stated class or classes to be made during a period not to exceed one year, or may apply only to a particular entry, in which case it shall be endorsed on such entry.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: February 11, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–512; Filed, February 16, 1938; 1:02 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 64–FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF WEST VIRGINIA AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a Regular Session of the National Bituminous Coal Commission Held at its offices in Washington, D. C., on the 15th day of February, 1938.

It appearing, That by Orders Nos. 2 and 49, the Commission upon its own motion entered into and conducted an investigation under the provisions of Section 4–A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transaction in intrastate commerce in bituminous coal in the State of West Virginia and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 15th day of February, 1938, adopted the Examiner's report and recommendations which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of West Virginia directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference, or prejudice as between localities in West Virginia in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 2nd day of March, 1938, all bituminous coal sold, delivered, or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of West Virginia, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of West Virginia.

2. That any producer of bituminous coal in intrastate commerce within the State of West Virginia, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4–A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4–A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of West Virginia who is not upon the date of this order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of West Virginia known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this Order.

By order of the Commission.

Dated this 15th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38–524; Filed, February 17, 1938; 12:31 p. m.]

[Docket No. 243–FD]

IN THE MATTER OF MCLAREN COAL COMPANY

TEMPORARY ORDER

The petitioner above named having filed with the Commission on the 6th day of January, 1938, pursuant to provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices of coals of petitioner produced within District No. 10, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and it appearing

to the Commission that the petitioner has made reasonable showing of necessity for the granting of a temporary order;

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition and/or until further order of the Commission, Supplement No. 1 to Price Schedule No. 1—District No. 10 of the Schedule of Minimum Prices for coals of Code Members produced within District No. 10 be and the same is hereby modified and revised to contain the following provision as if the same were fully set out in the said supplement:

"Minimum f. o. b. mine prices established for coals produced at McLaren Mine of McLaren Coal Company in District No. 10 may be reduced 40¢ per net ton and said mine shall be shown as mining coal from Seam 5 instead of Seam 6."

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 10, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, to code members within District No. 10, and to petitioner, shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 15th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-523; Filed, February 17, 1938; 12:31 p. m.]

[Docket No. 263-FD]

IN THE MATTER OF THE BREWERTON CO., CENTRAL ILLINOIS COAL MINING COMPANY, CONSOLIDATED COAL COMPANY, GILLESPIE COAL COMPANY, HILLSBORO MINING COMPANY, INDIANA & ILLINOIS COAL CORPORATION, LIVINGSTON-MT. OLIVE COAL COMPANY, MARION COUNTY COAL COMPANY, MINE "B" COAL COMPANY, MT. OLIVE & STAUNTON COAL COMPANY, NOKOMIS COAL COMPANY, PANA COAL COMPANY, PANTHER CREEK MINES, INC., PEABODY COAL COMPANY AND PENWELL COAL MINING COMPANY

TEMPORARY ORDER

The petitioners above named having filed with the Commission on the 18th day of January, 1938, pursuant to the provisions of Section 4, Part II (d) of the Bituminous Coal Act of 1937, a petition alleging dissatisfaction with certain minimum prices established for coals of petitioners produced within District No. 10, and praying for immediate and temporary relief as therein set forth by preliminary or temporary order pending final disposition of such petition; and this matter having come on to be heard on the 27th day of January, 1938, upon the application for such temporary relief, and the Commission having heard oral argument in support of said application by petitioners; and it appearing to the Commission that the petitioners failed to make a proper showing of reasonable necessity for temporary relief pending final disposition of said petition; and the Commission having entered an Order denying a temporary order pending final disposition of the aforesaid petition; and the Hillsboro Mining Company, the Indiana & Illinois Coal Corporation and Nokomis Coal Company, three of the petitioners above named having made re-application for a preliminary or temporary order and in support of which affidavits were filed setting forth that said petitioners have been unable to compete in certain markets and base said inability as being solely due to the prices established upon their coals; and it appearing to the Commission that the Hillsboro Mining Company, the Indiana & Illinois Coal Corporation and Nokomis Coal Company have made reasonable showing of necessity for the granting of a temporary order,

Now, therefore, it is hereby ordered:

1. That pending final disposition of the aforesaid petition, or until further order of the Commission, Supplement No. 1 to Price Schedule No. 1—District No. 10 of the Schedule of Minimum Prices of coals of Code Members produced within District No. 10 be and the same is hereby modified and revised to contain the following provisions as if the same were fully set out in said supplement:

"Minimum f. o. b. mine prices, as established in said Supplement No. 1 for coals produced at the Hillsboro Mine of the Hillsboro Mining Company, at the No. 10 Nokomis Mine of the Indiana & Illinois Coal Corporation and at the Reliance Mine of the Nokomis Coal Company, when for shipment to the market areas as set forth below, may be reduced from the minimum price established in said Supplement No. 1 in size groups 1 to 5 inclusive and size groups 6 to 15 inclusive in an amount not to exceed the amount set opposite the respective market area numbers and as indicated in the respective size group columns as hereinafter set forth:

Market areas	Price reduction	
	Size groups 1 to 5 inclusive	Size groups 6 to 15 inclusive
23 and 29	20¢	20¢
30-100-101-104-107-112-140-141-146-147	10¢	15¢
31-99	20¢	25¢
33-34-105-106	30¢	35¢
102	20¢	19¢
108	30¢	34¢

2. That except as herein temporarily revised, the Minimum Price Schedules and Supplements thereto, established for District No. 10, shall remain in full force and effect.

3. That a hearing on said petition will be noticed upon further order of the Commission.

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 10, and to petitioners; shall cause a copy of this order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 16th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-526; Filed, February 17, 1938; 12:32 p. m.]

[Order No. 222]

AN ORDER EXTENDING A PROVISION AS HEREINAFTER SET FORTH FOR AN ADDITIONAL PERIOD OF THIRTY (30) DAYS CONTAINED IN SUPPLEMENT NO. 1 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 7

The Bituminous Coal Producers' Board for District No. 7 having requested an extension for an additional period of thirty days of the following provision as set forth on Page 4-S-1 of Supplement No. 1 to Price Schedule No. 1—District No. 7:

"*The definition of Domestic and Standard Run of Mine Coal and Prices thereon as designated herein, will remain in effect for a period not exceeding sixty (60) days, after their effective date, subject to the District Board substantiating the necessity for such designation for these grades.";

and the Commission having duly considered the same;

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the following provision, as set forth on page 4-S-1 of Supplement No. 1 to Price Schedule No. 1—District No. 7:

"*The definition of Domestic and Standard Run of Mine Coal and Prices thereon as designated herein, will remain in effect for a period not exceeding sixty (60) days, after their effective date, subject to the District Board substantiating the necessity for such designation for these grades;"

be and the same is hereby continued in force and effect for an additional period of thirty (30) days.

2. That the Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 7; shall cause copies of this Order to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 15th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-522; Filed, February 17, 1938; 12:31 p. m.]

[Order No. 223]

AN ORDER EXTENDING TWO PROVISIONS AS HEREINAFTER SET FORTH FOR AN ADDITIONAL PERIOD OF THIRTY (30) DAYS CONTAINED IN SUPPLEMENT NO. 1 TO PRICE SCHEDULE NO. 1—DISTRICT NO. 8

The Bituminous Coal Producers' Board for District No. 8 having requested an extension for an additional period of thirty days of the following provision as set forth on Page 52-S-1 of Supplement No. 1 to Price Schedule No. 1—District No. 8:

"*The definition of Domestic and Standard Run of Mine Coal and Prices thereon as designated herein, will remain in effect for a period not exceeding sixty (60) days, after their effective date, subject to the District Board substantiating the necessity for such designation for these grades;"

And an extension of the following provisions as set forth on Page 2-S-1 of the said Supplement:

"The above price basis for modified 2" Nut and Slack will remain in effect for a period not exceeding sixty (60) days, after their effective date, subject to the District Board substantiating the necessity for such modification and prices;"

and the Commission having duly considered the same:

Now, therefore, Pursuant to Act of Congress entitled, "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the following provision, as set forth on page 52-S-1 of Supplement No. 1 to Price Schedule No. 1—District No. 8:

"*The definition of Domestic and Standard Run of Mine Coal and Prices thereon as designated herein, will remain in effect for a period not exceeding sixty (60) days, after their effective date, subject to the District Board substantiating the necessity for such designation for these grades;"

and that the following provision, as set forth on page 2-S-1 of Supplement No. 1 to Price Schedule No. 1—District No. 8:

"The above price basis for modified 2" Nut and Slack will remain in effect for a period not exceeding sixty (60) days, after their effective date, subject to the District Board substantiating the necessity for such modification and prices;"

be and the same are hereby continued in force and effect for an additional period of thirty (30) days.

2. That the Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 8; shall cause copies of this Order to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 15th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-525; Filed, February 17, 1938; 12:32 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-65 O-65]

NOTICE OF HEARING ON PROPOSAL TO AMEND PROPOSED MARKETING AGREEMENT AND ORDER REGULATING SHIPPING OF FRESH PEARS, PLUMS AND ELBERTA PEACHES GROWN IN STATE OF CALIFORNIA BY INCLUDING J. H. HALE PEACHES THEREIN

Whereas pursuant to Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 the Secretary of Agriculture issued, on February 4, 1938, a notice of hearing to be held in the Chamber of Commerce Auditorium, 917 Seventh Street, Sacramento, California, on February 21, 1938, at 9:30 a. m., on a proposed marketing agreement and a proposed order regulating the shipping in interstate and foreign commerce, and such shipping as directly burdens, obstructs, or affects interstate or foreign commerce, of fresh pears, plums and Elberta peaches grown in the State of California; and

Whereas an amendment has been proposed to the aforementioned marketing agreement and order, which amendment would amend said marketing agreement and order by deleting therefrom the word "Elberta" wherever it appears in said marketing agreement and order, except in subparagraph (b) of paragraph numbered 3 of section 1 of Article II and in the proviso in subparagraph (b) of paragraph numbered 5 of section 2 of Article II, and by inserting, in lieu thereof, the words "Elberta and J. H. Hale."

Now, therefore, notice is hereby given that when the said hearing is held on February 21, 1938, at 9:30 a. m. in the Chamber of Commerce Auditorium, 917 Seventh Street, Sacramento, California, evidence, in addition to the evidence called for in the original notice of hearing dated February 4, 1938, will be received concerning the proposed amendment, set forth above, whereby Elberta and J. H. Hale peaches, grown in the State of California, will be included in said marketing agreement and order.

It is hereby declared that an emergency exists, and it is hereby determined that the period of notice of hearing on the proposed amendment hereby given is reasonable under the circumstances.

Copies of the proposed amendment may be inspected in or procured from the Hearing Clerk, Office of the Solicitor, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: February 17, 1938.

[F. R. Doc. 38-521; Filed, February 17, 1938; 11:53 a. m.]

Commodity Exchange Administration.

United States of America—Before the Secretary of Agriculture

[Hearing Docket C. E. A. No. 2]

ORDER IN THE MATTER OF A DELIVERY PERIOD AFTER THE CLOSE OF TRADING IN FUTURES IN WHEAT, CORN, OATS, BARLEY, RYE AND FLAXSEED

Pursuant to the provisions of Section 5a (4) of the Commodity Exchange Act (U. S. C., 1934 ed. and Supp. III, title 7, sec. 7a (4)), I, H. A. Wallace, Secretary of Agriculture, after full consideration of the record made at the hearing hereinafter mentioned, do hereby find the following:

1. Due notice of a public hearing in this matter was published in the November 12, 1937 issue of the FEDERAL REGISTER, was sent by mail to each contract market on November 12, 1937, and was sent by mail to each registered futures commission merchant and floor broker on November 17, 1937.

2. In accordance with such notice, a public hearing was held in Room 300, Board of Trade Building, Chicago, Illinois, beginning at 10 o'clock a. m. on November 30, 1937, at which all persons were given opportunity to hear, present, refute, and comment upon evidence in the premises.

3. Hedging and speculation, rather than receiving and delivering the commodity, are the purposes for which the major portion of contracts for future delivery of wheat, corn, oats, barley, rye, and flaxseed are made on contract markets.

4. Usually, a very large proportion of futures contracts in such commodities on contract markets is closed out by offset as the end of the delivery month approaches, only a small percentage being settled by delivery.

5. When it appears that there might be a scarcity of the deliverable commodity, the long interests, while not desiring the commodity itself, not infrequently stand for delivery to profit from the temporary price advance caused by the efforts of shorts to cover or to obtain the deliverable cash commodity, and a "squeeze" and market congestion occur.

6. In promoting the "squeeze" situation, longs frequently withhold supplies of the deliverable commodity in their control from the cash market, further inflating the local price, which must tumble when the delivery period ends and the longs dispose of their unwanted supplies.

7. The artificial local price thus created draws the commodity from its normal channels to the local market, where it is not needed after it is delivered, resulting in market congestion in the cash commodity and fluctuations endangering price stability.

8. If there is provision for a period of seven business days during which contracts for future delivery in the current month of wheat, corn, oats, barley, rye, or flaxseed may be settled by delivery after trading in such contracts has ceased, the longs will know in advance that the deliverable commodity can be brought into the market from a large surrounding area, and such knowledge will tend to discourage attempts to cause a "squeeze."

9. Provision for such a period of seven business days, therefore, with respect to such commodities, on every contract market on which there is trading in futures therein, will tend to prevent "squeezes" and market congestion endangering price stability.

I therefore order and require a period of seven business days during which contracts for future delivery in the current delivery month of wheat, corn, oats, barley, rye, or flaxseed may be settled by delivery of the actual cash commodity after trading in such contracts has ceased, for each delivery month after May, 1938, on all contract markets on which there is trading in futures in any of such commodities, and I hereby direct such contract markets, and each of them, to provide therefor.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington on this 17th day of February, 1938.

[SEAL] HENRY A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-520; Filed, February 17, 1938; 11:49 a. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

NEVADA

FEBRUARY 17, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Nevada State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Lyon.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-519; Filed, February 17, 1938; 11:49 a. m.]

FEDERAL HOME LOAN BANK BOARD.

SURETY BONDS

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Be it resolved, That, pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of the Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), subsection (b) of Section 12 of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended by adding at the end thereof the following:

"The bond or bonds required by subsection (a) of this section shall protect the association in a manner and amount satisfactory to the Board with respect to the operation of any safe deposit business transacted by such Federal association."

Be it further resolved, That, it being deemed this is a major amendment affecting matters of general principle or policy, and not of an emergency character, pursuant to the provisions of Section 54 of the Rules and Regulations for Federal Savings and Loan Associations, such amendment shall be effective 30 days from February 16, 1938.

Adopted by the Federal Home Loan Bank Board on February 16, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-516; Filed, February 17, 1938; 10:26 a. m.]

Home Owners' Loan Corporation.

AUTHORITY TO ACQUIRE REVERSIONARY INTEREST IN LANDS IN MARYLAND WHERE THE CORPORATION OWNS THE LEASEHOLD ESTATE

Whereas the Corporation has heretofore acquired, and will hereafter acquire properties in the State of Maryland consisting of leasehold interests in which the Corporation, to protect its interests, will be required to pay annual ground rents; and

Whereas the acquisition of the reversionary interests in said properties would vest in the Corporation the fee simple title to such properties, thereby extinguishing the rents reserved in the leases, and in certain cases would be economical and advantageous to the Corporation; therefore

Be is resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by Subsections a and k of Section 4 of said Act as amended, the General Manager is authorized with the advice of the General Counsel, in those cases in which the Corporation has become or shall become the owner of a leasehold interest in lands situated in the State of Maryland on which it originally granted a loan, to purchase or redeem the reversionary interest in such lands for such price and on such terms and conditions as he may determine to be for the best interest of the Corporation.

The authority herein vested in the General Manager may be exercised also by the Regional Manager with the advice of the Regional Counsel, except that the Regional Manager may not purchase or redeem such reversionary interests for an amount, exclusive of incidental costs and expenses, in excess of the value of the annual ground rent capitalized on the basis of six per cent.

The purchase price together with any necessary charges and expenses, shall be paid on vouchers approved by the General Manager and General Counsel, or by the Regional Manager and the Regional Counsel, except that any legal expenses shall be incurred and the amount and payment thereof approved as provided in Chapter VI of the Consolidated Manual.

Adopted by the Federal Home Loan Bank Board on February 15, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-515; Filed, February 17, 1938; 10:26 a. m.]

FEDERAL POWER COMMISSION.

[Project No. 16]

APPLICATION OF THE NIAGARA FALLS POWER COMPANY FOR AMENDMENT OF LICENSE

ORDER FIXING DATE OF HEARING

FEBRUARY 15, 1938.

Commissioners participating: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon petition filed May 4, 1937, by The Power Authority of the State of New York for leave to intervene and become a party to the proceedings before the Commission on the application of The Niagara Falls Power Company for amendment of license for Project No. 16 to divert an additional 275 cubic feet of water per second through said project, and upon objections thereto filed by said licensee on May 14, 1937, and by the Attorney General of the State of New York on behalf of The Water Power and Control Commission on January 26, 1938:

It appearing to the Commission that: By its order of June 5, 1937, the hearing on said petition and objections thereto previously set for June 15, 1937, was continued to a date to be fixed by the Commission upon not less than ten days' notice thereof to all interested persons;

The Commission orders that: A public hearing on said petition for intervention and objections thereto be held on March 16, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-513; Filed, February 17, 1938; 9:46 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3299]

IN THE MATTER OF H. C. BRILL COMPANY, INC., A CORPORATION

FINDINGS AS TO THE FACTS AND CONCLUSION

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), the Federal Trade Commission on January 15, 1938, issued and served its complaint in this proceeding upon the respondent, H. C. Brill Company, Inc., a corporation, charging it with discriminating in price between different purchasers of liquid and powder preparations for the manufacture of home made ice cream in violation of subsection (a) of Section 2 of the aforesaid Act.

After the issuance of said complaint, respondent filed answer thereto admitting all the material allegations of the complaint to be true and waiving intervening procedure, briefs, argument and final hearing, which answer was duly filed in the office of the Commission.

Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and answer, briefs and oral arguments of counsel having been waived and the Commission having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and its conclusions drawn therefrom:

Findings as to the Facts

PARAGRAPH 1. Said corporate respondent, the H. C. Brill Company, Inc., now is, and at all times since June 19, 1936, has been a corporation organized under the laws of the State of New Jersey with its principal office and plant located at 101-111 N. J. Railroad Avenue in the city of Newark, New Jersey. At all times herein mentioned, said respondent has been engaged in the business of manufacturing, selling, shipping and distributing a preparation for the making of home made ice cream from its said place of business in the State of New Jersey to various purchasers of said preparation located in the State of New Jersey and the several states of the United States and there has been and is now between the respondent and purchasers of said preparation a course of trade and commerce in said preparation in and between the State of New Jersey and the several states of the United States. The said respondent in the course and conduct of its business as aforesaid has been and is now in direct active competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. Said respondent's customers are generally food wholesalers and retail grocery chain stores. Certain of the chain stores are competitively engaged in commerce in the resale and distribution of the said preparation with other of respondent's customers. The Great Atlantic & Pacific Tea Company is generally in competition in the resale and distribution of the said preparation with most of respondent's other customers. The Great Atlantic & Pacific Tea Company directly competes with The Kroger Grocery and Baking Company and the American Stores Company in the resale and distribution of the said preparation.

PAR. 3. Shortly after the effective date of the Robinson-Patman Act, June 19, 1936, a representative of The Great Atlantic & Pacific Tea Company presented a so-called quantity discount agreement to the respondent herein, which agreement was executed by respondent and The Great At-

lantic & Pacific Tea Company in words and figures as follows:

QUANTITY DISCOUNT AGREEMENT

Purchaser: The Great Atlantic & Pacific Tea Company,
Address: Graybar Building, New York City.
No. of Stores: 14,938.
Manufacturer: H. C. Brill Company, Inc.
Address: Newark, N. J.
Commodity: E-Zee-Freez.

The purchaser has obligated itself to buy from the manufacturer a large quantity of merchandise and, in view of the purchases in large quantity, present and prospective, the manufacturer agrees to allow the following quantity discount on amounts bought by the purchaser, between the period commencing on June 20, 1936, and expiring on June 19, 1937:

$5,000 to $10,000	1%
10,000 to 15,000	2%
15,000 to 20,000	3%
20,000 to 30,000	4%
30,000 to over	5%

Payable at expiration of agreement.

The manufacturer avows its willingness to make the same agreement as is here made with any other purchaser similarly situated and on proportionally equal terms.

This agreement may be cancelled by either the purchaser or the manufacturer upon notice.

H. C. BRILL COMPANY, INC.,
Manufacturer.
By HARRY C. BRILL, *Pres.*
THE GREAT ATLANTIC & PACIFIC TEA CO.,
Purchaser.
By G. F. MORROW.

PAR. 4. The respondent sold and shipped from its said plant to The Great Atlantic & Pacific Tea Company's various warehouses between June 20, 1936 and June 19, 1937 said commodity as follows:

Purchases Various A. & P. Units

	June 20, 1936 to Dec. 31, 1936	Jan. 1, 1937 to June 19, 1937
Altoona, Pa	$355.71	$126.90
Albany, N. Y	61.60	
Atlanta, Ga		729.00
Baltimore, Md	244.80	545.00
Bronx, N. Y	458.99	944.58
Brooklyn, N. Y		184.50
Buffalo, N. Y	46.32	
Charlotte, N. C	3.40	
Cincinnati, Ohio	232.05	256.22
Cleveland, Ohio	234.60	119.34
Dallas, Texas	452.20	292.23
Des Moines, Iowa	17.00	550.80
E. Aurora, N. Y	10.20	
Pittsburgh, Pa	862.83	540.13
Garden City, N. Y	173.40	523.01
Grand Rapids, Mich	85.00	
Indianapolis, Ind		430.44
Louisville, Ky	272.25	679.32
Hartford, Conn	151.72	295.65
Newark, N. J	913.29	1081.01
Paterson, N. J	360.79	721.77
Philadelphia, No. Side	1225.27	
Philadelphia, So. Side	872.52	951.98
Providence, R. I	168.26	124.20
Somerville, Mass	136.22	
Springfield, Mass	101.89	230.63
St. Louis, Mo	14.45	86.40
Syracuse, N. Y	326.40	837.93
Washington, D. C	153.00	
Youngstown, Ohio	527.00	244.80
Total	8,144.64	10,525.93

PAR. 5. The total purchases of the various warehouses of The Great Atlantic & Pacific Tea Company, as aforesaid, amounted to $18,670.57. No single unit purchased in sufficient quantity to earn any amount under the contract agreement. Each of said warehouses was treated by respondent as an individual customer, sales were solicited independently and the merchandise was shipped and billed to the individual warehouses. On July 21, 1937, respondent paid The Great Atlantic & Pacific Tea Company $260.12. This amount was arrived at by combining all purchases and granting to The Great Atlantic & Pacific Tea Company 1% on its purchases between $5,000 and $10,000, 2% on its purchases between $10,000 and $15,000, and 3% on its purchases in excess of $15,000. The Great Atlantic & Pacific Tea Company objected to this method of computation and claimed it was entitled to the full 3% on all purchases in excess of $5,000. Accordingly, on July 26th, 1937, respondent paid to The Great Atlantic & Pacific Tea Company an additional sum of $150.00, making the total rebate $410.12.

PAR. 6. Respondent executed a contract in the same form with The Kroger Grocery and Baking Company covering the period commencing on June 20, 1936 and expiring June 19, 1937. The respondent sold and shipped said commodity from its said plant to the various warehouses of The Kroger Grocery and Baking Company between June 20, 1936 and June 19, 1937 as follows:

Purchases Kroger Units

	June 20, 1936 to Dec. 31, 1936	Jan. 1, 1937 to June 19, 1937
Charleston, W. Va	$280.50	$96.39
Chicago, Illinois	91.80	
Cincinnati, Ohio	2,147.09	600.63
Dayton, Ohio	57.37	33.66
Detroit, Mich	112.20	
Evanston, Ill	28.05	
Indianapolis, Ind	40.80	36.72
Louisville, Kentucky	680.00	549.27
Oak Park, Illinois	55.25	
Pittsburgh, Penna	91.80	114.75
St. Louis, Mo	957.36	
	4,542.22	1,431.42
	1,431.42	
Total purchases	5,973.64	
Less returns June 20, 1936 to June 19, 1937	620.20	
Net purchases	5,353.44	

PAR. 7. The total purchases of the various warehouses of The Kroger Grocery and Baking Company, as aforesaid, amounted to $5,353.44. No single unit purchased in sufficient quantity to earn any rebate under the contract agreement. Each of said warehouses is treated by said respondent as an individual customer, sales are solicited independently and the merchandise is shipped and billed to the individual warehouses. On September 20, 1937 respondent sent The Kroger Grocery and Baking Company a check in the amount of $3.53. This amount was arrived at by granting to The Kroger Grocery and Baking Company a 1% rebate on its purchases in excess of $5,000, namely $353.44.

PAR. 8. Respondent executed a contract in the same form with the American Stores Company covering a period commencing on October 20, 1936 and expiring October 19, 1937, during which period the American Stores Company purchases amounted to the sum of $4,150.01. The respondent sold and shipped said commodity from its said plant to seven warehouses of the American Stores Company located respectively in Baltimore, Maryland; Syracuse, New York; Johnstown, Pennsylvania; Orange, New Jersey; Wilkes Barre, Pennsylvania and two warehouses located in the City of Philadelphia, Pennsylvania. No rebate was paid to the American Stores Company inasmuch as the total purchases did not aggregate more than the sum of $5,000.

PAR. 9. Respondent sells to wholesalers and to chain stores as follows:

Liquid E-Zee-Freez is packed in cases containing 2 dozens and 12 dozens. The price is 85¢ a dozen with a trade discount of 10%, less 1% cash discount F. O. B. destination. Minimum shipping quantity 24 dozens. Powder E-Zee-Freez is packed 1 dozen to the carton, 15 cartons to the shipping case. The price is 90¢ a dozen with a trade discount of 20%, less 1% cash discount F. O. B. destination. Minimum shipping quantity 30 dozens. Brokerage is allowed and paid to independent food brokers on all sales within such brokers' territory and was allowed and paid on the sales to the said retail food chains.

PAR. 10. The 10% trade discount allowed on liquid E-Zee-Freez was originally intended as a special trade discount for contract as distinguished from spot purchases; similarly, 5% of the 20% allowed on the powder E-Zee-Freez was

so intended. However, only a few of such contracts were entered into when respondent changed its plan and sold all, whether on spot or contract purchases, on the same terms with the exception of the so-called quantity discount allowances referred to in Paragraph Three.

Conclusion and Opinion

From the facts as herein found, the first question that arises concerns the offer by respondent of varying discounts to customers based on the amount each customer purchased annually.

The consideration on which the offer is made, as stated in the contract, is "in view of the purchases in large quantity, present and prospective, the manufacturer agrees to allow the following quantity discount on amounts bought by the purchaser, between the period commencing on June 20, 1936 and expiring on June 19, 1937.

$5,000 to $10,000	1%
10,000 to 15,000	2%
15,000 to 20,000	3%
20,000 to 30,000	4%
30,000 to over	5%

The consideration is the purchase "in large quantity" of the goods sold by respondent. However, the offer neither expressly nor by implication can be construed to relate to the purchase of single shipments of the value specified nor was it so construed by the parties as evidenced by the settlements.

Purchasers of large annual amounts sometimes buy in larger individual shipments than do buyers whose purchases do not amount to as large a sum. Large buyers, however, also place numerous small orders and the average size of such orders is frequently less than the average size of orders placed by buyers whose aggregate annual purchases are less in volume. Indeed under a discount plan based on aggregate volume purchases for a given period, such as that contained in the aforesaid contract, it may cost the seller more per dollar of sales to serve a customer who places a large number of small orders which are sufficient in the aggregate to earn the discounts, than to serve the customer who places a few large orders whose total is not sufficient to obtain the discount.

Large wholesalers and chain retailers often obtain concessions in the form of cumulative discounts in the belief that their transactions, in proportion to the amount purchased, are fewer in number, take less of the time and attention of the seller, and cost the seller less. However, when such a belief is not supported by the facts the conclusion obviously is erroneous and an offer predicated thereon discriminatory. There is no certainty and scarcely any probability that the business of the buyer who purchases from five to ten thousand dollars in the aggregate of merchandise within a year will cost the seller more or less in proportion to quantity than the business of one who purchases more than thirty or less than five thousand dollars.

A distinction in price between shipping cartons or shelf packages and broken packages is readily understood and a difference in price based upon the size of individual purchases and shipments is likewise appreciated but no such distinction is made in this offer. One whose individual purchases were in thousand dollar lots would if his purchases amounted to, let us assume, eight thousand dollars be required to pay a higher price than another whose individual purchases were in hundred dollar lots but whose total for the year amounted to more than ten thousand dollars. Such a differential producing an injurious effect in any line of commerce cannot be justified.

No justification has been affirmatively shown for the discrimination in price found herein and the Commission finds no substantial difference between the respondent's cost of selling and delivering ice cream powder to the individual warehouses of The Great Atlantic & Pacific Tea Company, and its cost of serving the individual warehouses of any other chain store company, or any other customer purchasing the said merchandise in quantities comparable to those purchased by the individual warehouses of The Great Atlantic & Pacific Tea Company. Aside from differences in methods of sale and delivery, savings in the cost of serving different customers result from the differences in the size of the individual orders placed by such customers, irrespective of the aggregate purchases for a given period of time. Ordinarily large orders are obtained, assembled, priced, packed, billed and delivered at a lower cost per dollar of sales than small orders. In the instant case, the respondent employed the same methods of sale and delivery in serving the individual warehouses of The Great Atlantic & Pacific Tea Company as it used in serving its other customers. The record contains no evidence that the individual orders for ice cream powder placed with the respondent by the several warehouses of The Great Atlantic & Pacific Tea Company were any larger than the orders placed with the said respondent by other customers. Indeed, for the year covered by the aforesaid contract, the aggregate amount of ice cream powder purchased from the respondent by the individual warehouses of The Great Atlantic & Pacific Tea Company ranged from less than $3.40 to not more than $1,994.30, while the individual orders of the said warehouses were even smaller. It can not be assumed that the respondent's individual sales or shipments to The Great Atlantic & Pacific Tea Company were fewer in number, and therefore larger, than its sales to other customers, or that it cost said respondent less per dollar of sales to make these individual sales or shipments to the said Great Atlantic & Pacific Tea Company than it did to make individual sales or shipments to other customers. In view of these facts, the Commission finds, therefore, that the so-called discount granted to The Great Atlantic & Pacific Tea Company can not be justified on the basis of savings in distribution costs. The contract did not result in economy of selling, credit, ordering, shipping, advertising or other elements that can be considered as producing a differential in cost.

A cumulative discount is sound only where savings have been achieved by the seller with respect to individual sales made to a particular buyer over a period of time, which savings were not reflected in the price at which the buyer purchased and which are reserved for the purpose of refunding at the end of a period of time. But any system of discounts based on the amount of annual sales is a price discrimination contrary to Section 2 (a) of the Clayton Act, as amended, if it has any of the injurious effects on competition enumerated in the statute, unless justified as by making only due allowance for differences in cost not previously allowed and resulting from the quantities sold or delivered.

Many food chains, including the three aforesaid grocery chains, operate on a net margin of profit of 1½% to 2%. The sum of 2¼% represents a difference between profit and loss. Of course a price differential of 2¼% on a single product of no greater importance than ice cream powder is not sufficient to give The Great Atlantic & Pacific Tea Company any appreciable competitive advantage in all of its business, but it does receive a definite advantage in the sale of that particular commodity. The competitive advantage becomes the greater when a company doing a nation-wide business is permitted to obtain a 2¼% differential from a considerable number of sellers, even though individually they are of relatively little importance, the sum of the differentials would undoubtedly give the buyer a decided competitive advantage. Such discrimination inevitably tends toward centralization of retail or wholesale trade, for the largest retailer or wholesaler gets the lowest price—it thus tends to eliminate smaller buyers and builds up the large buyer at the expense of small ones.

It may be to respondent's interest to favor large customers often doing a nation-wide business, however, the seller cannot regard his interests exclusively and must subordinate such interest to the requirement that his prices not reflect an unlawful discrimination.

The so-called discounts paid, as provided for and more fully set forth in Paragraph Three hereof, constitute discriminations in price in commerce in violation of Section 2 (a) of said Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and

for other purposes" approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes".

By the Commission.

[SEAL] GARLAND S. FERGUSON, Jr., *Chairman.*

Dated this 10th day of February, A. D. 1938.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the respondent admitting all the material allegations of the complaint to be true and waiving the taking of evidence and all other intervening procedure and the Commission having made its Findings as to the Facts and its Conclusion, which Findings and Conclusions are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended:

It is ordered, That the respondent H. C. Brill Company, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce or in the District of Columbia of liquid and powder preparations for the manufacture of home made ice cream, do forthwith cease and desist from granting or paying, or agreeing to grant or pay, sums amounting to discriminations in price in the form of cumulative discounts described in Paragraph Three of the Findings as to the Facts and Conclusions; and from granting or paying, or agreeing to grant or pay, sums amounting to discriminations in price in the form of cumulative discounts, except where such discount makes only due allowance for differences in cost which have been achieved with respect to individual sales made to a particular buyer over a period of time, which differences in cost were not reflected in the price at which the buyer purchased.

It is further ordered, That the said respondent, H. C. Brill Company, Inc., within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-514; Filed, February 17, 1938; 9:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of February, A. D., 1938.

[File No. 46-91]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

ORDER PURSUANT TO SECTION 10, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Middle West Corporation, a registered holding company, having filed with this Commission an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 for the approval of the acquisition by it of 280,269 shares of the common stock of Central and South West Utilities Company and 36,077$^{35}/_{50}$ shares of the common stock of North American Light & Power Company;

A hearing having been held on such application after appropriate notice; the record in the matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the acquisition of the aforesaid securities in the manner set forth in the application be and the same is hereby approved subject to the terms and conditions set forth in and for the purposes represented by said application;

It is further ordered, That within ten days after the acquisition of the securities above referred to, the applicant shall file with this Commission a Certificate of Notification showing that such acquisition was effected in accordance with the terms and conditions of and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-517; Filed, February 17, 1938; 11:32 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of February, A. D. 1938.

[Filed on December 20, 1937]

IN THE MATTER OF AN OFFERING SHEET FILED BY FRED X. SULZBACH, RESPONDENT, OF PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE MARLARNEE & SHELTON-FLOWERS TRACT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet described in the title hereof has been amended to cure the objections specified in the Order for Hearing previously entered in this proceeding;

It is ordered, Pursuant to Rule 354 (c) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on February 11, 1938, be effective as of February 15, 1938.

It is further ordered, That the Order for Hearing heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding is terminated as of the effective date of said amendment.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-518; Filed, February 17, 1938; 11:32 a. m.]

Saturday, February 19, 1938 *No. 36*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DESIGNATING THE HONORABLE MARTIN TRAVIESO AS ACTING JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR PUERTO RICO

By virtue of and pursuant to the authority vested in me by section 41 of the act entitled "An Act To provide a civil government for Porto Rico, and for other purposes", approved March 2, 1917 (38 Stat. 965), I hereby designate and authorize the Honorable Martin Travieso, Associate Justice of the Supreme Court of Puerto Rico, to perform and discharge the duties of the Judge of the District Court of the United States for Puerto Rico and to sign all necessary papers and records as Acting Judge of the said Court in the case of absence, illness, or other legal disability of the Judge thereof during the current calendar year.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 16, 1938.

[No. 7817]

[F. R. Doc. 38-528; Filed, February 17, 1938; 2:26 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49412]

EXAMINATION OF MERCHANDISE—SPECIAL REGULATION

EXAMINATION OF LESS THAN ONE PACKAGE OF EVERY TEN PACKAGES OF CERTAIN MERCHANDISE AUTHORIZED

FEBRUARY 14, 1938.

To Collectors of Customs and Others Concerned:

From the character and description of the merchandise named or described hereafter in this special regulation, I am of the opinion that the examination of less than one package of every ten packages of such merchandise covered by one invoice will amply protect the revenue provided that such merchandise is:

(*a*) imported in packages, the contents and values of which are uniform, or

(*b*) imported in packages, the contents of which are identical as to character, although differing as to quantity and value per package.

Therefore, by virtue of the authority vested in the Secretary of the Treasury, including that conferred by sections 499 and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 1499 and 1624), I do by this special regulation permit and authorize, in the case of merchandise hereinafter named or described which is imported under either of the conditions above stated, a less number of packages than one package of every ten packages, but not less than one package of every invoice, to be examined:

Abrasives, natural and artificial, in grains, or ground, pulverized, refined, or manufactured.
Acids of all kinds.
Acorns, crude, or ground or otherwise prepared.
Agar-agar (Japanese isinglass).
Agate, crude.
Albumen of all kinds.
Almond meal and flour.
Aluminum, and aluminum alloys in the forms provided for in paragraph 374 of the Tariff Act of 1930.
Anchors of iron or steel.
Anvils, iron or steel, of all kinds.
Argols.
Arrowroot, crude or manufactured, and arrowroot starch and flour.
Asbestos provided for in paragraph 1616 of the Tariff Act of 1930.
Ashes, wood or beet-root.
Asphaltum.
Bagging for cotton.
Bags, jute burlap.
Balls (except billiard, pool and tennis), used in exercise, sports, or for the amusement of children.
Balsams, natural and uncompounded.
Barrels, beer, wooden.
Barrels, steel.
Baskets provided for in paragraph 411, Tariff Act of 1930.
Bauxite.
Beans, cocoa or cacao.
Beans, tonka.
Beans, vanilla.
Bentonite, unwrought and unmanufactured.
Bitumen.
Blades, saw.
Blocks, wood, suitable for the articles into which they are intended to be converted.
Board or mat, stereotype matrix.
Books, slate.
Bottles, glass siphon.
Bottles and vials provided for in paragraph 217 of the Tariff Act of 1930.
Boxes, tin, common.
Briarwood, in blocks suitable for the articles into which they are intended to be converted.
Bricks of all kinds.
Bristle, crude, not sorted, bunched, or prepared.
Brushes, wholly or partly manufactured for any electrical machine or appliances.
Bulbs, electric-light, incandescent, without filaments, or with filaments of any kind.
Bulbs of all kinds for horticultural purposes.
Butter and butter substitutes.
Butter, cacao.
Cable, Manila, provided for in paragraph 1005 of the Tariff Act of 1930.
Camphor, natural and synthetic.
Carbons for producing electric arc light.
Carboys, glass.
Cardboard provided for in paragraph 1402 of the Tariff Act of 1930.
Casings, sausage.
Casein.
Cash registers.
Cassia, unground buds and nuts.
Castings, iron.
Cement, hydraulic, gypsum, and cement clinker.
Cement, linoleum.
Cement, Portland, Calderwood's and Roman.
Cereal breakfast foods.
Chalk or whiting, in the forms provided for in paragraph 20 of the Tariff Act of 1930.
Cheese and substitutes therefor.
Chemical compounds.
Chicory, crude, or ground or otherwise prepared.
Chinaware.
Christmas trees, artificial.
Christmas tree decorations of all kinds.
Cigars, Philippine.
Cigarettes, Philippine.
Clays.
Cloth, cotton.
Cloth, Hessian.
Cloth, tracing.
Coal tar products, cresylic acids.
Coal tar products, cresols.
Coal tar products, creosotes.
Coal tar products, distillates.
Coal tar products, dyes.
Coal tar products, intermediates.
Coconut meat, shredded and desiccated.
Coffee, coffee essences and coffee substitutes.
Confectionery provided for in paragraph 506 of the Tariff Act of 1930.
Containers, candy, of all kinds.
Copper, bars.
Copper, rolls.
Copper, sheets.
Copper, tubes.
Coral, marine, uncut or un-
Cord, seagrass, manufactured.
Cordage provided for in paragraph 1005 of the Tariff Act of 1930.
Cork, ground or waste.
Cork stoppers.
Cork wood or cork bark, unmanufactured.
Cotton linters.
Cotton, raw.
Covers, bottle, straw.
Cracklings.
Crystal, rock, rough or uncut.
Currants.
Cuttlefish bone.
Cyanides, and cyanide salts and mixtures, provided for in paragraph 1667 of the Tariff Act of 1930.
Dextrine.
Dolls.
Drums, iron or steel, empty.
Earthenware.
Earths.
Eggs, poultry, in the shell, or dried, frozen, or prepared or preserved.
Electrodes, carbon.
Embroidered articles from the Philippine Islands for which a certificate of Philippine origin has been furnished.
Enameled ware.
Erasers, rubber and soap.
Excelsior.
Fans, common palm leaf, plain and not ornamented in any manner.
Fasteners, snap, whether or not mounted on tape.
Fats, animal and fish.
Favors, party.
Feathers, otherwise than on the skin, suitable for use in bedding.
Feeds, by-product, obtained in milling cereal grains.
Feldspar, crude.
Felt bodies, hoods, forms and shapes, black, for wool felt hats, bonnets, caps, berets and similar articles.
Felt, deadening.
Felt, roofing, or felt roofing.
Felt, sheathing.
Fertilizers.
Fibers, vegetable (except cotton).
Files, metal.
Filter masse or filter stock, provided for in paragraph 1403 of the Tariff Act of 1930.
Fish, fresh or frozen, dried, in brine, or prepared or preserved in any manner.
Flax, hackled and unhackled.
Flax noils, straw, tow and waste.
Floor coverings (including carpets, carpeting, mats, matting and rugs), cocoa fiber, cotton or other vegetable fiber, felt-base, provided for in paragraph 1021, Tariff Act of 1930, straw.
Flour, tapioca.
Flour, wheat.
Flour, wood.
Flowers, Pyrethrum.
Fluorspar.
Fruits in their natural state, or in brine, dried, pickled, desiccated, evaporated, or otherwise prepared or preserved.
Games, checkers or draughts.

Games, chess.
Games, dice.
Gelatine, edible and inedible.
Ginger root, preserved.
Glass, crown.
Glass, cylinder.
Glass, laminated.
Glass, plate.
Glass, rolled.
Glass, sheet.
Glassware.
Glue and glue stock.
Glycerine, crude or refined.
Grains, cereal.
Graphite, crude or refined.
Grasses, textile, provided for in paragraph 1684 of the Tariff Act of 1930.
Greases, animal and fish.
Gums and resins, natural and synthetic.
Gut, cat, whip and oriental.
Gypsum, crude, ground or calcined.
Hair, animal, whether or not cleaned or drawn, unmanufactured.
Hair, horse, for violin bows.
Harmonicas.
Hemp, hackled and waste.
Hides not specially provided for in the Tariff Act of 1930.
Honey.
Hops.
Horseshoes.
Hose and half hose, of cotton or other vegetable fiber, rayon or other synthetic textile, silk, or wool.
Hose, flexible, metal.
Hose, suitable for conducting liquids, or gases wholly or in chief value of vegetable fiber.
Iodine, crude or resublimed.
Iridium.
Iron, bars.
Iron, pig.
Iron, rods.
Iron, sand.
Iron, sheets.
Iron, sponge.
Jellies, jams and marmalades.
Juices, fruit.
Jute, butts.
Jute, cuttings.
Jute, rope.
Jute, waste.
Kapok, not dressed or manufactured.
Lactarene.
Lard and lard substitutes.
Leeches.
Lime (mineral).
Linoleum.
Lodestones.
Macaroni.
Machines, sewing.
Matches of all kinds.
Mats of chip.
Meal, fish.
Meatchoppers.
Meats of all kinds, fresh, frozen, dried, or prepared or preserved in any manner.
Menthol.
Metal, scrap.
Mica, waste and scrap.
Milk, condensed.
Milk, dried, whole.
Milk, evaporated.
Milk, skimmed, dried.
Milk, skimmed, fresh or sour.
Milk, whole, fresh or sour.
Moss, peat.
Mushrooms, fresh or dried, or otherwise prepared or preserved.
Nails, iron or steel, of all kinds.
Naphthalene.
Netting, wire, poultry.
Nickel in any of the forms provided for in paragraph 389 of the Tariff Act of 1930.
Noils, vegetable fibre.
Noodles.
Nuts, edible of all kinds.
Nuts, ivory.
Oakum.
Oil cake and oil-cake meal, vegetable.
Oilcloth, floor.
Oils, mineral, vegetable, animal, or fish.
Oleo stearine.
Olives of all kinds.
Pads, beer.
Paints of all kinds.
Paper board.
Paper, cigarette, in all forms.
Paper, drawing.
Paper, kraft wrapping.
Paper, printing.
Paper, roofing and sheathing.
Paper, sensitized or unsensitized, for use in photography.
Paper, standard newsprint.
Paper stock.
Parasols.
Parchment.
Pastes, alimentary, similar to macaroni, vermicelli, or noodles.
Peat.
Pebble, Brazilian, unwrought or unmanufactured.
Peel, fruit, crude, or prepared in any manner.
Pencils, slate, not in wood.
Petroleum and distillates thereof.
Pickets, wood.
Pigments of all kinds.
Pipe, cast iron.
Plants of all kinds for horticultural purposes.
Plumbago, crude or refined.
Poles, bamboo, in rough.
Poultry, prepared or preserved.
Plywood.
Products, laminated, of which any synthetic resin or resin-like substance is the chief binding agent, in sheets.
Pulp board.
Pulp, wood.
Pumice stone, unmanufactured.
Pyrites in their natural state.
Quicksilver.
Quinine sulphate.
Rags of all kinds, except wiping rags.
Rakes, bamboo.
Rattan in the rough.
Rayon yarn and fibers.
Reeds, wrought or manufactured from rattan or reeds, in whatever form.
Rennet, raw or prepared.
Ribbons, fly-catcher.
Rice provided for in paragraphs 727 and 1752 of the Tariff Act of 1930.
Rope, hard fiber.
Rottenstone, crude or manufactured.
Rubber, India, crude, refuse or scrap.
Saffron, not specially provided for in the Tariff Act of 1930.
Salt (sodium chloride).
Sauces of all kinds.
Saws, except jewelers'.
Sawdust.
Scales, fish.
Scoops, metal.
Seaweed, including kelp.
Seeds of all kinds (except flax and castor).
Separators, cream.
Sheets, willow, provided for in paragraph 1504 of the Tariff Act of 1930.
Shellac.
Shells, sea, in their natural state.
Shells, tortoise.
Shingles of wood.
Shoes, leather, of all kinds.
Shooks.
Silk, raw and waste.
Skins, calf, rough-tanned.
Skins, fish, raw or salted.
Skins, fur, undressed, except silver fox, black fox and fur sealskins, beaver.
Skins, goat and sheep, India-tanned.
Skins, sheep.
Slate and slates.
Snails, live.
Soap of all kinds.
Sounds, fish.
Spaghetti.
Spices and herbs, not drugs.
Spikes, of iron or steel.
Sponges, loofah.
Sponges, marine.
Staples, provided for in paragraph 331 of the Tariff Act of 1930.
Starches provided for in paragraph 83 or 84 of the Tariff Act of 1930.
Staves, wood, and stave bolts.
Steel, bands.
Steel, bars.
Steel, hoops.
Steel, ingots.
Steel, railway.
Steel, rods.
Steel, sashes.
Steel, scrap.
Steel, sheets.
Steel, structural.
Steel, tires.
Steel, tubes.
Sticks, bamboo, in the rough.
Sticks, dyers'.
Stoneware, chemical.
Strawboard.
Straws, drinking.
Sugar, maple.
Syrup, maple.
Talc in any of the forms provided for in paragraph 209 of the Tariff Act of 1930.
Tallow, vegetable.
Tankage.
Tapioca.
Tea (in packages of five pounds or more, each).
Ties, railroad.
Tiles and tiling provided for in paragraph 202 (a) of the Tariff Act of 1930.
Tin, blocks.
Tin, plates.
Tin, scrap.
Tinplate.
Tires, automobile, motorcycle, and bicycle.
Tools, garden and agricultural hand, provided for in paragraph 373 of the Tariff Act of 1930.
Toys.
Truffles, fresh or dried, or otherwise prepared or preserved.
Turpentine, spirits of.
Twine, binding.
Typewriters.
Vegetables in their natural state, or dried, canned, or otherwise prepared or preserved (except mushrooms).
Vegetable substances, crude, not specially provided for in the Tariff Act of 1930.
Vellum.
Veneers, wood.
Vermicelli.
Vinegar.
Waste, cotton, not manufactured or otherwise advanced in value.
Waste, fur.
Waste, ramie.
Waste, rope.
Waste, thread, of vegetable fiber.
Water, mineral.
Wax, animal, vegetable, or mineral.
Whalebone, unmanufactured.
Wheels, automobile.
Whetstones.
Willow, prepared for basket-makers' use.
Wines and liquors.
Wire, metal (except gold, platinum, silver or tinsel).
Wool, in the grease or washed or scoured, including wool on skins.
Wool, mineral.
Wool, rock.
Wool, tops, noils, flocks and waste.
Yarn, coir.
Yeast.
Yolks, egg, dried, frozen, or prepared or preserved.
Zinc, in sheets.

This special regulation shall not be construed to preclude the examination of packages in addition to the minimum number hereby permitted to be examined if the collector or the appraiser shall deem it necessary that a greater number of packages be examined.

Treasury Decisions 48807 and 48923 are hereby superseded.

The number of this Treasury decision should be noted as a marginal reference for article 312 of the Customs Regulations of 1937.

[SEAL]

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-527; Filed, February 17, 1938; 2:19 p. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

[No. 25]

BOISE IRRIGATION PROJECT, IDAHO-OREGON

PUBLIC NOTICE OF ANNUAL WATER CHARGES[1]

FEBRUARY 7, 1938.

1. *Annual water charges.*—The annual operation and maintenance charges for the irrigation season of 1938, and thereafter until further notice, against all lands of the Arrowrock Division, Boise Irrigation Project, Idaho-Oregon, within the Settlers Irrigation District, and other lands of the Arrowrock Division not included in the Boise-Kuna, Wilder, Nampa and Meridian, New York, and Big Bend Irrigation Districts, shall be one dollar and twenty cents ($1.20) for the first three (3) acre-feet of water and thirty (30) cents for each additional acre-foot; but a minimum charge of one dollar and twenty cents ($1.20) will be made against each irrigable acre and must be paid as toll before any water is delivered. The minimum operation and maintenance charge will be due and payable to the Board of Control, Boise, Idaho, on April 1 preceding the irrigation season. Charges for additional water will be payable to the Board of Control upon demand.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-529; Filed, February 18, 1938; 9:47 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[A. A. A. Cotton 1938—1]

NATIONAL ALLOTMENT OF COTTON

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas the Agricultural Adjustment Act of 1938, approved February 16, 1938, provides:

SEC. 342. Not later than November 15 of each year the Secretary [of Agriculture] shall find and proclaim (a) the total supply, the normal supply, and the carry-over of cotton as of August 1 of such year, (b) the probable domestic consumption of American cotton during the marketing year commencing August 1 of such year, (c) the probable exports of American cotton during such marketing year, and (d) the estimated carry-over of cotton as of the next succeeding August 1. For the marketing year 1937–1938 the Secretary shall make all the findings and proclamations provided for in this section not later than ten days after the date of the enactment of this Act.

SEC. 345. Whenever the Secretary determines that the total supply of cotton for any marketing year exceeds by more than 7 per centum the normal supply thereof for such marketing year, the Secretary shall proclaim such fact not later than November 15 of such marketing year (or, in case of the marketing year 1937–1938, within ten days after the date of enactment of this Act), and marketing quotas shall be in effect during the next succeeding marketing year with respect to the marketing of cotton. Cotton produced in the calendar year in which such marketing year begins shall be subject to the quotas in effect for such marketing year notwithstanding that it may be marketed prior to August 1.

SEC. 343. (a) Not later than November 15 of each year the Secretary shall find and proclaim the amount of the national allotment of cotton for the succeeding calendar year in terms of standard bales of five hundred pounds gross weight. The national allotment shall be the number of bales of cotton adequate, together with the estimated carry-over as of August 1 of such succeeding calendar year, to make available a supply of cotton, for the marketing year beginning on such August 1, equal to the normal supply. The finding and proclamation of the national allotment for the calendar year 1938 shall be made not later than ten days after the date of the enactment of this Act.

(b) If the national allotment for 1938 or 1939 is determined to be less than ten million bales, the national allotment for such year shall be ten million bales for such year, as the case may be. If the national allotment for 1938 or 1939 is determined to be more than eleven million five hundred thousand bales, it shall be eleven million five hundred thousand bales for such year, as the case may be.

(c) Notwithstanding the foregoing provisions of this section, the national allotment for 1938 and for 1939 shall be increased by a number of bales equal to the production of the acres allotted under section 344 (e) for such year.

SEC. 344. (a) The national allotment for cotton for each year (excluding that portion of the national allotment provided for in section 343 (c)) shall be apportioned by the Secretary among the several States on the basis of the average, for the five years preceding the year in which the national allotment is determined, of the normal production of cotton in each State. The normal production of a State for a year shall be (1) the quantity produced therein plus (2) the normal yield of the acres diverted in each county in the State under the previous agricultural adjustment or conservation programs. The normal yield of the acres diverted in any county in any year shall be the average yield per acre of the planted acres in such county in such year times the number of acres diverted in such county in such year.

(b) The Secretary shall ascertain, on the basis of the average yield per acre in each State, a number of acres in such State which will produce a number of bales equal to the allotment made to the State under subsection (a). Such number of acres is referred to as the 'State acreage allotment'. The average yield per acre for any State shall be determined on the basis of the average of the normal production for the State for the years used in computing the allotment to the State, and the average, for the same period, of the acres planted and the acres diverted in the State.

(c) (1) The State acreage allotment (less the amount required for apportionment under paragraph (2)) shall be apportioned annually by the Secretary to the counties in the State. The apportionment to the counties shall be made on the basis of the acreage planted to cotton during the five calendar years immediately preceding the calendar year in which the State allotment is apportioned (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs), with adjustments for abnormal weather conditions and trends in acreage during such five-year period.

(2) Not more than 2 per centum of the State acreage allotment shall be apportioned to farms in such State which were not used for cotton production during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton; crop rotation practices; and the soil and other physical facilities affecting the production of cotton.

* * * * * *

(e) For 1938 and 1939, the Secretary shall allot to the several counties, to which an apportionment is made under subsection (c), a number of acres required to provide a total acreage for allotment under this section to such counties of not less than 60 per centum of the sum of (1) the acreage planted to cotton in such counties in 1937, plus (2) the acreage therein diverted from cotton production in 1937 under the agricultural adjustment and conservation program. The acreage so diverted shall be estimated in case data are not available at the time of making such allotment.

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Carry-over" of cotton for any marketing year shall be the quantity of cotton on hand either within or without the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current.

[1] Act of June 17, 1902, 32 Stat., 388, as amended or supplemented.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

* * * * * * * * *

Cotton, August 1–July 31; * * *.

"Normal supply" in the case of * * * cotton * * * shall be a normal year's domestic consumption and exports of the commodity, plus * * * 40 per centum in the case of cotton * * * of a normal year's domestic consumption and exports, as an allowance for a normal carry-over.

"Normal year's domestic consumption," in the case of cotton * * *, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Total supply" of * * * cotton * * * for any marketing year shall be the carry-over of the commodity for such marketing year plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins.";

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act.";

Whereas said Act provides, in section 350, that the provisions of Part IV (Marketing Quotas—Cotton) of Subtitle B of Title III thereof shall not apply to cotton the staple of which is 1⅛ inches or more in length; and

Whereas said Act was enacted on the 16th day of February, 1938:

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, approved February 16, 1938, upon the basis of the latest available statistics[1] of the Federal Government, do hereby find, determine, and proclaim under sections 342, 343, and 345 of said Act:

(1) That the "total supply" of cotton as of August 1, 1937, was 21,600,000 running bales;

(2) That the "total supply" of cotton for the marketing year commencing August 1, 1937, according to the latest statistics of the Federal Government now available, is 24,500,000 running bales;

(3) That the "normal supply" of cotton as of August 1, 1937, was 18,200,000 running bales;

(4) That the "carry-over" of cotton as of August 1, 1937, was 6,200,000 running bales;

(5) That the "probable domestic consumption of American cotton" during the marketing year commencing August 1, 1937, is 6,100,000 running bales;

(6) That the "probable exports of American cotton" during the marketing year beginning August 1, 1937, is 5,600,000 running bales;

(7) That the estimated "carry-over" of cotton as of August 1, 1938, is 12,500,000 running bales;

(8) That the "total supply" of cotton for the marketing year beginning August 1, 1937, exceeds by more than 7 per centum the "normal supply" of cotton for such marketing year; and

(9) That the national allotment of cotton for the calendar year beginning on January 1, 1938, shall be 10,000,000 standard bales of five hundred pounds gross weight, increased by that number of standard bales of five hundred pounds gross weight equal to the production in the calendar year 1938 of that number of acres required to be allotted for 1938 under the terms of section 344 (e) of said Act.

Done at Washington, D. C., this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–535; Filed, February 18, 1938; 11:36 a. m.]

[1] Rounded to the nearest 100,000 bales.

[38–AAA–1]

INSTRUCTIONS FOR HOLDING REFERENDUM ON COTTON MARKETING QUOTAS ON THE 1938 CROP

Pursuant to Section 347 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture is directed to conduct a referendum by secret ballot of farmers who were engaged in the production of the 1937 cotton crop in order to determine whether they favor or oppose cotton marketing quotas on the 1938 cotton crop. Such quotas are effective if two-thirds or more of the farmers voting in the referendum favor them. The Secretary of Agriculture is directed to proclaim the result of the referendum not later than 45 days after the enactment of the Act.

A. GENERAL INSTRUCTIONS TO COUNTY COMMITTEES

The County Committee of the County Agricultural Conservation Association (hereinafter referred to as the County Committee) shall be responsible for and in charge of the referendum which will be held in the county on Saturday, March 12, 1938, and it shall:

1. Designate a readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting a copy of Cotton 201, "Notice—Cotton Marketing Quota Referendum",[1] at least five days in advance of the voting day in one or more public places within each community. Make use (without advertising expense) of all available agencies of public information, including both the press and radio, to give cotton farmers in the county full and accurate notice of the day and hours of voting, the precise location of polling places, and the basis of eligibility to vote. Public notice should in all cases be given as soon as practicable after conditions of holding the referendum have been determined but must in every instance be given at least five days in advance of the date of the referendum.

2. Designate in each community three local farmers as members of the Community Referendum Committee to be in charge of holding the referendum in the community. One of the members shall be designated as chairman of the Community Referendum Committee.

3. Assist each Community Referendum Committee in providing a ballot box.

4. Furnish each Community Referendum Committee with a list of all the persons (owner-operators, share tenants, tenant-renters, and sharecroppers) in the community who were engaged in the production of cotton during 1937.

5. Deliver to the chairman of each Community Referendum Committee ballot forms (Cotton 202), register forms (Cotton 203) for use by the Community Referendum Committee in tabulating the result in the community, and three or more sets of the community summary form (Cotton 204) on which to record the summary of the referendum ballots cast in the community, together with instructions respecting balloting, keeping the register, tabulating ballots, and certifying the results.

6. See that all appropriate measures are taken to insure that the referendum is conducted by secret ballot.

7. Convene not later than 8:30 a. m., Monday, March 14, 1938, for the purpose of receiving and tabulating the data from community summaries (Cotton 204), using the county summary form (Cotton 205) for this purpose. Four copies of Cotton 205 showing the county results shall be prepared and certified, two copies of which shall be sent to the State Committee not later than three days after the date of the referendum, one copy of which shall be posted in a conspicuous place in or near the county office, and one copy of which shall be filed in or near the office of the County Agricultural Conservation Association. One copy of each Cotton 204 shall likewise be posted in a conspicuous place in or near the county office.

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives.

8. Make an investigation in each case of a controversy respecting eligibility of a voter. Where the ballot is found in a sealed envelope marked "Challenged" by the Community Referendum Committee and bearing the voter's name, the eligibility of such person shall first be determined; and if such person is determined to be eligible the envelope shall be opened and the ballot tabulated in the county summary. If it is determined such person was not eligible to vote, the envelope shall remain sealed and shall be preserved with the ballots as provided in paragraph 9.

9. Seal the voted ballots, register sheets, and community summaries for each county in envelopes or packages (marked "Cotton Referendum 1938" followed by the name of the county) which shall be kept under lock and key in a safe place under the supervision of the Secretary of the County Agricultural Conservation Association for a period of sixty calendar days. If no contest has arisen at the end of such time the ballots shall be destroyed and the community summaries filed in the county office.

10. Make an investigation in cases of dispute regarding the correctness of the summary of the referendum in a community. No dispute shall be investigated unless it has arisen within two days after the date on which the referendum was held. The County Committee shall promptly decide the disputed matter and immediately report its findings to the State Committee and send by registered mail or deliver in person to the State office all voted ballots, register forms and community summary sheets involved in the dispute.

B. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

The Community Referendum Committee designated by the County Agricultural Conservation Committee shall:

1. Arrange with the assistance of the County Committee for conducting by secret ballot the referendum of all producers tendering ballots within the hours for receiving same.

2. Assist the County Committee in giving public notice of the time and place for casting ballots to producers at least five days in advance of the date on which the referendum will be held.

3. Provide a place where each farmer eligible to vote can prepare and cast a ballot without interference and without anyone seeing how he votes.

4. Open the polls not later than 9 a. m. on Saturday, March 12, 1938.

5. See that no device is used whereby any voter's ballot may be identified (except, of course, in the case of a challenged ballot), and instruct each voter to fold his ballot before placing it in the ballot box.

6. Provide a ballot box where ballots may be deposited. Any container so arranged that ballots cannot be seen or removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks.

7. Hold the referendum in a fair and unbiased manner and explain to each eligible farmer making inquiry the procedure to be followed in casting his ballot.

8. Issue one ballot to each eligible voter requesting it.

9. See that all appropriate measures are taken to insure that the referendum is conducted by secret ballot.

10. Record on Cotton 203 the name and address of each farmer to whom a ballot is issued.

11. Issue a ballot to each person who claims a right to vote, even though his right to vote has been challenged by the Community Referendum Committee. Such ballot, after being marked by the challenged voter, shall be placed in a sealed envelope bearing the name of the voter, the notation "Challenged", and the reason for the challenge. The sealed envelope containing the challenged ballot shall be placed in the ballot box and the name of each farmer whose vote is challenged shall be listed at the bottom of Cotton 203.

12. Stop receiving ballots at 7 p. m. on the date of the referendum.

13. Tabulate and record the results on the Community Summary Sheet (Cotton 204) after closing the polls. The number of challenged ballots cast and sealed in envelopes shall be entered on Cotton 204 in the space provided but should not be entered as being either for or against the marketing quota. If any ballots are found to be mutilated and cannot be entered as being either for or against the marketing quota the number should be entered in the space provided.

14. Sign the forms Cotton 203 and Cotton 204 and certify to their accuracy.

15. Seal the forms Cotton 203, Cotton 204, and the unused ballots, in envelopes provided for that purpose and deliver them to the County Committee not later than 12 o'clock noon, Monday, March 14, 1938. The chairman of the Community Referendum Committee shall be responsible for the safe delivery of the forms and ballots.

16. Post one copy of Cotton 204 in a conspicuous place at the polls.

C. INSTRUCTIONS TO STATE COMMITTEES

The State Committee shall be responsible for and in charge of the referendum in the State and it shall:

1. Summarize on Cotton 206 all county summaries and forward to the applicable Regional Director, Agricultural Adjustment Administration, Washington, D. C., two certified copies of the summary for the State, not later than seven days after the day of the referendum. A copy of such report shall be filed in the State office of the Agricultural Adjustment Administration. Should one sheet prove insufficient for listing the information with respect to all counties in the State, additional copies of the form Cotton 206 may be used as continuation sheets, in which case the total should be entered on the last page only.

2. Make an investigation of any report from any county regarding controversies, irregularities, or the correctness of reports of the referendum, not later than seven days after the date of the referendum.

3. Forward to the applicable Regional Director its findings in such cases.

D. ELIGIBILITY AND GENERAL PROVISIONS

Official and final tabulation of the results of the referendum will be made by the Agricultural Adjustment Administration and the result of the referendum will be announced as soon as the Secretary of Agriculture has determined that such tabulation of the results is correct. State and County Committees are at liberty to give out to the press unofficial reports of the total "Yes" and total "No" votes in the State or county.

Only farmers who were engaged in the production of cotton in 1937 are entitled to vote.

No cotton farmer (whether an individual, partnership, corporation, firm, association, or other legal entity) shall be entitled to more than one vote in the referendum, even though he may have been engaged in 1937 in the production of cotton in two or more communities, counties, or States.

If a Community Referendum Committee determines that a producer residing in the community within the jurisdiction of that committee is eligible to vote by reason of having been a cotton producer in 1937 in another community, the committee may issue a ballot form to him and permit him to cast a ballot, provided the committee also determines that such farmer has not previously cast a ballot in another community. If the committee cannot so determine, the committee shall "Challenge" the ballot as heretofore outlined.

There shall be no voting by proxy or agent but a duly authorized officer of a corporation, firm, association, or other legal entity shall be allowed to cast its vote.

In case several persons, such as husband, wife, and children, participated in the production of cotton in 1937 under a lease or sharecropping agreement, only the person or persons who signed or entered into the lease or sharecropping agreement shall be eligible to vote.

In the event two or more persons engaged in producing cotton in 1937 jointly, in common, or in community, each such person is entitled to vote.

Since marketing quotas are not applicable to cotton the staple of which is 1⅛ inches or more in length, a person who was engaged in the production of such cotton in 1937 shall not be eligible to vote unless he was also engaged in the production of cotton in 1937 the staple of which was less than 1⅛ inches in length.

If the Secretary of Agriculture deems it necessary, any report of any Community Referendum Committee, County Committee, or State Committee shall be reexamined and rechecked by such persons or agencies as the Secretary may designate and a report to him made thereon.

Done at Washington, D. C., this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-532; Filed, February 18, 1938; 11:35 a. m.]

[38-AAA-1-A]

INSTRUCTIONS FOR HOLDING REFERENDA ON COTTON AND FLUE-CURED TOBACCO MARKETING QUOTAS ON THE 1938 CROP

Pursuant to Sections 347 and 312 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture is directed to conduct a referendum by secret ballot of farmers who were engaged in the production of cotton in 1937 and a separate referendum of farmers who were engaged in the production of flue-cured tobacco in 1937 in order to determine whether they favor or oppose cotton or flue-cured tobacco marketing quotas, as the case may be, with respect to the 1938 crop.

Although the referendum of cotton farmers as well as the referendum of flue-cured tobacco farmers will be conducted in the community on the same day and at the same place by the same Community Referendum Committee and although the procedure for conducting each referendum is very similar, the referenda are not otherwise related. Separate ballot boxes should be provided in each community where referenda are being held on both cotton and flue-cured tobacco marketing quotas. It should be clearly understood that a farmer to vote in either one or both of the referenda must be eligible. Cotton marketing quotas are effective if two-thirds or more of the cotton farmers voting in the referendum favor them; likewise flue-cured tobacco marketing quotas are effective if two-thirds or more of the tobacco farmers voting in the flue-cured tobacco referendum favor them. The Secretary of Agriculture is directed to proclaim the result of each referendum not later than 45 days after the enactment of the Act.

The following forms[1] will be used:

Cotton 201, "Notice—Cotton Marketing Quota Referendum."

Tobacco 201, "Notice—Flue-Cured Tobacco Marketing Quota Referendum."

38-AAA-1-A, "Instructions for Holding Referenda on Cotton and Flue-Cured Tobacco Marketing Quotas on the 1938 Crop."

Cotton 202, "1938 Cotton Marketing Quota Referendum Ballot."

Tobacco 202, "1938 Flue-Cured Tobacco Marketing Quota Referendum Ballot."

Cotton 203, "Register of Ballots—1938 Cotton Marketing Quota Referendum."

Tobacco 203, "Register of Ballots—1938 Flue-Cured Tobacco Marketing Quota Referendum."

Cotton 204, "Community Summary of 1938 Cotton Marketing Quota Ballots."

Tobacco 204, "Community Summary of 1938 Flue-Cured Tobacco Marketing Quota Ballots."

Cotton 205, "County Summary of 1938 Cotton Marketing Quota Ballots."

Tobacco 205, "County Summary of 1938 Flue-Cured Tobacco Marketing Quota Ballots."

Cotton 206, "State Tabulation of 1938 Cotton Marketing Quota Ballots."

Tobacco 206, "State Tabulation of 1938 Flue-Cured Tobacco Marketing Quota Ballots."

[1] Filed as a part of the original document with the Division of the Federal Register. The National Archives.

A. GENERAL INSTRUCTIONS TO COUNTY COMMITTEES

The County Committee of the County Agricultural Conservation Association (hereinafter referred to as the County Committee) shall be responsible for and in charge of the referendum on marketing quotas for cotton, and wherever applicable, for tobacco, which will be held in the county on Saturday, March 12, 1938, and it shall:

1. Designate a readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting the appropriate notice form at least five days in advance of the voting day in one or more public places within each community. Make use (without advertising expense) of all available agencies of public information, including both the press and the radio, to give farmers in the county full and accurate notice of the day and hours of voting, the precise location of polling places, and the basis of eligibility to vote. Public notice should in all cases be given as soon as practicable after conditions of holding the referendum have been determined but must in every instance be given at least five days in advance of the date of the referendum.

2. Designate in each community three local farmers as members of the Community Referendum Committee to be in charge of holding in the community the referendum on cotton marketing quotas as well as the referendum on flue-cured tobacco marketing quotas. One of the members shall be designated as chairman of the Community Referendum Committee.

3. Assist each Community Referendum Committee in providing a ballot box for the ballots cast in the referendum on marketing quotas for cotton and a separate ballot box for the ballots cast in the referendum on marketing quotas for flue-cured tobacco.

4. Furnish each Community Referendum Committee with a list of all the persons (owner-operators, share tenants, tenant-renters, and sharecroppers) in the community who were engaged in the production of cotton during 1937, and also a separate list of those engaged in the production of flue-cured tobacco in 1937.

5. Deliver to the chairman of each Community Referendum Committee ballot forms, register forms for use by the Community Referendum Committee in tabulating the results in the community, and three or more sets of community summary forms on which to record the summaries of the ballots cast in the community, together with instructions respecting balloting, keeping the registers, tabulating ballots, and certifying the results.

6. See that all appropriate measures are taken to insure that each referendum is conducted by secret ballot.

7. Convene not later than Monday, March 14, 1938, for the purpose of receiving and tabulating the data from community summaries, using the county summary forms for this purpose. Four copies of each county summary showing the county results shall be prepared and certified, two copies of which shall be sent to the State Committee not later than three days after the date of the referenda, one copy of which shall be posted in a conspicuous place in or near the county office, and one copy of which shall be filed in or near the office of the County Agricultural Conservation Association. One copy of each community summary shall likewise be posted in a conspicuous place in or near the county office.

8. Make an investigation in each case of a controversy respecting eligibility of a voter. Where the ballot is found in a sealed envelope marked "Challenged" by the Community Referendum Committee and bearing the voter's name, the eligibility of such person shall first be determined; and if such person is determined to be eligible the envelope shall be opened and the ballot tabulated on the county summary. If it is determined such person was not eligible to vote, the envelope shall remain sealed and shall be preserved with the ballots as provided in paragraph 9.

9. Seal the voted ballots, register sheets, and community summaries for each county in envelopes or packages (marked "Cotton Referendum 1938" or "Flue-Cured Tobacco Referendum 1938", as the case may be, followed by the name of the county) which shall be kept under lock and key in a safe place under the supervision of the Secretary of the County Agricultural Conservation Association for a period of sixty calendar days. If no contest has arisen at the end of such time the ballots shall be destroyed and the community summaries filed in the county office.

10. Make an investigation in cases of dispute regarding the correctness of the summary of the referendum in a community on marketing quotas for either tobacco or cotton. No dispute shall be investigated unless it has arisen within two days after the date on which the referendum in question was held. The County Committee shall promptly decide the disputed matter and immediately report its findings to the State Committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

B. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

The Community Referendum Committee designated by the County Agricultural Conservation Committee shall:

1. Arrange with the assistance of the County Committee for conducting by secret ballot referenda of all eligible cotton and flue-cured tobacco farmers tendering ballots within the hours for receiving same.

2. Assist the County Committee in giving public notice of the time and place for casting ballots to farmers at least five days in advance of the date on which the referenda will be held.

3. Provide a place where each farmer eligible to vote can prepare and cast a ballot without interference and without anyone seeing how he votes.

4. Open the polls not later than 9 a. m. on Saturday, March 12, 1938.

5. See that no device is used whereby any voter's ballot may be identified (except as provided in paragraph 11 below in the case of a challenged ballot), and instruct each voter to fold his ballot before placing it in the ballot box.

6. Provide ballot boxes where ballots may be deposited. Any container so arranged that ballots cannot be seen or removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks.

7. Hold the referenda in a fair and unbiased manner and explain to eligible farmers making inquiry the procedure to be followed in casting their ballots.

8. Issue in each referendum one ballot to each eligible voter requesting it.

9. See that all appropriate measures are taken to insure that the referenda are conducted by secret ballot.

10. Record on the applicable register of ballots the name and address of each farmer to whom a ballot is issued.

11. Issue in each referendum a ballot to each person who claims a right to vote, even though his right to vote has been challenged by the Community Referendum Committee. Such ballot, after being marked by the challenged voter, shall be placed in a sealed envelope bearing the name of the voter, the notation "Challenged", and the reason for the challenge. The sealed envelope containing the challenged ballot shall be placed in the ballot box and the name of each farmer whose vote is challenged shall be listed at the bottom of the applicable register of ballots.

12. Stop receiving ballots at 7 p. m. on the date of the referenda.

13. Tabulate and record the results on the applicable Community Summary Sheet after closing the polls. The number of challenged ballots cast and sealed in envelopes shall be entered on the applicable Community Summary Sheet in the space provided but should not be entered as being either for or against the marketing quota. If any ballots are found to be mutilated and cannot be entered as being either for or against the marketing quota the number should be entered in the space provided.

14. Sign the registers and community summary forms and certify to their accuracy.

15. Seal the registers and community summary forms, and the unused ballots, in envelopes provided for that purpose and deliver them to the County Committee not later than 12 o'clock noon, Monday, March 14, 1938. The chairman of the Community Referendum Committee shall be responsible for the safe delivery of the forms and ballots.

16. Post one copy of each community summary in a conspicuous place at the polls.

C. INSTRUCTIONS TO STATE COMMITTEES

The State Committee shall be responsible for and in charge of the referendum in the State and it shall:

1. Summarize on State tabulation forms all county summaries and forward to the applicable Regional Director, Agricultural Adjustment Administration, Washington, D. C., two certified copies of each summary for the State, not later than seven days after the day of the referenda. One copy of each such report shall be filed in the State office of the Agricultural Adjustment Administration. Should one sheet for each report prove insufficient for listing the information with respect to all counties in the State, additional copies of each State tabulation form may be used as continuation sheets, in which case the totals should be entered on the last page only.

2. Make an investigation of any report from any county regarding controversies, irregularities, or the correctness of reports of the referendum, not later than seven days after the date of the referendum.

3. Forward to the applicable Regional Director its findings in such cases.

D. ELIGIBILITY AND GENERAL PROVISIONS

Official and final tabulation of the results of the referenda will be made by the Agricultural Adjustment Administration and the result of the referenda will be announced as soon as the Secretary of Agriculture has determined that such tabulations of the results are correct. State and County Committees are at liberty to give out to the press unofficial reports of the total "Yes" and total "No" votes in each referendum in the State or county.

Only farmers who were engaged in the production of cotton in 1937 are eligible to vote in the cotton marketing quota referendum. Likewise, only farmers who were engaged in the production of flue-cured tobacco in 1937 are eligible to vote in the flue-cured tobacco marketing quota referendum. The fact that a farmer is eligible to vote in one referendum does not necessarily mean that he is eligible to vote in the other.

No farmer (whether an individual, partnership, corporation, firm, association, or other legal entity) shall be entitled to more than one vote in each referendum, even though he may have been engaged in 1937 in the production of cotton or flue-cured tobacco in two or more communities, counties, or States.

If a Community Referendum Committee determines that a producer residing in the community within the jurisdiction of that committee is eligible to vote by reason of having been a cotton farmer or flue-cured tobacco farmer, as the case may be, in 1937 in another community, the committee may issue a ballot form to him and permit him to cast a ballot, provided the committee also determines that such farmer has not previously cast a ballot in another community. If the committee cannot so determine, the committee shall "Challenge" the ballot as heretofore outlined.

There shall be no voting by proxy or agent but a duly authorized officer of a corporation, firm, association, or other legal entity shall be allowed to cast its vote.

In case several persons, such as husband, wife, and children, participated in the production of cotton or flue-cured tobacco in 1937 under a lease or sharecropping agreement, only the person or persons who signed or entered into the lease or sharecropping agreement shall be eligible to vote.

In the event two or more persons engaged in producing cotton or flue-cured tobacco in 1937 jointly, in common, or in community, each such person is entitled to vote.

Since marketing quotas are not applicable to cotton the staple of which is 1⅛ inches or more in length, a person who was engaged in the production of such cotton in 1937 shall not be eligible to vote unless he was also engaged in the production of cotton in 1937 the staple of which was less than 1⅛ inches in length.

If the Secretary of Agriculture deems it necessary, any report of any Community Referendum Committee, County Committee, or State Committee shall be reexamined and rechecked by such persons or agencies as the Secretary may designate and a report to him made thereon.

Done at Washington, D. C., this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-533; Filed, February 18, 1938; 11:35 a. m.]

[38-AAA-1-B]

INSTRUCTIONS FOR HOLDING REFERENDA ON COTTON AND FIRE-CURED AND DARK AIR-CURED TOBACCO MARKETING QUOTAS ON THE 1938 CROP

Pursuant to Sections 347 and 312 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture is directed to conduct a referendum by secret ballot of farmers who were engaged in the production of cotton in 1937 and a separate referendum of farmers who were engaged in the production of fire-cured and dark air-cured tobacco in 1937 in order to determine whether they favor or oppose cotton or fire-cured tobacco marketing quotas, as the case may be, with respect to the 1938 crop.

Although the referendum of cotton farmers as well as the referendum of fire-cured and dark air-cured tobacco farmers will be conducted in the community on the same day and at the same place by the same Community Referendum Committee and although the procedure for conducting each referendum is very similar, the referenda are not otherwise related. Separate ballot boxes should be provided in each community where referenda are being held on both cotton and fire-cured and dark air-cured tobacco marketing quotas. It should be clearly understood that a farmer to vote in either one or both of the referenda must be eligible. Cotton marketing quotas are effective if two-thirds or more of the cotton farmers voting in the referendum favor them; likewise fire-cured and dark air-cured tobacco marketing quotas are effective if two-thirds or more of the tobacco farmers voting in the fire-cured and dark air-cured tobacco referendum favor them. The Secretary of Agriculture is directed to proclaim the result of each referendum not later than 45 days after the enactment of the Act.

The following forms will be used:

Cotton 201, "Notice—Cotton Marketing Quota Referendum."

Tobacco 207, "Notice—Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Referendum."

38-AAA-1-B, "Instructions for Holding Referenda on Cotton and Fire-Cured and Dark Air-Cured Tobacco Marketing Quotas on the 1938 Crop."

Cotton 202, "1938 Cotton Marketing Quota Referendum Ballot."

Tobacco 208, "1938 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Referendum Ballot."

Cotton 203, "Register of Ballots—1938 Cotton Marketing Quota Referendum."

Tobacco 209, "Register of Ballots—1938 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Referendum."

Cotton 204, "Community Summary of 1938 Cotton Marketing Quota Ballots."

Tobacco 210, "Community Summary of 1938 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Ballots."

Cotton 205, "County Summary of 1938 Cotton Marketing Quota Ballots."

Tobacco 211, "County Summary of 1938 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Ballots."

Cotton 206, "State Tabulation of 1938 Cotton Marketing Quota Ballots."

Tobacco 212, "State Tabulation of 1938 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Ballots."

A. GENERAL INSTRUCTIONS TO COUNTY COMMITTEES

The County Committee of the County Agricultural Conservation Association (hereinafter referred to as the County Committee) shall be responsible for and in charge of the referendum on marketing quotas for cotton, and wherever applicable, for tobacco, which will be held in the county on Saturday, March 12, 1938, and it shall:

1. Designate a readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting the appropriate notice form at least five days in advance of the voting day in one or more public places within each community. Make use (without advertising expense) of all available agencies of public information, including both the press and the radio, to give farmers in the county full and accurate notice of the day and hours of voting, the precise location of polling places, and the basis of eligibility to vote. Public notice should in all cases be given as soon as practicable after conditions of holding the referendum have been determined but must in every instance be given at least five days in advance of the date of the referendum.

2. Designate in each community three local farmers as members of the Community Referendum Committee to be in charge of holding in the community the referendum on cotton marketing quotas as well as the referendum on fire-cured and dark air-cured tobacco marketing quotas. One of the members shall be designated as chairman of the Community Referendum Committee.

3. Assist each Community Referendum Committee in providing a ballot box for the ballots cast in the referendum on marketing quotas for cotton and a separate ballot box for the ballots cast in the referendum on marketing quotas for fire-cured and dark air-cured tobacco.

4. Furnish each Community Referendum Committee with a list of all the persons (owner-operators, share tenants, tenant-renters, and sharecroppers) in the community who were engaged in the production of cotton during 1937, and also a separate list of those engaged in the production of fire-cured or dark air-cured tobacco in 1937.

5. Deliver to the chairman of each Community Referendum Committee ballot forms, register forms for use by the Community Referendum Committee in tabulating the results in the community, and three or more sets of community summary forms on which to record the summaries of the ballots cast in the community, together with instructions respecting balloting, keeping the registers, tabulating ballots, and certifying the results.

6. See that all appropriate measures are taken to insure that each referendum is conducted by secret ballot.

7. Convene not later than 8:30 a. m., Monday, March 14, 1938, for the purpose of receiving and tabulating the data from community summaries, using the county summary forms for this purpose. Four copies of each county summary showing the county results shall be prepared and certified, two copies of which shall be sent to the State Committee not later than three days after the date of the referenda, one copy of which shall be posted in a conspicuous place in or near the county office, and one copy of which shall be filed in or near the office of the County Agricultural Conservation Association. One copy of each community summary shall likewise be posted in a conspicuous place in or near the county office.

8. Make an investigation in each case of a controversy respecting eligibility of a voter. Where the ballot is found in a sealed envelope marked "Challenged" by the Community Referendum Committee and bearing the voter's name, the eligibility of such person shall first be determined; and if such person is determined to be eligible the envelope shall be opened and the ballot tabulated on the county summary. If it is determined such person was not eligible to vote, the envelope shall remain sealed and shall be preserved with the ballots as provided in paragraph 9.

9. Seal the voted ballots, register sheets, and community summaries for each county in envelopes or packages (marked "Cotton Referendum 1938" or "Fire-Cured and Dark Air-Cured Tobacco Referendum 1938", as the case may be, followed by the name of the county) which shall be kept under lock and key in a safe place under the supervision of the Secretary of the County Agricultural Conservation Association for a period of sixty calendar days. If no contest has arisen at the end of such time the ballots shall be destroyed and the community summaries filed in the county office.

10. Make an investigation in cases of dispute regarding the correctness of the summary of the referendum in a community on marketing quotas for either tobacco or cotton. No dispute shall be investigated unless it has arisen within two days after the date on which the referendum in question was held. The County Committee shall promptly decide the disputed matter and immediately report its findings to the State Committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

B. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

The Community Referendum Committee designated by the County Agricultural Conservation Committee shall:

1. Arrange with the assistance of the County Committee for conducting by secret ballot referenda of all eligible cotton and fire-cured and dark air-cured tobacco farmers tendering ballots within the hours for receiving same.

2. Assist the County Committee in giving public notice of the time and place for casting ballots to farmers at least five days in advance of the date on which the referenda will be held.

3. Provide a place where each farmer eligible to vote can prepare and cast a ballot without interference and without anyone seeing how he votes.

4. Open the polls not later than 9 a. m. on Saturday, March 12, 1938.

5. See that no device is used whereby any voter's ballot may be identified (except as provided in paragraph 11 below in the case of a challenged ballot), and instruct each voter to fold his ballot before placing it in the ballot box.

6. Provide ballot boxes where ballots may be deposited. Any container so arranged that ballots cannot be seen or removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks.

7. Hold the referenda in a fair and unbiased manner and explain to eligible farmers making inquiry the procedure to be followed in casting their ballots.

8. Issue in each referendum one ballot to each eligible voter requesting it.

9. See that all appropriate measures are taken to insure that the referenda are conducted by secret ballot.

10. Record on the applicable register of ballots the name and address of each farmer to whom a ballot is issued.

11. Issue in each referendum a ballot to each person who claims a right to vote, even though his right to vote has been challenged by the Community Referendum Committee. Such ballot, after being marked by the challenged voter, shall be placed in a sealed envelope bearing the name of the voter, the notation "Challenged", and the reason for the challenge. The sealed envelope containing the challenged ballot shall be placed in the ballot box and the name of each farmer whose vote is challenged shall be listed at the bottom of the applicable register of ballots.

12. Stop receiving ballots at 7 p. m. on the date of the referenda.

13. Tabulate and record the results on the applicable Community Summary Sheet after closing the polls. The number of challenged ballots cast and sealed in envelopes shall be entered on the applicable Community Summary Sheet in the space provided but should not be entered as being either for or against the marketing quota. If any ballots are found to be mutilated and cannot be entered as being either for or against the marketing quota the number should be entered in the space provided.

14. Sign the registers and community summary forms and certify to their accuracy.

15. Seal the registers and community summary forms, and the unused ballots, in envelopes provided for that purpose and deliver them to the County Committee not later than 12 o'clock noon, Monday, March 12, 1938. The chairman of the Community Referendum Committee shall be responsible for the safe delivery of the forms and ballots.

16. Post one copy of each community summary in a conspicuous place at the polls.

C. INSTRUCTIONS TO STATE COMMITTEES

The State Committee shall be responsible for and in charge of the referendum in the State and it shall:

1. Summarize on State tabulation forms all county summaries and forward to the applicable Regional Director, Agricultural Adjustment Administration, Washington, D. C., two certified copies of each summary for the State, not later than seven days after the day of the referenda. One copy of each such report shall be filed in the State office of the Agricultural Adjustment Administration. Should one sheet for each report prove insufficient for listing the information with respect to all counties in the State, additional copies of each State tabulation form may be used as continuation sheets, in which case the totals should be entered on the last page only.

2. Make an investigation of any report from any county regarding controversies, irregularities, or the correctness of reports of the referendum, not later than seven days after the date of the referendum.

3. Forward to the applicable Regional Director its findings in such cases.

D. ELIGIBILITY AND GENERAL PROVISIONS

Official and final tabulation of the results of the referenda will be made by the Agricultural Adjustment Administration and the result of the referenda will be announced as soon as the Secretary of Agriculture has determined that such tabulations of the results are correct. State and County Committees are at liberty to give out to the press unofficial reports of the total "Yes" and total "No" votes in each referendum in the State or county.

Only farmers who were engaged in the production of cotton in 1937 are eligible to vote in the cotton marketing quota referendum. Likewise, only farmers who were engaged in the production of fire-cured or dark air-cured tobacco in 1937 are eligible to vote in the fire-cured and dark air-cured tobacco marketing quota referendum. The fact that a farmer is eligible to vote in one referendum does not necessarily mean that he is eligible to vote in the other.

No farmer (whether an individual, partnership, corporation, firm, association, or other legal entity) shall be entitled to more than one vote in each referendum, even though he may have been engaged in 1937 in the production of cotton or fire-cured or dark air-cured tobacco in two or more communities, counties, or States.

If a Community Referendum Committee determines that a producer residing in the community within the jurisdiction of that committee is eligible to vote by reason of having been a cotton farmer or fire-cured or dark air-cured tobacco farmer, as the case may be, in 1937 in another community, the committee may issue a ballot form to him and permit him to cast a ballot, provided the committee also determines that such farmer has not previously cast a ballot in another community. If the committee cannot so determine, the committee shall "Challenge" the ballot as heretofore outlined

There shall be no voting by proxy or agent but a duly authorized officer of a corporation, firm, association, or other legal entity shall be allowed to cast its vote.

In case several persons, such as husband, wife, and children, participated in the production of cotton or fire-cured or dark air-cured tobacco in 1937 under a lease or sharecropping agreement, only the person or persons who signed or entered into the lease or sharecropping agreement shall be eligible to vote.

In the event two or more persons engaged in producing cotton or fire-cured or dark air-cured tobacco in 1937 jointly, in common, or in community, each such person is entitled to vote.

If the Secretary of Agriculture deems it necessary, any report of any Community Referendum Committee, County Committee, or State Committee shall be reexamined and rechecked by such persons or agencies as the Secretary may designate and a report to him made thereon.

Done at Washington, D. C. this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-534; Filed, February 18, 1938; 11:36 a. m.]

Bureau of Animal Industry.

GENERAL RULES AND REGULATIONS FOR CARRYING OUT THE PROVISIONS OF THE PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED, WITH RESPECT TO STOCKYARD OWNERS, MARKET AGENCIES, DEALERS, AND LICENSEES

FEBRUARY 17, 1938.

Under the authority conferred upon the Secretary of Agriculture by the provisions of the Packers and Stockyards Act, approved August 15, 1921 (U. S. C., title 7, secs. 181–229), as amended by the act approved May 5, 1926 (U. S. C., title 7, sec. 205), and as further amended by the act approved August 14, 1935 (U. S. C., Sup. III, title 7, secs. 218–218d), and the act approved June 29, 1937, making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938, and for other purposes (50 Stat. 395, 406), the following rules and regulations are hereby prescribed. For the purpose of identification these rules and regulations are designated as B. A. I. Order No. 364.

The rules and regulations heretofore issued by the Secretary of Agriculture on this subject, under date of November 9, 1935 (B. A. I. Order No. 357) and all amendments thereto, are hereby revoked to take effect on March 1, 1938, after which date the regulations herein prescribed shall become and be effective until otherwise ordered.

H. A. WALLACE,
Secretary of Agriculture.

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1. These rules and regulations are made and prescribed with respect to stockyard owners, market agencies, dealers, and licensees under the Packers and Stockyards Act, 1921, as amended. These rules and regulations shall apply and be enforced only in accordance with and subject to the provisions of said act, as amended, including the definitions of terms therein used. They shall not prevent the legitimate application or enforcement of any valid bylaw, rule, regulation, or requirement of any exchange, association, or other organization, or any other valid law, rule or regulation, to which any stockyard owner, market agency, dealer, or licensee shall be subject, which is not inconsistent or in conflict with the act and these rules and regulations. The term "registrant" as used herein means a market agency or dealer subject to title III of the act. The term "licensee" as used herein means any person engaged in furnishing or conducting any service or facility named in section 502 of the act to Amend the Packers and Stockyards Act, 1921, approved August 14, 1935, and who holds a valid, unrevoked license from the Secretary of Agriculture, as provided by said amendment.

2. (a) Registration (sec. 303, title III) by market agencies and dealers shall be accomplished by properly filling out and delivering to the Bureau of Animal Industry at Washington, D. C., by mail or otherwise, a form which will be furnished on request for the purpose.

(b) Applications for licenses (sec. 502 (b) title V) may be made by persons subject to the licensing provisions of the amendment by properly filling out and delivering to the Chief of the Bureau of Animal Industry at Washington, D. C., by mail or otherwise, a form of application, which will be furnished by said Bureau upon request. The Secretary will issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application, or that he is financially unable to fulfill the obligations that he would incur as a licensee. If, after a hearing, it appears that the applicant is financially unable to fulfill his obligations as a licensee, the Secretary may grant applicant a license upon his executing and maintaining a surety bond or satisfactory equivalent thereof, provided such bond or equivalent meets the following standards:

Such bond or equivalent shall be conditioned to secure the performance of the obligations of the licensee incurred as such and may contain such other terms and conditions, not inconsistent with the requirements of these regulations, as may be agreed on between the parties thereto. If a bond is maintained, the surety on such bond shall be a surety company approved by the Treasury Department of the United States for bonds executed to the United States. However, any other form of indemnity which is found by the Chief of the Bureau of Animal Industry at Washington, D. C., to afford substantially equivalent protection may be accepted in lieu of a bond. Whenever, in the judgment of the Chief of the Bureau of Animal Industry at Washington, D. C., the condition of the business of any licensee is such as to render his bond or equivalent inadequate, the same shall, upon notice, be adjusted to meet the requirements of this regulation.

Any surety bond or equivalent shall contain a provision requiring that at least 10 days prior notice in writing be given to the Bureau of Animal Industry at Washington, D. C., by the party terminating such bond or equivalent in order to effect such termination.

Fully executed duplicates of bonds or equivalents shall be filed with the Bureau of Animal Industry at Washington, D. C.

3. (a) Each stockyard owner and market agency shall plainly state in the schedule of rates and charges (sec. 306, title III) filed by such stockyard owner or market agency, the date when effective, the stockyards at which it applies, the name and business address of the stockyard owner or market agency, the kind of livestock, the nature of the service, and the terms or conditions under which the service will be rendered.

Each licensee furnishing or conducting services or facilities for which a charge is made shall plainly state in the schedule of rates and charges (sec. 504, title V, which incorporates by reference sec. 306, title III) filed by such licensee, the date when effective, the city, place, or market at which it applies, the name and the business address of the licensee, the nature of the service or facilities furnished, and the terms or conditions under which the service will be rendered.

Schedules of rates and charges and amendments thereto of stockyard owners, market agencies, and licensees shall be printed or typed on paper which is approximately 8 by 11 inches in size, the lines of print or type being horizontal to the 8-inch dimension. Two copies of each such schedule or amendment shall be filed with the Bureau of Animal Industry at Washington, D. C., at least one of which shall be signed by the market agency, stockyard owner, or licensee filing the same.

The schedules of each market agency, stockyard owner, and licensee shall be designated by successive numbers as filed. Each such schedule shall be divided into sections which shall provide for the various classes of services furnished by the market agency, stockyard owner, or licensee. Each amendment of such schedule shall be numbered, and shall show the number of the schedule of which it is an amendment. Each such amendment shall in its body make adequate reference to the section or sections of the schedule which is amended, and shall set forth such section or sections in full in the amended or supplemented form. Each amendment shall indicate the numbers of such amendments to the original schedule as are in effect. After a market agency, stockyard owner, or licensee has filed 30 amendments to its schedule, any further change in the rates or charges shall be embodied in a new schedule which shall contain all rates and charges then in effect: *Provided, however,* That not more than 10 amendments relating to charges other than for feed may be filed without filing and publishing a new schedule.

Each stockyard owner, market agency, and licensee shall also file with the Bureau of Animal Industry at Washington, D. C., two copies of every rule or regulation, or set of rules or regulations, and of each amendment or supplement thereto, properly printed or typed, which in any manner change, affect, or determine any part or the aggregate of the rates or charges of such stockyard owner, market agency, or licensee, or the value of the services furnished.

All schedules and rules or regulations and amendments thereto required to be filed under this act shall be kept posted in a conspicuous public place by the market agency and stockyard owner filing same. Licensees shall post schedules of rates, charges, and rentals in a conspicuous location in their places of business where they may be readily observed by any interested person (sec. 504, title V). Unless the requirement as to filing and notice is specifically waived, as provided for in section 306 (c) (incorporated by reference in sec. 504, title V), all amendments to schedules or rules or regulations changing a rate or charge shall be filed with the Bureau of Animal Industry at Washington, D. C., not less than 10 days before the effective date thereof and must be posted in a conspicuous public place by the market agency, stockyard owner, or licensee filing the amendment at least 10 days prior to the effective date.

(b) If the same schedule is to be observed by more than one market agency or licensee one schedule will suffice for all market agencies or licensees at any one city, place, or market observing it whose names and business addresses are shown on it, together with the name of the organization, if any, by which adopted, provided at least one copy of such schedule or amendment thereto is signed in ink by each of the market agencies or licensees observing the same, and filed with the Bureau of Animal Industry at Washington, D. C.

After the effective date of any general order issued by the Secretary prescribing rates, charges, practices, and regulations governing the rendition of stockyard services, or the selling and/or buying of livestock on a commission basis at a stockyard, or governing the rendition of any services or the use of any facilities in a city, place, or market designated by the Secretary under Title V of the Act, every market agency operating on such stockyard and every licensee operating in such city, place, or market shall conform to such order.

4. Each stockyard owner, registrant, and licensee shall give to the Chief of the Bureau of Animal Industry, or his duly authorized agent, at such time in writing or otherwise, and under oath or affirmation if requested by such officer, any information concerning the business of the stockyard owner, registrant, or licensee which may be required in order to carry out the provisions of the act and the rules and regulations thereunder.

5. Each stockyard owner, registrant, and licensee shall, during ordinary business hours, permit any representative of the Bureau of Animal Industry designated by the officer in charge thereof to enter the place of business and inspect any or all property in the possession or control and all records pertaining to the business of the stockyard owner, registrant, or licensee as such, in order to carry out the provisions of the act and the rules and regulations thereunder. Any necessary facilities for such inspection shall be extended to such representative by the stockyard owner, registrant, or licensee, his agents and employees. Such representative shall be the Secretary's duly authorized agent for the purposes of these regulations.

6. No agent or employee of the United States shall, without the consent of the stockyard owner, registrant, or licensee concerned, divulge or make known in any manner, except to such other agent or employee of the United States as may be required to have such knowledge in the regular course of his official duties or except in so far as he may be directed by the Secretary or by a court of competent jurisdiction, any facts or information regarding the business of any stockyard owner, registrant, or licensee which may come to the knowledge of such agent or employee through any examination or inspection of the business or accounts of the stockyard owner, registrant, or licensee or through any information given by the stockyard owner, registrant, or licensee pursuant to these rules and regulations.

7. Each stockyard owner shall furnish to the Bureau of Animal Industry at Washington, D. C., as soon as practicable, true copies of all contracts, or changes therein, between such stockyard owner and packing, rendering, serum, fertilizer, and other establishments relating to the stockyards of such owner, except when it is shown that copies of such documents in the form in which they are effective are already in the possession of the United States Government at Washington and available to the Secretary.

8. In addition to other necessary records an accurate record of the number of head of each class of livestock received, shipped and disposed of locally each day shall be kept by each stockyard owner. Each registrant buying and/or selling livestock on a commission basis or otherwise, in addition to other necessary records, shall keep an accurate record of the number and weight of livestock bought and/or sold each business day, the prices paid or received therefor, and the charges made for services. Each licensee buying and/or selling live poultry on a commission basis or otherwise, in addition to other necessary records, shall keep an accurate record of the number of coops or pounds of live poultry bought and/or sold each business day, the price paid or received therefor, and the charges made for services and facilities.

9. Each stockyard owner, registrant, and licensee shall report in writing to the Bureau of Animal Industry at Washington, D. C., within 10 days thereafter any change of name or address or in the management or nature, or in the substantial control or ownership, of the business of such stockyard owner, registrant, or licensee under the act.

10. No stockyard owner, registrant, or licensee shall destroy or dispose of any books, records, documents, or papers which contain, explain, or modify transactions in his business under the act, without the consent in writing of the Chief of the Bureau of Animal Industry at Washington, D. C.

11. A stockyard owner, registrant, or licensee shall not knowingly make, issue, or circulate any false or misleading report, record, or representation concerning livestock or

live-poultry market conditions or the price or sale of any livestock or live poultry.

12. If any market agency or licensee acting as a broker, factor, or commission merchant shall knowingly sell or dispose of livestock or live poultry consigned to it to any person in whose business such market agency or licensee or any stockholder, owner, officer, or employee thereof has a pecuniary interest, such market agency or licensee shall promptly disclose such fact in accounting to the owner or consignor of such livestock or live poultry.

13. Whenever feed or water is furnished to livestock at stockyards or to live poultry by or at the direction of stockyard owners, market agencies, or licensees they shall see that it is wholesome and fit for the purpose. They shall collect for feed so furnished according to actual or carefully estimated weight only and in accordance with their schedules of rates and charges filed under the act.

14. Every stockyard owner, market agency, or licensee who furnishes weighing facilities at stockyards or for weighing live poultry shall maintain and operate such facilities so as to insure accurate weights.

15. A stockyard owner shall not discriminate unfairly with respect to the utilization of pens, alleys, or buildings for the yarding or handling of livestock or of space for packing, rendering, and other establishments, or otherwise in the services and facilities of his stockyard. A licensee shall not discriminate unfairly with respect to the utilization of facilities for the handling of live poultry at designated cities, markets, or places or discriminate unfairly otherwise in the services rendered thereat.

16. Each stockyard owner and registrant shall exercise reasonable care and promptness in respect to yarding, feeding, watering, weighing, or otherwise handling livestock to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.

Each license shall exercise reasonable care and promptness in respect to unloading, placing in coops, feeding, watering, weighing, transporting, or otherwise handling live poultry to prevent waste of feed, shrinkage, injury, death, or other avoidable loss.

17. (a) Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the owner of the livestock or his duly authorized agent a true written account of such sale, showing the number weight, and price of each kind of animals sold, the name of the purchaser, the date of sale, and such other facts as may be necessary to complete the account. Each licensee acting as a broker, factor, or commission merchant shall, with reasonable promptness following the sale of live poultry consigned to it for sale, transmit or deliver to the owner of the live poultry or his duly authorized agent a true written account of such sale showing the number of pounds and the price of each kind of poultry sold, date of sale, and such other facts as may be necessary to complete the account.

No market agency or licensee shall pay the net proceeds or any part thereof, arising from the sale of livestock or live poultry consigned to it for sale, to any person other than the owner of such livestock or live poultry, or his duly authorized agent, except upon an order from the Secretary of Agriculture or a court of competent jurisdiction unless such person holds (1) a valid unsatisfied mortgage or lien upon the particular livestock or live poultry, or (2) a written order executed by the owner at the time of, or immediately following, the consignment of such livestock or live poultry.

(b) Every market agency and dealer shall, on or before the date of commencement of operations, execute and thereafter maintain, or cause to be executed and thereafter maintained, reasonable bonds to suitable trustees to secure the performance of their obligations incurred as such market agency or dealer, and shall immediately file or cause to be filed with the Bureau of Animal Industry at Washington, D. C., a fully executed duplicate of such bond. For the purpose of this regulation, "market agency" means any person engaged in the business of buying or selling in commerce livestock at a stockyard on a commission basis, and "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock at a stockyard either on his own account or as the employee or agent of the vendor or purchaser.

Such bonds may contain such other terms and conditions as may be agreed upon between the parties thereto, not inconsistent with the requirements of this regulation. The surety on such bond shall be a surety company approved by the Treasury Department of the United States for bonds executed to the United States, or any other form of indemnity may be accepted in lieu thereof which is found by the Chief of the Bureau of Animal Industry at Washington, D. C., to afford substantially equivalent protection.

The amount of such bond shall be not less than the nearest multiple of $1,000 above the average amount of sales and/or purchases of livestock by such market agency or dealer during two business days, based on the total number of the business days, and the total amount of such sales and/or purchases in the preceding 12 months, or in such part thereof in which such market agency or dealer did business, if any. For the purpose of this computation, 308 shall be deemed the number of business days in a year, except that in those markets where livestock is offered for sale on not more than two days per week the actual number of days in the preceding 12 months on which livestock was offered for sale shall be deemed the number of business days. In such instances the amount of the bond shall be not less than the nearest multiple of $1,000 above the average amount of sales and/or purchases of livestock by such market agency or dealer during one business day. In any case, however, the amount of bond shall be not less than $2,000; and when the sales and/or purchases, calculated as hereinbefore specified, exceed $50,000 the amount of the bond need not exceed $50,000 plus 10 percent of the excess. Whenever the Chief of the Bureau of Animal Industry at Washington, D. C., finds any bond required hereunder to be inadequate, such bond, upon notice, shall be adjusted to meet the requirements of this regulation.

Two or more market agencies or dealers or the employees or agents of such dealers, if such market agencies or dealers are affiliated with the same association or local exchange, may be covered by a single bond in an amount based on their combined purchases and/or sales determined in accordance with this regulation.

All surety bonds, or their equivalents, shall contain a provision requiring that at least 10 days' prior notice in writing be given to the Bureau of Animal Industry at Washington, D. C., by the party terminating such bonds or equivalents, in order to effect their termination.

(c) No market agency or licensee shall make such use or disposition of funds in its possession or control as will endanger or impair the faithful and prompt accounting for and payment of such portion thereof as may be due the owner or consignor of livestock or of live poultry or other person having an interest therein, and to this end shall so handle all such funds as to prevent their being intermingled or confused with other accounts or funds of the market agency or licensee kept or used for other purposes.

18. The Chief of the Bureau of Animal Industry at Washington, D. C., shall perform for and under the supervision of the Secretary of Agriculture such duties as he may require in enforcing the act and these rules and regulations.

19. (a) In a proceeding in which many transactions are involved and reparation is claimed, the Secretary, after due notice and hearing, will find and determine the issues as to violations of the act, the injury thereby to complainant, and the right to reparation, and thereafter afford the parties opportunity to agree or make proof respecting the transactions and the amount of reparation due before entering an order awarding reparation. In such cases, testimony and exhibits bearing on the details of the transactions, and the amount of reparation on each, should not be produced at the hearing unless pertinent to develop other material facts.

(b) When the Secretary finds that reparation is due in such cases, but that the amount cannot be ascertained upon the record before him, the complainant should immediately prepare a statement showing details of the transactions on which reparation is claimed. The statement should not include any transactions not covered by the findings of the Secretary, or any transaction on which complaint was not filed with the Secretary within the statutory period provided for in section 309 (a). The statement, together with any paid bills relevant to the transactions, or true copies thereof, should then be forwarded to the defendant for checking and certification as to its accuracy. The certificate must be signed in ink by a properly authorized officer of the defendant, and should cover all the information shown in the statement.

(c) Statements so prepared and certified shall be filed with the Secretary, whereupon he will consider entry of an order for reparation. The filing of statements will not stop the running of the statute of limitations as to transactions not covered by complaint, or supplemental complaint.

(d) All discrepancies, duplications, or other errors in the statements should be adjusted by the parties, and correct, agreed statements submitted to the Secretary.

[F. R. Doc. 38-531; Filed, February 18, 1938; 11:04 a. m.]

FARM CREDIT ADMINISTRATION.

[FCA 76]

THE FEDERAL LAND BANK OF BALTIMORE

FEES TO BE CHARGED APPLICANTS FOR EXTENSION OF ENTIRE INDEBTEDNESS ON FEDERAL LAND BANK LOANS AND/OR LAND BANK COMMISSIONER LOANS HELD BY THE FEDERAL FARM MORTGAGE CORPORATION

Pursuant to Paragraph "Thirteenth" of Section 13 of the Federal Farm Loan Act, as amended, [12 U. S. C. 781 (Thirteenth)], and by action of the Executive Committee of The Federal Land Bank of Baltimore on October 8, 1937, with the approval of the Land Bank Commissioner dated December 2, 1937; and pursuant to Sections 1 and 2 of the Federal Farm Mortgage Corporation Act, as amended, (12 U. S. C. 1020 and 1020a), and Section 32 of the Emergency Farm Mortgage Act of 1933, as amended, (12 U. S. C. 1016), and by action of the Executive Committee of The Federal Land Bank of Baltimore, as agent for the Federal Farm Mortgage Corporation, on October 8, 1937, and with the approval of the Federal Farm Mortgage Corporation, dated December 2, 1937, the following fees shall be charged in connection with the costs of making extensions of the entire indebtedness of Land Bank loans and Land Bank Commissioner loans held by the Corporation:

1. A fee of $10.00 in connection with each application for extension of entire indebtedness of a single Land Bank loan.

2. A fee of $10.00 in connection with each application for extension of entire indebtedness of a single Land Bank Commissioner loan.

3. A fee of $15.00 in connection with application for extension of entire indebtedness of joint loans made by the Land Bank and the Land Bank Commissioner, of which $7.50 shall be paid to the Bank and $7.50 shall be paid to the Federal Farm Mortgage Corporation.

The foregoing fees shall be paid and shall be retained by the Bank or the Corporation, as the case may be, regardless of whether the mortgaged property is reappraised.

The Federal Land Bank of Baltimore, acting in its own behalf and as agent for the Federal Farm Mortgage Corporation.

[SEAL] CHAS. S. JACKSON, *President.*

[F. R. Doc. 38-536; Filed, February 18, 1938; 12:01 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of February, A. D. 1938.

[File No. 47-19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Republic Electric Power Corporation, a registered holding company, for approval of the acquisition by it of the properties and assets of Gas Transport Company and Apache Gas Company, two of its wholly-owned subsidiaries which are to be merged with and into the applicant;

It is ordered, That a hearing on such matter be held on March 7, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 2, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-530; Filed, February 18, 1938; 10:45 a. m.]

Tuesday, February 22, 1938 *No. 37*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DESIGNATING PORT ST. JOE, FLORIDA, AS A CUSTOMS PORT OF ENTRY

By virtue of and pursuant to the authority vested in me by the act of August 1, 1914, 38 Stat. 609, 623 (U. S. C., title 19, sec. 2), it is ordered that the port of Port St. Joe, Florida, be, and it is hereby, designated as a customs port of entry in Customs Collection District No. 18 (Florida), with headquarters at Tampa, Florida.

This order shall become effective thirty days from the date hereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 17, 1938.

[No. 7818]

[F. R. Doc. 38-537; Filed, February 18, 1938; 2:31 p. m.]

EXECUTIVE ORDER

DESIGNATING THE CHAIRMAN OF THE UNITED STATES MARITIME COMMISSION

By virtue of and pursuant to the authority vested in me by section 201 (a) of the Merchant Marine Act, 1936 (49 Stat. 1985), I hereby designate Emory S. Land as Chairman of the United States Maritime Commission.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 18, 1938.

[No. 7821]

[F. R. Doc. 38-541; Filed, February 19, 1938; 11:06 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 224]

AN ORDER ESTABLISHING MINIMUM PRICES FOR COALS PRODUCED AT THE "LAYTON" MINE OF THE D. R. LAYTON COAL COMPANY AND AT THE "MAXWELL" MINE OF WALKER & OLSON, WITHIN DISTRICT NO. 3

The Bituminous Coal Producers' Board for District No. 3 having proposed to the Commission that minimum prices be established for coals produced at the "Layton" mine of the D. R. Layton Coal Company, and at the "Maxwell" mine of Walker & Olson, within District No. 3, and the Commission having investigated such proposed prices and having determined same to conform to the provisions of the Act,

It is, therefore, ordered:

1. That price indices be and the same are hereby established for the "Layton" mine of the D. R. Layton Coal Company, and for the coals produced at the "Maxwell" mine of Walker & Olson within District No. 3, as follows:

Company	Mine	Seam	Size group										
			1	2	3	4	5	6	7	9	12	13	14
D. R. Layton Coal Co.	Layton...	Pittsburgh..	H	H	H	H	H	H	H	H	H	H	H
Walker & Olson..	Maxwell.	Kittanning..	K	K	K	K	K	K	K	G	K	K	K

2. That the aforesaid price index for the D. R. Layton Coal Company be and the same is hereby made a part of page 8—s1 of the Schedule of Minimum Prices for District No. 3, and the aforesaid price index for Walker & Olson be and the same is hereby made a part of page 10 of said Schedule of Minimum Prices;

3. That this Order shall be in force and effect from and after February 21, 1938;

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, Secretary of the Bituminous Coal Producers' Board for District No. 3 and the Code Members within said District and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-549; Filed, February 21, 1938; 12:45 p. m.]

[Order No. 225]

AN ORDER ESTABLISHING MINIMUM PRICES FOR COALS PRODUCED AT THE "WILLIS BRANCH" MINE OF THE HILL-ANDERSON COAL COMPANY WITHIN DISTRICT NO. 7

The Bituminous Coal Producers' Board for District No. 7, having proposed to the Commission that minimum prices be established for coals produced at the "Willis Branch" mine of the Hill-Anderson Coal Company within District No. 7, and the Commission having examined said proposal and having determined that the same conforms to the provisions of the Act,

It is, therefore, ordered:

1. That price indices be and the same are hereby established for the coals produced at the "Willis Branch" mine of the Hill-Anderson Coal Company within District No. 7, as follows:

District No. 7 (High Volatile)—Price Index

Company	Mine	Seam	Size group numbers														
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Hill-Anderson C. Co.	Willis Br.	Eagle	....	M	M	J	G	K	K	K	B	B	A	A	A	A	....	....

2. That the above price index, is, by this reference, hereby made a part of page 29—s 1 of the Schedule of Minimum Prices for District No. 7, the same as if it were fully set forth therein;

3. That this Order shall be in force and effect from and after February 21, 1938;

4. That the Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, Secretary of the Bituminous Coal Producers' Board for District No. 7 and to code members within said District, and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-550; Filed, February 21, 1938; 12:45 p. m.]

[Order No. 226]

AN ORDER REVISING CERTAIN MINIMUM PRICES ESTABLISHED FOR CERTAIN COALS PRODUCED AT THE "ANCHOR BLOCK MINE" OF THE NEW ANCHOR BLOCK COAL COMPANY WITHIN DISTRICT NO. 8

District Board No. 8 having recommended to the Commission a revision of the minimum prices established for certain coals produced at the "Anchor Block Mine" of the New Anchor Block Coal Company, and the Commission having investigated such proposed prices, and having determined same to conform to the provisions of the Act;

It is, therefore, ordered:

1. That the price indices established for the "Anchor Block Mine," of the New Anchor Block Coal Company, appearing on page 23—S. 1 be and the same are hereby amended and revised to read as follows:

	Size groups													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Anchor Block Mine.....	M	M	M	K	K	K	K	K	F	F	K	K	K	K

2. That said original price indices for said mine, as heretofore existing, be and the same are hereby rescinded;

3. That this order shall be in force and effect from and after March 1st, 1938;

4. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretary of the Bituminous Coal Producers' Board for District No. 8, and to Code members within said District, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-551; Filed, February 21, 1938; 12:46 p. m.]

[Order No. 227]

AN ORDER ESTABLISHING MINIMUM PRICES FOR COALS OF SIZE GROUP NO. 5 PRODUCED BY THE "HULL" MINE OF THE DEBARDELEBEN COAL CORPORATION WITHIN DISTRICT NO. 13

The Bituminous Coal Producers' Board for District No. 13, having proposed to the Commission, that minimum prices be established for coal within size group No. 5 produced at the "Hull" mine of the Debardeleben Coal Corporation within District No. 13, and the Commission having examined said proposal and having determined that the same conforms to the provisions of the Act,

It is, therefore, ordered:

1. That the price indices established for the "Hull" mine, reference 113, appearing on page 22 of the Schedule of Minimum Prices for District No. 13, be and the same are hereby supplemented to contain the following:

Size Group 5, Column t-2..... $2.30

2. That this Order shall be in force and effect from and after February 21, 1938;

3. That the Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, Secretary of the Bituminous Coal Producers' Board for District No. 13 and to Code members within said District and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19 day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-552; Filed, February 21, 1938; 12:46 p. m.]

[Order No. 228]

AN ORDER ESTABLISHING MINIMUM PRICES FOR COALS OF SIZE GROUPS NOS. 10 AND 11 PRODUCED BY THE "LINDBERGH" MINE OF THE BROOKSIDE-PRATT MINING COMPANY WITHIN DISTRICT NO. 13

The Bituminous Coal Producers' Board for District No. 13 having proposed to the Commission that minimum prices be established for coals within Size Groups Nos. 10 and 11, to be produced at the "Lindbergh" Mine, of the Brookside-Pratt Mining Company within District No. 13, and the Commission having examined said proposal and having determined that the same conforms to the provisions of the Act,

It is, therefore, ordered:

1. That the price indices established for the "Lindbergh" Mine, of the Brookside-Pratt Mining Company, reference 157, as appearing on page 24 of the Schedule of Minimum Prices for District No. 13, be and the same are hereby supplemented to contain the following:

Size Group 10, Column t-7..... $2.80
Size Group 11, Column t-8..... $2.85

2. That this order shall be in force and effect from and after February 21, 1938;

3. That the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, Secretary of the Bituminous Coal Producers' Board for District No. 13 and to Code members within said District, and shall cause to be published a copy of this Order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-553; Filed, February 21, 1938; 12:46 p. m.]

[Order No. 229]

AN ORDER MODIFYING ORDER NO. 144, AND REVISING THE SCHEDULE OF MINIMUM PRICES FOR COALS OF CODE MEMBERS PRODUCED WITHIN DISTRICT NO. 19

The National Bituminous Coal Commission having by its Order No. 144 determined and established the minimum prices of coals of code members produced within District No. 19 as set forth in Price Schedule No. One—District No. 19, which together with an appendage entitled "Description of Market Areas" was incorporated therein by reference, and the Commission having reviewed said Price Schedule No. One—District No. 19, and determined that the provisions of Subsections (a) and (b) of Part II of Section 4 of the Act and the purposes thereof, will be carried out more effectively by revising said Price Schedule No. One—District No. 19, as hereinafter provided.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.) known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the minimum prices of coals of Code Members produced within District No. 19, established in Price Schedule Number One—District No. 19, are hereby corrected and revised as set forth in Supplement Number One to Price Schedule Number One—District Number 19, filed this day in the office of the Secretary of the Commission and made a part hereof by reference as though fully set forth herein, and such minimum prices as shown in said Supplement Number One, shall be and hereby are determined and established as the minimum prices of coals of Code Members within the said District No. 19, shall be and become effective at 12:01 o'clock A. M. on the 1st day of March, 1938.

2. That said Order No. 144, as modified herein, shall remain in full force and effect.

3. That the Secretary of the Commission shall forthwith mail copies of this Order and Supplement No. 1 to Price Schedule No. 1—District No. 19 to the Consumers' Counsel; the Secretaries of the Bituminous Coal Producers' Boards within Minimum Price Area No. Seven; to Code Members within District No. 19; shall cause copies of this order and said Supplement No. 1 to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission; and shall cause to be published a copy of this Order and Supplement in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

SUPPLEMENT NO. 1 TO PRICE SCHEDULE NO. 1 FOR DISTRICT NO. 19

To all Code Members of District No. 19:

Please make the following corrections in Price Schedule No. 1:

Page No. 7—Rock Springs subdistrict.—Eliminate from the present Price Schedule, Market Areas 139, 140 and 141. Re-insert these Areas and include them with Market Areas 132, 133, 134, 135, 136, 137, 138, 142, 143 and 150.

Page No. 8—Kemmerer subdistrict.—Eliminate from the present Price Schedule, Market Areas 139, 140 and 141. Re-insert these Areas and include them with Market Areas 132, 133, 134, 135, 136, 137, 138, 142, 143 and 150.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. W. MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-554; Filed, February 21, 1938; 12:47 p. m.]

[Docket No. 263–FD]

IN THE MATTER OF THE BREWERTON CO., CENTRAL ILLINOIS COAL MINING COMPANY, CONSOLIDATED COAL COMPANY, GILLESPIE COAL COMPANY, HILLSBORO MINING COMPANY, INDIANA & ILLINOIS COAL CORPORATION, LIVINGSTON-MT. OLIVE COAL COMPANY, MARION COUNTY COAL COMPANY, MINE "B" COAL COMPANY, MT. OLIVE & STAUNTON COAL COMPANY, NOKOMIS COAL COMPANY, PANA COAL COMPANY, PANTHER CREEK MINES, INC., PEABODY COAL COMPANY AND PENWELL COAL MINING COMPANY

AN ORDER AMENDING TEMPORARY ORDER ENTERED HEREIN ON FEBRUARY 16, 1938

The Commission having entered a temporary order in the above entitled matter on the 16th day of February, 1938, upon the re-application for preliminary or temporary order by the Hillsboro Mining Company, Indiana & Illinois Coal Corporation and the Nokomis Coal Company, three of the petitioners above named, in support of which affidavits were filed setting forth that said petitioners have been unable to compete in certain markets and base said inability as being solely due to the prices established upon their coals; and the Brewerton Co., Central Illinois Coal Mining Company, Consolidated Coal Company, Gillespie Coal Company, Livingston-Mt. Olive Coal Company, Marion County Coal Company, Mine "B" Coal Company, Mt. Olive & Staunton Coal Company, Pana Coal Company, Panther Creek Mines, Inc., Peabody Coal Company and Penwell Coal Mining Company, several of the petitioners above named, having filed a re-application for a preliminary or temporary order pending final disposition of the aforesaid petition, and alleging that they are in identical position with the Hillsboro Mining Company, the Indiana and Illinois Coal Corporation and the Nokomis Coal Company, and praying that the Commission grant to all producers in Mine Price Group "F" within District No. 10 similar relief as granted to the Hillsboro Mining Company, the Indiana and Illinois Coal Corporation and the Nokomis Coal Company; and the Commission having duly considered the same,

Now, therefore, it is hereby ordered:

1. That paragraph 1 of the Temporary Order entered in the above entitled matter on the 16th day of February, 1938, be and the same is hereby rescinded, and the following paragraph substituted in lieu thereof:

"1. That pending final disposition of the aforesaid petition, or until further order of the Commission, Supplement No. 1 to Price Schedule No. 1—District No. 10 of the Schedule of Minimum Prices of coals of Code Members produced within District No. 10 be and the same is hereby modified and revised to contain the following provisions as if the same were fully set out in said supplement:

"'Minimum f. o. b. mine prices, as established in said Supplement for coals produced at mines of Code Members whose coals are in price Group "F" in District No. 10, as indicated in said Supplement, when for shipment to the market areas as set forth below, may be reduced from the minimum price established in said Supplement No. 1 in size groups 1 to 5 inclusive and size groups 6 to 15 inclusive in an amount not to exceed the amount set opposite the respective market area numbers and as indicated in the respective size group columns as hereinafter set forth:'"

Market areas	Price reduction	
	Size groups 1 to 5 inclusive	Size groups 6 to 15 inclusive
23 and 29	20¢	20¢
30, 100, 101, 104, 107, 112, 140, 141, 146, and 147	10¢	15¢
31 and 99	20¢	25¢
33, 34, 105 and 106	30¢	35¢
102	20¢	10¢
108	30¢	34¢

2. That said temporary order, except as herein amended, shall remain in full force and effect until further order of the Commission.

3. That the Secretary of the Commission shall forthwith mail copies of this Order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to Code Members within District No. 10, and to petitioners; shall cause a copy of this Order to be made available for inspection by all interested parties at the office of the Secretary of the Commission and at all Statistical Bureaus of the Commission; and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 18th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–548; Filed, February 21, 1938; 12:45 p. m.]

[Application No. 1273]

IN THE MATTER OF THE APPLICATION OF CLEVELAND HOT-HOUSE VEGETABLE GROWERS COOPERATIVE ASSOCIATION FOR REGISTRATION AS FARMERS' COOPERATIVE ORGANIZATION

NOTICE OF DENIAL OF REGISTRATION

The applicant above named having filed with the Commission on the 10th day of January, 1938, an application for registration as a farmers' cooperative organization pursuant to Paragraph IV of the Marketing Rules and Regulations of the Commission; and the Board of Employees duly designated by the Commission to examine and review said application having found that from the face of the application it appears that the applicant is not such a farmers' cooperative organization as is entitled to allowances or discounts by code members from the established code price within the meaning of the Bituminous Coal Act of 1937; and the said Board having recommended that registration be denied; and the Commission having duly considered the finding and recommendation of said Board and having adopted said finding and recommendation as its own;

Now, therefore, it is hereby directed:

1. That the application of Cleveland Hot-House Vegetable Growers Cooperative Association for registration as Farmers' Cooperative Organization be and the same is hereby denied without prejudice.

2. From and after ten days of the date of this order, no code member, sales agent, applicant for registration as a registered wholesaler or registered wholesaler shall pay or allow any discount to the above named applicant.

3. That the Secretary of the Commission is forthwith directed to mail a copy of this Notice to the applicant, to the Consumers' Counsel, to the Secretaries of Bituminous Coal Producers Boards, to each applicant for registration as a registered wholesaler, to each registered wholesaler, and to each code member within the several Districts; and shall cause a copy of this Notice to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–545; Filed, February 21, 1938; 12:44 p. m.]

[Application No. 1490]

IN THE MATTER OF THE APPLICATION OF GREENHOUSE VEGETABLE PACKING CO. FOR REGISTRATION AS FARMERS' COOPERATIVE ORGANIZATION

NOTICE OF DENIAL OF REGISTRATION

The applicant above named having filed with the Commission on the 17th day of January, 1938, an application for registration as a farmers' cooperative organization pursuant to Paragraph IV of the Marketing Rules and Regulations of the Commission; and the Board of Employees duly designated by the Commission to examine and review said application having found that from the face of the application it appears that the applicant is not such a farmers' cooperative organization as is entitled to allowances or discounts by code members from the established code price within the meaning of the Bituminous Coal Act of 1937; and the said Board having recommended that registration be denied; and the Commission having duly considered the finding and recommendation of said Board and having adopted said finding and recommendation as its own;

Now, therefore, it is hereby directed:

1. That the application of Greenhouse Vegetable Packing Co. for registration as Farmers' Cooperative Organization be and the same is hereby denied without prejudice.

2. From and after ten days of the date of this order, no code member, sales agent, applicant for registration as a registered wholesaler or registered wholesaler shall pay or allow any discount to the above named applicant.

3. That the Secretary of the Commission is forthwith directed to mail a copy of this Notice to the applicant, to the Consumers' Counsel, to the Secretaries of Bituminous Coal Producers Boards, to each applicant for registration as a registered wholesaler, to each registered wholesaler, and to each code member within the several Districts; and shall cause a copy of this Notice to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–546; Filed, February 21, 1938; 12:44 p. m.]

[Application No. 1728]

IN THE MATTER OF THE APPLICATION OF THE TOLEDO HOT-HOUSE COOPERATIVE ASSOCIATION FOR REGISTRATION AS FARMERS' COOPERATIVE ORGANIZATION

NOTICE OF DENIAL OF REGISTRATION

The applicant above named having filed with the Commission on the 31st day of January, 1938, an application for registration as a farmers' cooperative organization pursuant to Paragraph IV of the Marketing Rules and Regulations of the Commission; and the Board of Employees duly designated by the Commission to examine and review said application having found that from the face of the application it appears that the applicant is not such a farmers' cooperative organization as is entitled to allowances or discounts by code members from the established code price within the meaning of the Bituminous Coal Act of 1937; and the said Board having recommended that registration be denied; and the Commission having duly considered the finding and recommendation of said Board and having adopted said finding and recommendation as its own;

Now, therefore, it is hereby directed:

1. That the application of The Toledo Hothouse Cooperative Association for registration as Farmers' Cooperative Organization be and the same is hereby denied without prejudice.

2. From and after ten days of the date of this order, no code member, sales agent, applicant for registration as a registered wholesaler or registered wholesaler shall pay or allow any discount to the above named applicant.

3. That the Secretary of the Commission is forthwith directed to mail a copy of this Notice to the applicant, to the Consumers' Counsel, to the Secretaries of Bituminous Coal Producers Boards, to each applicant for registration as a registered wholesaler, to each registered wholesaler, and to each code member within the several districts; and shall cause of copy of this Notice to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–547; Filed, February 21, 1938; 12:44 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[A. A. A. Flue-cured Tobacco 1938—1]

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas the Act approved February 16, 1938, entitled "Agricultural Adjustment Act of 1938," provides:

SEC. 312. (a) Whenever, on the 15th day of November of any calendar year, the Secretary [of Agriculture] finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. • • •;

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins • • •.

"Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current • • •.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

• • • • • • • •

Tobacco (flue-cured), July 1–June 30 • • •.

"Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" of tobacco shall be a normal years' domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"Normal year's domestic consumption," in the case of • • • tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports" in the case of • • • tobacco • • • shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years • • • immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.;

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act.";

Whereas section 312 (d) of said Act provides:

In connection with the determination and proclamation of any marketing quota for the 1938–1939 marketing year, the determination by the Secretary pursuant to subsection (a) of this section shall be made and proclaimed within fifteen days following the date of the enactment of this Act • • •; and

Whereas said Act was enacted on the 16th day of February, 1938:

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, approved February 16, 1938, upon the basis of the latest available statistics[1] of the Federal Government, do hereby find, determine, specify, and proclaim, under section 312 of said Act:

(1) That the "reserve supply level" of flue-cured tobacco is 1,681,000,000 pounds;

[1] Rounded to the nearest 1,000,000 pounds.

(2) That the "total supply" of flue-cured tobacco for the marketing year for such tobacco beginning July 1, 1937, was 1,733,000,000 pounds and exceeds the reserve supply level of such tobacco; and

(3) That the amount of the national marketing quota for flue-cured tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning July 1, 1938, a supply of such tobacco equal to the reserve supply level of such tobacco, is 705,000,000 pounds.

Done at Washington, D. C., this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-538; Filed, February 18, 1938; 3:07 p. m.]

[A. A. A. Fire-cured and Dark Air-cured Tobacco 1938—1]

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas the Act approved February 16, 1938, entitled "Agricultural Adjustment Act of 1938", provides:

SEC. 312 (a). Whenever, on the 15th day of November of any calendar year, the Secretary [of Agriculture] finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. * * *; and

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins * * *.

"Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current * * *.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

* * * * * * *

Tobacco (other than flue-cured), October 1–September 30 * * *.

"Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" of tobacco shall be a normal year's domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"Normal year's domestic consumption," in the case of * * * tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports," in the case of * * * tobacco * * * shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years * * * immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.; and

Whereas said Act provides, in section 301 (c), that

The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act.; and

Whereas section 312 (d) of said Act provides:

In connection with the determination and proclamation of any marketing quota for the 1938–1939 marketing year, the determination by the Secretary pursuant to subsection (a) of this section shall be made and proclaimed within fifteen days following the date of the enactment of this Act * * *.; and

Whereas said Act was enacted on the 16th day of February, 1938:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture of the United States, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, approved February 16, 1938, upon the basis of the latest available statistics[1] of the Federal Government, do hereby find, determine, specify, and proclaim under section 312 of said Act:

(1) That the "reserve supply level" of fire-cured and dark air-cured tobacco is 355,000,000 pounds;

(2) That the "total supply" of fire-cured and dark air-cured tobacco for the marketing year for such tobacco beginning October 1, 1937, was 377,000,000 pounds and exceeds the reserve supply level of such tobacco; and

(3) That the amount of the national marketing quota for fire-cured and dark air-cured tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning October 1, 1938, a supply of such tobacco equal to the reserve supply level of such tobacco, is 145,000,000 pounds.

Done at Washington, D. C., this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-539; Filed, February 18, 1938; 3:07 p. m.]

Issued February 19, 1938

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGAR BEETS DURING THE CROP YEAR 1938, PURSUANT TO SUBSECTION (E) OF SECTION 301 OF THE SUGAR ACT OF 1937

Whereas Section 301 of the Sugar Act of 1937 authorizes the Secretary of Agriculture to make payments under specified conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar, and

Whereas the condition with respect to farming practices, as stated in subsection (e) of said section of said Act is as follows:

That there shall have been carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the conditions prescribed in subsection (e) of Section 301 of the Sugar Act of 1937 shall be deemed to have been fulfilled with respect to the production of the 1938 crop of sugar beets on any farm if there is carried out, on land on the farm which is adapted to the production of sugar beets, not less than one acre of soil conserving practices for each acre of sugar beets planted on the farm for harvest in 1938; *Provided, however,* That with respect to a farm which is composed in whole or part of rented acreage which would otherwise be part of another farm, the conditions prescribed in subsection (e) of Section 301 of the Sugar Act of 1937 shall be deemed to have been fulfilled with respect to the production of the 1938 crop of sugar beets on the farm if (a) there is carried out on such rented acreage, which would otherwise be part of another farm, and on land which is adapted to the production of sugar beets, not less than one-quarter acre of soil conserving practices for each acre of sugar beets planted on such rented acreage for harvest in 1938, and if (b) there is carried out, on the farm of which the rented acreage would otherwise be a part, and on land which is adapted to the production of sugar beets, an amount of soil conserving practices (in excess of one acre of soil conserving practices for each acre of sugar beets planted for harvest in 1938 on the farm on which the rented acreage would otherwise be a part) equal to not less than the difference between one acre of soil conserving practices per acre of sugar beets on all rented acreage which would otherwise be part of the farm and the amount of soil conserving practices carried out on all such rented acreage; *Provided further,* That the minimum number of acres of soil conserving practices, as set forth above, to be carried out on rented acreage which would otherwise be part of another farm, shall be represented by soil conserving practices (1) (a), (b), and (c) as hereinafter described; and *Provided further,* That not less than 25 per centum of the minimum total number of acres of soil conserving practices with respect to any farm shall be represented by soil conserving practices (1) (a), (b), and (c) hereinafter described.

For the purposes of this determination:

(1) Each of the following shall be deemed to be one acre of soil conserving practices:

(*a*) Maintaining until after July 1, 1938, one acre of a protective covering of adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(*b*) Seeding in 1938 one acre of land to adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(*c*) Plowing under in 1938 one acre of a good stand of an adapted green manure crop; or

(*d*) Applying in 1938 to land on the farm adapted to the production of sugar beets an amount of animal manure equal to that normally produced in one year by any of the following: two head of cattle (of more than one year of age), two horses, two mules, four calves, four colts, ten sheep, or ten goats; or

(*e*) Applying in 1938 to land on the farm adapted to the production of sugar beets an amount of commercial chemical fertilizing materials (including inorganic chemical substances used as fertilizers), the principal constituents of value of which are any form or combination of nitrogen, phosphoric acid, or potash, and which contain 125 pounds of such constituents in the form of net available plant food.

(2) Adapted perennial or biennial legumes, or adapted perennial grasses, or mixtures thereof, or adapted green manure crops, shall be deemed to be those perennial and biennial legumes, or perennial grasses, or mixtures thereof, or green manure crops which are approved under the 1938 State Agricultural Conservation Program as being adaptable for the State in which the farm is located.

Done at Washington, D. C., this 19th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-555; Filed, February 21, 1938; 12:50 p. m.]

Federal Crop Insurance Corporation.

APPOINTMENT OF THE BOARD OF DIRECTORS OF THE FEDERAL CROP INSURANCE CORPORATION

Pursuant to the powers vested in me by Section 505 of the Federal Crop Insurance Act, approved February 16, 1938, I, H. A. Wallace, Secretary of Agriculture, do hereby appoint M. L. Wilson, Under Secretary of Agriculture, R. M. Evans, Assistant to the Secretary of Agriculture, and J. W. Tapp, Assistant Administrator of the Agricultural Adjustment Administration, to be the Board of Directors of the Federal Crop Insurance Corporation, an agency of and within the Department of Agriculture. The appointments of these Directors are effective as of the date of this order and will continue at the pleasure of the Secretary of Agriculture. The Board of Directors appointed by this order, subject to the general supervision of the Secretary of Agriculture, shall be vested with the management of the Federal Crop Insurance Corporation.

[SEAL] H. A. WALLACE.
Secretary of Agriculture.

Dated February 19, 1938.

[F. R. Doc. 38-542; Filed, February 21, 1938; 9:23 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

REVISED LIMITATIONS ON REGIONAL MANAGER'S AUTHORITY TO AUTHORIZE RECONDITIONING

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Subsections a and k of Section 4 of said Act as amended, Section 302 (c) and the first paragraph of Section 314 of Chapter III of the Consolidated Manual be amended as follows:

Section 302 (c) is hereby amended to read as follows:

To review and render decisions in all cases where the amount of reconditioning, repairs or purchases of equipment and supplies, recommended by the Regional Manager, exceeds 65% of the latest valuation of the property in its then condition, prior to reconditioning, placed on the property by the Property Management Division, or $1,500.00, provided that the amount exceeds $1,000.00.

The first paragraph of Section 314 is hereby amended to read as follows:

The Regional Manager may incur or approve charges or expenses of any nature whatsoever made or incurred in the performance of any of the functions or duties required or authorized to be done by this Chapter, and when so approved proper vouchers shall be submitted to the Auditor or an authorized deputy for certification, provided that if the amount to be expended exceeds 65% of the latest valuation of the property in its then condition, prior to reconditioning, placed on the property by the Property Management Division, or $1,500.00, and provided that the amount exceeds $1,000.00, the approval of the Property Committee in the Home Office shall first be obtained.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-540; Filed, February 19, 1938; 10:21 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of February, 1938.

[File No. 1-2163]

IN THE MATTER OF CUSI MEXICANA MINING COMPANY COMMON STOCK, PAR VALUE FIFTY CENTS

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Common Stock, Par Value Fifty Cents, of Cusi Mexicana Mining Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on March 16, 1938, in Room 1101, Securities

[1] Rounded to the nearest 1,000,000 pounds.

and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-543; Filed, February 21, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of February, A. D. 1938.

[File No. 32-80]

IN THE MATTER OF THE GREENVILLE ELECTRIC LIGHT & POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been filed with this Commission by The Greenville Electric Light & Power Company, of Greenville, Ohio, a subsidiary company of United Public Utilities Corporation, a registered holding company, for exemption from the provisions of section 6 (a) of said Act of the issue and sale o fits promissory notes to wit:

(a) A promissory note bearing 6% interest, in the principal amount of $354,332.95, dated as of May 1, 1935 or thereafter and maturing on or after January 1, 1945, payable to United Public Utilities Corporation;

(b) A promissory note bearing 6% interest, in the principal amount of $146,000, dated as of May 1, 1935 or thereafter and maturing on or before January 1, 1945, payable to United Public Utilities Corporation;

(c) A promissory note or notes bearing 6% interest, in the principal amount of $57,209.30, dated as of date of issue and maturing on or before January 1, 1945;

Notes (a) and (b) mentioned herein to be issued renewing a like aggregate principal amount of existing notes of applicant;

Note (c) mentioned herein to be issued to obtain funds to reimburse applicant's treasury for past uncapitalized expenditures:

Applicant states that the issue and sale have been expressly authorized by the Public Utilities Commission of Ohio, the State commission of the State in which applicant is organized and doing business.

It is ordered, That a hearing on such matter be held on March 10, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 3, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-544; Filed, February 21, 1938; 11:02 a. m.]

Thursday, February 24, 1938 *No. 38*

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

RED LAKE INDIAN RESERVATION, MINNESOTA

REGULATIONS FOR THE SALE OF FOREST PRODUCTS

FEBRUARY 4, 1938.

1. The lumber, lath, shingles, crating, ties, piles, poles, posts, bolts, logs, bark, pulpwood, and other marketable products obtained from the forests of the Red Lake Indian Reservation, Minnesota, may be sold in open competitive markets at such prices as may be realized through the procedure hereinafter provided.

2. The Superintendent of the Red Lake Indian Agency is hereby authorized to keep constantly advertised for sale the products of the timber operations on the Red Lake Indian Reservation in one or more lumber trade journals of general circulation among persons, companies or corporations interested in the buying and selling of lumber and other forest products, and in newspapers in cities that may afford a favorable market for such forest products.

3. Contracts for advertising may be made in the discretion of the Superintendent of the Red Lake Indian Agency, provided that such contracts shall not be executed for a period of over one year.

4. Advertisement of products may also be made by circular letters and through personal contacts with the trade, provided that the travel expense incident thereto shall not be incurred without specific authority from the Superintendent of the Red Lake Indian Agency.

5. Proposals for the purchase of products may be made to the Manager of the Red Lake Indian Sawmill, and that official is authorized to quote prices and consummate sales at such times and on such terms as are consistent with these regulations, provided that sales in excess of $10,000 shall not be effected except with the approval of the Superintendent.

6. Proposals to sell may be made to municipalities, counties, states or the United States and prices quoted to such agencies. Terms and payment in connection with such sales may be formulated in accordance with the general practice of such agencies.

7. All products of the Red Lake Indian Sawmill may be sold for cash f. o. b. mill or at the point of delivery, freight prepaid by the Red Lake Indian Sawmill, except as provided in Section 9. Adjustments and allowances on shipments of forest products after delivery to buyer are authorized in accordance with generally accepted trade practices, when in the judgment of the Superintendent of the Red Lake Indian Agency and the Manager of the Red Lake Indian Sawmill such adjustments are essential by reason of off-grade shipments or errors in volume; provided that a written report setting forth the details of each case shall be filed by the Manager and approved by the Superintendent before such adjustments are authorized.

8. Shipments of forest products on open account shall be made only to persons or companies of substantial net worth and first-class credit rating. Credit on shipments of forest products sold on open account must not be extended beyond sixty (60) days from date of receipt of car by buyer. A cash discount of two per cent (2%) of mill value may be allowed when the shipment is paid for within ten (10) days of receipt of car by consignee as evidenced by the original paid freight bill.

9. Traveling salesmen other than the Mill Manager may be employed only with prior approval by the Commissioner of Indian Affairs.

10. Sales may be made through commission sales agents for which they may be paid a five per cent (5%) commission on the f. o. b. mill value of the shipment; or when 5% does not equal seventy-five cents (75¢) per thousand feet board measure a maximum commission of seventy-five cents (75¢) per thousand board feet may be allowed the salesman. All such commissions shall be paid only after the mill has been paid in full for the products sold. Sales may be made to wholesalers on which a discount of not more than eight per cent (8%) of the f. o. b. mill value may be allowed.

11. On all agreements to purchase for future delivery a deposit of not less than ten per cent (10%) of the estimated amount of the purchase may be required in the discretion of the Manager, to be forfeited if the purchaser does not comply with the terms of sale; and no agreement for sale and future delivery shall be made for a longer period than sixty (60) days, except with the approval of the Superintendent.

12. A monthly statement will be mailed to the Commissioner of Indian Affairs giving a summary statement of all products sold during the preceding month and the average price received for each main class of material.

The foregoing regulations are hereby approved for the sale of forest products from the Red Lake Indian Reservation under authority of the Acts of May 18, 1916 (39 Stat. L., 123, 137); May 25, 1918 (40 Stat., 572); June 30, 1919 (41 Stat., 14); June 5, 1924 (43 Stat., 412); and May 10, 1926 (44 Stat., 475).

JOHN HERRICK,
Assistant to the Commissioner of Indian Affairs.

Approved: February 11, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-556; Filed, February 23, 1938; 10:14 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of February, A. D. 1938.

[File No. 31-407]

IN THE MATTER OF THE APPLICATION OF KENNECOTT COPPER CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Kennecott Copper Corporation for exemption as a holding company from the provisions of said Act;

It is ordered, That a hearing on such matter be held on March 11, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 5, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-558; Filed, February 23, 1938; 10:59 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of February, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET OF PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE OHIO-DAHL TRACT, FILED BY H. B. SEARS, RESPONDENT

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

H. B. Sears, having filed on January 18, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

(1) That the statement in the footnote of Division II, Item 20, to the effect that the wells on said tract were being reconditioned during the months of December, 1937 and January, 1938 and that several of the wells were off production during the process of cleaning, re-tubing, and having pumps installed, and that this fact accounted for the decline in production during those months, is materially incomplete and inaccurate and is an untrue statement of a material fact;

(2) That the statement in said footnote to Division II, Item 20, and data in Division II, Item 20 (c), as to the allowable from said tract for the months of December, 1937 and January and February, 1938, are misleading without disclosing in Division II, Item 21, or elsewhere in said offering sheet, that during said months of December, 1937 and January, 1938 and at the time of the filing of said offering sheet said tract was not able to produce its allowable;

(3) That the statement in Division II, Item 20 (f), as amended February 7, 1938, that four wells on said tract are flowing, is materially incomplete and inaccurate and is an untrue statement of a material fact;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed rele-

vant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 7th day of March, 1938, at 10:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of the testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-557; Filed, February 23, 1938; 10:59 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of February, A. D., 1938.

IN THE MATTER OF WILLIAM J. STRATTON, DOING BUSINESS AS WILLIAM J. STRATTON COMPANY

ORDER REVOKING REGISTRATION

The registration of William J. Stratton, doing business as William J. Stratton Company, as a broker and dealer on the over-the-counter markets, having come on for hearing before the Commission upon the question of revocation or suspension; and

The Commission having this day made and filed its findings of fact herein;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of William J. Stratton, doing business as William J. Stratton Company, be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-559; Filed, February 23, 1938; 10:59 a. m.]

Friday, February 25, 1938 *No. 39*

DEPARTMENT OF THE INTERIOR.

Geological Survey.

OPERATING REGULATIONS[1] TO GOVERN COAL-MINING METHODS AND THE SAFETY AND WELFARE OF MINERS ON LEASED LANDS ON THE PUBLIC DOMAIN

[Second Edition]

CONTENTS

[References are to inclusive sections]

	Sections
Definitions	1–xxi
Purpose of supervision	xxii
Powers and duties of mining supervisor, district mining supervisor, and deputy mining supervisor	1–7
Duties and obligations of lessee	8–11
Personnel and their duties	12–17
Weighing or measuring coal	18
Geologic and bore-hole reports	19
Approaching oil, gas, or water wells	20
Surface structures, their location, construction and fire protection	21
Development plans	22–23
Mining where more than one bed of coal occurs	24
Developing through adjoining mines	25–26
Provisions for disposal of waste	27
Surveys and maps	28–29
Mining by stripping	30
Manways and exits	31–37
Hoists, hoisting equipment, and shaft landings	38–47
Signals and telephones	48–50
Pillars and crosscuts	51–54
Ventilating fans and air distribution	55–65
Approaching abandoned workings and sealing abandoned areas	66–67
Electrical equipment, its installation and maintenance	68–76
Internal-combustion engines	77
Haulageways	78–81
Storage, transportation, distribution and use of explosives	82–93
Prevention of coal-dust explosions	94
Fire protection	95–99
Check numbers for employees	100
Safety guards, timber, and supplies	101–103
First-aid equipment and safety training	104–106
Mine rescue apparatus	107–109
Health, sanitation, and welfare	110–114

[1] Under the act of February 25, 1920 (41 Stat. 437), and amendments thereto.

Secs. 31, 32, and 33 of the act of Congress approved February 25, 1920, provide as follows:

SEC. 31. That any lease issued under the provisions of this Act may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this Act, of the lease, or of the general regulations promulgated under this Act and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

SEC. 32. That the Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this Act.

SEC. 33. That all statements, representations, or reports required by the Secretary of the Interior under this Act shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

DEFINITIONS

The following expressions wherever used in these regulations shall have the meaning here indicated:

SEC. i. *Mining supervisor.*—The agent appointed by and acting for the Secretary of the Interior to supervise all coal-mining operations coming under these regulations.

SEC. ii. *District mining supervisor.*—An agent appointed by the Secretary of the Interior to supervise coal-mining operations in one or more of the coal fields of the United States, acting under the direction of the mining supervisor.

SEC. iii. *Deputy mining supervisor.*—An agent appointed by the Secretary of the Interior, acting under the direction of the mining supervisor or the district mining supervisor.

SEC. iv. *Lessee.*—Any person or persons, partnership, association, firm, corporation, municipality, or State which has made application for or to which has been issued a coal-mining lease, permit, or license under the act of February 25, 1920, and amendments thereto.

SEC. v. *Leased land or tract.*—Any land or coal deposit owned by the United States and under lease, permit, license, or application for lease, permit, or license, in accordance with the act of February 25, 1920, for the purpose of mining coal therefrom.

SEC. vi. *Coal.*—Coal of all ranks from lignite to anthracite.

SEC. vii. *Mine.*—An underground excavation and all parts of the property of a mining plant either on the surface or underground that contribute directly or indirectly to the mining and preparation of coal.

SEC. viii. *Stripping operation.*—The term "stripping operation" or "strip pit" shall mean a mining excavation or development by means of a surface pit or quarry in which the surface or cover over the coal bed is first removed and the coal itself is then excavated.

SEC. ix. *Slope.*—An inclined entry in a dipping coal bed or an inclined tunnel to a coal bed.

SEC. x. *Shaft.*—A mine opening, the axis of which is approximately vertical, extending from the surface to develop one or more coal deposits.

SEC. xi. *Panel.*—A unit area in a system of mining by which the mine is divided into areas isolated or surrounded by solid pillars of coal into which a pair of entries are driven for the development of rooms and the extraction of pillars.

SEC. xii. *Working place.*—Any underground place where men are assigned to mine or load coal or rock by hand or mechanically.

SEC. xiii. *Rock dusting.*—The distribution or application underground of fine noncombustible dust in such a manner as to prevent, check, control, or extinguish coal-dust explosions.

SEC. xiv. *Wet coal dust.*—Coal dust in a mine shall be considered wet only when the fines contain sufficient water to permit molding by hand pressure.

SEC. xv. *Gas.*—Used in the sense employed by coal miners to mean "fire damp," or flammable or explosive gas, usually methane. When such gas is mixed with air in certain proportions the mixture is explosive.

SEC. xvi. *Gassy mine.*—A mine shall be deemed "gassy" if so determined by appropriate State authority, or if a methane cap can be obtained with an approved safety lamp in any working place or places on any 3 days within a period of 30 days, or if the return air from any split contains 0.25 per cent or more of flammable gas.

SEC. xvii. *Black damp.*—The excess of nitrogen and carbon dioxide in an oxygen-deficient atmosphere.

SEC. xviii. *Permissible.*—Applied to explosives, safety lamps, electric machinery, rescue apparatus, and other devices, means, apparatus, and materials officially listed as "permissible" by the United States Bureau of Mines and approved as having met its requirements for the respective specified uses.

SEC. xix. *Fan.*—A revolving machine placed on the surface and used to create a positive air current in a mine.

SEC. xx. *Booster fan.*—A revolving machine placed underground for increased circulation in the specific airway in which it is placed.

SEC. xxi. *Auxiliary fan.*—A revolving machine used to force air through tubing or ducts for the ventilation of a specific working place or places.

PURPOSE OF SUPERVISION

SEC. xxii. The purpose of supervision is to assure the orderly and efficient development of publicly owned coal lands and coal deposits, without waste or avoidable loss of coal or damage to coal-bearing formations; to promote the safety, health, and welfare of workmen involved; to obtain a proper record and accounting of all coal produced; to determine rent and royalty liability; and to maintain a record of rent and royalty payments.

POWERS AND DUTIES OF MINING SUPERVISOR, DISTRICT MINING SUPERVISOR, AND DEPUTY MINING SUPERVISOR

It shall be the duty of the mining supervisor, district mining supervisors, and deputy mining supervisors:

SEC. 1. To visit from time to time leased lands where coal mining or prospecting operations are being conducted or contemplated; and to inspect and supervise such operations and plants connected therewith in order to prevent injury to life, wastage of coal, damage to or from wells drilled through the coal beds, and damage or threatened damage to property or to equipment from fire, oil, gas, or water, or otherwise, and in order to insure that operations are being conducted and that the welfare of the miners is being provided for in accordance with the act and these regulations.

SEC. 2. To ascertain and report the nature and amount of damages, if any, to the leased premises or to adjacent property belonging to the Government; to report the amount and value of any coal avoidably lost or wasted; and to make recommendations to the Secretary of the Interior on the action to be taken for insuring compliance with the provisions of the lease and these regulations.

SEC. 3. To examine the mines, mine maps, records, and books of the lessee and determine the amount of coal mined from Government coal land; to make a report to the Secretary of the Interior each quarter showing the production and the accrued royalties and rentals; to receive, record, and transmit payments of royalties and rentals; and to place seals at the entrance of leased lands on orders of the Secretary when the lessee is delinquent in royalty and rental payments.

SEC. 4. To prescribe or approve the methods of protection from wells or prospect holes drilled for any purpose through the coal measures and mines on leased lands and on coal lands subject to lease, with a view to the prevention of leakage of oil, gas, water, or other fluid substances that might endanger the lives of employees, and to prescribe or approve methods of obtaining the ultimate extraction, so far as practicable, of coal in the vicinity of such wells.

SEC. 5. To specify in writing under what conditions a mine or panel or other section of a mine, from which the coal has or has not been extracted, may be abandoned by the lessee, and how a section of a mine so abandoned should be sealed off or otherwise separated from the other parts of the mine, and to cause a survey of operations on leased lands to be made at the lessee's expense upon failure of the lessee to provide accurate maps as required.

SEC. 6. If these operating regulations or the State mining laws are not being complied with, and in the opinion of the district mining supervisor or the deputy mining supervisor, the mine or the lives of workmen are in jeopardy, such supervisor may give notice in writing to stop operations on all or a part of the leased land and may apply Department of the Interior seals to the haulage tracks or across the entrance to the strip pit, mine, or section of the mine affected. Should any such notice or seal be violated, the district mining supervisor shall recommend the penalty to be imposed upon the lessee.

SEC. 7. The mining supervisor, the district mining supervisor, and the deputy mining supervisor may issue such orders and notices in writing as may be appropriate to insure compliance with these regulations, and may order the discontinuance or modification of any operation or method that is causing or likely to cause any endangerment of life or property or is in violation of the provisions of the lease or regulations: *Provided*, That such orders are not in conflict with the laws of the State in which the leased land is situated; *And further provided*, That if any such order or notice issued by the deputy or district mining supervisor does not contain a statement that immediate danger of loss of life or property is involved and if the lessee appeals therefrom within 10 days, execution of said order or notice may be delayed pending review by the mining supervisor and, on further appeal, pending review by the Secretary of the Interior.

DUTIES AND OBLIGATIONS OF LESSEE

SEC. 8. The lessee shall observe and carry out the terms of the act of February 25, 1920 (41 Stat. 437), as amended, of his lease, of these regulations, and of the orders and written notices of the mining supervisor, district mining supervisor, or deputy mining supervisor issued in accordance with the regulations and terms of the lease that are not in conflict with the laws of the State in which the leased land is situated: *Provided*, That if any order or notice does not specify that immediate action must be taken for the protection of life or property, an appeal may be taken as provided in section 7 of these regulations.

Upon failure of the lessee to take appropriate action to protect the deposits from damage or threatened damage by fire, water, oil, gas, or subsidence, and upon failure of the lessee properly to protect the property upon abandonment or cancelation of the lease, the lessee shall be liable for the expense of labor and supplies used by the district mining supervisor or his associates for the protection of the property.

SEC. 9. (*a*) The lessee shall keep a correct record of coal produced in a manner that such records can readily be checked, and he shall report accurately, on mine-run basis, within 30 days after the expiration of the period covered by the report, all coal mined from the leased land during each calendar quarter and such other data as may be required on the form provided for quarterly reports; and on the anniversary of the lease he shall report the yearly production and such other data as may be required on the form provided for annual reports. Permittees shall report monthly and licensees quarterly, giving the amount of coal mined and the amount disposed of during the period covered by the report, a description of the work done, the cost of the work, the results of prospecting, and such other information as may be requested.

(*b*) The lessee shall cause an audit of his books and accounts pertaining to the leased land to be made annually within 30 days after the expiration of the lease year or at such times as directed by the district mining supervisor, to whom he shall furnish, free of cost, a copy of the said audit. The eligibility of the accountant making such audit is to be subject to approval by the Secretary of the Interior.

SEC. 10. The lessee shall report promptly to the district mining supervisor by telephone or telegraph the occurrence in or about the leased land of fatal accidents, serious outbursts of gas, explosions, inundations, fires, extensive squeezes, collapses of roof, or other serious conditions causing or threatening the loss of life or property.

SEC. 11. The lessee shall report promptly in writing to the district mining supervisor each accident that results in the loss of more than one shift for the injured person, giving the date of the accident, the name, age, and occupation of the injured person, the actual work being performed when the injury occurred, the cause and nature or result of the injury, the probable length of disability, and the name and location of the mine, with outline sketches or maps when pertinent. Copies of reports to the State inspector or industrial commission and outline sketches or maps will fulfill the requirements of this section.

PERSONNEL AND THEIR DUTIES

SEC. 12. (*a*) Superintendents, foremen, assistant foremen, mine examiners, fire bosses, hoistmen, electricians, and foremen of rescue and first-aid work must be qualified for and experienced in the duties of their respective positions and must be certified by competent State authority, or, in the absence of State certification requirements, appointments to such positions shall be subject to the approval of the district mining supervisor, who shall require the highest qualifications in vogue in the mining region concerned for similar positions.

(*b*) In the absence of personnel qualified as mentioned in this section, the duties of such positions may be performed by others on written consent of the appropriate State official, or, should no State official have jurisdiction over mine officials, on written consent of the district mining supervisor.

SEC. 13. (*a*) The lessee shall appoint for any mine employing more than 5 men underground on any shift a qualified mine foreman, who shall visit and inspect from time to time all accessible parts of the mine, and who shall be in responsible charge of the mine underground.

(*b*) If 25 men or less are employed underground on any shift, the superintendent may serve also as mine foreman, provided he is qualified to do so under the applicable State regulations.

(*c*) If more than 75 men are employed underground on any shift, the lessee shall appoint at least one experienced assistant mine foreman, with qualifications and duties similar to those of foreman, and an additional assistant mine foreman for every additional 75 men or fractional part of that number.

SEC. 14. (*a*) The lessee shall appoint a sufficient number of fire bosses or mine examiners, certified by the State, to examine every underground working place and nearby open place within 3 hours prior to the entrance of any shift of miners, and to determine if every place is free from a dangerous quantity of flammable or noxious gas, if the air is properly coursed, and if the roof and other conditions are safe for the workmen, and they shall record the date of examination at each working place.

(*b*) The fire bosses or mine examiners shall also examine every accessible part of the mine each third day, omitting Sunday, make the determinations mentioned in paragraph *a*, and record the date of the examination at each place examined. Any place which has been undercut by a machine or in which the coal or roof has been blasted or has fallen shall be examined by a fire boss or mine examiner and determined to be safe before workmen are permitted to reenter.

(*c*) For every group of 75 men or fraction thereof employed underground in any gassy mine at least one fire boss or mine examiner shall be appointed, who shall be subjected to a physical and optical examination at least once each calendar year.

SEC. 15. (*a*) The fire bosses or examiners shall fence and mark off all dangerous places to warn men and prevent their entrance into such places, shall list on a blackboard or its equivalent at the entrance to the mine or entrance to each section of the mine and places therein which have been marked off, and shall station themselves at the entrance to such a section or near the mouth of the mine to warn miners who normally would work in places found dangerous and prevent them from entering until the dangerous conditions have been remedied under the supervision of a duly accredited mine official and the place has been declared safe.

(*b*) The reports of the fire bosses or mine examiners shall be assembled and copied once a day, in ink or indelible pencil, in a record book kept in the office of the mine and signed each day by the fire bosses or examiners and by the mine foreman.

(*c*) The foreman or an assistant foreman, if duly qualified in accordance with State regulations and if his other duties permit, may also serve as fire boss or mine examiner.

SEC. 16. At a mine where electricity is used underground for generating power, the lessee shall appoint a man to be in charge of the electrical equipment who is fitted for his position by ability, training, and experience and is familiar with the hazards of mine gases and coal dust and with the operation and maintenance of the equipment in his charge.

SEC. 17. (*a*) Hoistmen shall be familiar with the operation of hoisting engines, able to read and write English, and not less than 18 years of age.

(*b*) Hoistmen who hoist or lower men must have a physical examination annually and present a certificate of health from a reputable physician.

WEIGHING OR MEASURING COAL

SEC. 18. (*a*) All coal mined shall be accurately weighed or measured, truly accounted for, and recorded by the lessee, including a record of all sales of coal and of coal disposed of otherwise. If the miners are paid either by weight or by measurement, a record of correct daily weights or biweekly measurements shall be posted or displayed in a conspicuous place. Test weights shall be kept at the scales, so that the accuracy of the scales can be tested at any time.

(*b*) The weighman or person appointed to weigh or measure the coal where the miners are paid upon the basis of his figures shall be required before entering upon his duties to subscribe to an affidavit, before a person duly authorized to administer oaths, that he will keep a true record of the coal so weighed or measured and credit each miner accordingly; such affidavit shall be posted at his place of duty.

(*c*) Nothing contained herein shall be construed to prevent the lessee from separately weighing and deducting the amount of bone coal or other impurities, loaded by a miner with the coal, from the weight of the coal accredited to the miner.

(*d*) If rock or bone is removed from the coal after weighing, an allowance for such waste material may be authorized by the mining supervisor, provided the cleaning is done with a minimum loss of coal.

(*e*) If deductions are allowed for impurities in the coal under section 18 (*c*) or (*d*), under no circumstances shall the royalty be based on less than the weight credited to the miners, plus that loaded by day labor, nor shall it be based on less than the shipping weight, plus coal stored, coal used on the premises, and coal otherwise accounted for.

(*f*) If a lessee records or reports less than the true weight of the coal mined, he shall be subject to a penalty, at the option of the Secretary, of double the amount of royalty on the shortage or the full value of the shortage. Repetition of the showing of a shortage in weight after warning shall be sufficient cause for cancelation of the lease.

GEOLOGIC AND BORE-HOLE REPORTS

SEC. 19. (*a*) The lessee shall submit detailed reports upon completion or suspension of any prospect bore hole, prospecting operation, or geologic investigation. The report on each bore hole shall give the location, altitude, and log, including the occurrences of water. In surface prospecting the location and occurrences of coal shall be shown on a map, and copies of geologic reports on the lands leased shall be furnished by the lessee.

(*b*) All bore holes made to prospect formations shall upon completion be fully and promptly filled with a mud fluid or cement or filled otherwise, as prescribed by the district mining supervisor. While holes are being drilled they shall be properly cased and cemented to prevent migration of oil, gas, or water to the coal-bearing beds, and after serving their purpose they shall be abandoned as prescribed for prospect holes.

APPROACHING OIL, GAS, OR WATER WELLS

SEC. 20. When mining operations approach wells or bore holes that may liberate oil, gas, water, or other fluid substances, the lessee shall present his plans for mining the coal in proximity to such holes to the mining supervisor and obtain his approval before proceeding with the work planned. The plans shall provide that the coal be extracted as completely as practicable with safety and in such manner that the well will not be damaged, and that precautions be taken against the sudden liberation of a body of oil, gas, water, or other fluid. The mine ventilation shall be so arranged that any gaseous substance liberated shall enter the return air current and not be circulated through the active workings of the mine. In approaching such holes, the instructions in section 66 shall be followed.

SURFACE STRUCTURES, THEIR LOCATION, CONSTRUCTION, AND FIRE PROTECTION

SEC. 21. A lessee employing more than 10 men underground shall not construct or maintain on the surface any structure of combustible material within 75 feet of any opening, nor permit such a structure to be connected to any noncombustible building within that distance except as follows:

(*a*) An open timber framework or headframe of timber may be constructed over a shaft, slope, drift, or tunnel. The posts and rafters of any such structure may be of wood if the covering or lining is made of fireproof material, but under no circumstances shall wood flooring be used except in tipples, trestles, and storage bins. Fire doors shall be erected at effective points where smoke or fire from outside sources may endanger men working underground.

(*b*) Flammable material shall not be stored or placed within 75 feet of any mine opening except while such material is being sent into or removed from the mine and except for a day's supply of oil for lubricating machinery in the surface structure.

(*c*) At mines in which more than 50 men are employed underground on any shift, the building or buildings containing the hoisting engine and power plant shall not have floors, ceilings, and side walls or roofs constructed of combustible material, but wood may be used for roof trusses, purlins, and rafters, and for side-wall studs or frames if covered on both sides with noncombustible material.

DEVELOPMENT PLANS

SEC. 22. After necessary prospecting has been done on any lease and before permanent operating shafts have been sunk or slopes, drifts, or tunnels driven, the lessee shall prepare and submit to the district mining supervisor for approval a preliminary plan, together with vertical sections to indicate, so far as known, the position, dip, and thickness of each coal bed. The plan shall be on a scale of not more than 500 feet to the inch and shall show in outline the principal prospect and proposed entries, airways, shafts, and structures, including fan or fans, and the proposed method of underground development and ventilation, with a description thereof.

SEC. 23. The lessee shall develop and mine the coal in accordance with plans approved in advance, so far as natural conditions permit; and, if conditions necessitating radical changes are encountered, he shall immediately submit modified plans, accompanied by an explanation, to the district mining supervisor for approval.

MINING WHERE MORE THAN ONE BED OF COAL OCCURS

SEC. 24. (*a*) Where practicable, by reason of either commercial or mining conditions, the available coal in the upper beds shall be worked out before the coal in the lower beds is mined; otherwise, the workings in the upper coal bed shall be kept in advance of the workings in each lower bed. The decision as to practicability rests with the mining supervisor. Where more than one bed of coal is known to exist in the leased lands, the lessee shall not draw or remove the pillars in any lower bed before mining the available coal in each known upper bed of such thickness that it can be mined under the then existing commercial conditions, either alone or in combination with thicker beds. The mining supervisor shall decide whether or not the workings or conditions for subsequent mining in any or all of the upper beds will be seriously injured by the extraction of the pillars in the lower workings.

(*b*) Where mining operations are in progress in a bed that lies either below or above another bed in which mining has been or is being carried on, the lessee shall, if the room-and-pillar system is employed, superimpose the pillars in the respective beds. Modifications of this provision may be necessary in steeply dipping beds and may be approved by the mining supervisor where conditions make them advisable.

DEVELOPING THROUGH ADJOINING MINES

SEC. 25. A lessee may develop a mine on his leased tract from an adjoining mine not on the public domain, or from adjacent leased lands, under the following conditions:

(*a*) The mine that is not on the public domain shall conform to all sections in these regulations that relate to the safety of the mines and employees.

(*b*) The only connections between the mine not on public domain and the mine on public domain shall be the main haulageways, the ventilationways, and the escapeways. Substantial concrete frames and fireproof doors that may be closed in an emergency and opened from either side shall be installed in each such connection. Unnecessary connections through the boundary pillars shall not be made until both mines are about to be exhausted and abandoned. The district mining supervisor may waive such of these requirements when, in his judgment, such waiving does not affect adversely the safety of the employees or entail loss of coal.

(*c*) Free access for inspection of said connecting mine not on the public domain shall be given at all hours to the mining supervisor or other representative of the Secretary of the Interior.

SEC. 26. If a lessee operating on a lease through a mine not on public domain does not maintain the mine in accordance with the operating regulations, operations on the leased land may be ordered stopped or Departmental seals applied by the district mining supervisor or deputy mining supervisor, and the operations on leased lands shall be stopped.

PROVISIONS FOR DISPOSAL OF WASTE

SEC. 27. (*a*) The lessee shall dispose of waste, slack, refuse, and water from a mine and waste and sludge of any washery in such a manner as not to cause private or public damage or inconvenience, be a nuisance, or obstruct any stream, right of way, or other means of transportation or travel.

(*b*) All waste containing practically no coal shall be deposited separately and apart from coal for which no immediate market exists and from waste containing coal in such quantity that it may be later separated from the waste by washing or other means.

(*c*) Royalty on slack coal accrues when the coal is mined and is due and payable on the next payment date thereafter.

SURVEYS AND MAPS

SEC. 28. (*a*) Accurate surveys of new workings shall be made at least every 6 months and a map prepared thereof on a scale of 50 feet, 100 feet, or 200 feet to the inch. The mine-office maps of the workings in each coal bed shall be extended to show the advancement of all the mine workings and all other changes of a permanent character that have taken place during the period between successive surveys. Before any mine or section of a mine is abandoned, closed, or becomes inaccessible, a survey of such mine or section shall be made and recorded on the map.

(*b*) In addition to the information required by the lease, maps shall bear the name of the mine, the name of the lessee, and the serial number assigned by the district land office, and shall show the true north or meridian, the public survey land lines with indication of corners found, the distance and direction from the mine opening to a land corner, the boundary barrier pillars, the scale to which the map is drawn, and an explanatory legend.

(*c*) The surface map shall show in outline the location of all structures or buildings and the surface location and depth of each bore hole, appropriately numbered. The map shall also show the altitude at the surface, the altitude and section of each coal bed penetrated by boring, and any other pertinent information, including the angle and direction of prospect drilling where not vertical.

(*d*) The mine map shall show at each face the date of extension and at each entry face the coal sections and altitude, also the location of all pillars and the parts of pillars not extracted in pillar work; the position of all fire walls, dams, main pumps, fire pipe lines, permanent ventilating stoppings, doors, overcasts, undercasts, and regulators; the direction of the ventilating current in the various parts of the mine at the time of making latest surveys; fire areas; known bodies of standing water either in or above the workings of the mine; areas containing flammable gas; areas affected by squeezes.

(*e*) Where the dip of the coal bed or beds exceeds 45°, profiles or vertical cross sections parallel with the approximate average direction of the dip and not more than 1,000 feet apart shall be made on the same scale as the mine maps, with appropriately marked reference points, and a vertical view of the mine workings shall be prepared on the same scale as the general mine map to show the mine workings in that bed on a vertical plane parallel with the average strike of the bed or beds, with appropriately marked reference points.

(*f*) Blueprints or reproductions in duplicate of the maps and drawings prescribed in the preceding subsections and such other maps as may be required shall be submitted to the district mining supervisor annually without his special request, or semiannually on request.

SEC. 29. (*a*) In the event of the failure of the lessee to furnish the maps required, the mining supervisor or district mining supervisor shall employ a competent mine surveyor to make a survey and maps of the mine, and the cost thereof shall be charged to and promptly paid by the lessee.

(*b*) If any map submitted by a lessee is believed to be incorrect, the district mining supervisor may cause a survey to be made, and if the survey shows the map submitted by the lessee to be substantially incorrect in whole or in part, the cost of making the survey and preparing the map shall be charged to and promptly paid by the lessee.

MINING BY STRIPPING

SEC. 30. (*a*) No strip pit will be permitted on the outcrop of any dipping coal bed until the workable coal at lower altitude in that bed and underlying beds has been extracted, unless there is free natural or artificial drainage from the pit that will prevent seepage underground down the dip.

(*b*) Accumulations of slack coal or combustible waste that may, if fired, endanger the coal deposit shall not be permitted at or near coal or carbonaceous material in place.

(*c*) Overhanging banks or ledges must be shot down promptly to eliminate danger to employees from falling rock or dirt.

(*d*) Upon completion or indefinite suspension of mining operations in all or any part of a strip pit, the face of the coal shall be covered with noncombustible material that will effectively prevent the coal bed from becoming ignited.

(*e*) The driving of underground working places from the face of a strip pit for the purpose of getting cheap coal is contrary to conservation principles and is prohibited.

MANWAYS AND EXITS

SEC. 31. (*a*) In every mine the lessee shall provide an escapeway or second means of egress to the surface, which, if a drift, slope, or tunnel exit, shall be separated at the surface from the first exit by not less than 50 feet of rock or coal in place; if either is a shaft or both are shafts, the exits shall be not less than 200 feet apart.

(*b*) During the course of development of a shaft mine not more than 10 men shall be employed underground on any shift until connections are made to the second exit.

(*c*) If the escapeway is a slope and more than 25° from the horizontal, steps or a stairway shall be provided. If the floor is slippery or wet, steps may be required where the dip is less than 25°.

SEC. 32. (*a*) In every shaft mine, unless escape is available by drift, tunnel, or slope, one shaft shall be equipped with hoist and cage suitable for hoisting or lowering men: *Provided*, That if less than 10 men are employed underground and the shafts are less than 50 feet in depth, a well-maintained ladder in each shaft will suffice as a means of entering and leaving the mine.

(*b*) Where the main shaft and escape shaft are less than 300 feet in depth, one shall be equipped for the hoisting and lowering of men and the other shall be equipped with a substantial stairway of approved design. The pitch of the flights shall not exceed 45°, the flights shall have suitable landings at each turn, and the hand rails and stairs shall be maintained in good order.

(*c*) The escape shaft and main shaft, if more than 300 feet in depth, shall each be provided with an adequate hoist and cage suitable for hoisting and lowering men, an efficient signaling system, and a qualified hoistman who shall be available on appropriate signal. The hoisting equipment and cages in each of the two shafts shall have sufficient capacity, independently of each other, to hoist out of the mine all persons on any shift in 30 minutes and with due regard to safety. A stairway or emergency ladderway of approved design shall be provided in at least one of the shafts. If a ladderway is constructed, it shall be provided with landings not more than 20 feet vertically apart, and the pitch shall not exceed 80°.

SEC. 33. At each shaft landing there shall be a passageway at least 6 feet high and 4 feet wide, free of obstruction, that will enable persons to go from one side of the shaft to the other side without passing through any compartment of the shaft: *Provided*, That a shaft compartment may be used for a passageway if properly floored and roofed over by a bulkhead sufficiently strong to withstand the fall of heavy bodies.

SEC. 34. The roof and sides of every traveling road and working place shall be maintained in a safe condition, and no one shall be permitted, unless appointed for the purpose of exploring or repairing, to travel on or work in any traveling road or working place which is not in safe condition.

SEC. 35. The shafts of all mines designed for the employment of more than 50 men, if the lining or facing thereof is combustible, shall be fireproofed within 6 months after completion by lining, guniting, or coating with cement or other noncombustible material. Such fireproofing shall be maintained over all combustible material, except guides, ladderways, and stairways, as long as said shafts form the principal means of egress.

SEC. 36. In every mine designed for the employment of more than 50 men underground on any shift, the roofs and walls of entries and passageways within 300 feet of the bottom of each shaft, if in coal or timbered, shall be fireproofed with a cement coating or the equivalent within 1 year after said entries and passageways have been driven, and such fireproofing shall be maintained in good condition so long as the shaft is used.

SEC. 37. The lessee shall arrange, so far as practicable, manways free from regular haulage for the passage of underground employees to and from their working places. Such manways shall be maintained in safe condition, and signs with arrows shall be provided showing direction toward the escapeways on each side of crossing or intersecting passages. The lessee shall require his employees to use the manways, so far as practicable, in going to and from their working places.

HOISTS, HOISTING EQUIPMENT, AND SHAFT LANDINGS

SEC. 38. (*a*) All hoisting equipment used in shafts and slopes shall be of ample capacity and of a standard design commercially recognized as safe and in accordance with State requirements.

(*b*) The drums or cable reels of hoists shall be provided with flanges that extend at least 2 inches radially beyond the last layer of rope or cable when fully coiled on the drum or reel.

(*c*) All hoists shall have sufficient power to hoist the loaded unbalanced cage or skip and shall be equipped with brakes adequate to stop and hold the fully loaded unbalanced cage or skip at any point in the shaft or slope.

SEC. 39. (*a*) A metal hoisting cable of recognized standard character shall be used for hoisting or lowering men. When newly installed in the shaft or slope, it shall have a safety factor of not less than 6 as rated by the manufacturer, based on the maximum load including the weight of the cable, or, if the hoistway is inclined, the calculated component of the weights parallel with the incline.

(*b*) No cable shall be used for hoisting and lowering men if on inspection it is found that the number of broken wires exceeds six in any single pitch length or lay of the rope, that the crowns of the strands are worn down to less than 65 per cent of their original diameter, or that a dangerous amount of corrosion or distortion exists: *Provided, however*, That when such broken wires are reduced by wear more than 30 per cent in cross section, the number of breaks in any lay of the rope shall not exceed three.

(*c*) Cages, skips, or cars used in hoisting or lowering men shall be connected to the hoisting cable or ring by standard babbitted or zinc-filled sockets or by clamps. The cable shall be resocketed or reclamped at intervals not exceeding 4 months, and at least 4 feet of the cable shall be cut off from the end to be socketed or clamped, and clamping shall be so done that at least 80 per cent of the breaking strength of the cable shall be retained.

(*d*) Hoisting cable shall be firmly clamped to the drum or reel, and at least two turns of the cable shall remain on the drum or reel at all times when the cable is extended to the lowest landing.

SEC. 40. In shafts and slopes where men are hoisted or lowered, there shall be at least 20 feet of hoistway clearance above the surface landings at which men enter or leave the cages or cars; and at mines in which more than 50 men are employed underground on any shift, overwinding and overspeeding preventers or equivalent devices, approved by the district mining supervisor, shall be connected with the hoists and so maintained as to prevent the cages from being overwound or from falling if overwound and to prevent overspeeding, considering the character of the hoisting equipment and the depth of hoisting.

SEC. 41. (*a*) Cages for hoisting men shall have bonnets extending over the space on which the men stand, metal sides extending not less than 5 feet above the floor of the cage or of each deck of a multiple-deck cage, and gates or doors at least 4 feet high closing the entrances to the cage on each deck. Each deck of a cage used for hoisting men shall have overhead or side bars so arranged that every man on the cage may have an easy and secure handhold. Self-dumping cages shall be so designed that the platform can not overturn in the shaft.

(*b*) Cages used for hoisting or lowering men shall be provided with safety catches capable of bringing the fully loaded cage to a stop within a distance of 10 feet in any part of the shaft or headframe should the cable or cable connection break.

(*c*) Cage rests or chairs shall be provided at all shaft landings regularly used in the hoisting or lowering of men unless their omission is authorized in writing by the district mining supervisor.

SEC. 42. (*a*) Gates 4 feet high or covers shall be used at the top or ground landings of vertical or inclined shafts, and the gates shall be kept closed except when the cage is at the landing and attended.

(*b*) The track at the surface landing of a shaft or slope shall have a derailing device which shall always be kept open except when a car is being taken from or placed on the cage at said landing, or when a car is entering the slope under control.

SEC. 43. Shafts when not in use for hoisting men and slopes or sumps that extend below the floor of a mine passage or excavation shall be adequately guarded to prevent men from falling therein.

SEC. 44. Buckets or cans used for shaft sinking shall be provided with self-locking safety hooks and, if the shaft is more than 200 feet in depth, with crossheads and guides. When rock is being dumped or material loaded or unloaded, the mouth of the shaft shall be covered by safety doors or the equivalent, of a safe design and construction.

SEC. 45. Where men are employed in a mine or required to enter or depart from a mine between sunset and sunrise, sufficient light shall be maintained at the top landing of each shaft to enable them to see the landing. At each underground landing used for caging men, a light shall be maintained on each side of and within 10 feet of the shaft or slope whenever men are in the mine. Each underground landing, if not naturally lighted, shall be kept white with paint or whitewash.

SEC. 46. (*a*) The hoist shall be operated only when properly provided with brakes and indicators and when every person not on duty in the hoist room is excluded from the room, except visitors permitted by the lessee.

(*b*) The hoistman shall not hold conversation with anyone while his engine is in motion nor hoist or lower men at a speed greater than the rate posted in the engine room as a safe speed, and he shall bring the hoist to a dead stop at a landing before turning over the control to a relief hoistman.

(*c*) After any stoppage of hoisting for repairs or for any other purpose exceeding 2 hours in duration, a cage or other conveyance shall be run up or down the shaft at least once before hoisting or lowering men.

(*d*) No hoisting shall be done in any compartment of a shaft while repairs are being made in that compartment except such hoisting as may be necessary to make such repairs.

SEC. 47. (*a*) Competent representatives of the lessee shall make daily a general examination of all hoisting equipment and electrical and mechanical apparatus used for the hoisting or transportation of men in and about the mine, including skips, cages, guides, ropes, sheaves, hoists, motors, engines, and boilers; and once each week a more detailed examination shall be made. A memorandum of the condition found on examination shall be entered in a record book kept in the mine office, and any defective condition that may endanger the safety of the employees or others shall be remedied without delay.

(*b*) Any boiler used for generating steam shall be equipped with a safety valve, pressure gage, and water glass and shall be inspected semiannually by a competent boiler inspector.

(*c*) If an inspection discloses a defective condition or arrangement of any apparatus, appliance, or device, which endangers the safety of employees or others, such condition or arrangement shall be remedied without delay.

SIGNALS AND TELEPHONES

SEC. 48. A code of hoisting signals shall be kept posted in a manner easily read at the top of each hoisting shaft or slope, at each landing, and in the hoisting-engine house. Said code shall be in accordance with the requirements of the mining laws of the State in which the mine is situated,

and if not otherwise specified, the following code of signals shall be used: (*a*) when the engine is at rest, one signal, hoist; (*b*) when the engine is in motion, one signal, stop; (*c*) when the engine is at rest, two signals, lower; (*d*) when the engine is at rest, three signals, men ready to get on the cage or cars to ascend; when this is followed by return signal from the hoistman, the men get on the cage or into cars and then the proper signal shall be given. Other signals to suit the local conditions may be added by the lessee.

SEC. 49. (*a*) In mines where 20 or more men are employed underground on any shift, there shall be at least two effective methods of signaling between the engine room and each of the shaft or slope landings, one of which shall be a telephone or speaking tube. The signals shall be so arranged that the cager or person in charge of each landing can signal directly to the hoistman and the hoistman can also signal directly to each of the landings. If the shaft is more than 50 feet deep, calling or rapping on metal shall not be accepted as a substitute method of signaling.

(*b*) Electric signal circuits shall not use current of more than 30 volts.

SEC. 50 (*a*) The lessee shall provide and maintain at each mine where more than 50 men are employed underground on any shift, or where 20 or more men are employed more than 1,500 feet from the surface, a telephone system connecting with the hoisting engine room, the ground landing of the shaft or slope or the principal mine exit of a drift mine, and such other points on the surface as may be advisable for the safety of the employees, and telephones shall be placed on each shaft or slope landing in use and at the inside siding of each of the main haulage roads. The underground telephones shall be so placed that no 20 men shall be more than 1,000 feet from the nearest telephone station. A code of calls shall be kept at each telephone.

(*b*) The telephones inside a mine shall be of standard underground type. The telephone wires shall be carefully installed, and should any power lines be on the entry, the telephone wires shall be installed along the side of the entry opposite the power lines. Only permissible telephones shall be used in gassy mines for the installation of new telephones and the replacement of existing telephones.

PILLARS AND CROSSCUTS

SEC. 51. (*a*) The lessee shall separate intake and return airways and any adjacent parallel entries or rooms by not less than 50 feet of coal in place, except when a thinner pillar is permitted by written consent of the district mining supervisor, who may also in his discretion require a greater thickness than 50 feet.

(*b*) The distance apart of crosscuts or break-throughs between parallel entries or rooms shall be not greater than the maximum allowed by the regulations of the State in which the leased land is situated and shall be not more than 100 feet except in entries or tunnels where special arrangements are made to carry an adequate ventilating current to the face of each entry or tunnel, the adequacy of such arrangements to be approved by the district mining supervisor. Rooms shall not be turned ahead of the last crosscut nearest the face, nor shall branch entries be started ahead of the last crosscut, except when approved by the district mining supervisor to obtain a circuit of air, a second means of egress, or a space for the laying of switches.

(*c*) A face shall not be driven more than 30 feet beyond the inby rib of the crosscut until said crosscut is connected to an adjoining airway, and if, in the opinion of the district mining supervisor, adequate ventilation does not reach the face, such changes as he may direct shall be made in the ventilation.

(*d*) Room necks shall not be wider than 9 feet for the first 18 feet, unless the lessee is given permission in writing by the district mining supervisor to make the room necks wider and shorter.

(*e*) The coal in chain pillars and room stumps and panel boundary pillars provided under paragraphs *b*, *c*, and *d* of this section shall be left standing until in the proper course of mining operations the time shall arrive for their removal, after or during the extraction of the room pillars in the adjacent workings.

(*f*) Before abandoning any room, entry, slope, or drift, a crosscut shall be driven and connection made with the adjoining room, entry, slope, or drift at the face thereof, in order to give a boundary airway around workings.

SEC. 52. (*a*) Where the room and pillar or other system of mining requires advance workings in the solid coal, including entries, rooms, and crosscuts or break-throughs, the lessee, except with the written consent of the mining supervisor, shall not extract by such advance workings or first mining more than 60 per cent of the total area of the coal bed within any particular tract or panel entered by said advance workings where the cover is less than 500 feet; nor more than 50 per cent where the cover is more than 500 feet and less than 1,000 feet; nor more than 40 per cent where the cover is more than 1,000 feet and less than 1,500 feet; nor more than 30 per cent where the cover is more than 1,500 feet and less than 2,000 feet; nor more than 20 per cent where the cover is more than 2,000 feet. A greater percentage may be required to be left where unfavorable roof or floor conditions exist or where the coal bed is or may be affected by mining elsewhere.

(*b*) The size of pillars shall be in proportion to the thickness of the coal bed, and all pillars shall be systematically mined and removed as rapidly as proper mining will permit.

(*c*) The percentages of the total area mined and unmined in a tract on advance mining shall be figured on the basis of the area and not on the basis of the calculated tonnage mined. The total area of the tract under consideration is to be comprised within lines bounding the faces of advance workings within the tract, excluding the area from which pillars have been systematically removed.

SEC. 53. (*a*) A pillar proportionate in size to the depth below the surface and the thickness of coal being excavated shall be left in each coal bed for the support of each shaft, main slope, or egress.

(*b*) Shaft pillars shall be not less in radius than one-half the thickness of cover over the pillar. A pillar, not less in width at any point than one-fourth the thickness of cover above it, shall be left on each side of the center line of each main slope or entry. Pillars around shafts shall be not less than 100 feet in radius, and those on each side of slopes shall not be less than 100 feet in width except by written consent of the district mining supervisor.

(*c*) Shaft and slope landings, sidings, and entries for haulage, ventilation, manways, and shops may be excavated in a pillar provided the area of such places does not exceed 15 per cent of the area of the pillar and that no rooms or other openings are made therein for the sole purpose of obtaining quick production.

SEC. 54. (*a*) The lessee shall not, without the prior consent of the district mining supervisor, mine any coal, drive any underground workings, or drill any lateral bore holes within 50 feet of any of the outside boundary lines of the leased lands, nor within any greater distance of said boundary lines that the district mining supervisor may prescribe. Payment not exceeding $1 a ton or the full value of the coal mined may be required for coal mined within such distances of the boundary without the written consent of the district mining supervisor.

(*b*) If the coal on public domain beyond any barrier pillar has been worked out and the water level beyond the pillar is below the lessee's adjacent operations, the lessee shall, on the written demand of the mining supervisor, mine out and remove all available coal in such barrier, both in the lands covered by the lease and in the adjoining premises, if it can be mined without hardship to the lessee.

(*c*) If the coal-mining rights in adjoining premises are privately owned, an agreement may be made with the owner for the extraction of the coal in the boundary pillars.

(*d*) Narrow strips of coal between leased lands and the outcrop on public lands and small blocks of coal adjacent to leased lands that would otherwise be isolated or lost may be mined under the provisions specified in paragraphs *b* and *c* of this section.

VENTILATING FANS AND AIR DISTRIBUTION

SEC. 55. (*a*) Fans shall be installed if any part of the mine is 500 feet from an opening. All parts of the fan housing, including the power unit and the fan drift to the mine opening, shall be constructed of noncombustible material.

(*b*) The main fan of a mine shall be situated on the surface at an offset distance of not less than 25 feet from the projection of the nearest side of the opening of the mine to the fan wheel, and shall be protected with explosion-relief doors having the full area of the air shaft or airway and in direct line therewith.

(*c*) Fans must be so arranged that the ventilating current can be reversed quickly, and they shall not be stopped or changed in speed, or the air current reversed, except by order of the official in charge of the underground operations.

(*d*) The main fan or fans used to ventilate a gassy mine, if electrically driven, shall be equipped with permissible motors and provided with auxiliary power and suitable belt or driving connection that can be quickly connected and operated should the electric power fail.

(*e*) Each fan used to ventilate a mine in which 25 or more men are employed underground on any shift shall be equipped with a recording instrument by which the ventilation pressure is continuously registered. The registration chart for each day, with the date thereon, shall be kept in the office of the mine for at least 1 year. Each fan shall also be equipped with an automatic signal to give warning of slowing down and stopping. These requirements may be waived only by written consent of the district mining supervisor.

(*f*) While a mine is being opened and less than 15 men are employed underground on any shift, a temporary fan may be set up, on the written approval of the district or deputy mining supervisor, before the permanent fan is installed.

(*g*) A mine on leased land may be ventilated by means of a fan not on the leased land if the fan is installed in compliance with paragraph *b* of this section or if it has been previously installed in conformity with State laws.

(*h*) If a fan used in ventilating a gassy mine has accidentally stopped or has been shut down or the ventilation otherwise interrupted, all the men in the area affected shall be warned immediately and withdrawn until the fire boss has made an examination and declared all places in that area to be free from standing gas. If such a fan has stopped for a period of more than 15 minutes in a gassy mine or more than 4 hours in a nongassy mine, no men other than mine examiners shall be permitted to enter the mine until the fan has been in operation for at least 2 hours and the fire bosses or mine examiners have thereafter inspected the mine and reported to the mine foreman that they have examined all the places and found them safe for any or all of the men to enter.

SEC. 56. Booster and auxiliary fans may be used only with the written permission of the district mining supervisor, who may permit their use only under the following conditions:

(*a*) Use of a "booster" fan may be permitted if the coal ribs are adequately protected against fire and no flammable material is within 10 feet of the fan and motor, and if the fan is equipped with an automatic starter and timing device that will prevent it from starting after being stopped for a period considered sufficient to permit an accumulation of gas, and with a recording device that shows the continuity of operation.

(*b*) Use of an auxiliary fan may be permitted if it is situated in an intaking air current and at least 16 feet outby the last open crosscut or entrance to the place ventilated and if the motor and switch are permissible; *Provided*, That in gassy mines an experienced gas inspector or fire boss shall be in attendance in the vicinity of the fan at all times while the fan is running and shall make hourly inspections to determine if methane in dangerous quantities, as defined in section 60, is passing the fan, and if the fan is oiled and running properly; *And further provided*, That at all times the ventilating current shall be so directed and of sufficient velocity to keep the working places clear of gas. Auxiliary fans shall not be used for the purpose of moving bodies of gas.

SEC. 57. A booster fan shall not be operated where more than 10 per cent of the air is recirculated by the fan; and an auxiliary fan shall not be operated if it uses more than 40 per cent of the passing air current.

SEC. 58. The lessee shall provide a ventilating current of not less than 100 cubic feet of air a minute for each person employed underground on any shift and 500 cubic feet a minute for each mule or horse or such larger amounts as may be required by the regulations of the State in which the leased land is located; and said ventilating current shall be measured for the number of men and mules served by each split of air at the entry, crosscut, or break-through nearest the face. Not more than 75 men shall be employed on any split of air current unless written permission to employ a larger number temporarily is given by the district mining supervisor.

SEC. 59. The quantity of air in the main current and in the last open crosscut on every split shall be measured with an anemometer or approved equivalent at least once every week by the mine foreman or fire bosses, and the measurements shall be entered with ink or indelible pencil in a record book kept at the mine.

SEC. 60. A working place, entry, or passageway shall not be deemed normally in a fit condition for the presence of men if the air therein, as determined by approved methane detectors, chemical analysis, or a safety lamp, contains on a moisture-free basis any carbon monoxide or more than 2 per cent of methane at the working place or 0.75 per cent in the general body of the air or less than 19.5 per cent of oxygen. Upon finding the air in unfit condition in any working place, entry, or passageway, or receiving notification of such finding, the lessee shall immediately withdraw the workmen from the area until the quality of the air therein has been improved sufficiently to meet the foregoing requirements.

SEC. 61. (*a*) If, in a mine declared to be gassy, a gas cap has not been detected during a period of 6 months and 2 per cent of methane has not been found with a methane detector and flammable gas in excess of 0.10 per cent has not been detected in any return airway, the district mining supervisor, at the written request of the lessee, may make a series of tests and, if he finds the mine to be not "gassy" as hereinbefore defined and no more hazardous than the nongassy mines in the region, he may rate the mine as nongassy and so notify the lessee.

(*b*) From the time any mine is first declared to be gassy until declared by the district mining supervisor to be nongassy according to these regulations, unless it is rated nongassy by the State mine-inspection department, the lessee shall not permit any portable lights to be used in the mine except "permissible" safety lamps, either flame or electric, approved by the United States Bureau of Mines.

SEC. 62. (*a*) If at any time in any place in a mine a gas cap is detected on a flame safety lamp, or 2 per cent or more of gas is detected by other means, the electric current shall be cut off from that place and shall not be switched on again until the place has been examined and found safe or has been cleared of gas. Telephones, signal wires, and open motors are potential sources of igniting flammable gases.

(*b*) The moving of bodies of flammable or noxious gases during the working period is prohibited, and on the return of a body of gas all men shall be withdrawn until the place has been cleared by approved methods of ventilation.

SEC. 63. If a mine has been determined to be gassy, the lessee shall not permit men to enter carrying open lamps, open lights, matches, smoking material, tobacco, cigarettes, or cigars, and permissible safety lamps shall be furnished by the lessee.

SEC. 64. If the extraction of any part of the coal on a lease requires main slopes, levels, or entryways for ventilation and escapeways more than 4,000 feet in length beyond the nearest air shaft or place of egress, the entries and airways extending to such section or area shall be not less than

four in number: *Provided,* That where only two passageways are driven outby the 4,000-foot section or area, a pillar shall be left of sufficient width to permit the driving of the two additional passageways. Separated pairs of parallel entries entering such area, properly maintained, will fulfill the foregoing requirements; and if coal on leased land is to be mined from a mine already existing either on public domain or on private land and in the opinion of the district mining supervisor the ventilation passageways and escapeways are adequate, said requirements may be waived.

SEC. 65. (*a*) Crosscuts or break-throughs between main haulage entries, which are no longer needed for ventilation, shall be closed with stoppings made of incombustible material and sealed as air-tight as possible

(*b*) Overcasts and undercasts shall be of fireproof construction, preferably of the same cross-sectional area as that of the entry, with a maximum area requirement of 100 square feet.

(*c*) No doors shall be permitted on main haulage roads where it is practicable to eliminate them. Where doors are necessary on main haulage roads, they shall be self-closing and placed in pairs with an air lock of sufficient length between them so that two doors are never open at the same time. All permanent doors set between the main intake and return airways shall be self-closing and substantially built.

(*d*) Line brattices shall be used to conduct the ventilating current from the last crosscut in sufficient quantity to sweep the face and remove the gas from working faces. Brattice cloth may be employed for temporary closing of openings until a more satisfactory stopping can be placed.

APPROACHING ABANDONED WORKINGS AND SEALING ABANDONED AREAS

SEC. 66. In any working place within 100 feet of supposedly dangerous proximity to an abandoned mine or an abandoned section of a mine not known to be free of dangerous quantities of flammable or noxious gases or water, at least two drill holes shall be maintained not less than 20 feet in advance of the face. Such working place shall not be more than 10 feet wide. On each side thereof drill holes not more than 8 feet apart shall be drilled to a depth of 20 feet at an angle of 45° with the line of the place. In addition to said drill holes, brattice shall be carried within 12 feet of the face at all times. Gas from an abandoned mine or any abandoned part of a mine may be tapped only when all employees not engaged at such work are out of the mine, and such tapping shall be done under the immediate instructions and directions of the mine foreman by workmen equipped with permissible safety lamps.

SEC. 67. All worked out areas or areas abandoned permanently or temporarily that can not be so ventilated as to prevent the accumulation of explosive and noxious gases or that can not be inspected daily by duly authorized mine officials, and all unused openings into adjacent mines shall be sealed off by fireproof stoppings constructed of strong concrete or masonry of solid, substantial character built to withstand a pressure of 50 pounds to the square inch on each side. If well constructed with good clean sand and gravel and hitched into the floor and side walls, the thickness should be not less than 1 inch for each foot of maximum span; a minimum thickness of 12 inches is required. When workings are sealed, a pipe with locked valve shall be so placed as to extend through the stopping, for the purpose of testing the gases behind the stopping, such tests to be made only by the foremen or mine examiners.

ELECTRICAL EQUIPMENT, ITS INSTALLATION AND MAINTENANCE

SEC. 68. (*a*) Where the difference of potential between any two points of an electrical circuit does not exceed 300 volts, the current shall be deemed low voltage.

(*b*) Where said difference of potential exceeds 300 volts and does not exceed 500 volts, the current shall be deemed medium voltage.

(*c*) Where said difference of potential exceeds 500 volts, the current shall be deemed high voltage.

SEC. 69. (*a*) High-voltage current may be used underground only for the transmission to and the operation of transformers, stationary motors, or other apparatus in which the whole of the high-voltage winding is stationary.

(*b*) All high-voltage power lines installed underground shall be in the form of approved insulated, lead-covered cables, armored or otherwise effectively protected against abrasion, the armor to be electrically continuous throughout and effectively grounded. Such armored cable may be placed underground or supported on the rib along the roof. High-voltage power lines shall not be installed in the main haulage roads.

SEC. 70. Only low-voltage current shall be used on locomotives, portable pumps, coal-cutting machinery, and other portable electrical machinery in or about working places that are near the face of the mine and on roadways traveled by men.

SEC. 71. (*a*) All underground electrical power cables and wires shall be supported by efficient insulators unless provided with grounded metallic covering or as specified in section 69 (*b*). Overhead cables or wires on the traveling side of entries or that men pass under, if less than 6½ feet above the rail or 7 feet above the floor where there are no tracks, shall have troughs or sideboard guards, or shall be placed in channels in the roof. Guards, if used, shall extend 2 inches below the sag between the supports and be so arranged that a man's head or cap will not come into contact with the cable or wire. Power wires along the rib in traveling ways shall be fenced or otherwise protected.

(*b*) All trolley wires shall be placed at least 6 inches outside of the rail of the track and, wherever possible, on the opposite side of the passageway from that used by men for traveling on foot and on the side opposite the room necks; and the trolley wire shall be protected by troughs or sideboard guards as specified above, if less than 6½ feet above the rail and on the same side of the entry or passageway used for travel or where men pass under it. Motor roads on which men do not walk but travel in cars are not considered traveling ways within the meaning of this section.

(*c*) When insulation is removed from wires to make connections, the wires must be reinsulated as soon as the connection is completed.

SEC. 72. Tracks used as electrical conductors shall be effectively bonded at all rail joints, cross-bonded at intervals of not less than 300 feet, and effectively cross-bonded at all switches.

SEC. 73. (*a*) All underground electric stations shall be fireproofed, and at least one fire extinguisher of a kind approved by the district mining supervisor shall be kept at each station for use in the event of a fire in the electric apparatus. The transformer stations shall be so constructed that oil can not escape therefrom and so equipped that the openings will automatically close in the event of fire.

(*b*) Insulated platforms or mats shall be placed in front of switches, motor starters, and all metallic frames, casings, and coverings of stationary equipment. The metallic frames or casings or coverings of all stationary electrical equipment and power lines shall be effectively grounded.

(*c*) Where high voltage is used, fixed warning signs shall be conspicuously posted, and the color of the insulation used on high-voltage wires in electrical stations at transformers and switches shall be different from that used on the medium- or low-voltage wires. Yellow is suggested.

SEC. 74. (*a*) No electric drills and pumps; or electric undercutting, shearing, and loading machines; or other electric machines; or electric switches and connections shall be used in a gassy mine or a gassy section of a mine unless approved by the United States Bureau of Mines as permissible.

(*b*) Where permissible electric cutting machines and drills are used in a gassy mine, the lessee shall require a fire boss or mine examiner to make tests for flammable gas within half an hour preceding their use and every half hour during their use.

SEC. 75. In gassy mines electric-lighting circuits may be used only at the foot of the intake shafts and in the intaking main roads in which the air current contains not more than one-quarter of 1 per cent of flammable gas.

SEC. 76. (*a*) In every mine in which electric cutting machines or other portable electric machines are used, the portable cables shall be connected to the power line by plug and plug receptacles or interlocking safety switches accessible to the working places where the machines are used, and within 500 feet of the point of each installation of a pump or auxiliary fan.

(*b*) Cut-out switches in the trolley lines and lighting circuits shall be placed at the mouth of each branch entry and elsewhere at distances not exceeding 2,000 feet.

(*c*) Electric current shall be cut off by means of cutout switches from sections of the mine where men are not working and wires permanently disused shall be disconnected from the source of current.

INTERNAL-COMBUSTION ENGINES

SEC. 77. Nonpermissible internal-combustion locomotives, engines, pumps, hoists, and other such machines shall not be used in a mine on leased lands without the written consent of and under conditions imposed in writing by the district mining supervisor. No gasoline or internal combustion engine shall be used in a mine not continuously ventilated by a fan; nor shall such equipment, unless approved as permissible, be used where the ventilating current passes over the engine into any working place. Gasoline or other highly flammable fuel used in such equipment when taken into a mine must be in tight containers to replace the empty containers of the respective engine, and in no event shall such flammable liquid be poured from one container into another in a mine.

HAULAGEWAYS

SEC. 78. Every mine locomotive shall be provided with an efficient headlight and a gong or bell, and the front end of every trip of cars in transit shall be provided with a light of no less intensity than that of lights used by miners. A red light shall be displayed on the rear end of every trip in transit except on the rope end of a trip while being lowered on a slope.

SEC. 79. In any mine which is termed gassy or in which more than one-fourth of 1 per cent of flammable gas is found in the moving air current, nonpermissible locomotives may be used only in entries or passageways ventilated by intake air, and for hauling coal from the face to the back or parallel entry.

SEC. 80. (*a*) In any mine in which more than 10 men are employed underground on any shift, all haulageways used for the travel of men, unless a clearance of 4 feet or more exists on one side and is kept free from debris, shall be provided with shelter holes on the side of the roadway opposite the trolley and power lines, at intervals of not more than 100 feet. The shelter holes shall be at least 4 feet wide, 4 feet deep, and 6 feet high unless the entry, tunnel, or slope is of less height, and then they shall be on the same level and as high as the roadway, and they shall be kept whitewashed and free from debris. Crosscuts and room necks may be used as shelter holes if on the side used for traveling.

(*b*) On haulage roads other than slopes, not used as traveling ways, shelter holes will not be required if the clearance between the mine and the rib of the entry is at least 3 feet.

SEC. 81. (*a*) Where men are hauled on slopes and inclines, safety catches or a special man car providing equivalent safety shall be installed if practicable; otherwise a safety hitching rope or chain of ample strength shall be employed, extending from the rear car to the main hoisting rope. All safety attachments shall be inspected before the trip is permitted to be operated.

(*b*) Derails or stopping blocks shall be placed in dip entries and rooms as a protection against runaway cars injuring men working at the face, and all cars must be safely blocked while being loaded or standing on a grade.

(*c*) Frogs, switch points, and guard rails shall be properly blocked and switch levers so installed as to prevent men from tripping over them.

STORAGE, TRANSPORTATION, DISTRIBUTION, AND USE OF EXPLOSIVES

SEC. 82. (*a*) All storage magazines for explosives shall be constructed and maintained in accordance with the published specifications of the United States Bureau of Mines in effect at the time of issuance of the lease and shall be in charge of a competent person or persons designated by the lessee or his agent and kept securely locked except when an authorized person is on duty there.

(*b*) Magazines shall be situated at a distance from active or used mine openings, buildings, dwellings, and places where persons congregate, proportionate to the maximum quantity of explosives to be stored therein, as specified in the American table of distances, unless natural barriers justify modification of such distances and approval of such modification is given by the district mining supervisor.

(*c*) A suitable underground chamber with wood lining and flooring, so constructed and maintained that no nails are exposed, may, with the written approval of the mining supervisor, be used in place of a surface magazine if such underground chamber is adequately ventilated and has sufficient cover, surrounding pillars, and strong bulkheads to prevent a dislodgement should an explosion occur that would endanger life, the mine, or any building or dwelling. The surface entrance to such a magazine and the ventilating ducts shall be guarded by a fence, gates, and appropriate warning signs. Under no circumstances shall the magazine have any connection with any part of the mine in which men work. Where the entrance to the magazine is a drift or slope that points toward any active or used mine opening or toward any building or highway within the distance specified in the table of distances for the quantity of explosives stored, an earth barricade shall be erected opposite and as high as the entrance.

(*d*) All explosives except those for immediate use shall be kept in a magazine. Detonators and blasting caps shall not be stored with other explosives but kept in separate magazines.

(*e*) Thawing of explosives, when necessary, shall be done in a magazine at least 300 feet from the storage magazine, mine openings, or structures. No explosive of any kind shall be thawed, kept, or stored in dwellings or buildings other than magazines.

SEC. 83. If temporary storage of explosives in a mine is necessary, they shall be stored in a suitable magazine made in the solid coal or rock, at least 100 feet from any shaft or main slope. The magazine shall be provided with a strong door kept securely locked except when entered by authorized persons. Not more than 200 pounds of explosives shall be placed in any such magazine, and before each supply of explosives is placed in the magazine, the magazine shall be cleaned. No more than a 24 hours' supply of explosives, including any surplus remaining from the previous day, shall be stored underground.

SEC. 84. In mines where the miners charge their own blasting holes, not more than one day's supply of explosives may be in possession of any miner, or of two or more miners working in the same place.

SEC. 85. (*a*) The lessee shall require the miner, or miners working in the same working place, to keep explosives in portable, tight wooden boxes, each box having a lid that laps over the sides and is strongly hinged or has battens that engage under a strip securely fastened at the back edge of the box. Battens shall be placed over all cracks in the boxes to protect the explosives from sparks, flame, and water. Fuse and cartridge paper may be stored with the explosives, but not detonators or blasting caps, tools, pieces of metal, matches, or oily material.

(*b*) The powder box shall be placed in a crosscut or recess at a sufficient distance from the working face to prevent its being struck by flying pieces of coal or rock or being ignited by blown-out shots or electric cables.

SEC. 86. (*a*) A proper hard-leather or fiber container shall be furnished to shot firers and cap distributors, or to miners who carry blasting caps or detonators. The caps and detonators shall be taken into the mine in a separate container not used for other explosives.

(*b*) Where miners are permitted to charge their drill holes, the caps or detonators shall be kept in moisture-proof receptacles and placed in a hole in the rib or in a box at least 10 feet from any point at which other explosives are kept and where no danger exists of their being struck by flying missiles from blasting or from a fall of roof.

SEC. 87. Explosives shall be issued to miners only by authorized persons, and, if they are distributed underground, distribution shall be made as soon as they are taken into the mine. No smoking shall be permitted in the vicinity of explosives either in storage or in transportation.

SEC. 88. Where electricity is used as a source of power and the power circuit is not completely cut off, explosives shall be transported into a mine only in a closed powder car or box constructed of electrically nonconducting material, with no bolts or nails exposed on the inside; and no person other than explosives distributors and men necessary to operate the trip shall ride on a trip carrying explosives in bulk.

SEC. 89. (*a*) Only permissible explosives shall be used in a mine that is termed gassy under these regulations and due regard shall be given to the requirements for permissibility.

(*b*) In gassy mines a shot shall be fired only after tests with a permissible safety lamp or an equivalent permissible detector have determined the absence of a gas cap or the presence of less than 1 per cent of flammable gas at or near the working place and an inspection has shown that no dry flammable coal dust has accumulated at or near the place of blasting.

SEC. 90. Black powder or other nonpermissible explosives may be used for blasting in a nongassy mine, providing all shots are fired by a shot firer after all men except the shot firers are out of the mine or when this requirement is modified in writing by the district mining supervisor.

SEC. 91. The depth of holes drilled for blasting coal shall not exceed the thickness of the coal bed, or, if the coal is undercut or sheared, the depth of the hole shall be at least 6 inches less than the depth of the undercutting or shear.

SEC. 92. All shots that are charged with an explosive shall be stemmed with noncombustible material and tamped with a copper tip or wooden bar, and such tamped material to extend to the outer end of the hole.

SEC. 93. (*a*) If black powder or other bulk explosives are used, the necessary charge or charges shall be made up at or near the box where the explosives are kept.

(*b*) No open light shall be permitted within 5 feet of any powder box while explosives are being obtained therefrom or during the process of filling or preparing the charge or cartridges.

PREVENTION OF COAL-DUST EXPLOSIONS

SEC. 94. To lessen the danger of coal-dust explosions in a mine that has been determined by the district mining supervisor to produce dust of an explosive character, unless the floor, roof, and sides of the roads are naturally wet, the mine shall be rock-dusted or the dust kept wet, as follows:

(*a*) If the screening and loading of coal on the surface produces much dust and there is a downcast shaft within 100 feet of the screens and loading chutes, the top of the downcast shaft shall be surrounded by iron sheeting or other noncombustible material for a height up to the level of the upper landing.

(*b*) Mine cars shall be constructed and maintained as compactly as possible and loaded in a way to prevent coal or coal dust from escaping from them while in transit. Tight-end cars and rotary dumps shall be used where practicable; otherwise, tight-fitting doors or gates shall be employed.

(*c*) Water shall be used on the cutter bar of mining machines and the cuttings wet down before shooting and the coal before loading when required by the district mining supervisor.

(*d*) Systematic and regular application of water, rock, or shale dust shall be made in all parts of the mine to render and maintain the coal dust in a nonflammable condition. If water is used, the dust must be made wet or washed from the timbers and ribs, and the floor dust made sufficiently wet to be molded in the hand. If the rock-dusting method is used, wet or dry, the dust and loose coal shall be systematically cleaned from the ribs, timber, and floor, and sufficient rock, shale, or other dust shall be distributed systematically along the entries, slopes, tunnels, and escapeways so that the mixture will not be explosive when brought up in suspension in the air; to this end the ash content of the mixture shall be determined by the lessee from time to time by sampling and analysis; the ash content plus the moisture shall not be less than 75 per cent, and the rock dusting must be renewed in any portion of the mine where a deficiency is indicated.

(*e*) All rock or shale dust for general application and for rock-dust barriers shall pass through a 20-mesh screen, and not less than 50 per cent of it through a 200-mesh screen. It shall contain a minimum of free silica and combustible matter.

(*f*) Before the track is removed from the air courses, abandoned rooms, and other places, all slack and coal dust must be cleaned up and loaded out. This does not apply to rock and bone gobbed in rooms and other places that have been adequately rock-dusted.

FIRE PROTECTION

SEC. 95. (*a*) The lessee shall not light, keep, maintain, or permit any open fire or unattended open light or stove fire in any strip pit or along the outcrop of any coal bed or in any mine or near mine openings.

(*b*) Failure to take prompt and vigorous steps for the removal of a fire hazard or the extinguishment of any fire in the coal bed or outcrop shall be sufficient ground for the entry of the lessor to remedy said condition at the lessee's expense.

SEC. 96. (*a*) Hay, straw, or similar highly flammable material shall be taken into a mine only in compressed bales and in a closed car or covered with tarpaulin and shall not be handled in the presence of open lights.

(*b*) Hay sent into a mine shall be promptly delivered to the stable and stored in a locked compartment with fireproof lining and door. The amount of hay stored underground at any time shall not exceed the amount normally consumed in 48 hours, except that a sufficient supply may be stored to last over public holidays that occur successively.

(*c*) All underground stables shall be independently ventilated, and the air from such stables shall be conducted to the return airway and not carried into other parts of the mine. No open light shall be permitted in any stable in any mine.

SEC. 97. (*a*) Oil stored underground shall be kept in a recess or chamber which contains no exposed flammable material, such as timber or coal, and which has a cement floor; such chamber shall be provided with a self-closing iron or steel door set in an iron, concrete, or masonry wall, and shall not be situated within 100 feet of any shaft.

(*b*) Buckets or drip pans shall be used for catching the drip or leakage from oil barrels or tanks. A supply of sand for use if a fire should occur shall be kept in a suitable container placed outside of but near the chamber in which the oil is stored.

SEC. 98. Where more than 5 men are employed underground on any shift, a supply of water shall be available on the surface for fighting fires in and about the mine. If this supply of water is not furnished through pipes, hydrants, and hose, it shall be kept in barrels of about 50-gallon capacity, painted red, with covers, and a 2-gallon bucket or can, painted red and marked "Do not use except for fighting fire," shall be hung or placed immediately adjacent to each barrel. These barrels shall be maintained full of water. If pipe lines and hose have not been installed in a mine, barrels shall be placed near the bottom of each shaft or slope and at principal junction points not exceeding 1,000 feet apart on a main haulage road. Provision shall be made to keep the water in barrels or pipe lines from freezing. Chemical fire extinguishers having a capacity of not less than 2 gallons may be substituted for water in barrels.

SEC. 99. (*a*) Where more than 50 men are employed underground on any shift and a sufficient water supply is obtainable within 1 mile of a mine shaft or slope, the district mining supervisor may require, if the conditions at the mine in his judgment make it advisable, the installation of a pumping system, tank or reservoir, pipe lines, fire hydrants and hose, and a pipe line into the mine, not less than 2 inches in diameter and extending at least 500 feet on each side of the main hoisting shaft or slope to the first working levels, with suitable attachments for hose not more than 100 feet apart and with at least three 50-foot lengths of 1½-inch hose with standard pipe-thread connections and nozzles at appropriate points for immediate use. Such pipe lines shall be so located and installed that the water will not freeze. Pressure-reducing valves or their equivalent shall be so placed that the pressure will not exceed 50 pounds to the square inch at the hydrant or point of attachment of the hose.

(*b*) In any mine where such water lines and hose are installed and maintained, barrels filled with water as specified under section 98 will not be required within the areas reached by such pipe lines, provided an adequate supply of water to which the water pipes are connected exists for emergency fire fighting. Pipe lines of a water-sprinkling or drainage system connected with a sump containing more than 5,000 gallons of water will fulfill the requirements of water supply and pipe lines underground if provided with taps, valves, and hose. A flow of 250 gallons a minute should be provided.

CHECK NUMBERS FOR EMPLOYEES

SEC. 100. (*a*) The lessee shall install a system of checking employees in and out of a mine whereby each employee may be identified, and shall keep a record of the local residence and working place in the mine of each underground employee.

(*b*) Where coal is being mined from Government leased land and from other land and hauled through the same mine opening or dumped on the same tipple, a separate list of serial numbers shall be assigned to men or machines loading Government coal.

SAFETY GUARDS, TIMBER, AND SUPPLIES

SEC. 101. All dangerous parts of machinery used in and about a mine, such as flywheels, gears, belts, and exposed moving parts that are likely to cause injury, shall be appropriately guarded to prevent injury to attendants or other persons. Stairs, platforms, and dangerous walks in or about a mine or stripping operation shall be provided with rails, fences, and gates, as may be appropriate, and safe traveling ways shall be maintained from the mine to the camp, town, or highway.

SEC. 102. The lessee shall substantially fill in, protect, or close all surface openings, subsidence holes, or workings situated where persons or animals are likely to be injured or be endangered by accumulation of gas, shall maintain all such protective means or coverings in a secure condition during the term of the lease, and before termination of a lease shall close all such openings in a permanent manner.

SEC. 103. The lessee shall at all times provide timber at or near the places where needed, and shall provide other material and supplies for the proper and safe conduct of the operation of the mine.

FIRST-AID EQUIPMENT AND SAFETY TRAINING

SEC. 104. At every working mine or strip pit a standard first-aid box and its equipment, or the equivalent, shall be provided and maintained in good condition for emergency use, within 1,000 feet of any group of 5 or more employees, and where more than 25 men are employed the lessee shall provide for emergency first-aid treatment of injured persons, near the main exit of the mine or stripping operation, a first-aid room or receiving station heated during cold weather and equipped with a standard first-aid box or cabinet or the equivalent, at least two stretchers or hospital cots, four pairs of clean blankets in waterproof bags, a fresh supply of pure drinking water, a basin, and suitable toilet facilities, all kept in a sanitary condition.

SEC. 105. The lessee shall also provide for every separate mine in which more than 50 men are employed underground on any shift a refuge and first-aid chamber underground, either near the foot of one of the shafts, if any, or at whatever point injured persons would most likely be taken prior to being hoisted or transported to the surface. In a mine on a dipping bed with one or more landings, the chamber shall be on the landing that serves the largest group of men. In a drift mine it shall be at a suitable point, such as the junction of the principal branch haulageways.

SEC. 106. (*a*) At every mine or strip pit the lessee shall require his mine officials to be trained in first-aid methods and shall provide facilities and encourage the training of any or all employees in first-aid methods.

(*b*) Where more than 25 men are employed in a mine or strip pit, a safety committee composed of representatives of the lessee and of the employees shall be organized for the purpose of holding periodical meetings to discuss and make recommendations relating to safety in the operation of the mine or strip pit.

MINE RESCUE APPARATUS

SEC. 107. (*a*) Where more than 50 persons are employed underground on any shift, the lessee shall keep and maintain at the mine, in order and ready for use, in an adequate room provided for the purpose, five sets of oxygen or self-contained breathing apparatus of a kind approved by the United States Bureau of Mines, with an ample supply of appropriate absorption material and oxygen for at least 10 hours' service of the apparatus, together with a charging pump and repair supplies.

(*b*) Where the number of persons employed underground on any shift exceeds 100, five additional sets of breathing apparatus with the corresponding additional supplies and ten sets of universal gas masks of a kind approved by the United States Bureau of Mines for use in mines shall be kept, maintained, and periodically tested for serviceability.

SEC. 108. (*a*) The breathing apparatus specified above will not be required if the lessee cooperates with a neighboring mine or industrial works in the establishment of a joint rescue station which shall be within 1 hour's journey by rail or vehicle from the mine on the leased land: *Provided*, That said joint station is connected with the mine by telephone line and has an equipment of ten sets of approved breathing apparatus and adequate supplies for use in emergency, and that said joint station shall have constantly available means of transportation to reach the mine within 1 hour's time of the call.

(*b*) The district mining supervisor may authorize the substitution of an adequate supply of universal gas masks for the approved breathing apparatus when, in his judgment, such substitution is warranted.

SEC. 109. The lessee shall arrange for the training of employees in the use of mine rescue breathing apparatus and universal gas masks to the end that there shall be at least two teams of 5 men each, who may be mine officials, for the first 50 men employed underground on any shift and an additional team of 5 men for each additional 100 men or less employed. Each team shall be selected from men who have been certified by the Bureau of Mines as competent in first-aid and rescue work, and shall be trained in wearing apparatus in a smoke or gas chamber for a total of at least 2 hours in every two months.

HEALTH, SANITATION, AND WELFARE

SEC. 110. The lessee shall provide a substantial change house or room convenient to the mine exit or strip pit which shall be heated in winter and provided with lavatory and sanitary bathing arrangements such as showers or tubs, an ample supply of hot and cold water of proper quality, proper drains and means for sewage disposal, and sanitary lockers or hangers: *Provided*, That at mines where an ample supply of water can not be obtained at reasonable expense, tubs for bathing will suffice if each employee is furnished at least 5 gallons of water per shift worked, until such time as sufficient water can be obtained at a reasonable expenditure.

SEC. 111. (*a*) Dwellings built on the leased land shall be properly situated with reference to sanitary conditions, and

an adequate supply of pure water shall be provided in proximity to each dwelling.

(b) Facilities shall be provided for the regular collection and sanitary disposal of garbage and trash. A separate toilet or privy shall be installed for each dwelling, and at least two shall be installed in the vicinity of the mine entrance.

(c) Unlined pits for privies may be constructed or used only where and when no danger of contaminating the water supply in the vicinity exists. Where privies unconnected with a sewerage system are used, openings must be screened from flies.

SEC. 112. The lessee shall provide ambulance service which shall be promptly available on notice in the event of serious injury to any employee.

SEC. 113. All contagious diseases in or about the leased land and all cases of occupational diseases known to the lessee which result from or are aggravated by the particular work shall be reported to the district mining supervisor. When any occupational, contagious, or infectious disease has been determined to be present among the employees in such a degree as is decided by the surgeons of the State or Public Health Service to be an occupational hazard, the lessee shall furnish necessary medical service and equipment for regular physical examination and treatment when needed of all employees: *Provided, however,* That the surgeons of the State or Public Health Service may require such additional examinations as they deem necessary to control or stamp out the disease or diseases.

SEC. 114. The administration of these regulations shall be under the direction of the Geological Survey, Department of the Interior.

Approved: December 23, 1937.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-565; Filed, February 24, 1938; 10:08 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

AMENDMENT TO DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1937 CROP OF LOUISIANA SUGARCANE

Whereas pursuant to Section 301 (d) of the Sugar Act of 1937, the Secretary of Agriculture on October 19, 1937, issued a determination with respect to fair and reasonable prices to be paid for the 1937 crop of sugar cane in Louisiana by processors who as growers apply for payments under the said act; and

Whereas the 1937 crop of sugar cane in Louisiana has been subjected to a freeze resulting in excessive acidity in the sugar cane; and

Whereas the aforesaid determination contained no provision for deductions in payments to growers for frozen sugar cane, the acidity of which impairs the efficient operations of sugar factories; and

Whereas Section 10 of the 1937 Louisiana Sugar Cane Purchase Contract provides:

"When 10 cc. of the normal juice of frozen sugarcane are titrated against a N/10 solution of NaOH, using phenolphthalein as an indicator, and it requires over 2.25 cc. of N/10 NaOH to neutralize the acidity in the normal juice, a deduction will be made in settlement, based upon decreased boiling house efficiency."

Now, therefore, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that the aforesaid determination be amended by changing paragraph (c), page 2, to (d) and adding a new paragraph (c) to read as follows:

"That deductions may be made for frozen sugarcane ground on or after December 12, 1937, at a rate not in excess of 3.775 per centum of the payment, computed as aforesaid, for each .25 cc. of acidity above 2.25 cc. (intervening fractions computed to the nearest multiple of .05 cc.), as set forth in Section 10 of the 1937 Louisiana Sugar Cane Purchase Contract."

Done at Washington, D. C., this 23rd day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-571; Filed, February 24, 1938; 12:19 p. m.]

DETERMINATION OF FAIR AND REASONABLE WAGES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION OR HARVESTING OF SUGARCANE IN PUERTO RICO DURING THE CALENDAR YEAR 1938

Whereas Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas section 301 (e) of the said act provides, in part, as follows:

The conditions provided in * * * subsection (b) with respect to wage rates, of this section shall not apply to work performed prior to the enactment of this Act; * * *,

and

Whereas the Secretary of Agriculture, on November 30, 1937, held a public hearing in San Juan, Puerto Rico, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in Puerto Rico during 1938:

Now, therefore, I, M. L. Wilson, Acting Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine that the requirements of Subsection (b) of Section 301 of the Sugar Act of 1937 shall be deemed to have been met with respect to any farm in Puerto Rico if all persons employed on the farm in the production, cultivation, and harvesting of sugarcane during the calendar year 1938, shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates not less than the following; *Provided,* That laborers shall have been supplied, without charge, with perquisites (such as, a dwelling, garden plot, pasture lot, and medical services) so provided for laborers on the farm in 1937:

(a) In the event payment is made for labor on a time basis:

(1) For the first 8 hours of work performed in any 24-hour period, by a person of either sex: for handling carts in operations other than harvesting, $1.10; cutting cane, operating winches, and making ditches, $1.21; loading cane cars, $1.32; handling carts in harvesting operations, $1.38; loading vehicles other than cane cars, $1.45; repairing or operating tractors, $1.70; and for all other kinds of work, not less than $1.00.

(2) For less than 8 hours of work performed in any 24-hour period, rates at not less than the hourly equivalents of the foregoing rates or the rates agreed upon, whichever are higher.

(3) For work performed in excess of 8 hours in any 24-hour period, an additional payment for such overtime at rates of not less than double the hourly equivalents of the foregoing rates agreed upon, whichever are higher.

(b) In the event payment is made for labor on a piece rate basis:

(1) For all work performed under piece rate agreements, piece rates of not less than 110 percent of the piece rates established for similar work performed on the farm in 1937; and

(2) For all work performed under piece rate agreements, a minimum payment for all such work performed in any 24-hour period of not less than the hourly equivalents of the rates provided in (a) above.

Nothing in this determination shall be construed to mean that a producer may qualify for a payment under the said act who has not paid in full the amount agreed upon between the producer and the laborer.

Done at Washington, D. C., this 23rd day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-570; Filed, February 24, 1938; 12:19 p.m.]

Bureau of Animal Industry.

NOTICE

FEBRUARY 23, 1938.

To VICTOR SIMON, *Doing Business as American Union Stock Yards and Victor Simon Sale Stable, Baton Rouge, La.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as American Union Stock Yards and Victor Simon Sale Stable, at Baton Rouge, State of Louisiana, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-569; Filed, February 24, 1938; 12:18 p. m.]

NOTICE

FEBRUARY 23, 1938.

To JULIUS J. WILLIAMS, *Doing Business as Fairbury Livestock Company, Fairbury, Nebr.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Fairbury Livestock Company, at Fairbury, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-567; Filed, February 24, 1938; 12:18 p. m.]

NOTICE

FEBRUARY 23, 1938.

To SAMUEL E. HILL, *Doing Business as LaGrande Livestock Commission Company, LaGrande, Oreg.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as LaGrande Livestock Commission Company, at LaGrande, State of Oregon, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-568; Filed, February 24, 1938; 12:18 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

MASSACHUSETTS

FEBRUARY 23, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Massachusetts State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Worcester.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-566; Filed, February 24, 1938; 12:18 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AUTHORIZING THE GENERAL MANAGER AND THE DIRECTOR OF PURCHASE AND SUPPLY SECTION TO INCUR, AND TO APPROVE AMOUNT AND PAYMENT OF, EXPENSE INCIDENT TO PURCHASES UNDER $500.00

PURCHASE AND SUPPLY CHAPTER OF THE MANUAL AMENDED

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by subsections a and k of Section 4 of said Act as amended, Chapter X of manual is hereby amended by the addition of a new section to be designated as Section 1007, which shall read as follows:

SEC. 1007. The General Manager is authorized to incur expense incident to the purchase of all supplies and equipment for the use of the Corporation in the Home Office and in the field offices (except law books, law periodicals, law publications, and like material for law libraries as provided in Section 617 of Chapter VI), and to approve the amount and payment of such expense, provided that the amount in any one purchase does not exceed $500.00; on such purchases for the use of the Corporation involving a cost of more than $500.00, there shall be required the concurring approval of a Board Member. Payment for the purchase of such supplies and equipment shall be made on a properly prepared voucher signed by the General Manager and, if

required, by a Board Member, when duly certified for payment by the Auditor.

The authority herein conferred, up to and including the $500.00 limitation, may be exercised also by the Director of the Purchase and Supply Section, under procedure and limitations prescribed by the General Manager.

Adopted by the Federal Home Loan Bank Board on February 23, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-564; Filed, February 24, 1938; 9:58 a. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

MEDICAL AND DOMICILIARY CARE

R-6048. *Definitions applicable in determining eligibility for hospital or domiciliary care.*—(1) Under subparagraphs (C) and (D) of R. & P. R-6047:

(B) *"Such other conditions requiring emergency or extensive hospital treatment,"* will comprehend the following: (1) Emergent hospital treatment will be provided for conditions endangering the life or health of the applicant and requiring immediate treatment. The provisions of R. & P. 6039, will be a general guide in individual determinations of this kind. (2) Extensive hospital treatment will be provided for acute, subacute or chronic diseases or surgical conditions which may be improved or cured by operation or other therapy, when such diseases or conditions require extended hospital treatment. Admissions will not be authorized for treatment of conditions usually and sufficiently treatable on an out-patient status; minor eye, ear, nose and throat conditions, such as tonsillitis, deviated nasal septum, etc.; nor for dental relief except when the readmission is for supplying of dentures to beneficiaries eligible under R. & P. 6165. (February 23, 1938.) (V. R. 6 Series, Pub. 312, 74th Congress.)

R-6050. *Utilization of facilities other than those under direct and exclusive jurisdiction of the Veterans' Administration.*—For the purposes of Veterans' Regulation No. 10 (b), paragraph XIX, defining "Veterans' Administration facilities," the following provisions will govern in authorizing admissions to facilities other than those under the direct and exclusive jurisdiction of the Veterans' Administration:

(A) Hospitalization will not be authorized in *Government facilities* other than those over which the Veterans' Administration has direct and exclusive jurisdiction until agreement covering such service has been approved. Such agreements which will be only to cover admissions of beneficiaries with service-connected diseases or injuries (except where the Administrator authorizes additional Government facilities to be used for non-service-connected cases, in which event specific authorization will be granted to the manager of the office of facility concerned to utilize a particular Government hospital and except for beneficiaries in the territories and insular possessions), will not be entered into until careful consideration has been given to the best interests of both the Government and beneficiaries.

(B) *Private facilities* will not be used for hospitalization of beneficiaries except where facilities under direct and exclusive jurisdiction of the Veterans' Administration or other Government facilities are not feasibly available, or when the physical or mental condition of beneficiaries will not allow of their transfer from a private institution to a Government facility. Except for treatment of a medical emergency arising from a service-connected disorder, hospitalization of a *male* beneficiary will not be authorized in any private, municipal or State institution not under contract. In such medically emergent cases the authority for admission to an institution not under contract will be authority for the payment of vouchers covering the cost of such hospitalization, subject to the following conditions:

(1) The chief medical officer or his designate of the office or facility having jurisdiction of the territory of the said non-contract hospital,—if informed of the medical emergency in time to authorize the admission, or if requested to issue an authority to cover such admission after the patient has entered the hospital—will at once put the superintendent thereof on notice as follows: That all services or supplies furnished the beneficiary must be charged at and may be paid for only at rates in accordance with the schedule of fees for medical treatment, Veterans' Administration; that for any services or supplies over and above the ordinary items usually provided at a flat per diem rate by hospitals under contract with the Veterans' Administration, the said superintendent is required to obtain a prior authorization; but that in an emergency so acute that procurement of such prior authorization would cause delay that would jeopardize the life of the patient, the special services or supplies necessary may be furnished without procurement of the prior authorization therefor; provided that the chief medical officer or his designate shall have been advised in writing, within 48 hours if possible, of the rendition of the emergency services or supplies, regarding their nature, extent and cost, together with a full explanation of the attendant circumstances, and with the understanding that whether a true medical emergency existed is for determination of the Veterans' Administration.

(C) In the territories and insular possessions, preference will be given to Government hospitals, and contracts will be made with private or insular hospitals only when service is not available through a Federal Government facility. Except as provided in subparagraph (H) hereof, hospitalization in the territories and insular possessions will not be authorized until agreements or contracts therefor have been approved. In no case will private facilities be used for other than war veterans.

(D) The general principles to be observed in utilization of facilities other than those over which the Veterans' Administration has direct and exclusive jurisdiction will be as follows: Other Government facilities under agreements or private facilities under contract will be used for the hospitalization of beneficiaries requiring hospital treatment for service-connected conditions in accordance with the foregoing instructions, only when facilities under direct and exclusive jurisdiction of the Veterans' Administration are not feasibly available, or when the urgency of the applicant's medical condition, the relative distance of the travel involved, or the nature of the treatment required in the individual case, make it necessary or economically advisable to utilize such other institutions instead of a facility under direct and exclusive jurisdiction of the Veterans' Administration. Other Government facilities under agreement will be used for hospitalization of beneficiaries requiring treatment for non-service-connected diseases or injuries only by those offices or facilities to which the Administrator has given specific authority, and then only under the limitations defined in such authorization.

Except where prior approval of the medical director is required under the provisions of this paragraph, admissions to other Government, private, State or municipal hospitals may be authorized by chief medical officers or their designates in regional offices and facilities with regional offices, and by managers of insular offices.

(E) Women war veterans, needing treatment, in a medical emergency, for a condition either service-connected or not service-connected, may be authorized admission to a private hospital not under contract, if a Government or private contract facility is not feasibly available, without procurement of prior approval of the medical director. In these medically emergent cases the authority for admission to a private hospital not under contract will also be authority for payment of vouchers covering necessary services or supplies furnished in accordance with the stipulations specified in subparagraph (B) (1) hereof.

(1) Admission of a woman war veteran to a private hospital not under contract, for treatment of a disease or injury not service-connected, when no medical emergency is existing, will not be authorized until prior approval of the medical director is secured.

(F) Managers of regional offices and facilities having regional offices, through chief medical officers or their designates, are empowered to authorize admission to private hospitals, under contract, of women war veterans suffering from non-service-connected diseases or injuries, as well as service-connected conditions, in a medical emergency or otherwise, without securing prior approval of the medical director; provided that a Government facility is not feasibly available; the condition of such beneficiary, if already so hospitalized, will not safely allow of her transfer to a Government facility; or the relative travel involved in admission to a Government facility, the medical condition existing, or the nature of the treatment required, make it advisable or economical to utilize the contract facility.

(G) Pregnancy and childbirth will not entitle to hospitalization, either in facilities under direct and exclusive jurisdiction of the Veterans' Administration, or in other Government, private, municipal or State hospitals.

(H) The prior approval of the medical director must be secured before hospitalizing beneficiaries in the insular possessions and territories, in private facilities not covered by contracts; except that where immediate hospitalization is indicated for treatment of a medically emergent service-connected condition in a war veteran, the manager concerned may authorize admission to a non-contract hospital, provided that no Government facility or contract private facility is feasibly available, and provided further that the stipulations specified in (B) (1) hereof be made for such admissions.

(I) The prior approval of the medical director must be secured for the use of private, State or municipal facilities covered by contracts, and located either within the continental limits of the United States or in the insular possessions or territories, for the hospitalization in such facilities of beneficiaries in excess of the number of beds contracted for, except where immediate hospitalization is indicated for treatment of a medically emergent service-connected disease or injury. The number of beds set apart by agreements with other Government facilities, for treatment of Veterans' Administration beneficiaries may be exceeded during any month as necessitated; provided that the utilization thereof be correspondingly reduced in other months, so that the average monthly use of such beds, at the end of the fiscal year, will not have exceeded the total allocation.

(J) An applicant whose entitlement to hospital treatment has been established, either for a condition service-connected or not connected with service, whose admission to a Government facility has been approved, who has been supplied transportation, but who, while en route to the designated facility, develops an unforeseen and unavoidable medical emergency requiring admission to a private hospital, will be entitled to reimbursement for necessary services and supplies furnished during the private hospitalization so occasioned, at rates in accordance with the schedule of fees for medical treatment, Veterans' Administration. (February 23, 1938.) (V. R. 6 Series; Pub. 312, 74th Congress.)

R-6051. *Hospitalization in medical emergencies.*—Prior authority must always be obtained for travel incident to hospital treatment or domiciliary care. Ordinarily such authority will be issued when a veteran is notified of approval of his application, and transportation, meal and lodging requests, as necessitated, are sent to him or his representative. But when an applicant's condition is medically emergent, authority for travel may be extended by telephone or telegraph, subject to the procedure detailed in R. & P. 6039. (February 23, 1938.) (V. R. 6 Series, Pub. 312, 74th Congress.)

Out-Patient Medical Treatment

R-6060 (B). Adjunct out-patient treatment for a non-service-connected condition which is associated with a disease or injury incurred or aggravated in line of duty in active military or naval service, with the exception of dental cases falling under the provisions of R. & P. R-6129, (B) (2), will be rendered upon the approval of chief medical officers. The opinion of the medical director may be requested in any individual case where advice as to the propriety of furnishing adjunct treatment is desired. (February 23, 1938.) (V. R. 7 Series, Pub. 312, 74th Congress.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38-560; Filed, February 23, 1938; 3:19 p. m.]

REVISION OF REGULATIONS

TRANSPORTATION AND TRAVELING EXPENSES OF CLAIMANTS AND BENEFICIARIES

R-6100. *Officials empowered to authorize travel of claimants or beneficiaries.*—Subject to the conditions and within the limitations hereinafter specified, the following field officials of the Veterans' Administration are empowered to authorize the following travel:

(A) Manager, chief medical officer, or their designate or designates (viz., chiefs of units—general medical, tuberculosis or neuropsychiatric; chief, out-patient service, or chief, reception service) in a regional office or facility with regional office activities: Necessary travel of claimants, beneficiaries and needed attendant or attendants within the regional territory, and outside the regional territory when authority exists therefor. The manager's authority as to travel of claimants or beneficiaries will usually be exercised through the chief medical officer or the latter's designate or designates.

(1) Round trip, for out-patient physical examinations and treatments rendered at the facility or regional office, or authorized to a designated or private physician or dentist, or to a Government hospital or dispensary other than one under the direct and exclusive jurisdiction of the Veterans' Administration.

(2) Round trip, when request for out-patient physical examination or treatment is referred from another office or facility.

(3) Round trip, for hospital observation with physical examination in the same facility.

(4) Travel one way—to another facility, for hospital observation with physical examination therein. Diagnostic centers to be utilized only upon prior authority of the medical director.

(5) Travel one way—return—upon completion and regular discharge from the facility of a claimant or beneficiary referred by another office or facility for hospital observation with physical examination.

(6) Round trip—in authorizing admissions, for treatment to a private, State or Government hospital, other than one under direct and exclusive jurisdiction of the Veterans' Administration.

(7) Round trip for hospital treatment in the same facility, but return transportation only upon completion of treatment and regular discharge. This includes beneficiaries whose entitlement to artificial dentures after extractions had been determined, but who had been discharged before the necessary dental work could be completed, and who are being readmitted solely for construction and fitting of dentures. One way travel—to the same facility, for domiciliary care. Return travel from domiciliary care only when authorized. (See R. & P. R-6102 (C)).

(8) Travel one way—to another facility under direct and exclusive jurisdiction of the Veterans' Administration, for hospital treatment, only under these conditions; when the applicant's condition constitutes a true medical emergency, and he is without funds to advance costs of proceeding to such other facility, subject to subsequent reimbursement if admitted. This travel to be charged against the budget of the regional office or facility issuing the travel authority.

(9) Round trip of salaried physicians or dentist to home of a beneficiary, to make an examination or render treatment (in service-connected conditions or conditions considered adjunct thereto), when the beneficiary's condition forbids travel to the regional office or facility, and it is considered inadvisable to employ a designated or private physician or dentist in the beneficiary's community.

(10) Round trip of a physician or other trained employee to measure, adjust or repair orthopedic and prosthetic appliances for a group of patients in a hospital or elsewhere, when an economy is effectuated by avoidance of travel of such group of patients to the same or other regional office or facility.

(11) Round trip of a beneficiary, inside or outside the regional territory to nearest manufacturer's agent, for fitting or repair of an orthopedic or prosthetic appliance, when the service cannot be rendered at the same or other regional office or facility.

(12) Travel one way—to another facility, in effecting authorized inter-facility transfer.

(13) Travel one way—from a private, State or other Government hospital to a facility under direct and exclusive jurisdiction of the Veterans' Administration—when a beneficiary who is to be so transferred has been hospitalized upon authority of the Veterans' Administration the transfer to the facility under the direct and exclusive jurisdiction of the Veterans' Administration will be made through the intermediation of the regional office of the territory in which the private, State, or other Government hospital is located, the transportation to be provided by the said regional office. This is a true inter-facility transfer. But, when the hospitalization of the beneficiary has not been upon authority of the Veterans' Administration (as when the patient has been hospitalized as a public charge or at the expense of relatives), then the application for hospital treatment or domiciliary care will be made by the patient or his representative to the manager of the nearest Veterans' Administration facility, who will determine eligibility, and if favorable, will supply transportation in accordance with the procedure now in effect for direct admissions. This is to be regarded as a direct admission, not an inter-facility transfer.

(14) Necessary travel to effect return of a psychotic patient eloped from the facility. (See subparagraph C hereof.)

(15) Where round trip travel is necessary for an attendant it may be supplied in cases where one-way travel is necessary and is authorized for a claimant or beneficiary.

(B) Managers of offices in the insular possessions and territories: Necessary travel to effect out-patient physical examinations and treatment, or hospitalization, with attendant or attendants, if necessary, for observation with physical examination or for hospital treatment, within the territory allocated to such offices.

(C) Manager, or his designate or designates (viz., chief medical officer, clinical director or chief, reception service) in a facility with no regional office: Necessary travel as follows, with attendant or attendants if needed.

(1) Round trip, for out-patient physical examinations and treatments rendered at the facility, including those requested by other facilities or offices.

(2) Travel one way—return—upon completion of hospital observation with physical examination, requested by another facility or office.

(3) Round trip for hospital treatment in the same facility, but return transportation to be used only upon completion of treatment and regular discharge. This includes beneficiaries readmitted for construction and fitting of artificial dentures as provided in (A) (7) hereof. One-way travel—to the same facility, for domiciliary care. Return travel from domiciliary care only when authorized. (See R. & P. R–6102 (C).)

(4) Travel one way, to a diagnostic center, utilized upon prior approval of the medical director.

(5) Travel one way, to another facility when effecting an authorized interfacility transfer.

(6) Round trip of salaried physician or dentist to home of a beneficiary, to make an examination or render treatment (in service connected conditions), when the beneficiary's condition forbids travel to the facility.

(7) Necessary travel to effect return of an eloped psychotic patient.

If such patient be apprehended at a point distant from the facility from which he eloped, the chief medical officer of the regional office, or the manager or chief medical officer of a facility of the territory in which the patient is being held (depending upon which such officer is advised of the apprehension) will radio or wire the facts to the medical director, who will consider the advisability of effecting rehospitalization near the point of the patient's detention, rather than returning him to the facility from which he eloped. If the former alternative is decided upon, the official above mentioned will secure the consent of the guardian of the patient, if any, or otherwise of the nearest relative, and, if the patient had been committed to the facility from which he eloped, will at once notify the chief attorney of the territory in which the committing court is located, so that he may in due course take any action that may be necessary with respect to the commitment. Upon receipt of notice that these preliminary steps have been taken, and a bed being available, the medical director will instruct the chief medical officer or manager of that facility nearest the point where the patient is being held, to authorize rehospitalization in such facility. This rehospitalization will be made without recommitment, unless commitment be imperative, upon execution of Form P–10. Subsequent transfer from such nearest facility to another suitable for treatment of a psychotic patient, when necessary, will be approved upon application therefor to the medical director. Rehospitalization being effected, the said chief medical officer or manager will so notify the manager of the facility from which the patient eloped, sending also a copy of the medical director's instructions. Upon receipt thereof, the said manager will record discharge of the patient, and will so notify the chief attorney who had jurisdiction.

(8) Where round trip travel is necessary for an attendant or attendants it may be supplied in cases where one-way travel only is necessary and is authorized for a claimant or beneficiary.

(D) Attendants to be kept to minimum.—See R. & P. R–6105.

(E) When one field station requests another to conduct a physical examination of, or render out-patient treatment to, a claimant or beneficiary residing in the territory of the station making the request, and it is necessary for the station conducting the examination or rendering the out-patient treatment to send a salaried physician to the claimant's or beneficiary's home, the manager of the station conducting the examination or rendering the out-patient treatment may issue necessary travel authority for that purpose, notwithstanding that extra-regional travel may be involved. (See R. & P. 4180.) (February 23, 1938.) (V. R. 6 and V. R. 7 Series & Pub. 312, 74th Congress.)

R–6102. *Transportation: Hospital or domiciliary care.*—(D) Transportation at Government expense to accomplish readmission for hospitalization within six months after regular discharge upon completion of treatment for a former episode of hospital treatment, will not be supplied, except in medical emergencies, unless and until prior authority is obtained from the medical director.

(1) Exceptions to the foregoing general principle are authorized to be made by chief medical officers or their designates or clinical directors, upon their own initiative and without procuring prior approval of the medical director to issuance of transportation, in the following instances:

(*a*) Readmissions to a tumor clinic for reexamination and possible further irradiation (see R. & P. 6043 (D)).

(*b*) When an amputation has been performed and the stump is sufficiently healed to permit discharge of the patient, but shrinkage is required to allow the fitting of an artificial limb to which the patient is entitled, he will be discharged for readmission at a later date when the fitting can be proceeded with, even if within six months of the former discharge from hospital. This subsequent fitting after stump shrinkage may be made by readmission to the facility from which the patient had been discharged; or may be arranged with the manager of another facility, if the latter is closer to the beneficiary's place of residence.

(*c*) Readmissions for the furnishing of dentures for persons eligible under R. & P. 6165.

(2) Form P–10, Application for Domiciliary or Hospital Care, will be executed in all readmissions authorized under these exceptions. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

R–6103. *Transportation for out-patient medical and dental treatment and physical examination.*—(A) Out-patient treatment.—Veterans of war-time service (including those receiving pension under paragraph III, Part I, Veterans Regulation No. 1 (a) or of peace-time service, suffering from service-connected diseases or injuries determined to need out-patient treatment; or suffering from associated non-service-connected conditions held to be aggravating disability due to a basic service-connected disease or injury and for which associated conditions adjunct treatment is authorized, will, when notified to report for out-patient treatment, including fitting of prosthetic appliances, be furnished transportation and necessary meal and lodging requests, except:

(1) Where the beneficiary resides in the town or city where the out-patient treatment is to be rendered, or in the vicinity thereof so that the said town or city may be considered his place of residence.

(2) Veterans comprehended under subparagraph (1) hereof may, however, be supplied station transportation (bus, etc.) or expenses of transportation by common carriers where the fare exceeds ten cents each way, when reporting for out-patient treatment, where such special authority has been granted certain stations by the Administrator, because of exceptional conditions. (February 23, 1938.)

(B) Out-patient physical examinations:

(5) When physical examination of a child of a veteran is necessitated upon allegation that the child is helpless or incapable of self-support because of mental or physical defect; or physical examination of a widow or dependent parent, entitled to compensation or pension, is required upon allegation of mental incompetency, the examination may be requested by the central office or field station concerned. Round trip transportation to and from a field station, with attendant if necessary, may be supplied. If the condition of such dependent forbids travel, a full time physician may be detailed from the field station to make the examination in the dependent's home; or, if economy can be effected thereby, the necessary examination may be made through a designated physician in the dependent's community. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

R–6104. *Authority for issuance of transportation, meal and lodging requests.*—The officials specified in R. & P. R–6100, and subordinates designated by them are empowered to authorize transportation of claimants, beneficiaries and needed attendants, as provided. When transportation, meal or lodging requests are not used, reimbursement of actual and necessary travel expense may be allowed, (except in those cases where transportation requests were issued based upon a predetermination of mode of travel by the claimant or beneficiary) subject to the limitation that not to exceed $5 for meals and lodgings for one day, or, for fractional days not to exceed $1 for a single meal or $2 for a single lodging, may be allowed. Vouchers for reimbursement must be supported by properly executed receipts similar to those required by the travel regulations to support travel vouchers of employees.

(A) For officials authorized to countersign transportation, meal and lodging requests, see R. & P. 8406.

(B) Claim for reimbursement of travel expenses must be presented on the prescribed travel voucher form, supported by original travel order or certified copy thereof. Attendants will be considered as employees, so that the provisions of the Standardized Government Travel Regulations relative to the furnishing of receipts will apply to such attendants.

(C) In issuing authorizations to effect hospitalization or domiciliary care of veterans when, from the information available, the services of an attendant or attendants, or of an ambulance appears necessary, care will be taken to include these additional items of expenditures in the authorizations. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Cong.)

R–6105. *Attendants.*—An attendant or attendants, to accompany a claimant or beneficiary who is being admitted to or discharged from a facility, or is proceeding to or from out-patient examination or treatment, may be authorized when in the opinion of a chief medical officer or clinical director, or their designates, such attendance is necessary because of the mental or physical condition of the beneficiary. The assignment of attendants must be kept to the absolute minimum required for safe care of traveling claimants or beneficiaries. See R. & P. 6271 regarding travel precautions relative to psychotic or tuberculous beneficiaries.

(A) Persons not in the regular civilian employment of the Government may be authorized to act as attendants. Relatives of claimants or beneficiaries are not excluded from so acting, provided in medical judgment their services will be safe, convenient and in other respects advisable. However, while relatives assigned as attendants may be supplied necessary transportation, meal and lodging requests or (as in emergency admissions) may be reimbursed for those expenses, they will not be granted a per diem fee. When travel authorizations for attendants are issued and it is known that the authorized attendant is a relative of the beneficiary the provision for payment of fee will be stricken from the authorization. When the services of an attendant are authorized and the name or relationship of the attendant are not known it will be stipulated in the authorization, whether formal or informal, that no fee will be paid if the attendant is a relative of the beneficiary. In all cases in which fees are authorized to be paid to attendants the fiscal vouchers covering claims for such fees will bear a statement over the signature of the certifying officer "---------- Name of Attendant is not a relative of ---------- Name of Beneficiary."

A maximum fee of $5 per 24 hours of service or $1.25 per 6 hour period or fraction thereof may be authorized to be paid persons specified in this subparagraph other than relatives of beneficiaries and claimants for whom attendance is required, it being entirely the responsibility of the authorizing officer to determine whether an attendant is or is not a relative of the beneficiary or claimant. The authorizing officer may authorize payment of attendant's fee at any rate, less than the maximum rate of $5 per 24 hour period, for which the required service can satisfactorily be obtained in the community. Fees will be authorized to be paid only for the time actually necessary for the completion of duties by the attendant, but not in excess of the time required for travel by available common carrier; unless it is specified in the authorization that, because of the condition of the beneficiary or claimant, travel is to be performed by ambulance or special conveyance. In the latter event, authority may be granted for payment of attendant's fee on the basis of time actually required for completion of duty by the

specified mode of transportation, without consideration of the travel time required for the duty through use of a common carrier. An attendant on a fee basis, after delivery of a claimant or beneficiary to the field station designated, will (unless instructed to accompany the beneficiary or claimant on his return to the place from which he proceeded) complete his return trip without delay and by the mode of transportation authorized. When conditions make it clearly necessary that a private physician act as an attendant, a fee not to exceed $10 per 24 hours of service, or $2.50 per 6 hour period or fraction thereof, may be authorized to be paid to such physician attendant. Upon the issuance of specific authority therefor, by the medical director, in an individual case, a fee of more than $10 but not to exceed $20 per 24 hour period, may be authorized to be paid to a private physician employed as an attendant. In addition to the per diem fee as herein provided, attendants appointed under this subparagraph will be furnished necessary transportation, meal and lodging requests. Claims for reimbursement of actual expenses for meals and lodgings will not be certified for payment unless (as in emergency admissions) such requests have not been issued or, if issued, are returned for cancelation, and satisfactory reasons for not using such requests as well as the fact of cancelation are shown on the reimbursement voucher.

(B) Persons in the regular civilian employment of the Government may be authorized to act as attendants and are entitled to transportation and other necessary traveling expenses, as hereinbefore stated, but are not entitled to a fee in addition to their usual salaries. This class of attendants may be allowed per diem in lieu of subsistence upon issuance of proper authorization therefor, and will not be issued meal and lodging requests. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Public 312, 74th Congress.)

R–6106. *Purposes for which traveling expenses are to be authorized.*—When allowable under R. & P. R–6102 and 6103, and when authorized by proper prior authority, claimants and beneficiaries of the Veterans' Administration may be supplied transportation and meal and lodging requests necessary, for the following purposes:

(G) The furnishing of transportation, meal and lodging requests to cover the rehospitalization of a beneficiary who has an uncleared discharge from a facility because of an infraction of discipline is not authorized except (1) when the rehospitalization is for an initial period of observation with examination, made for the convenience and upon the motion of the Government; or (2) when one year has elapsed since the most recent discharge for infraction of discipline; (3) if readmission to a facility is required, because of a medical emergency before the expiration of the period of exclusion provided for such infraction, the transportation to effect such rehospitalization will not be furnished, except as provided in R. & P. 6037. If, after such emergency admission the beneficiary remains until completion of treatment and regular discharge, return transportation to the point from which he proceeded may be supplied by the Government, provided he has against him only one uncleared infraction of hospital discipline. If he has more than one uncleared infraction of hospital discipline, return transportation will not be supplied in these circumstances unless one year has elapsed from the date of the most recent of such irregular discharges from hospital treatment. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

R–6107. *Authorization for routing of claimant or beneficiary to nearest station.*—Unless, in the experience of a chief medical officer the most satisfactory procurement of a desired service requires departure therefrom, the policy will be to instruct claimants or beneficiaries to report for examination (including observation if necessary), or for treatment (medical or dental) including hospitalization if required, or for measurement or fitting or procurement of prosthetic or orthopedic appliances, to the regional office, facility or orthopedic workshop nearest the claimant's or beneficiary's home, even though such objective be outside of the regional territory in which the claimant or beneficiary resides; and the necessary travel in such circumstances is authorizable. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38–561; Filed, February 23, 1938; 3:19 p. m.]

REVISION OF REGULATIONS

ORTHOPEDIC AND PROSTHETIC APPLIANCES

R–6115 (F). Appliances of approved types will be supplied. Repairs or replacements thereof may be made, upon application and in accordance with governing procedure, whenever necessitated in medical judgment because of wear, loss or other sufficient reason. (February 23, 1938.)

(G) *Retired officers and enlisted men of the regular establishment.*—

(1) In compliance with an Executive order, effective December 1, 1930, relieving the Surgeon General of the Army of this duty, the Veterans' Administration under the provisions of Chapter 5, Sections 241 to 250, Title 38, U. S. Code, as amended, may provide an artificial limb or apparatus or commutation in lieu thereof, once every three years for each retired officer or enlisted man of the regular establishments, who shall have lost a limb or the use thereof through injury or disease incurred in line of duty in the military or naval service at any time; and to every civilian employee of the military or naval service who shall have lost a limb or the use thereof, through injury or disease incurred in line of duty as such, prior to September 7, 1916 (date of the United States Employees Compensation Act). An army nurse is considered a civilian employee within the meaning of the statute cited.

(2) Applicants may elect to receive, once every three years, either a necessary artificial limb or limbs, or commutation in lieu thereof, at the rates specified by law; but they will not be furnished with both an artificial limb or limbs and commutation in lieu thereof. Should the beneficiaries specified in this subparagraph elect to receive an artificial limb or appliance in kind, it will be furnished under an approved contract, if obtainable at a price not in excess of $125.00; if not, competitive bids therefor will be invited and award made to the lowest responsible bidder, provided the bid does not exceed $125.00.

(3) Repairs of artificial limbs supplied persons under subparagraph (G) (1) will not be made at Government expense. Replacements will not be authorized within the three year period specified for the furnishing of an artificial limb. (February 23, 1938.) V. R. 6 Series, V. R. 7 Series, and Pub. 312, 74th Cong.

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38–563; Filed, February 23, 1938; 3:20 p. m.]

REVISION OF REGULATIONS

DENTAL SERVICES

R–6120. *Classes of claimants or beneficiaries entitled to dental examinations.*—Dental examinations may be authorized for the following classes of ~~claimants~~ or beneficiaries, if considered necessary. Chief dental officers and others concerned will exercise proper judgment to avoid authorizing dental examinations unless a detailed dental report is essential for a determination of eligibility for benefits:—

(A) Veterans whose claims have been adjudicated as having a war-time service-connected dental disability, or a peace-time service-connected dental disability if honorably discharged on account of a disability incurred in line of duty or if in receipt of pension for a service-connected disability. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

R–6122. *Request for dental examination by medical examiner.*—In out-patient dispensaries and at facilities, medical examining officers will not routinely refer all claimants appearing for an out-patient physical examination to the chief dental officer for dental examination, but will limit such reference to (1) those claimants who, in the opinion of the medical examining officers are in need of dental relief as adjunct to a service-connected physical disability; (2) those claimants for whom they desire a dental examination as an aid in making a diagnosis. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

R–6129. *Extent of dental relief.*—The type and extent of dental relief in any individual case will be determined by a dental officer of the Veterans' Administration in accordance with the following principles:

(C) In Class III (adjunct and auxiliary) cases treatment will be rendered for those dental conditions which sound professional judgment indicates have a direct and material detrimental effect upon veteran's basic disability. If the treatment is to be rendered on an out-patient basis, the determination whether or not the dental condition in question is aggravating the basic service-connected disease or injury will be made by the chief medical officer. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

R–6132. *Approval of fees for special dental operations and prosthesis.*—When it is necessary to authorize special dental or oral operations or the construction of special dental prosthetic appliances on a fee basis, prior approval of the medical director will be secured. The submission for approval will furnish information as to the necessity for the special operation or appliance; a detailed description thereof; the fee which the dentist proposes to charge; and an expression of opinion as to whether the fee is reasonable and fair, based upon a comparison with fees ordinarily charged for similar services in that locality, the difficulty of the operation requiring special ability, and the reputation of the dentist for such ability. If the proposed fee is considered to be excessive a fee for the services will be recomemnded by the submitting officer for approval. The report of dental and oral examination and copy of current rating if a Class I or Class II case will be inclosed with the submission. (For approval of special appliances in Veterans' Administration clinics see medical procedure. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

R–6135. *Replacement of dental prosthesis.*—(C) Dental prosthesis such as bridges and dentures furnished as adjunct or auxiliary relief, when requiring replacement through legitimate wear or deterioration, will be replaced upon determination as to the present necessity of replacement as adjunct or auxiliary relief.

If the veteran has previously been furnished prosthesis which he can not produce, affidavits and other information as prescribed in (B) above will be secured and forwarded to the medical director with the request for approval of outpatient adjunct dental treatment. If the prosthesis is to be furnished as adjunct or auxiliary on an in-patient basis the chief dental officer will satisfy himself that the appliances previously furnished was not destroyed, lost or otherwise disposed of due to the carelessness or neglect of the beneficiary. If he is of the opinion that the loss was occasioned by the carelessness or neglect of the beneficiary, the question of replacement will be referred to the medical director for decision, accompanied by the same information as required in (B) above. (February 23, 1938.) (V. R. 6 Series, V. R. 7 Series and Pub. 312, 74th Congress.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38–562; Filed, February 23, 1938; 3:19 p. m.]

Saturday, February 26, 1938 *No. 40*

DEPARTMENT OF THE INTERIOR.

Bureau of Mines.

REGULATIONS GOVERNING THE PRODUCTION AND SALE OF HELIUM FOR MEDICAL, SCIENTIFIC AND COMMERCIAL USE

INTRODUCTION

The Act approved September 1, 1937 (Public No. 411, 75th Congress, First Session), entitled "An Act Authorizing the conservation, production, exploitation, and sale of helium gas, a mineral resource pertaining to the national defense and to the development of commercial aeronautics, authorizing the acquisition, by purchase or otherwise, by the United States of properties for the production of helium gas, and for other purposes," reads in part as follows:

SEC. 3. (a) That the Army and Navy and other agencies of the Federal Government may requisition helium from the Bureau of Mines and make payments therefor from any applicable appropriations by advancing or repaying to and for the use of said Bureau proportionate shares of the expenses incident to the administration, operation, and maintenance of the Government's helium plants and properties.

(b) That helium not needed for Government use may be produced and sold upon payment in advance in quantities and under regulations approved by the President, for medical, scientific, and commercial use, except that helium may be sold for the inflation of only such airships as operate in or between the United States and its Territories and possessions, or between the United States or its Territories and possessions and foreign countries: *Provided*, That no helium shall be sold for the inflation of any airship operating between two foreign countries notwithstanding such airship may also touch at some point in the United States: *Provided further*, That such sales of helium shall be at reasonable prices (established by said regulations) based upon the cost of acquiring, developing, maintaining, and operating the Government properties and the payment of interest at a rate of not less than 3½ per centum per annum on capital hereafter expended (except from the special fund established in subsection (c) of section 3 of this Act) for properties, facilities, and helium-bearing gas lands, as are used for such helium production: *Provided further*, That notwithstanding the foregoing provision helium shall be sold for medicinal purposes at prices which will permit its general use therefor; and such sales of helium shall be upon condition that the Federal Government shall have a right to repurchase helium so sold that has not been lost or dissipated, when needed for Government use, under terms and at prices established by said regulations.

(c) All moneys received under this Act, including moneys from sale of helium or other products resulting from helium operations (except moneys received in payment for helium from Government departments or agencies under subsection (a) hereof), shall be credited to a special helium-production fund from which purchasers of helium may be reimbursed for payments for helium in excess of deliveries, and the Secretary of the Interior through the Bureau of Mines may draw on said fund to pay expenses of acquiring, administering, operating, maintaining, and developing helium properties. Amounts accumulating in said fund in excess of amounts the Secretary of the Interior deems necessary to assure payment of such expenses shall be deposited in the Treasury to the credit of miscellaneous receipts: * * *

Under the authority of the aforementioned provisions of law these regulations are issued, with approval of the President, to govern production and sale by the Bureau of Mines, Department of the Interior, for medical, scientific, and commercial use, of the light gas, generally referred to as "helium" or "helium gas," which consists largely of the gaseous element, helium, but contains minor amounts of other gases as impurities. Such gas is produced in the Government-owned helium plant situated near Amarillo, Texas, and may be produced in the future at other plants owned or to be acquired by the Government.

Section 1. Definitions

Unless the context requires other interpretation, the following terms, as used in these regulations, shall have the meaning here given:

(a) *Contained helium.*—The actual quantity of the element, helium, contained in a mixture of that element and other gases.

(*b*) *Purity (of helium).*—The volume the contained helium in a mixture would occupy if not mixed with other gases, expressed in percentage of the volume of the mixture, both volumes being measured at, or reduced to, a pressure of 14.7 pounds per square inch absolute and a temperature of 70° Fahrenheit.

(*c*) *Cubic foot of contained helium.*—The quantity of contained helium that would occupy a volume of one cubic foot at normal atmospheric pressure (14.7 pounds per square inch absolute) and 70° Fahrenheit, if it were not mixed with other gases.

(*d*) *Unit of helium.*—One thousand (1,000) cubic feet of contained helium.

(*e*) *Market helium.*—Helium sold or to be sold under the provision of said Act which reads, "That helium not needed for Government use may be produced and sold upon payment in advance in quantities and under regulations approved by the President, for medical, scientific, and commercial use."

(*f*) *Production outlet.*—The discharge end of the pipe or pipes through which helium of about 98 percent purity, and at a pressure of not more than 2,500 pounds per square inch gage, leaves the production equipment or storage facilities of a Government helium plant.

(*g*) *Actual cost per unit of helium.*—The cost per thousand cubic feet of contained helium, computed as prescribed in Section 4 hereof, of market helium at the production outlet.

(*h*) *Estimated cost per unit of helium.*—An estimate of the actual cost per unit of market helium at the production outlet, prepared by the Bureau of Mines prior to the time when the actual cost per unit of helium can be determined.

(*i*) *Service charges.*—Charges for services rendered, materials furnished, or expenses incurred by the Bureau of Mines which are not directly attributable to activities required for delivering helium at the production outlet; these may include charges for unloading, handling, repairing, loading and hauling containers supplied by purchasers of market helium, use of containers if supplied by the said Bureau, cribbing freight cars, telegrams, and other expenses that are attributable directly to an individual contract, delivery, or shipment rather than to the common cost of producing helium and delivering it at the production outlet.

(*j*) *Actual cost plus service charges (applicable to a given quantity of helium).*—The sum of (1) the actual cost per unit of helium times the number of units in said quantity, plus (2) the service charges applicable to said quantity.

(*k*) *Estimated cost plus service charges (applicable to a given quantity of helium).*—The sum of (1) the estimated cost per unit of helium times the number of units in said quantity, plus (2) the estimated service charges applicable to said quantity.

(*l*) *Deposit.*—A sum of money to be supplied by a purchaser of market helium prior to the delivery of the helium, and to be deposited in the special helium-production fund authorized by Section 3 (c) of the said Act.

(*m*) *Delivery schedule.*—A schedule prepared by the Bureau of Mines showing the date or dates on which it expects to deliver helium under a contract. Such a delivery schedule may be modified by the Bureau of Mines as circumstances require and is not to be construed as a guarantee that delivery will be made as scheduled.

Section 2. General

(*a*) Helium not needed for Government use, and in quantities not exceeding those which the Bureau of Mines determines can be produced with facilities under its jurisdiction in accordance with good engineering practice, may be produced and sold under these regulations as market helium, but all such sales shall be subject to the Government's right of repurchase under the provisions of Section 8 hereof. Requisitions to meet needs of the Army and Navy and other branches of the Federal service shall always be paramount to applications for and sales of market helium.

(*b*) Nothing in these regulations shall be construed to make mandatory the production and sale of market helium by the Bureau of Mines. The Director of the Bureau of Mines may refuse to accept, and the Secretary of the Interior may refuse to approve, any application for purchase of market helium when they consider its acceptance or approval to be contrary to the intent of the Act, disadvantageous to the national defense, or inimical to the best interests of the Government.

(*c*) Other things being equal, in considering applications, contracting for sale, scheduling deliveries, and making shipments of market helium, in so far as practicable helium for medical use shall be given preference over helium for other non-governmental uses, and the Secretary of the Interior or the Director of the Bureau of Mines, in their discretion, may order interruption of deliveries of helium under any contract when, in their judgment, deliveries under another contract merit preference.

(*d*) Unless otherwise agreed to by the Bureau of Mines in writing, market helium to be sold under these regulations is for delivery to purchasers at a Government-owned helium plant to be designated by the Bureau of Mines. All sales of helium under any contract shall be complete upon delivery by the Government at the production outlet, or at such other point as may be agreed upon by the Bureau of Mines in writing, and the Bureau of Mines shall thereafter, with respect to helium so delivered, be acting for the purchaser as an agent merely.

(*e*) Contracts for market helium shall not be subject to cancellation or transfer by the purchaser, in whole or in part, unless authorized by an amendment or cancellation of such contract executed by the Director of the Bureau of Mines, and if such amendment or cancellation is with respect to more than 100 units of helium, the same shall not be effective unless approved by the Secretary of the Interior.

(*f*) Shipping containers for market helium sold hereunder shall be supplied by the purchaser of such helium, unless otherwise agreed upon by the Bureau of Mines in writing.

(*g*) Containers supplied by purchasers of market helium and filled by the Bureau of Mines shall be suitable for the intended use and shall be acceptable as containers for shipment by a common carrier in interstate commerce whether or not their shipment on such carrier is contemplated. The Bureau of Mines will not knowingly fill any container which cannot be shipped or transported, legally and safely, to its ultimate destination.

(*h*) In the interest of safety and efficiency in plant operation, containers and valves supplied by purchasers to receive helium to be delivered under pressure by the Bureau of Mines shall be of types and in condition acceptable to said Bureau. The Bureau's supervising engineer or other official in charge at any helium plant is authorized to refuse to fill any container when he considers its filling to be unsafe or inexpedient.

(*i*) In case a purchaser fails to have suitable containers at the Government helium plant in adequate time to receive any scheduled delivery of helium, the Bureau of Mines, at its election, may schedule that delivery for any later time suited to its operating program or eliminate the quantity of helium in that scheduled delivery from the amount of helium remaining to be delivered under the pertaining contract.

(*j*) Determinations of purity and quantity shall be by methods prescribed by or acceptable to the Bureau of Mines. The delivery of a quantity of helium within plus or minus two percent of that contracted for shall constitute a fulfillment of the contract on the Government's part, but payment shall be on the basis of the actual quantity of contained helium delivered as determined by the said Bureau's accepted methods of measurement.

(*k*) The Government shall be held blameless for delays in delivery of helium ordered, loss of containers, faulty or leaky containers, loss of helium in transit from whatever cause, variations in purity, or the character of any impurity which may be with the helium. The provisions of this paragraph shall apply whether containers are furnished by the purchaser or by the Government.

(*l*) Nothing in these regulations or in any sale or contract for the sale of helium or in any part of any such contract, regardless of the intended use or disposition of helium by any purchaser, shall be construed as authorizing the exportation of any helium within the meaning of the Act.

(*m*) These regulations are subject to amendment, with approval of the President, at any time.

Section 3. Application and Acceptance

(*a*) Persons, firms, corporations, associations or institutions who desire to purchase market helium under these regulations may make application therefor on an application form similar to that included in the form of contract shown in the appendix of these regulations. Copies of said application form will be furnished by the Bureau of Mines on request.

(*b*) The applicant shall supply to the Bureau of Mines, under oath or affirmation, on said form and supplemental papers, full information concerning the quantity of helium desired; the desired date of delivery; the contemplated use or disposition of the helium; whether the helium is to be exported and, if so, the export license procured from the Secretary of State or plans for procuring such license; the disposition of any helium previously purchased; anticipated future requirements, if any; types, condition, and ownership of containers and valves to be supplied; proposed method of shipment; destination of the helium; and any other data that may be needed by officials of the Department of the Interior and the Bureau of Mines to enable them to judge whether the need for the helium is bona fide, and whether the helium desired can be supplied in accordance with the intent of the said Act and these regulations, and under conditions of safe and efficient plant and gas-field operation. Also, if the helium is to be used for airship inflation, the applicant shall identify and describe the craft for which the helium is intended, supply full information regarding the proposed use of such craft (including full information concerning the proposed schedule of operations if flights are to be made outside the United States), and provide assurance that the said helium will be used for inflation of only such airships as operate in or between the United States and its territories and possessions, or between the United States or its territories and possessions and foreign countries, and that said helium will not be used for inflation of any airship operating between two foreign countries notwithstanding such airship may also touch at some point in the United States.

(*c*) Upon receipt of a properly executed application and the required information pertaining thereto, the Bureau of Mines shall determine the practicability of supplying the requirements under the conditions stated. If the said Bureau considers it impracticable or inadvisable to supply the helium as requested it shall so notify the applicant; otherwise, it shall schedule the helium for delivery (contingent upon final execution of a contract pursuant to the application), and supply the applicant with estimates of the cost per unit of helium, service charges applicable to the contemplated deliveries of helium, delivery schedule, and amount of the deposit or deposits required.

(*d*) If the applicant desires to purchase the helium under the terms of these regulations and considering the estimates and statements of conditions supplied by the said Bureau, he shall execute a contract covering purchase of the helium applied for. The form of such contracts is indicated in the appendix of these regulations. Said contract shall be forwarded to the Bureau of Mines, accompanied by an initial deposit in the form of a certified check for the amount required payable to the Treasurer of the United States, within ten days from receipt of estimates of the cost per unit of helium, service charges, and delivery schedule, and notice of the initial deposit required.

(*e*) Failure to execute and forward the said contract or to make the required initial deposit within the time allotted may nullify the delivery schedule at the discretion of the Bureau of Mines.

(*f*) Upon receipt of a properly executed contract accompanied by the stipulated initial deposit the contract will be forwarded for the consideration of the Director of the Bureau of Mines. If such a contract executed by the said Director is for more than 100 units of helium (100,000 cubic feet of contained helium) it shall also be forwarded to the Secretary of the Interior for consideration and shall not be binding until approved by him in writing. If the said contract is executed by the Director of the Bureau of Mines (and approved by the Secretary of the Interior if it is for more than 100 units of helium), the initial deposit will be placed to the credit of the special helium-production fund provided for by Section 3 (c) of the said Act. Otherwise the certified check will be returned to the applicant.

Section 4. Actual Costs and Service Charges

(*a*) After the close of each fiscal year (ending June 30) the Bureau of Mines shall compute, and submit to the Secretary of the Interior for approval, the actual cost per unit of helium for market helium sold during that year, determined by adding operating cost, depreciation, depletion, and interest, as defined below, for all properties that produced market helium during that year, and dividing the sum of money so determined by the total number of units of helium produced and sold as market helium, plus the number of units produced by Governmental agencies, by such properties during that year:

Operating cost.—The expenses (exclusive of those covered by service charges) incurred by the Bureau of Mines during such year in supervising, operating and maintaining such properties; less the returns credited or creditable to the special helium-production fund established by Section 3 (c) of said Act that are derived from residue natural gas or by-products from such properties sold during such year: *Provided, however*, that if in the judgment of the Secretary of the Interior deduction of all such returns gives an operating cost that is unduly low, all or any part of such returns may be eliminated from consideration in the determination of operating cost.

The expenses incurred, as computed for the determination of operating cost, shall take into account the expenditures (exclusive of those covered by service charges) for plant and gas-field operation and maintenance, including supplies and smaller items of equipment therefor, of the character which, prior to September 1, 1937, were customarily lodged against funds transferred by the Army and Navy and other Federal agencies for helium procurement and funds appropriated to the Bureau of Mines under the appropriation title "Gas production for helium plants", but not including expenditures for property and major facilities or items of equipment to be amortized through depreciation and depletion as hereinafter specified; and in computing said operating cost appropriate adjustments shall be made for increases or decreases in stocks of supplies and equipment held in the Bureau's plant and gas-field store rooms.

Depreciation.—A reasonable charge for the depreciation of any Government-owned plant and pertaining equipment used in production of market helium during said year (not including items covered by operating cost), computed on a basis that can be expected to amortize the cost of acquiring and developing such plant and equipment by the end of its productive life.

Depletion.—A reasonable charge for the depletion of any Government-owned helium-bearing gas properties used in production of market helium during said year (not including items covered by operating cost), computed on a basis that can be expected to amortize the cost of acquiring and developing such properties by the end of their productive lives.

Interest.—Interest for said year at the rate of 3½ per centum on capital expended after September 1, 1937 (except from the special fund established in subsection (c) of Section 3 of the said Act), for properties, facilities, and helium-bearing gas lands used for production of market helium during said year, and not yet amortized through charges for depreciation and depletion.

(*b*) Service charges shall be determined by the Bureau of Mines on the basis of the cost to the Government of rendering the service, making due allowance for contingen-

cies, overhead expense, and intangible factors. As conditions permit, the said Bureau shall prepare schedules of charges for service items of substantially uniform cost, which schedules shall be made known to purchasers of helium and be effective until modified by the Bureau of Mines.

(c) The actual cost plus service charges for a fiscal year (for use in adjusting deposits as provided in Section 7 hereof) under each contract shall be:

(1) The actual cost per unit of helium for that fiscal year (as computed by the Bureau of Mines and approved by the Secretary of the Interior) times the number of units of helium delivered under that contract during said year, plus

(2) All service charges entered against that contract during said year:

Provided, however, That the minimum to be included in said actual cost plus service charges on account of the helium in any one shipment under such contract, and the delivery of such helium, shall be $10.00 plus all service charges attributable to that shipment.

Section 5. Estimated Costs and Service Charges

(a) On or before the beginning of each fiscal year, the Bureau of Mines shall prepare an estimate of the cost per unit of helium for that fiscal year, based on operating conditions and the expected volume of deliveries, as indicated by information received from Governmental departments, commercial interests using helium, and any other available sources. After approval of that estimate by the Secretary of the Interior it shall be the estimated cost per unit of helium for use as indicated in Section 6 hereof for computing deposits. Such estimates may be revised from time to time during the year as changing conditions may warrant, and each revised estimate, when approved by the Secretary of the Interior, shall become the estimated cost per unit of helium for use (until revised again) in computing deposits to accompany subsequent contracts and determining required additions to deposits under contracts previously made: *Provided, however,* that in computing the deposit required under an application for a quantity of helium large enough to have a material effect on the actual cost per unit of helium, the Bureau of Mines may use a revised estimate of the cost per unit of helium that has not yet been approved by the said Secretary; in which event, however, such revised estimate shall be submitted to the said Secretary for approval prior to or simultaneously with submission for final execution of the contract arising out of said application.

(b) Upon the receipt of each application for purchase of helium, the Bureau of Mines shall estimate the service charges applicable to such helium and its delivery, based upon the volume of helium to be delivered, types of containers to be supplied, method of transportation, and other pertaining factors; and the said Bureau shall make such estimates known to the applicant.

Section 6. Deposits

(a) The initial deposit to be made by the purchaser, before final execution on behalf of the Government of any contract for purchase of market helium, shall be one hundred twenty percentum (120%) of the estimated cost plus service charges applicable to the helium (and delivery thereof) to be delivered under such contract; said estimated cost plus service charges being,

(1) The estimated cost per unit of helium (as estimated by the Bureau of Mines and approved by the Secretary of the Interior) multiplied by the number of units of helium to be delivered, plus

(2) The estimated service charges applicable to the helium to be delivered:

Provided, however, that in no event shall the amount included for item (1) above be less than $10.00: *Provided further,* that if such a contract is for the purchase of more than 1,000 units of helium, the deliveries of which are to be extended over a period that in the judgment of the Bureau of Mines warrants application of this proviso, the initial deposit may be a sum not less than sixty percentum (60%) of the estimated cost plus service charges applicable to all helium to be delivered under said contract, or the amount estimated by the Bureau of Mines to be necessary to meet obligations incurred or to be incurred in producing and delivering the helium called for by such contract, whichever amount is the greater.

(b) In case the initial deposit under a contract is less than the said one hundred twenty percentum (120%) of the estimated cost plus service charges, or in the event that (as a result of an increase in the estimated price per unit of helium or for any other reason) the amount that has been deposited under a contract is less than the amount required to be on deposit under the following provisions of this subsection and deliveries of helium under that contract have not been completed, the purchaser shall deposit additional funds (in the form of certified checks payable to the Treasurer of the United States) at such times and in such amounts that at least 30 days in advance of any scheduled delivery under such contract the amount the purchaser has deposited under that contract shall equal or be greater than the following, to wit:

(1) One hundred percentum (100%) of the actual cost plus service charges applicable to all helium delivered under said contract for which actual costs have been determined, plus

(2) One hundred twenty percentum (120%) of the latest estimated cost plus service charges applicable to all helium delivered under said contract for which actual costs have not yet been determined, plus

(3) One hundred twenty percentum (120%) of the latest estimated cost plus service charges applicable to the estimated amount of helium to be delivered in the next scheduled delivery, plus

(4) Sixty percentum (60%) of the latest estimated cost plus service charges applicable to the amount of helium to be delivered under such contract subsequent to the next scheduled delivery:

Provided, however, that in lieu of making a supplemental deposit required by an increase in the estimated cost per unit of helium, the purchaser may accept a corresponding decrease (to be determined by the Bureau of Mines) in the quantity of helium subsequently to be delivered under such contract.

(c) In case any scheduled delivery of helium is not made because of failure of the purchaser to deposit adequate funds as hereinbefore required, the Bureau of Mines, at its election, may schedule that delivery for any later time suited to its operating program or deduct the quantity of helium in that scheduled delivery from the amount of helium remaining to be delivered under the pertaining contract.

Section 7. Adjustments of Deposits, Refunds, and Final Settlements

After the close of a fiscal year (ending June 30) and the computation by the Bureau of Mines and approval by the Secretary of the Interior of the actual cost per unit of helium for that year, and computation of service charges applicable under each contract, adjustments in deposits shall be made as follows:

(a) In the case of each contract under which no helium remains to be delivered and the actual cost plus service charges applicable to all helium delivered thereunder has been determined, the purchaser shall be entitled to receive (without interest) the excess, if any, that remains after one hundred five percentum (105%) of the actual cost plus service charges applicable to all helium delivered under said contract during the said fiscal year, and one hundred percentum (100%) of the actual cost plus service charges applicable to all helium delivered under said contract during any prior fiscal year, have been subtracted from the amount of money the purchaser has deposited under that contract; and the money deposited (exclusive of such excess if any) shall constitute full payment of the price for the helium delivered under said contract and the delivery thereof.

(b) In the case of each contract under which deliveries of helium have not been completed, or under which the actual costs plus service charges applicable to all deliveries have not been determined, the purchaser, at the option and in accordance with the determinations of the Bureau of Mines acting under the direction of the Secretary of the Interior, may be entitled to receive (without interest) all or a part of the excess, if any, that remains after subtracting from the amount of money the purchaser has deposited under that contract the following, to wit:

(1) The actual cost plus service charges, as specified in Section 4 (c) hereof, for all helium delivered under said contract for which actual costs have been determined, and for the delivery of such helium, plus

(2) The amounts required to be on deposit under the terms of Section 6 hereof to cover helium delivered under said contract for which actual costs have not yet been determined, and to cover all helium remaining to be delivered under said contract, and to cover delivery of all such helium.

(c) Excesses due purchasers under the terms of subsections (a) and (b) of this Section 7 shall be paid to such purchasers out of the special helium-production fund authorized by Section 3 (c) of the said Act: *Provided, however,* that at the election of the purchaser any such excess may be left on deposit to the credit of the same contract or any other contract for purchase of helium from the Government to which said purchaser may be a party.

Section 8. Repurchase of Helium by Government

(a) Any market helium sold by the Bureau of Mines under these regulations that has not been lost or dissipated may be repurchased by the Government when needed for Government use, at the place where said helium is in use or storage.

(b) The price to be paid by the Government per unit of helium, for delivery at the said place of use or storage, for helium of 98 percent purity or better, shall be,

(1) The actual cost per unit of helium for the year in which said helium was purchased from the Bureau of Mines, less one half of one percent of said cost for each month or fraction thereof since the said helium was shipped from the Government plant, or

(2) The actual cost per unit of helium for market helium purchased from the Bureau of Mines during the fiscal year immediately preceding the repurchase, whichever of said costs is the higher:

Provided, however, that the said unit price of repurchase shall not be more than 20 percent greater or more than 20 percent less than the actual cost per unit of helium for the fiscal year in which the said helium was purchased from the Bureau of Mines.

For repurchased helium of less than 98 percent purity the unit price to be paid by the Government shall be the price as above determined less one percent thereof for each one percent that the purity is below 98 percent.

A premium of 50 cents per unit of helium, above the prices as above determined, shall be paid by the Government for helium which is compressed into cylinders or tank cars at 2,000 pounds per square inch or more, by the seller at the request of the Government; and such additional premium as the Secretary of the Interior may deem to be just compensation for savings to the Government in transportation charges may be paid in instances when the helium being repurchased is advantageously situated with respect to the contemplated point of Governmental use.

If the helium being repurchased is a mixture of helium from different shipments of market helium sold by the Bureau of Mines, the helium mixture on hand shall be assumed, for purposes of computing the repurchase price, to represent the latest shipments, or fractions thereof, that were incorporated into that mixture, considering the shipments in order of recentness until all helium on hand is accounted for.

Section 9. Nongovernmental Resale of Helium

(a) Before consummation of any resale of 100 units or more of market helium that has been sold by the Government under these regulations, whether the seller procured the said helium from the Bureau of Mines or from some other party, full information regarding such proposed resale shall be supplied by the reseller to the Bureau of Mines, in order that the Government, if it so desires, may exercise its right to repurchase said helium under the provisions of Section 8 hereof.

(b) Whenever 100 units or more of market helium that has been purchased from the Bureau of Mines under these regulations is resold, it shall be sold only with the approval of the Secretary of the Interior, and such approval may be granted only if the party to whom the helium is to be resold informs the said Secretary fully concerning the proposed use and disposition of said helium and enters into a written agreement with the United States of America, as represented by the Secretary of the Interior, that such party will abide by all applicable terms and requirements of the Act and these regulations.

Section 10. Violations

Any person, firm, corporation, association, or institution which the Secretary of the Interior shall at any time find has violated any of the provisions of the Act or of these regulations may be denied thereafter, in the discretion of the said Secretary, any or all privileges to purchase helium from the Bureau of Mines.

Recommended for approval.

JOHN W. FINCH,
Director, Bureau of Mines.

Recommended for approval, January 14, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

Approved, Jan. 14, 1938.

FRANKLIN D ROOSEVELT
President of the United States.

APPENDIX

Form of Contract

A contract covering a sale of helium, including the application to be submitted by the purchaser and report thereon to be prepared by the Bureau of Mines prior to the execution of the contract, will be in form and substance substantially as follows, but alterations in said form that are not inconsistent with the Act or the foregoing provisions of these regulations may be made by the Bureau of Mines, with approval of the Secretary of the Interior, and forms so altered may be inserted in this appendix.

CONTRACT FOR PURCHASE OF HELIUM FROM UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF MINES

This space is for recording by the Bureau of Mines and is not a part of the contract.

Application No. _____ Date _____
Contract received from purchaser _____
Contract forwarded to Washington _____
Contract No. _____ Date _____

This HELIUM PURCHASE CONTRACT, entered into this _____ day of _____, 19__, by and between THE UNITED STATES OF AMERICA, acting through the DEPARTMENT OF THE INTERIOR, BUREAU OF MINES (hereinafter called the Bureau) and _____ dealing as _____
(specify whether individual, partnership or corporation, and give requisite identifying information.)
_____
(hereinafter called the purchaser),

Witnesseth:

That, whereas, the purchaser desires to purchase _____ units of helium (_____ cu. ft. of contained helium) from the Bureau pursuant to the Act of Congress entitled "An Act Authorizing the conservation, production, exploitation, and sale of helium gas, a mineral resource pertaining to the national defense and to

the development of commercial aeronautics, authorizing the acquisition, by purchase or otherwise, by the United States of properties for the production of helium gas, and for other purposes," approved September 1, 1937 (hereinafter called the Act) and under regulations governing production and sale of helium by the Bureau, approved by the President on January 4, 1938, or as hereafter modified with approval of the President, (hereinafter called the regulations), which Act and regulations are hereby made a part of this contract by reference, and

Whereas, the purchaser has filed an application dated ---------- with the Bureau for said helium, stating in said application his need for and intended use of said helium and agreeing therein to abide by the terms of said Act and regulations in the purchase, use and disposition of such helium; a copy of which application is attached hereto and made a part hereof, and

Whereas, the Bureau has determined that the said helium can be produced with facilities under its jurisdiction in accordance with good engineering practice and has prepared a report on said application, stating the amount of the initial deposit required of the purchaser and giving estimates of the delivery schedule and future deposits required, which report is attached hereto and made a part hereof, with the understanding, however, that the data of said report are estimates only, and

Whereas, the purchaser has submitted to the Bureau with this contract a certified check in the amount of $---------- as the initial deposit called for by said report:

Now, therefore, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the parties hereto mutually covenant and agree as follows:

ARTICLE 1. The Bureau agrees:

(a) To sell to the purchaser -------- units of helium (---------- cubic feet of contained helium),

(b) To deliver said helium to the purchaser in accordance with the terms of the regulations and as nearly in accord with estimated shipping schedules as the exigencies of the Government service, need for helium by the Government, and conditions of operation will permit, and

(c) After the computation and approval of the actual cost plus service charges for a fiscal year for helium delivered hereunder, and for the delivery of such helium, to refund to the purchaser any amount that may be due under the terms of said regulations.

ARTICLE 2. The purchaser agrees:

(a) To buy from the Bureau -------- units of helium (---------- cubic feet of contained helium),

(b) To take such steps as may be necessary on the purchaser's part to enable the Bureau to make deliveries as scheduled,

(c) To pay for said helium in advance of delivery by depositing such amounts as may be called for under the terms of said regulations, and

(d) To comply with all applicable provisions of the Act and regulations.

ART. 3. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but the provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ART. 4. If this contract is for the purchase of more than 100 units of helium (100,000 cubic feet of contained helium) it shall be subject to the written approval of the Secretary of the Interior and shall not be binding until so approved.

In witness whereof, the parties hereto have caused these presents to be duly executed in triplicate by their proper officers the day and year first above written.

(Purchaser)

(Address)

THE UNITED STATES OF AMERICA,

Director, Bureau of Mines.

Approved:

Secretary of the Interior.

I, ----------, certify that I am the ---------- secretary of the corporation named as the purchaser herein; that ---------- who signed this contract on behalf of the purchaser, was then ---------- of said corporation; that said contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

---------- [CORPORATE SEAL]

APPLICATION TO PURCHASE HELIUM FROM UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF MINES

This space is for recording by the Bureau of Mines and is not a part of the application.

Application No. -------- Date ----------
Received ----------
Rejected and applicant notified ----------
Report prepared and contract sent applicant ----------

Name of Applicant ----------
(use name under which contract is to be made)
Address ----------

Date ----------

Give Full Information as Indicated Below, Attaching Additional Sheet if Necessary for Completing Answers

(1) Quantity of helium desired. ----------
---------- cu. ft. of contained helium at 14.7 lb. per sq. in. and 70° F.
(2) Delivery date desired. ----------
(3) (a) Use for which helium is desired. ----------
(b) Place of use. ----------
(4) Contemplated user of helium. ----------
(5) (a) Is helium for resale? ----------
(b) Expected resale price. ----------
(6) (a) Is helium to be exported? ----------
(b) If helium is to be exported, give number and date of export license issued by Secretary of State or sufficient information to identify the allotment under which application for license to export will be made to Secretary of State, or, if license or allotment has not been obtained, the applicant's plans for obtaining an export license.

----
(7) Name, description and proposed use of aircraft for which helium is intended. ----------
(8) Proposed schedule of any flights to be made outside United States with such aircraft. ----------
(9) Quantities of helium previously purchased from Bureau of Mines. ----------
(10) Disposition of such helium, and quantities still on hand. ----------
(11) Anticipated future helium requirements. ----------

Shipping Containers

(12) Containers to be furnished by applicant. (a) Number. ----
(b) Type. ---------- (c) Age. --------
(d) Owner. ----------
(13) Do containers meet I. C. C. specifications? ----------
(14) (a) When were containers last tested? ----------
(b) To what pressure? ----------
(15) To what pressure does applicant want containers filled? ----
(16) (a) When were containers last used? ----------
(b) For what gas? ----------
(17) What do containers now contain? ----------
(18) Valves on containers: (a) Type. ----------
(b) Mfg. ----------
(19) How are valves protected? ----------
(20) What is condition of: (a) Containers? ----------
(b) Valves? ----------
(21) How can applicant's containers be identified? ----------
----
(22) What is actual internal volume of containers? ----------
----
(23) (a) How and from where are containers to be transported to helium plant? ----------
(b) How and to what point are containers to be transported from helium plant? ----------
----

The undersigned hereby makes application to purchase helium in quantities and under conditions as above described; swears (affirms) that the need for such helium is bona fide, that he has read the Act approved September 1, 1937 (Public No. 411, 75th Congress, First Session) and regulations issued pursuant thereto, that the contemplated use of the helium applied for is not in violation of said Act and regulations, and that all statements and answers set forth herein are true; and agrees that if a contract for purchase of helium is entered into as a result of this application the applicant will abide by the terms of said Act and regulations in the purchase, use and disposition of such helium.

(Signature of applicant)

(Title)

(If the applicant is a firm, corporation, association, or institution, the signature shall be that of its duly authorized representative)

Subscribed and sworn to before me at ----------, this ---------- day of ----------, 19--.

[SEAL] ----------
Notary Public.

REPORT ON APPLICATION TO PURCHASE HELIUM FROM BUREAU OF MINES

Prepared ---------- concerning
Application No. -------- Dated ----------
Name of Applicant ----------
Address ----------
Quantity of helium applied for ---------- units
Estimated cost per unit of helium ---------- $--------
The above estimated cost (*has*) (*has not*) been approved by the Secretary of the Interior. (If not yet approved this estimated cost will be submitted for the Secretary's consideration before or simultaneously with submission of the contract.)
Estimated cost per unit of helium multiplied by number of units ---------- $--------
Estimated service charges ---------- $--------
Estimated cost plus service charges ---------- $--------
Initial deposit required with contract (----% of estimated cost plus service charges) ---------- $--------

Estimated deposit schedule		Estimated shipping schedule		Shipments made (This column is for recording by Bureau of Mines and is not a part of the report)	
Date	Amount	Date	Amount	Date	Amount

Detailed estimates of service charges on reverse side

Supervising Engineer, Bureau of Mines Helium Plant.

[F. R. Doc. 38-575; Filed, February 25, 1938; 9:52 a. m.]

Division of Grazing.

OREGON GRAZING DISTRICTS NOS. 2 AND 5

MODIFICATION

FEBRUARY 17, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, Oregon Grazing Districts Nos. 2 and 5, as established by orders approved July 9, 1935, and October 21, 1935, respectively, are hereby modified, and the following-described lands are hereby transferred from Oregon Grazing District No. 5 to Oregon Grazing District No. 2:

OREGON

Willamette Meridian

T. 23 S., Rs. 18 and 19 E.;
T. 23 S., R. 20 E., secs. 31 to 36, inclusive.

and the following-described lands are hereby transferred from Oregon Grazing District No. 2 to Oregon Grazing District No. 5:

T. 21 S., R. 15 E., E½, SW¼ sec. 34, secs. 35 and 36;
T. 22 S., R. 15 E., secs. 1, 2, E½, SW¼ sec. 10, secs. 11 to 16 inclusive, NE¼ sec. 21, secs. 22 to 27 inclusive, E½ sec. 34, secs. 35 and 36;
T. 22 S., R. 16 E., secs. 1, 2, NE¼ sec. 3, N½, SW¼ sec. 4, E½ sec. 5, W½ sec. 7, NE¼ sec. 8, W½ sec. 9, E½, SW¼ sec. 10, secs. 11 to 16 inclusive, E½, SW¼ sec. 17, S½ sec. 18, sec. 19, N½ sec. 20, W½ sec. 21, N½, SE¼ sec. 22, secs. 23, 24, 25, W½ sec. 28, sec. 30, NW¼ sec. 31, W½, SE¼ sec. 33, E½, W½SW¼ sec. 34, W½ sec. 35, sec. 36.
T. 22 S., R. 17 E., all.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-586; Filed, February 25, 1938; 10:33 a. m.]

National Bituminous Coal Commission.

[Order No. 230]

AN ORDER REVOKING ORDERS ESTABLISHING MINIMUM PRICES AND MARKETING RULES AND REGULATIONS FOR DISTRICTS NO. 1 TO NO. 20 INCLUSIVE AND DISTRICTS NO. 22 AND NO. 23

The National Bituminous Coal Commission having established Minimum Prices and Marketing Rules and Regulations for Districts No. 1 to No. 20 inclusive and Districts No. 22 and No. 23 by orders of the Commission, and it now appearing that many of the minimum prices established by orders of the Commission have become inoperative due to causes beyond the control of the Commission and that the express intention of Congress, as provided in Section 4, Part II, (a) and (b) of the Bituminous Coal Act of 1937, cannot be effectuated by the minimum prices remaining in effect and that the condition thereby created is detrimental to the interests of code members,

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the following orders of the Commission relating to Minimum Prices and Marketing Rules and Regulations, together with all temporary orders issued in proceedings instituted by petitioners under Section 4, Part II (d) of the Act, are hereby revoked:

No. 88	No. 133	No. 163	No. 200
No. 89	No. 134	No. 164	No. 201
No. 90	No. 135	No. 165	No. 203
No. 91	No. 136	No. 166	No. 204
No. 92	No. 137	No. 167	No. 206
No. 93	No. 138	No. 169	No. 207
No. 94	No. 139	No. 177	No. 208
No. 95	No. 140	No. 179	No. 209
No. 96	No. 141	No. 180	No. 210
No. 97	No. 142	No. 181	No. 211
No. 98	No. 143	No. 182	No. 212
No. 99	No. 144	No. 183	No. 213
No. 100	No. 145	No. 184	No. 214
No. 101	No. 146	No. 185	No. 215
No. 111	No. 147	No. 186	No. 216
No. 113	No. 148	No. 187	No. 217
No. 114	No. 149	No. 188	No. 218
No. 119	No. 150	No. 189	No. 220
No. 121	No. 151	No. 190	No. 221
No. 122	No. 152	No. 191	No. 222
No. 124	No. 153	No. 192	No. 223
No. 126	No. 154	No. 193	No. 224
No. 127	No. 155	No. 194	No. 225
No. 128	No. 157	No. 195	No. 226
No. 129	No. 158	No. 196	No. 227
No. 130	No. 159	No. 197	No. 228
No. 131	No. 160	No. 198	No. 229
No. 132	No. 161	No. 199	

2. That this order of revocation shall become effective at 11:59 o'clock P. M. on the 25th day of February, 1938.

3. That the Secretary of the Commission shall forthwith telegraph a copy of this order to the Secretaries of the Bituminous Coal Producers Boards for the several Districts, that the Secretaries of said Boards are instructed to notify each of the code members within their respective Districts of the revocation of the orders above mentioned, and that the Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, and to all code members, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 23rd day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-597; Filed, February 25, 1938; 12:15 p. m.]

[Docket No. 4-C]

IN THE MATTER OF ORDER NO. 122 RELATING TO COMMISSIONS OR DISCOUNTS ON RAILROAD LOCOMOTIVE FUEL

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for February 28, 1938, at the hour of

10:00 o'clock A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C., is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-591; Filed, February 25, 1938; 12:16 p. m.]

[Docket No. 9]

IN THE MATTER OF ORDER NO. 127 RELATING TO SUBSTITUTION

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for February 28, 1938 at the hour of 10 A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C. is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-592; Filed, February 25, 1938; 12:16 p. m.]

[Docket No. 10]

IN THE MATTER OF ORDER NO. 205 PROVIDING FOR A HEARING IN RELATION TO MAXIMUM DISCOUNTS OR PRICE ALLOWANCES

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for March 2, 1938 at the hour of 10:00 A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C., is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-593; Filed, February 25, 1938; 12:16 p. m.]

[Docket No. 11]

IN THE MATTER OF ORDER NO. 214, PROVIDING FOR A HEARING TO RECEIVE EVIDENCE TO ENABLE THE COMMISSION TO REVIEW THE APPLICATION OF BASE RATES AND FREIGHT RATE ADJUSTMENTS BETWEEN AND AMONG DISTRICTS 1 TO 8, INCLUSIVE

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for March 10, 1938 at the hour of 10:00 A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C. is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-588; Filed, February 25, 1938; 12:15 p. m.]

[Docket Nos. 85, 106-109, 154, 283, 284, 290-292-FD]

IN THE MATTER OF CONSUMERS' COUNSEL; STATE OF NEW YORK, BY ATTORNEY GENERAL; CONSUMERS' COUNSEL ON BEHALF OF ASSOCIATED INDUSTRIES OF NEW YORK; STATE OF NEW YORK; STATE OF NEW YORK & CONSUMERS' COUNSEL; CITY OF CLEVELAND, OHIO; CONSUMERS' COUNSEL ON BEHALF OF CITY OF NEW YORK; CITY OF NEW YORK, N. Y.; CITY OF ATLANTA, GA.; CITY OF ST. LOUIS, MO.; CITY OF ROCHESTER, N. Y.

NOTICE OF CONTINUANCE OF HEARINGS

Notice is hereby given that the hearings in the above entitled matters now scheduled for March 8, 1938, at the hour of 10:00 o'clock A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C., are hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-590; Filed, February 25, 1938; 12:15 p. m.]

[Docket Nos. 87-89, 97, 99-101, 105, 135, 137, 138, 141, 142, 174, 189, 209, 210, 253-FD]

IN THE MATTER OF ROCHESTER & PITTSBURGH COAL CO.; A. G. & S. MINING CO.; BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 1; BERWIND-WHITE COAL MINING CO.; MONROE COAL MINING CO.; EBENSBURG COAL CO.; HEISLEY COAL CO.; BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 7; THE POWHATAN MINING CO.; PITTSBURGH TERMINAL COAL CORP.; PITTSBURGH COAL CO.; UNION COLLIERIES CO.; MARTEN A. REIBER, RECEIVER FOR BUTLER CONSOLIDATED COAL CO.; PURSGLOVE COAL MINING CO.; BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 2; UNION COLLIERIES CO.; PITTSBURGH COAL CO.; MIDLAND COAL & MINING CO., ET AL

NOTICE OF CONTINUANCE OF HEARINGS

Notice is hereby given that the hearings in the above entitled matters now scheduled for February 28, 1938, at the hour of 10:00 o'clock A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C., are hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-596; Filed, February 25, 1938; 12:17 p. m.]

[Docket No. 181-FD]

IN THE MATTER OF BELL & ZOLLER COAL MINING COMPANY

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for March 7, 1938, at the hour of 10:00 A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C. is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-594; Filed, February 25, 1938; 12:17 p. m.]

[Docket No. 294-FD]

IN THE MATTER OF KEYSTONE COAL & COKE COMPANY

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for March 3, 1938, at the hour of 10:00 o'clock A. M., at the Hearing Room of the Commission in the Walker Building, Washington, D. C., is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-595; Filed, February 25, 1938; 12:17 p. m.]

[Docket No. 299-FD]

IN THE MATTER OF JAMISON COAL & COKE COMPANY

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for March 3, 1938, at the hour of 10:00 A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C. is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-589; Filed, February 25, 1938; 12:15 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2596]

IN THE MATTER OF GRAND GASLIGHT, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 23, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-576; Filed, February 25, 1938; 9:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2604]

IN THE MATTER OF LEDNEW CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commisson, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, February 18, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 424, 815 Connecticut Avenue NW., Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-577; Filed, February 25, 1938; 9:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2788]

IN THE MATTER OF DURO-TEST CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 21, 1938, at ten o'clock in the forenoon of that day, in room 424, Federal Trade Commission Building, 815 Connecticut Avenue NW., Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-578; Filed, February 25, 1938; 9:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayers, Robert E. Freer.

[Docket No. 3072]

IN THE MATTER OF JOSEPH C. BRADLEY, JOHN M. SCHULZ, WILLIAM M. IRELAND, FRIEDA E. BRESLIN, AND A. R. ERBE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, February 15, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 424 of the Federal Trade Commission Building, 815 Connecticut Avenue NW., Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent.

The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-579; Filed, February 25, 1938; 9:54 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3151]

IN THE MATTER OF W. W. KIMBALL COMPANY, A CORPORATION; BEN F. DUVALL; GEORGE H. KRANZ; AND VICTOR G. WILLIAMS, TRADING AND DOING BUSINESS AS WILLIAMS MUSIC STORE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 21, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-580; Filed, February 25, 1938; 9:54 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3169]

IN THE MATTER OF ARGO PEN-PENCIL COMPANY, INC., A CORPORATION, AND HARRY SACHNOFF, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, March 1, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-572; Filed, February 25, 1938; 9:49 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3201]

IN THE MATTER OF CHENILLE CORPORATION OF AMERICA, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, February 24, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-581; Filed, February 25, 1938; 9:54 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3202]

IN THE MATTER OF FEE & STEMWEDEL, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 23, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-582; Filed, February 25, 1938; 9:55 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayers, Robert E. Freer.

[Docket No. 3223]

IN THE MATTER OF NANNETTE, INC., A CORPORATION, JAMES M. WOODMAN, AND WILLIAM J. LARSON

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered that the taking of testimony in this proceeding begin on Wednesday, February 16, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-583; Filed, February 25, 1938; 9:55 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3228]

IN THE MATTER OF ARTHUR R. PATTERSON, ALBERT C. KEHR, ARTHUR W. EDSON, EVA O. BROWN, AND MINNETHA COE, INDIVIDUALLY, AND DOING BUSINESS UNDER THE NAME AND STYLE OF PATTERSON SCHOOL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, February 17, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-584; Filed, February 25, 1938; 9:55 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3262]

IN THE MATTER OF MORETRENCH CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, March 4, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-574; Filed, February 25, 1938; 9:49 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3279]

IN THE MATTER OF CARTER CARBURETOR CORPORATION, RESPONDENT

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, February 15, 1938, at ten o'clock in the forenoon of that day (central standard time), in room 516, Federal Building, St. Louis, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-585; Filed, February 25, 1938; 9:56 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3313]

IN THE MATTER OF THE GOUDEY GUM COMPANY, A CORPORATION, ALSO TRADING AS AROUND THE WORLD GUM COMPANY; AND RAINBOW GUM COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony and pursuant to authority vested in the Federal Trade Commission under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, March 4, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-573; Filed, February 25, 1938; 9:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23rd day of February, A. D. 1938.

[File No. 1-2139]

IN THE MATTER OF MISSOURI PACIFIC RAILROAD COMPANY 5% CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE, AND COMMON STOCK, $100 PAR VALUE

ORDER CHANGING DATE FOR HEARING

The Commission having directed under date of February 14, 1938, that pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, a hearing be held March 1, 1938, at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., in Room 1103 at 10:00 A. M. to determine whether registration of the Five Per Cent Cumulative Convertible Preferred Stock, $100 Par Value, and Common Stock, $100 Par Value, of Missouri Pacific Railroad Company on the New York Stock Exchange should be suspended for a period not exceeding twelve months or be withdrawn; and

The Registrant having requested a postponement of such hearing;

It is ordered, That the hearing heretofore called for March 1, 1938, be held at the same hour and place on March 15, 1938; and

It is further ordered, That for the purpose of such proceeding, Richard Townsend, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-587; Filed, February 25, 1938; 10:56 a. m.]

Tuesday, March 1, 1938 *No. 41*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

LIMITING THE IMPORTATION OF RED CEDAR SHINGLES FROM CANADA DURING THE FIRST SIX MONTHS OF 1938

WHEREAS Executive Order No. 7575 of March 13, 1937, issued under and pursuant to section 811 of the Revenue Act of 1936 (49 Stat. 1746), limited the quantity of red cedar shingles imported from Canada which might be admitted to entry during the first six months of the calendar year 1937 to 1,048,262 squares, the equivalent of 25 per centum of the combined total of the shipments of red cedar shingles by producers in the United States and the imports of such shingles from Canada for the last six months of the calendar year 1936; and

WHEREAS the said section 811 of the Revenue Act of 1936 requires that the President shall issue a new order for each succeeding half-calendar year during the life of the reciprocal trade agreement entered into with the Dominion of Canada under date of November 15, 1935, limiting the imports of red cedar shingles from Canada for such half-calendar year to 25 per centum of the combined total of such shipments and imports of red cedar shingles for the preceding half-calendar year; and

WHEREAS I find from available statistics that the combined total of such shipments and imports of red cedar shingles during the second half of the calendar year 1937 is 3,664,986 squares;

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by the aforesaid section 811 of the Revenue Act of 1936 it is hereby ordered that the quantity of red cedar shingles imported from Canada which may be admitted to entry during the first six months of the calendar year 1938 shall be limited to 916,246 squares.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 25, 1938.

[No. 7822]

[F. R. Doc. 38-606; Filed, February 26, 1938; 10:55 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 4-C]

IN THE MATTER OF ORDER NO. 204, PROVIDING FOR A HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE RELATING TO THE COMMISSION'S MOTION MADE PURSUANT TO SECTION 411 (B) OF THE ACT, TO REVIEW AND REVISE MINIMUM PRICES AND MARKETING RULES AND REGULATIONS RELATING TO THE SALES OF RAILROAD LOCOMOTIVE FUEL

NOTICE OF CONTINUANCE OF HEARING

Notice is hereby given that the hearing in the above entitled matter now scheduled for February 28, 1938 at the hour of 10:00 A. M. at the Hearing Room of the Commission in the Walker Building, Washington, D. C. is hereby continued indefinitely.

By order of the Commission.

Dated this 24th day of February, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-617; Filed, February 28, 1938; 11:30 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[A. A. A. Corn 1938—1]

ACREAGE ALLOTMENT OF CORN IN COMMERCIAL CORN-PRODUCING AREA

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas the Agricultural Adjustment Act of 1938, approved February 16, 1938, provides:

SEC. 327. * * * Not later than February 1, the Secretary shall ascertain and proclaim the commercial corn-producing area. The ascertainment and proclamation of the commercial corn-producing area for 1938 shall be made not later than ten days after the date of the enactment of this Act.

SEC. 328. The acreage allotment of corn for any calendar year shall be that acreage in the commercial corn-producing area which, on the basis of the average yield for corn in such area during the ten calendar years immediately preceding such calendar year will produce an amount of corn in such area which the Secretary determines will, together with corn produced in the United States outside the commercial corn-producing area, make available a supply for the marketing year beginning in such calendar year, equal to the reserve supply level. The Secretary shall proclaim such acreage allotment not later than February 1 of the calendar year for which such acreage allotment was determined. The proclamation of the acreage allotment for 1938 shall be made as soon as practicable after the date of the enactment of this Act.

Whereas said Act contains, in section 301, the following definitions of terms here pertinent:

The term 'corn' means field corn.

(4) (A) 'Commercial corn-producing area' shall include all counties in which the average production of corn (excluding corn used as silage) during the ten calendar years immediately preceding the calendar year for which such area is determined, after adjustment for abnormal weather conditions, is four hundred and fifty bushels or more per farm and four bushels or more for each acre of farm land in the county.

(B) Whenever prior to February 1 of any calendar year the Secretary has reason to believe that any county which is not included in the commercial corn-producing area determined pursuant to the provisions of subparagraph (A), but which borders upon one of the counties in such area, or that any minor civil division in a county bordering on such area, is producing (excluding corn used for silage) an average of at least four hundred and fifty bushels of corn per farm and an average of at least four bushels for each acre of farm land in the county or in the minor civil division, as the case may be, he shall cause immediate investigation to be made to determine such fact. If, upon the basis of such investigation, the Secretary finds that such county or minor civil division is likely to produce corn in such average amounts during such calendar year, he shall proclaim such determination, and, commencing with such calendar year, such county shall be included in the commercial corn-producing area. * * *

'Marketing year' means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, October 1-September 30; * * *.

'Normal year's domestic consumption', in the case of corn * * *, shall be the yearly average quantity of the commodity, wherever produced, that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

'Normal year's exports' in the case of corn, * * * shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years * * * immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

'Reserve supply level', in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and exports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this Act.";

Whereas said Act was enacted on the 16th day of February, 1938; and

Whereas the Secretary of Agriculture having had reason to believe that certain counties bordering on the commercial corn-producing area as determined under subparagraph (A) of section 301 (b) (4) of said Act, and that certain minor civil divisions in certain counties bordering on such area are producing (excluding corn used for silage) an average of at least four hundred and fifty bushels of corn per farm and an average of at least four bushels of corn for each acre of farm land in the county or in the minor civil division, as the case may be, has caused reasonable investigation to be made to determine such facts with respect to such counties and minor civil divisions and to determine which, if any, of such counties or minor civil divisions are likely to produce corn in such average amounts during the calendar year 1938:

Now, therefore, be it known that I, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, approved February 16, 1938, upon the basis of such investigation and the latest available statistics of the Federal Government, do hereby ascertain, determine, and proclaim under sections 327 and 328 of said Act:

(1) That the commercial corn-producing area for the year 1938 embraces the following counties of the States specified, the counties listed under the heading "A" being the counties determined pursuant to subparagraph (A), and the counties listed under the heading "B" being the counties determined pursuant to subparagraph (B), of section 301 (b) (4) of said Act:

Illinois

A	
Adams	Jersey
Alexander	Jo Daviess
Bond	Kane
Boone	Kankakee
Brown	Kendall
Bureau	Knox
Calhoun	La Salle
Carroll	Lawrence
Cass	Lee
Champaign	Livingston
Christian	Logan
Clark	McDonough
Clay	McHenry
Clinton	McLean
Coles	Macon
Crawford	Macoupin
Cumberland	Madison
De Kalb	Marshall
De Witt	Mason
Douglas	Massac
Du Page	Menard
Edgar	Mercer
Effingham	Monroe
Edwards	Montgomery
Fayette	Morgan
Ford	Moultrie
Fulton	Ogle
Gallatin	Peoria
Greene	Piatt
Grundy	Pike
Hancock	Pulaski
Henderson	Putnam
Henry	Richland
Iroquois	Rock Island
Jackson	Saint Clair
Jasper	Saline

Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion

Cook
Franklin
Hamilton
Hardin
Jefferson
Johnson
Lake

Clay
Dearborn
Dubois
Elkhart
Greene
Jennings

Adair
Adams
Allamakee
Audubon
Benton
Black Hawk
Boone
Bremer

Wabash
Warren
Wayne
White
Whiteside
Will
Winnebago
Woodford

B

Marion
Perry
Pope
Randolph
Union
Washington
Williamson

Indiana

A

La Porte
Madison
Marion
Marshall
Miami
Montgomery
Morgan
Newton
Noble
Parke
Porter
Posey
Pulaski
Putnam
Randolph
Rush
Shelby
Starke
Steuben
Sullivan
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Vigo
Wabash
Warren
Wayne
Wells
White
Whitley

B

Owen
Pike
Ripley
St. Joseph
Warrick
Washington

Iowa

A

Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas

Appanoose

Anderson
Atchison
Brown
Coffee
Crawford
Doniphan
Douglas
Franklin
Jackson
Jefferson
Jewell
Johnson
Leavenworth
Linn

Fulton
Henderson

Lenawee

Branch
Hillsdale
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

B

Davis

Kansas

A

Lyon
Marshall
Miami
Nemaha
Norton
Osage
Phillips
Pottawatomie
Republic
Riley
Shawnee
Smith
Washington

Kentucky

A

Hickman
Union

Michigan

A

Monroe

B

St. Joseph

Minnesota

A

Big Stone
Blue Earth
Brown
Carver
Chippewa
Cottonwood
Dakota
Dodge
Faribault
Fillmore
Freeborn
Jackson
Kandiyohi
Lac Qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Martin
Meeker
Mower
Murray
Nicollet
Nobles
Olmsted
Pipestone
Redwood
Renville
Rice
Rock
Scott
Sibley
Steele
Stevens
Swift
Traverse
Waseca
Watonwan
Wright
Yellow Medicine

B

Goodhue
Grant
Houston
Wabasha
Winona

Missouri

A

Andrew
Atchison
Audrain
Barton
Bates
Boone
Buchanan
Caldwell
Carroll
Cass
Chariton
Clark
Clay
Clinton
Cooper
Daviess
De Kalb
Gentry
Grundy
Harrison
Henry
Holt
Howard
Jackson
Johnson
Knox
Lafayette
Lewis
Lincoln
Linn
Livingston
Macon
Marion
Mercer
Mississippi
Monroe
Montgomery
New Madrid
Nodaway
Pettis
Pike
Platte
Ralls
Randolph
Ray
St. Charles
St. Clair
Saline
Scotland
Scott
Shelby
Stoddard
Vernon
Worth

B

Adair
Benton
Callaway
Cape Girardeau
Moniteau
Pemiscot
Perry
Putnam
Schuyler

Nebraska

A

Adams
Antelope
Boone
Boyd
Buffalo
Burt
Butler
Cass
Cedar
Clay
Colfax
Cuming
Custer
Dakota
Dawson
Dixon
Dodge
Douglas
Dundy
Fillmore
Franklin
Frontier
Furnas
Gage
Gosper
Greeley
Hall
Hamilton
Harlan
Hayes
Hitchcock
Howard
Jefferson
Johnson
Kearney
Knox
Lancaster
Madison
Merrick
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Perkins
Phelps
Pierce
Platte
Polk
Redwillow
Richardson
Saline
Sarpy
Saunders
Seward
Sherman
Stanton
Thayer
Thurston
Valley
Washington
Wayne
Webster
York

Ohio

A

Allen
Auglaize
Butler
Champaign
Clark
Clinton
Crawford
Darke
Defiance
Delaware
Fairfield
Fayette
Franklin
Fulton
Greene
Hancock
Hardin
Henry
Highland
Knox
Logan
Madison
Marion
Mercer
Miami
Montgomery
Paulding
Pickaway
Pike
Preble
Putnam
Ross
Sandusky
Seneca
Shelby
Union
Van Wert
Warren
Williams
Wood
Wyandot

B

Adams
Ashland
Brown
Clermont
Coshocton
Erie
Hamilton
Holmes
Huron
Licking
Lucas
Morrow
Ottawa
Perry
Richland
Scioto

South Dakota

A

Bon Homme
Brookings
Charles Mix
Clay
Davison
Douglas
Hanson
Hutchinson
Kingsbury
Lake
Lincoln
McCook
Minnehaha
Moody
Turner
Union
Yankton

Wisconsin

A	
Grant	Rock
Lafayette	
B	
Dane	Iowa
Green	

(2) That the acreage allotment of corn for the calendar year 1938 shall be 40,491,279 acres in the commercial corn-producing area.

Done at Washington, D. C. this 25th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-620; Filed, February 28, 1938; 12:01 p. m.]

[Docket No. A-66 O-66]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN PHILADELPHIA, PENNSYLVANIA, MARKETING AREA

Whereas under Public Act No. 10, 73rd Congress, as amended and as reenacted by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of milk in the Philadelphia, Pennsylvania, Marketing Area;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating the handling of milk in the Philadelphia, Pennsylvania, Marketing Area, in the Betsy Ross Room, Benjamin Franklin Hotel, 9th and Chestnut Streets, Philadelphia, Pennsylvania, on March 17, 1938, at 10:00 a. m. e. s. t.

This public hearing, which is to be held jointly with the Milk Control Commission of the Commonwealth of Pennsylvania, is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling of milk in the Philadelphia, Pennsylvania, Marketing Area as is in the current of interstate commerce. Among other things, the proposed marketing agreement and order provide for: (a) selection of a market agent; (b) classification of milk; (c) minimum prices; (d) payments to producers; (e) reports of handlers; (f) expense of administration.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

Dated: February 28, 1938.

[F. R. Doc. 38-621; Filed, February 28, 1938; 12:45 p. m.]

Bureau of Animal Industry.

NOTICE

FEBRUARY 28, 1938.

To W. C. MARTIN and C. S. DEARMAN, *doing business as Dearman & Martin Commission Company, Meridian, Miss.*

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And, whereas the stockyard known as the Dearman & Martin Commission Company, at Meridian, Mississippi, was posted on the 14th day of September, 1937, as coming within the foregoing definition;

And, whereas after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the Dearman & Martin Commission Company is no longer operated as a public stockyard subject to the provisions of said Act:

Now, therefore, notice is hereby given that the Dearman & Martin Commission Company, Meridian, Mississippi, no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-618; Filed, February 28, 1938; 12:01 p. m.]

Commodity Exchange Administration.

ORDER DESIGNATING THE SAN FRANCISCO GRAIN EXCHANGE AS A CONTRACT MARKET FOR WHEAT AND BARLEY UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authorization and direction contained in the Commodity Exchange Act (7 U. S. C. and Supp. III, secs. 1-17a), I, M. L. Wilson, Acting Secretary of Agriculture, do hereby designate the San Francisco Grain Exchange, of San Francisco, California, as a contract market for wheat and barley under the Commodity Exchange Act, said exchange having applied for, and having otherwise complied with the conditions imposed by said act precedent to, such designation. Such designation is subject hereafter to suspension or revocation in accordance with the provisions of said act.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 28th day of Feb. 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-619; Filed, February 28, 1938; 12:01 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5486]

APPLICATIONS OF OKLAHOMA GAS AND ELECTRIC COMPANY AND WESTERN LIGHT AND POWER CORPORATION

ORDER POSTPONING HEARING

FEBRUARY 24, 1938.

Commissioners participating: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application of Counsel for Oklahoma Gas and Electric Company, one of the applicants in the above matter, for postponement of the hearing heretofore ordered to be held beginning at 10:00 A. M. on the 2nd day of March, 1938, by the Commission's order of February 7, 1938;

It is ordered that: Said hearing be and the same hereby is postponed to begin at 10:00 A. M. on the 4th day of March, 1938, in the Hearing Room of the Commission, Hurley Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-598; Filed, February 25, 1938; 3:15 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 191]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 10, 1938.

I hereby amend Administrative Order No. 185 by changing the designation Ohio 8029A3 Pike to Ohio 8029B2 Pike.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-599; Filed, February 26, 1938; 9:30 a. m.]

[Administrative Order No. 192]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 10, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Georgia 8045W1 Sumter	$5,000
Nebraska 8026W1 Platte	5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-600; Filed, February 26, 1938; 9:30 a. m.]

[Administrative Order No. 193]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 10, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Texas 8065A1 Rusk	$121,000
Wisconsin 8035B3 Richland	9,800
Wyoming 8013A2 Washakie	6,500

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-601; Filed, February 26, 1938; 9:30 a. m.]

[Administrative Order No. 194]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 11, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Michigan 8028B1 Presque Isle	$112,000
Mississippi 8026A1 Panola	220,000
North Carolina 8021A1 Sampson	145,000
North Carolina 8021G1 Sampson	41,000
Ohio 8074A2 Butler	3,500
Tennessee 8023A1 Dickson	67,500
Virginia 8031A1 Mecklenburg	129,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-602; Filed, February 26, 1938; 9:30 a. m.]

[Administrative Order No. 195]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 15, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Oklahoma 8001B1 Kingfisher	$212,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-603; Filed, February 26, 1938; 9:30 a. m.]

[Administrative Order No. 196]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 15, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Georgia 8075A1 Lamar	$127,000
Minnesota 8065B1 Dakota	25,000
North Carolina 8014B1 Pitt	25,200
South Carolina 8014A1 Aiken	134,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-604; Filed, February 26, 1938; 9:31 a. m.]

[Administrative Order No. 197]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 17, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Missouri 8031A1 Mississippi	$157,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-605; Filed, February 26, 1938; 9:31 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES ACT OF 1933

ADOPTION OF EXEMPTIONS RELATING TO INTERESTS IN AN OIL ROYALTY TRUST OR SIMILAR TYPE OF TRUST OR UNINCORPORATED ASSOCIATION

[Regulation B-T]

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933,

as amended, and particularly Sections 3 (b) and 19 (a) thereof, finding (a) that registration of certificates of interest or participation in trusts or unincorporated associations, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights, or fractional undivided interests in oil or gas rights, where the aggregate offering price to the public of such certificates does not exceed $100,000, is not necessary in the public interest or for the protection of investors by reason of the size and limited character of the offerings thereof, provided such securities are sold in conformity with the terms and conditions of Regulation B–T, as hereinafter adopted; (b) that it is necessary in the public interest and for the protection of investors that such exemption from registration be conditioned upon compliance with the provisions of Regulation B–T, as hereinafter adopted; and (c) that such action is necessary to carry out the provisions of the Act, hereby takes the following action:

1. There is hereby adopted, to become and be effective March 1, 1938, Regulation B–T, consisting of the following articles and rules:

TABLE OF CONTENTS

Article 1. Definitions.
Rule 360. Definitions of Terms Used in Regulation B–T.
Article 2. Exemptions Available to Certificates of Interest Under Section 3 (b) of the Act.
Rule 362. Limitation Upon Exemption.
Rule 364. Contractual Conditions to Availability of Exemption.
Article 3. Requirements for Issuer, Underwriter, or Dealer Seeking Exemption.
Rule 370. Procedural Conditions to Exemption and Relief from Liability for Non-Registration.
Article 4. Form of Prospectus.
Rule 376. Form and Content of Prospectus.
Article 5. Suspension Orders and Their Effect.
Rule 380. Suspension Orders.
Rule 382. Effective Date of Prospectus—Effect of Suspension Order.
Article 6. Withdrawal, Amendment, and Termination of Prospectus.
Rule 390. Withdrawal of Prospectus.
Rule 392. When Prospectus May be Amended.
Rule 394. How Prospectus May be Amended.
Rule 396. Termination of Effectiveness of Prospectus.

Article 1. Definitions

RULE 360. *Definitions of terms used in regulation B–T.*—When used in Regulation B–T the following terms shall have the meanings indicated:

Certificate of interest.—The term "certificate of interest" means every security as defined in the Securities Act of 1933, as amended, which represents or evidences any interest or right of participation in any trust or unincorporated association, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights, or fractional undivided interests in oil or gas rights.

Fiduciary.—The term "fiduciary" means every trustee or other person with whom any part of the assets or underlying securities of any trust is deposited, or in whom title thereto is vested for the benefit of holders of certificates of interest.

Mark-up.—The term "mark-up" means the excess of the actual cost to the trust of any underlying security acquired by the trust from a sponsor of the trust, over (1) the lowest actual cost of such underlying security to any sponsor of the trust, or (2) the market value of such underlying security at the time of its deposit in the trust, whichever is lower.

Prospectus.—The term "prospectus" means a prospectus meeting the requirements of Regulation B–T, and particularly Rule 376 thereof.

Sponsor.—The term "sponsor" means any person who performs the acts or assumes the duties of depositor or manager pursuant to the provisions of the trust indenture, or otherwise acts as a promoter of the trust, and includes any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, any such depositor, manager, or promoter.

Trust.—The term "trust" means unincorporated collateral trusts, unincorporated investment trusts, unincorporated associations, or any other unincorporated legal entity.

Trust indenture.—The term "trust indenture" means the indenture or other agreement or instrument under which the trust is created or under which a certificate of interest is, or is to be, issued.

Underlying security.—The term "underlying security" means all oil or gas leasehold interests or rights, all fractional undivided interests in oil or gas rights, and all securities and other assets comprising the corpus of the trust estate, or the investment portfolio of a trust.

Article 2. Exemptions Available to Certificates of Interest under Section 3 (b) of the Act

RULE 362. *Limitation upon exemption.*—Pursuant to Section 3 (b) of the Securities Act of 1933, as amended, but subject to the terms and conditions prescribed by Regulation B–T, certificates of interest, as defined in Rule 360, are added to the classes of securities exempted by Section 3 (a) of such Act; but no issue of which any certificate of interest sought to be exempted hereunder is part shall be exempted under Regulation B–T where the aggregate amount at which such issue is offered exceeds $100,000.

RULE 364. *Contractual conditions to availability of exemption.*—The exemption provided by Regulation B–T shall be available to an issuer, underwriter or dealer only upon condition:

(*a*) That prior to, or simultaneously with, the filing of the prospectus, the filing of which is required by Rule 370 (a), the issuer shall file with the Commission three copies of the trust indenture.

(*b*) That the trust indenture provides that it may be modified, altered, or amended only with the written consent of persons owning not less than a majority in face amount of the certificates of interest issued and outstanding at the time of modification, alteration or amendment.

(*c*) That the trust indenture provides that no sale, assignment, transfer, conveyance, mortgage, pledge, hypothecation or alienation of any part of the underlying securities shall be effected, without the written consent at that time of persons owning not less than a majority in face amount of the certificates of interest issued and outstanding, unless the cost price of such underlying securities to the trust, together with the cost price of any other underlying securities which within the preceding twelve-month period have been sold, assigned, transferred, conveyed, mortgaged, pledged, hypothecated, or otherwise alienated, is less than 10 per cent of the aggregate cost price of the underlying securities held by the trust immediately prior to such sale, assignment, transfer, conveyance, mortgage, pledge, hypothecation or alienation.

(*d*) That if the trust indenture provides for the redemption of any of the certificates of interest, it shall provide further that all certificates of interest issued or outstanding at the time of each redemption shall be redeemed proportionately.

(*e*) That the trust indenture provides that the total amount of monthly, annual, or other charges by, or payments to the fiduciaries and sponsors of the trust, either directly or indirectly, shall not, for any consecutive twelve-month period, exceed a sum equivalent to 7½% of the gross earnings to the trust for such period.

(*f*) That the trust indenture provides that each fiduciary shall by statute be subject to the supervision of some Federal, State, or territorial banking commission, or some body or official having similar supervisory powers.

(*g*) That the mark-up of each underlying security acquired by the trust from a sponsor of the trust, shall not exceed 30 per cent of the price at which such underlying security is sold to the trust.

(*h*) That the offering price of any certificate of interest shall not be in excess of the cost price to the trust of the underlying securities against which such certificate of interest has been, or will be, issued.

Article 3. Requirements for Issuer, Underwriter, or Dealer Seeking Exemption

RULE 370. *Procedural conditions to exemption and relief from liability for non-registration.*—The exemption provided by Regulation B-T shall be available to an issuer, underwriter, or dealer only upon condition:

(*a*) That prior to any offer to sell any security sought to be exempted hereunder, the issuer shall sign and file with the Commission, at Washington, D. C., three copies of a prospectus describing such security and complying with the requirements of Rule 376.

(*b*) That such issuer, underwriter, or dealer, at the time of each initial offer by him to sell to any person any security sought to be exempted hereunder, shall deliver, or cause to be delivered, to such person a copy of an effective prospectus (as amended, if amended) describing such security and complying with the requirements of Rule 376; provided, however, that the term "offer to sell", as used in this paragraph (b), shall not be deemed to include a notice, circular, advertisement, letter or communication, written or by radio, if such notice, circular, advertisement, letter, or communication states from whom a prospectus may be obtained, and, in addition, does no more than identify the security, state the price thereof, and state by whom orders will be executed.

(*c*) That such issuer, underwriter or dealer, at the time of making any contract of sale for any security, sought to be exempted hereunder, shall deliver or cause to be delivered to each purchaser a copy of an effective prospectus (as amended, if amended) describing such security and complying with the requirements of Rule 376 unless a copy of such prospectus shall have been delivered to such purchaser at the time of the initial offer to sell.

(*d*) That the prospectus referred to in paragraphs (a), (b), and (c) of this rule is effective at the time of each initial offer to sell by such issuer, underwriter, or dealer, and at the time such issuer, underwriter, or dealer makes each contract for the sale of, any security described therein.

Article 4. Form of Prospectus

RULE 376. *Form and content of prospectus.*—Every prospectus required to be filed with the Commission by Regulation B–T, and particularly Rule 370 thereof, shall contain the following statements and information, and shall be responsive to the requirements of each and every item hereof:

(*a*) The following statements shall be inserted in a conspicuous place on the cover or first page of each prospectus, in type fully as large as that used elsewhere in the prospectus:

THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION BECAUSE SUCH SECURITIES ARE BELIEVED TO BE EXEMPTED FROM REGISTRATION, UNDER REGULATION B–T OF THE COMMISSION'S GENERAL RULES AND REGULATIONS, BUT SUCH EXEMPTION, IF AVAILABLE, IN NO SENSE INDICATES APPROVAL OR DISAPPROVAL BY THE COMMISSION OF THE MERITS OF THESE SECURITIES.

THE DATE OF THIS PROSPECTUS IS ----------, 19--. THIS PROSPECTUS SHALL NOT BE EFFECTIVE AFTER ----------, 19--.

The date of the prospectus shall be the date as of which the information required to be set forth in the prospectus under Rule 376 is given, and the date on which the prospectus is no longer effective shall be a date not later than seven months from the date of the prospectus.

(*b*) If a corporation performs the acts, or assumes the duties, of depositor or manager pursuant to the provisions of the trust indenture, or otherwise acts as a promoter of the trust, state the name and address of the principal office of each such corporation, the name of the state or territory under the law of which each such corporation was incorporated or organized, the date of such incorporation or organization, and whether each such corporation is in good standing.

(c) If a person other than a corporation performs the acts, or assumes the duties, of depositor or manager pursuant to the provisions of the trust indenture, or otherwise acts as a promoter of the trust, state the names and residence addresses of all such persons.

(*d*) The following information shall be stated immediately following the information required by paragraphs (b) and (c) of this rule:

(1) The minimum price at which the certificates of interest may, or will, be offered or sold to the public.

(2) The maximum commission or remuneration or discount (per each unit of interest) which will be paid or allowed to, or be received by, any underwriter, dealer, agent, or representative for selling, distributing, or otherwise disposing of the securities.

(3) Whether the trust possesses, or contemplates the acquisition of, any assets. If so, (A) describe such assets specifying the right, title, and interest of the trust in and to each item; (B) if such assets have been, or are to be, acquired by the trust from any sponsor of the trust, state the date of acquisition by, and the cost of each such item to, such sponsor of the trust; and (C) state the date of acquisition by and the cost of such item to the trust.

(4) The amount of any mark-up and the names and residence addresses of all persons who will, directly or indirectly, participate in, or receive, any part or portion of such mark-up.

(5) The amount of receipts and disbursements of the trust for each of the last six calendar months prior to the date of the prospectus, or, if the trust has been functioning for a period of less than six months prior to the date of the prospectus, the amount of receipts and disbursements for each of the calendar months in which said trust has been functioning.

(6) Any estimation of the amount of oil or gas recoverable from any tract or tracts relating to any underlying security or any appraisal of the value of oil or gas recoverable from any tract or tracts relating to any underlying security to be used in connection with an offer to sell any certificate of interest. If no such estimation or appraisal is to be so used, a statement to that effect should be set forth in the prospectus.

(7) Whether the assets of the trust are, or are to be, pledged, or directly or indirectly encumbered by, or charged with, any lien, assessment, obligation, or indebtedness. If so, explain fully.

(8) Whether the purchaser of a certificate of interest is, or will become, liable for any assessment, obligation, or indebtedness.

(9) The name, and address of the principal office, of each fiduciary.

(10) The name of the state or territory under the laws of which each such fiduciary is incorporated or organized, the date of its incorporation or organization, and the official title of the commission, official, or body having supervisory powers over such fiduciary.

(11) The amount of any monthly, annual, or other charge by, or payment to, the fiduciary or any sponsor of the trust.

(12) The name, and address of the principal place of business, of every sponsor not enumerated in paragraphs (b) and (c) of this rule.

(13) The name and residence address of all officers and directors of any corporate sponsor, indicating the capacity in which each serves.

(14) The name and residence address of all persons owning or holding legal title to, or beneficial interest in, ten per cent or more of any class of stock of any corporate sponsor, indicating the nature of such ownership or holding.

(15) Any other fact materially affecting the value of the certificates of interest or the underlying securities deposited, or to be deposited, in the trust.

(*e*) Each prospectus shall conclude with the following statement of representations and shall be appropriately executed by the person making the filing; those filed with

the Commission shall be executed originals, but those used otherwise may be copies:

The undersigned represents to any person who may, in reliance upon a copy of this prospectus, or any amendment hereof or supplement hereto, purchase any certificate described herein, that the statements contained herein, or in any amendment hereof or supplement hereto, or in any exhibit attached hereto or incorporated herein, are substantially correct, and that no material fact has been omitted, the inclusion of which would reasonably appear necessary, in the light of the circumstances, to make the information contained herein not misleading to the purchaser.

Article 5. Suspension Orders and Their Effect

RULE 380. *Suspension orders.*—(a) If, at any time within ten days after the date upon which a prospectus is received by the Commission for filing, the Commission has reasonable grounds to believe that the prospectus is incomplete or inaccurate in any material respect, or includes any untrue statement of a material fact, or omits to state any material fact necessary to make the statements therein contained not misleading, or fails to comply with any of the requirements of Regulation B–T, the Commission may enter an order temporarily suspending the effectiveness of the filing of such prospectus pending a final hearing thereon. The Commission shall, promptly upon the entry of any such order, give notice to the person filing such prospectus: (1) that such order has been entered, and (2) that the Commission will, upon receipt of a written request from the person filing such prospectus, set the matter for hearing within twenty days after the receipt of such request, at a place to be designated by the Commission. Upon receipt of any such request, the Commission will forthwith set the matter for hearing accordingly, and will promptly give notice of the time and place thereof. If the Commission does not set the matter for hearing upon a date within such twenty-day period, the order for suspension then in effect shall, upon expiration of said twenty-day period, expire and be of no further force or effect. Such hearing may be continued from time to time for cause, but if the Commission does not enter an order permanently suspending the effectiveness of the filing of such prospectus within sixty days after such hearing is finally closed, the suspension order then in effect shall, upon expiration of said sixty-day period, likewise expire and be of no further force or effect.

(b) If, at any time after notice and opportunity for hearing, either at the written request of a person filing a prospectus, or upon motion of the Commission, the Commission finds that a prospectus, either as of the date of said prospectus or as of the date of the entry of any order provided for in this paragraph (b), is incomplete or inaccurate in any material respect or includes an untrue statement of a material fact, or omits to state any material fact necessary to make the statements therein contained not misleading, or fails to comply with any of the requirements of Regulation B–T, the Commission may enter an order permanently suspending the effectiveness of such prospectus, or, if an order has been previously entered pursuant to paragraph (a) of this rule and is still in effect, may make the suspension effected by such order permanent.

(c) If, before the hearing with respect thereto is concluded, the Commission finds that a prospectus has been amended to cure the objections specified in any temporary suspension order entered pursuant to paragraph (a) of this rule, or specified in any notice given pursuant to paragraph (b) of this rule, the Commission will thereupon terminate the proceeding which may have been instituted by any such temporary suspension order, or by any such notice, and give notice of such action to the person who filed the prospectus.

(d) All notices required by this rule shall be given to the person who filed the prospectus, and shall be given either by personal service or registered mail or confirmed telegraphic notice addressed to such person at the address given in the prospectus.

RULE 382. *Effective date of prospectus—Effect of suspension order.*—A prospectus, complying with the requirements of Regulation B–T, and particularly Rule 376, shall become effective on the eleventh day after the date upon which it is received by the Commission for filing, except that:

(a) If the Commission shall enter an order under Rule 380 (a) suspending the effectiveness of the filing of such prospectus within ten days after the date upon which it is received by the Commission for filing, the filing thereof shall not become effective for any purpose whatever until such proceeding is terminated, or such order for suspension expires.

(b) If the Commission shall at any time give notice of a hearing under Rule 380 (b), or enter an order under Rule 380 (b) suspending the effectiveness of such prospectus, said prospectus shall not be effective for any purpose whatever subsequent to the giving of such notice or during the period of such suspension.

Article 6. Withdrawal, Amendment, and Termination of Prospectus

RULE 390. *Withdrawal of prospectus.*—Any person who has filed a prospectus may apply to the Commission for an order consenting to the withdrawal of same, provided none of the securities described in said prospectus have been sold, and such person shall so represent to the Commission in writing. The Commission will enter an order consenting thereto unless it shall find that sales of the securities described in said prospectus have, in fact, been made.

RULE 392. *When prospectus may be amended.*—Any person who has filed a prospectus may, subject to the provisions of Rule 394, file amendments thereto, but only under the following conditions and in the following instances:

(a) In the event none of the securities referred to in said prospectus have been sold and the person filing the prospectus shall so represent to the Commission in writing; or

(b) In the event a temporary suspension order is in effect and the hearing with respect to the entry of a permanent suspension order has not been concluded; or

(c) In the event no suspension order is in effect, but notice has been given by the Commission pursuant to Rule 380 (b), and the hearing with respect thereto has not be concluded.

RULE 394. *How prospectus may be amended.*—Any amendment to a prospectus shall be filed in accordance with this rule and shall become effective only as hereinafter provided:

(a) The amendment shall be filed with the Commission in triplicate, and each copy shall bear the signature of the person who filed the prospectus, as well as every other person whose estimations or statements are modified or affected by such amendment.

(b) An amendment shall be made only by filing or substituting a wholly corrected prospectus, or by filing or substituting entire exhibits or pages, as amended.

(c) Any amendment complying with the requirements of this rule shall become effective at such time as the Commission may order.

RULE 396. *Termination of effectiveness of prospectus.*—The effectiveness of a prospectus shall terminate not later than seven months from the date thereof, but any person who has filed a prospectus may apply to the Commission for an order for the earlier termination of the further effectiveness thereof provided such person shall file with the Commission a statement that said prospectus will not be used further and that none of the securities described therein will be thereafter offered for sale, or sold. Upon such application the Commission will enter an order terminating the further effectiveness of such prospectus, unless it shall find such statement insufficient or that it is not appropriate in the public interest, or for the protection of investors, so to do.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–615; Filed, February 28, 1938; 11:25 a. m.]

SECURITIES ACT OF 1933

AMENDMENTS TO RULES 200, 201 AND 202 OF THE GENERAL RULES AND REGULATIONS UNDER THE SECURITIES ACT OF 1933

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, and particularly Sections 3 (b) and 19 (a) thereof, and finding it necessary and appropriate in the public interest and for the protection of investors so to do, hereby amends Rules 200, 201 and 202 of the General Rules and Regulations under the Securities Act of 1933 as follows:

I. Rule 200 is hereby amended by deleting the word "or" from the seventh line of the third paragraph of said Rule, and by adding at the end of the third paragraph thereof the following:

"or (5) certificates of interest or participation in trusts or unincorporated associations, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights, or fractional undivided interests in oil or gas rights."

The text of the third paragraph of Rule 200, as amended, reads as follows:

"This rule shall not be applicable to exempt (1) certificates of deposit, except certificates of deposit or receipts issued pursuant to a plan and/or agreement under which such certificates of deposit or receipts are to be exchanged for bonds issued by the Home Owners' Loan Corporation and/or the net cash proceeds thereof; (2) securities exchanged for bona fide outstanding securities or claims; (3) voting trust certificates; (4) overriding royalty interests, oil and/or gas payments, or fractional undivided interests in oil, gas, or other mineral rights; or (5) certificates of interest or participation in trusts or unincorporated associations, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights, or fractional undivided interests in oil or gas rights."

II. Rule 201 is hereby amended by deleting the word "or" at the end of the third line of the second paragraph of said Rule, and by adding at the end of the fourth line of the second paragraph of said Rule, following the words "mineral rights", the following:

"or certificates of interest or participation in trusts or unincorporated associations, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights, or fractional undivided interests in oil or gas rights".

The text of the second paragraph of Rule 201, as amended, reads as follows:

"Any securities (other than notes or bonds directly secured by first mortgage or first deed of trust on real estate or on a leasehold, and other than overriding royalty interests, oil, and/or gas payments, fractional undivided interests in oil, gas, or other mineral rights, or certificates of interest or participation in trusts or unincorporated associations, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights, or fractional undivided interests in oil or gas rights), subject to the following terms and conditions":

III. Rule 202 is hereby amended by deleting the word "and" following the words "royalty interests" in the fifth line of the first paragraph of said Rule, and adding in said line, following the words "gas payments", the following:

"and certificates of interest or participation in trusts or unincorporated associations, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights, or fractional undivided interests in oil or gas rights".

The text of the first paragraph of Rule 202, as amended, reads as follows:

"Shares of stock in a corporation or similar interests in a trust or unincorporated association (except in cases where such securities are offered in exchange for bona fide outstanding securities or claims, and except royalty interests, working interests, free working interests, overriding royalty interests, oil and/or gas payments, and certificates of interest or participation in trusts or unincorporated associations, a substantial portion of the assets of which consists of, or it is contemplated will consist of, oil or gas leasehold interests or rights) are added, pursuant to Section 3 (b) of the Act, to the classes of securities exempted as provided in Section 3 (a) of the Act, subject to the following terms and conditions":

The foregoing action shall be and become effective March 1, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–616; Filed, February 28, 1938; 11:25 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 25th day of February, 1938.

[File No. 1–1813]

IN THE MATTER OF MERCHANTS PETROLEUM COMPANY COMMON STOCK, $1.00 PAR VALUE

ORDER GRANTING REQUEST TO WITHDRAW APPLICATION AND RESCINDING ORDERS SETTING MATTER DOWN FOR HEARING

Merchants Petroleum Company, having made application to the Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder; for permission to withdraw its Common Stock, $1.00 Par Value, from listing and registration on the Los Angeles Stock Exchange; and

The Commission having ordered that the matter be set down for hearing on June 28, 1937; and

Upon request of said issuer the Commission having ordered that said hearing be postponed until Tuesday, March 8, 1938, in Room 426, Securities and Exchange Commission, 650 South Spring Street, Los Angeles, California, before Howard A. Judy and Charles R. Burr, officers of the Commission; and

The Commission having received a request from said issuer to withdraw said application;

It is ordered, That said request be and the same is hereby granted and that said orders setting this matter down for hearing be and the same are hereby rescinded.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–612; Filed, February 28, 1938; 11:24 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of February, 1938.

[File No. 1–1115]

IN THE MATTER OF THE DULUTH, SOUTH SHORE AND ATLANTIC RAILWAY COMPANY PREFERRED STOCK, $100 PAR VALUE AND COMMON STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Preferred Stock, $100 Par Value and the Common Stock, $100 Par Value of the Duluth, South Shore and Atlantic Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on March 25, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-611; Filed, February 28, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of February, 1938.

[File No. 1-1509]

IN THE MATTER OF THE FAIRBANKS COMPANY COMMON STOCK, $25 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Common Stock, $25 Par Value, of The Fairbanks Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on March 25, 1938, in Room 1103, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-610; Filed, February 28, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of February, 1938.

[File No. 1-2433]

IN THE MATTER OF FERROCARRILES NACIONALES DE MEXICO (NATIONAL RAILWAYS OF MEXICO), 4% NON-CUMULATIVE FIRST PREFERRED STOCK, $100 PAR VALUE, AND 5% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the 4% Non-Cumulative First Preferred Stock, $100 Par Value and the 5% Non-Cumulative Second Preferred Stock, $100 Par Value, of Ferrocarriles Nacionales De Mexico (National Railways of Mexico); and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on March 25, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-609; Filed, February 28, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of February, 1938.

[File No. 1-276]

IN THE MATTER OF THE LEHIGH VALLEY COAL COMPANY FIVE-YEAR SECURED 6% NOTES, DUE JANUARY 1, 1938

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exhange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Five-Year Secured 6% Notes, due January 1, 1938, of The Lehigh Valley Coal Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on March 25, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-608; Filed, February 28, 1938; 11: 23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of February, 1938.

[File No. 1-1165]

IN THE MATTER OF NEW YORK STEAM CORPORATION $7.00 SERIES "A" CUMULATIVE PREFERRED STOCK, NO PAR VALUE, AND $6.00 DIVIDEND SERIES CUMULATIVE PREFERRED STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the $7.00 Series "A" Cumulative Preferred Stock, No Par Value and the $6.00 Dividend Series Cumulative Preferred Stock, No Par Value of New York Steam Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock a. m. on March 25, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-607; Filed, February 28, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of February, A. D., 1938.

[File No. 2-1712]

IN THE MATTER OF CIMARRON PETROLEUM TRUST

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant, Cimarron Petroleum Trust, of Tulsa, Oklahoma, filed October 21, 1935, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading in Items 46, 51, Exhibit I and the prospectus, and the registrant having consented to the issuance of this order, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in the particulars set forth above, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Cimarron Petroleum Trust, of Tulsa, Oklahoma, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-614; Filed, February 28, 1938; 11:24 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of February, A. D. 1938.

[File Nos. 2-1303, 2-2316, 2-3485]

IN THE MATTER OF T. I. S. MANAGEMENT CORPORATION

STOP ORDER

This matter coming on to be heard by the Commission on the registration statements of T. I. S. Management Corporation, after confirmed telegraphic notice by the Commission to said Registrant that it appears that said registration statements include untrue statements of material facts and omit to state material facts required to be stated therein and omit to state material facts necessary to make the statements therein not misleading; and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said Registrant, and the Commission having duly considered the matter, and finding that said registration statements include untrue statements of material facts and omit to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Items 28, 36, and 38, Exhibit D, and in the prospectus, all as more fully set forth in the Commission's findings of fact and opinion this day issued, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statements filed by T. I. S. Management Corporation be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-613; Filed, February 28, 1938; 11:24 a. m.]

Wednesday, March 2, 1938 *No. 42*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF THE CONSULAR REGULATIONS

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (U. S. C., title 22, sec. 132), it is ordered that Article XIII of the Consular Regulations, as contained in Executive Order No. 7729 of October 16, 1937, be, and it is hereby, amended as follows:

1. That part of section 202 preceding paragraph numbered (1) is amended to read:

"202. *Cases in which seamen may be discharged.*—The usual cases in which American seamen are discharged, upon payment of wages, in a foreign port by consular officers, under the provisions of the statutes and the principles of maritime law, may be stated as follows:"

2. The following paragraph, numbered (11), is inserted between paragraphs numbered (10) and (12) of section 202:

"(11) When the vessel is wrecked, destroyed, lost, stranded, or condemned as unfit for service. (See also sec. 228.)"

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 28, 1938.

[No. 7826]

* [F. R. Doc. 38-633; Filed, March 1, 1938; 12:02 p. m.]

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

[Regulations No. 5, Amendment No. 5]

AMENDING CERTAIN PROVISIONS OF THE DISTILLED SPIRITS LABELING REGULATIONS WITH REFERENCE TO THE PROPER LABELING OF WHISKEY STORED IN REUSED COOPERAGE AND TO OTHER MATTERS

Pursuant to the provisions of Section 5 (e) of the Federal Alcohol Administration Act, as amended, Regulations No. 5, Relating to Labeling and Advertising of Distilled Spirits, as amended, are further amended as follows:

1. Article II, Section 21, Class 2 (a) of said regulations is amended to read:

CLASS 2. *Whiskey.*—"Whiskey" is an alcoholic distillate from a fermented mash of grain distilled at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whiskey, and withdrawn from the cistern room of the distillery at not more than 110° and not less than 80° proof, whether or not such proof is further reduced prior to bottling to not less than 80° proof; and also includes mixtures of the foregoing distillates for which no specific standards of identity are prescribed herein. Those types of whiskey specified in subsections (a) through (j) below shall be deemed "American type" whiskeys.

(*a*) "Rye whiskey", "bourbon whiskey", "wheat whiskey", "malt whiskey", or "rye malt whiskey" is whiskey which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain or malted rye grain, respectively, and, if produced on or after March 1, 1938, stored in charred new oak containers, and also includes mixtures of such whiskeys where the mixture consists exclusively of whiskeys of the same type. "Corn whiskey" is whiskey which has been distilled at not exceeding 160° proof from a fermented mash of not less than 80% corn grain, stored in uncharred oak containers or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, and also includes mixtures of such whiskey.

2. Article II, Section 21, Class 2 (d) of said regulations is amended to read:

(*d*) (1) "Straight bourbon whiskey" is straight whiskey distilled from a fermented mash of grain of which not less than 51% is corn grain.

(2) "Straight corn whiskey" is straight whiskey distilled from a fermented mash of grain of which not less than 80% is corn grain, aged for the required period in uncharred oak containers or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood.

3. Article III, Section 32 (c) (10) of said regulations is amended to read:

(10) Age of whiskey and straight whiskey, respective percentages of whiskey, straight whiskey and neutral spirits, and type of cooperage, in accordance with Section 39 below: *Provided*, That no label shall bear any statement relative to age or period of storage for any American whiskey (other than corn whiskey, straight corn whiskey, blended corn whiskey and blends of straight corn whiskey) produced on and after July 1, 1936, and prior to March 1, 1938, unless such whiskey has been stored in a charred new oak container.

4. Article III, Section 34 of said regulations is amended by adding at the end thereof two subsections to read:

(*d*) In the case of whiskey (as defined in Article II, Section 21, Class 2) and in the case of American type whiskey, which in whole or in part, is treated, on or after March 1, 1938, with wood chips through percolation or otherwise, during distillation, rectification or storage, there shall be stated in direct conjunction with the class and type designation the phrase "Colored and flavored with wood chips".

(*e*) In the case of whiskey (as defined in Article II, Section 21, Class 2) produced in the United States on or after March 1, 1938, and stored in reused cooperage, which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, respectively, there shall be stated in direct conjunction with the class and type designation, in uniform lettering not greater than one-half the size of such designation, "Distilled from Rye (or Bourbon, Wheat, Malt or Rye Malt) Mash", as the case may be.

5. Article III, Section 39 (a) (1) of said regulations is amended to read:

(1) *Whiskey, rye whiskey, etc.*—In the case of the whiskeys defined in Article II, Section 21, Class 2 and Class 2 (a), if not mixed, the age of the whiskey; if mixed, the age of the youngest whiskey. The statement of age in both cases under this paragraph shall be as follows: "This whiskey is ------ (years and/or months) old".

6. Article III, Section 39 (a) of said regulations is amended by adding to the end thereof an unnumbered paragraph to read:

Notwithstanding the foregoing provisions of this subsection, in the case of whiskey (as defined in Article II, Section 21, Class 2), produced in the United States on and after March 1, 1938, and stored in reused cooperage, there shall be stated in lieu of the words "* * * is ------ (years and/or months) old", the words "* * * stored ------ (years and/or months) in reused cooperage", and in lieu of the words "* * * ------ (years and/or months) or more old", the words "* * * stored ------ (years and/or months) or more in reused cooperage".

7. Article IV, Section 46 (d) of said regulations is amended, effective May 1, 1938, to read:

(*d*) Whiskey (as defined in Article II, Section 21, Class 2), and American type whiskeys, imported on or after August 15, 1936, shall not be released from customs custody in bottles unless there is presented at the time of entry or at the time of request for lease, a certificate issued by a duly authorized official of the appropriate foreign government certifying:

In case of straight whiskey, (1) the class and type (such as straight whiskey, straight rye whiskey, straight bourbon whiskey, etc.) thereof, (2) the American proof at which distilled, (3) that no neutral spirits or other whiskey has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (4) the age of the whiskey, and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of whiskey and the distinctive types of whiskey, (1) the class and type (such as whiskey, rye whiskey, bourbon whiskey, etc.), (2) the American proof at which distilled, (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (4) the age of the whiskey, and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of blended whiskey, (1) the class and type (such as blended whiskey, blended rye whiskey, blended bourbon whiskey, etc.), (2) the percentage of straight whiskey, or any distinctive type thereof, used in the blend, (3) the American proof at which the straight whiskey was distilled, (4) the percentage of other whiskey, if any, in the blend, (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled, (6) the age of the straight whiskey and the age of the other whiskey, if any, in the blend, and (7) the type of containers in which such age or ages were acquired (whether new or reused, also whether charred or uncharred).

8. Article V, Section 51 (d) of said regulations is amended, effective May 1, 1938, to read:

(*d*) Distilled spirits imported in bulk on or after August 15, 1936, and bottled in the United States with or without taxable rectification, shall not be labeled as whiskey (as defined in Article II, Section 21, Class 2), or as any type of American whiskey, unless the permittee authorized to bottle such distilled spirits possesses a certificate for such whiskey issued by a duly authorized official of the appropriate foreign government certifying:

In case of straight whiskey:

(1) the class and type (such as straight whiskey, straight rye whiskey, straight bourbon whiskey, etc.) thereof; (2) the American proof at which distilled; (3) that no neutral spirits or other whiskey has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whiskey; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of whiskey and the distinctive types of whiskey: (1) the class and type (such as whiskey, rye whiskey, bourbon whiskey, etc.); (2) the American proof at which distilled; (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whiskey; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of blended whiskey: (1) the class and type (such as blended whiskey, blended rye whiskey, blended bourbon whiskey, etc.); (2) the percentage of straight whiskey, or any distinctive type thereof, used in the blend; (3) the American proof at which the straight whiskey was distilled; (4) the percentage of other whiskey, if any, in the blend; (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled; (6) the age of the straight whiskey and the age of the other whiskey, if any, in the blend; and (7) the type of containers in which such age or ages were acquired (whether new or reused, also whether charred or uncharred);

and unless the labels are in all particulars consistent with the facts stated in the certificate,

9. Article VIII, Section 80 of said regulations is amended to read:

SEC. 80. *Exports.*—These regulations shall not apply to distilled spirits for export.

[SEAL] W. S. ALEXANDER, *Administrator.*

Approved: February 28, 1938.

HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38-628; Filed, March 1, 1938; 9:48 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

UTAH GRAZING DISTRICT NO. 5

MODIFICATION

FEBRUARY 23, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, Departmental order of May 7, 1935, establishing Utah Grazing District No. 5, is hereby modified to include within its exterior boundaries the following-described lands:

UTAH

Salt Lake Meridian

T. 30 S., R. 5 E.,
sec. 10;
sec. 14, S½N¼, S½;
sec. 15, lot 1, NW¼NE¼, N½NW¼;
T. 44 S., R. 6 E.,
sec. 6, lots 1 and 2;
T. 40 S., R. 11 E., that part west of Colorado River;
T. 28 S., R. 13 E., that part southwest of Fremont River;
T. 29 S., R. 2 W.,
sec. 31.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

[SEAL] HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-627; Filed, March 1, 1938; 9:33 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP-1938-3]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN AS AMENDED FEBRUARY 19, 1938

CONTENTS

SECTION I. National and State Acreage Allotments and Goals.
II. County Acreage Allotments and Goals.
III. Farm Acreage Allotments and Goals.
IV. Payment for Full Performance.
V. Payments for Partial Performance.
VI. Division of Payments and Deductions.
VII. Increase in Small Payments.
VIII. Deductions Incurred on Other Farms.
IX. Deduction for Association Expenses.
X. Materials Furnished as Grants of Aid.
XI. General Provisions Relating to Payments.
XII. Application for Payment.
XIII. Soil-Depleting Crops.
XIV. Soil-Building Practices.
XV. Normal Yields and Productivity Indexes.
XVI. Appeals.
XVII. State and Regional Bulletins, Instructions, and Forms.
XVIII. Definitions.

This bulletin revises and supplements the 1938 Agricultural Conservation Program Bulletin (ACP-1938) and Supplements Nos. 1 and 2 thereto (ACP-1938-1 and ACP-1938-2) and to the extent of such revision and supplementation, but not otherwise, supersedes said bulletin and supplements.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participation. Any increase or decrease in rates of payments and deductions with respect to any crop or other item of payment made because of the extent of participation in the program in connection with such crop or item of payment will not exceed 10 percent.

The provisions of the 1938 Agricultural Conservation Program contained in this bulletin are not applicable to (1)

Hawaii, Puerto Rico, and Alaska; (2) counties for which special agricultural conservation programs under said Act are approved for 1938 by the Secretary; and (3) public domain of the United States, including land owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

SECTION I. *National and State acreage allotments and goals.*—A. *National goals.*—The national goals in connection with the 1938 Agricultural Conservation Program shall be as follows:

1. The following acreages of soil-depleting crops:
Cotton, 26,000,000 to 27,000,000 acres.
Corn, 94,000,000 to 97,000,000 acres.
Tobacco: flue-cured, 850,000 to 875,000 acres; burley, 450,000 to 475,000 acres; fire-cured and dark air-cured, 170,000 to 180,000 acres; cigar filler and binder, 85,000 to 90,000 acres; Georgia-Florida Type 62, 2,800 to 3,000 acres.
Potatoes, 3,100,000 to 3,300,000 acres.
Peanuts, 1,500,000 to 1,600,000 acres.
Rice, 825,000 to 875,000 acres.
Total soil-depleting crops, 275,000,000 to 290,000,000 acres.

2. The seeding and maintenance of soil-conserving crops on the cropland not required in 1938 for the growing of soil-depleting crops; the restoration, insofar as is practicable, of a permanent vegetative cover on 6,000,000 acres of land unsuited to the continued production of cultivated crops; and the carrying out of soil-building practices that will preserve and improve soil fertility and prevent wind and water erosion.

B. *National and State acreage allotments and restoration land goals.*—National and State acreage allotments of soil-depleting crops and State restoration land goals will be determined by the Secretary.

SEC. II. *County acreage allotments and goals.*—A. *County acreage allotments of soil-depleting crops.*—The Agricultural Adjustment Administration with the assistance of State committees shall establish county acreage allotments for total soil-depleting crops, and for cotton, corn, wheat, tobacco, potatoes, and peanuts for market, and goals for restoration land as hereinafter set forth. The soil-depleting acreage allotments for all counties in each State shall not exceed the applicable acreage allotment established for the State by the Secretary except as otherwise provided in this bulletin.

1. *Total soil-depleting acreage allotments.*—County acreage allotments of total soil-depleting crops shall be established by distributing the State acreage allotment of total soil-depleting crops among the counties in the State on the basis of the average acreage of soil-depleting crops grown in such counties in whichever of the periods of five or more consecutive years since 1927 the Agricultural Adjustment Administration finds it most representative of normal conditions and the base acreages of total soil-depleting crops established in connection with the 1937 Agricultural Conservation Program, adjusted where necessary for farms for which provision was not made in 1937, with due allowance for trends in acreage of soil-depleting crops, farms for which the general crop acreage allotment will be as large as the usual acreage of general soil-depleting crops, and the relationship of the usual acreage of individual soil-depleting crops to the 1938 acreage allotments in counties where allotments for individual soil-depleting crops are established.

2. *Cotton acreage allotments.*—(a) County acreage allotments for cotton shall be determined as follows: The State acreage allotment of cotton (less 2 percent or such smaller part thereof as the Agricultural Adjustment Administration determines shall be required in the State in making allotments to farms on which cotton will be planted in 1938 but on which cotton was not planted in any of the years 1935, 1936 and 1937) shall be prorated among the counties in the State on the basis of the acreage planted to cotton during the five years, 1933 to 1937, inclusive, plus, in the applicable years, the acreage diverted from the production of cotton under agricultural adjustment and conservation programs: *Provided*, That there shall be added to the acreage allotment for each county so determined the number of acres, if any, required to provide an acreage allotment in such county of not less than 60 percent of the sum of (1) the acreage planted to cotton in such county in 1937, and (2) the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program.

(b) In any county where the Agricultural Adjustment Administration finds that there are one or more administrative areas which, because of differences in types, kinds and productivity of the soil or other conditions, shall be treated separately in order to prevent discrimination the county acreage allotment shall be apportioned pro rata among such administrative areas on the basis of the acreage planted to cotton in 1937 plus the acreage diverted from the production of cotton under the 1937 Agricultural Conservation Program, or, if the Agricultural Adjustment Administration determines that conditions affecting the acreage planted to cotton were not reasonably uniform throughout the county in 1937, then on the basis of the cotton soil-depleting base acreages established under the 1937 Agricultural Conservation Program. Allotments to the farms within each such administrative area shall be made by distributing the allotment for such administrative area in the manner provided in Section III for the apportionment of cotton county acreage allotments among farms.

3. *Corn acreage allotments.*—County acreage allotments of corn for counties in the commercial corn-producing area shall be established by distributing the State acreage allotment of corn among such counties in such State pro rata on the basis of the acreage of corn seeded for the production of corn in such counties during the ten years, 1928 to 1937, inclusive, plus, in applicable years, the acreage diverted under agricultural adjustment and conservation programs. If, on account of abnormal weather conditions, the acreage seeded to corn in a county in any year of such ten-year period was less than 50 percent or more than 150 percent of the average for the other nine years, such year shall be eliminated in calculating the average acreage seeded to corn for such county. The average acreage seeded in any county so determined shall be adjusted for trends in acreage by giving due consideration to the average annual increase or decrease in the acreage seeded to corn in the county as indicated by the acreage seeded to corn and diverted from the production of corn under agricultural adjustment and conservation programs during the last five years of the period 1928 to 1937, inclusive, as compared with the acreage seeded to corn during the first five years of such period.

4. *Wheat acreage allotments.*—County acreage allotments of wheat shall be established by distributing the State acreage allotment of wheat among the counties in such State pro rata on the basis of the acreage of wheat seeded for the production of wheat during the ten years, 1928 to 1937, inclusive, plus in applicable years the acreage diverted under agricultural adjustment and conservation programs. If, on account of abnormal weather conditions, the acreage seeded for the production of wheat in a county in any year of such ten-year period was less than 50 percent or more than 150 percent of the average computed for the other nine years, such year shall be eliminated in calculating the average acreage seeded for the production of wheat in such county. The average acreage seeded in any county for the production of wheat so determined shall be adjusted for trends in acreage by giving equal weight to the acreages seeded for the production of wheat and the acreages diverted from the production of wheat during the years 1935, 1936, and 1937, and to the acreages so seeded and diverted during the ten-year period 1928 to 1937, inclusive, as adjusted for abnormal weather conditions.

5. *Tobacco acreage allotments.*—County acreage allotments for each kind of tobacco shall be established by distributing the State acreage allotment of such kind of tobacco among the counties in such State on the basis of the total acreage planted to such kind of tobacco in the county during the years 1933 to 1937, inclusive, plus in applicable years the acreage diverted under agricultural adjustment and conservation programs, with such adjustments as are necessary to make correction for abnormal conditions of production, for small farms, and for trends in acreage, giving due consideration to seed-bed and other plant diseases during such five-year period.

6. *Potato acreage allotments.*—County acreage allotments of potatoes for counties in the areas designated by the Agricultural Adjustment Administration as commercial potato-producing areas shall be established by distributing the State acreage allotment of potatoes among such counties in such State pro rata on the basis of the average acreage devoted to potatoes in such counties during the years 1933 to 1937, inclusive, taking into consideration trends in acreage on commercial potato-producing farms as reflected by the acreage planted to potatoes in 1937, as compared with the average acreage planted during such five-year period, and also taking into consideration the acreage of potatoes on non-commercial potato-producing farms.

7. *Peanut acreage allotments.*—County acreage allotments of peanuts for market for counties in the areas designated by the Agricultural Adjustment Administration as commercial peanut-producing areas shall be established by distributing the State acreage allotment of peanuts among such counties in such State pro rata on the basis of the base acreages for peanuts established for such counties under the 1937 Agricultural Conservation Program, taking into consideration trends in acreage on commercial peanut-producing farms.

B. *County restoration land goals.*—County goals for restoration land shall be established by distributing the applicable State restoration land goal among the counties in the areas designated by the Agricultural Adjustment Administration as areas subject to serious wind erosion and areas containing large acreages unsuited to continued production of cultivated crops, on the basis of the amount of land in such counties which was cropped at least once since January 1, 1930 but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

C. *County soil-building goals.*—Insofar as practicable, county goals shall be established for particular soil-building practices which are not routine farming practices and which are most needed in the county in order to preserve and improve soil fertility and to prevent wind and water erosion.

SEC. III. *Farm acreage allotments and goals.*—The county committee, with the assistance of other local committees in the county, shall determine acreage allotments, restoration land goals, and soil-building practice goals, in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. The soil-depleting acreage allotments determined for the farms in a county shall not exceed the applicable county acreage allotments established for the county by the Agricultural Adjustment Administration, and the sum of the acreage allotments for farms furnishing required forms and information shall not exceed their proportionate share of the county acreage allotments.

A. *Soil-depleting acreage allotments.*—1. *Total soil-depleting acreage allotment.*—The total soil-depleting acreage allotment for any farm shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, the acreage of all soil-depleting crops customarily grown on the farm, and, when the Agricultural Adjustment Administration finds it applicable, the acreage of food and feed crops needed for home consumption on the farm, taking into consideration allotments established for individual soil-depleting crops. The total soil-depleting acreage allotment for any farm shall be comparable with the allotments determined for other farms in the same community which are similar with respect to such factors.

2. *Cotton allotment.*—(a) County cotton acreage allotments shall be apportioned among the farms in the county on which cotton was planted in any one of the years 1935, 1936, and 1937, in a manner that will result in a cotton acreage allotment for each such farm which is a percentage (which shall be the same percentage for all farms in the county or administrative area) of the land in the farm in 1937 which was tilled annually or in regular rotation exclusive of the acres of such land normally devoted to the production of wheat, tobacco, or rice for market or for feeding to livestock for market except that (1) for any farm with respect to which the highest acreage planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937, is five acres or less, the cotton acreage allotment for the farm shall be such highest number of acres if the county cotton acreage allotment is sufficient therefor; (2) for any farm with respect to which the highest number of acres planted to cotton and diverted from the production of cotton in any one of the three years, 1935, 1936, and 1937, is more than five acres, the allotment for the farm shall not be less than five acres if the county cotton acreage allotment is sufficient therefor; (3) notwithstanding the foregoing provisions of this paragraph (a), a number of acres equal to not more than 3 percent of the county acreage allotment in excess of the allotments made to farms on which the highest number of acres planted to cotton plus the acres diverted from the production of cotton in any of the years 1935, 1936, and 1937, was five acres or less and the number of acres required for allotments of five acres for each other farm in the county on which cotton was planted in 1935, 1936, or 1937 may be apportioned among farms in the county on which cotton was planted in 1935, 1936, or 1937, and for which the allotment otherwise provided is five acres or more but less than 15 acres and less than the highest number of acres planted to cotton and diverted from the production of cotton in any one of the years 1935, 1936, and 1937. In making such allotments under clause (3) in the preceding sentence consideration shall be given to the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton, and such increases shall not be such as to increase the allotment to any farm above 15 acres. In no event shall the allotment for any farm under this paragraph (a) exceed the highest number of acres planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937.

(b) That portion of the State acreage allotment not apportioned among the counties under Section II, subsection A, paragraph 2 (a), hereof shall be apportioned to farms in the State on which cotton will be planted in 1938 but on which cotton was not planted in any of the years 1935, 1936, and 1937, so as to result in comparable allotments to farms similar with respect to land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton. The county committee shall report, through the State committee, to the Agricultural Adjustment Administration the acreage required for the allotments to such farms in the county, together with such substantiating data as may be required by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall allot to the county the proportion of that part of the State acreage allotment reserved for this purpose which it finds reasonable on the basis of the data so reported.

3. *Corn allotment.*—Acreage allotments of corn shall be determined for farms in the commercial corn-producing area on the basis of tillable acreage, crop rotation practices, type of soil and topography. The allotment for any

farm shall be comparable to the allotments recommended for other farms in the same community which are similar with respect to such factors.

4. *Wheat allotment.*—Acreage allotments of wheat shall be determined for farms on which wheat has been seeded for harvest in one or more of the years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. Not more than 3 percent of the county wheat acreage allotment shall be apportioned to farms in such county on which wheat was not seeded for harvest in any one of the three years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. The wheat acreage allotment for any farm shall be comparable with the allotment determined for other farms in the same community which are similar with respect to such factors. No allotment shall be established for any class B farm for which the normal production of wheat for market is less than 100 bushels.

5. *Tobacco allotment.*—Acreage allotments for each kind of tobacco shall be determined on the basis of past acreage of each kind of tobacco with due allowance for the effects of abnormal weather conditions and plant-bed and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The tobacco acreage allotment for any farm on which tobacco was grown in one or more of the years 1934 to 1937, inclusive, shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors: *Provided*, That in the case of flue-cured, Burley and fire-cured and dark air-cured tobacco, special consideration shall be given to farms for which acreage allotments are small. The allotment for any farm on which tobacco is to be produced in 1938 for the first time since 1933 shall not exceed 75 percent of the allotment for other farms in the same community on which tobacco was produced since 1933 which are similar with respect to land, labor, and equipment available for the production of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

6. *Potato allotment.*—In counties included in the commercial potato-producing areas allotments shall be determined for each farm normally producing potatoes excluding farms on which the acreage normally planted to potatoes for market is determined to be less than three acres. No potato acreage allotment shall be less than three acres. Potato acreage allotments shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, production facilities, and the acreage of potatoes customarily grown on the farm. The potato acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

7. *Peanut allotment.*—In counties included in the commercial peanut-producing areas a peanut acreage allotment shall be determined for each farm on which peanuts for market were produced in any one of the years 1935, 1936, and 1937. Peanut acreage allotments shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, and the acreage of peanuts for market customarily grown on the farm. The peanut acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

8. *Rice allotment.*—(*a*) A rice acreage allotment shall be determined for each farm on which rice is grown in 1938 on the basis of the rice acreage apportioned to the persons participating in the production of rice on such farm in 1938 and allocated by them to such farm, the acreage on the farm suited to rice production and for which water is readily available, and the acreage of rice customarily grown by such persons. The rice acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

(*b*) The State rice acreage allotment (less 1 percent or such smaller part thereof as the Agricultural Adjustment Administration determines shall be required in the State for apportionment as provided in (c) below) shall be apportioned by the State committee, in accordance with instructions issued by the Agricultural Adjustment Administration, among the persons in the State who are participating in the production of rice in 1938 on the basis of their production of rice during the years 1933 to 1937, inclusive; land, labor, equipment, and water available for the production of rice; crop rotation practices, soil fertility, and other physical factors affecting the production of rice.

(c) That portion of the State rice acreage allotment not apportioned among farms pursuant to paragraph (b) above, shall be apportioned by the State committee, in accordance with instructions issued by the Agricultural Adjustment Administration, among the persons in the State who are participating in the production of rice in 1938 but who did not participate in the production of rice in any one of the years 1933 to 1937, inclusive, on the basis of land, labor, equipment, and water available for the production of rice; crop rotation practices, soil fertility, and other physical factors affecting the production of rice.

9. *General crop allotment.*—A general crop acreage allotment shall be determined for each class A farm. Such general crop acreage allotment shall be the total soil-depleting acreage allotment in excess of the sum of (1) the individual crop acreage allotments established for the farm, and (2) the acreage of sugar beets grown on the farm in 1938.

B. *Restoration land and soil-building goals.*—1. *Restoration land goal.*—Restoration land goals shall be determined on the basis of the land on the farm which has been cropped at least once since January 1, 1930 but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

2. *Soil-building goal.*—The soil-building goal for any farm shall be the number of units of soil-building practices equal to two-thirds of the number of dollars computed for the farm under Section IV, subsection C, with respect to the soil-conserving acreage for class A farms, the acreage of cropland with respect to which a payment of 70 cents per acre is computed for class B farms, and the commercial vegetable acreage, commercial orchards, and noncrop pasture land for all farms. The goal so established shall represent the number of units of applicable practices to be carried out on the farm. Insofar as practicable, the county committee shall determine for individual farms practices to be followed in meeting the goal which are not routine farming practices on the farm but which are needed on the farm in order to preserve and improve soil fertility and prevent wind and water erosion, and which will tend to accomplish the goals, if any, established for the county with respect to particular soil-building practices.

C. *Posting of acreage allotments.*—All acreage allotments established for farms in a county shall be posted or kept freely available for public inspection in the office of the county committee or county agricultural extension agent.

SEC. IV. *Payment for full performance.*—Payment will be made with respect to any farm for not exceeding soil-depleting acreage allotments, and for achieving soil-building and restoration land goals, in an amount which shall be the sum of the following:

A. *Soil-depleting acreage allotments.*—1. *Cotton.*—2.4 cents per pound of the normal yield per acre of cotton for the farm for each acre in the cotton acreage allotment; or, if the acreage planted to cotton is less than 80 percent of the cotton acreage allotment and the county committee finds that the failure to plant 80 percent of such cotton acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to cotton.

2. *Corn.*—10 cents per bushel of the normal yield per acre of corn for the farm for each acre in the corn acreage allotment; or, if the acreage planted to corn is less than 80 percent of the corn acreage allotment and the county committee finds that the failure to plant 80 percent of such corn acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to corn.

3. *Wheat.*—12 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat acreage allotment; or, if the acreage planted to wheat is less than 80 percent of the wheat acreage allotment and the county committee finds that the failure to plant 80 percent of such wheat acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to wheat.

4. *Tobacco.*—The following number of cents per pound of the normal yield per acre of tobacco for the farm for each acre in the tobacco acreage allotment for each of the following kinds of tobacco:

(*a*) Burley	0.5 cent.
(*b*) Flue-cured	1.0 cent.
(*c*) Fire-cured and dark air-cured	1.5 cents.
(*d*) Cigar filler and binder	1.0 cent.
(*e*) Georgia-Florida Type 62	1.5 cents.

Provided, That in the case of cigar filler and binder tobacco, if the acreage planted to such kind of tobacco is less than 80 percent of the acreage allotment therefor and the county commitee finds that the failure to plant 80 percent of the acreage allotment was not due to flood, drought, or plant-bed diseases, the payment shall be computed on 125 percent of the acreage planted to cigar filler and binder tobacco.

5. *Potatoes.*—3 cents per bushel of the normal yield per acre of potatoes for the farm for each acre of potatoes planted on the farm in 1938 not in excess of the potato acreage allotment.

6. *Peanuts.*—0.2 of a cent per pound of the normal yield per acre of peanuts for the farm for each acre in the peanut acreage allotment.

7. *Rice.*—0.125 of a cent per pound of the normal yield per acre of rice for the farm for each acre in the rice acreage allotment, or if the acreage planted to rice is less than 80 percent of the rice acreage allotment and the county committee finds that failure to plant 80 percent of such rice acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to rice.

8. *General soil-depleting crops on class A farms.*—$1.25 per acre, adjusted for productivity, for each acre in the general crop acreage allotment in excess of one-half of the sum of the cotton, Burley tobacco and fire-cured and dark air-cured tobacco acreage allotments established for the farm.

B. *Restoration land goals.*—1. 50 cents per acre for each acre in the restoration land goal established for the farm.

C. *Payments in connection with soil-building practices.*—1. 50 cents per acre of cropland in the farm in excess of the total soil-depleting acreage allotment for the farm (applicable only to class A farms).

2. $1.50 per acre of the average acreage of land on which commercial vegetables were grown on the farm in 1936 and 1937.

3. $2.00 per acre of commercial orchards on the farm January 1, 1938.

4. (*a*) 2 cents per acre of noncrop open pasture land in the farm, plus $1.00 for each animal unit of grazing capacity (on a 12-month basis) of such pasture, in the North Central Region and in Kansas, Oklahoma, Texas, and California.

(*b*) 3 cents per acre of noncrop open pasture land plus 75 cents for each animal unit of grazing capacity (on a 12-month basis) of such pasture, in North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Idaho, Oregon, and Washington.

(*c*) 25 cents per acre of fenced noncrop open pasture land in excess of one-half of the number of acres of cropland in the farm which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land, in the East Central Region and States other than Texas and Oklahoma in the Southern Region.

(*d*) 40 cents per acre of fenced noncrop open pasture land, in excess of one-half of the number of acres of cropland in the farm, which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land, in the Northeast Region.

5. 70 cents per acre of cropland on any class B farm in excess of the sum of (1) the corn, wheat, rice, potato, peanut, cigar filler and binder tobacco, and Georgia-Florida Type 62 tobacco acreage allotments established for the farm; (2) the acreage of sugar beets and sugarcane for sugar grown on the farm in 1938; (3) two times the cotton, flue-cured tobacco, Burley tobacco, and fire-cured and dark air-cured tobacco acreage allotments established for the farm; and (4) in the Western Region the normal acreage of summer fallow for the farm, not in excess of the wheat acreage allotment established for the farm.

SEC. V. *Payments for partial performance.*—Payments computed for any farm under the provisions of Section IV shall be subject to all the following deductions which are applicable to the farm:

A. *Deductions for excess acreages of soil-depleting crops.*—1. *Cotton.*—5 cents per pound of the normal yield for the farm for each acre of cotton in excess of the cotton acreage allotment.

2. *Corn.*—5 times the payment rate specified in section IV for the normal yield for the farm on the acreage by which the corn acreage exceeds the corn acreage allotment.

3. *Tobacco, potatoes, and peanuts.*—(*a*) 5 times the payment rate specified in Section IV for the normal yield for the farm on the acreages by which the fire-cured and dark air-cured tobacco acreages exceed the acreage allotment for such types of tobacco.

(*b*) 10 times the payment rate specified in Section IV for the normal yield for the farm on the acreages by which the acreages of flue-cured tobacco, Burley tobacco, cigar filler and binder tobacco, Georgia-Florida Type 62 tobacco, potatoes, and peanuts for market exceed the respective acreage allotments established for such crops, and on farms for which potato acreage allotments are not established in designated commercial areas on each acre by which the acreage of potatoes for market exceeds three acres.

4. *Rice.*—8 times the payment rate specified in Section IV for the normal yield for the farm on the acreage by which the rice acreage exceeds the rice acreage allotment.

5. *Commercial vegetables.*—In counties designated by the Agricultural Adjustment Administration as counties where commercial vegetables and potatoes or commercial vegetables and cigar filler (type 41) or binder (types 51, 52, and 53) tobacco are grown generally on the same farms, a deduction shall be made from the payment with respect to any farm having a potato or cigar filler and binder tobacco acreage allotment, for each acre on which commercial vegetables are grown in 1938 in excess of the annual average acreage on which commercial vegetables were grown on the farm in 1936 and 1937 (adjusted, where necessary, for the effect of abnormal weather conditions on plantings in such years), such deduction to be at the rate applicable to the farm under this section V with respect to potatoes or cigar filler and binder tobacco, whichever is less. On farms where adjustments for abnormal weather conditions are made in the acreage of commercial vegetables grown in 1936 and 1937 as provided in this item 5, such adjusted acreage shall also be used under item 2 of subsection C of Section IV in computing the payment with respect to the farm.

6. *Total soil-depleting acreage allotments.*—The following applicable rate for each acre of soil-depleting crops in excess of the total soil-depleting acreage allotment, less the acreages for which deductions are made under items 1 to 5, inclusive, of this subsection A:

(*a*) 8 times the rate of payment with respect to the wheat acreage allotment if a wheat acreage allotment is established for the farm.

(*b*) 8 times the rate of payment with respect to the general soil-depleting acreage allotment if the farm is a class A farm and a wheat acreage allotment is not established therefor.

(*c*) $6.00 per acre if the farm is a class B farm and a cotton, corn, tobacco, peanut, potato or rice acreage allotment but no wheat acreage allotment is established for the farm.

B. *Deductions for failure to carry out soil-building practices and conservation measures.*—1. $1.50 for each unit by which the soil-building goal is not reached.

2. $1.00 for each acre of restoration land on which there are not carried out in 1938 conservation measures specified

by the county committee in accordance with instructions issued by the Agricultural Adjustment Administration.

C. *Deduction for failure to prevent wind and water erosion.*—$1.00 for each acre of land, other than restoration land, in an area designated by the Agricultural Adjustment Administration as subject to serious wind or water erosion hazards, with respect to which there are not adopted in 1938 methods recommended by the State committee and approved by the Agricultural Adjustment Administration for the prevention of wind or water erosion.

D. *Deduction for breaking out of native sod.*—$3.00 for each acre of native sod or any other land which has been cropped but is not classified as cropland or pasture land which, in areas designated by the Agricultural Adjustment Administration as being areas subject to serious wind erosion or areas containing large acreages unsuited to continuing production of cultivated crops, is broken out during the period November 1, 1937, to October 31, 1938, inclusive, unless the breaking out of such land is approved by the county committee as a good farming practice and an equal acreage of cropland on the same farm is restored to permanent vegetative cover, such acreage of cropland to be in addition to that designated as restoration land.

SEC. VI. *Division of payments and deductions.*—A. *Payments and deductions in connection with acreage allotments and restoration land goals.*—The net payment or net deduction computed for any farm with respect to the corn, cotton, rice, wheat, tobacco, peanut, potato or general crop acreage allotment shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the corn, cotton, rice, wheat, tobacco, peanut, potato or general crops, respectively, grown on the farm in 1938.

The net payment or net deduction computed for any farm with respect to the restoration land goal shall be divided in the same proportion that any payment with respect to the wheat acreage allotment for such farm is divided among landlords, tenants, and sharecroppers, provided that if no payment is computed with respect to a wheat acreage allotment for such farm, payment with respect to the restoration land goal shall be divided in the same proportion that any payment in connection with the general crop acreage allotment for such farm is, or would be, divided among landlords, tenants, and sharecroppers. In the event that restoration land is designated for a farm which is not operated by a tenant in 1938, payment, if any, with respect to such restoration land goal shall be made to the owner of such farm.

In computing such net payments and net deductions with respect to acreage allotments and restoration land goals, the deduction with respect to commercial vegetables (item 5, subsection A, Section V) shall be regarded as a deduction with respect to the potato acreage allotment and the cigar filler (type 41) or binder (types 51, 52, and 53) tobacco acreage allotment, and the total amount of deductions computed under Section V with respect to (1) soil-depleting crops grown in excess of the total soil-depleting acreage allotment (item 6, subsection A); (2) failure to prevent wind and water erosion (subsection C); and (3) breaking out of native sod (subsection D) shall be regarded (a) as deductions with respect to the wheat acreage allotment and the general crop acreage allotment on class A farms; (b) as deductions with respect to the wheat acreage allotment on class B farms for which a wheat acreage allotment is established; (c) as deductions with respect to individual crop acreage allotments and the restoration land goal on class B farms for which a wheat acreage allotment is not established; or (d) as deductions with respect to the soil-building goal on class B farms for which no individual crop acreage allotments or restoration land goal is established.

In the event that corn, cotton, rice, wheat, tobacco, peanuts, potatoes or general crops are not harvested in 1938 on the farm the payment, if any, with respect to the acreage allotment for such crop, or group of crops, shall be divided among the landlords, tenants, and sharecroppers in the same proportion that the county committee determines that such persons would have shared in the proceeds of such crop had such crop been harvested on the farm in 1938.

B. *Payments with respect to soil-building practices.*—The amount of payment earned in connection with the soil-building goal for the farm shall be paid to the landlord, tenant or sharecropper who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying-out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event such unit shall be divided in the proportion which the county committee determines each such person contributed thereto.

C. *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the other persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SEC. VII. *Increase in small payments.*—The total payment computed under Sections IV to VI, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	Increase to 200.00
$31.00 to $31.99	10.20	$200.00 and over	No increase

SEC. VIII. *Reductions incurred on other farms.*—A. *Other farms in the same county.*—If the deductions computed under Section V with respect to any farm exceed the payment for full performance on such farm computed under Section IV, any person's share of the amount by which such deductions exceed such payments shall be deducted from such person's share of the payments which would otherwise be made to him with respect to any other farms in the county which he operates or rents to other persons for a share of the crops produced thereon.

B. *Other farms in the State.*—If the deductions computed for any person with respect to one or more farms in a county exceed the payments computed for such person on other farms in the county, the amount of such excess deductions shall be deducted from the payments computed for such person with respect to any other farms in the State which he operates or rents to other persons for a share of the crops produced thereon, if the State committee finds that the crops grown and practices adopted on the farms with respect to which such deductions are computed are such as substantially to offset the contribution to the program made on such other farms.

SEC. IX. *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

SEC. X. *Materials furnished as grants of aid.*—Wherever it is found practicable limestone, superphosphate, trees, seeds, and other materials, upon request of the producer, may be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out approved soil-building practices which shall be counted toward meeting the soil-building goal for the farm. Wherever such materials are furnished, a deduction from the payment for the farm shall be made in the amount of the approximate cost of such material to the Agricultural Adjustment Administration. Such deduction shall be applied first to the payment computed for the person to whom such materials are furnished, and the balance, if any, of such deduction shall be prorated among the payments to other persons sharing in the payment with respect to the farm on which such materials were used.

In making a request for materials pursuant to this section the producer to whom such materials are furnished shall agree that in the event the amount of the deduction for the materials exceeds the amount of the payment with respect to the farm the amount of such difference shall be repaid by him to the Secretary.

SEC. XI. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forestland or woodland owned or controlled by him, he adopts any practice which the regional director finds is contrary to sound conservation practices. If on any class B farm for which no wheat, cotton, corn, tobacco, peanut, potato, or rice acreage allotment is established, the acreage seeded to soil-depleting crops in 1938 is in excess of 50 acres and in excess of the total soil-depleting acreage allotment, the deduction provided in paragraph 6 (c) of subsection A of Section V shall be applicable to such farm if the county committee determines that the increase in soil-depleting crops was not due to the rotation of crops normally followed on the farm.

In areas designated by the Agricultural Adjustment Administration as areas subject to serious wind erosion in 1938, no payment will be made to any person who the county committee finds has been negligent and careless in his farming practices in 1938 to the extent that any farm which he owns or operates has become a wind erosion hazard to the community in which such farm is located.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection D of this Section XI) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 is made between the landlord and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, payments to the landlord under the 1938 Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

If, on any farm, the number of sharecroppers or share tenants in 1938 is less than the average number on the farm during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made, if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration and is acknowledged by the farmer before the county agricultural extension agent and filed with such agent; (2) the farmer files with the assignment an affidavit showing that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Excess cotton acreage.*—Any person who has an interest in a farm on which cotton is planted in 1938 and who makes application for payment with respect to any farm, shall file with such application a statement verified by affidavit that the applicant has not knowingly planted or caused to be planted during 1938 cotton on land in any farm in which he has an interest in excess of the cotton acreage allotment

established for the farm for 1938 under Section 344 of the Agricultural Adjustment Act of 1938 in connection with cotton marketing quotas, and that cotton was not planted in excess of such allotment by his authority or with his consent.

Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment for the farm established in connection with cotton marketing quotas under Section 344 of the Agricultural Adjustment Act of 1938 and regulations issued in connection therewith shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. A person shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of his allotment is mailed to him prior to the completion of the planting of cotton on the farm unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton thereon in 1938.

F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farm unless on such farm in 1938 an acreage, not devoted to soil-depleting crops, is withheld from the production of soil-conserving crops for market, equal to the acreage by which the normal acreage of soil-depleting crops on such farm exceeds the larger of (1) the total soil-depleting acreage allotment for the farm or (2) the acreage devoted to soil-depleting crops on the farm in 1938: *Provided,* That payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable is used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions if the increase above normal in the number of dairy cows in the county does not exceed ten percent.

The normal acreage of soil-depleting crops and the normal number of cows kept for the production of milk, or the products thereof, for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department and shall announce the counties in which the number of cows kept for the production of milk, or the products thereof, for market exceeds by more than ten percent the normal number of such cows.

As used in this subsection F, the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this subsection F, the term "soil-conserving crops" means grasses and legumes grown on cropland except those classified as soil-depleting under Section XIII hereof.

SEC. XII. *Application for payment.*—A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section VI a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

C. *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SEC. XIII. *Soil-Depleting crops.*—Land devoted in 1938 to any of the following crops or uses or such other similar crops and uses as are designated by the Agricultural Adjustment Administration shall be classified as soil-depleting.

A. Land planted to the following crops for harvest in 1938:

1. Corn (including field corn, sweet corn, and popcorn, but excluding sewn or close-drilled corn used as a cover crop or green manure crop).
2. Tobacco (except that Georgia-Florida Type 62 tobacco shall be classified as provided in the 1938 Agricultural Conservation Program Bulletin, Supplement No. 2).
3. Grain sorghums.
4. Cotton.
5. Sugar beets.
6. Sugarcane.
7. Rice.
8. Peanuts harvested for nuts.
9. Commercial mustard.
10. Hemp.
11. Broomcorn.
12. Mint.
13. Mangels and cowbeets.
14. Cultivated sunflowers.
15. Truck and vegetable crops (including strawberries, melons, and sweetpotatoes) and their seeds.
16. Potatoes.
17. Bulbs and flowers.
18. Safflower.
19. Field beans.
20. Canning peas.

B. Land planted to wheat harvested for grain or hay in 1938 or any other land planted to wheat between August 1, 1937 and July 31, 1938, except:

1. When, in the North Central Region, the acreage of such crop seeded in the fall of 1937 is pastured before May 1, 1938 and thereafter sufficiently pastured or tilled to prevent grain formation, or is tilled before May 1, 1938 in preparation for another crop or for a use other than the harvesting of the acreage of such crop for grain or hay; or
2. When, in humid areas other than in the North Central Region designated by the Agricultural Adjustment Administration, the acreage of such crop is used as a nurse crop or cover crop and is not harvested for grain or hay; or
3. When in designated non-humid areas of Texas, Oklahoma, Kansas, Colorado, and New Mexico, the acreage of such crop seeded in the fall of 1937 is tilled, before a date to be specified by the Agricultural Adjustment Administration, in preparation for another crop or in connection with an approved conservation measure, *Provided,* That in such areas the conservation measure to be instituted before the specified date shall be approved by the county committee and the land to be so handled shall be designated in accordance with instructions issued by the Agricultural Adjustment Administration; or
4. When the acreage is seeded to true type winter wheat in the spring of 1938 (prior to June 15) on non-irrigated cropland and such crop is used only as a pasture or cover crop (applicable only in Washington, Oregon, Idaho, and Utah); or
5. When the acreage of such crop is used as a green manure crop in orchards, or on commercial vegetable or potato land or such other land as may be designated by the Agricultural Adjustment Administration.

C. Land planted to oats (except when used in Washington and Oregon as a support crop for vetch or Austrian field peas harvested for seed), barley, rye, flax, emmer, speltz, or mixtures of these crops between August 1, 1937 and July 31, 1938, except:

1. When a good stand and good growth of such crop is used as a green manure crop in orchards, or on commercial vegetable or potato land, or such other land as may be designated by the Agricultural Adjustment Administration; or
2. When such crop is used as a nurse crop or cover crop and is not harvested for grain or hay and not used in any area in any other manner determined by the Agricultural Adjustment Administration to be soil-depleting in such area.

D. Land planted in 1938 to buckwheat, sweet sorghums, Sudan grass, millet, or sown or close-drilled corn harvested for grain, seed, sirup, or silage, or used in any areas in any other manner determined by the Agricultural Adjustment Administration to be soil-depleting in such area.

E. Land planted in 1938 to field peas harvested for peas or soybeans harvested for seed for crushing, or used in any area in any other manner determined by the Agricultural Adjustment Administration to be soil-depleting in such area.

F. Land summer fallowed in the States of Washington, Oregon, Idaho, and Utah: *Provided, however,* That if such summer-fallowed acreage is seeded in 1938 to perennial grasses or perennial legumes in accordance with good farming practice such acreage shall not be classified as soil-depleting.

G. Land summer fallowed in any area if such summer-fallowed acreage is not protected from wind and water erosion by methods recommended by the State committee and approved by the Agricultural Adjustment Administration.

The acreage of land which is devoted consecutively to two or more of the above soil-depleting crops in 1938 shall be counted as follows: If only one of such crops reaches maturity such land shall be regarded as devoted to the crop reaching maturity. If none of such crops reaches maturity or if more than one of such crops reach maturity and an individual crop acreage allotment is established for only one of such crops, such land shall be regarded as devoted to the crop for which an individual crop acreage allotment is established. If none of such crops reaches maturity and individual crop acreage allotments are established for two or more of such crops, the land shall be regarded as devoted to the last planted of such crops for which an individual crop acreage allotment is established. If two or more of such crops reach maturity and individual crop acreage allotments are established for two or more of such crops reaching maturity, the land shall be regarded as devoted to each of the crops which reached maturity and for which an individual crop acreage allotment is established. If two or more of such crops reach maturity or if none of such crops reaches maturity and individual crop acreage allotments are not established for any of such crops the land shall be regarded as devoted to the last planted of such crops.

The acreage of land which is devoted simultaneously to two or more of the above soil-depleting crops shall be divided among such crops on the basis of the land determined, in accordance with instructions issued by the Agricultural Adjustment Administration, to be devoted to each.

In connection with determinations regarding the maturity of crops, canning peas will be deemed to have reached maturity when such crops are harvested for canning and field corn, sweet corn, and popcorn hogged off or cut for silage, fodder or other similar uses, will be deemed to have reached maturity.

If a corn acreage allotment is established for any farm, all acreages of field corn, sweet corn, and popcorn will be regarded as corn acreage for the purpose of determining whether the corn acreage allotment for such farm has been exceeded, except (1) any acreage of sweet corn contracted to be sold for canning; (2) any acreage of sweet corn sold for canning or roasting ears; and (3) any acreage of popcorn sold as popcorn.

In areas designated by the Agricultural Adjustment Administration as areas where cropland is commonly divided into regularly-shaped fields, in order for a portion of a field (other than cropland strip-cropped, strip-fallowed or contour farmed) not to be classified as soil-depleting such portion of the field must be in a solid block contiguous to the side or end of the field and the line between such portion and the remaining portion of the field must be straight.

Land devoted to volunteer crops harvested shall be classified as if such crops were planted.

SEC. XIV. *Soil-building practices.*—Such of the soil-building practices listed in the following schedule as the Agricultural Adjustment Administration determines are adapted to any region and should be encouraged in such region shall count toward the achievement of the soil-building goal to the extent indicated therein, when such practices are carried out in 1938 in areas designated by the Agricultural Adjustment Administration and in accordance with specifications issued by the regional director or by the State committee with the approval of the regional director. The areas designated for any soil-building practice shall be areas in which such practice is desirable and necessary as a conservation measure. The specifications issued shall be such as to assure that the soil-building practice will be performed in workmanlike manner and in accordance with good farming practice for the locality.

Practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or State agency other than the Agricultural Adjustment Administration shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal.

If trees are purchased from a Clark-McNary Cooperative State Nursery such purchases shall not be deemed to be paid for in whole or in part by a State or Federal agency.

SCHEDULE OF SOIL-BUILDING PRACTICES

A. Each of the following practices in the amounts specified shall be counted as one unit, provided that, when the materials specified in items 1, 2, or 3 are applied to biennial or perennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, or Natal grass seeded or grown in connection with a soil-depleting crop, only such proportionate part, if any, of the material applied shall be counted as is specified by the Agricultural Adjustment Administration.

1. Application of 300 pounds of 16-percent superphosphate (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

2. Application of 200 pounds of 50 percent muriate of potash (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

3. Application of 500 pounds of basic slag or rock phosphate to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

4. Application of 300 pounds of gypsum containing 18-percent sulphur (or its sulphur equivalent).

5. Construction of 200 linear feet of standard terrace for which proper outlets are provided.

6. Construction of reservoirs and dams—15 cubic yards of material moved in making the fill or excavation.

7. Reseeding depleted pastures with good seed of adapted pasture grasses or legumes—10 pounds of seed.

8. Contour ridging of noncrop open pasture land—750 linear feet of ridge or terrace.

9. Application of one ton, air dry weight, of straw or equivalent mulching material, excluding barnyard and stable manure, in commercial orchards or on commercial vegetable land in areas designated by the regional director as areas in which straw normally costs more than $5.00 per short ton.

10. Application of not less than two tons, air dry weight, of straw or equivalent mulching materials, excluding barnyard and stable manure, per acre in commercial orchards or on commercial vegetable land.

11. Application of the following quantities of ground limestone or its equivalent in areas designated by the regional director as areas in which the average cost of ground limestone to farmers is:

(*a*) Not more than $2.50 per ton	2,000 lb.
(*b*) More than $2.50 but not more than $3.50 per ton	1,500 lb.
(*c*) More than $3.50 but not more than $5.00 per ton	1,000 lb.
(*d*) More than $5.00 per ton	800 lb.

12. Application of 1,000 pounds of finely ground limestone (at least 90 percent to pass through a 30-mesh sieve and all finer particles obtained in the grinding process to be included), except to peanuts and commercial vegetables, such limetone to be applied at the rate of not less than 500 pounds nor more than 1,000 pounds per acre.

13. Restoration of noncrop open pasture by nongrazing during the normal pasture season on an acreage equal to one-half of the number of acres of such pasture required to carry one animal unit for a 12-month period.

B. Each acre of the following shall be counted as one unit:

1. Seeding biennial legumes, perennial legumes, perennial grasses (other than timothy or redtop), or mixtures (other than a mixture consisting solely of timothy and redtop) containing perennial grasses, perennial legumes, or biennial legumes (except alfalfa and permanent pasture mixtures qualifying under practice No. 1 of subsection C of this Section XIV).

2. Seeding winter legumes, annual lespedeza, annual ryegrass, crotalaria, sesbania, or annual sweet clover.

3. Green manure crops and cover crops (excluding (1) lespedeza, (2) any crop for which credit is given in 1938 under any other practice, (3) wheat on nonirrigated land except in humid areas designated by the Agricultural Adjustment Administration, and (4) such other crops as may be determined as not qualifiable for any area by the Agricultural Adjustment Administration) of which a good stand and good growth is (1) plowed or disced under on land not subject to erosion, or if subject to erosion, such crop is followed by a winter cover crop, or (2) left on land subject to erosion or in orchards or on commercial vegetable or potato land, or on such other land as is designated by the Agricultural Adjustment Administration.

C. Each acre of the following shall be counted as two units:

1. Seeding hardy northern-grown domestic or Canadian alfalfa (applicable only in the Northeast Region).

2. Seeding permanent pasture mixtures containing a full seeding of legumes or grasses or both other than timothy and redtop (applicable only in the Northeast Region and on class B farms in the Southern Region).

3. Cultivating, protecting, and maintaining by replanting if necessary, a good stand of forest trees, planted between January 1, 1934, and January 1, 1938.

4. With prior approval of the county committee, improving a stand of forest trees under such approved system of farm woodlot management as is specified by the Agricultural Adjustment Administration.

5. Establishment of permanent vegetative cover by planting sod pieces of perennial grasses.

D. Each acre of the following shall be counted as five units:

1. Planting forest trees (including shrubs in protective plantings) provided such trees are protected and cultivated in accordance with good tree-culture practice.

2. Control of seriously infested plots of perennial noxious weeds, designated by the Agricultural Adjustment Administration, on cropland in organized weed control districts, in accordance with good chemical or tillage methods.

3. Applying sand free from stones or loam to a depth of at least one-half inch on fruiting cranberry bogs.

E. Each two acres of the following shall be counted as one unit:

1. Summer legumes not classified as soil-depleting (interplanted or grown in combination with soil-depleting crops) of which a good stand and a good growth is left on the land or plowed or disced under.

2. Renovation of perennial legumes and mixtures of perennial grasses and legumes.

3. Seeding timothy or redtop or a mixture consisting solely of timothy and redtop.

4. Protecting muck land subject to serious wind erosion by establishing or maintaining approved shrub windbreaks.

F. Each four acres of the following shall be counted as one unit:

1. Leaving on the land as a protection against wind erosion (only in wind erosion areas, which will be designated by the regional director) the stalks of sorghums or Sudan grass, classified as soil-depleting, where it is determined by the county committee that such cover is necessary as a protection against wind erosion and the operator's farming plan provides that such cover will be left on the land until the spring of 1939.

2. Restoration of farm woodlots, normally overgrazed, by non-grazing during the normal pasture season. Credit will not be allowed for more than two acres of woodland for each animal unit normally grazed on such woodland.

3. Contour listing or furrowing noncrop land.

4. Stripcropping other than for protection of summer-fallowed acreage.

5. Protecting summer-fallowed acreage from wind and water erosion by contour or basin listing, stripcropping, or incorporating small-grain stubble and straw into the surface soil. No credit will be given for this practice on any farm when carried out on light sandy soils or on soils in any area where destruction of the vegetative cover has resulted in the land becoming subject to serious wind erosion.

G. Each six acres of the following shall be counted as one unit:

1. Controlling soil erosion by contour cultivation of intertilled crops (applicable only in the Northeast Region).

H. Each eight acres of the following shall be counted as one unit:

1. Contour farming intertilled crops.

2. Contour listing or basin listing on the contour. No credit will be given for this practice when carried out on protected summer-fallowed acreage or as a part of the seeding operation.

I. Each ten acres of the following shall be counted as one unit:

1. Contour seeding of small-grain crops.

2. Basin listing (not on the contour). No credit will be given for this practice when carried out on protected summer-fallowed acreage or as a part of a seeding operation.

3. Natural vegetative cover or small-grain stubble of crops harvested in 1938 left on cropland not tilled after July 1, 1938, where it is determined by the county committee that such cover is necessary as a protection against wind erosion and the operator's farming plan provides that such cover will be left on the land until the spring of 1939 (applicable only in wind erosion areas in Texas, Oklahoma, Kansas, Colorado, and New Mexico, such areas to be designated by the Agricultural Adjustment Administration).

SEC. XV. *Normal yields and productivity indexes.*—A. *Normal yields of special soil-depleting crops.*—The county committee with the assistance of other local committees in the county shall determine for each farm for which a cotton, corn, wheat, rice, tobacco, peanut or potato acreage allotment is to be established a normal yield for each such crop in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration.

1. *Cotton.*—(*a*) Where reliable records of the actual average yield of cotton per acre for the years 1933 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted, in the manner provided in subsection C below, for abnormal weather conditions.

(*b*) If for any year of such five-year period records of the actual average yield are not available or there was no actual yield because cotton was not planted on the farm in such year, the county committee shall ascertain from all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the yield which was or could reasonably have been expected on the farm for such year, and the yield so determined shall be used as the actual yield for such year under paragraph (a) of this subdivision 1.

(*c*) The average of all the yields so determined for all farms in a county or administrative area (weighted by cotton acreage allotments established for such farms) shall be adjusted so as to conform to the county (or administrative area) average yield established by the Secretary.

2. *Corn and wheat.*—(*a*) Where reliable records of the actual average yield per acre of corn or wheat, as the case may be, for the years 1928 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and adjusted in the manner provided in subsection C below for abnormal weather conditions, and

(*b*) If for any year of such ten-year period reliable records of the actual average yield are not available or there was no actual yield because the commodity was not planted on the farm in such year, the county committee shall ascertain from all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices and general fertility of the land the yield which was or could reasonably have been expected on the farm for such year, and the yield so determined shall be used as the actual yield for such year under paragraph (a) of this subdivision 2. Where the productivity index most recently established for the farm in connection with the agricultural conservation programs is determined by the county committee to be an accurate reflection of the foregoing factors, the yield obtained by multiplying such index by the county average yield for such year shall be used as the actual yield for such year. If for any combination of years in such ten-year period reliable records of the actual average yield are not available or there was no actual yield during such years, the yield obtained by multiplying such index by the county average yield for such combination of years shall be the actual yield for each year of such combination of years.

(*c*) The average of all the yields so determined for all farms in such county (weighted respectively by the corn or wheat acreage allotments established for such farms) shall be adjusted so as to conform to the county average yield established by the Secretary.

3. *Rice.*—(*a*) Where reliable records of the actual average yield of rice per acre for the years 1933 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield of rice for the farm shall be the average of such yields.

(*b*) If for any year of such five-year period records of the actual average yield are not available or there was no actual yield because rice was not planted on the farm in such year, the county committee shall ascertain from all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the yield which was or could reasonably have been expected on the farm for such year, and the yield so determined shall be used as the actual yield for such year under paragraph (a) of this subdivision 3.

(*c*) If the average of the normal yields for all lands planted to rice in 1938 in the State (weighted by the rice acreage allotments therein) exceeds the average yield per acre for the State during the period 1933 to 1937, inclusive, established by the Secretary, the normal yields for such lands, determined under paragraphs (a) and (b) of this subdivision 3, shall be reduced pro rata so that the average of such normal yields shall not exceed such State average yield.

4. *Tobacco, peanuts, potatoes.*—(*a*) The normal yield of tobacco, peanuts for market, or potatoes, as the case may be, for any farms shall be the yield which may reasonably be expected from the land devoted to the production of the crop in 1938 with due consideration for type of soil, drainage, production practices, general fertility of the land and the yield of such crop customarily secured on the farm. The average yield for all farms in any county with respect to any such crop shall not exceed the county average yield for the crop established by the Secretary.

B. *Productivity Indexes.*—The Secretary shall establish for each county a county productivity index or per-acre rate which will vary among the counties as the productivity of the cropland in the county devoted to the production of general soil-depleting crops varies as compared with the productivity of cropland in the United States devoted to the production of such crops.

A productivity index or rate per acre shall be established in accordance with instructions issued by the Agricultural Adjustment Administration for each class A farm by the county committee, subject to the approval of the State committee. Such productivity index or rate per acre shall be based upon the normal yield per acre for the farm of the major soil-depleting crop in the county as compared with the normal yield per acre for such crop in the county. Where the yield of the major soil-depleting crop in the county does not accurately reflect the productivity of a farm, the yield of a crop that reflects the productivity of the farm may be used, provided that the productivity index or rate per acre for such farm shall be adjusted, if necessary, so as to be fair and equitable as compared with the productivity indexes or rates per acre for other farms in the county having similar soils or productive capacity, and as contrasted with other farms in the county having different soils or productive capacity.

The average productivity index or per-acre rate for all farms in the county shall not exceed 100 or the county per-acre rate, respectively, unless it is determined that farms for which such indexes or rates per acre are established are not representative of all farms in the county and a variation from 100 or the county per-acre rate is approved by the Agricultural Adjustment Administration.

C. *Adjustment for abnormal weather conditions.*—In determining normal yields for cotton, corn, and wheat, respectively, if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural causes the yield in any year of the five-year or ten-year period, as the case may be, as determined under subsection A, 1 in the case of cotton, or subsection A, 2 in the case of corn or wheat, is less than 75 percent of the average computed without regard to such year, such year shall be eliminated in calculating the normal yield per acre.

SEC. XVI. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment; (b) any soil-depleting acreage allotment or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.

SEC. XVII. *State and regional bulletins, instructions, and forms.*—The Agricultural Adjustment Administration shall prepare and issue such State and regional bulletins, instructions, and forms as may be required in administering the 1938 Agricultural Conservation Program.

SEC. XVIII. *Definitions.*—For the purposes of the 1938 Agricultural Conservation Program

Secretary means the Secretary of Agriculture of the United States.

Regional Director means the director of the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the region.

Northeast Region means the area included in the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

East Central Region means the area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

Southern Region means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

North Central Region means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

State Committee means the group of persons designated within any State to assist in the administration of the 1938 Agricultural Conservation Program in such State.

County Committee means the group of persons elected within any county to assist in the administration of the 1938 Agricultural Conservation Program in such county.

County means the political or civil division of a State designated as a county or in the State of Louisiana as a parish, except that for the purposes of the 1938 Agricultural Conservation Program groups of townships in the political or civil divisions of Polk, Ottertail, and St. Louis in Minnesota, and Pottawattamie in Iowa may be designated as counties.

Person means an individual, partnership, association, corporation, estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Landlord means a person who owns land and rents such land to another person, or operates such land.

Sharecropper means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

Tenant means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops:

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Class A farms are farms for which general crop acreage allotments are established and include:

1. All farms in the North Central Region and in North Dakota, Kansas, Oklahoma, and Texas.

2. All farms in the following counties in Montana, Wyoming, Colorado, New Mexico, California, and Arkansas:

Montana.—Glacier, Pondera, Teton, Lewis and Clark, Broadwater, Gallatin, and all counties east thereof.

Wyoming.—Campbell, Converse, Crook, Goshen, Johnson, Laramie, Niobrara, Platte, Sheridan, Weston.

Colorado.—Larimer, Boulder, Jefferson, Teller, El Paso, Pueblo, Huerfano, Las Animas, and all counties east thereof.

New Mexico.—Colfax, Mora, San Miguel, Guadalupe, De Baca, Chaves, Eddy, and all counties east thereof.

California.—Butte, Colusa, Fresno, Glenn, Kern, Kings, Los Angeles, Madera, Merced, Monterey, Sacramento, San Joaquin, San Luis Obispo, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yolo, Yuba, and that portion of Placer County lying west of the east boundary of Township 9 East, Mt. Diablo Meridian.

Arkansas.—Arkansas, Baxter, Benton, Boone, Carroll, Clay, Crawford, Franklin, Fulton, Grant, Greene, Independence, Johnson, Lawrence, Logan, Lonoke, Madison, Marion, Newton, Perry, Prairie, Randolph, Saline, Scott, Searcy, Sebastian, Sharp, Stone, Van Buren, Washington, and Yell.

3. All farms in Aroostook County, Maine, for which potato acreage allotments are established; and

4. All farms in the Northeast Region on which the average acreage of commercial vegetables grown on the farm in 1936 and 1937 exceeds 50 percent of the acreage of cropland in excess of the sum of the average acreages of potatoes and tobacco grown on the farm in 1936 and 1937.

Class B farms means all farms which are not class A farms.

Cropland means farm land which is tilled annually or in a regular rotation, excluding commercial orchards, restoration land, and any land which constitutes, or will constitute if such tillage is continued, a wind erosion hazard to the community, but including any other land which has been planted since January 1, 1930 to permanent pasture or forest trees and which was classified as cropland under the 1937 Agricultural Conservation Program, and including also land planted to noncommercial orchards other than abandoned orchards.

Restoration Land means farm land, in areas designated by the Agricultural Adjustment Administration as areas subject to serious wind erosion and areas containing large acreages unsuited to continued production of cultivated crops, which has been cropped at least once since January 1, 1930, and which is designated by the county committee as land on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

Commercial Orchards means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1938 (excluding non-bearing orchards and vineyards), from which the principal part of the production is normally sold.

Cotton means cotton the staple of which is normally less than 1⅛ inches in length. American-Egyptian cotton, Sea Island cotton, and any other cotton the staple of which is normally 1⅛ inches or more in length shall be considered as a general soil-depleting crop and not as cotton in connection with the 1938 Agricultural Conservation Program.

Commercial Vegetables means the acreage of vegetables or truck crops (including potatoes on farms where a potato acreage allotment is not established, sweetpotatoes, tomatoes, sweet corn, melons, cantaloupes, strawberries, and commercial bulbs and flowers, but excluding peas for canning and sweet corn for canning and artichokes for use other than as vegetables) of which the principal part of the production is sold to persons not living on the farm.

Peanuts for Market means only those peanuts separated from the vines by mechanical means and from which the principal part of the production is sold to persons off the farm.

Soil-Conserving Acreage means the total acreage of cropland in any class A farm in excess of the total soil-depleting acreage allotment established for the farm.

Noncrop Open Pasture means pasture land (other than rotation pasture land and range land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

Commercial Corn-Producing Area means the area included in the following counties of the States specified:

Illinois.—All counties.

Indiana.—All counties except Brown, Clarke, Crawford, Floyd, Harrison, Jefferson, Lawrence, Martin, Monroe, Ohio, Orange, Perry, Scott, Spencer, and Switzerland.

Iowa.—All counties.

Michigan.—Branch, Hillsdale, Lenawee, Monroe, and St. Joseph.

Minnesota.—Big Stone, Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Grant, Houston, Jackson, Kandiyohi, Lac Qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Redwood, Renville, Rice, Rock, Scott, Sibley, Steele, Stevens, Swift, Traverse, Wabasha, Waseca, Watonwan, Winona, Wright, and Yellow Medicine.

Missouri.—Adair, Andrew, Atchison, Audrain, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Cape Girardeau, Carroll, Cass, Chariton, Clark, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Pemiscott, Perry, Pettis, Pike, Platte, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, Saline, Schuyler, Scotland, Scott, Shelby, Stoddard, Vernon, and Worth.

Nebraska.—All counties except Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Dawes, Deuel, Garden, Garfield, Grant, Holt, Hocker, Keith, Keyapaha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Rock, Scotts Bluff, Sheridan, Sioux, Thomas, and Wheeler.

Ohio.—All counties except Ashtabula, Athens, Belmont, Carroll, Columbiana, Cuyahoga, Gallia, Geauga, Guernsey, Harrison, Hocking, Jackson, Jefferson, Lake, Lawrence, Lorain, Mahoning, Medina, Meigs, Monroe, Morgan, Muskingum, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, Vinton, Washington, and Wayne.

South Dakota.—Bon Homme, Brookings, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Minnehaha, Moody, Turner, Union and Yankton.

Wisconsin.—Dane, Grant, Green, Iowa, Lafayette, and Rock.

Kansas.—Anderson, Atchison, Brown, Coffee, Crawford, Doniphan, Douglas, Franklin, Jackson, Jefferson, Jewell, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Nemaha, Norton, Osage, Phillips, Pottawatomie, Republic, Riley, Shawnee, Smith, and Washington.

Kentucky.—Fulton, Henderson, Hickman, and Union.

General Soil-Depleting Crops means all soil-depleting crops other than sugar beets and sugarcane for sugar and those for which individual crop acreage allotments are established on the farm.

Animal Unit means one cow, one horse, five sheep, or five goats, two calves, or two colts, or the equivalent thereof.

Done at Washington, D. C., this 19th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-623; Filed, February 28, 1938; 3:57 p. m.]

SUGAR ACT OF 1937

NOTICE OF PUBLIC HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Territory of Hawaii

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that public hearings will be held in the Territory of Hawaii as follows:

At Lihue, on the Island of Kauai, on April 8, 1938, at 9:30 a. m., in the Court Room of the Circuit Court of the Fifth Judicial Circuit of the Territory of Hawaii at Lihue.

At Honolulu, on the Island of Oahu, on April 11, 1938, at 9:30 a. m., in the Court Room of the United States District Court for the Territory of Hawaii, in the Federal Building at Honolulu.

At Wailuku, on the Island of Maui, on April 14, 1938, at 9:30 a. m., in the Court Room of the Circuit Court of the Second Judicial Circuit of the Territory of Hawaii at Wailuku.

At Hilo, on the Island of Hawaii, on April 18, 1938, at 9:30 a. m., in the Court Room of the United States District Court for the Territory of Hawaii at Hilo.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane during the calendar year 1938 on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1938 crops of sugarcane to be paid, under either purchase or toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugarcane.

Any of such hearings, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

Robert H. Shields, Garibaldi Laguardia, and George W. Mills are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 28th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-622; Filed, February 28, 1938; 3:57 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

MARYLAND

MARCH 1, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Maryland State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Queen Annes.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-634; Filed, March 1, 1938; 12:48 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Order No. 34]

IN THE MATTER OF UNIFORM SYSTEMS OF ACCOUNTS FOR COMMON CARRIERS BY WIRE AND RADIO

The Commission at a meeting held on February 21, 1938, adopted the following order:

The Commission having under consideration the matter of uniform systems of accounts for common carriers by wire and radio;

Whereas recently pursued studies relating to the accounting for pensions and other forms of employees' benefits are indicative of the desirability of the institution or modification of certain pertinent accounting regulations; and

Whereas it appears that the most desirable results in this respect, from the viewpoints of employees, users, investors, and efficient management, can be obtained only if the Commission has readily accessible detailed knowledge of all features of the benefit plans that have been adopted by such carriers:

Now, therefore, particularly in view of the provisions of section 220 (a), regarding the prescribing by the Commission of any and all accounts, records, and memoranda; the provisions of section 219 (b), regarding the filing of special reports; and all other pertinent sections of the Communications Act of 1934:

It is ordered, That every common carrier by wire or radio subject to the said Act shall at the time, or within the limits of time, hereinafter stipulated, supply the following information:

1. Irrespective of the plan of related accounting now or at any time pursued, copies of the text (or if such does not exist, a comprehensive outline) of the original plan (adopted by respondent or to which respondent is or was a party) for pensions, sick benefits, disability benefits, death benefits, termination allowances, or any other benefits, paid or payable to active or retired employees, their representatives or beneficiaries; together with copies of the text, the dates, and effective dates of all amendments, modifications, abolishments, or other changes in all such plans as now are, or have been at any time in force.

2. In connection with every such benefit plan, further detailed copies or (only when the word "copies" is not appropriate) statements; (1) on original basis and (2) with respect to the content, dates, and effective dates of all amendments, modifications, abolishments, and other changes; in the following particulars:

(a) The facts, if any, that in the respondent's judgment establish a contractual relationship requiring the payment of pensions or other benefits.

(b) The declaration of trust under which a pension or other benefit fund, if any, has been established.

(c) The actuarial formulae (or processes stated in simplified form) governing the creation and continuation of each such trust or other similar fund or provident or other similar reserve as may be or has been established with a view to the payment of pensions or other benefits.

(d) The plan of accounting for each of the types of benefits (1) paid or (2) regarding the eventual payment of which provision has been made in the accounts.

It is further ordered, That with respect to all the foregoing matters, other than future changes, responses be filed within the thirty days next following the date of this order; and that with respect to every future change (in a benefit plan, trust agreement, actuarial formula, plan of accounting, or other matter hereinbefore specified) made or definitely contemplated, the Commission be advised at the earliest practicable date, *Provided,* That, in the event of any change actually made, such filing shall be within the thirty days next following the effective date of such change: *And further provided* That, in the event that any change will involve or produce a "change in accounting", the change shall not be made until after filing of the appropriate detailed documentary copy or statement with this Commission for its consideration and such action as it deems appropriate.

It is further ordered, That with respect to the matters treated in this order "change in accounting" shall mean every change in the benefit plan, actuarial procedure, plan of accounting itself, or otherwise, that will involve or produce changes in the amounts periodically entering any account for any reason other than a change in the amount of a payroll.

It is further ordered, That nothing contained in this order shall be viewed as changing or in any way affecting the requirements of any uniform system of accounts effective under the provisions of the Communications Act of 1934, but, in order to avoid duplicative requirements,

It is further ordered, That any carrier, which in answer to any order, accounting regulation, or request of this Commission has supplied one or more of the items of information sought by this order, shall be viewed as having responded properly with respect to the particular item or items after having made specific reference in answer to the item under this order to the responsive data otherwise supplied.

It is further ordered, That, in the event that any or all of the requirements of this order are not applicable to a carrier subject to the Communications Act of 1934, a response stating such fact shall be filed with this Commission within the thirty days next following the date of this order and that a carrier's status in this respect shall in no manner affect its responsibility for subsequent reportings in the event of future adoption, change, or other significant event or circumstance.

It is further ordered, That the term "changes" hereinbefore used shall include the variation (1) in the terms of the benefit plan; (2) in the accounting for the benefits; or (3) elsewhere, due to social security legislation, but for the purposes of this order, the payment of taxes pursuant to the Social Security Act shall not of itself be viewed as constituting adoption of, or becoming a party to, a benefit plan.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-632; Filed, March 1, 1938; 11:53 a. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN ASSOCIATIONS

PERMITTING FEDERAL ASSOCIATIONS OPERATING UNDER A CHARTER IN THE FORM OF EXHIBIT K TO PURCHASE, MAKE AND SELL LOANS IF SUCH LOANS ARE INSURED BY THE FEDERAL HOUSING ADMINISTRATOR

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of the Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), Section 39 of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended by adding a new subsection (d) at the end thereof to read as follows:

"(d) By this subsection the Board approves, from the date receipt is acknowledged by the Board of each application for such lending privilege, the loan plans provided by the National Housing Act, as amended, as other loan plans which Federal associations, operating under a charter in the form of Exhibit K annexed hereto, are authorized to use under Section 14 of their charter, to the extent of the percentage of the appraised value the members of the Federal association have authorized or may authorize loans to be made in an amount exceeding 75 per cent of the value of the home property securing the loan. Thereafter any such Federal association may originate, purchase and sell, subject to the provisions of Section 42 hereof, any first mortgage loans approved for insurance protection by the Federal Housing Administrator under the provisions of Title I or Title II of the National Housing Act, as amended, and the limitations of these regulations and its charter as to loans made under any other loan plan shall not apply thereto. The provisions of Section 5 (c) of Home Owners' Loan Act of 1933, as now or hereafter amended, shall apply to loans authorized by this subsection."

Be it further resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), the matter within the parentheses in the next to the last sentence of paragraph (3) of subsection (c) of Section 41 of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended to read as follows:

"in no event greater than the percentum of appraised value permitted to be insured by the Federal Housing Administrator under the National Housing Act, as amended."

Be it further resolved, That, it being deemed that this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Federal Home Loan Bank Board on February 28, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-629; Filed, March 1, 1938; 10:38 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3161]

IN THE MATTER OF GOLF BALL MANUFACTURERS' ASSOCIATION, AN UNINCORPORATED TRADE ASSOCIATION, ITS OFFICERS AS FOLLOWS: LAWRENCE B. ICELY, PRESIDENT, EDWARD C. CONLIN, VICE PRESIDENT, WILLIAM T. BROWN, SECRETARY AND TREASURER, ITS MEMBERS, AND A. G. SPALDING AND BROTHERS, A CORPORATION, JOHN WANAMAKER, INC., A CORPORATION, L. A. YOUNG GOLF COMPANY, A CORPORATION, WORTHINGTON BALL COMPANY, A CORPORATION, WILSON SPORTING GOODS COMPANY, A CORPORATION, U. S. RUBBER PRODUCTS COMPANY, A CORPORATION, DUNLOP TIRE AND RUBBER COMPANY, A CORPORATION, AND ACUSHNET PROCESS COMPANY, A CORPORATION, INDIVIDUALLY AND AS REPRESENTATIVE MEMBERS OF SAID ASSOCIATION, AND THEIR OFFICERS, AGENTS AND EMPLOYEES, PROFESSIONAL GOLFERS ASSOCIATION OF AMERICA, AN UNINCORPORATED ASSOCIATION, ITS OFFICERS AS FOLLOWS: GEORGE R. JACOBUS, PRESIDENT, JACK B. MACKIE, TREASURER, TOM WALSH, SECRETARY, ITS MEMBERS, AND C. M. IRWIN, AN INDIVIDUAL, TOM KERRIGAN, AN INDIVIDUAL, JOE BRADLEY, AN INDIVIDUAL, JIM DANTE, AN INDIVIDUAL, JACK FOX, AN INDIVIDUAL, JACK HAGEN, AN INDIVIDUAL, JOHN INGLIS, AN INDIVIDUAL, R. C. MACDONALD, AN INDIVIDUAL, ALEX MAIN, AN INDIVIDUAL, AND JACK FORRESTER, AN INDIVIDUAL, INDIVIDUALLY AND AS REPRESENTATIVE MEMBERS OF SAID ASSOCIATION, RESPONDENTS

FINDINGS AS TO THE FACTS AND CONCLUSION

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act) and pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" (the Clayton Act), as amended by "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914 as amended (U. S. C. Title 15, Section 13), and for other purposes" (the Robinson-Patman Act), the Federal Trade Commission, on

August 18th, 1937, issued, and subsequently served, its amended complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair methods of competition in commerce, in violation of the provisions of said Federal Trade Commission Act, and with acts and practices in violation of Sub-Sections 2 (a), 2 (d), and 2 (f) of Section 2 of said Clayton Act as amended.

After issuance and service of said amended complaint, respondents filed their answers thereto, making general denial of the substantial allegations of the complaint. Subsequently all the respondents petitioned the Federal Trade Commission for permission to withdraw said answers and to file in lieu thereof substitute answers to the complaint, in which substitute answers respondents admitted, for the purposes of this proceeding only, all the material allegations of said complaint except the facts alleged in Paragraph Seven, sub-sections 1 and 2, and Paragraph Eight, sub-section 3, of Count I, and the same allegations as adopted and made a part of Paragraph One of Count II of the Amended Complaint—all of which allegations were severally denied. Pursuant to permission granted by the Commission, said original answers were withdrawn by said respondents and said substitute answers were filed in lieu thereof. Said respondents also consented therein that the Commission might proceed to make its findings of fact without further proceedings and that an order might issue and be served upon the respondents requiring them to cease and desist from the unfair methods of competition alleged in the complaint. The said Commission having duly considered the above and being fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

Findings as to the Facts

PARAGRAPH 1. The respondent, Golf Ball Manufacturers' Association, hereinafter for convenience referred to as "Manufacturers' Association," is an unincorporated trade association, with an office at 105 Nassau Street, in the City of New York, New York. Its officers are respondents Lawrence B. Icely, Edward C. Conlin and William T. Brown, President, Vice-President and Secretary-Treasurer, respectively. Its membership consists of manufacturers and wholesalers of golf balls. The "Manufacturers' Association" is a non-profit organization created for the purpose of promoting the welfare and interests of its membership.

PAR. 2. Respondent A. G. Spalding and Bros., is a corporation organized and existing by virtue of the laws of the State of New Jersey, with its main office and principal place of business located at 105 Nassau Street, in the City of New York, New York. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent John Wanamaker, Inc., is a corporation organized and existing by virtue of the laws of the State of Pennsylvania with its main office and principal place of business located at Chestnut Street, in the City of Philadelphia, Pennsylvania. It is, and for several years last past has been, engaged in the manufacture, purchase and sale of golf balls.

Respondent L. A. Young Golf Company is a corporation organized and existing under and by virtue of the laws of the State of Michigan, having an office and place of business located at 6545 St. Antoine Street, in the City of Detroit, Michigan. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent Worthington Ball Company, is a corporation organized and existing under and by virtue of the laws of the State of Ohio with an office and place of business located at Elyria, Ohio. It is, and for several years last past has been engaged in the manufacture and sale of golf balls.

Respondent Wilson Sporting Goods Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with an office and place of business located at 2037 Powell Avenue, in the City of Chicago, Illinois. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent U. S. Rubber Products Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with an office and place of business located at 1790 Broadway, in the City of New York, New York. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent Dunlop Tire and Rubber Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware, having an office located at 500 5th Avenue, in the City of New York, New York. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent Acushnet Process Company, is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with an office and place of business located in the City of New Bedford, Massachusetts.

It is, and for several years last past has been engaged in the manufacture and sale of golf balls.

The above named respondents do not constitute the entire membership of the respondent "Manufacturers' Association" but are representative members thereof. All members of the respondent "Manufacturers' Association" were made parties respondent herein as a class of which those specifically named are representative of the whole. For convenience the above named respondents will hereinafter be referred to as members of the "Manufacturers' Association".

PAR. 3. The respondent members of the "Manufacturers' Association" cause their golf balls when sold to be transported to purchasers thereof located in the various states of the United States. They are in competition among themselves, except in so far as their said competition has been hindered, lessened, restricted or restrained or potential competition among them forestalled by their practices and methods hereinafter particularly described and set forth. There are other manufacturers and wholesalers of golf balls, who sell and distribute their said products in the various states of the United States, and who, in the ordinary course of their business, seek the same customers that are sought by the respondent members of the "Manufacturers' Association." These non-member manufacturers and wholesalers also cause their golf balls to be shipped and transported from the various points of manufacture and sale in certain states through and into other states of the United States. They are also in competition among themselves and with respondent members of the "Manufacturers' Association" except in so far as their said competition has been hindered, lessened, restricted or restrained or potential competition forestalled as a result of the use of the practices and methods by the parties respondent hereinafter described. The respondent "Manufacturers' Association" and its officers are not engaged in commerce, but are engaged in unfair methods, hereafter described, which directly affect competition among respondent members of the "Manufacturers' Association" and non-member manufacturers and wholesalers of golf balls, and also directly affect the competition in the sale of golf balls, between and among retail dealers located in the various states of the United States engaged in the retail sale of said products.

PAR. 4. The respondent, Professional Golfers' Association of America, hereinafter for convenience referred to as "PGA", is an unincorporated trade association, with an office at 14 East Jackson Boulevard, in the City of Chicago, Illinois. The officers of said respondent "PGA" are respondents George R. Jacobus, President, Jack B. Mackie, Treasurer, and Tom Walsh, Secretary. Respondent "PGA" is a non-profit association organized and created for the purpose of promoting the game of golf and the general welfare and interests of its members who are engaged in the sale of golf balls and golf equipment.

Its membership consists of approximately 1500 of an estimated total of 2500 professional golfers who are engaged in the retail sale of golf balls and golf equipment throughout the country. Among the members of said respondent "PGA" are respondents C. M. Irwin, Tom Kerrigan, Joe Bradley, Jim Dante, Jack Fox, Jack Hagen, John Inglis,

R. C. MacDonald, Alex Main, and Jack Forrester, all individuals, engaged in the retail sale of golf balls and golf equipment. The above named members of said respondent "PGA" do not constitute the entire membership thereof but are representative members thereof. All members of respondent "PGA" were made respondents herein, as a class, of which those specifically named are representative of the whole. Said respondent members are hereinafter for convenience collectively referred to as respondent members of "PGA".

The respondent members of "PGA" are in competition with one another in the retail sale of golf balls to consumers in the various localities in which they respectively operate, except in so far as their said competition has been hindered, lessened, restricted or restrained or potential competition among them forestalled by the practices and methods of the parties respondent hereinafter specifically described and set forth. There are numerous other retailers of golf balls who are non-members of respondent "PGA" who are engaged in the sale of such products to consumers in the various localities and trade areas in the United States in competition with one another and with one or more of respondent members of "PGA", except in so far as such competition has been hindered, lessened, restricted or restrained or potential competition among them forestalled by the use of the practices and methods of the parties respondent hereinafter described. All or nearly all of respondent members of "PGA" and their competitors above mentioned are engaged in purchasing golf balls from manufacturers or wholesalers thereof which are transported from one state to and through other states to them as a result of such purchases and in reselling the same to customers located in the various trade areas in which they respectively operate. All of said respondent members of "PGA" are engaged in unfair methods, as hereinafter set forth, which directly and substantially affect competition among themselves, and between themselves and other retail dealers, and among the manufacturers and wholesalers of said products.

PAR. 5. The respondent members of the "Manufacturers' Association" own and control practically all the factories engaged in the production of golf balls in the United States and produce most of the golf balls sold and distributed in this country. The respondent members of "PGA" constitute a group of retailers of golf balls so large and influential in the trade as to be able by themselves and in cooperation with respondent members of the "Manufacturers' Association" to control and influence the flow of trade and channels of distribution in golf balls throughout the country, as well as the prices at which, and the terms and conditions under which non-member retailers of golf balls buy and resell such products.

PAR. 6. The parties respondent named herein have within the past several years agreed, combined and united in and pursued a common and concerted course of action and undertaking, among themselves and with others, to adopt, follow, carry out, enforce, fix and maintain throughout the United States, certain monopolistic prices, policies, sales methods, and trade practices, hereinafter described, which the said parties respondent have agreed to and pursued to the substantial or potential injury of some of such manufacturers, wholesalers and retail dealers and of ultimate purchasers and consumers of golf balls.

PAR. 7. The said monopolistic prices, sales methods, policies and trade practices referred to in the preceding paragraph and which were so adopted, fixed, and put into effect are as follows:

1. A policy and practice of coercing, in connection with the sale of golf balls to respondent members of "PGA", manufacturers and wholesalers of golf balls to enter into contracts with the respondent "PGA" providing for the payment of monies to the respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on the golf balls so sold.

2. A policy and practice of causing, permitting and allowing the respondent "PGA" to remit and pass along to its members a designated percentage of the monies paid by manufacturers and wholesalers to respondent "PGA" under the aforesaid contracts.

3. A policy and practice of causing, permitting, and allowing the respondent "PGA" to use the funds derived from the payment of monies under the aforesaid contracts for the purpose of promoting and creating a preference on the part of the purchasing public for golf balls having the letters "PGA" imprinted thereon to golf balls of equal quality and value offered for sale and sold by retail competitors of the respondent members of "PGA".

4. The policy and practice of requiring that all manufacturers and wholesalers of golf balls who manufacture and sell balls under the aforesaid contracts observe the provisions of said contracts with respect to the maintenance of uniform prices as between members of the respondent "PGA" and other retail dealer purchasers who are non-members of respondent "PGA" in the sale of their golf balls of equal grade and quality.

5. A policy or practice of granting, giving or allowing members of the respondent "PGA" a discount on purchases of golf balls commensurate with the designated percentage of the aforesaid payments to be received by them in lieu of said designated percentage.

6. A policy and practice of requiring that all manufacturers and wholesalers of golf balls who sell their products to members of respondent "PGA" refrain and abstain from giving, allowing or granting in any way or manner any rebate, discount, royalty, or refund in any manner or form to retail purchasers who are not members of respondent "PGA".

7. A policy and practice of persuading, coercing and compelling retail dealers in golf balls who are not members of respondent "PGA" to refrain, abstain and desist from selling golf balls at a price less than that designated by the parties respondent herein.

8. Generally, a policy and practice designed to and tending to monopolize the sale and distribution of golf balls in the parties respondent herein.

PAR. 8. For the purpose of making such sales practices, policies and pricing methods effective, and of requiring compliance therewith and observance thereof by all manufacturers, wholesalers, and retail dealers in golf balls throughout the United States, the parties respondent herein, acting through their officers, directors, committees, and individually, in furtherance of and in pursuance of the general plan, undertaking, and policy, have collectively as groups or individually done the following things:

1. Formulated, adopted, followed, carried out, enforced, imposed and made effective the policies, practices and methods described in the preceding paragraph.

2. Held official and unofficial meetings of said respondent associations and their members at which the policies and practices hereinabove described were discussed, adopted and agreed to, and issued bulletins, circulars, letters, price lists and other printed matter, and distributed the same among the members of said respondent associations and others, announcing the adoption of the policies, practices and requirements referred to and the imposition of the same upon all affected thereby.

3. Caused manufacturers and wholesalers of golf balls who sell their products to members of respondent "PGA" to enter into contracts with respondent "PGA" providing for the payment of money to respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on their golf balls.

4. Caused, permitted, and allowed the respondent "PGA" to remit and pass along to its members a designated percentage of the monies paid by the manufacturers and wholesalers to the respondent "PGA" under the aforesaid contracts.

5. Caused, permitted and allowed the respondent "PGA" to use the funds derived from the payment of monies under the aforesaid contracts for the purpose of promoting the interests and welfare of its members to the disadvantage of retail dealers in golf balls who are not members of said respondent "PGA."

6. Respondent members of the "Manufacturers' Association" have observed the provisions of the aforesaid contracts with respect to the maintenance of uniform prices as between members of the "PGA" and others than members of the "PGA" in the sale of golf balls of equal grade and quality to those sold to members of the "PGA" under the provisions of said contracts.

7. Respondent members of the "Manufacturers' Association" have given and allowed members of respondent "PGA" a discount on purchases of golf balls commensurate with the designated percentage of the aforesaid payments of money to be received by them in lieu of said percentage thereof.

8. Respondent members of the "Manufacturers' Association" refuse and refrain from giving, allowing, or granting in any way or manner any rebate, discount, royalty, or refund in any manner or form to retail dealer purchasers who are not members of respondent "PGA."

9. The parties respondent herein have persuaded, coerced and compelled retail dealers in golf balls who are not members of the respondent "PGA" to refrain, abstain and desist from selling golf balls at a price less than that designated by them.

10. Respondents generally have sought and have obtained promises and assurances of cooperation from one another in establishing and making effective the sales practices, policies and pricing methods hereinabove described.

11. The parties respondent generally have exchanged information with reference to their respective businesses and activities to be used in furtherance of the policies and methods referred to.

12. The parties respondent generally have supervised and investigated the practices and policies of retail dealers in golf balls, and have acted concertedly to maintain certain resale prices agreed upon, to control resale markets and to coercively require recalcitrant manufacturers, wholesalers and retail dealers to conform to such practices and methods.

PAR. 9. The capacity, tendency, and effect of said plan, agreement, undertaking, policies and methods, and the said acts and practices of said respondents in pursuance thereof, are and have been:

1. To monopolize in the respondent members of the "Manufacturers' Association" the business of manufacturing and of selling golf balls to retail dealers in the United States.

2. To monopolize in the respondent members of "PGA" the retail sale of golf balls to consumers in the United States.

3. To fix and maintain the prices at and conditions under which golf balls are sold by manufacturers and wholesalers thereof.

4. To fix and maintain the prices at and conditions under which golf balls are sold by retail dealers to consumers.

5. To bring about an unlawful discrimination in the prices at which golf balls of the same grade and quality are sold by manufacturers and wholesalers to retail dealers therein.

6. To unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in the golf ball trade and industry and to deprive the purchasing and consuming public of advantages in price, service, and other considerations which they would receive and enjoy under conditions of normal and unobstructed or free and fair competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

7. To substantially increase the cost of retail dealer purchasers of golf balls.

8. To suppress, eliminate and discriminate against small business enterprises which are or have been engaged or desire to engage in manufacturing, selling or distributing golf balls.

9. To obstruct and prevent the establishment of new distributors of golf balls.

10. To suppress and eliminate all price competition among manufacturers and wholesalers in the sale of golf balls and among retail dealers engaged in the resale thereof.

11. To hamper and interfere with the natural flow of trade in commerce of golf balls to and through the various states of the United States; and to injure the competitors of individual respondents by unfairly diverting business and trade from them, depriving them thereof and otherwise driving or freezing them out of business.

12. To prejudice and injure manufacturers, wholesalers and retailers and others who do not conform to respondents' program or methods or who do not desire to conform to them, but are compelled to do so by the concerted action of respondents herein alleged.

PAR. 10. The above alleged acts and things done by the parties respondent have a dangerous tendency unduly to hinder competition in the golf ball trade throughout the United States, and to create a monopoly thereof in the hands of respondents and constitute unfair methods of competition in commerce within the meaning of Section 5 of an Act of Congress entitled "An Act to Create a Federal Trade Commission, to define its powers and duties and for other purposes", approved September 26, 1914.

PAR. 11. The parties respondent herein named have brought about and made effective a policy and system whereby respondent members of the "Manufacturers' Association" discriminates and have discriminated in price between different purchasers of golf balls of like grade and quality, in violation of Section 2a of the Clayton Act as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13), and for other purposes."

The aforesaid discriminations in price between different purchasers of golf balls of like grade and quality were effected through the concerted action of the parties respondent herein through the formulation, adoption, and administration of a policy and practice of requiring the payment of monies to respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on golf balls which are sold to members of the respondent "PGA", a percentage of which monies to be passed along to the member purchaser with the knowledge and consent of the respondent members of the "Manufacturers' Association"; or a policy or practice of requiring that the respondent members of the "Manufacturers' Association" give members of respondent "PGA" a discount or rebate on the purchase prices quoted to the retail trade on golf balls of like grade and quality; or a policy or practice requiring that the respondent members of the "Manufacturers' Association" quote and sell members of respondent "PGA" golf balls of like grade and quality to those offered and sold the non-member retail dealers at a price less than that at which they are sold to non-members retail purchasers.

PAR. 12. The respondent members of the "Manufacturers' Association" have contracted for the payment of, and have made payments of money to the respondent "PGA" to be used by said respondent "PGA" for the purpose of promoting the welfare and interest of their customers who are members of said respondent "PGA" in violation of Section 2 (d) of the Clayton Act as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13), and for other purposes".

The aforesaid payments of money were effected through the payment of monies to the respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on golf balls which are sold to members of the respondent "PGA", and the said payments consist of that percentage of said monies which is not passed along to the respondent member purchasers of golf balls but is retained by the respondent "PGA" and used by it for the benefit, and promotion of the welfare of its respondent members. The said payments of money are not available, and are not made to any customers of the respondent members of the "Manufacturers' Association" who are not members of the respondent "PGA".

PAR. 13. The respondent members of the respondent "PGA" have knowingly induced said respondent members of the "Manufacturers' Association" to discriminate in price as aforesaid, and have knowingly received such discriminations in price on purchases of golf balls made by them, in violation of Section 2 (f) of the Clayton Act as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13), and for other purposes".

PAR. 14. The general effect of the policies and practices requiring the systematic discriminations in price for golf balls of like grade and quality between customers in the same class as set forth in Paragraphs Eleven and Thirteen hereof has been or may be substantially to lessen competition and tend to create a monopoly in the manufacture, sale and distribution of golf balls, and to injure, destroy and prevent competition between and among manufacturers, wholesalers and retailers of golf balls and to deprive the purchasing public of advantages in price, service and other considerations which might be received and enjoyed under conditions of normal and unobstructed or free and fair competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

Conclusion

The aforesaid acts and practices of respondents have a dangerous tendency unduly to hinder competition in the golf ball trade throughout the United States, and to create a monopoly thereof in the hands of respondents and constitute unfair methods of competition in commerce within the meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties and for other purposes" approved September 26th, 1914; and the acts and practices, set forth in paragraphs 11 to 14 inclusive, of the said respondents are in violation of Section 2 (a), 2 (d) and Section 2 (f) of the Clayton Act as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13) and for other purposes."

By the Commission.

[SEAL] GARLAND S. FERGUSON, JR., *Chairman.*

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission and the answers filed by the parties respondent herein on February 7, 1938, admitting with certain exceptions all the material allegations of the complaint for the purpose of this proceeding only, and waiving the taking of further evidence and other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties and for other purposes" and Sections 2a, 2d and 2f of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 19, 1914, as amended (U. S. C. Title 15, Sec. 13) and for other purposes";

It is ordered, That the parties respondent herein, and their agents, representatives, servants and employees in connection with the sale, offering for sale or purchase of golf balls in interstate commerce or in the District of Columbia, cease and desist from:

(1) Entering into and carrying out any agreement or combination among themselves or among any of them, to fix and maintain uniform wholesale prices to be exacted by the manufacturers of golf balls, or their agents, servants or representatives, from retail dealer purchasers thereof;

(It is not intended that the foregoing paragraph shall abridge any lawful right of a licensor under a patent or a patent license agreement to apply to any lawful action taken under patents or license agreements relating thereto);

(2) Fixing, enforcing and maintaining, by agreement or combination among themselves, or among any of them, resale prices for golf balls;

(It is not intended that the provisions of the two preceding paragraphs shall abridge or preclude any lawful action with reference to prices which is permitted by the Act commonly called the Miller-Tydings Act, namely, Title 8 of the Act of Congress approved August 17, 1937, entitled "An Act to provide additional revenue for the District of Columbia and for other purposes"; or any other then existing Federal Law).

It is further ordered, That the respondent, Professional Golfers Association, its officers, members, agents or representatives, cease and desist from:

(1) Requiring, coercing or persuading the respondent Golf Ball Manufacturers' Association, its officers, members, agents or representatives, or any of them, or any other corporation, partnership, firm or individual, to enter into any agreement or contract providing for or resulting in a difference in price in favor of members of the "PGA", through the payment of any monies, or any thing of value for the privilege of causing the letters "PGA" or any other insigna or mark of like character to be imprinted on golf balls manufactured and sold by any of the respondent manufacturers or any other manufacturer, corporation, partnership, firm or individual, directly or indirectly to the respondent "PGA" or any of its respondent members.

(2) Entering into any combination, understanding or agreement among themselves, or among any of them, to hinder or prevent, by intimidation, coercion, withdrawal, or threatened withdrawal of patronage or custom, either expressed or implied, or promises or agreements to increase such patronage or custom, any person, firm, partnership, or corporation, or any agent or representative thereof, from selling or buying golf balls in interstate commerce, from or to whomsoever, or at whatsoever price or terms may be agreed upon between any seller or purchaser.

It is further ordered, That the respondent Golf Ball Manufacturers' Association, its officers, members agents or representatives, or any of them, in connection with the sale or offering for sale of golf balls in interstate commerce, cease and desist from:

(1) Granting or giving the following unlawful discriminations in price, namely, the payment of anything of value to respondent Professional Golfers Association, either as a royalty for the privilege of causing the letters "PGA" or any other insignia, brand or mark to be imprinted on golf balls sold to members of the respondent Professional Golfers Association or otherwise, which payment is, directly or indirectly, in whole or in part, passed along to or used for the benefit of the members of said Professional Golfers Association; or the making of any payment directly to such members in lieu of any such payment to the Professional Golfers Association;

(2) Granting or giving any other price discrimination of substantially similar character to the respondent Professional Golfers Association or its members under substantially like circumstances and conditions in connection with the sale of golf balls of like grade and quality;

(3) Paying or contracting to pay to the respondent Professional Golfers Association anything of value either as a royalty for the privilege of causing the letters "PGA" or any other insignia of like character to be imprinted on golf balls or otherwise, which payment is intended to be used or is in effect used, directly or indirectly, in whole or in part, for the purpose of advertising, promoting or creating a preference on the part of the purchasing public for golf balls having the letters "PGA" or any other insignia, brand or mark impressed thereon, unless such payments are made

available on proportionately equal terms to all other customers competing with the members of the Professional Golfers Association in the distribution of golf balls of like grade and quality;

(4) Otherwise granting to the respondent Professional Golfers Association any advertising or promotion allowances of substantially similar character, unless such payments are made available on proportionately equal terms to all other customers competing with the members of the Professional Golfers Association in the distribution of golf balls of like grade and quality;

(It is not intended that the provisions of the foregoing paragraphs (1) to (4) inclusive shall preclude lawful contributions made to promote the general welfare of the game of golf.)

It is further ordered, That the respondent, Professional Golfers Association, its officers, members, representatives, agents and employees, cease and desist from:

(1) Inducing or receiving any discrimination in price or allowance in connection with the purchase of golf balls in interstate commerce which the manufacturers of golf balls are prohibited from giving under the provisions of paragraphs (1) to (4) inclusive immediately preceding this paragraph of this order;

(2) Inducing or receiving any similar discrimination in price or allowance in the purchase of golf balls in interstate commerce under substantially like circumstances and conditions.

It is further ordered, That the parties respondent herein, within sixty (60) days of the date of the service upon them of this order, file with the Commission reports in writing stating the manner and form in which they shall have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-626; Filed, March 1, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3248]

IN THE MATTER OF SPECIALTIES, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William G. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, March 17, 1938, at ten-thirty o'clock in the forenoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-625; Filed, March 1, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3289]

IN THE MATTER OF STANDARD CONTAINER MANUFACTURERS' ASSOCIATION, INC., A CORPORATION, AND ITS MEMBERS; JAMES B. ADKINS, CHARLES P. CHAZAL, RUSSELL W. BENNETT, INDIVIDUALLY, AND AS PRESIDENT, VICE-PRESIDENT, AND SECRETARY, TREASURER AND MANAGER, RESPECTIVELY, AND AS MEMBERS OF THE BOARD OF DIRECTORS OF STANDARD CONTAINER MANUFACTURERS' ASSOCIATION, INC.; ADKINS MANUFACTURING COMPANY, A CORPORATION; CONSUMERS LUMBER AND VENEER COMPANY, A CORPORATION; ELBERTA CRATE AND BOX CO., A CORPORATION; GEORGIA VENEER AND PACKAGE CO., A CORPORATION; GEORGIA CRATE AND BASKET CO., A CORPORATION; THE GREENVILLE VENEER AND CRATE COMPANY, A CORPORATION; KEYSVILLE LUMBER COMPANY, A CORPORATION; WALTON E. NANTS AND R. A. NANTS, TRADING AS NANTS MANUFACTURING COMPANY; NOCATEE-MANATEE CRATE COMPANY, A CORPORATION; OCALA MANUFACTURING, ICE AND PACKING CO., INC., A CORPORATION; THE PIERPONT MANUFACTURING COMPANY, A CORPORATION; ROUX CRATE AND LUMBER COMPANY, INC., A CORPORATION; SHOLLAR CRATE AND BOX COMPANY, INC., A CORPORATION; SOUTHERN CRATE AND VENEER CO., A CORPORATION; SOUTHERN VENEER COMPANY, A CORPORATION; WALLING CRATE COMPANY, A CORPORATION; FRANK R. POUNDS CRATE COMPANY, A CORPORATION; LAKE CRATE AND LUMBER CO., A CORPORATION; OSCEOLA CRATE MILLS, INC., A CORPORATION; ZACHARY VENEER COMPANY, A CORPORATION; MONTBROOK CRATE CO., A CORPORATION; SOUTHERN CONTAINER COMPANY, A CORPORATION; CUMMER SONS CYPRESS COMPANY, A CORPORATION; HECTOR SUPPLY CO., A CORPRATION; ZACK RUSS, AN INDIVIDUAL, TRADING AS RUSS CRATE COMPANY; STEPHEN O. SHINHOLZER, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, March 14, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Grand Jury Room 309, Federal Building, Tampa, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-624; Filed, March 1, 1938; 9:26 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of February, 1938.

IN THE MATTER OF CHICAGO CURB EXCHANGE ASSOCIATION

ORDER GRANTING PERMISSION TO WITHDRAW REGISTRATION AS A NATIONAL SECURITIES EXCHANGE

The Chicago Curb Exchange Association having been granted registration as a national securities exchange; and

Said Exchange having made application under Section 6 (f) of the Securities Exchange Act of 1934, for permission to withdraw its registration as a national securities exchange upon the grounds that its membership has declined substantially, that it has operated at a substantial deficit for the past four years, and that the volume of listings and of transactions effected on said Exchange is not sufficient to warrant the operation of said Exchange as a national securities exchange; and

It appearing to the Commission that such application should be granted;

It is ordered, That said Exchange be and is hereby permitted to withdraw its registration as a national securities exchange, effective as of March 15, 1938, upon condition that notice of this order be served prior to March 10, 1938, on all issuers having securities listed on said Exchange.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-631; Filed, March 1, 1938; 11:28 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of February, A. D. 1938.

IN THE MATTER OF THE PROCEEDINGS TO DETERMINE WHETHER CHARLES C. WRIGHT; CHARLES C. WRIGHT, JERE A. SEXTON, GEORGE S. SIMPSON, A CO-PARTNERSHIP DOING BUSINESS AS WRIGHT & SEXTON; HERBERT KING; NORMAN STERN; HERBERT KING, NORMAN STERN, ROY W. ARNOLD, MAURICE GOODMAN, ERNST B. KAUFMAN, GUISEPPE RUSSO, SAMUEL STRASBOURGER, BENJAMIN H. ARNOLD, BENJAMIN F. GOODMAN, A CO-PARTNERSHIP DOING BUSINESS AS ARNOLD & COMPANY, SHOULD BE SUSPENDED OR EXPELLED FROM MEMBERSHIP ON CERTAIN NATIONAL SECURITIES EXCHANGES

ORDER OF SUSPENSION AND EXPULSION

This matter, after appropriate notice and hearing and argument by counsel, having been duly considered by the Commission, and the Commission having found that the respondents Norman Stern, Herbert King and Charles C. Wright have violated Section 9 (a) (1) and Section 9 (a) (2) of the Securities Exchange Act of 1934, as amended, and being of the opinion that it is necessary and appropriate for the protection of investors to suspend the respondents Norman Stern and Herbert King from membership upon all of the national securities exchanges of which they are members for a period of twelve months and to expel the respondent Charles C. Wright from all of the national securities exchanges of which he is a member, all as more fully set forth in the Findings and Opinion of the Commission:

It is ordered, Pursuant to Section 19 (a) (3) of said Act:

That, effective April 30, 1938, respondent Norman Stern, a member, as that term is defined in said Act, of the New York Stock Exchange and the New York Curb Exchange, national securities exchanges, be and hereby is suspended from membership on said exchanges until April 30, 1939;

That, effective April 30, 1938, respondent Herbert King, a member, as that term is defined in said Act, of the New York Stock Exchange and the New York Curb Exchange, national securities exchanges, be and hereby is suspended from membership on said exchanges until April 30, 1939;

That, effective April 30, 1938, respondent Charles C. Wright, a member, as that term is defined in said Act, of the New York Stock Exchange, the New York Curb Exchange, the Philadelphia Stock Exchange, the Chicago Stock Exchange, and the Board of Trade of the City of Chicago, national securities exchanges, be and hereby is expelled from said exchanges;

That a copy of this Order, accompanied by the Findings and Opinion of the Commission, be served upon the respondents herein, or their counsel, and be transmitted by registered mail to the Secretaries of the New York Stock Exchange, of the New York Curb Exchange, of the Philadelphia Stock Exchange, of the Chicago Stock Exchange, and of the Board of Trade of the City of Chicago, and to the firms of Arnold & Company and Wright & Sexton, New York City.

By order of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-630; Filed, March 1, 1938; 11:28 a. m.]

Thursday, March 3, 1938 *No. 43*

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[38-AAA-1, Supplement No. 1]

INSTRUCTIONS FOR HOLDING REFERENDUM ON COTTON MARKETING QUOTAS ON THE 1938 CROP

SUPPLEMENT NO. 1

The second paragraph of part D (Eligibility and General Provisions) of the "Instructions for Holding Referendum on Cotton Marketing Quotas on the 1938 Crop", 38-AAA-1, issued February 18, 1938, pursuant to Section 347 of the Agricultural Adjustment Act of 1938, is hereby amended to read as follows:

Only farmers who were engaged in the production of cotton in 1937 are entitled to vote. Any person who shared in the proceeds of the 1937 cotton crop as landowner, operator, share tenant, or sharecropper, shall be considered as engaged in the production of cotton.

Done at Washington, D. C., this 2nd day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-641; Filed, March 2, 1938; 12:09 p. m.]

[38-AAA-1-A, Supplement No. 1]

INSTRUCTIONS FOR HOLDING REFERENDA ON COTTON AND FLUE-CURED TOBACCO MARKETING QUOTAS ON THE 1938 CROP

SUPPLEMENT NO. 1

The second paragraph of part D (Eligibility and General Provisions) of the "Instructions for Holding Referenda on Cotton and Flue-Cured Tobacco Marketing Quotas on the 1938 Crop", 38-AAA-1-A, issued February 18, 1938, pursuant to Sections 347 and 312 of the Agricultural Adjustment Act of 1938, is hereby amended to read as follows:

Only farmers who were engaged in the production of cotton in 1937 are eligible to vote in the cotton marketing quota referendum. Likewise, only farmers who were engaged in the production of flue-cured tobacco in 1937 are eligible to vote in the flue-cured tobacco marketing quota referendum. The fact that a farmer is eligible to vote in one referendum does not necessarily mean that he is eligible to vote in the other. Any person who shared in the proceeds of the 1937 cotton crop as landowner, operator, share tenant, or sharecropper shall be considered as engaged in the production of cotton. Likewise, any person who shared in the

proceeds of the 1937 flue-cured tobacco crop as landowner, operator, share tenant, or sharecropper shall be considered as engaged in the production of flue-cured tobacco.

Done at Washington, D. C., this 2nd day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-640; Filed, March 2, 1938; 12:09 p. m.]

Bureau of Agricultural Economics.

REVISED RULES AND REGULATIONS OF SECRETARY OF AGRICULTURE FOR CARRYING OUT PROVISIONS OF PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930, AS AMENDED

By virtue of the authority vested in the Secretary of Agriculture by an "Act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce", approved June 10, 1930 (46 Stat. 531), as amended April 13, 1934 (48 Stat. 584), June 19, 1936 (49 Stat. 1533), and August 20, 1937 (50 Stat. 725), I, M. L. Wilson, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following rules and regulations to supersede all previous regulations for like purposes and to be in force and effect until amended or superseded by rules and regulations hereafter made by the Secretary of Agriculture under said act.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 1st day of March.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

RULES AND REGULATIONS

REGULATION 1.—DEFINITIONS

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. The following definitions are included in the act and shall have the same meaning in these regulations.

PARAGRAPH 1. *Person.*—This term includes individuals, partnerships, corporations, and associations.

PAR. 2. *Secretary.*—This term means the Secretary of Agriculture of the United States.

PAR. 3. *In commerce.*—This term means interstate or foreign commerce as defined in section 1, paragraphs 3 and 8 of the act.

PAR. 4. *Perishable agricultural commodity.*—This term means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character.

PAR. 5. *Commission merchant.*—This term means any person engaged in the business of receiving in interstate or foreign commerce any perishable agricultural commodity for sale on commission or for or on behalf of another.

PAR. 6. *Dealer.*—This term means any person engaged in the business of buying and/or selling in carloads any perishable agricultural commodity in interstate or foreign commerce, except that (a) no producer shall be required to obtain a license as a dealer if selling only commodities of his own raising, (b) no person buying in carloads solely for sale at retail shall be considered a dealer until his purchases of such produce in any 1 calendar year are in excess of 20 carloads, including wholesale or jobbing quantities as defined herein, and (c) no person buying such produce solely for canning and/or processing within the State where grown shall be considered a dealer, unless such produce, after purchase, is frozen or packed in ice. Any producer, retailer, or canner described in exceptions (a), (b), or (c) may elect to secure a license and in such case shall be considered a dealer.

PAR. 7. *Broker.*—This term means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively, or both.

SEC. 3. The following additional definitions shall apply to terms used in these regulations.

PARAGRAPH 1. *The Perishable Agricultural Commodities Act, 1930, or the act.*—This term means an act of Congress entitled, "An act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce," approved June 10, 1930 (46 Stat. 531), as amended April 13, 1934 (48 Stat. 584), June 19, 1936 (49 Stat. 1533), and August 20, 1937 (50 Stat. 725).

PAR. 2. *Chief of Bureau.*—This term means the Chief or Acting Chief of the Bureau of Agricultural Economics of the United States Department of Agriculture.

PAR. 3. *Licensee.*—This term means any person who holds an unrevoked and valid unsuspended license issued under the act.

PAR. 4. *Branch.*—This term means any subdivision, whether permanent or seasonal, owned and conducted in the name of a firm licensed under this act, whose manager or other person responsible for the conduct of the branch has discretionary authority in performing the usual functions of a commission merchant, dealer, or broker.

PAR. 5. *Inspector.*—This term shall be deemed to mean any person authorized or licensed by the Secretary to inspect any perishable agricultural commodity.

PAR. 6. *Produce.*—This term means any perishable agricultural commodity, as defined in section 2 of this regulation.

PAR. 7. *Fresh fruits and fresh vegetables.*—This term includes all products generally considered by the trade as perishable fruits and vegetables, whether or not frozen or packed in ice and whether or not held in common or cold storage, but does not include those which have been dried or manufactured into articles of food of a different character.

PAR. 8. *Wholesale or jobbing quantities.*—This term as used in section 1, paragraph 6, of the act means quantities of produce of not less than 1 ton in weight shipped or received by rail, truck, boat, or any other means of transportation.

PAR. 9. *Truly and correctly to account.*—This term shall be deemed to include (a) the prompt rendering of a true and correct itemized statement of the sale or other disposition of any consignment of perishable agricultural commodities in commerce with full payment of the gross amount for which such produce is sold, less the proper, usual, or agreed selling charges and all other expenses necessarily and actually incurred or agreed to in the handling thereof; (b) the prompt payment of deficits or other adjustments resulting from the handling of produce on consignment or for or on behalf of another in commerce; (c) the prompt payment of brokerage duly earned in connection with produce in commerce; and (d) the prompt payment of the purchase price or other amount due either the seller or the buyer in accordance with the terms of the agreement between the parties concerned in settlement for produce purchased or sold in commerce.

PAR. 10. *Account promptly.*—This term means that full accounting and payment of the net proceeds in cash or its equivalent shall be effected within 10 days after the day on which the final sale shall have been made of any lot of produce sold on commission or otherwise for or on behalf of another, unless otherwise provided by agreement between the parties: Provided, That in the case of a sale on commission at shipping point or of a shipment diverted while in transit or diverted from one terminal market to another, the 10-day period shall be computed from the time of arrival of the shipment at destination. This term also means that the payment of the purchase price or other amount due either the seller or the buyer of produce shall be made in accordance with the terms of the contract of purchase and sale, or, if time of payment is not specified, shall be made within a reasonable time after delivery and acceptance of the produce purchased and sold, and that brokerage charges shall be paid within a reasonable time after having been earned.

PAR. 11. *Reject.*—This term shall be deemed to mean the act of any person who has purchased or offered to handle on consignment or otherwise, for or on behalf of another, produce in commerce (1) of refusing or failing to accept such produce within a reasonable time, or (2) of advising the seller or shipper or his agent that he will not receive such produce in accordance with his contract or offer, or (3) of indicating an intention not to accept such produce through an act or failure to act either of which is inconsistent with the contract.

PAR. 12. *Reasonable time.*—This term as used in paragraph 11 above shall be deemed to mean with respect to rail shipments not to exceed 24 hours after receipt of notice of arrival of the produce, and with respect to boat shipments not to exceed 24 hours after the produce is unloaded and made accessible for inspection, unless the purchaser applies for Federal inspection of said produce within this period, or unless at the time of the receipt by the purchaser of notice of arrival of the produce the temperature is sufficiently below freezing to render a complete inspection of the produce dangerous thereto, commodity and existing weather considered. In case the temperature is dangerously below freezing at the time of arrival of the produce a preliminary inspection for the sole purpose of determining whether transit freezing injury is present in the load shall be made by the purchaser or caused to be made as soon as possible after the receipt of such notice of arrival, and the further inspection of the produce for the purpose of determining whether the produce meets the requirements of the contract of purchase and sale may be deferred until such time as the temperature and weather conditions will permit such inspection to be safely made, but reasonable time shall not extend beyond the time when such inspection can be safely made. The meaning of the terms "as soon as possible" and "safely made" shall be determined upon a consideration of all the facts and circumstances shown to exist in each case: *Provided*, That if the receiver has made arrangements to be notified of arrival on Sunday or a legal holiday and is so notified the 24-hour period shall run from 12:01 a. m. to 12 midnight on the next day.

PAR. 13. *Acceptance.*—This term shall be deemed to mean that unless the purchaser notifies the seller within a reasonable time as defined in paragraph 12 above that he rejects the produce, or unless the purchaser applies for Federal inspection of said produce within a reasonable time (24 hours) and takes action to notify the seller of his rejection of said produce within an hour after he has received either a verbal or a written report of the result of such inspection, or unless, in the case of dangerous freezing temperature as provided in paragraph 12, he shall have notified the seller, within 24 hours after receipt of notice of arrival of the produce, as to the weather conditions which prevent thorough inspection and notified the seller of his rejection immediately after inspection can be safely made following temperature dangerously below freezing, he will be deemed to have accepted the produce, subject to his right to claim damages in case such produce failed to meet the terms of the contract.

REGULATION 2.—ADMINISTRATION

SECTION 1. The Chief or Acting Chief of Bureau shall perform for and under the supervision of the Secretary, such duties as the Secretary may require in enforcing the provisions of the act and of these regulations.

REGULATION 3.—LICENSES

SECTION 1. PARAGRAPH 1. No person shall at any time carry on the business of a commission merchant, dealer, or broker without a license issued by the Secretary and countersigned by the Chief of Bureau which is valid and effective at such time.

PAR. 2. Any person who maintains one or more branches, as defined in regulation 1, has the option of operating all branches under the license of the parent organization or of taking out a separate license for each branch.

SEC. 2. Any person who desires to secure a license to carry on such business shall make application therefor on a form to be obtained from the Chief of Bureau or his representatives. Applications must be signed by the owner, partner, or, in the case of a corporation, an official duly authorized to do so.

SEC. 3. Each application shall be accompanied by the license fee of ten dollars ($10) in the form of a money order, bank draft, cashier's check, or certified check, made payable to the U. S. Department of Agriculture, and the application and fee shall be forwarded to the Chief of Bureau of Agricultural Economics, U. S. Department of Agriculture, Washington, D. C. Thereafter the annual fee of ten dollars ($10) required by the act shall be remitted in the same manner.

SEC. 4. Copies of licenses may be issued on request upon the payment of a fee of $1 for each copy. Each copy shall contain the word "COPY" in conspicuous letters on its face and be certified by the Chief of Bureau as a true copy of the original.

SEC. 5. Thirty days or more prior to the anniversary date of a license, the Chief of Bureau shall mail a notice to the licensee at the latest address known to the Chief of Bureau, advising that the license will automatically terminate on its anniversary date unless the annual fee of $10 is paid on or before said date. A license which has automatically terminated because of failure of the licensee to pay the annual fee may be reinstated within thirty days after its automatic termination upon payment of a fee of $15.

SEC. 6. Upon receipt of an application accompanied by the proper fee for a license, the Secretary will, if the applicant is found to be eligible, issue a license certifying that the licensee is authorized to engage in the business of a commission merchant and/or dealer and/or broker. The fee so tendered, together with any arrearage fees and/or penalty shall be deposited as soon as practicable in a special deposit account, until the license is issued or denied or until the check or other form of remittance is determined to be valid. If the license is denied, the fee shall be returned or refunded, but, if issued, the fee and any arrearages and penalty shall, as soon as practicable, be deposited in or transferred to miscellaneous receipts and will not thereafter be subject to refund. Fees received for renewal and/or reinstatement of license shall be handled in the same manner as other fees mentioned herein.

SEC. 7. Any commission merchant, dealer, or broker engaged in business subject to the act, without a valid and effective license, will be permitted to settle his liability, if such violation is found not to have been willful, by paying the amount of fees accrued from the date the violation started to the date when application for license and fee is submitted, and a penalty not in excess of $25 as may be determined by the Chief of Bureau.

SEC. 8. Each license shall bear a serial number, the signature of the Secretary, the seal of the United States Department of Agriculture, and be countersigned by the Chief of Bureau. The licensee may place upon his stationery, trucks or business sign, an inscription that he is licensed under the act, but such inscription must not be of such form or arrangement as to be deceptive or misleading to the public, nor shall any such inscription be shown unless the person using the same has a license valid at the time.

SEC. 9. The licensee shall advise promptly the Chief of Bureau of any change of address and/or any change in the officers, partners, or ownership, or in the name in which the business is conducted. In case of a change in the ownership of a business, or in the name of a corporation, or in a partnership, such as the death, withdrawal or addition of a partner or partners, or the conduct of a business in a name different from that shown on the license, a new license is required.

SEC. 10. Arrearage fees to be paid by an applicant shall be computed on a basis of 1/12th of the annual fee of $10, or eighty-three and one-third cents (83⅓¢), per month or fraction thereof from the time the applicant should have been licensed to the date application and valid fee were submitted for a license.

REGULATION 4.—ACCOUNTS AND RECORDS

SECTION 1. Every commission merchant, dealer, and broker shall preserve for a period of 2 years the accounts, records, and memoranda required by the act fully and correctly disclosing all transactions involved in his business, including the true ownership of such business by stockholding or otherwise.

SEC. 2. Each licensee shall during ordinary business hours permit any duly authorized representative of the United States Department of Agriculture to enter his place of business and inspect any and all such records pertaining to such business as may be necessary to ascertain the facts material to the investigation of any complaint under the act. Any necessary facilities for such inspection shall be extended to such representative by the licensee, his agents, and employees.

SEC. 3. No representative of the United States Department of Agriculture shall, without the consent of the licensee, divulge or make known in any manner, except to other representatives of the United States Department of Agriculture who may be required to have such knowledge in the regular course of their official duties, or except insofar as he may be directed by the Secretary, the Chief of Bureau, or by a court of competent jurisdiction, any facts or information regarding the business of such licensee which may come to the knowledge of such representative through an examination or inspection of the business or accounts of the licensee, or unless the same is relevant and material to the issue in any hearing authorized by the act.

REGULATION 5.—PROCEDURE AS TO COMPLAINTS, HEARINGS, AND ORDERS—COMPLAINTS, INVESTIGATIONS, AND ANSWERS

SECTION 1. PARAGRAPH 1. Complaint charging violation of any provision of section 2 or section 9 of the act may be filed with the Chief of Bureau by any interested person, including any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any employee of the United States Department of Agriculture. If such complaint is to be made the basis of a claim for damages, the complaint must be filed within 9 months after the cause of action accrues. The same facts may also be made the basis of a disciplinary complaint against a licensee complained of at any time within 2 years after the violation of the law occurred: Provided, however, That the 2-year limitation herein prescribed shall not apply to flagrant or repeated violations of the act.

PAR. 2. Complaints under the act may be filed informally by telegraph, by letter, or by a preliminary statement of facts setting forth the essential details of the transaction complained of. So far as practicable every such complaint should state:

(*a*) The name and address of each party and of his agent, if any, representing him in the transaction involved;
(*b*) Kind of produce shipped;
(*c*) Date of shipment;
(*d*) Car initial and number, if car lot;
(*e*) Shipping and destination points;
(*f*) Quantity shipped;
(*g*) Quality or grade of each kind of produce;
(*h*) If a sale, state: Sale price; amount actually received;
(*i*) If a consignment, state: Reported proceeds; gross; net; date;
(*j*) Amount of damages claimed;
(*k*) Statement of material facts, including terms of contract.

PAR. 3. The complaint must be accompanied by true copies of all available papers relating to the transaction complained about, including shipping documents, letters, telegrams, invoices, manifests, inspection certificates, accounts sales, and any special contracts or agreements.

PAR. 4. In complaints involving damages in connection with the sale or purchase of produce, the complainant will be required to furnish information tending to show the existence of a contract.

PAR. 5. Upon receipt of all of the information and supporting evidence submitted by the complainant, the Chief of Bureau shall make such investigation as in his opinion is justified by the facts. If such investigation discloses that no violation of the act has occurred, the matter will be dropped and the complainant so advised.

PAR. 6. If the statements in the informal complaint seem to warrant such action, the Chief of Bureau shall call upon the party complained against to state his side of the controversy in an effort to effect an amicable adjustment of the claim. Should such adjustment not be made and the information secured by correspondence or investigation indicate the probability of a violation of the act, further proceedings will be based upon formal complaint, either for damages filed by the aggrieved party or for disciplinary action filed by any person authorized in section 6 (b) of the act. In the latter case, the Chief of Bureau may proceed with the handling of the complaint without further action by the person originally filing the complaint, except as he may be subpenaed as a witness in the case of his deposition taken without expense to him.

PAR. 7. Formal disciplinary complaints, that is, complaints which do not involve claims for damages, shall be filed in such form as may be prescribed by the Chief of Bureau and shall set forth the grounds for alleging a violation of the act.

PAR. 8. If the procedure provided in paragraph 6 of this section fails to effect an amicable adjustment and indicates the probability of a violation of the act, the complainant shall be required to submit a formal complaint to the Chief of Bureau setting forth the information and accompanied by the papers indicated in paragraphs 2 and 3 of this section, and stating the amount of damages claimed, with the basis therefor and the method of determination. Three additional copies shall be furnished for filing and service on the respondent. If there is more than one respondent, a further copy shall be furnished for each of the additional respondents.

PAR. 9. If formal complaint for reparation is filed by a nonresident of the United States, complainant shall first file a bond in double the amount of the claim either with a surety company approved by the Treasury Department of the United States as surety or in double the amount of the claim with two personal sureties, each of whom shall be a citizen of the United States and shall qualify as financially responsible for the entire amount of the bond. The bond shall run to the respondent and be conditioned upon the payment of costs, including reasonable attorney's fees for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Secretary against the complaint or any counterclaim by respondent, provided, that the furnishing of a bond shall be waived if the complainant is a resident of a country which permits filing of a complaint by a resident of the United States against a citizen of that country without the furnishing of a bond.

PAR. 10. If the formal complaint, either disciplinary or involving claim for damages, appears to be in proper form, it shall be transmitted by the Chief of Bureau, together with the Bureau's entire file relating to the case, to the Solicitor of the Department, who, if he determines that the complaint is in proper form, shall serve a copy thereof upon the party complained against, who shall be referred to as the respondent.

PAR. 11. In making service of the complaint, respondent will be called upon to file an answer thereto, in triplicate, within 10 days from date of such service.

Hearings

SEC. 2. PARAGRAPH 1. Upon failure or refusal of the respondent to explain satisfactorily in writing or to make such reparation as is satisfactory to the complainant, the Solicitor of the Department may order a public hearing upon the matter before an examiner for the Department, and due notice of such public hearing shall be given by the Solicitor to the person concerned, which hearing shall be held in any place in which the party complained of is in business.

PAR. 2. In such a public hearing, the complainant and the respondent may appear personally or by counsel. In such proceedings, the burden of proof is upon the complainant. Representatives of the Department who may have knowledge of any fact in the case, and any other persons having information, accounts, records, or memoranda relating to the subject of the complaint, may be subpenaed to testify or furnish evidence at such hearing by deposition.

PAR. 3. In a hearing on any complaint, the Secretary or any officer or employee designated by him may sign and issue subpenas, administer oaths, examine witnesses, take depositions, receive evidence, and require by subpena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under the act.

PAR. 4. Amendment of any pleading will be allowed by the Solicitor of the Department prior to the hearing or by the examiner at the hearing if such amendment is not prejudicial to the other party and is deemed proper by the Solicitor or such examiner; otherwise it will be refused.

PAR. 5. Where the amount of damages claimed does not exceed $500, a hearing need not be held unless deemed necessary or desirable by the Chief of Bureau or the Solicitor, or granted upon application of complainant or respondent setting forth the peculiar circumstances making such hearing necessary for a proper presentation of the case. Proof in support of the complaint and the answer may be supplied in the form of depositions or verified statements of fact. Complainant's opening statement of facts should be mailed to the Solicitor within fifteen days following receipt of the Solicitor's notice that the case is to be submitted without a formal hearing. Respondent will have fifteen days from receipt of complainant's opening statement in which to mail an answering statement of facts, and complainant will then have five days from receipt of respondent's answering statement in which to mail a reply thereto. All such statements must be furnished in triplicate. Application for the furnishing of proof in deposition form must be promptly made and the information furnished as required by regulation 5, section 3. Either party failing to furnish proof in the manner and within the time above specified, unless such time has been extended, will be deemed to have waived the furnishing thereof, and the disputed issues of fact and law may, subject to paragraph 8 of this section, be considered and decided upon the pleadings and attached exhibits, together with such proof as the opposing party may furnish.

PAR. 6. Where the amount of damages claimed in a complaint is greater than $500 but does not exceed the sum of $2,000, both parties may, by the filing of a waiver of hearing, consent to the submission of the case to the Secretary upon sworn statements of facts, depositions, supporting exhibits, and other records comprising the file in the case made by the Bureau in connection with its preliminary investigation of the complaint, in lieu of a record made at a public hearing provided for in the preceding paragraphs 1 to 3, inclusive. If the respondent, after notice of his right to apply for or waive a formal hearing, fails to indicate within the time provided therefor in such notice whether he desires to apply for or to waive such hearing, the case may proceed as though he had filed a waiver. Where such waiver is filed, complainant may, within 15 days after receipt of notice that both parties have waived hearing, file with the Department an original and two copies of its verified statement of facts in support of the allegations of the complaint, and an additional copy for each respondent in excess of one. The Department will make service thereof upon respondent, who will then have 15 days within which to file, in like manner, an original and two copies of its answering statement of facts. Complainant will then have 5 days within which to file a reply to respondent's answering statement. If either party feels that his explanation already made is sufficient and desires to waive the making of a further statement, he shall promptly so advise the Department. Upon full submission of the case, as herein provided, the Secretary will then consider such records and enter findings of facts and make an appropriate order in the same manner and which shall have the same force and effect as if entered upon a record made at a public hearing.

PAR. 7. When a complaint has been regularly served upon the respondent therein named and such respondent thereafter fails or refuses to file an answer thereto within the allotted time, the verified complaint and attached exhibits, if any, may, subject to paragraph 8 of this section, be accepted both as a pleading and as proof.

PAR. 8. In any case, the Chief of Bureau or the Solicitor may call for the submission of additional evidence or further investigation of the facts at any time prior to decision by the Secretary if such additional information is deemed necessary to a fair determination of the matter.

PAR. 9. Any fact developed as a result of an investigation, either in person or by correspondence, under the authority of the Chief of Bureau shall be considered by the Secretary as part of the evidence: Provided, That a copy of the investigator's report and of all evidence secured by correspondence shall have been submitted to both parties. Any rebuttal evidence submitted by either party shall be (1) by verified statement of facts, if within the knowledge of the party to the proceeding who submits the statement, or (2) by deposition, if within the knowledge of some one else, all of which shall also be considered by the Secretary.

Depositions

SEC. 3. PARAGRAPH 1. The testimony of any witness who is or will be unable to appear in person at a hearing may be taken in deposition form. Either party, complainant or respondent, may apply to the Department in writing for an appropriate order, in which application the case should be identified by the names of the parties and docket number and give:

(1) The name of each witness whose deposition is to be taken;

(2) The name and address of a notary public or other person who is authorized to administer oaths before whom such witness or witnesses may testify;

(3) An accurate description of the place where such deposition or depositions will be taken, such as street, office building, and room therein.

PAR. 2. Such witness or witnesses and the notary public or other person designated to take a deposition, unless he be an employee of the Department, shall severally be entitled to the fees authorized by section 13 (e) of the act, which fees shall be paid by the party at whose instance the deposition was taken.

Final Order

SEC. 4. PARAGRAPH 1. If, after hearing has been held or waived in complaints where the damages claimed exceed $500 and on complaints where damages do not exceed $500 not requiring hearings as provided by section 6 (c) of the act, the Secretary determines that the respondent has violated any provisions of section 2 of the act he will, unless reparation has already been made to complainant, determine the amount of damage, if any, to which the complainant is entitled as the result of such violation and will make an order directing respondent to pay to complainant such amount on or before the date fixed in the order. He will also issue such disciplinary order as the facts warrant.

PAR. 2. Any order of the Secretary other than for the payment of money shall be effective not less than 10 days from and after the date the order is signed.

PAR. 3. Any order for reparation shall state the period which shall be allowed for the payment of such reparation.

PAR. 4. If either party appeals from a reparation order entered by the Secretary without formal hearing as provided in section 6 (d) of the act, the suit shall be filed in the District Court of the United States for the district in which the respondent is located.

Petitions for Rehearing

SEC. 5. PARAGRAPH 1. Application for further hearing in a proceeding before final submission must be by petition within 30 days from the date of hearing or for reopening a proceeding after final submission must be by petition within 30 days from the date of such final submission. Such petition shall state specifically the grounds relied upon and the petitioner must show that service of a copy thereof has been made upon the adverse party. Such adverse party may have 20 days in which to file objections with the Chief of Bureau and to serve a copy thereof on the petitioner.

PAR. 2. If the application be for further hearing before final submission or for reopening a proceeding to take further evidence, the nature and purpose of the evidence to be adduced must be briefly stated and it must appear not to be merely cumulative.

PAR. 3. After an order has been issued the Secretary will consider an application for the reconsideration of such order when a written petition for such proceeding is filed with the Chief of Bureau within 15 days after such order has been served upon petitioner, provided such petition sets forth, (1) some fact or facts which disclose that the damages awarded are excessive or inadequate, or (2) the discovery of material evidence, together with a statement thereof, which was not available to petitioner prior to the hearing, or (3) the statement of some fact or facts which prima facie show that the proceedings did not conform to the requirements of the law.

REGULATION 6.—SUSPENSION AND REVOCATION

SECTION 1. Whenever the Secretary determines, as provided in section 6 of the act, (a) that any commission merchant, dealer, or broker has violated any of the provisions of section 2, or (b) that any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 14 (b) of this act, the Secretary may publish the facts and circumstances of such violation and/or suspend the license of such offender for a period not to exceed 90 days, except that, if the violation is a flagrant or repeated violation of such provisions, or if it be found that the licensee has committed one of the offenses set forth in section 8 (b) or (c) of the act, the Secretary may revoke the license of the offender.

SEC. 2. Whenever the Secretary determines that a licensee has failed or refused to keep such records as are prescribed in section 9 of the act, the facts and circumstances may be published and the license of the offender suspended for a period not to exceed 90 days by order of the Secretary.

SEC. 3. Upon the failure or refusal of any licensee to permit the inspection of accounts, records, and memoranda material to a complaint, the facts and circumstances incident thereto may be published and the license of the offender suspended until such permission is given.

SEC. 4. Upon failure of a licensee against whom a reparation order has been issued to show to the satisfaction of the Chief of Bureau within 5 days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as authorized by section 7 (c) of the act or has made payment in full or has filed a petition for rehearing or reargument as provided in section 5 of regulation 5, the Chief of Bureau shall notify the licensee that his license is suspended automatically at the end of the 5-day period until such time as he has shown to the satisfaction of the Chief of Bureau that he has paid the amount specified with interest.

SEC. 5. Immediately upon the issuance of an order of suspension or revocation the Chief of Bureau will cause general publicity to be given to the action in order that those doing business with the person whose license shall have been suspended or revoked may take due notice thereof.

SEC. 6. PARAGRAPH 1. Whenever the Secretary shall order the suspension or revocation of a license, the person against whom such order is directed shall be served by the Chief of Bureau with a copy of the order and be notified of the effective date thereof.

PAR. 2. Except in the case of any license automatically suspended by the act, a reasonable time, not less than 10 days between the date of issuance and the date upon which the order of suspension or revocation becomes effective, shall be stated in the order within which the licensee may make all necessary arrangements with some other person, whose license shall not have been either suspended or revoked, to safeguard the interests of consignors or other innocent parties whose property or business may be affected by such suspension or revocation and to terminate the affairs and business of such licensee relating to the handling of perishable agricultural commodities in commerce.

PAR. 3. After the revocation of his license or during the effective period of any suspension thereof the licensee shall not either directly or indirectly through any agent, employee or otherwise, carry on the business of a commission merchant, broker, or dealer until his status as a licensee has been restored.

PAR. 4. The suspension or revocation of a license shall not prevent the licensee from collecting amounts due on his contracts or in connection with transactions in which he acted as an agent and remitting the same promptly to his principals and obligees.

REGULATION 7.—SERVICE OF COMPLAINTS AND ORDERS

SECTION 1. Service of any complaint or order required by the act or prescribed by these regulations shall be deemed sufficient if made by registered mail or personally upon the licensee or upon his attorney. Service so made upon any member of a partnership or any officer of an association or corporation shall be sufficient. Personal service includes leaving notice at the last address furnished the Chief of Bureau in compliance with these regulations or at the last and usual place of abode of any member of a partnership or officer of an association or corporation.

REGULATION 8.—TRADE TERMS AND DEFINITIONS

SECTION 1. Unless otherwise defined, the following terms when included in a contract or communication involved in any investigation made or hearing held pursuant to this act shall be construed, respectively, to mean:

PARAGRAPH 1. The term "Today's shipment", or shipment on a specified date (such as shipment September 12), shall mean that the goods referred to shall be under billing by the transportation company the day the order is given or on the date specified in time to be picked up by a train scheduled to move that day's loadings from the shipping point provided that such train shall leave the first pick-up point on its schedule before midnight of the day the order is given.

PAR. 2. The term "Tomorrow's shipment" or "Immediate shipment" shall be deemed to mean that the shipment referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 24 hours later than allowed under "Today's shipment."

PAR. 3. The term "Quick shipment" shall be deemed to mean that the conditions of the offer, order, or confirmation will be met if the shipment is under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 48 hours later than that allowed under "Today's shipment."

PAR. 4. The term "Prompt shipment" shall be deemed to mean that the conditions of the offer, order, or confirmation will be met if the shipment is under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 72 hours later than allowed under "Today's shipment."

PAR. 5. The term "Shipment first part of week" or "Early part of week" shall be deemed to mean that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave Monday or Tuesday of the week specified, subject to the same provisions with reference to cars picked up after midnight of the day specified as apply to "Today's shipment."

PAR. 6. The term "Shipment middle of week" shall be deemed to mean that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave Wednesday or Thursday of the week specified, subject to the same provisions with reference to cars picked up after midnight of the day specified as apply to "Today's shipment."

PAR. 7. The term "Last of week" or "Latter part of week" shall be deemed to mean that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave on Friday or Saturday of the week specified, subject to the same provisions with reference to cars picked up after midnight of the day specified as apply to "Today's shipment."

PAR. 8. The provisions "Shipment as soon as possible" or "As soon as cars can be secured" shall be deemed to mean that the shipper is uncertain as to when the shipment can be made but expects to make it within a reasonable time and will make it as soon as possible. But in any case where these words are so used the buyer shall, at any time after 12 days from the date the order is given, have the right to cancel the order or contract of sale provided notice of his decision so to cancel shall have been received by the shipper before shipment has been made.

PAR. 9. The term "f. o. b." (for example, "f. o. b. Laredo, Tex.", or even "f. o. b. California") shall be deemed to mean that the commodity quoted or sold is to be placed free on board the car or other agency of through land transportation at shipping point, in suitable shipping condition (see definitions of "suitable shipping condition", sec. 2, pars. 10 and 11 of this regulation) and that the buyer assumed all risks of damage and delay in transit not caused by the shipper, irrespective of how the shipment is billed. The buyer has the right of inspection at destination before the goods are paid for, but only for the purpose of determining that the produce shipped complied with the terms of the contract or order at time of shipment subject to the provision covering suitable shipping condition. This right of inspection does not convey or imply any right of rejection by the buyer because of any loss, damage, deterioration, or change which has occurred in transit.

PAR. 10. "Suitable shipping condition" in relation to direct shipments shall be deemed to mean that the commodity, at time of billing, shall be in a condition which, when shipment is handled under normal transportation service and conditions, will assure delivery without abnormal deterioration at the destination specified in contract of sale.

PAR. 11. "Suitable shipping condition" in connection with reconsigned or rolling cars shall be deemed to mean that the commodity, at time of sale, shall meet the requirements of the definition of this phrase provided for application to direct shipments in paragraph 10 of this regulation.

PAR. 12. The term "F. O. B. acceptance" shall be deemed to mean the same as f. o. b. except that the buyer assumes full responsibility for the goods at shipping point and has no right of rejection on arrival, nor has he any recourse against the shipper because of any change in condition of the goods in transit, unless the goods when shipped were not in suitable shipping condition. (See definitions, sec. 1, pars. 10 and 11 of this regulation.) The buyer's remedy under this method of purchase is by recovery of damages from the shipper and not by rejection of the shipment.

PAR. 13. The term "F. O. B. Acceptance final" shall be deemed to mean that the buyer accepts the commodity f. o. b. cars at shipping point without recourse.

PAR. 14. The term "F. O. B. steamer" shall be deemed to mean that the commodity bought or sold is to be placed free on board the steamer at shipping point in accordance with the terms of the contract and that the buyer assumes all responsibility and risk of damage thereafter.

PAR. 15. The term "F. A. S. steamer" shall be deemed to mean that the commodity bought or sold is to be delivered free alongside the steamer in accordance with the terms of the contract and that the buyer assumes all responsibility and risk of damage thereafter.

PAR. 16. The term "Delivered" or "Delivered sale" shall be deemed to mean that the commodity quoted or sold is to be delivered by the seller on board car, or on dock if delivered by boat, at the market in which the buyer is located, or at such other market as agreed upon, free of any and all charges for transportation or protective service. The seller assumes all risks of loss and damage in transit not caused by the buyer. For example, a sale of "U. S. No. 1 potatoes delivered Chicago" means that the potatoes when tendered for delivery at Chicago shall meet all the requirements of the U. S. No. 1 grade as to quality and condition.

PAR. 17. The term "In transit", "Roller", or "Rolling car" shall be deemed to mean that the commodity referred to is in possession of the transportation company and under movement from shipping point when the quotation is made, and that the car is moving over a route in line of haul between the point of origin and the market in which delivery is to be made, and has been so moving since date of shipment without any delay attributable to the shipper or his agent. If a roller, or rolling car, or car in transit is sold f. o. b. shipping point, the buyer will be deemed to assume only the lowest authorized all-rail freight charges applicable between the point of origin and the destination stated in the contract of purchase, together with car rental and refrigeration and heater charges, if any; provided that the kind and extent of the protective service required by the shipper's instructions to the carriers are specified in the contract. But the buyer shall not be deemed to have assumed any demurrage, storage, detention, icing, or heater charges, or diversion or reconsignment charges, that would not have accrued had the car been originally shipped direct to the destination named in the contract of purchase.

If the carrier fails to accomplish diversion when properly notified, and such notification has been duly acknowledged by the carrier, the contract of sale shall be deemed to have become null and void unless otherwise specifically provided.

PAR. 18. The term "Tramp car" or "Tramp car sale" shall mean that the commodity has left the shipping point under a bill of lading issued prior to the day on which the quotation is made and has moved or is moving over a route out of line of haul with the market in which it is to be delivered or in which it is being offered or quoted, or which has been moving over a route in line of haul between the point of origin and the market in which it is to be delivered or in which it is being offered or quoted, but has been delayed in transit by the shipper, or has been held by the transportation company at diversion or other points en route awaiting instructions from the shipper and by such holding or delay has missed scheduled movement between point of shipment and the market in which it is to be delivered as the result of the transaction in question. But if sold f. o. b. shipping point, the buyer assumes only the lowest authorized all-rail freight charges applicable between the point of origin and the destination stated in the contract of purchase, together with the car rental and refrigeration and heater charges, if any; provided, that the kind and extent of the protective service required by shipper's instructions to the carriers are specified in the contract. But the buyer shall not assume any demurrage, storage, detention, icing, or heater charges, or diversion or reconsignment charges, that would not have accrued had the car been originally shipped direct to the destination provided in the contract of purchase.

If the carrier fails to accomplish diversion when properly notified, and such notification has been duly acknowledged by the carrier, the contract of sale shall be deemed to have become null and void unless otherwise specifically provided.

PAR. 19. The term "Rolling acceptance" shall be deemed to mean that the buyer accepts at time of purchase a commodity which is in the possession of the transportation company and under movement from shipping point, under the terms and conditions described in paragraphs 17 and 18 of this regulation, except that the buyer assumes full responsibility for transportation of the goods from time of purchase, has no recourse against the seller because of any change in condition after time of purchase unless the goods when shipped were not in suitable shipping condition, and has no right of rejection on arrival. The buyer's remedy under this method of purchase is by recovery of damages from the shipper and

not by rejection of the shipment. By agreement between the parties, however, the purchase may be made subject to inspection at any specified point while the car is rolling or in transit and the point at which the buyer will assume transportation charges may be specified without affecting the time of acceptance of the commodity.

PAR. 20. The words or term "Track sale" or "Sale on track" shall be deemed to mean that when a commodity is sold on track after arrival at destination, the buyer shall be considered to have waived any right to reject the commodity so purchased upon receipt by him or his duly authorized representative, from the seller or his duly authorized representative, of the bill of lading, delivery order, or other document enabling him to obtain the goods from the carrier.

The foregoing shall not be construed as depriving the buyer of a right to reparation when the unloading of the car shall demonstrate that a part of the lading which was not accessible to inspection was of a quality or condition much inferior to that portion which was accessible to inspection; but notice of intention to file claim for reparation must be given seller within 24 hours after receipt by buyer of delivery order or bill of lading.

If the seller gives the date of arrival when quoting price, the buyer shall assume all charges that accrue on the shipment from the date of its arrival in the absence of any written memorandum of sale to the contrary. If the seller fails to furnish the date of arrival when quoting price, in the absence of any written memorandum of sale which includes the date of arrival or specific written statement as to who shall assume such charges as have accrued after arrival, the buyer may assume that the shipment arrived at point of sale on the day and date upon which the purchase was made, and shall be liable only for such charges as would properly attach to a shipment arriving on date it was purchased.

PAR. 21. The abbreviations "C. A. F.", "C. A. C.", and "C. I. F." shall be deemed to mean "cost and freight," "cost and charges," and "cost insurance and freight," respectively. When a sale is made c. a. f. it shall be deemed to mean the same as an f. o. b. sale except that the selling price includes the correct freight charges to destination. C. a. c. sales shall be deemed to be the same as f. o. b. sales except that the selling price includes the correct freight and refrigeration or heater charges to destination. C. i. f. sales shall be deemed to be the same as f. o. b. sales except that the selling price includes insurance and the correct freight, refrigeration, or heater charges to destination.

PAR. 22. A "carload" or "car lot" or "car" when referred to in offers, quotations, or sales in which the quantity is not more definitely specified, and in the absence of well-established trade custom or standard as to size of a "carload" of the commodity in question, shall be deemed to mean not less than the lowest minimum quantity required by the carrier's tariff applicable to the movement, and not more than 10 percent in excess of such lowest minimum tariff requirements, except that where carrier's tariffs provide alternative rates and minima, the buyer shall state which tariff minimum must be observed, and in event of failure so to do, the shipper may exercise his discretion, in no case, however, exceeding the higher tariff minimum quantity, except only such variations therefrom as are permitted in this paragraph.

PAR. 23. The term "Shipping-point inspection" shall be deemed to mean that the seller is required to obtain Federal or Federal-State certification, or such private inspection as has been mutually agreed upon, to show the compliance of the lot sold with the quality and/or condition specifications of the contract and that the seller assumes the risk incident to incorrect certification.

PAR. 24. The term "Shipping-point inspection final" or the words "Inspection final" following the name of the State or point as "California inspection final", shall be deemed to mean that the seller is required to obtain Federal or Federal-State certification, or such private inspection as has been mutually agreed upon, to show the compliance of the lot sold with the quality and/or condition specifications of the contract and that the buyer assumes the risk incident to incorrect certification and is without recourse as to quality and condition.

PAR. 25. The term "Subject approval wired government inspection" shall be deemed to mean that the seller is required to obtain Federal or Federal-State certification, or such private inspection as has been mutually agreed upon, and to correctly communicate, by wire or other agreed means, the statements on the certificate as to quality, condition and grade, and other essential information, whereupon the purchaser upon approval thereof will be deemed to have accepted the commodity without recourse as to quality and condition.

PAR. 26. The term "Guaranteed advance," as used in connection with an advance payment on consigned produce, shall be deemed to mean that the party making the advance guarantees that the net proceeds to the consignor shall at least equal the amount so advanced, and in any case where a guaranteed advance is made the consignor cannot be held liable for any deficit resulting from the sale of the produce, if such deficit is not occasioned by or contributed to by some act or acts of the consignor.

PAR. 27. The term "Accommodation advance," or "Regular advance," as used in connection with an advance of money or credit against anticipated net proceeds to be realized from the sale of consigned produce, shall be deemed to mean that the shipper has received an advance of money or credit and if the consigned produce does not sell for enough to cover the cost of transportation and handling, including customary or agreed commission and the advance made to him, the shipper must return to the one making the advance a sum equal to the deficit sustained.

PAR. 28. The term "Price arrival," in the absence of a contrary specific understanding, shall be deemed to mean that the produce is shipped either direct to the customer or to an agent of the shipper, for the benefit of the customer, the price to be subject to agreement between the customer and the shipper upon the arrival of the goods at the customer's destination and with sufficient time being permitted for inspection.

PAR. 29. The term "F. O. B. inspection and acceptance arrival" shall be deemed to mean that the commodity quoted or sold is to be placed by the seller free on board car or other agency of through transportation at shipping point, the cost of transportation to be borne by the buyer, but the seller to assume all risks of loss and damage in transit not caused by the buyer who has the right to inspect the goods upon arrival and to reject them if upon such inspection they are found not to meet the specifications of the contract of sale at destination. The buyer may not reject without reasonable cause. Such a sale is f. o. b. only as to price and is on a delivered basis as to quality and condition.

PAR. 30. The term "F. O. B. sale at delivered price" shall be deemed to mean the same as f. o. b. except that transportation charges from shipping point to destination shall be borne by the seller, that is, the sale is f. o. b. as to quality and delivered as to price.

REGULATION 9.—SUNDAYS AND HOLIDAYS

SECTION 1. Sundays and legal holidays shall not be included in the computation of the 5-day period provided in section 7 (d) of the act, nor in connection with the periods defined in regulation 1, section 3, paragraphs 11, 12, and 13, except if the notice of arrival of the produce is received by the purchaser on Sunday or a legal holiday, the 24-hour period shall begin to run at 12:01 a. m. the succeeding day, and regulation 8, except section 1, paragraph 1, of said regulation 8.

SEC. 2. Sundays and legal holidays shall be included in the computation of time in all other periods mentioned in the act or in these regulations.

REGULATION 10.—INSPECTION SERVICE

SECTION 1. The rules and regulations of the Secretary governing the inspection and certification of fruits and vegetables as outlined in Service and Regulatory Announcements No. 93 (Agricultural Economics) and amendments thereto, and such additional amendments as may from time to time be promulgated, insofar as they apply to fresh fruits and fresh vegetables, shall govern the inspection of these products under this act and are hereby made a part of these regulations.

REGULATION 11.—COPIES OF RECORDS

SECTION 1. Copies of the application and other records pertaining to licensees under this act may be furnished under the conditions prescribed in the regulations of the Department of Agriculture, and, except where requested by Government officials, upon the payment of the following fees, which shall be deposited in the Treasury of the United States as miscellaneous receipts:

(*a*) For each typewritten copy, 15 cents per page.

(*b*) For each photographic or photostatic copy, 25 cents per page.

(c) For each separate authentication, 25 cents.

[F. R. Doc. 38-635; Filed, March 1, 1938; 3:20 p. m.]

Bureau of Biological Survey.

ORDER PERMITTING TRAPPING ON THE UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

Pursuant to Section (a) of Regulation 1-A and to Regulation 2-A of the Regulations for the Administration of the Upper Mississippi River Wild Life and Fish Refuge, public trapping of muskrats, under permits of the Superintendent of said Refuge, in the State of Minnesota, in accordance with the laws of Minnesota and in accordance with the regulations governing the said Refuge, as well as with the restrictions and conditions hereinafter provided, is hereby permitted within said Refuge in Minnesota, except on the areas specifically scheduled below; between March 19 and April 7, 1938, both dates inclusive:

MINNESOTA

Houston County

Area Number 1.—All of the lands and waters lying in Township 104 N., Range 4 W., 5th P. M., described as follows: Those parts of the E½SW¼ and W½SE¼ of Section 14 lying southerly and westerly of Pine Creek; SE¼SW¼, E½NW¼, N½NE¼, SW¼NE¼, Lots 1, 2, 3 and 4 in Sec. 23; Lots 1, 2, 3, 4 and 5 in Sec. 24; Lots 1, 2, and 5 and NW¼NW¼, Sec. 25; N½NE¼ and NE¼NW¼, Sec. 26, all of the lands and waters of Lot 1, Sec. 30, Township 104 N., Range 3 W., 5th P. M.; and all of the lands and waters enclosed by the meandered boundaries of what is known as Target Lake situated in parts of said Sections 23 and 24, and all of the lands and waters enclosed by the meandered boundaries of that portion of what is known as Broken Arrow Slough situated northerly of a straight line drawn between the points of intersection of said slough by the north lines of Lots 2 and 4 of Sec. 25, Township 104 N., Range 4 W., excepting from Lot 2, Sec. 24, Township 104 N., Range 4 W. a rectangular parcel of land surrounding the Edward Hoffman cottage, more particularly described by metes and bounds as follows: *Beginning* at Corner 1, a point on the shore of the Mississippi River 75 feet south of the northeast corner of said Lot 2; thence west 29 feet, smoke house falls 5 feet south 150 feet, Corner 2, a 1" x 24" galvanized iron pipe; thence south parallel with the shore line 514 feet, Corner 3; a 1" x 24" galvanized iron pipe; thence east 150 feet, Corner 4, on the shore of the Mississippi River; thence north with the shore line 514 feet to the place of *Beginning*.

Area Number 2.—All of the lands and waters lying in Township 103 N., Ranges 3 and 4 W., 5th P. M. described as follows: The NE¼, NW¼SE¼, SW¼, N½NW¼, SE¼NW¼, and Lots 1 and 2 in Sec. 1; NE¼NW¼, W½NW¼, and Lots 2, 3, 4 and 5, that portion of Lot 6 east of the C. M. St. P. & P. R. R., and Lots 7 and 8, all in Sec. 12; Lots 1, 2, 3, 4, and 5, that portion of Lot 6 lying easterly of the easterly right of way line of the C. M. St. P. & P. R. R., NW¼SW¼ and SW¼NW¼ in Sec. 13; and all of the lands and waters enclosed by the meandered boundaries of what is known as Lawrence Lake situated in parts of said Sections 12 and 13, all in Township 103 N., Range 4 W., and Fractional Sec. 6, Township 103 N., Range 3 W.

Area number 3.—All of the lands and waters lying in Township 101 N., Ranges 3 and 4 W., 5th P. M., which are enclosed by the following definite boundaries: Starting at the northwest corner of Lot 7 of said Sec. 25, thence south Range 3 W., 5th P. M. intersects the westerly bank of the Mississippi River, thence West along the north line of said Sec. 30 to a meandered lake, thence around the northerly meandered boundary of said lake to the point of intersection of the northerly meander line of said lake with the east line of Sec. 25, Township 101 N., Range 4 W., thence North along the east line of said Sec. 25 to the northeast corner of said Sec. 25, thence West along the north line of said Sec. 25 to the northwest corner of Lot 7 of said Sec. 25, thence south along the west lines of said Lot 7, of the SE¼NE¼ and of Lot 8, all in said Sec. 25, to the point where the west line of said Lot 8 intersects the northerly meandered boundary of a meandered lake, thence around the westerly meandered boundary of said lake to the point where said meandered boundary is intersected by the south line of said Sec. 25, thence along the south line of said Sec. 25 to the southeast corner of said Sec. 25, thence along the west line of Sec. 31, Township 101 N., Range 3 W., 5th P. M. to the point of intersection of said west line with Minnesota Slough, thence following said Minnesota Slough in southeasterly direction to the point of intersection with the Minnesota-Iowa State boundary line, thence east to the point where the Minnesota-Iowa State boundary line intersects the Mississippi River, thence northwesterly along the Mississippi River where it forms the easterly boundaries of fractional sections 32, 29, 30, to the place of *Beginning*, excepting therefrom Lot 3, Sec. 32.

PERMITS—RESTRICTIONS ON TRAPPING, ETC.

Permits for the public trapping of muskrats, herein authorized, may be issued without charge by the Superintendent of the Upper Mississippi River Wild Life and Fish Refuge to any qualified person. The issuance of such permits and the privileges conferred thereby shall be further subject to the following restrictions:

1. In the issuance of permits hereunder, preference will be given to persons who have been bona fide residents for a period of six months last past within or near the Refuge.

2. Not more than one permit will be issued to the same individual.

3. Before any permit may be issued, the applicant shall exhibit to the said Superintendent or his representative a valid trapping license from the State in which such trapping is to be conducted, and the applicant shall, in his application for permit, make a sworn statement as to his period of residence in the civil township, village, or city in which he claims such residence.

4. Permits will be valid and authorize public trapping only on the dates specified in the permit.

5. Muskrats may be taken on the Refuge only with traps for capturing the animals alive, or with ordinary spring steel or other traps the use of which is approved by the Superintendent or his authorized representative. The possession or use within the boundaries of the Refuge of a muskrat spear, or of any similar device by means of which muskrats may be speared, or of any trap or device that does not comply with the requirements of these regulations is prohibited. Prohibited traps and devices found on the Refuge, if not removed therefrom by the owner thereof upon the direction of the Superintendent, will be seized by the Superintendent or his representative.

6. No person shall hunt muskrats with a gun or the aid of a dog, or disturb or molest any muskrat house or muskrat feeding house.

7. To run a trap line or to visit traps between sunset and one-half hour before sunrise is prohibited, but each permittee shall visit and inspect each of his traps within the Refuge at least once each day, and at the close of the trapping sea-

son each trap shall be taken up and removed from the Refuge.

8. Birds and mammals, other than muskrats, found alive in such traps shall be immediately liberated. Birds or mammals, other than muskrats, found dead or mortally injured, shall be immediately turned over to the Superintendent or his representative.

9. Trappers may not cut any growth on the Refuge except willows for use as trap stakes or drags.

10. Whenever it shall appear advisable for the proper administration of the Refuge, the Superintendent may, in his discretion, terminate trapping on the entire Refuge or any portion thereof, within three days after giving notice to that effect. Thereupon all outstanding permits for trapping muskrats on the area or areas affected shall become null and void.

11. Each permittee not later than April 30, 1938, shall submit to the Superintendent of the Upper Mississippi River Wild Life and Fish Refuge, Winona, Minnesota, a report correctly stating the total number of muskrats taken on the Refuge under the permit during the season, together with the name and address of each person or firm to whom such pelts thereof were disposed of and the number disposed of to each such person or firm.

Failure of a permittee to comply with any of the above provisions, or the violation by him of any of the regulations issued under authority of the Act of June 7, 1924 (43 Stat. 650), establishing said Refuge, or of any State laws or regulations applicable to trapping on said Refuge, shall not only render the offender subject to prosecution under said laws or regulations, but shall be sufficient ground for refusal of a permit to such offender during the Federal muskrat trapping season next following on said Refuge, or of any other use or privilege on the Refuge for which a permit may be required by regulations.

This Order shall become effective on March 2, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: March 2, 1938.

[F. R. Doc. 38-642; Filed, March 2, 1938; 12:09 p. m.]

Food and Drug Administration.

[Service and Regulatory Announcements—Tea No. 12]

STANDARDS UNDER THE TEA ACT

The following standards prepared and submitted by the Board of Tea Experts are hereby fixed and established as standards under the Tea Act for the year beginning May 1, 1938, and ending April 30, 1939:

(1) Formosa Oolong.
(2) Formosa Black.
(3) Congou.
(4) Java (to be used for all fully-fermented teas excepting China, Japan, Formosa).
(5) Japan Black.
(6) Japan Green.
(7) Japan Dust.
(8) Gunpowder (to be used for all China green teas).
(9) Scented Canton (to be used for all scented teas).
(10) Canton Oolong.

These standards apply to tea shipped from abroad on or after May 1, 1938. Tea shipped prior to May 1, 1938, will be governed by the standards which became effective May 1, 1937.

As standards are now set for the fully-fermented teas Formosa Black and Japan Black, regulation 20 under the Tea Act was modified in 1935 to omit the statement: "Should Japans be made as fermented teas, they are to be examined in comparison with the Congou standard." The Japan and Formosa fermented teas should be judged by their respective standards.

Regulation No. 26 under the Tea Act was amended in 1930 to include Formosa Oolong and as amended reads as follows:

"(26) In the case of Ceylon, India, Java, Sumatra, and Formosa Oolong teas the needle leaf and Pekoe tips shall be separated by passing them, together with the dust, through a No. 26 sieve of No. 30 brass wire, after the tea has been sifted through a No. 16 sieve."

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

MARCH 2, 1938.

[F. R. Doc. 38-643; Filed, March 2, 1938; 12:10 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

AMENDMENT TO HAWSER REGULATIONS

Pursuant to call under Section 14 of the Act of May 28, 1908, 35 Stat. 424, 428, by the Honorable Daniel C. Roper, Secretary of Commerce, a meeting of the so-called Hawser Board, consisting of R. S. Field, Director of the Bureau of Marine Inspection and Navigation, and Charles A. Park, Deputy Commissioner of Lighthouses, met in the office of the Director of the Bureau of Marine Inspection and Navigation, Washington, D. C., February 16, 1938, at which time the following resolution was unanimously adopted:

Resolved, That pursuant to the provisions of Section 14 of the Act of May 28, 1908, 35 Stat. 424, 428, Sections 2 and 3, respectively, appearing on page 38 of the Pilot Rules for Certain Inland Waters of the Atlantic and Pacific Coasts and of the Coast of the Gulf of Mexico, be and the same hereby are amended in the following respects:

Delete all of said Sections 2 and 3 as now promulgated and state instead the following:

SEC. 2. With the exceptions noted below, hawsers are limited in length to 75 fathoms, measured from the stern of one vessel to the bow of the following vessel; and should in all cases be as much shorter as the weather or sea will permit.

SEC. 3. In all cases where, in the opinion of the master of the towing vessel, it is dangerous or inadvisable, whether on account of the state of the weather, or sea, or otherwise, to shorten hawsers, hawsers need not be shortened to the prescribed length, except that hawsers must in any event be shortened to the prescribed length upon reaching the applicable locality named below:

(*a*) Tows from sea or Chesapeake Bay bound for Hampton Roads or beyond, before passing Thimble Light.

(*b*) Tows bound up the Chesapeake, to the northward of Baltimore Light.

(*c*) Tows bound up into New York from sea, at West Bank.

(*d*) Tows bound up the Delaware, between Fourteen Foot Bank and Cross Ledge Lighthouses.

(*e*) Tows from sea to Narragansett Bay, before reaching Rose Island.

(*f*) Hawsers may also be lengthened in the same places, under the same circumstances, when tows are bound out.

[SEAL] R. S. FIELD,
Director, Bureau of Marine Inspection and Navigation.
CHAS A. PARK,
Deputy Commissioner, Bureau of Lighthouses.

Approved February 28, 1938.

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-648; Filed, March 2, 1938; 12:49 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 77]

EMERGENCY CROP AND FEED LOANS IN CONTINENTAL UNITED STATES MADE PURSUANT TO ACT OF CONGRESS APPROVED JANUARY 29, 1937, AND JOINT RESOLUTION OF CONGRESS APPROVED FEBRUARY 4, 1938

AMENDATORY REGULATION NO. 2

Paragraph 8 of the regulations dated February 4, 1938, is hereby amended to read as follows:

8. No loan for the production of crops will be made in an amount greater than the immediate and actual cash needs in the particular case to plant the crop in a manner approved by the Extension Service of the Department of Agriculture.

The immediate and actual cash needs in a particular case must not exceed the actual costs per acre in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per acre:

Maximum Allowances Per Acre

	1 Without commercial fertilizer	2 Where commercial fertilizer is used	3 Where commercial fertilizer & spray material, including dust, are used [1]
Grain crops	[2] $2.50	[2] $4.00	
Cotton	4.00	6.00	
Tobacco	4.00	12.00	$13.00
Peanuts	3.00	4.50	
Irish potatoes (commercial)	10.00	25.00	27.50
Truck (commercial)	10.00	22.00	25.00
Miscellaneous crops	2.00	3.50	
Sugar cane	12.00	12.00	
Sugar beets	8.00	12.00	
Rice:			
When landlord furnishes water	8.00	8.00	
If landlord does not furnish water	13.00	13.00	
Citrus fruit trees (bearing)	20.00	20.00	20.00
Other fruit trees (bearing)	10.00	14.00	20.00

[1] Where spray material, including dust, is used without commercial fertilizer, the allowance for such spray material and dust will be the difference, if any, between the allowances in column 2 and column 3.

[2] Of the grain allowances shown in the table not more than $1 shall be used for summer fallowing.

These figures include allowances for fuel, oil, and feed for workstock for crop production purposes and incidental expenses, for which no additional alowances will be made.

An additional allowance not to exceed $3 per acre will be made for water charges (including maintenance, electric power, and fuel) for crops other than rice grown on irrigated land.

Allowances for commercial fertilizer will be made only in areas where commercial fertilizer is customarily used.

The following exception is made to the foregoing table of maximum allowances per acre:

1. The maximum allowance per acre for the purpose of producing and harvesting Irish potatoes (where commercial fertilizer and spray material, including dust, are used) in that section known as the "Eastern Shore", which comprises the State of Delaware and the eastern shore of the States of Maryland and Virginia, shall be $35 per acre.

[SEAL] F. F. HILL,
Acting Governor, Farm Credit Administration.

[F. R. Doc. 38-644; Filed, March 2, 1938; 12:18 p. m.]

[FCA 78]

EMERGENCY CROP AND FEED LOANS IN CONTINENTAL UNITED STATES

AMENDATORY REGULATION NO. 3

The table of maximum allowances per acre prescribed in paragraph 8, of the regulations dated February 4, 1938, as amended, relative to emergency crop and feed loans in the continental United States made pursuant to the Act of Congress approved January 29, 1937, and the Joint Resolution of Congress approved February 4, 1938, is hereby amended by adding after the exception to such table a further exception, as follows:

2. The maximum allowance per acre to be loaned to tobacco growers in the States of Connecticut and Massachusetts shall not exceed the following:

Without commercial fertilizer	$4.00
Where commercial fertilizer is used	30.00
Where spray material, including dust, is also used, add	3.00

[SEAL] F. F. HILL,
Acting Governor, Farm Credit Administration.

[F. R. Doc. 38-645; Filed, March 2, 1938; 12:19 p. m.]

[FCA 79]

EMERGENCY CROP AND FEED LOANS IN CONTINENTAL UNITED STATES

AMENDATORY REGULATION NO. 4

The table of maximum allowances per acre prescribed in paragraph 8 of the regulations dated February 4, 1938, as amended, relative to emergency crop and feed loans in the continental United States made pursuant to the Act of Congress approved January 29, 1937, and the Joint Resolution of Congress approved February 4, 1938, is hereby amended by adding after the two exceptions to such table a further exception, as follows:

3. The maximum allowance per acre in the States of Washington, Oregon, and Idaho for fertilizing, spraying, and dusting fruit trees of bearing age, other than citrus, shall not exceed $40 per acre.

[SEAL] F. F. HILL,
Acting Governor, Farm Credit Administration.

[F. R. Doc. 38-646; Filed, March 2, 1938; 12:20 p. m.]

[FCA 80]

EMERGENCY CROP AND FEED LOANS IN CONTINENTAL UNITED STATES

AMENDATORY REGULATION NO. 5

The table of maximum allowances per acre prescribed in paragraph 8 of the regulations dated February 4, 1938, as amended, relative to emergency crop and feed loans in the continental United States made pursuant to the Act of Congress approved January 29, 1937, and the Joint Resolution of Congress approved February 4, 1938, is hereby amended by adding after the three exceptions to such table a further exception, as follows:

4. The maximum allowance per acre for the purpose of producing Irish potatoes (where commercial fertilizer and spray material, including dust, are used) in the States of Maine, Connecticut, and Massachusetts shall not exceed $30.00 per acre.

[SEAL] F. F. HILL,
Acting Governor, Farm Credit Administration.

[F. R. Doc. 38-647; Filed, March 2, 1938; 12:20 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Federal Savings and Loan Insurance Corporation.

AMENDMENT TO RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

LIMITING THE BORROWING POWER OF INSURED INSTITUTIONS

Be it resolved, That pursuant to authority vested in the Board of Trustees of the Federal Savings and Loan Insurance Corporation by Sections 402 (a) and 403 (b) of the National Housing Act (12 U. S. C. 1725 (a), 1726 (b)), the last two sentences of Section 9-A of the Rules and Regulations for

Insurance of Accounts are hereby amended to read as follows:

"No insured institution shall borrow an aggregate amount exceeding one-half the amount paid in and credited on shares, share accounts, stock, certificates of deposit and investment certificates; nor, within such borrowing limit, an amount aggregating more than one-fifth thereof from sources other than a Federal home loan bank or a State-chartered central reserve institution. No action of an insured institution in obtaining funds through borrowing, in accordance with the provisions of this section, shall be deemed a violation hereof, because of a subsequent reduction in the amounts paid in and credited on shares, share accounts, stock, certificates of deposit and investment certificates."

Be it further resolved, That, it being deemed that this is a major amendment affecting matters of general principle or policy, and not of an emergency character, pursuant to the provisions of subsection (a) of Section 22 of the Rules and Regulations for Insurance of Accounts, such amendment shall be effective 30 days from a date to be fixed by the Secretary to the Board, which date shall be fixed within 10 days from the date of the adoption of this resolution. (This regulation will become effective April 1, 1938)

Adopted by the Board of Trustees of the Federal Savings and Loan Insurance Corporation on March 1, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-636; Filed, March 2, 1938; 9:23 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3247]

IN THE MATTER OF WILLIAM L. GOETZE, INDIVIDUALLY AND TRADING AS BUHMAN & GOETZE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, March 17, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-637; Filed, March 2, 1938; 10:20 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3249]

IN THE MATTER OF PAUL BOTWIN AND EAULA LOUISE BOTWIN, INDIVIDUALLY AND AS COPARTNERS DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF EAULA CANDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, March 17, 1938, at eleven o'clock in the forenoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-638; Filed, March 2, 1938; 10:20 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of March, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET OF PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE PHILLIPS-NORRIS TRACT, FILED ON FEBRUARY 10, 1938, BY S. LEROY ESTES, RESPONDENT

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

S. Leroy Estes, having filed on February 10, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

That the information given under Division II, Item 20 (b), concerning the percentage of water in fluid produced, is not correctly stated;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, or fails to comply with the requirements of said Regulation B, to wit:

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 15th day of March, 1938, at 10:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-639; Filed, March 2, 1938; 11:38 a. m.]

Friday, March 4, 1938 *No. 44*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49436]

CUSTOMS REGULATIONS AMENDED—EXPORT DECLARATIONS

CUSTOMS REGULATIONS OF 1937, RELATING TO BOND TO PRODUCE SHIPPER'S EXPORT DECLARATION FOR GOODS EXPORTED TO CANADA OR MEXICO BY CAR, VEHICLE, OR FERRY, AMENDED TO PROVIDE FOR THE PRODUCTION OF THE MISSING DECLARATIONS WITHIN 15 DAYS

FEBRUARY 26, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 251 of the Revised Statutes and section 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 66 and 1624), article 1254 (a) (4) of the Customs Regulations of 1937 is hereby amended by deleting the numeral "6" appearing in the fifth line and by substituting therefor the numeral "15," and by adding at the end of the sentence the following: "(See art. 1308 (b).)"

JAMES H. MOYLE,
Commissioner of Customs.

Approved: February 26, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-654; Filed, March 3, 1938; 10:26 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[NCR-B-101, as Amended; Supp. No. 7]

1937 AGRICULTURAL CONSERVATION PROGRAM

NORTH CENTRAL REGION BULLETIN 101, AS AMENDED, SUPPLEMENT NO. 7.

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, North Central Region Bulletin 101, as Amended, is further amended as follows:

1. Part IV, Section 2 (j) is amended to read as follows:

(j) If a person is an owner, operator, or sharecropper with respect to a cotton or sharecropper farm, such person's percentage of any deduction computed with respect to such farm shall be the percentage that the sum of all payments computed for such person with respect to such farm is of the sum of all payments computed for such farm. If there is no payment computed with respect to a cotton farm, and there is a deduction computed with respect to such farm, any person's percentage of such deduction shall be the percentage computed for such person, as set forth in Section 2 (e) of this Part IV, with respect to the principal soil-depleting crop on such farm. If there is no payment computed with respect to a sharecropper farm, and there is a deduction computed with respect to such farm, any person's percentage of such deductions shall be the percentage computed for such person as set forth in Section 2 (g) of this Part IV with respect to the principal soil-depleting crop on such farm.

2. Part VI, Section 1, the definition of range land, is amended to read as follows:

Range land means any land containing 640 acres or more operated by a person in Nebraska or South Dakota other than that owned or controlled by the United States Government, or any agency thereof, which produces forage without cultivation or general irrigation, 10 acres or more of which are required to sustain one animal unit for a period of 12 months.

Done at Washington, D. C., this 3rd day of March 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-659; Filed, March 3, 1938; 11:55 a. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

COLORADO

MARCH 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Colorado State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Logan, Mesa.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-658; Filed, March 3, 1938; 11:55 a. m.]

DESIGNATION OF COUNTIES

WYOMING

MARCH 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Wyoming State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Goshen.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-657; Filed, March 3, 1938; 11:55 a. m.]

INTERSTATE COMMERCE COMMISSION.

STATISTICAL DATA RELATING TO ELECTRIC RAILWAYS

MARCH 3, 1938.

To Electric Railways:

In accordance with an order of the Interstate Commerce Commission, Division 4, adopted on February 21, 1938, a copy of which appears below, each electric railway company is required to furnish information provided for on the attached form designated Statistical Series Circular No. 25.

This circular should be filed with the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, 1938.

ORDER

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 21st day of February 1938.

The subject of additional statistical data relating to electric railways being under consideration.

It is ordered, That each electric railway company shall furnish the information provided for on Statistical Series Circular No. 25,[1] which is hereby approved and made a part of this order.

It is further ordered, That the returns shall be filed in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C. on or before March 31, 1938.

By the Commission, Division 4.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-660; Filed, March 3, 1938; 12:32 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 198]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 18, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
Florida 8014A1 Clay	$163,000
Florida 8014G1 Clay	42,000
Florida 8016A1 Sumter	166,000
Florida 8016G1 Sumter	34,000
North Carolina 8016B1 Edgecombe	111,000
Ohio 8032A1 Belmont	128,500
Ohio 8039A2 Paulding	125,000
Ohio 8041A2 Licking	135,000
Oklahoma 8016A1 Pontotoc	135,000
Utah 8007A1 Wayne	5,000

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38-649; Filed, March 3, 1938; 9:41 a. m.]

[Administrative Order No. 199]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 21, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
Georgia 8020A3 Troup	$2,500

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38-650; Filed, March 3, 1938; 9:41 a. m.]

[Administrative Order No. 200]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 21, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Projection Designation:	Amount
Colorado 8014W1 Alamosa	$10,000
Kansas 8021W1 Shawnee	25,000
Kentucky 8020W1 McCracken	10,000
Kentucky 8027W1 Boyle	10,000
Kentucky 8038W1 Fulton	10,000
Minnesota 8018W2 Douglas	2,382

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38-651; Filed, March 3, 1938; 9:41 a. m.]

[Administrative Order No. 201]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 24, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
Illinois 8029A1 Shelby	$176,130
Texas 8064A1 San Augustine	124,000
Wisconsin 8047A1 Jackson	160,000

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38-652; Filed, March 3, 1938; 9:41 a. m.]

[Administrative Order No. 202]

ALLOCATION OF FUNDS FOR LOANS

FEBRUARY 26, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
Tennessee 8017A2 Hardeman	$2,800

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38-653; Filed, March 3, 1938; 9:41 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE 11F-2

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Sections 11 (f) and 20 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out the purposes of said Act, the Securities and Exchange Commission hereby adopts Rule 11F-2 to read as follows:

RULE 11F-2. *Commission approval of fees in connection with reorganization proceedings.*—(a) All fees, expenses, and remuneration, whether interim or final, to whomsoever paid for services rendered in connection with any proceeding in a reorganization, dissolution, liquidation, bankruptcy, or receivership of a registered holding company or a subsidiary company thereof in a court of the United States, shall be subject to approval by the Commission as to the maximum amount that may reasonably be paid for the services rendered by such person, taking into account the size of the estate, the difficulties involved in the proceeding, and the benefit resulting from such services. Such approval shall be granted only by order of the Commission on application filed by or on behalf of each person who is requesting or who is seeking to receive any payment of such fees, expenses or remuneration.

[1] Filed as a part of original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

(b) Each such application shall comply with the provisions of Rule 2 as to number of copies, form, and execution and shall contain a detailed statement of the facts relied upon by applicant as the basis for such payment, including a statement as to:

(1) Every interest of the applicant in such reorganization proceeding;

(2) The nature and extent of the activities of the applicant for which payment is sought;

(3) The benefit resulting from such activities;

(4) Any interim or other payments received by the applicant out of the estate prior to the filing of such application in respect of all or part of the activities covered by such application and the extent to which such payments have been allowed by order of any court or state or federal regulatory agency or commission; and

(5) Any payments, not paid or to be paid out of the estate, which have been received or are expected to be received or requested by the applicant in connection with, or preliminary to, the activities covered by such application.

(c) As soon as practicable after receipt of any such application the Commission shall give notice and opportunity for hearing upon such application.

(d) Paragraph (a) of this rule shall not apply to the payment of any fees, expenses, or remuneration if any of the following conditions are satisfied:

(1) Such payment has been authorized by the court and the services have been rendered prior to the effective date of this rule; or

(2) Such payment is made in connection with a proceeding in which a plan of reorganization, dissolution or liquidation has been approved by the court prior to the effective date of this rule; or

(3) Such payment is to a special master or referee; or

(4) The total amount claimed for fees, expenses, and remuneration by or on behalf of any one person or group of associated persons is not in excess of $5,000 (or such larger amount as the Commission may fix with respect to any proceeding): *Provided, however*, That the exception contained in this clause (4) shall not apply to any claim for interim payment.

(e) This rule shall become effective March 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-656; Filed, March 3, 1938; 11:38 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 28th day of February, A. D. 1938.

[File No. 32-79]

IN THE MATTER OF CUMBERLAND COUNTY POWER AND LIGHT COMPANY

ORDER EXEMPTING SECURITIES AUTHORIZED BY STATE COMMISSION

Cumberland County Power and Light Company, a subsidiary company of New England Public Service Company, a registered holding company, having filed application pursuant to the provisions of section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of section 6 (a) of said Act of the issue and sale by applicant of 10,000 shares of its Preferred Capital Stock, 5½% Cumulative, of the par value of $100 per share;

A hearing having been held upon said application, as amended, after appropriate notice; the record in this matter having been examined, and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of said securities, in accordance with the terms and for the purposes represented by said application, be and the same hereby are exempted from the provisions of section 6 (a) of said Act, subject, however, to the following conditions:

(1) The applicant shall pay no dividends upon its common stock except out of surplus earned subsequent to December 31, 1937, unless and until it shall have restored its balance of uncapitalized expenditures to the amount of at least $2,650,000;

(2) That applicant shall pay no dividends on its common stock unless (a) it preserves intact and at not less than their present figures the two reserve accounts entitled "Reserve in connection with lease of Portland Railroad Company" and "Reserve for Contingencies", (b) makes annual accruals thereto at the rate of not less than $156,000 per annum, and expends funds equivalent to such annual amount for additions to property or for the purchase of mortgage indebtedness of Portland Railroad Company, and (c) maintains an amount equivalent to such reserves, as increased from time to time by such accruals, in uncapitalized expenditures which may be made the basis for the issuance of securities under the laws of the State of Maine, or in additional purchases of mortgage indebtedness of Portland Railroad Company, or both;

(3) That the conditions set forth in the last two preceding paragraphs shall remain in effect until applicant shall show cause to the contrary, upon application filed herein;

(4) That if the authorization of said securities by the Maine Public Utilities Commission shall be revoked or shall otherwise terminate, the exemption hereby granted shall cease and determine without further action by this Commission.

It is further ordered, That within ten days after the issue or sale of said securities applicant shall file with this Commission a certificate of notification showing that said issue or sale has been effected in accordance with the terms and for the purposes represented by said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-655; Filed, March 3, 1938; 11:38 a. m.]

Saturday, March 5, 1938 *No. 45*

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

CLASS AND TYPE DESIGNATIONS OF CORDIALS OR LIQUEURS

MARCH 3, 1938.

To All Bottlers of Distilled Spirits:

The attention of all bottlers of distilled spirits is called to the following interpretations of the regulations with respect to class and type designations of cordials or liqueurs, and to the use upon any distilled spirits labels of references to the absence of artificial coloring or flavoring material:

1. *Appropriate type designations for cordials or liqueurs.*—The industry has heretofore been advised, in connection with the labeling of cordials or liqueurs, that no type designation may be utilized where such designation, in conjunction with the class designation, would tend to confuse the consumer as to the true identity of the product. For example the Administration has refused to authorize any cordials or liqueurs, regardless of composition, to be marketed under such designations as "Whiskey Liqueur," "Brandy Cordial," "Rum Liqueur" or "Gin Cordial."

The Administration recognizes, however, that a liqueur may properly bear, as a part of its designation, the name of another distilled spirit where such use would not tend to confuse the consumer as to the true identity of the product. No objection has, therefore, been interposed to the use of such designations as "Rock and Rum Liqueur," "Rock and Rum Cordial," "Rock and Rum," "Rock and Gin Liqueur," "Rock and Rye Liqueur," "Rock and Rye Cordial" and "Rock and Rye."

Of course, no product may bear the designations "cordial" or "liqueur" unless it conforms to the standards of identity

for such products as prescribed in Section 21, Class 6 of Regulations No. 5.

2. *Composition of "Rock and Rye" and similar products.*—It has recently been called to the Administration's attention that products manufactured from neutral spirits or brandy, and containing little or no rye whiskey, are being marketed under labels designating the product as "Rock and Rye," "Rock and Rye Liqueur," or "Rock and Rye Cordial." A similar situation appears to exist in some cases with respect to products designated as "Rock and Rum," "Rock and Rum Cordial" and "Rock and Rum Liqueur." This practice should be immediately discontinued.

The Administration feels that these designations convey to the consumer's mind a definite impression with respect to the ingredients used in the manufacture of the product. The designations "Rock and Rye," "Rock and Rye Liqueur," and "Rock and Rye Cordial" all denote products manufactured from rock candy, or rock candy syrup, and having a predominate rye flavor derived from rye whiskey. Likewise the designations "Rock and Rum," "Rock and Rum Liqueur," and "Rock and Rum Cordial" denote products manufactured from rock candy, or rock candy syrup, and having a predominant rum flavor derived from rum. Manufacturers of cordials and liqueurs are, therefore, advised that under the regulations of the Administration no product which contains any distilled spirits other than rum may be designated as "Rock and Rum," "Rock and Rum Liqueur," or "Rock and Rum Cordial." Likewise no product may be designated as "Rock and Rye," "Rock and Rye Liqueur" or "Rock and Rye Cordial" if it contains any distilled spirits other than (a) rye whiskey, (b) straight rye whiskey, (c) blended rye whiskey or (d) spirit whiskey composed of not less than 51% of rye whiskey.

3. *References to the absence of artificial color and flavor.*—Representations have been made to the Administration by manufacturers of cordials, liqueurs and other products to the effect that the statements "not artificially colored" and "not artificially flavored", now appearing upon the labels of competitors' products, are disparaging. After carefully considering these complaints, and upon the basis of information now at hand with respect to competitive marketing practices, it has been determined that these statements are, in fact, disparaging within the meaning of Section 41 (a) (2) of Regulations No. 5. All bottlers of distilled spirits now using labels upon which appear the statements "not artificially colored" or "not artificially flavored" are, therefore, advised to revise the same promptly, and obtain new certificates of label approval. In view of the fact that the labels referred to have heretofore been approved by the Administration, a reasonable time will be allowed within which to make the necessary adjustments to conform to this ruling.

[SEAL] W. S. ALEXANDER, *Administrator.*

[F. R. Doc. 38-661; Filed, March 3, 1938; 3:21 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

PROPOSED AMENDMENT TO RULE 117 WITH RESPECT TO THE POWER OF BROADCAST STATIONS ON CLEAR CHANNELS

The Commission at a meeting held February 21, 1938, directed that a hearing be held beginning 10:00 o'clock A. M., May 16, 1938, at its offices in Washington, D. C., to determine whether or not Rule 117 should be amended with respect to the power of broadcast stations on clear channels, and in particular to determine what limit, if any, should be placed upon the power to be authorized for any such stations.

It further directed that at said hearing and to be consolidated therewith, the Commission will hear all pending applications for permits, modification or renewal of licenses, experimental or regular, which request power increases in excess of that permitted by the existing Rule.

The Commission directed the Secretary to send notices of the time and place of said hearing and the issues to be determined thereon, to the licensees of all existing broadcast stations and all pending applicants for broadcast facilities, as well as any other parties who may have an interest in such proceedings.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-663; Filed, March 4, 1938; 10:00 a. m.]

FEDERAL HOME LOAN BANK BOARD.

LIMITING THE POWERS OF FEDERAL SAVINGS AND LOAN ASSOCIATIONS TO SELL AND SERVICE LOANS

AMENDMENT TO RULES AND REGULATIONS

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), subsection (d) of Section 42 of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended by inserting immediately following the first sentence thereof the following:

"No association shall sell loans in an amount during any calendar year in excess of 25 per cent of the total amount of loans originated during such period. No association shall commit itself to service loans not held by it unless originated by it and in no event in an aggregate amount in excess of its share capital on the last day of the month next preceding any service commitment. The limitation upon the sale of loans may be adjusted in the case of any Federal association upon application to and approval by the Board, or waived for any specific transaction for the benefit of any Federal association by the president of the Federal Home Loan Bank of which it is a member when such Federal association requires cash for purposes other than for the making of loans."

Be it further resolved, That, it being deemed that this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Federal Home Loan Bank Board on March 3, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-672; Filed, March 4, 1938; 12:50 p. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. IT-5484 and IT-5485]

IN THE MATTER OF ALBANY LIGHTING COMPANY

ORDER FIXING DATE OF HEARING

MARCH 1, 1938.

Commissioners participating: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) The Village of Albany, Illinois, an incorporated village, by complaint filed on August 14, 1937, alleged that the rates for electric energy charged and collected by the Albany Lighting Company, a corporation of the State of Iowa, were excessive, unjust and unreasonable, and prayed that after investigation fair and reasonable rates be established by the Commission; and

(b) On September 7, 1937, the Commission, upon its own motion, instituted an investigation to determine whether rates and charges made, demanded or received by Albany Lighting Company, for or in connection with the transmission or sale of electric energy to the Village of Albany, Illinois, and all rules and regulations affecting or pertaining to such rates and charges, are just and reasonable;

The Commission orders that:

A hearing upon said complaint and with respect to all matters involved in said investigation be held on March 28, 1938, at 10 a. m. in the Regional Office of the Commission, Room 988, Merchandise Mart, Chicago, Illinois.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-662; Filed, March 4, 1938; 10:00 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of March, A. D. 1938.

[File No. 43-105]

IN THE MATTER OF AMERICAN LIGHT & TRACTION COMPANY, SAN ANTONIO PUBLIC SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by American Light & Traction Company, a registered holding company, and its subsidiary, San Antonio Public Service Company, regarding the sale by American Light & Traction Company of not exceeding $3,500,000 principal amount of First Mortgage and Refunding Gold Bonds, Series B, 5%, due January 1, 1958, of San Antonio Public Service Company; and regarding the alteration of the rights of the holders of such issue of securities by restricting the power of the issuer company to issue additional bonds (1) by reducing the amount of bonds issuable against net property additions from 80% to 70% thereof; (2) by excluding from net property additions (a) additions made before January 1, 1938, (b) additions outside the State of Texas, and (c) property used in furnishing transportation; (3) by requiring that earnings equal twice interest charges; and (4) by forbidding the refunding of bonds retired through the sinking fund;

It is ordered, That a hearing in such matter be held on March 14, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 12, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-669; Filed, March 4, 1938; 11:19 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of March, A. D. 1938.

[Files No. 46-92, 46-93, 43-104, 51-10, 51-11]

IN THE MATTER OF ENGINEERS PUBLIC SERVICE COMPANY, GULF STATES UTILITIES COMPANY, BATON ROUGE ELECTRIC COMPANY, LOUISIANA STEAM GENERATING CORPORATION

NOTICE OF AND ORDER FOR HEARING

The following applications and declaration having been filed with this Commission, pursuant to provisions of the Public Utility Holding Company Act of 1935, by Engineers Public Service Company, a registered holding company, and by Gulf States Utilities Company, Baton Rouge Electric Company and Louisiana Steam Generating Corporation, subsidiary companies of said Engineers Public Service Company, regarding transactions incident to a plan for the consolidation of the business and properties of said Baton Rouge Electric Company and Louisiana Steam Generating Corporation (except the bus business and properties of the company first-named) with those of said Gulf States Utilities Company:

Engineers Public Service Company has applied (File No. 46-92), pursuant to Section 10 of the Act, for approval of its acquisition of all the capital stock, to consist of 2,000 shares without par value of a new corporation to be formed under the laws of the State of Louisiana for the purpose of purchasing, at the depreciated book value thereof, and operating the bus business and properties of Baton Rouge Electric Company, the price to be paid by applicant to be an amount (estimated at $127,544.48) sufficient to effect such purchase and to provide working capital for the new company.

Gulf States Utilities Company has applied (File No. 46-93), pursuant to Section 10 of the Act, for approval of its acquisition of all the outstanding common stock of Baton Rouge Electric Company and all the outstanding capital stock of Louisiana Steam Generating Corporation, to be donated to it by Engineers Public Service Company, and of so much of the preferred stock of Baton Rouge Electric Company as may be received by it as a result of an offer of exchange to be made to public holders of such preferred stock, and for approval of the acquisition of all the business and physical properties of said companies (except the bus business and properties of Baton Rouge Electric Company), in consideration of the surrender for cancellation of all of the preferred and common stock of said companies theretofore acquired by applicant, the payment to Baton Rouge Electric Company of cash sufficient to redeem, at the call price of 110, the balance of that company's preferred stock publicly held, and the assumption by applicant of the liabilities of Baton Rouge Electric Company and Louisiana Steam Generating Corporation;

Gulf States Utilities Company has filed a declaration (File No. 43-104), pursuant to Section 7 of the Act, regarding the issue and sale of a maximum of 6,210 shares of $6 Dividend Preferred Stock, to be exchanged for a corresponding number of the $6 Dividend Preferred Stock of Baton Rouge Electric Company, declarant paying the difference between the then market price of its preferred stock and the redemption price of the preferred stock of Baton Rouge Electric Company, the assumption by declarant of the outstanding securities of Baton Rouge Electric Company (First Mortgage Bonds, Series A, 5½%, due June 1, 1954, in the principal amount of $954,000, and Series B, 5%, due February 1, 1959, in the principal amount of $2,000,000, and 3% unsecured notes payable to Engineers Public Service Company, $215,000 principal amount due April 25, 1938 and $30,000 principal amount due October 25, 1938) and of Louisiana Steam Generating Corporation (3% unsecured

note payable to Engineers Public Service Company, due November 19, 1940, in the principal amount of $1,875,000), and regarding the amendment of declarant's charter so as to give its preferred stockholders one vote per share for the election of directors and all other purposes;

Baton Rouge Electric Company and Louisiana Steam Generating Corporation have applied (File No. 51-10 and File No. 51-11, respectively), pursuant to Rule 12C-2, for approval of the payment to Gulf States Utilities Company, their then sole stockholder, of dividends in complete and final liquidation, prior to their dissolution.

It is ordered, That a hearing on such matters be held on March 22, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 17, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-671; Filed, March 4, 1938; 11:20 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 3rd day of March, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET OF PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE PHILLIPS-NORRIS TRACT, FILED ON FEBRUARY 10, 1938, BY S. LEROY ESTES, RESPONDENT

ORDER CONSENTING TO WITHDRAWAL OF OFFERING SHEET AND TERMINATING PROCEEDING

The Securities and Exchange Commission, having received from respondent an application for an order consenting to withdrawal of the offering sheet described in the title hereof, and respondent having represented to the Commission in writing that none of the securities described in said offering sheet have been sold, and it appearing in view of such representation that withdrawal of said offering sheet is not inconsistent with the public interest,

It is ordered, That consent of the Commission to withdrawal of such offering sheet be, and hereby is, granted, but the Commission does not consent to removal of said offering sheet or any papers relating thereto from the files of the Commission, and

It is further ordered, That the Order for Hearing and Order Designating Trial Examiner heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-668; Filed, March 4, 1938; 11:19 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 3rd day of March, 1938.

[File No. 1-2946]

IN THE MATTER OF THE SILEX COMPANY COMMON STOCK, NO PAR VALUE

ORDER GRANTING REQUEST TO WITHDRAW APPLICATION AND TERMINATING PROCEEDING

The Silex Company, having made application to the Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, for permission to withdraw its Common Stock, No Par Value, from listing and registration on the New York Curb Exchange; and

The Commission having ordered that the matter be set down for hearing on March 3, 1938; and

Said issuer having requested permission from the Commission to withdraw its application;

It is ordered, That said request be and the same is hereby granted and that this proceeding be and the same is hereby terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-670; Filed, March 4, 1938; 11:19 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of February, 1938.

[File No. 1-136]

IN THE MATTER OF MINNEAPOLIS-MOLINE POWER IMPLEMENT COMPANY CONVERTIBLE $6.50 CUMULATIVE PREFERRED STOCK AND COMMON STOCK

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Minneapolis-Moline Power Implement Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Convertible $6.50 Cumulative Preferred Stock and Common Stock from listing and registration on the Chicago Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 o'clock A. M., on Tuesday, March 22, 1938, in Room 630, Bankers Building, 105 W. Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-664; Filed, March 4, 1938; 11:18 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of March, 1938.

[File No. 1-865]

IN THE MATTER OF NICHOLAS-BEAZLEY AIRPLANE COMPANY, INCORPORATED, COMMON STOCK, $5 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The St. Louis Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 (b) promulgated thereunder, having made application to the Commission to strike from listing and registration the Common Stock, $5 Par Value, of the Nicholas-Beazley Airplane Company, Incorporated; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 2:00 o'clock P. M., on Tuesday, March 29, 1938 in Room 630, Bankers Building, 105 W. Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-665; Filed, March 4, 1938; 11:18 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of March, 1938.

[File No. 1-1554]

IN THE MATTER OF RUTLAND RAILROAD COMPANY FIRST CONSOLIDATED MORTGAGE 4½% GOLD BONDS DUE JULY 1, 1941; AND RUTLAND-CANADIAN RAILROAD COMPANY FIRST MORTGAGE 4% GOLD BONDS DUE JULY 1, 1949

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Boston Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 (b) promulgated thereunder, having made application to the Commission to strike from listing and registration the Rutland Railroad Company First Consolidated Mortgage 4½% Gold Bonds due July 1, 1941 and the Rutland-Canadian Railroad Company First Mortgage 4% Gold Bonds due July 1, 1949; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 o'clock A. M., on Friday, March 25, 1938, at 82 Devonshire Street, Boston, Massachusetts, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That James J. Caffrey, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-666; Filed, March 4, 1938; 11:18 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of March, 1938.

[File No. 1-429]

IN THE MATTER OF STUTZ MOTOR CAR COMPANY OF AMERICA, INCORPORATED, CAPITAL STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Capital Stock, No Par Value, of Stutz Motor Car Company of America, Incorporated; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock A. M., on March 30, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-667; Filed, March 4, 1938; 11:18 a. m.]

Tuesday, March 8, 1938 *No. 46*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

PLACING CERTAIN ISLANDS IN THE PACIFIC OCEAN UNDER THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE INTERIOR

Canton Island and Enderbury Island

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that Canton Island, an atoll of coral formation, 50 to 600 yards wide and surrounding a lagoon about 9 miles long, which is located in the Pacific Ocean approximately in latitude 2°49′ S. and longitude 171°43′ W. from Greenwich; also Enderbury Island, 2.5 miles long and 1 mile wide, located in the Pacific Ocean approximately in latitude 3°07′ S. and longitude 171°03′ W. from Greenwich, be, and they are hereby reserved, set aside, and placed under the control and jurisdiction of the Secretary of the Interior for administrative purposes.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 3, 1938.

[No. 7828]

[F. R. Doc. 38-677; Filed, March 5, 1938; 10:21 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49438]

CUSTOMS REGULATIONS AMENDED—SEEDS

EVIDENCE AS TO THE COUNTRY OR REGION WHERE SEED WAS GROWN

FEBRUARY 26, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C., title 5, sec. 22), and section 5 (c) of the Federal seed act, as amended by the act approved April 26, 1926 (U. S. C., title 7, sec. 115 (c)), the Customs Regulations of 1937 are hereby amended as follows:

Article 595 is amended by adding the following paragraph, designated (e), reading as follows:

(e) No red clover seed will be designated for 1 per cent iridescent violet coloring unless the shipment is accompanied by a Canadian Government official certificate to the effect that the seed in question was produced in Canada.

[SEAL] H. MORGENTHAU,
Secretary of the Treasury.
M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-678; Filed, March 5, 1938; 11:21 a. m.]

Public Debt Service.

[1938—Department Circular No. 581]

UNITED STATES OF AMERICA 2½ PERCENT TREASURY BONDS OF 1948

DATED AND BEARING INTEREST FROM MARCH 15, 1938; DUE SEPTEMBER 15, 1948; INTEREST PAYABLE MARCH 15 AND SEPTEMBER 15

I. Offering of Bonds

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par, from the people of the United States for 2½ percent bonds of the United States, designated Treasury Bonds of 1948, in payment of which only Treasury Notes of Series C-1938, maturing March 15, 1938, may be tendered. The amount of the offering under this circular will be limited to the amount of Treasury Notes of Series C-1938 tendered and accepted.

II. Description of Bonds

1. The bonds will be dated March 15, 1938, and will bear interest from that date at the rate of 2½ percent per annum, payable semiannually, on September 15, 1938, and thereafter on March 15 and September 15 in each year. They will mature September 15, 1948, and will not be subject to call for redemption prior to maturity.

2. The bonds shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, or gift taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of bonds authorized by the Second Liberty Bond Act, approved September 24, 1917, as amended, the principal of which does not exceed in the aggregate $5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in clause (b) above.

3. The bonds will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege and will not be entitled to any privilege of conversion.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $50, $100, $500, $1,000, $5,000, $10,000 and $100,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. Subscription and Allotment

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. Payment

1. Payment at par for bonds allotted hereunder must be made or completed on or before March 15, 1938, or on later allotment, and may be made only in Treasury Notes of Series C-1938, maturing March 15, 1938, which will be accepted at par, and should accompany the subscription.

V. General Provisions

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38-689; Filed, March 7, 1938; 11:25 a. m.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

MODIFICATION OF GRAZING REGULATIONS FOR NAVAJO AND HOPI RESERVATIONS

JANUARY 28, 1938.

Mr. E. R. FRYER,
Supt., Navajo Agency.

DEAR MR. FRYER: Reference is made to your letter of January 21 recommending certain modifications to the General Grazing Regulations approved December 28, 1935, covering the trespassing of livestock on Indian reservations.

Owing to the fact that the General Grazing Regulations of the Indian Service have been superseded by the Grazing Regulations for the Navajo and Hopi Reservations approved June 2, 1937, it appears that the modification of the General Grazing Regulations with respect to trespass would not clearly authorize the enforcement of such general trespass regulation on the lands of the Navajo jurisdiction; and that the protection of the Navajo and Hopi grazing lands from the trespass of unpermitted stock can best be accomplished through the modification of the Grazing Regulations for the Navajo and Hopi Reservations.

Accordingly you are hereby advised that Section 5 of the grazing regulations approved June 2, 1937, is hereby amended to read as follows:

5. The Superintendent is authorized to assess and collect trespass fees and, with the consent of the tribal council of the Navajo Indians, he may also assess and collect grazing fees upon all stock owned in excess of the base preference number and upon all non-productive stock owned below the base preference number. The tribal authorities of the Hopi Indians may also assess and collect similar grazing fees in accordance with the terms of the constitution and by-laws and charter of the Hopi Indians.

All livestock found running on tribal lands of the Navajo and Hopi Reservations without a permit duly issued shall be considered in trespass, and the Superintendent is authorized to refer either to the proper tribal authorities or to the United States Attorney or other appropriate officer of the Departmen of Justice the matter of instituting legal proceedings based on such trespass.

If the Superintendent shall find that a condition of overgrazing and waste on tribal land is aggravated by the presence of stock not grazed under a permit duly authorized and not required for the use and subsistence of the Indians, he shall cause to be served upon any Indian claiming ownership of such stock a notice in writing ordering the removal of such stock. If within ten days after the issuance of such notice the Indian claimant has not removed the said stock from the reservation or shown cause why such stock should not be removed, said stock shall be considered in trespass, and the Superintendent is authorized forthwith to remove and sell all such stock and to deposit the proceeds thereof in an individual Indian account to the benefit of the Indian claimant. (U. S. Code, Title 25, Sec. 192.)

Instructions.—Trespass fees which equal the value of the forage consumed, damages to property injured or destroyed, and salaries and expenses of employees incurred in investigation, report, and prosecution of the case should be sought in addition to the penalty prescribed by law for unauthorized use of the range or failure to remove a stipulated number of unpermitted stock from the range by the date specified by the Superintendent or his authorized representative. All grazing fees on the Navajo Reservation must be paid to the District Supervisor or to the Superintendent and deposited in accordance with the fiscal regulations. All grazing fees shall be payable on or before December 1st, which shall be considered as the beginning of the permit year. All grazing fees on the Hopi Reservation shall be collected and deposited in accordance with the provisions of the constitution, by-laws and charter after the organization of the Hopi Indians has been completed. Until the tribal organization has been completed the grazing fees shall be collected and deposited as on the Navajo Reservation.

Sincerely yours,

JOHN COLLIER, *Commissioner.*

Approved: January 28, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-676; Filed, March 5, 1938; 10:21 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES

DELAWARE

MARCH 5, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Delaware State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Kent.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-680; Filed, March 5, 1938; 12:37 p. m.]

DESIGNATION OF COUNTIES

MONTANA

MARCH 5, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Montana State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Stillwater.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-679; Filed, March 5, 1938; 12:37 p. m.]

DESIGNATION OF COUNTIES

RHODE ISLAND

MARCH 5, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Rhode Island State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Providence.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-681; Filed, March 5, 1938; 12:37 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3344]

IN THE MATTER OF ATLANTIC COMMISSION COMPANY, A CORPORATION

COMPLAINT

The Federal Trade Commission having reason to believe that the Atlantic Commission Company, hereinafter called Respondent, since June 19, 1936, has violated and is now violating the provisions of Section 2 (c) of the Act of Con-

gress entitled "An Act To supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, (the Clayton Act), as amended by the Act of Congress entitled "An Act To amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936, (the Robinson-Patman Act), hereby issues this its complaint against Respondent and states its charges with respect thereto as follows, to-wit:

PARAGRAPH 1. Respondent is a corporation organized and existing under the laws of the State of New York and has its principal office and place of business at Number 102 Warren Street in the City of New York, New York.

PAR. 2. For several years prior to and on June 19, 1936, and ever since that date, the Respondent was, has been and is now engaged in the business of buying, selling and distributing fresh fruits and vegetables and other commodities on and for its own account and in the business of selling fresh fruits and vegetables and other commodities as a broker for other sellers thereof.

PAR. 3. In the course and conduct of its business as aforesaid, since June 19, 1936, the Respondent has been and is now making purchases in commerce of fresh fruits and vegetables and other commodities on and for its own account from various sellers thereof, which said fresh fruits and vegetables and other commodities purchased on and for its own account the Respondent has been and is now causing to be shipped to it in commerce by said sellers from various states of the United States through, across and into other states of the United States and the District of Columbia, and in the course of making said purchases of fresh fruits and vegetables and other commodities on and for its own account since June 19, 1936, the Respondent has been and is now receiving and accepting thereon from said sellers allowances and discounts in lieu of brokerage, for which said allowances and discounts in lieu of brokerage no services whatsoever in connection with said purchases, or in connection with the sale to the Respondent of said fresh fruits and vegetables and other commodities purchased by the Respondent on and for its own account, have been rendered or are now being rendered to, for or on behalf of the sellers of said fresh fruits and vegetables and other commodities by the Respondent or by any agent, representative or intermediary subject to the direct or indirect control of the Respondent.

PAR. 4. The receipt and acceptance by the Respondent of allowances and discounts in lieu of brokerage, as aforesaid, constitutes a violation of the provisions of Section 2 (c) of the above-mentioned Act of Congress entitled "AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, (the Clayton Act), as amended by the Act of Congress entitled "AN ACT To amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936, (the Robinson-Patman Act).

Wherefore, the premises considered, the Federal Trade Commission, on this 2nd day of March, A. D. 1938, now issues this its Complaint against the Atlantic Commission Company, stating its charges as hereinabove set out.

NOTICE

Notice is hereby given you, Atlantic Commission Company, a corporation, respondent herein, that the 8th day of April, A. D. 1938, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(*a*) In cases arising under Section 5 of the Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under Section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 2nd day of March, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-675; Filed, March 5, 1938; 10:08 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2876]

IN THE MATTER OF RELIABLE SPECIALTY CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, March 12, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-682; Filed, March 7, 1938; 9:59 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 203]

ALLOCATION OF FUNDS FOR LOANS

MARCH 2, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Minnesota 8005W1 Aitkin	$10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-674; Filed, March 5, 1938; 9:36 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of March, 1938.

[File No. 1-2355]

IN THE MATTER OF ALLIED PRODUCTS CORPORATION CLASS A CONVERTIBLE COMMON SHARES, PAR VALUE $25; COMMON SHARES, PAR VALUE $10

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Class A Convertible Common Shares, par value $25, and Common Shares, par value $10, of Allied Products Corporation; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 13, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-684; Filed, March 7, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of March, 1938.

[File No. 1-2373]

IN THE MATTER OF THE PEDIGO COMPANY COMMON STOCK, $5 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The St. Louis Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $5 Par Value, of The Pedigo Company; and

The Commission having considered the application and information pertinent thereto, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 13, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-685; Filed, March 7, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of March, 1938.

[File No. 1-182]

IN THE MATTER OF THE PURE OIL COMPANY 5¼%, 6%, 8% PREFERRED STOCK, $100 PAR VALUE; COMMON SHARES, NO PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Pure Oil Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its 5¼% Preferred Stock, $100 par value, 6% Preferred Stock, $100 par value, 8% Preferred Stock, $100 par value, and Common Shares, no par value, from listing and registration on the Cincinnati Stock Exchange; and

After appropriate notice a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on March 14, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-688; Filed, March 7, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of March, 1938.

IN THE MATTER OF P. J. MANGAN, 411 ERIE COUNTY SAVINGS BANK BLDG., BUFFALO, NEW YORK

ORDER REVOKING REGISTRATION

P. J. Mangan, a sole proprietorship, hereinafter called the registrant, having filed with the Commission on February 19, 1936 an application for registration on Form 1-M pursuant to Rule MA2 of the rules then governing the over-the-counter markets; and the said registration having become effective on March 20, 1936, in accordance with the Commission's rules and regulations; and the said registrant having become registered under Section 15 (b) of the Securities Exchange

Act of 1934, as amended, by virtue of the provisions of Section 10 of the Act of Congress approved May 27, 1936, providing for the registration of over-the-counter brokers and dealers; and

The Commission having reasonable grounds to believe that the said registrant, during the period from July 22, 1936 up to and including December 15, 1937, has wilfully violated the provisions of Sections 5 (a) and 17 (a) of the Securities Act of 1933, as amended, in the sale of securities of the Ross Red Lake Gold Syndicate; and that the said registrant is permanently enjoined by decree of the United States District Court for the Western District of New York, entered with his consent on or about February 9, 1938, from engaging in and continuing certain conduct and practices in connection with the purchase and sale of securities; and that it is in the public interest to revoke the said registration; and having ordered that a hearing be held for the purpose of determining whether or not the said registration should be revoked pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended; and

The said registrant, on December 27, 1937, having filed with the Commission a consent in writing to the revocation of said registration and having waived notice and opportunity for hearing in connection therewith, and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of P. J. Mangan as a broker or dealer transacting business on over-the-counter markets be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-686; Filed, March 7, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of March, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET OF PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE OHIO-DAHL TRACT, FILED ON JANUARY 18, 1938, BY H. B. SEARS, RESPONDENT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet described in the title hereof has been amended to cure the objections specified in the Order for Hearing previously entered in this proceeding;

It is ordered, Pursuant to Rule 354 (c) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on February 28, 1938, be effective as of March 4, 1938.

It is further ordered, That the Order for Hearing heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding is terminated as of the effective date of said amendment.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-687; Filed, March 7, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of March, 1938.

[File No. 1-1852]

IN THE MATTER OF THE AUTOLINE OIL COMPANY PREFERRED CAPITAL STOCK, $10 PAR VALUE; COMMON CAPITAL STOCK, $10 PAR VALUE

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding, pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the Baltimore Stock Exchange of Preferred Capital Stock, $10 Par Value, and Common Capital Stock, $10 Par Value, of The Autoline Oil Company, shall be suspended or withdrawn; and

After appropriate notice, a hearing having been held in this matter on November 24, 1937, in Washington, D. C.; and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Section 12 (b) of said Act, as amended, Rules JB1 and JB3, as amended, Form 10 for Corporations and the Instructions supplemental thereto, prescribed under said Section, and has also failed to comply with Section 13 of said Act, as amended, Rules KA1 and KA2, Form 10-K and the Instructions supplemental thereto, prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act, as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said Preferred Capital Stock and Common Capital Stock on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the Baltimore Stock Exchange of Preferred Capital Stock, $10 Par Value, and Common Capital Stock, $10 Par Value, of The Autoline Oil Company, shall be and the same is hereby withdrawn, effective as of March 12, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-683; Filed, March 7, 1938; 11:23 a. m.]

Wednesday, March 9, 1938 ***No. 47***

DEPARTMENT OF COMMERCE.

Bureau of Air Commerce.

AMENDMENT TO THE CIVIL AIR REGULATIONS

AMENDMENT NO. 3

Pursuant to the authority contained in the Air Commerce Act of 1926 (44 Stat. 568) as amended by the Act of February 28, 1929 (45 Stat. 1404), the Act of June 19, 1934 (48 Stat. 1113), the Act of June 19, 1934 (48 Stat. 1116), and Sections 11 and 12 of the Act of June 12, 1934 (48 Stat. 933, 937), Chapter 60 of the Civil Air Regulations approved to take effect November 1, 1937, is amended to read as follows:

60. AIR TRAFFIC RULES

60.0 Provision for Issuance
60.1 Definitions
60.2 Airway, Airport, and Other Designations
60.20 Civil Airway Designation
60.21 Control Airport Designation
60.22 Control Zone of Intersection Designation
60.23 Radio Fix Designation
60.24 Airway Traffic Control Area Designation
60.3 Flight Rules (General)
60.30 Pilot Certificate
60.31 Aircraft Certificate
60.32 Identification Mark
60.33 Take-Off and Landing
60.34 Flight Enroute

60.35 Minimum Safe Altitudes
60.36 Parachutes
60.4 Flight Rules (Contact)
60.40 Pilot
60.41 Equipment
60.42 Fuel Requirements
60.43 Flight Plan
60.44 Weather Minimums
60.45 Alternate Airport
60.46 Over-the-Top Flight
60.47 Flight Enroute
60.48 Flight Altitudes
60.5 Flight Rules (Instrument)
60.50 Pilot
60.51 Equipment
60.52 Fuel Requirements
60.53 Flight Plan
60.54 Weather Minimums
60.55 Alternate Airport
60.56 Over-the-Top Flight
60.57 Flight Enroute
60.58 Flight Altitudes
60.59 Approach and Departure Procedures
60.6 Light and Signal Rules
60.60 Angular Limits
60.61 Airplane Lights
60.62 Airship Lights
60.63 Balloon Lights
60.64 Lights on Stationary Aircraft
60.65 Signals on Stationary Aircraft
60.66 Distress Signals
60.67 Forced Landing Signals
60.68 Fog Signals
60.7 Acrobatic Flight Rules
60.70 Prohibited Zones
60.71 Acrobatics While Carrying Persons
60.72 Equipment for Acrobatics
60.73 Parachute Jumps
60.8 Air Meet Rules
60.80 Classification
60.81 Permit Required
60.82 Provision for Issuance
60.83 Application for Class 1 Air Meet Permit
60.84 Application for Class 2 Air Meet Permit
60.85 Issuance
60.86 Duration
60.87 Non-Transferability
60.88 Suspension and Revocation
60.89 Air Meet Rules
60.9 Miscellaneous Air Traffic Rules
60.90 Non-Application of Air Traffic Rules
60.91 Certificate of Non-Application
60.92 Aircraft on Water
60.93 Aircraft Model Flying Activities, Supervision of

60. AIR TRAFFIC RULES

60.0. PROVISION FOR ISSUANCE: Pursuant to the provisions of the Air Commerce Act requiring the Secretary of Commerce to provide regulations for the rating of aircraft, airmen, air navigation facilities, air carriers and flying schools, and for the navigation, protection and identification of aircraft, and for prohibiting the operation or navigation in violation thereof, the following air traffic rules relating thereto, in addition to those prescribed elsewhere in the Civil Air Regulations, are hereby prescribed.

60.1. DEFINITIONS

60.100. *Civil Airway:* A civil airway is a route in the navigable airspace designated by the Secretary of Commerce as a route suitable for interstate or foreign air commerce and includes the airspace located vertically above an area on the horizontal plane contained within lines encircling each terminal airport, intermediate airport, and other intermediate point, specified on such airway within a radius of 10 miles from the center of such airport or other specified intermediate point and also contained within two parallel lines located 10 miles from the center line connecting the terminal airports by way of each intermediate airport or other intermediate point specified to designate the route of such airway. Each civil airway shall also include the terminal and intermediate airports, emergency landing fields and all other air navigation facilities located, or which may be hereafter located and established, within the said area. No civil airway shall include an airspace reservation, or any part thereof, set aside and protected pursuant to the provisions of Section 4 of the Air Commerce Act of 1926, the navigable airspace above non-territorial waters, nor the navigable airspace above foreign territorial lands or waters. (For a list of civil airways, see CAR 60.20.)

60.101. *Airspace Reservation:* An airspace reservation is the airspace located vertically above an area on the surface of the land or water designated and set apart by an executive order of the President or by a State for purposes of national defense or for other governmental purposes. (For a list of airspace reservations, see Appendix A and B.)

60.102. *Control Airport:* A control airport is an airport which has been so designated by the Secretary to provide for the safety of aircraft moving in interstate or foreign air commerce. (For a list of control airports, see CAR 60.21.)

60.103. *Control Zone:* A control zone is the airspace above an area within a circle with a radius of 3 miles drawn from the center of a control airport: *Provided, however*, That if a radio directional aid station designed to direct air traffic to the control airport is more than 3 miles from the center thereof, then the control zone is extended above an area one-half mile on each side of a line projected from the center of such airport to such radio aid.

60.104. *Zone of Intersection:* A zone of intersection is that part of a civil airway which overlaps and lies within any part of any other civil airway.

60.105. *Control Zone of Intersection:* A control zone of intersection is the airspace above an area within a circle with a radius of 25 miles drawn from the center of the zone of intersection as specified in CAR 60.106 (a), (b), or (c).

60.106. *Center of Control Zone of Intersection:* The center of a control zone of intersection is:

(a) The radio range station located at an intersection of airways, or

(b) the center of the intersection of the "on course" radio range signals projected down intersecting airways, or

(c) the center of an "on course" signal projected down an airway, at a point designated by the Secretary.

60.107. *Green Zone of Intersection:* A green zone of intersection is a zone of intersection of a green civil airway in which through traffic on a green civil airway continues through such zone at a constant altitude, and in which zone traffic on the intersected amber, red, or blue civil airway shall proceed as outlined in CAR 60.58410, 60.58420, and 60.5843.

60.108. *Amber Zone of Intersection:* An amber zone of intersection is a zone of intersection on an amber civil airway in which through traffic on an amber civil airway continues through such zone at a constant altitude and in which zone traffic on the intersected red, or blue civil airway shall proceed as outlined in CAR 60.58420 and 60.5843.

60.109. *Red Zone of Intersection:* A red zone of intersection is a zone of intersection on a red civil airway in which traffic on a red civil airway continues through such zone at a constant altitude and traffic on a blue civil airway shall proceed as outlined in CAR 60.5843.

60.110. *Zone of Intersection Priority:* That part of an amber, red, or blue zone of intersection which may overlap and lie within a green zone of intersection shall be considered as the green zone of intersection, and that part of a red or blue zone of intersection which may overlap or lie within an amber zone of intersection shall be considered as the amber zone of intersection, and that part of a blue civil airway which may overlap or lie within a red zone of intersection shall be considered as the red zone of intersection.

60.111. *Alternate Airport:* An alternate airport is an airport, other than the point of first intended landing, specified in the flight plan, and to which the flight may be directed in case of emergency.

60.112. *Radio Fix:* A radio fix is a geographical location on a civil airway, above which the position of an aircraft in flight can be accurately determined by means of radio only. (Such as a cone of silence marker, Z type marker, fan type marker, or intersection of radio range "on course"

signals.) (For a list of designated radio fixes, see CAR 60.23.)

60.113. *Check Point:* A check point is a geographical location on the surface of the land or water, above which the position of an aircraft in flight can be accurately determined by means of visual reference. (Such as a river, highway, mountain, bridge, lightship, etc.)

60.114. *Radio Range Station:* A radio range station is that point in a radio station from which radio signals are emitted for the purpose of assisting an aircraft to maintain a course.

60.115. (Unassigned)
60.116. (Unassigned)
60.117. (Unassigned)
60.118. (Unassigned)
60.119. (Unassigned)

60.120. *Airway Traffic Control Station:* An airway traffic control station is a station operated by the Bureau for the purpose of air traffic control on civil airways within the jurisdiction of such station. (For a list of airway traffic control stations, see Appendix D.)

60.121. *Airway Traffic Control Area:* An airway traffic control area is an area within the limits of designated civil airways and over which a particular Bureau airway traffic control station exercises traffic control. (For a list of airway traffic control areas, see CAR 60.24.)

60.122. *Airway Communications Station:* An airway communications station is an airway radio, teletype, or other communications station operated by the Bureau.

60.123. *Airport Control Tower:* An airport control tower is an establishment properly situated and equipped to allow an operator thereof to adequately control air traffic in the immediate vicinity of the airport on or adjacent to which such airport control tower is located.

60.124. (Unassigned)
60.125. (Unassigned)
60.126. (Unassigned)
60.127. (Unassigned)
60.128. (Unassigned)
60.129. (Unassigned)

60.130. *Contact Flight:* Contact flight is flight of aircraft in which the attitude of the aircraft and its flight path can at all times be controlled by means of visual reference to the ground or water.

60.131. *Instrument Flight:* Instrument flight is flight of aircraft in which the visual reference in CAR 60.130 is not continuously available and the attitude of the aircraft and its flight path can be controlled in part or in whole by reference to instruments only.

60.132. *Over-the-Top Flight:* Over-the-top flight is flight of aircraft made above an overcast, usually a cloud formation.

60.133. *Flight Plan:* A flight plan means a plan of flight which shall contain the following information:

(a) The aircraft identification mark, or the name of the governmental service in which the aircraft is employed, if so employed, or the name of the airline operator and the trip number, if engaged in scheduled airline service.

(b) The type of aircraft involved and the number of aircraft making the flight, if the aircraft are in formation.

(c) The name of the pilot, or of the flight commander if the aircraft are in formation.

(d) The point of departure of the particular flight for which such plan is being filed.

(e) The proposed cruising altitude or altitudes.

(f) The point of first intended landing.

(g) The proposed cruising airspeed.

(h) The radio equipment carried in the aircraft. (If no radio—NORDO; if radio receiver only—RONLY; if two-way radio, statement of transmitter frequency to be used.)

(i) The proposed time of departure. (The time of departure shall be considered as the time when the aircraft leaves the ground.)

(j) The estimated elapsed time until arrival on the ground at the point of first intended landing. (For scheduled operation, the first stop to be made, together with additional stops if requested by an airway traffic control station.)

(k) The alternate airport, if the flight is to involve instrument flight.

(l) The route, if other than a direct course, and any other pertinent information which the pilot deems useful for control purposes or which may be requested by an airway traffic control station.

60.134. *Approved Flight Plan:* An approved flight plan is a plan of flight, containing the information required by CAR 60.133, which has been approved solely with respect to known air traffic conditions by the Bureau airway traffic control station into the control area of which the flight will first enter. (For a list of airway traffic control areas, see CAR 60.24.)

NOTE.—Approval of a flight plan is an authorization for an aircraft to proceed in accordance with the provisions of such flight plan only insofar as known air traffic conditions are concerned and does *not* constitute authority to violate any provision or provisions of the Civil Air Regulations.

60.1340. Traffic control instructions issued to the pilot before departure or enroute shall be considered to be a part of the approved flight plan.

60.135. *Cruising Altitude:* A cruising altitude is a flight altitude, measured in feet above sea level, proposed for that part of a flight from point to point during which a constant altitude will be maintained.

60.136. (Unassigned)
60.137. (Unassigned)
60.138. (Unassigned)
60.139. (Unassigned)

60.140. *Ceiling:* Ceiling is the distance from the cloud base to the ground.. (The reports of the U. S. Weather Bureau, when available to the pilot, shall govern.)

60.141. *Unlimited Ceiling:* A ceiling is considered unlimited when clouds cover less than one-half of the sky or when the base of the clouds is more than 9,750 feet above the point of observation. (The reports of the U. S. Weather Bureau, when available to the pilot, shall govern.)

60.142. *Daylight, Hours of:* (Day flight, daylight hours, day.) The hours of daylight as used in these rules are those hours between the mean solar times of sunrise and sunset, as published in the Nautical Almanac, converted to local standard time for the locality concerned.

NOTE.—The "Nautical Almanac", price 50 cents, containing sunshine tables, may be obtained from the Supt. of Documents, Government Printing Office, Washington, D. C. Information is available from the "Sunshine Tables" in the offices of Officials in Charge, Airport Station, U. S. Weather Bureau, at:

Newark, N. J.
Washington-Hoover Airport, Washington, D. C.
Atlanta, Ga.
Cleveland, Ohio
Chicago, Ill.
Kansas City, Mo.
Fort Worth, Tex.
Salt Lake City, Utah
Portland, Ore.
Oakland, Calif.

These "Sunshine Tables" are not available for distribution.

60.143. *Darkness, Hours of:* (Night flight, hours of darkness, night.) The hours of darkness as used in these rules are those hours between the mean solar times of sunset and sunrise, as published in the Nautical Almanac, converted to local standard time for the locality concerned.

NOTE.—See Note under CAR 60.142.

60.144. *Visibility:* Visibility is the greatest distance toward the horizon at which conspicuous objects can be seen and identified.

60.145. *Weather Minimums:* Weather minimums are ceiling, visibility and other minimums provided for specified types of flight operation, and below which flight operation is not permitted, unless specifically authorized elsewhere in these regulations or by the Secretary.

NOTE.—The local United States Weather Bureau reporting station for each control airport will classify existing weather conditions for such airport by one of the following symbols:

Class C—*Contact:* Weather equal to or better than the minimums specified for the particular airport for flight in accordance with contact flight rules. (Satisfactory for contact flight.)

Class N—*Instrument:* Weather less than the minimums specified for the particular airport for contact flight (Class C above) and down to the minimums prescribed for the particular airport for suspension of flight operations. (Requiring observance of instrument flight rules, unless flight in accordance with contact flight rules has been authorized as provided for in CAR 60.440 and 60.441.)

Class X—*Closed:* Weather below the minimums specified for the particular airport, wherein any landing or take-off, other than a flight of public aircraft or scheduled airline aircraft if otherwise authorized, is suspended. (Take-off and landing of non-scheduled civil aircraft suspended, unless authorized as provided for in CAR 60.540.)

60.146. (Unassigned)
60.147. (Unassigned)
60.148. (Unassigned)
60.149. (Unassigned)

60.150. *Military Aircraft:* Military aircraft are public aircraft operated in the service of the United States Army, National Guard, Navy, Marine Corps or Coast Guard.

60.151. *Public Aircraft:* A public aircraft is an aircraft used exclusively in the governmental service.

60.152. *Acrobatics (Acrobatic Flight):* Acrobatics are evolutions voluntarily performed with an aircraft other than those required for normal flight.

60.2. AIRWAY, AIRPORT, AND OTHER DESIGNATIONS

60.20. *Civil Airway Designation:* The following air routes in the navigable airspace, deemed suitable for interstate or foreign air commerce, are designated as civil airways, and are further designated, for the protection of aircraft in flight, as green, amber, red, or blue civil airways, as hereinafter specified.

60.200. Green Civil Airways—The following air routes are designated as civil airways and are further designated as green civil airways:

60.20000. Green Civil Airway No. 1—Seattle, Wash.–Boston, Mass.—Seattle, Wash. (Boeing Field), via the Seattle, Wash., radio range station; Easton, Wash., radio marker station; Ellensburg, Wash., radio range station; Ephrata, Wash., radio range station; Spokane, Wash., radio range station; Coeur D'Alene, Idaho, radio range station; Mullan Pass, Idaho, radio range station; Superior, Mont., radio range station; Missoula, Mont., radio range station; Drummond, Mont., radio range station; Helena, Mont., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Helena, Mont., radio range and the northwest leg of the Belgrade, Mont., radio range (Townsend, Mont., intermediate field); Belgrade, Mont., radio range station; Livingston, Mont., radio range station; Billings, Mont., radio range station; Miles City, Mont., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Miles City, Mont., radio range and the west leg of the Dickinson, N. Dak., radio range (Mildred, Mont., intermediate field); Dickinson, N. Dak., radio range station; Bismarck, N. Dak., radio range station; Jamestown, N. Dak., radio range station; Fargo, N. Dak., radio range station; Alexandria, Minn., radio range station; Minneapolis, Minn., radio range station; Hager City, Wis., radio marker station; La Crosse, Wis., radio range station; Lone Rock, Wis., radio range station; Milwaukee, Wis., radio range station; Grand Rapids, Mich. (Kent County Airport); Lansing, Mich. (Capitol City Airport); the intersection of the center lines of the on course signals of the north leg of the Detroit, Mich. (Wayne County Airport), radio range and the west leg of the Strathburn, Ontario, radio range (approximately Pontiac, Mich.); Detroit, Mich. (Wayne County Airport), radio range station to the intersection of the center line of the on course signal of the east leg of the Detroit, Mich. (Wayne County Airport), radio range and the U. S.-Canadian Border. (The intersection of the center line of the on course signal of the east leg of the Detroit, Mich. (Wayne County Airport), radio range and the U. S.-Canadian Border over Canada to the intersection of the center line of the on course signal of the west leg of the Buffalo, N. Y., radio range and the U. S.-Canadian Border not designated.) The intersection of the center line of the on course signal of the west leg of the Buffalo, N. Y., radio range and the U. S.-Canadian Border via the Buffalo, N. Y., radio range station; Rochester, N. Y. (Municipal Airport); Syracuse, N. Y., radio range station; the intersection of the center lines of the on course signals of the east leg of the Syracuse, N. Y., radio range and the northwest leg of the Albany, N. Y., radio range (Utica, N. Y.); Albany, N. Y., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Albany, N. Y., radio range and the southwest leg of the Boston, Mass., radio range (approximately Putnam, Conn., radio marker station); Boston, Mass., radio range station to the Boston Municipal Airport.

60.20001. Green Civil Airway No. 2—San Francisco, Calif.–Newark, N. J.—San Francisco, Calif. (Municipal Airport), via the Oakland, Calif., radio range station; Sacramento, Calif., radio range station; Auburn, Calif., radio marker station; the intersection of the center lines of the on course signals of the northeast leg of the Oakland, Calif., radio range and the southwest leg of the Donner Summit, Calif., radio range (Colfax, Calif.); Donner Summit, Calif., radio range station; Reno, Nev., radio range station; Humboldt, Nev., radio marker station; Buffalo Valley, Nev., radio range station; Beowawe, Nev., radio marker station; Elko, Nev., radio range station; Ventosa, Nev., radio marker station; Wendover, Utah, radio range station; Salt Lake City, Utah, radio range station; Knight, Wyo., radio range station; Rock Springs, Wyo., radio range station; Cherokee, Wyo., radio range station; Medicine Bow, Wyo., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Medicine Bow, Wyo., radio range and the northwest leg of the Cheyenne, Wyo., radio range (approximately Beacon Site No. 35); Cheyenne, Wyo., radio range station; Sidney, Nebr., radio range station; Big Springs, Nebr., radio marker station; North Platte, Nebr., radio range station; Grand Island, Nebr., radio range station; Omaha, Nebr., radio range station; Adair, Iowa, radio marker station; Des Moines, Iowa, radio range station; Montezuma, Iowa, radio marker station; Davenport, Iowa, radio range station; the intersection of the center lines of the on course signals of the east leg of the Davenport, Iowa, radio range and the southwest leg of the Chicago, Ill., radio range (Sheridan, Ill.); Chicago, Ill., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the west leg of the Goshen, Ind., radio range (approximately Lansing, Ill.); McCool, Ind., radio marker station; Goshen, Ind., radio range station; Helmer, Ind., radio marker station; Archbold, Ohio, radio range station; Toledo, Ohio, radio range station; Vickery, Ohio, radio marker station; Cleveland, Ohio, radio range station; Warren, Ohio, radio marker station; Mercer, Pa., radio range station; Brookville, Pa., radio marker station; Kylertown, Pa., radio range station; Bellefonte, Pa., radio range station; Woodward, Pa., radio marker station; Sunbury, Pa., radio marker station; Allentown, Pa., radio range station; the intersection of the center lines of the on course signals of the east leg of the Allentown, Pa., radio range and the southwest leg of the Newark, N. J., radio range (New Brunswick, N. J., fan type radio marker station); Newark, N. J., radio range station to the Newark, N. J., Municipal Airport.

60.20002. Green Civil Airway No. 3—Los Angeles, Calif.–Camden, N. J.—Los Angeles, Calif. (Burbank, Calif., Union Air Terminal), via the Los Angeles, Calif. (Burbank, Calif., Union Air Terminal), radio range station; Van Nuys, Calif., radio range station; Saugus, Calif., radio range station; Palmdale, Calif., radio marker station; Daggett, Calif., radio

range station; the intersection of the center lines of the on course signals of the east leg of the Daggett, Calif., radio range and the southwest leg of the Kingman, Ariz., radio range (Goffs, Calif.); Kingman, Ariz., radio range station; Ashfork, Ariz., radio range station; Winslow, Ariz., radio range station; El Morro, N. Mex., radio range station; Albuquerque, N. Mex., radio range station; Otto, N. Mex., radio range station; Anton-Chico, N. Mex., radio marker station; Tucumcari, N. Mex., radio range station; Amarillo, Tex., radio range station; Conway, Tex.; Canadian, Tex., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Canadian, Tex., radio range and the southwest leg of the Wichita, Kans., radio range (Waynoka, Okla., intermediate field); Wichita, Kans., radio range station; Cassoday, Kans., radio marker station; Lebo, Kans., radio range station; Kansas City, Mo., radio range station; Knoxville, Mo., radio marker station; Marshall, Mo. (Nicholas Beazley Airport); Columbia, Mo., radio range station; New Florence, Mo., radio marker station; St. Louis, Mo., radio range station; Effingham, Ill., radio range station; Terre Haute, Ind., radio range station; Indianapolis, Ind., radio range station; Columbus, Ohio, radio range station; Cambridge, Ohio, radio marker station; Pittsburgh, Pa., radio range station; the intersection of the center lines of the on course signals of the east leg of the Pittsburgh, Pa., radio range and the west leg of the Harrisburg, Pa., radio range (Ashville, Pa., Airport); Harrisburg, Pa., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Harrisburg, Pa., radio range and the southwest leg of the Camden, N. J., radio range (Chester, Pa.); Camden, N. J., radio range station to Camden, N. J. (Central Airport).

60.20003. Green Civil Airway No. 4—Los Angeles, Calif.–Washington, D. C.—Los Angeles, Calif. (Glendale, Calif., Grand Central Air Terminal), via the intersection of the center lines of the on course signals of the southeast leg of the Burbank, Calif. (Union Air Terminal), radio range and the west leg of the Fontana, Calif., radio range; Fontana, Calif., radio range station; Indio, Calif. (Indio Airport); Blythe, Calif., radio range station; Phoenix, Ariz., radio range station; the intersection of the center lines of the on course signals of the south leg of the Phoenix, Ariz., radio range and the northwest leg of the Tucson, Ariz., radio range (approximately Beacon Site No. 0); Tucson, Ariz., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Tucson, Ariz., radio range and the southwest leg of the Rodeo, N. Mex., radio range (Douglas, Ariz., International Airport); Rodeo, N. Mex., radio range station; Columbus, N. Mex. (intermediate field); El Paso, Tex., radio range station; Guadalupe Pass, Tex., radio range station; Wink, Tex., radio range station; Big Spring, Tex., radio range station; Abilene, Tex. (Abilene Airport); Eastland, Tex. (Eastland Airport); Santo, Tex., radio marker station; Fort Worth, Tex., radio range station; Texarkana, Ark., radio range station; Little Rock, Ark., radio range station; Memphis, Tenn., radio range station; Nashville, Tenn., radio range station; Smithville, Tenn., radio range station; Knoxville, Tenn., radio range station; Bristol, Tenn., radio range station; Pulaski, Va., radio range station; Roanoke, Va., radio range station; Gordonsville, Va., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Gordonsville, Va., radio range and the south leg of the Washington, D. C., radio range (Mason Springs, Va.); Washington, D. C., radio range station to the Washington, D. C., Washington Airport.

60.20004. Green Civil Airway No. 5—Corpus Christi, Tex.–Norfolk, Va.—Corpus Christi, Tex. (Cliff Maus Field), via the Houston, Tex., radio range station; Beaumont, Tex. (Beaumont Airport); New Orleans, La., radio range station; the intersection of the center lines of the on course signals of the east leg of the New Orleans, La., radio range and the southwest leg of the Mobile, Ala., radio range (Gulfport, Miss. Airport); Mobile, Ala., radio range station; Montgomery, Ala. (Montgomery Airport); Atlanta, Ga., radio range station; Jefferson, Ga., radio marker station; Anderson, S. C., radio marker station; Spartanburg, S. C., radio range station; Greensboro, N. C., radio range station; South Boston, Va., radio marker station; Crewe, Va. (intermediate field); Chester, Va.; Richmond, Va., radio range station to Norfolk, Va. (Granby Street Airport).

60.201. Amber Civil Airways—The following air routes are designated as civil airways and are further designated as amber civil airways:

60.20100. Amber Civil Airway No. 1—San Diego, Calif.–Blaine, Wash. (U. S.-Mexican Border to U. S.-Canadian Border)—The intersection of the center line of the south leg of the San Diego, Calif., radio range and the U. S.-Mexican Border (San Ysidro, Calif.), via the San Diego, Calif., radio range station; Oceanside, Calif., radio marker station; Long Beach, Calif., radio range station; the intersection of the center lines of the on course signals of the north leg of the Long Beach, Calif., radio range and the southeast leg of the Burbank, Calif. (Union Air Terminal), radio range (Downey, Calif.) to the intersection of the center lines of the on course signals of the southeast leg of the Burbank, Calif. (Union Air Terminal), radio range and the west leg of the Fontana, Calif., radio range. (Green Civil Airways No. 3 and No. 4 to Saugus, Calif., radio range station.) Saugus, Calif., radio range station via the Bakersfield, Calif., radio range station; Fresno, Calif., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Fresno, Calif., radio range and the southeast leg of the Oakland, Calif., radio range (Modesto, Calif., Modesto Airport); Livermore, Calif., radio marker station to the Oakland, Calif., radio range station. (Green Civil Airway No. 2 Oakland, Calif., radio range station to the intersection of the center lines of the on course signals of the northeast leg of the Oakland, Calif., radio range and the south leg of the Williams, Calif., radio range.) The intersection of the center lines of the on course signals of the northeast leg of the Oakland, Calif., radio range and the south leg of the Williams, Calif., radio range via the Potrero Hill, Calif., radio marker station; Williams, Calif., radio range station; Mt. Shasta, Calif., radio range station; Montague, Calif., radio range station; Medford, Oreg., radio range station; Eugene, Oreg., radio range station; Portland, Oreg., radio range station; Castle Rock, Wash., radio marker station; the intersection of the center lines of the on course signals of the northwest leg of the Portland, Oreg., radio range and the southwest leg of the Tacoma, Wash., radio range (Chehalis, Wash., Chehalis Airport); Tacoma, Wash., radio range station; Seattle, Wash., radio range station; Monroe, Wash to Blaine, Wash. (U. S.-Canadian Border).

60.20101. Amber Civil Airway No. 2—Daggett, Calif.–Great Falls, Mont.—Daggett, Calif. (intermediate field), via the Daggett, Calif., radio range station; Baker, Calif. (intermediate field); Kingston, Calif. (intermediate field); Las Vegas, Nev., radio range station; Glendale, Nev. (intermediate field); Enterprise, Utah, radio range station; Milford, Utah, radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Milford, Utah, radio range and the south leg of the Salt Lake City, Utah, radio range; Salt Lake City, Utah, radio range station; Pocatello, Idaho, radio range station; Idaho Falls, Idaho, radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Idaho Falls, Idaho, radio range and the southwest leg of the Whitehall, Mont., radio range (Dillon, Mont., intermediate field); Whitehall, Mont., radio range station; Helena, Mont., radio range station to Great Falls, Mont. (Great Falls Airport).

60.20102. Amber Civil Airway No. 3—El Paso, Tex.–Cheyenne, Wyo.—El Paso, Tex. (El Paso Airport) via the El Paso, Tex., radio range station; Albuquerque, N. Mex., radio range station; Santa Fe, N. Mex. (Ashley Pond Airport); Las Vegas, N. Mex. (Las Vegas Airport); Wagon Mound, N. Mex. (Wagon Mound Airport); Trinidad, Colo. (Trinidad Airport); Pueblo, Colo., radio range station; Denver, Colo. (Denver Airport), to the Cheyenne, Wyo., radio range station.

60.20103. Amber Civil Airway No. 4—Brownsville, Tex.–Minneapolis, Minn.—Brownsville, Tex. (Pan American Airport), via the Kingsville, Tex. (intermediate field); Corpus Christi, Tex. (Cliff Maus Airport); San Antonio, Tex., radio range station; Austin, Tex. (Robert Mueller Airport); Waco, Tex., radio range station; Fort Worth, Tex., radio range station; Ardmore, Okla., radio marker station; Oklahoma City, Okla., radio range station; Britton, Okla.; Tulsa, Okla., radio range station; Moran, Kans., radio range to the intersection of the center lines of the on course signals of the north leg of the Moran, Kans., radio range and the southwest leg of the Kansas City, Mo., radio range (approximately Bonner Springs, Kans.). (Green Civil Airway No. 3, Bonner Springs, Kans., to Kansas City, Mo.) Kansas City, Mo., radio range station via Omaha, Nebr., radio range station; Sioux City, Iowa (Rickenbacker Airport), to Minneapolis, Minn., radio range station.

60.20104. Amber Civil Airway No. 5—New Orleans, La.–Milwaukee, Wis.—New Orleans, La. (Shushan Airport), via the New Orleans, La., radio range station; Tylertown, Miss., radio range station; Jackson, Miss., radio range station; Greenwood, Miss., radio range station; Memphis, Tenn., radio range station; Advance, Mo., radio range station; the intersection of the center lines of the on course signals of the north leg of the Advance, Mo., radio range and the southeast leg of the St. Louis, Mo., radio range (approximately Beacon Site No. 54); St. Louis, Mo., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the St. Louis, Mo., radio range and the south leg of the Sterling, Ill., radio range (Springfield, Ill., Springfield Airport); the intersection of the center lines of the on course signals of the south leg of the Sterling, Ill., radio range and the southwest leg of the Chicago, Ill., radio range (approximately Morse, Ill., radio marker station) to the intersection of the center lines of the on course signals of the southwest leg of the Chicago, Ill., radio range and the east leg of the Davenport, Iowa, radio range (approximately Sheridan, Ill.). (Green Airway No. 2 Sheridan, Ill., to Chicago, Ill., radio range station.) Chicago, Ill., radio range station via the intersection of the center lines of the on course signals of the northwest leg of the Chicago, Ill., radio range and the south leg of the Milwaukee, Wis., radio range; Milwaukee, Wis., radio range station to Milwaukee, Wis., (Milwaukee County Airport).

60.20105. Amber Civil Airway No. 6—Bryceville, Fla.–Buffalo, N. Y.—Bryceville, Fla., via the Alma, Ga., radio range station; Macon, Ga. (Macon Airport); Atlanta, Ga., radio range station; Adairsville, Ga., radio marker station; Chattanooga, Tenn., radio range station; Manchester, Tenn. (intermediate field); Nashville, Tenn., radio range station; Louisville, Ky., radio range station; Warsaw, Ky., radio marker station; Cincinnati, Ohio, radio range station; Columbus, Ohio, radio range station; Hayesville, Ohio, radio marker station to the intersection of the center lines of the on course signals of the northwest leg of the Akron, Ohio, radio range and the west leg of the Cleveland, Ohio, radio range (approximately Elyria, Ohio). (Green Civil Airway No. 2 Elyria, Ohio, to Bedford, Ohio.) Bedford, Ohio (Bedford Airport), via the Perry, Ohio, radio marker station; Erie, Pa., radio range station; Dunkirk, N. Y., radio marker station; Buffalo, N. Y., radio range station to the Buffalo Airport.

60.20106. Amber Civil Airway No. 7—Key West, Fla.–Bangor, Maine.—Key West, Fla. (Meacham Airport), via the Key West, Fla., radio range station; the intersection of the center lines of the on course signals of the east leg of the Key West, Fla., radio range and the southwest leg of the Miami, Fla., radio range (Marathon, Fla.); Miami, Fla., radio range station; the intersection of the center lines of the on course signals of the north leg of the Miami, Fla., radio range and the southeast leg of the Titusville, Fla., radio range (Jupiter, Fla.); Titusville, Fla., radio range station; Jacksonville, Fla., radio range station; Savannah, Ga. (Savannah, Ga., Airport); Charleston, S. C., radio range station; Florence, S. C. (intermediate field); Raleigh, N. C., radio range station to Chester, Va. (Green Civil Airway No. 5 Chester, Va., to Richmond, Va., radio range station.) Richmond, Va., radio range station to Mason Springs, Va. (Green Civil Airway No. 4 Mason Springs, Va., to Washington, D. C., radio range station.) Washington, D. C., radio range station via the intersection of the center lines of the on course signals of the northeast leg of the Washington, D. C., radio range and the southwest leg of the Camden, N. J., radio range (Havre de Grace, Md.) to Chester, Pa. (Green Civil Airway No. 3 Chester, Pa., to Camden, N. J.) Camden, N. J., radio range station to New Brunswick, N. J. (fan type radio marker station). (Green Civil Airway No. 2 New Brunswick, N. J., fan type radio marker station to Newark, N. J., radio range station.) Newark, N. J., radio range station via Hartford, Conn. (Rentschler Field), to Putnam, Conn., radio marker station. (Green Civil Airway No. 1 Putnam, Conn., radio marker station to Boston, Mass., radio range station.) Boston, Mass., radio range station via the Portland, Maine, radio range station; Augusta, Maine, radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Augusta, Maine, radio range and the southwest leg of the Bangor, Maine, radio range (approximately Waterville, Maine, Airport); Bangor, Maine, radio range station to the Bangor, Maine, Airport.

60.202. Red Civil Airways—The following air routes are designated as civil airways and are further designated as red civil airways:

60.20200. Red Civil Airway No. 1—Portland, Oreg.–Clearfield, Utah.—Portland, Oreg., radio range station, via the Cascade Locks, Oreg., radio marker station; North Dalles, Wash., radio range station; Arlington, Oreg., radio marker station; Pendleton, Oreg., radio range station; Baker, Oreg. (intermediate field); Weiser, Idaho, radio marker station; Boise, Idaho, radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Boise, Idaho, radio range and the northwest leg of the Burley, Idaho, radio range (approximately King Hill, Idaho, radio marker station); Burley, Idaho, radio range station; Strevell, Idaho, radio marker station; Locomotive Springs, Utah, radio range station to Clearfield, Utah (Beacon Site No. 2).

60.20201. Red Civil Airway No. 2—Ellensburg, Wash.–Ephrata, Wash.—Ellensburg, Wash., radio range station via Wenatchee, Wash. (Fancher Airport), to the Ephrata, Wash., radio range station.

60.20202. Red Civil Airway No. 3—Drummond, Mont.–Belgrade, Mont.—Drummond, Mont., radio range station via Deer Lodge, Mont.; Anaconda, Mont.; Butte, Mont., radio range station; White Hall, Mont., radio range station to the Belgrade, Mont., radio range station.

60.20203. Red Civil Airway No. 4—Billings, Mont.–Great Falls, Mont.—Billings, Mont., radio range station via Lewiston, Mont. (Lewiston Airport), to Great Falls, Mont. (Great Falls Airport).

60.20204. Red Civil Airway No. 5—Pantano, Ariz.–Rodeo, N. Mex.—Pantano, Ariz., via Benson, N. Mex. (intermediate field), to the Rodeo, N. Mex., radio range station.

60.20205. Red Civil Airway No. 6—Laramie, Wyo.–Grand Island, Nebr.—Laramie, Wyo., radio range station via Denver, Colo. (Denver Airport); Akron, Colo. (American Legion Airport); Hayes Center, Nebr. (Hayes Center Airport), to the Grand Island, Nebr., radio range station.

60.20206. Red Civil Airway No. 7—Conway, Tex.–Oklahoma City, Okla.—Conway, Tex., to the Oklahoma City, Okla., radio range station.

60.20207. Red Civil Airway No. 8—Britton, Okla.–Wichita, Kans.—Britton, Okla. (Curtis Wright Airport), via Ponca City, Okla. (Ponca City Airport), to the Wichita, Kans., radio range station.

60.20208. Red Civil Airway No. 9—Ardmore, Okla.–Dallas, Tex.—Ardmore, Okla., radio marker station to the Dallas, Tex., radio range station.

60.20209. Red Civil Airway No. 10—Waco, Tex.–Galveston, Tex.—Waco, Tex., radio range station via the Navasota, Tex., radio range station; Houston, Tex., radio range station to Galveston, Tex. (Galveston Airport).

60.20210. Red Civil Airway No. 11—Fargo, N. Dak.–Pembina, N. Dak.—Fargo, N. Dak., radio range station via the Grand Forks, N. Dak., radio range station; Pembina, N. Dak., radio range station to the intersection of the center line of the on course signal of the north leg of the Pembina radio range and the U. S.—Canadian Border.

60.20211. Red Civil Airway No. 12—Dallas, Tex.–Charleston, S. C.—Dallas, Tex., radio range station via the Shreveport, La., radio range station; Jackson, Miss., radio range station; the intersection of the center lines of the on course signals of the east leg of the Jackson, Miss., radio range and the southwest leg of the Birmingham, Ala., radio range (Meridian, Miss., Key Airport); Birmingham, Ala., radio range station to Union City, Ga. (Green Civil Airway No. 5 Union City, Ga., to Atlanta, Ga.) (Amber Civil Airway No. 6 Atlanta, Ga., to Jonesboro, Ga.) Jonesboro, Ga., via Augusta, Ga. (Daniel Airport); Columbia, S. C. (Columbia Airport), to the Charleston, S. C., radio range station.

60.20212. Red Civil Airway No. 13—Tulsa, Okla.–St. Charles, Mo.—Tulsa, Okla., radio range station via the Neosho, Mo., radio range station; Springfield, Mo., radio range station; Spring Bluff, Mo., radio range station to the intersection of the center lines of the on course signals of the northeast leg of the Spring Bluff, Mo., radio range and the west leg of the St. Louis, Mo., radio range (approximately St. Charles, Mo.).

60.20213. Red Civil Airway No. 14—Knoxville, Mo.–Morse, Ill.—Knoxville, Mo., radio marker station via the Kirksville, Mo., radio range station; Burlington, Iowa, radio range station to the intersection of the center lines of the on course signals of the southwest leg of the Chicago, Ill., radio range and the south leg of the Sterling, Ill., radio range (approximately Morse, Ill., radio marker station).

60.20214. Red Civil Airway No. 15—Hager City, Wis.–La Crosse, Wis.—Hager City, Wis., radio marker station via Rochester, Minn. (Rochester Airport), to the La Crosse, Wis., radio range station.

60.20215. Red Civil Airway No. 16—Lone Rock, Wis.–Elmhurst, Ill.—Lone Rock, Wis., radio range station via the Rockford, Ill., radio range station to Elmhurst, Ill. (Elmhurst Airport).

60.20216. Red Civil Airway No. 17—Chicago, Ill.–Detroit, Mich. (Wayne County Airport)—Chicago, Ill., radio range station via the intersection of the center lines of the on course signals of the east leg of the Chicago, Ill., radio range and the southwest leg of the Detroit, Mich. (Wayne County Airport), radio range (approximately Constantine, Mich.) to Detroit, Mich. (Wayne County Airport), radio range station.

60.20217. Red Civil Airway No. 18—Lansing, Ill.–La Grange, Ky.—The intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the west leg of the Goshen, Ind., radio range (approximately Lansing, Ill.) via the Lafayette, Ind., radio marker station; Indianapolis, Ind., radio range station to La Grange, Ky. (Beacon Site No. 2).

60.20218. Red Civil Airway No. 19—Goshen, Ind.–Dayton, Ohio—Goshen, Ind., radio range station via Ft. Wayne, Ind. (Baer Field), to Dayton, Ohio (Dayton Airport).

60.20219. Red Civil Airway No. 20—Greenfield, Ind.–Cincinnati, Ohio—Greenfield, Ind. (Beacon Site No. 2), via the Milroy, Ind., radio marker station to the Cincinnati, Ohio, radio range station.

60.20220. Red Civil Airway No. 21—Toledo, Ohio–Detroit, Mich. (Wayne County Airport)—Toledo, Ohio, radio range station to the Detroit, Mich. (Wayne County Airport), radio range station.

60.20221. Red Civil Airway No. 22—Detroit, Mich. (Wayne County Airport)–Washington, D. C.—(The intersection of the center line of the on course signal of the east leg of the Detroit, Mich. (Wayne County Airport), radio range and the U. S.-Canadian Border over Canada to the intersection of the center line of the on course signal of the northwest leg of the Cleveland, Ohio, radio range and the U. S.-Canadian Border not designated.) The intersection of the center line of the on course signal of the northwest leg of the Cleveland, Ohio, radio range and the U. S.-Canadian Border via the Cleveland, Ohio, radio range station; Akron, Ohio, radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Cleveland, Ohio, radio range and the west leg of the Pittsburgh, Pa., radio range (approximately Wellsburg, W. Va.). (Green Civil Airway No. 3 Wellsburg, W. Va., to Pittsburgh, Pa.) Pittsburgh, Pa., radio range station via the intersection of the center lines of the on course signals of the south leg of the Pittsburgh, Pa., radio range and the west leg of the Buckstown, Pa., radio range (Monesson, Pa.); Buckstown, Pa., radio range station; McConnellsburg, Pa., radio range station to the Washington, D. C., radio range station.

60.20222. Red Civil Airway No. 23—Akron, Ohio–Pittsburgh, Pa.—Akron, Ohio, radio range station to the Pittsburgh, Pa., radio range station.

60.20223. Red Civil Airway No. 24—Roanoke, Va.–Gordonsville, Va.—Roanoke, Va., radio range station via the Lynchburg, Va., radio range station to the Gordonsville, Va., radio range station.

60.20224. Red Civil Airway No. 25—Batavia, N. Y.–Newark, N. J.—Batavia, N. Y., via the Elmira, N. Y., radio range station to the Newark, N. J., radio range station.

60.20225. Red Civil Airway No. 26—Bryceville, Fla.–Jacksonville, Fla.—Bryceville, Fla., to the Jacksonville, Fla. radio range station.

60.20226. Red Civil Airway No. 27—Titusville, Fla.–Miami, Fla.—Titusville, Fla., radio range station via Orlando, Fla. (Orlando Airport); Tampa, Fla. (Peter O. Knight Airport); St. Petersburg, Fla. (Grand Central Airport); Ft. Myers, Fla. (Ft. Myers Airport), to the Miami, Fla., radio range station.

60.20227. Red Civil Airway No. 28—Palisades, N. J.–Swanton, Vt. (U. S.—Canadian Border)—The intersection of the center lines of the on course signals of the northeast leg of the Newark, N. J., radio range and the south leg of the Albany, N. Y., radio range (approximately Palisades, N. J.) via the New Hackensack, N. Y., radio marker station; Columbiaville, N. Y., radio marker station; Albany, N. Y., radio range station; Burlington, Vt. (Burlington Airport), to Swanton, Vt. (U. S.—Canadian Border).

60.203. Blue Civil Airways—The following air routes are designated as civil airways and are further designated as blue civil airways:

60.20300. Blue Civil Airway No. 1—Pendleton, Oreg.–Spokane, Wash.—Pendleton, Oreg., radio range station via Walla Walla, Wash. (Walla Walla Airport), to the Spokane, Wash., radio range station.

60.20301. Blue Civil Airway No. 2—Idaho Falls, Idaho–Whitehall, Mont.—Idaho Falls, Idaho, radio range station via West Yellowstone, Idaho (West Yellowstone Airport), to the Whitehall, Mont., radio range station.

60.20302. Blue Civil Airway No. 3—Baltimore, Md.–Elmira, N. Y.—Baltimore, Md. (Logan Field), via the Harrisburg, Pa., radio range station; Sunbury, Pa., radio marker station; Williamsport, Pa. (Williamsport Airport), to the Elmira, N. Y., radio range station.

60.20303. Blue Civil Airway No. 4—Boston, Mass.–Burlington, Vt.—Boston, Mass., radio range station via the intersection of the center lines of the on course signals of the northwest leg of the Boston, Mass., radio range and the south leg of the Concord, N. H., radio range (approximately Manchester, N. H.); Concord, N. H., radio range station; Montpelier, Vt. (Barre-Montpelier Airport), to Burlington, Vt. (Burlington Airport).

NOTE.—The radio range courses specified herein shall be considered to be those shown by the following Department of Commerce charts and publications:

Aeronautical charts (Coast and Geodetic Survey)
Tabulation of Air Navigation Radio Aids (Bureau of Air Commerce)

Changes and additions to maintain these issues current are covered by Weekly Notices to Airmen issued by the Bureau of Air Commerce, Washington, D. C., and other notices to airmen issued from the field offices of the Bureau.

60.21. *Control Airport Designation:* The following airports are designated as control airports:

City:	*Name of Airport*
Akron, Ohio	Akron Airport
Albany, N. Y.	Albany Airport
Albuquerque, N. Mex.	T&WA, Inc., Airport
Amarillo, Tex.	English Field
Atlanta, Ga.	Atlanta Airport
Baltimore, Md.	Baltimore Airport
Billings, Mont.	Billings Airport
Birmingham, Ala.	Birmingham Airport
Bismarck, N. Dak.	Bismarck Airport
Boston, Mass.	Boston Airport
Buffalo, N. Y.	Buffalo Airport
Butte, Mont.	Butte Airport
Camden, N. J.	Central Airport
Charleston, S. C.	Charleston Airport
Cheyenne, Wyo.	Cheyenne Airport
Chicago, Ill.	Chicago Airport
Cincinnati, Ohio	Cincinnati Airport
Cleveland, Ohio	Cleveland Airport
Columbus, Ohio	Port Columbus
Dallas, Tex.	Love Field
Denver, Colo.	Denver Airport
Detroit, Mich.	Detroit City Airport
Detroit, Mich.	Detroit Wayne County Airport
El Paso, Tex.	El Paso Airport
Fargo, N. Dak.	Hector Field
Fort Worth, Tex.	Meacham Field
Harrisburg, Pa.	Harrisburg Airport
Houston, Tex.	Houston Airport
Indianapolis, Ind.	Indianapolis Airport
Jackson, Miss.	Jackson Airport
Jacksonville, Fla.	Jacksonville Airport
Kansas City, Mo.	Kansas City Airport
Los Angeles, Calif. (Burbank, Calif.)	Union Air Terminal
Los Angeles, Calif. (Glendale, Calif.)	Grand Central Air Terminal
Louisville, Ky.	Bowman Field
Memphis, Tenn.	Memphis Airport
Miami, Fla.	Pan American Airport
Milwaukee, Wis.	Milwaukee County Airport
Minneapolis, Minn.	Wold-Chamberlain Field
Nashville, Tenn.	Nashville Airport
Newark, N. J.	Newark Metropolitan Airport
New York, N. Y.	Floyd Bennett Field
New Orleans, La.	Shushan Airport
Oakland, Calif.	Oakland Airport
Oklahoma City, Okla.	Oklahoma City Air Terminal
Omaha, Nebr.	Omaha Airport
Pittsburgh, Pa.	Pittsburgh-Alleghany County Airport
Portland, Oreg.	Portland Airport (Swan Island)
Providence, R. I.	Rhode Island State Airport
Richmond, Va.	Richard E. Byrd Field
St. Louis, Mo.	Lambert-St. Louis Airport
St. Paul, Minn.	Holman Municipal Airport
Salt Lake City, Utah	Salt Lake Airport
San Antonio, Tex.	Stinson Field
San Diego, Calif.	Lindbergh Field
San Francisco, Calif.	San Francisco Airport
Seattle, Wash.	Boeing Field
Spokane, Wash.	Felts Field
Toledo, Ohio	Toledo Airport
Tulsa, Okla.	Tulsa Airport
Washington, D. C.	Washington Airport
Wichita, Kans.	Wichita Airport

60.22. *Control Zones of Intersection Designation:* The following zones of intersection are designated as control zones of intersection:

60.220. Green Control Zones of Intersection—

Location:	*Center of Zone*
Albany, N. Y.	Albany, N. Y., radio range station
Albuquerque, N. Mex.	Albuquerque, N. Mex., radio range station
Atlanta, Ga.	Atlanta, Ga., radio range station
Batavia, N. Y.	Batavia, N. Y.
Bedford, Ohio	Bedford, Ohio, Airport
Billings, Mont.	Billings, Mont., radio range station
Bonner Springs, Kans.	The intersection of the center lines of the on course signals of the north leg of the Moran, Kans., radio range and the southwest leg of the Kansas City, Mo., radio range.
Boston, Mass.	Boston, Mass., radio range station
Buffalo, N. Y.	Buffalo, N. Y., radio range station
Camden, N. J.	Camden, N. J., radio range station
Chester, Pa.	The intersection of the center lines of the on course signals of the southwest leg of the Camden, N. J., radio range and the southeast leg of the Harrisburg, Pa., radio range.
Chester, Va.	Chester, Va.
Cheyenne, Wyo.	Cheyenne, Wyo., radio range station
Chicago, Ill.	Chicago, Ill., radio range station
Cleveland, Ohio	Cleveland, Ohio, radio range station
Columbus, Ohio	Columbus, Ohio, radio range station
Conway, Tex.	Conway, Tex.
Corpus Christi, Tex.	Corpus Christi, Tex. (Cliff Maus Field)
Daggett, Calif.	Daggett, Calif., radio range station
Dallas, Tex.	Dallas, Tex., radio range station
Dayton, Ohio	Dayton, Ohio, Municipal Airport
Detroit, Mich.	Detroit, Mich. (Wayne County Airport), radio range station.
Drummond, Mont.	Drummond, Mont., radio range station
Ellensburg, Wash.	Ellensburg, Wash., radio range station
El Paso, Tex.	El Paso, Tex., radio range station
Elyria, Ohio	The intersection of the center lines of the on course signals of the west leg of the Cleveland, Ohio, radio range and the northwest leg of the Akron, Ohio, radio range.
Ephrata, Wash.	Ephrata, Wash., radio range station
Fargo, N. Dak.	Fargo, N. Dak., radio range station
Fort Worth, Tex.	Fort Worth, Tex., radio range station
Goshen, Ind.	Goshen, Ind., radio range station
Greenfield, Ind.	The intersection of the center lines of the on course signals of the east leg of the Indianapolis, Ind., radio range and the northwest leg of the Cincinnati, Ohio, radio range.
Hager City, Wis.	Hager City, Wis., radio marker station
Harrisburg, Pa.	Harrisburg, Pa., radio range station
Helena, Mont.	Helena, Mont., radio range station
Houston, Tex.	Houston, Tex., radio range station
Indianapolis, Ind.	Indianapolis, Ind., radio range station
Kansas City, Mo.	Kansas City, Mo., radio range station
Knoxville, Mo.	Knoxville, Mo., radio marker station
La Crosse, Wis.	La Crosse, Wis., radio range station
Lansing, Ill.	The intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the west leg of the Goshen, Ind., radio range.
Laramie, Wyo.	Laramie, Wyo., radio range station
Livingston, Mont.	Livingston, Mont., radio range station
Lone Rock, Wis.	Lone Rock, Wis., radio range station
Los Angeles, Calif.	Van Nuys, Calif., radio range station
Mason Springs, Va.	The intersection of the center lines of the on course signals of the northeast leg of the Gordonsville, Va., radio range and the south leg of the Washington, D. C., radio range.
Memphis, Tenn.	Memphis, Tenn., radio range station
Milwaukee, Wis.	Milwaukee, Wis., radio range station
Minneapolis, Minn.	Minneapolis, Minn., radio range station
Nashville, Tenn.	Nashville, Tenn., radio range station
Newark, N. J.	Newark, N. J., radio range station
New Brunswick, N. J.	The intersection of the center lines of the on course signals of the southwest leg of the Newark, N. J., radio range and the east leg of the Allentown, Pa., radio range.
New Orleans, La.	New Orleans, La., radio range station
Oakland, Calif.	Oakland, Calif., radio range station
Omaha, Nebr.	Omaha, Nebr., radio range station
Pantano, Ariz.	Pantano, Ariz.
Pittsburgh, Pa.	Pittsburgh, Pa., radio range station
Potrero Hill, Calif.	Potrero Hill, Calif., radio marker station
Putnam, Conn.	Putnam, Conn., radio marker station
Richmond, Va.	Richmond, Va., radio range station
Rodeo, N. Mex.	Rodeo, N. Mex., radio range station
St. Charles, Mo.	The intersection of the center lines of the on course signals of the northeast leg of the Spring Bluff, Mo., radio range and the west leg of the St. Louis, Mo., radio range.
St. Louis, Mo.	St. Louis, Mo., radio range station
Salt Lake City, Utah	Salt Lake City, Utah, radio range station
Saugus, Calif.	Saugus, Calif., radio range station
Seattle, Wash.	Seattle, Wash., radio range station
Sheridan, Ill.	The intersection of the center lines of the on course signals of the east leg of the Davenport, Iowa, radio range and the southwest leg of the Chicago, Ill., radio range.
Spokane, Wash.	Spokane, Wash., radio range station
Sunbury, Pa.	Sunbury, Pa., radio marker station
Toledo, Ohio	Toledo, Ohio, radio range station
Union City, Ga.	Union City, Ga.
Washington, D. C.	Washington, D. C., radio range station

Location:	*Center of Zone*
Wichita, Kans.	Wichita, Kans., radio range station
Wellsburg, W. Va.	The intersection of the center lines of the on course signals of the southeast leg of the Cleveland, Ohio, radio range and the west leg of the Pittsburgh, Pa., radio range.

60.221. Amber Control Zones of Intersection—

Location:	*Center of Zone*
Ardmore, Okla.	Ardmore, Okla., radio marker station
Baltimore, Md.	Baltimore, Md., Municipal Airport
Britton, Okla.	Britton, Okla.
Bryceville, Fla.	Bryceville, Fla.
Charleston, S. C.	Charleston, S. C., radio range station
Cincinnati, Ohio	Cincinnati, Ohio, radio range station
Clearfield, Utah	Clearfield, Utah
Denver, Colo.	Denver, Colo., Municipal Airport
Elmhurst, Ill.	Elmhurst, Ill.
Great Falls, Mont.	Great Falls, Mont., Municipal Airport
Jackson, Miss.	Jackson, Miss., radio range station
Jacksonville, Fla.	Jacksonville, Fla., radio range station
Jonesboro, Ga.	Jonesboro, Ga.
LaOrange, Ky.	LaGrange, Ky.
Miami, Fla.	Miami, Fla., radio range station
Morse, Ill.	Morse, Ill., radio marker station
Oklahoma City, Okla.	Oklahoma City, Okla., radio range station
Palisades, N. J.	The intersection of the center lines of the on course signals of the south leg of the Albany, N. Y., radio range and the northeast leg of the Newark, N. J., radio range.
Portland, Oreg.	Portland, Oreg., radio range station
Titusville, Fla.	Titusville, Fla., radio range station
Tulsa, Okla.	Tulsa, Okla., radio range station
Waco, Tex.	Waco, Tex., radio range station
Whitehall, Mont.	Whitehall, Mont., radio range station

Red Control Zones of Intersection—

Location:	*Center of Zone*
Burlington, Vt.	Burlington, Vt., Municipal Airport
Elmira, N. Y.	Elmira, N. Y., radio range station
Pendleton, Oreg.	Pendleton, Oreg., radio range station

NOTE.—The radio range courses specified herein shall be considered to be those shown by the following Department of Commerce charts and publications:

Aeronautical Charts, (Coast and Geodetic Survey)
Tabulation of Air Navigation Radio Aids, (Bureau of Air Commerce)

Changes and additions to maintain these issues current are covered by Weekly Notices to Airmen issued by the Bureau of Air Commerce, Washington, D. C., and other notices to airmen issued from the field offices of the Bureau.

60.23. *Radio Fix Designation:* The following locations are designated as radio fixes:

60.230. On Green Civil Airways—The following locations are designated as radio fixes on green civil airways:

60.23000. Green Civil Airway No. 1—Seattle, Wash.–Boston, Mass.—Seattle, Wash., radio range station; Easton, Wash., radio marker station; Ellensburg, Wash., radio range station; Ephrata, Wash., radio range station; Spokane, Wash., radio range station; Coeur D'Alene, Idaho, radio range station; Mullan Pass, Idaho, radio range station; Superior, Mont., radio range station; Missoula, Mont., radio range station; Drummond, Mont., radio range station; Helena, Mont., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Helena, Mont., radio range and the northwest leg of the Belgrade, Mont., radio range (Townsend, Mont.); Belgrade, Mont., radio range station; Livingston, Mont., radio range station; Billings, Mont., radio range station; Miles City, Mont., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Miles City, Mont., radio range and the west leg of the Dickinson, N. Dak., radio range (Mildred, Mont.); Dickinson, N. Dak., radio range station; Bismarck, N. Dak., radio range station; Jamestown, N. Dak., radio range station; Fargo, N. Dak., radio range station; Alexandria, Minn., radio range station; Minneapolis, Minn., radio range station; Hager City, Wis., radio marker station; La Crosse, Wis., radio range station; Lone Rock, Wis., radio range station; Milwaukee, Wis., radio range station; the intersection of the center lines of the on course signals of the north leg of the Detroit, Mich. (Wayne County Airport), radio range and the west leg of the Strathburn, Ontario, radio range (Pontiac, Mich.); Detroit, Mich. (Wayne County Airport), radio range station; Buffalo, N. Y., radio range station; Syracuse, N. Y., radio range station; the intersection of the center lines of the on course signals of the east leg of the Syracuse, N. Y., radio range and the northwest leg of the Albany, N. Y., radio range (Utica, N. Y.); Albany, N. Y., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Albany, N. Y., radio range and the southwest leg of the Boston, Mass., radio range (Putnam, Conn.); Boston, Mass., radio range station.

60.23001. Green Civil Airway No. 2—San Francisco, Calif.–Newark, N. J.—Oakland, Calif., radio range station; Sacramento, Calif., radio range station; Donner Summit, Calif., radio range station; Reno, Nev., radio range station; Buffalo Valley, Nev., radio range station; Elko, Nev., radio range station; Wendover, Utah, radio range station; Salt Lake City, Utah, radio range station; Knight, Wyo., radio range station; Rock Springs, Wyo., radio range station; Medicine Bow, Wyo., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Laramie, Wyo., radio range and the northwest leg of the Cheyenne, Wyo., radio range; Cheyenne, Wyo., radio range station; Sidney, Nebr., radio range station; North Platte, Nebr., radio range station; Grand Island, Nebr., radio range station; Omaha, Nebr., radio range station; Adair, Iowa, radio marker station; Des Moines, Iowa, radio range station; the intersection of the center lines of the on-course signals of the south leg of the Iowa City, Iowa, radio range and the west leg of the Davenport, Iowa, radio range; Davenport, Iowa, radio range station; the intersection of the center lines of the on course signals of the east leg of the Davenport, Iowa, radio range and the south leg of the Sterling, Ill., radio range; the intersection of the center lines of the on course signals of the east leg of the Davenport, Iowa, radio range and the southwest leg of the Chicago, Ill., radio range (Sheridan, Ill.); Chicago, Ill., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the west leg of the Goshen, Ind., radio range (Lansing, Ill.); McCool, Ind., radio marker station; Goshen, Ind., radio range station; Archbold, Ohio, radio range station; Toledo, Ohio, radio range station; Cleveland, Ohio, radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Akron, Ohio, radio range and the east leg of the Cleveland, Ohio, radio range; Mercer, Pa., radio range station; Bellefonte, Pa., radio range station; Sunbury, Pa., radio marker station; Allentown, Pa., radio range station; the intersection of the center lines of the on course signals of the east leg of the Allentown, Pa., radio range and the southwest leg of the Newark, N. J., radio range (New Brunswick, N. J.); Newark, N. J., radio range station.

60.23002. Green Civil Airway No. 3—Los Angeles, Calif.–Camden, N. J.—Burbank, Calif. (Union Air Terminal), radio range station; Saugus, Calif., radio range station; Palmdale, Calif., radio marker station; Daggett, Calif., radio range station; the intersection of the center lines of the on course signals of the east leg of the Daggett, Calif., radio range and the southwest leg of the Kingman, Ariz., radio range (Goffs, Calif.); Kingman, Ariz., radio range station; Ashfork, Ariz., radio range station; Winslow, Ariz., radio range station; El Morro, N. Mex., radio range station; Albuquerque, N. Mex., radio range station; Otto, N. Mex., radio range station; Tucumcari, N. Mex., radio range station; Amarillo, Tex., radio range station; Canadian, Tex., radio range station; Wichita, Kans., radio range station; Cassoday, Kans., radio marker station; Lebo, Kans., radio range station; the intersection of the center lines of the on course signals of the southwest leg of the Kansas City, Mo., radio range and the north leg of the Moran, Kans., radio range (Bonner Springs, Kans.); Kansas City, Mo., radio range station, Knoxville, Mo., radio marker station; Columbia, Mo., radio range station; New Florence, Mo., radio marker station; St. Louis, Mo., radio range station; Effingham, Ill., radio range station; Terre Haute, Ind., radio range station; Indianapolis, Ind., radio range station; the intersection of the center lines of the on course signals of the east leg of the Indianapolis, Ind., radio range and the northwest leg of the Cincinnati, Ohio, radio range (Greenfield, Ind.); the intersection of the center lines of the on course signals of the west leg of the Columbus, Ohio, radio range and the northwest leg of the Wright Field, Dayton, Ohio, radio range; Columbus, Ohio, radio range station; Cambridge, Ohio, radio marker station; the intersection of the center lines of the on course signals of the southeast leg of the Cleveland, Ohio, radio range and the west leg of the Pittsburgh, Pa., radio range (Wellsburg, W. Va.); Pittsburgh, Pa., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Pittsburgh, Pa, radio range and the north leg of the Buckstown, Pa., radio range; the intersection of the center lines of the on course signals of the south leg of the Bellefonte, Pa., radio range and the west leg of the Harrisburg, Pa., radio range; Harrisburg, Pa., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Harrisburg, Pa., radio range and the southwest leg of the Camden, N. J., radio range (Chester, Pa.); Camden, N. J., radio range station.

60.23003. Green Civil Airway No. 4—Los Angeles, Calif.–Washington, D. C.—Fontana, Calif., radio range station; Blythe, Calif., radio range station; Phoenix, Ariz., radio range station; Tucson, Ariz., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Tucson, Ariz., radio range and the southwest leg of the Rodeo, N. Mex., radio range (Douglas, Ariz.); Rodeo, N. Mex., radio range station; El Paso, Tex., radio range station; Guadalupe Pass, Tex., radio range station; Wink, Tex., radio range station; Big Spring, Tex., radio range station; Santo, Tex., radio marker station; Fort Worth, Tex., radio range station; the intersection of the center lines of the on course signals of the east leg of the Fort Worth, Tex., radio range and the north leg of the Dallas, Tex., radio range; Texarkana, Ark., radio range station; Little Rock, Ark., radio range station; Memphis, Tenn., radio range station; Nashville, Tenn., radio range station; Smithville, Tenn., radio range station; Knoxville, Tenn., radio range station; Bristol, Tenn., radio range station; Roanoke, Va., radio range station; Gordonsville, Va., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Gordonsville, Va., radio range and the south leg of the Washington, D. C., radio range (Mason Springs, Va.); Washington, D. C., radio range station.

60.23004. Green Civil Airway No. 5—Corpus Christi, Tex.–Norfolk, Va.—Houston, Tex., radio range station; New Orleans, La., radio range station; Mobile, Ala., radio range station; Atlanta, Ga., radio range station; Jefferson, Ga., radio marker station; Spartanburg, S. C., radio range station; Greensboro, N. C., radio range station; South Boston, Va., radio marker station; Richmond, Va., radio range station.

60.231. On Amber Civil Airways—The following locations are designated as radio fixes on amber civil airways:

60.23100. Amber Civil Airway No. 1—San Diego, Calif.–Blaine, Wash.—San Diego, Calif., radio range station; Oceanside, Calif., radio marker station; Long Beach, Calif., radio range station; Burbank, Calif. (Union Air Terminal), radio range station; Saugus, Calif., radio range station; Bakersfield, Calif., radio range station, Fresno, Calif., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Fresno, Calif., radio range and the southeast leg of the Oakland, Calif., radio range (Modesto, Calif.); Livermore, Calif., radio marker station; Oakland, Calif., radio range station; Potrero Hill, Calif., radio marker station; Williams, Calif., radio range station; Mt. Shasta, Calif., radio range station; Medford, Oreg., radio range station; Eugene, Oreg., radio range station; Portland, Oreg., radio range station; Castle Rock, Wash., radio marker station; the intersection of the center lines of the on course signals of the northwest leg of the Portland, Oreg., radio range and the southwest leg of the Tacoma, Wash., radio range (Chehalis, Wash.); Tacoma, Wash., radio range station; Seattle, Wash., radio range station.

60.23101. Amber Civil Airway No. 2—Daggett, Calif.–Great Falls, Mont.—Daggett, Calif., radio range station; Las Vegas, Nev., radio range station; Milford, Utah, radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Milford, Utah, radio range and the south leg of the Salt Lake City, Utah, radio range; Salt Lake City, Utah, radio range station; Pocatello, Idaho, radio range station; Idaho Falls, Idaho, radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Idaho Falls, Idaho, radio range and the southwest leg of the Whitehall, Mont., radio range (Dillon, Mont.); Whitehall, Mont., radio range station; Helena, Mont., radio range station.

60.23102. Amber Civil Airway No. 3—El Paso, Tex.–Cheyenne, Wyo.—El Paso, Tex., radio range station; Albuquerque, N. Mex., radio range station; Pueblo, Colo., radio range station; Cheyenne, Wyo., radio range station.

60.23103. Amber Civil Airway No. 4—Brownsville, Tex.–Minneapolis, Minn.—San Antonio, Tex., radio range station; Waco, Tex., radio range station; Fort Worth, Tex., radio range station; Gainesville, Tex., radio marker station; Ardmore, Okla., radio marker station; Oklahoma City, Okla., radio range station; Tulsa, Okla., radio range station; Moran, Kans., radio range station; the intersection of the center lines of the on course signals of the north leg of the Moran, Kans., radio range and the southwest leg of the Kansas City, Mo., radio range (Bonner Springs, Kans.); Kansas City, Mo., radio range station; Omaha, Nebr., radio range station; Minneapolis, Minn., radio range station.

60.23104. Amber Civil Airway No. 5—New Orleans, La.–Milwaukee, Wis.—New Orleans, La., radio range station; Tylertown, Miss., radio range station; Jackson, Miss., radio range station; Greenwood, Miss., radio range station; Memphis, Tenn., radio range station; Advance, Mo., radio range station; St. Louis, Mo., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the St. Louis, Mo., radio range and the south leg of the Sterling, Ill., radio range (Springfield, Ill.); the intersection of the center lines of the on course signals of the south leg of the Sterling, Ill., radio range and the southwest leg of the Chicago, Ill., radio range; the intersection of the center lines of the on course signals of the southwest leg of the Chicago, Ill., radio range and the east leg of the Davenport, Iowa, radio range (Sheridan, Ill.); Chicago, Ill., radio range station; Milwaukee, Wis., radio range station.

60.23105. Amber Civil Airway No. 6—Bryceville, Fla.–Buffalo, N. Y.—Alma, Ga., radio range station; Atlanta, Ga., radio range station; Adairsville, Ga., radio marker station; Chattanooga, Tenn., radio range station; Nashville, Tenn., radio range station; Louisville, Ky., radio range station; Warsaw, Ky., radio marker station; Cincinnati, Ohio, radio range station; Columbus, Ohio, radio range station; Hayesville, Ohio, radio marker station; the intersection of the center lines of the on course signals of the northwest leg of the Akron, Ohio, radio range and the west leg of the Cleveland, Ohio, radio range (Elyria, Ohio); Cleveland, Ohio, radio range station; Perry, Ohio, radio marker station; Erie, Pa., radio range station; Dunkirk, N. Y., radio marker station; Buffalo, N. Y., radio range station.

60.23106. Amber Civil Airway No. 7—Key West, Fla.–Bangor, Maine.—Key West, Fla., radio range station; the intersection of the center lines of the on course signals of the east leg of the Key West, Fla., radio range and the southwest leg of the Miami, Fla., radio range (Marathon, Fla.); Miami, Fla., radio range station; the intersection of the center lines of the on course signals of the north leg of the Miami, Fla., radio range and the southeast leg of the Titusville, Fla., radio range (Jupiter, Fla.); Titusville, Fla., radio range station; Jacksonville, Fla., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Jacksonville, Fla., radio range and

the southwest leg of the Charleston, S. C., radio range (Savannah, Ga.); Charleston, S. C., radio range station; Raleigh, N. C., radio range station; Richmond, Va., radio range station, the intersection of the center lines of the on course signals of the northeast leg of the Gordonsville, Va., radio range and the south leg of the Washington, D. C., radio range (Mason Springs, Va.); Washington, D. C., radio range station; the intersection of the center lines of the on course signals of the east leg of the Harrisburg, Pa., radio range and the southwest leg of the Camden, N. J., radio range (Chester, Pa.); Camden, N. J., radio range station; the intersection of the center lines of the on course signals of the east leg of the Allentown, Pa., radio range and the southwest leg of the Newark, N. J., radio range (New Brunswick, N. J.); Newark, N. J., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Newark, N. J., radio range and the northwest leg of the Mitchel Field, Hempstead, N. Y., radio range; Putnam, Conn., radio marker station; Boston, Mass., radio range station; Portland, Maine, radio range station; Augusta, Maine, radio range station; Bangor, Maine, radio range station.

60.232. On Red Civil Airways—The following locations are designated as radio fixes on red civil airways:

60.23200. Red Civil Airway No. 1—Portland, Oreg.–Clearfield, Utah.—Portland, Oreg., radio range station; Cascade Locks, Oreg., radio marker station; North Dalles, Wash., radio range station; Arlington, Oreg., radio marker station; Pendleton, Oreg., radio range station; Weiser, Idaho, radio marker station; Boise, Idaho, radio range station; King Hill, Idaho, radio marker station; Burley, Idaho, radio range station; Locomotive Springs, Utah, radio range station.

60.23201. Red Civil Airway No. 2—Ellensburg, Wash.–Ephrata, Wash.—Ellensburg, Wash., radio range station; Ephrata, Wash., radio range station.

60.23202. Red Civil Airway No. 3—Drummond, Mont.–Belgrade, Mont.—Drummond, Mont., radio range station; Butte, Mont., radio range station; Belgrade, Mont., radio range station.

60.23203. Red Civil Airway No. 4—Billings, Mont.–Great Falls, Mont.—Billings, Mont., radio range station.

60.23204. Red Civil Airway No. 5—Pantano, Ariz.–Rodeo, N. Mex.—Rodeo, N. Mex., radio range station.

60.23205. Red Civil Airway No. 6—Laramie, Wyo.–Grand Island, Nebr.—Laramie, Wyo., radio range station; Grand Island, Nebr., radio range station.

60.23206. Red Civil Airway No. 7—Conway, Tex.–Oklahoma City, Okla.—Oklahoma City, Okla., radio range station.

60.23207. Red Civil Airway No. 8—Britton, Okla.–Wichita, Kan., radio range station.

60.23208. Red Civil Airway No. 9—Ardmore, Okla.–Dallas, Tex.—Ardmore, Okla., radio marker station; Dallas, Tex., radio range station.

60.23209. Red Civil Airway No. 10—Waco, Tex.–Galveston, Tex.—Waco, Tex., radio range station; Navasota, Tex., radio range station; Houston, Tex., radio range station.

60.23210. Red Civil Airway No. 11—Fargo, N. Dak.–Pembina, N. Dak.—Fargo, N. Dak., radio range station; Grand Forks, N. Dak., radio range station; Pembina, N. Dak., radio range station.

60.23211. Red Civil Airway No. 12—Dallas, Tex.–Charleston, S. C.—Dallas, Tex., radio range station; Shreveport, La., radio range station; Jackson, Miss., radio range station; the intersection of the center lines of the on course signals of the east leg of the Jackson, Miss. radio range and the southwest leg of the Birmingham, Ala., radio range (Meridian, Miss.); Birmingham, Ala., radio range station; Atlanta, Ga., radio range station; Charleston, S. C., radio range station.

60.23212. Red Civil Airway No. 13—Tulsa, Okla.–St. Charles, Mo.—Tulsa, Okla., radio range station; Neosho, Mo., radio range station; Springfield, Mo., radio range station; Spring Bluff, Mo., radio range station; St. Louis, Mo., radio range station.

60.23213. Red Civil Airway No. 14—Knoxville, Mo.–Morse, Ill.—Knoxville, Mo., radio marker station; Kirksville, Mo., radio range station; Burlington, Iowa, radio range station; the intersection of the center lines of the on course signals of the southwest leg of the Chicago, Ill., radio range and the south leg of the Sterling, Ill., radio range.

60.23214. Red Civil Airway No. 15—Hager City, Wis.–La Crosse, Wis.—Hager City, Wis., radio marker station; La Crosse, Wis., radio range station.

60.23215. Red Civil Airway No. 16—Lone Rock, Wis.–Elmhurst, Ill.—Lone Rock, Wis., radio range station; Rockford, Ill., radio range station.

60.23216. Red Civil Airway No. 17—Chicago, Ill.–Detroit, Mich. (Wayne County Airport)—Chicago, Ill., radio range station; the intersection of the center lines of the on course signals of the north leg of the Goshen, Ind., radio range and the east leg of the Chicago, Ill., radio range; the intersection of the center lines of the on course signals of the north leg of the Archbold, Ohio, radio range and the southwest leg of the Detroit, Mich. (Wayne County Airport), radio range station.

60.23217. Red Civil Airway No. 18—Lansing, Ill.–La Grange, Ky.—The intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the west leg of the Goshen, Ind., radio range (Lansing, Ill.); Lafayette, Ind., radio marker station; Indianapolis, Ind., radio range station.

60.23218. Red Civil Airway No. 19—Goshen, Ind.–Dayton, Ohio—Goshen, Ind., radio range station.

60.23219. Red Civil Airway No. 20—Greenfield, Ind.–Cincinnati, Ohio—The intersection of the center lines of the on course signals of the east leg of the Indianapolis, Ind., radio range and the northwest leg of the Cincinnati, Ohio, radio range (Greenfield, Ind.); Milroy, Ind., radio marker station; Cincinnati, Ohio, radio range station.

60.23220. Red Civil Airway No. 21—Toledo, Ohio–Detroit, Mich. (Wayne County Airport)—Toledo, Ohio, radio range station; Detroit, Mich. (Wayne County Airport), radio range station.

60.23221. Red Civil Airway No. 22—Detroit, Mich. (Wayne County Airport)–Washington, D. C.—Cleveland, Ohio, radio range station; Akron, Ohio, radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Cleveland, Ohio, radio range and the west leg of the Pittsburgh, Pa., radio range (Wellsburg, W. Va.); Pittsburgh, Pa., radio range station; the intersection of the center lines of the on course signals of the south leg of the Pittsburgh, Pa., radio range and the west leg of the Buckstown, Pa., radio range (Monesson, Pa.); Buckstown, Pa., radio range station; McConnellsburg, Pa., radio range station; the intersection of the center lines of the on course signals of the south leg of the Harrisburg, Pa., radio range and the northwest leg of the Washington, D. C., radio range Washington, D. C., radio range station.

60.23222. Red Civil Airway No. 23—Akron, Ohio–Pittsburgh, Pa.—Akron, Ohio, radio range station; Pittsburgh, Pa., radio range station.

60.23223. Red Civil Airway No. 24—Roanoke, Va.–Gordonsville, Va.—Roanoke, Va., radio range station; Lynchburg, Va., radio range station; Gordonsville, Va., radio range station.

60.23224. Red Civil Airway No. 25—Batavia, N. Y.–Newark, N. J.—Elmira, N. Y., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Newark, N. J., radio range and the northeast leg of the Allentown, Pa., radio range; Newark, N. J., radio range station.

60.23225. Red Civil Airway No. 26—Bryceville, Fla.–Jacksonville, Fla.—Jacksonville, Fla., radio range station.

60.23226. Red Civil Airway No. 27—Titusville, Fla.–Miami, Fla.—Titusville, Fla., radio range station; Miami, Fla., radio range station.

60.23227. Red Civil Airway No. 28—Palisades, N. J.–Swanton, Vt.—The intersection of the center lines of the on course signals of the northeast leg of the Newark, N. J., radio range and the south leg of the Albany, N. Y., radio range (Palisades, N. J.); New Hackensack, N. Y., radio marker station; Columbiaville, N. Y., radio marker station; Albany, N. Y., radio range station.

60.233. On Blue Civil Airways—The following locations are designated as radio fixes on blue civil airways:

60.23300. Blue Civil Airway No. 1—Pendleton, Oreg.–Spokane, Wash.—Pendleton, Oreg., radio range station; Spokane, Wash., radio range station.

60.23301. Blue Civil Airway No. 2—Idaho Falls, Idaho–Whitehall, Mont.—Idaho Falls, Idaho, radio range station; Whitehall, Mont., radio range station.

60.23302. Blue Civil Airway No. 3—Baltimore, Md.–Elmira, N. Y.—Harrisburg, Pa., radio range station; Sunbury, Pa., radio marker station; Elmira, N .Y., radio range station.

60.23303. Blue Civil Airway No. 4—Boston, Mass.–Burlington, Vt.—Boston, Mass., radio range station; Concord, N. H., radio range station.

NOTE.—The radio range courses specified herein shall be considered to be those shown by the following Department of Commerce charts and publications:

Aeronautical Charts (Coast & Geodetic Survey)
Tabulation of Air Navigation Radio Aids (Bureau of Air Commerce)

Changes and additions to maintain these issues current are covered by weekly notices to airmen issued by the Bureau of Air Commerce, Washington, D. C., and other notices to airmen issued from the field offices of the Bureau.

60.24. *Airway Traffic Control Area Designation:* The following part or parts of the civil airways are designated as airway traffic control areas:

60.240. On Green Civil Airways.

60.2400. Green Civil Airway No. 1—From a point 25 miles southeast of the La Crosse, Wis., radio range station to the Lone Rock, Wis., radio range station; from a point 25 miles east of the Grand Rapids, Mich., Kent County Airport to the intersection of the center line of the east leg of the Detroit, Mich. (Wayne County Airport), radio range and the U. S.-Canadian Border.

60.2401. Green Civil Airway No. 2—From the San Francisco, Calif., Municipal Airport to a point 25 miles west of the Elko, Nev., radio range station; from a point 25 miles east of the Des Moines, Iowa, radio range station to the Newark, N. J., Municipal Airport.

60.2402. Green Civil Airway No. 3—From the Burbank, Calif., Union Air Terminal to a point 25 miles west of the Kingman, Ariz., radio range station; from a point 25 miles east of the Columbus, Ohio, radio range station to the Camden, N. J., Central Airport.

60.2403. Green Civil Airway No. 4—From the Glendale, Calif., Grand Central Air Terminal to a point 25 miles west of the Blythe, Calif., radio range station; from a point 25 miles northeast of the Roanoke, Va., radio range station to the Washington, D. C., Washington Airport.

60.241. On Amber Civil Airways.

60.2410. Amber Civil Airway No. 1—From a point 25 miles north of the San Diego, Calif., radio range station to a point 25 miles south of the Medford, Oreg., radio range station.

60.2411. Amber Civil Airway No. 2—From the Daggett, Calif., intermediate field to a point 25 miles southwest of the Las Vegas, Nev., radio range station.

60.2412. Amber Civil Airway No. 5.—From a point 25 miles north of the Springfield, Ill., Springfield Airport to a point 25 miles south of the Milwaukee, Wis., radio range station.

60.2413. Amber Civil Airway No. 6—From a point 25 miles north of the Columbus, Ohio, radio range station to a point 25 miles southwest of the Buffalo, N. Y., radio range station.

60.2414. Amber Civil Airway No. 7—From a point 25 miles north of the Richmond, Va., radio range station to a point 25 miles southwest of the Putnam, Conn., radio marker station.

60.242. On Red Civil Airways

60.24200. Red Civil Airway No. 14—From a point 25 miles northeast of the Knoxville, Mo., radio marker station to the intersection of the center lines of the on course signals of the southwest leg of the Chicago, Ill., radio range and the south leg of the Sterling, Ill., radio range.

60.24201. Red Civil Airway No. 16—From the Lone Rock, Wis., radio range station to the Elmhurst, Ill., Elmhurst Airport.

60.24202. Red Civil Airway No. 17—From the Chicago, Ill., radio range station to the Detroit, Mich. (Wayne County Airport), radio range station.

60.24203. Red Civil Airway No. 18—From the intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the west leg of the Goshen, Ind., radio range to a point 25 miles northwest of the Indianapolis, Ind., radio range station.

60.24204. Red Civil Airway No. 19—From the Goshen, Ind., radio range station to a point 25 miles northwest of the Dayton, Ohio, Dayton Airport.

60.24205. Red Civil Airway No. 21—From the Toledo, Ohio, radio range station to the Detroit, Mich. (Wayne County Airport), radio range station.

60.24206. Red Civil Airway No. 22—From the intersection of the center line of the on course signal of the northwest leg of the Cleveland, Ohio, radio range and the U. S.-Canadian Border to the Washington, D. C., radio range station.

60.24207. Red Civil Airway No. 23—From the Akron, Ohio, radio range station to the Pittsburgh, Pa., radio range station.

60.24208. Red Civil Airway No. 24—From a point 25 miles northeast of the Roanoke, Va., radio range station to the Gordonsville, Va., radio range station.

60.24209. Red Civil Airway No. 25—From a point 25 miles southeast of the Elmira, N. Y., radio range station to the Newark, N. J., radio range station.

60.24210. Red Civil Airway No. 28—From the intersection of the center lines of the on course signals of the northeast leg of the Newark, N. J., radio range and the south leg of the Albany, N. Y., radio range to a point 25 miles south of the Albany, N. Y., radio range station.

60.243. On Blue Civil Airways

60.2430. Blue Civil Airway No. 3—From the Baltimore, Md., Logan Field to a point 25 miles southwest of the Elmira, N. Y., radio range station.

NOTE.—The radio range courses specified herein shall be considered to be those shown by the following Department of Commerce charts and publications:

Aeronautical Charts
(Coast & Geodetic Survey)
Tabulation of Air Navigation Radio Aids
(Bureau of Air Commerce)

Changes and additions to maintain these issues current are covered by weekly notices to airmen issued by the Bureau of Air Commerce, Washington, D. C., and other notices to airmen issued from the field offices of the Bureau.

60.3. FLIGHT RULES (GENERAL)

60.30. *Pilot Certificates:* No person shall pilot a civil aircraft within the limits of a civil airway or control zone of intersection, or elsewhere in interstate or foreign air commerce

(a) unless possessed of a valid pilot certificate of competency, or

(b) unless possessed, if an alien, of such certificate or a similar pilot certificate issued or validated according to the provisions of CAR 65, nor

(c) in violation of any term, specification or limitation of such certificate.

60.31. *Aircraft Certificate:* No flight of civil aircraft, other than of a foreign aircraft, shall be made or authorized to be made

(a) within the limits of a civil airway or control zone of intersection whatever the purpose or nature of the flight may be, unless such aircraft is possessed of valid aircraft registration and airworthiness or experimental certificates, nor

(b) elsewhere in the navigable airspace over the lands and waters of the United States if engaged in interstate or foreign air commerce, unless such aircraft is possessed of such valid aircraft certificates, nor

(c) in violation of any term, specification or limitation of such certificates.

60.310. No foreign aircraft shall engage in interstate or intrastate commerce; nor shall it be otherwise navigated in

the United States except in compliance with these air traffic rules and the provisions of CAR 65.

60.32. *Identification Mark:* No flight of aircraft shall be made or authorized to be made in the navigable airspace over the lands or the waters of the United States unless such aircraft is possessed of and displays a valid identification mark assigned or approved therefor by the Secretary.

60.33. *Take-Off and Landing*

60.330. Method of Taking-Off and Landing—The following rules shall govern the method by which aircraft shall take-off and land:

60.3300 (a). Aircraft, when taking off or landing, shall observe the local field traffic rules issued for the protection of interstate and foreign air commerce, as approved by the Secretary.

60.3301 (b). A take-off shall not be commenced until there is no risk of collision with other aircraft during such take-off.

60.3302 (c). Aircraft approaching for a landing shall circle the airport or other landing area sufficiently to observe other traffic, unless the pilot receives other instructions from the airport traffic control operator. Such circles shall be made to the left unless the pilot receives other instructions from the airport traffic control operator, or unless local traffic rules approved by the Secretary provide otherwise.

60.3303 (d). Aircraft approaching for a landing shall, unless impracticable, maintain a straight approach course for the last 1,000 feet before crossing the airport boundary.

60.3304 (e). Aircraft making contact flights within 3 miles horizontally of the center of an airport or landing area shall conform to the circuit rule provided in CAR 60.3302 unless flying at an altitude in excess of 3,000 feet above the ground or water.

60.3305 (f). Air traffic departing from, or arriving at, a control airport shall take precedence over other air traffic within the control zone of such airport when required in the interests of safety, and all traffic will be governed by special traffic rules approved by the Secretary.

60.331. Running Motors, Supervision of—No aircraft engine shall be started or run unless a competent operator is in the aircraft attending the engine controls. Blocks, equipped with ropes or other suitable means of pulling them, shall always be placed in front of the wheels before starting the engine, or engines, unless the aircraft is provided with adequate parking brakes and the same are fully on.

60.332. Air Meet Landing—In approaching a landing area where there is a congestion of aircraft or an assembly of persons or automobiles in the vicinity of aircraft, pilots shall proceed with caution and ascertain before landing, or before flying at low altitude over the landing area, whether or not an air meet or aeronautical demonstration is in progress. (See CAR 60.8911.)

60.34. *Flight Enroute*

60.340. Right of Way—The following rules will govern aircraft right of way:

60.3400 (a). Order—Aircraft in flight shall have right of way in the following order: (1) Balloons, fixed or free (an airship not under control is classed as a free balloon), (2) gliders, (3) airships, and (4) airplanes, including rotorplanes).

60.3401 (b). Crossing—When two aircraft are on crossing courses at approximately the same altitude, the aircraft which has the other on its left shall have right of way, and the other aircraft shall give way.

60.3402 (c). Approaching Head-On—When two aircraft are approaching head-on, or approximately so, and there is danger of collision, each shall alter its course to the right so that they will pass each other at a distance of at least 500 feet.

60.3403 (d). Overtaking—An overtaken aircraft shall have right of way and the overtaking aircraft shall keep clear of the overtaken aircraft by altering its own course to the right.

60.3404 (e). Landing—An aircraft landing in the manner prescribed in CAR 60.3303 (d) shall have right of way over other aircraft in flight or on the ground or water, except aircraft landing in distress.

60.3405 (f). Distress Landing—An aircraft in distress shall have right of way in attempting to land.

60.341. Duty to Give Way—When landing or maneuvering in preparation to land, it shall be the duty of the aircraft at the higher altitude to avoid the aircraft at the lower altitude.

60.342. Right Side Traffic—Aircraft making a contact flight along a civil airway in accordance with the provisions of CAR 60.4, except when impracticable for reasons of safety, shall keep to the right side of such radio range course as is projected along the airway. Except when otherwise specified in a flight plan, and except when impracticable because of any natural or other obstruction, aircraft making a flight along a civil airway in accordance with the provisions of CAR 60.5 shall keep to the right side of, and close to, such radio range course as is projected along the airway: *Provided*, That inbound aircraft may fly along the on course signal if navigating at an altitude of less than 10,000 feet above sea level or if maintaining level flight at an altitude of 10,000 feet or more above sea level as prescribed for such flight: *And provided, further*, That outbound aircraft may fly along the on course signal if maintaining level flight at an altitude of 10,000 feet or more above sea level as prescribed for such flight from the time of passing over the cone of silence of the particular radio range concerned.

60.343. Proximity in Flight—No aircraft, other than military aircraft of the United States engaged in military maneuvers, shall be flown closer than 500 feet to any other aircraft in flight, except that by prearrangement two or more civil aircraft may be flown in formation closer than 500 feet to each other.

60.344. Transport of Prohibited Articles—No explosives, arms, or munitions of war or other materials deemed by the Secretary to be dangerous goods shall be carried by or in any aircraft other than public aircraft or aircraft in which mail is being transported or arms are required, provided that the provisions of this rule shall not apply to persons lawfully carrying arms and ammunition for legitimate purposes, proper signalling or safety equipment (such as a Very pistol or landing flares) nor to the aircraft fuel, nor to materials for industrial and agricultural spraying (dusting).

60.345. Liquor, Narcotics, and Drugs—No pilot or other member of the crew of an aircraft in flight shall be under the influence of, or use intoxicating liquor, cocaine, or other habit-forming drugs, nor shall such person carry any other person who is obviously under the influence of intoxicating liquor, cocaine, or other habit-forming drugs, except a medical patient under proper care, or in case of emergency.

60.346. Towing by Aircraft—The towing of aircraft by other aircraft or the towing of any device or object by aircraft (except by military aircraft) is prohibited, unless permission therefor has been granted by the Secretary in accordance with the provisions of CAR 60.901.

60.347. Dropping Objects or Things—No object or thing, other than fine sand, lead shot, fuel, or water, shall be dropped or released from an aircraft in flight (except by military aircraft) by any person on board the aircraft, unless permission therefor has been granted by the Secretary in accordance with the provisions of CAR 60.901. The pilot or person in charge of the aircraft shall be responsible for the observance of this rule by all persons in the aircraft.

60.348. Airspace Reservations—No flight of aircraft shall be made within any airspace reservation set apart by order of the President of the United States, any authorized Federal agency, or by any of the several States, pursuant to the provisions of the Air Commerce Act, as amended, or other applicable law: *Provided, however*, That such restriction of flight shall not apply to public aircraft previously authorized by the appropriate governmental agency to make such flights. (See Appendix A for a list of airspace reservations.)

60.35. *Minimum Safe Altitudes:* Exclusive of taking off from or landing upon an airport or other landing area, aircraft shall not be flown below the following minimum safe altitudes of flight:

60.350 (a). An altitude over the congested parts of cities, towns, or settlements, sufficient to permit at all times an emergency landing outside of such areas in the event of complete power failure, but in no case less than 1,000 feet above the ground.

60.351 (b). An altitude over certified high explosive danger areas, other than airspace reservations, sufficient to permit at all times an emergency landing outside of such certified danger area in the event of complete power failure, but in no case less than 1,000 feet above the ground: *Provided, however*, That the restrictions of this subparagraph shall not apply to public aircraft, previously authorized by the appropriate governmental agency, to make specific flights below such minimums in the public interest.

60.352 (c). 1,000 feet above the ground over any Federal penal institution or any open air assembly of persons.

60.353 (d). 500 feet above the ground or water elsewhere than as specified in CAR 60.350, 60.351 and 60.352, or within 500 feet from any mountain, hill or other obstruction to flight, if the aircraft is making a contact flight, in accordance with CAR 60.4, except as may be specifically approved by the Secretary: *Provided, however*, That seaplanes and amphibians may be flown below 500 feet, but not below 300 feet, if making a contact flight during daylight hours over open water and where an emergency landing may, at all times, be made, without the aid of power, into the wind and without danger of collision with craft on the surface or other obstructions: *And provided, further*, That the restrictions of this subparagraph shall not apply to public aircraft, previously authorized by the appropriate governmental agency, to make specific flights below such minimums in the public interest.

60.354 (e). 1,000 feet above the ground or water, or within 1,000 feet of any mountain, hill or other obstruction to flight, if an aircraft is making an instrument flight as defined in CAR 60.131.

60.36. *Parachutes:* No parachute shall be carried, available for immediate use as such, in any aircraft in flight unless it has been packed within the preceding 60 days by a person authorized by the provisions of CAR 25.40.

NOTE.—CAR 60.36 does not apply to military personnel when flying, or flying in, military aircraft.

60.4. FLIGHT RULES (CONTACT): In addition to general or special air traffic rules which apply, the following rules shall govern a contact flight in weather conditions equal to or better than those described in CAR 60.44, within the limits of a civil airway or control zone of intersection, or elsewhere in interstate or foreign air commerce. For flight in weather conditions worse than those described in CAR 60.44 and for flight in closer proximity to cloud formations than the distances prescribed in CAR 60.44, see CAR 60.5.

NOTE.—The rules prescribed under CAR 60.4 will apply to scheduled airline operations unless otherwise specifically indicated.

60.40. *Pilot:* No instrument rating required. (See CAR 40 and 61 for provisions applicable to scheduled airlines.)

60.41. *Equipment:* Aircraft shall be certificated as to equipment as provided for in CAR 04.510, 04.511, 04.512 or 04.515, depending upon whether the flight is visual-contact day within 100 miles of a fixed base, visual-contact day unlimited distance or visual-contact night for land-planes, or either of the same for seaplanes or amphibians. (See CAR 04.530 and 04.531 for provisions applicable to scheduled airlines.)

60.42. *Fuel Requirements:* No aircraft shall take off without sufficient fuel and oil, taking into account wind and other weather conditions to be encountered during the course of the flight, to arrive at its point of first intended landing and effect a safe landing thereat. (See CAR 61.7020 for provisions applicable to scheduled airlines.)

60.43. *Flight Plan:* No flight plan is required.

NOTE.—If a pilot desires that any information concerning his proposed flight be transmitted by a Bureau communications facility to the point of destination, a complete flight plan as defined in CAR 60.133 shall be submitted to such facility. Such flight plan will, if possible, be transmitted by Bureau communications facilities to such point of destination as soon as practicable.

60.430. Notification of Arrival—If the pilot of an aircraft has submitted, or authorized the submission of, a flight plan for transmission to destination, he shall, immediately upon landing or upon completion of the flight, file an arrival message for transmission to the point of departure.

60.44. *Weather Minimums:* The following weather minimums shall govern flight made in accordance with contact flight rules: *Provided, however*, That a Bureau airway traffic control station may, for reasons of safety, restrict or suspend contact flight operation within the airway traffic control area of such station: *And provided further*, That the Secretary may require higher minimums at any particular control airport, and that such minimums shall govern the control zone in which such control airport lies. Pending the issuance of airport control tower operator certificates by the Secretary in accordance with the provisions of CAR 26., but in no case later than July 1, 1938, the authority granted to certificated airport control tower operators to permit flights in accordance with the provisions of CAR 60.440 and 60.441 is hereby granted to any airport control tower operator who has had not less than six months satisfactory service as an airport control tower operator, during the year immediately preceding the effective date of these air traffic rules, at the particular airport involved.

60.440. Within Control Zones (Day)—Flight of aircraft shall not be made during the hours of daylight within a control zone unless the ceiling is at least 800 feet (1,000 feet if precipitation is occurring in any form) and the visibility is at least 3 miles: *Provided, however,*

(a) that a certificated airport control tower operator on duty in a radio equipped airport control tower in operation at the control airport may authorize flight, in accordance with CAR 60.442 and 60.443, at or below 1,000 feet above the ground or water in the control zone of such control airport when the visibility is less than 3 miles but not less than 1 mile, and

(b) that such operator shall suspend contact flight operations within the control zone whenever in his opinion safety requires such action.

60.441. Within Control Zones (Night)—Flight of aircraft shall not be made during the hours of darkness within a control zone unless the ceiling is at least 1,000 feet and the visibility is at least 3 miles: *Provided, however,*

(a) that a certificated airport control tower operator on duty in a radio equipped airport control tower in operation at the control airport may authorize flight at or below 1,000 feet above the ground in the control zone for such control airport when the visibility is less than 3 miles but not less than 2 miles, and

(b) that such operator shall suspend contact flight operations within the control zone whenever in his opinion safety requires such action.

60.442. Within Control Zones (Day or Night Below Overcast)—No flight of aircraft shall be made during daylight within a control zone closer than 300 feet vertically to the base of an overcast or cloud formation within such zone, nor closer than 500 feet vertically if precipitation is occuring in any form. No flight of aircraft shall be made at night within a control zone closer than 500 feet vertically to the base of an overcast or cloud formation within such zone.

60.443. Within Control Zones (Day or Night Above Overcast or Through Cloud Level)—No flight of aircraft shall be made during daylight within a control zone closer than 300 feet vertically to the top of an overcast or cloud formation within such zone, nor closer than 500 feet vertically if precipitation is occurring in any form. No flight of aircraft shall be made at night within a control zone closer than 500 feet vertically to the top of an overcast or cloud formation within such zone. At no time during ascent, descent, or level flight within the cloud level shall the aircraft be flown closer than 2,000 feet horizontally to the cloud formation or overcast.

60.444. Outside of Control Zones (Day Flight At or Below 1,000 feet Above the Ground or Water)—No flight of air-

craft shall be made during daylight outside of a control zone at or below 1,000 feet above the ground or water, unless the ceiling is sufficient to permit flight at the minimum altitudes prescribed in CAR 60.35 and unless the visibility is at least 1 mile.

60.445. Outside of Control Zones (Day Flight Above 1,000 Feet Above the Ground or Water)—No flight of aircraft shall be made during daylight outside of a control zone above 1,000 feet above the ground or water, unless the ceiling is sufficient to permit flight at the minimum altitudes prescribed in CAR 60.35 and unless the visibility is at least 3 miles at the flight altitude, except as provided in CAR 60.443 and 60.449.

60.446. Outside of Control Zones (Night Flight At or Below 1,000 Feet Above the Ground or Water)—No flight of aircraft shall be made at night outside of a control zone at or below 1,000 feet above the ground or water, unless the ceiling is sufficient to permit flight at the minimum altitudes prescribed in CAR 60.35 and unless the visibility is at least 2 miles.

60.447. Outside of Control Zones (Night Flight Above 1,000 Feet Above the Ground or Water)—No flight of aircraft shall be made at night outside of a control zone above 1,000 feet above the ground or water, unless the ceiling is sufficient to permit flight at the minimum altitudes prescribed in CAR 60.35 and unless the visibility is at least 3 miles at the flight altitude, except as provided in CAR 60.443 and 60.449.

60.448. Outside of Control Zones (Day or Night Below Overcast)—No flight of aircraft shall be made during daylight outside of a control zone closer than 300 feet vertically to the base of an overcast or cloud formation, nor closer than 500 feet vertically if precipitation is occurring in any form. No flight of aircraft shall be made during darkness outside of a control zone closer than 500 feet vertically to the base of an overcast or cloud formation.

60.449. Outside of Control Zones (Day or Night Above Overcast or Through Cloud Level)—No flight of aircraft shall be made during daylight outside of a control zone closer than 300 feet vertically to the top of an overcast or cloud formation, nor closer than 500 feet vertically if precipitation is occurring in any form. No flight of aircraft shall be made at night outside of a control zone closer than 500 feet vertically to the top of an overcast or cloud formation. At no time during ascent, descent, or level flight within the cloud level shall the aircraft be flown closer than 2,000 feet horizontally to the cloud formation or overcast.

60.45. *Alternate Airport:* No requirement.

60.46. *Over-the-Top Flight:* No flight of aircraft shall be made over broken clouds or stretches of solid overcast unless the attitude of the aircraft and its flight path can at all times be controlled by visual reference to the ground or water and ascent and descent can be made in accordance with the provisions of CAR 60.443 or 60.449. (For scheduled airline operations, see CAR 40 and 61.)

60.47. *Flight Enroute*

60.470. Weather Changes—If weather conditions below the minimums prescribed in CAR 60.44 are anticipated or are actually encountered enroute, a landing shall be made at the nearest airport at which weather conditions are equal to or better than those prescribed in CAR 60.44, or the flight shall be altered so that it may be made in weather conditions as good as, or better than, such minimums, unless such flight can and does proceed in accordance with the instrument flight rules prescribed in CAR 60.5.

60.471. Communication Contacts—No communication contacts required.

NOTE.—If the aircraft is possessed of two-way radio, it is recommended that the procedure provided for in CAR 60.571 be followed.

60.472. Flight Plan Changes—No notice of any change in flight plan is required. See, however, CAR 60.430.

NOTE.—If a flight plan has been submitted and the aircraft is possessed of two-way radio, it is recommended that the procedure provided for in CAR 60.573 be followed.

60.48. *Flight Altitudes:* None required.

NOTE.—It is recommended that cruising altitudes shall conform to those provided for in CAR 60.58 if the flight is made above 1,000 feet above the ground or water.

60.5. FLIGHT RULES (INSTRUMENT): In addition to general or special air traffic rules which apply, the following rules shall govern instrument flight, flight in closer proximity to cloud formation than the distances prescribed in CAR 60.44, and flight in weather conditions worse than those described in CAR 60.44, within or approaching the limits of a civil airway or control zone of intersection, or elsewhere in interstate or foreign air commerce.

60.50. *Pilot:* No flight shall be made unless the pilot in charge holds a valid instrument rating.

60.51. *Equipment:* Aircraft shall be properly certificated as to equipment according to the provisions of CAR 04.513, 04.514, and 04.515. (Scheduled airline aircraft shall be certificated as provided in CAR 04.532, 04.533, and 04.534.)

60.52. *Fuel Requirements:* No aircraft shall take off without fuel and oil sufficient, considering the wind and other weather conditions forecast for the flight, at least

(a) to complete such flight to the point of the first intended landing and thereafter

(b) to fly to and land at the alternate airport designated in the approved flight plan, and thereafter

(c) to fly, at normal cruising consumption, for a period of 45 minutes.

(For scheduled airline operations, see CAR 61.7021.)

60.53. *Flight Plan:* Prior to take-off from any point within an airway traffic control area, and prior to entering such an area, an approved flight plan as prescribed in CAR 60.134 is required. No flight plan shall be submitted until after the pilot has made a careful study of available current weather reports and forecasts and believes the flight can be made with safety. (For a list of airway traffic control areas, see CAR 60.24.)

60.530. Traffic Control Instructions—Traffic control instructions from a Bureau airway traffic control station issued to the pilot before departure or enroute are a part of the approved flight plan, and the pilot shall comply with the same in all respects.

60.531. Control Zone of Intersection—No control zone of intersection served by a Bureau radio voice communication station shall be entered without first establishing communication with such station, directly or through other communication channels, and forwarding the expected time of arrival over the center of such zone, the altitude to be flown through such zone, and the course or courses to be followed while within such zone, and thereafter observing such traffic instructions as may be issued by such station: *Provided*, That such procedure shall not be required within an airway traffic control area if the flight plan has been approved by a Bureau airway traffic control station prior to entering such zone.

NOTE.—For a list of control zones of intersection, see CAR 60.22. For further information concerning aids to air navigation, see "Tabulation of Air Navigation Radio Aids" published periodically by the Bureau of Air Commerce.

60.532. Notification of Arrival—The pilot of an aircraft shall, immediately upon landing or upon completion of the flight, file an arrival message for transmittal to the point of departure.

60.54. *Weather Minimums:* The following weather minimums shall govern landings and take-offs made in accordance with instrument flight rules: *Provided, however*, That the Secretary may require higher minimums at any airport: *And provided, further*, That such minimums, if for a control airport, shall govern the control zone in which such airport lies. Pending the issuance of traffic control tower operator certificates by the Secretary in accordance with the provisions of CAR 26., but in no case later than July 1, 1938, the authority granted to certificated airport control tower operators to permit flights in accordance with the provisions of CAR 60.540 is hereby granted to any airport control tower operator who has had not less than six months' experience as an airport control tower operator during the year immediately preceding the effective date of these air traffic rules.

60.540. Airports Within Control Zones—No flight, other than by a public aircraft or by a scheduled airline aircraft shall be made to or from a control airport nor to or from any other airport within a control zone, when the ceiling is less than 500 feet or the visibility is less than 1 mile: *Provided, however*, That if the control airport is equipped with a radio directional aid to air navigation designed to direct aircraft to that airport by the aid of instruments, a certificated airport control tower operator on duty in a radio equipped airport control tower in operation at such airport may authorize departure from such control airport when the ceiling is not less than 300 feet and the visibility is not less than one-half mile. (From scheduled airline operation, see CAR 40.290, 40.390 and 61.7109.)

60.541. Airports Outside a Control Zone—No flight, other than by a public aircraft or by a scheduled airline aircraft, shall be made to or from an airport outside of a control zone when the ceiling is less than 500 feet or the visibility is less than 1 mile. (For scheduled airline operation, see CAR 40.290, 40.390 and 61.7109.)

60.55. *Alternate Airport:* No take-off of aircraft shall be made unless:

(a) the flight plan as submitted includes an alternate airport having a landing area suitable for the equipment to be used, and

(b) weather reports and forecasts indicate that the weather conditions at the alternate airport will remain at or above the minimums specified in (c) or (d) below until the arrival of the aircraft thereat, and

(c) if the alternate airport is equipped with a radio directional aid to air navigation in operation and there is at such alternate airport a ceiling of at least 2,000 feet and a visibility of at least 3 miles if an overcast exists, or a ceiling of at least 1,500 feet and a visibility of at least 3 miles if broken clouds exist, or

(d) if the alternate airport is not equipped with a radio directional aid to air navigation, there is at such alternate airport an unlimited ceiling and a visibility of at least 3 miles.

60.56. *Over-the-Top Flight:* Over-the-top flight shall be governed by instrument flight rules whenever the attitude of the aircraft and its flight path can not be controlled at all times by visual reference to the ground or water.

60.57. *Flight Enroute*

60.570. Weather Changes—If weather reports available to the pilot enroute indicate that the weather conditions will be below the minimums allowing operation into the airport of destination at the expected time of arrival, the pilot shall not attempt a landing at the airport of destination but shall either proceed to the appropriate alternate airport as provided for in CAR 60.55, or proceed to an airport where weather conditions are at such time equal to or better than the weather minimums prescribed in CAR 60.54. (For scheduled airline operation, see CAR 61.7106.)

60.571. Communications Contacts—The pilot shall maintain a continuous listening watch on the appropriate radio frequency and shall, by radio, contact and report as soon as possible to the appropriate communication station the time and altitude of passing each radio fix or other check point designated by the Secretary or specified in the flight plan together with unanticipated weather conditions being encountered and any other information pertinent to the aircraft movement and, further, if not within an airway traffic control area, shall, prior to entering a control zone of intersection, served by a Bureau radio voice communication station, establish communication with such station, directly or through other communication channels, forwarding the expected time of arrival over the center of such zone, the altitude to be flown through such zone, and the course or courses proposed to be followed while within such zone.

60.5710. Aircraft utilizing airline communication facilities shall transmit information as required in this paragraph through such facilities, or such information may be transmitted directly by radio, to the appropriate agency of the Bureau.

NOTE.—For further information concerning aids to air navigation, see "Tabulation of Air Navigation Radio Aids" published periodically by the Bureau of Air Commerce.

60.572. Communications Failure—In the event of mechanical failure of aircraft two-way communication equipment or in the event that the pilot does not receive radio signals sufficient to permit his maintaining an instrument flight on course, (see CAR 60.342) one of the following procedures shall be observed.

60.5720. (a). Continue Flight in Accordance with Contact Flight Rules—The pilot may proceed provided that the flight may be made in accordance with contact flight rules as provided for in CAR 60.4.

60.5721. (b). Effect a Landing—The pilot may effect a landing at the nearest suitable airport at which favorable weather conditions exist and where no airway traffic control station is located.

60.5722. (c). Continue Flight in Accordance with Flight Plan—In the event weather conditions do not permit the procedures provided for in CAR 60.5720 or 60.5721, the pilot shall proceed according to his flight plan, including any amending instructions issued and acknowledged enroute, with particular attention to maintaining his last acknowledged assigned altitude until the approach time last authorized for, and acknowledged by, the pilot of such aircraft, after which landing may be made.

NOTE.—Normal traffic will resume as soon as the aircraft has landed or been accounted for, but, in any event in not more than 30 minutes after the approach time last authorized for the aircraft and acknowledged by the pilot of such aircraft.

60.573. Flight Plan Changes—No change shall be made enroute in any approved flight plan until approval has first been obtained from the Bureau airway traffic control station for the area in which the flight is progressing, unless an emergency situation arises which requires immediate decision and action, in which case as soon as possible after such emergency authority is exercised the pilot shall inform the proper control station of the new flight plan and obtain approval therefor.

60.58. *Flight Altitudes:* Unless different altitudes are assigned by a Bureau airway traffic control station, the following flight altitudes shall govern flights made in accordance with instrument flight rules. (See CAR 60.354.)

60.580. *Flight Altitudes Along Green Civil Airways*—The following rules will govern the altitude at which aircraft shall fly when making flights along green civil airways:

60.5800. Eastbound Flights—Aircraft making good a true course of from 0° (or 360°) to, but not including, 180° along a green civil airway shall fly at an ODD thousand foot level above sea level (such as 3,000, 5,000, or 7,000 feet).

60.5801. Westbound Flights—Aircraft making good a true course of from 180° to, but not including, 360° (or 0°) along a green civil airway shall fly at an EVEN thousand foot level above sea level (such as 2,000, 4,000, or 6,000 feet).

60.581. *Flight Altitudes Along Amber Civil Airways*—The following rules will govern the altitude at which aircraft shall fly when making flights along amber civil airways:

60.5810. Northbound Flights—Aircraft making good a true course of from 270° to, but not including, 90° along an amber civil airway shall fly at an ODD thousand foot level above sea level (such as 3,000, 5,000, or 7,000 feet).

60.5811. Southbound Flights—Aircraft making good a true course of from 90° to, but not including, 270° along an amber civil airway shall fly at an EVEN thousand foot level above sea level (such as 2,000, 4,000, or 6,000 feet.)

60.582. Flight Altitudes Along Red Civil Airways—The following rules will govern the altitude at which aircraft shall fly when making flights along red civil airways:

60.5820. Eastbound Flights—Aircraft making good a true course of 0° (or 360°) to, but not including, 180° along a red civil airway shall fly at an ODD thousand foot level above sea level (such as 3,000, 5,000, or 7,000 feet).

60.5821. Westbound Flights—Aircraft making good a true course of 180° to, but not including, 360° (or 0°) along a red civil airway shall fly at an EVEN thousand foot level above sea level (such as 2,000, 4,000, or 6,000 feet).

60.583. *Flight Altitudes Along Blue Civil Airways*—The following rules will govern the altitude at which aircraft shall fly when making flights along blue civil airways:

60.5830. Northbound Flights—Aircraft making good a true course of from 270° to, but not including, 90° along a blue civil airway shall fly at an ODD thousand foot level above sea level (such as 3,000, 5,000, or 7,000 feet).

60.5831. Southbound Flights—Aircraft making good a true course of from 90° to, but not including, 270° along a blue civil airway shall fly at an EVEN thousand foot level above sea level (such as 2,000, 4,000, or 6,000 feet).

60.584. *Flight Altitudes on Airway Intersections*—The following flight procedure and altitude rules will govern aircraft making flights on the civil airways where two or more such airways intersect.

60.5840. Flight on Green Civil Airway—An aircraft flying along a green civil airway and continuing the flight through a green zone of intersection shall, while within a green zone of intersection, maintain the altitude approved for flight on the green civil airway being followed and, upon leaving a green zone of intersection, shall assume an altitude prescribed for the airway to be followed.

60.5841. Flight on Amber Civil Airway.

60.58410. Through Green Zone of Intersection—An aircraft flying along an amber civil airway and continuing flight through a green zone of intersection shall, while within a green zone of intersection, maintain an altitude 500 feet higher than the altitude approved for flight on the amber civil airway being followed and, upon leaving a green zone of intersection, shall assume an altitude prescribed for the airway to be followed.

60.58411. Through Amber Zone of Intersection—An aircraft flying along an amber civil airway and continuing the flight through an amber zone of intersection shall, while within an amber zone of intersection, maintain the altitude approved for flight on the amber civil airway being followed and, upon leaving an amber zone of intersection, shall assume an altitude prescribed for the airway to be followed.

60.5842. Flight on Red Civil Airway.

60.58420. Through Green Zone of Intersection—An aircraft flying along a red civil airway and continuing flight through a green zone of intersection shall, while within a green zone of intersection, maintain an altitude 500 feet higher than the altitude approved for flight on the red civil airway being followed and, upon leaving a green zone of intersection, shall assume an altitude prescribed for the airway to be followed.

60.58421. Through Amber Zone of Intersection—An aircraft flying along a red civil airway and continuing flight through an amber zone of intersection shall, while within an amber zone of intersection, maintain an altitude 500 feet higher than the altitude approved for flight on the red civil airway being followed and, upon leaving an amber zone of intersection, shall assume an altitude prescribed for the airway to be followed.

60.58422. Through Red Zone of Intersection—An aircraft flying along a red civil airway and continuing flight through a red zone of intersection shall, while within a red zone of intersection, maintain an altitude approved for flight on the red civil airway being followed and, upon leaving the red zone of intersection, shall assume an altitude prescribed for the airway to be followed.

60.5843. Flight on Blue Civil Airway.

60.58430. Through a Green, Amber, or Red Zone of Intersection—An aircraft flying along a blue civil airway and continuing flight through a green, amber, or red zone of intersection shall, while within such zone of intersection, maintain an altitude 500 feet higher than the altitude approved for flight on the blue civil airway being followed and, upon leaving such zone of intersection, shall assume an altitude prescribed for the airway to be followed.

60.585. Flight Altitudes on Off-Airway Flights—The following rules will govern the altitudes of aircraft making instrument flights when approaching for crossing a civil airway not at a control zone of intersection:

60.5850 (a). Eastbound Flights—Aircraft making good a true course of 0° (or 360°) to, but not including, 180° shall fly at an ODD thousand foot level plus 500 feet, above sea level (such as 3,500, 5,500, or 7,500 feet); and

60.5851 (b). Westbound Flights—Aircraft making good a true course of 180° to, but not including, 360° (or 0°) shall fly at an EVEN thousand foot level plus 500 feet, above sea level (such as 2,500, 4,500, or 6,500 feet).

60.586. Crossing An Airway—Unless otherwise instructed by a Bureau airway traffic control station, a civil airway shall not be crossed at an angle of less than 45° to such airway, and the appropriate altitude as prescribed in CAR 60.585 shall be maintained throughout the entire crossing of such airway: *Provided, however,* That if such crossing is through any part of a zone of intersection the pertinent provisions of CAR 60.584 shall govern, and if such crossing is through any part of a control zone of intersection the pertinent provisions of CAR 60.571 and 60.584 shall govern.

60.59. *Approach and Departure Procedures:* (To be issued)

60.6. LIGHT AND SIGNAL RULES

60.60. *Angular Limits:* The angular limits prescribed in the following rules relating to lights will be determined with the aircraft in normal flying position.

60.61. *Airplane Lights:* Between sunset and sunrise, all airplanes in flight shall show the following lights:

60.610 (a). On the right (starboard) side a green light and on the left (port) side a red light, each showing unbroken light between 2 vertical planes whose dihedral angle is 110 degrees when measured to the left and right, respectively, from dead ahead. These lights shall be visible at least 2 miles.

60.611 (b). At the rear, and as far aft as possible, a white light shining rearward, visible for at least 3 miles in a dihedral angle of 140 degrees bisected by a vertical plane through the longitudinal axis of the aircraft.

60.62. *Airship Lights:* Between sunset and sunrise, airships shall carry and display the same lights that are prescribed for airplanes, except that the side lights shall be doubled horizontally in a fore-and-aft position and the rear light shall be doubled vertically. Lights in a pair shall be at least 7 feet apart.

60.63. *Balloon Lights:* Between sunset and sunrise, a free balloon shall display one white light visible for at least 2 miles and located not less than 20 feet below the car. A fixed balloon, or airship, shall carry 3 lights—red, white, and red—in a vertical line, one over the other, visible at least 2 miles. The top light shall be not less than 20 feet below the car, and the lights shall be not less than 7, nor more than 10, feet apart.

60.64. *Lights on Stationary Aircraft:* Between sunset and sunrise, all aircraft which are on the surface of water and not under way, or which are moored or anchored in navigation lanes, shall show a white light visible for at least 2 miles in all directions. Between sunset and sunrise balloon and airship mooring cables shall show groups of 3 red lights at intervals of at least every 100 feet, measured from the car. The first light in the first group shall be approximately 20 feet from the lower red balloon light. The object to which the balloon is moored on the ground shall have an adequate group of lights to mark its position.

60.65. *Signals on Stationary Aircraft:* By day, balloon and airship mooring cables shall be marked with chrome yellow colored conical streamers not less than 10 inches in diameter at the mouth and 7 feet long. The object to which the balloon or airship is moored on the ground shall have the same kind of streamers, which must be in the same position as the lights specified in CAR 60.64.

60.66. *Distress Signals:* The following signals, separately or together shall, where practicable, be used in case of distress:

60.660 (a). The international signal, S O S by radio: In radiotelephony, the spoken expression MAYDAY (corresponding to the French pronunciation of the expression "m'aider"). When, owing to the rapidity of the maneuvers to be accomplished, an aircraft is unable to transmit the intended message, the signal P A N not followed by a message retains such meaning.

60.661 (b). The international code flag signal of Distress, NC.

60.662 (c). A square flag having either above or below it a ball, or anything resembling a ball.

60.67. *Forced Landing Signals:* When an aircraft is forced to land at night at an airport, it shall signal its forced landing by making a series of short flashes with its navigation lights, if practicable to do so.

60.68. *Fog Signals:* In fog, mist, or heavy weather, an aircraft on the water in navigation lanes shall signal its presence by a sound device emitting a signal for about 5 seconds at one-minute intervals.

60.7. ACROBATIC FLIGHT RULES

60.70. *Prohibited Zones:* No person shall acrobatically fly an aircraft

60.700. (a). at any height whatsoever over a congested area of any city, town, or settlement, or over any open air assembly of persons, or over any airport or landing area or within 1,000 feet horizontally thereof, or within any control zone unless under the supervision of a Bureau inspector observing flight tests and then only between 2,000 and 5,000 feet above the ground or water.

60.701. (b). at any height less than 1,500 feet over any place over which flight is not otherwise restricted.

60.702. (c). at any place unless the visibility is at least 3 miles and the ceiling at least 3,000 feet, and unless the pilot has first ascertained that there is no danger of collision with other aircraft.

60.71. *Acrobatics While Carrying Persons:* No person shall acrobatically fly an aircraft while carrying any other person or persons for hire: *Provided, however,* That this provision shall not apply to the giving of instruction in acrobatic flying to a person receiving dual instruction.

60.72. *Equipment for Acrobatics:* Each person in an aircraft flown acrobatically shall be properly equipped with a parachute manufactured under a valid type certificate and maintained in accordance with the provisions of the Civil Air Regulations.

60.73. *Parachute Jump:* No person shall make any exhibition, test, training or demonstration parachute jump, unless wearing a certificated and properly maintained auxiliary parachute so arranged that it can be operated if the first parachute should fail to function or become fouled. Whenever an auxiliary parachute is required, it shall consist of a single-harness pack.

60.730. Altitude Before Jump—No person shall make any exhibition, training or demonstration parachute jump from an altitude of less than 2,000 feet above the surface of the ground or water.

60.731. Delayed Jump—No person shall delay opening his parachute more than is necessary to properly and safely clear the aircraft, which in no case, except in an emergency jump, shall be less than 1,500 feet above the surface of the ground.

60.732. Jump in High Wind—No person shall make any exhibition, test, training or demonstration parachute jump from any aircraft when the surface wind is more than 15 miles per hour.

60.733. Jump Near Open Water—No person shall make any exhibition, test, training or demonstration parachute jump from any aircraft within 2 miles horizontally from any body of water, unless the jumper wears a flotation device approved by the Secretary and unless motor-powered marine rescue equipment is available.

NOTE.—CAR 60.71, 60.72 and 60.73 do not apply to military personnel when flying, or flying in, military aircraft.

60.8. AIR MEET RULES

60.80. *Classification:* Air meets will be classified as follows:

60.800. Class 1 Air Meets—meaning those meets which will receive wide publicity, large crowds and large numbers of visiting aircraft and in which any one or all of the following events are included:

60.8000 (a). Races in which "NC", "NR" or "NX" aircraft are permitted to enter. (See CAR 02.11.)

60.8001 (b). Acrobatic flights over the airport at or below 1,500 feet.

60.8002 (c). Formation flying over the airport at or below 1,500 feet.

60.8003 (d). So called "crazy flying" over the airport.

60.8004 (e). Parachute jumping for a spot.

60.801. Class 2 Air Meets—meaning those meets which are locally-sponsored amateur meets and which may combine passenger-carrying activities with one or more of the following events:

60.8010 (a). Races for "NC" aircraft.

60.8011 (b). Simulated bomb dropping contests.

60.8012 (c). Acrobatic flights over the airport above 1,500 feet.

60.8013 (d). Formation flights over the airport above 1,500 feet.

60.8014 (e). Paper-cutting over the airport above 1,500 feet.

60.8015 (f). Balloon-bursting over the airport above 1,500 feet.

60.8016 (g). Spot landing contests (switches not cut).

60.8017 (h). Parachute jumping (not for spot).

60.81. *Permit Required:* No air meet shall be held or conducted, or authorized to be held or conducted, on a civil airway or elsewhere within the United States where there is likelihood of endangering aircraft moving in interstate or foreign air commerce unless a permit for such meet has been issued by the Secretary.

60.82. *Provision for Issuance:* The Secretary will issue a permit, in appropriate form, for the holding of an air meet provided:

60.820 (a). Such proposed air meet is to be held on a civil airway or elsewhere within the United States where there is likelihood of endangering aircraft moving in interstate or foreign air commerce, and

60.821 (b). proper application therefor is made and information submitted in accordance with the provisions of CAR 60.83 or 60.84, and

60.822 (c). the person or persons proposing to hold or conduct such air meet appear, in the opinion of the Secretary, to have taken all necessary and proper precautions for safeguarding the interests of the public and those engaged in aeronautics.

60.83. *Application for Class 1 Air Meet Permit:* In order to enable the Secretary to make adequate investigation and to permit publication and distribution of field rules and regulations for the protection of the public and for the benefit of those engaged in aeronautics, any person or persons desiring a permit for the conduct of a Class 1 Air Meet, shall make application therefor to the Secretary, or to the Bureau supervising aeronautical inspector whose office is located in the district in which such meet will be held, at least 15 days prior to the time of holding of such proposed air meet, upon a form to be supplied for the purpose, which form shall contain at least the following information:

60.8300 (a). Name, address and telephone number of the person or persons making the application.

60.8301 (b). Names and addresses of sponsors and backers, if any, of the air meet other than the applicant.

60.8302 (c). List of names of the personnel charged with operation of the air meet and their duties.

60.8303 (d). Certified copy of permission granted by State or local authorities for conduct of such air meet.

60.8304 (e). Certified copy of permission granted for the use of the airport or other landing area.

60.8305 (f). Map or blueprint showing the scale of measurement of the airport or other landing area and race course, if any, and showing the course in relation to ob-

structions, congested areas, grandstand or spectators' seats, and parking areas.

60.8306 (g). Schedule of airline operation in and out of, or in the vicinity of, the airport during the time the air meet is in progress.

60.8307 (h). Complete description of all events, showing time and qualification for entry.

60.8308 (i). Detailed description of method of policing, particularly as to methods of preventing spectators or unauthorized persons from entering restricted areas. Also, detailed description of the provisions for compliance with CAR 60.8912.

60.8309 (j). Copy of rules and regulations covering the conduct of the air meet. These regulations shall conform substantially with the rules prescribed in CAR 60.89 and shall include such additional rules as, in the opinion of the operator, are necessary for the particular meet involved, including the proposed method of local air traffic control for the operation of all aircraft during the time of such air meet and until the air operations have returned to normal.

60.84. *Application for Class 2 Air Meet Permit:* In order to enable the Secretary to make adequate investigation and to permit publication and distribution of field rules and regulations, if any, for the protection of the public and for the benefit of those engaged in aeronautics, any person or persons desiring a permit for the conduct of a Class 2 Air Meet shall make application to the Secretary, or to the Bureau supervising aeronautical inspector whose office is in the district in which such meet will be held, at least 5 days prior to the holding of such proposed air meet, upon a form to be supplied for the purpose, which form shall contain at least the following information:

60.8400 (a). Name, address and telephone number of the person or persons making the application.

60.8401 (b). Names and addresses of sponsors or backers, if any, of the air meet other than the applicant.

60.8402 (c). List of the names of the personnel charged with operation of the air meet and their duties.

60.8403 (d). Statement that permission will be obtained from State or local authorities for conduct of the air meet prior to the holding of such meet.

60.8404 (e). Statement that permission will be obtained for the use of the airport or other landing area.

60.8405 (f). Map or sketch of airport or other landing area and race course, if any, showing the course in relation to obstructions, congested areas, grandstand or spectators' seats, and parking areas.

60.8406 (g). Schedule of airline operation in and out of, or in the vicinity of, the airport or landing area during the time the air meet is in progress.

60.8407 (h). Complete description of all events, showing time and qualification of entry.

60.8408 (i). Detailed description of method of policing, particularly as to methods of preventing spectators or unauthorized persons from entering restricted areas.

60.85. *Issuance:* Upon approval of an application duly made, data submitted and investigations and inspections completed, an air meet permit will be issued in appropriate form.

60.86. *Duration:* An air meet permit will be granted for a limited time only and for a specific purpose, which time and purpose will be clearly stated in such permit.

60.87. *Non-Transferability:* An air meet permit is not transferable.

60.88. *Suspension and Revocation:* An air meet permit may be suspended or revoked by the Secretary for any of the following reasons:

60.880 (a). Any false statement on the part of the person making application for such permit or in any information accompanying the application.

60.881 (b). Adverse weather conditions affecting the safety of the public or those engaged in aeronautics, as determined by the local Bureau inspector.

60.882. (c). Failure of those in charge of the air meet to properly enforce any term or condition in the air meet permit.

60.883 (d). Violation of any term or condition contained in the permit granted for the air meet.

60.884 (e). Violation of any provision of the Air Commerce Act or any rule or regulations duly promulgated thereunder.

60.89. *Air Meet Rules:* The following rules shall apply to, and govern the conduct of, all Class 1 and Class 2 air meets for which a permit may be issued by the Secretary.

60.8900 (a) No person shall be permitted to take part in any air meet until he has furnished the air meet officials a signed statement to the effect that he has read the rules and regulations governing such meets, and which obligates him to abide by all local and Department of Commerce rules and regulations.

60.8901 (b). No person shall be permitted on the operations area of an airport or flying field during any air meet held thereon, except the operating personnel, contestants and their crews, police, State and Federal aeronautics officials and inspectors, and authorized press, radio and photographer personnel.

60.8902 (c). A white dead line paralleling the area reserved for spectators and at least 200 feet in front of such area shall be provided by the air meet officials and the crossing by any aircraft of this dead line in the direction of the spectators will result in the suspension of the certificate of the operator of such aircraft.

60.8903 (d). The air meet management shall be held responsible for the proper policing of the air meet area within the airport and for other suitable provisions to insure that all spectators and unauthorized persons are kept off prohibited areas.

60.8904 (e). No air meet event shall be conducted unless the operations area of the airport or flying field is clear, the operating personnel are present, sufficient police or guards are on duty and at their posts, no other air operations are going on and scheduled airline aircraft are not flying in the vicinity.

60.8905 (f). Participants in racing events shall not come in closer proximity to other participating aircraft than 50 feet, and a participant must be not less than 150 feet in the lead before cutting into the same lane of plane or planes just passed.

60.8906 (g). No aircraft shall be flown toward, over, nor within 200 feet horizontally of, the grandstand or spectators.

60.8907 (h). No aircraft performing acrobatics shall be flown toward or over the grandstands or spectators nor within 500 feet thereof.

60.8908 (i). No object shall be dropped or released from aircraft in connection with an air meet which will fall over, toward, nor within 500 feet of, the grandstands or spectators.

60.8909 (j). Race-horse-starts shall be prohibited except when such starts provide for minimum spacing from wing tip to wing tip of at least 100 feet between participating aircraft and then only in case the take-off area is suitable for such starts and a scattering pylon is used for the first pylon, which scattering pylon must be located at least one mile from the boundary of the airport.

60.8910 (k). The home pylon shall be located at least 800 feet from the grandstands or spectators, and racing aircraft shall not be flown toward, over, or within a minimum distance of 500 feet horizontally of, the grandstands or spectators. The home stretches of all race courses shall be parallel to the grandstands and other sections provided for spectators.

60.8911 (l). For purposes of controlling traffic at, and in the vicinity of, an airport or other landing area used for an air meet, signals shall be located either near the announcer's stand or near the home pylon and shall consist either of a large white letter "O" indicating open, and a large white letter "X" indicating closed, or by the words spelled in large white letters on the ground, "OPEN" or "CLOSED", as the case may be. Such signals shall be so constructed as to be easily legible from 2,000 feet altitude and these signals shall be properly operated during the period of the air meet to indicate whether the airport is open for landing to non-participants in the meet, or whether it is closed. For the safety and convenience of non-participating aircraft, the airport or landing area shall be declared open for landing and take-off purposes for a period of 5 minutes at not more than 30 minute intervals during the air meet.

60.8912 (m). A physician and ambulance and a fully equipped emergency truck shall be available at the air meet for emergency use. This provision is mandatory for Class 1 Air Meets only.

60.9. MISCELLANEOUS AIR TRAFFIC RULES

60.90. *Non-Application of Air Traffic Rules:* The air traffic rules, or any particular air traffic rule, shall not apply in the following cases:

60.900 (a). When special circumstances render non-observance necessary to avoid immediate danger, or when such non-observance is required because of stress of weather conditions which could not reasonably have been foreseen, or other unavoidable causes. Such non-observance shall be reported within 24 hours in full detail by letter to the Secretary, including the emergency making such non-observance necessary, the results accomplished by non-observance, and when regular observance was resumed after the emergency had passed. In such case of non-observance if, after investigation by the Secretary, non-observance is deemed to have been necessary in the interests of safety, no infraction of these rules will have been incurred.

60.901 (b). When the public safety, the safety of those engaged in aeronautics or the interests of sound fostering and promotion of aeronautics is deemed by the Secretary to require a non-observance of the air traffic rules, or any particular rules, as evidence by a certificate of non-application issued by, or under the authority of, the Secretary.

60.91. *Certificate of Non-Application:* A certificate of non-application of air traffic rules will be issued for a limited time and will specifically set forth the subject matter involved, the time limits involved, and will be strictly construed. Requests for such certificate shall be addressed to the Secretary at least ten days before the certificate applied for is to have effect.

60.910. Surrender—Upon notice from a duly authorized Bureau inspector of the suspension of a certificate of non-application by such inspector or by the Secretary, and upon the demand of either of the same for the surrender of such certificate, or upon notice from the Secretary of the revocation of such certificate, the holder thereof shall immediately surrender such certificate to such inspector or immediately return such certificate to the Secretary, as the case may be.

60.92. *Aircraft on Water:* Seaplanes on the water shall navigate according to the laws and regulations of the United States governing the navigation and operation of watercraft, except as otherwise provided in these regulations.

60.93. *Aircraft Model Flying Activities, Supervision of:* No model aircraft shall be flown from, or over, any airport or landing field unless permission therefor, in writing, has been secured from the airport manager or his duly authorized representative. The airport manager shall designate the portion of the field to be used and shall take all necessary precautions to assure the safety of the public on the ground and of aircraft in the air. Rules governing the conduct of such activity shall be drawn and shall include:

60.930 (a). The definite boundaries of the area to be utilized.

60.931 (b). The periods of suspensions of activity before, during and after any scheduled or other aircraft operations.

60.932 (c). The limitation of duration of flight of the models.

60.933 (d). Procedure for the retrieving of models.

60.934 (e). Notification by the airport manager to all model operators so engaged of the rules as drawn.

Approved, to take effect March 31, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

APPENDIX A

Presidential Airspace Reservations

The following airspace reservation has been set apart by order of the President, by Executive Order No. 5211, October 19, 1929:

Aberdeen Proving Ground, portions of the Fort Hoyle and the Edgewood Arsenal Military Reservations, and portions of Bush River, Gunpowder River and Chesapeake Bay, all in the State of Maryland, as more particularly shown by the designation of said areas on official aeronautical charts.

The following airspace reservations have been set apart by order of the President, by Executive Order No. 7138, August 12, 1935:

Picatinny Arsenal, Dover, New Jersey.
Savanna Ordnance Depot, Savanna, Illinois.
Nansomond Ordnance Depot, Portsmouth, Virginia.
Wingate Ordnance Depot, Gallup, New Mexico.
Camp Stanley Ordnance Reservations, Leon Springs, Texas.
Fort Hancock, Sandy Hook, New Jersey.
Fort Saulsbury, about 4 miles east of Milford, Delaware.
Fort Pickens, western portion of Santa Rose Island, Pensacola Bay, Florida.
Fort Barry, near Point Bonita Lighthouse, San Francisco Bay, California.
Fort Canby, near Cape Disappointment Lighthouse, Washington.
Fort Casey, near Admiralty Head Lighthouse, Washington.
Naval Ammunition Depot, Hingham, Massachusetts.
Naval Ammunition Depot, Fort Lafayette, New York.
Naval Ammunition Depot, Lake Denmark, New Jersey.
Naval Ammunition Depot, St. Juliens Creek, Virginia.
Naval Ammunition Depot, Hawthorne, Nevada.
Naval Ammunition Depot, Mare Island, California.
Naval Ammunition Depot, Puget Sound, Washington.
Naval Mine Depot, Yorktown, Virginia.
Naval Torpedo Station, Newport, Rhode Island.
Naval Torpedo Station, Keyport, Washington.
Naval Ordnance Plant, Baldwin, Long Island, New York.
Naval Fuel Depot, San Diego, California.
That part of the Aleutian Islands, Alaska, with their territorial waters, lying west of the 167th meridian.

The following harbors were declared to be reserved areas by Executive Order No. 5281, dated February 17, 1930, and navigation of aircraft within the airspace above the same was put under the authority of the United States Navy Department:

Tortugas, Florida.
Great Harbor, Culebra, Canal Zone.
Guantanamo Naval Station, Cuba.
Pearl Harbor, Hawaii.
Guam.
Subic Bay, Philippine Islands.
Kiska, Aleutian Islands.

APPENDIX B

State Airspace Reservations

None at present.

APPENDIX C

Restricted Areas Under Other Federal Agencies

The following areas are under the administrative control of the United States Navy Department, and application should be made thereto for information as to aeronautical regulations:

Samoa (including Tutuila and various smaller islands).
Midway Island.
Wake Island (with a few adjacent small islands).

APPENDIX D

Bureau Airway Traffic Control Stations

The following is a list of Bureau Airway Traffic Control Stations:

Burbank, California.
Chicago, Illinois.
Cleveland, Ohio.
Detroit, Michigan.
Newark, New Jersey.
Oakland, California.
Pittsburgh, Pennsylvania.
Washington, D. C.

[F. R. Doc. 38-673; Filed, March 4, 1938; 2:02 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 81]

CONDITIONAL PAYMENTS BY BORROWERS FOR SUBSEQUENT CREDIT UPON INDEBTEDNESS TO LAND BANK

Pursuant to the authority of paragraph Eighteenth of Section 13 of the Federal Farm Loan Act, as amended, (Section 17 of the Farm Credit Act of 1937), the following rules and regulations are hereby prescribed for the efficient execution of the provisions of said paragraph:

1. Conditional payments under the provisions of paragraph Eighteenth of Section 13 of the Federal Farm Loan Act, as amended, shall be accepted by a land bank only for subsequent credit upon indebtedness to the bank incurred pursuant to Section 12 or 16 of said Act (12 U. S. C. 771, 818).

2. Wherever used in these Regulations the term "balance of unapplied conditional payments" shall mean the amount of unapplied conditional payments to the credit of the borrower, including interest thereon allowed to the borrower.

3. The terms and conditions upon which any conditional payment is accepted shall

(*a*) Identify the indebtedness in connection with which the conditional payment is accepted.

(*b*) Specify the rate of interest which shall be allowed by the bank, in accordance with regulations of the Farm Credit Administration, on the conditional payment.

(*c*) Provide that interest allowed upon the conditional payment shall be credited to the borrower and held by the bank in the same manner in which the conditional payment is credited to the borrower and held by the bank.

(*d*) Provide that the bank shall, out of and to the extent of the balance of unapplied conditional payments held in connection with the indebtedness, as the borrower may direct in writing, pay any portion of said indebtedness as the same becomes due and payable and, after five years from the date upon which the borrower's loan was made, upon any regular installment date, pay in advance any portion of or all the principal of the indebtedness.

(*e*) Provide that at its option the bank may, out of and to the extent of the balance of unapplied conditional payments held in connection with the indebtedness, pay any portion of said indebtedness as and when the same becomes due and payable if it is not otherwise paid by the borrower at or before maturity.

(*f*) Provide that if at any time after five years from the date when the borrower's loan was made the balance of unapplied conditional payments held in connection with the indebtedness, equals or exceeds the total thereof, the whole indebtedness shall become due and payable at once and shall be paid out of such balance.

(*g*) Provide that if at any time before five years from the date when the borrower's loan was made, the balance of unapplied conditional payments equals or exceeds the total of the indebtedness, at the option of the bank the whole indebtedness shall be paid out of such balance.

(*h*) Provide that any balance of unapplied conditional payments held in connection with the indebtedness, shall be refunded to the borrower by the bank when the indebtedness is paid in full.

(*i*) Provide that any balance of unapplied conditional payments held in connection with the indebtedness, shall be applied to the unpaid balance thereof prior to a transfer of title to the loan by the bank.

(*j*) Be consistent with law and with any applicable rules and regulations prescribed by the Farm Credit Administration.

4. Except with the written approval of the Land Bank Commissioner, the rate of interest allowed by a land bank upon conditional payments shall not exceed 3 per cent per annum or the interest rate in the last series of farm loan bonds issued by the bank or a rate 1 per cent per annum less than the loan rate specified in the mortgage securing the indebtedness in connection with which the conditional payment is held, whichever is the lower.

5. A land bank shall not accept conditional payments to an amount exceeding the unpaid balance of the indebtedness in connection with which the conditional payments are held.

6. Interest shall not be allowed upon any amount which has not been held for the credit of the borrower as an unapplied conditional payment for a period of at least one month.

7. Interest allowed on conditional payments shall be credited to the borrower upon regular installment dates, provided, however, that where such payments are held in connection with loans with annual installment dates interest allowed may be credited upon the regular installment dates and the dates midway between such installment dates; provided, further, that interest allowed shall be credited to the borrower at any time when the loan in connection with which the conditional payments are held is paid in full or the entire balance of conditional payments to the credit of the borrower is applied upon the loan.

8. A conditional payment shall not be accepted in connection with a delinquent indebtedness.

[SEAL] A. S. Goss,
Land Bank Commissioner.

[F. R. Doc. 38-695; Filed, March 8, 1938; 12:14 p. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN ASSOCIATIONS

PERMITTING FEDERAL ASSOCIATIONS TO LEND ON INSURED LOANS UP TO THE PERCENTAGE OF APPRAISED VALUE PERMITTED UNDER THE NATIONAL HOUSING ACT, AS AMENDED

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of the Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), the first sentence of subsection (b) of Section 39 of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended by striking the period at the end thereof and by adding the following:

"unless insured under the National Housing Act, as amended, in which event any percentage of appraised value permitted under the National Housing Act, as amended, may be loaned."

Be it further resolved, That, it being deemed that this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Federal Home Loan Bank Board on March 7, 1938.

[SEAL] H. CAULSEN, *Assistant Secretary.*

[F. R. Doc. 38-692; Filed, March 8, 1938; 10:59 a. m.]

INTERNATIONAL FISHERIES COMMISSION.

REGULATIONS ADOPTED PURSUANT TO THE PACIFIC HALIBUT FISHERY CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE DOMINION OF CANADA, SIGNED JANUARY 29, 1937

REGULATORY AREAS

1. The convention waters shall be divided into the following areas, all directions given being magnetic.

(*a*) Area 1 shall include all convention waters southeast of a line running northeast and southwest through Willapa Bay Light on Cape Shoalwater, as shown on Chart 6185, published in May, 1926, by the United States Coast and Geodetic Survey, which light is approximately in latitude 46°43'07" N., longitude 124°04'18" W.

(*b*) Area 2 shall include all convention waters off the coasts of the United States of America and of Alaska and of the Dominion of Canada between Area 1 and a line running through the most westerly point of Glacier Bay, Alaska, to Cape Spencer Light as shown on Chart 8304, published in September, 1923, by the United States Coast and Geodetic Survey, which light is approximately latitude 58°11'48" N., longitude 136°38'24" W., thence south one-quarter east and is exclusive of the areas closed to all halibut fishing in Section 10 of these regulations.

(*c*) Area 3 shall include all the convention waters off the coast of Alaska that are between Area 2 and a straight line running south from the southwestern extremity of Cape Sagak on Umnak Island, at a point approximately latitude 52°41'25" N., longitude 168°58'05" W., and that are south of the Alaska Peninsula and of the Aleutian Islands including the intervening straits or passes.

(*d*) Area 4 shall include all convention waters not included in Areas 1, 2, and 3, and those areas defined in Section 10.

LIMIT OF CATCH IN EACH AREA

2. The catch of halibut to be taken during the halibut fishing season of 1938 from Area 2 shall be limited to approximately 22,700,000 pounds of salable halibut, and from Area 3 to approximately 25,300,000 pounds of salable halibut, or, if the International Fisheries Commission shall at any time so decide, the catch shall not be limited separately in Areas 2 and 3, but shall be limited to 48,000,000 pounds of salable halibut from the combined Areas 2 and 3, the weights in each or any such limit to be computed as with heads off and entrails removed. The International Fisheries Commission shall as early in the said year as is practicable determine the date on which it deems each such limit of catch will be attained, and the limit of each such catch shall then be that which shall be taken prior to said date, and fishing for or catching of halibut in the area or areas to which such limit applies shall at that date be prohibited until after the end of the closed season as defined and modified in Section 3 of these regulations, except as provided in Section 5 thereof and in Article I of the Convention, and provided that if it shall at any time become evident to the International Fisheries Commission that the limit will not be reached by such date, it may substitute another date.

LENGTH OF CLOSED SEASON

3. (*a*) Under the authority of Article I of the aforesaid Convention the closed season as therein defined shall be modified so as to end at 12 midnight of March 31 of each year and shall begin at 12 midnight of November 30 of each year unless an earlier date is determined upon for any area under the provisions of this Section paragraph (*b*) of these regulations, provided that the International Fisheries Commission may fix any date subsequent to November 1 as the commencement of the closed season regardless of the catch which it deems will be attained by such date.

(*b*) Under authority of Article I of the Convention the closed season as therein defined shall begin in each area on the date on which the limit is reached as hereinbefore provided, and the closing of such area or areas shall be taken to have been duly approved unless before the said date either the President of the United States of America or the Governor General of Canada shall have signified his disapproval, (the onus of proving any such signification being upon the person alleging it) and provided that the closure of Area 2 or 3, whichever shall be later, shall apply to Area 4, and that the closure of Area 2 shall apply to Area 1, and provided further that nothing in this regulation shall prohibit the fishing for other species of fish and fishing by the International Fisheries Commission as provided for in Article I of the Convention.

LAST DEPARTURE FOR AREA 3

4. After any date on which the International Fisheries Commission shall deem that the vessels which have departed for Area 3 prior to that date or which are known to be fishing in Area 3 shall suffice to catch the limit which is set for that area in Section 2, the departure for halibut fishing in the said area of any vessel from any port or place, or from any receiving vessel or station shall be prohibited during the remainder of the season when the said area is open to halibut fishing; provided that vessels which have departed for halibut fishing prior to said date and which shall hold a valid license as herein provided in Section 7 for halibut fishing may within ten days of entrance therein again depart from any port or harbor en route to or in the vicinity of the fishing grounds when such port or harbor is uninhabited, and from any port or from any place within a port at which the halibut shall not have been landed, transferred, or discharged by said vessel since the said date, when said port or place has been entered solely for shelter, repairs or supplies, and provided further that the place of departure may be designated for any port by the customs or enforcing officer in authority who may there or elsewhere at his discretion inspect the cargo of any departing vessel which he may have reason to believe has entered with halibut on board.

RETENTION OF HALIBUT TAKEN WITH OTHER FISH

5. There may be retained in possession on any vessel which shall have a permit as provided in Section 6 (b) that halibut which is taken incidentally to fishing by that vessel with set lines for other species not to exceed at any time one pound of halibut for each seven pounds of other species, not including salmon, and such halibut may be sold as the catch of said vessel, the weight of all such fish to be computed as provided in Section 2 for halibut. Halibut retained under such permit shall not be landed or otherwise removed from the catching vessel until all halibut on board shall have been reported to a customs or other authorized officer of either Government nor shall any vessel receive it for transportation unless it shall be reported to the said officer prior to departure from port, and it and all fish of other species shall be removed from the catching vessel under such supervision as the said officer may deem advisable. Such halibut shall not be purchased or held in possession by any person other than the master, operator or crew of the catching vessel in excess of the proportion herein allowed until such excess whatever its origin shall have been forfeited and surrendered to the customs or other authorized officers of either Government. All purchasers shall make statistical return as to the halibut and as to the other species landed therewith within such time as the supervising officer shall require.

The International Fisheries Commission shall determine a date in each calendar year for each area after which no permit shall be granted and a date after which no permit shall be valid for retention of halibut caught therein, provided that permits shall not be valid after the closure of the last area open to halibut fishing in convention waters.

ISSUANCE OF LICENSES AND PERMITS

6. (*a*) All vessels of any tonnage which shall fish for halibut in any manner or hold halibut in possession in any area, or which shall transport halibut otherwise than as a common carrier documented by the respective Governments for the carriage of freight, must be licensed by the International Fisheries Commission, provided that vessels of less

than five net tons or vessels fishing otherwise than with set lines or bottom nets or trawls, need not be licensed during the open season prior to the date after which departure for any area shall be prohibited under Section 4 of these regulations.

Each licensed vessel shall carry this license on board at all times while at sea whether it is validated for halibut fishing or endorsed with a permit as hereinafter provided, and this license shall at all times be subject to inspection by authorized officers of either Government or by representatives of the International Fisheries Commission.

The license shall be issued without fee by the customs officers of either Government or by representatives of the International Fisheries Commission. Licenses issued under the Convention for the preservation of the halibut fishery signed May 9, 1930, shall be regarded as issued under the supplanting Convention signed January 29, 1937.

A new license may be issued by the officer accepting statistical return at any time to vessels which have furnished proof of loss of the license form previously issued, or when there shall be no further space for record thereon, providing the receipt of statistical return shall be shown on the new form for any halibut or other species taken during or after the voyage upon which loss occurred. The old license form shall be forwarded in each case to the International Fisheries Commission.

(*b*) Any vessel which shall be used in fishing for other species than halibut in any area closed to halibut fishing, or which shall depart for fishing in any area when departure for halibut fishing therein is prohibited, must have a permit if it shall retain, land or sell any halibut caught incidentally to such fishing or possess any halibut of any origin during such fishing, as provided in Section 5. The permit shall be shown by endorsement of the issuing officer on the face of the halibut license form held by said vessel and shall terminate at the time of first landing thereafter of fish of any species and a new permit may be granted in accordance with Section 7. A permit shall not be issued to any vessel which shall have halibut on board taken while licensed to fish in an open area unless such halibut shall be considered as taken under the issued permit and as thereby subject to forfeiture when landed if in excess of the amount permitted in Section 5. A permit shall not be issued to, or be valid if held by, any vessel which shall fish with other than set lines.

CONDITIONS LIMITING VALIDITY OF LICENSES AND PERMITS

7. The license or permit of any vessel shall not be valid unless the license is validated or the permit is granted before departure is allowed from the port of last clearance prior to each fishing operation for which statistical returns are required. This validation of a license or granting of a permit shall be by customs officers and shall not be made unless the area or areas in which the vessel will fish is entered on the license form and unless the provisions of Section 8 (a) and 8 (b) have been complied with for all landings and all fishing operations since issue of the license or permit provided that if the master or operator of any vessel shall fail to comply with the provisions of Section 8 (a) and 8 (b) the license or permit of such vessel may be validated or issued by customs officers or authorized representatives of the International Fisheries Commission only upon evidence either that there has been a judicial determination of the offense or that the said master or operator is no longer responsible for, nor sharing in, the operations of said vessel.

The license shall not be valid for halibut fishing in any area closed to halibut fishing or for the possession of halibut in any area closed to halibut fishing except while in transit to or within a port of sale, nor shall it be valid for halibut fishing in any area while a permit endorsed thereon is in effect, nor shall it be validated while halibut taken under such permit is on board.

When departure for halibut fishing in Area 3 has been prohibited as provided in Section 4, the license of any vessel which shall fish for halibut or retain halibut in possession within that area shall not be valid, nor be validated, for halibut fishing after any landing, transfer, or sale of halibut by such vessel subsequent to the date of this prohibition. Such license shall not be valid, nor be validated, after any entry into a port at which there shall be customs officers or others authorized to accept statistical return or to validate licenses unless the arrival of the vessel shall have been reported to such officers prior to any lading or discharge of cargo, and unless such information shall have been provided or inspection made as they shall require and unless statistical return supported by a sworn statement shall have been made showing that said vessel discharged no halibut since departure for halibut fishing was permitted, whereupon if the provisions of these regulations have otherwise been complied with, the license may be again validated and departure permitted as provided in Section 4.

STATISTICAL RETURN BY VESSELS

8. (*a*) Statistical return as to the amount of halibut taken during fishing operations must be made by the master or operator of any licensed vessel and as to the amount of halibut and other species by the master or operator of any vessel operating under permit as provided for in Sections 5 and 6 (b), within 48 hours of landing, sale or transfer of halibut or of first port entry thereafter, except that within any area in which the catch is not limited by these regulations the master or operator of a licensed vessel shall make statistical returns at such times as are required by the customs officers or the International Fisheries Commission, but shall at all times keep with the license form such records as are necessary to make such return. The statistical return must state the port of landing, the amount of each species taken within each area defined in these regulations, and the dates of operation in each area. The total return must include all halibut landed or transferred to other vessels and all halibut held in possession on board and must be full, true and correct in all respects herein required. A copy of such return must be forwarded to the International Fisheries Commission at such times as the latter shall require.

The master or operator and/or any person engaged on shares in the operation of any vessel licensed or holding a permit under these regulations may be required by the International Fisheries Commission or by any officer authorized to receive such return to certify to its correctness to the best of his information and belief and to support the certificate by a sworn statement. Validation of a license or issuance of a permit after such sworn return is made shall be provisional and shall not render the license or permit valid in case the return shall later be shown to be false or fraudulently made.

(*b*) The master or operator of any vessel holding a license or permit under these regulations shall keep an accurate log of all fishing operations including therein date, locality, amount of gear used, and the amount of halibut taken daily in each such locality. This log record shall be open to inspection of representatives of the International Fisheries Commission authorized for this purpose. The master, operator and/or any other person engaged on shares in the operation of any vessel licensed under these regulations may be required by the International Fisheries Commission or by any officer of either Government to certify to the correctness of such log record to the best of his information and belief and to support the certificate by a sworn statement.

STATISTICAL RETURNS BY OTHERS

9. All persons, firms, or corporations that shall buy halibut or receive halibut for any purpose from fishing or transporting vessels shall keep and on request furnish to customs officers or to any enforcing officer of either Government or to the International Fisheries Commission, records of each purchase or receipt of halibut, showing date, locality, name of vessel, person, firm or corporation purchased or received from and the amount in pounds according to trade categories of the halibut and other species landed with the halibut, providing that such return must be made to customs or enforcing officers within such time as they shall require after the purchase or landing of any halibut caught or landed by a vessel operating under permit, as provided in Sections 5 and 6 (b). Such persons, firms, or corporations may be required to certify to the correctness of such records and to support the certificate by a sworn statement. The knowing possession by such persons, firms or corporations of halibut taken by an unlicensed vessel, or a vessel without permit when such license or permit is required shall be prohibited.

CLOSED SMALL HALIBUT GROUNDS

10. The following areas having been found to be populated by small immature halibut, are hereby closed to all halibut fishing and the possession of halibut of any origin is prohibited therein during fishing for other species:

First, that area in the waters off the coast of Alaska within the following boundary as stated in terms of the magnetic compass unless otherwise indicated; from the north extremity of Cape Ulitka, Noyes Island, approximately latitude 55°33′42″ N., longitude 133°43′39″ W., to the south extremity of Wood Island, approximately latitude 55°39′38″ N., longitude 133°42′32″ W.; thence to the east extremity of Timbered Islet, approximately latitude 55°41′42″ N., longitude 133°47′45″ W.; thence to the true west extremity of Timbered Islet, approximately latitude 55°41′41″ N., longitude 133°48′04″ W.; thence southwest three-quarters south sixteen and five-eighths miles to a point approximately latitude 55°35′00″ N., longitude 134°14′45″ W.; thence southeast by south twelve and five-eighths miles to a point approximately latitude 55°22′24″ N., longitude 134°13′05″ W.; thence northeast fourteen miles to the southern extremity of Cape Addington, Noyes Island, latitude 55°26′06″ N., longitude 133°49′14″ W.; and to the point of origin on Cape Ulitka. The boundary lines herein indicated shall be determined from Chart 8157, as published by the United States Coast and Geodetic Survey at Washington, D. C., in April, 1925, except for the point of Cape Addington which shall be determined from Chart 8158, as published by the United States Coast and Geodetic Survey in December, 1923, provided that the duly authorized officers of the United States of America may at any time place a plainly visible mark or marks at any point or points as nearly as practicable on the boundary line defined herein, and such mark or marks shall thereafter be considered as correctly defining said boundary.

Second, that area lying in the waters off the north coast of Graham Island, British Columbia, within the following boundary: From the northwest extremity of Wiah Point, latitude 54°06′50″ N., longitude 132°19′18″ W., true north five and one-half miles to a point approximately latitude 54°12′20″ N., longitude 132°19′18″ W.; thence true east approximately sixteen and three-tenths miles to a point which shall lie northwest (according to magnetic compass at any time) of the highest point of Tow Hill, Graham Island, latitude 54°04′24″ N., longitude 131°48′00″ W.; thence southeast to the said highest point of Tow Hill. The points on the shoreline of the above mentioned island shall be determined from Chart 3754, published at the Admiralty, London, April 11, 1911, provided that the duly authorized officers of the Dominion of Canada may at any time place a plainly visible mark or marks at any point or points as nearly as practicable on the boundary line defined herein, and such marks shall thereafter be considered as correctly defining said boundary.

DORY GEAR PROHIBITED IN AREAS 1 AND 2

11. The use of any hand gurdy or other appliance in hauling halibut gear by hand power in any dory or small boat operated from a vessel licensed under the provisions of these regulations is prohibited in Areas 1 and 2.

SET NETS PROHIBITED

12. It is prohibited to take or to retain halibut with a set net of any kind or to have in possession any halibut while using any such net for other species of fish, nor shall any license or permit held by any vessel under these regulations be valid during the use or possession on board of any such net.

SUPERSEDE PREVIOUS REGULATIONS

13. These regulations shall supersede all previous regulations adopted pursuant to the Convention between the United States of America and the Dominion of Canada for preservation of the halibut fishery of the northern Pacific Ocean and Bering Sea, signed January 29, 1937. Any determination made by the International Fisheries Commission pursuant to these regulations shall become effective immediately.

EDWARD W. ALLEN,
Chairman.
FRANK T. BELL.
A. J. WHITMORE.
L. W. PATMORE, *Secretary.*

Approved:
FRANKLIN D ROOSEVELT
Feb. 26, 1938.

[F. R. Doc. 38-691; Filed, March 8, 1938; 9:34 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of March, A. D. 1938.

[File No. 43-106]

IN THE MATTER OF GARDNER ELECTRIC LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Gardner Electric Light Company, of Gardner, Massachusetts, a subsidiary of New England Power Association, a registered holding company, regarding the issue and sale by declarant of $400,000 aggregate principal amount of unsecured promissory notes, payable one year after date, and bearing interest at the rate of 3% per annum, in two notes of equal amounts to The First National Bank of Boston, and The Chase National Bank of the city of New York, to provide funds for the payment of bank loans, demand notes and to reimburse declarant's treasury for capital expenditures.

It is ordered, That a hearing on such matter be held on March 25, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 21, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-694; Filed, March 8, 1938; 11:31 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of March, A. D. 1938.

[File No. 2-2561]

IN THE MATTER OF SOUTH UMPQUA MINING COMPANY

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant South Umpqua Mining Company, an Oregon corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Items 3, 19, 27, 29, 36, 38 and 54, the accountant's certificate, Exhibit I, the prospectus, and in the failure to furnish consents to the use of their names by certain experts, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by South Umpqua Mining Company, an Oregon corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-693; Filed, March 8, 1938; 11:31 a. m.]

UNITED STATES MARITIME COMMISSION.

[General Order No. 23]

RULES AND REGULATIONS REGARDING CADET OFFICERS AND CADETS UPON VESSELS OPERATED FOR THE ACCOUNT OF THE UNITED STATES MARITIME COMMISSION AND UPON VESSELS OPERATING UNDER SUBSIDY AGREEMENTS

1. Effective March 15, 1938, there are established the ratings, "Cadet Officer" and "Cadet."

2. (*a*) *Cadet officer.*—Qualifications for the rating "Cadet Officer" shall be: graduation from the State Nautical school of Pennsylvania, Massachusetts, New York, or California, the U. S. Naval Academy or the U. S. Coast Guard Academy, or from such other school or academy specifically approved by this Commission, who is also licensed as Third Mate or Third Assistant Engineer.

(*b*) *Cadet.*—The rating "cadet" shall designate any person meeting requirements to be established and who is on the Commission's eligible list hereinafter described and who is in training or to be trained for a license as Third Mate or Third Assistant Engineer.

3. *Compensation*—(*a*) *Cadet officers.*—Compensation for cadet officers shall be at the rate of $75.00 per month and cadet officers shall have in all other respects the perquisites and privileges of a licensed officer.

(*b*) *Cadets.*—Compensation for cadets shall be at a rate of $50.00 per month. While traveling, cadets shall be furnished an allowance for subsistence at the rate of $3.25 per day, except where subsistence is included with transportation. When meals are not furnished, cadets shall receive a subsistence allowance of $2.50 per day, and, when required to sleep ashore, they shall receive an allowance of $1.75 per night for lodging.

4. *Quarters.*—All cadet officers and cadets shall be quartered with licensed personnel.

5. *Age limits.*—At the time of appointment cadet officers shall be not less than 19 and not more than 23 years of age; cadets shall be not less than 18 and not more than 23 years of age.

6. *Eligible list.*—The Division of Maritime Personnel shall examine all applications for cadet officers and cadets and shall compile an eligible list in each classification. After March 15, 1938, appointment of cadet officers and cadets shall be made exclusively from among those on the eligible list. Operators of vessels with an operating subsidy and the Division of Operations and Traffic of this Commission may select from this eligible list cadet officers or cadets for vessels under their respective jurisdiction.

7. The number of cadet officers or cadets, deck and engine, required to be carried will be prescribed by the Commission in the establishment of minimum manning scales for each individual vessel operating under subsidy contracts.

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, JR., *Secretary*.

[F. R. Doc. 38-690; Filed, March 7, 1938; 3:09 p. m.]

Thursday, March 10, 1938 *No. 48*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 5428 OF AUGUST 20, 1930, WITHDRAWING LAND FOR CLASSIFICATION AND IN AID OF LEGISLATION

Montana

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, Executive Order No. 5428 of August 20, 1930, temporarily withdrawing and reserving certain land for classification and in aid of legislation, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 7, 1938.

[No. 7829]

[F. R. Doc. 38-696; Filed, March 8, 1938; 2:55 p. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 5341 OF MAY 2, 1930, WITHDRAWING PUBLIC LANDS

Arizona

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 5341 of May 2, 1930, withdrawing public lands in Arizona pending a resurvey, is hereby revoked as to the following-described township:

GILA AND SALT RIVER MERIDIAN

T. 13 N., R. 1 W.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the said township.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 7, 1938.

[No. 7830]

[F. R. Doc. 38-697; Filed, March 8, 1938; 2:55 p. m.]

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 7293 OF FEBRUARY 14, 1936, PRESCRIBING REGULATIONS GOVERNING THE GRANTING OF ALLOWANCES FOR QUARTERS AND SUBSISTENCE TO ENLISTED MEN

By virtue of and pursuant to the authority vested in me by section 11 of the act of June 10, 1922, ch. 212, 42 Stat. 625, 630, Executive Order No. 7293 of February 14, 1936, prescribing regulations governing the granting of allowances for quarters and subsistence to enlisted men of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service who are not furnished quarters or rations in kind, is hereby amended by striking out the words "Naval Mission to Brazil:", appearing after "Exception No. 1" in subdivision "B.—Special" of Table I, and substituting therefor the following: "Naval Missions to Brazil and Peru:".

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 7, 1938.

[No. 7831]

[F. R. Doc. 38-698; Filed, March 8, 1938; 2:55 p. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 5923 OF SEPTEMBER 20, 1932, WITHDRAWING PUBLIC LANDS

Oregon

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 5923 of September 20, 1932, withdrawing public lands in Oregon pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the said lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 7, 1938.

[No. 7832]

[F. R. Doc. 38-699; Filed, March 8, 1938; 2:55 p. m.]

EXECUTIVE ORDER

ESTABLISHING HEWITT LAKE MIGRATORY WATERFOWL REFUGE

Montana

By virtue of and pursuant to the authority vested in me as President of the United States and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands owned or controlled by the United States within the following-described area, comprising 1,200 acres, more or less, in Phillips County, Montana, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

PRINCIPAL MERIDIAN

T. 32 N., R. 32 E.,
sec. 7, SE¼,
sec. 8, S½,
sec. 9, W½SW¼,
sec. 16, NW¼,
sec. 17, N½,
sec. 18, NE¼.

The above-described area is within the known geologic structure of the producing Bowdoin gas field as defined June 30, 1930, and nothing herein shall affect the disposition of the oil and gas deposits therein under the mineral leasing act of February 25, 1920, ch. 85, 41 Stat. 437, as amended.

This refuge shall be known as the Hewitt Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 7, 1938.

[No. 7833]

[F. R. Doc. 38-700; Filed, March 8, 1938; 2:55 p. m.]

TREASURY DEPARTMENT.

Public Health Service.

REGULATING THE IMPORTATION OF LIVING DISEASE ORGANISMS AND VECTORS

AMENDMENT NO. 17 TO THE QUARANTINE REGULATIONS OF THE UNITED STATES

Pursuant to the authority contained in section 3 of the Act of February 15, 1893, 27 Stat. 450 (U. S. C., title 42, sec. 92), the quarantine regulations of the United States are hereby amended by adding thereto the following new chapter, numbered XVII–A, entitled "Living Disease Organisms and Vectors," and containing paragraphs numbered 128–A, 128–B, 128–C, and 128–D:

CHAPTER XVII–A

Living Disease Organisms and Vectors

128–A. No culture of bacteria, or any living virus or collection of organisms, that causes or may cause any contagious or infectious disease, nor any insect, animal, or plant infected with such bacteria, virus, or organism, shall be admitted into the United States without a specific permit issued by the Surgeon General of the Public Health Service.

128–B. No living insect, animal, or plant, new to or not theretofore widely prevalent or distributed within and throughout the United States, which is potentially capable of transmitting any contagious or infectious disease, shall be admitted into the United States without a specific permit issued by the Surgeon General.

128–C. The Surgeon General may, in his discretion, issue a permit as specified in paragraph 128–A and paragraph 128–B when proper safeguards are set up to protect the public. No article or thing coming within the provisions of paragraph 128–A or paragraph 128–B shall be released from customs custody prior to the receipt by the collector of customs of a permit therefor issued by the Surgeon General, which permit shall specify the name and address of the consignee of such article or thing.

128–D. The provisions of paragraphs 128–A, 128–B, and 128–C shall not apply to birds of the parrot family, as defined in "Regulations Governing the Importation of Birds of the Parrot Family into Ports of the United States Prescribed in Accordance with the Provisions of Executive Order No. 5264, approved January 24, 1930", which regulations, approved December 20, 1933, shall continue to govern the importation of such birds of the parrot family.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-706; Filed, March 9, 1938; 10:29 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

NEW MEXICO GRAZING DISTRICTS NOS. 4 AND 5

MODIFICATION

MARCH 2, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, New Mexico Grazing District No. 4 as established

by order approved April 8, 1935, is hereby modified to include also within its exterior boundaries the following-described lands, which are hereby transferred from New Mexico Grazing District No. 5:

NEW MEXICO PRINCIPAL MERIDIAN

T. 19 S., R. 9 E., secs. 23, 24, 25, 26, 35, and 36, and those parts of secs. 22, 27, and 34, east of Southern Pacific Railroad.
T. 20, S., R. 9 E., secs. 1 and 2 and that part of sec. 3 east of Southern Pacific Railroad.
T. 19 S., R. 10 E., S½ sec. 10, N½ sec. 11, NW¼ sec. 12, secs. 15, 19, 20, 21, 29, 30, and 31.
T. 20 S., R. 10 E., sec. 6.

OSCAR L. CHAPMAN,
Acting Secretary of the Interior.

[F. R. Doc. 38-705; Filed, March 9, 1938; 10:22 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1938 CROP OF PUERTO RICAN SUGARCANE PURSUANT TO THE SUGAR ACT OF 1937

Whereas Section 301 (d) of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing;

and

Whereas the Secretary of Agriculture, on November 30, 1937, held a public hearing at San Juan, Puerto Rico, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1938 crop of Puerto Rican sugarcane.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine fair and reasonable prices for the 1938 crop of Puerto Rican sugarcane to be paid by processors who, as producers (hereinafter referred to as producer-processors), apply for payments under the said act, in accordance with the following provisions:

(a) When payment for sugarcane delivered to a producer-processor is made by actual delivery of sugar to the producer (colono) on the basis of a stated percentage of 96° raw sugar recoverable from the producer's sugarcane, such percentage shall be the same as in 1937, except that in no event shall it be less than 63 percent of the recoverable sugar (packed in the customary bags) determined in accordance with the formula given below, and except, further, that such recoverable sugar shall be calculated fortnightly or monthly as may be agreed upon between the producer (colono) and the producer-processor:

$$R=FS$$

where:

R=Recoverable sugar, 96° polarization.
S=Polarization of the crusher juice obtained from the sugarcane of each producer, during each fortnight or month.
F=Fraction whose numerator is the average yield of sugar of 96° polarization obtained from the aggregate grinding during each fortnight or month in which the cane of the producer (colono) has been ground, and whose denominator is the average polarization of the crusher juice obtained from the aggregate grinding during the fortnight or month in which the cane of the producer (colono) has been ground;

Provided, however, That when through the delivery of unripe or burnt cane, or through any other cause, the recoverable sugar determined in accordance with the foregoing formula amounts to 9 pounds or less per 100 pounds of cane, or when sugarcane is delivered of the Japanese, Uba, Coimbatore, or other varieties of the *Sacharum Spontaneum* or *Sacharum Sinensis* type, the payment shall be on the basis of rates not less than those provided in the 1937 cane grinding agreement between the producer-processor and the grower (colono).

(b) When payment for sugarcane delivered to a producer-processor is made by actual delivery of sugar to the producer on the basis of an amount of 96° raw sugar equal to a stated percentage of the weight of the sugarcane received from the producer (commonly referred to as the "flat rate" basis), the applicable percentage of recoverable sugar shall be computed by multiplying the average number of pounds of sugar, 96° basis, recovered per 100 pounds of sugarcane, during the current crop at the mill where the sugarcane was ground, by not less than .63. The figure for the average number of pounds of sugar, 96° basis, recovered per 100 pounds of sugarcane shall be rounded to the nearest one-tenth of a pound.[1] The product of such figure and .63 shall be rounded to the nearest one-hundredth of 1 percent.[1] Pending the calculation of the sugar recovery for the entire crop, provisional liquidations shall be made fortnightly or monthly on such bases as may be agreed upon between the producer (colono) and the producer-processor.

(c) When settlement is not made by actual delivery of 96° raw sugar, as aforesaid, the money value of the recoverable sugar, determined as in (a) or (b) above (whichever is applicable) shall be paid to the grower on the basis of such average duty paid price for 96° raw sugar as may be agreed upon between the producer and the producer-processor, for the fortnight or month in which the sugarcane is delivered to the producer-processor, converted to the equivalent f. o. b. mill price by deducting selling and delivery expenses actually incurred by the producer-processor, provided that in no event shall such deduction amount to more than .25 cent per pound of sugar.

In addition to the foregoing, the following requirement shall be met:

When sugarcane is delivered to a producer-processor in the name of a person other than the legal owner thereof (commonly referred to as "purchasing agent"), the producer-processor shall make payment to the legal owner of such sugarcane in accordance with the provisions of this determination.

Done at Washington, D. C., this 9th day of March 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-707; Filed, March 9, 1938; 12:49 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 204]

ALLOCATION OF FUNDS FOR LOANS

MARCH 7, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Tennessee 8009W1 Macon	$5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-701; Filed, March 9, 1938; 9:41 a. m.]

[1] In rounding numbers: A digit less than 5 is discarded; a digit greater than 5 adds 1 to the next digit to the left. An even 5 is dropped, and the digit next to the left, if even, is unchanged; if odd, is raised.

[Administrative Order No. 205]

ALLOCATION OF FUNDS FOR LOANS

MARCH 7, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Iowa 8047G2 Franklin	$6,000
Iowa 8048G3 Pocahontas	5,000
Pennsylvania 8006B2 Indiana	4,500

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-702; Filed, March 9, 1938; 9:41 a. m.]

[Administrative Order No. 206]

ALLOCATION OF FUNDS FOR LOANS

MARCH 7, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Tennessee 8023A2 Dickson	$500.00

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-703; Filed, March 9, 1938; 9:41 a. m.]

[Administrative Order No. 207]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 8, 1938.

I hereby amend Administrative Order No. 155 by rescinding $26,000 of the total $30,000 allotted to Iowa 8043B Greene, leaving the sum of $4,000 allotted to this project.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-704; Filed, March 9, 1938; 9:41 a. m.]

Friday, March 11, 1938 *No. 49*

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

[No. 36]

KLAMATH IRRIGATION PROJECT, OREGON-CALIFORNIA

PUBLIC NOTICE OF ANNUAL WATER CHARGES[1]

FEBRUARY 24, 1938.

1. *Operation and maintenance charges.*—The annual operation and maintenance charge for the irrigation season of 1938, and thereafter until further notice, against all lands of the Main Division lying outside of the Klamath Irrigation District shall be a minimum charge of one dollar and twenty cents ($1.20) per irrigable acre, whether water is used or not, which will entitle the water user to two and one-half (2½) acre-feet of water per irrigable acre. Additional water will be furnished at the rate of fifty cents ($0.50) per acre-foot.

2. The annual operation and maintenance charge for the irrigation season of 1938, and thereafter until further notice, against all lands of the Tule Lake Division remaining subject to public notice of September 29, 1922, lying outside of the Klamath Irrigation District, shall be a minimum charge of one dollar and eighty cents ($1.80) per irrigable acre, whether water is used or not, which will entitle the water user to two and one-half (2½) acre-feet of water per irrigable acre. Additional water will be furnished up to a limit of three and one-half (3½) acre-feet per irrigable acre at the rate of fifty cents ($0.50) per acre-foot and all further quantities for seventy-five cents ($0.75) per acre-foot.

3. The annual operation and maintenance charges for the irrigation season of 1938, and thereafter until further notice, against all lands under individual Warren Act contracts, shall be a minimum charge of sixty-nine cents ($0.69) per irrigable acre, whether water is used or not, which will entitle the water user to two and one-half (2½) acre-feet of water per irrigable acre; provided that for those contracts which have not been amended so as to increase the allowance of water from 2 to 2½ acre-feet per annum, only 2 acre-feet will be furnished under the minimum charge. Additional water will be furnished at the rate of twenty-five cents ($0.25) per acre-foot.

4. *Water rental charges.*—The annual water rental charge for the irrigation season of 1938, and thereafter until further notice, against all lands of the Tule Lake Division lying outside of the Klamath Irrigation District and subject to Public Orders of January 22, 1927, March 30, 1928, February 6, 1929, September 10, 1930, October 16, 1931, and September 7, 1937, shall be a minimum charge of one dollar and eighty cents ($1.80) per irrigable acre, whether water is used or not, which will entitle the water users to two and one-half (2½) acre-feet of water per irrigable acre. Additional water will be furnished up to a limit of three and one-half (3½) acre-feet per irrigable acre at the rate of fifty cents ($0.50) per acre-foot and all further quantities for seventy-five cents ($0.75) per acre-foot.

5. For irrigation or waste water furnished Tule Lake leased lands, the charge, unless otherwise specified in the leases, shall be sixty-five cents ($0.65) per acre-foot for the season of 1938 and thereafter until further notice.

6. For water furnished lands not subject to the operation and maintenance or water-rental charges named above the charge shall be seventy-five cents ($0.75) per acre-foot for the season of 1938 and thereafter until further notice.

7. *Time of payment.*—For lands of the Tule Lake Division under public notice or public order lying outside of the Klamath Irrigation District, the minimum charge of one dollar and eighty cents ($1.80) per irrigable acre stated above will be due and payable one-half before the delivery of water, if water is delivered before July 1, 1938, and one-half on or before July 1, 1938. If no water is delivered before July 1, 1938, then the entire charge shall become due and payable on that date. If the charge, or any part thereof, is unpaid on that date there will be added a penalty of one-half of one per centum (½%) and there will be added a like penalty of one-half of one per centum (½%) on the first day of each month thereafter so long as such default shall continue. Payment for water used in addition to the allowance under the minimum charge shall be made on or before December 1 of the season in which used, and if not paid on or before said due date, there will be added a penalty of one-half of one per centum (½%) and there will be added a like penalty of one-half of one per centum (½%) on the first day of each month thereafter so long as such default shall continue.

8. For all other lands referred to herein the minimum charges announced shall be due and payable before the delivery of water and in any event not later than May 1 of the current irrigation season. Payment for water used in addition to the allowance under the minimum charge shall be made on or before December 1 of the season in which used. On all payments not made on or before the due dates specified herein, there will be added a penalty of one-half of one per centum (½%) and there will be added a like penalty of one-half of one per centum (½%) on the first day of each month thereafter so long as such default shall continue.

[1] Act of June 17, 1902 (32 Stat., 388), as amended or supplemented.

9. Where water-rental application is made for public land entered under the reclamation law after June 15 and where water-rental application is made after August 1 for land in private ownership, no water-rental charge shall be made for water delivered during the remainder of the irrigation season in which water-rental application is made.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-706; Filed, March 10, 1938; 9:47 a. m.]

Division of Grazing.

COLORADO GRAZING DISTRICT NO. 2

MODIFICATION

MARCH 2, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Colorado Grazing District No. 2 is hereby revoked as far as it affects the following-described lands:

COLORADO

Sixth Principal Meridian

T. 1 N., R. 75 W., S½SE¼ sec. 31;
T. 3 N., R. 75 W., W½ sec. 4, secs. 5, 6, N½ secs. 7 and 8, NW¼ sec. 9, secs. 18 and 19 (outside Rocky Mt. National Park);
T. 2 N., R. 76 W., all;
T. 3 N., R. 76 W., sec. 1, E½ sec. 2, secs. 11 to 14 and 19 to 36 inclusive;
T. 4 N., R. 76 W., secs. 1, 12, 13, 24, 25 (west of Colorado River), E½ secs. 2, 11 and 35, sec. 36;
T. 5 N., R. 76 W., secs. 25 and 36 (west of Colorado River);
Tps. 2 and 3 N., R. 81 W., all;
T. 3 N., R. 82 W., secs. 1 to 3, 10 to 15 and 22 to 27 inclusive, sec. 36;
T. 4 N., R. 82 W., secs 1 and 2, E½ sec. 3, secs. 10 to 16, 22 to 27 and 34 to 36 inclusive;
T. 5 N., R. 82 W., secs. 1, 12 to 14 and 23 to 26 inclusive, secs. 35 and 36;
T. 1 S., R. 75 W., secs. 4 to 9 inclusive, SW¼, NE¼SE¼, E½NE¼NW¼SE¼, S½SW¼NW¼SE¼, NE¼SE¼NW¼SE¼, S½SE¼NW¼SE¼, S½SE¼ sec. 10, N½, SW¼, W½SE¼ sec. 15, secs. 17 to 22 and 28 to 32 inclusive, NW¼NE¼, S½NE¼, NW¼, S½ sec. 33;
T. 1 S., R. 76 W., secs. 1 to 7 inclusive, N½, S½SW¼, E½SE¼ sec. 8, secs. 9 to 15 inclusive, N½, SE¼ sec. 17, N½, N½SW¼, SW¼SW¼, SE¼ sec. 18, sec. 19, NE¼, SE¼NW¼, SW¼ NE¼SE¼, S½SE¼ sec. 20, N½, NE¼SW¼, S½SW¼, SE¼ sec. 21, secs. 22 and 23, N½, SW¼, E½SE¼ sec. 24, N½NE¼, SE¼NE¼ sec. 25, W½, W½E½ sec. 28, secs. 29 and 30, N½, NW¼SW¼, E½SE¼ sec. 31, sec. 32, W½, W½E½ sec. 33, sec. 36;
T. 1 S., R. 77 W., Lots 1, 2, 5, 6, and 8, S½N½, S½ sec. 1, secs. 2 and 11, N½, SW¼, N½SE¼, SW¼SE¼ sec. 12, secs. 13, 14, 23 to 26 inclusive, N½, SW¼, W½SE¼ sec. 35;
T. 3 S., R. 82 W., E½W½ sec. 22.

OSCAR L. CHAPMAN,
Acting Secretary of the Interior.

[F. R. Doc. 38-709; Filed, March 10, 1938; 9:47 a. m.]

Division of Territories and Island Possessions.

[Tariff No. 9 (Cancels Tariff No. 6)]

THE ALASKA RAILROAD

LONG DISTANCE TELEPHONE TARIFF

ANCHORAGE, ALASKA, *February 1, 1938.*

Effective February 1, 1938, long-distance telephone tolls will be calculated on a basis of one-cent per mile between all points. A minimum charge of twenty-five cents will be made.

Mileage will be computed from current railroad time-tables or other official publications; fraction miles will be disregarded.

The rate of one-cent per mile is based on a three minute conversation. Charges for additional minutes will be made in accordance with the following table:

When rate is—

$0.25 to $0.35 inclusive, 10 cents will be charged for each additional minute.
$0.40 to $0.65 inclusive, 15 cents will be charged for each additional minute.
$0.70 to $0.95 inclusive, 20 cents will be charged for each additional minute.
$1.00 to $1.25 inclusive, 25 cents will be charged for each additional minute.
$1.30 to $1.55 inclusive, 30 cents will be charged for each additional minute.
$1.60 to $1.85 inclusive, 35 cents will be charged for each additional minute.
$1.90 to $2.15 inclusive, 40 cents will be charged for each additional minute.
$2.20 to $2.45 inclusive, 45 cents will be charged for each additional minute.
$2.50 to $2.75 inclusive, 50 cents will be charged for each additional minute.
$2.80 to $3.05 inclusive, 55 cents will be charged for each additional minute.
$3.10 to $3.35 inclusive, 60 cents will be charged for each additional minute.
$3.40 to $3.65 inclusive, 65 cents will be charged for each additional minute.
$3.70 to $3.95 inclusive, 70 cents will be charged for each additional minute.
$3.95 to $4.20 inclusive, 75 cents will be charged for each additional minute.
$4.25 to $4.50 inclusive, 80 cents will be charged for each additional minute.
$4.55 to $4.80 inclusive, 85 cents will be charged for each additional minute.
$4.85 to $5.10 inclusive, 90 cents will be charged for each additional minute.

The nearest multiple of five will be regarded as the number of miles to be charged for in computing rates. For instance; if the mileage between two points should be 32, the rate will be 30 cents. If the mileage should be 33, the rate will be 35 cents.

A Federal Tax on commercial telephone conversations over lines of The Alaska Railroad will be made as follows:

When the charge is 50 cents or more and less than $1.00	10 cents.
When the charge is $1.00 or more and less than $2.00	15 cents.
When the charge is $2.00 or more	20 cents.

The tax will be paid by party paying for service and will be reported by line collecting tax. In the case of The Railroad collecting the tax, employee that makes the collection will report tax on Form 343, Telephone Toll Service.

No tax to be imposed on services furnished press for collection of news for public press or dissemination of news through public press or furnished Government or Territory including any political subdivision thereof.

SUBSCRIBERS

The Railroad will install, when line conditions permit, telephones for subscribers on long distance lines, which will consist of wall telephone and one span from railroad telephone line, any additional spans including poles and fixtures to be furnished, installed and maintained by the subscriber, in accordance with standard specifications of The Railroad.

A deposit of $10.00 will be required in advance for each telephone installed, which will be refunded, less any amount due The Railroad, when telephone is discontinued.

A charge will be made against the subscriber in accordance with this tariff for each long distance telephone call made from the subscriber's telephone, which will be billed against the subscriber at the end of each month, with minimum charge of $5.00 for the month.

Where extra equipment is required, the following charges will be made:

Desk Telephone (in place of wall type)	$0.50 per month.
Extension Bell only	$0.50 per month.
Extension Telephone, Wall Type	$1.00 per month.
Extension Telephone, Desk Type	$1.50 per month.

The above charges for extra equipment will be made in addition to charges for long distance calls or in addition to monthly guarantee.

J. T. CUNNINGHAM,
Sup't. of Transportation.

Approved:
O. F. OHLSON,
General Manager.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

MARCH 7, 1938.

[F. R. Doc. 38-712; Filed, March 10, 1938; 9:50 a. m.]

[Passenger Circular No. 127-H; Freight Circular No. 69-H.]

THE ALASKA RAILROAD—TRANSPORTATION DEPARTMENT

INFORMATION FOR FREIGHT SHIPMENTS TO RIVER POINTS BETWEEN NENANA AND MARSHALL, ALASKA

ANCHORAGE, ALASKA, *February 10, 1938.*

To All Concerned:

During the 1938 season the Steamer *Nenana* will be operated between Nenana, Holy Cross, Marshall and intermediate points as follows:

Leave Nenana at 7:00 p. m. for Marshall on Sunday, May 15, June 5, 19, July 3, 17, 31, August 14, 28, and September 11.

Returning from Marshall, steamer will leave that point for Nenana as soon as freight and passengers are discharged but not earlier than 6:00 a. m. May 24, June 10, 24, July 8, 22, August 5, 19, September 2, 16. Departure from Holy Cross will be not earlier than 6:00 p. m., on date shown following departure from Marshall.

A barge will be handled by steamer leaving Nenana on sailings May 15th, June 5, July 3, 31, August —, 28, Sept. 11. No barge will be handled by steamer sailing from Nenana on June 19, July 17, August 14, unless there is on hand at Nenana sufficient tonnage, in excess of carrying capacity of the steamer itself, to warrant the handling of a barge.

Inflammable liquids and explosives, which include gasoline, distillate, kerosene, are prohibited for transportation on the steamer itself and must be transported or loaded on a barge towed by the steamer. Therefore, shippers of these commodities should arrange their orders so that shipments will connect at Nenana with steamer handling barge, on dates indicated above.

Connections are made at Holy Cross with steamer of Ira Wood and Day Navigation Company for points on the Innoko River and Iditarod.

Connections are made at Marshall, with each sailing, with launches of Northern Commercial Company for Saint Michael and Nome.

Train connections with Steamer *Nenana* at Nenana, for Marshall, are made with Train No. 2 from Seward, also motor car leaving Fairbanks Sunday at 4:00 p. m. for Nenana. Steamer *Nenana* arriving Nenana connects with Train No. 1 for Seward, and motor car for Fairbanks.

The Steamer *Alice* will also be operated on the Tanana and Yukon Rivers as a freight steamer handling freight traffic and a limited amount of passenger traffic. This steamer will operate on an irregular schedule depending on traffic.

Local Passenger Tariff No. 6-A and Local Freight Tariff No. 6-A name passenger and freight rates between all points Nenana to Marshall.

This circular cancels Freight Circular No. 69-G and Passenger Circular No. 127-G of February 24, 1937.

J. T. CUNNINGHAM,
Sup't. of Transportation.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

MARCH 7, 1938.

[F. R. Doc. 38-711; Filed, March 10, 1938; 9:50 a. m.]

THE ALASKA RAILROAD—TRANSPORTATION DEPARTMENT

PASSENGER AND FREIGHT SERVICE ON TANANA AND YUKON RIVERS

ANCHORAGE, ALASKA, *February 10, 1938.*

To Shippers:

River boat service during the 1938 season between Nenana and Marshall will commence with sailing of the Steamer *Nenana* from Nenana on May 15th, the next sailing will be Sunday, June 5th, and every second Sunday thereafter until sailing of September 11th, which will be the final sailing for the season.

For the information of shippers and consignees the following schedule of freight connections with steamers leaving Seattle is made. Schedule shows the dates shipments must be forwarded from Seattle to make connection with sailings from Nenana. Highly perishable and cool room shipments will be given special service over the rail line of The Alaska Railroad, and as noted in the schedule may be forwarded from Seattle only one week prior to sailing from Nenana; the minimum time other shipments must leave Seattle, for connection with any sailing from Nenana is two weeks.

The last sailing from Seattle on which freight may be forwarded with the assurance of delivery is the sailing of August 27th; delivery is not guaranteed on any shipments forwarded after that date. (See exception)

Exception: Shipments of eggs, potatoes, onions, oranges, apples and such other semi-perishable freight, including highly perishable and cool room freight may be forwarded from Seattle on steamer leaving September 3rd to connect with the last steamer leaving Nenana September 11th.

A barge will be handled by steamer leaving Nenana on sailing May 15th, June 5, July 3, 31, August 28, September 11. No barge will be handled by steamer sailing from Nenana on June 19, July 17, August 14, unless there is on hand at Nenana sufficient tonnage, in excess of carrying capacity of the steamer itself to warrant the handling of a barge.

Inflammable liquids and explosives, which includes gasoline, distillate, kerosene, are prohibited for transportation on the steamer itself and must be transported or loaded on a barge towed by the steamer. Therefore, shippers of these commodities should arrange their orders so that shipments will connect at Nenana with steamer handling barge, on dates indicated above.

Freight shipments should leave Seattle as shown below to connect with steamer leaving Nenana.

Steamer leaves Nenana—	All freight except highly perishable and cool room freight should leave Seattle—	Highly perishable and cool room freight leave Seattle—	Gas and oil should leave Seward not later than—
May 15	April 16, 20, 23, 30	May 7	May 7
June 5	May 4, 7, 14, 18, 21	May 28	May 28
June 19 [1]	May 28, June 1, 4	June 11	(1)
July 3	June 8, 11, 15, 18	June 25	June 25
July 17 [1]	June 22, 25, 29, July 2	July 9	(1)
July 31	July 6, 9, 13, 16	July 23	July 23
Aug. 14 [1]	July 20, 23, 27, 30	Aug. 6	(1)
Aug. 28	Aug. 3, 6, 10, 13	Aug. 20	Aug. 20
Sept. 11	Aug. 17, 20, 24, 27	Sept. 3	Sept. 3

[1] No barge with river steamer.

The Steamer *Alice* will also be operated on the Tanana and Yukon Rivers as a freight steamer, handling freight

traffic and a limited amount of passenger traffic. This steamer will operate on an irregular schedule depending on traffic.

Owing to the possibility of the first sailing from Nenana being delayed due to river conditions, highly perishable and cool room freight, which is subject to loss due to delay in transit, will only be accepted at owner's risk. Any loss due to delay at Nenana waiting for navigation to open will be for the account of shipper or owner.

For the information of residents along and adjacent to the Tanana and Yukon Rivers, position reports are broadcast by radio telephone, on a frequency of 6190 kilocycles from river steamers at 8:00 A. M., and 7:00 P. M. daily.

Special Tanana River Trip

If river conditions permit, a short trip from Nenana to Tanana will be made prior to May 15th, and shipments for Tolovana, Hot Springs, Tanana and other Tanana River points should leave Seattle not later than April 23rd to connect with this special sailing. Highly perishable and cool room shipments may leave April 30th for this special trip.

Final shipments for Cripple and other points on the headwaters of the Innoko River, and Alatna, Bettles, and Wiseman on the headwaters of the Koyukuk River should leave Seattle not later than August 13th.

J. T. CUNNINGHAM,
Sup't. of Transportation.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

MARCH 7, 1938.

[F. R. Doc. 38-710; Filed, March 10, 1938; 9:50 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3162]

IN THE MATTER OF NATIONAL SILVER COMPANY, A CORPORATION AND SAMUEL E. BERNSTEIN, INDIVIDUALLY AND AS PRESIDENT OF NATIONAL SILVER COMPANY, AND PHILIP J. BERNSTEIN, INDIVIDUALLY AND AS VICE-PRESIDENT OF NATIONAL SILVER COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, March 16, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-714; Filed, March 10, 1938; 10:04 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3267]

IN THE MATTER OF LEOPOLD LEVOY AND NATHAN C. BLACHER, INDIVIDUALLY AND TRADING AS SUNBEAM LABORATORIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 4, 1938, at ten o'clock in the forenoon of that day (Pacific Standard Time) in room 442, Pacific Electric Building, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-713; Filed, March 10, 1938; 10:04 a. m.]

INTERSTATE COMMERCE COMMISSION.

[No. 24050]

ORDER IN THE MATTER OF A. JOHNSTON, GRAND CHIEF ENGINEER OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, ET AL., V. ATLANTIC COAST LINE RAILROAD COMPANY, ET AL

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 28th day of February, A. D. 1938.

Upon further consideration of the record in the above-entitled proceeding, and of petition filed under date of January 5, 1938, on behalf of the class I railroads, for reconsideration and modification of our order of June 8, 1937 therein, and good cause appearing therefor:

It is ordered, That paragraph (b) of Rule 157 of the rules and instructions for the inspection and testing of steam locomotives and tenders, approved and established in accordance with the act of February 17, 1911, as amended, be, and it is hereby amended to read as follows:

(b) All steam locomotives used in road service built prior to September 1, 1937, which weigh [1] on driving wheels 150,000 pounds or more, and all steam locomotives used in switching service, built prior to September 1, 1937, which weigh on driving wheels 130,000 pounds or more, which are equipped with manually-operated reverse gear, shall have a suitable type of power-operated reverse gear substituted therefor the first time that said locomotives are given repairs defined by the United States Railroad Administration as class 1 [2] or 2,[3] and all such steam locomotives shall be so equipped before September 1, 1942.

[1] Weight on driving wheels means the weight of a locomotive in working order that is supported by the coupled driving wheels when it rests on a straight and level track, as defined in the Locomotive Cyclopedia.

[2] New Boiler or new back end. Flues new or reset. Tires turned or new. General repairs to machinery and tender.

[3] New firebox, or one or more shell courses, or roof sheet. Flues new or reset. Tires turned or new. General repairs to machinery and tender.

It is further ordered, That said order of June 8, 1937, shall in all other respects remain in full force and effect.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-717; Filed, March 10, 1938; 12:24 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, HOLDING COMPANY ACT

AMENDMENTS TO RULES OF PRACTICE

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, the Securities Exchange Act of 1934, particularly Section 23 (a) thereof, the Public Utility Holding Company Act of 1935, particularly Section 20 (a) thereof, and finding that it is necessary to carry out the provisions of the Securities Act of 1933, as amended, and the Public Utility Holding Company Act of 1935 and that it is necessary for the execution of the functions vested in the Commission by the Securities Exchange Act of 1934, thereby amends the Rules of Practice of the Commission, effective March 21, 1938.

Attached hereto is Rule II of the Rules of Practice of the Commission, as amended. The Rule, as amended, provides that consent of the Commission shall be obtained in order for a former member or employee of the Commission to appear as attorney or agent in connection with any matter, including any investigation, conducted by the Commission which was pending before the Commission during the period of his employment therein. It also provides for the obtaining of consent of the Commission for former members or employees (excluding persons not classified as attorneys or other experts at the time of their separation from the service) to aid or assist in the preparation or presentation of any matter, including any investigation, conducted by the Commission which was pending before the Commission during the period of his employment therein.

The provisions of Rule II, as amended, apply not only to present members or employees who may subsequently terminate their employment with the Commission, but also to members or employees who have heretofore been employed by the Commission and left the service.

Rule II, as amended, now provides as follows:

Appearance and Practice Before the Commission

(a) An individual may appear in his own behalf, a member of a partnership may represent the partnership, a bonafide officer of a corporation, trust, or association may represent the corporation, trust or association, and an officer or employee of a state commission or of a department or political subdivision of a state may represent the state commission or the department or political subdivision of the state, in any proceeding.

(b) A person may be represented in any proceeding by an attorney at law duly admitted to practice before the Commission.

(c) A person shall not be represented at any hearing before the Commission or a trial examiner except as stated in paragraphs (a) and (b) of this rule.

(d) In all matters other than hearings before the Commission or a trial examiner, a person may be represented by an agent who is duly admitted to practice before the Commission.

(e) All persons appearing before or transacting business with the Commission in a represenative capacity may be required to file powers of attorney with the Commission showing their authority to act in such capacity.

(f) A register will be maintained by the Commission in which will be entered the names and addresses of all persons admitted to practice before the Commission. Only individual members of firms will be admitted.

(g) Subject to the provisions of paragraphs (e) and (f) of this rule, the following classes of persons whom the Commision finds, on consideration of their applications, to be of good moral character and to possess the requisite qualifications to represent others, may be admitted to practice before the Commission:

(1) Attorneys at law who are admitted to practice before any court of the United States, or the highest court of any State or Territory.

(2) Any person, not an attorney, to be designated as agent, who is a citizen of the United States and who shall, in the opinion of the Commission, possess the necessary education, training, experience, and technical qualifications which would enable him properly to represent others before the Commission.

(h) An application for admission to practice shall be addressed to the Securities and Exchange Commission, Washington, D. C., stating under oath the name, residence address, and business address of the applicant. In the case of an attorney, the time and place of admission to the bar and whether the applicant has ever been suspended or disbarred as an attorney in any court or jurisdiction shall be stated. In the case of an agent, the applicant shall state briefly his education, training, experience, and technical qualifications.

(i) In the discretion of the Commission or trial examiner, an attorney at law may be permitted to appear for the purpose of any proceeding, though not theretofore admitted to practice before the Commission in the way prescribed.

(j) All persons appearing in any proceeding shall conform to the standards of conduct generally required of practitioners at law.

(k) The Commission may deny admission to any person who is found by the Commission:

(1) Not to possess the requisite qualifications to represent others;

(2) To be lacking in character, integrity, or proper professional conduct.

If, upon consideration of an application, the Commission is not satisfied that the applicant possesses the qualifications required by this rule, it will so notify him by personal service or registered mail, with demand for a return receipt, whereupon he may request a hearing for the purposes of proving his qualifications. If he presents such a request, the Commission will accord him a hearing, but if no request for a hearing is made by the applicant and received by the Commission within thirty days after such service or the mailing of such notification to the address given in the application for admission to practice, his application shall be deemed to have been withdrawn.

(l) The Commission may suspend or disbar any person who, after such person shall have been given an opportunity to be heard in the matter, is found by the Commission:

(1) To have violated these rules;

(2) Not to possess the requisite qualifications to represent others;

(3) To be lacking in character, integrity or proper professional conduct.

Any former member or employee of the Commission who shall appear as attorney or agent in connection with any matter, including any investigation conducted by the Commission, which was pending before the Commission during the period of his employment therein, without first obtaining the consent of the Commission so to appear, may be held by reason thereof to be lacking in proper professional conduct within the meaning of these rules. Any person who shall appear as attorney or agent in connection with any matter, including any investigation conducted by the Commission, and shall accept the advice or assistance of any former member or employee of the Commission (excluding persons not classified as attorneys or other experts as of the time of their separation from the employ of the Commission) in the prepa-

ration or presentation of any such matter without first obtaining the consent of the Commission for such former member or employee so to advise or assist where the matter in connection with which such person appears was pending before the Commission during the period of such former member's or employee's employment therein, may be held by reason thereof to be lacking in proper professional conduct within the meaning of these rules.

(*m*) Consent of the Commission for former members or employees to act in the preparation or presentation of matters pending before the Commission during the period of employment by the Commission of such former member or employee may be granted after written application therefor is filed with the Commission. Such application shall be made by the former member or employee where he is admitted to practice before the Commission, and by the person admitted to practice before the Commission who desires to accept the advice or assistance of such former member or employee. The application shall describe the matter in respect to which the applicant proposes to act. In connection with the application the Commission should be advised by the former member or employee as to the extent of the consideration given by him to the matter involved during the period of his employment with the Commission. Such information may be furnished in affidavit form. The Commission shall not grant such application unless it finds that the former member or employee has not, by virtue of his former employment with the Commission, such familiarity with the matter in respect to which he proposes to act as to be prejudicial to the proper conduct of the proceeding. In considering such application the Commission may make such examination of the former member or employee and of the Commission's records as it may deem proper and shall grant or deny the application and advise the applicant promptly as to its action. The granting of such application shall entitle such applicant to act for another only where the person to be represented is entitled to representation by an attorney or agent.

(*n*) Contemptuous conduct at any hearing before the Commission or a Trial Examiner shall be ground for exclusion from said hearing and for summary suspension without a hearing for the duration of the hearing.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-716; Filed, March 10, 1938; 11:35 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of March, 1938.

[File No. 1-93]

IN THE MATTER OF ST. ANTHONY GOLD MINES, LTD., COMMON STOCK, $1 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The St. Anthony Gold Mines, Ltd., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $1 Par Value, from listing and registration on the New York Curb Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 A. M., on Tuesday, March 15, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-715; Filed, March 10, 1938; 11:35 a. m.]

Saturday, March 12, 1938 — *No. 50*

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

CALIFORNIA GRAZING DISTRICT NO. 1

MODIFICATION

MARCH 9, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, Departmental order of April 8, 1935, establishing California Grazing District No. 1, is hereby modified to include within its exterior boundaries the following-described lands:

CALIFORNIA

Mount Diablo Meridian

Tps. 22, 23, and 24 S., R. 42 E.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-718; Filed, March 11, 1938; 9:41 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[38-AAA-1-B, Supplement No. 1]

INSTRUCTIONS FOR HOLDING REFERENDA ON COTTON AND FIRE-CURED AND DARK AIR-CURED TOBACCO MARKETING QUOTAS ON THE 1938 CROP

SUPPLEMENT NO. 1

The following amendments are hereby made in the "Instructions for Holding Referenda on Cotton and Fire-Cured and Dark Air-Cured Tobacco Marketing Quotas on the 1938 Crop", 38-AAA-1-B, issued February 18, 1938, pursuant to Sections 347 and 312 of the Agricultural Adjustment Act of 1938:

In item 15, Section B (Instructions to Community Referendum Committees) the date is hereby changed from March 12, 1938 to March 14, 1938. Item 15 now reads as follows:

"Seal the registers and community summary forms, and the unused ballots, in envelopes provided for that purpose and deliver them to the County Committee not later than 12 o'clock noon, Monday, March 14, 1938. The chairman of the Community Referendum Committee shall be responsible for the safe delivery of the forms and ballots."

The second paragraph of Section D (Eligibility and General Provisions) is hereby amended to read as follows:

"Only farmers who were engaged in the production of cotton in 1937 are eligible to vote in the cotton marketing quota referendum. Likewise, only farmers who were engaged in the production of fire-cured or dark air-cured tobacco in 1937 are eligible to vote in the fire-cured and dark air-cured tobacco marketing quota referendum. The fact that a farmer is eligible to vote in one referendum does not necessarily mean that he is eligible to vote in the other. Any person who shared in the proceeds of the 1937 cotton crop as landowner, operator, share-tenant, or sharecropper shall be considered as engaged in the production of cotton. Likewise, any person who shared in the proceeds of the 1937 fire-cured or dark air-cured tobacco crop as landowner, operator, share-tenant, or sharecropper shall be considered as engaged in the production of fire-cured or dark air-cured tobacco."

In Section D (Eligibility and General Provisions) the following paragraph is hereby inserted before the last paragraph:

"Since marketing quotas are not applicable to cotton, the staple of which is 1½ inches or more in length, a person who was engaged in the production of such cotton in 1937 shall not be eligible to vote unless he was also engaged in the production of cotton in 1937 the staple of which was less than 1½ inches in length."

Done at Washington, D. C., this 11th day of March 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-724; Filed, March 11, 1938; 12:40 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 208]

ALLOCATION OF FUNDS FOR LOANS

MARCH 9, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
South Dakota 8003A2 Clay	$5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-719; Filed, March 11, 1938; 9:41 a. m.]

[Administrative Order No. 209]

ALLOCATION OF FUNDS FOR LOANS

MARCH 9, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Minnesota 8056A2 Crow Wing	$5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-720; Filed, March 11, 1938; 9:41 a. m.]

[Administrative Order No. 210]

ALLOCATION OF FUNDS FOR LOANS

MARCH 9, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Indiana 8032W1 Hancock	$5,000
Minnesota 8059W1 Olmstead	10,000
Missouri 8012W1 Pemiscot	10,000
Texas 8048W1 Hidalgo	10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-721; Filed, March 11, 1938; 9:41 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of March, A. D. 1938.

[File No. 47-21]

IN THE MATTER OF NEW ENGLAND POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by New England Power Company, organized under the laws of Massachusetts, a subsidiary of New England Power Association, a registered holding company, regarding the acquisition of transmission lines including title and interest on right of way in Webster and Dudley, Massachusetts; substation equipment and land whereon the same is located in Webster, Massachusetts, and other miscellaneous equipment incidental to the operation of said property for a cash consideration of $87,185.97 to the vendor, Worcester County Electric Company, a Massachusetts corporation also a subsidiary of New England Power Association.

It is ordered, That a hearing on such matter be held on March 29, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 24, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-722; Filed, March 11, 1938; 11:27 a. m.]

United States of America—Before Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of March, A. D. 1938.

[File No. 1-2139]

IN THE MATTER OF MISSOURI PACIFIC RAILROAD COMPANY 5% CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE, AND COMMON STOCK, $100 PAR VALUE

ORDER CHANGING DATE FOR HEARING

The Commission having heretofore, on February 14, 1938, ordered that a hearing under Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, be held March 1, 1938, at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., in Room 1103 at 10:00 A. M. to determine whether registration of the Five Per Cent Cumulative Convertible Preferred Stock, $100 Par Value, and Common Stock, $100 Par Value, of Missouri Pacific Railroad Company on the New York Stock

Exchange should be suspended for a period not exceeding twelve months or be withdrawn, and having on February 23, 1938, ordered such hearing postponed to March 15, 1938; and

The registrant having requested a further postponement of such hearing;

It is ordered, That the hearing heretofore called for March 15, 1938, be held before the officer of the Commission herein designated beginning on the 17th day of March, 1938, at 2:00 P. M. in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, Richard Townsend, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-723; Filed, March 11, 1938; 11:27 a. m.]

Tuesday, March 15, 1938 *No. 51*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 2184 OF APRIL 27, 1915, WITHDRAWING PUBLIC LANDS

Alaska

By virtue of and pursuant to the authority vested in me by the act of March 12, 1914, ch. 37, 38 Stat. 305, it is ordered as follows:

SECTION 1. Executive Order No. 2184 of April 27, 1915, withdrawing and reserving lands in Alaska for townsite purposes, is hereby revoked.

SECTION 2. Subject to valid existing rights and pursuant to Public Resolution No. 85 approved June 12, 1930, ch. 471, 46 Stat. 580, the public lands in the areas released from such withdrawal shall be open to entry, under the homestead laws applicable to Alaska, by qualified exservice men for whose service recognition is granted by the said resolution, under the terms and conditions of the said resolution and the regulations issued pursuant thereto, for a period of ninety-one (91) days beginning with the sixty-third day from and after the date hereof; and thereafter the lands shall be subject to appropriation by the general public under any public land law applicable thereto. Subsequent to the date hereof and prior to the date of restoration for general disposition as herein provided, no right may be acquired to such lands by settlement in advance of entry or otherwise, except strictly in accordance with the provisions of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 11, 1938.

[No. 7835]

[F. R. Doc. 38-728; Filed, March 12, 1938; 11:02 a. m.]

EXECUTIVE ORDER

PUBLIC WATER RESTORATION NO. 80

New Mexico and Wyoming

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, Executive Orders of May 25, 1921, April 4, 1922, November 27, 1922, and December 5, 1913, creating, respectively, Public Water Reserves Nos. 77, 82, 85, and 12, are hereby revoked in so far as they pertain to or affect the following-described lands in New Mexico and Wyoming:

NEW MEXICO

New Mexico Principal Meridian

In Public Water Reserve No. 77:
T. 13 N., R. 12 E., sec. 6, W½SE¼.
In Public Water Reserve No. 82:
T. 13 N., R. 12 E., sec. 6, SE¼SW¼, SE¼SE¼.
In Public Water Reserve No. 85:
T. 13 N., R. 12 E., sec. 5, SW¼SW¼.

WYOMING

Sixth Principal Meridian

In Public Water Reserve No. 12:
T. 39 N., R. 69 W., sec. 8, NW¼NW¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 11, 1938.

[No. 7836]

[F. R. Doc. 38-729; Filed, March 12, 1938; 11:02 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49443]

WILD ANIMALS AND BIRDS

T. D. 49378 (1938) AMENDED TO MAKE THE EFFECTIVE DATE THEREOF 90 DAYS AFTER PUBLICATION

To Collectors of Customs and Others Concerned:

Treasury Decision 49378, dated February 3, 1938, advising, pursuant to article 622 (c) of the Customs Regulations of 1937, that the laws and regulations of China restrict the taking or killing in or exportation from that country of wild animals and birds, is hereby amended by inserting after the comma following the word "consequently" in the fourth line thereof the following words "after 90 days after publication of this decision in a weekly issue of the Treasury Decisions."

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: March 9, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-725; Filed, March 11, 1938; 3:35 p. m.]

[T. D. 49444]

REVENUE ACT OF 1932—COAL, COKE, AND BRIQUETS

TAXABLE STATUS OF COAL, COKE, AND BRIQUETS IMPORTED FROM CERTAIN COUNTRIES

MARCH 8, 1938.

To Collectors of Customs and Others Concerned:

Coal, coke made from coal, and coal or coke briquets imported from the following countries and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1938, inclusive, will not be subject to the tax of 10 cents per hundred pounds provided for in section 601 (c) (5) of the Revenue Act of 1932, as amended:

Australia	France, including French Indo-China
Canada	Mexico

Coal, coke made from coal, and coal or coke briquets produced in the following countries, imported into the United States directly or indirectly therefrom and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1938, inclusive, will be exempt from the tax by virtue of section 601 (a) of the revenue act:

Belgium	Poland
Japan	United Kingdom
Netherlands	

The same entry privilege under section 601 (a), supra, shall be granted to such fuels produced in the Union of Soviet Socialist Republics, imported directly or indirectly therefrom, and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to August 5, 1938, inclusive.

Such fuels will be subject to the tax when produced in and imported from Germany and entered for consumption or withdrawn from warehouse for consumption during the current calendar year.

The above list does not include countries from which there have been no importations of coal or allied fuels during the past two calendar years. Further information concerning the taxable status of such fuels imported in 1938 will be furnished upon application therefore to the Bureau.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

[F. R. Doc. 38-726; Filed, March 11, 1938; 3:35 p. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

MONTANA GRAZING DISTRICT NO. 1

MODIFICATION

FEBRUARY 18, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of July 11, 1935, establishing Montana Grazing District No. 1 is hereby revoked as far as it affects the following-described lands, such revocation to be effective upon the reservation of the lands for the Hewitt Lake Migratory Waterfowl Refuge:

MONTANA

Principal Meridian

T. 32 N., R. 32 E.,
sec. 7, SE¼;
sec. 8, S½;
sec. 9, W½SW¼;
sec. 16, NW¼;
sec. 17, N½;
sec. 18, NE¼.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-737; Filed, March 14, 1938; 10:11 a. m.]

OREGON GRAZING DISTRICT NO. 5

MODIFICATION

MARCH 9, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, the Departmental order of October 21, 1935, establishing Oregon Grazing District No. 5, is hereby modified to include within its exterior boundaries the following-described lands:

OREGON

Willamette Meridian

T. 12 S., R. 17 E.,
sec. 19, W½;
sec. 21, S½;
secs. 28 to 33, inclusive;
T. 15 S., R. 20 E.,
sec. 31.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-738; Filed, March 14, 1938; 10:12 a. m.]

National Bituminous Coal Commission.

[Order No. 231]

AN ORDER REVOKING ORDERS DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREAS NO. 1 TO NO. 7, INCLUSIVE, AND MINIMUM PRICE AREAS NO. 9 AND NO. 10

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the following orders of the Commission relating to the weighted average of the total costs of the tonnage for minimum price areas No. 1 to No. 7, inclusive, and minimum price areas No. 9 and No. 10, are hereby revoked:

No. 62	No. 66	No. 69
No. 63	No. 67	No. 70
No. 65	No. 68	No. 71

2. That the Secretary of the Commission shall forthwith mail a copy of this order to the Secretaries of the Bituminous Coal Producers' Boards for the several districts, to the Consumers' Counsel, and to all code members, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 12th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-743; Filed, March 14, 1938; 12:18 p. m.]

[Order No. 232]

AN ORDER REVOKING ORDERS ESTABLISHING CLASSIFICATIONS OF COALS OF CODE MEMBERS IN DISTRICTS NO. 1 TO NO. 20 INCLUSIVE AND DISTRICTS NO. 22 AND NO. 23

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the following orders of the Commission, and all orders supplemental thereto, relating to classifications of coals of code members are hereby revoked:

No. 38	No. 80	No. 107
No. 43	No. 81	No. 108
No. 73	No. 82	No. 109
No. 74	No. 83	No. 110
No. 75	No. 84	No. 112
No. 76	No. 85	No. 120
No. 77	No. 102	No. 125
No. 78	No. 103	No. 202
No. 79	No. 106	No. 219

2. That the Secretary of the Commission shall forthwith mail a copy of this order to the Secretaries of the Bituminous Coal Producers Boards for the several Districts, to the Consumers' Counsel, and to all code members, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 12th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-744; Filed, March 14, 1938; 12:18 p. m.]

[Order No. 233]

AN ORDER REVOKING ORDERS NO. 39, NO. 42 AND NO. 205

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That Orders No. 39, No. 42 and No. 205 of the National Bituminous Coal Commission are hereby revoked.

2. That the Secretary of the Commission shall forthwith mail a copy of this Order to the secretaries of the Bituminous Coal Commission Boards for the several districts, to the Consumers' Counsel, and to all code members, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 12th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-745; Filed, March 14, 1938; 12:18 p. m.]

[Docket No. 12]

IN THE MATTER OF PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" AND ESTABLISHING RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS TO BE ESTABLISHED BY THE COMMISSION

ORDER AND NOTICE FOR HEARING

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That a public hearing be held on the 25th day of April, 1938, commencing at the hour of 10 o'clock A. M., at the Hearing Room of the Commission, Walker Building, Washington, D. C., for the purpose of receiving evidence to enable the Commission to determine and prescribe due and reasonable maximum discounts or price allowances that may be made by code members to "distributors", defined by Section 4, Part II (h), of the Act as those who purchase coal for resale and resell it in not less than cargo or railroad carload lots, and to establish Rules and Regulations for the maintenance and observance by such "distributors" in the resale of coal, of the Prices and Marketing Rules and Regulations to be established by the Commission, at which hearing all interested parties shall be afforded an opportunity to be heard; such evidence as to reasonable maximum discounts or price allowances and Rules and Regulations to include:

(*a*) Evidence as to the reasonable cost and value of the service rendered by a distributor who purchases coal for resale and resells it in not less than cargo or railroad carload lots.

(*b*) Evidence as to what constitutes a fair return or reasonable profit to distributors in effecting such resales.

(*c*) Evidence as to proper reasonable maximum discounts or price allowances for different geographical localities wherein coal is distributed subject to the provisions of the Act and evidence as to other proper differentials in reasonable maximum discounts or price allowances due to varying factors.

(*d*) Evidence as to any other pertinent factors which should properly be considered in determining reasonable maximum discounts or price allowances.

(*e*) Evidence as to proper rules and regulations to be established as to require the maintenance and observance by "distributors", in the resale of coal, of the Prices and Marketing Rules and Regulations to be established by the Commission.

2. That the said hearing shall be conducted by the Commission or a division thereof

3. The Secretary of the Commission is forthwith directed to cause to be served a copy of this notice of and order for hearing by mailing a copy thereof to the Secretary of each of the Bituminous Coal Producers' Boards, to the Consumers' Counsel, to code members within the several districts, to all known distributors; and to publish a copy of this notice of and order for hearing in the FEDERAL REGISTER.

By order of the Commission.

Dated this 12th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-746; Filed, March 14, 1938; 12:18 p. m.]

[Docket No. 72-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF KANSAS AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a Regular Session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 12th day of March, 1938.

It appearing, That by Orders No. 2 and 86, the Commission upon its own motion entered into and conducted an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Kansas and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 12th day of March, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Kansas directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in Kansas in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 12th day of April, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Kansas, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Kansas.

2. That any producer of bituminous coal in intrastate commerce within the State of Kansas, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Kansas who is not upon the date of this Order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under Date of June 21, 1937.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Kansas known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this Order.

By order of the Commission.

Dated this 12th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-747; Filed, March 14, 1938; 12:19 p. m.]

[Docket No. 73-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF ARKANSAS AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a Regular Session of the National Bituminous Coal Commission Held at its Offices in Washington, D. C., on the 12th day of March, 1938.

It appearing, That by Orders No. 2 and 104, the Commission upon its own motion entered into and conducted an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Arkansas and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 12th day of March, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Arkansas directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in Arkansas in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 12th day of April, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Arkansas, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Arkansas.

2. That any producer of bituminous coal in intrastate commerce within the State of Arkansas, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Arkansas who is not upon the date of this Order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under Date of June 21, 1937.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Arkansas known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this Order.

By order of the Commission.

Dated this 12th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-748; Filed, March 14, 1938; 12:19 p. m.]

Office of Indian Affairs.

CHIPPEWA INDIAN RESERVATIONS, MINNESOTA

ORDER OF RESTORATION

Whereas under authority contained in the Act of Congress approved January 14, 1889 (25 Stat. L., 642), agreements were entered into with the Chippewa Indians of Minnesota, providing for the cession to the United States of all lands within the Bois Fort (Nett Lake), Fond du Lac, White Oak Point, Leech Lake, Cass Lake, Chippewa of the Mississippi, Winnibigoshish, and the White Earth Indian Reservations, all in the State of Minnesota, and such ceded lands of these reservations were opened to sale and entry under the homestead laws, the proceeds of such sale and entry to be placed to the credit of the Chippewa Indians of Minnesota, and

Whereas there is now remaining undisposed of within the said ceded areas, approximately 29,000 acres of land, which is of little or no value for its original purpose of entry and settlement, but which will be of value to the Indians if restored to tribal ownership, and where practicable, consolidated by exchanges with other land owners, and

Whereas the Tribal Executive Committee of the Minnesota Chippewa Tribe, the General Council of the Red Lake Band of Chippewa Indians, the Superintendents in charge of the Consolidated Chippewa and Red Lake Agencies and the Commissioner of Indian Affairs have recommended the restoration to tribal ownership of all undisposed-of lands included within the reservation cessions made under the said Act of January 14, 1889, supra, of lands within the reservations named above;

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by section 3 of the Act of June 18, 1934 (48 Stat. L., 984), I hereby find that restoration to tribal ownership of all lands which are now, or may hereafter be, classified as undisposed-of opened lands of the reservations named herein, ceded by the Indians under the Act of January 14, 1889, supra, will be in the public interest,

and the said lands are hereby restored to tribal ownership for the use and benefit of the Chippewa Indians of Minnesota, subject to any valid existing rights.

HAROLD L. ICKES,
Secretary of the Interior.

FEBRUARY 23, 1938.

[F. R. Doc. 38-736; Filed, March 14, 1938; 10:11 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[RCP-1938-3]

1938 RANGE CONSERVATION PROGRAM BULLETIN

AS AMENDED MARCH 12, 1938

CONTENTS

Section I. Rates of Range-Building Payments.
II. Range-Building Allowance.
III. Conditions of Payment.
IV. Changes in Leasing Arrangements and Other Devices.
V. Eligibility for Payment.
VI. Materials Furnished as Grants of Aid.
VII. Payment Restricted to Effectuation of the Purposes of the Program.
VIII. Payments Computed and Made Without Regard to Claims.
IX. Increase in Small Payments.
X. Deductions for Association Expenses.
XI. Assignments.
XII. Establishment of Grazing Capacities.
XIII. Determination of County in Which a Ranching Unit is Located.
XIV. Appeals.
XV. State and Regional Bulletins, Instructions and Forms.
XVI. Definitions.

This bulletin revises and supplements the 1938 Range Conservation Program Bulletin (RCP-1938) and Supplements Nos. 1 and 2 thereto (RCP-1938-1 and RCP-1938-2) and to the extent of such revision and supplementation, but not otherwise, supersedes said bulletin and supplements.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Range Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other revisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program, including the Range Conservation Program, are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purposes; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participation in the program. Any increase or decrease in rates of payment made because of the extent of participation in the Range Conservation Program will not exceed 10 percent.

The provisions of the 1938 Range Conservation Program contained in this bulletin are not applicable to (1) Hawaii, Puerto Rico, and Alaska; (2) counties for which special range programs under said Act are approved for 1938 by the Secretary of Agriculture; and (3) public domain of the United States, including lands owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

SECTION I. *Rates of Range-Building Payments.*—Within the limits of the range-building allowance and subject to the conditions hereinafter set forth, payment will be made for carrying out on range land in 1938 such of the following range-building practices as are recommended for the State by the State committee and approved by the Regional Director, and as are approved by the county committee for the ranching unit prior to their institution.

Practices and Conditions of Payment—Rate of Payment

A. *Reseeding of range land.*—

1. *Natural reseeding by deferred grazing.*—For withholding 25 percent of the range land in the ranching unit from grazing for the period from the start of forage growth to seed maturity, established by the State committee and approved by the Regional Director: *Provided,* (1) if grazing is deferred on less than 25 percent of the range land in the ranching unit, a proportionate payment will be made; (2) on ranching units on which cattle or horses are grazed the area to be kept free of grazing is fenced and the fence is maintained sufficiently to prevent the entry of livestock; (3) on ranching units used exclusively for grazing sheep either the area to be kept free of grazing is fenced and the fence is maintained sufficiently to prevent entry of livestock or the entry of livestock on the non-grazed acreage is prevented by herding; (4) the remaining range land in such ranching unit is not pastured to such an extent as will decrease the stand of grass or injure the forage, tree growth, or watershed; (5) such practice shall not be applicable to range land in the ranching unit which normally is not used for grazing during the period from the start of forage growth to seed maturity; (6) the ranch operator has submitted to the county committee in writing the designation of the non-grazing range area of the ranching unit previous to the carrying-out of such practice, and (7) the ranch operator complies with such other conditions or specifications as may be established by the county committee with the approval of the State committee, including the increase of the area to be withheld from grazing to as much as 40 percent of the range land, where the county committee determines such additional conditions or specifications are needed in the interest of range conservation: Sixty percent of that part of the range-building allowance which is computed under subsection A of Section II, provided such rate shall not exceed the equivalent of $1.25 per animal unit of grazing capacity.

2. *Artificial reseeding.*—For reseeding depleted range land with good seed of adapted varieties of range grasses, legumes, or forage shrubs: $0.20 per pound of seed sown, but not in excess of $2.00 per acre.

B. *Erosion and runoff control.*—

3. (a) *Contour listing, furrowing, or subsoiling.*—For listing, furrowing, or subsoiling range land on the contour; $0.50 per acre.

(b) *Contour ridging.*—For ridging range land on the contour: $0.10 per 100 linear feet.

4. *Spreader dams and terraces.*—For constructing spreader dams and spreader terraces alone or in combination with each other for the diversion of surface water to prevent soil washing of range land.

(a) Spreader dams: $0.15 per cubic yard of material moved.

(b) Spreader terraces: $0.40 per 100 linear feet.

C. *Development of stock water on range land.*—

5. *Earthen tanks or reservoirs.*—For constructing reservoirs or earthen tanks with spillways adequate to prevent dams from washing out, for the purpose of providing water for range livestock: $0.15 per cubic yard of fill or excavation.

6. *Concrete or rubble masonry dams.*—For constructing concrete or rubble masonry dams in rough or broken areas (where earthen dams or reservoirs are impracticable and where there is no possibility of using the masonry dam for irrigation), for the purpose of providing water for range livestock: $6.00 per cubic yard of concrete or rubble masonry.

7. *Wells.*—(a) For drilling or digging wells with casing not less than 4 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. Payment will not be made for a well developed at ranching unit headquarters: $2.00 per linear foot.

(b) For drilling or digging wells with casing less than 4 inches but not less than 2 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. An artesian well will qualify for payment provided adequate stock water is made available during the grazing season and the water is conveyed to a tank or trough. Payment will not be made for a well developed at ranching unit headquarters: $1.00 per linear foot.

8. *Development of natural watering places.*—For developing springs or seeps, protecting the source from trampling and conveying the water in a trough or in a pipe not less than one inch in diameter to a tank, for the purpose of providing water for range livestock: $0.40 per cubic foot for excavation in soil or gravel, and $0.70 per cubic foot for excavation in rock.

D. *Planting and maintaining a stand of trees.*—

9. *Tree planting.*—Planting of trees on range land, provided that the trees are planted in 1938 prior to November 1; that the number, kind, and age of trees planted and methods of planting and growing of such trees are in accordance with approved specifications; and that the acreage planted to trees is fenced and the fence is maintained sufficiently to prevent entry of livestock: $10.00 per acre.

10. *Cultivating and maintaining a stand of trees.*—Cultivating, protecting, and maintaining, by replanting if necessary, a full stand of at least 500 trees per acre of forest planting, or 200 trees per acre of windbreak or shelter-belt plantings planted between January 1, 1934 and January 1, 1938: $4.00 per acre.

E. *Conservation of range lands through the elimination of destructive plants.*—

11. *Prickly pear and cactus.*—(a) Light infestation: $0.50 per acre.

(b) Medium infestation: $0.75 per acre.

(c) Heavy infestation: $1.00 per acre.

12. *Mesquite.*—(a) Light infestation: $0.50 per acre.

(b) Medium infestation: $1.00 per acre.

(c) Heavy infestation: $2.00 per acre.

13. *Cedar.*—(a) Light infestation: $0.75 per acre.

(b) Medium infestation: $1.00 per acre.

(c) Heavy infestation: $1.50 per acre.

14. *Lechuguilla.*—(a) Heavy infestation: $0.50 per acre.

F. *Fire guards.*—

15. For the establishment of fire guards not less than 10 feet in width by plowing furrows or otherwise exposing the mineral soil. Payment will not be made if the fire guard is used in connection with controlled burning within the ranching unit: $0.05 per 100 linear feet.

SECTION II. *Range-Building Allowance.*—A. In Texas, Oklahoma, Kansas, Nebraska, South Dakota, and California, the range-building allowance shall be 2 cents per acre of range land in the ranching unit plus $1.00 times the grazing capacity of the range land; and in Arizona, New Mexico, Nevada, Utah, Colorado, Washington, Oregon, Idaho, Montana, Wyoming, and North Dakota, the range-building allowance shall be 3 cents per acre of range land in the ranching unit plus 75 cents times the grazing capacity of the range land: *Provided, however,* That in either area the grazing capacity item shall not be calculated on more than one animal unit for each 10 acres of range land in the ranching unit, and the acreage item shall not be calculated on more than 60 acres for each animal unit of grazing capacity established for the ranching unit.

B. In addition, the range-building allowance shall include 35 cents times the number of acres of mountain meadow land in the ranching unit from which hay is normally harvested for feeding on the ranching unit to range livestock owned by the operator of the ranching unit. The mountain counties in which this additional allowance is made shall be those counties in the Western Region for which, upon the basis of the recommendations of the county and State committees, the Regional Director determines the reseeding and erosion control practices specified in Section I to be necessary and effective in promoting range conservation: *Provided, however,* That mountain meadow land for which this additional allowance is made shall not be considered in calculating the portion of the range-building allowance provided for in subsection A.

SECTION III. *Conditions of payment.*—A. The range-building payment with respect to any ranching unit shall not exceed the range-building allowance for such ranching unit. Payment will be made only if range-building practices are carried out according to specifications recommended by the State committee and approved by the Regional Director. Payments made for carrying out range-building practices shall not be subject to the provisions of Section V of the Agricultural Conservation Program Bulletin, as amended February 19, 1938 (ACP-1938-3).

B. No payment will be made for practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency other than the Agricultural Adjustment Administration, or for practices with respect to which a portion of the labor, seed, trees, or other materials used in carrying out such practices is furnished by a State or Federal agency other than the Agricultural Adjustment Administration, if such portion represents one-half or more of the total cost of carrying out such practices. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents less than one-half of the total cost of carrying out such practice, payment will be made for such practice at one-half of the rate specified in Section I.

SECTION IV. *Changes in leasing arrangements and other devices.*—A. No payment will be made to any person who has for 1938 made any change from the 1937 leasing arrangements of range land for the purpose of, or which would have the effect of, diverting to such person any payment to which any lessee would be entitled if the 1937 leasing arrangements of such range land were in effect for 1938. If the State committee finds that any person who files an application for a payment pursuant to the provisions of the 1938 Range Conservation Program has made any change from the 1937 leasing arrangements of such range land or has employed any other scheme or device whatsoever for the purpose of, or which would have the effect of, depriving any other person of any payment or share therein to which such other person otherwise would be entitled, the Secretary may withhold in whole or in part from the person participating in such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or otherwise would be made to such person for performance in connection with the 1938 Range Conservation Program.

B. If on any ranching unit in 1938 any change of the leasing arrangements which existed on the ranching unit in 1937 is made between the landlord and the tenants and such change would cause a greater proportion of the payment to be made to the landlord under the 1938 Range Conservation Program than would have been made to the landlord for performances on the ranching unit under the 1937 Range Conservation Program, payment to the landlord under the 1938 Range Conservation Program with respect to the ranching unit shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the ranching unit in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

C. If on any ranching unit the number of tenants in 1938 is less than the average number on the ranching unit during

the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

SECTION V. *Eligibility for payment.*—A. Application for range-building payment may be made only by ranch operators. Range-building payments will be made to (1) a sole ranch operator, or (2) each ranch operator of a group of two or more ranch operators, provided they all signify in the application for the range-building payment a percentum of the total payment to be made to each ranch operator. In case there are two or more ranch operators, the application must be made by all of them, except that in cases where any ranch operator refuses to sign the application for payment the county committee shall determine the percentage share of each ranch operator and payment of his percentage share will be made to each ranch operator applying for payment in accordance with such determination.

B. Any person who has an interest in a farm on which cotton is planted in 1938 and who makes application for payment with respect to any ranching unit shall file with such application a statement verified by affidavit that the applicant has not knowingly planted or caused to be planted during 1938 cotton on land in any farm in which he has an interest in excess of the cotton acreage allotment established for the farm for 1938 under Section 344 of the Agricultural Adjustment Act of 1938 in connection with cotton marketing quotas, and that cotton was not planted in excess of such allotment by his authority or with his consent. Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment for the farm established in connection with cotton marketing quotas under Section 344 of the Agricultural Adjustment Act of 1938 and regulations issued in connection therewith shall not be eligible for any payment under the provisions of the 1938 Range Conservation Program. A person shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of his allotment is mailed to him prior to the completion of the planting of cotton on the farm unless such person establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton thereon in 1938.

SECTION VI. *Materials furnished as grants of aid.*—Wherever it is found practicable, trees, seeds, and other material may, upon request of the ranch operator(s), be furnished by the Agricultural Adjustment Administration as grants of aid in lieu of payments. Wherever such materials are furnished, the range-building allowance will be reduced by the amount of the payment which otherwise would be computed with respect to the practices in connection with which the materials so furnished are used. In making a request for materials pursuant to this section the ranch operator(s) to whom such materials are furnished shall agree that, in the event the amount of the payment which otherwise would be computed with respect to the practices in connection with which the materials so furnished are used exceeds the range-building allowance, the amount of such excess shall be repaid by him to the Secretary.

SECTION VII. *Payment restricted to effectuation of the purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Range Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the Regional Director finds is contrary to sound conservation practices.

No payment will be made to any person if it is determined in accordance with instructions issued by the Agricultural Adjustment Administration that, with respect to any ranch which he owns or operates, the stand of grass has been decreased or the forage, tree growth or watershed has been injured by overgrazing in 1938.

SECTION VIII. *Payments computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in Section XI), and without regard to any claim or lien against any crop or livestock, or proceeds thereof, in favor of the owner or any other creditor.

SECTION IX. *Increase in small payments.*—The total payment computed for any person with respect to any ranching unit shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.5
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$185.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SECTION X. *Deductions for association expenses.*—There shall be deducted pro rata from the payments with respect to any ranching unit all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the ranching unit is located.

SECTION XI. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Range Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration and is acknowledged by the ranch operator before the county agricultural extension agent and filed with such agent; (2) the ranch operator files with the assignment an affidavit showing that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose. For the purposes of this section the making of a crop shall be deemed to include the carrying out of range-building practices.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the ranch operator is entitled, nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the ranch operator without regard to the existence of any such assignment.

SECTION XII. *Establishment of grazing capacities.*—There shall be established a grazing capacity for each ranching unit for which an application for determination of grazing capacity is received on or before a date established by the Regional Director as affording reasonable opportunity for the filing of such applications. In determining grazing capacity, consideration shall be given to the following: (a) composition, palatability, and density of forage growth; (b) climatic fluctuations; (c) distribution and character of watering facilities; (d) topographic and cultural features; (e) presence or absence of rodents and poisonous plant infestations; and (f) number and classes of livestock previously carried. The average of the individual grazing capacities established for all ranching units in a county shall not exceed the county average grazing capacity limit established by the Agricultural Adjustment Administration on the basis of available statistics.

SECTION XIII. *Determination of county in which a ranching unit is located.*—A ranching unit shall be regarded as located in the county in which its principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the ranching unit is located.

SECTION XIV. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any ranching unit in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment, (b) grazing capacity established for the range land in such ranching unit, or (c) any other matter affecting the right to or the amount of his payment with respect to the ranching unit. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.

SECTION XV. *State and regional bulletins, instructions and forms.*—The Agricultural Adjustment Administration shall prepare and issue such State and regional bulletins, instructions, and forms as may be required in administering the 1938 Range Conservation Program.

SECTION XVI. *Definitions.*—For the purposes of the 1938 Range Conservation Program,

Secretary means the Secretary of Agriculture of the United States.

North Central Region means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

Southern Region means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

Regional director means the director of the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program and the 1938 Range Conservation Program in the Region.

State committee means the group of persons designated for any State to assist in the administration of the 1938 Agricultural Conservation Program and the 1938 Range Conservation Program in such State.

County committee means the group of persons elected for any county to assist in the administration of the 1938 Agricultural Conservation Program and the 1938 Range Conservation Program in such county.

Person means an individual, partnership, association, corporation, estate or trust, and wherever applicable a State, a political subdivision of a State, or any agency thereof.

Range-building payment means a payment for the carrying out of one or more approved range-building practices.

Range-building allowance means the largest amount for any ranching unit which may be earned as a range-building payment on such ranching unit.

Ranch operator means a person who as owner, cash tenant, or share tenant operates, or a person who acts in similar capacity in the operation of, a ranching unit in 1938.

Range land means any land in which a ranch operator has such a legal estate or interest as to give him control thereof, which produces forage grazed by range livestock, without cultivation or general irrigation. Range land shall not include public domain of the United States, including lands owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

Ranching unit means all range land which is used in 1938 by the ranch operator as a single unit in producing range livestock, with machinery, workstock, and labor substantially separate from that of any other range land. In order to facilitate the administration of the program the Regional Director may prescribe that for the purposes of this program tracts shall be deemed ranching units only if they contain more than the minimum acreage of range land fixed by him.

Animal unit means one cow, one horse, five sheep, or five goats, or the equivalent thereof.

Grazing capacity of range land means the number of animal units which such land will sustain, on a 12-month basis, over a period of years without decreasing the stand of grass or other grazing vegetation, and without injury to the forage, tree growth, or watershed.

Done at Washington, D. C., this 12th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-730; Filed, March 12, 1938; 11:43 a. m.]

Bureau of Animal Industry.

[Amendment 17 to Declaration No. 12]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

MARCH 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

California: Orange, March 1, 1941; Sonoma, March 1, 1941.

South Dakota: Hanson, March 1, 1941; Lake, March 1, 1941.

Puerto Rico: Aguas Buenas, March 1, 1941; Caguas, March 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Arkansas: Lee, March 1, 1941.

Colorado: Adams, March 1, 1941; Douglas, March 1, 1941; Las Animas, March 1, 1941.

Florida: Duval, March 1, 1941; Manatee, March 1, 1941.

Georgia: Chatham, March 1, 1941; Chattahoochee, March 1, 1941; Chattooga, March 1, 1941; Coweta, March 1, 1941; Effingham, March 1, 1941; Evans, March 1, 1941; Fulton, March 1, 1941.

Illinois: Macoupin, March 1, 1944; Vermilion, March 1, 1941.

Indiana: Jasper, March 1, 1941.

Iowa: Carroll, March 1, 1941; Decatur, March 1, 1941; Kossuth, March 1, 1941; Tama, March 1, 1941; Woodbury, March 1, 1941.

Kansas: Pratt, March 1, 1941; Sedgwick, March 1, 1941.

Maine: Piscataquis, March 1, 1941.

Mississippi: Itawamba, March 1, 1941; Tippah, March 1, 1941; Tishomingo, March 1, 1941; Union, March 1, 1941.

Missouri: Crawford, March 1, 1941; Dent, March 1, 1941; Iron, March 1, 1941; Washington, March 1, 1941; Webster, March 1, 1941.

Nebraska: Clay, March 1, 1941; Nemaha, March 1, 1941.

North Carolina: Caswell, March 1, 1941; Surry, March 1, 1941.

Ohio: Allen, March 1, 1941; Geauga, March 1, 1941; Morrow, March 1, 1941; Summit, March 1, 1941.

Oklahoma: Beckham, March 1, 1941; Grant, March 1, 1941; Payne, March 1, 1941.

Pennsylvania: Bucks, March 1, 1941; Fayette, March 1, 1941.

South Carolina: Georgetown, March 1, 1941; Horry, March 1, 1941.

Tennessee: Jackson, March 1, 1941; Lawrence, March 1, 1941; Union, March 1, 1941; Williamson, March 1, 1941.

Texas: Collingsworth, March 1, 1941; Dallam, March 1, 1941; Foard, March 1, 1941; Knox, March 1, 1941; McCulloch, March 1, 1941; Montague, March 1, 1941.

Virginia: Prince Edward, March 1, 1941.

West Virginia: Wood, March 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended, is hereby further amended accordingly.

[SEAL] J. R. MOHLER,
Chief of Bureau.

[F. R. Doc. 38-750; Filed, March 14, 1938; 12:39 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

CONNECTICUT

MARCH 12, 1938.

Pursuant to the Provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Connecticut State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Windham.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-733; Filed, March 12, 1938; 11:43 a. m.]

DESIGNATION OF COUNTIES

NEW HAMPSHIRE

MARCH 12, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New Hampshire State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Rockingham.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-732; Filed, March 12, 1938; 11:43 a. m.]

DESIGNATION OF COUNTIES

VERMONT

MARCH 12, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Vermont State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Addison.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-731; Filed, March 12, 1938; 11:43 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

NOTICE OF MEETING OF EXECUTIVE COMMITTEE, BOARD OF SUPERVISING INSPECTORS

Pursuant to authority conferred by Section 4405, R. S., I hereby call a meeting of the Executive Committee of the Board of Supervising Inspectors of the Bureau of Marine Inspection and Navigation, consisting of Commander R. S. Field, Director; Captain George Fried, Supervising Inspector, Second District; and Mr. Eugene Carlson, Supervising Inspector, Third District; to take place in the office of the Supervising Inspector, Second District, 45 Broadway, New York City, beginning at 10:00 A. M. Tuesday, March 15, 1938 for the purpose of considering amendments to the Rules and Regulations and for the transaction of such other business as may come before the meeting.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 38-749; Filed, March 14, 1938; 12:33 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5502]

IN THE MATTER OF KENTUCKY UTILITIES COMPANY, RATE SCHEDULE FPC NO. 8

ORDER FIXING DATE OF HEARING

MARCH 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon its own motion, the Commission orders that:

A public hearing in the matter of the suspension of the rate schedule designated on the Commission's records as Kentucky Utilities Company, Rate Schedule FPC No. 8, be held on April 20, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-734; Filed, March 14, 1938; 10:11 a. m.]

[Docket No. IT-5508]

IN THE MATTER OF OKLAHOMA GAS AND ELECTRIC COMPANY, RATE SCHEDULE FPC NO. 3

ORDER FIXING DATE OF HEARING

MARCH 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon its own motion, the Commission orders that:

A public hearing in the matter of the suspension of the rate schedule designated on the Commission's records as Oklahoma Gas and Electric Company, Rate Schedule FPC No. 3, be held on April 18, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-735; Filed, March 14, 1938; 10:11 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File 21-295]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE FUR INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717);

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the fur industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Communications of such views should be made to the Commission not later than March 30, 1938. Opportunity for oral hearing will be afforded at 10 a. m., March 30, 1938, in the main hearing room, Federal Trade Commission Building, 815 Connecticut Avenue NW., Washington, D. C., to such persons as may desire to appear, and who shall have made prior written or telegraphic requests to be heard orally. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-727; Filed, March 12, 1938; 9:57 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File 21-308]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE WOOD CASED LEAD PENCIL MANUFACTURING INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717);

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Wood Cased Lead Pencil Manufacturing Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Communications of such views should be made to the Commission not later than April 1, 1938. Opportunity for oral hearing will be afforded at 10 a. m., April 1, 1938, in the main hearing room, Federal Trade Commission Building, 815 Connecticut Avenue, NW., Washington, D. C., to such persons as may desire to appear, and who shall have made prior written or telegraphic requests to be heard orally. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

Entered March 11, 1938.

[F. R. Doc. 38-739; Filed, March 14, 1938; 10:17 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of March, A. D. 1938.

[File No. 31-394]

IN THE MATTER OF THE APPLICATION OF EASTERN SHORE GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Eastern Shore Gas Corporation for exemption as a holding company from the provisions of said Act;

It is ordered, That a hearing on such matter be held on March 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone

said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 23, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-742; Filed, March 14, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of March, A. D. 1938.

[File Nos. 46-94, 43-107]

IN THE MATTER OF FEDERAL WATER SERVICE CORPORATION

NOTICE OF AND ORDER FOR HEARING

Federal Water Service Corporation has filed with this Commission an application (File No. 46-94) pursuant to Section 10 of the Public Utility Holding Company Act of 1935 with respect to the acquisition by it of 5,000 shares of the $6 Cumulative Second Preference Stock of its subsidiary, West Virginia Service Company, from the Chase National Bank of the City of New York for a purchase price of $300,000 payable in an initial installment of $100,000 and the balance in interest bearing installments of $25,000 each, coming due July 1, 1938 and quarterly thereafter. Said Federal Water Service Corporation has also filed with this Commission a declaration (File No. 43-107) pursuant to Section 7 of said Act with respect to the issue and sale by it to the said Chase National Bank of the City of New York of eight promissory notes, each in the principal amount of $25,000, to be dated March 1, 1938 and to mature serially on the first days of July, October, January and April, first note to become due on July 1, 1938. Said notes are to bear interest at the rate of 5% per annum, will represent installments upon the above mentioned purchase price of said stock and will be secured by said stock.

It is ordered, That a hearing on such matter be held on March 29, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 24, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-740; Filed, March 14, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of March, A. D. 1938.

[File No. 31-397]

IN THE MATTER OF THE APPLICATION OF PHELPS DODGE CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Phelps Dodge Corporation for exemption as a holding company from the provisions of said Act;

It is ordered, That a hearing on such matter be held on March 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 23, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-741; Filed, March 14, 1938; 10:51 a. m.]

Wednesday, March 16, 1938 ***No. 52***

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

CASH RELIEF FOR CERTAIN EMPLOYEES OF THE PANAMA CANAL

By virtue of and pursuant to the authority vested in me by the act of July 8, 1937, ch. 443, 50 Stat. 478 (U. S. Code, title 48, sec. 1372), I hereby prescribe the following regulations for the payment of cash relief to persons coming within the provisions of that act:

SEC. 1. *Application for relief.*—Applicants for cash relief under the provisions of the said act of July 8, 1937, shall make application therefor in such form as may be prescribed by the Governor of The Panama Canal. Applications shall be supported by such proof, including medical certificates, as may be considered necessary and adequate to enable the Governor to determine the eligibility of the applicant to receive cash relief, his length of service, and his economic status. If the applicant is mentally incompetent the application for relief may be submitted by his guardian or, with the consent or authority of the Governor, by the nearest relative of the applicant, or other person familiar with the status of the applicant.

SEC. 2. *Determination of length of service.*—The length of service of the applicant, including continuous and intermittent service, shall be determined by the Governor of The Panama Canal in accordance with the official records of employment or by such other proof as the Governor may require.

SEC. 3. *Amount of relief.*—The monthly cash relief which shall be allowed to an applicant who is found to be eligible for such relief under the said act, shall be an amount, not in excess of $25, equal to $1 multiplied by the number of years of service of applicant in the employ of The Panama Canal and the Panama Railroad Company as determined by the Governor of The Panama Canal: Provided, that in the application of this section, only the whole number of years of service, excluding the fraction of a year, if any, shall be used in calculating the monthly cash relief: And provided further, that the Governor, in his discretion, may allow a less amount of cash relief per month to an applicant. The Governor may from time to time reduce or increase, within the limits prescribed by the said act, the amount of relief granted to a beneficiary, if the economic status of the beneficiary in the opinion of the Governor justifies or warrants such an adjustment of the amount of cash relief, consideration being given to such factors as the earnings or income of the beneficiary, if any, the number of persons dependent upon him for support, and the ability of his family to assist in providing for him.

SEC. 4. *Payment.*—Cash relief shall commence at such date after the separation of the employee from The Panama Canal service as shall be determined by the Governor, and shall be payable monthly, or at such more frequent intervals as may be prescribed by the Governor: Provided, that the amount unpaid on the death of the beneficiary may be paid only to the person who shall have been designated by the beneficiary with the approval of the Governor to receive such amount. Payments shall be made by the Paymaster, The Panama Canal.

SEC. 5. *Administrative regulations authorized.*—The Governor is hereby authorized to prescribe such additional regulations as may be necessary for the proper administration of the provisions of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 12, 1938.

[No. 7837]

[F. R. Doc. 38-751; Filed, March 14, 1938; 2:12 p. m.]

EXECUTIVE ORDER

ESTABLISHMENT OF A SUPPLY FUND FOR THE PROCUREMENT, DISTRIBUTION, AND USE OF MATERIALS, SUPPLIES, AND EQUIPMENT FOR PROJECTS OF THE WORKS PROGRESS ADMINISTRATION UNDER THE EMERGENCY RELIEF APPROPRIATION ACT OF 1937

By virtue of and pursuant to the authority vested in me by the Emergency Relief Appropriation Act of 1937, approved June 29, 1937 (50 Stat. 352), it is hereby ordered as follows:

1. There is hereby established a revolving fund, not to exceed in the aggregate $25,000,000, of such amounts as may be transferred thereto from time to time by the Administrator of the Works Progress Administration from funds allocated to that Administration for the prosecution of non-Federal projects under the Emergency Relief Appropriation Act of 1937. This fund is to be known as the "Emergency Relief, Works Progress Administration, Supply Fund, 1938", hereinafter referred to as "the fund".

2. The Administrator of the Works Progress Administration is authorized to promulgate, with the approval of the President, the administrative regulations necessary to accomplish the purposes of this Executive Order. Such regulations and the operations of the fund shall, however, be subject to and not inconsistent with the provisions of Section II (A) of Executive Order No. 7034, dated May 6, 1935 (as continued by Executive Order No. 7396, dated June 22, 1936, and Executive Order No. 7649, dated June 29, 1937) and regulations issued pursuant thereto, and of section 1 of Executive Order No. 6166, dated June 10, 1933.

3. The fund shall be available for the purchase, repair, distribution, and rental of materials, supplies, equipment, and tools, including the maintenance and operation of shops, warehouses, tool depots, and other depositories for the handling of such properties for servicing non-Federal or Federal projects of the Works Progress Administration including the National Youth Administration.

4. Reimbursement shall be made to the fund under regulations issued in accordance with paragraph 2 on statements prepared by the State Works Progress Administrations of the value of materials, supplies, equipment, and tools issued for use on any approved non-Federal or Federal projects of the Works Progress Administration or the National Youth Administration. Such statements shall also include a monthly proration of operating costs against projects chargeable therewith. Such reimbursements shall be made at least monthly through checks drawn by the State Disbursing Officers of the United States Treasury Department and shall be immediately credited to the fund, for use in accordance with the purposes thereof.

5. Under regulations prescribed by the Administrator, the fund shall be charged with the value of all materials, supplies, equipment, and tools which are not required for the completion of any project. The amounts so charged shall be paid from the fund by the State Disbursing Officers of the United States Treasury Department upon statements prepared by the State Works Progress Administrations, the amounts so paid to be immediately deposited to the credit of either Appropriation Symbol 465800, "Emergency Relief, Works Progress Administration, (Non-Federal Projects, Approved Prior to June 30, 1937) 1938", or to the official project and appropriation from which the transfer is made, as determined in accordance with administrative regulations. Such reimbursements shall remain available to the Works Progress Administration.

6. A report shall be submitted to the President by the Administrator of the Works Progress Administration showing the amounts of the inventory remaining charged to the fund as of June 30, 1938, with respect to each State, classified according to major categories of materials, supplies, tools, and equipment.

7. Upon liquidation of the "Emergency Relief, Works Progress Administration, Supply Fund, 1938", any balance remaining shall be returned to the appropriation contained in the said Emergency Relief Appropriation Act of 1937, approved June 29, 1937.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 12, 1938.

[No. 7838]

[F. R. Doc. 38-752; Filed, March 14, 1938; 2:12 p. m.]

EXECUTIVE ORDER

TRANSFERRING CERTAIN HOUSING OR SLUM-CLEARANCE PROJECTS TO THE PUERTO RICO RECONSTRUCTION ADMINISTRATION

By virtue of and pursuant to the authority vested in me by Title II of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 200), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), and in order to effectuate the purposes of those Acts, it is ordered as follows:

1. Executive Order No. 7732 of October 27, 1937, transferring certain Federal housing or slum-clearance projects from the Federal Emergency Administration of Public Works to the United States Housing Authority, is hereby revoked in so far as it pertains to or affects the following-described housing or slum-clearance projects in Puerto Rico:

(a) Housing Division Project No. H-3600-SJ-A, Official Project No. 52-8384, constructed and being carried out in San Juan, Puerto Rico, pursuant to Presidential Letter No. 880 of October 28, 1935.

(b) Housing Division Project No. H-3600-C-A, Official Project No. 52-5353, constructed and being carried out in

Caguas, Puerto Rico, pursuant to Presidential Letter No. 1579 of May 2, 1936.

2. All right, title, and interest held on October 31, 1937, by the Federal Emergency Administration of Public Works in the two above-described projects are hereby transferred to the Puerto Rico Reconstruction Administration, together with the following:

(a) All assets, contracts, records, and other property held by the Federal Emergency Administration of Public Works on October 31, 1937, in connection with the above-described projects: *Provided, however*, that nothing herein shall be construed as impairing or affecting the obligation of the United States under any contracts hereby transferred.

(b) All funds allocated to the Federal Emergency Administration of Public Works which were available on October 31, 1937, for the construction and completion of the above-mentioned projects and are not yet expended.

(c) All employees who are actually serving in Puerto Rico on the effective date of this order and who shall be certified within one month from this date by the Federal Emergency Administrator of Public Works as having been employed in the Federal Emergency Administration of Public Works in Puerto Rico on October 31, 1937, in connection with the construction or administration of the above-described projects.

3. The Puerto Rico Reconstruction Administration, through the Administrator thereof, shall supervise, control, and administer the above-described projects and the funds, property, and employees hereby transferred, in accordance with the said Emergency Relief Appropriation Act of 1935 and the act of February 11, 1936, entitled "An Act to provide that funds allocated to Puerto Rico under the Emergency Relief Appropriation Act of 1935 may be expended for permanent rehabilitation, and for other purposes" (49 Stat. 1135).

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 12, 1938.

[No. 7839]

[F. R. Doc. 38-753; Filed, March 14, 1938; 2:12 p. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4794]

WAIVER OF SURVEY REQUIREMENTS AS TO DISTILLERIES

To District Supervisors and others concerned:

Pursuant to the authority conferred by Sections 302, 303, and 304, Title III, Liquor Tax Administration Act (U. S. C., 1934 ed., Supp. II, title 26, secs. 1168, 1165, and 1171), the following regulations are prescribed:

SURVEY REQUIREMENTS WAIVED

1. The survey requirements prescribed by Section 3264, R. S. (U. S. C., 1934 ed., title 26, sec. 1168), as to registered distilleries, are hereby waived.

2. Distillers are hereby relieved from the following provisions of law relating to the survey requirements:

(a) From so much of Section 3259, R. S. (U. S. C., 1934 ed., title 26, sec. 1163), as requires a distiller to state in his notice the number of hours in which the distiller will ferment each tub of mash or beer, and from the necessity of filing a notice of the change in the time of fermenting the mash or beer.

(b) From so much of Section 3280, R. S. (U. S. C., 1934 ed., title 26, sec. 1183), as requires the distiller to comply with the provisions of law relating to the survey of distilleries, as a condition precedent to carrying on the business of distilling.

(c) From the provisions of Section 3285, R. S. (U. S. C., 1934 ed., title 26, sec. 1191).

(d) From so much of the provisions of Section 3309, R. S. (U. S. C., 1934 ed., title 26, sec. 1197), as make a distiller liable to an assessment for a deficiency in producing less than 80 per centum of the producing capacity of the distillery as estimated according to law; and as make him liable to an assessment for the tax upon the spirits that should have been produced from the materials found to have been used in excess of the capacity of the distillery for any month as estimated according to law.

(e) From so much of the provisions of Section 3310, R. S. (U. S. C., 1934 ed., title 26, sec. 1200), as prescribe the fermenting periods.

(f) From so much of Section 3311, R. S. (U. S. C., 1934 ed., title 26, sec. 1202), as requires the placing of close fitting covers upon fermenting tubs, for the purpose of reducing the producing capacity of the distillery.

3. The exemptions from the above-mentioned provisions of law will be subject to such further changes as may be prescribed by regulations.

DISTILLER'S BOND

4. Distiller's Bond, Form 30, shall be in a penal sum of not less than the amount of tax, at the rate prescribed by law, on the spirits that can be distilled in the distillery during a period of 15 days of 24 hours each, as shown by the Distiller's Notice, Form 27A, which shall be verified by the District Supervisor; but in no case shall the penal sum of the bond be less than $5,000, nor greater than $100,000.

DISTILLING UNIT, EBULLIOMETER, AND OTHER LABORATORY APPARATUS

5. The distiller shall provide at his own expense, for the use of Government officers assigned to the distillery, a Kjeldahl or other distilling unit of sufficient capacity to distill samples of beer and slop and a Juerst, Leftco or other approved ebulliometer; also, such other laboratory apparatus and equipment necessary for determining the alcoholic content of the beer and slop. The distilling unit shall be installed in a suitable location approved by the District Supervisor. Where the distiller maintains a laboratory which, in the opinion of the District Supervisor, is properly equipped for making such tests, the distiller may make such facilities available to Government officers in lieu of providing additional apparatus and equipment.

GAUGING OF UNFINISHED SPIRITS

6. At distilleries where spirits, in the course of distillation, are run from the beer still into tanks in the distilling building for temporary deposit preparatory to completing the distillation thereof, storekeeper-gaugers shall promptly gauge the unfinished spirits in such tanks and make proper entry in the prescribed records. Each such tank must be mounted on scales or equipped with a glass gauge, or other suitable gauging device, whereby the contents of the tank may be accurately determined. Unfinished spirits may not be stored in such tanks, but may only be deposited therein temporarily in the course of distillation.

CALIBRATION OF FERMENTERS

7. Distillers shall accurately calibrate each fermenter and permanently mark thereon the total capacity in gallons. The distiller will furnish the Governmental officer in charge a table showing the capacity of each fermenter, if not uniform in dimensions from top to bottom, for each inch of depth. If the fermenters are of uniform dimensions from top to bottom, a table will be furnished for each fermenter showing the gallons per inch of depth. When deemed necessary, the accuracy of the calibration of tanks will be verified by Government officers.

DISTILLER'S NOTICE OF CHANGE IN MATERIALS

8. The distiller may elect to mash molasses, grain, or other fermentable material, in any proportion or strength that he may desire, provided he shall give written notice to the storekeeper-gauger in charge of the distillery of the quantity of each kind of material which he proposes to mash and the strength of the beer. When desiring to change the quantity or kind of materials or the strength of the beer, he shall, before making such change, give written notice to the storekeeper-gauger in charge of the distillery.

STOREKEEPER-GAUGER'S RECORD AND REPORT

9. Storekeeper-gaugers shall keep a record and render a report on Form 1592, "U. S. Storekeeper-Gauger's Report of Operations at Distillery No. ------", in the form and manner prescribed by the Commissioner of Internal Revenue.

DISTILLER'S RECORD AND REPORT

10. Distillers shall keep a record and render a report on Form 1598, "Distiller's Report of Operations at Distillery No. ------", in the form and manner prescribed by the Commissioner of Internal Revenue.

USE OF REPORTS AND RECORDS DISCONTINUED

11. The use of the following reports and records is hereby discontinued:

Form 12: Distiller's Purchase Book.
Form 13: Distillation Book.
Form 14: Distiller's Monthly Account.
Form 16: Record of Storekeeper-Gauger at Rum Distillery.
Form 17: Record of Storekeeper-Gauger at Registered Distillery.
Form 17½: Supplement to No. 17.
Form 25: Distiller's Yeasting Book.
Form 45: Record of Registered Distilleries.
Form 88: Storekeeper-Gauger's Monthly Abstract.
Form 123: Report of Survey of Distillery.
Form 126: Distiller's Notice of Change in Capacity.

REGULATIONS MODIFIED

12. Regulations No. 7, concerning the tax on distilled spirits, July 10, 1914, as amended; Regulations 8, concerning the manufacture of whiskey, December 1929, as amended; and all Treasury Decisions which are inconsistent herewith, are hereby modified accordingly.

13. These regulations shall not apply to fruit brandy distillers or distilleries.

EFFECTIVE DATE OF REGULATIONS

14. The provisions of these regulations shall be effective on and after July 1, 1938, provided, however, that distillers shall install the testing equipment and apparatus prescribed by Paragraph 5 hereof on or before May 1, 1938, in order that Government officers may be properly trained in the use thereof prior to the effective date of these regulations.

[SEAL] ROSWELL MAGILL,
Acting Secretary of the Treasury.

Approved: March 11, 1938.

[F. R. Doc. 38-754; Filed, March 14, 1938; 3:25 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of March, A. D. 1938.

[File No. 34-13]

IN THE MATTER OF THE APPLICATION OF AVERY BRUNDAGE, CLAYTON J. HOWEL, GEORGE F. MANZELMAN AND JOHN A. DAWSON, AS BONDHOLDERS' PROTECTIVE COMMITTEE FOR 6% 20-YEAR FIRST MORTGAGE SINKING FUND GOLD BONDS OF UTILITIES ELKHORN COAL COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 12 (e) of the Public Utility Holding Company Act of 1935, and Rules 12E-1 to 12E-5, both inclusive, promulgated thereunder, having been duly filed with this Commission by Avery Brundage, Clayton J. Howel, George F. Manzelman, and John A. Dawson, acting as Protective Committee for the holders of 6% 20-Year First Mortgage Sinking Fund Gold Bonds of Utilities Elkhorn Coal Company, requesting permission to solicit deposits of 6% 20-Year First Mortgage Sinking Fund Gold Bonds of Utilities Elkhorn Coal Company and to represent such security holders in connection with the negotiation, formulation, or development of a reorganization plan for Utilities Elkhorn Coal Company;

It is ordered, That a hearing on such matter be held on April 1, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 28, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-755; Filed, March 15, 1938; 11:14 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of March, 1938.

[File No. 1-1638]

IN THE MATTER OF PRIMA COMPANY COMMON STOCK, NO PAR VALUE

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the Chicago Stock Exchange of 250,000 shares of Common Stock, No Par Value, of Prima Company shall be suspended or withdrawn; and

After appropriate notice, a hearing having been held in this matter on January 28, 1938, in Chicago, Illinois; and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Sections 13 (a) and 13 (b) of said Act, as amended, Rules KA1 and KA2, Form 10-K and the Instructions supplemental thereto, prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act, as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said Common Stock on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the Chicago Stock Exchange of 250,000 shares of Com-

mon Stock, No Par Value, of Prima Company shall be and the same is hereby withdrawn, effective as of March 14, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-756; Filed, March 15, 1938; 11:14 a. m.]

Thursday, March 17, 1938 — *No. 53*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49447]

GOLDEN GATE INTERNATIONAL EXPOSITION

ENTRY OF ARTICLES FOR EXHIBITION AT SAN FRANCISCO, CALIFORNIA, IN THE YEAR 1939

MARCH 12, 1938.

To Collectors of Customs and Others Concerned:

Attention is invited to the provisions of Public Resolution No. 29 of the Seventy-fifth Congress, approved May 18, 1937, which read as follows:

That all articles which shall be imported from foreign countries for the purpose of exhibition at the Golden Gate International Exposition to be held at San Francisco, California, in the year 1939, by the San Francisco Bay Exposition, or for use in constructing, installing, or maintaining foreign building, or exhibits at the said exposition, upon which articles there shall be a tariff or customs duty shall be admitted without payment of such tariff, customs duty, fees, or charges under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during or within three months after the close of the said exposition to sell within the area of the exposition any articles provided for herein, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury shall prescribe: *Provided*, That all such articles, when withdrawn for consumption or use in the United States, shall be subject to the duties, if any, imposed upon such articles by the revenue laws in force at the date of their withdrawal; and on such articles which shall have suffered diminution or deterioration from incidental handling or exposure the duties, if payable, shall be assessed according to the appraised value at the time of withdrawal from entry hereunder for consumption or entry under the general tariff law: *Provided further*, That imported articles provided for herein shall not be subject to any marking requirements of the general tariff laws, except when such articles are withdrawn for consumption or use in the United States, in which case they shall not be released from customs custody until properly marked, but no additional duty shall be assessed because such articles were not sufficiently marked when imported into the United States: *Provided further*, That at any time during or within three months after the close of the exposition any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, whereupon any duties on such article shall be remitted: *Provided further*, That articles which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond and imported articles in bonded warehouses under the general tariff law may be accorded the privilege of transfer to and entry for exhibition at the said exposition under such regulations as the Secretary of the Treasury shall prescribe: *And provided further*, That the San Francisco Bay Exposition shall be deemed, for customs purposes only, to be the sole consignee of all merchandise imported under the provisions of this Act, and that the actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody, together with the necessary charges for salaries of customs officers and employees in connection with the supervision, custody of, and accounting for articles imported under the provisions of this Act, shall be reimbursed by the San Francisco Bay Exposition to the Government of the United States under regulations to be prescribed by the Secretary of the Treasury, and that receipts from such reimbursements shall be deposited as refunds to the appropriation from which paid, in the manner provided for in section 524 of the Tariff Act of 1930.

(1) All packages containing imported merchandise to be entered under the provisions of the public resolution shall be plainly marked "Golden Gate International Exposition," and shall bear separate serial numbers.

(2) All importations of articles of a class requiring a consular invoice, intended for exhibition under the provisions of the public resolution and valued at more than $100, must be covered by consular invoices certified as provided in article 276 of the Customs Regulations of 1937. Such invoices shall contain the information prescribed under section 481 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1481) and shall show that the articles covered thereby are destined to the port of San Francisco, California, and are intended for exhibition or use at the Golden Gate International Exposition.

(3) The San Francisco Bay Exposition shall give to the collector of customs at San Francisco, California, such security for compliance with the public resolution and these regulations as may be approved by the Commisioner of Customs.

(4) The collector of customs at San Francisco, California, shall detail an officer to act as his representative at the Golden Gate International Exposition and shall station inside the exhibition buildings as many additional customs officers and employees as may be necessary properly to protect the revenue.

(5) All actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release or custody of imported articles, together with the necessary charges for salaries of customs officers and employees in connection with the supervision and custody of, and accounting for, articles imported for exhibition at the Golden Gate International Exposition or transferred thereto for exhibition, shall be reimbursed by the San Francisco Bay Exposition to the Government, payment to be made monthly to the collector of customs, San Francisco, California, for deposit to the credit of the Treasurer of the United States as a refund to the appropriation "Collecting the Revenue from Customs."

(6) Articles to be entered under these regulations which arrive at ports other than San Francisco shall be entered for immediate transportation without appraisement to the latter port in the manner provided by the general customs regulations.

(7) Articles which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond may be transferred to entry for exhibition at the Golden Gate International Exposition in the manner prescribed in article 453 (c) of the Customs Regulations of 1937, except that in each case an entry under paragraph (9) of these regulations shall be filed, which shall supersede any previous entry, and no new bond other than that specified in paragraph (3) shall be required. Imported articles in bonded warehouses under the general tariff law may be transferred to entry for exhibition at the Golden Gate International Exposition in the manner prescribed in article 323 of the Customs Regulations of 1937.

(8) The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (U. S. C., title 7, secs. 151 to 165, inclusive, and sec. 167), shall not be permitted except under permits issued therefor by the Bureau of Entomology and Plant Quarantine, Department of Agriculture, and in accordance with the plant quarantine regulations.

(9) Upon the arrival at the port of San Francisco of articles to be entered under these regulations the same should be entered on a special form of entry to read substantially as follows:

Entry for Exhibition

Entry No. ------

Entry at the port of San Francisco of articles consigned or transferred to the Golden Gate International Exposition under -------- I. T. No. ---- ex S. S. ---------- from ---------- on the ---------- day of ----------, 193--, for exhibition purposes under Public Resolution No. 29 of the Seventy-fifth Congress, approved May 18, 1937.

Mark	Number	Package and contents	Quantity	Invoice	Value

SAN FRANCISCO BAY EXPOSITION.
By ----------

(10) Upon such entry being made, the collector shall issue a special permit for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or, in the discretion of the collector, to the appraiser's stores for examination and subsequent transfer to the buildings in which they are to be exhibited or used. Upon the receipt of the articles at such buildings or at the appraiser's stores, the same shall be given a tentative appraisal prior to their exhibition or use. All imported exhibits so received in such buildings shall be kept segregated from domestic articles and imported duty-paid articles and shall not be removed from the exhibition building except in accordance with paragraph (12) of these regulations.

(11) If for any reason articles imported for entry under these regulations are not upon their arrival to be delivered immediately at an exhibition building, the importer should so indicate to the collector in writing, who will cause such articles to be placed in a bonded warehouse under a "general order permit" at the importer's risk and expense, and such articles may be entered at any time within one year from the date of importation for exhibition, as herein provided, or under the general tariff law, or for exportation. If not so entered within such period they will be regarded as abandoned to the Government.

(12) Any articles entered under these regulations may be withdrawn for exportation, for abandonment to the Government, for destruction under customs supervision, or for consumption or entry under the general tariff law, but not otherwise, at any time prior to the opening of the exposition, or at any time during or within three months after the close of the exposition. Upon the withdrawal of such articles for consumption or for entry under the general tariff law, or at the expiration of three months after the close of the exposition in the case of articles not previously so withdrawn, they shall be appraised with due allowance made for diminution or deterioration from incidental handling or exposure. Such appraisal shall be final in the absence of an appeal to reappraisement, as provided in section 501 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1501). In the case of such articles withdrawn for entry under the general tariff law under a warehouse bond or a bond conditioned upon exportation, the statutory period of the bond and any extension thereof shall be computed from the date of withdrawal from entry under the provisions of Public Resolution No. 29 of the Seventy-fifth Congress.

(13) At any time prior to the opening of the exposition, or at any time during or within three months after the close of the exposition, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, as provided in article 808 of the Customs Regulations of 1937.

(14) Any articles entered under these regulations which have not been withdrawn for consumption, entry under the general tariff law, or exportation, or which have not been abandoned to the Government or destroyed under customs supervision, before the expiration of three months after the close of the exposition, shall be regarded as abandoned to the Government.

(15) All entries under these regulations shall be made in the name of the San Francisco Bay Exposition, which shall be deemed for customs purposes the sole consignee of the merchandise entered under the Act and which shall be held responsible to the Government for all duties and charges due the United States on account of such entries; but, in the case of merchandise withdrawn from entry under these regulations, an entry under the general tariff law, in the name of any person duly authorized in writing by the San Francisco Bay Exposition, to make such entry, may be accepted by the collector, and the bond of the San Francisco Bay Exposition shall thereafter be considered as collateral security for any duties and charges accruing on the merchandise covered by any such entry, unless the entry is for permanent exhibition, in which case the liability of the San Francisco Bay Exposition, under its bond with respect to the articles covered by such entry, shall be terminated when the security required by the general tariff law has been given.

(16) The marking requirements of the Tariff Act of 1930 and the regulations promulgated thereunder will not apply to articles imported under these regulations except when such articles are withdrawn for consumption or use in the United States, in which case they shall be released from customs custody only upon a full compliance with the marking requirements of the tariff act and the regulations promulgated thereunder. No additional duty shall be assessed because such articles were not properly marked when imported into the United States.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-790; Filed, March 16, 1938; 11:26 a. m.]

[T. D. 49448]

NEW YORK WORLD'S FAIR 1939

ENTRY OF ARTICLES FOR EXHIBITION AT NEW YORK, NEW YORK, BEGINNING IN APRIL, 1939

MARCH 12, 1938.

To Collectors of Customs and Others Concerned:

Attention is invited to the provisions of Public Resolution No. 61 of the Seventy-fifth Congress, approved August 16, 1937, which read as follows:

That all articles which shall be imported from foreign countries for the purpose of exhibition at the international exposition to be held at New York City, New York, beginning in April 1939 by the New York World's Fair 1939, Incorporated, or for use in constructing, installing, or maintaining foreign buildings or exhibits at the said exposition, upon which articles there shall be a tariff or customs duty shall be admitted without payment of such tariff, customs duty, fees, or charges under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during and/or within three months after the close of the said exposition, to sell within the area of the exposition any articles provided for herein, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury shall prescribe: *Provided*, That all such articles, when withdrawn for consumption or use in the United States, shall be subject to the duties, if any, imposed upon such articles by the revenue laws in force at the date of their withdrawal; and on such articles, which shall have suffered diminution or deterioration from incidental handling or exposure, the duties, if payable, shall be assessed according to the appraised value at the time of withdrawal from entry hereunder for consumption or entry under the general tariff law: *Provided further*, That imported articles provided for herein shall not be subject to any marking requirements of the general tariff laws, except when such articles are withdrawn for consumption or use in the United States, in which case they shall not be released from customs custody until properly marked, but no additional duty shall be assessed because such articles were not sufficiently marked when imported into the United States: *Provided further*, That at any time during or within three months after the close of the exposition, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, whereupon any duties on such article shall be remitted: *Provided further*, That articles, which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond, and imported articles in bonded warehouses under the general tariff law may be accorded the privilege of transfer to and entry for exhibition at the said exposition under such regulations as the Secretary of the Treasury shall prescribe: *And provided further*, That the New York World's Fair 1939, Incorporated, shall be deemed, for customs purposes only to be the sole consignee of all merchandise imported under the provisions of this Act, and that the actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody, together with the necessary charges for salaries of customs officers and employees in connection with the supervision, custody of, and accounting for articles imported under the provisions of this Act, shall be reimbursed by the New York World's Fair 1939, Incorporated, to the Government of the United States under regulations to be prescribed by the Secretary of the Treasury, and that receipts from such reimbursements shall be deposited as refunds to the appropriation from which paid, in the manner provided for in section 524, Tariff Act of 1930.

(1) All packages containing imported merchandise to be entered under the provisions of the public resolution shall be plainly marked "New York World's Fair, 1939, Incorporated," and shall bear separate serial numbers.

(2) All importations of articles of a class requiring a consular invoice, intended for exhibition under the provisions

of the public resolution and valued at more than $100, must be covered by consular invoices certified as provided in article 276 of the Customs Regulations of 1937. Such invoices shall contain the information prescribed under section 481 of the Tariff Act of 1930 (U. S. C., title 19, sec 1481) and shall show that the articles covered thereby are destined to the port of New York, N. Y., and are intended for exhibition or use at the New York World's Fair 1939.

(3) The New York World's Fair, 1939, Incorporated, shall give to the collector of customs at New York, N. Y., such security for compliance with the public resolution and these regulations as may be approved by the Commissioner of Customs.

(4) The collector of customs at New York, N. Y., shall detail an officer to act as his representative at the New York World's Fair 1939 and shall station inside the exhibition buildings as many additional customs officers and employees as may be necessary properly to protect the revenue.

(5) All actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody of imported articles, together with the necessary charges for salaries of customs officers and employees in connection with the supervision and custody of, and accounting for, articles imported for exhibition at the New York World's Fair 1939 or transferred thereto for exhibition, shall be reimbursed by the New York World's Fair 1939, Incorporated, to the Government, payment to be made monthly to the collector of customs, New York, N. Y., for deposit to the credit of the Treasurer of the United States as a refund to the appropriation "Collecting the Revenue from Customs."

(6) Articles to be entered under these regulations which arrive at ports other than New York shall be entered for immediate transportation without appraisement to the latter port in the manner provided by the general customs regulations.

(7) Articles which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond may be transferred to entry for exhibition at the New York World's Fair 1939 in the manner prescribed in article 453 (c) of the Customs Regulations of 1937, except that in each case an entry under paragraph (9) of these regulations shall be filed, which shall supersede any previous entry, and no new bond other than that specified in paragraph (3) shall be required. Imported articles in bonded warehouses under the general tariff law may be transferred to entry for exhibition at the New York World's Fair 1939 in the manner prescribed in article 323 of the Customs Regulations of 1937.

(8) The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (U. S. C., title 7, secs. 151 to 165, inclusive, and sec. 167), shall not be permitted except under permits issued therefor by the Bureau of Entomology and Plant Quarantine, Department of Agriculture, and in accordance with the plant quarantine regulations.

(9) Upon the arrival at the port of New York of articles to be entered under these regulations the same should be entered on a special form of entry to read substantially as follows:

Entry for Exhibition

Entry No. ------

Entry at the port of New York of articles consigned or transferred to the New York World's Fair 1939 under ---------- I. T. No. ---- ex S. S. ---------- from ---------- on the ---------- day of ----------, 193--, for exhibition purposes under Public Resolution No. 61 of the Seventy-fifth Congress, approved August 16, 1937.

Mark	Number	Package and contents	Quantity	Invoice	Value

NEW YORK WORLD'S FAIR 1939, INCORPORATED.
By ----------

(10) Upon such entry being made, the collector shall issue a special permit for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or, in the discretion of the collector, to the appraiser's stores for examination and subsequent transfer to the buildings in which they are to be exhibited or used. Upon the receipt of the articles at such buildings or at the appraiser's stores, the same shall be given a tentative appraisal prior to their exhibition or use. All imported exhibits so received in such buildings shall be kept segregated from domestic articles and imported duty-paid articles and shall not be removed from the exhibition building except in accordance with paragraph (12) of these regulations.

(11) If for any reason articles imported for entry under these regulations are not upon their arrival to be delivered immediately at an exhibition building, the importer should so indicate to the collector in writing, who will cause such articles to be placed in a bonded warehouse under a "general order permit" at the importer's risk and expense, and such articles may be entered at any time within one year from the date of importation for exhibition, as herein provided, or under the general tariff law, or for exportation. If not so entered within such period they will be regarded as abandoned to the Government.

(12) Any articles entered under these regulations may be withdrawn for exportation, for abandonment to the Government, for destruction under customs supervision, or for consumption or entry under the general tariff law, but not otherwise, at any time prior to the opening of the exposition, or at any time during or within three months after the close of the exposition. Upon the withdrawal of such articles for consumption or for entry under the general tariff law, or at the expiration of three months after the close of the exposition in the case of articles not previously so withdrawn, they shall be appraised with due allowance made for diminution or deterioration from incidental handling or exposure. Such appraisal shall be final in the absence of an appeal to reappraisement, as provided in section 501 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1501). In the case of such articles withdrawn for entry under the general tariff law under a warehouse bond or a bond conditioned upon exportation, the statutory period of the bond and any extension thereof shall be computed from the date of withdrawal from entry under the provisions of Public Resolution No. 61 of the Seventy-fifth Congress.

(13) At any time prior to the opening of the exposition, or at any time during or within three months after the close of the exposition, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, as provided in article 808 of the Customs Regulations of 1937.

(14) Any articles entered under these regulations which have not been withdrawn for consumption, entry under the general tariff law, or exportation, or which have not been abandoned to the Government or destroyed under customs supervision, before the expiration of three months after the close of the exposition, shall be regarded as abandoned to the Government.

(15) All entries under these regulations shall be made in the name of the New York World's Fair 1939, Incorporated, which shall be deemed for customs purposes the sole consignee of the merchandise entered under the Act and which shall be held responsible to the Government for all duties and charges due the United States on account of such entries; but, in the case of merchandise withdrawn from entry under these regulations, an entry under the general tariff law, in the name of any person duly authorized in writing by the New York World's Fair 1939, Incorporated, to make such entry, may be accepted by the collector, and the bond of the New York World's Fair 1939, Incorporated, shall thereafter be considered as collateral security for any duties and charges accruing on the merchandise covered by any such entry, unless the entry is for permanent exhibition, in which case the liability of the New York World's Fair 1939, Incorporated, under its bond with respect to the articles covered by such entry, shall be terminated when the security required by the general tariff law has been given.

(16) The marking requirements of the Tariff Act of 1930 and the regulations promulgated thereunder will not apply to articles imported under these regulations except when such articles are withdrawn for consumption or use in the United States, in which case they shall be released from customs custody only upon a full compliance with the marking requirements of the tariff act and the regulations promulgated thereunder. No additional duty shall be assessed because such articles were not properly marked when imported into the United States.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-791; Filed, March 16, 1938; 11:26 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Biological Survey.

REGULATION DESIGNATING AS CLOSED AREA CERTAIN LANDS AND WATERS WITHIN, ADJACENT TO, AND IN THE VICINITY OF PEA ISLAND MIGRATORY WATERFOWL REFUGE, NORTH CAROLINA

By virtue of and pursuant to the authority vested in me by section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, U. S. C., title 16, sec. 704), and in conformity with Regulation 4 of the Migratory Bird Treaty Act Regulations, I, H. A. Wallace, Secretary of Agriculture, do hereby designate as closed area in or on which hunting, taking, capturing, or killing, or attempting to hunt, take, capture, or kill, migratory birds is prohibited, all areas of land and water in Dare County, North Carolina, not now owned or controlled by the United States within the following-described exterior boundary:

Beginning at a point on the north end of Pea Island on the south shore of Oregon Inlet, from which point a U. S. Biological Survey standard concrete post set for a witness corner bears south 0.50 chain distant;

Thence from said initial point, along the east side of Pea Island, with the meanders of Oregon Inlet and the Atlantic coast,

N. 81°29′ E., 7.72 chains;
S. 82°11′ E., 10.81 chains;
S. 71°52′ E., 12.00 chains;
S. 28°29′ E., 20.00 chains;
S. 28°53′ E., 26.43 chains;
S. 31°14′ E., 20.33 chains;
S. 36°56′ E., 12.57 chains;
S. 32°43′ E., 20.00 chains;
S. 31°34′ E., 40.71 chains;
S. 28°12′ E., 80.00 chains;
S. 32°07′ E., 8.59 chains;
S. 20°59′ E., 40.00 chains;
S. 23°06′ E., 15.21 chains;
S. 16°20′ E., 37.87 chains;
S. 16°21′ E., 215.39 chains;
S. 14°24′ E., 50.00 chains;
S. 5°58′ E., 40.00 chains;
S. 8°29′ W., 17.80 chains, to a point on the south end of Pea Island on the north shore of New Inlet;

Thence crossing New Inlet,

S. 31°58′ E., 12.30 chains, to a point on the northeast corner of Chicamacomico Island;

Thence along the east side of Chicamacomico Island with the meanders of the Atlantic coast,

S. 5°31′ E., 29.27 chains;
S. 9°53′ E., 80.11 chains;
S. 13°30′ E., 80.31 chains;
S. 10°35′ E., 62.50 chains;
S. 14°17′ E., 40.00 chains;
S. 12°58′ E., 40.00 chains;
S. 7°58′ E., 21.53 chains, to a point from which a U. S. Biological Survey standard concrete post set for a witness corner bears S. 81°40′ W., 2.00 chains distant;

Thence inland, crossing Chicamacomico Island,

S. 81°40′ W., 41.76 chains, to a point on the west side thereof, on the east shore of Pamlico Sound, from which point a U. S. Biological Survey standard concrete post set for a witness corner bears N. 81°40′ E., 0.10 chain distant;

Thence in Pamlico Sound,

N. 89°00′ W., 1.8 miles (approximately), to beacon No. 2;
S. 73½° W., 0.9 mile (approximately) to beacon No. 1;
N. 30° W., with a line between beacon No. 1 and the east side of Bunton Island, 11.7 miles (approximately), to a point about 4.7 miles from said island;
N. 67°00′ E., 5.5 miles (approximately), to the place of beginning.

In witness whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 16th day of March 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-792; Filed, March 16, 1938; 12:50 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

AMENDMENT TO ORDER No. 28, PARAGRAPH (7)

The Commission at a meeting held February 21, 1938, delegated to the Commissioner having authority under Paragraph 7 of Order No. 28 to determine and act upon all matters arising in connection with the administration of tariff circulars of the Commission adopted pursuant to Section 203 of the Act, the additional authority to act upon requests from various telegraph and telephone companies for extensions of time within which to file annual reports.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-760; Filed, March 16, 1938; 9:37 a. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL HOME LOAN BANKS

AMENDMENT TO PROCEDURE FOR ELECTION OF DIRECTORS OF BANKS

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsections (d) and (e) of Section 7 of the Federal Home Loan Bank Act (12 U. S. C. 1427 (e)), Exhibit F, annexed to the Rules and Regulations for the Federal Home Loan Banks, is hereby amended as follows:

1. Add the following sentence to Section 1: "Members shall be deemed to hold $1,000,000 of the capital stock of a Bank when they have subscribed to a total of $1,000,000 par value of such stock, made the statutory payments thereon, such subscriptions have been accepted and the subscribers have been notified."

2. Substitute "July 26th" for "August 1st" in the first and sixth lines of Section 5. Add "on the June 15th immediately preceding said July 26th" at the end of the first sentence in Section 5. Add after the word "class" in the eighth line of Section 5 the following: "and a list of those holding directorships at that time in the Bank of which it is a member, containing the name of each director, the date of expiration of the term of each director, the name and address of the member institution of which each Class director is an officer or director, the city and state of which each director-at-large is a resident, the name and address of the institution with which each director-at-large is affiliated or his present or former occupation, and indicating each Class directorship and each directorship-at-large." Add at the end of Section

5 the following sentence: "Each Bank will be furnished with copies of all of such information and ballots forwarded to its members."

3. Substitute "August 31st" for "September 5th" in the last line of Section 6.

4. Revise Section 7 to read as follows: "Each nominee will be informed of his nomination by telegram from the Board setting forth the requirements of the Federal Home Loan Bank Act for eligibility for the directorship or directorships for which he has been nominated and stating that it is necessary that the Board receive from him, within five days after said telegram has been forwarded, an acceptance of the nomination, an assertion of eligibility, and an expression of willingness to serve if elected, in order to have his name placed on an election ballot.

"In the event any person is nominated for two directorships, he will be so informed by the Board in the telegram referred to in the immediately preceding paragraph hereof and given an opportunity to state which of said directorships he prefers; or in the event any person is nominated for more than two directorships, he will be so informed by the Board by said telegram and given the opportunity to express his order of preference for the directorships for which he has been nominated. In each such case the nominee will be informed by said telegram that it is necessary that the Board receive from him, within five days after said telegram has been forwarded, an expression of preference in order to have his name placed on an election ballot. In each such case where the Board has received from a nominee an expression of preference within the time referred to and the other information as required herein, the Board will, in accordance with the preference expressed, designate the directorship for which the nominee shall be a candidate; however, if it appears to the Board that such action would impair, or result in such nominee having no chance of being elected on account of, the representation per State as set forth in Section 9 hereof, the Board will designate such person as a candidate only for the directorship which appears to the Board to be the most suitable.

"In the event a person is nominated for a Class directorship but there is no ballot showing the name and address of the member institution of which he is an officer or director, or in the event a person is nominated for a directorship-at-large and there is no ballot showing the city and State of which he is a resident and the name and address of the institution with which he is affiliated or his present or former occupation, the Board will in each such case endeavor to obtain such information from the nominee by telegram and will inform him that he must have such information in its possession within five days after said telegram has been forwarded, in order to have his name placed on an election ballot.

"On or before September 25th, the Board will mail to each member the first election ballots which will contain in alphabetical order the name of each nominee for each directorship to be filled in its Class and from the membership-at-large who has complied with the provisions of this Section. Each ballot for a Class directorship will also contain opposite the name of each nominee the name and address of the member institution of which he is an officer or director and each ballot for a directorship-at-large will also contain opposite the name of each nominee the city and State of which he is a resident and the name and address of the institution with which he is affiliated or his present or former occupation."

5. Insert the following as the last paragraph of Section 10: "Upon determining the results of the first election ballots, the Board will declare elected the candidates who should be declared elected in accordance with the provisions of these Rules and Regulations. The Board will thereupon spread said results upon its minutes and notify the directors elected of their election. The Board will also inform each Bank and each member thereof of the directors elected, and of any directorship or directorships for which final election ballots are to be cast."

6. Add at the end of Section 11 the following sentences: "There will be shown opposite the name of each candidate on each final election ballot the same information which will be shown on each first election ballot opposite the name of each nominee, as set forth in Section 7 hereof. Each Bank will be furnished with a copy of any final election ballots forwarded to its members."

7. Substitute the words "determining the results" for the words "the receipt" in the first line of Section 13. Revise the last sentence of Section 13 to read as follows: "The Board will thereupon spread said results upon its minutes and notify the directors elected of their election and each Bank and its members of the directors elected for that Bank."

8. Insert the following as the first sentence of Section 16: "No election envelopes received by the Secretary of the Board containing ballots will be opened until after the close of the polls."

Adopted by the Federal Home Loan Bank Board on March 15, 1938.

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 38-787; Filed, March 16, 1938; 11:23 a. m.]

Federal Savings and Loan Insurance Corporation.

AMENDMENT TO RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

PROVIDING FOR DETERMINING THE AMOUNT OF EACH INSURED ACCOUNT AND DEFINING AN "ACCOUNT OF AN INSURED MEMBER"

Be it resolved, That pursuant to authority vested in the Board of Trustees of the Federal Savings and Loan Insurance Corporation by subsection (a) of Section 402 of the National Housing Act (12 U. S. C. 1725 (a)):

1. The second sentence of subsection (b) of Section 18 of the Rules and Regulations for Insurance of Accounts is hereby amended to read as follows:

"The amount of each insured account will be determined from the security contract and from the books and records of the insured institution as of the last dividend or apportionment date, plus payments on, and less repurchases and withdrawals from, such insured account subsequent to such date, without regard to the actual value of the assets of the insured institution, without regard to provisions of the security contract which authorize the insured institution to retain or deduct, in the event of voluntary withdrawal or repurchase, any amount on account of premature withdrawal or repurchase, without regard to whether or not dividends are subject to recapture, and without regard to whether dividends are credited or apportioned to a series (being apportionable to each share account of the series)."

2. The first sentence of subsection (e) of Section 1 of the Rules and Regulations for Insurance of Accounts is hereby amended to read as follows:

"An 'account of an insured member' is the total amount credited (or when dividends are not credited, apportionable after having been apportioned to a series) to any member in withdrawable or repurchasable accounts, whether or not such accounts are subject to any pledge, whether or not such accounts are insured in full, and whether or not dividends are subject to recapture."

Be it further resolved, That, it being deemed this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Board of Trustees of the Federal Savings and Loan Insurance Corporation on March 15, 1938.

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 38-788; Filed, March 16, 1938; 11:23 a. m.]

AMENDMENT TO RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

REQUIRING INSURED INSTITUTIONS TO SUBMIT MONTHLY REPORTS

Be it resolved, That pursuant to authority vested in the Board of Trustees of the Federal Savings and Loan Insurance Corporation by subsection (a) of Section 402 of the National Housing Act (12 U. S. C. 1725 (a)), Section 14 of the Rules and Regulations for Insurance of Accounts is hereby amended by adding at the end thereof the following:

"The officers of each insured institution shall make a monthly report to the board of directors on forms prescribed by the Corporation which shall be filed as follows: one copy shall be forwarded to the Federal home loan bank of the district in which the insured institution is located and two copies to the Governor of the Federal Home Loan Bank System, Washington, D. C."

Be it further resolved, That, it being deemed that this is a major amendment affecting matters of general principle or policy, and not of an emergency character, pursuant to the provisions of subsection (a) of Section 22 of the Rules and Regulations for Insurance of Accounts, such amendment shall be effective 30 days from a date to be fixed by the Secretary to the Board, which date shall be fixed within 10 days from the date of the adoption of this resolution.

(This Regulation will become effective April 15, 1938.)

Adopted by the Board of Trustees of Federal Savings and Loan Insurance Corporation, on March 15, 1938.

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 38-789; Filed, March 16, 1938; 11:23 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3158]

IN THE MATTER OF JOSEPH ROSENFELD, INDIVIDUALLY AND OPERATING UNDER THE TRADE NAME RIGHTWAY INSTITUTE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, April 9, 1938, at ten o'clock in the forenoon of that day (Pacific Standard Time) in Room 548, Federal Office Building, San Francisco, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-761; Filed, March 16, 1938; 9:52 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3260]

IN THE MATTER OF DONALD REICHGOTT, INDIVIDUALLY AND TRADING AS AMERICAN NOVELTY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, March 21, 1938, at half past two o'clock in the afternoon of said day (eastern standard time), in room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-762; Filed, March 16, 1938; 9:52 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3277]

IN THE MATTER OF IRVING SCHWARTZ, INDIVIDUALLY, AND TRADING AS LLOYD'S DISTRIBUTING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, March 21, 1938, at half past two o'clock in the afternoon of said day (eastern standard time), in room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-763; Filed, March 16, 1938; 9:52 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 211]

ALLOCATION OF FUNDS FOR LOANS

MARCH 11, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Wisconsin 8045G4 Chippewa	$10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-757; Filed, March 16, 1938; 9:37 a. m.]

[Administrative Order No. 212]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 12, 1938.

I hereby amend Administrative Order No. 160 by rescinding $10,000 of the total $15,000 allotted to Iowa 8034W Jones, leaving the sum of $5,000 allotted to this project.

I hereby amend Administrative Order No. 165 by rescinding $5,000 of the total $10,000 allotted to Iowa 8038W Pocahontas, leaving the sum of $5,000 allotted to this project.

I hereby amend Administrative Order No. 154 by rescinding $15,000 of the total $25,000 allotted to Iowa 8039W Benton, leaving the sum of $10,000 allotted to this project.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-758; Filed, March 16, 1938; 9:37 a. m.]

[Administrative Order No. 213]

ALLOCATION OF FUNDS FOR LOANS

MARCH 12, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Projection designation:	*Amount*
Wisconsin 8046W1 Lafayette	$5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-759; Filed, March 16, 1938; 9:37 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of March, A. D. 1938.

[File No. 51-12]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to Section 12 (c) and Rule 12C-2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Columbia Gas & Electric Corporation, a registered holding company, for approval of certain dividend declarations and payments out of capital or unearned surplus, as follows:

(a) the charge to "Surplus at December 31, 1937", of the regular quarterly dividends in the amount of $1,421,767.50 on its Cumulative 6% Preferred Stock, Series A, $50,582.50 on its Cumulative Preferred Stock, 5% Series, and $154,825 on its 5% Cumulative Preference Stock, declared on January 6, 1938, and paid on February 15, 1938;

(b) the declaration, payment on or about May 15, 1938, and charge to "Surplus at December 31, 1937", of the regular quarterly dividends in the amount of $1,421,767.50 on its Cumulative 6% Preferred Stock, Series A, and $50,582.50 on its Cumulative Preferred Stock, 5% Series, and $154,825 on its 5% Cumulative Preference Stock;

(c) the declaration, payment on or about August 15, 1938, and charge to "Surplus at December 31, 1937", of the regular quarterly dividends in the amount of $1,421,767.50 on its Cumulative 6% Preferred Stock, Series A, and $50,582.50 on its Cumulative Preferred Stock, 5% Series, and $154,825 on its 5% Cumulative Preference Stock;

(d) the declaration, payment on or about November 15, 1938, and charge to "Surplus at December 31, 1937", of the regular quarterly dividends in the amount of $1,421,767.50 on its Cumulative 6% Preferred Stock, Series A, and $50,582.50 on its Cumulative Preferred Stock, 5% Series, and $154,825 on its 5% Cumulative Preference Stock;

(e) the declaration, payment on or about May 15, 1938, and charge to "Surplus at December 31, 1937", of a dividend on its Common Stock at the rate of not more than 25 cents a share and aggregating not more than $3,076,070.50; and

(f) the declaration, payment on or about November 15, 1938, and charge to "Surplus at December 31, 1937", of a dividend on its Common Stock at the rate of not more than the difference between 50 cents and the aggregate of all other dividends paid on the Common Stock in the calendar year 1938.

It is ordered, That a hearing on such matter be held on March 30, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 25, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-764; Filed, March 16, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of March, A. D., 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY ANDREW J. BARRETT, RESPONDENT, ON FEBRUARY 11, 1938, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE PAN AMERICAN-RICHARDSON-SAGARIN-ERWIN TRACT

ORDER FOR HEARING (UNDER RULE 340 (B)) AND ORDER DESIGNATING TRIAL EXAMINER

Andrew J. Barrett, having filed on February 11, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

(1) That the information given under Division II, Item 20 (b), concerning the percentage of water in fluid produced, is not correctly stated;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Robert P. Reeder, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 30th day of March, 1938, at 10:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-766; Filed, March 16, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of March A. D., 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY SOUTHWEST ROYALTIES COMPANY, RESPONDENT, ON FEBRUARY 10, 1938, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE PAN AMERICAN-RICHARDSON-SAGARIN-ERWIN TRACT

ORDER FOR HEARING (UNDER RULE 340 (B)) AND ORDER DESIGNATING TRIAL EXAMINER

Southwest Royalties Company, having filed on February 10, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

(1) That the information given under Division II, Item 20 (b), concerning the percentage of water in fluid produced, is not correctly stated;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Robert P. Reeder, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 30th day of March, 1938, at 10:30 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-765; Filed, March 16, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-214]

IN THE MATTER OF BOEING AIRPLANE COMPANY CAPITAL STOCK, $5.00 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Philadelphia Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $5.00 Par Value, of Boeing Airplane Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Tuesday, April 5, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-786; Filed, March 16, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-215]

IN THE MATTER OF CAMBRIA IRON COMPANY CAPITAL STOCK $50 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Philadelphia Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $50 Par Value, of Cambria Iron Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Tuesday, April 5, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-785; Filed, March 16, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-216]

IN THE MATTER OF INSURANCE COMPANY OF NORTH AMERICA CAPITAL STOCK, $10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Philadelphia Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $10 Par Value, of Insurance Company of North America; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Tuesday, April 5, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-784; Filed, March 16, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-217]

IN THE MATTER OF UNITED AIRCRAFT CORPORATION CAPITAL STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Philadelphia Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $5 Par Value, of United Aircraft Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Tuesday, April 5, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-783; Filed, March 16, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-218]

IN THE MATTER OF AMERICAN STEEL FOUNDRIES COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value of American Steel Foundries; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at

such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-782; Filed, March 16, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-219]

IN THE MATTER OF BALDWIN LOCOMOTIVE WORKS VOTING TRUST CERTIFICATES FOR $13 PAR COMMON STOCK

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Voting Trust Certificates for $13 Par Common Stock of Baldwin Locomotive Works; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-781; Filed, March 16, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-220]

IN THE MATTER OF BOEING AIRPLANE COMPANY COMMON STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $5 Par Value of Boeing Airplane Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-780; Filed, March 16, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-221]

IN THE MATTER OF CONSOLIDATED AIRCRAFT CORPORATION COMMON STOCK, $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value of Consolidated Aircraft Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-779; Filed, March 16, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-222]

IN THE MATTER OF ELECTRIC BOAT COMPANY COMMON STOCK, $3 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities

Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $3 Par Value of Electric Boat Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-778; Filed, March 16, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-223]

IN THE MATTER OF HOMESTAKE MINING COMPANY CAPITAL STOCK, $12.50 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1943, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $12.50 Par Value of Homestake Mining Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-777; Filed, March 16, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-224]

IN THE MATTER OF INSPIRATION CONSOLIDATED COPPER COMPANY COMMON STOCK, $20 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $20 Par Value of Inspiration Consolidated Copper Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-776; Filed, March 16, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-225]

IN THE MATTER OF INTERNATIONAL HYDRO-ELECTRIC SYSTEM $2 CUMULATIVE PARTICIPATING CLASS "A" $25 PAR STOCK

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the $2 Cumulative Participating Class "A" $25 Par Stock of International Hydro-Electric System; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-775; Filed, March 16, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-226]

IN THE MATTER OF INTERNATIONAL PAPER & POWER CO. COMMON STOCK, $15 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $15 Par Value, of International Paper & Power Co.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-774; Filed, March 16, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-227]

IN THE MATTER OF INTERNATIONAL PAPER & POWER COMPANY 5% CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the 5% Cumulative Convertible Preferred Stock, $100 Par Value, of International Paper & Power Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m., on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-773; Filed, March 16, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-228]

IN THE MATTER OF NATIONAL LEAD COMPANY COMMON STOCK, $10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $10 Par Value, of National Lead Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-772; Filed, March 16, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-229]

IN THE MATTER OF NIAGARA HUDSON POWER CORPORATION COMMON STOCK, $10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $10 Par Value, of Niagara Hudson Power Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securi-

ties and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-771; Filed, March 16, 1938; 11:03 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-230]

IN THE MATTER OF PARAMOUNT PICTURES, INC. COMMON STOCK $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value, of Paramount Pictures, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-770; Filed, March 16, 1938; 11:03 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-231]

IN THE MATTER OF PHILIP MORRIS & COMPANY, LTD., INC., COMMON STOCK, $10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for the extension of unlisted trading privileges to the Common Stock, $10 Par Value, of Philip Morris & Company, Ltd., Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-769; Filed, March 16, 1938; 11:03 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-232]

IN THE MATTER OF RADIO CORPORATION OF AMERICA $3.50 CUMULATIVE CONVERTIBLE FIRST PREFERRED, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the $3.50 Cumulative Convertible First Preferred, No Par Value, of Radio Corporation of America; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-768; Filed, March 16, 1938; 11:03 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 12th day of March, 1938.

[File No. 7-233]

IN THE MATTER OF THE UNITED CORPORATION $3 CUMULATIVE PREFERENCE STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Boston Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the $3 Cumulative Preference Stock, No Par Value, of The United Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. on Thursday, April 7, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-767; Filed, March 16, 1938; 11:03 a. m.]

Friday, March 18, 1938 *No. 54*

PRESIDENT OF THE UNITED STATES.

CLOSED AREA UNDER THE MIGRATORY BIRD TREATY ACT ARKANSAS

By the President of the United States of America

A PROCLAMATION

WHEREAS the Secretary of Agriculture has submitted to me for approval the following amendatory regulation adopted by him on January 22, 1938, under authority of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755):

Amendment of Regulation Designating Certain Land and Navigable Water Within or Adjacent to the White River Migratory Waterfowl Refuge, Arkansas, as a Closed Area Under the Migratory Bird Treaty Act

The regulation entitled "Regulation Designating Certain Land and Navigable Water Within or Adjacent to White River Migratory Waterfowl Refuge, Arkansas, as Closed Area Under the Migratory Bird Treaty Act," adopted by the Acting Secretary of Agriculture and approved by the President by Proclamation No. 2206 of October 14, 1936, is hereby amended to read as follows:

"I, H. A. Wallace, Secretary of Agriculture, by virtue of and pursuant to the authority vested in me by the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), and in extension of Regulation 4 of the Migratory Bird Treaty Act Regulations, do hereby designate as a closed area, in or on which hunting, taking, capturing, or killing, or attempting to hunt, take, capture, or kill, migratory birds is not permitted, all that area of land and navigable water in Monroe, Arkansas, Phillips, and Desha Counties, Arkansas, lying within the meander lines of the White River between its point of entry into Sec. 13, T. 3 S., R. 2 W., and the point where it leaves Sec. 29, T. 8 S., R. 1 W., Fifth Principal Meridian, and all lands and waters in Arkansas County, Arkansas, lying within the meander lines of La Grue Bayou between its point of entry into Sec. 19, T. 6 S., R. 1 W., and the point of its confluence with the White River in Sec. 7, T. 7 S., R. 1 W., Fifth Principal Meridian, and being within or adjacent to White River Migratory Waterfowl Refuge as established by Executive Order No. 7173, dated September 4, 1935"; and

WHEREAS upon consideration it appears that the foregoing regulation will tend to effectuate the purposes of the aforesaid Migratory Bird Treaty Act of July 3, 1918:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid Migratory Bird Treaty Act of July 3, 1918, do hereby approve and proclaim the foregoing amendatory regulation of the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 15" day of March in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL] FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2274]

[F. R. Doc. 38-799; Filed, March 17, 1938; 11:29 a. m.]

EXECUTIVE ORDER

EXTENDING THE LIMITS OF THE PORT OF ENTRY OF PHILADELPHIA, PENNSYLVANIA

By virtue of and pursuant to the authority vested in me by the act of August 1, 1914, ch. 223, 38 Stat. 609, 623 (U. S. C., title 19, sec. 2), the limits of the customs port of entry of Philadelphia, Pennsylvania, in Customs Collection District No. 11 (Philadelphia), are hereby extended to include the following territory:

Borough of Brooklawn, County of Camden, New Jersey;
Township of West Deptford, County of Gloucester, New Jersey;
Borough of National Park, County of Gloucester, New Jersey;
Borough of Paulsboro, County of Gloucester, New Jersey;
Township of Greenwich, County of Gloucester, New Jersey;
Township of Tinicum, County of Delaware, Pennsylvania.

This order shall become effective thirty days from the date hereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 15, 1938.

[No. 7840]

[F. R. Doc. 38-793; Filed, March 16, 1938; 2:15 p. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS FOR USE OF THE ALASKA RAILROAD

Alaska

By virtue of and pursuant to the authority vested in me by the act of March 12, 1914, ch. 37, 38 Stat. 305, 307, it is ordered as follows:

SECTION 1. Subject to all valid existing rights, the following-described lands are hereby withdrawn from settlement, location, sale, entry, or other disposition, and reserved for use by The Alaska Railroad:

Beginning at corner No. 1 MC, not monumented, on the left bank of the Innoko River, approximately 22.87 chains southwesterly from a point opposite the center of the Alaska Railroad warehouse, measured along the left bank of said river; the approximate geographic position is in latitude

62°11′ N., and longitude 159°39′ W. from Greenwich, from this corner a cottonwood post 6½ feet long, 6 ins. diam., set 2½ feet in the ground, bears S. 34°10′ E., 1.10 chs. distant, scribed C–1 WC MC ARRR.

Thence from said corner No. 1 by meander courses along the said left bank of river

N. 58°20′ E., 2.00 chs.
N. 60°24′ E., 5.00 chs.
N. 63°01′ E., 5.22 chs.
N. 60°39′ E., 10.65 chs.
N. 51°35′ E., 5.60 chs.
N. 44°46′ E., 5.92 chs.
N. 33°33′ E., 3.80 chs.
N. 31°43′ E., 4.30 chs.
N. 40°55′ E., 2.60 chs.
N. 30°51′ E., 2.90 chs.
N. 25°01′ E., 4.10 chs.
N. 16°05′ E., 6.14 chs.

to corner No. 2 MC, marked by a willow post 6½ feet long, 5 ins. diam., set 2½ feet in the ground, scribed C–2 MC ARRR; from said corner No. 2 a birch post 6 feet long, 6 ins. diam., set 2½ feet in the ground on the northeasterly boundary of the tract herein described, bears S. 34°10′ E., 10.40 chs., scribed WC C–3 ARRR;

Thence S. 34°10′ E., 20.64 chs., to corner No. 3, not monumented;

Thence S. 55°50′ W., 54.98 chs. to corner No. 4, not monumented; from this point a birch post 6 feet long, 6 ins. diam., set 2 feet in the ground on the southwesterly boundary of the tract herein described, bears N. 34°10′ W., distant 3.90 chs., scribed WC C–4 ARRR;

Thence N. 34°10′ W., 10.00 chs. to corner No. 1 MC, the point of beginning.

The tract herein described contains an area of 59.81 acres.

SECTION 2. This order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 15, 1938.

[No. 7841]

[F. R. Doc. 38–794; Filed, March 16, 1938; 2:15 p. m.]

DEPARTMENT OF THE INTERIOR.

General Land Office.

AIR NAVIGATION SITE WITHDRAWAL NO. 118, ARIZONA

MARCH 8, 1938.

It is ordered, under and pursuant to the provisions of section four of the act of May 24, 1928 (45 Stat. 728), that the following-described tract of public land in Arizona be, and it is hereby, withdrawn from all forms of appropriation under the public land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 4 E.,
sec. 8, S½S½SW¼ and
sec. 17, N½N½NW¼, 40 acres.

And it is further ordered that departmental orders of July 2 and August 26, 1902, November 14, 1916, and July 3, 1920, withdrawing certain lands for reclamation purposes be, and they are hereby, modified to the extent of permitting the above withdrawal. The said reclamation withdrawals shall take precedence for all purposes connected with the construction, operation and maintenance of the Salt River Project.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–795; Filed, March 17, 1938; 9:57 a. m.]

RECREATIONAL WITHDRAWAL NO. 54 REVOKED, ARKANSAS

MARCH 9, 1938.

The departmental order of November 14, 1933, withdrawing the following-described lands, upon the petition of the State of Arkansas, for recreational classification under the act of June 14, 1926, 44 Stat. 741, is hereby revoked:

FIFTH PRINCIPAL MERIDIAN

T. 6 N., R. 21 W.,
sec. 5, W½ of lot 1 of NW¼ (or SW¼NW¼);
T. 7 N., R. 21 W.,
sec. 31, SE¼SE¼;
T. 6 N., R. 22 W.,
sec. 2, E½ of lot 2 of NE¼ (or NE¼NE¼), and lot 1 of NE¼ and lot 1 of NW¼ (or S½N½);
sec. 4, W½ of lot 2 of NW¼ (or NW¼NW¼);
sec. 28, S½SE¼;
T. 7 N., R. 22 W.,
sec. 21, NW¼NW¼;
sec. 22, E½SE¼;
sec. 25, S½NE¼, S½S½;
sec. 26, SE¼SW¼;
sec. 30, N½ of lots 1 and 2 of SW¼ (or N½SW¼); W½NE¼, N½SE¼;
aggregating 955.19 acres.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–796; Filed, March 17, 1938; 9:58 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of March A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21–289]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE WHOLESALE JEWELRY INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding be, and the same are, hereby promulgated for the Wholesale Jewelry Industry.

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or other illegal practices prohibited, within the purview of the Federal Government, by acts of Congress as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. *Failure to disclose that watch is rebuilt or secondhand.*—(*a*) Selling, offering for sale, advertising, branding, labeling, or otherwise describing any watch as rebuilt when such watch has not in fact been rebuilt at a watch factory or other place properly equipped and used for this purpose, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

(*b*) In the sale or offering for sale of rebuilt or secondhand watches or watches containing rebuilt or secondhand movements, the failure to attach a tag to each such watch at the time of sale and delivery stating that the watch is rebuilt or secondhand is an unfair trade practice.

RULE 2. *Misuse of word "perfect" in describing gem stones.*—It is an unfair trade practice to use the word "perfect", or any other word, expression, or representation of similar import, as descriptive of any diamond, ruby, sapphire, emerald, or other gem stone, which discloses flaws, cracks, carbon spots, clouds, or other blemishes or imperfections of any sort when examined by a trained eye under a diamond eye loupe or other magnifier of not less than ten power, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

RULE 3. *Misuse of terms "perfect cut," "perfectly cut," "eye perfect," "commercially perfect," "commercially white," etc.*—It is an unfair trade practice to use the terms "perfect cut," "perfectly cut," "eye perfect," "commercially perfect," or "commercially white," or any other terms, expressions, or representations of similar import, in advertising, labeling, representing, or describing any diamond, when such terms are so used for the purpose or with the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

RULE 4. *Misuse of words "pearl," "diamond," "ruby," "sapphire," "emerald," "topaz," etc.*—It is an unfair trade practice to use the word "pearl," or the word "diamond," "ruby," "sapphire," "emerald," "topaz," or the name of any gem stone, in such manner as to mislead or deceive purchasers, prospective purchasers, or the consuming public into the erroneous belief that the product is a genuine pearl, diamond, ruby, sapphire, emerald, topaz, or other gem stone.[1]

RULE 5. *Misuse of words "real," "genuine," "natural," etc.*—It is an unfair trade practice to use the word "real," "genuine," or "natural," or any other word, expression, or representation of similar import, in any way as descriptive of any article or articles which are manufactured or produced synthetically or artificially, or which are artificially cultured or cultivated, or which are a simulation or imitation of or substitute for any precious or semi-precious stones, or pearls,

[1] Definitions (Rule 4):

Pearls.—Pearls are lustrous concretions, consisting essentially of alternating concentric layers of carbonate of lime and organic material found in the shells of certain mollusks, the result of an abnormal secretory process caused by an irritation of the mantle of the mollusk consequent on the natural intrusion into the shell of some foreign body.

Diamond.—A mineral consisting essentially of pure carbon crystallized in the isometric system, either colorless or colored. Its hardness is 10 and its specific gravity approximately 3.52.

Ruby.—The name "ruby" is given to the transparent to translucent variety of the mineral corundum. Its color is red with only limited traces of other tints or hues. The color is due to the presence of minute quantities of metallic oxides in the alumina. Its hardness is about 9 and its specific gravity varies from 3.94 to 4.10. The variety of ruby which exhibits a six-rayed star is known as the "Star Ruby."

Sapphire.—The name "sapphire" is given to the transparent to translucent blue, yellow, green, orange, purple, pink, or other colored or colorless varieties of the mineral corundum, except red, or red with only limited traces of other tints or hues. The color is due to the presence of minute quantities of metallic oxides in the alumina. Its hardness is about 9 and its specific gravity varies from 3.94 to 4.10. The translucent variety of corundum of any of these colors which exhibits a six-rayed star is known as the "Star Sapphire."

Emerald.—A deep green to light grass green transparent to translucent variety of the mineral beryl which crystallized in the hexagonal system. Its color is due to the presence of chromium. Its hardness ranges from 7½ to 8, and its specific gravity from 2.67 to 2.75. The still lighter green varieties of beryl are correctly known as either green beryl or aquamarine and should not be confused with emerald.

Topaz.—A mineral consisting essentially of aluminum fluosilicate crystallized in the orthorhombic system. Its characteristic color is yellow, varying from canary to deep orange, but it is also white, greenish, bluish, pink, rose, red, etc. Its hardness is 8 and its specific gravity varies from about 3.4 to 3.6. This mineral, known in the trade as precious topaz, should not be confused with a yellow to brown variety of quartz (silica) generally known as topaz quartz, citrine quarts, or citrine.

with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

RULE 6. *Misuse of terms "blue white," etc.*—(*a*) It is an unfair trade practice to use the term "blue white," or any other term, expression, or representation of similar import, as descriptive of any diamond which shows any color or any trace of any color other than blue or bluish, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

(*b*) The practice of tinting a diamond a bluish white or any other color for the purpose or with the tendency and capacity or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public as to the natural color, tint, or condition of such diamond, is an unfair trade practice.

RULE 7. *Misrepresentation as to character of business.*—Representing, in connection with the sale or distribution of any article or product of the industry, that the seller or distributor is a manufacturer, wholesaler, or importer of said article or product of the industry when such is not true in fact, or when such concern is not engaged in the manufacturing, wholesaling, or importing business, is an unfair trade practice.

RULE 8. *Misrepresentation of products.*—Making, or causing to be made or published, any false, misleading, or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, use, size, material, content, origin, nature, substance, preparation, manufacture, or distribution of any industry products, or in any other material respect, is an unfair trade practice.

RULE 9. *Misbranding.*—The false or deceptive marking or branding of products of the industry with respect to the grade, quality, quantity, use, size, material, content, origin, nature, substance, preparation, manufacture, or distribution of such products, or in any other material respect, is an unfair trade practice.

RULE 10. *Fictitious price tags.*—It is an unfair trade practice for any member of the industry, direct or indirectly, to use, or to supply to dealers, or to aid or assist in the use of, price tags which are knowingly false, fictitious, or exaggerated, or which such member has reason to believe are intended to be used or will be used by dealers or salesmen for the purpose of misleading or deceiving purchasers, prospective purchasers, or the consuming public in respect to price, value, or in any other material respect.

RULE 11. *Misuse of term "synthetic".*—Applying the term "synthetic" to gem stones other than those produced by artificial means and having essentially the same physical, chemical, and optical properties as the genuine or natural gem stones which such synthetic products simulate, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 12. *False invoicing.*—Withholding from or inserting in invoices any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 13. *Robinson-Patman Act.*—(*a*) *Prohibited discriminatory rebates, refunds, discounts, credits, and other price differentials.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other price differential, where such rebate, refund, discount, credit, or other price differential effects a discrimination in price between different purchasers of goods of like grade and quality and where either or any of the purchases involved therein are in commerce[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce[1] or to injure, destroy, or prevent com-

[1] See footnote on page 594.

petition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade:

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, distress sales under court process, or sales in good deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[1] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

Entered March 16, 1938.

[F. R. Doc. 38-797; Filed, March 17, 1938; 10:19 a. m.]

[1] As herein used, the word "commerce" means trade or commerce among the several states and with foreign nations, or between the District of Columbia or any territory of the United States and any state, territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any state or territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any territory or any insular possession or other place under the jurisdiction of the United States: Provided, That this shall not apply to the Philippine Islands.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of March, A. D. 1938.

[File No. 31-369]

IN THE MATTER OF THE APPLICATION OF KEYSTONE PIPE & SUPPLY COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Keystone Pipe & Supply Company for exemption as a holding company from the provisions of said Act; it being stated in said application that Public Service Corporation of Texas is applicant's only subsidiary which is a public utility company;

It is ordered, That a hearing on such matter be held on April 11, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 6, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-798; Filed, March 17, 1938; 11:08 a. m.]

Saturday, March 19, 1938 *No. 55*

PRESIDENT OF THE UNITED STATES.

APPLICATION OF DUTIES PROCLAIMED IN CONNECTION WITH CERTAIN TRADE AGREEMENTS

THE WHITE HOUSE,
Washington, March 15, 1938.

The Honorable HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

MY DEAR MR. SECRETARY: The Act to amend the Tariff Act of 1930, approved June 12, 1934 (48 Stat. 943), as extended by the Joint Resolution approved March 1, 1937 (Public Resolution No. 10, 75th Congress), provides in part that the duties proclaimed under its authority shall be applied to articles the growth, produce, or manufacture of all foreign countries, whether imported directly or indirectly. The Act further provides that the President may suspend the application of the proclaimed duties to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in the Act. Pursuant to these provisions of the Act, I hereby direct that the duties proclaimed on this date in connection with the trade agreement signed on March 7, 1938 with Czechoslovakia, and all other duties heretofore proclaimed in connection with trade agreements (other than the trade agreement with Cuba signed on August 24, 1934, and the trade agreement with Nicaragua signed on March 11, 1936) signed under the authority of the Act shall be applied from the effective date of such duties, or, as the case may be, shall continue to be applied on and from the date of this letter, only to articles the growth, produce, or manufacture of the countries hereinafter designated and to such articles, in the case of each country, respectively, for the period indicated in the numbered section below in which such country is designated.

1. In respect of the products of each country designated in this section, the proclaimed duties shall be applied from the effective date of such duties, or, as the case may be, shall continue to be applied on and from the date of this letter until thirty days from the date on which you are notified by me that the United States has ceased, or on a day certain will cease, to be bound by provisions of a treaty or agreement providing for most-favored-nation treatment in respect of customs duties.

Denmark
Portugal and its colonies and possessions

2. In respect of the products of each country designated in this section, the proclaimed duties shall be applied so long as such duties remain in effect and this direction is not modified in respect of such country.

Afghanistan
Albania
Andorra
Anglo-Egyptian Sudan
Arabian Shaikdoms not included under any other designation in this list
Argentina
Australia, Commonwealth of, and its mandated territories
Austria
Belgium and its colony and mandated territories
Bhutan
Bolivia
Brazil
Bulgaria
Canada
Chile
China
Colombia
Costa Rica
Cuba (subject to the provisions of the trade agreement concluded with Cuba on August 24, 1934)
Czechoslovakia
Danzig, Free City of
Dominican Republic
Ecuador
Egypt
El Salvador
Estonia
Ethiopia (Abyssinia)
Finland
France (including Algeria) and its colonies, dependencies, protectorates, and mandated territories
Great Britain and Northern Ireland, and British colonies, dependencies, protectorates, and mandated territories
Greece
Greenland
Guatemala
Haiti
Honduras
Hungary
Iceland
India
Iran (Persia)
Iraq
Ireland
Italy and its colonies and possessions
Japanese Empire and mandated territories and Kwantung Leased Territory
Latvia
Liberia
Lithuania
Luxemburg
Mexico
Monaco
Morocco
Nepal
Netherlands and its colonies
Newfoundland
New Hebrides
New Zealand and mandated territories
Nicaragua
Norway
Oman (Muscat)
Panama
Paraguay
Peru
Poland
Rumania
San Marino
Saudi Arabia
Siam
Spain and its colonies and possessions
Sweden
Switzerland and Liechtenstein
Turkey
Union of South Africa and mandated territory
Union of Soviet Socialist Republics
Uruguay
Vatican, City of the
Venezuela
Yemen
Yugoslavia

Because I find as a fact that the treatment of American commerce by Germany is discriminatory, I direct that the proclaimed duties shall not be applied to products of Germany.

My letters addressed to you on July 3, 1937, on December 18, 1937, and on January 25, 1938 with reference to duties proclaimed in connection with trade agreements signed under the authority of the Act of June 12, 1934 are hereby superseded.

You will please cause this direction to be published in an early issue of the weekly *Treasury Decisions*.

Very sincerely yours,

[SEAL] FRANKLIN D ROOSEVELT

[F. R. Doc. 38-810; Filed, March 18, 1938; 10:30 a. m.]

WAR DEPARTMENT.

QUARANTINE ANCHORAGE GROUND IN TAMPA BAY OFF QUARANTINE STATION AND RULES AND REGULATIONS RELATING THERETO

THE LAW

Section 7 of the River and Harbor Act approved March 4, 1915, provides as follows:

That the Secretary of War is hereby authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Revenue-Cutter Service[1] under the direction of the Secretary of the Treasury: *Provided*, That at ports or places where there is no revenue cutter available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of War. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or person in charge of such vessel shall be liable to a penalty of $100; and the said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of War.

Complaints arising under these regulations should be addressed to the Engineer in Local Charge, United States Engineer Suboffice, Tampa, Florida.

In pursuance of the aforementioned law the area in Tampa Bay, Florida, indicated on the plat hereto attached and more particularly described below is hereby established as a quarantine anchorage for vessels, and the following rules and regulations relating thereto are hereby adopted:

An area to the eastward of a line bearing 341° (N. 19° W.) through a point X, said point being 830 yards on a line bear-

[1] The Revenue Cutter Service is now included in the United States Coast Guard. (Act of January 28, 1915.)

ing 161° (S. 19° E.) from the front range of Tampa Bay Cut E; and to the northward of a line bearing 71° (N. 71° E.) through said point X; the above described area being a rectangle 2 nautical miles long, along the line bearing 71° from point X, and 2000' wide northerly from this line. (Point X is marked by a second class can buoy.)

THE RULES AND REGULATIONS

1. Vessels arriving at quarantine and awaiting inspection will anchor in the above prescribed quarantine anchorage area. As soon as cleared by the quarantine officer, vessels must vacate this area.

2. No vessels, excepting those awaiting quarantine inspection or clearance, will anchor in the quarantine anchorage area except in cases of great emergency. All vessels so anchored will vacate this area as soon as the emergency ceases.

3. All vessels anchored in the quarantine anchorage area shall lie at anchor with as short a cable as conditions will permit and anchors must be placed well within the anchorage area, so that no portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage area.

4. Nothing in these rules and regulations shall be construed as relieving the owner or persons in charge of any vessel from the penalties of the law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or other aids to navigation, or for otherwise violating law.

Approved, March 4, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-804; Filed, March 18, 1938; 9:51 a. m.]

SPECIAL REGULATIONS TO GOVERN THE OPENING OF THE DRAWBRIDGE OF THE LOUISVILLE & NASHVILLE RAILROAD ACROSS THE APALACHICOLA RIVER AT RIVER JUNCTION, FLORIDA

Supplemental to rules and regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries.

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

SEC. 5. That it shall be the duty of all persons owning, operating, and tending the drawbridges now built, or which may hereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of War the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two thousand dollars nor less than one thousand dollars, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court; *Provided*, That the proper action to enforce the provisions of this section may be commenced before any commissioner, judge, or court of the United States, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further*, That whenever, in the opinion of the Secretary of War, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any violation thereof shall be punished as hereinbefore provided.

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the opening of the drawbridge of the Louisville and Nashville Railroad across the Apalachicola River at River Junction, Florida.

1. The owner or agency controlling the bridge will not be required to keep a tender in constant attendance at the aforementioned bridge except during periods of high water as prescribed herein.

2. Whenever a vessel unable to pass under the closed bridge desires to pass through the draw span, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. Operators shall be placed in attendance on the bridge when the stage of the river rises to 14 feet on the gage, and they shall be maintained thereon for the duration of all stages above 14 feet.

5. The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can easily be read at any time, a copy of these regulations, together with a notice stating exactly how the representative specified in paragraph two may be reached.

6. The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

7. These regulations shall take effect and be in force on and after the date of approval hereof.

Approved March 5, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-805; Filed, March 18, 1938; 9:51 a. m.]

SPECIAL REGULATIONS TO GOVERN THE OPENING OF THE DRAWBRIDGE OF THE LOUISIANA HIGHWAY COMMISSION ACROSS SABINE RIVER ON THE HIGHWAY BETWEEN STARKS, LOUISIANA, AND DEWEYVILLE, TEXAS

Supplemental to rules and regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries.

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[*Here follows, in the original document, the text of Section 5 which appears in full in the document immediately preceding.*]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the opening of the drawbridge of the Louisiana Highway Commission across Sabine River on the highway between Starks, Louisiana, and Deweyville, Texas.

1. The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance at the above-named bridge.

2. Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of, or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owner of, or the agency controlling the bridge shall keep conspicuously posted on the bridge in such manner that it can be easily read at any time, a copy of these regulations together with a notice stating exactly how the representative specified in paragraph 1 of these regulations may be reached, giving his telephone number and location; and shall arrange for ready telephonic communication with him at any time, either from the bridge or from its immediate vicinity.

5. The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof.

Approved, March 5, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-806; Filed, March 18, 1938; 9:51 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 234]

AN ORDER REQUIRING CODE MEMBERS TO FILE WITH THE COMMISSION AND THE DISTRICT BOARDS "QUESTIONNAIRE AS TO ANALYSIS, METHODS OF MINING, PREPARATION OF COALS, AND OTHER INFORMATION"

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. Each code member shall, on or before the 15th day of April, 1938, execute in duplicate and file for each mine operated by him the form adopted by the Commission entitled "Questionnaire as to Analysis, Methods of Mining, Preparation of Coals, and Other Information", which forms will be furnished to each code member by the Commission.

Each code member shall file one copy of said form, duly executed, with the District Board for the district in which the mine reported upon is located and one copy with the Marketing Division of the National Bituminous Coal Commission at Washington, D. C.

2. Each code member shall report, as directed by the Questionnaire, all available information concerning the analytical qualities of each size of coal produced at each mine, as such coal is loaded into transportation facilities for shipment to market. Where such analytical information is not now available, the reporting code member shall so state.

3. Each Questionnaire shall be executed by the code member or his or its duly authorized officer or agent, and shall be verified by affidavit before a Notary Public or other officer authorized to administer oaths.

4. Subsequent to the filing of such Questionnaire, each code member shall give written notice to the proper District Board and to the Commission of any variation in the method of mining, preparation of coal or any other condition effecting a material change in the analysis or other qualities of any sizes of coal produced by such code member; such notice shall be given within ten (10) days after the occurence of such change and shall include a report as to the effect of such change on the analysis and other market qualities of the coals of such code member.

5. Each code member shall, on or before the 15th day of April, 1938, prepare in duplicate and file a report of all analyses used by it in the sale or offering for sale of each size of coal from each mine of the code member, such report to contain all analyses used on or after the 16th day of December, 1937, and prior to the date of this order. Such report shall be verified by affidavit, and shall include an exact copy of each analysis, together with a statement of the place and manner of sampling, the date of such analysis, and the person or firm by whom the coal was analyzed. One copy of such report shall be filed with the District Board and one copy with the Marketing Division of the National Bituminous Coal Commission at Washington, D. C.

6. Each code member shall from and after the date of this order file with the District Board and with the National Bituminous Coal Commission a copy of each analysis used in the selling or offering for sale of each grade and size of coal produced at each mine.

7. Each code member shall, on or before the 15th day of April, 1938, file with the National Bituminous Coal Commission, Washington, D. C., a report, duly verified by affidavit, of all analyses used in entering into contracts or orders for coal on a premium or penalty basis from and after the 1st day of January, 1937, to and including March 15, 1938. Such report shall include a statement of the analysis or analyses used in each case, the name and address of the purchaser of the coal, the size of coal and tonnage included in such order or contract, the price for such coal as agreed upon between the parties, and the precise terms and conditions of the premium or penalty agreement; such report shall also include detailed information as to each analysis made of coal delivered under such premium or penalty contract or order and the terms of each price adjustment made pursuant thereto. Like reports shall be made monthly on or before the 10th day of the succeeding month as to premium or penalty orders and contracts made or fulfilled subsequent to the date of this order.

8. The Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers Boards, and to the code members within the several districts.

By order of the Commission.

Dated this 16th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-801; Filed, March 17, 1938; 4:08 p. m.]

[Order No. 235]

AN ORDER AUTHORIZING ALL DISTRICT BOARDS TO SECURE FROM CODE MEMBERS PERTINENT DATA CONCERNING PLANT PERFORMANCE AND PHYSICAL CHARACTERISTICS OF PERFORMANCE OF THE COALS OF CODE MEMBERS, AND AUTHORIZING THE ANALYSES OF COALS OF CODE MEMBERS, DIRECTING THE FILING OF ANALYSES MADE BY THE DISTRICT BOARDS WITH THE COMMISSION, AND PROVIDING THE REQUIREMENTS FOR ALL ANALYSES SO MADE

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs;

1. For the purpose of securing more complete and more accurate information as to the qualities and characteristics of coals of code members, the several District Boards are hereby authorized either to provide facilities for the sampling and analyzing of coals or to enter into contracts for the performance of such work either by Governmental agencies having proper facilities therefor or by competent and disinterested private individuals or companies generally engaged in the business of sampling and analyzing coals.

The reasonable expense of providing and operating such facilities or of having such work performed shall be paid from the general funds of the District Boards and such expenditures shall be subject to the general supervision and approval of the Commission.

2. In order that the District Boards may have available for the classification of coals of code members pertinent data

concerning physical characteristics and characteristics of performance of the coals of code members, all District Boards are authorized to request from code members by questionnaire or by other means such information as will tend to establish these factors as to the code members' coals.

3. In any case where a code member has failed to file analyses of his coals as required by Order No. 234, or has filed the questionnaire required by such order, reporting that he has no analyses of his coals, the District Board in the district in which his mines are located may, when in its judgment necessary, cause an analysis or analyses to be made which will be truly representative of such code member's coals. Such analyses shall be in accordance with the requirements of Paragraph 8 hereof.

4. In any case where a code member has filed the analyses required by Order No. 234, but such analyses are not, in the judgment of the District Board, truly representative, such District Board may, in its discretion, cause a proper sample or samples of such coals to be taken and analyzed in accordance with the requirements of Paragraph 8 hereof and the code member in each such case shall permit representatives of the District Board to enter upon his property and take the necessary samples. In each such case, the District Board may, in its discretion, take samples and make analyses of every size of coal produced at a mine, or may designate a size or sizes to be analyzed which, in the judgment of the District Board, are truly representative of the coals of the code member or are sizes most highly competitive or likely to be involved in controversies as to classification or price.

5. The District Board shall promptly, after the completion of every analysis, file with the Commission a copy of the analysis, together with a statement as to the manner in which the sample was taken and analysis made.

6. The District Board may, with the written consent of any code member, request the production of analyses made by any consumer of the coals of the code member.

7. Each District Board shall, on or before the 15th day of April, 1938, and weekly thereafter, furnish to the National Bituminous Coal Commission at Washington, D. C., copies of all analyses obtained through independent sampling and analyses by the District Board, if such analyses have not previously been filed with the Commission by the District Board.

8. Unless otherwise directed, the analysis to be made in every case shall be proximate analysis and shall show the moisture, ash, volatile matter, fixed carbon and sulphur content of the coal, and ash softening temperature, together with the heating value in British thermal units on an "as received" basis.

All samples of coal taken for analysis purposes shall be tipple samples taken after final preparation of coal for shipment to market, in accordance with the standard methods developed by the United States Bureau of Mines in Technical Paper No. 133 and approved by the American Society for Testing Materials.

9. This order is not intended to, nor does it restrict or impair the authority of the District Board to propose classifications and prices or of the Commission to establish classifications and prices of any coal of any code member made upon the basis of such analytical information as is available to the District Board and to the Commission without having first obtained independent or other analyses of the coals as herein authorized to be made.

10. The Secretary of the Commission shall forthwith mail copies of this order to the Consumers' Counsel, to the Secretaries of all District Boards, and to all code members within their respective districts.

By order of the Commission.

Dated this 17th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-800; Filed, March 17, 1938; 4:07 p. m.]

[Docket No. 63-FD]

ORDER IN THE MATTER OF AN INVESTIGATION AND HEARING TO DETERMINE THE NATURE AND EXTENT OF INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF NORTH CAROLINA AND THE EFFECT OF SUCH COMMERCE ON INTERSTATE COMMERCE IN SUCH COAL

At a Regular Session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 16th day of March, 1938.

It appearing, That by Orders No. 2 and No. 48, the Commission upon its own motion entered into and conducted an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of North Carolina and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 16th day of March, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That intrastate transactions in bituminous coal in the State of North Carolina do not directly affect interstate commerce in such coal at the present time; and

Therefore, it is further ordered:

1. That bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of North Carolina is exempt from the provisions of Section 4 of the Bituminous Coal Act of 1937.

2. That the Commission may upon its own motion or upon petition of any code member, district board, state or political subdivision thereof, or the Consumers' Counsel, conduct a further investigation and hearing under the provisions of Section 4-A of the Bituminous Coal Act of 1937 for the purpose of determining the nature and extent of intrastate commerce in bituminous coal in the State of North Carolina and the effect of such commerce upon interstate commerce in such coal.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of North Carolina known to produce bituminous coal, publication thereof to be made three (3) times within ten (10) days from the date of this Order.

By order of the Commission.

Dated this 16th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-803; Filed, March 17, 1938; 4:09 p. m.]

[Docket No. 133-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF NEW MEXICO AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a Regular Session of the National Bituminous Coal Commission Held at its Offices in Washington, D. C., on the 16th day of March, 1938.

It appearing, That by Orders No. 2 and 168, the Commission upon its own motion entered into and conducted

an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of New Mexico and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 16th day of March, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of New Mexico directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in New Mexico in such intrastate commerce on the one hand the interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 15th day of April, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of New Mexico, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of New Mexico.

2. That any producer of bituminous coal in intrastate commerce within the State of New Mexico, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of New Mexico who is not upon the date of this Order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of New Mexico known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this Order.

By order of the Commission.

Dated this 16th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-802; Filed, March 17, 1938; 4:09 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

BULLETIN NO. 101—NEW MEXICO, SUPPLEMENT 8

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101, New Mexico, as amended by Supplement 1, Supplement 2, Supplement 3, Supplement 4, Supplement 5, and Supplement 6, is further amended by this supplement as follows:

Part VI, Section 4, Subsection A, is amended to read as follows:

"A. If the 1937 acreage of soil-depleting crops, except cotton, on any farm is in excess of the general soil-depleting base for the farm, a deduction shall be made from the payment which otherwise would be made with respect to such farm in an amount computed by multiplying the number of such excess acres by the rate per acre determined for the farm under Section I, Part II; *Provided, however*, That if the general soil-depleting base for the farm is less than 20 acres, such deduction shall be computed only with respect to the 1937 acreage of soil-depleting crops, except cotton, in excess of 20 acres."

Done at Washington, D. C., this 17th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-817; Filed, March 18, 1938; 12:45 p. m.]

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[General Order No. 259]

APPLICATION OF REPATRIATED ALIENS FOR READMISSION TO THE UNITED STATES

MARCH 17, 1938.

By virtue of and pursuant to the authority conferred by Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Rule 19, Subdivision K of the Immigration Rules of January 1, 1930, as amended, is amended by adding the following paragraph thereto:

"PAR. 2. An alien removed from the United States after May 13, 1937, in the manner described in paragraph 1 of this subdivision, is ineligible for admission to the United States either as an immigrant or a nonimmigrant without first receiving permission from the Secretary of State and the Secretary of Labor to apply for readmission. Applications for such permission must be made by letter addressed to the Secretary of State and the Secretary of Labor, which should be prepared in triplicate and contain the following information:

(*a*) When the alien was repatriated, from what address in the United States and to what place repatriated.

(*b*) The alien's purpose in desiring readmission.

(*c*) The alien's financial resources and how he will be supported while in the United States (Corroboratory evidence of this must be submitted with the application).

(*d*) The port through which the alien proposes to enter the United States.

The application must be delivered to the American Consul to whom the alien desires to apply for a visa, but in exceptional cases where this is not practicable, the application may be filed with the Commissioner of Immigration and Naturalization directly, or through the immigration officer in charge at the proposed port of entry. A parent or legal

guardian may make application for or on behalf of a child of tender years. An approved application for readmission is valid for all admissions to the United States after the date of its approval unless the alien shall again have been removed in the manner described in paragraph 1 of this subdivision. Officials of foreign governments, their suites, families, or guests who are covered by the last proviso of Section 3 of the Immigration Act of February 5, 1917 (39 Stat. 875; 8 U. S. C. 136 (r)) who may have been repatriated under paragraph 1 of this subdivision, may nevertheless be admitted to the United States without obtaining permission to apply for readmission."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:

FRANCES PERKINS, *Secretary.*

[F. R. Doc. 38-815; Filed, March 18, 1938; 12:27 p. m.]

[General Order No. 260]

DETENTION OF SEAMEN ON BOARD VESSELS ON WHICH EMPLOYED

MARCH 17, 1938.

By virtue of and pursuant to the authority conferred by Section 24 of the Immigration Act of 1924 (Act of May 26, 1924, 43 Stat. 166; 8 U. S. C. 222), and Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Rule 7, Subdivision E, Paragraph 4 of the Immigration Rules of January 1, 1930, as amended, is hereby canceled; Paragraphs 5 and 6 are renumbered respectively Paragraphs 4 and 5; and Paragraph 3 is amended to read as follows:

"PAR. 3. It shall be the duty of the inspector to order detained on board, in accordance with the provisions of Sections 19 and 20 of the Immigration Act of 1924 (43 Stat. 164; 8 U. S. C. 166-167), (1) any alien seaman who has been heretofore or is hereafter arrested and deported in pursuance of law and is found employed on any vessel arriving in the United States, unless he has obtained from the Secretary of Labor, in conformity with law, permission to reapply for admission and arrives at least one year after the date of deportation; and, (2) any alien seaman found subject to exclusion from admission to the United States under Section 23 of the Immigration Act of 1917 (39 Stat. 892; 8 U. S. C. 102, as amended by the Act of May 14, 1937, 50 Stat. 164), because he was removed from the United States subsequent to May 13, 1937, in the manner provided in the last mentioned statutes, unless permission to apply for readmission has been granted to such alien by the Secretary of State and the Secretary of Labor. In emergent cases seamen covered by this paragraph may be accorded hospital treatment as provided in the regulations relating to seamen."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:

FRANCES PERKINS, *Secretary.*

[F. R. Doc. 38-816; Filed, March 18, 1938; 12:27 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 82]

AUTHORITY OF REGIONAL MANAGERS OF EMERGENCY CROP AND FEED LOAN OFFICES TO SUBORDINATE, IN CERTAIN INSTANCES, LIENS ACQUIRED BY THE GOVERNOR AS SECURITY FOR UNPAID DROUGHT FEED LOANS

Whereas, the Governor of the Farm Credit Administration (hereafter referred to as Governor) made drought feed loans to farmers pursuant to the "Emergency Appropriation Act, fiscal year 1935" and Executive Order No. 6747, dated June 23, 1934; and

Whereas, many of such borrowers who have been unable to fully repay their drought feed loans have voluntarily given, and others will give, to the Governor chattel mortgages on their livestock as security for their loans, subject to the condition that the Governor, under certain circumstances, will subordinate his interest in such livestock; and

Whereas, some of such borrowers who have so given chattel mortgages on their livestock have requested that such subordination agreements be executed;

Now, therefore, it is hereby ordered that if any such drought feed loan borrower has obtained or hereafter obtains an advance or advances from any person or persons (including corporations) for the preservation of livestock on which such borrower theretofore has voluntarily given to the Governor a chattel mortgage as security for such drought feed loan, or as security for the purchase of additional livestock (such additions likewise having been made subject to the lien of the Governor's mortgage), the manager of the regional office of the Emergency Crop and Feed Loan Section in which such drought feed loan is held may, upon the request in writing of such borrower, execute for me and in my name and stead an agreement in the form prescribed by the Director of the Emergency Crop and Feed Loan Section subordinating in favor of the person or persons (including corporations) so making such advance or advances the lien of the Governor's mortgage to the extent of the sum or sums so advanced; and any such subordination agreement heretofore executed by any manager of a regional office of the Emergency Crop and Feed Loan Section in conformity with the foregoing conditions and limitations is hereby ratified and confirmed.

The provisions of this order shall remain in full force and effect until the same are amended or revoked by subsequent order.

[SEAL] W. I. MYERS,
Governor, Farm Credit Administration.

[F. R. Doc. 38-814; Filed, March 18, 1938; 12:05 p. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. IT-5510, IT-5511]

APPLICATIONS OF BATON ROUGE ELECTRIC COMPANY AND LOUISIANA STEAM GENERATING CORPORATION

ORDER FIXING DATE OF HEARING

MARCH 16, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon applications filed February 25, 1938, pursuant to Section 203 (a) of the Federal Power Act, by Baton Rouge Electric Company and Louisiana Steam Generating Corporation, both being Louisiana corporations domiciled at Baton Rouge, Louisiana, for orders authorizing the disposition by said Baton Rouge Electric Company of its entire facilities, other than its bus properties and business, to Gulf States Utilities Company, a Texas corporation with offices at Beaumont, Texas, and authorizing the disposition by said Louisiana Steam Generating Corporation of its entire facilities to said Gulf States Utilities Company;

The Commission orders that: A public hearing on said applications be held on April 4, 1938, at 10:00 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-808; Filed, March 18, 1938; 9:52 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 17th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-297]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE CARBON DIOXIDE MANUFACTURING INDUSTRY

PROMULGATION

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding and the rules in Group II which have been received by the Commission as expressions of the industry be, and the same are, hereby promulgated for the Carbon Dioxide Manufacturing Industry.

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition or other illegal practices prohibited, within the purview of the Federal Government, by acts of Congress as construed in the decisions of the Federal Trade Commission or the courts; and approximate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. Wilfully inducing or attempting to induce, by any false or deceptive means whatsoever, the breach of any lawful contract or contracts existing between competitors and their customers or their suppliers, or wilfully interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 2. Securing information from competitors concerning their businesses by false or misleading statements or representations or by false impersonation of one in authority, and the wrongful use thereof to unduly hinder or stifle the competition of such competitors, is an unfair trade practice.

RULE 3. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, or conditions of employment, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 4. It is an unfair trade practice for any member of the industry, by means of any monopolistic practices or through combination, conspiracy, coercion, boycott, threats, or any other unlawful means, directly or indirectly, to interfere with a competitor's right to purchase his products and supplies from whomsoever he chooses, or to sell the same to whomsoever he chooses.

RULE 5. The practice of imitating or causing to be imitated, or directly or indirectly promoting the imitation of, the trade-marks, trade names, or other exclusively owned symbols or marks of identification of competitors, having the capacity, tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 6. The false or deceptive marking or branding of products of the industry, with respect to the grade, quality, quantity, use, size, material, content, origin, preparation, manufacture, or distribution of such products, or in any other material respect, is an unfair trade practice.

RULE 7. The unauthorized use of the carbon dioxide containers of a competitor with the purpose and effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, or with the purpose and effect of unduly hampering, injuring, or prejudicing such competitor in his business, is an unfair trade practice.

NOTE.—Owing to the responsibility of the owners of containers involving compliance with Interstate Commerce Commission Specifications 3 or 3-A requiring periodic testing of such containers, the industry recommends that containers which bear a competitor's identification marks should not be used without owner's permission evidenced by bill of sale, lease, or other instrument, in writing.

RULE 8. Making, or causing to be made or published, any false, misleading, or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, substance, character, use, size, material, content, nature, origin, preparation, manufacture, or distribution of any industry product, or in any other material respect, is an unfair trade practice.

RULE 9. (*a*) *Prohibited discriminatory rebates, refunds, discounts, credits and other price differentials.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other price differential, where such rebate, refund, discount, credit, or other price differential effects a discrimination in price between different purchasers of goods of like grade and quality and where either or any of the purchases involved therein are in commerce[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce[1] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(*b*) *Prohibited brokerage and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such

[1] See footnote on page 602.

transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[1] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

RULE 10. The sale or offering for sale of any product of the industry by any false or deceptive means or device which has the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public as to the quality, quantity, substance, or size of such product, or in any other material respect, is an unfair trade practice.

RULE 11. It is an unfair trade practice for any member of the industry to use the practice of shipping goods on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade; provided, however, that nothing herein shall be construed or used as restricting or preventing consignment shipping or marketing of commodities in good faith and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

RULE 12. The use of the word "free" where not properly or fairly qualified when the article is in fact not free, with the tendency or capacity to mislead or deceive purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 13. Directly or indirectly to give, or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

RULE 14. The offering or giving of prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto, by any scheme which involves lottery, misrepresentation, or fraud, is an unfair trade practice.

RULE 15. The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice.

RULE 16. Withholding from or inserting in invoices, bills of lading, delivery receipts, or other documents of title, any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, bills of lading, delivery receipts, or other documents of title, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 17. The practice of selling goods below the seller's cost, with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or unreasonably restrain trade, is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 18. It is an unfair trade practice for any person, firm, partnership, corporation, or association to enter into or take part in, directly or indirectly, any agreement, understanding, combination, or conspiracy with one or more persons, firms, partnerships, corporations, or associations to fix, maintain, or enhance prices, or to suppress competition in respect of any product or products of the industry or other products, or to fix, maintain, or enhance prices or suppress competition by any other unlawful means.

RULE 19. For any member of the industry knowingly to aid or abet another member, or any other person, firm, or corporation, in the use of unfair trade practices, is an unfair trade practice.

Group II

The trade practices embraced in these Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. However, the failure to observe them under certain circumstances may result in an unfair method of competition contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. The industry approves the practice of handling business disputes between members of the industry and their customers in a fair and reasonable manner, coupled with a spirit of moderation and good will, and every effort should be made by the disputants themselves to compose their differences. If unable to do so they should, if possible, submit these disputes to arbitration.

RULE B. Contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market, or by buyers on a declining market, is condemned by the industry.

RULE C. The practice, by members of the industry, of selling merchandise and later permitting the purchaser to return it for credit or refund of purchase price, without good reason, creates waste and loss, increases the cost of doing business, to the detriment of both the industry and the public, and is condemned by the industry.

RULE D. Where products of the industry are sold at wholesale and retail in the same establishment, the failure on the part of such member correctly to differentiate between or identify the two types of transactions, where the result may be to create confusion and deception as to the character of the transaction in the minds of purchasers or prospective purchasers, is condemned by the industry.

RULE E. The use of buying power to force uneconomic or unjust terms of sale upon sellers, and the use of selling power to force uneconomic or unjust terms of sale upon buyers, are condemned by the industry.

RULE F. In the judgment of the industry the practice of filling or using, for the distribution of liquid carbon dioxide, cylinders or containers which do not meet the requirements of Interstate Commerce Commission Specifications 3 or 3–A, and the practice of using converters or liquefiers which do not conform to the safety regulations of the locality in which they are used, may be dangerous to life and property and such practices are therefore condemned by the industry. In localities in which no official applicable safety regulations are in effect it is recommended as a proper practice to follow in the interest of safety that converters or liquefiers used be such as have been manufactured or constructed to meet the requirements of the Unfired Pressure Vessel Code of the American Society of Mechanical Engineers (A. S. M. E.) in effect at the time of such manufacture or construction, or which have otherwise been manufactured or constructed in accordance with adequate safety requirements. The use of converters or liquefiers is not prohibited or condemned by this rule but safety precautions are deemed necessary and desirable in the interest of the public and for the welfare of the industry and are therefore recommended.

RULE G. The industry records its approval of the distribution among members of the industry of information covering delinquent and slow return of cylinder accounts as well as delinquent and slow credit accounts in so far as such may be lawfully done.

RULE H. To promote a business practice fair to both buyer and seller and to avoid unnecessary claims for evaporation during transportation, the industry recommends that buyers and sellers at the time of sale of carbon dioxide in solid form agree upon the place at which delivery should be made and weight taken.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

Entered March 17, 1938.

[F. R. Doc. 38–811; Filed, March 18, 1938; 10:54 a. m.]

[1] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, that this shall not apply to the Philippine Islands.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3134]

IN THE MATTER OF HERSHEY CHOCOLATE CORPORATION, A CORPORATION, PETER CAILLER KOHLER SWISS CHOCOLATES COMPANY, INC., A CORPORATION, CHOCOLATE SALES CORPORATION, A CORPORATION, LAMONT, CORLISS AND COMPANY, A CORPORATION, SANITARY AUTOMATIC CANDY CORPORATION, BERLO VENDING COMPANY, A CORPORATION, AND CONFECTION CABINET COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, March 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–809; Filed, March 18, 1938; 10:23 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of March, A. D. 1938.

[File No. 43–105]

IN THE MATTER OF AMERICAN LIGHT & TRACTION COMPANY, SAN ANTONIO PUBLIC SERVICE COMPANY

ORDER FIXING EFFECTIVE DATE FOR DECLARATION AND AUTHORIZING DISPOSITION OF SECURITIES

American Light & Traction Company, a registered holding company, and San Antonio Public Service Company, a subsidiary thereof, having filed a joint declaration, and amendments thereto, under Section 7 of the Public Utility Holding Company Act of 1935, regarding the exercise of a privilege or right to alter the rights of the holders of the outstanding First Mortgage and Refunding Gold Bonds of San Antonio Public Service Company by imposing additional conditions, limitations and restrictions on the authentication and delivery of additional bonds under the mortgage securing such bonds; the facts with respect to the proposed sale by American Light & Traction Company to institutional investors of not exceeding $3,270,000 principal amount of First Mortgage and Refunding Gold Bonds, Series B, 5%, due January 1, 1958, of San Antonio Public Service Company, having been submitted to the Commission in such declaration;

A hearing on such amended declaration having been held after appropriate notice; and the Commission having made and filed its findings herein;

It is ordered, That such declaration be and become effective forthwith with respect to the change of rights therein set forth, subject to the terms and conditions set forth in, and for the purposes represented by, such declaration.

It is further ordered, That the sale by American Light & Traction Company of the bonds which it owns of San Antonio Public Service Company be and it hereby is authorized, subject to the terms and conditions set forth in, and for the purposes represented by, said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–813; Filed, March 18, 1938; 11:09 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of March, 1938.

[File No. 1–1554]

IN THE MATTER OF RUTLAND RAILROAD COMPANY; RUTLAND-CANADIAN RAILWAY COMPANY FIRST MORTGAGE GOLD BONDS, 4%, DUE JULY 1, 1949 (UNSTAMPED)

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made applica-

tion to the Commission to strike from listing and registration the Rutland-Canadian Railway Company First Mortgage Gold Bonds, 4%, due July 1, 1949 (Unstamped), of Rutland Railroad Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock A. M., on April 12, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-812; Filed, March 18, 1938; 11:09 a. m.]

Tuesday, March 22, 1938 — *No. 56*

PRESIDENT OF THE UNITED STATES.

ARMY DAY

By the President of the United States of America

A PROCLAMATION

WHEREAS Senate Concurrent Resolution 5, 75th Congress, 1st Session (50 Stat. 1108), provides:

"That April 6 of each year be recognized by the Senate and House of Representatives of the United States of America as Army Day, and that the President of the United States be requested, as Commander in Chief, to order military units throughout the United States to assist civic bodies in appropriate celebration to such extent as he may deem advisable; to issue a proclamation each year declaring April 6 as Army Day, and in such proclamations to invite the Governors of the various States to issue Army Day proclamations: *Provided*, That in the event April 6 falls on Sunday, the following Monday shall be recognized as Army Day."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, pursuant to the aforesaid Concurrent Resolution, do hereby declare April 6, 1938, as Army Day, and I hereby invite the Governors of the several States to issue Army Day proclamations; and, acting under the authority vested in me as Commander in Chief, I hereby order military units throughout the United States, its Territories and possessions, to assist civic bodies in the appropriate observance of that day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the city of Washington this 18'' day of March, in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2275]

[F. R. Doc. 38-824; Filed, March 21, 1938; 11:12 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49456]

CUSTOMS REGULATIONS AMENDED—VESSEL SUPPLIES

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in sections 309 (a) and 313 (i) of the Tariff Act of 1930 (U. S. C., title 19, secs. 1309 (a) and 1313 (i)), article 1065 of the Customs Regulations of 1937 is hereby amended as follows:

Paragraph (c) is amended by deleting the word "or" in the third line; by inserting after the numeral "(7)" in the same line the following ", or (8)"; and by inserting after the numerals "1932" in the same line the following— ", as amended,".

Paragraph (g) is amended by deleting the comma in line eight after the amount "$25" and inserting in lieu thereof the following parenthetical provision: "(or $100 in the case of fuel oil or lubricating oil)".

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: March 16, 1938.

STEPHEN B. GIBBONS,
Assistant Secretary of the Treasury.

[F. R. Doc. 38-822; Filed, March 21, 1938; 9:34 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

THE FEDERAL RANGE CODE

RULES FOR THE ADMINISTRATION OF GRAZING DISTRICTS UNDER THE ACT OF JUNE 28, 1934 [48 STAT. 1269], AS AMENDED BY THE ACT OF JUNE 26, 1936 [49 STAT. 1976] COMMONLY KNOWN AS THE TAYLOR GRAZING ACT

(*Note: The Following Rules Will Supersede the Compiled Rules for the Administration of Grazing Districts, as Approved on June 14, 1937, as Far as the Heading "Fees", on Page 3, and Any Other Existing Rules Which May Be in Conflict Herewith. The Words "License" and "Licensee" as Used in All Rules Not Superseded Also Will Connote "Permit" and "Permittee."*)

SEC. 1. *Introductory; basic policy and plan of administration.*

PAR. *a.* Grazing districts will be administered for the conservation of the public domain and as far as compatible therewith to promote the proper use of the privately controlled lands and waters dependent upon it. Possession of sufficient land, water, or feed to insure a year-round operation for a certain number of livestock in connection with the use of the public domain will be required of all users.

PAR. *b. Preference applicants.*—Preference in the granting of grazing privileges will be given to those applicants within or near a district who are landowners engaged in the livestock business, bona-fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them. When the demands of all such preference applicants cannot be supplied, prior consideration will be given certain applicants in the manner hereinafter provided. Provision will be made for other applicants in so far as Federal range remains available.

PAR. *c. Permits; temporary licenses; expiration; revocation.*—Permits within the meaning of section 3 of the act will be issued as soon as the necessary data for term permits can be obtained. During the intervening period, in order to provide for the existing livestock industry, the issuance of temporary licenses will be continued. Licenses issued in 1938 will be operative only during that year or for such part of

1939 as may be considered the "winter grazing season," but in no event later than July 1, 1939. Upon the issuance of permits within any district or portion thereof, any unexpired licenses in such district or portion may be terminated upon notice by the Division of Grazing. Both licenses and permits will be revocable for violation of the terms thereof.

SEC. 2. *Definitions.*—Wherever used in rules, instructions or interpretations issued by the Division of Grazing, unless the context otherwise requires:

(*a*) *The act* means the Taylor Grazing Act (act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and any subsequent amendments thereto).

(*b*) *The Federal Range Code* means all of the rules pertaining to the administration of grazing districts.

(*c*) *Federal range* means land owned, leased, or otherwise controlled by the United States and administered by the Division of Grazing.

(*d*) *Property* means privately owned or controlled land or water used in range livestock operations.

(*e*) *Base property* means property used for the support of the livestock for which a grazing privilege is sought and on the basis of which the extent of a license or permit is computed, without reference to forest permits or complementary feed.

(*f*) *Forage land* means land the principal use of which is the production of natural or cultivated feed for livestock.

(*g*) *Land dependent by use* means forage land which was used in livestock operations in connection with the same part of the public domain, which part is now Federal range, for any three years or for any two consecutive years in the 5-year period immediately preceding June 28, 1934, and which is offered as base property in an application for a grazing license or a permit filed before June 28, 1938. Land will be considered dependent by use only to the extent of that part of it necessary to maintain the average number of livestock grazed on the public domain in connection with it for any three years or for any two consecutive years, whichever is the more favorable to the applicant, during the 5-year period immediately preceding June 28, 1934.

(*h*) *Land dependent by location* means forage land within or in the immediate neighborhood of the Federal range which is so situated and of such character that the conduct of economic livestock operations requires the use of the Federal range in connection with it.

(*i*) *Animal-unit month* means that amount of natural, cultivated, or complementary feed necessary for the complete subsistence of one cow for a period of one month. For the purpose of this definition, one (1) horse or five (5) goats or five (5) sheep will be considered the equivalent of one (1) cow.

(*j*) *Carrying capacity* means the amount of natural or cultivated feed grown or produced on a given area of forage land in one year, measured in animal-unit months.

(*k*) *Full-time water* means water which is suitable for consumption by livestock and available, accessible, and adequate for a given number of livestock during those months in the year for which the range is classified as suitable for use. Such water may be from one source or may be the aggregate amount available from several sources.

(*l*) *Prior water* is water which was used to service certain range for a given number of livestock during the 5-year period immediately preceding June 28, 1934. It will be considered prior water only to the extent of the greatest number of livestock that was properly grazed from it during said period.

(*m*) *Service value of water* means the number of livestock that can be grazed properly from such water.

(*n*) *Competing water* means water which is available, accessible, and adequate to service some part of the Federal range serviced by other water of the same class. In determining whether prior waters are competing, each shall be considered only to the extent that it is prior water.

(*o*) *Complementary feed* means the cultivated feed purchased by an applicant and fed to his range livestock for a period of time during which he is not using the Federal range.

(*p*) *Free-use applicant* means an applicant who is a resident within or near a grazing district, who owns or controls property dependent by location, and who is not an applicant for a regular grazing license or permit for the purpose of carrying on livestock operations.

(*q*) *Nonuse license or permit* means a license or permit issued to an applicant who is otherwise eligible for a regular license or permit but who either elects or is required, for conservation purposes, not to have livestock on the Federal range for a designated time.

SEC. 3. *Personal qualifications of applicants.*—An applicant for a grazing license or permit is qualified if he owns livestock and is

(*a*) A citizen of the United States or one who has filed his declaration of intention to become such, or

(*b*) A group, association, or corporation authorized to conduct business under the laws of the State in which the grazing district or any part thereof in which the applicant's license or permit is to be effective is located.

SEC. 4. *Rating and classification of properties.*

PAR. *a. Base properties; classes; carrying capacity of land; service value of water.*—For the purpose of determining the proper use of the base properties of all applicants and their relative dependence upon the Federal range, water conditions and other factors affecting livestock operations in the area will be considered. Base properties will be classified as land or water and further in the following manner:

Class 1.—Forage land dependent by both location and use, and full-time prior water.

Class 2.—Forage land dependent by use only, and full-time water.

Class 3.—Forage land dependent by location only, and full-time water which otherwise would be in class 2 but which was developed later than other water servicing a part or all of the same area.

Base property which is forage land will be rated for its carrying capacity. Water will be rated for its service value by deducting therefrom the carrying capacity of half of the area serviced jointly by competing water of the same class, and the carrying capacity of all private or State land located within such service area and not owned or controlled by the applicant. In computing the service value of water in class 3, there will also be deducted therefrom the carrying capacity of any portion of its service area which is serviceable from any other full-time water antedating it in development.

PAR. *b. National forest grazing permits; complementary feed.*—The value of national forest grazing permits and complementary feed will be computed in animal-unit months where necessary under these rules, but neither will be considered as base property.

SEC. 5. *Rating and classification of Federal range.*

PAR. *a. Carrying capacity; seasons and maximum annual period of use.*—For the purpose of determining what use of the Federal range will be most consistent with conservation purposes, the carrying capacity of each administrative unit or area in a grazing district will be rated, and each will be classified for the proper season or seasons, if necessary, of its use and for the maximum period of time for which any licensee or permittee will be allowed to use the Federal range lying therein during any one year.

PAR. *b. Wildlife; allowance for maintenance.*—In each grazing district a sufficient carrying capacity of Federal range will be reserved for the maintenance of a reasonable number of wild game animals, to use the range in common with livestock grazing in the district.

PAR. *c. Segregation of ranges for particular kinds of livestock.*—When the proper use of the Federal range or an orderly administration of the act requires it, certain areas may be designated as suitable exclusively for a certain kind

SEC. 6. *Issuance of licenses and permits.*

PAR. *a. Free-use licenses and permits.*—Licenses or permits first will be issued to free-use applicants for not to exceed 10 head of work or milch stock kept for domestic purposes, to be grazed on Federal range adjacent to or in the immediate neighborhood of the licensee's or permittee's property.

PAR. *b. Regular licenses and permits; order of issuance; number of livestock; reductions; allotments.*—Regular licenses or permits will be issued to qualified applicants to the extent that Federal range is available in the following preference order and amounts:

(1) To applicants owning or controlling land in class 1, licenses or permits for the number of livestock for which such base lands are rated for a period of time which when added to the period of use allowed on the Federal range for such livestock will equal 12 months; and to applicants owning or controlling water in class 1, licenses or permits to the extent of the service value of such water.

(2) To applicants owning or controlling base properties in class 2, licenses or permits computed in the same manner as those issued under subparagraph (1), above.

(3) To applicants owning or controlling base properties in class 3, licenses or permits computed in the same manner as those issued under subparagraphs (1) and (2), above.

In the event that Federal range remains available following the computation of licenses or permits in the foregoing manner, the licenses or permits to be issued to applicants owning or controlling any base property the use of which in connection with the Federal range is supplemented by the use of a forest permit or complementary feed will be augmented to the extent of the number of livestock which such forest permit or complementary feed would support for a period equivalent to the base-property period described above. In the event that there is insufficient Federal range to permit this maximum allowance, all such licenses or permits, irrespective of classes of base property, will be augmented in proportion to the carrying capacities of the base properties of the applicants.

PAR. *c. Applicants having more than one class of property; reductions; allotments; agreements.*—Nothing herein contained will prevent an applicant who owns or controls properties in more than one class from having such properties considered separately in the order and manner set forth in this section. If the issuance of licenses or permits based on properties in any particular class will exhaust the available Federal range, any junior class or classes of properties will be eliminated from consideration. If necessary to reach the carrying capacity of the Federal range either at the time of issuing licenses or permits or thereafter, reductions will be applied on an equal percentage basis. In making such reductions, the lowest class of properties will be reduced first, and no class of properties will be reduced until the properties in all lower classes have been reduced. Reductions in all cases will be made by reducing the numbers of livestock or the time on the Federal range area involved, or by both methods, provided that the regional grazier may recommend, for the approval of the Secretary of the Interior, a limit below which no license or permit in that area will be reduced. Allotments of Federal range will be made to licensees or permittees when conditions warrant and divisions of the range by agreement or by former practice will be respected and followed where practicable.

SEC. 7. *Transfers of base properties and licenses or permits.*

PAR. *a. Transfer of base property; effect.*—A transfer of a base property, whether by agreement or by operation of law, will entitle the transferee, if otherwise properly qualified, to all or such part of a license or permit as is based on the property transferred, and the original license or permit will be terminated or decreased by such transfer.

PAR. *b. Transfer of license or permit; limitation; effects; consent of owner or encumbrancer.*—A license or permit based on land in class 2 may be transferred to base land in any other class, provided that the total extent of the grazing privileges based on the latter land and thereupon to be in effect, including any license or permit already in existence and based on the latter land, may not exceed that based on the carrying capacity of such land. Such a transfer must be made with the written consent of the owners and encumbrancers, if any, of the property from which the transfer is made, except that when the licensee or permittee applying for the transfer is a tenant who has used such property in connection with some part of the public domain which is now Federal range for any three years or for any two consecutive years in the 5-year period immediately preceding June 28, 1934, and without such use by him the land could not be recognized as being dependent by use, he may transfer the license or permit without the consent of the owner or encumbrancer. When a license or permit is transferred from one property to another, the former shall lose its status as dependent by use.

SEC. 8. *Special rules for grazing districts.*—Whenever it appears to a regional grazier that local conditions in any district in his region make necessary the application of a special rule on any of the matters in this code in order better to achieve an administration consistent with the purposes of the act, he may recommend such a rule, supported by a factual showing of its necessity, to the Secretary of the Interior for approval.

F. R. CARPENTER,
Director of Grazing.

Approved: March 16, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-820; Filed, March 19, 1938; 9:30 a. m.]

Office of Indian Affairs.

[Order No. 486]

ESTABLISHMENT OF ROADLESS AND WILD AREAS ON INDIAN RESERVATIONS

OCTOBER 25, 1937.

Mechanization is growing in America with unprecedented acceleration. Activity after activity which for countless generations have been performed directly by manpower and area after area which have been subject only to the forces of nature are now dominated by machinery. To millions of Americans this constitutes an unmitigated blessing.

There are other millions who, while they appreciate the good which the machine can bring, also have an intense craving for another type of existence. They do not see why their life must be lived entirely in the world of machinery when there is ample space in this great country for another world as well. They cannot believe that with vast stretches which need not be used for the mechanical activities of our civilization, it is necessary to make every nook and corner of the country a part of the machine world and to wipe out all sizable traces of the primitive.

It is perfectly feasible to reserve for such people something of those wilderness values which they crave. A little advance planning and a little balancing of the claims of genuine conflicting values will make it possible to save many areas from mechanization. In the past a great many ideal wilderness areas have been opened by roads which were of no necessity and which have never returned in value of service anywhere near the investment which has been put into them. Had there been a little prior thought about a reasonable balance between primitive and developed areas, these roads would not have been constructed.

From the standpoint of the Indians, it is of special importance to save as many areas as possible from invasion by roads. Almost everywhere they go the Indians encounter the competition and disturbances of the white race. Most of them desire some place which is all their own. If, on reservations where the Indians desire privacy, sizeable areas are uninvaded by roads, then it will be possible for the Indians of these tribes to maintain a retreat where they may escape from constant contact with white men.

The present Indian Service policy emphasizes giving the Indians an opportunity to work for their livelihood. One important potential source of enjoyable and remunerative work is for the Indians to guide parties on camping and pack trips. It is obvious that no one is going to require a guide to travel down a road. The possibility for Indians to make money through guiding lies in maintaining portions of their reservations in a wild enough condition so that some one visiting them might conceivably need a guide.

In spite of these important advantages of maintaining roadless areas in general and especially of maintaining them on Indian reservations, it is nevertheless true that roadless areas are rapidly vanishing. The National Resources Board defines a roadless area as one which contains no provision for the passage of motorized transportation and which is at least 100,000 acres in forested country and at least 500,000 acres in non-forested country. Under such a definition there are left in the United States only 82 forest roadless areas and only 29 non-forest roadless areas. The number of such areas on Indian reservations is even more limited. Clearly, it seems exigent to set aside as many as practicable while the opportunity remains. Consequently, I am establishing the policy that existing areas without roads or settlements on Indian reservations should be preserved in such a condition, unless the requirements of fire protection, commercial use for the Indians' benefit or actual needs of the Indians clearly demand otherwise.

Under this policy, I hereby order that the following shall be established as roadless areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Rainbow Bridge	Navajo	1,590,000
Black Mesa	Navajo	820,000
Grand Canyon	Hualpai	530,000
Painted Desert	Navajo	525,000
Black River	San Carlos-Ft. Apache	325,000
Wind River Mountains	Shoshone	220,000
Columbia-San Poil Divide	Colville	155,000
Mt. Thomas	Ft. Apache	130,000
Mission Range	Flathead	125,000
Mesa Verde	Consolidated Ute	115,000
Goat Rocks	Yakima	105,000
Mt. Jefferson	Warm Springs	105,000

The boundaries of these areas are indicated in the appendix to this order.

There are certain areas, not large enough to be designated by the term roadless, from which it is nevertheless desirable to exclude provision for the passage of motorized transportation. Such tracts the National Resources Board has designated as *wild areas*. I hereby order that the following shall be established as wild areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Mt. Admas	Yakima	48,000
Fort Charlotte	Grand Portage	19,000
Grand Portage	Grand Portage	11,000
Cape Flattery	Makah	6,000

The boundaries of these areas are indicated in the appendix to this order.

Within the boundaries of these officially designated roadless and wild areas it will be the policy of the Interior Department to refuse consent to the construction or establishment of any routes passable to motor transportation, including in this restriction highways, roads, truck trails, work roads, and all other types of way constructed to make possible the passage of motor vehicles either for transportation of people or for the hauling of supplies and equipment. Foot trails and horse trails are not barred. Superintendents of reservations on which roadless and wild areas have been established will be held strictly accountable for seeing that these areas are maintained in a roadless condition. Elimination of any areas or parts of areas from the restriction of this order will be made only upon a written showing of an actual and controlling need.

JOHN COLLIER, *Commissioner.*

Approved, October 29, 1937.

HAROLD L. ICKES,
Secretary of the Interior.

APPENDIX

DETAILED DESCRIPTIONS OF ROADLESS AND WILD AREAS

Rainbow Bridge Roadless Area

The Rainbow Bridge Roadless Area embraces approximately 1,590,000 acres on the Navajo Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Beginning at Lees Berry on the Colorado River, thence south along U. S. Highway No. 89 to latitude 36°30', thence east to within one-half mile of the road to the Copper District, thence in a northerly direction, keeping one-half mile from said road, to the end of said road then turning and running in a southerly direction, keeping one-half mile east of said road, to latitude 36°30', then due east to the road running from Gap to Kaibab, thence in a northeasterly direction to Kaibab along said road, thence southeasterly along road to the junction with the road to Rainbow Lodge, thence north and northwest along the Rainbow Lodge road, keeping one-half mile west of road to its end, thence east and northeast around the southern side of Navajo Mountain to the end of the road to Dunns Trading Post, thence southeasterly along said road and the Rainbow Lodge Road to the junction with the road to Paiute Mesa, keeping one-half mile east of said roads, thence northerly with the Paiute Mesa road, keeping one mile west of said road, to a point one mile north of the Arizona-Utah State Line, thence south, one mile east of said road, to the junction with the road to Kayenta, thence following said road south, east and northeast to Kayenta, keeping one-half mile north of said road, thence north and northwesterly, keeping one-half mile west of the road from Kayenta to Copper Canyon, along said road to the southwest corner of T. 42 S., R. 14 E., Salt Lake Meridian, Utah, thence in an easterly direction one-half mile north of the road running north of Train Rock to the San Juan River, thence down said river in a westerly direction to its junction with Colorado River, thence southwesterly down the Colorado to Lees Ferry to the point of beginning.

Black Mesa Roadless Area

The Black Mesa Roadless Area embraces approximately 820,000 acres on the Navajo Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Beginning at Blue Canyon on the road from Red Lake to Hotevila, thence south to the north line of T. 31 N., thence east along township line until it cuts the road from Hotevila to Rough Rock, thence northeast along said road to Rough Rock, thence north and west along the road to Kayenta, thence southwest along the road to Red Lake, thence south and east along the road to Hotevila to Blue Canyon, the point of beginning.

Grand Canyon Roadless Area

Hualpai Reservation

The Grand Canyon Roadless Area embraces approximately 530,000 acres on the reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Beginning at the southeast corner of T. 27 N., R. 9 W., thence north to the 7th Standard Parallel, thence west about ½ mile to the southeast corner of T. 29 N., R. 9 W., thence north 12 miles to the southwest corner of T. 31 N., R. 8 W., thence east one mile to the southeast corner of sec. 31 of above township, thence north 5 miles to the southeast corner of sec. 6 in same township, thence 3 miles east to the southeast corner of sec. 3 in same township, thence north one mile to the northeast corner of sec. 3 in same township, thence east 9 miles to the southeast corner of sec. 30, T. 32 N., R. 6 W., thence north one mile to the northeast corner of same section, thence east to the eastern boundary of the reservation, thence north along the boundary to the Colorado

[1] See footnote on page 609.

River, thence down the south bank of the Colorado River in a westerly direction to the west boundary of the reservation, thence south along the west boundary to the township line between Tps. 30 and 29 N., thence east to the southeast corner of sec. 33, T. 30 N., R. 15 W. From this point the boundary parallels the roads keeping about one-half mile distant from them, the roads run as follows from the above points: Northeasterly to New Water Tank, thence southeasterly to Clay Tank, thence southeast and north to Meri Tank, thence south and east to Milkweed Tank, thence south and east to Box Canon Tank, thence south and east to Peach Spring, thence north along the road down Peach Spring Canon to the mouth of Hells Canon, thence back along the road to the junction with the road to Limestone Tank, thence east and north to Limestone Tank, thence south, east, and northeast to Blue Mountain Tank, thence northwest to the southwest corner of sec. 33, T. 27, N., R. 9 W., thence east along township line to the point of beginning.

Painted Desert Roadless Area

The Painted Desert Roadless Area embraces approximately 525,000 acres on the Navajo Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all the territory lying within the following boundaries:

Beginning at the Government Bridge on the Little Colorado River, thence southwesterly along Highway No. 89 to the south line of T. 28 N., thence east along said township line to the Little Colorado River, thence southeasterly up the Little Colorado River to Grand Falls, thence along the road from Grand Falls through Dinnebito and past the west side of Howell Mesa, in a northeasterly direction to the junction with the road from Hotevila to Tuba City, thence northwesterly along the Tuba City road to Moenkopi, thence southwesterly along the road from Moenkopi to Government Bridge, the point of beginning.

Black River Roadless Area

The Black River Roadless Area embraces approximately 325,000 acres on the San Carlos-Ft. Apache Reservations. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Beginning on the Black River where the eastern boundary crosses said river, thence west along the north line of the unsurveyed section 35, T. 4 N., R. 27 E., approximately 4¾ miles to the northwest corner of sec. 31, thence south one mile to the southeast corner of unsurveyed T. 4 N., R. 26 E., about 6½ miles to the road from Fort Apache to Maverick Mountain, thence west along said road to the unsurveyed line between secs. 3 and 4, T. 3 N., R. 25 E., thence south 3½ miles to the northwest corner of sec. 27, thence west one mile to the southeast corner of sec. 21, thence north to the road from Fort Apache to Maverick Mountain, thence in a west and northwesterly direction along said road to the south quarter corner of sec. 18, T. 4 N., R. 24 E., thence in a southwesterly direction along the road to Mud Spring Creek and continuing down Mud Spring Creek to Black River, thence down Black River in a westerly direction to the point where Black River crosses south line of T. 4 N., R. 21 E., thence south about two miles to the road running from Turkey Tanks to Point of Pines, thence in an easterly and southeasterly direction along said road past Point of Pines to the forks of the road to Willow Mountain and the surveyed location of the road to Circle Ranch, thence northeasterly, keeping one-half mile from the road, along the road to Willow Mountain, thence one mile south and turning in a southwesterly direction following the road back, keeping one-half mile from the road, to the location of the Double Circle Ranch road, thence in a southeasterly direction along said survey to the reservation boundary, thence north along the reservation boundary to the point of beginning.

[1] See footnote on page 609.

Wind River Mountain Roadless Area

The Wind River Mountain Roadless Area embraces approximately 220,000 acres on the Shoshone Indian Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting at the south boundary of the diminished portion of the Shoshone Reservation one mile west of where it is intersected by the line between R. 2 W., and R. 3 W.; thence running north along the section line to the mutual corner of sections 23, 24, 25, and 26, in T. 1 S., R. 3 W.; thence running west along the section line to the line between R. 3 W., and R. 4 W.; thence running north along the range line to the Wind River Base line; thence running west along the base line for one mile; thence running north along the section line to the head of the stillwater on the Bull Lake inlet; thence running approximately northwest to the eighth milepost on the reservation boundary; thence running south, southeast, and east along the reservation boundary to the starting point.

Columbia-San Poil Divide Roadless Area

The Columbia-San Poil Divide Roadless Area embraces approximately 155,000 acres on the Colville Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting on the north boundary of the reservation one-half mile east of the San Poil Valley Road, and thence running approximately south one-half mile back from the San Poil road until within one-half mile of the Bridge Creek road; thence running approximatey east one-half mile back from the Bridge Creek road to the township line between ranges 35 E. and 36 E.; thence north to the Eighth Standard Parallel; thence east to the township line between ranges 35 E. and 36 E.; thence north along this line to Lynx Creek; thence running approximately east on a line parallel to Lynx Creek and one-half mile north of it; thence approximately NW one-half mile west of Hall Creek and paralleling it to the north boundary of the reservation; and thence west to the starting point; provided that a finger extending into this area for a half mile on either side of the Thirty-Mile Creek road shall be excluded from this roadless area.

Mt. Thomas Roadless Area

The Mt. Thomas Roadless Area embraces approximately 130,000 acres on the Ft. Apache Indian Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting on the summit of Mt. Thomas and thence following the reservation boundary east and south to the Reservation Ranch; thence following the old road to Duk's Ranch to the crossing of Hurricane Creek; thence following down Hurricane Creek to its junction with Big Bonito; thence down Big Bonito to where it crosses the Odart Mt. truck trail; thence following the Odart Mt. truck trail to a point one mile west of the line between R. 24 E. and R. 25 E., thence north along the section line to the Turkey Creek truck trail; thence along the Turkey Creek truck trail to the section line between sections 8 and 9, T. 5 N., R. 25 E.; thence north along the section line to the southwest corner Sec. 4, T. 7 N., R. 25 E; thence east along the section line to the southeast corner of Sec 3; thence north two miles, thence east to the southeast corner of section 29, T. 8 N., R. 26 E., thence north to Springerville Highway, thence east to reservation boundary, thence south along reservation boundary to the summit of Mt. Thomas, the point of beginning.

Mission Range Roadless Area

The Mission Range Roadless Area embraces approximately 115,000 acres on the Flathead Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Beginning at the point where the reservation boundary cuts the east line of sec. 33, T. 25 N., R. 19 W., thence south to the southeast corner of sec. 34, T. 23 N., R. 19 W., thence one mile west to the northwest corner of sec. 3, T. 22 N., R. 19 W., thence south to the southwest corner of sec. 34, T. 21 N., R. 19 W., thence east about ¾ mile to the northwest corner of sec. 3, T. 20 N., R. 19 W., thence south to the southwest corner of sec. 34, same township, thence east to the northwest corner of sec. 2, T. 19 N., R. 19 W., thence south to the road from St. Ignatius to Upper Jocko Lake, thence along said road to the summit of the Mission Mountains going round the east side of Tabor Reservoir, thence north along the east boundary of the reservation to the northeast corner of said reservation, thence west along the boundary to the point of beginning.

Mesa Verde Roadless Area

The Mesa Verde Roadless Area embraces approximately 115,000 acres on the Consolidated Ute Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting at the point where U. S. Highway No. 666 cuts the northern boundary of the reservation, thence south along said highway to the junction with the road in sec. 31, T. 33 N., R. 17 W., thence along the road running east to Floyd Reservoir, thence along the road running to Kraft Reservoir, thence along the east and north boundary of the reservation to the point of beginning.

Goat Rocks Roadless Area

The Goat Rocks Roadless Area embraces approximately 105,000 acres on the Yakima Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting at the point where the reservation boundary cuts the west line of sec. 18, T. 11 N., R. 14 E., thence along the boundary in a westerly and southerly direction to the point where road cuts the boundary near Potato Hill, thence east along the road to the southwest corner of sec. 31, T. 10 N., R. 12 E., thence east along the township line to the south ¼ corner of sec. 33 in same township, thence north along the road leading toward Fish Lake, keeping one-half mile west of the road, then around the end of this road and back on the east side of the road to the junction of the roads on the main Klickitat River, thence following the west side of the road to Panther Creek Ranger Station, thence paralleling the road up the Klickitat River to Sheep Point and around its end and back to Panther Creek Ranger Station, keeping one-half mile from the road, thence north along the Old Reservation line to the point of beginning.

Mt. Jefferson Roadless Area

The Mt. Jefferson Roadless Area embraces approximately 105,000 acres on the Warm Springs Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting at the junction of the Metolius and Whitewater River, thence up the Whitewater River to the line between secs. 20 and 21, T. 10 S., R. 10 E., thence north to the road from Warmsprings to Peters Pasture, thence west along said road approximately two miles, thence south around the road to Bald Peter and back again, keeping one-half mile from said road, thence west along the Peters Pasture road about one mile to the road up Lion's Head Creek, thence up said road to the line between secs. 4 and 5, T. 10 S., R. 9 E., thence north to the northwest corner of sec. 33, T. 9 S., R. 9 E., thence west about 1½ miles around road and back, keeping half-mile from road, to the line between secs. 27 and 28, T. 9 S., R. 9 E., thence north about four miles, thence west around the road to Trout Lake and back, keeping one-half mile from road, to the line between secs. 3 and 4, T. 9 S., R. 9 E., thence north 1¼ miles, thence west about 3½ miles to Blue Lake and back to the line between secs. 14 and 15, T. 8 S., R. 9 E., keeping one-half mile away from road, thence north to the east ¼ corner of sec. 3, same township, thence west about 3¼ miles and back around road, to the southwest corner of sec. 35, T. 7 S., R. 9 E., keeping one-half mile from road, thence north to the road up Bunchgrass Creek, thence up said road to the boundary of the reservation, thence south, east, and north along the boundary to the point of beginning.

Mt. Adams Wild Area

The Mt. Adams Wild Area embraces approximately 48,000 acres on the Yakima Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Beginning at the point where the Mt. Adams Highway cuts the southern boundary of the reservation, thence north along the highway to the junction with the road to Potato Hill, thence north and west along the road to Potato Hill to the west boundary of the reservation, thence south along the boundary to the point of beginning.

Fort Charlotte Wild Area

The Fort Charlotte Wild Area embraces approximately 19,000 acres of the Grand Portage Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Beginning at the southeast corner of sec. 3, T. 63 N., R. 5 E., thence in a northeasterly direction approximately 5 miles along west side of Highway No. 61 to the crossing of the Pigeon River, thence up the south bank of the Pigeon River in a westerly direction to the west boundary of the reservation in the northwest corner of sec. 35, T. 64 N., R. 4 E., approximately 11½ miles, thence southeasterly along the west boundary to the range line between ranges 4 and 5, east, approximately 2 miles, thence south along the range line to the ¼ corner of sec. 31, T. 63 N., R. 5 E., approximately 4¼ miles, thence east to Highway No. 61, approximately 1¼ miles, thence in a northeasterly direction along the west side of said highway to the center north and south line of sec. 15, approximately 4¼ miles, thence north to the north ¼ corner of sec. 10, approximately 1⅛ mile, thence east one-half mile to the point of beginning.

Grand Portage Wild Area

The Grand Portage Wild Area embraces approximately 11,000 acres on the Grand Portage Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting at the southwest corner of sec. 2, T. 63 N., R. 5 E., thence east ½ mile to the ¼ corner on the south line of said sec. 2, thence south one mile to the ¼ corner on the south side of sec. 11, thence east 3½ miles to the southeast corner of sec. 8, T. 63 N., R. 6 E., thence north 1½ miles to the east ¼ corner of sec. 5, thence east approximately 2 miles to the east boundary of the reservation, thence northwesterly along the boundary approximately 3½ miles to the Pigeon River, thence west along the south bank of said river approximately 2¼ miles to Highway No. 61, thence southwesterly along the east side of highway approximately 5 miles to the point of beginning.

Cape Flattery Wild Area

The Cape Flattery Wild Area embraces approximately 6,000 acres on the Neah Bay Reservation. It is indicated on the accompanying map[1] by the green lines, and may be described as all that territory lying within the following boundaries:

Starting on the shore of Neah Bay where the east and west line through the center of sec. 10, T. 33 N., R. 15 W., touches the shore, thence west along said line to the west ¼ corner of sec. 10, thence south 1¼ mile to the northeast corner of allotment No. 84, thence west one mile to the line between secs. 16 and 17, thence south ¼ mile to the southeast corner

[1] The maps referred to were part of the original document as filed with the Division of the Federal Register, The National Archives.

of sec. 17, thence west 1½ mile to the south ¼ corner of sec. 18, thence north ½ mile to the center of sec. 18, thence west to the Pacific Ocean, thence northerly along the shore line to the point of beginning.

[F. R. Doc. 38-807; Filed, March 18, 1938; 9:52 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Entomology and Plant Quarantine.

[B. E. P. Q.—395 (Revised), Superseding B. E. P. Q.—383]

LIST OF ARTICLES EXEMPT FROM CERTIFICATION REQUIREMENTS UNDER THE JAPANESE BEETLE QUARANTINE NO. 48

MARCH 18, 1938.

In accordance with the third proviso in Notice of Quarantine No. 48, as revised, the following articles, being considered innocuous as carriers of infestation, are exempted from the restrictions of this quarantine and of the rules and regulations supplemental thereto:

1. Balsam pillows, when composed of balsam needles only.
2. Banana stalks, when crushed, dried, and shredded.
3. Dyed moss and dyed sand, when heat treated, and when so labeled on the outside of each container of such materials.
4. Floral designs or "set pieces," including wreaths, sprays, casket covers, and all formal florists' designs. Bouquets and cut flowers not so prepared are not exempted.
5. Greensand or greensand marl, when treated and so labeled on the outside of each container of such materials.
6. Herbarium specimens, when dried, pressed, and treated, and when so labeled on the outside of each container of such materials.
7. Manure, peat, compost, or humus, (1) when dehydrated and either shredded, ground, pulverized, or compressed, or (2) when treated with crude petroleum or any other product having high potency as an insecticide, and when so labeled on the outside of each commercial container of such materials, or (3) peat when imported and shipped in the unopened original container and labeled as to each container with the country of origin. (See also item 15.)
8. Moss, sheet (*Calliergon schriberi*) and (*Thuridium recognitum*).
9. Mushroom spawn, in brick, flake, or pure culture form.
10. Orchids, cut.
11. Orchid plants, when growing exclusively in Osmunda fiber.
12. Osmunda fiber, Osmundine, or orchid peat (*Osmunda cinnamomea*, and *O. claytoniana*).
13. Resurrection plant or birds'-nest moss (*Selaginella lepidophylla*).
14. Silica sand or similar material, when processed by crushing, grinding, and dehydrated silica or other rock, and when so labeled on the outside of each container of such material, or when so designated on the waybill accompanying bulk carload shipments of the material.
15. Sphagnum moss, bog-moss, or peat moss (Sphagnaceae) when dried and baled. (See also item 7.)
16. Submerged aquatic plants, including *Crytocoryne* spp.

Eel-grass or tape-grass (*Vallisneria spiralis*)
False loosestrife (*Ludwigia mulertii*)
Fish grass, Washington plant, or Fanwort (*Cabomba caroliniana*)
Hornwort or coon tail (*Ceratophyllum demersum*)
Water milfoil (*Myriophyllum* spp.)
Water weed, ditch-moss, water thyme, or anacharis (*Elodea canadensis*).

[SEAL] AVERY S. HOYT,
Acting Chief, Bureau of Entomology and Plant Quarantine.

[F. R. Doc. 38-829; Filed, March 21, 1938; 12:47 p. m.]

Farm Security Administration.

DESIGNATION OF ADDITIONAL COUNTIES

NEW JERSEY

MARCH 21, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New Jersey State Farm Security Advisory Committee, and supplementary funds having been allotted from the State Corporation Trust Fund for the purpose of making loans in accordance with the policy of said Title, the following additional counties are hereby designated as those in which loans, in accordance with the policy of said Title, shall be made for the fiscal year ending June 30, 1938:

Hunterdon, Middlesex, Salem.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-828; Filed, March 21, 1938; 12:47 p. m.]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

EXTENSION AND MAINTENANCE OF CREDIT BY BROKERS, DEALERS, AND MEMBERS OF NATIONAL SECURITIES EXCHANGES

AMENDMENT NO. 1 OF REVISED REGULATION T

On March 17, 1938, the Board of Governors of the Federal Reserve System adopted the following resolution:

Resolved, That, effective March 21, 1938, Regulation T is amended in the following respects:

1. Section 4 (b) of said regulation is amended by striking out the word "and" after the semicolon in paragraph (2) of said section, by striking out the period at the end of paragraph (3) of said section and substituting therefor a semicolon and the word "and", and by adding at the end thereof a new paragraph reading as follows:

"(4) A transaction consisting of a withdrawal of cash or registered or exempted securities from the account shall not be subject to the restrictions specified in the second paragraph of section 3 (b)."

2. The second paragraph following paragraph (2) of section 4 (c) of said regulation is amended by adding the following sentence at the end thereof:

"If any shipment of securities is incidental to the consummation of a transaction in a special cash account, the period applicable to the transaction under the foregoing provisions of this paragraph or the preceding paragraph shall be deemed to be extended by the number of days required for such shipment, except that the total extension of such period pursuant to this sentence shall not exceed 7 days for any transaction."

3. Paragraph (2) of section 4 (f) of said regulation is amended to read as follows:

"(2) Effect and finance, for any member of a national securities exchange who is registered and acts as an odd-lot dealer in securities on the exchange, such member's transactions as an odd-lot dealer in such securities, or effect and finance, for any joint adventure in which the creditor participates, any transactions in any securities of an issue with respect to which all participants, or all participants other than the creditor, are registered and act on a national securities exchange as odd-lot dealers."

Adopted by the Board of Governors of the Federal Reserve System on March 17, 1938.

[SEAL] S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 38-823; Filed, March 21, 1938; 9:55 a. m.]

FARM CREDIT ADMINISTRATION.

[FCA 83]

AMENDMENT OF RULES AND REGULATIONS FOR PRODUCTION CREDIT ASSOCIATIONS

CONVERSION OF CLASS A INTO CLASS B STOCK

Pursuant to the provisions of the Farm Credit Act of 1933, particularly sections 20 and 80 (b) thereof, the first paragraph of section 104 j (1) of the Rules and Regulations for Production Credit Associations is hereby amended to read as follows:

"Upon the authorization of a loan to a holder of class A stock, and in accordance with such terms and conditions as may be prescribed by the corporation so long as it is the holder of any stock of the association, the board of directors may permit the conversion of such class A stock, at its fair book value (not to exceed par), into class B stock to the extent necessary to give the holder sufficient class B stock for the authorized loan; provided, that any remaining fractional share of class A stock may be included in the number of shares of class A stock to be so converted."

[SEAL] S. M. GARWOOD,
Production Credit Commissioner.

[F. R. Doc. 38-827; Filed, March 21, 1938; 12:12 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDMENTS OF THE LOAN SERVICE CHAPTER OF THE MANUAL MODIFYING PROCEDURE FOR THE PERSONAL SERVICING OF ACCOUNTS

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by subsections (a) and (k) of Section 4 of said Act as amended, Sections 203, 204, and 205 of the Loan Service Chapter of the Manual be amended in the following respects:

Section 203 (c) is hereby amended to read as follows:

The Control Supervisor shall be responsible for assignment of cases for personal service and for review of the action taken.

Section 204 is amended by inserting at the beginning of the first paragraph the words "Except as otherwise provided in this Chapter".

The second paragraph of Section 204 is hereby amended to read as follows:

Where necessary in the interest of more effective operation, procedure adopted under the authority contained in this resolution may provide for the handling of Loan Service operations directly between Regional and District Offices or between Regional Offices and Field Representatives; and upon the recommendation of the Deputy General Manager in Charge of Loan Service, procedure may be adopted which will authorize Loan Service personnel to service accounts located across a state line, when the General Manager determines that such action will be productive of administrative economy or for the best interest of the Corporation.

Section 205 is amended by adding the following language at the end of said Section:

The provisions of this Section are subject to special procedure authorized by the Board in Section 204.

Adopted by the Federal Home Loan Bank Board on March 16, 1938.

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 38-821; Filed, March 19, 1938; 10:05 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 214]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 16, 1938.

I hereby amend Administrative Order No. 159 by rescinding $5,000 of the total $10,000 allotted to Iowa 8036W Wright, leaving the sum of $5,000 allotted to this project.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-818; Filed, March 19, 1938; 9:29 a. m.]

[Administrative Order No. 215]

ALLOCATION OF FUNDS FOR LOANS

MARCH 17, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Minnesota 8048A2 Anoka	$10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-819; Filed, March 19, 1938; 9:30 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of March, A. D. 1938.

[File No. 43-108]

IN THE MATTER OF LOUISIANA STEAM GENERATING CORPORATION AND GULF STATES UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Louisiana Steam Generating Corporation and Gulf States Utilities Company, subsidiary companies of Engineers Public Service Company, a registered holding company, regarding the issue and sale by said Louisiana Steam Generating Corporation of a maximum principal amount of $1,000,000 of its promissory notes due November 19, 1940, to bear interest at the rate of 3% per annum (interest to be adjusted annually) to Engineers Public Service Company, as evidence of loans to declarant for construction purposes and regarding the assumption by said Gulf States Utilities Company of said notes, if and when it shall acquire the properties and business of said Louisiana Steam Generating Corporation;

It is ordered, That a hearing on such matter be held on April 4, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue

or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-825; Filed, March 21, 1938; 11:23 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of March, 1938.

[File No. 1-2140]

IN THE MATTER OF BOTANY CONSOLIDATED MILLS, INC. CERTIFICATES OF DEPOSIT REPRESENTING TEN-YEAR SECURED 6½% SINKING FUND GOLD BONDS, DUE APRIL 1, 1934

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Certificates of Deposit representing Ten-Year Secured 6½% Sinking Fund Gold Bonds due April 1, 1934, of Botany Consolidated Mills, Inc.; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on April 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-826; Filed, March 21, 1938; 11:23 a. m.]

Wednesday, March 23, 1938 *No. 57*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

PRESCRIBING REGULATIONS RELATING TO ANNUAL LEAVE OF GOVERNMENT EMPLOYEES

By virtue of and pursuant to the authority vested in me by section 7 of the act of March 14, 1936, entitled "An Act to provide for vacations to Government employees and for other purposes" (49 Stat. 1161), I hereby prescribe the following regulations governing the granting of annual leave to civilian officers and employees of the United States, the District of Columbia, and all corporations included within the provisions of section 6 of the said act, except as provided in PART III hereof:

Part I. Definitions

SEC. 1. As used in these regulations:

(a) "Employee" and "employees" include officer and officers, respectively.

(b) "Permanent employees" are those appointed without limitation as to length of service or for definite periods in excess of 6 months.

(c) "Temporary employees" are those appointed for definite periods of time not exceeding 6 months.

(d) "Emergency employees" are those whose compensation is paid from emergency funds and whose tenure of appointment is limited to the period for which the emergency funds are available.

(e) "Indefinite employees" are those appointed for the "duration of the job" and those who, although paid only when actually employed, are continuously employed or required to be available for duty for a period of not less than one month, as distinguished from part-time or intermittent employees.

(f) "Accumulated leave" means the unused annual leave not exceeding 60 days which has accrued during years prior to the current year.

(g) "Current annual leave" means the leave authorized by statute for the current year.

(h) "Current accrued leave" means that part of the current annual leave which bears the same ratio to the current annual leave that the expired part of the current year bears to the full year.

(i) "Unaccrued leave" means that part of the current annual leave which bears the same ratio to the current annual leave as the unexpired part of the current year bears to the full year.

Part II. General Provisions

SEC. 2. Permanent employees who have been employed continuously for one year or more and who do not contemplate leaving the service during the current calendar year shall be entitled to current annual leave with pay at any time during such calendar year not in excess of 26 days. In addition to current annual leave such employees may be granted accumulated leave not to exceed 60 days.

SEC. 3. Leave shall be granted at such time or times as may be deemed to be in the public interest.

SEC. 4. (a) Unaccrued leave shall be granted only with the express understanding that if such leave is not later earned during the calendar year, deductions will be made for the unearned portion from any salary due the employee, or from any deductions in the retirement fund to the credit of the employee.

(b) In cases of separations where employees are indebted to the Government for advanced annual leave such indebtedness shall be charged against the employee on the basis of the salary rate obtaining during the period of advanced annual leave and on the basis of one day's pay for each day of absence, exclusive of Sundays and holidays. Absences for fractional parts of a day will be charged proportionately. This provision shall not apply in cases of death, retirement for age or disability, reduction of force, or when an employee who is not eligible for retirement is unable to return to duty because of disability, evidence of which shall be supported by an acceptable certificate from a registered practicing physician or other practitioner.

SEC. 5. Employees, other than temporary, entering the service by original appointment or by reinstatement shall be entitled to annual leave with pay accruing at the rate of 2⅙ days for each month of service rendered until the completion of one year's service. Emergency and indefinite employees shall be entitled to annual leave with pay accruing at the rate of 2⅙ days per month for each month of service, and may in addition thereto be granted accumulated leave.

SEC. 6. An employee transferred or reappointed without break in service from one permanent position to another permanent position within the same or a different governmental agency shall at the time of the transfer be credited with such accumulated and current accrued leave as may be due him, or charged with any unaccrued leave which may have been advanced. "Break in service" means separation from the service for a period of one or more work days.

SEC. 7. An employee voluntarily separated from the service without prejudice during any calendar year shall be entitled to all of his accumulated leave plus his current accrued leave to and including the date of separation.

SEC. 8. An employee who is involuntarily separated from the service other than for cause due to his own misconduct shall be entitled to all of his accumulated leave and current accrued leave, and the date of his discharge shall be fixed so as to permit him to take such leave. The date of discharge of an employee separated from the service for cause due to his own misconduct may, within the discretion of the administrative office concerned, be fixed so as to permit the allowance of all or any part of accumulated leave and current accrued leave.

SEC. 9. Leave without pay shall not be granted until all accumulated leave and current accrued leave allowable under these regulations is exhausted, except that employees injured in line of duty may take leave without pay, if desired, covering their absence due to such injury instead of covering such time by annual leave; and during absence because of such injury and while being paid by the Employees' Compensation Commission, employees shall continue to earn leave, which shall, however, be granted only in the event of their return to actual duty.

SEC. 10. Annual leave shall accrue to an employee while in a leave-with-pay status. Except as provided in section 9 hereof, annual leave shall not accrue to an employee while in a non-pay status due to leave without pay or furlough when the duration of such non-pay status in any calendar year aggregates 30 days or more: *Provided,* that when the duration of such non-pay status is in excess of 30 days in any calendar year, such excess shall affect the accrual of annual leave only when it aggregates 10 days, and likewise for each aggregate period of 10 days thereafter.

SEC. 11. Except in the case of temporary employees, Sundays and holidays occurring within a period of annual leave shall not be charged as annual leave: *Provided,* that in the case of employees whose terms or conditions of employment require that they regularly work on a Sunday or a holiday and be off duty on another day of the week in lieu thereof, the Sunday or holiday occurring within a period of annual leave shall be charged as annual leave and the lieu day shall not be so charged. The word "holidays" as used herein means all days declared or recognized by Federal statute as holidays, all days specifically declared holidays by Executive Order, and all days on which the departments and establishments are closed by Executive Order, but does not include non-work days established by administrative order, or days on which, by Executive Order or administrative order, certain classes of employees are merely excused from work.

SEC. 12. The minimum charge for annual leave shall be 15 minutes, and additional leave shall be charged in like multiples. Annual leave granted for less than one day shall be charged in the ratio that the amount of annual leave granted bears to the number of work hours of the regular work day prevailing in the agency concerned. For the purposes of this section, Saturdays and part holidays shall not be considered regular work days, except as may be required under section 11 hereof.

SEC. 13. Annual leave shall not be granted with pay at the beginning of a calendar year immediately following a period of absence in a non-pay status in the preceding year unless and until there is a return to duty, at which time leave may be retroactively granted. Leave without pay under any other circumstances may not later be converted into annual leave.

SEC. 14. Temporary employees shall be granted 2½ days leave for each full month of service, and Sundays and holidays occurring within a period of annual leave shall be charged as annual leave. After the first month of service such leave may be credited at the beginning of the month in which it accrues.

SEC. 15. Temporary employees who subsequently receive permanent or probational appointments in the same department without break in service shall be entitled to 2½ days annual leave for each full month of service to the date of permanent appointment and thereafter at the rate of 2⅙ days per month.

SEC. 16. Nothing in these regulations shall be construed to prevent the continuance of any leave differential existing prior to January 1, 1936, for the benefit of employees of the Federal Government stationed without the continental limits of the United States. However, any department may, if it so desires, apply these regulations to employees stationed without the continental limits of the United States, subject to the continuance of such leave differential.

SEC. 17. The annual leave authorized by these regulations shall, except as to temporary employees, be recorded and administered on a calendar-year basis.

SEC. 18. The heads or governing bodies of the various governmental agencies to which this Executive Order applies shall be responsible for the proper administration of these regulations in so far as they pertain to the granting of annual leave to employees under their respective jurisdictions; and they may, within the limits authorized by law, issue such regulations as are not inconsistent with these regulations.

Part III. Employees Excepted

SEC. 19. These regulations shall not apply to:

(a) Teachers and Librarians of the public schools of the District of Columbia.

(b) Officers and employees of the Panama Canal and Panama Railroad on the Isthmus of Panama.

(c) Temporary employees engaged on construction work at hourly rates.

(d) The Postmaster General and officers and employees in or under the Post Office Department, except those serving in the departmental service and in the Mail Equipment Shops.

(e) Persons paid security or prevailing wages from funds allocated by the Works Progress Administration on state, municipal, or other public but non-Federal projects, or on a Federal project: *Provided,* that annual leave shall be granted in accordance with these regulations to employees in the central office of the Works Progress Administration in the District of Columbia and at district and local headquarters, and to other employees in administrative or clerical positions who receive other than security or prevailing wages, as prescribed in Executive Orders.

(f) Employees not required to be continuously employed during regular tour of duty, such as: (1) per diem or per hour employees engaged in an emergency who may be employed for more than one 7- or 8-hour shift within 24 hours during the emergency; (2) part-time or intermittent employees; (3) persons engaged under contract; (4) employees engaged temporarily for less than a month on a piece-price basis; (5) employees who are paid at hourly rates but who are not engaged on construction work, such as mechanics, skilled laborers, and others engaged in various services on maintenance, repair, clean-up work, etc., where employment is more or less intermittent and not on a regular and continuous basis; and (6) employees paid on a fee basis, such as physicians, surgeons, and other consultants.

Part IV. Ratification: Revocation: Effective Date

SEC. 20. All temporary regulations issued by the heads of the various departments and independent establishments under authority of Executive Order No. 7321 of March 21, 1936, are hereby ratified. All such temporary regulations and all other regulations relating to the granting of annual leave are hereby revoked in so far as they are inconsistent with these regulations.

SEC. 21. This order shall be effective as of January 1, 1938, and shall, as of that date, supersede Executive Order No. 7409 of July 9, 1936, prescribing regulations relating to annual leave of government employees.

SEC. 22. This order shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 21, 1938.

[No. 7845]

[F. R. Doc. 38-837; Filed, March 22, 1938; 11:19 a. m.]

EXECUTIVE ORDER

PRESCRIBING REGULATIONS RELATING TO SICK LEAVE OF GOVERNMENT EMPLOYEES

By virtue of and pursuant to the authority vested in me by section 7 of the act of March 14, 1936, entitled "An Act to standardize sick leave and extend it to all civilian employees" (49 Stat. 1162), I hereby prescribe the following regulations governing the granting of sick leave to civilian officers and employees of the United States, the District of Columbia, and all corporations included within the provision of section 6 of the said act, except as provided in PART III hereof:

Part I. Definitions

SEC. 1. As used in these regulations "employee" and "employees" shall include:

(a) Officer and officers, respectively.

(b) Permanent employees—those appointed without limitation as to length of service or for definite periods in excess of six months.

(c) Temporary employees—those appointed for definite periods of time not exceeding six months.

(d) Emergency employees—those whose compensation is paid from emergency funds and whose tenure of appointment is limited to the period for which the emergency funds are available.

(e) Indefinite employees—those appointed for the "duration of the job" and those who, although paid only when actually employed, are continuously employed or required to be available for duty for a period of not less than one month, as distinguished from part-time or intermittent employees.

Part II. General Provisions

SEC. 2. Sick leave with pay shall be granted to employees when they are incapacitated for the performance of their duties by sickness, injury, or pregnancy and confinement, or when some member of the immediate family of the employee is afflicted with a contagious disease and requires the care and attendance of the employee, or when, through exposure to contagious disease, the presence of the employee at his post of duty would jeopardize the health of others.

SEC. 3. Except as provided in section 4 hereof, employees shall be entitled to sick leave at the rate of 1¼ days a month, and if such leave is not used it shall accumulate: *Provided*, that the total accumulation shall not exceed 90 days. Sick leave accruing during any month of service shall be available at any time during the month.

SEC. 4. In cases of serious disability or ailments, and when the exigencies of the situation so require, sick leave may be advanced not in excess of 30 days in addition to the unused sick leave that has accumulated to the credit of the employee: *Provided*, that temporary employees shall not be entitled to an advance of sick leave: *And provided further*, that no advances of sick leave shall be made to any employee unless the absence from duty on account of illness is for a period, or periods, of not less than 5 consecutive days, except that advanced leave in a less amount may be granted to supplement accrued leave to cover a continuous absence of 5 days or more; that every case of advanced leave shall be supported by a certificate of a registered practicing physician or other practitioner; that the total of such advances shall not at any time exceed 30 days in excess of the accumulated sick leave; and that such advances shall be charged against sick leave subsequently accumulating.

SEC. 5. When an employee applies for sick leave in excess of the amount accumulated to his credit and the circumstances do not justify such an advance, the excess leave applied for, if granted and used, shall be charged against any unused annual leave to which the employee is entitled, or, if there is no unused annual leave, the excess shall be charged as leave without pay, and such excess leave, however charged, shall not thereafter be converted into either sick or annual leave subsequently accumulating.

SEC. 6. Sick leave shall not be advanced in an amount that would exceed the total that would accumulate during the period from the date of the advance to the termination of a limited appointment (not temporary in character) or one expiring on a specified date.

SEC. 7. Advanced sick leave may be granted irrespective of whether the employee has to his credit unused annual leave.

SEC. 8. Sick leave shall not be granted for slight illness or indisposition not incapacitating the employee for the performance of his regular duties, or for absence for the purpose of being treated professionally by a dentist or oculist in his office; but sick leave may be granted for detention at home or in a hospital by illness or disability due to causes as to which a dentist or oculist is qualified to certify.

SEC. 9. An employee transferred or reappointed without break in service from one permanent position to another permanent position within the same or a different governmental agency shall be credited with accumulated sick leave and charged with sick leave previously advanced in excess of that accumulated at the time of transfer. "Break in service" means separation from the service for a period of one or more work days.

SEC. 10. Sick leave shall accrue to an employee while in a leave-with-pay status. Sick leave shall not accumulate to an employee while in a non-pay status due to leave without pay or furlough when the duration of such non-pay status in any calendar year aggregates 30 days or more: *Provided*, that when the duration of such non-pay status is in excess of 30 days in any calendar year, such excess shall affect the accumulation of sick leave only when it aggregates 10 days, and likewise for each aggregate period of 10 days thereafter. Sick leave shall not accrue during any period of suspension for disciplinary reasons.

SEC. 11. In the case of voluntary separation or removal for cause of an employee to whom sick leave has been advanced in an amount in excess of that accumulated, the employee shall refund the amount paid him for the period of such excess, or deduction therefor shall be made from any salary due him or from any deductions in the retirement fund to his credit. Such indebtedness shall be charged against the employee on the basis of the salary rate obtaining during the period of advanced sick leave, and on the basis of one day's pay for each day of absence, inclusive of Sundays and holidays. Absences for fractional parts of a day will be charged proportionately. Refund shall not be required in cases of death, retirement for age or disability, reduction of force, or when an employee who is not eligible for retirement is unable to return to duty because of disability, which shall be evidenced by an acceptable certificate from a registered practicing physician or other practitioner.

SEC. 12. Sundays, holidays, and non-work days within a period of sick leave shall be charged as sick leave, except when immediately preceding or following a period of sick leave, if the employee shall have been in a pay status immediately prior to or following such Sundays, holidays, or non-work days.

SEC. 13. The minimum charge for absence on account of sickness, except on Saturdays or on other days on which 4 hours constitute a full work day, shall be ½ day; and additional fractions authorized on the same day shall be charged in multiples of ½ hour. On Saturdays, or other days on which 4 hours constitute a full work day, absences on account of illness shall be charged as follows: For 2 hours or less—½ day; for more than 2 hours and not more than 3 hours—¾ of a day; for more than 3 hours—a full day.

SEC. 14. Notification of absence on account of sickness shall be given as soon as possible on the first day of absence. If such notification is not made in accordance with this regulation, such absence may be charged to annual leave or leave without pay. Application for sick leave shall be filed within two days after return to duty.

SEC. 15. Application for sick leave for a period in excess of 3 days shall be supported by a certificate of a registered practicing physician or other practitioner, except that in remote localities where such certificate cannot reasonably be obtained, the applicant's signed statement as to the nature of the illness and the reason why a certificate is not furnished, may be accepted. For periods of 3 days or less, the total of which shall not exceed 12 days in any one calendar year, the applicant's signed statement on a prescribed form may be accepted.

SEC. 16. When sickness continuing for more than 5 days occurs within a period of annual leave, the period of illness may, upon presentation of the certificate of a registered practicing physician or other practitioner, be charged as sick leave, and the charge against annual leave reduced accordingly. No such charge against sick leave shall be made for illness which does not last more than 5 days. Application for such substitution of sick leave for annual leave shall be made within 2 days after the expiration of the annual-leave period: *Provided*, that this provision may be waived by the head of the department or agency concerned.

SEC. 17. Sick leave may not be granted for a period immediately following a period of absence in a non-pay status, unless and until there is a return to actual duty, nor may such leave without pay be converted into sick leave.

SEC. 18. Sick leave accumulated during temporary appointment shall be credited to an employee who receives a permanent appointment in the same governmental agency without break in service but shall not be transferable elsewhere under any circumstances.

SEC. 19. In the case of an employee who was not entitled to sick leave under prior law, but who is now entitled thereto, sick leave as accumulated may be substituted for leave without pay or annual leave taken because of illness between January 1 and March 14, 1936.

SEC. 20. Sick leave taken in excess of 1¼ days a month during the period between January 1 and March 14, 1936, shall be charged against sick leave subsequently accumulating.

SEC. 21. Nothing in these regulations shall be construed to prevent the continuance of any sick leave differential existing prior to January 1, 1936, for the benefit of employees of the Federal Government stationed without the continental limits of the United States. However, any department may, if it so desires, apply these regulations to employees stationed without the continental limits of the United States, subject to the continuance of such leave differential.

SEC. 22. The heads or governing bodies of the various governmental agencies to which this order applies shall be responsible for the proper administration of these regulations in so far as they pertain to the granting of sick leave to employees under their respective jurisdictions; and they may, within the limits authorized by law, issue such regulations as are not inconsistent with these regulations.

Part III. Employees Excepted

SEC. 23. These regulations shall not apply to:

(a) Teachers and librarians of the public schools of the District of Columbia.

(b) Officers and members of the police and fire departments of the District of Columbia, other than civilian personnel.

(c) Officers and employees of the Panama Canal and Panama Railroad on the Isthmus of Panama.

(d) Temporary employees engaged on construction work at hourly rates.

(e) The Postmaster General and officers and employees in or under the Post Office Department except those serving in the departmental service and in the Mail Equipment Shops.

(f) Persons paid security or prevailing wages from funds allotted by the Works Progress Administration on a state, municipal, or other public but non-Federal project or on a Federal project: *Provided*, that sick leave shall be granted in accordance with these regulations to employees in the central office of the Works Progress Administration in the District of Columbia and at district and local headquarters, and to other employees in administrative or clerical positions who receive other than security or prevailing wages as prescribed in Executive Orders.

(g) Employees not required to be continuously employed during regular tour of duty, such as: (1) Per diem or per hour employees engaged in an emergency who may be employed for more than one 7- or 8-hour shift within 24 hours during the emergency; (2) part-time or intermittent employees; (3) persons engaged under contract; (4) employees engaged temporarily for less than a month on a piece-price basis; (5) employees who are paid at hourly rates but who are not engaged on construction work, such as mechanics, skilled laborers, and others engaged in many services on maintenance, repair, clean-up work, and the like, where employment is more or less intermittent and not on a regular or continuous basis; and (6) employees paid on a fee basis, such as physicians, surgeons, and other consultants.

Part IV. Ratification: Revocation: Effective Date

SEC. 24. All temporary regulations issued by the heads of the various departments and independent establishments under authority of Executive Order No. 7321 of March 21, 1936, are hereby ratified. All such temporary regulations and all other regulations relating to the granting of sick leave are hereby revoked in so far as they are inconsistent with these regulations.

SEC. 25. This order shall be effective as of January 1, 1938, and shall, as of that date, supersede Executive Order No. 7410 of July 9, 1936, prescribing regulations relating to sick leave of government employees.

SEC. 26. This order shall be published in the FEDERAL REGISTER.

THE WHITE HOUSE, FRANKLIN D ROOSEVELT
March 21, 1938.

[No. 7846]

[F. R. Doc. 38-836; Filed, March 22, 1938; 11:19 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS FOR USE OF THE NAVY DEPARTMENT

Alaska

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. Subject to the conditions expressed in the above-mentioned acts and to all valid existing rights, the two tracts of land hereinafter described, in Alaska, are hereby temporarily withdrawn from settlement, location, sale, or entry, and reserved for the use of the Navy Department:

Tract No. 1

A triangular tract of land on Amaknak Island described as follows:

Beginning at Cor. No. 4, Survey No. 58, at mean high water on Dutch Harbor, approximately in latitude 53°53'43" N., longitude 166°32'15" W.

From said initial point by metes and bounds,

West, 12.12 chs., along south boundary of lighthouse reservation to a point;

South, 9.82 chs. to intersection with line 3–4, Survey No. 58;

N. 39° E., 15.60 chs., along line 3–4, Survey No. 58, to mean high water on Dutch Harbor, the point of beginning, containing 5.95 acres.

Tract No. 2

Expedition Island, unsurveyed, located in latitude 53°52'44" N., longitude 166°33'04" W., as shown on U. S. C. & G. S. Chart No. 9008, July, 1915, containing approximately 5 acres.

SECTION 2. This order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 21, 1938.

[No. 7847]

[F. R. Doc. 38-838; Filed, March 22, 1938; 11:19 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP–1938–5]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 4

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, is hereby further amended as follows:

Subsection B of Section I is hereby amended to read as follows:

"B. *National and State acreage allotments of soil-depleting crops and restoration land goals.* National and State acreage allotments of soil-depleting crops and State restoration land goals will be determined by the Secretary.

1. The State acreage allotments of corn in the commercial corn area are as follows:

	Acres
Illinois	7,348,375
Indiana	3,456,203
Iowa	9,249,232
Kansas	2,108,595
Kentucky	150,507
Michigan	223,790
Minnesota	3,319,794
Missouri	3,267,079
Nebraska	6,757,334
Ohio	2,521,771
South Dakota	1,635,790
Wisconsin	452,809
Total, commercial corn-producing area	40,491,279

Done at Washington, D. C., this 21st day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–840; Filed, March 22, 1938; 12:46 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 19]

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 14th day of March, A. D. 1938.

Sections 204 (c) and 217 (a) of the Motor Carrier Act, 1935, being under consideration, and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted into the matter of the practices of common carriers of household goods by motor vehicle subject to said act;

It is further ordered, That said investigation be, and it is hereby, assigned to Division 5 for administrative handling and disposition;

And it is further ordered, That notice of this proceeding be duly given.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

NOTICE

MARCH 19, 1938.

On March 14, 1938, the Commission instituted a general investigation, under the provisions of sections 204 (c) and 217 (a) of the Motor Carrier Act, 1935, into the matter of the practices of motor common carriers of household goods subject to the act.

This investigation results from the receipt by the Commission of numerous informal complaints alleging that carriers of household goods have been charging other than their tariff rates by giving incorrect estimates of the cubic footage of the shipments when the tariff provides for charges on the cubic foot basis, and alleging also that certain other practices of these carriers of household goods have been unreasonable, unduly prejudicial, or unjustly discriminatory. In order to obtain as complete a picture as possible of that branch of the motor carrier industry, the Bureau of Motor Carriers held 90 informal conferences, in an equal number of cities throughout the country, to which all motor carriers of household goods were invited.

The compilation of the reports of these conferences, together with other information received, indicated the desirability of the Commission's establishing certain rules applicable to all persons engaged in the transportation of household goods. The attached draft of proposed rules has been prepared as a basis for discussion of rules on that subject to be adopted by the Commission, and it is suggested that all interested parties direct their efforts principally toward preparing evidence which will bear specifically on the reasonableness or unreasonableness of these proposed rules.

In order that the Commission may determine the points at which hearings should be held and the time which will be necessary for such hearings, all interested parties desiring to introduce evidence are requested to notify the Commission, on or before April 11, 1938, of the amount of time which they estimate will be necessary for introduction of their evidence and of the point at which they would prefer to be heard.

It is to be distinctly understood that the level of rates for transportation of household goods by motor common carriers is not an issue in this investigation.

W. P. BARTEL, *Secretary.*

PROPOSED DRAFT OF REGULATIONS TO BE ISSUED BY THE INTERSTATE COMMERCE COMMISSION PURSUANT TO SECTIONS 204 (C) AND 217 (A) OF THE MOTOR CARRIER ACT, 1935, GOVERNING THE PRACTICES AND CHARGES OF COMMON CARRIERS BY MOTOR VEHICLE ENGAGED IN THE TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE AND FOREIGN COMMERCE

RULE 1. As used in these regulations:

(a) The term "household goods" means used household or personal effects usual to use in a household when a part of such household equipment or supply; used furniture, fixtures, equipment usual to use in a store, office, museum, institution, hospital, or other similar establishments, when part of the equipment or supply of such establishment.

(b) The term "dock charges" means any charge made by a common carrier which owns or operates a storage warehouse, against any other common carrier or shipper, or both, for the use of the platform, warehouse or other loading or unloading facilities at such warehouse, or for the privilege of loading or unloading at such warehouse, whether such charges be in a specific amount or in the form of a charge for labor or otherwise.

(c) Where any other terms used in these regulations are defined in section 203 (a) of the Motor Carrier Act, 1935, such definitions shall be controlling. Where the terms are used in the regulations which are neither defined herein nor in said section 203 (a), they shall have the ordinary practical meaning of such terms.

RULE 2. All common carriers engaged in the transportation of household goods in interstate or foreign commerce shall establish, in the manner and form required, by section 217 of the Motor Carrier Act, 1935, and by the regulations of the Commission issued pursuant thereto, rates and charges for the transportation of household goods, in interstate or foreign commerce stated in terms of cents per hundred pounds or fractions thereof, and shall not establish rates or charges upon any other basis. All rates and charges applicable to the transportation of household goods established upon any other basis than in cents per hundred pounds or fractions thereof shall be canceled and superseded by rates or charges published in accordance with this rule.

RULE 3. Each such common carrier shall determine the tare weight of each vehicle used in the transportation of household goods by having it weighed by a certified weighmaster or on a certified scale, and when so weighed the gasoline tank on each such vehicle shall be full and the vehicle shall contain all blankets, pads, chains, dollies, hand trucks and other equipment transported with household goods. Each carrier shall retain in its possession subject to inspection, a weighmaster's certificate or weight ticket as to each such vehicle showing the tare weight, the date weighed, and a list of such equipment. The tare weight shall be painted on each such vehicle.

After the vehicle has been loaded it shall be weighed prior to delivery of the shipment and the net weight determined by deducting the tar weight from the loaded weight. The gross weight, the tare weight and the net weight shall be shown on the bill of lading and the freight bill.

RULE 4. Such common carriers shall establish in the manner prescribed by section 217 of the Motor Carrier Act, 1935, and the said rules and regulations issued pursuant thereto, the rates and charges to be made for each accessorial service rendered in connection with the transportation of household goods. The tariffs establishing such rates and charges shall separately state each accessorial service to be rendered and the rate and charge therefor. The rate for transportation of such goods shall not include the charge for any accessorial service and no such services other than those for which separate rates and charges have been so established shall be rendered by any such carrier.

RULE 5. No discounts from the rates established pursuant to rule 2 hereof, of any character whatsoever, shall be authorized by tariff provisions, or otherwise allowed by any such common carrier, and no rates or charges shall be established based upon prepayment of charges.

RULE 6. No such common carrier operating a warehouse for the storage of household goods shall charge, collect, or receive a dock charge from any other carrier or shipper of household goods or both of them.

RULE 7. No such common carrier shall act as an agent of any other common carrier in the solicitation of shipments of household goods in interstate or foreign commerce, if such agent carrier shall have established local or joint rates between the same points which are different from those established by its principal.

RULE 8. No such common carrier nor any employee, agent, or representative of a carrier shall act as an agent for an insurance company in insuring, under any type of policy, shipments of household goods to be transported by such carrier in interstate or foreign commerce if such carrier, its employee, representative, or agent receives compensation from such insurance company.

RULE 9. No such common carrier shall issue a receipt or bill of lading for household goods to be transported in interstate or foreign commerce prior to receiving such household goods for such transportation, but must issue such receipt or bill of lading when such household goods have been received.

These rules and regulations shall be effective on and after the ---------- day of ----------, 1938, and tariffs in accordance therewith shall be filed and published, not later than the ---------- day of ----------, 1938.

[F. R. Doc. 38–839; Filed, March 22, 1938; 12:24 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 216]

ALLOCATION OF FUNDS FOR LOANS

MARCH 18, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Georgia 8039W1 Hart	$10,000
Iowa 8030W1 Franklin	5,000
Nebraska 8056W1 Cedar	9,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38–830; Filed, March 22, 1938; 9:43 a. m.]

[Administrative Order No. 217]

ALLOCATION OF FUNDS FOR LOANS

MARCH 18, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Kentucky 8014A2 Henderson	$10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38–831; Filed, March 22, 1938; 9:43 a. m.]

[Administrative Order No. 218]

ALLOCATION OF FUNDS FOR LOANS

MARCH 19, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Minnesota 8054A2 Faribault	$10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38–832; Filed, March 22, 1938; 9:43 a. m.]

[Administrative Order No. 219]

ALLOCATION OF FUNDS FOR LOANS

MARCH 19, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Minnesota 8037A2 Jackson	$30,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38–833; Filed, March 22, 1938; 9:43 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of March, 1938.

[File No. 47–18]

IN THE MATTER OF SOUTHERN NATURAL GAS COMPANY

ORDER APPROVING ACQUISITION OF UTILITY ASSETS

Southern Natural Gas Company, a registered holding company, having filed with this Commission an application pur-

suant to Section 10 (a) (2) and Section 10 (a) (3) of the Public Utility Holding Company Act of 1935 for approval of the acquisition by said company from Mississippi Power and Light Company of three branch pipe lines, rights of way and appurtenances thereto extending from applicant's main line to Yazoo City, Kosciusko, Durant and Goodman, Mississippi, for a stated consideration of $97,378.18;

A hearing on such application as amended having been duly held after appropriate notice, and record in this matter having been duly considered, and the Commission having made and filed its findings herein;

It is ordered, That such acquisition by applicant in the manner and subject to the terms set forth in such application, as amended, be and the same is hereby approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-834; Filed, March 22, 1938; 10:55 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of March, A. D., 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY H. B. SEARS, RESPONDENT, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE STAHL-DENNIS TRACT.

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

H. B. Sears, having filed on January 24, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulations B, to wit:

(1) That the footnote following Division II, Item 20, omits to state that there has been a natural decline in production from the tract involved, which omission renders materially misleading the statement that "The #2 and #2B wells were cleaned, re-tubed and pumps installed during the month of December, 1937, which accounts for the decline in production.";

(2) That at the time the amendment to the offering sheet was filed, production figures for the month of January, 1938, were available and should be set forth under Division II, Item 20 (a), if the information contained in the offering sheet is not to be misleading;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 5th day of April, 1938, at 10:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-835; Filed, March 22, 1938; 10:55 a. m.]

Thursday, March 24, 1938 ***No. 58***

PRESIDENT OF THE UNITED STATES.

THOMAS JEFFERSON'S BIRTHDAY

By the President of the United States of America

A PROCLAMATION

WHEREAS Thomas Jefferson, author of the Declaration of Independence and third President of the United States, was the advocate of great causes and high ideals of human freedom—principles adopted as fundamental by the American people; and

WHEREAS Thomas Jefferson as lawyer, statesman, philosopher, scientist, farmer, and architect lived a life of such rich diversity that it encompassed the full scope of the knowledge of his time, and—of happy significance to his country—knew how to carry theory into practice, and from youth to a fine old age exemplified in all of his work the principle that the true evidence of life is growth; and

WHEREAS Public Resolution No. 60, 75th Congress, approved August 16, 1937, provides:

That the President of the United States of America is authorized and directed to issue a proclamation calling upon officials of the Government to display the flag of the United States on all Government buildings on April 13 of each year, and inviting the people of the United States to observe the day in schools and churches, or other suitable places, with appropriate ceremonies in commemoration of the birth of Thomas Jefferson:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby call upon officials of the Government to display the flag of the United States on all Government buildings on April 13, 1938, and on April 13 of each succeeding year, and do invite the people of the United States to observe the day in schools, churches, and other suitable places, with appropriate ceremonies in commemoration of the birth of Thomas Jefferson.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 21'' day of March in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL] FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2276]

[F. R. Doc. 38-848; Filed, March 23, 1938; 11:46 a. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4795]

INCOME TAX

REGULATIONS 94 AMENDED

To Collectors of Internal Revenue and Others Concerned:

Article 51-2 of Regulations 94, relating to the form of return, is hereby amended by inserting after the first sentence thereof the following:

"For taxable years beginning after December 31, 1936, the return shall be on short Form 1040A if (1) the net income does not exceed $5,000 and is derived solely from interest, dividends and salaries, wages, commissions, bonuses, and other compensation for personal services, and (2) the taxpayer does not own a business or practice a profession on his own account and renders a return on the cash receipts and disbursements basis for the calendar year."

Article 51-2 of Regulations 94 is further amended by striking out the parenthetical clause in the fifth sentence.

Paragraph (b) of article 142-5 of Regulations 94, as amended by Treasury Decision 4791, approved January 14, 1938 (I. R. B. 1938-4, 2), is hereby further amended by striking out of the first sentence thereof "on Form 1040NB"; by striking out of the second sentence thereof "Form 1040NB", and inserting in lieu thereof "Form 1040NB (a)"; and by striking out of the third sentence thereof "Form 1040NB", and inserting in lieu thereof "a return."

This Treasury Decision is issued pursuant to the authority contained in section 62 of the Revenue Act of 1936.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 21, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-845; Filed, March 23, 1938; 10:37 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 236]

AN ORDER REQUIRING REPORTS FROM PRODUCERS OF COST AND REALIZATION DATA BEGINNING JANUARY 1, 1938, PURSUANT TO SECTION 10 (A) OF THE BITUMINOUS COAL ACT OF 1937

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, in order to perform effectively its duties under said Act, is required to be fully informed as to the production and distribution of bituminous coal throughout the United States. Therefore, pursuant to authority conferred by Section 10 of said Act, the Commission orders and directs as follows:

1. Each producer of bituminous coal, whether or not a code member and whether or not engaged in commerce in coal which is subject to the provisions of Section 4 of said Act, shall file, in duplicate, complete reports showing the total costs of the tonnage produced and realization prices derived from the sale of coal, all as more fully set forth and specified in the Commission's Cost Forms No. 3 and No. 3-A, such reports to be made separately for each mine and for each calendar month so as to include all coal produced and all coal sold on and after the 1st day of January, 1938.

2. Each producer shall, within fifteen (15) days from the date of receipt of a copy of this order and of said forms, file reports for the months of January and February, 1938, with the statistical bureau of the Commission within the district in which the mine or mines reported on are located, and thereafter shall file with such statistical bureau like monthly reports as prescribed in paragraph three of this order.

3. For the month of March, 1938, and for each month thereafter, each producer of bituminous coal shall file in the same manner as prescribed in paragraph one of this order, complete reports showing the total cost of the tonnage produced and the realization prices derived from the sale of coal during the month reported on, which reports shall be filed on or before the 25th day of the next succeeding month.

4. The Commission's Cost Form No. 3 shall be used by producers for all mines having a present actual daily capacity of fifty (50) net tons or more, and by producers for all mines shipping directly by rail or river, regardless of daily capacity.

The Commission's Cost Form No. 3-A shall be used by producers in making reports for mines not shipping directly by rail or river and having a present actual daily capacity of less than fifty net tons.

In the case of any mine not actually in operation during any calendar month subsequent to January 1, 1938, the producer shall report as to such calendar month such data as will show all costs of ownership and maintenance.

5. Reports made by producers on Cost Forms No. 3 and No. 3-A shall be duly verified before an officer authorized to administer oaths, by the producer, if an individual, by a member of the firm if a partnership, or by the president or vice-president of the company if a corporation.

6. The Secretary of the Commission shall cause the proper statistical bureau of the Commission to mail to each known producer within the United States a copy of this order, together with the necessary forms for making the required reports for the months of January and February, 1938, and thereafter on or before the last day of each month, the necessary forms for making reports for that month, and shall make available to all producers additional copies of said forms at the statistical bureau as such bureaus are established in each district under said Act.

By order of the Commission.

Dated this 22nd day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-843; Filed, March 23, 1938; 10:33 a. m.]

[Order No. 237]

AN ORDER PROVIDING FOR A PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE TO ENABLE THE COMMISSION TO DETERMINE WHETHER CERTAIN COALS IN THE STATE OF MONTANA ARE SUBJECT TO THE PROVISIONS OF THE BITUMINOUS COAL ACT OF 1937, AND FOR THE FURTHER PURPOSE OF HEARING APPLICATIONS FOR EXEMPTION AS PROVIDED FOR BY ORDER No. 28

Whereas the Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.) known as the Bituminous Coal Act of 1937, provides (Section 17 (b) that "The term 'bituminous coal' includes all bituminous, semi-bituminous, and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more"; and

Whereas the Commission deems it necessary to conduct a public hearing in the State of Montana for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Montana are subject to the provisions of the Bituminous Coal Act of 1937, and, further, to hear and determine at the same time all Montana applications for exemption filed pursuant to Order No. 28;

Now, therefore, in order to determine whether the coal in said state or any part thereof does not come within the

definition of "bituminous coal" as set forth in Section 17 (b) of the Act, and in order to hear applications filed pursuant to Order No. 28 of the Commission, the Commission hereby orders and directs:

1. That a public hearing shall be held at Northern Hotel in the City of Billings, Montana, on the 25th day of April, 1938, commencing at the hour of 10:00 a. m., for the purpose of receiving evidence to enable the Commission to determine whether any part of the coal produced in the State of Montana does not come within the purview of Section 17 (b) of the Act.

2. That the public hearing so provided by this order, at the time and place designated, shall include the hearing of the applications for exemption filed by Emil Skoglund, Richland, Montana; Saavi Storaasli, Plentywood, Montana; Lars Linn, Dagmar, Montana; Guy H. Ross, Lambert, Montana; Carl Jensen, Miles City, Montana; Herman Anderson, Westby, Montana; Anderson and Lagerquist, Westby, Montana; Peerless Coal Mine, Broadus, Montana; Fairview Coal Company, Fairview, Montana; Clyde Clapp, Glendive, Montana; Otto A. Pust, Lambert, Montana, pursuant to the Commission's Order No. 28, and, in addition, any other applications for exemption filed for the State of Montana pursuant to Order No. 28.

3. That any producer of coal, whether bituminous, semi-bituminous, subbituminous, anthracite, or lignite, or the Consumers' Counsel, or code members, and all other interested parties may appear at said hearing and submit evidence.

4. Notice of said hearing shall be given under the direction of the Secretary of the Commission by mailing a copy of this order to the Consumers' Counsel, to the Commissioner of Internal Revenue, to the Secretaries of the respective District Boards, to Emil Skoglund, Richland, Montana; Saavi Storaasli, Plentywood, Montana; Lars Linn, Dagmar, Montana; Guy H. Ross, Lambert, Montana; Carl Jensen, Miles City, Montana; Herman Anderson, Westby, Montana; Anderson and Lagerquist, Westby, Montana; Peerless Coal Mine, Broadus, Montana; Fairview Coal Company, Fairview, Montana; Clyde Clapp, Glendive, Montana; Otto A. Pust, Lambert, Montana, to all known producers of coal in Montana lignite or otherwise, and by publication of a notice upon two consecutive days in two newspapers of general circulation in the State of Montana. The notice published in said newspapers shall contain the date and place of the hearing and a concise statement of the purpose thereof.

By order of the Commission.

Dated this 22nd day of March, 1938.

[SEAL] F. WITCHER McCULLOUGH, *Secretary*.

[F. R. Doc. 38-844; Filed, March 23, 1938; 10:33 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP—1938—Alaska]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN—ALASKA

CONTENTS

Section I. Allowance in Connection with Soil-Building Practices
II. Payment in Connection with Soil-Building Practices
III. Schedule of Soil-Building Practices
1. Planting Forest Trees
2. Control of Erosion by Terracing
3. Control of Erosion by Ditching
4. Control of Gullies
5. Contour Cultivation
6. Planting Protective Nondepleting Cover Crops
7. Applying Ground Limestone
8. Applying Phosphoric Acid and Potash
IV. Division of Payments
V. Increase in Small Payments
VI. General Conditions Relating to Payments
VII. Application for Payment
VIII. Definitions

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Agricultural Conservation Program in Alaska in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participation. Any increase or decrease in rates of payments and allowances with respect to any crop or other item of payment made because of the extent of participation in the program in connection with such crop or item of payment will not exceed 10 percent.

SECTION I. *Allowance in connection with soil-building practices.*—The soil-building allowance for a farm is the maximum amount of payment which will be made for carrying out on the farm the soil-building practices specified in Section III. This allowance for any farm will be the sum of the following:

1. $4.00 per acre, not in excess of 10 acres, and $1.00 per acre, in excess of 10 acres, of cropland in the farm;

2. 20 cents per acre, not in excess of 1000 acres, and 10 cents per acre, in excess of 1000 acres, of pasture land included in the farm but not included in the cropland.

SECTION II. *Payment in connection with soil-building practices.*—Payment will be made, within the limit of the soil-building allowance established for the farm in accordance with Section I, for carrying out in the calendar year 1938 any of the soil-building practices listed in Section III, at the rate of $1.00 per unit of such practices, provided the practice is carried out by such methods and with such kinds of seeds, trees, and other materials as conform to good farming practice, and in accordance with the specifications listed herein and such additional specifications as may be issued by the Director of the Insular Division to assure that the soil-building practices will be performed in workmanlike manner and in accordance with good farming practices for the locality.

No payment will be made with respect to practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or Territorial agency. If a portion of the labor, seed, or other materials (except trees) used in carrying out any practice is furnished by a Federal or Territorial agency and such portion represents one-half or more of the total cost of carrying out such practice, no payment will be made with respect to such practice; if such portion represents less than one-half of the total cost of carrying out such practice, payment will be made with respect to one-half of such practice.

SECTION III. *Schedule of soil-building practices.*—Each of the following practices in the amounts specified shall be counted as the number of units specified for each:

1. *Planting forest trees.*—(*a*) Planting land entirely to forest trees or windbreak trees (see Farmers' Bulletin No. 1177, "Care and Improvement of the Farm Woods", published by the U. S. Department of Agriculture). Each acre will be counted as five units.

(*b*) Planting forest trees on the sides or crests of gulches or on erosion scars. Each 50 trees will be counted as one unit.

2. *Control of erosion by terracing.*—Constructing a sufficient amount of continuous terrace to give adequate protection against erosion (see Farmers' Bulletin No. 1669, "Farm Terracing", published by the U. S. Department of Agriculture), not including more than 300 feet of terrace per acre and not including Mangum type terraces on land of 20 percent or more slope. Each 100 feet of terrace will be counted as one unit.

3. *Control of erosion by ditching.*—Constructing permanent ditching, on land of 6 percent or more slope, with suitable outlets, and the slope of ditches not exceeding 4 percent, for the diversion of surface water to prevent soil washing, not including any temporary field ditching nor any ditching primarily for purposes of irrigation, sub-surface drainage, or under-drainage, or primarily for any purpose other than the prevention of soil washing (see Farmers' Bulletin No. 1606, "Farm Drainage", published by the U. S. Department of Agriculture). Each 500 linear feet of ditching will be counted as one unit.

4. *Control of gullies.*—(*a*) Filling shallow gullies, not more than 4 feet deep, when accompanied by the construction of adequate check dams properly spaced along the gully to prevent washing out. Each 10 cubic yards of fill or construction will be counted as one unit.

(*b*) Constructing and maintaining check dams in gullies (see Farmers' Bulletin No. 1234, "Gullies: How to Control and Reclaim Them", published by the U. S. Department of Agriculture). Each 20 linear feet of dams constructed will be counted as one unit.

(*c*) Establishing a good stand of erosion-resistant perennial grasses in gullies. Each 4000 square feet will be counted as one unit.

5. *Contour cultivation.*—(*a*) Plowing (unless plowed in 1937 in preparation for planting in 1938), planting, and cultivating land of 2 percent or more slope along lines of less than 2 percent slope (see Leaflet No. 85, "Strip-Cropping to Prevent Erosion", published by the U. S. Department of Agriculture). Each 2 acres will be counted as one unit.

(*b*) Listing land along contour lines for fallowing or for planting protective nondepleting cover crops. Each 2 acres will be counted as one unit.

(*c*) Strip-cropping land of 2 percent or more slope along contour lines with protective nondepleting cover crops or perennial varieties of crops which will prevent soil washing (see Leaflet No. 85, "Strip-Cropping to Prevent Erosion", published by the U. S. Department of Agriculture). Each acre will be counted as one unit.

6. *Planting protective nondepleting cover crops.*—(*a*) Interplanting protective nondepleting cover crops with other crops (see Farmers' Bulletin No. 1750, "Summer Crops for Green Manure and Soil Improvement", published by the U. S. Department of Agriculture). Each acre will be counted as two units.

(*b*) Planting protective nondepleting cover crops in rotation with other crops or using such cover crops, or oats and peas, for green manuring (see Farmers' Bulletin No. 1475, "Soil Productivity as Affected by Crop Rotation", and Farmers' Bulletin No. 1250, "Green Manuring", published by the U. S. Department of Agriculture). Each acre will be counted as three units.

(*c*) Planting on properly prepared land perennial varieties of protective nondepleting cover crops for permanent pasture or for cutting green for livestock feed (see Miscellaneous Publication No. 194, "A Pasture Handbook", published by the U. S. Department of Agriculture). Each acre will be counted as four units.

(*d*) Seeding pasture land with good seed of adapted varieties of perennial grasses or legumes which do not require preparation of a seed bed. Each 5 pounds of seed sown will be counted as one unit.

7. *Applying ground limestone.*—Applying ground limestone or its equivalent to acid soil. Each 1000 pounds will be counted as one unit but credit will not be given for the application of more than 2 tons per acre.

8. *Applying phosphoric acid and potash.*—Applying 20 percent superphosphate or 50 percent muriate of potash, or both, or their equivalent, to, or in connection with the seeding of, protective nondepleting cover crops. Each 100 pounds will be counted as one unit but credit will not be given for the application of more than 200 pounds per acre.

SECTION IV. *Division of payments.*—The amount of payment earned with respect to any farm shall be paid to the landlord, tenant, or sharecropper who carried out the soil-building practices thereon. If more than one such person contributes to the carrying-out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish that their respective contributions thereto were not in equal proportion, in which event such unit shall be divided in the proportion which such persons establish that they contributed thereto.

SECTION V. *Increase in small payments.*—The total payment computed under Sections I to IV, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.

[2] No increase.

SECTION VI. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection C of this Section VI) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration and is acknowledged by the farmer before the county agricultural extension agent and filed with such agent; (2) the farmer files with the assignment an affidavit showing that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that

to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

Section VII. *Application for payment.*—A. *Persons eligible to file application.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section IV, a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown or livestock produced on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the local office of the Insular Division on or before March 31, 1939. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if any other form or information required is not submitted to the local office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county agricultural extension agent and making copies of the same available to the press.

SECTION VII. *Definitions.*—As used herein and in all forms and documents relating to the 1938 Agricultural Conservation Program for Alaska, the following terms shall have the following meanings:

Secretary means the Secretary of Agriculture of the United States.

Insular Region means the area included in the Territory of Alaska, the Territory of Hawaii, and Puerto Rico.

Insular Division means the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program for the Insular Region.

Person means an individual, partnership, association, corporation, trust, or estate, and wherever applicable, a State, Territory, or Possession, or a political subdivision or agency thereof.

Farm means all tracts of cropland, pasture land, and other farm land in Alaska, operated by one or more persons in 1938 as a single farming unit, with cropping practices, work stock, farm machinery, management, and labor substantially separate from that for any other such unit, and including any other land which serves as a watershed for the supply of water for such farm and on which any applicable soil-building practice is performed.

Cropland means farm land which is tilled annually or in a regular rotation or is devoted to bearing or non-bearing orchards other than abandoned orchards.

Orchards means the acreage in planted fruit trees, nut trees, vineyards, hops, or bush fruits.

Pasture Land means farm land on which the predominant growth is forage suitable for grazing and on which the number and spacing of any trees or shrubs is such that the land could not fairly be considered as woodland.

Protective Nondepleting Cover Crops means any of the following: (1) all grasses, provided no grain is harvested therefrom, (2) field peas, cow peas, pigeon peas, gandule, soy beans, velvet beans, sword beans, field beans and sweetpotatoes not grown for commercial purposes, crotalaria, provided the vines are not removed from the land, (3) alfalfa, vetch, clover, lespedeza, lupines, and (4) any other crops approved by the Director of the Insular Division.

Done at Washington, D. C., this 22nd day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-854; Filed, March 23, 1938; 12:47 p. m.]

[ACP—1938—Hawaii]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN—HAWAII

CONTENTS

Section I. Allowance in Connection with Soil-Building Practices
Section II. Payment in Connection with Soil-Building Practices
Section III. Schedule of Soil-Building Practices
1. Planting Forest Trees
2. Control of Erosion by Terracing
3. Control of Erosion by Ditching
4. Control of Gullies
5. Contour Cultivation
6. Planting Protective Nondepleting Cover Crops
7. Applying Ground Limestone
8. Applying Phosphoric Acid and Potash
9. Applying Coffee Pulp
10. Reduction of Fallow Period on Pineapple Land
11. Eradicating Range-Destroying Plants
12. Restoration of Range Land and Pasture Land
13. Development of Stock Water on Range Land
14. Soil Analysis and Field Experiment
Section IV. Division of Payments
Section V. Increase in Small Payments
Section VI. General Conditions Relating to Payments
Section VII. Application for Payment
Section VIII. Definitions

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Agricultural Conservation Program in Hawaii in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participation. Any increase or decrease in rates of payments and allowances with respect to any crop or other item of payment made because of the extent of participation in the program in connection with such crop or item of payment will not exceed 10 percent.

SECTION I. *Allowance in connection with soil-building practices.*—The soil-building allowance for a farm is the maximum amount of payment which will be made for carrying out on the farm the soil-building practices specified in Section III. This allowance for any farm will be the sum of the following:

1. $4.00 per acre, not in excess of 10 acres, and $1.00 per acre, in excess of 10 acres, of cropland in the farm in excess of the largest acreage devoted to sugarcane at any one time in 1938;

2. 20 cents per acre, not in excess of 1000 acres, and 10 cents per acre, in excess of 1000 acres, of range land and pasture land included in the farm but not included in the cropland.

SECTION II. *Payment in connection with soil-building practices.*—Payment will be made, within the limit of the soil-building allowance established for the farm in accordance with Section I, for carrying out in the calendar year 1938 any of the soil-building practices listed in Section III, at the rate of $1.00 per unit of such practices, provided the practice is carried out by such methods and with such kinds of seeds, trees, and other materials as conform to good farming practice, and in accordance with the specifications listed herein and such additional specifications as may be issued by the Director of the Insular Division to assure that the soil-building practices will be performed in workmanlike manner and in accordance with good farming practices for the locality.

No payment will be made with respect to practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or Territorial agency. If a portion of the labor, seed, or other materials (except trees) used in carrying out any practice is furnished by a Federal or Territorial agency and such portion represents one-half or more of the total cost of carrying out such practice, no payment will be made with respect to such practice; if such portion represents less than one-half of the total cost of carrying out such practice, payment will be made with respect to one-half of such practice.

SECTION III. *Schedule of soil-building practices.*—Each of the following practices in the amounts specified shall be counted as the number of units specified for each:

1. *Planting forest trees.*—(*a*) Planting land entirely to forest trees or windbreak trees (see Farmers' Bulletin No. 1177, "Care and Improvement of the Farm Woods", published by the U. S. Department of Agriculture). Each acre will be counted as five units.

(*b*) Planting forest trees on the sides or crests of gulches or on erosion scars. Each 50 trees will be counted as one unit.

(*c*) Planting shade trees in established coffee groves by planting seedling trees. Each 50 trees will be counted as one unit.

2. *Control of erosion by terracing.*—(*a*) Constructing a sufficient amount of continuous terrace to give adequate protection against erosion (see Farmers' Bulletin No. 1663, "Farm Terracing", published by the U. S. Department of Agriculture), not including more than 300 feet of terrace per acre and not including Mangum type terraces on land of 20 percent or more slope. Each 100 feet of terrace will be counted as one unit.

(*b*) Constructing, and maintaining during 1938, individual terraces or catch pits around coffee trees. Each 200 terraces or catch pits constructed will be counted as one unit.

3. *Control of erosion by ditching.*—(*a*) Constructing permanent ditching, on land of 6 percent or more slope, with suitable outlets, and the slope of ditches not exceeding 4 percent, for the diversion of surface water to prevent soil washing, not including any temporary field ditching nor any ditching primarily for purposes of irrigation, sub-surface drainage, or under-drainage, or primarily for any purpose other than the prevention of soil washing (see Farmers' Bulletin No. 1606, "Farm Drainage", published by the U. S. Department of Agriculture). Each 500 linear feet of ditching will be counted as one unit.

(*b*) Constructing temporary field ditching on land of 6 percent or more slope, with suitable outlets and the slope of ditches not exceeding 4 percent, for the diversion of surface water to prevent soil washing, not including any ditching primarily for the purpose of irrigation, sub-surface drainage, or under-drainage, or primarily for any purpose other than the prevention of soil washing. Each 2000 linear feet of ditching will be counted as one unit.

(*c*) Lining ditches carrying water on a grade of 2 percent or more, including ditches constructed in accordance with the provisions of practice 3 (a). Credit of one unit will be given for each 12 square feet of ditch surface lined with concrete or stone set in mortar, for each 24 square feet of ditch surface lined with plaster, and for each 24 square feet of the inside surface of concrete, iron, or composition pipe used.

4. *Control of gullies.*—(*a*) Filling shallow gullies, not more than 4 feet deep, when accompanied by the construction of adequate check dams properly spaced along the gully to prevent washing out. Each 10 cubic yards of fill or construction will be counted as one unit.

(*b*) Constructing and maintaining check dams in gullies (see Farmers' Bulletin No. 1234, "Gullies: How to Control and Reclaim Them", published by the U. S. Department of Agriculture). Each 20 linear feet of dams constructed will be counted as one unit.

(*c*) Establishing a good stand of erosion-resistant perennial grasses in gullies. Each 4000 square feet will be counted as one unit.

5. *Contour cultivation.*—(*a*) Plowing (unless plowed in 1937 in preparation for planting in 1938), planting, and cultivating land of 2 percent or more slope along lines of less than 2 percent slope (see Leaflet No. 85, "Strip-Cropping to Prevent Erosion", published by the U. S. Department of Agriculture). Each 2 acres will be counted as one unit.

(*b*) Ridging land, with furrows not more than 40 feet apart and not less than 8 inches vertically between the tops and bottoms thereof, along contour lines or, in areas subject to wind erosion, at approximately right angles to the direction of prevailing winds: *Provided*, That if the land is of 6 percent or more slope, it is protected from erosion by adequate ditching. Each 4 acres will be counted as one unit for each such ridging operation performed thereon.

(*c*) Furrowing range land along contour lines with furrows not less than 8 inches in width and 4 inches in depth, dammed at intervals of not more than 100 feet, and with intervals between furrows not more than 25 feet. Each 2 acres will be counted as one unit.

(*d*) Strip-cropping land of 2 percent or more slope along contour lines with protective nondepleting cover crops or perennial varieties of crops which will prevent soil washing (see Leaflet No. 85, "Strip-Cropping to Prevent Erosion", published by the U. S. Department of Agriculture). Each acre will be counted as one unit.

6. *Planting protective nondepleting cover crops.*—(*a*) Interplanting protective nondepleting cover crops with other crops (see Farmers' Bulletin No. 1750, "Summer Crops for Green Manure and Soil Improvement", published by the U. S. Department of Agriculture). Each acre will be counted as two units.

(*b*) Planting protective nondepleting cover crops in rotation with other crops or using such cover crops for green manuring (see Farmers' Bulletin No. 1475, "Soil Productivity as Affected by Crop Rotation", and Farmers' Bulletin No. 1250, "Green Manuring", published by the U. S. Department of Agriculture). Each acre will be counted as three units.

(*c*) Planting on properly prepared land perennial varieties of protective nondepleting cover crops for permanent pasture or for cutting green for livestock feed (see Miscellaneous Publication No. 194, "A Pasture Handbook", published by the U. S. Department of Agriculture). Each acre will be counted as four units.

(*d*) Seeding depleted range land with good seed of adapted varieties of perennial grasses or legumes which do not require preparation of a seed bed. Each 5 pounds of seed sown will be counted as one unit.

7. *Applying ground limestone.*—Applying ground limestone or its equivalent to acid soil. Each ton will be counted as one unit but credit will not be given for the application of more than 2 tons per acre.

8. *Applying phosphoric acid and potash.*—Applying 20 percent superphosphate or 50 percent muriate of potash, or both, or their equivalent, to, or in connection with the seeding of, protective nondepleting cover crops. Each 100 pounds will be counted as one unit but credit will not be given for the application of more than 200 pounds per acre.

9. *Applying coffee pulp.*—Applying coffee pulp around coffee trees, to which coffee pulp was not applied in 1937, and to all the trees on the acreage on which the practice is carried out. Each acre so treated will be counted as two units if the average application of pulp is not less than 10 pounds (fermented weight) per tree, and each acre so treated will be counted as three units if the average application of pulp is not less than 15 pounds (fermented weight) per tree. Fresh pulp applied shall be converted to its fermented-weight equivalent on the basis of: 2 pounds of fresh pulp equal 1 pound of fermented pulp.

10. *Reduction of fallow period on pineapple land.*—Reducing the average fallow period of all the land in the farm planted to pineapples in 1938 below the average fallow period of all the land in the farm planted to pineapples in 1937. The average fallow period with respect to land planted to pineapples in 1937 shall be the weighted average number of months between the date of the first plowing in preparation for planting pineapples in 1937 and the date of such planting but in no event shall such average be regarded as being more than 8 months. The average fallow period with respect to land planted to pineapples in 1938 shall be the weighted

average number of months between the date of the first plowing in preparation for planting pineapples in 1938 and the date of such planting: *Provided*, That any land which is plowed prior to December 31, 1938, in preparation for planting pineapples after December 31, 1938, shall be regarded as planted to pineapples on December 31, 1938, and included in the computation of the average fallow period with respect to land planted to pineapples in 1938, if the inclusion of such land in such computation will result in increasing such average fallow period. Each acre of land planted to pineapples in 1938 (not including land regarded as planted to pineapples pursuant to the proviso of the preceding sentence) will be counted as one-tenth of one unit for each month by which the average fallow period with respect to land planted to pineapples in 1938 is less than the average fallow period with respect to land planted to pineapples in 1937, provided the land fallowed in 1938 is adequately protected from soil washing by ditching in accordance with practice 3 (b) or by ridging in accordance with practice 5 (b).

11. *Eradicating range-destroying plants.*—Eradicating serious infestations of guava (Psidium guajava), lantana (Lantana camara), pamakani (Eupatorium adonophorum), melastoma (Melastoma decemfidum), pukiawe (Styphelia tameiameiae), Hawaiian holly (Schinus terrabentifolius), firebush (Myrica americana), or joee (Stachytarpheta dichotoma, Verbena bonariensis) on range land. Each acre will be counted as one unit.

12. *Restoration of range land and pasture land.*—Removing all livestock from range land or pasture land, which was pastured in 1937 (including range land which was withheld from use in 1937 for the purpose of eradicating range-destroying plants), for a continuous period of more than six months between January 1, 1938, and March 31, 1939: *Provided*, (1) Such practice shall not be applicable to more than 25 percent of such range land and pasture land included in the farm; (2) On lands on which cattle or horses are grazed, the area to be kept free of grazing is fenced and the fence is maintained sufficiently to prevent the entry of livestock; (3) On lands used exclusively for grazing sheep, either the area to be kept free of grazing is fenced and the fence maintained sufficiently to prevent the entry of livestock or the entry of livestock is prevented by herding; (4) The remaining range land and pasture land in the farm is not pastured to such extent as will decrease the stand of grass or injure the forage, tree growth, or watershed; (5) Such practice shall not be applicable to land which normally is not used for grazing during the period in which livestock are excluded; and (6) The operator has submitted to the local office of the Insular Division in writing the designation of the non-grazing area of the farm prior to the carrying-out of such practice. Each acre will be counted as one-tenth of one unit for each month, in excess of six but not in excess of twelve, during which livestock are removed.

13. *Development of stock water on range land.*—Payment will be made with respect to the following water development practices: *Provided*, (1) Carrying out the practice results in supplying ample water, at points remote from the ranch headquarters, for the number of livestock using the adjoining range during the grazing season; (2) The purpose of the development is solely to bring about such a distribution of stock on the range as will conserve and restore the vegetative cover thereof; (3) No part of the water impounded or supplied is used for irrigating purposes; (4) The operator has submitted to the local office of the Insular Division in writing a designation of the point at which the practice is to be carried out and the nature thereof; and (5) the carrying-out of the practice has been approved by the officer in charge of such local office prior to the carrying-out of such practice.

(a) Drilling or digging wells, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. The drilling of an artesian well will qualify for payment provided adequate stock water is made available during the grazing season and the water is conveyed to a tank or trough. Each linear foot of the well will be counted as one unit.

(b) Developing springs or seeps, protecting the source from trampling, and conveying the water in a trough or in a pipe not less than one inch in diameter to a tank. Credit of one unit will be given for each 2 cubic feet of excavation in soil and for each three-fourths of a cubic foot of excavation in rock.

(c) Constructing permanent watersheds of galvanized iron or other approved material for accumulating rainwater for range livestock, provided other methods of furnishing or accumulating water are not available and the water is conveyed to a tank or storage reservoir. Each 40 square feet of shed constructed will be counted as one unit.

(d) Constructing water storage tanks of redwood, steel, or other approved material on adequate foundations. Each 200 gallons of capacity of the tank will be counted as one unit.

14. *Soil analysis and field experiment—No payment.*—(a) *For all plantation farms.*—The preparation of a soil map, or maps, showing the principal types of soil included in the cropland on the plantation farm, based on soil analyses sufficient to show the general nature of the textural and chemical composition, at various depths within the zone of root penetration, of each principal soil type, a copy of a map and a report of the analyses to be supplied prior to January 1, 1939, to the local office of the Insular Division: *Provided*, That if such a map and report have been submitted in accordance with the Agricultural Conservation Program for any year prior to 1938, there shall be supplied only such amendment or addition thereto as is specified by the Director of the Insular Division.

(b) *For all plantation farms.*—The establishment in 1938 of field experiments on principal types of soil included in the cropland on the plantation farm (not devoted to permanent pasture or to orchards or trees of any kind) in the use of organic matter or chemical fertilizers, the experiments to be properly laid out, controlled, carried to that degree of completion which is practicable during the calendar year 1938, and reported prior to January 1, 1939, to the local office of the Insular Division, each experiment to include not less than five replications of each individual treatment (variable) to be tested, and five replications of the standard check, the number of experiments established on the farm to be determined in accordance with the following table:

For farms on which there is included cropland not devoted to permanent pasture or to orchards or trees of any kind, in an amount—

Less than 800 acres, 1 experiment.
800–1299 acres, inclusive, 2 experiments.
1300–1899 acres, inclusive, 3 experiments.
1900–2499 acres, inclusive, 4 experiments.
2500 acres and over, 5 experiments, plus one additional experiment for each 1000 acres in excess of 2500 acres.

(c) *For plantation farms on which field experiments, established under the 1936 or 1937 Agricultural Conservation Program, are not completed during the calendar year 1938.*—The proper control and continuation of such experiments during the calendar year 1938.

(d) *For plantation farms on which field experiments, established under the 1936, 1937, or 1938 Agricultural Conservation Programs, are completed in 1938.*—The proper control of such experiments to the time of harvest and a report, prior to March 1, 1939, to the local office of the Insular Division including:

(1) A brief history of each experiment with a summary showing the kind and variety of crop used, the dates of planting and harvesting, the location, type of soil, size of plots, number of replications, quantities and formulas of fertilizer used, whether irrigated or not, and data concerning the presence of disease or pests.

(2) A tabulation of data showing the weight and quality of the produce of each plot and, in the case of sugarcane, an analysis of the cane juice from each plot showing brix, purity, sucrose, and yield of sugar.

(3) A statement of any significant relationships which may appear between the applications of various quantities or kinds of fertilizer and the chemical and textural composition of the soils on which the experiments were carried out.

(4) A statistical analysis of the yield data for each experiment indicating whether the yield differences observed have any statistical significance, and a statement of general conclusions which may be drawn from the data obtained, in the light of this analysis.

SECTION IV. *Division of Payments.*—The amount of payment earned with respect to any farm shall be paid to the landlord, tenant or sharecropper who carried out the soil-building practices thereon. If more than one such person contributes to the carrying-out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish that their respective contributions thereto were not in equal proportion, in which event such unit shall be divided in the proportion which such persons establish that they contributed thereto.

SECTION V. *Increase in Small Payments.*—The total payment computed under Sections I to IV, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule.

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SECTION VI. *General Provisions Relating to Payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection C of this Section VI) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration and is acknowledged by the farmer before the county agricultural extension agent and filed with such agent; (2) the farmer files with the assignment an affidavit showing that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

SECTION VII. *Application for Payment.*—A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section IV, a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown or livestock produced on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the local office of the Insular Division on or before March 31, 1939. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if any other form or information required is not submitted to the local office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county agricultural extension agent and making copies of the same available to the press.

C. *Applications for plantation farms.*—No payment will be made under this program with respect to an application pertaining to any plantation farm except on the condition that practice 14 of Section III be performed in 1938 in the manner applicable to such farm.

SECTION VIII. *Definitions.*—As used herein and in all forms and documents relating to the 1938 Agricultural Conservation Program for Hawaii, the following terms shall have the following meanings:

Secretary means the Secretary of Agriculture of the United States.

Insular Region means the area included in the Territory of Alaska, the Territory of Hawaii, and Puerto Rico.

Insular Division means the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program for the Insular Region.

Person means an individual, partnership, association, corporation, trust, or estate, and, wherever applicable, a State, Territory, or Possession, or a political subdivision or agency thereof.

Farm means all tracts of cropland, range land, and other farm land in Hawaii, operated by one or more persons in 1938 as a single farming unit, with cropping practices, work stock, farm machinery, management, and labor substantially separate from that for any other such unit, and including any other land which serves as a watershed for the supply of

water for such farm and on which any applicable soil-building practice is performed.

Plantation Farm means any farm comprising more than 500 acres of cropland, not devoted to permanent pasture or to orchards or trees of any kind.

Principal Type of Soil means for any plantation farm each soil type which comprises either 200 acres of cropland on such farm or 30 percent of the total cropland on such farm.

Cropland means farm land which is tilled annually or in a regular rotation or is devoted to bearing or nonbearing orchards other than abandoned orchards.

Orchards means the acreage in planted fruit trees, nut trees, coffee trees, banana plants, or vineyards.

Pasture Land means farm land (other than range land) on which the predominant growth is forage suitable for grazing and on which the number and spacing of any trees or shrubs is such that the land could not fairly be considered as woodland.

Range Land means any land which produces forage grazed by range livestock without cultivation or general irrigation. Range land shall not include any land for which the Territory tax-assessment valuation is less than 50 cents per acre.

Protective Nondepleting Cover Crops means any of the following: (1) all grasses, provided no grain is harvested therefrom, (2) field peas, cow peas, pigeon peas, gandule, soy beans, velvet beans, sword beans, field beans and sweet-potatoes not grown for commercial purposes, crotalaria, provided the vines are not removed from the land, (3) alfalfa, vetch, clover, lespedeza, lupines, Koa Haole (Lucaena Glauca), and (4) any other crops approved by the Director of the Insular Division.

Done at Washington, D. C., this 22nd day of March 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-853; Filed, March 23, 1938; 12:47 p. m.]

[ACP—1938—Puerto Rico]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN—PUERTO RICO

CONTENTS

Section I. Allowance in Connection with Soil-Building Practices
II. Payment in Connection with Soil-Building Practices
III. Schedule of Soil-Building Practices
1. Planting Forest Trees
2. Control of Erosion by Terracing
3. Control of Erosion by Ditching
4. Control of Gullies
5. Contour Cultivation
6. Planting Protective Nondepleting Cover Crops
7. Applying Ground Limestone
8. Applying Phosphoric Acid and Potash
9. Applying Coffee Pulp
10. Making Compost
11. Soil Analysis and Field Experiment
IV. Payment in Connection with Tobacco Acreage Allotments
V. Division of Payments
VI. Increase in Small Payments
VII. Deductions Incurred on Other Farms
VIII. Acreage Allotments for Tobacco
IX. General Conditions Relating to Payments
X. Application for Payment
XI. Definitions

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Agricultural Conservation Program in Puerto Rico in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participation. Any increase or decrease in rates of payments and allowances with respect to any crop or other item of payment made because of the extent of participation in the program in connection with such crop or item of payment will not exceed 10 percent.

SECTION I. *Allowance in connection with soil-building practices.*—The soil-building allowance for a farm is the maximum amount of payment which will be made for carrying out on the farm the soil-building practices specified in Section III. This allowance for any farm will be the sum of the following:

1. $4.00 per acre, not in excess of 10 acres, and $1.00 per acre, in excess of 10 acres, of cropland in the farm in excess of the sum of (1) the largest acreage devoted to sugarcane at any one time in 1938 and (2) the tobacco acreage allotment established for the farm.

2. 20 cents per acre, not in excess of 1000 acres, and 10 cents per acre, in excess of 1000 acres, of pasture land included in the farm but not included in the cropland.

SECTION II. *Payment in connection with soil-building practices.*—Payment will be made, within the limit of the soil-building allowance established for the farm in accordance with Section I, for carrying out in the calendar year 1938 any of the soil-building practices listed in Section III, at the rate of $1.00 per unit of such practices, provided the practice is carried out by such methods and with such kinds of seeds, trees, and other materials as conform to good farming practice, and in accordance with the specifications listed herein and such additional specifications as may be issued by the Director of the Insular Division to assure that the soil-building practices will be performed in workmanlike manner and in accordance with good farming practices for the locality.

No payment will be made with respect to practices carried out with labor, seed, trees, and materials furnished entirely by any Federal agency or any agency of Puerto Rico. If a portion of the labor, seed, or other materials (except trees) used in carrying out any practice is furnished by a Federal agency or an agency of Puerto Rico and such portion represents one-half or more of the total cost of carrying out such practice, no payment will be made with respect to such practice; if such portion represents less than one-half of the total cost of carrying out such practice, payment will be made with respect to one-half of such practice.

SECTION III. *Schedule of soil-building practices.*—Each of the following practices in the amounts specified shall be counted as the number of units specified for each:

1. *Planting forest trees.*—(*a*) Planting land entirely to forest trees or windbreak trees (see Farmers' Bulletin No. 1177, "Care and Improvement of the Farm Woods", published by the U. S. Department of Agriculture). Each acre will be counted as five units.

(*b*) Planting shade trees in established coffee groves by planting seedling trees. Each 50 trees will be counted as one unit.

(*c*) Cultivating, protecting, improving, and maintaining a good stand of shade trees planted in coffee groves prior to 1938. Each acre will be counted as one unit.

(*d*) Planting land to a normal number of Erythrina for use as support and shade for vanilla, by planting cuttings on suitably prepared land. Each acre will be counted as five units.

2. *Control of erosion by terracing.*—(*a*) Constructing a sufficient amount of continuous terrace to give adequate protection against erosion (see Farmers' Bulletin No. 1669, "Farm Terracing", published by the U. S. Department of Agriculture), not including more than 300 feet of terrace per acre and not including Mangum type terraces on land of 20 percent or more slope. Each 100 feet of terrace will be counted as one unit.

(*b*) Constructing, and maintaining during 1938, individual terraces or catch pits around coffee trees. Each 200 terraces or catch pits constructed will be counted as one unit.

(*c*) Maintaining throughout 1938 individual terraces or catch pits constructed around coffee trees prior to 1938. Each 500 terraces or catch pits maintained will be counted as one unit.

3. *Control of erosion by ditching.*—(*a*) Constructing permanent ditching, on land of 6 percent or more slope, with suitable outlets, and the slope of ditches not exceeding 4 percent, for the diversion of surface water to prevent soil washing, not including any temporary field ditching nor any ditching primarily for purposes of irrigation, sub-surface drainage, or under-drainage, or primarily for any purpose other than the prevention of soil washing (see Farmers' Bulletin No. 1606, "Farm Drainage", published by the U. S. Department of Agriculture). Each 500 linear feet of ditching will be counted as one unit.

(*b*) Constructing temporary field ditching on land of 6 percent or more slope, with suitable outlets and the slope of ditches not exceeding 4 percent, for the diversion of surface water to prevent soil washing, not including any ditching primarily for the purpose of irrigation, subsurface drainage, or under-drainage, or primarily for any purpose other than the prevention of soil washing. Each 2000 linear feet of ditching will be counted as one unit.

(*c*) Lining ditches carrying water on a grade of 2 percent or more, including ditches constructed in accordance with the provisions of practice 3 (a). Credit of one unit will be given for each 12 square feet of ditch surface lined with concrete or stone set in mortar, for each 24 square feet of ditch surface lined with plaster, and for each 24 square feet of the inside surface of concrete, iron, or composition pipe used.

4. *Control of gullies.*—(*a*) Filling shallow gullies, not more than 4 feet deep, when accompanied by the construction of adequate check dams properly spaced along the gully to prevent washing out. Each 10 cubic yards of fill or construction will be counted as one unit.

(*b*) Constructing and maintaining check dams in gullies (see Farmers' Bulletin No. 1234, "Gullies: How to Control and Reclaim Them", published by the U. S. Department of Agriculture). Each 20 linear feet of dams constructed will be counted as one unit.

(*c*) Establishing a good stand of erosion-resistant perennial grasses in gullies. Each 4000 square feet will be counted as one unit.

5. *Contour cultivation.*—(*a*) Plowing (unless plowed in 1937 in preparation for planting in 1938), planting, and cultivating land of 2 percent or more slope along lines of less than 2 percent slope (see Leaflet No. 85, "Strip-Cropping to Prevent Erosion", published by the U. S. Department of Agriculture). Each 2 acres will be counted as one unit.

(*b*) Listing land along contour lines for fallowing or for planting protective nondepleting cover crops. Each 2 acres will be counted as one unit.

(*c*) Strip-cropping land of 2 percent or more slope along contour lines with protective nondepleting cover crops or perennial varieties of crops which will prevent soil washing (see Leaflet No. 85, "Strip-Cropping to Prevent Erosion", published by the U. S. Department of Agriculture). Each acre will be counted as one unit.

6. *Planting protective nondepleting cover crops.*—(*a*) Interplanting protective nondepleting cover crops with other crops (see Farmers' Bulletin No. 1750, "Summer Crops for Green Manure and Soil Improvement", published by the U. S. Department of Agriculture). Each acre will be counted as two units.

(*b*) Planting protective nondepleting cover crops in rotation with other crops or using such cover crops for green manuring (see Farmers' Bulletin No. 1475, "Soil Productivity as Affected by Crop Rotation", and Farmers' Bulletin No. 1250, "Green Manuring", published by the U. S. Department of Agriculture). Each acre will be counted as three units.

(*c*) Planting on properly prepared land perennial varieties of protective nondepleting cover crops for permanent pasture or for cutting green for livestock feed (see Miscellaneous Publication No. 194, "A Pasture Handbook", published by the U. S. Department of Agriculture). Each acre will be counted as four units.

(*d*) Seeding pasture land with good seed of adapted varieties of perennial grasses or legumes which do not require preparation of a seed bed. Each acre seeded will be counted as two units.

7. *Applying ground limestone.*—Applying ground limestone or its equivalent to acid soil. Each ton will be counted as one unit but credit will not be given for the application of more than 2 tons per acre.

8. *Applying phosphoric acid and potash.*—Applying 20 percent superphosphate or 50 percent muriate of potash, or both, or their equivalent, to, or in connection with the seeding of, protective nondepleting cover crops. Each 100 pounds will be counted as one unit but credit will not be given for the application of more than 200 pounds per acre.

9. *Applying coffee pulp.*—Applying coffee pulp around coffee trees, to which coffee pulp was not applied in 1937, and to all the trees on the acreage on which the practice is carried out at the rate of not less than an average of 3 pounds (fermented weight) per tree. Each acre so treated will be counted as two units. Fresh pulp applied shall be converted to its fermented-weight equivalent on the basis of: 2 pounds of fresh pulp equal 1 pound of fermented pulp.

10. *Making compost.*—Making compost for use on land on which food crops for home consumption are grown (see Miscellaneous Publication No. 136, "Conservation of Fertilizer Materials from Minor Sources", published by the U. S. Department of Agriculture). Each 10 cubic yards will be counted as one unit but credit will not be given for more than 10 units on any farm.

11. *Soil analysis and field experiment—No payment*—(*a*) *For all plantation farms.*—The preparation of a soil map, or maps, showing the principal types of soil included in the cropland on the plantation farm, based on soil analyses sufficient to show the general nature of the textural and chemical composition, at various depths within the zone of root penetration, of each principal soil type, a copy of a map and a report of the analyses to be supplied prior to January 1, 1939, to the local office of the Insular Division: *Provided*, That if such a map and report have been submitted in accordance with the Agricultural Conservation Program for any year prior to 1938, there shall be supplied only such amendment or addition thereto as is specified by the director of the Insular Division.

(*b*) *For all plantation farms.*—The establishment in 1938 of field experiments on principal types of soil included in the cropland on the plantation farm (not devoted to permanent pasture or to orchards or trees of any kind) in the use of organic matter or chemical fertilizers, the experiments to be properly laid out, controlled, carried to that degree of completion which is practicable during the calendar year 1938, and reported prior to January 1, 1939, to the local office of the Insular Division, each experiment to include not less than five replications of each individual treatment (variable) to be tested, and five replications of the standard check, the number of experiments established on the farm to be determined in accordance with the following table:

For farms on which there is included cropland not devoted to permanent pasture or to orchards or trees of any kind, in an amount—

Less than 800 acres, 1 experiment.
800–1299 acres, inclusive, 2 experiments.
1300–1899 acres, inclusive, 3 experiments.
1900–2499 acres, inclusive, 4 experiments.
2500 acres and over, 5 experiments, plus one additional experiment for each 1000 acres in excess of 2500 acres.

(*c*) *For plantation farms on which field experiments, established under the 1936 or 1937 Agricultural Conservation*

Program, are not completed during the calendar year 1938.—The proper control and continuation of such experiments during the calendar year 1938.

(d) *For plantation farms on which field experiments, established under the 1936, 1937, or 1938 Agricultural Conservation Programs, are completed in 1938.*—The proper control of such experiments to the time of harvest and a report, prior to March 1, 1939, to the local office of the Insular Division including:

(1) A brief history of each experiment with a summary showing the kind and variety of crop used, the dates of planting and harvesting, the location, type of soil, size of plots, number of replications, quantities and formulas of fertilizer used, whether irrigated or not, and data concerning the presence of disease or pests.

(2) A tabulation of data showing the weight and quality of the produce of each plot, and in the case of sugarcane, an analysis of the cane juice from each plot showing brix, purity, sucrose, and yield of sugar.

(3) A statement of any significant relationships which may appear between the application of various quantities or kinds of fertilizer and the chemical and textural composition of the soils on which the experiments were carried out.

(4) A statistical analysis of the yield data for each experiment indicating whether the yield differences observed have any statistical significance, and a statement of general conclusions which may be drawn from the data obtained, in the light of this analysis.

SECTION IV. *Payment in connection with tobacco acreage allotments.*—Payment will be made with respect to any farm at the rate of $6.00 for each acre in the tobacco acreage allotment established for the farm. The payment with respect to any farm shall be subject to a deduction of $18.00 for each acre of tobacco planted on the farm in the 1938–1939 tobacco season in excess of the tobacco acreage allotment established for the farm.

SECTION V. *Division of payments.*—A. *Payments and deductions in connection with tabacco acreage allotments.*—The net payment or net deduction computed for any farm with respect to the tobacco acreage allotment shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds of the tobacco grown on the farm in the 1938–1939 tobacco season. In the event that tobacco is not harvested on the farm in the 1938–1939 tobacco season the payment, if any, with respect to the tobacco acreage allotment shall be divided among the landlords, tenants, and sharecroppers in the same proportion that such persons would have shared in the proceeds of such crop had tobacco been harvested on the farm in the 1938–1939 tobacco season.

B. *Payments in connection with soil-building practices.*—The amount of payment earned in connection with soil-building practices carried out on any farm shall be paid to the landlord, tenant, or sharecropper who carried out the soil-building practices. If more than one such person contributes to the carrying-out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish that their respective contributions thereto were not in equal proportion, in which event such unit shall be divided in the proportion which such persons establish that they contributed thereto.

C. *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the other persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SECTION VI. *Increase in small payments.*—The total payment computed under Sections I to V, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SECTION VII. *Deductions incurred on other farms.*—If the deductions computed under Section IV with respect to any farm exceed the payment computed under Sections I to III, inclusive, with respect to such farm, any person's share of the amount by which such deductions exceed such payments shall be deducted from such person's share of the payments which would otherwise be made to him with respect to any other farms in Puerto Rico.

SECTION VIII. *Acreage allotments for tobacco.*—The acreage allotment of tobacco for Puerto Rico shall be 42,000 acres and the tobacco acreage allotments established for all farms in Puerto Rico shall not exceed such amount. Acreage allotments of tobacco shall be determined for farms for which a base acreage for tobacco was, or could have been, established under the 1937 Agricultural Conservation Program on the basis of: (1) the sum of the acreage planted to tobacco on the farm in the 1937–1938 tobacco season (not exceeding such base acreage for tobacco) and the acreage diverted from the production of tobacco under the 1937 Agricultural Conservation Program; (2) land, labor, and equipment available for the production of tobacco; (3) crop rotation practices; and (4) the soil and other physical factors affecting the production of tobacco. Not more than 3 percent of the acreage allotment of tobacco for Puerto Rico shall be apportioned to farms for which a base acreage for tobacco could not have been established under the 1937 Agricultural Conservation Program, on the basis of the acreage, if any, planted to tobacco on the farm in the 1937–1938 tobacco season and the factors specified in clauses (2), (3), and (4) of the preceding sentence.

SECTION IX. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deductions of claims for advances (except as provided in subsection D of this Section IX) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 is made between the landlord and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, payments to the landlord under the 1938 Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the local office of the Insular Division certifies that the change is not justified and disapproves such change.

If on any farm the number of sharecroppers or share tenants in 1938 is less than the average number on the farm during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the local office of the Insular Division certifies that the reduction is not justified and disapproves such reduction.

If the Agricultural Adjustment Administration finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration and is acknowledged by the farmer before the local agricultural extension agent and filed with such agent; (2) the farmer files with the assignment an affidavit showing that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

SECTION X. *Application for payment.*—A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V, a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown or livestock produced on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the local office of the Insular Division on or before March 31, 1939. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if any other form or information required is not submitted to the local office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each local agricultural extension agent and making copies of the same available to the press.

C. *Application for plantation farms.*—No payment will be made under this program with respect to an application pertaining to any plantation farm except on the condition that practice 11 of Section III be performed in 1938 in the manner applicable to such farm.

D. *Land area.*—All calculations involving land area will be made on the basis that one cuerda equals 0.97 acre.

SECTION XI. *Definitions.*—As used herein and in all forms and documents relating to the 1938 Agricultural Conservation Program for Puerto Rico, the following terms shall have the following meanings:

Secretary means the Secretary of Agriculture of the United States.

Insular Region means the area included in the Territory of Alaska, the Territory of Hawaii, and Puerto Rico.

Insular Division means the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program for the Insular Region.

Person means an individual, partnership, association, corporation, trust, or estate, and, wherever applicable, a State, Territory, or Possession, or a political subdivision or agency thereof.

Farm means all tracts of cropland, pasture land, and other farm land in Puerto Rico, operated by one or more persons in 1938 as a single farming unit, with cropping practices, work stock, farm machinery, management, and labor substantially separate from that for any other such unit, and including any other land which serves as a watershed for the supply of water for such farm and on which any applicable soil-building practice is performed.

Plantation Farm means any farm comprising more than 500 acres of cropland, not devoted to permanent pasture or to orchards or trees of any kind.

Principal Type of Soil means for any plantation farm each soil type which comprises either 200 acres of cropland on such farm or 30 percent of the total cropland on such farm.

Cropland means farm land which is tilled annually or in a regular rotation or is devoted to bearing or nonbearing orchards other than abandoned orchards.

Orchards means the acreage in planted fruit trees, nut trees, coffee trees, banana plants, vineyards, or bush fruits.

Pasture Land means farm land on which the predominant growth is forage suitable for grazing and one which the number and spacing of any trees or shrubs is such that the land could not fairly be considered as woodland.

Tobacco Season means the period beginning on September 1 of one calendar year and ending on March 31 of the succeeding calendar year.

Protective Nondepleting Cover Crops means any of the following: (1) all grasses, provided no grain is harvested

therefrom, (2) field peas, cow peas, pigeon peas, gandule, soy beans, velvet beans, sword beans, field beans and sweetpotatoes not grown for commercial purposes, crotalaria, provided the vines are not removed from the land, (3) alfalfa, vetch, clover, lespedeza, lupines, and (4) any other crops approved by the Director of the Insular Division.

Done at Washington, D. C., this 22nd day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-855; Filed, March 23, 1938; 12:47 p. m.]

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE DURING THE CROP YEAR 1938 FOR THE TERRITORY OF HAWAII

Whereas Section 301 of the Sugar Act of 1937 authorizes the Secretary to make payments upon certain conditions with respect to sugar or liquid sugar recoverable from the sugarcane grown on a farm for the extraction of sugar or liquid sugar; and

Whereas the condition with respect to farming practices, as stated in subsection (e) of section 301 of the said act, is:

That there shall be carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the requirements of subsection (e) of section 301 of the said act shall be deemed to have been met with respect to a farm in the Territory of Hawaii if the following farming practices have been carried out during the calendar year 1938:

The application to land on which sugarcane is growing at any time during the calendar year 1938 of an amount of chemical fertilizer per acre of such land fertilized, which contains an average quantity of available plant food, in any form or combination of nitrogen, phosphoric acid, or potash, equal to not less than the greater of either (1) 150 pounds, or (2) 80 percent of the average, for 1936 or 1937, whichever was smaller, quantity which was applied on land on which sugarcane was growing and on which fertilizer was applied, during such year: *Provided*, That the number of acres of land on which sugarcane is growing and on which fertilizer is applied during 1938 is not less than the number of acres on the farm on which there is growing at any time during 1938 a crop of sugarcane of less than six months growth.

"Chemical fertilizer" as used herein means commercial fertilizer which contains not less than 15 pounds of some form of available nitrogen, phosphoric acid, or potash per hundred pounds of gross weight.

Done at Washington, D. C., this 22nd day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-850; Filed, March 23, 1938; 12:46 p. m.]

PROCLAMATION MADE BY THE SECRETARY OF AGRICULTURE CONCERNING BASE PERIOD TO BE USED IN CONNECTION WITH EXECUTION OF MARKETING AGREEMENT AND ISSUANCE OF ORDER REGULATING HANDLING OF MILK IN CINCINNATI, OHIO MARKETING AREA

By virtue of the authority vested in the Secretary of Agriculture by the terms and provisions of Public No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture hereby finds and proclaims that, in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of milk in the Cincinnati, Ohio, Marketing Area, the purchasing power of such milk during the base period August 1909 to July 1914 cannot be satisfactorily determined from available statistics in the Department of Agriculture, but that the purchasing power of such milk can be satisfactorily determined from available statistics in the Department of Agriculture for the period August 1919 to July 1929; and the period August 1919 to July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Cincinnati, Ohio, Marketing Area, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of milk in that area.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 22nd day of March 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-851; Filed, March 23, 1938; 12:46 p. m.]

Bureau of Animal Industry.

NOTICE

MARCH 23, 1938.

To C. J. ELLINGTON and JESS COOK, *doing business as Ellington and Cook Livestock Com. Market, Alexandria, La.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Ellington and Cook Livestock Commission Market, at Alexandria, State of Louisiana, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-852; Filed, March 23, 1938; 12:46 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTY

HAWAII

MARCH 22, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Hawaiian Territorial Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Hawaii.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-849; Filed, March 23, 1938; 12:46 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

EXTENSION OF EFFECTIVE DATE OF AMENDED RULE 443 PERTAINING TO THE TERRITORY OF ALASKA

The Commission at a meeting held March 15, 1938, extended the effective date of amended Rule 443, in so far as it affects radio stations and operators in the Territory of Alaska, from April 1, 1938 to November 1, 1938. The Commission directed that the present Rule 443 remain in force in that Territory until November 1, 1938.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-841; Filed, March 23, 1938; 9:40 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of March, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3185]

IN THE MATTER OF GUY J. BANTA, AN INDIVIDUAL, TRADING AND DOING BUSINESS UNDER THE NAME AND STYLE OF CAL-A-MO LABORATORIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, April 5, 1938, at ten o'clock in the forenoon of that day (Pacific Standard Time) at room 442 Pacific Electric Building, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-842; Filed, March 23, 1938; 9:59 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of March, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY INDUSTRIAL INVESTMENT CORPORATION, RESPONDENT, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE GULF-WISE-VINSON TRACT

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

Industrial Investment Corporation, having filed on February 28, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

That the information given under Division II, Item 20 (b), concerning the percentage of water in fluid produced, is not correctly stated;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 5th day of April, 1938, at 10:30 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-846; Filed, March 23, 1938; 11:26 a. m.]

United States of America—Before the Securities And Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of March, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY L. H. WITWER, RESPONDENT, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE SINCLAIR-PRAIRIE-RICE TRACT

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

L. H. Witwer, having filed on March 7, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

(1) That the information given under Division II, Item 20 (b), concerning the percentage of water in fluid produced, is not correctly stated;

(2) That the data given under Division II, Item 18, concerning the number of wells flowing naturally and the number of wells producing by pump, are not correctly stated;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as

amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 5th day of April, 1938, at 11:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-847; Filed, March 23, 1938; 11:26 a. m.]

Friday, March 25, 1938 *No. 59*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DESIGNATING THE SECRETARY OF THE TREASURY AS THE OFFICIAL TO RECEIVE CERTAIN CAPITAL STOCK FROM THE RECONSTRUCTION FINANCE CORPORATION, THE SECRETARY OF AGRICULTURE, AND THE GOVERNOR OF THE FARM CREDIT ADMINISTRATION

By virtue of and pursuant to the authority vested in me by the act of February 24, 1938, Public, No. 432, 75th Congress, and the act of March 8, 1938, Public, No. 442, 75th Congress, I hereby designate the Secretary of the Treasury on behalf of the United States to receive from the Reconstruction Finance Corporation all of such capital stock as the Reconstruction Finance Corporation may hold pursuant to any provision of law referred to in subsection (b) of Section 1 of the said act of February 24, 1938, and to receive from the Secretary of Agriculture and the Governor of the Farm Credit Administration such stock of the Commodity Credit Corporation as they now hold.

The Secretary of the Treasury is hereby authorized and directed to exercise on behalf of the United States any and all rights accruing to the holder of such stock.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 22, 1938.

[No. 7848]

[F. R. Doc. 38-856; Filed, March 23, 1938; 2:50 p. m.]

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

NOTICE OF HEARING WITH REFERENCE TO PROPOSED AMENDMENTS TO REGULATIONS NO. 7, RELATING TO LABELING AND ADVERTISING OF MALT BEVERAGES

TO CONSIDER REVISION OF THE STANDARDS FOR ALE, PORTER, AND STOUT, AND FOR OTHER PURPOSES

MARCH 23, 1938.

Pursuant to the provisions of Section 5 of the Federal Alcohol Administration Act, as amended:

Notice is hereby given of a public hearing to be held on Monday, April 25, 1938, at 10:00 A. M. at the Mayflower Hotel, Connecticut Avenue and DeSales Street, Washington, D. C., for the purpose of taking evidence with reference to proposed amendments to Regulations No. 7, Relating to Labeling and Advertising of Malt Beverages:

1. To amend Article II, Section 24, and other pertinent sections of the regulations, in such manner as to define "ale", "porter", and "stout" on a basis other than that of alcoholic content.

2. To amend Article II, Section 24, and other pertinent sections of the regulations, in such manner as to provide that a malt beverage for which there is no class or type designation known to the trade shall bear a distinctive or fanciful name, together with a truthful and adequate statement of composition.

3. To amend Article II, Section 29, and other pertinent sections of the regulations, in such manner as to regulate references in labeling or advertising to vitamin content and similar properties of malt beverages.

4. To amend Article II, Section 29, and other pertinent sections of the regulations, in such manner as to provide that the labels for imported Pilsener beer not brewed at Pilsen, Czechoslovakia, shall clearly indicate that such product was not brewed at Pilsen.

[SEAL] W. S. ALEXANDER, *Administrator*.

[F. R. Doc. 38-857; Filed, March 23, 1938; 3:43 p. m.]

NOTICE OF HEARING WITH REFERENCE TO PROPOSED AMENDMENTS TO REGULATIONS NO. 4, RELATING TO LABELING AND ADVERTISING OF WINE

TO CONSIDER REVISIONS PERMITTING THE SUBSTITUTION OF APPROPRIATE NOMENCLATURE IN LIEU OF THE MANDATORY CLASS DESIGNATION "LIGHT WINE", TO REVISE THE REQUIREMENTS RELATIVE TO DOMESTIC AND OTHER APPELLATIONS OF ORIGIN, AND FOR OTHER PURPOSES

MARCH 23, 1938.

Pursuant to the provisions of Section 5 of the Federal Alcohol Administration Act, as amended:

Notice is hereby given of a public hearing to be held on Wednesday, April 27, 1938, at 10 A. M. at the Mayflower Hotel, Connecticut Avenue and DeSales Street, Washington, D. C., for the purpose of taking evidence with reference to proposed amendments of Regulations No. 4, Relating to Labeling and Advertising of Wine:

1. To amend Article II, Section 21, Class 1, and other pertinent sections of the regulations, in such manner as to authorize the use of the terms "red wine", "white wine", "grape wine", and similar appropriate nomenclature, in lieu of the class designation "light wine."

2. To amend Article II, Section 21, Class 1, and other pertinent sections of the regulations, in such manner as to include therein "pure sweet wine" as defined in Section 43 of the Act of October 1, 1890, as amended.

3. To amend Article II, Section 21, and other pertinent sections of the regulations, in such manner as to clarify the phrase "permitted by internal-revenue laws" and to specify the practices permissible thereunder.

4. To amend Article II, Section 21, and other pertinent sections of the regulations dealing with "citrus fruit wine", "fortified citrus fruit wine", "fruit wine", "fortified fruit wine", "vegetable wine" and "fortified vegetable wine" in such manner as to conform their provisions to the requirements of internal revenue statutes, to define more specifically appropriate amelioration limits thereunder, and to provide more specifically for the composition and designation of mixtures of various wines under these classifications.

5. To amend Article II, Section 21, Class 6 (d), and other pertinent sections of the regulations, in such manner as to require that "Light Port" and "Light Sherry" have a minimum alcoholic content of more than 14% by volume.

6. To amend Article II, Section 21, Class 10 (c), and other pertinent sections of the regulations, in such manner as to provide a specific maximum volatile acidity for wines in addition to those defined in Classes 1 and 6 of Section 21.

7. To amend Article II, Section 22, and other pertinent sections of the regulations, in such manner as to provide that the introduction into any wine of substances foreign thereto and remaining a part thereof shall constitute an alteration of the class and type of the wine, and to further provide for more specific definition of permissible cellar treatment.

8. To amend Article II, Section 23, and other pertinent sections of the regulations, in such manner as to define more specifically the minimum content of a given grape variety to be required in any wine bearing the name of that grape variety on its label.

9. To amend Article III, Section 33 (b), and Section 39 (j), and Article VI, Section 64 (h), and other pertinent sections of the regulations, in such manner as to provide, in addition to existing requirements, and with respect to both domestic and imported wine, (1) that any wine bearing a label which contains, as a part of the class and type designation, or otherwise, any indication of origin must conform in composition, and in all other respects, to the requirements of the laws or regulations of such place of origin governing the composition and labeling of wine for local consumption, and (2) that any wine, otherwise entitled to a particular designation of origin, may not bear on the label any indication of such place of origin, if by any processing taking place outside such place of origin, such wine has been rectified, blended with wines which are not of the same origin, class and type, or otherwise altered as to class and type.

10. To amend Article III, Section 39 (b), and other pertinent sections of the regulations, in such manner as to—

(a) Prohibit statements of vintage dates upon the labels of any domestic wine; or, in the alternative,

(b) Prohibit any statement of vintage date on any domestic wine unless such wine has been bottled in a container having a capacity of one gallon or less at the winery premises at which the entire operations of crushing, fermenting, clarifying and subsequent cellar treatment took place, and unless the producer at such winery premises shall have maintained in such manner and form as the Administrator shall prescribe, permanent plant records showing, among other things, the source and origin of each lot of wine introduced into the premises, the subsequent blending of each such lot, its movement from one place of storage to another within the premises up to the time of bottling, the brand name, class and type designation and vintage date appearing upon the label, the serial number of the shipping container, and the number of the storage tank from which the wine was bottled, and to further require that such producer shall from time to time furnish the Administrator with an inventory of wine stocks so recorded; or, in the alternative,

(c) Permit the producer to bottle or pack domestic vintage wine in containers having a capacity not in excess of 50 gallons, under the procedure outlined in (b) above, and to permit any permittee purchasing the wine so packed to rebottle the same without blending into containers having a capacity not in excess of one gallon, provided such permittee maintains, in such manner and form as the Administrator shall prescribe, permanent plant records at the place of bottling which will show the origin, description and producer of such wine, and to further require that such bottler shall from time to time furnish the Administrator with an inventory of the wines so recorded.

11. To amend Article III, Section 39, and other pertinent sections of the regulations, in such manner as to forbid any references to alcoholic content other than statements required or permitted under Section 36 thereof, so as to forbid references, or statements which may be construed as references, to intoxicating and similar qualities of a wine, and so as to forbid any references to the distilled spirits which may be contained in a wine other than such statements as are required as part of a statement of composition under Section 34 thereof.

12. To amend Article III, Section 39, and other pertinent sections of the regulations, in such manner as to specify the conditions of the use of "Pure", "Natural", "Select", "Reserve", and similar expressions relative to quality or circumstances of production.

[SEAL] W. S. ALEXANDER, *Administrator*.

[F. R. Doc. 38-860; Filed, March 24, 1938; 10:52 a. m.]

NOTICE OF HEARING WITH REFERENCE TO THE PROPOSED ESTABLISHMENT OF MAXIMUM CREDIT PERIODS AND TO PROPOSED AMENDMENTS TO REGULATIONS NO. 6

TO CONSIDER THE LIMITATION OF THE PERIODS OF CREDIT WHICH MAY BE OFFERED TO RETAILERS, AND TO CONSIDER CERTAIN AMENDMENTS TO REGULATIONS NO. 6 TO PERMIT THE FURNISHING OF SPECIFIED EQUIPMENT, SUPPLIES, AND SERVICES TO RETAILERS, AND FOR OTHER PURPOSES

MARCH 23, 1938.

Pursuant to the provisions of Section 5 of the Federal Alcohol Administration Act, as amended:

Notice is hereby given of a public hearing to be held on Tuesday, April 26, 1938, at 10:00 A. M., at the Mayflower Hotel, Connecticut Avenue and DeSales Street, Washington, D. C.,

(a) for the purpose of taking evidence with reference to a proposed regulation limiting, pursuant to Section 5 (b) (6) of the Federal Alcohol Administration Act (which authorizes the Administrator to ascertain and prescribe by regulations the credit period usual and customary to the industry for the particular class of transactions), the credit which may be extended to retailers.

(b) for the purpose of taking evidence with reference to proposed amendments of Regulations No. 6, Relating to the Furnishing of equipment, Fixtures, Signs, Supplies, Money, Services, and Other Things of Value to Retailers of Distilled Spirits, Wine and Malt Beverages:

1. To amend Section 3, and other pertinent sections of the regulations, in such manner as to permit the furnishing, selling, or renting, under certain prescribed conditions, to a retail purchaser of bulk wines, such specified equipment, supplies, and services as are necessary to insure that the wine will reach the consumer in proper condition; and to prescribe conditions under which a vendor of bulk wine may furnish proprietary and private brand labels at cost to retailers bottling such wine.

2. To amend Section 3 (e) (3) of the regulations in such manner as to provide that permittees dealing in particular brands of distilled spirits or wines, which are not packaged in containers of one pint capacity, be permitted to furnish not more than one quart of such distilled spirits or wines, as samples, to retailers who have not previously purchased such products, and to further provide, in the case of all distilled spirits, wines and malt beverages furnished to retailers as samples, that a distinctive form of labeling be adopted and that detailed records of distribution be kept.

3. To amend Section 3 (e), and other pertinent sections of the regulations, to permit the sale of equipment, fixtures, or supplies, under certain prescribed restrictions, by an industry member independently established in business as a bona fide vendor of such merchandise.

[SEAL] W. S. ALEXANDER, *Administrator*.

[F. R. Doc. 38-861; Filed, March 24, 1938; 10:52 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP—1938—4]

1938 Agricultural Conservation Program Bulletin

SUPPLEMENT NO. 3

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, is hereby amended as follows:

(1) Item 5 of subsection A of Section II is hereby amended to read as follows:

"8. *Tobacco acreage allotments.*—County acreage allotments for each kind of tobacco shall be established by distributing the State acreage allotment of such kind of tobacco among the counties in the State on the basis of the base acreages of such kind of tobacco established for such counties under the 1937 Agricultural Conservation Program, taking into consideration allotments for small farms, trends in acreage, seed bed, and other plant diseases."

(2) Item 7 of subsection A of Section III is hereby amended to read as follows:

"7. *Peanut allotment.*—In counties included in the commercial peanut-producing area peanut acreage allotments shall be determined on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, and the acreage of peanuts for market customarily grown on the farm. The peanut acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors."

(3) Item 8 of subsection A of Section IV is hereby amended to read as follows:

"8. *General soil-depleting crops on class A farms.*—$1.25 per acre, adjusted for productivity, for each acre in the general crop acreage allotment in excess of one-fourth of the sum of the cotton, Burley tobacco and fire-cured and dark air-cured tobacco acreage allotments established for the farm."

(4) Item 5 of subsection C of Section IV is hereby amended to read as follows:

"5. 70 cents per acre of cropland on any class B farm in excess of the sum of (1) the corn, wheat, rice, potato, peanut, cigar filler and binder tobacco, and Georgia-Florida Type 62 tobacco acreage allotments established for the farm; (2) the acreage of sugar beets and sugarcane for sugar grown on the farm in 1938; (3) one and one-half times the cotton, flue-cured tobacco, Burley tobacco, and fire-cured and dark air-cured tobacco acreage allotments established for the farm; and (4) in the Western Region the normal acreage of summer fallow for the farm, not in excess of the wheat acreage allotment established for the farm."

(5) The second paragraph of subsection A of Section XI is hereby amended to read as follows:

"In areas designated by the Agricultural Adjustment Administration as areas subject to serious wind erosion in 1938, no payment will be made to any person with respect to any farm which such person owns or operates in a county if he allows any part of the cultivated acreage in any such farm to become a wind erosion hazard during 1938 by reason of failure to carry out wind erosion control measures approved by the county committee."

(6) Subsection C of Section XIV is hereby amended by adding at the end thereof the following:

"6. Green manure crops of which a good stand and a good growth is plowed or disced under (applicable only to class B farms in the Western, East Central and Southern Regions on which the average acreage of land on which commercial vegetables were grown in 1936 and 1937 exceeds 50 percent of the acreage of cropland in the farm in excess of the sum of the potato, tobacco, cotton, and peanut acreage allotments established for the farm)."

(7) The definition of Class A farms in Section XVIII is hereby revised to read as follows insofar as it relates to counties in New Mexico and California.

"*New Mexico*—Union, Harding, Quay, Curry, Roosevelt, De Baca, Torrance, Lincoln, Chaves, Lea, Eddy, Otero, and Dona Ana."

"*California.*—Butte, Colusa, Fresno, Glenn, Kern, Kings, Madera, Merced, San Benito, Monterey, Sacramento, San Joaquin, San Luis Obispo, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yolo, Yuba, and that portion of Placer County lying west of the east boundary of Township 9 East, Mt. Diablo Meridian."

Done at Washington, D. C., this 24th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. Wallace,
Secretary of Agriculture.

[F. R. Doc. 38-859; Filed, March 24, 1938; 10:40 a. m.]

Revision of Determination of Farming Practices To Be Carried Out in Connection With the Production of Sugar Beets During the Crop Year 1938

Whereas Section 301 of the Sugar Act of 1937 authorizes the Secretary of Agriculture to make payments under specified conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar, and

Whereas the condition with respect to farming practices, as stated in subsection (e) of said section of said act is as follows:

That there shall have been carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the conditions prescribed in subsection (e) of section 301 of the Sugar Act of 1937 shall be deemed to have been fulfilled with respect to the production of the 1938 crop of sugar beets on any farm if there is carried out, on land on the farm which is adapted to the production of sugar beets, not less than one acre of soil conserving practices for each acre of sugar beets planted on the farm for harvest in 1938: *Provided, however*, That not in excess of 75 percent of the foregoing requirements in connection with rented acreage which would otherwise be part of another farm may consist of practices carried out on such farm in excess of any practices required thereon.

For the purposes of this determination:

(1) Each of the following shall be deemed to be one acre of soil conserving practices:

(*a*) Maintaining until after July 1, 1938, one acre of a protective covering of adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(*b*) Seeding in 1938 one acre of land to adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(*c*) Seeding and maintaining until after December 31, 1938, one acre of an adapted green manure crop, or plowing under in 1938 one acre of a good stand and a good growth of an adapted green manure crop; or

(*d*) Applying in 1938 to land on the farm adapted to the production of sugar beets eight short tons of animal manure or the amount of manure normally produced in one year by any of the following: two head of cattle (of more than one year of age), two horses, two mules, four calves, four colts, ten sheep, or ten goats; or

(*e*) Applying in 1938 to land on which sugar beets are planted for harvest in 1938 an amount of commercial chemical fertilizing materials (including inorganic chemical substances used as fertilizers), the principal constituents of value of which are any form or combination of nitrogen, phosphoric acid, or potash, and which contain 75 pounds (or 50 pounds in the case of peat or muck land determined as such by the State Agricultural Conservation Committee of the state in which the land is located) of such constituents in the form of net available plant food.

(2) Adapted perennial or biennial legumes, or adapted perennial grasses, or mixtures thereof, or adapted green manure crops, shall be deemed to be those perennial and biennial legumes, or perennial grasses, or mixtures thereof, or green manure crops which are approved under the 1938 State Agricultural Conservation Program as being adaptable for the state in which the farm is located.

All of the foregoing soil conserving practices shall be carried out in accordance with farming methods commonly used in the community in which the farm is located.

This determination supersedes the "Determination of Farming Practices to be Carried out in Connection with the Production of Sugar Beets During the Crop Year 1938, Pursuant to Subsection (e) of Section 301 of the Sugar Act of 1937," made by the Secretary of Agriculture on February 19, 1938.

Done at Washington, D. C., this 24th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. Wallace,
Secretary of Agriculture.

[F. R. Doc. 38-858; Filed, March 24, 1938; 10:40 a. m.]

INTERSTATE COMMERCE COMMISSION.

Order

[Ex Parte No. MC 20]

Order Concerning Motor Carrier Rates in New York, New Jersey, Pennsylvania, and Delaware

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 19th day of March, A. D. 1938.

The Commission having under consideration the subject of the rates, charges, classifications, rules, regulations, and practices applicable to the transportation of property in interstate or foreign commerce by common carriers by motor vehicle between points in those parts of the States of New York, New Jersey, Pennsylvania, and Delaware described in appendix of this order;

It is ordered, That an investigation be, and it is hereby, instituted by the Commission, on its own motion, into and concerning the lawfulness of the rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property in interstate or foreign commerce between all points in the territory defined in appendix of this order, with a view of determining whether the rates, charges, classifications, and the rules, regulations, and practices relating thereto, of respondents, or any of them, applicable to such transportation are in any respects in violation of law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant;

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof, be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

By the Commission.

[SEAL] W. P. Bartel, *Secretary.*

Appendix

DESCRIPTION OF TERRITORY

Points in New York, New Jersey, Pennsylvania and Delaware, on and within a line beginning at the Connecticut-New York State Line, east of Port Chester, N. Y. Following the Connecticut-New York State Line to a point north of New York State Highway 123; thence through Golden Bridge, N. Y. and Peekskill, N. Y.; thence across the Hudson River through Tomkins Cove to the Rockland County Line; thence along the Rockland County Line to intersection with New York Highway 210; thence along Highways 210, 17A and 45 to the New Jersey-New York State Line; thence southwesterly to Hamburg, N. J. to intersection of New Jersey Highways 31 and 206; thence along Highway 31 and connecting improved highways to Hackettstown, N. J.; thence via a line drawn to Frenchtown, N. J.; thence across the Delaware River and along Pennsylvania Highways 32, 413 and 113 to Hatfield, Pa.; thence via Pennsylvania Highways 463 and 309 to the Philadelphia City Line; thence via a line drawn from Philadelphia City Line to Bryn Mawr, Pa. Through Ardmore, Lansdowne, Clifton Heights, Chester, Marcus Hook to Delaware-Pennsylvania Line; thence along Penna-Delaware Line and Maryland-Delaware Line to its intersection with U. S. Highway 40; thence via Highway 40 to New Castle, Del.; down the Delaware River and Bay to Cape May and the New Jersey-Long Island Coast Line to Montauk Point and thence through Long Island Sound to the Connecticut-New York State Line;

Except, That rates, rules and regulations applying wholly within the area east and north of the following line are excluded; Points in New York and New Jersey, on and within a line beginning at the intersection of New York Highway 210 with the Rockland County Line; thence westerly along New York Highways 17A, 210 and 45 to the New Jersey State Line; thence southwesterly to Hamburg, N. J., to intersection of New Jersey Highways 31 and 206; thence along Highway 31 and connecting improved highways to Hackettstown, N. J.; thence via a line drawn from Hackettstown, N. J. through a point just south of Bernardsville, N. J.; through a point just north of Bound Brook and a point just north of New Brunswick, N. J. to a point just north of Perth Amboy, N. J.

[F. R. Doc. 38-862; Filed, March 24, 1938; 12:26 p. m.]

Saturday, March 26, 1938 *No. 60*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49467]

Customs Regulations Amended—Release of Seized Property Upon Payment of Appraised Domestic Value

GENERAL PRIOR APPROVAL TO ACCEPTANCE OF OFFERS TO PAY APPRAISED DOMESTIC VALUE OF SEIZED PROPERTY AND TO THE RELEASE OF SUCH PROPERTY IN CERTAIN CASES

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in sections 614 and 624, Tariff Act of 1930, (U. S. C., title 19, secs. 1614 and 1624, respectively) and section 251, Revised Statutes, (U. S. C., title 19, sec. 66), article 1138, Customs Regulations of 1937, is hereby amended as follows:

A new paragraph, designated (*b*), reading as follows, is added:

"(*b*) When the appraised domestic value of property seized under the customs laws does not exceed $5,000, and the collector is satisfied that the claimant making a written offer to pay such value has, in fact, a substantial interest therein, approval is hereby granted and the collector is hereby authorized to accept such offer and to release such property, provided that its importation is not prohibited by law and that the claimant or his attorney executes an assent to forfeiture and a waiver of further proceedings on customs Form 4607. In any case where the collector is not satisfied that the proponent has a substantial interest in the seized property or for any other reason he believes that it would not be in the interest of the United States to accept the offer, the procedure outlined in paragraph (c) of this article will be followed."

The present paragraph (b) is redesignated (c) and is amended by deleting the first two words "The application" and by inserting in lieu thereof the phrase "Applications not covered by the preceding paragraph."

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: March 18, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-863; Filed, March 25, 1938; 9:41 a. m.]

[T. D. 49469]

CUSTOMS REGULATIONS AMENDED—ILLUSTRATIONS OF POSTAGE STAMPS

PERMITTING PRINTING OF BLACK-AND-WHITE ILLUSTRATIONS OF UNITED STATES AND FOREIGN POSTAGE STAMPS FOR PHILATELIC PURPOSES

To Collectors of Customs and Others Concerned:

Pursuant to section 2 of the act of Congress approved January 27, 1938 (Public No. 421, 75th Congress), authorizing the printing of black-and-white illustrations of United States and foreign postage stamps for philatelic purposes, and the authority contained in section 161 of the Revised Statutes (U. S. C., title 5, sec. 22) and section 624 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1624), article 691 of the Customs Regulations of 1937 is hereby amended as indicated below.

Paragraph (g) is amended to read as follows:

(*g*) United States Code, title 18, sec. 350, as amended by section 2 of the act approved January 27, 1938:

That (a) nothing in sections 161, 172, and 220 of the Criminal Code, as amended, or in any other provision of law, shall be construed to forbid or prevent the printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, for philatelic purposes in articles, books, journals, newspapers, or albums (including the circulars or advertising literature of legitimate dealers in stamps or publishers of or dealers in philatelic or historical articles, books, journals, or albums), of black and white illustrations of—

(1) foreign revenue stamps if from plates so defaced as to indicate that the illustrations are not adapted or intended for use as stamps;

(2) foreign postage stamps; or

(3) such portion of the border of a stamp of the United States as may be necessary to show minor distinctive features of the stamp so illustrated, but all such illustrations shall be at least four times as large as the portion of the original United States stamp so illustrated.

(b) Notwithstanding any other provision of law, the Secretary of the Treasury, subject to the approval of the President, may, upon finding that no hindrance to the suppression of counterfeiting and no tendency to bring into disrepute any obligation or other security of the United States will result, by regulations, permit, to the extent and under such conditions as he may deem appropriate, the printing, publishing or importation or the making or importation of the necessary plates for such printing, or publishing, for philatelic purposes in articles, books, journals, newspapers, or albums (including the circulars or advertising literature of legitimate dealers in stamps or publishers of or dealers in philatelic or historical articles, books, journals, or albums), of black and white illustrations of canceled or uncanceled United States postage stamps. The Secretary, subject to the approval of the President, may amend or repeal such regulations at any time. Such regulations, and any amendment or repeal thereof, shall become effective upon publication thereof in the FEDERAL REGISTER or upon such date as may be specified therein if later than the date of publication. All findings of fact made hereunder shall be final and conclusive and shall not be subject to review.

A new paragraph is added reading as follows:

(*h*) Under regulations approved by the President on February 14, 1938, the printing, publishing, and importation, and the making and importation of the necessary plates for such printing and publishing, for philatelic purposes in articles, books, journals, newspapers, and albums (including the circulars and advertising literature of legitimate dealers in stamps and publishers of and dealers in philatelic and historical articles, books, journals, and albums) of black and white illustrations of canceled and uncanceled United States postage stamps are permitted, provided that such illustrations are of a size less than three-quarters or more than one and one-half, in linear dimension, of each part of such stamps.

Paragraph (h) is redesignated (i) and amended by inserting the words "or the regulations referred to in paragraph (h)" after the number "350" in line four.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: March 18, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-864; Filed, March 25, 1938; 9:41 a. m.]

[T. D. 49470]

CUSTOMS REGULATIONS AMENDED—ANTIDUMPING

ACTION BY APPRAISER WHERE NO FINDING OF DUMPING HAS BEEN PUBLISHED

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 407 of the Emergency Tariff Act of 1921 (U. S. C., title 19, sec. 173), article 790 (1) of the Customs Regulations of 1937 is hereby amended by inserting the words "on customs Form 6439" after the word "Secretary" in line 3.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: March 21, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-865; Filed, March 25, 1938; 9:41 a. m.]

[T. D. 49471]

COUNTERVAILING DUTIES—OBSOLETE TREASURY DECISIONS RELATING TO COUNTERVAILING DUTIES BY REASON OF BOUNTIES ON CODFISH ROE FROM FRENCH FISHERIES, SLAUGHTER CATTLE AND BEEF FROM THE UNION OF SOUTH AFRICA AND LIVESTOCK FROM THE MANDATE TERRITORY OF SOUTH WEST AFRICA, AND COAL FROM SPAIN, REVOKED

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 303 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1303) the following treasury decisions relating to countervailing duties by reason of bounties on certain commodities are revoked:

T. D. Number	Date	Commodity
37088	Mar. 31, 1917	Certain codfish roe from French fisheries.
39746	July 20, 1923	Slaughter cattle and beef from the Union of South Africa and livestock from the Mandate Territory of South West Africa.
39830	Oct. 19, 1923	Coal from Spain.

[SEAL] H. A. BENNER,
Acting Commissioner of Customs.

APPROVED: March 22, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-866; Filed, March 25, 1938; 9:41 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Order No. 37]

IN THE MATTER OF CALLING A PUBLIC HEARING TO MAKE AN IMMEDIATE INVESTIGATION TO DETERMINE WHAT SPECIAL REGULATIONS MAY BE APPLICABLE TO RADIO STATIONS ENGAGED IN CHAIN OR OTHER BROADCASTING MAY BE REQUIRED IN THE PUBLIC INTEREST, CONVENIENCE, OR NECESSITY

The Commission at a Special Meeting held March 18, 1938, adopted the following Order:

Whereas, under the provisions of Section 303 of the Communications Act of 1934 as amended "the Commission, from time to time, as public convenience, interest, or necessity requires, shall—(1) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;" and,

Whereas the Commission has not at this time sufficient information in fact upon which to base regulations regarding contractual relationships between chain companies and network stations, multiple ownership of radio broadcast stations of various classes, competitive practices of all classes of stations, networks and chain companies, and other methods by which competition may be restrained or by which restricted use of facilities may result;

Now, therefore, it is ordered, That the Federal Communications Commission undertake an immediate investigation to determine what special regulations applicable to radio stations engaged in chain or other broadcasting are required in the public interest, convenience, or necessity; such investigation to include an inquiry into the following specific matters, as well as all other pertinent and related matters including those covered in the Report on Social and Economic Data prepared by the Engineering Department of the Federal Communications Commission and filed with the Commission on January 20, 1938:

1. The contractual rights and obligations of stations engaged in chain broadcasting, arising out of their network agreements.

2. The extent of the control of programs, advertising contracts and other matters exercised in practice by stations engaged in chain broadcasting.

3. The nature and extent of network program duplication by stations serving the same area.

4. Contract provisions in network agreements providing for exclusive affiliation with a single network and also provisions restricting networks from affiliation with other stations in a given area.

5. The extent to which single chains or networks have exclusive coverage in any service area.

6. Program policies adopted by the various national and other networks and chains, with respect to character of programs, diversification, and accommodation of program characteristics to the requirements of the area to be served.

7. The number and location of stations licensed to or affiliated with each of the various national and other networks. The number of hours and the specified time which such networks control over the station affiliates and the number of hours and the specified time actually used by such networks.

8. The rights and obligations of stations engaged in chain broadcasting so far as advertisers having network contracts are concerned.

9. Nature of service rendered by each station licensed to a chain or network organization, particularly with respect to amount of program origination for network purposes by such stations.

10. Competitive practices of stations engaged in chain broadcasting as compared with such practices in the broadcasting industry generally.

11. Effect of chain broadcasting upon stations not affiliated with or licensed to any chain or network organization.

12. Practices or agreements in restraint of trade or furtherance of monopoly in connection with chain broadcasting.

13. Extent and effects of concentration of control of stations locally, regionally or nationally in the same or affiliated interests, by means of chain or network contracts or agreements, management contracts or agreements, common ownership or other means or devices, particularly in so far as the same tends toward or results in restraint of trade or monopoly.

It is further ordered, That hearings be held in connection with such investigation at such times and places as the Commission shall designate.

It is further ordered, That a copy of this order be posted in the office of the Secretary and that a copy of the same be mailed to each licensee of a broadcast station and to each chain and network organization.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-867; Filed, March 25, 1938; 9:47 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of March A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2663]

IN THE MATTER OF DAY-LITE ILLUMINATING CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, March 30, 1938, at ten

o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-878; Filed, March 25, 1938; 10:05 a. m.]

RAILROAD RETIREMENT BOARD.

REGULATIONS GOVERNING DESIGNATION OR CHANGE OF BENEFICIARY PURSUANT TO SECTION 5 OF THE RAILROAD RETIREMENT ACT OF 1937 AND SECTION 202 OF PUBLIC NUMBER 162, 75TH CONGRESS, APPROVED JUNE 24, 1937

Pursuant to the authority conferred by section 10 of the Railroad Retirement Act of 1937 the Railroad Retirement Board hereby prescribes the following rules and regulations:

1. Annuity payments due an individual under the *Railroad Retirement Act of 1935* but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 5 of such Act; otherwise they shall be paid to such person or persons as the deceased may have designated, or if there be no designation, to the legal representative of the deceased. A designation by the deceased to be valid must be made by him in writing on the prescribed Form AA–11, entitled "Designation or Change of Beneficiary," and must be received by the Railroad Retirement Board prior to the deceased's death. If the person or persons designated by the deceased do not survive him, the annuity payments shall be made to the legal representative of the deceased.

2. Any individual who was an employee after December 31, 1936, may designate the person or persons whom he wishes to receive any death benefit payable under section 5 of the *Railroad Retirement Act of 1937*. Such designation to be valid must be made by such individual in writing on the prescribed Form AA–11, entitled "Designation or Change of Beneficiary," and must be received by the Railroad Retirement Board prior to the individual's death. If the person or persons designated to receive a death benefit die before the death benefits become payable, such benefits shall be paid to the designator's legal representative.

3. A revocation or change of designation of beneficiary, or a designation of an additional or new beneficiary or beneficiaries, may be made at any time and without the knowledge or consent of the previous beneficiary or beneficiaries, but to be valid must be made by the designator in writing on the prescribed Form AA–11, entitled "Designation or Change of Beneficiary," and must be received by the Railroad Retirement Board prior to the designator's death.

4. Where a writing, other than Form AA–11, signed by the designator is received by the Board prior to the designator's death, in which a clear and unambiguous designation of beneficiary or revocation or change of designation is made in substantially the same manner as that provided on Form AA–11, and the designator dies without executing Form AA–11, the designation, revocation or change shall be given the same effect as if executed on Form AA–11.

5. No effect shall be given to a designation of beneficiary or revocation or change of designation which does not bear the signatures of two witnesses, neither of whom is named as beneficiary, unless the execution of the designation, revocation or change by the designator is proved to the satisfaction of the Board.

6. Where more than one person is designated as beneficiary, each benficiary shall receive an equal share, unless the percentage to be paid to each beneficiary is specified in which case each beneficiary shall receive only the percentage specified.

7. Any designation of beneficiary or revocation or change of designation heretofore filed with the Board under section 5 of the Railroad Retirement Act of 1937 and section 202 of Public Number 162, 75th Congress, approved June 24, 1937, if clear and unambiguous, shall be given effect although not executed on Form AA–11, entitled "Designation or Change of Beneficiary," but in all other respects shall be subject to the above regulations numbered 1, 2, 3, 5, and 6.

8. Annuity payments due an individual under the Railroad Retirement Act of 1937 but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of section 4 of such Act; otherwise they shall be paid to the same individual or individuals who may be entitled to receive any death benefit that may be payable under the provisions of section 5 of such Act and the above regulations numbered 2, 3, 4, 5, 6, and 7 and shall be paid in the same proportion that such death benefits are so payable.

By direction of the Board:

[SEAL] R. B. BRONSON, *Secretary.*

MARCH 22, 1938.

[F. R. Doc. 38-879; Filed, March 25, 1938; 10:21 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 220]

ALLOCATION OF FUNDS FOR LOANS

MARCH 21, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
New York 8018A1 Tompkins	$250,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-868; Filed, March 25, 1938; 9:47 a. m.]

[Administrative Order No. 221]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

I hereby amend Administrative Order No. 147 by rescinding the $10,000 allotted to Georgia 8063 Rabun.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-869; Filed, March 25, 1938; 9:47 a. m.]

[Administrative Order No. 222]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

I hereby amend Administrative Order No. 200 by rescinding the $10,000 allotted to Colorado 8014W1 Alamosa.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-870; Filed, March 25, 1938; 9:47 a. m.]

[Administrative Order No. 223]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

I hereby amend Administrative Order No. 194 by rescinding the $41,000 allotted to North Carolina 8021G1 Sampson.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-871; Filed, March 25, 1938; 9:47 a. m.]

[Administrative Order No. 224]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

I hereby amend Administrative Order No. 182 by rescinding the $55,000 allotted to Michigan 8033G Charlevoix.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-872, Filed, March 25, 1938; 9:47 a. m.]

[Administrative Order No. 225]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

I hereby amend Administrative Order No. 168 by rescinding the $73,000 allotted to Pennsylvania 8013B Tioga.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-873; Filed, March 25, 1938; 9:48 a. m.]

[Administrative Order No. 226]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

I hereby amend Administrative Order No. 198 by rescinding the $34,000 allotted to Florida 8016G1 Sumter.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-874; Filed, March 25, 1938; 9:48 a. m.]

[Administrative Order No. 227]

ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Kansas 8008A2 Allen	$4,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-875; Filed, March 25, 1938; 9:48 a. m.]

[Administrative Order No. 228]

ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Wisconsin 8037A2 Trempeleau	$5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-876; Filed, March 25, 1938; 9:48 a. m.]

[Administrative Order No. 229]

ALLOCATION OF FUNDS FOR LOANS

MARCH 23, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Indiana 8001A2 Greene	$4,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-877; Filed, March 25, 1938; 9:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of March, A. D., 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY SOUTHWEST ROYALTIES COMPANY, RESPONDENT, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE PAN AMERICAN-RICHARDSON-SAGARIN-ERWIN TRACT

ORDER CONSENTING TO WITHDRAWAL OF OFFERING SHEET AND TERMINATING PROCEEDING

Southwest Royalties Company, having filed on February 10, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The said Southwest Royalties Company having filed with the Securities and Exchange Commission an application for an order terminating the effectiveness of said offering sheet together with an affidavit that all persons on whose behalf said offering sheet has been filed and to whom copies thereof have been delivered, have been notified in writing of the intention of such person to terminate the effectiveness of said filing, and it appearing that termination of the effectiveness of the filing of the offering sheet as requested is not inconsistent with the public interest,

It is ordered, Pursuant to Rule 356 of Regulation B of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, terminated as of the date of the entry of this order.

It is further ordered, That the Order for Hearing and Order Designating Trial Examiner heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-880; Filed, March 25, 1938; 11:38 a. m.]

Tuesday, March 29, 1938 ***No. 61***

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AUTHORIZING THE INSPECTION OF INCOME, EXCESS PROFITS AND CAPITAL STOCK TAX RETURNS, ESTATE AND GIFT TAX RETURNS FILED AFTER JUNE 16, 1933, AND RETURNS UNDER TITLE IX OF THE SOCIAL SECURITY ACT

By virtue of and pursuant to the authority vested in me by section 257 (a) of the Revenue Act of 1926 (44 Stat. 9, 51); section 55 of the Revenue Act of 1928 (45 Stat. 791, 809); section 55 of the Revenue Act of 1932 (47 Stat. 169, 189), as amended by section 218 (h) of the National Industrial Recovery Act (48 Stat. 195, 209); sections 215 (e) and 216 (b) of the National Industrial Recovery Act (48 Stat. 195, 208); sections 55 (a), 701 (e), and 702 (b) of the Revenue Act of

1934 (48 Stat. 680, 698, 770); sections 105 (e) and 106 (c) of the Revenue Act of 1935 (49 Stat. 1014, 1018, 1019); section 905 of the Social Security Act (49 Stat. 620, 641); and sections 55 (a), 351 (c), and 503 (a) of the Revenue Act of 1936 (49 Stat. 1648, 1671, 1733, 1738), it is hereby ordered that (1) income, excess profits, and capital stock tax returns made under the Revenue Act of 1936, the Revenue Act of 1935, the Revenue Act of 1934, the National Industrial Recovery Act, the Revenue Act of 1932, the Revenue Act of 1932 as amended by the National Industrial Recovery Act, and under the prior Revenue Acts, (2) estate and gift tax returns made under the Revenue Act of 1932 or the Revenue Act of 1932 as amended, and filed after June 16, 1933, (3) returns made under Title IX of the Social Security Act, and (4) returns made under any of the said acts as amended, shall be open to inspection in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the Treasury Decision relating to the inspection of such returns, approved by me this date.[1]

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 25, 1938.

[No. 7849]

[F. R. Doc. 38-890; Filed, March 28, 1938; 11:14 a. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6087 OF MARCH 28, 1933, WITHDRAWING PUBLIC LANDS

Colorado

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 6087 of March 28, 1933, withdrawing public lands in Colorado pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plats of the resurvey of the said lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 26, 1938.

[No. 7850]

[F. R. Doc. 38-891; Filed, March 28, 1938; 11:19 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49468]

CUSTOMS REGULATIONS AMENDED—NAVIGATION FEES

ARTICLE 210 (A) (B) (C) AND (D) OF THE CUSTOMS REGULATIONS OF 1937, RELATING TO NAVIGATION FEES, AMENDED

MARCH 22, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 2635 of the Revised Statutes (U. S. C., title 19, sec. 59), section 161 of the Revised Statutes (U. S. C., title 5, sec. 22), and the provisions of law cited in the following text, the Customs Regulations of 1937 are hereby amended as follows:

Article 210 (a) (b) (c) and (d) is amended to read as follows:

(a) The following navigation fees should be collected from the persons for whom the services are rendered and deposited in the name of the collector of customs to the credit of the Treasurer of the United States.

(b) The collections should be accounted for at the end of the month on commerce Cat. nos. 1001 and 1007, and standard Form no. 1020, as required by section 12 of the act of July 31, 1894 (U. S. C., title 31, secs. 78, 496).

[1] See page 641.

(c) The fees in column A are those collectible on the Atlantic, Gulf, and Pacific coasts and on the Mississippi River and tributaries; those in column B are collectible on the northern, northeastern, and northwestern frontiers (Great Lakes, Lake Champlain, and St. Lawrence River).

(d) *Table of navigation fees.*—These fee numbers are to be cited to the exclusion of all former lists.

Fee No.	Description of services	A	B
1	Entry of vessel, including American, from foreign port (R. S. 2654; U. S. C., title 19, sec. 58):		
	Less than 100 tons net	$1.50	-------
	100 tons net and over	2.50	-------
2	Clearance of vessel, including American, to foreign port (R. S. 2654; U. S. C., title 19, sec. 58):		
	Less than 100 tons net	1.50	-------
	100 tons net and over	2.50	-------
3	Permit to foreign vessel to proceed from district to district, and receiving the manifest (R. S. 4381, 4382; U. S. C., title 46, secs. 329 and 330)	2.00	$0.10
4	Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade (R. S. 4381, 4382; U. S. C., title 46, secs. 329 and 330)	$2.00	$0.10
5	Post entry (R. S. 2654 and 4382; U. S. C., title 19, sec. 58, title 46, sec. 330)	2.00	2.00
6			
7	Changing name of vessel:		
	Less than 100 tons gross	10.00	10.00
	100 gross and not exceeding 499 gross	25.00	25.00
	500 gross and not exceeding 999 gross	50.00	50.00
	1,000 gross and not exceeding 4,999 gross	75.00	75.00
	5,000 gross and over	100.00	100.00
	(Act Feb. 19, 1920; U. S. C., title 46, sec. 53; commerce circular 281.)		
8	(1) *Recording*—bill of sale, conveyance, mortgage (C–b); or (2) *Furnishing*—certified copy of any bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel (I–2); or (3) Certified copy of record at former home port (H–c); or (4) Certificate setting forth names of owners, the interest held by each owner, material facts put in each bill of sale, conveyance, or mortgage, or lien, or encumbrance (I–1); or 5) Certificate that there are no liens or encumbrances (I) (Act of June 5, 1920, sec. 30, subsec. I; U. S. C., title 46, sec. 927)	.20 folio	.20 folio
9	Official bond, not otherwise provided for (R. S. 2654, U. S. C., title 19, sec. 58)	.40	-------
10	Certificate of payment of tonnage tax and certificate of admeasurement, both for foreign vessel (R. S. 2654, U. S. C., title 19, sec. 58)	.20	.20
11	Copy of official document including marine document, not elsewhere enumerated (R. S. 2654, U. S. C., title 19, sec. 58)	.20	.20

Fee 1 should be collected at the first port of entry only. This fee should not be collected from a vessel entering at a port on the northern, northeastern, or northwestern frontier otherwise than by sea.

Fee 2 should be collected at the port from which a vessel clears for a foreign country. If a foreign vessel proceeds from New York to La Guaira, Venezuela, via San Juan, Puerto Rico, with foreign cargo for both ports, fee 3 would be collected at New York and fee 4 at San Juan and, whether the vessel be American or foreign, fee 2 would be collected on clearing from San Juan. This fee should not be collected from a vessel clearing from a port on the northern, northeastern, or northwestern frontier otherwise than by sea.

Fee 3 should be collected for granting a permit (commerce Cat. 1385) to a foreign vessel to proceed to another customs district, but not for a permit to a port in the same district.

Fee 4 should be collected for receiving manifest of a foreign vessel arriving from another customs district, but not on arriving from another port in the same district.

Fee 6 is no longer imposed.

Fee 7 should be collected when the application is approved.

Fee 8 is 20 cents for each folio of one hundred words, with a minimum charge of one dollar. No charge should be made for less than 100 words in excess of the minimum number of 500; thus, the charge for 599 words is one dollar, and for 600 words is one dollar and twenty cents. See commerce circular no. 283, paragraph 23, for the method of computing the number of words.

Fee 9 is collected principally from vessels in the Alaska trade.

Fee 10 should be collected from foreign vessels only.

Fee 11 should be collected for each copy whether certified or not, of any official document, including marine document, furnished to any person other than a Government officer.

NOTE.—No fee should be collected for admeasuring a vessel for a certificate of record (commerce Cat. 1316) nor for a Panama Canal tonnage certificate.

DANIEL C. ROPER,
Secretary of Commerce.

[SEAL]

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-881; Filed, March 25, 1938; 3:39 p. m.]

Bureau of Internal Revenue.

[T. D. 4796]

MARKING PACKAGES OF WHISKEY—GAUGING MANUAL AMENDED

To District Supervisors and Others Concerned:

Paragraph 71 of the Gauging Manual, as amended by Treasury Decision 4652 and Treasury Decision 4735, is further amended as to sub-paragraphs (d) and (e), to read as follows:

(d) Spirits distilled from a fermented mash of grain at less than 190 degrees of proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whiskey and withdrawn from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, shall be branded "Whiskey," except as provided in sub-paragraph (e).

(e) (1) Spirits distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, withdrawn from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, and packaged in charred new oak containers, shall be branded "Rye Whiskey," "Bourbon Whiskey," "Wheat Whiskey," "Malt Whiskey," or "Rye Malt Whiskey," respectively.

(2) Spirits distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, withdrawn on and after the effective date of this regulation from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, and packaged in reused cooperage, shall be branded "Whiskey." Such spirits shall be further marked, either by branding or stenciling, with the words "Distilled from Rye (or Bourbon, Wheat, Malt, or Rye Malt) Mash," as the case may be.

(3) Spirits distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 80% of corn grain, withdrawn on and after March 1, 1938, from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, and packaged in uncharred oak containers, or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, shall be branded "Corn Whiskey."

Paragraph 71 of the Gauging Manual, as amended, is further amended by adding thereto sub-paragraph (i) as follows:

(i) Whiskey, rye whiskey, wheat whiskey, malt whiskey, rye malt whiskey, bourbon whiskey, or corn whiskey, as defined in sub-paragraphs 71 (d) and (e), which in whole or in part, is treated with wood chips through percolation or otherwise, during distillation or storage on and after March 1, 1938, shall be further marked, either by branding or stenciling, with the words "Treated with oak chips."

[SEAL]

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: March 24, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-886; Filed, March 26, 1938; 10:11 a. m.]

[T. D. 4797]

INSPECTION OF RETURNS

REGULATIONS GOVERNING THE INSPECTION OF RETURNS OF INDIVIDUALS, PARTNERSHIPS, ESTATES, TRUSTS, CORPORATIONS, ASSOCIATIONS, JOINT-STOCK COMPANIES, AND INSURANCE COMPANIES

Made pursuant to the requirements of the Revenue Act of 1936; the Revenue Act of 1935; Title IX of the Social Security Act; the Revenue Act of 1934; sections 215 and 216, Title II, National Industrial Recovery Act; the Revenue Act of 1932, as amended by section 218, Title II of the National Industrial Recovery Act; Title I of the Revenue Act of 1932; Title I of the Revenue Act of 1928; Title II of the Revenue Act of 1926; and income, profits, and capital stock tax returns under the prior Revenue Acts, or under any such Act as amended.

MARCH 11, 1938.

Collectors of Internal Revenue and Others Concerned:

Paragraph A. Section 55 (Title I) of the Revenue Act of 1936 provides in part:

"(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President."

Paragraph B. Section 351 (Title IA) of the Revenue Act of 1936 (relating to surtax on personal holding companies) provides in part:

"(c) *Administrative Provisions.*—All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall in so far as not inconsistent with this section, be applicable in respect of the tax imposed by this section * * *."

Paragraph C. Section 503 (Title III) of the Revenue Act of 1936 (relating to tax on unjust enrichment) provides in part:

"(a) All provisions of law (including penalties) applicable with respect to taxes imposed by Title I of this Act, shall, in so far as not inconsistent with this title, be applicable with respect to the taxes imposed by this title * * *."

Paragraph D. Section 105 (Title I) of the Revenue Act of 1935 (relating to capital stock tax) provides in part:

"(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926".

Paragraph E. Section 106 (Title I) of the Revenue Act of 1935 (relating to excess-profits tax) provides in part:

"(c) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of the Revenue Act of 1934, as amended, shall, in so far as not inconsistent with this section, be applicable in respect of the tax imposed by this section * * *."

Paragraph F. Section 905 (Title IX) of the Social Security Act (relating to tax on employers of eight or more) provides in part:

(c) Returns filed under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926."

Paragraph G. Section 55 (Title I) of the Revenue Act of 1934, as amended by the Act approved April 19, 1935, Public No. 40—74th Congress, 1st Session, provides in part:

"(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as

returns made under Title II of the Revenue Act of 1926; and all returns made under this Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President."

Paragraph H. Section 351 (Title IA) of the Revenue Act of 1934 (relating to surtax on personal holding companies) provides in part:

"(c) Administrative Provisions.—All provisions of law (including penalties) applicable in respect to the taxes imposed by Title I of this Act, shall in so far as not inconsistent with this section, be applicable in respect of the tax imposed by this section * * *."

Paragraph I. Section 701 (Title V) of the Revenue Act of 1934 (relating to capital stock tax) provides in part:

"(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926."

Paragraph J. Section 702 (Title V) of the Revenue Act of 1934 (relating to excess-profits tax) provides in part:

"(b) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall, in so far as not inconsistent with this section, be applicable in respect of the tax imposed by this section * * *."

Paragraph K. Section 55 (Title I) of the Revenue Act of 1932, as amended by section 218 (h), Title II, of the National Industrial Recovery Act, approved June 16, 1933, provides:

"Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act after the date of enactment of the National Industrial Recovery Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President."

Paragraph L. Section 215, Title II, of the National Industrial Recovery Act (relating to capital stock tax) provides in part:

"(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926."

Paragraph M. Section 216, Title II, of the National Industrial Recovery Act (relating to excess-profits tax) provides in part:

"(b) The tax imposed by this section shall be assessed, collected, and paid in the same manner, and shall be subject to the same provisions of law (including penalties), as the taxes imposed by title I of the Revenue Act of 1932."

Paragraph N. Section 55, Title I, of the Revenue Act of 1932 provides:

"Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926."

Paragraph O. Section 55, Title I, of the Revenue Act of 1928 provides:

"Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926."

Paragraph P. Section 257, Title II, of the Revenue Act of 1926, provides in part:

"(a) Returns upon which the tax has been determined by the Commissioner shall constitute public records; but, except as hereinafter provided in this section and section 1203, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President."

Pursuant to the above-quoted provisions of law, it is hereby ordered that the returns of individuals, partnerships, estates, trusts, corporations, associations, joint-stock companies, and insurance companies, made pursuant to the requirements of the Revenue Act of 1936, the Revenue Act of 1935; Title IX of the Social Security Act, the Revenue Act of 1934; sections 215 and 216, Title II, National Industrial Recovery Act; the Revenue Act of 1932, as amended by section 218, Title II of the National Industrial Recovery Act; Title I of the Revenue Act of 1932; Title I of the Revenue Act of 1928; Title II of the Revenue Act of 1926; and income, profits, and capital stock tax returns under the prior Revenue Acts, or under any such Act as amended, shall be open to inspection in accordance and upon compliance with the following rules and regulations:

ARTICLE 1. *Scope of regulations.*—These regulations deal only with inspection of returns in so far as such inspection is permissible only upon order of the President and under rules and regulations approved by the President. Other uses to which returns may be lawfully put, without action by the President, are not covered by these regulations.

PART I

INCOME, PROFITS, AND CAPITAL STOCK TAX RETURNS AND RETURNS UNDER TITLE IX OF THE SOCIAL SECURITY ACT

ARTICLE 1. *Return.*—The word "return" when used in Part I of these regulations shall include only income and profits tax returns; special excise tax returns of corporations made pursuant to section 1000 of Title X of each of the Revenue Acts of 1918 and 1921 and section 700 of Title VII of the Revenue Act of 1924; capital stock tax returns made pursuant to section 215 of Title II of the National Industrial Recovery Act, section 701 of Title V of the Revenue Act of 1934, and section 105 of the Revenue Act of 1935; and returns under Title IX of the Social Security Act. Any other word or term used in these regulations which is defined by the Revenue Acts, the National Industrial Recovery Act, or the Social Security Act, shall be given the respective definition contained in the Act under which the particular return is made.

ARTICLE 2. *Corporation.*—The word "corporation" when used in these regulations includes associations, joint-stock companies, and insurance companies.

ARTICLE 3. *Partnership.*—The word "partnership" when used in these regulations includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of the income tax laws, a trust or estate or a corporation.

ARTICLE 4. *Stock.*—The word "stock" includes the shares in an association, joint-stock company, or insurance company; and the word "shareholder" includes a member in an association, joint-stock company or insurance company.

ARTICLE 5. *Return of individual.*—The return of an individual shall be open to inspection (a) by the person who made the return, or by his duly constituted attorney in fact; (b) if the maker of the return has died, or become legally incompetent, by the administrator, executor, trustee or guardian of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (c) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of such deceased person, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; (d) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the Governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State law; and (e) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the individual, or a tax upon intangible property owned by the individual, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of states, or political subdivisions thereof, of income returns for taxable years beginning on or after January 1, 1935, see Articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626, C. B. XV–1, p. 61, 71, and Articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732, C. B. 1937–1, p. 145.

ARTICLE 6. *Joint return of husband and wife.*—A joint return of a husband and wife shall be open to inspection (a) by either spouse for whom the return was made, upon satisfactory evidence of such relationship being furnished, or by his or her duly constituted attorney in fact; (b) if either spouse has died, or become legally incompetent, by the administrator, executor, trustee, or guardian of his or her estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (c) in the discretion of the Commissioner of Internal Revenue by any heir at law, next of kin, or beneficiary under the will, of such deceased spouse, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin or beneficiary has a material interest which will be affected by information contained in the return; and (d) for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon either spouse or a tax upon intangible property owned by either spouse, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for purposes of administering such State law; and (e) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the partnership or upon any member thereof in respect of income therefrom or a tax upon intangible property owned by the partnership, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see Articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626, C. B. XV–1, p. 61, 71, and Articles 55 (b)–1 to 55 (b)–4, inclusive, or Regulations 94, both as amended by Treasury Decision 4732, C. B. 1937–1, p. 145.

ARTICLE 7. *Partnership return.*—The return of a partnership shall be open to inspection (a) by any individual who was a member of such partnership during any part of the time covered by the return, or by his duly constituted attorney in fact, upon satisfactory evidence of such fact being furnished; (b) if a member of such partnership during any part of the time covered by the return has died, or become legally incompetent, by the administrator, executor, trustee, or guardian, of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (c) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of such deceased person, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; (d) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the Governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State laws; and (e) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the partnership or upon any member thereof in respect of income therefrom or a tax upon intangible property owned by the partnership, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see Articles 55 (b)–1 to 55 (b)–4, inclusive, or Regulations 86, as substituted by Treasury Decision 4626, C. B. XV–1, p. 61, 71, and Articles 55 (b)–1 to 55 (b)–4, inclusive, or Regulations 94, both as amended by Treasury Decision 4732, C. B. 1937–1, p. 145.

ARTICLE 8. *Estates.*—The return of an estate shall be open to inspection (a) by the administrator, executor, or trustee of such estate, or by his duly constituted attorney in fact; (b) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of the deceased person for whose estate the return is made, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, or if any such heir at law, next of kin or beneficiary has died or become legally incompetent, by his administrator, executor, trustee, or guardian of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian, upon a showing of material interest which will be affected by information contained in the return; (c) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the Governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State law; and (d) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the estate or upon any beneficiary of the estate in respect of income therefrom, or a tax upon intangible property owned by the estate, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see Articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626, C. B. XV–1, p. 61, 71, and Articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732, C. B. 1937–1, p. 145.

ARTICLE 9. *Trusts.*—The return of a trust shall be open to inspection (a) by the trustee or trustees, jointly or severally, or the duly constituted attorney in fact of such trustee or trustees; (b) by any individual who was a beneficiary of such trust during any part of the time covered by the return, or by his duly constituted attorney in fact, upon satisfactory evidence of such fact being furnished; (c) if any individual who was a beneficiary of such trust during any part of the time covered by the return has died, or become legally incompetent, by the administrator, executor, trustee, or guardian, of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (d) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of such deceased person, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; (e) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the Governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State law; and (f) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the trust or upon any beneficiary of the trust in respect of income therefrom, or a tax upon intangible property owned by the trust, measured by the income derived therefrom, upon written application signed by the Governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see Articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626, C. B. XV–1, p. 61, 71, and Articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732, C. B. 1937–1, p. 145.

ARTICLE 10. *Corporations.*—The return of a corporation shall be open to inspection (a) by any person designated by action of its board of directors, or other similar governing body, upon submission of satisfactory evidence of such action, or (b) by any officer or employee of such corporation upon written request to the Commissioner of Internal Revenue signed by any principal officer and attested by the secretary, or other officer under the corporate seal, if any, or (c) by the duly constituted attorney in fact of such corporation. The return of a corporation which has since been dissolved, shall, in the discretion of the Commissioner of Internal Revenue, be open to inspection by any person who under these regulations might have inspected the return at the date of dissolution.

Returns of corporations under Title IX of the Social Security Act, in the discretion of the Commissioner, and at such time and in such manner as the Commissioner may prescribe, shall be open to inspection by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the Governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State law.

PART II

ESTATE AND GIFT TAX RETURNS FILED AFTER JUNE 16, 1933, UNDER THE REVENUE ACT OF 1932, OR UNDER THE REVENUE ACT OF 1932, AS AMENDED

Estate tax returns and notices, and gift tax returns, shall be treated as privileged communications and shall not be inspected nor their contents disclosed, except as hereinafter provided.

ARTICLE 1. Upon application to the collector, internal revenue agent in charge, or Commissioner, an estate tax return or notice, may be inspected by the executor, or his successor in office, or by his duly authorized attorney in fact. Upon like application a gift tax return may be inspected by the donor or his duly authorized attorney in fact.

ARTICLE 2. An Internal Revenue officer engaged in an official investigation of an estate tax or gift tax liability may disclose the returned value of any item or the amount of any specific deduction, or other limited information, if such disclosure is necessary in order to verify the same or to arrive at a correct determination of the tax. This right of disclosure, however, is limited to the purposes of the investigation, and in no case extends to such information as the amount of the estate, the amount of tax, or other general data.

ARTICLE 3. A return or notice may be exhibited, or information contained therein may be disclosed, to an officer of any state, for official use in connection with an estate, inheritance, legacy, succession, gift, or other tax of the state, provided a like cooperation is given by the state to the Commissioner of Internal Revenue or his representatives for use in the administration of the Federal tax laws. Such officer may also be permitted to inspect schedules, lists and other statements designed to be supplemental to or to become a part of, the original return, and other records and reports which contain information included or required by statute to be included in the return.

ARTICLE 4. If any other person has a material interest in ascertaining any fact disclosed by the return, or in obtaining information as to the payment of the tax, he may make a written application to the Commissioner of Internal Revenue for such information, setting forth the nature of his interest and the purpose of the application. Thereupon, the Commissioner may permit an inspection of, or furnish a copy of the return, or may furnish such information as he deems advisable.

PART III

GENERAL PROVISIONS

The following provisions, unless otherwise stated, are applicable to all returns referred to in Parts I and II of these Regulations.

ARTICLE 1. *Permission to Inspect.*—The Commissioner of Internal Revenue, upon written application setting forth fully the reasons for the request, may grant permission for the inspection of returns in accordance with these Regulations.

ARTICLE 2. *Treasury Department Officials and Employees.*—The officers and employees of the Treasury Department whose official duties require inspection of returns may inspect any such returns without making such written application. If the Head of a Bureau or office in the Treasury Department, not a part of the Internal Revenue Bureau, desires to inspect, or to have an employee in his Bureau or office inspect a return, in connection with some matter officially before him, for reasons other than tax administration purposes, the inspection may, in the discretion of the Secretary, be permitted upon written application to him by the Head of such Bureau or office, showing in detail why the inspection is desired.

ARTICLE 3. *Inspection by Branch of Government other than Treasury Department.*—Except as provided in Article 4, if the head of an executive department (other than the Treasury Department), or of any other establishment of the United States Government, desires to inspect or to have some other officer or employee of his branch of the service inspect a return in connection with some matter officially

before him, the inspection may, in the discretion of the Secretary of the Treasury, be permitted upon written application to him by the head of such executive department or other Government establishment. The application shall be signed by such head and shall show in detail why the inspection is desired, the name and address of the taxpayer who made the return, and the name and official designation of the person it is desired shall inspect the return.

ARTICLE 4. *Inspection by Government Attorneys.*—Any return shall be open to inspection by a United States Attorney or by an attorney of the Department of Justice where necessary in the performance of his official duties. The request for inspection shall be in writing and, except as provided in Article 7, shall be addressed to the Commissioner, and shall state the purpose for which inspection is desired. It may be signed by the Attorney General, the Assistant to the Attorney General, an Assistant Attorney General, or a United States Attorney.

ARTICLE 5. *Information returns.*—Information returns, schedules, lists, and other statements designed to be supplemental to, or to become a part of, the returns shall be subject to the same rules and regulations as to inspection as are the returns themselves. In any case where inspection of the return is authorized by these regulations, the Commissioner may, in his discretion, permit inspection of other records and reports which contain information included or required by statute to be included in the return.

ARTICLE 6. *Place of Inspection.*—Generally, returns may be inspected only in the Bureau of Internal Revenue, Washington, D. C., unless such returns are in the custody of a collector of internal revenue or internal revenue agent in charge, in which event the returns may be inspected in the office of such collector or agent in charge, but only in the presence of an internal revenue officer, designated by the collector or agent for that purpose.

ARTICLE 7. *Applications for Inspection.*—Except as provided in Article 3, and as hereinafter provided, all applications for permission to inspect returns must be made in writing to the Commissioner of Internal Revenue. When a return is in the custody of a collector of internal revenue or internal revenue agent in charge, such collector or revenue agent in charge, upon written application to him, is authorized to permit the inspection of such return by a United States Attorney, or an attorney in the Department of Justice, or by the taxpayer or his duly authorized attorney in fact, in accordance with these Regulations.

ARTICLE 8. *Penalties.*—Section 3167, Revised Statutes, as amended by the Revenue Act of 1918, and reenacted without change by Section 1115 of the Revenue Act of 1926, makes it a misdemeanor, punishable by fine not exceeding $1,000.00, or by imprisonment not exceeding one year, or both, at the discretion of the Court, for any person to print or publish in any manner whatever not provided by law information contained in any income return, and further provides that if the offender be an officer or emloyee of the United States he shall be dismissed from office or discharged from employment. The penalties provided in section 3167, Revised Statutes, are applicable also to disclosure of information contained in excess-profits and capital-stock tax returns and returns made under Title IX of the Social Security Act.

ARTICLE 9. *Former Regulations Revoked.*—Former regulations issued with the approval of the President in respect of inspection of returns, except Regulations relating to the inspection of returns by Committees of Congress, Regulations relating to overassessments contained in Treasury Decision 4583, and Regulations governing the inspection of income tax returns, Form 1042B, by the Department of National Revenue, Ottawa, Canada, are hereby revoked to the extent that they are inconsistent with this Treasury Decision.

[SEAL] H. MORGENTHAU, JR.,
Secretary of the Treasury.

Approved, March 25, 1938:

FRANKLIN D ROOSEVELT
The White House.

[F. R. Doc. 38-900; Filed, March 28, 1938; 1:02 p. m.]

[T. D. 4798]

INCOME, EXCESS-PROFITS, CAPITAL STOCK, ESTATE, GIFT TAX RETURNS; RETURNS MADE UNDER TITLE III OF THE REVENUE ACT OF 1936; AND RETURNS MADE UNDER TITLE IX OF THE SOCIAL SECURITY ACT

USE OF ORIGINAL RETURNS OPEN TO INSPECTION IN ACCORDANCE WITH TREASURY DECISION (4797); FURNISHING OF COPIES OF RETURNS; INSPECTION OF RETURNS OF CORPORATIONS BY STATE OFFICERS AND SHAREHOLDERS; AND INSPECTION OF ESTATE AND GIFT TAX RETURNS

Collectors of Internal Revenue and Others Concerned:

By Executive Order dated March 25, 1938,[1] the President ordered that income, excess-profits, and capital stock tax returns, estate and gift tax returns made under the Revenue Act of 1932 and filed after June 16, 1933, and returns made under Title IX of the Social Security Act, shall be open to inspection in accordance and upon compliance with the rules and regulations promulgated in a Treasury Decision 4797[2] approved by the President on the same date. That Treasury Decision deals with the inspection of returns only in so far as inspection is permissible only upon order of the President and under regulations approved by the President. Under authority of law, and without action by the President, returns of corporations except income and excess profits tax returns and returns for the purpose of surtax on personal holding companies for years beginning after December 31, 1934, are open to inspection by the proper officers of any State; all returns of corporations are open to inspection by bona fide shareholders of record owning one per cent or more of the outstanding stock; and all returns under Title III of the Revenue Act of 1936 (or copies thereof) are open to inspection by any official, body or commission, lawfully charged with the administration of any State tax law, if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities.

Pursuant to sections 62, 351 (c) and 503 (a) of the Revenue Act of 1936, section 105 (d) of the Revenue Act of 1935, sections 62, 351 (c) and 701 (d) of the Revenue Act of 1934, sections 62, 403 and 530 of the Revenue Act of 1932, section 62 of the Revenue Act of 1928, sections 257 and 1101 of the Revenue Act of 1926, section 905 (c) of the Social Security Act, and sections 215 (e) and 216 (b) of the National Industrial Recovery Act, the following regulations are hereby prescribed with respect to the use of original, and the furnishing of copies of, returns open to inspection in accordance with Treasury Decision 4797, or otherwise; with respect to examinations by shareholders of the returns of corporations; by State officers of returns of corporations made under the income, capital stock, or excess-profits tax provisions of the Revenue Act of 1926, the Revenue Act of 1928, the Revenue Act of 1932, sections 215 and 216 of the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1935, the Revenue Act of 1936, and under Title IX of the Social Security Act, except income and excess-profits tax returns and returns for the purpose of surtax on personal holding companies for years beginning after December 31, 1934; with respect to the inspection of returns under Title III of the Revenue Act of 1936 by any official, body, or commission, lawfully charged with the administration of any State tax law; and with respect to the inspection of estate and gift tax returns made under the Revenue Act of 1932 and filed prior to June 17, 1933, and made under the Revenue Act of 1926 and under prior Revenue Acts. For inspection by State taxing officials of income returns other than returns under Title III of the Revenue Act of 1936, for any taxable year beginning after December 31, 1934, see articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626, C. B. XV–1, p. 61, 71, and articles 55 (b)–1 to 55 (b)–4, inclusive of Regulations 94, both as amended by Treasury Decision 4732, C. B. 1937–1, p. 145.

[1] See page 639.
[2] See page 641.

PART I

INCOME AND EXCESS PROFITS TAX RETURNS, EXCEPT RETURNS UNDER TITLE III OF THE REVENUE ACT OF 1936, CAPITAL STOCK TAX RETURNS, AND RETURNS UNDER TITLE IX OF THE SOCIAL SECURITY ACT

ARTICLE 1. *Definitions.*—When used in Part I of these regulations (a) the term "return" means the original return except a return under Title III of the Revenue Act of 1936, made for income, excess-profits, or capital stock tax purposes, or for purposes of the tax imposed by Title IX of the Social Security Act;

(b) the term "corporation" includes associations, joint-stock companies, and insurance companies;

(c) the term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of the Federal tax laws, a trust or estate or a corporation;

(d) the term "stock" includes shares in an association, joint-stock company, or insurance company; and the term "shareholder" includes a member in an association, joint-stock company, or insurance company.

ARTICLE 2. *Access to returns by State officers.*—(1) The proper officers of a State are entitled as of right upon the request of its governor to have access to the returns of a corporation or to an abstract thereof, showing its name and income.

(2) The request or application of the governor must be in writing, signed by him under the seal of his State, and must show why access is desired, and the names and official positions of the officers designated to have the access. The request or application should be addressed to the Commissioner, who will set a convenient time and place for the access to the returns (or to an abstract thereof as he may determine).

(3) Access shall be given only in the office of the Commissioner, unless such returns are in the custody of a collector of internal revenue or internal revenue agent in charge, in which event the return may be inspected in the office of such collector or agent, but only in the presence of an internal revenue officer designated by the collector or agent for that purpose.

ARTICLE 3. *Examination of returns by shareholder.*—A bona fide shareholder of record owning one per cent or more of the outstanding stock of a corporation shall be entitled as of right, upon making request of the Commissioner, to examine the returns of such corporation and of its subsidiaries. His request for permission to examine such returns must be made in writing, and must be in the form of an affidavit showing his address, the name of the corporation, the period of time covered by the return he desires to inspect, the amount of the corporation's outstanding capital stock, the number of shares owned by him, the date when he acquired them, and whether he has the beneficial as well as the record title to such shares. It must also show that he has not acquired his shares for the purpose of the examination of the returns of the corporation. If he has acquired them for such purpose, he is not a bona fide shareholder within the meaning of the statute. The application must be supported by satisfactory evidence showing that the applicant is a bona fide shareholder of record of the required amount of stock of the corporation. The supporting evidence may be in the form of a certificate signed by the president or vice president of the corporation and countersigned by the secretary under the corporate seal. Upon being satisfied from the evidence presented that the applicant has fully met these conditions, the Commissioner will grant the permission to examine the returns and set a convenient time and place for the examination. This privilege is personal and will be granted only to the shareholder, who cannot delegate it to another. In the case of a corporation which has been dissolved, the returns may be examined by any person who would have been entitled to examine them at the date of dissolution.

ARTICLE 4. *Penalties for disclosure of returns.*—Section 3167, Revised Statutes, as amended by the Revenue Act of 1918 and reenacted without change by section 1115 of the Revenue Act of 1926, makes it a misdemeanor punishable by a fine not exceeding $1,000.00 or by imprisonment not exceeding one year, or both, at the discretion of the court, for any person to print or publish in any manner whatever not provided by law information contained in any income return, and further provides that if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment. The penalties provided in section 3167, Revised Statutes, are applicable also to disclosure of information contained in excess-profits and capital stock tax returns and returns made under Title IX of the Social Security Act.

PART II

RETURNS UNDER TITLE III OF THE REVENUE ACT OF 1936

ARTICLE 1. *Inspection of returns by State taxing officials.*—Original returns of taxes imposed by Title III shall be open to inspection, at convenient times and places, by any official, body, or commission lawfully charged with the administration of any State tax law, or by the representatives of such official, body, or commission designated in writing by the Governor of the State, for the purpose of such administration, or for the purpose of obtaining information to be furnished to local taxing authorities, as provided in Section 55 (b) (1) and (2) of the Revenue Act of 1936. Requests for permission to inspect the returns must be in writing signed by the governor under the seal of his State, and must be addressed to the Commissioner of Internal Revenue, Records Division, Washington, D. C. The request must state (a) the kind of returns it is desired to inspect, (b) the taxable year or years covered by the returns it is desired to inspect, (c) the name of the official, body, or commission by whom or which the inspection is to be made, (d) the name of the representative of such official, body, or commission, designated to make the inspection, (e) by specific references, the State tax law which such official, body, or commission is charged with administering and the law under which he, she, or it is so charged, (f) the purpose for which the inspection is to be made, and (g) if the inspection is for the purpose of obtaining information to be furnished to local taxing authorities, (1) the name of the official, body, or commission of any political subdivision of the State, lawfully charged with the administration of the tax laws of such political subdivision, if any, to whom or to which the information secured by the inspection is to be furnished, and (2) the purpose for which the information is to be used by such official, body, or commission.

ARTICLE 2. *Examination of returns by shareholder.*—A bona fide shareholder of record owning one per cent or more of the outstanding stock of a corporation shall be entitled as of right, upon making request of the Commissioner, to examine the returns of such corporation and of its subsidiaries. His request for permission to examine such returns must be made in writing, and must be in the form of an affidavit showing his address, the name of the corporation, the period of time covered by the return he desires to inspect, the amount of the corporation's outstanding capital stock, the number of shares owned by him, the date when he acquired them, and whether he has the beneficial as well as the record title to such shares. It must also show that he has not acquired his shares for the purpose of the examination of the returns of the corporation. If he has acquired them for such purpose, he is not a bona fide shareholder within the meaning of the statute. The application must be supported by satisfactory evidence showing that the applicant is a bona fide shareholder of record of the required amount of stock of the corporation. The supporting evidence may be in the form of a certificate signed by the president or vice president of the corporation and countersigned by the secretary under the corporate seal. Upon being satisfied from the evidence presented that the applicant has fully met these conditions, the Commissioner will grant the permission to examine the returns and set a convenient time and place for the examination. This privilege is personal and will be granted only to the shareholder, who cannot delegate it to another. In the case of a corporation which has been dissolved, the returns may be examined by any person who would have been entitled to examine them at the date of dissolution.

PART III

ESTATE AND GIFT TAX RETURNS FILED ON OR BEFORE JUNE 16, 1933

Estate tax returns and notices, and gift tax returns, shall be treated as privileged communications and shall not be inspected nor their contents disclosed, except as follows:

ARTICLE 1. *Inspection by executor or donor.*—Upon application to the Commissioner an estate tax return or notice may be inspected by the executor, or his successor in office, or by his duly authorized attorney in fact. Upon like application a gift tax return may be inspected by the donor or by his duly authorized attorney in fact.

ARTICLE 2. *Disclosure of information by revenue officer.*—An Internal Revenue officer engaged in an official investigation of an estate tax or gift tax liability may disclose the returned value of any item or the amount of any specific deduction or other limited information, if such disclosure is necessary in order to verify the same or to arrive at a correct determination of the tax. This right of disclosure, however, is limited to the purposes of the investigation, and in no case extends to such information as the amount of the estate, the amount of tax, or other general data.

ARTICLE 3. *Inspection by State officers.*—Upon written application to the Commissioner, a return or notice may be exhibited, or information contained therein may be disclosed, to an officer of any state, for official use in connection with an estate, inheritance, legacy, succession, gift or other tax of the state, provided a like cooperation is given by the state to the Commissioner of Internal Revenue or his representatives for use in the administration of the Federal tax laws. Such officer may also be permitted to inspect schedules, lists and other statements designed to be supplemental to or to become a part of, the original return, and other records and reports which contain information included or required by statute to be included in the return.

ARTICLE 4. *Inspection by person having material interest.*—If any other person has a material interest in ascertaining any fact disclosed by the return, or in obtaining information as to the payment of the tax, he may make a written application to the Commissioner of Internal Revenue for such information, setting forth the nature of his interest and the purpose of the application. Thereupon, the Commissioner may permit an inspection of, or furnish a copy of the return, or may furnish such information as he deems advisable.

ARTICLE 5. *Inspection by Government attorneys.*—Returns shall be open to inspection by a United States Attorney or by an attorney of the Department of Justice in the course of his official duties. The request for inspection shall be in writing and, except as provided in Article 6, shall be addressed to the Commissioner, and shall state the purpose for which inspection is desired. It may be signed by the Attorney General, the Assistant to the Attorney General, an Assistant Attorney General, or a United State Attorney.

ARTICLE 6. *Returns in custody of collector or revenue agent in charge.*—When the return is in the custody of a collector or internal revenue agent in charge, such collector or agent in charge may, upon like written request made to him, permit inspection thereof by a United States Attorney or an attorney of the Department of Justice. Upon written application to him such collector or agent in charge may also permit inspection by the executor or his successor in office, or his duly authorized attorney in fact, in case of estate tax returns, or the donor or his duly authorized attorney in fact in case of gift tax returns, in accordance with these regulations.

PART IV

GENERAL PROVISIONS

ARTICLE 1. *Use of returns in litigation.*—The return of an individual, partnership, corporation, or fiduciary, or a copy thereof, may be furnished to a United States Attorney for official use in proceedings before a United States grand jury or in litigation in any court, where the United States is interested in the result, or for use in preparation for such proceedings or litigation; or to an attorney of the Department of Justice, for like use, upon written request of the Attorney General, the Assistant to the Attorney General, or an Assistant Attorney General. When a return or copy is thus furnished, it must be limited in use to the purpose for which it is furnished and is under no condition to be made public except to the extent that publicity necessarily results from such use. The original return will be furnished only in exceptional cases, and then only when it is made to appear that the ends of justice may otherwise be defeated. Neither the original nor a copy of a return desired for use in litigation in court will be furnished where the United States Government is not interested in the result, but this provision is not a limitation on the use of copies of returns by the persons entitled thereto.

ARTICLE 2. *Furnishing of copies of returns.*—A copy of a return may be furnished to any person who is entitled to inspect such return upon written application therefor and the submission of evidence satisfactory to the Commissioner of his right to receive the same, except that when a return is in the custody of a collector or of an internal revenue agent in charge, such collector or agent in charge may furnish a copy of such return to a United States Attorney, or an attorney of the Department of Justice, or to the taxpayer or his duly authorized attorney in fact, in accordance with these regulations. Certified copies will be furnished only upon specific request therefor sent to the Commissioner at Washington.

The Commissioner may prescribe a reasonable fee for furnishing copies of returns.

ARTICLE 3. *Supplemental documents, records and reports.*—Persons entitled to inspect returns may have access to information returns, schedules, lists and other statements designed to be supplemental to, or to become a part of, the returns to which they are given access, and the Commissioner may, in his discretion, permit such persons to inspect other records and reports which contain information included or required by statute to be included in the return.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved March 25, 1938.

H. MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38-901; Filed, March 28, 1938; 1:07 p. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Mines.

AMENDMENTS TO REGULATIONS GOVERNING THE PRODUCTION AND SALE OF HELIUM FOR MEDICAL, SCIENTIFIC AND COMMERCIAL USE APPROVED JANUARY 14, 1938

The "Regulations Governing the Production and Sale of Helium for Medical, Scientific and Commercial Use" approved January 14, 1938, are hereby amended as follows:

Section 1 is amended by deleting therefrom subsections (j) and (k), and by renumbering subsections (l) and (m) as (j) and (k), respectively.

Subsection (l) of Section 2 is amended by adding at the end thereof the following:

"No purchaser shall use or permit the use, directly or indirectly, of any helium purchased from the Bureau of Mines,

for military purposes or for the inflation of any airship which shall operate between two foreign countries notwithstanding such airship may also touch at some point in the United States."

Subsection (d) of Section 3 is amended by adding at the end thereof the following:

"Every contract for the purchase of helium which is to be used for airship inflation and exported within the meaning of the Act shall provide for the payment by the purchaser of liquidated damages, in an amount to be fixed by the Secretary of the Interior with the concurrence of the Secretaries of State, War, and the Navy, in the event of failure by the purchaser faithfully to comply with the Act and these regulations; and shall be accompanied by a domestic corporate surety bond, satisfactory to the Secretary of the Interior, in like amount conditioned upon faithful compliance by the purchaser with the Act and these regulations. Such bond shall continue in force so long as any of the helium delivered under such contract shall remain in captivity, or for a period of three years, whichever shall be the longer."

Subsections (e) and (f) of Section 3 are amended to read as follows:

"(*e*) Failure to execute and forward the said contract or to make the required initial deposit or to furnish a bond where required within the time allotted may nullify the delivery schedule at the discretion of the Bureau of Mines.

"(*f*) Upon receipt of a properly executed contract accompanied by the stipulated initial deposit and by a bond where required the contract will be forwarded for the consideration of the Director of the Bureau of Mines. If such a contract executed by the said Director is for more than 100 units of helium (100,000 cubic feet of contained helium) it shall also be forwarded to the Secretary of the Interior for consideration and shall not be binding until approved by him in writing. If the said contract is executed by the Director of the Bureau of Mines (and approved by the Secretary of the Interior if it is for more than 100 units of helium), the initial deposit will be placed to the credit of the special helium-production fund provided for by Section 3 (c) of the said Act. Otherwise the certified check and bond will be returned to the applicant."

Section 4 is amended by deleting therefrom subsection (c).

The proviso to subsection (a) of Section 5 is amended to read as follows:

"*Provided, however*, That in computing the deposit required under an application for a quantity of helium large enough to have a material effect on the actual cost per unit of helium, the Bureau of Mines may use a revised estimate of the cost per unit of helium conditionally approved by the said Secretary, to become effective upon final execution of the contract arising out of said application."

Section 6 is amended to read as follows:

"SECTION 6

"*Deposits*

"(*a*) Subject to the provisions of subsection (c) of this Section 6, the initial deposit to be made by the purchaser, before final execution on behalf of the Government of any contract for the purchase of market helium, shall be one hundred twenty per centum (120%) of the estimated cost of all helium to be delivered under such contract, plus all estimated service charges applicable thereto: *Provided, however*, That in no event shall the amount deposited for any one contract be less than $12 plus the estimated service charges applicable to the helium to be delivered: *Provided further*, That if such a contract is for the purchase of more than 1,000 units of helium, the deliveries of which are to be extended over a period that in the judgment of the Bureau of Mines warrants application of this proviso, the initial deposit may be a sum not less than sixty per centum (60%) of the estimated cost of all helium to be delivered under said contract, plus the estimated service charges applicable thereto, or the amount estimated by the Bureau of Mines to be necessary to meet obligations incurred or to be incurred in producing and delivering the helium called for by such contract, whichever amount is the greater.

"(*b*) Subject to the provisions of subsection (c) of this Section 6, in case the initial deposit under a contract is less than the said one hundred twenty per centum (120%) of the estimated cost of helium, plus estimated service charges, or in the event that (as a result of an increase in the estimated cost per unit of helium or for any other reason) the amount that has been deposited under a contract is less than the amount required to be on deposit under the following provisions of this subsection, and deliveries of helium under that contract have not been completed, the purchaser shall deposit additional funds (in the form of certified checks payable to the Treasurer of the United States) at such times and in such amounts that at least 30 days in advance of any scheduled delivery under such contract the amount the purchaser has deposited under that contract shall equal or be greater than the following, to wit:

"(1) One hundred five per centum (105%) of the actual cost of all helium delivered under said contract for which actual costs have been determined, plus all service charges applicable thereto, plus

"(2) One hundred twenty per centum (120%) of the latest estimated cost of all helium delivered under said contract for which actual costs have not yet been determined, plus all estimated service charges applicable thereto, plus

"(3) One hundred twenty per centum (120%) of the latest estimated cost of the estimated amount of helium to be delivered in the next scheduled delivery, plus all estimated service charges applicable thereto, plus

"(4) Sixty per centum (60%) of the latest estimated cost of the amount of helium to be delivered under such contract subsequent to the next scheduled delivery, plus all estimated service charges applicable thereto:

"*Provided, however*, That in lieu of making a supplemental deposit required by an increase in the estimated cost per unit of helium, the purchaser may accept a corresponding decrease (to be determined by the Bureau of Mines) in the quantity of helium subsequently to be delivered under such contract.

"(c) In the case of all contracts for the purchase of market helium for commercial use, as distinguished from medical and scientific use, the deposits required under subsections (a) and (b) of this Section 6 shall be determined by applying the percentages stated in said subsections (a) and (b) to (1) a figure equal to one hundred twelve per centum (112%) of the estimated cost of helium rather than to the estimated cost of helium, or (2) a figure equal to one hundred twelve per centum (112%) of the actual cost of helium rather than to the actual cost of helium, as the case may be.

"(*d*) In case any scheduled delivery of helium is not made because of failure of the purchaser to deposit adequate funds as hereinbefore required, the Bureau of Mines, at its election, may schedule that delivery for any later time suited to its operating program or deduct the quantity of helium in that scheduled delivery from the amount of helium remaining to be delivered under the pertaining contract."

Section 7 is amended to read as follows:

"SECTION 7

"*Adjustments of deposits, refunds, and final settlements*

"After the close of a fiscal year (ending June 30) and the computation by the Bureau of Mines and approval by the Secretary of the Interior of the actual cost per unit of helium for that year, and computation of service charges applicable under each contract, adjustments in deposits shall be made as follows:

"(*a*) Subject to the provisions of subsection (c) of this Section 7, in the case of each contract under which no helium remains to be delivered and the actual cost of all helium delivered thereunder, and the service charges applicable thereto, have been determined, the purchaser shall be entitled to receive (without interest) the excess, if any, that remains after one hundred five per centum (105%) of the actual cost of all helium delivered under said contract during the said fiscal year, plus all service charges applicable thereto, has been subtracted from the amount of money the purchaser has deposited under that contract; and the money deposited (exclusive of such excess, if any) shall constitute full payment of the price for the helium delivered under said contract and the delivery thereof: *Provided, however*, That the minimum to be subtracted from the amount of money the purchaser has deposited, on account of helium included in any one shipment, and the delivery of such helium, shall be $10.50, plus all service charges applicable to that shipment.

"(*b*) Subject to the provisions of subsection (c) of this Section 7, in the case of each contract under which deliveries of helium have not been completed, or under which the actual costs of helium delivered, and the service charges applicable thereto, have not been determined, the purchaser, at the option and in accordance with the determinations of the Bureau of Mines acting under the direction of the Secretary of the Interior, may be entitled to receive (without interest) all or a part of the excess, if any, that remains after subtracting from the amount of money the purchaser has deposited under that contract the following, to wit:

"(1) One hundred five per centum (105%) of the actual cost of all helium delivered under said contract for which actual costs have been determined, plus all service charges applicable thereto, plus

"(2) The amounts required to be on deposit under the terms of Section 6 hereof to cover all helium delivered under said contract for which actual costs have not been determined, all helium remaining to be delivered under said contract, and the delivery of all such helium.

"(c) In the case of all purchases of market helium for commercial use, as distinguished from medical and scientific use, the amounts to be subtracted, pursuant to subsections (a) and (b) (1) of this Section 7, from the amount of money the purchaser has deposited shall be determined by applying the percentages stated in said subsections (a) and (b) (1) to a figure equal to one hundred twelve per centum (112%) of the actual cost of helium rather than to the actual cost of helium. In the case of all purchases of market helium for medical use, the amounts to be subtracted, pursuant to subsections (a) and (b) (1) of this Section 7, from the amount of money the purchaser has deposited shall be such as will, in the judgment of the Secretary of the Interior, permit the general use of helium for medical purposes.

"(*d*) Excesses due purchasers under the terms of this Section 7 shall be paid to such purchasers out of the special helium-production fund authorized by Section 3 (c) of the said Act: *Provided, however*, That at the election of the purchaser any such excess may be left on deposit to the credit of the same contract or any other contract for purchase of helium from the Government to which said purchaser may be a party."

Section 10 is amended to read as follows:

"SECTION 10

"*Inspection*

"Any person, firm, corporation, association, institution, or political authority who shall use or make available for any use, helium purchased from the Bureau of Mines and exported within the meaning of the Act, shall permit and make possible the examination and inspection by a representative of the United States, of such helium and its use, and where the helium is used for the inflation of any airship, examination and inspection of such airship and its contents, of reserve supplies of helium, and of the processes of inflation both in the United States and in any foreign country, all at such times and in such manner as such representative of the United States shall require."

Section 11 is hereby added and shall read as follows:

"SECTION 11

"*Violations*

"If the Secretary of the Interior shall at any time find that any person, firm, corporation, association, institution, or political authority has violated any of the provisions of the Act or of these regulations, or has used or permitted the use of helium purchased from the Bureau of Mines in a manner contrary to the intent of the Act or of these regulations, the said Secretary may deny such person, firm, corporation, association, institution, or political authority any or all privileges to purchase helium from the Bureau of Mines, and he may cancel all future deliveries and forfeit all deposits under any or all existing contracts with such person, firm, corporation, association, institution, or political authority. Likewise, in the event of such finding by the Secretary, the liquidated damages provided for in the contract with any such person, firm, corporation, association, institution, or political authority shall become due and payable and the purchaser and its sureties on the bond shall become liable therefor."

Recommended for approval, March 10, 1938:

JOHN W. FINCH,
Director, Bureau of Mines.

Recommended for approval, March 10, 1938:

HAROLD L. ICKES,
Secretary of the Interior.

Approved:

FRANKLIN D ROOSEVELT
President of the United States.

MARCH 10, 1938.

[F. R. Doc. 38-887; Filed, March 28, 1938; 9:54 a. m.]

Division of Territories and Island Possessions.

THE ALASKA RAILROAD

[I. C. C. No. 132 (Cancels I. C. C. No. 114)]

TERMINAL TARIFF NO. 34-B[1] (CANCELS TERMINAL TARIFF NO. 34-A) NAMING CHARGES FOR WHARFAGE, DOCKAGE, WATER, AND UNLOADING BULK COAL AT ANCHORAGE, ALASKA

Issued on ten days' notice under authority Rule No. 62, Interstate Commerce Commission Tariff Circular No. 20. Issued February 21, 1938. Effective April 1, 1938.

[Explanation of abbreviations: I. C. C.=Interstate Commerce Commission. No.=Number. Reg.=Registered]

Rules and Regulations

Item No. 5—Application.—The rates named herein apply on all freight moving by water handled over Docks or Wharves at Anchorage, Alaska. Wharfage charges are charges made on freight passing over docks or wharves and will be assessed against and collected from the vessel handling the freight. No facilities for handling, loading or unloading cargo, except coal in bulk, which must be done or provided for by vessel.

Item No. 10—Storage.—All freight is subject to storage charges provided in Terminal Tariff No. 3-A, I. C. C. No. 80, supplements thereto or successive issues thereof.

Item No. 15—Shipments handled over side of Vessel when lying alongside wharf.—Shipments loaded or discharged over side of vessel, from or to vessel or scow; or taken from or discharged into water when vessel is lying alongside wharf will be charged one-fourth regular wharfage rates.

Item No. 20—Minimum Charge.—The minimum charge for any single shipment will be as follows:

Wharfage	25 cents.
Unloading Coal	$10.00

[1] No supplement will be issued to this tariff except for the purpose of cancelling the tariff.

Item No. 25—Explosives.—Rates named herein on explosives, inflammables and other dangerous articles are applicable in connection and in compliance with the regulations prescribed by the Interstate Commerce Commission for the transportation of explosives, as published in Agent W. S. Topping's Freight Tariff No. 2, I. C. C. No. 2, supplements thereto or successive issues thereof; and acceptance is subject to local regulations and conditional on immediate removal from wharves by connecting carriers or consignee.

Rates Governing Wharfage, Loading or Unloading Applying at Anchorage, Alaska

Item no.	Commodity	Charges in cents per ton of 2,000 lbs., or 40 cubic ft., as per ship's manifest	
		Wharfage	Unloading
30	All Freight, not otherwise provided for	[1] 150	
35	Automobiles,[1] Motor Trucks, Tractors or Trailers set up on own wheels	300	
40	Carriers, empty returned	80	
45	Gasoline and Distillate, including benzine, benzole, camphene, naphtha, turpentine, analagous explosive oils	225	
50	Coal,[1] per ton 2,000 lbs	50	30

[1] Denotes reduction

Absorption of Wharfage Charges and Unloading Charges on Bulk Coal on Traffic Handled Over Dock or Wharves at Anchorage, Alaska

Item No.	On	The Alaska Railroad will absorb as follows
55	All Outbound Freight, except empty carriers.	Wharfage Charges.
	All Inbound Freight of Cook Inlet Products, i. e., canned salmon, lumber, vegetables, or other products produced in Cook Inlet District.	Wharfage Charges.
60	On carload shipments of Coal, originating on The Alaska Railroad, destined to points on connecting lines, when shipped by one consignor for movement on one vessel.	Wharfage and Unloading charges on Bulk Coal and Wharfage charges only on Sacked Coal. Connecting line to stow coal in vessel and trim vessel.

Charges for Water and Dockage Applying at Anchorage, Alaska

Item No.	Subject	Rules, regulations and charges	
65	Water - Furnished Vessels.	The following charge will be made for water furnished vessels at wharves and docks at Anchorage, Alaska:	
		Gas Launches	$0.75
		Vessels under 50 net registered tons	1.50
		Vessels 50 net registered tons to 150 net registered tons	2.50
		Vessels 151 net registered tons to 500 net registered tons	5.00
70	Dockage,[1] charge for.	The following dockage charges will be made at wharves and docks at Anchorage, Alaska:	
		Vessels under 10 net registered tons	Exempt
		Vessels 10 net Reg. tons to 50 net Reg. tons	1.00 per day
		Vessels 51 net Reg. tons to 100 net Reg. tons	2.00 per day
		Vessels 101 net Reg. tons to 200 net Reg. tons	4.00 per day
		Vessels 201 net Reg. tons to 400 net Reg. tons	6.00 per day
		Dockage commences upon the vessel when she makes fast to the wharf and each twenty-four hours thereafter, or part thereof constitutes a day's dockage.	

[1] Denotes reduction.

Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

The above is hereby confirmed.

RUTH HAMPTON.
Assistant Director.

March 24, 1938.

[F. R. Doc. 38-888; Filed, March 28, 1938; 10:00 a. m.]

National Bituminous Coal Commission.

ORDER IN THE MATTER OF PROGRESSIVE MINERS OF AMERICA, PETITIONER, V. RAY EDMUNDSON AND UNITED MINE WORKERS OF AMERICA, RESPONDENTS

[Docket No. 1-FD]

At a Regular Session of the National Bituminous Coal Commission Held at its Offices in Washington, D. C., on the 25th day of March, 1938.

It appearing, that the above named petitioner on the 10th day of July, 1937, filed its petition, objecting to the designation, by the Commission's Order No. 5, of Ray Edmundson, United Mine Workers Building, Springfield, Illinois, as the member of the Bituminous Coal Producers Board for District No. 10 selected by the organization of employees representing the preponderant number of employees in the industry of said District No. 10, and alleging that the petitioner, and not the United Mine Workers of America, is the organization of employees representing the preponderant number of employees in the industry in said district, as contemplated by Section 4 I (a) of the Act, and praying that as such preponderant organization it be permitted to select the employee member of said board; The Commission designated Ray Edmundson and United Mine Workers of America as respondents, and by Order dated July 15, 1937, assigned the cause to an examiner of the Commission for hearing on July 22, 1937, in the Hearing Room of the Commission in the Hamilton Hotel in the City of Washington, D. C.; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the matter came on to be heard upon said petition and the answer of the respondents; and the evidence being adduced, and being submitted to the examiner, the petitioner, on August 2, 1937, filed its motion to reopen said hearing for the submission of additional evidence, which motion was granted by the Commission on October 11, 1937, assigned said cause for hearing on October 21, 1937, for such purpose, in the Hearing Room of the Commission at Washington, D. C. Due and proper notice of such reopened hearing was given to all interested parties. At such time and place said further hearing was held and additional evidence therein submitted, and

It further appearing, That the original hearing on July 22, 1937, was held before Examiner George Edward Acret, who submitted his report and recommendations to the Commission on September 23, 1937, and the reopened hearing was held before Examiner Robert C. Patterson who submitted his report and recommendations to the Commission on December 3, 1937; copy of said report and recommendation of Examiner Patterson was mailed to each interested party on March 4, 1938, and service of same was completed on interested parties on March 7, 1938. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing commenced on July 22, 1937 and continued, as reopened, on October 21 and October 22, 1937, as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusions submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusions of the Commission;

Now, therefore, it is hereby ordered:

That the petition of the petitioner be dismissed for the reason that it has failed to sustain its allegation that it is the organization of employees representing the preponderant number of employees in the Bituminous Coal Industry within District No. 10.

By order of the Commission.

Dated this 25th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-889; Filed, March 28, 1938; 10:34 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

RESULT OF REFERENDUM ON MARKETING QUOTAS FOR COTTON MARKETED DURING MARKETING YEAR BEGINNING AUGUST 1, 1938

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas pursuant to the provisions of Section 347 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture conducted a referendum on March 12, 1938, to determine whether farmers who were engaged in production of the 1937 cotton crop favor or oppose the establishment, pursuant to the provisions of Part IV, Subtitle B, Title III of said Act, of marketing quotas for cotton marketed during the marketing year beginning August 1, 1938:

Now, therefore be it known that I, Henry A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by said Section 347 of the Agricultural Adjustment Act of 1938, do hereby proclaim the results of said referendum to be as follows:

1,406,088 votes, or 92.1 percent of the total votes cast, were in favor of such marketing quotas;

120,940 votes, or 7.9 percent of the total votes cast, were opposed to such marketing quotas; and

1,527,028 were the total votes cast.

Done at Washington, D. C., this 25 day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-885; Filed, March 26, 1938; 10:09 a. m.]

RESULT OF REFERENDUM ON MARKETING QUOTA FOR FIRE-CURED AND DARK AIR-CURED TOBACCO, MARKETING YEAR BEGINNING OCTOBER 1, 1938

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas pursuant to the provisions of Section 312 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture conducted a referendum on March 12, 1938, to determine whether farmers who were engaged in production of the 1937 crop of fire-cured and dark air-cured tobacco favor or oppose the establishment, pursuant to the provisions of Part I, Subtitle B, Title III of said Act, of a marketing quota for fire-cured and dark air-cured tobacco marketed during the marketing year beginning October 1, 1938:

Now, therefore, be it known that I, Henry A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by said Section 312 of the Agricultural Adjustment Act of 1938, do hereby proclaim the result of said referendum to be as follows:

39,328 votes, or 80.6 percent of the total votes cast, were in favor of such marketing quota;

9,460 votes, or 19.4 percent of the total votes cast, were opposed to such marketing quota; and

48,788 were the total votes cast.

Done at Washington, D. C., this 25th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-883; Filed, March 26, 1938; 10:08 a. m.]

RESULT OF REFERENDUM ON MARKETING QUOTA FOR FLUE-CURED TOBACCO, MARKETING YEAR BEGINNING JULY 1, 1938

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas pursuant to the provisions of Section 312 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture conducted a referendum on March 12, 1938, to determine whether farmers who were engaged in production of the 1937 crop of flue-cured tobacco favor or oppose the establishment, pursuant to the provisions of Part I, Subtitle B, Title III of said Act, of a marketing quota for flue-cured tobacco marketed during the marketing year beginning July 1, 1938:

Now, therefore, be it known that I, Henry A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by said Section 312 of the Agricultural Adjustment Act of 1938, do hereby proclaim the result of said referendum to be as follows:

219,842 votes, 86.2 percent of the total votes cast, were in favor of such marketing quota;

35,253 votes, 13.8 percent of the total votes cast, were opposed to such marketing quota; and

255,095 were the total votes cast.

Done at Washington, D. C., this 25th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-884; Filed, March 26, 1938; 10:08 a. m.]

AMENDMENT TO DETERMINATION OF PROPORTIONATE SHARES FOR THE MAINLAND CANE SUGAR AREA FOR THE 1938 CROP, PURSUANT TO THE SUGAR ACT OF 1937

Whereas the determination of the Secretary of Agriculture of proportionate shares for the mainland cane sugar area for the 1938 crop, issued September 29, 1937, provided, as one of the conditions to be met by producers, as follows:

"That no change shall have been made in the leasing or cropping agreements for the purpose of, or which shall have the effect of, diverting to any producer any payment to which tenants or sharecroppers would be entitled if the 1937 leasing or cropping agreements were in effect",

and,

Whereas, it appears advisable to limit the foregoing provisions so as not to render ineligible for payment a producer who, through no fault of his own, is unable to enter into leasing or cropping agreements identical with those in effect in 1937.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the foregoing provision of the said determination of September 29, 1937, be and the same is hereby amended to read as follows:

"That no change shall have been made in the leasing or cropping agreements for the purpose of diverting to any

producer any payment to which tenants or share-croppers would be entitled if the 1937 leasing or cropping agreements were in effect."

Done at Washington, D. C., this 25th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-882; Filed, March 26, 1938; 10:08 a. m.]

INTERSTATE COMMERCE COMMISSION.

[No. 3666]

ORDER IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C. on the fifteenth day of March, A. D. 1938.

Regulations for the transportation of explosives and other dangerous articles by rail in freight, express, and baggage services, and by water and highway, being under further consideration:

And it appearing, That upon motion of the Commission or applications made by interested parties, certain proposed new and amended regulations set out in detail herein should be established pursuant to section 233 of the Criminal Code (Transportation of Explosives Act), and upon full hearing and investigation are found to be in accord with the best-known practicable means for securing safety in transit, covering the packing, marking, loading, handling while in transit, and the precautions necessary to determine whether the material when offered is in proper condition to transport:

It is ordered, That the aforesaid regulations as heretofore published in orders of May 12, 1930, Apr. 7, 1931, Dec. 15, 1931, Jan. 13, 1934, July 23, 1935, Dec. 10, 1935, March 12, 1936, August 27, 1936, and Dec. 14, 1936, be and they are hereby superseded and/or amended as follows, effective June 17, 1938, except as noted in connection with paragraphs herein:

PART I—FREIGHT

Superseding and amending paragraph 113 (1), order May 12, 1930, to read as follows (*forbidden fireworks*):

(1) *Toy caps* containing more than an average of twenty-five hundredths of a grain of explosive composition per cap.

Amending paragraph 114, order May 12, 1930, as follows (*packing acceptable fireworks*):

(Add) (n) *Toy caps* must be packed in inside packages constructed of cardboard not less than .013 inch in thickness which shall provide a complete enclosure. The number of caps in these inside packages shall be limited so that not more than 10 grains of explosive composition shall be packed into one cubic inch of space and not exceeding 17.5 grains of the explosive composition of toy caps shall be packed in any inside container. (Effective January 1, 1939.)

Superseding and amending added 2d subparagraph, paragraph 358, order July 23, 1935, to read as follows (*packing hydrofluoric acid*):

Hydrofluoric acid of not over 65 percent H. F. maximum is also authorized in rubber drums, specification 43A. Any such container showing evidence of damage must be tested to 20 pounds hydrostatic pressure, without leakage, before using.

Superseding and amending subparagraph, paragraph 361 (a), added by order Jan. 13, 1934, to read as follows (*packing nitric acid*):

Or in aluminum drums, specification 42B; or aluminum-lined steel drums, specification 5X; or aluminum drums made and marked prior to October 1, 1930, in compliance with specification 42 then effective. Authorized only for acid over 1.46 specific gravity (45.75° Baumé); the acid shall not contain more than 0.1 percent of hydrochloric acid, more than 1 percent of sulphuric acid, or more than a trace of any of the lower oxides of nitrogen.

Amending paragraph 361 (c), order May 12, 1930, as follows:

(Add) Or glass bottles having necks with molded screw threads, must be closed by threaded-type acid-resistant plastic caps. Caps must be equipped with an elastic composition cushion and with glass, porcelain, or similar liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the liquid in transit.

(Add) Or glass bottles having necks with molded screw threads must be closed by threaded-type acid-resistant caps. Caps must be lined with a resilient liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the acid.

Amending paragraph 368 (c), order Dec. 14, 1936, as follows (*packing perchloric acid*):

(Add) Or glass bottles having necks with molded screw threads, must be closed by threaded-type acid-resistant plastic caps. Caps must be equipped with an elastic composition cushion and with glass, porcelain, or similar liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the liquid in transit.

(Add) Or glass bottles having necks with molded screw threads must be closed by threaded-type acid-resistant caps. Caps must be lined with a resilient liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the acid.

Amending 3d subparagraph, paragraph 484, order December 15, 1931, as follows (*packing poisonous liquids, class B*):

(Add) NOTE.—Shipments of sodium arsenite made to or for the U. S. Department of Agriculture in specification 5E metal drums, capacity not exceeding 55 gallons, are authorized.

PART II—EXPRESS

Superseding and amending paragraph 21 (cc), order May 12, 1930, to read as follows (*forbidden explosives*):

(cc) *Toy caps* containing more than an average of twenty-five hundredths of a grain of explosive composition per cap.

Amending paragraph 42, order May 12, 1930, as follows (*packing acceptable explosives*):

(Add) (n) *Toy caps* must be packed in inside packages constructed of cardboard not less than .013 inch in thickness which shall provide a complete enclosure. The number of caps in these inside packages shall be limited so that not more than 10 grains of explosive composition shall be packed into one cubic inch of space and not exceeding 17.5 grains of the explosive composition of toy caps shall be packed in any inside container. (Effective January 1, 1939.)

Superseding and amending paragraph 190 (b), order May 12, 1930, to read as follows (*packing nitric acid and nitrating acid*):

(b) *Nitric acid or nitrating acid* must be placed in glass bottles with glass stoppers ground to fit, and these stoppers must be held in place by plaster of paris covered by strong cloth securely tied;

Or glass bottles having necks with molded screw threads, must be closed by threaded-type acid-resistant plastic caps. Caps must be equipped with an elastic composition cushion and with glass, porcelain, or similar liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the liquid in transit. Each bottle must be placed in a tightly closed metal container, specification 2B, and well cushioned therein on all sides with

incombustible mineral packing material, such as whiting, mineral wool, infusorial earth (kieselguhr), asbestos, sifted ashes, or powdered china clay, etc. The metal container must be packed in a wooden box, specification 15C, 16A, or 19A, and well cushioned by incombustible mineral packing material as herein described.

Or glass bottles having necks with molded screw threads must be closed by threaded-type acid-resistant caps. Caps must be lined with a resilient liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the acid.

Superseding and amending 1st subparagraph, paragraph 194A (a), order Dec. 14, 1936, to read as follows (*packing perchloric acid*):

(a) *Perchloric acid of not exceeding 72 percent strength* must be placed in glass bottles with glass stoppers ground to fit, and these stoppers must be held in place by plaster of paris covered by strong cloth securely tied;

Or glass bottles having necks with molded screw threads, must be closed by threaded-type acid-resistant plastic caps. Caps must be equipped with an elastic composition cushion and with glass, porcelain, or similar liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the liquid in transit. Each bottle must be well cushioned on all sides with incombustible mineral packing material, such as whiting, mineral wool, infusorial earth (kieselguhr), asbestos, sifted ashes, or powdered china clay, etc., and must be packed in a wooden box, specification 15C, 16A, or 19A.

Or glass bottles having necks with molded screw threads must be closed by threaded-type acid-resistant caps. Caps must be lined with a resilient liner which must be impervious to the acid. Such caps, when secured in place by at least one complete continuous thread, must be capable of preventing any leakage of the acid.

PART IV—SHIPPING CONTAINER SPECIFICATIONS

Superseding and amending paragraph 5 (f), *specification 2D*, order May 12, 1930, to read as follows:

(f) The tops of the bags must be closed after filling by either stapling or sewing, as specified above for the closing of the bottoms, or by machine sewing with filler cord and with crepe kraft tape over the mouth of the bag.

Superseding and amending paragraph 15, *specification 4A*, order May 12, 1930, to read as follows:

15. Openings into cylinder and connections (valves, fuse plugs, etc.) for those openings:—Threads required; to be clean cut, even, without checks, and tapped to gauge. Taper threads to be of length not less than as specified for American Standard taper pipe threads. Straight threads to have a tight fit of at least four engaged threads and a calculated shear strength at least 10 times the test pressure of the cylinder; gaskets required, with straight threads, adequate to prevent leakage.

Superseding and amending paragraph 2, *specification 5*, order May 12, 1930, to read as follows:

2. Restrictions in paragraph 6 (b), 6 (c), 10 (b), 10 (c), 10 (d), and 11 (d) do not apply.

Superseding and amending paragraph 6, *specification 5A*, order May 12, 1930, to read as follows:

6. (*a*) Body seams must be welded.

(*b*) Head and chime seams must be welded or double-seamed.

(*c*) Flanges for closures must be welded in place.

Superseding and amending paragraph 10, *specification 5A*, order May 12, 1930, as amended by orders April 7 and December 15, 1931, to read as follows:

10. (*a*) Closures for openings must be such as to prevent leakage in transit.

(*b*) Openings over 2.3 inches diameter are not permitted.

(*c*) Closures must be of screw-thread type or secured by means of screw-thread devices.

(*d*) Threaded flanges and plugs over ¾ inch standard pipe size must have 8 threads or less per inch. Construction to conform with the following drawing is recommended:

(NOTE.—Drawing to be continued as in current specification.)

Superseding and amending paragraph 11, *specification 5A*, order May 12, 1930, to read as follows:

11. (*a*) Threaded closures must be close fitting with adequate gaskets.

(*b*) Flange must have 5 or more complete threads; two 5/16-inch drainage holes are allowed. Plug, or cap, must have sufficient length of thread to engage 5 threads when screwed home with gasket in place.

(*c*) Threads must be cut at right angles to gasket seats which must be faced so as to bear squarely on each other when without gasket.

(*d*) Gaskets must be at least ⅛ inch thick and ¼ inch across the face.

Superseding and amending paragraph 2, *specification 5B*, order May 12, 1930, to read as follows:

2. (*a*) Restrictions in paragraphs 6 (b), 6 (c), 10 (b), 10 (c), 10 (d), 11 (c), and 11 (d), do not apply.

(*b*) Three or more threads for flanges and for engagement of plug, or cap, therewith are authorized in place of 5 or more prescribed by paragraph 11 (b).

Amending *specification 5B*, order May 12, 1930, as follows:

(Add) 6. Add to paragraph 11 the following:

(*e*) Closures must be of metal with gaskets of suitable materials; all parts closing the opening, except cap seal over threaded plug or cap, must be at least as thick as prescribed for head of container; Provided, That thinner metal closures are authorized for containers of not over 12 gallons capacity when constructed, or fitted with sealing device, so that closure cannot be removed without destroying it or the sealing device.

Superseding and amending paragraph 2, *specification 5D*, order December 10, 1935, to read as follows:

2. Restrictions in paragraphs 6 (a), 6 (c), and 10 (d), do not apply.

Superseding and amending paragraph 2, *specification 5E*, order May 12, 1930, to read as follows:

2. (*a*) Restriction in paragraphs 6 (b), 6 (c), 7, 10 (b), 10 (c), 10 (d), 11 (c), and 11 (d), do not apply.

(*b*) Three or more threads for flanges and for engagement of plug, or cap, therewith are authorized in place of 5 or more prescribed by paragraph 11 (b).

Amending *specification 5E*, order May 12, 1930, as follows:

(Add) 3A. For containers not of the full open head type, body sheets are authorized to be 20 gauge and head sheets 18 gauge for marked capacities not over 55 gallons, and 20 gauge body and head sheets are authorized for marked capacities of not over 30 gallons. (Effective July 1, 1938.)

Amending paragraph 9, *specification 5E*, order August 27, 1936, as follows:

(Add) (*a*) Closures must be of metal with gaskets of suitable material; all parts closing the opening, except cap seal over threaded plug or cap must be at least as thick as prescribed for head of container: Provided, That thinner metal closures are authorized for containers of not over 12 gallons capacity when constructed, or fitted with sealing device, so that closure cannot be removed without destroying it or the sealing device.

Superseding and amending paragraph 6, *specification 5F*, order May 12, 1930, to read as follows:

6. Restrictions in paragraph 10 (d) do not apply.

Superseding and amending paragraph 5, *specification 5H*, order January 13, 1934, to read as follows:

5. In place of paragraphs 10 (b) and 10 (c), the following:

Openings must be of screw-thread or flange-with-follower-plate type.

Superseding and amending paragraph 2, *specification 5J*, order March 12, 1936, to read as follows:

2. (*a*) Restrictions in paragraph 6 (b), 6 (c), 7, 10 (c), 10 (d), 11 (c), and 11 (d) do not apply.

(*b*) Three or more threads for flanges and for engagement of plug, or cap, therewith are authorized in place of 5 or more prescribed by paragraph 11 (b).

Amending paragraph 8, *specification 5J*, order August 27, 1936, as follows:

(Add) (*a*) Closures must be of metal with gaskets of suitable material; all parts closing the opening, except cap seal over threaded plug or cap, must be at least as thick as prescribed for head of container; Provided, That thinner metal closures are authorized for containers of not over 12 gallons capacity when constructed, or fitted with sealing device, so that closure cannot be removed without destroying it or the sealing device.

Amending order May 12, 1930, as follows:

(Add) SHIPPING CONTAINER SPECIFICATION 5X

Steel Drums—Aluminum Lined

1. Containers must comply with specification 5A with the following exceptions and additions:

2. Threaded cap closures, 3 full threads engaged, are also authorized.

3. (Add) Closure shall be located between rolling hoops.

4. (Add) Lining shall be of aluminum at least 99 percent pure, at least 0.12 inch thick, with all seams welded. It shall have reasonably good fit in outside drum and be arranged so that extensive movement therein will be prevented.

Superseding and amending paragraphs 3 and 5, *specification 43A*, order July 23, 1935, to read as follows:

3. Body and heads shall be made of at least 2 laminations; inside lamination shall be of pale crepe natural or synthetic rubber, capable of withstanding the action of hydrofluoric acid up to 65 percent H. F. maximum, for 30 days without any substantial deterioration. The other laminations shall be a mixture of cotton fiber and rubber. Thickness of heads shall be at least ½ inch. Thickness of sides shall be at least ⅜ inch.

5. Closing plug or stopper must be an efficient closure that will prevent spillage or leakage in transit and must have the approval of the Bureau of Explosives.

Amending paragraph 9 (a), *specification 43A*, order July 23, 1935, as follows:

(Add) Also a 4-foot drop to strike directly on closing device.

It is further ordered, That the aforesaid regulations as further amended herein shall be and remain in force on and after June 17, 1938, except as noted in connection with paragraphs herein, and shall be observed until further order of the Commission;

It is further ordered, That compliance with the aforesaid amendments made effective by this order is hereby authorized on and after the date of approval and publication thereof;

And it is further ordered, That copies of this order be served upon all the respondents herein, and that notice to the public be given by posting in the office of the Secretary of the Commission at Washington, D. C.

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-899; Filed March 28, 1938; 12:19 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO RULES GOVERNING UNLISTED TRADING PRIVILEGES

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 12 (f) and 23 (a) thereof, and deeming such action necessary and appropriate for the protection of investors and necessary for the execution of the functions vested in the Commission by the Act, hereby amends Rule JF7 to read as follows:

RULE JF7. *Continuance of unlisted trading privileges on merged exchanges.*—A national securities exchange which has absorbed another exchange in the same metropolitan area may, without further order of the Commission, continue unlisted trading privileges, subject to Section 12 (f), as amended, and the rules and regulations thereunder, in any security which was admitted to such privileges on such other exchange at the time of such absorption.

The foregoing action shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-892; Filed, March 28, 1938; 11:47 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1938.

[File No. 37-23]

IN THE MATTER OF ENGINEERS PUBLIC SERVICE COMPANY, INCORPORATED

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Engineers Public Service Company, Incorporated, for approval as a Mutual Service Company, proposing to render certain services to the subsidiary companies of Engineers Public Service Company, pursuant to Rule 13-22;

It is ordered, That a hearing on such matter be held on April 25, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 20, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-897; Filed, March 28, 1938; 11:48 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1938.

[File Nos. 43-109 and 43-110]

IN THE MATTER OF LOUISIANA STEAM GENERATING CORPORATION AND BATON ROUGE ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

Declarations pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Louisiana Steam Generating Corporation and Baton Rouge Electric Company, subsidiary companies of Engineers Public Service Company, a registered holding company, regarding the change of their respective common stocks from no par value to the par value of one dollar per share, in connection with the proposed consolidation of the properties of declarants with those of Gulf States Utilities Company, a matter which is now pending before this Commission and upon which an adjourned hearing is set for April 2, 1938;

It is ordered, That a hearing on such matter be held on April 2, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 1, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-898; Filed, March 28, 1938; 11:48 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1938.

[File No. 37-24]

IN THE MATTER OF UNITED LIGHT AND POWER ENGINEERING AND CONSTRUCTION COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by United Light and Power Engineering and Construction Company, a subsidiary company of United Light & Power Company, with respect to the conduct of its business as a subsidiary service company, pursuant to Rule 13-22;

It is ordered, That a hearing on such matter be held on April 29, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 23, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-896; Filed, March 28, 1938; 11:48 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of March, A. D., 1937.

[File No. 43-106]

IN THE MATTER OF GARDNER ELECTRIC LIGHT COMPANY

ORDER PERMITTING A DECLARATION REGARDING THE ISSUE AND SALE OF UNSECURED NOTES TO BECOME EFFECTIVE

Gardner Electric Light Company, a subsidiary of New England Power Association, a registered holding company, having duly filed a declaration with this Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issuance and sale of its unsecured promissory notes in the total amount of $400,000, with interest payable at the rate of 3% per annum to be paid at the end of each month;

A hearing on such application having been held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That such declaration be and become effective forthwith, on the condition, however, that the issuance and sale of the aforesaid unsecured promissory notes shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-895; Filed, March 28, 1938; 11:47 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY ANDREW J. BARRETT, RESPONDENT, COVERING PRODUCING LANDOWNERS' ROYALTY INTEREST IN THE PAN AMERICAN-RICHARDSON-SAGARIN-ERWIN TRACT

ORDER TERMINATING EFFECTIVENESS OF OFFERING SHEET AND TERMINATING PROCEEDING

Andrew J. Barrett, having filed on February 11, 1938, with the Securities and Exchange Commission, an offering sheet

for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The said Andrew J. Barrett having filed with the Securities and Exchange Commission an application for an order terminating the effectiveness of said offering sheet together with an affidavit that all persons on whose behalf said offering sheet has been filed and to whom copies thereof have been delivered, have been notified in writing of the intention of such person to terminate the effectiveness of said filing, and it appearing that termination of the effectiveness of the filing of the offering sheet as requested is not inconsistent with the public interest,

It is ordered, Pursuant to Rule 356 of Regulation B of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, terminated as of the date of the entry of this order.

It is further ordered, That the Order for Hearing and Order Designating Trial Examiner heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-894; Filed, March 28, 1938; 11:47 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of March, A. D., 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY INDUSTRIAL INVESTMENT CORPORATION, RESPONDENT, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE GULF-WISE-VINSON TRACT

ORDER TERMINATING EFFECTIVENESS OF OFFERING SHEET AND TERMINATING PROCEEDING

Industrial Investment Corporation, having filed on February 28, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The said Industrial Investment Corporation having filed with the Securities and Exchange Commission an application for an order terminating the effectiveness of said offering sheet together with an affidavit that all persons on whose behalf said offering sheet has been filed and to whom copies thereof have been delivered, have been notified in writing of the intention of such person to terminate the effectiveness of said filing, and it appearing that termination of the effectiveness of the filing of the offering sheet as requested is not inconsistent with the public interest.

It is ordered, Pursuant to Rule 356 of Regulation B of the the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, terminated as of the date of the entry of this order.

It is further ordered, That the Order for Hearing and Order Designating Trial Examiner heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-893; Filed, March 28, 1938; 11:47 a. m.]

Wednesday, March 30, 1938 *No. 62*

PRESIDENT OF THE UNITED STATES.

CANCER CONTROL MONTH

By the President of the United States of America

A PROCLAMATION

WHEREAS House Joint Resolution 468, 75th Congress, 3d Session, provides:

That the President of the United States is hereby authorized and requested to issue annually a proclamation setting apart the month of April of each year as Cancer Control Month and to invite annually the Governors of the several States and Territories and possessions of the United States to issue proclamations for like purposes. It is requested that such proclamations invite the medical profession, the press, and all agencies and individuals interested in a national program for the control of the disease of cancer by education and other cooperative means to unite during the month in a public dedication to such a program and in a concerted effort to impress upon the people of the Nation the necessity of such a program.

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, pursuant to the above joint resolution, do hereby proclaim the month of April 1938 Cancer Control Month and invite the Governors of the several States and Territories and possessions of the United States to issue proclamations for like purposes. I invite the medical profession, the press, and all agencies and individuals interested in a national program for the control of cancer by education and other cooperative means to unite during the month of April 1938 in public dedication to such a program and in a concerted effort to impress upon the people of the Nation the necessity of such a program.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 28" day of March, in the year of our Lord nineteen hundred and
[SEAL] thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2277]

[F. R. Doc. 38-903; Filed, March 29, 1938; 10:44 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE FROM SUGAR BEETS

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine for the purposes of Title III of the said act:

That the amount of sugar, raw value, commercially recoverable from sugar beets marketed under that type of agreement commonly known as an "individual test contract" shall be deemed to be 95.3 per centum of the total sugar in the sugar beets, net weight, at the time of delivery to a processor; and that the amount of sugar, raw value, commercially recoverable from sugar beets marketed under any other type of agreement shall be deemed to be 97 per centum of an amount of sugar calculated by applying to the net weight of the sugar beets, at the time of delivery to a processor, the average percentage of sugar content in the cossettes of all of the sugar beets included in a common marketing agreement: *Provided, however*, That in all cases the tests used to determine the sugar content are those tests customarily used for such purpose by sugar beet processors.

Done at Washington, D. C., this 28th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-910; Filed, March 29, 1938; 12:41 p. m.]

[A. A. A. Burley Tobacco 1938-1]

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas the Act approved February 16, 1938, entitled "Agricultural Adjustment Act of 1938", as amended, provides in section 312 (f):

Notwithstanding any other provisions of this Act, the Secretary [of Agriculture] shall, within fifteen days after the enactment of this subsection (f), proclaim the amount of the total supply of burley tobacco for the marketing year therefor beginning October 1, 1937, and a national marketing quota shall be in effect for burley tobacco marketed during the marketing year for such tobacco beginning October 1, 1938. The Secretary shall also determine and specify in such proclamation the amount of such national marketing quota in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning October 1, 1938, a supply of such tobacco equal to the reserve supply level. The referendum with respect to such quota, pursuant to subsection (c) of this section, shall be held and the results thereof proclaimed within forty-five days after the enactment of this subsection (f).;

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins • • •.

"Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current • • •.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

• • • • •

Tobacco (other than flue-cured), October 1–September 30 • • •.

"Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" of tobacco shall be a normal year's domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"Normal year's domestic consumption", in the case of • • • tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports", in the case of • • • tobacco, • • • shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years • • • immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports;

Whereas said Act provides, in section 301 (c), that

The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act; and

Whereas said subsection (f) of section 312 was enacted on the 26th day of March, 1938:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture of the United States, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, approved February 16, 1938, as amended, upon the basis of the latest available statistics[1] of the Federal Government, do hereby find, determine, specify, and proclaim under section 312 of said Act:

(1) That the "reserve supply level" of Burley tobacco is 985,000,000 pounds;

(2) That the "total supply" of Burley tobacco for the marketing year for such tobacco beginning October 1, 1937, was 974,000,000 pounds; and

(3) That the amount of the national marketing quota for Burley tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning October 1, 1938, a supply of such tobacco equal to the reserve supply level of such tobacco, is 350,000,000 pounds.

Done at Washington, D. C., this 28th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[1] Rounded to the nearest 1,000,000 pounds.

[F. R. Doc. 38-908; Filed, March 29, 1938; 12:40 p. m.]

[38-AAA-1-C]

INSTRUCTIONS FOR HOLDING REFERENDUM ON 1938 BURLEY TOBACCO MARKETING QUOTAS

Pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is directed to conduct a referendum of farmers who were engaged in the production of Burley tobacco in 1937 in order to determine whether they favor or oppose marketing quotas with respect to Burley tobacco during the marketing year beginning October 1, 1938.

It should be clearly understood that a farmer to vote in the referendum must be eligible. Burley tobacco marketing quotas will be effective if two-thirds or more of the Burley tobacco farmers voting in the referendum favor them. The Secretary of Agriculture is directed to proclaim the result of the referendum not later than 45 days after the enactment of subsection (f) of said section 312.

The following forms will be used:

Tobacco 213—"Notice—Burley Tobacco Marketing Quota Referendum."
38-AAA-1-C—"Instructions for Holding Referendum on 1938 Burley Tobacco Marketing Quotas."
Tobacco 214—"1938 Burley Tobacco Marketing Quota Referendum Ballot."
Tobacco 215—"Register of Ballots—1938 Burley Tobacco Marketing Quota Referendum."
Tobacco 216—"Community Summary of 1938 Burley Tobacco Marketing Quota Ballots."
Tobacco 217—"County Summary of 1938 Burley Tobacco Marketing Quota Ballots."
Tobacco 218—"State Tabulation of 1938 Burley Tobacco Marketing Quota Ballots."

A. GENERAL INSTRUCTIONS TO COUNTY COMMITTEES

The county committee of the County Agricultural Conservation Association (hereinafter referred to as the county committee) shall be responsible for and in charge of the referendum on marketing quotas for Burley tobacco, which will be held in the county on Saturday, April 9, 1938, and it shall:

1. Designate a readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting the appropriate notice form at least five days in advance of the voting day in one or more public places within each community. Make use (without advertising expense) of all available agencies of public information, including both the press and the radio, to give farmers in the county full and accurate notice of the day and hours of voting, the precise location of polling places, and the basis of eligibility to vote. Public notice should in all cases be

given as soon as practicable after conditions of holding the referendum have been determined but must in every instance be given at least five days in advance of the date of the referendum.

2. Designate in each community three local farmers as members of the community referendum committee to be in charge of holding in the community the referendum on Burley tobacco marketing quotas. One of the members shall be designated as chairman of the community referendum committee.

3. Assist each community referendum committee in providing a ballot box for the ballots cast in the referendum.

4. Furnish each community referendum committee with a list of all the persons (owner-operators, share tenants, tenant-renters, and sharecroppers) in the community who were engaged in the production of Burley tobacco during 1937.

5. Deliver to the chairman of each community referendum committee ballot forms, register forms for use by the community referendum committee in tabulating the results in the community, and three or more sets of community summary forms on which to record the summaries of the ballots cast in the community, together with instructions, respecting balloting, keeping the registers, tabulating ballots, and certifying the results.

6. See that all appropriate measures are taken to insure that each referendum is conducted by secret ballot.

7. Convene not later than 8:30 a. m., Monday, April 11, 1938, for the purpose of receiving and tabulating the data from community summaries, using the county summary forms for this purpose. Four copies of each county summary showing the county results shall be prepared and certified, two copies of which shall be sent to the State committee not later than three days after the date of the referendum, one copy of which shall be posted in a conspicuous place in or near the county office, and one copy of which shall be filed in or near the office of the County Agricultural Conservation Association. One copy of each community summary shall likewise be posted in a conspicuous place in or near the county office.

8. Make an investigation in each case of a controversy respecting eligibility of a voter. Where the ballot is found in a sealed envelope marked "Challenged" by the community referendum committee and bearing the voter's name, the eligibility of such person shall first be determined; and if such person is determined to be eligible the envelope shall be opened and the ballot tabulated on the county summary. If it is determined such person was not eligible to vote, the envelope shall remain sealed and shall be preserved with the ballots as provided in paragraph 9.

9. Seal the voted ballots, register sheets, and community summaries for each county in envelopes or packages (marked "Burley Tobacco Referendum 1938", followed by the name of the county) which shall be kept under lock and key in a safe place under the supervision of the secretary of the County Agricultural Conservation Association for a period of 60 calendar days. If no contest has arisen at the end of such time the ballots shall be destroyed and the community summaries filed in the county office.

10. Make an investigation in cases of dispute regarding the correctness of the summary of the referendum in a community. No dispute shall be investigated unless it has arisen within 2 days after the date on which the referendum was held. The county committee shall promptly decide the disputed matter and immediately report its findings to the State committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

B. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

The community referendum committee designated by the county agricultural conservation committee shall:

1. Arrange with the assistance of the county committee for conducting by secret ballot a referendum of all eligible Burley tobacco farmers tendering ballots within the hours for receiving same.

2. Assist the county committee in giving public notice of the time and place for casting ballots to farmers at least 5 days in advance of the date on which the referendum will be held.

3. Provide a place where each farmer eligible to vote can prepare and cast a ballot without interference and without anyone's seeing how he votes.

4. Open the polls not later than 9 a. m. on Saturday, April 9, 1938.

5. See that no device is used whereby any voter's ballot may be identified (except as provided in par. 11 below in the case of a challenged ballot), and instruct each voter to fold his ballot before placing it in the ballot box.

6. Provide ballot boxes where ballots may be deposited. Any container so arranged that ballots cannot be seen or removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks.

7. Hold the referendum in a fair and unbiased manner and explain to eligible farmers making inquiry the procedure to be followed in casting their ballots.

8. Issue one ballot to each eligible voter requesting it.

9. See that all appropriate measures are taken to insure that the referendum is conducted by secret ballot.

10. Record on the register of ballots the name and address of each farmer to whom a ballot is issued.

11. Issue a ballot to each person who claims a right to vote, even though his right to vote has been challenged by the community referendum committee. Such ballot, after being marked by the challenged voter, shall be placed in a sealed envelope bearing the name of the voter, the notation "Challenged," and the reason for the challenge. The sealed envelope containing the challenged ballot shall be placed in the ballot box and the name of each farmer whose vote is challenged shall be listed at the bottom of the register of ballots.

12. Stop receiving ballots at 7 p. m. on the date of the referendum.

13. Tabulate and record the results on the community summary sheet after closing the polls. The number of challenged ballots cast and sealed in envelopes shall be entered on the community summary sheet in the space provided but shall not be entered as being either for or against the marketing quota. If any ballots are found to be mutilated and cannot be entered as being either for or against the marketing quota the number should be entered in the space provided.

14. Sign the register and community summary forms and certify to their accuracy.

15. Seal the register and community summary forms, and the unused ballots, in envelopes provided for that purpose and deliver them to the county committee not later than 12 o'clock noon, Monday, April 11, 1938. The chairman of the community referendum committee shall be responsible for the safe delivery of the forms and ballots.

16. Post one copy of the community summary in a conspicuous place at the polls.

C. INSTRUCTIONS TO STATE COMMITTEES

The State committee shall be responsible for and in charge of the referendum in the State and it shall:

1. Summarize on State tabulation forms all county summaries and forward to the applicable regional director, Agricultural Adjustment Administration, Washington, D. C., two certified copies of each summary for the State, not later than 7 days after the day of the referendum. One copy of each such report shall be filed in the State office of the Agricultural Adjustment Administration. Should one sheet for each report prove insufficient for listing the information with respect to all counties in the State, additional copies of each State tabulation form may be used as continuation sheets, in which case the totals should be entered on the last page only.

2. Make an investigation of any report from any county regarding controversies, irregularities, or the correctness of reports of the referendum, not later than seven days after the date of the referendum.

3. Forward to the applicable regional director its findings in such cases.

D. ELIGIBILITY AND GENERAL PROVISIONS

Official and final tabulation of the results of the referendum will be made by the Agricultural Adjustment Administration and the result of the referendum will be announced as soon as the Secretary of Agriculture has determined that such tabulations of the results are correct. State and county committees are at liberty to give to the press unofficial reports of the total "Yes" and total "No" votes in referendum in the State or county.

Only farmers who were engaged in the production of Burley tobacco in 1937 are eligible to vote in the referendum. Any person who shared in the proceeds of the 1937 Burley tobacco crop as landowner, operator, share-tenant, or sharecropper shall be considered as engaged in the production of Burley tobacco.

No farmer (whether an individual, partnership, corporation, firm, association, or other legal entity) shall be entitled to more than one vote in referendum, even though he may have been engaged in 1937 in the production of Burley tobacco in two or more communities, counties, or States.

If a community referendum committee determines that a producer residing in the community within the jurisdiction of that committee is eligible to vote by reason of having been a Burley tobacco farmer in 1937 in another community, the committee may issue a ballot form to him and permit him to cast a ballot, provided the committee also determines that such farmer has not previously cast a ballot in another community. If the committee cannot so determine, the committee shall "Challenge" the ballot as heretofore outlined.

There shall be no voting by proxy or agent but a duly authorized officer of a corporation, firm, association, or other legal entity shall be allowed to cast its vote.

In case several persons, such as husband, wife, and children, participated in the production of Burley tobacco in 1937 under a lease or sharecropping agreement, only the person or persons who signed or entered into the lease or sharecropping agreement shall be eligible to vote.

In the event two or more persons engaged in producing Burley tobacco in 1937 jointly, in common, or in community, each such person is entitled to vote.

If the Secretary of Agriculture deems it necessary, any report of any community referendum committee, county committee, or State committee shall be reexamined and rechecked by such persons or agencies as the Secretary may designate and a report to him made thereon.

Done at Washington, D. C., this 28th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-909; Filed, March 29, 1938; 12:41 p. m.]

[Docket No. A-67 O-67]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF IRISH (WHITE) POTATOES GROWN IN LOUISIANA AND IN CERTAIN COUNTIES IN TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA

Whereas under Public Act No. 10, 73rd Congress, as amended and as reenacted by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling of Irish (white) potatoes grown in the State of Louisiana; the counties in the State of Texas lying on or north of 28½ degrees latitude; the counties of Warren, Hinds, Rankin, Scott, Newton and Lauderdale, and all counties south thereof, in the State of Mississippi; the counties of Baldwin, Mobile and Escambia in the State of Alabama; and the counties of Escambia and Santa Rosa in the State of Florida;

Now, therefore, pursuant to the said act and said general regulations notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating the handling of such potatoes in the Auditorium, Agricultural Extension-Forestry Bldg., Louisiana State University, Baton Rouge, Louisiana, on April 5, 1938, at 9:30 a. m.; in the Plaza Hotel, San Antonio, Texas, on April 7, 1938, at 9:30 a. m.; in the Court House, Wharton, Texas, on April 8, 1938, at 9:30 a. m.; in the Court Room (2nd Floor) Court House, Hattiesburg, Mississippi, on April 8, 1938, at 9:30 a. m.; and in the American Legion Hall, Foley, Alabama, on April 9, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling of Irish (white) potatoes grown in the State of Louisiana and in the above mentioned counties in the States of Texas, Mississippi, Alabama and Florida as is in the current of interstate commerce, or which directly burdens obstructs or affects interstate commerce in such potatoes. Among other things the proposed marketing agreement and proposed order provide for: (a) the establishment of an Area Committee and four State Advisory Committees, (b) prohibition of shipment of "cull" potatoes, (c) further grade and size regulations of shipments, (d) expenses of administration, and other matters relating to the handling of such potatoes in the aforesaid area.

It is hereby declared that an emergency exists in the handling of potatoes in the aforesaid area which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: March 28, 1938.

[F. R. Doc. 38-906; Filed, March 29, 1938; 12:40 p. m.]

1937 AGRICULTURAL CONSERVATION PROGRAM—EAST CENTRAL REGION

BULLETIN 101—GUILFORD COUNTY, NORTH CAROLINA SUPPLEMENT (A)

Soil Conserving Crops for Farm Allowance

Subsection (4) of section 1, part I, East Central Region Bulletin 101, Guilford County, North Carolina, is amended by adding the following:

(5) For farms having no cotton or tobacco soil-depleting base and having a general soil-depleting base of more than 20 acres and on which the allotted acreage of general soil-depleting crops is as large as the general soil-depleting base for the farm, 75 cents per acre of cropland in the farm, or one dollar for each acre of soil-conserving crops specified in the farming plan established for the farm, whichever is the smaller; provided that this part of the allowance for any such farm shall not be less than $20.00.

The provisions of this Supplement (a) shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances, Deductions, and Rates of Payment Under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.

Done at Washington, D. C., this 28th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-907; Filed, March 29, 1938; 12:40 p. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL HOME LOAN BANKS

BANKS MAY ACCEPT PREPAYMENTS OF ADVANCES TO MEMBERS AND APPLY SUCH PREPAYMENTS TO SUCH ADVANCES IN ANY MANNER OR ORDER

Be it resolved, that pursuant to authority vested in the Federal Home Loan Bank Board by Section 17 of the Federal Home Loan Banks are hereby amended to read as follows:
of paragraph (7) of Section 42, the last sentence of paragraph (7) of Section 43, and the last sentence of paragraph (6) of Section 47 of the Rules and Regulations for Federal Home Loan Banks are hereby amended to read as follows:

"Nothing herein shall prevent a Bank from accepting at any time payments on the principal of any such advance in an amount in excess of payments required by the note and the Bank may waive the next succeeding payments of principal due on the note in an aggregate amount not exceeding such advance payment of principal or may treat such payments in any other manner."

Adopted by the Federal Home Loan Bank Board on March 28, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-902; Filed, March 28, 1938; 3:46 p. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER IN THE MATTER OF A UNIFORM SYSTEM OF ACCOUNTS TO BE KEPT BY EXPRESS COMPANIES

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 15th day of March A. D., 1938.

The matter of modifying the Uniform System of Accounts for Express Companies being under consideration:

It is ordered, That the following general instructions be and they are hereby prescribed:

GENERAL INSTRUCTIONS

1. *Definitions.*—When used in this system of accounts the term:

(A) "Cost of removal" means the cost of demolishing, tearing down, dismantling, removing or otherwise disposing of carrier property, recovering the salvage, and filling excavations of structures removed.

(B) "Component rates" as applied to depreciation accounting means the rates applied to the various subclasses of property within a primary account in arriving at the depreciation charge upon which the composite rate is based.

(C) "Composite rate" means the percentage rate applicable to the primary account as a whole.

(D) "Depreciable accounts" are those in which is recorded the cost of those classes of property for which depreciation acounting is required. (See instruction 2-D.)

(E) "Depreciation" means the loss in service value (note definition O) not restored by current maintenance and incurred in connection with the consumption or prospective retirement of physical property in the course of service from causes against which the carrier is not protected by insurance, which are known to be in current operation, and the effect of which can be forecast with a reasonable approach to accuracy.

(F) "Group method" as applied to depreciation accounting means the method under which depreciation charges are accrued upon the basis of the ledger value of all property included in each depreciable account, using the average service life thereof properly weighted, and upon the retirement of any depreciable property its full service value is charged to the depreciation reserve regardless of the amount accrued with respect to the particular unit retired.

(G) "Ledger value" means the amount at which assets are properly recorded in the accounts of the carrier.

(H) "Minor item" as applied to carrier property means any part or element thereof which is not designated as a unit of property in appendix A.

(I) "Nondepreciable accounts" are those real-property-and-equipment accounts in which are recorded the ledger values of those classes of carrier property for which no charges to operating expenses for depreciation are permitted.

(J) "Property retired" as applied to carrier property means property which has been permanently withdrawn from transportation service.

NOTE.—The dismantling or tearing down of a structure or a unit of equipment in order to replace parts thereof with improved parts the purpose of which is to modernize the unit and to create an expectation of life fairly comparable with a new and modern unit shall be accounted a retirement but the dismantling or stripping of such property only to the extent necessary to recondition or to replace in kind defective parts shall be accounted as repairs.

(K) "Retirement" as applied to physical property means the permanent withdrawal of the property from the service in which it has been used.

(L) "Replacement" means the installation of physical property in substitution for other property which has been retired.

(M) "Salvage from retired property" means the amount received for property retired and disposed of, or the amount at which the material recovered should be charged if re-used.

(N) "Service life" means the period of time between the installation or placing in service of a unit of property and its retirement for accounting purposes. In case buildings or other improvements on land not owned pass to lessor at the expiration of the lease, the service life of such improvements shall be computed as not extending beyond the term of the lease.

(O) "Service value" as applied to carrier property is the ledger value thereof less the value of the salvage therefrom.

(P) "Straight-line method" as applied to depreciation accounting means the method under which the service value of all depreciable property is charged to operating expenses or other appropriate accounts and concurrently credited to the depreciation reserve through equal annual charges as nearly as may be during its service life.

(Q) "Time of installation" means the date at which carrier property is placed in transportation service.

(R) "Time of retirement" as applied to carrier property means the date at which the property is permanently withdrawn from transportation service.

2. *Depreciation accounting.*—(A) Computing and filing of depreciation rates:

(1) The carrier shall file with this Commission composite annual percentage rates estimated to be applicable to the ledger value of each class of depreciable carrier property owned and used by it. These percentage rates shall be based on the estimated service values and service lives developed by a study of the carrier's history and experience and such engineering and other information as may be available with respect to prospective future conditions. They shall be computed in conformity with the group method of accounting for depreciation and shall be such that the loss in service value of the property may be distributed under the straight-line method during its service life. Such percentage rates shall, for each primary account comprised of more than one class of property, produce a charge to operating expenses for that account equal to the sum of the amounts that would otherwise be chargeable for each of the various classes of property included in the account. The annual percentage rates so filed shall be accompanied by a sworn statement showing the bases therefor and the methods employed in their computation. A carrier which becomes subject to the provisions of this system of accounts after January 1, 1938, shall file such percentage rates within six months after the provisions of this system of accounts become applicable to it.

(2) In the event any annual percentage rate prescribed by this Commission, in the judgment of the carrier, becomes no longer currently applicable, it shall in like manner file annual percentage rates which in its judgment should be established. Where property is acquired for which no rates have been prescribed the carrier shall immediately compile and submit to this Commission appropriate estimates developed in accordance with the provisions of this instruction.

(3) The carrier shall keep such records of property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service-life indications by mortality, turnover, or other appropriate methods; also such records as will reflect the percentage of value of the salvage for property retired from each class of depreciable carrier property. The carrier shall be prepared at any time, upon direction of this Commission, to compute and submit for its approval revised percentage rates in cases where existing rates are deemed inapplicable.

(B) *Depreciation charges.*—All depreciation charges to operating expenses, or other appropriate accounts, and concurrent credits to the accrued depreciation account shall be made monthly. In computing such monthly charges and credits the annual percentage rates shall be applied to the ledger value of depreciable property in the respective primary accounts as of the first of each month and the result divided by twelve.

(C) *Depreciation rates.*—A separate composite annual percentage rate (see note) for each account covering depreciable carrier property shall be used in computing depreciation charges. Such composite rates shall be those which are from time to time prescribed by this Commission, except that where no rates for any class of property previously have been prescribed for the carrier's use by this Commission, the carrier's estimates of composite annual percentage rates computed in accordance with paragraph A of this instruction shall be used prior to the date rates prescribed by this Commission become effective.

NOTE.—Where the composite rate as prescribed by this Commission has been developed by the application of component rates to the various subclasses of property within a primary account and a segregation of the property to which they are applicable is maintained or is available, such component rates, when specifically authorized, may be used in computing the current depreciation charges as long as the property to which they apply is in service and the estimated service lives, etc., upon which they are based remain the same, without a supplemental order.

(D) Classes of depreciable carrier property.—The classes of depreciable carrier property and the accounts covering such property are as follows:

Account No.:	*Name of Account*
202	Buildings and appurtenances on land owned.
203	Buildings and appurtenances on land not owned.
204	Improvements to buildings not owned.
205	Cars.
206	Horses.
207	Automobiles.
208	Wagons and sleighs.
209	Harness equipment.
210	Office furniture and equipment.
211	Office safes.
212	Trucks.
213	Stable equipment.
214	Garage equipment.
215	Line equipment.
216	Shop equipment.
217	Miscellaneous equipment.

(E) Upon the retirement of a unit of depreciable property the service value shall be charged in its entirety to account 548, "Accrued depreciation—Buildings and equipment."

(F) If as a result of unforeseen retirements or of insufficient credits to the depreciation reserve in the past it develops that the balance in it has become inadequate, a carrier may, upon application to this Commission and with its approval, credit it reserve and charge account 417, "Miscellaheous profit and loss debits," with an appropriate amount. The application to this Commission for such special accounting shall give full particulars concerning the situation.

(G) *Insurance recovered.*—If insured structures or units of equipment which are damaged are repaired, the insurance recovered shall be credited to the account in which the cost of the repairs is included; if they are destroyed, the insurance recovered shall be credited to the accrued depreciation account.

3. *Retirements and replacements.*—(A) To accounts 201 to 217, inclusive, shall be credited at the time of retirement the ledger value of carrier property retired as follows:

(1) Land retired including the proportional cost of public improvements pertaining to the land. (See special instruction 4 to the real-property and equipment accounts.)

(2) Units of depreciable carrier property retired. (See appendix A.)

(3) Minor items of depreciable carrier property retired and not replaced.

NOTE.—If the ledger value of the minor item retired is small, is not under a general plan and in the judgment of the carrier does not affect the condition and value of the property for valuation or depreciation purposes, has been or will be accounted for by the inclusion in the unit of property of which it is a part when such unit is retired, no separate credit to the property account is required when such minor item is retired.

(4) Minor items of depreciable carrier property retired and replaced with items of a different type or design or constructed of a different grade of material rendering the part applied more or less durable or of greater or less capacity than the item retired.

NOTE.—If the cost of the items applied in replacement is small, the replacement is not under a general plan, and in the judgment of the carrier the retirement and replacement does not affect the condition and value of the property for valuation or depreciation purposes the cost of the replacement shall be charged to operating expenses, as shall also be charged the cost of replacing in kind all minor items of carrier property retired, and no adjustment shall be made in the property investment account.

General note.—If the ledger value of units and minor items of property retired cannot be definitely determined from the carrier's records, the ledger value of such units and minor items shall be estimated. Average prices may be used in estimating the ledger value when it is impracticable, because of the relatively large number and small size of items, to otherwise determine the ledger value of such items.

(B) The amounts thus credited to accounts 202 to 217, inclusive, shall concurrently be charged as follows:

(1) If the retired property is held by the carrier for other than express service, its estimated value shall be included in account 503, "Miscellaneous physical property," and the difference between that amount and the ledger value shall be charged to account 548, "Accrued depreciation—Buildings and equipment."

(2) *Value of salvage.*—The value of the salvage from the retired property shall be charged to account 512, "Material and supplies," or other accounts appropriate according to the disposition made thereof. If retired property is held

temporarily without being torn down the estimated value of the salvage therefrom (see also account 512, "Material and supplies") shall be included in account 520, "Other deferred assets," until the salvage is recovered.

(3) *Service value of depreciable property.*—(*a*) *Units of property.*—The service value shall be charged to account 548, "Accrued depreciation—Buildings and equipment."

(*b*) *Minor items.*—There shall be charged to account 548, "Accrued depreciation—Buildings and equipment," the service value of any minor item which is accounted for as retired in accordance with paragraphs A–3 and 4 of this instruction.

(C) *Cost of removal.*—The cost of removal (see Instruction 1 (A)) shall be accounted for as provided in the text of operating-expense account 30, "Retirements."

(D) *Property installed.*—The cost of carrier property installed in lieu of carrier property accounted for as retired, under the foregoing sections of this instruction, shall be charged to the appropriate real-property-and-equipment account.

It is further ordered, That sections 3, 4, and 5 of the Special Instructions for Operating Expense Accounts be and they are hereby cancelled.

It is further ordered, That the following operating-expense accounts and the texts pertaining thereto be and they are hereby cancelled:

3. Buildings and appurtenances—Depreciation.
4. Buildings and appurtenances—Retirements.
6. Cars—Depreciation.
7. Cars—Retirements.
8. Horses—Depreciation.
9. Horses—Retirements.
11. Automobiles—Depreciation.
12. Automobiles—Retirements.
14. Wagons and sleighs—Depreciation.
15. Wagons and sleighs—Retirements.
17. Harness equipment—Depreciation and retirements.
19. Office furniture and equipment—Depreciation and retirements.
21. Office safes—Depreciation and retirements.
23. Trucks—Depreciation and retirements.
25. Stable and Garage Equipment—Depreciation and retirements.
27. Line equipment—Depreciation and retirements.
29. Shop equipment—Depreciation and retirements.
31. Miscellaneous equipment—Depreciation and retirements.

It is further ordered, That the number of account "Miscellaneous equipment—Repairs," be and it is hereby changed from 30 to 29.

It is further ordered, That the first line of the text of operating-expense account 2, "Buildings and appurtenances—Repairs," be and it is hereby modified by inserting the word "and" before the word "repairing" and eliminating the words "and removing".

It is further ordered, That the parenthetical sentence at the end of the text of account 204, "Improvements to buildings not owned," be and it is hereby cancelled.

It is further ordered, That the following operating-expense accounts and the texts pertaining thereto be and they are hereby prescribed:

30. *Retirements.*—This account shall include the cost of demolishing, tearing down, dismantling, removing, or otherwise disposing of carrier property, recovering the salvage, and filling in the excavations of structures removed.

31. *Depreciation.*—(A) This account shall include charges covering the current loss through depreciation of buildings and equipment. (See general instruction 2–B.)

(B) The carrier's records shall be kept in such manner that charges for depreciation may be shown separately for each depreciable building and equipment account.

It is further ordered, That the following modifications in the special instructions pertaining to the real-property-and-equipment accounts be and they are hereby prescribed:

Modify paragraph (d) under special instruction No. 1 to read as follows:

(d) The cost of improvements representing physical changes in existing units of property, such as additions to buildings and other structures, and additional devices applied to facilities. (The cost of rearranging or altering the existing property in the process of making improvements shall be charged to operating expenses. See general instruction 3–C.)

These accounts shall also include the necessary credits to represent the ledger value, (estimated if not known), of units of equipment or of other property abandoned, sold, or otherwise retired, whether replaced by property of like purpose or not. (See general instruction 3–A–3–4.)

It is further ordered, That sections 3, 5, 6, and 7 of the special instructions for the real-property and equipment accounts be and they are hereby cancelled.

It is further ordered, That the part of the text of operating-expense general account I, Maintenance, reading "and the original cost, less salvage, of property, other than land, abandoned or retired from service" be and it is hereby cancelled.

It is further ordered, That the part of the text of general real-property-and-equipment account III, Equipment, reading as follows "also the excess cost of betterments, such as improved appliances, parts, or appurtenances over the cost as new, at current prices, of appliances, parts, or appurtenances removed. The cost of labor and supplies consumed in removing the old and applying the improved shall be charged to operating expenses." be and it is hereby cancelled.

It is further ordered, That the notes to real-property-and-equipment accounts 209 to 217, inclusive, be and they are hereby cancelled.

It is further ordered, That the following balance-sheet accounts and the texts pertaining thereto be and they are hereby cancelled:

548. Accrued depreciation—Buildings.
549. Accrued depreciation—Equipment.

It is further ordered, That the following balance-sheet account and the text pertaining thereto be and they are hereby prescribed:

548. *Accrued depreciation—Buildings and equipment.*—(A) To this account shall be credited amounts charged to account 31, "Depreciation," to cover the loss in service value (note instruction 1–O) of depreciable carrier property. It shall be credited also with any amounts which the carrier may be authorized to charge to account 417, "Miscellaneous profit and loss debits," in respect of past accrued depreciation not provided for. (See general instruction 2–F.)

(B) At the time of retirement (note instruction 1–R) of depreciable carrier property this account shall be charged with the service value (note instruction 1–O) of the property retired, and to it shall be credited the insurance recovered, if any.

(C) For corporate ledger and balance-sheet purposes, this account shall be regarded and treated as a single composite reserve. However, for purposes of analysis, the carrier shall maintain subsidiary records in which the depreciation reserve is broken down into component parts corresponding to the primary building and equipment accounts which include depreciable carrier property (see also instruction 2–D). These subsidiary records shall show the current credits and debits in the reserve in complete detail by such primary real-property-and-equipment accounts.

It is further ordered, That the following be and it is hereby prescribed as Appendix A to the text pertaining to the real-property and equipment accounts:

APPENDIX A

The following list of units of real property and equipment is established for the purpose of designating items of physical property included in each depreciable account the ledger value of which shall be credited to the respective accounts at time of retirement (see general instruction 3 for instructions applicable to minor items, and the text of account 218, "Minor equipment," for those applicable to equipment of classes having an average original cost of $50 or less per unit):

202. 203. Buildings and appurtenances.

A complete building or structure.
A complete roof.
A complete heating, lighting, ventilating, water-supply, air-conditioning, plumbing, drainage, or elevator system.
A motor, generator, steam engine, pump, ventilating fan, air washer, elevator drum, machine tool, or similar items of equipment.

204. Improvements to buildings not owned.

A complete heating, lighting, ventilating, water-supply, air-conditioning, plumbing, drainage, or elevator system.
A motor, generator, steam engine, pump, ventilating fan, air washer, elevator drum, machine tool, or similar items of equipment.

205. Cars.

A complete car.
A car body with or without underframe.
A complete underframe.

206. Horses.

A horse or mule.

207. Automobiles.

A complete automobile or truck.
A tractor.
A trailer.
A semi-trailer.
An electric power storage battery.

208. Wagons and sleighs.

A wagon.
A sleigh.
A cart.

209. Harness equipment.

A complete set of harness.

210. Office furniture and equipment.

A desk, typewriter, billing machine, davenport, computing machine, book case, filing cabinet, rug, carpet, or other similar items of equipment.

211. Office safes.

A safe.

212. Trucks.

A truck.
A storage battery.

213. Stable equipment.

A machine, or other similar item of stable equipment.

214. Garage equipment.

A machine tool, testing equipment, generator, engine, motor, truck, storage battery, tank, or other similar items of garage equipment.

215. Line equipment.

A gun, safe, or other similar items of line equipment.

216. Shop equipment.

A machine tool, boiler, motor, generator, truck or other similar items of equipment.

217. Miscellaneous equipment.

A bicycle.
A motorcycle.

It is further ordered, That this order shall become effective on January 1, 1938.

By the Commission, Division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–905; Filed, March 29, 1938; 12:21 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of March, A. D., 1938.

[File No. 43–106]

IN THE MATTER OF GARDNER ELECTRIC LIGHT COMPANY

CORRECTED ORDER PERMITTING A DECLARATION REGARDING THE ISSUE AND SALE OF UNSECURED NOTES TO BECOME EFFECTIVE

Gardner Electric Light Company, a subsidiary of New England Power Association, a registered holding company, having duly filed a declaration with this Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issuance and sale of its unsecured promissory notes, in the total amount of $400,000, with interest payable at the rate of 3% per annum to be paid at the end of each month;

A hearing on such application having been held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That such declaration be and become effective forthwith, on the condition, however, that the issuance and sale of the aforesaid unsecured promissory notes shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–904; Filed, March 29, 1938; 11:37 a. m.]

Thursday, March 31, 1938 ***No. 63***

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDING PARAGRAPH 5, SUBDIVISION XI, SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by section 6 of the Civil Service Act (22 Stat. 403, 406), it is ordered that paragraph 5, Subdivision XI, Schedule A of the Civil Service Rules, be, and it is hereby, amended to read as follows:

"5. Seamen, deck-hand, fireman, and employees in the mess department on vessels of, in addition to lamplighters in, the Lighthouse Service."

The present incumbents of the positions placed in the competitive classified civil service by this order may acquire a competitive classified status in accordance with the provisions of section 6 of Civil Service Rule II, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 29, 1938.

[No. 7852]

[F. R. Doc. 38–919; Filed, March 30, 1938; 11:40 a. m.]

EXECUTIVE ORDER

AMENDING PARAGRAPH 4, SUBDIVISION III, SCHEDULE B OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by section 6 of the Civil Service Act (22 Stat. 403, 406), it is ordered that paragraph 4, Subdivision III, Schedule B of the Civil Service Rules be, and it is hereby, amended to read as follows:

"4. The Director of Air Commerce, two Assistant Directors of Air Commerce, and not exceeding ten consulting aeronautical experts qualified in some branch of theoretical or applied aeronautical science, aviation medicine, or aviation law, whose training and experience indicate the possession of qualifications necessary to discharge the duties to be assigned."

Employees of the Bureau of Air Commerce now occupying positions brought into the competitive classified civil service by this order may acquire a competitive classified status in accordance with the provisions of section 6 of Civil Service Rule II, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 29, 1938.

[No. 7853]

[F. R. Doc. 38-920; Filed, March 30, 1938; 11:40 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49475]

WILD ANIMALS—INFORMATION IN RESPECT OF THE LAWS OF JAPAN RESTRICTING THE TAKING, KILLING OR EXPORTATION

CONSULAR CERTIFICATES REQUIRED PURSUANT TO SECTION 527 OF THE TARIFF ACT OF 1930

MARCH 25, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to article 622 (c) of the Customs Regulations of 1937, you are advised that under the laws and regulations of Japan the taking or killing of the kamoshika or the goat antelope (*capricornus crispus tenim*), the me-itachi or female weasel (sometimes called mink in the Japanese fur trade) (*lutreola itatsi itatsi*), the kawaoso or otter (*lutra lutra*), and the amami-no kurousagi or rabbit (*pentalatus furnessi* (stone)) is prohibited. Consequently, collectors of customs should require consular certificates pursuant to the provisions of section 527 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1527) before permitting the entry of such animals or parts or products thereof, imported directly or indirectly from Japan, after 30 days after the publication of this decision in the weekly Treasury Decisions.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

[F. R. Doc. 38-911; Filed, March 30, 1938; 10:17 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR HARVESTING SUGARCANE IN THE MAINLAND SUGARCANE AREA BETWEEN SEPTEMBER 1, 1937, AND JUNE 30, 1938

Whereas Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas Section 301 (e) of the said act provides, in part, as follows:

The conditions provided in * * * subsection (b) with respect to wage rates, of this section shall not apply to work performed prior to the enactment of this Act; * * *

and

Whereas the Secretary of Agriculture, held public hearings in Baton Rouge, Louisiana, on October 4, 1937, and in Clewiston, Florida, on December 4, 1937, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in the mainland sugarcane area.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine that the requirements of subsection (b) of Section 301 of the Sugar Act of 1937 shall be deemed to have been met with respect to harvesting of cane in the mainland sugarcane area during the period from September 1, 1937, to June 30, 1938, if all persons employed on the farm during that period in the harvesting of sugarcane shall have been paid in full for all such work and paid wages therefor at rates not less than the following:

(1) For cutting cane on a tonnage basis not less than 75 cents per ton including cutting, topping and stripping; and in the event that loading is also included, not less than the following rates:

Type of cane:	*Rate per ton*
Small barrel cane, green	$1.19
Small barrel cane, burned	.97
Medium barrel cane, green	.97
Medium barrel cane, burned	.81
Large barrel cane, green	.81
Large barrel cane, burned	.65

(2) For harvesting operations on a time basis not less than $1.50 per day for adult male workers, and for adult female workers, not less than $1.20 per day.

Provided, however, That laborers shall have been supplied by the producer, without charge, with the perquisites customarily furnished by him, such as, a habitable house, a suitable garden plot with facilities for its cultivation, pasture for livestock, medical attention, and similar incidentals.

Nothing in this determination shall be construed to mean that a producer may qualify for a payment under the said act who has not paid in full the amount agreed upon between the producer and the laborer.

This determination supersedes the "Determination of Fair and Reasonable Wage Rates for Harvesting of the 1937 Crop of Louisiana Sugarcane, Pursuant to the Sugar Act of 1937", made by the Secretary of Agriculture on November 12, 1937, except that any producer who has completed harvesting prior to the date of this determination shall be deemed to have met the requirements of subsection (b) of Section 301 of the Sugar Act of 1937 if he has complied with the determination of November 12, 1937.

Done at Washington, D. C., this 30th day of March, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-922; Filed, March 30, 1938; 12:37 p. m.]

[Puerto Rico Sugar Order No. 9]

ALLOTMENT OF THE DIRECT-CONSUMPTION PORTION OF THE 1938 SUGAR QUOTA FOR PUERTO RICO

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937, I, H. A. Wallace, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, issue, publish and give public notice of this order, which shall have the force and effect of law and shall continue in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

I

Whereas General Sugar Quota Regulations, Series 5, No. 1, establishes for Puerto Rico for the calendar year 1938 a quota of 819,344 short tons of sugar, raw value, of which 126,033 short tons of sugar, raw value, may be filled by direct-consumption sugar, and

Whereas the Secretary of Agriculture on January 14, 1938, held a public hearing in Washington, D. C. for the purpose of receiving evidence to enable him to make a fair, efficient and equitable distribution of that portion of the 1938 sugar quota for Puerto Rico which may be filled by direct-consumption sugar, and

Whereas I hereby find that the allotment of that portion of the said quota which may be filled by direct-consumption sugar is necessary in order to prevent disorderly marketing of direct-consumption sugar from such area.

II

Now, therefore, upon the basis of the foregoing finding and pursuant to the foregoing authority, it is hereby ordered:

1. That the said quantity of 126,033 short tons, raw value, of direct-consumption sugar shall be allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor:	*Direct-Consumption Allotment (short tons, raw value)*
Porto Rico American Sugar Refinery, Inc.	93,406
Aguirre	3,464
Carmen	81
Guanica	3,914
Igualdad	5,741
Roig	11,788
San Francisco	1,947
	120,321
Unallotted reserve for marketings of raw sugar for direct-consumption	5,712
Total	126,033

2. That the above named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar used for direct-consumption) from Puerto Rico in excess of the marketing allotments set forth in paragraph 1 hereof.

3. That the allotments fixed herein shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.

In Testimony Whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 30th day of March, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-923; Filed, March 30, 1938; 12:37 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

RESOLUTIONS IN THE MATTER OF CONSTRUCTION OF NEW PASSENGER VESSELS AND APPROVAL OF MISCELLANEOUS ITEMS OF EQUIPMENT

Pursuant to the authority of Section 4405 of the Revised Statutes an Executive Committee of the Board of Supervising Inspectors, consisting of R. S. Field, Director; George Fried, Supervising Inspector of the Second District; and Eugene Carlson, Supervising Inspector of the Third District, met in the office of the Supervising Inspector of the Second District at 9:00 A. M. March 15, 1938 for the purpose of considering amendments to the General Rules and Regulations and for the transaction of such other business as might come before the meeting.

The following resolutions were adopted by the Executive Committee and were approved by the Secretary of Commerce:

[Resolution No. 3667]

CONSTRUCTION OF NEW PASSENGER VESSELS

Resolved, That under the authority of Section 4405, R. S., the rule entitled, "Construction of Passenger Vessels," as contained in the Fifty-Second Supplement to the General Rules and Regulations, Pages 41 to 56, be and hereby is deleted from the Ocean and Coastwise General Rules and Regulations, as such rules have been incorporated in the Load Line Regulations, as amended in the September 29, 1937, FEDERAL REGISTER.

[Resolution No. 1511-92]

APPROVAL OF MISCELLANEOUS ITEMS OF EQUIPMENT

Resolved, That under authority of Sections 4405 and 4491, R. S., the following equipment be and hereby is approved for use on vessels subject to inspection:

Fire Extinguishers

460-H. Pyrene 2-quart carbon tetrachloride pressure type fire extinguisher, manufactured by the Phister Manufacturing Company of Cincinnati, Ohio.

Supervised Patrol Systems

3593. Model 1390 Marine Patrol System and Model 1390-D Marine Patrol and Delinquency System, manufactured by the American District Telegraph Company, 155 Sixth Avenue, New York, New York.

3504. Chicago Watchman's Clock with lock station or standard station, manufactured by the Chicago Watchman's Clock Company of Chicago, Illinois.

Life Preservers

3226. Kapok life preserver with sea light attached, manufactured by the American Pad and Textile Company of Greenfield, Ohio. (Approved subject to final buoyancy and flotation tests.)

3226. Balsa wood life preserver, manufactured by the American Pad and Textile Company of Greenfield, Ohio. (Approved subject to final flotation tests.)

Line Carrying Guns

3-8437. New York Line Carrying Gun, manufactured by the New York Gun Company.

Breathing Apparatus

3708. Davis Fresh Air Hose Mask No. 4066-N., manufactured by the Davis Emergency Equipment Company, Inc., of New York, New York. (For use on tank vessels.)

3030. III–MSA (1 hour type) oxygen breathing apparatus, manufactured by the Mine Safety Appliances Company of Pittsburgh, Pennsylvania.

R. S. FIELD, *Director.*

[SEAL] GEO. FRIED,
U. S. Supervising Inspector, Second District.
EUGENE CARLSON,
U. S. Supervising Inspector, Third District.

Approved:
DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–921; Filed, March 30, 1938; 12:31 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of March, A. D. 1938.

[File No. 1–2239]

IN THE MATTER OF OBRA MINES CORPORATION, COMMON CAPITAL STOCK

FINDINGS AND ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the San Francisco Mining Exchange of 960,000 shares of common stock, 10 cents par value, of Obra Mines Corporation shall be suspended or withdrawn; and

After appropriate notice, a hearing having been held in this matter on January 25, 1938, in San Francisco, California; and

The Obra Mines Corporation having stipulated under date of January 19, 1938, that it has failed to comply with the provisions of Section 13 (a) and 13 (b) and Rules KA1 and KA2 and with the provisions of Form 10–K in the respects charged by the order for hearing dated January 12, 1938; and

The Commission finding, upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Sections 13 (a) and 13 (b) of said Act, as amended, Rules KA1 and KA2, Form 10–K and the Instructions supplemental thereto, prescribed under said Section; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act, as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said common stock on said exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the San Francisco Mining Exchange of 960,000 shares of common stock, 10 cents par value, of Obra Mines Corporation shall be and the same is hereby withdrawn, effective as of April 8, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–916; Filed, March 30, 1938; 11:13 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1938.

[File Nos. 43–99, 51–9]

IN THE MATTER OF PENN WESTERN GAS & ELECTRIC COMPANY

ORDER DENYING APPLICATION OF HORTENSE I. BRAUNSCHWEIGER TO BE MADE A PARTY TO ABOVE-NAMED PROCEEDINGS

An application having been filed with the Commission by Hortense I. Braunschweiger asking to be made a party to the above-named proceeding;

A hearing was held on such application in connection with the hearing on the declaration filed with the Commission by Penn Western Gas & Electric Company at which time the proposed intervenor was permitted to present evidence and to cross-examine the witnesses of the declarant; the Commission now having examined the application filed by the proposed intervenor; and having made and filed its findings with respect thereto:

It is ordered, That the application of Hortense I. Braunschweiger asking to be made a party to the above-named proceedings be and hereby is denied.

By the Commission, Frank, C., dissenting.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–917; Filed, March 30, 1938; 11:13 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of March, A. D. 1938.

[File Nos. 43–99, 51–9]

IN THE MATTER OF PENN WESTERN GAS & ELECTRIC COMPANY

ORDER GRANTING CONDITIONAL APPROVAL TO DECLARATION AND APPLICATION

Penn Western Gas & Electric Company having filed a declaration with this Commission pursuant to the provisions of Section 7 of the Public Utility Holding Company Act for the reduction in the par value of its outstanding common stock from $12 to $5 per share, and pursuant to Rule 12 C–2 for the declaration of a partial liquidating dividend to be paid out of the capital surplus created through the reduction of the par value of the outstanding common stock;

A hearing having been duly held after appropriate notice, and the record in this matter having been examined, and the Commission having made and filed its findings herein:

It is ordered, That the declaration reducing the par value of the common stock from $12 to $5 per share be and the same hereby is approved subject to the condition that the declarant file with the Commission a statement showing compliance with the terms with Delaware Corporation laws and subject to the further condition that such reduction in the par value of common stock be effected in accordance with the terms and conditions and for the purposes represented by such declaration;

It is further ordered, That the application pursuant to Rule 12 C–2 for the approval of a partial liquidating dividend to be paid out of capital surplus be and the same hereby is approved subject to the condition that such dividend shall not be declared or paid except in accordance with, and for the purposes represented by, such application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–918; Filed, March 30, 1938; 11:13 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of March, 1938.

[File No. 7–215]

IN THE MATTER OF CAMBRIA IRON COMPANY CAPITAL STOCK, $50 PAR VALUE

ORDER POSTPONING HEARING

The Philadelphia Stock Exchange having made application to the Commission pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, for extension of unlisted trading privileges to the Capital Stock, $50 Par Value, of Cambria Iron Company; and

The Commission having ordered that the matter be set down for hearing on April 5, 1938, in Washington, D. C.; and

The Philadelphia Stock Exchange having requested a postponement of said hearing until April 19, 1938;

It is ordered, That said hearing be postponed until 10 A. M. on Tuesday, April 19, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as may be determined by the Commission or its officer presiding at said hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–914; Filed, March 30, 1938; 11:13 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of March, 1938.

[File No. 7–216]

IN THE MATTER OF INSURANCE COMPANY OF NORTH AMERICA CAPITAL STOCK, $10 PAR VALUE

ORDER POSTPONING HEARING

The Philadelphia Stock Exchange having made application to the Commission pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, for extension of unlisted trading privileges to the Capital Stock, $10 Par Value, of Insurance Company of North America; and

The Commission having ordered that the matter be set down for hearing on April 5, 1938, in Washington, D. C.; and

The Philadelphia Stock Exchange having requested a postponement of said hearing until April 19, 1938;

It is ordered, That said hearing be postponed until 10 A. M. on Tuesday, April 19, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as may be determined by the Commission or its officer presiding at said hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–915; Filed, March 30, 1938; 11:13 a. m.]

UNITED STATES MARITIME COMMISSION.

[General Order No. 23, Amended]

RULES AND REGULATIONS FOR CADET OFFICERS AND CADETS UPON VESSELS OPERATED FOR THE ACCOUNT OF THE UNITED STATES MARITIME COMMISSION AND UPON VESSELS OPERATING UNDER SUBSIDY AGREEMENTS

General Order No. 23 is hereby amended to read as follows:

I. Effective March 15, 1938, there are established the ratings "Cadet Officer" and "Cadet."

A. *Cadet Officer.*—Qualifications for the rating "Cadet Officer" shall be:

(1) Graduation from the State Nautical School of Pennsylvania, Massachusetts, New York or California, the U. S. Naval Academy, the U. S. Coast Guard Academy, or from such other school or academy specifically approved by this Commission, and in addition possession of a license as Third Mate or Third Assistant Engineer; or

(2) Completion of the course prescribed for "Cadets" by the United States Maritime Commission, and in addition, possession of a license as Third Mate or Third Assistant Engineer, or

(3) Possession by any person not more than 23 years of age, of a license as Third Mate or Third Assistant Engineer, under which license that person has not previously sailed.

B. *Cadet.*—The following requirements for cadets are hereby established:

(1) The rating "Cadet" shall comprise "Deck Cadets" and "Engineer Cadets."

(2) *Deck Cadets.*—To be eligible for appointment as a deck cadet, the applicant must be a graduate of a high school with fourteen standard high school credits.

(3) *Engineer Cadets.*—To be eligible for appointment as an engineer cadet, the applicant must comply with one of the following qualifications:

(*a*) Graduation from a vocational high school course approved by the Commission.

(*b*) Graduation from a high school, with fourteen standard high school credits, and also to have had two years service in a shipyard, engaged in building or repairing ships of more than 1,000 registered tons, or in a plant, approved by the Commission, where engines and/or boilers are manufactured or repaired.

(*c*) Completion of two years in an engineering course in a technical college approved by the Commission.

II. *Compensation and quarters.*

A. *Cadet Officers.*—Compensation for cadet officers shall be at the rate of $75.00 per month and cadet officers shall have in all other respects the perquisites and privileges of a licensed officer.

B. *Cadets.*—Compensation for cadets shall be at a rate of $50.00 per month. While traveling in the course of employment cadets shall be furnished an allowance for subsistence at the rate of $3.25 per day, except where subsistence is included with transportation. When meals are not furnished, cadets shall receive a subsistence allowance of $2.50 per day, and, when required to sleep ashore, they shall receive an allowance of $1.75 per night for lodging.

C. *Quarters.*—All cadet officers and cadets shall be quartered with licensed personnel.

III. *Eligible list.*—The Division of Maritime Personnel shall examine all applications for cadet officers and cadets and shall compile an eligible list in each classification. After March 15, 1938, appointment of cadet officers and cadets shall be made exclusively from among those on the eligible list. Operators of vessels with an operating subsidy and the Division of Operations and Traffic of this Commission may select from this eligible list cadet officers or cadets for vessels under their respective jurisdiction.

The number of cadet officers or cadets, deck and engine, required to be carried will be prescribed by the Commission in the establishment of minimum manning scales for each individual vessel operating under subsidy contracts.

IV. *Requirements for application.*

A. Every applicant for the position of cadet officer or cadet must satisfy the Commission as to his good moral character and standing and must submit with his application documentary evidence thereof signed by the principal of his high school, or other public official, and by two additional American citizens.

B. The applicant must be an unmarried American citizen not less than 18 (19 in the case of cadet officers) nor more than 23 years of age. His age must be attested by a birth

certificate or other evidence satisfactory to the Commission. If the applicant is below the age of 21 his application must contain the written consent of his parents or guardian.

C. The applicant must present a certificate from a duly qualified practicing physician that he is free from any acute or organic disease, mental infirmity, or other constitutional weakness, and shall be subject to further physical examination at the direction of the Commission.

D. The applicant must furnish a satisfactory certificate showing that his scholastic attainments meet the requirements of the Commission.

E. Applications from citizens of any of the States will receive equal consideration.

F. The form of application to be used in this connection, attached hereto, is hereby approved.

V. *Requirements for training.*

A. The Master of the vessel shall be responsible for insuring that all cadet officers and cadets receive adequate practical instruction in the duties which they will be required to perform as licensed officers in the department for which they are in training.

B. *Deck department.*—Cadet officers and cadets, in addition to such other duties as may be prescribed by the Master of the vessel, are required to perform the following duties:

(1) To assist the Navigation Officer in the day's work pertaining to the Navigation of the ship. This shall include for cadet officers the determination daily of the position of the ship by dead reckoning and such astronomical observations as may be practicable under the direction of the Navigating Officer.

(2) To keep a navigation note book and work book in which he shall preserve such navigation records as he may make and which shall be subject to inspection by the Ship's officers or the Commission.

(3) To work eight hours daily, of which not more than two hours may be watch duty at night, but no cadet officer shall have charge of a watch at sea unless signed on the articles as a licensed officer.

(4) To perform such duties as shall be assigned to him by order of the Master of the vessel, which shall be restricted, however, to include only the type of work customarily done by a licensed officer or by a boatswain, carpenter, quartermaster or other petty officer. In no case, however, shall he replace an unlicensed employee.

(5) To become proficient, under direction of the Master, in handling safety-at-sea appliances aboard ship, including life boats, fire-fighting gear, etc.

(6) To become familiar with stowage of cargo, handling of cargo gear and with other work ordinarily coming under the supervision of licensed officers.

(7) To study, outside of working hours, such correspondence or extension courses as may be prescribed by the Commission, and to be prepared to pass examinations thereon to the satisfaction of the Commission. Such courses shall be designed to supplement other training.

C. *Engine department.*—The Chief Engineer of the vessel shall be responsible to the Master for insuring that all engineer cadet officers and cadets receive adequate practical instruction in the duties which they will be required to perform as licensed officers in the engine department. Engineer cadet officers and cadets, in addition to such other duties as may be prescribed by the Chief Engineer, are required to perform the following duties:

(1) To receive instruction in the operation and maintenance of all boilers, machinery and other mechanical equipment which may be under the jurisdiction of the Chief Engineer.

(2) To receive instruction in machine shop work where equipment is available.

(3) To work eight hours daily at such tasks as may be assigned to him by order of the Chief Engineer, but such work shall be restricted to that ordinarily done by licensed engineer officers, or by storekeepers, donkeymen, water tenders, oilers, and other petty officers except that engineer cadets (not engineer cadet officers) may also perform the duties of firemen at the discretion of the Chief Engineer. In no case, however, shall he replace an unlicensed employee.

(4) To become proficient, under direction of the Master, in handling appliances necessary for safety of life at sea aboard ship, including life boats, fire fighting gear, etc.

(5) To study, outside of working hours, such correspondence or extension courses as may be prescribed by the Commission, and to be prepared to pass examinations thereon to the satisfaction of the Commission. Such courses shall be designed to supplement other training.

VI. *General rules and regulations.*

A. No cadet officer may hold such position for more than two years, or cadet for more than four years, or a total service of five years for both ratings.

B. All cadet officers and cadets are required to obtain a certificate authorizing service at sea from the Bureau of Marine Inspection and Navigation prior to sailing.

C. Correspondence and extension courses prescribed for cadet officers and cadets, and examinations thereon, should be conducted by the Coast Guard Institute at the expense of the Commission.

D. Cadet officers, because of their prior training, should be placed on as many vessels as possible with a view to their becoming officers of those vessels and to that extent assisting in raising standards. They can also assist those cadets who have not had prior training.

E. All deck and engineer cadets shall be required to sign articles for a rate of pay of $5 a month for the first six months. On completion of this six months service, they will be paid by the Operator $270, the equivalent of the balance of six months wages at the rate of $50 per month, and thereafter, if they sign articles will be paid at the rate of $50 a month. During the first six months probationary period cadets will be entitled to the subsistence and travel allowances prescribed in General Order No. 23. Cadet officers, however, shall not be required to serve a probationary period.

F. Uniforms for cadet officers and cadets shall be prescribed in the same manner as uniforms for licensed personnel.

For the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

MARCH 24, 1938.

[F. R. Doc. 38-912; Filed, March 30, 1938; 10:50 a. m.]

APPLICATIONS FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS BY AMERICAN SOUTH AFRICAN LINE AND SEAS SHIPPING COMPANY

ORDER FOR PUBLIC HEARING

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 29th day of March, A. D. 1938.

It appearing, That the American South African Line, an American citizen within the definition of the Merchant Marine Act, 1936, and operating vessels of United States registry, has filed an application for an operating-differential subsidy contract covering services on routes between Atlantic ports of the United States and South and East Africa and between Gulf ports and South and East Africa.

It further appearing, That the Seas Shipping Company, an American citizen within said definition and operating under the trade name, "Robin Line", vessels of United States registry on the route between Atlantic ports of the United States and South and East Africa, has also filed an application for an operating-differential contract covering the services on said route.

It further appearing, That the award of an operating-differential subsidy contract covering the services on routes between Atlantic ports of the United States and South and East Africa upon the terms requested may give an undue advantage or be unduly prejudicial as between said citizens in the operation of vessels in the competitive service above mentioned.

It is ordered, That a public hearing be held, before such member or members of the Commission or such examiner as the Commission may designate, in Washington, D. C., in the Department of Commerce Building, room 2062, on Wednesday, April 13, at 10:00 A. M., in accordance with the provisions of Section 605 (c) of the Merchant Marine Act, 1936, and for the purposes therein stated.

It is further ordered, That a copy of this order be served forthwith upon the American South African Line and upon the Seas Shipping Company and that notice of said public hearing be published in the FEDERAL REGISTER at least fifteen days before the date of said hearing.

It is further ordered, That, the Rules of Procedure now in force with respect to the Division of Regulation, shall be the rules in effect for this hearing in respect to the procedure, intervening of parties and taking of evidence.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

[F. R. Doc. 38-913; Filed, March 30, 1938; 10:50 a. m.]

Friday, April 1, 1938 *No. 64*

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[Supplement No. 1 to I. C. C. No. 125]

THE ALASKA RAILROAD

SUPPLEMENT NO. 1 TO PROPORTIONAL FREIGHT TARIFF NO. 35-B

Naming Commodity Rates on Fuel Oil From Seward, Alaska to Holy Cross, Alaska, on Alaska Railroad in Alaska

Cancellation Notice

Proportional Freight Tariff No. 35-B, I. C. C. No. 125, is hereby cancelled. After date of cancellation, the rates named in Local Freight Tariff No. 8-S, I. C. C. No. 134, and successive issues thereof will apply. Issued: March 28, 1938. Effective: April 30, 1938. Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by: O. F. Ohlson, General Manager, Anchorage, Alaska.

The above is hereby confirmed.

MARCH 29, 1938.

RUTH HAMPTON, *Assistant Director.*

[F. R. Doc. 38-928; Filed, March 31, 1938; 9:54 a. m.]

[Freight Circular No. 84-M [1]]

THE ALASKA RAILROAD—TRANSPORTATION DEPARTMENT

REVISED SCHEDULE OF FREIGHT SERVICE

ANCHORAGE, ALASKA, *March 11, 1938.*

To all concerned:

Effective March 28, 1938, local freight train service will be operated as follows:

Northward

Leave Seward, Extra, Wednesday-Saturday.
Leave Anchorage, Extra, Thursday-Sunday.
Leave Curry, Extra, Friday-Monday.
Leave Healy, Extra, Saturday-Tuesday.

Southward

Leave Fairbanks, Extra, Monday-Thursday.
Leave Healy, Extra, Tuesday-Saturday.
Leave Curry, Extra, Wednesday-Sunday.
Leave Anchorage, Extra, Thursday-Monday.

[1] Cancels Freight Circular No. 84-L.

A coach is handled on all freight trains.

Branch line mixed service will be operated as follows for Eska and Jonesville:

Northward

Leave Anchorage, Extra, Tuesday-Friday at 9:00 A. M.

Southward

Leave Eska, Extra, Tuesday-Friday.

Freight will be handled as follows:

To all Main Line Points and Palmer, Moose Creek, Sutton, Jonesville and Eska.

Freight for Premier will be accepted only for movement on trains when scheduled into Premier. This service depends on traffic from Premier.

Main Line Points are as follows:
Whitney, Otter M. P. 122.9, Eagle River.
Fire Creek, M. P. 132.1, Birchwood, Eklutna.
Reed,[1] M. P. 146.0 and Matanuska.

Freight for main line points, Whitney to Matanuska, inclusive, will also be handled on main line freight trains and freight originating at stations south of Anchorage should be loaded in main line freight cars destined to stations on main line north of Matanuska for unloading from main line freight trains without transfer at Anchorage to branch line trains.

J. T. CUNNINGHAM, *Sup't. of Transportation.*

The above is hereby confirmed.

RUTH HAMPTON, *Assistant Director.*

MARCH 29, 1938.

[F. R. Doc. 38-929; Filed, March 31, 1938; 9:54 a. m.]

[Passenger Circular No. 154-G [2]]

THE ALASKA RAILROAD—TRANSPORTATION DEPARTMENT

REVISED PASSENGER SERVICE SCHEDULE

ANCHORAGE, ALASKA, *March 11, 1938.*

To all concerned:

Effective March 29, 1938, passenger service will be as follows:

Northward

Tuesday-Friday 7:30 a. m. Lv. Seward.
Tuesday-Friday 12:30 p. m. Ar. Anchorage.
Tuesday-Friday 2:00 p. m. Lv. Anchorage.
Tuesday-Friday 6:30 p. m. Ar. Curry.
Wednesday-Saturday 7:30 a. m. Lv. Curry.
Wednesday-Saturday 11:59 a. m. Ar. Healy.
Wednesday-Saturday 12:30 p. m. Lv. Healy.
Wednesday-Saturday 4:15 p. m. Ar. Fairbanks.

Southward

Monday-Thursday 6:30 p. m. Ar. Seward.
Monday-Thursday 1:30 p. m. Lv. Anchorage.
Monday-Thursday 11:59 a. m. Ar. Anchorage.
Monday-Thursday 7:30 a. m. Lv. Curry.
Sunday-Wednesday 5:15 p. m. Ar. Curry.
Sunday-Wednesday 12:40 p. m. Lv. Healy.
Sunday-Wednesday 12:10 p. m. Ar. Healy.
Sunday-Wednesday 8:30 a. m. Lv. Fairbanks.

J. T. CUNNINGHAM, *Sup't. of Transportation.*

The above is hereby confirmed.

RUTH HAMPTON, *Assistant Director.*

MARCH 29, 1938.

[F. R. Doc. 38-930; Filed, March 31, 1938; 9:54 a. m.]

General Land Office.

[Circular No. 1446]

REGULATIONS GOVERNING OIL AND GAS LEASE APPLICATIONS FOR LANDS WITHIN ONE MILE OF CERTAIN RESERVES

MARCH 21, 1938.

REGISTERS, *District Land Offices.*

SIR: May 1, 1924, the Department directed that no filings under section 13 of the act of February 25, 1920 (41 Stat.

[1] When 300 pounds or more, freight will be unloaded at Reed; when less than 300 pounds, freight will be unloaded at Eklutna.
[2] Cancels Passenger Circular No. 154-F.

437), should be allowed for lands within one mile of the exterior boundaries of Naval Petroleum Reserves Nos. 1 and 3. By decisions of the Department rendered subsequent to that date, these instructions have been extended to all naval petroleum reserves and to the military and naval helium reserve.

Inasmuch as the Department's instructions of May 1, 1924, do not adequately express the present policy of the Department, the following regulation is hereby adopted:

No application for an oil and gas lease under the act of February 25, 1920 (41 Stat. 437), as amended, will be allowed for lands within one mile of the exterior boundaries of a naval petroleum reserve or military and naval helium reserve.

In accordance with the foregoing, you are directed to reject, subject to the right of appeal, all oil and gas lease applications for lands within one mile of the exterior boundaries of a naval petroleum reserve or military and naval helium reserve.

Very respectfully,

FRED W. JOHNSON, *Commissioner.*

Approved: March 21, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-927; Filed, March 31, 1938; 9:53 a. m.]

ORDER OPENING RED RIVER LANDS

Pursuant to Section 5 of the Act of Congress approved March 4, 1923 (42 Stat. 1448), it is hereby ordered that the unappropriated and undisposed of lands and oil and gas deposits belonging to the United States and situated south of the medial line of the main channel of Red River, Oklahoma, from the north fork of Red River to the 98th Meridian, west longitude, shall be subject to disposition under the provisions of the Act of February 25, 1920 (41 Stat. 437), as amended. This Order shall be effective on and after April 1, 1938. Applications for noncompetitive leases in accordance with Section 10 of the regulations in Circular 1386 may be filed in the General Land Office, Washington, D. C. Lands applied for must be in reasonably compact form not exceeding six miles in length and be described by metes and bounds with reference to the medial line of the river, with connections to the public land survey in Oklahoma, on the north bank of the river. Any applications received prior to the opening date will be considered as filed at 9:00 A. M. thereon, and priority of applications filed simultaneously will be determined at a public drawing as prescribed in General Land Office Circular 1320.

HAROLD L. ICKES,
Secretary of the Interior.

MARCH 24, 1938.

[F. R. Doc. 38-926; Filed, March 31, 1938; 9:53 a. m.]

National Park Service.

GREAT SMOKY MOUNTAINS NATIONAL PARK

LOCAL SUBSIDIARY REGULATIONS

The following subsidiary regulations, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), have been recommended by the superintendent and approved by the Director of the National Park Service, and are in force and effect within the boundaries of Great Smoky Mountains National Park:

Fishing.—The following waters and no others are open for fishing. All streams other than those listed below are closed for the purpose of restocking. Main streams only of water listed are open—all tributaries thereof are closed.

Tennessee section of the park—
Cosby Creek below Dry Branch.
Middle Prong Little Pigeon River below Buck Fork.
Ramsey Prong below Cascades.
Porters Creek below Boulevard Prong.
Roaring Fork below Enloe Hollow Branch.
West Prong Little Pigeon River below Road Prong.
Little River below Meigs Post Prong.
Fish Camp Prong below Goshen Prong.
Jakes Creek below Newt Prong.
Rough Creek.
West Prong Little River below Long Cove Branch.
Laurel Creek below Bote Mountain road crossing.
Anthony Creek.

North Carolina section of the park—
Big Creek below Gunter Fork.
Cataloochee Creek.
Palmer Creek below Lost Bottom Creek.
Rough Fork below Messer Fork.
Oconalufty River.
Bunches Creek below Flat Creek.
Straight Fork below Balsam Corner Creek.
Bradley Fork below Chasteen Creek.
Chasteen Creek below Forks.
Left Fork of Oconalufty River below Jack Bradley Branch.
Kephart Prong below Sweat Heifer Branch.
Deep Creek.
Left Fork below Hermit Branch.
Right Fork below Cherry Creek.
Indian Creek below Estes Branch.
Forney Creek below Huggins Branch.
Jonas Creek below Little Jonas Creek.
All waters of Hazel Creek.
Twentymile Creek below Greer Branch.
Moore Spring Branch below Dalton Branch.

Open season.—Trout, May 16 to August 31, inclusive; rock bass and small mouth bass, June 16 to August 31, inclusive. Fishing is permitted only between the hours of 5:00 A. M. and 6:30 P. M., Central Standard Time, for the Tennessee section of the park; and between 6:00 A. M. and 7:30 P. M., Eastern Standard Time, for the North Carolina section of the park. Both hours mentioned are of the same day.

Restriction as to the use of bait.—Fishing is permitted only with artificial bait with but one hook. Two artificial flies may be attached to the leader if desired. The use of other than artificial bait is prohibited.

Size limit.—Brook trout and rock bass under 6 inches in length, rainbow trout under 8 inches in length, and small mouth bass under 10 inches in length, shall not be retained unless seriously injured.

Limit of catch.—The maximum catch in any one day and the maximum number in possession of any one person shall be 10 fish of any or all species, including undersized fish retained because seriously injured.

Fishing license.—The park as such does not charge for fishing license, but persons fishing in the park must have State fishing license issued by Tennessee or North Carolina, depending upon the section being fished.

Fires.—The building of fires for any purpose on or along park roads, except in designated camp grounds and picnic areas, is prohibited.

Speed.—Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 35 miles per hour on highways. On secondary roads, posted as such, speed is limited to 20 miles per hour on straight sections, and 15 miles per hour on curves.

Camping.—Overnight camping in the campgrounds of the park is prohibited except in emergencies. Persons or parties who are unable to reach campgrounds outside the park before dark will be permitted to camp within the park for one night. This restriction shall remain in effect until all lands necessary for the park have been acquired by the United States and general development can be undertaken.

All previous local subsidiary regulations for Great Smoky Mountains National Park are hereby repealed.

[SEAL] ARNO B. CAMMERER, *Director.*

Approved: March 22, 1938.

[F. R. Doc. 38-925; Filed, March 31, 1938; 9:52 a. m.]

ORDER DESIGNATING THE SALEM MARITIME NATIONAL HISTORIC SITE, MASSACHUSETTS

Whereas the Congress of the United States has declared it to be a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States, and

Whereas certain lands and structures in Salem, Massachusetts, including Derby Wharf, the Richard Derby House, and the Custom House, by reason of their relationship to the maritime history of New England and the United States, have been declared by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments to be an historic site of national significance, and

Whereas the Commonwealth of Massachusetts, the City of Salem, the Society for the Preservation of New England Antiquities, the Home for Aged Women, and certain citizens of Salem have made possible the donation of the necessary property to the United States;

Now, therefore, I, Harold L. Ickes, Secretary of the Interior, under and by virtue of the authority conferred by Section 2 of the Act of Congress approved August 21, 1935 (49 Stat. 666), do hereby designate the following-described lands, with the structures standing thereon, to be a national historic site, having the name "Salem Maritime National Historic Site":

FIRST PARCEL

Beginning at a point, the northeast corner of Derby and Orange Streets; thence N. 14°02'10" W. 73.64'; thence N. 11°15'30" W. 28.07' to the northwestern corner of the Custom House; thence N. 7°57'20" W. 95.79'; thence N. 78°01'10" E. 6.36'; thence N. 76°48'00" E. 20.45'; thence N. 83°38'10" E. 56.93'; thence N. 5°45'30" W. 48.44'; thence N. 5°03'50" W. 21.41'; thence N. 86°09'30" E. 44.63'; thence N. 86°19'30" E. 42.92'; thence N. 82°57'50" E. 52.66'; thence N. 81°34'40" E. 25.61'; thence S. 7°18'30" E. 11.32'; thence S. 9°07'50" E. 40.39'; thence S. 7°18'50" E. 85.71'; thence S. 7°00'30" E. 31.65'; thence S. 7°08'20" E. 68.84' to a point, the N.W. corner of Polfrey Court and Derby Street; thence along the northern side of Derby Street S. 75°54'20" W. 74.34'; thence S. 77°57'20" W. 22.05'; thence S. 76°06'40" W. 27.45'; thence S. 77°25'10" W. 25.21'; thence S. 78°19'40" W. 29.70'; thence S. 78°39'20" W. 62.68' to point of beginning.

SECOND PARCEL

Beginning at a point at south edge of Derby Street and east edge of 40 ft. right-of-way to Derby Wharf, shown as point A= on map "Land Takings for National Park Derby Wharf and vicinity, Salem, Massachusetts, scale 1"–20', dated December 1936"; thence N. 75°25'50" E. 31.05'; thence N. 79°00'20" E. 15.99'; thence N. 78°44'40" E. 6.2'; thence N. 77°53'00" E. 43.83'; thence N. 74°03'50" E. 17.05'; thence N. 78°21'10" E. 30.37'; thence N. 73°17'00" E. 15.09'; thence N. 71°17'00" E. 19.26'; thence S. 6°56'30" E. 31.36'; thence S. 7°11'00" E. 88.84'; thence S. 6°26'50" E. 23.51'; thence S. 7°19'10" E. 53.93'; thence S. 9°40'00" E. 39.85'; thence S. 7°15'30" E. 40.84'; thence S. 6°32'30" E. 38.89'; thence S. 7°01'10" E. 34 77'; thence S. 8°51'20" E. 40.99'; thence S. 81°52'30" W. approximately 40' to mean high water line; thence southwesterly along mean high water line approximately 42' to property line of land formerly owned by East Massachusetts Street Railway Company; thence S. 6°23'30" E. approximately 18'; thence S. 82°47'20" W. approximately 12' to mean high water line; thence southwesterly along mean high water line approximately 164' to east line of Derby Wharf; thence southerly along east edge of Derby Wharf to the northerly corner of lighthouse property of the United States; thence westerly at right angles to wharf edge 26' to westerly corner of lighthouse property of the United States; thence southeasterly parallel with east edge of Derby Wharf 22.5' to south edge of Derby Wharf; thence westerly along south edge of Derby Wharf to an angle in Wharf; thence northerly along western edge of wharf to line of property, formerly owned by Association for Relief of Aged and Destitute Women; thence westerly along edges of Wharves to line of property formerly owned by Andrew J. Abdo, which is also east edge of Central Wharf; thence S. 10°43'40" E. to channel; thence northwesterly along south edge of Wharf 146' to a point; thence N. 9°46'00" W. 474.0'; thence N. 11°04'40" W. 120.22'; thence N. 8°47'10" W. 145.83' to a point on the south edge of Derby Street; thence along the south edge of Derby Street N. 76°21'10" E. 301.22'; thence easterly approximately 40' to point of beginning.

The administration, protection, and development of this national historic site shall be exercised by the National Park Service in accordance with the provisions of the Act of August 21, 1935.

Warning is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface or remove any feature of this historic site.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of the Interior to be affixed, in the City of Washington, this 17th day of March 1938.

[SEAL] HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-924; Filed, March 31, 1938; 9:52 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Agricultural Economics.

[S. R. A.—B. A. E. 143, Revised [1]]

GRADES, REQUIREMENTS, AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR CARRYING OUT THE PROVISIONS OF THE EXPORT APPLE AND PEAR ACT OF JUNE 10, 1933 [2]

By virtue of the authority vested in the Secretary of Agriculture by "An act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," approved June 10, 1933 (48 Stat. 123, 7 U. S. C., Secs. 581–589), making it unlawful to ship or offer for shipment or to transport or receive for transportation to any foreign destination any apples or pears in packages not accompanied by a certificate authorized by the Secretary of Agriculture showing that the apples or pears are of a Federal or State grade which meets the minimum of quality established by the Secretary of Agriculture for shipment in export, and that they comply with the requirements prescribed by the regulations under said act, I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following grades, requirements, and regulations which shall supersede those heretofore issued.

REGULATION 1. DEFINITIONS

Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

The following terms included in the act shall for the purpose of these regulations be construed to mean:

Act.—An act approved June 10, 1933 (48 Stat. 123, 7 U. S. C., Secs. 581–589), entitled "An Act To promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepre-

[1] This is a revision of S. R. A.—B. A. E. 143, (approved August 31, 1933, effective September 1, 1933) as amended January 30, 1934, December 31, 1935, July 22, 1936, and July 28, 1937 (2 F. R. 1333).

[2] 48 Stat. 123; 7 U. S. C., secs. 581–589.

sentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," and which will be referred to by the Department as the Export Apple and Pear Act.

Person.—Individuals, partnerships, corporations, and associations.

Carriers.—All common and private carriers, including trucks, vessels, tramp and chartered steamers whether carrying for hire or otherwise.

Secretary.—The Secretary of Agriculture of the United States.

Foreign commerce.—Commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

Apples and/or pears.—Fresh whole apples or pears, whether or not they have been in storage.

Certificate.—This term means a statement that a designated lot of apples and/or pears meets the requirements of the Export Apple and Pear Act included in and made a part (1) of an Export Form Certificate issued under the farm products inspection law (Annual Agricultural Appropriation Act) or (2) of a memorandum in a form approved by the Chief of Bureau and issued in lieu of an Export Form Certificate.

REGULATION 2. ADMINISTRATION

The Chief or Acting Chief of the Bureau of Agricultural Economics shall perform for and under the supervision of the Secretary such duties as the Secretary may require in enforcing the provisions of the act and of these regulations.

REGULATION 3

SECTION 1. The regulations of the Secretary under the farm products inspection law for the inspection and certification of fresh fruits and vegetables are hereby adopted for the purposes of the act except when in conflict with specific regulations herein set forth, and all persons authorized to issue certificates of grade and/or condition under the farm products inspection law are authorized to issue the certificates required for apples or pears under the act.

SEC. 2. Farm products inspection certificates bearing in prominent letters across the face the words "Export Form Certificate" shall be used only for apples or pears inspected and certified in accordance with the provisions of the act, and shall include the following statement either printed or typed: "The apples and/or pears covered by this certificate meet the requirements of the Export Apple and Pear Act."

SEC. 3. If the fruit is to be analyzed for spray residues and the chemist's report is not available at the time the inspection for grade is finished, the inspector may, if practicable, issue a certificate subject to being recalled and vacated within 48 hours should the chemical analysis show that the fruit does not comply with the tolerances for spray residues established under the Food and Drugs Act of June 30, 1906.

SEC. 4. If, at time of billing for shipment in export, a certificate shall have been issued under the provisions of the act, the original or a copy of such certificate on a form approved by the Chief of Bureau shall be delivered by the shipper or his agent to the initial carrier for delivery to the proper official of any vessel of any kind on which the apples or pears covered by the certificates are to be exported.

SEC. 5. PARAGRAPH 1. A shipment of apples or pears shall not be accepted for export by any vessel of any kind unless accompanied by a certificate or a copy thereof on a form approved by the Chief of Bureau which shall be surrendered to the steamship company showing that such apples or pears meet the requirements of the act.

PAR. 2. When a certificate has been issued covering a lot of apples or pears and the shipper desires to export part of the lot by one steamer or vessel of any kind, and part by another steamer or vessel of any kind, the original or a copy of the certificate on a form approved by the Chief of Bureau shall be furnished each steamship line, tramp or chartered steamer or vessel of any kind concerned.

PAR. 3. No vessel of any kind shall accept for shipment a part of a lot of apples or pears upon the mere representation by the shipper or his agent or by the initial carrier that a certificate has been issued covering the entire lot but shall require that the original or a copy of such certificate on a form approved by the Chief of Bureau be furnished.

REGULATION 4

When shipments, except as provided under regulation 13, are made to foreign countries under a through bill of lading or under a bill of lading marked for export, the shipper shall secure inspection and deliver to the local agent of the carrier a copy of the Export Form Certificate or memorandum covering such shipment. The local agent shall attach the certificate or memorandum to the waybill or make a notation on the waybill that the fruit has been inspected and that such export certificate or memorandum has been issued.

Inspection of shipments not under through bill of lading to a foreign country or not under bill of lading marked for export may be obtained at point of origin if inspection is available, or at any convenient point en route or at destination.

REGULATION 5

Any person operating any vessel of any kind shall within 72 hours after sailing from any port send to the Chief of Bureau of Agricultural Economics, at Washington, D. C., a list of shipments of apples and/or pears on board such vessel which are not accompanied by certificates and shall give all particulars with reference thereto, including destination, quantity, description, marks, names and addresses of shippers and consignees and names of railroads or persons delivering such shipments to such vessels, with car numbers or other means of identification. The furnishing of such information shall not relieve such person from liability under the act if in the judgment of the Secretary the facts warrant prosecution.

REGULATION 6

Special certificates to comply with the requirements of foreign countries shall, as authorized by section 3 of the act, be issued as a part of, or in addition to, the farm-products inspection certificates. A reasonable additional fee may be charged when the inspection necessary for such certificates requires additional time or an examination or certification at some time or place other than that at which the original inspection was made.

REGULATION 7

A certificate issued under this act and these regulations does not excuse any person for failure to comply with all regulatory laws or requirements applicable to the products shipped. No certificate shall be issued under this act and these regulations except upon a showing satisfactory to the Chief of the Bureau of Agricultural Economics that the apples and/or pears comply with the tolerances for arsenical and lead spray residues established by the Department of Agriculture.

REGULATION 8

Minimum quality requirements for shipments in export:

(*a*) Any lot of apples must meet each minimum requirement of the United States Utility or United States Utility Early grade for apples subject to the tolerances for these grades except that apples shall not contain apple maggots and not more than 2 percent by count may have apple maggot-injury and not more than 2 percent may be infested with San Jose scale, and except that any lot of apples in containers conspicuously marked "cannery" must meet each minimum requirement of U. S. No. 2 for cannery apples subject to a tolerance of 10% for defects of this grade.

(*b*) Any lot of pears must meet each minimum requirement of the United States No. 2 grade for pears subject to the tolerances for this grade except that in case of pears in containers conspicuously marked "cannery" blemishes affecting only the surface of the fruit shall not be considered "serious damage" as this requirement is defined by said grade, and that pears other than those designated "cannery" shall not contain apple maggots and not more than 2 percent by count may have apple-maggot injury and not more than 2 percent may be infested with San Jose scale.

(*c*) Any lot of apples or pears shipped to a trans-Pacific port, except as provided in regulation 13, need not comply with the maturity standards of these grades if the packages are conspicuously marked or branded with the words "Immature fruit".

REGULATION 9

Packing and marking requirements for shipments in export:

(*a*) The packages shall be plainly and conspicuously marked with (1) the name and address of the grower or packer; (2) the variety; (3) the grade names not lower than those specified in regulation 8; and (4) the numerical count or the minimum size.

(*b*) Each package shall be packed so that the apples and/or pears in the shown face shall be reasonably representative in size, color, and quality of the contents of the package.

REGULATION 10

The fee for a certificate issued under the act shall be the fee charged at that time and place where the certificate is issued for an inspection made under the farm products inspection law: *Provided*, That when any lot of apples and/or pears arrives at any terminal market or point of export covered by a farm-products inspection certificate which shows that the fruit meets the requirements of the act a certificate complying with the terms of the act may be substituted for such farm-products inspection certificate or the same may be stamped with the words "Export Form Certificate" for a fee of $1.

REGULATION 11

Upon receipt of complaint from any person alleging that any apples and/or pears have been shipped in foreign commerce in violation of any of the provisions of the act, the Secretary shall cause such investigation of the facts to be made as he deems proper. If in his opinion there has been a violation of the act, he shall inform the party accused of the nature of the charges against him and of the specific cases in which violation of the act is charged. He shall give the party accused an opportunity for a hearing not less than 10 days after notice of such hearing has been served upon such person. At such hearing the person complained of shall be entitled to be present in person or by counsel and submit evidence and arguments in his behalf. Any order issued by the Secretary to withhold the issuance of certificates from such person as provided in section 6 of the act shall be effective from the date of its service upon the party found to have been guilty of such violation of the terms of the act. Such order shall state the inclusive dates within which it is to remain in effect, and during this period no person employed or licensed by the Secretary as an inspector for purposes of the farm products inspection law shall issue to such person any certificate as to compliance with the provisions of the act.

REGULATION 12

Service of any notice or order required by the act or prescribed by these regulations shall be deemed sufficient if made by registered mail or personally upon the person served. Service so made upon any member of a partnership or any officer of an association or corporation shall be sufficient. If it is impossible to make personal service upon the party named in the notice or order, service may be made by leaving a copy thereof with an employee or agent at such party's usual place of business or abode. If the party so named is a partnership, association, or corporation, service may be made likewise with respect to any member of the partnership or any officer, employee, or agent of the association or corporation.

REGULATION 13

Any shipment of apples and/or pears of less than 400 bushels in packages is hereby defined as a less-than-a-carload quantity for the purposes of the act. Such shipments to Canada, Bahamas or the Bermuda Islands, Cuba, the West Indies, Mexico, or any country in Central America or South America except Argentina, or to any African port not on the Mediterranean Sea, or to any trans-Pacific port, need not comply with the requirements of the act: *Provided*, That shipments of less than 200 pounds gross weight to any foreign destination shall not be subject to the provisions of this act.

In witness whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto, in the city of Washington, D. C., this 30th day of March 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-944; Filed, March 31, 1938; 12:45 p. m.]

Bureau of Animal Industry.

NOTICE

MARCH 30, 1938.

To GREATER LITTLE ROCK STOCK YARDS, INC.,
North Little Rock, Ark.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Greater Little Rock Stock Yards, Inc., at North Little Rock, State of Arkansas, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-943; Filed, March 31, 1938; 12:44 p. m.]

Bureau of Biological Survey.

ORDER PERMITTING FISHING WITHIN CHAUTAUQUA MIGRATORY WATERFOWL REFUGE, ILLINOIS

Pursuant to regulations 2 and 3 of the Secretary of Agriculture, dated November 23, 1937, governing the administration of National wildlife refuges, it is hereby ordered, until further notice, that fish may be taken for commercial and noncommercial purposes when and as permitted by the laws and regulations of the State of Illinois from the waters of the Chautauqua Migratory Waterfowl Refuge as established by Executive Order No. 7524, dated December 23, 1936, subject to the following conditions and restrictions:

1. *Recreational fishing.*—During the period from May 1 to the first Monday in September inclusive, all waters of the refuge shall be open to hook and line fishing (as defined by State Law) for such species as may be legally taken under the laws of the State of Illinois. At all other times except during the Federal migratory waterfowl hunting season only the following described waters shall be open to hook and line fishing (as defined by State Law) for such species as may be legally taken under the laws of the State of Illinois:

(*a*) All of the borrow pit adjoining the dyke or levee on the north, west, and south portions of the refuge. Fishing from the dyke or levee will not be permitted except as hereinafter provided.

(*b*) In the channel of the old ditch and in the waters adjoining said ditch to the southeast, said area being a strip of water averaging approximately one-eighth mile in width and lying parallel to and adjoining the main shore line in Section 10, T. 22 N., R. 8 W. Fishing from the main shore line will be permitted in these waters.

(*c*) In the channel of an old ditch and waters adjoining it to the southeast, said area being a strip of water approximately one-eighth mile in width and lying parallel to and adjoining the main shore line in Sections 1 and 2, T. 22 N., R. 8 W., and Section 36, T. 23 N., R. 8 W. Fishing from the main shore line will be permitted in these waters.

During the Federal migratory waterfowl hunting season no fishing of any kind will be permitted within the refuge boundary.

2. *Commercial fishing.*—At any time except during the Federal migratory waterfowl hunting season only the following described waters of the refuge shall be open to commercial fishing for such species as may be legally taken under the laws of the State of Illinois, except that the Chief of the Bureau may issue such special permits as may be necessary to reduce the population of non-game fish in other waters of the refuge:

(*a*) That portion of the borrow pit which adjoins the main refuge dyke along the northwest portion of the refuge from the northeast corner of the southwest quarter of Section 35, T. 23 N., R. 8 W., southwestwardly to the southeast corner of the northeast quarter of the southwest quarter of Section 18, T. 22 N., R. 8 W.

3. *State fishing laws.*—Every person who fishes in any of the aforesaid waters and under the aforesaid conditions must comply with the applicable fishing laws and regulations of the State of Illinois and in the absence of any State law or regulation, in respect to the fishing seasons and number and size of fish that may be taken, the Chief of the Bureau of Biological Survey of the United States Department of Agriculture may fix such seasons and limits; and in the event he shall find that fishing in any of the aforesaid waters is unduly depleting any species of fishes therein, he may suspend the privilege of fishing in such waters pending final determination by the Secretary of Agriculture.

4. *Fishing permits.*—Any person exercising the privilege of fishing within the refuge shall be in possession of a valid State fishing license issued by the State of Illinois, if such license is required, and shall carry such license on his person while fishing, and when requested to do so shall exhibit the license to any representative of the Illinois State Department of Conservation authorized to enforce the game and fish laws of the State, or to any representative of the Bureau of Biological Survey: Provided, that fishing shall be done in such manner as will not interfere with the objects for which the refuge was established.

Fishing permits issued by the Chief of the Bureau shall be required only for commercial fishing in waters other than those described in paragraph numbered 2 above.

5. *Special fishing restrictions.*—No seine shall be employed in taking of minnows for bait in any of the waters of the refuge.

6. *Firearms and fires.*—The carrying or being in possession of firearms of any description or lighting of fires for any purpose while on such refuge is not permitted. Special care must be observed to prevent lighted matches, cigars, cigarettes, or pipe ashes from being dropped in grass or other inflammable material.

7. *Use of motor boats.*—Motor boats, both inboard and outboard, will not be permitted on any of the waters enclosed by the dyke or levee that circumscribes the refuge area on the north, west, and south sides except for administrative purposes by employees of the Department of Agriculture and of the Illinois State Department of Conservation.

8. *Trespass on refuge lands.*—No person or persons shall enter upon, cross over, or fish from any dyke, dam, levee, jetty, or other water-control structure at any point or points except as follows:

(*a*) Hook and line fishing in the borrow pit will be permitted from that portion of the dyke extending easterly from the inlet gate for approximately 700 feet to the main shore line and located in the northeast quarter southeast quarter, Section 36, T. 23 N., R. 8 W., at any time except during the Federal migratory waterfowl hunting season.

(*b*) Boats, equipment, and other fishing paraphernalia may be hauled or taken across the said dykes or levees at such "cross-overs" or "drag-overs" as the officer in charge shall designate.

The officer in charge shall designate such places of entry into and routes of travel within the refuge as he may consider necessary to reach fishing waters and no person shall enter upon any other portion of the refuge except as hereinabove provided.

No person or persons other than regular employees of the United States Department of Agriculture and the Illinois State Department of Conservation will be permitted on any portion of the refuge during the Federal migratory waterfowl hunting season.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the city of Washington this 31st day of March, 1938.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-941; Filed, March 31, 1938; 12:44 p. m.]

Commodity Exchange Administration.

AMENDMENTS TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authority vested in the Secretary of Agriculture by the Commodity Exchange Act (U. S. C., 1934 ed. and Supp. III, title 7, secs. 1–17a), I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following amendments to the rules and regulations of the Secretary of Agriculture under said act promulgated July 14, 1937, as amended, these amendments to be effective on April 1, 1938, and thereafter until amended or superseded under the authority of said act.

Section 720 of article VII of said rules and regulations is amended to read as follows:

SEC. 720. For the purpose of sections 704 and 705 of article VII of these rules and regulations, the amount specified for reporting accounts on form 701 is 1,000 tons, but such specified amount shall not apply to special calls issued under authority of section 722 hereof.

Section 721 of article VII of said rules and regulations is amended to read as follows:

SEC. 721. For the purpose of sections 710 and 714 of article VII of these rules and regulations, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on form 703 is 1,000 tons.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington on this 31st day of March 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-940; Filed, March 31, 1938; 12:44 p. m.]

Farm Security Administration.

DESIGNATION OF ADDITIONAL COUNTIES

PENNSYLVANIA

MARCH 30, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Pennsylvania State Farm Security Advisory Committee, and supplementary funds having been allotted from the State Corporation Trust Fund for the purpose of making loans in accordance with the policy of said Title, the following additional counties are hereby designated as those in which loans, in accordance with the policy of said Title, shall be made for the fiscal year ending June 30, 1938:

Centre, Columbia, Montgomery, Susquehanna, Westmoreland.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-942; Filed, March 31, 1938; 12:44 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 84]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN THE TERRITORY OF HAWAII MADE PURSUANT TO THE ACT OF CONGRESS APPROVED JANUARY 29, 1937, AND THE JOINT RESOLUTION OF CONGRESS, APPROVED FEBRUARY 4, 1938

1. Loans for the production of crops, for planting, cultivating, and harvesting crops, for supplies incident and necessary to such production, planting, cultivating, and harvesting, or for any of such purposes, will be made during the year 1938 by the Governor of the Farm Credit Administration to farmers in the Territory of Hawaii.

2. Such loans may be made to farmers who have acreage suitable for cultivation, the necessary equipment for farming operations, and who are unable to obtain a loan from other sources, and, further, such loans will be limited to the amount necessary to meet the immediate and actual cash needs, and preference shall be given to the applications of farmers whose cash requirements are small.

3. Such loans shall be secured by a first lien upon all crops of which the planting, cultivation, production, or harvesting is to be financed, in whole or in part, with the proceeds of such loan.

4. Applicants must agree (1) to use seed and methods approved by the Department of Agriculture; and (2) to plant a garden for home use.

5. The total amount of loans made to any one borrower during the calendar year 1938 shall not exceed $400. No loan will be made for an amount less than $25. All loans will be made in multiples of $5. Notes will bear interest, from maturity until paid, at the rate of 4 percent per annum; and interest to the maturity date at the same rate will be deducted at the time the loan is made.

6. No such loan will be made:

(*a*) To any applicant who is a standard rehabilitation client of the Farm Security Administration or who has an application pending which is in process of approval, as indicated on lists furnished by the Farm Security Administration.

(*b*) To any applicant who can obtain a loan from other sources in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made.

(*c*) To any applicant who is a pineapple grower unless he has a marketing agreement with a responsible pineapple cannery; to any sugar cane grower unless he signs, or agrees to sign, a grinding contract with an approved central or mill; or to any fruit or vegetable grower, or grower of any other crops, unless he agrees to marketing agreements which are satisfactory to the representative of the Emergency Crop and Feed Loan Office in the Territory of Hawaii.

(*d*) To any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop or seed loans as follows: has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops on lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.

(*e*) To any applicant in an amount greater than his immediate cash needs for the production or harvesting of crops, and for supplies incident and necessary to such production and harvesting.

(*f*) To more than one member of a family unit or to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.

(*g*) To any applicant who has a means of livelihood other than farming.

(*h*) To partnerships, corporations, minors, guardians, agents, executors, or administrators; or, to receivers or trustees.

(*i*) To a wife living with her husband unless the husband joins in the application, note, and mortgage or lien.

(*j*) For the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interest or for any purpose other than as specified herein.

7. Loans may be made, subject to the limitations specified herein, in such amounts and in such installments as the Hawaiian representative of the Emergency Crop and Feed Loan Section may approve.

8. (*a*) No loan for the production of crops will be made in an amount greater than the immediate and actual cash needs in the particular case to plant the crop in a manner approved by the Extension Service of the Department of Agriculture.

The immediate and actual cash needs in a particular case must not exceed the actual costs per acre in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per acre:

MAXIMUM ALLOWANCES PER ACRE

	Seed or plants	Fertilizer	Spray materials	Cash labor costs	Total
Sugar cane (Plant) [1]	----------	$40	$10	$50	$100
Sugar cane (Ratoon)	----------	40	10	25	75
Pineapple (Plant) [2]	$30	60	10	100	200
Pineapple (Ratoon)	----------	60	10	40	110
Coffee	----------	40	5	35	80
Rice	----------	20	----------	20	40

Vegetable and Miscellaneous Crops:
The cost of seed or plants, fertilizer, and spray materials will be allowed plus a maximum of $10 per acre for hired labor in the case of vegetables only.

[1] Total amount per acre allowed shall not exceed the maximum indicated nor shall it exceed $1.25 a ton based on previous yield records for the same type cane. Where irrigation is practiced, the total allowance for all costs including irrigation shall not exceed $1.25 per ton on estimated yield.

[2] In the case of pineapples where mulching paper is used, an additional allowance not to exceed $60 per acre shall be permitted on approval of the Emergency Crop Loan representative, but in no case shall the total amount loaned per acre exceed $10 per ton based upon past record of performances for both plant and ratoon pineapples.

(*b*) An amount not greater than the actual harvesting expenses may, in the discretion of the Hawaiian representative of the Emergency Crop and Feed Loan Section, be released from the proceeds of the sale of any of the crops covered by a lien given to the Governor, in any case where a borrower does not have the necessary funds or credit to pay for the harvesting of such crops.

9. The amount approved for a loan by the Governor or his representatives under these regulations will be paid to the applicant by a disbursing officer upon receipt and ap-

proval by the Governor or his representative of the following documents:

(*a*) Application in the form prescribed, signed by the applicant.

(*b*) Promissory note in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 percent per annum from maturity until paid.

(*c*) Lien instruments (including waivers) in the form prescribed, conveying a first lien, properly executed and filed, registered, or recorded in the proper office, as required by law.

(*d*) A voucher for the amount of the loan in the form prescribed, signed by the applicant.

10. Fees for recording, filing, registration, and examination of records (including certificates) shall be paid by the borrower; provided, however, that such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.

11. The right is reserved to revoke, alter, or amend these regulations at any time and without notice.

[SEAL] W. I. MYERS,
Governor, Farm Credit Administration.

[F. R. Doc. 38-938; Filed, March 31, 1938; 12:20 p. m.]

[FCA 85]

THE FEDERAL LAND BANK OF COLUMBIA

SCHEDULE OF FEDERAL LAND BANK APPRAISAL, TITLE DETERMINATION, LOAN CLOSING, PARTIAL RELEASE OF SECURITY, RELEASE OF PERSONAL LIABILITY, TRANSFER, REAMORTIZATION, AND PREPAYMENT OF LOAN FEES ON FEDERAL LAND BANK AND LAND BANK COMMISSIONER LOANS IN THE THIRD FARM CREDIT DISTRICT

Pursuant to Paragraphs "Ninth" and "Thirteenth," Section 13 of the Federal Farm Loan Act, as amended [12 U. S. C. 781 (Ninth, Thirteenth)], Section 32 of the Emergency Farm Mortgage Act of 1933, as amended (12 U. S. C. 1016), the "Association and Bank Fee Regulations" prescribed by the Land Bank Commissioner thereunder, December 14, 1935 (FLB 1001; Chapter II Sec. 6 (b) Federal Register Compilation), and the general authority vested in the bank, the following fees approved by the Land Bank Commissioner are prescribed:

Loan application fees.—Payable with application.

Amount of application:	*Appraisal fee*
$100–$5,000	$15
$5,100–$10,000	20
Exceeding $10,000	35

(*a*) *Non-resident applicants.*—If the applicant does not reside in the Third Farm Credit District an additional fee of $7.50 will be charged to cover the cost of securing an appraisal report from the district of his residence.

(*b*) *Reappraisal fee.*—If a reappraisal is required because of delay of the applicant, or is made at the applicant's request, another appraisal fee, fixed in accordance with the above schedule, will be charged.

(*c*) *Loans on naval stores farms.*—The regular schedule of fees will apply where the amount applied for does not exceed $10,000. If the amount exceeds $10,000, the regular schedule of fees increased by 50 percent will apply. If preliminary appraisal and review are made none of the fee will be refunded. If it is determined by the bank and the applicant, after preliminary appraisal, that the application will be further considered, 6½¢ per acre will be paid to the bank, as a deposit on the cost of a timber cruise. If the cost of the cruise exceeds 6½¢ per acre, the balance due the bank will be paid after the cruise is completed. If the cost of the cruise is less than the amount deposited, the difference will be refunded to the applicant.

Loan closing fees.—Payable when loan is closed.

Direct Loans

Amount of Loan:	*Fee (percentage of loan)*
$100–$1,100	1 percent (including $1 local correspondent's fee).
$1,200–$1,900	½ of 1 percent plus $5 (exclusive of $1 local correspondent's fee).
$2,000–$14,900	¾ of 1 percent (exclusive of $1 local correspondent's fee).
$15,000–$50,000	¼ of 1 percent plus $75 (exclusive of $1 local correspondent's fee).

Title determination fees.—Deducted when loan is closed.

Amount of loan	Fee	
	Short term abstract	Long term abstract
$100–$5,000	$15 plus 25¢ per $100	$20
$5,100–$10,000	$20 plus 25¢ per $100	25
Exceeding $10,000	$25 plus 25¢ per $100	30

A long term abstract will be treated as a short term abstract at request of applicant.

When Federal land bank and Land Bank Commissioner loans are closed together the title determination fee charged is based upon the total amount of both loans.

Partial Release of Security Fees

Type of loan:	*Fee*
Land Bank Commissioner loan	$10.00
Direct Federal land bank loan	12.50
Land bank loan through national farm loan association	17.50

If an application for partial release is submitted simultaneously with an application for a new loan on the same security, or on the same and additional security, only the loan application fee will be charged, except when the security to be released is covered by a loan made through a national farm loan association, when an additional fee of $5 will be charged.

Timber release fees.—The following additional fees are charged in connection with applications for timber releases:

Sale price of timber:	*Fee*
Up to and including $2,000	$15
$2,001–$3,000	20
$3,001–$4,000	25
$4,001–$5,000	30
$5,001 and up	35

These fees are not collected in advance, but are paid from the proceeds of the sale of the timber.

Release of Personal Liability Fees

Type of loan:	*Fee*
Land Bank Commissioner loan	$10.00
Federal land bank loan	12.50

Transfer Fee

For transferring the mortgage and stock interests of a direct loan borrower a fee not to exceed $5 is charged; provided, that the amount shall not exceed 1 percent of the balance of the indebtedness.

Insurance inspection and appraisal fees

(*a*) *Repairs or replacement.*—When a building is damaged by fire and the insurance funds are trusteed for repairs a fee of $2.50 is charged for inspection of the building after the repairs are made.

When there is a total loss and insurance funds are trusteed for construction of a new building, the inspection fee is $5.

(If the funds are trusteed with an association operating under the bank's plan of allowance, or with a part-time field representative of the bank, no fee is charged.)

(*b*) *Request for Reduction of Insurance Requirements.*

Type of loan:	*Appraisal fee*
Land Bank Commissioner loan	$10.00
Federal land bank loan	12.50

Reamortization fees

Type of loan:	*Fee*
Land bank or Commissioner loan	$10
Joint land bank and Commissioner loans	15

Fees for Prepayment of Land Bank Loans

(*a*) If loan is less than five years old, thirty days additional interest on unmatured principal at contract rate.

(*b*) If loan is five years or more old and is not paid on an installment date, thirty days additional interest on unmatured principal at contract rate, except that if loan is paid within thirty days immediately preceding an installment date, interest is charged only for the interval between the date of payment and the installment date.

[SEAL] THE FEDERAL LAND BANK OF COLUMBIA,
By RUFUS R. CLARKE,
Vice-President and Secretary.

[F. R. Doc. 38-939; Filed, March 31, 1938; 12:20 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO RULE AN21

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 3 (a) (12), 10 (b) and 23 (a) thereof, hereby amends paragraph (a) of Rule AN21 by deleting the words "six hundred and eightieth" and inserting in lieu thereof the words "seven hundred and seventy-first."

Paragraph (a), as amended, reads as follows:

"(*a*) Evidences of indebtedness (i) which have been issued by any foreign state that is presently governed by an interim government which is holding office temporarily and which is to continue to hold such office only until the assumption thereof by a regular government which has been elected and (ii) as to which temporary exemption from the operation of Section 12 (a) shall expire pursuant to the terms of Rule AN7 on May 15, 1936, and as to which registration shall not be effective on that date, shall be exempt from the operation of said Section 12 (a) to and including the seven hundred and seventy-first day following the assumption of office by such elected regular government."

The foregoing action shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-936; Filed, March 31, 1938; 12:06 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of March, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY L. H. WITWER, RESPONDENT, ON MARCH 7, 1938, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE SINCLAIR-PRAIRIE-RICE TRACT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet described in the title hereof has been amended to cure the objections specified in the Order for Hearing previously entered in this proceeding;

It is ordered, Pursuant to Rule 354 (c) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on March 26, 1938, be effective as of March 30, 1938.

It is further ordered, That the Order for Hearing heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding is terminated as of the effective date of said amendment.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-937; Filed, March 31, 1938; 12:06 p. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

LEGAL—SUBPOENAS AND WITNESSES

R–5000, 5001, 5002 and 5004 canceled May 15, 1937.
R–5003 renumbered as paragraph 5592, March 31, 1938.

Disobedience to subpoena

5592 In case of disobedience to a subpoena, chief attorneys shall in the proper manner bring the matter to the attention of the District Court of the United States, invoking the aid of such court when this action is necessary and advisable. (March 31, 1938.) (Sec. 8, W. W. V. Act, 1924, as amended.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38-931; Filed, March 31, 1938; 11:26 a. m.]

REVISION OF REGULATIONS

SUPERVISION OF FIDUCIARIES—LEGAL SERVICES

5251. (A) Legal services, if desired by the guardian, may be supplied by chief attorneys' offices if the estate or income is not sufficient to justify the employment of an attorney, as provided in R. & P. 5364 (A).

(B) In any case falling within the provisions of R. & P. 5366, where the guardian does not in due course institute the necessary action to terminate the guardianship, and the veteran requests the chief attorney to represent him, or in any such case where there is in question the proper administration of the veteran's estate, the chief attorney may file the necessary action and supply legal services. Costs, unless assessed against the guardian, should be charged to the estate of the veteran. (April 1, 1938.) (Veterans Regulation No. 6 (c), Par. VI and Public No. 262, 74th Congress.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38-932; Filed, March 31, 1938; 11:26 a. m.]

REVISION OF REGULATIONS

ADJUDICATION—VETERANS' CLAIMS

Payment of Pension to Naval Hospitals When World War Veterans Are Hospitalized Therein as Beneficiaries of the Navy Department

R–1260. (A) In accordance with the provisions of Section 4813, Revised Statutes (24 U. S. C. 6) the pension or pensions (in the event concurrent payments of pension under the laws administered by the Veterans' Administration and pension under Sections 4756 and 4757, Revised Statutes, are being made) of veterans will be paid to the Commanding Officer of a Naval hospital upon hospitalization therein by the Navy Department. The Secretary of the Navy has requested that such action be taken by the Veterans' Administration. This will not apply where upon application to the Veterans' Administration the veteran is hospitalized as a Veterans' Administration patient. (March 31, 1938.)

Restrictions Under Paragraph X, Veterans' Regulation No. 10 (c)

R–2160. The restrictions of paragraph X of Veterans Regulation No. 10 (c) apply to pension payable under Public No. 2

73d Congress, except under Veterans Regulation No. 1 (a), Part III, Paragraph 1 (g) (2), and where pension or compensation was being paid on March 19, 1933, on a finding theretofore made that an injury or disease was directly connected with active military or naval service. These exceptions are protected to the extent of $6.00 monthly, provided, that no award of disability compensation or pension shall be subject to reduction or discontinuance under this paragraph for any period subsequent to August 24, 1937. (Public No. 357, 75th Congress—Act of August 25, 1937.) (March 31, 1938.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38-933; Filed, March 31, 1938; 11:26 a. m.]

REVISION OF REGULATIONS

DEATH OCCURRING WHILE TRAVELING UNDER PRIOR AUTHORIZATION OR IN A VETERANS' ADMINISTRATION FACILITY

R-2696 (B). When death occurs in a Veterans' Administration facility on or subsequent to March 20, 1933, and prior to January 19, 1934, there will be paid the actual cost (not to exceed $75) of burial and funeral and the body will be transported to the place of residence or to the nearest available National Cemetery or such other place as the next of kin may direct where the expense is not greater than the ascertained cost of transportation to place of residence or to the nearest available National Cemetery. When the ascertained cost of transportation to place directed by the next of kin exceeds the amount to be allowed as provided herein, the allowable amount shall be the amount payable to the place of residence or to the nearest available National Cemetery, whichever is the greater, which amount shall be available for reimbursement expenses or partial payment of the expenses incurred for transportation. When death occurred on or after January 19, 1934, the amount to be allowed for the cost of burial and funeral will not exceed $100. (V. R. No. 9 (a), (b) and (c)).

(C) *Removal of body from place of death by means other than common carrier.*—When the body is removed from place of death to place of residence or to the nearest available National Cemetery or such other place as the next of kin may direct where the expense is not greater than the ascertained cost of transportation to place of residence or to the nearest available National Cemetery, by means other than by common carrier, there will be paid as a proper transportation expense the reasonable cost of removal in addition to the allowance for burial and funeral. This provision shall not, however, be construed as authorizing payment in excess of $75 or $100, whichever applies, if the burial is local. (March 31, 1938.) (V. R. No. 9 Series.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38-934; Filed, March 31, 1938; 11:27 a. m.]

REVISION OF REGULATIONS

RELEASE OF INFORMATION CONCERNING CLAIMANTS AND BENEFICIARIES

Paragraphs 5585 to 5591 inclusive have been amended and renumbered as paragraphs 310 to 320 inclusive, March 31, 1938.

Disclosure in General

310. (A) *When service was after April 20, 1898.*—Files, records, reports, and other papers and documents pertaining to any claim filed with the Veterans' Administration whether pending or adjudicated, in the cases of persons who served on or after April 21, 1898, will be deemed confidential and privileged and no disclosure thereof will be made except as provided in R. & P. 310–331.

(B) *When service was prior to April 21, 1898.*—When not prejudicial to the interests of the Government and, so far as may be apparent, to the interests of any living person, files, records, reports and other papers and documents pertaining to any claim filed with or in the custody or control of the Veterans' Administration in the cases of persons who served prior to but not on or after April 21, 1898, may be inspected by any person, and information given from such files, records, reports, and other documents, under the conditions prescribed in R. & P. 320 (B). (March 31, 1938.) (Veterans' Regulation No. 11.)

311. *Military record.*—(A) Information received by the Veterans' Administration from the War and Navy Departments relative to the military service of a claimant is furnished solely for the official use of the Veterans' Administration, and such information may be disclosed to the claimant or his duly authorized representative, if such disclosure will not be injurious to the physical and mental health of the claimant, only when such information is to be used by the claimant or his duly authorized representative in connection with his claim pending before the Veterans' Administration.

(B) When requests for information concerning the military service of a claimant are received from any person other than the claimant himself, or his duly authorized representative, the applicant will be advised that such information is furnished the Veterans' Administration by the War and Navy Departments for official use only, and, therefore, may not be released by the Veterans' Administration except to the claimant or his duly authorized representative. The applicant will also be advised that his application for the information requested should be made to the War Department, if the veteran served in the United States Army; or to the Navy Department, if the veteran served in the United States Navy, or United States Marine Corps, or to the Coast Guard, Treasury Department, if the veteran served in the United States Coast Guard, or the United States Revenue Cutter Service.

(C) *Lists.*—Lists of claimants will not be furnished attorneys or agents and will be furnished only to such others as the Administrator of Veterans Affairs may direct.

(D) *Addresses.*—When an address is requested that may not be furnished under R. & P. 310–331, the person making the request will be informed that a letter enclosed in an unsealed envelope, bearing sufficient postage, without return address, with the name of the addressee thereon, will be forwarded by the Veterans Administration, but this procedure will be followed only when it does not interfere unduly with the functions of the service or division concerned. In no event will letters be forwarded to aid in the collection of debts by commercial firms, collection agencies, and other like concerns. (March 31, 1938.) (Veterans' Regulation No. 11.)

Disclosure to Claimants; and Concerning Payments

312. Disclosures of information from the files, records, reports, and other papers and documents pertaining to claims filed with the Veterans Administration shall be made by the regional office or facility having possession of the case file:

(A) To a claimant or his duly authorized representative, as to matters concerning himself alone when such disclosure would not be injurious to the physical or mental health of the claimant.

(B) The amount of pension or compensation of any beneficiary shall be made known to any person who applies for such information. (March 31, 1938.) (Veterans' Regulation No. 11.)

Disclosure to Courts in Proceedings in the Nature of an Inquest

313. The solicitor, chief attorneys, and managers of facilities are authorized to make disclosures to courts of competent jurisdiction of such files, records, reports, and other documents as are necessary and proper evidence in proceedings in the nature of an inquest into the mental competency of claimants and other proceedings incident to the appointment and discharge of guardians, and such officers are further authorized to make disclosure of payments to guardians, curators, or conservators to any court having jurisdiction of such fiduciaries in all matters of appointment, discharge or accounting in such courts. (March 31, 1938.) (Veterans' Regulation No. 11.)

Disclosure in Cases Where Incompetent Claimants Are Charged With or Convicted of Criminal Offenses

314. Where incompetent claimants are charged with, or convicted of, offenses other than those growing out of their relations with the Veterans' Administration and in which it is desired to disclose information from the files and records of the Veterans' Administration, the chief attorney or the solicitor if he deems it necessary and proper, may disclose to the court having jurisdiction so much of the information from the files and records of the Veterans' Administration relating to the mental condition of such beneficiaries, the same to be available as evidence, as may be necessary to show the mental condition of the accused, and the time of its onset. This provision, however, does not alter the general procedure herein stated for handling offenses growing out of relations with the Veterans' Administration. (March 31, 1938.) (Veterans' Regulation No. 11.)

Judicial Proceedings Generally

315. Where a suit has been threatened or instituted against the Government, other than for insurance under Section 19 of the World War Veterans' Act, 1924, as amended, or a prosecution against a claimant has been instituted or is being contemplated, the request of the claimant or his duly authorized representative for information, documents, reports, etc., shall be acted upon by the solicitor in central office or the chief attorney in the field station, who shall determine the action to be taken with respect thereto. In cases involving insurance litigation (suits for insurance filed under Section 19 of the World War Veterans' Act, 1924, as amended) the request shall be acted upon by the director of insurance. (See R. & P. 3080–3086.) In all other cases where copies of documents or records are desired by or on behalf of parties to a suit, whether in a court of the United States or any other, such copies shall be furnished as provided in (D) hereof; otherwise to the court only, and on an order of the court or subpoena duces tecum addressed to the Administrator of Veterans' Affairs or the manager of the station in which the records desired are located requesting the same. The determination as to the action to be taken upon any order received in this class of cases shall be made by the service having jurisdiction over the subject matter in central office or the division having jurisdiction over the subject matter in the field station, except in those cases in which the records desired are to be used adversely to the claimant, in which latter event the order of the court or the subpoena will be referred to the solicitor in central office or to the chief attorney in the field station for disposition.

(A) The address of a Veterans' Administration claimant as shown by Veterans' Administration files may be furnished to duly constituted police or court officials upon proper request and the submission of a certified copy either of the indictment returned against the claimant or of the warrant issued for his arrest. Such requests shall be forwarded for disposition to the service in central office or division in the field station having jurisdiction over the subject matter.

(B) Where the process of a United States court requires the production of documents or records (or copies thereof) contained in the Veterans' Administration file of a claimant, such documents or records (or copies) will be produced in the court out of which process has issued. Where original records are produced they must remain at all times in the custody of a representative of the Veterans' Administration and if offered and received in evidence permission should be obtained to substitute a copy so that the original may remain intact in the file. Where the subpoena is issued on praecipe of a party litigant other than the United States such party litigant must prepay the cost of copies in accordance with fees prescribed by R. & P. 328, and any other costs incident to production.

(C) Where copies of documents or records are requested by the process of any state or municipal court, the process when presented must be accompanied either by authority from the claimant concerned to comply therewith or by an affidavit of the attorney of the party securing the same, setting forth the character of the pending suit, and the purpose for which the documents or records sought are to be used as evidence, and if adversely to the claimant, information from which it may be determined whether the furnishing of the records sought is necessary to prevent the perpetration of a fraud or other injustice. Where the process received is accompanied by authorization of the claimant to comply therewith, copies of the records requested shall be furnished to the court upon the payment of the prescribed fee by the party who caused the process to be issued. Where the process shows that the records are to be used adversely to the claimant the averments contained in the affidavit shall be considered in connection with the facts shown by the claimant's file, and if such consideration shows the disclosure of the records is necessary and proper to prevent a fraud or other injustice the records requested shall be furnished in response to the court's process upon the payment of the fee as prescribed by the schedule of fees by the party who caused the process to be issued. Otherwise the court shall be advised that Veterans' Administration records are confidential and privileged. Where the process received requests the production of the complete Veterans' Administration file of a claimant and compliance is deemed necessary and proper under this paragraph, no expense to the Veterans' Administration may be involved in complying therewith and arrangements must be made with the attorney of the party causing issuance of the process to insure the submission of the file to the court without expense to the Veterans' Administration. The file must remain at all times in the custody of a representative of the Veterans' Administration, and if there is an offer and admission of any record or document contained therein permission should be obtained to substitute a copy so that the original may remain intact in the file.

(D) Requests received from attorneys or others for copies of records for use in suits in which the Government is not involved, not accompanied by a subpoena or court order, will be handled by the service having jurisdiction over the subject matter. If the request is such as can be complied with under R. & P. 312 the records requested will be furnished upon receipt of the required fee. If, however, the records cannot be furnished under such paragraph the applicant will be advised of the procedure to obtain copies of records for court use as set forth above. (March 31, 1938.) (Veterans' Regulation No. 11.)

Disclosure Prejudicial to Mental or Physical Health of Claimant

316. Determination of the question when disclosure of information from the files, records, reports, etc., will be prejudicial to the mental or physical health of the claimant, will be made by the medical director, central office; or the chief medical officer in the regional office or facility having regional office activities; or the manager in other facilities. (March 31, 1938.) (Veterans' Regulation No. 11.)

Persons Authorized to Represent Claimant

318. A duly authorized representative will be any person authorized in writing by the claimant to act for him, or his legally constituted fiduciary, if the claimant is incompetent. Where for proper reasons no legally constituted fiduciary has been or will be appointed, his wife, his children, or if the claimant is unmarried, either of his parents, shall be recognized as the fiduciary of the claimant. Such authorization must indicate the nature of the information desired and the purpose for which it is to be used.

(A) Such information as may be properly disclosed to a claimant personally under R. & P. 310–331 shall in the event of his death be disclosed upon proper request, to the duly appointed representative of his estate or to such person as may be designated by such representative. Where for proper reasons no representative of the claimant's estate has been or will be appointed, his widow, his children, or if the claimant was unmarried, either of his parents, shall be recognized as the representative of his estate; provided that if it be indi-

cated that none of such persons is living or can be found, a brother, sister, or other near next of kin may be so recognized.

(B) When an undertaker requests information believed by him to be necessary in connection with the burial of a deceased veteran, such as the name and address of the beneficiary of the veteran's adjusted service certificate or Government Insurance policy; name and address of the next of kin; rank of veteran and organization in which he served; character of the veteran's discharge; or date and place of birth of the veteran, and it appears that the undertaker is holding the body awaiting receipt of the information requested, the undertaker, in such instances, may be considered the duly authorized representative of the deceased veteran for the purpose of obtaining said information. In ordinary cases, however, the undertaker will be advised that information concerning the beneficiary of an adjusted service certificate or Government Insurance policy is confidential and cannot be disclosed; the beneficiary will be advised immediately of the inquiry, and the furnishing of the desired information will be discretionary with the beneficiary. In no case will the undertaker be informed of the net amount due under the certificate or policy or furnished information not specifically mentioned herein. (March 31, 1938.) (Veterans' Regulation No. 11.)

Disclosure to Members of Congress and to Government Departments

319. All records or documents required by any department or other agency of the United States Government shall be furnished in response to a proper request. Senators or Representatives shall be furnished in their official capacity in any proper case such records, documents, or information contained in the Veterans' Administration files as may be requested for such use. However, in any unusual case, the request will be presented to the Administrator or the solicitor for personal action. When the information requested is other than the amount of pension payable to a beneficiary, the Member of Congress shall be advised that the information is furnished to him confidentially and the provisions of Veterans Regulation No. 11 brought to his attention. (March 31, 1938.) (Veterans' Regulation No. 11.)

Inspection of Records by Recognized Representatives of Organizations

320. (A) The accredited representatives of any of the organizations recognized under Sec. 200, Public No. 844, 74th Congress (Act of June 29, 1936) may inspect the Veterans' Administration file of any claimant upon the condition that only such information contained therein as may be properly disclosed under R. & P. 310–331 will be disclosed by him to the claimant, or if the claimant is incompetent, to his legally constituted fiduciary. All other information in the file shall be treated as confidential and will be used only in determining the status of the cases inspected or in connection with the presentation to officials of the Veterans' Administration of the claim of the claimant in those cases where the organization has, by proper power of attorney, been authorized to represent the claimant. The managers of field stations, and the directors of the services concerned in central office, will each designate a responsible officer to whom requests for all files must be made. When power of attorney does not obtain, the liaison officer will explain to the designated officer of the Veterans' Administration the reason for requesting the file, and the file will be made available only when in the opinion of the designated officer, it is justified; in such cases a contact report will be made out and attached to the case, outlining the reasons which justify the release of the file to the liaison officer. In any case where there is an unrevoked power of attorney, no persons or organizations other than the one named in the power of attorney shall be allowed to inspect the file; and when any claimant has filed notice with the Veterans' Administration that he does not want his file inspected, such file will not be made available for inspection. Any violation of the condition under which files are permitted to be inspected shall be brought to the immediate attention of the Administrator. Where a suit has been threatened or instituted against the Government upon a claim denied by the Veterans' Administration other than for insurance under Section 19 of the World War Veterans' Act, 1924, as amended, or a prosecution against a claimant has been instituted or is being contemplated, the inspection of Veterans' Administration files as authorized in this paragraph shall be within the discretion and under the supervision of the chief attorney or the office of the solicitor. Where a suit for insurance under Section 19 of the World War Veterans' Act, 1924, as amended, has been threatened or instituted against the Government, the inspection of Veterans' Administration files as authorized in this paragraph shall be within the discretion and under the supervision of the manager or the director of insurance.

(B) *Inspection of records when service was prior to April 20, 1898.*—Any person may inspect the records in cases of veterans who served prior to but not after April 21, 1898, when such inspection is not prejudicial to the interests of the Government or, so far as may be apparent, to the interests of any living person, provided that, if it be shown that the veteran or any one claiming or receiving benefits by reason of his service is living, such inspection may be made only by the veteran, the claimant, or the duly authorized representative of either when not prejudicial to the interests of the Government. The examination of records or other documents relating to claims for pension or bounty land shall not extend to confidential communications, including instructions regarding, or requests for special or field examinations, summaries and recommendations of inspectors or field examiners, reports relating to criminal charges and investigations, or to evidence obtained in cases involving crimes, forfeiture, or misconduct; nor shall it extend to reports from the Government departments, bureaus, or other agencies, except by permission of the head of the service concerned, or his designate. No person will be permitted to take copies from such reports. Inspection of reports of official physical or mental examinations will not be permitted in cases wherein payments are being made and no claim is pending. (March 31, 1938.) (Veterans' Regulation No. 11.)

Paragraphs 5593 to 5601 inclusive have been amended and renumbered as paragraphs 322 to 331 inclusive, March 31, 1938.

Information to Commanding Officers of State Soldiers' Homes

322. When a request is received in a regional office or Veterans' Administration facility, from the commanding officer of a State soldiers' home, for information, other than information relative to the character of the discharge from the facility, concerning a veteran formerly domiciled in a Veterans' Administration facility, the provisions of R. & P. 310 are applicable, and no disclosure will be made from the files, records, reports, and other papers and documents pertaining to any claim, whether pending or adjudicated, unless the request is accompanied by the authorization outlined in R. & P. 312 (A). However, managers of regional offices or Veterans' Administration facilities upon receipt of a request from the commanding officer of a State soldiers' home, for the character of the discharge of a veteran from a Veterans' Administration facility, will comply with the request, restricting the information disclosed solely to the character of the veteran's discharge from the facility. Such information will be disclosed only upon receipt of a specific request therefor from the commanding officer of State soldiers' home. (March 31, 1938.) (Veterans' Regulation No. 11.)

Furnishing Information Regarding Beneficiaries to Physicians

323. When a beneficiary elects to secure medical attention from a private practitioner or in a hospital other than a Veterans' Administration facility, there may be furnished to such private practitioner or head of such hospital (Federal, State, municipal, or private) such information as to the medical history, diagnosis, findings or treatment, as is requested, provided there is also submitted a written authorization from the beneficiary, his representative, or his nearest relative, for release of desired data. The said information will be supplied without charge directly to the private physician or hospital head, and not through the beneficiary. In forwarding this information, it will be accompanied by the stipulation that it is released with consent of the patient, and then only on condition that it is to be treated as a privileged communication. (March 31, 1938.) (Veterans' Regulation No. 11.)

Copies of Records and Papers

324. Any person desiring a copy of any record, paper, etc., in the custody of the Veterans' Administration, which is subject to be furnished under R. & P. 310–331, must make written application for such copy to the Veterans' Administration, where the records desired are located, stating specifically (1) the particular record, paper, etc., the copy of which is desired and whether certified or uncertified; (2) the purpose for which such copy is desired to be used. (March 31, 1938.) (V. R. No. 11.)

325. With the application for a copy of any record, paper, etc. the applicant shall deposit the approximate amount of the lawful charge for such copy, such deposit to be returned to the applicant should the application be denied. Should the amount deposited be insufficient, the desired copy will not be delivered until such deficiency is paid. Any excess deposited over the lawful charge will be returned to the applicant. (March 31, 1938.) (Veterans' Regulation No. 11.)

326. Copies of reports from the War or Navy Department or copies of records of other departments and other confidential matters will not be furnished. (March 31, 1938.) (V. R. No. 11.)

327. Members of Congress will be furnished with copies desired for their own official use gratis; but copies desired for use of their constituents will be charged for at legal rates and be subject to the provisions of R. & P. 324–331. (March 31, 1938.) (Veterans' Regulation No. 11.)

328. Schedule of fees:

Written copies, per 100 words	$0.25
Photostat copies, per sheet	.25
Certifications, each	.25

Information furnished under R. & P. 323 shall be supplied without charge. (March 31, 1938.) (Veterans' Regulation No. 11.)

329. Receipts from the sale of copies of records, papers, etc., will be deposited to the credit of "miscellaneous receipts." (March 31, 1938.) (V. R. No. 11.)

330. Uncertified copies may be furnished to the applicant by the field station having possession of the case file in which the original document is filed, subject to the provisions of R. & P. 310–331. (March 31, 1938.) (V. R. No. 11.)

331. Those offices not having photostat equipment will arrange with the nearest office having such equipment to make necessary photostat copies of records, papers, etc. (March 31, 1938.) (Veterans' Regulation No. 11.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38–935; Filed, March 31, 1938; 11:27 a. m.]

Saturday, April 2, 1938 *No. 65*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6055 OF FEBRUARY 28, 1933, WITHDRAWING PUBLIC LANDS

Colorado

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 6055 of February 28, 1933, withdrawing public lands in Colorado pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the said lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 30, 1938.

[No. 7854]

[F. R. Doc. 38–945; Filed, March 31, 1938; 4:09 p. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 5089 OF APRIL 9, 1929, WITHDRAWING PUBLIC LANDS FOR CLASSIFICATION AND IN AID OF PROPOSED LEGISLATION

Colorado

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 5089 of April 9, 1929, temporarily withdrawing certain lands in Colorado for classification and in aid of proposed legislation, is hereby revoked as to the following-described public lands:

SIXTH PRINCIPAL MERIDIAN

T. 4 N., R. 80 W.,
sec. 21, E½;
secs. 22 to 26, inclusive;
sec. 27, N½;
sec. 28, NE¼;
sec. 35, N½;
aggregating 4,320 acres.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 30, 1938.

[No. 7855]

[F. R. Doc. 38–946; Filed, March 31, 1938; 4:09 p. m.]

EXECUTIVE ORDER

RULES GOVERNING THE GRANTING AND ISSUING OF PASSPORTS IN THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1 of the act of July 3, 1926, 44 Stat. 887 (U. S. C., title 22, sec. 211a), I hereby prescribe the following rules governing the granting and issuing of passports in the United States.

Part I—Authority to Issue Passports in the United States

1. Only the Secretary of State may grant and issue passports in the United States. (Sec. 1, act of July 3, 1926, 44 Stat. 887; U. S. C., title 22, sec. 211a; sec. 4078, R. S.)

Part II—To Whom Passports Are Issued

2. No passport shall be granted or issued to any other persons than those owing allegiance, whether citizens or not, to the United States. (Sec. 4076, R. S; act of June 14, 1902, 32 Stat. 386; U. S. C., title 22, sec. 212)

3. Unless a request is made by the parental or other guardian that a passport be denied, passports may be issued to minors upon their own application.

4. Children may execute applications in their own behalf when of sufficient intelligence to understand the statements, and the meaning of the oath of allegiance to the United States, contained in the applications.

5. As a rule, children of 12 years of age or more should be required to execute their own applications for passports.

6. If circumstances warrant, a parent or guardian may execute applications for passports on behalf of minors of any age. The application should be signed thus: "Richard Roe, by John Roe, father." The oath of allegiance to the United States need not be administered.

Part III—Persons Who May Be Included in One Passport

7. Only persons who are citizens of, or who owe allegiance to, the United States may be included in a passport of the United States.

8. A passport issued to a husband or wife may include his or her spouse.

9. A passport issued to a parent may include his or her unmarried minor children or stepchildren.

10. A minor brother or sister may be included in the passport of an older brother or sister.

11. A minor grandchild, niece, or nephew of tender years may be included in the passport of the relative when the application therefor is accompanied by a request from the parental or other guardian.

12. Adopted children who are American citizens may be included in a passport issued to the adoptive parents. (See Par. 111).

13. A minor child who will attain majority within two years may be included in a passport issued to a parent under the conditions stated in this Part but such passport shall be limited in validity to the date when such minor child shall attain majority. In the discretion of the Secretary of State an exception may be made to this paragraph when the minor child will attain majority within a period not exceeding three months prior to the date of the expiration of the usual two-year period for which a passport is issued.

Part IV—Applications for Passports

14. Before a passport is issued to any person by or under the authority of the United States such person shall subscribe to and submit a written application duly verified by his oath before a person authorized and empowered to administer oaths, and each application shall contain a true recital of each and every matter of fact which may be required by law, or by any rules authorized by law, to be stated as a prerequisite to the issuance of any such passport. (Act of June 15, 1917, 40 Stat. 227; U. S. C., title 22, sec. 213.)

15. The application must be executed in person before a clerk of a Federal court or a State court authorized by the act of June 29, 1906, 34 Stat. 596, to naturalize aliens, or before an Agent of the Department of State within the jurisdiction in which the applicant or the witness to his application resides. However, if, for valid reason, the application is executed before such an official elsewhere, the Secretary of State may in his discretion accept such application.

16. When the application is executed before a clerk of court, the seal of the court must be affixed to the application. When the application is executed before an Agent of the Department of State, the seal of the Agency of the Department of State must be affixed to the application.

17. When an application for a passport is not made at or near the place where the applicant resides, the applicant should give the name and address of a reputable person residing at or near the place of the applicant's residence, to whom the clerk of court, the Agent of the Department of State, or the Department of State itself, may address such inquiry as may be necessary concerning the applicant. When it is necessary to make inquiries by telegraph, the expense thereof shall be borne by the applicant.

Part V—Names and Titles

18. The passport application shall contain the full name of the applicant, thus, "John Henry Smith", not "J. H. Smith". A married woman's name should, ordinarily, be written thus: "Mary Elizabeth Doe", not "Mrs. John Doe".

19. An applicant whose name has been changed by order or decree of a court should submit with his application a certified copy of such order or decree. An applicant who has changed his name by the adoption of a new name without formal court procedure, if he resides in a State where a formal court procedure is not necessary, should submit with his application the affidavits of two or more persons to the effect that he uses the new name exclusively, has used it exclusively for a stated period of time, and is known by such name in the community in which he resides.

20. A married woman desiring a passport issued in her maiden name must submit with her application the affidavits of two or more persons to the effect that she uses her maiden name exclusively, has used it exclusively for a stated period of time, and is known by such name in the community in which she resides.

21. If an applicant desires to use a professional name, he must submit affidavits of two or more persons to the effect that the applicant has used the professional name for a stated period of time. A married woman who uses her maiden name for professional purposes must submit affidavits of two or more persons to the effect that she has used such name for professional purposes for a stated period of time. In the case of an applicant using a professional name, his passport will be written thus: "John Henry Jones (professionally known as Thomas Augustus Smith)". In the case of a married woman using her married name, and also her maiden name as a professional name, the passport will be written thus: "Mary Doe (professionally known as Mary Roe)", and an applicant's name in religion or an author's *nom de plume* will be similarly written.

22. The Department of State may, in addition to the evidence required under this Part, require such other evidence as it may deem necessary.

Part VI—Contents of Application for a Passport

A. *Each Application of a Native Citizen for a Passport Must Contain the Following:*

23. The applicant's name.

24. The place and date of the applicant's birth.

25. The name, date and place of birth, and place of residence, of the applicant's father. (If the applicant was born outside of the United States at or after noon, Eastern Standard Time, May 24, 1934, of an alien father and an American mother, a supplemental affidavit shall be required giving the name, and date and place of birth, of the mother and complete data concerning the manner and date of her acquisition of American citizenship.)

26. The place of permanent residence of the applicant.

27. Whether the applicant has been naturalized as a citizen of a foreign state or has taken an oath of allegiance to a foreign state.

28. If the applicant or his father was born abroad, the period of residence of the applicant outside of the United States.

29. If the applicant's father was born abroad, the date of his emigration to the United States, the period of his residence in the United States, and if naturalized, the date and place of his naturalization as a citizen of the United States.

30. If the applicant is a woman: Whether she has ever been married; if so, the date of her marriage; the name, and date and place of birth, of her husband; whether he is a citizen of the United States; the place of his residence; her maiden name; whether she was previously married; if so, the name and place of birth of her former husband; the date and place of her former marriage; whether the marriage was terminated by death or divorce and the date thereof; if the present or former husband was born abroad, the date of his emigration to the United States; and if naturalized, the date and place of his naturalization, or if naturalized through his father, the father's name and date and place of his naturalization.

31. Such further information as the Secretary of State may require to establish satisfactorily the American citizenship of the applicant.

32. The name of the port from which, and the name and date of sailing of the vessel upon which, the applicant intends to depart from the United States.

33. The place of issue, and, if possible, the date or approximate date, the number, and the disposition made, of any passport previously issued to the applicant.

34. The names of the countries the applicant intends to visit and the object of the visit to each. (The Secretary of State may in his discretion require an applicant to submit satisfactory documentary evidence of the object of his visit to each country named in his application.)

35. The period within which the applicant intends to return to the United States.

36. A description of the applicant.

37. The applicant's oath or affirmation of allegiance to the United States.

38. If the applicant desires that members of his family be included in his passport, the information required by Paragraphs 65 to 69, inclusive, shall also be furnished.

Photographs of the Applicant

39. The applicant must submit with his application duplicate photographs not more than 3 by 3 inches and not less than 2½ by 2½ inches in size, unmounted, printed on thin paper on a light background, showing the full front view of the features of the applicant, and taken within six months of the date they are submitted. Snapshot, newspaper, magazine or full-length photographs will not be accepted. One photograph must be signed by the applicant, whose signature should correspond with the signature on the application. The unsigned photograph should be affixed by the clerk of court or Passport Agent to the application and the seal of the court or Passport Agency must be impressed on the lower portion of the photograph in such manner as not to obscure the features. The seal of the court or Passport Agency should not be impressed upon the signed photograph, which should be forwarded to the Department of State to be attached to the passport, if issued. An applicant who is accompanied by members of his family should submit duplicate photographs of the accompanying members. A group photograph is preferable. Photographs in the uniform of the United States Military or Naval Service will be accepted only from applicants who are in the active service of the United States and are proceeding abroad in the discharge of their duties.

Affidavit of a Supporting Witness

40. When the applicant applies for a passport he should be accompanied by one credible witness who is an American citizen, has known the applicant for a period of two or more years, and has a definite place of residence. The witness must state in the application that he is a citizen of the United States, that he knows the applicant to be a citizen of the United States, that the allegations contained in the application are true to the best of his knowledge and belief, and that he has known the applicant for a definite period of time. If the witness has been issued an American passport he should state the place of issue, and, if possible, give the number and date, or approximate date, of issue. The witness should subscribe and swear to his statement before the clerk of court or Passport Agent.

41. If the applicant or the witness is not known to the clerk of court or Passport Agent and cannot present conclusive documentary evidence of identity, the applicant must obtain as a witness to his application an American citizen who is established in a recognized profession or business and who has his office or place of business within the jurisdiction of the court or the Passport Agency (e. g., a clergyman, lawyer, physician, banker, broker, real estate dealer, or merchant). Clerks of courts and Passport Agents should satisfy themselves of the identity and *bona fides* of each applicant and his witness.

42. A passport issued by the Secretary of State, to which is affixed the photograph and signature of the person to whom the passport was originally issued, will be accepted in lieu of an identifying witness.

43. No lawyer or other person who expects to receive a fee in connection with the application or passport will be accepted as a supporting witness.

B. *Each Application for a Passport of a Person Claiming Citizenship Through Naturalization Must Contain the Following:*

44. The applicant's name.

45. The date and place of the applicant's birth.

46. The date of the applicant's emigration to the United States.

47. The period of the applicant's residence in the United States.

48. The place of permanent residence of the applicant.

49. The name of the applicant's father, and whether or not he is an American citizen, place of his birth, place of his present residence, and if naturalized, date and place of his naturalization.

50. If the applicant claims citizenship through the naturalization of his mother or through the acquisition of citizenship by both of his parents, a supplemental affidavit shall be required giving, in addition to the data required concerning his father, the name, and date and place of birth, of the mother and complete data concerning the manner and date of her acquisition of American citizenship.

51. If the applicant has been naturalized, upon his own petition, as a citizen of the United States, the date and place of such naturalization.

52. Whether since naturalization as a citizen of the United States the applicant has been naturalized as a citizen of a foreign state or taken an oath of allegiance to a foreign state.

53. The periods and places of residence outside of the United States since naturalization.

54. If the applicant is a woman: Whether she has ever been married; if so, the date of her marriage; name, and date and place of birth, of her husband; whether he is a citizen of the United States; the place of his residence; her maiden name; whether she was previously married; if so, the name and place of birth of her former husband; the date and place of her former marriage; whether the marriage was terminated by death or divorce and the date thereof; if the present or former husband was born abroad, the date of his emigration to the United States; and if naturalized in the United States, the date and place of his naturalization, or if naturalized through his father, the father's name and the date and place of his naturalization.

55. Such further information as the Secretary of State may require to establish satisfactorily the American citizenship of the applicant.

56. The name of the port from which, and the name and date of sailing of the vessel upon which, he intends to depart from the United States.

57. The place of issue, and, if possible, the date or approximate date of issue, the number and the disposition made, of any passport previously issued to the applicant.

58. The names of the countries the applicant intends to visit and the object of the visit to each. (The Secretary of State may in his discretion require an applicant to submit satisfactory documentary evidence of the object of his visit to each country named in his application.)

59. The period within which the applicant intends to return to the United States.

60. A description of the applicant.

61. The applicant's oath or affirmation of allegiance to the United States.

62. The provisions of Paragraph 39, relating to photographs, and Paragraphs 40 to 43, inclusive, relating to supporting witnesses, shall also be observed in connection with all applications submitted under this subdivision.

63. If the applicant desires that members of his family be included in his passport, the information required by Paragraphs 65 to 69, inclusive, shall also be furnished.

64. If the signature on the application does not conform to the applicant's name as written on his certificate of naturalization, a satisfactory explanation of the difference shall be submitted.

C. *When an Applicant for a Passport Desires to Include a Member or Members of his Family his Application Must Contain the Following:*

65. The names, and dates and places of birth, of other persons to be included in the passport.

66. In case a wife is to be included in the passport, complete data as to present and any former marriage, including the name, and date and place of birth, of her former

husband, the date and place of marriage, whether the marriage was terminated by death or divorce and the date of termination. If the wife was born abroad, the date of her emigration to the United States; the date and place of her naturalization if she did not acquire American citizenship by marriage; the dates and places of residence abroad since acquiring citizenship; and whether she has been naturalized as a citizen of a foreign state or taken an oath of allegience to a foreign state since acquiring American citizenship. If the wife acquired citizenship through naturalization of a parent or a former husband, the name of the parent or the former husband and the date and place of naturalization.

67. If a native-born husband is included in the application, the date and place of his birth; the dates and places of residence abroad; the name of his father; the date and place of his father's birth, and, if born abroad, the date of his emigration to the United States, and the dates and places of his residence in the United States; if naturalized, the date and place of his naturalization and the dates and places of his residence outside of the United States subsequent to naturalization; and whether the husband or his father has been naturalized as a citizen of a foreign state or taken an oath of allegiance to a foreign state. If the husband's father has acquired American citizenship through naturalization of a parent, in addition to the foregoing, the name of the parent and date and place of naturalization.

68. If a foreign-born husband is included in the application, the date and place of his birth; the date of his emigration to the United States; the date and place of his naturalization; dates and places of residence abroad since naturalization; and whether he has been naturalized as a citizen of a foreign state or taken an oath of allegiance to a foreign state since naturalization as a citizen of the United States. If the husband has acquired citizenship through naturalization of a parent, the name of the parent and the date and place of naturalization.

69. If the husband or wife who is included in the application has previously been issued a passport, the place of issue, and, if possible, the date or approximate date of issue, the number, and the disposition made, of the passport previously issued.

D. *Application of a Resident of an Outlying Possession of the United States Who was not Born or Naturalized in the United States but Who Owes Permanent Allegiance, Whether Citizen or Not, to the United States.*

70. A resident of an outlying possession of the United States who was not born or naturalized in the United States but who owes permanent allegiance, whether citizen or not, to the United States must state in his application such facts concerning the date and place of his birth and the birth of his father; the dates and places of his and his father's residence in the United States and in the outlying possessions of the United States; and the dates and places of his residence abroad, and such other facts as may be necessary to determine his nationality status. In addition he must state whether since acquiring American nationality he has been naturalized as a citizen of a foreign state or taken an oath of allegiance to a foreign state.

71. If the applicant is a woman: Whether she has ever been married; if so, the name, and date and place of birth, of her husband; his nationality status; the place of his residence; her maiden name; whether she was previously married, and, if so, the name and place of birth of her former husband; the date and place of her former marriage; whether the marriage was terminated by death or divorce and the date thereof; and if the present or former husband was born abroad, the date of his emigration to the United States or an outlying possession of the United States.

72. The applicant shall also comply with the requirements of Paragraphs 32 to 37, inclusive.

73. The provisions of Paragraph 39, relating to photographs, and Paragraphs 40 to 43, inclusive, relating to supporting witnesses, shall also be observed in connection with applications submitted under this subdivision.

74. If the applicant desires that members of his family be included in his passport, he shall furnish such information with respect to them as may be required by these rules for the purpose of determining their nationality status.

75. The applicant must submit such further information as the Secretary of State may require to establish satisfactorily his status as an American national.

Part VII—Amendment of Passports

76. Passports may be amended in the United States by the Department of State or any of the Passport Agents of the Department of State.

77. Passports may be amended to include only those persons who are citizens of, or who owe permanent allegiance to, the United States.

78. A request for the amendment of a passport to include any person should be in writing and accompanied by documentary evidence that such person is a citizen of the United States or owes permanent allegiance to the United States, and by two photographs meeting the requirements of these rules.

79. A passport may be amended to include any of the persons specified in Paragraphs 7 to 13, inclusive, that is, any of the persons who might have been included in the passport when originally issued.

80. A passport will not be amended to include a person who bears a valid passport issued in his own name unless such passport is submitted for cancellation.

81. A passport will not be amended to include a person who is included in a valid passport unless such passport is submitted for amendment to exclude such person.

82. A passport may be amended upon the written request of the person to whom it was issued, to exclude a person or persons originally included in the passport.

83. The Secretary of State may in his discretion require an applicant for an amendment of a passport to submit satisfactory documentary evidence of the object of his journey abroad.

Part VIII—Period of Validity of Passports and the Renewal and Extension Thereof

84. The original period of possible validity of a passport is restricted to two years: *Provided*, that the passport may be renewed for a period of not more than two additional years under regulations prescribed by the Secretary of State: *And provided further*, that the Secretary of State may restrict the original or renewal period of a passport to less than two years. (Act of May 16, 1932, ch. 187, 47 Stat. 157; U. S. C., title 22, sec. 217a)

85. The Secretary of State may in his discretion require an applicant for the renewal of a passport to submit satisfactory documentary evidence of the object of his journey abroad.

Part IX—Fee for the Execution of an Application, for the Issue of a Passport and for the Renewal of a Passport, and Exemptions From the Payment of the Fee for the Issue of Passports

86. A fee of $1.00 shall be collected for the execution of each application for a passport. This rule is applicable in all cases, including the cases of persons applying for passports to proceed abroad on official business for the United States. (Act of June 4, 1920, 41 Stat. 750; U. S. C., title 22, sec. 214)

87. A fee of $9.00 shall be collected for each passport issued, except as hereinafter provided in Paragraphs 91 to 99, inclusive. A fee of $5.00 shall be collected for the renewal of a passport. (Act of May 16, 1932, ch. 187, 47 Stat. 157; U. S. C., title 22, sec. 217a)

88. The Secretary of State is authorized to make regulations authorizing the retention by State officials of the fee of $1.00 for executing an application for a passport. (Sec. 1, act of June 4, 1920, 41 Stat. 750; U. S. C., title 22, sec. 214)

89. The fees of $9.00 for the issue of a passport and $5.00 for the renewal of a passport, payable in currency or postal money order, shall accompany each application for a passport and for the renewal of a passport executed before a clerk of a court. Money orders should be made payable to the Secretary of State, Washington, D. C. If currency is transmitted with the application it will be understood that its transmission is at the risk of the applicant. If the application is executed before a Passport Agent of the Department of State, the fee shall be paid in currency. Personal checks will not be accepted by clerks of courts or Passport Agents.

90. The Secretary of State is authorized in the case of Passport Agencies to make such regulations as he may deem satisfactory for the transmission to him of fees collected in such Agencies.

Persons Exempt from the Payment of the Passport Fees

91. No fees shall be collected for passports issued to officers or employees of the United States proceeding abroad in the discharge of their official duties, or to members of their immediate families, or to seamen, or to widows, children, parents, brothers, and sisters of American soldiers, sailors, or marines buried abroad whose journey is undertaken for the purpose and with the intent of visiting the graves of such soldiers, sailors, or marines, which facts shall be made a part of the application for the passport. (Sec. 1, act of June 4, 1920, 41 Stat. 750; U. S. C., title 22, sec. 214)

(a) *Officers or employees of the United States and Members of their immediate families.*

92. In order to be exempt from the payment of the passport fee, an officer or employee of the United States shall submit with his application a written request for a passport from the head of the department or office in which he is employed. The request should set forth the nature of the employment of the applicant, the names of the countries in which he intends to travel, and the official nature of the journey abroad. These conditions shall be applicable to the renewal of a passport to an officer or employee of the United States.

93. An applicant who is a member of the immediate family of an officer or employee of the United States who intends to go abroad on official business, or who is abroad on such business, shall not be required to submit documentary evidence of the official status of the officer or employee of the United States of whose immediate family he is a member if he will refer to the passport application made by such officer or employee and such application meets the requirements of the preceding paragraph.

(b) *American seamen.*

94. No fees shall be collected for passports issued to American seamen. (Act of June 4, 1920, 41 Stat. 750; U. S. C., title 22, sec. 214)

95. Passports should not be issued to American seamen employed as such on American vessels unless documentary evidence is submitted to the Secretary of State satisfactorily establishing that it is necessary for the seaman to bear an American passport, in addition to the ordinary official documents issued to seamen, in which case they may be issued passports valid for a period sufficient to enable them to carry out the purpose for which the passport is desired. Seamen not traveling as such are not exempt from the payment of the passport fee.

96. Passports shall not be issued to American citizens who are employed or expect to be employed as seamen on foreign vessels unless the necessity for the possession of a passport is established to the satisfaction of the Secretary of State. However, in such case the seaman is not exempt from the payment of the passport fee.

97. A seaman who possesses a seaman's certificate of American citizenship should submit such certificate with his application for a passport. No other document issued to a seaman under laws applicable to seamen shall be required to be surrendered in connection with an application for a passport.

(c) *Persons visiting the graves of American soldiers, sailors, or marines buried abroad.*

98. No fees shall be collected for passports issued to widows, children, parents, brothers, and sisters of an American soldier, sailor, or marine buried abroad, who intends to go abroad for the purpose of visiting the grave of such soldier, sailor, or marine. (Act of June 4, 1920, 41 Stat. 750; U. S. C., title 22, sec. 214)

99. In order to be issued a passport without payment of the passport fee, such applicant, proceeding abroad for the purpose stated, must submit with his application a statement from the War Department, Washington, D. C., setting forth the name of the deceased American soldier, sailor, or marine to whom the applicant claims relationship, and the place of burial in a foreign country. A passport issued upon such application will be valid only for the country in which the deceased soldier, sailor, or marine is buried and the countries en route.

Part X—Evidence of Citizenship to Accompany Applications for Passports

(a) *Native citizens.*

100. A person born in the United States in a place where official records of birth were kept at the time of his birth must submit with the application a birth certificate under the seal of the official custodian of birth records. A certificate to be acceptable must show the date and place of birth and that the record thereof was made at the time of birth or shortly thereafter. If a birth certificate is not obtainable, that fact should be shown, and the application should be supported by a baptismal certificate or a certified copy of the record of baptism under the seal of the church in which the applicant was baptized, giving the date and place of birth, the date of baptism, and the date on which the record of baptism was made. A baptismal certificate to be acceptable must show that the baptism occurred within a short time after the date of the birth of the applicant as shown in the certificate. If birth and baptismal certificates are not obtainable, an affidavit of the parent or of the physician, nurse, or midwife who attended the birth, or the affidavit of a reputable person having sufficient knowledge to be able to testify as to the place and date of the applicant's birth may be accepted. A person who did not attend the birth but who testifies concerning the place and date of the applicant's birth should state briefly how and through what source the knowledge was acquired.

101. A person born abroad whose father was born in the United States and at the time of the applicant's birth had not ceased to be a citizen of the United States must submit with his application evidence of the father's birth in this country as required in the preceding paragraph.

102. If the applicant comes within the provisions of Paragraph 100 or 101 and has previously been issued a passport, reference to the application upon which such passport was issued will be sufficient, provided there was submitted with such application satisfactory evidence of American citizenship. If the applicant has not previously been issued a passport but his father has been issued such a document, reference to the application upon which a passport was issued to his father will be sufficient, provided there was submitted with such application satisfactory evidence of the father's American citizenship.

103. A person born abroad after noon, Eastern Standard Time, May 24, 1934, of a mother who was born in the United States and an alien father, must submit with his application evidence of the mother's birth in this country as required by Paragraph 101.

104. A person born abroad after noon, Eastern Standard Time, May 24, 1934, of parents both of whom were born in the United States, must submit with his application evidence of the birth in this country of both of his parents as required by Paragraph 101. If either parent has previously been issued a passport, reference to the application upon which such document was issued will be sufficient as evidence of the citizenship of that parent, provided there was submitted with such application evidence of his American citizenship.

105. A person born abroad who claims American citizenship through the birth abroad of a father who acquired

American citizenship at birth must submit evidence of the citizenship of his paternal grandfather and evidence that his father resided in the United States prior to the applicant's birth. If the father has previously been issued a passport, reference to the application upon which such document was issued will be sufficient as evidence of the citizenship of the father, provided there was submitted with such application evidence of his father's American citizenship and it satisfactorily appears from such application that the father had resided in the United States prior to the applicant's birth abroad.

106. A person born abroad after noon, Eastern Standard Time, May 24, 1934, who claims American citizenship through the birth abroad of a mother who acquired American citizenship at birth must submit evidence of the citizenship of his maternal grandfather and evidence that his mother resided in the United States prior to the applicant's birth. If the mother has previously been issued a passport reference to the application upon which such document was issued will be sufficient as evidence of the citizenship of the mother, provided there was submitted with such application evidence of her father's American citizenship and it satisfactorily appears from such application that the mother had resided in the United States prior to the applicant's birth abroad.

107. A person born abroad who claims citizenship at birth through a parent who was naturalized as a citizen of the United States must submit with his application the parent's certificate of naturalization, unless the applicant or his father has previously been issued a passport upon an application with which was submitted satisfactory evidence of the father's naturalization.

(b) *Persons claiming citizenship through naturalization of self or parent.*

108. A person naturalized in his own right must submit with his application his certificate of naturalization.

109. The child of a naturalized citizen claiming citizenship through the naturalization of the father or mother must submit the certificate of naturalization of the parent through whom he claims American citizenship, and if the parent was naturalized after noon, Eastern Standard Time, May 24, 1934, he must show that he has resided in the United States as a minor for a period of five years. If both parents have been naturalized, appropriate evidence thereof should be submitted. If the mother resumed American citizenship under section 3 of the act of March 2, 1907, 34 Stat. 1228, or was repatriated under the act of June 25, 1936, ch. 801, 49 Stat. 1917 (U. S. C., title 8, sec. 9a), appropriate evidence of such resumption or repatriation must be submitted with the application.

110. If the applicant comes within the provisions of Paragraph 108 or 109 and has previously been issued a passport, reference to the application upon which such passport was issued will be sufficient, provided there was submitted with such application evidence of his naturalization or the naturalization of the parent through whom he claims citizenship.

(c) *An adopted child included in the passport of the foster parent or parents.*

111. As the adoption of an alien child by an American citizen does not confer American citizenship upon such child, it is necessary when an adopted minor child is to be included in the passport of the foster parent or parents that the application be accompanied by documentary evidence of the adoption of the child and evidence of the child's American citizenship. When evidence of the citizenship of an adopted child of the nature mentioned in this section cannot be obtained but the custody of the adopted child was obtained during early infancy from a reputable charitable or other organization, an affidavit may be executed by an official of such organization setting forth, if possible, the date and place of birth in the United States of its former ward, the fact that the child has been legally adopted, the date and manner of adoption, and the name and place of residence of the adoptive parent or parents. Such affidavit should also set forth the basis for the knowledge and belief of the affiant concerning the date and place of birth of the child and the date when the child was placed in the custody of the organization. If the child has not been formally adopted, that fact should be set forth in the affidavit, together with a statement indicating that the child has had a permanent and established place for a definite period of time with the family in whose custody the child has been placed by the organization. The Secretary of State may require the submission of such further information or documents as he may deem necessary to establish the legal or actual custody of the child and its nationality.

(d) *Wife included in husband's application.*

112. When an application includes the wife of the applicant, evidence of the husband's citizenship only shall be required if the wife was born in the United States, or if alien born was eligible to naturalization under section 1994 of the Revised Statutes of the United States (repealed by section 6 of the act of September 22, 1922, 42 Stat. 1022), provided that in both cases the marriage occurred prior to September 22, 1922, and the applicant was an American citizen at the time of marriage or became a citizen prior to the date mentioned. When the marriage occurred on or after September 22, 1922, evidence of the American citizenship of both the husband and wife must accompany the application.

(e) *Husband included in wife's application.*

113. When an application includes the husband of the applicant, evidence of the husband's citizenship and not evidence of the wife's citizenship should be submitted if the marriage occurred prior to September 22, 1922. If the marriage occurred on or after September 22, 1922, evidence of the citizenship of the applicant and her husband must accompany the application.

114. The Secretary of State may require such additional evidence of citizenship as in his judgment may be necessary to establish the citizenship of an applicant for a passport.

Part XI—Evidence of Citizenship to Accompany a Woman's Application for a Passport

115. *The following classes of American-born women must submit evidence of their own citizenship:*

(a) One who has never been married.

(b) One who married on or after September 22, 1922.

(c) One who was married to an alien between March 2, 1907, and September 22, 1922, and whose marital status was terminated prior to September 22, 1922. If the marriage was terminated by divorce, the original decree of divorce or a certified copy of the court record thereof must be submitted. If the marriage was terminated by death, a statement to that effect must be made in the application. Prior to September 22, 1922, upon the termination of such a marriage a woman could resume her American citizenship, if abroad, by registering as an American citizen within one year with a Consul of the United States, or by returning to reside in the United States, or, if residing in the United States at the termination of the marital relationship, by continuing to reside therein. (Section 3, act of March 2, 1907, 34 Stat. 1228, repealed by section 7, act of September 22, 1922, 42 Stat. 1022) The manner in which American citizenship was resumed prior to September 22, 1922, must be set forth in the application and supported by appropriate evidence. If necessary, a supplementary statement under oath should be attached to the application.

(d) One who married an alien prior to March 2, 1907, but who did not, subsequent to the marriage, reside permanently abroad.

(e) One who married an alien prior to March 2, 1907, who, as a result of such marriage, acquired the nationality of the country of which her husband was a national, and who, subsequent to the marriage and prior to September 22, 1922, resided permanently abroad. In such case a woman must submit evidence that she resumed or reacquired American citizenship.

116. An American-born woman who was married to an American citizen prior to September 22, 1922, must submit evidence of her husband's citizenship.

117. An American woman who lost American citizenship by marriage to an alien and whose husband became naturalized prior to September 22, 1922, must submit the certificate of naturalization of her husband.

118. *The following classes of alien-born women must submit evidence of their own citizenship:*

(a) One who has never been married, and who has been naturalized in her own right or through the naturalization of either or both parents, or through the resumption of American citizenship by the mother or by the latter's repatriation.

(b) One who, subsequent to acquiring American citizenship, married an alien prior to September 22, 1922, and who, after the termination of the marital status, resumed American citizenship under section 3 of the act of March 2, 1907, 42 Stat. 1022, or was naturalized in her own right.

(c) One who, subsequent to acquiring American citizenship, married an alien prior to September 22, 1922, and who subsequent to that date was naturalized as an American citizen.

(d) One who was married after September 22, 1922, but whose claim to citizenship is based upon her own naturalization or the naturalization of either or both parents or through the resumption of American citizenship by the mother or by the latter's repatriation as a citizen of the United States.

(e) One who, subsequent to acquiring American citizenship, married an alien ineligible to citizenship on or after September 22, 1922, and prior to March 3, 1931, and who since the latter date has been naturalized as an American citizen.

119. The Secretary of State may require such additional evidence of citizenship as in his judgment may be necessary to establish the citizenship of an applicant for a passport.

Part XII—A Resident of an Outlying Possession of the United States Who Was Not Born or Naturalized in the United States but Who Owes Permanent Allegiance, Whether a Citizen or Not, to the United States

120. A resident of an outlying possession of the United States who was not born or naturalized in the United States but who owes permanent allegiance, whether a citizen or not, to the United States, who was born in an outlying possession at a place where official records of birth were kept at the time of his birth, must submit with his application evidence of citizenship of the nature described in Paragraph 100, except that when a proper birth or baptismal certificate cannot be submitted or an affidavit cannot be obtained from a person who attended the birth, the applicant must submit affidavits of two credible persons stating how long they have known the applicant and through what source the knowledge of the date and place of the applicant's birth was acquired.

121. The applicant must submit such additional documentary evidence as may be necessary to show conclusively that he has acquired American nationality under any law of the United States or any treaty to which the United States is a party.

122. An applicant who claims to be a citizen of the Commonwealth of the Philippines must submit such documentary evidence as may be necessary to show conclusively that under the laws of the United States or of the Philippine Islands in effect at the time of the adoption of the Constitution of the Philippines he was a citizen of the Philippine Islands and hence acquired citizenship in the Commonwealth, or that he subsequently, under the Constitution or under the laws subsequently enacted by the legislature of the Commonwealth of the Philippines, acquired citizenship in that Commonwealth.

Part XIII—Affidavits

123. Any affidavit which may be required under these rules or shall be submitted in support of an application for a passport or the renewal, extension, or amendment of a passport shall be considered as, and become, a part of the application.

Part XIV—Additional Regulations

124. The Secretary of State is authorized in his discretion to refuse to issue a passport, to restrict a passport for use only in certain countries, to restrict it against use in certain countries, to withdraw or cancel a passport already issued, and to withdraw a passport for the purpose of restricting its validity or use in certain countries.

125. Should a person to whom a passport has been issued knowingly use or attempt to use it in violation of the conditions or restrictions contained therein or of the provisions of these rules, the protection of the United States may be withdrawn from him while he continues to reside abroad.

126. The Secretary of State is authorized to make regulations on the subject of issuing, renewing, extending, amending, restricting, or withdrawing passports additional to these rules and not inconsistent therewith.

127. This order supersedes Executive Order No. 5860 of June 22, 1932, as amended by Executive Order No. 6650 of March 23, 1934, prescribing rules governing the granting and issuing of passports in the United States.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 31, 1938.

[No. 7856]

[F. R. Doc. 38-953; Filed, April 1, 1938; 11:08 a. m.]

EXECUTIVE ORDER

TRANSFERRING TO THE PEOPLE OF PUERTO RICO CERTAIN LANDS NO LONGER NEEDED FOR THE PURPOSES OF THE UNITED STATES

Puerto Rico

WHEREAS section 7 of the act of Congress approved March 2, 1917 (39 Stat. 951, 954), entitled "An Act To provide a civil government for Porto Rico, and for other purposes", provides, in part, "That the President may from time to time, in his discretion, convey to the people of Porto Rico such lands, buildings, or interests in lands or other property now owned by the United States and within the territorial limits of Porto Rico, as in his opinion are no longer needed for the purposes of the United States"; and

WHEREAS it appears that certain portions of the reservations heretofore set apart for military or naval purposes within the municipality of San Juan, Puerto Rico, are no longer needed for the purposes of the United States; and

WHEREAS such lands are desired by the people of Puerto Rico and may be advantageously used by them:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by the foregoing statutory provision, do hereby transfer and convey to the people of Puerto Rico the two following-described parcels of land situate within the municipality of San Juan, Puerto Rico:

1. A parcel of land reserved for the use of the Marine Hospital service by proclamation of the President of June 30, 1903, lying next west of the north and south line of the eastern boundary line of the military reservation west of the first line of defense, near San Antonio bridge, running three hundred feet front east and west along the so-called military road and extending towards the north to the old stone ditch defense, containing an area of three and ninety-four one-hundredths acres, and under the jurisdiction and control of the Treasury Department; the said parcel being the remaining part of the Marine Hospital Reservation, a portion of which was transferred to the people of Puerto

Rico for highway purposes by proclamation of the President No. 1807 of June 11, 1927.

2. A parcel of the land described in the proclamation of the President No. 1970 of September 15, 1931, which remained under the jurisdiction and control of the Department of the Navy after certain reserved lands were set apart for the uses of other executive departments by proclamation of the President No. 1177 of January 26, 1912, said parcel being more particularly described as follows:

Beginning at a point in the northerly line of the military road as relocated from which point numbered 84 on the old military road as shown on the military chart of the military reservation of San Juan, bears N. 23°29' E. 3.72 meters; thence, from the said initial point, by metes and bounds, always by the northerly line of the old military road, the following courses:

S. 66°9'30" E. 32.43 meters to a point;
S. 65°57'40" E. 31.01 meters to a point;
S. 67°15'30" E. 22.68 meters to a point;
S. 65°23'20" E. 14.48 meters to a point;
S. 60°22' E. 12.21 meters to a point;
S. 59°24'10" E. 16.61 meters to a point;
S. 52°34'20" E. 11.39 meters to a point;
S. 43°7' E. 14.44 meters to a point;
S. 34°5'50" E. 14.22 meters to a point;
S. 32°5'40" E. 6.31 meters to a point;
N. 86°49'40" E. 2.25 meters to a point at the northwesterly corner of an old fortification wall; thence N. 86°49'40" E. 3.43 meters to a point at the northeasterly corner of the said wall; thence along the easterly face of the said fortification wall the following two courses:
S. 6°35' E. 59.22 meters to a point;
S. 5°51' E. 93.49 meters to a point;
S. 84°6' E. 6.85 meters, crossing the said old fortification wall and old military road to the point of beginning of a curve with a radius of 310 meters in the northeasterly line of the aforementioned military road as relocated; thence in a general northwesterly direction along the said curve, coinciding with the said northeasterly line of road as relocated, the following four courses:

On said curve, with a radius of 310 meters, 80.02 meters along the curve, the chord of which bears N. 13°13' W. 79.81 meters;
Continuing on the said curve, 82.98 meters along the curve, the chord of which bears N. 28°17' W. 82.74 meters;
Continuing on the said curve, 80.02 meters along the curve, the chord of which bears N. 43°21' W. 79.81 meters;
Continuing on the said curve, 60.05 meters along the curve, the chord of which bears N. 56°18' W. 59.96 meters to the place of beginning; containing in area 1.549 acres.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 31, 1938.

[No. 7857]

[F. R. Doc. 38-952; Filed, April 1, 1938; 11:08 a. m.]

EXECUTIVE ORDER

AUTHORIZING THE ATTORNEY GENERAL TO REJECT BIDS FOR CERTAIN PROPERTY OFFERED FOR SALE AT SAVANNAH, GEORGIA, PURSUANT TO THE TRADING WITH THE ENEMY ACT, AS AMENDED

WHEREAS the Attorney General of the United States, as successor in interest to the Alien Property Custodian, offered for sale at public auction in the City of Savannah, Georgia, on March 1, 1938, two pieces of real estate, namely, a lot 60' x 100' and improvements thereon situated at Jones and Whitaker Streets, and a lot 30' x 110' and improvements thereon known as 413 E. 36th Street, both in the City of Savannah, Georgia; and

WHEREAS the highest bid received for the property first above mentioned was $11,050 and the highest bid received for the property last above mentioned was $716.50, both of which bids were made by Jake Fine; and

WHEREAS upon consideration I find that the above-mentioned bids are inadequate and do not represent the fair value of the real estate involved:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 12 of the Trading with the Enemy Act, approved October 6, 1917 (40 Stat. 411, 423), as amended by the act of March 28, 1918, 40 Stat. 459, I hereby authorize the Attorney General of the United States to reject all bids made at the above-mentioned public offering, including the bids of the said Jake Fine.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 31, 1938.

[No. 7858]

[F. R. Doc. 38-954; Filed, April 1, 1938; 11:08 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49487]

CUSTOMS REGULATIONS AMENDED—LIQUIDATIONS—MANIPULATED MERCHANDISE—BY-PRODUCTS AND WASTES

CUSTOMS REGULATIONS OF 1937, RELATING TO LIQUIDATION OF ENTRIES AND POSTING OF SUCH LIQUIDATIONS, AMENDED TO PROVIDE FOR LIQUIDATION OF WAREHOUSE WITHDRAWALS FOR CONSUMPTION COVERING GOODS SUBJECT TO PROVISIONS OF SECTION 311 OR 562 OF TARIFF ACT OF 1930

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in sections 311, 556, 562 and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 1311, 1556, 1562 and 1624), article 818 of the Customs Regulations of 1937 is hereby amended by adding at the end thereof a new paragraph (j) to read as follows:

(j) Warehouse withdrawals for consumption covering manipulated merchandise withdrawn from class 8 warehouses and by-products and wastes withdrawn from class 6 warehouses shall be liquidated and the liquidations posted.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved: March 26, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-957; Filed, April 1, 1938; 12:40 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 12]

IN THE MATTER OF PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" UNDER SECTION 4, PART II (H), OF THE BITUMINOUS COAL ACT OF 1937, AND ESTABLISHING RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS TO BE ESTABLISHED BY THE COMMISSION

AN ORDER DIRECTING ALL DISTRICT BOARDS TO FILE WITH THE COMMISSION PROPOSED REASONABLE MAXIMUM DISCOUNTS TO "DISTRIBUTORS"

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. For the purpose of aiding the Commission to determine and prescribe due and reasonable maximum discounts or price allowances that may be made by code members to "distributors", as defined by Section 4, Part II (h) of the Act, the several District Boards are hereby directed to file with the Commission on or before April 18, 1938, proposed reasonable maximum discounts or price allowances for their respective districts, together with a statement of the names of the witnesses each district, alone or in conjunction with other districts, intends to have testify at the public hearing to be held on the 25th day of April, 1938 in the above entitled matter, and a statement of the nature of the testimony which will be offered at said hearing in support of their proposals.

2. The Secretary of the Commission shall, forthwith, mail copies of this order to the Consumers' Counsel, to the Secretary of all District Boards, and to all code members within their respective districts.

By order of the Commission.

Dated this 31st day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-948; Filed, April 1, 1938; 11:00 a. m.]

RULING RELATING TO COST DATA OF PRODUCERS

Pursuant to the provisions of Section 4, Part II (a) and Section 10 (a) of the Bituminous Coal Act of 1937, the Commission obtained from producers detailed information with respect to individual costs of production of the coals of such producers in the calendar year 1936 to be used in connection with the proposal and establishment of minimum prices of coals of code members. Such records are held by the various Statistical Bureaus of the Commission as the confidential records of the producers furnishing the information.

Section 10 (a) of the Act provides:

* * * No information obtained from a producer disclosing costs of production or sales realization shall be made public without the consent of the producer from whom the same shall have been obtained, *except where such disclosure is made in evidence in any hearing before the Commission* or any court and except that such information may be compiled in composite form in such manner as shall not be injurious to the interests of any producer and, as so compiled, may be published by the Commission.

The Commission construes the foregoing provision as permitting the introduction in evidence at a hearing before the Commission of the aforesaid cost data of the individual producers.

The Commission will in the immediate future give public notice of a hearing to be held to determine the weighted average of the total cost of the tonnage for each minimum price area in the calendar year 1936, adjusted as provided by Section 4, Part II (a) of the Act, at which hearing the aforesaid information obtained from producers with respect to individual costs of production of the coals of such producers in the calendar year 1936 will be made available for introduction in evidence to support the determinations of the District Boards of the total costs of the ascertainable tonnage produced in their respective districts in the calendar year 1936, and the necessary adjustments thereto and to support the Commission's determination of the weighted average of the total costs of the tonnage for each minimum price area in the calendar year 1936 adjusted as aforesaid.

By the Commission.

Dated this 30th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-949; Filed, April 1, 1938; 11:00 a. m.]

RULING RELATING TO THIRTY-DAY CONTRACT LIMITATION

Inquiry having been made to the Commission as to whether or not a thirty (30) day limitation on contracts for the sale of coal is in effect by virtue of the provisions of the third paragraph of Section 4 (e) of the Act, or by virtue of Commission's Order No. 44, and as to the power of the Commission to impose such thirty (30) day limitation under the authority vesting in the Commission to prescribe reasonable rules and regulations to carry out the provisions of the Act, in response thereto and in conformity with what it deems to be the intent of Congress, and in order to carry out the provisions of the Act:

The Commission construes the third paragraph of Section 4 (e) of the Act, which limits contracts for the sale of coal from and after the date of the approval of the Act, *"until prices shall have been established,"* to a period not longer than thirty (30) days from the date of the contract, as meaning that the thirty (30) day limitation on contracts shall be effective *"while" or "as long as" prices are not established,* the word "until" referring to the entire time of the duration of a condition, rather than the mere point of inception of such condition, and;

The Commission declares that until minimum prices of coals of code members have been reestablished by the National Bituminous Coal Commission, pursuant to subsections (a) and (b) of Part II, Section 4 of the Act, no code member shall sell or enter into any agreement to sell coal calling for delivery thereof for a period beyond thirty (30) days from the date of such sale or agreement of sale.

The Secretary of the Commission shall, forthwith, mail copies of this ruling to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards and to code members, and shall cause copies of this ruling to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all Statistical Bureaus of the Commission.

By the Commission.

Dated this 30th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-950; Filed, April 1, 1938; 11:00 a. m.]

[Order No. 238]

AN ORDER REVOKING ORDERS NOS. 8, 11, 25, 32, 41, 46, 54, 55, 56, 57, 58, 59, 60, 72, 87, 115, 116, 117, AND 118

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the following orders of the Commission are hereby revoked: Orders Nos. 8, 11, 46, 57, 58, 59 with respect to standards for and hearings on classification of coals; Orders Nos. 9, 12, 33 and 34 providing for hearings in connection with maximum discounts to distributors and farmers cooperative organizations; Orders Nos. 25 and 32 providing for hearings on marketing rules and regulations; Orders Nos. 41, 60 and 72 issued in connection with the failure of district boards to comply with Commission's Order No. 39; Order No. 54 regarding a meeting of District Board No. 15 called to effectuate Order No. 42; Orders Nos. 55 and 56 directing certain district boards to determine and adjust their weighted average costs; Orders Nos. 87, 115, 116, 117 and 118 issued in connection with failure of district boards to take action required by Commission's Order No. 42.

2. That the Secretary of the Commission shall, forthwith, mail a copy of this order to the Secretaries of the Bituminous Coal Producers' Boards for the several districts, to the Consumers' Counsel, and to all code members, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 30th day of March, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-951; Filed, April 1, 1938; 11:00 a. m.]

Petroleum Conservation Division.

[Order No. 1263]

PRESCRIBING AND APPROVING FORMS PURSUANT TO AUTHORITY CONTAINED IN CERTAIN EXECUTIVE ORDERS

APRIL 1, 1938.

Whereas, Executive Order No. 7756, dated December 1, 1937, was issued under the Act of Congress entitled "An Act to regulate interstate and foreign commerce in petro-

leum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes", approved February 22, 1935 (49 Stat. 30), as amended by the Act approved June 14, 1937, Public No. 145, 75th Congress; and

Whereas, Executive Order No. 7757, dated December 1, 1937, Regulation XVIII thereof, issued under said Act, authorizes the Secretary of the Interior to prescribe and approve forms designated OCR–1 and OCR–2; and

Whereas, Executive Order No. 7758, dated December 1, 1937, Articles III and IV thereof, issued under said Act authorizes the Secretary of the Interior to approve forms of applications to Federal Tender Board No. 1 for certificates of clearance, supporting affidavits for said applications, returns relative thereto, and forms of monthly reports by refineries, reclamation plants, casing-head gasoline plants, pipe lines and producers operating in the East Texas Field,

Now, Therefore, pursuant to authority vested in me by said Executive Order No. 7756, and pursuant to said Executive Orders No. 7757 and No. 7758, it is hereby ordered that attached Forms OCR–1 and OCR–2, and Forms 1, 2, 3, and 4, and Forms A, B, C, D, and E,[1] all dated April 1, 1938, are prescribed and approved by me this date.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38–947; Filed, April 1, 1938; 9:46 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF FAIR AND REASONABLE WAGES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION, OR HARVESTING OF SUGARCANE IN HAWAII DURING THE PERIOD SEPTEMBER 1, 1937 TO DECEMBER 31, 1937

Whereas Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas Section 301 (e) of the said Act provides, in part, as follows:

The conditions provided in * * * subsection (b) with respect to wage rates, of this section shall not apply to work performed prior to the enactment of this Act; * * *,

and

Whereas the Secretary of Agriculture, on November 29, 1937, held a public hearing in Honolulu, Hawaii, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in Hawaii during the period September 1, 1937 to December 31, 1937:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine that the requirements of subsection (b) of Section 301 of the Sugar Act of 1937 shall be deemed to have been met with respect to the production, cultivation, or harvesting of sugarcane on a farm in the Territory of Hawaii during the period from September 1, 1937, to December 31, 1937, if all persons employed for such work on the farm during that period shall, in addition to receiving any perquisite furnished by the producer, have been paid in full for all such work at not less than the rates agreed upon plus a per centum of such rates (in no event less than 5 per centum) which, had it been applied as an increase in the wages paid for all work performed on the farm in the production, cultivation, and harvesting of sugarcane during the calendar year 1937, would have resulted in an average daily cash wage (computed on the basis of 8 hours per day of work) for such work of not less than $2.10.

Done at Washington, D. C., this 1st day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–956; Filed, April 1, 1938; 12:22 p. m.]

[1] The forms were a part of the original document as filed with the Division of the Federal Register, The National Archives.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of March, A. D., 1938.

[File No. 1–1429]

IN THE MATTER OF MOTHER LODE COALITION MINES COMPANY, CAPITAL STOCK

ORDER GRANTING APPLICATION FOR STRIKING SECURITIES FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Rule JD2 under the Securities Exchange Act of 1934, as amended, having made application for the striking from listing and registration thereon of 2,500,000 shares of the common stock of Mother Lode Coalition Mines Company, no par value; and

The Commission having considered the application and information pertinent thereto, and having due regard for the public interest and the protection of investors, and having filed its findings and opinion therein;

It is ordered, That said application be and hereby is granted, effective at the close of the trading session on April 9, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–955; Filed, April 1, 1938; 11:22 a. m.]

Tuesday, April 5, 1938 *No. 66*

DEPARTMENT OF STATE.

Office of Arms and Munitions Control.

INTERNATIONAL TRAFFIC IN ARMS

LAWS AND REGULATIONS ADMINISTERED BY THE SECRETARY OF STATE GOVERNING THE INTERNATIONAL TRAFFIC IN ARMS, AMMUNITION, AND IMPLEMENTS OF WAR AND OTHER MUNITIONS OF WAR

[Fifth Edition]

CONTENTS

Introductory statement.
PART I. Section 5 of the joint resolution approved by the President May 1, 1937, amending the joint resolution of August 31, 1935.
PART II. The President's proclamation of May 1, 1937.
PART III. General regulations.
PART IV. Records of manufacture, export, and import.
PART V. Special provisions in regard to military secrets.
PART VI. Special provisions in regard to exportation to China, Cuba, Honduras, and Nicaragua.
PART VII. Special provisions in regard to exportation to Spain.
PART VIII. Special provisions in regard to the exportation of tinplate scrap.
PART IX. Special provisions in regard to the exportation of helium gas.

Introductory Statement

The Secretary of State announces that the regulations contained herein supersede, as of this date, all previous regulations administered by him governing the international traffic in arms, ammunition, and implements of war, and other munitions of war.

APRIL 1, 1938.

PART I

SECTION 5 OF THE JOINT RESOLUTION APPROVED BY THE PRESIDENT MAY 1, 1937, AMENDING THE JOINT RESOLUTION OF AUGUST 31, 1935

Section 5 of the joint resolution approved by the President on May 1, 1937, amending the joint resolution of August 31, 1935, reads as follows:

SEC. 5. (a) There is hereby established a National Munitions Control Board (hereinafter referred to as the 'Board') to carry out the provisions of this Act. The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of this Act is vested in the Department of State. The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions. The Board shall be convened by the chairman and shall hold at least one meeting a year.

(b) Every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, or implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

(c) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, or implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of $500, unless he manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of less than $50,000 during the twelve months immediately preceding his registration, in which case he shall pay a registration fee of $100. Upon receipt of the required registration fee, the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment for each renewal of a fee of $500 in the case of persons who manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of more than $50,000 during the twelve months immediately preceding the renewal, or a fee of $100 in the case of persons who manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of less than $50,000 during the twelve months immediately preceding the renewal. The Secretary of the Treasury is hereby directed to refund out of any moneys in the Treasury not otherwise appropriated, the sum of $400 to every person who shall have paid a registration fee of $500 pursuant to this Act, who manufactured, exported, or imported arms, ammunition, and implements of war to a total sales value of less than $50,000 during the twelve months immediately preceding his registration.

(d) It shall be unlawful for any person to export, or attempt to export, from the United States to any other state, any of the arms, ammunition, or implements of war referred to in this Act, or to import, or attempt to import, to the United States from any other state, any of the arms, ammunition, or implements of war referred to in this Act, without first having obtained a license therefor.

(e) All persons required to register under this section shall maintain, subject to the inspection of the Secretary of State, or any person or persons designated by him, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Secretary of State shall prescribe.

(f) Licenses shall be issued to persons who have registered as herein provided for, except in cases of export or import licenses where the export of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

(g) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act, all licenses thereto-

fore issued under this Act shall *ipso facto* and immediately upon the issuance of such proclamation, cease to grant authority to export arms, ammunition, or implements of war from any place in the United States to any belligerent state, or to any state wherein civil strife exists, named in such proclamation, or to any neutral state for transshipment to, or for the use of, any such belligerent state or any such state wherein civil strife exists; and said licenses, insofar as the grant of authority to export to the state or states named in such proclamation is concerned, shall be null and void.

(h) No purchase of arms, ammunition, or implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

(i) The provisions of the Act of August 29, 1916, relating to the sale of ordnance and stores to the Government of Cuba (39 Stat. 619, 643; U. S. C., 1934 ed., title 50, sec. 72), are hereby repealed as of December 31, 1937.

(j) The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. The Board shall include in such reports a list of all persons required to register under the provisions of this Act, and full information concerning the licenses issued hereunder.

(k) The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

Section 1 of the same joint resolution reads in part as follows:

(e) Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States shall be fined not more than $10,000, or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223–225; U. S. C., 1934 ed., title 22, secs. 238–245).

(f) In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

Section 12 of the same joint resolution reads as follows:

SEC. 12. In every case of the violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than $10,000, or imprisoned not more than five years, or both.

Section 13 of the same joint resolution reads as follows:

SEC. 13. For the purposes of this Act—

(a) The term "United States," when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

(b) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

(c) The term "vessel" means every description of watercraft (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on, under, or over water.

(d) The term "American vessel" means any vessel (including aircraft) documented under the laws of the United States.

(e) The term "vehicle" means every description of carriage (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on or over land.

(f) The term "state" shall include nation, government, and country.

PART II

THE PRESIDENT'S PROCLAMATION OF MAY 1, 1937

The President's proclamation of May 1, 1937, issued pursuant to section 5 of the joint resolution of May 1, 1937, amending the joint resolution of August 31, 1935, reads as follows:

By the President of the United States of America

A PROCLAMATION

WHEREAS section 5 of the joint resolution of Congress approved May 1, 1937, amending the joint resolution entitled "Joint resolution providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, am-

munition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war," approved August 31, 1935, as amended February 29, 1936, provides in part as follows:

"The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred upon me by the said joint resolution of Congress, and pursuant to the recommendation of the National Munitions Control Board, declare and proclaim that the articles listed below shall, on and after June 1, 1937, be considered arms, ammunition, and implements of war for the purposes of section 5 of the said joint resolution of Congress:

Category I.

(1) Rifles and carbines using ammunition in excess of caliber .22, and barrels for those weapons;

(2) Machine guns, automatic or autoloading rifles, and machine pistols using ammunition in excess of .22, and barrels for those weapons;

(3) Guns, howitzers, and mortars of all calibers, their mountings and barrels;

(4) Ammunition in excess of caliber .22 for the arms enumerated under (1) and (2) above, and cartridge cases or bullets for such ammunition; filled and unfilled projectiles for the arms enumerated under (3) above;

(5) Grenades, bombs, torpedoes, mines and depth charges, filled or unfilled, and apparatus for their use or discharge;

(6) Tanks, military armored vehicles, and armored trains.

Category II.

Vessels of war of all kinds, including aircraft carriers and submarines, and armor plate for such vessels.

Category III.

(1) Aircraft, unassembled, assembled, or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2) below;

(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo release mechanisms.

Category IV.

(1) Revolvers and automatic pistols using ammunition in excess of caliber .22;

(2) Ammunition in excess of caliber .22 for the arms ennumerated under (1) above, and cartridge cases or bullets for such ammunition.

Category V.

(1) Aircraft, unassembled, assembled or dismantled, both heavier and lighter than air, other than those included in category III;

(2) Propellers or air screws, fuselages, hulls, wings, tail units, and under-carriage units;

(3) Aircraft engines, unassembled, assembled, or dismantled.

Category VI.

(1) Livens projectors and flame throwers;

(2) —

a. Mustard gas (dichlorethyl sulphide);
b. Lewisite (chlorvinyldichlorarsine and dichlordivinylchlorarsine);
c. Methyldichlorarsine;
d. Diphenylchlorarsine;
e. Diphenylcyanarsine;
f. Diphenylaminechlorarsine;
g. Phenyldichlorarsine;
h. Ethyldichlorarsine;
i. Phenyldibromarsine;
j. Ethyldibromarsine;
k. Phosgene;
l. Monochlormethylchlorformate;
m. Trichlormethylchlorformate (diphosgene);
n. Dichlordimethyl Ether;
o. Dibromdimethyl Ether;
p. Cyanogen Chloride;
q. Ethylbromacetate;
r. Ethyliodoacetate;
s. Brombenzylcyanide;
t. Bromacetone;
u. Brommethylethyl ketone.

Category VII.

(1) Propellant powders;

(2) High explosives as follows:

a. Nitrocelluiose having a nitrogen content of more than 12%;
b. Trinitrotoluene;
c. Trinitroxylene;
d. Tetryl (trinitrophenol methyl nitramine or tetranitro methylaniline);
e. Picric acid;
f. Ammonium picrate;
g. Trinitroanisol;
h. Trinitronaphthalene;
i. Tetranitronaphthalene;
j. Hexanitrodiphenylamine;
k. Pentaerythritetetranitrate (Penthrite or Pentrite);
l. Trimethylenetrinitramine (Hexogen or T.);
m. Potassium nitrate powders (black saltpeter powder);
n. Sodium nitrate powders (black soda powder);
o. Amatol (mixture of ammonium nitrate and trinitrotoluene);
p. Ammonal (mixture of ammonium nitrate, trinitrotoluene, and powdered aluminum, with or without other ingredients);
q. Schneiderite (mixture of ammonium nitrate and dinitronaphthalene, with or without other ingredients).

This proclamation shall supersede the proclamation of April 10, 1936, entitled "Enumeration of Arms, Ammunition, and Implements of War," on June 1, 1937.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this first day of May, in the year of our Lord nineteen hundred and thirty-seven, and of the Independence of the United States of America the one hundred and sixty-first.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

PART III

GENERAL REGULATIONS

In compliance with that paragraph of section 5 of the joint resolution approved May 1, 1937, amending the joint resolution of August 31, 1935, which requires the Secretary of State to promulgate such rules and regulations with regard to the enforcement of that section as he may deem necessary to carry out its provisions, the Secretary of State promulgates the following regulations:

(1) All persons engaged in the business of manufacturing, exporting, or importing any of the arms, ammunition, or implements of war enumerated in the President's proclamation of May 1, 1937, shall register with the Secretary of State by duly filling out and transmitting to the Secretary of State an application for registration in the form printed below.[1] The articles manufactured, exported, or imported shall be listed on the application for registration under the same categories and in precisely the same terms in which they are listed in the President's proclamation of May 1, 1937. Applications for registration must be signed and sworn to in the presence of a notary public before they are transmitted to the Secretary of State.

(2) Applications for registration transmitted to the Secretary of State must be accompanied by a registration fee in the form of money orders or a certified check. This fee is in the amount of $100 for persons who have not manufactured, exported, or imported arms, ammunition, or implements of war, as enumerated in the President's proclamation of May 1, 1937, to a total sales value of more than $50,000 during the 12 months immediately preceding their application for registration, and in the amount of $500 for persons who have manufactured, exported, or imported arms, ammunition, or implements of war, as enumerated, to a total sales value of more than $50,000 during the 12 months immediately preceding their application. Persons paying a fee of $100 shall submit with their application for registration an affidavit, signed and sworn to before a notary public by a responsible officer of the company, stating that the company did not manufacture, export, or import arms, ammunition, or implements of war, as enumerated in the President's proclamation of May 1, 1937, to a total sales value of more than $50,000 during the 12 months immediately preceding the application for registration and setting forth such evidence in substantiation of this affirmation as may seem appropriate.

(3) Upon receipt of an application for registration and the appended certificate of registration,[1] duly filled out and accompanied by a registration fee of $100 or $500, as the case may be, and by a satisfactory affidavit as described above in the case of persons paying a fee of $100, the Secretary of State will return to the applicant, as a receipt, the certificate of registration, duly signed and sealed. This certificate of registration must be conspicuously displayed at the principal place of business of the person registered.

(4) Manufacturers, exporters, and importers of component parts of the articles or units enumerated in the President's proclamation of May 1, 1937, but not of a complete article or unit listed in that proclamation, are not required to register under the joint resolution. Aircraft wheels and aircraft propeller blades are, however, considered as constituting to such an unusual degree the main body of aircraft undercarriage units and aircraft propellers that the manufacture, export, or import of such wheels or blades alone is held to subject the manufacturer, exporter, or importer to the requirement of registration.

(5) Every person registered shall notify the Secretary of State of any change in the list of arms, ammunition, and implements of war which he manufactures, exports, or imports, and, upon such notification, the Secretary of State will issue to such person an amended certificate of registration free of charge, which will remain valid until the date of expiration of the original certificate issued to him.

(6) The production for experimental or scientific purposes, when such production is not followed by sale, of the appliances and substances included in category VI, or of single units of other arms, ammunition, and implements of war, is not considered as manufacture for the purposes of section 5 of the joint resolution.

(7) Persons who are not engaged in the business of exporting or importing arms, ammunition, or implements of war, but who, either for their own personal use or as forwarding agents for persons who are engaged in this business, or, in exceptional circumstances, in other capacities, may make or receive occasional shipments of such articles, will not be considered as exporters or importers of arms, ammunition, and implements of war within the meaning of section 5 of the joint resolution.

(8) The provisions of these regulations shall be considered as binding in addition to, and not in lieu of, those established under the act known as the National Firearms Act (48 Stat. 1236), approved by the President June 26, 1934. This act imposes certain taxes and restrictions upon the manufacture of, importation of, and commerce in certain firearms which are defined as "a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition." Rules and regulations for the enforcement of this act are prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(9) No person not registered under section 5 of the joint resolution shall export or import any of the arms, ammunition, or implements of war listed in the President's proclamation of May 1, 1937. All persons registered shall obtain from the Secretary of State a license to cover each shipment exported or imported. Blank forms of application for license similar to those printed below[1] will be furnished by the Secretary of State upon request.

(10) The Secretary of State will issue import licenses to all applicants who have duly filled out an application for license, provided that, in case the articles to be imported are firearms, as enumerated in the National Firearms Act of June 26, 1934, referred to under (8) above, the importer has conformed to the pertinent regulations prescribed by the Secretary of the Treasury.

(11) The Secretary of State will issue export licenses to all applicants who have duly filled out an application for license, unless the exportation of arms, ammunition, or implements of war for which a license is applied for would be in violation of a law of the United States or of a treaty to which the United States is a party. (See parts V, VI, and VII, below.)

(12) Export and import licenses are not transferable and are subject to revocation without notice, if the exportation or the importation authorized by the license becomes illegal before the shipment is made. If not revoked, licenses are valid for 1 year from the date of issuance.

(13) No alterations may be made except by the Department of State, or by collectors of customs acting under the specific instructions of the Department of State, in export or import licenses which have been issued under the seal of the Secretary of State.

(14) Export or import licenses which have been revoked or which have expired must be returned immediately to the Secretary of State.

(15) The country designated on the application for license to export as the country of destination should, in each case, be the country of ultimate destination. If the goods to be exported are consigned to one country, with the intention that they be transshipped thence to another country, the latter country should be named as the country of destination. If the country of ultimate destination cannot be ascertained at the time the application for export license is made, the country of initial destination may be named on the application as the country of destination. In such a case, however, the facts must be clearly explained and the Secretary of State must be informed of the ultimate destination by the exporter as soon as the latter has learned the country of ultimate destination of the shipment. The Secretary of State may refuse to grant an application for an export license until he is informed of the country of ultimate destination in order that he may assure himself that the license may be legally issued.

(16) The shipper's export declaration (customs form 7525) covering arms, ammunition, or implements of war for which an export license is required must contain the same information in regard to the nature and the value of the articles to be exported as that which appears on the application for license. If the person designated on the export declaration as the actual shipper of the goods

[1] The form was a part of the original document as filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Secretary of State.

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives.

is not the person to whom the export license has been issued by the Secretary of State, the name of this shipper should appear on the export license as that of the consignor in the United States.

(17) Applications for license to export arms, ammunition, and implements of war should state, whenever possible, the type and model designation of the article to be exported in order that the Secretary of State may determine, before issuing the license, that the provisions of Part V of these regulations would not be violated by the exportation of the article in question. If an application is submitted in which the articles to be exported are inadequately designated, it will be returned to the applicant for completion in this respect.

(18) The originals of licenses for the export and the import of arms, ammunition, and implements of war must be presented to the collector of customs at the port through which the shipment authorized by the license is being made. Export licenses and export declarations covering arms, ammunition, and implements of war must be filed with the appropriate collector of customs at least 24 hours before the proposed departure of the shipment from the United States, and, in the case of a shipment by a seagoing vessel, 24 hours before the lading of the vessel.

(19) Arms, ammunition, and implements of war covered by an export license must, when exported, be packed separately from all other goods.

(20) Export licenses for arms, ammunition, and implements of war which are shipped by parcel post must be presented to the postmaster at the post office at which the parcel is mailed.

(21) Articles entering or leaving a port of the United States, in transit through the territory of the United States to a foreign country, will not be considered as imported or exported within the meaning of section 5 of the joint resolution, unless they are destined to a country to which the exportation of arms, ammunition, and implements of war is prohibited.

(22) Persons who are registered as exporters or importers of arms, ammunition, or implements of war under section 5 of the joint resolution may make application for export or import licenses on behalf of persons who are not required to register under the joint resolution but who may, in accordance with the provisions of paragraph (7) above, desire to make or receive occasional shipments of arms, ammunition, or implements of war.

(23) Arms, ammunition, and implements of war which are more than 100 years old will not be considered as arms, ammunition, or implements of war within the meaning of section 5 of the joint resolution.

(24) Rifles, carbines, revolvers, and pistols entering the United States in single units for the individual use of the person to whom consigned will not be considered as imported within the meaning of section 5 of the joint resolution. (This does not relieve the consignee from the obligation to comply with such of the regulations prescribed by the Secretary of the Treasury under the National Firearms Act of June 26, 1934, referred to in (8) above, as may be applicable in the premises.)

(25) Arms and ammunition intended exclusively for sporting or scientific purposes or for personal protection, when entering or leaving the United States carried on the person of an individual or in his baggage, will not be considered as imported or exported within the meaning of section 5 of the joint resolution.

(26) The Government of the United States and its agencies are not "persons" within the meaning of that term as used in section 5 of the joint resolution and therefore no license is required for arms, ammunition, or implements of war imported or exported by them.

(27) Arms and implements of war which have been legally exported from the United States, and which are returned to the United States worn or damaged for repair and reexport, will not be considered as imported within the meaning of section 5 of the joint resolution. An export license must be obtained, however, before such articles are reexported.

(28) Licenses are required under the provisions of section 5 of the joint resolution for the export or the import of those articles only which are specifically mentioned in the President's proclamation of May 1, 1937. No license is required for the export or the import of the component parts of the articles or units enumerated in that proclamation, except in cases where the export or import of such parts may reasonably be considered as involving, in fact, the export or import of a substantially complete article or unit in unassembled form. Aircraft wheels and aircraft propeller blades are, however, considered as constituting to such an unusual degree the main body of aircraft under-carriage units and aircraft propellers that a license is required for the export of wheels and propeller blades, even when they are shipped alone.

(29) Forgings and castings for any of the arms, ammunition, or implements of war enumerated in the President's proclamation of May 1, 1937, which have reached such a stage in manufacture that they are clearly identifiable as forgings or castings for arms, ammunition, and implements of war, are considered as constituting arms, ammunition, and implements of war for the purposes of section 5 of the joint resolution, and licenses will be required for their export or import.

(30) A license is required for the export of all articles listed in subsection (5) of category I of the President's proclamation of May 1, 1937, which are intended or adapted for war purposes. The fact that such an article, when exported, is filled with a nonlethal gas or fluid having a common nonmilitary use will be considered as prima-facie evidence that the article is not intended for war purposes. No license is required for the export of articles listed under subsection (5), even if exported empty, which are adapted and intended solely for nonmilitary use. Articles listed in subsection (5) will be considered *ipso facto* as intended or adapted for war purposes, unless when exported they either contain a nonlethal gas or fluid or can be proven to be adapted and intended solely for a specific nonmilitary use.

(31) The terms "propellant powders," as used in paragraph (1) of category VII of the President's proclamation of May 1, 1937, and "potassium nitrate powders" and "sodium nitrate powders," as used in paragraph (2) of that category apply to those powders in bulk form. They do not apply to such powders when enclosed in cartridges of types not enumerated in the proclamation, in pyrotechnics, in safety fuse, or in other similar devices. Licenses will not, therefore, be required for the export or import of such cartridges or devices, even though they may contain one of these powders.

(32) Aircraft flown or shipped from the United States for a temporary sojourn abroad will not be considered as exported within the meaning of section 5 of the joint resolution when it is the intention of their owners that they shall remain under United States registry and shall be operated by a United States licensed pilot during the entire period of their sojourn abroad, and, further, when there is no intention on the part of their owners to dispose of them or of any of their essential parts listed in the President's proclamation of May 1, 1937, in any foreign country. It should be noted that the United States registry of an aircraft which is sold to an alien either in the United States or abroad is canceled automatically at the time of the sale under the Air Commerce Regulations of the Department of Commerce. Should the owners, after the departure of an aircraft flown or shipped from the United States without an export license, propose to place the aircraft under foreign registry or to have it operated by a pilot not holding a United States license, or to dispose of the aircraft or any of the essential parts referred to in any foreign country, the aircraft, or the part in question, must be returned to the United States and a license obtained for its export to the country concerned. Aircraft of American registry returning to the United States from foreign countries will not be considered as imported within the meaning of section 5 of the joint resolution. Aircraft of foreign registry entering the United States for a temporary sojourn or leaving the United States after such a sojourn will not be considered as imported or exported within the meaning of section 5 of the joint resolution.

(33) Before an aircraft of United States registry leaves the United States for a temporary sojourn abroad under the provisions of paragraph (32) hereof, that aircraft shall be registered with the customs authorities at the port of exit by the shipper or pilot. Such registration shall indicate the approximate date of return of the aircraft and the port of entry through which it is proposed to return the aircraft to the United States.

PART IV

RECORDS OF MANUFACTURE, EXPORT, AND IMPORT

The Secretary of State prescribes that all persons required to register under section 5 of the joint resolution approved May 1, 1937, amending the joint resolution of August 31, 1935, shall maintain, subject to the inspection of the duly authorized agents of the Secretary of State or of any other enforcement agency of the Government of the United States, and distinct from all other records, special permanent records in which shall be recorded the amounts and estimated values of the arms, ammunition, and implements of war manufactured by them for export, and similar records of all arms, ammunition, and implements of war imported or exported by them. The records of articles imported shall, in addition, contain information as to the consignors of articles imported and the port of origin of each shipment. The records of articles exported shall, in addition, contain information as to the consignees and the destination of each shipment.

PART V

SPECIAL PROVISIONS IN REGARD TO MILITARY SECRETS

Title I of the Espionage Act, approved June 15, 1917, reads in part as follows:

> Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to, or aids or induces another to, communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by imprisonment for not more than twenty years * * *

The Secretary of State will not issue a license authorizing the exportation of any arms, ammunition, or implements of war considered by the Secretary of War or by the Secretary of the Navy as instruments or appliances included among the articles covered by those terms as used in this act if, in their opinion, they involve military secrets of interest to the national defense. The articles which may be so considered are articles falling within one of the following categories:

> (a) Articles, the whole or any features of which have been or are being developed or manufactured by or for the War Department or the Navy Department or with the participation of either of those Departments; and
> (b) Articles, the whole or any features of which have been used or are being used by the War Department or the Navy Department or which either Department has contracted to procure.

Included among articles developed by or for the War Department or the Navy Department are articles the development of which has been contracted for by either of those departments, or which have been developed in accordance with Army or Navy specifications and submitted to either department for evaluation for procurement.

Prospective exporters of arms, ammunition, and implements of war should, before applying for a license to authorize the exportation of any article falling within the above categories which may possibly involve military secrets of interest to the national defense, communicate with the Secretary of State in advance of the proposed shipment in order that he may be in a position to ascertain for the prospective exporter whether or not military secrets are, in fact, involved therein.

PART VI

SPECIAL PROVISIONS IN REGARD TO EXPORTATION TO CHINA, CUBA, HONDURAS, AND NICARAGUA

A joint resolution of Congress approved January 31, 1922, reads in part as follows:

> * * * That whenever the President finds that in any American country, or in any country in which the United States exercises extra-territorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress.
>
> SEC. 2. Whoever exports any arms or munitions of war in violation of section 1 shall, on conviction, be punished by fine not exceeding $10,000, or by imprisonment not exceeding two years, or both.

A convention between the United States of America and other American republics in regard to the duties and rights of states in the event of civil strife, signed at Habana, February 20, 1928, and ratified by the United States on May 21, 1930, reads in part as follows:

> "ARTICLE 1
>
> "The contracting states bind themselves to observe the following rules with regard to civil strife in another one of them:
>
> * * * * * * *
>
> "3. To forbid the traffic in arms and war material, except when intended for the government, while the belligerency of the rebels has not been recognized, in which latter case the rules of neutrality shall be applied."

Pursuant to the authority conferred by the joint resolution of January 31, 1922, a Presidential proclamation, which is still in effect, was issued on March 4, 1922, in respect to China, as follows:

> By the President of the United States of America
>
> A PROCLAMATION
>
> WHEREAS, Section I of a Joint Resolution of Congress, entitled a "Joint Resolution To prohibit the exportation of arms or munitions of war from the United States to certain countries, and for other purposes," approved January 31, 1922, provides as follows:
>
> "That whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress."
>
> And whereas, it is provided by Section II of the said Joint Resolution that "Whoever exports any arms or munitions of war in violation of section 1 shall on conviction, be punished by fine not exceeding $10,000, or by imprisonment not exceeding two years, or both."
>
> Now, therefore, I Warren G. Harding, President of the United States of America, acting under and by virtue of the authority conferred in me by the said Joint Resolution of Congress, do hereby declare and proclaim that I have found that there exist in China such conditions of domestic violence which are or may be promoted by the use of arms or munitions of war procured from the United States as contemplated by the said Joint Resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the Joint Resolution above set forth, hereby made applicable to China, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted.
>
> And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the

utmost diligence in preventing violations of the said Joint Resolution and this my Proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the Power of prescribing exceptions and limitations to the application of the said Joint Resolution of January 31, 1922, as made effective by this my Proclamation issued thereunder.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this fourth day of March in the year of our Lord one thousand nine hundred
[SEAL] and twenty-two and of the Independence of the United States of America the one hundred and forty-sixth.

WARREN G. HARDING

By the President:

HENRY P. FLETCHER,
Acting Secretary of State.

Similar Presidential proclamations, which are still in effect, were issued on March 22, 1924, in respect of Honduras; on September 15, 1926, in respect of Nicaragua; and on June 29, 1934, in respect of Cuba.

In accordance with the authority conferred upon him in these proclamations, the Secretary of State will permit the exportation to China, Cuba, Honduras, and Nicaragua of the arms, ammunition, and implements of war listed in the President's proclamation of May 1, 1937, only when the Department of State has been informed by the Chinese Embassy in Washington, the Cuban Embassy in Washington, the Honduran Legation in Washington, or the Nicaraguan Legation in Washington, as the case may be, that it is the desire of the government of the country into which the arms, ammunition, or implements of war are to be imported, that the exportation of the shipment be authorized.

The bringing about of notification to the Department of State through the appropriate embassy or legation that the government of an importing state desires that the exportation of a shipment be authorized is a matter with regard to which the initiative and responsibility lie with the importing government and the potential shipper.

In compliance with article II of the convention between the United States and Cuba to suppress smuggling, signed at Habana March 11, 1926, which reads in part as follows:

"The High Contracting Parties agree that clearance of shipments of merchandise by water, air, or land, from any of the ports of either country to a port of entry of the other country, shall be denied when such shipment comprises articles the importation of which is prohibited or restricted in the country to which such shipment is destined, unless in this last case there has been a compliance with the requisites demanded by the laws of both countries."

and in compliance with the laws of Cuba which restrict the importation of arms, ammunition, and implements of war of all kinds by requiring an import permit for each shipment, export licenses for shipments of arms, ammunition, and implements of war to Cuba are required for the articles enumerated below in addition to the articles enumerated in the President's proclamation of May 1, 1937:

(1) Arms and small arms using ammunition of caliber .22 or less, other than those classed as toys.

(2) Spare parts of arms and small arms of all kinds and calibers, other than those classed as toys, and of guns and machine guns.

(3) Ammunition for the arms and small arms under (1) above.

(4) Sabers, swords, and military machetes with cross-guard hilts.

(5) Explosives as follows: explosive powders of all kinds for all purposes; nitrocellulose having a nitrogen content of 12 percent or less; diphenylamine; dynamite of all kinds; nitroglycerine; alkaline nitrates (ammonium, potassium, and sodium nitrate); nitric acid; nitrobenzene (essence or oil of mirbane); sulphur, sulphuric acid; chlorate of potash; and acetones.

(6) Tear gas ($C_6H_5COCH_2Cl$) and other similar nontoxic gases and apparatus designed for the storage or the projection of such gases.

The Secretary of State will permit the exportation to Cuba of the articles listed above only when the Department of State has been informed by the Cuban Embassy in Washington that it is the desire of the Cuban Government that the exportation of the shipment be authorized.

No export licenses will be issued for shipments destined to China, Cuba, Honduras, or Nicaragua of the appliances and substances listed under category VI in the President's proclamation of May 1, 1937.

In the case of shipments of arms, ammunition, or implements of war from the United States not ostensibly destined to China, Cuba, Honduras, or Nicaragua, the Secretary of State may require exporters to present convincing evidence that they are not destined to any of those countries and may refuse to issue an export license for the same until such convincing evidence has been presented to him.

PART VII

SPECIAL PROVISIONS IN REGARD TO EXPORTATION TO SPAIN

A joint resolution of Congress approved January 8, 1937, reads as follows:

JOINT RESOLUTION

To Prohibit the Exportation of Arms, Ammunition, and Implements of War from the United States to Spain.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That during the existence of the state of civil strife now obtaining in Spain it shall, from and after the approval of this Resolution be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to Spain or to any other foreign country for transshipment to Spain or for use of either of the opposing forces in Spain. Arms, ammunition, or implements of war, the exportation of which is prohibited by this Resolution, are those enumerated in the President's Proclamation No. 2163 of April 10, 1936.

Licenses heretofore issued under existing law for the exportation of arms, ammunition, or implements of war to Spain shall, as to all future exportations thereunder, *ipso facto* be deemed to be cancelled.

Whoever in violation of any of the provisions of this Resolution shall export, or attempt to export, or cause to be exported either directly or indirectly, arms, ammunition, or implements of war from the United States or any of its possessions, shall be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

When in the judgment of the President the conditions described in this Resolution have ceased to exist, he shall proclaim such fact, and the provisions hereof shall thereupon cease to apply.

Approved, January 8, 1937, at 12.30 p. m.

Section 1 of the joint resolution of Congress approved May 1, 1937, amending the joint resolution approved August 31, 1935, reads as follows:

SECTION 1. (a) Whenever the President shall find that there exists a state of war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to any belligerent state named in such proclamation, or to any neutral state for transshipment to, or for the use of, any such belligerent state.

(b) The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, or implements of war to other states as and when they may become involved in such war.

(c) Whenever the President shall find that a state of civil strife exists in a foreign state and that such civil strife is of a magnitude or is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to such foreign state would threaten or endanger the peace of the United States, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to such foreign state, or to any neutral state for transshipment to, or for the use of, such foreign state.

(d) The President shall, from time to time by proclamation, definitely enumerate the arms, ammunition, and implements of war, the export of which is prohibited by this section. The arms, ammunition, and implements of war so enumerated shall include those enumerated in the President's proclamation Numbered 2163, of April 10, 1936, but shall not include raw materials or any other articles or materials not of the same general character as those enumerated in the said proclamation, and in the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva June 17, 1925.

(e) Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States shall be fined not more than $10,000, or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., 1934 ed., title 22, secs. 238-245).

(f) In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

(g) Whenever, in the judgment of the President, the conditions which have caused him to issue any proclamation under the authority of this section have ceased to exist, he shall revoke the same, and the provisions of this section shall thereupon cease to apply with respect to the state or states named in such proclamation, except with respect to offenses committed, or forfeitures incurred, prior to such revocation.

Pursuant to the provisions of subsections (c) and (d) of this section, the President, on May 1, 1937, issued a proclamation as follows:

By the President of the United States of America

A PROCLAMATION

WHEREAS section 1 of the joint resolution of Congress approved May 1, 1937, amending the joint resolution entitled "Joint resolution providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war", approved August 31, 1935, as amended February 29, 1936, provides in part as follows:

"Whenever the President shall find that a state of civil strife exists in a foreign state and that such civil strife is of a magnitude or is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to such foreign state would threaten or endanger the peace of the United States, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from any place in the United States to such foreign state, or to any neutral state for transshipment to, or for the use of, such foreign state."

AND WHEREAS it is further provided by section 1 of the said joint resolution that

"The President shall, from time to time by proclamation, definitely enumerate the arms, ammunition, and implements of war, the export of which is prohibited by this section. The arms, ammunition, and implements of war so enumerated shall include those enumerated in the President's proclamation Numbered 2163, of April 10, 1936, but shall not include raw materials or any other articles or materials not of the same general character as those enumerated in the said proclamation, and in the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, signed at Geneva June 17, 1925."

AND WHEREAS it is further provided by section 1 of the said joint resolution that

"Whoever, in violation of any of the provisions of this Act, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States shall be fined not more than $10,000, or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., 1934 ed., title 22, secs. 238-245)."

AND WHEREAS it is further provided by section 1 of the said joint resolution that

"In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States."

AND WHEREAS it is further provided by section 11 of the said joint resolution that

"The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this Act; and he may exercise any power or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred on me by the said joint resolution, do hereby proclaim that a state of civil strife unhappily exists in Spain and that such civil strife is of a magnitude and is being conducted under such conditions that the export of arms, ammunition, or implements of war from the United States to Spain would threaten and endanger the peace of the United States, and I do hereby admonish all citizens of the United States, or any of its possessions, and all persons residing or being within the territory or jurisdiction of the United States, or its possessions, to abstain from every violation of the provisions of the joint resolution above set forth, hereby made effective and applicable to the export of arms, ammunition, or implements of war from any place in the United States to Spain or to any other state for transshipment to, or for the use of, Spain.

And I do hereby declare and proclaim that the articles listed below shall be considered arms, ammunition, and implements of war for the purposes of section 1 of the said joint resolution of Congress:

Category I.

(1) Rifles and carbines using ammunition in excess of caliber .22, and barrels for those weapons;

(2) Machine guns, automatic or autoloading rifles, and machine pistols using ammunition in excess of caliber .22, and barrels for those weapons;

(3) Guns, howitzers, and mortars of all calibers, their mountings and barrels;

(4) Ammunition in excess of caliber .22 for the arms enumerated under (1) and (2) above, and cartridge cases or bullets for such ammunition; filled and unfilled projectiles for the arms enumerated under (3) above;

(5) Grenades, bombs, torpedoes, mines and depth charges, filled or unfilled, and apparatus for their use or discharge;

(6) Tanks, military armored vehicles, and armored trains.

Category II.

Vessels of war of all kinds, including aircraft carriers and submarines, and armor plate for such vessels.

Category III.

(1) Aircraft, unassembled, assembled, or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2) below;

(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo release mechanisms.

Category IV.

(1) Revolvers and automatic pistols using ammunition in excess of caliber .22;

(2) Ammunition in excess of caliber .22 for the arms enumerated under (1) above, and cartridge cases or bullets for such ammunition.

Category V.

(1) Aircraft, unassembled, assembled, or dismantled, both heavier and lighter than air, other than those included in Category III;

(2) Propellers or air screws, fuselages, hulls, wings, tail units, and under-carriage units;

(3) Aircraft engines, unassembled, assembled, or dismantled.

Category VI.

(1) Livens projectors and flame throwers;

(2)—

a. Mustard gas (dichlorethyl sulphide);

b. Lewisite (chlorvinyldichlorarsine and dichlordivinylchlorarsine);

c. Mehtyldichlorarsine;

d. Diphenylchlorarsine;

e. Diphenylcyanarsine;

f. Diphenylaminechlorarsine;

g. Phenyldichlorarsine;

h. Ethyldichlorarsine;

i. Phenyldibromarsine;

j. Ethyldibromarsine;

k. Phosgene;

l. Monochlormethylchlorformate;

m. Trichlormethylchlorformate (diphosgene);

n. Dichlordimethyl Ether;

o. Dibromdimethyl Ether;

p. Cyanogen Chloride;

q. Ethylbromacetate;

r. Ethyliodoacetate;

s. Brombenzylcyanide;

t. Bromacetone;

u. Brommethylethyl ketone.

Category VII.

(1) Propellant powders;

(2) High explosives as follows:

a. Nitrocellulose having a nitrogen content of more than 12%;

b. Trinitrotoluene;

c. Trinitroxylene;

d. Tetryl (trinitrophenol methyl nitramine or tetranitro methylaniline);

e. Picric acid;

f. Ammonium picrate;

g. Trinitroanisol;

h. Trinitronaphthalene;

i. Tetranitronaphthalene;

j. Hexanitrodiphenylamine;

k. Pentaerythritetetranitrate (Penthrite or Pentrite);

l. Trimethylenetrinitramine (Hexogen or T_4);

m. Potassium nitrate powders (black saltpeter powder);

n. Sodium nitrate powders (black soda powder);

o. Amatol (mixture of ammonium nitrate and trinitrotoluene);

p. Ammonal (mixture of ammonium nitrate, trinitrotoluene, and powdered aluminum, with or without other ingredients);

q. Schneiderite (mixture of ammonium nitrate and dinitronaphthalene, with or without other ingredients).

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the power to exercise any power or authority conferred on me by the said joint resolution, as made effective by this my proclamation issued thereunder, and the power to promulgate such rules and regulations not inconsistent with law as may be necessary and proper to carry out any of its provisions.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this first day of May, in the year of our Lord nineteen hundred and thirty-seven,
[SEAL] and of the Independence of the United States of America the one hundred and sixty-first.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

No export licenses will be issued for shipments destined to Spain of any of the arms, ammunition, or implements of war enumerated in the President's proclamation of May 1, 1937.

By virtue of the power delegated to the Secretary of State by this proclamation of May 1, 1937, to promulgate such rules and regulations not inconsistent with law as may be necessary to carry out any of the provisions of the joint resolution of Congress approved May 1, 1937, as made effective by this proclamation, the Secretary of State may require exporters of any of the arms, ammunition, or implements of war enumerated in the proclamation to present convincing evidence that they are not destined to Spain and may refuse to issue an export license for the same until such convincing evidence has been presented to him.

Section 6 of the joint resolution of Congress approved May 1, 1937, reads as follows:

SEC. 6. (a) Whenever the President shall have issued a proclamation under the authority of section 1 of this Act, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel to carry any arms, ammunition, or implements of war to any belligerent state, or to any state wherein civil strife exists, named in such proclamation, or to any neutral state for transshipment to, or for the use of, any such belligerent state or any such state wherein civil strife exists.

(b) Whoever, in violation of the provisions of this section, shall take, or attempt to take, or shall authorize, hire, or solicit another to take, any American vessel carrying such cargo out of port or from the jurisdiction of the United States shall be fined not more than $10,000, or imprisoned not more than five years, or both; and, in addition, such vessel, and her tackle, apparel, furniture, and equipment, and the arms, ammunition, and implements of war on board, shall be forfeited to the United States.

Section 10 of the same joint resolution reads as follows:

SEC. 10. Whenever the President shall have issued a proclamation under the authority of section 1, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel engaged in commerce with any belligerent state, or any state wherein civil strife exists, named in such proclamation, to be armed or to carry any armament, arms, ammunition, or implements of war, except small arms and ammunition therefor which the President may deem necessary and shall publicly designate for the preservation of discipline aboard such vessels.

Under the provisions of this section and by virtue of the power delegated to the Secretary of State by this proclamation of May 1, 1937, to promulgate such rules and regulations not inconsistent with law as may be necessary to carry out any of the provisions of the joint resolution of Congress approved May 1, 1937, the Secretary of State on May 1, 1937, announced that American vessels engaged in commerce with Spain might carry such small arms and ammunition as the masters of these vessels might deem indispensable for the preservation of discipline aboard the vessels.

PART VIII

SPECIAL PROVISIONS IN REGARD TO THE EXPORTATION OF TIN-PLATE SCRAP

The act of Congress approved February 15, 1936, entitled "AN ACT To provide for the protection and preservation of the domestic sources of tin" reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the interest of national defense, it is hereby declared to be the policy of Congress and the purpose and intent of this Act to protect, preserve, and develop domestic sources of tin, to restrain the depletion of domestic reserves of tin-bearing materials, and to lessen the present costly and dangerously dependent position of the United States with respect to resources of tin.

SEC. 2. There shall not be exported from the United States after the expiration of sixty days from the enactment of this Act any tin-plate scrap, except upon license issued by the President of the United States. The President is authorized to grant licenses upon such conditions and regulations as he may find necessary to assure in the public interest fair and equitable consideration to all producers of this commodity.

SEC. 3. Any violations of the provisions of this Act shall be a misdemeanor and shall be punished by a fine of not more than $500 or by imprisonment of not more than one year, or by both such fine and imprisonment.

On February 16, 1936, the President issued an Executive order as follows:

EXECUTIVE ORDER

To Provide for the Protection and Preservation of the Domestic Sources of Tin

WHEREAS section 2 of an act of Congress approved February 15, 1936, entitled "AN ACT To provide for the protection and preservation of the domestic sources of tin," provides:

"There shall not be exported from the United States after the expiration of sixty days from the enactment of this Act any tin-plate scrap, except upon license issued by the President of the United States. The President is authorized to grant licenses upon such conditions and regulations as he may find necessary to assure in the public interest fair and equitable consideration to all producers of this commodity."

NOW, THEREFORE, I, FRANKLIN DELANO ROOSEVELT, President of the United States, acting under and by virtue of the authority vested in me by the aforesaid act, do hereby delegate to the Secretary of State as Chairman of the National Munitions Control Board the power to grant licenses for the exportation of tin-plate scrap upon such conditions and under such regulations as he may find necessary to assure in the public interest fair and equitable consideration to all producers of this commodity, and as he may prescribe by and with the advice and consent of the Board.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 16, 1936.

In virtue of the authority vested in him by the Executive order of February 16, 1936, the Secretary of State by and with the advice and consent of the National Munitions Control Board prescribed on December 7, 1936, the following regulations:

"(1) For the purpose of the act the term 'tin-plate scrap' is construed, provisionally, to mean tin-plate clippings, cuttings, stampings, trimmings, skeleton sheets, and all other miscellaneous pieces of discarded tin plate, which result from (1) the manufacture of tin plate, or (2) the manufacture of tin-bearing articles from tin plate. As thus defined, the term 'tin-plate scrap' does not include tin-plate waste waste, tin-plate circles, tin-plate strips, tin-plate cobbles, and tin-plate scroll shear butts, when packed separately and sold as such, and when not intermingled with tin-plate scrap.

"(2) Blank forms of application for export licenses similar to that printed below [1] will be furnished by the Secretary of State on request.

"(3) The Secretary of State will issue export licenses to cover proposed shipments of tin-plate scrap to applicants who have duly filled out the above form, when in the opinion of the National Munitions Control Board the issuance of such licenses may be consistent with the purposes of the act. Copies of the statement of the procedure adopted by the Board to govern the issuance of licenses may be obtained from the Secretary of State.

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives.

"(4) The shipper's export declaration (customs form 7525) must contain the same information in regard to the nature and the value of the tin-plate scrap to be exported as that which appears on the application for license.

"(5) Export licenses and export declarations covering tin-plate scrap must be filed with the appropriate collector of customs at least 24 hours before the proposed departure of the shipment from the United States, and, in the case of a shipment by a sea-going vessel, 24 hours before the lading of the vessel."

PART IX

SPECIAL PROVISIONS IN REGARD TO THE EXPORTATION OF HELIUM GAS

Section 3 of the act of September 1, 1937 (50 Stat. 885), entitled "AN ACT Authorizing the conservation, production, exploitation, and sale of helium gas, a mineral resource pertaining to the national defense and to the development of commercial aeronautics, authorizing the acquisition, by purchase or otherwise, by the United States of properties for the production of helium gas, and for other purposes," provides in part as follows:

(b) That helium not needed for Government use may be produced and sold upon payment in advance in quantities and under regulations approved by the President, for medical, scientific, and commercial use, except that helium may be sold for the inflation of only such airships as operate in or between the United States and its Territories and possessions, or between the United States or its territories and possessions and foreign countries: *Provided,* That no helium shall be sold for the inflation of any airship operating between two foreign countries notwithstanding such airship may also touch at some point in the United States * * *

Section 4 of the act provides as follows:

SEC. 4. No helium gas shall be exported from the United States, or from its Territories and possessions, until after application has been made to the Secretary of State and a license authorizing said exportation has been obtained from him on the joint recommendation of all of the members of the National Munitions Control Board and the Secretary of the Interior: *Provided,* That under regulations governing exportation of helium approved by the National Munitions Control Board and the Secretary of the Interior, export shipments of quantities of helium that are not of military importance as defined in said regulations, and which do not exceed a maximum to be specified therein, may be made uhder license granted by the Secretary of State without such specific recommendation. Such regulations shall not permit accumulations of helium in quantities of military importance in any foreign country, nor the exportation of helium to countries named in proclamations of the President issued pursuant to section 1 (a) or (c) of the Neutrality Act of May 1, 1937 (Public Resolution Numbered 27 of the Seventy-fifth Congress) while such proclamations are in effect, and shall require exporters to submit a sworn statement to the Secretary of State showing the quantity, destination, consignee, and intended use of each proposed exportation.

Any person violating any of the provisions of this section or of the regulations made pursuant hereto, shall be guilty of a misdemeanor and shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment; and the Federal courts of the United States are hereby granted jurisdiction to try and determine all questions arising under this section.

The National Munitions Control Board shall include in its Annual Report to the Congress full information concerning the licenses issued hereunder, together with such information and data collected by the Board as may be considered of value in the determination of questions related to the exportation of helium gas.

Under the authority of the afore-mentioned provisions of law and in pursuance thereof, the Secretary of State on September 3, 1937, prescribed and promulgated, with the approval of the National Munitions Control Board and the Secretary of the Interior, the following regulations governing the export of helium gas:

"(1) Wherever the word helium is used in these regulations, it shall be understood to mean 'contained helium' at standard atmospheric pressure (14.7 pounds per square inch) and 70° Fahrenheit. The expression 'contained helium' means the actual quantity of the element helium (i. e. 100 percent pure helium) present in a mixture of helium and other gases. Purity determinations shall be made by usually recognized methods.

"(2) Applications for license to export helium gas shall be submitted to the Secretary of State on forms similar to that

printed below,[1] copies of which will be furnished by the Secretary of State on request. Each application must be signed and sworn to in the presence of a notary public before it is transmitted to the Secretary of State. All applications must be submitted in duplicate.

"(3) Licenses authorizing export shipments of helium gas for medical, scientific, and commercial use other than aeronautical operations will be issued by the Secretary of State for quantities not to exceed, during any one year, to one ultimate consignee or purchaser, 20,000 cubic feet, and not exceeding, during any one year, to the consignees or purchasers within any one country, 500,000 cubic feet. Applications for license to export helium gas in excess of the quantities stated herein, for purposes other than aeronautical operations, will not be granted by the Secretary of State without the unanimous recommendation of the members of the National Munitions Control Board and the Secretary of the Interior.

"(4) All applications for license to export helium gas shall be accompanied by evidence to show that reasonable safeguards have been adopted to insure that there shall be no unnecessary waste of the helium gas desired.

"(5) Succeeding applications for license to export helium gas shall be accompanied by information indicating the manner of disposal of the helium gas obtained under licenses preceding that applied for.

"(6) Licenses authorizing the exportation of helium gas for use in commercial or scientific aircraft operations and in quantities considered by the National Munitions Control Board and the Secretary of the Interior not to be of military importance will be issued by the Secretary of State under allotments to exporters which, on the joint recommendation of the Board and the Secretary of the Interior, will be granted for a period of not to exceed one year.

"Requests for allotments under paragraph (6) hereof shall be submitted to the Secretary of State in the form of an affidavit, subscribed and sworn to before a notary public. Such requests shall identify and describe the aircraft for use in which the helium gas is intended and shall include, for the consideration of the National Munitions Control Board and the Secretary of the Interior, full information in regard to the proposed schedule of operations of the aircraft for the period to which the allotments are to apply. Requests for allotments shall also be accompanied by evidence showing that reasonable safeguards have been adopted to insure that there shall be no unnecessary waste of the helium gas desired and evidence to rebut the presumption that the quantity stated therein should be considered of military importance. An estimate of the rate at which the helium gas is to be exported shall be included in all requests for allotments.

"(8) Succeeding requests for allotments under paragraphs (6) and (7) hereof shall indicate the manner of disposal of the helium gas obtained under the allotment preceding that requested.

"(9) Applications for license to export helium gas under allotments in accordance with the provisions of paragraphs (6) and (7) hereof shall be made to the Secretary of State and shall include information which will adequately identify the aircraft for use in which the helium gas is intended. Such identification shall be the same as that used in the request for the allotment under which application is being made.

"Helium gas leaving the United States when used for or intended for the inflation of an aircraft will not be considered as exported within the meaning of section 4 of the act when it is the intention of the owner of the aircraft that it shall remain under American registry and shall be commanded by a duly certificated United States airman during the entire period of its sojourn abroad, and when there is no intention on the part of the owner of the aircraft to dispose of the helium gas in any foreign country.

"(11) The shipper's export declaration (customs form 7525) or such other document as the Bureau of Customs may require must contain the same information in regard to the quantity and value of the helium gas as that which appears on the application for license.

"(12) Export licenses and export declarations, or other documents required by the Bureau of Customs, concerning helium gas must be filed with the appropriate collector of customs at least 24 hours before the proposed departure of the shipment from the United States, and, in the case of a shipment by a seagoing vessel, 24 hours before the lading of the helium gas."

[SEAL] CORDELL HULL,
Secretary of State.

MARCH 31, 1938.

[F. R. Doc. 38-958; Filed, April 1, 1938; 4:17 p. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives.

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49489]

CUSTOMS REGULATIONS AMENDED—BAGGAGE DECLARATION AND ENTRY FOR STEERAGE AND CRUISE PASSENGERS

ARTICLE 422 OF THE CUSTOMS REGULATIONS OF 1937, AMENDED TO PERMIT THE USE OF CUSTOMS FORM 6063 OR 6067 FOR STEERAGE PASSENGERS

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in sections 498 and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 1498 and 1624), article 422 (b) of the Customs Regulations of 1937 is amended as follows:

Paragraph (b) (1), second sentence, is amended by inserting a period after the word "articles" and by deleting the words "on customs Form 6067" and "brought in by steerage passengers".

Paragraph (b) (1), third sentence, is amended by deleting the words "in the case of cruise passengers".

Paragraph (b) (2), first sentence, is amended to read as follows:

"Blank copies of customs Form 6063 or 6067 will be furnished by collectors to steamship companies for distribution among cruise and steerage passengers."

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved March 30, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-965; Filed, April 4, 1938; 9:26 a. m.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

HIGHWAY REGULATIONS

MARCH 2, 1938.

Highway regulations.—Superintendents and other officers in charge of Indian Reservations will be guided by the following regulations in the construction and maintenance of roads and bridges on Indian lands under their jurisdiction:

1. *Road program.*

A well-planned long range road program will be prepared for each reservation and kept on file. This will include preliminary surveys, notes, maps, estimates and appropriate economic data. Road work will be prosecuted under such plans as funds become available from time to time. (Reference Road Circular No. 56, October 11, 1937).

2. *Roadless areas.*

Extension of roads into roadless and wildlife areas will not be undertaken contrary to provisions of Order No. 486, dated October 25, 1937, approved by the Secretary of the Interior, October 29, 1937.

3. *Project approval.*

No construction, repair or extensive road or bridge maintenance will be undertaken without prior approval of the Commissioner of Indian Affairs. Budget and project statement forms provided therefor will be used in securing approval of work contemplated.

4. *Project statements.*

Budget and project statements submitted on appropriate forms for approval will be based on careful planning, accurate description and accompanied with maps showing by appropriate symbols the location of the project, the estimated cost and the type of improvement recommended. The forms prepared in quadruplicate will be submitted to the District Road Engineer, who will immediately review and transmit same to the Washington Office with his recommendation.

5. *Separate projects.*

The construction of a road and the surfacing of a road will be considered as a separate project for which approval is required for each, likewise bridges or other drainage structures costing in excess of $1,000.

6. *Classification of roads.*

a. Primary Reservation Roads are the important through roads carrying heavy traffic and connecting with or forming a connecting link in a Federal or State road system.

b. Secondary Reservation Roads are roads built solely or primarily to serve the needs of the Indians, for administrative purposes and for operation of school busses.

c. Tertiary Reservation Roads are those of lesser importance, such as cemetery roads, of not less than 14 feet between shoulders.

7. *Mapping.*

The following symbols will be used on maps and where practicable on a scale of one-half (½") inch to the mile:

a. Symbols:

A *Shield* ¼" size, inclosing the highway number, will be used to designate *Federal-Aid Roads.*

A *Circle* ¼" in diameter, inclosing the road number, may be used to designate *State Roads.*

A *Triangle* ¼" on each side, inclosing road number or letter, will be used to designate *County Roads.*

A *Capital A* in a ¼" diameter circle will denote all projects approved by the Washington Office.

"P" *Primary, Secondary* and *Tertiary* reservation roads, which are not Federal, State or County, will be indicated by the capital letter "P" for Primary, capital letter "S" for Secondary, and capital letter "T" for Tertiary roads followed by the route number (P–2 indicates Primary route No. 2, etc.).

b. Color.

All Federal, State, and *County* Roads will be indicated by two (2) parallel black lines.

All Indian Service roads will be indicated by two (2) parallel red lines.

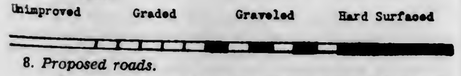
c. Type of roads.

The *unimproved portion* of roads of all classes will be shown blank between lines, following coloring scheme indicated above.

The *graded portion* will be shown by perpendicular areas hatching or cross lines, spaces approximately ¼" apart.

The *graveled portion* will be shown by blocking or filling in each alternate pair of cross lines.

Any portion of road which has been *hard surfaced* will be shown solid. These classifications will be shown as follows:



8. *Proposed roads.*

a. Proposed Federal, State or County Roads will be indicated by the use of two parallel lines of black dashes approximately ⅜" in length, using shield, circle, or triangle, as previously described in paragraph 7 (symbols) above.

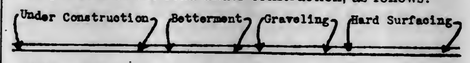
b. Proposed Primary, Secondary and *Tertiary Indian Service Roads* will be indicated by two parallel lines of red dashes or broken lines with letters "P", "S" and "T" therein as required for proper designation as to classification. It will not be necessary to submit a new map to the Washington Office each time a section of a road is constructed or improved, when current reports of improvements are made to the District Road Office and to the Washington Office so that new data may be placed on duplicate maps retained for that purpose.

9. *Route numbers.*

All Indian Service Roads shall be given specific route numbers. For the sake of uniformity in numbering Service roads it will be desirable to number all roads consecutively from North to South and from East to West. Odd numbers will designate North and South roads, and even numbers will designate East and West roads.

10. *Current progress.*

Current progress on road work may be indicated in pencil over portions of the road under construction, as follows:



After improvements are effected, the pencil notation may be erased and the proper hatching or blocking is done as indicated above.

11. *Location and construction.*

a. Work on all projects will be carefully planned and prosecuted under competent engineering supervision.

b. The location of all roads and bridges shall be agreed upon by the Superintendent, the Indian Service District Road Engineer, the Bureau of Public Roads, and the Indians prior to the beginning of construction or improvement work. Where agreement cannot be reached as to location and plans therefor, the questions involved should be presented to the Washington Office for decision.

c. All roads shall be properly located and constructed with good alignment, easy grades, good drainage, and of such width as funds permit and the needs require. The relocation of old roads each time they are improved or reconstructed must be avoided wherever possible. The general standards will not be less than those adopted for similar classes of roads by the State in which the reservation is located.

12. *Rights of way.*

No work shall be undertaken on a road project until the question of adequate rights of way has been properly settled. The consent of the Tribal Council or a general council, as may be appropriate, should be obtained in the case of rights of way on tribal land. The written consent of the owners of allotted or other individually owned land for rights of way, on forms provided therefor, should be sent to the Washington Office for recording. A copy of the owner's consent should be kept in the Agency file after appropriate notation has been made on Agency land records. Sufficient widths should be secured in right of way grants to take care of present as well as future road requirements. Under ordinary circumstances owners of land benefited by road construction are expected to grant easements free of charge, however, payments may be authorized for rights of way easements where the damage in the construction work exceeds the value of the road to the property. The following rule may be used as a guide in establishing damages.

A. Those factors in favor of allottee or land owner.

(1) Market value of land taken for road.
(2) Cost of fencing right of way.
(3) General damage to whole tract.

B. Those factors favorable to the Government and which can be figured as off-setting the sum of factors 1, 2 and 3 above.

(*a*) General benefits to remaining land. A minus B equals allowable damage. The question of damage and amount to be allowed must be approved by the Washington Office before payment is made.

13. *Application—Reservation roads.*

Where a reservation road being constructed or improved with gratuity funds connects with an established outside highway and the State or County authorities wish to give the reservation road the status of a public highway, they should make application for right of way to the Superintendent, accompanied by two linen tracings and three blue print copies in accordance with the Act of March 3, 1901 (31 Stat. L. 1084), and the regulations promulgated thereunder.

14. *Application—State or Federal aid roads.*

Where it is desired to construct a State or Federal Aid road across Indian lands, an application should be made by the State in accordance with the Act of March 3, 1901 (31 Stat. L. 1084), or in compliance with the Act of March 4, 1915 (38 Stat. L. 1188) if in Montana or Nebraska. See "Rights of Way" section of the Indian Service Regulations.

15. *Road signs and colors.*

The standard Federal Highway yellow is adopted as a general color scheme excepting for bridges and other drainage structures, for which aluminum paint is specified as a safety measure. Road signs should conform so far as practicable to the Federal-Aid Highway scheme as a matter of uniformity and safety.

16. *Co-operation with other units.*

Where local counties are unable to improve, repair or maintain County roads on or adjacent to reservations which are highly important to Indians and to Government activities, Superintendents are authorized to co-operate with the County Commissioners in respect thereto on such basis as appears equitable.

17. *Expenditure of funds.*

No expenditure of Government funds shall be made on Federal-Aid projects, or on routes expected to be added to a State's 7% road system to become eligible for Federal-aid.

18. *Authorization for road construction.*

The Act of May 26, 1928 (45 Stat. 750) which is considered the basic law for road construction on Indian lands includes the following proviso:

Appropriations are hereby authorized out of any money in the Treasury not otherwise appropriated for material, equipment, supervision and engineering, and the employment of Indian labor in survey, improvement, construction and maintenance of Indian reservation roads not eligible to Government aid under Chapter 1 of Title 23 (U. S. C.) and for which no other appropriation is available, under such rules and regulations as may be prescribed by the Secretary of the Interior.

Chapter 1 of Title 23, U. S. C., is the Federal Highway Act authorizing the Secretary of Agriculture to co-operate with the State Highway Departments and with the Department of Interior in the survey, construction, reconstruction and maintenance of main roads through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations other than the forest reservations. It contains the following proviso:

That in the allocation of any such funds authorized to be appropriated under this section or any subsequent Act preference shall be given to those projects which are located on the Federal-aid highway system as the same are now or may hereafter be designated.

19. *Approval by Bureau of Public Roads.*

The Acts of June 19, 1934 (48 Stat. 1058) and June 16, 1936 (49 Stat. 1521) authorizing to be appropriated the sum of $4,000,000 per annum for Indian Reservation roads, provides:

That hereafter the location, type and design of all roads constructed under the provisions of said Act of May 26, 1928, shall be approved by the Bureau of Public Roads before any expenditures are made thereon, and all such construction done by contract shall be under the general supervision of said Bureau.

20. *Cooperation.*

Close cooperation will be maintained with the Bureau of Public Roads, other Federal Agencies, the various State Highway Commissions, counties and private organizations on all road projects of mutual interest. (Instructions may be issued from time to time to Field Officers dealing with this cooperative work).

21. *Cost records.*

An accurate cost account record will be kept of all funds expended on road and bridge projects. Forms and instructions therefor have been issued by the Commissioner of Indian Affairs.

22. *Training Indians.*

In order to insure the greatest amount of employment and the training of as many Indians as practicable and to obtain the greatest amount of construction for the money expended, all road and bridge work should, so far as feasible, be supervised by the Indian Service under force account.

23. *Road machinery and equipment.*

Road machinery and road equipment will be properly used and adequately maintained by storage when not in actual use. Where it is to the advantage of the Government, machinery and equipment may be loaned or transferred to other Indian Service jurisdictions for road work.

24. *District road engineers.*

The District Road Engineers of the Indian Service will visit the reservations in their districts in an advisory capacity to the Superintendents in connection with all road and bridge work. They will periodically inspect the work being carried on, to see that proper standards are being maintained and that the regulations and the Commissioner's policies are being complied with. Where a difference of opinion may arise between the reservation officials and the District Engineer as to road and bridge work, a full report thereof will be made to the Washington Office for final decision. Recommendations and suggestions by the District Road Engineers to a Superintendent may be embodied in a written memorandum and a copy sent to the Washington Office.

25. *Repeal.*

Provisions of orders, circulars and other instructions in conflict with the foregoing are hereby rescinded, effective 30 days from date of approval of these regulations.

JOHN COLLIER,
Commissioner of Indian Affairs.

Approved March 15, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-966; Filed, April 4, 1938; 9:39 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1937 AND 1938 CROPS OF SUGAR BEETS

Whereas Section 301 (d) of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

And,

Whereas the Secretary of Agriculture, pursuant to a notice of hearing dated January 14, 1938 held public hearings for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1937 and 1938 crops of sugar beets:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine, with respect to the requirements of Section 301 (d) of the Sugar Act of 1937, fair and reasonable prices for the 1937 and 1938 crops of sugar beets to be paid by processors who, as producers, apply for payments under the said Act to be as follows: (1) with respect to the 1937 crop of sugar beets, rates not less than those specified in the contracts under which such sugar beets were marketed; (2) with respect to the 1938 crop of sugar beets, in the case of a factory district in which processor-grower contracts have been made, rates not less than those specified in such contracts; and (3) with respect to the 1938 crop of sugar beets, in the case of a factory district in which processor-grower contracts have not been made, rates not less than those specified in the processor-grower contract for the 1937 crop of sugar beets in such district, provided the rate per net short ton of sugar beets marketed under that type of agreement commonly known as a "factory average contract", shall not be less than $5.00 for sugar beets which contain 16.5 per centum sugar, as determined in accordance with the terms of such contract, and the rate per net short ton of sugar beets marketed under that type of agreement commonly known as an "individual test contract", shall not be less than $5.00 for sugar beets which contain 16.8 per centum sugar, as determined in accordance with the terms of such contract, with increases and decreases in the foregoing prices to be calculated in direct proportion to the extent to which the sugar content, as determined in accordance with the terms of the contract, is greater or less than the amounts specified herein.

Done at Washington, D. C., this 2nd day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-964; Filed, April 2, 1938; 12:08 p. m.]

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1937 CROP OF HAWAIIAN SUGARCANE

Whereas, Section 301 (d) of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing;

and

Whereas, the Secretary of Agriculture, on November 29, 1937, held a public hearing at Honolulu, Hawaii, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1937 crop of Hawaiian sugarcane:

Now, therefore, I, H. A. Wallace Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine that the prices for the 1937 crop of sugarcane heretofore agreed upon between the several processors in Hawaii and producers of such sugarcane are fair and reasonable.

Done at Washington, D. C., this 2nd day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-963; Filed, April 2, 1938; 12:08 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

EXTENSION OF THE WORKING DATE OF RULE 981

The Commission at a meeting held on March 23, 1938 extended the working date of Rule 981 for a period of six months from March 15, 1938.

By the Commission.

[SEAL]

T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-967; Filed, April 4, 1938; 9:39 a. m.]

[Order No. 38]

REPORT REQUIRED SHOWING FINANCIAL RESULTS OF BROADCAST OPERATIONS FOR THE YEAR 1937

The Commission at a meeting held on March 23, 1938, adopted the following Order:

ORDER NO. 38

Under the authority of the Communications Act of 1934, particularly Section 308 (b) thereof,

It is ordered, That each licensee of a regular broadcast station operating within the band of frequencies from 550 kilocycles to 1600 kilocycles, both inclusive, shall file with the Commission information as to earnings and other data as provided by separate form attached hereto and made a part hereof:

It is further ordered, That such information and data shall cover the period ending December 31, 1937, or the date nearest thereto upon which the licensee closed its books of account, and shall be submitted on a form similar in all respects to the aforementioned form.

And it is further ordered, That such forms, in duplicate, shall be filed with the Commission on or before April 25, 1938.

By the Commission.

[SEAL]

T. J. SLOWIE, *Secretary.*

GENERAL INSTRUCTIONS

1. Each licensee operating a regular broadcast station should report in conformity with the attached forms on paper not larger than 8 x 13 inches information with respect to the results of its broadcast operations and activities incident thereto.

2. The report should be made as of December 31, 1937, or the nearest date within one week thereof as of which the accounts were closed and should embrace the results of operation for not less than the 52 preceding weeks unless the station had been in operation for a shorter period of time, in which event the report should embrace the entire period of operation.

3. Each licensee operating two or more regular broadcast stations should file a separate report for each station operated by such licensee and also a report that will embrace the combined results of operation of all stations operated by such licensee.

4. If the licensee is also engaged in activities outside the field of regular broadcasting and those incidental thereto and the amounts reported in response to the attached forms have been determined by apportionment, that fact should be indicated, and the method of apportionment described.

Call letters _____

Report showing financial results of broadcast operations for the period
From _____ 193__ to _____ 193__
and
Investment in property devoted to broadcast purposes
As at _____ 193__

FOR

RADIOBROADCAST STATIONS

[TYPE A3 EMISSION]

Licensed by the Federal Communications Commission

Executed by (or for) _____

Licensee of radio station _____, or nonlicensee network _____

Address _____
(Street or Post Office box number)

_____
(City) (State)

Name and address of person with whom correspondence is to be conducted concerning this report

_____

_____

Form of ownership (corporation, partnership, or sole proprietorship) _____

If a corporation name the state, or jurisdiction, under laws of which incorporated _____

Date of incorporation or organization _____

Principal business in which engaged, other than radiobroadcasting _____

_____

_____

Call letters of all radiobroadcast stations operated by respondent (place in parentheses the call letters of those stations not owned by this respondent), and network of which each such station is a unit:

_____

_____

_____

(Note carefully the instructions on the preceding pages.)

To be executed completely and forwarded, in duplicate, directly to the Federal Communications Commission, Washington, D. C.

INCOME STATEMENT

FOR THE PERIOD

From _____, 193__, to _____, 193__.

(a) Revenue:		
1. Time sales:		
Network	$	
Local		
National spot		
National spot placed locally		$
2. Talent and miscellaneous sales (Analyze on page 3, Schedule A)		
3. Gross sales		$
4. Less: Agency commissions		
5. Net sales		$
(b) Expenses:		
1. Salaries to officers		$
2. Salaries to all others (except employees included under program expenses as detailed below)		
3. Payments to national representatives, and other time brokerage commissions		
4. Program expense (include salaries and fees for performers, talent, orchestras, announcers, production men, script writers, musicians, orchestra units and other organizations furnishing complete programs; transcription services, royalties on music, records, etc.)		
5. (a) Program and talent expenses to be paid by sponsor	$	
(b) Less: Program and talent expenses paid by sponsor		
6. Advertising, sales promotion, miscellaneous selling and publicity		
7. Repairs, maintenance and supplies		
8. Light, heat, power and miscellaneous rents		
9. Rent for broadcasting equipment leased from others		
10. Wire costs		
11. All other general expenses not detailed above		
12. Depreciation—specify rate		
13. Amortization of intangibles applicable to broadcasting		
14. Taxes (applicable to broadcasting, except Federal income taxes)		
15 Total expenses		$
(c) Net revenue from broadcasting services		$
(d) Rent from broadcasting equipment leased to others		
(e) Total broadcasting services income		$
(f) Other income		
(g) Gross income		$
(h) Income deductions		
(i) Net income before Federal income taxes		$
(j) Estimated Federal income taxes (deduct)		
(k) Net income for the period		$

NOTE.—A station with net sales (item (a) 5. above) less than $25,000.00 for the period, or with net sales (item (a) 5. above) averaging less than $500.00 per week for a period less than one year, may report in the aggregate only for items (a) 5. and (b) 15.

Schedule A—Other broadcast revenue

[To be described]

	Amount
Talent sales	$
Total other broadcast revenue (see item (a) 2, page 2)	$

1. (a) Is station a network affiliate? _____ (b) If so, specify which networks _____ (c) If so, give average number weekly sustaining program hours taken from each network _____

2. Average number weekly sustaining program hours furnished by station _____

3. Attach a separate schedule to show the amounts of network revenue derived from each network, and the dates of affiliation with such networks.

4. State the amount of the difference between the network revenue reported above and the amount of net billings to users for such network broadcasting, with respect to the time of this station. $_____

B. If broadcasting activities are conducted in space owned by the licensee, but which is also devoted (or forming part of a larger space devoted also) to other purposes, state the amounts included as rent therefor and charged to broadcast expense, $_____ appearing in items (b) 8 or (b) 9, page 2.

C (1). Does the licensee sell or exchange broadcasting time for consideration other than cash, such as advertising space in newspapers, periodicals, or other publications; space in buildings; use of equipment; occupancy of land or similar considerations?

Answer, _____
(Yes or No)

C (2). If the answer is "yes", describe the considerations received and evaluate such time in terms of money on the basis of applicable rates and show the aggregate amount for the period covered by this report.

(Answer) _____

_____

_____

_____

A. Investment in property devoted to broadcast services as of Dec. 31, 1937

Character of property	*Original cost*	*Depreciated value*	*Replacement value new*
1. Transmitting equipment (include power supply and modulation units)	$	$	$
2. Studio equipment (speech input, microphones, etc.)			
3. Radiating systems (towers, ground, etc., installed)			
4. Other technical equipment			
5. Total technical equipment	$	$	$
6. Furniture and fixtures			
7. Other personal property			
8. Real estate			
9. Other property devoted to broadcast services (specify)			
10. Grand total of broadcasting property	$	$	$

State of _____
County of _____, *ss.*

_____, being duly {sworn upon his oath, affirmed according to law,

deposes and says that he is the _____
(state relation of affiant to licensee)

of the reporting licensee and that the foregoing statements and any and all exhibits or other records attached hereto are true of his own knowledge, except as to such matters as are therein stated on information and belief, and as to such matters he believes them to be true.

_____
(Affiant)

Subscribed and sworn to before me this _____ day of _____, 1938

[SEAL] _____
(Notary Public)

[F. R. Doc. 38-968; Filed, April 4, 1938; 9:39 a. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL HOME LOAN BANKS

PROVIDING THAT PURCHASES OR SALES OF SECURITIES MAY BE APPROVED BY AN INVESTMENT COMMITTEE

Be it resolved, That, pursuant to authority vested in the Federal Home Loan Bank Board by Section 17 of the Federal Home Loan Bank Act (12 U. S. C. 1437), the second sentence of paragraph (2) of subsection (c) of Section 32, the second sentence of the paragraph entitled "Regulations" of subsection (d) of Section 32, and the second sentence of paragraph (2) of subsection (e) of Section 32 of the Rules and Regulations for Federal Home Loan Banks are hereby amended to read as follows:

"No purchase or sale of such securities shall be made without the prior approval of the majority of the members of the board of directors, the executive committee, or an investment committee of not less than three, at least one of whom shall be a director, and no purchase or sale of securities in excess of $500,000 shall be made without the prior approval of the Board."

Be it further resolved, That, it being deemed that this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Federal Home Loan Bank Board on April 1, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-962; Filed, April 2, 1938; 11:11 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 230]

AMENDMENT OF ALLOCATIONS OF FUNDS FOR LOANS

MARCH 31, 1938.

I hereby amend Administrative Order No. 79, dated April 2, 1937, by omitting the third paragraph thereof which amended Administrative Order No. 28, dated October 30, 1936, by dividing the allocation of $150,000 for Pennsylvania 12 Sullivan. The purpose and intent of this amendment is that Administrative Order No. 28 allocating $150,000 to Pennsylvania 12 Sullivan should be effective without change.

I hereby amend Administrative Order No. 79, dated April 2, 1937, by omitting the second paragraph thereof (which amended Administrative Order No. 23, dated October 15, 1936, by dividing the allocation of $455,000 for Pennsylvania 13 Tioga into two allocations, one of $340,000 to be known as Pennsylvania 13 Tioga, and the other of $115,000 to be known as Pennsylvania 13G Tioga). I also amend Administrative Order No. 106, dated June 7, 1937, by omitting the third paragraph thereof which rescinded the allocation of $115,000 for the project Pennsylvania 13G Tioga. The purpose and intent of the amendments herein made is that Administrative Order No. 23, allocating $455,000 to Pennsylvania 13 Tioga, should be effective without change.

I hereby amend Administrative Order No. 151 by rescinding the $87,000 allotted to Virginia 8011C Rockingham.

I hereby amend Administrative Order No. 144 by reducing the amount of the allocation to Illinois 8018W Pike from $16,000 to $6,000.

I hereby amend Administrative Order No. 134 by reducing the amount of the allocation to Illinois 8026W Iroquois from $30,000 to $10,000.

I hereby amend Administrative Order No. 160 by rescinding the $6,000 allotted to Iowa 8033W and 8033BW Calhoun.

I hereby amend Administrative Order No. 138 by reducing the amount of the allocation to Minnesota 8048W Anoka from $20,000 to $10,000.

I hereby amend Administrative Order No. 165 by reducing the amount of the allocation to Minnesota 8056W Crow Wing from $13,000 to $6,500.

I hereby amend Administrative Order No. 147 by reducing the amount of the allocation to Missouri 8026W Ralls from $10,000 to $5,000.

I hereby amend Administrative Order No. 134 by reducing the amount of the allocation to Oregon 8014W Umatilla from $15,000 to $10,000.

I hereby amend Administrative Order No. 131 by reducing the amount of the allocation to Pennsylvania 8013W Tioga from $25,000 to $5,000.

I hereby amend Administrative Order No. 138 by reducing the amount of the allocation to Virginia 8027W Nottoway from $15,000 to $10,000.

I hereby amend Administrative Order No. 131 by reducing the amount of the allocation to Virginia 8028W Lancaster from $15,000 to $10,000.

I hereby amend Administrative Order No. 144 by reducing the amount of the allocation to West Virginia 8008W Hardy from $10,000 to $5,000.

I hereby amend Administrative Order No. 160 by reducing the amount of the allocation to Wisconsin 8037W Trempeleau from $15,000 to $10,000.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-959; Filed, April 2, 1938; 9:30 a. m.]

[Administrative Order No. 231]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

APRIL 1, 1938.

I hereby amend Administrative Order No. 131 by reducing the amount of the allocation to Pennsylvania 8015W Bradford from $24,450 to $16,000.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-960; Filed, April 2, 1938; 9:30 a. m.]

[Administrative Order No. 232]

ALLOCATION OF FUNDS FOR LOANS

APRIL 1, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Delaware 8002W1 Sussex	$22,037
Kansas 8015W1 Dickinson	5,000
Minnesota 8062W1 Wright	10,000
Ohio 8059W1 Morrow	5,000
Pennsylvania 8004W1 Crawford	10,000
Texas 8063W1 Navarro	5,000
Wisconsin 8014W1 Oconto	10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-961; Filed, April 2, 1938; 9:30 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of April, A. D. 1938.

[File No. 32-82]

IN THE MATTER OF FALL RIVER ELECTRIC LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Fall River Electric Light Company, a subsidiary of New England Power Association, a registered holding company, for exemption from the provisions of section 6 (a) of said Act of the issue and sale of

$2,000,000 principal amount of First Mortgage Bonds, Series A, 3½%, due May 1, 1968, the proceeds to be devoted on or before July 1, 1938 to the redemption of the $2,000,000 principal amount of First Mortgage Gold Bonds, Series A, 5%, due July 1, 1945, of the applicant now outstanding; such issue and sale to be subject to the obtaining of express authorization from the Department of Public Utilities of the Commonwealth of Massachusetts, the State in which applicant is organized and doing business.

It is ordered, That a hearing on such matter be held on April 21, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-969; Filed, April 4, 1938; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of April, A. D. 1938.

[File No. 30-83]

IN THE MATTER OF ARTHUR H. GILBERT, MARCUS L. BAXTER, EDWARD G. RICKER, VOTING TRUSTEES OF NATIONAL GAS & ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Arthur H. Gilbert, Marcus L. Baxter, Edward G. Ricker, Voting Trustees of National Gas & Electric Corporation for an order of the Commission declaring that they have ceased to be a holding company, the Voting Trust under which they had acted having been terminated as of December 15, 1937;

It is ordered, That a hearing on such matter be held on April 18, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 13, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-971; Filed, April 4, 1938; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of April, A. D. 1938.

[File Nos. 32-81 and 46-95]

IN THE MATTER OF SOUTH CAROLINA UTILITIES COMPANY AND WALNUT ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by South Carolina Utilities Company, of Conway, South Carolina, a wholly owned subsidiary of Walnut Electric & Gas Corporation, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of its promissory notes, to wit:

(1) A promissory note bearing 5% interest, in the principal amount of $92,200, dated as of June 6, 1938 and maturing on May 1, 1942, to be issued to Walnut Electric & Gas Corporation;

(2) A promissory note bearing 5% interest, in the principal amount of $10,000, dated as of April 27, 1938 and maturing on May 1, 1942, to be issued to Walnut Electric & Gas Corporation;

(3) A promissory note bearing 5% interest, in the principal amount of $20,000, dated as of April 27, 1938, to be issued to Walnut Electric & Gas Corporation; and

(4) A note bearing 5% interest, in the principal amount of $150,000, dated May 1, 1938 and maturing May 1, 1942, to be disposed of to the Reconstruction Finance Corporation;

Notes (1), (2) and (3), mentioned herein, to be issued renewing a like aggregate principal amount of existing notes of applicant;

Note (4), mentioned herein, is to be issued to reimburse applicant for construction expenditures made or to be made;

An application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 having been duly filed by Walnut Electric & Gas Corporation, of Philadelphia, Pennsylvania, a registered holding company, for approval of the acquisition of the securities described herein in subparagraphs (1), (2) and (3) of the first paragraph;

It appearing to the Commission that these related matters should be heard and considered together;

It is ordered, That a hearing on such matter be held on April 22, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-973; Filed, April 4, 1938; 11:38 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of April, 1938.

IN THE MATTER OF APPLICATIONS BY THE LOS ANGELES STOCK EXCHANGE. FOR UNLISTED TRADING PRIVILEGES IN ARMOUR & COMPANY (ILL.), $5 PAR COMMON STOCK; BARNSDALL OIL COMPANY, $5 PAR COMMON STOCK; BETHLEHEM STEEL CORPORATION (DEL.), COMMON STOCK, NO PAR VALUE; BOEING AIRPLANE COMPANY, $5 PAR COMMON STOCK; COLUMBIA GAS & ELECTRIC CORPORATION, COMMON STOCK, NO PAR VALUE; CURTISS WRIGHT CORPORATION, $1 PAR CLASS "A" STOCK; GENERAL FOODS CORPORATION, COMMON STOCK, NO PAR VALUE; OHIO OIL COMPANY, COMMON STOCK, NO PAR VALUE; PARAMOUNT PICTURES, INC., $1 PAR COMMON STOCK; REMINGTON RAND, INC., $1 PAR COMMON STOCK; REPUBLIC STEEL CORPORATION, COMMON STOCK, NO PAR VALUE; SOCONY VACUUM OIL COMPANY, INC., $15 PAR COMMON STOCK; STUDEBAKER CORPORATION, $1 PAR COMMON STOCK; SWIFT & COMPANY, $25 PAR CAPITAL STOCK; TWENTIETH-CENTURY FOX FILM CORPORATION, COMMON STOCK, NO PAR VALUE; UNITED AIRCRAFT CORPORATION, $5 PAR CAPITAL STOCK

ORDER DISPOSING OF APPLICATIONS TO EXTEND UNLISTED TRADING PRIVILEGES TO CERTAIN SECURITIES

The Los Angeles Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, to extend unlisted trading privileges to the above-mentioned securities; and

After appropriate notice a hearing having been held in this matter in Washington, D. C.; and

The Commission this day having made and filed its findings and opinion herein;

It is ordered, Pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, that the applications of such Exchange to extend unlisted trading privileges to Armour & Company (Ill.), $5 Par Common Stock, Columbia Gas & Electric Corporation, Common Stock, No Par Value, General Foods Corporation, Common Stock, No Par Value, Ohio Oil Company, Common Stock, No Par Value, Paramount Pictures, Inc., $1 Par Common Stock, Republic Steel Corporation, Common Stock, No Par Value, Socony Vacuum Oil Company, Inc., $15 Par Common Stock, Studebaker Corporation, $1 Par Common Stock, Swift & Company, $25 Par Capital Stock, and United Aircraft Corporation, $5 Par Capital Stock, be and the same are hereby granted; that the applications of such Exchange to extend unlisted trading privileges to Barnsdall Oil Company, $5 Par Common Stock, Bethlehem Steel Corporation (Del), Common Stock, No Par Value, Boeing Airplane Company, $5 Par Common Stock, and Remington Rand, Inc., $1 Par Common Stock, be and the same are hereby denied; and that decisions on the applications of such Exchange to extend unlisted trading privileges to Curtiss Wright Corporation, $1 Par Class "A" Stock, and Twentieth Century Fox Film Corporation Common Stock, No Par Value, be and the same are hereby reserved, as is more fully set forth in the findings and opinion of the Commission issued herein this day.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-970; Filed, April 4, 1938; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of April, A. D. 1938.

[File No. 2-3537]

IN THE MATTER OF SUNBEAM GOLD MINES COMPANY

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant Sunbeam Gold Mines Company, a Nevada corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Items 2, 3, 5, 6, 7, 8, 9, 12, 18, 21, 25, 27, 30, 31, 34, 34B, 37, 41, 42, 43, 46, 52A, 54, 61, the accountant's certificate, Exhibits C, E (a) (1), E (a) (2), E (a) (3), J, K, and the prospectus, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises;

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Sunbeam Gold Mines Company, a Nevada corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-972; Filed, April 4, 1938; 11:38 a. m.]

Wednesday, April 6, 1938 *No. 67*

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION OR HARVESTING OF THE 1938 CROP OF SUGAR BEETS

APRIL 4, 1938.

Whereas, Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however*, That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas, the Secretary of Agriculture, pursuant to a notice of hearing, dated January 14, 1938, held public hearings for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation or harvesting of the 1938 crop of sugar beets.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1938 crop of sugar beets on farms from which such sugar beets were contracted to be delivered to factories located in the districts given below, to be not less than the following: [1]

District I.—Ohio, Michigan, Indiana, and Wisconsin:

Blocking, thinning and hoeing, $11.00 per acre. Pulling and topping, $7.00 for 7 tons or less per acre plus $1.00 for each ton per acre in excess of 7 tons per acre.

District II.—Minnesota and Iowa:

Blocking, thinning, and hoeing:

"Old method" or "hill drop" fields, $12.50 per acre.
"Blocked" fields, $10.50 per acre.
Cross cultivated fields, $9.50 per acre.

Pulling and topping, $6.30 for 7 tons or less per acre, and 90 cents for each ton per acre in excess of 7 tons per acre.

District III.—Kansas:

Blocking and thinning, $7.50 per acre.
1st hoeing, $2.00 per acre.
2nd hoeing or weeding, $1.00 per acre.

Pulling and topping, 90 cents per ton up to and including yields of 12 tons per acre; for yields in excess of 12 tons, 80 cents per ton.

District IV.—Nebraska, Colorado, Southern Wyoming, South Dakota, Utah, Idaho, Oregon:

Blocking and thinning, $8.00 per acre.
1st hoeing, $2.50 per acre.
2nd hoeing or weeding, $1.50 per acre.

Pulling and topping, 90 cents per ton up to and including yields of 12 tons per acre; for yields in excess of 12 tons, 80 cents per ton. Where loading is performed by the same laborers doing the topping, 10 cents per ton shall be added to the topping rates.

District V.—Montana Northern Wyoming:

Blocking and thinning, $9.50 per acre.
1st hoeing, $2.50 per acre.
2nd hoeing or weeding, $1.50 per acre.

Pulling and topping, 90 cents per ton up to and including yields of 12 tons per acre; for yields in excess of 12 tons, 80 cents per ton. Where loading is performed by the same laborers doing the topping, 10 cents per ton shall be added to the topping rate.

District VI.—Northern California and Washington:

Blocking and thinning, $7.50 per acre or 40 cents per hour.
1st hoeing, $2.00 per acre or 35 cents per hour.
2nd hoeing or weeding, $1.50 per acre or 35 cents per hour.

Pulling, topping and loading

Net tons per acre:	Rate per ton
Up to 4	$2.23
4 to 5	1.98
5 to 6	1.73
6 to 7	1.48
7 to 8	1.33
8 to 9	1.23
9 to 10	1.18
10 to 11	1.13
11 to 12	1.08
12 to 13	1.04
13 to 14	1.00
14 to 15	.97
15 to 16	.94
16 to 17	.91
17 to 18	.89
18 to 19	.87
19 to 20	.85
20 or more	.83

Topping, 50 cents per hour.
Loading, 45 cents per hour.

[1] Tonnage figures represent net short tons per acre.

District VII.—Southern California:

Blocking and thinning, $6.00 per acre or 35 cents per hour.
1st hoeing, $1.75 per acre or 30 cents per hour.
2nd hoeing or weeding, $1.25 per acre or 30 cents per hour.

Pulling, topping and loading

Net tons per acre:	Rate per ton
Up to 6	$1.50
6 to 7	1.35
7 to 8	1.24
8 to 9	1.16
9 to 10	1.09
10 to 11	1.01
11 to 12	.95
12 to 13	.90
13 to 14	.85
14 to 15	.81
15 to 16	.77
16 to 17	.74
17 or more	.69

Topping, 45 cents per hour.
Loading, 40 cents per hour.

Provided, however, That in addition to the foregoing, the producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as, a house, garden plot, and similar incidentals; and *Provided further,* That the foregoing shall not be construed to mean that a producer may qualify for payment who has not paid in full the amount agreed upon between the producer and the laborer.

Done at Washington, D. C., this 4th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-979; Filed, April 5, 1938; 11:20 a. m.]

Farm Security Administration.

[Administration Order 230 (Supplement 1)]

APRIL 4, 1938.

DELEGATIONS OF AUTHORITY WITH REFERENCE TO THE TENANT PURCHASE PROGRAM

I. *Authorizations to regional directors.*—In carrying out the provisions of Title I and the related provisions of Title IV of the Bankhead-Jones Farm Tenant Act, the authorities listed in this Supplement are hereby delegated to regional directors, and other regional personnel as specified, to be exercised in accordance with the terms given herein. All such redelegations of authority, as are authorized herein, must be in writing designating by name, title, and address the delegates and specifying the authority delegated. A copy of the delegation of authority shall be made available to the regional FC manager.

A. The following authority may not be redelegated by the regional directors:

1. *Wage rates.*—To prescribe wage rates to be paid for construction work by contract carried on with tenant purchase loan funds.

B. The following authority may be redelegated by the regional directors to state RR directors:

1. *State committee meetings.*—To call meetings of state Farm Security Advisory committees within their regions.

C. The following authorities may be redelegated by the regional directors to assistant regional directors in charge of RR and chiefs and assistant chiefs of regional Tenant Purchase sections:

1. *Approval of loans.*—To approve tenant purchase loans by executing the necessary documents and by approving the vouchers.

2. *Approval of titles.*—To determine whether or not easements, leases, and other outstanding reservations and exceptions to, and minor defects in, the title to lands to be acquired through tenant purchase loans will interfere with the purposes for which the land is to be acquired.

3. *Inspection of construction.*—To determine whether or not inspection is necessary and, if so, by whom it shall be done where construction or repair work is to be performed with tenant purchase loan funds.

4. *Variable payments.*—To sign agreements with the borrowers concerning the method of making variable payments on their loans, and determining annually, thereafter, the amount of payment each borrower is to make.

D. The following authorities may be redelegated by the regional directors to assistant regional directors in charge of RR, chiefs and assistant chiefs of regional Tenant Purchase sections, and county RR supervisors:

1. *Physical examination.*—To make all necessary arrangements with physicians to give health examinations to approved tenant purchase applicants.

2. *Construction performed with tenant purchase loan funds.*—

a. To specify the methods by which the work is to be done where minor repair or construction work involving less than five hundred dollars ($500) is necessary.

b. To authorize payment when the work is completed on a contract basis.

(I) *Exception.*—This payment must not be made until the final inspection report indicates that the work is satisfactory.

c. To approve plans for major repairs and new construction work and construction contracts where such work is to be performed.

(I) *Exception.*—The approval of plans for major repairs and new construction work may *not* be redelegated to county RR supervisors.

E. The following authority may be redelegated by the regional directors to any designees:

1. *Approval of depositories.*—To approve the bank or other depository (which must be insured under the Federal Deposit Insurance Corporation) in which the proceeds of tenant purchase loans shall be deposited by the borrower.

F. The following authority shall be delegated to county RR supervisors by the regional directors:

1. *Countersignatures.*—To countersign all withdrawals of tenant purchase loan proceeds from the bank or other depository by the borrower and to perform all of the functions ascribed to countersigning officers.

G. The following authorities *cannot be redelegated* in connection with the sale of lands which were acquired by the United States for resettlement purposes (except land acquired with state RR corporation funds), but which are suitable for the purposes of Title I of the Bankhead-Jones Farm Tenant Act:

1. *Utilization of resettlement lands.*—

a. To execute deeds in the sale of these lands to applicants for tenant purchase loans after these lands have been approved by the Administrator for such sales.

b. To determine the selling price of the lands in accordance with the established standards provided, however, that no land can be so utilized unless the county committee certifies with respect thereto as under regular procedure.

II. *Authorization to regional directors, State RR directors, State tenant purchase specialists, and district or county RR supervisors.*—

A. *County committee meetings.*—To call meetings of county committees for the purpose of considering applications for tenant purchase loans and performing related work.

III. *Authorization to regional directors and regional office managers, the business manager or assistant business manager.*—

A. *Letters of authorization.*—To issue a letter of authorization to each county RR supervisor authorizing him to direct travel of county committeemen within and outside of the county for the purpose of attending meetings called by the persons mentioned in paragraph II.

[SEAL] Signed WILL W. ALEXANDER, *Administrator.*

[F. R. Doc. 38-974; Filed, April 4, 1938; 3:23 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3298]

IN THE MATTER OF SAKS & COMPANY, A CORPORATION TRADING AND DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF SAKS AT 34TH STREET

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, April 7, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-980; Filed, April 5, 1938; 12:00 m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 233]

AMENDMENT OF ALLOCATION OF FUNDS FOR LOANS

APRIL 4, 1938.

I hereby amend Administrative Order No. 182 by rescinding the $100,000 allotted to Michigan 8038G Cass.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-975; Filed, April 5, 1938; 9:38 a. m.]

[Administrative Order No. 234]

ALLOCATION OF FUNDS FOR LOANS

APRIL 4, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby

allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
South Carolina 8013B1 Greenwood	$15,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-976; Filed, April 5, 1938; 9:38 a. m.]

[Administrative Order No. 235]

ALLOCATION OF FUNDS FOR LOANS

APRIL 4, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Michigan 8026G1 Ingham	$75,000
Michigan 8038A3 Cass	50,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-977; Filed, April 5, 1938; 9:38 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of April, A. D., 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY H. B. SEARS, RESPONDENT, ON JANUARY 24, 1938, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE STAHL-DENNIS TRACT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet described in the title hereof has been amended to cure the objections specified in the Order for Hearing previously entered in this proceeding;

It is ordered, Pursuant to Rule 354 (c) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on April 2, 1938, be effective as of April 4, 1938.

It is further ordered, That the Order for Hearing heretofore entered in this proceeding be, and hereby is, revoked and said proceeding is terminated as of the effective date of said amendment.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-978; Filed, April 5, 1938; 11:19 a. m.]

Thursday, April 7, 1938 ***No. 68***

PRESIDENT OF THE UNITED STATES.

CHILD HEALTH DAY—1938

By the President of the United States of America

A PROCLAMATION

WHEREAS a joint resolution of the Congress approved May 18, 1928 (45 Stat. 617), authorizes and requests the President of the United States to issue annually a proclamation setting apart May 1 as Child Health Day; and

WHEREAS child health is of vital concern to the Nation:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby designate the first day of May of this year as Child Health Day.

And I hereby call the people of the United States to the peaceful task of considering whether the children in their families and in each community are receiving the full benefit of our knowledge of how to promote the health of mothers and babies at the time of birth and of children throughout the period of growth and development, and ask them to plan how the child-health work of our public and private agencies can be extended and made more effective. I also call upon the children to celebrate the gains they have made during the year in health and strength and to do their part in the year-round effort to promote the health of the Nation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 4th day of April in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2278]

[F. R. Doc. 38-986; Filed, April 6, 1938; 10:54 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49490]

COUNTERVAILING DUTIES—GERMAN AGRICULTURAL PRODUCTS

REVOCATION OF TREASURY DECISIONS IMPOSING COUNTERVAILING DUTIES ON CERTAIN GERMAN AGRICULTURAL PRODUCTS

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 303 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1303), T. D. 32768, dated August 22, 1912, as amended or revised by T. Ds. 32828, 32939, 33953, 33975, and 36073, dated September 21 and November 16, 1912, December 6 and 11, 1913, and January 14, 1916, respectively, relating to countervailing duties on certain German agricultural products, are revoked for the reason that, according to an official report, payment of the bounties ceased pursuant to a decree of the German Government issued on September 24, 1937.

[SEAL] H. A. BENNER,
Acting Commissioner of Customs.

Approved March 31, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-981; Filed, April 5, 1938; 4:01 p. m.]

Office of the Secretary.

[1938—Department Circular No. 1]

VALUES OF FOREIGN MONEYS

APRIL 1, 1938.

Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates[1] by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning April 1, 1938, expressed in any such foreign monetary units: *Provided, however,* That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate, as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

VALUES OF FOREIGN MONETARY UNITS (AT PAR AS REGARDS GOLD UNITS; NONGOLD UNITS HAVE NO FIXED PAR WITH GOLD)

Country	Monetary unit	Value in terms of U. S. money	Remarks
Argentine Republic	Peso	$1.6335	Given valuation is of gold peso. Paper nominally convertible at 44% of face value. Conversion suspended Dec. 16, 1929.
Australia	Pound	8.2397	Control of gold stocks and exports authorized Dec. 17, 1929.
Austria	Schilling		
Belgium	Belga	.1695	By decree of Mar. 31, 1936. One belga equals 5 Belgian francs.
Bolivia	Boliviano	.6180	Conversion of notes into gold suspended Sept. 23, 1931.
Brazil	Milreis		Conversion of Stabilization-Office notes into gold suspended Nov. 22, 1930.
British Honduras	Dollar	1.6931	Conversion of notes suspended.
Bulgaria	Lev	.0122	Exchange control established Oct. 15, 1931.
Canada	Dollar	1.6931	Embargo on export of gold, Oct. 19, 1931; redemption of Dominion notes in gold suspended Apr. 10, 1933.
Chile	Peso	.2060	Given valuation is of gold peso. Gold pesos are received for conversion at the rate of 4 paper pesos for one gold peso. Conversion of notes suspended July 30, 1931.
China	Yuan		Silver standard abandoned by decree of Nov. 3, 1935; bank notes made legal tender under Currency Board control; exchange rate for British currency primarily fixed at about 1 s. 2 1/16d., or about 29 1/16¢, U. S., per yuan.
Hong Kong	Dollar		Treasury notes and notes of the 3 banks of issue made legal tender by silver nationalization ordinance of Dec. 5, 1935; exchange fund created to control exchange rate.
Colombia	Peso	1.6479	Obligation to sell gold suspended Sept. 24, 1931.
Costa Rica	Colon	.7879	Conversion of notes into gold suspended Sept. 18, 1914; exchange control established Jan. 16, 1932.
Cuba	Peso	1.0000	By law of May 25, 1934.
Czechoslovakia	Koruna	.0351	By decree of Oct. 9, 1936.
Denmark	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Dominican Republic	Dollar	1.6931	U. S. money is principal circulating medium.
Ecuador	Sucre	.3386	Conversion of notes into gold suspended Feb. 9, 1932.
Egypt	Pound (100 piasters)	8.3692	Conversion of notes into gold suspended Sept. 21, 1931.
Estonia	Kroon	.4537	Conversion of notes into gold suspended June 28, 1933.
Finland	Markka	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
France	Franc		Provisions of Monetary law of Oct. 1, 1936, providing for gold content of franc, superseded by decree of June 30, 1937 which stated that the gold content of the franc shall be fixed ultimately by a decree adopted by the Council of Ministers. Until issuance of such decree a stabilization fund shall regulate the relationship between the franc and foreign currencies.
Germany	Reichsmark	.4033	Exchange control established July 13, 1931.
Great Britain	Pound Sterling	8.2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Greece	Drachma	.0220	Conversion of notes into gold suspended Apr. 26, 1932.
Guatemala	Quetzal	1.6931	Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Honduras	Lempira	.8466	Gold exports prohibited Mar. 27, 1931; lempira circulates as equivalent of half of U. S. dollar.
Hungary	Pengo	.2961	Exchange control established July 17, 1931.
India [British]	Rupee	.6180	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Indo-China	Piaster	.6633	Piaster pegged to French franc at the rate of 1 piaster = 10 French francs. Information with regard to the relationship of piaster to franc subsequent to Sept. 25, 1936, not yet available.
Irish Free State	Free State Pound	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Italy	Lira	.0526	New gold content of 46.77 milligrams of fine gold per lira established by monetary law of Oct. 5, 1936.
Japan	Yen	.4440	Embargo on gold exports Dec. 13, 1931.
Latvia	Lat		Currency pegged to sterling Sept. 28, 1936, at 2,522 lati = £100.
Liberia	Dollar	1.6931	British money is principal circulating medium.
Lithuania	Litas	.1693	Free export of gold suspended Oct. 1, 1935.
Mexico	Peso		Decree of Aug. 28, 1936, left the monetary unit, the peso, to be later defined by law.
Netherlands and colonies	Guilder (florin)	.6806	Suspension of convertibility of notes into gold and restrictions placed on free gold exports—Sept. 26, 1936.
Newfoundland	Dollar	1.6931	Newfoundland and Canadian notes legal tender.
New Zealand	Pound	8.2397	Conversion of notes into gold suspended and export of gold restricted, Aug. 5, 1914; exchange regulations Dec. 1931.
Nicaragua	Cordoba	1.6933	Embargo on gold exports Nov. 13, 1931.
Norway	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Panama	Balboa	1.6933	U. S. money is principal circulating medium.
Paraguay	Peso (Argentine)	1.6335	Paraguayan paper currency is used; exchange control established June 28, 1932.
Persia (Iran)	Rial	.0824	Obligation to pay out gold deferred Mar. 13, 1932; exchange control established Mar. 1, 1936.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932.
Philippine Islands	Peso	.5000	By act approved Mar. 16, 1935.
Poland	Zloty	.1899	Exchange control established Apr. 27, 1936.
Portugal	Escudo	.0749	Gold exchange standard suspended Dec. 31, 1931.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Salvador	Colon	.8466	Conversion of notes into gold suspended Oct. 7, 1931.
Siam	Baht (Tical)	.7491	Conversion of notes into gold suspended May 11, 1932.
Spain	Peseta	.3267	Exchange control established May 18, 1931.
Straits Settlements	Dollar	.9613	British pound sterling and Straits dollar and half dollar legal tender.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Switzerland	Franc		Order of Federal Council enacted Sept. 27, 1936, instructed the Swiss National Bank to maintain the gold parity of the franc at a value ranging between 190 and 215 milligrams of fine gold.
Turkey	Piaster	.0744	100 piasters equal to the Turkish £; conversion of notes into gold suspended 1916; exchange control established Feb. 26, 1930.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Republics	Chervonetz	8.7123	On Oct. 26, 1936, the Council of People's Commissars issued a decree fixing the value of the ruble in foreign exchanges at 4¼ French francs.
Uruguay	Peso	1.7511	Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931.
Venezuela	Bolivar	.3267	Premium on foreign currencies established Aug. 29, 1934, by agreement of banks.
Yugoslavia	Dinar	.0298	Exchange control established Oct. 7, 1931.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-988; Filed, April 6, 1938; 12:26 p. m.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

AMENDMENT OF REGULATIONS ON SALE OF TIMBER PRODUCTS ON MENOMINEE INDIAN RESERVATION

MARCH 5, 1938.

Mr. H. W. JOHANNES,
Manager, Menominee Indian Mills.

DEAR MR. JOHANNES: Reference is made to your letters of January 20 and February 5, suggesting proposed changes in the regulations covering the sale of timber products on the Menominee Indian Reservation.

The amendment of the act of March 28, 1908 (35 Stat. 51), contained in the act of May 18, 1916 (39 Stat. 157), provides:

That the lumber, lath, shingles, crating, ties, piles, poles, posts, bolts, logs, bark, pulpwood and other marketable materials obtained from the forests on the Menominee Reservation shall be sold under such rules and regulations as the Secretary of the Interior may prescribe.

As you have been previously advised there does not appear to be any authority under which the Menominee Indian Mills

may exchange lumber or purchase lumber for resale purposes. However, there does not appear to be any prohibition against the purchase of building materials to be sold through the warehouse.

On November 9 the Menominee Advisory Board approved the adoption of changes in the sales regulations which would permit the allowance of a two per cent cash discount on payments made within 10 days after arrival of shipment, or 60 days net. In accordance with your recommendations and those of the Menominee Advisory Board, Section 9 of the "Regulations for the Sale of Timber Products on the Menominee Indian Reservation" approved February 24, 1934, by the Assistant Secretary of the Interior, is hereby modified to read as follows:

SEC. 9. Payments in full for all material sold must be made before shipment, except that on all cash payments a discount of two per cent (2%) of the selling price may be allowed in the discretion of the Manager and the Sales Manager; and those purchasers whose names shall be placed on an approved credit list, to be established by the Manager and Special Disbursing Agent, may have shipments go forward without payment in advance on condition that payment for the material included in such shipments must be made within ten (10) days from the date of arrival of shipment, unless specific arrangement for a longer time has been made. Such credit shipments must be made with the understanding that the purchase price is due and payable when the shipment is made and that the material sold is forwarded at the risk of the purchaser. Credit of this nature may be extended for thirty (30) days from date of shipment, and in special cases, when advantageous to the Menominee Indian Mills through the elimination of rehandling charges or for other satisfactory reasons, may be extended for sixty (60) days from date of shipment. The two per cent (2%) discount may be allowed when purchasers on the approved credit list pay within ten (10) days from the date of arrival of shipment, but no discount shall be allowed on payments made after the expiration of the said ten (10) days. Shipments in advance of full payment may be sent forward consigned to the order of the Menominee Indian Mills, and the invoice and a draft for the value of the material shipped may be sent through reliable banks for collection, with collection fees payable by the purchaser. In the event that such a draft is not promptly paid, the Menominee Indian Mills may cancel the sale and sell the materials shipped in the open market, the original purchaser being responsible and held liable for any loss that results from his default. All payments for products of the operation must be made direct to the Menominee Indian Mills.

In view of the lumber trade practice of allowing an eight per cent discount to the wholesale trade, the following is hereby added to Section 11 of the Sales Regulations:

Sales may be made to wholesalers on which a discount of not more than eight per cent (8%) of the f. o. b. mill value may be allowed.

Sincerely yours,

JOHN HERRICK,
Assistant to the Commissioner.

Approved March 16, 1938.

OSCAR L. CHAPMAN
Assistant Secretary of the Interior.

[F. R. Doc. 38-985; Filed, April 6, 1938; 10:21 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-68 O-68]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING IN INTERSTATE COMMERCE AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE COMMERCE, OF IRISH (WHITE) POTATOES GROWN IN LOUISIANA AND IN CERTAIN DESIGNATED COUNTIES IN ALABAMA, ARKANSAS, CALIFORNIA, FLORIDA, GEORGIA, MARYLAND, MISSISSIPPI, NORTH CAROLINA, OKLAHOMA, SOUTH CAROLINA, TEXAS AND VIRGINIA

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted by the Agricultural Marketing Agreement Act of 1937, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling of Irish (white) potatoes grown in all counties in the State of Louisiana; in the counties of Santa Barbara, Los Angeles, Riverside, San Bernardino, San Diego and Kern in the State of California; in the counties of Cameron, Hidalgo, Willacy, Atascosa, Bexar, Brazoria, Brown, Colorado, Comanche, Eastland, Erath, Fort Bend, Harris, Hood, Medina, Wharton, Wilson, Bowie, Camp, Cass, Henderson, Hopkins, Lamar, Morris, Red River, Titus and Wood in the State of Texas; in the counties of Hinds, Lauderdale, Newton, Rankin, Scott, Warren and all counties south thereof in the State of Mississippi; in the counties of Baldwin, Escambia and Mobile in the State of Alabama; in the counties of Brevard, Hillsboro, Osceola, Polk, and all counties south thereof, Escambia, Santa Rosa, St. Johns, Seminole, Union, Alachua, Bradford, Clay, Flagler, Marion, Putnam and Volusia in the State of Florida; in the counties of Arkansas, Ashley, Bradley, Calhoun, Clark, Cleburne, Cleveland, Columbia, Conway, Crawford, Dallas, Desha, Drew, Franklin, Garland, Grant, Hot Springs, Howard, Jackson, Jefferson, Johnson, LaFayette, Lincoln, Little River, Logan, Miller, Montgomery, Nevada, Ouachita, Pike, Polk, Pope, Pulaski, Salina, Scott, Sebastian, Sevier, Washington, White and Yell in the State of Arkansas; in the counties of Adair, Bryan, Carter, Cherokee, Choctaw, Coal, Grady, Hughes, Le Flore, McIntosh, Nobel, Oklahoma, Haskell, Latimer, McCurtain, Muskogee, Okfuskee, Okmulgee, Osage, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Washington, Seminole, Sequoyah, Tulsa and Wagoner, in the State of Oklahoma; in the counties of Beaufort, Bladen, Carteret, Columbus, Craven, Cumberland, Duplin, Edgecombe, Greene, Halifax, Harnett, Washington, Camden, Chowan, Currituck, Jones, Lenoir, Martin, New Hanover, Onslow, Pamlico, Pender, Pitt, Robeson, Sampson, Tyrrell, Wayne, Wilson, Perquimans and Pasquotank in the State of North Carolina; in the counties of Elizabeth City, Gloucester, Isle of Wight, James City, Mathews, Middlesex, Nansemond, Norfolk, Princess Anne, Warwick, York, Accomac and Northampton in the State of Virginia; in the counties of Allendale, Beaufort, Berkeley, Charleston, Clarendon, Colleton, Dorchester, Georgetown, Hampton, Horry, Jasper, Marion, Orangeburg, Sumter, and Williamsburg in the State of South Carolina; in the counties of Bryan, Chatham, Effingham, Liberty, Long and Screven in the State of Georgia; and in the counties of Dorchester, Somerset, Wicomico and Worcester in the State of Maryland;

Now, therefore, pursuant to the said act and said general regulations notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating the handling of such potatoes in the San Benito City Hall, San Benito, Texas, on April 18, 1938, at 9:30 a. m.; in the McCarthey Hotel, Texarkana, Texas, on April 20, 1938, at 9:30 a. m.; in the Library, Pulaski County Court House, Markham and Broadway Streets, Little Rock, Arkansas, on April 21, 1938, at 9:30 a. m.; in the Court House, Muskogee, Oklahoma, on April 22, 1938, at 9:30 a. m.; in the Court House, Wharton, Texas, on April 18, 1938, at 9:30 a. m.; in Room 300, Association of Commerce Building, 315 Camp Street, New Orleans, La., on April 20, 1938, at 9:30 a. m.; in the Auditorium, Court House (second floor), Gulfport, Mississippi, on April 21, 1938, at 9:30 a. m.; in the American Legion Hall, Foley, Alabama, on April 23, 1938, at 9:30 a. m.; in the Criminal Court Room, Court House, West Palm Beach, Florida, on April 18, 1938, at 9:30 a. m.; in the Court House, Palatka, Florida, on April 19, 1938, at 9:30 a. m.; in the Court Room, Court House, Springfield, Georgia, on April 20, 1938, at 9:30 a. m.; in the Community Center Auditorium, Community Center Headquarters, Charleston, South Carolina, on April 21, 1938, at 9:30 a. m.; in the Auditorium, Central High School, Painter, Virginia, on April 19, 1938, at 9:30 a. m.; in the Social Hall, Navy Y. M. C. A., 130 Brooke Avenue, Norfolk, Virginia, on April 21, 1938, at 9:30 a. m.; in the High School Auditorium, Washington, North Carolina, on April 22, 1938, at 9:30 a. m.; in the Richland Grammar School, Auditorium, Shafter, California, on April 19, 1938, at 9:30 a. m.; and in the Assembly Hall, State Office Building, Los Angeles, California, on April 20, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling of Irish (white) potatoes grown in the State of Louisiana and in the above mentioned counties in the States of Alabama, Arkansas, California, Florida, Georgia, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Texas and Virginia as is in the current of interstate commerce, or which directly burdens, obstructs or affects interstate commerce in such potatoes. Among other things, the proposed marketing agreement and proposed order provide for: (a) the establishment of area committees, district committees and an Early Potato Committee, (b) prohibition of shipment of "cull" potatoes, (c) further grade and size regulations of shipments, (d) expenses of administration, and other matters relating to the handling of such potatoes in the aforesaid States and counties.

It is hereby declared that an emergency exists in the handling of potatoes in the aforesaid area which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated April 5, 1938.

[F. R. Doc. 38-989; Filed, April 6, 1938; 12:42 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Amendment No. 2 to Order No. 28]

AMENDMENT OF ORDER ASSIGNING COMMISSIONERS, ETC., TO ACT ON VARIOUS CLASSES OF APPLICATIONS

The Commission at a meeting held March 30, 1938 amended Order No. 28 by deleting Paragraph 1 thereof and substituting therefor the following:

(1) That the Secretary of the Federal Communications Commission is hereby authorized to determine, order, certify, report or otherwise act upon:

(*a*) all applications for operator licenses, and
(*b*) all applications for amateur, ship and aircraft stations.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-982; Filed, April 6, 1938; 9:45 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDING THE TREASURY CHAPTER OF THE MANUAL

REVOKING PROVISIONS FOR ESCROW ACCOUNT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 720 of Chapter VII of the Consolidated Manual is hereby revoked.

Adopted by the Federal Home Loan Bank Board on April 5, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-984; Filed, April 6, 1938; 10:20 a. m.]

RAILROAD RETIREMENT BOARD.

REGULATIONS RELATING TO THE EXISTENCE OR NON-EXISTENCE OF AN EMPLOYMENT RELATION AS DEFINED IN THE RAILROAD RETIREMENT ACT OF 1937

Pursuant to the authority conferred by section 10 of the Railroad Retirement Act of 1937 the Railroad Retirement Board hereby prescribes the following rules and regulations:

I

GENERAL RULES

1. The existence or non-existence of an employment relation as defined in Section 1 (d) of the Railroad Retirement Act of 1937 is a conclusion which must be reached by the Board or its authorized representatives upon the basis of the evidence before it; the burden of formulating the conclusion may not be delegated to the employer or to the individual or to any representative of either; the employer or the individual or their representatives are the principal sources of evidence with respect to the established rules and practices in effect on the employer and with respect to the facts constituting the conditions under which the individual was not in active service, but the Board will not make a determination on the basis of a conclusion of the employer or of the individual or of a representative of either to the effect that the individual had or had not an employment relation.

2. An employment relation exists if there was, at the time in question, in effect on the employer an established rule or practice in accordance with which the individual was either (a) on furlough (subject to call for service and ready and willing to serve) or (b) on leave of absence, or (c) absent on account of sickness or disability.

3. A furlough, leave of absence, or absence on account of sickness or disability, within the scope of these regulations or the Railroad Retirement Act of 1937, exists if the terms of the established rule or practice in accordance with which the individual is out of active service are such that they would operate to restore him to active service upon the occurrence of definite and ascertainable events or conditions. Within the limitations of the preceding sentence: A furlough is an involuntary absence from active service which is brought about by action of the employer. A leave of absence is action of the employer permitting or requiring the employee to remain away from active service and relieving the employee from the obligations or conditions attached to active service, or to a furlough relationship or to absence on account of sickness or disability; absence on account of sickness or disability is an interruption of active service, or of a furlough, by reason of sickness or disability. An individual on furlough can have an employment relation only if at the time in question he was subject to call for service and ready and willing to serve.

4. An established rule is an authoritative and binding declaration definitely and specifically formulated and of general application to employees within the same class. A

rule may be expressed either in the form of specific authoritative instructions in force on the employer or in a contract or working agreement covering the individual and made between the employer and an employee organization, and may derive its authoritative effect either from the authority of the officer issuing the declaration or from the binding nature of the contract between the employer and the employee organization.

5. An established practice is a custom not expressed in the form of a rule but followed with such frequency and uniformity as to give reasonable assurance that it would be followed in the individual's case, and to permit ascertainment of the practice with such precision as to render it capable of statement in the form of a rule.

6. No employment relation can exist unless it represents a continuous relationship following immediately upon actual compensated service; it cannot be brought into existence through an application for employment, or inclusion on a waiting list, or a promise of employment, or similar circumstances preceding actual service or following an interruption of the relationship; Provided, however, that a rule may be amended so as to create anew an employment relationship which has lapsed, but such relationship can exist only from the time of the adoption of such amendment.

7. The termination of an employment relation need not involve a specific action but may be inferred from circumstances. It is terminated in any case in which there has been discharge, resignation, or retirement, with or without pension. Discharge, resignation or retirement must be determined according to the substance of the transaction, even though the transaction may have been denominated furlough, leave of absence or absence on account of sickness or disability. A transaction so denominated, but which represents in substance and effect a discharge, resignation or retirement, terminates the employment relation.

II

BEARING OF SPECIFIC FACTORS UPON EXISTENCE OF EMPLOYMENT RELATION

In the application of the general rules set forth in Part I of these regulations, certain specific and frequently recurring factors shall be dealt with in accordance with the respective paragraphs of this Part II. Such paragraphs do not constitute an exhaustive catalogue of all factors which may arise in the application of the general rules to concrete cases.

1. *Probability of return to service.*—Any established rule or practice, in order to be relevant to the existence of an employment relation, and any furlough, leave of absence, or absence on account of sickness or disability which is claimed to express an employment relation, must contemplate a resumption of active service. Physical or mental incapacity to return to service, even though judged to be "permanent", is not in and of itself significant, except that it is significant in connection with definitive action of the employer or of the individual, including statements or actions on the part of the individual indicating his retirement or statements or actions of the employer treating the individual as a retired employee, such as, application for and the award of a pension or gratuity of indefinite duration.

2. *Limitations of Time.*—Where the terms of a furlough, or the rules or practices under which it was issued, place a limitation on the time within which the furlough will operate to return an individual to active service, the employment relation ceases upon the expiration of such period, unless he has resumed active service within the period. Where the terms of a leave of absence or the conditions under which an individual is absent on account of sickness or disability, or the rules or practices under which a leave of absence is granted or an absence on account of sickness or disability is permitted, place a limitation on the time during which the individual may be absent, the employment relation ceases upon the expiration of such period, unless he has reported for active service upon or before the expiration of such period. However, the period may be extended by action of the employer if such action is permissible under the established rules or practices in effect on the employer.

3. *Failure to preserve or exercise rights.*—Where the terms of a furlough, leave of absence or absence on account of sickness or disability, or the rules or practices under which it is granted, require periodic or continuous action of the individual (such as periodic renewal of address, or continuous availability for service, or the exercise of rights upon proper occasion) in order to preserve his status, or require the continuance of a condition (such as the continuance of incapacity as the basis of absence on account of sickness or disability) and the individual fails to take such action, or the condition ceases to exist, the employment relation terminates.

4. *Seniority Roster.*—The appearance of the individual's name on a seniority roster is not, in and of itself, indicative of an employment relation. There must appear the further fact that the appearance of the individual's name on the seniority roster is based on established rules or practices in effect on the employer which would operate to restore him to active service upon the occurrence of definite and ascertainable events or conditions.

5. *Promise of Further Employment after Termination of Rights.*—When such rights to return to service as an individual may hold, in accordance with the established rules and practices in effect on the employer, are terminated, but in connection with such termination or coincidentally therewith, a promise not in accordance with the established rules or practices in effect on the employer is made, indicating some future employment, such promise does not operate to maintain an employment relation.

6. *Reinstatement.*—A bona fide reinstatement with restoration of seniority privileges, with or without pay for time lost, made for the purpose of and in contemplation of return to actual service (irrespective of whether actual service is resumed) operates to maintain the employment relation throughout the breach in service, provided that the reinstatement is not a violation of the rights of other employees. Participation in the reinstatement by representatives of the other employees, or acquiescence on their part in an actual return to service, shall be conclusive evidence that the reinstatement was not a violation of the rights of such other employees.

7. *Reaching retirement age while in employment relation.*—If there is in effect upon the employer an established rule or practice requiring automatic retirement upon attainment of a particular age, or at the end of the month in which such age is attained, such rule or practice will operate to terminate the employment relation of an individual who is on furlough, leave of absence, or absent on account of sickness or disability when the time for automatic retirement is reached.

8. *Abolition of job, discontinuance of service and abandonment of line.*—Abolition of a job, or the discontinuance of a service, in which the individual was engaged is not in and of itself relevant to the determination of the existence or nonexistence of an employment relation. When an individual is out of active service under such circumstances, determination must be made under the other provisions of those regulations as to whether the individual was on furlough, leave of absence, or absent on account of sickness or disability, in accordance with established rules or practices in effect on the employer. However, abandonment of line or facility involving abandonment of all jobs to which the individual's preference or seniority attaches under the established rules or practices in effect on the employer terminates the employment relation, unless, by agreement between the employer and the individuals affected, the latter acquire seniority on some other line or facility of the employer; or in cases of merger or consolidation of two or more employers, on the consolidated or merged employer; such agreement need not be entered into simultaneously with the abandonment of the line or facility, provided that it is so immediately and directly connected therewith as to constitute part of the disposition of the same matter.

9. *Pass privileges, or retention of employer property.*—The fact that an individual continues to receive free transportation, or is permitted to retain employer property, such as rule books and switch keys, is not indicative of the existence of an employment relation. However, definite action of the employer terminating free transportation privileges or requiring the surrender of employer property may be indicative of the termination of the employment relation.

By direction of the Board.

[SEAL] R. B. BRONSON, *Secretary.*

APRIL 4, 1938.

[F. R. Doc. 38-983; Filed, April 6, 1938; 10:10 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of March, A. D., 1938.

[File No. 37-14]

IN THE MATTER OF CITIZENS UTILITIES COMPANY

AMENDMENT TO ORDER GRANTING TEMPORARY EXEMPTION FROM THE PROVISIONS OF SECTION 13 (A) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Citizens Utilities Company, a registered holding company, having filed an application, and amendments thereto, for an exemption from the provisions of Section 13 (a) of the Public Utility Holding Company Act of 1935; a hearing on said application, as amended, having been duly held after appropriate notice; the Commission having issued an order on October 6, 1936, exempting said Citizens Utilities Company from the provisions of Section 13 (a) of said Act for a period of six months from the date of such order; one of the findings upon which said order was based being that applicant's servicing of its subsidiary companies while certain of them were in the process of being merged or consolidated with it, constituted special and unusual circumstances justifying a temporary exemption; and said order having been made upon condition that the services performed by said Citizens Utilities Company should comply with the provisions of such rules, regulations, or orders of the Commission as may be applicable, including Rule 13-31, and upon the further condition that the applicant, in accordance with such rules and regulations, should amend its method of allocating costs so as to charge itself for the expenses of its operations as a holding company and so that it should make direct charges so far as costs can be identified and related to particular transactions without excessive effort or expense;

Said exemption having been heretofore extended until sixty days after the determination of a certain application made by said Citizens Utilities Company to the Federal Power Commission, for approval of the transfer of certain facilities by Newport Electric Corporation, one of applicant's subsidiaries, to applicant; the Commission being advised that the Federal Power Commission has denied said application and has on January 21, 1938 denied an application for a re-hearing thereon; the said Citizens Utilities Company having filed a petition for review of said determination of the Federal Power Commission, pursuant to Section 313 (b) of the Federal Power Act, and the Commission thereupon having reconsidered the record in this case;

It is ordered, That said order of the Commission, dated October 6, 1936, as heretofore amended, be and it hereby is further amended to provide that the exemption therein granted shall continue until sixty days after the expiration, or final adjudication, of any rights of said Citizens Utilities Company, pursuant to said Section 313 (b) of the Federal Power Act, to seek to modify or set aside, in whole or in part, said order of the Federal Power Commission, upon condition that said Citizens Utilities Company shall continue to comply with the conditions contained in the Commission's order of October 6, 1936.

It is further ordered, That the exemption herein granted shall be subject to revocation, after notice and opportunity for hearing, in the event that said Citizens Utilities Company shall not diligently proceed to obtain a final adjudication of its rights with respect to said application to the Federal Power Commission, or shall fail to comply with the terms of the original order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-987; Filed, April 6, 1938; 11:28 a. m.]

Friday, April 8, 1938 *No. 69*

TREASURY DEPARTMENT.

Public Debt Service.

OFFICERS AUTHORIZED TO WITNESS AND CERTIFY REQUESTS FOR PAYMENT OF UNITED STATES SAVINGS BONDS AND ADJUSTED SERVICE BONDS ONLY

ORDER

APRIL 5, 1938.

In addition to the officers in the Treasury Department authorized pursuant to the provisions of Department Circular No. 300, as amended, to witness the assignments of registered issues of the United States, as set forth in order dated June 10, 1936, the following officers are hereby authorized to witness and certify requests for payment of United States Savings Bonds and Adjusted Service Bonds only:

Chief, Securities Division, Office of the Treasurer of the United States.

Assistant Chief, Securities Division, Office of the Treasurer of the United States.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1001; Filed, April 7, 1938; 12:19 p. m.]

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[I. C. C. No. 133]

THE ALASKA RAILROAD IN CONNECTION WITH ALASKA STEAMSHIP COMPANY (FX5-No. 5), PUGET SOUND FREIGHT LINES (FX5-No. 16)

JOINT FREIGHT TARIFF NO. 36-D[1] NAMING COMMODITY RATES FROM SEATTLE AND TACOMA, WASHINGTON, TO ANCHORAGE, ALASKA

Governed, except as otherwise provided herein, by The Western Classification No. 67 (as published in Consolidated Freight Classification No. 12), R. C. Fyfe's I. C. C. No. 25, supplements thereto or successive reissues thereof. Issued March 3, 1938. Effective April 4, 1938. Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

Application of Rates

Item No. 5.—The commodity rates named herein apply only on shipments moving from Tacoma or Seattle, Washington, and destined to Anchorage, Alaska, and will not apply to intermediate points.

Item No. 10.—Rates named herein do not include charges for storage, wharfage, handling (trucking between wharf and ship's tackle), transfer, loading to or unloading from cars, lighterage or other terminal charges except that rates named herein include wharfage, handling and loading to cars at Seward, Alaska.

[1] No Supplement to this Tariff will be issued except for the purpose of cancelling the Tariff, unless otherwise specifically authorized by the Commission.

Item No. 15.—The joint rates published herein include all charges for switching, drayage, wharfage, handling, loading or other transfer service at intermediate interchange points on shipments handled through and not stopped for special service at such intermediate interchange points.

Item No. 20.—The rates herein apply only via the Alaska Steamship Company, Puget Sound Freight Lines, Tacoma, Washington to Seattle, Washington; the Alaska Steamship Company, Seattle, Washington to Seward, Alaska; the Alaska Railroad, Seward, Alaska to Anchorage, Alaska.

Conditions of Bill of Lading

Item No. 25.—All property to be transported shall, unless otherwise agreed to in writing, be received, held, carried and delivered, subject to the conditions of the carrier's regular current bill of lading. All freight and other charges payable in United States gold coin or its equivalent.

Explanation of Abbreviations

Item No. 30.—

C. L.—Carloads.
I. C. C.—Interstate Commerce Commission.
K. D.—Knocked Down.
Lbs.—Pounds.
No.—Number.
N. O. S.—Not otherwise specified.
Viz.—Namely.

Rules and Regulations

Terminal and Other Charges, Privileges and Allowances

Item No. 35.—Except as otherwise provided herein, shipments transported under this tariff are entitled to such privileges and subject to such charges as are published by individual lines, parties to this Tariff providing for Allowances, Arbitraries, Car Mileage, Demurrage, Diversions, Reconsignment, Rental of Special Equipment, Storage, Switching, Transfer and other Terminal Service, lawfully on file with the Interstate Commerce Commission.

Western Classification—Application of, when not in Conflict with Provisions of this Tariff

Item No. 40.—The ratings, rules and regulations, estimated and minimum weights, shipping and packing requirements, allowances and privileges, or other provisions and conditions, shown in this Tariff, abrogate and supersede those in Western Classification named on title page in conflict.

When the ratings in this Tariff are silent as to rules and regulations, estimated and minimum weights, shipping and packing requirements, allowances and privileges or other provisions or conditions, the ratings which are prescribed in such commodity items shall be subject to the terms (including estimated and minimum weights, shippings and packing requirement, or other provisions or conditions) prescribed therefor in connection with the ratings in Western Classification referred to above on the same commodity.

Marine Insurance

Item No. 45.—Rates named herein do not include Marine Insurance. All risk of loss and damage incident to transportation of freight by water must be assumed by shippers, owners or consignee, who may protect themselves against such loss by covering their shipments with marine insurance.

Description of Commodities

Groceries

Item No. 50.—Articles taking same rates as Groceries, when specific reference is made to this Item.

Groceries, Viz.:—

Barley, pearl;
Beans,
Breakfast Foods, cereal,
Brine, sauerkraut,
Candles,
Cheese,
Chocolate,
Cocoa,
Cocoanut,
Coffee,
Coffee Substitutes,
Compounds, bleaching, cleaning, lard, scouring, shortening and washing,
Crackers,
Dessert Preparations,
Eggs, dried or dessicated,
Farinaceous Goods,
Fish, canned, dried, salted or smoked,
Flour,
Fruit, canned or dried,
Hominy,
Jams,
Jellies,
Juices, clam, fruit, sauerkraut and vegetable,
Lard,
Lime, chloride of,
Lye,
Macaroni,
Meal, corn,
Meats, canned, cured, salted or smoked,
Milk, canned or powdered,
Mincemeat,
Molasses,
Oats, rolled,
Oil, cooking, olive and salad,
Peanut Butter,
Peas, whole or split,
Pickles,
Powder, baking,
Preserves,
Rice,
Salad Dressing,
Salt,
Sauces,
Sauerkraut,
Soap,
Soda, baking or cooking,
Soups,
Spaghetti,
Spices,
Starch,
Starch, corn,
Sugar,
Syrup,
Tapioca,
Tea,
Vegetables, canned or dried,
Vermicelli,
Vinegar.

Iron and Steel and Other Articles

Item No. 55.—As described below taking the same rates when specific reference is made to this Item.

Iron and Steel and Other Articles, Viz.:

Bars, N. O. S., (subject to Note 1 shown below),
Boilers, heating, cast or wrought iron, K. D.,
Boilers, range, iron or steel, without interior water heaters,
Bolts, N. O. S., galvanized or plain,
Brick, fire, in crates,
Bronzing Liquids, japan,
Cable, wire,
Calcium, carbide of, in metal cans, boxed, in jacketed cans, or in iron or steel cans or drums,
Chain,
Clay, fire, in sacks,
Cloth, wire, iron or steel,
Coal, blacksmith, in sacks,
Connections, pipe,
Couplings, pipe,
Felt, building, in bundles or rolls,
Fencing, expanded metal, in bundles,
Fencing, wire, welded or woven,
Fittings, pipe, iron or steel,
Fittings, pipe (clay, concrete or earthen),
Furnaces, house heating, hot air, K. D. (subject to Note 2 shown below),
Kalsomine,
Lacquers,
Lead, bar, block or ingot,
Lead, white or red, dry or in oil, in metal cans, in boxes or crates; in bulk in barrels, kits or pails,
Locks, nut,
Nails,
Netting, poultry, in rolls,
Nuts,
Oil, linseed, in metal cans, in boxes or crates, in bulk, in barrels, in kits or pails,
Paints, N. O. S.,
Paper, building, roofing and sheating, plain or saturated, other than asbestos, in bundles or rolls,
Pipe, cast or wrought, iron or steel,
Pipe, plate or sheet, U. S. standard gauge No. 16 or thicker,
Pipe, sewer (clay, concrete or earthen),
Plate, iron or steel, black, galvanized, painted or plain, corrugated or not corrugated, punched or not punched,
Radiators, hot water or steam,
Ranges, iron or steel, charcoal, coal or wood,
Roofing, iron or steel, N. O. S.,
Rope, wire,
Shellac, liquid,
Sheet, iron or steel, black, galvanized, painted or plain, corrugated or not corrugated, punched or not punched,
Spikes, including boat or track spikes,
Stoves, iron or steel, charcoal, coal or wood,
Turpentine, spirits of, in bulk, in barrels or in metal cans, boxed,
Valves, pipe,
Varnishes, N. O. S.,
Wire, acid coppered, galvanized, painted, plain or tinned,
Wire, barbed,

NOTE 1.—Rates apply on drawn or rolled Iron or Steel Bars or Rods, either square, round or otherwise shaped in the drawing or rolling process; also on such Bars or Rods when bent, twisted or otherwise deformed, galvanized, ground, hammered, punched, sheared or threaded, but rates will not apply if further work has been done.

NOTE 2.—With each furnace there may be included equipment of each Damper Regulators, Furnace Cement to set up Furnace, one set of firing tools or one wire brush.

COMMODITY RATES [1]

Item No.	Commodities	Stations		Rates in cents per 100 pounds
		From—	To—	
60	Beer, straight carloads, minimum weight, 20,000 lbs.	Seattle, Wash... / Tacoma, Wash..	Anchorage, Alaska..	145
65	Groceries and Other Articles (as described in Item No. 50 on page 3), in packages, straight or mixed carloads, minimum weight 20,000 lbs.	Seattle, Wash... / Tacoma, Wash..	Anchorage, Alaska..	145
70	Iron and Steel and Other Articles (as described in Item No. 55 on page 3), straight or mixed carloads, minimum weight 20,000 lbs.	Seattle, Wash... / Tacoma, Wash..	Anchorage, Alaska..	145
75	Liquors and Wines, straight or mixed carloads, minimum weight 20,000 lbs.	Seattle, Wash... / Tacoma, Wash..	Anchorage, Alaska..	190

[1] Reduction.

[F. R. Doc. 38-991; Filed, April 7, 1938; 9:58 a. m.]

National Bituminous Coal Commission.

MODIFICATION OF RULING DATED MARCH 30, 1938, RELATING TO THIRTY DAY CONTRACT LIMITATION, IN SO FAR AS THE SAME RELATES TO GOVERNMENTAL AGENCIES

The Commission declares that until minimum prices of coals of code members have been reestablished by the National Bituminous Coal Commission, pursuant to subsections (a) and (b) of Part II, Section 4 of the Act, no code member shall sell or enter into any agreement to sell coal calling for delivery thereof for a period beyond thirty (30) days from the date of such sale or agreement of sale, provided however, that it will not be deemed a violation of the code:

(1) To enter into a contract for the sale of coal with agencies of the Federal Government containing a provision permitting the Federal Government to renew the contract after the effective date of minimum prices, either for the remainder of the fiscal year or for such part thereof as the Government may desire, but such contract must provide that no coal will be delivered thereunder below the minimum prices, when the same are established by the Commission, or;

(2) To enter into a contract for the sale of coal for periods not exceeding one year in any case where a State or political subdivision thereof or any other governmental agency is required by state statute or local ordinance to purchase coal for periods in excess of thirty (30) days, but such contract must provide for a reasonable price to continue until minimum prices are made effective by the Commission and that thereafter no coal will be delivered thereunder below the minimum prices.

The Ruling dated March 30, 1938, is, in all other respects, unchanged, and this modification is made for the purpose of relieving any undue interference with governmental functions.

The Secretary of the Commission shall, forthwith, mail copies of this Ruling to the Consumers' Counsel, the Secretaries of the Bituminous Coal Producers' Boards, and to code members, and shall cause copies of this Ruling to be made available for inspection by all interested parties at the Secretary's office of the Commission and at all statistical bureaus of the Commission.

By the Commission.

Dated this 6th day of April, 1938.

[SEAL] E. C. FARIS, Jr.,
Acting Secretary.

[F. R. Doc. 38-990; Filed, April 7, 1938; 9:54 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1936 AGRICULTURAL CONSERVATION PROGRAM—NORTH CENTRAL REGION BULLETIN NO. 2-D

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, in order to clarify its provisions, the second paragraph of North Central Region Bulletin No. 2, Revised, as Amended, is hereby amended to read as follows:

"To be eligible for soil-building payments the soil-building practices listed herein must be carried out by such methods and with such kinds and quantities of seeds, trees, and other materials as conform to good farming practice. A soil-building payment for any practice hereinafter set forth will not be made with respect to any acreage on the farm for which all or any portion of the labor, seed, or materials used for such practice is furnished free or paid for by any State or Federal agency, except that in the case of the soil-building practices designated in sections (f) and (j) hereof, payment will be made at the stipulated rates on an acreage which bears the same proportion to the total acreage

with respect to such practice as the quantity of material used or the value of the labor and materials furnished by the owner, operator, or sharecropper bears to the total quantity of materials or the total value of the labor and materials used in carrying out such practice."

The provisions of this NCR–B–2–D shall be effective as of October 19, 1936, so as to be included within the conditions mentioned in the "Order with respect to payments under the 1936 Agricultural Conservation Program—North Central Region", issued October 7, 1936, as amended.

Done at Washington, D. C., this 6th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-999; Filed, April 7, 1938; 11:46 a. m.]

Bureau of Entomology and Plant Quarantine.

[B. E. P. Q.—Q. 48]

JAPANESE BEETLE QUARANTINE No. 48

REVISION OF REGULATIONS

[Effective April 11, 1938]

Introductory Note

An important change in the following revision of the regulations of the Japanese beetle quarantine is the inclusion in the regulated areas for the first time of part of Schuyler County, N. Y., parts of the Ohio counties of Coshocton, Portage, and Summit, and parts of the West Virginia counties of Berkeley and Jefferson. This action is considered necessary because of the establishment of the Japanese beetle therein. Areas were also added to counties, parts of which were formerly under regulation, in the States of New York, Pennsylvania, Ohio, Maryland, and Virginia. Lancaster County, Pa. has been added to the special area (regulation 5, sec. A (1) (ii)) from which the movement of fruits and vegetables by motortruck or refrigerator car is regulated. Wheeling, W. Va. and Coshocton, Ohio, are brought under regulation and placed in the same category as Buffalo, Cleveland, and other outlying cities in that a certificate or permit is required in the movement of fruits and vegetables to these cities but no restrictions are placed on the interstate movement therefrom.

Of interest to nurserymen is the elimination of restrictions on the movement of aquatics except during the period from June 15 to October 15, inclusive.

The restrictions on the movement of sand are modified to exempt from certification silica sand, greensand, marl, "bird sand," "bird gravel," and pottery clay, when free from vegetable matter, and when labeled as to contents on the outside of each container.

Some outlying areas where Japanese beetle infestations have been found the past field season are not included in the regulated area because of assurance from the States concerned that adequate measures will be taken to prevent the spread of the pest therefrom.

Summary

Unless a certificate or permit has been issued, these regulations as now revised prohibit the interstate shipment of green corn on the cob, beans in the pod, bananas in entire bunches or in clusters of 25 or more, apples, peaches, blackberries, blueberries, huckleberries, or raspberries from the regulated areas, to or through points outside; and also prohibit (unless a certificate of permit has been issued) the interstate movement of all fruits and vegetables by refrigerator car or motortruck from the District of Columbia, the State of Delaware, and parts of the States of Maryland, New Jersey, Pennsylvania, and Virginia, to or through points outside the regulated areas as defined in regulation 3. Refrigerator cars used for loading fruits and vegetables, other than onions and potatoes, in such area must, prior to loading, be cleaned by the common carrier and kept tightly closed and sealed during the interval between cleaning and loading. Onions and potatoes must be fumigated in the car when such action is deemed necessary by the inspector, and doors and hatches of the cars must be closed or screened. For other details and exceptions see regulation 5.

The regulations also prohibit the interstate shipment of plants, sand, soil, earth, peat, compost, and manure from any part of the regulated areas to or through any outside point throughout the year unless a Federal permit or certificate has been secured. Portions of plants and cut flowers are restricted interstate movement only between June 15 and October 15, inclusive. For details and exceptions see regulations 6 and 7.

The regulated areas include the District of Columbia, the entire States of Connecticut, Delaware, Massachusetts, New Jersey, and Rhode Island, and parts of the States of Maine, Maryland, New Hampshire, New York, Ohio, Pennsylvania, Vermont, Virginia, and West Virginia. The boundaries are shown in regulation 3.

These regulations also place certain restrictions to protect restricted articles from infestation while in transit, require thorough cleaning of vehicles and containers which have been used in transporting restricted products, and provide other safeguards and conditions as specified in regulations 8 to 13, inclusive.

To secure permits and certificates, address the Bureau of Entomology and Plant Quarantine, 266 Glenwood Avenue, Bloomfield, N. J., or the nearest branch office listed in the appendix.

AVERY S. HOYT,
Acting Chief, Bureau of Entomology and Plant Quarantine.

NOTICE OF QUARANTINE No. 48 (TWELFTH REVISION)

[Approved March 1, 1937; effective March 1, 1937]

I, H. A. Wallace, Secretary of Agriculture, have determined that it is necessary to quarantine the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and the District of Columbia, to prevent the spread of the Japanese beetle (*Popillia japonica* Newm.), a dangerous insect new to and not heretofore widely prevalent or distributed within and throughout the United States.

Now, therefore, under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), and having duly given the public hearing required thereby, I do quarantine the said States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and the District of Columbia, effective on and after March 1, 1937. Hereafter, under the authority of said act of August 20, 1912, amended as aforesaid (1) fruits and vegetables; (2) nursery, ornamental, and greenhouse stock, and other plants; and (3) sand, soil, earth, peat, compost, and manure shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved or allowed to be moved from any of said quarantined States or District into or through any other State or Territory or District of the United States in manner or method or under conditions other than those prescribed in the rules and regulations hereinafter made and amendments thereto: *Provided*, That the restrictions of this quarantine and of the rules and regulations supplemental thereto may be limited to the areas in a quarantined State now, or which may hereafter be, designated by the Secretary of Agriculture as regulated areas when in the judgment of the Secretary of Agriculture, the enforcement of the aforesaid rules and regulations as to such regulated areas shall be adequate to prevent the spread of the Japanese beetle: *Provided further*, That such limitations shall be conditioned upon the said State providing for and enforcing such control measures with respect to such regulated areas as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to prevent the spread of the Japanese beetle therefrom to other parts of the State: *And provided further*, That certain articles classed as restricted herein may, because of the nature of their growth or production or their manufactured or processed condition, be exempted by administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine when, in his judgment, such articles are considered innocuous as carriers of infestation.

Done at the city of Washington this 1st day of March 1937.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

RULES AND REGULATIONS (SIXTEENTH REVISION) SUPPLEMENTAL TO NOTICE OF QUARANTINE No. 48

[Approved April 6, 1938; effective Apr. 11, 1938]

REGULATION 1. DEFINITIONS

For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

(*a*) *Japanese beetle.*—The insect known as the Japanese beetle (*Popillia japonica* Newm.), in any stage of development.

(*b*) The terms "infested", "infestation", and the like, relate to infestation with the Japanese beetle.

(*c*) *Quarantined area.*—Any State or District quarantined by the Secretary of Agriculture to prevent the spread of the Japanese beetle.

(*d*) *Regulated area.*—Any area in a quarantined State or District which is now, or which may hereafter be, designated as such by the Secretary of Agriculture in accordance with the provisos to Notice of Quarantine No. 48, as revised.

(*e*) *Fruits and vegetables.*—For the list of restricted fruits and vegetables see regulation 5.

(*f*) *Nursery and ornamental stock.*—Nursery, ornamental, and greenhouse stock, and all other plants, plant roots, cut flowers, or other portions of plants.

(*g*) *Sand, soil, earth, peat, compost, and manure.*—Sand, soil, earth, peat, compost, or manure of any kind and as to either bulk movement or in connection with farm products or nursery and ornamental stock.

(*h*) *Certified sand, soil, earth, peat, compost, and manure.*—Sand, soil, earth, peat, compost, or manure determined by the inspector as uninfested and so certified.

(*i*) *Certified greenhouse.*—A greenhouse or similar establishment which has complied to the satisfaction of the inspector with the conditions imposed in regulation 6. This term may apply also to potting beds, heeling-in areas, hotbeds, coldframes, or similar plots or to storage houses, packing sheds, or stores treated or otherwise safeguarded in manner and method satisfactory to the inspector.

(*j*) *Inspector.*—An inspector of the United States Department of Agriculture.

(*k*) *Moved or allowed to be moved interstate.*—Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from one State or Territory or District of the United States into or through any other State or Territory or District.

REGULATION 2. LIMITATION OF RESTRICTIONS TO REGULATED AREAS

Conditioned upon the compliance on the part of the State concerned with the provisos to Notice of Quarantine No. 48 (twelfth revision), the restrictions provided in these regulations on the interstate movement of plants and plant products and other articles enumerated in said notice of quarantine will be limited to such movement from the areas in such State now or hereafter designated by the Secretary of Agriculture as regulated areas.

REGULATION 3. REGULATED AREAS

In accordance with the provisos to Notice of Quarantine No. 48 (twelfth revision), the Secretary of Agriculture designates as regulated areas for the purpose of these regulations the States, District, counties, townships, towns, cities, election districts, and magisterial districts listed below, including all cities, towns, boroughs, or other political subdivisions within their limits:

Connecticut.—The entire State.

Delaware.—The entire State.

District of Columbia.—The entire District.

Maine.—County of York; towns of Auburn and Lewiston, in *Androscoggin County:* towns of Cape Elizabeth, Gorham, Gray, New Gloucester, Raymond, Scarboro, Standish, and the cities of Portland, South Portland, Westbrook, and Windham, in *Cumberland County:* the city of Waterville, in *Kennebec County;* and the city of Brewer, in *Penobscot County.*

Maryland.—Counties of Cecil, Kent, Queen Annes, Somerset, and Worcester; the city of Baltimore; the city of Cumberland, the town of Frostburg, and election districts Nos. 4, 5, 6, 7, 11, 12, 14, 22, 23, 24, 26, 29, 31, and 32, in *Allegany County;* the city of Annapolis and election districts Nos. 3, 4, and 5, in *Anne Arundel County;* election districts Nos. 1, 2, 3, 9, 11, 12, 13, 14, and 15, and that portion of election district No. 8 lying south of Shawan, Beaver Dam, and Sherwood Roads, in *Baltimore County;* all of *Caroline County* except election districts of Hillsboro (No. 6), American Corners (No. 8), and Preston (No. 4); the city of Westminster, and election district of Freedom (No. 5) in *Carroll County;* election districts of White Plains and La Plata, in *Charles County;* election district of Cambridge (No. 7), in *Dorchester County;* election districts of Buckeystown (No. 1), Frederick (No. 2), New Market (No. 9), Petersville (No. 12), and Brunswick (No. 25), in *Frederick County; County of Harford,* except election district of Marshall (No. 4); election districts of Elkridge (No. 1), Ellicott City (No. 2), and West Friendship (No. 3), in *Howard County,* and the right-of-way of United States Highway No. 1 through the election district of Guilford (No. 6) in said county; all of *Prince Georges County* except the election districts of Nottingham and Aquasco; that part of *Montgomery County* located within the established boundaries of the so-called "Washington Suburban Sanitary District;" towns of Easton and Oxford, in *Talbot County;* election districts of Sharpsburg (No. 1), Williamsport (No. 2), Hagerstown (Nos. 3, 17, 21, 22, 24, and 25), Leitersburg (No. 9), Sandy Hook (No. 11), and Halfway (No. 26), in *Washington County;* election districts of Pittsburg (No. 4), Parsons (No. 5), Dennis (No. 6), Trappe (No. 7), Nutters (No. 8), Salisbury (No. 9), Delmar (No. 11), Camden (No. 13), Willards (No. 14), and Fruitland (No. 16), in *Wicomico County.*

Massachusetts.—The entire State.

New Hampshire.—Counties of Belknap, Cheshire, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; towns of Brookfield, Eaton, Effingham, Freedom, Madison, Moultonboro, Ossipee, Sandwich, Tamworth, Tuftonboro, Wakefield, and Wolfeboro, in *Carroll County;* towns of Alexandria, Ashland, Bridgewater, Bristol, Canaan, Dorchester, Enfield, Grafton, Groton, Hanover, Hebron, Holderness, Lebanon, Lyme, Orange, and Plymouth, in *Grafton County.*

New Jersey.—The entire State.

New York.—Counties of Albany, Bronx, Broome, Chemung, Chenango, Columbia, Cortland, Delaware, Dutchess, Fulton, Greene, Kings, Madison, Montgomery, Nassau, New York, Oneida, Onondaga, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster, Rockland, Washington, and Westchester; towns of Red House and Salamanca, and the city of Salamanca, in *Cattaraugus County;* towns of Tonawanda, Amherst, and Cheektowaga, and the cities of Buffalo and Lackawanna, in *Erie County;* towns of Columbia, Danube, Fairfield, Frankfort, German Flats, Herkimer, Litchfield,

Little Falls, Manheim, Newport, Salisbury, Schuyler, Stark, Warren, and Winfield, and the city of Little Falls, in *Herkimer County;* towns of Catherine, Cayuta, Dix, Hector, Montour, and Reading, and the Borough of Watkins Glen, in *Schuyler County;* towns of Caton, Corning, and Hornby, and the city of Corning, in *Steuben County;* towns of Caroline, Danby, Dryden, Enfield, Ithaca, Newfield, and the city of Ithaca, in *Tompkins County;* towns of Luzerne and Queensbury and the city of Glens Falls, in *Warren County.*

Ohio.—Counties of Columbiana and Mahoning; townships of Augusta, Brown, and East, in *Carroll County;* the city of Coshocton, in *Coshocton County;* the city of Cleveland, in *Cuyahoga County;* the city of Columbus, in *Franklin County;* townships of Cross Creek, Island Creek, Knox, Saline, Steubenville, and Wells, and the city of Steubenville, in *Jefferson County;* the city of Toledo, in *Lucas County;* townships of Atwater, Brimfield, Charlestown, Deerfield, Edinburg, Franklin, Palmyra, Paris, Randolph, Ravenna, Rootstown, and Suffield, in *Portage County;* all of *Stark County,* except the townships of Lawrence, Sugar Creek, and Tuscarawas; and the townships of Bath, Copley, Coventry, Franklin, Green, Northampton, Norton, Portage, Springfield, Stow, and Tallmadge, and the cities of Akron, Barberton, and Cuyahoga Falls, in *Summit County.*

Pennsylvania.—The entire State, except Crawford, Erie, Forest, Mercer, and Venango Counties, Mercer Township in *Butler County;* Ashland, Beaver, Elk, Richland, (including the boroughs of Foxburg and St. Petersburg), Salem, and Washington Townships, in *Clarion County,* and townships of Brokenstraw, Cherry Grove, Columbus, Conewango, Deerfield, Eldred, Farmington, Freehold, Limestone, Pine Grove, Pittsfield, Pleasant, Southwest, Spring Creek, Sugar Grove, Triumph, Watson (including the boroughs of Bear Lake, Grand Valley, Sugar Grove, Tidioute, and Youngsville), in *Warren County.*

Rhode Island.—The entire State.

Vermont.—Counties of Bennington, Rutland, Windham, and Windsor; and the town of Burlington, in *Chittenden County.*

Virginia.—Counties of Accomac, Arlington, Culpeper, Elizabeth City, Fairfax, Fauquier, Henrico, Loudoun, Norfolk, Northampton, Prince William, Princess Anne, and Stafford; magisterial districts of Dale and Manchester, in *Chesterfield County;* magisterial district of Sleepy Hole, in *Nansemond County;* Camp Stuart, in *Warwick County;* and the cities of Alexandria, Fredericksburg, Hampton, Newport News, Norfolk, Portsmouth, Richmond, South Norfolk, and Suffolk.

West Virginia.—Counties of Hancock, Harrison, Marion, Monongalia, and Taylor; districts of Hedgesville, Falling Waters, and Opequon, in *Berkeley County;* the towns of Bolivar and Harpers Ferry, in *Jefferson County;* town of Keyser and district of Frankfort, in *Mineral County;* the city of Wheeling, in *Ohio County;* and the city of Parkersburg, in *Wood County.*

REGULATION 4. EXTENSION OR REDUCTION OF REGULATED AREAS

The regulated areas designated in regulation 3 may be extended or reduced as may be found advisable by the Secretary of Agriculture. Due notice of any extension or reduction and the areas affected thereby will be given in writing to the transportation companies doing business in or through the States in which such areas are located and by publication in one or more newspapers selected by the Secretary of Agriculture within the States in which the areas affected are located.

REGULATION 5. RESTRICTIONS ON THE MOVEMENT OF FRUITS AND VEGETABLES

Section A. Control of Movement

(1) Unless a certificate or permit shall have been issued therefor, by an inspector, except as provided in paragraphs (*a*) to (*e*), inclusive, of this section: (*i*) No green corn on the cob, beans in the pod, bananas in entire bunches or in clusters of 25 or more, apples, peaches, blackberries, blueberries, huckleberries, or raspberries shall be moved or allowed to be moved interstate from any regulated area to or through any point outside thereof; and (*ii*) no fruits and vegetables of any kind shall be moved or allowed to be moved interstate via refrigerator car or motortruck from the State, District, counties, election districts, or city listed below to or through any point outside of the regulated areas:

Delaware.—The entire State.

District of Columbia.—The entire District.

Maryland.—Counties of Cecil, Kent, Queen Annes, Somerset, and Worcester; the city of Baltimore; all of *Caroline County* except election districts of Hillsboro (No. 6), American Corners (No. 8), and Preston (No. 4); election district of Cambridge (No. 7), in *Dorchester County;* and election districts of Pittsburg (No. 4), Parsons (No. 5), Dennis (No. 6), Trappe (No. 7), Nutters (No. 8), Salisbury (No. 9), Delmar (No. 11), Camden (No. 13), Willards (No. 14), and Fruitland (No. 16), in *Wicomico County.*

New Jersey.—Counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Salem, Somerset, and Union.

Pennsylvania.—Counties of Bucks, Chester, Delaware, Lancaster, Montgomery, and Philadelphia.

Virginia.—Counties of Accomac, Arlington, and Northampton.

Provided, That the Chief of the Bureau of Entomology and Plant Quarantine may by administrative instructions extend or reduce the areas specified in this regulation when in his judgment such action is considered advisable.

(*a*) No restrictions are placed on the interstate movement of fruits and vegetables between October 16 and June 14, inclusive.

(*b*) No certificate will be required for the interstate movement of fruits and vegetables on a through bill of lading either from an area not under regulation through a regulated area to another nonregulated area, or from a regulated area through a nonregulated area to another regulated area, except that a certificate is required for interstate movement to Brewer and Waterville, Maine; Buffalo, N. Y., or to the other regulated parts of Erie County, N. Y.; Cleveland, Columbus, Coshocton, and Toledo, Ohio; Burlington, Vt.; and Parkersburg and Wheeling, W. Va. No restrictions are placed on the interstate movement of fruits and vegetables from Brewer and Waterville, Maine; Buffalo, N. Y., or from other parts of Erie County, N. Y.; Cleveland, Columbus, Coshocton, and Toledo, Ohio; Burlington, Vt.; and Parkersburg and Wheeling, W. Va.

(*c*) No restrictions are placed on the interstate movement of fruits and vegetables when they shall have been manufactured or processed in such a manner that in the judgment of the inspector no infestation could be transmitted.

(*d*) No restrictions are placed on the interstate movement of any shipments of apples or peaches of less than 15 pounds to the shipment or of bananas other than in entire bunches or in clusters of 25 or more.

(*e*) No restrictions are placed on the interstate movement of commercially packed apples in any quantity, except those moving via refrigerator cars or motor vehicles from the State, District, counties, election districts, or city listed in paragraph (1) (*ii*) of this section.

(2) No restrictions are placed on the interstate shipment from the regulated areas of fruits and vegetables other than those mentioned above, except that any such interstate shipments of fruits and vegetables may be inspected at any time or place inside or outside the regulated areas and when actually found to involve danger of dissemination of Japanese beetle to uninfested localities, measures to eliminate infestation may be required as a condition of further transportation or delivery.

Section B. Conditions of Certification

Certificates may be issued for the interstate movement of fruits and vegetables to points outside the regulated areas between June 15 and October 15, inclusive, under one of the following conditions:

(1) When the fruits and vegetables, moving from a point in the regulated area other than the State, District, counties, election districts, or city listed in paragraph 1, (*ii*), of this regulation, or moving from such designated State, District, counties, election districts, or city other than by refrigerator car, have actually been inspected by the United States Department of Agriculture and found free from infestation. The number of inspection points for such certification will be limited and their location determined by shipping needs and further conditioned on the establishment at such points of provisions satisfactory to the inspector for the handling and safeguarding of such shipments during inspection. Such inspection may be discontinued and certification withheld by the inspector during periods of general or unusual flight of the beetles.

(2) When the fruits and vegetables have been handled or treated under the supervision of an inspector in manner and by method to free them from any infestation.

(3) When the fruits and vegetables have originated outside of the regulated areas and are to be reshipped directly from freight yards, transfer points, or unloading docks within such areas, under provisions satisfactory to the inspector for the safeguarding of such shipments pending certification and reshipment. Certificates on this basis will be issued without inspection only in cases where, in the judgment of the inspector, the shipments concerned have not been exposed to infestation while within such freight yards, transfer points, or unloading docks.

(4) When the fruits and vegetables were grown in districts where the fact has been established to the satisfaction of the inspector that no infestation exists and are to be shipped directly from the farms where grown to points outside the regulated areas, or are shipped from infested districts where the fact has been established to the satisfaction of the inspector that the Japanese beetle has not begun or has ceased its flight.

(5) When the fruits and vegetables other than onions and potatoes, moving via refrigerator car from the State, District, counties, election districts, or city listed in paragraph 1, (*ii*), of this regulation, have been inspected and loaded in a manner to prevent infestation, in a refrigerator car with closed or adequately screened doors and hatches, which car prior to loading has been determined by an inspector as thoroughly swept and cleaned by the common carrier in a manner to rid it of infestation. During the interval between cleaning and loading such refrigerator car must be tightly closed and sealed.

(6) When the onions or potatoes moving via refrigerator car from the State, District, counties, election districts, or city listed in this regulation have been fumigated in the car, when deemed necessary in the judgment of the inspector and when the doors and hatches of the car have been tightly closed or adequately screened under the supervision of an inspector.

REGULATION 6. RESTRICTIONS ON THE MOVEMENT OF NURSERY AND ORNAMENTAL STOCK

Section A. Control of Movement

Nursery and ornamental stock as defined in regulation 1, shall not be moved or allowed to be moved interstate from the regulated areas to or through any point outside thereof, unless a certificate or permit shall have been issued therefor by the inspector except as follows:

(1) True bulbs, corms, and tubers, when dormant, except for storage growth, and when free from soil, are exempt from the requirement of certification, except that this exemption does not apply to dahlia tubers.

(2) No restrictions are placed on the interstate movement of nursery and ornamental stock imported from foreign countries when reshipped from the port of entry in the unopened original container and labeled as to each container with a copy certificate of the country from which it was exported, a statement of the general nature and quantity of the contents, the name and address of the consignee, and the country and locality where grown.

(3) No restrictions are placed on the interstate movement between October 16 and June 14, inclusive, of cut flowers, aquatic plants, and of portions of plants without roots and free from soil (such as branches and twigs of trees and shrubs, scions, Christmas trees, holly, laurel, and sphagnum moss).

(4) No certificate or permit will be required for the interstate movement of nursery and ornamental stock when transported by a common carrier on a through bill of lading either from an area not under regulation through a regulated area, or from a regulated area through a nonregulated area to another regulated area.

Section B. Conditions Governing the Issuance of Certificates and Permits

For the purpose of certification of nursery and ornamental stock, nurseries, greenhouses, and other premises concerned in the movement of such stock will be classified as follows:

(1) *Class I.*—Nurseries, greenhouses, and other premises concerned in the movement of nursery and ornamental stock on or within approximately 500 feet of which no infestation has been found may be classified as class I. Upon compliance with the requirements of subsection (6) of this section, nursery and ornamental stock may be certified by the inspector for shipment from such premises without further inspection, and without meeting the safeguards prescribed as a condition of interstate shipment of plants originating in nurseries or greenhouses of class III.

(2) *Class III.*—

(*a*) Nurseries, greenhouses, and other premises concerned in the movement of nursery and ornamental stock on which either grubs in the soil or one or more beetles have been found, will be classified as class III. Such classification also may be given to nurseries, etc., in localities known to be generally infested where one or more beetles or grubs are found in the immediate proximity (within approximately 500 feet) of such nurseries, etc., on adjacent property or properties. In the case of nursery properties, under single ownership and management, but represented by parcels of land widely separated, such parcels may be independently classified either as class I or class III upon compliance with such conditions and safeguards as shall be required by the inspector. Similarly, unit nursery properties, which would otherwise fall in class III, may be open to subdivision, for the purpose of rating such subdivisions in classes I or III, when in the judgment of the inspector such action is warranted by recent and scanty infestation limited to a portion of the nursery concerned: *Provided,* That the subdivision containing the infestation shall be clearly marked by boundaries of a permanent nature which shall be approximately 500 feet beyond the point where the infestation occurs.

(*b*) Upon compliance with subsections (3) and (6) of this section, nursery and ornamental stock may be certified by the inspector for shipment from such premises under any one of the following conditions: (*i*) That the roots shall be treated by means approved by the Bureau of Entomology and Plant Quarantine in manner and by method satisfactory to the inspector; or (*ii*) in the case of plants in which the root system is such that a thorough inspection may be made, that the soil shall be entirely removed from the stock by shaking or washing; or (*iii*) that it shall be shown by evidence satisfactory to the inspector that the plants concerned were produced in a certified greenhouse.

(3) Greenhouses of class III may be certified upon compliance with all the following conditions with respect to the greenhouses themselves and to all potting beds, heeling-in areas, hotbeds, coldframes, and similar plots:

(*a*) Ventilators, doors, and all other openings in greenhouses or coldframes on premises in class III shall be kept screened in manner satisfactory to the inspector during the

period of flight of the beetle, namely, south of the northern boundaries of Maryland and Delaware between June 1 and October 1, inclusive, or north thereof between June 15 and October 15, inclusive.

(*b*) Prior to introduction into nurseries or greenhouses, sand, if contaminated with vegetable matter, soil, earth, peat, compost, or manure taken from infested locations or which may have been exposed to infestation, must be sterilized or fumigated under the direction and supervision of, and in manner and by method satisfactory to the inspector. If such sand, soil, earth, peat, compost, or manure is not to be immediately used in such greenhouses, it must be protected from possible infestation in manner and by method satisfactory to the inspector.

(*c*) All potted plants placed in certified greenhouses of class III and all potted plants to be certified for interstate movement therefrom (*i*) shall be potted in certified soil; (*ii*) shall, if grown outdoors south of the northern boundaries of Maryland and Delaware at any time between June 1 and October 1, inclusive, or north thereof at any time between June 15 and October 15, inclusive, be kept in screened frames while outdoors; (*iii*) shall, if grown outdoors during any part of the year, be placed in beds in which the soil or other material shall have been treated in manner and by method approved by the Bureau of Entomology and Plant Quarantine to eliminate infestation; and (*iv*) shall comply with such other safeguards as may be required by the inspector.

(4) Cut flowers and other parts of plants without roots or soil may be certified for movement either (*a*) when they have been inspected by an inspector and found free from infestation, or (*b*) when they have been grown in a greenhouse of class I or in a certified greenhouse of class III and are transported under such safeguards as will in the judgment of the inspector prevent infestation. (See also sec. A (3) of this regulation.)

(5) Nursery and ornamental stock originating on or moved from unclassified premises may be certified by the inspector under either one of the following conditions: (*a*) That the soil shall be entirely removed from the stock, or (*b*) that the roots shall be treated by means approved by the Bureau of Entomology and Plant Quarantine in manner and by method satisfactory to the inspector, or (*c*) that it shall be shown by evidence satisfactory to the inspector that the accompanying soil was obtained at such points and under such conditions that in his judgment no infestation could exist therein.

(6) Nurserymen, florists, dealers, and others, in order to maintain their classified status, (*a*) shall restrict their purchases or receipts of nursery and ornamental stock, sand, if contaminated with vegetable matter, soil, earth, peat, compost, and manure within the regulated area to articles which have been certified under these regulations as to each such article and the said certificate shall accompany the articles when moved; (*b*) shall obtain approval of the inspector before such articles are received on their premises or moved from the open on their own premises into certified greenhouses; and (*c*) shall also report immediately in writing all purchases or receipts of such articles secured from within the regulated area. Nurserymen, florists, dealers, and others whose premises are classified as class III shall, in addition, report immediately on forms provided for that purpose all their sales or shipments of such articles both to points outside the regulated areas and to other classified nurseries or greenhouses within the regulated areas. Certification may be denied to any person who has omitted to make the report or reports required by this regulation, and such denial of certification shall continue until the information so omitted has been supplied.

(7) Nursery and ornamental stock imported from foreign countries and not reshipped from the port of entry in the unopened original container may be certified for movement under these regulations when such stock has been inspected by an inspector and found free from infestation.

(8) Nursery and ornamental stock originating outside the regulated areas and certified stock originating in classified nurseries or greenhouses may be certified for reshipment from premises other than those on which they originated, under provisions satisfactory to the inspector for the safeguarding of such stock from infestation at the point of reshipment and en route, and when found advisable by the inspector, after reinspection and determination of freedom from infestation.

REGULATION 7. RESTRICTIONS ON THE MOVEMENT OF SAND, SOIL, EARTH, PEAT, COMPOST, AND MANURE

Section A. Control of Movement

Sand, soil, earth, peat, compost, and manure shall not be moved or allowed to be moved interstate from any point in the regulated areas to or through any point outside thereof unless a certificate or permit shall have been issued therefor by the inspector, except as follows:

(1) No restrictions are placed on the interstate movement of (*a*) sand for construction purposes, silica sand, greensand, marl, "bird sand," "bird gravel," and pottery clay, when free from vegetable matter; (*b*) such other sands as have been treated or processed and subsequently handled in such manner that in the judgment of the inspector no Japanese beetle could exist therein, provided that each container of such article shall be labeled on the outside thereof as to nature of contents, except that in case of bulk shipments such label shall accompany the waybill or other shipping papers; and (*c*) ground, dried, imported peat in packages of 5 pounds or less to the package.

(2) No restrictions are placed on the interstate movement of sand, soil, earth, peat, compost, and manure imported from foreign countries when reshipped from the port of entry in the unopened original container and labeled as to each container with the country of origin, and when the shipment is further protected in manner or method satisfactory to the inspector.

(3) No certificate will be required for the interstate movement of sand, soil, earth, peat, compost, and manure when transported by a common carrier on a through bill of lading either from an area not under regulation through a regulated area, or from a regulated area through a nonregulated area to another regulated area.

Section B. Conditions of Certification

Certificates for the movement of restricted sand, soil, earth, peat, compost, and manure may be issued under any one of the following conditions:

(1) When the articles to be moved have originated in districts included in the regulated area, but in which neither beetles nor grubs in soil have been found.

(2) When the material consists of fresh manure or of mined, dredged, or other similar materials, and it has been determined by an inspector that no infestation could exist therein.

(3) When the material has been removed, under the supervision of an inspector, from a depth of more than 12 inches below the surface of the ground and either (*a*) is to be moved between October 16 and June 14, inclusive, or (*b*) is loaded and shipped at points where it has been determined by an inspector that no general infestation of adult beetles exists, or (*c*) when the cars and loading operations are protected by screening under the direction of and in manner and by method satisfactory to the inspector.

(4) When the material has been fumigated with carbon disulphide or otherwise treated under the supervision of and in manner and by method satisfactory to the inspector. Such fumigation or treatment will be required as a condition of certification of all restricted sand, soil, earth, peat, compost, and manure, except such as is loaded and shipped in compliance with paragraphs (1), (2), or (3) hereof.

REGULATION 8. CONDITIONS GOVERNING THE PROTECTION OF RESTRICTED ARTICLES FROM INFESTATION WHILE IN TRANSIT

Fruits and vegetables, nursery and ornamental stock, and sand, soil, earth, peat, compost, and manure, moving interstate from or through the regulated areas to points outside

thereof between June 15 and October 15, inclusive, shall at all times while they are in the regulated areas be screened, covered, or otherwise protected in manner or method satisfactory to the inspector for safeguarding the articles from infestation.

Trucks or other road vehicles transporting restricted articles may be sealed by the inspector at the point of inspection, and all such seals shall remain intact as long as the vehicle is en route within the regulated area.

REGULATION 9. MARKING AND CERTIFICATION A CONDITION OF INTERSTATE TRANSPORTATION

(*a*) Every car, vehicle, box, basket, or other container of the articles listed, the interstate movement of which is restricted in regulations 5, 6, and 7, shall be plainly marked with the name and address of the consignor and the name and address of the consignee, and shall have securely attached to the outside thereof a valid certificate or permit issued in compliance with these regulations. In the case of lot shipments by freight, one certificate attached to one of the containers and another certificate attached to the waybill will be sufficient.

(*b*) In the case of bulk carload shipments by rail, the certificate shall accompany the waybill, conductor's manifest, memorandum, or bill of lading pertaining to such shipment, and in addition each car shall have securely attached to the outside thereof a placard showing the number of the certificate or certificates accompanying the waybill.

(*c*) In the case of shipment by road vehicle, the certificates shall accompany the vehicle.

(*d*) Certificates shall be surrendered to the consignee upon delivery of the shipment.

REGULATION 10. GENERAL CONDITIONS GOVERNING INSPECTION AND ISSUANCE OF CERTIFICATES AND PERMITS

(*a*) Persons intending to move or allow to be moved interstate any of the articles the movement of which is restricted in regulations 5, 6, and 7, shall make application for inspection and certification as far as possible in advance of the probable date of shipment, specifying in the application the article and quantity to be shipped, method of shipment, name and address of the consignor, and name and address of the consignee.

(*b*) Applicants for inspection will be required to assemble the articles at such points as the inspector shall designate and so to place them that inspection may readily be made; if not so placed, inspection may be refused. All charges for storage, cartage, and labor incident to inspection, other than the services of the inspector, shall be paid by the shipper.

(*c*) Certificates and permits shall be used in connection with the transportation of only those articles intended to be covered thereby.

(*d*) Where the apparent absolute freedom from infestation of any of the articles enumerated cannot be determined by the inspector, certification will be refused.

(*e*) Permits may be issued for the interstate movement of restricted articles by truck or other road vehicle from a regulated area through a nonregulated area to another regulated area except that permits issued for the movement of fruits and vegetables from the State, District, counties, election districts, or city listed in regulation 5, section A, (1) (*ii*), shall be limited to green corn on the cob, beans in the pod, bananas in entire bunches or in clusters of 25 or more, apples, peaches, blackberries, blueberries, huckleberries, or raspberries. Fruits and vegetables other than the above-named commodities may be moved from the State, District, counties, election districts, or city listed in regulation 5, section A, (1) (*ii*), only under certification.

REGULATION 11. CANCELATION OF CERTIFICATES

Certificates issued under these regulations may be withdrawn or canceled by the inspector and further certification refused, either for any failure of compliance with the conditions of these regulations or violation of them, or whenever in the judgment of the inspector the further use of such certificates might result in the dissemination of infestation.

REGULATION 12. INSPECTION IN TRANSIT

Any car, vehicle, basket, box, or other container moved interstate or offered to a common carrier for shipment interstate, which contains or which the inspector has probable cause to believe contains either infested articles or articles the movement of which is prohibited or restricted by these regulations, shall be subject to inspection by an inspector at any time or place.

REGULATION 13. THOROUGH CLEANING REQUIRED OF TRUCKS WAGONS, CARS, BOATS, AND OTHER VEHICLES AND CONTAINERS BEFORE MOVING INTERSTATE

Trucks, wagons, cars, boats, and other vehicles and containers which have been used in transporting any article covered by these regulations within the regulated areas shall not thereafter be moved or allowed to be moved interstate until they have been thoroughly swept and cleaned by the carrier at the point of unloading or destination.

REGULATION 14. SHIPMENTS BY THE UNITED STATES DEPARTMENT OF AGRICULTURE

Articles subject to restriction in these regulations may be moved interstate by the United States Department of Agriculture for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed by the Bureau of Entomology and Plant Quarantine. The container of articles so moved shall bear, securely attached to the outside thereof, an identifying tag from the Bureau of Entomology and Plant Quarantine showing compliance with such conditions.

These revised rules and regulations shall be effective on and after April 11, 1938, and shall supersede the rules and regulations promulgated March 1, 1937, as amended effective May 10, 1937.

Done at the city of Washington this 6th day of April 1938. Witness my hand and the seal of the United States Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

APPENDIX

PENALTIES

The Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, provides that no person shall ship or offer for shipment to any common carrier, nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds * * * or any other article * * * specified in the notice of quarantine * * * in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It also provides that any person who shall violate any of the provisions of this act, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this act or in the regulations of the Secretary of Agriculture shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $500, or by imprisonment not exceeding 1 year, or both such fine and imprisonment, in the discretion of the court.

STATE AND FEDERAL INSPECTION

Certain of the quarantined States have promulgated or are about to promulgate quarantine regulations restricting intrastate movement supplemental to the Federal quarantine. These State regulations are enforced in cooperation with the Federal authorities. Copies of either the Federal or State quarantine orders may be obtained by addressing the United States Department of Agriculture, 266 Glenwood Avenue, Bloomfield, N. J.

Subsidiary offices are maintained at the following locations:

Fourth Floor, Customs House, Boston, Mass.

Connecticut Agricultural Experiment Station, 123 Huntington Street, New Haven, Conn.

Room 838, 641 Washington Street, New York, N. Y.

Room 200, 2507 James Street, Syracuse, N. Y.

P. O. Box 1, Trenton, N. J., or Yardville Road, White Horse, N. J.

Kotler Building, Main and High Streets, Glassboro, N. J.

Frankford Arsenal, Bridge and Tacony Streets, Frankford, Philadelphia, Pa.

Warehouse No. 4, General Depot, United States Army, New Cumberland, Pa.

Room 438-K, New Post Office Building, Pittsburgh, Pa.

Room 210, New Post Office Building, Dover, Del.

Room 306, Post Office Building, Calvert and Fayette Streets, Baltimore, Md.

Room 301, Salisbury Building and Loan Bldg., Main and Division Streets, Salisbury, Md.

Office of County Agent, Court House, Hagerstown, Md.

P. O. Box 9, Canton, Ohio.

Room 213, Broad-Grace Arcade Building, Richmond, Va.

Room 217, New Federal Building, Granby Street and Brambleton Avenue, Norfolk, Va.

Arrangements may be made for inspection and certification of shipments from the District of Columbia by calling District 6350, branch 2589, the inspection house of the Bureau of Entomology and Plant Quarantine, Twelfth Street and Constitution Avenue, NW., Washington, D. C.

General Offices of States Cooperating:

Department of Entomology, Agricultural Experiment Station, New Haven, Conn.

Board of Agriculture, Dover, Del.

State horticulturist, Augusta, Maine.

Department of Entomology, University of Maryland, College Park, Md.

Division of Plant Pest Control, Department of Agriculture, Statehouse, Boston, Mass.

Deputy commissioner, Department of Agriculture, Durham, N. H.

Bureau of Plant Industry, Department of Agriculture, Trenton, N. J.

Bureau of Plant Industry, Department of Agriculture and Markets, Albany, N. Y.

Division of Plant Industry, Department of Agriculture, Columbus, Ohio.

Bureau of Plant Industry, Department of Agriculture, Harrisburg, Pa.

Bureau of Entomology, Department of Agriculture, Statehouse, Providence, R. I.

Entomologist, Department of Agriculture, Montpelier, Vt.

Division of Plant Industry, Department of Agriculture and Immigration, Richmond, Va.

State entomologist, Department of Agriculture, Charleston, W. Va.

[F. R. Doc. 38-1002; Filed, April 7, 1938; 12:44 p. m.]

DEPARTMENT OF LABOR.

Immigration and Naturalization Service.

[General Order No. 261]

ADMISSION UNDER IMMIGRATION LAWS OF ALIENS PARTICIPATING IN GOLDEN GATE INTERNATIONAL EXPOSITION AND NEW YORK WORLD'S FAIR, 1939

APRIL 6, 1938.

Pursuant to the authority contained in Section 3 of the Act of April 29, 1902 (32 Stat. 177), Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), as amended, and Section 24 of the Immigration Act of 1924 (Act of May 26, 1924, 43 Stat. 166; 8 U. S. C. 222), the following regulations are prescribed for the temporary admission of aliens to the United States for the purpose of participating as employees of an alien exhibitor or concessionaire or holder of any privilege at the Golden Gate International Exposition to be held during 1939 at San Francisco, California (Joint Resolution, July 9, 1937; 50 Stat. 488), and the New York World's Fair to be held during 1939 at New York, N. Y. (Joint Resolution, July 9, 1937; 50 Stat. 493), as authorized by the provisions of Section 3 of the Act of April 29, 1902 (32 Stat. 177), and the 8th proviso to Section 3 of the Immigration Act of 1917 (39 Stat. 878; 8 U. S. C. 136 (h)):

SECTION 1. *Requirements for admission.*—The following requirements must be complied with:

PAR. *a. Nonimmigrant visa.*—Every such alien shall be required to present a document bearing the visa of a United States Consular Officer showing that the bearer is a nonimmigrant under Section 3 (2) of the Immigration Act of 1924, as amended: *Provided, however,* That such visa will not be required of a nonimmigrant alien who is a citizen of Canada, Newfoundland, St. Pierre, Miquelon, Mexico, Cuba, Haiti, the Dominican Republic, Panama, Bermuda, or of any British, French or Netherland possession in the West Indies, and domiciled therein, or who is a British subject domiciled in Canada, Newfoundland, Bermuda, or any British possession in the West Indies, or who is a French citizen domiciled in St. Pierre or Miquelon or any French possession in the West Indies, or who is a Netherland subject domiciled in any Netherland possession in the West Indies. (Ex. Order 6986, May 5, 1935.)

PAR. *b. Bond.*—Every such employee shall furnish a satisfactory bond in the sum of $500, or one shall be furnished in his behalf, prepared upon a form furnished for that purpose by the Department, containing conditions for his departure from the United States, without expense to the United States, upon failure (or refusal) to maintain the status under which temporarily admitted, and, if such status is maintained, within thirty days after the termination of the employment for which temporarily admitted. In lieu of such bond the written engagement of the Government of which the employee is a subject or citizen, made directly or through such Government's exposition commissioners, that the undertakings mentioned in the bond will be observed, will be accepted. In such cases, every absence of an employee from the exposition grounds in excess of one week should be reported by the foreign exposition commissioners of the Golden Gate International Exposition to the District Director of Immigration and Naturalization at San Francisco, California and by the foreign exposition commissioners of the New York World's Fair to the District Director of Immigration and Naturalization at Ellis Island, New York. (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *c. Port of departure.*—Every such employee shall depart from the United States at the port through which he entered, unless permission to depart from some other port is granted by the Commissioner of Immigration and Naturalization. Before departure, the alien shall present himself to the immigration officer in charge at the port of departure for identification and shall surrender the certificate required in the next paragraph hereof. (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *d. Record and certificate of admission.*—A record in the following form shall be prepared in triplicate at the port of admission for each alien admitted in accordance with these regulations, the original to be delivered to the alien named therein, the duplicate to be forwarded to the District Director of Immigration and Naturalization, at San Francisco, California in reference to aliens destined to the Golden Gate International Exposition and to the District Director, Ellis Island, New York in reference to aliens destined to the New York World's Fair, and the triplicate retained on file at the port of entry for purposes of comparison and identification.

CERTIFICATE OF ADMISSION

(Name and Date of Fair or Exposition)

No. ------

U. S. DEPARTMENT OF LABOR,
Immigration & Naturalization Service.

This is to certify that ---------- aged ------ a native of ----------, and a citizen of ----------, who is duly accredited as an employee of ----------, an exhibitor (or concessionaire, or privilege holder) at the (Name and date of Fair or Exposition) ----------, has been permitted to enter the United States as such employee in pursuance of the Acts of Congress approved February 5, 1917, April 29, 1902, and May 26, 1924, as amended.

Name ----------
Title ----------

Port of entry ----------
Date ---------- 19----
Bond dated ---------- 19----

(Affix photograph on reverse side, and impress seal.)

(Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *e. Forfeiture of bond and deportation.*—Any alien holding the certificate described above who shall fail to leave the United States, as required by these regulations, or any amendment thereof, within the time limit prescribed, unless specifically permitted by the Department to remain for a longer period, shall be deemed to be unlawfully within the United States, and shall be arrested on warrant and the bond given in his behalf shall be forfeited. (Sec. 14, 43 Stat. 162; 8 U. S. C. 214.) (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *f. Commissioners' weekly reports.*—The foreign exhibition commissioner of the Golden Gate International Exposition shall furnish weekly to the District Director of Immigration and Naturalization, San Francisco, California and the foreign exhibition commissioners of the New York World's Fair shall furnish weekly to the District Director of Immigration and Naturalization, Ellis Island, N. Y., a report certifying that the employees brought into the United States under and in pursuance of these regulations have remained in continuous employment at the exposition or fair grounds, or, if employees are absent, shall give the names of the absentees, the period of their absence, the reason therefor, and their addresses. (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *g. Advance report of departure.*—With a view to facilitating the prompt cancelation of bonds and the termination of the responsibility of foreign governments, where assumed in lieu of furnishing bonds, the exhibitors, concession or privilege holders, etc., of the Golden Gate International Exposition shall furnish to the District Director of Immigration and Naturalization, San Francisco, California and the exhibitors, concession or privilege holders, etc., of the New York World's Fair shall furnish to the District Director of Immigration and Naturalization at Ellis Island, N. Y., ten days in advance of contemplated departure of employees, the name of the port through which such employees are to depart, and the name of the vessel upon which sailing is to occur, if departure is to be by vessel, and the employees shall further be required to present themselves to the immigration officer in charge at the port of departure, at least one day in advance of departure. (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *h. Report of maintenance of status.*—As frequently as may be deemed necessary, immigration officers detailed for that purpose by the District Director of Immigration and Naturalization, at San Francisco, California, and Ellis Island, N. Y., in reference to the exposition or fair within their district, shall ascertain by personal observation whether or not all employees admitted under the bond provided herein are still employed at the exposition grounds: *Provided, however,* That the report of such foreign exposition commissioners, furnished weekly to the District Director of Immigration and Naturalization, at San Francisco, California, and Ellis Island, N. Y., certifying to the fact that the bonded employees have remained in continuous employment at the exposition grounds (or, if any of them are temporarily absent, their addresses, the period of absence and the reason therefor) may be accepted. (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *i. Aliens remaining after exposition or fair closes.*—Three months after the close of the exposition or fair herein mentioned the immigration officers in charge at ports of entry through which aliens have been admitted pursuant to these regulations shall report to the Commissioner of Immigration and Naturalization the certificate numbers and names of all persons admitted at their ports hereunder and not shown to have departed from the country. (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

PAR. *j. Facilitation of admission.*—The admission of persons who wish to visit or participate in the exposition shall be facilitated in every way possible. So far as practicable examination under the immigration laws and rules shall be made simultaneously with the disposal of cases under these regulations. (Sec. 15, 43 Stat. 162; 8 U. S. C. 215.)

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved.

FRANCES PERKINS, *Secretary.*

[F. R. Doc. 38-994; Filed, April 7, 1938; 10:29 a. m.]

[Chinese General Order No. 24]

CHINESE TRANSITS—DEPARTURE—DEPORTATION

APRIL 6, 1938.

By virtue of and pursuant to the authority conferred by Section 8 of the Act of September 13, 1888, as amended by Section 1 of the Act of April 29, 1902 and Section 5 of the Act of April 27, 1904 (25 Stat. 478, 32 Stat. 176, 33 Stat. 428; 8 U. S. C. 278), and Sections 15 and 24 of the Immigration Act of 1924 (Act of May 26, 1924, 43 Stat. 162, 166; 8 U. S. C. 215, 222), Paragraph 3 of Rule 18 of the Rules Governing the Admission of Chinese of October 1, 1926, is amended to read as follows:

"PAR. 3. Chinese aliens admitted to the United States in transit under Section 3 (3) of said Act, whether laborers or of the exempt class, and whether or not required to furnish a bond guaranteeing departure, must depart from the United States within the period for which admitted. (See Rule 19)"

Rule 19, Subdivision 5, Paragraph 1 of the Rules Governing the Admission of Chinese of October 1, 1926, as amended by Chinese General Order No. 14, dated September 28, 1929, is amended to read as follows:

"Paragraph 1. Any Chinese person temporarily admitted to the United States as a transit alien who shall fail or refuse to pass through and out of the United States within the time fixed or allowed, or who shall be found within the United States after the expiration of such time, shall be deemed to be unlawfully within the United States and shall on warrant of the Secretary of Labor be taken into custody and deported as provided in Section 14 of the Immigration Act of 1924."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved.

FRANCES PERKINS, *Secretary.*

[F. R. Doc. 38-992; Filed, April 7, 1938; 10:29 a. m.]

[Chinese General Order No. 25]

ADMISSIBILITY OF WIFE AND MINOR CHILDREN OF CHINESE MERCHANT, MINISTER OR PROFESSOR

STATUS OF CHINESE WIFE AND CHILDREN OF AN AMERICAN CITIZEN

PREINVESTIGATION OF AMERICAN CITIZENSHIP OF HUSBAND OR PARENT OF A CHINESE APPLICANT FOR ADMISSION

APRIL 6, 1938.

By virtue of and pursuant to the authority conferred by Section 8 of the Act of September 13, 1888, as amended by Section 1 of the Act of April 29, 1902, and Section 5 of the Act of April 27, 1904 (25 Stat. 478, 32 Stat. 176, 33 Stat. 428; 8 U. S. C. 278), Section 2 of the Act of April 29, 1902 as amended by No. 34, April 28, 1904 and Section 3, Act of March 4, 1913 (32 Stat. 176, 33 Stat. 591, 37 Stat. 737; 8 U. S. C.

296) and Section 24 of the Immigration Act of 1924 (Act of May 26, 1924, 43 Stat. 166; 8 U. S. C. 222), Rule 9, Subdivision 1, Paragraph 1 of the Rules Governing the Admission of Chinese of October 1, 1926, as amended by Chinese General Order No. 12, dated April 23, 1929, is further amended to read as follows:

"PARAGRAPH 1. The lawful wife and alien minor children of a lawfully resident alien Chinese merchant, as specified in Rule 2, or of a lawfully resident alien minister or professor as specified in that rule, are admissible whether such wife and such specified minor children accompany the husband or father or are coming to the United States to join him."

Rule 10, Subdivision 2, Paragraph 1 of such rules, as amended by Chinese General Order No. 17, dated June 27, 1930, is further amended to read as follows:

"PARAGRAPH 1. *Alien children.*—Alien children or adopted alien children of American citizens are not by reason of such relationship admissible to the United States.

"Citizen children.—The citizenship of a child born abroad prior to 12 noon E. S. T. May 24, 1934, to an American citizen parent shall be controlled by Section 1993, United States Revised Statutes previous to its amendment in 1934. If the birth occurred on or after 12 noon E. S. T. May 24, 1934, the provisions of that section as amended on that date (48 Stat. 797; 8 U. S. C. 6) shall apply."

Rule 10, Subdivision 3, Paragraph 1 of such rules, as amended by Chinese General Order No. 17, dated June 27, 1930, is further amended to read as follows:

"PARAGRAPH 1. In every application for entry as the wife or child of a citizen there shall be exacted convincing proof of relationship asserted as the basis for admission, and of the American citizenship of the alleged husband or parent; also convincing proof of when and where the alleged husband or parent first acquired residence in the United States."

Rule 10, Subdivision 4, Paragraph 1 of such rules, as amended by Chinese General Order No. 17, dated June 27, 1930, is further amended to read as follows:

"Paragraph 1. In the class of cases described in this rule the claim of citizenship advanced by the husband or parent who resides within the United States may, at his request, be investigated and determined prior to the arrival of the wife or child; but, in the case of a child, no investigation regarding the claimed relationship shall be made before the child arrives at a port of entry. This procedure is adopted in order to avoid undue delay in the determination of the applications for admission when the alleged wife or child arrives at a port of the United States. Preinvestigation of the citizenship of the husband or parent shall be based upon an affidavit setting forth the purpose for which the advance determination of status is desired. Such affidavit shall be prepared in triplicate and shall contain photograph of the affiant, and of the wife or child whose entry is desired, and shall be submitted for proper investigation to the immigration office nearest the applicant's place of residence. The affidavits of any supporting witnesses relied upon to substantiate or support the claim of citizenship of the alleged husband or parent shall be submitted in like number and shall likewise contain photographs of such witnesses."

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved.
FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-993; Filed, April 7, 1938; 10:29 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3113]

IN THE MATTER OF WILLIAM A. WOODBURY SALES COMPANY, INC., A CORPORATION, AND WILLIAM A. WOODBURY, RICHARD PICARD AND ARTHUR BAUM, INDIVIDUALLY AND AS OFFICERS OF WILLIAM A. WOODBURY SALES COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered That the taking of testimony in this proceeding begin on Friday, April 15, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1000; Filed, April 7, 1938; 12:12 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of April, A. D. 1938.

[File No. 43-112]

IN THE MATTER OF SAN ANTONIO PUBLIC SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by San Antonio Public Service Company, a subsidiary of American Light & Traction Company, which is a registered holding company, with respect to the issue and sale of $17,000,000 principal amount of First Mortgage Bonds, 4% Series due 1963, $2,500,000 principal amount of 4% Serial Notes (due April 15, 1939/1948) and 21,000 shares of Common Stock without par value, for the purpose of refunding and discharging certain securities now outstanding;

It is ordered, That a hearing on such matter be held on April 22, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-995; Filed, April 7, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 6th day of April, A. D. 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY BILLIE SMALLWOOD, RESPONDENT, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE CHAMPLIN-MCFALL TRACT

ORDER FOR HEARING AND ORDER DESIGNATING TRIAL EXAMINER

Billie Smallwood, having filed on March 15, 1938, with the Securities and Exchange Commission, an offering sheet for the purpose of obtaining an exemption from registration for the securities described therein under Regulation B of the General Rules and Regulations under the Securities Act of 1933, as amended; and

The Securities and Exchange Commission, having reasonable grounds to believe, and, therefore, alleging that said offering sheet is incomplete or inaccurate in a material respect, or contains an untrue statement of a material fact, or omits to state a material fact necessary to make the statements therein contained not misleading, or fails to comply with the requirements of said Regulation B, to wit:

(1) That the information given under Division II, Item 2 (d) concerning the area of the tract in acres is inaccurate in that said tract contains 3.29 acres, whereas it is stated under this item to contain only 3.09 acres;

(2) That the smallest fractional interest offered does not appear to be correctly stated in Division II, Item 1;

(3) That the data set forth under Division II, Items 20 (a), (d) and (e), are inaccurate;

It is ordered, Pursuant to Rule 340 (b) of the General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be deficient and/or misleading, and whether the effectiveness of the filing of the said offering sheet shall be suspended; and

It is further ordered, That Robert P. Reeder, an officer of the Commission be, and hereby is, designated as Trial Examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That the taking of testimony in this proceeding commence on the 21st day of April, 1938, at 10 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said Examiner may designate.

Upon completion of testimony in this matter the Examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-996; Filed, April 7, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 5th day of April, 1938.

[File No. 1-2949]

IN THE MATTER OF KNUDSEN CREAMERY COMPANY OF CALIFORNIA, $1.50 CUMULATIVE CLASS "A" COMMON SHARES, NO PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Knudsen Creamery Company of California, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its $1.50 Cumulative Class "A" Common Shares, No Par Value, from listing and registration on the Los Angeles Stock Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on April 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-998; Filed, April 7, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 5th day of April, 1938.

[File No. 1-374]

IN THE MATTER OF OLINDA LAND COMPANY COMMON STOCK

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Olinda Land Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its Common Stock from listing and registration on the Los Angeles Stock Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on April 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-997; Filed, April 7, 1938; 11:06 a. m.]

Saturday, April 9, 1938 *No. 70*

PRESIDENT OF THE UNITED STATES.

NORWAY—RECIPROCAL ENFORCEMENT OF CERTAIN TREATY PROVISIONS

By the President of the United States of America

A PROCLAMATION

WHEREAS the first section of the act of Congress approved the eleventh day of June, one thousand eight hundred and sixty-four, entitled "An Act to provide for the execution

of treaties between the United States and foreign nations respecting consular jurisdiction over the crews of vessels of such foreign nations in the waters and ports of the United States" (13 Stat. L. 121; U. S. C., title 22, sec. 256), provides that "before this act shall take effect as to the ships and vessels of any particular nation having such treaty with the United States, the President of the United States shall have been satisfied that similar provisions have been made for the execution of such treaty by the other contracting party, and shall have issued his proclamation to that effect, declaring this act to be in force as to such nation"; and

WHEREAS the Treaty of Friendship, Commerce, and Consular Rights concluded between the United States and Norway on June 5, 1928, and the additional article thereto, signed on February 25, 1929 (47 Stat. L. [pt. 2] 2135), provides for the jurisdiction of Norwegian consular officers in the waters and ports of the United States over controversies arising out of the internal order of private vessels of Norway and for the enforcement of discipline thereon by such consular officers; and

WHEREAS due inquiry has been made of the Norwegian Government, and an answer has been received containing satisfactory assurances that provisions similar to the provisions of the said act for the execution of said treaty have been made and are in force in Norway;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby proclaim that provisions have been made to that effect by Norway and declare the aforesaid act approved June 11, 1864, as amended (U. S. C., title 22, secs. 256–258) to be in force as to Norway.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this 8'' day of April, in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2279]

[F. R. Doc. 38–1009; Filed, April 8, 1938; 11:27 a. m.]

EXECUTIVE ORDER

RESERVATION OF LAND FOR RIVER AND HARBOR PURPOSES

Minnesota

By virtue of and pursuant to the authority vested in me as President of the United States and by the act of June 25, 1910, 36 Stat. 847, as amended by the act of August 24, 1912, 37 Stat. 497, it is hereby ordered as follows:

SECTION 1. The Executive Order of March 13, 1854, as modified by the Executive Order of January 11, 1855, reserving and setting apart fractional section 20, township 49 north, range 13 west, fourth principal meridian, for military purposes, is hereby revoked.

SECTION 2. The land described in section 1 hereof is hereby temporarily withdrawn from settlement, location, sale, or entry and reserved for the use of the War Department for river and harbor purposes.

SECTION 3. This order shall continue in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 6, 1938.

[No. 7860]

[F. R. Doc. 38–1003; Filed, April 7, 1938; 2:52 p. m.]

APPLICATION OF DUTIES PROCLAIMED IN CONNECTION WITH CERTAIN TRADE AGREEMENTS TO PRODUCTS OF AUSTRIA

THE WHITE HOUSE,
Washington, April 6, 1938.

THE HONORABLE HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

MY DEAR MR. SECRETARY: I refer to my letter addressed to you on March 15, 1938, concerning the application of duties proclaimed in connection with trade agreements concluded under the authority of the Act to amend the Tariff Act of 1930, approved June 12, 1934 (48 Stat. 943), as extended by the Joint Resolution approved March 1, 1937 (50 Stat. 24).

You are hereby directed to delete the word "Austria" from numbered section 2 of my letter under reference, such deletion to be effective on and after May 6, 1938. The proclaimed duties shall cease to be applied to products of Austria entered for consumption or withdrawn from warehouse for consumption on and after such date.

The above-mentioned letter of March 15, 1938, is hereby modified accordingly and you will please cause notice of such modification to be published in an early issue of the weekly *Treasury Decisions*.

Sincerely yours,

[SEAL] FRANKLIN D ROOSEVELT

[F. R. Doc. 38–1013; Filed, April 8, 1938; 12:14 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

(T. D. 49499)

CUSTOMS REGULATIONS OF 1937 AMENDED TO EXEMPT FROM THE REQUIREMENTS OF CONSULAR INVOICES VESSELS' SUPPLIES, STORES OR EQUIPMENT MADE SUBJECT TO ENTRY PURSUANT TO SECTION 466, TARIFF ACT OF 1930 [1]

EXEMPTION FROM CONSULAR INVOICES OF MERCHANDISE NOT EXCEEDING $100 IN VALUE

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in sections 484 (b) and 624, Tariff Act of 1930 (U. S. C., title 19, secs. 1484 (b) and 1624), article 299 (b), Customs Regulations of 1937, is hereby amended as follows:

Article 299 (b) is amended by adding item (18), reading as follows:

(18) Merchandise imported as supplies, stores or equipment of the importing vessel and subsequently made subject to entry pursuant to the provisions of section 446, Tariff Act of 1930.

Article 299 (b) (1) is amended to read as follows:

(1) Merchandise imported otherwise than in pursuance of a purchase or agreement to purchase, not exceeding $100 in dutiable value, and merchandise imported in pursuance of a purchase or agreement to purchase, when the purchase price of the merchandise, including all costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, as determined by the collector of customs, does not exceed $100.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved April 4, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1004; Filed, April 7, 1938; 2:52 p. m.]

[1] U. S. C., title 19, sec. 1446.

[T. D. 49501]

INVOICES—BRAIDS, PLAITS, LACES, AND WILLOW SHEETS OR SQUARES

NOTICE OF ADDITIONAL FACTS REQUIRED TO BE INCLUDED ON INVOICES OF BRAIDS, PLAITS, LACES, AND WILLOW SHEETS OR SQUARES

APRIL 6, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 481 (a) (10), Tariff Act of 1930 (U. S. C., title 19, sec. 1481 (a) (10)) and with reference to article 274 (e), Customs Regulations of 1937, as amended by T. D. 49426, invoices of imported braids, plaits, laces, and willow sheets or squares subject to the provisions of item 1504 (a) of the Swiss Trade Agreement ((1936) T. D. 48093), 49 Stat. 3917–3959, will be required to contain a statement showing the gross and the net weights of such articles.

The foregoing requirement will be effective as to such articles imported after a period of sixty days has elapsed following the date of the publication of this notice in the weekly Treasury Decisions.

The number of this Treasury decision should be noted as a marginal reference opposite article 274 (e) (2), Customs Regulations of 1937.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

[F. R. Doc. 38–1015; Filed, April 8, 1938; 12:14 p. m.]

Public Debt Service.

REVOCATION OF SPECIAL AUTHORITY TO WITNESS AND CERTIFY REQUESTS FOR PAYMENT OF ADJUSTED SERVICE BONDS

ORDER

APRIL 6, 1938.

By order dated June 10, 1936, pursuant to the provisions of Department Circular No. 560, certain officers of the Treasury Department in Washington, in addition to those officers generally authorized to witness assignments of United States registered issues, were authorized to witness and certify requests for payment by the Treasurer of the United States of Adjusted Service Bonds.

The special authority contained in that order is hereby revoked effective on and after May 1, 1938.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1014; Filed, April 8, 1938; 12:14 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Entomology and Plant Quarantine.

[B. E. P. Q. 472—Superseding PQCA–329]

STERILIZATION OF GRAPEFRUIT AND ORANGES BY HEAT UNDER THE MEXICAN FRUITFLY QUARANTINE

ADMINISTRATIVE INSTRUCTIONS

[Approved April 5, 1938; effective April 8, 1938]

Introductory Note

Investigations in sterilizing fruit for the Mexican fruitfly have shown that the holding period at 110° F. can be reduced from 8 to 6 hours provided the time for heating the fruit to this temperature is at least 8 hours, making a minimum treating period of 14 hours. In order that shippers may take advantage of this reduction, the administrative instructions issued as circular PQCA–329 on March 3, 1932, are modified and superseded by the following instructions.

Under the authority contained in paragraph (e) of regulation 6 of the Mexican fruitfly quarantine regulations, as revised effective October 15, 1937, and having determined that shipments of unsterilized oranges and grapefruit from infested areas might involve risk of spread of the Mexican fruitfly, notice is hereby given that sterilization is required as a condition of issuance of permits for the interstate movement of oranges and grapefruit produced in areas designated by the Chief of the Bureau of Entomology and Plant Quarantine as infested. Such sterilization shall be in accordance with one of the following prescribed treatments:

(1) Heating the fruit to a temperature of 110° F. or above (not to exceed 112°) in the approximate center of the fruit and holding the temperature of 110° or above (not to exceed 112°) for a period of 8 hours;

(2) Heating the fruit for a period of not less than 14 hours during which time the fruit shall be raised to a temperature of 110° F. at the approximate center of the fruit and shall be maintained at or above that temperature for the last 6 hours of such treatment.

No specifications as to the exact methods and equipment for obtaining these conditions are prescribed. Available information clearly indicates that by the application of dry heat the required temperatures cannot be reached without injury to the fruit. To prevent such injury it is necessary to maintain a very high humidity throughout the period of treatment. In the tests where successful performance was obtained, live steam as the source of heat was applied in such a way as to secure as nearly as possible a uniform distribution of steam-heated air so directed as not to discharge directly on the fruit. The air temperature ranged from 110° to 112° F. and the air was very moist. The fruit was held in field boxes stacked four boxes high and without special means of separating the boxes in each stack. The experiments indicate that the fruit should be sterilized after coloring, if this is necessary, and before packing for shipment, and then cooled down to a temperature around 45° F. as soon as possible after sterilizing. Wax or paraffine, either dry or in solution, should not be applied to this fruit either before or after sterilization.

Such treatment is authorized in sterilization plants in the regulated area which are approved by the Bureau of Entomology and Plant Quarantine. The Bureau will approve only those plants which are adequately equipped to handle and sterilize the fruit. Such sterilization will be done under the supervision of inspectors of the Bureau. These inspectors should at all times be given access to fruit while in process of sterilization. They will supervise the movement of the fruit from the car to and from the sterilizing rooms.

While the results of the experiments so far conducted have been successful, it should be emphasized that inexactness and carelessness in operation may result in injury to fruit. In authorizing the movement of fruit sterilized in accordance with the above requirements, it is understood that the Department does not accept responsibility for fruit injury.

[SEAL] AVERY S. HOYT,
Acting Chief, Bureau of Entomology and Plant Quarantine.

[F. R. Doc. 38–1010; Filed, April 8, 1938; 11:39 a. m.]

FARM CREDIT ADMINISTRATION.

[FCA 86]

REGULATIONS RELATIVE TO EMERGENCY CROP AND FEED LOANS IN PUERTO RICO MADE PURSUANT TO THE ACT OF CONGRESS APPROVED JANUARY 29, 1937, AND THE JOINT RESOLUTION OF CONGRESS APPROVED FEBRUARY 4, 1938

1. Loans for the production of crops, for planting, cultivating, and harvesting of crops, for supplies incident and necessary to such production, planting, cultivating, and harvesting, or for any of such purposes, will be made during the year 1938, by the Governor of the Farm Credit Administration to farmers in Puerto Rico.

2. Such loans may be made to farmers who have acreage fit for cultivation, the necessary equipment for farming operations, and who are unable to obtain a loan from other sources, and, further, such loans will be limited to the amount necessary to meet the immediate and actual cash needs, and preference shall be given to the applications of farmers whose cash requirements are small.

3. Such loans shall be secured by a first lien upon all crops of which the planting, cultivation, production or harvesting is to be financed, in whole or in part, with the proceeds of such loan.

4. Applicants must agree (1) to use seed and methods approved by the Department of Agriculture; and (2) to plant and cultivate a garden for home use.

5. The total amount of loans made to any one borrower during the calendar year 1938 shall not exceed $400. No loan will be made for an amount less than $25. All loans will be made in multiples of $5. Notes will bear interest, from maturity until paid, at the rate of 4 percent per annum; and interest to the maturity date at the same rate will be deducted at the time the loan is made.

6. No such loan will be made:

(*a*) To any applicant who is a standard rehabilitation client of the Farm Security Administration or who has an application pending which is in process of approval, as indicated on lists furnished by the Farm Security Administration.

(*b*) To any applicant who can obtain a loan from other sources, including production credit associations, in an amount reasonably adequate to meet his needs for the purposes for which such loans may be made. An applicant for a loan in an amount in excess of a minimum fixed by the Governor, or his representative, for the territory in which the applicant resides, must first submit written evidence from a production credit association that his application for a loan of the same or less amount has been rejected.

(*c*) To any applicant who has an application for a 1938 crop loan pending with a production credit association.

(*d*) To any applicant who is a tobacco, coffee, fruit, or vegetable grower, or grower of any other crops, unless he signs a marketing agreement satisfactory to the representative of the Emergency Crop and Feed Loan Office in Puerto Rico, nor to any cane grower unless he signs or agrees to sign a grinding contract with an approved central or mill.

(*e*) To any applicant who has not undertaken in good faith to meet his obligations in connection with any previous crop, feed, or seed loans as follows: Has willfully misused the proceeds of a loan check for any purpose other than those specified in his application; has failed to plant a crop or has planted crops or lands other than those described in the application; has willfully disposed of crops mortgaged to the Governor, or failed to account satisfactorily therefor without applying the proceeds of the sale or the value thereof as a payment on his loan; has willfully used the crops mortgaged to the Governor for any purpose other than that stated in his application or applications; or has failed to pay all or part of such loan or loans when able to do so.

(*f*) To any applicant in an amount greater than his immediate cash needs for the production or harvesting of crops and for supplies incident and necessary to such production and harvesting.

(*g*) To applicants who are occupants of the same farm or plantation, or are tenants of the same landlord (with the exception of tenants on land the title of which is vested directly in the United States or in the Insular Government of Puerto Rico) in an aggregate amount during the calendar year 1938 which (inclusive of all emergency loans theretofore made to them or any of them, during the calendar year 1938, pursuant to the Act of Congress approved January 29, 1937, and the Joint Resolution of Congress approved February 4, 1938), exceeds the sum of $2,000.

(*h*) To any applicant who has a means of livelihood other than farming.

(*i*) To partnerships, corporations, minors, guardians, agents, executors, or administrators; or, to receivers or trustees.

(*j*) To either a husband or a wife, if living together, unless both join in the application, note, and lien instrument(s).

(*k*) To more than one member of a family unit nor to any person living and/or farming with an applicant whose application for a loan hereunder has been disapproved.

(*l*) For the purchase of machinery or livestock, or for the payment of taxes, rent, debts, or interest or for any purpose other than as specified herein.

7. Loans may be made, subject to the limitations specified herein, in such amounts and in such installments as the Puerto Rican representative of the Emergency Crop and Feed Loan Section may approve.

8. No loan for the production of crops will be made in an amount greater than the immediate and actual cash needs in the particular case to plant the crop in a manner approved by the Extension Service of the Department of Agriculture.

The immediate and actual cash needs in a particular case must not exceed the actual costs per cuerda in such case as determined by individual consideration of the various factors involved, e. g., whether it is necessary to purchase seed, feed, fertilizer, spraying material and/or fuel for tractors; the cost thereof; and any other incidental expenses currently incurred in that community in connection with the particular crop to be produced. In no event may loans for crop production purposes exceed the following maximum allowances per cuerda:

Maximum Allowances per Cuerda

	(1) Without commercial fertilizer	(2) Where commercial fertilizer is used	(3) Where commercial fertilizer is used upon irrigated land
Long staple cotton	$5.00	$10.00	----------
Tobacco [1]	15.00	35.00	----------
Sugar cane (Gran Cultura)	30.00	45.00	$55.00
Sugar cane (Primavera)	20.00	35.00	45.00
Sugar cane (Ratoon)	10.00	25.00	35.00
Cocoanuts [2]	8.00	20.00	----------
Grapefruit and oranges (6 years and over) [3]	15.00	40.00	50.00
Coffee [4]	7.00	27.00	----------
Pineapples	90.00	150.00	[5]
Winter vegetables (for shipment to the States)	10.00	25.00	----------
Miscellaneous crops	5.00	5.00	5.00

[1] A harvesting allowance of $5.00 per cuerda may be made for stalk-cut tobacco, and $15.00 per cuerda for prime tobacco.

[2] When fertilizer is not used, loans shall be limited to $4.00 per thousand estimated yield of cocoanuts and not exceeding 20¢ per tree. When fertilizer is used, loans shall be limited to $10.00 per thousand estimated yield of cocoanuts, not exceeding 50¢ per tree, and not exceeding $20.00 per cuerda in any case.

[3] Not exceeding 30¢ per box estimated crop on tree.

[4] Not exceeding $5.00 per cuerda additional where harvesting advance is made (whether with or without fertilizer).

[5] In addition to the $7.00 allowance provided where fertilizer is not used, $15.00 may be allowed for fertilizer and $5.00 for applying the same.

The use of fertilizer is optional with the borrower, but if an allowance is made for such purpose the following table indicates, for varying acreages in coffee, the number of acres which in each instance is the minimum that must be fertilized and the maximum for which an allowance will be approved:

No. acres in coffee:	*No. acres which must be fertilized and in excess of which no allowance will be approved*
1– 5 (inclusive)	½
6–10 (inclusive)	1
11–20 (inclusive)	2
21–40 (inclusive)	3
Over 40	4

The application of fertilizer must be in accordance with the best methods advocated by the Extension Service, and must be under the supervision of the Extension Service field force.

9. The amount approved for a loan by the Governor or his representative under these regulations will be paid to the applicant by a disbursing officer upon receipt and approval by the Governor or his representative of the following documents:

(*a*) Application in the form prescribed, signed by the applicant.

(*b*) Promissory note in the form prescribed, executed by the applicant for the amount approved by the Governor or his representative, payable to the Governor, bearing interest at the rate of 4 per cent per annum from maturity until paid.

(c) Lien instruments (including waivers) in the form prescribed, conveying a first lien, properly executed and filed, registered, or recorded in the proper office, as required by law.

(*d*) A voucher for the amount of the loan in the form prescribed, signed by the applicant.

10. Fees for recording, filing, registration, and examination of records (including certificates) shall be paid by the borrower; provided, however, that such fees aggregating not to exceed 75 cents per loan may be paid by him from the proceeds of the loan. No fees for releasing liens given to secure loans shall be paid from the proceeds of a loan.

11. The right is reserved to revoke, alter, or amend these regulations at any time and without notice.

[SEAL] W. I. MYERS,
Governor, Farm Credit Administration.

[F. R. Doc. 38–1012; Filed, April 8, 1938; 12:04 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5072]

AUTHORIZED POWER OF BROADCAST STATIONS ON CLEAR CHANNELS

HEARING NOTICE TO DETERMINE WHETHER RULE 117 SHOULD BE AMENDED

To the Licensees and Permittees of All Existing Regular Broadcast Stations (All Broadcast Stations Licensed to Operate Upon the Channels 550 kc to 1600 kc, Both Inclusive), and to All Applicants Who Have Pending Before the Commission Applications for Regular Broadcast Stations to Operate Upon Such Channels, and to Any Other Interested Parties:

Attention is directed to the provisions of the Commission's order of February 21, 1938, Minute #75–38, as follows:

"The Commission directed that a hearing be held beginning at 10 A. M., May 16, 1938, at its offices in Washington, D. C., to determine whether or not Rule 117 should be amended with respect to the power of broadcast stations on clear channels, and in particular to determine what limit, if any, should be placed upon the power to be authorized for any such stations.

"It further directed that at said hearing and to be consolidated therewith, the Commission will hear all pending applications for permits, modification or renewal of licenses, experimental or regular, which request power increases in excess of that permitted by the existing rule."

Pursuant to said order you are hereby notified that the Commission, at the time and place specified, will first hear any party, licensee, permittee or applicant on the questions hereinafter outlined as to whether or not Rule 117 should be modified with respect to authorized power of broadcast stations on clear channels and, in particular, to determine what limit if any will be placed upon such power; thereafter the Commission will hear any such applicants who may desire to be heard upon their individual applications.

For the purposes of the hearing upon the question of the modification of the rule the following issues shall be determined:

1. To determine if, in general, objectionable interference will be caused to the service of existing stations by increasing the power limit of stations assigned to the clear channels set out in Commission Rule 116.

2. To determine the nature and extent of the effect of the limitation, if any, of the service area of other classes of stations.

3. To determine whether the enlargement and improvement in the service of clear channel stations resulting from an increase in the maximum limit of power will be greater than any limitation of service that may result to other stations by reason of interference.

4. To determine the extent to which an increase in power on clear channels will enlarge the primary and secondary service areas of clear channel stations and improve the service of such stations.

5. To determine whether there is need for the proposed increased service which will be rendered by the use of the higher power on clear channels, and if so, in what areas such need exists.

6. To determine whether an increase in power on clear channels will tend to or result in an increase in, or concentration of, economic or social power and influence in the clear channel stations, and if so, whether this may have an effect upon other stations, the service rendered by them, or upon the public.

7. To determine whether an increase in power on clear channels will tend to or result in a decrease in competition between stations and whether the service to the public will be affected thereby.

8. To determine what charges will be necessary to support the operation of clear channel stations at additional power, whether such charges may be borne by the commercial support available and whether such charges will have an adverse effect upon the character of program service rendered.

9. To determine whether an increase in the maximum limitation of power upon clear channels will tend to, or result in, a duplication of service, either day or night, rural or urban, and if so, the nature and extent of such duplication.

10. To determine whether the stations now operating upon clear channels are so located geographically that an increase in the maximum limitation of power on such channels will bring about, or tend to bring about, a proper distribution of service, particularly to the rural areas served by such stations.

11. To determine whether the habits of listeners under such conditions will be such that they will listen to the high power service rather than the more localized regional and local class service.

12. To determine whether or not an increase in the maximum power limitation on clear channels would tend toward a fair, efficient and equitable distribution of transmission and reception among the states and communities within the meaning of Section 307 (b) of the Communications Act of 1934, as amended.

13. To determine whether or not a maximum limit of power should be fixed in the rule, and if so, what limit should be fixed.

14. To determine whether or not the present minimum and maximum power limits of Rule 117 should be maintained.

15. To determine whether or not public interest, convenience and necessity will be served by modification of Rule 117.

16. To determine what modification, if any, should be made in the public interest, convenience and necessity.

Each licensee, permittee, applicant or other party who desires to be heard shall, within fifteen days of the mailing of this notice by the Secretary of the Commission, file with the Commission verified notice of its intention to be present and participate in said hearing and shall set forth in detail a complete statement outlining the evidence which will be presented.

The above specified issues shall not be considered exclusive of, nor to preclude the presentation of, any other material evidence which any party may desire to present. But

if evidence on any other material question or issue, not indicated herein, is to be presented by any party, a complete and detailed statement thereof must be furnished at the time the notice of appearance and above statement is filed.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38–1006; Filed, April 8, 1938; 9:42 a. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Project No. 1401]

IN THE MATTER OF ROBERT W. CURTIS

ORDER FIXING DATE OF HEARING

APRIL 5, 1938.

Upon application filed September 29, 1936, as amended, by Robert W. Curtis of Keokuk, Iowa, for a license to authorize the construction, operation and maintenance of a hydro-electric project, No. 1401, on the Des Moines River in Lee and Van Buren Counties, Iowa, and Clark County, Missouri; said project to include a dam on the Des Moines River at Hinsdale, Iowa, creating a head of about 25 feet, a power house with installed capacity of 10,000 horsepower and appurtenant works;

It is ordered, That a public hearing on said application be held in the Commission's hearing room, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., beginning at 10 a. m. on May 2, 1938.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–1005; Filed, April 8, 1938; 9:42 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3373]

IN THE MATTER OF MERCK & COMPANY, INC., A CORPORATION

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (the Clayton Act) as amended by an Act approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended, (U. S. C., Title 15, Section 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that Merck & Company, Inc., a corporation, is violating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Merck & Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Rahway, New Jersey. Said respondent operates manufacturing plants in Rahway, New Jersey, and Philadelphia, Pennsylvania, and maintains branch offices in New York, New York, Philadelphia, Pennsylvania, and St. Louis, Missouri.

PAR. 2. Respondent corporation is, and has been since prior to June 19, 1936, engaged in the business of manufacturing, compounding, packaging, bottling, and offering for sale, selling, and distributing a line of laboratory chemicals and a line of medicinal, analytic, technical, and photographic chemicals. Respondent sells said chemicals generally to manufacturing consumers or processors, to hospitals, and to the wholesale trade for resale. Respondent sells and distributes said products in commerce between and among the various states of the United States and the District of Columbia, and preliminary to or as a result of such sales causes such products to be shipped and transported from the places of origin or manufacture to its branch offices and to purchasers of such products, who are usually located in states of the United States other than those in which such products originate, are manufactured or held for distribution, and there is and has been at all times herein mentioned a continuous current of trade and commerce in said products across state lines between respondent factories, branch offices and distributing points and the purchasers of such commodities. Such products are so sold and distributed for use, consumption, and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now and, during the time herein mentioned, has been in substantial competition with other corporations, individuals, partnerships and firms, engaged in the business of manufacturing or compounding, and offering for sale, selling, and distributing laboratory chemicals and medicinal, analytic, technical, and photographic chemicals, in commerce, between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as above described, since June 19, 1936, respondent has been and is now discriminating in price between different purchasers buying such products in like grades and qualities, so sold by respondent in interstate commerce for use, consumption, and resale, by giving and allowing some of its said purchasers of such chemical products lower prices than those given or allowed other of its said purchasers competitively engaged one with the other in the resale of said products within the United States. Said discriminations are brought about by the following practice and policy pursued by respondent, to wit:

Respondent has designated certain wholesalers reselling its products as "Merck Depots"; in selling its chemicals to such depots so-called, respondent on many of its items makes a special list price, which is usually from 5% to 15% lower than its regular quoted price to wholesalers generally; on other items on which respondent's list prices are the same to depots and to wholesale dealers generally, respondent follows the practice of selling its chemicals to said so-called depots at a quantity price which is lower than the price quoted for the quantity actually purchased, with the result that said depots have been and are purchasing such items at a price of from 5% to 15% less than that made available for the same quantities to wholesale dealers generally.

PAR. 5. Wholesalers purchasing such products from respondent, so bought and sold in interstate commerce, are in competition in the resale of such products with one another in the different states of the United States in which such purchasers are respectively located and engaged in business; and particularly in many cities and localities in the United States said so-called depots are in direct and substantial competition in the resale of such commodities with other wholesalers dealing in Merck products.

PAR. 6. The general effect of said systematic discriminations in price, so made by respondent as above set forth, has been or may be substantially to lessen competition and to injure, destroy, and prevent competition between respondent and its competitors in the manufacture, sale, and distribution of laboratory, medicinal, analytic, technical, and photographic chemicals, and also has been or may be substantially to lessen competition and to injure, destroy, and prevent competition in the resale of such products between some of the said favored purchasers of such products, being the so-called Merck Depots, so receiving such discriminatory prices, and some of the competitive unfavored wholesale dealers in said products not receiving such discriminatory prices. The effect of said discriminations in price also has been or may be to tend to create a monopoly in respondent in said line of commerce and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 7. The foregoing alleged acts and practices of the said respondent are in violation of Section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act.

Wherefore, the premises considered, the Federal Trade Commission on this 5th day of April, A. D., 1938, hereby issues this, its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Merck & Company, Inc., a corporation, respondent herein, that the 13th day of May, A. D., 1938, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of law charged in this complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer thereto. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(a) In cases arising under section 5 of the act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under section 2 of the aforesaid Clayton Act as amended by "An Act to amend section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes," approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 5th day of April, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–1008; Filed, April 8, 1938; 10:21 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3308]

IN THE MATTER OF CHARLES ATLAS, LTD.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 18, 1938, at ten o'clock in the forenoon of that day (eastern standard time), at room 500, 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–1007; Filed, April 8, 1938; 10:21 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 21]

ORDER RELATIVE TO INVESTIGATION OF MOTOR CARRIER RATES IN CENTRAL TERRITORY

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 28th day of March, A. D. 1938.

The Commission having under consideration the subject of the rates, charges, classifications, rules, regulations, and practices applicable to the transportation of property in interstate or foreign commerce by common carriers by motor vehicle between points as hereinafter described:

It is ordered, That an investigation be, and it is hereby, instituted by the Commission, on its own motion, into and concerning the lawfulness of the maximum, minimum, and precise basis of all rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property in interstate or foreign commerce between all points in the States of Illinois, Indiana, Michigan, Ohio, and Wisconsin, and all points in the States of Iowa, Kentucky, Missouri, New York, Pennsylvania, and West Virginia which are shown in Agent H. M. Slater's tariff MF–I. C. C. No. 1, as amended, with a view to determining whether the rates, charges, classifications, and the rules, regulations, and practices relating thereto, of respondents, or any of them, applicable to such transportation are in any respects in violation of law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant.

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation, described in the next preceding paragraph hereof, be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–1016; Filed, April 8, 1938; 12:22 p. m.]

[Ex Parte No. MC 21]

MOTOR CARRIER RATES IN CENTRAL TERRITORY

[I. & S. Docket No. M-278]

RATES IN CENTRAL TERRITORY

HEARING

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of March, A. D. 1938.

It appearing, That the above-entitled matters are such as the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matters be, and they are hereby, referred to Examiner A. S. Parker for hearing on the 25th day of April, A. D. 1938, at 10 o'clock A. M. (standard time), at the Hotel Sherman, Chicago, Ill., and for recommendation of appropriate orders thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given.

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within ten days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-1017; Filed, April 8, 1938; 12:22 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1938.

[File No. 32-83]

IN THE MATTER OF GEORGIA POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Georgia Power Company, of Atlanta, Georgia, a subsidiary company of The Commonwealth & Southern Corporation, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act, (1) the issuance of $2,301,000 principal amount of Georgia Power Company First and Refunding Mortgage Bonds, 5% Series due March 1, 1967, (2) the sale of $1,301,000 principal amount of said bonds to The Commonwealth & Southern Corporation;

The remaining $1,000,000 principal amount of said bonds are to be held in the Treasury of the applicant;

The proceeds of the bonds to be sold are required in connection with the maturity on May 1, 1938 of $2,300,800 principal amount of Central Georgia Power Company 5% First Mortgage Sinking Fund Gold Bonds:

Applicant states that the issue and sale of new bonds are solely for the purpose of financing the business of Georgia Power Company and have been expressly authorized by the Georgia Public Service Commission, the State commission of the State in which applicant is organized and doing business.

It is ordered, That a hearing on such matter be held on April 25, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 21, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1011; Filed, April 8, 1938; 11:50 a. m.]

Tuesday, April 12, 1938 — *No. 71*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

MODIFICATION OF EXECUTIVE ORDER NO. 7387 OF JUNE 15, 1936, RESERVING NAVAL STATION, BALBOA, CANAL ZONE

By virtue of and pursuant to the authority vested in me by section 5 of title II of the Canal Zone Code, approved June 19, 1934, and as President of the United States, it is ordered that Executive Order No. 7387 of June 15, 1936, be, and it is hereby, modified to the extent that the naval reservation established thereby shall hereafter be known as "Naval Radio Station, Balboa, Canal Zone", and shall be assigned to the uses and purposes of a naval radio station and to such other naval uses and purposes as the Secretary of the Navy may determine.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 7, 1938.

[No. 7862]

[F. R. Doc. 38-1018; Filed, April 8, 1938; 3:13 p. m.]

EXECUTIVE ORDER

ESTABLISHING PEA ISLAND MIGRATORY WATERFOWL REFUGE

North Carolina

By virtue of and pursuant to the authority vested in me as President of the United States and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands owned or controlled by the United States within the following-described area in Dare County, North Carolina, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the area described shall become a part of the refuge hereby established upon the acquisition of title thereto or lease thereof by the United States:

Beginning at a point on the north end of Pea Island on the south shore of Oregon Inlet, from which point a U. S. Biological Survey standard concrete post set for a witness corner bears south, 0.50 chain distant;

Thence from said initial point, along the east side of Pea Island, with the meanders of Oregon Inlet and the Atlantic Coast, N. 81°29′ E., 7.72 chains; S. 82°11′ E., 10.81 chains; S. 71°52′ E., 12.00 chains; S. 28°29′ E., 20.00 chains; S. 28°53′ E., 26.43 chains; S. 31°14′ E., 20.33 chains; S. 36°56′ E., 12.57 chains; S. 32°43′ E., 20.00 chains; S. 31°34′ E., 40.71 chains; S. 28°12′ E., 80.00 chains; S. 32°07′ E., 8.59 chains; S. 20°59′ E., 40.00 chains; S. 23°06′ E., 15.21 chains; S. 16°20′ E., 37.87 chains; S. 16°21′ E., 215.39 chains; S. 14°24′ E., 50.00 chains; S. 5°58′ E., 40.00 chains; S. 8°29′ W., 17.80 chains, to a point on the south end of Pea Island on the north shore of New Inlet;

Thence crossing New Inlet, S. 31°58′ E., 12.30 chains, to a point on the northeast corner of Chicamacomico Island;

Thence along the east side of Chicamacomico Island with the meanders of the Atlantic Coast, S. 5°31′ E., 29.27 chains; S. 9°53′ E., 80.11 chains; S. 13°30′ E., 80.31 chains; S. 10°35′ E., 62.50 chains; S. 14°17′ E., 40.00 chains; S. 12°58′ E., 40.00 chains; S. 7°58′ E., 21.53 chains, to a point from which a U. S. Biological Survey standard concrete post set for a witness corner bears S. 81°40′ W., 2.00 chains distant;

Thence inland, crossing Chicamacomico Island, S. 81°40′ W., 41.76 chains, to a point on the west side thereof on the east shore of Pamlico Sound, from which point a U. S. Biological Survey standard concrete post set for a witness corner bears N. 81°40′ E., 0.10 chain distant;

Thence with four courses in Pamlico Sound, west, 40.00 chains to a point; N. 19°51′ W., 455.00 chains to a point from which the southwest corner of Jack Shoal bears east 40.00 chains distant; N. 17°32′ W., 563.00 chains to a point; east, 80.00 chains to the place of beginning.

Those lands within the area described above which are in use as Coast Guard Stations shall remain under the primary jurisdiction of the Treasury Department, and their reservation as a wildlife refuge shall be subject at all times to use by that Department for Coast Guard purposes; and the enforcement of law by the Department of Agriculture shall be without interference with any existing or future regulations of the Treasury Department concerning the administration of those lands.

This reservation shall be known as the Pea Island Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 8, 1938.

[No. 7864]

[F. R. Doc. 38-1026; Filed, April 9, 1938; 11:44 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49503]

MARKING OF COUNTRY OF ORIGIN—PRODUCTS OF AUSTRIA

ARTICLES MANUFACTURED OR PRODUCED WITHIN THE TERRITORY WHICH COMPRISED THE REPUBLIC OF AUSTRIA TO BE MARKED TO INDICATE GERMANY AS THE COUNTRY OF ORIGIN

APRIL 8, 1938.

To Collectors of Customs and Others Concerned:

Under date of April 5, 1938, the Department of State advised the Treasury Department that for all practical purposes the disappearance of the Republic of Austria as an independent state and its incorporation in the territory of the German Government must be accepted as a fact.

In the circumstances, articles manufactured or produced within the territory which comprised the Republic of Austria shall, when imported after the expiration of sixty days from the date of publication of this decision in the weekly Treasury Decisions, be marked, pursuant to the provisions of section 304 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1304), to indicate Germany as the country of origin of such merchandise. Articles manufactured or produced within the territory referred to which are imported on or after April 5, 1938, and before the expiration of the said sixty-day period may be marked to show either Austria or Germany as the country of origin.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

[F. R. Doc. 38-1033; Filed, April 11, 1938; 12:04 p. m.]

Bureau of Internal Revenue.

[T. D. 4799]

PRODUCTION, FORTIFICATION, TAXPAYMENT, ETC., OF WINE

AMENDMENT OF REGULATIONS NO. 7

To District Supervisors and Others Concerned:

Paragraphs 71 and 77 of Treasury Department Regulations No. 7, relative to the production, fortification, taxpayment, etc., of wine, approved October 6, 1937, are amended to read as follows:

PAR. 71. *Sweetening for fortification.*—Natural wine, ameliorated in accordance with paragraph 70, may, prior to fortification, be sweetened with cane sugar or beet sugar or pure condensed grape must. Natural wine, to which no sweetening agents have been added, may, prior to fortification, be sweetened with cane sugar or beet sugar or pure condensed grape must. The cane sugar or beet sugar added shall not be in excess of 11 per cent of the weight of the wine.

PAR. 77. *Sweetening for fortification.*—Fruit and berry wine, ameliorated in accordance with paragraph 76, may, prior to fortification, be sweetened with cane sugar or beet sugar or pure condensed must of the fruit or berry used in manufacturing the wine. Fruit and berry wine which has not been ameliorated may, prior to fortification, be sweetened with cane sugar or beet sugar, or pure condensed must of the fruit or berry used in manufacturing the wine. The cane sugar or beet sugar added shall not be in excess of 11 per cent of the weight of the wine.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved April 7, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1027; Filed, April 9, 1938; 12:19 p. m.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

[Health Order No. 492]

RULES AND REGULATIONS FOR THE ADMISSION OF PATIENTS INTO INDIAN HOSPITALS AND SANATORIA

JANUARY 10, 1938.

To Superintendents, Physicians, and Others Concerned:

The following rules and regulations are issued under authority of Title 5 U. S. C. 485; Title 25 U. S. C. 2, 9, 13 and 31.

1. Hospitals and sanatoria maintained and operated by the Indian Service from gratuity funds are for the hospitalization and treatment of Indians who are recognized as the responsibility of the Federal Government.

2. Persons who are in need of hospitalization and who are enrolled Indians, recognized members of a tribe, and who are unable to provide such hospitalization from their own funds, may be admitted to such institutions.

3. In the order of priority, provided the individual is eligible as set forth in paragraph two, consideration should be given first to the emergency or necessity for hospitalization; second, to the degree of Indian blood of the individual; and, third, to his ability to pay.

4. Preference should be given to those of a higher degree of Indian blood. Nonresidents, who return to the reservation for the purpose of receiving free services and hospital-

ization and who otherwise do not have any interest in the reservation or who do not participate in tribal affairs, are not entitled to hospitalization as a matter of right, but only as a matter of courtesy based on the decision of the superintendent. The superintendent has authority to deny such applicants hospitalization when the facilities are needed for members residing within the reservation; and, likewise, the superintendent has a right, and is hereby authorized, to make a charge for hospitalization to nonresidents when they are in a position to pay the daily cost of operation.

5. Indian employees of the Indian Service, who receive a salary of $1620 per year or more, and members of their families, shall be required to pay for hospitalization at the average cost per patient-day based on the daily per capita figure for the preceding year; but any extra facilities or services required, such as are not provided at the hospital, shall be paid for by the patient. Those receiving less than $1620 per year shall pay one-half the full rate.

6. All other employees of the Service, regardless of salary, and dependent members of their families, when admitted as patients, shall be required to pay at the full rate indicated in the previous section. Admission of such persons as patients should be held strictly to emergency cases or cases where private hospitals are not available. No employee shall be hospitalized in an Indian Service hospital removed from the jurisdiction where he is employed, without Indian Office approval. The courtesy rate of $1 per day for any employee, white or Indian, or members of their families, is hereby abrogated.

Failure to make payment within a reasonable time by either Indian or white employees should be reported to the Washington Office for instructions. See Circular No. 2982, dated February 13, 1934, and Amendment No. 1, dated April 26, 1935, for instructions as to the collection and deposit of such charges.

7. The white wife of an Indian shall be eligible to hospitalization and medical services on the same basis as an Indian by reason of the fact that her husband is legally responsible to provide same; and he being an Indian, and government facilities being available, they may be extended to the wife.

8. An Indian wife and children of a white husband are not entitled to such facilities, except where they maintain a permanent home on the reservation and participate in tribal affairs. Since the husband is a white man and is legally responsible for his wife and family and not being a member of a tribe, he has no right to expect free services for himself or his family, except as indicated in this paragraph.

9. Any Indian child being educated in a government boarding or day school or for whom tuition is being paid by the government is entitled to hospitalization.

10. Indian women, who are widows of whites or of nonrestricted Indians and who maintain a residence on the reservation and are considered members of a tribe, shall be eligible for hospitalization.

11. Since our facilities are limited and the demand for hospitalization is more than can be supplied, superintendents shall follow these rules in determining those who are eligible for hospitalization. It must be realized that this Office at this distance can not make these decisions. The superintendent and the physician have all the facts before them, know the needs of the patient, his status, and his circumstances, and they are expected to assume the responsibility for making the decision in each case.

12. As indicated above, these rules apply to hospitals and sanatoria supported and paid for from gratuity appropriations. In the case of hospitals operated exclusively from tribal funds, all recognized members of the tribe, regardless of other considerations, are entitled to hospitalization and treatment. It is believed proper to indicate, however, that resident and active members of the tribe should be given preference over those who have established homes elsewhere and only consider themselves members because of certain benefits available to them.

13. These rules and regulations will not apply to the Indians of the Five Civilized Tribes jurisdiction. Until otherwise notified, the present requirements for admission in that area will be followed.

14. Indian Office Order No. 416, dated June 21, 1933, and Circular No. 2942, dated August 23, 1933, including Amendment No. 1 thereto, dated November 20, 1934, are hereby abrogated.

WILLIAM ZIMMERMAN, JR.,
Acting Commissioner.

Approved: March 10, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1029; Filed, April 11, 1938; 9:58 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP—1938-6]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 5

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, is hereby further amended as follows:

Subsection B of Section I is hereby further amended by the addition of the following:

2. The State restoration land goals are as follows:

Colorado	1,375,000 acres.
Kansas	750,000 acres.
Montana	875,000 acres.
Nebraska	425,000 acres.
New Mexico	150,000 acres.
North Dakota	1,025,000 acres.
Oklahoma	300,000 acres.
South Dakota	550,000 acres.
Texas	425,000 acres.
Wyoming	125,000 acres.

Done at Washington, D. C., this 8th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1025; Filed, April 9, 1938, 11:11 a. m.]

[Docket No. A-68 O-68]

NOTICE OF HEARING RE AMENDMENT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING IN INTERSTATE COMMERCE AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE, OF IRISH (WHITE) POTATOES GROWN IN LOUISIANA, AND IN CERTAIN DESIGNATED COUNTIES IN ALABAMA, ARKANSAS, CALIFORNIA, FLORIDA, GEORGIA, MARYLAND, MISSISSIPPI, NORTH CAROLINA, OKLAHOMA, SOUTH CAROLINA, TEXAS AND VIRGINIA

Whereas pursuant to Public Act No. 10, 73rd Congress, as amended and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, as amended, the Secretary of Agriculture called a public hearing in connection with a proposed marketing agreement and a proposed order regulating the handling in interstate commerce and such handling as directly burdens, obstructs, or affects interstate commerce, of Irish (white) potatoes grown in the State of Louisiana, and in certain designated counties in the States of Alabama, Arkansas, California, Florida, Georgia, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and Virginia, to be held in the San Benito City Hall, San Benito, Texas, on April 18, 1938, at 9:30 a. m.; in the McCarthey Hotel, Texarkana, Texas, on April 20, 1938, at 9:30 a. m.; in the Library, Pulaski County Court House, Markham and Broadway Streets, Little Rock, Arkansas, on April 21, 1938, at 9:30 a. m.; in the Court House, Muskogee, Oklahoma, on April 22, 1938, at 9:30 a. m.; in the Court House, Wharton, Texas, on April 18, 1938, at 9:30 a. m.; in Room 300, Association of Commerce Building, 315 Camp Street, New Orleans, Louisiana, on April 20, 1938, at 9:30 a. m.; in the Auditorium, Court House (second floor), Gulfport, Mississippi, on April 21, 1938, at 9:30 a. m.; in the American Legion Hall, Foley, Alabama, on April 23, 1938, at 9:30 a. m.; in the Criminal Court Room, Court House, West Palm Beach, Florida, on April 18, 1938, at 9:30 a. m.; in the Court House, Palatka, Florida, on April 19, 1938, at 9:30 a. m.; in the Court Room, Court House, Springfield, Georgia, on April 20, 1938, at 9:30 a. m.; in the Community Center Auditorium, Community Center Headquarters, Charleston, South Carolina, on April 21, 1938, at 9:30 a. m.; in the Auditorium, Central High School, Painter, Virginia, on April 19, 1938, at 9:30 a. m.; in the Social Hall, Navy Y. M. C. A., 130 Brooke Avenue, Norfolk, Virginia, on April 21, 1938, at 9:30 a. m.; in the High School Auditorium, Washington, North Carolina, on April 22, 1938, at 9:30 a. m.; in the Richland Grammar School Auditorium, Shafter, California, on April 19, 1938, at 9:30 a. m.; and in the Assembly Hall, State Office Building, Los Angeles, California, on April 20, 1938, at 9:30 a. m.; and

Whereas an amendment has been proposed to the aforementioned marketing agreement and order, which amendment would amend article I, section 1, paragraph 9, by including in the definition of the "Southwestern Area" the county of Hempstead in the State of Arkansas;

Now, therefore, notice is hereby given that when the said hearing convenes at the aforesaid places and times, in addition to the evidence called for in the original notice of hearing dated April 5, 1938, evidence will be received concerning the proposed amendment set forth above.

It is hereby declared that an emergency exists in the handling of potatoes in the aforesaid area and it is hereby determined that the period of notice of the proposed amendment hereby given is reasonable under the circumstances.

Copies of the proposed amendment may be inspected in or procured from the Hearing Clerk, Office of the Solicitor, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

Dated: April 9, 1938.

[F. R. Doc. 38-1032; Filed, April 11, 1938; 11:25 a. m.]

Bureau of Animal Industry.

[Amendment 18 to Declaration No. 12]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

APRIL 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

South Dakota: Hutchinson, April 1, 1941; McCook, April 1, 1941.

Puerto Rico: Cayey, April 1, 1941; Aibonito, April 1, 1941; Comerio, April 1, 1941; Toa Alta, April 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Chambers, April 1, 1941; Randolph, April 1, 1941.

Arkansas: Cross, April 1, 1941; Lincoln, April 1, 1941; Miller, April 1, 1941; St. Francis, April 1, 1941.

Colorado: Crowley, April 1, 1941; Huerfano, April 1, 1941; Otero, April 1, 1941; Pueblo, April 1, 1941.

Florida: Brevard, April 1, 1941; Lake, April 1, 1941; Orange, April 1, 1941; Seminole, April 1, 1941.

Georgia: Heard, April 1, 1941; Johnson, April 1, 1941; Montgomery, April 1, 1941; Telfair, April 1, 1941; Turner, April 1, 1941; Washington, April 1, 1941; Wheeler, April 1, 1941.

Illinois: Bond, April 1, 1944; Christian, April 1, 1944; Kankakee, April 1, 1941.

Iowa: Adams, April 1, 1944; Madison, April 1, 1944; Cedar, April 1, 1941; Harrison, April 1, 1941; Johnson, April 1, 1941; Webster, April 1, 1941.

Kansas: Smith, April 1, 1941.

Kentucky: Casey, April 1, 1941; Logan, April 1, 1941; Magoffin, April 1, 1941; Meade, April 1, 1941; Shelby, April 1, 1941.

Michigan: Jackson, April 1, 1941; Kent, April 1, 1941; Macomb, April 1, 1941.

Mississippi: Alcorn, April 1, 1941; Carroll, April 1, 1941; Lafayette, April 1, 1941; Marshall, April 1, 1941; Webster, April 1, 1941.

Missouri: Barry, April 1, 1941; Bollinger, April 1, 1941; Madison, April 1, 1941; Stone, April 1, 1941; Wayne, April 1, 1941.

Montana: Custer, April 1, 1940; Gallatin, April 1, 1940; Sanders, April 1, 1940.

North Carolina: Jones, April 1, 1940; Nash, April 1, 1940.

Ohio: Scioto, April 1, 1940.

Oklahoma: Alfalfa, April 1, 1940; Greer, April 1, 1940.

Pennsylvania: Montgomery, April 1, 1940.

South Carolina: Abbeville, April 1, 1940; Laurens, April 1, 1940.

Tennessee: Clay, April 1, 1940; Lincoln, April 1, 1940; Wayne, April 1, 1940.

Texas: Brisco, April 1, 1940; Eastland, April 1, 1940; Fayette, April 1, 1940; Floyd, April 1, 1940; Gregg, April 1, 1940; King, April 1, 1940; Kinney, April 1, 1940; Mason, April 1, 1940; Menard, April 1, 1940; San Saba, April 1, 1940.

Virginia: Hanover, April 1, 1940; Prince William, April 1, 1940; Rockbridge, April 1, 1940.

West Virginia: Fayette, April 1, 1940.

Wisconsin: Ashland, April 1, 1940; Bayfield, April 1, 1940; Burnett, April 1, 1940; Douglas, April 1, 1940; Dunn, April 1, 1940; Fond du Lac, April 1, 1940; Green, April 1, 1940; Iowa, April 1, 1941; Iron, April 1, 1941; Outagamie, April 1, 1941; Price, April 1, 1941; Rusk, April 1, 1941; Sawyer, April 1, 1941; Washburn, April 1, 1941; Waukesha, April 1, 1941; Winnebago, April 1, 1941.

Wyoming: Sublette, April 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended, is hereby further amended accordingly.

[SEAL] J. R. MOHLER,
Chief of Bureau.

[F. R. Doc. 38-1031; Filed, April 11, 1938; 11:25 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

EXEMPTION FROM RADIO REQUIREMENT FOR SMALL PASSENGER VESSELS ENGAGED IN FISHING IN AREAS LYING BETWEEN TAMPA, FLORIDA AND NEW ORLEANS, LOUISIANA

The Commission at a meeting held April 5, 1938, adopted the following Order:

Whereas there are pending before the Commission certain applications for exemption from the provisions of Title III, Part II, of the Communications Act of 1934, as amended by Public No. 97, which applications were filed on behalf of certain sport-fishing passenger vessels of less than 100 gross tons operating along the Gulf Coast in areas lying between Tampa, Florida and New Orleans, Louisiana; and

Whereas it appears that the route and conditions of the voyages and other circumstances are such as to render a radio installation unreasonable or unnecessary for the purpose of Title III, Part II of said Communications Act;

It is ordered, That the sport-fishing passenger vessels, *Betty B. Itasca, Athor II, Rambler, Dorris White, Jennie*

Louise, Cavalier, Suitsme, Sportsman, Atlanta, Mardale, Silver King, Geane Bryant, Silver Spray, and *Kathleen,* when navigated not more than 15 miles off shore in the waters between Tampa, Florida and New Orleans, Louisiana, are exempt from the provisions of Title III, Part II, of the Communications Act, as amended, for a period of one year from the date of this Order; and

It is further ordered, That any other sport-fishing passenger vessels of less than 100 gross tons, when navigated not more than 15 miles off shore in waters lying between Tampa, Florida and New Orleans, Louisiana, shall be exempt from the provisions of Title III, Part II, of the Communications Act for a period ending one year from the date of this Order; said period to begin with the date of filing of a written request for said exemption, under oath and in triplicate, with the Inspector in Charge, Federal Communications Commission, 326 Customhouse, New Orleans, Louisiana; 411 Federal Annex, Atlanta, Georgia; or 201 Stovalls Professional Building, Tampa, Florida. The request for such exemption shall include the following information:

Name and owner or applicant.
Name of vessel.
Official number.
Gross tonnage.
Required crew.
Number of passengers permitted.
Trade in which engaged.
Maximum distance navigated from land.
Route vessel normally follows.
Number of passengers normally carried on this (these) route(s).
Period of day and seasons in which vessel is operated.
Reason in detail for requesting exemption.

Provided, however, That the foregoing exemptions shall be specifically subject to such rules and regulations as the Commission may hereafter adopt with regard to the granting of applications without hearing, and, with respect to any ship or ships not specifically named herein, such exemption shall be subject to suspension or cancellation without notice or hearing within 60 days from the date of filing the request for exemption.

By The Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1028; Filed, April 11, 1938; 9:55 a. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL HOME LOAN BANKS

PROVIDING THAT THE BANKS SHALL ACCEPT INSURANCE POLICIES FURNISHED BY BORROWERS WITHOUT DISCRIMINATION BETWEEN POLICIES ISSUED BY INSURANCE COMPANIES OF THE CAPITAL STOCK TYPE OR OF THE MUTUAL TYPE

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by Section 17 of the Federal Home Loan Bank Act (12 U. S. C. 1437), Section 41 of the Rules and Regulations for Federal Home Loan Banks is hereby amended by adding at the end thereof a new paragraph numbered (7) to read as follows:

"(7) *Regulations.*—In determining the eligibility of home mortgage collateral, each Bank shall accept insurance policies furnished by the member or non-member borrower if issued by reliable companies licensed to do business where the property covered by the home mortgage collateral is situated without discrimination between policies issued by insurance companies of the capital stock type or of the mutual type."

Adopted by the Federal Home Loan Bank Board on April 8, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1019; Filed, April 9, 1938; 9:50 a. m.]

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN ASSOCIATIONS

PROVIDING THAT VOLUNTARY REPURCHASES OF FULL PAID INCOME SHARES HELD BY THE SECRETARY OF THE TREASURY WILL BE CREDITED UPON THE PURCHASE REQUESTS WHICH THE SECRETARY OF THE TREASURY IS PERMITTED BY STATUTE TO MAKE

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsections (a) and (j) of Section 5 of the Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a), 1464 (j), subsection (d) of Section 37 of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended by adding at the end thereof the following:

"Investments in full paid income shares repaid by an institution voluntarily to the Secretary of the Treasury will be credited upon the next succeeding requests by the Secretary of the Treasury for the retirement or repurchase of such investments from such institution to the extent of such voluntary repayments."

Be it further resolved, That, it being deemed that this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Federal Home Loan Bank Board on April 8, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1020; Filed, April 9, 1938; 9:50 a. m.]

Home Owners' Loan Corporation.

AMENDMENT TO RULES AND REGULATIONS FOR INVESTMENTS BY THE HOME OWNERS' LOAN CORPORATION IN SECURITIES OF SAVINGS AND LOAN ASSOCIATIONS

PROVIDING THAT VOLUNTARY REPURCHASES OF HOLC INVESTMENTS WILL BE CREDITED UPON THE PURCHASE REQUESTS WHICH THE HOME OWNERS' LOAN CORPORATION IS PERMITTED BY STATUTE TO MAKE

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (k) of Section 4 of the Home Owners' Loan Act of 1933 (12 U. S. C. 1463 (k)), paragraph numbered 4 of the first resolve of the Rules and Regulations for Investments by the Home Owners' Loan Corporation in Securities of Savings and Loan Associations is hereby amended by inserting after the first sentence, the following:

"Investments repaid voluntarily to the Corporation will be credited upon the next succeeding requests by the Corporation for the repurchase or withdrawal of investments from such institution to the extent of such voluntary repayments."

Adopted by the Federal Home Loan Bank Board on April 8th, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1021; Filed, April 9, 1938; 9:50 a. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. ID-707, ID-739, ID-758, ID-814, ID-464, ID-423, ID-491, ID-686, ID-303, ID-269, ID-432, ID-237, ID-398, ID-839, ID-658, ID-516]

APPLICATIONS OF VICTOR EMANUEL, LOUIS H. SEAGRAVE, ARTHUR E. BRAUN, EDWARD W. JUDY, CURTIS S. MITCHELL, FRANK J. HOLUB, LEO F. KANE, OTTO J. WOLFRAM, WINFIELD B. CARSON, CARL J. BRAUN, RICHARD MCCALL, HUGH W. ANNETT, ROSCOE E. HANNA, HOWARD D. MEGAHAN, EDISON W. WASHABAUGH, CHARLES W. LEPPER

ORDER FIXING DATE OF HEARING

APRIL 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) Upon applications separately filed by the above-named applicants, pursuant to Section 305 (b) of the Federal Power Act, for authorization to hold certain interlocking positions within the purview of said Section 305 (b), the Commission has heretofore authorized said applicants severally to hold said positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be adversely affected by reason of the applicant's holding said positions;

(b) It is in the public interest that each of the above-named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(c) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

The Commission orders that: A public hearing on said applications be held beginning on May 4, 1938, at 10:00 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.; and that at said hearing each of the above-named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1036; Filed, April 11, 1938; 12:22 p. m.]

[Docket Nos. ID-546, ID-468, ID-389, ID-695, ID-252, ID-582, ID-315, ID-285, ID-495]

APPLICATIONS OF ROBERT F. PACK, JOHN J. MOLYNEAUX, HENRY GRENACHER, HAROLD E. YOUNG, THEODORE E. CROCKER, GLEN V. RORK, ROBERT L. CLARK, NOEL H. BUCKSTAFF, ERNEST G. KELLETT

ORDER FIXING DATE OF HEARING

APRIL 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) Upon applications separately filed by the above-named applicants, pursuant to Section 305 (b) of the Federal Power Act, for authorization to hold certain interlocking positions within the purview of said Section 305 (b), the Commission has heretofore authorized said applicants severally to hold said positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be adversely affected by reason of the applicant's holding said positions;

(b) It is in the public interest that each of the above-named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(c) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

The Commission orders that: A public hearing on said applications be held beginning on May 9, 1938, at 10 a. m., in room 988, Merchandise Mart, Chicago, Illinois, and that at said hearing each of the above-named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1035; Filed, April 11, 1938; 12:22 p. m.]

[Docket Nos. ID-736, ID-554, ID-249, ID-440, ID-513, ID-732, ID-524, ID-812]

APPLICATIONS OF ARTHUR PETER, FRANK J. PFEIFFER, JOHN W. BARR, JR., JOHN J. MCKENNA, ADDISON W. LEE, JR., ROBERT MONTGOMERY, WALTER I. LUKENBILL, EDWIN DOW WOOD

ORDER FIXING DATE OF HEARING

APRIL 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) Upon applications separately filed by the above-named applicants, pursuant to Section 305 (b) of the Federal Power Act, for authorization to hold certain interlocking positions within the purview of said Section 305 (b), the Commission has heretofore authorized said applicants severally to hold said positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be adversely affected by reason of the applicant's holding said positions;

(b) It is in the public interest that each of the above-named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(c) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

The Commission orders that: A public hearing on said applications be held beginning on May 9, 1938, at 10 a. m., in room 988, Merchandise Mart, Chicago, Illinois, and that at said hearing each of the above-named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1034; Filed, April 11, 1938; 12:22 p. m.]

[Docket Nos. ID-737, ID-504, ID-555, ID-490, ID-350, ID-327, ID-632, ID-624, ID-124]

APPLICATIONS OF JOHN P. PULLIAM, CHARLES E. KOHLHEPP, CARROLL R. PHENICIE, THEODORE F. KAAP, DONALD W. FABER, J. H. DEINLEIN, HAROLD P. TAYLOR, IRVING P. STEYBE, CHAUNCEY M. BREWER

ORDER FIXING DATE OF HEARING

APRIL 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) Upon applications separately filed by the above-named applicants, pursuant to Section 305 (b) of the Federal Power Act, for authorization to hold certain interlocking positions within the purview of said Section 305 (b), the Commission has heretofore authorized said applicants severally to hold said positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be adversely affected by reason of the applicant's holding said positions;

(b) It is in the public interest that each of the above-named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(c) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

The Commission orders that: A public hearing on said applications be held beginning on May 9, 1938, at 10 a. m., in room 988, Merchandise Mart, Chicago, Illinois, and that at said hearing each of the above-named applicants make

further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1037; Filed, April 11, 1938; 12:22 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3250]

IN THE MATTER OF GOOD HUMOR CORPORATION OF AMERICA, A CORPORATION, JOE LOWE CORPORATION, A CORPORATION, POP-SICLE CORPORATION OF THE UNITED STATES, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 25, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 310, Federal Building, Jacksonville, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1022; Filed, April 9, 1938; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3338]

IN THE MATTER OF ROBERT E. WATERMAN, INDIVIDUALLY AND TRADING AS NATIONAL POTTERY DISTRIBUTORS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, April 29, 1938, at ten o'clock in the forenoon of that day (eastern standard time), Assembly Room, Orange County Court House, third floor, Orlando, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1024; Filed, April 9, 1938; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3348]

IN THE MATTER OF WALTER JACKSON, TRADING AS JACKSON UNIVERSITY, JACKSON UNIVERSITY OF BUSINESS, EDUCATIONAL FINANCE COMPANY AND WORLD'S DESIRE BUREAU

ORDER APPPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 12, 1938, at ten o'clock in the forenoon of that day (central standard time) in Federal Court Room, Federal Building, Chillicothe, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1023; Filed, April 9, 1938; 10:14 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of April, A. D. 1938.

[File Nos. 43-111, 47-22]

IN THE MATTER OF IOWA POWER AND LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Iowa Power and Light Company, a subsidiary of a registered holding company, regarding the issue and sale, at private sale, of $5,700,000 principal amount of First Mortgage Bonds, 4% Series due 1968, to provide funds (1) for the repayment of bank loans incurred for additions to its physical properties, (2) to complete additions to its physical property now contemplated or in the course of construction, and (3) for the redemption, in connection with a proposal to merge and consolidate its subsidiary, Des Moines Gas Company, into itself, of the bonds of such subsidiary on September 1, 1938 and, on July 1, 1938, of the preferred stock of such subsidiary outstanding in the hands of the public; said Iowa Power and Light Company, simultaneously with the filing of such declaration, having also filed an application, pursuant to Section 10 of said Act, for approval of the acquisition by it of all the physical properties and other assets of said Des Moines Gas Company through liquidation and dissolution thereof upon the redemption of the preferred stock of such company; and it appearing that the hearings on such declaration and application should be joined and consolidated;

It is ordered, That a hearing on such matter be held on May 3, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 29, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1030; Filed, April 11, 1938; 11:04 a. m.]

Wednesday, April 13, 1938 *No. 72*

WAR DEPARTMENT.

ANCHORAGE GROUNDS IN HAMPTON ROADS AND THE HARBORS OF NORFOLK AND NEWPORT NEWS, VIRGINIA, AND RULES AND REGULATIONS RELATING THERETO

EXTRACTS FROM LAWS REGULATING THE USE OF NAVIGABLE WATERS

Obstruction Prohibited

River and harbor act approved March 3, 1899:

"SEC. 10. That the creation of any obstruction not affirmatively authorized by Congress to the navigable capacity of any of the waters of the United States is hereby prohibited; * * *

* * * * * *

"SEC. 12. That every person and every corporation that shall violate any of the provisions of sections nine, ten, and eleven of this act, * * * shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court.

* * * * * *

"SEC. 15. That it shall not be lawful to tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft; or to voluntarily or carelessly sink, or permit or cause to be sunk, vessels or other craft in navigable channels; * * *

* * * * * *

"SEC. 16. That every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections thirteen, fourteen, and fifteen of this act shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment (in the case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction." * * *

Interference With Range Lights Prohibited

Act approved May 14, 1908:

"SEC. 6. That it shall be unlawful for any person to obstruct or interfere with any aid to navigation established or maintained in the Lighthouse Establishment under the Lighthouse Board, or to anchor any vessel in any of the navigable waters of the United States so as to obstruct or interfere with range lights maintained therein, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and be subject to a fine not exceeding the sum of $500 for each offense, and each day during which such violation shall continue shall be considered as a new offense."

Establishment of Anchorage Grounds Authorized

River and harbor act approved March 4, 1915:

"SEC. 7. That the Secretary of War is hereby authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Revenue-Cutter Service under the direction of the Secretary of the Treasury: *Provided,* That at ports or places where there is no revenue cutter available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of War. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or person in charge of such vessel shall be liable to a penalty of $100; and the said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of War."

NOTE.—The Revenue-Cutter Service is now included in the United States Coast Guard (act of January 28, 1915). The officer of the Coast Guard Service charged with special duties in connection with the enforcement of these regulations under the direction of the Secretary of the Treasury is designated "Captain of the Port." Complaints arising under these regulations should be addressed to that officer. His office is at Norfolk, Va.

THE ANCHORAGE GROUNDS

(All azimuths are referred to a true meridian)

Under authority of the provisions of section 7 of the river and harbor act approved March 4, 1915, quoted above, the following anchorage grounds for vessels in Hampton Roads and the harbors of Norfolk and Newport News, Virginia, are hereby defined and established, and the following rules and regulations relating thereto are adopted:

Temporary Anchorage A—Hampton Bar

To the westward of a line bearing 8° from a point "A" determined by the following cross bearings: Old Point Comfort Light, bearing 31°; range and beacon tower on west end of Fort Wool, bearing 100°; to the northward of a line bearing 229° from point "A" to a point "B", 425 yards distant; to the northeastward of a line bearing 289° from point "B" to the Elizabeth City County shore.

NOTE.—This area is reserved for the use of vessels while undergoing examination by quarantine, customs, and immigration authorities. Upon completion of these examinations, vessels shall move promptly to a regular anchorage area.

The master of every steam vessel using this temporary anchorage shall keep his vessel in condition to move promptly under her own power upon notification by the Captain of the Port, and, when any such vessel is in charge of a pilot, the pilot shall remain on board until the vessel is safely anchored in a designated anchorage area. No sailing vessel, using this anchorage, shall be left unattended by a steam tugboat while undergoing examination by any of the authorities mentioned herein, except when her stay is likely to be of several hours' duration, when she shall be anchored in the western part of this temporary anchorage out of the way of other vessels before the tug and pilot leave her.

No master of a vessel awaiting or undergoing quarantine inspection shall release any part of the crew until the vessel has been passed by the proper quarantine officials and safely anchored, or moored, in one of the designated areas.

Anchorage B—Naval Anchorage[1]

To the southward of a line extending 289° from point "B" defined under "Temporary Anchorage A"; to the westward of a line extending 3,680 yards, 229° from point "B" to point "C"; and to the northward of a line extending 292° from point "C" to the Elizabeth City County shore.

NOTE.—This area is reserved for the use of naval vessels, but, in the absence of the fleet, the Captain of the Port may, in his discretion, permit it to be used by merchant vessels. Upon receiving word that any part of the fleet is expected, the Captain of the Port shall cause a sufficient area in this anchorage, and also in Anchorage C, to be vacated to accommodate the number of vessels scheduled to arrive.

Anchorage C—Newport News Bar[1]

To the southward of the southern boundary of Anchorage B; to the westward of an extension of the line forming the eastern boundary of Anchorage B; to the northward of a line running through the red buoys marking the 40-foot dredged channel to Newport News; to the eastward of a line bearing north through red gas buoy No. 8, at the western entrance to the Newport News Channel.

NOTE.—Vessels shall be anchored so as to leave a clear fairway 200 yards wide from Newport News Channel buoy No. 5 to the gas and bell buoy off the Chesapeake Ferry Company's slip at Newport News, thence 200 yards wide to the said ferry slip, except that in an emergency the fairway may be closed and occupied for the anchoring of naval vessels.

Anchorage D

The area enclosed by lines drawn as follows: From gas buoy No. 1 at the entrance to the Newport News dredged channel to bell buoy No. 2, on the western side of the Norfolk Harbor dredged channel; thence 229° until Newport News Middle Ground Light bears 303°; thence 250° until Newport News Middle Ground Light bears 3°; thence bearing 3° for a distance of 775 yards to anchorage buoy E; thence bearing 49° on a line in extension of the southeast boundary of Anchorage B to intersection with the first line.

NOTE.—This area is to be used by deep-draft vessels, wind-bound vessels from Lambert Point and Sewall Point, and vessels awaiting turn for docking. Other vessels may use this anchorage when permitted by the Captain of the Port.

Vessels shall be anchored so as to leave a clear fairway 200 yards wide on a straight line between the slip of the Chesapeake Ferry Company at Pine Beach and Newport News Channel buoy No. 5.

Anchorage E—Middle Ground Anchorage

To the southward of a line running through the black buoys marking the southern edge of the 40-foot dredged channel to Newport News; to the westward of the northwest boundary line of Anchorage D; to the northeastward of a line bearing 310° from anchorage buoy E.

NOTE.—Vessels shall be anchored so as to leave a clear fairway 200 yards wide on a straight line between the slip of the Chesapeake Ferry Company at Pine Beach and Newport News Channel buoy No. 5, except that in an emergency the fairway may be closed and occupied for the anchoring of naval vessels.

Anchorage F—Anchorage for Explosives and Other Dangerous Articles

To the southward of a line, bearing 310°, through two points determined by the following cross bearings: Easterly point, Newport News Middle Ground Light, bearing 20°; Craney Island beacon, bearing 131°; Nansemond River Light, bearing 243°; westerly point, Newport News Middle Ground Light, bearing 89°; Nansemond River Light, bearing 219°; northern red light on the railroad pier at Newport News, bearing 327°45′. To the westward of a line bearing 183° through the above easterly point; to the eastward of a line bearing 183° through the above westerly point. The northeasterly limit of Anchorage F is parallel to and 425 yards southeast of the southeast boundary of Anchorage E. (See note.)

NOTE.—All vessels are forbidden to anchor between the northern boundary line of Anchorage F, and the southwestern boundary line of Anchorage E, or within a zone 425 yards wide on the eastern and the western sides of Anchorage F.

Anchorage F–1—Anchorage for Vessels Carrying Explosives and Other Dangerous Articles and Having Drafts Too Great to Permit Them to Use Anchorage F

An area within Anchorage C to the westward of the eastern boundary of Anchorage C; to the northward of a line bearing 292° from the southeasterly corner of Anchorage C, 1,800 yards; to the eastward of a line bearing 49° to a point in the northern boundary of Anchorage C, 1,800 yards distant from the easterly corner of Anchorage C; to the southward of the northern boundary of Anchorage C.

NOTE.—When Anchorage F–1 is not occupied by vessels carrying explosives, it may be used as a general anchorage in the same manner as other portions of Anchorage C, except that it must be vacated upon notice from the Captain of the Port when a vessel of a draft too great to permit it to use Anchorage F carrying explosives desires to anchor.

When Anchorage F–1 is occupied by a vessel carrying explosives, vessels shall not anchor in Anchorages B or C within a zone 425 yards wide on all sides of the area.

No vessel carrying explosives shall be anchored in area F–1 so as to swing within 500 yards of the Newport News dredged channel.

Anchorage G—Newport News

To the southward of the following lines: From Fishing Point to black can buoy No. 3 off Naseway Shoal; thence to a point fixed by the following cross bearings: Northern red light on railroad pier, Newport News, bearing 135°; Nansemond River Light, bearing 180°; thence to a point determined by the following cross bearings: Northern red light on railroad pier, Newport News, bearing 45°; Newport News Middle Ground Light, bearing 119°; Nansemond River Light, bearing 189°35′; thence 145° to Anchorage buoy F, intersecting an extension of the line marking the northern boundary of Anchorage E; thence easterly to the westerly point of Anchorage E. To the westward of a line parallel to and 425 yards west of the western boundary of Anchorage F.

Anchorage G–1—James River

To the northward of a line bearing 121° through a point on the Warwick County shore and a point 450 yards northerly of the midway point of the draw opening in James River Bridge; and to the eastward of a line parallel to James River Bridge and easterly therefrom not less than 200 yards.

Anchorage G–2—James River

To the westward of a line parallel to James River Bridge and westerly therefrom not less than 200 yards; to the northward of a line bearing 121° from a point 450 yards northerly of the midway point of the draw opening of James River Bridge, 6,100 yards northwesterly to a point; and to the eastward of a line bearing 30° from that point on the Warwick County shore.

Anchorage H—Craney Island Flats

To the southward of the lines forming the southeastern boundary of Anchorage D; to the westward of a line through the red buoys marking the western side of the Norfolk Harbor Channel as far south as Craney Island beacon; to the northward of an east and west line joining Craney Island beacon and a point on the eastern boundary of Craney Island; generally eastward, northward, and westward of the northern portion of Craney Island between the point on the eastern boundary and the mainland west of the island; and to the eastward of a line parallel to and 425 yards easterly of the eastern boundary of Anchorage F.

NOTE.—Vessels shall be anchored so as to leave a clear fairway 200 yards wide on a straight line between the slip of the Chesapeake Ferry Company at Pine Beach and Newport News Channel buoy No. 5.

Anchorage H–1—West Norfolk

To the southward and eastward of the southern and eastern boundaries of Craney Island and to the southward of an east and west line joining a point on the eastern boundary of Craney Island and Craney Island beacon; to the westward of a line through the red buoys marking the western side of the Norfolk Harbor Channel; to the northwestward of a line through buoys Nos. 20 and 8, marking the northern side of the Western Branch Channel; and to the northeastward of a line through buoy No. 8 and high stack at West Norfolk.

NOTE.—No vessel after receiving its load shall remain more than 12 hours in this anchorage, except by special permit from the Captain of the Port.

Anchorage J—Sewall Point

To the southward of a line bearing 87° from gas buoy No. 5 on the eastern side of the Norfolk Harbor channel; to the northward of a line bearing 282° from the northwestern corner of the submarine basin, Naval Operating Base; to the eastward of a line through the black buoys marking the eastern side of the channel to Norfolk.

Anchorage K

To the southward of lines bearing 87° and 220°, respectively, from spar buoy No. 2, marking the southern side of the channel to the Virginian Railway coal pier at Sewall Point; to the northward of a line through spar buoys Nos. 1 and 3, marking the northern side of the channel to the Norfolk & Western Railway terminal at Sewall Point; and to the eastward of a line through can buoy No. 11, marking the eastern side of the Norfolk Harbor Channel.

Anchorage K–1

To the southward of a line through spar buoy No. 4, marking the southern side of the channel to the Standard Oil Company's pipe line pier; to the northward of a line 185 yards north of pier No. 2 of the United States Army Supply Base; and to the eastward of the eastern side of the Norfolk Harbor Channel.

Anchorage K–2

To the southward of two lines, one 185 yards south of pier No. 1 of the United States Army Supply Base, and the other running easterly from the extreme tip of Tanner Point on the north side of Lafayette River, at its mouth, to the extreme tip of the most northerly point on the south side of the river; to the northward of a line bearing 112° from gas buoy No. 21, about 835 yards northerly of Lambert Point; and to the eastward of a line through buoys Nos. 15, 19, and 21, marking the eastern side of Norfolk Harbor Channel.

Anchorage K–3—Lafayette River

(For yachts and pleasure craft)

To the westward of Hampton Boulevard bridge crossing Lafayette River; and to the northward and eastward of a line running easterly from the extreme tip of Tanner Point on the north side of the river, at its mouth, to the extreme tip of the most northerly point on the south side of the river, this line constituting the dividing line between Anchorages K–2 and K–3.

NOTE.—It will be understood that the establishment of this area shall not interfere with navigation and oyster cultivation.

Anchorage L—Lambert Point

To the southeastward of a line bearing 51° from gas buoy No. 23 off Lambert Point; to the northwestward of a line bearing 51° from can buoy No. 25 off Lambert Point Creek; to the northeastward of a line through gas buoy No. 23 and can buoy No. 25 marking the eastern side of channel to Norfolk.

Anchorage M

To the southeastward of a line bearing 47° from can buoy No. 27, 75 yards southeastward of the southernmost pier of the Norfolk & Western Railway on the east side of the channel to Norfolk, to the northeastward of two lines, one bearing 132° from can buoy No. 27, 530 yards to a point; and the other bearing 109° from that point.

Anchorage N—Atlantic City

To the northeastward of a line running from the westerly end of the Pennsylvania Railroad pier in Norfolk to the southerly end of the pier at Fort Norfolk; and between two lines at right angles to above line, one passing 200 feet northwest of the Chesapeake & Ohio Railroad pier in Norfolk and the other passing 109 feet southeast of the Nottingham & Wrenn pier; and to the southward of a line drawn 100 feet north of and parallel to an extension of the north side of West Freemason Street.

Anchorage N–1—Smith Creek

Mowbray Arch.—Between Mowbray Arch and a line described as follows: Beginning at Ghent Bridge 150 feet from Mowbray Arch and continuing westerly the same distance therefrom to the intersection of the prolongation of the east side of the Colonial Avenue; thence in a straight line to a point on the south side of Mill Street prolonged and 70 feet from Mowbray Arch; thence parallel to and 70 feet from Mowbray Arch to the south side of Pembroke Avenue prolonged; thence along the prolongation of the south side of Pembroke Avenue to a point 50 feet from Mowbray Arch; thence in a straight line to a point on the south side of Fairfax Avenue prolonged and 40 feet from Mowbray Arch.

The Hague.—Between the wall on the west side of the Hague and the straight line joining the point 40 feet easterly thereof in the south side of Fairfax Avenue prolonged, with the point 70 feet easterly from the wall in the perpendicular to the wall at the south end thereof.

NOTE.—No floats, rafts, lighters, houseboats, or craft laid up for any reason shall be permitted within the Smith Creek anchorages, except by permission of the Captain of the Port.

No vessel shall anchor, or moor, alongside any wharf or pier on Smith Creek, so as to extend more than 40 feet beyond the pierhead line, except in the authorized anchorages.

Anchorage O—Hospital Point

To the southwestward of a line through the red buoys marking the western side of the Norfolk Harbor Channel; to the southward of a line bearing 242° from north tower elevator at Atlantic City.

Anchorage P—Port Norfolk

To the southeastward of a line bearing 37° from the northeast corner of the Pennsylvania Railroad piers at Port Norfolk; to the southwestward of a line through the red buoys marking the southwestern side of channel to Norfolk; to the northwestward of the outside bulkhead at the north end of Pinner Point and its northeasterly extension.

Anchorage Q

The area known as Spotico Creek Flats landward of the United States pierhead line, and not within 200 feet of wharves or other permanent improvements.

Anchorage R

The area landward of the United States pierhead line on the south side of the Eastern Branch of the Elizabeth River extending from a point 700 feet to the eastward from the Norfolk & Western Railway bridge to a point 250 feet from

[1] The established anchorages for naval vessels having been found inadequate at times when an especially large number of vessels are gathered for parade or other purpose, and the Navy Department having requested the establishment of a numbered series of anchorages for such occasions in order that a naval vessel may be ordered to proceed to a designated numbered anchorage in the harbor, the following arrangements have been made: A key chart for naval anchorages in Hampton Roads, which provides for the emergent anchorage of naval vessels in Anchorages A, C, E, and G, has been prepared. These designated anchorages, with the exception of those in Naval Anchorage B, which are primarily for naval vessels, are not set aside for the exclusive use of naval vessels, but permission will be given for naval vessels to use them when available. When the Captain of the Port receives notification from the proper naval authorities that it is desired to utilize certain of these specially numbered anchorages he will authorize the use by naval vessels of the requested numbers, if they can be made available, the commercial conditions at the time being given proper consideration. If, in the opinion of the Captain of the Port, there are sufficient reasons why the numbers first asked for should not be used, he will confer with the naval officers making the request, and if other numbers can be agreed upon he will authorize their use, otherwise he will communicate the request to the Secretary of War with a statement of the circumstances and with his recommendations.

the Virginian Railway bridge and not within 200 feet of permanent improvements; provided, that no vessel shall anchor within 100 feet of the eastern and western entrances of Steamboat Creek, or in a position that will obstruct passage thereto.

Anchorage S

The area landward of the United States pierhead line on the northern side of the Eastern Branch of the Elizabeth River, between a point 250 feet from the Virginian Railway bridge and the western entrance of Broad Creek, not within 200 feet of permanent improvements, and exclusive of the area included between the combined pierhead and bulkhead lines in Moseley Creek.

THE RULES AND REGULATIONS

1. Except in cases of great emergency no vessel shall be anchored in Hampton Roads or the harbors of Newport News and Norfolk, Virginia, outside of the anchorage areas hereby defined and established, nor be made fast to the exterior end of any pier, nor to any vessel lying at the exterior end of any pier, or along any bulkhead in such manner as to obstruct or endanger the passage of any vessels to or from the adjacent wharf property, or impede the movements of any vessel entering or leaving adjacent slips.

2. Whenever in the opinion of the Captain of the Port such action may be necessary, that officer may require any or all vessels in any designated anchorage area to moor with two or more anchors.

3. Every vessel whose crew may be reduced to such number that it will not have sufficient men on board to weigh the anchor at any time, shall be anchored with two anchors, with mooring swivel put on before the crew shall be reduced or released.

4. Anchors must not be placed outside the anchorage areas, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundaries of the anchorage area.

5. Any vessel anchoring under the circumstances of great emergency outside of the anchorage areas must be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel, nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases, or upon notification by the Captain of the Port.

6. The Captain of the Port shall assign berths in the anchorages to all vessels applying. He may grant permits for habitually maintaining and using the same mooring place in an anchorage area, and no vessel shall occupy a permanent berth in an anchorage area, except under authority of such permit, which may be revoked at any time.

7. A vessel upon being notified to move into the anchorage limits or to shift its position on anchorage grounds, must get under way at once or signal for a tug, and must change position as directed with reasonable promptness.

8. Except as provided in rule 10, vessels carrying explosives or other dangerous articles, including inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases and poisonous substances, shall be anchored within the Anchoraging areas F and F–1 only, described above under the heading "The Anchorage Grounds". Anchorage F is reserved for this special purpose and is not to be used by vessels carrying other classes of freight except in cases of emergency.

Any vessels carrying explosives and desiring to proceed to the anchorage provided therefor must first obtain a written permit from the Captain of the Port; and no vessel shall occupy a berth in such anchorage except by authority of such permit, which may be revoked at any time. All other vessels, especially tugs and stevedores' boats, engaged or used in connection with loading explosives on vessels in anchorage areas must carry written permits from the Captain of the Port and must show these permits whenever required by the Captain of the Port or his properly authorized agents.

9. Whenever any water craft not fitted with mechanical power anchors in Anchorage F while carrying explosives, the Captain of the Port may require the attendance of a tug upon such water craft, when in his judgment such action is deemed necessary.

10. The District Engineer in charge of works or river and harbor improvement is empowered to authorize, in writing, the anchoring in or near the vicinity of such a work of a single scow carrying explosives for use on the work, but only in quantities considered by him safe and necessary. The District Engineer shall prescribe the conditions under which this explosive shall be stored and handled and shall in each case furnish the Captain of the Port with a copy of the written permit to anchor explosives on the work and a copy of the rules and regulations for its storage and handling.

The mooring for the purpose of taking on bunker coal at any wharf of a vessel carrying explosives or other dangerous articles may be permitted by the Captain of the Port, in writing, at such times and places and such periods, during daylight only, and under such conditions as to arrangement, loading and handling of cargo, and mobility of vessel as in his judgment will not interrupt the free and proper use of navigable waters and will not endanger life or property; provided the explosives aboard are manufactured, marked, packed, shipped, and stowed in compliance with the Interstate Commerce Regulations governing the transportation of explosives and other dangerous articles, or foreign government regulations providing an equal degree of safety and security.

11. Municipal ash scows may be anchored in such places as the Captain of the Port may designate.

12. Whenever the maritime or commercial interests of the United States so require, the Captain of the Port is hereby empowered to shift the position of any vessel anchored within the anchorage areas, of any vessel anchored outside the anchorage areas, of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel or obstruct or interfere with range lights, and of any vessel which, lying at the exterior end of a pier or alongside an open bulkhead, obstructs the passage of vessels to or from adjacent wharf property or impedes the movements of vessels entering or leaving adjacent slips.

13. Permits to anchor in channels within the limits of Hampton Roads and the harbors of Norfolk and Newport News, Virginia, may be granted by the Captain of the Port to wrecking plants legally engaged in recovering sunken property, when the application for such anchorage is approved by the District Engineer in charge of works of river and harbor improvements.

14. Nothing in these rules and regulations shall be construed as relieving the owner or person in charge of any vessel from the penalties of the law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating law.

15. These regulations shall take effect and be in force on and after the date of approval hereof and shall supersede the "Anchorage Grounds in Hampton Roads and the Harbors of Norfolk and Newport News, Virginia, and Rules and Regulations Relating Thereto", approved October 18, 1921, as amended February 7, 1922, May 8, 1924, July 18, 1930, March 23, 1931, and October 9, 1931.

Recommended, March 29, 1938.

J. L. SCHLEY,
Major General,
Chief of Engineers.

Approved, March 31st, 1938.

[SEAL] LOUIS JOHNSON,
Acting Secretary of War.

[F. R. Doc. 38–1046; Filed, April 12, 1938; 9:45 a. m.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

AMENDMENT OF REGULATIONS OF THE DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS, APPROVED NOVEMBER 11, 1926,[1] REGARDING RECOGNITION OF ATTORNEYS

The following shall be substituted for the introductory paragraphs preceding the paragraph numbered 1, page 1, of the existing regulations:

"Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat., 984), are authorized to employ counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior. Many tribes employ attorneys or agents under contracts approved by the Commissioner of Indian Affairs and the Secretary of the Interior under Section 2103 of the Revised Statutes of the United States, and a number of attorneys and agents annually ask to be allowed to practice before the Indian Bureau in prosecuting enrollment cases, requests for railroad rights of way, etc.

All such attorneys or agents seeking approval of their employment by Indian tribes or desiring to represent individual claimants before the Indian Bureau shall be required to comply fully with the regulations of the Department promulgated September 27, 1917, governing admission to practice, and to take the oath of allegiance and to support the Constitution of the United States, as required by Section 3478 of the United States Revised Statutes.

These regulations, which cite the various laws applicable, are as follows:"

Approved: March 17, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1043; Filed, April 12, 1938; 9:44 a. m.]

REGULATIONS FOR THE DISTRIBUTION OF FUNDS APPROPRIATED IN AID OF COMMON SCHOOLS IN THE FIVE CIVILIZED TRIBES AND QUAPAW AGENCY, OKLAHOMA

MARCH 24, 1938.

Pursuant to the Act of February 14, 1920 (41 Stat. 410), the following regulations are hereby issued covering distribution of moneys appropriated by Congress for aid of common schools in eastern Oklahoma. Payment of tuition by the Federal Government under these regulations will in all cases be conditioned upon the existence and adequacy of Congressional appropriations of money therefor.

When authorized by the Commissioner of Indian Affairs, and in accordance with the provisions of the appropriation, money may be expended for the following purposes:

1. To cover salaries, traveling and other necessary expenses of administration.

2. For the payment of salaries of public school teachers employed by the state, district, or county in special Indian day schools in full-blood Indian communities where there are not adequate schools available for their attendance, provided that preference shall be given to qualified Indian teachers. Contracts for such teachers shall be approved by the Superintendent of the Five Civilized Tribes upon recommendation by the Superintendent of Indian Education, Five Civilized Tribes, and payment shall be made to the county treasurer for reimbursement of the teachers' salaries.

3. For maintenance and furnishing equipment and supplies in special Indian day schools.

4. For salaries and expenses of education field agents, or visiting teachers (school social workers), whose duties and territory shall be assigned to them from time to time by the official in charge of schools for the Five Civilized Tribes upon the approval of the Commissioner of Indian Affairs.

5. Payment of salaries of Indian assistants in special Indian day schools whose duties shall be to assist in school and community activities, such as weaving, spinning, homemaking, gardening and preparation of noonday lunches.

6. For the purpose of supplying books, supplies, clothing and noonday lunches to destitute Indian children attending public or special Indian day schools, and transportation when not otherwise available.

7. In addition to the amount authorized for tuition, any savings under sections 1, 2, 3, 4, 5 and 6 of these regulations will be available for tuition payments. Tuition shall be paid to public school districts at the basic rate per day per pupil authorized by the Commissioner of Indian Affairs for the actual attendance of children of one-fourth or more Indian blood of school age, for the period ending December 31 of each year and reported prior to January 10 of the succeeding year: *Provided*, That reports received after January 10 shall be included with reports for final payment in June at the same rate as paid for the second period. For the period of January 1 to April 30 of each year, and reported prior to May 10 of the same year, tuition shall be paid for actual attendance at such a basic rate as to consume the amount available for the purpose as nearly as possible. When such tuition moneys are received by the treasurer of the school district, 50% of such funds shall be set up with other miscellaneous revenues to be used for the regular maintenance of schools; the other 50% of such funds shall be set up as a separate cash item which shall be used to provide an enrichment program designed to be of special benefit to Indian children.

a. The half of the Indian tuition to be classified as miscellaneous revenue shall be included in the regular estimate of income by the local school board and the County Excise Board in the same way that State Apportionment and miscellaneous revenues are included. The funds used for the enrichment program will be classified as local initiative funds by the State Board of Education when making the apportionment of Secondary Aid. At the close of the year an itemized statement showing receipts and expenditures of the Indian tuition and enrichment funds shall be made by the local school board to the Commissioner of Indian Affairs or his representative and to the State Superintendent of Public Instruction of Oklahoma.

The enrichment program shall consist of services agreed upon by the local school board and the agency superintendent and approved by the Superintendent of Indian Education, Five Civilized Tribes. The enrichment program may include the employment of special teachers to assist in overcoming language and social deficiencies of Indian children, extending school program to community activities, purchasing of extra instructional supplies and library books for special use of Indian children for the entire school year.

8. Districts in which incorporated towns are located, having a population of 500 or more, shall receive tuition at the basic rate for the attendance only of the Indian children who live outside the corporate limits. Payments will be based on attendance reports of teachers, certified to by the clerks of the districts and an education field agent or a school social worker and approved by the county superintendent: *Provided*, That payments will be made February 1 and June 1 of each year or as soon thereafter as practicable.

9. Tuition may be paid for pupils enrolled in Government or tribal boarding schools, who attend classes in the local public school, at a rate to be agreed upon by the school authorities and the Commissioner of Indian Affairs, but not to exceed the actual per capita cost for pupils in the grades which the pupils attend.

10. The Indian Office reserves the right to investigate the correctness of any report of attendance presented by a school district, as a basis for payment; if upon such investigation and examination of the evidence it shall find that such report for a given period is incorrect, it will direct that payment of tuition be not made to or for the period covered by the report.

11. Tuition payments, except as provided in Paragraph 9, shall be made to the treasurer of the county in which districts are located, on vouchers (Standard Form No. 1034), showing the district number, actual days of attendance by districts,

[1] Requests for copies should be addressed to the Office of Indian Affairs, Department of the Interior.

and amounts due to the several districts, such vouchers to be forwarded to the Indian Office without teachers' attendance reports attached, which reports shall be retained in the Office of the official in charge of schools for the Five Civilized Tribes, Muskogee, Oklahoma.

All vouchers shall be certified by the county superintendent of schools under whose direction the amounts shall be credited to the several districts, signed by the county treasurer as claimant and approved by the official in charge of schools for the Five Civilized Tribes.

12. No tuition shall be paid to any district in which Indian children are enrolled if the state compulsory school law is not enforced alike as to Indians and whites, or in which Indian children are not accorded the same privileges, opportunities and attention as the white children enrolled, in which the right of inspection at any time by officers of the Indian Service is denied, or in which district officers fail to render promptly any reports required by the Commissioner of Indian Affairs, or his representative, such as reports of enumeration or attendance of Indian pupils.

13. The right is further reserved to refuse or reduce tuition payments for Indian children to any school district maintaining less than the highest Oklahoma state standards in respect to professional preparation of teachers, school equipment and supplies, text and library books, construction and sanitation of buildings.

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner of Indian Affairs.

Approved: April 1, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1044; Filed, April 12, 1938; 9:44 a. m.]

REGULATIONS, PUBLIC SCHOOL TUITION, INDIAN SERVICE

MARCH 22, 1938.

Pursuant to the Act of February 14, 1920 (41 Stat. 410), the following regulations are hereby prescribed with regard to the payment of tuition for Indian children attending public schools:

APPLICATION FORMS

With a view to eliminating unnecessary work in handling applications for public school tuition, data which are more or less permanent will hereafter be furnished on form 5–144a (extra sheet 5–144b when required), and form 5–144c. Data which change each year will continue to be furnished on form 5–144.[1]

GENERAL INSTRUCTIONS

1. Public school districts desiring to receive payment of tuition for Indian children should present through the local Indian superintendent an application, in triplicate, on form 5–144 (revised January, 1938).

Only one application should be submitted for each district, and it should cover all schools within the district. The names of the schools, as well as the district number, should be shown on the application. *The superintendent will assign a contract number to each application, using his own symbol. This number should appear in the upper right-hand corner of the application, as indicated on the form.* The superintendent shall then forward the original and two copies of each application to the Commissioner of Indian Affairs with appropriate recommendations and endorsements thereon. All applications should be received in this Office not later than May 1.

Superintendents will see that all applications are carefully completed and properly endorsed and signed by officials whose titles appear on form 5–144 and that the information given is correct, before sending them to the Office. The per capita cost of public schools should include only the operation cost of the school. It should not include new building or repairs and improvements to plant. If yearly interest is included the amount must be stated separately. In order to secure this information it will be necessary for superintendents to have an accurate budget of the income and expenditures of the school district under consideration. These expenditures should be carefully itemized as to purpose. Expenditures for new buildings, for repairs and improvements to plant, interest on bonded indebtedness, amortization of bonded indebtedness or sinking fund payments should be clearly set forth separately and identified as to purpose. Payment of tuition is made on the per capita operating cost of the school from which these several items are explicitly excluded, and the amount given should be the daily cost. Federal tuition will be paid to supplement local and state funds, on a basis of enabling the district to maintain a suitable school for the school year; provided that the tax rate is a reasonable millage on actual property value, regardless of the assessed valuation.

2. Public school officials of each jurisdiction shall be informed that applications, on form 5–144, must be submitted in advance of the school year, and if possible by the date given herein, in order that tuition for the Indian children may be secured; if applications are delayed funds may be exhausted. Upon receipt of such applications by the Indian Office, authority may then be issued by the Commissioner of Indian Affairs for payment of tuition found to be reasonable and consistent with the amount of funds available for the purpose. In accordance with existing law, no formal contract is required in connection with payment of public school tuition. However, to meet the requirements of the General Accounting Office, the Indian Office will forward to the General Accounting Office a complete numbered set of the original applications and a copy of the authority. The authority will bear the contract numbers assigned. Upon receipt of Office authority, the superintendent will notify each applicant for tuition of the terms of same as regards his application.

3. *A general change in rate each year hereafter is not contemplated.*—Districts may count on the rate allowed so long as conditions remain unchanged. If an increase is required, justification therefor should be submitted, and if it affects any information on the permanent record full information should be given for notation as a base for the change. There should be a gradual reduction of the rates in states where there is a sales, or alcohol and beverage, or other tax, to which Indians contribute, and in localities where there is little or no tax-free land. As the Indians from time to time assume a greater share of the burden of maintaining the local school system, the rates will correspondingly decrease. The Indian Office should be kept informed of changes indicating a reduction in rate. See paragraph 1.

PER CAPITA TUITION

4. Superintendents of Indian agencies must carefully consider the daily rates recommended, whether correct for a single school district, and comparatively as to all districts within the jurisdiction, in order to secure impartial uniformity. Rates are based on estimated enrollment and care should be taken that the figure is not excessive. If estimated enrollment is well above average attendance, explanation should be made. Determining factors regarding rates are:

a. The proportion of non-taxable Indian land.
b. The annual operative cost and income other than Federal tuition.
c. The scholastic standards maintained.
d. The proportion of Indian children to white children.
e. Any other special facts in a given case, such as Special State equalization aid.

The cost of noonday lunches or transportation, if provided, will be an addition to the basic rate, but these added costs should be explained and itemized separately in the blanks afforded for them.

[1] The forms listed were a part of the original document as filed with the Division of the Federal Register. The National Archives; requests for copies should be addressed to the Office of Indian Affairs, Department of the Interior.

5. In order that records may be kept up to date, data on form 5–144a (and extra sheet 5–144b) giving data for the entire reservation, should be submitted in duplicate, one copy to be filed in the individual public school authority file in the Indian Office, and one copy to form a combined permanent record for the Office. A copy should be retained in the agency files.

6. Form 5–144c, giving additional data for each district, will also be filed with the first application from a district but will not be required again until conditions locally change to such an extent that the responsible Indian Service officials file information regarding a major change in the local situation. Two copies of this form should be filed with the Indian Office and one copy retained by the field officer.

7. Except as provided in Section 13 hereof, payment of the sums due under authorities so issued shall be based upon the usual teacher's report of Indian pupils in public schools, form 5–143b, and will be made under authorities issued at the end of the second, third and fourth quarters. Payments may, however, be made monthly in the discretion of the superintendent, who should see that all tuition obligations for the year are settled in full not later than July 21.

8. Where there is full or partial state provision for transportation of pupils, or other special services, these shall be taken into consideration in arriving at the rates to be paid for Indian children.

9. When schools are closed due to sickness, epidemics or bad roads, or when attendance of Indian children falls to one-half of the usual attendance of Indian children for the reasons mentioned above, or other unavoidable reasons, tuition may be paid at one-half of the usual rate per day for such periods for all children who return to school at the end of the period of illness or when roads are again passable, or when other unavoidable periods of absence terminate, to compensate the district for the proportionate share of overhead and administrative expenses due to enrollment of Indian children. Payment will be made at the end of the period of absence on the usual voucher form prescribed by the Indian Service, and the report of attendance showing the absences for which payment is claimed shall be supported by a statement duly certified to by the proper local authorities as to correctness and approved by the responsible Indian Service officials. No payments shall be made under this section for illness not in the nature of an epidemic or which does not affect at least one-half of the Indian children enrolled in the school.

10. All payments for the third quarter must be made not later than *April 15, and certifying officers must report immediately the condition of the funds allotted, the total amount expended for the three quarters, and a close estimate of the amount needed for the last quarter. It is important that this information be forwarded promptly to the Indian Office after April 15 in order to avoid further calls for such information at that time, and that the surplus on hand may be available for use at another jurisdiction before the close of the fiscal year.*

11. Payments shall not be made under any authority issued under these regulations for any pupil having less than one-quarter Indian blood, nor for any pupil if he or either of his parents owns taxable real property within the public school district: *Provided, however,* That when pupil or parent owns taxable and non-taxable real property within the district, payment may be made if the non-taxable holdings by them jointly are greater in value than the taxable holdings. *Provided, further,* That the Federal Government reserves the right not to pay to any district for tuition of Indian children a sum greater in amount than the school tax would amount to on non-taxable Indian land within the district, except that tuition may be paid for children who are not residents. Districts in which incorporated towns are located having a population of 500 or more shall receive tuition at the basic rate for attendance only of Indian children who live outside the corporate limits. In districts where there is a proportionately large enrollment of white children, tuition will not be paid for two or three Indian children, except in special cases, approved in writing by the Indian Office, as there is no great additional expense on account of the Indian children: *Provided,* That tuition for Indian children shall not be used by public school districts for any obligations except those of the current year, except upon approval in writing by the Indian Office, and assurance to such effect must be given by school districts or counties: *Provided,* That the right is reserved to refuse or reduce tuition payments for Indian children to any school district maintaining less than the highest state standards with respect to professional preparation of teachers, school equipment and supplies, text and library books, construction and sanitation of buildings. Teachers' salaries must be paid before tuition money is used for repairs on buildings.

12. The number of Indian children in public schools whose families are renters of real estate is called for on form 5–144c. These families pay taxes indirectly and in that way contribute to the support of the school. This shall be taken into consideration in recommending the rate to be paid.

FLAT RATE PAYMENTS

13. When in the opinion of the Indian Office the interests of Indian children, as well as white children, of the community will be better served by payment of a flat rate (lump sum) instead of tuition based on daily attendance, the district applying for aid may accompany the usual application form by a budget showing proposed plans and educational program for the following fiscal year, showing amounts which will be available aside from Federal payments for Indian children and the amount of Federal payment necessary to carry out the plans. Recommendations of the local responsible representatives of the Indian Service shall accompany this budget and program. When approved by the Indian Service payment may be made monthly or quarterly as agreed upon, but no payment shall be made in advance. This method of making payments will be employed only when the particular conditions make it obviously preferable to tuition payments based on average attendance.

14. In any state having equalization laws, upon the filing of an agreement executed by the district, state authorities and the agency superintendent, together with the usual applications, a uniform daily rate may be paid all districts within the state for tuition and other services to Indian school children, the rates to be based on the amount required in addition to state funds to provide educational facilities suited to the needs of white and Indian children in the districts.

TUITION RATES, WESTERN OKLAHOMA

15. Payment of tuition for Indian children attending the public schools in the Cheyenne and Arapaho, Kiowa, Pawnee and Shawnee jurisdictions in Oklahoma, will be made as follows:

1. Tuition for the attendance of Indian children in public schools shall be paid at a rate agreed upon in writing by the superintendent and the proper state education officials. When such tuition moneys are received by the treasurer of the school district, 50% of such funds shall be set up with other miscellaneous revenues to be used for the regular maintenance of schools; the other 50% of such funds shall be set up as a separate cash item which shall be used to provide an enrichment program designed to be of special benefit to Indian children.

a. The half of the Indian tuition to be classified as miscellaneous revenue may be included in the regular estimate of income by the local school board and the County Excise Board in the same way that State apportionment and miscellaneous revenues are included. The funds used for the enrichment program will be classified as local initiative funds by the State Board of Education. At the close of the year an itemized statement showing receipts and expenditures of the Indian tuition and enrichment funds shall be made by the local school board to the Commissioner of Indian Affairs and to the State Superintendent of Public Instruction in Oklahoma.

2. The enrichment program will consist of services agreed upon by the local school board and the agency superintend-

ent concerned and approved by the supervisor of Indian Education for Oklahoma. The enrichment program may include the employment of special teachers to assist in overcoming language and social deficiencies of Indian children, extending school program to community activities, purchase of extra instructional supplies and library books for special use of Indian children.

3. When lunches are provided a nominal allowance will be paid per pupil per day. The State Board of Education will classify this payment as local initiative funds.

4. When transportation is furnished for non-transferable children an additional amount required to provide this service will be paid. Such payments will be classified as local initiative funds by the State Board of Education.

The provisions of these regulations should be read carefully and followed closely in submitting applications for public school tuition.

Payment of tuition by the Federal Government under these regulations will in all cases be conditioned upon the existence or adequacy of Congressional appropriations of money therefor.

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner of Indian Affairs.

Approved: April 1, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1045; Filed, April 12, 1938; 9:44 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF NORMAL YIELDS OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE FOR SUGAR BEETS—1937 SUGAR BEET PROGRAM

Pursuant to the provisions of Section 303 of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the normal yield of commercially recoverable sugar per acre for a farm on which sugar beets were planted for harvest in 1937 shall be the amount of sugar obtained by multiplying the normal yield of sugar beets, in tons per acre, for the farm by the amount of sugar, raw value, determined to be commercially recoverable in the determination entitled "Determination of Sugar Commercially Recoverable from Sugar Beets," approved March 28, 1938, from a ton of sugar beets of normal percentage of sugar content for the farm.

For the purposes of this determination:

I. The normal yield of sugar beets in tons per acre shall be,

A. For a farm on which sugar beets were planted for harvest in three or more of the years 1930–36, inclusive, the simple average of the annual average yields of sugar beets per acre planted on the farm for harvest for all of the years 1930–36, inclusive, in which sugar beets were planted for harvest;

B. For a farm on which sugar beets were planted for harvest in only one or two of the years 1930–36, inclusive, the number of tons obtained by multiplying the county normal yield in tons of sugar beets per acre [1] by the percentage that the simple average of the yields of sugar beets per acre planted on the farm for harvest in such year or two years is of the simple average of the yields of sugar beets per acre for the county for such year or years, which county average yield shall be, (1) for any year in which sugar beets were planted for harvest on ten or more of the farms on which sugar beets were planted for harvest in 1937, the weighted average yield of sugar beets per acre planted for harvest in that year on farms in the county on which sugar beets were planted for harvest in 1937; and (2) for any year in which sugar beets were planted for harvest on less than ten of the farms on which sugar beets were planted for harvest in 1937, the yield per acre established by the State Agricultural Conservation Committee on the basis of the yields per acre for that year in the county and in adjacent counties which have similar sugar beet production conditions: *Provided, however,* That the normal yield for such farm shall not be less than 80 percent or more than 120 percent of the county normal yield; and

C. For a farm on which sugar beets were not planted for harvest in any of the years 1930–36, inclusive, 90 percent of the county normal yield per acre, which county normal yield shall be, (1) for a county in which sugar beets were planted for harvest in three or more of the years 1930–36, inclusive, on ten or more of the farms on which sugar beets were planted for harvest in 1937, the simple average of the county average yields, as defined in B above, for all of the years 1930–36, inclusive, in which sugar beets were planted for harvest on ten or more of such farms; and (2) for a county in which sugar beets were planted for harvest in less than three of the years 1930–36, inclusive, on ten or more of the farms on which sugar beets were planted for harvest in 1937, the yield per acre established by the State Agricultural Conservation Committee on the basis of the yields per acre for the years 1930–36, inclusive, in the county and in adjacent counties which have similar sugar beet production conditions.

II. The normal percentage of sugar content for sugar beets shall be,

A. For farms from which sugar beets were contracted to be marketed in 1937 under that type of agreement commonly known as an "individual test contract," as follows:

(1) In cases in which sugar beets were so marketed in each of the years 1934, 1935, and 1936, the simple average of the annual average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in such years;

(2) In cases in which sugar beets were so marketed in only one or two of the years 1934, 1935, and 1936, the percentage of sugar content obtained by multiplying the county normal percentage of sugar content of sugar beets [1] by the percentage that the simple average of the average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in such year or two years is of the simple average of the average percentages of sugar content of sugar beets for the county for such year or years, which county average percentage shall be, (a) for any year in which sugar beets were so marketed from ten or more of the farms on which sugar beets were planted for harvest in 1937, the weighted average percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in that year from farms in the county on which sugar beets were planted for harvest in 1937; and (b) for any year in which sugar beets were so marketed from less than ten of the farms on which sugar beets were planted for harvest in 1937, the percentage of sugar content established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in that year from farms in the county and in adjacent counties; and

(3) In cases in which sugar beets were not so marketed in any of the three years 1934, 1935, or 1936, the county normal percentage of sugar beets, which county normal percentage shall be, (a) for a county in which sugar beets were so marketed in 1934, 1935, and 1936, from ten or more of the farms on which sugar beets were planted for harvest in 1937, the simple average of the county average percentages of sugar content, as defined in (2) above, for such years; and (b) for a county in which sugar beets were not so marketed in all three of the years 1934, 1935, and 1936, from ten or more of the farms on which sugar beets were planted for harvest in 1937, the percentage of sugar content established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in the years 1934, 1935, and 1936, from farms in the county and in adjacent counties; and

B. For farms from which sugar beets were contracted to be marketed in 1937 under any type of agreement other than that commonly known as an "individual test contract," the normal percentage of sugar content of sugar beets for the district (an area in which a common marketing agreement was in use in 1937), which district normal percentage shall be:

(1) For districts in which beet sugar factories were operated in three or more of the years 1930–36, inclusive, the simple average of the annual average percentages of sugar content, at the time of processing, of all the sugar beets processed in the district in all of such years in which sugar beets were processed; and

(2) For districts in which beet sugar factories were operated in less than three of the years 1930–36, inclusive, the percentage of sugar content established by the Agricultural Adjustment Administration on the basis of the average percentage of sugar content, at the time of processing, of sugar beets produced under similar conditions in the years 1930–36, inclusive.

Done at Washington, D. C., this 12th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1049; Filed, April 12, 1938; 11:44 a. m.]

[1] Defined in C of this section.

[1] Defined in A (3) of this section.

[ECR-205]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR UPSHUR COUNTY, WEST VIRGINIA

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of the said Act in 1938, payments and grants of aid will be made in Upshur County, West Virginia, for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact. The making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amount of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participation. Any increase or decrease in rates of payments and deductions with respect to any item of payment made because of the extent of participation in the program will not exceed 10 per cent.

The provisions of the 1938 Agricultural Conservation Program as contained in this bulletin are applicable only in Upshur County, West Virginia.

SECTION 1. *Soil-building goals.—County soil-building goals.*—Insofar as practicable, county goals shall be established for particular soil-building practices which are not routine farming practices and which are most needed in the county in order to preserve and improve soil fertility and to prevent erosion.

Soil-building goal for individual farms.—The soil-building goal for any farm shall be the number of units of soil-building practices equal to two-thirds of the number of dollars computed for the farm under Section 2. The goal so established shall represent the number of units of applicable practices to be carried out on the farm. A number of units of practices equal to one-half of the number of dollars computed for the farm (under item 2 of Section 2) with respect to noncrop open pasture land are to be carried out on such pasture land.

Insofar as practicable, the county committee shall determine for individual farms practices to be followed in meeting the goal which are not routine farming practices on the farm but which are needed on the farm in order to preserve and improve soil fertility and prevent erosion, and which will tend to accomplish the goals, if any, established for the county with respect to particular soil-building practices.

SEC. 2. *Payment for full performance.*—Payment will be made with respect to any farm for achieving the soil-building goal in an amount which shall be the sum of the following:

(1) 70 cents per acre for each acre of cropland.

(2) 25 cents per acre for fenced noncrop open pasture land in the farm which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land.

SEC. 3. *Payment for partial performance.*—The payment for any farm computed under the provisions of Section 2, shall be subject to all of the following deductions which are applicable to the farm:

(1) $1.50 for each unit by which the number of units of soil-building practices carried out on pastures is less than the number of units to be carried out on pastures as provided in Section 1.

(2) $1.50 for each unit by which the total soil-building goal is not reached, less any units on which deductions are made under item (1) of this Section 3.

SEC. 4. *Soil-depleting crops.*—Land devoted in 1938 to any of the following crops or uses shall be classified as soil-depleting. Land devoted to volunteer crops harvested shall be classified as if such crops were planted.

A. Land planted to corn, truck, and vegetable crops, potatoes, bulbs and flowers, or field beans for harvest in 1938.

B. Land planted to wheat, oats, barley, rye, flax, or mixtures of these crops between August 1, 1937 and July 31, 1938, and harvested for grain or hay.

C. Land planted in 1938 to buckwheat, sweet sorghum, Sudan grass, or millet harvested for hay, grain, seed, syrup, or silage.

SEC. 5. *Soil-building practices.*—The soil-building practices listed in the following schedule shall count toward the achievement of the soil-building goal to the extent indicated therein, when such practices are carried out in 1938 in workmanlike manner and in accordance with good farming practices for the locality.

Practice carried out with labor, seed, trees, and materials furnished entirely by any Federal or State agency other than the Agricultural Adjustment Administration shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such practice represents less than half of the total cost of carrying out such practice; one-half of such practice shall be counted toward the achievement of the soil-building goal.

SCHEDULE OF SOIL-BUILDING PRACTICES

A. *Each of the following practices in the amounts specified shall be counted as one unit,* provided that, when the materials specified in items 1 or 2 are applied to biennial or perennial legumes, perennial grasses, winter legumes, or lespedeza, seeded or grown in connection with a soil-depleting crop, only one-half of the material applied shall be counted.

1. Application of 240 pounds of 20 percent superphosphate (or its equivalent) to, or in connection with the seed-

ing of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, or permanent pasture, provided that application on noncrop pasture land shall be counted only if such land has been treated since January 1, 1936, with a minimum of 1,000 pounds per acre of ground limestone, or equivalent, or lime was applied between January 1, 1933, and December 31, 1935, and tests show that lime is not required.

2. Application of 200 pounds of 50 percent muriate of potash (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, or permanent pasture.

3. Application of 1,500 pounds of ground limestone (or its equivalent) when applied at a rate of not less than 1,000 pounds per acre.

For purposes of this item 3, 100 pounds of ground oyster shell, 130 pounds of limestone screenings, 70 pounds of hydrated lime, or 50 pounds of burned lime, shall be considered, respectively, to be equivalent to 100 pounds of ground limestone.

4. Each acre seeded to alfalfa, approved red clover, alsike clover, sweet clover, white clover, bluegrass, orchard grass, vetch, crimson clover, annual lespedeza, annual ryegrass, or mixtures of such legumes and perennial grasses other than a mixture consisting solely of timothy and redtop; provided the land has been treated since January 1, 1937, with a minimum of 200 pounds per acre of 20 percent superphosphate, or equivalent, and since January 1, 1936, with a minimum of 2,000 pounds per acre of ground limestone or equivalent, or lime was applied between January 1, 1933, and December 31, 1935, and tests show that lime is not required.

5. Each acre of green manure crops: soybeans, cowpeas, crimson clover, vetch, rye, barley, wheat, buckwheat, oats, Sudan grass, millet, sorghum, or mixtures of any two or more of such crops, of which a good stand and good growth is plowed or disked under as green manure.

6. Each two acres seeded to timothy or redtop or a mixture consisting solely of timothy and redtop.

7. With prior approval of the county committee, each four acres of strip cropping.

B. *Each acre of the following shall be counted as two units.*—

1. With prior approval of the county committee, improving a stand of forest trees under such approved system of farm woodlot management as is specified by the Agricultural Adjustment Administration.

C. *Each acre of the following shall be counted as five units.*—

1. Planting forest trees, provided such trees are protected and cultivated in accordance with good tree-culture practice.

SEC. 6. *Division of payments.*—The amount of payment earned in connection with the soil-building goal for the farm shall be paid to the landlord, tenant, or sharecropper who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying-out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish to the satisfaction of the county committee that their respecive contributions thereto were not in equal proportion, in which event such unit shall be divided in the proportion which the county committee determines each such person contributed thereto.

SEC. 7. *Increase in small payments.*—The total payment computed under Sections 2 to 6, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SEC. 8. *Materials furnished as grants of aid.*—Wherever it is found practicable limestone, superphosphate, trees, seeds, and other materials may upon request of the producer be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out approved soil-building practices which shall be counted toward meeting the soil-building goal for the farm. Wherever such materials are furnished, a deduction from the payment for the farm shall be made in the amount of the approximate cost of such material to the Agricultural Adjustment Administration. Such deduction shall be applied first to the payment computed for the person to whom such materials are furnished, and the balance, if any, of such deduction shall be prorated among the payments to other persons sharing in the payment with respect to the farm on which such materials were used.

In making a request for materials pursuant to this section, the producer to whom such materials are furnished shall agree that in the event the amount of the deduction for the materials exceeds the amount of the payment with respect to the farm, the amount of such difference shall be repaid by him to the Secretary.

SEC. 9. *General provisions.*—

A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld:

(1) If he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program;

(2) If, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized; or

(3) If, with respect to forest land or woodland owned or controlled by him, he wilfully burns over or allows to be burned over his woodland or any material portion thereof (failure to attempt to suppress any such woods fire will be considered as intentional burning) or, clear-cuts or allows to be clear-cut his present stand of timber below a minimum diameter on the stump of approximately 10" for coniferous species, and approximately 14" for hardwood species except (1) where clear-cutting of undesirable species is followed by planting of forest trees of desirable species, (2) where the clearing is for needed cropland, or (3) other special cases approved by the county committee in accordance with instructions issued by the State committee. This provision will not prohibit cutting a limited number of selected trees of smaller size in places where the stand is dense.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection D of this Section 9) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the Upshur County Agricultural Conservation Association.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration and is acknowledged by the farmer before the county agricultural extension agent and filed with such agent; (2) the farmer files with the assignment an affidavit showing that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Persons eligible to file applications for payment.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section 6, a share in the payment with respect to the farm may be computed.

F. *Schemes or Devices to deprive persons of payments.*—If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

G. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Regional Director. At least two weeks notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

H. *Appeals.*—Any person may request the county committee in writing to reconsider its determination with respect to any matter affecting the right to or the amount of his payment under the program, within 15 days after notice of the determination is forwarded to or made available to him. After reconsideration by the county committee, an appeal may be made to the State committee and to the Regional Director.

I. *Instructions and forms.*—The Agricultural Adjustment Administration will prepare and issue such instructions and forms as may be required in administering the 1938 Agricultural Conservation Program for Upshur County, West Virginia.

SEC. 10. *Definitions.*—For the purposes of the 1938 Agricultural Conservation Program for Upshur County:

Secretary means the Secretary of Agriculture of the United States.

Regional Director means the director of the East Central Division of the Agricultural Adjustment Administration.

East Central Region means the area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

State Committee means the group of persons designated within the State of West Virginia to assist in the administration of the 1938 Agricultural Conservation Program in the State.

County Committee means the group of persons elected within Upshur County to assist in the administration of the 1938 Agricultural Conservation Program in the county.

Person means an individual, partnership, association, corporation, estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person.

Cropland means farm land which is tilled annually or in a regular rotation, including also land planted to orchards other than abandoned orchards.

Landlord means a person who owns land and rents such land to another person or operates such land.

Sharecropper means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

Tenant means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Noncrop open pasture means pasture land (other than rotation pasture land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

Animal unit means one cow, one horse, five sheep, or five goats, two calves, or two colts, or the equivalent thereof.

Done at Washington, D. C., this 12th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1048; Filed, April 12, 1938; 11:43 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDING THE LOAN SERVICE CHAPTER (II) OF THE MANUAL CHANGING THE PROVISIONS WITH RESPECT TO MISCELLANEOUS CREDITS

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-sections a and k of Section 4 of said Act as amended, the first para-

graph of Section 215 of Chapter II of the Consolidated Manual be amended to read as follows:

SEC. 215. Upon the written request of the debtor, where necessary, the General Manager and the General Counsel may permit the payment of taxes, assessments, other governmental levies and charges, ground rents, attorneys' fees, cost of reconditioning or restoration, and such other items as they may deem proper, out of funds received by the home owner, or by the Corporation as mortgagee or assignee, in connection with transactions involving partial releases, grants of easements and flowage rights, insurance losses, mineral deeds, oil, gas or mineral interests, sales of timber, condemnation awards under decree or judgment of a court or by agreement, substitution of security, additional security, other transactions which otherwise reduce or diminish the security held by the Corporation or the property sold by it, and from funds received as other credits to home owners' accounts, except repayments, before directing that the net amount received by the Corporation be applied to the appropriate account, as provided in Section 800 (1) of Chapter VIII of the Consolidated Manual.

Adopted by the Federal Home Loan Bank Board on April 11, 1938.

[SEAL] R. L. NAGEL, *Secretary.*

[F. R. Doc. 38-1047; Filed, April 12, 1938; 10:14 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3142]

IN THE MATTER OF REX MERCHANDISE CORPORATION OF AMERICA, PETER MEYER, INDIVIDUALLY AND AS PRESIDENT OF REX MERCHANDISE CORPORATION; WYETTE MEYER, INDIVIDUALLY AND AS SECRETARY OF REX MERCHANDISE CORPORATION; CROWN LABORATORIES, INC., ARTHUR A. J. WEGLEIN, INDIVIDUALLY AND AS PRESIDENT OF CROWN LABORATORIES, INC., ALEXANDER HIRSHBEIN, INDIVIDUALLY AND AS VICE PRESIDENT, CROWN LABORATORIES, INC., FRANCIS CHORBA, INDIVIDUALLY AND AS SECRETARY-TREASURER OF CROWN LABORATORIES, INC., SHERAY, INC., WILLIAM SHER, INDIVIDUALLY AND AS TREASURER, SHERAY, INC., ANNA SHER, INDIVIDUALLY AND AS PRESIDENT, SHERAY, INC., WILSHIRE SALES CORPORATION, WILLIAM SHER, INDIVIDUALLY AND AS PRESIDENT WILSHIRE SALES CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, April 22, 1938, at ten o'clock in the forenoon (eastern standard time) in room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1041; Filed, April 12, 1938; 9:22 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3190]

IN THE MATTER OF ABRAHAM STARR, AN INDIVIDUAL, TRADING AS SUPERIOR TEXTILE MILLS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, April 21, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1042; Filed, April 12, 1938; 9:22 a. m.]

UNITED STATES MARITIME COMMISSION.

APPLICATIONS FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS BY AMERICAN SOUTH AFRICAN LINE AND SEAS SHIPPING COMPANY, INC.

ORDER POSTPONING HEARING

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 11th day of April, 1938.

It appearing, That the Commission at its meeting held March 29, 1938, ordered that a public hearing be held in Washington, D. C., in the Department of Commerce Building, room 2062, on Wednesday, April 13, 1938, at 10:00 A. M., pursuant to the provisions of Section 605 (c) of the Merchant Marine Act, 1936, and for the purposes therein stated.

It further appearing, That the Seas Shipping Company, Inc., has applied for a postponement of the said hearing to Thursday, April 14, 1938, and the American South African Line has agreed to said postponement.

It is ordered, That the said hearing be held on Thursday, April 14, 1938, at 2:00 P. M., in room 7868, Department of Commerce Building, Washington, D. C.

It is further ordered, That notice of this postponement be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

[F. R. Doc. 38-1038; Filed, April 11, 1938; 2:33 p. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

SERVICE CONNECTION AND EVALUATION

Act of March 3, 1927, Indian Wars, as Amended by Pub. No. 355, 75th Congress

R. 2071. (A) *Definition of disability.*—In claims of veterans of the Indian Wars under Public No. 723, 69th Congress (Act of March 3, 1927) evaluation of disability will be made without regard to service connection on the basis of aggregate permanent mental or physical incapacity, not the result of vicious habits on the part of the veteran, for the performance of manual labor, proportioned to the degree of inability to earn support.

(B) *Ratings.*—Evaluation will be made on the following bases: 1/10, 1/4, 1/2, 3/4, total, and regular aid and attendance. (September 1, 1937.)

Indian Wars

R-2109. Pension pursuant to the Act of March 3, 1927, or Public No. 355, 75th Congress, shall commence from the date of claim therefor or the date of entitlement, whichever is the later. As to those veterans on the rolls on August 25, 1937, the increased rates provided in Public No. 355, 75th Congress, with the exception of the rate for regular aid and attendance, shall be effective from September 1, 1937. The rate for regular aid or attendance is payable from the date of receipt in the Veterans Administration of the evidence showing the requisite condition or the date of filing application therefor on or after the date of the Act, whichever is the later. (September 1, 1937.)

R. 2110. Pension is payable at rates as follows:

Degree of disability	Rates prior to 9-1-37	Rates on and after 9-1-37	Age	Rates prior to 9-1-37	Rates on and after 9-1-37
1/10	$20.00	$20.00	62	$20.00	$25.00
1/4	25.00	25.00	65	30.00	35.00
1/2	30.00	35.00	72	40.00	45.00
3/4	40.00	45.00	75	50.00	55.00
Total	50.00	55.00			
Regular Aid and Attendance		72.00			

Subject to the provision that pension may not exceed $50.00 monthly while veteran is maintained in the United States Soldiers' Home or any Veterans' Administration facility or State Soldiers' Home and that the rate for regular aid and attendance may not be allowed while the veteran is receiving such services in kind. (September 1, 1937.) (Public No. 723, 69th Congress and Public No. 355, 75th Congress.)

[SEAL] FRANK T. HINES, *Administrator of Veterans' Affairs.*

[F. R. Doc. 38-1039; Filed, April 11, 1938; 3:16 p. m.]

REVISION OF REGULATIONS

SALES TO TRAINEES

R-9025, 9026, 9027 canceled April 15, 1938.

[*Sale of surplus training equipment and material (World War Veterans Act of 1924).*]

[SEAL] FRANK T. HINES, *Administrator of Veterans' Affairs.*

[F. R. Doc. 38-1040; Filed, April 11, 1938; 3:16 p. m.]

Thursday, April 14, 1938 *No. 73*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DOCUMENTS REQUIRED OF ALIENS ENTERING THE UNITED STATES

By virtue of and pursuant to the authority vested in me by the act of May 22, 1918, 40 Stat. 559, as extended by the act of March 2, 1921, 41 Stat. 1205, 1217, I hereby prescribe the following regulations pertaining to documents required of aliens entering the United States (which regulations shall be applicable to Chinese and to Philippine citizens who are not citizens of the United States except as may be otherwise provided by special laws and regulations governing the entry of such persons):

Part I

1. Non-immigrants must present unexpired passports, or official documents in the nature of passports, issued by the governments of the countries to which they owe allegiance, or other travel documents showing their origin and identity, prescribed in regulations issued by the Secretary of State, and valid passport visas, or, in lieu of passport visas, if passing in transit through the United States to a foreign destination, transit certificates granted by authorized officers of the United States, except in the following cases:

(a) A non-immigrant alien who is a passenger on a vessel entering a port of the United States, landing temporarily while the vessel is in port.

(b) A non-immigrant alien coming within a category and domiciled in a country, island, or territory of the Western Hemisphere, specified in regulations issued by the Secretary of State, passing in transit through the United States or entering the United States temporarily.

(c) A non-immigrant alien lawfully admitted into the United States who later goes in transit from one part of the United States to another through foreign contiguous territory.

(d) A non-immigrant alien child born subsequent to the issuance of the passport visa or transit certificate of an accompanying parent, the visa or transit certificate not having expired.

(e) An alien who has previously been legally admitted into the United States with a diplomatic visa or with a passport visa as a non-immigrant as defined by section 3 (1) or section 3 (6) of the Immigration Act of 1924 (43 Stat. 153, 154), and who has departed temporarily therefrom and returned within six months, not having proceeded to any place outside the countries, islands, and territories of the Western Hemisphere specified in regulations issued by the Secretary of State, and not having relinquished the status in which he was originally admitted.

2. The Secretary of State is authorized in his discretion to waive the passport and visa requirements in cases of emergency for non-immigrant aliens and in other cases under such conditions as may by regulations be prescribed by him, except that the Governor of the Virgin Islands is authorized in his discretion to waive the requirements in cases of emergency for non-immigrant aliens applying for admission at a port of entry of the Virgin Islands.

3. No passport visa or transit certificate shall be granted to an alien whose entry would be contrary to the public safety.

Part II

1. Immigrants must present unexpired passports, or official documents in the nature of passports, issued by the governments of the countries to which they owe allegiance, or other travel documents showing their origin and identity, prescribed in regulations issued by the Secretary of State, and valid immigration visas granted by the consular officers of the United States in accordance with the requirements of the Immigration Act of 1924 and the regulations issued thereunder, except in the following cases:

(a) An alien immigrant child born subsequent to the issuance of the immigration visa of an accompanying parent, the visa not having expired.

(b) An alien immigrant child born during the temporary visit abroad of an alien mother who has previously been legally admitted into the United States for permanent residence, under such regulations as may be prescribed.

(c) An alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed temporarily therefrom and returned within six months, not having proceeded to any place outside the countries, islands, and territories of the Western Hemisphere specified in regulations issued by the Secretary of State.

(d) An alien immigrant who has previously been legally admitted into the United States for permanent residence,

re-entering from a journey beginning in an American port, without trans-shipment from the original vessel to another vessel.

(e) An alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed therefrom and has returned from a temporary visit abroad, and who presents an unexpired permit to re-enter, issued pursuant to section 10 of the Immigration Act of 1924.

2. An alien who has previously been legally admitted into the United States as a non-quota immigrant student, has departed temporarily therefrom and returned within six months, not having proceeded to any place outside the countries, islands, and territories of the Western Hemisphere specified in regulations issued by the Secretary of State, and not having relinquished his student status, may re-enter without an immigration visa.

3. An immigrant Spanish national who on April 11, 1899 (whether adult or minor), was a *bona fide* resident of Puerto Rico or adjacent islands which comprised the Province of Puerto Rico, and who, in conformity with Article IX of the treaty between the United States and Spain of April 11, 1899, has preserved his allegiance to Spain, may present a passport visa, in lieu of an immigration visa, for entry into Puerto Rico. Such aliens may be admitted into Puerto Rico without regard to the provisions of the Immigration Act of 1924, except section 23. (Act of May 26, 1926, ch. 400, 44 Stat. 657)

4. In such classes of cases and under such conditions as may by regulations be prescribed, the immigration visa requirements may be waived, under section 13 (b) of the Immigration Act of 1924, and the passport requirements may also be waived, for an alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed therefrom, and is returning from a temporary visit abroad.

5. In such classes of cases and under such conditions as may by regulations be prescribed by the Secretary of State, the passport requirements may be waived for any immigrant.

Part III

The Executive Secretary of the Panama Canal is hereby authorized to issue passport visas, transit certificates, and immigration visas to aliens coming to the United States from the Canal Zone. The Governor of American Samoa is hereby authorized to issue passport visas, transit certificates, and immigration visas to aliens coming to the United States from American Samoa. The Governor of Guam is hereby authorized to issue passport visas, transit certificates, and immigration visas to aliens coming to the United States from Guam.

Part IV

The documentary requirements for aliens applying for admission into American possessions outside the United States, except the Philippine Islands, are to be prescribed by the competent authorities in such possessions.

Part V

The definitions contained in section 28 of the Immigration Act of 1924 shall be regarded as applicable to this order, except as otherwise specified herein.

Part VI

The Secretary of State and the Secretary of Labor are hereby authorized to make such additional rules and regulations, not inconsistent with this order, as may be deemed necessary for carrying out the provisions of this order and the statutes mentioned herein.

Part VII

This order shall take effect immediately and shall supersede the provisions of Executive Order No. 6986 of March 9, 1935, entitled "Documents Required of Aliens Entering the United States," but shall not supersede Executive Order No. 4049 of July 14, 1924, entitled "Documents Required of Aliens Entering the United States on Airships," or Executive Order No. 7797 of January 26, 1938, entitled "Documents Required of Bona Fide Alien Seamen Entering the United States."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 12, 1938.

[No. 7865]

[F. R. Doc. 38-1053; Filed, April 13, 1938; 11:31 a.m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN THE MAINLAND CANE SUGAR AREA FOR THE 1937 CROP

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the proportionate share for the 1937 crop for each farm in the mainland cane sugar area shall be the amount of sugarcane produced thereon and marketed (or processed by the producer) for the extraction of sugar, or liquid sugar, during the 1937 crop season.

Done at Washington, D. C., this 12th day of April 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-1050; Filed, April 12, 1938; 3:16 p.m.]

[ACP-1938-7]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 6

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, is hereby further amended as follows:

Subsection B of Section I is hereby amended by the addition of the following:

3. The State acreage allotments of wheat are as follows:

Alabama, 5,710 acres; Arizona, 35,375 acres; Arkansas, 77,060 acres; California, 708,656 acres; Colorado, 1,504,623 acres; Delaware, 77,489 acres; Georgia, 139,664 acres; Idaho, 1,011,604 acres; Illinois, 2,039,411 acres; Indiana, 1,689,970 acres; Iowa, 456,037 acres; Kansas, 12,519,879 acres; Kentucky, 382,542 acres; Maine, 6,047 acres; Maryland, 395,014 acres; Michigan, 765,831 acres; Minnesota, 1,609,218 acres; Mississippi, 84 acres; Missouri, 1,938,358 acres; Montana, 3,973,939 acres; Nebraska, 3,466,075 acres; Nevada, 13,147 acres; New Jersey, 52,990 acres; New Mexico, 356,665 acres; New York, 246,779 acres; North Carolina, 413,024 acres; North Dakota, 9,431,355 acres; Ohio, 1,870,407 acres; Oklahoma, 4,291,784 acres; Oregon, 867,859 acres; Pennsylvania, 873,098 acres; South Carolina, 125,611 acres; South Dakota, 3,345,403 acres; Tennessee, 381,981 acres; Texas, 4,146,240 acres; Utah, 239,656 acres; Vermont, 118 acres; Virginia, 546,728 acres; Washington, 1,912,506 acres; West Virginia, 130,091 acres; Wisconsin, 108,001 acres; Wyoming, 343,971 acres; total, 62,500,000 acres.

Done at Washington, D. C., this 13th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1056; Filed, April 13, 1938; 12:47 p.m.]

FEDERAL HOUSING ADMINISTRATION.

PROPERTY IMPROVEMENT LOANS UNDER TITLE I OF THE NATIONAL HOUSING ACT

The Regulations of the Federal Housing Administration, issued February 4, 1938, are hereby amended to read as follows:

Regulation No. 20

Applicable Only to New Structure Loans

Regulation No. 20 is hereby amended to read as follows:

A loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, not in excess of $2,500, exclusive of financing charges to the borrower and including the cost of architectural and engineering services, will be eligible for insurance if it is made to finance the building of a new structure. If such new structure is intended for use in whole or in part for residential purposes, the following conditions must be complied with:

1. Such new structure shall be erected in conformity with all applicable laws, ordinances and regulations, including codes, zoning ordinances, and health regulations.

2. *Foundations.*—(*a*) All foundations shall be of masonry pier or wall construction.

(*b*) Foundations shall be carried below the frost line prevailing in the neighborhood.

(*c*) No wood construction shall be less than 18 inches from the ground in unexcavated portions, and 8 inches from the ground on the exterior.

3. *Minimum land area for any one dwelling.*—(*a*) Minimum land area for any one dwelling shall be 4,000 square feet where public water supply and public sewer are available, except in those areas wherein there is seasonal occupancy (examples of such areas are summer camps, resort properties, and those properties not generally used as year around residences), or wherein the existing lots have been platted prior to the date of these regulations with smaller areas, in which cases there is no minimum area.

(*b*) Minimum area shall be 7,500 square feet where public water supply is available and private sewage disposal system (cesspool or septic tank) is used. This area may be reduced when the installation of the private sewage disposal system is in conformity with State regulations, and is approved by the local Health Officer, but, in no event, shall such area be less than 4,000 square feet.

(*c*) Minimum area shall be 20,000 square feet where neither public sewer nor public water supply is available. This area may be reduced when the installation of the private well and sanitary facilities are in conformity with State regulations and are approved by the local Health Officer, but in no event shall such area be less than 5,000 square feet.

4. *Minimum floor area* of the dwelling shall be 360 square feet. In the case of seasonal occupancy, the requirement with respect to minimum floor area need not apply.

5. *Windows.*—All habitable rooms, including bathrooms, must be provided with one or more windows to permit adequate natural light and ventilation.

6. *Water supply.*—(*a*) When public water supply is available, connection shall be made to public water main.

(*b*) When public water supply is not available, a private water supply shall be on the property and may be a drilled, driven or dug well or a natural spring.

7. *Sewage disposal.*—(*a*) When public water supply and public sewers are available, a bathroom shall be provided and running water shall be piped and connected to all fixtures and the kitchen sink and connections shall be made to public sewer main.

(*b*) When public water supply is available, but a public sewer is not available, a bathroom shall be provided and running water shall be piped and connected to all fixtures and the kitchen sink *and a cesspool or septic tank shall be installed.*

(*c*) When public water supply is not available, the requirements of (*a*) and (*b*) above are not applicable.

8. *Outdoor toilets.*—Outdoor toilets will not be permitted on lots less than 20,000 square feet in area.

9. *Fire insurance.*—(*a*) Fire insurance coverage must be obtained in an amount at least equal to the unpaid principal of the loan and must name the lending institution as beneficiary. In event of loss or damage, the proceeds of such insurance shall be payable to the lending institution and shall either be applied to the reduction of the unpaid balance of the loan or if the borrower desires to obtain the use of such proceeds for the purpose of repairing or reconstructing the damaged structure, the lending institution may release such proceeds to the borrower for such purposes.

(*b*) The cost of such insurance may be in addition to the maximum finance charge to the borrower permitted in Regulation No. 22, but in no event may such cost be included in the net proceeds advanced to the borrower.

(*c*) In areas where it is impossible to obtain full fire insurance coverage, the maximum allowed in that area will be acceptable.

10. *Collateral.*—It is not required that lending institutions obtain collateral security in the case of loans having a maximum final maturity of five years and thirty-two days. However, in the case of loans having a final maturity in excess of five years and thirty-two days, collateral security must be obtained in the form of a first mortgage or first deed of trust covering the property improved by the new structure, except as hereinafter provided. Such mortgage or deed of trust shall be recorded in accordance with the applicable laws of the jurisdiction, and shall represent a first lien upon the new structure and the property improved thereby, except that in the case of institutions publicly supervised and prohibited by law or regulation from advancing an amount equal to the full loan insurable under Title I of the National Housing Act, the requirement relative to collateral security may be disregarded and the taking of such security is left to the discretion of the insured institution. Recording fees and title examination charges may be in addition to the maximum finance charge to the borrower permitted in Regulation No. 22, but in no event may such cost be included in the net proceeds advanced to the borrower.

11. *Prior approval.*—All applications for loans to be made or purchased for the purpose of financing the building of new structures for use, in whole or in part, for residential purposes must be submitted to the local insuring office of the Federal Housing Administration for prior approval as to the proposed location of the new structure and a simple memorandum signed by the State Director and the Chief Underwriter of the Insuring Office approving the location is all that will be required. (The purpose of this requirement is to avoid placing these small houses in locations surrounded by higher priced dwellings and thus to avoid injuring other properties. The Chief Underwriters will be instructed to approve or disapprove on conformity to the neighborhood.)

12. *Exceptions.*—The above conditions may be varied under special circumstances and in certain areas upon prior approval of the Administrator.

Question No. 20a.—Will a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit for the purpose of financing the building of a new structure, the building of which was commenced prior to February 4, 1938, be eligible for insurance?

Answer.—No. Only those loans or purchases of obligations made on and after February 4, 1938, to finance the building of new structures, the erection of which started after that date, will be eligible for insurance.

Question No. 20b.—By what means may an institution determine whether the conditions necessary for the eligibility of a new structure for residential purposes complies with the requirements set forth in this Regulation?

Answer.—The borrower must furnish the lending institution a signed Certificate of Conformance, approved as to form or supplied by the Administrator, clearly stating the necessary information from which the institution can determine whether there is conformity with the required conditions set forth in this Regulation.

The lending institution may rely upon the statements made by the borrower on his signed Certificate of Conformance and need not make any further investigation.

Question No. 20c.—What type of new structure other than those designed in whole or in part for residential purposes are eligible for building with the proceeds of an insured loan as contemplated by this Regulation?

Answer.—Any building which represents an improvement to the realty may be built with the proceeds of an insured loan. Examples of such buildings are barns, wayside stands, garages, and similar rural, commercial or industrial buildings.

Regulation No. 21

Applicable Only to Loans for New Structures for Residential Use

Regulation No. 21 is amended to read as follows:

Loans or advances of credit, or purchases of obligations representing loans or advances of credit, not in excess of $2,500, exclusive of financing charges to the borrower, and including the cost of architectural and engineering services, if any, for the purpose of financing the building of new structures intended for use, in whole or in part, for residential purposes will be eligible for insurance if they have a final maturity not in excess of seven years and thirty-two days.

Regulation No. 22

Applicable Only to Loans for New Structures for Residential Use

Regulation No. 22 is hereby amended to read as follows:

A note for residential construction will be eligible for insurance only if the total payment to be made by the borrower for interest, discount, and fees of all kinds (except fire insurance costs, recording fees, and title examination charges as authorized in Regulation No. 20) in connection with the transaction is not in excess of an amount equivalent to $3.50 discount for $100 original face amount of a one year note to be paid in equal monthly installments, calculated from the date of the note. This charge is a permitted maximum and not a mandatory rate, and a loan at any lower rate is eligible for insurance, and such charge correctly based on tables of calculations issued by the Federal Housing Administrator is deemed to comply with this regulation.

The Regulations and Questions and Answers contained herein are hereby declared to be effective as of the date hereof and shall have the same force and effect as if included in and made a part of each contract of insurance on the date such contract was originally executed. The Questions and Answers shall have the same force and effect as the Regulations interpreted thereby.

Issued at Washington, D. C., this 28th day of March, 1938.

[SEAL] STEWART McDONALD,
Federal Housing Administrator.

[F. R. Doc. 38-1051; Filed, April 12, 1938; 3:44 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3377]

IN THE MATTER OF MIAMI WHOLESALE DRUG CORPORATION, A CORPORATION; ITS OFFICERS AS FOLLOWS: ARTHUR S. LAVINE, PRESIDENT, VIVIAN L. KING, VICE PRESIDENT, SAM S. LAVINE, TREASURER, AND RODNEY S. PULLEN, JR., ARTHUR S. LAVINE, SAM S. LAVINE, VIVIAN L. KING, ESTHER S. KING, AND ELIZABETH R. KING, INDIVIDUALS DOING BUSINESS UNDER THE TRADE NAME MIAMI MAGAZINE

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof, since June 19, 1936, have violated and are now violating the provisions of Section 2 (f) of the Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (the Clayton Act), as amended by Section One of the Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes," approved June 19, 1936, (the Robinson-Patman Act), hereby issues this its Complaint against respondents and states its charges with respect thereto as follows, to wit:

PARAGRAPH 1. The respondent, Miami Wholesale Drug Corporation, is a corporation organized and existing under the laws of the State of Florida, having an office and principal place of business in Miami, Florida. It is now, and for several years last past has been, engaged in the wholesale drug business.

The individual respondents, Arthur S. Lavine, Vivian L. King, and Sam S. Lavine, are President, Vice President, and Treasurer, respectively, of the respondent corporation.

Respondent Rodney S. Pullen, Jr., is in active charge of the management of the business of the respondent corporation as well as the business conducted under the trade name Miami Magazine.

In the course and conduct of the wholesale drug business of the respondent corporation as aforesaid, goods, wares and merchandise are purchased from manufacturers and sellers located in the various States of the United States, pursuant to which purchases the said goods, wares and merchandise are shipped and transported to the respondent corporation from the States in which the various manufacturers and sellers are located, and the respondent corporation causes said goods, wares and merchandise so purchased to be sold, shipped, and distributed, to other wholesalers and to retailers residing in the various States of the United States.

There are other corporations, partnerships, firms, and individuals, engaged in the wholesale drug business, who purchase goods, wares and merchandise from manufacturers and sellers thereof, pursuant to which said purchases, goods, wares and merchandise are shipped and distributed into and through the various States of the United States to the respective purchasers thereof, and with such corporations, partnerships, firms, and individuals, the respondent corporation and its customers are, and at all times mentioned herein have been, in competition.

PAR. 2. In the course and conduct of the business as hereinabove described, the respondent corporation, with the active cooperation, aid and assistance of the individual respondents, adopted, follows, and pursues a purchasing policy and practice designed and intended to induce favorable discriminatory prices for the respondent corporation in its purchases of goods, wares and merchandise of like grade and quality to those purchased by competing purchasers. Pursuant to, and in furtherance of, the said purchasing plan and policy, the parties respondent cause a magazine to be published under the trade name "Miami Magazine." Manufacturers and sellers are persuaded and induced to enter into contracts or agreements authorizing advertisements to be inserted in the said magazine, which contracts or agreements either provide, or it is understood, and so carried out, that the charges made for said advertisements shall be credited on the purchase price of the goods, wares and merchandise purchased by the respondent corporation from such manufacturers and sellers. Many of such contracts or agreements have been so induced, entered into, and executed since June 19, 1936.

The publication of the aforesaid magazine by the parties respondent is not an independent business operated in good faith on a profit basis, but is a subterfuge operated solely as an incident to the wholesale drug business engaged in by the respondent corporation, for the purpose of obtaining the discriminations in price as aforesaid. The said magazine has no substantial value as an advertising medium, and there are no substantial benefits and considerations accruing to manufacturers and sellers for the credits, discounts, and allowances made on purchases of goods, wares and merchandise by the respondent corporation by virtue of the contracts and agreements for advertising space therein.

The discriminations in price thus obtained are substantial, amounting to differentials in favor of respondent of from 33⅓% to 50% over other wholesalers competing with respondent and with customers of respondent; enable respondent to offer and sell, and respondent does offer and sell, to other wholesalers at prices lower than competitors of respondent's said wholesaler customers can purchase the same commodities, or commodities of like grade and quality, from the manufacturers thereof; and enable respondent and its said wholesaler customers to offer and sell, and they do offer and sell, said commodities to retailers at prices lower than other wholesalers competing with respondent and its said customers can profitably sell such commodities to retailers.

PAR. 3. The effect of the aforesaid discriminations in price, induced and received by the respondents, has been, and may be, substantially to lessen competition and tend to create a monopoly in the sale and distribution of drug products, and to injure, destroy, and prevent competition between and among the respondent and its customers, on the one hand, and their competitors, on the other hand, and between and among customers of each.

PAR. 4. The foregoing alleged acts of the respondents are in violation of Section 2 (f) of said Act of Congress approved June 19, 1936, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, (the Clayton Act), as amended by Section One of the Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes," approved June 19, 1936, (the Robinson-Patman Act).

Wherefore, the premises considered, the Federal Trade Commission, on this 11th day of April, A. D., 1938, now issues this, its complaint against the parties respondent named in the caption hereof, stating its charges as hereinabove set out.

NOTICE

Notice is hereby given the parties respondent named herein, that the 20th day of May, A. D., 1938, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

The parties respondent are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(a) In cases arising under Section 5 of the Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under Sections 2 and 3 of the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under Section 2 of the aforesaid Clayton Act as amended by "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes," approved June 19, 1936, (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 11th day of April, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

APRIL 7, 1938.

[F. R. Doc. 38-1052; Filed, April 13, 1938; 9:15 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of April, A. D. 1938.

[File No. 55-1]

IN THE MATTER OF CHARLES TRUE ADAMS, TRUSTEE, UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) and 20 (a) of the Public Utility Holding Company Act of 1935, and of Rule 11F-2 thereunder having been duly filed with this Commission by Charles True Adams, Trustee of the Estate of Utilities Power & Light Corporation, a registered holding company, now being reorganized under the provisions of Section 77B of the National Bankruptcy Act, for approval by the Commission as to the maximum amount that may reasonably be paid for services rendered and to be rendered and cash disbursements made by said Charles True Adams, as said Trustee, by Melvin M. Hawley, Attorney for said Trustee, by Jay Samuel Hartt, an Engineer employed by said Trustee, by Ronald R. Monroe, an Executive employed by said Trustee, by W. A. Horner, an employee of said Trustee, and by Central Service Corporation, an engineering corporation employed by said Trustee, and for exemption from the provisions of Rule 11F-2 with respect to services hereafter to be rendered and cash disbursements for expenses to be made by the above named persons and corporation.

It is ordered, That a hearing on such matter be held on April 25, 1938, at 10:00 o'clock in the forenoon of that day, at the offices of the Securities and Exchange Commission, 105

West Adams Street, Chicago, Illinois. On such day the Regional Administrator, at the above mentioned address, will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Henry Fitts or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 20, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1055; Filed, April 13, 1938; 12:12 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of April, A. D. 1938.

[File No. 46-96]

IN THE MATTER OF NORTHEASTERN WATER AND ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Northeastern Water and Electric Corporation for approval of the acquisition by it from Lehigh Valley Railroad Company for $500,000 cash of 9,600 shares of the common stock of Hazleton Water Company, which owns and operates a water works system in the city of Hazleton, Pennsylvania and surrounding territory.

It is ordered, That a hearing on such matter be held on April 25, 1938, at 2:00 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 22, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1054; Filed, April 13, 1938; 12:12 p. m.]

Friday, April 15, 1938 *No. 74*

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

IDAHO GRAZING DISTRICT NO. 4

MODIFICATION

APRIL 9, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of November 3, 1936, establishing Idaho Grazing District No. 4 is hereby revoked as far as it affects the following-described lands:

BOISE MERIDIAN

T. 17 N., R. 24 E., sec. 27, SW¼NW¼;
T. 19 N., R. 24 E., sec. 15, S½NW¼;
T. 11 N., R. 26 E., sec. 19, SW¼SE¼.

HAROLD L. ICKES,
Secretary of the Interio .

[F. R. Doc. 38-1064; Filed, April 14, 1938; 9:45 a. m.]

WYOMING GRAZING DISTRICT NO. 1

MODIFICATION

APRIL 11, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of March 23, 1935, establishing Wyoming Grazing District No. 1, is hereby revoked as far as it affects the following-described lands:

WYOMING

Sixth Principal Meridian

T. 41 N., R. 87 W., sec. 3, lot 6;
T. 50 N., R. 91 W., sec. 31, lot 4;
T. 51 N., R. 95 W., sec. 13, lots 5 and 6.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1063; Filed, April 14, 1938; 9:45 a. m.]

Division of Territories and Island Possessions.

[Supplement No. 1 to I. C. C. No. 131 (contains all changes)]

THE ALASKA RAILROAD

SUPPLEMENT NO. 1 (CONTAINS ALL CHANGES) TO LOCAL FREIGHT TARIFF NO. 16-B

Naming Class and Commodity Rates Between Stations on the Alaska Railroad in Alaska

Governed, except as otherwise provided herein, by Western Classification No. 67 (as published in Consolidated Freight Classification No. 12), R. C. Fyfe's I. C. C. No. 25, supplements thereto or successive issues thereof. Issued on ten days notice under authority of Rule 62, Interstate Commerce Commission Tariff Circular No. 20. Issued, March 30, 1938. Effective, April 15, 1938 (Except as otherwise provided herein). Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

SECTION 2

General Commodity Rates

If the charge accruing under Sections 1 or 3 of this tariff is lower than the charge accruing under this section on the same shipment via the same route, the charge accruing under Sections 1 or 3, whichever is lower, will apply.

Item No.	Commodities	Stations		Rates in cents per 100 lbs., except as provided in individual items
545....	Fish, fresh or frozen, in boxes or barrels, Less than carloads.	From Anchorage, Alaska.	To Fairbanks, Alaska.	R245
550-A, cancels 550	Hay and Straw, carloads minimum weight 22,000 lbs.	From Palmer, Alaska	To Seward, Alaska. Lignite, Alaska... Fairbanks, Alaska	30 R51 R75

R=Reduction.

Table of Rates Referred to on Pages 20 and 22 of Tariff

Rate Basis Nos.	Class rates (in cents per 100 lbs.)									
	1	2	3	4	5	A	B	C	D	E
96.....	96	82	67	58	48	48	38	29	24	19

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

[F. R. Doc. 38-1058; Filed, April 14, 1938; 9:40 a. m.]

Indian Arts and Crafts Board.

STANDARDS FOR NAVAJO, PUEBLO, AND HOPI SILVER AND TURQUOISE PRODUCTS

MARCH 3, 1937.

Subject to the detailed requirements that follow, the Government stamp shall be affixed only to work individually produced and to work entirely hand-made. No object produced under conditions resembling a bench-work system, and no object in whose manufacture any power-driven machinery has been used, shall be eligible for the use of the Government stamp.

In detail, Indian silver objects, to merit the Government stamp of genuineness, must meet the following specifications:

(1) *Material.*—Silver slugs of 1 ounce weight or other silver objects may be used, provided their fineness is at least 900; and provided further, that no silver sheet shall be used. Unless cast, the slug or other object is to be hand hammered to thickness and shape desired. The only exceptions here are pins on brooches or similar objects; ear screws for ear rings; backs for tie clasps and chain, which may be of silver of different fineness and mechanically made.

(2) *Dies.*—Dies used are to be entirely hand-made, with no tool more mechanical than hand tools and vice. Dies shall contain only a single element of the design.

(3) *Application of dies.*—Dies are to be applied to the object with the aid of nothing except hand tools.

(4) *Applique elements in design.*—All such parts of the ornament are to be hand-made. If wire is used, it is to be hand-made with no tool other than a hand-made draw plate. These requirements apply to the boxes for stone used in the design.

(5) *Stone for ornamentation.*—In addition to turquoise, the use of other local stone is permitted. Turquoise, if used, must be genuine stone, uncolored by any artificial means.

(6) *Cutting of stone.*—All stone used, including turquoise, is to be hand-cut and polished. This permits the use of hand- or foot-driven wheels.

(7) *Finish.*—All silver is to be hand polished.

For the present the Arts and Crafts Board reserves to itself the sole right to determine what silver, complying with the official standards, shall be stamped with the Government mark.

JOHN COLLIER, *Chairman.*

Approved March 9, 1937.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-1059; Filed, April 14, 1938; 9:44 a. m.]

REGULATIONS FOR USE OF GOVERNMENT MARK ON NAVAJO, PUEBLO, AND HOPI SILVER

The following regulations governing the use of Government trade marks of genuineness and quality for Indian products are promulgated pursuant to sections 2 and 3 of the act of August 27, 1935 (49 Stat. 891; U. S. C., title 25, secs. 305a, 305b).

The use of Government trade marks in an unauthorized manner, or the colorable imitation of such marks, is subject to the criminal penalties imposed by section 5 of the said act.

1. All dies used to mark silver will be provided by and owned by the Indian Arts and Crafts Board.

2. For the present the Indian Arts and Crafts Board reserves to itself the sole right to judge what silver complying with its standards shall bear the Government mark. All such marking of silver shall, for the present, be done by an agent of the Indian Arts and Crafts Board.

3. No piece of silver, though made in compliance with the standards set forth by the Indian Arts and Crafts Board, shall bear the Government mark unless:

(a) Its weight is substantially in accord with Indian usage and custom.

(b) Its design elements are substantially in accord with Indian usage and tradition.

(c) Its workmanship is substantially that expected in good hand craftmanship.

4. Dies are marked with name of tribe. A Navajo stamp will be used where the maker is a Navajo Indian; similarly, for Zuni, Hopi, and Rio Grande Pueblo.

5. All dies will be numbered, and each wholesaler or dealer will be held responsible for any violation of standards in silver that bears his mark. Until such time as the Board relinquishes its sole right to mark silver, the responsibility of the dealer for whom silver is marked will be confined to misrepresentations as to quality of silver and of stones used for ornament and to methods of production.

6. In addition to silver currently made in compliance with the standards of the Indian Arts and Crafts Board, other silver products made prior to the promulgation of these regulations may be stamped, provided the maker thereof is known to be an Indian, and the product satisfies the requirements in paragraph 3.

7. Any dealer offering for sale silver bearing the Government mark may, if he wishes, attach to silver so marked a label or ticket calling attention to the Government mark.

8. Every dealer offering for sale silver bearing the Government mark shall display in a prominent place a placard setting forth the standards and these regulations, such placard to be furnished by the Indian Arts and Crafts Board.

Promulgated by the Indian Arts and Crafts Board on March 10, 1937.

JOHN COLLIER, *Chairman.*

Approved April 2, 1937.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-1060; Filed, April 14, 1938; 9:44 a. m.]

REGULATIONS FOR USE OF GOVERNMENT CERTIFICATE OF GENUINENESS FOR NAVAJO ALL-WOOL WOVEN FABRICS

The following regulations governing the use of Government trade-marks of genuineness and quality for Indian products

are promulgated pursuant to sections 2 and 3 of the act of August 27, 1935 (49 Stat., 891; U. S. C., title 25, secs. 305a, 305b).

The use of Government trade-marks in an unauthorized manner, or the colorable imitation of such marks, is subject to the criminal penalties imposed by section 5 of the said act, which provides:

Any person who shall counterfeit or colorably imitate any Government trade-mark used or devised by the Board as provided in section 305a of this chapter, or shall, except as authorized by the Board, affix any such Government trade-mark, or shall knowingly, willfully, and corruptly affix any reproduction, counterfeit, copy, or colorable imitation thereof upon any products, Indian or otherwise, or to any labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such products, or any person who shall knowingly make any false statement for the purpose of obtaining the use of any such Government trade-mark, shall be guilty of a misdemeanor, and upon conviction thereof shall be enjoined from further carrying on the act or acts complained of and shall be subject to a fine not exceeding $2,000, or imprisonment not exceeding six months, or both such fine and imprisonment (U. S. Code, title 25, sec. 305d).

1. Government certificates of genuineness for Navajo all-wool woven fabrics may be affixed to fabrics meeting the conditions specified in section 3 of these regulations by persons duly authorized to affix such certificates, under license issued by the Indian Arts and Crafts Board.

2. A license may be granted to any person desiring to use the Government certificate of genuineness for Navajo all-wool woven fabrics who shall make application therefor and shall execute a contract acceptable to the Indian Arts and Crafts Board providing for the use of such certificates in conformity with these regulations, which contract shall be accompanied by an indemnity bond acceptable to the Indian Arts and Crafts Board, in the amount of $500, conditioned upon faithful performance of such contract.

3. No fabric may carry the Government certificate of genuineness for Navajo all-wool woven fabrics unless all of the following conditions are met:

(*a*) The fabric is made entirely of local wool that is locally hand-spun and is entirely woven on a native Navajo loom;

(*b*) The fabric is made by a member of the Navajo Tribe working under conditions not resembling a workshop or factory system;

(*c*) The size and weight of the fabric are indicated in the certificate;

(*d*) The licensee dates and signs the certificate.

4. Each licensee will be furnished, upon payment of the registration and license fees hereinafter specified, one hand seal press and a supply of blank Government certificates, which shall be used only in accordance with this license, and shall remain at all times the property of the Board.

5. Each licensee shall pay a registration fee of $2, together with a license fee which shall be determined on the basis of $1 for each 40 Government certificates ordered by the licensee from the Board.

6. In the event that complaint is made to the Board that any provision of any license or of these regulations has been violated by any licensee, the Board may suspend the license and all authority conferred thereby, in its discretion, for a period of 30 days, by notifying the licensee of such suspension, by mail, by telegraph, or in any other manner.

7. In the event that the Board, after giving a licensee written notice of charges and affording an opportunity to reply to such charges, orally or in writing, is satisfied that any provision of any license or of these regulations has been violated by any licensee, the Board may revoke the license by notifying the licensee of such revocation, by mail, by telegraph, or in any other manner. Upon notice of such revocation all authority conferred by the license so revoked shall forthwith terminate, but the validity of actions taken while the license was in force shall not be affected.

8. Any license may be surrendered by the licensee at any time by surrendering to the Board the Government hand seal press and unused certificates of genuineness entrusted to the licensee, accompanied by a copy of the license marked "surrendered" and signed by the licensee. Such surrender shall take effect as of the time that such property and document have been received by the Board.

9. Each license shall be in effect from the date of execution thereof and until 1 year thereafter, unless sooner surrendered or canceled in accordance with the foregoing provisions.

10. Certificates shall be fastened to the woven fabric by wire caught in a lead seal disc that shall be impressed and made fast with the hand seal press furnished by the Indian Arts and Crafts Board.

11. When the certificate is first applied, the lower of the two spaces provided for the purpose shall be dated and signed. In the event that the ultimate retailer of any fabric so marked is not the person who originally attached the certificates, that ultimate retailer, if duly licensed under section 2 of these regulations, may date and sign the upper of the two spaces provided for the purpose and may, if he so desires, detach the original date and signature.

12. Certificates may be attached only to products which are in the ownership or possession of the licensee. Certificates will be consecutively numbered and records of the allocation of such certificates will be maintained by the Indian Arts and Crafts Board. Each licensee will be held responsible for the proper use of such certificates and of the Government hand seal press furnished to such licensee.

Promulgated by the Indian Arts and Crafts Board on June 15, 1937.

JOHN COLLIER, *Chairman.*

Approved October 20, 1937.

CHARLES WEST,
Acting Secretary of the Interior.

[F. R. Doc. 38-1061; Filed, April 14, 1938; 9:44 a. m.]

[Circular No. 1—Supplement No. 1 to Regulations]

AMENDMENT TO REGULATIONS, USE OF GOVERNMENT MARK ON NAVAJO, ETC., SILVER PRODUCTS

JANUARY 15, 1938.

To Indian traders, Indian Service personnel, and others interested in the production and sale of Indian silver jewelry:

Section 8 of the Regulations for use of the Government trade-mark of genuineness and quality for Navajo, Pueblo, and Hopi silver products, promulgated pursuant to sections 2 and 3 of the act of August 27, 1935 (49 Stat., 891; U. S. C., title 25, secs. 305a, 305b), and approved by the Secretary on April 2, 1937, is hereby modified to read as follows:

Every dealer offering for sale silver bearing the Government mark may display in a prominent place a placard setting forth the standards and these regulations, such placard to be furnished by the Indian Arts and Crafts Board.

JOHN COLLIER, *Chairman.*

Approved: February 21, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-1062; Filed, April 14, 1938; 9:45 a. m.]

National Park Service.

SEQUOIA NATIONAL PARK

LOCAL SUBSIDIARY REGULATIONS

The following subsidiary regulations, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), have been recommended by the superintendent and approved by the Director of the National Park Service, and are in force and effect within the boundaries of Sequoia National Park:

Fishing.—The following waters are closed to fishing during the calendar year, 1938, as holding ponds and feeder streams for restocking main waters:

Watershed of the North Fork of the Kaweah River—
Cabin Creek from source to junction with Dorst Creek.
Watershed of the Marble Fork of the Kaweah River—
Deer Creek from the foot bridge on the Sunset-Village Trail to the source.
Halstead Creek, source to mouth.
Wolverton Creek, above the Wolverton Reservoir where signs are posted.
Watershed of the Middle Fork of the Kaweah River—
Crescent Meadow Creek, source to mouth.
Log Meadow Creek, source to mouth.
Timber Gap Creek, source to mouth.
Mehrten Creek, source to mouth.
Middle Fork of Kaweah River from Potwisha Flume intake to trail bridge at Hospital Rock.
Middle Fork of the Kaweah River from junction of Crescent Meadow Creek to junction of Dome Creek.
Watershed of the East Fork of the Kaweah River—
Atwell Creek, source to mouth.
Deadwood Creek, source to mouth.
Deer Creek, source to mouth.
Watershed of the South Fork of the Kaweah River—
Tuohy Creek, source to mouth.
Squaw Creek, source to mouth.
Pigeon Creek (Cedar Creek), source to mouth.
Putnam Creek, source to mouth.
Slide Canyon Creek, source to mouth.
Watershed of the Kern River—
Wallace Lake and the stream flowing out of it for a distance of 300 yards below the lake.
Kern River between the junction of Rattlesnake Creek and the Big Arroyo.
All waters of the Kern watershed until July 1, 1938.

The following parts of all streams and lakes within the park are also closed to fishing:

All lakes within 300 feet of the inlet or outlet.
All streams connected with any lake shall be closed for a distance of 300 feet from either the inlet or the outlet of the lake.
Where any stream connecting two lakes in one-fourth mile or less in length, the entire stream shall be closed to fishing.

Open season.—May 1 to October 31, 1938:

All waters in the park which are open to fishing except the waters in the Kern watershed, Hamilton Lake, and Tamarack Lake, which are open from July 1, to October 31, only. July 1 to October 31, 1938: All waters in the Kern watershed, Hamilton Lake, Tamarack Lake.

Limit of catch.—The limit of catch shall be 15 fish per day, caught or in possession, or 7 pounds and one fish, in all waters of the park, except Wolverton Reservoir, where a special limit of 5 fish regardless of size shall apply.

Possession of more than one day's catch limit by any one person at any time shall be construed as a violation of this regulation.

Fishing license.—A California State fishing license is required of all persons 18 years of age or over fishing in the park.

All previous subsidiary regulations relating to fishing in Sequoia National Park are hereby repealed.

Approved: April 4, 1938.

[SEAL] ARNO B. CAMMERER,
Director, National Park Service.

[F. R. Doc. 38-1065; Filed, April 14, 1938; 9:45 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-69 O-69]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF CANTALOUPES GROWN IN IMPERIAL COUNTY, CALIFORNIA, AND IN YUMA COUNTY, ARIZONA

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of cantaloupes grown in Imperial County, California, and in Yuma County, Arizona;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating the handling of such cantaloupes in the Barbara Worth Hotel, El Centro, California, on April 22, 1938, at 10:00 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of cantaloupes grown in Imperial County, California, and in Yuma County, Arizona. Among other things, the proposed marketing agreement and proposed order provide for: (a) the establishment of a Control Committee, (b) regulation of shipments by size, and (c) expenses of administration, and other matters relating to the handling of cantaloupes in said counties.

It is hereby declared that an emergency exists in the handling of cantaloupes in the aforesaid area which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: April 14, 1938.

[F. R. Doc. 38-1068; Filed, April 14, 1938; 12:37 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 67]

THE FEDERAL LAND BANK OF SPOKANE

SCHEDULE OF LAND BANK COMMISSIONER LOAN LONG-TERM EXTENSION FEES AND LAND BANK LOAN REAMORTIZATION FEES

Pursuant to paragraph Thirteenth, section 13 of the Federal Farm Loan Act, as amended (12 U. S. C. 781 (Thirteenth)), to sections 1 and 2 of the Federal Farm Mortgage

Corporation Act, as amended (12 U. S. C. 1020 and 1020a), and to section 32 of the Emergency Farm Mortgage Act of 1933, as amended (12 U. S. C. 1016), with the approval of the Land Bank Commissioner, dated March 15, 1938, and with the authorization of the Federal Farm Mortgage Corporation (3 F. R. 90 (DI)), the Executive Committee of The Federal Land Bank of Spokane adopted a resolution on February 14, 1938, providing that the following fees be charged on each application for the extensions of the entire indebtedness on a Land Bank Commissioner loan and/or the reamortization of a Land Bank loan:

1. $10.00 on single Land Bank Commissioner loans.
2. $10.00 on single Land Bank loans up to $7,500.00, plus $5.00 on each additional $5,000.00 or fractional part thereof.
3. $15.00 on joint Land Bank and Land Bank Commissioner loans up to $15,000.00 (both loans being so extended), plus $5.00 on each additional $5,000.00 or fractional part thereof.

Each applicant will also be required to pay actual cash outlays for abstract expenses, notarial fees, recording fees, or other disbursements necessary for completion of the transaction.

[SEAL] THE FEDERAL LAND BANK OF SPOKANE,
By E. M. EHRHARDT, *President*.

[F. R. Doc. 38-1066; Filed, April 14, 1938; 12:03 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 22]

ORDER RELATIVE TO MOTOR CARRIER RATES IN NEW ENGLAND

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 12th day of April, A. D. 1938.

The said division having under consideration the subject of the rates, charges, classifications, rules, regulations, and practices applicable to the transportation of property in interstate or foreign commerce by common carriers by motor vehicle between points as hereinafter described:

It is ordered, That an investigation be, and it is hereby, instituted by the said division, on its own motion, into and concerning the lawfulness of the maximum, minimum, and precise basis of all rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property in interstate or foreign commerce between all points in the territory described below, with a view to determining whether the rates, charges, and classifications, and the rules, regulations, and practices relating thereto, of respondents, or any of them, applicable to such transportation are in any respects in violation of law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant:

TERRITORIAL DESCRIPTION

All parts of each of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut; that part of the State of New Jersey on and within an irregular line running generally southwest beginning at the northeast corner of the State and at the intersection of the State boundaries of New York and New Jersey with the Hudson River at a point on the opposite shore from Hastings-on-the-Hudson, N. Y., thence by the westerly shore of the Hudson River, Upper Bay, Kill van Kull, Newark Bay, Arthur Kill, and across the Raritan River at its entrance to Raritan Bay to South Amboy, N. J., thence by U. S. Highway 9 from South Amboy to point of intersection with New Jersey Highway S-28, thence generally northwestward by New Jersey Highway S-28 to the boundaries of the City of New Brunswick, N. J., and along said boundaries to the Raritan River and thence by said river to Bound Brook, N. J., thence generally northeastward from Bound Brook by U. S. Highway 22 to its point of intersection with New Jersey Highway 23 and thence by New Jersey Highway 23 to its intersection with U. S. Highway 202, thence by U. S. Highway 202 to the point of intersection with the State boundary, thence generally southeastward by the State Boundary of New York and New Jersey to the point of beginning; that part of the State of New York within New York, N. Y. (comprising the Boroughs of Manhattan, Bronx, Brooklyn, Queens, and Richmond) and the remainder of Long Island, N. Y., and the counties of Westchester, Putnam, Dutchess, and that portion of Columbia County lying south of a line running generally northwestward from the intersection of New York Highway 23 with the western boundary of Massachusetts, and by New York Highway 23 and the southern boundary of the City of Hudson, N. Y., to the east shore of the Hudson River, and that portion of Orange County which includes the corporate limits of Newburgh, N. Y.; that part of the State of New York on and within a line beginning at the northeast corner of the State of New York at its intersection with the International Boundary of Canada and the United States, and thence generally south by the westerly shore of Lake Champlain to Whitehall, N. Y., thence from Whitehall by the shortest distance to the westerly boundary of Vermont and by the westerly boundaries of Vermont and Massachusetts to the intersection of said Massachusetts boundary with New York Highway 23, thence generally northwesterly by New York Highway 23 and the southern boundary of the City of Hudson, N. Y., to the east shore of the Hudson River, thence generally northwesterly by the east shore of the Hudson River to a point opposite the southerly boundary of the City of Albany and across the Hudson River to said point and by the southerly and westerly boundaries of Albany to their intersection with U. S. Highway 20, thence by U. S. Highway 20 to its intersection with New York Highway 7 at or about Duanesburg, N. Y., thence by New York Highway 7 to Schenectady, N. Y., thence by New York Highway 50, U. S. Highway 9, New York Highways 9N, 86A, 408, 86, and 10, to the International Boundary of Canada and the United States, and thence easterly by said International Boundary to the point of beginning.

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof, be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

And it is further ordered, That said proceeding be, and it is hereby, assigned for hearing before the said division on the 29th day of April, A. D. 1938, at 10 o'clock A. M. (standard time) at the Hotel Manger, Boston, Mass.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-1067; Filed, April 14, 1938; 12:15 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 236]

ALLOCATION OF FUNDS FOR LOANS

APRIL 12, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
California 8006A2 Modoc	$27,500
Florida 8017A1 Jackson	100,000
Oregon 8014A2 Umatilla	35,000

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38-1057; Filed, April 14, 1938; 9:40 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT NO. 1 TO FORM 20-K

The Securities and Exchange Commission finding

(1) that the requirements of Form 20-K for Securities, other than Bonds, of Foreign Private Issuers, as hereby amended, are necessary and appropriate for the proper protection of investors and to insure fair dealing in such securities as are registered on national securities exchanges and as to which Form 20-K is to be used; and

(2) that the information called for by such form as hereby amended, is required to keep reasonably current the information and documents filed pursuant to Section 12 of the Securities Exchange Act of 1934,

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby amends Form 20-K as follows:

Paragraph 1 (d) under the heading "Instructions as to Exhibits" is amended to read as follows:

"(d) If not previously filed, a copy (specimen, if available) of a security of each class set forth under Item 4, 6 or 7 of which the aggregate outstanding amount is significant in relation to the total aggregate outstanding amount of all classes of securities set forth in the answers to Items 4, 6 and 7."

The foregoing action shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1071; Filed, April 14, 1938; 12:55 p. m.]

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT NO. 1 TO FORM 21-K

The Securities and Exchange Commission finding

(1) that the requirements of Form 21-K for Bonds of Foreign Private Issuers, as hereby amended, are necessary and appropriate for the proper protection of investors and to insure fair dealing in such securities as are registered on national securities exchanges and as to which Form 21-K is to be used; and

(2) that the information called for by such form, as hereby amended, is required to keep reasonably current the information and documents filed pursuant to Section 12 of the Securities Exchange Act of 1934,

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby amends Form 21-K as follows:

Paragraph 1 (d) under the heading "Instructions as to Exhibits" is amended to read as follows:

"(d) If not previously filed, a copy (specimen, if available) of a security of each class set forth under Item 4 or 5 of which the aggregate outstanding amount is significant in relation to the total aggregate outstanding amount of all classes of securities set forth in the answers to Items 4 and 5."

The foregoing action shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1072; Filed, April 14, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of April, A. D. 1938.

[File No. 32-84]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by New York State Electric and Gas Corporation for exemption from the provisions of section 6 (a) of the issue and sale by it of $2,903,200 Ten Year 5% Notes, dated March 1, 1938, bearing interest at the rate of 5% per annum and maturing on March 1, 1948, the application stating that the notes will be issued and sold only to persons resident within the state of New York.

It is ordered, That a hearing on such matter be held on May 2nd, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 26, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1069; Filed, April 14, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of April, A. D. 1938.

[File No. 43-114]

IN THE MATTER OF PUGET SOUND POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Puget Sound Power & Light Company, a subsidiary company of Engineers Public Service Company, a registered holding company, regarding the issue by it of $4,487,500 principal amount of First and Refunding Mortgage 6% Gold Bonds, Series E, due October 1, 1950 of Puget Sound Power & Light Company, it being stated by declarant that said bonds are to be issued against bondable credits of declarant and regarding the sale for refunding purposes of $7,000,000 principal amount of the same series of bonds, although declarant states that it does not anticipate that said bonds will be sold in the near future, but that it desires to procure the certification and delivery of $4,487,500 thereof, before it loses by lapse of time the right to procure such certification and delivery;

It is ordered, That a hearing on such matter be held on May 2, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania

Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the Room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 27, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1070; Filed, April 14, 1938; 12:55 p. m.]

Saturday, April 16, 1938 *No. 75*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR USE OF THE DEPARTMENT OF AGRICULTURE

Arkansas

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. Executive Order No. 6964 of February 5, 1935, as amended, temporarily withdrawing certain lands for classification and other purposes, is hereby revoked in so far as it affects the following-described public land in Washington County, Arkansas.

FIFTH PRINCIPAL MERIDIAN

T. 16 N., R. 32 W., sec. 10, NE¼NW¼, 40 acres.

SECTION 2. Subject to the conditions expressed in the above-mentioned acts and to all valid existing rights, the vacant, unappropriated, and unreserved public land described in section 1 of this order is hereby temporarily withdrawn from settlement, location, sale, and entry, and reserved and set apart for use and development by the Department of Agriculture for reforestation, forestation, soil erosion control, and other land utilization activities, in connection with the Northwest Arkansas Project, LA-AK-2: *Provided*, that nothing herein contained shall restrict prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of such land under the applicable laws.

SECTION 3. The reservation made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 14, 1938.

[No. 7866]

[F. R. Doc. 38-1073; Filed, April 15, 1938; 10:12 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 239]

AN ORDER DIRECTING AND REQUIRING PRODUCERS TO FURNISH TO THE COMMISSION CERTAIN DATA CONCERNING THE DISTRIBUTION OF COAL FOR THE CALENDAR YEAR 1937

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs as follows:

1. Each producer of bituminous coal, whether or not a code member, shall furnish the data and information concerning the distribution of coal for the calendar year 1937, as hereinafter provided.

2. Each producer shipping any coal by rail or river shall report such distribution and related data on Commission's Form No. D-1.

3. Each producer shipping coal by truck or wagon only shall report such distribution and related data on Commission's Form No. D-2.

4. Each producer shall on or before the 1st day of June, 1938 mail the required form, properly executed, to the commission at Washington, D. C.

Reports on Form No. D-1 from producers shipping by rail or river shall be addressed to:

National Bituminous Coal Commission
Attention: Bureau of Research and Statistics
Washington, D. C.

Reports on Form No. D-2 from producers shipping by truck or wagon only shall be addressed to:

National Bituminous Coal Commission
Attention: Truck Mine Section
Washington, D. C.

5. The Secretary of the Commission is hereby directed to certify to the Commission the name and address of any producer who has failed to file such form with the Commission by the 1st day of June, 1938.

6. The Secretary of the Commission shall forthwith mail copies of this order, together with the appropriate form, to each known producer of bituminous coal within the United States; and shall make available to producers, additional copies of such forms at the office of each of the statistical bureaus of the Commission.

By Order of the Commission.

Dated this 13th day of April, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary*.

[F. R. Doc. 38-1074; Filed, April 15, 1938; 12:06 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-70 0-70]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING OF FRESH PRUNES GROWN IN UMATILLA COUNTY IN THE STATE OF OREGON, AND IN WALLA WALLA AND COLUMBIA COUNTIES IN THE STATE OF WASHINGTON

Whereas under Public Act No. 10, 73rd Congress, as amended and as reenacted by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of fresh prunes grown in Umatilla County in the State of Oregon, and in Walla Walla and Columbia Counties in the State of Washington;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such handling of fresh prunes grown in Umatilla County in the State of Oregon, and in Walla Walla and Columbia Counties in the State of Washington, in the auditorium of the Milton City Hall, Milton, Oregon, on May 3, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of fresh prunes grown in Umatilla County in the State of Oregon, and in Walla Walla and Columbia Counties in the State of Washington. Among other things, the proposed marketing agreement and order provide for: (a) the establishment of a Control Committee, (b) regulation of shipments by volume, (c) grade and size regulation of shipments, (d) posting and filing of prices by handlers, (e) expenses of administration, and other matters relating to the handling of fresh prunes grown in Umatilla County in the State of Oregon, and in Walla Walla and Columbia Counties in the State of Washington.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated April 15, 1938.

[F. R. Doc. 38-1080; Filed, April 15, 1938; 2:11 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

RULES UNDER SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

RULES FOR THE REGULATION OF SHORT-SELLING

These rules were adopted pursuant to authority conferred upon the Securities and Exchange Commission by the Securities Exchange Act of 1934, as amended, particularly Sections 3 (b), 10 (a), and 23 (a) thereof. The rules apply to short-selling of securities on National Securities Exchanges. Rule X-3B-3 defines the term "short-selling". Rule X-10A-1 prohibits short-selling under certain circumstances and is applicable to all persons whether members of national securities exchanges or the public. Rule X-10A-2 is applicable only to members of national securities exchanges and is designed to prohibit the borrowing of securities for deliveries against "long" sales. The following amendment, adopted April 8, 1938, makes available to certain arbitrage transactions a limited exemption from the price restrictions of the rule.

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 10 (a) and 23 (a) thereof, hereby amends paragraph (d) of the Rule X-10A-1 by striking out the word "or" before the figure "(6)" and by inserting immediately before the period at the end thereof a semicolon and the following:

"or (7) any sale of a security for a special arbitrage account by a person who then owns another security by virtue of which he is, or presently will be, entitled to acquire an equivalent number of securities of the same class as the securities sold; provided such sale, or the purchase which such sale offsets, is effected for the bona fide purpose of profiting from a current difference between the price of the security sold and the security owned and that such right of acquisition was originally attached to or represented by another security or was issued to all holders of any class of securities of the issuer"

Paragraph (d) of Rule X-10A-1 as amended, reads as follows:

"(*d*) The provisions of paragraph (a) hereof shall not apply to (1) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense; (2) any member in respect of a sale, for an account in which he has no interest, pursuant to an order to sell which is marked 'long'; (3) any sale of an odd-lot; (4) any sale by an odd-lot dealer to offset odd-lot orders of customers; (5) any sale by an odd-lot dealer to liquidate a long position which is less than a round lot, provided such sale does not change the position of such odd-lot dealer by more than the unit of trading; (6) any sale of a security on a national securities exchange effected with the approval of such exchange which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security; or (7) any sale of a security for a special arbitrage account by a person who then owns another security by virtue of which he is, or presently will be, entitled to acquire an equivalent number of securities of the same class as the securities sold; provided such sale, or the purchase which such sale offsets, is effected for the bona fide purpose of profiting from a current difference between the price of the security sold and the security owned and that such right of acquisition was originally attached to or represented by another security or was issued to all the holders of any class of securities of the issuer."

The foregoing amendment shall be effective immediately.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1077; Filed, April 15, 1938; 12:46 p. m.]

United States of America Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of April, A. D. 1938.

[File No. 32-85]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by New York State Electric & Gas Corporation for exemption from the provisions of section 6 (a) of the issue and sale by it of $2,000,000 4% Serial Note to mature in 20 equal installments of $100,000 each to the Chase National Bank.

It is ordered, That a hearing on such matter be held on April 27, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-

room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 25, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1076; Filed, April 15, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of April, A. D. 1938.

[File No. 43-115]

IN THE MATTER OF NORTHEASTERN WATER AND ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Northeastern Water and Electric Corporation relating to the issuance by it of a $500,000 promissory note to Chemical Bank & Trust Co., payable $100,000 in 1 year, $100,000 in 2 years, and $300,000 in 3 years, with interest of 2% on the $100,000 payable in 1 year, 3% on the $100,000 payable in 2 years and 3½% on the $300,000 payable in 3 years and it appearing that the matters involved are intimately connected with those involved in an application by the declarant under Section 10 (a) (1) to acquire 9,600 shares of the common stock of Hazleton Water Company on which a hearing has been ordered for April 25, 1938, and it further appearing that it is desirable that both the declaration and the application be heard together.

It is ordered, That a hearing on such matter be held on April 25, 1938, at 2:00 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 22, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1075; Filed, April 15, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of April 1938.

[File No. 1-93]

IN THE MATTER OF ST. ANTHONY GOLD MINES, LTD., COMMON STOCK, $1 PAR VALUE

ORDER

The St. Anthony Gold Mines, Ltd., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $1 Par Value, from listing and registration on the New York Curb Exchange; and

A hearing having been held in this matter on March 15, 1938, and the Trial Examiner having filed his Report herein on March 29, 1938; and

Thereafter said issuer by letter dated April 1, 1938, having requested the Commission to make a part of the record of this proceeding an amended application dated April 1, 1938, enclosed with said letter; and

It appearing appropriate that said request should be granted;

It is ordered, That said amended application be and the same is hereby made a part of the record of this proceeding.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1078; Filed, April 15, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of April 1938.

IN THE MATTER OF JESSE ENGLE AND HARRY PHILIP ENGLE, DOING BUSINESS AS ENGLE & ENGLE, HOLDEN BUILDING, PORT JERVIS, NEW YORK

ORDER REVOKING REGISTRATION

Jesse Engle and Harry Philip Engle, doing business as Engle & Engle, a partnership, hereinafter called the registrant, having filed with the Commission on July 2, 1935, an application for registration on Form 1-M pursuant to Rule MA2 of the rules then governing the over-the-counter markets; and the said registration having become effective on January 1, 1936, in accordance with the Commission's rules and regulations; and the said registrant having become registered under Section 15 (b) of the Securities Exchange Act of 1934, as amended, by virtue of the provisions of Section 10 of the Act of Congress approved May 27, 1936, providing for the registration of over-the-counter brokers and dealers; and

The Commission having reasonable grounds to believe that the said registrant has willfully violated the provisions of Section 17 of the Securities Act of 1933, as amended, Section 8 (b) of the Securities Exchange Act of 1934, as amended, and Rule MB2 of the rules and regulations under the Securities Exchange Act of 1934, as amended; and having further reasonable grounds to believe that it is in the public interest to revoke the said registration; and

The said registrant, through its general partner, Jesse Engle, on April 4, 1938, having consented in writing to the revocation of said registration and having waived notice and opportunity for hearing in connection therewith, and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Jesse Engle and Harry Philip Engle, doing business as Engle & Engle, as a broker and dealer transacting business on the over-the-counter markets be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1079; Filed, April 15, 1938; 12:47 p. m.]

Tuesday, April 19, 1938 — *No. 76*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR USE OF THE DEPARTMENT OF AGRICULTURE

Louisiana

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. Executive Order No. 6964 of February 5, 1935, as amended, temporarily withdrawing certain lands for classification and other purposes, is hereby revoked in so far as it affects the following-described public land in Claiborne Parish, Louisiana:

LOUISIANA MERIDIAN

T. 22 N., R. 4 W., sec. 2, SE¼NE¼, 40 acres.

SECTION 2. Subject to the conditions expressed in the above-mentioned acts and to all valid existing rights, the vacant, unappropriated, and unreserved public land described in section 1 of this order is hereby temporarily withdrawn from settlement, location, sale, and entry, and reserved and set apart for use and development by the Department of Agriculture for reforestation, forestation, soil erosion control, and other land utilization activities, in connection with the Claiborne Parish Project, LA-LA-2: *Provided*, that nothing herein contained shall restrict prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of the land under the applicable laws.

SECTION 3. The reservation made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 15, 1938.

[No. 7867]

[F. R. Doc. 38-1092; Filed, April 16, 1938; 10:20 a. m.]

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

WHEREAS certain lands, together with the improvements thereon, largely contiguous or in close proximity to existing Indian Reservations, have been, or are in the process of being, acquired in connection with the projects hereinafter designated, under authority of Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of Title I of the act of August 24, 1935, 49 Stat. 750, 781; and

WHEREAS it appears that the transfer of jurisdiction over such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me under the aforesaid National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, and the act of August 24, 1935, it is hereby ordered that jurisdiction over the lands within the hereinafter-described areas, together with the improvements thereon, acquired or in the process of acquisition by the United States in connection with the hereinafter-designated projects, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior: *Provided, however*, that the Secretary of Agriculture shall retain such jurisdiction over the lands now in process of acquisition by the United States as may be necessary to enable him to complete the purchase of such lands; and the Secretary of the Interior is hereby authorized (1) to administer, through the Commissioner of Indian Affairs, such lands for the uses for which they were, or are in the process of being, acquired, and, insofar as consistent with such uses, for the benefit of such Indians as he may designate, (2) in connection with the administration of such lands to exercise all powers and functions, insofar as they may relate to these lands, conferred upon the Secretary of Agriculture by Executive Order No. 7530 of December 31, 1936, and Executive Order No. 7557 of February 19, 1937, and (3) to prescribe such rules and regulations as may be necessary to carry out the purposes of this order:

SEMINOLE PROJECT, LI-FL-6

GLADES COUNTY, FLORIDA

Tallahassee Meridian

T. 39 S., R. 32 E.,
secs. 1 to 3, inclusive, 10, 12 to 15 and 22 to 27, inclusive, 34, and 35;
T. 38 S., R. 33 E.,
secs. 19, 20, and 29 to 36, inclusive;
T. 39 S., R. 33 E.,
sec. 2, lots 1 to 3, inclusive, N½NW¼, and SW¼NW¼;
secs. 3 to 9, inclusive, all;
sec. 10, lots 1 and 2, NE¼, NW¼, SW¼, and NW¼SE¼;
sec. 11, lots 1 and 2;
secs. 17 to 20, inclusive, all;
sec. 21, lots 1 to 4, inclusive, NW¼, N½SW¼, and SW¼SW¼;
sec. 28, NW¼;
sec. 29, lots 1 and 2, NE¼, NW¼, and W½SW¼;
secs. 30 and 31, all;
sec. 32, lots 1 and 2;
T. 38 S., R. 34 E.,
sec. 31, lots 1 to 4, inclusive.

FORT HALL PROJECT, LI-ID-2

BANNOCK, BINGHAM, AND POWER COUNTIES, IDAHO

Boise Meridian

Tps. 5, 6, 7, 8, and 9 S., R. 32 E., those parts lying within the Fort Hall Indian Reservation;
Tps. 4 and 5 S., R. 33 E., those parts lying within the Fort Hall Indian Reservation;
Tps. 6, 7, 8, and 9 S., R. 33 E., all;
T. 10 S., R. 33 E., secs. 1 to 12, inclusive;
Tps. 3 and 4 S., R. 34 E., those parts lying within the Fort Hall Indian Reservation;
Tps. 5 and 6 S., R. 34 E., all;
T. 10 S., R. 34 E., sec 7;
T. 3 S., R. 35 E., that part lying within the Fort Hall Indian Reservation;
T. 4 S., R. 35 E., all;
T. 5 S., R. 35 E., secs 1 to 24, inclusive;
Tps. 2 and 3 S., R. 36 E., those parts lying within the Fort Hall Indian Reservation;
Tps. 4 and 5 S., R. 36 E., all;
T. 6 S., R. 36 E., that part lying within the Fort Hall Indian Reservation;
T. 2 S., R. 37 E., that part lying within the Fort Hall Indian Reservation;
Tps. 3, 4, and 5 S., R. 37 E., all;
T. 6 S., R. 37 E., that part lying within the Fort Hall Indian Reservation;
Tps. 2 and 3 S., R. 38 E., those parts lying within the Fort Hall Indian Reservation;

Tps. 4 and 5 S., R. 38 E., all;
T. 6 S., R. 38 E., that part lying within the Fort Hall Indian Reservation.

L'ANSE PROJECT, LI–MI–8

BARAGA COUNTY, MICHIGAN

Michigan Meridian

T. 50 N., R. 32 W., secs. 4 to 9, 16 to 21, and 28 to 33, inclusive;
T. 51 N., R. 32 W., all;
T. 50 N., R. 33 W., secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36, inclusive;
T. 51 N., R. 33 W., all.

TWIN LAKES LAND PROJECT, LI–MN–6

MAHNOMEN COUNTY, MINNESOTA

Fifth Principal Meridian

T. 143 N., R. 39 W., all;
T. 144 N., R. 39 W., secs. 2 to 11 and 13 to 36, inclusive.

FLAT LAKE PROJECT, LI–MN–15

BECKER COUNTY, MINNESOTA

Fifth Principal Meridian

T. 141 N., R. 39 W.,
sec. 4, lots 1 to 4, inclusive, S½NE¼, S½NW¼, SW¼, and W½SE¼;
secs. 5 to 7, inclusive, all;
sec. 8, NE¼ and NW¼;
sec. 18, lots 1 to 4, inclusive, W½NE¼, E½NW¼, and E½SW¼;
sec. 19, lots 1 to 4, inclusive, E½NW¼, E½SW¼, and SE¼;
T. 142 N., R. 39 W.,
secs. 5 to 9, 16 to 21, and 28 to 33, inclusive;
Tps. 141 and 142 N., R. 40 W., all.

FORT PECK PROJECT, LI–MT–6

ROOSEVELT AND VALLEY COUNTIES, MONTANA

Montana Meridian

T. 31 N., R. 40 E.,
sec. 1, all;
sec. 2, lots 1 to 6, inclusive, S½NE¼, and SE¼;
sec. 11, lots 1 to 6, inclusive, and N½NE¼;
sec. 12, all;
sec. 13, lots 1 to 3, inclusive, NE¼, NE¼NW¼, S½NW¼, NE¼SW¼, and SE¼;
sec. 14, lots 1 to 3, inclusive;
sec. 24, lots 1 to 6, inclusive, and E½NE¼;
sec. 25, lots 1 and 2;
T. 28 N., R. 41 E.,
sec. 1, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
sec. 2, lots 10 to 12, inclusive;
sec. 11, lots 5 to 8, inclusive;
sec. 12, all;
sec. 13, lots 2 to 6, inclusive, NE¼, E½NW¼, NE¼SW¼, and SE¼;
sec. 14, lots 5 to 7, inclusive;
sec. 23, lots 4 and 5;
sec. 24, lots 4 to 10, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, and SE¼;
sec. 25, lots 5 to 9, inclusive, N½NE¼, and SE¼NE¼;
sec. 36, lots 3 and 4;
T. 29 N., R. 41 E.,
secs. 1 to 3, inclusive, all;
sec. 4, lots 6 to 11, inclusive, S½NE¼, and SE¼;
sec. 9, lots 5 to 9, inclusive, NE¼, SE¼SW¼, and SE¼;
secs. 10 to 15, inclusive, all;
sec. 16, lots 5 to 9, inclusive, NE¼, E½NW¼, NE¼SW¼, and SE¼;
sec. 21, lots 6 to 10, inclusive, N½NE¼, SE¼NE¼, and E½SE¼;
secs. 22 to 26, inclusive, all;
sec. 27, lot 2, NE¼, NW¼, N½SW¼, SE¼SW¼, and SE¼;
sec. 28, lots 5 to 9, inclusive, and NE¼NE¼;
sec. 34, lots 5 to 8, inclusive, NE¼, E½NW¼, E½SW¼, and SE¼;
secs. 35 and 36, all;
T. 30 N., R. 41 E.,
secs. 1 to 4, inclusive, all;
sec. 5, lots 3 to 8, inclusive, S½NE¼, S½NW¼, E½SW¼, and SE¼;
sec. 6, lots 7 and 8;
sec. 8, lots 7 to 11, inclusive, and E½NE¼;
secs. 9 to 15, inclusive, all;
sec. 16, lots 4 to 9, inclusive, NE¼, NE¼NW¼, and SE¼;
sec. 17, lot 3;
sec. 21, lots 5 to 8, inclusive, NE¼, and E½SE¼;
secs. 22 to 27, inclusive, all;
sec. 28, lots 5 to 8, inclusive, E½NE¼, and E½SE¼;
sec. 33, lots 8 to 15, inclusive, and NE¼NE¼;
secs. 34 to 36, inclusive, all;
T. 31 N., R. 41 E.,
secs. 1 to 29, inclusive, all;
sec. 30, lots 1 to 5, inclusive, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
sec. 31, lots 1 to 5, inclusive, and NE¼SE¼;
secs. 32 to 36, inclusive, all;
T. 26 N., R. 42 E.,
sec. 1, lots 1 to 4, inclusive, NE¼, and N½NW¼;
sec. 2, lots 1 to 3, inclusive, and NE¼NE¼;
T. 27 N., R. 42 E.,
secs. 1 to 3, inclusive, all;
sec. 4, lots 2 to 8, inclusive, S½NE¼, S½NW¼, N½SW¼, SW¼SW¼, and N½SE¼;
sec. 5, lots 5 to 9, inclusive, S½NE¼, E½SW¼, and SE¼;
sec. 6, lot 16;
sec. 8, lots 6 to 11, inclusive, and NW¼NE¼;
sec. 9, lots 5 to 9, inclusive;
sec. 10, lots 6 to 12, inclusive, E½NE¼; NW¼NE¼, and E½SE¼;
secs. 11 to 13, inclusive, all;
sec. 14, lots 4 to 13, inclusive, S½NE¼, and N½SE¼;
sec. 15, lots 9 to 16, inclusive;
sec. 22, lots 6 to 9, inclusive, and NE¼NE¼;
sec. 23, lots 5 to 13, inclusive, NE¼SE¼, and S½SE¼;
sec. 24, lots 2 and 3, NE¼, E½NW¼, SW¼, and SE¼;
secs. 25 and 26, all;
sec. 27, lots 6 to 13, inclusive, NE¼SE¼, and S½SE¼;
sec. 28, lots 6 to 11, inclusive;
sec. 33, lots 8 to 11, inclusive;
sec. 34, lots 4 to 9, inclusive, N½NE¼, SE¼NE¼, and NE¼SE¼;
secs. 35 and 36, all;
T. 28 N., R. 42 W.,
secs. 1 to 30, inclusive, all;
sec. 31, lots 9 to 15, inclusive, and N½NE¼;
sec. 32, lots 6 to 11, inclusive, NE¼, E½NW¼, and E½SE¼;
secs. 33 to 36, inclusive, all;
Tps. 29, 30 and 31 N., R. 42 W., all;
T. 32 N., R. 42 W.,
sec. 35, SE¼;
T. 26 N., R. 43 W.,
sec. 1, all;
sec. 2, lots 1 to 4, inclusive, NE¼, NW¼, and NE¼SE¼;
sec. 3, lots 1 to 4, inclusive, N½NE¼, and NW¼;
secs. 4 to 6, inclusive, all;
sec. 7, lots 1 and 2;
sec. 8, lot 1;
sec. 11, lots 1 to 4, inclusive, and SE¼SE¼;
sec. 12, all;
sec. 13, lots 1 to 5, inclusive, N½NE¼, SW¼NE¼, and NW¼;
sec. 14, lots 1 to 6, inclusive, NE¼, and SE¼NW¼;
sec. 15, lot 1;
Tps. 27, 28, 29, 30 and 31 N., R. 43 E., all;
T. 26 N., R. 44 E.,
sec. 1, all;
sec. 2, lots 4 to 8, inclusive, NE¼, and NW¼;
sec. 3, lots 2 and 3, NE¼, NW¼, SW¼, and NW¼SE¼;
sec. 4, all;
sec. 5, lots 4 to 7, inclusive, NE¼, NW¼, and NE¼SE¼;
sec. 6, lots 3 to 9, inclusive, NE¼, E½NW¼, and NE¼SW¼;
sec. 7, lots 5 to 12, inclusive;
sec. 9, lots 4 to 7, inclusive, NE¼, and E½SE¼;
sec. 10, lots 5 to 8, inclusive, NW¼, and SW¼;
sec. 12, lots 5 to 9, inclusive, N½NE¼, SE¼NE¼, and NE¼NW¼;
sec. 15, lots 7 to 10, inclusive, and N½NW¼;
sec. 16, lots 5 to 7, inclusive;
sec. 18, lots 6 to 11, inclusive;
Tps. 27, 28, 29, 30 and 31 N., R. 44 E., all;
T. 32 N., R. 44 E.,
secs. 13, 24, 25, and 36;
T. 26 N., R. 45 E.,
secs. 1 to 6, inclusive, all;
sec. 7, lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
secs. 8 and 9, all;
sec. 10, lots 1 to 5 inclusive, N½NW¼, and SW¼NW¼;
sec. 11, lots 1 to 5, inclusive, and N½NE¼;
sec. 12, all;
sec. 13, lots 1 to 5, inclusive, NW¼NE¼, and NE¼NW¼;
sec. 15, lot 1;
sec. 16, lots 1 to 5, inclusive, W½NE¼, and NW¼;
sec. 17, lots 1 to 3, inclusive, and NE¼NE¼;
Tps. 27, 28, 29, 30 and 31 N., R. 45 E., all;
T. 32 N., R. 45 E.,
secs. 13 to 36, inclusive;
T. 26 N., R. 46 E.,
sec. 1, lots 1 to 5, inclusive, W½NE¼, NW¼, and NW¼SW¼;
sec. 2, lot 1, NE¼, NW¼, SW¼, N½SE¼, and SW¼SE¼;
sec. 3, lots 1 to 4, inclusive, and NE¼NE¼;
sec. 4, lots 1 to 4, inclusive, and NW¼NW¼;

secs. 5 and 6, all;
sec. 7, lots 1 to 7, inclusive; NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼;
sec. 8, lots 1 to 4, inclusive, N½NE¼, and NW¼;
sec. 9, lots 1 to 3, inclusive, and NW¼NW¼;
sec. 10, lot 1;
sec. 11, lots 1 to 3, inclusive;
sec. 18, lots 1 and 2;
T. 27 N., R. 46 E.,
secs. 1 to 32, inclusive, all;
sec. 33, lots 1 to 3, inclusive, NE¼, NW¼, N½SW¼, and SW¼SW¼;
sec. 34, lots 1 and 2, NE¼, NW¼, NE¼SW¼, and SE¼;
secs. 35 and 36, all;
Tps. 28, 29, 30, 31 and 32 N., R. 46 E., all;
T. 27, N., R. 47 E.,
secs. 1 to 20, inclusive, all;
sec. 21, lots 1 and 2, NE¼, NW¼, SW¼, and NW¼SE¼;
sec. 22, lots 1 to 4, inclusive, NW¼NE¼, and N½NW¼;
sec. 23, lots 1 to 4, inclusive;
sec. 24, lot 1;
sec. 28, lots 1 to 5, inclusive, N½NW¼, SW¼NW¼, and NW¼SW¼;
sec. 29, lots 1 to 4, inclusive, NE¼, NW¼, and NE¼SE¼;
sec. 30, lots 1 to 14, inclusive, NE¼, and NW¼SE¼;
sec. 31, lots 1 to 7, inclusive;
sec. 33, lots 1 to 5, inclusive;
Tps. 28, 29, 30, 31 and 32 N., R. 47 E., all;
T. 27 N., R. 48 E.,
secs. 1 to 12, inclusive, all;
sec. 13, lots 1 to 4, inclusive, N½NE¼, and N½NW¼;
sec. 14, lots 1 to 4, inclusive;
sec. 15, lots 1 to 5, inclusive, NW¼NE¼, and N½NW¼;
secs. 16 to 18, inclusive, all;
sec. 19, lots 1 to 3, inclusive;
sec. 20, lots 1 to 4, inclusive, NE¼, NE¼NW¼, and E½SE¼;
sec. 21, lots 1 to 4, inclusive, NW¼, and NW¼SW¼;
sec. 28, lot 1;
sec. 29, lot 1;
Tps. 28, 29, 30 and 31 N., R. 48 E., all;
T. 32 N., R. 48 E.,
secs. 5 to 8, 17 to 20, and 29 to 32, inclusive;
T. 27 N., R. 49 E.,
sec. 1, lot 7;
sec. 2, lots 4 to 7, inclusive, NW¼, and W½SW¼;
secs. 3 to 10, inclusive, all;
sec. 11, lots 4 to 7, inclusive, W½NW¼, and W½SW¼;
sec. 13, lots 7 to 11, inclusive, and E½SE¼;
sec. 14, lot 6;
sec. 15, lots 5 to 8, inclusive, NW¼NE¼, and N½NW¼;
sec. 16, lots 5 to 8, inclusive, N½NE¼, and N½NW¼;
sec. 17, lots 5 to 8, inclusive, and NW¼NW¼;
sec. 18, lots 5 to 9, inclusive, N½NE¼, and NE¼NW¼;
sec. 24, lot 6;
Tps. 28, 29, 30 and 31 N., R. 49 E., all;
T. 27 N., R. 50 E.,
secs. 1 to 14, inclusive, all;
sec. 15, lots 4 to 7, inclusive, NE¼NE¼, and NW¼NW¼;
sec. 16, lots 3 to 6, inclusive, N½NE¼, and NW¼;
secs. 17 and 18, all;
sec. 19, lots 6 to 9, inclusive;
sec. 20, lots 5 and 6;
sec. 23, lots 5 to 8, inclusive, N½NE¼, SE¼NE¼, and NE¼SE¼;
sec. 24, all;
sec. 25, lots 5 to 7, inclusive;
sec. 26, lot 4;
Tps. 28, 29, 30 and 31 N., R. 50 E., all;
T. 27 N., R. 51 E.,
secs. 1 to 14, inclusive, all;
sec. 15, lots 7 and 8;
sec. 16, all;
sec. 17, lots 2 to 5, inclusive, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
sec. 18, lots 6 to 11, inclusive;
sec. 19, lots 5 to 7, inclusive;
sec. 20, lots 6 and 7;
sec. 21, lots 5 to 8, inclusive, and N½NW¼;
sec. 22, lots 6 to 9, inclusive, SE¼NE¼, and E½SE¼;
secs. 23 and 24, all;
sec. 25, lot 7;
sec. 26, lots 5 to 8, inclusive, NW¼NE¼, N½NW¼, and SW¼NW¼;
sec. 27, lots 6 to 8, inclusive, and NE¼NE¼;
Tps. 28, 29, 30 and 31 N., R. 51 E., all;
T. 27 N., R. 52 E.,
secs. 1 to 12, inclusive, all;
sec. 13, lots 5 to 7, inclusive;
sec. 14, lot 5;
sec. 15, lots 4 to 7, inclusive, NW¼, and SW¼;
secs. 16 to 20, inclusive, all;
sec. 21, lots 6 to 9, inclusive;
sec. 22, lots 7 to 10, inclusive; and N½NW¼;
sec. 29, lots 6 to 8, inclusive, and NW¼NW¼;
sec. 30, lots 3 to 6, inclusive, and NE¼;
Tps. 28, 29, 30, 31 and 32 N., R. 52 E., all;
T. 27 N., R. 53 E.,
sec. 1, lots 1 to 4, inclusive, NW¼NE¼, and N½NW¼;
sec. 2, lots 1 to 4, inclusive, and NE¼NE¼;
sec. 3, lot 1;
sec. 6, lots 1 to 4, inclusive;
sec. 7, lots 1 to 3, inclusive;
T. 28 N., R. 53 E.,
secs. 1 to 27, inclusive, all;
sec. 28, lots 1 to 4, inclusive, NE¼, N½NW¼, SE¼NW¼, and NE¼SE¼;
sec. 29, lots 1 to 4, inclusive, N½NE¼, N½NW¼, and SW¼NW¼;
sec. 30, all;
sec. 31, lots 1 to 8, inclusive;
sec. 33, lot 1;
sec. 34, lots 1 to 4, inclusive, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
secs. 35 and 36, all;
Tps. 29, 30 and 31 N., R. 53 E., all;
T. 27 N., R. 54 E.,
sec. 1, lots 1 to 5, inclusive, N½NE¼, and SE¼NE¼;
sec. 2, lots 1 to 4, inclusive, and N½NW¼;
sec. 3, lots 1 to 3, inclusive, NE¼, NW¼, N½SW¼, and SW¼SW¼;
sec. 4, lots 1 to 3, inclusive, NE¼, N½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
sec. 5, lot 1;
sec. 6, lots 1 to 3, inclusive;
sec. 9, lots 1 and 2;
sec. 10, lot 1;
sec. 12, lots 1 to 5, inclusive;
T. 28 N., R. 54 E.,
sec. 1, lots 1 to 6, inclusive, S½NW¼, SW¼, and W½SE¼;
secs. 2 to 36, inclusive, all;
T. 29 N., R. 54 E.,
sec. 2, lots 5 and 6;
sec. 3, lots 9 to 14, inclusive;
sec. 4, lots 2 to 8, inclusive, S½NE¼, S½NW¼, and SW¼;
secs. 5 to 7, inclusive, all;
sec. 8, lots 2 and 3, NE¼, NW¼, SW¼, and NW¼SE¼;
sec. 9, lots 5 and 6, and NW¼NW¼;
sec. 17, lots 5 to 10, inclusive, NW¼, and NE¼SW¼;
secs. 18 and 19, all;
sec. 20, lots 4 to 8, inclusive, NE¼NW¼, S½NW¼, SW¼, and SW¼SE¼;
sec. 21, lot 2;
sec. 28, lots 6 to 8, inclusive;
sec. 29, lots 3 to 6, inclusive, W½NE¼, NW¼, and SW¼;
secs. 30 and 31, all;
sec. 32, lot 2, NW¼NE¼, S½NE¼, NW¼, SW¼, and SE¼;
sec. 33, lots 5 to 10, inclusive, SW¼NW¼, SW¼, and SW¼SE¼;
sec. 34, lot 4;
T. 30 N., R. 54 E.,
secs. 1 to 24, inclusive;
sec. 25, lots 3 to 5, inclusive, NE¼, NW¼, and SW¼;
secs. 26 to 34, inclusive, all;
sec. 35, lots 3 and 4, NE¼, NW¼, SW¼, and NW¼SE¼;
sec. 36, lots 7 to 10, inclusive;
T. 27 N., R. 55 E.,
sec. 4, lots 3 to 5, inclusive;
secs. 5 and 6, all;
sec. 7, lots 1 to 4, inclusive, NW¼NE¼, and N½NW¼;
sec. 8, lots 1 to 4, inclusive, and NE¼NW¼;
T. 28 N., R. 55 E.,
sec. 6, lots 8 and 9;
sec. 7, lots 8 to 14, inclusive, and SW¼SW¼;
sec. 17, lots 8 to 10, inclusive;
sec. 18, lots 6 to 9, inclusive, NW¼, SW¼, and SW¼SE¼;
sec. 19, lots 2 and 3, W½NE¼, NW¼, SW¼, and SE¼;
sec. 20, lots 6 to 10, inclusive, SW¼, and SE¼;
sec. 21, lots 8 to 12, inclusive;
sec. 27, lots 7 to 9, inclusive;
sec. 28, lots 5 to 14, inclusive, SW¼NW¼, N½SW¼, and SW¼SW¼;
secs. 29 to 32, inclusive, all;
sec. 33, lots 8 and 9;
T. 30 N., R. 55 E.,
sec. 4, lots 6 and 7;
sec. 5, lots 2 and 3, NE¼, NW¼, SW¼, and NW¼SE¼;
secs. 6 and 7, all;
sec. 8, lots 4 to 7, inclusive, SW¼NE¼, NW¼, SW¼, and W½SE¼;
sec. 17, lots 5 to 8, inclusive, NW¼, SW¼, and W½SE¼;
sec. 18, all;
sec. 19, lots 3 to 6, inclusive, NW¼NE¼, NW¼, SW¼, and S½SE¼;
sec. 20, lots 8 to 13, inclusive, and SW¼SW¼;
sec. 29, lots 4 and 5;
sec. 30, lots 7 to 10, inclusive, N½NE¼, and NW¼.

FORT BELKNAP LAND PROJECT, LI-MT-8

BLAINE AND PHILLIPS COUNTIES, MONTANA

Montana Meridian

T. 23 N., R. 21 E.,
sec. 1, lots 1 to 3, inclusive, and 7;
sec. 3, lot 4;
sec. 4, lots 1 to 8, inclusive;
sec. 5, lots 1 to 4, inclusive, and 7;
sec. 6, lots 1, 3, and 4;
T. 24 N., R. 21 E.,
secs. 7 to 33, inclusive, all;
sec. 34, lots 1 to 3, inclusive, NE¼, NW¼, N½SW¼, SW¼SW¼, and N½SE¼;
sec. 35, lots 1 to 4, inclusive, NE¼, and NW¼;
sec. 36, all;
Tps. 25, 26, 27 and 28 N., R. 21 E., all;
T. 23 N., R. 22 E.,
secs. 1 to 5, inclusive, all;
sec. 6, lots 1 to 15, inclusive, 20, 21, and 29 to 32, inclusive;
sec. 7, lots 1, 2, and 7 to 10, inclusive, and NE¼NE¼;
sec. 8, lots 1 and 3, NE¼, NW¼, NE¼SW¼, and SE¼;
secs. 9 to 16, inclusive, all;
sec. 17, lots 1, 4, 5, 8, and 9, E½NE¼, and E½SE¼;
sec. 19, lots 7 to 9, inclusive, and 14, and SE¼;
sec. 20, all;
sec. 21, lots 1 to 5, inclusive, and 9, NE¼, NW¼, NW¼SE¼, and N½SW¼SE¼;
secs. 22 to 24, inclusive, all;
sec. 25, lots 1 and 3, NE¼, NW¼, NE¼SW¼, and SE¼;
sec. 26, lots 1 to 4, inclusive, NE¼, and N½NW¼;
sec. 27, lots 1 and 2;
sec. 29, lots 2 and 5;
sec. 30, lots 1 and 2;
sec. 36, lots 1 and 2;
T. 24 N., R. 22 E., all;
T. 25 N., R. 22 E.,
sec. 4, lots 3 to 16, inclusive, S½NW¼, and SW¼;
secs. 5 to 8, inclusive, all;
sec. 9, lots 2 to 13, inclusive, NW¼, and SW¼;
sec. 13, lots 5 to 10, inclusive, SW¼, and W½SE¼;
sec. 14, lots 5 to 8, inclusive, SW¼, and SE¼;
sec. 15, lots 6 to 10, inclusive, SW¼, and SE¼;
secs. 16 to 36, inclusive, all;
T. 26 N., R. 22 E.,
sec. 4, lots 5 to 11, inclusive, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
secs. 5 to 8, inclusive, all;
sec. 9, lots 5 to 8, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
sec. 16, lots 5 to 8, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 17 to 20, inclusive, all;
sec. 21, lots 3 to 6, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
sec. 28, lots 3 to 6, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 29 to 32, inclusive, all;
sec. 33, lots 3 to 6, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
T. 27 N., R. 22 E.,
sec. 4, lots 5 to 18, inclusive, SW¼, and W½SE¼;
secs. 5 to 8, inclusive, all;
sec. 9, lots 5 to 8, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
sec. 16, lots 5 to 8, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 17 to 20, inclusive, all;
sec. 21, lots 5 to 8, inclusive, W½NE¼, NW¼, SW¼, and W¼SE¼;
secs. 28, lots 5 to 8, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 29 to 32, inclusive, all;
sec. 33, lots 5 to 8, inclusive, W½NE¼, NW¼, SW¼, and W¼SE¼;
T. 28 N., R. 22 E.,
secs. 4 to 9, inclusive, all;
sec. 15 lot 1;
secs. 16 to 21, inclusive, all;
sec. 22, lots 1 to 4, inclusive;
sec. 27, lots 1 to 4, inclusive;
secs 28 to 33, inclusive, all;
sec. 34, lots 1 to 4, inclusive;
T. 29 N., R. 22 E.,
sec. 28, lots 7 and 8, E½SW¼, and SE¼;
sec. 33, NW¼NE¼;
T. 28 N., R. 23 E.,
sec. 18, lots 3 and 4, and E½SW¼;
sec. 20, SE¼NW¼;
T. 31 N., R. 24 E.,
sec. 10, SE¼SE¼.

BLACKFEET PROJECT, LI-MT-9

GLACIER AND PONDERA COUNTIES, MONTANA

Montana Meridian

T. 30 N., R. 7 W.,
secs. 1 to 20, inclusive, all;
sec. 21, lots 3 and 4, N½, SW¼, and N½SE¼;
sec. 22, lots 6 to 10, inclusive, N½NE¼, SE¼NE¼, N½NW¼, and SW¼NW¼;
sec. 23, lots 5 to 8, inclusive, N½NE¼, SW¼NE¼, and NW¼;
sec. 24, lots 8 to 12, inclusive, and NE¼;
sec. 28, lots 4 and 5;
sec. 29, lots 5 to 9, inclusive, N½NE¼, SW½NE¼, NW¼, W½SW¼, and NW¼SE¼;
sec. 30, all;
sec. 31, lots 6 to 12, inclusive, and NE¼NW¼;
sec. 32, lot 2;
Tps. 31, 32 and 33 N., R. 7 W., all;
T. 29 N., R. 8 W.,
sec. 1, lots 6 to 9, inclusive, W½NW¼, and NW¼SW¼;
secs. 2 to 10, inclusive, all;
sec. 11, lots 3 to 5, inclusive, NE¼NE¼, W½NE¼, NW¼, SW¼, and NW¼SE¼;
sec. 12, lot 3;
sec. 14, lots 5 to 8, inclusive, NW¼, and W½SW¼;
secs. 15 to 21, inclusive, all;
sec. 22, lot 2, NE¼, NW¼, SW¼, and W½SE¼;
sec. 23, lots 6 to 8, inclusive, and W½NW¼;
sec. 27, lots 6 to 8, inclusive, and N½NW¼;
sec. 28, lots 5 to 8, inclusive, N½NE¼, and N½NW¼;
sec. 29, lots 5 to 8, inclusive, and N½NE¼;
sec. 30, lots 5 to 8, inclusive, NW¼NE¼, and N½NW¼;
T. 30 N., R. 8 W.,
secs. 1 to 35, inclusive, all;
sec. 36, lots 2 to 5, inclusive, W½NE¼, NW¼, SW¼, and W½SE¼;
Tps. 31, 32 and 33 N., R. 8 W., all;
T. 28 N., R. 9 W.,
sec. 3, lots 1 to 4, inclusive, and W½NW¼;
sec. 4, lot 1, NE¼, NW¼, SW¼, N½SE¼, and SW¼SE¼;
secs. 5 to 7, inclusive, all;
sec. 8, lots 1 to 5, inclusive, N½NE¼, NW¼, and N½SW¼;
sec. 9, lots 1 to 3, inclusive;
sec. 17, lot 1;
sec. 18, lots 1 to 7, inclusive, NW¼NE¼, and E½NW¼;
T. 29 N., R. 9 W.,
secs. 1 to 24, inclusive, all;
sec. 25, lots 1 to 3, inclusive, NE¼, NW¼, N½SW¼, and SW¼SW¼;
secs. 26 to 33, inclusive, all;
sec. 34, lots 1 to 3, inclusive, NE¼, NW¼, and SW¼;
sec. 35, lots 1 to 4, inclusive, and 8, N½NW¼, and SW¼NW¼;
sec. 36, lot 3;
Tps. 30, 31, 32 and 33 N., R. 9 W., all;
T. 28 N., R. 10 W.,
secs. 1 to 4, inclusive, all;
sec. 5, lots 1 to 4, inclusive;
sec. 8, lots 1 to 4, inclusive;
secs. 9 to 12, inclusive, all;
sec. 13, lots 1 and 2, NE¼, NW¼, SW¼, and N½SE¼;
secs. 14 to 16, inclusive, all;
sec. 17, lots 1 to 4, inclusive;
sec. 20, lots 1 to 4, inclusive;
secs. 21 and 22, all;
sec. 23, lots 1 to 5, inclusive, NW¼NE¼, N½NW¼, SW¼NW¼, and NW¼SW¼;
sec. 24, lots 1 and 2;
sec. 26, lot 1;
sec. 27, lots 1 to 4, inclusive, NW¼NE¼, and N½NW¼;
sec. 28, lots 1 to 4, inclusive, and N½NE¼;
sec. 29, lot 1;
T. 29 N., R. 10 W.,
secs. 1 to 18, inclusive, all;
sec. 19, lots 1 to 4, inclusive, N½NE¼, SE¼NE¼, and NE¼NW¼;
sec. 20, lot 1, NE¼, NW¼, N½SW¼, SE¼SW¼, and SE¼;
secs. 21 to 27, inclusive, all;
sec. 28, lots 1 and 2, NE¼, NW¼, E½SW¼, and SE¼;
sec. 33, lots 1 to 4, inclusive, NE¼, E½NW¼, E½SW¼, and SE¼;
secs. 34 to 36, inclusive, all;
Tps. 30, 31, 32, 33 and 34 N., R. 10 W., all;
T. 29 N., R. 11 W.,
secs. 1 and 2, all;
sec. 3, lots 1 and 2, NE¼, NW¼, NE¼SW¼, and SE¼;
sec. 4, lots 1 to 3, inclusive, and NE¼NE¼;
sec. 10, lots 1 and 2;
sec. 11, lots 1 to 3 inclusive, NE¼, E½NW¼, NW¼NW¼, N½SE¼, and SE¼SE¼;
sec. 12, all;
sec. 13, lots 1 to 4, inclusive, NE¼, NE¼NW¼, and NE¼SE¼;
sec. 24, lot 1;
T. 30 N., R. 11 W.,
secs. 1 to 29, inclusive, all;
sec. 30, lots 1 to 4, inclusive, NE¼, NE¼NW¼, and NE¼SE¼;
sec. 31, lot 1;
sec. 32, lots 1 to 4, inclusive, N½NE¼, and SE¼NE¼;
sec. 33, lot 1, NE¼, NW¼, N½SW¼, SE¼SW¼, and SE¼;
secs. 34 to 36, inclusive, all;
Tps. 31, 32, 33 and 34 N., R. 11 W., all;

T. 30 N., R. 12 W.,
secs. 1 to 4, inclusive, all;
sec. 5, lots 1 to 4, inclusive, NE¼, N½NW¼, and NE¼SE¼;
sec. 6, lot 1;
sec. 8, lot 1;
sec. 9, lots 1 to 4, inclusive, N½NE¼, SE¼NE¼, and NE¼NW¼;
sec. 10, lot 1, NE¼, NW¼, N½SW¼, SE¼SW¼, and SE¼;
secs. 11 to 13, inclusive, all;
sec. 14, lots 1 to 8, inclusive, NE¼NE¼, W½NW¼, NE¼SW¼, and S½SE¼;
sec. 15, lots 1 to 3, inclusive, and N½NE¼;
sec. 23, lots 1 and 2, and NE¼NE¼;
sec. 24, lots 1 to 3, inclusive, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
sec. 25, lot 1;
T. 31 N., R. 12 W.,
secs. 1 to 30, inclusive, all;
sec. 31, lots 1 to 4, inclusive and 8, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
secs. 32 to 36, inclusive, all;
Tps. 32, 33 and 34 N., R. 12 W., all;
T. 31 N., R. 13 W.,
secs. 1 and 2, all;
sec. 3, lots 1 to 4, inclusive, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
sec. 10, lots 1 to 4, inclusive, and NE¼NE¼;
secs. 11 to 13, inclusive, all;
sec. 14, lots 1 to 4, inclusive, NE¼, E½NW¼, and SE¼;
sec. 23, lots 1 to 4, inclusive, and E½NE¼;
sec. 24, all;
sec. 25, lots 1 to 4, inclusive, NE¼, E½NW¼, NE¼SW¼ and SE¼;
sec. 26, lot 1;
sec. 36, lots 1 and 2, and NE¼NE¼;
T. 32 N., R. 13 W.,
secs. 1 to 5, inclusive, all;
sec. 6, lots 1 and 2;
sec. 8, lots 1 to 4, inclusive, NE¼, E½NW¼, and SE¼;
secs. 9 to 16, inclusive, all;
sec. 17, lots 1 to 4, inclusive, E½NE¼, and NE¼SE¼;
sec. 20, lot 1;
sec. 21, lots 1 to 3, inclusive, NE¼, N½NW¼, SE¼NW¼ E½SW¼, and SE¼;
secs. 22 to 27, inclusive, all;
sec. 28, lots 1 to 7, inclusive, and N½NE¼;
sec. 33, lots 1 to 3, inclusive;
sec. 34, lots 1 to 4, inclusive, S½NE¼, NW¼NW¼, S½SW¼, SE¼SW¼, and SE¼;
secs. 35 and 36, all;
T. 33 N., R. 13 W.,
secs. 1 to 18, inclusive, all;
sec. 19, lots 1 to 4, inclusive, NE¼, E½NW¼, and SE¼;
secs. 20 to 29, inclusive, all;
sec. 30, lots 1 to 4, inclusive, E½NE¼, and NE¼SE¼;
sec. 31, lots 1 and 2;
sec. 32, lots 1 and 2, NE¼, NW¼, E½SW¼, and SE¼;
secs. 33 to 36, inclusive, all;
T. 34 N., R. 13 W.,
secs. 1 to 3, and 9 to 16, inclusive, all;
sec. 20, SW¼ and SE¼;
secs. 21 to 29, and 32 to 36, inclusive, all;
T. 33 N., R. 14 W.,
sec. 1, lots 1 and 2, NE¼, NW¼, E½SW¼, and SE¼;
sec. 2, lots 1 and 2;
sec. 12, lots 1 to 4, inclusive, NE¼, N½SE¼, and SE¼SE¼;
sec. 13, lots 1 to 4, inclusive, and NE¼NE¼;
sec. 24, lot 1.

STANDING ROCK PROJECT, LI-ND-10

SIOUX COUNTY, NORTH DAKOTA

Fifth Principal Meridian

T. 132 N., R. 79 W.,
secs. 6 and 7, all;
sec. 9, lots 4 to 7, inclusive, and W½SW¼;
sec. 15, lot 5;
sec. 16, lots 1 to 4, inclusive, W½, and W½SE¼;
secs. 17 and 18, all;
sec. 19, NE¼;
secs. 20 and 21, all;
sec. 22, lots 5 to 7, inclusive;
sec. 28, lots 1 and 2, NW¼NE¼, and NW¼;
sec. 29, NE¼
T. 133 N., R. 79 W.,
sec. 1, lots 5, 6, and 9 to 12, inclusive;
secs. 2 to 4, and 9 to 11, inclusive, all;
sec. 12, lots 5 to 8, inclusive, SW¼NW¼, and W½SW¼;
sec. 13, lots 1 to 4, inclusive, W½NW¼, SE¼NW¼, and SW¼;
secs. 14 to 16, and 21 to 23, inclusive, all;
sec. 24, lots 1, 2, 4 and 5, W½, and W½NW¼SE¼;
sec. 25, lots 3 to 6, inclusive, and W½NW¼;
secs. 26 to 28, inclusive, all;
T. 130 N., R. 80 W.,
secs. 5 and 6, all;
sec. 20, E¼;
secs. 21 and 22, all;
sec. 27, N½;
sec. 28, N½;
sec. 29, all;
T. 131 N., R. 80 W.,
secs. 8 and 9, all;
sec. 10, E½;
secs. 15 to 17, inclusive, all;
sec. 18, E½;
secs. 19 to 22, inclusive, all;
sec. 27, N½;
sec. 28, N½;
secs. 29 to 32, inclusive, all;
T. 132 N., R. 80 W.,
secs. 1, 12, and 13;
T. 130 N., R. 81 W.,
secs. 1 to 11, inclusive, all;
sec. 12, N½;
sec. 14, N½;
sec. 15, N½;
sec. 16, N½;
sec. 17, N½;
T. 131 N., R. 81 W.,
secs. 4 to 8, inclusive, all;
sec. 16, NW¼ and S½;
secs. 17, 18, 20, 21, and 25, all;
sec. 27, S½;
secs. 28, 29, and 33 to 36, inclusive, all;
T. 132 N., R. 81 W.,
secs. 5 to 9, and 16 to 20, inclusive, all;
sec. 21, W½;
sec. 28, NW¼ and S½;
secs. 29 to 33, inclusive, all;
T. 131 N., R. 82 W.,
secs. 1 and 2, all;
sec. 3, N½;
sec. 12, E½;
T. 132 N., R. 82 W.,
secs. 2 to 11, inclusive, all;
sec. 12, S½;
secs. 13 to 18, 20 to 27, and 34 to 36, inclusive, all;
T. 133 N., R. 82 W.,
sec. 15, lot 4;
sec. 20, lots 1 to 4, inclusive, and NE¼SE¼;
sec. 21, lots 1 to 5, inclusive, and SW¼SW¼;
sec. 22, lots 1 to 6, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and SE¼;
secs. 23, 26, and 27, all;
sec. 28, lots 1 to 3, inclusive, E½, E½NW¼, and NW¼NW¼;
sec. 29, lots 1 to 3, inclusive;
sec. 32, lots 1 to 6, inclusive, S½NE¼, SE¼SW¼, and SE¼;
sec. 33, lots 1 and 2, NE¼, S½NW¼, and S½;
secs. 34 and 35, all;
T. 132 N., R. 83 W.,
sec. 1, all;
sec. 2, lots 1 to 3, inclusive;
sec. 3, lots 1 and 2, and SE¼SE¼;
sec. 10, lots 1 to 3, inclusive, and E½;
sec. 11, lots 1 and 2, NE¼NE¼, S½NE¼, NW¼NW¼, S½NW¼, and S½;
secs. 12 to 14, inclusive, all;
sec. 15, NE¼;
secs. 23 and 24, all.

CORSON COUNTY, SOUTH DAKOTA

Black Hills Meridian

T. 20 N., R. 20 E.,
secs. 13 to 15, and 21 to 27, inclusive, all;
sec. 28, E½;
sec. 33, NE¼;
sec. 34, N½;
sec. 35, N½ and SE¼;
sec. 36, all;
T. 20 N., R. 21 E.,
sec. 18, all;
sec. 19, W½;
sec. 30, W½;
sec. 31, W½;
T. 20 N., R. 23 E.,
secs. 1 to 4, inclusive, all;
sec. 10, NE¼;
sec. 11, N½;
sec. 12, all;
T. 21 N., R. 23 E.,
secs. 16, 17, and 19 to 21, inclusive, all;
sec. 22, S½;
sec. 23, S½;
sec. 24, NE¼ and S½;
secs. 25 to 30, inclusive, all;
sec. 31, E½;
secs. 32 to 36, inclusive, all;
T. 20 N., R. 24 E.,
secs. 2 to 10, inclusive, all;
sec. 11, N½;
secs. 15 to 18, inclusive, all;
sec. 19, N½;

sec. 20, N½;
sec. 21, N½;
T. 21 N., R. 24 E.,
secs. 14 to 17, inclusive, all;
sec. 18, E½;
secs. 19 to 23, and 25 to 36, inclusive, all;
T. 19 N., R. 26 E.,
secs. 1, 2, 11, and 12;
T. 20 N., R. 26 E.,
sec. 10, S½;
sec. 11, S½;
sec. 12, S½;
secs. 13 to 15, and 22 to 27, inclusive, all;
sec. 34, E½;
secs. 35 and 36, all;
T. 19 N., R. 27 E.,
sec. 4, W½;
secs. 5 to 7, inclusive, all;
T. 20 N., R. 27 E.,
sec. 1, S½;
sec. 2, all;
sec. 7, S½;
sec. 8, S½;
sec. 9, S½;
sec. 10, NE¼ and S½;
secs. 11 to 36, inclusive, all;
T. 19 N., R. 28 E.,
secs. 1 to 6, inclusive, all;
sec. 7, N½;
secs. 8 to 17, and 21 to 24, inclusive, all;
T. 20 N., R. 28 E.,
sec. 6, SW¼;
sec. 7, all;
sec. 14, S½;
secs. 15 to 23, inclusive, all;
sec. 25, W½;
secs. 26 to 36, inclusive, all;
T. 19 N., R. 29 E.,
sec. 4, S½;
secs. 5 to 9, and 16 to 21, inclusive, all;
T. 20 N., R. 29 E.,
sec. 31;
T. 22 N., R. 29 E.,
sec. 2, SW¼;
sec. 3, S½;
secs. 4 to 6, and 8 to 17, inclusive, all;
sec. 20, E½;
secs. 21 to 24, and 26 to 28, inclusive, all;
T. 23 N., R. 29 E.,
sec. 31, S½;
sec. 32 SW¼;
T. 20 N., R. 30 E.,
secs. 1 to 3, 10 to 15, and 22 to 24, inclusive, all;
sec. 25, lots 1 and 2, N½, N½SW¼, and SE¼;
sec. 26, lots 1 to 4, inclusive, N½, and N½SW¼;
sec. 27, lots 1 and 2, N½, SW¼, and N½SE¼;
sec. 34, lots 1 to 3, inclusive, and NW¼NW¼;
sec. 36, lots 1 and 2;
T. 21 N., R. 30 E.,
secs. 2 to 11, 13 to 16, 21 to 28, and 33 to 36, inclusive;
T. 22 N., R. 30 E.,
secs. 32 to 34, inclusive;
Tps. 20 and 21 N., R. 31 E., all.

FORT TOTTEN PROJECT, LI–ND–11

BENSON COUNTY, NORTH DAKOTA

Fifth Principal Meridian

T. 152 N., R. 65 W.,
sec. 17, lots 4 and 5, and SW¼NW¼;
sec. 18, lots 5 to 10, inclusive, and S½NE¼;
sec. 19, all;
sec. 20, SW¼;
sec. 29, E½NW¼ and NW¼NW¼;
sec. 30, E½NW¼.

DELAWARE PROJECT, LL–OK–4

DELAWARE COUNTY, OKLAHOMA

Indian Meridian

T. 21 N., R. 22 E., secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36, inclusive;
T. 21 N., R. 23 E., all.

ADAIR PROJECT, LI–OK–5

ADAIR COUNTY, OKLAHOMA

Indian Meridian

T. 14 N., R. 25 E., secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36, inclusive;
T. 14 N., R. 26 E., all.

BURNS COLONY PROTECT, LI–OR–5

HARNEY COUNTY, OREGON

Willamette Meridian

T. 23 S., R. 30 E.,
sec. 1, all;
sec. 12, N½NE¼ and E½NW¼.

PINE RIDGE PROJECT, LI–SD–7

BENNETT, SHANNON, WASHABAUGH AND WASHINGTON COUNTIES, SOUTH DAKOTA

Sixth Principal Meridian

T. 39 N., R. 33 W.,
sec. 4, lots 3 to 5, inclusive, 8 and 9, SW¼NW¼, and W½SW¼;
secs. 5 to 8, inclusive, all;
sec. 9, lots 2, 3, 6 and 7, W½NW¼, and W½SW¼;
sec. 16, lots 2, 3, 6 and 7, W½NW¼, and W½SW¼;
secs. 17 to 20, inclusive, all;
sec. 21, lots 2, 3, 6 and 7, W½NW¼, and W½SW¼;
sec. 28, lots 2, 3, 6 and 7, W½NW¼, and W½SW¼;
secs. 29 to 32, inclusive, all;
sec. 33, lots 2, 3, 6 and 7, W½NW¼, and W½SW¼;
T. 40 N., R. 33 W.,
sec. 4, lots 7 to 11, inclusive, SW¼NW¼, and W½SW¼;
secs. 5 to 8, inclusive, all;
sec. 9, lots 5 to 8, inclusive, W½NW¼, and W½SW¼;
sec. 16, lots 5 to 8, inclusive, W½NW¼, and W½SW¼;
secs. 17 to 20, inclusive, all;
sec. 21, lots 5 to 8, inclusive, W½NW¼, and W½SW¼;
sec. 28, lots 5 to 8, inclusive, W½NW¼, and W½SW¼;
secs. 29 to 32, inclusive, all;
sec. 33, lots 5 to 8, inclusive, W½NW¼, and W½SW¼;
Tps. 39 and 40 N., Rs. 34, 35, 36, 37 and 38 W., all;
T. 38 N., R. 39 W.,
secs. 1 to 18, inclusive;
Tps. 39, 40, 41 and 42 N., R. 39 W., all;
T. 43 N., R. 39 W.,
sec. 31, S½;
Tps. 38, 39, 40, 41, 42 and 43 N., R. 40 W., all;
Tps. 38, 39, 40 and 41 N., R. 41 W., all;
T. 42 N., R. 41 W.,
secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36, inclusive;
Tps. 38, 39 and 40 N., R. 42 W., all;
T. 37 N., R. 43 W.,
secs. 4 to 9, 16 to 21, and 28 to 33, inclusive;
Tps. 38, 39 and 40 N., R. 43 W., all;
Tps. 36, 37, 38, 39 and 40 N., R. 44 W., all;
T. 35 N., R. 45 W.,
secs. 4 to 9, and 16 to 18, inclusive, all;
sec. 19, lots 1 to 4, inclusive;
sec. 20, lots 1 to 4, inclusive;
sec. 21, lots 1 to 4, inclusive;
Tps. 36, 37, 38, 39 and 40 N., R. 45 W., all;
T. 35 N., R. 46 W.,
secs. 1 to 18, inclusive, all;
sec. 19, lots 1 to 4, inclusive;
sec. 20, lots 1 to 4, inclusive;
sec. 21, lots 1 to 4, inclusive;
sec. 22, lots 1 to 4, inclusive;
sec. 23, lots 1 to 4, inclusive;
sec. 24, lots 1 to 4, inclusive;
Tps. 36, 37, 38, 39 and 40 N., R. 46 W., all;
T. 35 N., R. 47 W.,
secs. 1 to 18, inclusive, all;
sec. 19, lots 1 to 4, inclusive;
sec. 20, lots 1 to 4, inclusive;
sec. 21, lots 1 to 4, inclusive;
sec. 22, lots 1 to 4, inclusive;
sec. 23, lots 1 to 4, inclusive;
sec. 24, lots 1 to 4, inclusive;
Tps. 36, 37, 38, 39 and 40 N., R. 47 W., all;
T. 35 N., R. 48 W.,
secs. 1 to 4, inclusive, all;
sec. 5, lots 1 to 4, inclusive, and E½;
sec. 8, lots 1 to 4, inclusive, and E½;
secs. 9 to 16, inclusive, all;
sec. 17, lots 1 to 4, inclusive, and E½;
sec. 20, lots 1 to 3, inclusive;
sec. 21, lots 1 to 4, inclusive;
sec. 22, lots 1 to 4, inclusive;
sec. 23, lots 1 to 4, inclusive;
sec. 24, lots 1 to 4, inclusive;
Tps. 36, 37, 38, 39 and 40 N., R. 48 W., all.

CUTMEAT PROJECT, LI–SD–8

TODD COUNTY, SOUTH DAKOTA

Sixth Principal Meridian

T. 36 N., R. 31 W.,
secs. 2 to 11, 14 to 23, and 26 to 35, inclusive;
T. 37 N., R. 31 W.,
secs. 1 to 24, and 26 to 35, inclusive;
T. 38 N., R. 31 W., all;
Tps. 36, 37 and 38 N., R. 32 W., all;
T. 36 N., R. 33 W.,
secs. 1, 2, 12, 13, 24, and 25, all;
sec. 36, N½ and SE¼;
T. 37 N., R. 33 W.,
secs. 1 to 3, inclusive, all;
sec. 4, lots 1, 2, 6, 7, and 10, SE¼NE¼, and E½SE¼;
sec. 9, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;

secs. 10 to 15, inclusive, all;
sec. 16, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
secs. 23 to 26, inclusive, 35 and 36, all;
T. 38 N., R. 33 W.,
secs. 1 to 3, inclusive, all;
sec. 4, lots 1, 2, 6, 7, and 10, SE¼NE¼, and E½SE¼;
sec. 9, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
secs. 10 to 15, inclusive, all;
sec. 16, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
sec. 21, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
secs. 22 to 27, inclusive, all;
sec. 28, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
sec. 33, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
secs. 34 to 36, inclusive, all.

ANTELOPE PROJECT, LI–SD–9

TODD COUNTY, SOUTH DAKOTA

Sixth Principal Meridian

Tps. 36, 37, 38 and 39 N., Rs. 25, 26, 27, 28, 29 and 30 W., all;
T. 36 N., R. 31 W.,
secs. 1, 12, 13, 24, 25, and 36;
T. 37 N., R. 31 W.,
secs. 25 and 36;
T. 39 N., Rs. 31 and 32 W., all;
T. 39 N., R. 33 W.,
secs. 1 to 3, inclusive, all;
sec. 4, lots 1, 2, 6, 7, and 10, SE¼NE¼, and E½SE¼;
sec. 9, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
secs. 10 to 15, inclusive, all;
sec. 16, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
sec. 21, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
secs. 22 to 27, inclusive, all;
sec. 28, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
sec. 33, lots 1, 4, 5, and 8, E½NE¼, and E½SE¼;
secs. 34 to 36, inclusive, all.

CROW CREEK—BRULE PROJECT, LI–SD–10

BUFFALO, HUGHES, HYDE, LYMAN AND STANLEY COUNTIES, SOUTH DAKOTA

Fifth Principal Meridian

T. 106 N., R. 69 W.,
secs. 4 to 9, 16 to 21, and 28 to 33, inclusive;
T. 107 N., R. 69 W.,
secs. 16 to 21, and 28 to 33, inclusive;
T. 106 N., R. 70 W., all;
T. 107 N., R. 70 W.,
secs. 5 to 8, and 13 to 36, inclusive;
T. 105 N., R. 71 W.,
sec. 4, lots 6 to 8, inclusive;
secs. 5 and 6, all;
sec. 7, lots 5 to 12, inclusive;
sec. 8, lots 1, 2, 5, and 6, and N½NW¼;
Tps. 106, 107 and 108 N., R. 71 W., all;
T. 109 N., R. 71 W.,
secs. 19 to 36, inclusive;
T. 105 N., R. 72 W.,
secs. 1 to 6, inclusive, all;
sec. 7, lots 7 to 10, inclusive;
sec. 8, lots 5 to 8, inclusive;
sec. 9, lots 5 to 8, inclusive;
sec. 10, lots 5 to 8, inclusive;
sec. 11, lots 5 to 8, inclusive;
sec. 12, lots 5 to 8, inclusive;
Tps. 106, 107, 108 and 109 N., R. 72 W., all;
T. 106 N., R. 73 W.,
sec. 1, lots 5 to 12, inclusive;
sec. 2, lots 5 to 12, inclusive;
sec. 3, lots 5 to 12, inclusive;
sec. 4, lots 5 to 12, inclusive;
sec. 5, lots 5 to 12, inclusive;
sec. 6, lots 6 to 13, inclusive;
Tps. 107, 108 and 109 N., R. 73 W., all;
T. 106 N., R. 74 W.,
sec. 1, lots 5 to 12, inclusive;
sec. 2, lots 5 to 12, inclusive;
sec. 3, lots 5 to 12, inclusive;
sec. 4, lots 5 to 12, inclusive;
sec. 5, lots 5 to 12, inclusive;
sec. 6, lots 6 to 13, inclusive;
Tps. 107, 108 and 109 N., R. 74 W., all;
T. 106 N., R. 75 W.,
sec. 1, lots 5 to 12, inclusive;
sec. 2, lots 5 to 12, inclusive;
sec. 3, lots 5 to 12, inclusive;
sec. 4, lots 5 to 12, inclusive;
sec. 5, lots 5 to 12, inclusive;
sec. 6, lots 6 to 13, inclusive;
Tps. 107 and 108 N., R. 75 W., all;
T. 109 N., R. 75 W.,
sec. 7, lot 8;
sec. 18, lots 4 to 7, inclusive;
secs. 19 to 36, inclusive; all;
T. 106 N., R. 76 W.,
sec. 1, lots 5 to 8, inclusive, N½NE¼, and N½NW¼;
sec. 2, lots 5 to 8, inclusive, N½NE¼, and N½NW¼;
sec. 3, lots 5 to 8, inclusive, N½NE¼, and N½NW¼;
sec. 4, lots 5 to 8, inclusive, N½NE¼, and N½NW¼;
sec. 5, lots 5 to 8, inclusive, N½NE¼, and N½NW¼;
sec. 6, lots 6 to 10, inclusive, N½NE¼, and NE¼NW¼;
Tps. 107 and 108 N., R. 76 W., all;
T. 109 N., R. 76 W.,
sec. 5, lots 9 to 11, inclusive;
secs. 6 to 36, inclusive, all;
T. 106 N., R. 77 W.,
sec. 1, lots 5 to 12, inclusive;
sec. 2, lots 5 to 12, inclusive;
sec. 3, lots 5 to 12, inclusive;
T. 107 N., R. 77 W.,
secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36, inclusive;
T. 108 N., R. 77 W.,
secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36, inclusive;
T. 109 N., R. 77 W.,
secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36, inclusive;
T. 110 N., R. 77 W.,
secs. 34 to 36, inclusive.

CHEYENNE INDIAN PROJECT, LI–SD–13

DEWEY COUNTY, SOUTH DAKOTA

Black Hills Meridian

T. 16 N., Rs. 27, 28, 29, 30 and 31 E., all.

BAD RIVER PROJECT, LI–WI–8

ASHLAND AND IRON COUNTIES, WISCONSIN

Fourth Principal Meridian

T. 47 N., R. 1 W.,
sec. 3, lots 1 and 2;
secs. 4 to 9, inclusive, all;
sec. 10, lots 1 to 4, inclusive;
sec. 15, lots 1 to 4, inclusive;
secs. 16 to 18, inclusive, all;
T. 48 N., R. 1 W.,
secs. 32 and 33;
Tps. 46, 47 and 48 N., Rs. 2 and 3 W., all;
T. 48 N., R. 4 W.,
secs. 24, 25, and 36.

LAC COURT PROJECT, LI–WI–9

SAWYER COUNTY, WISCONSIN

Fourth Principal Meridian

T. 40 N., R. 6 W.,
secs. 1 to 4, inclusive;
T. 38 N., R. 7 W.,
sec. 6, W½NE¼NW¼, NW¼NW¼, SW¼NW¼, and W½SE¼NW¼;
T. 39 N., R. 7 W.,
secs. 1 to 21, and 28 to 33, inclusive;
T. 40 N., R. 7 W.,
secs. 5 to 7, 16 to 20, and 31 to 33, inclusive;
T. 38 N., R. 8 W.,
sec. 1, E½NE¼NE¼ and NE¼SE¼NE¼;
secs. 4 to 9, inclusive, 17, and 18, all;
Tps. 39 and 40, N., R. 8 W., all;
T. 38 N., R. 9 W.,
secs. 1, 12, and 13;
T. 39 N., R. 9 W.,
secs. 24, 25, and 36.

STOCKBRIDGE PROJECT, LI–WI–11

SHAWANO COUNTY, WISCONSIN

Fourth Principal Meridian

T. 28 N., R. 13 E.,
secs. 1 to 5, 8 to 16, and 21 to 28, inclusive, 33, and 34;
T. 28 N., R. 14 E.,
secs. 3 to 10 and 15 to 22, inclusive, 29, and 30.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 15, 1938.

[No. 7868]

[F. R. Doc. 38–1094; Filed, April 16, 1938; 11:13 a. m.]

DUTIES PROCLAIMED IN CONNECTION WITH TRADE AGREEMENT WITH CZECHOSLOVAKIA

MODIFICATION

THE WHITE HOUSE,
Washington, April 15, 1938.

The Honorable HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

MY DEAR MR. SECRETARY: I refer to my letters addressed to you on March 15, and April 6, 1938, concerning the applica-

tion of duties proclaimed in connection with trade agreements concluded under the authority of the Act to amend the Tariff Act of 1930, approved June 12, 1934 (48 Stat. 943), as extended by the Joint Resolution approved March 1, 1937 (50 Stat. 24).

In so far as the above-mentioned letters of March 15, 1938 and April 6, 1938, refer to duties proclaimed in connection with the trade agreement signed on March 7, 1938 with Czechoslovakia, the said letters are hereby modified to refer to duties proclaimed in connection with the said trade agreement as amended by a Protocol of Amendment signed on April 15, 1938, with Czechoslovakia, proclaimed today.

You will please cause notice of this modification to be published in an early issue of the weekly *Treasury Decisions*.

Sincerely yours,

[SEAL] FRANKLIN D ROOSEVELT

[F. R. Doc. 38-1093; Filed, April 16, 1938; 10:33 a. m.]

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

NOTICE OF HEARING WITH REFERENCE TO PROPOSED AMENDMENTS TO REGULATIONS NO. 5, RELATING TO LABELING AND ADVERTISING OF DISTILLED SPIRITS

REVISION OF THE STANDARDS OF IDENTITY FOR BRANDY

APRIL 16, 1938.

Pursuant to the provisions of Section 5 of the Federal Alcohol Administration Act, as amended:

Notice is hereby given of a public hearing to be held on Wednesday, April 27, 1938, at 10 A. M., and Monday, May 2, 1938, at 10 A. M., at The Mayflower Hotel, Connecticut Avenue and DeSales Street, Washington, D. C., for the purpose of taking evidence with reference to the following proposed amendments to Regulations No. 5, Relating to Labeling and Advertising of Distilled Spirits:

1. To amend Article II, Section 21, and other pertinent sections of the regulations, in such manner as to provide—

(*a*) That any brandy distilled from dried or otherwise processed fruit, or from waste or residual fruit products, or from the waste or residue of fermentation or distillation, shall bear a designation indicating the nature of the distilling material, e. g. "raisin brandy," "pomace brandy," "lees brandy," "dried apricot brandy" or "grappa brandy";

(*b*) That all brandy distilled at more than 160° proof shall bear, as a part of the designation, the qualifying words "industrial", "fortifying", or similar words, e. g. "industrial grape brandy", "fortifying raisin brandy", "industrial pomace brandy" or "fortifying apple brandy"; and

(*c*) That no brandy shall bear the unqualified designations "brandy" or "grape brandy", or the unqualified designations of any type of fresh fruit brandy, such as "peach brandy" or "apricot brandy", unless distilled at 160° proof or less, from the following—

1. Sound grape or fruit wine, manufactured on winery premises without amelioration except such amelioration as is provided for by law in the production of standard grape or fruit wines on such premises, and having, prior to the addition of water to facilitate distillation, a volatile acidity (exclusive of sulphur dioxide) not in excess of 0.14 grams per 100 cc calculated as acetic acid, and an amount of suspended material not in solution (such as sediment, lees or pomace) not in excess of 5 grams per 100 cc; or

2. The sound, clean juice of fresh fruit, or the sound, clean mash of whole fresh fruit, fermented on distillery premises, and having, prior to the addition of water to facilitate distillation, a volatile acidity (exclusive of sulphur dioxide) not in excess of 0.14 grams per 100 cc calculated as acetic acid.

[SEAL] W. S. ALEXANDER, *Administrator*.

[F. R. Doc. 38-1095; Filed, April 16, 1938; 11:23 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

CALIFORNIA GRAZING DISTRICT NO. 2

MODIFICATION

APRIL 12, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing California Grazing District No. 2 is hereby revoked as far as it affects the following-described lands:

MOUNT DIABLO MERIDIAN

T. 37 N., R. 7 E.,
sec. 4, NW¼SW¼;
sec. 5, NE¼SW¼;
T. 43 N., R. 13 E.,
sec. 24, E½SE¼;
T. 45 N., R. 14 E.,
sec. 34, NE¼NE¼.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1091; Filed, April 16, 1938; 10:06 a. m.]

National Park Service.

SHENANDOAH NATIONAL PARK

LOCAL SUBSIDIARY REGULATIONS

The following subsidiary regulations, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), have been recommended by the superintendent and approved by the Director of the National Park Service, and are in force and effect within the boundaries of the Shenandoah National Park.

Fishing.—All waters within the boundaries of the park on the western slope of the Blue Ridge Mountains are closed to fishing. All waters within the boundaries of the park on the eastern slope are open to fishing, subject to the following provisions:

Open season: April 20 to July 5, inclusive. No fishing will be permitted between sunset and sunrise.

Restriction as to use of bait: Fishing is permitted only with artificial bait with but one hook. Two artificial flies may be attached to the leader if desired. The use of other than artificial bait is prohibited.

Size limit: All fish caught shall be retained, regardless of size.

Limit of catch: The maximum catch in any one day and the maximum number in possession of any one person shall be 20 of any or all species.

Fishing license: The park as such does not charge for fishing license, but persons fishing in the park must have State fishing licenses issued by the State of Virginia.

Approved: April 10, 1938.

[SEAL] ARNO B. CAMMERER,
Director, National Park Service.

[F. R. Doc. 38-1097; Filed, April 18, 1938; 9:36 a. m.]

YOSEMITE NATIONAL PARK

LOCAL SUBSIDIARY REGULATIONS

The following subsidiary regulations, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), have been recommended by the superintendent and approved by the Director of the National Park Service, and are in force and effect within the boundaries of Yosemite National Park:

Fishing.—

Open season: June 1 to October 15, inclusive.

Limit of Catch: The number of fish that may be taken by any one person in any one day shall not exceed 20 fish, or ten pounds and one fish. The number of golden trout which may be taken by any one person in any one day shall not exceed 10. Possession of more than one day's catch limit by any person at any one time shall be construed as a violation of this regulation.

All previous subsidiary regulations relating to fishing in Yosemite National Park are hereby repealed.

Entrance roads.—Automobiles, trucks, and other vehicles permitted in Yosemite National Park may enter and leave by the several entrances only during the hours specified in the following schedule:

All-Year Highway: Entrance at Arch Rock open 5 A. M. to 12 midnight every day of the year.

Wawona Road: South entrance open 6 A. M. to 12 midnight between May 30 and August 31, and from 6 A. M. to 9:30 P. M. between September 1 and May 29. (Travel season, entire year, except during periods of heavy snow in winter.)

Chowchilla Mountain Road: Chowchilla Mountain entrance open 6 A. M. to 9:30 P. M. (Travel season, May to about October 15.)

Big Oak Flat Road: Tuolumne Grove entrance open for incoming traffic from 6 A. M. to 8:30 P. M., and for outgoing traffic from 6 A. M. to 9:30 P. M. Incoming traffic at Crane Flat, 6 A. M. to 9:00 P. M., outgoing traffic, 6 A. M. to 9:30 P. M. Controls are maintained on this road between El Capitan checking station and Gentry. Outbound cars leave on the even hours beginning at 6 A. M. Inbound cars leave Gentry on the odd hours beginning at 7 A. M. The outbound control will close at 8:25 P. M. The inbound control will close at 9:25 P. M. (Travel season, about May 1 to October 15.)

Coulterville Road: Merced Grove entrance open 6 A. M. to 9:30 P. M. During construction activities, one-way traffic controls may be maintained on the grade between the floor of Yosemite Valley and the summit near Big Meadows.

Tioga Road: Aspen Valley and Tioga Pass entrances open 6 A. M. to 9:30 P. M. (Travel season, about July 1 to October 1.)

Road to Hetch Hetchy Dam: Mather Ranger Station entrance, open 6 A. M. to 9:30 P. M. (Travel season, about May 1 to October 15.)

Camping.—Quiet shall be maintained at all camps between 10:00 P. M. and 6:00 A. M.

Approved: April 13, 1938.

[SEAL] ARNO B. CAMMERER,
Director, National Park Service.

[F. R. Doc. 38-1096; Filed, April 18, 1938; 9:35 a. m.]

Office of Indian Affairs.

PALA INDIAN IRRIGATION PROJECT, CALIFORNIA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

FEBRUARY 28, 1938.

In compliance with the provisions of the Act of August 1, 1914 (38 Stat., 582–583) the operation and maintenance charges against all leased Indian trust lands under the Pala Indian Irrigation Project, California, are fixed at $6.50 per acre for the calendar year 1938 and subsequent years until modified.

The charges herein fixed of $6.50 per acre shall be due and payable on April 1 of each year.

No water will be delivered to any leased lands until the terms of the lease relative to the payment of water charges shall have been complied with.

This order supersedes the order approved December 29, 1931.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1086; Filed, April 16, 1938; 10:01 a. m.]

RINCON INDIAN IRRIGATION PROJECT, CALIFORNIA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

FEBRUARY 28, 1938.

In compliance with the provisions of the Act of August 1, 1914 (38 Stat., 582–583) the operation and maintenance charges against all leased Indian trust lands under the Rincon Indian Irrigation Project, California, are fixed at $6.50 per acre for the calendar year 1938 and subsequent years until modified.

The charges herein fixed of $6.50 per acre shall be due and payable on April 1 of each year.

No water will be delivered to any leased lands until the terms of the lease relative to the payment of water charges shall have been complied with.

This order supersedes the order approved February 9, 1935.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1087; Filed, April 16, 1938; 10:02 a. m.]

CROW INDIAN IRRIGATION PROJECT, MONTANA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

MARCH 3, 1938.

In compliance with the provisions of the Act of August 1, 1914 (38 Stat. 582–583) the operation and maintenance charges for irrigable lands under the Crow Irrigation Project for the calendar year 1938 and subsequent years until further notice, are fixed as follows:

Under Government operated units, excepting Coburn Ditch, per acre	$0.95
Under Two Leggins Unit, per acre	.95
Under Bozeman Trail Unit, per acre	.35

The charges as herein fixed shall become due April 1, and are payable on or before that date. To all charges assessed against owners of patent in fee or white-owned lands not paid on July 1, following, there shall be added a penalty of one-half of 1 per cent per month, or fraction thereof, from the due date, April 1, so long as the delinquency continues. No water shall be delivered to patent in fee or white-owned lands until such charges shall have been paid; or to trust patent lands until the Superintendent of the reservation shall have issued a certificate to the Project Engineer that the Indian farming such land has paid or will pay or that such Indian is financially unable to pay the charge, or in the case of such Indian trust lands as are leased, until the terms of the lease relative to the payment of water charges shall have been complied with.

This order supersedes the order approved February 19, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1083; Filed, April 16, 1938; 9:56 a. m.]

WIND RIVER INDIAN IRRIGATION PROJECT, WYOMING

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

MARCH 3, 1938.

In compliance with the provisions of the Act of August 1, 1914 (38 Stat. 582–583) the operation and maintenance charges for the lands under the Wind River Irrigation Project, Wyoming, for the calendar year 1938 and subsequent years until further notice, are hereby fixed at $1.25 per acre for the assessable area under constructed works on the Diminished Wind River Project and at $0.80 per acre on the Ceded Wind River Project; except in the case of all irrigable trust patent Indian land which lies within the Ceded Reservation and which is benefited by the Big Bend Drainage District where an additional assessment of 25 cents per acre is hereby fixed.

The charges as herein fixed shall become due April 1, and are payable on or before that date. To all charges assessed against owners of patent in fee or white-owned lands and which are not paid on July 1 following the due date, there shall be added a penalty of one-half of 1 per cent per month, or fraction thereof, from the due date, April 1, so long as the delinquency continues. No water shall be delivered to patent in fee or white-owned lands until such charges have been paid, or to trust patent lands until the Superintendent of the reservation shall have issued a statement to the Project Engineer certifying that the Indian farming such land has paid or will pay, or that such Indian is financially unable to pay the charge, or in the case of such Indian trust lands as are leased, until terms of the lease relative to the payment of water charges shall have been complied with.

This order supersedes the order approved March 14, 1936

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1089; Filed, April 16, 1938; 10:04 a. m.]

ZUNI PUEBLO, NEW MEXICO

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

MARCH 3, 1938.

In accordance with the provisions of the Act of August 1, 1914 (38 Stat. 582-583) the operation and maintenance charges for irrigable lands of the Zuni Pueblo, New Mexico, are fixed as follows for the calendar year 1938 and subsequent years until further notice:

For tribal lands operated by the Zuni School or Sanatorium the rate shall be $2 per acre.

The charges herein fixed shall be due and payable on April 1 of each year.

No water shall be delivered until the charges have been paid or until the Superintendent shall have issued a certificate that provision has been made for such payment.

This order supersedes the order approved February 7, 1935.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1090; Filed, April 16, 1938; 10:05 a. m.]

FLORENCE-CASA GRANDE IRRIGATION PROJECT

ORDER FIXING MAINTENANCE AND OPERATION CHARGES

MARCH 10, 1938.

In compliance with the provisions of the Act of May 18, 1916 (39 Stat. 123-130) and acts supplementary thereto and the agreement with the landowners commonly called the Florence-Casa Grande Landowners' Agreement, between the United States and the landowners in the Florence-Casa Grande Irrigation Project, the maintenance and operation charges assessable against the privately owned lands of the Florence-Casa Grande Irrigation Project which are not included within the San Carlos Project, are hereby fixed at $1.25 per acre for the calendar year 1938.

The charge of $1.25 per acre for each assessable acre of privately owned land shall be paid on or before March 1, 1938, and shall entitle each acre of such land to receive the quantity of water to which it is entitled in accordance with law, under the terms of the said Florence-Casa Grande Landowners' Agreement.

The San Carlos Irrigation and Drainage District, operating the distribution system for delivery of water to non-Indian lands will make delivery of water and shall collect assessments due from Florence-Casa Grande Lands, and for said service the District shall be allowed 65 cents per acre on account of all lands of the Florence-Casa Grande Project so served, and the District shall pay the balance of said sum to the San Carlos Project Engineer or other proper officer.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1085; Filed, April 16, 1938; 9:58 a. m.]

SAN CARLOS PROJECT, ARIZONA

ORDER FIXING MAINTENANCE AND OPERATION CHARGES

MARCH 10, 1938.

In compliance with the provisions of the Act of June 7, 1924 (43 Stat. 475-476) and acts supplementary thereto and the repayment contract of June 8, 1931, between the United and the San Carlos Irrigation and Drainage District made pursuant to said act, the maintenance and operation charges assessable against the 50,000 acres of privately owned lands of the San Carlos project within the boundary of said San Carlos Irrigation and Drainage District for the calendar year 1938, based upon a total project area of 100,000 acres under constructed works, are hereby fixed as follows:

1. A fixed or basic charge of $1.65 per acre which shall entitle each acre in the District to have delivered for use thereon two acre feet of water per acre or its proportionate share of the available water supply. This fixed or basic charge shall be paid whether or not the land is in cultivation and whether or not the landowner uses any water.

2. Fifty cents per acre foot or fraction thereof for the first acre foot of water delivered in excess of the two acre feet provided for by the basic charge and one dollar per acre foot or fraction thereof for water delivered in excess of three (3) acre feet per acre, except such free water as may be delivered in accordance with the provisions of the repayment contract whenever such free water is available.

Conditions.—The fixed or basic charge of $1.65 per acre shall be paid for each assessable acre within the San Carlos Irrigation and Drainage District on or before March 1, 1938.

Payments for excess water as herein provided for shall be made at the time of request for delivery thereof.

Payments made on account of the 50,000 acres of lands within the San Carlos Irrigation and Drainage District shall be paid to the Project Engineer of the Indian Irrigation Service, or other proper officer, by the San Carlos Irrigation and Drainage District.

The United States will make available for expenditure on account of the maintenance and operation of this project the $1.65 per acre fixed or basic charge for the 50,000 acres of Indian land in the project, and also the charge for excess water.

The San Carlos Irrigation and Drainage District upon request of its Board of Directors may continue for the period of this order to operate the canals serving lands in private and public ownership within its boundary, and in the event said District elects to continue such operation a credit of 70 cents per acre shall be allowed from the said basic charge for the area of district lands so operated and the basic charge to be paid to the Government by the District will accordingly be reduced to $0.95 per acre.

It should be understood that the provisions of this order requiring funds to be made available by the United States are dependent upon appropriations being made by Congress therefor; that the charges based upon the conditions defined shall apply to the calendar year 1938 only, and that nothing herein shall be construed as establishing a precedent for future years.

Should the San Carlos Irrigation and Drainage District, through its Board of Directors, request and be granted the privilege of maintaining certain of the works of the project designated in the said repayment contract as "Works of the District," the rights and obligations of the District shall be prescribed and governed by the departmental order turning over the maintenance of such works to the District.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1088; Filed, April 16, 1938; 10:03 a. m.]

FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

MARCH 19, 1938.

Pursuant to authority of law contained in existing legislation relative to the Flathead Irrigation Project, Montana, it is hereby ordered that the operation and maintenance assessment rates due April 1, 1938, for the calendar year 1938 and for subsequent years until further notice, for the various subdivisions of the Flathead Irrigation Project, Montana, which are not included in Irrigation Districts that have executed a suitable repayment contract with the United States, be fixed as follows:

Charges Applicable to All Irrigable Lands in the Flathead Irrigation Project but Which Are Not Included in the Irrigation District Organizations

Jocko Division

Charges for service.—A minimum charge of Ninety-five Cents (95¢) per acre will be made against all lands within the Jocko Division to which water can be delivered, whether water is used or not, this minimum charge to be credited to the account of water delivered at the following acre foot rates:

(*a*) For lands receiving water from the lower Jocko and Revais Creek Laterals, water will be delivered in amounts equal to one acre foot per acre for the entire irrigable area of the farm unit, allotment, or tract, at the rate of one dollar ($1) per acre foot, and additional water will be delivered at the rate of fifty cents (50¢) per acre foot.

(*b*) For lands receiving water from Finley, East Finley, Agency, and Big Knife Creeks, water will be delivered at the rate of seventy-five cents (75¢) per acre foot at any time during the irrigation season.

(c) And for lands receiving water from Jocko River through the Jocko K Lateral system, at the rate of fifty cents (50¢) per acre foot at any time during the irrigation season.

Mission Valley and Camas Divisions

Charges for service.—A charge of Ninety-five Cents (95¢) per acre shall be levied against all the irrigable area to which water can be delivered, whether water is used or not, and there shall be no further charge for water delivered up to one and one-half acre feet of water per irrigable acre of land included in any farm unit, allotment, or tract of land which has been assessed for operation and maintenance for that season, provided, that for all water delivered to any farm unit, allotment, or tract, in excess of the above amounts there shall be assessed a charge of seventy-five cents (75¢) per acre foot in addition to the minimum charge of ninety-five cents (95¢) per acre already levied.

General

For all areas covered by private water rights where the water is regulated by the Flathead Irrigation Project and delivered through the Flathead Irrigation Project systems, a charge of fifty cents (50¢) per acre shall be made for water delivered up to two (2) acre feet per acre, or to such quantity of water as was allowed under the private water right findings for each acre carrying a recognized private water right under the Secretary's private water right findings, and for any additional water furnished to private water right lands, whether through the project irrigation system or otherwise, a charge of one dollar ($1) per acre foot shall be made.

If at any time during the irrigation season when it shall appear, in the judgment of the Project Engineer, that there shall not be sufficient water available to deliver the amount specified under the minimum charge in this regulation to the entire irrigable area for which application for delivery of water has been made and approved, then the Project Engineer shall be authorized to reduce such amounts to the extent that there shall, in his judgment, be sufficient water available to make proportionate delivery to each farm unit, allotment, or tract, and when any farm unit, allotment, or tract shall have had delivered to it the amount so fixed, it shall not be entitled to further delivery of water except when it shall appear that there is a surplus of water available, provided that, for those tracts located in the Mission Valley and Camas Divisions of the Flathead Irrigation Project *only*, after an agreement has been reached between a landowner and the Project Engineer as to duty of water on individual tracts where the landowner claims excess requirements on account of porous or gravelly soils, the Project Engineer shall have authority, pending further orders, to increase the quantity of water to be delivered under the minimum charge levy to such porous or gravelly tract, provided it shall not exceed four (4) acre feet of water per acre per season for the accessible irrigable area of the tract.

In the case of lands belonging to the State of Montana, where water service is requested by lessees, delivery will be made upon payment in advance by the lessee of the same minimum charge and at the same rates, and under the same regulations, as are in force for other lands in the same general area that are not included in the Irrigation Districts.

The maximum charge for water delivered to any farm unit or allotment shall not exceed an amount equal to Two Dollars ($2) per acre for the entire irrigable area of the farm unit or allotment, and no charge for water delivered shall be less than Five Dollars ($5) for the season.

To all charges assessed against owners of patent in fee or white-owned lands not paid on July 1 following, there shall be added a penalty of one-half of one per cent (½ of 1 per cent) per month, or fraction thereof, from the due date, April 1, so long as the delinquency continues. No water shall be delivered to patent in fee or white-owned lands until such charges shall have been paid, or to trust patent lands until the Superintendent of the reservation shall have issued a statement to the Project Engineer certifying that the Indian farming such land has paid or will pay or that such Indian is financially unable to pay the charge, or in the case of such Indian trust lands as are leased, until the terms of the lease relative to the payment of water charges shall have been fulfilled.

This order supersedes the order of February 19, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1084; Filed, April 16, 1938; 9:57 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF (1) NORMAL YIELD OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE AND (2) ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN THE MAINLAND CANE SUGAR AREA

Pursuant to the provisions of section 303 of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine:

1. That the normal yield of commercially recoverable sugar per acre for any farm in the mainland cane sugar area on which sugarcane was grown and marketed (or processed by the producer) for the extraction of sugar during the 1937-38 crop season shall be the product of the average number of hundredweights of sugar, raw value, recovered per short ton of sugarcane processed for the extraction of sugar during the 1935-36 and the 1936-37 crop seasons in the district in which the farm is located and (1) the average yield of sugarcane for sugar per acre, in short tons, for the farm during the crop

years 1935 and 1936, if sugarcane for sugar was grown on the farm during both of such crop years, or (2) the average yield per acre, in short tons, of sugarcane for sugar harvested during the crop years 1935 and 1936 on similar farms in the community in which the farm is located, if sugarcane for sugar was not grown on the farm in both of such crop years.

2. That for the purposes of paragraph 1 above, a district shall be any one of the following groups of parishes or counties:

I. Iberia, Lafayette, Acadia, St. Martin, St. Mary and Vermilion parishes, Louisiana.

II. Rapides, St. Landry, Evangeline, Avoyelles and West Feliciana parishes, Louisiana.

III. Assumption, La Fourche and Terrebonne parishes, Louisiana.

IV. Ascension, Iberville, Pointe Coupee, East Baton Rouge, West Baton Rouge, St. Charles, St. James and St. John parishes, Louisiana.

V. All counties in Florida where sugarcane is grown and processed for the extraction of sugar.

3. That any farm located in a parish or county in which the actual yields of commercially recoverable sugar from the 1937 crop of sugarcane for farms comprising 10 per cent or more of the acreage of such sugarcane were 80 per cent or less of the normal yields therefor, because of drought, flood, storm, freeze, disease or insects, shall be eligible for abandonment and deficiency payments, pursuant to section 303 of the said act.

Done at Washington, D. C. this 15th day of April 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1098; Filed, April 18, 1938; 11:29 a. m.]

[ACP—1938-1—Alaska, Hawaii, and Puerto Rico]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

ALASKA, HAWAII, AND PUERTO RICO

Supplement No. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, paragraph C of Section VI of the 1938 Agricultural Conservation Program Bulletin—Alaska, paragraph C of Section VI of the 1938 Agricultural Conservation Program Bulletin—Hawaii, and paragraph D of Section IX of the 1938 Agricultural Conservation Program Bulletin—Puerto Rico, issued March 22, 1938, are hereby amended to read as follows:

"*Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration and is filed in the office of the local agricultural extension agent; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any preexisting indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

"Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment."

Done at Washington, D. C., this 16th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1100; Filed, April 18, 1938; 11:31 a. m.]

[ACP—1938-8]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 7

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, is hereby amended as follows:

(1) The third of the introductory paragraphs preceding Section I is hereby amended by striking out that portion of the paragraph following the second semicolon in the first sentence thereof and inserting in lieu thereof the following:

"and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation, the apportionment of such appropriation under the provisions of the Soil Conservation and Domestic Allotment Act as amended, and the extent of national participation. Under the provisions of Section 105 of the Agricultural Adjustment Act of 1938, as amended, payments under the 1938 Agricultural Conservation Program, based on soil-depleting crops for which special acreage allotments are established, shall be made at not less than 90 percent of the rates specified in the 1938 Agricultural Conservation Program Bulletin (ACP—1938) approved October 23, 1937. The rates specified herein with respect to potatoes, fire-cured and dark air-cured tobacco, and Georgia-Florida Type 62 tobacco are 90 percent of the rates approved for these commodities on October 23, 1937 and, therefore, will not be decreased. As an adjustment for participation the rates of payment and deduction with respect to each other commodity or item of payment may be decreased, and the rates of payment and deduction with respect to any commodity or item of payment may be increased, by as much as 10 percent.

(2) The national goals with respect to cotton and Burley tobacco, set forth in item 1 of subsection A of Section I, are hereby revised to read as follows:

"Cotton, 27,000,000 to 29,000,000 acres.
"Tobacco: Burley, 440,000 to 460,000 acres."

(3) Item 2 of subsection A of Section III is hereby amended to read as follows:

"2. *Cotton allotment.*—(*a*) County cotton acreage allotments shall be apportioned among the farms in the county on which cotton was planted in any one of the years 1935, 1936, and 1937, in a manner that will result in a cotton acreage allotment for each such farm which is a percentage (which shall be the same percentage for all farms in the county or administrative area) of the land in the farm in 1937 which was tilled annually or in regular rotation exclusive of the acres of such land normally devoted to the production of sugarcane for sugar, wheat, tobacco, or rice for market, or wheat or rice for feeding to livestock for market except that—

"(1) For any such farm with respect to which the highest acreage planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937, is five acres or less, the cotton acreage allotment for the farm shall be such highest number of acres if the county cotton acreage allotment is sufficient therefor;

"(2) For any such farm with respect to which the highest number of acres planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937, is more than five acres, the allotment for

the farm shall not be less than five acres if the county cotton acreage allotment is sufficient therefor;

"(3) Notwithstanding the foregoing provisions of this paragraph (a), a number of acres equal to not more than 3 percent of the county acreage allotment in excess of the allotments made to farms on which the highest number of acres planted to cotton plus the acres diverted from the production of cotton in any of the years 1935, 1936, and 1937, was five acres or less and the number of acres required for allotments of five acres for each other farm in the county on which cotton was planted in 1935, 1936, or 1937 may be apportioned among farms in the county on which cotton was planted in 1935, 1936, or 1937, and for which the allotment otherwise provided is five acres or more but less than 15 acres and less than the highest number of acres planted to cotton and diverted from the production of cotton in any one of the years 1935, 1936, and 1937.

In making such allotments under clause (3) in the preceding sentence consideration shall be given to the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton, and such increases shall not be such as to increase the allotment to any farm above 15 acres. In no event shall the allotment for any farm under this paragraph (a) exceed the highest number of acres planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937.

"(*b*) In case the county allotment is insufficient to provide allotments to farms in the county, which are determined, under instructions issued by the Agricultural Adjustment Administration, to be adequate and representative in view of their past production of cotton and their tilled land, there shall be apportioned to such farms, under instructions issued by the Agricultural Adjustment Administration, such part of a State reserve equal to 4 percent of the State acreage allotment as is necessary to give such farms allotments in conformity with paragraph (a) which are as nearly adequate and representative as such 4-percent reserve will permit. Such additional allotment shall be used first to increase allotments to farms under clauses (1) and (2) of paragraph (a).

"(*c*) Notwithstanding the provision of paragraph (a) above the cotton acreage allotment for any farm shall be increased by such amount as may be necessary to provide an allotment of not less than 50 percent of the sum of the acreage as determined by the county committee to have been planted in cotton in 1937 and the acreage diverted from cotton production in 1937 under the agricultural conservation program provided that the cotton acreage allotment for any farm shall not be increased under this paragraph to more than 40 percent of the acreage on such farm which is tilled annually or in regular rotation.

"(*d*) That portion of the State acreage allotment not apportioned among the counties under Section II, subsection A, paragraph 2 (a), hereof shall be apportioned to farms in the State on which cotton will be planted in 1938 but on which cotton was not planted in any of the years 1935, 1936, and 1937, so as to result in comparable allotments to farms similar with respect to land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton. The county committee shall report, through the State committee, to the Agricultural Adjustment Administration the acreage required for the allotments to such farms in the county together with much substantiating data as may be required by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall allot to the county the proportion of that part of the State acreage allotment reserved for this purpose which it finds reasonable on the basis of the data so reported."

(4) Subsection A of Section IV is hereby amended to read as follows:

"A. *Soil-depleting acreage allotments.*—

"1. *Cotton*—2.4 cents per pound of the normal yield per acre of cotton for the farm for each acre in the cotton acreage allotment; or, if the acreage planted to cotton is less than 80 percent of the cotton acreage allotment and the county committee finds that the failure to plant 80 percent of such cotton acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to cotton. The acreage planted to cotton shall be deemed to be that acreage which is seeded to cotton.

"2. *Corn.*—10 cents per bushel of the normal yield per acre of corn for the farm for each acre in the corn acreage allotment; or, if the acreage planted to corn is less than 80 percent of the corn acreage allotment and the county committee finds that the failure to plant 80 percent of such corn acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to corn. The acreage planted to corn shall be deemed to be that acreage which is seeded to corn classified as soil-depleting (excluding (1) any acreage of sweet corn contracted to be sold for canning; (2) any acreage of sweet corn sold for canning or roasting ears; and (3) any acreage of popcorn sold as popcorn).

"3. *Wheat.*—12 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat acreage allotment; or, if the acreage planted to wheat is less than 80 percent of the wheat acreage allotment and the county committee finds that the failure to plant 80 percent of such wheat acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to wheat. The acreage planted to wheat shall be deemed to be that acreage which is seeded to wheat classified as soil-depleting under subsection B of Section XIII.

"4. *Tobacco.*—The following number of cents per pound of the normal yield per acre of tobacco for the farm for each acre in the tobacco acreage allotment for each of the following kinds of tobacco:

(*a*) Burley	0.5 cent.
(*b*) Flue-cured	1.0 cent.
(*c*) Fire-cured and dark-air-cured	1.53 cents.
(*d*) Cigar filler and binder	1.0 cent.
(*e*) Georgia-Florida Type 62	1.8 cents.

Provided, That in the case of cigar filler and binder tobacco, if the acreage planted to such kind of tobacco is less than 80 percent of the acreage allotment therefor, and the county committee finds that the failure to plant 80 percent of the acreage allotment was not due to flood, drought, or plant-bed diseases, the payment shall be computed on 125 percent of the acreage planted to cigar filler and binder tobacco.

"5. *Potatoes.*—In early potato-producing areas, 5.4 cents, and in late potato-producing areas, 3.6 cents per bushel of the normal yield of potatoes for the farm for each acre of potatoes planted on the farm in 1938 not in excess of the potato acreage allotment. The acreage planted to potatoes shall be deemed to be that acreage which is seeded to potatoes.

"6. *Peanuts.*—0.2 of a cent per pound of the normal yield per acre of peanuts for the farm for each acre in the peanut acreage allotment.

"7. *Rice.*—0.125 of a cent per pound of the normal yield per acre of rice for the farm for each acre in the rice acreage allotment, or if the acreage planted to rice is less than 80 percent of the rice acreage allotment and the county committee finds that failure to plant 80 percent of such rice acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to rice. The acreage planted to rice shall be deemed to be that acreage which is seeded to rice.

"8. *General soil-depleting crops on class A farms.*—$1.25 per acre, adjusted for productivity, for each acre in the total soil-depleting acreage allotment established for the farm in excess of the sum of (1) the acreages used in computing payments with respect to the corn, wheat, potato, rice, peanut, cigar filler and binder tobacco, and Georgia-Florida Type 62 tobacco acreage allotments established for the farm; (2) 1¼ times the acreages used in computing payments with respect to the cotton, flue-cured tobacco, Burley tobacco, and fire-cured and dark air-cured tobacco

acreage allotments established for the farm; and (3) the acreage of sugar beets planted on the farm in 1938."

(5) Item 5 of subsection C of Section IV is hereby amended to read as follows:

"5. 70 cents per acre of cropland on any class B farm in excess of the sum of (1) the acreages used in computing payments with respect to the corn, wheat, potato, rice, peanut, cigar filler and binder tobacco, and Georgia-Florida Type 62 tobacco acreage allotments established for the farm; (2) 1½ times the acreages used in computing payments with respect to the cotton, flue-cured tobacco, Burley tobacco, and fire-cured and dark air-cured tobacco acreage allotments established for the farm; (3) the acreage of sugar beets and sugarcane for sugar planted on the farm in 1938; and (4) in the Western Region, the normal acreage of summer fallow for the farm, not in excess of the wheat acreage allotment established for the farm."

(6) Item 6 of subsection A of Section V is hereby amended to read as follows:

"6. *Total soil-depleting acreage allotments.*—The following applicable rate for each acre of land classified as soil-depleting in excess of the total soil-depleting acreage allotment, less the acreages for which deductions are made under items 1 to 5, inclusive, of this subsection A;

"(*a*) 8 times the rate of payment with respect to the wheat acreage allotment if a payment is computed for the farm under Section IV with respect to a wheat acreage allotment.

"(*b*) 8 times the rate of payment with respect to general soil-depleting crops if the farm is a class A farm and no payment is computed for the farm under Section IV with respect to a wheat acreage allotment.

"(*c*) $6.00 per acre if the farm is a class B farm and a payment is computed for the farm under Section IV with respect to a cotton, corn, tobacco, peanut, potato or rice acreage allotment but no payment is computed for the farm under Section IV with respect to a wheat acreage allotment."

(7) Subsection A of Section VI is hereby amended to read as follows:

"A. *Payments and deductions in connection with acreage allotments and restoration land goals.*—The net payment or net deduction computed for any farm with respect to the corn, cotton, rice, wheat, tobacco, peanut, or potato acreage allotment, or general soil-depleting crops shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the corn, cotton, rice, wheat, tobacco, peanuts, potatoes, or general crops, respectively, grown on the farm in 1938.

"The net payment or net deduction computed for any farm with respect to the restoration land goal shall be divided in the same proportion that any payment with respect to the wheat acreage allotment for such farm is divided among landlords, tenants, and sharecroppers, provided that if no payment is computed with respect to a wheat acreage allotment for such farm, the net payment or net deduction with respect to the restoration land goal shall be divided in the same proportion that any payment in connection with general soil-depleting crops for such farm is, or would be, divided among landlords, tenants, and sharecroppers. In the event that restoration land is designated for a farm which is not operated by a tenant in 1938, the net payment or net deduction, if any, with respect to such restoration land goal shall be attributed to the owner of such farm.

"In computing such net payments and net deductions with respect to acreage allotments, general crops, and restoration land goals, the deduction with respect to commercial vegetables (item 5, subsection A, Section V) shall be regarded as a prorata deduction with respect to the potato acreage allotment and the cigar filler (type 41) or binder (types 51, 52, and 53) tobacco acreage allotment. The total amount of deductions computed under Section V with respect to (1) soil-depleting crops grown in excess of the total soil-depleting acreage allotment (item 6, subsection A); (2) failure to prevent wind and water erosion (subsection C); and (3) breaking out of native sod (subsection D) shall be regarded (a) as prorata deductions with respect to the payments computed under Section IV in connection with the wheat acreage allotment and general soil-depleting crops on class A farms; (b) as deductions with respect to the wheat acreage allotment on class B farms for which a payment is computed under Section IV in connection with a wheat acreage allotment; (c) as prorata deductions with respect to the payments computed under Section IV in connection with crop acreage allotments and the restoration land goal on class B farms for which no payment is computed in connection with a wheat acreage allotment; or (d) as deductions with respect to the soil-building goal on class B farms for which no payment is computed under Section IV in connection with crop acreage allotments or a restoration land goal, provided, that any net amount of such deductions computed for such farms shall be divided equally among the landlords and tenants on the farm.

"In the event that corn, cotton, rice, wheat, tobacco, peanuts, potatoes, or general crops are not harvested in 1938 on the farm the net payment or net deduction, if any, with respect to the acreage allotment for such crop, or with respect to general soil-depleting crops, shall be divided among the landlords, tenants, and sharecroppers in the same proportion that the county committee determines that such persons would have shared in the proceeds of such crop(s) had such crop(s) been harvested on the farm in 1938."

(8) Section VIII is hereby amended to read as follows:

"SECTION VIII. *Deductions Incurred on Other Farms.*—

"A. *Other farms in the same county.*—If the deductions computed under Section V with respect to any farm in a county exceed the payment for full performance on such farm computed under Section IV, a landlord's or tenant's share of the amount by which such deduction exceeds such payments shall be deducted from such landlord's or tenant's share of the payment which would otherwise be made to him with respect to any other farms in such county.

"B. *Other farms in the State.*—If the deductions computed for a landlord or tenant with respect to one or more farms in a county exceeds the payments computed for such landlord or tenant on other farms in such county, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in the State if the State committee finds that the crops grown and practices adopted on the farm with respect to which such deductions are computed substantially offset the contribution to the program made on such other farms."

(9) The first paragraph of subsection A of Section XI is hereby amended to read as follows:

"A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1938 or previous agricultural conservation programs, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the regional director finds is contrary to sound conservation practices. If on any class B farm for which no wheat, cotton, corn, tobacco, peanut, potato, or rice acreage allotment is established, the acreage of soil-depleting crops in 1938 is in excess of 50 acres and in excess of the total soil-depleting acreage allotment, the deduction provided in paragraph 6 (c) of subsection A of Section V shall be applicable to such farm if the county committee determines that the increase in soil-depleting crops was not due to the rotation of crops normally followed on the farm. No payment, other than a payment in connection with the restoration land goal, shall be computed with respect to any farm which is idle in 1938."

(10) Subsection D of Section XI is hereby amended to read as follows:

"D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration, and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any preexisting indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

"Nothing contained in this Section XI shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment."

(11) Item 3 of subsection A of Section XIII is hereby amended to read as follows:

"3. Grain sorghums (except when a good stand and a good growth of such crops is used as a green manure crop in areas in Texas designated by the Agricultural Adjustment Administration as areas affected by cotton root rot)."

(12) Items 1 and 2 of subsection A of Section XV are hereby amended to read as follows:

"1. *Cotton.*—

"(*a*) Where reliable records of the actual average yield of cotton per acre for the years 1933 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

"(*b*) If for any year of such five-year period records of the actual average yield are not available or there was no actual yield because cotton was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such five-year period.

"(*c*) The yields determined under paragraph (*b*) of this subdivision 1 shall be adjusted so that the average of the normal yields determined for all farms in the county or administrative area (weighted by the cotton acreage allotments established for such farms) shall conform to the county (or administrative area) average yield established by the Secretary.

"2. *Corn and wheat.*—

"(*a*) Where reliable records of the actual average yield per acre of corn or wheat, as the case may be, for the years 1928 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

"(*b*) If for any year of such ten-year period reliable records of the actual average yield are not available or there was no actual yield because the commodity was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such ten-year period. Where the productivity index most recently established for the farm in connection with the agricultural conservation programs is determined by the county committee to be an accurate reflection of the foregoing factors, the yield obtained by multiplying such index by the county average yield established by the Secretary shall be used as the normal yield for the farm.

"(*c*) The yields determined under paragraph (*b*) of this subdivision 2 shall be adjusted so that the average of the normal yields for all farms in the county (weighted respectively by the corn or wheat acreage allotments established for such farms) shall conform to the county average yield established by the Secretary."

(13) Section XV is hereby amended by striking out subsection C thereof.

(14) The definition of class A farms in Section XVIII is hereby amended by revising clause 3 thereof to read as follows:

"3. All farms in Aroostook County, Maine, and in the townships of Patten, Mt. Chase, and Stacyville in Penobscot County, Maine, for which potato acreage allotments are established; and"

(15) Section XVIII is hereby amended by adding at the end thereof the following definitions:

"*Early Potato-Producing Area* means all the States in the East Central and Southern Regions, the States of Missouri and Kansas, and the counties of Kern, Los Angeles, Riverside, San Bernardino, San Diego, and Santa Barbara in the State of California.

"*Late Potato-Producing Area* means the area not included in the early potato-producing area."

Done at Washington, D. C., this 16th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1099; Filed, April 18, 1938; 11:30 a. m.]

Commodity Exchange Administration.

AMENDMENTS TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authority vested in the Secretary of Agriculture by the Commodity Exchange Act (7 U. S. C. and Supp. III, secs. 1-17a), as amended by the act of Congress, approved April 7, 1938 (Public, No. 471, 75th Cong.), I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following amendments to the rules and regulations of the Secretary of Agriculture under said act promulgated July 14, 1937, said amendments to be effective immediately and until amended or superseded under the authority of said act, as amended.

The definitions of "commodity" and "Commodity Exchange Act; the act", contained in section 3 of the said rules and regulations are amended to read as follows:

Commodity.—This term means and includes wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs, Irish potatoes, and wool tops.

Commodity Exchange Act; the act.—These terms mean the Commodity Exchange Act (7 U. S. C. and Supp. III, secs. 1–17a), as amended by the act of Congress, approved April 7, 1938 (Public, No. 471, 75th Cong.).

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 18th day of April 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1103; Filed, April 18, 1938; 12:42 p. m.]

Forest Service.

OCCUPANCY, USE, PROTECTION AND ADMINISTRATION OF THE NATIONAL FORESTS

MODIFICATION OF REGULATION T–7

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat. 628) amendatory of the Act of June 4, 1897 (30 Stat. 11, 35), I, H. A. Wallace, Secretary of Agriculture, do hereby amend Regulation T–7 of the rules and regulations governing the occupancy, use, protection and administration of the National Forests, by modifying paragraph two of the regulation to read as follows:

Hunting, trapping, catching, disturbing, killing, or having in possession any kind of game animal, game or non-game bird or fish, or taking the eggs of any such bird, in violation of the laws of the State in which such land is situated.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington, this 15th day of April, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1101; Filed, April 18, 1938; 11:31 a. m.]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

[Supplement to Regulation D]

RESERVES REQUIRED TO BE MAINTAINED BY MEMBER BANKS WITH FEDERAL RESERVE BANKS

EFFECTIVE AS TO EACH MEMBER BANK AT THE OPENING OF BUSINESS ON APRIL 16, 1938

Pursuant to the provisions of section 19 of the Federal Reserve Act and section 2 (a) of its Regulation D, the Board of Governors of the Federal Reserve System hereby prescribes the following reserve balances which each member bank of the Federal Reserve System is required to maintain on deposit with the Federal Reserve bank of its district:

5 per cent of its time deposits plus—

12 per cent of its net demand deposits if not in a reserve or central reserve city;

17½ per cent of its net demand deposits if in a reserve city, except that if located in an outlying district of a reserve city or in territory added to such city by the extension of the city's corporate limits such bank may, upon the affirmative vote of five members of the Board of Governors of the Federal Reserve System, be permitted to maintain 12 per cent reserves against its net demand deposits;

22¾ per cent of its net demand deposits if located in a central reserve city, except that if located in an outlying district of a central reserve city or in territory added to such city by the extension of the city's corporate limits, such bank may, upon the affirmative vote of five members of the Board of Governors of the Federal Reserve System, be permitted to maintain 12 per cent or 17½ per cent reserves against its net demand deposits.

The supplements to Regulation D which have previously been issued are hereby revoked and superseded.

Approved by the Board of Governors of the Federal Reserve System on April 15, 1938.

[SEAL] S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 38–1082; Filed, April 15, 1938; 4:22 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT–5508]

IN THE MATTER OF OKLAHOMA GAS AND ELECTRIC COMPANY, RATE SCHEDULE FPC NO. 3

ORDER DIRECTING FURTHER SUSPENSION AND POSTPONEMENT OF HEARING

APRIL 14, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

(1) Whereas, Oklahoma Gas and Electric Company, Rate Schedule FPC No. 3 was suspended by order of the Commission on February 2, 1938 and the use of rates, charges, classifications and service provided thereby deferred until May 2, 1938, and it was further ordered that during the period February 2, 1938 to May 2, 1938, Oklahoma Gas and Electric Company, Rate Schedule FPC No. 2, was to be and remain in full force and effect; and

(2) Whereas, the Commission by order entered upon its own motion on March 8, 1938, directed that a public hearing be held in the matter of the suspension of the rate schedule designated as Oklahoma Gas and Electric Company, Rate Schedule FPC No. 3 on April 18, 1938; and

(3) Whereas, counsel for Oklahoma Gas and Electric Company on April 7, 1938, represented to the Commission the desirability of postponing the hearing in the above matter from April 18, 1938, to May 2, 1938, and this recommendation has been concurred in by all other parties to the proceeding; and

(4) Whereas, the lawfulness of the rates, charges, classifications, and services specified in Oklahoma Gas and Electric Company, Rate Schedule FPC No. 3, cannot be determined by the Commission until the public hearing has been had thereon and the Commission fully advised as to all facts and circumstances relating thereto.

It is therefore ordered by the Commission:

(*a*) That, Oklahoma Gas and Electric Company, Rate Schedule FPC No. 3 and rates, charges, classifications and service provided thereby be further suspended from May 2, 1938, to July 2, 1938, and that the use of such rates, charges, classifications, and service therein specified is further deferred for such period, and that during said period the agreement designated as, Oklahoma Gas and Electric Company, Rate Schedule FPC No. 2, shall remain and be in full force and effect.

(*b*) That a copy of this order be filed with Oklahoma Gas and Electric Company, Rate Schedule FPC No. 3, in the offices of the Federal Power Commission, and that copies hereof be forthwith served upon the parties to the said schedule.

(*c*) That the hearing on the above matter now assigned for April 18, 1938, be postponed and a public hearing on the matter of the suspension of the rate schedule designated as Oklahoma Gas and Electric Company, Rate Schedule FPC No. 3, and rates, charges, classifications, and service therein specified, be held on May 3, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–1081; Filed, April 15, 1938; 3:22 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 21]

ORDER RELATIVE TO MOTOR CARRIER RATES IN CENTRAL TERRITORY

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 15th day of April, A. D. 1938.

It appearing that income statements of Class I common carriers of property by motor vehicle (carriers which have gross revenues of $100,000.00 or over annually from motor carrier operations), which are made respondents in this proceedings,' are desirable to aid the Commission in the determination of the above-entitled proceeding:

It is ordered, That each Class I common carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before April 22, 1938, income statements for the year 1937 and for the months of January and February 1938, or for the first two periods in 1938 instead of the months of January and February in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said income statements shall be submitted under oath on the form herewith enclosed which form is hereby made a part of this order;

And it is further ordered, That any respondent in this proceeding receiving this order, which respondent is not a Class I carrier, as above defined, shall return the blank form of income statement to the Commission at its offices in Washington, D. C., on or before April 22, 1938, accompanied by a statement that this order is not applicable to its operation.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[One copy must be submitted to the Commission at its offices in Washington, D. C., on or before April 22, 1938]

INTERSTATE COMMERCE COMMISSION

IN EX PARTE NO. MC 21

Income Statement of Respondent Class I Common Carriers of Property by Motor Vehicle

[Includes carriers which have gross revenues of $100,000 or more annually from motor carrier operations]

Name of carrier _____

Address _____
(No.) (Street) (City) (State)

	Year 1937	January 1938	February 1938
I. Carrier Operating Income:			
Revenues: Operating Revenues			
Expenses:			
Operation and Maintenance Expenses			
Depreciation Expense			
Operating Taxes and Licenses			
Operating Rents—Net			
Total Expenses			
Net Carrier Operating Income			
II. Other Income			
III. Income Deductions			
Net Income (or Loss)			

NOTE.—Include rents paid or received for leased property under Operating Rents—Net. All other income items not specifically provided for shall be reported under groups II and III. Amounts reported for the year 1937 need not be restated to conform exactly to the above classification, but may be grouped to suit the carrier's convenience, based upon the records maintained for that year.

OATH

STATE OF _____,
County of _____, ss:

_____ (Name) Makes oath and says that he is the _____ (Title of affiant) of the _____ (Name of Applicant); that he is authorized on the part of said respondent to verify and file with the Interstate Commerce Commission this income statement; that he has carefully examined all of the statements contained in such income statement; that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

Subscribed and sworn to before me, a _____ in and for the State and county above named, this _____ day of _____, 1938.

[SEAL] _____

My commission expires _____.

[F. R. Doc. 38–1102; Filed, April 18, 1938; 12:14 p. m.]

Wednesday, April 20, 1938 *No. 77*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

INSPECTION OF INCOME, EXCESS-PROFITS, AND CAPITAL STOCK TAX RETURNS BY THE SPECIAL COMMITTEE TO INVESTIGATE LOBBYING ACTIVITIES, UNITED STATES SENATE

By virtue of the authority vested in me by section 257 (a) of the Revenue Act of 1926 (44 Stat. 9, 51); section 55 of the Revenue Act of 1934 (48 Stat. 680, 698); sections 105 (e) and 106 (c) of the Revenue Act of 1935 (49 Stat. 1014, 1018, 1019); and section 55 of the Revenue Act of 1936 (49 Stat. 1648, 1671), it is hereby ordered that income, excess-profits, and capital stock tax returns made under the Revenue Act of 1935, as amended by the Revenue Act of 1936, the Revenue Act of 1936, and the Revenue Act of 1936 as amended by the Revenue Act of 1937, shall be open to inspection by the Special Committee to Investigate Lobbying Activities, United States Senate, or any duly authorized subcommittee thereof, for the purpose of, and to the extent necessary in, the investigation of lobbying activities in connection with the so-called "holding company bill", or any other matter or proposal affecting legislation which such committee or subcommittee is authorized and directed to make by Senate Resolution 165, passed July 11, 1935 (Seventy-fourth Congress, first session); such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the Treasury Decision relating to the inspection of returns by that committee, approved by me this date.

This order shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 18, 1938.

[No. 7869]

[F. R. Doc. 38–1113; Filed, April 19, 1938; 12 m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4800]

REGULATIONS GOVERNING THE INSPECTION OF INCOME, EXCESS-PROFITS AND CAPITAL STOCK TAX RETURNS MADE UNDER THE REVENUE ACT OF 1935, AS AMENDED, THE REVENUE ACT OF 1936, AND THE REVENUE ACT OF 1936, AS AMENDED, BY THE SPECIAL COMMITTEE TO INVESTIGATE LOBBYING ACTIVITIES, UNITED STATES SENATE

APRIL 9, 1938.

Collectors of Internal Revenue and Others Concerned:

Pursuant to the provisions of section 257 (a) of the Revenue Act of 1926; section 55 of the Revenue Act of 1934;

sections 105 (e) and 106 (c) of the Revenue Act of 1935; and section 55 of the Revenue Act of 1936, income tax returns made under the Revenue Act of 1936, and the Revenue Act of 1936, as amended, and capital stock and excess-profits tax returns made under the Revenue Act of 1935, as amended, may be inspected by the Special Committee to Investigate Lobbying Activities, United States Senate, or any duly authorized subcommittee thereof, for the purpose of, and to the extent necessary in the investigation of lobbying activities in connection with the so-called "holding company bill", or any other matter or proposal affecting legislation, which the committee or an authorized subcommittee thereof is authorized and directed to make by Senate Resolution 165 (Seventy-fourth Congress, first session), passed July 11, 1935.

The inspection of returns herein authorized may be by the committee or a duly authorized subcommittee thereof, acting directly as a committee or a subcommittee, or by or through such examiners or agents as the committee or subcommittee may designate or appoint. Upon written notice by the chairman of the committee or of the authorized subcommittee to the Secretary of the Treasury, giving the names and addresses of the taxpayers whose returns it is necessary to inspect and the taxable periods covered by the returns, the Secretary and any officer or employee of the Treasury Department shall furnish such committee or subcommittee with any data relating to or contained in any such return, or shall make such return available for inspection by the committee or subcommittee or by such examiners or agents as the committee or subcommittee may designate or appoint, in the office of the Commissioner of Internal Revenue. Any information thus obtained by the committee or the subcommittee thereof, which is relevant or pertinent to the purpose of the investigation, may be submitted by the committee or the subcommittee to the Senate.

[SEAL] ROSWELL MAGILL,
Acting Secretary of the Treasury.

Approved:
FRANKLIN D ROOSEVELT
The White House, April 18, 1938.

[F. R. Doc. 38-1121; Filed, April 19, 1938; 2:37 p. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

[No. 8]

OWYHEE PROJECT—OREGON-IDAHO

PUBLIC NOTICE OF ANNUAL WATER RENTAL CHARGES[1]

MARCH 28, 1938.

Announcement is hereby made that water will be furnished during the irrigation season of 1938 (from April 15 to October 15, inclusive) for the irrigation of project lands, hereinafter described, upon a water rental basis, at rates and upon terms following:

For lands in the Owyhee and Kingman Colony irrigation districts—now in process of merging:

For lands in the Kingman Colony District and for privately owned and entered lands under the North Canal in the Owyhee District, a minimum charge of one dollar ($1.00) per irrigable acre whether irrigated or not, payable by the district in advance of the delivery of any water, for which amount two and six-sevenths (2⅔) acre-feet of water per acre will be furnished. Thirty-five cents ($0.35) per acre-foot will be charged for any additional water furnished to any tract or farm unit in excess of two and six-sevenths (2⅔) acre-feet per irrigable acre, payable by the district December 1, 1938.

For lands under the South Canal in the Owyhee Irrigation District, a minimum charge of one dollar ($1.00) per acre for the lands actually irrigated, payable by the district in advance of the delivery of water, for which amount two and six-sevenths (2⅔) acre-feet of water per acre will be furnished. Thirty-five cents ($0.35) per acre-foot will be charged for any additional water furnished, payable by the district December 1, 1938.

Water for the Owyhee and Kingman Colony irrigation districts will be delivered and measured at the nearest tap and weir to the individual farm.

For lands in the Ontario-Nyssa Irrigation District:

A minimum charge of five thousand two hundred fifty dollars ($5,250) for fifteen thousand (15,000) acre-feet of water, payable by the district in advance of the delivery of any water. Thirty-five cents ($0.35) per acre-foot for any additional water furnished, payable by the district on December 1, 1938. Water for the Ontario-Nyssa Irrigation District will be delivered into the Ontario-Nyssa canal at the head and at a feeder near the oil well and at other points mutually agreed on by the district and the Bureau of Reclamation.

For lands in the Advancement Irrigation District:

A minimum charge of one dollar ($1.00) per irrigable acre for two and six-sevenths (2⅔) acre-feet per acre per annum, payable by the district for each irrigable acre contained therein, in advance of the delivery of any water. Thirty-five cents ($0.35) per acre-foot for any additional water furnished, payable by the district on December 1, 1938.

Water for the Advancement Irrigation District to be measured at the outlets of the North and South Advancement pumps.

For lands in the Payette-Oregon Slope, Bench, and Crystal Irrigation districts:

A minimum charge of one dollar ($1.00) per irrigable acre for two and six-sevenths (2⅔) acre-feet per acre per annum payable by the respective districts for each irrigable acre contained therein in advance of delivery of any water. Thirty-five cents ($0.35) per acre-foot for any additional water furnished, payable by the respective districts on December 1, 1938.

Water for the Payette-Oregon Slope, Bench, and Crystal irrigation districts will be delivered and measured at the nearest tap and weir to the individual farms.

For lands in the Slide Irrigation District:

If the reorganization of the Slide Irrigation District is completed, then water may be furnished to the lands of the district if and when available, depending on the progress of construction.

A minimum charge of one dollar ($1.00) per acre for the lands actually irrigated for two and six-sevenths (2⅔) acre-feet per acre per annum and payable by the district in advance of delivery of water. Thirty-five cents ($0.35) per acre-foot for any additional water furnished, payable by the district December 1, 1938.

For lands in the Gem Irrigation District:

For old lands in the district, a minimum charge of three thousand five hundred dollars ($3,500) for ten thousand (10,000) acre-feet, payable by the district in advance of delivery of any water. Thirty-five cents ($0.35) per acre-foot for any additional water furnished, payable by the district on December 1, 1938.

For new lands in the district, water will be furnished if and when available, depending on the progress of construction, at a price of thirty-five cents ($0.35) per acre-foot for water furnished, payable by the district when ordered.

Water for the old lands of the Gem District will be delivered into the A and D canals at the various constructed feeders and measured at these points.

Water for the new lands will be delivered and measured at the nearest tap and weir to the individual farms.

In determining the amount of water delivered on which rental charges will be based, in the case of the Ontario-Nyssa and the old lands of the Gem Irrigation District, deduction of ten per cent (10%) will be made from the amounts measured at points of delivery to the respective districts as an allowance for losses in the district canals operated by district forces.

Applications for water on the basis of this public notice will be received at the office of the United States Bureau of Reclamation at Boise, Idaho, P. O. Box 937, and payments shall be made to that office.

[SEAL] OSCAR L. CHAPMAN,
Assistant Secretary.

[1] Act of June 17, 1902, 32 Stat., 388, as amended or supplemented.

[F. R. Doc. 38-1109; Filed, April 19, 1938; 9:41 a. m.]

[No. 49]

YUMA IRRIGATION PROJECT, ARIZONA-CALIFORNIA

PUBLIC NOTICE OF ANNUAL WATER CHARGES[1]

MARCH 28, 1938.

1. *Annual operation and maintenance charges for lands under public notice, Reservation Division.*—The annual operation and maintenance charge for the irrigation season of 1938, and thereafter until further notice, against all lands of the Reservation Division of the Yuma Irrigation project, Arizona-California, under public notice, shall be a minimum of two dollars and fifty cents ($2.50) per irrigable acre, whether water is used or not, which charge shall permit the delivery of not to exceed 5 acre-feet of water per acre on certain sandy areas shown on the list attached to public notices No. 31 dated April 14, 1931, No. 40 dated March 1, 1935, No. 43 dated February 17, 1936, and No. 47 dated March 5, 1937, and as amended by the list attached to this public notice, and of not to exceed 4 acre-feet of water per acre on all other lands of this division; additional water shall be furnished at the rate of one dollar ($1.00) per acre-foot. Where, in the opinion of the superintendent, it may be done without interference with other project requirements, upon written request filed in advance by the water users, water for reclaiming lands by the washing out of alkali, either by the usual leach methods or by growing rice or similar crop, will be furnished free of charge; and water in excess of the minimum amount herein provided, which is to be used for the growing of fertilizer crops of no commercial value or which is to be used for the purpose of depositing silt upon the land, shall be furnished free of charge. All lands for which free water was served during the year 1937 will not again be served free water for the same area until evidence satisfactory to the project superintendent has been made that the water so granted free of charge during the year 1937 was applied to the land in sufficient quantities over a period of not less than 3 months, in which event water shall again be served free of charge provided the results accomplished during the preceding irrigation season were not satisfactory. All operation and maintenance charges shall be due and payable on March 1 of each year for the preceding irrigation season to the Agent-Cashier, Bureau of Reclamation, Yuma, Arizona.

2. *Annual water rental charges for other lands, Reservation Division.*—Lands not under public notice that can be irrigated from the present distribution system without further construction expense by the Bureau may secure irrigation water under water rental contracts at a rate of two dollars and fifty cents ($2.50) per irrigable acre, which charge will permit the delivery of not to exceed 4 acre-feet of water per acre, and additional water will be furnished at the rate of one dollar ($1.00) per acre-foot. All charges due under water rental contracts are payable in advance of the delivery of water. The minimum charge as specified shall be paid before any water is delivered during the current or subsequent seasons and all additional or excess water over the minimum of 4 acre-feet shall be paid for when ordered and prior to delivery. Refund will be made for excess water paid for but not used.

3. *Annual water rental charge for lands in the Valley Division not under public notice.*—Lands in the Valley Division not under public notice which can be irrigated from the present distribution system without further construction expense by the United States may secure irrigation water during the calendar year 1938 and until further notice under water rental contracts at a rate of three dollars ($3.00) per irrigable acre, which charge will permit the delivery of four acre-feet per acre. Additional water furnished will be charged for at the rate of one dollar ($1.00) per acre-foot, payable in advance of delivery. All town lots that can be served under the present system may secure water under annual water rental contracts at the rate of five dollars ($5.00) a lot and one dollar ($1.00) for each additional lot in the same ownership, considering the maximum lot to be not over sixty (60) feet in width. All payments under water rental contracts are due and payable in advance of the delivery of water to the Agent-Cashier, Bureau of Reclamation, Yuma, Arizona.

[SEAL] OSCAR L. CHAPMAN,
Assistant Secretary.

[1] Act of June 17, 1902, 32 Stat., 388, as amended or supplemented.

LIST OF SANDY AREAS

[To accompany Public Notice No. 49, dated March 28, 1938]

T. 16 S., R. 23 E., S. B. M., California:

Section	Farm unit or description	Acres
9	"J"	14

[F. R. Doc. 38-1110; Filed, April 19, 1938; 9:42 a. m.]

Division of Grazing.

NEW MEXICO GRAZING DISTRICT NO. 4

MODIFICATION

APRIL 15, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, the Departmental order of April 8, 1935, establishing New Mexico Grazing District No. 4, is hereby modified to include within its exterior boundaries the following-described land:

NEW MEXICO

New Mexico Principal Meridian

T. 19 S., R. 4 E., secs. 1, 2, and 3, E½ secs. 4 and 9, secs. 10 to 15 inclusive, E½ secs. 16 and 21, secs. 22 to 27 inclusive, E½ sec. 28, N½, SE¼ sec. 34, secs. 35 and 36.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1108; Filed, April 19, 1938; 9:40 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN THE DOMESTIC BEET SUGAR AREA

Pursuant to the provisions of Section 303 of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, hereby determine:

1. That the State Agricultural Conservation Committee for each state in which sugar beets were planted for harvest in 1937 shall determine the counties or local producing areas, as hereinafter defined, in which the actual yields of commercially recoverable sugar from the acreage planted to

sugar beets for harvest in 1937 on 10 per centum or more of all the farms in the county or local producing area are less than 80 per centum of the respective normal yields of commercially recoverable sugar for such farms because of drought, flood, storm, freeze, disease, or insects.

2. That the State Agricultural Conservation Committee for each such state shall approve for abandonment and deficiency payments, in accordance with the provisions of Section 303 of the said Act, any farm in any such county or local producing area if the farm has otherwise met the conditions of Title III of the said Act.

3. That a "local producing area" for purpose of paragraph one above shall be all contiguous farms in the county which are found by the State Agricultural Conservation Committee to be similar with respect to types of soil, or with respect to topography: *Provided, however,* That farms separated from other farms by any natural boundary or barrier (such as mountains, rivers, or large areas of land) shall not be included within the same local producing area.

4. That approval on behalf of the State Agricultural Conservation Committee of Section VI of form SB–110, "Application For Payment, 1937 Sugar Beet Program," shall constitute determination, pursuant to paragraphs one and two hereof, that the farm covered by the application is, if otherwise eligible for payment pursuant to Title III of said Act, also eligible for abandonment and deficiency payments pursuant to Section 303 of said Act.

Done at Washington, D. C., this 19th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–1111; Filed, April 19, 1938; 11:59 a. m.]

DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE FROM THE 1937 CROP OF SUGARCANE IN THE MAINLAND CANE SUGAR AREA

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that the amount of sugar commercially recoverable from the sugarcane grown on a farm in the mainland cane sugar area and marketed (or processed by the producer) for the extraction of sugar during the 1937–38 crop season shall be:

1. For sugarcane in localities in which settlement for purchased cane is based on sucrose content of the normal juice, the product of the number of short tons of sugarcane, not in excess of the proportionate share for the farm, multiplied by the number of hundredweights of sugar, raw value, applicable for the average percentage of sucrose in the normal juice of such sugarcane (computed to the nearest one-tenth of one per cent), as set forth in the following table:

Percentage of sucrose in normal juice	Hundredweights of sugar, raw value, commercially recoverable per ton of sugarcane [1]
5.0	0.436
6.0	.889
7.0	.744
8.0	.906
9.0	1.074
10.0	1.273
11.0	1.450
12.0	1.607
13.0	1.767
14.0	1.930
15.0	2.095
16.0	2.262
17.0	2.431
18.0	2.603
19.0	2.776
20.0	2.951

[1] Sugar recoverable for the intervening tenths of 1 per cent shall be calculated by straight interpolation.

2. For sugarcane in localities in which settlement for purchased cane is based on sucrose content of the crusher juice, the product of the number of short tons of sugarcane, not in excess of the proportionate share for the farm, multiplied by the number of hundredweights of sugar, raw value, applicable for the average percentage of sucrose in the crusher juice of such sugarcane (computed to the nearest one-tenth of one per cent), as set forth in the following table:

Percentage of sucrose in crusher juice	Hundredweights of sugar, raw value, commercially recoverable per ton of sugarcane [1]
5.0	0.738
6.0	.886
7.0	1.033
8.0	1.181
9.0	1.328
10.0	1.476
11.0	1.623
12.0	1.771
13.0	1.918
14.0	2.067
15.0	2.214
16.0	2.362
17.0	2.509
18.0	2.657
19.0	2.804
20.0	2.951

[1] Sugar recoverable for the intervening tenths of 1 per cent shall be calculated by straight interpolation.

Done at Washington, D. C. this 19th day of April 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38–1112; Filed, April 19, 1938; 11:59 a. m.]

[Puerto Rico Sugar Order No. 10]

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING THE DIRECT-CONSUMPTION PORTION OF THE 1938 SUGAR QUOTA FOR PUERTO RICO

General Sugar Quota Regulations, Series 5, No. 1, issued by the Secretary of Agriculture on December 20, 1937, pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), provides that the 1938 Puerto Rican sugar quota for shipment to the continental United States may be filled by shipments of direct-consumption sugar not in excess of 126,033 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within any area's quota. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the Puerto Rican sugar quotas among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. This preliminary finding may be changed or modified on the basis of the record obtained at the hearing. The Notice of Hearing and Designation of Presiding Officers

issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to section 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The hearing was held at Washington, D. C., on the date specified in the notice. No evidence was presented at the hearing held on January 14, 1938, which in any way indicated that the preliminary finding of the Secretary should not be confirmed. The preliminary finding was based upon information which the Secretary had to the effect that Puerto Rican processors were in a position to manufacture and make available for market a potential supply of approximately 400,000 tons of direct-consumption sugar during the calendar year 1938. The evidence presented at the hearing indicated a plant capacity of 402,000 tons for all processors in Puerto Rico. The total amount of such sugar which may be shipped to continental United States under the act is limited to 126,033 short tons. Under these conditions, it is probable that, without allotment of the direct-consumption portion of the quota, more raw sugar would be processed into direct-consumption sugar than can be shipped to the continental United States during any calendar year. This would result in disorderly marketing of sugar.

Section 205 (a) of the act provides in part that:

Allotments shall be made in such manner and in such amounts as to provide a fair, efficient and equitable distribution of such quota, or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him.

The first standard stated above for the Secretary to use in making allotments, namely, processings to which proportionate shares established under section 302 (b) of the act pertain, is inapplicable to the allotment of that portion of the quota which may be filled by direct-consumption sugar.

The other two standards given in the act, namely, "past marketings" and "ability * * * to market", are applicable and should both be used in making individual allotments, in order to provide a fair, efficient, and equitable distribution of the portion of the quota under discussion.

In determining "ability * * * to market", it in apparent that mill capacity alone cannot be taken as an accurate measure. That factor represents only a potential ability to produce sugar, dependent upon a number of other factors, such as the availability of raw sugar, the price of raw materials, transportation costs, and similar factors. An additional factor must be used in order to arrive at a true measure of ability to market. It is believed that the ratios of each processor's current marketings of sugar to the total of such marketings should be considered and given equal weight with the ratios of each processor's mill capacity to the total mill capacity for all processors. Since the hearing was held on January 14, 1938, it would be possible to take 1937 marketings as indicating the processor's current ability to market, but this method would be unfair to processors marketing direct-consumption sugar for the first time in 1938. In order, therefore, to be fair to both new and old processors, and in order to obtain as accurate a measure of present ability to market as possible, it is necessary to take marketings of direct-consumption sugar during the present calendar year. During the first three months of the current year, no allotment order was in effect and processors were not restricted in their shipments of direct-consumption sugar to the United States, and since there was reason to believe that allotments would be made, processors had an incentive to hasten shipments prior to the making of such allotments. Hence the official data of the Department showing actual entries against such quota during the period from January 1, 1938, to March 22, 1938 (the date of final preparation of Puerto Rico Sugar Order No. 9), are believed to constitute a necessary factor in determining actual ability to market sugar. This factor, along with that of mill refining capacity, is therefore deemed to be a fair measure of the present ability to market sugar.

Of the processors appearing at the hearing, all presented testimony bearing on the operating capacity of their respective mills. The testimony in this respect may be summarized as follows: [1]

Porto Rico American Sugar Refinery: 700 tons per day, or, on the basis of 300 operating days per year, 210,000 tons per annum (pp. 62 and 82 of record).

Central Aguirre Sugar Company: 8,000 to 9,000 tons per annum (p. 125 of record).

Central Guanica: 50,000 tons per annum (p. 128 of record).

Central Igualdad: 225 tons per day, or, on the basis of 300 operating days per year, 67,500 tons per annum (p. 77 of record).

Central Roig: 200 tons per day (pp. 170 and 174 of record).

The actual shipments of direct-consumption sugar to the continental United States between January 1, 1938, and March 22, 1938, as shown by official records of the Department of Agriculture, are as follows: [2]

	Short Tons Raw Value
Porto Rico American Sugar Refinery	46,866
Central Aguirre	1,970
Central Carmen	------
Central Guanica	------
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795

In determining "past marketings" for processors which have shipped direct-consumption sugar to the continental United States, it is believed that the years 1935, 1936, and 1937 should be used, since they are years during which a quota system was in effect and, consequently, are believed to be fair and reasonable under a restrictive program such as that provided for under the present and prior sugar legislation.

The testimony as to the past marketings of Porto Rico American Refinery and Central Aguirre may be summarized as follows: [3]

	Short tons, raw value		
	1935	1936	1937
Puerto Rican-American Sugar Refinery [1]	116,611	109,942	99,227
Central Aguirre [2]	2,600	2,350	5,460

[1] P. 60 of record.
[2] P. 126 of record.

The witness testifying on behalf of Central Guanica stated that it was given an allotment in 1935 but did not fill that allotment by "a substantial amount" (p. 130 of record). The

[1] No testimony was given on behalf of Central Carmen and Central San Francisco.

[2] These figures are taken from forms (Form SS–3) which importers, under regulations of the Secretary of Agriculture, are required to execute under oath and file with Collectors of Customs. The completed forms showing the kind of sugar, amount, and other pertinent data are forwarded by the Collectors of Customs to the Department of Agriculture.

[3] The figures are substantially correct, although somewhat at variance with the official statistics of the Department. However, the differences are small, as will be shown by comparison with the official figures hereinafter set forth in the Findings of Fact. In calculating past marketings, the figures used are those taken from the official statistics of the Department, collected in the manner stated in footnote 2, supra. The use of the official statistics instead of figures contained in the record gives no important differences in result.

official records of the Department show that Central Guanica shipped only 1,015 short tons, raw value, of direct-consumption sugar in 1935 and none in either of the other two years, 1936 and 1937.

The witness testifying on behalf of Central Roig stated that the company shipped 16,210 [1] short tons in 1937 (p. 181 of the record). No testimony was offered as to other years, but the official records of the Department show that Central Roig shipped 2,778 short tons, raw value, in 1936 and none in 1935.

Central Igualdad, Central Carmen, and Central San Francisco offered no testimony in regard to past marketings of direct-consumption sugar. However, the official records of the Department show the following marketings for these three companies for the years indicated:

Processor	Short tons, raw value		
	1935	1936	1937
Central Carmen	------	264	------
Central Igualdad	163	438	52
Central San Francisco	2,463	2,590	1,981

It is deemed desirable to reserve 5,712 short tons of sugar to be set aside for persons who bring in raw sugar from Puerto Rico for direct-consumption purposes, which amount represents the average quantity of such sugar brought in during the years 1935–1937, inclusive. It is not practicable to allot this quantity of sugar to individual processors, inasmuch as it would have to be allotted to 34 raw sugar processors, thereby rendering it impossible to make an efficient allotment as required by the act. An allotment would require continental purchasers of raw sugar for direct consumption to deal with a large number of sellers in order to obtain their requirements. Such disruption of customary trade practices could not reasonably be said to be an efficient distribution of this kind of sugar as required by the act.

On March 30, 1938, the Secretary issued Puerto Rico Sugar Order No. 9 containing allotments identical with those made in this Order but without the issuance of a statement of the facts and grounds for his decision. It is, therefore, deemed advisable to reissue the Order with a full statement of the facts and grounds for the allotments hereinafter made.

On the basis of the record of the hearing and official records of the Department of Agriculture used to the extent hereinbefore stated, I hereby find:

1. That the Puerto Rican processors of direct-consumption sugar are equipped to produce 401,500 tons of such sugar during the calendar year 1938.

2. That the present plant capacity of each Puerto Rican processor of direct-consumption sugar is as follows:

Processor:	*Rated Refining Capacity Per Annum—300-Day Basis*
Porto Rico American Sugar Refinery	210,000
Central Aguirre	8,500
Central Carmen	500
Central Guanica	50,000
Central Igualdad	67,500
Central Roig	60,000
Central San Francisco	5,000
	401,500

3. That shipments of direct-consumption sugar from Puerto Rico to the continental United States between January 1, 1938, and March 22, 1938, were as follows:

Processor:	*Short Tons*
Porto Rico American Sugar Refinery	46,866
Central Aguirre	1,970
Central Carmen	------
Central Guanica	------
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795

[1] Footnote 3 is applicable to this figure.

4. That during the years 1935, 1936, and 1937, Puerto Rican processors shipped direct-consumption sugar to the continental United States in the following amounts:

	Puerto Rican direct-consumption entries (refined and turbinado) into the U. S. (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,915	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen	------	264	------
Central Guanica	1,015	------	------
Central Igualdad	163	438	52
Central Roig	------	2,778	16,204
Central San Francisco	2,463	2,590	1,981
	122,971	118,511	121,502

On the basis of the foregoing, I hereby determine and conclude that the allotment of that portion of the 1938 Puerto Rican sugar quota which may be filled by shipments of direct-consumption sugar is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments should be made by giving equal weight to past marketings during the years 1935, 1936, and 1937, and ability to market as measured by present plant capacity and actual marketings of direct-consumption sugar between January 1, 1938, and March 22, 1938.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the said quantity of 126,033 short tons, raw value, of direct-consumption sugar shall be allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor:	*Direct-consumption allotment (short tons, raw value)*
Porto Rico American Sugar Refinery	93,406
Aguirre	3,464
Carmen	81
Guanica	3,914
Igualdad	5,741
Roig	11,768
San Francisco	1,947
	120,321
Unallotted reserve for marketings of raw sugar for direct consumption	5,712
Total	126,033

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar used for direct consumption) from Puerto Rico in excess of the marketing allotments set forth in the next preceding paragraph.

3. That the allotments fixed herein shall not be assigned or transferred without the approval of the Secretary of Agriculture or his duly appointed agent.

4. That this Order shall supersede Puerto Rico Sugar Order No. 9, issued by the Secretary on March 30, 1938.

In testimony whereof, M. L. Wilson, Acting Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 19th day of April, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–1120; Filed, April 19, 1938; 12:50 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

ADOPTION OF RULE RELATIVE TO SALE OF PUBLIC UTILITY SECURITIES AND UTILITY ASSETS BY REGISTERED HOLDING COMPANIES

Acting pursuant to the authority conferred upon it by sections 12 (d), 20 (a) and 27 (a) of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission deems it necessary and appropriate in the public interest and for the protection of investors and consumers, and to prevent the circumvention of the provisions of the Act, to adopt, and does hereby adopt a rule which shall be known as 12D–1 and shall read as follows:

RULE 12D–1. *Sale of public utility securities and utility assets by registered holding companies.*—(a) No registered holding company shall, directly or indirectly, sell any security which it owns of any public-utility company, or any utility assets except upon application to the Commission and in compliance with an order of the Commission entered after opportunity for hearing upon such application.

(b) An application with respect to a sale of securities subject to this rule shall set forth the information prescribed in Form U12D–1. An application with respect to a sale of utility assets subject to this rule shall set forth the information prescribed in Form U12D–2.

(c) The Commission, after opportunity for hearing, shall approve such application if it finds that the terms and conditions of such sale with respect to the consideration to be received for such sale, maintenance of competitive conditions, fees and commissions, accounts, disclosure of interest, and similar matters, are not detrimental to the public interest or the interest of investors or consumers, and will not tend to circumvent the provisions of the Act or any rules, regulations or orders of the Commission thereunder.

(d) Paragraph (a) of this rule shall not apply to:

(1) The sale of any prime commercial paper or other security which has been acquired by the company making such sale pursuant to paragraph (2) of Rule 9C–3;

(2) The pledge of any security as collateral for any other security issued by the pledgor if such pledge is made at the time of the issuance or sale of such other security by the pledgor: *Provided*, That such pledge has been disclosed in a declaration or application filed with the Commission in connection with the issuance or sale of such other security or that the issuance and sale of such other security is exempt under the first sentence of section 6 (b);

(3) The sale of any security of any public-utility company which does not operate or have any subsidiary company which operates in the United States;

(4) The sale of any security, the seller of which, prior to such sale, owns less than 5 percent of the class of securities so sold;

(5) The sale of any security if the consideration for such sale and all prior sales of securities of the same class during the same calendar year aggregates less than $50,000 and;

(A) The security so sold is not a security of an associate company; or

(B) The security so sold is not a voting security or a security convertible into a voting security.

(e) Paragraph (a) of this rule shall not apply to the sale of any utility assets where the gross consideration, or book value of such assets, whichever is the greater, is less than $50,000.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1105; Filed, April 18, 1938; 1:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of April, A. D., 1938.

[File Nos. 55–1, 55–2]

IN THE MATTER OF CHARLES TRUE ADAMS, TRUSTEE, UTILITIES POWER & LIGHT CORPORATION AND CENTRAL SERVICE CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935, and of Rule 11F–2 thereunder, having been duly filed with this Commission by Central Service Corporation for approval by the Commission of the amount to be paid for services to be rendered to the Trustee of the Estate of Utilities Power & Light Corporation, a registered holding company, now being reorganized under section 77B of the Bankruptcy Act;

It is ordered, That a hearing on such matter be held on April 25, 1938, at 10:00 o'clock in the forenoon of that day, at the offices of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois. On such day the Regional Administrator, at the above mentioned address, will advise as to the room where such hearing will be held;

It is further ordered, That Commissioner George C. Mathews, a member of the Securities and Exchange Commission, and Henry Fitts, an officer of the Commission, be and they hereby are designated by said Commission for the purpose of presiding at the hearing in such matter. Such Commissioner, or such officer, so designated to preside at such hearing, or either of them, are hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer;

It is further ordered, That the Commission's order of April 13, 1938 be and the same hereby is amended to the extent of additionally designating the said Commissioner George C. Mathews to preside at the hearing on the application of Charles True Adams, Trustee, Utilities Power & Light Corporation;

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before April 22, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1107; Filed, April 18, 1938; 1:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of April, 1938.

[File No. 1–957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, $100 PAR VALUE, 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE, 6% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE, AND 6% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Market Street Railway Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $100 Par Value, 6% Cumulative Prior Preference Stock, $100 Par Value, 6% Cumulative Preferred Stock, $100 Par Value, and 6% Non-Cumulative Second Preferred Stock, $100 Par Value, from listing and registration on the San Francisco Stock Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on June 12, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1106; Filed, April 18, 1938; 1:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of April, 1938.

[File No. 1-2816]

IN THE MATTER OF LIMA CORD SOLE AND HEEL CORPORATION COMMON STOCK, $1 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Lima Cord Sole and Heel Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $1 Par Value, from listing and registration on the Cleveland Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard:

It is ordered, That the matter be set down for hearing at 10:00 o'clock A. M., on Wednesday, May 4, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1104; Filed, April 18, 1938; 1:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of April, A. D. 1938.

[File No. 37-22]

IN THE MATTER OF COLUMBIA ENGINEERING CORPORATION

ORDER IN RE DECLARATION

Columbia Engineering Corporation having filed a declaration pursuant to Section 13 (b) of the Public Utility Holding Company Act of 1935, and Rule 13-22 thereunder, with respect to the organization and conduct of its business as a subsidiary service company of, and rendering services to the holding company system of, Columbia Gas and Electric Corporation, a registered holding company; the proposed services including: General Executive, Administrative and Financial; Accounting; Statistical; Corporate; Tax; Purchasing; Insurance; Auditing; Commercial and General Sales; Rate; Construction Budget, Automotive and Safety; Engineering; and Stationery and Addressing; as stated in the contract with associates set out as an exhibit to the declaration; such declaration having been amended; a hearing thereon having been held after appropriate notice; the record in this matter having been examined; and the Commission having made its findings herein;

It is found that the declarant is so organized and conducted, or will be conducted, as to meet the requirements of Section 13 (b) with respect to reasonable assurance of efficient and economical performance of services for the benefit of its associate companies at cost fairly and equitably allocated among them.

No finding is made with respect to the rendering of any services differing materially from those described by said amended declaration as the services which declarant intends presently to render.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1115; Filed, April 19, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of April, A. D. 1938.

[File No. 7-181]

IN THE MATTER OF NASH-KELVINATOR CORPORATION CAPITAL STOCK, $5 PAR VALUE

ORDER GRANTING APPLICATION TO EXTEND UNLISTED TRADING PRIVILEGES

The Detroit Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for the extension of unlisted trading privileges to the Capital Stock, $5 Par Value, of Nash-Kelvinator Corporation; and

After appropriate notice, a hearing having been held in this matter and the Commission having this day made and filed its opinion and findings of fact herein;

It is ordered, That the application of the Detroit Stock Exchange pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, for the extension of unlisted trading privileges to the Capital Stock, $5 Par Value, of Nash-Kelvinator Corporation be and the same is hereby granted in respect of trading in such security.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1116; Filed, April 19, 1938; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of April, A. D. 1938.

[File No. 46-97]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by The Middle West Corporation, a registered holding company, for approval of the acquisition by it of not to exceed 20,000 shares of the preferred stock without par value of Central Illinois Public Service Company, said purchases to be made on the open market, and it being stated that said Central Illinois Public Service Company is a subsidiary company of applicant;

It is ordered, That a hearing on such matter be held on May 9, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 4, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1114; Filed, April 19, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of April, 1938.

[File No. 10-24-1]

IN THE MATTER OF MINNEAPOLIS-ST. PAUL STOCK EXCHANGE

ORDER AMENDING CONDITION (5) OF ORDER GRANTING EXEMPTION OF SAID EXCHANGE FROM REGISTRATION AS A NATIONAL SECURITIES EXCHANGE

The Minneapolis-St. Paul Stock Exchange, upon application having been granted exemption from registration as a national securities exchange pursuant to Section 5 of the Securities Exchange Act of 1934, subject, however, to certain conditions; and

Condition (5) of the order granting said exemption having prohibited said exchange from admitting any security to unlisted trading privileges after February 1, 1936; and

It being the opinion of the Commission that it is necessary and appropriate in the public interest and for the protection of investors to make provision for the admission of securities to unlisted trading privileges on said Exchange in the same manner in which securities may be admitted to unlisted trading privileges on exchanges registered as national securities exchanges;

It is ordered, That said Condition (5) be amended to read as follows:

(5) (a) that after January 15, 1938, said exchange shall not extend unlisted trading privileges to a security unless, in respect of such security, the requirements prescribed for the extension of unlisted trading privileges pursuant to the provisions of Section 12 (f) of said Act, as amended, and the rules and regulations prescribed thereunder are complied with by said Exchange as if it were a national securities exchange; and

(b) that with respect to the suspension or termination of unlisted trading privileges in a security, the provisions of Section 12 (f) of said Act, as amended, and the rules and regulations prescribed thereunder, shall be complied with by said Exchange as if it were a national securities exchange.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1119; Filed, April 19, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of April, 1938.

[File No. 10-41-1]

IN THE MATTER OF SEATTLE STOCK EXCHANGE

ORDER AMENDING CONDITION (5) OF ORDER GRANTING EXEMPTION OF SAID EXCHANGE FROM REGISTRATION AS A NATIONAL SECURITIES EXCHANGE

The Seattle Stock Exchange, upon application having been granted exemption from registration as a national securities exchange pursuant to Section 5 of the Securities Exchange Act of 1934, subject, however, to certain conditions; and

Condition (5) of the order granting said exemption having prohibited said exchange from admitting any security to unlisted trading privileges after February 1, 1936; and

It being the opinion of the Commission that it is necessary and appropriate in the public interest and for the protection of investors to make provision for the admission of securities to unlisted trading privileges on said Exchange in the same manner in which securities may be admitted to unlisted trading privileges on exchanges registered as national securities exchanges;

It is ordered, That said Condition (5) be amended to read as follows:

(5) (a) that after January 15, 1938, said exchange shall not extend unlisted trading privileges to a security unless, in respect of such security, the requirements prescribed for the extension of unlisted trading privileges pursuant to the provisions of Section 12 (f) of said Act, as amended, and the rules and regulations prescribed thereunder are complied with by said Exchange as if it were a national securities exchange; and

(b) that with respect to the suspension or termination of unlisted trading privileges in a security, the provisions of Section 12 (f) of said Act, as amended, and the rules and regulations prescribed thereunder, shall be complied with by said Exchange as if it were a national securities exchange.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1118; Filed, April 19, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of April, 1938.

[File No. 10-44-1]

IN THE MATTER OF WHEELING STOCK EXCHANGE

ORDER AMENDING CONDITION (5) OF ORDER GRANTING EXEMPTION OF SAID EXCHANGE FROM REGISTRATION AS A NATIONAL SECURITIES EXCHANGE

The Wheeling Stock Exchange, upon application having been granted exemption from registration as a national securities exchange pursuant to Section 5 of the Securities Ex-

change Act of 1934, subject, however, to certain conditions; and

Condition (5) of the order granting said exemption having prohibited said exchange from admitting any security to unlisted trading privileges after February 1, 1936; and

It being the opinion of the Commission that it is necessary and appropriate in the public interest and for the protection of investors to make provision for the admission of securities to unlisted trading privileges on said Exchange in the same manner in which securities may be admitted to unlisted trading privileges on exchanges registered as national securities exchanges;

It is ordered, That said Condition (5) be amended to read as follows:

(5) (a) that after January 15, 1938, said exchange shall not extend unlisted trading privileges to a security unless, in respect of such security, the requirements prescribed for the extension of unlisted trading privileges pursuant to the provisions of Section 12 (f) of said Act, as amended, and the rules and regulations prescribed thereunder are complied with by said Exchange as if it were a national securities exchange; and

(b) that with respect to the suspension or termination of unlisted trading privileges in a security, the provisions of Section 12 (f) of said Act, as amended, and the rules and regulations prescribed thereunder, shall be complied with by said Exchange as if it were a national securities exchange.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1117; Filed, April 19, 1938; 12:42 p. m.]

Thursday, April 21, 1938 ***No. 78***

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 3345 OF OCTOBER 23, 1920, WITHDRAWING PUBLIC LANDS FOR NATIONAL MONUMENT CLASSIFICATION

Arizona

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, Executive Order No. 3345 of October 23, 1920, temporarily withdrawing public lands in Arizona for national-monument classification, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 19, 1938.

[No. 7870]

[F. R. Doc. 38-1125; Filed, April 20, 1938; 10:45 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 237]

ALLOCATION OF FUNDS FOR LOANS

APRIL 15, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Montana 8010B2 Madison	$3,000
North Dakota 8008A3 Benson	3,000
Wisconsin 8045G5 Chippewa	60,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1122; Filed, April 20, 1938; 10:08 a. m.]

[Administrative Order No. 238]

AMENDMENT OF ALLOCATIONS OF FUNDS FOR LOANS

APRIL 16, 1938.

I hereby amend Administrative Order No. 217 by rescinding the allocation of $10,000 made to Kentucky 8014A2 Henderson by that Administrative Order.

I hereby amend Administrative Order No. 166 by reducing the amount of the allocation to North Carolina 8029 Dare from $61,000 to $42,000.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1124; Filed, April 20, 1938; 10:09 a. m.]

[Administrative Order No. 239]

ALLOCATION OF FUNDS FOR LOANS

APRIL 16, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Louisiana 8006A2 St. Marys	$7,000
Tennessee 8019A4 Rutherford	10,000
Tennessee 8016B2 Madison	24,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1123; Filed, April 20, 1938; 10:08 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of April, A. D. 1938.

[File Nos. 43-103, 47-19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORPORATION

NOTICE OF AND ORDER FOR RECONVENING OF HEARING

Republic Electric Power Corporation, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of 11,690 shares of its $100 par value 5% Non-Cumulative Preferred Stock to Niagara Share Corporation; such company having also filed an application pursuant to Section 10 of such Act for approval of the acquisition of the physical properties and other assets of Gas Transport Company and Apache Gas Company;

Notice of the hearings on such matters having been given; said hearings having been held jointly and continued; and it now appearing that said joint hearing should be reconvened;

It is ordered, That said hearing be reconvened on May 6, 1938 at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why such declaration shall become effective.

Notice of such hearing is hereby given to Republic Electric Power Corporation and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 2, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1126; Filed, April 20, 1938; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of April, A. D. 1938.

[File No. 31-11]

IN THE MATTER OF THE APPLICATION OF THE CLEVELAND-CLIFFS IRON COMPANY, THE CLIFFS CORPORATION, WM. G. MATHER, CYRUS S. EATON AND EDWARD B. GREENE, AS VOTING TRUSTEES, WM. G. MATHER, S. LIVINGSTON MATHER, AND G. G. WADE, AS VOTING TRUSTEES

ORDER GRANTING EXEMPTION FROM PROVISIONS OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND DECLARING THE CLIFFS CORPORATION NOT TO BE A SUBSIDIARY OF A SPECIFIED HOLDING COMPANY

The Cleveland-Cliffs Iron Company; The Cliffs Corporation; Wm. G. Mather, Cyrus S. Eaton and Edward B. Greene, as Voting Trustees; Wm. G. Mather, S. Livingston Mather, and G. G. Wade, as Voting Trustees; having made application for exemption pursuant to the provisions of Section 3 (a) (3) of the Public Utility Holding Company Act of 1935, The Cliffs Corporation having made application pursuant to Section 2 (a) (8) of said Act; after appropriate notice hearing on said applications having been duly held and the Commission having made its findings herein;

It is ordered, That said The Cleveland-Cliffs Iron Company be, and it hereby is exempted from all those provisions of the Public Utility Holding Company Act of 1935 which, by reason of the fact that it owns, controls, or holds with power to vote, 10 per centum or more of the outstanding voting securities of The Cliffs Power and Light Company, would require it to register under said Act;

It is further ordered, That said The Cliffs Corporation be, and it hereby is, exempted from all those provisions of the Public Utility Holding Company Act of 1935 which, by reason of the fact that it owns, controls, or holds with power to vote, 10 per centum or more of the outstanding voting securities of The Cleveland-Cliffs Iron Company; would require it to register under said Act;

It is further ordered, That said Wm. G. Mather, Cyrus S. Eaton and Edward B. Greene, as Voting Trustees, be, and they hereby are, exempted from all those provisions of the Public Utility Holding Company Act of 1935, which, by reason of the fact that they own, control, or hold with power to vote, 10 per centum or more of the outstanding voting securities of The Cleveland-Cliffs Iron Company, would require them to register under said Act;

It is further ordered, That said Wm. G. Mather, S. Livingston Mather and G. G. Wade, as Voting Trustees, be, and they hereby are, exempted from all those provisions of the Public Utility Holding Company Act of 1935 which, by reason of the fact that they own, control, or hold with power to vote, 10 per centum or more of the outstanding voting securities of The Cliffs Corporation, would require them to register under said Act;

It is further ordered, That said The Cliffs Corporation be, and hereby is, declared not to be a subsidiary company of Charles S. Wachner, Receiver of the Ohio Estate of Continental Shares, Inc., appointed by the Common Pleas Court of Cuyahoga County, Ohio; provided, however, that this paragraph shall remain in effect only so long as said The Cliffs Corporation shall comply with the following conditions: (a) that said The Cliffs Corporation shall apply for a renewal of this order within 60 days after it shall have notice that the said Wm. G. Mather, S. Livingston Mather and G. G. Wade, or their successors, as voting trustees, no longer hold with power to vote in excess of 50 per cent of the outstanding voting securities of The Cliffs Corporation, and (b) that said The Cliffs Corporation shall apply for renewal of this order at such other and further times and file such reports as the Commission may from time to time require. Leave is reserved to The Cliffs Corporation to request such modification of Clause (a) of said conditions as future circumstances may render appropriate.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1129; Filed, April 20, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of April, 1938.

[File No. 7-215]

IN THE MATTER OF CAMBRIA IRON COMPANY CAPITAL STOCK, $50 PAR VALUE

ORDER GRANTING REQUEST TO WITHDRAW APPLICATION FOR EXTENSION OF UNLISTED TRADING PRIVILEGES

The Philadelphia Stock Exchange having made application to the Commission pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, for extension of unlisted trading privileges to the Capital Stock, $50 Par Value, of Cambria Iron Company; and

The Philadelphia Stock Exchange having requested permission to withdraw said application;

It is ordered, That said request be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1127; Filed, April 20, 1938; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of April, 1938.

[File No. 7-216]

IN THE MATTER OF INSURANCE COMPANY OF NORTH AMERICA CAPITAL STOCK, $10 PAR VALUE

ORDER GRANTING REQUEST TO WITHDRAW APPLICATION FOR EXTENSION OF UNLISTED TRADING PRIVILEGES

The Philadelphia Stock Exchange having made application to the Commission pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, for extension of unlisted trading privileges to the Capital Stock, $10 Par Value, of Insurance Company of North America; and

The Philadelphia Stock Exchange having requested permission to withdraw said application;

It is ordered, That said request be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1128; Filed, April 20, 1938; 12:43 p. m.]

Friday, April 22, 1938 *No. 79*

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 240]

AN ORDER DIRECTING EACH DISTRICT BOARD TO DETERMINE THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE ASCERTAINABLE TONNAGE PRODUCED IN ITS DISTRICT IN THE CALENDAR YEAR 1936; AND TO ADJUST THE AVERAGE COSTS SO DETERMINED AS MAY BE NECESSARY TO GIVE EFFECT TO ANY CHANGES SUBSTANTIALLY AFFECTING COSTS, EXCLUSIVE OF SEASONAL CHANGES, WHICH MAY HAVE BEEN ESTABLISHED SINCE JANUARY 1, 1936; AND PROVIDING FOR THE SUBMISSION OF SUCH DETERMINATION AND THE COMPUTATIONS TO THE COMMISSION

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each District Board shall forthwith, from the cost data covering 1936 tonnage previously submitted to it by the statistical bureau of the Commission for the district, determine the weighted average of the total costs of the ascertainable tonnage produced in its district in the calendar year 1936; and each District Board shall adjust the average costs so determined as may be necessary to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, so as to reflect as accurately as possible any change or changes which may have been established since January 1, 1936.

2. That each District Board shall, on or before April 30th, 1938, submit to the Commission such determination of the weighted average of the total costs, as adjusted, together with the computations upon which it is based.

3. The Secretary of the Commission shall forthwith mail a copy of this Order to the Secretary of each District Board.

By order of the Commission.

Dated this 19th day of April, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-1131; Filed, April 20, 1938; 3:27 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 88]

AMENDMENT OF REGULATION GOVERNING METHOD OF COMPUTING MAXIMUM AMOUNT LOANABLE BY FEDERAL LAND BANKS TO ONE BORROWER

The regulation governing the method of computing the maximum amount loanable by a Federal land bank to one borrower [November 8, 1935, FLB 987, REV APP 267, LB APP 131; Federal Register Compilation, Chapter II, Section 3] is hereby amended by striking out the paragraph beginning with the following words: "In determining the aggregate amount of existing and prospective loans to any one borrower," and inserting in lieu of such paragraph the following:

"In determining the aggregate amount of existing and prospective loans to any one borrower for the purpose of applying the limitation provided for in Section 12 (Seventh) of the Federal Farm Loan Act (12 U. S. C. Section 771 (Seventh)), there shall be included (1) the amount of the unpaid principal of loans made by a Federal land bank which are secured by mortgages on property owned by the applicant, except loans secured by purchase money mortgages not made on a basis which qualifies them for deposit with the Registrar as collateral security for farm loan bonds; (2) the amount of the unpaid principal of Federal land bank loans made to the applicant, or assumed by him with the permission of the bank, which are secured by mortgages on property he no longer owns, except loans secured by mortgages which have been assumed with the permission of the bank by a subsequent owner of the property in accordance with Section 12 (Sixth) of the Federal Farm Loan Act (12 U. S. C. Section 771 (Sixth)); and (3) the amount of the unpaid principal of mortgages which are liens on property owned by the applicant and which have been acquired by a Federal land bank under the provisions of Section 13 (Second) of the Federal Farm Loan Act (12 U. S. C. Section 781 (Second))."

[SEAL] A. S. GOSS,
Land Bank Commissioner.

[F. R. Doc. 38-1133; Filed, April 21, 1938; 11:44 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

CONSOLIDATION OF LOAN AND ADVANCE ACCOUNTS

AMENDMENT OF ACCOUNTING CHAPTER OF THE MANUAL

Whereas in many instances the accounting records of the Home Owners' Loan Corporation contain two or more accounts with individual mortgagors or vendees as a result of reconditioning loans or advances made in addition to the original loans; and,

Whereas the consolidation of such reconditioning loan and advance accounts with related primary mortgage or vendee accounts will materially simplify and reduce the volume of work in both accounting and servicing operations: Therefore

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, sub-Sections (f) and (g) of Section 800 of Chapter VIII of the Consolidated Manual are hereby amended to read as follows:

SECTION 800 (f). Any advance, or reconditioning loan made under Section 4 (m) of the Home Owners' Loan Act of 1933, as amended, for the account of a borrower or vendee shall be consolidated with the related mortgage or vendee account, and shall be repaid in such manner and on such terms as are properly approved in accordance with the regulations of the Corporation.

SECTION 800 (g). The Accounting Section, in the posting of payments (other than miscellaneous credits) to the borrowers' or vendees' consolidated accounts, shall distribute the amounts first to interest and second to principal, without segregation on the individual ledger sheets between the primary obligation, reconditioning loan or advance elements of the consolidated balance of either interest or principal. When requested by the Legal Department, the Accounting Section shall prepare statements of account showing the elements of the consolidated account and a segregation of the amounts posted to the consolidated interest and consolidated principal balances applicable to each such element, unless, under direction of Regional Counsel, the statement is required to reflect a different segregation of credits or application of payments.

Be it further resolved, That the provisions of this resolution shall become effective on June 1, 1938 for all advances made and payments received on and after that date; and that, where separate accounts are now maintained for unpaid advances, or reconditioning loans, made prior to June 1, 1938, such separate accounts shall be consolidated with the accounts for related primary obligations under instructions, consistent herewith, which the Comptroller is hereby authorized to prescribe.

Adopted by the Federal Home Loan Bank Board on April 19, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1130; Filed, April 20, 1938; 2:13 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 18th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3330]

IN THE MATTER OF U. S. HOFFMAN MACHINERY CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U. S. C. A., Section 41), and (49 Stat. 1526, U. S. C. A., Section 13, as amended)

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, April 28, 1938, at nine o'clock in the forenoon of that day (eastern standard time), at room 500, 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1132; Filed, April 21, 1938; 10:12 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of April, A. D., 1938.

IN THE MATTER OF AN OFFERING SHEET FILED BY BILLIE SMALLWOOD, RESPONDENT, ON MARCH 15, 1938, COVERING PRODUCING LANDOWNERS' ROYALTY INTERESTS IN THE CHAMPLIN-MCFALL TRACT

ORDER CONSENTING TO WITHDRAWAL OF OFFERING SHEET AND TERMINATING PROCEEDING

The Securities and Exchange Commission, having received from respondent an application for an order consenting to withdrawal of the offering sheet described in the title hereof, and respondent having represented to the Commission in writing that none of the securities described in said offering sheet have been sold, and it appearing in view of such representation that withdrawal of said offering sheet is not inconsistent with the public interest,

It is ordered, That consent of the Commission to withdrawal of such offering sheet be, and hereby is, granted, but the Commission does not consent to removal of said offering sheet or any papers relating thereto from the files of the Commission, and

It is further ordered, That the Order for Hearing and Order Designating Trial Examiner heretofore entered in this proceeding be, and hereby is, revoked, and said proceeding terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1134; Filed, April 21, 1938; 12:10 p. m.]

Saturday, April 23, 1938 *No. 80*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF SUBDIVISION I, SCHEDULE B, CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Eighth, Subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404), it is ordered that Subdivision I of Schedule B of the Civil Service Rules be, and it is hereby, amended by adding thereto the following paragraph:

"8. Such administrative or custodial positions in the field service of the United States Housing Authority relating to the management or maintenance of Federal low-rent housing projects, which in the opinion of the Civil Service Commission cannot be filled satisfactorily through open competitive examination: *Provided*, that no positions shall be filled under this paragraph unless it is clearly demonstrated that the best interests of the service will be served thereby."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 20, 1938.

[No. 7872]

[F. R. Doc. 38-1135; Filed, April 21, 1938; 1:25 p. m.]

WAR DEPARTMENT.

[6371 (New Jersey-Big Timber Creek-Westville)]

RULES AND REGULATIONS GOVERNING THE OPENING OF DRAWBRIDGE OF THE GLOUCESTER TURNPIKE COMPANY ACROSS BIG TIMBER CREEK, NEAR WESTVILLE, N. J.

APRIL 6, 1938.

On February 13, 1918, the Assistant Secretary of War prescribed special regulations to govern the opening of the drawbridge of the Gloucester Turnpike Company across Big Timber Creek, near Westville, New Jersey. This drawbridge was recently replaced by a fixed bridge constructed pursuant to plans submitted by the New Jersey State Highway Commission and approved by the Department on February 9, 1934, and June 4, 1934. There is no further need for the regulations approved in 1918 and accordingly I recommend that they be revoked.

J. L. SCHLEY,
Major General,
Chief of Engineers.

Recommendation approved, April 7, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1137; Filed, April 22, 1938; 9:47 a. m.]

RULES AND REGULATIONS TO GOVERN DRAWBRIDGES OVER THE ATCHAFALAYA RIVER, LOUISIANA

On and after May 1, 1938, drawbridges over the Atchafalaya River, Louisiana, shall be subject to rules and regulations as follows:

1. All drawbridges over the Atchafalaya River above Grand Lake shall be subject to the rules and regulations approved April 17, 1933, governing drawbridges crossing the Mississippi River and all its navigable tributaries and outlets.

2. All drawbridges over the Lower Atchafalaya River shall be subject to the rules and regulations approved October 11, 1929, as amended, governing drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Ches-

apeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries.

Approved April 7, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1138; Filed, April 22, 1938; 9:47 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[Passenger Circular No. 163.]

THE ALASKA RAILROAD—TRANSPORTATION DEPARTMENT

TRANSIT PERMITS COVERING CORPSES.

ANCHORAGE, ALASKA,
March 30th, 1938.

To all concerned:

Rule No. 21-d of Local Baggage Tariff No. 2 relative to the handling of transit permits covering the movement of corpses is amended as follows:

Transit Permit (Territory of Alaska form 2B) including transit Label, is issued by the United States Commissioner, and single copy of each is furnished.

The Transit Label must be pasted or securely tacked to the coffin box by the shipper.

The Transit Permit, properly signed, must be presented to the checking Agent at the time of checking corpse, who will lift the Transit Permit and handle as follows:

On corpses checked locally to points on The Alaska Railroad the transit permit will be forwarded to Auditor at Anchorage.

On corpses checked to points on the line of Alaska Steamship Company, the transit permit will be forwarded by mail on same train as corpse is handled, to Agent, Seward Dock, where the permit will be turned over to the Purser or Freight Clerk of steamer handling corpse from Seward.

Transit permits must not be returned to the person who acts as escort or the party who presents the corpse for checking.

J. T. CUNNINGHAM,
Sup't. of Transportation.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

APRIL 18, 1938.

[F. R. Doc. 38-1143; Filed, April 22, 1938; 9:52 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

[Department Circular No. 304, First Edition]

PRE-SAILING EXAMINATION OF DANISH PASSENGER VESSELS AND COLLECTION OF FEES FOR SAME

APRIL 21, 1938.

It has come to the attention of the Department that the Government of Denmark under the "Ordinance Relating to the Application of the Merchant Shipping (Inspection of Ships) Act of March 29th, 1920, to Foreign Ships" with subsequent amendments and regulations promulgated thereunder, requires the inspection of all American passenger vessels prior to each departure from a Danish port. A fee of 100 kroner is imposed against an American vessel with a passenger carrying capacity of less than 50 and a fee of 200 kroner is imposed against American passenger vessels with a carrying capacity of over 50 passengers for such pre-sailing inspections.

In view of the above and pursuant to the 3rd understanding of the President of the United States contained in the ratification of the International Convention for Safety of Life at Sea, 1929, and the provisions of Section 4400 of the U. S. Revised Statutes, it is hereby ordered that all passenger vessels flying the flag of Denmark calling at ports of the United States shall be subject to a pre-sailing examination and a fee shall be imposed against such vessels for such examination in the amount of dollars and cents corresponding with the rate of exchange for the Danish kroner on the date the inspection is made.

The fees to be charged shall be in accordance with the fees imposed by the Government of Denmark against American vessels in their ports which are as follows:

Not over 50 passengers---- 100 kroner (in dollars and cents according to the current rate of exchange).
Over 50 passengers ------- 200 kroner (in dollars and cents according to the current rate of exchange).

In carrying out the pre-sailing examination and the collection of fees, the Local Inspectors and Collectors of Customs shall conform to the following procedure:

The certificate of examination, Form 989, will be issued as heretofore and on the back of such certificate of examination the Local Inspectors will enter the date the pre-sailing examination is made. The certificate of examination so endorsed shall be presented by the master, owner or agent to the Collector of Customs at time of clearance, which officer will collect a fee and endorse thereon the fact of such collection. The Collector of Customs will issue a receipt to the master, owner or agent of the vessel on Cat. 1008. The fees so collected should be accounted for in the same manner as any other navigation fee. In order that this fee may be properly identified on Cat. 1008, the caption "Pre-sailing Examination" should be inserted directly under the caption "Post Entry".

No clearance shall be granted to any Danish vessel unless the fee has been collected for such examination and receipt thereof endorsed on such certificate of examination. This procedure will be followed each time a Danish passenger vessel applies for clearance in order to insure that such vessel is examined and the fee for such examination is paid to the Collector of Customs.

These fees will be levied on and after May 1, 1938.

Approved.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1144; Filed, April 22, 1938; 11:44 a. m.]

FEDERAL POWER COMMISSION.

APPLICATIONS OF JOHN EDWARD ALDRED (DOCKET NO. ID-178), HERBERT A. WAGNER (DOCKET NO. ID-90), JOHN ABBET WALLS (DOCKET NO. ID-769), CHARLES M. COHN (DOCKET NO. ID-87), WILLIAM SCHMIDT, JR. (DOCKET NO. ID-89), F. ABELS ALLNER (DOCKET NO. ID-847), JAMES L. RINTOUL (DOCKET NO. ID-164), JOSEPH WALWORTH (DOCKET NO. ID-179), F. JEROME ALLEN (DOCKET NO. ID-231), MORTIMER N. BUCKNER (DOCKET NO. ID-284), MITCHELL JOHNSON (DOCKET NO. ID-795), JOSEPH W. GROSS (DOCKET NO. ID-175), FREDERICK W. WOOD (DOCKET NO. ID-92), MARVIN E. BUSHONG (DOCKET NO. ID-290), JAMES E. O'CONNOR (DOCKET NO. ID-163), JAMES L. QUINN (DOCKET NO. ID-166), DAVID E. WILLIAMS, JR. (DOCKET NO. ID-796), JOHN W. DRAYTON (DOCKET NO. ID-101), IRVIN W. GLEASON (DOCKET NO. ID-132), NORMAN JAMES (DOCKET NO. ID-483)

ORDER FIXING DATE OF HEARING

APRIL 19, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly. John W. Scott not participating.

It appearing to the Commission that:

(*a*) Upon applications separately filed by the above named applicants pursuant to Section 305 (b) of the Federal Power Act, for authorization to hold certain interlocking positions within the purview of said Section 305 (b), the Commission has heretofore authorized said applicants severally to hold said positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be adversely affected by reason of the applicant's holding said positions;

(*b*) It is in the public interest that each of the above named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(*c*) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

The Commission orders that:

A public hearing on said applications be held beginning on June 3, 1938, at 10 A. M. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., and that at said hearing each of the above named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1141; Filed, April 22, 1938; 9:49 a. m.]

APPLICATIONS OF JOHN I. MANGE (DOCKET NO. ID-447), DANIEL STARCH (DOCKET NO. ID-621), J. H. PARDEE (DOCKET NO. ID-548), H. D. FITCH (DOCKET NO. ID-710), RODERICK D. DONALDSON (DOCKET NO. ID-759), WILLIAM A. REIBER (DOCKET NO. ID-576), PETER J. MORISSEY (DOCKET NO. ID-472), ALAN E. BURNS (DOCKET NO. ID-830), E. H. WERNER (DOCKET NO. ID-668), EMMETT R. KING (DOCKET NO. ID-153), JACOB H. BUCHER (DOCKET NO. ID-128), PHILLIPS W. WEBB (DOCKET NO. ID-165), GRAHAM GUNBY (DOCKET NO. ID-391), WILLIAM S. MOORE, JR. (DOCKET NO. ID-162), CHARLES N. DAVIS (DOCKET NO. ID-159), G. A. ARONSON (DOCKET NO. ID-240), J. H. MACKENZIE (DOCKET NO. ID-772), A. A. CANO (DOCKET NO. ID-302), (MISS) A. E. KOCH (DOCKET NO. ID-503), (MISS) E. WEINBERGER (DOCKET NO. ID-666), (MISS) M. M. DURKIN (DOCKET NO. ID-338), T. F. ROWE (DOCKET NO. ID-766), LEWIS PAYNE (DOCKET NO. ID-831), PHILIP H. HARRIS (DOCKET NO. ID-761)

ORDER FIXING DATE OF HEARING

APRIL 19, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly. John W. Scott not participating.

It appearing to the Commission that:

(*a*) Upon applications separately filed by the above-named applicants pursuant to section 305 (b) of the Federal Power Act, for authorization to hold certain interlocking positions within the purview of said section 305 (b), the Commission has heretofore authorized said applicants severally to hold said positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be adversely affected by reason of the applicant's holding said positions;

(*b*) It is in the public interest that each of the above-named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(*c*) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

The Commission orders that:

A public hearing on said applications be held beginning on May 27, 1938, at 10:00 a. m. in the Hearing Room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., and that at said hearing each of the above-named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1140; Filed, April 22, 1938; 9:49 a. m.]

APPLICATIONS OF H. HOBART PORTER (DOCKET NO. ID-562), PHILIP L. ROSS (DOCKET NO. ID-584), WALTER STEVENSON FINLAY, JR. (DOCKET NO. ID-355), WILBER L. CUMMINGS (DOCKET NO. ID-704), EARLE S. THOMPSON (DOCKET NO. ID-638), WARREN R. VOORHIS (DOCKET NO. ID-650), WILLIAM K. DUNBAR (DOCKET NO. ID-336), W. C. ROBINSON (DOCKET NO. ID-177), SETON PORTER (DOCKET NO. ID-765), THOMAS HARPER BLODGETT (DOCKET NO. ID-257), JAMES A. HILL (DOCKET NO. ID-416), HARRY L. MITCHELL (DOCKET NO. ID-466), A. CLINTON SPURR (DOCKET NO. ID-618), R. PAUL SMITH (DOCKET NO. ID-613)

ORDER FIXING DATE OF HEARING

APRIL 19, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly. John W. Scott not participating.

It appearing to the Commission that:

(*a*) Upon applications separately filed by the above-named applicants pursuant to section 305 (b) of the Federal Power Act, for authorization to hold certain interlocking positions within the purview of said section 305 (b), the Commission has heretofore authorized said applicants severally to hold said positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be adversely affected by reason of the applicant's holding said positions;

(*b*) It is in public interest that each of the above-named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(*c*) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

The Commission orders that:

A public hearing on said applications be held beginning on May 20, 1938, at 10:00 a. m. in the Hearing Room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., and that at said hearing each of the above named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1139; Filed, April 22, 1938; 9:49 a. m.]

[Docket Nos. ID-130, ID-842]

APPLICATIONS OF FRANK R. PHILLIPS AND JOHN G. FRAZER

ORDER FIXING DATE OF HEARING

APRIL 19, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott not participating.

It appearing to the Commission that:

(*a*) Upon applications separately filed by the above named applicants pursuant to Section 305 (b) of the Federal Power Act, for authorization to hold certain positions within the purview of said Section 305 (b), the Commission has heretofore authorized said applicants to hold positions, the order of authorization in each case reserving to the Commission the right to require the applicant to make further showing that neither public nor private interests will be

adversely affected by reason of the applicant's holding said positions;

(b) It is in the public interest that each of the above named applicants make further showing at this time that neither public nor private interests will be adversely affected by reason of his holding said positions;

(c) Such further showing can best be made at a hearing held for that purpose.

The Commission orders that:

A public hearing on said applications be held beginning on May 4, 1938, at 10 A. M. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., and that at said hearing each of the above named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1142; Filed, April 22, 1938; 9:50 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3381]

IN THE MATTER OF CURTICE BROTHERS CO.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (the Clayton Act) as amended by an Act approved June 19, 1936, entitled, "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C., Title 15, Section 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that Curtice Brothers Co., a corporation, is violating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Curtice Brothers Co. is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business located at 20 Curtice Street, Rochester, New York. Said respondent operates and maintains packing plants at Rochester, Bergen, Mt. Morris and Wilson, all in the State of New York.

PAR. 2. Respondent corporation is now, and has been since prior to June 19, 1936, engaged in the business of packing and offering for sale, selling and distributing fruits, vegetables and vegetable products. Respondent sells said products to every type of food distributor, jobber, corporate chain, voluntary chain and independent retailer. Respondent sells and distributes said products in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sales, causes such products to be shipped and transported from the places of origin of shipment to the purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned, a continuous current of trade and commerce in said products across state lines between respondent's plants or factories and the purchasers of such commodities. Said products are sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now, and during the time herein mentioned has been, in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of packing, selling and distributing fruits, vegetables and vegetable products in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid since June 19, 1936, respondent has been, and is now, discriminating in price between different purchasers buying such products of like grades and qualities so sold by the respondent in interstate commerce for use, consumption and resale, by giving and allowing some of its said purchasers of such products lower prices than given or allowed other of its said purchasers competitively engaged one with the other in the resale of said products within the United States. Said discriminations in price are brought about by the following practice and policy pursued by respondent to wit:

Respondent sells its products under three different price lists which price lists are designated by the following letters: "R," "A," and "S." Customers in order to purchase respondent's products at the prices under the "S" classification must place a minimum order for one thousand cases for shipment in quantities of not less than 250 cases. Customers in order to purchase respondent's products at the prices under the "A" classification are required to place a minimum order for 300 cases for shipment in quantities of not less than 50 cases. All other customers purchase respondent's products under the "R" classification. The prices at which respondent's products are sold under the "A" classification are lower by from 2.5% to 8.3% than the prices at which said products are sold under the "R" classification; and the prices at which said products are sold under the "S" classification are lower by from 5.1% to 16.6% than the prices at which said products are sold under the "R" classification. The differentials in price at which said products are sold are not constant and not only vary between different commodities, but also as between different sizes of the same commodity.

Said respondent has in some instances sold its products at prices under the "S" classification to customers who do not take the required shipments as designated for said classification.

Respondent does not make known to all its customers that it sells its products at the prices set forth in the various classifications, and, as a result thereof, many customers purchase respondent's products either under the "A" or "R" classification, whereas if they had known of other or more favorable prices they would have purchased sufficient quantities to entitle them to said favorable prices.

PAR. 5. In the course and conduct of its business, as hereinabove described, respondent, contrary to the provisions of Subsection 2 (d) of Section 1 of said Act of Congress, Public 692, is now, and since June 19, 1936, has been, discriminating between different purchasers of the said products, by paying, or contracting to pay, certain sums of money to, or for the benefit of, certain of its customers, in consideration for advertising services furnished by said customers in connection with the sale, or offering for sale, of respondent's said products, without making such payments or advertising allowances available on proportionately equal terms to all of their said customers competing in the sale and distribution of their said products.

PAR. 6. The general effect of said discriminations in price so made by respondent as above set forth has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondent and its competitors in the packing, sale and distribution of fruits, vegetables and vegetable products and also has been or may be substantially to lessen competition and to injure, destroy and prevent competition in the resale of such products between some of the favored purchasers of such products and some of the competitive customers dealing in said products not receiving such favorable prices. The effect of said discriminations in price also has been, or may be, to tend to create a monopoly in respondent in said line of commerce and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 7. The foregoing alleged acts and practices of said respondent are violations of Subsection 2 (a) and 2 (d) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13), and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 16th day of April, A. D. 1938, hereby issues this, its complaint against said respondent, stating its charges in that respect as hereinabove set out.

Notice

Notice is hereby given you, Curtice Brothers Co., a corporation, respondent herein, that the 20th day of May, A. D. 1938, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of law charged in this complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer thereto. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

> In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.
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> * * * * * *
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> Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.
>
> If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:
>
> (a) In cases arising under Section 5 of the act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under Sections 2 and 3 of the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under Section 2 of the aforesaid Clayton Act as amended by "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., Title 15, Sec. 13), and for other purposes," approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 16th day of April, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1136; Filed, April 22, 1938; 9:21 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES ACT OF 1933

ADOPTION OF RULE 210

The Securities and Exchange Commission acting pursuant to authority conferred upon it by the Securities Act of 1933, particularly Sections 3 (b) and 19 (a) thereof, and finding that registration of the class of securities specified in the following rule, when sold in conformity with the terms and conditions prescribed therein, is not necessary in the public interest or for the protection of investors by reason of the small amounts involved and the limited character of the public offerings, and finding the adoption of such rule necessary and appropriate in the public interest and for the protection of investors and necessary to carry out the provisions of the Act, hereby takes the following action:

The following new rule is adopted, to be inserted in the "General Rules and Regulations under the Securities Act of 1933" after Rule 209 of Regulation A:

RULE 210. *General exemption of securities sold for cash in compliance with State law.*—(a) Any securities offered to the public for cash (other than fractional undivided interests in oil or gas rights as defined in Rule 300 and certificates of interest as defined in Rule 360) shall be exempt from the operation of the Act to the same extent as the classes of securities specified in Section 3 (a) of the Act, subject to the following terms and conditions:

(1) The aggregate offering price of (A) the securities proposed to be offered, (B) all other securities of the issuer currently being offered under Regulation A, and (C) all securities of the issuer previously sold or subscribed for pursuant to an offering under Regulation A commenced within one year prior to the commencement of the proposed offering, shall not exceed $100,000. The aggregate offering price of securities offered at the market shall be taken as the product of the number of units offered multiplied by the price per unit at which the securities were sold on the first day of sale. The aggregate offering price of securities exchanged for bona fide outstanding securities or claims shall be determined as provided in Rule 205. The aggregate offering price of assessable shares of stock shall be taken as the sum of the offering price thereof determined as hereinbefore provided, and the aggregate amount of all assessments which may legally be levied thereon.

(2) No security shall be offered, sold, or delivered after sale in any State or Territory under the exemption provided by this rule except in compliance with all State or Territorial laws relating to the registration, qualification and licensing of securities and dealers which are applicable to the transaction of offering, sale, and delivery after sale or which would be applicable if such transaction were effected entirely within such State or Territory.

(3) No security shall be offered, sold, or delivered after sale in the District of Columbia under the exemption provided by this rule.

(4) No offering shall be made under the exemption provided by this rule until the issuer shall have filed with the Commission, at Washington, D. C., a letter of notification containing the following information: (A) the name and address of the issuer and of each principal underwriter; (B) the title of the issue, the amount proposed to be offered, and the proposed offering price per unit and ag-

gregate offering price of the securities proposed to be offered; (C) a list of the States and Territories in which it is proposed to offer the securities; and (D) the title of issue of all securities of the issuer previously sold or subscribed for pursuant to an offering under Regulation A commenced within one year prior to the commencement of the proposed offering, indicating the aggregate sale or subscription price of such securities. No offering shall be made under the exemption provided by this rule in any State or Territory which was not listed in the original letter of notification until the issuer shall have filed a supplementary letter stating the name of such additional State or Territory.

(5) There shall be inserted in a conspicuous part of any written communication prepared or authorized by the issuer (or by a person controlling, controlled by, or under common control with, the issuer) offering for sale any security herein exempted, in type as large as that used in the body thereof, the following statement:

> These securities have not been registered with the Securities and Exchange Commission because such securities are believed to be exempted from registration But such exemption, if available, in no sense indicates approval by the Commission of the merits of these securities.

However, the above statement need not be included in any communication (A) which merely states from whom a written prospectus may be obtained and, in addition, does no more than identify the security, state the price thereof, and state by whom orders will be executed, or (B) which is made to a person who concurrently receives, or previously has received, a written communication relating to the same securities and containing such required statement.

(6) Ten copies of each written communication prepared or authorized by the issuer (or by a person controlling, controlled by, or under common control with the issuer) which is proposed to be used at the commencement of the public offering, or intended to be sent or delivered thereafter to more than ten persons, shall be filed with the Commission in Washington, D. C., prior to any use thereof.

(7) No security of the issuer shall be currently offered under the exemption provided by Rule 200, 201, 202, 203, or 206.

(b) Notwithstanding any other provision of this rule, transactions effected in violation of any term or condition contained in paragraph (a) shall not operate to defeat the exemption as to other transactions which are effected by a person not directly or indirectly responsible for such violation, and which, except for such violation, conform to all applicable terms and conditions. In any case, the violation of any term or condition contained in paragraph (a) shall not operate to defeat the exemption as to any person who has, after reasonable investigation, reasonable grounds to believe, and does believe, that all applicable terms and conditions have been satisfied.

The foregoing action shall become effective immediately upon publication and, in the absence of any further action by the Commission, shall cease to be effective after October 29, 1938, except as to any offering commenced on or before that date.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1146; Filed, April 22, 1938; 12:45 p. m.]

SECURITIES ACT OF 1933

AMENDMENT NO. 32 TO INSTRUCTION BOOK FOR FORM A-2

The Securities and Exchange Commission, finding that any information or documents specified in Schedule A of the Securities Act of 1933, as amended, which Form A-2 and the book of instructions accompanying that form, as hereby amended, do not require to be set forth, are inapplicable to the class of securities to which such form is appropriate, and that disclosure fully adequate for the protection of investors is otherwise required to be included in the registration statement, and that such information and documents as Form A-2 and the accompanying book of instructions, as hereby amended, require to be set forth, but which are not specified in Schedule A, are necessary and appropriate in the public interest and for the protection of investors, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Sections 7 and 19 (a) thereof, hereby amends Form A-2 and the book of instructions accompanying that form, as follows:

I. At the end of the "Special Rules as to the Use of Form A-2 for Corporations", there is added a new rule reading as follows:

"7. Notwithstanding the provisions of clause (b) of the Rule as to the Use of Form A-2 for Corporations, this form may be used by a corporation which has had a net income for only one fiscal year of the five fiscal years preceding the date of the latest balance sheet filed with the registration statement, if

"(1) The corporation was organized at least five years prior to the date of filing;

"(2) Total assets of the registrant and its subsidiaries after deducting valuation and qualifying reserves, amount to not more than $5,000,000, as shown by the most recent balance sheets filed with the registration statement; and

"(3) The registrant is not an investment company, a bank holding company, or a small-loan or other finance company."

II. The second paragraph of the "Rule as to the Use of Form A-2 for Corporations" is amended to read as follows:

"(NOTE.—If the applicability of this form to any corporation depends upon net income for one or two fiscal years, and if such fiscal year, or if either or both of such two fiscal years, antecedes the period for which profit and loss statements are required by the Instructions as to Financial Statements in this Instruction Book, such corporation shall furnish for the information of the Commission at the time the registration statement is filed, but not as a part of the registration statement, profit and loss statements, in addition to those required by the Instructions as to Financial Statements, for such antecedent fiscal year, or the earlier of such two antecedent fiscal years, and for any intervening period prior to the first year for which such statements are required by the Instructions. Such additional profit and loss statements shall be prepared in accordance with the Instructions as to Financial Statements, except that they need not be certified and no schedules need be furnished.)"

III. At the end of the instructions to Item 45 and immediately preceding the instructions to Item 45 (a), the following additional paragraph is added:

"The information required by Item 45 may be omitted and Item 46 renumbered Item 45 if the registrant meets the conditions of Special Rule 7 as to the use of this form."

IV. In the instructions as to financial statements in the Instruction Book for Form A-2 there is added to paragraph 4 captioned "Special Financial Requirements as to Particular Classes of Registrants" a new subparagraph numbered (4) reading as follows:

"(4) *Certain companies having total assets of less than $5,000,000.*—If the registrant meets the conditions of Special Rule 7 as to the use of this form, the profit and loss statements required to be filed pursuant to paragraph 1 under the caption 'Instructions as to Financial Statements', and schedules required to be filed in support of the balance sheet and profit and loss statements, need be certified only for the most recent full fiscal year preceding the date of the certified balance sheet and for the period, if any, between the close of such fiscal year and the date of such balance sheet.

"Notwithstanding the requirements of Rule 563 any financial statement or part thereof previously or concurrently filed with the Commission pursuant to any act administered by the Commission may be incorporated by reference and, as to form and content, need only conform to the requirements of the form pursuant to which such statement or part thereof was filed."

The foregoing amendments shall become effective immediately after publication, and, in the absence of any further action by the Commission, shall cease to be effective after October 29, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1145; Filed, April 22, 1938; 12:45 p. m.]

Tuesday, April 26, 1938 *No. 81*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49521]

AIRPORTS OF ENTRY

CERTAIN AIRPORTS REDESIGNATED AS AIRPORTS OF ENTRY FOR A PERIOD OF ONE YEAR

APRIL 20, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the following-named airports are hereby redesignated as airports of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from the dates shown opposite their respective names:

Name	Location	Date of redesignation
Graham Airport	Bellingham, Wash	April 18, 1938.
Malone Airport	Malone, N. Y	April 18, 1938.
Cape Vincent Harbor	Cape Vincent, N. Y	April 25, 1938.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1147; Filed, April 22, 1938; 3:32 p. m.]

[T. D. 49523]

AMENDMENT OF CUSTOMS REGULATIONS OF 1937 RELATING TO EXEMPTION FROM ENTRY AT CUSTOMHOUSE OF VESSELS ARRIVING IN DISTRESS OR FOR THE PURPOSE OF TAKING ON BUNKER COAL, BUNKER OIL, ETC., AND EXEMPTION FROM TONNAGE DUTY

MARCH 30, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the act of August 14, 1937 (Public No. 280, 75th Congress), and the authority contained in sections 161 and 251 of the Revised Statutes (U. S. C., title 5, sec. 22 and title 19, sec. 66) and section 624 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1624), the Customs Regulations of 1937 are hereby amended as follows:

Article 107 (a) is amended by inserting after the figures "1935" in line three the following:

> and the act of August 14, 1937

Article 107 (a) (4) is amended by striking out "or necessary sea stores" wherever appearing in such paragraph and inserting in lieu thereof "sea stores, or ship's stores."

Article 107 (c) is amended by deleting the last sentence.

Article 130 (f) is amended to read:

> Tonnage tax should be imposed on a vessel which enters a port of the United States for orders.

Article 131 (a) (2) (c) is amended so that the first sentence reads as follows:

> Vessels coming in for bunkers (fuel or water for the vessel), sea stores (art. 126 (c)), or ship's stores (art. 126 (d)).

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.
DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1160; Filed, April 25, 1938; 12:42 p. m.]

[T. D. 49524]

CUSTOMS REGULATIONS AMENDED—POWERS OF ATTORNEY

To Collectors of Customs and Others Concerned:

Pursuant to authority contained in section 251 of the Revised Statutes (U. S. C., title 19, sec. 66), and sections 484 and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 1484 and 1624), article 301 (a) of the Customs Regulations of 1937 is hereby amended to read as follows:

(a) A power of attorney may be executed for the transaction of a specified part or for all the customs business of the principal, except that a separate power of attorney (customs Form 5295-A or 5295-B) will be required for filing protests. (See art. 849.) Customs Form 5291 may be used for powers of attorney for individuals and customs Form 5293 for corporations. If a power of attorney is not on a prescribed customs form it must be as explicit in its terms as is the prescribed customs form. If for the execution of sealed instruments it must be under seal. A power of attorney given by a partnership for the execution of sealed instruments must be signed and sealed by each partner. A power of attorney to a minor shall not be accepted. A power of attorney executed under authority of another power of attorney may be accepted if the grantor of the original power of attorney is a nonresident and such original power contains express authority from the principal for the appointment of a sub-agent or sub-agents, but powers of attorney of residents shall be without power of substitution except for the purpose of executing shippers' export declarations. A sub-agent so appointed may not delegate his authority.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved April 21, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1161; Filed, April 25, 1938; 12:42 p. m.]

Public Debt Service.

[1938—Department Circular No. 583]

COMMODITY CREDIT CORPORATION ¾ PERCENT NOTES OF SERIES C, DUE NOVEMBER 2, 1939

[Dated and bearing interest from May 2, 1938]

FULLY AND UNCONDITIONALLY GUARANTEED BOTH AS TO INTEREST AND PRINCIPAL BY THE UNITED STATES, WHICH GUARANTY IS EXPRESSED ON THE FACE OF EACH NOTE

Exempt Both as to Principal and Interest From All Federal, State, Municipal, and Local Taxation (Except Surtaxes, Estate, Inheritance, and Gift Taxes)

APRIL 25, 1938.

I. Offering of Notes

1. The Secretary of the Treasury, on behalf of the Commodity Credit Corporation, invites subscriptions, at par and accrued interest, from the people of the United States for notes of the Commodity Credit Corporation, designated ¾ percent notes of Series C. The amount of the offering is $200,000,000, or thereabouts.

II. Description of Notes

1. The notes will be dated May 2, 1938, and will bear interest from that date at the rate of ¾ percent per annum, payable semiannually on November 2, 1938, and on May 2

and November 2, 1939. They will mature November 2, 1939, and will not be subject to call for redemption prior to maturity.

2. These notes are issued under the authority of the act approved March 8, 1938, (Public No. 442—75th Congress) which provides that these notes shall be fully and unconditionally guaranteed both as to interest and principal by the United States; that they shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation (except surtaxes, estate, inheritance, and gift taxes); and that the notes shall be lawful investments and may be accepted as security for all fiduciary, trust and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

3. The authorizing act further provides that in the event the Commodity Credit Corporation shall be unable to pay upon demand, when due, the principal of, or interest on, such obligations, the Secretary of the Treasury shall pay to the holder the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such obligations.

4. The notes will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege.

5. Bearer notes with interest coupons attached will be issued in denominations of $1,000, $5,000, $10,000 and $100,000. The notes will not be issued in registered form.

III. Subscription and Allotment

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Cash subscriptions from banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Cash subscriptions from all others must be accompanied by payment of 10 percent of the amount of notes applied for. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, subscriptions in payment of which Series B Collateral Trust Notes of the Corporation are tendered will be allotted in full. Allotment notices will be sent out promptly upon allotment, and the basis of the allotment will be publicly announced.

IV. Payment

1. Payment at par and accrued interest, if any, for notes allotted on cash subscriptions must be made or completed on or before May 2, 1938, or on later allotment. In every case where payment is not so completed, the payment with application up to 10 percent of the amount of notes applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Series B Collateral Trust Notes of the Commodity Credit Corporation, maturing May 2, 1938, will be accepted at par in payment for any notes subscribed for and allotted and should accompany the subscription.

V. General Provisions

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] H. MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38-1159; Filed, April 25, 1938; 12:41 p. m.]

DEPARTMENT OF THE INTERIOR.

General Land Office.

STOCK DRIVEWAY WITHDRAWAL NO. 153, WYOMING NO. 23, REDUCED

APRIL 11, 1938.

Departmental order of November 10, 1921, withdrawing certain lands in Wyoming for stock driveway purposes under section ten of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), is hereby revoked in so far as it affects the following-described lands:

SIXTH PRINCIPAL MERIDIAN

T. 13 N., R. 81 W.,
sec. 3, W½ and SW¼SE¼,
sec. 10, NE¼, N½NW¼, SE¼NW¼, N½SE¼ and SE¼SE¼,
sec. 11, SW¼NW¼, NW¼SW¼ and S½SW¼,
sec. 14, SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, NW¼SE¼ and S½SE¼,
sec. 23, N½NE¼ and SE¼NE¼,
sec. 24, NW¼NW¼, S½N½, N½SW¼, SE¼SW¼ and SE¼,
sec. 25, E½E½ and NW¼NE¼;
T. 14 N., R. 81 W.,
sec. 8, N½SW¼, SE¼SW¼ and W½SE¼,
sec. 17, W½E½ and E½W½,
sec. 20, NW¼NE¼, S½NE¼, E½W½, and SE¼,
sec. 21, S½S½,
sec. 27, W½NW¼ and SW¼,
sec. 28, NE¼, N½NW¼ and NE¼SE¼,
sec. 34, S½NE¼, W½ and N½SE¼, aggregating 4,270.22 acres.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1150; Filed, April 23, 1938; 9:35 a. m.]

National Park Service.

GUIDE FEES, FORT MARION AND FORT PULASKI NATIONAL MONUMENTS

RULES AND REGULATIONS AMENDED

Pursuant to the authority granted to the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535), as amended, the National Park Service Rules and Regulations approved June 18, 1936 (1 F. R. 672), are hereby amended by the addition of the following new section, reading as follows:

36.1 *Guide fees—miscellaneous.*—A guide fee of ten cents shall be charged each person entering the fortifications at Fort Marion National Monument or the fortifications at Fort Pulaski National Monument: *Provided*, That the Superintendent may authorize admission without charge for guide service to persons from reputable educational institutions for the purpose of prosecuting class work or studies, or to persons under the support and care of charitable institutions and their attendants, or to juvenile groups, such as boy scouts, girl scouts, etc., traveling together. No charge shall be made for children under the age of twelve years, when accompanied by adults assuming responsibility for their safety and orderly conduct.

Approved April 12, 1938.

[SEAL] E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1151; Filed, April 25, 1938; 9:51 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE IN THE MAINLAND CANE SUGAR AREA DURING THE CROP YEAR 1938

Whereas, Section 301 of the Sugar Act of 1937 authorizes the Secretary to make payments upon certain conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets and sugarcane grown on a farm for the extraction of sugar or liquid sugar, and

Whereas, subsection (e) of section 301 of the said act provides, as one of the conditions for payment, as follows:

That there shall have been carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the conditions prescribed in said subsection (e) of section 301 of the said act shall be deemed to have been fulfilled with respect to the production of the 1938 crop of sugarcane for sugar on any farm in the mainland cane sugar area if there is carried out, on land on the farm which is adapted to the production of sugarcane for sugar, an acreage of soil-building practices equal to not less than 30 per centum of the acreage of sugarcane for sugar growing on the farm for harvest in 1938.

For the purposes of this determination:

A. Each acre of the following shall be counted as one acre of soil-building practices:

1. Seeding in 1938 biennial legumes, perennial legumes, perennial grasses (other than timothy or redtop) or mixtures (other than a mixture consisting solely of timothy and redtop) containing perennial grasses, perennial legumes, or biennial legumes.

2. Seeding in 1938 winter legumes, annual lespedeza, annual ryegrass, crotalaria, sesbania, or annual sweet clover.

3. Plowing or disking under in 1938 a good stand and good growth of a green manure crop, or cover crop (excluding lespedeza, peanuts hogged off, and any crop for which credit is given in 1938 under any other practice).

B. Each two acres of the following shall be counted as one acre of soil-building practices:

1. Turning under in 1938 a good stand and good growth of summer legumes (excluding peanuts and excluding summer legumes used as truck crops) interplanted or grown in combination with row crops, such as corn and sorghums, provided the summer legume occupies at least one-third of the land.

2. Seeding in 1938 timothy or redtop, or mixtures consisting solely of timothy and redtop.

C. Each of the following practices in the amounts specified shall be counted as one acre of soil-building practices if applied to a full seeding of perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, or Natal grass:

1. Application in 1938 of 300 pounds of 16-percent superphosphate (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

2. Application in 1938 of 500 pounds of basic slag or rock phosphate (including Colloidal phosphate) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria or Natal grass.

The soil conserving practices shall be carried out on the farm in accordance with farming methods commonly used in the community in which the farm is located and specifications approved by the Director of the Southern Division of the Agricultural Adjustment Administration.

Done at Washington, D. C., this 25th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-1158; Filed, April 25, 1938; 12:36 p. m.]

Bureau of Biological Survey.

REGULATIONS RESPECTING GAME ANIMALS, LAND FUR-BEARING ANIMALS, GAME BIRDS, NONGAME BIRDS, AND NESTS AND EGGS OF BIRDS IN ALASKA

Pursuant to the authority and direction contained in section 10 of the Alaska Game Law of January 13, 1925 (43 Stat. 739; U. S. Code, title 48, sec. 198), as amended by act of February 14, 1931 (46 Stat. 1111; U. S. Code, title 48, sec. 198), upon consultation with and recommendation from the Alaska Game Commission, having determined when, to what extent, and by what means game animals, land fur-bearing animals, game birds, nongame birds, and nests and eggs of birds may be taken, possessed, transported, bought, or sold in Alaska, I, H. A. Wallace, Secretary of Agriculture, do hereby adopt and publish the following regulations permitting and governing the same, said regulations to be effective on and after July 25, 1938:

CHAPTER I.—GENERAL REGULATIONS

Regulation 1.—Definitions

For the purpose of these regulations the following shall be construed, respectively, to mean:

Secretary.—The Secretary of Agriculture of the United States.

Commission.—The Alaska Game Commission.

Person.—The plural or the singular as the case demands, including individuals, associations, partnerships, and corporations, unless the context otherwise requires.

Take.—To take, pursue, disturb, hunt, capture, trap, or kill, or attempt to take, pursue, disturb, hunt, capture, trap, or kill, game animals, land fur-bearing animals, or game or nongame birds, or to set or use a net, trap, or other device for taking them, or to collect the nests or eggs of such birds. Whenever the taking of game animals, land fur-bearing animals, game or nongame birds, or the nests or eggs of birds is permitted, reference is had to taking by legal means and in legal manner.

Open season.—The time during which game animals, land fur-bearing animals, and game birds may legally be taken. Each period prescribed as an open season shall be construed to include the first and last days thereof.

Close season.—The time during which game animals, land fur-bearing animals, and game birds may not be taken.

Transport.—To transport, ship, carry, convey, import, or export, by any means or in any manner, or to receive or deliver for transportation, shipment, carriage, conveyance, or export, unless the context otherwise requires.

Game animal.—Deer, moose, caribou, elk, mountain sheep, mountain goat, and large brown and grizzly bears, and such other mammals as have been or may hereafter be introduced, including buffalo (bison) and musk ox.

Land fur-bearing animal.—Beaver, muskrat, marmot, ground squirrel (spermophile), fisher, fox, lynx, marten (sable), mink, weasel (ermine), land otter, wolverine, polar bear, and black bear, including its brown and blue (glacier bear) color variations.

Game bird.—(1) *Migratory:* Duck, goose, brant, swan, shorebird (commonly known as plover, sandpiper, snipe, curlew, phalarope, dowitcher, knot, oyster-catcher, surf bird, turnstone, yellowlegs, godwit, and tattler), and crane; and (2) *Resident:* The several species of grouse and ptarmigan and such other birds as have been or may hereafter be introduced, including Chinese or ring-necked pheasant; which migratory and resident game birds shall be known as small game.

Nongame bird.—Every wild bird except a game bird.

Territory.—The Territory of Alaska.

Reg. 2.—Licenses of Hunters, Trappers, and Guides

These regulations do not permit any person to take, possess, or transport game animals, land fur-bearing animals, or birds, or to purchase or sell land fur-bearing animals or parts thereof, or to act as a guide in the Territory unless he is in possession of a valid license bearing his signature written in ink on the face thereof, if he is required by the Alaska Game Law or regulations of the Commission thereunder to have such license, and he shall have his license on his person when taking such animals or birds or when acting as a guide and shall produce it for inspection by any game warden or other person requesting to see it.

Each application for a license shall be made on the form prescribed by the Commission and if the application is made by mail it shall be accompanied by a draft on a Juneau bank or an express or postal money order payable to the Commission for the amount of the license fee.

Reg. 3.—Taking Animals and Birds in Emergencies

An Indian, Eskimo, or half-breed, or an explorer, prospector, or traveler, may take animals or birds in any part of the Territory at any time for food when in absolute need thereof and other food is not available, but he shall not transport or sell any animal, bird, or part thereof so taken, and an Indian, Eskimo, or half-breed also may take, possess, and transport, at any time, auks, auklets, guillemots, murres, and puffins and their eggs for food, and their skins for clothing for their own use and that of their immediate families.

Reg. 4.—Using Game as Food for Dogs or Land Fur-Bearing Animals or as Crab Bait

No person is permitted to feed any mountain sheep (bighorn) or deer, or part thereof, to any dog or to any land fur-bearing animal held in captivity, and no person is permitted to feed any other game animal, protected bird, or part thereof, to a dog boarded for pay or to a land fur-bearing animal held in captivity, except the waste parts, such as hides, viscera, and bones; and no person is permitted to use any part of any game animal or protected bird for crab bait.

Reg. 5.—Continuous Close Season on All Species in Specified Areas

These regulations do not permit the taking at any time of any game animal, land fur-bearing animal, or game or nongame bird, or the nests or eggs of such birds, on any area specified in Schedule A of these regulations except for scientific or propagating purposes, and then only under specific permit issued by the Secretary of Agriculture, supplemented by such permit as may be required by any other Department having administrative supervision of the particular area.

Reg. 6.—Continuous Close Season on Certain Species in Specified Areas

These regulations do not permit the taking at any time of the game animals, land fur-bearing animals, or game birds specified in Schedule B of these regulations on areas correlated with said animals or birds in said Schedule B, except for scientific or propagating purposes, and then only under specific permit issued by the Secretary of Agriculture, supplemented by such permit as may be required by any other Department having administrative supervision of the particular area.

CHAPTER II.—GAME ANIMALS

Reg. 7.—Taking Game Animals and Methods of Taking

Game animals may be taken on areas not closed by regulations 5 and 6, during the respective open seasons and in the numbers not exceeding the respective season limits prescribed in regulation 8, with a shotgun (not larger than No. 10 gage, nor capable of holding more than three shells), rifle, pistol, bow and arrow, or spear; but not with the aid or use of a dog, machine or submachine gun, set gun of any description, pit, deadfall, fire, jack light, searchlight, or other artificial light, or from or by means of a motor vehicle, airplane, steam or power launch, or any boat other than one propelled by paddle, oars, or pole, or while such animals are swimming, or within the First and Third Judicial Divisions of the Territory by shooting from, on, or across, or within 33 feet of the center line of any public highway; and when legally taken such animals, or parts thereof, may be possessed, transported, or sold as permitted by regulations 9 and 11.

Reg. 8.—Open Seasons and Limits on Certain Game Animals

Deer, bucks (with horns not less than 3 inches in length above the top of the skull).—East of longitude 138° in southeastern Alaska, August 20 to November 15.

West of longitude 138°, no open season, except for resident only under a special hunting permit of the Secretary, in the drainage to Prince William Sound north of the center of the C. R. & N. W. Railway and west of Mountain Slough, including the islands of said sound, except Hawkins and Knight Islands, September 20 to September 30.

Limit.—East of longitude 138°, 3 a season.

In restricted area west of longitude 138° (under special resident hunting permit only), 1 a season.

Moose, bulls (except yearlings and calves).—September 1 to December 31.

Limit.—1 a season.

Caribou.—North of the Yukon River, no close season.

South of the Yukon River, August 20 to December 31.

Limit.—North of the Yukon River: By resident, 5 a year; by nonresident, 2 a year.

South of the Yukon River: By resident, 3 a season; by nonresident, 2 a season.

Mountain sheep, rams (except lambs).—August 20 to November 30.

Limit.—By nonresident on the Kenai Peninsula south of Turnagain Arm, Portage Creek, and a line from its head to the head of Passage Canal, 1 a season; in rest of Territory, 2 a season.

By resident south of the Arctic Circle, 2 a season, except on the Kenai Peninsula south of Turnagain Arm, Portage Creek, and a line from its head to the head of Passage Canal, 1 a season; north of the Arctic Circle, 3 a season.

Mountain goat (except kids).—August 20 to November 30.

Limit.—2 a season.

Bear (large brown or grizzly).—September 1 to June 20, except that a resident is restricted to this season in the following described areas only:

Alaska Peninsula south of the Kvichak River and Iliamna Lake.

The drainage to Cook Inlet from the west northward to the south banks of the Happy and Skwentna Rivers.

That portion of the drainage to Cook Inlet south and west of the Yentna River to its confluence with the Susitna River.

That area east and south of the left banks of the Susitna River and Willow Creek and of a line from the head of Willow Creek to the mouth of the Knik River.

That portion of the mainland draining to Cook Inlet, Prince William Sound, and the Gulf of Alaska south to Knik Arm, Knik River, Knik Glacier, and the divide of the Chugach Mountains from the head of said glacier running generally easterly through Thompson Pass to the head of Childs Glacier; thence down the center line of said glacier to the center of the C. R. & N. W. Railway bridge across Copper River at mile 49; thence up the center line of Miles Glacier to the summit of the Chugach Mountains; thence along the summit of said mountains to Mount St. Elias.

All of southeastern Alaska east of longitude 141°.

The islands of the Kodiak-Afognak group (except Afognak Island), Montague, Hinchinbrook, Hawkins, Yacobi, Kruzof, Chichagof, Baranof, and Admiralty. A large brown or grizzly bear may be killed at any time or place in the Territory when about to attack or molest persons or their property. Persons so killing such animal shall make a written report to the Commission setting forth the reasons for such killing and the time and place.

Limit.—By resident on Admiralty Island, 1 a season; in the above specially described areas, 2 in the aggregate a season; in rest of Territory, no limit.

By nonresident on Admiralty Island, 1 a season; in rest of Territory, 2 in the aggregate a season.

Reg. 9.—Possession and Transportation of Game Animals

Game animals (except live animals) legally taken in numbers not exceeding the respective season limits prescribed in regulation 8, the hides, heads, and feet thereof, and articles made therefrom, may be possessed and transported by any person at any time within the Territory, and, as hereinafter permitted by this regulation, may be transported out of the Territory; but until dismembered, no carcass of deer, moose, or mountain sheep shall be so mutilated that the sex cannot be determined.

By resident.—(1) At the discretion of the Commission, a permit may be issued to a resident of the Territory for the export by express or freight of a legally taken or acquired game animal, or part thereof, for purposes other than sale. Such permit may be obtained from any game warden or collector of customs upon payment of the required fee. The permit must accompany the bill of lading covering shipment to the port of clearance, where it will be taken up by the collector of customs and returned to the Commission.

(2) A resident may export by express, freight, or parcel post for mounting and return to the Territory within 1 year, but not for sale, any game animal or part thereof legally taken or acquired by him upon first procuring a resident export license, which license shall accompany the bill of lading when shipment is made by freight or express, and if made by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place. On return of the trophy to the licensee by express or freight, the export license shall accompany the bill of lading, but if returned by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place, and the collector of customs at the port of entry, or the postmaster through whose office the package is received, shall detach the license, note thereon the contents of the shipment, and promptly return it to the Commission.

By nonresident.—A nonresident citizen or an alien who is the holder of a valid license may possess and transport within the Territory, or export, by express or freight only, when legally taken by him, not to exceed in the aggregate 3 deer, 1 moose, 2 caribou; 2 mountain sheep, not more than 1 of which shall have been taken on the Kenai Peninsula as particularly described in regulation 8; 2 mountain goats; and 2 in the aggregate of large brown and grizzly bears, not more than 1 of which shall have been taken on Admiralty Island; or any part of such animals. Before any such animal or part thereof shall be exported, the person offering it for export shall first deliver to the transportation agent at the point of shipment his affidavit that he has not violated any of the provisions of the Alaska Game Law or the regulations thereunder; that such animal or part thereof has not been purchased or sold and is not being shipped for sale; and that he legally killed and is the owner of such animal or part thereof. If the shipment consists of a mountain sheep or part thereof, the affidavit must show where in the Territory the animal was killed. Such affidavit shall accompany the express or freight bill of lading to the port of clearance, there to be taken up and promptly transmitted to the Commission by the collector of customs.

Manufactured articles and shed antlers.—Any person may without a permit or license possess and transport at any time within or out of the Territory any article manufactured from the hides or hoofs of deer, caribou, or mountain goats, legally taken; and in fur districts 5 and 8 parka hood trimmings cut from the hides of grizzly bears in strips not to exceed 4 inches in width, legally taken; and the shed antlers of deer, moose, and caribou.

Possession without license.—Any person possessing any game animal or part thereof without a valid hunting or trapping license shall furnish on demand to any officer authorized to enforce the Alaska Game Law an affidavit showing the name or license number of the person from whom he received it, together with such other information as the officer may require.

Reg. 10.—Marking Packages Containing Game Animals

Each package in which game animals or parts thereof are transported within or out of the Territory shall have clearly and conspicuously marked on the outside thereof the names and addresses of the consignor and consignee and an accurate statement of the number of each kind of game animal or part thereof contained therein.

Reg. 11.—Sale and Serving of Caribou and Moose

The meat of caribou legally killed in the Territory and the meat of moose legally killed north of the Alaska Range and the Kuskokwim-Bristol Bay Divide may be sold for food in the respective areas by the person killing said animals, to the owner or operator of a restaurant, roadhouse, or public or other eating house within said respective areas, but no person to whom such meat is so sold shall resell it otherwise than in cooked form and then only under permit prescribed by the Secretary and issued in the discretion of the Commission, which permit may authorize the purchase and possession of caribou or moose in excess of the numbers permitted under these regulations, but such meats shall not be sold or served within 5 miles of the Alaska Railroad of or Steese Highway from Fairbanks to and including Chatanika.

The meat of caribou or moose is not permitted to be sold to the owner, master, or employee of any coastal or river steamer, commercial power or sail boat, pile driver, barge, scow, boat under charter, cannery, or mine (where five or more men are employed), nor may any such owner, master, operator, or employee buy or serve any such animal or part thereof.

The meat of caribou or moose is not permitted to be possessed for serving or served in any dining car, mess house operated by a railroad, or mine (where five or more men are employed), by a contractor, or by an owner of a cannery, or by or in any other place maintained for the serving of food regularly to employees of such railroad, mine, contractor, or cannery.

The meat of caribou or moose is not permitted to be served to an employee of any coastal or river steamer, commercial power or sail boat, pile driver, barge, scow, boat under charter, cannery, or mine (where five or more men are employed.)

No contractor or person operating a railroad, mine (where five or more men are employed), cannery, coastal or river

steamer, or other commercial power or sail boat, pile driver, barge, scow, boat under charter, or any employee of any such contractor, operator, or person, is permitted to possess the meat of caribou or moose in a dining car, mess house, or the galley or dining room of any such boat, pile driver, barge, scow, or mine (where five or more men are employed.)

Reg. 12.—Sale of Trophies of Game Animals

Any person may without a permit or license buy and sell at any time in the Territory the hides or parts of hides and the hoofs and articles manufactured therefrom of deer, moose, caribou, and mountain goats, and in fur districts 5 and 8, parka hood trimmings cut from the hides of grizzly bears in strips not to exceed 4 inches in width, legally taken; and the shed antlers of deer, moose, and caribou.

CHAPTER III.—LAND FUR-BEARING ANIMALS

Reg. 13.—Fur Districts and Open Seasons and Limits on Land Fur-Bearing Animals

The following-named land fur-bearing animals may be taken in the fur districts, herein defined, other than in areas closed to such taking by regulations 5 and 6, in the open seasons and in the numbers not exceeding the respective season limits prescribed in this regulation:

Fur district 1.—All of southeastern Alaska from Dixon Entrance to Cape Fairweather and along longitude 138° to the international boundary:

Open seasons.—

Mink, marten, land otter, weasel (ermine), fox (red, cross, and silver), and lynx.—No open season.

Muskrat.—No open season.

Beaver.—No open season.

Black bear.—September 1 to June 20.

Limit.—2 a season, but a black bear may be killed at any time or place when about to attack or molest persons or property. Persons so killing such animal shall make a written report to the Commission setting forth the reasons for such killing and time and place.

Wolf, coyote, wolverine, marmot, and ground squirrel (spermophile).—No close season, may be taken by any person at any time in a legal manner.

Fur district 2.—That part of southern Alaska draining to the Gulf of Alaska and Cook Inlet, beginning with the western boundary line of fur district 1 and following longitude 138° from Cape Fairweather to the international boundary and along this boundary to Mount St. Elias; thence following the summit of the Chugach Range to the head of Miles Glacier; thence down the center line of said glacier to the center of the C. R. & N. W. Railway bridge across the Copper River at mile 49; thence up the center line of Childs Glacier to its summit; thence along the divide through Marshall Pass and Thompson Pass; thence along the divide to Tahneta Pass; thence along the divide separating the waters of the Matanuska River from the Nelchina River and the Talkeetna River from the Oshetna River; thence along the divide separating the waters of the Oshetna River from Kosina Creek to and across the Susitna River at a point 4 miles northwest of the mouth of Goose Creek; thence along the divide separating the waters flowing northwest into the Susitna River from those flowing southerly into the Susitna River; thence following said divide separating the waters flowing north into the Nenana River from those flowing southerly into the Susitna and Chulitna Rivers and across Broad Pass and the Alaska Railroad at mile 308; thence along the divide separating the waters flowing south into the Chulitna River from those flowing north into Cantwell Creek and the Nenana River to the summit of the Alaska Range; thence along said summit through Rainy Pass to Merrill Pass; thence along the summit of the Chigmit Mountains, separating the waters flowing easterly into Cook Inlet from those flowing westerly into the Kuskokwim River and Bristol Bay, to its intersection with the old portage from Kamishak Bay to Kakhonak Bay on Iliamna Lake; thence along said portage to Kamishak Bay.

Open seasons.—

Mink, land otter, weasel (ermine), fox (red, cross, and silver), and lynx.—December 1 to the last day of February; except that there shall be no open season in that part of the Kenai Peninsula west of the center line of the Alaska Railroad.

Marten.—No open season.

Muskrat.—April 1 to May 31; except on Kenai Peninsula, no open season.

Beaver.—No open season.

Black bear.—September 1 to June 20.

Limit.—3 a season, but a black bear may be killed at any time or place when about to attack or molest persons or property. Persons so killing such animal shall make a written report to the Commission setting forth the reasons for such killing and time and place.

Wolf, coyote, wolverine, marmot, and ground squirrel (spermophile).—No close season, may be taken by any person at any time in a legal manner.

Fur district 3.—Consisting of the Aleutian Islands, Unimak Island, Amak Island, all the islands lying south of the Alaska Peninsula, the Kodiak-Afognak Islands group, the Barren Islands, Augustine Island, and the Alaska Peninsula from False Pass to the mouth of Reindeer Creek, thence following said creek and a line to the center of Aniakchak Crater, and including that part of said peninsula consisting of the drainage to the Pacific Ocean south of a line following the divide from the center of Aniakchak Crater to the old portage from Kamishak Bay to Kakhonak Bay; thence along said portage on the boundary of fur district 2 to Kamishak Bay.

Open seasons.—

Mink, land otter, weasel (ermine), fox (red, cross, silver, white and blue), and lynx.—November 16 to January 15; except that there shall be no open season for mink, land otter, or weasel (ermine) on Unimak Island.

Marten.—No open season.

Muskrat.—March 10 to May 10.

Beaver.—No open season.

Wolf, coyote, wolverine, black bear, marmot, and ground squirrel (spermophile).—No close season; may be taken by any person at any time in a legal manner.

Fur district 4.—All the drainage to Bristol Bay, bounded on the south by the northern boundary of fur district 3, on the east by the western boundary of fur district 2, and on the north by a line beginning at Cape Newenham and extending along the summit of the divide separating the waters flowing northerly into Kuskokwim Bay and Kuskokwim River from those flowing southerly into Bristol Bay, to its intersection with the western boundary of fur district 2 at a point approximately 22 miles south of Merrill Pass.

Open seasons.—

Mink, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx.—December 1 to February 15.

Marten.—No open season.

Muskrat.—March 10 to May 10.

Beaver.—April 10 to May 10.

Limit.—10 a season.

Wolf, coyotte, wolverine, black bear, marmot, and ground squirrel (spermophile).—No close season; may be taken by any person at any time in a legal manner.

Fur district 5.—That part of western Alaska draining to Kuskokwim Bay, Bering Sea, Norton Sound, and Kotzebue Sound, bounded on the east by a line beginning at Cape Newenham and extending along the divide separating the waters flowing into Kuskokwim Bay and Kuskokwim River from those flowing into Bristol Bay and the Tikchik Lakes; thence along the divide separating the waters flowing into Tulusak River and Whitefish Lake from those flowing into the Aniak River and Swift Creek; thence to a point on the Kuskokwim River opposite the mouth of the first stream on the north bank above Ohagamut; thence across the Kuskokwim River and following the center of said first north-bank stream above Ohagamut to its head; thence along the divide separating the waters of Paimute Portage flowing into Big Lake from those flowing into the Yukon River; thence to a point on the Yukon River 15 miles below Paimiut Village; thence following down the south bank of the Yukon River to a point 5 miles below Dogfish Village; thence across the Yukon River to Mount Chiniklik; thence along the divide separating the waters flowing into the Stuyahok River from those flowing into the Kuyukutuk River; thence continuing along said divide separating the waters flowing easterly into the Yukon River from those flowing westerly into Norton Sound; thence continuing along said divide separating the waters flowing into the Koyukuk River from those flowing into Kotzebue Sound to the summit of the divide separating those flowing into the Colville River from those flowing into the Noatak River; thence westerly along the divide separating the waters flowing north into the Arctic Ocean from those flowing south into the Noatak and Kukpuk Rivers to the coast at Cape Lisburne.

Open seasons.—

Mink, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx.—November 16 to March 10.

Marten.—No open season.

Muskrat.—North of the Unalakleet River drainage, April 1 to June 7; except Golovin Bay drainage, no open season; south of the Unalakleet River, including its drainage, April 1 to May 31.

Beaver.—April 25 to May 25.

Limit.—10 a season.

Wolf, coyote, wolverine, polar bear, black bear, marmot, and ground squirrel (spermophile).—No close season; may be taken by any person at any time in a legal manner.

Fur district 6.—All the watershed of the Tanana River, the upper Copper River, part of the lower Yukon River, and the upper Kuskokwim River, bounded on the east by the international boundary, on the south by the northern boundaries of fur districts 2 and 4, on the west by the eastern boundary of fur district 5, and on the north by a line beginning at International Boundary Monument No. 146 and following the divide separating the waters of the north fork of the Ladue River from those of the Ladue River; thence along the divide separating the waters flowing northerly into the Yukon River from those flowing southerly into the Tanana River, through Far Mountain, Twelve Mile Summit, and Wickersham Dome; thence along the divide separating the waters flowing easterly into Beaver Creek from those flowing westerly into Hess Creek; thence along the divide separating the waters flowing southwesterly into Hess Creek from those flowing northerly into the Yukon River; thence along the divide separating the waters flowing southerly into Waldron Creek from those flowing northerly into the Yukon River, to the site of old Fort Hamlin; thence across the Yukon River to the divide separating the waters flowing northerly into the Dall River from those flowing southerly into the Ray River; thence along the divide separating the waters flowing northerly into the Kanuti River from those flowing southerly into the Yukon River; thence along the divide separating the waters flowing westerly into the Koyukuk River from those flowing southerly into the Melozitna River; thence along the divide separating those waters flowing into the Koyukuk River above the upper end of Treat Island from those entering below said point, to the Koyukuk River; thence across the Koyukuk River at the upper end of Treat Island and northwesterly along the divide separating the waters flowing easterly into the Hogatza River and Koyukuk River from those flowing southerly into the Koyukuk River, to Cone Mountain; thence along the divide separating the waters flowing easterly into the Hogatza River from those flowing westerly into the Dakli River, to the intersection with the eastern boundary of fur district 5.

Open seasons.—

Mink, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx.—November 16 to February 20.

Marten.—No open season.

Muskrat.—April 1 to May 31.

Beaver.—April 20 to May 20, except that there shall be no open season in that part of the Tanana River drainage east of the Richardson Highway and south and east of the divide between the Goodpaster River drainage and the Shaw Creek drainage, and the divide between the Goodpaster River drainage and the upper Salcha River drainage.

Limit.—10 a season.

Wolf, coyote, wolverine, black bear, marmot, and ground squirrel (spermophile).—No close season; may be taken by any person at any time in a legal manner.

Fur district 7.—All the drainage to the upper Koyukuk and upper Yukon Rivers bounded on the east by the international boundary, on the north by the summit of the Brooks Range, on the west by the eastern boundary of fur district 5, and on the south by the northern boundary of fur district 6.

Open seasons.—

Mink, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx.—November 6 to February 20.

Marten.—No open season.

Muskrat.—March 1 to May 31.

Beaver.—April 20 to May 20.

Limit.—10 a season.

Wolf, coyote, wolverine, black bear, marmot, and ground squirrel (spermophile).—No close season; may be taken by any person at any time in a legal manner.

Fur district 8.—The Arctic coast of Alaska, consisting of all the drainage to the Arctic Ocean north of the northern boundaries of fur districts 5 and 7.

Open seasons.—

Mink, land otter, weasel (ermine), fox (red, cross, silver, white, and blue), and lynx.—November 16 to March 31.

Marten.—No open season.

Muskrat.—April 10 to June 10.

Beaver.—No open season.

Wolf, coyote, wolverine, polar bear, black bear, marmot, and ground squirrel (spermophile).—No close season; may be taken by any person at any time in a legal manner.

Reg. 14.—Methods of Taking Land Fur-Bearing Animals

Land fur-bearing animals are not permitted to be taken by means, aid, or use of a set gun of any description, a shotgun, fire, jack light, pit lamp, searchlight, or other artificial light, trap or device known as the "klips," steel bear trap or any other trap with jaws having a spread exceeding 9 inches, strychnine, or other poison. No dog shall be used to take any such animal (except polar bears in fur district 8 and wolves and coyotes in fur districts 5, 6, 7, and 8), and no land fur-bearing animal on which there is a close season shall be taken from its home, den, or hole by digging, smoking, or use of chemicals.

Blackfish traps, so-called, commonly used near the Bering Sea coast for taking blackfish, shall be properly screened to prevent the capture or killing of land fur-bearing animals.

Beavers. No trap shall be set within 25 feet of any beaver house or den.

Beaver and muskrat homes, houses, dens, dams, or runways are not permitted to be injured or destroyed.

Foxes are not permitted to be taken by the use of a trap set within 100 feet of a fox den.

Reg. 15.—Setting Traps in Close Seasons

During the close seasons on land fur-bearing animals in the respective fur districts, no person, unless authorized by a permit, which may be issued in the discretion of the Commission, shall set, maintain, or attend traps for wolves, coyotes, or other animals on which there is no close season. Application for such permit shall be addressed to the Alaska Game Commission, Juneau, Alaska, and shall contain a statement of the nature, extent, and locality of the proposed operations, and the species of animals to be taken.

Reg. 16.—Possession and Transportation of Skins of Land Fur-Bearing Animals

The skins or parts thereof of land fur-bearing animals on which an open season is prescribed by regulation 13, when legally taken or acquired, and the skins or parts thereof of wolves, coyotes, and land fur-bearing animals on which there

is no close season, may be possessed and transported by any person at any time, under the conditions prescribed in this chapter, but no person who is engaged in fur farming or is a fur dealer shall possess or transport the skin or part thereof of any land fur-bearing animal unless at the time of such possession or transportation he has a valid fur-farm or fur-dealer license, as the case may be, issued to him pursuant to the Alaska Game Law No person is permitted to possess or transport at any time the skin or part thereof of a land fur-bearing animal that has been illegally taken or acquired.

Where transportation is by express or freight, the shipper shall first deliver to the transportation agent at the point of shipment, or where by parcel post, to the postmaster at the point of mailing, a statement correctly showing the number and kinds of skins in each shipment and stating that no illegal skin or unsealed beaver skin or, after October 31, 1938, that no unsealed marten skin, is contained therein. Such statement shall accompany the express or freight shipment to the port of clearance, there to be taken up by the collector of customs, or, in the case of parcel post shipments, by the postmaster at the office where mailed. Where such skins are transported out of the Territory by means other than express, freight, or parcel post, the person transporting them shall make and deliver a like statement to the collector of customs at the port of clearance. Collectors and postmasters shall promptly transmit such statements to the Commission.

Transportation agents and postmasters shall not knowingly accept shipments containing skins or parts thereof of such land fur-bearing animals without such statement.

Reg. 17.—Purchase and Sale of Skins of Land Fur-Bearing Animals

A person who is engaged or employed in the business of trading in skins of land fur-bearing animals and who is in possession of a valid license, issued pursuant to the Alaska Game Law, authorizing him so to do may at any time buy and sell the skins of land fur-bearing animals legally taken, tagged, or sealed, as the case may be, and such person shall have his license with him when buying or selling such skins, except that a person buying or selling skins at an established place of business shall have his license posted conspicuously on the premises, and each such licensee shall produce his license for inspection by any game warden or other person requesting to see it.

A person who is not engaged or employed in the business of trading in the skins of land fur-bearing animals may acquire by purchase or trade without a license the skins of such animals legally taken, possessed, or sealed, as the case may be, for his own use, but he is not permitted to sell the skins so acquired.

A native-born Indian, Eskimo, or half-breed who has not severed his tribal relations by adopting a civilized mode of living or by exercising the right of franchise, or a licensed hunter or trapper, may sell without a fur-dealer's license the skins or parts thereof of land fur-bearing animals which he has legally taken and which, if required by this chapter, are legally tagged or sealed.

Reg. 18.—Sealing, Possession, and Sale of Beaver and Marten Skins

Skins of beavers and martens imported into the Territory shall be sealed with a seal prescribed by the Commission. Persons importing such skins shall within 30 days after such importation present them to a game warden or other officer authorized by the Commission to seal such skins, together with such proof of entry and legal possession by affidavit or otherwise as the Commission or any such officer may require.

Persons taking the skins of beavers in the Territory shall during the open season in which they were legally taken or within 90 days immediately thereafter personally present them for sealing or tagging to a game warden or any other officer authorized by the Commission to seal or tag skins, together with an affidavit of legal taking on a form furnished by the Commission and such other affidavits as may be required by any officer authorized to seal or tag skins. Persons residing in remote localities and finding it impracticable to present skins to an officer authorized to seal them may present such skins, together with affidavit of lawful taking on a form furnished by the Commission to any person authorized by the Commission to attach thereto a tag permitting skins, if legally taken, to be sold and transported within the Territory, subject to examination and authentication by a representative of the Commission. Skins so tagged shall be presented by a lawful possessor to a game warden or any other officer authorized by the Commission to seal skins, for sealing during the open season in which they were taken or within 90 days immediately thereafter, but such officer may require further affidavits of the person taking the skins at any time before he accepts and seals them. No person is permitted to sell, trade, or otherwise dispose of the skins of beavers during the open season or within 90 days thereafter unless they have been sealed or tagged as hereinbefore provided, or to purchase or otherwise procure any such untagged or unsealed skins at any time.

On or before October 31, 1938, all persons possessing marten skins shall present them to a game warden or other person authorized to seal such skins, for sealing as prescribed by the Commission.

Skins of beavers and martens, unless sealed as prescribed by this regulation, are not permitted to be possessed or transported by any person after the expiration of the time within which they are required by this regulation to be sealed.

No person other than a bona fide fur dealer is permitted to possess at any time in the Territory, unless sealed, numbers of skins of beavers in excess of the season limit prescribed in regulation 13.

Reg. 19.—Marking Packages Containing Skins of Land Fur-Bearing Animals and Wolves and Coyotes

Each package in which the skins or parts thereof of land fur-bearing animals and wolves and coyotes are transported within or out of the Territory shall have clearly and conspicuously marked on the outside thereof the names and addresses of the consignor and consignee and an accurate statement of the number of each kind of such skins contained therein.

Reg. 20.—Possession of Live Land Fur-Bearing Animals

Live land fur-bearing animals, legally taken during the respective open seasons thereon, may be retained or sold for propagation within the Territory, but persons possessing such animals shall within 30 days after the close of said season report such taking and possession to the Alaska Game Commission at Juneau and apply for a permit to possess them.

Reg. 21.—Recapture of Escaped Land Fur-bearing Animals

Operators of licensed fur farms from which land fur-bearing animals escape from captivity may conduct operations for the recapture of such escaped animals through the use of legal trapping devices within a period of 30 days after the discovery of the escape. If such operations are conducted during the close season on wild animals of the same species, such operator shall immediately notify the nearest game warden in writing of the numbers and kinds of escaped animals, the kinds of devices being used in recapturing operations, and the locality where such operations are being conducted.

Reg. 22.—Duties of Fur Farmers and Fur Dealers

Each licensed fur farmer or fur dealer, including stores operated by missions or otherwise for native Indians, Eskimos, or half-breeds, must comply with the provisions of all Territorial laws relating to fur farmers and fur dealers, as the case may be, and at all reasonable hours shall allow any member of the Commission, any game warden, or any authorized employee of the United States Department of Agriculture to enter and inspect the premises where operations are being carried on under the Alaska Game Law and the regulations thereunder, and to inspect the books and records relating thereto. Each licensed fur farmer shall submit annually a written report on a form furnished by the Commission stating the numbers and kinds of land fur-bearing animals farmed, the numbers and kinds of live land fur-bearing animals or skins or pelts thereof bought or sold, and the methods of fur farming employed.

CHAPTER IV.—GAME BIRDS

Reg. 23.—Taking Grouse and Ptarmigan and Methods of Taking

Grouse and ptarmigan may be taken on areas not closed to such taking by regulations 5 and 6, during the open season and in the numbers not exceeding the respective daily limits prescribed in the following regulation, with a shotgun (not larger than No. 10 gage nor capable of holding more than three shells), rifle, pistol, bow and arrow, or spear, and with the aid of a dog, but they shall not be taken from or by means, aid, or use of aircraft or steam or power boat of any kind, motor vehicle, jack light, searchlight, or other artificial light, nor within the First and Third Judicial Divisions of the Territory by shooting from, on, or across, or within 33 feet of the center line of any public highway, and when legally taken may be possessed, transported, or sold as permitted by regulations 25 and 27.

Reg. 24.—Open Season and Limits on Grouse and Ptarmigan

Open season.—September 1 to the last day of February.

Limit.—Grouse, 15; ptarmigan, 25, but not to exceed 25 in the aggregate of all kinds of grouse and ptarmigan a day.

Such daily limits shall include all such birds taken by any other person who for hire accompanies or assists the hunter in taking them.

Reg. 25.—Possession and Transportation of Grouse and Ptarmigan

Grouse and ptarmigan legally taken and the skins and feathers thereof and articles made therefrom may be possessed and transported by any person at any time within the Territory, and, as hereinafter permitted by this regulation, may be transported out of the Territory.

By resident.—(1) At the discretion of the Commission, a permit may be issued to a resident of the Territory for the export by express or freight of legally taken or acquired grouse or ptarmigan, or parts thereof, for purposes other than sale. Such permit may be obtained from any game warden or collector of customs upon payment of the required fee. The permit must accompany the bill of lading covering shipment to the port of clearance, where it will be taken up by the collector of customs and returned to the Commission.

(2) A resident may export by express, freight, or parcel post for mounting and return to the Territory within 1 year, but not for sale, any grouse or ptarmigan or part thereof legally taken or acquired by him upon first procuring a resident export license, which license shall accompany the bill of lading when shipment is made by freight or express, and if made by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place. On return of the mounted specimen to the licensee by express or freight, the export license shall accompany the bill of lading, but if returned by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place, and the collector of customs at the port of entry, or the postmaster through whose office the package is received, shall detach the license, note thereon the contents of the shipment, and promptly return it to the Commission.

By nonresident.—A nonresident citizen or an alien who is the holder of a valid license may possess and transport within the Territory grouse and ptarmigan legally taken by him, or he may export, by express or freight only, not to exceed in the aggregate 1 day's limit of such grouse or ptarmigan. Before any such grouse or ptarmigan or part thereof shall be exported, the person offering it for export shall first deliver to the transportation agent at the point of shipment his affidavit that he has not violated any of the provisions of the Alaska Game Law or the regulations thereunder; that such grouse or ptarmigan or part thereof has not been purchased or sold and is not being shipped for sale; and that he legally killed or is the owner of such grouse or ptarmigan or part thereof. Such affidavit shall accompany the express or freight bill of lading to the port of clearance, there to be taken up and promptly transmitted to the Commission by the collector of customs.

Any person possessing any grouse or ptarmigan or part thereof without a valid license shall furnish on demand to any officer authorized to enforce the Alaska Game Law an affidavit showing the name and license number of the person from whom he received such grouse or ptarmigan or part thereof together with such other information as the officer may require.

Reg. 26.—Marking Packages Containing Grouse and Ptarmigan

Each package in which grouse and ptarmigan, or parts thereof, are transported within or out of the Territory, shall have clearly and conspicuously marked on the outside thereof the names and addresses of the consignor and consignee an accurate statement of the number of each kind of such birds or parts thereof contained therein.

Reg. 27.—Sale and Serving of Grouse and Ptarmigan

The meat of grouse or ptarmigan legally killed in the area north of the Alaska Range and the Kuskokwim-Bristol Bay Divide may be sold for food in that area by the person killing said birds, to the owner or operator of a restaurant, roadhouse, or public or other eating house within said restricted area, but no person to whom such meat is sold shall resell it otherwise than in cooked form and then only under permit prescribed by the Secretary and issued in the discretion of the Commission, which permit may authorize the purchase and possession of grouse or ptarmigan and the serving of such birds as provided herein, but such birds shall not be sold or served within 5 miles of the Alaska Railroad or of Steese Highway from Fairbanks to and including Chatanika.

The meat of grouse or ptarmigan is not permitted to be sold to the owner, master, or employee of any coastal or river steamer, commercial power or sail boat, pile driver, barge, scow, boat under charter, or cannery, or mine (where five or more men are employed), nor may any such owner, master, operator, or employee buy or serve any such birds or part thereof.

The meat of grouse or ptarmigan is not permitted to be possessed for serving or served in any dining car, mess house operated by a railroad, or mine (where five or more men are employed), by a contractor, or by an owner of a cannery, or by or in any other place maintained for the serving of food regularly to employees of such railroad, mine, contractor, or cannery.

The meat of grouse or ptarmigan is not permitted to be served to an employee of any coastal or river steamer, commercial power or sail boat, pile driver, barge, scow, boat under charter, cannery, or mine (where five or more men are employed).

No contractor or person operating a railroad, mine (where five or more men are employed), cannery, coastal or river steamer, or other commercial power or sail boat, pile driver, barge, scow, boat under charter, or any employee of any such contractor, operator, or person, is permitted to possess the meat of grouse or ptarmigan in a dining car, mess house, or the galley or dining room of any such boat, pile driver, barge, scow, or mine (where five or more men are employed).

Reg. 28.—Taking and Possession of Migratory Game Birds

Migratory game birds may be taken on areas not closed to such taking by regulations 5 and 6, during the open seasons, by the means, and in the numbers permitted, and when so taken, may be possessed, in accordance with the terms, conditions, and restrictions of regulations of the Secretary of Agriculture adopted and approved pursuant to the Migratory Bird Treaty Act of July 3, 1918, as amended, except,

further, that they may not be taken by means, aid, or use of a jack light, searchlight, or other artificial light, or within the First and Third Judicial Divisions of the Territory by shooting from, on, or across, or within 33 feet of the center line of any public highway.

Any person possessing a migratory game bird or part thereof without a valid license shall furnish on demand to any officer authorized to enforce the Alaska Game Law an affidavit showing the name or license number of the person from whom he received such bird or part thereof together with such other information as the officer may require.

Reg. 29.—Transportation of Migratory Game Birds

Migratory game birds, and parts thereof, may be possessed and transported within or out of the Territory as permitted by the regulations under the Migratory Bird Treaty Act referred to in regulation 28, under the following conditions:

By resident.—(1) At the discretion of the Commission a permit may be issued to a resident of the Territory for the export by express or freight of a legally taken or acquired migratory game bird, or part thereof, for purposes other than sale. Such permit may be obtained from any game warden or collector of customs upon payment of the required fee. The permit must accompany the bill of lading covering shipment to the port of clearance, where it will be taken up by the collector of customs and returned to the Commission.

(2) A resident may export by express, freight, or parcel post for mounting and return to the Territory within 1 year, but not for sale, any migratory game bird or part thereof legally taken or acquired by him, upon first procuring a resident export license, which license shall accompany the bill of lading when shipment is made by freight or express, and if made by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place. On return of the mounted specimen to the licensee by express or freight, the export license shall accompany the bill of lading, but if returned by parcel post, the license shall be attached securely to the outside of the package in a conspicuous place, and the collector of customs at the port of entry, or the postmaster through whose office the package is received, shall detach the license, note thereon the contents of the shipment, and promptly return it to the Commission.

By nonresident.—A nonresident citizen or an alien who is the holder of a valid license may possess and transport within the Territory during the open seasons prescribed by the aforesaid regulations and the 10 days immediately following, or, in any one calendar week during such open seasons, respectively, may export by express or freight only, not to exceed 1 day's limit of migratory game birds legally taken by him. Before any such migratory game bird or part thereof shall be exported, the person offering it for export shall first deliver to the transportation agent at the point of shipment his affidavit that he has not violated any of the provisions of the Alaska Game Law or the regulations thereunder; that such migratory game bird or part thereof has not been purchased or sold and is not being shipped for sale; and that he legally killed and is the owner of such bird or part thereof. Such affidavit shall accompany the express or freight bill of lading to the port of clearance, there to be taken up and promptly transmitted to the Commission by the collector of customs.

Reg. 30.—Marking Packages Containing Migratory Game Birds

Each package in which migratory game birds or parts thereof are transported within or out of the Territory shall have clearly and conspicuously marked on the outside thereof the names and addresses of the consignor and consignee and an accurate statement of the number of each kind of such bird or part thereof contained therein.

Reg. 31.—Sale of Migratory Game Birds

Migratory game birds (except specimens for scientific purposes and ducks and geese for propagation, as provided in chapter V of these regulations) or parts thereof are not permitted to be sold at any time, except that the feathers of wild ducks and geese legally killed, and the feathers of such birds seized and condemned pursuant to law, may be sold and transported for use in making fishing flies, bed pillows, mattresses, and for such similar commercial purposes, but not for millinery or ornamental purposes.

CHAPTER V.—TAKING WILD ANIMALS, BIRDS, AND THE NESTS AND EGGS OF BIRDS FOR SCIENTIFIC OR PROPAGATING PURPOSES AND ANIMALS OR BIRDS FOR THE PROTECTION OF PROPERTY

Reg. 32.—Taking Game and Land Fur-bearing Animals, Game and Nongame Birds, and the Nests or Eggs of Birds for Scientific or Propagating Purposes

The Secretary may issue a permit to a duly accredited representative of an educational or scientific institution, public museum or park, governmental department of the United States, or of a State engaged in the scientific study of mammals or birds, or to a person known to be making a special mammal or bird investigation, authorizing the holder to take, possess, and transport game or land fur-bearing animals, game or nongame birds, or the nests or eggs of birds for scientific purposes.

The Secretary may issue a permit to any person to take, possess, and transport game and land fur-bearing animals, migratory waterfowl, grouse, ptarmigan, and the eggs of such birds for propagation, but no permit to take, possess, and transport such animals, birds, or eggs for propagation shall be valid unless countersigned by the executive officer of the Commission.

Such permit shall be carried on the person of the permittee when he is taking animals, birds, or nests or eggs for scientific or propagating purposes, and shall be exhibited to any warden or other person requesting to see it.

Application for a permit to take, possess, buy, sell, exchange, or transport animals, birds, or the nests or eggs of birds for scientific purposes should be addressed to the Secretary of Agriculture, Washington, D. C., and must state the name and address of applicant, his age, whether he is a taxidermist, the name and address of the public museum or park, if any, that he represents, the region in which he desires to take them, the number of each species of animal or bird or of nests or eggs he desires to take, the probable port and date of shipment, and the purpose for which they are intended.

Application for a permit to take, possess, buy, sell, exchange, or transport animals, birds, or eggs for propagation should be addressed to the Alaska Game Commission, Juneau, Alaska, and must state the name and address of the applicant, the kinds and numbers of animals, birds, or eggs he desires to take, and how, when, and where they are to be taken and kept.

The permit may limit the number of species of animals, birds, and nests and eggs that may be taken thereunder, and may authorize the permittee to possess, buy, sell, exchange, or transport such animals or birds, parts thereof, or nests or eggs for scientific or propagating purposes, and prescribe the manner in which they may be taken or transported, and it may limit the permittee to one or more of these privileges and prescribe such other restrictions as either the Secretary or the Commission may deem necessary.

The permit unless otherwise provided therein shall expire on December 31 of the year of issue, shall be revocable at the discretion of the Secretary, and shall not be transferable. A permit revoked by the Secretary shall be surrendered to him by the person to whom issued on demand of any employee of the United States Department of Agriculture or of the Commission authorized by the Secretary to make such demand.

The holder of a permit to take, possess, buy, sell, exchange, or transport such animals or birds or eggs of birds for propagation shall on or before the 10th day of January of the year following the issuance of the permit, or as required by such permit, with respect to such animals, grouse, and ptarmigan report to the Alaska Game Commission, Juneau, Alaska, and with respect to migratory waterfowl, report

to the Secretary of Agriculture, Washington, D. C., with a duplicate to the Commission, the kinds, number, and sex of such animals or birds taken, possessed, bought, sold, exchanged, or transported by him under the permit, the disposition made of them, and whether any of them were killed or died as a result of operations under the permit.

The holder of a permit to take, possess, buy, sell, exchange, or transport such animals, birds, nests, or eggs for scientific purposes shall report to the Secretary, as required in such permit, the number of animals, birds, nests, or eggs taken, purchased, or sold (if purchase or sale is permitted), exchanged, or transported thereunder during the preceding calendar year.

The holder of a permit who transports within or out of the Territory wild animals or birds, or parts thereof, or the nests or eggs of birds, for scientific or propagating purposes, shall plainly and clearly mark, label, or tag the outside of the package containing said animals or birds, or parts, or nests or eggs, so as to show the names and addresses of the consignor and consignee, the contents of the package, the number of the permit under authority of which it is transported, and that the contents thereof are for scientific or propagating purposes, as the case may be. When such package is transported out of the Territory the permittee must at the time forward to the collector of customs at the port of clearance a copy of his permit bearing the seal of the United States Department of Agriculture and a list correctly showing the number and kinds of animals or birds, or parts thereof, or the nests or eggs of birds contained in the package, and in the event subsequent packages are exported under the one permit, such a list of the contents of each such subsequent package, together with a reference to the number of the permit, shall be mailed to the collector of customs at the port of clearance.

Reg. 33.—License, Guide or Other Requirements

Unless specifically provided therein no permit of the Secretary to take, possess, buy, sell, exchange, or transport any game or land fur-bearing animal or any bird for scientific or propagating purposes shall be deemed to exempt the permittee from compliance with the license, guide, or other requirements of the Alaska Game Law, but no license is required to export such species or specimens for such purposes.

Reg. 34.—Taking Animals or Birds for the Protection of Property

When information is furnished the Secretary that any species of game or land fur-bearing animal or bird has become, under extraordinary conditions, seriously injurious to agricultural or other interests in the Territory, an investigation will be made to determine the nature and extent of the injury and whether the animal or bird alleged to be doing the damage should be killed, and, if so, during what time and by what means. Upon his determination an appropriate order will be made.

CHAPTER VI.—UNPROTECTED NONGAME BIRDS

Reg. 35.—Certain Nongame Birds Unprotected

A resident of the Territory without a hunting and trapping license and a nonresident with a hunting license may take crows, hawks, owls, eagles, ravens, magpies, and cormorants and their nests and eggs at any time, in any number, and by any means except by the use of poison, and when so taken such birds or parts thereof, articles manufactured therefrom, and the nests and eggs may, without further license and at any time, be bought, sold, or transported within or out of the Territory.

Reg. 36.—Marking Packages Containing Unprotected Nongame Birds

Every package containing any of the birds specified in regulation 35, or parts or nests or eggs thereof or articles manufactured therefrom, when transported out of the Territory shall be plainly and clearly marked, labeled, or tagged so as to show the names and addresses of the consignor and consignee and the contents of the package, specifying the kinds and number of each, of birds, parts, nests or eggs, or manufactured articles.

SCHEDULE A—CHAPTER 1, REGULATION 5

Areas in Which There Is a Continuous Close Season On All Species, Except for Scientific or Propagating Purposes

Mount McKinley National Park.
Katmai National Monument.
Glacier Bay National Monument.
Sitka National Monument.

Any bird refuge or other wildlife refuge or reservation, except under permit or regulation of the Secretary of Agriculture.

Eyak Lake area, embracing the drainage area of Eyak Lake and Power Creek, north and east of Cordova, more particularly described as follows: Beginning on the north boundary line of the town of Cordova at a point where said boundary line is crossed by the divide between Eyak Lake and Power Creek and Orca Inlet and Orca Bay; thence in a general northeasterly direction along said divide to the intersection with parallel 60°40′ north; thence east along said parallel to the intersection with the divide between the watershed of Power Creek and Eyak Lake and the watershed of Ibek Creek; thence in a general southwesterly direction along said divide to the headwaters of Allen Creek; thence southwesterly along the course of Allen Creek to its confluence with Eyak Lake; thence southerly along the shore of Eyak Lake to the northerly side line of the C. R. & N. W. Railway right-of-way; thence in a general westerly direction along the northerly side line of said railway right-of-way to the intersection with the east boundary line of the town of Cordova; thence north along said east boundary line to the northeast corner of said town; thence west along the northern boundary line of said town to the point of beginning (containing approximately 22,000 acres).

Ward Lake and Mendenhall Lake areas, Tongass National Forest, as posted and described by the United States Forest Service.

An area on Mitkof Island 1 mile wide along the beach extending from the creek and cove immediately south of Blind Point to the city limits of Petersburg.

Any island occupied under lease or permit for fur-farming purposes, except by the occupant thereof.

The following-described areas along the line of the Alaska Railroad:

1. Strip one mile wide between mileposts 40 and 52, situated one-half mile on either side of the center line of the railroad.
2. Strip one-half mile wide between mileposts 176 and 177, situated to the westward of the center line of the railroad.
3. Strip one-half mile wide between mileposts 181.5 and 182.5, situated to the westward of the center line of the railroad.
4. Strip one-half mile wide between mileposts 190 and 191, situated to the westward of the center line of the railroad.
5. Strip one-half mile wide between mileposts 195.5 and 196.5, situated to the westward of the center line of the railroad.
6. Strip one mile wide between mileposts 234.5 and 236.5, situated one-half mile on either side of the center line of the railroad.
7. Strip one mile wide between mileposts 242 and 243, situated one-half mile on either side of the center line of the railroad.
8. Strip one mile wide between mileposts 247 and 254, situated one-half mile on either side of the center line of the railroad.
9. Strip 2,000 feet wide between mileposts 283 and 293, situated 1,000 feet on either side of the center line of the railroad.
10. Strip 2 miles wide, situated as follows: Beginning at a point on the railroad 6 miles north of the Curry Hotel, thence east 1 mile, thence south 7 miles, thence west 2 miles, thence north 7 miles, thence east 1 mile to the place of beginning.

SCHEDULE B—CHAPTER I, REGULATION 6

Areas in Which There Are Continuous Close Seasons on Specified Game Animals, Land Fur-Bearing Animals, and Game Birds, Except for Scientific or Propagating Purposes

Any game animal or game bird.—In Keystone Canyon, embracing an area one-half mile on each side of and paralleling the Richardson Highway from milepost 13 (from Valdez) to milepost 20 (from Valdez).

In the Big Delta area described as follows: Beginning at a point on the south bank of the Tanana River 1 mile east of the ferry at Big Delta post office, thence south parallel to the Richardson Highway to a point 1 mile east of and opposite milepost 269 (from Valdez), thence westerly across and to a point on the west bank of the Big Delta River due west of aforesaid milepost 269, thence north along the west bank of the Big Delta River to its junction with the south bank of the Tanana River, thence easterly along the south bank of the Tanana River to the place of beginning.

Deer.—In Yakutat Bay region between longitude 138° and 141°.

In the Kodiak-Afognak Islands group.

Moose.—In Yakutat Bay region between longitude 138° and 141°.

On the Alaska Peninsula south and west of Kvichak River, Iliamna Lake, and the old portage from Kamishak Bay to Kakhonak Bay.

On the Kenai Peninsula in the area beginning at the true point for the meander corner of fractional secs. 23 and 26, T. 6 N., R. 12 W., on the east shore of Cook Inlet, at low water; the approximate geographic position is in latitude 60°34'17" N., and longitude 151°19'36" W. from Greenwich; thence from said initial point easterly, between secs. 23 and 26 and secs. 24 and 25 to the corner of secs. 19, 24, 25, and 30, T. 6 N., Rs. 11 and 12 W.; thence easterly, in T. 6 N., R. 11 W., along the north boundary of secs. 30, 29, and 28 to the NE corner of sec. 28; thence southerly, along the east boundary of secs. 28 and 33, to the corner of secs. 3, 4, 33, and 34, Tps. 5 and 6 N., R. 11 W.; thence easterly along the north boundary of secs. 3, 2, and 1, to the NE corner of T. 5 N., R. 11 W.; thence southerly, along the east boundary of sec. 1 to the meander corner of fractional secs. 1 and 6, on the right bank of the Kenai River; thence up the right bank of the Kenai River, at low water, to the outlet and westerly end of Skilak Lake; thence easterly, along and following the northerly shore of Skilak Lake, at low water, to a point on the northeasterly shore of the said lake at the mouth of the Kenai River; thence northeasterly, up the right bank of the Kenai River, at low water, to a point opposite the mouth of Russian River; this point falls on the west boundary of the Chugach National Forest as defined by Proclamation No. 1307, dated August 2, 1915; thence due north, following the west boundary of the Chugach National Forest as described by Proclamation No. 1741, dated May 29, 1925, to its intersection with Thurman Creek, thence following down the west bank of said creek and the Chickaloon River to Chickaloon Bay on Turnagain Arm of Cook Inlet, at low water; thence westerly and northwesterly along the the shore of Chickaloon Bay, at low water, to Point Possession; thence southwesterly, along the southeast shore of Cook Inlet, at low water, to the true point for the meander corner of fractional secs. 23 and 26, T. 6 N., R. 12 W., the place of beginning.

In the drainages of the Chilkoot and the Chilkat Rivers in southeastern Alaska.

Caribou.—Along Steese Highway embracing areas one mile on either side of and paralleling the center line of the said highway from milepost 85 to milepost 88 (Twelve Mile Summit); and from milepost 106 to milepost 111 (Eagle Summit).

Mountain sheep and mountain goat.—In the eastern part of the Kenai Peninsula east of the center line of the Alaska Railroad.

In the Girdwood area beginning at the center of the bridge of the Crow Creek road over California Creek, at approximately latitude 60°58' north and longitude 149°8' west of Greenwich, as shown on the preliminary topographic map of the Girdwood District, Alaska, 1931, published by the Geological Survey, Department of the Interior; thence on a course bearing due east continuing in a straight line to the west bank of Glacier Creek; thence northeasterly following the west and north bank of said creek and its largest northern tributary to its head; thence along the west side of the glacier it drains to the summit of the divide between Glacier Creek and the drainage to the north at approximately latitude 61°2'30" north, longitude 149° west; thence westerly and northerly along said divide around the head of Raven Glacier to a point where said divide intersects the western margin of the most northern glacier in Raven Creek basin; thence following northeasterly and westerly along the western and southern margin of Eagle Glacier to its termination; thence westerly in a straight line to the junction of Camp and Raven Creeks; thence southwesterly along the south bank of Camp Creek to its head, at the divide between Camp Creek and the North Fork Ship Creek; thence northwesterly down the valley of the North Fork Ship Creek to a small lake in this valley; thence westerly along the south shore of said lake and continuing westerly along the south bank of North Fork Ship Creek to the junction of said creek with its first large tributary from the south, entering it about 1 mile east of Bird Creek Pass; thence southerly along the west bank of said tributary and its most westerly branch to the divide between North Fork Ship Creek and Bird Creek; thence southwesterly in a straight line to the junction of Bird Creek with its first large tributary from the head entering it from the south; thence southeasterly along the northern and eastern side of the stream bed of said tributary to the summit of the divide between the said tributary and the drainage of California Creek; thence southerly along the divide between California Creek and Bird Creek to a summit marked 4322 on the said preliminary topographic map of Girdwood District, Alaska, said point being in approximately latitude 60°59' north, longitude 149°11'15" west; thence southeasterly in a straight line to the point of beginning (containing approximately 77 square miles).

Mountain goat.—On Baranof and Chichagof Islands.

Large brown or grizzly bear.—On Afognak Island.

In that area of land and water embracing the Glacier Bay National Monument, a part of the Tongass National Forest, and other lands included within the following-described boundary: Beginning at the summit of Mount Fairweather, in approximate latitude 58°54' N. and approximate longitude 137°31' W., which point is identical with angle point No. 164 on the international boundary between Alaska and British Columbia and common to the most westerly point of the Glacier Bay National Monument, as established February 26, 1925; thence southwesterly to Cape Fairweather on the Pacific Ocean, at the northwest corner of the Tongass National Forest as established June 10, 1925; thence southeasterly along the Pacific coast, including all islands along the coast, to the center channel of Cross Sound at the point of confluence with the Pacific Ocean; thence northeasterly, easterly, and southeasterly through the center channel of Cross Sound, North Inian Pass, North Passage, and Icy Passage to the center channel of Excursion Inlet, at the point of confluence with Icy Passage; thence easterly to a point on the east shore of Excursion Inlet at the foot of the spur ridge, which point is approximately 3 miles northeast of the Porpoise Islands; thence northeasterly, following the summit of the spur ridge to the summit of the watershed between Excursion Inlet and Lynn Canal; thence northerly, northwesterly, and westerly, along the summit of the watershed between Excursion Inlet and Lynn Canal to the intersection of the east boundary of the Glacier Bay National Monument and the watershed divide of Excursion Inlet, Endicott River, and Glacier Bay, which point is in approximate latitude 58°42' N. and approximate longitude 135°41' W.; thence northwesterly along the east and north boundary of the Glacier Bay National Monument, as now established, to the most northerly corner of said Glacier Bay National Monument, at a point on the international boundary between Alaska and British Columbia; thence southwesterly along the international boundary between Alaska and British Columbia through angle points Nos. 157, 158, 159, 160, 161, 162, and 163 to the summit of Mount Fairweather, the point of beginning; excepting and reserving from the above-described area all surveyed lands within fractional Tps. 39 and 40 S., Rs. 57, 58, and 59 E., Copper River Meridian.

In the following areas on Admiralty Island:

Thayer Mountain.—Beginning at the foot of the waterfall at the mouth of Hasselborg River on Salt Lake, head of Mitchell Bay; thence along the easterly bank of the Hasselborg River to the outlet of Hasselborg Lake; thence along the west shore of said lake to the outlet of the creek flowing into the head of the lake; thence upstream along the east bank of said creek to the trail crossing; thence in a southwesterly direction along the trial to the head of Thayer Lake; thence along the easterly shore of said lake to the extreme southern end of the lake; thence southeasterly approximately 2 miles in a straight line to the west end of Salt Lake at the head of Mitchell Bay; thence along the line of mean high tide of Salt Lake to the foot of the waterfall on Hasselborg River, the place of beginning (containing approximately 60 square miles); and

Pack Creek.—The entire watershed of Pack Creek, which empties into Seymour Canal near the north side of the entrance to Windfall Harbor (containing approximately 21 square miles).

Black bear.—In the drainage of Anan Creek.

Buffalo (bison), musk ox, and elk.—In any part of Alaska.

Beaver.—On Baranof and Chichagof Islands.

In the drainage to the Mendenhall Valley east of the main Glacier Highway.

In Fairbanks area, beginning at a point on the east bank of the Tanana River at the entrance of Pile Driver Slough; thence along the east bank of Pile Driver Slough to a point 4 miles south of Moose Creek; thence east along the divide between Moose Creek and French Creek around the head of Moose Creek and including all the drainage thereto; thence northwesterly along the divide between Moose Creek and Chena River; thence across the flats of Chena River to a point marked on Big Chena Bluffs; thence down the north bank of Chena River to its confluence with Tanana River; thence south along the east bank of Tanana River to the place of beginning.

On the Kodiak-Afognak Islands group.

Snowshoe hare.—On the Kodiak-Afognak Islands group.

Muskrat.—In the Golovin Bay drainage.

On the Kodiak-Afognak Islands group.

Raccoon.—In any part of Alaska.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the city of Washington, this 25th day of April, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1157; Filed, April 25, 1938; 12:36 p. m.]

ALASKA GAME COMMISSION

AMENDMENT OF REGULATIONS RELATING TO GUIDES, POISONS, AND RESIDENT TRAPPING AND HUNTING LICENSES

By virtue of the authority conferred upon the Alaska Game Commission by the act of January 13, 1925 (43 Stat. 739; U. S. Code, title 48, secs. 192–211; as amended by the act of February 14, 1931, 46 Stat. 1111; U. S. Code, title 48, secs. 192–207), entitled "An act to establish an Alaska Game Commission to protect game animals, land fur-bearing animals, and birds in Alaska, and for other purposes", the following regulations for the protection of game animals, land fur-bearing animals, and birds in Alaska are made and published, to be effective on and after July 1, 1938:

Regulation A. Employment of Guides by Nonresidents and Aliens

Nonresidents of the Territory or aliens taking game animals for any purpose, or black bear or polar bear for sport or trophies, or going afield to photograph large brown or grizzly bears, except nonresident Federal officials engaged in wildlife investigations in Alaska exempted by special permit of the Commission, are required to employ and be accompanied by a guide registered with and licensed by the Commission; but no such guide shall accompany in the field more than one nonresident or alien except husband and wife and minor child all of whom are in possession of the required hunting licenses.

Regulation B. Qualifications for Guide Licenses and Issuance Thereof

Only resident citizens who have resided in the Territory for the five years immediately preceding application for registration and a guide license will be registered and licensed to act as guides for nonresidents and aliens taking game animals for any purpose, or black or polar bears for sport or trophies, or going afield to photograph large brown or grizzly bears.

The Alaska Game Commission will establish guide districts and maintain a register of such persons as are duly qualified and licensed to act as guides in such districts.

Application for such registration and guide license shall be made on a form issued by the Commission and shall state applicant's citizenship and resident status, age, physical characteristics, permanent address, and district or districts in which he desires to operate, together with full information relative to his qualifications to act as guide, and shall be subscribed and sworn to by the applicant before an officer authorized to administer oaths.

Upon receipt of such application the Commission, through one of its members or such person as it shall designate, will arrange to determine, by such written and oral examinations and otherwise as it shall require, the qualifications of such applicant to act as a guide and his knowledge of the Alaska Game Law and regulations.

The member of the Commission or other person authorized to conduct such examination shall promptly file his report thereof with the Commission, together with his recommendation thereon, which report and recommendation shall be attached to the application and considered and determined at a regular or special meeting of the Commission.

If the Commission determines that the applicant does not possess sufficient field experience to qualify him to act as a principal guide but has all other qualifications, an assistant guide license may be issued to him, which shall authorize him to act as assistant to a principal guide.

In cases of emergency the Executive Officer of the Commission may, after investigation and satisfying himself of an applicant's qualifications, issue a special guide license to him upon payment of the required fee, authorizing him to guide the nonresident or alien hunter named in the application for such special license.

Extension or renewal of guiding privileges authorized by any guide license shall be made, in the discretion of the Commission, only upon examination and approval as hereinbefore provided.

A registered guide license must bear the signature of the chairman of the Commission and be countersigned by one other member of the Commission. Each license shall expire on June 30 next succeeding its issuance, shall be revocable at the discretion of the Commission, and shall not be transferable.

Each licensed guide shall submit to the Commission, immediately upon completion of a hunting or photographing trip, a report containing the name and address of the nonresident or alien for whom he acted as guide, period covered by his services, number and species of animals taken, wounded and not secured, numbers and localities of each species of big

game animal observed on the trip, and such other information as the Commission may require.

Regulation C. Designation and Use of Poison

Pursuant to section 9 of the Alaska Game Law, the following substances are by the Commission designated poisons: strychnine, arsenic, phosphorus, antimony, barium, the cyanides, corrosive sublimate, or any derivative or derivatives, compound or compounds thereof, which, by said section 9, are forbidden

(1) to be used at any time to kill any game or wild furbearing animal or bird,
(2) to be put out where any game or wild furbearing animal or bird may come in contact with it,
(3) to be sold or given to any hunter or trapper, or
(4) to be possessed by any hunter or trapper.

Any person selling or otherwise disposing of any of the aforesaid poisons is required by said section 9 of the Alaska Game Law to keep a record in a special book showing the name and address of each person purchasing or otherwise procuring such poison, and the kind and amount thereof, such record to be, at all times, open to inspection by any game warden or other officer authorized to enforce the Alaska Game Law and information thereof to be transmitted monthly to the Alaska Game Commission.

Regulation D. Resident Trapping and Hunting Licenses

No resident of the Territory over 16 years of age, except a native-born Indian, Eskimo, or half-breed who has not severed his tribal relations by adopting a civilized mode of living or by exercising the right of franchise, shall take game animals, land furbearing animals, or birds in the Territory without first having obtained a resident hunting license for game animals or birds or a trapping license for land furbearing animals, but a person who is the holder of such trapping license shall be entitled to the privilege of hunting game animals or birds during the respective open seasons without a hunting license.

On and after July 1, 1938, all former regulations of the Alaska Game Commission relating to guides, poisons, and resident hunting and trapping licenses shall be and are hereby revoked.

In testimony whereof, we have hereunto set our hands and caused the official seal of the Commission to be affixed in the City of Juneau, Territory of Alaska, this 25th day of February, 1938.

EARL N. OHMER,
Commissioner First Judicial Division.
FRANK P. WILLIAMS,
Commissioner Second Judicial Division.
ANDREW A. SIMONS,
Commissioner Third Judicial Division.
IRVING McK. REED,
Commissioner Fourth Judicial Division.
FRANK DUFRESNE,
Chief Representative of the Bureau of Biological Survey Resident in Alaska, Executive Officer, Fiscal Agent, and Secretary.

[F. R. Doc. 38-1156; Filed, April 25, 1938; 12:35 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 89]

FUNCTIONS, POWERS, AUTHORITY AND DUTIES OF LAND BANK COMMISSIONER

Whereas, pursuant to authority vested in him by law, the President of the United States issued and transmitted to the Congress on March 27, 1933, Executive Order No. 6084, in and by which there were transferred from the Federal Farm Loan Board, effective May 27, 1933, the powers and functions of said board, including the functions of the Farm Loan Commissioner; and

Whereas, in and by said order all power, authority and duties conferred by law upon any officer, executive agency, or head thereof from which or from whom transfer was made by said order, in relation to the executive agency or functions transferred, were transferred to and vested in the Governor of the Farm Credit Administration; and

Whereas, in and by said order the Governor of the Farm Credit Administration was authorized to execute any and all functions and perform any and all duties vested in him through such persons as he shall by order designate or employ; and

Whereas, in and by said order, the Governor of the Farm Credit Administration was authorized, by order or rules and regulations, to regroup and transfer offices, activities and functions in the Farm Credit Administration, so far as may be required to carry out the purposes to which said order was directed, and to fix or change the names of such offices, bureaus and activities and the duties, powers and titles of their executive heads; and

Whereas, section 80 of the Farm Credit Act of 1933, approved June 16, 1933, provides that after the date of the enactment thereof, the Farm Loan Commissioner shall be known as the Land Bank Commissioner;

Now, therefore, pursuant to the authority vested in the Governor of the Farm Credit Administration as aforesaid, it is ordered as follows:

1. The Land Bank Commissioner shall, subject to the jurisdiction and control of the Farm Credit Administration, execute and perform all functions, powers, authority and duties heretofore vested in or conferred upon the Federal Farm Loan Board or the Land Bank Commissioner (previously known as Farm Loan Commissioner), except functions, powers, authority and duties pertaining to intermediate credit and to matters incidental thereto and to the administration of the provisions of law relative to Federal intermediate credit banks, and shall, subject to such supervision and control, execute and perform all functions, powers, authority and duties of the Farm Credit Administration relative to the administration of the provisions of law relating to Federal land banks, national farm loan associations and joint stock land banks.

2. The provisions hereinbefore set forth shall not operate to limit or restrict the Governor of the Farm Credit Administration in the execution and performance of any functions, powers, authority or duties vested in him.

3. The provisions of this order do not modify or revoke the provisions of any previous Farm Credit Administration Order except that the provisions of Farm Credit Administration Order No. 9, dated June 16, 1933, are hereby revoked.

4. The provisions of this order shall be effective as of the opening of business on the date above written, and shall remain in force and effect until the same are amended or revoked by subsequent order.

[SEAL] W. I. MYERS,
Governor, Farm Credit Administration.

[F. R. Doc. 38-1155; Filed, April 25, 1938; 12:22 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

STANDARDS OF GOOD ENGINEERING PRACTICE, APPLICABLE TO NON-COMMERCIAL EDUCATIONAL BROADCAST STATIONS

The Commission en banc, at a meeting held on April 13, 1938, approved the following Standards of Good Engineering Practice, Applicable to Non-Commercial Educational Broadcast Stations:

RULE 1058 (*d*) Specifies that the transmitting equipment of all non-commercial educational broadcast stations shall be designed, constructed, installed and operated in conformity with the requirements of good engineering practice as specified from time to time by the Commission. Also the location of the transmitter shall conform with the same requirements. The general principles of these requirements to insure satisfactory service from the station are enunciated below for the guidance of applicants and licenses. These principles are based on the best information available at this time but since the development of transmission and reception on the very high frequencies is only in the early stages, these standards may be departed from in case experience warrants the same. Each case will be treated on its individual merits as to details. The general principles are as follows:

1. *Transmitter and antenna location.*—To accomplish satisfactory coverage of any area, it is necessary that the transmitter and antenna be located at or near the highest point in such an area and as near the center thereof as obtainable and yet meet the height requirements. The area desired to serve may be only a section of the city, and the site should permit placing the antenna higher than surrounding buildings or obstructions so as to obtain as large an area as possible in the line of sight from the antenna. In compromising between height and central location, it is generally considered the height is of more importance. Any area behind a large hill or in a valley out of line of sight of the antenna may receive materially reduced signal depending upon several factors as to the formation of the hill, distance, receiving conditions, etc.

2. *Antenna system.*—Since at the frequencies allocated for this service, one half wave length is only approximately 12 feet, the antenna system design may vary within wide limits without unreasonable expense even for a very elaborate installation. It has not been definitely determined whether horizontal or vertical polarization is superior. However, it is considered that at the frequencies of these stations horizontal polarization (radiating element horizontal) is superior for general broadcast purposes.

In addition to meeting the above requirement relative to location, the antenna itself should be above the immediate surrounding obstructions as explained above. Where a central location is not obtainable, a directional antenna for increasing the service in the farther areas should be considered. In cases where the radiating elements are horizontal, consideration should be given to concentrating the radiation in a small angle with the horizontal by means of several elements and also to avoid directional properties in the horizontal plane when not desirable, elements in different vertical planes are necessary.

3. *Transmitter design and construction.*—The transmitter shall be capable of delivering satisfactorily the authorized power with modulation of at least 85 per cent with combined audio frequency harmonics generated by the transmitter not in excess of 10 per cent. The system of modulation is not prescribed, but must be a system that has been tested and proven satisfactory in operation. The carrier hum and extraneous noise level shall be kept at a minimum and shall be at least 50 decibels below 100 per cent modulation. Automatic frequency control shall be provided for automatically maintaining the operating frequency within 0.01 per cent of the assigned frequency. Adequate margin shall be provided in all component parts to avoid over-heating at the maximum rated power output. The maximum output power rating will be accepted as that given by the manufacturer unless it appears unsatisfactory. The transmitter shall be constructed in keeping with modern practice as to frame, panels and mounting, complete shielding, safety of life provisions, proper wiring, adequate meters (plate voltage, total plate current, output RF current, and others, as required) and control facilities.

4. *Installation of equipment.*—The installation must be made in a suitable room with no exposed high voltage leads or connections. The output connection shall be made through suitable bushings of minimum length and with protection from contact. A transmission line to antenna is recommended in all except very special cases. As an operator is required on duty during all operation, suitable facilities for his welfare and comfort shall be provided.

5. *Operation of Station.*—The transmitter shall be so tuned and operated that harmonics and spurious radiations are reduced to a minimum in keeping with current practice. Percentage of modulation should be maintained as high as practical without over-modulation to such an extent as to cause excessive distortion of spurious emissions. Adequate facilities for checking the modulation and general operation are required. A frequency monitor is required by Rule 981.

Any phase of construction, operation, etc., which is not clear from these specifications, shall be further determined from the standards of good engineering practice applicable to standard broadcast stations insofar as not in disagreement with these standards.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1148; Filed, April 23, 1938; 9:34 a. m.]

ASSIGNMENT OF COMMISSIONERS AND CERTAIN STAFF MEMBERS TO ACT ON VARIOUS CLASSES OF APPLICATIONS

AMENDMENT TO PARAGRAPH 2 OF ORDER NO. 28 BY ADDING CERTAIN ITEMS

The Commission en banc, at at a meeting held on April 13, 1938, amended Paragraph 2 of Order No. 28 by adding thereto the following items:

(*r*) Extensions of time within which to comply with technical requirements specified in authorizations, orders and rules or releases of the Commission.

(*s*) Changes in equipment necessary to comply with technical requirements specified in authorizations, orders, rules or releases (except formal applications).

(*t*) Representations of compliance with technical requirements specified in authorizations, orders, rules or releases (except formal applications).

(*u*) Operation with licensed, new or modified equipment at a temporary location with a temporary antenna system in case of an emergency when, due to causes beyond the control of the licensee, it becomes impossible to continue operating at the licensed location.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1149; Filed, April 23, 1938; 9:34 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDMENT TO RENTAL AND CONTRACTS CHAPTER OF THE MANUAL

CHANGING PROVISIONS GOVERNING CONTRACTS FOR ELECTRIC SERVICE

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by subsections a and k of Section 4 of said Act as amended, it is hereby ordered that Section 1300 of the Rental and Contracts Chapter (Chap. XIII) of the Consolidated Manual be amended to read as follows:

SEC. 1300. The Rental and Contracts Subsection, subject to the control and direction of the Treasurer of the Corporation, shall have jurisdiction over all office rental agreements, electric service contracts and telephone service contracts; shall be responsible for the safe-keeping of all such leases and contracts; and shall maintain necessary records in connection therewith.

Board approval is required prior to the execution of any lease covering office space.

The General Manager's approval is required prior to the execution of any contract for telephone service and electric service, except where payment for such service in accordance with the lease, is included in the monthly rental or is to be made to the lessor based on meter readings (at approved rates of the Public Utilities Commission of the State.)

The Rental Subsection shall be responsible for the safe-keeping of all leases and contracts in such safes, cabinets or

files as the Treasurer may provide, and shall maintain necessary records in connection therewith.

Adopted by the Federal Home Loan Bank Board on April 22, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1152; Filed, April 25, 1938; 10:19 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

[File No. 43-108]

IN THE MATTER OF LOUISIANA STEAM GENERATING CORPORATION AND GULF STATES UTILITIES COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Louisiana Steam Generating Corporation, a subsidiary company of Engineers Public Service Company, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale by it of not to exceed $1,000,000 principal amount of its unsecured notes due November 19, 1940, and to bear interest at the rate of 3 per cent per annum (said interest rate to be subject to revision); a hearing having been held on said declaration after appropriate notice; the Commission having examined the record in this matter and made and filed its findings therein:

It is ordered, That said declaration be and become effective forthwith, subject, however, to the following terms and conditions:

1. That the notes be sold at no less than the face amount thereof.

2. That any revision of interest on said notes upwards or downwards from 3 per cent per annum shall be subject to the further orders of this Commission.

3. That within 10 days after any of said notes are issued, declarant shall file with this Commission a certificate of notification advising it of the extent of the issuance and the terms thereof.

4. That the proceeds of said notes be used only for the purposes represented by the declaration.

5. Jurisdiction with respect to the declaration, insofar as it concerns Gulf States Utilities Company, is hereby reserved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1154; Filed, April 25, 1938; 12:09 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

[File No. 2-3531]

IN THE MATTER OF PUGET SOUND DISTILLERY, INC.

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant, Puget Sound Distillery, Inc., a Washington corporation, filed November 20, 1937, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading in the facing sheet, Items 3, 19, 20, 23, 27, 31, 36, 37, 46, 53, 54, Exhibit H, the accountant's certificate and the prospectus, and the registrant having consented to the issuance of this order, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in the particulars set forth above, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Puget Sound Distillery, Inc., a Washington corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1153; Filed, April 25, 1938; 12:09 p. m.]

Wednesday, April 27, 1938 — *No. 82*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

TRANSFERRING CERTAIN LAND TO THE CONTROL AND JURISDICTION OF THE TREASURY DEPARTMENT

New Mexico

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

1. The following-described land is hereby transferred from the control and jurisdiction of the Department of the Interior to the control and jurisdiction of the Treasury Department for use as a site for a federal building as authorized by the act of May 25, 1926, 44 Stat. 630, and the Third Deficiency Appropriation Act, fiscal year 1937 (50 Stat. 755, 773):

Hot Springs Townsite

All of "Reserve" lot, Block 96, Townsite of Hot Springs, New Mexico, as shown upon the official plat thereof approved by the United States Surveyor General for New Mexico October 31, 1919, and on file in the General Land Office; containing 5,834 square feet.

2. Executive Order No. 5389, dated July 7, 1930, withdrawing certain lands containing hot springs or springs the waters of which contain curative properties, is hereby modified to the extent necessary to make this order effective.

3. This order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 25, 1938.

[No. 7875]

[F. R. Doc. 38-1163; Filed, April 26, 1938; 11:08 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 241]

ALLOCATION OF FUNDS FOR LOANS

APRIL 22, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Nebraska 8053A2 Buffalo	$12,000
Tennessee 8023A3 Dickson	6,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1162; Filed, April 26, 1938; 9:57 a. m.]

THE PANAMA CANAL.

[Circular No. 690-2]

OPEN MARKET PURCHASES IN AMOUNTS NOT EXCEEDING $500

BALBOA HEIGHTS, C. Z., *March 29, 1938.*

By virtue of and pursuant to the authority vested in me by section 351 of title 2 of the Canal Zone Code, I hereby prescribe the following regulations for the purchase of supplies in cases involving amounts not in excess of $500.

1. Any purchase of supplies for the use of The Panama Canal, or for use in the Canal Zone, may be made in the open market and without advertising if the amount involved does not exceed $500.

2. Requisitioning and purchasing officers of The Panama Canal will be held responsible to the Governor for the reasonable exercise of the authority hereby conferred and are required to exercise the said authority in the interests of the Government.

3. When purchases are made under the authority contained herein the purchase order will bear the following notation:

Purchased under authority contained in sec. 351, title 2, Canal Zone Code, and the Governor's Circular No. 690-2, dated March 29, 1938.

4. The regulations contained herein supersede the regulations prescribed in Circular 690-1 dated February 9, 1927.

C. S. RIDLEY, *Governor.*

Confirmed:
H. A. A. SMITH,
Chief of Office.

[F. R. Doc. 38-1164; Filed, April 26, 1938; 12:34 p. m.]

Thursday, April 28, 1938 — *No. 83*

PRESIDENT OF THE UNITED STATES.

NATIONAL MARITIME DAY—1938

By the President of the United States of America

A PROCLAMATION

WHEREAS in commemoration of the first successful transoceanic voyage made under steam propulsion by the steamship *The Savannah*, which set sail from Savannah, Georgia, on May 22, 1819, Public Resolution 7, approved May 20, 1933 (48 Stat. 73), provides:

"That May 22 of each year shall hereafter be designated and known as National Maritime Day, and the President is authorized and requested annually to issue a proclamation calling upon the people of the United States to observe such National Maritime Day by displaying the flag at their homes or other suitable places and Government officials to display the flag on all Government buildings on May 22 of each year.";

AND WHEREAS May 22, 1938, falls on a Sunday:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby call upon the people of the United States to observe Monday, May 23, 1938, as National Maritime Day by displaying the flag at their homes or other suitable places, and do direct Government officials to display the flag on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 25" day of April in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
SUMNER WELLES
Acting Secretary of State.

[No. 2280]

[F. R. Doc. 38-1178; Filed, April 27, 1938; 10:53 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

NEW MEXICO GRAZING DISTRICT NO. 6

MODIFICATION

APRIL 21, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing New Mexico Grazing District No. 6 is hereby revoked as far as it affects the following-described lands:

NEW MEXICO

New Mexico Principal Meridian

Tps. 2, 3, and 4 S., R. 27 E.;
Tps. 3 and 4 S., Rs. 28 and 29 E.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-1176; Filed, April 27, 1938; 9:36 a. m.]

National Park Service.

LASSEN VOLCANIC NATIONAL PARK

LOCAL SUBSIDIARY REGULATIONS

The following regulations, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), have been recommended by the superintendent and approved by the Director of the National Park Service, and are in force and effect within the boundaries of Lassen Volcanic National Park:

Fishing.—The local subsidiary regulations relating to fishing, approved May 27, 1936 (1 F. R. 534), are continued in force and effect.

Entrance roads.—The Manzanita Lake and Sulphur Works entrances shall be opened at 6:00 A. M. and closed at 10:00 P. M. daily.

Speed.—Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 20 miles per hour in the Manzanita Lake area, which includes the following roads:

Manzanita Lake Campground Roads Nos. 1 and 2.
The road to Reflection Lake picnic ground.
One-half mile of the Lassen Peak Loop Highway, from the Manzanita Lake checking station to the gasoline station.

Approved April 23, 1938.

[SEAL] ARNO B. CAMMERER,
Director, National Park Service.

[F. R. Doc. 38-1175; Filed, April 27, 1938; 9:36 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ORDER REGULATING HANDLING OF MILK IN CINCINNATI, OHIO, MARKETING AREA AS IS IN INTERSTATE COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE COMMERCE

Whereas, under the terms and provisions of Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applica-

ble to processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Cincinnati, Ohio, marketing area, would tend to effectuate the declared policy of said act, gave, on the 12th day of November 1937, notice of a public hearing to be held at Cincinnati, Ohio, on the 29th day of November 1937, on a proposed marketing agreement and a proposed order, said hearing being reopened at Cincinnati, Ohio, on the 4th and 20th days of January 1938 and the 2nd day of February 1938 for the purpose of receiving additional evidence, and at said times and places conducted public hearings, at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, the Secretary has found and proclaimed the period August 1919–July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Cincinnati, Ohio, marketing area; and

Whereas, after said hearings and after the tentative approval by the Secretary of a marketing agreement on the 22nd day of March 1938, handlers of more than 50 percent of the volume of milk covered by this order, which is marketed within the Cincinnati, Ohio, marketing area, have signed such tentatively approved marketing agreement upon which hearings have been held and this order regulates the handling of milk in the same manner as, and is applicable only to handlers defined in, said marketing agreement; and

Whereas, the Secretary hereby determines that the issuance of this order is approved or favored by over two-thirds of the producers who, during the month of January 1938, said month having been determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the Cincinnati, Ohio, marketing area; and

Whereas, the Secretary finds that the expenses which the market administrator will necessarily incur during any twelve-month period of time for the maintenance and functioning of such agency for the administration of this order will be approximately $35,000 and that the payment by each handler of 2 cents per hundredweight on all milk received from producers is a proper maximum pro rata share of such expenses; and

Whereas, the Secretary finds, upon the evidence introduced at said hearings:

1. That approximately 38 percent of the total volume of milk received by handlers distributing milk in the Cincinnati, Ohio, marketing area, is produced outside the State of Ohio and approximately 74 percent of all milk received by handlers distributing milk in the Cincinnati, Ohio, marketing area, is either produced outside the State of Ohio or is physically and inextricably intermingled by such handlers with milk which is produced outside the State of Ohio; and

2. That the milk originating in States other than Ohio enters the current of interstate commerce; that the milk originating in the State of Ohio is inextricably intermingled with that milk which is in the current of interstate commerce and in such amount that it is impossible to regulate that milk originating in States other than Ohio without regulating that milk which originates in the State of Ohio; and that the handling of milk in the Cincinnati, Ohio, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce; and

3. That orderly marketing conditions for milk flowing into the Cincinnati, Ohio, marketing area are threatened with disruption which will result in an impairment of the purchasing power of milk handled in said marketing area, and that the issuance of this order and all its terms and conditions will tend to effectuate the declared policy of the said act; and

4. That the prices calculated to give milk handled in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of the said act are not reasonable in view of the price of feeds and other economic conditions which affect the supply and demand for such milk and that the minimum prices set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest.

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by said act, hereby orders that such handling of milk produced for sale in the Cincinnati, Ohio, marketing area as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, be in conformity to and in compliance with the following terms and conditions.

ARTICLE I—DEFINITIONS

SECTION 1. *Terms.*—The following terms shall have the following definitions:

1. *Secretary* means the Secretary of Agriculture of the United States.

2. *Cincinnati Marketing Area,* hereinafter called the "marketing area," means the city of Cincinnati, Ohio, and the territory included within the boundary lines of Hamilton County, Ohio.

3. *Person* means any individual, partnership, corporation, association, and any other business unit.

4. *Producer* means any person who, in conformity with the health regulations, as applied and enforced by the proper authorities, with respect to milk which is sold for consumption in the form of milk in the marketing area, produces milk and delivers it to a handler: *Provided,* That if such producer has not regularly distributed milk in the marketing area or sold milk to a handler for a period of 30 days prior to the effective date hereof, but thereafter begins the regular delivery of milk to a handler, he shall be known as a "new producer" during the first two full calendar months after deliveries are first made to a handler, after which he shall be known as a producer.

5. *Handler* means any person who purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is sold in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.

6. *Delivery period* means any calendar month.

ARTICLE II—MARKET ADMINISTRATOR

SECTION 1. *Designation.*—The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

SEC. 2. *Powers.*—The market administrator shall:

1. Administer the terms and provisions hereof;

2. Report to the Secretary complaints of the violations of the provisions hereof.

SEC. 3. *Duties.*—The market administrator shall:

1. Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

2. Pay out of the funds provided by article IX the cost of his bond, his own compensation, and all other expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of his office;

3. Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate;

4. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to article VII and IX; and

5. Promptly verify the information contained in the reports submitted by handlers.

ARTICLE III—REPORTS OF HANDLERS

SECTION 1. *Submission of reports.*—Each handler shall report to the market administrator, in the detail and form prescribed by the market administrator, as follows:

1. On or before the 10th day after the end of each delivery period, (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.

2. Within 10 days after the market administrator's request with respect to any producer and new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made.

3. On or before the 10th day after the end of each delivery period, his producer pay roll, which shall show for each producer and new producer (a) the total delivery of milk with the average butterfat test thereof, (b) the amount of the advance payment to such producer and new producer made pursuant to section 1 of article VII, and (c) the deductions and charges made by the handler.

SEC. 2. *Verification of reports.*—Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this article, and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer and new producer.

ARTICLE IV—CLASSIFICATION OF MILK

SECTION 1. *Class definitions.*—Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator as follows:

1. Class I milk shall be all milk sold or given away in the form of milk or milk drinks, whether plain or flavored, and all milk not accounted for as Class II or Class III milk.

2. Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.

3. Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed 2½ percent of total receipts of milk, and (b) as used to produce a milk product other than one of those specified in Class II.

SEC. 2. *Interhandler and nonhandler sales.*—Milk sold by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products, shall be Class I milk: *Provided,* That if the selling handler on or before the 10th day after the end of the delivery period furnishes to the market administrator a statement, which is signed by the buyer and seller, that such milk was used in Class II or Class III, such milk shall be classified accordingly, subject to verification by the market administrator.

SEC. 3. *Computation of butterfat in each class.*—For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as set forth in section 1, as follows:

1. Determine the total pounds of butterfat received as follows: (a) multiply the weight of the milk received from producers and new producers by the average butterfat test, (b) multiply the weight of the milk produced by him, if any, by the average butterfat test, (c) multiply the weight of the milk received from handlers, if any, by the average butterfat test, and (d) add together the resulting amounts.

2. Determine the total pounds of butterfat in Class I milk as follows: (a) convert to quarts the quantity of milk or milk drinks, whether plain or flavored, sold or given away in the form of milk, and multiply by 2.15 (b) multiply the result by the average butterfat test of such milk; and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II and Class III milk computed pursuant to paragraphs 3 and 4 of this section is less than the total pounds of butterfat received, computed in accordance with paragraph 1, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this paragraph.

3. Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of the several products of Class II milk by the average butterfat test and (b) add together the resulting amounts.

4. Determine the total pounds of butterfat in Class III milk as follows: (a) multiply the actual weight of the several products of Class III milk by the average butterfat test, (b) multiply the weight of a quantity of milk equal to the plant shrinkage, which shall not exceed 2½ percent of total receipts, by the average butterfat test of milk received, and (c) add together the resulting amounts.

5. Determine the classification of the butterfat received from producers and new producers, as follows:

(*a*) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.

(*b*) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.

SEC. 4. *Computation of milk in each class.*—For each delivery period, the market administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and new producers and to which the prices set forth in article V apply, as follows:

1. Divide the total pounds of butterfat computed for each class in accordance with paragraph 5 of section 3 of article IV by the average test of all milk received from producers and new producers by such handler.

ARTICLE V—PRICES

SECTION 1. *Class prices.*—Each handler shall pay at the time and in the manner set forth in article VII not less than the following prices for milk delivered at the handler's plant on the basis of milk of 4 percent butterfat content as follows:

Class I milk—$2.75 per hundredweight: *Provided,* That where Class I milk is delivered to the residence of a relief client and paid for by a recognized relief agency the price shall be $2.15 per hundredweight, and *Provided further,* that where Class I milk is sold outside the marketing area, the price shall be that which the market administrator ascertains is being paid to farmers for milk of equivalent use in the market where such milk is sold, subject to a reasonable adjustment on account of transportation from the plant where such milk is received from producers to the plant where such milk is loaded on wholesale and retail routes.

Class II—$2.00 per hundredweight.

Class III milk—The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, and add 30 percent thereof: *Provided,* That for a quantity of Class III milk not

to exceed 10 percent of the Class I and Class II milk delivered by producers and new producers the price shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, plus 3 cents, multiplied by 4.

SEC. 2. *Computation of value of milk for each handler.*—For each delivery period, the market administrator shall compute the value of milk which each handler has received from producers, new producers, or an association of producers as follows:

1. Multiply the hundredweight of milk in each class, computed in accordance with section 4 of article IV, by the respective class price for 4-percent milk: *Provided*, That, if the average butterfat test of milk received from producers by such handler is more than 4 percent, there shall be added to the respective Class I and Class II prices for 4-percent milk, 4 cents per hundredweight, and to the Class III price for 4-percent milk, there shall be added an amount equal to 1/40 of the Class III price for each 1/10 of one percent of average butterfat content above 4 percent; and, if the average butterfat content of milk received from producers by such handler is less than 4 percent, there shall be subtracted from the Class I and Class II prices for 4-percent milk, 4 cents per hundredweight, and from the Class III price for 4-percent milk there shall be subtracted an amount equal to 1/40 of the Class III price, for each 1/10 of one percent of average butterfat content below 4 percent.

2. Add together the resulting amounts.

3. If, in the verification of reports from handlers, the market administrator discovers errors in the reports submitted by any handler or errors in payments to producers or new producers for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount of money necessary to correct any such errors.

SEC. 3. *Notification to each handler of value of milk.*—On or before the 13th day after the close of each delivery period, the market administrator shall bill each handler for the value of milk computed in accordance with section 2.

ARTICLE VI—DETERMINATION AND ANNOUNCEMENT OF VALUES AND PRICES

SECTION 1. *Computation of uniform price.*—The market administrator shall compute the uniform price per hundredweight of milk delivered during each delivery period as follows:

1. Add together values of milk, as computed in section 2 of article V, for each handler who made the payments required by article VII.

2. Subtract from this sum the total amount to be paid pursuant to paragraph 2 of section 1 of article VIII.

3. Subtract, if the average test of all milk is greater than 4 percent butterfat, or add, if the average test of such milk is less than 4 percent, an amount computed as follows: multiply the total hundredweight of milk by the variance of such average test from 4 percent, and multiply the resulting amount by $0.40.

4. Add the cash balance, if any, in the settlement fund.

5. Divide by the total hundredweight of milk received from producers other than the milk represented by the amount subtracted in paragraph 2.

6. Subtract the fraction of a cent, if any.

SEC. 2. *Announcement of price.*—On or before the beginning of the following delivery period, the market administrator shall notify each handler of the uniform price for milk and of the price for milk delivered by new producers, and shall make public announcement of the computation of the uniform price.

ARTICLE VII—PAYMENT FOR MILK

SECTION 1. *Payment to producers.*—On or before the 5th day after the end of each delivery period, each handler shall pay each producer and new producer, from whom he has received milk, $1.00 per hundredweight for all milk delivered during the delivery period.

SEC. 2. *Payment to producer-settlement fund.*—On or before the 17th day after the end of each delivery period, each handler shall pay to the market administrator a check in the amount of the value of milk billed to him for said delivery period, pursuant to section 3 of article V, less the amount paid out in accordance with section 1, and less the amount of the deductions and charges itemized on his producer pay roll. The market administrator shall maintain a separate fund known as the producer-settlement fund, in which he shall deposit all checks of handlers received pursuant to this section.

ARTICLE VIII—PAYMENTS TO PRODUCERS FROM PRODUCER-SETTLEMENT FUND

SECTION 1. *Calculation of Payments for Each Producer.*—For each delivery period the market administrator shall calculate the payment due each producer and new producer who delivered milk during said delivery period to a handler, who paid into the producer-settlement fund in accordance with article VII, as follows:

1. Multiply the hundredweight of milk delivered by each producer by the uniform price computed in accordance with section 1 of article VI; *Provided*, That if such milk is of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of one percent variance above or below 4 percent, 4 cents per hundredweight;

2. Multiply the total hundredweight of milk delivered by each new producer during said delivery period by the Class III price; *Provided*, That if such milk is of an average butterfat content other than 4 percent, there shall be added or subtracted for each 1/10 of one percent variance above or below 4 percent, an amount per hundredweight equal to 1/10 of the Class III price;

3. Subtract, in each case, the amount of the advance payment made pursuant to section 1 of article VII, the charges and the deductions, if any, which have been made by the handler against each producer and new producer.

SEC. 2. *Payments.*—On or before the 20th day after the end of each delivery period, the market administrator shall pay to each cooperative association, authorized to receive payments due producers who market their milk through such association, or to an agent designated by such cooperative to receive such payments, the aggregate of payments calculated pursuant to section 1 of this article, for all producers and new producers certified to the market administrator by such association as having authorized such association to receive such payments, and shall pay direct to each producer and new producer who has not been certified as having authorized such association to receive such payments the amount of the payment calculated pursuant to section 1.

ARTICLE IX—EXPENSE OF ADMINISTRATION

SECTION 1. *Payment by handlers.*—As his pro rata share of the expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of the office of the market administrator, each handler shall, with respect to all milk received from producers and new producers or produced by him during the delivery period, pay to the market administrator on or before the 17th day after the end of each delivery period that amount per hundredweight, subject to review by the Secretary and not to exceed 2 cents per hundredweight, which is announced on or before the 13th day after the end of each delivery period by the market administrator.

ARTICLE X—AMENDMENT, SUSPENSION, AND TERMINATION

SECTION 1. *Effect of amendment, suspension, or termination.*—The amendment, suspension, or termination of any or all of the provisions of this order shall not affect, waive, or terminate any right, duty, obligation, violation, or liability which shall have arisen, or may thereafter arise, in connection with any of the provisions herein.

SEC. 2. *Power of the market administrator to liquidate.*—Upon the suspension or termination of this order, the powers and duties of the market administrator shall be continued for the purpose of permitting the market administrator then functioning, or such other person as the Secretary may designate, to: (1) reduce all assets to cash, (2) pay all costs of liquidation, (3) distribute all remaining cash on hand to the parties entitled to receive the same, and (4) ship all books and records to the Secretary for filing.

ARTICLE XI—LIABILITY

SECTION 1. *Handlers.*—The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

Now, therefore, H. A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Marketing Agreement Act of 1937, which reenacts and amends certain provisions of Public No. 10, 73d Congress, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 27th day of April, 1938, and declares this order to be effective on and after 12:01 a. m., e. s. t., May 1, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1186; Filed, April 27, 1938; 12:20 p. m.]

PUERTO RICO SUGAR QUOTA

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Whereas the Secretary of Agriculture, acting pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937, held a public hearing in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar) and the 1938 sugar quota for Puerto Rico for local consumption; and

Whereas the Secretary of Agriculture, on April 19, 1938, issued Puerto Rico Sugar Order No. 10 allotting the portion of the 1938 sugar quota for Puerto Rico which may be filled by direct-consumption sugar; and

Whereas it is deemed necessary to revise or amend the said Puerto Rico Sugar Order No. 10 as provided in section 205 (a) of the said act; and

Whereas the evidence presented to the Secretary of Agriculture at the aforesaid hearing is inadequate to enable him to make a fair, efficient, and equitable distribution of the 1938 raw sugar quota for Puerto Rico and the 1938 sugar quota for Puerto Rico for local consumption; and

Whereas an emergency exists which requires a shorter period of notice than that required under General Sugar Regulations, Series 2, No. 2, issued September 21, 1937; and

Whereas the period of notice given hereunder is deemed to be reasonable under the circumstances:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, pursuant to the authority vested in me by section 205 (a) of the said act, do hereby confirm my prior finding of December 31, 1937, that the allotment of the 1938 raw sugar quota for Puerto Rico for shipment to the continental United States and the 1938 sugar quota for Puerto Rico for local consumption is necessary to prevent disorderly marketing and importation of such sugar, and hereby give notice that a public hearing will be held in Washington, D. C., in the auditorium of the United States Department of Agriculture on May 3, 1938, at 9:30 a. m.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to revise or amend the provisions of the said Puerto Rico Sugar Order No. 10 in accordance with the provisions of section 205 (a) of the said act, and to receive evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the 1938 raw sugar quota for Puerto Rico for shipment to the continental United States and the 1938 sugar quota for Puerto Rico for local consumption.

Robert B. Tyler and John C. Bagwell are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearing.

Done at Washington, D. C., this 26th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1184; Filed, April 27, 1938; 12:19 p. m.]

Bureau of Animal Industry.

NOTICE

APRIL 22, 1938.

To GALLATIN LIVESTOCK MARKET, INC., *Gallatin, Tenn.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Gallatin Livestock Market, at Gallatin, State of Tennessee, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1166; Filed, April 26, 1938; 1:53 p. m.]

NOTICE

APRIL 22, 1938.

To C. W. POORE, JAY POORE, AND FORREST POORE, *doing business as McCook Livestock Exchange, McCook, Nebr.*

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stock yard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And, whereas the McCook Livestock Exchange, at McCook, Nebraska, was posted on the 4th day of December, 1937, as coming within the foregoing definition;

And, whereas after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the area now operated as a public stockyard by the McCook Livestock Exchange is less than the minimum specified in the Packers and Stockyards Act and is, there-

fore, no longer required to be designated and posted under said Act:

Now, therefore, notice is hereby given that the McCook Livestock Exchange, McCook, Nebraska, no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1165; Filed, April 26, 1938; 1:53 p. m.]

[Amendment 14 to B. A. I. Order 350]

REGULATIONS GOVERNING THE RECOGNITION OF BREEDS AND PUREBRED ANIMALS

AMENDING REGULATION 2, SECTION 3, PARAGRAPH 1, RECOGNIZING BREEDS AND BOOKS OF RECORD ACROSS THE SEAS

[Effective on and after April 27, 1938]

Regulation 2, section 3, paragraph 1, of the regulations governing the recognition of breeds and purebred animals, effective under date of July 1, 1935, and identified as B. A. I. Order 350, is hereby amended so as to include and recognize for the purposes enumerated thereunder the following breed and book of record:

Asses

Name of breed	Book of record	By whom published
Poitou Ass.....	Jack and Jennet Section of the Stud-Book ou Livre Généalogique des Animaux Mulassiers du Poitou.	Société Centrale d'Agriculture des Deux-Sèvres, Eugene Sacot, president, Niort, France.

Done at Washington this 27 day of April 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1185; Filed, April 27, 1938; 12:19 p. m.]

Forest Service.

OCCUPANCY, USE, PROTECTION, AND ADMINISTRATION OF NATIONAL FORESTS

MODIFICATION OF REGULATION L-7

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905, (33 Stat. 628), amendatory of the Act of June 4, 1897, (30 Stat. 35), 16 U. S. C. 551, I, H. A. Wallace, Secretary, do hereby amend paragraphs 1 and 5 of Regulation L-7 of the rules and regulations governing the occupancy, use, protection, and administration of the national forests as approved on August 12, 1936, (1 Fed. Reg. 1099), to read as follows:

"The right of way over national forest land for any State or county highway or road which is a part of the approved system of public roads shall be 132 feet in width for roads of class 1 or class 2, and 66 feet in width for roads of class 3 or other county roads of a secondary character; the center line of the highway or road to be the center line of the right of way except where otherwise provided by permit. National forest lands within the limits of such right of way shall continue to be administered by the Forest Service, but their use for highway or road purposes shall be the dominant use, and no occupancy for other purposes shall hereafter be authorized by the forest supervisor or regional forester unless approved and concurred in by the appropriate State or county officials, but if agreement can not be reached regarding other forms of use or occupancy regarded by the regional forester as essential to the proper use and management of the national forest the matter shall be submitted to the Secretary of Agriculture for final decision.

"Roads traversing national forest lands, which are not parts of State or county highway systems and which are constructed and maintained wholly at the expense of the Federal Government and its private cooperators may be designated by the regional forester as special service roads, and upon roads so designated the operation of automobiles or trucks is prohibited except as authorized by the regional forester."

In testimony whereof I have hereunto set my hand and official seal in the City of Washington this 27 day of April 1938.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-1183; Filed, April 27, 1938; 12:19 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Air Commerce.

[Amendment No. 4]

AMENDMENT TO THE CIVIL AIR REGULATIONS

Pursuant to the authority contained in the Air Commerce Act of 1926 (44 Stat. 568) as amended by the Act of February 28, 1929 (45 Stat. 1404), the Act of June 19, 1934 (48 Stat. 1113) and the Act of June 19, 1934 (48 Stat. 1116), and the authority contained in Sections 11 and 12 of the Act of June 12, 1934 (48 Stat. 933, 937), divisions 20.30, 21.20, 27.1054, 40.262, 40.263, 50.200 and 52.120 of the Civil Air Regulations, effective November 1, 1937, are amended to read as follows:

20.30 *Provision for issuance.*—An appropriate pilot certificate of competency will be issued by the Secretary to a natural person who is an applicant therefor, after approval of an application made and proofs submitted in connection therewith and if upon inspection and examination such applicant is found by the Secretary to meet the appropriate minimum requirements prescribed in CAR 20.1. Holders of valid pilot licenses may pilot aircraft pursuant to such authority until the expiration thereof: *Provided*, That such piloting of aircraft by holders of valid student, amateur, private, limited-commercial and transport pilot licenses shall be subject to the respective prohibitions and limitations provided in Civil Air Regulations effective November 1, 1937, and as amended, for piloting of aircraft by holders of valid student, solo, private, limited-commercial and commercial pilot certificates. On the expiration of each pilot license the holder, upon meeting the requirements for the renewal or re-issuance thereof and for any ratings held, may have issued to him the following certificates and ratings:

(*a*) If the holder of a student license, a *solo certificate, provided* he has logged at least 5 hours of certified solo flying time, makes application within the effective period of his license and shows a satisfactory physical examination, as provided for in CAR 20.104, within the 9 months immediately preceding application for such solo certificate. If the holder of a student license with no or less than 5 hours solo flying time, CAR 20.10 and 20.60 shall apply.

(*b*) If the holder of an amateur license, a *solo certificate.*

(*c*) If the holder of a private, limited-commercial or transport license, a *private, limited-commercial* or *commercial certificate* respectively, plus an *instrument rating* if a non-scheduled instrument rating is held and, in the case of the commercial pilot certificate, an *instructor rating* whether or not a flying instructor's rating is held.

21.20 *General.*—An airline pilot competency certificate will be issued by the Secretary to a natural person, who is an applicant therefor, after approval of an application made and proofs submitted in connection therewith and if, upon inspection and examination, said applicant is found by the Secretary to meet the minimum requirements prescribed therefor in CAR 21.1. Until October 1, 1938, the holder of both a valid transport pilot license and a scheduled air transport rating, upon a showing of the same and upon application made as provided in CAR 21.21, will be issued an airline pilot certificate with ratings specifying aircraft of the type, weight and engine classification as specified on on his transport pilot license. In the interim, piloting shall be under authority heretofore granted.

27.1054—Until July 1, 1938, an applicant employed or formerly employed in the dispatching and flight control of aircraft in airline service may be deemed by the Secretary to have met the requirements of CAR 27.105, and if so deemed, shall be presumptively entitled to an airline dispatcher rating.

40.262 *Second pilots.*—Applicant shall show that each person employed to serve as a second pilot for the airline is possessed of at least a valid commercial pilot competency rating and before serving as second pilot in any aircraft in scheduled airline service shall have demonstrated, to an airline inspector representing the Secretary or to a check pilot of the airline duly authorized by the Secretary, his ability to take off and land such aircraft in which he is to serve by making at least 3 satisfactory take-offs and landings in each model of such aircraft. On and after July 1, 1938, each applicant for or holder of an airline competency certificate will be required to show that each such person is possessed of a valid instrument rating, unless possessed of a valid airline pilot competency rating.

40.263 *Airline dispatchers.*—Applicant shall show that each person assuming aircraft dispatcher duties for the airline is familiar with the route or part thereof over which he will dispatch aircraft, the weather characteristics and phenomena peculiar to such route, the nature and peculiarities of the terrain and of obstructions to flight, the air navigation facilities available on the ground and in the aircraft, the contents of the operations manual of the proposed airline and the aircraft limitations specified in the certificates of the aircraft proposed for use. On and after July 1, 1938, each applicant for or holder of an airline competency certificate will be required to show that each such person is possessed of a valid and appropriate airline dispatcher competency rating.

50.200—Civilian schools giving instruction in flying and holding valid approved school certificates may operate pursuant to such authority until the expiration thereof or until July 1, 1938, whichever is the shorter period. Thereafter flying school certificates will be issued, upon application, pursuant to these regulations.

52.120—Aircraft repair stations holding valid approved repair station certificates may operate pursuant to such authority until July 1, 1938. Thereafter aircraft repair station certificates will be issued, upon application, pursuant to these regulations.

Approved, to take effect April 30, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1179; Filed, April 27, 1938; 11:48 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDING THE LOAN SERVICE CHAPTER (II) OF THE MANUAL CHANGING THE REQUIREMENTS FOR DIVISION OF SECURITY AND INDEBTEDNESS

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-sections a and k of Section 4 of said Act as amended, it is hereby ordered that Section 203 (i) of Chapter II of the Manual be amended to read as follows:

SEC. 203. (i) The General Manager, with the advice of the General Counsel, may authorize and direct a division of the mortgaged property, the allocation of the indebtedness to be secured by each parcel, the reamortization of each indebtedness within a period of fifteen years from the date of the original loan, the execution or acceptance of appropriate releases, reamortization agreements, mortgages, and other instruments by any official authorized to execute releases of the mortgaged liens of the Corporation, and such further action as may be necessary to effect the division of indebtedness and security.

The Regional Manager, with the advice of the Regional Counsel, may exercise the authority herein conferred upon the General Manager under procedure and limitations prescribed by the General Manager, with the approval of the General Counsel.

Be it further resolved, That this resolution shall be effective from May 16, 1938.

Adopted by the Federal Home Loan Bank Board on April 25, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1177; Filed, April 27, 1938; 10:19 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3182]

IN THE MATTER OF JOSEPH W. GRAFF, INDIVIDUALLY, AND TRADING AS THE SYLVAN COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1167; Filed, April 27, 1938; 9:17 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3184]

IN THE MATTER OF THEODORE H. KOOLISH, INDIVIDUALLY AND TRADING AS UNIVERSAL SPECIALTIES COMPANY.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal

Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at ten-thirty o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1168; Filed, April 27, 1938; 9:17 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3205]

IN THE MATTER OF S. C. ROSS, INDIVIDUALLY, AND TRADING AS IDEAL GIFT COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at one o'clock in the afternoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1169; Filed, April 27, 1938; 9:17 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3211]

IN THE MATTER OF JAMES I. SILVER, INDIVIDUALLY, AND TRADING AS SILVER MANUFACTURING COMPANY, SILVER SALES COMPANY, AND WORLD-WIDE RADIO COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at two o'clock in the afternoon of that day (central standard time), in Room 1123 New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1170; Filed, April 27, 1938; 9:18 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayers, Robert E. Freer.

[Docket No. 3215]

IN THE MATTER OF CHERRY SPECIALTY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 12, 1938, at one o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1171; Filed, April 27, 1938; 9:18 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3219]

IN THE MATTER OF IRWIN SCADRON, INDIVIDUALLY, AND TRADING AS METROPOLITAN DISTRIBUTING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at nine-thirty o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1172; Filed, April 27, 1938; 9:18 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3246]

IN THE MATTER OF PHILIP H. KOOLISH, JR., INDIVIDUALLY, AND TRADING AS PACIFIC COAST SPECIALTY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at two-thirty o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1173; Filed, April 27, 1938; 9:18 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3253]

IN THE MATTER OF J. A. SCHWARTZ, INDIVIDUALLY, AND TRADING AS NATIONAL SALES & NOVELTY COMPANY.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1174; Filed, April 27, 1938; 9:19 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 22]

MOTOR CARRIER RATES IN NEW ENGLAND

CORRECTED ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 12th day of April, A. D. 1938.

The said division having under consideration the subject of the rates, charges, classifications, rules, regulations, and practices applicable to the transportation of property in interstate or foreign commerce by common carriers by motor vehicle between points as hereinafter described:

It is ordered, That an investigation be, and it is hereby, instituted by the said division, on its own motion, into and concerning the lawfulness of the maximum, minimum, and precise basis of all rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property in interstate or foreign commerce between all points in the territory described below, with a view to determining whether the rates, charges, and classifications, and the rules, regulations and practices relating thereto, of respondents, or any of them, applicable to such transportation are in any respects in violation of law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant:

Territorial Description

All parts of each of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut; and between all parts of each of the said States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, on the one hand, and the territory hereinafter described, on the other hand; that part of the State of New Jersey on and within an irregular line running generally southwest beginning at the northeast corner of the State and at the intersection of the State boundaries of New York and New Jersey with the Hudson River at a point on the opposite shore from Hastings-on-the-Hudson, N. Y.; thence by the westerly shore of the Hudson River, Upper Bay, Kill van Kull, Newark Bay, Arthur Kill, and across the Raritan River at its entrance to Raritan Bay to South Amboy, N. J.; thence by U. S. Highway 9 from South Amboy to point of intersection with New Jersey Highway S-28; thence generally northwestward by New Jersey Highway S-28 to the boundaries of the City of New Brunswick, N. J., and along said boundaries to the Raritan River and thence by said river to Bound Brook, N. J.; thence generally northeastward from Bound Brook by U. S. Highway 22 to its point of intersection with New Jersey Highway 23 and thence by New Jersey Highway 23 to its intersection with U. S. Highway 202; thence by U. S. Highway 202 to the point of intersection with the State boundary; thence generally southeastward by the State boundary of New York and New Jersey to the point of beginning; that part of the State of New York within New York, N. Y. (comprising the Boroughs of Manhattan, Bronx, Brooklyn, Queens, and Richmond) and the remainder of Long Island, N. Y., and the counties of Westchester, Putnam, Dutchess, and that

portion of Columbia County lying south of a line running generally northwestward from the intersection of New York Highway 23 with the western boundary of Massachusetts, and by New York Highway 23 and the southern boundary of the City of Hudson, N. Y., to the east shore of the Hudson River, and that portion of Orange County which includes the corporate limits of Newburgh, N. Y.; that part of the State of New York on and within a line beginning at the northeast corner of the State of New York at its intersection with the International Boundary of Canada and the United States, and thence generally south by the westerly shore of Lake Champlain to Whitehall, N. Y.; thence from Whitehall by the shortest distance to the westerly boundary of Vermont and by the westerly boundaries of Vermont and Massachusetts to the intersection of said Massachusetts boundary with New York Highway 23; thence generally northwesterly by New York Highway 23 and the southern boundary of the City of Hudson, N. Y., to the east shore of the Hudson River; thence generally northwesterly by the east shore of the Hudson River to a point opposite the southerly boundary of the City of Albany and across the Hudson River to said point and by the southerly and westerly boundaries of Albany to their intersection with U. S. Highway 20; thence by U. S. Highway 20 to its intersection with New York Highway 7 at or about Duanesburg, N. Y.; thence by New York Highway 7 to Schenectady, N. Y.; thence by New York Highway 50, U. S. Highway 9, New York Highways 9N, 86A, 408, 86, and 10, to the International Boundary of Canada and the United States, and thence easterly by said International Boundary to the point of beginning.

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof, be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

And it is further ordered, That said proceeding be, and it is hereby, assigned for hearing before the said division on the 29th day of April, A. D. 1938, at 10 o'clock A. M. (Standard Time) at the Hotel Manger, Boston, Mass.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-1187; Filed, April 27, 1938; 12:23 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 26th day of April 1938.

[File No. 1-93]

IN THE MATTER OF ST. ANTHONY GOLD MINES, LTD. COMMON STOCK, $1 PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The St. Anthony Gold Mines, Ltd., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its Common Stock, $1 Par Value, from listing and registration on the New York Curb Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 6, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1180; Filed, April 27, 1938; 12:11 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-93]

IN THE MATTER OF ST. ANTHONY GOLD MINES, LTD. COMMON STOCK, $1 PAR VALUE

ORDER RELATIVE TO AMENDED APPLICATION

The St. Anthony Gold Mines, Ltd. pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $1 Par Value, from listing and registration on the New York Curb Exchange; and

A hearing having been held in this matter on March 15, 1938, and the Trial Examiner having filed his Report herein on March 29, 1938; and

Thereafter said issuer by letter dated April 20, 1938, having requested the Commission to make a part of the record of this proceeding an amended application dated April 20, 1938, enclosed with said letter; and

It appearing appropriate that said request should be granted;

It is ordered, That said amended application be and the same is hereby made a part of the record of this proceeding.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1181; Filed, April 27, 1938; 12:11 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1938.

[File Nos. 32-81, 46-95]

IN THE MATTER OF SOUTH CAROLINA UTILITIES COMPANY AND WALNUT ELECTRIC & GAS CORPORATION

ORDER GRANTING EXEMPTION OF ISSUE AND SALE OF SECURITIES AUTHORIZED BY STATE COMMISSION

South Carolina Utilities Company, a subsidiary of Walnut Electric & Gas Corporation, a registered holding company, having duly filed an application, and amendment thereto with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for an exemption under the provisions of Section 6 (a) regarding the issue and sale of three 5% unsecured renewal promissory notes in the face amounts of $92,200, $20,000 and $10,000 and another promissory note in the face amount of $150,000; and

Walnut Electric & Gas Corporation, a registered holding company, having duly filed an application, and amendment thereto, with this Commission pursuant to Section 10 (a) (1) of the above mentioned Act for approval of the acquisition from South Carolina Utilities Company of the three aforementioned promissory notes in the face amounts of $92,200, $20,000 and $10,000;

A joint hearing on these applications, as amended, having been held after appropriate notice; the applicant having completed its proof with respect to the issuance and sale of said three notes; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the three renewal notes, in accordance with the terms and conditions set forth in, and for the purposes represented by the application of South Carolina Utilities Company be and the same hereby are exempt from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; provided, however, that if the authorization of the issue and sale of said securities by the Public Service Commission and South Carolina shall be revoked or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission;

It is further ordered, That within ten days after the issue and sale of such securities, the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions, and for the purposes represented by, said application, as amended.

It is further ordered, That the record with respect to the $150,000 note be held open pending disposition of this matter.

There is no order herein made as to the application of Walnut Electric & Gas Corporation as said application is exempt pursuant to this Commission's Rule 9C-3 (6) (e).

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1182; Filed, April 27, 1938; 12:11 p. m.]

Friday, April 29, 1938 *No. 84*

PRESIDENT OF THE UNITED STATES.

CHANNEL ISLANDS NATIONAL MONUMENT—CALIFORNIA

By the President of the United States of America

A PROCLAMATION

WHEREAS certain public islands lying off the coast of Southern California contain fossils of Pleistocene elephants and ancient trees, and furnish noteworthy examples of ancient volcanism, deposition, and active sea erosion, and have situated thereon various other objects of geological and scientific interest; and

WHEREAS it appears that it would be in the public interest to reserve such lands as a national monument, to be known as the Channel Islands National Monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in California are hereby reserved from all forms of appropriation under the public-land laws and set apart as the Channel Islands National Monument:

All of that part of the Anacapa Island Lighthouse Reservation, a group of three islets known as Anacapa Island, approximate area 700 acres, reserved by Executive Order of September 11, 1854, except the following described parcels of land:

Parcel I. All of the land comprising the east islet of the group lying eastward of West Longitude 119°22'38" (North American Datum 1927) comprising 106.88 acres more or less.

Parcel II. All of the land comprising the middle islet lying between West Longitude 119°23'21" and 119°23'30" and south of Latitude 34°00'14" North comprising 7.68 acres more or less.

Parcel III. All of the land comprising the west islet lying westward of West Longitude 119°26'10" comprising 46.72 acres more or less.

Parcel IV. The entire area of Cat Rock, which lies off the southern extremity of the west islet comprising .5 acre more or less.

The area reserved for the national monument on Anacapa Island contains 538.22 acres more or less.

All of Santa Barbara Island, area 638.72 acres, reserved for lighthouse purposes by Executive Order of August 24, 1905, excepting the following-described parcels of land:

Parcel I. Beginning at a point in the high water line at the northwesterly side of the island which bears 258° 50' true azimuth from north, a distance of 525 feet more or less from the center of Santa Barbara Island North End Light tower; thence 110° true azimuth from north a distance of 1000 feet more or less to the intersection with the high water line at the northeasterly side of the island; thence along the high water line around the northerly point of the island to the point of beginning comprising 16 acres more or less.

Parcel II. Beginning at a point in the high water line at the southwesterly side of the island which bears 223° true azimuth from north a distance of 300 feet more or less from the center of Santa Barbara Island South End Light tower; thence 90° true azimuth from north a distance of 800 feet to a point; thence 330°30' true azimuth from north a distance of 2150 feet to a point; thence 270° true azimuth from north a distance of 800 feet more or less to the intersection with the high water line at the westerly side of the island; thence southerly along the high water line to the point of beginning comprising 40.96 acres more or less.

The area reserved for the national monument on Santa Barbara Island contains 581.76 acres more or less.

The reservation made by this proclamation supersedes as to any of the above-described lands affected thereby the withdrawal made by Executive Orders of September 11, 1854, January 26, 1867, and August 24, 1905. However, the lands excepted in the above descriptions shall remain under the jurisdiction of the Bureau of Lighthouses of the Department of Commerce, as provided by the Executive orders referred to. The Bureau of Lighthouses of the Department of Commerce shall have the right of ingress and egress as to any part of Santa Barbara Island for the purpose of transporting all necessary equipment for servicing the established lights.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument, and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 26 day of April in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:

SUMNER WELLES,
Acting Secretary of State.

[No. 2281]

[F. R. Doc. 38-1210; Filed, April 28, 1938; 11:16 a. m.]

WAR DEPARTMENT.

REVOCATION OF REGULATIONS FOR STRONGS CAUSEWAY BRIDGE ACROSS FLUSHING CREEK, NEW YORK CITY

APRIL 8, 1938.

1. On August 15, 1922, the Assistant Secretary of War approved rules and regulations to require the prompt opening of the draw span of Strongs Causeway Bridge over Flushing Creek on the line of Rodman Street in the Borough of Queens, New York, New York.

2. The Department of Parks of the City of New York, in conformity with existing law and upon plans approved by the Department has recently constructed a dam and tide gate across Flushing Creek downstream from the Strongs Causeway Bridge. As a consequence there is no navigation above the dam requiring the prompt opening of the bridge and I recommend that the regulations mentioned in paragraph 1 be revoked.

J. L. SCHLEY,
Major General,
Chief of Engineers.

Recommendation approved April 14, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1204; Filed, April 28, 1938; 9:39 a. m.]

REVOCATION OF RULES AND REGULATIONS TO GOVERN THE USE, ADMINISTRATION AND NAVIGATION OF CASCADES CANAL, COLUMBIA RIVER

APRIL 11, 1938.

1. On April 11, 1896, the Secretary of War established rules and regulations to govern the use, administration and navigation of Cascades Canal, Columbia River.

2. Under existing law a dam was constructed on the Columbia River at Booneville, Oregon, about 144 miles above the mouth, which is now flooding the Cascades Canal lock, the gates of which have been fastened in open position. The lock will soon be abandoned and the regulations prescribed in 1896 for its operation are no longer necessary. I recommend, therefore, that they be revoked.

M. C. TYLER,
Brigadier General,
Acting Chief of Engineers.

Recommendation approved, April 14, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1205; Filed, April 28, 1938; 9:39 a. m.]

REVOCATION OF REGULATIONS TO GOVERN THE OPERATION OF THE WASHINGTON SOUTHERN RAILWAY BRIDGE ACROSS POWELLS AND NEABSCO CREEKS, VA.

APRIL 12, 1938.

On August 18, 1906, the Acting Secretary of War prescribed regulations to govern the operation of the draws of the Washington Southern Railway bridges across Powells and Neabsco Creeks, Virginia, (E. D. 49323/32). These bridges have since been replaced by fixed span high-level bridges and I recommend that the regulations be revoked.

JOHN J. KINGMAN,
Brig. Gen., Corps of Engineers,
Acting Chief of Engineers.

Recommendation approved April 14, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1207; Filed, April 28, 1938; 9:40 a. m.]

REVOCATION OF RULES AND REGULATIONS TO GOVERN THE OPERATION OF THE LOWER DRAWBRIDGE ACROSS LEWIS AND CLARK RIVER, OREGON

APRIL 11, 1938.

1. On January 27, 1904, the Assistant Secretary of War prescribed rules and regulations to govern the operation of the lower drawbridge across the Lewis and Clark River, Clatsop County, Oregon. This bridge has since been removed and I recommend that the regulations be revoked.

M. C. TYLER,
Brigadier General,
Acting Chief of Engineers.

Recommendation approved April 14, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1208; Filed, April 28, 1938; 9:41 a. m.]

MODIFICATION OF REGULATIONS GOVERNING THE USE, ADMINISTRATION AND NAVIGATION OF OUACHITA RIVER, ARKANSAS AND LOUISIANA

Paragraph 5 "Lockages of pleasure, house and like boats" of the regulations approved by the Secretary of War on August 15, 1913 (E. D. 8033/476), to govern the use, administration and navigation of the Ouachita River, Arkansas and Louisiana, is modified to read as follows:

"5. *Lockages of pleasure, house and like boats.*—Pleasure boats, house boats, and other craft not employed for business purposes will be specially locked through only at the end of each hour, and not between sundown and sunup, except in cases of emergency, but whenever a lockage is made for a business boat other craft may likewise pass through if there is room for them in the lock.

"The officer in charge of a lock shall be the judge as to whether the boat presenting itself for lockage is a business or pleasure boat."

Approved April 14, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1209; Filed, April 28, 1938; 9:41 a. m.]

REGULATIONS TO GOVERN THE USE, ADMINISTRATION AND NAVIGATION OF THE AREA BETWEEN PORTSMOUTH HARBOR, N. H., AND THE ISLE OF SHOALS

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

That section four of the River and Harbor Act of August eighteenth, eighteen hundred and ninety-four, as amended by section eleven of the River and Harbor Act of June thirteenth, nineteen hundred and two, be, and is hereby, amended so as to read as follows:

Sec. 4. That it shall be the duty of the Secretary of War to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

THE REGULATIONS

In conformity with the above law the following regulations are prescribed to govern the use, administration and navigation of the area within a thousand yard radius of a point in the State of New Hampshire lying westerly from Isle of Shoals, bearing 273° true from White Island Light, distance 6600 yards, for a period of two (2) months from June 1, 1938, to July 31, 1938, inclusive, for the performance of certain tests involving the use of explosives.

1. A notice giving a description of the area and warning the public to avoid entering it during the progress of experiments shall be published by the Hydrographic Office in each issue of the Notice to Mariners, the weekly Hydrographic Bulletin, the Daily Memorandum, and Radio Broadcasts, during the two (2) months' period from June 1, 1938 to July 31, 1938, inclusive.

2. The presence, in the vicinity, of a vessel of the United States Navy bearing a red pennant as a danger signal, shall be deemed to be sufficient evidence that the tests are in progress and notice to all persons to avoid the area.

3. It shall be the duty of the United States Navy Department to maintain in the vicinity during the actual progress of the tests a suitable vessel bearing a red pennant as a danger signal and to warn away all intruders for the purpose of avoiding injury to persons or property.

4. For the purpose of enforcing the vacating of the above described area by any person or persons at such times within the above two (2) months' period, during which tests are actually in progress the penalties specified in Section 4 of the above mentioned River and Harbor Act of August 8, 1917, shall be applicable against any person or corporation which shall refuse after due warning to vacate the area.

Approved April 15, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1206; Filed, April 28, 1938; 9:39 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-72 O-72]

NOTICE OF PUBLIC HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN TOLEDO, OHIO, MARKETING AREA

PREPARED AND PROPOSED BY THE NORTHWEST COOPERATIVE SALES ASSOCIATION AND UPON WHICH SAID ASSOCIATION HAS REQUESTED THE SECRETARY OF AGRICULTURE TO HOLD A HEARING UNDER THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

Whereas, the Northwest Cooperative Sales Association has requested the Secretary to hold a public hearing on a marketing agreement and order, prepared and proposed by such association and designed to regulate such handling of milk in the Toledo, Ohio marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement or the issuance of an order will tend to effectuate the declared policy of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, with respect to such handling of milk in the Toledo, Ohio marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, under said act notice of and opportunity for a hearing are required prior to the execution of a marketing agreement or the issuance of an order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice;

Now, therefore, pursuant to said act and said General Regulations, notice is hereby given of a public hearing to be held at the Hotel Waldorf, 310 Summit Street, Toledo, Ohio, on May 10, 1938, at 9:30 a. m., e. s. t., on the aforementioned marketing agreement and order, prepared and proposed by the aforementioned association and designed to regulate such handling of milk in the Toledo, Ohio marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk.

At this public hearing, representatives of the Secretary will receive factual evidence (1) as to whether marketing conditions for such handling of milk in the Toledo, Ohio marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk are so disorderly as to necessitate regulation in order that the declared policy of the act may be effectuated, and (2) as to the specific provisions which a marketing agreement or order should contain.

The proposed marketing agreement or order provide, among other things, for: (a) selection of a market administrator, (b) classification of milk, (c) minimum prices, (d) reports of handlers, (e) payments to producers through the use of individual handler pools, (f) deductions from payments to producers for marketing services by the market administrator, and (g) expenses of administration.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement or order may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated April 28, 1938.

[F. R. Doc. 38-1212; Filed, April 28, 1938; 11:41 a. m.]

[ACP-1938-10]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 8

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, is hereby further amended as follows:

Subsection B of Section I is hereby amended by the addition of the following:

"4. The State acreage allotments of rice are as follows:

Arkansas	155,728 acres.
California	105,094 acres.
Louisiana	421,396 acres.
Missouri	510 acres.
Texas	167,272 acres.
Total	850,000 acres."

Done at Washington, D. C., this 28th day of April, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1211; Filed, April 28, 1938; 11:41 a. m.]

Bureau of Entomology and Plant Quarantine.

[B. E. P. Q.—D. C. Regs.]

REVISED RULES AND REGULATIONS GOVERNING THE MOVEMENT OF PLANTS AND PLANT PRODUCTS INTO AND OUT OF THE DISTRICT OF COLUMBIA

Introductory Note

The supply of the last revised edition of the plant regulations relating to the District of Columbia having become exhausted, advantage is taken of the necessity for a reprint, of simplifying the form and wording of the regulations without material change in shipping requirements. The definition of nursery stock as stated in paragraph (a) of regulation

1 is clarified. The list of domestic plant quarantines formerly published in the appendix is eliminated, since up-to-date copies of such quarantines are always available from this Bureau.

SUMMARY

Shipments Into the District of Columbia

Woody plants and foreign seeds.—A valid nursery-inspection certificate of the State, Territory, or country of origin must be attached to the outside of each container of woody plants or parts thereof capable of propagation (except domestic-grown seeds and fruit pits), shipped into the District of Columbia, and the container must be marked to show the nature of the contents. Such certification and marking are also required for foreign-grown seeds of woody plants, of palms, of *Vicia* (vetch, etc.), and of *Lathyrus* (sweet peas, etc.).

Herbaceous plants.—The container of each shipment of herbaceous perennials (including strawberry plants), bulbs, and roots, consigned to the District of Columbia must be marked to show the nature of the contents. (Herbaceous plants from foreign countries must meet the certification and marking requirements of Federal plant quarantine No. 37.)

Shipments Out of the District of Columbia

A certificate or permit issued by the Bureau of Entomology and Plant Quarantine must be attached to the outside of each shipment of woody or herbaceous plants, bulbs, roots, foreign-grown seeds of woody plants, of palms, of *Vicia* (vetch, etc.), and of *Lathyrus* (sweet peas, etc.) consigned from the District of Columbia to points outside. Each shipment is also subject to the restrictions of any Federal plant quarantine or order applicable thereto. To arrange for inspection, apply at the Plant Inspection House of this Bureau, Twelfth Street and Constitution Avenue NW. (District 6350, branch 4495), Washington, D. C.

AVERY S. HOYT,
Acting Chief, Bureau of Entomology and Plant Quarantine.

REVISED RULES AND REGULATIONS

[Approved April 27, 1938; effective April 30, 1938]

I, H. A. Wallace, Secretary of Agriculture, as required by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, do order that no plants or plant products shall be moved into or out of the District of Columbia except in compliance with the rules and regulations supplemental hereto which are hereby promulgated: *Provided*, That certain plants or plant products may be exempted from these rules and regulations by administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine when, in his judgment, such articles are considered innocuous as carriers of dangerous plant pests.

Regulation 1.—Definitions

For the purpose of these regulations, the following words, names, and terms shall be construed, respectively, to mean:

(*a*) *Nursery stock.*—All trees, shrubs, and plants having a persistent woody stem, and parts thereof capable of propagation, except fruit pits and seeds, provided that foreign-grown seeds of woody plants, of palms, of *Vicia* (vetch, etc.), and of *Lathyrus* (sweet peas, etc.), are defined as nursery stock.

(*b*) *Herbaceous perennial plants, bulbs, and roots.*—Plants whose roots persist 2 or more years but which lack persistent woody stems above the ground. This term includes fibrous-rotted perennials, such as strawberry plants and phlox; bulbs, such as narcissus and crocus; corms, such as gladiolus; tubers, such as dahlia; fleshy roots, such as peony; rhizomes, such as iris; and such greenhouse-grown plants as ferns, geraniums, orchids, etc.

(*c*) *Annual plants.*—Plants grown from seed for bloom or food the same season and living only 1 year. This term includes such plants as cabbage, tomato, and aster.

(*d*) *Inspector.*—Plant quarantine inspector of the United States Department of Agriculture.

(*e*) *Moved.*—Offered for movement to or received for transportation by a common carrier or moved by any means whatever into or out of the District of Columbia.

(*f*) *Certificate.*—A certificate showing that the nursery or premises from which the plants or plant products were taken were inspected within 1 year prior to the date of shipment and were found to be free from injurious insect pests and plant diseases, or that the plants or plant products were inspected prior to shipment and found to be free from injurious insect pests and plant diseases.

Regulation 2.—Unrestricted articles

No requirements as to certification or labeling are placed by these regulations[1] on the entry into or movement out of the District of Columbia of (1) annual plants, cut flowers, or decorative plant material (such as branches and Christmas trees); (2) seeds, except certain foreign-grown seeds as defined in paragraph (*a*) of regulation 1; nor of (3) other plants and plant products not included in the definitions in paragraphs (*a*) and (*b*) of regulation 1. The requirements as to delivery of plant materials are stated in paragraphs (*c*) and (*d*) of regulation 3.

SHIPMENTS INTO THE DISTRICT OF COLUMBIA

Regulation 3.—Requirements relating to nursery stock and other plants and plant products

(*a*) *Certification and marking of nursery stock.*—No nursery stock as defined in regulation 1 shall be moved into the District of Columbia unless a valid certificate signed by the State nursery or horticultural inspector of the State or Territory or country from which the stock is shipped is attached to the outside of each package or other container. Each package or other container shall in addition be plainly marked with the names and addresses of the consignor and consignee and with a statement showing *the nature of the contents.*

(*b*) *Marking of herbaceous perennials, bulbs, or roots.*—No herbaceous perennial plants, bulbs, or roots, as defined in regulation 1, shall be moved into the District of Columbia unless the container thereof is plainly marked with the names and addresses of the consignor and consignee and with a statement showing *the nature of the contents.*[2]

(*c*) *Delivery of plants and plant products.*—No nursery stock, herbaceous plants, bulbs, or roots, originating outside of the District of Columbia shall be delivered to the consignee in the District of Columbia by a common carrier or other person until such delivery is authorized by an inspector of the Bureau of Entomology and Plant Quarantine.

(*d*) All nursery stock and herbaceous perennial plants, bulbs, and roots, annual plants, decorative plant material, and other plants and plant products, whether restricted or unrestricted, addressed to the United States Department of Agriculture, Washington, D. C., shall be delivered only at the Plant Inspection House of the Bureau of Entomology and Plant Quarantine (Twelfth Street and Constitution Avenue NW.).

Regulation 4.—Shipments which fail to comply with regulations

Plants and plant products shipped into the District of Columbia, which are found to be infected or infested with any plant pest or disease, or which have not been moved in full compliance with these regulations, may be disposed of as authorized in the Plant Quarantine Act.

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[1] Compliance with any special plant quarantine or restrictive order which may be applicable thereto is required. Information relative to such restrictions may be obtained from the Bureau of Entomology and Plant Quarantine.

[2] Herbaceous plants of foreign origin must be marked in accordance with the provisions of Federal Quarantine No. 37 (Nursery stock, plants, and seeds).

SHIPMENTS OUT OF THE DISTRICT OF COLUMBIA

Regulation 5.—Certification of Nursery Stock and Herbaceous Perennial Plants, Bulbs, and Roots

(*a*) No nursery stock, or herbaceous perennial plants, bulbs, or roots, as defined in regulation 1, shall be moved out of the District of Columbia unless a certificate or permit has been issued therefor by the Bureau of Entomology and Plant Quarantine. Each package or other container of such plants, bulbs, or roots shall have such a certificate or permit attached to the outside thereof.

(*b*) A certificate or permit may be issued for the movement out of the District of Columbia of the nursery stock covered by this regulation, when it has been examined by an inspector and found apparently free from dangerous plant diseases and insects and when such shipment is found to comply in full with all Federal quarantine regulations.

(*c*) Nursery stock, herbaceous perennial plants, bulbs, or roots, to be shipped out of the District of Columbia must be presented at the Plant Inspection House of the Bureau of Entomology and Plant Quarantine (Twelfth Street and Constitution Avenue NW.) for inspection at the time of shipment unless otherwise authorized by an inspector.

When large shipments are contemplated, arrangements may be made for inspection at other places by telephoning District 6350, branch 4495, or writing the Bureau.

Application for inspection of articles the movement of which is restricted by quarantine regulations or other restrictive orders shall be made at a season of the year sufficiently in advance of the contemplated date of shipment to provide for compliance with regulations.

(*d*) No common carrier or other person shall accept for shipment or remove from the District of Columbia any nursery stock, herbaceous perennial plants, bulbs, or roots, unless the required certificate or permit has been issued and is securely attached to the outside of each container.

These revised rules and regulations shall be effective on and after April 30, 1938, and shall supersede the rules and regulations governing the movement of plants and plant products into and out of the District of Columbia, promulgated April 29, 1931.

Done at the city of Washington this 27 day of April 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

APPENDIX

Penalties

The Plant Quarantine Act of August 20, 1912 (37 Stat. 315), provides that any person who shall move or allow to be moved, or shall ship, transport, or carry, by any means whatever, any plants or plant products from or into the District of Columbia, except in compliance with the rules and regulations prescribed under this section, shall be punished, as is provided in section 10 of this act. Section 10 states that any person who shall violate any of the provisions of this act, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this act or in the regulations of the Secretary of Agriculture, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $500 or by imprisonment not exceeding 1 year, or both such fine and imprisonment, in the discretion of the court.

[F. R. Doc. 38-1188; Filed, April 27, 1938; 3:38 p. m.]

COMMODITY CREDIT CORPORATION.

REGULATIONS GOVERNING THE ISSUANCE OF, AND TRANSACTIONS AND OPERATIONS IN, COMMODITY CREDIT CORPORATION SECURITIES

Pursuant to the authority conferred upon the Commodity Credit Corporation by the Act approved March 8, 1938 (Public No. 442, 75th Congress), the following regulations governing Commodity Credit Corporation bonds, notes, debentures, and other similar obligations (hereinafter referred to as securities) are hereby promulgated.

1. *Authority for issue.*—Section 4 of the Act approved March 8, 1938 (Public No. 442, 75th Congress) reads, in part, as follows:

"With the approval of the Secretary of the Treasury, the Commodity Credit Corporation is authorized to issue and have outstanding at any one time, bonds, notes, debentures, and other similar obligations in an aggregate amount not exceeding $500,000,000. Such obligations shall be in such forms and denominations, shall have such maturities, shall bear such rates of interest, shall be subject to such terms and conditions, and shall be issued in such manner and sold at such prices as may be prescribed by the Commodity Credit Corporation, with the approval of the Secretary of the Treasury. Such obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such obligations shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Commodity Credit Corporation shall be unable to pay upon demand, when due, the principal of, or interest on, such obligations, the Secretary of the Treasury shall pay to the holder the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such obligations."

2. *Form of securities.*—The securities of the Corporation shall be in such forms and denominations, shall have such maturities, shall bear such rates of interest, shall be issued in such manner and sold at such prices as may be prescribed by the Commodity Credit Corporation, with the approval of the Secretary of the Treasury, in the issuing circular for each particular series. The text of the securities of each particular series shall be prescribed by the Corporation, with the approval of the Secretary of the Treasury. The Corporation may from time to time issue interim certificates temporarily in lieu of definitive securities, in such form and in such manner as the Corporation, with the approval of the Secretary of the Treasury, may determine. The securities shall be executed in the name of the Commodity Credit Corporation and authenticated by the facsimile signature of its President. The seal of the Corporation shall be affixed, attested by the Secretary of the Commodity Credit Corporation by facsimile signature. The principal and interest shall be payable, when due, at the Treasury Department, Washington, D. C., or at any Federal Reserve bank, or at such other agency or agencies as the Secretary of the Treasury at the request of the Corporation may from time to time designate for that purpose. A coupon security shall be payable to bearer and shall have attached interest coupons likewise payable to bearer representing interest payable semi-annually, such coupons being signed by the Commodity Credit Corporation by facsimile signature of its President. A registered security and interest thereon shall be payable to the registered owner, whose name is inscribed thereon, or his or its registered assigns.

3. *Transactions and operations.*—The statutes of the United States and the general regulations of the United States Treasury Department, now or hereafter in force, governing the issue, transfer, exchange, purchase, redemption, payment, and retirement of United States Treasury bonds, the payment of interest thereon, and relief on account of the loss, theft, destruction, mutilation, or defacement thereof, so far as applicable, are hereby adopted as the regulations of the Commodity Credit Corporation for similar transactions and operations in securities of the Corporation.

4. *Administration.*—The United States Treasury Department will act as agent for the Commodity Credit Corporation in connection with the issue, transfer, exchange, purchase, redemption, payment, and retirement of securities of the Corporation, the payment of interest thereon, and the issue of duplicates, or payment, of lost, stolen, destroyed, mutilated, or defaced securities. The Secretary of the Treasury or the Acting Secretary of the Treasury is hereby authorized and empowered on behalf of the Commodity Credit

Corporation, to administer the regulations governing such transactions and operations, to do all things necessary to conduct all such transactions and operations, and to delegate such authority at his discretion to other officers, employees, and agents of the United States Treasury Department. The Secretary, the Under Secretary, or any Assistant Secretary of the Treasury is hereby authorized to waive any such regulations on behalf of the Commodity Credit Corporation at his discretion in any particular case where a similar regulation of the Treasury Department with respect to United States Treasury bonds or interest thereon would be waived.

5. *Amendments.*—The Commodity Credit Corporation reserves the right at any time or from time to time, with the approval of the Secretary of the Treasury, to revoke or amend these regulations or to prescribe and issue supplemental or amendatory rules and regulations governing securities of the Corporation or interest thereon, or any transactions or operations therein.

Adopted by the Board of Directors of the Commodity Credit Corporation on April 23, 1938.

[SEAL] SAMUEL H. SABIN, *Secretary.*

Approved April 27, 1938.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1189; Filed, April 27, 1938; 4:03 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3386]

IN THE MATTER OF MASTER LOCK COMPANY

COMPLAINT

The Federal Trade Commission, having reason to believe that the Master Lock Company, hereinafter called Respondent, since June 19, 1936, has been and is now violating the provisions of Section 2 (a) of the Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, (Public No. 212, the Clayton Act), as amended by Section 1 of the Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes," approved June 19, 1936, (Public No. 692, the Robinson-Patman Act), hereby issues this its complaint against respondent and states its charges with respect thereto as follows, to-wit:

PARAGRAPH 1. Respondent is a corporation organized and existing under the laws of the State of Wisconsin and has its principal office and place of business at 926 W. Juneau Avenue in the city of Milwaukee, Wisconsin.

PAR. 2. At all times since June 19, 1936, respondent has been and is now engaged in the business of manufacturing, selling and distributing padlocks. In the course and conduct of its said business, the respondent has been and is now manufacturing such locks at its place of business in the State of Wisconsin and has been and is now selling, shipping, and distributing such locks in commerce from its said place of business in the State of Wisconsin to various purchasers of said commodity located in the several states of the United States and in the District of Columbia. At all times since June 19, 1936, there has been and is now between respondent and purchasers of said commodity a course of trade and commerce in said commodity in and between the State of Wisconsin and the several other States of the United States and the District of Columbia.

PAR. 3. The said respondent in the course and conduct of its business as aforesaid has been and is now in direct active competition with other persons, partnerships and corporations similarly engaged in selling, shipping and distributing padlocks. Some of such other corporations are Yale & Towne Manufacturing Company of Stamford, Connecticut and The Corbin Co., Inc., American Steel & Wire Co., The H. L. Judd Co. and Norwalk Lock Company, all located in New York, New York.

PAR. 4. Since June 19, 1936, in the course and conduct of its business described in Paragraph Two hereof and while engaged in trade and commerce between the State of Wisconsin and the other States of the United States and the District of Columbia, the respondent has been and is now discriminating in price between purchasers of said commodity of like grade and quality sold and shipped in commerce, as aforesaid, by respondent to said purchasers and by them purchased from respondent in commerce for resale within the several States of the United States and the District of Columbia in that the respondent has been and is now allowing to some of said purchasers a larger discount from uniform prices at which said commodity was and is sold to them by respondent than the discount which respondent has been and is now allowing to other purchasers competitively engaged with those receiving the larger discount; additionally, respondent, in the course of such commerce, has been and is now allowing to some of said purchasers an additional allowance of an amount equal to freight payments from factory to purchaser on such purchases and not granting such allowance to purchasers competing with those receiving such freight allowances.

PAR. 5. The said respondent, in the course and conduct of its business as aforesaid, has been and is now selling to the following customers among others located in Chicago, Illinois: E. J. Ewert & Company, Inc., Johnson Brothers Hardware Company, Clark Barlow Hardware Company, Rehm Hardware Company, Stebbins Hardware Company, United Hardware Company, Butler Brothers and Hibbard, Spencer, Bartlett & Company. Customers of respondent are all granted a 50% discount from a uniform price list. Two of respondent's largest customers, Hibbard, Spencer, Bartlett & Company and Butler Brothers, are granted a further allowance of 5% which their competitors do not receive.

PAR. 6. Hibbard, Spencer, Bartlett & Company are, in addition to the two preceding discounts, granted an allowance equal to the freight on their purchases from respondent. The aforesaid customers of respondent are competitively engaged among themselves in the jobbing of locks in the City of Chicago and elsewhere. Hibbard, Spencer, Bartlett & Company and Butler Brothers actively compete with those who do not receive freight allowances or the additional 5% discount referred to. Respondent represents that all padlock prices are quoted f. o. b. Milwaukee. By letter dated July 9, 1936, the respondent advised one of its jobbing customers in Chicago, namely W. D. Allen Manufacturing Company, as follows:

"This will acknowledge your debit memorandum of July 8th for $1.49 covering freight on the June 29th shipment.

"We believe this memorandum was sent to us by mistake inasmuch as all Master Padlock prices are quoted f. o. b. Milwaukee, as you will recall, and we are therefore returning the debit to you with this letter, together with the freight bill."

PAR. 7. On January 8, 1938, respondent, in the course and conduct of its business as aforesaid, sold and shipped to Hibbard, Spencer, Bartlett & Company a bill of goods and granted discounts as indicated by the following invoice:

MASTER LOCK COMPANY

WORLD'S LARGEST EXCLUSIVE PADLOCK MANUFACTURERS

918-926 W. JUNEAU AVENUE.
MILWAUKEE, WIS. U. S. A., *January 8, 1937.*

Sold to HIBBARD, SPENCER, BARTLETT & COMPANY,
211 East North Water Street, Chicago, Illinois.

50 doz.	No. 99	Greyhound Padlocks	$3.00	$150.00
20 "	105	Jewel Padlocks	4.20	84.00
6 "	510	Tirelocks	6.00	36.00
18 "	1400	Padlocks	6.00	108.00
50 "	500	Junior Padlocks	6.00	300.00
20 "	77	Jungle King Padlocks	$6.00	$120.00
20 "	7	Secret Service Padlocks	6.00	120.00
10 "	1	" " "	12.00	120.00
20 "	3	Little Giant Padlocks	9.00	180.00
2 "	99K	Flat Key Blanks	.10	.20
6 "	1K	Key Blanks	.48	2.88
				1,221.08
		Less 50%		610.54
				610.54
		Less 5%		30.53
				$580.01
		Less Freight		4.42
				$575.59

PAR. 8. The said respondent, in the course and conduct of its business as aforesaid, has been and is now selling to the following customers among others located in New York City, New York: Worth Hardware Company, Inc., William L. Blumberg Company, Inc., Underhill-Clinch & Company, William Goldenblum & Company, Inc., Masbach Hardware Company and Butler Brothers New York branch. These customers are all competitively engaged with each other in the jobbing of locks. Respondent has been and is now selling to all customers at a uniform list price less 50% and additionally, its largest customer in New York City, Masbach Hardware Company, and Butler Brothers are allowed a further 5% discount on goods of like grade and quality, which 5% their competitors do not receive.

PAR. 9. The said respondent, in the course and conduct of its business as aforesaid, has been and is now selling padlocks to Shapleigh Hardware Company of St. Louis, Missouri. The said Shapleigh Hardware Company purchases padlocks from respondent at the uniform list price less 50% and an additional discount of 5% and an allowance equal to the freight charges from factory on its purchases from respondent. Respondent has been and is now likewise selling to numerous other customers located in St. Louis, Missouri and elsewhere, which customers are engaged in commerce in the jobbing of padlocks and in the course and conduct of such business are in direct active competition with the Shapleigh Hardware Company and do not receive freight allowances or the additional 5% discount heretofore referred to.

PAR. 10. The said respondent, in the course and conduct of its business as aforesaid, has been and is now selling to numerous customers competitively engaged in commerce with another of its large customers, namely Belknap Hardware & Manufacturing Company of Louisville, Kentucky. Such customers of respondent are engaged in the jobbing of padlocks in the City of Louisville and elsewhere and are in direct active competition in commerce with Belknap Hardware & Manufacturing Company and do not receive the additional allowance of 5% heretofore referred to. On May 21, 1937 respondent sold to and shipped for Belknap Hardware & Manufacturing Company to Thomasville, Georgia, a bill of goods and granted discounts as indicated by the following invoice:

MASTER LOCK COMPANY

WORLD'S LARGEST EXCLUSIVE PADLOCK MANUFACTURERS

918-926 W. JUNEAU AVENUE, MILWAUKEE, WIS., U. S. A.,

May 21, 1937.

Sold to BELKNAP HDWE. & MFG. COMPANY,
Louisville, Kentucky.

3 only #1 Padlocks, keyed alike	$12.00	$3.00
Less 50%		1.50
Shipped May 10 to:		1.50
W. L. Ball & Son, Thomasville, Georgia:		
Less 5%		.08
		1.42
Parcel Post		.22
		$1.64

PAR. 11. Respondent in its sales in commerce, as aforesaid, generally pursues a policy of granting the additional 5% discount and freight allowance referred to above to customers whose cumulative annual purchases amount to in excess of $10,000 a year. However, in connection with such policy, it grants and allows the 5% discount to Butler Brothers of Chicago, Illinois, which maintain branches in Chicago, Illinois, Boston, Massachusetts, New York, New York, Minneapolis, Minnesota and San Francisco, California. No single branch purchases amount to $10,000 during a year. Generally the individual jobbers named herein who do not receive the 5% purchase in an amount between $3,000 and $5,000 a year.

PAR. 12. The effect of the discriminations in price of 5% and freight allowances may be substantially to lessen competition or tend to create a monopoly in the line of commerce in which the respondent is engaged and in the line of commerce in which its customers are engaged, or to injure, destroy or prevent competition with respondent or those customers of respondent receiving the benefit of such discrimination or with customers of either of them.

Wherefore, the premises considered, the Federal Trade Commission on this 22nd day of April, A. D. 1938, now issues this its complaint against said respondent.

NOTICE

Notice is hereby given you, Master Lock Company, respondent herein, that the 27th day of May, A. D. 1938, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(*a*) In cases arising under section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commisison Act, or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as

amended (U. S. C., title 15, Sec. 13), and for other purposes," approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint;

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 22nd day of April, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1202; Filed, April 28, 1938; 9:24 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3128]

IN THE MATTER OF MERRILL CANDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 20, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1190; Filed, April 28, 1938; 9:21 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3166]

In the Matter of MUTUAL PRINTING, INC., A CORPORATION, IN ITS OWN NAME AND RIGHT, AND TRADING AS MUTUAL PRINTING COMPANY, INC., AND MUTUAL SALES PROMOTION SERVICE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 13, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1191; Filed, April 28, 1938; 9:21 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3171]

IN THE MATTER OF EDWARD HARRIS & DOROTHY HARRIS, INDIVIDUALLY, AND AS CO-PARTNERS TRADING AS ACE BUSINESS BUILDERS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This mater being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 13, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1192; Filed, April 28, 1938; 9:21 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3178]

IN THE MATTER OF J. C. ROBERTSON, INDIVIDUALLY, AND TRADING AS NOVELTY DISTRIBUTING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 9, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1193; Filed, April 28, 1938; 9:22 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3179]

IN THE MATTER OF HYMAN MENDELS, INDIVIDUALLY, AND TRADING AS J. J. HENDERSON

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 9, 1938, at 9:00 A. M. in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1194; Filed, April 28, 1938; 9:22 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3245]

IN THE MATTER OF SIDNEY A. WEITZMAN, INDIVIDUALLY, AND TRADING AS CERTIFIED SALES SERVICE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 10, 1938, at one-thirty o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1195; Filed, April 28, 1938; 9:22 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3251]

IN THE MATTER OF FRED W. HERRSCHNER, JR., INDIVIDUALLY, AND TRADING AS 20TH CENTURY SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 9, 1938, at 9:30 o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1196; Filed, April 28, 1938; 9:23 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3252]

IN THE MATTER OF MARTIN M. SLATON, INDIVIDUALLY, AND TRADING AS ALLIED GIFT SHOP

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 19, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1197; Filed, April 28, 1938; 9:23 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3323]

IN THE MATTER OF ROY B. DAVIS, INDIVIDUALLY, AND TRADING AS GREAT LAKES NOVELTY COMPANY, AND GREAT LAKES RADIO AND NOVELTY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 9, 1938, at two o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1198; Filed, April 28, 1938; 9:23 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3326]

IN THE MATTER OF JOHN MILTON BREGSTONE, INDIVIDUALLY, AND TRADING AS J. M. BREGSTONE AND COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 9, 1938, at one o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1199; Filed, April 28, 1938; 9:24 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman: Charles H. March, Ewin L. Davis, William A. Ayers, Robert E. Freer.

[Docket No. 3327]

IN THE MATTER OF CHARLES M. BREGSTONE, INDIVIDUALLY AND TRADING AS THE VELTROLA COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 9, 1938, at one o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1200; Filed, April 28, 1938; 9:24 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3335]

IN THE MATTER OF CELIA SARASIN, INDIVIDUALLY, AND TRADING AS UNIVERSAL ADVERTISERS' SERVICE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 9, 1938, at ten-thirty o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1201; Filed, April 28, 1938; 9:24 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE 9C-4

Acting pursuant to the authority conferred upon it by the Public Utility Holding Company Act of 1935, and particularly sections 9 (c) and 20 (a) thereof, and deeming such action necessary and appropriate, and not detrimental to the public interest or the interest of investors or consumers, the Securities and Exchange Commission hereby adopts a rule which shall be known as Rule 9C-4 and shall read as follows:

RULE 9C-4. *Applications for approval of investment programs for current funds of registered holding companies or subsidiaries*

(a) Any registered holding company or any subsidiary company thereof (hereinafter referred to as the acquirer), may use current funds to purchase for cash any security, if the Commission shall have entered an order pursuant to paragraph (e) of this rule approving an investment program providing for the purchase of such security, and if such acquisition conforms to the conditions specified in such order and in the subsequent paragraphs of this rule, Section 9 (a) of the Act shall not apply to any such acquisition.

(b) No security may be acquired pursuant to this rule unless an active market exists for such security other than one made by the acquirer, or by any person acting for the acquirer, or by any person controlling, controlled by, or under common control with the acquirer.

(c) No security may in any event be acquired pursuant to this rule if such security is:

(1) A security of which the issuer is an investment trust or an investment company; or

(2) A security of which the issuer is a holding company unless such issuer is also a public utility company and at least 50 percent of the aggregate gross revenues of the issuer and all subsidiaries of the issuer is derived from the operations of the issuer as a public utility company; or

(3) A security issued or assumed by the acquirer or by any predecessor of the acquirer or by a company which is, or will by virtue of such acquisition become an associate company, or an affiliate, of the acquirer.

Such order shall contain such limitations upon the duration of the exemption herein provided, and shall embody such other terms and conditions (including requirements as to reporting such acquisitions) as appear to the Commission to be necessary or appropriate in the public interest or for the protection of investors or consumers, or to prevent the circumvention of any of the provisions of the Act or any rules, regulations or orders thereunder.

(d) An application for approval of an investment program under this rule shall comply with the provisions of Rule 2 as to number of copies, form and execution and shall also:

(1) State the source and amount of current funds which the acquirer seeks to qualify for the purposes of such investment program;

(2) Describe in detail the investment program, including any limitations as to the types of issuing companies and securities, or as to the amount or percent of the total outstanding securities of any specified class to be acquired;

(3) If the proposed investment program may involve the purchase of:

(A) Any securities issued by any registered holding company or subsidiary company thereof, or any company as to which an application has been filed which the Commission has not acted upon, for an order declaring it not to be such a subsidiary company; or

(B) Any securities issued by any public utility company of which the acquirer owns, or upon completion of the proposed acquisition will own, more than 1 percent of the total outstanding voting securities;

specify the name of any such issuing company and the maximum amount of each class of securities which may be acquired; and

(4) State such further facts as will enable the Commission to find that the conditions specified in paragraph (e) hereof are satisfied.

(e) The Commission, after hearing on such application, will approve such investment program, or any part thereof, if the Commission finds that:

(1) The funds to be invested are not necessary or appropriate for working capital, for the retirement of indebtedness or of any outstanding securities of the acquirer, or for any other purpose pertinent to its business, having due regard to the course which the acquirer may be expected to pursue to comply with section 11 (b) of the Act or to cease to be a holding company; and

(2) The acquisition of such securities will not be detrimental to carrying out the provisions of section 11, will not tend towards interlocking relations or the concentration of control of public utility companies of a kind or to an extent detrimental to the public interest or the interest of investors or consumers, or will be in any other respect detrimental to the public interest or the interest of investors or consumers.

(f) Any person making any acquisition pursuant to the provisions of this rule shall file a report within 30 days (or such earlier period as the Commission may in its order prescribe) after obtaining an order of the Commission pursuant to the provisions of this rule and every 30 days thereafter while such order is in effect. Such report shall specify all acquisitions and sales of securities by the acquirer subsequent to the last filing of an application or report pursuant to this rule, the cost or sale prices thereof, and indicate as to each such transaction the reason why applicant deems such transaction consistent with the provisions of the Act and the terms and conditions of any rule or order of the Commission, and such other matters as the Commission may in its order prescribe.

(g) If the Commission at any time shall find that any acquirer has violated, is violating, or is about to violate any provision of the Act or any rule or regulation thereunder, or any term or condition of an order pursuant to paragraph (d) of this rule, the Commission shall revoke such order. Pending any inquiry to determine whether any such order shall be revoked, the Commission may summarily suspend such order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1213; Filed, April 28, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-2163]

IN THE MATTER OF CUSI MEXICANA MINING COMPANY COMMON STOCK, PAR VALUE FIFTY CENTS

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, Par Value Fifty Cents, of Cusi Mexicana Mining Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 6, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1219; Filed, April 28, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-1115]

IN THE MATTER OF THE DULUTH, SOUTH SHORE AND ATLANTIC RAILWAY COMPANY PREFERRED STOCK, $100 PAR VALUE AND COMMON STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Preferred Stock, $100 Par Value and Common Stock, $100 Par Value, of The Duluth, South Shore and Atlantic Railway Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1214; Filed, April 28, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of April, 1938.

[File No. 1-1509]

IN THE MATTER OF THE FAIRBANKS COMPANY COMMON STOCK, $25 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $25 Par Value, of The Fairbanks Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1215; Filed, April 28, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-2433]

IN THE MATTER OF FERROCARRILES NACIONALES DE MEXICO (NATIONAL RAILWAYS OF MEXICO) 4% NON-CUMULATIVE FIRST PREFERRED STOCK, $100 PAR VALUE, AND 5% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the 4% Non-Cumulative First Preferred Stock, $100 Par Value, and the 5% Non-Cumulative Second Preferred Stock, $100 Par Value, of Ferrocarriles Nacionales De Mexico (National Railways of Mexico); and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1216; Filed, April 28, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-276]

IN THE MATTER OF THE LEHIGH VALLEY COAL COMPANY FIVE-YEAR SECURED 6% NOTES, DUE JANUARY 1, 1938

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Five-Year Secured 6% Notes, due January 1, 1938, of The Lehigh Valley Coal Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1217; Filed, April 28, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 26th day of April 1938.

[File No. 1-136]

IN THE MATTER OF MINNEAPOLIS-MOLINE POWER IMPLEMENT COMPANY CONVERTIBLE $6.50 CUMULATIVE PREFERRED STOCK AND COMMON STOCK

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Minneapolis-Moline Power Implement Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its Convertible $6.50 Cumulative Preferred Stock and Common Stock from listing and registration on the Chicago Stock Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 6, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1223; Filed, April 28, 1938; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-1165]

IN THE MATTER OF NEW YORK STEAM CORPORATION $7.00 SERIES "A" CUMULATIVE PREFERRED STOCK, NO PAR VALUE, AND $6.00 DIVIDEND SERIES CUMULATIVE PREFERRED STOCK, NO PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the $7.00 Series "A" Cumulative Preferred Stock, No Par Value, and $6.00 Dividend Series Cumulative Preferred Stock, No Par Value, of New York Steam Corporation; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1218; Filed, April 28, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-865]

IN THE MATTER OF NICHOLAS-BEAZLEY AIRPLANE COMPANY, INC. COMMON STOCK, $5 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The St. Louis Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $5 Par Value, of the Nicholas-Beazley Airplane Company, Inc.; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 6, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1221; Filed, April 28, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-1554]

IN THE MATTER OF RUTLAND RAILROAD COMPANY FIRST CONSOLIDATED MORTGAGE 4½% GOLD BONDS DUE JULY 1, 1941; AND RUTLAND-CANADIAN RAILROAD COMPANY FIRST MORTGAGE 4% GOLD BONDS DUE JULY 1, 1949

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Boston Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Rutland Railroad Company First Consolidated Mortgage 4½% Gold Bonds due July 1, 1941 and the Rutland-Canadian Railroad Company First Mortgage 4% Gold Bonds due July 1, 1949; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 6, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1222; Filed, April 28, 1938; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of April 1938.

[File No. 1-429]

IN THE MATTER OF STUTZ MOTOR CAR COMPANY OF AMERICA, INCORPORATED, CAPITAL STOCK, NO PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, No Par Value, of Stutz Motor Car Company of America, Incorporated; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 6, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1220; Filed, April 28, 1938; 12:42 p. m.]

THE PANAMA CANAL.

[Circular No. 731]

RULES GOVERNING CASH RELIEF FOR DISABLED EMPLOYEES ENTITLED TO BENEFITS OF ACT OF CONGRESS OF JULY 8, 1937

BALBOA HEIGHTS, C. Z., *March 29, 1938*.

1. Under the authority vested in the Governor of The Panama Canal by Executive Order of March 12, 1938 (No. 7837), the following rules will govern in the administration of disability relief payments under the Act of Congress of July 8, 1937 (50 Stat. 478), effective immediately.

2. *Disability Relief Board.*—A Disability Relief Board consisting of the Comptroller as Chairman, the Executive Secretary, the Chief Health Officer, and the Chief Personnel Officer, is hereby established to act in an advisory capacity to the Governor on disability cases or other matters referred to it.

3. *Applications for Disability Relief.*—Payment of disability relief is, by the terms of the law, limited to employees disabled by age or disease for further useful work. All applications by employees or recommendations by heads of departments for disability relief for an employee will be forwarded to the Division of Personnel Administration on the form prescribed by the Governor. The application will be initiated by the employee or the head of his department. The application form will cover, in course of development, physical examination, and opinion of medical authorities, record of service, list of dependents, economic status and earning power of the employee and of his family, photographs of applicant (front and side views) with identification of same by a responsible employee, recommendation of the head of employee's department based on the employee's physical condition and the possibility of his further service in useful work, and recommendation of the Disability Relief Board to the Governor. Where the applicant lives in the Canal Zone or vicinity, the investigation of economic status and family conditions will include a visit at applicant's home by an inspector who will personally see and question the applicant and members of his family.

4. Former employees whose services have been terminated due to disability since July 8, 1934, and who come within the provisions of the Act of July 8, 1937, may make application for disability pay to the Division of Personnel Administration and in such cases the report will be developed as prescribed in paragraph 3. The Division of Personnel Administration will complete the prescribed form in so far as practicable, including the report on the applicant's economic status, to be made, if practicable, when the applicant is not a resident of the Isthmus, by a consular representative of the United States Government.

5. Physical examinations of applicants shall be made by District Physicians or other medical officers acceptable to the Chief Health Officer, and their findings shall be reviewed by the Chief Health Officer before transmittal to the Division of Personnel Administration. When the physical examination is made, the examining officer will check identification from the photographs of applicant.

6. When the applicant appears to be entitled to relief, the Disability Relief Board will recommend to the Governor the amount of monthly cash relief which the applicant should be paid as indicated by the employee's years of service and the conditions affecting his need.

7. *Rate of Payment.*—The basis for arriving at the amount of payments will be as follows:

(*a*) Monthly cash relief shall be computed at $1.00 per month per year of allowable service as determined by these regulations, (not to exceed $25.00 per month), subject to reduction if the economic status of the beneficiary does not warrant the maximum cash relief allowable.

(*b*) If, subsequently, acceptable evidence of additional service should be presented, or the economic status of the beneficiary should change substantially, change may be made in the amount of disability relief pay.

8. *Computation of service* for establishing years of allowable service will be governed by the following rules:

(*a*) A year of service will consist of 12 months of service computed as hereinafter provided.

(*b*) A month of service will be credited for each calendar month in which the employee served a minimum of 15 days, 100 hours, or for deckhands, 7½ Canal trips, or performed service at task rates amounting to a minimum of $22.50. (Service performed by inmates of Corozal Hospital or Farm or Palo Seco Leper Colony will not be counted.)

(*c*) If total service in any calendar month is less than that stated in paragraph (*b*) above, such periods may be added to those in any subsequent month or months in which service also is less than stated in paragraph (*b*) above, until the total equals or exceeds the service required to credit a month, when one month will be credited for such fractions.

(*d*) Service rendered within one calendar month will in no case be credited as more than one month.

(*e*) Recorded absences on account of sickness, authorized leave of absence, or furloughs of 30 days or less, will be credited as service.

(*f*) Other absences will not be credited as service, except that in tracing service of persons whose service has been approximately continuous for a year or more, absences or breaks of service of 30 days or less will be counted as continuous service.

(*g*) In tracing service where records are incomplete, or the employee has used different names or different check numbers, not identifiable as belonging to the applicant, the burden of proof of service will rest on the employee and credit may be allowed only on the basis of records or other proofs satisfactory to the Governor.

9. *Payments, how made.*—Monthly cash payments for beneficiaries residing in the Canal Zone or vicinity thereof will be made by the Paymaster at his offices at Balboa Heights or Cristobal. Beneficiaries who reside elsewhere or are unable to appear in person will be required to submit a claim on a prescribed form which must be signed before a public officer of the United States or of the country in which they reside and must be received in the Comptroller's Office before payment is forwarded by the Paymaster.

10. Payment of cash relief shall be made by calendar months, the initial month to be fixed by the Disability Relief Board subject to the Governor's approval and the legal limitations of the Act.

11. *Designation of payee upon death of beneficiary.*—An applicant for cash relief shall be required to designate a person to whom shall be paid any amount which may be due to the applicant at the time of his death, under the Act of July 8, 1937. The designation of such person is to be approved by the Governor. The applicant for disability relief may subsequently, either before or after becoming a beneficiary of the Act of July 8, 1937, request a change in the person designated to receive any unpaid amounts due the beneficiary at the time of his death, subject to the approval of the Governor.

12. *Employees with Cases Pending.*—Employees in service who are recommended for disability relief by the heads of their departments will be continued in service at their usual rates of pay, if able to perform some work, pending final action on their cases. The present authorized rates of $15.00 to $35.00 per month for superannuated employees are continued in effect, however, for application under the following condition:

(*a*) If the employee's ability to render service is less than normally required for his job, and if the physical examination does not show that he is disabled by age or disease, his employment may be continued if needed and his pay reduced to a lower rate or to one of the superannuated rates, only in case there is assurance that he will give necessary service commensurate with his pay.

13. The above regulations applying to Panama Canal employees will apply hereafter also to Panama Railroad employees.

C. S. RIDLEY,
Governor, The Panama Canal,
President, Panama Railroad Company.

Confirmed:
H. A. A. SMITH,
Chief of Office.

[F. R. Doc. 38-1203; Filed, April 28, 1938; 9:39 a. m.]

Saturday, April 30, 1938 *No. 85*

PRESIDENT OF THE UNITED STATES.

RELATING TO SILVER

By the President of the United States of America

A PROCLAMATION

WHEREAS by Proclamation No. 2092 of August 9, 1934, the United States mints were directed to receive for coinage or for addition to the monetary stocks of the United States silver situated on August 9, 1934, in the continental United States, including the Territory of Alaska; and

WHEREAS such proclamation provides, in part:

"Notice is hereby given that I reserve the right by virtue of the authority vested in me to revoke or modify this Proclamation as the interest of the United States may seem to require."

AND WHEREAS I find that the interest of the United States requires the revocation, except as herein provided, of the said proclamation:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 43 (b) (2), Title III of the act of May 12, 1933, 48 Stat. 52, as amended, and the Silver Purchase Act of 1934 (48 Stat. 1178), and by virtue of all other authority in me vested, do hereby revoke the said Proclamation No. 2092 of August 9, 1934, except as to the provisions thereof relating to settlement for silver received by the United States coinage mints pursuant to Proclamation No. 2067 of December 21, 1933, which provisions shall not be affected by this proclamation.

Notice is hereby given that I reserve the right by virtue of the authority vested in me to revoke or modify this proclamation as the interest of the United States may seem to require.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 28" day of April in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
SUMNER WELLES
Acting Secretary of State.

[No. 2282]

[F. R. Doc. 38-1233; Filed, April 29, 1938; 11:39 a. m.]

IMMIGRATION QUOTAS

By the President of the United States of America

A PROCLAMATION

WHEREAS the Acting Secretary of State, the Secretary of Commerce, and the Secretary of Labor have reported to the President that pursuant to the duty imposed and the authority conferred upon them in and by sections 11 and 12 of the Immigration Act approved May 26, 1924 (43 Stat. 161), they jointly have made the revision provided for in section 12 of the said act and have fixed the quota of each respective nationality in accordance therewith to be as hereinafter set forth:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the power in me vested by the aforesaid act of Congress, do hereby proclaim and make known that the annual quota of each nationality effective for the remainder of the fiscal year ending June 30, 1938, and for each fiscal year thereafter, has been determined in accordance with the law to be, and shall be, as follows:

National Origin Immigration Quotas

Country or area:	Quota
Afghanistan	100
Albania	100
Andorra	100
Arabian peninsula (except Muscat, Aden Settlement and Protectorate, and Saudi Arabia)	100
Australia (including Tasmania, Papua, and all islands appertaining to Australia)	100
Belgium	1,304
Bhutan	100
Bulgaria	100
Cameroons (British mandate)	100
Cameroun (French mandate)	100
China	100
Czechoslovakia	2,874
Danzig, Free City of	100
Denmark	1,181
Egypt	100
Estonia	116
Ethiopia (Abyssinia)	100
Finland	569
France	3,086
Germany	27,370
Great Britain and Northern Ireland	65,721
Greece	307
Hungary	869
Iceland	100
India	100
Iran	100
Iraq	100
Ireland (Eire)	17,853
Italy	5,802
Japan	100
Latvia	236
Liberia	100
Liechtenstein	100

National Origin Immigration Quotas—Continued

Country or area:	Quota
Lithuania	386
Luxemburg	100
Monaco	100
Morocco (French and Spanish zones and Tangier)	100
Muscat (Oman)	100
Nauru (British mandate)	100
Nepal	100
Netherlands	3,153
New Guinea, Territory of (including appertaining islands) (Australian mandate)	100
New Zealand	100
Norway	2,377
Palestine (with Trans-Jordan) (British mandate)	100
Poland	6,524
Portugal	440
Ruanda and Urundi (Belgian mandate)	100
Rumania	377
Samoa, Western (mandate of New Zealand)	100
San Marino	100
Saudi Arabia	100
Siam	100
South Africa, Union of	100
South-West Africa (mandate of the Union of South Africa)	100
Spain	252
Sweden	3,314
Switzerland	1,707
Syria and the Lebanon (French mandate)	123
Tanganyika Territory (British mandate)	100
Togoland (British mandate)	100
Togoland (French mandate)	100
Turkey	226
Union of Soviet Socialist Republics	2,712
Yap and other Pacific Islands under Japanese mandate	100
Yugoslavia	845

The immigration quotas assigned to the various countries and quota areas are designed solely for purposes of compliance with the pertinent provisions of the Immigration Act of 1924 and are not to be regarded as having any significance extraneous to this object.

This proclamation shall take effect immediately, and shall supersede Proclamation No. 2048 of June 16, 1933.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 28th day of April, in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL]

FRANKLIN D ROOSEVELT

By the President.

SUMNER WELLES
Acting Secretary of State

[No. 2283]

[F. R. Doc. 38-1234; Filed, April 29, 1938; 11:40 a. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6814, DATED AUGUST 9, 1934, AND EXECUTIVE ORDER NO. 6895-A, DATED NOVEMBER 2, 1934

By virtue of the authority vested in me by the Silver Purchase Act of 1934 and of all other authority vested in me, Executive Order No. 6814, dated August 9, 1934, and Executive Order No. 6895-A, dated November 2, 1934, are hereby revoked. The revocation of said Executive orders shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal cause prior to this revocation, and all penalties, forfeitures and liabilities under said Executive orders shall continue and may be enforced as if said revocation had not been made.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 28, 1938.

[No. 7877]

[F. R. Doc. 38-1231; Filed, April 29, 1938; 11:39 a. m.]

TREASURY DEPARTMENT.

Accounts and Deposits.

[1938—Eighth Supplement, Department Circular No. 92 (Revised)]

SPECIAL DEPOSITS OF PUBLIC MONEYS UNDER THE ACT OF CONGRESS APPROVED SEPTEMBER 24, 1917, AS AMENDED

APRIL 27, 1938.

To Federal Reserve Banks and Other Banks and Trust Companies Incorporated Under the Laws of the United States or of any State:

Treasury Department Circular No. 92, dated February 23, 1932, as amended, is hereby further amended by the addition of the following paragraph under the caption "Collateral Security":

"1-A. *Obligations guaranteed by the United States.*—Obligations fully and unconditionally guaranteed both as to principal and interest by the United States; all at face value."

Paragraph 11 of the collateral security provisions of the circular is hereby amended to read as follows:

"11. *Federal land bank bonds and obligations of Federal home loan banks.*—Bonds of the Federal Land Banks and obligations of the Federal Home Loan Banks; all at face value."

[SEAL]

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1238; Filed, April 29, 1938; 12:28 p. m.]

[1938—Ninth Supplement to Department Circular No. 176]

REGULATIONS GOVERNING DEPOSIT OF PUBLIC MONEYS AND PAYMENT OF GOVERNMENT CHECKS AND WARRANTS

APRIL 27, 1938.

To the Treasurer of the United States, Federal Reserve Banks and Branches, Member Bank Depositaries, Special Depositaries of Public Moneys, Collectors of Internal Revenue, Collectors of Customs, Receivers of Public Moneys, Marshals and Clerks of Court, All Other Officers or Agents of the United States Engaged in Collecting, Depositing, or Transmitting Public Moneys, and Others Concerned:

Treasury Department Circular No. 176, dated September 2, 1936, as amended, is hereby further amended by the addition of the following section to Paragraph 28:

"(a-1) Obligations fully and unconditionally guaranteed both as to principal and interest by the United States; all at face value."

Section (b) of paragraph 28 of the circular is hereby amended to read as follows:

"(b) Bonds of the Federal Land Banks, obligations of the Federal Home Loan Banks, bonds of Puerto Rico and bonds and certificates of indebtedness of the Philippine Islands; all at face value."

[SEAL]

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1239; Filed, April 29, 1938; 12:28 p. m.]

Bureau of Customs.

IMPORT TAX ON CERTAIN COAL AND ALLIED FUELS

The Collector of Customs, New York, N. Y.

SIR: Under date of March 7, 1938, the Bureau received from the Philadelphia and Reading Coal and Iron Company, Philadelphia, Penna., The Pittston Company, Dunmore, Penna., Lehigh Navigation Coal Company, Philadelphia, Penna., Glen Alden Coal Company, Scranton, Penna., and Susquehanna Collieries Company, Philadelphia, Penna., domestic producers of anthracite coal of all sizes, grades, and classifications, by their attorneys, McLanahan, Merritt & Ingraham, 40 Wall Street, New York, N. Y., a request for information as to the classification and rate of duty assessed on coal, including anthracite coal of all sizes, grades, and classifications, imported into the United States from the Union of Soviet Socialist Republics.

On March 8 the attorneys were advised that coal, including anthracite coal, of all sizes, grades, and classifications, produced in the Union of Soviet Socialist Republics and imported into the United States therefrom is admitted free of regular customs duties under paragraph 1650 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1201, par. 1650), and that the import tax provided for in section 601 (c) (5) of the Revenue Act of 1932, as amended (U. S. C., title 26, Foot-note at end of chap. 20), is not applied to such coal because (1) section 601 (a) of that act provides that the tax shall not be applied in contravention of treaties of the United States and (2) an executive agreement (treaty) between the United States and the Soviet Union effective August 6, 1937, obligates the United States for one year to give most-favored-nation customs treatment to coal produced in the Soviet Union unless existing law of the United States precludes such treatment, and (3) coal from certain other countries is being admitted free of the said import tax.

The producers herein named, through their attorneys, acting under the provisions of section 516 (b) of the Tariff Act of 1930 (U. S. C., title 19, sec. 1516), take exception to the present classification of Soviet Union coal on the ground that the balance of trade in coal and coal products between the United States and the Union of Soviet Socialist Republics for the calendar year 1937 was favorable to the Soviet Union and unfavorable to the United States; that the agreement with that Union is not a treaty within section 601 (a), supra; that assuming, for the sake of argument, that the agreement obligates the United States to admit Soviet Union coal free of duty despite the balance of trade adverse to the United States, the agreement is not self-executing; and that if said section 601 (a) is construed to provide for such a treaty that section is unconstitutional.

After careful consideration of the question in 1937 the Department held that in view of the provisions of the commercial agreement entered into between the United States and the Union of Soviet Socialist Republics, in which agreement the Government of the United States undertakes to accord to the commerce of the Soviet Union unconditional most-favored-nation treatment, with certain special provisions in respect to coal, coke manufactured therefrom, and coal or coke briquets, coal and allied fuels produced in the Soviet Union and imported into the United States directly or indirectly therefrom were entitled to entry for consumption or withdrawal from warehouse for consumption on or after August 6, 1937, and prior to January 1, 1938, without payment of the import tax imposed by section 601 (c) (5), supra. Note (1937) T. D. 49118. The Department has reaffirmed this classification and the period has been extended from January 1 to August 5, 1938. Note (1938) T. D. 49444.

Notice is hereby given, in compliance with the provisions of section 516 (b), supra, that the import tax on coal and allied fuels of the character described, if imported or withdrawn from warehouse after the expiration of 30 days after the date of the publication of this letter in the weekly Treasury Decisions, will be subject to the decision of the United States Customs Court, in the event that a protest is filed under the provisions of that section.

Very truly yours,

[SEAL]

FRANK DOW,
Acting Commissioner of Customs.

Approved April 15, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1224; Filed, April 28, 1938; 2:37 p. m.]

[T. D. 49535]

CUSTOMS REGULATIONS AMENDED—INVOICES COVERING SILVER

REVOCATION OF TREASURY DECISION REQUIRING CONSULAR INVOICES FOR IMPORTATIONS OF SILVER, WITH CERTAIN EXCEPTIONS, AS AMENDED

To Collectors of Customs and Others Concerned:

Treasury Decision 47214, approved by the Secretary of the Treasury on August 8, 1934, requiring consular invoices on all importations of silver exceeding $100 in value, with certain exceptions, as amended by Treasury Decision 48574, approved by the Secretary of the Treasury on October 8, 1936, is hereby revoked effective immediately.

Pursuant to the provisions of sections 484 (b) and 624, Tariff Act of 1930 (U. S. C., title 19, secs. 1484 (b) and 1624), article 299 (b) (14), Customs Regulations of 1937 is hereby amended by deleting the words "or silver."

[SEAL]

FRANK DOW,
Acting Commissioner of Customs.

Approved April 28, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1241; Filed, April 29, 1938; 12:55 p. m.]

Office of the Secretary.

REVOCATION OF THE ORDERS OF THE SECRETARY OF THE TREASURY OF JUNE 28, 1934 AND MAY 20, 1935, RELATING TO SILVER, AND OF THE SILVER REGULATIONS OF AUGUST 17, 1934, AS AMENDED

The Order of the Secretary of the Treasury of June 28, 1934, relating to silver, the Order of the Secretary of the Treasury of May 20, 1935, amending the said Order of June 28, 1934, and the Silver Regulations of August 17, 1934, as amended, are hereby revoked. The revocation of such orders and regulations shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil or criminal cause prior to this revocation, and all penalties, forfeitures and liabilities under such orders and regulations shall continue and may be enforced as if said revocation had not been made.

H. MORGENTHAU, JR.,
Secretary of the Treasury.

Approved:

FRANKLIN D ROOSEVELT
The White House, April 28, 1938.

[F. R. Doc. 38-1232; Filed, April 29, 1938; 11:39 a. m.]

WAR DEPARTMENT.

AMENDMENT TO RULES AND REGULATIONS TO GOVERN THE OPERATION OF THE DRAWBRIDGES CROSSING ALL NAVIGABLE WATERWAYS OF THE UNITED STATES WITHIN THE STATE OF CALIFORNIA

Paragraph 8 of the Rules and Regulations to govern the operation of the drawbridges crossing all navigable waterways of the United States within the State of California approved March 4, 1936, is hereby amended by inserting the following subparagraph after the subtitle *"Sacramento River Below Chico Landing"* on page 4, of the Rules and Regulations, to govern the operation of the bridge of the Sacramento Northern Railway across the Sacramento River at Meridian:

SACRAMENTO NORTHERN BRIDGE AT MERIDIAN

Notice to bridge operators.—Owners desiring to pass their vessels by this bridge are requested to notify the Sacramento Northern Railway, or its representative in the vicinity, of intention to pass at least six hours in advance of the time

they desire to have the bridge opened. When such notices are given, prompt opening of the bridge upon proper signal will be insisted upon. Vessels making trips past Meridian without first giving notice to the bridge operator, as above stated, may expect delay at the bridge, but the bridge operator shall, under such circumstances, use every reasonable means to expedite the opening of the draw. A sign giving instructions as to where and how the bridge operator can be reached shall be posted in a conspicuous place on each side of the bridge.

During periods of flood stage, the owner of the bridge will keep an operator in constant attendance at the bridge who will open the bridge promptly upon signal from a vessel of its intention to pass through the draw.

Approved, April 15, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1230; Filed, April 29, 1938; 10:06 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-71 O-71]

NOTICE OF PUBLIC HEARINGS ON PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

PREPARED AND PROPOSED BY METROPOLITAN COOPERATIVE MILK PRODUCERS' BARGAINING AGENCY AND UPON WHICH SAID AGENCY HAS REQUESTED THE SECRETARY OF AGRICULTURE TO HOLD HEARINGS UNDER THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

Whereas, the Metropolitan Cooperative Milk Producers' Bargaining Agency has requested the Secretary to hold public hearings on a marketing agreement and order, prepared and proposed by such agency and designed to regulate such handling of milk in the New York metropolitan milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement or the issuance of an order will tend to effectuate the declared policy of Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, with respect to such handling of milk in the New York metropolitan milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, under said act notice of and opportunity for a hearing are required prior to the execution of a marketing agreement or the issuance of an order, and the General Regulations, Series A, No. 1, as amended of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice;

Now, therefore, pursuant to said act and said General Regulations, notice is hereby given of public hearings to be held as set forth below on the aforementioned marketing agreement and order, prepared and proposed by the aforementioned agency and designed to regulate such handling of milk in the New York metropolitan milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk.

These public hearings will be held on the dates and at the places and times following:

Chancellor's Hall, Albany, N. Y., at 9:30 a. m., e. s. t., May 16, 1938;

State Armory, Malone, N. Y., at 9:30 a. m., e. s. t., May 17, 1938;

Lincoln Auditorium, Syracuse, N. Y., at 9:30 a. m., e. s. t., May 18, 1938;

State Armory, Elmira, N. Y., at 9:30 a. m., e. s. t., May 19, 1938;

Room 652, State Office Building, 80 Centre Street, New York City, at 9:30 a. m., e. s. t., May 20, 1938.

At these public hearings, which will be held jointly with the Commissioner of Agriculture and Markets of the State of New York, representatives of the Secretary will receive factual evidence (1) as to whether marketing conditions for such handling of milk in the New York metropolitan milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk are so disorderly as to necessitate regulation in order that the declared policy of the act may be effectuated, and (2) as to the specific provisions which a marketing agreement or order should contain.

The proposed marketing agreement or order provide, among other things, for: (a) selection of a market administrator, (b) classification of milk, (c) minimum prices, (d) reports of handlers, (e) payments to producers through the use of a market-wide equalization pool, and (f) expenses of administration.

Copies of the proposed marketing agreement or order may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated April 29, 1938.

[F. R. Doc. 38-1240; Filed, April 29, 1938; 12:39 p. m.]

Farm Security Administration.

[Administrative Order]

NORTHEAST WASHINGTON PROJECT

TRANSFER OF LANDS IN THE STATE OF WASHINGTON TO THE FOREST SERVICE FOR ADMINISTRATION, PROTECTION AND MANAGEMENT

APRIL 28, 1938.

By virtue of and pursuant to authority vested in me by Executive Order No. 7530 of December 21, 1936 Fed. Reg. January 5, 1937, page 9), as amended by Executive Order No. 7557 of February 19, 1937 (Fed. Reg. February 24, 1937, page 411), and by Executive Order No. 7693 of August 19, 1937 (Fed. Reg. August 24, 1937), the following described lands are hereby transferred from the Farm Security Administration to the Forest Service for administration, protection and management under the laws applicable to said lands, and such rules and regulations as have been or hereafter may be promulgated consistent with the powers and authority vested in the Secretary of Agriculture by the aforesaid Executive Orders, to wit:

All the public lands within the Northeast Washington Project LA-WA-2, situated within Stevens and Pend Oreille Counties, Washington, that were withdrawn under the above mentioned Executive Order No. 7693 of August 19, 1937, and all lands within these same counties that hitherto have been acquired, or which shall hereafter be acquired by the Department of Agriculture under the provisions of the Emergency Relief Appropriation Act approved April 8, 1935 (49 Stat. 115), the National Industrial Recovery Act approved June 16, 1933 (48 Stat. 195), and the Bankhead-Jones Farm Tenant Act approved July 22, 1937 (50 Stat. 522).

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1225; Filed, April 28, 1938; 4:17 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3307]

IN THE MATTER OF E. J. BRACH & SONS, A CORPORATION, AND EMIL J. BRACH, EDWARD M. KERWIN, EDWIN O. BLOMQUIST, THEODORE STEMPFEL, AND EMIL J. GUTGSELL, INDIVIDUALLY, AND AS OFFICERS OF E. J. BRACH & SONS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 12, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1226; Filed, April 29, 1938; 9:28 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3315]

IN THE MATTER OF AMBROSIA CANDY COMPANY, A CORPORATION, AND SAMUEL R. BLOCK, INDIVIDUALLY, AND AS AN OFFICER OF AMBROSIA CANDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 12, 1938, at ten-thirty o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1227; Filed, April 29, 1938; 9:28 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3321]

IN THE MATTER OF FASCINATION CANDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 12, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1228; Filed, April 29, 1938; 9:28 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3238]

IN THE MATTER OF WILLIAM C. STEFFY, LORINA STEFFY, AND G. N. PARKINSON

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, May 16, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1229; Filed, April 29, 1938; 9:29 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

ADOPTION OF RULE GB4

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, and deeming the acts and practices hereinafter prohibited to be devices and contrivances which are manipulative and deceptive, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 10 (b) and 23 (a) thereof, hereby adopts the following Rule GB4:

RULE GB4. *Prohibition of use of manipulative or deceptive devices or contrivances with respect to securities not registered on a national securities exchange.*—(a) It shall be unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce or of any facility of any national securities exchange, to do any act or omit to do any act in connection with the purchase or sale of any security not registered on a national securities exchange, if such act or omission to act would be unlawful under Section 9 (a) or any rule or regulation heretofore or hereafter prescribed thereunder if done or omitted to be done in connection with the purchase or sale of a security registered on a national securities exchange.

(b) The provisions of this rule shall not apply to securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; and securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instrumentality of one or more States.

The foregoing action of the Commission shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1235; Filed, April 29, 1938; 12:13 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., n the 28th day of April 1938.

[File No. 1-856]

IN THE MATTER OF CANAL CONSTRUCTION COMPANY CONVERTIBLE PREFERENCE STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Chicago Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 (b) promulgated thereunder, having made application to the Commission to strike the No Par Value Convertible Preference Stock of the Canal Construction Company from listing and registration on the Chicago Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 o'clock, A. M., on Wednesday, May 25, 1938, in Room 630, Bankers' Building, 105 W. Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1236; Filed, April 29, 1938; 12:13 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of April 1938.

[File No. 47-21]

IN THE MATTER OF NEW ENGLAND POWER COMPANY

ORDER PERMITTING AN APPLICATION REGARDING THE ACQUISITION OF UTILITY ASSETS TO BECOME EFFECTIVE

New England Power Company, a subsidiary of New England Power Association, a registered holding company, having filed an application and amendments thereto with this Commission pursuant to Section 10 (a) (2) and Section 10 (a) (3) of the Public Utility Holding Company Act of 1935 regarding the acquisition of transmission lines including title and interest in right-of-way in Webster and Dudley, Massachusetts; substation equipment and land whereon the same is located in Webster, Massachusetts, and other miscellaneous equipment incidental to the operation of said property for a stated cash consideration of $87,185.97 to the vendor, Worcester County Electric Company, also a subsidiary of New England Power Association;

Hearing on such application having been duly held after appropriate notice, the record in this matter having been duly considered; and the Commission having made and filed its findings herein;

It is ordered, That such application be and become effective forthwith, on the condition however that the acquisition by the applicant be effected in substantial compliance in the manner and subject to the terms set forth in such application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1237; Filed, April 29, 1938; 12:13 p. m.]

Tuesday, May 3, 1938 *No. 86*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDING PARAGRAPH 7, SUBDIVISION III, SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the Civil Service Act (22 Stat. 403), it is ordered that paragraph 7, Subdivision III, Schedule A of the Civil Service Rules, excepting from competitive civil-service requirements certain positions in the Public Health Service, Treasury Department, be, and it is hereby, amended to read as follows:

"7. Public Health Service: Attendants employed in hospitals, sanatoriums, and other similar establishments where, in the opinion of the Commission, the establishment of registers is impracticable; employees engaged on problems in preventive medicine financed or participated in by the Treasury Department and a cooperating State, county, municipality, incorporated organization, or an individual, in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the problem; and employees assigned to classified positions during treatment or convalescence at Government sanatoriums."

This amendment removes from the excepted class the position of attendant, quarantine station (maritime and border). Present incumbents of such position may acquire an appropriate civil-service status in accordance with the provisions of section 6 of Civil Service Rule II, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 29, 1938.

[No. 7878]

[F. R. Doc. 38-1247; Filed, April 30, 1938; 11:08 a. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4801]

SERVICES EXCEPTED FROM "EMPLOYMENT" UNDER TITLE VIII OF THE SOCIAL SECURITY ACT BY REASON OF THE PROVISIONS OF SECTION 9 (A) OF THE CARRIERS TAXING ACT OF 1937

REGULATIONS 91, AMENDED

To Collectors of Internal Revenue and Others Concerned:

Section 11 of the Carriers Taxing Act of 1937, approved June 29, 1937 (Public, No. 174, Seventy-fifth Congress; 50 Stat. 435) provides in part:

The provisions of this Act are in substitution for the provisions of the Act of August 29, 1935, as amended, entitled "An Act to levy an excise tax upon carriers and an income tax upon their employees, and for other purposes", which is hereby repealed.

Section 9 (a) of the Carriers Taxing Act of 1937 provides:

The term "employment", as defined in subsection (b) of section 811 of title VIII of the Social Security Act, shall not include service performed by an individual as an employee as defined in section 1 (b) or service performed as an employee representative as defined in section 1 (c).

Section 7 (c) of the Carriers Taxing Act of 1937 provides:

Any tax paid under this Act by a taxpayer with respect to any period with respect to which he is not liable to tax under this Act shall be credited against the tax, if any, imposed by title VIII of the Social Security Act upon such taxpayer, and the balance, if any, shall be refunded. Any tax paid under title VIII of the Social Security Act by a taxpayer with respect to any period with respect to which he is not liable to tax under such title VIII shall be credited against the tax, if any, imposed by this Act upon such taxpayer, and the balance, if any, shall be refunded.

In order to accord with the provisions of law quoted above, Regulations 91, approved November 9, 1936, as amended, relating to the employees' tax and the employers' tax under Title VIII of the Social Security Act, are further amended as follows:

(1) The provision of law under the caption "Section 11 of the Carriers Taxing Act" immediately preceding article 1 is hereby deleted, together with the caption, and the following is inserted in lieu thereof:

"Section 9 (a) of the Carriers Taxing Act of 1937

"The term 'employment', as defined in subsection (b) of section 811 of title VIII of the Social Security Act, shall not include service performed by an individual as an employee as defined in section 1 (b) or service performed as an employee representative as defined in section 1 (c)."

(2) Article 1 (d) is amended to read as follows:

"(d) *Carriers Taxing Act of 1937* means the Act approved June 29, 1937 (Public, No. 174, Seventy-fifth Congress; 50 Stat. 435)."

(3) Article 2 is amended by striking out "section 11 of the Carriers Taxing Act" in the first sentence and by inserting in lieu thereof "section 9 (a) of the Carriers Taxing Act of 1937".

(4) Article 6 is amended by striking out "section 11 of the Carriers Taxing Act" in the first sentence and by inserting in lieu thereof "section 9 (a) of the Carriers Taxing Act of 1937".

(5) The provisions of law under the caption "Sections 1 (a), (b), and (c), and 11 of the Carriers Taxing Act" immediately preceding article 13 are hereby deleted, together with the caption, and the following is inserted in lieu thereof:

Sections 1 and 9 (a) of the Carriers Taxing Act of 1937

"Section 1. That as used in this Act—

"(a) The term 'employer' means any carrier (as defined in subsection (l) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however*, That the term 'employer' shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term 'employer' shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations.

"(b) The term 'employee' means any person in the service of one or more employers for compensation: *Provided, however*, That the term 'employee' shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual is in the employment relation to a carrier if he is on furlough, subject to call for service within or outside the United States and ready and willing to serve, or on leave of absence, or absent on account of sickness or disability; all in accordance with the established rules and practices in effect on the carrier: *Provided further*, That an individual shall not be deemed to have been on August 29, 1935, in the employment relation to a carrier not conducting the principal part of its business in the United States unless during the last pay-roll period in which he rendered service to it prior to said date, he rendered service to it in the United States.

"(c) The term 'employee representative' means any officer or official representative of a railway labor organization other than a labor organization included in the term 'employer' as defined in section 1 (a), who before or after the enactment hereof was in the service of an employer as defined in section 1 (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who

is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

"(d) An individual is in the service of an employer whether his service is rendered within or without the United States if he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, which service he renders for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer not conducting the principal part of its business in the United States only when he is rendering service to it in the United States.

* * * * * * * *

"(f) The term 'United States' when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

"(g) The term 'company' includes corporations, associations, and joint-stock companies.

"(h) The term 'employee' includes an officer of an employer.

"(i) The term 'carrier' means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

"(j) The term 'person' means an individual, a partnership, an association, a joint-stock company, or a corporation.

"SEC. 9. (a) The term 'employment', as defined in subsection (b) of section 811 of title VIII of the Social Security Act, shall not include service performed by an individual as an employee as defined in section 1 (b) or service performed as an employee representative as defined in section 1 (c).

(6) Article 13 is amended to read as follows:

ART. 13. *Employees and employee representatives under the Carriers Taxing Act of 1937.*—Services performed by an individual as an "employee" or as an "employee representative", as those terms are defined in the above-quoted provisions of the Carriers Taxing Act of 1937, are excepted. See also Regulations 100, articles 3 and 4, for definitions of employee and employee representative under such Act.

(7) Article 15 (a) is amended by striking out "section 11 of the Carriers Taxing Act" and by inserting in lieu thereof "section 9 (a) of the Carriers Taxing Act of 1937".

(8) Chapter V is amended by inserting after article 505 thereof the following:

"Section 7 (e) of the Carriers Taxing Act of 1937

"Any tax paid under this Act by a taxpayer with respect to any period with respect to which he is not liable to tax under this Act shall be credited against the tax, if any, imposed by title VIII of the Social Security Act upon such taxpayer, and the balance, if any, shall be refunded. Any tax paid under title VIII of the Social Security Act by a taxpayer with respect to any period with respect to which he is not liable to tax under such title VIII shall be credited against the tax, if any, imposed by this Act upon such taxpayer, and the balance, if any, shall be refunded."

"ART. 506. *Credit or refund under Carriers Taxing Act of 1937.*—See Regulations 100, articles 703 and 704 for method of obtaining credit and refund of taxes paid under Title VIII of the Social Security Act for any period during which liability existed under the Carriers Taxing Act of 1937 or of taxes paid under the Carriers Taxing Act of 1937 for any period during which liability existed under Title VIII of the Social Security Act."

This Treasury Decision is prescribed under the authority contained in section 808 of the Social Security Act.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved April 28, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1248; Filed, April 30, 1938; 11:27 a. m.]

[T. D. 4802]

AUTHORIZING COMPLETELY DENATURED ALCOHOL FORMULA No. 14 AND REVOKING COMPLETELY DENATURED ALCOHOL FORMULA No. 11

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C.

To District Supervisors, and Others Concerned:

Pursuant to authority conferred by the Act of June 7, 1906 (U. S. C., 1934 Ed., Title 26, Sec. 1320), and Title III of the National Prohibition Act, the following completely denatured alcohol formula is hereby authorized, effective ata once:

COMPLETELY DENATURED ALCOHOL FORMULA NO. 14

To every 100 gallons of ethyl alcohol of not less than 160° proof add:

5 gallons of FD–13 or a product similar thereto
2.25 gallons of methyl isobutyl ketone

Completely denatured alcohol Formula No. 11, authorized by Treasury Decision 4684, approved June 3, 1936, is hereby revoked, effective July 1, 1938.

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved April 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1257; Filed, May 2, 1938; 12:36 p. m.]

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[I. C. C. No. 124 (Cancels I. C. C. No. 123)]

THE ALASKA RAILROAD

LOCAL FREIGHT TARIFF NO. 8–R[1] NAMING COMMODITY RATES ON PETROLEUM AND PETROLEUM PRODUCTS FROM SEWARD AND ANCHORAGE, ALASKA, TO STATIONS ON THE ALASKA RAILROAD

Governed, except as otherwise provided herein, by Western Classification No. 67 (as published in Consolidated Freight Classification No. 12), R. C. Fyfe's I. C. C. No. 25, supplements thereto or successive issues thereof. Issued on ten days' notice under authority of Rule 62, Interstate Commerce Commission Tariff Circular 20. Issued, March 22, 1938. Effective, April 8, 1938. Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

Index of Stations to Which Rates Apply

Stations:	Item No.
Anchorage, Alaska	50
*Anvik, Alaska	85
*Blackburn, Alaska	85
*Campbells, Alaska	75
*Cantwell, Alaska	65
*Chulitna, Alaska	60
*Colorado, Alaska	60
*Eklutna, Alaska	50
Fairbanks, Alaska	70
*Ferry, Alaska	65
*Galena, Alaska	80
*Girdwood, Alaska	50
Healy, Alaska	65
Holy Cross, Alaska	85
*Hot Springs Landing, Alaska	75
*Houston, Alaska	100
Iditarod, Alaska	85, 105
*Jonesville, Alaska	55, 95
*Kaltag, Alaska	85
*Kokrines, Alaska	80
*Koyukuk, Alaska	80
*Lawing, Alaska	50
*Marshall, Alaska	90
Matanuska, Alaska	55, 95

*No Agent. Freight charges must be prepaid.

[1] Cancels Local Freight Tariff No. 8–R. No supplement to this Tariff will be issued except for the purpose of cancelling the Tariff unless otherwise specifically authorized by the Commission.

Index of Stations to Which Rates Apply—Continued

Stations:	Item No.
*McKinley Park, Alaska	65, 100
*Minto, Alaska	75
*Moose Creek, Alaska	55
*Moose Pass, Alaska	50
Nenana, Alaska	70
*Nulato, Alaska	80
*Palmuit, Alaska	90
Palmer, Alaska	55, 95
*Premier, Alaska	55, 95
*Ruby, Alaska	80
*Russian Mission, Alaska	90
*Suntrana, Alaska	65
*Talkeetna, Alaska	60, 100
*Tanana, Alaska	75
*Tolovana, Alaska	75
Wasilla, Alaska	60, 100
*Willow, Alaska	60, 100

*No Agent. Freight charges must be prepaid.

Explanation of Abbreviations

I. C. C.	Interstate Commerce Commission.
N. O. S.	Not otherwise specified.
No.	Number.
Viz	Namely.

Exceptions to Western Classification

Governing all rates named in this Tariff between points in Alaska except as otherwise provided in the Item.

Miscellaneous

Item No. 2. Inflammable Liquids Having Flash Point Lower Than 200° Fahrenheit

Section 6, Rule 35 of Western Classification will not apply.

Application of Rates

Item No. 5. Commodity Rates Applicable to Intermediate Points

Subject to the provisions of Notes 1, 2, 3 and 4 below, to any point of destination to which a commodity rate on a given article from a given point of origin and via a given route is not named in this tariff, which point is intermediate to a point to which a commodity rate on said article is published in this tariff via a route thrpugh the intermediate point over which such commodity rate applies from the same point of origin, apply to such intermediate point from such point of origin and via such route the commodity rate in this tariff on said article to the next point beyond to which a commodity rate is published herein on that article from the same point of origin via the same route.

NOTE 1.—When by reason of branch or diverging lines, there are two or more "next beyond" points, apply the rate to the next point beyond (in this tariff) which on that article from the same point of origin via the same route results in the lowest charge.

NOTE 2.—If the intermediate point is located between two points to which commodity rates on the same article via the same route are published in this tariff, apply via that route to the intermediate point the rate to the next point in either direction which results in the higher charge. In applying this note, if there are two or more next beyond points due to branch or diverging lines, eliminate all such next beyond points except the point to which the lowest charge is applicable.

NOTE 3.—If the class rate on the same article via the same route to the intermediate point produces a lower charge than would result from applying the commodity rate under this rule, such commodity rate will not apply.

NOTE 4.—If there is in any other tariff a commodity rate on the same article to the intermediate destination point applicable over the same route from the same point of origin the provisions of this rule are not applicable to such intermediate destination point.

Rules and Regulations

Item No. 10. Bills of Lading

All shipments transported under this Tariff will be subject to the bill of lading provisions named on pages 37 to 47 inclusive, of Western Classification No. 67, R. C. Fyfe, Agent, I. C. C. No. 25, supplements thereto or successive issues thereof.

Item No. 15. Estimated and Minimum Weights

Except as otherwise provided, rates named in this Tariff will be subject to the rules, estimated and minimum weights and outage allowance provided in Western Classification named on Title Page.

Item No. 20. Marine Insurance

Rates named herein do not include marine insurance. All risk of loss and damage incident to transportation of freight by water must be assumed by shippers, owners or consignees, who may protect themselves against such loss by covering their shipments with marine insurance.

Item No. 25. Freight Destined to Points Served by Water Carriers

(a) All freight to points served by Water Carriers must be packed in shape for safe and expeditious handling. When Tariff does not specify kind of package, it is understood that bags, boxes, crates or other suitable packages may be used; and when freight is offered in such packages as would endanger contents when handled with ordinary care, it shall be optional with the carrier to refuse to transport it, or to accept it, with notation on shipping receipt fully releasing it from any and all damage which may occur.

(b) Freight which vessels are prohibited from carrying under governmental regulations, including shipments in tank cars, will not be accepted for transportation to points served by Water Carriers.

Item No. 30. Service Guarantee of Time

The carrier does not agree to transport freight by any particular steamer or train or within any specified time, and the rates named herein to points served by Water Carriers are applicable only when the carrier has a suitable steamer sailing to or from the ports via which rates are named. If at any time, after having made reasonable effort, a steamer is unable to make delivery of a shipment owing to bad weather conditions or for any reason due to perils of navigation, the obligations imposed upon the Carrier by the terms of this Tariff shall be considered fulfilled and delivery accomplished and the charges due at rates named herein shall be considered earned, after which the Carrier shall have the privilege of delivering shipment at the nearest accessible port; or returning goods to the point of shipment; or making delivery on a subsequent voyage and collecting at Tariff rates for such additional service.

Item No. 35. Terminal and Other Charges, Privileges and Allowances

Shipments made at rates named herein are subject to the terminal and other charges; Privileges and Allowances provided in Terminal Tariff No. 3–A, I. C. C. No. 80 supplements thereto or successive issues thereof.

Item No. 40. Transportation of Dangerous Articles by Freight

Shipping containers, marking and packing requirements for the handling of Dangerous Articles, must be in accordance with the Rules and Regulations prescribed in Agent W. S. Topping's Freight Tariff No. 2, I. C. C. No. 2, supplements thereto or successive issues thereof.

(*Here follows a table of commodity rates; requests for copies should be addressed to the Division of Territories and Island Possessions, Department of the Interior.*)

The above is hereby confirmed.

RUTH HAMPTON, *Assistant Director.*

APRIL 25, 1938.

[F. R. Doc. 38-1245; Filed, April 30, 1938; 9:49 a. m.]

Office of Indian Affairs.

REGULATIONS GOVERNING THE LEASING OF LANDS WITHIN THE CEDED PORTION OF THE WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING PURPOSES

	Section No.
Act Authorizing Leases	Preface
Assignments	26
Cancellations	28
Definitions	1
Effective Date	31
Fees	29
Forms	30
Government Reserves Right to Purchase Oil and Gas	14
How to Acquire Leases:	
Acreage Limitation	9
Additional Information from Applicant	7
Applications	2
Bond	8
Corporations and Corporate Information	6
General Land Office to be Furnished Copy of Lease	11
Lease Sales	4
Leases to Citizens of United States except Government Employees	3
Leases of Noncontiguous Tracts	9
Mineral Reserves in Nonmineral Entries	12
Minerals other than Oil and Gas	10
Term of Leases	5
Vested Rights to be Respected	13
Operations:	
Diligence, and Prevention of Waste	22
Inspection of Premises; Books and Accounts	25
Penalties	24
Permission to Begin Operations	20
Restrictions on Operations	21
Wells	23
Rents and Royalties:	
Crediting Advance Annual Payments	16
Division Orders	19
Free Use of Gas by Lessor	18
Manner of Payment	15
Rates of Rents and Royalties	17
Stipulations	27

ACT AUTHORIZING LEASES

The act of August 21, 1916 (39 Stat. 519), reads:

That the Secretary of the Interior is hereby authorized and empowered to lease, for the production of oil and gas therefrom, lands within the ceded portion of the Shoshone or Wind River Indian Reservation, in the State of Wyoming, under such terms and conditions as shall be by him prescribed; and the proceeds or royalties arising from any such leases shall be first applied to the extinguishment of any indebtedness of the Shoshone Indian Tribe to the United States, and thereafter it shall be applied to the use and benefit of said tribe in the same manner as though secured from the sale of said lands, as provided by the act of Congress approved March third, nineteen hundred and five, entitled "An Act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation, in the State of Wyoming, and to make appropriations for carrying the same into effect:" *Provided, however*, That nothing contained in this act shall be construed to abridge or enlarge any asserted or initiated rights or claims under any law of the United States.

SEC. 2. That the leases granted under this act shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, which shall not be less than one-tenth in amount or value of the production, and the payment in advance of a rental of not less than $1 per acre per annum during the continuance of the lease. The rental paid for any one year to be credited against the royalties as they accrue for that year. Leases shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years each upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the time of expiration of any such period; said leases shall be irrevocable except for the breach of the terms and conditions of the same, and may be forfeited and canceled by an appropriate proceeding in the United States District Court for the District of Wyoming whenever the lessee fails to comply with their terms and conditions.

To carry out the provisions of existing law as quoted above the following regulations governing the leasing of lands within the ceded portion of the Wind River Indian Reservation, in Wyoming, for oil and gas mining purposes, are hereby prescribed:

DEFINITIONS

SEC. 1. The term "superintendent" herein refers to the superintendent or other officer of the Indian Service or of the Government who may have jurisdiction over the Shoshone or Wind River Reservation.

The term "supervisor" herein refers to a representative of the Secretary of the Interior, under direction of the Director of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

HOW TO ACQUIRE LEASES

SEC. 2. *Applications for leases.*—Applications for leases should be made to the superintendent.

SEC. 3. *Leases to citizens of the United States except Government employees.*—Leases will be made only to persons who are citizens of the United States or have declared their intention to become so, or corporations which are organized under the laws of the United States or one of the States or Territories: *Provided*, That no lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government, whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases by ownership of stock in corporations having leases or in any other manner.

SEC. 4. *Lease sales.*—At such times, and in such manner, as the Secretary of the Interior may direct, the superintendent shall publish, in such manner as he may deem appropriate, notices, at least 15 days prior to the sale, that leases of specific tracts, each of which shall be in a compact body, will be offered to the highest responsible bidder. The successful bidder must deposit with the superintendent, on the day of the sale, a certified check or bank draft on a solvent bank in an amount equal to 20 percent of the bonus bid and of the first year's rental as a guaranty of good faith. The balance of the bonus and of the first year's rental shall be paid and the lease in completed form shall be filed with the superintendent within 20 days after the lease is forwarded to the lessee for execution, unless such period shall have been extended by the superintendent for good and sufficient reason. If the successful bidder fails to complete the lease or pay the full consideration within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or of the Department, the amount of bonus and rental deposited will be forfeited as liquidated damages, for the use and benefit of the lessor.

The right is reserved by the Secretary of the Interior, to reject any and all bids and to disapprove and reject, prior to approval, any lease made on an accepted bid; and should any bid be rejected or lease disapproved after the bonus and rental deposit is made by the bidder, such deposit shall be returned immediately. The successful bidder or bidders shall pay the costs of publishing and distributing the notices of the sale of leases.

SEC. 5. *Term of leases.*—Leases shall be for a period of 20 years, with the preferential right in the lessee to renew the same for successive periods of ten years each upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of any such period.

SEC. 6. *Corporations and corporate information.*—If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

(I) List of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(II) A sworn statement of the proper officer showing:

(a) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(b) Of the stock sold, how much remains unpaid and subject to assessment.

(c) The amount of cash the company has in its treasury and elsewhere.

(d) The property, exclusive of cash, owned by the company and its value.

(e) The total indebtedness of the company and the nature of its obligations.

(f) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provision of said Acts or rules and regulations, and what disposition of any such statement, application, prospectus or offering sheet has been made.

SEC. 7. *Additional information from applicant.*—The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out these regulations. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

SEC. 8. *Bonds.*—Lessee shall furnish with each lease, a bond (form 5–154b) with personal sureties or with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 80 acres, $1,000; for 80 acres and less than 120 acres, $1,500; for 120 acres and not more than 160 acres, $2,000; and for each additional 40 acres or part thereof, above 160 acres, $500: *Provided*, That a lessee may file one bond (form 5–154f) in the sum of $15,000, covering all leases of a particular class up to 10,240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of the lease to increase the amount of a bond above the sum named, in any case where the Secretary of the Interior deems it proper to do so. Bonds with personal sureties will be accepted only where the sureties deposit collateral, with the Commissioner of Indian Affairs, equal in value to the full amount of the bond and consisting of any public debt obligation of the United States, guaranteed as to principal and interest by the United States. In lieu of other bonds, lessees may execute their own surety contracts upon deposit, with the Commissioner of Indian Affairs, of Government bonds, equal in value to the full amount of the bond, as collateral (form 5–154a). The bond forms herein mentioned are those prescribed for use in leasing allotted Indian lands and may be used as herein provided with appropriate alterations.

SEC. 9. *Acreage limitation; leases on noncontiguous tracts.*—No person, firm, or corporation will be allowed to lease for oil and gas more than 10,240 acres in the aggregate. The land contained in the lease shall be described by legal subdivisions, and leases may be executed to cover only adjoining or contiguous subdivisions. In case a lessee is a successful bidder for two or more tracts of land which are not contiguous, separate leases shall be executed.

SEC. 10. *Minerals other than oil and gas.*—Unreserved, unwithdrawn, and unallotted lands which have not been leased for oil and gas under the act of August 21, 1916, and which are not chiefly valuable therefor, are subject to mineral application of mineral entry, for minerals other than oil and gas, under the supervision of the General Land Office.

SEC. 11. *General Land Office to be furnished copy of lease.*—The General Land Office shall be furnished with a copy of each lease signed by the Secretary of the Interior.

SEC. 12. *Mineral reserves in nonmineral entries.*—Where lands have been leased under authority of said act of August 21, 1916, and nonmineral entry is subsequently lawfully made for such lands with a view to obtaining a restricted patent therefor, all such subsequently allowed nonmineral entries shall be with the mineral reservation prescribed by the act of July 17, 1914, (38 Stat. 509).

SEC. 13. *Vested rights to be respected.*—All drilling and other oil and natural gas developments and mining operations, work, and improvements, and all other acts and things necessary to be done, in connection with the exploration for mining and production of oil and natural gas from the leased premises, under the terms and conditions of a lease shall be performed with due regard to the rights, statutory and otherwise, of others, if any, who may have or who may acquire a lawful claim or estate to the leased premises, separate and distinct from the oil and gas or other mineral therein contained. See act of July 17, 1914.

GOVERNMENT RESERVES RIGHT TO PURCHASE OIL AND GAS

SEC. 14. In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the minerals produced under any lease.

RENTS AND ROYALTIES

SEC. 15. *Manner of payment.*—All payments due the lessor shall be made to the superintendent for the benefit of the Shoshone Indian Tribe, in accordance with the Act of August 21, 1916 (39 Stat. 519); and no credit will be given any lessee for payments made otherwise. Payments of rentals and royalties except the first year's rental, which shall be paid to the superintendent as prescribed in section 4 of these regulations, shall be transmitted to the superintendent through the supervisor. All such payments shall be accompanied by a statement, in triplicate, by the lessee, showing the specific items of royalty or rental that the remittance is intended to cover, and payment of royalties on production shall be made not later than the last day of the calendar month following the production for which such payment is to be made.

SEC. 16. *Crediting advance annual payments.*—In the event of discovery of minerals in paying quantities all advance rents and advance royalties shall be allowed as credit on stipulated royalties as they accrue for the year for which such advance payments have been made. No refund of any such advance payment made under any lease will be allowed in the event the royalty on production for the year is not sufficient to equal such advance payment; nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease.

SEC. 17. *Rates of rents and royalties.*—The lessee shall pay, beginning with the date of execution of leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly at such time as the lease provides; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee

shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil by causes beyond his control.

The proceeds from all leases shall be taken up in the accounts of the superintendent for appropriate deposit for the benefit of the Indians.

SEC. 18. *Free use of gas by lessor.*—If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

SEC. 19. *Division orders.*—Lessees may make arrangements with the purchasers of oil for the payment of the royalties on production to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay such royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipeline companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipeline companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of these regulations, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representatives shall be actually present when the oil is gauged and records are made of the temperature, gravity and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all the foregoing measurements, which, except lowest gauge, shall be made at the time the oil is turned into the pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

OPERATIONS

SEC. 20. *Permission to start operations.*—No operations will be permitted on any lease before it is executed by the Secretary of the Interior.

Written permission must be secured from the supervisor or his representative before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the superintendent, and no operations should be attempted without a study of the operating regulations.

SEC. 21. *Restrictions on operations.*—All leases issued under the provisions of these regulations shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production of any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

All leases issued pursuant to these regulations shall be subject to a cooperative or unit development plan affecting the leased lands if and when required by the Secretary of the Interior, but no lease shall participate in any cooperative or unit plan without prior approval of the Secretary of the Interior.

SEC. 22. *Diligence, and prevention of waste.*—The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay all damages to crops, buildings, and other improvements on the premises occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond his control.

SEC. 23. *Wells.*—The lessee shall agree (1) to drill and produce all wells necessary to offset or protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided*, That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (2) at the election of the lessee to drill and produce other wells: *Provided*, That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (3) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within ten days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of the lease of not to exceed $1 per acre per annum, which sum shall be in addition to any rental or royalty herein specified.

SEC. 24. *Penalties.*—Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of these regulations, orders of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lessee to a penalty of not more than $500 per day for each day the terms of the lease, the regulations, or such orders are violated: *Provided*, That the lessee shall be entitled to notice, and hearing within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

SEC. 25. *Inspection of premises; books and accounts.*—Lessees shall agree to allow the lessor and his agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purposes of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the applicable regulations of the Department; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations, to make such examination.

ASSIGNMENTS

SEC. 26. Leases, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the superintendent within 20 days after the date of execution.

STIPULATIONS

SEC. 27. The lessee under any lease heretofore executed may by stipulation (form 5–1541), with the consent of the lessor, make such lease subject to all the terms, conditions, and provisions contained in the lease form currently in use. Stipulations shall be filed with the superintendent within 20 days after the date of execution.

CANCELLATIONS

SEC. 28. Leases shall be irrevocable except for breach of the terms and conditions of the same and may be forfeited and cancelled by an appropriate proceeding in the United States District Court for the District of Wyoming whenever the lessee fails to comply with their terms and conditions; however, on the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(a) That he make application for cancellation to the superintendent having jurisdiction over the land.

(b) That he pay a surrender fee of one dollar at the time the application is made.

(c) That he pay all royalties and rentals due to the date of such application.

(d) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(e) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(f) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(g) If the lease (or portion being surrendered or cancelled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(h) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(i) In the event oil or gas is being drained from the leased premises by wells not covered by the lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

accompanied at the time of filing by a fee of $5 in accordance with the act of February 14, 1920 (41 Stat. 408–415) as amended March 1, 1933 (47 Stat. 1417), such fee to be refunded if the lease, sublease or assignment is disapproved.

FORMS

SEC. 30. All necessary forms, including leases, bonds, and assignments, may be obtained from the superintendent at a cost of ten cents each.

Moneys received from the sale of forms should be deposited as Miscellaneous Receipts to the credit of Receipt Account 145060 "Sale of Forms" unless the expense of printing the forms was paid from tribal moneys, in which event the receipts from the sale of the forms should be deposited to the credit of the tribe.

EFFECTIVE DATE

SEC. 31. These regulations shall be effective when approved by the Secretary of the Interior; shall supersede all prior regulations affecting the leasing of oil and gas lands on the ceded portion of the Wind River Reservation, and shall be subject to change or alteration at any time by the Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs, April 19, 1938.

The foregoing regulations are respectfully submitted to the Secretary of the Interior with the recommendation that they be approved.

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner of Indian Affairs.

Approved April 25, 1938.
OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1249; Filed, May 2, 1938; 9:31 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-73 O-73]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED AMENDED MARKETING AGREEMENT AND A PROPOSED AMENDED ORDER REGULATING THE HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS SUCH COMMERCE, OF FRESH LETTUCE, PEAS, CELERY, AND CAULIFLOWER GROWN IN WESTERN WASHINGTON

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement, a proposed order, or proposed amendments thereto, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of an amended marketing agreement and the issuance of an amended order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of fresh lettuce, peas, celery, and cauliflower grown in Western Washington, which is that part of the State of Washington lying west of the summit of the Cascade Mountains;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed amended marketing agreement and proposed amended order regulating the handling of fresh lettuce, peas, celery, and cauliflower grown in Western Washington in Room 207, Exchange Building, Seattle, Washington, on May 10, 1938, at 10:00 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessi-

tate regulation in order to effectuate the declared policy of the act and as to the specific provisions which the proposed amended marketing agreement and proposed amended order should contain.

The proposed amended marketing agreement and the proposed amended order each embodies, in similar terms, a plan for the regulation of the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of fresh celery in addition to lettuce, peas, and cauliflower grown in Western Washington now subject to regulation under the existing marketing agreement and order. Among other things, the proposed amended marketing agreement and proposed amended order provide for: (a) the establishment of a single Control Committee instead of the two existing supervisory committees, (b) regulation of shipment by period proration, (c) regulation of shipments by grades and sizes, (d) grading and inspection, and (e) expenses of administration, and other matters relating to the handling of fresh lettuce, peas, celery, and cauliflower grown in Western Washington.

It is hereby declared that an emergency exists in the handling of fresh lettuce, peas, celery, and cauliflower grown in Western Washington which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed amended marketing agreement and proposed amended order may be inspected in or procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated April 30, 1938.

[F. R. Doc. 38-1252; Filed, May 2, 1938; 12:27 p. m.]

Bureau of Entomology and Plant Quarantine.

B. E. P. Q.—473 [Approved Apr. 30, 1938, effective May 2, 1938]

ADMINISTRATIVE INSTRUCTIONS

FUMIGATION OF POTATOES BY METHYL BROMIDE AS A CONDITION OF CERTIFICATION OF POTATOES MOVING BY REFRIGERATOR CAR FROM THE AREA LISTED IN REGULATION 5 OF QUARANTINE NO. 48

Regulation 5, Sec. B, paragraph (6) of the Japanese beetle quarantine (No. 48) authorizes the issuance of certificates for the interstate movement of potatoes via refrigerator car from the area listed in that regulation to points outside the regulated areas between June 15 and October 15 when the potatoes have been fumigated in the car, when deemed necessary in the judgment of the inspector and when the doors and hatches of the car have been tightly closed or adequately screened under the supervision of an inspector.

Treatment Authorized

The treatment described herein has been found to be effective against the Japanese beetle and such treatment is authorized as a basis for certification of potatoes moving to points outside the regulated areas between June 15 and October 15 via refrigerator car when such treatment is carried out under the supervision of an inspector and in a manner satisfactory to him.

Treatment Method

Fumigation of potatoes in dry refrigerator cars with methyl bromide at a dosage of 2 pounds per 1,000 cubic feet of space, including the space occupied by the potatoes and bunkers of the cars, for a period of 2 hours during which time the car shall remain tightly closed with the plugs in place in the ventilator hatches. The temperature within the car when fumigated shall be not less than 70° F. Provision shall be made for circulating the mixture of air and fumigant in the car for as long a time as is deemed necessary by the inspector. At the end of the fumigation period the hatches shall be opened, the plugs removed, screens placed in the hatch openings, and the car shipped under standard ventilation.

In authorizing the movement of potatoes fumigated according to the requirements stated above, it is to be understood that no liability shall attach either to the United States Department of Agriculture or to any of its employees in the event of injury.

Caution.—Methyl bromide is a gas at ordinary temperatures. It is colorless and practically odorless in concentration used for the fumigation of potatoes. It is a poison, and the operator should use an approved gas mask when exposed to the gas at concentrations used in fumigation, and when opening the hatches for ventilating the cars. The car should not be entered until it is well aerated.

[SEAL] AVERY S. HOYT,
Acting Chief,
Bureau of Entomology and Plant Quarantine.

[F. R. Doc. 38-1253; Filed, May 2, 1938; 12:28 p. m.]

Federal Crop Insurance Corporation.

[F. C. I. R., Series 1, No. 1] Issued, April 1938

REGULATIONS RELATING TO WHEAT CROP INSURANCE

CONTENTS

	Part
Definitions	1
Persons who may apply for insurance	2
Determination of adjusted average yield	3
Determination of total insured production	4
Determination of premium	5
Time and manner of payment of premium	6
Determination of loss	7
Manner of payment of indemnity	8
Refund of premium	9
Change of insured's interest	10
Designation and location of farm	11
Miscellaneous	12

The wheat crop insurance program administered by the Federal Crop Insurance Corporation is part of the general program of the United States Department of Agriculture for the benefit of agriculture.

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved February 16, 1938, these regulations are hereby published and prescribed to be in force and effect until amended or superseded by regulations hereafter made.

PART 1. DEFINITIONS

SECTION 1. *Meaning of terms.*—For the purposes of the Federal crop-insurance program, the term—

Department means the United States Department of Agriculture.

Corporation means the Federal Crop Insurance Corporation.

Board means the board of directors of the Corporation.

Manager means the manager of the Corporation.

Branch manager means the representative of the Corporation in charge of a branch office of the Corporation.

Policy means the wheat crop insurance policy issued by the Corporation.

Application means the form prescribed by the Corporation for the purpose of applying for a policy.

Base period means the crop years 1930–35, both inclusive.

Adjusted average yield means the average of the recorded or appraised annual yields of wheat per seeded acre on the farm for the base period adjusted so as to reflect yields thereon for the 10-year period 1926–35, both inclusive.

Insured percentage means the percentage of the adjusted average yield covered, or to be covered, by insurance, and shall be either 50 or 75 percent.

Total insured production means the maximum number of bushels with respect to which the insured may be indemnified under the policy.

Winter wheat means wheat seeded in the fall or winter, the germination of which is followed by a period of dormancy.

Spring wheat means all wheat other than winter wheat.

Wheat crop means all winter wheat and spring wheat on the farm in any crop year which is normally harvested in that crop year.

Crop year means the period within which a wheat crop is normally seeded and harvested. A crop year shall be designated by reference to the calendar year in which the wheat crop is normally harvested.

Person means an individual, partnership, corporation, association, a State, or any governmental agency.

Operator[1] means a person who as owner, share tenant, or sharecropper, is operating a farm and is entitled to receive all or a portion of the wheat crop produced thereon or the proceeds thereof.

Owner means a person who owns land which is not rented to another for cash or for a fixed commodity rent, or who rents land from another for cash or for a fixed commodity rent, or who is purchasing land on installments for cash, for a fixed commodity payment, for the crop from a fixed acreage, or for a share of the crop, whether or not such person is a landlord.

Landlord means a person having an interest in a farm as owner, who rents the farm to a tenant, and is entitled to a portion of the wheat crop produced on such farm, as rent, by virtue of terms of lease or operating agreement.

Share tenant means a person other than an owner or sharecropper who is operating a farm and is entitled to receive a portion of the wheat crop produced thereon or the proceeds thereof. If a share tenant sublets a farm to another person and both such persons are entitled to share in the wheat crop produced thereon, or in the proceeds thereof, both shall be deemed share tenants.

Sharecropper means a person who works a farm under the general supervision of another person and is entitled to receive for his labor a share of the wheat crop produced thereon or the proceeds thereof.

Harvesting means any severance of mature wheat.

Harvesting as grain means any severance of mature wheat for the purpose of using the same for grain, whether threshed or not.

County means a county or any other area designated by the Corporation for the purpose of administering the wheat crop insurance program.

County committee means the committee of farmers designated by the Corporation to assist in the local administration of the wheat crop insurance program.

Noon means noon of standard time at the place where the farm is located.

PART 2. PERSONS WHO MAY APPLY FOR INSURANCE

SEC. 20. *Who may apply for insurance.*—Any person who has an interest as owner or operator in a wheat crop to be seeded on a farm may apply for a policy covering his interest in such crop. Separate policies will be issued to landlords and operators.

Applications for insurance shall be accepted only with respect to farms upon which soil conservation and other good farming practices are being followed. Any person who, having obtained a policy, exceeds the wheat acreage allotment established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, for the farm for the crop year covered by the policy to such an extent that no wheat payment with respect to such farm is earned for such year, shall not be eligible to obtain insurance with respect to such farm for the following year.

PART 3. DETERMINATION OF ADJUSTED AVERAGE YIELD

SEC. 30. *Determination of average yield for the farm for the base period where reliable records are available for at least 4 years of such period.*—(a) For each year of the base period for which reliable and applicable records relating to wheat acreage and production on the farm are available, the county committee shall determine from such records the yield of wheat per seeded acre. Such records shall include the applicant's production, threshing, and sales records, and records for the farm on file with the Agricultural Adjustment Administration.

(b) For each year of the base period for which reliable and applicable records relating to wheat acreage and production on the farm are not available, or in which no wheat was seeded on the farm, the county committee shall determine by appraisal a yield of wheat per seeded acre on the basis of reliable records relating to wheat yields on the farm for other similar years of the base period and to wheat yields in such year on similar farms in the county which were farmed in similar manner.

(c) The average yield of wheat per seeded acre on the farm for the base period shall be the simple average of the yields of wheat per seeded acre on the farm for the 6 years in the base period.

SEC. 31. *Determination of average yield for the farm for the base period where reliable records are available for less than 4 years of such period.*—Where reliable and applicable records relating to wheat acreage and production on the farm are available for less than 4 years of the base period, the county committee shall determine by appraisal the average yield of wheat per seeded acre on the farm for the base period on the basis of yields on the farm in years for which records are available, average yields of wheat per seeded acre on similar farms in the county which were farmed in similar manner, and the average yield for the county for such period. The county average yield for the base period will be determined by the Corporation on the basis of sample farms in the county selected for actuarial purposes.

SEC. 32. *Acreage of wheat seeded in base period.*—In determining the yield of wheat per seeded acre on the farm for each year of the base period, or the average yield for the farm for the base period, as the case may be, the acreage seeded to wheat shall include: (1) all acres seeded to wheat with the intention of harvesting the same as grain, (2) all acres of volunteer or self-seeded wheat harvested as grain, and (3) all acres of wheat seeded for purposes other than harvest as grain on which the wheat was allowed to ripen and was harvested or otherwise used. Acres reseeded to wheat shall be counted only once.

SEC. 33. *Wheat production in the base period.*—In determining the yield of wheat per seeded acre on the farm for each year during the base period, or the average yield for the farm for the base period, as the case may be, total production shall include: (1) all wheat harvested, or otherwise used after ripening, from acres seeded to wheat with the intention of harvesting the same for grain, (2) all wheat harvested as grain from volunteer or self-seeded acreage, (3) all wheat which was allowed to ripen and was harvested, or was otherwise used, from acres seeded for purposes other than for harvest as grain; but shall not include wheat destroyed by causes insured against after maturity but before threshing or before noon of the first day of October if threshing was not completed on that date.

SEC. 34. *Determination of adjusted average yield for the farm.*—(a) The adjusted average yield for the farm shall be determined by applying the adjustment figure for the county in which the farm is located to the average yield for the farm for the base period. The adjustment figure for the county shall represent the difference between (1) the average yield of wheat per acre for the county as reported by the Department for the 10-year period 1926–35, both inclusive, and (2) the average yield of wheat per acre for the 6-year period 1930–35, both inclusive, on sample farms in the county selected by the Corporation for actuarial purposes. If the average yield for the county for such 10-year period is greater than the average yield on such sample farms, then the adjustment figure for the county shall be added to the average yield for the farm for the base period. If the average yield for the county for such 10-year period is less than the average yield on such sample farms, then the

[1] The terms "owner" and "operator" shall not include any person whose interest in a wheat crop exists by virtue of a creditor relationship, or any person whose interest exists on account of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any other legal process.

adjustment figure for the county shall be subtracted from the average yield for the farm for the base period.

(b) In counties where wheat is grown on both irrigated and nonirrigated land, adjustment figures for irrigated and nonirrigated farms, respectively, will be determined so as to result in adjusted average yields for such farms which the Corporation determines will be fair and just.

PART 4. DETERMINATION OF TOTAL INSURED PRODUCTION

SEC. 40. *Total insured production for the farm.*—The total insured production for the farm for the crop year shall be computed by multiplying the proposed acreage of wheat to be seeded for harvest as grain in such year by the adjusted average yield and the insured percentage for the policy.

SEC. 41. *Adjustment of total insured production for the farm.*—If the acreage actually seeded for harvest as grain is less than the proposed acreage, the total insured production shall be adjusted to the basis of the acreage actually seeded. If the acreage actually seeded for harvest as grain is greater than the proposed acreage, the total insured production shall not be adjusted except upon proper application and approval of the Corporation and upon payment of an additional premium to the Corporation.

SEC. 42. *Maximum total insured production for the farm in drought areas.*—In areas designated by the Corporation as drought areas, any application for insurance in which the proposed acreage to be seeded to wheat for harvest as grain is in excess of the average annual acreage seed to wheat for harvest as grain on the farm during the base period shall be rejected.

SEC. 43. *Total insured production for the policy.*—The total insured production for the policy shall be calculated by multiplying the total insured production for the farm by the percentage specified in the policy as representing the insured's interest in the insured crop.

PART 5. DETERMINATION OF PREMIUM

SEC. 50. *Determination of the average loss cost per acre for the base period for farms for which a yield of wheat per acre for each year of the base period is determined.*—(a) Loss cost per acre for each year in the base period: For any farm for which the county committee has determined a yield of wheat per acre for each year of the base period, the Corporation shall compute the loss cost per acre for each year of the base period. Such loss cost shall be the amount by which the yield of wheat for such year is less than the product of the average yield of wheat for the farm for the base period and the insured percentage.

(b) Average loss cost for the base period: The average loss cost per acre for the farm for the base period shall be the simple average of the loss costs per acre for the farm for the 6 years of the base period.

SEC. 51. *Determination of average loss cost per acre for the base period for farms for which the average yield for the base period is appraised.*—For any farm for which an average yield for the base period is appraised, the Corporation shall appraise the average loss cost per acre for the base period on the basis of the average loss costs per acre for similar farms in the county which were farmed in similar manner and the average loss cost per acre for the county for such period, taking into consideration losses in yields of wheat on the farm in years of the base period for which information is available.

SEC. 52. *Determination of the adjusted average loss cost per acre for the farm.*—The adjusted average loss cost per acre for the farm shall be determined by applying the loss cost adjustment figure for the county in which the farm is located to the average loss cost per acre for the farm for the base period. The loss cost adjustment figure for the county shall represent the difference between (1) the average loss cost per acre for the years 1930–35, both inclusive, for sample farms in the county selected by the Corporation for actuarial purposes and (2) the adjusted average loss cost per acre for the county. If the adjusted average loss cost per acre for the county is greater than the average loss cost per acre for such sample farms for the 6-year period, then the loss cost adjustment figure for the county shall be added to the average lost cost per acre for the farm for the base period. If the adjusted average loss cost per acre for the county is less than the average loss cost per acre on such sample farms for the 6-year period, then the loss cost adjustment figure for the county shall be subtracted from the average loss cost per acre for the farm for the base period.

SEC. 53. *Adjusted average loss cost per acre for the county.*—The adjusted average loss cost per acre for the county shall be the average of the loss costs per acre during the base period for sample farms in the county selected by the Corporation for actuarial purposes converted to the basis of the 10-year period 1926–35, both inclusive.

SEC. 54. *Premium rate per acre.*—The premium rate per acre for the farm shall be the simple average of (1) the adjusted average loss cost per acre for the farm and (2) the adjusted average loss cost per acre for the county in which the farm is located: *Provided, however,* That the premium rate for an insured percentage of 75 percent shall not be less than five-tenths of a bushel per acre, and for an insured percentage of 50 percent shall not be less than three-tenths of a bushel per acre.

SEC. 55. *Premium for the farm.*—The premium for the farm shall be equal to the number of acres used in computing the total insured production for the farm multiplied by the premium rate per acre for the farm.

SEC. 56. *Premium for the policy.*—The premium for the policy shall be the premium for the farm multiplied by the percentage specified in the policy as representing the insured's interest in the insured crop.

PART 6. TIME AND MANNER OF PAYMENT OF PREMIUM

SEC. 60. *Time and place of payment of premium.*—Premiums shall be payable at the office of the county committee for the county in which the farm is located. Premiums may be paid either in wheat or the cash equivalent thereof at the option of the insured and shall be payable on or before the due date specified in the premium notice.

SEC. 61. *Payment of premium in wheat.*—When premiums are paid in wheat such payments shall be made by the delivery of a negotiable warehouse receipt representing the quantity, class, and grade of wheat specified in the premium notice. Warehouse receipts shall be accepted only when issued by a warehouse designated in the premium notice. When premiums are paid in a grade of wheat other than that specified in the premium notice, the quantity of wheat deliverable in payment of premiums, determined in accordance with the applicable conversion factors established by the Corporation, shall be designated in the premium notice. In no event shall premiums be paid with wheat of a lower grade than No. 3 or with wheat not classified as of a straight or unqualified grade. Warehouse receipts will be accepted in payment of premiums only if there are no warehousing charges or other liens outstanding against the wheat represented thereby at the time they are delivered at the office of the county committee for the county in which the farm is located. Premiums shall not be regarded as paid until the warehouse receipts used in payment of such premiums are accepted by a representative of the Corporation duly authorized for that purpose.

If for any reason whatsoever it appears at any time that the transfer of the warehouse receipt to the Corporation did not convey to it complete and unencumbered title to the receipt and the wheat represented thereby, or if at any time the Corporation's title to such receipt or wheat is drawn into question by any person, then, unless the stipulated premium is paid on demand by the Corporation, the policy shall at the option of the Corporation become void, and in case any payments have been made thereunder they shall be refunded to the Corporation.

SEC. 62. *Payment of premium in cash equivalent.*—Payment of premiums in cash equivalent shall be made in cash, check, money order, or bank draft. Checks and drafts will be accepted subject to collection. The cash equivalent of any premium shall be determined by multiplying the number

of bushels of wheat of the class and grade specified in the premium notice by the basic market price of such wheat at a basic market designated by the Corporation for the area in which the farm is located less an amount per bushel, fixed by the Corporation, representing freight and other usual charges in connection with the movement and handling of wheat between the local delivery point and the specified basic market.

PART 7. DETERMINATION OF LOSS

SEC. 70. *Time of loss.*—Loss shall be deemed to have occurred at the time of the completing of threshing of the insured crop (unless combined and sacked in which event the loss shall be deemed to have occurred 120 hours thereafter) or noon of the first day of October, whichever occurs first, unless there is a total or substantially total destruction of the insured crop at an earlier time in either of which events the loss shall be deemed to have occurred at the time of such total or substantially total destruction, as the case may be. A wheat crop shall be deemed to have been substantially totally destroyed if it has been damaged to such an extent as to make it impracticable further to care for such crop.

SEC. 71. *Amount of loss.*—(a) The amount of loss for which indemnity will be paid under the policy shall be the amount by which the total production of wheat on the farm (with due allowance for losses in production by reason of causes not insured against) multiplied by the percentage stated in the policy as representing the insured's interest in the insured crop is less than the total insured production for the policy. Total production for the farm for the purpose of determining the amount of loss shall include:

(1) all wheat harvested or otherwise used or disposed of from acres seeded to wheat with the intention of harvesting the same for grain;

(2) all wheat harvested as grain from volunteer or self-seeded acreage;

(3) all wheat harvested as grain from wheat acreage seeded for purposes other than harvest as grain;

but not wheat destroyed by causes insured against before threshing, (or within 120 hours after threshing if combined and sacked) before removal from the farm, or before noon of October 1, whichever occurs first.

(b) With respect to any acreage which the insured has failed to reseed to wheat in areas and under circumstances where the Corporation determines that it is customary to reseed, or any acreage upon which wheat has been destroyed or the yield reduced by reason of causes not insured against, the production therefrom per acre shall be conclusively presumed to be equal to the adjusted average yield for the farm or the actual yield, whichever is higher.

(c) With respect to any acreage seeded to wheat with the intention of harvesting the same for grain upon which wheat, before maturity, is pastured off, cut for hay, or used for soil conservation, the production therefrom per acre shall be conclusively presumed to be equal to the adjusted average yield for the farm multiplied by the insured percentage.

(d) With respect to any portion of a crop in which the insured's interest is terminated, whether by voluntary transfer or process of law, before the crop is harvested, the production therefrom per acre shall be conclusively presumed to be equal to the adjusted average yield for the farm or the actual yield, whichever is higher.

SEC. 72. *Appeal.*—If the insured and the adjuster fail to agree as to the amount of loss, the insured may not later than the first day of December next following harvest, appeal for readjustment of the loss to the branch office of the Corporation for the area in which the farm is located.

PART 8. MANNER OF PAYMENT OF INDEMNITY

SEC. 80. *Manner of payment of indemnity.*—The indemnity under any policy for which the Corporation may be liable shall be paid in wheat or the cash equivalent thereof. The insured may indicate in his proof of loss whether he wishes the indemnity to be paid in wheat or in cash, but the Corporation reserves the right to make payment in a form other than that indicated by the insured.

SEC. 81. *Payment of indemnity in cash.*—Where an indemnity is to be paid in cash, the amount thereof shall be computed by multiplying the amount of loss, in terms of wheat of the class and grade specified for the payment of premiums in the county where the farm is located, by the current basic market price of such wheat at a basic market designated by the Corporation for the area in which the farm is located, less an amount per bushel, fixed by the Corporation, to cover freight and other usual charges in connection with the movement and handling of wheat between the local delivery point and the specified basic market. The current basic market price for any class or grade of wheat at any such designated basic market shall be the basic market price for such wheat for the day when ascertainment of the amount of loss is made by agreement between the insured and the adjuster, subject to the approval of the proof of loss for payment by a duly authorized officer of the Corporation.

SEC. 82. *Payment of indemnity in wheat.*—Where an indemnity is to be paid in wheat, it shall be paid in the form of a warehouse receipt representing wheat of the class and grade specified for the payment of premiums in the county where the farm is located, or its equivalent in wheat of another class or grade (except wheat of a lower grade than No. 3, or wheat not classified as of a straight or unqualified grade) determined in accordance with conversion factors fixed by the Corporation.

(a) If the warehouse receipt represents wheat stored at the local delivery point designated for the payment of premiums of wheat, it shall be for a quantity of wheat equal to the amount of loss.

(b) If the warehouse receipt represents wheat stored at the basic market designated by the Corporation for the area in which the farm is located, it shall represent the amount of loss less an amount of wheat fixed by the Corporation equivalent at the current basic market price to freight and other usual charges in connection with the movement and handling between the local delivery point and the specified basic market of a quantity of wheat equal to the amount of loss.

(c) If the warehouse receipt represents wheat stored at any other point or market, it shall be for a quantity of wheat equal to a number of bushels computed by dividing the amount of the indemnity that would be paid if the indemnity were to be paid in cash by the current market price for such wheat at such other point or market.

The current market prices to be applied under this section, including the determination of the amount of indemnity in cash, shall be such prices for the day when the proof of loss is approved for payment by the Corporation.

SEC. 83. *Determinations of the corporation to be final.*—The determinations of the Corporation as to the conversion factors to be used in fixing the equivalent of wheat of one class and grade in wheat of another class or grade, the amount of deductions representing freight and other usual charges in connection with the movement and handling of wheat, and the current market prices for any class or grade of wheat shall be final and conclusive, and shall be binding upon the insured.

PART 9. REFUND OF PREMIUM

SEC. 90. *Computation of refunds of premiums.*—Any refund of premiums (whether made pursuant to the provisions of the contract or required by law) shall be made only in the cash equivalent of the quantity of wheat to be refunded less an amount, fixed by the Corporation, of not exceeding one-twentieth of 1 cent per day per bushel to cover storage and handling expenses in storage. The period for which such deduction shall be computed shall commence with and include the day following the day on which the premium was delivered at the office of the county committee for the county in which the farm is located and shall end with and include the day upon which application for refund is received by the Corporation at its branch office for the area in which the farm covered by the policy is located. The cash equivalent of any refund shall be determined in accordance with the rules

provided by these regulations for the conversion of indemnities into their cash equivalents, except that the current basic market price to be applied under this section shall be such price for the day when payment of the refund is approved by the Corporation. No refund shall be made if the amount thereof is less than $1.

SEC. 91. *Refund of excess premium.*—In any case where the total insured production is adjusted in accordance with the provisions of section 41 of these regulations, the premiums allocable to the acreage equal to the difference between the acreage used in adjusting such total insured production and the acreage specified in the policy as proposed to be seeded shall be refunded.

SEC. 92. *Death, disappearance, or incompetency of the insured.*—In any case where an insured who is entitled to a refund of premiums has died, become incompetent, has disappeared, or has ceased to act as a fiduciary, such refund will be made to his legal representative or successor or, if no legal representative of his estate or successor has been appointed or is otherwise legally qualified, to the persons beneficially entitled to such refund upon the conditions and in the manner provided in part 10 of these regulations.

SEC. 93. *Assignment of claims for refunds: creditors.*—The provisions of sections 106 (a) and 107 of these regulations shall apply to all claims for refunds.

PART 10. CHANGE OF INSURED'S INTEREST

SEC. 100. *Termination of interest.*—Except as is otherwise provided in these regulations, if at the time of loss the insured's interest in the crop covered by the policy has been terminated, whether by death, voluntary action, or process of law, no indemnity shall be payable under the policy. The insured's interest shall not be deemed to have been terminated by virtue of the imposition of a lien, whether by voluntary action or process of law, upon the insured crop, or by the appointment of a receiver or moratorium officer with respect to such crop, the commencement of bankruptcy proceedings, or proceedings for the foreclosure of a lien. The insured shall be deemed to have an interest in the crop so long as he has any right of redemption therein or so long as the continued existence of the crop will be of direct financial benefit to him.

SEC. 101. *Diverse interest.*—Subject to the provisions of section 100, if at the time of loss it appears that one or more other persons are joint tenants, tenants in common, or tenants in partnership with the insured with respect to the insured's interest in the crop as stated in the policy, or that the insured has contracted to sell his interest in the insured crop or any portion thereof, or has contracted to sell the farm covered by the policy or any portion thereof, but the sale has not been completed, such other persons, if and insofar as their interests in the crop covered by the policy are not otherwise insured by them or on their behalf against such loss, shall be entitled to the benefit of the policy as their interests may appear. However, the loss may be adjusted with the insured, and payment of any indemnity may be made to the insured in behalf of all persons interested in such crop, whether or not the insured has been authorized to receive such payment by such other persons, and such payment shall constitute a complete discharge of the Corporation's obligation with respect to such loss under the policy.

SEC. 102. *Death, incompetency, or disappearance of the insured.*—(a) *Death.*—(1) Before loss with administration: If the insured dies, before the time of loss, and his interest in the crop forms part of his estate, payment of any indemnity under the policy will be made to the duly appointed representative of his estate.

(2) After loss with administration: If the insured dies after the time of loss, payment of any indemnity on account of such loss under the policy will be made to the duly appointed representative of his estate.

(3) Before loss without administration: If the insured dies before the time of loss and no legal representative of his estate is appointed or is otherwise legally qualified, payment of any indemnity under the policy may be made after the expiration of 30 days from the date of death to any one or more of the persons beneficially entitled to share in the insured's interest in the crop as stated in the policy in behalf of all the persons so entitled. Payment will be made under the provisions of this subsection only if the amount of the indemnity is less than 500 bushels and upon the submission of proof satisfactory to the Corporation that the insured's interest in the crop covered by the policy is part of his estate.

(4) After loss without administration: If the insured dies after the time of loss and no legal representative of his estate is appointed or is otherwise legally qualified, then, subject to the conditions outlined in subsection (a) (3) of this section 102, payment of any indemnity under the policy on account of such loss may be made after expiration of 30 days from the date of death to any one or more of the persons beneficially entitled to share in the insured's interest in the crop as stated in the policy in behalf of all the persons so entitled.

(b) *Incompetency.*—(1) Before loss: If, before the time of loss, the insured is judicially declared incompetent to manage his affairs, or his incompetency is otherwise established to the satisfaction of the Corporation, and his interest in the crop covered by the policy remains part of his estate, payment of any indemnity under the policy will be made to the guardian, or other legally constituted representative of his estate appointed by a court of competent jurisdiction, or who is otherwise legally qualified. In such case if no guardian or other legal representative of the insured's estate is appointed, or is otherwise legally qualified, and the amount of the indemnity is less than 500 bushels, payment of any indemnity under the policy may be made to a member of his family standing in the position of a voluntary guardian upon presentation of proof satisfactory to the Corporation that the indemnity is required and is to be used for the purchase of necessities for the incompetent, or for his wife or minor children or other persons dependent upon him for support. If the insured's interest in the crop covered by the policy is terminated by reason of his incompetency, any relative by blood or connection by marriage of the insured who succeeds to such interest, but no other person, shall be entitled to the benefit of the policy.

(2) After loss: If, after the time of loss, the insured is judicially declared incompetent to manage his affairs, or his incompetency is otherwise established to the satisfaction of the Corporation, payment of any indemnity under the policy will be made to the guardian or other legally constituted representative of his estate appointed by a court of competent jurisdiction or who is otherwise legally qualified. If there be no such guardian or other legal representative, and the amount of the indemnity is less than 500 bushels, payment of any indemnity under the policy may be made to a member of the insured's family standing in a position of voluntary guardian upon presentation of proof satisfactory to the Corporation that the indemnity is required and is to be used for the purchase of necessities for the incompetent, or for his wife or minor children or other persons dependent upon him for support.

(c) *Disappearance.*—(1) Before loss: If, before the time of loss, the insured disappears and such insured's interest in the crop covered by the policy is not terminated thereby, any indemnity payable under the policy will be paid to the conservator or other legally qualified representative of his estate. If there be no such conservator or other legal representative, and the amount of the indemnity is less than 500 bushels, payment of the indemnity may be made to any member of the insured's family upon the presentation of proof satisfactory to the Corporation that the proceeds of such indemnity are required and are to be used for the purchase of necessities for the insured's wife or minor children or other persons dependent upon him for support. If the insured's interest in the crop is terminated by reason of his disappearance any relative by blood or connection by marriage of the insured who succeeds to his interest in the crop, but no other person, shall be entitled to the benefit of the policy.

(2) After loss: If, after the time of loss, the insured disappears, payment of any indemnity under the policy will be paid

to the conservator or other legally constituted representative of his estate, but if there be no such conservator or other legal representative, and the amount of the indemnity is less than 500 bushels, payment of the indemnity may be made to a member of the insured's family upon presentation of proof satisfactory to the Corporation that the proceeds of such indemnity are required and are to be used for the purchase of necessities for the insured's wife or minor children or other persons dependent upon him for support.

(3) Definition of disappearance: An insured shall be deemed to have disappeared within the meaning of these regulations if he leaves the farm covered by the policy, does not make his whereabouts known to the Corporation, and fails to make claim for indemnity within 90 days after the time of loss.

SEC. 103. *Fiduciaries.*—Any policy issued in the name of a fiduciary who is no longer acting as such will be reissued in the name of, or any indemnity payable thereunder will be paid to, a succeeding fiduciary upon appropriate application and proof satisfactory to the Corporation of his incumbency. In the event that there is no succeeding fiduciary, the policy will be reissued in the name of, or payment of any indemnity payable thereunder shall be made to, the persons beneficially entitled to the interest in the insured crop covered by the policy to the extent of their respective interests upon proper application and proof of the facts: *Provided, however,* That the loss may be adjusted with any one or more of the persons so entitled, and payment may be made to such person or persons in behalf of all the persons so entitled, whether or not the person to whom payment is made has been authorized to receive such payment by the other persons so entitled, and such payment shall constitute a complete discharge of the obligation of the Corporation with respect to the loss for which the indemnity is paid.

SEC. 104. *Payment conditioned upon compliance with provisions of the policy.*—Payment of any indemnity under the policy, whether to the named insured or any other person determined by the Corporation to be entitled to such indemnity in accordance with the provisions of these regulations, will be made only upon full compliance with all the provisions of the policy including the warranties and provisions relating to notice and proof of loss.

SEC. 105. *Determination of person to whom indemnity shall be paid.*—In any case where the insured has died, become incompetent, has disappeared, or has ceased to act as a fiduciary, payment in accordance with the provisions of these regulations will be made only after the facts have been established to the satisfaction of the Corporation. The determination of the Corporation as to the existence or nonexistence of a circumstance in the event of which payment may be made to a person other than the named insured and of the person to whom such payment shall be made shall be final and conclusive. Payment of any indemnity in accordance with an adjustment made with such person shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid, and shall be a bar to recovery by any other person.

SEC. 106. *Limitation on transfer.*—(a) General: Except as is otherwise provided in these regulations neither the policy nor any claim for indemnity thereunder, or any part or share thereof, or any interest therein, shall be transferable, nor shall any pledge of the policy be recognized. Notwithstanding any assignment, power of attorney, order, or other authority for receiving payment of any claim for indemnity under the policy, any indemnity payable in accordance with the provisions of the policy shall be paid only to persons entitled to the benefit of the policy as provided in the policy and these regulations.

(b) Assignment to secure loans: A policy may be assigned, with the approval of the Corporation, as collateral security for a loan made for the payment of the premium or the care of the insured crop. Upon recognition of such assignment by endorsement in writing added to the policy signed by the manager and countersigned by a duly authorized representative of the Corporation, any indemnity payable under the policy will be paid only in cash to the assignee and such other persons as may be entitled to such indemnity as their interests may appear, or by joint check: *Provided, however,* (1) That the assignee's interest shall not exceed the amount of the advance plus a reasonable amount for interest, discount, and other charges, and (2) That payment of any indemnity nevertheless will be subject to all conditions and provisions of the policy. The Corporation's approval of an assignment shall not create in the assignee any right other than that derived from the assignor.

(c) Assignment of the policy with transfer of crop: An assignment of the policy before the time of loss will be recognized only in connection with the voluntary transfer by the insured of his entire interest in an insured crop before the crop is cut. Approval of any assignment shall be evidenced by endorsement in writing added to the policy, signed by the manager and countersigned by a duly authorized representative of the Corporation. The Corporation shall in no case be bound to accept notice of any assignment of the policy, and nothing herein contained shall give any right against the Corporation to any person other than the insured, except to an assignee approved by the Corporation. A transfer made in order to forestall loss of the property covered by the policy by operation of law shall not be regarded as a voluntary transfer within the meaning of these regulations.

SEC. 107. *Creditors.*—An interest existing by virtue of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or any other legal process shall not be considered an interest in an insured crop within the meaning of these regulations.

Any indemnity payable under a policy shall be paid to the insured or other persons entitled to the benefits of the policy under the provisions of the policy and these regulations, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, execution, lien, mortgage, foreclosure, order, decree, or similar process of law, equity, or bankruptcy directed against the insured or such other persons, or against any indemnity alleged to be due to such persons, nor shall the Corporation or any officer, employee, or representative thereof be a proper party to any suit or action with reference to such indemnity or the proceeds thereof nor be bound by any judgment, order, or decree rendered or entered therein. No officer, agent, or employee of the Corporation shall pay, or cause to be paid, to any person other than the insured or other persons entitled to the benefits of the policy any indemnity payable in accordance with the provisions of the policy because of any such process, order, or decree. Nothing herein contained shall excuse any person entitled to the benefits of the policy from full compliance with, or performance of, any lawful judgment, order, or decree with respect to the disposition of any sums paid thereunder as an indemnity.

PART 11. DESIGNATION AND LOCATION OF FARM

SEC. 110. *General.*—No policy shall be issued to cover more than a single farm. Farm land shall be considered a single farm if it is operated as a unit and the owner and operator each has an undivided interest in all the wheat produced thereon.

SEC. 111. *Designation of farm.*—(a) For the purposes of the wheat crop insurance program a farm shall mean:

(1) a single tract of farm land under one ownership[2] and operation, which is operated as a unit, whether or not the owner is the operator; or

(2) separate tracts of farm land under one ownership[2] and operation, which are operated as a unit, whether or not the owner is the operator (except as provided in subsections (d) and (e) of this section); or

(3) separate tracts of farm land under one ownership[2] and jointly operated by two or more operators, whether or not one or more of the operators is also the owner.

(b) Where tracts of farm land are owned by different owners,[2] each such tract shall be considered a separate farm whether or not such tracts are contiguous or operated by the same operator.

[2] For definition of owner see footnote 1.

(c) Where tracts of farm land under the same ownership[1] are operated by two or more operators independently, each separate tract shall be considered a separate farm.

(d) Any field-rented tract which, together with any other land, constitutes a farming unit with respect to the rotation of crops, shall be considered a separate farm, but the farming unit shall be used as the basis for determining yields and premium rates.

(e) Where tracts of farm land are under the same ownership[1] but one or more of such tracts are rented by the owner from another for cash or for a fixed commodity rent, each such rented tract shall be considered a separate farm.

SEC. 112. *Where different types of operations are carried out on the same farm.*—Where farm land which would otherwise be designated as a single farm is operated as a single unit, but a portion of the land is irrigated land and the remaining portion is dry land, then the irrigated portions and dry-land portions of such land may, in the discretion of the Corporation, be considered separate farms.

SEC. 113. *Location of the farm.*—Where a farm is located partly in two or more adjoining counties in the same State or in different States the farm shall be regarded as located in the county in which the farmstead or principal dwelling is located or, in the absence of a farmstead or principal dwelling, in the county in which the major portion of the farm is located.

PART 12. MISCELLANEOUS

SEC. 120. *Gender and plural meaning of terms.*—Any term used in the masculine or in the singular shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

SEC. 121. *Fractional units in acres or yields.*—Fractions of acres and yields shall be expressed to the nearest tenth of an acre or tenth of a bushel. Fractions representing five one-hundredths or less shall be dropped and fractions representing more than five one-hundredths shall be considered as a whole tenth.

SEC. 122. *Review of determinations of county committees.*—All determinations by county committees shall be subject to review and approval by duly authorized representative of the Corporation.

Adopted by the board of directors on April 26, 1938.

[SEAL] M. L. WILSON, *Chairman.*

Approved April 28, 1938.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1251; Filed, May 2, 1938; 10:14 a. m.]

[1] For definition of owner see footnote 1.

DEPARTMENT OF COMMERCE.

Bureau of Fisheries.

[No. 251-24-1]

ALASKA FISHERY REGULATIONS AMENDED

APRIL 27, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, are hereby amended by the following regulations:

Southeastern Alaska Area

Sumner Strait District

Salmon fishery.—1. Regulation No. 15 (d) is amended to read as follows: Kosciusko Island: West coast within 1,500 feet of a point at 55 degrees 55 minutes 56 seconds north latitude, 133 degrees 48 minutes 22 seconds west longitude.

2. Regulation No. 15 (m) is amended to read as follows: (1) Prince of Wales Island: North coast within 3,000 feet westerly of Point Colpoys; and (2) within 1,500 feet of a point on an unnamed island at the entrance to Port Protection, at 56 degrees 26 minutes 41 seconds north latitude, 133 degrees 38 minutes 4 seconds west longitude.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1242; Filed, April 29, 1938; 3:33 p. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. ID-707, ID-739, ID-758, ID-464, ID-423, ID-491, ID-686, ID-303, ID-269, ID-432, ID-237, ID-398, ID-839, ID-658, ID-516, ID-842, ID-130]

APPLICATIONS OF VICTOR EMANUEL, LOUIS H. SEAGRAVE, ARTHUR E. BRAUN, CURTIS S. MITCHELL, FRANK J. HOLUB, LEO F. KANE, OTTO J. WOLFRAM, WINFIELD B. CARSON, CARL J. BRAUN, RICHARD MCCALL, HUGH W. ANNETT, ROSCOE E. HANNA, HOWARD D. MEGAHAN, EDISON W. WASHABAUGH, CHARLES W. LEPPER, JOHN G. FRAZER, FRANK R. PHILLIPS

ORDER POSTPONING HEARING

APRIL 29, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application of Counsel for thirteen of the above applicants (ID Nos. 758, 464, 423, 491, 686, 303, 269, 432, 237, 398, 839, 658 and 516) for postponement of the hearing heretofore ordered to be held beginning at 10:00 A. M. on the 4th day of May, 1938, by the Commission's order of April 8, 1938; and

It appearing that the hearing on the remaining four applications (ID Nos. 707, 739, 842 and 130) heretofore ordered to be held at the same time and place by the Commission's orders of April 8, 1938, and April 19, 1938, should be held at the same time as that on the thirteen applications mentioned in the first paragraph hereof;

The Commission orders that:

The hearing on all of the applications mentioned in the caption hereof be postponed to begin at 10:00 A. M. on June 9, 1938, in the hearing room of the Commission, Hurley Wright Building, 1800 Pennsylvania Avenue N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1244; Filed, April 30, 1938; 9:49 a. m.]

APPLICATIONS OF ROBERT F. PACK, JOHN J. MOLYNEAUX, HENRY GRENACHER, HAROLD E. YOUNG, THEODORE E. CROCKER, GLEN V. RORK, ROBERT L. CLARK, NOEL H. BUCKSTAFF, ERNEST G. KELLETT

[Docket Nos. ID 546, ID 468, ID 389, ID 695, ID 252, ID 582, ID 315, ID 285, ID 495]

ORDER POSTPONING HEARING

APRIL 29, 1938.

Commissioners Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application of counsel for the above-named applicants, for postponement of the hearing heretofore ordered to be held beginning at 10 a. m. on the 9th day of May, 1938, in Room 988, Merchandise Mart, Chicago, Illinois, by the Commission's order of April 8, 1938;

It is *ordered* that:

Said hearing be and the same is hereby postponed to begin at 10 a. m. on the 15th day of June, 1938, in the Regional Office of this Commission, Room 988, Merchandise Mart, Chicago, Illinois.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1250; Filed, May 2, 1938; 9:31 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of April, A. D. 1938.

Commissioners Garland S. Ferguson, *Chairman;* Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3207]

IN THE MATTER OF JOHN C. MERRITT, INDIVIDUALLY AND TRADING AS MERCO SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready or the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 19, 1938, at nine o'clock in the forenoon of that day (central standard time), in room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1246; Filed, April 30, 1938; 9:59 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 242]

ALLOCATION OF FUNDS FOR LOANS

APRIL 23, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
Connecticut 8005A1 Windham	$92,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1243; Filed, April 30, 1938; 9:31 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

REPEAL OF FORM D-2

AMENDMENT OF FORM E-1

The Securities and Exchange Commission announced today that it has repealed Form D-2. Since the publication of Form E-1 the use of Form D-2 has been limited to the registration of guarantees of, or assumption of liability on, securities previously registered on Form D-2. An amendment to Form E-1 repeals a provision of that form giving registrants an option to use Form D-2 rather than Form E-1 in the cases referred to in the preceding sentence.

The text of the Commission's action follows.

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, particularly Sections 7 and 19 (a) thereof, and deeming such action necessary to carry out the provisions of the Act and necessary and appropriate in the public interest and for the protection of investors, hereby takes the following action:

1. Form D-2 as presently in effect is repealed.

2. The Rules and Instructions accompanying Form E-1 are amended by deleting paragraph (c) of Rule 6 under the caption "Rules as to the Use of Form E-1," and changing the designation of paragraph (d) of that rule to paragraph (c).

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1256; Filed, May 2, 1938; 12:35 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of May, A. D. 1938.

[File No. 30-16]

IN THE MATTER OF THE TWIN STATE GAS & ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by The Twin State Gas & Electric Company for an order declaring that it has ceased to be a holding company, since its only subsidiary, The Berwick and Salmon Falls Electric Company was sold to an associate company;

It is ordered, That a hearing on such matter be held on May 17, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 12, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1254; Filed, May 2, 1938; 12:35 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of April 1938.

IN THE MATTER OF SAN FRANCISCO CURB EXCHANGE

ORDER GRANTING SAID EXCHANGE PERMISSION TO WITHDRAW ITS REGISTRATION AS A NATIONAL SECURITIES EXCHANGE PURSUANT TO SECTION 6 (F) OF THE SECURITIES EXCHANGE ACT OF 1934

The San Francisco Curb Exchange having been granted registration as a national securities exchange; and

Said Exchange having made application under Section 6 (f) of the Securities Exchange Act of 1934, for permission to withdraw its registration as a national securities exchange upon the grounds that:

(1) The Exchange was formed primarily for the purpose of providing a market for unlisted stocks, and that this field

has been materially restricted during the past four years with a gradual reduction in the number of issues traded in on the Exchange on an unlisted trading basis;

(2) Approximately 78% of its membership are members of or affiliated with member firms of the San Francisco Stock Exchange, and therefore are subject to needless expense in the maintenance of the Exchange inasmuch as the facilities of the San Francisco Stock Exchange are ample to provide for the volume of trading experienced in the region of such Exchanges during the past several years; and

(3) Under conditions now existing it is believed that the dissolution of the San Francisco Curb Exchange and absorption by the San Francisco Stock Exchange of trading privileges of the San Francisco Curb Exchange will result in the continuance of market facilities in the region of such Exchanges on an improved basis and will stimulate the growth of the San Francisco Stock Exchange as a regional exchange to the ultimate benefit of the general public and industry in such territory; and

It appearing to the Commission that such application should be granted,

It is ordered, That the San Francisco Curb Exchange be and is hereby permitted to withdraw its registration as a national securities exchange, effective as of April 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1255; Filed, May 2, 1938; 12:35 p. m.]

Wednesday, May 4, 1938 ***No. 87***

WAR DEPARTMENT.

ANCHORAGE GROUNDS IN TURNERS CREEK, GEORGIA, IN THE VICINITY OF ITS MOUTH AND RULES AND REGULATIONS RELATING THERETO

THE LAW

Section 7 of the River and Harbor Act approved March 4, 1915, provides as follows:

SEC. 7. That the Secretary of War is hereby authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Revenue Cutter Service [1] under the direction of the Secretary of the Treasury: *Provided*, That at ports or places where there is no revenue cutter available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of War. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master or person in charge of such vessel shall be liable to a penalty of $100; and the said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of War.

In pursuance of the aforementioned law the area in Turners Creek, Georgia, in the vicinity of its mouth, indicated on the map [2] attached and more particularly described below, is hereby established as an anchorage grounds for vessels, and the following rules and regulations relating thereto are hereby adopted:

THE ANCHORAGE GROUNDS

(All azimuths are referred to the true meridian)

To the southwestward of the following described line: A line beginning at a point on the northerly high water shore line of Wilmington Island 750 feet northwesterly from the Savannah Yacht Club wharf and bearing 34°25' (N. 34°25' E.), 200 feet, to a buoy; thence bearing 124°25' (S. 55°35' E.), 1800 feet, to a buoy; thence bearing 214°25' (S. 34°25' W.), 150 feet, to the high water line of Wilmington Island.

NOTE.—Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited.

THE RULES AND REGULATIONS

1. Except in cases of great emergency, no vessels shall anchor in Turners Creek between its mouth in Wilmington River and a point 4,000 feet to the eastward except in the anchorage area hereby defined and established; provided, however, that vessels may moor to any lawfully constructed wharf.

2. Anchors must not be placed outside the anchorage area, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundary of the anchorage area.

3. Any vessel anchoring under circumstances of great emergency outside of the anchorage area should be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification by the U. S. District Engineer Officer at Savannah, Georgia, charged with the enforcement of these regulations.

4. A vessel, upon being notified to move into the anchorage limits or to shift its position on anchorage grounds must get under way at once and must change position as directed, with reasonable promptness.

5. Whenever the maritime or navigation interests of the United States so require, the U. S. District Engineer Officer enforcing these regulations is hereby empowered to shift the position of any vessel anchored within the anchorage area and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

6. Nothing in these rules and regulations shall be construed as relieving the owner of or person in charge of any vessel from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

Recommended April 14, 1938.

J. L. SCHLEY,
Major General,
Chief of Engineers.

Approved April 20, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1259; Filed, May 3, 1938; 9:28 a. m.]

ANCHORAGE GROUNDS IN WILMINGTON RIVER, GEORGIA, IN THE VICINITY OF THUNDERBOLT HARBOR, GEORGIA, AND RULES AND REGULATIONS RELATING THERETO

THE LAW

Section 7 of the River and Harbor Act approved March 4, 1915, provides as follows:

SEC. 7. That the Secretary of War is hereby authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Revenue Cutter Service [1] under the direction of the Secretary of the Treasury: *Provided*, That at ports or places where there is no revenue cutter available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of War. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master or person in charge of such vessel shall be liable to a penalty of $100; and the said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of War.

In pursuance of the aforementioned law the area in Wilmington River, Georgia, in the vicinity of Thunderbolt Harbor, Georgia, indicated on the map [2] attached and more particularly described below is hereby established as an anchorage grounds for vessels, and the following rules and regulations relating thereto are hereby adopted:

THE ANCHORAGE GROUNDS

(All azimuths are referred to the true meridian)

To the westward of the following described line: A line bearing 183° (S. 3° W.), 480 feet, from the southeasterly corner of the outer end of the wharf of the Shrine Club to a buoy; thence bearing 204½° (S. 24½° W.), 2,280 feet, to the Maggioni Packing Plant.

NOTE.—Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited.

THE RULES AND REGULATIONS

1. Except in cases of great emergency, no vessel shall anchor in Wilmington River, Georgia, between the State Highway bridge, Thunderbolt, Georgia, and 4,000 feet to the southward, except in the anchorage area hereby defined and established; provided, however, that vessels may moor to any lawfully constructed wharf.

2. Anchors must not be placed outside the anchorage area, nor shall any vessel be so anchored that any portion of the hull or rigging shall at any time extend outside the boundary of the anchorage area.

3. Any vessel anchoring under circumstances of great emergency outside of the anchorage area should be placed near the edge of the channel and in such position as not to interfere with the free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases or upon notification by the U. S. District Engineer Officer at Savannah, Georgia, charged with the enforcement of these regulations.

4. A vessel, upon being notified to move into the anchorage limits or to shift its position on anchorage grounds, must get under way at once and must change position as directed, with reasonable promptness.

5. Whenever the maritime or navigation interests of the United States so require, the U. S. District Engineer Officer enforcing these regulations is hereby empowered to shift the position of any vessel anchored within the anchorage area and of any vessel which is so moored or anchored as to impede or obstruct vessel movements in any channel.

6. Nothing in these rules and regulations shall be construed as relieving the owner of or person in charge of any vessel from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating the law.

Recommended, April 14, 1938.

J. L. SCHLEY,
Major General,
Chief of Engineers.

Approved April 20, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1260; Filed, May 3, 1938; 9:28 a. m.]

RULES AND REGULATIONS TO GOVERN THE USE, ADMINISTRATION AND NAVIGATION OF ALL WATERWAYS TRIBUTARY TO THE GULF OF MEXICO (EXCEPT THE MISSISSIPPI RIVER AND ITS TRIBUTARIES) FROM ST. MARKS, FLORIDA, TO THE RIO GRANDE

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

SEC. 7. That it shall be the duty of the Secretary of War to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are hereby prescribed to govern the use, administration and navigation of all waterways tributary to the Gulf of Mexico (except the Mississippi River and its tributaries) from St. Marks, Florida, including the St. Marks River, to Brazos Island Harbor, Texas. The regulations apply to the following:

Waterways.—All navigable waters of the United States, natural or artificial, improved and maintained by the United States, including bays, lakes, sounds, rivers, bayous, intracoastal waterways, as well as canals and channels of all types, which are tributary to or connected by other waterways with the Gulf of Mexico between and including St. Marks River, Florida, and Brazos Island Harbor, Texas, *except the Mississippi River and its tributaries.*

Locks.—All Government owned or operated locks and appurtenant structures in any of the above-described waterways.

Bridges, wharves and other structures.—All such structures in or over the above-described waterways.

United States property.—All river and harbor lands owned by the United States, including lock sites and all structures thereon, other sites for Government structures and for the accommodation and used of employees of the United States, and rights of way and spoil disposal areas to the extent of the Federal interest therein.

Vessels and rafts.—The term "vessel" as used herein includes all floating things moved over these waterways other than rafts.

1. *Authority of district engineers.*—The use, administration and navigation of these waterways and Federal locks shall be under the direction of the officers of the Corps of Engineers, United States Army, detailed in charge of the respective sections, and their authorized assistants. The cities in which the U. S. District Engineers are located and the limits of their jurisdiction, are as follows:

U. S. District Engineer, Mobile, Alabama. From St. Marks River, Florida, to Pearl River, Louisiana and Mississippi, inclusive, including the Intracoastal Waterway to Long Point Light, Lake Borgne, Louisiana.

U. S. District Engineer, 1st New Orleans District, New Orleans, Louisiana. From Pearl River and its tributaries, exclusive, to Sabine River, Louisiana and Texas, and its tributaries, exclusive, including alternate route Intracoastal Waterway from Plaquemine to Morgan City, Louisiana, and Intracoastal Waterway from Long Point Light, Lake Borgne, Louisiana, to Sabine River, Louisiana and Texas, Lower Atchafalaya River and Berwick Bay.

U. S. District Engineer, 2nd New Orleans District, New Orleans, Louisiana. Atchafalaya River and its tributaries and all waterways embraced within the territory west of

[1] The Revenue Cutter Service is now included in the United States Coast Guard. (Act of January 28, 1915.)

[2] Filed with original document.

[1] Filed with original document.

the streams forming alternate route Intracoastal Waterway, Plaquemine to Morgan City, Louisiana, north of Lower Atchafalaya River and east of Bayou Teche.

U. S. District Engineer, Galveston, Texas. The waterways of Texas, including Sabine River, Sabine Lake and their tributaries.

2. *Commercial statistics.*—*a.* As required by Section 11 of the River and Harbor Act of September 22, 1922, owners, agents, masters and clerks of vessels plying upon the above-described waterways shall submit a report on such activities for statistical purposes which shall contain the following information:

Name of vessel.
Name and address of owner or operator.
Type of vessel—steam, motor, sail, barge, or other type.
Net registered tonnage—if not registered, approximate net tonnage.
Maximum draft at time of passage.
Number of passengers.
Cargo—by commodities, expressed in short tons, or other units by which such commodities are customarily measured, giving origin and destination.

b. All persons rafting and towing logs shall submit a report giving such statistical information on their activities as may be required by the District Engineer.

c. Reports may be submitted on forms furnished free of charge by the District Engineer. They shall be presented to the lockmaster of the Federally operated locks, or bridge tender of the bridges operated by the War Department, for each trip made. Where no Federally operated lock or bridge is passed, they shall be mailed promptly to the District Engineer. On written request, persons or corporations making frequent use of these waterways may be granted permission to submit monthly statements in lieu of reports by trips.

3. *Bridges.*—*a. General.*—As required by law and general regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries, prescribed by the Secretary of War, all corporations or persons owning, operating and tending drawbridges shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt and efficient opening of the draw for the passage of vessels and other water craft. The owner shall keep the operating machinery of the draw in serviceable condition, and shall have the draw opened and closed at intervals frequent enough to make certain that the machinery is kept in proper condition for satisfactory operation. Bridges and fender systems shall be constructed and maintained to as to afford at all times reasonably free, easy and unobstructed navigation of the draw opening or the draw span. Any accident or damage to the bridge, the fenders or the operating mechanism, shall be promptly reported to the District Engineer, giving the cause and the probable period required for repairs. All bridges shall be lighted in accordance with the rules and regulations of the Department of Commerce, Lighthouse Service.

b. Signals for drawbridges.—The signals for vessels desiring to pass bridges shall be those prescribed in the general regulations referred to above.

c. Passage through drawbridges.—Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall water craft or vessels be so manipulated as to hinder or delay the operation of a draw span, but all passage over, through, or under a drawbridge shall be prompt, to prevent delay to either land or water traffic.

d. Special regulations.—The operation of certain bridges across waterways infrequently used by water traffic are governed by special regulations prescribed by the Secretary of War, in lieu of the general regulations referred to above. Such special regulations do not require the constant attendance of bridge tenders, but provide that a notice be conspicuously posted on the bridge stating exactly how the bridge tender or representative of the owner may be reached.

During periods of critical velocity, operation of and navigation through the Southern Pacific Railroad Bridge across the Atchafalaya River (Berwick Bay) at Morgan City, Louisiana, is subject to special regulations.

4. *Locks.*—*a. Authority.*—The locking of all vessels and rafts and their movements while in a lock, or in the approaches thereto, shall be under the direction of the lockmaster. The term "lockmaster" as used in these regulations, shall mean the lock official present who is in charge of the operation of the lock.

b. Sound signals.—Vessels desiring lockage in either direction shall give notice to the lockmaster at not more than three-quarters of a mile nor less than one-quarter of a mile from the lock, by three distinct blasts of a horn or whistle each of five seconds duration, with intervals of five seconds. When the lock is ready for entrance, the lockmaster will indicate permission to enter by one short blast of a horn or whistle. Permission to leave the locks will be indicted by one long blast.

Four or more short blasts in rapid succession will be given to attract attention to some danger or unusual condition, and cause all parties to ascertain its nature and avoid possible accident.

Five blasts of a horn or whistle is a fire or distress call. One long and one short blast is a call signal for employees.

c. Visual signals.—

(1) *Signal lights.*—Signal lights will be displayed from sunset to sunrise as follows:

One green light to indicate that the lock is in operation and open to approaching navigation.
One red light to indicate that lock is in operation, but not open to approaching navigation.
Two green lights to indicate that both gates are open and lock is open for through navigation.
Two red lights to indicate that the lock is not in operation and is not open to navigation.

At certain locks where navigation over the dam is possible during high water, an additional light signal will be displayed as follows:

One purple light, visible both upstream and downstream, to indicate that navigation over the dam is possible.
If no purple light is displayed, navigation over the dam is not possible.

(2) *Signal balls.*—During daylight hours, balls of color and number similar to the light signals prescribed for use after dark, will be displayed from a mast on the lock wall or other convenient location.

d. Precedence at locks.—Ordinarily, vessels or rafts arriving at the lock shall take precedence in order of their arrival, but in all cases, vessels belonging to the United States or employed on public work shall have precedence over all others; passenger vessels shall have precedence over freight vessels, individual vessels over tows or rafts. Small vessels will not be granted separate lockage when larger vessels are awaiting lockage, and they will be required to lock through with other vessels. When two vessels approach the lock from opposite directions at approximately the same time, preference will ordinarily be given to the one for which the lock is prepared. In all cases, the order of actual entry shall be determined by the lockmaster.

e. Entrance to and exit from locks.—No vessel or raft shall enter or leave the locks before being signalled to do so. While waiting their turns, vessels or rafts must not obstruct traffic and must remain at a safe distance from the lock. They shall take position in rear of any vessels or rafts that may precede them, and there arrange the tow for locking in sections if necessary. Masters and pilots of vessels or in charge of rafts shall cause no undue delay in entering or leaving the lock, and will be held to a strict accountability that the approaches are not at any time unnecessarily obstructed by parts of a tow awaiting lockage or already passed through. They shall provide sufficient men to move through the lock promptly without damage to the structures. Vessels or tows that fail to enter the locks with reasonable promptness after being signalled to do so will lose their turn.

f. Lockage of vessels.—Vessels shall enter and leave the locks carefully at slow speed, shall be provided with suitable lines and fenders, shall always use fenders to protect the walls and gates, and when locking at night shall be provided with suitable lights and use them as directed.

Vessels which do not draw at least three inches less than the depth on miter sills or breast walls, or which have projections or sharp corners liable to damage gates or walls, shall not enter a lock or approaches.

No vessel having chains or lines either hanging over the sides or ends, or dragging on the bottom, for steering or other purposes, will be permitted to pass a lock or dam.

Power vessels shall accompany tows through the locks when so directed by the lockmaster.

No vessels whose cargo projects beyond its sides will be admitted to lockage.

Vessels in a sinking condition shall not enter a lock or approaches.

The passing of coal from flats or barges to steamers while in the locks is prohibited.

The lockmaster may refuse to lock vessels which, in his judgment, fail to comply with these rules.

g. Lockage of rafts.—Rafts shall be locked through in sections as directed by the lockmaster. No raft will be locked that is not constructed in accordance with the requirements stated in section 6 hereafter. The party in charge of a raft desiring lockage shall register with the lockmaster immediately upon arriving at the lock and receive instructions for locking.

h. Number of lockages.—Tows or rafts locking in sections will generally be allowed only two consecutive lockages if other traffic is waiting for lockage, but may be allowed more in special cases. If tows or rafts are waiting above and below a lock for lockage, sections will be locked both ways alternately whenever practicable. When there are two or more tows or rafts awaiting lockage in the same direction, no part of one shall pass the lock until the whole of the one preceding it shall have passed.

i. Mooring.—Vessels and rafts when in the lock shall be moored where directed by the lockmaster by bow, stern and spring lines to the snubbing posts or hooks provided for that purpose, and lines shall not be let go until signal is given for vessel or raft to leave. Tying boats to the lock ladders is prohibited.

The mooring of vessels or rafts near the approaches to locks except while waiting for lockage, or at other places in the pools where such mooring interferes with general navigation of the stream, is prohibited.

j. Maneuvering locks.—The lock gates, valves, and accessories will be moved only under the direction of the lockmaster; but if required, all vessels and rafts using the locks shall furnish ample help on the lock walls for handling lines and maneuvering the various parts of the lock under the direction of the lockmaster.

5. *Waterways.*—*a. Fairway.*—A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and rafts that normally use the various waterways or sections thereof. The District Engineer may specify the width of the fairway required in the various waterways under his charge.

b. Stoppage in waterway—Anchorage or mooring.—No vessels or rafts shall anchor or moor in any of the land cuts or other narrow parts of the waterway, except in case of emergency. Whenever it becomes necessary for a vessel or raft to stop in any such portions of the waterway, it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such a place and under such conditions as will not obstruct or prevent the passage of other vessels or craft. Stoppages shall be only for such periods as may be necessary.

No vessel or raft will be allowed to use any portion of the fairway as a mooring place except temporarily as authorized above without the written permission from the District Engineer.

When tied up, all vessels shall be moored by bow and stern lines. Rafts and tows shall be secured at sufficiently close intervals to insure their not being drawn away from the bank by winds, currents or the suction of passing vessels. Tow lines shall be shortened so that the different parts of the tow shall be as close together as possible. In narrow sections, no vessel or raft shall be tied abreast of another.

Lights shall be displayed in accordance with provisions of the Federal Pilot Rules.

No vessel, even if fastened to the bank as above prescribed, shall be left without a sufficient crew to care for it properly.

Vessels will not be permitted to load or unload in any of the land cuts except at a regular established landing or wharf without written permission secured in advance from the District Engineer.

No vessel, regardless of size, shall anchor in a dredged channel or narrow portion of a waterway for the purpose of fishing, if navigation is obstructed thereby.

Except in cases of emergency, the dropping of anchors, weights, or other ground tackle, within areas occupied by submarine cable or pipe crossings, is prohibited. Such crossings will ordinarily be marked by signboards on each bank of the shore or indicated on coast charts.

c. Speed.—Excessive speeding in narrow sections is prohibited. Official signs indicating limiting speeds through critical sections shall be strictly obeyed.

Upon approaching and passing through a bridge, all vessels and rafts, regardless of size, shall decrease their speed sufficiently to insure that no damage will be done to the bridge or its fenders.

A vessel, upon approaching another vessel in motion or tied up, a wharf or other structure, works under construction, plant engaged in river and harbor improvement, levees withstanding flood waters, buildings submerged or partially submerged by high waters, or any other manner of structure or improvement likely to be damaged by collision, suction or wave action, shall reduce its speed sufficiently to prevent any damage.

d. Size, assembly, and handling of tows.—Tows longer than 750 feet or exceeding 45 feet in width, or of a width more than one half the minimum width of channel over which they are to move, will not be allowed in channels of widths of 100 feet or less except by special permission of the District Engineer.

All vessels drawing tows not equipped with rudders shall use two tow lines and shorten them to the greatest possible extent so as to have full control at all times. The various parts of a tow shall be securely assembled with the individual units connected by lines as short as practicable. If necessary, as in the case of lengthy or cumbersome tows or other tows in restricted channels, the District Engineer may require the installation of a rudder, drag or other approved steering device on the tow in order to avoid obstructing navigation or damaging the property of others, including aids to navigation maintained by the United States or under its authorization, by collision or otherwise.

No tow shall be drawn by a vessel that has insufficient power or crew to permit ready maneuverability and safe handling.

Tows desiring to pass a bridge shall approach the opening along the axis of the channel so as to pass through without danger of striking the bridge or fenders. No vessel or tow shall navigate through a drawbridge until the movable span is fully opened.

e. Projections from vessels.—No vessel carrying a deck load which overhangs or projects over the side of said vessel, or whose rigging projects over the side of the vessel so as to endanger passing vessels, wharves or other property, will enter or pass through any of the narrow parts of the waterway.

f. Meeting and passing.—Vessels, on meeting or overtaking, shall give the proper signals and pass in accordance with

Federal Pilot Rules. Rafts shall give to vessels the side demanded by proper signal. All vessels approaching dredges, or other plant engaged on improvements to a waterway, shall give the signal for passing and slow down sufficiently to stop if so ordered or if no answering signal is received. On receiving the answering signal, they shall then proceed to pass at a speed sufficiently slow to insure safe navigation.

6. *Rafts—logging.*—Rafts will be permitted to navigate a waterway only if properly and securely assembled. The passage of "bag" or "sack" rafts, "dog" rafts, or of loose logs over any portion of a waterway, is prohibited. Each section of a raft will be secured within itself in such a manner as to prevent the sinking of any log, and so fastened or tied with chains or wire rope that it cannot be separated or bag out so as to materially change its shape. All dogs, chains and other means used in assembling rafts shall be in good condition and of ample size and strength to accomplish their purposes.

No section of a raft will be permitted to be towed over any portion of a waterway unless the logs float sufficiently high in the water to make it evident that the section will not sink en route.

Frequent inspections shall be made by the person in charge of each raft to insure that all fastenings remain secure, and when any one is found to have loosened, it shall be repaired at once. Should any log or section be lost from a raft, the fact must be promptly reported to the District Engineer, giving as definitely as possible the exact point at which the loss occurred. In all cases the owner of the lost log or section will take steps immediately to remove the same from the waterway.

The regulations prescribed in section 5, governing the length and width of tows, shall likewise apply to rafts.

All rafts shall carry sufficient men to enable them to be managed properly, and to keep them from being an obstruction to other craft using the waterway. To permit safe passage in a narrow channel rafts will, if necessary, stop and tie up alongside the bank. Care must be exercised both in towing and mooring rafts to avoid the possibility of damage to aids to navigation maintained by the United States or under its authorization.

When rafts are left for any reason with no one in attendance, they shall be securely tied at each end and at as many intermediate points as may be necessary to keep the timbers from bagging into the stream, and must be moored so as to conform to the shape of the bank. Rafts moored to the bank shall have lights at 500-foot intervals along their entire length. Rafts shall not be moored at prominent projections of the bank, or at critical sections.

Logs may be stored in certain tributary streams provided a clear channel at least one-half the width of the channel be left clear for navigation along the tributary. Such storage spaces shall be protected by booms and, if necessary to maintain an open channel, piling should also be used. Authority for placing these booms and piling shall be obtained by written permit from the District Engineer.

The building, assembling, or breaking up of a raft in a waterway will be permitted only upon special authority obtained from the District Engineer, and under such conditions as he may prescribe.

7. *Dumping of refuse or oil in waterway, obstructions.*—Attention is invited to the provisions of Sections 13 and 20 of the River and Harbor Act of March 3, 1899, and of Sections 2, 3, and 4 of the Oil Pollution Act of June 7, 1924, appended hereto, which prohibit the depositing of any refuse matter in these waterways or along their banks where liable to be washed into the waters; authorize the immediate removal or destruction of any sunken vessel, craft, raft or other similar obstruction which stops or endangers navigation; and prohibit the discharge of oil from vessels into the coastal navigable waters of the United States.

8. *Damage.*—Masters and owners of vessels using the waterways are responsible for any damage caused by operations in violation of the provisions of these regulations to canal revetments, lock piers and walls, bridge fenders, and for displacing or damaging of buoys, stakes, spars, range lights or other aids to navigation. Should any part of a revetment, lock, or bridge be damaged, they shall report the fact, and furnish a clear statement of how the damage occurred, to the nearest Government lockmaster or bridge tender, and by mail to the District Engineer, U. S. Engineer Office in local charge of the section of the waterway in which the damage occurred. Should any aid to navigation be damaged, they shall report that fact immediately to the Superintendent of Lighthouses at New Orleans, Louisiana.

9. *Trespass on property of the United States.*—Trespass on waterway property or injury to the banks, locks, bridges, piers, fences, trees, houses, shops or any other property of the United States pertaining to the waterway, is strictly prohibited. No business, trading, or landing of freight or baggage will be allowed on or over Government piers, bridges or lock walls.

10. *Copies of regulations.*—Copies of these rules and regulations will be furnished free of charge upon application to the nearest District Engineer.

11. These regulations shall take effect and be in force on and after June 1, 1938, and shall supersede the following regulations:

ANCHORAGE REGULATIONS

Apalachicola River, Fla.—Anchorage regulations prescribed February 19, 1916 (E. D. 45618/22).

Mobile Bay, Ala.—Navigation and anchorage regulations for waters in vicinity of Forts Morgan and Gaines, prescribed December 1, 1919, (E. D. 106658/19).

Galveston Harbor, Port Bolivar, and Texas City, Tex.—Anchorage regulations prescribed June 26, 1923 (E. D. 136200/10).

BRIDGE REGULATIONS

Tombigbee, Warrior, and Mobile Rivers.—Special signals.—Supplemental regulations prescribed July 16, 1930 (E. D. 6371 (Tombigbee-Warrior River)–1/5).

NAVIGATION REGULATIONS

Ochlockonee River, Fla.—Logging regulations prescribed June 7, 1904, (E. D. 50354/2).

Apalachicola Bay, Fla.—Navigation regulations prescribed May 17, 1913 (E. D. 7666/40).

Apalachicola Harbor, Fla.—Navigation regulations prescribed July 20, 1908 (E. D. 7666/10).

Channel from Apalachicola River to St. Andrews Bay, Fla.—Navigation (logging) regulations prescribed November 20, 1919 (E. D. 101672/7).

Pensacola Bay and tributary waters within the State of Florida.—Logging regulations prescribed January 9, 1915 (E. D. 8786/328).

Coosa River, Ga. and Ala.—Use, administration and navigation.—Regulations prescribed December 22, 1913 (E. D. 92311/1).

Black Warrior, Warrior and Tombigbee Rivers, Ala.—Use, administration, and navigation.—Regulations prescribed May 10, 1915 (E. D. 50212/5) and amended July 16, 1930 (E. D. 6374 (Tombigbee-Warrior River)–1/6).

East Pearl River, Miss.—Logging regulations prescribed April 27, 1901 (E. D. 36761/15).

Intracoastal Waterway from Mississippi River to Bayou LaFourche, La. (Harvey Canals and Locks).—Navigation regulations prescribed April 5, 1924 (E. D. 7041 (Harvey Canals-Locks)–2/1).

Bayou LaFourche, La., and its navigable tributaries.—Logging regulations prescribed July 24, 1918 (E. D. 119324/4).

Bayou Terrebonne from its mouth to Bayou Cane and Bayou Black from its mouth to Houma, La., and their navigable tributaries.—Logging regulations prescribed May 27, 1916 (E. D. 101202/1).

Atchafalaya River, La., from its mouth in the Gulf of Mexico to entrance to Six Mile Lake and on Bayou Boeuf from Morgan City to its junction with Bayou Black and Lake Palourde, Flat Lake, Bayou Long, Bayou Chene, Bayou Teche to Jeanerette, Berwick Bay, Lake Palourde, Wax Bayou, and Bayou Shafter.—Logging regulations prescribed September 24, 1915 (E. D. 98731/2).

Intracoastal Waterway from Bayou Teche to West Cote Blanche Bay, La.—Logging regulations prescribed October 18, 1923 (E. D. 7040 (Hanson Canal)–10/1).

Bayou Teche from Jeanerette to Arnaudville, La.—Logging regulations prescribed November 6, 1919 (E. D. 101202/31).

Bayou Teche, La.—Keystone Lock—Use, administration and navigation.—Regulations prescribed September 25, 1915 (E. D. 97660/9).

Intracoastal Canal, La., Schooner Bayou to Grand Lake Section, and Calcasieu River to Sabine River Section.—Use, administration and navigation.—Regulations prescribed September 25, 1915 (E. D. 97660/10).

Schooner Bayou Lock, Intracoastal Canal, La.—Use, administration, navigation.—Regulations prescribed September 25, 1915 (E. D. 97660/10).

Plaquemine Bayou, La.—Logging regulations prescribed August 17, 1912 (E. D. 51377/22).

Plaquemine Lock, Plaquemine Bayou, La.—Use, administration, and navigation.—Regulations prescribed September 25, 1915 (E. D. 97660/8).

Bayou Nezpique from its mouth to Grand Canal Pumping Plant (Mile 22); Bayou des Cannes from its mouth to Evangeline Bridge (Mile 8½); Bayou Plaquemine Brule from its mouth to head of improvement (Mile 19); Bayou Queue de Tortue from its mouth to Southern Pacific Railroad Bridge (Mile 14); and their navigable tributaries.—Logging regulations prescribed July 24, 1918 (E. D. 119325/7).

Calcasieu River, La., from mouth to Jones Bluff and above.—Logging regulations prescribed August 12, 1914 (E. D. 81520/14).

Sabine River, Tex.—Logging regulations prescribed August 6, 1900 (E. D. 35186/20).

Port Arthur Ship Canal, the Sabine-Neches Canal, turning and lumber basins, and Taylors Bayou up to the Southern Pacific Railroad Bridge at West Port Arthur, Tex.—Use, administration, and navigation.—Regulations prescribed June 5, 1909 (E. D. 69543/5).

Inland Waterways on coast of Texas.—Use, administration, and navigation.—Regulations prescribed April 25, 1914 (E. D. 58013/623).

Galveston Channel and Harbor, Tex.—Navigation regulations prescribed August 3, 1914 (E. D. 76284/103).

Houston Ship Channel, Tex., between Bolivar Roads and Port Houston, and its light-draft extension through Buffalo Bayou from the turning basin to the foot of Main Street, Houston.—Navigation regulations prescribed June 24, 1921 (E. D. 129897/9).

Grand River, Bay Natchez, Little Goddell, Big Goddell, Belle River and Pigeon Bayous, La.—Logging Regulations prescribed May 27, 1916 (E. D. 101202/4).

Bayou Grossetete, La.—Logging regulations prescribed January 24, 1914 (E. D. 81219/18).

Chickasaw Creek, Ala., and its navigable tributaries.—Logging regulations prescribed October 18, 1935 (E. D. 7101 (Chickasaw Creek, Ala.)–2).

Intracoastal Waterway from Apalachicola, Fla. to Corpus Christi, Tex.—Use, administration and navigation.—Regulations prescribed Sept. 12, 1936 (E. D. 7241 (Louisiana-Texas Intracoastal W. W.)–1/4).

Bayou Teche, La.—Use, administration and navigation.—Regulations prescribed October 4, 1937 (E. D. 7241 (Teche Bayou)–3/7).

Approved, April 20, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38–1261; Filed, May 3, 1938; 9:29 a. m.]

DEPARTMENT OF THE INTERIOR.

National Park Service.

GLACIER NATIONAL PARK

AMENDMENT TO TIMBER DISPOSAL REGULATIONS

The timber disposal regulations for Glacier National Park, approved December 8, 1936 (1 F. R. 2151), are hereby amended in the following particulars:

The minimum price for cedar stubs: 1¢ per lineal foot.

The minimum price for poles other than cedar: ¼¢ per lineal foot.

Approved April 22, 1938.

[SEAL] (Sgd.) OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–1262; Filed, May 3, 1938; 9:29 a. m.]

Office of Indian Affairs.

REGULATIONS TO GOVERN THE LEASING OF LANDS IN THE CROW INDIAN RESERVATION, MONTANA, FOR MINING PURPOSES

[Applicable to the leasing and mining of all kinds of minerals upon lands belonging to the Crow Tribe of Indians, Montana, and upon lands on the Crow Reservation, the surface of which has been allotted to members of the Tribe but the minerals reserved to the tribe by Act of Congress]

Section 6 of the Act of June 4, 1920 (41 Stat. 751–753), as amended by the Act of May 26, 1926 (44 Stat. 658), reads:

That any and all minerals, including oil and gas, on any of the lands to be allotted hereunder are reserved for the benefit of the members of the tribe in common and may be leased for mining purposes, with the consent of the tribal council under such rules, regulations, and conditions as the Secretary of the Interior may prescribe, but no lease shall be made for a longer period than ten years, but the lessees may have the right to renewal thereof for a further period of ten years upon such terms and conditions as the Secretary of the Interior may prescribe, and agreed to by said tribal council: *Provided*, That when any land is leased for mining purposes and development thereunder shall indicate the presence of minerals including oil and gas in paying quantities, the lessee or lessees shall proceed with all reasonable diligence to complete the development under said lease to extract the mineral including oil and gas from the land leased and to bring the product mined or extracted into market as speedily as possible unless the extraction and sale thereof be withheld with the consent of the Crow Tribe of Indians: *Provided, however*, That allotments hereunder may be made of lands classified as valuable chiefly for coal or other minerals which may be patented as herein provided with a reservation, set forth in the patent, of the coal, oil, gas, or other mineral deposits for the benefit of the Crow Tribe: *And provided further*, That at the expiration of fifty years from the date of approval of this Act, unless otherwise ordered by Congress, the coal, oil, gas, or other mineral deposits upon or beneath the surface of said allotted lands shall become the property of the individual allottee or his heirs.

To carry this provision of law into effect the following regulations are prescribed:

SEC. 1. *Definitions.*—The term "superintendent" herein refers to the superintendent or other officer of the Indian Service or of the Government who may have jurisdiction over the Crow Reservation.

The term "supervisor" herein refers to a representative of the Secretary of the Interior, under direction of the Director of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

SEC. 2. *Employee restrictions.*—No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases by ownership of stock in corporations having leases or in any other manner.

SEC. 3. *Requests for sales.*—No oil and gas lease on the Crow Reservation will be offered until the Crow Tribal Council shall have passed a resolution requesting the Secretary of the Interior to lease the land for mining purposes. Should any person, firm, or corporation desire to have any particular tract of land offered for lease, written request to that effect should be submitted to the superintendent in order that such tract may, if deemed advisable, upon the request of the Crow Tribal Council, be included in the next advertisement of leases.

SEC. 4. *Lease sales.*—At such times and in such manner as he may deem appropriate, the superintendent will publish notices at least 20 days prior to the sale, that mineral leases on specific tracts, each of which shall be in a compact body, will be offered to the highest responsible bidder. The successful bidder must deposit with the superintendent on the day of the sale a certified check or a bank draft on a solvent bank in an amount equal to twenty percent of the bid and of the first year's rental as a guaranty of good faith. The balance of the bid and of the first year's rental shall be paid and the lease in completed form shall be filed within 20 days after the lease is forwarded, by the superintendent, to the lessee for execution, unless such period has been extended by the superintendent for good and sufficient reason. If the successful bidder fails to complete the lease or to pay the balance of the bonus and of the first year's rental within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or of the Interior Department, the twenty percent of the bonus and of the first year's rental will be forfeited as liquidated damages for the use and benefit of the Crow Tribe.

The right is reserved by the Secretary of the Interior to reject any and all bids and to disapprove and reject prior to approval any lease made on an accepted bid; and should any bid be rejected or lease be disapproved through no fault of the bidder, after the deposit has been made, such deposit shall be immediately returned. Each successful bidder shall pay a prorata cost of the advertising expenses, based on the number of leases purchased.

SEC. 5. *Requirements of corporations.*—If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof.

The superintendent may at his discretion require a corporation applicant or lessee to file:

(I) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(II) A sworn statement of the proper officer showing:

(*a*) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(*b*) Of the stock sold, how much remains unpaid and subject to assessment.

(*c*) The amount of cash the company has in its treasury and elsewhere.

(*d*) The property, exclusive of cash, owned by the company and its value.

(*e*) The total indebtedness of the company and the nature of its obligations.

(*f*) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provision of said Acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(III) Statements of changes in officers and stockholders.

(IV) Affidavits of individual stockholders, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interests for themselves or in trust.

SEC. 6. *Requirements of unincorporated applicants.*—Unincorporated applicants shall file such information relative to financial standing and ability to proceed with the development of a lease as the Department of the Interior, through the superintendent of the Crow Indian Agency, may require.

SEC. 7. *Bonds.*—Lessees shall furnish, with each lease, a bond, form to be furnished by the Department, with personal sureties or an acceptable company authorized to act as sole surety. Such bond shall be in the amount of $1,000 for each 160 acres or part thereof: *Provided*, That where a lease contains insufficient acreage to require a bond in the sum of $5,000 hereunder, the bond shall be increased to equal $5,000, or a substitute bond satisfactory to the Secretary of the Interior and the Crow Tribe, shall be furnished before drilling is started, such bond to remain in force as long as development or production operations are continued: *Provided further*, That a lessee may file one bond (Form 5–157f) in the amount of $15,000, covering all leases of a particular class up to 10,240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of a lease, to increase the amount of the bond above the sum named in any case where the Secretary of the Interior deems it proper to do so. Bonds with personal sureties will be accepted only when the sureties deposit with the Commissioner of Indian Affairs, collateral consisting of any public debt obligations of the United States, guaranteed as to principal and interest by the United States, equal in value to the full amount of the bond. In lieu of other bonds, lessees may execute their own surety contracts upon deposit of Government bonds as collateral (Form 5–154a).

SEC. 8. *Additional information.*—The superintendent may, either before or after approval of a lease, call for any information necessary to carry out these regulations; failure of the lessee to furnish such information or to furnish the papers to put his lease and bond in proper form, will be deemed sufficient reason for disapproval or cancellation, whichever is appropriate, of the lease.

SEC. 9. *Renewals.*—Leases shall be made for a period not longer than ten years, but lessees may have the right of renewal thereof for a further period of ten years upon such terms and conditions as the Secretary of the Interior may prescribe and, agreed to by the Tribal Council. Applications for renewals of leases shall be made not later than sixty days prior to the date of expiration of the original lease.

SEC. 10. *Lease acreage.*—Unless special permission is granted by the Secretary of the Interior because of unusual conditions of mining or operation:

(*a*) No lease on deposits of the nature of lodes or veins containing ores of gold, silver, copper, lead, zinc, or other useful metal shall be granted for less than 20 acres or for more than 960 acres.

(*b*) No lease for beds of placer gold, gypsum, phosphate, asphaltum, iron ores, sand and gravel and rock, or other useful minerals other than coal, oil, and gas, shall be granted for less than 40 acres nor for more than 960 acres.

(*c*) No lease for beds of coal shall be granted for less than 40 acres nor for more than 2,560 acres.

(*d*) No individual, corporation, partnership, company, or association shall hold leases for oil and gas mining purposes on lands in the Crow Reservation in excess of 10,240 acres.

SEC. 11. *Wells.*—The lessee shall agree (1) to drill and produce all wells necessary to offset or protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided*, That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the oil and gas supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (2) at the election of the lessee to drill and produce other wells: *Provided*, That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (3) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within 10 days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of this lease of not to exceed $1 per acre per annum, which sum shall be in addition to any rental or royalty hereinafter specified: *Provided*, That in the event oil or gas is discovered on the leased premises, the lessee shall proceed with all reasonable diligence to develop said premises and extract the oil or gas therefrom and bring same into the market as speedily as possible, unless the extraction and sale thereof be withheld with the consent of the Crow Indian Tribal Council.

SEC. 12. *Diligence and prevention of waste.*—The lessee shall exercise reasonable diligence in drilling and operating wells for oil and gas on the lands covered hereby, while such products can be secured in paying quantities; carry on all operations hereunder in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the oil and gas supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipe lines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

SEC. 13. *Payments.*—All payments due the lessor shall be made to the superintendent, for the benefit of the lessors, and no credit will be given any lessee for payments made otherwise. Payments of rentals and royalties under oil and gas leases, except the first year's rental which shall be paid to the superintendent as prescribed in section 4 of these regulations, shall be transmitted to the superintendent through the oil and gas supervisor. All such payments shall be accompanied by a statement, in triplicate, by the lessee, showing the specific items of royalty or rental that the remittance is intended to cover, and shall be made at such time or times as the lease provides.

In the event of the discovery of minerals in paying quantities, all advance rental and royalty payments will be allowed as credit on stipulated royalties for the year for which the payment is made. In the event the royalty on production for any year is not sufficient to equal the advance rental and royalties for that year, no refund will be made; nor will any part of the moneys so paid be refunded because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental and royalty.

SEC. 14. *Royalty rates, oil and gas leases.*—The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil and/or gas shall be royalty free.

SEC. 15. *Gas for use of lessor.*—If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises the lessor may use sufficient gas, free of charge, for any desired school or other building belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

SEC. 16. *Annual payments, statements, and development expenditures on leases other than oil and gas.*—Lessees other than oil and gas lessees shall pay on all leases annually in advance for the first calendar year or fraction thereof a rent of 25 cents per acre; for the second and the third years, 50 cents per acre; and for the fourth and each succeeding calendar year, $1 per acre. All sums paid as rental for any one calendar year shall be credited on the first royalties to become due during that year.

On all leases of class (a) referred to in section 10 of these regulations there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall make an amount not less than $5 per acre.

On all leases of class (b) referred to in section 10 of these regulations there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall make an amount not less than $100 for each 160 acres or fraction thereof included in the lease.

On all leases of class (c) referred to in section 10 of these regulations there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall make an amount not less than $10 per acre.

Each lessee shall file with the superintendent an itemized statement in duplicate within 20 days after the close of each calendar year of the amount and character of said expenditure during such year, the statement to be certified under oath by the lessee or his agent having personal knowledge of the facts contained therein.

SEC. 17. *Royalties on minerals other than oil and gas.*—(*a*) For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, and oil and gas, the lessee shall pay quarterly a royalty of not less than 10 percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

(*b*) For gold, silver, copper, lead, zinc, and tungsten, the lessee shall pay quarterly a royalty of not less than ten percent, to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale, and to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the superintendent within ten days after the ending of the quarter within which such returns are made: *Provided, however*, That the lessee shall pay quarterly a royalty of not less than ten percent of the value of ores and concentrates sold at the mine.

(*c*) For coal the lessee shall pay quarterly a royalty of not less than ten cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

(*d*) For asphaltum and allied substances the lessee shall pay quarterly a royalty of not less than ten cents per ton of 2,000 pounds on crude material and not less than 60 cents per ton on refined products.

(*e*) The royalties on all products not otherwise specified in the lease or these regulations shall be based on sworn quarterly reports and shall be paid within 20 days after the close of each quarter.

SEC. 18. *Books of sales, receipts, etc., open to inspection.*—The lessee shall keep books of account showing the amount of ore shipped or oil or other mineral substance sold or treated, and showing also the amount of money received from the sale of ores, oil, etc. The books of the lessee shall be open to inspection, examination, and verification by any officer of the Interior Department assigned to such duty by the Secretary of the Interior, and it is distinctly understood that the duly authorized agents of the Government shall be permitted freely to make transcripts of all the accounts and other books of lessee.

SEC. 19. *Manner of paying royalties.*—All royalties or payments due under leases under these regulations shall be made by check or draft drawn on a solvent bank, open for the transaction of business on the day the check or draft is issued, or by other form of suitable exchange, to the order of the superintendent. All such payments except advance rentals for the first year, which, as provided in these regulations, are to be paid to the superintendent at the time the leases are filed, shall be transmitted through the oil and gas supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific terms of rentals or royalty that the remittance is intended to cover and shall be made at such times as the lease provides.

SEC. 20. *Division orders.*—Lessees may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the oil and gas supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs it own oil, it shall execute an intra-company division order and forward it to the oil and gas supervisor for his consideration. The right is reserved for the oil and gas supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of these regulations, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representative shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all of the foregoing measurements; which, except lowest gauge, shall be made at the time the oil is turned into the pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

SEC. 21. *Assignments.*—(*a*) Leases hereafter approved, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof.

(*b*) No lease or any interest therein or the use of such lease shall be sublet or transferred, directly or indirectly, by working or drilling contract or otherwise, without the consent of the Secretary of the Interior.

(*c*) Assignments of leases and stipulations modifying the terms of existing leases which stipulations are also subject to the approval of the Secretary of the Interior shall be filed with the superintendent within 30 days after the date of execution.

SEC. 22. *Cancellation.*—When, before restrictions are removed, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Secretary of the Interior shall have the right at any time after 30 days' notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land: *Provided*, That after restrictions are removed the lessor shall have and be entitled to any available remedy in law or equity for breach of the contract by the lessee.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(*a*) That he make application for cancellation to the superintendent having jurisdiction over the land.

(*b*) That he pay a surrender fee of $1 at the time the application is made.

(*c*) That he pay all royalties and rentals due to the date of such application.

(*d*) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(*e*) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(*f*) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(*g*) If the lease (or portion being surrendered or cancelled) is owned in undivided interests by more than one party, than all parties shall join in the application for cancellation.

(*h*) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(*i*) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the cancelled parts thereof will be held in the office of the superintendent for five days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review or reconsideration be filed, until such motion is passed upon by the Department.

(*j*) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered; only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

SEC. 23. *Mines to be timbered properly.*—In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice and in such manner as may be necessary to the proper preservation of the property leased and safety of the workmen.

SEC. 24. *Lessee and surety held responsible for return of premises in good condition.*—On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior with the consent of the tribal council. It shall, however, be stipulated that the machinery necessary to operate the mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained, by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

SEC. 25. *Wasteful operations not permitted.*—The Secretary of the Interior may, in his discretion, cancel any lease if the mining operations are conducted wastefully and without regard to good mining practice.

SEC. 26. *Permission to start operations.*—No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

Written permission must be secured from the supervisor before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the superintendent and no operations should be attempted without a study of the operating regulations.

SEC. 27. *Penalties.*—Failure of the lessee to comply with any provision of the lease, of the operating regulations, of these regulations, order of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation: *Provided*, That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

SEC. 28. *Fees.*—All leases and assignments shall be executed in sextuplicate and when filed with the superintendent shall be accompanied by a filing fee of $5 which is hereby required pursuant to provisions contained in the act of February 14, 1920 (41 Stat. 408–415 as amended by the act of March 1, 1933 (47 Stat. 1417)). This fee will be refunded in case the instrument is disapproved.

SEC. 29. *Forms.*—Applications, leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the superintendent will furnish prospective lessees with such forms at a cost of $1 per set.

Form 5–154a. Bond, personal, supported by Government Securities.
Form 5–157c. Individual bond.
Form 5–157d. Evidence of authority of officers to execute papers.
Form 5–157e. Assignment.
Form 5–157f. Collective bond.
Form 5–157g. Stipulation modifying terms of oil and gas lease.
Form 5–157h. Crow oil and gas mining lease.
Form 5–157i. Crow mining lease other than oil and gas.

The moneys received from the sale of forms should be deposited as Miscellaneous Receipts to the credit of the appropriate Receipt Account.

SEC. 30. *Effective date.*—These regulations shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided*, That no regulations made after the approval of any lease shall operate to affect the term of lease, rate of royalty, rental, or acreage, unless agreed to by both parties to the lease.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
April 15, 1938.

The foregoing regulations are respectfully submitted to the Secretary of the Interior with the recommendation that they be approved.

(Signed) WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner of Indian Affairs.

Approved April 27, 1938.

(Sgd.) OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1263; Filed, May 3, 1938; 9:30 a. m.]

FEDERAL POWER COMMISSION.

[Project No. 487]

IN THE MATTER OF PENNSYLVANIA POWER & LIGHT COMPANY, LICENSEE

ORDER FIXING DATE OF HEARING

APRIL 29, 1938.

Commissioners Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission:

(1) That the hearing on the actual legitimate original cost of construction of Project No. 487—Pennsylvania, Pensylvania Power & Light Company, Licensee, was adjourned on June 7, 1934, subject to call and pending investigation and reaudit of said Licensee's books of account and supporting and verifying data;

(2) That subsequent to the adjournment of said hearing a reaudit of the cost of construction of said project, including additions, betterments and retirements as of December 31, 1934, as well as an engineering investigation and analysis thereof, have been made by the Commission's staff and reports prepared thereon and furnished to said Licensee;

(3) That said hearing may now proceed to a final disposition of all items of claimed cost;

Now, therefore, it is ordered:

(*a*) That the hearing on the actual legitimate original cost of construction of Project No. 487—Pennsylvania, including additions, betterments and retirements as of December 31, 1934, be resumed before the Federal Power Commission, or any such representative as the Commission may hereafter designate for such purpose, beginning at 10:00 a. m., Wednesday, June 15, 1938, in the Hearing Room of the Commission on the Twelfth Floor of the Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.;

(*b*) That said Licensee be and is hereby directed to appear at said hearing and present oral and documentary evidence in support of its claimed cost of construction of said project, together with a complete showing of the actual cost of services rendered to it by Electric Bond and Share Company and Phoenix Utility Company, claimed as a part of the actual legitimate original cost of said project;

(*c*) That said Licensee having failed to submit for examination either at the hearing adjourned on June 7, 1934, or to the Commission's accountant during his reaudit or subsequent thereto, vouchers and other documentary data supporting and verifying the items of claimed cost embraced in the amount of $1,388,446.09 transferred from the books of Lehigh Power Securities Corporation and involved in the claimed cost of said project, it is hereby further directed to produce at said hearing beginning June 15, 1938, witnesses having personal knowledge of the nature and cost to Lehigh Power Securities Corporation of every item of claimed cost comprising the amount of $1,388,446.09.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–1266; Filed, May 3, 1938; 9:39 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3391]

IN THE MATTER OF AMERICAN FLANGE & MANUFACTURING COMPANY, INC., A CORPORATION

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to Supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), as amended by "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C. title 15, sec. 13) and for other purposes" (the Robinson-Patman Act), and by virtue of the authority vested in the Federal Trade Commission by the aforesaid acts, the Federal Trade Commission having reason to believe that American Flange & Manufacturing Company, Inc., hereinafter designated as the respondent, has been and is violating the provisions of said Federal Trade Commission Act, and of said Clayton Act, as amended by the Robinson-Patman Act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in such respects as follows:

CHARGE I

PARAGRAPH 1. Respondent, American Flange & Manufacturing Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Illinois, having its principal office at 30 Rockefeller Plaza, New York, N. Y., and a factory at Chicago, Illinois.

PAR. 2. Respondent is, and has been during the time herein mentioned, engaged in the business of manufacturing, of offering for sale, selling and distributing receptacle-closure parts for metal containers. Among such receptacle-closure parts, so manufactured and sold by respondent are closure-structures, which are designed to close the holes through which metal containers are filled and emptied. Such closure-structures consist essentially of a threaded metal flange or bushing which is affixed about a hole punched in the container, and a threaded metal plug which fits into the flange and closes the hole. Respondent also manufactures and sells a sealing cap for such closure-structures, which is designed to protect the container against tampering and leakage. Respondent markets its said closure parts under the trade-mark "Tri-Sure".

PAR. 3. Respondent's "Tri-Sure" closure-structures are applied to the metal containers by the use of certain applying dies, upon which respondent claims to hold patents. Respondent licenses the use of such applying dies to its customers who purchase from it closure-structures and who are engaged in the business of manufacturing metal containers. Respondent also sells "Tri-Sure" sealing caps to customers engaged in the filling of metal receptacles. Such sealing caps may be applied to respondent's closure-structure by means of certain sealing tools upon which respondent claims to hold patents. Respondent licenses its customers purchasing such "Tri-Sure" sealing caps to use such sealing tools in applying the caps to the metal containers after such containers have been filled.

PAR. 4. In the course and conduct of its said business, respondent licenses the use of its said allegedly patented dies and tools to purchasers of the receptacle-closure parts who are located in many of the States of the United States and in some foreign countries, and causes its said receptacle-closure parts, when sold, to be transported from the state in which the same are manufactured, being the State of Illinois, to, into and through other states of the United States. Respondent sells said receptacle-closure parts to metal-container manufacturers and metal container fillers in all parts of the United States, and sells and distributes its said products in commerce between and among the various states of the United States. There is and has been at all times herein mentioned a continuous current of trade and commerce in said products across state lines between respondent's factory in the State of Illinois and the various purchasers of such commodities located in other States of the United States. Such products are sold and distributed for use, consumption and resale within the various states of the United States.

PAR. 5. In the course and conduct of its business as aforesaid, respondent is now and during the times herein mentioned has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing receptacle-closure parts for metal containers, and offering for sale, selling and distributing such products in commerce between and among the various states of the United States and the District of Columbia. Said competitors claim to have the right to so manufacture and sell their products, and claim to have valid patents on such receptacle-closure parts, and on certain dies and tools used in applying the same to metal containers.

PAR. 6. Respondent, in connection with the sale of its "Tri-Sure" closure structures to purchasers who are metal container manufacturers, pursues a policy of inducing and requiring such manufacturer-customers to sign a certain so-called license and service agreement. By the terms of such agreement respondent agrees to furnish to such customers certain sets of "Tri-Sure" applying dies, and licenses the use thereof solely for the purpose of applying "Tri-Sure" closures of metal containers. Respondent in said agreement warrants that it owns certain patents listed therein by number and purports to grant a non-exclusive license to the purchaser of its closures for the use of the same. The patents so enumerated in said agreements include patents under which respondent claims to manufacture its closure structures, parts and sealing caps, as well as patents on applying and sealing devices, and includes also patents which respondent claims to own but which it does not use in the manufacture of any of such parts or devices. Said agreement contains the following provision:

"The Company" (purchaser) "as one of the essential considerations of this agreement hereby acknowledges 'American Flange's' sole right in and ownership of the trademark 'Tri-Sure' for receptacle-closures, parts thereof and applying-dies and sealing tools therefor and hereby agrees not to infringe or contest same, directly or indirectly, nor to employ other than genuine 'Tri-Sure' parts to fill any order calling for "Tri-Sure' closures and also hereby acknowledges for the entire respective term of each said patent, issued or to be issued, the validity thereof and hereby agrees not to infringe or contest same, directly or indirectly."

Said agreement provides further as follows:

"Should 'The Company'" (purchaser) "during any six (6) months period purchase from the 'American Flange' 'Tri-Sure' closures for receptacles amounting to eighty (80) percent or more, of the company's total requirements of closures for receptacles of whatever kind or make for such six (6) months period, and should certify the same in writing, signed by a responsible officer of The Company, 'American Flange' shall then allow a quantity discount equal to ten (10) percent of the prices billed by the said 'American Flange' during such six (6) months period. Should any dispute arise with respect to said certification, then 'American Flange' shall have the option to employ certified public accountants during business hours to examine 'The Company's books in order to ascertain the correctness of such certification.'"

PAR. 7. Respondent has attempted to induce and require each and every one of its purchasers of closure-structures, engaged in the manufacture of metal containers, to sign one of the aforesaid agreements, and a majority of such purchasers have been induced to enter into the same to secure the rebates on price therein provided for. Some of said metal container manufacturers, who purchase "Tri-Sure" closures from respondent, have refused to execute such agreements on the ground that they were unlawful or upon other grounds, and some of such manufacturer customers have signed said agreement with certain modifications. Respondent refuses to give any discount in price or grant any rebate thereon to customers who have not signed said agreement. Said manufacturers of metal containers so purchasing "Tri-Sure" closures from respondent are generally in competition with one-another in the manufacture of metal containers with closure parts attached, and the sale thereof to corporations, partnerships and individuals engaged in the business of filing metal containers.

PAR. 8. Respondent, in connection with its sale of such "Tri-Sure" sealing caps to corporations, partnerships and individuals engaged in the filling of metal containers, pursues a policy of requiring such purchasers of sealing caps to enter into a so-called license and service agreement, which is substantially in the same form as the license and service agreement set forth in Paragraph Six above. Such license and service agreement so imposed upon fillers of metal receptacles lists the same patents as those contained in the agreement set forth in said Paragraph Six, although it does not warrant the ownership thereof in respondent. It also contains the same two provisions as are set out verbatim in said Paragraph Six. Respondent has induced the majority of its filler customers to execute such so-called license and service agreements as a means of securing the rebates on price therein provided for.

PAR. 9. The capacity, tendency and effect of respondent's policy of using said agreements, considered as a whole, has been or may be: To prevent purchasers buying "Tri-Sure" closures and sealing caps from respondent, from purchasing or using other closures and sealing caps sold in competition with respondent's products; to monopolize in respondent the business of manufacturing and selling closure structures and sealing caps for metal containers throughout the United States; to coerce manufacturers of metal containers and fillers of such containers into acknowledging the validity of the patents claimed to be owned by respondent and to prevent such manufacturers and fillers from recognizing the validity or existence of any other patents for the manufacture of similar devices sold in competition with respondent's products; to coerce metal container manufacturers and fillers into acknowledging respondent's asserted sole right and ownership in the trade-mark "Tri-Sure" and to prevent such purchasers from recognizing the existence or validity of other trade-marks on similar competitive products; to restrain, hinder, lessen and injure competition between respondent and competing manufacturers in connection with the manufacture and sale of closure structures and sealing caps for metal containers in the United States; to unreasonably restrain trade in such products; to require metal container manufacturers and fillers under certain conditions to submit to an examination of their books by respondent; and generally to coerce and compel such purchasers of respondent's products to aid and assist respondent in promoting and creating a monopoly under such alleged patents in the manufacture and sale of such products and dies and tools for applying the same to metal containers.

PAR. 10. The policy and practice of respondent in using the above-described agreements and requiring and inducing metal container manufacturers and fillers to execute the same is and was an unfair method of competition within the intent and meaning of the Federal Trade Commission Act prior to its amendment on March 21, 1938, and constitute an unfair method of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of said Federal Trade Commission Act as amended on March 21, 1938.

CHARGE II

PARAGRAPH 1. Paragraphs One to Nine inclusive of Charge I are hereby incorporated herein as though set forth verbatim.

PAR. 2. Respondent in entering into the above-described agreements and in carrying out the provisions thereof and making sales thereunder has made contracts for the sale of its closures and sealing caps, has made sales of such products, and has fixed a discount from and rebate upon the prices charged therefor, on the condition, agreement and understanding that the purchaser of such products shall not use or deal in the products of competitors, and the effect of such contracts, sales, discounts and rebates has been or may be to substantially lessen competition between respondent and its said competitors and to tend to create a monopoly in respondent in the manufacture and sale of receptacle-closure parts and in the leasing of applying dies and tools for such parts.

PAR. 3. The acts, practices and policies set forth in the preceding paragraph are in violation of Section 3 of the Clayton Act.

CHARGE III

PARAGRAPH 1. Paragraph One to Paragraph Nine inclusive of Charge I are hereby incorporated herein as though fully set forth verbatim.

PAR. 2. Respondent has been making sales of such closure-structures to metal container manufacturers who have executed the above-described so-called license and service agreements and to those who have refused to execute the same.

PAR. 3. Respondent has been making sales of sealing caps for metal containers to fillers of metal containers who have executed the license and service agreements above referred to, and to those who have refused to execute such agreements.

PAR. 4. Since prior to June 19, 1936, respondent has allowed a discount or rebate of ten percent to those of its purchasers who have executed and abided by such so-called license and service agreements, or who have substantially complied therewith, which allowance and discount it has refused to make to other purchasers.

PAR. 5. In the course and conduct of its business as above described, since prior to June 19, 1936, respondent has been and is now discriminating in price between different purchasers of closures and selling caps for metal containers in like grades and qualities so sold by respondent in interstate commerce for use, consumption or resale, by giving and allowing some of its purchasers lower prices than those given or allowed other of its said purchasers, many of whom are actively engaged one with the other in the resale of such products in the United States. Said discriminations are brought about by the practice and policy pursued by respondent of granting a 10 percent discount to all of its purchasers who purchase from respondent 80 percent or more of their total requirements of closure parts for a given six months' period, or who substantially comply with the terms of the aforesaid agreements, which said discount is not allowed to other purchasers.

PAR. 6. The general effect of such discriminations in price, as so made by respondent as above set forth, has been or may be to lessen competition and to injure, destroy and prevent competition between respondent and its competitors in the manufacture, sale and distribution of closures and sealing caps for metal containers, and also has been or may be to substantially lessen competition and to injure, destroy and prevent competition in the resale of such closures between and among some of the said favored purchasers of such products so receiving such discriminatory discounts and rebates, and some of the competitive unfavored purchasers not receiving such discriminatory discounts and rebates. The effect of such discriminations in price also has been and may be to tend to create a monopoly in respondent in said line of commerce and to tend to create a monopoly in said favored purchasers receiving such discriminatory price in the resale of such closures so applied to metal containers in the various localities or trade territories in the United States in which such purchasers respectively are engaged in the business of manufacturing metal containers.

PAR. 7. The foregoing alleged acts and practices of said respondent are in violation of Section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act.

Wherefore, the premises considered, the Federal Trade Commission on this 28th day of April, A. D. 1938, here issues

its complaint against said respondent stating the charges as hereinabove set out.

NOTICE

Notice is hereby given you, American Flange and Manufacturing Company, Inc., respondent above named, that the 3rd day of June, A. D. 1938, at 2:00 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(a) In cases arising under the Federal Trade Commission Act, or under section 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 28th day of April, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1264; Filed, May 3, 1938; 9:33 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2996]

IN THE MATTER OF HOCHSCHILD, KOHN & COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, May 11, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 509, 5th Floor, Post Office Building, Baltimore, Maryland.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1265; Filed, May 3, 1938; 9:33 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3350]

IN THE MATTER OF NELLE K. WING, TRADING AS THE DEPEW CHEMICAL COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that she waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon her findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Nelle K. Wing, an individual, trading as The DePew Chemical Company, or trading under any other name, her representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of a preparation for use in the eyes, now designated as "Sano-See A," "Sano-See B," or Doctor DePews Famous Eye Prescription, or any other preparation containing substantially similar ingredients or possessing substantially similar properties, whether sold under these names or any other names in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing directly or by inference:

1. That said preparations will preserve or improve eyesight; that said preparations will keep the eyes in a clean or healthy condition; that said preparations may be safely used by everyone.

2. That said preparations are remedies or competent and effective treatments for or will cure or promote the cure of Ulcer of the Cornea, Iritis, Ptergium, Pterygium, Interstitial Keratitis, Trachoma, dimmed or blurred vision, granulated eyelids, spots before the eyes, and smarting, burning, watering of the eyes, or any other disease of the eye, except that respondent is not hereby prohibited from representing that these preparations may be used to temporarily relieve mild inflammation of the eye when such inflammation is not caused by or associated with any systemic or diseased condition.

It is further ordered, That the respondent shall, within thirty (30) days after service upon her of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which she has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1267; Filed, May 3, 1938; 11:27 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 243]

ALLOCATION OF FUNDS FOR LOANS

APRIL 29, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Oregon 8002G2 Lane	$9,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1258; Filed, May 3, 1938; 9:28 a. m.]

Thursday, May 5, 1938 *No. 88*

DEPARTMENT OF THE INTERIOR.

General Land Office.

AIR NAVIGATION SITE WITHDRAWAL NO. 119, CALIFORNIA

APRIL 23, 1938.

It appearing that the following-described public lands in California are necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section four of the act of May 24, 1928, 45 Stat. 728, that such lands be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

SAN BERNARDINO MERIDIAN

T. 14 N., R. 8 E.,
sec. 1, W½NE¼, NW¼;
sec. 2, NE¼;
T. 15 N., R. 8 E.,
sec. 22, S½SE¼;
sec. 26, NW¼, SE¼;
sec. 35, SE¼;
aggregating 959.80 acres.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1270; Filed, May 4, 1938; 9:29 a. m.]

AIR NAVIGATION SITE WITHDRAWAL NO. 117, UTAH

APRIL 25, 1938.

It is ordered, under and pursuant to the provisions of section four of the act of May 24, 1928, 45 Stat. 728, that the following-described public lands in Utah be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

SALT LAKE MERIDIAN

Unsurveyed, what will probably be when surveyed:
In T. 22 S., R. 8 W.,
sec. 6, W½SW¼;
sec. 7, NW¼NW¼;
In T. 22 S., R. 9 W.,
sec. 1, SE¼;
sec. 12, NE¼;
aggregating 440 acres.

And departmental order of April 8, 1935, establishing Utah Grazing District No. 3, under the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, is hereby modified so far as it affects the hereindescribed tracts and made subject to the withdrawal made by this order.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1271; Filed, May 4, 1938; 9:30 a. m.]

STOCK DRIVEWAY NO. 3, WYOMING NO. 1, ENLARGED

APRIL 25, 1938.

It appearing that the following-described public land should be included in Stock Driveway Withdrawal No. 3, Wyoming No. 1, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such land, excepting any mineral deposits therein, be, and it is hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

SIXTH PRINCIPAL MERIDIAN

T. 45 N., R. 84 W., sec. 8, SW¼SE¼, 40 acres.

Any mineral deposits in the land shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1272; Filed, May 4, 1938; 9:30 a. m.]

National Bituminous Coal Commission.

[Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF CONSUMERS LIGNITE COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 30th day of April 1938.

It appearing, That on the 20th day of October, 1937, the Commission entered its Order No. 61 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 o'clock A. M. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28. The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause

came on to be heard pursuant to said Order No. 61; and at said hearing the Consumers Lignite Company, a corporation, intervened and was granted permission to file application for certificate of exemption pursuant to Order No. 28; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed finding of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the finding of fact and conclusion of the Commission;

Now, therefore, it is by order hereby certified:

That the coal produced at the Consumers Lignite Company's mine, which mine is located near Alba, in Wood County, Texas, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937 and therefore is exempt from the provisions of said Act.

By order of the Commission.

Dated this 30th day of April, 1938.

[SEAL] EDGAR C. FARIS, JR.,
Acting Secretary.

[F. R. Doc. 38-1274; Filed, May 4, 1938; 11:40 a. m.]

[Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MALAKOFF FUEL COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C. on the 30th day of April 1938.

It appearing, That on the 20th day of October, 1937, the Commission entered its Order No. 61 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 A. M. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28. The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard pursuant to said Order No. 61; and at said hearing the Malakoff Fuel Company, a corporation, intervened and was granted permission to file application for certificate of exemption pursuant to Order No. 28; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission; copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed finding of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the finding of fact and conclusion of the Commission;

Now, therefore, it is by order hereby certified:

That the coal produced at the Malakoff Mine of the Malakoff Fuel Company, which mine is located in Henderson County, Texas, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937 and, therefore, is exempt from the provisions of said Act.

By order of the Commission.

Dated this 30th day of April, 1938.

[SEAL] EDGAR C. FARIS, JR.,
Acting Secretary.

[F. R. Doc. 38-1277; Filed, May 4, 1938; 11:41 a. m.]

[Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MCALESTER FUEL COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 30th day of April 1938.

It appearing, That on the 20th day of October, 1937, the Commission entered its Order No. 61 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 o'clock A. M. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28. The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard pursuant to said Order No. 61; and at said hearing the McAlester Fuel Company, a corporation, intervened and was granted permission to file application for certificate of exemption pursuant to Order No. 28; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above-entitled matter with the Secretary of the Commission; copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed finding of fact and the conclusion submitted by the examiner, are, in all respects, true and correct, and the same are hereby adopted as the finding of fact and the conclusion of the Commission:

Now, therefore, it is by order hereby certified:

That the coal produced at the Sandow Mine of the McAlester Fuel Company, which mine is located in Milan County, Texas, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937, and, therefore, is exempt from the provisions of said Act.

By order of the Commission.

Dated this 30th day of April, 1938.

[SEAL] EDGAR C. FARIS, JR.,
Acting Secretary.

[F. R. Doc. 38-1275; Filed, May 4, 1938; 11:40 a. m.]

[Docket No. 70-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MORTON SALT COMPANY FOR A CERTIFICATE OF EXEMPTION PURSUANT TO ORDER NO. 28 OF THE COMMISSION

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 30th day of April 1938.

It appearing, That on the 20th day of October, 1937, the Commission entered its Order No. 61 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 o'clock a. m. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28; and that the Morton Salt Company of Chicago, Illinois, operating a coal mine at Alba, Texas, filed application for a certificate of exemption pursuant to Order No. 28, alleging that the coals produced by it are not subject to the provisions of the said Act. The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 61; and

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard pursuant to Order No. 61; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above-entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

Now, therefore, it is by order hereby certified:

That the coal produced at the Alba Mine of the Morton Salt Company, which mine is located at Alba, Texas, in both Rains and Wood Counties, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937 and, therefore, is exempt from the provisions of said Act.

By order of the Commission.

Dated this 30th day of April 1938.

[SEAL] EDGAR C. FARIS, JR.,
Acting Secretary.

[F. R. Doc. 38-1276; Filed, May 4, 1938; 11:40 a. m.]

[Docket No. 322-FD]

IN THE MATTER OF THE APPLICATIONS FOR EXEMPTION UNDER SECTION 4 (L) AND THE SECOND PARAGRAPH OF SECTION 4A OF THE BITUMINOUS COAL ACT OF 1937

COWGILL MINE, CAMBRIDGE, OHIO; BLUE DIAMOND COAL CO., POMEROY, OHIO; JAMES KENNARD, NEW PLYMOUTH, OHIO; J. H. WISECARVER, R. F. D. NO. 1, SONORA, OHIO; DARK HOLLOW COAL CO., MIDDLEPORT, OHIO; H. S. GANDER COAL CO., CAMBRIDGE, OHIO; PLAINVIEW COAL CO., CAMBRIDGE, OHIO; THE SHARRATT COAL CO., CAMBRIDGE, OHIO; HAMILTON TRENNER COAL CO., CAMBRIDGE, OHIO; JOE GROZDON, BELLAIRE, OHIO; ROBINSON CLAY PRODUCT CO., AKRON, OHIO; GENERAL CLAY PRODUCTS CO., COLUMBUS, OHIO; HICKORY CLAY PRODUCTS CO., MINERAL CITY, OHIO; CAMBRIA CLAY PRODUCTS CO., BLACKFORT, OHIO; JOS. F. HOSENFELD, MARTINS FERRY, OHIO; ROSS MATTERN, CADIZ, OHIO; M. R. M'CONNELL, MT. EPHRAIM, OHIO; BIG LUMP COAL CO., POMEROY, OHIO; T. E. LUMAN, ROSEVILLE, OHIO; METROPOLITAN PAVING BRICK CO., CANTON, OHIO; THOMPSON AND EDMISTON, R. F. D. NO. 1, DILLONVALE, OHIO; MUSKINGUM COAL CO., ZANESVILLE, OHIO

Notice of and Order for Hearings

The Commission, pursuant to the first paragraph of Section 4A of the Bituminous Coal Act of 1937, having on the 11th day of November, 1937, by order, in Commission's Docket No. 18-FD, declared that on and after the 15th day of December, 1937, all bituminous coal sold, delivered, or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Ohio, should be subject to the provisions of Section 4 of the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of such order, as well as all further orders which might thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Ohio; and

The above entitled applicants believing that their commerce in coal is not subject to the provisions of Section 4 or to the provisions of Section 4A, having filed applications for exemption with this Commission pursuant to the second paragraph of Section 4A;

Now, therefore, it is hereby ordered:

1. That, beginning on the 24th day of May, 1938, at ten o'clock a. m. at the Hearing Room of the Commission in the Rogge Hotel, Zanesville, Ohio, hearings on the said applications be held before Charles O. Fowler, an Examiner of this Commission designated and appointed to take testimony and receive evidence in these proceedings and to perform all other duties authorized by law.

2. That said Examiner is hereby authorized and directed to designate, at the opening session of the hearings herein noticed, the order in which the above entitled applications will be heard, and to adjourn said hearings from time to time as the convenience of the applicants and necessities of the situation may require.

3. A copy of each application shall be placed on file and made available for inspection by interested parties at the office of the Secretary of the Commission, at the Statistical Bureau of the Commission for District No. 4 and at the office of the District Board for District No. 4.

4. The Secretary of the Commission is directed forthwith to mail a copy of this notice to each of the applicants above named or to their Attorneys of record; to the Consumers' Counsel; to the Secretary of each District Board, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published for two consecutive days in two newspapers of general circulation in the State of Ohio; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 30th day of April, 1938.

[SEAL] EDGAR C. FARIS, JR.,
Acting Secretary.

[F. R. Doc. 38-1278; Filed, May 4, 1938; 11:41 a. m.]

Office of Indian Affairs.

REGULATIONS GOVERNING THE LEASING OF RESTRICTED LANDS BELONGING TO MEMBERS OF THE FIVE CIVILIZED TRIBES OF INDIANS IN OKLAHOMA, FOR MINING PURPOSES

	Section Number
Acts Affecting Leases	Preface
Assignments	38
Cancellations	40
Definitions	1
Effective Date	48
Field Clerks	46
Forms	47
Government Reserves Right to Purchase Minerals	17
How to Acquire Leases:	
Additional Information	16
Application for Leases	2
Approval Fee	7
Bonds	15
Corporations and Corporate Information	14
Filing of Leases Deemed Constructive Notice	8
Government Employees May Not Become Lessees	3
Inherited Lands	13
Leases Executed by Guardians of Minors	12
Leases for Minerals other than Oil and Gas	6
Lessor's Signature	10
Minor Lessors	11
Noncontiguous Tracts	9
Sales of Oil and Gas Leases	4
Term of Oil and Gas Leases	5
Operations:	
Diligence, and Prevention of Waste	33
Inspection of Premises, and Books and Accounts	34
Mines to be Timbered Properly	35

	Section Number
Operations—Continued.	
Penalties	37
Permission to Start Operations	30
Restrictions on Operations	31
Surrender of Premises in Good Condition	36
Wells	32
Rents and Royalties:	
Crediting Advance Payments	19
Disposition of Income from Leases	20
Division Orders	29
Expenditures under Leases other than Oil and Gas	22
Free Use of Gas by Lessor	25
Manner of Payment of Rents and Royalties	18
Rate of Rents on Leases other than Oil and Gas	21
Rate of Rents and Royalties on Oil and Gas Leases	24
Rate of Rents on Nonutilized Gas Wells	27
Rate of Royalties on Casinghead Gas	26
Rate of Royalties for Minerals other than Oil and Gas	23
Royalty Payments and Production Reports	28
Removal of Restrictions:	
Division of Royalty to Separate Fee Owners	44
Leases Executed but not Approved Before Removal of Restrictions	41
Operations after Removal of Restrictions	42
Relinquishment of Government Supervision	43
Restrictions Especially Continued as to Certain Land	45
Stipulations	39

ACTS AFFECTING LEASES

Sections 2, 3, and 11 of the Act approved May 27, 1908 (35 Stat. 312) provide:

SEC. 2. That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed may be leased by the allottee if an adult, or by guardian or curator under order of the proper probate court if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal: *Provided*, That leases of restricted lands for oil, gas, or other mining purposes, leases of restricted homesteads for more than one year, and leases of restricted lands for periods of more than five years may be made, with the approval of the Secretary of the Interior, under rules and regulations provided by the Secretary of the Interior, and not otherwise: *And provided further*, That the jurisdiction of the probate courts of the State of Oklahoma over land of minors and incompetents shall be subject to the foregoing provisions, and the term "minor" or "minors," as used in this act, shall include all males under the age of 21 years and all females under the age of 18 years.

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes, approved by the Secretary of the Interior shall be conclusive evidence as to the quantum of Indian blood of any enrolled citizen of freedman of said tribes and of no other persons to determine questions arising under this act and the enrollment records of the Commissioner to the Five Civilized Tribes shall hereafter be conclusive evidence as to the age of said citizen or freedman.

That no oil, gas, or other mineral lease entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall be rendered invalid by this act, but the same shall be subject to the approval of the Secretary of the Interior as if this act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this act, or have been removed by previous acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.

SEC. 11. That all royalties arising on and after July 1, 1908, from mineral leases of allotted Seminole lands heretofore or hereafter made which are subject to the supervision of the Secretary of the Interior shall be paid to the United States Indian Agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall thereafter belong; and no such lease shall be made after said date except with the allottee or owner of the land: *Provided*, That the interest of the Seminole Nation in leases or royalties arising thereunder on all allotted lands shall cease on June 30, 1908.

Section 18 of the Act of Congress approved February 14, 1920 (41 Stat. 426), provides in part as follows:

• • • *Provided further*, That hereafter no undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or uncontested agricultural and mineral leases (excluding oil and gas leases) made by individual restricted Indian allottees, or their heirs, shall be forwarded to the Secretary of the Interior for approval; but all such undisputed claims or uncontested leases (except oil and gas leases) heretofore required to be approved under existing law by the Secretary of the Interior shall hereafter be paid, approved, rejected, or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoma: *Provided, however*, That any party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoma may appeal from the same to the Secretary of the Interior within 30 days from the date of said decision or order.

Section 1 of the Act of Congress approved May 10, 1928 (45 Stat. 495) provides:

That the restrictions against the alienation, lease, mortgage, or other encumbrance of the lands allotted to members of the Five Civilized Tribes in Oklahoma, enrolled as of one-half or more Indian blood, be, and they are hereby, extended for an additional period of twenty-five years commencing on April 26, 1931: *Provided*, That the Secretary of the Interior shall have the authority to remove the restrictions, upon the applications of the Indian owners of the land, and may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe.

Sections 1 and 8 of the Act of Congress approved January 27, 1933 (47 Stat. 777) provide:

• • • *Provided*, That where the entire interest in any tract of restricted and tax-exempt land belonging to members of the Five Civilized Tribes is acquired by inheritance, devise, gift, or purchase, with restricted funds, by or for restricted Indians, such lands shall remain restricted and tax-exempt during the life of and as long as held by such restricted Indians, but not longer than April 26, 1956, unless the restrictions are removed in the meantime in the manner provided by law: *Provided, further*, That such restricted and tax-exempt land held by anyone, acquired as herein provided, shall not exceed one hundred and sixty acres: *And provided further*, That all minerals including oil and gas produced from said land so acquired shall be subject to all State and Federal taxes as provided in section 3 of the Act approved May 10, 1928 (45 Stat. 495).

SEC. 8. That it shall be the duty of the attorneys provided for under the Act of May 27, 1908 (35 Stat. 312), to appear and represent any restricted member of the Five Civilized Tribes before the county courts of any county in the State of Oklahoma, or before any appellate court thereof, in any matter in which said restricted Indians may have an interest, and no conveyance of any interest in land of any full-blood Indian heir shall be valid unless approved in open court after notice in accordance with the rules of procedure in probate matters adopted by the Supreme Court of Oklahoma in June of 1914, and said attorneys shall have the right to appeal from the decision of any county court approving the sale of any interest in land, to the district court of the district to which the county is a part.

To carry out the provisions of existing law as quoted above the following regulations governing the leasing of lands of members of the Five Civilized Tribes, for mining purposes, are hereby prescribed:

DEFINITIONS

SEC. 1. The term "Superintendent" herein refers to the superintendent or other officer of the Indian Service or of the Government who may be in charge of the Five Civilized Tribes Indian Agency.

The term "Supervisor" herein refers to a representative of the Secretary of the Interior, under direction of the Director of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

HOW TO ACQUIRE LEASES

SEC. 2. *Applications for leases.*—Applications for leases should be made to the superintendent.

SEC. 3. *No Government employee shall acquire leases.*—No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government, whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in such leases covering restricted Indian lands by ownership of stock in corporations having leases or in any other manner.

SEC. 4. *Sales of oil and gas leases.*—At such times and in such manner as he may deem appropriate, the superintendent shall publish notices that oil and gas leases on specific tracts, each of which shall be in a compact body, will be offered to the highest responsible bidder: *Provided*, That where leases have been entered into under order of the proper probate court including leases covering land in which minors or incompetents are interested, the oil and gas inspector of the Five Civilized Tribes Agency shall appraise the bonus value, and the lessee will be required to pay not less than such appraised value. Successful bidders must deposit with the superintendent on the day of sale a certified check or bank draft on a solvent bank in the amount equal to twenty percent of the bonus bid and of the first year's rental, as a guaranty of good faith. The balance of the bonus and of the first year's rental shall be paid and the lease in completed form shall be filed within 20 days after the lease is forwarded, by the superintendent, to the lessee for execution, unless such period has been extended by the superintendent for good and sufficient reason. In cases where any part of the bonus bid for a lease is paid directly to the Indian lessor, upon his signing the lease, the lessee must procure and file with the lease an affidavit of the lessor, sworn to before a United States Commissioner, Indian superintendent, local representative of the Office of the superintendent for the Five Civilized Tribes, County or District Judge, Federal Judge or Clerk of a Federal Court, showing the amount of bonus so paid, and the balance thereof must be paid into the Office of the superintendent upon filing the lease. Where possible lessees are requested to take the lessor to the nearest United States Field Clerk who will render all proper assistance in the execution of leases, and before whom the bonus affidavit may be executed in cases where any part of bonus consideration is paid directly to the Indian. Where leases are executed by guardians, under order of court, the affidavit of lessor may be executed before a notary public. In submitting the leases for consideration, the superintendent shall consult with the oil and gas inspector at the Five Civilized Tribes Agency and report upon the adequacy of the bonus offered for each lease. If the successful bidder fails to complete the lease or to pay the full consideration within 20 days or authorized extension thereof, or if the lease is disapproved through no fault of the lessor or the Interior Department, the amount deposited as a guaranty of good faith shall be forfeited for the use and benefit of the Indian lessor. The right is reserved by the Secretary of the Interior to reject any and all bids and to disapprove and reject any lease made on an accepted bid; and should any bid be rejected after deposit is made by the bidder, all amounts deposited with the superintendent will be immediately returned.

SEC. 5. *Term of oil and gas lease.*—Oil and gas mining leases which require the approval of the Secretary of the Interior may be made for periods of ten years from the date of approval of lease by the Secretary of the Interior and as much longer thereafter as oil and/or gas is produced in paying quantities.

SEC. 6. *Leases for minerals other than oil and gas.*—Uncontested mining leases for minerals other than oil and gas shall be made on forms prescribed by the Department, for a period of 15 years with the right of renewal on such terms as the superintendent may prescribe, and shall be subject only to approval by the superintendent. See provisions of the Act of February 14, 1920 (41 Stat. 408–426). Any person aggrieved by any decision or order of the superintendent approving, rejecting, or disapproving any such lease may appeal from the same to the Secretary of the Interior within 30 days from the date of such decision or order.

SEC. 7. *Approval fee.*—A fee of $5 is required upon approval of each lease, sublease, or assignment, pursuant to the provisions of the Act of February 14, 1920 (41 Stat. 408–415) as amended by the Act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). This fee shall be paid at the time of filing the lease, sublease, or assignment, and will be refunded in case the instrument is disapproved.

SEC. 8. *Filing of lease deemed constructive notice.*—The filing of any lease in the office of the superintendent shall be deemed constructive notice of the existence of such lease. See Act of March 1, 1907 (34 Stat. 1015).

SEC. 9. *Noncontiguous tracts.*—No lease will be approved covering two or more noncontiguous tracts of land, but in such case a lease must be executed on each separate tract.

SEC. 10. *Lessor's signature.*—Any Indian who can not write his name will be required to sign all official papers by making a distinct thumbprint which shall be designated as "right" or "left" thumbmark. Such signatures must be witnessed by two persons, one of whom must be a United States Government employee (such as Field Clerk, postmaster, United States Commissioner, etc.).

SEC. 11. *Minor lessors.*—Where the lessor is a minor, certified copies of letters of guardianship and court orders approving leases must be filed.

SEC. 12. *Leases executed by guardians of minors.*—Leases executed by guardians of minors under order of court for a period extending beyond the minority of the minor will be approved unless it appears that such action would be prejudicial to the interests of the minor: *Provided*, That in the event the minor becomes of age within one year from date of execution of lease the consent of the minor to the execution of the lease should be obtained and submitted with the lease for consideration.

SEC. 13. *Inherited lands.*—Except to prevent loss or waste, leases on undivided inherited lands will not be approved until the heirship determination has been approved. If the heirs to undivided inherited lands are undetermined or can not be located, or if the heirs owning less than one-half interest in the lands refuse to sign a lease and it appears necessary to lease the lands to prevent loss or waste, the superintendent will report the facts to the Commissioner of Indian Affairs and ask for instructions. Minor heirs can lease or join adult heirs in leasing only through guardians under order of court. Proof of heirship shall be given upon Form F prescribed. If probate or other court proceedings have established the heirship in any case, or the land has been partitioned, certified copy of final order, judgment, or decree of the court will be accepted in lieu of Form F.

SEC. 14. *Corporations and corporate information.*—If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

(I) List of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(II) A sworn statement of the proper officer showing:

(*a*) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(*b*) Of the stock sold, how much remains unpaid and subject to assessment.

(*c*) The amount of cash the company has in its treasury and elsewhere.

(*d*) The property, exclusive of cash, owned by the company and its value.

(*e*) The total indebtedness of the company and the nature of its obligations.

(*f*) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provision of said Acts or rules

and regulations, and what disposition of any such statement, application, prospectus or offering sheet has been made.

(III) Affidavits of individual stockholders, setting forth in what corporations, or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interest for themselves or in trust.

SEC. 15. *Bonds.*—Lessee shall furnish with each lease, a bond (form 5–154b) with personal sureties or with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 80 acres, $1,000; for 80 acres and less than 120 acres, $1,500; for 120 acres and not more than 160 acres, $2,000; and for each additional 40 acres, or part thereof, above 160 acres, $500: *Provided,* That a lessee may file one bond (form 5–154u) in the sum of $15,000, covering all leases of a particular class up to 10,240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of the lease to increase the amount of a bond above the sum named, in any case where the Secretary of the Interior deems it proper to do so. Bonds with personal sureties will be accepted only where the sureties deposit collateral, with the Commissioner of Indian Affairs, equal in value to the full amount of the bond and consisting of any public debt obligation of the United States, guaranteed as to principal and interest by the United States. In lieu of other bonds, lessees may execute their own surety contracts upon deposit, with the Commissioner of Indian Affairs, of Government bonds, equal in value to the full amount of the bond, as collateral (form 5–154a).

SEC. 16. *Additional information may be requested by superintendent.*—The superintendent, or other Government officer having the matter in charge or under investigation, may, at any time, either before or after approval of a lease, call for any additional information desired to carry out the purpose of these regulations, and such information shall be furnished within the time specified in the request therefor. If the lessee fails to furnish the information requested, the lease will be subject to disapproval or cancellation, whichever is appropriate.

GOVERNMENT RESERVES RIGHT TO PURCHASE MINERALS PRODUCED

SEC. 17. In time of war or other public emergency any of the executive departments of the United States Government shall have the option to purchase at the prevailing market price on the date of sale all or any part of the minerals produced under any lease.

RENTS AND ROYALTIES

SEC. 18. *Manner of payment of rents and royalties.*—All rents and other payments due under leases which have been or may be approved by the Secretary of the Interior shall be paid by check or bank draft on a solvent bank, to the order of the superintendent or to such other person as may be designated by the Secretary of the Interior, for the benefit of the various lessors. Except advance payments for the first year which shall be sent direct to the superintendent at the time of filing the leases, payments of rental and royalty under oil and gas leases shall be transmitted through the supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such time or times as the lease provides. No credit will be given any lessee for rents or royalties paid direct to the lessors or their representatives, while the lands continue under restrictions, and all payments required under departmental leases covering lands from which restrictions have been removed by death or otherwise may be made to the superintendent until 10 days after notice of relinquishment of supervision has been mailed to the lessee by the superintendent.

For leases other than oil and gas, all advance rentals and royalties for the first year shall be paid to the superintendent at the time of filing the lease, and the advance royalty and 20 percent of the first year's rental so paid shall be and become the property of the lessor if the lease be disapproved because of the lessee's failure to meet the requirements of the law or of these regulations or because of any other fault or defect chargeable to the lessee.

SEC. 19. *Crediting advance annual payments.*—In the event of discovery of minerals in paying quantities all advance rents and advance royalties shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund of such advance payments made under any lease which may be so credited on stipulated royalties will be allowed in the event the royalty on production is not sufficient to equal such advance payment; nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease.

SEC. 20. *Disposition of income from leases.*—All royalties, rents, or payments accruing under any lease shall be deposited by the superintendent to the credit of the Indian lessor entitled to the same. Such income belonging to any minor or other Indian under local guardianship shall be held by the superintendent or such other officer as may be designated by the Secretary of the Interior to the credit of the guardian (or curator) of such minor or other Indian under local guardianship, and shall be paid to such guardian (or curator) upon voucher executed by him and approved by the judge of the county (probate) court having jurisdiction of the estate of such minor or other Indian under local guardianship (the form of such voucher to be prescribed by the Department), or upon authority of such court in the form of an order satisfactory to said superintendent or other officer in charge of the office of the superintendent for the Five Civilized Tribes.

The said superintendent is authorized, however, in his discretion, where considered for the best interest of any adult, minor, or incompetent lessor, or his or her heirs, for whose account royalties, rents, or payments accruing under any lease have been paid to said superintendent to withhold the disbursement of such royalties, rents, or payments, wholly or in part, from any such adult or guardian or curator of any such minor or incompetent, or his or her heirs, until such time or times as the payment thereof is considered best for the benefit of said lessor or his or her heirs; Provided, that in such individual cases or classes of cases as the Secretary of the Interior may direct, the Superintendent shall cause such payments as may be authorized to be made out of the royalties and other individual Indian funds of the restricted Indians, minors, and incompetents, to be paid direct to the Indians, entitled thereto or to be otherwise paid out for their benefit and use, as the Secretary of the Interior may authorize in said cases.

From the individual Indian restricted funds derived as royalties or otherwise, no disbursements in settlement of litigation or in payment of attorney's fees or in the purchase of or investment in real estate or in loans upon real estate shall be made except with the approval of the Secretary of the Interior thereto: Provided, however, That nothing in this Section shall be construed as limiting or affecting the jurisdiction of the Superintendent as authorized by certain provisions of the act of Congress approved February 14, 1920 (14 Stat. L., 408–426).

SEC. 21. *Rate of rents on leases other than oil and gas.*—On all mineral leases of allotted lands other than oil and gas leases, rental shall be paid annually in advance from the date of approval of the lease, as follows: Fifty cents per acre for the first year, seventy-five cents per acre for the second year, and $1.00 per acre for the third and each succeeding year of the term of the lease.

SEC. 22. *Expenditures under leases other than oil and gas.*—On all leases on deposits of the nature of lodes and veins containing ores of gold, silver, copper, lead, zinc, or other useful metals, there shall be expended annually in actual mining operations, development, or improvements upon the lands leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $5 per acre.

On all leases for beds of placer gold, gypsum, asphaltum, phosphate, iron ores, or other useful metals other than coal, oil, and gas, there shall be expended annually in actual mining operations, development, or improvements, upon the lands leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $5 per acre.

On all coal leases, there shall be expended annually in actual mining operations, development, or improvements, upon the lands leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $10 per acre.

Each lessee shall file with the superintendent an itemized statement in duplicate, within 20 days after the close of each year, of the amount and character of said expenditures during such year; the statement to be certified under oath by the lessee or his agent having personal knowledge of the facts contained therein.

SEC. 23. *Rate of royalty for minerals other than oil and gas.*—For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum, and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

For gold, silver, copper, lead, zinc, and tungsten, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent, to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale, and to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the superintendent within ten days after the ending of the quarter or other period specified in the lease within which such returns are made: *Provided, however,* That the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of the value of ores and concentrates sold at the mine.

For coal, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten cents per ton of 2,000 pounds on crude material and of not less than 60 cents per ton on refined substances.

SEC. 24. *Rate of rents and royalties on oil and gas leases.*—The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly at such time as the lease provides; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond his control.

SEC. 25. *Free use of gas by lessor.*—If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for all stoves and inside lights in the principal dwelling house on said premises, by making his own connections to a regulator, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

SEC. 26. *Rate of royalty on casinghead gas.*—On casinghead gas used or sold for the manufacture of casinghead gasoline the minimum rate of royalty shall be 12⅓ percent of the value of the casinghead gas, which value shall be determined and computed on the basis and in the manner provided in the applicable operating regulations of the Department.

In cases where gas produced and sold has a value for drip gasoline, casinghead gasoline content, and as dry gas from which the casinghead gasoline has been extracted, then the royalties above provided shall be paid on all such values.

SEC. 27. *Rate of rental for nonutilized gas wells.*—If the gas from a gas producing well is not marketed or utilized, other than for operation of the lease, then for each such well the lessee shall pay such rental as may be determined by the supervisor and approved by the Secretary of the Interior, calculated from the date of the completion of the well. Payment of annual gas rentals shall be made within 30 days from the date such payment becomes due.

SEC. 28. *Royalty payments and production reports.*—Royalty payments on all oil and gas or other producing leases shall be made at the rates, and at such time, and in the manner prescribed by the terms of the lease.

Quarterly reports shall be made by each lessee on non-producing leases other than oil and gas within 25 days after December 31, March 31, June 30, and September 30, of each year, upon forms provided, showing manner of operations and total production during such quarter. A lessee may include within one sworn statement all leases upon which there is no production or upon which dry holes have been drilled. Reports of oil and gas leases where royalty accounting is done in the field office of the supervisor will be made as required in the operating regulations.

SEC. 29. *Division orders.*—Leases may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipeline companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipeline companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipeline company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of these regulations, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representatives shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all the foregoing measurements, which, except lowest gauge, shall be made at the time the oil is turned into the pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

OPERATIONS

SEC. 30. *Permission to start operations.*—No operations will be permitted on any lease before it is approved. Written permission must be secured from the supervisor before any operations are started under any oil and gas lease. Operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the superintendent and no operations should be attempted without a study of the operating regulations.

SEC. 31. *Restrictions on operations.*—Oil and gas leases issued under the provisions of these regulations shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both.

All such leases shall be subject to any cooperative or unit plan of development affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any cooperative or unit plan without prior approval of the Secretary of the Interior. If said plan effects a change in the lease terms, the consent of the lessor or lessors must be obtained before the plan is effective.

SEC. 32. *Wells.*—The lessee shall agree (1) to drill and produce all wells necessary to offset or protect the leased land from drainage by wells on adjoining lands not the property of the lessor, or in lieu thereof, compensate the lessor in full each month for the estimated loss of royalty through drainage: *Provided*, That during the period of supervision by the Secretary of the Interior, the necessity for offset wells shall be determined by the supervisor and payment in lieu of drilling and producing shall be with the consent of, and in an amount determined by the Secretary of the Interior; (2) at the election of the lessee to drill and produce other wells: *Provided*, That the right to drill and produce such other wells shall be subject to any system of well spacing or production allotments authorized and approved under applicable law or regulations, approved by the Secretary of the Interior and affecting the field or area in which the leased lands are situated; and (3) if the lessee elects not to drill and produce such other wells for any period the Secretary of the Interior may, within ten days after due notice in writing, either require the drilling and production of such wells to the number necessary, in his opinion, to insure reasonable diligence in the development and operation of the property, or may in lieu of such additional diligent drilling and production require the payment on and after the first anniversary date of the lease of not to exceed $1 per acre per annum, which sum shall be in addition to any rental or royalty herein specified.

SEC. 33. *Diligence, and prevention of waste.*—The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmen-like manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipe lines crossing tillable lands below plow depth unless other agreements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond his control.

SEC. 34. *Inspection of leased premises, and books and accounts of lessees.*—Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the applicable regulations of the Department; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination by such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.

SEC. 35. *Mines to be timbered properly.*—In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the property leased and safety of workmen.

SEC. 36. *Surrender of leased premises in good condition.*—On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground, with the mine workings in case of leases other than oil and gas, in good order and condition, and the boundsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate any mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

SEC. 37. *Penalties.*—Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of these regulations, orders of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each day the terms of the lease, the regulations, or such orders are violated, or to both such penalty and cancellation: *Provided*, That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

ASSIGNMENTS

SEC. 38. Leases, or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the superintendent within 20 days after the date of execution.

STIPULATIONS

SEC. 39. The lessee under any lease heretofore approved may by stipulation (Form 5–154i), with the consent of the lessor and the approval of the Secretary of the Interior, make such approved lease subject to all the terms, conditions, and provisions contained in the lease form and regulations currently in use. Stipulations shall be filed with the superintendent within 20 days after the date of execution.

CANCELLATIONS

SEC. 40. When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, or if mining operations are conducted wastefully and without regard to good mining practice, the Secretary of the Interior shall have the right at any time after 30 days notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(*a*) That he make application for cancellation to the superintendent having jurisdiction over the land.

(*b*) That he pay a surrender fee of one dollar at the time the application is made.

(*c*) That he pay all royalties and rentals due to the date of such application.

(*d*) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(*e*) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(*f*) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(*g*) If the lease (or portion being surrendered or cancelled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(*h*) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(*i*) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the cancelled parts thereof will be held in the office of the superintendent for five days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(*j*) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

For proper method of terminating Departmental leases covering lands from which restrictions have been removed see section 3 of the Act of May 27, 1908 (35 Stat. 312).

REMOVAL OF RESTRICTIONS

SEC. 41. *Leases executed but not approved before restrictions removed from land.*—Leases executed before the removal of restrictions against alienation on land from all of which restrictions against alienation shall be removed after such execution, if such leases contain specific provision for approval by the Secretary of the Interior, whether now filed with the Department or presented for consideration hereafter, will be considered and acted upon by this Department as heretofore but only for the purpose of approving or disapproving the instrument.

SEC. 42. *Operations after removal of restrictions from leased lands.*—Oil and gas leases heretofore approved and leases for other minerals now or hereafter in force on land from all of which restrictions against alienation have been or shall be removed, even if such leases contain provisions authorizing supervision by this Department, shall, after such removal of restrictions against alienation, be operated entirely free from such supervision, and the authority and power delegated to the Secretary of the Interior in said leases shall cease and all payments required to be made to the superintendent shall thereafter be made to the lessor or the then owner of the land, and changes in regulations thereafter made by the Secretary of the Interior shall not apply to such leased land from which said restrictions are removed.

In the event restrictions are removed from a part of the land included in any lease to which this section applies the entire lease shall continue subject to the supervision of the Secretary of the Interior, and all royalties thereunder shall be paid to the superintendent until such time as the lessor and lessee shall furnish the Secretary of the Interior satisfactory information that adequate arrangements have been made to account for the oil, gas, or mineral upon the restricted land separately from that upon the unrestricted. Thereafter the restricted land only shall be subject to the supervision of the Secretary of the Interior: *Provided*, That the unrestricted portion shall be relieved from such supervision, as in the lease or regulations provided.

SEC. 43. *Relinquishment of Government supervision.*—All oil and gas leases hereafter executed shall contain the following relinquishment of supervision clause and terms operative after such relinquishment, or other provisions similar in substance:

"*Relinquishment of supervision by the Secretary of the Interior.*—Should the Secretary of the Interior, at any time during the life of this instrument, relinquish supervision as to all or part of the acreage covered hereby, such relinquishment shall not bind lessee until said Secretary shall have given 30 days' written notice. Until said requirements are fulfilled, lessee shall continue to make all payments due hereunder as heretofore in section 3 (c). After notice of relinquishment has been received by lessee, as herein provided, this lease shall be subject to the following further conditions:

"(*a*) All rentals and royalties thereafter accruing shall be paid in the following manner: Rentals and royalties shall be paid to lessor or his successors in title, or to a trustee appointed under the provisions of section 9 hereof. Rentals and royalties shall be paid directly to lessor his successors in title, or to said trustee as the case may be.

"(*b*) If, at the time supervision is relinquished by the Secretary of the Interior, lessee shall have made all payments then due hereunder, and shall have fully performed all obligations on its part to be performed up to the time of such relinquishment, then the bond given to secure the performance hereof, on file in the Indian Office, shall be of no further force or effect.

"(c) Should such relinquishment affect only part of the acreage, then lessee may continue to drill and operate the land covered hereby as an entirety: *Provided*, That lessee shall pay in the manner prescribed by section 3 (c), for the benefit of lessor such proportion of all rentals and royalties due hereunder as the acreage retained under the supervision of the Secretary of the Interior bears to the entire acreage of the lease, the remainder of such rentals and royalties to be paid directly to lessor or his successors in title or said trustee as the case may be, as provided in subdivision (a) of this section.

"*Division of fee.*—It is covenanted and agreed that should the fee of said land be divided into separate parcels, held by different owners, or should the rental or royalty interests hereunder be so divided in ownership, after the execution of

this lease and after the Secretary of the Interior relinquishes supervision hereof, the obligations of lessee hereunder shall not be added to or changed in any manner whatsoever save as specifically provided by the terms of this lease. Notwithstanding such separate ownership, lessee may continue to drill and operate said premises as an entirety: *Provided*, That each separate owner shall receive such proportion of all rentals and royalties accruing after the vesting of his title as the acreage of the fee, or rental or royalty interest, bears to the entire acreage covered by the lease; or to the entire rental and royalty interest as the case may be: *Provided further*, That if, at any time after Departmental supervision hereof is relinquished, in whole or in part, there shall be four or more parties entitled to rentals or royalties hereunder, whether said parties are so entitled by virtue of undivided interests or by virtue of ownership of separate parcels of the land covered hereby, lessee at his election may withhold the payment of further rentals or royalties (except as to the portion due the Indian lessor while under restriction), until all of said parties shall agree upon and designate in writing and in a recordable instrument a trustee to receive all payments due hereunder on behalf of said parties and their respective successors in title. Payments to said trustee shall constitute lawful payments hereunder, and the sole risk of an improper or unlawful distribution of said funds by said trustee shall rest upon the parties naming said trustee and their respective successors in title." (The above provisions are copied from oil and gas mining lease form 5–154h, revised April 24, 1935.)

SEC. 44. *Division of royalty to separate fee owners.*—Should the removal of restrictions affect only part of the acreage covered by a lease containing provisions to the effect that the royalties accruing under the lease, where the fee is divided into separate parcels, shall be paid to each owner in the proportion which his acreage bears to the entire acreage covered by the lease, the lessee or assignee of such unrestricted portion will be required to make the reports required by these regulations and the operating regulations with respect to the beginning of drilling operations, completion of wells, and production the same as if the restrictions had not been removed. In the event the unrestricted portion of the leased premises is producing, the owner of the lease thereon will be required to pay the portion of the royalties due the Indian lessor at the time and in the manner specified by these regulations.

SEC. 45. *Restrictions especially continued as to certain lands.*—Restricted lands allotted as either homestead or surplus allotments, designated as tax exempt under section 4 of the Act of May 10, 1928, as amended May 24, 1928 (45 Stat. 495–733), the entire interest in which was acquired by inheritance, gift, device, or purchase with restricted funds, by persons of one-half or more Indian blood, after the passage of the Act of January 27, 1933 (47 Stat. 777), continue to be restricted under the provisions of the last mentioned act and oil and gas leases thereof are subject to these regulations and all such leases to be valid must be approved by the Secretary of the Interior. Lands inherited by or devised to full blood Indians prior to the Act of January 27, 1933 are not affected as to restrictions by the provisions of said act and may continue to be leased with the approval of the county court having jurisdiction of the estate of the deceased allottee and without approval of the Secretary of the Interior (54 L. D. 382; 10 Fed. 2, 487). Lands acquired prior to the passage of the Act of January 27, 1933 by Indians of less than full blood, whether such lands were restricted and tax exempt or restricted and taxable, passed to such persons free of all restrictions. Inherited homesteads restricted prior to April 26, 1931, by section 9 of the Act of May 27, 1908 (35 Stat. 312), for the benefit of heirs of one-half or more Indian blood but less than full bloods, born after March 4, 1906, became unrestricted April 26, 1931, or upon the death prior thereto of the heir born subsequent to March 4, 1906, and oil and gas leases thereof are not subject to these regulations nor under the jurisdiction of the Secretary of the Interior.

FIELD CLERKS

SEC. 46. Local representatives known officially as "field clerks" are located in the various districts, comprising that part of the State of Oklahoma occupied by the Five Civilized Tribes. Such field clerks shall report to and act under the direction of the superintendent. Any and all counsel and advice desired by allottees concerning deeds, leases, or other instruments or matters relating to lands allotted to them shall be furnished by such field clerks free of charge. Field clerks shall not, during their term of employment, have any personal interest, directly or indirectly, in any transaction concerning leases covering lands of allottees or in the purchase or sale of any such lands regardless of whether the restrictions have or have not been removed. This prohibition, however, shall not apply to lands which such field clerks may have legally acquired before their employment in the Indian Service. Field clerks shall report to the superintendent at the end of each month the work performed during such period and special reports shall be made immediately of any apparently illegal transaction involving the estates or allotments of allottees.

FORMS

SEC. 47. Leases, assignments, and other papers must be upon forms prepared by the Department, and upon application the superintendent of the Five Civilized Tribes Agency at Muskogee, Oklahoma, will furnish prospective lessees with such forms at a cost of $1 per set.

Form 5–154. Lease for Minerals other than Oil and Gas.
Form 5–154a. Lessee's personal bond supported by Government securities.
Form 5–154b. Bond for separate leases.
Form 5–154c. Affidavit of Indian lessor, proof of bonus, etc.
Form 5–157d. Authority of Officers to execute papers.
Form 5–154g. Affidavit of personal surety to accompany bond.
Form 5–154h. Oil and gas mining lease.
Form 5–154i. Stipulation modifying terms of oil and gas lease.
Form 5–154m. Bond covering assignment.
Form 5–154u. $15,000 collective bond.
Form F. Proof of heirship.
Form G. Assignment.
Form I. Coal and asphalt lease.

EFFECTIVE DATE

SEC. 48. These regulations shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided*, That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of individually owned lands of the Five Civilized Tribes for mining purposes are superseded by these regulations.

These regulations shall apply in so far as practicable to land purchased for Indians under the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), as well as to other lands of individual Indians of the Five Civilized Tribes.

APRIL 15, 1938.

The foregoing regulations are respectfully submitted to the Secretary of the Interior with the recommendation that they be approved.

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner of Indian Affairs.

Approved April 27, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1268; Filed, May 4, 1938; 9:29 a. m.]

REGULATIONS GOVERNING THE LEASING OF TRIBAL LANDS FOR MINING PURPOSES

(Not Applicable to the Crow Reservation, Montana, or to the Ceded Part of the Wind River Reservation, Wyoming, or to any reservation covered by special regulations)

	Section Number
Acreage Limitation	9
Assignments	26
Cancellations	27
Definitions	1
Effective Date of Regulations	28
Exemption of Leases Made by Organized Tribes	29
Fees	25
Forms	30
Government Reserves Right to Purchase Minerals Procured	11
How to Acquire Leases:	
Additional Information	7
Bonds	6
Corporations and Corporate Information	5
Government Employees May not Become Lessees	4
Lands Must be in Compact Body	8
Sales of Leases	3
Tribal Authority	2
Operations:	
Diligence and Prevention of Waste	19
Mines to be Timbered Properly	23
Inspection of Premises and Books and Accounts	18
Penalties	22
Permission to Begin Operations	20
Restrictions on Operations	21
Surrender of Leased Premises in Good Condition	24
Rents and Royalties:	
Annual Rentals and Expenditures for Development on leases other than oil and gas	14
Division Orders	17
Manner of Payments	12
Rates of Rents and Royalties under oil and gas leases	13
Rates of Royalty for leases other than oil and gas	15
Time of Making Royalty Payments	16
Term of Leases	10

The proviso to section 3 of the act of February 28, 1891 (26 Stat. 795), reads:

That where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the council speaking for such Indians, for a period not to exceed five years for grazing or farming or ten years for mining purposes, in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior.

The act of May 29, 1924 (43 Stat. 244), provides:

That unallotted land on Indian reservations other than lands of the Five Civilized Tribes and the Osage Reservation subject to lease for mining purposes for a period of ten years under the proviso to section 3 of the act of February 28, 1891 (26 Stat. L. 795), may be leased at public auction by the Secretary of the Interior, with the consent of the council speaking for such Indians, for oil and gas mining purposes for a period of not to exceed ten years, and as much longer thereafter as oil or gas shall be found in paying quantities, and the terms of any existing oil and gas mining lease may in like manner be amended by extending the term thereof for as long as oil or gas shall be found in paying quantities.

To carry these provisions of law into effect the following regulations are prescribed:

DEFINITIONS

SEC. 1. The term "superintendent" herein refers to the superintendent or other officer of the Indian Service or of the Government who may have jurisdiction over the lands involved.

The term "supervisor" herein refers to a representative of the Secretary of the Interior, under direction of the United States Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

HOW TO ACQUIRE LEASES

SEC. 2. *Tribal council may authorize leases to be made.*—The Tribal Council of any Indian tribe, speaking for such Indians by resolution properly authenticated, may authorize the Secretary of the Interior to advertise the sale of leases for mining purposes on their tribal lands not needed for farming or agricultural purposes. Except where a tribe is authorized to execute its own leases pursuant to tribal constitution or charter adopted and approved pursuant to provisions contained in the act of June 18, 1934 (48 Stat. 984), the act of May 1, 1936 (49 Stat. 1250, or the act of June 26, 1936 (49 Stat. 1967), the Secretary of the Interior may thereafter authorize and empower any person to be by him designated to execute for and on behalf of any tribe, and subject to his approval, all leases on such lands for oil and gas or other mining purposes, except metalliferous minerals on unallotted lands of Indian reservations in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, or Wyoming, which are subject to lease under section 26 of the act of June 30, 1919 (41 Stat. 31), amended March 3, 1921 (41 Stat. 1225–1231), and December 16, 1926 (44 Stat. 922–923).

SEC. 3. *Sale of oil and gas leases.*—At such times as the Secretary of the Interior may direct, after being authorized by the tribal council, the superintendent shall publish and distribute notices, at least 15 days prior to the sale, that oil and gas leases on specific tracts, each of which shall be in a compact body, will be offered at public auction to the highest responsible bidder. The successful bidder must deposit with the superintendent, on the day of the sale, a certified check or bank draft on a solvent bank in an amount equal to 20 percent of the bonus bid and of the first year's rental as a guaranty of good faith. The balance of the bonus and of the first year's rental shall be paid and the lease in completed form shall be filed with the superintendent within 20 days after the lease is forwarded to the lessee for execution, unless such period shall have been extended by the superintendent for good and sufficient reason. If the successful bidder fails to complete the lease or pay the full consideration within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or of the Department, the amount of bonus and rental deposited will be forfeited, as liquidated damages, for the use and benefit of the Indian lessor.

The right is reserved by the Secretary of the Interior to reject any and all bids and to disapprove and reject prior to approval, any lease made on an accepted bid, and should any bid be rejected or lease disapproved after the bonus and rental deposit is made by the bidder, such deposit shall be returned immediately. The successful bidder or bidders shall pay the costs of publishing and distributing the notices of the sale of leases.

SEC. 4. *Government employees can not acquire leases.*—No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in any mineral lease covering restricted Indian lands by ownership of stock in corporations having such leases or in any other manner.

SEC. 5. *Corporations and corporate information.*—If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof. Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

(I) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(II) A sworn statement of the proper officer showing:

(*a*) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(*b*) Of the stock sold, how much remains unpaid and subject to assessment.

(*c*) The amount of cash the company has in its treasury and elsewhere.

(*d*) The property, exclusive of cash, owned by the company and its value.

(*e*) The total indebtedness of the company and the nature of its obligations.

(*f*) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provision of said Acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(III) Affidavits of individual stockholders, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interests for themselves or in trust.

SEC. 6. *Bond.*—Lessees shall furnish with each lease, a bond (form 5–157c) with personal sureties or with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 80 acres, $1,000; for 80 acres and less than 120 acres, $1,500; for 120 acres and not more than 160 acres, $2,000; and for each additional 40 acres, or part thereof, above 160 acres, $500; *Provided*, That a lessee may file one bond (form 5–157f) in the sum of $15,000, covering all leases of a particular class in any one State up to 10,240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of the lease to increase the amount of a bond above the sum named, in any case where the Secretary of the Interior deems it proper to do so. Bonds with personal sureties will be accepted only where the sureties deposit collateral, with the Commissioner of Indian Affairs, equal in value to the full amount of the bond and consisting of any public debt obligation of the United States, guaranteed as to principal and interest by the United States. In lieu of other bonds, lessees may execute their own surety contracts upon deposit, with the Commissioner of Indian Affairs, of Government bonds, equal in value to the full amount of the bond, as collateral (form 5–154a).

SEC. 7. *Lessees to furnish additional information.*—The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out these regulations. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

SEC. 8. *Lands to be in compact body.*—The area covered by a lease shall be in a reasonably compact body and shall conform to the system of public-land surveys, except that leases covering lode ground may consist of one or more adjoining parallelograms 1,500 feet in length by 600 feet in width, as provided by the United States mining laws. No lease under these regulations shall convey any extralateral rights, and no coal lease shall have a length exceeding one mile along the outcrop.

ACREAGE LIMITATION

SEC. 9. (*a*) Except in the State of Oklahoma, no individual, corporation, partnership, company, or association shall be permitted to hold under leases for oil and/or gas mining purposes, restricted allotted or unallotted Indian lands in any one State in excess of 10,240 acres in the aggregate: *Provided*, That any such individual, corporation, partnership, company, or association may hold leases on not to exceed 10,240 acres of tribal lands within that part of the Navajo Reservation lying within the State of New Mexico, irrespective of other holdings in said State: *Provided further*, That the acreage leased by any officer or director of a company shall be charged against the company, and vice versa, and the acreage shall also be charged in the case of stockholders owning 40 or more percent of the stock. The acreage of companies having common stockholders owning a majority of the stock of each company shall be charged against each other, or in case such companies have one or more common officers or directors. In all other cases each corporation will be considered a separate and distinct entity.

(*b*) On deposits of the nature of lodes or veins, containing ores of gold, silver, copper, lead, zinc, or other useful metals, not more than 640 acres.

(*c*) For beds of placer gold, gypsum, asphaltum, phosphate, iron ores, or other useful minerals other than coal, oil, and gas, not more than 960 acres.

(*d*) For coal, not more than 10,240 acres.

TERM OF LEASES

SEC. 10. Oil and gas mining leases shall be made for periods of ten years from the date of approval by the Secretary of the Interior and as much longer as the substances specified in the lease are produced in paying quantities.

Leases for minerals other than oil and gas shall be for a period of ten years.

GOVERNMENT RESERVES RIGHT TO BUY MINERALS PRODUCED

SEC. 11. In time of war or other public emergency all of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the substance or substances produced under any lease.

RENTS AND ROYALTIES

SEC. 12. *Manner of payments.*—Except where otherwise provided by the terms of leases where the tribes are organized under the act of June 18, 1934 (48 Stat. 984), all rents and other payments due under leases which have been or may be approved by the Secretary of the Interior shall be paid to the superintendent or to such other person as may be designated by the Secretary of the Interior, for the benefit of the lessors. Except advance payments for the first year which shall be sent direct to the superintendent at the time of filing leases, payments of rental and royalty under leases shall be transmitted through the supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such time or times as the lease provides.

In the event of the discovery of minerals in paying quantities all advance payments shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund will be made under oil, gas, or other mining leases, in the event that royalty from production is not sufficient to equal the advance payment, nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved from the obligation to pay said advance rental annually when it becomes due, by reason of any subsequent surrender or cancellation of the lease.

SEC. 13. *Rates of rentals and royalties under oil and gas leases.*—The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ percent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or

all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond the lessee's control. In determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be two-thirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casinghead gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

SEC. 14. *Annual rentals and expenditures for development on leases other than oil and gas.*—Lessees other than oil and gas lessees shall pay on all leases annually in advance for the first calendar year or fraction thereof a rent of 25 cents per acre; for the second and third years, 50 cents per acre; and for the fourth and each succeeding calendar year $1 per acre.

On all leases of class (b) referred to in section 9 of these regulations, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $5 per acre.

On all leases of class (c) referred to in section 9 of these regulations, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $100 for each 160 acres or fraction thereof included in the lease.

On all leases of class (d) referred to in section 9 of these regulations there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $10 per acre.

Each lessee of a nonproducing lease designated in class (b), (c), or (d) in section 9 of these regulations, shall file with the superintendent an itemized statement in duplicate within 20 days after the close of each calendar year of the amount and character of said expenditure during such year, the statement to be certified under oath by the lessee or his agent having personnal knowledge of the facts contained therein.

SEC. 15. *Royalty rates for minerals other than oil and gas.*—For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

For gold, silver, copper, lead, zinc, and tungsten, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent, to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale, and to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the superintendent within ten days after the ending of the quarter or other period specified in the lease within which such returns are made: *Provided, however*, That the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten percent of the value of ores and concentrates sold at the mine.

For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten cents per ton of 2,000 pounds of mine run, or coal as taken from the mine, including what is commonly called "slack."

For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material and of not less than 60 cents per ton on refined substances.

SEC. 16. *Time of making royalty payments.*—Royalty payments under producing oil and gas leases shall be made monthly on or before the last day of the calendar month following the calendar month for which such payment is to be made.

SEC. 17. *Division orders.*—Lessees may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of these regulations, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representative shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all of the foregoing measurements; which, except lowest gauge, shall be made at the time the oil is turned into the pipeline. Failure of the lessee to perform properly these duties will subject the division order to revocation.

OPERATIONS

SEC. 18. *Inspection of leased premises, and books and accounts of lessee.*—Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the regulations of the Department governing operations on public and restricted Indian lands; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.

SEC. 19. *Diligence, and prevention of waste.*—The lessee shall exercise diligence in drilling and operating wells for

oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

SEC. 20. *Permission to start operations.*—No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

Written permission must be secured from the supervisor before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the superintendent and no operations should be attempted without a study of the operating regulations.

SEC. 21. *Restrictions on operations.*—Oil and gas leases issued under the provisions of these regulations shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

All such leases shall be subject to any cooperative or unit development plan affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any cooperative or unit plan without prior approval of the Secretary of the Interior, and consent of the Indian tribe affected.

SEC. 22. *Penalties.*—Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of these regulations, order of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation: *Provided*, That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

SEC. 23. *Mines to be timbered properly.*—In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the leased property and safety of the workmen.

SEC. 24. *Surrender of leased premises in good condition.*—On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate the mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

FEES

SEC. 25. All leases and assignments shall be executed in sextuplet and when filed with the superintendent shall be accompanied by a filing fee of $5 which is hereby required pursuant to provisions contained in the act of February 14, 1920 (41 Stat. 408–415), as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). This fee will be refunded in case the instrument is disapproved.

ASSIGNMENTS

SEC. 26. (*a*) Approved leases or any interest therein may be assigned or transferred only with the approval of the Secretary of the Interior and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof: *Provided*, That in order for such assignment to receive favorable consideration the lessee shall assign either his whole interest or an undivided interest in the whole lease.

(*b*) No lease or interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior.

(*c*) Assignments of leases, and stipulations modifying the terms of existing leases, which stipulations are also subject to the approval of the Secretary of the Interior, shall be filed with the superintendent within 30 days after the date of execution.

CANCELLATIONS

SEC. 27. When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Secretary of the Interior shall have the right at any time after 30 days notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(*a*) That he make application for cancellation to the superintendent having jurisdiction over the land.

(*b*) That he pay a surrender fee of one dollar at the time the application is made.

(*c*) That he pay all royalties and rentals due to the date of such application.

(*d*) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(*e*) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(*f*) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(*g*) If the lease (or portion being surrendered or canceled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(*h*) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(*i*) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the superintendent for five days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(*j*) In the event oil or gas is being drained from the leased premises by wells not covered by the lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

EFFECTIVE DATE OF THESE REGULATIONS

SEC. 28. These regulations shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided*, That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of tribal lands for mining purposes are superseded by these regulations.

EXEMPTION OF LEASES MADE BY ORGANIZED TRIBES

SEC. 29. These regulations may be superseded by the provisions of any tribal constitution, by-law or charter issued pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the Alaska Act of May 1, 1936 (49 Stat. 1250), or the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), or by ordinance, resolution or other action authorized under such constitution, by-law or charter. These regulations, in so far as they are not so superseded, shall apply to leases made by organized tribes if the validity of the lease depends upon the approval of the Secretary of the Interior.

FORMS

SEC. 30. Applications, leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the superintendent will furnish prospective lessees with such forms at a cost of ten cents each or $1 per set.

Form 5–154a. Lessee's personal bond supported by Government securities.
Form 5–157. Oil and gas lease.
Form 5–157b. Mining lease other than oil and gas.
Form 5–157c. Bond for separate leases.
Form 5–157d. Authority of officers to execute papers.
Form 5–157e. Assignment.
Form 5–157f. Collective bond.
Form 5–157g. Stipulation.

Moneys received from the sale of forms should be deposited as Miscellaneous Receipts to the credit of Receipt Account 145060 "Sale of Forms" unless the expense of printing the forms was paid from tribal moneys, in which event, the receipts from the sale of the forms should be deposited to the credit of the tribe.

MARCH 26, 1938.

The foregoing regulations are respectfully submitted to the Secretary of the Interior with the recommendation that they be approved.

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner of Indian Affairs.

Approved April 27, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1269; Filed, May 4, 1938; 9:29 a. m.]

DEPARTMENT OF LABOR.

Office of the Secretary.

DECISION OF THE SECRETARY IN THE MATTER OF THE PREVAILING MINIMUM WAGES IN THE ENVELOPE INDUSTRY

This matter is before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036). At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on March 1, 1938, in the above entitled matter.

Notices of the hearing were sent to all known members of the industry, to the trade unions whose memberships include employees in the industry, and to all known trade associations and trade publications. Invitation to attend the hearing was extended through the national press to all other interested parties.

At the hearing testimony was presented by the Envelope Manufacturers Association of America, the International Printing Pressmen and Assistants Union of North America and by several members of the industry.

The Board has reviewed the testimony received at the hearing and on the basis thereof advises me as follows:

The Census of Manufacturers for 1935 indicates that there were at that time 166 establishments in the envelope industry and 9,038 wage earners.

The Envelope Manufacturers Association of America introduced in evidence wage data in the form of a frequency table showing in 5 cent intervals the wages paid to employees in this industry as of a pay roll period in September, 1937. This table resulted from a wage survey made by the Envelope Manufacturers Association of America in October, 1937. The tabulation incorporated wage data for 6,562 employees in 98 envelope manufacturing plants located in 40 cities in 22 states. The data included were received from non-members as well as members of the Envelope Manufacturers Association. The 98 manufacturing plants whose wage data are included in the survey represent 55 per cent of the total number of envelope manufacturing plants in the United States and over 75 per cent of the total output of the industry. These data were supplemented by information received at the hearing from industry members who did not furnish the Envelope Manufacturers Association with data to be included in the survey. The evidence showed a distinct homogeneity of wage structure throughout all states. Wage differentials existed between plants in a state rather than between plants in different states or manufacturing areas.

3,073 workers out of the 6,562 covered in the principal survey fall into wage intervals below 50 cents. Most of these, or 2,654, are tenders of automatic machinery and the wage concentration for this group occupation is between 40 and 45 cents.

The Board recommends that the prevailing minimum wage in the manufacture of envelopes be found to be 42½ cents per hour or $17.00 per week for a week of 40 hours, arrived at either upon a time or piece work basis.

I have examined the findings and recommendations of the Board and the record of the hearing, and I am of the opinion that such findings and recommendations are correct and I adopt them as my own.

Therefore, I hereby determine

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036) for the manufacture or supply of envelopes shall be 42½ cents per hour or $17.00 per week for a week of 40 hours, to be arrived at either upon a time or piece work basis.

This determination shall be effective and the minimum wage hereby established shall apply to all such contracts awarded on or after May 12, 1938.

[SEAL]

FRANCES PERKINS,
Secretary of Labor.

Dated this 27th day of April 1938.

[F. R. Doc. 38–1273; Filed, May 4, 1938; 10:28 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of May, A. D. 1938.

[File No. 32-86]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, for exemption from the provisions of section 6 (a) of said Act for the issue and sale of

(a) First and General Mortgage Bonds, Series G, 4%, dated October 1, 1935, and maturing October 1, 1960, in the principal amount of $1,000,000 to The Travelers Insurance Company at private sale at the price of 100% of the principal amount thereof plus accrued interest to the date of delivery; the net proceeds to be devoted to reduction of bank loans heretofore made to applicant by The First National Bank of Boston; and

(b) 5,000 shares of common stock, no par value, at the price of $100 per share; such shares to be first offered to the holders of applicant's common stock and 6% preferred stock at said price on the basis of one share for every 26.2702 outstanding shares then held by such holders; the proceeds of such sales, together with all of said common stock not subscribed for and paid for by such holders to be delivered to New England Public Service Company in full payment of an advance of $500,000 made by that company to applicant.

It is ordered, That a hearing on such matter be held on May 24, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 19, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1280; Filed, May 4, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of May, A. D. 1938.

[File No. 32-87]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Public Service Company of New Hampshire, a subsidiary of New England Public Service Company, a registered holding company, for exemption from the provisions of section 6 (a) of said Act for the issue and sale of

(a) First Mortgage 3¾% Bonds, Series C, dated August 1, 1935, and maturing August 1, 1960, in the principal amount of $750,000, to The Northwestern Mutual Life Insurance Company of Milwaukee, Wisconsin, at private sale at the price of 103% of the principal amount thereof plus accrued interest from February 1, 1938 to the date of delivery; $475,000 of the proceeds of such sale to be used for payment and discharge of bank loans outstanding in an equal amount and the balance to be used for other corporate purposes; and

(b) 4,000 shares of common stock, without par or face value, to New England Public Service Company at the price of $50 per share to repay an advance of $200,000 made by that company to applicant.

It is ordered, That a hearing on such matter be held on May 24, 1938, at two o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 19, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1281; Filed, May 4, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on this 29th day of April 1938.

[File No. 32-85]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER EXEMPTING ISSUE AND SALE OF NOTE AUTHORIZED BY STATE COMMISSION

New York State Electric & Gas Corporation, a subsidiary company of NY PA NJ Utilities Company, Associated Gas & Electric Corporation, and Associated Gas & Electric Company, registered holding companies, having duly filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of said Act of the issue and sale, by the applicant to The Chase National Bank of New York City, of a 4% serial note of the face value of $2,000,000, to be secured by $2,000,000 principal amount of applicant's first mortgage bonds, 4% series due 1965 (exemption being also sought for the issuance of such bonds as collateral security); a hearing on said application having been duly held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, That the issue and sale of such note, and the issue and pledge as collateral security of such bonds, be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; subject, however, to the following conditions:

(1) That such issue and sale of such note, and issue and pledge of such bonds, shall be in compliance with the terms and conditions of, and for the purposes represented by, said application, and in compliance with the terms and conditions imposed by the order of the Public Service Commission of New York.

(2) That such exemption shall terminate immediately if, at any time, the authorization of such issue and sale by the Public Service Commission of New York shall be revoked or shall otherwise terminate.

(3) That such bonds shall not be sold except at a bona fide sale by or on behalf of the pledgee, or its successors or assigns, to satisfy said note, or by the purchaser at such sale, or by his or its successors or assigns.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1279; Filed, May 4, 1938; 12:44 p. m.]

Friday, May 6, 1938 *No. 89*

WAR DEPARTMENT.

RULES AND REGULATIONS PRESCRIBED TO GOVERN VESSELS AT LOCALITIES ALONG THE MISSISSIPPI RIVER FROM THE CACHE RIVER, ILLINOIS, TO THE HEAD OF THE PASSES, LOUISIANA, INCLUDING NEW ORLEANS HARBOR, WHERE BANK PROTECTION WORKS HAVE BEEN PROVIDED BY THE UNITED STATES

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

SEC. 7. That it shall be the duty of the Secretary of War to prescribe such regulations for the use, administration and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

THE REGULATIONS

In pursuance of the foregoing law, the following rules and regulations are prescribed to govern vessels at localities along the Mississippi River from the Cache River, Illinois, to the Head of the Passes, Louisiana, including New Orleans Harbor, where bank protection works have been or may hereafter be provided by the United States.

1. Except in case of emergency no vessel, boat or other floating craft shall anchor over mattress work. No floating craft other than launches and similar small craft, shall land against banks protected by mattress work or paving except at the regular commercial landings or in emergency. In all cases every precaution to avoid damages to the mattress work and/or paving shall be exercised.

2. The construction of log rafts along mattressed or paved banks or the tying up and landing of log rafts against same must be performed in such a manner as to cause no damage to the mattress work or bank paving.

3. The location of mattress work in New Orleans Harbor is indicated on the accompanying map[1] and by warning signs erected at the ends and center of each reach of mattress work. The location of all pertinent lengths of mattressed bank from Cache River, Illinois, to and including New Orleans Harbor, is given in the list appended hereto. Generally, mattress work extends out into the river 600 feet from the low water line. Information concerning the location of such mattress work as may be provided hereafter may be obtained from the President, Mississippi River Commission, Vicksburg, Mississippi.

4. These regulations shall take effect and be in force on and after the date of approval hereof.

Approved April 14, 1938.

[SEAL] HARRY H. WOODRING, *Secretary of War*.

Location of Existing Mattress Work on the Mississippi River From Cache River, Illinois, to the Head of Passes

Location	Bank	Miles above Cairo	Miles above Cairo
Below Cache River, Ill. (on Ohio River)	Right	4.1	2.2
Cairo, Ill. (on Ohio River)	do	1.4	1.2
			Miles below Cairo, 1937
Do	do	.5	0.3
		Miles below Cairo, 1937	
Beckwith Bend, Mo	do	32.5	33.3
Hickman, Ky	Left	35.5	37.1
Reelfoot Front, Ky	do	38.2	40.7
Bend Island No. 8, Mo	Right	44.1	45.7
Chute of Island No. 8, Ky	Left	45.3	46.7
Slough Landing Neck, Tenn	do	61.0	63.9
New Madrid, Mo	Right	71.2	72.0
New Madrid Bend, Mo	do	73.1	75.8
Merriwether Bend, Tenn	Left	89.2	90.6
Hathaway Landing, Tenn	do	104.5	105.5
Gayoso Bend, Mo	Right	106.0	110.4
Caruthersville, Mo	do	111.4	112.4
Bells Point, Mo	do	114.0	115.2
Linwood Bend, Tenn	Left	117.4	119.8
Island No. 18, Mo	Right	122.5	123.2
Huffman-Hickman, Ark	do	130.5	132.5
Barfield, Ark	do	141.8	144.0
Kate Aubrey, Tenn	Right	156.6	157.5
Keyes Point, Tenn	Left	159.8	161.9
Elmot Bar, Tenn	Right	162.4	163.4
Osceola, Ark	do	164.2	165.0
Upper Bullerton Bar, Ark	do	165.5	166.5
Lower Bullerton Bar, Ark	do	167.7	169.5
Island No. 34, Tenn	do	178.8	179.7
Golden Lake, Ark	do	191.5	192.3
Bend of Island No. 35, Ark	do	193.1	194.2
Chute of Island No. 35, Tenn	do	190.5	193.0
Happy Valley, Ark	do	205.8	207.5
Hopefield Bend, Ark	do	225.6	226.3
Memphis Front, Tenn	Left	227.0	228.2
Tennessee Chute, Tenn	do	231.0	231.3
Bauxippi—Wynnoke, Ark	Right	231.6	235.7
Cow Island Bend, Ark	Right	247.4	249.3
Norfolk, Miss	Left	252.0	253.8
Star Landing, Miss	do	255.1	256.1
Porter Lake, Ark	Right	258.6	260.2
Polks Landing, Miss	Left	262.6	264.5
Mhoon Bend, Miss	do	272.9	273.7
Walnut Bend, Ark	Right	277.7	278.6
Trotters Landing, Miss	Left	302.6	305.6
Helena, Ark	Right	307.0	308.0
Delta, Miss	Left	314.3	315.1
Friar Point, Miss	do	317.6	318.4
Old Town Bend, Ark	Right	324.7	326.4
Fair Landing, Ark	do	335.2	336.9
Avenue, Ark	do	343.8	346.7
Sunflower, Miss	Left	353.6	355.3
Knowlton, Ark	Right	364.3	366.3
Laconia, Ark	do	376.0	376.3
Riverton, Miss	Left	396.5	397.7

[1] Filed with original document.

Location of Existing Mattress Work on the Mississippi River From Cache River, Illinois, to the Head of Passes—Con.

Location	Bank	Miles above Cairo	Miles above Cairo
Cypress Bend, Ark	Right	426.4	427.7
Arkansas City-Yellow Bend, Ark	do	437.4	439.6
Millers Bend, Miss	Left	458.9	460.1
Leland Neck Cut-off, Ark	do	472.7	472.9
LaGrange Towhead, Miss	do	483.7	484.6
Warfield Point, Miss	do	485.0	485.6
Vaucluse, Ark	Right	489.2	489.4
Sunnyside, Ark	do	390.9	492.5
Lower American Cut-off, Miss	Left	496.9	497.5
Grand Lake, Ark	Right	508.8	511.4
Princeton, Miss	Left	514.9	516.1
Valewood, Miss	do	528.0	529.4
Lake Providence, La	Right	540.2	541.1
Hagaman, La	do	543.7	548.7
Fitler Bend, Miss	Left	551.0	553.1
Cottonwood, Miss	do	556.1	558.1
Goodrich, La	Right	561.2	562.0
Milliken Bend, La	do	583.5	584.5
False Point, La	do	596.5	596.9
Delta Point, La	do	600.1	600.8
Vicksburg Harbor, Miss	Left	601.4	601.9
Barge Line Terminal, Miss	do	653.7	655.8
Hardscrabble Bend, La	Right	656.8	657.9
Bondurant Chute, La	do	663.4	664.2
Cottage Bend, La	do	671.0	675.1
Kempe Bend, La	do	704.6	705.1
Natchez Front, Miss	Left	705.3	705.8
Grand Bay, La	Right	815.3	816.4
Plaquemine Bend, La	do	861.3	861.8
White Castle Bend, La	do	862.3	863.2
Reserve, La	Left	877.6	878.5
Kenner Bend, La	do	932.0	932.5
Avondale Bend, La	Right	955.9	957.3
Carrollton Bend N. O. H., La	Left	961.6	962.6
Greenville Bend N. O. H., La	Right	963.4	964.6
Gretna Bend N. O. H., La	Left	965.4	967.7
Gouldsboro Bend N. O. H., La	Right	968.2	971.5
Algiers Point, N. O. H., La	do	973.1	975.5
Third District Reach, N. O. H., La	Left	975.6	979.0

[F. R. Doc. 38–1284; Filed, May 5, 1938; 9:59 a. m.]

REVOCATION OF REGULATIONS TO GOVERN THE OPERATION OF THE NEW CASTLE COUNTY BRIDGE ACROSS THE CHRISTIANA RIVER AT CHRISTIANA, DELAWARE

APRIL 20, 1938.

1. On April 2, 1897, the Secretary of War prescribed regulations to govern the operation of the draws of the highway bridges across the Christiana River, including Churchman's and Christiana Village County bridges (E. D. 18023/13).

2. These drawbridges were recently replaced by fixed bridges constructed pursuant to plans approved by the Department on April 12, 1932, and August 29, 1935, respectively. There is no further need for the regulations approved in 1897 and, accordingly, I recommend that they be revoked.

[SEAL] J. L. SCHLEY,
Major General,
Chief of Engineers.

Recommendation approved April 23, 1938.

HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38–1283; Filed, May 5, 1938; 9:58 a. m.]

REGULATIONS TO GOVERN THE OPERATION OF DRAWBRIDGES ACROSS THE CHRISTIANA RIVER, DELAWARE

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

SEC. 5. That it shall be the duty of all persons owning, operating and tending the drawbridges now built, or which may hereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of War the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two thousand dollars nor less than one thousand dollars, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this section may be commenced before any commissioner, judge, or court of the United States, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further*, That whenever, in the opinion of the Secretary of War, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any violation thereof shall be punished as hereinbefore provided.

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are prescribed to govern the operation of the drawbridges across the Christiana River, Delaware.

1. The owners of, or agencies controlling, the bridges shall provide the appliances and the personnel necessary for the safe, prompt and efficient opening of the draws at any time during the day or night for the passage of any vessel or other water craft which cannot pass under the closed draws, when the following signal is received:

Three (3) blasts of a whistle or horn.

When the draw of the bridge *can* be opened immediately, the draw tenders shall reply by:

Two (2) blasts of a whistle or horn.

When the draw of the bridge *cannot* be opened immediately, or when the bridge is open and is to be closed immediately, the draw tender shall reply by:

One (1) blast of a whistle or horn.

2. Upon hearing or perceiving the prescribed signal, the bridge tender shall immediately clear the draw span and open the draw to its full extent for the passage of the vessel or other craft: *Provided*, That the draw of a railroad bridge need not be opened when there is a train in the bridge block approaching the bridge with the intention of crossing, nor within 5 minutes of the known time of passage of a scheduled passenger, mail or express train; but in no event, except in case of breakdown of the operating machinery, shall the opening of the draw be delayed more than 5 minutes in the case of a highway bridge, nor more than 10 minutes in the case of a railroad bridge.

3. Vehicles, street cars, locomotives, and trains shall not be stopped on the draw spans, nor shall locomotives or trains be stopped in the bridge blocks of railroad bridges in such manner as to delay the operation of the draws, except in case of urgent necessity, nor shall vessels be moored to the bridge fenders or so maneuvered as to unnecessarily hinder or delay the closing of the draw; but all passages over, through, or under the bridges shall be prompt, to avoid delay to either land or water traffic.

4. The owners of, or agencies controlling, the bridge shall provide and keep in good legible condition two board gauges painted white with black figures not less than 6 inches high, to indicate the headroom clearance under the closed span at all stages of the tide. These gauges shall be so placed on the ends of the draw span fenders that they will be plaintly visible to the navigators approaching the bridge from either direction.

5. These regulations shall take effect and be in force on and after May 15, 1938, and the regulations approved April 2, 1897 (E. D. 18023/12 and 13), and November 9, 1916 (E. D. 46046/19), heretofore prescribed to govern the operation of these drawbridges are hereby revoked to take effect on that date.

Approved April 27, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38–1286; Filed, May 5, 1938; 10:02 a. m.]

MODIFICATION OF REGULATIONS FOR FISH TRAPS IN THE BOSTON, MASSACHUSETTS, ENGINEER DISTRICT

APRIL 29, 1938.

1. On December 15, 1919, the Acting Chief of Engineers approved fishing regulations governing the coastal waters of Massachusetts, from the boundary line between New Hampshire and Massachusetts to the mouth of Bass River pursuant to the provisions of Section 10 of the River and Harbor Act of March 3, 1899 (E. D. 117699/1).

2. Regulations were approved March 28, 1930, by the Secretary of War to govern fishing in the Atlantic Ocean and adjacent waters between Chatham, Massachusetts, and Gardiners Point, Long Island, pursuant to Section 10 of the aforementioned Act of Congress (7223(Prov. D.O.)-16/2).

3. In order to eliminate an overlapping of regulations in the section between Chatham and the mouth of Bass River the title and the first paragraph of the regulations approved December 15, 1919, are hereby revised to read as follows:

COASTAL WATERS OF MASSACHUSETTS FROM NEW HAMPSHIRE BOUNDARY TO CHATHAM, MASS.

The attention of those engaged and of those who propose to engage in weir, trap and pound fishing in the coastal waters of Massachusetts, from the boundary line between New Hampshire and Massachusetts to the southern end of Nauset Beach at Chatham Bar, is called to the provisions of Sections 10, 12 and 17 of the River and Harbor Act of March 3, 1899.

By authority of the Secretary of War.

[SEAL] J. L. SCHLEY,
Major General,
Chief of Engineers.

[F. R. Doc. 38–1285; Filed, May 5, 1938; 10:01 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

NEW MEXICO GRAZING DISTRICT NO. 3

MODIFICATION

APRIL 29, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of July 11, 1935, establishing New Mexico Grazing District No. 3, is hereby revoked as far as it affects the following-described lands:

NEW MEXICO

New Mexico Principal Meridian

T. 20 S., R. 2 W., W½NE¼, NW¼ sec. 11;
T. 15 S., R. 6 W., sec. 31;
T. 15 S., R. 7 W., S½ sec. 23, S½ sec. 24, secs. 25, 26, 27, 33, 34, 35, and 36;
T. 16 S., R. 7 W., secs. 3, 4, 9, and 10;
T. 23 S., R. 7 W., S½ sec. 33, SW¼, SE¼SE¼ sec. 34;
T. 24 S., R. 7 W., N½NE¼NE¼ sec. 3;
T. 18 S., R. 10 W., SW¼NW¼ sec. 26;
T. 16 S., R. 11 W., secs. 14 to 17, 20 to 23, 25 to 29, and 32 to 36 inclusive;
T. 17 S., R. 11 W., secs. 1 to 4, 9 to 16, and 19 to 36 inclusive;
T. 17 S., R. 12 W., secs. 3, 4, SW¼SW¼ sec. 7, secs. 9, 10, 15, 16, W½W½ secs. 18 and 19, secs. 20 to 36 inclusive;
T. 16 S., R. 13 W., secs. 31 and 32;
T. 17 S., R. 13 W., secs. 5 to 8, 16 to 21, and 28 to 33 inclusive;
Tps. 18 and 19 S., R. 13 W., all;
T. 16 S., R. 14 W., secs. 35 and 36;
T. 17 S., R. 14 W., secs. 1, 2, 11 to 16, 21 to 28, and 31 to 36 inclusive;
Tps. 18, 19, and 20 S., R. 14 W., all;
T. 13 S., R. 17 W., W½ sec. 30, sec. 31;
T. 26 S., R. 20 W., NW¼ sec. 25.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38–1288; Filed, May 5, 1938; 10:05 a. m.]

NEW MEXICO GRAZING DISTRICT NO. 4

MODIFICATION

APRIL 30, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing New Mexico Grazing District No. 4, is hereby revoked as far as it affects the following-described lands:

NEW MEXICO

New Mexico Principal Meridian

T. 1 N., R. 3 E.,
exclusive of Sevilleta Grant;
T. 22 S., R. 4 E.,
sec. 21, NW¼SW¼;
sec. 28, SE¼NW¼, W½NE¼;
T. 16 S., R. 10 E.,
sec. 6, lots 16 and 17;
sec. 7, lot 3;
T. 6 S., R. 13 E.,
secs. 30 and 31;
T. 8 S., R. 13 E.,
secs. 5 to 8, 17 to 20, and 29 to 32 inclusive;
T. 9 S., R. 13 E.,
secs. 5 and 6.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38–1287; Filed, May 5, 1938; 10:05 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Agricultural Economics.

AMENDMENT NO. 2 TO THE REGULATIONS GOVERNING THE INSPECTION AND CERTIFICATION OF RICE WITH RESPECT TO CERTIFICATES OF ORIGIN

By virtue of the authority vested in the Secretary of Agriculture by the act of Congress entitled, "An Act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938 and for other purposes," approved June 29, 1937, (50 U. S. Stat. L. p. 395), I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish and give public notice of the following amendment to the regulations governing the inspection and certification of rice, as heretofore promulgated and amended, to become effective immediately and to continue in force and effect so long as Congress shall provide the necessary authority therefor, unless amended or superseded by regulations hereafter prescribed and promulgated under such authority.

Immediately following Section 20 of Regulation 3, insert a new section as follows:

SEC. 20-a. Origin Certificate.—Upon application of an interested party, a rice inspection certificate may be issued by an inspector to state that any rice sampled or inspected by him is of United States origin provided he determines this to be the fact.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 5th day of May 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1291; Filed, May 5, 1938; 12:33 p. m.]

Commodity Exchange Administration.

AMENDMENT TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authority vested in the Secretary of Agriculture by the Commodity Exchange Act (7 U. S. C. and Supp. III, secs. 1–17a), as amended by the act of Congress, approved April 7, 1938 (Public, No. 471, 75th Cong.), I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe,

publish, and give public notice of the following amendment to the rules and regulations of the Secretary of Agriculture under said act promulgated July 14, 1937, as amended, said amendment to be effective immediately and until amended or superseded under the authority of said act, as amended.

Section 11 of article I of said rules and regulations is amended to read as follows:

SEC. 11. Each application for registration, or renewal thereof, shall be accompanied by a registration (or renewal) fee of ten dollars ($10), in the form of a money order, bank draft, or certified check, payable to the Treasurer of the United States, and the application and fee shall be forwarded to the Commodity Exchange Administration, Department of Agriculture, Washington, D. C.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 4th day of May 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1292; Filed, May 5, 1938; 12:33 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 90]

THE FEDERAL LAND BANK OF BALTIMORE

FEES TO BE CHARGED APPLICANTS FOR PARTIAL RELEASES OF SECURITY FOR FEDERAL LAND BANK AND LAND BANK COMMISSIONER LOANS IN THE SECOND FARM CREDIT DISTRICT

Pursuant to Paragraph "Ninth," Section 13, of the Federal Farm Loan Act, as amended [12 U. S. C. 781 (Ninth)], Section 32 of the Emergency Farm Mortgage Act of 1933, as amended, (12 U. S. C. 1016), the "Association and Bank Fee Regulations" prescribed by the Land Bank Commissioner thereunder, effective January 1, 1936 [FLB 1001, LB EXAM. 548, NFLA EXAM. 238, December 14, 1935; Chap. II, Sec. 6 (b), Federal Register Compilation]; and by action of the Executive Committee of The Federal Land Bank of Balitimore on August 30, 1937, amended and readopted on February 4, 1938, approved by the Land Bank Commissioner March 1, 1938, the following fees shall be charged applicants for partial releases of security for Federal Land Bank or Land Bank Commissioner loans in the Second Farm Credit District:

1. $15.00—where one or more Federal Land Bank mortgages cover the portion to be released and the loans are endorsed by a national farm loan association. No additional fee shall be charged for the release from a Land Bank Commissioner mortgage which is second to such Land Bank mortgage.

A. $5.00 shall be paid to the association which endorsed the loan, of which $3.00 may be used by the association to pay its loan committee or investigator and $2.00 shall be placed in the general funds of the association.

2. $11.00—shall be paid with each application for release from direct Federal Land Bank mortgages and no additional fee shall be charged for a partial release from a Land Bank Commissioner mortgage which is junior to such direct mortgage loans.

A. $1.00 of the said fee shall be paid to the correspondent through whom the direct loan is being serviced as compensation for his services in the preparation of the application and/or any other service he may render the Bank in closing the transaction.

3. $11.00—shall be charged for each application for partial release from a Land Bank Commissioner first mortgage.

A. $1.00 shall be returned to the correspondent or the national farm loan association servicing the Commissioner loans in the territory from which the application is submitted. The association receiving such fees shall deposit them in a general fund of the association.

In every case the $10.00 fee retained by the Bank shall be taken into the earnings of the Bank if an appraisal of the property has been made in connection with the application for partial release, but in the event that no appraisal of the property is made, $7.00 shall be refunded to the person who originally paid the fee, such refund to be made through the association or correspondent from whom the fee was received at the time the action of the Bank on the application is reported to the borrower, and the remaining $3.00 of said fee taken into the earnings of the Bank.

[SEAL] THE FEDERAL LAND BANK OF BALTIMORE,
CHARLES S. JACKSON, *President.*

[F. R. Doc. 38-1290; Filed, May 5, 1938; 12:03 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3329]

IN THE MATTER OF RALPH C. CURTISS, ALIAS C. A. DAVIS, INDIVIDUALLY AND AS SOLE TRADER UNDER THE NAME AND STYLE OF CHEMICAL PRODUCTS, MNFRS., AND MORRIS E. NEWMAN, INDIVIDUALLY AND AS SOLE TRADER UNDER THE STYLE AND NAME OF AUTOMOTIVE TEST LABORATORIES OF AMERICA

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers and substitute answer of respondents, in which answers and substitute answer respondents admit all the material allegations of the complaint to be true, and state that they waive hearing on the charges set forth in the complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon them findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Ralph C. Curtiss, alias C. A. Davis, individually and as sole trader under the name and style of Chemical Products Mnfrs., or trading under any other name, in connection with the offering for sale, sale, and distribution of the products now known as and sold under the name of Hytense and Hypower, or the same or similar products under whatever name sold, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing directly or indirectly:

1. That the product "Hytense":

(*a*) is a gasoline saver,
(*b*) reduces motor knock and gasoline consumption,
(*c*) increases combustion and mileage,
(*d*) removes and prevents carbon formation,
(*e*) lubricates upper cylinders,
(*f*) does not contain anything harmful to motors, and
(*g*) will not form sediment.

2. That the product "HYPOWER":

(*a*) saves the motor or rebuilds the motor,
(*b*) lasts 5,000 to 10,000 miles,
(*c*) increases compression,
(*d*) seals the rings,
(*e*) reduces oil pumping,
(*f*) saves oil and gasoline,
(*g*) rebuilds worn or scored cylinder walls and pistons, and
(*h*) reduces friction and wear,

It is further ordered, That the respondent Morris E. Newman, individually, or as sole trader under the style and name of Automotive Test Laboratories of America, or under any other trade name, do forthwith cease and desist from:

1. Preparing and issuing to the respondent Ralph C. Curtiss so-called "Certificates of Merit" and "Seals of Approval" covering products sold by the respondent Ralph C. Curtiss for use by him in advertising his said products in interstate commerce, unless and until respondent owns and conducts a laboratory and employs trained scientists and technicians, and is equipped to test and does test said products in the manner and with the methods used by recognized scientific laboratories.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission separate and individual reports in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1282; Filed, May 4, 1938; 1:26 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO RULE GB4

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, and deeming the acts and practices hereinafter prohibited to be devices and contrivances which are manipulative and deceptive, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 10 (b) and 23 (a) thereof, amends its Rule GB4 by adding at the end thereof a new paragraph "(c)", so as to make the rule read as follows:

RULE GB4. *Prohibition of use of manipulative or deceptive devices or contrivances with respect to securities not registered on a national securities exchange.*—(*a*) It shall be unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce or of any facility of any national securities exchange, to do any act or omit to do any act in connection with the purchase or sale of any security not registered on a national securities exchange, if such act or omission to act would be unlawful under Section 9 (a) or any rule or regulation heretofore or hereafter prescribed thereunder if done or omitted to be done in connection with the purchase or sale of a security registered on a national securities exchange.

(*b*) The provisions of this rule shall not apply to securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; and securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political sub-division thereof or any agency or instrumentality of a State or any political sub-division thereof or any municipal corporate instrumentality of one or more States.

(*c*) The provisions of this rule, so far as they apply to acts or omissions to act with respect to any security not listed or admitted to unlisted trading privileges on an exchange, shall not become effective until July 1, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1289; Filed, May 5, 1938; 11:49 a. m.]

Saturday, May 7, 1938 *No. 90*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49542]

AIRPORTS OF ENTRY

WELLESLEY FARMS AIRPORT AND WELLESLEY ISLAND SEAPLANE BASE, WELLESLEY ISLAND, NEW YORK, DESIGNATED AS AIRPORTS OF ENTRY FOR A PERIOD OF ONE YEAR

APRIL 30, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Wellesley Farms Airport and the Wellesley Island Seaplane Base, Wellesley Island, New York, are hereby designated as airports of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from May 1, 1938.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1293; Filed, May 5, 1938; 2:54 p. m.]

DEPARTMENT OF LABOR.

Office of the Secretary.

DECISION OF THE SECRETARY IN THE MATTER OF THE REDETERMINATION OF THE PREVAILING MINIMUM WAGE IN THE LEATHER AND SHEEP-LINED JACKETS INDUSTRY

These matters are before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036).

At a public hearing held on January 13, 1938, the Public Contracts Board, created in accordance with the Public Contracts Act by Administrative Order dated October 6, 1936, took evidence with a view to determining whether contracts subject to the provisions of the Public Contracts Act for the manufacture of leather and sheep-lined, wool and wool-lined jackets, should be governed by the minimum wage determination of July 28, 1937, In the Matter of the Prevailing Minimum Wages in the Cotton Garment and Allied Industries. The matter of the minimum for wool and wool-lined jackets has been made the subject of another decision this day rendered by me. The pertinent facts as to the notice and hearing have been recited in the other decision and for reasons of convenience will not be repeated here.

It having been determined in the companion decision above referred to that the minimum wages prevailing in the Cotton Garment and Allied Industries are not applicable to the manufacture of leather and sheep-lined jackets, but that a higher minimum prevails in the manufacture of these articles, I have now before me the matter of determining the prevailing minimum wage which shall be applicable to the manufacture of such articles.

The Public Contracts Board, after study of the testimony taken at the above mentioned hearing, advises me as follows:

The Women's Bureau of the Department of Labor conducted a survey as of a busy week in the Fall of 1937, of all manufacturing firms whose principal output was wool or wool-lined, leather or sheep-lined jackets in each state where there were more than 3 such firms. This survey covered 2,217 employees in 48 plants in the principal producing states except California. In conducting the survey, the Women's Bureau found that 13 of the 48 firms kept no records of the number of hours worked by piece workers and it was thus impossible to determine their average hourly earnings.

Based on the earnings of 2,420 employees in 35 firms manufacturing leather and sheep-lined jackets in 8 states, all the producing states but 2, the Women's Bureau report indicates that in the 5 cent interval between 35 and 40 cents there

falls 11.3 per cent of the entire group; and that in the 5 cent interval between 40 and 45 cents there falls 10.3 per cent of the entire group; and that in the 5 cent interval between 45 and 50 cents there falls 10.5 per cent of the entire group.

In 1935 California produced $1,474,000 worth of leather and sheep-lined garments out of a national total for the year of $17,000,000. The evidence indicates that the wages paid in California are as high as those in any of the factories in the East. The testimony indicates that the occupational rates in this industry are more uniform than in other garment industries and the necessity for a differential does not appear.

There are few learners in the industry and none has been employed in the performance of government contracts. The necessity for a learner tolerance does not appear. The Board has recommended that it be determined that the prevailing minimum wage is 42.5 cents an hour, or $17.00 per week for a week of 40 hours.

Having examined the findings of the Board, its recommendations, the record of the hearing in this case, I am of the opinion that such findings and recommendations are correct and I adopt them as my own.

Therefore, I hereby determine—

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036) for the manufacture or supply of leather and sheep-lined jackets shall be 42.5 cents per hour, or $17.00 per week for a week of 40 hours, arrived at either upon a time or piece work basis.

This determination shall become effective and shall apply to all contracts awarded subject to the Public Contracts Act (49 Stat. 2036) on or after May 13, 1938.

[SEAL] FRANCES PERKINS,
Secretary of Labor.

Dated this 28 day of April, 1938.

[F. R. Doc. 38-1296; Filed, May 6, 1938; 10:28 a. m.]

DECISION OF THE SECRETARY IN THE MATTER OF THE EXTENSION OF THE MINIMUM WAGE DETERMINATION FOR THE COTTON GARMENT AND ALLIED INDUSTRIES TO THE MANUFACTURE OF WOOL AND WOOL-LINED JACKETS

These matters are before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036). As directed in my opinion of July 28, 1937, In the Matter of the Determination of the Prevailing Minimum Wages in the Cotton Garment and Allied Industries, the Public Contracts Division of the Department of Labor has caused to be investigated the wages paid to employees engaged in the manufacture of leather and sheep-lined, wool and wool-lined jackets with a view to determining whether contracts subject to the provisions of the Public Contracts Act for the manufacture of such articles should be governed by the minimum wage determination of July 28, 1937, above referred to, or whether the wages paid to employees engaged in the manufacture of these articles are so dissimilar to those paid to employees engaged in the cotton garment industry that a new and different determination of a prevailing minimum application on contracts for the manufacture of these articles should be made.

The Public Contracts Board, created in accordance with the Public Contracts Act by administrative order dated October 6, 1936, held a public hearing on these matters on January 13, 1938. Invitations to attend this hearing were sent to all known manufacturers of the Cotton Garment Industry as defined in the decision of July 28, 1937, above referred to, and to all known manufacturers of leather and sheep-lined, wool and wool-lined jackets, and to all known trade associations, labor unions and trade publications in the field. Invitations to attend the hearing were extended generally to all interested parties through the national press.

Testimony was presented at the hearing by representatives of the Amalgamated Clothing Workers of America, the United Garment Workers of America, and by a member of the industry.

A survey in leather and sheep-lined, wool and wool-lined jackets made by the Women's Bureau, Department of Labor, was presented as evidence at this hearing. This survey covered all firms whose major products were leather and sheep-lined, wool and wool-lined jackets, in states in which more than three firms were located. Testimony as to the conditions prevailing in states not covered by the survey was presented at the hearing.

The Public Contracts Board, as a result of the testimony taken at the above mentioned hearing, has made findings of the following facts:

The term "mackinaw" as used in the decision of July 28, 1937 above referred to is not used in the industry to define any one particular kind of coat. The articles described by the term vary with the manufacturer who uses it. The term "mackinaw" is used at times to describe windbreakers, lumber jackets, work and other short coats, blanket-lined and similar coats. The manufacture of these last mentioned jackets are all expressly made subject to the minimum wage determination of the decision of July 28, 1937 above referred to. The operations on wool jackets, whether they be windbreakers or lumber jackets, work coats or blanket-lined or similar coats, or woolen jackets of the type referred to at times by individual manufacturers as mackinaws, are all commonly made in the factories of the cotton garment industry. The same employees are used interchangeably in the manufacture of all types of woolen jackets and in the manufacture of various other articles which are the product of the cotton garment industry, and the wages of these employees are at the same level whether they are employed on any of the woolen jackets or on other articles produced by the industry.

Greater skill is required for the making of leather and sheep-lined jackets than in the manufacture of the articles made by the cotton garment industry, including woolen jackets. Leather and sheep-lined jackets are not made in the factories of the cotton garment industry. There is no interchangeability of personnel by the plants manufacturing cotton garments including wool jackets and those manufacturing leather and sheep-lined jackets. The employees in all occupational groups are higher paid than those in the cotton garment industry.

The Board recommends (1) that the manufacture of wool and wool-lined jackets be made subject to the minimum wage determination of the decision of July 28, 1937 In the Matter of the Cotton Garment and Allied Industries, and (2) that the manufacture of leather and sheep-lined coats be not subject to the minimum wage determination last referred to, but that it be determined that there is a different and higher minimum prevailing in the manufacture of these articles.

I have examined the findings and recommendations and the record of the hearing, and I am of the opinion that such findings and recommendations are correct, and I adopt them as my own.

Therefore, I hereby proclaim—

(1) That the minimum wage determination of July 28, 1937 In the Matter of the Cotton Garment and Allied Industries, applies to all wool and wool-lined jackets whether or not such jackets be properly described as windbreakers, lumber jackets, or blanket-lined or similar coats, or as work and other short coats, or by other designation; and

(2) That the minimum wage determination in the matter of the Cotton Garment and Allied Industries shall not apply to the manufacture of leather and sheep-lined jackets, but that a different and higher minimum, this day for reasons of convenience made the subject of a separate determination, shall apply in the manufacture of such articles.

(3) That my determination of July 28, 1937 In the Matter of the Cotton Garment and Allied Industries shall continue in effect as to the wool and wool-lined jackets which were made subject to that determination. My determination that all other types of wool and wool-lined jackets shall be subject to the minimum wage decision of July 28, 1937, in the matter of the Cotton Garment and Allied Industries shall apply to all contracts for such wool and wool-lined jackets awarded on or after May 13, 1938.

[SEAL] FRANCES PERKINS,
Secretary of Labor.

Dated this 28th day of April, 1938.

[F. R. Doc. 38-1295; Filed, May 6, 1938; 10:27 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3328]

IN THE MATTER OF MORRIS E. NEWMAN, INDIVIDUALLY AND AS SOLE TRADER UNDER THE STYLE AND NAME OF AUTOMOTIVE TEST LABORATORIES OF AMERICA

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that he waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon him findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Morris E. Newman, individually and as a sole trader under the style and name of Automotive Test Laboratories of America, or under any other trade name, in connection with the offering for sale, sale and distribution of so-called "Certificates of Merit" and "Seals of Approval" or in connection with the offering for sale, sale and distribution of a so-called testing service for automotive or other products or writings purporting to evidence the result of tests, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or by implication:

(1) That the respondent makes independent, impartial, and scientific tests of automotive and other products submitted to him for tests, unless such is the fact;

(2) That the respondent is a safety engineer and president of an organization operating or controlling a laboratory or engineering department equipped with the necessary apparatus, and manned by trained scientists and technicians, for testing automotive and other products, unless such are the facts;

(3) That respondent has a Consultant Advisory Board of eleven men to assist him in conducting tests; that he receives on an average from 200 to 300 letters of inquiry per month from manufacturers of automotive and other products; and that he has received several inquiries relative to the products he is seeking to test, unless such are the facts;

(4) That respondent's organization is the only one of its kind in the country, and is comparable to the Good Housekeeping Institute, and is recognized today as the adopted standard in the automotive, chemical and accessories field, unless such are the facts;

It is further ordered, That the respondent do forthwith cease and desist from:

(a) Using on his letterheads, personal cards, or otherwise the word "Laboratories", pictures of purported scientists and scientific equipment, or the picture of the seven-story building occupied by Greer College, either alone or in conjunction with the words "7 floors of modern test automotive equipment", unless and until respondent in fact conducts a scientific laboratories and employs trained scientists and technicians, and unless and until respondent has some actual connection with the said Greer College as owner or employee or otherwise through which he actually uses all the facilities and equipment of said Greer College in said business.

(b) Preparing and issuing to sellers of automotive or other products in said commerce so-called "Certificates of Merit" and "Seals of Approval" or other instruments in writing purportedly showing the result of tests conducted by the respondent, unless and until respondent owns, operates or controls a laboratory and employs trained scientists and technicians and is equipped to test and does test such automotive and other products in the manner and with the methods used by recognized scientific laboratories.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1294; Filed, May 5, 1938; 3:28 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of May, A. D. 1938.

[File No. 43-116]

IN THE MATTER OF THE KANSAS ELECTRIC POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by The Kansas Electric Power Company, a subsidiary of The Middle West Corporation, a registered holding company, regarding the issue and sale of $1,000,000 principal amount of its First Mortgage Bonds, Series A, 3½%, due December 1, 1966, to The Equitable Life Assurance Society of the United States at 94% of the principal amount thereof and regarding the issue and sale, not later than December 31, 1938, of 7,000 shares of its no par Common Stock to its parent company, The Middle West Corporation, at a price of $50 per share, the net proceeds from the sale of such bonds and common stock, after deducting expenses, to be used primarily to pay the cost of completing an electric steam generating station now under construction and, to the extent, if any, not absorbed by such cost, to the payment of the cost of the construction of usual extensions and additions to the property of the declarant;

It is ordered, That a hearing on such matter be held on May 24, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it

for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 20, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1297; Filed, May 6, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of April A. D. 1938.

[File Nos. 46-94 and 43-107]

IN THE MATTER OF FEDERAL WATER SERVICE CORPORATION

ORDER APPROVING ACQUISITION OF SECURITIES AND FIXING EFFECTIVE DATE OF DECLARATION REGARDING ISSUE AND SALE OF NOTES

Federal Water Service Corporation, a registered holding company, having filed an application pursuant to Section 10 of the Public Utility Holding Company Act of 1935, for approval of the acquisition by it of 5,000 shares of $6. Cumulative Second Preference Stock of its subsidiary, West Virginia Water Service Company; and said Federal Water Service Corporation having also filed a declaration pursuant to Section 7 of said Act with respect to the issue and sale by it of a series of eight promissory notes, each to be in the principal amount of $25,000 and to bear interest at the rate of 5% per annum, said notes to be secured by said stock and to mature serially on the first days of July, October, January and April, commencing July 1, 1938;

A hearing on said application and declaration, as amended, having been held after appropriate notice; the record having been duly considered; and the Commission having filed its findings herein:

It is ordered, That such acquisition by Federal Water Service Corporation of said 5,000 shares of $6. Cumulative Second Preference Stock of West Virginia Water Service Company in accordance with the terms and conditions set forth in said application, as amended, be and the same hereby is approved; and

It is further ordered, That such declaration of Federal Water Service Corporation become effective forthwith, on condition, however, that the issue and sale of the aforesaid notes shall be effected in substantial compliance with the terms and conditions and for the purposes represented by said declaration, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1298; Filed, May 6, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of May 1938.

[File No. 1-1301]

IN THE MATTER OF PIERCE OIL CORPORATION COMMON STOCK, $25 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $25 Par Value, of Pierce Oil Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M., on May 26, 1938, in Room 209, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1299; Filed, May 6, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of May 1938.

[File No. 1-264]

IN THE MATTER OF THE FEDERAL KNITTING MILLS COMPANY COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Federal Knitting Mills Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Cleveland Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 o'clock, A. M., on Thursday, June 2, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1300; Filed, May 6, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 3rd day of May 1938.

[File No. 1-419]

IN THE MATTER OF COMO MINES COMPANY CAPITAL STOCK, $1 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, $1 Par Value, of Como Mines Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 2:00 P. M., on June 2, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1301; Filed, May 6, 1938; 11:05 a. m.]

Tuesday, May 10, 1938 — *No. 91*

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49545]

CUSTOMS REGULATIONS AMENDED—DISPOSITION OF ABANDONED OR FORFEITED ARTICLES SUBJECT TO INTERNAL-REVENUE TAX

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in sections 251 of the Revised Statutes and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 66 and 1624), article 1012 of the Customs Regulations of 1937 is hereby amended as follows:

Paragraph (d): The words "for domestic consumption" should be inserted after the word "sold" in line 4, and the following sentence added at the end of the paragraph:

If such articles can not be sold for domestic consumption for an amount equivalent to or more than the internal-revenue tax, they should be destroyed unless they can be advantageously sold for export from continuous customs custody.

Paragraph (e): The words "for domestic consumption" should be inserted after the word "thereof" in line 3, and the words "or can not be advantageously sold for export from continuous customs custody" inserted before the word "he" in line 4. The comma after the word "tax" in the same line should be deleted.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved May 3, 1938:

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1313; Filed, May 7, 1938; 10:10 a. m.]

[T. D. 49546]

CUSTOMS REGULATIONS AMENDED—RADIO EQUIPMENT AND RADIO OPERATORS ON BOARD SHIP

MAY 3, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C., title 5, sec. 22) and section 303 (r) of the Communications Act of 1934, as amended (U. S. C., title 47, sec. 303 (r)), article 172 of the Customs Regulations of 1937 is amended to read as follows:

ART. 172. Radio equipment and radio operators on board ship.—(a) Any ship that leaves or attempts to leave any harbor or port of the United States in violation of the provisions of title III, part II, of the Communications Act of 1934, as amended (U. S. C., title 47, secs. 351 to 362, inclusive), or the rules and regulations of the Federal Communications Commission made in pursuance thereof, or any ship of the United States that is navigated outside of any harbor or port in violation of any of the provisions of title III, part II, of the act, or the rules and regulations of the commission made in pursuance thereof, shall forfeit to the United States the sum of $500, recoverable by way of suit or libel. Each such departure or attempted departure, and in the case of a ship of the United States each day during which such navigation occurs, shall constitute a separate offense.

(b) The details concerning the apparatus and operators required for the various classes of vessels are contained in regulations issued from time to time by the Federal Communications Commission. These regulations are binding upon customs officers. All correspondence concerning the regulations should be addressed to the Federal Communications Commission, Washington, D. C.

(c) Every wilful failure on the part of the master of a ship of the United States to enforce or to comply with the provisions of the Communications Act of 1934, as amended, or the rules and regulations of the commission as to equipment, operators, or radio service, shall cause him to forfeit to the United States the sum of $100.

(d) The master or agent of each vessel subject to the Communications Act of 1934, as amended, upon entering port with the expectation of departing therefrom, shall file a radio declaration on F. C. C. Form 753a in duplicate with the collector of customs, who will furnish the radio inspector of that district with one copy in order that proper inspection may be made before the vessel departs.

(e) *Federal Communications Commission Radio Inspection Districts*

Radio district	Address of the inspector in charge	Ports
1	Customhouse, Boston, Mass.	All New England.
2	Federal Building, New York, N. Y.	New York, Yonkers, Newark, and vicinity.
3	New United States Customhouse, Philadelphia, Pa.	Philadelphia, Pa., Camden, N.J., Chester and Marcus Hook, Pa., and Wilmington, Del.
4	Fort McHenry, Baltimore, Md.	Baltimore, Md., and Alexandria, Va.
5	New Post Office Building, Norfolk, Va.	Norfolk, Newport News, Richmond, and Hopewell, Va.
6	Suboffice, Post Office Building, Savannah, Ga.	Savannah, Ga., and Charleston, S. C.
7	Room 314, Federal Building, Miami, Fla.	Jacksonville, Miami, and Key West, Fla.
	Suboffice, P. O. Box 729, Tampa, Florida.	Tampa and Pensacola, Fla.
8	Customhouse, New Orleans, La.	New Orleans, La., Gulfport, Miss., Mobile, Ala., Baton Rouge, La., and vicinity.
9	Federal Building, Galveston, Texas.	Baytown, Beaumont, Brownsville, Corpus Christi, Freeport, Galveston, Houston, Orange and Port Arthur, Texas, and Lake Charles, Louisiana.
11	Rives-Strong Building, Los Angeles, California.	San Pedro, Calif.
	Suboffice, New California Building, San Diego, Calif.	San Diego, Calif.
12	Customhouse, San Francisco, Calif.	San Francisco and Oakland, Calif.
13	New United States Courthouse, Portland, Oregon.	Portland, Astoria, and Coos Bay.

(e) *Federal Communications Commission Radio Inspection Districts*—Continued

Radio district	Address of the inspector in charge	Ports
14	Federal Office Building, Seattle, Washington.	Seattle, Bremerton, Olympia, Tacoma, Bellingham, Port Angeles, and Grays Harbor, Wash.
	Suboffice, Juneau, Alaska	Juneau, Alaska.
21	Aloha Tower, Honolulu, Territory of Hawaii.	Hawaiian Islands.
22	San Juan, Puerto Rico	San Juan, P. R., and Charlotte Amalie, St. Thomas, V. I.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.
FRANK R. McNINCH,
Chairman, Federal Communications Commission.

[F. R. Doc. 38-1314; Filed, May 7, 1938; 10:10 a. m.]

[T. D. 49547]

FREE ENTRY OF COAL FROM THE UNION OF SOVIET SOCIALIST REPUBLICS—DOMESTIC PRODUCER'S COMPLAINT

To Collectors of Customs and Others Concerned:

Under date of March 3, 1938, the Hudson Coal Company, 26 Liberty St., New York, N. Y., an American producer of anthracite coal of all sizes, grades, and classifications, with its principal office and place of business at Scranton, Penna., presented a request for information as to the classification and rate of duty assessed on coal, including anthracite coal, of all sizes, grades, and classifications imported into the United States from the Union of Soviet Socialist Republics.

On March 8 the Hudson Coal Company was advised that coal, including anthracite coal, of all sizes, grades, and classifications, produced in the Union of Soviet Socialist Republics and imported into the United States therefrom is admitted free of regular customs duties under paragraph 1650 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1201, par 1650), and that the import tax provided for in section 601 (c) (5) of the Revenue Act of 1932, as amended (U. S. C., title 26, Foot-note at end of chap. 20), is not applied to such coal because (1) section 601 (a) of that act provides that the tax shall not be applied in contravention of treaties of the United States, and (2) an executive agreement (treaty) between the United States and the Soviet Union effective August 6, 1937, obligates the United States for one year to give most-favored-nation customs treatment to coal produced in the Soviet Union unless existing law of the United States precludes such treatment, and (3) coal from certain other countries is being admitted free of the said import tax.

The producer herein named, acting under the provisions of section 516 (b) of the Tariff Act of 1930 (U. S. C., title 19, sec. 1516), takes exception to the present classification of Soviet Union coal on the ground that the balance of trade in coal and coal products between the United States and the Union of Soviet Socialist Republics for the calendar year 1937 was favorable to the Soviet Union and unfavorable to the United States; that the agreement with that Union is not a treaty within section 601 (a), supra; that assuming, for the sake of argument, that the agreement obligates the United States to admit Soviet Union coal free of duty despite the balance of trade adverse to the United States, the agreement is not self-executing; and that if said section 601 (a) is construed to provide for such a treaty that section is unconstitutional.

After careful consideration of the question in 1937 the Department held that in view of the provisions of the commercial agreement entered into between the United States and the Union of Soviet Socialist Republics, in which agreement the Government of the United States undertakes to accord to the commerce of the Soviet Union unconditional most-favored-nation treatment, with certain special provisions in respect to coal, coke manufactured therefrom, and coal or coke briquets, coal and allied fuels produced in the Soviet Union and imported into the United States directly or indirectly therefrom were entitled to entry for consumption or withdrawal from warehouse for consumption on or after August 6, 1937, and prior to January 1, 1938, without payment of the import tax imposed by section 601 (c) (5), supra. Note (1937) T. D. 49118. The Department has reaffirmed this classification and the period has been extended from January 1 to August 5, 1938. Note (1938) T. D. 49444.

Notice is hereby given, in compliance with the provisions of section 516 (b), supra, that the import tax on coal and allied fuels of the character described, if imported or withdrawn from warehouse after the expiration of 30 days after the date of the publication of this letter in the weekly Treasury Decisions, will be subject to the decision of the United States Customs Court, in the event that a protest is filed under the provisions of that section.

[SEAL] J. H. MOYLE,
Commissioner of Customs.

Approved May 2, 1938.
STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1315; Filed, May 7, 1938; 10:10 a. m.]

DEPARTMENT OF THE INTERIOR.

General Land Office.

STOCK DRIVEWAY No. 144, WYOMING No. 18, ENLARGED

APRIL 25, 1938.

It appearing that the following-described public land should be included in Stock Driveway Withdrawal No. 144, Wyoming No. 18, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such land, excepting any mineral deposits therein, be, and it is hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

SIXTH PRINCIPAL MERIDIAN

T. 28 N., R. 76 W.,
sec. 25, SW¼SW¼;
sec. 26, SE¼SE¼;
sec. 35, NE¼NE¼; aggregating 120 acres.

Any mineral deposits in the land shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1304; Filed, May 7, 1938; 9:43 a. m.]

National Park Service.

YOSEMITE NATIONAL PARK

AMENDMENT TO LOCAL SUBSIDIARY REGULATIONS

The local subsidiary regulations for Yosemite National Park, approved April 13, 1938 (3 F. R. 911 (DI)), are hereby amended in the following particular:

The paragraph reading—

"Entrance Roads.—Automobiles, trucks and other vehicles permitted in Yosemite National Park may enter and leave by the several entrances only during the hours specified in the following schedule:"

is hereby amended to read—

"Entrance Roads.—Automobiles, trucks and other vehicles permitted in Yosemite National Park may enter and leave by the several entrances only during the hours specified in the following schedule: *Provided*, That during construction activities or other emergencies the Superintendent shall prescribe such hours as in his judgment are necessary for the protection of the public."

Approved April 30, 1938.

ARNO B. CAMMERER,
Director, National Park Service.

[F. R. Doc. 38-1312; Filed, May 7, 1938; 9:56 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

RESULT OF REFERENDUM ON MARKETING QUOTA FOR BURLEY TOBACCO

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA—A PROCLAMATION

Whereas, pursuant to the provisions of Section 312 of the Agricultural Adjustment Act of 1938, as amended by the Act approved March 26, 1938, Public Law No. 452, 75th Congress, the Secretary of Agriculture conducted a referendum on April 9, 1938, to determine whether farmers who were engaged in production of the 1937 crop of Burley tobacco favor or oppose the establishment, pursuant to said Act, as amended, of a marketing quota for Burley tobacco marketed during the marketing year beginning October 1, 1938:

Now, therefore, be it known that I, Henry A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by said Section 312 of the Agricultural Adjustment Act of 1938, as amended, do hereby proclaim the result of said referendum to be as follows:

154,208 votes, 87.1 percent of the total votes cast, were in favor of such marketing quota;

22,870 votes, 12.9 percent of the total votes cast, were opposed to such marketing quota; and

177,078 were the total votes cast.

Done at Washington, D. C., this 7th day of May, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1317; Filed, May 9, 1938; 11:36 a. m.]

DEPARTMENT OF LABOR.

Office of the Secretary.

DECISION OF THE SECRETARY IN THE MATTER OF THE PREVAILING MINIMUM WAGES IN THE VITREOUS OR VITRIFIED CHINA INDUSTRY

This matter is before me pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036). At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on December 9, 1937, in the above entitled matter.

Notices of the hearing were sent to all known members of the industry, to labor unions, and to all known trade associations and trade publications in the field. Invitation to attend the hearing was extended through the national press to all other interested parties. At the hearing testimony was presented by the United States Potters Association, the National Brotherhood of Operative Potters, and by several members of the industry.

The Board has reviewed the testimony received at the hearing and on the basis thereof advises me as follows:

Although the notice of hearing covered both the vitreous or vitrified and the semi-vitreous or semi-vitrified branches of the industry, these branches are in fact separate and distinct. Each branch produces a product different from the product of the other, in different factories and by different manufacturing operations. Only vitreous or vitrified china is purchased under government contract. By virtue of these facts, the Board's findings are confined to the vitreous or vitrified branch of the industry.

There are approximately 4400 workers in the vitreous or vitrified branch of the china industry and 2314 are employed in plants which have a wage agreement with the union. The union agreement provides a minimum of 42¾ cents for the largest and lowest paid occupational group in the industry. There are 743 workers in this group and while some receive more than 42¾ cents, that hourly rate of pay is actually received by at least 50 percent of the group. The next union wage classification is at 56½ cents per hour. There are 166 workers in this group and most of them receive more than the absolute minimum of 56½ cents.

There are three companies producing vitreous or vitrified china who have not entered into wage agreements with the union. The plants operated by these companies are located in states where there are plants operating under union agreement and in at least one of these non-union plants 42¾ cents an hour is recognized as the minimum wage norm.

The Board recommends that the prevailing minimum wage in the manufacture of vitreous or vitrified china be found to be 42¾ cents per hour, or $17.10 per week for a week of 40 hours.

I have examined the findings and recommendations of the Board, and the record of the hearing, and I am of the opinion that such findings and recommendations are correct and I adopt them as my own.

Therefore, I hereby determine—

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036) for the manufacture or supply of vitreous or vitrified china shall be 42¾ cents per hour or $17.10 per week for a week of 40 hours, to be arrived at either upon a time or piece work basis.

This determination shall become effective and shall apply to all contracts awarded subject to the Public Contracts Act (49 Stat. 2036) on or after May 19, 1938.

[SEAL] FRANCES PERKINS,
Secretary of Labor.

Dated this 4 day of May, 1938.

[F. R. Doc. 38-1316; Filed, May 7, 1938; 11:29 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

EMPLOYEE AND PROGRAM QUESTIONNAIRES

REQUEST FOR CERTAIN INFORMATION REGARDING RULE 117

The Commission, on April 22, 1938, by circulation approved the following order and Employee and Program Questionnaires relative thereto:

The Commission, having appointed a Committee composed of Commissioners Case, Chairman, Craven and Payne, for the purpose of conducting hearings upon the question of a possible modification of Rule 117 and certain applications related thereto, and

It appearing to said Committee that it is desirable to have available at such hearings complete information with respect to the program service and personnel of all existing regular broadcast stations licensed to operate within the band of frequencies from 550 kc. to 1600 kc., inclusive.

It is ordered, That the licensee of each broadcast station authorized to operate in the band of frequencies 550 kc. to 1600 kc., both inclusive, file with the Commission, in dupli-

cate, on or before the 18th day of May, 1938, information as to program service and personnel as provided by separate forms attached hereto and made a part hereof.[1]

By the Commission, Commissioners Case, chairman, Craven and Payne.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1309; Filed, May 7, 1938; 9:44 a. m.]

EXEMPTION FROM RADIO REQUIREMENT FOR SMALL PASSENGER VESSELS ENGAGED IN FISHING IN AREAS LYING BETWEEN CALCASIEU PASS, LOUISIANA AND SABINE BANK, TEXAS

The Commission, en banc, at a meeting held April 26, 1938, directed that the following Order be issued:

Whereas, there is pending before the Commission an application for exemption from the provisions of Title III, Part II, of the Communications Act of 1934, as amended by Public No. 97, which application was filed on behalf of the motor vessel *Kingfish*, a sport-fishing passenger vessel of less than 100 gross tons operating in the Gulf of Mexico in areas lying between Calcasieu Pass, Louisiana and Sabine Bank, Texas; and

Whereas, it appears that the route and conditions of the voyages and other circumstances are such as to render a radio installation unreasonable or unnecessary for the purpose of Title III, Part II of said Communications Act;

It is ordered, That the sport-fishing passenger vessel *Kingfish* when navigated not more than 20 miles off shore in the waters between Calcasieu Pass, Louisiana and Sabine Bank, Texas, is exempt from the provisions of Title III, Part II, of the Communications Act, as amended, for a period of one year from the date of this order; and

It is further ordered, That any other sport-fishing passenger vessels of less than 100 gross tons, when navigated not more than 20 miles off shore in waters lying between Calcasieu Pass, Louisiana and Sabine Bank, Texas, shall be exempt from the provisions of Title III, Part II, of the Communications Act for a period ending one year from the date of this order; said period to begin with the date of filing of a written request for said exemption, under oath and in triplicate, with the Inspector in Charge, Federal Communications Commission, Customhouse, New Orleans, Louisiana; or Federal Building, Galveston, Texas. The request for such exemption shall include the following information:

Name and owner or applicant
Name of vessel
Official number
Gross tonnage
Required crew
Number of passengers permitted
Trade in which engaged
Maximum distance navigated from land
Route vessel normally follows
Number of passengers normally carried on this (these) route(s)
Period of day and seasons in which vessel is operated
Reason in detail for requesting exemption.

Provided, however, That the foregoing exemption shall be specifically subject to such rules and regulations as the Commission may hereafter adopt with regard to the granting of applications without hearing, and, with respect to any ship or ships not specifically named herein, such exemption shall be subject to suspension or cancellation without notice or hearing within 60 days from the date of filing the request for exemption.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1311; Filed, May 7, 1938; 9:45 a. m.]

[1] Filed as part of original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to Federal Communications Commission.

EXEMPTION FROM RADIO REQUIREMENT FOR SMALL PASSENGER VESSELS ENGAGED IN FISHING IN AREAS LYING BETWEEN SAN DIEGO, CALIFORNIA AND THE CORONADOS ISLANDS

The Commission, en banc, at a meeting held April 26, 1938, directed that the following Order be issued:

Whereas, there are pending before the Commission certain applications for exemption from the provisions of Title III, Part II of the Communications Act of 1934, as amended by Public No. 97, which applications were filed on behalf of certain sport-fishing passenger vessels of less than 100 gross tons operating the Pacific Coast in areas lying between San Diego, California and the Coronados Islands; and

Whereas, it appears that the route and conditions of the voyages and other circumstances are such as to render a radio installation unreasonable or unnecessary for the purpose of Title III, Part II of said Communications Act;

It is ordered, That the sport-fishing passenger vessels, *Bluebell, Rex, Pat, Mascot III, Sea Angler, Morefun, Kingfisher, Sportfisher, Barney Google III, Star Angler, S & C 33 Virginia, Golden West, Sea Jay II, Sea Jay IV, Estrella, Pt. Loma, Nava, Sportfisher II, San Antonio, Barney Google IV, Aztec, Aztec II*, and *Yellowtail*, when navigated not more than 15 miles from the seacoast in waters between Pt. Loma, California, and 20 miles south thereof, are exempt from the provisions of Title III, Part II, of the Communications Act, as amended, for a period of one year from the date of this order; and

It is further ordered, That any other sport-fishing passenger vessels of less than 100 gross tons, when navigated not more than 15 miles from the seacoast in waters between Pt. Loma, California, and 20 miles south thereof shall be exempt from the provisions of Title III, Part II, of the Communications Act for a period ending one year from the date of this Order; said period to begin with the date of filing of a written request for said exemption, under oath and in triplicate, with the Inspector in Charge Federal Communications Commission, Rives-Strong Building, Los Angeles, California; or 503 New California Building, San Diego, California. The request for such exemption shall include the following information:

Name and owner or applicant
Name of vessel
Official number
Gross Tonnage
Required crew
Number of passengers permitted
Trade in which engaged
Maximum distance navigated from land
Route vessel normally follows
Number of passengers normally carried on this (these) route(s)
Period of day and seasons in which vessel is operated
Reason in detail for requesting exemption.

Provided, however, That the foregoing exemptions shall be specifically subject to such rules and regulations as the Commission may hereafter adopt with regard to the granting of applications without hearing, and, with respect to any ship or ships not specifically named herein, such exemption shall be subject to suspension or cancellation without notice or hearing within 60 days from the date of filing the request for exemption.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1306; Filed, May 7, 1938; 9:44 a. m.]

EXTENSION OF ALL LICENSES FOR RADIO STATIONS IN ALASKA, OTHER THAN BROADCAST AND AMATEUR

The Commission, en banc, at a meeting held April 26, 1938, directed that all licenses for radio stations in Alaska expiring June 1, 1938, be extended to January 1, 1939; that licenses expiring June 1, 1939 be extended to January 1, 1940; that licenses issued between now and January 1, 1939 be issued for the period ending January 1, 1940, and that the normal expiration date for licenses for stations other than broadcast and amateur in Alaska be January 1st hereafter.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1310; Filed, May 7, 1938; 9:45 a. m.]

RULES GOVERNING STANDARD BROADCAST STATIONS

HEARING IN REGARD TO THE POSSIBLE MODIFICATION OF RULE 117

The Commission, en banc, at a meeting held April 27, 1938, adopted the following order:

The Commission, having under consideration the promulgation of rules governing standard broadcast stations (Mimeograph No. 26378) pursuant to the provisions of Section 303 of the Communications Act of 1934, as amended, and particularly Subsection 303 (f) thereof, ORDERS:

(1) That a public hearing be held at the Offices of the Commission in Washington, D. C., commencing 10 o'clock A. M., June 6, 1938, to determine whether or not the adoption of such rules and the changes in the operation of any station thereby affected, will promote public convenience or interest or will serve public necessity or will more fully comply with the provisions of the Communications Act of 1934, as amended;

(2) That a copy of such rules (Mimeograph No. 26378) and a copy of this order be served upon the holders of all authorizations for use of the frequencies in the band 550 to 1600 kc, both inclusive, and to all applicants who have pending before the Commission applications for stations to operate within such band of frequencies;

(3) That the holders of all such authorizations, or other interested parties who desire to participate in such hearings, shall, within 20 days from the mailing of this order and the proposed rules, file with the Commission, under oath, their appearance and notice of desire to be heard which shall contain a statement as to what rule or rules such party desires to be heard upon, together with a complete, yet terse, outline of the facts to be presented;

(4) That the Secretary of the Commission shall, upon receipt by the Commission of such appearances and notices of desire to be heard, give notice to all interested parties of the contents thereof by making available, for public inspection, in his office, a copy of each of such notice and appearance;

(5) That the previous order of April 6, 1938, Minute No. 149-38, appointing a committee of Commissioners Craven, Payne and Case, with Chairman McNinch as a member ex-officio of said Committee, to hear and report upon the so-called "super-power" hearing, is hereby modified so that said committee will supervise the preparation for and conduct the hearing upon the matters hereinabove set out and report to the Commission in writing with recommendations for action by the Commission. Such report shall be subject to the procedure outlined in the Commission's Rules of Practice 106.27 and 106.28.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1308; Filed, May 7, 1938; 9:44 a. m.]

POSTPONEMENT OF SCHEDULED HEARING ON WLW AND WHO APPLICATIONS TO JUNE 6, 1938 AND THE POSSIBLE MODIFICATION OF RULE 117

The Commission, en banc, at a meeting held April 27, 1938, adopted the following order:

The Commission, en banc, at a meeting held April 27, 1938, petitions of counsel for certain clear channel stations, the National Broadcasting Company, and the General Electric Company, requesting postponement of the hearings now set for May 16, 1938, on the possible modification of Rule 117 and related applications, and having under consideration its order of February 21, 1938 (Minute #75-38), reconsidered and set aside said order.

Further, the Commission orders that the application of Crosley Radio Corporation (WLW) in Docket No. 5012 be heard on June 6, 1938, upon the issues heretofore set out in the Commission's Notice of Hearing dated April 4, 1938, except Issue #8, which is hereby stricken from said notice; and that the application of Central Broadcasting Company (WHO) in Docket No. 3962 be heard on June 6, 1938, upon the issues in the Notice of Hearing dated April 4, 1938, except Issue #7, which is hereby stricken from said notice;

The Commission further orders that the appearances now on file in said Docket Nos. 5012 and 3962 stand as filed, except as to such material contained therein which relates to Issue #8 in Docket No. 5012 and Issue #7 in Docket No. 3962;

The hearings in said dockets will be held subsequent to the completion of a hearing this day ordered upon the rules governing standard broadcast stations (Mimeograph No. 26378), and the hearing on said dockets shall be conducted by the Committee composed of Commissioners Craven, Payne and Case, with Chairman McNinch a member ex-officio of said Committee; and

Upon completion of the hearings in Docket Nos. 5012 and 3962 said Committee shall formulate a report in writing to the Commission with recommendations as to action by the Commission upon the applications therein.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1307; Filed, May 7, 1938; 9:44 a. m.]

FREQUENCY ALLOCATIONS

AMENDMENT TO ORDER NO. 19

The Commission, en banc, at a meeting held May 3, 1938, amended Order No. 19, to read in part as follows:

33,600 kc	Fixed [1]
36,000 kc	Fixed [1]
38,000 kc	Fixed [1]
41,000 kc	Fixed [1]

[1] Available for low power fixed service in Hawaii only.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1305; Filed, May 7, 1938; 9:43 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 244]

ALLOCATION OF FUNDS FOR LOANS

MAY 4, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Virginia 8011C1 Rockingham	$87,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1302; Filed, May 7, 1938; 9:43 a. m.]

[Administrative Order No. 245]

ALLOCATION OF FUNDS FOR LOANS

MAY 5, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act,

funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Wisconsin 8040A2 Barron	$15,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1303; Filed, May 7, 1938; 9:43 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of May, A. D. 1938.

[File No. 31-433]

IN THE MATTER OF YORK RAILWAYS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on May 25, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 20, 1938.

The matter concerned herewith is in regard to an application by York Railways Company for an order under Section 2 (a) (8) of the Public Utility Holding Company Act of 1935 declaring the applicant and its subsidiaries not to be subsidiaries of the following registered holding companies described in the application as follows:

NY PA NJ Utilities Company,
902 Market Street,
Wilmington, Delaware.

Associated Gas & Electric Corporation,
902 Market Street,
Wilmington, Delaware.

Associated Gas & Electric Company,
123 South Cayuga Street,
Ithaca, New York.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1318; Filed, May 9, 1938; 12:29 p. m.]

UNITED STATES MARITIME COMMISSION.

[Supplement No. 1 to General Order No. 15]

MINIMUM MANNING SCALES FOR INDIVIDUAL SUBSIDIZED VESSELS OF THE BALTIMORE MAIL STEAMSHIP COMPANY

At a regular session of the United States Maritime Commission held at its offices in Washington, D. C., on the 5th day of May, 1938.

The Commission having adopted, pursuant to Section 301 (a) of the Merchant Marine Act, 1936, General Order No. 15 providing for minimum wage scales, minimum manning scales, and reasonable working conditions for all subsidized vessels, and now desiring to complete the minimum manning scales for individual subsidized vessels of The Baltimore Mail Steamship Company (referred to herein as Operator); and

The Commission finding that the minimum scales hereinafter adopted for the subsidized vessels of the Operator is reasonable, proper and lawful, such finding being based upon investigations referred to in General Order No. 15 and investigations of the Commission made thereafter; it is, therefore

Ordered, that the minimum manning scale attached hereto for the subsidized vessels of the Operator, to wit, the steamships *City of Baltimore, City of Norfolk, City of Newport News, City of Havre*, and *City of Hamburg*, be and the same hereby is adopted; and it is further

Ordered, that the minimum manning scale hereby adopted shall not relieve said Operator from complying with the manning requirements of the Bureau of Marine Inspection and Navigation and shall be without prejudice to the carrying of seamen in addition to those required hereby; and it is further

Ordered, that the minimum manning scale hereby adopted shall become effective for each of said vessels upon the first signing after May 16, 1938, of shipping articles for a subsidized voyage of said vessel, and that the Operator be immediately served by registered mail with a copy of this Order and of the minimum manning scale hereby adopted.

By order of

[SEAL] UNITED STATES MARITIME COMMISSION,
W. C. PEET, Jr., *Secretary.*

Minimum Manning Scale To Be Observed on the Vessels City of Baltimore, City of Norfolk, City of Newport News, City of Havre and City of Hamburg, of the Baltimore Mail Steamship Company

Rating	Passenger vessel operation	Freight vessel operation (Carrying 12 or less passengers)
Deck Department:		
Master	1	1
Chief Mate	1	1
1st Mate	1	1
2nd Mate	1	1
3rd Mate		
Cadets	2	2
Cadet Officers	3	1
Radio Operators	1	
Carpenters	1	1
Boatswains	3	
Quartermasters	6	6
Able Seamen	3	3
Ordinary Seamen	2	
Night Watchmen		
Engine Department:		
Chief Engineer	1	1
First Asst. Engineer	1	1
Second Asst. Engineer	1	1
Third Asst. Engineer	3	3
Junior Engineer (Licensed)	1	1
Cadet Officer	1	1
Refr. Engineer	1	1
Deck Engineer	1	1
Electrician	3	3
Watertenders	3	3
Oilers	6	6
Firemen	3	2
Wipers	1	1
Steward	2	2
Cooks	3	2
Messmen	2	2
Messboys	1	
Utility		
Total	60	48

[F. R. Doc. 38-1319; Filed, May 9, 1938; 12:50 p. m.]

Wednesday, May 11, 1938 *No. 92*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDING SECTION 6 OF EXECUTIVE ORDER NO. 7845 OF MARCH 21, 1938, PRESCRIBING REGULATIONS RELATING TO ANNUAL LEAVE OF GOVERNMENT EMPLOYEES

By virtue of and pursuant to the authority vested in me by section 7 of the act of March 14, 1936, entitled "An act to provide for vacations to Government employes and for other purposes" (49 Stat. 1161), it is ordered that section 6 of Executive Order No. 7845, dated March 21, 1938, prescribing regulations relating to annual leave of Government employees, be, and it is hereby, amended to read as follows:

"SEC. 6. An employee transferred or reappointed without break in service from one permanent, emergency, or indefinite position to another permanent, emergency, or indefinite position within the same or a different governmental agency shall at the time of the transfer or reappointment be credited with such accumulated and current accrued leave as may be due him, or charged with any unaccrued leave which may have been advanced. 'Break in service' means separation from the service for a period of one or more work days."

This order shall be effective as of January 1, 1938, and shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 9, 1938.

[No. 7879]

[F. R. Doc. 38-1320; Filed, May 9, 1938; 2:42 p. m.]

EXECUTIVE ORDER

AMENDING SECTION 9 OF EXECUTIVE ORDER NO. 7846 OF MARCH 21, 1938, PRESCRIBING REGULATIONS RELATING TO SICK LEAVE OF GOVERNMENT EMPLOYEES

By virtue of and pursuant to the authority vested in me by section 7 of the act of March 14, 1936, entitled "An act to standardize sick leave and extend it to all civilian employees" (49 Stat. 1162), it is ordered that section 9 of Executive Order No. 7846, dated March 21, 1938, prescribing regulations relating to sick leave of Government employees, be, and it is hereby, amended to read as follows:

"Sec. 9. An employee transferred or reappointed without break in service from one permanent, emergency, or indefinite position to another permanent, emergency, or indefinite position within the same or a different governmental agency shall be credited with accumulated sick leave and charged with sick leave previously advanced in excess of that accumulated at the time of transfer or reappointment. 'Break in service' means separation from the service for a period of one or more work days."

This order shall be effective as of January 1, 1938, and shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 9, 1938.

[No. 7880]

[F. R. Doc. 38-1321; Filed, May 9, 1938; 2:42 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49548]

IMPORTATION OF WILD ANIMALS AND BIRDS FROM CHINA

To Collectors of Customs and Others Concerned:

Treasury Decision 49378, dated February 3, 1938, as amended by Treasury Decision 49443, dated March 9, 1938, is hereby further amended by inserting between the words "of" and "wild," in the third line, the words "the following-named," and by inserting between the first and second sentences the following list of wild animals and birds affected:

	ANIMALS
Bats of the genera	Pipistrellus Myotis Vespertilio Murina Rhinilopsis Hipposideros, and Plecotis
Tree Shrew	(Tupaia belangeri chinensis)
Hedge Hog	(Erinaceus dealbatus and E. hanensis)
Shrew	(Sorex annexus, S. bedfordiae, Crocidura lasiura, C. microtis)
Mole	(Talpa leptura)
	BIRDS
Grouse and Ptarmigans:	
Willow Ptarmigan	(Lagopus lagopus)
Hazel Hen	(Tetrastes bonasia)
Tibetan Pheasant—Grouse	(Tetraophasis szechenyii)
Pheasants:	
Chinese Francolin	(Francolinus pintadaeamus)
Rails:	
Water Rail	(Rallus aquaticus)
Eastern Baillou Crake	(Porzana pusilla)
Gallinules and Coots:	
Moorhen	(Gallinula chloropus)
Water Cock	(Gallicrex cinerea)
Coot	(Fulica atra)
Cranes:	
Manchurian Crane	(Grus japonensis)
Common Crane	(Grus grus)
Hooded Crane	(Grus monacha)
Siberian Crane	(Sarcogeranus leucogeranus)
White-necked Crane	(Pseudogeranus vipio)
Demoiselle Crane	(Anthropoides virgo)
Plovers:	
Little Ringed Plover	(Charadrius dubius)
Kentish Plover	(Leucopolius alexandrinus)
Golden Plover	(Pluvialis dominica)
Lapwing	(Vanellus vanellus)
Sandpipers and Snipes:	
Sharp-tailed Sandpiper	(Pisobia acuminata)
Green Sandpiper	(Tringa ocrophus)
Common Curlew	(Numenius arquata)
Woodcock	(Scolopax rusticola)
Common Snipe	(Capella gallinago)
Eastern Solitary Snipe	(Capella solitaria)
Painted Snipe	(Rostratula benghalensis)

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: May 5, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1326; Filed, May 10, 1938; 12:24 p. m.]

WAR DEPARTMENT.

SPECIAL REGULATIONS TO GOVERN THE OPERATION OF THE MINNEAPOLIS, ST. PAUL AND SAULT SAINTE MARIE RAILWAY COMPANY AND THE VILLAGE OF OSCEOLA DRAWBRIDGES OVER THE ST. CROIX RIVER, WISCONSIN

Supplemental to Rules and Regulations to Govern the Operation of the Drawbridges Crossing the Mississippi River and All Its Navigable Tributaries and Outlets.

THE LAW

[Here follows, in the original document, the text of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 891.]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of the following named drawbridges crossing the St. Croix River: the Minneapolis, St. Paul and Sault Sainte Marie Railway Company drawbridge approximately four miles south of Osceola, Wisconsin; and the Village of Osceola drawbridge at Osceola, Wisconsin.

1. The owners of, or agencies controlling, the bridges will not be required to keep draw tenders in constant attendance at the above-mentioned bridges.

2. Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of, or agency controlling, the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of, or agency controlling, the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owners of, or agencies controlling, the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges in a manner that it can easily be read at any time a copy of these regulations, together with a notice stating exactly how the representatives specified in paragraph 2 may be reached.

5. The operating machinery of the draws shall be maintained in a serviceable condition, and the draws opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof, and all regulations or parts of regulations applying to the above-named bridges in conflict therewith are hereby revoked to take effect on that date.

Approved April 29, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1322; Filed, May 10, 1938; 9:45 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 241]

AN ORDER DIRECTING CODE MEMBERS TO REPORT TO THE STATISTICAL BUREAUS OF THE COMMISSION ANY CHANGE IN NAME OF PRODUCING COMPANY, MANAGEMENT, OR OWNERSHIP

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders the following:

1. Code Members shall report any change in name of producing company, management, or ownership, within ten days after any such change occurs to the proper Satistical Bureau of the Commission for the district within which the mine or mines of Code Members are located.

2. A list of the Statistical Bureaus for the respective districts is attached hereto.

That the Secretary of the Commission shall, forthwith, mail a copy of this order to the Secretaries of the Bituminous Coal Producers' Boards for the several districts, to the Consumers' Counsel, and to all code members, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 6th day of May, 1938.

[SEAL] EDGAR C. FARIS, Jr.,
Acting Secretary.

LOCATION OF THE STATISTICAL BUREAUS FOR THE 23 DISTRICTS

District	Address
1	12th Avenue and 12th Street, Altoona, Pa.
2	Empire Bldg., 507 Liberty Ave., Pittsburgh, Pa.
3	Jacobs Bldg., Monroe & Meredith Sts., Fairmont, W. Va.
4	Bulkley Bldg., Euclid Ave., Cleveland, Ohio.
5	Goff Bldg., Franklin Street, Saginaw, Mich.
6	Register Building, Wheeling, W. Va.
7	Law and Commerce Bldg., Federal St., Bluefield, W. Va.
8	Ashland Oil and Refining Bldg., Ashland, Ky.
9	Starks Building, Louisville, Ky.
10	Merchandise Mart, Chicago, Ill.
11	Chamber of Commerce Bldg., Indianapolis, Ind.
12	Walnut Building, Des Moines, Iowa.
13	2300 Comer Building, Birmingham, Ala.
14	First National Bank Building, Fort Smith, Ark.
15	12th and Oak Building, Kansas City, Mo.
16	Central Savings Bank Building, Denver, Colo.
17	Central Savings Bank Building, Denver, Colo.
18	Room 101, Post Office Bldg., Santa Fe, N. Mex.
19	New Federal Bldg., 21st & Carey Ave., Cheyenne, Wyo.
20	Union Pacific Building, Salt Lake City, Utah.
21	Bismarck, N. Dak.
22	Empire Building, Billings, Mont.
23	Puget Sound Bank Bldg., Tacoma, Wash.

[F. R. Doc. 38-1324; Filed, May 10, 1938; 11:23 a. m.]

IN THE MATTER OF THE APPLICATIONS FOR EXEMPTION UNDER SECTION 4 (1) AND THE SECOND PARAGRAPH OF SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937

COWGILL MINE, CAMBRIDGE, OHIO, (DOCKET NO. 322-FD); BLUE DIAMOND COAL COMPANY, POMEROY, OHIO, (DOCKET NO. 323-FD); JAMES KENNARD, NEW PLYMOUTH, OHIO, (DOCKET NO. 324-FD); J. H. WISECARVER, R. F. D. NO. 1, SONORA, OHIO, (DOCKET NO. 325-FD); DARK HOLLOW COAL CO., MIDDLEPORT, OHIO, (DOCKET NO. 326-FD); H. S. GANDER COAL CO., CAMBRIDGE, OHIO, (DOCKET NO. 327-FD); PLAINVIEW COAL CO., CAMBRIDGE, OHIO, (DOCKET NO. 328-FD); THE SHARRATT COAL CO., CAMBRIDGE, OHIO, (DOCKET NO. 329-FD); HAMILTON TRENNER COAL CO., CAMBRIDGE, OHIO, (DOCKET NO. 330-FD); JOE GROZDON, BELLAIRE, OHIO, (DOCKET NO. 331-FD); ROBINSON CLAY PRODUCT CO., AKRON, OHIO, (DOCKET NO. 332-FD); GENERAL CLAY PRODUCTS CO., COLUMBUS, OHIO, (DOCKET NO. 333-FD); HICKORY CLAY PRODUCTS CO., MINERAL CITY, OHIO, (DOCKET NO. 334-FD); JOS. F. HOSENFELD, MARTINS FERRY, OHIO, (DOCKET NO. 335-FD); ROSS MATTERN, CADIZ, OHIO, (DOCKET NO. 336-FD); M. R. M'CONNELL, MT. EPHRAIM, OHIO, (DOCKET NO. 337-FD); BIG LUMP COAL CO., POMEROY, OHIO, (DOCKET NO. 338-FD); T. E. LUMAN, ROSEVILLE, OHIO, (DOCKET NO. 339-FD); METROPOLITAN PAVING BRICK CO., CANTON, OHIO, (DOCKET NO. 340-FD); THOMPSON AND EDMISTON, R. F. D. NO. 1, DILLONVALE, OHIO, (DOCKET NO. 341-FD); JACKSON IRON AND STEEL CO., JACKSON, OHIO, (DOCKET NO. 342-FD); PORTSMOUTH CLAY PRODUCTS CO., SOUTH WEBSTER, OHIO, (DOCKET NO. 343-FD)

Supplemental Notice of and Order for Hearing

It appearing that the Notice of and Order for Hearings in the State of Ohio, issued by the Commission as of April 30, 1938, with respect to the above entitled applications should be supplemented in certain particulars;

Now, therefore, It is hereby ordered;

1. That the Docket number of 322-FD as assigned to such original notice and order is hereby stricken as applied to the group of petitioners named in such order of April 30, 1938.

2. That the Docket numbers hereinbefore set opposite the name of each individual applicant in the caption hereof shall be the Formal Docket number for such separate and individual case.

3. That the application of the Jackson Iron and Steel Company, Jackson, Ohio, and the Portsmouth Clay Products Company, South Webster, Ohio, be added to and made a part of the Commission Order for Hearings in the State of Ohio issued by the Commission as of April 30, 1938.

4. That the notice to the Cambria Clay Products Company, Blackford, Ohio, and the notice to the Muskingum Coal Company, Zanesville, Ohio, are hereby revoked and stricken from the original Notice of and Order for Hearings.

5. That, beginning on the 24th day of May, 1938, at ten o'clock a. m. at the Hearing Room of the Commission in the Rogge Hotel, Zanesville, Ohio, hearings on the said applications be held before Charles O. Fowler, an Examiner of this Commission designated and appointed to take testimony and receive evidence in these proceedings and to perform all other duties authorized by law.

6. That said Examiner is hereby authorized and directed to designate, at the opening session of the hearings herein noticed, the order in which the above entitled applications will be heard, and to adjourn said hearings from time to time and to such place or places within the State of Ohio as the convenience of the applicants and necessities of the occasion may require.

7. The Secretary of the Commission is directed forthwith to mail a copy of this notice to each of the applicants above named or to their Attorneys of record; to the Consumers' Counsel; to the Secretary of each District Board, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published for two consecutive days in two newspapers of general circulation in the State of Ohio; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 6th day of May, 1938.

[SEAL] EDGAR C. FARIS, Jr.,
Acting Secretary.

[F. R. Doc. 38-1325; Filed, May 10, 1938; 11:23 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION WITH RESPECT TO A PROPOSED ORDER REGULATING THE HANDLING IN INTERSTATE COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE, OF POTATOES GROWN IN THE STATE OF LOUISIANA AND IN CERTAIN DESIGNATED COUNTIES IN THE STATES OF TEXAS, MISSISSIPPI, ALABAMA, AND FLORIDA

Whereas, the Secretary of Agriculture, pursuant to the provisions of Public No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of Irish potatoes grown in the State of Louisiana; and in the counties of Bexar, Medina, Wilson, Atascosa, Wharton, Colorado, Fort Bend, Liberty, and Harris in the State of Texas; the counties of Warren, Hinds, Rankin, Scott, Newton, and Lauderdale, and all counties south thereof, in the State of Mississippi; the counties of Baldwin, Mobile, and Escambia in the State of Alabama; and the counties of Escambia and Santa Rosa in the State of Florida, would tend to effectuate the declared policy of the said act, gave notice on the 28th day of March, 1938, notice of hearings, which were held at Baton Rouge, Louisiana, on the 5th day of April; San Antonio, Texas, on the 7th day of April; Wharton, Texas, on the 8th day of April; Hattiesburg, Mississippi, on the 8th day of April; and Foley, Alabama, on the 9th day of April, 1938, on a proposed marketing agreement and a proposed order regulating the handling of Irish potatoes grown in the aforesaid area, at which times and places all interested parties were afforded an opportunity to be heard; and

Whereas, after such hearings and after the tentative approval by the Secretary of Agriculture of a marketing agreement on the 14th day of April, 1938, handlers of more than fifty per centum of the volume of potatoes covered by such proposed order, which are produced within the aforementioned area, refused or failed to sign such marketing agreement relating to potatoes;

Now, therefore, the Secretary of Agriuculture, by virtue of the authority vested in him by Public No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby determines:

1. That the refusal or failure of the said handlers to sign the said marketing agreement tends to prevent the effectuation of the declared policy of the above-mentioned act with respect to potatoes grown in the aforementioned area; and

2. That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interest of producers of potatoes in the said area; and

3. That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the marketing season of 1937, said season being here and now determined to be a representative period, have been engaged in the aforementioned area in the production for market of potatoes.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this determination and have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 7th day of May, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT
The President of the United States

Dated May 9, 1938.

[F. R. Doc. 38-1328; Filed, May 10, 1938; 12:46 p. m.]

ORDER REGULATING THE HANDLING IN INTERSTATE COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE, OF IRISH POTATOES GROWN IN THE STATE OF LOUISIANA; AND IN THE COUNTIES OF ATASCOSA, BEXAR, COLORADO, FORT BEND, HARRIS, LIBERTY, MEDINA, WHARTON AND WILSON IN THE STATE OF TEXAS; THE COUNTIES OF WARREN, HINDS, RANKIN, SCOTT, NEWTON AND LAUDERDALE, AND ALL COUNTIES SOUTH THEREOF, IN THE STATE OF MISSISSIPPI; THE COUNTIES OF BALDWIN, ESCAMBIA AND MOBILE IN THE STATE OF ALABAMA; AND THE COUNTIES OF ESCAMBIA AND SANTA ROSA IN THE STATE OF FLORIDA

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (hereinafter referred to as the "act"), it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue orders regulating such handling of certain agricultural commodities, including potatoes, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs or affects interstate or foreign commerce in such commodities; and

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions in interstate commerce for potatoes grown in the State of Louisiana; and in the counties of Atascosa, Bexar, Colorado, Fort Bend, Harris, Liberty, Medina, Wharton and Wilson in the State of Texas; the counties of Warren, Hinds, Rankin, Scott, Newton and Lauderdale, and all counties south thereof, in the State of Mississippi; the counties of Baldwin, Escambia and Mobile in the State of Alabama; and the counties of Escambia and Santa Rosa in the State of Florida, as would establish prices to the producers of such potatoes at a level that would give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period, August 1919-July 1929, conducted public hearings at Baton Rouge, Louisiana, April 5, 1938, San Antonio, Texas, April 7, 1938, Wharton, Texas, April 8, 1938, Hattiesburg, Mississippi, April 8, 1938, and Foley, Alabama, April 9, 1938, pursuant to due notice given to all interested parties on March 28, 1938, on a proposed order regulating such handling of such potatoes as is in the current of interstate commerce, or which directly burdens, obstructs or affects such commerce in the said potatoes, at which hearings all interested persons in attendance were offered due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearings and the record thereof:

(1) That at the time of the hearings the prices received by the producers of such potatoes were at a level that gave such potatoes a purchasing power with respect to articles that such producers buy appreciably below the purchasing power of such potatoes during the base period;

(2) That the regulation of shipments by grades and sizes of the potatoes covered by this order, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more sta-

bilized market for such potatoes, tending to establish prices to such producers at a level that will give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period;

(3) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act;

(4) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, as provided in this order, is fair and equitable; and

(5) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to such potatoes by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes in the base period and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary finds that after the said hearings and after the tentative approval by the Secretary on April 14, 1938, of a marketing agreement which regulates the handling of such potatoes in the same manner as this order, upon which hearings were held on April 5, April 7, April 8 and April 9, 1938, handlers (excluding cooperative associations of producers who are engaged in processing, distributing, or shipping the potatoes covered by this order) who handled more than fifty (50) percent of the volume of potatoes covered by this order, and marketed during the 1937 season in the current of interstate commerce, refused or failed to sign the said marketing agreement with the Secretary; and

Whereas, the Secretary determined on the 7th day of May 1938, said determination being approved by the President of the United States on the 9th day of May 1938, that such refusal or failure to sign the tentatively approved marketing agreement tends to prevent the effectuation of the aforesaid declared policy of the act and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of such potatoes, and is approved or favored by over two-thirds of the producers who, during the 1937 marketing season, said season being herewith determined to be a representative period, have been engaged in the production for market of such potatoes; and

Whereas, the Secretary finds that this order regulates the handling of such potatoes in the same manner as the aforesaid tentatively approved marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of the said potatoes as is in the current of interstate commerce, or which directly burdens, obstructs or affects interstate commerce in such potatoes, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1.—As used herein, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States;

2. "Act" means Public No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

3. "Person" means individual, partnership, corporation, association, or any other business unit;

4. "Potatoes" means and includes all varieties of Irish (white) potatoes grown within the area described in paragraph 8 of this section and harvested during 1938;

5. "Ship" or "handle" means to put potatoes into the channels of trade by conveying or causing them to be conveyed (but not as a common carrier for another person) by railroad, truck, boat, or any other means whatsoever, in the current of interstate commerce, or so as directly to burden, obstruct, or affect interstate commerce; but does not include the act of a producer in merely transferring ownership or title to a handler;

6. "Producer" means any person who produces potatoes for sale;

7. "Handler" means any person who ships or otherwise handles potatoes, or permits another person to ship or otherwise handle potatoes in the name of such first person, but does not include a producer who transports potatoes to the customary grading or loading point nearest the place of production of such potatoes; and

8. "Area" means and includes the following geographical area:

All of the parishes in the State of Louisiana;

The counties of Atascosa, Bexar, Colorado, Fort Bend, Harris, Liberty, Medina, Wharton, and Wilson, in the State of Texas;

The counties of Warren, Hinds, Rankin, Scott, Newton and Lauderdale, and all counties south thereof, in the State of Mississippi;

The counties of Baldwin, Escambia and Mobile in the State of Alabama; and

The counties of Escambia and Santa Rosa in the State of Florida.

ARTICLE II—GENERAL CULL REGULATIONS

SECTION 1. *Limitation of shipments.*—No handler shall ship or handle in the current of interstate commerce, or so as directly to burden, obstruct or affect interstate commerce, any lot of potatoes which do not grade at least U. S. No. 2, as defined in the "United States Standards for Potatoes," issued by the United States Department of Agriculture, effective September 15, 1936, except (1) that a mixture of varieties may be shipped; (2) that under no circumstances shall the size be less than 1½ inches in diameter with the standard tolerance for undersize of 5 percent by weight; and (3) that potatoes not grading U. S. No. 2 because of serious damage by dirt may be shipped if such potatoes otherwise meet the requirements of U. S. No. 1 grade.

ARTICLE III—GRADING AND INSPECTION

SECTION 1. *Certification.*—No handler shall ship or handle any potatoes unless they are inspected by an authorized representative of the Federal-State Inspection Service and a certificate is issued showing the information necessary to determine whether such potatoes conform with the requirements of article II and of the regulations, if any, issued pursuant to article IV hereof.

ARTICLE IV—GRADE AND SIZE REGULATIONS

SECTION 1. *Establishment of regulations.*—Whenever the Secretary shall find, on the basis of a recommendation of the area committee and other available information, that to limit further the shipment of potatoes would tend to effectuate the declared policy of the act, he shall, during any specified period, limit the shipments of potatoes grown in the area or any part thereof, to potatoes of specified grades or sizes or qualities or combinations thereof, and any such limitation may specify tolerances for particular defects in quality and may apply to any or all varieties: Provided, That the Secretary shall not limit the shipment of potatoes which are at least 1⅞ inches in diameter and otherwise grade U. S. No. 1, as defined in the aforesaid "United States Standards for Potatoes." No regulation issued pursuant hereto shall become effective within less than 48 hours after issuance thereof by the Secretary.

SEC. 2. *Percentage exemptions.*—1. In the event that shipments of potatoes are limited pursuant to this article, the area committee shall determine, from time to time, for those parts of the area subject to the limitation, the percentage which the quantity of potatoes available for shipment under such limitation during the regulation period is of the total quantity of potatoes which would otherwise be available for shipment during such period in the absence of such regulation and shall immediately announce the results of such determination. The Secretary shall have the right to change or modify any such determinations of percentages.

2. If any producer furnishes evidence to the area committee that the limitation of shipments, as provided for in this article, during any period will not permit the shipment of a percentage of his potatoes during such period equal to the percentage determined pursuant to paragraph 1 hereof, the said committee shall issue, upon the request of such producer, an exemption certificate which will permit the shipment of such a quantity of his potatoes as will make the percentage of his potatoes that may be shipped equal to the percentage determined for that part of the area in which such producer's potatoes are grown. Any action taken by the area committee with respect to exemptions shall be subject to the continuing right of the Secretary to review the same and to direct the said committee to take such other or further action in the matter as the Secretary may deem necessary.

SEC. 3. *Other exemptions.*—Nothing contained in this article shall be construed to authorize any limitation of the right to ship potatoes (1) for consumption to charitable institutions or distribution by relief agencies; (2) which are officially certified for seed purposes by the respective official state seed potato certification agencies; and (3) for canning or for manufacture into alcohol, starch, flour or vinegar, or for any other manufacturing purpose approved by the Secretary, or for feed for livestock and which are in due course so canned, manufactured or so used for livestock feed. The area committee may recommend and the Secretary may prescribe adequate safeguards to prevent potatoes shipped for such purposes from being introduced into the commercial channels of trade contrary to the provisions hereof.

SEC. 4. *Compliance.*—Except as provided herein, no handler shall ship or contract to ship potatoes, the shipment of which has been prohibited by the Secretary.

SEC. 5. *Notice.*—The area committee shall give notice of any regulation of shipments, issued by the Secretary pursuant to this article, at least twenty-four (24) hours before the time it becomes effective, by issuing a press release, posting a notice in the office of the said committee or by such other available means as the said committee deems necessary to give producers and handlers notice of such regulation.

ARTICLE V—STATE ADVISORY COMMITTEES

SECTION 1. *Membership.*—The Secretary shall select a State Advisory Committee for each of the States of Texas, Louisiana and Mississippi, and one for that part of the area lying in the States of Alabama and Florida. Each of the four such committees shall consist of five (5) members, of whom three (3) shall be producers and two (2) shall be handlers. The Secretary shall in like manner select successors to members.

SEC. 2. *Powers and duties.*—Each State Advisory Committee shall:

1. Act as intermediary between the producers and handlers located within their respective territories and the area committee;

2. Assist the area committee in carrying out its duties hereunder by securing for such committee information with respect to conditions relating to the potato industry and such other information as the area committee may request; and

3. Upon request of the area committee, investigate complaints of violation hereof and submit reports thereon to the area committee.

SEC. 3. *Expenses.*—The members of the committees shall serve without compensation, but may be reimbursed by the area committee, out of funds collected pursuant to article VII hereof, for necessary expenses incurred, pursuant to the authority of the area committee, in the performance of their duties.

ARTICLE VI—AREA COMMITTEE

SECTION 1. *Membership and organization.*—1. The Secretary shall select from among the members of the State Advisory Committees an area committee consisting of ten members, of whom six shall be producers and four shall be handlers. One producer and one handler shall be selected from each of the States of Texas and Mississippi; two producers and one handler from the State of Louisiana; and two producers and one handler from that part of the area lying in the States of Alabama and Florida. The Secretary shall likewise select for each member of the committee an alternate with the same qualifications (except membership in a State Advisory Committee), and in like manner shall select successors to members and to alternates.

2. Any person selected as a member or an alternate shall qualify by filing a written acceptance of his selection with the Secretary or his designated agent.

3. An alternate for a member of the area committee shall act in the place and stead of such member, in his absence or in the event of his death, removal, resignation, or disqualification.

4. The members of the area committee shall select a chairman from their membership, and shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The committee shall give to the Secretary or his designated agent the same notice of meetings of the committee as is given to the members thereof.

SEC. 2. *Powers.*—The area committee shall have the power:

(1) To administer, as herein specifically provided, the terms and provisions hereof;

(2) To make, in accordance with the provisions herein contained, administrative rules and regulations;

(3) To receive, investigate and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

SEC. 3. *Duties.*—It shall be the duty of the area committee:

(1) To act as intermediary between the Secretary and any producer or handler;

(2) To keep minute books and records which will clearly reflect all of its activities and transactions, which minute books and records shall at any time be subject to the examination of the Secretary;

(3) To furnish to the Secretary such available information as he may request;

(4) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees and obtain a bond covering each employee who is entrusted with funds of the said committee;

(5) To consult with any other committee established pursuant to, or with handlers operating under, any marketing agreement or order of the Secretary, with respect to the handling of potatoes grown in any region covered by such other marketing agreements or orders, to the end that the administration hereof may be coordinated with the administration of such other agreements or orders so as to best effectuate their respective purposes; and

(6) To cause its books to be audited by one or more competent accountants at least once each year and at such other times as the Secretary may request, and to file with the Secretary copies of all such audit reports.

SEC. 4. *Expenses.*—The members of the area committee and their alternates shall serve without compensation, but may be allowed expenses necessarily incurred in the performance of their duties hereunder.

SEC. 5. *Procedure.*—1. Upon the selection of a majority of its members, the area committee may commence to function.

A majority of all members shall constitute a quorum.

2. For any action of the area committee to be valid, a majority of the votes of all members of the committee shall be necessary.

3. The area committee may vote by mail, telegram, or radiogram upon due notice to all members eligible to vote.

4. The members of the area committee (including successors and alternates) and any agent or employee appointed or employed by the said committee shall be subject to removal or suspension by the Secretary at any time.

5. Each and every order, regulation, decision, determination, or other act of the area committee shall be subject to the continuing right of the Secretary to disapprove the same at any time, and, upon his disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

SEC. 6. *Funds and other property.*—All funds received by the area committee pursuant to any provision hereof shall be used solely for the purpose of paying its necessary expenses hereunder and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the said committee and its members to account for all receipts and disbursements; and

(2) Upon the removal or expiration of the term of office of any member of the said committee, such a member shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office, or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such other person full title to all of the property, funds, or claims vested in such member pursuant hereto.

ARTICLE VII—ASSESSMENTS AND EXPENSES

SECTION 1. *Expenses.*—The area committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

SEC. 2. *Assessments.*—Each handler shall pay to the area committee, upon demand, his pro rata share of the expenses which the Secretary finds will necessarily be incurred by the said committee for its maintenance and functioning. The amount of the assessment, which shall not exceed $1 for each railroad car, or 50¢ for each truck of potatoes, shall be recommended by the area committee and shall be fixed by the Secretary. Such assessment may in like manner be adjusted from time to time to cover any later finding by the Secretary of estimated expenses or the actual expenses incurred.

SEC. 3. *Shipping permits.*—The Secretary may, in his discretion and for the purpose of collecting money for administrative expenses hereunder, require handlers to purchase from the area committee permits to be affixed to each package, lot, carlot, or shipment of potatoes before the same shall be handled: Provided, however, That any payments received for such permits shall be used for the purpose of paying the expenses of administration hereof and shall, in no event, exceed the pro rata share of expenses required to be paid by any handler. A handler's pro rata share of the expenses shall be that proportion thereof which the total quantity of potatoes shipped by him is of the total quantity of potatoes shipped by all handlers.

ARTICLE VIII—REPORTS

SECTION 1. *Reports.*—Upon the request of the area committee, made with the approval of the Secretary, every handler shall furnish the said committee, in such manner and at such times as it prescribes, such information as it deems necessary to enable it to exercise its powers and perform its duties hereunder.

ARTICLE IX—LIABILITY

SECTION 1. *Liability.*—No member or alternate of the several committees, nor any employee thereof, shall be held liable individually, in any way whatsoever, to any party hereto or any other person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate or employee, except for acts of dishonesty.

ARTICLE X—SEPARABILITY

SECTION 1. *Separability.*—If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

ARTICLE XI—DEROGATION

SECTION 1. *Derogation.*—Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act, or otherwise, or (2) in accordance with such powers to act in the premises whenever such action is deemed advisable.

ARTICLE XII—AGENTS

SECTION 1. *Agents.*—The Secretary may, by designation in writing, name any persons, including any officers or employees of the Government, or name any bureaus or divisions in the Department of Agriculture, to act as his agents or representatives in connection with any of the provisions hereof.

ARTICLE XIII—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereafter specified.

SEC. 2. *Suspension and termination.*—This order, any provision hereof or any amendment hereto, may be suspended or terminated by the Secretary, as to any or all handlers, after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. Unless sooner terminated, this order shall terminate at 11:59 P. M., July 31, 1938.

SEC. 4. *Proceedings after termination.*—1. Upon the termination of this order, the members of the area committee then functioning shall continue as joint trustees, for the purposes of this order, of all funds and property then in the possession of or under the control of said committee, including claims for any funds unpaid or property not delivered at the time of such termination.

2. The said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall account, from time to time, for all receipts and disbursements and deliver all funds and property on hand, together with all books and records of the area committee and of the joint trustees, to such person as the Secretary shall direct; and (c) shall execute, upon the request of the Secretary, such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds or claims vested in the area committee or the joint trustees pursuant to this agreement. Any funds collected pursuant to article VII, and held by such joint trustees or such person, over and above the amount necessary to meet outstanding obligations and expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall be returned as soon as practicable after the termination of this order to the handlers, pro rata, in proportion to their contributions made pursuant to this order.

3. Any and all persons to whom funds or claims have been delivered by the area committee or its members, pursuant to this section, shall be subject to the same obligations and duties with respect to said funds as are hereinabove imposed upon the members of said committee.

ARTICLE XIV—DURATION OF IMMUNITIES

SECTION 1. *Duration of immunities.*—The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination, except with respect to acts done under and during the existence of this order.

In witness whereof, H. A. Wallace, Secretary of Agriculture, has executed this order in duplicate and has caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, on the 9th day of May 1938, and declares this order to be effective on and after 12:01 a. m., May 12, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1329; Filed, May 10, 1938; 12:46 p. m.]

PRICES FOR 1938 CROP OF SUGARCANE

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that a public hearing will be held at Baton Rouge, Louisiana, in the Agricultural Auditorium, Louisiana State University and A. & M. College, on May 17, 1938, at 1:00 p. m.

The purpose of such hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, pursuant to the provisions of Section 301 (d) of the said act, fair and reasonable prices for the 1938 crop of sugarcane to be paid by processors, who, as producers, apply for payments under the said act.

Joshua Bernhardt and Robert B. Tyler are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Done at Washington, D. C., this 9th day of May, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1330; Filed, May 10, 1938; 12:46 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3197]

IN THE MATTER OF WALDO W. TOWNSLEY, AN INDIVIDUAL, DOING BUSINESS AS SERVAL-SYSTEM

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein on March 21, 1938, whereby respondent admitted all the material allegations of the complaint to be true, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Waldo W. Townsley, an individual, doing business under the trade name Serval-System, or under any other trade name, his agents, representatives and employees, in connection with the offering for sale, sale and distribution of a bookkeeping system now designated a Serval-System, whether sold under that name or under any other name, in interstate commerce in the District of Columbia, do forthwith cease and desist from representing, in any manner whatsoever:

1. That said bookkeeping system is easy to sell;

2. That large numbers of sets of said system have been sold in any given community unless such is the fact;

3. That the system is indorsed by local banks and business concerns;

4. That the respondent is in search of a local representative or territorial distributor to supervise the sale of said systems in a given territory;

5. That no cash outlay is required by so-called local representatives or territorial supervisors;

6. That the so-called local representatives or territorial distributors are required to do no selling; and that their only duty is to handle the money, supervise and pay the salesmen;

7. That respondent will organize and train sales forces to sell the sets under the supervision of a so-called local representative or territorial supervisor;

8. That greater commissions are obtainable if a cash advance sufficient to cover cost of printing the systems contracted for is made by the so-called local representative or territorial distributor.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1323; Filed, May 10, 1938; 10:27 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

MINOR AMENDMENT TO RULES

Paragraph (d) of Rule 11F-1 amended by adding at the end of the first sentence thereof: "or any rules or order pursuant to section 12."

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Sections 11 (f) and 20 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out the purposes of said Act, the Securities and Exchange Commission hereby amends paragraph (d) of Rule 11F-1 to read as follows:

(d) If the plan proposed includes acquisition of assets or securities or issuance of securities, the application, in addition to other appropriate matters, shall include the information required by sections 6 (b), or 7 or 10 and the rules, regulations and forms thereunder, or any rules or order pursuant to section 12. The Commission, at the time when it issues its order approving or withholding approval of the plan, will determine whether or not the requirements of said sections are satisfied, subject, however, to retention of jurisdiction as provided in paragraph (e) hereof. If it is not feasible to set forth in such application, as initially filed, all the terms and conditions of any such transaction, or definitive documents and specifications with respect thereto, or for all of the persons required by any such rule or form or provision of the Act to join in applications thereunder, to join in such application, such matters, together with such definitive documents and specifications, may be supplied and such persons may so join by amendment. Such amendment may be filed either prior or subsequent to the order of the Commission approving such plan, but shall be filed prior to the carrying out of any such act or transaction proposed in such plan. In the case of any person so joining by amendment in an application with respect to a plan theretofore filed by any other person, such amendment shall specify the extent to which the person executing such amendment ratifies and adopts the statements contained in the application as theretofore filed or amended.

Effective May 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1327; Filed, May 10, 1938; 12:33 p. m.]

Thursday, May 12, 1938 *No. 93*

PRESIDENT OF THE UNITED STATES.

CLOSED AREA UNDER THE MIGRATORY BIRD TREATY ACT NORTH CAROLINA

By the President of the United States of America

A PROCLAMATION

WHEREAS the Secretary of Agriculture has submitted to me for approval the following regulation adopted by him on March 16, 1938, under authority of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755):

Regulation Designating as Closed Area Certain Lands and Waters Within, Adjacent to, and in the Vicinity of Pea Island Migratory Waterfowl Refuge, North Carolina

By virtue of and pursuant to the authority vested in me by section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, U. S. C., title 16, sec. 704), and in conformity with Regulation 4 of the Migratory Bird Treaty Act Regulations, I, H. A. Wallace, Secretary of Agriculture, do hereby designate as closed area in or on which hunting, taking, capturing, or killing, or attempting to hunt, take, capture, or kill, migratory birds is prohibited, all areas of land and water in Dare County, North Carolina, not now owned or controlled by the United States within the following-described exterior boundary:

Beginning at a point on the north end of Pea Island on the south shore of Oregon Inlet, from which point a U. S. Biological Survey standard concrete post set for a witness corner bears south 0.50 chain distant;

Thence from said initial point, along the east side of Pea Island, with the meanders of Oregon Inlet and the Atlantic Coast,

N. 81°29′ E., 7.72 chains;
S. 82°11′ E., 10.81 chains;
S. 71°52′ E., 12.00 chains;
S. 28°29′ E., 20.00 chains;
S. 28°53′ E., 26.43 chains;
S. 31°14′ E. 20.33 chains;
S. 36°56′ E., 12.57 chains;
S. 32°43′ E., 20.00 chains;
S. 31°34′ E., 40.71 chains;
S. 28°12′ E., 80.00 chains;
S. 32°07′ E., 8.59 chains;
S. 20°59′ E., 40.00 chains;
S. 23°06′ E., 15.21 chains;
S. 16°20′ E., 37.87 chains;
S. 16°21′ E., 215.39 chains;
S. 14°24′ E., 50.00 chains;
S. 5°58′ E., 40.00 chains;
S. 8°29′ W., 17.80 chains, to a point on the south end of Pea Island on the north shore of New Inlet;

Thence crossing New Inlet,

S. 31°58′ E., 12.30 chains, to a point on the northeast corner of Chicamacomico Island;

Thence along the east side of Chicamacomico Island with the meanders of the Atlantic Coast,

S. 5°31′ E., 29.27 chains;
S. 9°53′ E., 80.11 chains;
S. 13°30′ E., 80.31 chains;
S. 10°35′ E., 62.50 chains;
S. 14°17′ E., 40.00 chains;
S. 12°58′ E., 40.00 chains;
S. 7°58′ E., 21, 53 chains; to a point from which a U. S. Biological Survey standard concrete post set for a witness corner bears S. 81°40′ W., 2.00 chains distant;
Thence inland, crossing Chicamacomico Island,

S. 81°40′ W., 41.76 chains, to a point on the west side thereof, on the east shore of Pamlico Sound, from which point a U. S. Biological Survey standard concrete post set for a witness corner bears N. 81°40′ E., 0.10 chain distant;

Thence in Pamlico Sound,

N. 89°00′ W., 1.8 miles (approximately), to beacon No. 2;
S. 73½° W., 0.9 mile (approximately) to beacon No. 1;
N. 30° W., with a line between beacon No. 1 and the east side of Bunton Island, 11.7 miles (approximately), to a point about 4.7 miles from said island;
N. 67°00′ E., 5.5 miles (approximately), to the place of beginning;

AND WHEREAS upon consideration it appears that the foregoing regulation will tend to effectuate the purposes of the aforesaid Migratory Bird Treaty Act of July 3, 1918:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid Migratory Bird Treaty Act of July 3, 1918, do hereby approve and proclaim the foregoing regulation of the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this ninth day of May in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2284]

[F. R. Doc. 38-1348; Filed, May 11, 1938; 11:44 a. m.]

EXECUTIVE ORDER

POWER SITE RESTORATION NO. 489. PARTIAL REVOCATION OF EXECUTIVE ORDER OF JUNE 30, 1916, CREATING POWER SITE RESERVE NO. 533

Washington

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, 36 Stat. 847, as amended by the act of August 24, 1912, 37 Stat. 497, the Executive Order of June 30, 1916, creating Power Site Reserve No. 533, is hereby revoked as to the following-described lands:

WILLAMETTE MERIDIAN

T. 28 N., R. 12 E., sec. 30, S½NW¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 9, 1938.

[No. 7881]

[F. R. Doc. 38-1331; Filed, May 10, 1938; 1:11 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE TYBEE MIGRATORY BIRD REFUGE

Georgia

By virtue of and pursuant to the authority vested in me as President of the United States and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered as follows:

SECTION 1. Oyster Bed Island and the spoil bank extending westerly therefrom along the Long Island Training Wall between the main channel of the Savannah River and the Horseshoe Shoal to Wing Dam No. 32 (U. S. E.) (the approximate geographic position of which dam is in latitude 32°03′20″ N., and longitude 80°56′15″ W., from Greenwich), all in Chatham County, Georgia, are hereby reserved and set apart, subject to existing valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any accretions thereto resulting directly or indirectly from river and harbor improvement work shall, when formed, become a part of the refuge hereby established.

SEC. 2. The above-described lands are in part under the primary jurisdiction of the Department of Commerce and in part under the primary jurisdiction of the War Department, and their reservation for the purposes set forth in this order shall be subject at all times to use by the Department of Commerce and the War Department for lighthouse purposes and purposes of river and harbor improvement, and the administration of the area for wildlife conservation purposes by the Department of Agriculture shall be without interference with any existing or future uses or regulations of either the Department of Commerce or the War Department.

SEC. 3. This reservation shall be known as the Tybee Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 9, 1938.

[No. 7882]

[F. R. Doc. 38-1332; Filed, May 10, 1938; 1:11 p. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS TO PROVIDE MATERIAL FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC ROADS AND OTHER PUBLIC PROJECTS

California

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

Section 1. Executive Order No. 6910 of November 26, 1934, as amended, temporarily withdrawing all public lands in certain states for classification and other purposes, is hereby revoked in so far as it affects the following-described tracts of land in California:

MT. DIABLO MERIDIAN

T. 36 N., R. 5 E., sec. 19, lots, 10, 11 and 12, 240 acres.

Section 2. Subject to the conditions expressed in the abovementioned acts and to all valid existing rights, the tracts of land described in section 1 of this order are hereby temporarily withdrawn from settlement, location, sale, or entry, and reserved for the purpose of providing material for the construction and maintenance of public roads and other public projects under the jurisdiction of Federal agencies and in accordance with the Federal Highway Act (42 Stat. 212).

Section 3. The reservation made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 9, 1938.

[No. 7883]

[F. R. Doc. 38-1333; Filed, May 10, 1938; 1:12 p. m.]

EXECUTIVE ORDER

REESTABLISHING THE TOIYABE NATIONAL FOREST

Nevada

By virtue of and pursuant to the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U. S. C., title 16, sec. 473), and upon the recommendation of the Secretary of Agriculture, it is hereby ordered that the Toiyabe Division of the Nevada National Forest and the Santa Rosa Division of the Humboldt National Forest be, and they are hereby, excluded from the Nevada and Humboldt National Forests, respectively, and they shall hereafter be designated and administered as the Toiyabe National Forest, which is hereby reestablished.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 9, 1938.

[No. 7884]

[F. R. Doc. 38-1334; Filed, May 10, 1938; 1:12 p. m.]

DEPARTMENT OF THE INTERIOR.

General Land Office.

STOCK DRIVEWAY WITHDRAWAL NO. 7, NEW MEXICO NO. 2, REDUCED

APRIL 28, 1938.

Departmental order of December 15, 1917, withdrawing certain lands in New Mexico for stock driveway purposes under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), is hereby revoked in so far as it affects the following-described lands which are within New Mexico Grazing District No. 6, established April 8, 1935:

NEW MEXICO PRINCIPAL MERIDIAN

T. 22 S., R. 23 E., S½ of secs. 25 and 26, NE¼SE¼, S½SE¼ sec. 27, NE¼SE¼, S½SE¼ sec. 33 and N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼ sec. 34;
T. 23 S., R. 23 E., E½ sec. 4, NE¼SE¼, S½SE¼ sec. 8, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼ sec. 9, NE¼SW¼, S½SW¼, SE¼ sec. 13, SW¼, S½SE¼ sec. 14, S½ sec. 15, SE¼SW¼, NE¼SE¼, S½SE¼ sec. 16, N½ sec. 17, N½, SW¼ sec. 18, NW¼, S½ sec. 19, S½NE¼, N½ of S½, SW¼SW¼ sec. 20, N½NE¼, NW¼ sec. 21, N½NE¼ sec. 23, N½NW¼ sec. 24, E½ secs. 30 and 31;
T. 24 S., R. 23 E., E½, NE¼SW¼, S½SW¼ sec. 6, and N½NW¼ sec. 7;
T. 26 S., R. 23 E., S½ sec. 13, SE¼ sec. 14, NE¼, E½SW¼, N½SE¼, SW¼SE¼ sec. 23, NW¼NE¼, NW¼, N½SW¼ sec. 26, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼ sec. 27, and W½ of fractional sec. 34;
T. 22 S., R. 24 E., S½ of S½ of secs. 25, 26, 27, 28 and 29, NW¼SW¼, S½ of S½ sec. 30, N½ of N½ of secs. 31, 32, 33, 34, 35 and 36;
T. 23 S., R. 24 E., NW¼SW¼, S½SW¼ sec. 18, NE¼, N½NW¼, SE¼NW¼ sec. 19, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, NW¼SE¼, S½SE¼ sec. 20, S½ sec. 25, SW¼NW¼, S½ sec. 26, S½N½, N½ of S½ sec. 27, NW¼NW¼, S½N½, N½S½ sec. 28, and N½NE¼, SE¼NE¼ sec. 29;
T. 25 S., R. 24 E., NE¼NE¼ sec. 24;
T. 26 S., R. 24 E., N½ sec. 1, NE¼, S½NW¼ sec. 2, N½ sec. 3, NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼, NW¼SE¼ sec. 4, SE¼SW¼, SE¼ sec. 5, SE¼SE¼ sec. 7, N½NE¼, SW¼NE¼, E½NW¼, SW¼, W½SE¼ sec. 8, N½NW¼, SW¼NW¼ sec. 17, and NE¼NE¼, S½NE¼, S½ sec. 18;
T. 22 S., R. 25 E., SE¼ sec. 1, NE¼SW¼, S½SW¼, SE¼ sec. 11, N½NE¼, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼ sec. 12, NW¼NE¼, W½ sec. 14, SE¼NE¼, SE¼ sec. 22, NW¼, N½ of S½, SE¼SE¼ sec. 23, S½ sec. 24, NE¼, N½SE¼ sec. 27, N½SW¼, SW¼SW¼, NW¼SE¼ sec. 28, SW¼NE¼, S½NW¼, NW¼SE¼, S½SE¼ sec. 29, SE¼NE¼, NE¼SE¼, S½ of S½ sec. 30, and lot 1, sec. 31;
T. 23 S., R. 25 E., S½NE¼, SE¼NW¼, NE¼SW¼ sec. 24;
T. 25 S., R. 25 E., E½, S½SW¼ sec. 1, SE¼SW¼, S½SE¼ sec. 10, N½NE¼, SW¼NE¼, E½NW¼, SW¼, NW¼SE¼ sec. 11, N½ of N½ sec. 12, W½ sec. 15, N½ of N½ sec. 19, N½, SW¼ sec. 20, N½ sec. 21, NW¼ sec. 22, NW¼ sec. 29, N½, SW¼ sec. 30, and W½ sec. 31;
T. 26 S., R. 25 E., NW¼ sec. 6;
T. 22 S., R. 26 E., lot 4, sec. 5, NE¼, SE¼NW¼, SW¼, N½SE¼ sec. 6, S½ sec. 19, NW¼SW¼, S½SW¼, SW¼SE¼ sec. 20, sec. 29, W½, W½SE¼ sec. 23, W½ sec. 27, S½ of N½, N½ of S½ sec. 28, NW¼NE¼, S½NE¼, N½NW¼, SE¼NW¼, N½SE¼ sec. 29, NE¼NE¼ sec. 30, SE¼SE¼ sec. 32, S½ sec. 33, and W½ sec. 34;
T. 23 S., R. 26 E., lot 4, sec. 4, NE¼, SE¼NW¼, SW¼, N½SE¼, SW¼SE¼ sec. 5, W½, NW¼SE¼, S½SE¼ sec. 8, E½, NE¼NW¼, SE¼SW¼ sec. 17, E½NE¼ sec. 19, N½, E½SE¼ sec. 20, E½ of E½ sec. 29, and W½ sec. 33;
T. 24 S., R. 26 E., W½ sec. 4, NE¼SE¼, S½SE¼ sec. 8, NW¼, N½SW¼, SW¼SW¼ sec. 9, E½ sec. 17, NE¼, E½SE¼ sec. 20, W½ of W½ sec. 21, W½NW¼ sec. 28, NE¼NE¼, S½NE¼, S½ sec. 29, SE¼ sec. 30, NE¼ and S½ sec. 31;
T. 25 S., R. 26 E., NW¼ sec. 6; aggregating 28,709.54 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1336; Filed, May 11, 1938; 9:47 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 9—NEW MEXICO NO. 3, REDUCED

APRIL 30, 1938.

Departmental order of February 28, 1918, withdrawing certain lands in New Mexico for stock driveway purposes under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), is hereby revoked in so far as it affects the following-described lands which are within New Mexico Grazing District No. 2, established March 27, 1936:

NEW MEXICO PRINCIPAL MERIDIAN

T. 1 N., R. 17 W., NW¼ sec. 25, N½ sec. 26, secs. 27 and 34;
T. 3 S., R. 4 W., sec. 6, N½ and SW¼ sec. 7;
T. 3 S., R. 5 W., sec. 1, E½ of E½ sec. 11, secs. 12 and 13, and E½ of E½ sec. 14;
T. 3 S., R. 6 W., secs. 18 and 20;
T. 3 S., R. 7 W., sec. 13;
T. 5 S., R. 14 W., sec. 25, E½, E½ of W½ sec. 26, NE¼, E½NW¼, and S½ sec. 35;
T. 6 S., R. 14 W., secs. 3, 4, and 5, SE¼ sec. 6, N½ sec. 7, and NW¼ sec. 8;
T. 7 S., R. 14 W., W½ sec. 5, secs. 6 and 7, W½ sec. 8, and NW¼ sec. 17;
T. 6 S., R. 15 W., E½NE¼, W½NW¼, NW¼SW¼, S½SW¼, NE¼SE¼, S½SE¼ sec. 12, and sec. 25;
T. 1 S., R. 17 W., E½ of secs. 5 and 8, N½, W½SW¼ sec. 17, E½ of E½ sec. 18, E½NE¼, S½ sec. 19, and W½ of W½ sec. 20;
T. 1 S., R. 18 W., SE¼ sec. 24, NE¼, S½ sec. 25, SE¼ sec. 26, SE¼ sec. 34, NE¼ and S½ sec. 35;
T. 2 S., R. 18 W., E½ sec. 3; SE¼ sec. 7, S½ secs. 8 and 9, NE¼ and S½ of secs. 10 and 18;
T. 2 S., R. 19 W., S½ sec. 13, secs. 24, 25 and 26;
T. 1 S., R. 20 W., secs. 13, 14, 20, 21, 22, 23, 29, 30, and E½ sec. 31;
T. 2 S., R. 20 W., W½ sec. 5, NE¼ sec. 6, W½ sec. 8, NW¼, S½ sec. 17, E½ sec. 20, SW¼ sec. 28, E½ sec. 29, N½, SE¼ sec. 33, and S½ sec. 34;
T. 3 S., R. 20 W., E½ sec. 3;
T. 1 S., R. 21 W., W½ of secs. 10, 15 and 22, secs. 25, 26, and 27, S½SW¼, E½ sec. 33, secs. 34 and 35;
aggregating 34,950.99 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1337; Filed, May 11, 1938; 9:48 a. m.]

STOCK DRIVEWAY NO. 128, WYOMING NO. 13, ENLARGED

APRIL 30, 1938.

It appearing that the following-described public lands should be included in Stock Driveway No. 128, Wyoming No. 13, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

SIXTH PRINCIPAL MERIDIAN

T. 43 N., R. 86 W.,
sec. 21, NE¼NE¼, W½ of E½ and SE¼SE¼,
sec. 28, W½NE¼ and SE¼NE¼;
aggregating 360 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1339; Filed, May 11, 1938; 9:48 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 11, MONTANA NO. 1, REDUCED

MAY 2, 1938.

Departmental order of July 21, 1923, withdrawing certain lands in Montana for stock driveway purposes under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), is hereby revoked in so far as it affects the following-described land:

PRINCIPAL MERIDIAN

T. 13 S., R. 5 W.,
sec. 17, SW¼SW¼,
sec. 20, N½NW¼;
aggregating 120 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1338; Filed, May 11, 1938; 9:48 a. m.]

National Park Service.

BOULDER DAM RECREATIONAL AREA

RULES AND REGULATIONS GOVERNING THE OPERATION OF PRIVATELY OWNED BOATS AND THE USE OF LANDING FACILITIES ON LAKE MEAD AND TRIBUTARY WATERS

Under the authority of the Act of August 9, 1937 (30 Stat. 564, 607), and the Act of August 25, 1916 (39 Stat. 535), and the Act of June 17, 1902 (32 Stat. 388, 390) as amended, and the Act of December 21, 1928 (45 Stat. 1057), the following regulations are made and published this 29th day of April, 1938, to govern the operation of privately owned boats and the use of landing facilities on the waters impounded by Boulder Dam, known as "Lake Mead", and the waters tributary thereto, within the Boulder Canyon Reservation:

1. No privately owned boat, raft, or other floating structure shall be placed or operated upon any waters within the Boulder Canyon Reservation without a permit from the supervisor of the Boulder Dam Recreational Area. Permits good for the calendar year will be issued by the supervisor upon payment of fees according to the following schedule:

Permit for rowboat or canoe not motor-powered or equipped with sails	$1.00
Permit for motor or sailboat with an overall length of 15 feet or less	2.00
Permit for motor or sailboat with an overall length of more than 15 feet and not more than 20 feet	3.00
Permit for motor or sailboat with an overall length of more than 20 feet and not more than 25 feet	4.00
Permit for motor or sailboat with an overall length of more than 25 feet	5.00
Permit for houseboat, regardless of size, not motorpowered	5.00

Boats equipped or used with outboard motors shall be considered motorboats, within the meaning of the above provisions.

Each permit shall be carried in the boat for which it is issued, whenever any person is aboard, and shall be exhibited upon the request of any officer or employee of the United States. A permit may be transferred with the boat for which it is issued, upon notice to the supervisor.

2. Where mooring or landing facilities are installed by the National Park Service, or by operators under contract with the Secretary of the Interior, no boats shall be moored or landed in the vicinity except at such moorings or landings. In areas where such facilities are not available, moorings or landings may be made only at places designated by the supervisor or his representative. The supervisor may designate special mooring places for houseboats, and no houseboat shall be moved from the designated mooring place without the permission of the supervisor.

3. No landing float or pier shall be installed without a permit from the supervisor and with his express consent. Miners or others who desire to install such floats or piers shall make application to the supervisor, who may issue revocable permits for the installation of temporary floats or piers, without charge to holders of boat permits.

4. The operator of any private boat leaving the landing area for an extended trip shall register in a book provided for the purpose at the operator's landing, stating the proposed destination and intended date of return.

5. Except in emergencies, no private boat shall be permitted to leave the landing area during such times as the small craft storm warning signal is flown at the operator's landing.

6. No boat shall approach within 200 feet of Boulder Dam at any time.

7. No privately owned boat shall be operated within any water area zoned and marked as migratory bird rest areas or for related wildlife uses.

8. No bottles, cans, garbage, rubbish, or refuse of any kind shall be placed in the waters of the lake.

9. The carrying of firearms upon any landing or in any boat is prohibited.

10. No person who is under the influence of intoxicating liquor or narcotic drugs shall operate a boat of any kind upon the waters of the lake.

The violation of any of the above regulations by the owner or operator of any boat shall be considered sufficient ground for revocation of the permit issued for such boat and the permit for any landing float or pier installed by the owner or operator. Upon revocation and notice to the permittee, such boat, landing float, or pier shall be removed from the Boulder Canyon Reservation within 48 hours after the issuance of the notice of revocation, failing which the supervisor may remove such boat at the expense of the permittee, and remove or destroy such landing float or pier.

The above regulations shall not apply to any boats operated for official use by any agency of the United States or of the States of Arizona or Nevada.

Nothing in these regulations shall relieve any boat or the owner or operator thereof from the obligation to comply with the laws of the United States and the regulations of the Department of Commerce relating to the licensing, equipment, and navigation of boats.

Approved April 29, 1938.

[SEAL] E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1335; Filed, May 11, 1938; 9:47 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

[Amendment 19 to Declaration No. 12]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

MAY 2, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

South Dakota, Minnehaha, May 1, 1941.
Puerto Rico, Barranquitas, May 1, 1941.
Virgin Islands, St. Croix, May 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the Status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Cherokee, May 1, 1941; Clay, May 1, 1941; Pickens, May 1, 1941.

Arkansas: Benton, May 1, 1941; Clark, May 1, 1941.

Colorado: Alamosa, May 1, 1941; Baca, May 1, 1941; Conejos, May 1, 1941; Costilla, May 1, 1941; Kiowa, May 1, 1941; Morgan, May 1, 1941; Rio Grande, May 1, 1941; Weld, May 1, 1941.

Florida: Hardee, May 1, 1941; Indian River, May 1, 1941; Martin, May 1, 1941; Polk, May 1, 1941; Washington, May 1, 1941.

Georgia: Atkinson, May 1, 1941; Bullock, May 1, 1941; Emanuel, May 1, 1941; Lanier, May 1, 1941; Laurens, May 1, 1941; Pike, May 1, 1941; Quitman, May 1, 1941; Screven, May 1, 1941; Upson, May 1, 1941; Walton, May 1, 1941.

Idaho: Gem, May 1, 1941.

Illinois: Pope, May 1, 1944.

Indiana: Hendricks, May 1, 1941; Newton, May 1, 1941.

Iowa: Audubon, May 1, 1941; Clayton, May 1, 1941; Floyd, May 1, 1941; Iowa, May 1, 1944.

Kansas: Barber, May 1, 1941; Clark, May 1, 1941; Cloud, May 1, 1941; Comanche, May 1, 1941; Decatur, May 1, 1941; Graham, May 1, 1941; Gray, May 1, 1941; Haskell, May 1, 1941; Kiowa, May 1, 1941; Norton, May 1, 1941; Phillips, May 1, 1941; Rooks, May 1, 1941; Saline, May 1, 1941; Sheridan, May 1, 1941.

Maine: Cumberland, May 1, 1941.

Massachusetts: Nantucket, May 1, 1941.

Michigan: Gratiot, May 1, 1941; Monroe, May 1, 1941; Tuscola, May 1, 1941.

Mississippi: Coahoma, May 1, 1941; Noxubee, May 1, 1941; Quitman, May 1, 1941; Tallahatchie, May 1, 1941; Tunica, May 1, 1941; Winston, May 1, 1941; Yalobusha, May 1, 1941.

Missouri: Carter, May 1, 1941; Jasper, May 1, 1941; McDonald, May 1, 1941; Oregon, May 1, 1941; Reynolds, May 1, 1941; Shannon, May 1, 1941.

Montana: Carter, May 1, 1941.

North Carolina: Burke, May 1, 1941; Cleveland, May 1, 1941.

Ohio: Butler, May 1, 1941; Darke, May 1, 1941; Erie, May 1, 1941; Hardin, May 1, 1941; Holmes, May 1, 1941.

Oklahoma: Blaine, May 1, 1941; McClain, May 1, 1941; Okfuskee, May 1, 1941.

Pennsylvania: Allegheny, May 1, 1941; Berks, May 1, 1941.

Rhode Island: Bristol, May 1, 1941.

South Carolina: Allendale, May 1, 1941; Bamberg, May 1, 1941.

Tennessee: Bedford, May 1, 1941; Claiborne, May 1, 1941; Cumberland, May 1, 1941; Hardin, May 1, 1941; Perry, May 1, 1941.

Texas: Clay, May 1, 1941; Comanche, May 1, 1941; Donley, May 1, 1941; Gillespie, May 1, 1941; Kent, May 1, 1941; Llano, May 1, 1941; Lee, May 1, 1941; Sherman, May 1, 1941; Stonewall, May 1, 1941; Upshur, May 1, 1941.

Vermont: Orange, May 1, 1941;

Virginia: Montgomery, May 1, 1941; Rappahannock, May 1, 1941.

West Virginia: Chippewa, May 1, 1941; Kenosha, May 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended, is hereby further amended accordingly.

[SEAL] J. R. MOHLER, *Chief of Bureau.*

[F. R. Doc. 38-1347; Filed, May 11, 1938; 11:06 a. m.]

Bureau of Biological Survey.

AMENDMENT TO REGULATIONS FOR THE ADMINISTRATION OF NATIONAL WILDLIFE REFUGES UNDER THE JURISDICTION OF THE BUREAU

By virtue of authority conferred upon the Secretary of Agriculture by Section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), section 84 of the Act of March 4, 1909 (35 Stat. 1104), as amended by Act of April 15, 1924 (43 Stat. 98), and section 401 of the Act of June 15, 1935 (49 Stat. 383), and otherwise, the "Regulations For The Administration Of National Wildlife Refuges Under The Jurisdiction Of The Bureau Of Biological Survey," issued November 23, 1937 (2 Federal Register, 2951) are hereby amended, effective May 11, 1938, by adding to "Regulation 17—Sale of Surplus Animals and Products," at the end of the second paragraph of subtitle "Hay, grass, timber, and other products," the following provision:

Such agreements may provide for the harvesting and delivery to the local representatives of the Bureau of Biological Survey of certain percentages of the harvested crops

to be stored and used for feeding wildlife as occasion may required.

In testimony whereof, I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 9th day of May 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1352; Filed, May 11, 1938; 12:35 p. m.]

Bureau of Entomology and Plant Quarantine.

[B. E. P. Q.—474 [1]]

METHOD USED FOR THE DISINFECTION OF IMPORTED BROOMCORN AND BROOMCORN BROOMS

MAY 7, 1938.

Broomcorn and articles made of broomcorn which are required to be treated, under the provisions of regulation 5 of Quarantine No. 41, will be treated by one of the following methods:

I. VACUUM FUMIGATION

(1) The temperature of the stalks and of the fumigation chamber during the fumigation shall be not less than 60° F.

(2) The dosage for the fumigation shall be 3 pounds of liquid hydrocyanic acid or its equivalent per 1,000 cubic feet of space.

(3) The air pressure in the fumigation chamber shall be reduced to the equivalent of 2 inches of mercury (a 28-inch vacuum at sea level), after which the hydrocyanic acid shall be introduced and the low pressure held for the duration of the fumigation.

(4) The exposure shall be not less than 3 hours.

II. STEAM STERILIZATION

(1) The air pressure in the treating chamber shall be reduced to the equivalent of 5 inches of mercury (a 25-inch vacuum at sea level).

(2) Steam shall then be introduced until a positive pressure of 10 pounds is obtained.

(3) The exposure to the 10-pound positive pressure of steam shall continue for a period sufficient to assure a constant temperature in all parts of the treating chamber, after which the steam may be shut off and the treating chamber exhausted of the uncondensed steam.

[SEAL] AVERY S. HOYT, *Acting Chief.*

[F. R. Doc. 38-1346; Filed, May 11, 1938; 11:06 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

RULES AND REGULATIONS FOR ISSUANCE OF THE CERTIFICATES OF SERVICE AND EFFICIENCY, CONTINUOUS DISCHARGE BOOKS, CERTIFICATES OF IDENTIFICATION, AND CERTIFICATES OF DISCHARGE

MAY 5, 1938.

To Supervising Inspectors, Local Inspectors, Shipping Commissioners, Collectors of Customs and Others Concerned:

By virtue of the authority prescribed by sections 1 and 7 of the act of June 25, 1936 (Public Law No. 808, 74th Congress, 49 Stat., p. 1930), and of sections 1 (f) and 1 (j) of the act of March 24, 1937 (Public Law No. 25, 75th Congress), the following rules and regulations are prescribed for the carrying out of the provisions of section 1 of the foregoing act of June 25, 1936, amending section 13 of the seamen's act of March 4, 1915 (38 Stat., p. 1169), relative to the issuance of certificates of service to able seaman, certificates of efficiency to lifeboat man, certificates of service to qualified member of the engine department, and certificates of service to persons other than able seamen and qualified members of the engine department; and for carrying out of the provisions of the act of March 24, 1937 (Public Law No. 25), amending section 4551 R. S. as amended, relative to the issuance of continuous discharge books, certificates of identification, and certificates of discharge.

SECTION 1.—GENERAL

(a) An applicant for a certificate of service or efficiency, or for a continuous discharge book, or certificate of identification shall make written application, in duplicate, on Form 719–b, furnished by the Department of Commerce. The placing of finger or thumb prints on the application shall be optional with the seaman. This application may be for as many certificates or ratings for which the seaman believes he is qualified. In the case of a seaman applying for his first certificate of service or efficiency, the application shall include a request for a continuous discharge book or certificate of identification.

(b) An applicant for a certificate of service for a rating other than as able seaman or qualified member of the engine department shall take oath before one of the local inspectors or other officer authorized to give such oath that he will faithfully and honestly perform all the duties required of him by law and carry out all lawful orders of his superior officers on shipboard.

(c) Every person employed on any merchant vessel of the United States of 100 tons gross and upward, except those navigating rivers exclusively and the smaller inland lakes, below the rank of licensed officer, shall have a certificate of service issued by a board of local inspectors.

(d) When the application is submitted for a continuous discharge book or certificate of identification, and one certificate of service, the seaman shall furnish four (4) unmounted dull finish photographs of passport type (1½ x 2 inches) taken within 1 year. The photograph shall show the full face at least 1 inch in height, and shall show the head uncovered.

(e) When the application is for a certificate of service only, three (3) such photographs shall be furnished. When additional certificates are requested, one (1) additional photograph is required for each additional certificate.

(f) The applicant shall produce with his application discharges or affidavits as documentary evidence of his service, indicating the names of the vessels on which he has had service, in what capacity, and on what waters.

(g) Applicants holding old form able seaman or lifeboat man certificates issued prior to the enactment of Public No. 808, 74th Congress, shall surrender such certificates when making application for a new form certificate.

(h) All applicants for certificates of service or efficiency shall appear in person before a board of local inspectors or their assistant inspectors.

(i) If the applicant possesses a continuous discharge book or certificate of identification, it shall be exhibited to the board.

(j) The original copy of each application for a continuous discharge book or certificate of identification and/or certificate of service or efficiency shall be forwarded to the Bureau of Marine Inspection and Navigation at Washington. If the application is for a certificate of service or efficiency, the Bureau stub of the certificate shall be attached to the application. Such applications shall be accompanied by Form 719–f listing the names, continuous discharge book or certificate of identification numbers, and/or certificates of service and efficiency numbers as shown on each application. At ports where a large number of books and certificates are issued, the applications together with Form 719–f shall be forwarded to the Bureau daily, but at ports where the volume is small they may be sent in weekly. The copy of the application shall be retained in the local office.

(k) An applicant claiming to be a citizen of the United States shall furnish satisfactory evidence of such citizenship to the issuing officer. Such evidence may be a birth certificate, Certificate of Naturalization, Marine License issued by the Bureau of Marine Inspection and Navigation, Seaman's Protection Certificate, old form of Seaman's Identification Certificate, Seaman's Passport, or an affidavit sworn to before a notary public by two persons who know he is an American citizen. If the seaman is unable to present such proof, a question mark shall be placed opposite nationality in the continuous discharge book or on the certificate of identification until such time as he is able to present proof of citizenship at which time the United States shipping commissioner, or at ports where no shipping commissioner has been appointed, the collector or deputy collector of customs or United States local inspector to whom such proof is presented shall draw a line through the question mark and note his citizenship status in the space provided therefor attesting the change.

(l) No erasures may be made in continuous discharge books or on certificates of identification, or certificates of service or efficiency, nor can ink eradicator be used. In making a change in nationality, age, or any other such change a line will be drawn through the entry already noted and the correct entry made and attested to by a United States shipping commissioner, United States collector or deputy collector of customs, or United States local or assistant inspector.

SEC. 2.—CONTINUOUS DISCHARGE BOOKS AND CERTIFICATES OF IDENTIFICATION

(Act of March 24, 1937, amending Sec. 4551 R. S., as amended)

(a) Every seaman employed on any merchant vessel of the United States of 100 gross tons or upward, except vessels employed exclusively in trade on the navigable rivers of the United States, shall be issued, at the option of the seaman, a continuous discharge book or certificate of identification upon application therefor, which shall be retained by him. This book or certificate of identification will bear a number, and this same number shall be shown on all certificates of service or efficiency issued to the holder of the book or certificate of identification. The term "navigable rivers" shall be held to include all waters over which a vessel inspected and certificated under the General Rules and Regulations prescribed by the Board of Supervising Inspectors for "Rivers" is permitted to be navigated.

(b) The shipping commissioner or, at ports where no shipping commissioner has been appointed, the collector or deputy collector of customs or United States local inspectors of steam vessels shall fill in the information required in the continuous discharge book or certificate of identification, which information shall be taken from the application, Form 719–b, and shall include the port and date of issue, the name of the seaman in full, his date of birth, personal description, statement of nationality, home address, and the signatures of the seaman and the issuing officer. He shall also attach the seaman's photograph in the size and style herein required, impressing his official seal partly over same, and witness the seaman's signature, and shall have the seaman place his thumb print in the book or on the certificate of identification. Care must be taken that the above information is correctly entered.

(c) A monthly and yearly (fiscal year) report shall be forwarded by all offices issuing continuous discharge books and certificates of identification to the Bureau of Marine Inspection and Navigation at Washington showing the total number of continuous discharge books and certificates of identification issued by their office.

(d) Every seaman, as referred to in subsection (a) of this section, shall produce a continuous discharge book or certificate of identification to the United States shipping commissioner before signing Articles of Agreement, and where the seamen are not signed on before a shipping commissioner the continuous discharge book or certificate of identification shall be exhibited to the master of the vessel at the time of his employment, as follows: As to vessels referred to in subsection (a) engaged in foreign and intercoastal voyages, immediately; and as to all other vessels referred to in subsection (a), on and after June 25, 1937. However, seamen who do not possess a continuous discharge book or certificate of identification may be employed at a foreign port or place provided that seamen so employed shall be furnished with either a continuous discharge book or certificate of identification at the first port of entry in the United States or its territories at which the vessel arrives after such seamen are employed.

(e) Only black ink shall be used in making entries in continuous discharge books, certificates of identification, and certificates of discharge.

SEC. 3.—ABLE SEAMAN

(Sec. 1 (a) act of June 25, 1936, amending sec. 13, act March 4, 1915)

An applicant for a certificate of service as able seaman shall be at least 19 years of age and meet the following service requirements:

High Seas and Inland Waters

(a) Three years' service on deck at sea or on the Great Lakes on vessels of 100 gross tons or over to which sec. 1 (a) of the act of June 25, 1936, amending sec. 13 of the act of March 4, 1915, applies, including decked fishing vessels and vessels in the United States Government service of such tonnage.

(b) Graduates of school ships approved by and conducted under rules of the Secretary of Commerce and graduates of the United States Naval Academy and the United States Coast Guard Academy, upon graduation in good standing.

(c) Twelve months on deck of such vessels at sea or on the Great Lakes.

Great Lakes and Inland Waters

(d) Eighteen months' service on deck at sea or on the Great Lakes, smaller lakes, bays, or sounds on vessels of 100 gross tons or over to which sec. 1 (a) of the act of June 25, 1936, amending sec. 13 of the act of March 4, 1915, applies, including decked fishing vessels and vessels in United States Government service of such tonnage.

(e) No candidate for certificate of service as able seaman shall be examined until he presents an official certificate of a physician of the United States Public Health Service, or reputable physician acceptable to the local inspectors, that his eyesight, hearing, and physical condition are such that he can perform the duties required of an able seaman, and that his color sense is normal.

(f) Before such a certificate is issued to any applicant, he shall prove to the satisfaction of the board of local inspectors, both by oral examination and by actual demonstration, that he has been trained in all the operations connected with the launching of lifeboats and life rafts, and the use of oars; that he is acquainted with the practical handling of the boats themselves; and, further, that he is capable of taking command of a boat's crew. If convenient to the board and applicant, written examination may be given in lieu of oral examination.

(g) The examination shall consist of questions regarding lifeboats and life rafts, the names of their essential parts, and a description of the required equipment; the clearing away, swinging out, and lowering of boats and rafts, the handling of boats under oars, including questions relative to the proper handling of a boat in running before a heavy sea, in pulling into a sea, etc.; the construction and functions of gravity, radial, and quadrantal types of davits. There shall also be included questions concerning the applicant's knowledge of nautical terms; boxing the compass, either by degrees or points according to his experience; running lights, passing signals, fog signals for vessels on high seas, in inland waters, or on the Great Lakes depending upon the waters on which the applicant has had service; distress signals; knowledge of commands in handling the wheel by obeying orders passed to him as "wheelsman", and knowledge of the use of engine-room telegraph or bell-pull signals.

(h) In the actual demonstration, the applicant shall show his ability by taking command of a boat and directing the operation of clearing away, swinging out, lowering the boat into the water, and acting as coxswain in charge of the boat under oars. He shall demonstrate his ability to row by

[1] Supersedes HB–161 and supplements PQCA—309.

actually pulling an oar in the boat. He shall also demonstrate knowledge of a few of the principal knots, bends, splices, and hitches in common use by actually making them.

(i) Every person employed in a rating as able seaman on any vessel coming under the provisions of these rules and regulations shall produce a certificate as able seaman to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement.

(j) Each certificate issued shall state the waters on which the holder is permitted to be employed as an able seaman.

Certificates issued to seamen under paragraphs (a) and (b) of this section shall be issued for "Any Waters" and shall be green in color.

Certificates issued to seamen under paragraph (c) shall be for "Any Waters—12 months" and shall be blue in color. (Holders of certificates under this provision are limited to one-fourth of the number of able seamen required by law to be employed on a vessel.)

Certificates issued to seamen under paragraph (d) shall be for "Great Lakes—18 months service" and shall be blue in color. (Holders of certificates under this provision may comprise the required number of able seamen on vessels on the Great Lakes and on the smaller lakes, bays, and sounds.) If the seaman possesses the requisite service for a certificate under paragraph (c), there shall be added "High Seas—12 months."

SEC. 4.—LIFEBOAT MAN

(Sec. 1 (d) act June 25, 1936, amending sec. 13, act March 4, 1915)

(a) An applicant for certificate as lifeboat man shall be eligible for examination after he has furnished satisfactory evidence to the examiner that he has had the following experience: Not less than 12 months' sea service in the deck department; or, not less than 24 months' sea service in the other departments. Sea service means actual experience on board vessels in ocean, lake, bay, or sound service. Provided that graduates of school ships approved by and conducted under rules prescribed by the Secretary of Commerce, and graduates of the United States Naval Academy and United States Coast Guard Academy shall be eligible for examination for a certificate as lifeboat man without being required to furnish evidence of additional sea service.

(b) Before a lifeboat man's certificate may be granted the applicant must prove to the satisfaction of the examiner that he has been trained in all the operations connected with launching lifeboats and life rafts and the use of oars and sail; that he is acquainted with the practical handling of the boats themselves; and, further, that he is capable of understanding and answering the orders relative to lifeboat service.

(c) The oral examination shall consist of questions regarding the construction of lifeboats and life rafts, the names of their different parts, and a description of the equipment required; the construction and functions of the gravity, radial and round-bar types of davits; clearing away, swinging out, and lowering boats and rafts; handling boats under oars and sails; and nautical terms used in connection with launching and handling lifeboats.

(d) The practical examination shall consist of a demonstration of the applicant's ability to carry out the orders incident to launching lifeboats, and the use of the boat's sail, and to row.

(e) The certificate, Bureau record, and the stub shall bear an imprint of the left thumb of the holder on the back thereof.

(f) Every person employed in a rating as lifeboat man on any vessel coming under the provisions of these rules and regulations shall produce a certificate as lifeboat man to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement.

SEC. 5.—QUALIFIED MEMBER OF THE ENGINE DEPARTMENT

(Sec. 1 (e) act of June 25, 1936, amending sec. 13, act of March 4, 1915)

(a) A qualified member of the engine department is any person below the rating of licensed officer and above the rating of coal passer, or wiper, who holds a certificate of service as such qualified member of the engine department issued by a board of local inspectors of the Bureau of Marine Inspection and Navigation. An applicant for a certificate of service as qualified member of the engine department shall produce to such inspectors definite proof of at least 6 months' service at sea in a rating at least equal to that of coal passer or wiper in the engine department of vessels required to have such certificated men, or proof that he is a graduate of a school ship approved by and conducted under rules prescribed by the Secretary of Commerce, or a graduate of the United States Naval Academy or the United States Coast Guard Academy.

(b) No candidate for a certificate of service as a qualified member of the engine department shall be examined until he presents a certificate of a physician of the United States Public Health Service, or reputable physician acceptable to the local inspectors, attesting that his eyesight, hearing, and physical condition are such that he can perform the duties required of a qualified member of the engine department.

(c) Before such a certificate is issued to any applicant, he shall prove to the satisfaction of the board of local inspectors, by an oral examination, that he is trained in the duties required by his certificate. If convenient to the board and applicant, written examination may be given in lieu of oral examination.

(d) Examinations shall consist of the following:

Fireman.—Applicant shall be examined on boiler operation, especially on oil-burning systems and the hazards due to the accumulation of oil in the furnaces or bilges, or on fireroom floors and tank tops. He shall have a good working knowledge of the use of water feeding devices, water indicators, pressure gages, safety valves, etc.

Oiler.—Applicant shall be given an examination on the operation of propelling units and lubricating systems and shall have a knowledge of the use of telegraphic or other maneuvering signals, also of the operation of auxiliaries.

Watertender.—The applicant shall be required to pass an examination on pumps, heaters, injectors, or other methods of feeding; also on burners and other equipment connected with fuel systems. He also shall be examined as to the maintenance of a safe water level in the boilers, the piping and connections used in the feed and blow-off systems, and the hazards incurred from low water. He shall also have a thorough knowledge of the engine and fire-room fire-fighting equipment.

Deck engineer.—The applicant shall be examined as to his knowledge of auxiliary machinery, such as winches, anchor windlasses, steering gear, etc., also telemotors and fire extinguishing apparatus for cargo holds and confined spaces on deck.

Refrigerating engineer.—Applicant shall be examined as to his knowledge of the principles of refrigeration, the operation and maintenance of refrigerating machinery, and the hazards which prevail in the use of certain refrigerants, also as to his knowledge of how to act in any emergency, such as the accidental release of the refrigerant into the refrigerating space.

(e) An applicant holding a certificate of service for a particular rating as qualified member of the engine department and desiring certification for another rating covered by this same form of certificate may, upon qualifying therefor, have endorsement made on the back of his certificate covering such certification.

(f) Every person employed in a rating as qualified member of the engine department on any vessel coming under the provisions of these rules and regulations shall produce a certificate as qualified member of the engine department to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement.

SEC. 6.—CERTIFICATES OF SERVICE FOR RATINGS OTHER THAN ABLE SEAMAN OR QUALIFIED MEMBER OF THE ENGINE DEPARTMENT

(Sec. 1 (g), act June 25, 1936, amending sec. 13, act March 4, 1915)

(a) Certificates of service shall be issued to applicants for ratings other than able seamen or qualified members of the engine department, which certificates shall authorize the holders thereof to serve in the capacity specified therein. The applicant, however, shall produce satisfactory evidence to the local inspectors of his ability to perform the duties of the position for which he desires to be certificated.

(b) An applicant for a certificate of service as radio operator shall produce to the local inspectors his unexpired license to act in that capacity from the Federal Communications Commission.

(c) No examination will be required for such certificates of service except that applicants for ratings contemplating the handling of food, shall produce a certificate from a physician of the United States Public Health Service, or reputable physician acceptable to the local inspectors, stating that he is free from communicable disease.

(d) An applicant for a certificate of service as deck boy shall produce a certificate from a physician of the United States Public Health Service, or reputable physician acceptable to the local inspectors, that he is qualified physically.

(e) No holder of a certificate of service as a deck boy may receive a certificate of service as ordinary seaman until he shall have had an aggregate of 6 months' service as deck boy.

(f) An applicant holding a certificate of service for a rating other than able seaman, or qualified member of the engine department, and desiring certification for another rating covered by this same form of certificate may have endorsement made on the back of his certificate covering such certification, without examination; except that, if the endorsement is for a rating contemplating the handling of food, the applicant shall produce a certificate from a physician of the United States Public Health Service, or reputable physician acceptable to the local inspectors, stating that he is free from communicable disease.

(g) Every person employed in a rating other than able seaman or qualified member of the engine department of vessels coming under the provisions of these rules and regulations shall produce a certificate of service for the capacity in which he is employed to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement.

SEC. 7.—TANKER MAN

(Act of June 23, 1936)

(a) Any applicant for a certificate as tanker man, not licensed as Master, Mate, Pilot or Engineer, shall be eligible for examination after he has furnished satisfactory documentary evidence to the local inspectors that he is trained in, and capable efficiently to perform the necessary operations on tank vessels which relate to the handling of cargo.

(b) Such applicant shall secure from the United States Public Health Service, or from a reputable physician, acceptable to the local inspectors, a certificate that he is in good physical condition.

(c) Before a certificate may be granted to such an applicant, he must prove to the satisfaction of the local inspectors by an oral or written examination that he is familiar with the general arrangement of cargo tanks, suction and discharge pipe lines and valves, cargo pumps and cargo hose, and has been properly trained in the actual operation of cargo pumps, all other operations connected with the loading and discharging of cargo, and the use of fire extinguishing equipment.

(d) Applicants successfully passing such examinations shall receive a certificate as Tanker man, stating the kinds or grades of liquid cargo the holder is qualified to handle. The back of such certificate and the stub shall bear an imprint of the left thumb of the holder.

(e) Such certificate shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of section 4450 of the Revised Statutes and the rules and regulations issued thereunder.

(f) The certificate as tanker man shall be surrendered to the local inspectors by the holder upon the granting to him of a license.

SEC. 8.—RULES FOR PREPARATION AND ISSUE OF CERTIFICATES OF SERVICE AND EFFICIENCY

(a) Upon application of any person for a certificate of service or efficiency, it shall be the duty of the board of local inspectors to give the applicant the required examination as soon as practicable in every case where an examination is required, or have the assistant inspectors give such examination.

(b) Upon satisfactory completion of the prescribed examination, the board of local inspectors shall prepare an original of each certificate which shall be delivered to the applicant. The board shall complete one stub record to be forwarded to the Bureau in Washington, together with the original copy of the completed application. Another stub record shall be completed and retained in the local office.

(c) Before delivery of the original certificate, the inspectors shall place one of the photographs in the proper position upon the certificate, and the seaman shall affix his signature partly over his photograph on the certificate in such manner as not to deface or obscure any of the features, and shall likewise affix his signature to each of the stubs. The seaman shall impress his left thumb print on the back of the certificate of service or efficiency and upon each of the stubs. When the seaman has no left thumb, the imprint of the right thumb may be used and that fact noted.

(d) Each certificate shall be impressed with the seal of the issuing board, placed partially over the signature and photograph of the applicant. Each member of the issuing board shall affix his signature. The name of the issuing port, date of issue, and other pertinent information required to be shown on the certificate, including the proper discharge book or certificate of identification number, shall be properly entered.

(e) Any applicant for a certificate of service or efficiency who has been duly examined and a certificate is refused by a board of local inspectors will not be permitted to make application for reexamination until 30 days have elapsed.

(f) A certificate of service or of efficiency is subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of licenses of officers under the provisions of Section 4450 of the revised statutes.

(g) If an applicant has had a certificate revoked and is seeking a new one, the local inspectors shall, before issuing a new certificate, forward to the Bureau a full report with reference thereto.

(h) Any person whose certificate of service or of efficiency has been stolen, lost, or destroyed, shall report that fact to a board of local inspectors as soon as possible, and if a duplicate certificate is desired, shall make affidavit in duplicate on Form 719–e, furnishing the same number of photographs as provided for in the case of an application for an original certificate. The board of local inspectors shall forthwith transmit the original copy of the affidavit and two photographs to the Director of the Bureau of Marine Inspection and Navigation, who shall thereupon cause to be prepared a certificate which shall be similar to the former certificate, bear the same book or certificate of identification number as the former certificate, and be marked "duplicate". The certificate shall then be forwarded to the proper board of local inspectors, who shall issue the duplicate certificate in the same manner as an original.

(i) Whenever a certificate of service or of efficiency is reported to a board of local inspectors as having been stolen, lost, or destroyed, the local inspectors shall immediately report the fact by letter to the Director of the Bureau of Marine Inspection and Navigation, giving all the facts incident to its loss or destruction. By the same procedure, they shall report the recovery of any certificate of service or of efficiency, together with all facts incident to its recovery, and shall forward the recovered certificate to the Director of the Bureau of Marine Inspection and Navigation. The Bulletin published monthly by the Bureau shall contain information of reported loss, theft, revocation, or suspension of certificates.

(j) A monthly and yearly (fiscal year) report shall be forwarded by each board of local inspectors to the Bureau of Marine Inspection and Navigation at Washington showing the total number of each form of certificates of service and efficiency issued by their office.

SEC. 9.—RULES AND REGULATIONS COVERING DISCHARGE OF SEAMAN

(a) Upon the discharge of any seaman and payment of his wages, the shipping commissioner, or collector or deputy collector of customs at ports where no shipping commissioner has been appointed, shall enter in the continuous discharge book of such seaman, if the seaman carries such a book, the name and official number of the vessel, the nature of the voyage (foreign, intercoastal, or coastwise), the class to which the vessel belongs (steam, motor, sail, or barge), the date and place of the shipment and of the discharge of such seaman, the rating (capacity in which employed) then held by such seaman, and the signature of the person making such entries, and nothing more. In cases where the law does not require the seaman to be shipped and discharged before a shipping commissioner, the master of the vessel shall make the required entries in the continuous discharge book. All entries shall be made in black ink.

(b) Upon the discharge of any seaman who holds a certificate of identification issued by the Bureau of Marine Inspection and Navigation and payment of his wages, the shipping commissioner or collector or deputy collector of customs at ports where no shipping commissioner has been appointed shall issue to the seaman a certificate of discharge on Form 718–a, and make the required entries therein showing the name and citizenship of the seaman to whom it is issued, the serial number of his certificate of identification, the name and official number of the vessel, the nature of the voyage (foreign, intercoastal, or coastwise), the class to which the vessel belongs (steam, motor, sail, or barge), the date and place of the shipment and of the discharge of such seaman, and the rating (capacity in which employed) then held by such seaman. The certificate of discharge shall be signed by the seaman to whom it is issued and the master of the vessel and shall be witnessed by the shipping commissioner or, at ports where no shipping commissioner has been appointed, by the collector or deputy collector of customs. In cases where the law does not require the seaman to be shipped and discharged before a shipping commissioner, the master of the vessel shall issue such certificate of discharge and make the required entries therein. All entries in certificates of discharge shall be made in black ink.

(c) Upon the discharge of any seaman in a foreign port the master shall make the proper entries in the continuous discharge book and on the ship's articles, and such entries shall be attested to by the consular officer. If the seaman possesses a certificate of identification, the master of the vessel shall issue to the seaman a certificate of discharge on Form 718–a and make the required entries therein which shall be attested by the consular officer. If the seaman has lost his continuous discharge book or certificate of identification, the master shall furnish him with a certificate of discharge (Form 718–a), attested to by the consular officer and note this fact on the articles.

(d) If a seaman loses his continuous discharge book, certificate of identification or certificate of discharge by shipwreck or other casualty, he shall be supplied with a duplicate of such book, certificate of identification, or certificate of discharge free of charge, upon application to a shipping commissioner or, at ports where no shipping commissioner has been appointed, to a collector or deputy collector of customs or United States local inspector of steam vessels. In other cases of loss a charge shall be made for a duplicate of such book, certificate of identification, or certificate of discharge in an amount equivalent to the cost thereof.

(e) The application for a duplicate continuous discharge book or certificate of identification shall be made in the form of an affidavit in duplicate on Form 719–e and three (3) photographs furnished. The shipping commissioner, collector or deputy collector of customs, or United States local inspectors of steam vessels shall transmit the original copy of the affidavit and two (2) photographs to the Director of the Bureau of Marine Inspection and Navigation, who shall thereupon cause to be prepared a continuous discharge book or certificate of identification bearing the same number as the former book or certificate of identification, and marked "duplicate". An affidavit for a duplicate certificate of discharge shall be made in the same manner as for a duplicate continuous discharge book or certificate of identification, except that it will not be necessary to furnish photographs for such certificates of discharge. Entries in duplicate continuous discharge books, certificates of identification, or certificates of discharge as taken from available records shall be made by the Central Records Section of the Bureau of Marine Inspection and Navigation. The duplicate continuous discharge book, certificate of identification, or certificate of discharge shall then be forwarded to the proper shipping commissioner, collector or deputy collector of customs, or United States local inspectors of steam vessels, who shall issue the duplicate book or certificate of identification in the same manner as an original or, in the case of certificates of discharge shall deliver such certificates of discharge to the seaman.

(f) Whenever a continuous discharge book, certificate of identification, or certificate of discharge is reported to a shipping commissioner, collector of customs, or United States local inspector of steam vessels as having been stolen, lost, or destroyed, the shipping commissioner, collector of customs, or United States local inspector of steam vessels shall immediately report the fact by letter to the Director of the Bureau of Marine Inspection and Navigation, giving all the facts incident to its loss or destruction. By the same procedure, he shall report the recovery of a continuous discharge book, certificate of identification, or certificate of discharge with all the facts incident to its recovery, and shall forward the recovered book, certificate of identification, or certificate of discharge to the Director of the Bureau of Marine Inspection and Navigation.

(g) Pending the issuance of a duplicate of the continuous discharge book, the shipping commissioner, or collector or deputy collector of customs at ports where no shipping commissioner has been appointed, may furnish the seaman with a certificate of discharge (Form 718–a) at the completion of the voyage, and this fact shall be noted on the articles When the duplicate book has been issued, the record of shipment and discharge as shown on the discharge will be entered in the book, and the discharge shall be surrendered to the issuing officer and forwarded to the Bureau of Marine Inspection and Navigation.

(h) To facilitate the keeping of a complete record of the entries made in the continuous discharge books and the certificates of discharge issued to seamen holding certificates of identification, the Shipping Articles have been revised to include the following items: On the front of the agreement the following information has been added: Name of ship; official number; port of registry; date of registry; registered tons; gross and net; horsepower of engines; name and address of the registered managing owner or operator; number of seamen and apprentices for which accommodations are certified; and class of ship.

(i) Columns have been added to the articles under "Particulars of engagement" for entering the continuous discharge book number or certificate of identification number and serial number of license or certificate of service; and under "Particulars of discharge" columns have been added to show the place, date, and cause of leaving ship, or of death, also a column for mutual release.

(j) On the back of the Shipping Articles the following have been added:

A certification to the effect that such entries as are authorized by the act of March 24, 1937, amending section 4551 R. S., as amended, to be made in the continuous discharge books and on certificates of discharge, agree with those made on the articles, to be signed by the United States shipping commisisoner or other officer duly authorized to act as such.

A table showing citizenship requirements.

A recapitulation for showing the percentage of Americans on the articles and a certification as to the correctness of same to be signed by the United States shipping commissioner or other officer duly authorized to act as such.

A summary to show the different nationalities of the crew, segregated by departments.

Extracts from the laws for the information of masters.

(k) In the future, Shipping Articles shall be made out in triplicate. One of the copies shall be retained by the shipping commissioner, and the original and a copy given to the master who shall enter therein any changes made in the crew during the voyage. In case of the paying off of any members of the crew during voyage, they shall be required to sign the mutual release on both the original and the duplicate of the articles whether discharged before a shipping commissioner in an American port or before an American consul in a foreign port. At the completion of the voyage, when the crew is paid off, the mutual release on both the original and the duplicate of the articles must be signed by all members of the crew; and the original copy, which must contain a complete record of the entries made in all continuous discharge books during the voyage, and the entries made in all certificates of discharge issued during the voyage to seamen holding certificates of identification, shall be forwarded to the Bureau at Washington, D. C. The duplicate copy shall be retained by the shipping commissioner.

(l) All columns on the Shipping Articles shall be properly filled in and the certifications on the back properly signed. All entries made in the continuous discharge books during the voyage, and the entries made in all certificates of discharge issued during the voyage to seamen holding certificates of identification shall be shown on the ship's articles.

(m) Every seaman shall be required, when signing articles, to produce his continuous discharge book or certificate of identification, as well as his license or certificate of service, in order that the serial numbers may be entered on the articles.

(n) To further facilitate the keeping of a complete record of entries made in continuous discharge books and certificates of discharge, when seamen are not shipped and discharged before a shipping commissioner or collector or deputy collector of customs the master of the vessel shall make a report to the Bureau of Marine Inspection and Navigation, Washington, D. C., on Form 719–g, which must contain a complete record of the entries made in continuous discharge books and certificates of discharge, certified to by the master.

(o) This form shall be made out in duplicate and all information must be correctly entered and the certifications on the back properly signed. The report shall be submitted in duplicate to the United States shipping commissioner, or at ports where no shipping commissioner has been appointed, to the collector or deputy collector of customs. The original shall be forwarded to the Bureau of Marine Inspection and Navigation and the duplicate shall be retained by the shipping commissioner or collector or deputy collector of customs for his records.

(p) The entries made in continuous discharge books and on certificates of discharge shall agree with the record of shipment and discharge on Form 719–g. If a seaman leaves a vessel without obtaining an entry in his book or a certificate of discharge, a notation to this effect shall be made on the form opposite the seaman's name as well as the date and place he left the ship.

The foregoing supersedes any rules and regulations heretofore issued conflicting herewith.

Approved.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–1353; Filed, May 11, 1938; 12:44 p. m.]

AMENDMENTS TO "ADMEASUREMENT OF VESSELS, 1925"

MAY 9, 1938.

By virtue of the authority contained in Sec. 4, 28 Stat. 743 (46 U. S. C. 79), the regulations interpreting laws relating to Admeasurement of Vessels, fourth edition, dated January 2, 1925, are hereby amended as follows:

To Article 28, upon page 25 there is added a footnote reading as follows:

Under current practice to provide greater comforts and conveniences both in service and efficiency for the crew, there appears to be an increasing tendency towards the installation of nondeductible lockers of less than 2 tons each, for medicine, linen, mops, dishes, electric switch boards, etc., on passageways which otherwise serve deductible and/or exemptible spaces.

Such lockers, though not deductible, shall not invalidate the deduction of a passageway which affords the only access to them and is otherwise entitled to deduction, provided the medicine is for the free use of the crew, the linen assigned to them and used for their accommodation, the mops in daily use in connection with the cleaning of crew spaces, galley, mess room, etc., the dishes distributed at meal time for the use of the crew and the electric switch boards used for lighting crew spaces and engine room.

Further, such nondeductible spaces as a ship's office serving the customary dual function of administering payroll and other accounts to the crew as well as the cargo manifests, spare rooms certified for but not regularly used by the crew, though usually fulfilling a well-defined need when the nature of the trade of a vessel requires the frequent presence on board of a pilot and/or Customs Officer, and/or a reserve engineer, and/or a company official or employee, etc., shall also not invalidate the deduction of the passageway which also serves as sole access to their location.

All doubtful cases not covered above and including instances where a nondeductible space can be reached otherwise than by a recognized deductible passageway shall be referred to the Bureau for its approval before final action is taken.

To footnote 14, upon page 17, the following amplification is added:

(1) On small motor boats, a house reasonable in size, containing the propelling machinery heading or used exclusively for light and air over such machinery, is exempted in its entirety as light and air.

(2) A compartment of reasonable size bulkheaded off and in a house serving other purposes is similarly treated.

(3) When propelling machinery heading and/or light and air space, not bulkheaded off, is in a house serving other purposes, the actual length and breadth of the engine plus 2 feet each side and each end for working space, if such space is available, projecting up into the house becomes the length and breadth of exempted light and air, exclusive of such part as may be decked over and available for other purposes. The breadth of light and air shall not exceed one-half the greatest outside breadth of hull taken at one-half length of engine space.

(4) If bunks, galley, supplies, etc., are located in the hull abreast the engine and under a house open to same, as described above in paragraph 3, working space may be allowed

around the engine though it extends into working room at galley, or as the case may be. The breadth so found shall be the breadth of light and air in the house above to a maximum of one-half outside breadth of vessel as above described.

To paragraph (e) of Article 20, upon page 17, and to the paragraph of Article 29 upon page 27, entitled Washrooms and Bathrooms, there is added the following footnote:

(1) A bathroom is a compartment or a room containing (1) a bath tub, or (2) a bath tub and a "water closet," or (3) a shower bath or showers without a "water closet." The term "water closet" as used in this paragraph refers only to hoppers, devices for purposes of defecation, with or without flushing equipment also sometimes known as toilets.

(2) A bathroom, intended for the exclusive use of one or more of the crew, is to be included in the gross tonnage regardless of its location; and, being crew space, may be deducted from the gross tonnage when computing the net tonnage.

(3) Any room or compartment, if of reasonable size, fitted with hopper or hoppers, is, for admeasurement purposes, a water closet. This definition includes a room or a compartment designated as a toilet, fitted with urinal or urinals, shower bath or shower baths, in addition to the hopper or hoppers.

(4) A private water closet is defined as one intended to serve not more than one member of the crew, whose stateroom or bedroom affords the only means of entrance thereto. Other water closets are considered to be public water closets for admeasurement purposes.

(5) A private water closet is treated as part of the room served by it.

(6) A public water closet situated below the upper deck to the hull is to be included in the gross tonnage and deducted therefrom in computing the net tonnage only if designated for the exclusive use of the crew and certified as W. C. When on or above the upper deck to the hull, such public water closet is exempted from inclusion in tonnage irrespective of whether used by the crew and/or passengers.

(7) No deduction is permissible unless the space in question is properly certified. (See Art. 29, first sentence, "Measurement of Vessels, 1925").

Paragraph (c) of Article 21, upon page 18, is amended to read as follows:

(c) A single opening at one side of a bulkhead of the size prescribed above (3' x 4') is not considered sufficient to entitle the space thus partitioned off to exemption, unless, in addition, there are a number of freeing ports and scuppers fitted on each side of the space claimed. However, if the opening is at least 4 feet wide and 5 feet high, or its equivalent, with a coaming not in excess of 2 feet in height, freeing ports and scuppers are not required. An equivalent opening is considered to be one of at least 20 square feet in the clear, resulting from a breadth in excess of 4 feet and a height of not less than 3 feet. In such cases the owner's application for exemption and also a sketch of the space drawn to scale must be forwarded to the Director of the Bureau of Marine Inspection and Navigation, for examination, and exemption must not be allowed without the Bureau's approval.

Paragraph (e) of Article 21, upon page 22, is amended to read as follows:

(e) There must be means of draining the open shelter deck space or spaces by having on each side of the space directly under the tonnage opening in the shelter deck at least one freeing port with an open area of not less than 2 square feet located as indicated in (c) above and a suitable number of scuppers not less than 3½ inches in diameter distributed throughout the shelter deck space. In lieu of the foregoing means of drainage, a scupper at least 5 inches in diameter with an overboard discharge and provided with a screw down nonreturn valve, geared to the shelter deck, may be fitted on each side of the upper deck in way of the permanent deck opening. Any additional scuppers required or permitted by the load line regulations may be provided.

To Article 47, upon page 37, there is added the following footnote:

Instructions to Collectors of Customs and Others Concerned:

For the use of passenger ships in foreign ports, you will issue to each such vessel admeasured in your district a "Special Appendix to Certificate of Registry of American Passenger Vessels" (Form 1265–A), showing the tonnage of passenger spaces on a deck not a deck to the hull and exempted from her register tonnage.

The same requirement applies to vessels operating from your district not previously furnished such an appendix.

At the end of each quarter, kindly report to this Bureau the official number and name of every vessel to which such appendix has been issued during that period.

To Article 37, the following new paragraph (i) is added:

(i) Frequently the portion of the engine above the cockpit floor of certain motor passenger boats is boxed-in and the space around the boxing used entirely by passengers. The operation of the engine of such a vessel, when under way, is provided for by contrivances in her pilot house by which direct attendance upon the engine for this purpose is avoided. Such attendance upon the engine is needed only for fueling its tanks, adding water to its battery, changing oil in its crank and gear cases, etc. These services are performed before the vessel starts out on her day's run. Under the foregoing conditions, the boxed-in portion of the engine is considered to be all of the space above the cockpit floor that is available for the installation and operation of the engine in that part of the vessel. This part and the engine space below the cockpit floor constitute the basis for the propelling power deduction of the vessel. In the case of a wholly boxed-in engine in the hold of a motor vessel with the space around the boxing used entirely by passengers or for the stowage of freight, stores, etc., the boxed-in space is considered as the basis for the vessel's propelling power deduction. Of course, there may be spaces outside of the boxing, such as those for the shaft, engine auxiliaries, etc., that may be taken as increments to the basis, whether founded on the whole or on the partial boxing of the engine. The restriction of the engine space, as above outlined, invalidate, generally, the allowance for "light and air" of any part of the closed-in house, if any, over the engine in the hold. In other words, as no part of such a house, except the portion of it, if any, that would be included in the boxing that might extend above the upper deck line, is used solely for housing the engine or affording light and air to it, none of it, under the terms of Article 35, Measurement of Vessels, 1925, is entitled to exemption from measurement for tonnage.

Article 26, upon page 24, is amended by the addition of the following:

An open vessel is one without a deck or with a partial deck or a total of partial decks which is less in length than one-half her tonnage length.

Further, a vessel having an incomplete or discontinued deck of any length and one with a single full length deck which, in either case, lies more than one-sixth of the midship depth below the line of the upper edge of the upper strake to the usual point in the hold for taking the register depth, shall, for admeasurement purposes, be deemed an open vessel.

[SEAL] R. S. FIELD,
Director.

Approved:

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–1354; Filed, May 11, 1938; 12:45 p. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDING TREASURY CHAPTER OF CONSOLIDATED MANUAL AUTHORIZING REGIONAL TREASURER OR ASSISTANT REGIONAL TREASURER TO SUBMIT VOUCHERS FOR REIMBURSEMENT OF THE IMPREST CASH FUND AND TO CASH CHECKS IN PAYMENT THEREOF

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-sections a and k of Section 4 of said Act as amended, the following amendments of the Treasury Chapter of the Consolidated Manual are hereby ordered:

Section 705 is amended to read as follows:

The Regional Treasurer is authorized to maintain an Imprest Cash Fund in an amount not in excess of $200.00 which may be obtained from the Home Office at the request of the Regional Manager. This fund shall be available only for administrative expenses as distinguished from non-administrative expenses stipulated in the Independent Offices Appropriation Act for the fiscal year 1938; provided, that such administrative expenses shall be confined to postage, postage due, carfare, cost of cashier's checks, and other items which it is not practicable to submit to the Home Office for disbursement. The Regional Treasurer shall be responsible for the propriety of all disbursements made from this fund. Vouchers for reimbursement of this fund shall be submitted to the Auditor in Washington as necessary but in no event less than once each week and the last day of each month. Such vouchers may be made payable to the Regional Treasurer or Assistant Regional Treasurer and may be approved and submitted by either of them. The Treasurer is hereby authorized and directed to reimburse the funds upon and only upon certification by the Auditor or his duly authorized deputies which certification shall specify the account from which disbursement shall be made.

Section 716 is amended to read as follows:

The Regional Working Fund in each Regional Office shall be maintained as a Disbursing Account, and funds therein shall be available for non-administrative expenses, as distinguished from administrative expenses stipulated in the Independent Offices Appropriation Act for the fiscal year 1938, and for such other purposes as may be provided elsewhere in this Manual.

The Regional Treasurer in each respective Regional Office is authorized and directed to make disbursements from the Regional Working Fund upon, and only upon, vouchers duly certified for payment from this account by the Auditor or an authorized deputy. Transfers to the respective Regional Working Funds shall be requested by the Regional Treasurer or the Assistant Regional Treasurer and approved by the Regional Manager.

Section 721 is amended to read as follows:

Incidental Expense Accounts for State, Division, Territorial, or District Offices maintained with the United States Treasury shall be in such amounts as may be determined by the Treasurer with the approval of the General Counsel, General Manager, and the Budget Director, provided the maximum amount shall not exceed $2,000.00 in any account. The State, Division, Territorial or District Managers shall have full responsibility, within their respective jurisdictions, for proper disbursements from such accounts. These accounts shall be available for the disbursement of both administrative and non-administrative expenses as stipulated in the Independent Offices Appropriation Act for the fiscal year 1938, and for such other purposes as may be provided elsewhere in this Manual, however, wherever practicable, vouchers for administrative expenses shall be submitted to the Home Office for disbursement. Non-administrative expenses shall be submitted to the proper Regional Office for reimbursement and administrative expenses shall be submitted to the Home Office for reimbursement.

Adopted by the Federal Home Loan Bank Board on May 9, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38–1345; Filed, May 11, 1938; 10:50 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of May, A. D. 1938.

Commissioners Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3165]

IN THE MATTER OF FRANK SPORS, TRADING AS SPORS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 31, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 308, United States Court House, Minneapolis, Minnesota.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–1340; Filed, May 11, 1938; 10:01 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3240]

IN THE MATTER OF HARLAND L. HERB, TRADING AS NATIONAL SCIENTIFIC PRODUCTS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 24, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to

take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1341; Filed, May 11, 1938; 10:01 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of May, A. D. 1938.

Commissioners Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3261]

IN THE MATTER OF CORNELIUS P. VAN SCHAACK, JR., TRADING AS THE INK COMPANY OF AMERICA AND PIONEER ADVERTISING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 20, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1342; Filed, May 11, 1938; 10:01 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3320]

IN THE MATTER OF THE KENDALL COMPANY, A CORPORATION, TRADING AS BAUER & BLACK

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, May 26, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1343; Filed, May 11, 1938; 10:02 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of May, A. D. 1938.

Commissioners Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3356]

IN THE MATTER OF HILD FLOOR MACHINE COMPANY

ORDER APPOINTING EXAMINER AND SETTING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, June 4, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1344; Filed, May 11, 1938; 10:02 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of May, A. D. 1938.

[File No. 30-39]

IN THE MATTER OF HUGH M. MORRIS AND HAROLD S. SCHUTT, TRUSTEES, PEOPLES LIGHT AND POWER CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Hugh M. Morris and Harold S. Schutt, Trustees, Peoples Light and Power Corporation, for an order declaring that such trustees have ceased to be a holding company,

It is ordered, That a hearing on such matter be held on May 26, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 21, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1349; Filed, May 11, 1938; 12:16 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of May, A. D. 1938.

[Files No. 46-100, 56-1]

IN THE MATTER OF NY PA NJ UTILITIES COMPANY, KEYSTONE UTILITIES, INC.

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to section 10 (a) (1) and Rule 12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties; and it appearing that the hearings on such applications should be joined and consolidated:

It is ordered, That a hearing on such matter be held on June 6, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 31, 1938.

The matter concerned herewith is in regard to an application pursuant to Section 10 (a) (1) by NY PA NJ Utilities Company to acquire from its wholly-owned subsidiary, Keystone Utilities, Inc., all of the outstanding capital stock of Bradford Electric Company in exchange for the surrender by it of all the common stock of Keystone Utilities, Inc. and of a demand income note in the amount of $1,693,560.85 and for the cancellation by it of an open account indebtedness of Keystone Utilities, Inc. amounting to $5,174.19, and an application pursuant to Rule 12D-1 by Keystone Utilities, Inc. to sell all the outstanding capital stock of Bradford Electric Company for the consideration aforementioned.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1350; Filed, May 11, 1938; 12:16 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of May, A. D. 1938.

[Files No. 43-111, 47-22]

IN THE MATTER OF IOWA POWER AND LIGHT COMPANY

ORDER FIXING EFFECTIVE DATE OF DECLARATION REGARDING ISSUE AND SALE OF BONDS AND APPROVING ACQUISITION OF ASSETS

Iowa Power and Light Company, a subsidiary of a registered holding company, having filed a declaration, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale, at private sale, of $5,700,000 principal amount of its First Mortgage Bonds, 4% Series due 1968; said Iowa Power and Light Company also having filed an application, pursuant to Section 10 of the Act, for approval of the acquisition by it of the properties and assets of its subsidiary, Des Moines Gas Company;

Hearings on said declaration and application having been held after appropriate notice; the record in these matters having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration be and become effective forthwith, on condition, however, that the issue and sale of the aforesaid bonds shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration;

It is further ordered, That such acquisition by Iowa Power and Light Company of the properties and assets of Des Moines Gas Company in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby is approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1351; Filed, May 11, 1938; 12:16 p. m.]

Friday, May 13, 1938 — *No. 94*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

PLACING CERTAIN LAND UNDER THE CONTROL AND JURISDICTION OF THE SECRETARY OF THE TREASURY

Alaska

By virtue of the authority vested in me as President of the United States it is ordered that Block 27, in the Townsite of Anchorage, Alaska, be, and it is hereby, placed under the control and jurisdiction of the Secretary of the Treasury for use as a site for Federal buildings.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 11, 1938.

[No. 7885]

[F. R. Doc. 38-1358; Filed, May 12, 1938; 11:06 a. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49559]

CUSTOMS REGULATIONS AMENDED—MARKS OF RANK OF CUSTOMS PATROL INSPECTORS

To Collectors of Customs and Others Concerned:

1. The following changes of designation have been made in the Customs Patrol Service:

Captain, U. S. Customs Patrol—in lieu of Chief Customs Patrol Inspector.

Lieutenant, U. S. Customs Patrol—in lieu of Assistant to Chief Customs Patrol Inspector.

Sergeant, U. S. Customs Patrol—in lieu of Zone Sergeant.

Corporal, U. S. Customs Patrol—in lieu of Patrol Unit Leader.

2. In view of the foregoing changes and of the transfer of the Customs Patrol Service to the Customs Agency Service (T. D. 48481), Article 1326 (g) of the Customs

Regulations of 1937 is hereby amended by deleting those portions thereof entitled "Marks of Rank—Patrol unit leader", "Same—Assistant to chief customs patrol inspector", "Same—Chief customs patrol inspector", and substituting therefor the following language:

Marks of Rank—Captain.—Two gold bars, metal pin-on type, approximately 1½ inches in length and ⅜ inch in width with ⅜ inch space between, worn across shoulder strap 1 inch above seam.

Same—Lieutenant.—One silver bar, metal pin-on type, approximately 1½ inches in length and ⅜ inch in width, worn across shoulder strap 1 inch above seam.

Same—Sergeant.—Three chevrons, navy blue, V-shaped, arms 2½ inches in length, five-sixteenths inch in width, worn on outer half of right sleeve, center point up midway between elbow and top of sleeve, stitched to sleeve with white silk thread.

Same—Corporal.—Two chevrons, navy blue, V-shaped, arms 2½ inches in length, five-sixteenths inch in width, worn on outer half of right sleeve, center point up midway between elbow and top of sleeve, stitched to sleeve with white silk thread.

All ranks of Customs Patrol Officers are authorized to wear embroidered silver stars approximately ⅝ inch in diameter on the left cuff of blouses and one inch above the cuff on shirts, one of such stars to be worn for each three years of service completed in the Customs Service. For each nine years of service completed in the Customs Service, one embroidered gold star of the same diameter and in the same location on the left sleeve as the silver stars, may be worn in lieu of three silver stars.

[SEAL] J. H. MOYLE,
Commissioner of Customs.

Approved May 7, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1362; Filed, May 12, 1938; 12:36 p. m.]

Bureau of Internal Revenue.

[T. D. 4803]

MANUFACTURERS OF TOBACCO

PENALTY AND FORFEITURE FOR REMOVING OR CONCEALING ARTICLES WITH INTENT TO DEFRAUD

Regulations No. 8, relating to the taxes on tobacco, snuff, cigars, and cigarettes, also on cigarette papers and tubes and purchase and sale of leaf tobacco, amended

To Collectors of Internal Revenue and Others Concerned:

Regulations No. 8, as revised and approved November 12, 1934, are amended, as follows:

Chapter V, entitled "Manufacturers of Tobacco", is amended by striking out the citation "Sec. 3244 (R. S., Subsec. 9, as amended)" for the first sentence of the laws printed immediately preceding article 33, and substituting in lieu thereof the citation "Sec. 69 (Act of August 27, 1894)". Chapter V is amended further by striking out the citation "Sec. 69 (Act of August 27, 1894)" appearing in the first line of the second sentence of the laws printed immediatley preceding article 33.

Article 169 is amended by striking out the words "fine or penalty of not more than $500" appearing at the end of the second sentence thereof, and inserting in lieu thereof the words "fine of not more than $5,000, or be imprisoned for not more than three years, or both". Article 169 is further amended by striking out the citation "(Sec. 3450, R. S.)" at the end of the article and substituting therefor the citation "(Sec. 3450, R. S., as amended.)".

This Treasury Decision is promulgated under the authority contained in section 3447, Revised Statutes.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved May 10, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1361; Filed, May 12, 1938; 12:36 p. m.]

WAR DEPARTMENT.

MODIFICATION OF REGULATIONS TO GOVERN THE USE AND NAVIGATION OF THIMBLE SHOAL CHANNEL, NORFOLK HARBOR, VIRGINIA

Paragraph 1 of the rules and regulations to govern the use and navigation of Thimble Shoal Channel, Norfolk Harbor, Virginia, approved by the Secretary of War February 15, 1933, is hereby modified to read as follows:

"1. The use and navigation of Thimble Shoal Channel is hereby restricted to all vessels, tows or other watercraft drawing 20 feet or more at the time of navigating the channel: Provided, That this restriction shall not apply to passenger-carrying vessels."

Approved, April 29, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1355; Filed, May 12, 1938; 9:43 a. m.]

DEPARTMENT OF THE INTERIOR.

General Land Office.

[Circular No. 1368a]

CULTIVATION REQUIREMENTS ELIMINATED AS TO CERTAIN HOMESTEADS

MAY 4, 1938.

1. *Statutory Authority.*—The act of March 31, 1938 (Public No. 454—75th Congress), amended the act of August 19, 1935 (49 Stat. 659), so as to extend its provisions to applications made prior to February 5, 1935. As amended the act provides that, with certain specified exceptions, described in paragraph 3 hereof, the provisions of the homestead laws requiring cultivation of the land entered shall not be applicable to existing homestead entries made prior to February 5, 1935, or thereafter if based upon valid settlement or application made prior to said date, and no patent shall be withheld for failure to cultivate such lands.

2. *Proofs Not To Be Rejected For Failure To Show Cultivation.*—In all cases where said acts apply, no proof shall be rejected solely for failure to show that the cultivation requirements of the homestead laws have been complied with.

3. *Entries To Which Law Does Not Apply.*—The law does not apply to homestead entries made subject to the provisions of the act of June 17, 1902 (32 Stat. 388), and amendments thereof, known as the reclamation law; or under the act of June 11, 1906 (34 Stat. 233), and amendments thereof, known as the law providing for entry of agricultural lands within national forests; or to homestead entries in the Territory of Alaska.

FRED W. JOHNSON,
Commissioner.

Approved, May 4, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1357; Filed, May 12, 1938; 9:43 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

[Amendment 1 to B. A. I. Order 363]

RELEASING FROM QUARANTINE THE REMAINDER OF POLK COUNTY AND A PORTION OF OSCEOLA COUNTY, FLORIDA

AMENDMENT 1 TO RULE 1, REVISION 36, TO PREVENT THE SPREAD OF SPLENETIC OR TICK FEVER IN CATTLE

Effective on and after May 16, 1938

The fact has been determined by the Secretary of Agriculture and notice is hereby given that the contagious and infectious disease known as splenetic or tick fever no longer exists in cattle in that part of Polk County now under quarantine, and that part of Osceola County lying west and south of State Roads 29 and 24, in the State of Florida.

Now, therefore I, H. A. Wallace, Secretary of Agriculture, under authority conferred by law, do hereby revoke the quarantine heretofore established in Polk County, and that part of Osceola County lying west and south of State Roads 29 and 24, in the State of Florida, by B. A. I. Order 363, issued on November 16, 1937, and effective December 1, 1937, said revocation to take effect on May 16, 1938, and said B. A. I. Order 363 is hereby amended accordingly.

This amendment, for purposes of identification, is designated as Amendment 1 to B. A. I. Order 363.

Done in the City of Washington this 12th day of May 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1360; Filed, May 12, 1938; 12:25 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 91]

APPROVAL OF SPECIAL INTEREST RATES ON CERTAIN FEDERAL LAND BANK LOANS

Whereas, the Federal Farm Loan Act, as amended [12 U. S. C. § 771 (Second)], provides that, except with the approval of the Governor of the Farm Credit Administration, the interest rate on first mortgage loans made by Federal land banks through national farm loan associations may not exceed by more than 1 per centum per annum the interest rate in the last series of farm loan bonds issued by the land bank making the loan; and

Whereas, the same Act [12 U. S. C. § 723 (b)] provides that the interest rate on direct loans made at any time by any Federal land bank shall be one-half of 1 per centum per annum in excess of the interest rate charged to borrowers on mortgage loans made at such time by the bank through national farm loan associations; and

Whereas, § 25 (b) of the Farm Credit Act of 1937 provides that the interest rate on loans made thereunder through national farm loan associations, the capital stock of which is impaired, shall be one-fourth of 1 per centum per annum less than the interest rate provided at such time for direct loans, subject to being later reduced one-fourth of 1 per centum per annum pursuant to subsection "Second" of said § 25 (b); and

Whereas, to provide toward the extra cost to the bank during the term of Federal land bank loans secured by mortgages on certain properties, it is desired to approve an interest rate one-half of 1 per centum per annum in excess of that which would be chargeable under the foregoing provisions of law except for such approval;

Now, therefore, for Federal land bank loans secured by first mortgages on the following farm property in the continental United States:

(A) Land that is employed primarily in the production of naval stores as defined by § 2 of the Naval Stores Act [7 U. S. C. § 92];

(B) Land used for the raising of livestock, in estimating the earning power and in establishing the value of which leases or permits for the use of other lands were taken into consideration and were a factor in determining the amount of the loan; and

(C) A farm property, a substantial part of the earnings from which is from orchard crops;

Approval is hereby given to the following interest rates:

(1) For loans through national farm loan associations, 1 and one-half per centum per annum in excess of the interest rate in the last series of consolidated Federal farm loan bonds, such interest rate not to exceed 6 per centum per annum;

(2) For direct loans, one-half of 1 per centum per annum in excess of the interest rate approved for loans through national farm loan associations under (1) preceding; and

(3) For loans under § 25 (b) of the Farm Credit Act of 1937 through national farm loan associations, the capital stock of which is impaired, one-fourth of 1 per centum per annum less than the interest rate approved for direct loans under (2) preceding.

Farm Credit Administration Order No. 188, dated May 13, 1937, is hereby revoked.

In witness whereof, I have hereunto affixed my signature on this 12th day of May 1938.

[SEAL] W. I. MYERS,
Governor, Farm Credit Administration.

[F. R. Doc. 38-1359; Filed, May 12, 1938; 12:11 p. m.]

NATIONAL LABOR RELATIONS BOARD.

United States of America—Before the National Labor Relations Board

ORDER CHANGING TERRITORIES

IOWA PLACED IN 18TH REGION

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935, and Article I, Section 3 of the National Labor Relations Board Rules and Regulations—Series 1, as amended, the National Labor Relations Board hereby transfers the State of Iowa, which by order of September 17, 1935 was placed in the 13th Region, from such 13th Region and places it in the 18th Region, this change to take effect on May 16, 1938.

Dated Washington, D. C., May 10, 1938.

By direction of the Board.

[SEAL] NATHAN WITT, *Secretary.*

[F. R. Doc. 38-1356; Filed, May 12, 1938; 9:43 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of May, A. D. 1938.

[File No. 31-432]

IN THE MATTER OF EDISON LIGHT AND POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on May 25, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-

room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 20, 1938.

The matter concerned herewith is in regard to an application by Edison Light and Power Company for an order under Section 2 (a) (8) of the Public Utility Holding Company Act of 1935 declaring the applicant and its subsidiaries not to be subsidiaries of the following registered holding companies described in the application as follows:

NY PA NJ Utilities Company,
902 Market Street,
Wilmington, Delaware.

Associated Gas & Electric Corporation,
902 Market Street,
Wilmington, Delaware.

Associated Gas & Electric Company,
123 South Cayuga Street,
Ithaca, New York.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1363; Filed, May 12, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of May, A. D. 1938.

[File Nos. 43-103, 47-19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORPORATION

NOTICE OF AND ORDER FOR RECONVENING OF HEARING

Republic Electric Power Corporation, a registered holding company, having heretofore filed a declaration, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, and an application, pursuant to Section 10 of the Act, with respect to certain preliminary transactions involved in its proposed plan of simplification, whereby it and all of its subsidiaries are to be merged into a single operating company; an amendment to such declaration and application having now been filed by said Republic Electric Power Corporation, broadening the scope and extent of such declaration and application (1) by including therein certain additional transactions necessary to consummate its proposed plan of simplification, (2) by making certain of its subsidiaries, namely, Southern Oregon Gas Corporation, California Utilities Company, Needles Gas and Electric Company, Weaverville Electric Company and Republic Mutual Service Company, parties to such declaration and application, as amended, and (3) by requesting appropriate orders under Sections 7, 10, 11 (e), 12 (c), 12 (d) and 12 (f) of the Act;

Hearings having been held jointly on such declaration and application, prior to the filing of the amendment described above; said hearings having been continued at the request of said Republic Electric Power Corporation to permit the filing of said amendment; and it now appearing that said joint hearing should be reconvened;

It is ordered, That said hearing be reconvened on May 18, 1938 at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why the declaration involved therein shall become effective.

Notice of such hearing is hereby given to the parties involved herein and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1364; Filed, May 12, 1938; 12:42 p. m.]

Saturday, May 14, 1938 — *No. 95*

PRESIDENT OF THE UNITED STATES.

TALLADEGA NATIONAL FOREST—ALABAMA

By the President of the United States of America

A PROCLAMATION

WHEREAS certain lands adjacent to the Talladega National Forest, in the State of Alabama, have been acquired or are in process of acquisition by the United States through the Farm Security Administration or its predecessors under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that the said lands are suitable for national-forest purposes and that it would be in the public interest to reserve such lands as part of the said Talladega National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), the said National Industrial Recovery Act, and the said Emergency Relief Appropriation Act of 1935, do proclaim that there are hereby reserved and set apart as an addition to the Talladega National Forest all lands which have been acquired or which are in course of acquisition by the United States through the Farm Security Administration or its predecessors within the area shown on the diagram attached hereto[1] and made a part hereof under authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935, and further, that all lands therein which may hereafter be acquired by the United States under authority of the act of March 1, 1911, ch. 186, 36 Stat. 961 (U. S. C., title 16, sec. 521), as amended by the act of June 7, 1924, ch. 348, 43 Stat. 653 (U. S. C., title 16, sec. 515), shall, upon their acquisition, be reserved and administered as part of the Talladega National Forest.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this eleventh day of May in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL]

FRANKLIN D ROOSEVELT

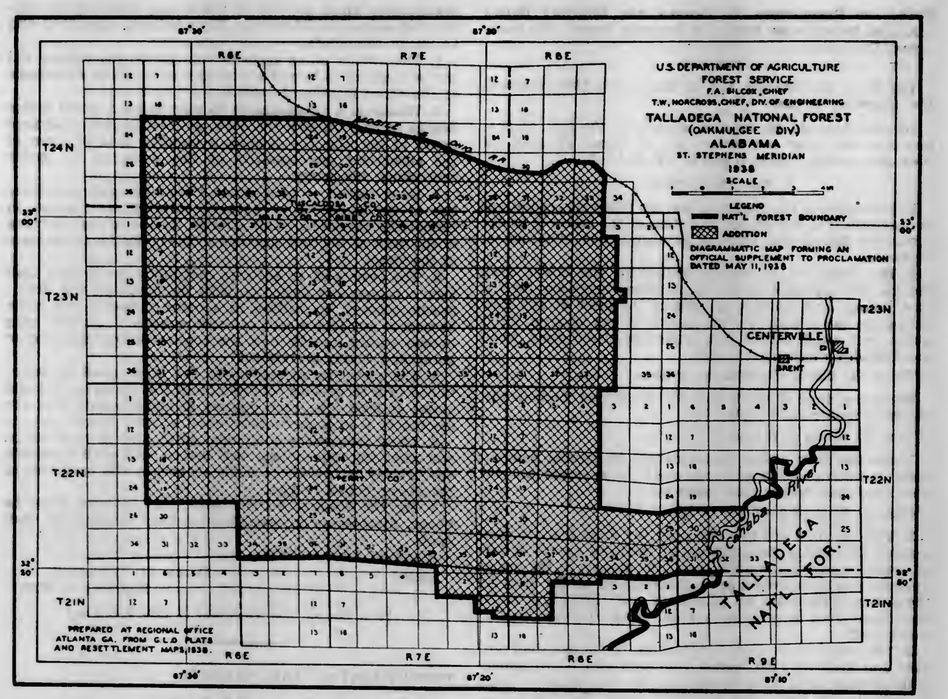
By the President:

CORDELL HULL
Secretary of State.

[No. 2285]

[F. R. Doc. 38-1376; Filed, May 13, 1938; 12:15 p. m.]

[1] See Page 929.



This diagram accompanies Proclamation No. 2285 which appears on Page 928.

WAR DEPARTMENT.

SPECIAL REGULATIONS TO GOVERN THE OPERATION OF DRAWBRIDGES OVER THE BLACK RIVER, WISCONSIN

Supplemental to rules and regulations to govern the operation of the drawbridges crossing the Mississippi River and all its navigable tributaries and outlets.

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 892.]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of drawbridges over Black River, Wisconsin.

1. The owners of, or agencies controlling, the bridges will not be required to keep draw tenders in constant attendance at the above-mentioned bridges.

2. Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of, or agency controlling, the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of, or agency controlling, the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owners of, or agencies controlling, the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges in a manner that it can easily be read at any time a copy of these regulations, together with a notice stating exactly how the representatives specified in paragraph 2 may be reached.

5. The operating machinery of the draws shall be maintained in a serviceable condition, and the draws opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof, and shall supersede any provisions heretofore made to govern the operation of the above-named bridges.

Approved April 29, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1369; Filed, May 13, 1938; 9:41 a. m.]

RULES AND REGULATIONS TO GOVERN THE HIGHWAY BRIDGE ACROSS BRANDYWINE RIVER, AT SEVENTH STREET, WILMINGTON, DELAWARE

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 892.*]

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are prescribed to govern the operation of the highway bridge across the Brandywine River at Seventh Street, Wilmington, Delaware.

1. The owner of, or agency controlling the bridge shall provide the appliances and the personnel necessary for the safe, prompt and efficient opening of the draw at any time during the day or night for the passage of any vessel or other water craft which cannot pass under the closed draw, when the following signal is received:

Three (3) blasts of a whistle or horn.

When the draw of the bridge *can* be opened immediately, the draw tender shall reply by:

Two (2) blasts of a whistle or horn.

When the draw of the bridge *cannot* be opened immediately, or when the bridge is open and is to be closed immediately, the draw tender shall reply by:

One (1) blast of a whistle or horn.

2. Vehicles shall not be stopped on the draw span, in such manner as to delay the operation of the draw except in case of urgent necessity, nor shall vessels be moored to the bridge fenders or so maneuvered as to unnecessarily hinder or delay the closing of the draw, but all passage over, through, or under the bridge shall be prompt to avoid delay to either land or water traffic.

3. The owner of, or agency controlling, the bridge shall provide and keep in good legible condition two board gauges painted white with black figures not less than 6 inches high, to indicate the head room clearance under the closed span at all stages of the tide. These gauges shall be so placed on the ends of the draw span fenders that they will be plainly visible to the navigators of a vessel approaching the bridge from either direction.

4. These regulations shall take effect and be in force on and after May 15, 1938.

Approved April 29, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1371; Filed, May 13, 1938; 9:42 a. m.]

SPECIAL REGULATIONS TO GOVERN THE OPERATION OF THE DRAWBRIDGES CROSSING THE MINNESOTA RIVER BETWEEN ITS MOUTH AND LE SUEUR, MINNESOTA

Supplemental to rules and regulations to govern the operation of the drawbridges crossing the Mississippi River and all its navigable tributaries and outlets.

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 892.*]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of all drawbridges which are now or which may hereafter be constructed across the Minnesota River between its mouth and Le Sueur, Minnesota.

1. The owners of, or agencies controlling, the bridges will not be required to keep draw tenders in constant attendance at the above-mentioned bridges.

2. Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of, or agency controlling, the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of, or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owners of, or agencies controlling the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges in a manner that it can easily be read at any time a copy of these regulations, together with notices stating exactly how the representatives specified in paragraph 2 may be reached.

5. The operating machinery of the draws shall be maintained in a serviceable condition, and the draws opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof, and shall supersede any provisions heretofore made to govern the operation of the above-named bridges.

7. For the Minnesota River, Minnesota, at and above Le Sueur, Minnesota, no special or general regulations shall apply.

Approved April 29, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1370; Filed, May 13, 1938; 9:42 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 70-FD]

ORDER IN THE MATTER OF A PUBLIC HEARING FOR THE PURPOSE OF RECEIVING EVIDENCE TO ENABLE THE COMMISSION TO DETERMINE WHETHER CERTAIN COALS IN THE STATE OF TEXAS ARE SUBJECT TO THE PROVISIONS OF THE BITUMINOUS COAL ACT OF 1937, AND FOR THE FURTHER PURPOSE OF HEARING APPLICATIONS FOR EXEMPTION PROVIDED FOR BY ORDER NO. 28

At a Regular Session of the National Bituminous Coal Commission Held at its Offices in Washington, D. C., on the 11th day of May, 1938.

It appearing that on the 20th day of October, 1937, the Commission entered its Order No. 61 providing for a public hearing to be held at the Adolphus Hotel, Dallas, Texas, on the 15th day of November, 1937, commencing at the hour of 10:00 A. M. for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Texas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing applications for certificates of exemption as provided for by Order No. 28. The Commission assigned the cause to an examiner of the Commisison for a hearing at the time and place designated by said Order No. 61; and

It further appearing that due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to Order No. 61; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission; copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. The examiner filed separate reports with respect to the applications for certificates of exemption filed pursuant to Order No. 28 which were heard by the examiner in conjunction with the hearing in this matter and which have been treated separately by the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusions submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusions of the Commission;

Now, therefore, it is by order determined:

1. The underlying coal in the counties of Anderson, Atascosa, Bastrop, Brazos, Burleson, Camp, Cass, Cherokee, Franklin, Freestone, Frio, Gonzales, Gregg, Harrison, Henderson, Houston, Karnes, LaSalle, Lee, Leon, McMullen, Madison, Marion, Montgomery, Morris, Nacogdoches, Panola, Rains, Robertson, Rusk, Savine, Shelby, Smith, Titus, Upshur, Van Zandt, Wilson, Wood, Zapata, Angelina, Bee, Bexar, Bowie, Caldwell, Delta, DeWitt, Duval, Falls, Fayette, Goliad, Grimes, Guadalupe, Hopkins, Hunt, Jim Hogg, Jim Wells, Kaufman, Lamar, Lavaca, Limestone, Live Oak, Medina, Milam, Navarro, Red River, San Augustine, Starr, Travis, Trinity, Walker, Washington, and Williamson, in the State of Texas, is lignite within the meaning of Section 17 (b) of the Bituminous Coal Act of 1937, and is therefore exempted from the provisions of the said Act.

2. That the underlying coal in the counties of Brown, Coleman, Eastland, Jack, Palo Pinto, Stephens, Archer, Brewster, Callahan, Clay, Comanche, Concho, Erath, Hamilton, Hood, Kinney, Lampasas, McCulloch, Maverick, Mills, Montague, Parker, Presidio, Runnels, San Saba, Shackelford, Taylor, Throckmorton, Wise, and Young, in the State of Texas, is bituminous coal within the meaning of the Bituminous Coal Act of 1937, and is therefore subject to the provisions of said Act.

3. That the underlying coal in the counties of Dimmit, Uvalde, Webb, and Zavala, in the State of Texas, is bituminous coal within the meaning of Section 17 (b) and is therefore subject to the provisions of said Act. In these counties in which the line of demarcation between lignite and bituminous coal areas is not definitely known, the lignite if any, in said counties cannot be exempted except upon application in conformity with Order No. 28 of the Commission.

By order of the Commission.

Dated this 11th day of May, 1938.

[SEAL] EDGAR C. FARIS, Jr.,
Acting Secretary.

[F. R. Doc. 38-1372; Filed, May 13, 1938; 9:47 a. m.]

DEPARTMENT OF LABOR.

Children's Bureau.

AMENDMENT TO RULES AND REGULATIONS FOR ADMINISTRATION OF PARTS 1, 2, AND 3 OF TITLE V OF THE SOCIAL SECURITY ACT—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

MAY 11, 1938.

By virtue of and pursuant to the authority contained in Section 1102 of the Social Security Act (Act of August 14, 1935; 49 Stat. 647; 42 U. S. C. 1302), Sections 7, 10, 11, 17, the first paragraph of Section 19, Sections 20 and 21 of the Rules and Regulations prescribed on January 20, 1938, for the administration by the Children's Bureau of Parts 1, 2, and 3 of Title V of the said Social Security Act are amended to read as follows:

SEC. 7. *Private funds.*—Funds obtained from private sources which are made fully available for expenditure under the approved State plan may be included in the computation of the extent to which the State health agency proposes to match its allotment from Fund A. But on and after July 1, 1938, this shall not apply to funds provided by private agencies or institutions whose facilities are to be used in carrying out the State plan under arrangements involving compensation for such use from Federal, State, or other funds brought within the plan. Private funds shall be placed on deposit in accordance with the State law, but if there is no State law applicable to this procedure, the funds shall be deposited with the State treasurer, the treasurer of a political subdivision, or in a private depository, in a special account to the credit of the State health agency. If the funds are deposited with the State treasurer or the treasurer of a political subdivision, the certificate of the treasurer shall be furnished showing the deposit of such funds in a special account to the credit of the State health agency. If the funds are placed in a private depository, the certificate of an officer of the private depository shall be furnished showing the deposit of such funds in a special account to the credit of the State health agency. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 504, 49 Stat. 630, 42 U. S. C. 704.)

SEC. 10. *Quarterly reports of activities.*—Reports prepared on official forms shall be submitted by the executive officer of the State health agency to the Bureau at the end of each quarter. They shall contain a statement of the activities conducted by the State health agency or under its supervision in carrying out the State plan. Other reports shall be furnished from time to time as required. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 503, 49 Stat. 630, 42 U. S. C. 703.)

SEC. 11. *Quarterly financial reports; adjustments.*—Financial reports on official forms shall be submitted to the Bureau at the end of each quarter. The Bureau shall determine the amounts of adjustments necessary to equalize expenditures of funds paid to the State by the Federal Government from Fund A allotments and expenditures of State and other matching funds, and shall notify the State of the amounts of such adjustments. Adjustment of the amounts to be certified for payment to the State each quarter from its allotments for maternal and child health services shall be made in accordance with such determinations and notifications, and after taking into consideration any overpayment or underpayment to the State in prior quarters. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 503, 49 Stat. 630, 42 U. S. C. 703; Sec. 504, 49 Stat. 630, 42 U. S. C. 704.)

SEC. 17. *Private funds.*—Funds obtained from private sources which are made fully available for expenditure under the approved State plan may be included in the computation of the extent to which the official State agency proposes to match its allotment from Federal funds. But on and after July 1, 1938, this shall not apply to funds provided by private agencies or institutions whose facilities are to be used in carrying out the State plan under arrangements involving compensation for such use from Federal, State, or other funds brought within the plan. Private funds shall be placed on deposit in accordance with the State law, but if there is no State law applicable to this procedure, the funds shall be deposited with the State treasurer, the treasurer of a political subdivision, or in a private depository, in a special account to the credit of the official State agency. If the funds are deposited with the State treasurer or the treasurer of a political subdivision, the certificate of the treasurer shall be furnished showing the deposit of such funds in a special account to the credit of the official State agency. If the funds are placed in a private depository, the certificate of an officer of the private depository shall be furnished, showing the deposit of such funds in a special account to the credit of the official State agency. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 514, 49 Stat. 632, 42 U. S. C. 714.)

SEC. 19. *Expenditures.*—A State shall expend all funds paid to it by the Federal Government for expenditure under

the approved State plan and all State and other funds used for matching under the plan in behalf of children who are crippled or suffering from conditions which lead to crippling for the following purposes only: location; diagnosis; medical and surgical treatment; care in hospitals, institutions and boarding homes during periods of medical or surgical treatment or convalescence; and supervision in their own homes. But such funds shall not be expended for any of the following purposes: academic or vocational education of crippled children; general preventive health services; orthodontia, except that associated with congenital malformation; or the purchase of glasses to correct defects of vision, except for children receiving treatment for crippling conditions under the State plan.

* * * * *

SEC. 20. *Quarterly reports of activities.*—Reports prepared on official forms shall be submitted by the executive officer of the official State agency to the Bureau at the end of each quarter. They shall contain a statement of the activities conducted by the official State agency or under its supervision in carrying out the State plan. Other reports shall be furnished from time to time as required. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 513, 49 Stat. 632, 42 U. S. C. 713.)

SEC. 21. *Quarterly financial reports; adjustments.*—Financial reports on official forms shall be submitted to the Bureau at the end of each quarter. The Bureau shall determine the amounts of adjustments necessary to equalize expenditures of funds paid to the State by the Federal Government and expenditures of State and other matching funds, and shall notify the State of the amounts of such adjustments. Adjustment of the amounts to be certified for payment to the State each quarter from its allotments for crippled children's services shall be made in accordance with such determinations and notifications, and after taking into consideration any overpayment or underpayment to the State in prior quarters. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 513, 49 Stat. 632, 42 U. S. C. 713; Sec. 514, 49 Stat. 632, 42 U. S. C. 714.)

Section 29 of the said Rules and Regulations is renumbered Section 30. New Section 29 shall read as follows:

SEC. 29. *Quarterly financial reports; adjustments.*—Financial reports on official forms shall be submitted to the Bureau at the end of each quarter Adjustment of the amounts to be certified for payment to the State each quarter from its allotments for child welfare services shall be made after taking into consideration any overpayment or underpayment to the State in prior quarters. (Sec. 1102, 49 Stat. 647, 42 U. S. C. 1302; Sec. 521, 49 Stat. 633, 42 U. S. C. 721.)

[SEAL] FRANCES PERKINS,
Secretary of Labor.

Approval recommended.
KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 38-1374; Filed, May 13, 1938; 10:36 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

ALLOCATION OF FREQUENCIES

AMENDMENT TO RULE 229

The Commission, en banc, at a meeting held April 26, 1938, amended Rule 229 to read in part as follows:

Frequency	*Allocation*
8340	Ship telegraph and coastal telegraph.
8630	Coastal telegraph and coastal phone.
8660	General experimental and coastal phone.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1367; Filed, May 13, 1938; 9:41 a. m.]

FEDERAL DEPOSIT INSURANCE CORPORATION.

RESOLUTION APPROVING CERTIFIED STATEMENT FORMS

Paragraph (1) of subsection (h) of Section 12B of the Federal Reserve Act, as amended, provides in part:

> The certified statements required to be filed with the Corporation under paragraphs (2), (3), and (4) of this subsection shall be in such form and set forth such supporting information as the board of directors shall prescribe.

Resolved, That pursuant to the provisions of paragraph (1) of subsection (h) of Section 12B of the Federal Reserve Act, as amended, the following described certified statement forms[1] be approved:

(1) Certified Statement—Part One, Based on Deposits for the Six Months Ending June 30, 1938, Form 545F, in quadruplicate.

(2) Recapitulation of the Monthly Totals of Certified Statement—Part Two, for the Six Months Ending June 30, 1938, Form 555F, in triplicate.

Adopted by the Board of Directors of the Federal Deposit Insurance Corporation on April 4, 1938.

[SEAL] AGNES C. MURPHY,
Acting Secretary.

[F. R. Doc. 38-1375; Filed, May 13, 1938; 11:24 a. m.]

FEDERAL POWER COMMISSION.

[Project No. 487]

IN THE MATTER OF PENNSYLVANIA POWER & LIGHT COMPANY, LICENSEE

ORDER POSTPONING HEARING

MAY 12, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application of Counsel for Pennsylvania Power & Light Company, Licensee for Project No. 487, Pennsylvania, for postponement of the hearing heretofore ordered to be held beginning at 10:00 A. M. on the 15th day of June, 1938, by the Commission's order of April 29, 1938;

It is ordered that:

Said hearing be and the same hereby is postponed to begin at 10:00 A. M. on the 27th day of June, 1938, in the Hearing Room of the Commission, Hurley Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1368; Filed, May 13, 1938; 9:41 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin I. Davis, William A. Ayres, Robert E. Freer.

[1] Filed as part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Federal Deposit Insurance Corporation.

[Docket No. 3244]

IN THE MATTER OF HARRY A. RIPPNER AND LOUIS G. RIPPNER, INDIVIDUALLY, AND DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF JOHN HANCOCK PEN COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, June 3, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 531, Federal Building, Cleveland, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1373; Filed, May 13, 1938; 9:53 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 246]

ALLOCATION OF FUNDS FOR LOANS

MAY 9, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
Washington 8023A2 Grays Harbor	$19,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1365; Filed, May 12, 1938; 3:29 p. m.]

[Administrative Order No. 247]

AMENDMENT OF ALLOCATIONS OF FUNDS FOR LOANS

MAY 10, 1938.

I hereby amend Administrative Order No. 125 by reducing the amount of the allocation to Alabama 8023B Pike from $310,000 to $243,350.

I hereby amend Administrative Order No. 124 by rescinding the $97,500 allotted to Illinois 8004B Peoria.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1366; Filed, May 12, 1938; 3:29 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 11th day of May 1938.

[File No. 7-235]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, 6% CUMULATIVE PRIOR PREFERENCE STOCK, 6% CUMULATIVE PREFERRED STOCK, AND 6% NON-CUMULATIVE SECOND PREFERRED STOCK, EACH $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO EXTEND UNLISTED TRADING PRIVILEGES

The San Francisco Stock Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and rule JF1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the Common Stock, $100 Par Value, 6% Cumulative Prior Preference Stock, $100 Par Value, 6% Cumulative Preferred Stock, $100 Par Value, and 6% Non-Cumulative Second Preferred Stock, $100 Par Value, of Market Street Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, June 1, 1938, in Room 1301, Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard A. Judy and Charles R. Burr, or either of them, officers of the Commission, be and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1377; Filed, May 13, 1938; 12:35 p. m.]

Tuesday, May 17, 1938 ***No. 96***

WAR DEPARTMENT.

RULES AND REGULATIONS TO GOVERN THE USE, ADMINISTRATION AND NAVIGATION OF ALL WATERWAYS TRIBUTARY TO THE ATLANTIC OCEAN SOUTH OF CHESAPEAKE BAY AND ALL WATERWAYS TRIBUTARY TO THE GULF OF MEXICO EAST AND SOUTH OF ST. MARKS, FLORIDA

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917 provides as follows:

SEC. 7. * * * That it shall be the duty of the Secretary of War to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

THE REGULATIONS

In pursuance of the foregoing law the following regulations are hereby prescribed to govern the use, administration and navigation of all waterways tributary to the Atlantic Ocean south of Chesapeake Bay and all waterways tributary

to the Gulf of Mexico east and south of St. Marks, Florida. The regulations apply to the following:

Waterways.—All navigable waters of the United States, natural or artificial, including bays, lakes, sounds, rivers, creeks, intracoastal waterways, as well as canals and channels of all types, which are tributary to or connected by other waterways with the Atlantic Ocean south of Chesapeake Bay or with the Gulf of Mexico east and south of St. Marks, Florida.

Locks.—All Government owned or operated locks and hurricane gate chambers and appurtenant structures in any of the above-described waterways.

United States property.—All river and harbor lands owned by the United States in or along the above-described waterways, including lock sites and all structures thereon, other sites for Government structures and for the accommodation and use of employees of the United States, and rights of way and spoil disposal areas to the extent of Federal interest therein.

Vessels and rafts.—The term "vessel" as used herein includes all floating things moved over these waterways other than rafts.

1. *Authority of district engineers.*—The use, administration and navigation of these waterways, Federal locks and hurricane gate chambers shall be under the direction of the officers of the Corps of Engineers, United States Army, detailed in charge of the respective sections, and their authorized assistants. The cities in which the U. S. District Engineers are located are as follows:

U. S. District Engineer, Norfolk, Virginia,
U. S. District Engineer, Wilmington, North Carolina,
U. S. District Engineer, Charleston, South Carolina,
U. S. District Engineer, Savannah, Georgia,
U. S. District Engineer, Jacksonville, Florida.

2. *Commercial statistics.*—*a.* As required by Section 11 of the River and Harbor Act of September 22, 1922, owners, agents, masters and clerks of vessels plying upon the above-described waterways shall submit a report on such activities for statistical purposes which must contain the following information:

Name of vessel.
Name and address of owner or operator.
Type of vessel—steam, motor, sail, barge, or other type.
Net registered tonnage—if not registered, approximate net tonnage.
Maximum draft at time of passage.
Number of passengers.
Cargo—by commodities, expressed in short tons, or other units by which such commodities are customarily measured, giving origin and destination.

b. All persons rafting and towing logs shall submit a report of their activities containing such information as may be called for by the District Engineer concerned.

c. The report should be presented to the lockmaster of the Federally operated locks for each trip made. Where no Federally operated lock is passed, they shall be mailed promptly to the District Engineer. On written request, persons or corporations making frequent use of these waterways may be granted permission to submit monthly statements in lieu of reports by trips. Reports may be submitted on forms furnished free of charge by the District Engineer.

3. *Bridges.*—*a. General.*—As required by law, and general regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries, prescribed by the Secretary of War, all corporations or persons owning, operating and tending drawbridges shall provide the same with the necessary tenders and the proper mechanical appliances for the safe, prompt and efficient opening of the draw for the passage of vessels and other water craft. The owner shall keep the operating machinery of the draw in serviceable condition, and shall have the draw opened and closed at intervals frequent enough to make certain that the machinery is kept in proper condition for satisfactory operation. Bridges and fender systems shall be constructed and maintained so as to afford at all times reasonably free, easy and unobstructed navigation of the draw opening or the draw span. Any accident or damage to the bridge, the fenders or the operating mechanism, shall be promptly reported to the District Engineer, giving the cause and the probable period required for repairs. All bridges will be lighted in accordance with the rules and regulations of the Department of Commerce, Lighthouse Service.

b. Signals for drawbridges.—The signals for vessels desiring to pass bridges shall be those prescribed in the general regulations referred to above.

c. Passage through drawbridges.—Trains, wagons, and other vehicles shall not be stopped on a drawbridge for the purpose of delaying its opening, nor shall water craft or vessels be so manipulated as to hinder or delay the operation of a draw span, but all passage over, through, or under a drawbridge shall be prompt, to prevent unnecessary delay to either land or water traffic.

4. *Locks.*—*a. Authority.*—The locking of all vessels and rafts and their movements while in a lock, or in the approaches thereto, shall be under the direction of the lockmaster. The term "lockmaster" as used in these regulations, shall mean the lock official present who is in charge of the operation of the lock.

b. Signals.—Vessels desiring lockage in either direction shall give notice to the lockmaster at not more than three-quarters of a mile nor less than one-quarter of a mile from the lock, by two long and two short blasts of a whistle. When the lock is available, a green light, semaphore or flag will be displayed; when not available, a red light, semaphore or flag will be displayed. No vessels or rafts shall approach within 300 feet of any lock entrance unless signalled to do so by the lockmaster.

c. Precedence at locks.—Ordinarily, vessels or rafts arriving at the lock shall take precedence in order of their arrival, but in all cases, vessels belonging to the United States or employed on public work shall have precedence over all others; passenger vessels shall have precedence over freight vessels, individual vessels over tows or rafts. Small vessels will not be granted separate lockage when larger vessels are awaiting lockage, and they will be required to lock through with other vessels. When two vessels approach the lock from opposite directions at approximately the same time, preference will ordinarily be given to the one for which the lock is prepared. In all cases, the order of actual entry shall be determined by the lockmaster.

d. Entrance to and exit from locks.—No vessel or raft shall enter or leave the locks before being signalled to do so. While waiting their turns, vessels or rafts must not obstruct traffic and must remain at a safe distance from the lock. They shall take position in rear of any vessels or rafts that may precede them, and there arrange the tow for locking in sections if necessary. Masters and pilots of vessels or in charge of rafts shall cause no undue delay in entering or leaving the lock, and will be held to a strict accountability that the approaches are not at any time unnecessarily obstructed by parts of a tow awaiting lockage or already passed through. They shall provide sufficient men to move through the lock promptly without damage to the structures. Vessels or tows that fail to enter the locks with reasonable promptness after being signalled to do so will lose their turn.

e. Lockage of vessels.—Vessels must enter and leave the locks carefully at slow speed, must be provided with suitable lines and fenders, must always use fenders to protect the walls and gates, and when locking at night must be provided with suitable lights and use them as directed.

Vessels which do not draw at least six inches less than the depth on miter sills or breast walls, or which have projections or sharp corners liable to damage gates or walls, shall not enter a lock or approaches.

No vessel having chains or lines either hanging over the sides or ends, or dragging on the bottom, for steering or other purposes, will be permitted to pass a lock or dam.

Power vessels must accompany tows through the locks when so directed by the lockmaster.

No vessel whose cargo projects beyond its sides will be admitted to lockage.

Vessels in a sinking condition shall not enter a lock or approaches.

The passing of coal from flats or barges to steamers while in locks is prohibited.

Where special regulations for safeguarding human life and property are desirable for special situations, the same may be indicated by printed signs, and in such cases such signs will have the same force as other parts of these regulations.

The lockmaster may refuse to lock vessels which, in his judgment, fail to comply with these rules.

f. Lockage of rafts.—Rafts shall be locked through in sections as directed by the lockmaster. No raft will be locked that is not constructed in accordance with the requirements stated in section 6 hereafter. The party in charge of a raft desiring lockage shall register with the lockmaster immediately upon arriving at the lock and receive instructions for locking.

g. Number of lockages.—Tows or rafts locking in sections will generally be allowed only two consecutive lockages if one or more single vessels are waiting for lockage, but may be allowed more in special cases. If tows or rafts are waiting above and below a lock for lockage, sections will be locked both ways alternately whenever practicable. When there are two or more tows or rafts awaiting lockage in the same direction, no part of one shall pass the lock until the whole of the one preceding it shall have passed.

h. Mooring.—Vessels and rafts when in the lock shall be moored where directed by the lockmaster by bow, stern and spring lines to the snubbing posts or hooks provided for that purpose, and lines shall not be let go until signal is given for vessel or raft to leave. Tying boats to the lock ladders is prohibited.

The mooring of vessels or rafts near the approaches to locks except while waiting for lockage, or at other places in the pools where such mooring interferes with general navigation of the waterway is prohibited.

i. Maneuvering locks.—The lock gates, valves, and accessories will be moved only under the direction of the lockmaster; but if required, all vessels and rafts using the locks must furnish ample help on the lock walls for handling lines and maneuvering the various parts of the lock under the direction of the lockmaster.

5. *Waterways.*—*a. Fairway.*—A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and rafts that normally use the various waterways or sections thereof. The District Engineer may specify the width of the fairway required in the various waterways under his charge.

b. Stoppage in waterway—anchorage or mooring.—No vessels or rafts shall anchor or moor in any of the land cuts or other narrow parts of the waterway, except in case of an emergency. Whenever it becomes necessary for a vessel or raft to stop in any such portions of the waterway it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such a place and under such conditions as will not obstruct or prevent the passage of other vessels or craft. Stoppages shall be only for such periods as may be necessary.

No vessel or raft will be allowed to use any portion of the fairway as a mooring place except temporarily as authorized above without the written permission from the District Engineer.

When tied up, all vessels must be moored by bow and stern lines. Rafts and tows shall be secured at sufficiently close intervals to insure their not being drawn away from the bank by winds, currents or the suction of passing vessels. Tow lines shall be shortened so that the different parts of the tow shall be as close together as possible. In narrow sections, no vessel or raft shall be tied abreast of another.

Lights shall be displayed in accordance with provisions of the Federal Pilot Rules.

No vessel, even if fastened to the bank as above prescribed, shall be left without a sufficient crew to care for it properly.

Vessels will not be permitted to load or unload in any of the land cuts except at a regular established landing or wharf without written permission secured in advance from the District Engineer.

No vessel, regardless of size, shall anchor in a dredged channel or narrow portion of a waterway for the purpose of fishing, if navigation is obstructed thereby.

Except in cases of emergency the dropping of anchors, weights, or other ground tackle, within areas occupied by submarine cable or pipe crossings, is prohibited. Such crossings will ordinarily be marked by signboards on each bank of the shore or indicated on coast charts.

c. Speed.—Vessels shall proceed at a speed which will not endanger other vessels or structures and will not interfere with any work in progress incident to maintaining, improving, surveying or marking the channel.

Official signs indicating limiting speeds through critical portions of the waterways shall be strictly obeyed.

Vessels approaching and passing through a bridge shall so govern their speed as to insure passage through the bridge without damage to the bridge or its fenders.

A vessel being overtaken by another shall slacken speed sufficiently to permit the passage to be effected with safety to both vessels.

d. Assembly and handling of tows.—All vessels drawing tows not equipped with rudders shall use two tow lines or a bridle and shorten them to the greatest possible extent so as to have full control at all times. The various parts of a tow shall be securely assembled with the individual units connected by lines as short as practicable. If necessary, as in the case of lengthy or cumbersome tows or other tows in restricted channels, the District Engineer may require the installation of a rudder, drag or other approved steering device on the tow in order to avoid obstructing navigation or damaging the property of others, including aids to navigation maintained by the United States or under its authorization, by collision or otherwise.

No tow shall be drawn by a vessel that has insufficient power or crew to permit ready maneuverability and safe handling.

Tows desiring to pass a bridge shall approach the opening along the axis of the channel so as to pass through without danger of striking the bridge or its fenders. No vessel or tow shall navigate through a drawbridge until the movable span is fully opened.

In the event that it is evident to the master of a towing vessel that a tow cannot be safely handled through a bridge, it will be brought to anchor and the towed vessels will be taken through the bridge in small units, or singly if necessary, or the tow will wait until navigation conditions have improved to such an extent that the tow can pass through the bridge without damage.

e. Projections from vessels.—No vessel carrying a deck load which overhangs or projects over the side of said vessel, or whose rigging projects over the side of the vessel so as to endanger passing vessels, wharves or other property, will enter or pass through any of the narrow parts of the waterway.

f. Meeting and passing.—Vessels, on meeting or overtaking, shall give the proper signals and pass in accordance with Federal Pilot Rules. Rafts shall give to vessels the side demanded by proper signal. All vessels approaching dredges, or other plant engaged on improvements to a waterway, shall give the signal for passing and slow down sufficiently to stop if so ordered or if no answering signal is received. On receiving the answering signal, they shall then proceed to pass at a speed sufficiently slow to insure safe navigation.

6. *Rafts—logging.*—Rafts will be permitted to navigate a waterway only if properly and securely assembled. The passage of "bag" or "sack" rafts, "dog" rafts, or of loose logs over any portion of a waterway, is prohibited. Each section of a raft will be secured within itself in such a manner as to prevent the sinking of any log, and so fastened or tied with chains or wire rope that it cannot be separated

or bag out so as to materially change its shape. All dogs, chains and other means used in assembling rafts shall be in good condition and of ample size and strength to accomplish their purposes.

No section of a raft will be permitted to be towed over any portion of a waterway unless the logs float sufficiently high in the water to make it evident that the section will not sink en route.

Frequent inspections will be made by the person in charge of each raft to insure that all fastenings remain secure, and when any one is found to have loosened, it shall be repaired at once. Should any log or section be lost from a raft, the fact must be promptly reported to the District Engineer, giving as definitely as possible the exact point at which the loss occurred. In all cases the owner of the lost log or section will take steps immediately to remove the same from the waterway.

The length and width of rafts shall not exceed such maximum dimensions as may be prescribed by the District Engineer.

All rafts shall carry sufficient men to enable them to be managed properly, and to keep them from being an obstruction to other craft using the waterway. To permit safe passage in a narrow channel rafts will, if necessary, stop and tie up alongside the bank. Care must be exercised both in towing and mooring rafts to avoid the possibility of damage to aids to navigation maintained by the United States or under its authorization.

When rafts are left for any reason with no one in attendance, they must be securely tied at each end and at as many intermediate points as may be necessary to keep the timbers from bagging into the stream, and must be moored so as to conform to the shape of the bank. Rafts moored to the bank shall have lights at 500-foot intervals along their entire length. Rafts must not be moored at prominent projects of the bank, or at critical sections.

Logs may be stored in certain tributary streams provided a clear channel at least one-half the width of the channel be left clear for navigation along the tributary. Such storage spaces must be protected by booms and, if necessary to maintain an open channel, piling should also be used. Authority for placing these booms and piling must be obtained by written permit from the District Engineer.

The building, assembling, or breaking up of a raft in a waterway will be permitted only upon special authority obtained from the District Engineer, and under such conditions as he may prescribe.

7. *Dumping of refuse or oil in waterway, obstructions.*—Attention is invited to the provisions of Sections 13 and 20 of the River and Harbor Act of March 3, 1899, and of Sections 2, 3, and 4 of the Oil Pollution Act of June 7, 1924, appended hereto, which prohibit the depositing of any refuse matter in these waterways or along their banks where liable to be washed into the waters; authorize the immediate removal or destruction of any sunken vessel, craft, raft, or other similar obstruction, which stops or endangers navigation; and prohibit the discharge of oil from vessels into the coastal navigable waters of the United States.

8. *Damage.*—Masters and owners of vessels using the waterways are responsible for any damage caused by their operations to canal revetments, lock piers and walls, bridges, hurricane gate chambers, spillways, or approaches thereto, or other Government structures, and for displacing or damaging of buoys, stakes, spars, range lights or other aids to navigation. Should any part of a revetment, lock, bridge, hurricane gate chamber, spillway or approach thereto, be damaged, they shall report the fact, and furnish a clear statement of how the damage occurred, to the nearest Government lockmaster or bridge tender, and by mail to the District Engineer, U. S. Engineer Office, in local charge of the waterway in which the damage occurred. Should any aid to navigation be damaged, they shall report that fact immediately to the Superintendent of Lighthouses at Norfolk, Virginia, if north of New River Inlet, North Carolina; to the Superintendent of Lighthouses at Charleston, South Carolina, if between New River Inlet, North Carolina, and St. Lucie Inlet, Florida; to the Superintendent of Lighthouses at Key West, Florida, if between St. Lucie Inlet and Suwanee River, Florida; and to the Superintendent of Lighthouses, New Orleans, Louisiana, if between Suwanee River and St. Marks, Florida.

9. *Trespass on property of the United States.*—Trespass on waterway property or injury to the banks, locks, bridges, piers, fences, trees, houses, shops or any other property of the United States pertaining to the waterway, is strictly prohibited. No business, trading or landing of freight or baggage will be allowed on or over Government piers, bridges, or lock walls.

10. *Copies of regulations.*—Copies of these rules and regulations will be furnished free of charge upon application to the nearest District Engineer.

11. These regulations shall take effect and be in force on and after June 15, 1938, and shall supersede the following regulations:

Inland Waterway from Norfolk, Va., to Cape Fear River, N. C., and the Waterway from Norfolk, Va., to the Sounds of North Carolina, Including the Dismal Swamp.—Use, administration and navigation—Regulations prescribed May 31, 1933 (E. D. 7241 (Norfolk-Beaufort Inland Waterway)—1/2).

Cape Fear River, N. C.—Use, administration, and navigation—Regulations prescribed August 10, 1915 (E. D. 36369/173).

All Waterways Connecting with the Atlantic Ocean Between Little River Inlet and Coosaw River, S. C., Both Inclusive.—Navigation by rafts—Regulations prescribed September 28, 1928 (E. D. 7101 (South Carolina—W. W.)—3/1).

Congaree River, S. C.—Use and operation of lock and dam at Granby, near Columbia, S. C.—Regulations prescribed April 18, 1916 (E. D. 58968/32).

Waterways Emptying into Atlantic Ocean Between Coosaw River, S. C., and St. Johns River, Fla., Both Exclusive.—Navigation by rafts—Regulations prescribed January 29, 1925 (E. D. 7101 (Rafts—Logs)—2/1).

Savannah River, Ga.—Use, administration, and navigation of dam, Georgia-Carolina Power Co. at Stevens Creek—Regulations prescribed August 13, 1915 (E. D. 97467/12).

St. Lucie River and Canal, Fla., From Junction with the Intracoastal Waterway near St. Lucie Inlet to Lake Okeechobee.—Use, administration and navigation—Regulations prescribed Mar. 15, 1934 (E. D. 7241 (St. Lucie River)—1/2).

Miami River, Fla.—Navigation—Regulations prescribed September 15, 1932—(E. D. 7145 (Miami River, Fla.)—1/9).

Approved April 30, 1938.

[SEAL] HARRY H. WOODRING, *Secretary of War.*

[F. R. Doc. 38-1386; Filed, May 16, 1938; 9:44 a. m.]

MODIFICATION OF RULES AND REGULATIONS TO GOVERN THE OPENING OF THE MARYLAND STATE HIGHWAY BRIDGE ACROSS OAK CREEK, TALBOT COUNTY, MARYLAND

The regulations approved by the Acting Secretary of War, on June 28, 1924, to govern the opening of the Maryland State Highway drawbridge across Oak Creek, Talbot County, Maryland, are hereby extended to include the Baltimore, Chesapeake and Atlantic Railroad Company drawbridge, and the title thereof has been modified to read:

"Regulations to Govern the Opening of the Drawbridges of the Maryland State Roads Commission and the Baltimore, Chesapeake and Atlantic Railroad Company, across Oak Creek, Talbot County, Maryland".

Approved, May 4, 1938.

[SEAL] HARRY H. WOODRING, *Secretary of War.*

[F. R. Doc. 38-1385; Filed, May 16, 1938; 9:43 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 13]

IN THE MATTER OF THE PETITION OF MALLORY COAL CO., ATLANTIC SMOKELESS COAL CO., ASHLAND COAL & COKE CO., HANNA COAL CO. OF OHIO, JAMISON COAL & COKE CO., PITTSBURGH COAL CO., WESTMORELAND COAL CO., AND WHEELING COAL CO.

NOTICE OF AND ORDER FOR HEARING

The petitioners above named, having on the 11th day of May, 1938, petitioned this Commission to vacate its Ruling dated March 30, 1938, and to revoke its construction therein of Section 10 (a) of the Bituminous Coal Act of 1937 permitting the introduction in evidence at a hearing before the Commission of data with respect to 1936 costs of production of individual producers, notice is hereby given that the above entitled proceeding is assigned for hearing before the Commission, on May 25, 1938, at 10:00 o'clock, a. m. at the Hearing Room of the Commission, 734 Fifteenth Street, N. W., Washington, D. C., at which time an opportunity will be afforded interested parties to be heard.

The Secretary of the Commission is, forthwith, directed to mail a copy of this Notice of Hearing to the petitioners above named, to each code member and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER. A copy of the aforesaid petition is on file and available to interested parties for inspection at the Office of the Secretary of the Commission.

By Order of the Commission.

Dated this 13th day of May, 1938.

[SEAL] EDGAR C. FARIS, JR., *Acting Secretary.*

[F. R. Doc. 38-1379; Filed, May 14, 1938; 11:34 a. m.]

Office of Indian Affairs.

REGULATIONS GOVERNING THE DEPOSIT OF INDIAN FUNDS IN BANKS

MARCH 2, 1938.

AUTHORITY FOR DEPOSIT

SECTION 1. Indian moneys, individual or tribal, may be deposited in banks under authority of the acts of June 25, 1910 (36 Stat. 855), as amended (48 Stat. 648); May 25, 1918, (40 Stat. 591); and February 27, 1925 (43 Stat. 1008).

BANKS DEFINED

SEC. 2. For the purpose of these regulations, the word "banks" shall include state and national banks, and savings banks and trust companies doing a banking business.

APPLICATION

SEC. 3. Any bank desiring to qualify for deposits of Indian funds shall transmit to the Commissioner of Indian Affairs (or to the proper Superintendent if a call for bids has been issued) an application accompanied by a report in the form prescribed by the Comptroller of the Currency (or the State Banking Department) showing fully the condition of the bank on a day not more than one month prior to the date of such application. In making application, banks must state the maximum amount desired and the minimum that will be accepted, the rate of interest that will be paid, and the type of security that will be furnished. The following statement must be incorporated in the letter of application: This bank agrees that if designated a depositary, it will comply with the regulations of the Interior Department governing the deposit of Indian funds in banks and with such instructions as may from time to time be issued by the Commissioner of Indian Affairs.

QUALIFICATION

SEC. 4. In the selection of a bank to serve as a depositary, the following points will be given consideration:

1. Location with respect to the nearest Agency.
2. Financial condition.
3. Rate of interest and security offered.

SEC. 5. No bank will be considered for designation unless it has been in successful operation for one year and has accumulated a surplus equal to 10 per cent of the capital stock. This will not apply to banks offering United States bonds or notes as security.

SECURITY

SEC. 6. Under the acts of Congress cited herein, deposits of Indian funds are required to be secured by surety bonds (corporate or individual) or by bonds or notes of the United States. The following securities are classed as United States obligations: Panama Canal Loan Bonds, Treasury Bonds, and Treasury Notes. Bonds on which surety companies or individuals appear as sureties must be executed in triplicate on forms prescribed for the purpose, and each copy must be accompanied by a transcript of a resolution by the board of directors of the bank, authorizing the proper officers to execute the instrument. The bonds must be executed for a stipulated term of not less than 180 days. Such bonds, however, are continuing in nature and will remain in force beyond the stipulated period until canceled in accordance with the provisions contained therein.

SEC. 7. Whenever a bank receives notice from any source that its surety bond is to be canceled, it shall immediately arrange to submit substitute security which must reach the Indian Office and be approved ten days before the effective date of the cancellation notice. Any bank failing to furnish other security in accordance with the foregoing shall relinquish its deposit with accrued interest not later than the date of the tenth day preceding the effective date of the cancellation notice.

SEC. 8. *Corporate Sureties.*—Only those companies holding certificates of authority from the Secretary of the Treasury to write bonds on which the United States is obligee are acceptable as sureties.

SEC. 9. *Individual Sureties.*—Each person appearing as surety on a personal surety bond must qualify in an amount equal to twice the penalty of the bond. At least four individuals must act as sureties on each bond. Officers and directors of a bank furnishing a personal surety bond will not be accepted as sureties, nor will any person who is a bonded officer of the United States or a married woman.

SEC. 10. *Collateral Security.*—Banks pledging United States bonds or notes as security shall execute a deposit agreement on forms prescribed by the Commissioner of Indian Affairs and shall furnish a resolution of authority by the board of directors, authorizing the sale, assignment, or transfer of the collateral. The bonds or notes shall be either deposited with the Commissioner of Indian Affairs who will place them with the Treasurer of the United States for safekeeping, or sent direct to the Division of Securities, Office of the United States Treasurer, Treasury Department, to be held subject to the order of the Commissioner of Indian Affairs. In either case, receipt for the collateral will issue from the Indian Office. Registered bonds must be assigned in blank before shipment, and a resolution by board of directors, authorizing the assignment, must be filed with the Division of Loans and Currency, Treasury Department, on Treasury Department Form PD 1009 or Form PD 1010. All correspondence relating to the deposit, withdrawal, substitution, or exchange of securities shall be addressed to the Commissioner of Indian Affairs.

DEPOSITS

SEC. 11. Each bank that has been designated as a depositary, and has filed proper bond will be given a deposit in an amount equal to 95 per cent of the penalty of the bond, unless

it has been selected to carry an active checking account in which case the deposit will be limited to 90 per cent of the security. Upon receipt of the deposit from the disbursing agent, the bank shall immediately credit it to an account which must be opened under his name and official title. The deposit shall be subject to withdrawal in accordance with the terms of the depositary's surety bond or its deposit agreement.

SEC. 12. Time certificates of deposit, running for definite periods during which deposits are not subject to check, are not acceptable. The terms of any such instruments issued contrary to these regulations will be considered void and of no effect.

PAYMENT OF INTEREST

SEC. 13. Except as to depositaries for funds of the Osage and Five Civilized Tribes Agencies, each bank carrying a deposit shall credit interest thereon at the agreed rate to the account of the disbursing agent at the close of June 30, and December 31 of each year. Banks carrying deposits in the names of the disbursing agents of the Five Civilized Tribes and Osage Agencies shall credit interest to their accounts at the close of April 30 and October 31 of each year. Within five days after the close of the interest period, the amount credited to the account of a disbursing agent shall be remitted to him by draft unless he has previously arranged to withdraw it by check. Any bank delinquent in the payment of interest shall be liable for interest on the overdue amount.

SEC. 14. In the event that a deposit or any part thereof is withdrawn during an interest period by reason of the cancellation of a bond, interest which has accrued on the amount so withdrawn shall immediately be credited and promptly remitted to the disbursing agent by draft unless included in his check or covered by separate check.

REPORTS

Statement of Disbursing Account (Form 5-308)

SEC. 15. Each depositary for Indian funds shall furnish monthly statements of receipts and paid checks on Form 5-308 (and Form 5-308a, if extra space is needed.) Paid checks will be listed thereon in numerical order, showing for each check its date, number, and amount. These statements will be prepared in triplicate for each disbursing officer having funds to his official credit. A duplicate copy will be forwarded to the disbursing officer in charge of the unit for reconciliation within ten days after the close of the month. The disbursing officer will make a prompt comparison with his records, and after adjusting any errors found with the bank, the latter will immediately forward the original statement and paid checks directly to the *General Accounting Office, Audit Division, Washington, D. C.* The triplicate copy of the statement will be retained in the bank's files.

SEC. 16. In no case will the depositary send the paid checks to the disbursing officer nor should the statement and checks be sent to or routed through the Indian Office.

SEC. 17. Statements will be required of both time and checking depositaries so long as any balance of Indian moneys remain on deposit and must be furnished for fractional parts of a month whenever a change of disbursing officers takes place or a new bond (disbursing agent's) becomes effective before the end of a month.

SEC. 18. Depositaries should apply to disbursing officers for a supply of the necessary forms.

Statement of Deposits (Form 5-302)

SEC. 19. Each bank having a deposit not actively checked against shall submit semiannually, within five days after the close of June 30, and December 31, of each year, to the officer in whose name the deposit is carried, a statement in duplicate on Form 5-302. After comparing the statement with his records, the officer will forward the original to the Indian Office if it is found correct.

SEC. 20. Banks carrying active checking accounts shall submit the statements within five days after the close of each month.

SEC. 21. Depositaries should apply to the Indian Office for Form 5-302.

REPORT OF CONDITION

SEC. 22. When called for by the Commissioner of Indian Affairs, a report of financial condition shall be submitted by each depositary. A copy of the report made to the Comptroller of the Currency (or the State Banking Department) will suffice if not more than one month has elapsed since such report. If a longer period has elapsed, current figures shall be given, but in the same form. No printed forms are provided by the Department for the submission of the reports.

CHECKS

SEC. 23. Each bank designated as a depositary shall furnish the disbursing agent, without charge, an adequate supply of blank checks.

SEC. 24. Checks to be supplied by banks carrying active checking accounts must be printed in accordance with instructions from disbursing agents.

MISCELLANEOUS

SEC. 25. No bank in which Indian funds are deposited shall charge or receive any exchange or other fees or compensation on account of the cashing or collection of any checks or drafts or the performance of any other service for disbursing agents.

SEC. 26. Depositaries shall render such statements and give such information as properly accredited inspecting and administrative officers may request.

SEC. 27. Any bank which shall fail to comply with these regulations shall be liable to be disqualified.

SEC. 28. These regulations shall become effective upon the date of approval and shall supersede regulations on the same subject approved February 17, 1931.

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner.

Approved, March 5, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1384; Filed, May 16, 1938; 9:41 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ALLOTTING THE DIRECT-CONSUMPTION PORTION OF THE 1938 SUGAR QUOTA FOR PUERTO RICO

NOTICE OF PROPOSED ORDER

Notice is hereby given of a proposed order, set forth below, of the Secretary of Agriculture revising the allotments made in Puerto Rico Sugar Order No. 10, issued April 19, 1938, allotting that portion of the 1938 Puerto Rican sugar quota for shipment to the continental United States which may be filled by direct-consumption sugar. The proposed order is based on evidence presented to the Secretary of Agriculture at the hearings held in Washington, D. C. on January 14, 1938, and May 3, 1938.

Objections to the proposed order should be filed with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., on or before 4.30 P. M. May 24, 1938.

H. A. WALLACE,
Secretary of Agriculture.

PROPOSED DECISION AND ORDER OF SECRETARY OF AGRICULTURE

General Sugar Quota Regulations, Series 5, No. 1, issued by the Secretary of Agriculture on December 20, 1937, pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), provide that the 1938 Puerto Rican sugar quota for shipment to the continental United States may be filled by shipments of direct-consumption sugar not in excess of 126,033 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that

the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2, issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the Puerto Rican sugar quotas among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to section 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The preliminary finding was based upon information which the Secretary had to the effect that Puerto Rican processors were in a position to manufacture and make available for market a potential supply of approximately 400,000 short tons of direct-consumption sugar during the calendar year 1938.

The hearing was held at Washington, D. C., on the date specified in the notice. The evidence presented at the hearing indicated that the preliminary finding of the Secretary should be confirmed. Such evidence indicated a plant capacity of 401,500 short tons for all processors in Puerto Rico. The total amount of such sugar which may be shipped to continental United States under the act is limited to 126,033 short tons. Under these conditions, it was deemed probable that, without allotment of the direct-consumption portion of the quota, more raw sugar would be processed into direct-consumption sugar than could be shipped to the continental United States during any calendar year. This, it was concluded, would result in disorderly marketing of sugar.

On March 30, 1938, the Secretary issued Puerto Rico Sugar Order No. 9, allotting that portion of the 1938 Puerto Rican sugar quota for shipment to the continental United States which may be filled by direct-consumption sugar. On April 19, 1938, the Secretary issued Puerto Rico Sugar Order No. 10, which superseded the order of March 30, 1938, and which contains allotments identical with those made in the first order, together with a full statement of the facts and grounds for his decision.

Section 205 (a) of the act provides in part that:

Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him. The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made.

On April 26, 1938, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on May 3, 1938, for the purpose, among others, of receiving evidence to enable him to revise or amend Puerto Rico Sugar Order No. 10 in accordance with the provisions of section 205 (a) of the act. The hearing was held on May 3 as specified in the notice and was concluded on May 4. The following companies interested in marketing direct-consumption sugar in the continental United States during 1938 were represented at the hearing:

Porto Rico American Sugar Refinery,
Central Aguirre,
Central Guanica,
Central Igualdad,
Central Roig,
Camuy Sugar Co.

Puerto Rico Sugar Order No. 10 states the basis for allotments therein made as follows:

"The first standard stated above for the Secretary to use in making allotments, namely, processings to which proportionate shares established under section 302 (b) of the act pertain, is inapplicable to the allotment of that portion of the quota which may be filled by direct-consumption sugar.

"The other two standards given in the act, namely, 'past marketings' and 'ability * * * to market', are applicable and should both be used in making individual allotments, in order to provide a fair, efficient, and equitable distribution of the portion of the quota under discussion.

"In determining 'ability * * * to market', it is apparent that mill capacity alone cannot be taken as an accurate measure. That factor represents only a potential ability to produce sugar, dependent upon a number of other factors, such as the availability of raw sugar, the price of raw materials, transportation costs, and similar factors. An additional factor must be used in order to arrive at a true measure of ability to market. It is believed that the ratios of each processor's current marketings of sugar to the total of such marketings should be considered and given equal weight with the ratios of each processor's mill capacity to the total mill capacity for all processors. Since the hearing was held on January 14, 1938, it would be possible to take 1937 marketings as indicating the processor's current ability to market, but this method would be unfair to processors marketing direct-consumption sugar for the first time in 1938. In order, therefore, to be fair to both new and old processors, and in order to obtain as accurate a measure of present ability to market as possible, it is necessary to take marketings of direct-consumption sugar during the present calendar year. During the first three months of the current year, no allotment order was in effect and processors were not restricted in their shipments of direct-consumption sugar to the United States, and since there was reason to believe that allotments would be made, processors had an incentive to hasten shipments prior to the making of such allotments. Hence the official data of the Department showing actual entries against such quota during the period from January 1, 1938, to March 22, 1938 (the date of final preparation of Puerto Rico Sugar Order No. 9), are believed to constitute a necessary factor in determining actual ability to market sugar. This factor, along with that of mill refining capacity, is therefore deemed to be a fair measure of the present ability to market sugar."

Since section 205 (a) of the act requires that the Secretary, in revising or amending an allotment order, use the same basis used in making the initial allotment, it is necessary in this Order to apply the same basic formula as was used in Puerto Rico Sugar Order No. 10.

The evidence presented at the hearings of January 14 and May 3 in regard to mill refining capacity in terms of short tons, refined value, may be summarized as follows:

Porto Rico American Sugar Refinery.—700 to 800 tons per day (pages 29, 48, 62, 65 and 324 of record of hearing held on May 3).

Central Aguirre.—8000 to 9000 tons per annum (page 125 of record of hearing held on January 14).

Central Guanica.—50,000 tons per annum (page 128 of record of hearing held on January 14).

Central Igualdad.—220 tons per day (pages 103, 194, and 199 of record of hearing held on May 3).[1]

Central Roig.—210 tons per day (page 273 of record of hearing held on May 3).[2]

No testimony was given either at the hearing of January 14 or of May 3 bearing on the mill refining capacity of Central Carmen and Central San Francisco. It is, therefore, necessary to take 1936[3] entries of direct-consumption sugar into the continental United States as the mill capacity for these companies. In 1936, Central Carmen brought into the continental United States 264 short tons, raw value, of direct-consumption sugar, or 247 short tons, refined value, and Central San Francisco brought in during the same year 2,590 short tons, raw value, of direct-consumption sugar, or 2,421 short tons, refined value. (Government Exhibit No. 3.)

The actual quantities of Puerto Rican direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and March 22, 1938 (Government Exhibit No. 3), were as follows:

	Short tons, raw value
Porto Rico American Sugar Refinery	46,868
Central Aguirre	1,970
Central Carmen	
Central Guanica	
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795
	58,825

In determining "past marketings" for processors which have shipped direct-consumption sugar to the continental United States, it is believed that the years 1935, 1936, and 1937 should be used, since they are years during which a quota system was in effect and, consequently, are believed to be fair and reasonable under a restrictive program such as that provided for under the present and prior sugar legislation. The marketing history for these years (Government Exhibit No. 3) is as follows:

	Puerto Rican direct-consumption, sugar entries (refined and turbinado) for consumption in the United States (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,945	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen		264	
Central Guanica	1,015		
Central Igualdad	163	438	52
Central Roig		2,778	16,204
Central San Francisco	2,463	2,590	1,981
	122,971	118,511	121,502

[1] The record of the hearing held on January 14 indicated a maximum capacity of 225 tons per day, but the same witness who testified in regard to plant capacity at the first hearing testified at the hearing of May 3 (page 199 of record) that 200 to 225 tons per day is more nearly correct. In view of the fact that a test run has shown 220 tons per day (page 103 of record of hearing held on May 3), this figure is taken as the rated mill capacity instead of 212.5 tons per day which would be taken in the absence of testimony showing actual performance in excess of that figure.

[2] Although the record of the hearing on January 14 indicated a rated plant capacity of 200 tons per day (pp. 170 and 174 of record), the fact that the company has actually exceeded that figure indicates that the rated capacity should be something in excess of 200 tons per day. The testimony shows (page 273 of record of hearing held on May 3) that the company has actually produced an average of 210 tons of sugar per day over a period of several days. Hence 210 tons per day is taken as the rated plant capacity.

[3] Being the year in which Centrals Carmen and San Francisco brought in more direct-consumption sugar than in any other year of the period 1935–1937, inclusive. (Government Exhibit No. 3.)

It is deemed desirable to reserve 5,712 short tons of sugar to be set aside for persons who bring in raw sugar from Puerto Rico for direct-consumption purposes, which amount represents the average quantity of such sugar brought in during the years 1935–1937, inclusive. It is not practicable to allot this quantity of sugar to individual processors, inasmuch as it would have to be allotted to 34 raw sugar processors, thereby rendering it impossible to make an efficient allotment as required by the act. An allotment would require continental purchasers of raw sugar for direct consumption to deal with a large number of sellers in order to obtain their requirements. Such disruption of customary trade practices could not reasonably be said to be an efficient distribution of this kind of sugar as required by the act.

On the basis of the record of the hearings held on January 14, 1938, and May 3, 1938, I hereby find: [1]

1. That the Puerto Rican processors of direct-consumption sugar are equipped to produce 415,168 short tons[2] of sugar during the calendar year 1938.

2. That the present plant capacity of each Puerto Rican processor of direct-consumption sugar is as follows:

Processor:	*Rated refining capacity per annum, 300-day basis*
Porto Rico American Sugar Refinery	225,000
Central Aguirre	8,500
Central Carmen	247
Central Guanica	50,000
Central Igualdad	66,000
Central Roig	63,000
Central San Francisco	2,421
	415,168

3. That the quantities of direct-consumption sugar certified for entry into the continental United States from Puerto Rico between January 1, 1938, and March 22, 1938, were as follows:

Processor:	*Short tons, raw value*
Porto Rico American Sugar Refinery	46,866
Central Aguirre	1,970
Central Carmen	
Central Guanica	
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795

4. That during the years 1935, 1936, and 1937, Puerto Rican processors brought direct-consumption sugar (refined and turbinado) into the continental United States for consumption therein in the following amounts:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the United States (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,945	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen		264	
Central Guanica	1,015		
Central Igualdad	163	438	52
Central Roig		2,778	16,204
Central San Francisco	2,463	2,590	1,981
	122,971	118,511	121,502

On the basis of the foregoing, I hereby determine and conclude that the allotment of that portion of the 1938 Puerto Rican sugar quota which may be filled by shipments of direct-consumption sugar is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments

[1] Since section 205 (a) of the act requires that allotment be made "to persons who market or import sugar", no allotment can be made to Camuy Sugar Company, inasmuch as that company is not engaged in the manufacture of direct-consumption sugar at the present time.

[2] 300 working days per year.

should be made by giving equal weight to (1) past marketings during the years 1935, 1936, and 1937, and (2) ability to market, measured by giving equal weight to present plant capacity and the quantities of direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and March 22, 1938.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the allotments contained in Puerto Rico Sugar Order No. 10 shall be, and they are hereby, revised, and the said quantity of 126,033 short tons, raw value, of direct-consumption sugar is hereby allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor:	*Direct-consumption allotment (short tons, raw value)*
Porto Rico American Sugar Refinery	93,975
Aguirre	3,443
Carmen	62
Guanica	3,791
Igualdad	5,465
Roig	11,837
San Francisco	1,748
	120,321
Unallotted reserve for marketings of raw sugar for direct consumption	5,712
Total	126,033

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar used for direct consumption) from Puerto Rico in excess of the marketing allotments set forth in the next preceding paragraph.

3. That this order shall supersede Puerto Rico Sugar Order No. 10, issued by the Secretary on April 19, 1938.

[F. R. Doc. 38-1382; Filed, May 14, 1938; 12:42 p. m.]

Bureau of Animal Industry.

NEBRASKA STOCKGROWERS ASSOCIATION AUTHORIZED TO CONDUCT BRAND INSPECTION

By virtue of the authority vested in the Secretary of Agriculture by an Act of Congress approved June 4, 1936, (Public No. 637, 74th Congress, entitled "An Act Making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938, and for other purposes," and upon a written request made to and filed with the Secretary of Agriculture by the Nebraska Stockgrowers Association, a livestock association duly organized under the laws of the State of Nebraska, I, H. A. Wallace, Secretary of Agriculture, do hereby authorize, with respect to livestock originating in or shipped to market from that part of the State of Nebraska located west of the line described as follows:

Beginning at the South Dakota line running south along the east border of Boyd, Holt and Wheeler counties, then west along the south border of Wheeler and Garfield counties, then south along the east border of Custer county, then west along the south border of Custer county, then south along the east border of Dawson county, then west along the south border of Dawson county, then south along the east border of Frontier county, then west along the south border of Frontier county, then south along the east border of Red Willow county to the Kansas State line,

the charging and collection of a reasonable fee, to be paid by the owners of the livestock inspected, for the inspection of brands appearing upon livestock sold or offered for sale at those markets at which said Association may register as a market agency, such inspection to be made to determine the ownership of the livestock. Such inspection and charging and collection of fees shall be subject to the provisions of the Packers and Stockyards Act and such reasonable regulations as the Secretary may from time to time prescribe.

In witness whereof, the Secretary of Agriculture has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 13th day of May, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1380; Filed, May 14, 1938; 12:25 p. m.]

Food and Drug Administration.

[Service and Regulatory Announcements—Naval Stores No. 1]

REVISION OF THE RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE NAVAL STORES ACT OF MARCH 3, 1923

Pursuant to the authority vested in the Secretary of Agriculture by section 4 of the Naval Stores Act, approved March 3, 1923 (42 Stat. 1435; 7 U. S. C., secs. 91–99), entitled "An Act establishing standard grades of naval stores, preventing deception in transactions in naval stores, regulating traffic therein, and for other purposes," the following rules and regulations for the administration and enforcement of the statute are hereby promulgated.

These regulations supersede those contained in U. S. Department of Agriculture Miscellaneous Circular 22, dated March 1, 1924, and all supplements and amendments thereto, and shall become effective June 1, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

May 14, 1938.

The term "naval stores" is a trade name used to describe a group of related agricultural raw materials, having more or less complex chemical composition, of which the more important members are spirits of turpentine and rosin. They are obtained from the pine tree principally, or from the wood thereof, by any of several different processes. About sixty percent of the world's supply is obtained from the longleaf yellow pines and slash pines growing in the South Atlantic and Gulf States. The Naval Stores Act of March 3, 1923, may be considered as having four primary purposes: (1) to regulate interstate traffic in turpentine and rosin and to prohibit fraud and deception in the sale of same; (2) to set up standards and standard grades for naval stores, in accordance with which all naval stores must be sold and designated; (3) to provide for the preparation of type standards for naval stores, principally rosin, and duplicates thereof, for use by the industry in the classification and grading of such articles; and (4) to authorize the analysis, classification, and grading of naval stores by the Department of Agriculture for and at the request of a party at interest therein, such as producer, dealer, or buyer. The accompanying regulations have been prepared to supply the trade and those interested in naval stores with information as to the scope, interpretation, and methods of carrying into effect the various provisions of the act.

RULES AND REGULATIONS FOR ENFORCEMENT OF THE NAVAL STORES ACT OF MARCH 3, 1923

Regulation 1. Short Title of the Act

The "act establishing standard grades of naval stores, preventing deception in transactions in naval stores, regulating traffic therein, and for other purposes," approved March 3, 1923, (42 Stat. 1435; 7 U. S. C., 91–99) shall be known and referred to as the Naval Stores Act.

Regulation 2. Definition of Terms Used in the Regulations

(a) *Secretary.*—Secretary of Agriculture of the United States.

(b) *Department.*—United States Department of Agriculture.

(c) *Administration.*—Food and Drug Administration of the United States Department of Agriculture.[1]

(d) *Chief of Administration.*—Chief of the Food and Drug Administration.

(e) *Naval Stores.*—Spirits of turpentine and rosin, as defined in the Act.

(f) *Standards.*—The Official Naval Stores Standards of the United States for turpentine and rosin.

(g) *Duplicates of United States rosin standards, or standard types.*—Combinations of colored glasses prepared and distributed by the Secretary of Agriculture for use as standards for grading rosin.

(h) *Analysis.*—Any examination by physical, chemical or sensory methods.

(i) *Classification.*—Designation as to kind of spirits of turpentine or rosin.

(j) *Grading.*—Determination of the grade of rosin, in accordance with the standards.

(k) *Inspector.*—Any person who is employed by the Secretary of Agriculture to sample, examine, classify and grade naval stores.

(l) *Analyst.*—Any person in the employ of the Department of Agriculture designated by the Chief of Administration to analyze, classify, and/or grade naval stores.

(m) *Person.*—An individual, partnership, association, or corporation.

(n) *Interested person.*—(1) Any person who is a party to a factual or prospective transaction in a specific lot of naval stores either as seller, shipper, dealer in, or purchaser thereof; or (2) any person who is deemed by the Chief of Administration to have sufficient and proper interest in or contact with the grading and sale of rosin to merit the loan and use of duplicates of the United States rosin standards.

(o) *Package.*—Any container of naval stores, including barrel, can, drum, tank car, or other receptacle.

(p) *Certificate.*—The report made under the provisions of the Act on a form provided therefor, to show the results of any analysis, classification, or grading of naval stores made under authority and direction of the Secretary.

(q) *Lot.*—The quantity of naval stores, or any part thereof, covered by any invoice rendered to cover the sale thereof, or quantity covered by any one bill of lading or other shipping document.

(r) *Commerce.*—The movement or transfer of (a) any article subject to the Act, or (b) money in payment for such article, or (c) any document, invoice, paper, record, or other legible matter pertaining thereto; (1) between any place in any state, territory or possession, or the District of Columbia, and any place in another state, territory, or possession or the District of Columbia; (2) within any territory, possession or the District of Columbia; (3) between points in the same state or territory which involves passage through a place outside thereof; (4) to or from any foreign country.

Regulation 3. Scope of the Act

The Naval Stores Act:

(a) Defines "naval stores" as meaning spirits of turpentine and rosin.

(b) Provides classifications for the various kinds of spirits of turpentine and rosin, based on certain characteristic properties of their peculiar components which result from the kind of raw material used and from the method whereby the article was produced.

(c) Establishes standards of identity for the various kinds of spirits of turpentine in accordance with such classification.

(d) Establishes standard grades for rosin under specific designations, and provides for the preparation of standard types therefor, for use in determining the grade of rosin.

(e) Provides for the establishment of new standards and the modification of existing standards for naval stores.

(f) Requires that naval stores or anything offered as such, when sold in interstate or foreign commerce, or in the District of Columbia, territories or possessions of the United States, shall be described and referred to in accordance with the standards provided therefor.

(g) Prohibits the sale of any naval stores under or by reference to a United States standard which is other than what it is designated or represented to be.

(h) Prohibits the use of (1) the word "turpentine" or the word "rosin" alone or in combination with other words; or (2) any abbreviation, derivative, or imitation of either of these words; or (3) any word, combination of words, letter, or combination of letters which has been provided by the Act, or by the Secretary of Agriculture under the Act, as a standard for naval stores; in selling, offering for sale, advertising, or shipping any article which is other than an article of naval stores conforming with the United States Standards.

(i) Prohibits the use of any false, misleading, or deceitful means or practice either in the sale or which may bring about the sale of any naval stores, or of anything offered as such, in commerce.

(j) Provides for the analysis, classification, or grading of naval stores by the Department of Agriculture, when practicable, at the request of a party at interest, and the certification of the results of such examination under regulations and fees prescribed by the Secretary.

(k) Authorizes the preparation of the United States standards or standard types for rosin, and duplicates thereof, in the Department of Agriculture, and the furnishing, when practicable, of such duplicates to interested persons requiring same, under regulations prescribed by the Secretary.

Regulation 4. Standards for Spirits of Turpentine

(a) Spirits of turpentine shall be deemed to be the light, colorless or but faintly colored volatile oil, having a characteristic odor and taste, which occurs naturally in and has been obtained from secretions (1) taken from living trees of the family *Pinaceae* or (2) existing in the wood of species thereof, and which consists principally of terpene hydrocarbons of the general empirical formula $C_{10}H_{16}$.

(b) Until other standards are established and promulgated by the Secretary the standards of identity for spirits of turpentine within the purview of the Naval Stores Act are as follows:

(1) Gum Spirits of Turpentine, the kind of spirits of turpentine obtained by distillation of the oleoresin (gum) from living trees, and commonly known prior to passage of the Act as gum spirits of turpentine, gum turpentine, spirits of turpentine, or oil of turpentine.

(2) Steam Distilled Wood Turpentine, the kind of spirits of turpentine obtained by steam distillation from the oleoresinous component of wood whether in the presence of the wood or after extraction from the wood, and commonly known prior to passage of the Act as steam distilled wood turpentine.

(3) Destructively Distilled Wood Turpentine, the kind of spirits of turpentine prepared from the distillate obtained in the destructive distillation (carbonization) of wood, and commonly known prior to passage of the Act as destructively distilled wood turpentine.

(4) Sulphate Wood Turpentine, the kind of spirits of turpentine prepared from the condensates recovered in the sulphate process of cooking wood pulp, and commonly known as sulphate wood turpentine.

Regulation 5. Standards for Classification and Grading of Rosin

(a) "Rosin" shall be the vitreous, properly strained, more or less clear and transparent or translucent, brittle mass, congealed from the molten condition, consisting chiefly of resin acids, with relatively small proportions of resin or other esters and of non-acid, non-crystalline resenes (except that rosin obtained as described in (2) hereinbelow may contain not more than a very small percentage of fatty acids or fatty substances which naturally occur in and have been extracted from the wood with the rosin),

(1) Which remains as gum rosin, the residue after the distillation of the volatile oil from the oleoresin (gum) obtained from living pine or other coniferous trees; or

(2) Which is recovered as wood resin (after the distillation of the volatile oil from the oleoresin within or removed from the wood of such trees) by chemical or physical means followed by necessary further refinement.

(b) Rosin may occur also in the form of a vitreous, more or less opaque and crystalline mass formed by crystallization of the resin acids in the product described in paragraph (a) hereof. Resin acids which have been separated or removed, by any process, from a mixture of resinous and other material are not "rosin" within the meaning of the Act.

(c) Until other standards are established and promulgated by the Secretary, the standards for rosin are (1) the standard types authorized by the Act; (2) the standards and types thereof established and promulgated by the Secretary as standards for rosin; and (3) the standard for "OPAQUE" rosin.

(d) In accordance with such standards and types of such standards, the various grades of rosin from highest to lowest shall be designated, unless and until changed, by the following letters respectively: X, WW, WG, N, M, K, I, H, G, F, E, D, B; also FF and OP; together with the designation "gum rosin" or "wood rosin", as the case may be.

(e) An article consisting of rosin and an excessive amount of visible extraneous foreign material, or an article which is of such appearance, so as not to permit its accurate classification and grading in accordance with the standards for rosin, shall not be classified, graded, marked, sold or offered for sale as rosin.

Regulation 6.—Establishing New or Modified Standards

(a) Whenever in the opinion of the Secretary a standard is necessary for any naval stores for which no standard is provided, or whenever, for reasons deemed by him sufficient, the interests of the trade require a modification of an existing standard, opportunities to be heard will be given those favoring or opposing the proposed standard or proposed modification of a standard. When the hearing is to be called for consideration of new standards, 3 months' notice in advance of the hearing will be given; when the hearing is to be called for consideration of the modification of an existing standard, 6 months' notice in advance of the hearing will be given.

(b) When a standard is established for any naval stores for which no standard had theretofore been provided, such standard shall become effective after 3 months from the date of the promulgation thereof; when an existing standard is modified, such modification shall become effective after 6 months from the date of the promulgation thereof.

Regulation 7. Loan and Care of Duplicates of United States Rosin Standards

(a) Duplicates of the United States rosin standards shall not be sold, but shall remain the property of the Department. They may be loaned by the Department to interested persons when the Chief of Administration determines it practicable to do so, and shall be surrendered promptly at his request by any person to whom the same may have been loaned.

(b) Duplicates of the United States rosin standards may be furnished without prior deposit of security, so far as the supply in the possession of the Department will permit:

(1) To any state or local official duly authorized and regularly appointed to inspect and grade rosin, and who has been approved by the Chief of Administration for receipt thereof, and to such trade organizations as shall in the opinion of the Chief of Administration require same; and

(2) To any bonafide naval stores dealer or distributor, approved by the Chief of Administration to act as a depository of such duplicates, who maintains a regular naval stores yard or yards, the facilities of which are available to and regularly used by the public for the purpose of having rosin inspected, classified, and graded; provided, that an annual rental fee of $4.00 shall be paid in advance, for each set of duplicates received under this subsection. Not more than two sets of duplicates shall be so furnished, without full security therefor, to any one such naval stores dealer or distributor.

(c) Duplicates of the United States rosin standards may be furnished to interested persons or corporations other than those specified in paragraph (b) hereof, on deposit with the Department of security in the sum of $100.00 in cash, or by certified check, post office or express money order payable to "U. S. Department of Agriculture."

(d) Any interested person desiring the loan of duplicates of the United States rosin standards shall submit a request, properly signed, on the form provided therefor by the Department, to be had on application. He shall therein submit such information as will show he is entitled to receive such duplicates; assure their safekeeping, care, proper use and prompt return on demand of the Chief of Administration; agree to reimburse the United States for the cost of repairing any damage to said duplicates or of replacing any or all of them, if for any reason they cannot be returned to the Department in like good order as received; provided, that in case security has been posted, he shall further authorize the Department to reimburse the United States for any such costs, not otherwise paid for, out of the security held for the loan of said duplicates.

(e) If any interested person to whom a set of duplicates has been issued under paragraph (b) hereof shall request or need another set of duplicates to replace such set and shall be unable to return such set, said person shall be required to deposit the security provided in paragraph (c) hereof prior to receiving such replacement duplicates. In case of recovery of the set previously provided or any part thereof, it shall be surrendered for inspection, repair, or replacement if necessary; and after the cost thereof has been determined and paid, such set will be returned to the interested person, whereupon the other set shall be surrendered and the security returned to the person posting same.

(f) In case any duplicates are damaged, or any or all are missing, the party to whom such duplicates have been loaned shall promptly advise the Administration in writing, stating what damage or loss was sustained and how the same occurred. The Department shall take prompt action to recover the duplicates or any missing parts thereof. When the necessary repairs are made or the missing parts supplied, the full set, if desired, may be returned to the party to whom it was originally furnished.

(g) The cost of making any necessary repairs to any duplicates of the rosin standards or of replacing any duplicates damaged beyond repair, or any missing duplicates, shall be determined by the Chief of Administration, and the party to whom loaned advised of such cost. Payment to cover the cost of such replacement shall be made prior to the return thereof.

(h) On the death of any person or dissolution or reorganization of any partnership, firm or corporation holding any set of duplicates of the United States rosin standards, the same shall be promptly surrendered to the Department by the holder thereof.

(i) The security received from persons to whom duplicates of the United States rosin standards have been loaned under paragraphs (c) or (d) hereof will be held for the Department in its special deposit account, and will be returned to the person from whom received, or his legal representative, on surrender of the duplicates secured thereby; provided, that before refund is made there shall be deducted the cost of any repairs or replacements.

[1] The administration of the Naval Stores Act was formerly assigned to the Bureau of Chemistry.

(j) All moneys received or withheld to cover the cost of repairs to or of replacing any missing parts of any set of duplicates or as rental of duplicates shall be paid into the United States Treasury as miscellaneous receipts.

Regulation 8. Inspectors

(a) Inspectors may be assigned to such places as may be necessary for the enforcement of the Act and these regulations.

(b) Inspectors shall sample, examine, classify and grade naval stores at the request of an interested person in compliance with the Act and these regulations, at the direction of the Chief of Administration.

(c) Inspectors shall be under the authority of and responsible solely to the Department, and shall report the results of any examination, classification, or grading of naval stores made by them only to the Chief of Administration or to such persons as such Chief may direct.

Regulation 9. Samples

(a) Samples of spirits of turpentine and rosin within the scope of the Act shall be representative.

(b) Samples of rosin for grading shall be approximately cubical in shape and ⅞ inch thick through the direction in which they are viewed or graded. Samples may be taken by any of the following methods:

(1) By cutting or cleaving from a lump of the rosin removed by means of a "spike" from the solid mass in the barrel or drum, the top side of which lump shall come from not less than six inches below the surface of the rosin.

(2) By means of a tin mold of suitable design which has been placed inside the barrel or drum through an opening in the side, the top of which opening is eight (8) inches from the top of the container, and so that the sample will have come from a position not less than four inches below the surface of the rosin. The mold thus placed must be entirely within the barrel or drum and completely encased in the rosin. It may be removed from the barrel by any suitable device.

(3) By suspending in the barrel or drum of hot molten rosin a ⅞ inch square (inside) tubular mold, 1½ inches or more in length, made of clean thin tin plate, in such a manner that it will be in a horizontal position at least four inches below the top of the rosin in the container after it has thoroughly cooled. The sample contained in such mold is spiked from the barrel after cooling.

(c) For the purpose of determining whether Section 5 of the Act has been violated, samples shall be collected by an inspector and marked to identify same with the lot or packages from which taken.

Regulation 10. Analysis, Classification and Grading on Request

(a) Any naval stores or samples thereof will, if practicable, be examined, analyzed, classified, and/or graded upon request of any interested person, on payment of a fee, as hereinafter prescribed in Regulation 14.

(b) A request to examine, analyze, classify, or grade naval stores shall be made in writing to the Administration or to the nearest inspector. Such request shall state the number and kinds of packages of rosin, or the number and kinds of packages or number of gallons of turpentine to be so inspected, the name of the interested person for whose account such service is to be performed, his interest in the naval stores, and whether the request is to be considered for seasonal or for recurrent service at intervals. It shall be signed by such person or on his behalf by his properly authorized agent.

(c) A request to examine, analyze, classify, or grade naval stores may be withdrawn at any time before such service has been completed, subject to the payment of such fees and expenses as may be prescribed pursuant to Regulation 14.

(d) Tank cars containing spirits of turpentine of which examination, analysis or classification has been requested, will be sealed by the inspector with a seal prescribed by the Department after the sample has been taken therefrom. No certificate of analysis or classification furnished by the Department shall be deemed to be applicable to the contents of any car so sealed, after the seal has been broken or removed.

(e) Except in the case of spirits of turpentine in tank cars, as provided for in paragraph (d) hereof, the interested person requesting any examination, analysis, classification, or grading of any naval stores shall agree that the same will remain intact and undistributed until such examination, analysis, classification, or grading has been completed and the results thereof reported, and, in the case of rosin, the packages have been marked in accordance with the regulations; provided, however, that in case such naval stores do not remain intact and undisturbed until the issuance of the report thereon, such report shall not be in the form of a certificate.

(f) All samples taken by an inspector or submitted by an interested person shall become and remain the property of the Department and shall be disposed of as the Chief of Administration may determine.

Regulation 11. Certificates

(a) A certificate as provided by Section 4 of the Act shall be issued in duplicate on naval stores examined at the request of an interested person. The following are the kinds of certificates issued:

1. Turpentine Analys's and Classification Certificate.
2. Turpentine Field Classification Certificate.
3. Rosin Classification and Grade Certificate.
4. Loan and Sale Certificate for U. S. Graded Rosin.

(b) Each certificate shall contain the information required by the Act, and shall be numbered. The designation and form of certificate and the information supplied thereby shall be determined by the Secretary from the request and the nature of the service rendered, as set forth in paragraph (c) hereof or in Regulation 14.

(c) The owner of any rosin remaining in original packages which has been examined, inspected, graded, and marked by an inspector may, upon written request, obtain a Loan and Sale Certificate for U. S. Graded Rosin (hereinafter designated "L. S. Certificate") to cover a specified number of packages of such rosin as to kind and grade. The request for such certificate shall be made in accordance with Regulation 10, and show in addition the name of the producer, the point of origin of the rosin (if it has moved subsequent to original inspection), date of purchase or sale, proposed date of shipment, name of consignee and destination supported by proper documents or other evidence thereof, satisfactory to the Secretary. Unless the Secretary is satisfied that the rosin has been previously graded and marked by an inspector and the marks have not been changed, he shall not issue a certificate. Such certificate, numbered, will show the number of barrels of each grade covered thereby, as well as identification marks, and will show that it is based on original Rosin Classification and Grade Certificates previously issued.

(d) If any part of a lot of rosin, for which lot an L. S. Certificate is desired, has not been previously examined, inspected, graded, and marked by an inspector and covered by a Rosin Classification and Grade Certificate, it shall first be examined, inspected, graded, and marked by such inspector, and a Rosin Classification and Grade Certificate issued. The cost of such examination, inspection, grading, and marking will be in accordance with Regulation 14, and any expense incurred in connection with the handling, opening, spiking, marking, and coopering of the barrels shall be borne by the interested person in accordance with Regulation 13 (a).

(e) A certificate showing the results of any examination, analysis, classification, or grading shall be issued only on naval stores of which the samples have been taken by or under the personal direction and supervision of an inspector. The certificate shall be valid only for as long as the naval stores described thereby shall remain under seal or undisturbed in the containers, and while the identity and condition of the naval stores remain the same as at the time of issuance of the certificate.

(f) Certificates shall not be issued to cover naval stores, samples of which have not been taken in accordance with paragraph (e) hereof, or to cover any article which does not conform with the standards established under the Act. In such cases a written report, which in no case shall be construed as a certificate, will be issued.

Regulation 12. Methods of Analysis, Classification and Grading

(a) The methods of chemical analysis shall be those prescribed by the Association of Official Agricultural Chemists when applicable; provided, however, that if no method of chemical analysis has been prescribed by the Association of Official Agricultural Chemists or if for any reason any such methods are deemed not suitable or sufficient by the Secretary, any method of analysis or examination satisfactory to him may be employed.

(b) The grade of a sample of rosin, taken in accordance with Regulation 9, shall be determined by comparing same with the appropriate standard types. The grade shall be the grade of the standard type which the sample equals or excels in color.

(c) A package of rosin which, when sampled in accordance with Regulation 9, is found to contain two or more distinct grades of rosin, shall take the grade of the darkest rosin found therein. When sampled also from the bottom head this provision shall not apply if such bottom-head sample is not more than one grade lower than the grade of the sample taken in accordance with Regulation 9. If such bottom-head sample is more than one grade lower than the top-head sample, the grade assigned to the package shall be that of the darkest rosin found therein.

(d) Rosin graded by using so-called "charge samples" or "vat samples", namely those obtained by removing a portion of the rosin while in a hot liquid condition from a vat prior to placing in containers, or obtained from the containers before the rosin has become cold and solidified, is not deemed to have been graded in accordance with the provisions of the Act or these regulations. The sale in commerce of rosin that is found misgraded as the result of such method of sampling and grading shall be considered as constituting willful violation of Section 5 of the Act.

Regulation 13. Preparation, Sampling, and Marking Containers of Naval Stores

(a) An interested person making a request for an examination, analysis, classification, or grading of naval stores shall cause the same to be made available, remove the bungs or heads or otherwise open the containers for sampling, spike the rosin or extract the sampler devices from the barrels, rebung or otherwise close the containers, and mark the same.

(b) Except in the case of tank cars and packages intended to be emptied into a tank car or tank, the interested person making the request shall, under the direction and immediate supervision of the inspector, place upon each package a mark to show that it has been examined, classified and graded, together with such further marks as the Secretary may require. If, however, the article is not naval stores, within the meaning of the Act, or does not comply with any United States standard for naval stores, the package containing it shall not be marked.

(c) All expenses in connection with the sampling, examination, classification, or grading of naval stores as set forth in paragraphs (a) and (b) shall be borne by the interested person making the request.

(d) In case any mark placed on a package of rosin by or under the direction of an inspector has become illegible, the inspector will make such examination before remarking as may be necessary to establish the proper grade or identity of the rosin. No fee will be charged for this service, but the cost of handling, opening, spiking, and recoopering such rosin will be at the expense of the interested person.

(e) Any mark placed upon any package of naval stores by or under the direction of an inspector to show the classification and/or grade or quantity thereof shall not be obliterated, covered up, defaced or otherwise made illegible by any person other than by an inspector as defined in these regulations.

(f) Any package so packed as to conceal the fact that it consists in whole or in part of an article which is not naval stores within the meaning of the Act and these regulations, or any package deemed by an inspector to be unsuitable or unfit to be used as a container of naval stores in commerce, shall not be accepted for classification, grading or marking; provided, that any classification or grade marks on or any certificate issued covering any such package shall not relieve the interested person at whose request the article was inspected from responsibility under any provision of the Act or these regulations, or for delivering a proper article of naval stores in commerce.

Regulation 14. Cost of Analysis, Classification and Grading

(a) For the examination, sampling, analysis and classification of spirits of turpentine, or samples thereof, the interested person requesting such service shall pay a fee, depending on the nature of such service and where it is performed, in accordance with the following rates:

(1) For analysis and classification, viz, determination of such chemical and physical properties as may be necessary to ascertain purity, quality and/or compliance with designated specifications, the charge shall be at the rate of $7.00 for each sample so tested.

(2) For limited examination and classification, viz, determination of kind, and certain easily determined physical characteristics, where such examination and classification require laboratory tests but do not include all the tests described in (1) hereof, the charge shall be at the rate of $1.00 per sample so tested.

(3) For the examination and classification of spirits of turpentine in the field, viz, determination of kind, color, appearance, and quantity of such spirits of turpentine, the charge shall be at the rate of 5 cents per package examined; provided, that except where such turpentine is offered for examination and classification at regular or agreed-upon intervals, the minimum charge for examining and classifying any such lot of spirits of turpentine shall be $2.00; and provided further, that for such examination and classification of the contents of each tank car, the charge shall be $4.00.

(b) For the examination, classification and grading of rosin pursuant to these regulations the interested person requesting such service shall pay fees according to the following scale of charges; provided, however, that except where the rosin is offered for grading at regular or agreed-upon intervals throughout a producing season, the minimum charge for classifying and grading any lot of rosin shall be $5.00:

(1) For quantities of 800 or more round barrels or other packages of rosin offered for grading at any one place at any one time, the charge will be at the rate of 5 cents per round barrel or package, except as provided in paragraph (5) hereof.

(2) For quantities of from 500 to 799 round barrels or packages offered for grading at any one place at any one time, the charge will be at the rate of 6 cents per round barrel or other package, except as provided in paragraph (5) hereof; provided, however, that for any such quantity or lot covered by one or more certificates issued to one person the total charge shall not be in excess of $40.

(3) For quantities less than 500 round barrels or packages offered for grading the charge will be at the rate of 7 cents per round barrel or other package; provided, however, that for any such quantity or lot graded at any one place at any one time covered by one or more certificates issued to one person, the total charge shall not be in excess of $30.

(4) Fees less than the above may be established by the Secretary whenever the quantities offered or to be offered at any point shall be deemed by him to be sufficiently large

to warrant same, and contractual relations shall have been entered into between the Secretary and the interested person or his agent.

(5) The charges of 5 and 6 cents per round barrel or other package established by paragraphs (1) and (2) hereinabove will apply whenever the grading may be handled as for a single lot, regardless of whether certificates are issued to more than one person; provided, however, that when certificates are issued to more than one person, the charge for grading any lot of less than 50 barrels covered by a separate certificate shall be at the rate of 7 cents per round barrel or package.

(c) For each L. S. certificate issued in accordance with Regulation 11 (c) the owner shall pay, in addition to an amount to cover any extra cost incurred by the Government in connection therewith as set forth in paragraph (f) hereof, a fee at the rate of 1 cent per round barrel or other package covered by such certificate; provided, that the minimum charge for any L. S. certificate will be $1.00.

(d) The fee for the analysis, classification, and/or grading of samples of rosin or of anything submitted as such shall be determined in advance in each instance. The person requesting such service shall be notified of such fee and his authority to proceed obtained before such analysis or other examination is made.

(e) No fee shall be charged for a new certificate issued in lieu of an outstanding certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form of certificate for an outstanding certificate.

(f) Whenever in complying with any request for examination, sampling, analysis, classification, or grading of naval stores it shall be necessary, on account of the nature or urgency of the desired service, for an inspector to depart from a regular schedule or plan of travel, or make a special trip therefor of more than 2 hours duration, including time ordinarily required to proceed to and return from place where service is rendered; or if there be incurred in connection with any such trip extra travel and/or subsistence expenses, as authorized under Government travel regulations; and if, in any such case the service rendered, including time, travel, and subsistence expenses of the inspector, is not compensated by the amount to be collected as fees, as hereinbefore prescribed, then the interested person making the request will be charged such additional amount as, with the prescribed fees, will reimburse the United States for such inspector's time, travel, and subsistence expenses.

(g) Whenever a request for any service, as hereinbefore provided, shall be withdrawn, and there has been any work done, travel performed, or preparation made in connection therewith prior to receipt of such withdrawal, the interested person who requested such service and withdrawal shall pay an amount sufficient to compensate the United States for such work, travel, or preparation, in addition to any other expenses incurred, as provided for in paragraph (f) hereof.

(h) Any shipping expense in connection with any sample taken at the request of an interested person shall be borne by such person.

Regulation 15. Payment for Services

(a) The Administration shall deliver monthly to each interested person its claim for reimbursement on account of services rendered, in accordance with the prescribed fees and these regulations. Such claim shall be issued as soon as practicable after the last day of each month, provided that any such claim may, in the discretion of the Chief of Administration, be rendered at an earlier date.

(b) Payments on account of such claims shall be made by check, draft, post office or express money order made payable to "Treasurer of the United States."

(c) If any claim shall remain unpaid after 60 days from the date when same was rendered, it shall be considered delinquent, and the Chief of Administration may order the discontinuance of any further services, or may require from any delinquent person requesting any further service under the Act a deposit or payment in advance sufficient to cover the fees and expenses involved in the performance of such service.

(d) All moneys received under Regulations 7 (b) and (j) and 14 (a), (b), (c), (d), (f), (g), or (h) will be covered into the United States Treasury as miscellaneous receipts.

Regulation 16. Labels, Invoices, Advertising, and Shipping Documents

(a) All naval stores in commerce shall be graded and described in accordance with the Act and these regulations. Packages are not required to be marked, branded, or labeled to describe the nature, grade, classification, and quantity of the contents thereof, but if not so marked, branded or labeled the invoice or other document pertaining thereto shall describe the said naval stores in accordance with the appropriate standard or standards and these regulations; provided, that spirits of turpentine which complies with the requirements and specifications of the United States Pharmacopoea for "oil of turpentine" shall not be deemed to be in violation of the Act or these regulations when described as "spirits of turpentine," "oil of turpentine" or "gum turpentine."

(b) Naval stores other than in bulk in tank vehicles, when sold or shipped in commerce under any mark or label to indicate the quality or nature thereof, shall be marked, branded or labeled to show the true classification and grade of the article, in accordance with the standard of identity or grade therefor, and shall also show the true identity of the manufacturer or shipper thereof; provided, that where shipment is made for the purpose of having the same graded, the above requirement will be waived only with respect to the grade mark.

(c) The phrase "under or by reference to United States standards," as it appears in the Naval Stores Act, is interpreted as follows: (1) the word "under" means by the use of a label, brand, or mark on the package or anything attached to, connected with, or immediately accompanying the same; (2) the words "by reference to" mean by the use of an invoice, bill of sale, shipping paper, or other document specifically describing or referring to the particular naval stores in question.

(d) The grade of rosin as specified or referred to in any invoice or other document pertaining thereto, as well as the grade shown on the package, shall be the true grade of the rosin, and there shall be no variance between the grade mark on the package and the grade referred to in the invoice or other document pertaining to the same.

(e) Except as provided in paragraph (h) hereof there shall not be used in commerce either the word "turpentine" or the word "rosin", singly or with any other word or words; or any compound, derivative, or imitation of either of these words; or any misleading word; or any word, combination of words, letter, or combination of letters mentioned in the Naval Stores Act, in any lawfully promulgated standard, or in these regulations, as being applicable to naval stores; in selling, offering for sale, advertising, or shipping any article, unless it is an article of naval stores that conforms with the United States standards.

(f) The sale in commerce of a mixture of two or more kinds of spirits of turpentine under any designation is prohibited.

(g) Except as provided in paragraph (n) hereof, the word "turpentine" shall not be used in commerce to describe in any manner a mixture consisting of spirits of turpentine with any other oil or solvent.

(h) Except as may be prohibited by paragraph (g) hereof, the use of the word "turpentine" or the word "rosin" is not prohibited when used to describe and to indicate truthfully: (1) the nature of an article made, prepared, or processed from spirits of turpentine or rosin, or oleoresin; or (2) the process by which the article was made or prepared.

(i) There shall not be used in the sale in commerce of naval stores or anything offered as such, any label, device, means or practice which is in any manner false, misleading, or deceitful.

(j) Spirits of turpentine packed, described, labeled or sold in a manner indicating that it is a medicinal product or is offered for medicinal use shall be of the standard of quality for such article as laid down in the current U. S. Pharmacopoeia, and shall be subject to the provisions of the Federal Food and Drugs Act, unless there shall appear on the label or principal part thereof a statement that it is not the medicinal article.

(k) The words "pine" or "pine tree" when used to designate the source of any spirits of turpentine shall be deemed to mean a living growing plant of the genus *Pinus*, family *Pinaceae*, unless the words "wood of" are used in connection therewith. The terms "oleoresin of the Southern pine" or "oleoresin from the Southern pine" shall be deemed to mean the gum or oleoresin exuded by such living, growing trees, the same being the source of gum spirits of turpentine.

(l) The word "gallon" when used on or impressed into any container of spirits of turpentine, or when used in invoices referring to spirits of turpentine in packages of 10 gallons or less capacity, shall be construed to mean and refer to the U. S. standard gallon of 231 cubic inches, regardless of any other definitive term used therewith; provided that this shall not apply to the meaning of the words "Imperial gallon." A gallon of turpentine, or any indicated multiple or fractional part thereof, shall be such quantity when measured at a temperature of not more than 75° F.

(m) An inspector examining any naval stores for the purpose of classifying and grading the same shall remove from the package any classification or grade mark thereon which does not properly describe the naval stores in accordance with his findings.

(n) A compound or mixture containing spirits of turpentine or rosin, or both, with other drugs, when sold for medicinal purposes, is not deemed to be subject to the provisions of the Naval Stores Act but is subject to the provisions of the Federal Food and Drugs Act.

Regulation 17. Hearings

(a) Whenever it appears that any of the provisions of the Naval Stores Act have been violated notice shall be given to the firm or person that appears to be responsible for the violation, and to such other person or persons as may be advisable, and a date shall be fixed on which such person or persons may appear and be accorded a hearing. Such hearing shall be held at the office of the Administration most convenient to the persons cited, or at the office of the Administration in Washington, District of Columbia, and only factual matters shall be considered. The person or persons notified may present evidence, either oral or written, in person or by attorney, to show cause why they should not be prosecuted for such apparent violation of the Act.

(b) After such hearing is held, if it appears that the Act has been willfully violated the Secretary shall report the facts for prosecution.

Regulation 18. Publication of Findings

(a) After any judgment has been rendered in any court of competent jurisdiction with respect to any proceeding arising under the Act, notice shall be given by publication. Such notice shall include the finding of the court and may include the analysis, classification, and grade of any article involved in such proceeding and such explanatory statements of fact as may be appropriate. If an appeal shall have been taken from the judgment of the court before such publication, that fact shall appear.

(b) The results of the analysis, classification, or grading made under this Act of any spirits of turpentine or anything offered as such may be published from time to time.

(c) Publications under this regulation may be in the form of a circular notice or bulletin.

[F. R. Doc. 38-1381; Filed, May 14, 1938; 12:25 p. m.]

FARM CREDIT ADMINISTRATION.

[FCA 92]

THE FEDERAL LAND BANK OF SAINT PAUL

SCHEDULE OF FEES FOR SUBORDINATION OF MORTGAGES, PARTIAL RELEASE OF MORTGAGE SECURITY, PARTIAL CONVEYANCE OF CONTRACT SECURITY AND RELEASE OF CONDEMNATION AWARD FUNDS, WITH RESPECT TO FEDERAL LAND BANK AND/OR LAND BANK COMMISSIONER MORTGAGES

Pursuant to Paragraph Ninth, Section 13 of the Federal Farm Loan Act as amended, [12 U. S. C. 781, Ninth], and to Section 32 of the Emergency Farm Mortgage Act of 1933, as amended [12 U. S. C. 1016 (e)], and by action of the Executive Committee of The Federal Land Bank of Saint Paul on March 17, 1938, and with the approval of the Farm Credit Administration thereafter duly granted, the following schedule of fees and charges was adopted:

1. The following fees and charges shall be paid to The Federal Land Bank of Saint Paul for subordinations of mortgages, partial releases of mortgage security, partial conveyances of contract security or for releases of the gross, net or any part of the net amount of condemnation award funds:

(a) Where a single mortgage to the Federal Lank Bank or a single mortgage to the Land Bank Commission is involved	$10.00
(b) Where a contract for deed from either the Federal Land Bank or Federal Farm Mortgage Corporation is involved	10.00
(c) Where mortgages to both the Federal Land Bank and Land Bank Commissioner are involved	12.50
(d) Where a contract for deed from the Federal Farm Mortgage Corporation and a mortgage to the Federal Lank Bank is involved	12.50
(e) Where reappraisal of the security is deemed necessary by the Federal Lank Bank the additional fee shall be	10.00

2. No partial release or partial conveyance fee shall be charged if the consideration for the partial release or partial conveyance of acreage is $100.00 or less, but the appraisal fee of $10.00 shall be charged if reappraisal is deemed necessary by the Bank. No fee shall be charged for the release, conveyance or transfer of gravel, timber, buildings, etc., where the consideration or evident value thereof is $250.00 or less.

3. In cases of condemnation there shall be no fees or charges when either the gross or net amount of the award is applied on the mortgage or contract debt. The net amount of an award shall be construed to be the gross amount thereof less the amount of unpaid taxes which are a lien thereon and less such amount or amounts as may be separately awarded in the condemnation proceedings, or allowed by the Bank, for replacement and/or relocation of structures and/or fences and/or similar purposes.

4. In cases of condemnation when an application is made for the release of the gross, net, or any part of the net amount of the award the fees and charges provided in paragraphs 1 and 2 above shall be paid to the Bank.

[SEAL] THE FEDERAL LAND BANK OF SAINT PAUL,
By G. S. GORDHAMER, *Executive Vice President.*

[F. R. Doc. 38-1388; Filed, May 16, 1938; 12:31 p. m.]

[FCA 93]

THE FEDERAL LAND BANK OF SAINT PAUL

FEES AND CHARGES FOR REAMORTIZING LAND BANK COMMISSIONER LOANS

Pursuant to Sections 1 and 2 of the Federal Farm Mortgage Corporation Act, as amended [12 U. S. C. 1020, 1020a], and to Section 32 of the Emergency Farm Mortgage Act of 1933, as amended [12 U. S. C. 1016], with the prior authorization (3 F. R. 90) and the subsequent approval of the Federal Farm Mortgage Corporation, the Executive Committee of The Federal Land Bank of Saint Paul adopted a resolution on February 8, 1938, providing that the following fees and expenses be charged to and paid by the

borrower for each Land Bank Commissioner loan reamortized:

A flat fee of $9.00 will be charged by the Federal Farm Mortgage Corporation for each loan reamortized. The borrower will also be required to pay any direct expenses, such as notarial fees, etc., that may be involved. However, in the event the reamortization agreement is recorded, the recording expense therefor will be borne by the Federal Farm Mortgage Corporation.

[SEAL] THE FEDERAL LAND BANK OF SAINT PAUL,
By G. S. GORDHAMER, *Executive Vice President.*

[F. R. Doc. 38-1389; Filed, May 16, 1938; 12:32 p. m.]

[FCA 94]

AUTHORITY TO EXECUTE PARTS II AND III OF AGRICULTURAL ADJUSTMENT ADMINISTRATION FORM ACP-69

Pursuant to the authority vested in me by an Act of Congress approved January 29, 1937 (Public No. 3—75th Congress), and a Joint Resolution of Congress approved February 4, 1938 (Public Resolution No. 78, 75th Congress), it is hereby ordered that:

1. Each field supervisor, collector, and bonded employee (on temporary duty in the field) of the Emergency Crop and Feed Loan Section is hereby authorized to execute, as my agent, Part II of Form ACP-69 (Agricultural Adjustment Administration Assignment Form—for assignment of payments under section 8 of the Soil Conservation and Domestic Allotment Act, as amended).

2. Each regional manager and each credit and collection manager of an emergency crop and feed loan office is hereby authorized, severally and not jointly, to execute, as my agent, Part III of said Form ACP-69.

3. All actions of the kind referred to in paragraphs 1 and 2 above, which have heretofore been performed by the respective persons mentioned in said paragraphs, are hereby ratified and confirmed.

4. The provisions of this order shall be effective as of the opening of business on the date above written, and shall remain in full force and effect until amended or revoked by subsequent order.

[SEAL] W. I. MYERS,
Governor.

[F. R. Doc. 38-1390; Filed, May 16, 1938; 12:33 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2620]

IN THE MATTER OF WEST PENN DISTILLING CO., INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that it waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon it findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, West Penn Distilling Co., Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce or in the District of Columbia, of whiskies, gins, or other spirituous beverages (except gins produced by it through a process of rectification whereby alcohol purchased but not produced, by respondent, is redistilled over juniper berries and other aromatics), do cease and desist from:

Representing, through the use of the word "distilling" in its corporate name, on its stationery, advertising, or on the labels attached to the bottles in which it sells and ships said products, or in any other way by words or words of like import, (a) that it is a distiller of whiskies, gins or other spirituous beverages; or (b) that the said whiskies, gins or other spirituous beverages were by it manufactured through the process of distillation; or (c) that it owns, operates or controls a place or places where any such products are by it manufactured by a process of original and continuous distillation from mash, wort or wash, through continuous closed pipes and vessels until the manufacture thereof is completed, unless and until respondent shall actually own, operate, or control such a place, or places.

It is further ordered, That the said respondent, within sixty (60) days from and after the date of the service upon it of this order, shall file with the Commission a report or reports in writing setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1378; Filed, May 14, 1938; 9:25 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3296]

IN THE MATTER OF LOUISVILLE POTTERY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 6, 1938, at ten o'clock in the forenoon of that day (central standard time), in Court Room No. 1, Federal Building, Louisville, Kentucky.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1383; Filed, May 16, 1938; 9:32 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of May, A. D. 1938.

[File No. 32-90]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 2, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 26, 1938.

The matter concerned herewith is in regard to an application filed by Washington Gas Light Company, a subsidiary company of Washington and Suburban Companies, a registered holding company, for exemption from the provisions of section 6 (a) of said Act of

(1) the issue and sale by it of 15,600 shares of $4.50 Cumulative Convertible preferred stock without par value, to a group of underwriters for resale to the public; —

(2) the issue and delivery by it to certain holders of common stock without par value of warrants to subscribe to 2,497 shares of said 15,600 shares of preferred stock without par value;

(3) the issue and exchange by it of 48,600 shares of common stock without par value from time to time, as may be required when and as the holders of said 15,600 shares of preferred stock elect to exercise the conversion rights applicable thereto.

The sale to the underwriters will be subject to prior rights of holders of common stock to subscribe to their proportionate part of said 15,600 shares of preferred stock.

The funds derived from the sale are to be used to reimburse applicant's treasury for expenditures made in connection with additions and expansions of applicant's plants and distribution system made prior to December 31, 1937.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1391; Filed, May 16, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of May, A. D. 1938.

[File No. 32-82]

IN THE MATTER OF FALL RIVER ELECTRIC LIGHT COMPANY

ORDER EXEMPTING ISSUE AND SALE OF NOTES FROM PROVISIONS OF SECTION 6 (A), PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Fall River Electric Light Company, a subsidiary of New England Power Association, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act regarding the issue and sale of $2,000,000 principal amount First Mortgage Bonds, Series A, dated May 1, 1938, to mature May 1, 1968, and to bear interest at the rate of 3⅛% per annum, payable semi-annually on the first days of May and November of each year.

Hearings on such matter having been held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition however, that if the express authorization of the issue and sale of said securities by the Department of Public Utilities of the Commonwealth of Massachusetts shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that on or before the tenth day of July, 1938, the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1392; Filed, May 16, 1938; 12:46 p. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

REIMBURSEMENT OR PAYMENT FOR EXPENSES OF UNAUTHORIZED MEDICAL SERVICES

R-6140. *Adjudication in central office.*—(A) Claims for reimbursement or payment of expenses of medical services obtained without prior authorization of the Veterans' Administration, as hereinafter comprehended, will be adjudicated in the medical and hospital service, central office.

(B) Chief medical officers of regional offices and facilities with regional office activities, upon receiving such claims, will be required to develop them, as hereinafter instructed (R. & P. R-6148), before forwarding them, with the beneficiary's file, to central office.

(C) Upon receipt by the medical director, claims so referred will be reviewed by the medical officers clothed with delegated authority therefor. Such of these claims as are recommended for reimbursement or payment by such officers in an amount of less than $500 will be submitted to the assistant administrator in charge of medical and domiciliary care, construction and supplies for approval, or if the amount is $500 or more such claims will be submitted to the Administrator for approval. Upon approval as herein provided, a voucher will be prepared in central office.

(D) *Appeals.*—Both types of such claims, as defined in R. & P. R-6141 will be subject to one review after an adverse decision, upon appeal to the Administrator. Appeals must be entered within one year from the date of notification to the claimant or his representative of the original adverse decision. No claim that had been finally denied

prior to March 20, 1933, will be reopened or reconsidered. A claim will be deemed to have been finally denied when: (1) Original adjudication or appellate action was taken adversely, and proper appeal was not entered prior to March 20, 1933, or within one year from the date on which the claimant was notified of the adverse action, whichever is the later date; or (2) When the claim was finally denied on appeal prior to March 20, 1933 (Public No. 307, 74th Congress). (May 16, 1938.) (V. R. No. 6 Series.)

R–6141. *Classes of claims comprehended.*—Claims for reimbursement of or payment for medical treatment obtained without prior authorization from the Veterans' Administration (including the necessary travel incidental to the procurement of such treatment) may be submitted and will be considered under the following conditions:

(A) The claim must be for treatment of a service-connected disease or injury only; or for the adjunct relief of an associated nonservice-connected condition which, in the determination of the medical director, was aggravating the disability from the basic service-connected disorder.

(B) As to unauthorized treatment rendered prior to March 20, 1933, the claims will be limited to cases falling within the final proviso of section 202 (9), World War Veterans Act, 1924, as amended, viz., (1) The treatment must have been rendered in a medical emergency; (2) Government facilities must have been not feasibly available; (3) Delay would have been hazardous. All of these three elements must have existed, and if any one was lacking reimbursement or payment will not be authorized. (4) Claim must have been filed with the Veterans' Administration prior to March 20, 1933, as required by Public No. 307, 74th Congress, Act of August 23, 1935.

(C) As to unauthorized treatment rendered subsequent to March 19, 1933, the entitlement criteria defined as (1), (2), (3) of subparagraph (B) hereof will apply, and in addition thereto it must be shown that the disability for which treatment was rendered was service-connected and of compensable or pensionable degree. (May 16, 1938.) (V. R. No. 6 Series.)

R–6142. *Conditions controlling claims.*—When the unauthorized treatment was rendered prior to June 7, 1924, no payment or reimbursement will be made for any period over which compensation had not been awarded for the service-connected disability. When the unauthorized treatment was rendered subsequent to June 7, 1924, payment or reimbursement, in accordance with the provisions of section 202 (9), World War Veterans' Act, 1924, as amended, may be allowed regardless of the compensability of the beneficiary's service-connected disability, but in no case more than one year prior to the date of filing claim under section 210, World War Veterans' Act, 1924, as amended (Comptroller General's Decision A–20304, Nov. 2, 1927). (May 16, 1938.) (Public, No. 307, 74th Congress, V. R. No. 6 Series.)

R–6143. *Definitions.*—(A) The term "Beneficiary" as used in R. & P. R–6140 to 6148, inclusive, means:

(1) In claims for payment for or reimbursement of expenses incurred in procuring unauthorized treatment prior to March 20, 1933, any veteran of the World War, not dishonorably discharged, who after filing claim for disability compensation (application for which includes application for treatment) is determined by the Veterans' Administration to have had a service-connected disability entitling to treatment through the Veterans' Administration.

(2) As to claim for unauthorized treatment rendered subsequent to March 19, 1933,—any veteran who at the time of such treatment was suffering from a service connected disability of a compensable or pensionable degree.

(B) "Emergency", as used in R. & P. R.–6140 to 6148, inclusive, means treatment of a condition which, in sound medical judgment, will not permit of delay without endangering the claimant's health or life.

(C) "No facilities are or were then feasibly available", as used in R. & P. R–6140 to 6148, inclusive, means that an attempt to use such facilities beforehand would not have been reasonably sound, wise or practicable, or that treatment had been or would have been denied. In applying this definition, the distance from a Veterans' Administration facility; the location of the patient; the sex and color; the nature and degree of his disability; the available means of transportation; the season and weather conditions then prevailing; the type of medical personnel or equipment requisite; and the time the services were rendered, are elements to be given consideration.

(D) "Delay would be or would have been hazardous", as used in R. & P. R–6140 to 6148, inclusive, means the risk of possible disastrous consequences attendant upon an endeavor by the claimant to secure treatment through Governmental agencies, under any or all circumstances. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6144. *Adjunct Treatment.*—Reimbursement of or payment for adjunct treatment (see R. & P. R–6141 (A)) will be allowed only when such treatment was rendered in an emergency. For such adjunct treatment rendered prior to June 7, 1924, no payment or reimbursement will be made for any period over which compensation had not been awarded for the basic service-connected disease or injury. For adjunct treatment rendered subsequent to June 7, 1924, and where claim was filed prior to March 20, 1933, payment or reimbursement therefor may be allowed regardless of the compensability of the beneficiary's basic service-connected disease or injury, but in no case more than one year prior to the date of filing claim under section 210 of the World War Veterans Act, 1924, as amended (Public No. 307, 74th Congress). For adjunct treatment rendered subsequent to March 19, 1933, no payment or reimbursement will be made unless the basic service-connected disease or injury was, at the time of such treatment, causing disability of such degree as to entitle to disability compensation or pension. (May 16, 1938.) (V. R. No. 6 Series.)

R–6145. *Statement to support claims.*—(A) Nursing services.—To support a claim for unauthorized medical service when a nurse had been employed, a statement will be required from the attending physician showing necessity for such nurse, and whether she was a registered graduate or a so-called "practical nurse". When, for any good reason, it is not practicable to procure such statement, and in the judgment of the physician of the medical and hospital service reviewing the claim, the need for a nurse is sufficiently established, the latter may so certify. Payment for service of a "practical nurse" will be allowed only in the exceptional cases wherein a registered graduate nurse could not be engaged.

(B) *Room and board.*—Where claim is made for an amount in excess of $3 per diem for room and board, the excess will not be allowed unless there is submitted a statement from the attending physician or superintendent of the hospital concerned that the claimant's condition demanded the use of a private room, for which a fee not in excess of $5 may be allowed. However, this provision will not prohibit approval by the medical director of a fee exceeding $5, in exceptional and meritorious cases.

(C) *Visits made outside of a city or town.*—All visits made outside of a town or city limits should show the time consumed by the physician in actual travel as required by the fee table in effect at the time such services were rendered.

(D) *Prescriptions.*—When reimbursement is claimed for prescriptions, copies of the prescriptions must be supplied; or in lieu thereof, when it is impossible to obtain the prescriptions, an itemized statement from the druggist showing the kinds of medicines furnished, may be accepted. All bills for drugs and laboratory services must be fully itemized. No lump sum charges are allowable. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6146. *Schedule of fees to be followed.*—In the adjudication of claims for unauthorized medical treatment, the schedule of fees, Veterans' Administration, will govern as to allowance for items. If the schedule of fees in effect at the time the treatment was rendered did not provide a fee for the particular service, the schedule in effect at the time the claim is being considered will be applied. If the particular service is not covered by the schedule in effect, a fee not in excess of what is reasonable and customarily charged in the community concerned, may be allowed. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6147. *Treatment not dependent upon preference of a patient.*—No reimbursement or payment of unauthorized medical treatment will be made when procured by a claimant through private sources in preference to available Government facilities (Decisions Comptroller General, Jan. 31, 1924, A. D. 8111, Jan. 28, 1925, A–6594). No payment or reimbursement will be made for any unauthorized medical service (including incident necessary travel) under conditions other than specified in R. & P. R–6140–6148 inclusive. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

R–6148. *Cooperation of field stations.*—(A) Guided by the controlling provisions of R. & P., R–6140–6147 inclusive, chief medical officers of regional offices and facilities with regional office activities will advise claimants whether they have or have not prima facie eligibility to reimbursement or payment of unauthorized medical expenses. If the claim is patently inadmissible (e. g., if made for treatment of a nonservice-connected condition, etc.) the claimant will be so advised and the claim will not be forwarded to central office. But if the basic facts indicate prima facie eligibility, the chief medical officer will instruct the claimant as to all the supporting exhibits; and, after these have been checked as satisfactory, they will be assembled and forwarded, with the Form 583, the case file, and recommendation for payment (with comment, if desired), to the medical director.

(B) Upon request therefor by a field station, central office will send sufficient copies of Form 583, Claim for Cost of Unauthorized Medical Treatment. This form will be executed by each creditor who has rendered service for which payment has not been received; or by each person who has paid, from his personal funds, the cost of the unauthorized medical treatment. The signature of the claimant must be attested by a notary public, or any other officer authorized to administer oaths for general purposes, and the claim supported by completely itemized bills or statements of account. When a claim is presented by a creditor, it is further required that a statement be supplied, signed by the patient or his representative, certifying to the amounts due and unpaid. (May 16, 1938.) (Public No. 307, 74th Congress, V. R. No. 6 Series.)

[SEAL] FRANK T. HINES,
Administrator of Veterans' Affairs.

[F. R. Doc. 38–1387; Filed, May 16, 1938; 11:31 a. m.]

Wednesday, May 18, 1938 — *No. 97*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 4061 OF AUGUST 12, 1924, AND PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 4844 OF MARCH 23, 1928, WITHDRAWING PUBLIC LANDS

New Mexico

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, I hereby revoke (1) Executive Order No. 4061 of August 12, 1924, in so far as not heretofore revoked by Executive Order No. 4811 of February 16, 1928, withdrawing public lands in New Mexico pending a resurvey, and (2) Executive Order No. 4844 of March 23, 1928, withdrawing public lands in New Mexico pending a resurvey, as to the following-described lands:

NEW MEXICO PRINCIPAL MERIDIAN

Tps. 7 and 8 S., R. 5 W.

This order shall become effective upon the date of the official filing of the plats of the resurvey of said lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7886]

[F. R. Doc. 38–1397; Filed, May 17, 1938; 11:09 a. m.]

EXECUTIVE ORDER

EXTENDING THE PROVISIONS OF THE CIVIL SERVICE RETIREMENT ACT TO EMPLOYEES APPOINTED UNDER AUTHORITY OF SECTION 10 OF CIVIL SERVICE RULE II

By virtue of and pursuant to the authority vested in me by section 3 of the Civil Service Retirement Act of May 29, 1930 (46 Stat. 470, U. S. C., title 5, sec. 693), and upon recommendation of the Civil Service Commission, it is ordered that the provisions of the said Civil Service Retirement Act be, and they are hereby, extended to apply to all employees who serve under appointments made without competitive examination under authority of section 10 of Civil Service Rule II and who are citizens of the United States, except those whose employment is intermittent or on a *per diem* when-actually-employed basis.

This order shall become effective on July 1, 1938.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7887]

[F. R. Doc. 38–1398; Filed, May 17, 1938; 11:09 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR CLASSIFICATION, ETC.

Alaska

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and subject to the conditions therein expressed, it is ordered that the following-described public lands in Alaska be, and they are hereby, temporarily withdrawn from settlement, location, sale, or entry, for classification and pending a determination as to the advisability of reserving them for national-monument purposes:

SEWARD MERIDIAN

T. 4 N., R. 11 W. (unaccepted survey),
sec. 20, E½;
secs. 21 and 28;
sec. 29, E½;
aggregating 1,920 acres.

This order shall continue in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7888]

[F. R. Doc. 38–1399; Filed, May 17, 1938; 11:09 a. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 7520 OF DECEMBER 18, 1936, WITHDRAWING LANDS FOR USE OF THE WAR DEPARTMENT AS A TARGET RANGE FOR THE ARIZONA NATIONAL GUARD

Arizona

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, Executive Order No. 7520 of December 18, 1936, withdrawing lands for use of the War Department as a target range for the Arizona National Guard, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 16, 1938.

[No. 7889]

[F. R. Doc. 38–1400; Filed, May 17, 1938; 11:09 a. m.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs.

APPLICATION OF LAW AND ORDER REGULATIONS TO TRIBES ORGANIZED UNDER ACT OF JUNE 18, 1934

FEBRUARY 15, 1937.

The Honorable, The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: Referring to the Law and Order Regulations which were approved by you under date of November 27, 1935, copy herewith, attention is invited to the second sentence of the third paragraph on page one, under the heading, "Application of Regulations," and which reads as follows: "Neither will these regulations apply to any tribe organized under the Act of June 18, 1934, except in so far as specific provisions thereof may be adopted and embodied in the constitution, by-laws, or ordinances of such an organized tribe."

As worded, the regulations now apply to Indian reservations (where Courts of Indian Offenses have been established) up to the time the tribe organizes, after which time they are not applicable to such organized tribe until law and order ordinances have been adopted by the tribe and have become effective. Therefore, at present, there is a hiatus between the time the tribal constitution is approved and the time when the tribal code becomes effective. Some of the tribes which have organized have not yet effectively adopted a Law and Order Code, but the Indian police and judges are attempting to enforce the Department code which is not, according to the code itself, applicable, and this might result in serious complications.

It is therefore recommended that said sentence two of paragraph three of the "Application of Regulations" be amended to read as follows:

These regulations shall continue to apply to tribes organized under the Act of June 18, 1934 (48 Stat. L. 984) until a Law and Order code has been adopted by the tribe in accordance with its constitution and by-laws and has become effective.

Respectfully submitted,

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner.

Approved and so ordered: February 20, 1937.

CHARLES WEST,
Acting Secretary of the Interior.

[F. R. Doc. 38-1393; Filed, May 16, 1938; 2:30 p. m.]

AMENDMENT OF REGULATIONS RELATIVE TO CROW INDIAN TRIBE AND RESERVATION IN MONTANA

MAY 14, 1937.

MR. ROBERT YELLOWTAIL, *Supt., Crow Agency*

DEAR MR. YELLOWTAIL: Reference is made to a letter dated October 26 and to one of May 6, 1936 from Chief Special Officer L. C. Mueller, copies of which were furnished you, relative to proposed amendments to the Departmental law and order regulations of November 27, 1935, which were desired by the Crow Indians.

The desired changes were discussed in detail by representatives of the Indian Office with the Crow Indian delegation which was in Washington recently, and have been given very careful consideration. As the result of the conferences held with the Crow delegates, the following amendments to the above mentioned regulations are hereby approved for application to the Crow Indian tribe and reservation in Montana.

Chapter 1, Section 5, Page 3. In the first sentence after the word "Reservation" insert "except the Trial Judge". At the end of sentence change the period to a comma and add: "and such tribunal shall be known as the Crow Tribal Court of Appeals".

Only one judge is now employed at the Crow Reservation. This judge resides at the Crow Agency where court is held when necessary and as occasion requires, he also travels to distant points on the reservation for the purpose of holding court. The present plan is to select and have appointed three additional associate judges to be located as follows:

One at Pryor, Montana 75 miles from Crow Agency, one at Lodge Grass 22 miles from Crow Agency, one at St. Xavier 26 miles from Crow Agency. This will allow an appeal to be taken to three judges, none of whom will be the trial judge in the case under consideration.

Chapter 1, Section 6, Third paragraph. Juries. The first sentence is hereby amended to read as follows: "In any case, a jury shall be drawn from the list of eligible jurors by the judge." The last sentence on Page 3, Section 6, is hereby amended to read as follows: "If the jury is unable to reach an unanimous verdict, the verdict may be rendered by a two-thirds majority vote."

The object of the first amendment is to permit jurymen not resident in the vicinity of the tribe to serve where resident jurymen are likely to be prejudiced. The second amendment relative to the two-thirds rule for jury verdicts is desired by the Indians.

We are not approving the proposed amendment of Chapter 1, Section 6, fifth paragraph, which would raise the fee of a juror from 50 cents per day to $2.00 per day.

Chapter 1, Section 7, Page 4. We are not approving the proposed amendment to raise witness fees from 50 cents per day to $1.50 per day.

Chapter 1, Section 19, Page 7. Definition of Tribal Council. In accordance with the recommendation of the Crow delegation, this section is hereby amended to read as follows:

The term "Tribal Council" as used in these regulations shall be construed to refer to the Crow Tribal Council.

Chapter 2, Section 1, Page 8. Jurisdiction. The first sentence is hereby amended to read as follows: "The Courts of Indian Offenses shall have jurisdiction of all suits wherein the parties to the action are members of the tribe or tribes within their jurisdiction, . ."

The Tribal Council and the Crow delegation desire this change.

Chapter 2, Section 3, Page 9, Third Line. The word, "shall" is hereby changed to the word "may".

This amendment is approved in view of the feeling expressed by the Crow delegation that there is not sufficient latitude in awarding damages if the word "shall" is insisted upon.

Chapter 2, Section 5, Page 9. This section is hereby amended by adding the following paragraph:

"No recovery may be had after five years from date of final judgment in any suit unless such judgment shall have been renewed before date of expiration".

Chapter 3, Section 2, Page 10. Strike out all of this section and insert in lieu thereof the following: "The Montana State law shall control all future marriages and divorces among members of the Crow Tribe."

Chapter 3, Section 3, Page 10. Strike out all of this section and insert in lieu thereof the following:

"No future adoptions among or by the Crow Indians shall be recognized except those made in accordance with the Act of March 3, 1931 (46 Stat. 1494)."

Chapter 3, Section 5, Page 11. Strike out all of this section and insert in lieu thereof the following:

"The Superintendent of the Crow Reservation shall have authority to protect, impound or convert into cash, for the benefit of the estate, any personal property which may be left by any decedent who is an enrolled member of the Crow Tribe, pending final determination of the heirs of said decedent by the Secretary of the Interior, and in accordance with existing law and regulations."

Chapter 3, Section 6, Pages 11 and 12. Strike out all of this section and insert in lieu thereof the following:

"The determination of the validity of wills shall be left to the Secretary of the Interior under applicable regulations."

Chapter 4, Section 2, Page 14. The first paragraph of this section is hereby amended to read as follows: "Where sentence has been imposed upon any Indian, the Court of Indian Offenses may in its discretion suspend the sentence imposed and allow the offender his freedom on probation, upon his signing a pledge of good conduct during the period of the sentence."

Chapter 4, Section 4, Page 14. This section is hereby amended by adding the following: "In the absence of either parent or guardian, the court shall appoint a suitable person to represent the delinquent child."

Chapter 5, Section 13, Page 18. The last sentence is hereby amended to read as follows: "For the commission of such offense while under the influence of liquor, the offender may be sentenced for the first offense to labor for a period not to exceed three months and for a second or subsequent offense for a period not to exceed six months and may be deprived of his right to operate any motor vehicle for a period of one year."

Chapter 5, Sections 22 and 23, Page 20. In connection with these sections the tribe and the delegation strongly recommended the insertion of an additional section to be known as No. 22a covering the offense of fornication. The following section is hereby inserted:

"Section 22a. Fornication. Any Indian who shall have sexual intercourse with another person, neither of such persons being married, shall be deemed guilty of fornication and upon conviction thereof shall be sentenced to labor for a period of not to exceed 25 days."

Chapter 5, Section 25, top of Page 21. This section is hereby amended by the addition of the following words to the last sentence: "or found to be afflicted with any communicable disease".

The purpose of this amendment is to permit the Court of Indian Offenses to compel medical treatment of any person afflicted with any communicable disease, whether or not he has actually communicated that disease to another.

Chapter 5, Section 26, Page 21. This section is hereby amended by adding the following paragraph:

"The Court of Indian Offenses shall also have authority to order and compel the payment of all alimony lawfully awarded in any divorce proceeding by any State court having jurisdiction, and non-payment of such awards shall be accepted as conclusive evidence of failure to provide for dependent persons under this section; provided, however, that an appeal may be taken to the Tribal Court of Appeals whose decision shall be final."

Chapter 5, Page 23. The following section, to be numbered 37, is hereby added:

"No complaint shall be filed charging the commission of an offense, as defined under Chapter 5, unless such offense shall have been committed within one year prior to the date of the complaint."

We should like to take this opportunity to say that the amendments recommended by the Tribal Council and discussed with the Crow delegation give evidence of sincere and careful thought on the part of both the Tribal Council and the delegation.

Sincerely yours,

JOHN COLLIER, *Commissioner.*

Approved, June 2, 1937.

CHARLES WEST,
Acting Secretary of the Interior.

[F. R. Doc. 38-1395; Filed, May 16, 1938; 2:33 p. m.]

SPECIAL REGULATIONS GOVERNING LAW AND ORDER ON THE NAVAJO AND HOPI JURISDICTIONS IN ARIZONA AND NEW MEXICO AS APPROVED JUNE 2, 1937

JUNE 1, 1937.

The Honorable, The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: It is respectfully recommended that the Law and Order Regulations approved by you under date of November 27, 1935, be amended in so far as they apply to the Navajo Indian Reservation, including Hopi, by the addition thereto of sections 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 of Chapter 5, in accordance with the attached copy of the regulations.

These additions have been discussed with Superintendent Fryer of the Navajo Reservation and meet with his approval.

Sincerely yours,

JOHN COLLIER, *Commissioner.*

Approved June 2, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary.

LAW AND ORDER REGULATIONS

Application of Regulations

The following regulations relative to Courts of Indian Offenses shall apply to all Indian reservations on which such courts are maintained.

It is the purpose of these regulations to provide adequate machinery of law enforcement for those Indian tribes in which traditional agencies for the enforcement of tribal law and custom have broken down and for which no adequate substitute has been provided under Federal or State law.

No Court of Indian Offenses will be established on reservations where justice is effectively administered under State laws and by State law enforcement agencies. These regulations shall continue to apply to tribes organized under the Act of June 18, 1934 (48 Stats. L. 984) until a Law and Order code has been adopted by the tribe in accordance with its constitution and by-laws and has become effective. (Circular 3196.)

Chapter 1. Courts of Indian Offenses

SECTION 1. *Jurisdiction.*—A Court of Indian Offenses shall have jurisdiction over all offenses enumerated in Chapter 5, when committed by any Indian, within the reservation or reservations for which the Court is established.

With respect to any of the offenses enumerated in Chapter 5 over which Federal or State courts may have lawful jurisdiction, the jurisdiction of the Court of Indian Offenses shall be concurrent and not exclusive. It shall be the duty of the said Court of Indian Offenses to order delivery to the proper authorities of the State or Federal Government or of any other tribe or reservation, for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

For the purpose of the enforcement of these regulations, an Indian shall be deemed to be any person of Indian descent who is a member of any recognized Indian tribe now under Federal jurisdiction, and a "reservation" shall be taken to include all territory within reservation boundaries, including fee patented lands, roads, waters, bridges, and lands used for agency purposes.

All Indians employed in the Indian Service shall be subject to the jurisdiction of the Court of Indian Offenses but any such employee appointed by the Secretary of the Interior shall not be subject to any sentence of such Court, unless such sentence shall have been approved by the Secretary of the Interior.

SEC. 2. *Appointment of Judges.*—A Court of Indian Offenses established for any reservation or group of reservations, shall consist of one or more chief judges, whose duties shall be regular and permanent, and two or more associate judges, who may be called to service when occasion requires, and who shall be compensated on a per diem basis.

Each judge shall be appointed by the Commissioner of Indian Affairs, subject to confirmation by a two-thirds vote of the Tribal Council.

Each judge shall hold office for a period of four years, unless sooner removed for cause or by reason of the abolition of the said office, but shall be eligible for reappointment.

A person shall be eligible to serve as judge of a Court of Indian Offenses only if he (1) is a member of a tribe under the jurisdiction of the said court; and (2) has never been

convicted of a felony, or, within one year then last past, of a misdemeanor.

No judge shall be qualified to act as such in any case wherein he has any direct interest or wherein any relative by marriage or blood, in the first or second degrees, is a party.

SEC. 3. *Removal of Judges.*—Any Judge of the Court of Indian Offenses may be suspended, dismissed or removed, by the Commissioner of Indian Affairs, for cause, upon the recommendation of the Tribal Council.

SEC. 4. *Court Procedure.*—Sessions of the Court of Indian Offenses for the trial of cases shall be held by the Chief Judge, or, in case of his disability, by one of the associate judges selected for the occasion by all of the judges.

The time and place of court sessions, and all other details of judicial procedure not prescribed by these regulations, shall be laid down in Rules of Court approved by the Tribal Council and by the superintendent of the reservation.

It shall be the duty of the judges of each Court of Indian Offenses to make recommendations to the Tribal Council for the enactment or amendment of such Rules of Court in the interests of improved judicial procedure.

SEC. 5. *Appellate Proceedings.*—All the judges of the reservation shall sit together, at such times and at such places as they may find proper and necessary for the dispatch of business, to hear appeals from judgments made by any judge at the trial sessions. There shall be established by Rule of Court the limitations, if any, to be placed upon the right of appeal both as to the types of cases which may be appealed and as to the manner in which appeals may be granted, according to the needs of their jurisdiction. In the absence of such Rule of Court any party aggrieved by a judgment may appeal to the full court upon giving notice of such appeal at the time of judgment and upon giving proper assurance to the trial judge, through the posting of a bond or in any other manner, that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established herein or by Rule of Court, the judgment of the trial judge shall not be executed until after final disposition of the case by the full court. The full court may render judgment upon the case by majority vote.

SEC. 6. *Juries.*—In any case where, upon preliminary hearing by the court, a substantial question of fact is raised, the defendant may demand a jury trial.

A list of eligible jurors shall be prepared by the Tribal Council each year.

In any case, a jury shall consist of six residents of the vicinity in which the trial is held, selected from the list of eligible jurors by the judge. Any party to the case may challenge not more than three members of the jury panel so chosen.

The judge shall instruct the jury in the law governing the case and the jury shall bring a verdict for the complainant or the defendant. The judge shall render judgment in accordance with the verdict and existing law. If the jury is unable to reach a unanimous verdict, verdict may be rendered by a majority vote.

Each juror who serves upon a jury shall be entitled to a fee of fifty cents a day for each day his services are required in court.

SEC. 7. *Witnesses.*—The several judges of the Courts of Indian Offenses shall have the power to issue subpoenas for the attendance of witnesses either on their own motion or on the request of the Police Commissioner or Superintendent or any of the parties to the case, which subpoena shall bear the signature of the judge issuing it. Each witness answering such subpoena shall be entitled to a fee of fifty cents a day for each day his services are required in court. Failure to obey such subpoena shall be deemed an offense as provided in Chapter 5, Sec. 36, of these regulations. Service of such subpoenas shall be by a regularly acting member of the Indian Police or by an Indian appointed by the Court for that purpose.

Witnesses who testify voluntarily shall be paid by the party calling them, if the court so directs, their actual traveling and living expenses incurred in the performance of their function.

SEC. 8. *Professional Attorneys.*—Professional attorneys shall not appear in any proceeding before the Court of Indian Offenses unless Rules of Court have been adopted as set forth in section 4 of this Chapter prescribing conditions governing their admission and practice before the Court.

SEC. 9. *Clerks.*—The Superintendent shall detail a clerk of court for each Court of Indian Offenses. The clerk of the Court of Indian Offenses shall render assistance to the Court, to the police force of the reservation and to individual members of the tribe in the drafting of complaints, subpoenas, warrants and commitments and any other documents incidental to the lawful functions of the Court. It shall be the further duty of said clerk to attend and to keep a written record of all proceedings of the court, to administer oaths to witnesses, to collect all fines paid and to pay out all fees authorized by these regulations, and to make an accounting thereof to the disbursing agent of the reservation and to the Tribal Council.

SEC. 10. *Records.*—Each Court of Indian Offenses shall be required to keep, for inspection by duly qualified officials, a record of all proceedings of the Court, which record shall reflect the title of the case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, by whom conducted, the findings of the Court or jury, and the judgment, together with any other facts or circumstances deemed of importance to the case. A record of all proceedings shall be kept at the agency office, as required by United States Code, Title 25, sec. 200.

SEC. 11. *Copies of Laws.*—Each Court of Indian Offenses shall be provided with copies of all Federal and State laws and Indian Office regulations applicable to the conduct of Indians within the reservation.

Whenever the Court is in doubt as to the meaning of any law, treaty or regulation it may request the Superintendent to furnish an opinion on the point in question.

SEC. 12. *Complaints.*—No complaint filed in any Court of Indian Offenses shall be valid unless it shall bear the signature of the complainant or complaining witness, witnessed by a duly qualified Judge of the Court of Indian Offenses or by the Superintendent or by any other qualified employee of such reservation.

SEC. 13. *Warrants to Apprehend.*—Every Judge of a Court of Indian Offenses shall have the authority to issue Warrants to Apprehend, said warrants to issue in the discretion of the Court only after a written complaint shall have been filed, bearing the signature of the complaining witness. Service of such Warrants shall be made by a duly qualified member of the Indian Police or other police officer of the United States Indian Service. No Warrant to Apprehend shall be valid unless it shall bear the signature of a duly qualified Judge of the Court of Indian Offenses.

SEC. 14. *Arrests.*—No member of the Indian Police shall arrest any person for any offense defined by these regulations or by Federal law, except when such offense shall occur in the presence of the arresting officer or he shall have reasonable evidence that the person arrested has committed an offense or the officer shall have a warrant commanding him to apprehend such person.

SEC. 15. *Search Warrants.*—Every Judge of the Court of Indian Offenses of any Indian reservation shall have authority to issue warrants for search and seizure of the premises and property of any person under the jurisdiction of said Court. However, no warrant of Search and Seizure shall issue except upon a duly signed and written complaint based upon reliable information or belief and charging the commission of some offense against the tribe. No warrant for search and seizure shall be valid unless it contains the name or description of the person or property to be searched and describes the articles or property to be seized and bears the signature of a duly qualified Judge of the Court of Indian Offenses. Service of Warrants of Search and Seizure shall be made only by members of the Indian Police or police officers of the United States Indian Service.

No policeman shall search or seize any property without a warrant unless he shall know, or have reasonable cause to

believe, that the person in possession of such property is engaged in the commission of an offense under these regulations. Unlawful search or seizure will be deemed trespass and punished in accordance with Chapter 5, Section 15 of these regulations.

SEC. 16. *Commitments.*—No Indian shall be detained, jailed or imprisoned under these regulations for a longer period than Thirty-Six (36) hours unless there be issued a commitment bearing the signature of a duly qualified Judge of the Court of Indian Offenses. There shall be issued, for each Indian held for trial, a Temporary Commitment and for each Indian held after sentence a Final Commitment on the forms prescribed in these regulations.

SEC. 17. *Bail or Bond.*—Every Indian charged with an offense before any Court of Indian Offenses may be admitted to bail. Bail shall be by two reliable members of any Indian tribe who shall appear before a Judge of the Court of Indian Offenses where complaint has been filed and there execute an agreement in compliance with the form provided therefor and made a part of these regulations. In no case shall the penalty specified in the agreement exceed twice the maximum penalty set by these regulations for violation of the offense with which the accused is charged.

SEC. 18. *Definition of Signature.*—The term "signature" as used in these regulations shall be defined as the written signature, official seal, or the witnessed thumb print or mark of any individual.

SEC. 19. *Definition of Tribal Council.*—The term "Tribal Council," as used in these regulations, shall be construed to refer to the council, business commitee or other organization recognized by the Department of the Interior as representing the tribe, or where no such body is recognized, to the adult members of the tribe in council assembled.

SEC. 20. *Relations with the Court.*—No field employee of the Indian Service shall obstruct, interfere with or control the functions of any Court of Indian Offenses, or influence such functions in any manner except as permitted by these regulations or in response to a request for advice or information from the Court.

Employees of the Indian Service, particularly those who are engaged in social service, health and educational work, shall assist the Court, upon its request, in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

Chapter 2. Civil Actions

SECTION 1. *Jurisdiction.*—The Courts of Indian Offenses shall have jurisdiction of all suits wherein the defendant is a member of the tribe or tribes within their jurisdiction, and of all other suits between members and nonmembers which are brought before the Courts by stipulation of both parties. No judgment shall be given on any suit unless the defendant has actually received notice of such suit and ample opportunity to appear in court in his defense. Evidence of the receipt of the notice shall be kept as part of the record in the case. In all civil suits the complainant may be required to deposit with the clerk of the Court a fee or other security in a reasonable amount to cover costs and disbursements in the case.

SEC. 2. *Law Applicable in Civil Actions.*—In all civil cases the Court of Indian Offenses shall apply any laws of the United States that may be applicable, any authorized regulations of the Interior Department, and any ordinances or customs of the tribe, not prohibited by such Federal laws.

Where any doubt arises as to the customs and usages of the tribe the court may request the advice of counsellors familiar with these customs and usages.

Any matters that are not covered by the traditional customs and usages of the tribe, or by applicable Federal laws and regulations, shall be decided by the Court of Indian Offenses according to the laws of the State in which the matter in dispute may lie.

SEC. 3. *Judgments in Civil Actions.*—In all civil cases, judgment shall consist of an order of the Court awarding money damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or the performance of some other act for the benefit of the injured party.

Where the injury inflicted was the result of carelessness of the defendant, the judgment shall fairly compensate the injured party for the loss he has suffered.

Where the injury was deliberately inflicted, the judgment shall impose an additional penalty upon the defendant, which additional penalty may run either in favor of the injured party or in favor of the tribe.

Where the injury was inflicted as the result of accident, or where both the complainant and the defendant were at fault, the judgment shall compensate the injured party for a reasonable part of the loss he has suffered.

SEC. 4. *Costs in Civil Actions.*—The Court may assess the accruing costs of the case against the party or parties against whom judgment is given. Such costs shall consist of the expenses of voluntary witnesses for which either party may be responsible under Section 7 of Chapter 1, and the fees of jurors in those cases where a jury trial is had, and any further incidental expenses connected with the procedure before the Court as the Court may direct.

SEC. 5. *Payment of Judgments from Individual Indian Moneys.*—Whenever the Court of Indian Offenses shall have ordered payment of money damages to an injured party and the losing party refuses to make such payment within the time set for payment by the Court, and when the losing party has sufficient funds to his credit at the agency office to pay all or part of such judgment, the Superintendent shall certify to the Secretary of the Interior the record of the case and the amount of the available funds. If the Secretary shall so direct, the disbursing agent shall pay over to the injured party the amount of the judgment, or such lesser amount as may be specified by the Secretary, from the account of the delinquent party.

A judgment shall be considered a lawful debt in all proceedings held by the Department of the Interior or by the Court of Indian Offenses to distribute decedents' estates.

Chapter 3. Domestic Relations

SECTION 1. *Recording of Marriages and Divorces.*—All Indian marriages and divorces, whether consummated in accordance with the State law or in accordance with tribal custom, shall be recorded within three months at the agency of the jurisdiction in which either or both of the parties reside.

SEC. 2. *Tribal Custom Marriage and Divorce.*—The Tribal Council shall have authority to determine whether Indian Custom Marriage and Indian Custom Divorce for members of the tribe shall be recognized in the future as lawful marriage and divorce upon the reservation, and if it shall be so recognized, to determine what shall constitute such marriage and divorce and whether action by the Court of Indian Offenses shall be required. When so determined in writing, one copy shall be filed with the Court of Indian Offenses, one copy with the Superintendent in charge of the reservation, and one copy with the Commissioner of Indian Affairs. Thereafter, Indians who desire to become married or divorced by the custom of the tribe shall conform to the custom of the tribe as determined. Indians who assume or claim a divorce by Indian custom shall not be entitled to remarry until they have complied with the determined custom of their tribe nor until they have recorded such divorce at the agency office.

Pending any determination by the Tribal Council on these matters, the validity of Indian custom marriage and divorce shall continue to be recognized as heretofore.

SEC. 3. *Tribal Custom Adoption.*—The Tribal Council shall likewise have authority to determine whether Indian Custom Adoption shall be permitted upon the reservation among members of the tribe, and if permitted, to determine what shall constitute such adoption and whether action by the Court of Indian Offenses shall be required. The determination of the Tribal Council shall be filed with the Court of Indian Offenses, with the Superintendent of the reservation and with the Commissioner of Indian Affairs. Thereafter

all members of the tribe desiring to adopt any person shall conform to the procedure fixed by the Tribal Council.

SEC. 4. *Determination of Paternity and Support.*—The Courts of Indian Offenses shall have jurisdiction of all suits brought to determine the paternity of a child and to obtain a judgment for the support of the child. A judgment of the Court establishing the identity of the father of the child shall be conclusive of the fact in all subsequent determinations of inheritance by the Department of the Interior or by the Courts of Indian Offenses.

SEC. 5. *Determination of Heirs.*—When any member of the tribe dies leaving property other than an allotment or other trust property subject to the jurisdiction of the United States, any member claiming to be an heir of the decedent may bring a suit in the Court of Indian Offenses to have the Court determine the heirs of the decedent and to divide among the heirs such property of the decedent. No determination of heirs shall be made unless all the possible heirs known to the Court, to the Superintendent, and to the claimant have been notified of the suit and given full opportunity to come before the Court and defend their interests. Possible heirs who are not residents of the reservation under the jurisdiction of the Court must be notified by mail and a copy of the notice must be preserved in the record of the case.

In the determination of heirs the Court shall apply the custom of the tribe as to inheritance if such custom is proved. Otherwise the Court shall apply State law in deciding what relatives of the decedent are entitled to be his heirs.

Where the estate of the decedent includes any interest in restricted allotted lands or other property held in trust by the United States, over which the Examiner of Inheritance would have jurisdiction, the Court of Indian Offenses may distribute only such property as does not come under the jurisdiction of the Examiner of Inheritance, and the determination of heirs by the court may be reviewed, on appeal, and the judgment of the court modified or set aside by the said Examiner of Inheritance, with the approval of the Secretary of the Interior, if law and justice so require.

SEC. 6. *Approval of Wills.*—When any member of the tribe dies, leaving a will disposing only of property other than an allotment or other trust property subject to the jurisdiction of the United States, the Court of Indian Offenses shall, at the request of any member of the tribe named in the will or any other interested party, determine the validity of the will after giving notice and full opportunity to appear in court to all persons who might be heirs of the decedent, as under Section 5 of this Chapter. A will shall be deemed to be valid if the decedent had a sane mind and understood what he was doing when he made the will and was not subject to any undue influence of any kind from another person, and if the will was made in accordance with a proved tribal custom or made in writing and signed by the decedent in the presence of two witnesses who also sign the will. If the Court determines the will to be validly executed, it shall order the property described in the will to be given to the persons named in the will or to their heirs; but no distribution of property shall be made in violation of a proved tribal custom which restricts the privilege of tribal members to distribute property by will.

Chapter 4. Sentences

SECTION 1. *Nature of Sentences.*—Any Indian who has been convicted by the Court of Indian Offenses of violation of a provision of the Code of Indian Tribal Offenses shall be sentenced by the Court to work for the benefit of the tribe for any period found by the Court to be appropriate; but the period fixed shall not exceed the maximum period set for the offense in the Code, and shall begin to run from the day of the sentence. During the period of sentence the convicted Indian may be confined in the agency jail if so directed by the Court. The work shall be done under the supervision of the Superintendent or of an authorized agent or committee of the tribal council as the Court may provide.

Whenever any convicted Indian shall be unable or unwilling to work, the Court shall, in its discretion, sentence him to imprisonment for the period of the sentence or to pay a fine equal to $2 a day for the same period. Such fine shall be paid in cash, or in commodities or other personal property of the required value as may be directed by the Court. Upon the request of the convicted Indian, the disbursing agent may approve a disbursement voucher chargeable to the Indian's account to cover payment of the fine imposed by the Court.

In addition to any other sentence, the Court may require an offender who has inflicted injury upon the person or property of any individual to make restitution or to compensate the party injured, through the surrender of property, the payment of money damages, or the performance of any other act for the benefit of the injured party.

In determining the character and duration of the sentence which shall be imposed, the Court shall take into consideration the previous conduct of the defendant, the circumstances under which the offense was committed, and whether the offense was malicious or willful and whether the offender has attempted to make amends, and shall give due consideration to the extent of the defendant's resources and the needs of his dependents. The penalties listed in Chapter 5 of these regulations are maximum penalties to be inflicted only in extreme cases.

SEC. 2. *Probation.*—Where sentence has been imposed upon any Indian who has not previously been convicted of any offense, the Court of Indian Offenses may in its discretion suspend the sentence imposed and allow the offender his freedom on probation, upon his signing a pledge of good conduct during the period of the sentence upon the form provided therefor and made a part of these regulations.

Any Indian who shall violate his probation pledge shall be required to serve the original sentence plus an additional half of such sentence as penalty for the violation of his pledge.

SEC. 3. *Parole.*—Any Indian committed by a Court of Indian Offenses who shall have without misconduct served one half the sentence imposed by such Court shall be eligible to parole. Parole shall be granted only by a Judge of the Court of Indian Offenses where the prisoner was convicted and upon the signing of the form provided therefor and made a part of these regulations.

Any Indian who shall violate any of the provisions of such parole shall be punished by being required to serve the whole of the original sentence.

SEC. 4. *Juvenile Delinquency.*—Whenever any Indian who is under the age of 18 years is accused of committing one of the offenses enumerated in the Code of Indian Offenses, the judge may in his discretion hear and determine the case in private and in an informal manner, and, if the accused is found to be guilty, may in lieu of sentence place such delinquent for a designated period under the supervision of a responsible person selected by him or may take such other action as he may deem advisable in the circumstances.

SEC. 5. *Deposit and Disposition of Fines.*—All money fines imposed for the commission of an offense shall be in the nature of an assessment for the payment of designated court expenses. Such expenses shall include the payment of the fees provided for in these regulations to jurors and to witnesses answering a subpoena. The fines assessed shall be paid over by the Clerk of the Court to the disbursing agent of the reservation for deposit as a "special deposit, court funds" to the disbursing agent's official credit in the Treasury of the United States. The disbursing agent shall withdraw such funds, in accordance with existing regulations, upon the order of the Clerk of the Court signed by a judge of the Court, for the payment of specified fees to specified jurors or witnesses. The disbursing agent and the Clerk of the Court shall keep an accounting of all such deposits and withdrawals for the inspection of any person interested. Whenever such fund shall exceed the amount necessary with a reasonable reserve for the payment of the court expenses before mentioned, the Tribal Council shall designate, with the approval of the Superintendent, further expenses of the work of the Court which shall be paid by these funds, such as the writing of records, the costs of notices or the increase of fees, whether or not any such costs were previously paid from other sources.

Wherever a fine is paid in commodities, the commodities shall be turned over under the supervision of the Clerk of the Court to the custody of the Superintendent to be sold or, if the Tribal Council so directs, to be disposed of in other ways for the benefit of the tribe. The proceeds of any sale of such commodities shall be deposited by the disbursing agent in the special deposit for court funds and recorded upon the accounts.

Chapter 5. Code of Indian Tribal Offenses

SECTION 1. *Assault.*—Any Indian who shall attempt or threaten bodily harm to another person through unlawful force or violence shall be deemed guilty of assault, and upon conviction thereof shall be sentenced to labor for a period not to exceed five days or shall be required to furnish a satisfactory bond to keep the peace.

SEC. 2. *Assault and Battery.*—Any Indian who shall wilfully strike another person or otherwise inflict bodily injury, or who shall by offering violence cause another to harm himself shall be deemed guilty of assault and battery and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 3. *Carrying Concealed Weapons.*—Any Indian who shall go about in public places armed with a dangerous weapon concealed upon his person, unless he shall have a permit signed by a judge of a Court of Indian Offenses and countersigned by the Superintendent of the reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 30 days; and the weapons so carried may be confiscated.

SEC. 4. *Abduction.*—Any Indian who shall wilfully take away or detain another person against his will or without the consent of the parent or other person having lawful care or charge of him, shall be deemed guilty of abduction and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 5. *Theft.*—Any Indian who shall take the property of another person, with intent to steal, shall be deemed guilty of theft and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 6. *Embezzlement.*—Any Indian who shall, having lawful custody of property not his own, appropriate the same to his own use with intent to deprive the owner thereof, shall be deemed guilty of embezzlement and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 7. *Fraud.*—Any Indian who shall by wilful misrepresentation or deceit, or by false interpreting, or by the use of false weights or measures obtain any money or other property, shall be deemed guilty of fraud and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 8. *Forgery.*—Any Indian who shall, with intent to defraud, falsely sign, execute or alter any written instrument, shall be deemed guilty of forgery and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 9. *Misbranding.*—Any Indian who shall knowingly and wilfully misbrand or alter any brand or mark on any livestock of another person, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 10. *Receiving Stolen Property.*—Any Indian who shall receive or conceal or aid in concealing or receiving any property, knowing the same to be stolen, embezzled, or obtained by fraud or false pretense, robbery or burglary, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed three months.

SEC. 11. *Extortion.*—Any Indian who shall wilfully, by making false charges against another person or by any other means whatsoever, extort or attempt to extort any moneys, goods, property, or anything else of any value, shall be deemed guilty of extortion and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

SEC. 12. *Disorderly Conduct.*—Any Indian who shall engage in fighting in a public place, disturb or annoy any public or religious assembly, or appear in a public or private place in an intoxicated and disorderly condition, or who shall engage in any other act of public indecency or immorality, shall be deemed guilty of disorderly conduct and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

SEC. 13. *Reckless Driving.*—Any Indian who shall drive or operate any automobile, wagon, or any other vehicle in a manner dangerous to the public safety, shall be deemed guilty of reckless driving and upon conviction thereof shall be sentenced to labor for a period not to exceed 15 days and may be deprived of the right to operate any automobile for a period not to exceed six months. For the commission of such offense while under the influence of liquor, the offender may be sentenced to labor for a period not to exceed three months.

SEC. 14. *Malicious Mischief.*—Any Indian who shall maliliously disturb, injure or destroy any livestock or other domestic animal or other property, shall be deemed guilty of malicious mischief and upon convition thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 15. *Trespass.*—Any Indian who shall go upon or pass over any cultivated or enclosed lands of another person and shall refuse to go immediately therefrom on the request of the owner or occupant thereof or who shall wilfully and knowingly allow livestock to occupy or graze on the cultivated or enclosed lands, shall be deemed guilty of an offense and upon conviction shall be punished by a fine not to exceed $5, in addition to any award of damages for the benefit of the injured party.

SEC. 16. *Injury to Public Property.*—Any Indian who shall, without proper authority, use or injure any public property of the tribe, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

SEC. 17. *Maintaining a Public Nuisance.*—Any Indian who shall act in such a manner, or permit his property to fall into such condition as to injure or endanger the safety, health, comfort, or property of his neighbors, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed five days, and may be required to remove such nuisance when so ordered by the Court.

SEC. 18. *Liquor Violations.*—Any Indian who shall possess, sell, trade, transport or manufacture any beer, ale, wine, whisky or any article whatsoever which produces alcoholic intoxication, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed 60 days.

SEC. 19. *Cruelty to Animals.*—Any Indian who shall torture or cruelly mistreat any animal, shall be deemed guilty of an offense and shall be sentenced to labor for a period not to exceed thirty days.

SEC. 20. *Game Violations.*—Any Indian who shall violate any law, rule or regulation adopted by the Tribal Council for the protection or conservation of the fish or game of the reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days; and he shall forfeit to the Court for the use of any Indian institution such game as may be found in his possession.

SEC. 21. *Gambling.*—Any Indian who shall violate any law, rule or regulation adopted by the Tribal Council for the control or regulation of gambling on any reservation, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

SEC. 22. *Adultery.*—Any Indian who shall have sexual intercourse with another person, either of such persons being married to a third person, shall be deemed guilty of adultery and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

SEC. 23. *Illicit Cohabitation.*—Any Indian who shall live or cohabit with another as man and wife not then and there being married shall be deemed guilty of illicit cohabitation

and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

SEC. 24. *Prostitution.*—Any Indian who shall practice prostitution or who shall knowingly keep, maintain, rent or lease, any house, room, tent, or other place for the purpose of prostitution shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 25. *Giving Venereal Disease to Another.*—Any Indian who shall infect another person with a venereal disease shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed three months. The Court of Indian Offenses shall have authority to order and compel the medical examination and treatment of any person charged with violation of this section.

SEC. 26. *Failure to Support Dependent Persons.*—Any Indian who shall, because of habitual intemperance or gambling or for any other reason, refuse or neglect to furnish food, shelter, or care to those dependent upon him, including any dependent children born out of wedlock, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed three months, for the benefit of such dependents.

SEC. 27. *Failure to Send Children to School.*—Any Indian who shall, without good cause, neglect or refuse to send his children or any children under his care, to school shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed ten days.

SEC. 28. *Contributing to the Delinquincy of a Minor.*—Any Indian who shall wilfully contribute to the delinquency of any minor shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 29. *Bribery.*—Any Indian who shall give or offer to give any money, property or services, or anything else of value to another person with corrupt intent to influence another in the discharge of his public duties or conduct, and any Indian who shall accept, solicit or attempt to solicit any bribe, as above defined, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed six months; and any tribal office held by such person shall be forfeited.

SEC. 30. *Perjury.*—Any Indian who shall wilfully and deliberately, in any judicial proceeding in any Court of Indian Offenses, falsely swear or interpret, or shall make a sworn statement or affidavit knowing the same to be untrue, or shall induce or procure another person so to do, shall be deemed guilty of perjury and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 31. *False Arrest.*—Any Indian who shall wilfully and knowingly make, or cause to be made, the unlawful arrest, detention on imprisonment of another person, shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 32. *Resisting Lawful Arrest.*—Any Indian who shall wilfully and knowingly, by force or violence, resist or assist another person to resist a lawful arrest shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to labor for a period not to exceed thirty days.

SEC. 33. *Refusing to Aid Officer.*—Any Indian who shall neglect or refuse, when called upon by any Indian Police or other police officer of the United States Indian Service, to assist in the arrest of any person charged with or convicted of any offense or in securing such offender when apprehended, or in conveying such offender to the nearest place of confinement shall be deemed guilty of an offense, and upon conviction, shall be sentenced to labor for a period not to exceed ten days.

SEC. 34. *Escape.*—Any Indian, who, being in lawful custody, for any offense, shall escape or attempt to escape or who shall permit or assist or attempt to permit or assist another person to escape from lawful custody shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to labor for a period not to exceed six months.

SEC. 35. *Disobedience to Lawful Orders of Court.*—Any Indian who shall wilfully disobey any order, subpoena, warrant or command duly issued, made or given by the Court of Indian Offenses or any officer thereof, shall be deemed guilty of an offense and upon conviction thereof shall be fined in an amount not exceeding $180 or sentenced to labor for a period not to exceed three months.

SEC. 36. *Violation of an Approved Tribal Ordinance.*—Any Indian who violates an ordinance designed to preserve the peace and welfare of the tribe, which was promulgated by the Tribal Council and approved by the Secretary of the Interior, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced as provided in the ordinance.

SEC. 37. *Failure to Sell or Remove from Tribal Range Infectious or Cull Animals.*—Any Indian who shall wilfully refuse to dispose of cull or infectious animals indicated for removal in accordance with the instructions contained in Section 4, of the Navajo Grazing Regulations, shall be deemed guilty of an offense, and upon conviction thereof shall be sentenced to hard labor for a period of not to exceed 90 days, or a reduction of ten percent (10%) in his grazing permit.

SEC. 38. *Introduction of Livestock Without Permit.*—Any Indian who shall introduce or cause to be introduced any livestock into unallotted lands of the reservation without a permit shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to a period of not to exceed 60 days at hard labor.

SEC. 39. *Stock Trespass in form of Unauthorized Use of Range.*—Any Indian who shall wilfully graze stock in excess of permitted number on Tribal range, or who shall refuse to graze his livestock in accordance with range management plans which consider deferred grazing, the reservation of specific areas for seasonal use, etc., shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed six months, and, or, he shall be required to pay damages equal to the value of the forage consumed, salaries and expenses of employees for the time incurred in making investigation and reports. In lieu of cash, this fine, if levied, may be collected in livestock.

SEC. 40. *Failure to Dip Sheep.*—Any Indian who wilfully refuses to dip all of his sheep and goats according to regulations when so directed by the Superintendent or his authorized representative shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed six months or shall be subject to a fine not to exceed $100 or both. In lieu of cash, this fine, if levied, may be collected in livestock.

SEC. 41. *Making False Reports of Stock Owned.*—Any Indian who wilfully makes a false report as to the total number of stock owned, or refuses to make a true report of stock ownership, shall be deemed guilty of an offense and upon conviction thereof, shall be fined not less than $10 nor more than $100. In lieu of cash this fine may be collected in livestock.

SEC. 42. *Unauthorized Fencing of Tribal Land.*—Any Indian who shall wilfully fence, for his own advantage, range land belonging to the Tribe, without first having secured a permit from The Superintendent shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to hard labor for a period not to exceed 6 months.

SEC. 43. *Inter-District Trespass.*—Any Indian who shall allow his stock to trespass on range allocated to others under provisions of the Grazing Regulations, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 3 months or shall be subject to a fine equal to the damage done the range allocated to others, or both.

SEC. 44. *Grazing Stock Without Permit.*—Any Indian who shall allow his stock to graze on tribal land without a grazing permit shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 3 months or shall be fined not to exceed $100 or both. In lieu of cash, this fine, if levied, may be collected in livestock.

SEC. 45. *Refusing to Brand or Mark Livestock.*—Any Indian who shall wilfully refuse to brand or mark his or her livestock where such branding or marking is required in the interest of ownership identification or for other purposes or who alters, obliterates or removes such brands or marks shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed 60 days.

SEC. 46. *Obstructing or Interfering with Livestock Roundups.*—Any Indian who shall interfere with or obstruct authorized roundups which have for their purpose the removal of unowned horses or other livestock, or for the purpose of determining ownership or for other purposes designed to protect tribal land from destruction, shall be deemed guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed six months.

SEC. 47. *Trespass on Areas Reserved for Demonstration Purposes.*—Any Indian who shall commit wilful trespass on areas reserved for demonstration, administration, or agricultural purposes designed for the benefit of the Tribe, shall be guilty of an offense and upon conviction thereof shall be sentenced to hard labor for a period not to exceed sixty days and shall be subject to a fine not exceeding $100, or both. In lieu of cash, this fine, if levied, may be collected in livestock.

Chapter 6. The Indian Police

SECTION 1. *Superintendent in Command.*—The Superintendent of each Indian reservation shall be recognized as commander of the Indian Police force and will be held responsible for the general efficiency and conduct of the members thereof. It shall be the duty of the Superintendent, or his duly qualified representative, to keep himself informed as to the efficiency of the Indian Police in the discharge of their duties, to subject them to a regular inspection, to inform them as to their duties and keep a strict accounting of the equipment issued them in connection with their official duties. It shall be the duty of the Superintendent to detail such Indian policemen as may be necessary to carry out the orders of the Court of Indian Offenses and to preserve order during the court sessions. The Superintendent shall investigate all reports and charges of misconduct on the part of Indian policemen and shall exercise such proper disciplinary measures as may be consistent with existing regulations. No Superintendent of any Indian reservation shall assign or detail any member of the Indian Police force for duty as janitor or chauffeur or for any duty not connected with the administration of law and order.

SEC. 2. *Police Commissioners.*—The Superintendent of any Indian reservation may, with the approval of the Commissioner of Indian Affairs, designate as Police Commissioner any qualified person. Wherever any special or deputy special officer is regularly employed in any Indian jurisdiction, he shall be Police Commissioner for that jurisdiction. Such Police Commissioner shall obey the orders of the Superintendent of the reservation where employed and shall see that the orders of the Court of Indian Offenses are properly carried out. The Police Commissioner shall be responsible to the Superintendent for the conduct and efficiency of the Indian Police under his direction and shall give such instruction and advice to them as may be necessary. The Police Commissioner shall also report to the Superintendent all violations of law or regulation and any misconduct of any member of the Indian Police.

SEC. 3. *Police Training.*—It shall be the duty of the Superintendent to maintain from time to time as circumstances require and permit classes of instruction for the Indian policemen. Such classes shall familiarize the policemen with the manner of making searches and arrests, the proper and humane handling of prisoners, the keeping of records of offenses and police activities, and with court orders and legal forms and the duties of the police in relation thereto, and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation with Indian communities in establishing better social relations.

SEC. 4. *Indian Policemen.*—The Superintendent of any Indian reservation may, with the approval of the Commissioner of Indian Affairs, employ and appoint Indians as Indian Police whose qualifications shall be as follows:

(a) A candidate must be in sound physical condition and of sufficient size and strength to perform the duties required.

(b) He must be possessed of courage, self-reliance, intelligence, and a high sense of loyalty and duty.

(c) He must never have been convicted of a felony, nor have been convicted of any misdemeanor for a period of one year prior to appointment.

The duties of an Indian Policeman shall be:

(a) To obey promptly all orders of the Police Commissioner or the Court of Indian Offenses when assigned to that duty.

(b) To lend assistance to brother officers.

(c) To report and investigate all violations of any law or regulation coming to his notice or reported for attention.

(d) To arrest all persons observed violating the laws and regulations for which he is held responsible.

(e) To inform himself as to the laws and regulations applicable to the jurisdiction where employed and as to the laws of arrest.

(f) To prevent violations of the law and regulations.

(g) To report to his superior officers all accidents, births, deaths or other events or impending events of importance.

(h) To abstain from the use of intoxicants, or narcotics and to refrain from engaging in any act which would reflect discredit upon the police department.

(i) To refrain from the use of profane, insolent or vulgar language.

(j) To use no unnecessary force or violence in making an arrest, search, or seizure.

(k) To keep all equipment furnished by the Government in reasonable repair and order.

(l) To report the loss of any and all property issued by the Government in connection with official duties.

SEC. 5. *Dismissal.*—The Superintendent of any Indian reservation may remove any Indian Policeman for any noncompliance with the duties and requirements as set out in Sec. 4 of these regulations or for neglect of duty.

SEC. 6. *Return of Equipment.*—Upon the resignation, death or discharge of any member of the Indian Police all articles or property issued him in connection with his official duties must be returned to the Superintendent or his representative.

[F. R. Doc. 38-1394; Filed, May 16, 1938; 2:31 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

PROCLAMATION WITH RESPECT TO BASE PERIOD TO BE USED FOR PURPOSE OF A MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF CANTALOUPES, HONEYBALL AND HONEYDEW MELONS GROWN IN IMPERIAL COUNTY, CALIFORNIA, AND YUMA COUNTY, ARIZONA

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, it is hereby found and proclaimed that, with respect to cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, the purchasing power of such cantaloupes, honeyball and honeydew melons during the base period, August 1909–July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, but the purchasing power of such cantaloupes, honeyball and honeydew melons can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war period, August 1919–July 1929.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set

his hand and caused the seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 17th day of May, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1404; Filed, May 17, 1938; 12:48 p. m.]

ORDER REGULATING HANDLING IN INTERSTATE AND FOREIGN COMMERCE AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE OF CANTALOUPES, HONEYBALL AND HONEYDEW MELONS GROWN IN IMPERIAL COUNTY, CALIFORNIA, AND YUMA COUNTY, ARIZONA

Whereas, it is provided in Public No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937[1] (hereinafter called the act), as follows:

SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for cantaloupes, grown in Imperial County, California, and Yuma County, Arizona, as would establish prices to growers at a level that will give such cantaloupes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such cantaloupes in the base period, did, pursuant to the provisions of the act and regulations thereunder, on the fourteenth day of April, 1938, give notice of a hearing to be held in El Centro, California, on April 22, 1938, on a proposed order regulating the handling of cantaloupes grown in Imperial County, California, and Yuma County, Arizona, and did, upon said date and at said place, conduct a public hearing thereon, and did give opportunity to all interested parties to be heard concerning the said proposed order; and

Whereas, the Secretary has found and proclaimed that the purchasing power of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, during the period August, 1909–July, 1914, cannot be satisfactorily determined from the available statistics of the Department of Agriculture, but that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture for the period August, 1919–July, 1929, and the period August, 1919–July, 1929, is the base period to be used in connection with this order in determining the purchasing power of such commodity; and

Whereas, the Secretary further finds upon the basis of the evidence introduced at the hearing and the record thereof:

(1) That at the time of the hearing the prices received by the growers of such cantaloupes, honeyball and honeydew melons were at a level that gave such melons a purchasing power with respect to articles that such growers buy appreciably below the purchasing power of such melons during the base period;

(2) That, in the past, lack of regulation of shipments of cantaloupes, honeyball and honeydew melons produced in Imperial County, California, and Yuma County, Arizona, was an important factor contributing to unstable marketing conditions for said melons and consequently depressed prices to growers;

(3) That the regulation of shipments by sizes of the melons covered by this order, as prescribed herein, will serve to prevent fluctuations of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stable market for said melons, tending to restore prices to growers of said melons to a level that will have a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of said melons in said base period;

(4) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act; and

(5) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to melons grown in the said area by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give such melons a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such melons in the base period and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary of Agriculture further finds:

(1) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of melons shipped, as provided in this order, is fair and equitable;

(2) That the marketing agreement regulating the handling of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, executed by him on May 17, 1938, and upon which a public hearing was held on April 22, 1938, was signed by handlers who handled more than fifty percent of such commodity produced during the period August 1, 1936–July 31, 1937; and

(3) That this order regulates the handling of said melons in the same manner as the said marketing agreement does, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement; and

Whereas, the Secretary of Agriculture finds and determines that the issuance of this order is favored by producers, who, during the marketing season of 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such order;

Now, therefore, it is ordered by the Secretary of Agriculture, acting under the authority vested in him as aforesaid, that the handling of cantaloupes, honeyball and honeydew melons grown in Imperial County, California, and Yuma County, Arizona, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce in such melons, from and after the date herein specified shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. *Definitions.*—As used in this order the following terms shall have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States of America.

2. "Act" means Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended.

[1] Public No. 137, 75th Congress.

3. "Person" means individual, partnership, corporation, association, or any other business unit.

4. "Cantaloupe" means any and all varieties and strains of the netted gem type of muskmelon grown in Imperial County, California, and permitted to be shipped in fresh form under the provisions of section 811, division 5, chapter 2 of the Agricultural Code of the State of California, and all cantaloupes of the same type mentioned above grown in Yuma County, State of Arizona, when permitted to be shipped in fresh form under the standardization laws of the State of Arizona. This does not include the honeydew or honeyball type, or the winter melon or Casaba type.

5. "Honeyball" means small or medium sized, smooth white skinned melons of either the pink meated or green meated variety with little or no net on the surface, known in the trade as "honeyballs", and under the varieties of green meated, Globo de Oro, Melo-Gold, or any other variety grown in Imperial County, California, and permitted to be shipped in fresh form under the provisions of section 815, division 5, chapter 2 of the Agricultural Code of the State of California, and all honeyballs of the same varieties mentioned above or any other variety grown in Yuma County, Arizona, when permitted to be shipped in fresh form under the standardization laws of the State of Arizona. This does not include cantaloupes, the honeydew, or the winter melon or Casaba type.

6. "Honeydew" means the large white skinned, smooth, unnetted melons, known in the trade as "honeydews", grown in Imperial County, California, and permitted to be shipped in fresh form under the provisions of section 815, division 5, chapter 2 of the Agricultural Code of the State of California, and all honeydews of the same varieties grown in Yuma County, Arizona, when permitted to be shipped in fresh form under the standardization laws of the State of Arizona. This does not include cantaloupes, the honeyball, or the winter melon or Casaba type.

7. "Melons" means any of the cantaloupes, honeyballs, or honeydew melons defined above.

8. "Grower" or "producer" means any individual, each member of a partnership, any corporation, or association or any other business unit engaged in growing cantaloupes, honeyball or honeydew melons (as defined in this order) in the County of Imperial, State of California, or in the County of Yuma, State of Arizona, who or which has a financial interest in such melons.

9. "To ship" means to convey in, or handle for shipment in, to ship in, or to cause to be conveyed or handled for shipment in, or in any other way to put melons in, the channels of trade by conveying or causing cantaloupes, honeyball or honeydew melons, to be conveyed by railroad, truck, boat or any other means whatsoever (except as a common carrier of such melons owned by another person) in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce.

10. "Handler" means any person who ships, or is engaged in shipping, marketing, consigning, or dealing in cantaloupes, honeyball or honeydew melons, either in person or as or through any agent, broker, representative or otherwise, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

11. "Shipment" shall be deemed to take place when melons are loaded into a car or other conveyance for transportation in the current of interstate or foreign commerce.

12. "Crates" and "Flats" shall be known as and shall be of the following inside dimensions:

(a) "Jumbo Cantaloupe or Honeyball Crate" is a crate having inside dimensions of 13" x 13" x 22⅛".

(b) "Standard Cantaloupe or Honeyball Crate" is a crate having inside dimensions of 12" x 12" x 22⅛".

(c) "Pony Cantaloupe or Honeyball Crate" is a crate having inside dimensions of 11" x 11" x 22⅛".

(d) "Standard Cantaloupe or Honeyball Flat" is a crate having inside dimensions of 4½" x 13½" x 22⅛".

(e) "Jumbo Cantaloupe or Honeyball Flat" is a crate having inside dimensions of 5" x 14" x 22⅛".

(f) "Jumbo Honeydew Crate" is a crate having inside dimensions of 7¾" x 16" x 22⅛".

(g) "Standard Honeydew Crate" is a crate having inside dimensions of 6¾" x 16" x 22⅛".

(h) "Pony Honeydew Crate" is a crate having inside dimensions of 5¾" x 14½" x 22⅛".

Upon the recommendation of the Control Committee the Secretary may authorize "Crates" and "Flats" of dimensions other than those specified above.

There shall be a tolerance allowed of one-fourth inch over or under any inside dimension hereinabove specified except that a maximum tolerance of one-eighth inch shall be allowed for the height of cantaloupe and honeyball flats.

13. "Sizes" of cantaloupes or honeyballs shall be defined as follows:

(a) "Jumbo 45s" means cantaloupes or honeyballs of such a size that 45 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Crate.

(b) "Jumbo 36s" means cantaloupes or honeyballs of such a size that 36 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Crate.

(c) "Jumbo 27s" means cantaloupes or honeyballs of such a size that 27 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Crate.

(d) "Standard 45s" means cantaloupes or honeyballs of such a size that 45 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Crate.

(e) "Standard 36s" means cantaloupes or honeyballs of such a size that 36 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Crate.

(f) "Pony 45s" means cantaloupes or honeyballs of such a size that 45 approximately uniform specimens will make a tight bulge pack in a Pony Cantaloupe or Honeyball Crate.

(g) "Pony 54s" means cantaloupes or honeyballs of such a size that 54 approximately uniform specimens will make a tight bulge pack in a Pony Cantaloupe or Honeyball Crate.

(h) "Standard 11s" means cantaloupes or honeyballs of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Flat.

(i) "Standard 12s" means cantaloupes or honeyballs of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Flat.

(j) "Standard 15s" means cantaloupes or honeyballs of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Standard Cantaloupe or Honeyball Flat.

(k) "Jumbo 9s" means cantaloupes or honeyballs of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(l) "Jumbo 11s" means cantaloupes or honeyballs of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(m) "Jumbo 12s" means cantaloupes or honeyballs of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(n) "Jumbo 15s" means cantaloupes or honeyballs of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Jumbo Cantaloupe or Honeyball Flat.

(o) "Regular cantaloupe and honeyball sizes" means cantaloupes or honeyballs of approximately uniform sizes

which will pack in the crates enumerated in paragraph 12 (a) to (e), inclusive, and according to the sizes enumerated in paragraph 13 of this article.

(p) "Irregular cantaloupe and honeyball sizes" means cantaloupes or honeyballs of a size smaller than Pony 54s or larger than Jumbo 9s.

Upon the recommendation of the Control Committee the Secretary may authorize additional sizes other than those specified above.

14. "Sizes" of honeydews shall be defined as follows:

(a) "Jumbo 6s" means honeydews of such a size that 6 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(b) "Jumbo 8s" means honeydews of such a size that 8 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(c) "Jumbo 9s" means honeydews of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(d) "Jumbo 11s" means honeydews of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(e) "Jumbo 12s" means honeydews of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Jumbo Honeydew Crate.

(f) "Standard 6s" means honeydews of such a size that 6 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(g) "Standard 8s" means honeydews of such a size that 8 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(h) "Standard 9s" means honeydews of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(i) "Standard 11s" means honeydews of such a size that 11 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(j) "Standard 12s" means honeydews of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(k) "Standard 15s" means honeydews of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Standard Honeydew Crate.

(l) "Pony 9s" means honeydews of such a size that 9 approximately uniform specimens will make a tight bulge pack in a Pony Honeydew Crate.

(m) "Pony 12s" means honeydews of such a size that 12 approximately uniform specimens will make a tight bulge pack in a Pony Honeydew Crate.

(n) "Pony 15s" means honeydews of such a size that 15 approximately uniform specimens will make a tight bulge pack in a Pony Honeydew Crate.

(o) "Regular honeydew sizes" means honeydews of approximately uniform sizes which will pack in the crates enumerated in paragraph 12, (f) to (h), inclusive, and according to the sizes enumerated in paragraph 14 of this article.

(p) "Irregular honeydew sizes" means honeydews of a size that are smaller than Pony 15s and larger than Jumbo 6s.

Upon the recommendation of the Control Committee the Secretary may authorize additional sizes other than those specified above.

ARTICLE II—CONTROL COMMITTEE

SECTION 1. *Membership and organization.*—1. A Control Committee is hereby established consisting of nine members, of which four members shall be from the Brawley district, four members from the El Centro district, and one member from the Yuma district, all of whom shall be growers and handlers of cantaloupes, honeyball or honeydew melons produced in the districts which they represent. There is also established one alternate for each member of the Committee who shall serve on the Committee in the absence of the regular member. The persons composing the said Control Committee, their addresses, their alternates and their addresses, and the districts which the members and alternates represent are as follows:

Committee member—name and address	Alternate member—name and address	District represented
Charles Ward, Brawley, California.	F. Mallory, Brawley, California.	Brawley, California.
William Bailey, Brawley, California.	Earl Jack, Brawley, California.	
A. T. Arena, Brawley, California.	Robert Wilson, Brawley, California.	
Lou Housman, Brawley, California.	C. Cummings, Brawley, California.	
Fred R. Bright, El Centro, California.	Jerry Asher, El Centro, California.	El Centro, California.
M. C. Wahl, El Centro, California.	Floyd Smith, El Centro, California.	
Alex Engleman, El Centro, California.	M. O. Best, El Centro, California.	
H. K. Barker, El Centro, California.	Walter Farley, Calexico, California.	
E. M. McDaniel, Yuma, Arizona.	William Allen, Yuma, Arizona.	Yuma, Arizona.

2. The term of the office of each member and each alternate of the Control Committee shall begin at the time that this order becomes effective and shall terminate on the date of the termination hereof.

3. In case of any vacancies occasioned by the death, resignation or removal of any member of the Control Committee or any alternate thereof, the Secretary shall designate a person to fill such vacancy. The Control Committee may nominate a person or persons to be considered by the Secretary in filling such vacancy. A vacancy occurring among the members representing any district shall be filled by a new member who is a grower and handler of cantaloupes, honeyball or honeydew melons produced in the same district.

(a) The Brawley district shall be that portion of Imperial County, California, consisting of the town of Brawley, and those districts adjacent thereto where cantaloupes, honeyball or honeydew melons are produced, which are closer to the town of Brawley by the public highways than to the town of El Centro.

(b) The El Centro district shall be that portion of Imperial County, California, consisting of the town of El Centro and those districts adjacent thereto where cantaloupes, honeyball or honeydew melons are produced, and which are closer to the town of El Centro by the public highways than to the town of Brawley.

(c) The Yuma district shall consist of the County of Yuma, State of Arizona.

4. Five members, or their alternates in the absence of a member, of the Control Committee shall be necessary to constitute a quorum, and the affirmative vote of not less than five members, or the alternates during the absence of the members, of the Control Committee shall be required for any act to constitute an act of the Control Committee.

5. The members of the Control Committee and their alternates shall serve without compensation but shall be entitled to expenses necessarily incurred by them in the performance of their duties.

SEC. 2. *Organization.*—1. The Control Committee shall not perform any of its duties or exercise any of the powers herein granted, while there are more than three vacancies in its membership.

2. The Control Committee shall give the Secretary or his designated agents and representatives the same notice of meetings as is given to the members of the Committee.

SEC. 3. *Inability of members to serve.*—An alternate for a member of the Confrol Committee, elected pursuant to the provisions of this order, shall act in the place and stead of any member, until a successor for the unexpired term of such member has been selected, in the event of such member's (a) absence, (b) removal, (c) resignation, (d) disqualification, or (e) death.

SEC. 4. *Powers of Control Committee.*—The Control Committee shall have the following powers:

1. To administer, as hereinafter specifically provided, the terms and provisions of this order.

2. To make administrative rules and regulations in accordance with, and to effectuate the terms and provisions of this order.

3. To receive, investigate and report to the Secretary complaints of violations of this order.

4. To recommend to the Secretary amendments to this order.

SEC. 5. *Duties of Control Committee.*—The Control Committee shall have the following duties:

1. To act as intermediary between the Secretary and any grower and shipper.

2. To keep minute books and records which will clearly reflect all of the acts and transactions of the Control Committee; and which minute books shall be subject at any time to examination by the Secretary or by any such person as may be designated by the Secretary.

3. To investigate, from time to time, and assemble data on the growing, shipping and marketing of cantaloupes, honeyball or honeydew melons grown in the States of California and Arizona, and to furnish the Secretary such information as may be requested.

4. To elect such officers and select such employees as it may deem necessary, and to determine the salaries and define the duties of any and all such employees.

5. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, approved on August 24, 1935, as amended.

6. To submit to the Secretary, for his approval, a budget of its expenses.

7. To defend all legal proceedings against any Committee members (individually or as members) or any officers or employees of said Committee, arising out of any act or omission made in good faith pursuant to the provisions of this order.

8. To cause the books of the Control Committee to be audited by one or more competent accountants at the termination hereof. Such audit shall indicate whether the funds have been received and expended in accordance with the provisions of this order.

SEC. 6. *Removal and disapproval.*—The members of the Control Committee, including successors and alternates and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension at any time by the Secretary. Each and every regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 7. *Funds.*—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal or expiration of the term of office of any member of the Control Committee or of any employee of the Control Committee, all books, records, funds and other property in his possession shall be delivered to the Control Committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee or vest in the successor of such member or employee full title to all books, records, funds and other property in the possession of or under the control of such member or employee pursuant to this order.

3. The Control Committee may maintain, with the approval of the Secretary, in its own name, or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses pursuant to this order.

ARTICLE III—REGULATION OF SHIPMENTS BY SIZE

SECTION 1. *Recommendation of the Control Committee.*—1. It shall be the duty of the Control Committee to investigate supply and demand conditions with respect to cantaloupes, honeyball and honeydew melons. Whenever such conditions make it advisable to regulate the shipment of cantaloupes, honeyball or honeydew melons by means of a regulation period, during which time the shipment of any size of cantaloupes, honeyball or honeydew melons shall be limited or restricted, pursuant to the provisions of this article, the Control Committee shall so recommend to the Secretary; provided, however, that:

2. No recommendation for limitation of shipment as to size of cantaloupes shall be made by the Control Committee unless and until the total daily rail and truck shipments of all cantaloupes by all handlers for any one day, as determined by the Control Committee, shall equal 150 cars or more from Imperial County, California, and Yuma County, Arizona, in which event, and at that time, the Control Committee shall forthwith recommend to the Secretary that no further shipments of Pony 45s, Pony 54s, and Irregular sizes shall be made during the regulation period or periods.

3. No other recommendation for limitation of shipments of cantaloupes as to size, shall be made by the Control Committee unless and until;

(a) The total daily shipment of all cantaloupes of all handlers, for any one day, as determined by the Control Committee, shall equal 250 cars from Imperial County, California, and Yuma County, Arizona, or

(b) The average price for cantaloupes for any given day, as determined by the Control Committee, shall be $1.25 or less per Standard 45 crate or Jumbo 36 crate, f. o. b. Imperial County or Yuma County shipping points.

Upon the occurrence of either event, the Control Committee shall recommend to the Secretary the further regulation of sizes of cantaloupes as provided in section 1 of this article.

(c) In making recommendations for the regulation of shipments by sizes of cantaloupes, the Control Committee shall recommend the regulation of the following groups of sizes in the following order, but that no regulation of Standard 45, Jumbo 45 and Jumbo 15 sizes shall be recommended until all other sizes have been regulated. This provision shall not restrict the recommendation by the Control Committee, from time to time, of the regulation of any size or sizes not specifically mentioned herein.

(1) Pony Sizes and Irregular Sizes (as provided in paragraph 2, section 1 of this article).
(2) Standard 36s.
(3) Jumbo 27s, 11s and 9s.
(4) Standard 15s, 12s and 11s.
(5) Jumbo 36s and 12s.
(6) Other sizes as recommended by the Control Committee.

4. No recommendation for limitation of shipment as to size of honeyball melons of any variety shall be made by the Control Committee, unless and until the average price of any variety of honeyball melons for any given day, as determined by the Control Committee, shall be $1.25 or less per Standard 45 crate or Jumbo 36 crate, f. o. b. Imperial County or Yuma County shipping points, in which event and at that time, and as to the variety or varieties reaching such price, the Control Committee shall forthwith recommend to the Secretary the separate regulation, by varieties, of the sizes of such melons, as provided in section 1 of this article.

(a) Upon the beginning of limitation of shipments of any specified variety as above provided, the Control Committee shall forthwith recommend to the Secretary that no further shipments of Pony 45s, Pony 54s, and Irregular sizes of such variety shall be made during the remainder of the regulation period or periods.

(b) Thereafter in making recommendations for the regulation of shipments of specified varieties by sizes of honeyballs, the Control Committee shall recommend the regulation of the following groups of sizes in the following order, but that no regulation of Standard 45, Jumbo 45 and Jumbo 15 sizes shall be recommended until all other sizes have been regulated. This provision shall not restrict the recommendation by the Control Committee, from time to time, of the regulation of any size or sizes not specifically mentioned herein.

(1) Pony Sizes and Irregular Sizes (as provided in paragraph 4 (a) of this article).
(2) Standard 36s.
(3) Jumbo 27s, and 9s.
(4) Standard 15s, 12s, and 11s.
(5) Jumbo 36s, 12s, and 11s.
(6) Other sizes as recommended by the Control Committee.

5. No recommendation for limitation of shipment as to size of honeydew melons shall be made by the Control Committee unless and until the average price of honeydew melons for any given day, as determined by the Control Committee, shall be $0.65 or less for any Jumbo or Standard honeydew crate f. o. b. Imperial County or Yuma County shipping points, in which event and at that time, the Control Committee shall forthwith recommend to the Secretary regulation of the sizes of such melons as provided in section 1 of this article.

(a) In making recommendations for the regulation of shipments by sizes of honeydew melons, the Control Committee shall recommend the regulation of the following groups of sizes in the following order. This provision shall not restrict the recommendation by the Control Committee, from time to time, of the regulation of any size or sizes not specifically mentioned herein.

(1) Pony Sizes and Irregular sizes.
(2) Jumbo 6s, and Standard 6s.
(3) Other sizes as recommended by the Control Committee.

6. Cantaloupes, honeydews and the various varieties of honeyball melons shall be regulated separately as herein provided, upon the facts relating to each without reference to whether regulation is being had or the extent of regulation of the other types of melons.

7. Upon the recommendation of the Control Committee, the shipment of one size of cantaloupes, honeydews or the various varieties of honeyballs may be entirely eliminated or prohibited before any control is begun on any other size to be regulated.

8. The Control Committee shall determine and recommend to the Secretary the length of the regulation period for which each recommendation made by it is to apply, which period shall not be shorter than twenty-four (24) hours, or longer than seven (7) days and the Control Committee may recommend to the Secretary that the amount of such regulated sizes which may be shipped daily during any period shall not be greater than a stated maximum percentage of each handler's total daily shipments, and, if the period be longer than twenty-four (24) hours, may also recommend that the Secretary fix the range below the maximum percentage established by the Secretary within which the Control Committee may, from time to time, during said period fix the amount of regulated sizes of each handler's total daily shipment which may be shipped. In such case the determination of the Control Committee shall be subject to such modification or revision by the Secretary as he may deem proper.

9. In the event a recommendation is made to the Secretary, the Control Committee shall furnish to the Secretary the information and facts upon which such recommendation is made, including, but not being limited to, information with respect to the factors affecting the supply of and demand for sizes of cantaloupes, honeyballs by varieties, or honeydew melons; and the Control Committee shall furnish the Secretary such other additional information as may be requested.

SEC. 2. *Regulation of shipments.*—1. Based upon the recommendations and information submitted by the Control Committee pursuant to the provisions of section 1 of this article, or based upon other information, the Secretary, if he determines that such regulation of the flow of shipments of cantaloupes, honeyball or honeydew melons, in the current of interstate or foreign commerce during such regulation period will tend to effectuate the declared policies of the Act, may establish a regulation period, including the time of commencement and termination thereof, during which time a limitation is placed upon the total shipments of any size or sizes of cantaloupes, honeyball or honeydew melons, which may be shipped during any such period.

2. Such regulation of shipments by sizes of cantaloupes, honeyball or honeydew melons may be accomplished by (a) prohibiting the shipment of certain sizes during said period, or (b) by prohibiting the shipment of a part of any size. When the Secretary has determined to regulate shipments as provided in this article, he shall immediately notify the Control Committee of such determination; and the Control Committee shall immediately notify growers and handlers of such determination by giving notice in such manner as the Control Committee shall deem adequate under the circumstances.

3. No handler shall ship any cantaloupes, or honeyball or honeydew melons, in violation of the regulations of shipments established pursuant to the provisions of this order.

SEC. 3. *Exemptions.*—1. In the event of a regulation period established pursuant to this order, the Control Committee shall determine the percentage which the sizes of cantaloupes, honeyball or honeydew melons, permitted to be shipped bears to the total crop of such melons which could be shipped in the absence of regulation. The Control Committee shall announce forthwith this percentage and the procedure by which exemption certificates may be issued to growers or handlers pursuant to this section.

2. If any grower or handler shall present proof to the Control Committee that the regulation of shipments by sizes as aforesaid will allow him to ship during the specified period a percentage of his cantaloupes, honeyball or honeydew melons less than the percentage found in accordance with paragraph 1 in this section, such Control Committee shall issue to him an exemption certificate allowing the shipment of such quantity of the limited sizes as will make the percentage of his crop that may be shipped equal to the percentage found in accordance with paragraph 1 of this section: *Provided, however,* The Secretary shall have the power to authorize, disapprove or cancel the issuance of exemption certificates, and the Secretary may otherwise modify any action of the Control Committee pursuant to the provisions of this section. Any decision made by the Secretary, pursuant to the provisions of this section, shall be final and conclusive.

SEC. 4. *Checking shipments.*—1. The Control Committee shall provide a means for checking all shipments of cantaloupes, honeyball, or honeydew melons, in interstate or foreign commerce in order to establish compliance or lack of compliance with the regulation of sizes herein provided for. This checking may be performed in such manner and to such extent as shall be determined by the Control Committee: *Provided, however,* That whenever there appears to be indications of violations of the regulations issued by the Secretary on the part of any handler, the Control Committee shall obtain Federal-State or other shipping point or terminal market inspection certificates containing a record of the sizes of cantaloupes, honeyball or honeydew melons in each car, for such handler.

2. Each handler shall, by 12 o'clock noon of the day following any shipment of cantaloupes, honeyball or honeydew melons, in interstate or foreign commerce, during the life of this order furnish to the Control Committee, a true and correct manifest by sizes and crates of cantaloupes, honeyball or honeydew melons, of each carload if shipped by rail, or a true and correct report of the sizes of cantaloupes, honeyball or honeydew melons of each load if shipped by truck. Such copies of such manifests of rail shipments and the report of truck shipments shall be sent daily to the office of the Control Committee including a true and correct statement showing all cars loaded for shipment, specifying cash sale prices and listing all unsold and rolling cars.

ARTICLE IV—EXEMPTIONS

SECTION 1. *Shipments for charity or for by-products.*—Nothing contained in this order shall be construed to authorize a limitation of the right to ship cantaloupes, honeyball or honeydew melons for canning, freezing, conversion into by-products, or for charitable or unemployment relief purposes.

SEC. 2. *Export shipments.*—Cantaloupes, honeyball or honeydew melons exported to foreign countries, not including Canada and Mexico, shall not be subject to regulation, pursuant to the provisions of article III hereof.

ARTICLE V—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the Control Committee under this order. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses which the Secretary finds will be necessarily incurred by the Control Committee in the carrying out of its duties hereunder. Each handler's pro rata share of such expenses, as aforesaid, shall be that proportion thereof which the total quantity of cantaloupes, honeyball or honeydew melons shipped by such handler, during the term of this order, in the current of interstate or foreign commerce, is of the total quantity of such cantaloupes, honeyball or honeydew melons shipped by all handlers in the current of interstate or foreign commerce during the same time. Said assessment may be adjusted from time to time by the Control Committee with the approval of the Secretary in order to cover any later findings by the Secretary of estimated expenses or the actual expenses of the Control Committee during the term of this order. The assessment of each handler shall be due and payable at such time and in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

3. Every handler shall pay, in the manner and at the time provided in paragraph 2 of this section, $2.00 for each straight carload of cantaloupes, honeyball or honeydew melons, and $2.00 for each 20,000 pounds of such melons shipped in mixed cars or by truck, shipped by such handler during the term hereof; *Provided, however,* That if the Secretary shall find at any time during the term of this order, that the rate of assessment fixed by this paragraph will result in the collection of a sum greater or smaller than the expense that will necessarily be incurred by the Control Committee, he shall increase or decrease such rate of assessment for the balance of the term so that the funds received from the collection of such assessment will more nearly equal such expenses.

4. At the termination of this order the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler above such handler's pro rata share of the expenses or debit such handler with the difference between its pro rata share and the amount paid by such handler. Any such debits shall become due and payable upon the demand of the Control Committee.

5. From funds acquired pursuant to this article, the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

ARTICLE VI—REPORTS

SECTION 1. *Information to Secretary.*—Each handler shall furnish, from time to time, upon request from the Secretary, such information as may be necessary to enable the Secretary to ascertain and determine the extent to which this order has been carried out and the purposes of this order have been effectuated, and, also, such other information as may be necessary to determine whether or not there has been abuse of the privilege of exemption from the Antitrust laws. Such information shall be furnished in accordance with such forms as may be prescribed by the Secretary.

SEC. 2. *Reports.*—1. Upon the request of the Control Committee each handler shall furnish to the Control Committee in such manner and at such times as it may prescribe such information as will enable it to perform its powers and duties under this order.

2. The Control Committee shall not reveal any information or reports to persons other than the Secretary. If any confidential employee discloses information or reports except as aforesaid, he shall be subject to immediate removal by the Secretary.

ARTICLE VII—LIABILITY TO COMMITTEE MEMBERS

SECTION 1. *Liability.*—No member of the Control Committee or any employee of the Control Committee shall be held responsible individually, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employees, except for acts of dishonesty. The liabilities of the handlers hereunder are several and not joint and no handler shall be liable for the default of any other handler.

ARTICLE VIII—SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this order and the applicability thereof to any other person, circumstance or thing, shall not be affected thereby.

ARTICLE IX—DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the Act or otherwise, or (2) in accordance with such powers to act in the premises whenever such action is deemed advisable.

ARTICLE X—AMENDMENTS

SECTION 1. *Proposals.*—Amendments to this order may, from time to time, be proposed by any party subject hereto or by the Control Committee.

ARTICLE XI—DURATION OF IMMUNITIES

SECTION 1. *Duration of immunities.*—The benefits, privileges and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order, and benefits, privileges and immunities conferred by this order upon any party subject hereto shall cease, upon its termination, as to such party except with respect to acts done under and during the existence of this order.

ARTICLE XII—AGENTS

SECTION 1. *Agents.*—The Secretary may by a designation in writing name any person, including any officer or employee of the Government, or any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE XIII—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall, unless terminated as hereinafter provided, continue in force until midnight of July 31, 1938.

SEC. 2. *Termination.*—1. The Secretary may at any time suspend this order or any provision thereof.

2. The Secretary may at any time terminate this order.

3. The Secretary shall terminate this order whenever he finds that such termination is favored by a majority of the growers of such cantaloupes, honeyball and honeydew melons,

who, during the present season, have been engaged in the production of such cantaloupes, honeyball and honeydew melons, in the area covered by this order: *Provided, however,* That such majority have, during such period produced more than fifty (50) percent of the volume of such cantaloupes, honeyball and honeydew melons produced within the area.

4. This order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

SEC. 3. *Proceedings after termination.*—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall, from time to time, account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct; and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds and claims vested in the Control Committee or the joint trustees pursuant to this order; and (d) shall refund to each contributing handler the excess of the amount paid by such handler above his pro rata share of expenses, or debit each handler with the difference between his pro rata share and the amount paid by any handler, if such amount is less than his pro rata share. Any such debit shall become due and payable upon the demand of said trustees. Nothing stated herein shall be deemed to preclude the bringing of a suit for assessments levied by the Control Committee at any time prior to the termination of this order.

2. Any person to whom funds, property, or claims have been delivered by the Control Committee or its members upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, do hereby execute in duplicate and issue this order in the city of Washington, District of Columbia, on the 17th day of May 1938, and declare this order to be effective on and after 12:01 a. m., Pacific standard time, May 20, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1405; Filed, May 17, 1938; 12:48 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C. on the 13th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3360]

IN THE MATTER OF ALLIED SPECIALTIES, INC., A CORPORATION, RALPH J. BIERY, WILLIAM G. WHITE, AND ANNE STRINGER, INDIVIDUALLY, AND AS PRESIDENT, VICE-PRESIDENT AND SECRETARY-TREASURER, RESPECTIVELY OF SAID CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, May 31, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 233, Law Library, Federal Building, Indianapolis, Indiana.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1396; Filed, May 17, 1938; 9:55 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT OF RULE MD1

Annual Reports of Registrants

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, acting pursuant to authority conferred upon it by the Securities Exchange Act of 1934 as amended, particularly Sections 15 (d) and 23 (a) thereof, hereby amends Rule MD1 by deleting the phrase "*Provided, however,* That the annual report covering any period ending prior to December 31, 1936, need not be filed prior to April 30, 1937" immediately preceding the period at the end of the first sentence, and inserting in lieu thereof the following phrase:

"*Provided, however,* That the duty to file annual reports pursuant to this rule shall be automatically suspended if and so long as an issuer by reason of the listing of any of its securities on an exchange exempted from registration as a national securities exchange, is required to file information, documents and reports substantially equivalent to such as would be required under Section 13 if securities of such issuer were listed and registered on a national securities exchange."

Rule MD1 as so amended reads as follows:

"RULE MD1. *Annual reports of registrants under Securities Act of 1933.*—Each issuer having securities registered under the Securities Act of 1933 and having a duty to file supplementary and periodic information, documents, and reports pursuant to Section 15 (d) of the Securities Exchange Act of 1934 shall file an annual report, on the appropriate form prescribed therefor, not more than 120 days after the close of each fiscal year ending after the close of the last full fiscal year for which financial statements of such issuer were filed in the registration statement, or at such other time as shall be prescribed in the instruction book applicable to the particular form; provided, however, that the duty to file annual reports pursuant to this rule shall be automatically suspended if and so long as an issuer, by reason of the listing of any of its securities on an exchange exempted from registration as a national securities exchange, is required to file information, documents and reports substantially equivalent to such as would be required under Section 13 if securities of such issuer were listed and registered on a national securities exchange. In case the registrant finds it impracticable to file the report at such prescribed time, it may file with the Commission an application for an extension of time to a specified date within 60 days after the prescribed time. Such application shall state the grounds of impracticability and shall contain an agreement to file the report on or before such specified date. The application shall be deemed granted unless the Commission within ten days after receipt thereof shall enter an order denying the application as being unreasonable and unnecessary under the circumstances."

The foregoing action of the Commission shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1401; Filed, May 17, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of May 1938.

[File No. 7-117]

IN THE MATTER OF TWENTIETH CENTURY-FOX FILM CORPORATION COMMON STOCK, NO PAR VALUE

ORDER GRANTING REQUEST TO WITHDRAW APPLICATION

The Los Angeles Stock Exchange having made application to the Commission pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, for extension of unlisted trading privileges to the Common Stock, No Par Value, of Twentieth Century-Fox Film Corporation; and

The Los Angeles Stock Exchange having requested permission to withdraw said application;

It is ordered, That said request be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1402; Filed, May 17, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 16th day of May 1938.

[File No. 1-132]

IN THE MATTER OF NEW YORK DOCK COMPANY 5% SERIAL GOLD NOTES, SERIES DUE 1938 (DUE APRIL 1, 1938)

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the 5% Serial Gold Notes, Series due 1938 (due April 1, 1938), of New York Dock Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 o'clock A. M., on June 7, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1403; Filed, May 17, 1938; 12:38 p. m.]

Thursday, May 19, 1938 *No. 98*

WAR DEPARTMENT.

REGULATIONS GOVERNING THE USE, ADMINISTRATION, AND NAVIGATION OF SANDUSKY HARBOR, OHIO.

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

[*Here follows, in the original document, an excerpt from Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266), which may be found at 3 F. R. 933.*]

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are hereby prescribed to govern the use, administration and navigation of Sandusky Harbor, Ohio.

1. No vessel shall exceed a speed of 10 miles per hour in Sandusky Harbor.

2. No vessel shall cross the edges of the channel without reducing its speed sufficiently to avoid displacement of said edges. Vessels crossing said channel shall keep out of the way of vessels navigating the channel.

3. No vessel shall while moored or at anchor, or by slow passage or otherwise while underway, unreasonably obstruct the free passage and progress of other vessels.

4. No vessel shall moor or anchor to any structure of the United States without the consent of the District Engineer, U. S. Army, in charge of the locality, or his authorized agent.

5. No vessel shall moor or anchor in or along any improved channel or basin in such manner as to interfere with improvement or maintenance operations therein. Whenever in the opinion of the District Engineer any vessel is so moored or anchored, the owner thereof shall cause said vessel to be moved upon notification from and within the time specified by said District Engineer.

6. These regulations shall take effect and be in force on and after the date of approval hereof and shall supersede the regulations prescribed January 6, 1899 (E. D. 28154/1), as amended September 29, 1899 (E. D. 19248/26), and June 10, 1920 (E. D. 13955/3).

Approved, May 6, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1409; Filed, May 18, 1938; 10:05 a. m.]

REGULATIONS TO GOVERN THE USE, ADMINISTRATION AND NAVIGATION OF THE HARBOR AND UNITED STATES BREAKWATER IN THE ST. LAWRENCE RIVER AT CAPE VINCENT, NEW YORK

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

[*Here follows, in the original document, an excerpt from Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266), which may be found at 3 F. R. 933.*]

THE REGULATIONS

In pursuance of the foregoing law the following regulations are prescribed to govern the use, administration and navigation of the harbor and United States breakwater in the St. Lawrence River at Cape Vincent, New York:

Administration

1. The term "harbor" when used in these regulations, applies to all that portion of the St. Lawrence River lying within the following boundaries: Beginning at a point on the harbor face of the breakwater at its easterly end and extending in a straight line along the harbor face of the main part of the breakwater and in extension thereof westerly approximately 2400 feet; thence at right angles to the above-described line southerly to the northeast corner of the "L" dock at the foot of Market Street, approximately 300 feet; thence easterly along the dock face and shore line to a point

in a line at right angles to the breakwater at its easterly end; and thence along this last described right angle line to the point of beginning.

2. The navigation of said harbor and the use of said breakwater shall be under the direction of the District Engineer, Engineer Department at Large, in charge of the locality, or his authorized agent.

Use and Navigation

3. Vessels shall not exceed a speed of 8 miles per hour in the harbor.

4. Vessels shall observe the following rules in mooring to the breakwater: The first self-propelled vessel stopping at the harbor for shelter will proceed to the upstream end of the breakwater and moor along either side of it. All similar vessels entering later will place themselves in a compact position close to those preceding them. Passenger vessels will, in general, have preference as to location of moorage. Sailing craft will so locate themselves that they will not lie in the way of other vessels entering the harbor. All vessels of every description will place themselves so as not to interfere with any work of reconstruction or repair that may be in progress at the time.

5. The use of chains in making fast to the breakwater is prohibited. Lines must be attached to the snubbing posts only, and outboard anchors taken in.

6. Vessels with other craft in tow will, if practicable, at once moor them compactly along the breakwater, either taking in the tow lines or placing the slack in them upon the breakwater in such a manner as not to interfere with other vessels. If necessary to moor alongside of other vessels moored to the breakwater, the tow lines shall be taken in or disposed of in such a manner as not to interfere with the departure of vessels moored between them and the breakwater.

7. Vessels of every description mooring to the breakwater, must place suitable fenders between themselves and the breakwater to protect the timber walings on the breakwater from damage.

8. The unloading of freight of any class upon the breakwater is expressly prohibited, except in accordance with special permission from the said district engineer or his representative.

9. Each and every vessel made fast to the breakwater, or anchored in the harbor without a line made fast to the shore or shore dock, must have at least one experienced person upon it during the entire time said vessel is thus moored in the harbor.

10. These regulations shall take effect and be in force on and after the date of approval hereof and shall supersede the regulations for St. Lawrence River (Harbor), Cape Vincent, N. Y., prescribed April 16, 1929 (E. D. 2516 (Cape Vincent Harbor, N. Y.)—2/8).

Approved, May 6, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1411; Filed, May 18, 1938; 10:05 a. m.]

SPECIAL REGULATIONS TO GOVERN THE OPERATION OF THE HIGHWAY BRIDGE AT FIFTH STREET AND THE SOUTHERN RAILWAY COMPANY BRIDGE AT SIXTH STREET, OVER THE SAVANNAH RIVER AT AUGUSTA, GEORGIA

Supplemental to rules and regulations to govern the operation of drawbridges crossing all navigable waters of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries.

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 892.*]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of the highway bridge at Fifth Street and the Southern Railway Company bridge at Sixth Street, over the Savannah River at Augusta, Georgia.

1. The owners of, or agencies controlling, the bridges will not be required to keep draw tenders in constant attendance at the above-mentioned bridges.

2. Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of, or agency controlling, the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of, or agency controlling, the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owners of, or agencies controlling, the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges in a manner that it can easily be read at any time a copy of these regulations, together with a notice stating exactly how the representatives specified in paragraph 2 may be reached.

5. The operating machinery of the draws shall be maintained in a serviceable condition, and the draws opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof, and shall supersede any provisions heretofore made to govern the operation of the above-named bridges.

Approved, May 6, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1410; Filed, May 18, 1938; 10:05 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 14]

IN THE MATTER OF THE PETITION OF ROCHESTER AND PITTSBURGH COAL COMPANY

NOTICE OF AND ORDER FOR HEARING

The petitioner above named, having on the 14th day of May, 1938, petitioned this Commission to vacate its Ruling dated March 30, 1938, and to revoke its construction therein of Section 10 (a) of the Bituminous Coal Act of 1937 permitting the introduction in evidence at a hearing before the Commission of data with respect to 1936 costs of production of individual producers, NOTICE IS HEREBY GIVEN that the above entitled proceeding is assigned for hearing before the Commission, on May 25, 1938, at 10:00 A. M. at the Hearing Room of the Commission, 734 Fifteenth Street, N. W., Washington, D. C., at which time an opportunity will be afforded interested parties to be heard.

The Secretary of the Commission is, forthwith, directed to mail a copy of this Notice of Hearing to the petitioner above named, to each code member and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER. A copy of the aforesaid petition is on file and available to interested parties for inspection at the Office of the Secretary of the Commission.

By order of the Commission.

Dated this 17th day of May, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-1412; Filed, May 18, 1938; 10:24 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Agricultural Economics.

ORDER DESIGNATING DISTRICTS AND HEADQUARTERS THEREOF FOR THE PURPOSES OF ADMINISTRATION OF THE UNITED STATES GRAIN STANDARDS ACT

MAY 13, 1938.

By virtue of the authority vested in me by Regulation 1, Section 2, paragraphs 14 and 16, of the Regulations of the Secretary of Agriculture under the United States Grain Standards Act promulgated April 2, 1935, effective July 1, 1935, as amended, I hereby designate the portions of the United States defined below as districts for the purposes of the administration of said Act; and further designate as the headquarters of each district the office of Federal Grain Supervision located in the city indicated in the name of each said district. These designations shall be effective on and after June 1, 1938.

[SEAL] C. W. KITCHEN,
Acting Chief of Bureau.

DESIGNATION OF DISTRICTS AND HEADQUARTERS THEREOF FOR THE PURPOSES OF THE UNITED STATES GRAIN STANDARDS ACT

Albany (N. Y.) District

Headquarters—Albany, N. Y.

The counties of Albany and Rensselaer in the State of New York.

Baltimore (Md.) District

Headquarters—Baltimore, Md.

The District of Columbia; the entire States of Maryland, North Carolina, South Carolina and Virginia; and the following counties in the State of West Virginia:

Barbour	Hampshire	Monongalia	Ritchie
Berkeley	Hardy	Monroe	Taylor
Braxton	Harrison	Morgan	Tucker
Doddridge	Jefferson	Pendleton	Tyler
Gilmer	Lewis	Pocahontas	Upshur
Grant	Marion	Preston	Webster
Greenbrier	Mineral	Randolph	Wetzel

Boston (Mass.) District

Headquarters—Boston, Mass.

The entire States of Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; and the following counties in the State of Connecticut:

New London	Tolland	Windham

Buffalo (N. Y.) District

Headquarters—Buffalo, N. Y.

The following counties in the State of New York:

Allegany	Erie	Oneida	Tioga
Broome	Genesee	Onondaga	Tompkins
Cattaraugus	Jefferson	Ontario	Wayne
Cayuga	Lewis	Orleans	Wyoming
Chautauqua	Livingston	Oswego	Yates
Chemung	Madison	Schuyler	
Chenango	Monroe	Seneca	
Cortland	Niagara	Steuben	

The following counties in the State of Pennsylvania:

Bradford	Erie	Potter	Warren
Crawford	McKean	Tioga	

Cairo (Ill.) District

Headquarters—Cairo, Ill.

The following counties in the State of Illinois:

Alexander	Johnson	Pope	Union
Hardin	Massac	Pulaski	

The following counties in the State of Kentucky:

Ballard	Crittenden	Livingston	Union
Caldwell	Fulton	Lyon	
Calloway	Graves	McCracken	
Carlisle	Hickman	Marshall	

The following counties in the State of Missouri:

Butler	Mississippi	Pemiscot	Scott
Dunklin	New Madrid	Ripley	Stoddard

The following counties in the State of Tennessee:

Lake	Obion	Weakley

Cedar Rapids (Iowa) District

Headquarters—Cedar Rapids, Iowa

The following counties in the State of Iowa:

Allamakee	Delaware	Johnson	Ringgold
Appanoose	Des Moines	Jones	Scott
Benton	Dubuque	Keokuk	Story
Black Hawk	Fayette	Kossuth	Tama
Boone	Floyd	Lee	Union
Bremer	Franklin	Linn	Van Buren
Buchanan	Grundy	Louisa	Wapello
Butler	Hamilton	Lucas	Warren
Cedar	Hancock	Madison	Washington
Cerro Gordo	Hardin	Mahaska	Wayne
Chickasaw	Henry	Marion	Webster
Clarke	Howard	Marshall	Winnebago
Clayton	Humboldt	Mitchell	Winneshiek
Clinton	Iowa	Monroe	Worth
Dallas	Jackson	Muscatine	Wright
Davis	Jasper	Polk	
Decatur	Jefferson	Poweshiek	

Chicago (Ill.) District

Headquarters—Chicago, Ill.

The following counties in the State of Illinois:

Boone	Grundy	Kendall	Rock Island
Bureau	Henry	Lake	Stephenson
Carroll	Iroquois	LaSalle	Whiteside
Cook	Jo Daviess	Lee	Will
DeKalb	Kane	McHenry	Winnebago
Du Page	Kankakee	Ogle	

The following counties in the State of Indiana:

Adams	Fulton	Marshall	Starke
Allen	Huntington	Miami	Steuben
Benton	Jasper	Newton	Wabash
Carroll	Kosciusko	Noble	Wells
Cass	LaGrange	Porter	White
De Kalb	Lake	Pulaski	Whitley
Elkhart	LaPorte	St. Joseph	

The following counties in the State of Michigan:

Allegan	Clare	Lake	Oceana
Antrim	Eaton	Leelanau	Osceola
Barry	Emmet	Manistee	Ottawa
Benzie	Grand Traverse	Mason	St. Joseph
Berrien	Ionia	Mecosta	Van Buren
Branch	Isabella	Missaukee	Wexford
Calhoun	Kalamazoo	Montcalm	
Cass	Kalkaska	Muskegon	
Charlevoix	Kent	Newaygo	

Cincinnati (Ohio) District

Headquarters—Cincinnati, Ohio

The following counties in the State of Indiana:

Dearborn	Ohio	Switzerland	Union
Franklin	Ripley		

The following counties in the State of Kentucky:

Bath	Estill	Lawrence	Morgan
Boone	Fleming	Lee	Nicholas
Bourbon	Floyd	Leslie	Pendleton
Boyd	Grant	Letcher	Perry
Bracken	Greenup	Lewis	Pike
Breathitt	Harlan	Magoffin	Powell
Campbell	Harrison	Martin	Robertson
Carter	Johnson	Mason	Rowan
Clark	Kenton	Menifee	Wolfe
Elliott	Knott	Montgomery	

The following counties in the State of Ohio:

Adams	Fairfield	Licking	Pickaway
Athens	Fayette	Logan	Pike
Belmont	Franklin	Madison	Preble
Brown	Gallia	Meigs	Ross
Butler	Greene	Miami	Scioto
Champaign	Guernsey	Monroe	Shelby
Clark	Hamilton	Montgomery	Union
Clermont	Highland	Morgan	Vinton
Clinton	Hocking	Muskingum	Warren
Darke	Jackson	Noble	Washington
Delaware	Lawrence	Perry	

The following counties in the State of West Virginia:

Boone	Kanawha	Mingo	Summers
Cabell	Lincoln	Nicholas	Wayne
Calhoun	Logan	Pleasants	Wirt
Clay	McDowell	Putnam	Wood
Fayette	Mason	Raleigh	Wyoming
Jackson	Mercer	Roane	

Denver (Colo.) District

Headquarters—Denver, Colo.

The entire State of Colorado.

The following counties in the State of New Mexico:

Bernalillo	Mora	San M'guel	Valencia
Colfax	Rio Arriba	Santa Fe	
Harding	Sandoval	Taos	
McKinley	San Juan	Unio	

All counties in the State of Wyoming with the exception of Lincoln, Teton, Uinta, and Yellowstone National Park.

Duluth (Minn.) District

Headquarters—Duluth, Minn.

The following counties in the State of Michigan:

Alger	Dickinson	Keweenaw	Menominee
Baraga	Gogebic	Luce	Ontonagon
Chippewa	Houghton	Mackinac	Schoolcraft
Delta	Iron	Marquette	

The following counties in the State of Minnesota:

Aitkin	Crow Wing	Lake	Pine
Beltrami	Hubbard	Lake of the Woods	Polk
Carlton	Itasca	Marshall	Red Lake
Cass	Kanabec	Mille Lacs	Roseau
Clearwater	Kittson	Pennington	St. Louis
Cook	Koochiching		

The following counties in the State of Wisconsin:

Ashland	Douglas	Price	Washburn
Bayfield	Iron	Sawyer	
Burnett	Oneida	Vilas	

Enid (Okla.) District

Headquarters—Enid, Okla.

The entire State of Oklahoma.

Fort Worth (Texas) District

Headquarters—Fort Worth, Texas

The following counties in the State of New Mexico:

Carton	Eddy	Lincoln	Sierra
Chaves	Grant	Luna	Socorro
Curry	Guadalupe	Otero	Torrance
De Baca	Hidalgo	Quay	
Dona Ana	Lea	Roosevelt	

The following counties in the State of Texas:

Anderson	Crane	Hall	Loving
Andrews	Crockett	Hamilton	Lubbock
Archer	Crosby	Hansford	Lynn
Armstrong	Culberson	Hardeman	McCulloch
Bailey	Dallam	Harrison	McLennan
Baylor	Dallas	Hartley	Marion
Bell	Dawson	Haskell	Martin
Blanco	Deaf Smith	Hemphill	Mason
Borden	Delta	Henderson	Menard
Bosque	Denton	Hill	Midland
Bowie	Dickens	Hockley	Mills
Brewster	Donley	Hood	Mitchell
Briscoe	Eastland	Hopkins	Montague
Brown	Ector	Howard	Moore
Burnet	Edwards	Hudspeth	Morris
Callahan	Ellis	Hunt	Motley
Camp	El Paso	Hutchinson	Navarro
Carson	Erath	Irion	Nolan
Cass	Falls	Jack	Ochiltree
Castro	Fannin	Jeff Davis	Oldham
Cherokee	Fisher	Johnson	Palo Pinto
Childress	Floyd	Jones	Panola
Clay	Foard	Kaufman	Parker
Cochran	Franklin	Kent	Parmer
Coke	Freestone	Kimble	Pecos
Coleman	Gaines	King	Potter
Collin	Garza	Knox	Presidio
Collinsworth	Gillespie	Lamar	Rains
Comanche	Glasscock	Lamb	Randall
Concho	Gray	Lampasas	Reagan
Cooke	Grayson	Limestone	Red River
Coryell	Gregg	Lipscomb	Reeves
Cottle	Hale	Llano	Roberts

The following counties in the States of Texas—Continued.

Rockwall	Somervell	Terry	Wheeler
Runnels	Stephens	Throckmorton	Wichita
Rusk	Sterling	Titus	Wilbarger
San Saba	Stonewall	Tom Green	Winkler
Schleicher	Sutton	Upshur	Wise
Scurry	Swisher	Upton	Wood
Shackelford	Tarrant	Val Verde	Yoakum
Sherman	Taylor	Van Zandt	Young
Smith	Terrell	Ward	

Galveston (Tex.) District

Headquarters—Galveston, Texas

The following counties in the State of Texas:

Angelina	Fort Bend	Kleberg	Sabine
Aransas	Frio	LaSalle	San Augustine
Atascosa	Galveston	Lavaca	San Jacinto
Austin	Goliad	Lee	San Patricio
Bandera	Gonzales	Leon	Shelby
Bastrop	Grimes	Liberty	Starr
Bee	Guadalupe	Live Oak	Travis
Bexar	Hardin	McMullen	Trinity
Brazoria	Harris	Madison	Tyler
Brazos	Hays	Matagorda	Uvalde
Brooks	Hidalgo	Maverick	Victoria
Burleson	Houston	Medina	Walker
Caldwell	Jackson	Milam	Waller
Calhoun	Jasper	Montgomery	Washington
Cameron	Jefferson	Nacogdoches	Webb
Chambers	Jim Hogg	Newton	Wharton
Colorado	Jim Wells	Nueces	Willacy
Comal	Karnes	Orange	Williamson
Dewitt	Kendall	Polk	Wilson
Dimmit	Kenedy	Real	Zapata
Duval	Kerr	Refugio	Zavala
Fayette	Kinney	Robertson	

Great Falls (Mont.) District

Headquarters—Great Falls, Mont.

All counties in the State of Montana, with the exception of Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Powell, Ravalli and Sanders.

Indianapolis (Ind.) District

Headquarters—Indianapolis, Ind.

The following counties in the State of Indiana:

Bartholomew	Grant	Madison	Shelby
Blackford	Greene	Marion	Sullivan
Boone	Hamilton	Martin	Tippecanoe
Brown	Hancock	Monroe	Tipton
Clay	Hendricks	Montgomery	Vermilion
Clinton	Henry	Morgan	Vigo
Daviess	Howard	Owen	Warren
Decatur	Jay	Parke	Wayne
Delaware	Johnson	Putnam	
Fayette	Knox	Randolph	
Fountain	Lawrence	Rush	

Kansas City (Mo.) District

Headquarters—Kansas City, Mo.

The following counties in the State of Arkansas:

Baxter	Fulton	Newton	Washington
Benton	Izard	Searcy	
Boone	Madison	Sharp	
Carroll	Marion	Stone	

The following counties in the State of Kansas:

Allen	Geary	Mitchell	Russell
Anderson	Gove	Montgomery	Saline
Bourbon	Graham	Morris	Shawnee
Cherokee	Jackson	Nemaha	Sheridan
Cheyenne	Jefferson	Neosho	Sherman
Clay	Jewell	Norton	Smith
Cloud	Johnson	Osage	Thomas
Coffey	Labette	Osborne	Trego
Crawford	Leavenworth	Ottawa	Wabaunsee
Decatur	Lincoln	Phillips	Wallace
Dickinson	Linn	Pottawatomie	Washington
Douglas	Logan	Rawlins	Wilson
Ellis	Lyon	Republic	Woodson
Ellsworth	Marshall	Riley	Wyandotte
Franklin	Miami	Rooks	

The following counties in the State of Missouri:

Adair	Benton	Cass	Clark
Barry	Caldwell	Cedar	Clay
Barton	Camden	Chariton	Clinton
Bates	Carroll	Christian	Cooper

The following counties in the State of Missouri—Continued.

Dade	Johnson	Morgan	Schuyler
Dallas	Knox	Newton	Scotland
Daviess	Laclede	Oregon	Shannon
Douglas	LaFayette	Ozark	Shelby
Greene	Lawrence	Pettis	Stone
Grundy	Lewis	Platte	Sullivan
Henry	Linn	Polk	Taney
Hickory	Livingston	Putnam	Texas
Howard	McDonald	Randolph	Vernon
Howell	Macon	Ray	Webster
Jackson	Mercer	St. Clair	Wright
Jasper	Moniteau	Saline	

Los Angeles (Calif.) District

Headquarters—Los Angeles, Calif.

The entire State of Arizona; the following counties in the State of California:

Imperial	Orange	San Diego	Ventura
Kern	Riverside	San Luis Obispo	
Los Angeles	San Bernardino	Santa Barbara	

Louisville (Ky.) District

Headquarters—Louisville, Ky.

The following counties in the State of Indiana:

Clark	Harrison	Perry	Vanderburgh
Crawford	Jackson	Pike	Warrick
Dubois	Jefferson	Posey	Washington
Floyd	Jennings	Scott	
Gibson	Orange	Spencer	

The following counties in the State of Kentucky:

Adair	Fayette	Laurel	Pulaski
Allen	Franklin	Lincoln	Rockcastle
Anderson	Gallatin	Logan	Russell
Barren	Garrard	McCreary	Scott
Bell	Grayson	McLean	Shelby
Boyle	Green	Madison	Simpson
Breckinridge	Hancock	Marion	Spencer
Bullitt	Hardin	Meade	Taylor
Butler	Hart	Mercer	Todd
Carroll	Henderson	Metcalfe	Trigg
Casey	Henry	Monroe	Trimble
Christian	Hopkins	Muhlenberg	Warren
Clay	Jackson	Nelson	Washington
Clinton	Jefferson	Ohio	Wayne
Cumberland	Jessamine	Oldham	Webster
Daviess	Knox	Owen	Whitley
Edmonson	Larue	Owsley	Woodford

Memphis (Tenn.) District

Headquarters—Memphis, Tenn.

The following counties in the State of Arkansas:

Arkansas	Desha	Lee	Pope
Ashley	Drew	Lincoln	Prairie
Bradley	Faulkner	Little River	Pulaski
Calhoun	Franklin	Logan	Randolph
Chicot	Garland	Lonoke	St. Francis
Clark	Grant	Miller	Saline
Clay	Greene	Mississippi	Scott
Cleburne	Hempstead	Monroe	Sebastian
Cleveland	Hot Spring	Montgomery	Sevier
Columbia	Howard	Nevada	Union
Conway	Independence	Ouachita	Van Buren
Craighead	Jackson	Perry	White
Crawford	Jefferson	Phillips	Woodruff
Crittenden	Johnson	Pike	Yell
Cross	Lafayette	Poinsett	
Dallas	Lawrence	Polk	

The following counties in the State of Mississippi:

Alcorn	Grenada	Montgomery	Tippah
Attala	Holmes	Noxubee	Tishomingo
Benton	Humphreys	Oktibbeha	Tunica
Bolivar	Issaquena	Panola	Union
Calhoun	Itawamba	Pontotoc	Warren
Carroll	Lafayette	Prentiss	Washington
Chickasaw	Lee	Quitman	Webster
Choctaw	Leflore	Sharkey	Winston
Clay	Lowndes	Sunflower	Yalobusha
Coahoma	Marshall	Tallahatchie	Yazoo
DeSoto	Monroe	Tate	

The following counties in the State of Tennessee:

Benton	Dyer	Haywood	Madison
Carroll	Fayette	Henderson	Shelby
Chester	Gibson	Henry	Tipton
Crockett	Hardman	Lauderdale	
Decatur	Hardin	McNairy	

Milwaukee (Wis.) District

Headquarters—Milwaukee, Wis.

The following counties in the State of Wisconsin:

Adams	Green	Marinette	Sheboygan
Brown	Green Lake	Marquette	Vernon
Calumet	Iowa	Milwaukee	Walworth
Columbia	Jefferson	Oconto	Washington
Crawford	Juneau	Outagamie	Waukesha
Dane	Kenosha	Ozaukee	Waupaca
Dodge	Kewaunee	Portage	Waushara
Door	Lafayette	Racine	Winnebago
Florence	Langlade	Richland	Wood
Fond du Lac	Lincoln	Rock	
Forest	Manitowoc	Sauk	
Grant	Marathon	Shawano	

Minneapolis (Minn.) District

Headquarters—Minneapolis, Minn.

The following counties in the State of Minnesota:

Anoka	Goodhue	Murray	Steele
Becker	Grant	Nicollet	Stevens
Benton	Hennepin	Nobles	Swift
Big Stone	Houston	Norman	Todd
Blue Earth	Isanti	Olmsted	Traverse
Brown	Jackson	Otter Tail	Wabasha
Carver	Kandiyohi	Pipestone	Wadena
Chippewa	Lac qui Parle	Pope	Waseca
Chisago	Lesueur	Ramsey	Washington
Clay	Lincoln	Redwood	Watonwan
Cottonwood	Lyon	Renville	Wilkin
Dakota	McLeod	Rice	Winona
Dodge	Mahnomen	Rock	Wright
Douglas	Martin	Scott	Yellow Medicine
Faribault	Meeker	Sherburne	
Fillmore	Morrison	Sibley	
Freeborn	Mower	Stearns	

The entire State of North Dakota; the following counties in the State of South Dakota:

Armstrong	Day	Hamlin	Roberts
Brown	Deuel	Harding	Spink
Campbell	Dewey	McPherson	Walworth
Clark	Edmunds	Marshall	Ziebach
Codington	Faulk	Perkins	
Corson	Grant	Potter	

The following counties in the State of Wisconsin:

Barron	Dunn	Monroe	Rusk
Buffalo	Eau Claire	Pepin	Saint Croix
Chippewa	Jackson	Pierce	Taylor
Clark	La Crosse	Polk	Trempealeau

Nashville (Tenn.) District

Headquarters—Nashville, Tenn.

All counties in the State of Alabama with the exception of Baldwin and Mobile; all counties in the State of Florida with the exception of Escambia and Santa Rosa; the entire State of Georgia, and the following counties in the State of Tennessee:

Anderson	Giles	McMinn	Scott
Bedford	Grainger	Macon	Sequatchie
Bledsoe	Greene	Marion	Sevier
Blount	Grundy	Marshall	Smith
Bradley	Hamblen	Maury	Stewart
Campbell	Hamilton	Meigs	Sullivan
Cannon	Hancock	Monroe	Sumner
Carter	Hawkins	Montgomery	Trousdale
Cheatham	Hickman	Moore	Unicoi
Claiborne	Houston	Morgan	Union
Clay	Humphreys	Overton	Van Buren
Cocke	Jackson	Perry	Warren
Coffee	Jefferson	Pickett	Washington
Cumberland	Johnson	Polk	Wayne
Davidson	Knox	Putnam	White
De Kalb	Lawrence	Rhea	Williamson
Dickson	Lewis	Roane	Wilson
Fentress	Lincoln	Robertson	
Franklin	Loudon	Rutherford	

New Orleans (La.) District

Headquarters—New Orleans, La.

Mobile and Baldwin counties in the State of Alabama; Escambia and Santa Rosa counties in the State of Florida;

the entire State of Louisiana; and the following counties in the State of Mississippi:

Adams	Hancock	Lauderdale	Pike
Amite	Harrison	Lawrence	Rankin
Claiborne	Hinds	Leake	Scott
Clarke	Jackson	Lincoln	Simpson
Copiah	Jasper	Madison	Smith
Covington	Jefferson	Marion	Stone
Forrest	Jefferson Davis	Neshoba	Walthall
Franklin	Jones	Newton	Wayne
George	Kemper	Pearl River	Wilkinson
Greene	Lamar	Perry	

New York (N. Y.) District

Headquarters—New York, N. Y.

All counties in the State of Connecticut with the exception of New London, Tolland, and Windham; the following counties in the State of New Jersey:

Bergen	Mercer	Passaic	Warren
Essex	Middlesex	Somerset	
Hudson	Monmouth	Sussex	
Hunterdon	Morris	Union	

The following counties in the State of New York:

Bronx	Greene	Otsego	Schoharie
Clinton	Hamilton	Putnam	Suffolk
Columbia	Herkimer	Queens	Sullivan
Delaware	Kings	Richmond	Ulster
Dutchess	Montgomery	Rockland	Warren
Essex	Nassau	St. Lawrence	Washington
Franklin	New York	Saratoga	Westchester
Fulton	Orange	Schenectady	

The following counties in the State of Pennsylvania:

Lackawanna	Northampton	Susquehanna	Wyoming
Monroe	Pike	Wayne	

Ogden (Utah) District

Headquarters—Ogden, Utah

The entire State of Utah; the following counties in the State of Idaho:

Ada	Camas	Gem	Owyhee
Adams	Canyon	Gooding	Payette
Bannock	Caribou	Jefferson	Power
Bear Lake	Cassia	Jerome	Teton
Bingham	Clark	Lemhi	Twin Falls
Blaine	Custer	Lincoln	Valley
Boise	Elmore	Madison	Washington
Bonneville	Franklin	Minidoka	
Butte	Fremont	Oneida	

The following counties in the State of Wyoming:

Lincoln	Teton	Uinta	Yellowstone National Park

Omaha (Nebr.) District

Headquarters—Omaha, Nebr.

The following counties in the State of Iowa:

Adair	Crawford	Mills	Shelby
Adams	Fremont	Monona	Taylor
Audubon	Greene	Montgomery	
Carroll	Guthrie	Page	
Cass	Harrison	Pottawattamie	

The following counties in the State of Nebraska:

Adams	Douglas	Howard	Platte
Arthur	Dundy	Jefferson	Polk
Banner	Fillmore	Kearney	Redwillow
Blaine	Franklin	Keith	Saline
Boone	Frontier	Kimball	Sarpy
Buffalo	Furnas	Lancaster	Saunders
Burt	Gage	Lincoln	Scotts Bluff
Butler	Garden	Logan	Seward
Cass	Garfield	Loup	Sherman
Chase	Gosper	McPherson	Stanton
Cheyenne	Grant	Madison	Thayer
Clay	Greeley	Merrick	Thomas
Colfax	Hall	Morrill	Valley
Cuming	Hamilton	Nance	Washington
Custer	Harlan	Nuckolls	Webster
Dawson	Hayes	Otoe	Wheeler
Deuel	Hitchcock	Perkins	York
Dodge	Hooker	Phelps	

Peoria (Ill.) District

Headquarters—Peoria, Ill.

The following counties in the State of Illinois:

Brown	Fulton	Macon	Putnam
Cass	Hancock	Marshall	Sangamon
Champaign	Henderson	Mason	Schuyler
Coles	Knox	Menard	Stark
DeWitt	Livingston	Mercer	Tazewell
Douglas	Logan	Moultrie	Vermilion
Edgar	McDonough	Peoria	Warren
Ford	McLean	Piatt	Woodford

Philadelphia (Pa.) District

Headquarters—Philadelphia, Pa.

The entire State of Delaware; the following counties in the State of New Jersey:

Atlantic	Camden	Cumberland	Ocean
Burlington	Cape May	Gloucester	Salem

The following counties in the State of Pennsylvania:

Adams	Clearfield	Indiana	Perry
Armstrong	Clinton	Jefferson	Philadelphia
Bedford	Columbia	Juniata	Schuylkill
Berks	Cumberland	Lancaster	Snyder
Blair	Dauphin	Lebanon	Somerset
Bucks	Delaware	Lehigh	Sullivan
Cambria	Elk	Luzerne	Union
Cameron	Fayette	Lycoming	Westmoreland
Carbon	Forest	Mifflin	York
Center	Franklin	Montgomery	
Chester	Fulton	Montour	
Clarion	Huntingdon	Northumberland	

Portland (Oreg.) District

Headquarters—Portland, Oreg.

The entire State of Oregon; the following counties in the State of Washington:

Asotin	Columbia	Klickitat	Walla Walla
Benton	Cowlitz	Skamania	
Clark	Garfield	Wahkiakum	

St. Joseph (Mo.) District

Headquarters—St. Joseph, Mo.

The following counties in the State of Kansas:

Atchison	Brown	Doniphan

The following counties in the State of Missouri:

Andrew	DeKalb	Holt	Worth
Atchison	Gentry	Nodaway	
Buchanan	Harrison		

The following counties in the State of Nebraska:

Johnson	Nemaha	Pawnee	Richardson

St. Louis (Mo.) District

Headquarters—St. Louis, Mo.

The following counties in the State of Illinois:

Adams	Effingham	Lawrence	Richland
Bond	Fayette	Macoupin	St. Clair
Calhoun	Franklin	Madison	Saline
Christian	Gallatin	Marion	Scott
Clark	Greene	Monroe	Shelby
Clay	Hamilton	Montgomery	Wabash
Clinton	Jackson	Morgan	Washington
Crawford	Jasper	Perry	Wayne
Cumberland	Jefferson	Pike	White
Edwards	Jersey	Randolph	Williamson

The following counties in the State of Missouri:

Audrain	Franklin	Monroe	St. Charles
Bollinger	Gasconade	Montgomery	St. Francois
Boone	Iron	Osage	St. Louis
Callaway	Jefferson	Perry	Ste. Genevieve
Cape Girardeau	Lincoln	Phelps	Warren
Carter	Madison	Pike	Washington
Cole	Maries	Pulaski	Wayne
Crawford	Marion	Ralls	
Dent	Miller	Reynolds	

And the City of St. Louis, Mo.

San Francisco (Calif.) District

Headquarters—San Francisco, Calif.

The entire State of Nevada; the following counties in the State of California:

Alameda	Inyo	Napa	Sierra
Alpine	Kings	Nevada	Siskiyou
Amador	Lake	Placer	Solano
Butte	Lassen	Plumas	Sonoma
Calaveras	Madera	Sacramento	Stanislaus
Colusa	Marin	San Benito	Sutter
Contra Costa	Mariposa	San Francisco	Tehama
Del Norte	Mendocino	San Joaquin	Trinity
Eldorado	Merced	San Mateo	Tulare
Fresno	Modoc	Santa Clara	Tuolumne
Glenn	Mono	Santa Cruz	Yolo
Humboldt	Monterey	Shasta	Yuba

Seattle (Wash.) District

Headquarters—Seattle, Wash.

The following counties in the State of Washington:

Chelan	King	Pacific	Thurston
Clallam	Kitsap	Pierce	Whatcom
Grays Harbor	Kittitas	San Juan	Yakima
Island	Lewis	Skagit	
Jefferson	Mason	Snohomish	

Sioux City (Iowa) District

Headquarters—Sioux City, Iowa

The following counties in the State of Iowa:

Buena Vista	Dickinson	O'Brien	Pocahontas
Calhoun	Emmet	Osceola	Sac
Cherokee	Ida	Palo Alto	Sioux
Clay	Lyon	Plymouth	Woodbury

The following counties in the State of Nebraska:

Antelope	Cherry	Keyapaha	Sioux
Box Butte	Dakota	Knox	Thurston
Boyd	Dawes	Pierce	Wayne
Brown	Dixon	Rock	
Cedar	Holt	Sheridan	

The following counties in the State of South Dakota:

Aurora	Douglas	Kingsbury	Sanborn
Beadle	Fall River	Lake	Shannon
Bennett	Gregory	Lawrence	Stanley
Bon Homme	Haakon	Lincoln	Sully
Brookings	Hand	Lyman	Todd
Brule	Hanson	McCook	Tripp
Buffalo	Hughes	Meade	Turner
Butte	Hutchinson	Mellette	Union
Charles Mix	Hyde	Miner	Washabaugh
Clay	Jackson	Minnehaha	Washington
Custer	Jerauld	Moody	Yankton
Davison	Jones	Pennington	

Spokane (Wash.) District

Headquarters—Spokane, Wash.

The following counties in the State of Idaho:

Benewah	Clearwater	Latah	Shoshone
Bonner	Idaho	Lewis	
Boundary	Kootenai	Nez Perce	

The following counties in the State of Montana:

Flathead	Lincoln	Powell	Sanders
Granite	Mineral	Ravalli	
Lake	Missoula		

The following counties in the State of Washington:

Adams	Franklin	Okanogan	Stevens
Douglas	Grant	Pend Oreille	Whitman
Ferry	Lincoln	Spokane	

Toledo (Ohio) District

Headquarters—Toledo, Ohio

The following counties in the State of Michigan:

Alcona	Gratiot	Macomb	Roscommon
Alpena	Hillsdale	Midland	Saginaw
Arenac	Huron	Monroe	St. Clair
Bay	Ingham	Montmorency	Senilac
Cheboygan	Iosco	Oakland	Shiawassee
Clinton	Jackson	Ogemaw	Tuscola
Crawford	Lapeer	Oscoda	Washtenaw
Genesee	Lenawee	Otsego	Wayne
Gladwin	Livingston	Presque Isle	

The following counties in the State of Ohio:

Allen	Geauga	Mahoning	Stark
Ashland	Hancock	Marion	Summit
Ashtabula	Hardin	Medina	Trumbull
Auglaize	Harrison	Mercer	Tuscarawas
Carroll	Henry	Morrow	Van Wert
Columbiana	Holmes	Ottawa	Wayne
Coshocton	Huron	Paulding	Williams
Crawford	Jefferson	Portage	Wood
Cuyahoga	Knox	Putnam	Wyandot
Defiance	Lake	Richland	
Erie	Lorain	Sandusky	
Fulton	Pucas	Seneca	

The following counties in the State of Pennsylvania:

Allegheny	Butler	Lawrence	Venango
Beaver	Greene	Mercer	Washington

The following counties in the State of West Virginia:

Brooke	Hancock	Marshall	Ohio

Wichita (Kans.) District

Headquarters—Wichita, Kansas.

The following counties in the State of Kansas:

Barber	Ford	Kingman	Rice
Barton	Grant	Kiowa	Rush
Butler	Gray	Lane	Scott
Chase	Greeley	McPherson	Sedgwick
Chautauqua	Greenwood	Marion	Seward
Clark	Hamilton	Meade	Stafford
Comanche	Harper	Morton	Stanton
Cowley	Harvey	Ness	Stevens
Edwards	Haskell	Pawnee	Sumner
Elk	Hodgeman	Pratt	Wichita
Finney	Kearny	Reno	

[F. R. Doc. 38-1408; Filed, May 18, 1938; 10:02 a. m.]

Bureau of Animal Industry.

[Amendment 15 to B. A. I. Order 353]

AMENDMENT OF ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

MAY 18, 1938.

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590–689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 353), dated June 1, 1935, and effective August 1, 1935, as amended, is hereby further amended by restoring the name of Hungary to the list of countries in said order, as I have determined that foot-and-mouth disease again exists in said country of Hungary and I have so officially notified the Secretary of the Treasury.

This amendment, which for purpose of identification is designated Amendment 15 to B. A. I. Order 353, shall be effective on and after May 18, 1938.

Done at Washington this 18th day of May 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1406; Filed, May 18, 1938; 10:02 a. m.]

NOTICE

MAY 17, 1938.

TO W. W. CHRONISTER, O. B. CHRONISTER, KATHLEEN CHRONISTER, R. B. HENRY, J. G. HENRY, AND J. M. HENRY, DOING BUSINESS AS LITTLE ROCK STOCK YARDS COMMISSION COMPANY, NORTH LITTLE ROCK, ARK.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in

the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And, whereas the Little Rock Stock Yards Commission Company, at North Little Rock, Arkansas, was posted on the 5th day of March, 1937, as coming within the foregoing definition;

And, whereas after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the Little Rock Stock Yards Commission Company is no longer operated as a public stockyard subject to the provisions of said Act:

Now, therefore, notice is hereby given that the Little Rock Stock Yards Commission Company, at North Little Rock, Arkansas, no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1407; Filed, May 18, 1938; 10:02 a. m.]

DEPARTMENT OF COMMERCE.

Bureau of Lighthouses.

PRESCRIBING REGULATIONS GOVERNING THE MARKING OF WRECKS FOR THE PROTECTION OF NAVIGATION

By virtue of and pursuant to authority vested in me by section 10 of the Act of June 17, 1910 (36 Stat. 538) I hereby prescribe the following regulations governing the procedure in the marking of wrecked and sunken craft pursuant to Section 1 of the Act of August 16, 1937 (50 Stat., 666), entitled "An Act to provide more effectively for the marking of wrecked and sunken craft for the protection of navigation; to improve the efficiency of the Lighthouse Service, and for other purposes":

In the event that the owner of a wrecked or sunken craft, as defined in section 1 of the cited Act of August 16, 1937, shall fail to immediately mark the same, the Superintendent of Lighthouses of the district in which the wreck is located shall in his discretion proceed to have the wreck marked as the safety of navigation may require, notifying the owner of the wrecked craft or his representative of such action. Notice may be addressed to the owner at his usual or last known address or place of business. The cost of such marking will be charged to the owner of the wrecked craft, as provided in the law, and said charges shall continue until affirmative notice is received from the owner or his representative that the wreck is abandoned, unless abandonment is otherwise determined by the United States Engineers, pursuant to section 19 of the Act of March 3, 1899 (30 Stat., 1154). Notice of abandonment shall be addressed to the United States Engineer of the district in which the wreck is located, with a copy to the Superintendent of Lighthouses.

In case a wrecked or sunken craft is marked by the owner, the Superintendent of Lighthouses shall in his discretion determine if such marking is suitable for the purpose and conditions; and if he determines that it is not suitable, he shall proceed to have it suitably marked, at the expense of the owner, in accordance with the preceding paragraph.

Charges for services rendered by the Lighthouse Service in marking of wrecked or sunken craft for private owners shall be invoiced in accordance with the following schedules:

Gas and other supplies furnished, and labor performed in overhauling, repairing, cleaning, painting, etc., of apparatus, at cost to the Service.

Use of buoys and appendages at following rates of depreciation per annum:

Iron buoys (including lighting apparatus), 5% of invoice value.
Wooden buoys, 20% of invoice value.
Mooring chain, 20% of invoice value.
Sinkers, 10% of invoice value.
Swivels, 33⅓% of invoice value.
Key Shackles, 100% of invoice value.

If any equipment is lost or destroyed while being used to mark a wreck, the full invoiced cost, less depreciation, will be chargeable to the owner.

Services of lighthouse tenders per working day to be at 1/280 of the annual cost of operation and maintenance of the vessel as determined by cost records for the preceding fiscal year. For less than a full working day, charge per hour will be ⅛ of daily cost. Overhead of 20% to be added to bill computed as above.

[SEAL] CHAS. A. PARK,
Acting Commissioner of Lighthouses.

Approved May 17, 1938.

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1414; Filed, May 18, 1938; 12:48 p. m.]

Bureau of Marine Inspection and Navigation.

NOTICE OF MEETING OF EXECUTIVE COMMITTEE OF BOARD OF SUPERVISING INSPECTORS TO CONSIDER AMENDMENTS TO RULES AND REGULATIONS, ETC.

MAY 17, 1938.

Pursuant to authority conferred by Section 4405, R. S., I hereby call a meeting of the Executive Committee of the Board of Supervising Inspectors of the Bureau of Marine Inspection and Navigation, consisting of Commander R. S. Field, Director; Captain George Fried, Supervising Inspector, Second District; and Captain Chester W. Willett, Supervising Inspector, Sixth District; to take place in the office of the Director, Bureau of Marine Inspection and Navigation, Department of Commerce, Washington, D. C., beginning at 9:00 A. M. Tuesday, May 24, 1938, for the purpose of considering amendments to the Rules and Regulations and for the transaction of such other business as may come before the meeting.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1415; Filed, May 18, 1938; 12:48 p. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN ASSOCIATION

LIMITING THE POWERS OF FEDERAL SAVINGS AND LOAN ASSOCIATIONS TO SELL LOANS

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of the Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), the second sentence of subsection (d) of Section 42 of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended to read as follows:

"No association shall make any sale of any loan at any time if the total dollar amount of loans sold, including such sale, within the twelve months period immediately preceding the date of such sale, exceeds a sum equivalent to 25 per cent of the dollar amount of all loans originated by such association within such period."

Be it further resolved, That, it being deemed that this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Federal Home Loan Bank Board on May 17, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1413; Filed, May 18, 1938; 10:48 a. m.]

Friday, May 20, 1938 *No. 99*

PRESIDENT OF THE UNITED STATES.

ENLARGING THE BLACK CANYON OF THE GUNNISON NATIONAL MONUMENT—COLORADO

By the President of the United States of America

A PROCLAMATION

WHEREAS certain lands adjoining the Black Canyon of the Gunnison National Monument in Colorado have been donated to the United States for inclusion in and extension of the said monument; and

WHEREAS it appears that such lands are required for the proper care and management of the objects being protected by the said monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that the following-described lands in Colorado are hereby added to and made a part of the Black Canyon of the Gunnison National Monument:

NEW MEXICO PRINCIPAL MERIDIAN—COLORADO

T. 50 N., R. 7 W., sec. 19, S½NW¼;
T. 50 N., R. 8 W., sec. 25, N½SE¼NW¼;
containing 100 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any part or feature of this monument, and not to locate or settle upon any of the lands thereof.

The director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of the monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 16" day of May in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL,
Secretary of State.

[No. 2286]

[F. R. Doc. 38-1416; Filed, May 18, 1938; 1:02 p. m.]

EXECUTIVE ORDER

RESTORING CERTAIN LANDS TO THE TERRITORY OF HAWAII FOR HIGHWAY PURPOSES

WHEREAS by proclamation of June 10, 1901, the Acting Governor of the Territory of Hawaii set apart a certain tract of land known as Kewalo-uka on Punchbowl Hill, Honolulu, Oahu, for the uses and purposes of the United States for the maintenance of an agricultural experiment station, now known as the Hawaii Agricultural Experiment Station, and under the control of the United States Department of Agriculture; there being reserved, however, to the possession, use, and control of the Territory of Hawaii all rights-of-way for public highways then in use within the said tract of land; and

WHEREAS by proclamation of December 6, 1937, the Governor of the Territory of Hawaii set apart for the uses and purposes of the United States all those lands embraced in the said rights-of-way reserved, as above stated, within the area set aside for the use of the United States by the said proclamation of June 10, 1901; and

WHEREAS the City and County of Honolulu has realigned the highway known as Tantalus Drive and has constructed a macadamized road over and upon the said realigned highway, which traverses in part portions of the tract of land set apart for the uses and purposes of the United States by the said proclamation of June 10, 1901, and also traverses certain contiguous areas over which, by that proclamation, the rights-of-way were reserved to the possession, use, and control of the Territory of Hawaii; and

WHEREAS certain portions of the said lands set apart for the uses and purposes of the United States by the said proclamations of June 10, 1901, and December 6, 1937, are needed by the Government of the Territory of Hawaii for highway purposes as hereinbefore indicated:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 91 of the act of April 30, 1900, 31 Stat. 141, 159, as amended by section 7 of the act of May 27, 1910, 36 Stat. 443, 447, it is ordered that all lands of the said Hawaii Agricultural Experiment Station, under the control of the United States Department of Agriculture, within the limits of the said realigned right-of-way as shown on the map prepared by the Works Progress Administration Office, at Honolulu, and dated March 31, 1937, and on file in the Map and Tracing Vault of the Honolulu City and County Engineer's Office, at Honolulu (a blueprint copy of which is on file in the Division of the Federal Register, The National Archives, Washington, D. C.), be, and they are hereby, restored to the possession, use, and control of the Government of the Territory of Hawaii for highway purposes.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 18, 1938.

[No. 7891]

[F. R. Doc. 38-1420; Filed, May 19, 1938; 10:04 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

AMENDMENT TO DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE DURING THE CROP YEAR 1938 FOR THE TERRITORY OF HAWAII

Pursuant to the provisions of Section 301 (e) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the "Determination of Farming Practices to be Carried Out in Connection with the Production of Sugarcane During the Crop Year 1938 for the Territory of Hawaii, Pursuant to Subsection (e) of Section 301 of the Sugar Act of 1937", issued March 22, 1938,[1] shall be, and the same is hereby, amended by changing the *proviso* contained therein to read as follows:

Provided, That the number of acres of land on which sugarcane is growing and on which fertilizer is applied during 1938 is not less than the number of acres on the farm on which sugarcane is planted, or a ratoon crop of sugarcane is started, at any time during 1938.

Done at Washington, D. C., this 19th day of May 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-1423; Filed, May 19, 1938; 12 m.]

FEDERAL DEPOSIT INSURANCE CORPORATION.

AGENTS UPON WHOM SERVICE OF PROCESS MAY BE MADE

Pursuant to the provisions of the fourth paragraph of subsection (j) of Section 12B of the Federal Reserve Act, as amended, the board of directors of the Federal Deposit Insurance Corporation has designated the following as agents of the Corporation upon whom service of process may be made. The fourth paragraph of subsection (j) of Section 12B of the Federal Reserve Act, as amended, provides in part:

• • • The board of directors shall designate an agent upon whom service of process may be made in any State, Territory, or jurisdiction in which any insured bank is located.

*Walton F. Rainer
3121 Highland Avenue
Birmingham, Alabama
Stanley A. Jerman
Security Building
Phoenix, Arizona
*Glenn E. Burson
Little Rock, Arkansas
*W. P. Punsten
624 Fed. Res. Bk. Bldg.
San Francisco, California
R. H. Walker
712 Ernest & Cranmer Bldg.
Denver, Colorado
Edward J. Lonergan
650 Main Street
Hartford, Connecticut
E. Ennalls Berl
Delaware Trust Building
Wilmington, Delaware
*Howard V. Williams
Orlando, Florida
*W. Clyde Roberts
625 First Nat'l Bk. Bldg.
Atlanta, Georgia
Wm. S. Hawkins
320-321 Wiggett Bldg.
Coeur D'Alene, Idaho
*Wesley C. McDowell
625 Fed. Res. Bk. Bldg.
Chicago, Illinois
*Kenneth P. Ely
Federal Building
South Bend, Indiana
*Frank A. Lettow
State Capitol Bldg.
Des Moines, Iowa
*A. J. Barak
Salina, Kansas
*Maurice H. Kirby
1887 Princeton Drive
Louisville, Kentucky
*E. P. Follett
Alexandria, Louisiana
Herbert E. Locke
Depositors Trust Bldg.
Augusta, Maine
*E. Lyle Kirkland
1404 Fidelity Bldg.
Baltimore, Maryland
*H. M. Stillman
#10 P. O. Square
Boston, Massachusetts
*Henry J. Dietz
5th Floor, Olds Tower Bldg
Lansing, Michigan
*J. L. Johnson
1030 Minnesota Bldg.
St. Paul, Minnesota
*Rex D. Cannon
824 Mims Place
Jackson, Mississippi
*Vance L. Sailor
1059 Arcade Bldg.
St. Louis, Missouri
Walter L. Pope
First Nat'l Bk. Bldg.
Missoula, Montana
*Maurice K. Van Horn
1458 P. O. Building
Lincoln, Nebraska
John S. Halley
Room 25, Stack Bldg.
Reno, Nevada
Maurice F. Devine
201-207 Bell Bldg.
Manchester, New Hampshire
*Edward I. Kemper
424 P. O. Bldg.
Trenton, New Jersey
Stanley W. P. Miller
#5 Stern Bldg.
Albuquerque, New Mexico
*W. M. Taylor
518 Fed. Res. Bk. Bldg.
New York, New York
*Connie V. Sutton
303 S. Mendenhall Street
Greensboro, North Carolina
C. F. Peterson
Grand Forks, North Dakota
*L. F. Stroefer
529 Huntington Bk. Bldg.
Columbus, Ohio
*William M. Wilson
Clinton, Oklahoma
*Albert L. Stoner
404 Title & Trust Bldg.
Portland, Oregon
*Richard Bradley
Philadelphia, Pennsylvania
James E. Brothers
821-822 Hospital Trust Bldg.
Providence, Rhode Island
Alan Bogue
Citizens Bank Bldg.
Parker, South Dakota
*R. Sam Folger
703 Carolina Life Bldg.
Columbia, South Carolina
*John J. Heflin
Custom House
Memphis, Tennessee
*L. J. Davis
Fed. Res. Bk. Bldg.
Dallas, Texas
*Chesley Barton
502 Continental Bk. Bldg.
Salt Lake City, Utah
Thomas H. O'Brien
Rutland, Vermont
*Walter J. Owens
807 Central Nat'l Bk. Bldg.
Richmond, Virginia
*David A. Linder
1828 Exchange Bldg.
Seattle, Washington
*David E. French, Jr.
408 Charleston Nat'l Bk. Bldg.
Charleston, West Virginia
*R. L. Hopkins
340 University Avenue
Madison, Wisconsin
L. C. Sampson
Hynds Building
Cheyenne, Wyoming

*Indicates Supervising Examiner or Examiner of the Federal Deposit Insurance Corporation.

Approved by the Board of Directors of the Federal Deposit Insurance Corporation on May 17, 1938.

[SEAL] E. F. DOWNEY, *Acting Secretary.*

[F. R. Doc. 38-1422; Filed, May 19, 1938; 11:33 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Home Owners' Loan Corporation.

AMENDMENT TO THE LEGAL CHAPTER OF THE MANUAL

TAX SEARCHES

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-sections a and k of Section 4 of said Act, as amended, Section 610 of Chapter VI of the Manual is hereby amended to read as follows:

SEC. 610. The General Counsel shall determine when and how the public records shall be searched for taxes, assessments, or other governmental levies or charges and shall make or cause arrangements to be made for such searches. The Regional Counsel is authorized also to cause tax searches to be made for the purpose of protecting the Corporation against loss of title or security on account of such items. Such searches may be made by an employee of the Corporation or by competent and financially responsible tax searching agencies or competent individuals on a basis of reasonable cost per loan. Any contract with any one corporation, firm or individual involving an expenditure of more than $500.00, or involving an entire State, Division or Territory, must be previously approved by the Board of Directors. Expenses for such searches shall be paid upon certification by the General Counsel or the Regional Counsel.

Adopted by the Federal Home Loan Bank Board on May 17, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-1417; Filed, May 19, 1938; 9:47 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 248]

ALLOCATION OF FUNDS FOR LOANS

MAY 16, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Kansas 8007W1 Jewell	$2,500
Ohio 8039W1 Paulding	2,725
South Dakota 8006W1 Union	5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1418; Filed, May 19, 1938; 9:48 a. m.]

[Administrative Order No. 249]

ALLOCATION OF FUNDS FOR LOANS

MAY 16, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Arkansas 8014A2 Pope	$13,000
Kentucky 8037A2 Owen	22,600
Minnesota 8003A2 Meeker	35,000
Ohio 8071A2 Logan	44,500

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1419; Filed, May 19, 1938; 9:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

MINOR AMENDMENTS OF RULES UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Sections 11 (f) and 20 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out the purposes of said Act, the Securities and Exchange Commission hereby amends paragraph (a) of Rule 11F-2 to read as follows:

RULE 11F-2. COMMISSION APPROVAL OF FEES IN CONNECTION WITH REORGANIZATION PROCEEDINGS

(a) All fees, expenses, and remuneration, whether interim or final, to whomsoever paid for services rendered in connection with any proceeding in a reorganization, dissolution, liquidation, bankruptcy, or receivership of a registered holding company or a subsidiary company thereof in a court of the United States, shall be subject to approval by the Commission as to the maximum amount that may be paid for the services rendered by such person, taking into account the size of the estate, the difficulties involved in the proceeding, and the benefit resulting from such services. Such approval shall be granted only by order of the Commission on application filed by or on behalf of each person who is requesting or who is seeking to receive any payment of such fees, expenses or remuneration. An application for approval of the maximum amount of fees, expenses or remuneration filed subsequent to August 1, 1938, shall be filed with the Commission before any petition or request for such fees, expenses or remuneration is filed with the Court and a copy of the Commission's findings and order under this Rule shall be incorporated (by amendment or otherwise) in any such petition.

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Sections 3 (d) and 20 (a) thereof, and finding such action not detrimental to the public interest or the interest of investors or consumers and necessary and appropriate to carry out the purposes of said Act, the Securities and Exchange Commission hereby amends paragraph (11) of Rule 9C-3 to read as follows:

RULE 9C-3. CERTAIN ACQUISITIONS OF SECURITIES EXEMPTED

Section 9 (a) shall not apply to any acquisition of a security by a registered holding company or subsidiary company thereof which is permitted under the provisions of this rule:

(11) Any such company may acquire any security of any company which is primarily engaged in the business of performing services or construction for, or selling goods to, the acquiring company or associate companies thereof: *Provided*, (A) That the issuer of such security is a mutual or a subsidiary service company which the Commission has approved or whose organization and method of conducting business it has found sufficient to meet the requirements of Section 13 of the Act, and (B) That its acquisition by the acquiring company is not in contravention of any rule, regulation, or order of the Commission under Section 13.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1426; Filed, May 19, 1938; 12:35 p. m.]

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDMENT TO RULE 5B-1

Rule 5B-1 amended by prescribing a new Form U5B, Registration Statement, such new form being optional for any company which has filed notification of registration prior to effective date of this amendment.

Acting pursuant to the Public Utility Holding Company Act of 1935, particularly Sections 5 and 20 (a) thereof, and finding that such action is necessary and appropriate in the public interest, for the protection of investors and consumers, and to carry out the provisions of said Act, the Securities and any such supplement is to be filed.
follows:

RULE 5B-1. REGISTRATION STATEMENTS, FORM AND TIME OF FILING

Form U5B, marked "Adopted May 17, 1938," is hereby prescribed as the form for registration statements required to be filed with the Commission pursuant to Section 5; *Provided*, however, That any company which has filed a notification of registration with the Commission prior to the effective date of this rule may, at its election, file its registration statement on Form U5B, marked "Adopted October 2, 1936." Every registration statement shall comply with the instructions contained in the form on which the statement is filed.

Any holding company filing a notification of registration pursuant to the provisions of Section 5 (a), shall file with the Commission a registration statement on Form U5B within 90 days after the filing of such notification of registration, and any company filing such a notification prior to becoming a holding company shall file such statement on Form U5B within 90 days after the date of becoming a holding company, but the Commission, upon a showing of reasonable cause therefor, may extend such time.

The information contained in such registration statements shall be kept current in the manner prescribed by Rule 14-2.

Effective May 17, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*

[F. R. Doc. 38-1427; Filed, May 19, 1938; 12:35 p. m.]

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE 14-2

Acting pursuant to the authority conferred upon it by the Public Utility Holding Company Act of 1935, particularly Sections 14 and 20 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers and to carry out the provisions of said Act, the Securities and Exchange Commission hereby adopts Rule 14-2, to read as follows:

RULE 14-2. ANNUAL SUPPLEMENTS TO REGISTRATION STATEMENTS, FORM AND TIME OF FILING

Form U5S, marked "Adopted May 17, 1938," is hereby prescribed as the form for annual supplements to registration statements to be filed by registered holding companies pursuant to Section 14 of the Public Utility Holding Company Act of 1935. Each such annual supplement shall comply with the instructions contained in the prescribed form.

On or before the first day of May in each year every registered holding company that has filed with this Commission before December 1st of the preceding year a registration statement on Form U5B shall file with this Commission a supplement covering the prior calendar year, except in the case of the first such supplement which shall cover the period since the filing of the original U5B registration statement up to the close of the last calendar year; *Provided*, That registered holding companies which have filed their original U5B registration statements before December 1, 1937 shall not be required to file the first supplement until August 1, 1938.

The Commission, upon a showing of reasonable cause therefor, may permit the filing of a supplement on other

than a calendar year basis or extend the time within which any such supplement is to be filed.

Effective May 17, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1425; Filed, May 19, 1938; 12:35 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of May, A. D. 1938.

[File No. 31-413]

IN THE MATTER OF HICKOK OIL CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 6, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 1, 1938.

The matter concerned herewith is in regard to the application for exemption from the provisions of the Public Utility Holding Company Act of 1935 filed by Hickok Oil Corporation on the grounds that such company is only incidentally a holding company being primarily engaged or interested in a business other than that of a public utility company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1424; Filed, May 19, 1938; 12:35 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of May 1938.

[File No. 7-234]

IN THE MATTER OF COLLINS AND AIKMAN CORPORATION 5% CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE

ORDER DENYING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Continuance of unlisted trading privileges on the Philadelphia Stock Exchange in the 7% Cumulative Preferred Stock, $100 Par Value of Collins and Aikman Corporation having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application is not made and the application is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1430; Filed, May 19, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of May 1938.

[File No. 1-2091]

IN THE MATTER OF ADAMS EXPRESS COMPANY COMMON STOCK, NO PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Adams Express Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its Common Stock, No Par Value, from listing and registration on the Boston Stock Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on July 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1428; Filed, May 19, 1938; 12:36 p. m.]

United States of America Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 16th day of May 1938.

[File No. 1-1554]

IN THE MATTER OF RUTLAND RAILROAD COMPANY; RUTLAND-CANADIAN RAILROAD COMPANY FIRST MORTGAGE GOLD BONDS, 4%, DUE JULY 1, 1949 (UNSTAMPED)

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Rutland-Canadian Railroad Company First Mortgage Gold Bonds, 4%, due July 1, 1949 (Unstamped), of Rutland Railroad Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on May 26, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1429; Filed, May 19, 1938; 12:36 p. m.]

UNITED STATES MARITIME COMMISSION.

[No. 486]

ORDER IN RE APPLICATION OF THE BALTIMORE MAIL STEAMSHIP COMPANY TO TRANSFER CERTAIN VESSELS OWNED BY IT TO INTERCOASTAL TRADE

At a Session of the United States Maritime Commission, held at its office in Washington, D. C., on the 17th day of May, A. D. 1938.

It appearing, That the United States Lines Company has heretofore entered into an operating-differential subsidy contract with the United States Maritime Commission pursuant to the provisions of Title VI of the Merchant Marine Act of 1936;

It further appearing, That The Baltimore Mail Steamship Company has made application to the Commission for permission to transfer the five vessels owned by that company from their present trade route to the intercoastal trade;

It further appearing, That said The Baltimore Mail Steamship Company is, or will become, a subsidiary, affiliate, or associate company of the said United States Lines Company within the meaning of Section 805 (a) of said Act;

It is ordered, That in accordance with the provisions of Section 805 (a) of the Merchant Marine Act of 1936, and for the purposes stated therein, a public hearing be held, before such member or members of the Commission or such Examiner as the Commission may designate, in the Main Auditorium, Department of Commerce Building, Washington, D. C., on Friday, May 27, 1938, beginning at 10:00 A. M., standard time.

It is further ordered, That a copy of this order be served upon the United States Lines Company, The Baltimore Mail Steamship Company, and the operators engaged in the intercoastal trade, named in Appendix A attached hereto and made a part hereof.

It is further ordered, That, subject to the provisions of Section 805 (a) of said Act, rules of procedure to be observed at this hearing shall be those now in effect with respect to regulatory proceedings before the Commission.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

APPENDIX "A"

American-Hawaiian Steamship Company, 90 Broad St., New York, N. Y.
(Arrow Line) Sudden & Christenson, 310 Sansome St., San Francisco, Calif.
California Eastern Line, Inc., Porter Bldg., Portland, Ore.
Calmar Steamship Corporation, 25 Broadway, New York, N. Y.
Dollar Steamship Lines Inc., Ltd., 311 California St., San Francisco, Calif.
(Grace Line) Panama Mail Steamship Company, 10 Hanover Square, New York, N. Y.
Isthmian Steamship Company, 100 West 10th St., Wilmington, Del.
Luckenbach Gulf Steamship Company, Inc., 120 Wall St., New York, N. Y.
Luckenbach Steamship Company, Inc., 120 Wall St., New York, N. Y.
McCormick Steamship Company, 461 Market St., San Francisco, Calif.
Pacific Coast Direct Line, Inc., 21-24 State St., New York, N. Y.
(Quaker Line) Pacific-Atlantic Steamship Co., Porter Bldg., Portland, Ore.
States Steamship Company (California-Eastern Line), Porter Bldg., Portland, Ore.
American Foreign Steamship Corporation, 80 Broad St., New York, N. Y.
Bulk Carriers Corporation, 80 Broad St., New York, N. Y.
Shepard Steamship Company, 40 Central St., Boston, Mass.
Weyerhaeuser Steamship Company, P. O. Box 629, Newark, N. J.
Gulf Pacific Mail Line, Ltd., 215 Market St., San Francisco, Calif.
Swayne & Hoyt, Ltd. (Gulf Pacific Line), 215 Market St., San Francisco., Calif.
The Union Sulphur Company, 33 Rector St., New York, N. Y.

[F. R. Doc. 38-1421; Filed, May 19, 1938; 10:17 a. m.]

Saturday, May 21, 1938 ***No. 100***

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[Freight Circular No. 84-O (Cancels No. 84-N)]

THE ALASKA RAILROAD—TRANSPORTATION DEPARTMENT

LOCAL FREIGHT SERVICE

ANCHORAGE, ALASKA,
April 30th, 1938.

To all concerned: Effective May 1, 1938, local freight train service will be operated as follows:

Northward

Leave Seward, Extra, Wednesday and Saturday.
Leave Anchorage, Extra, Sunday.
Leave Curry, Extra, Monday.
Leave Healy, Extra, Saturday and Tuesday.

Southward

Leave Fairbanks, Extra, Monday and Thursday.
Leave Healy, Extra, Tuesday.
Leave Curry, Extra, Wednesday.
Leave Anchorage, Extra, Thursday and Monday.

A coach is handled on all freight trains.

Branch line mixed service will be operated as follows for Eska and Jonesville:

Northward

*Leave Anchorage, Extra, Monday and Friday at 9:00 A. M.

Southward

*Leave Jonesville, Extra, Monday and Friday.

*Denotes Change.

Freight will be handled as follows:

To all main line points and Palmer, Moose Creek, Sutton, Jonesville and Eska.

Freight for Premier will be accepted only for movement on trains when scheduled into Premier. This service depends on traffic from Premier.

Main Line Points are as follows:

Whitney, Otter M. P. 122.9, Eagle River, Fire Creek, M. P. 132.1, Birchwood, Eklutna, Reed,[1] M. P. 146.0 and Matanuska. freight originating at stations south of Anchorage should be sive, will also be handled on main line freight trains and freight originating at stations south of Anchorage should be loaded in main line freight cars destined to stations on main

* Denotes Change.
[1] When 300 pounds or more, freight will be unloaded at Reed; when less than 300 pounds, freight will be unloaded at Eklutna.

line north of Matanuska for unloading from main line freight trains without transfer at Anchorage to branch line trains.

J. T. CUNNINGHAM,
Sup't. of Transportation.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

May 16, 1938.

[F. R. Doc. 38-1432; Filed, May 20, 1938; 9:59 a. m.]

General Land Office.

AIR NAVIGATION SITE WITHDRAWAL NO. 120

NEVADA AND UTAH

MAY 12, 1938.

It is ordered, under and pursuant to the provisions of section 4 of the act of May 24, 1928, 45 Stat. 728, that the following-described public lands in Nevada and Utah be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for the use of the Department of Commerce in the maintenance of air navigation facilities:

NEVADA

Mount Diablo Meridian

T. 26 N., R. 34 E.,
sec. 24, S½SW¼, SW¼SE¼.
sec. 26, N½N½;
T. 14 S., R. 67 E.,
sec. 12, S½,
sec. 13, NW¼,
sec. 14, E½, SW¼,
sec. 22, E½,
sec. 23, N½, SW¼;
T. 12 S., R. 69 E.,
sec. 29, S½,
sec. 32, N½;
T. 10 S., R. 70 E. (unsurveyed),
sec. 12, E½;
T. 10 S., R. 71 E. (unsurveyed),
sec. 7, S½,
secs. 17 and 20, W½,
sec. 18, NE¼;

UTAH

Salt Lake Meridian

T. 21 S., R. 8 W. (unaccepted survey),
sec. 29, S½SW¼,
sec. 31, N½N½,
sec. 32, N½NW¼;
T. 40 S., R. 18 W.,
sec. 6, lot 4;
T. 40 S., R. 19 W.,
sec. 1, lots 1 to 8, inclusive;
aggregating 4,701.86 acres.

And departmental orders of April 8 and October 18, 1935, and November 3, 1936, creating Utah Grazing Districts Nos. 3 and 4 and Nevada Grazing Districts Nos. 2 and 5, and of November 12, effective December 2, 1937, withdrawing certain lands in Nevada with a view to their inclusion in a grazing district, are hereby modified and made subject to the withdrawal made by this order so far as they affect the hereindescribed tracts.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1433; Filed, May 20, 1938; 9:59 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 252, WASHINGTON NO. 3

MAY 11, 1938.

It appearing that the following-described public lands in Washington are necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for use by the general public as a stock driveway, subject to valid existing rights:

WILLAMETTE MERIDIAN

T. 23 N., R. 25 E.,
sec. 5, E½, SE¼SW¼,
sec. 8, E½NW¼ and W½NE¼;
T. 24 N., R. 25 E.,
sec. 29, SE¼SE¼,
sec. 32, E½;
aggregating 878.49 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1434; Filed, May 20, 1938; 9:59 a. m.]

National Bituminous Coal Commission.

[Order No. 242]

AN ORDER REQUIRING THE DISTRICT BOARDS TO SUBMIT TO THE COMMISSION A LIST OF CODE MEMBERS DELINQUENT IN THE PAYMENT OF DISTRICT BOARD ASSESSMENTS

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That each District Board on or before the 1st day of June, 1938, shall submit to the Commission a list of code members, subject to its jurisdiction, delinquent in the payment of assessments levied by such District Board, together with a statement of the amounts in arrears of each such code member; and the periods of such arrearages.

2. The Secretary of the Commission shall, forthwith, mail copies of this order to the Secretaries of the Bituminous Coal Producers' Boards and to the code members within the several districts.

By order of the Commission.

Dated this 18th day of May, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-1436; Filed, May 20, 1938; 11:50 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Agricultural Economics.

[Service and Regulatory Announcements No. 148]

AMENDMENT NO. 2 TO REGULATIONS UNDER THE UNITED STATES GRAIN STANDARDS ACT REGARDING FEES AND CHARGES IN APPEALS

By virtue of the authority vested in the Secretary of Agriculture by the United States Grain Standards Act, approved August 11, 1916 (U. S. Code, title 7, ch. 3, secs. 71-87; 39 U. S. Stat. L., p. 482), I [H. A. Wallace], Secretary of Agriculture do hereby make, prescribe, publish and give public notice of the following amendment to the regulations under the United States Grain Standards Act as heretofore promulgated and amended, said amendment to be effective immediately.

In Regulation 6, Section 3, strike out the words "U. S. Department of Agriculture" where they appear in the first and second paragraphs and insert in lieu thereof "Treasurer of the United States."

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 19th day of May 1938.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1431; Filed, May 19, 1938; 3:44 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 19th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3119]

IN THE MATTER OF NEW YORK PATTERN COMPANY, INC., FASHION INSTITUTE, INC., AND JOHN HOWIE WRIGHT

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, May 27, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 900, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1435; Filed, May 20, 1938; 10:03 a. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER IN THE MATTER OF A UNIFORM SYSTEM OF ACCOUNTS TO BE KEPT BY STEAM ROADS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 9th day of May, A. D. 1938.

The matter of modifying the Classification of Income, Profit and Loss, and General Balance Sheet Accounts being under consideration:

It is ordered, That account 756, "Receiver's certificates," and the text thereto be and they are hereby cancelled and the following account and text be, and they are hereby, prescribed in substitution thereof:

756. *Receivers' and Trustees' Securities.*—When receivers or trustees acting under the orders of a court are in possession of the property of the company and under the order of such court issue evidences of indebtedness, or assume the payment of equipment trust certificates, the par value of such evidences and certificates shall be credited to this account.

It is further ordered, That this order shall become effective on June 1, 1938.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-1437; Filed, May 20, 1938; 12:12 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of May, A. D. 1938.

[File No. 32-91]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on May 26, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 25, 1938.

The matter concerned herewith is in regard to an application by New York State Electric & Gas Corporation, a subsidiary of NY PA NJ Utilities Company, a registered holding company, pursuant to Section 6 (b) for exemption from the provisions of Section 6 (a) of the issue and sale to the Rural Electrification Administration of its $250,000 2.88% note to mature serially, the first instalment being payable one year from the date of issue and the remaining instalments semi-annually thereafter. The note is to be secured by $336,000 of its First Mortgage 4% Bonds dated August 1, 1935 and maturing August 1, 1965. The issue and sale of the note and the issue of the bonds were approved by the Public Service Commission of the State of New York by its order of May 10, 1938. It is stated that the proceeds from the issue and sale of the note will be used solely and exclusively for construction of rural electric line extensions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1438; Filed, May 20, 1938; 12:36 p.m.]

Tuesday, May 24, 1938 *No. 101*

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4804]

INTERNAL REVENUE TAXES—SMUGGLED LIQUOR

COLLECTION OF INTERNAL REVENUE TAXES ACCRUING ON SPIRITS SMUGGLED OR CLANDESTINELY INTRODUCED INTO THE UNITED STATES

To Collectors of Customs, Collectors of Internal Revenue, and Others Concerned:

Pursuant to section 5 of the Liquor Enforcement Act of 1936 (U. S. C., Sup. III, title 27, sec. 225) there are hereby imposed upon the collectors of internal revenue the right, privilege, power and duty now imposed upon collectors of customs by section 600 (a) (5) of the Revenue Act of 1918, as amended (U. S. C., title 26, sec. 1150 (f)), of collecting and

depositing internal revenue taxes accruing on distilled spirits smuggled or clandestinely introduced into the United States.

[SEAL] ROSWELL MAGILL,
Acting Secretary of the Treasury.

Approved, May 19, 1938.

[F. R. Doc. 38-1448; Filed, May 23, 1938; 12:27 p. m.]

WAR DEPARTMENT.

REGULATIONS GOVERNING THE USE, ADMINISTRATION AND NAVIGATION OF ROCHESTER (CHARLOTTE) HARBOR, NEW YORK

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

(Here follows, in the original document, an excerpt from Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266), which may be found at 3 F. R. 933.)

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are hereby prescribed to govern the use, administration and navigation of Rochester (Charlotte) Harbor, New York.

1. No vessel shall exceed a speed of 6 miles per hour in Rochester (Charlotte) Harbor, New York.

2. No vessel shall while moored or at anchor, or by slow passage or otherwise while underway, unreasonably obstruct the free passage and progress of other vessels.

3. No vessel shall moor or anchor to any structure of the United States without the consent of the District Engineer, U. S. Army, in charge of the locality, or his authorized agent.

4. No vessel shall moor or anchor in or along any improved channel or basin in such manner as to interfere with improvement or maintenance operations therein. Whenever in the opinion of the District Engineer any vessel is so moored or anchored, the owner thereof shall cause said vessel to be moved upon notification from and within the time specified by said District Engineer.

5. These regulations shall take effect and be in force on and after the date of approval hereof and shall supersede the regulations prescribed December 11, 1902 (E. D. 44877/2).

Approved, May 5, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1441; Filed, May 21, 1938; 9:40 a. m.]

REGULATIONS GOVERNING THE USE, ADMINISTRATION, AND NAVIGATION OF HURON, LORAIN, CLEVELAND, FAIRPORT, ASHTABULA AND CONNEAUT HARBORS, OHIO

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

(Here follows, in the original document, an excerpt from Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266), which may be found at 3 F. R. 933.)

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are hereby prescribed to govern the use, administration and navigation of Huron, Lorain, Cleveland, Fairport, Ashtabula and Conneaut Harbors, Ohio.

1. No vessel shall exceed a speed of 6 miles per hour, except in the outer harbors where the maximum speed shall be 10 miles per hour.

2. No vessel shall while moored or at anchor, or by slow passage or otherwise while underway, unreasonably obstruct the free passage and progress of other vessels.

3. No vessel shall moor or anchor to any structure of the United States without the consent of the District Engineer, U. S. Army, in charge of the locality, or his authorized agent.

4. No vessel shall moor or anchor in or along any improved channel or basin in such manner as to interfere with improvement or maintenance operations therein. Whenever in the opinion of the District Engineer any vessel is so moored or anchored, the owner thereof shall cause said vessel to be moved upon notification from and within the time specified by said District Engineer.

5. These regulations shall take effect and be in force on and after the date of approval hereof and shall supersede the regulations prescribed December 11, 1902 (E. D. 44871/1).

Approved, May 5, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1443; Filed, May 21, 1938; 9:40 a. m.]

REGULATIONS GOVERNING THE USE, ADMINISTRATION, AND NAVIGATION OF BUFFALO HARBOR, NEW YORK.

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

(Here follows, in the original document, an excerpt from Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266), which may be found at 3 F. R. 933.)

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are hereby prescribed to govern the use, administration and navigation of Buffalo Harbor, New York.

1. No vessel shall exceed a speed of 6 miles per hour except in the outer harbor where the maximum speed shall be 10 miles per hour.

2. No vessel shall while moored or at anchor, or by slow passage or otherwise while underway, unreasonably obstruct the free passage and progress of other vessels.

3. No vessel shall moor or anchor to any structure of the United States without the consent of the District Engineer, U. S. Army, in charge of the locality, or his authorized agent.

4. No vessel shall moor or anchor in or along any improved channel or basin in such manner as to interfere with improvement or maintenance operations therein. Whenever in the opinion of the District Engineer any vessel is so moored or anchored, the owner thereof shall cause said vessel to be moved upon notification from and within the time specified by said District Engineer.

5. These regulations shall take effect and be in force on and after the date of approval hereof and shall supersede the regulations prescribed December 11, 1902 (E. D. 44871/2).

Approved, May 5, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1442; Filed, May 21, 1938; 9:40 a. m.]

DEPARTMENT OF THE INTERIOR.

Bureau of Reclamation.

FIRST FORM RECLAMATION WITHDRAWAL BOISE PROJECT, IDAHO

SEPTEMBER 3, 1937.

The SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976) it is recommended that Departmental order of April 8, 1935 establishing Grazing District No. 1, Idaho, under and pursuant to the provisions of the Act of June 28, 1934 (48 Stat., 1269), be revoked in so far as the following described lands are affected, and said lands be withdrawn from public entry under the first form withdrawal, as provided in Sec. 3, Act of June 17, 1902 (32 Stat., 388).

BOISE PROJECT, IDAHO

Boise Meridian

T. 10 N., R. 1 E.,
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 17, all;
Sec. 18, all;
Sec. 19, all;
Sec. 20, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
T. 7 N., R. 2 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;
T. 8 N., R. 2 E.,
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 34, all;
Sec. 35, all;
T. 8 N., R. 3 E.,
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 17, all;
Sec. 18, all;
Sec. 19, all;
T. 9 N., R. 3 E.,
Sec. 23, NE¼;
Sec. 24, all;
Sec. 25, S½;
Sec. 26, S½;
Sec. 27, E½ & SW¼;
T. 10 N., R. 3 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 12, all;
T. 11 N., R. 3 E.,
Sec. 2, all;
Sec. 3, all;
Sec. 10, all;
Sec. 11, all;
Sec. 14, all;
Sec. 15, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 35, all;
Sec. 36, all;
T. 13 N., R. 3 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 24, all;
Sec. 36, all;
T. 14 N., R. 3 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
T. 14 N., R. 3 E.—Continued.
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;
T. 15 N., R. 3 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 7, NE¼NE¼, S½ NE¼, and SE¼;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, E½ and SE¼ SW¼;
Sec. 19, E½, E½NW¼ and SW¼;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;
T. 16 N., R. 3 E.,
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all;
Sec. 19, all;
Sec. 20, all;
Sec. 21, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
T. 16 N., R. 3 E.—Continued.
Sec. 35, all;
Sec. 36, all;
T. 8 N., R. 4 E.,
Sec. 2, all;
Sec. 3, all;
Sec. 10, all;
Sec. 11, N½;
T. 9 N., R 4 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all;
Sec. 19, N½;
Sec. 21, E½;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, E½;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;
T. 10 N., R. 4 E.,
Sec. 13, all;
Sec. 14, E½;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 31, E½;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
T. 11 N., R. 4 E.,
Sec. 19, all;
Sec. 20, all;
T. 12 N., R. 4 E.,
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all;
T. 13 N., R. 4 E.,
Sec. 3, all;
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all;

Respectfully,

R. B. WILLIAMS,
Acting Commissioner.

I concur April 20, 1938,
F. R. CARPENTER,
Director, Division of Grazing.

T. 13 N., R. 4 E.—Continued.
Sec. 19, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
T. 14 N., R. 4 E.,
Sec. 6, all;
Sec. 7, all;
Sec. 18, all;
Sec. 19, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
T. 15 N., R. 4 E.,
Sec. 6, all;
Sec. 7, all;
Sec. 18, all;
Sec. 19, all;
Sec. 30, all;
Sec. 31, all;
T. 16 N., R. 4 E.,
Sec. 30, all;
Sec. 31, all;
T. 16 N., R. 1 W.,
Sec. 3, all;
Sec. 4, all;
Sec. 9, all;
Sec. 10, all;
Sec. 15, all;
Sec. 16, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
T. 19 N., R. 1 W.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 35, all;
Sec. 36, all;
T. 12 N., R. 5 W.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 11, all;
Sec. 12, all;
T. 13 N., R. 5 W.,
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;

DEPARTMENT OF THE INTERIOR,
April 26, 1938.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1447; Filed, May 23, 1938; 9:54 a. m.]

Office of Indian Affairs.

AMENDMENT OF RIGHT OF WAY REGULATIONS

APRIL 7, 1938.

The regulations of the Department of the Interior concerning rights of way over Indian lands, approved May 22, 1928, are hereby amended as follows:

Change Sections 30 to 39, inclusive, to read:

30. Applications for oil or gas pipe-line rights of way and pumping station or tank sites, should be made to the Secretary of the Interior under the Act of March 11, 1904, as amended by that of March 2, 1917 (33 Stat. L., 65; 39 Stat. L., 973; 25 U. S. C., 321).

31. The Superintendent is hereby authorized, in his discretion, to grant temporary permission for the construction of oil or gas pipe lines, provided the applicant has deposited with him twice the amount of the estimated damages and files a written agreement to comply promptly with the applicable laws and regulations. A copy of each such permit should be promptly forwarded to the Commissioner of Indian Affairs, to be filed with the record in the case. Deposits made hereunder shall be carried as "Special Deposits" until the receipt of instructions as to disposal.

32. The size of the proposed pipe line must be shown in the application; on the map; and in the engineer's affidavit and the president's certificate (Forms 3 and 4). The application and map should also specify whether the pipe is welded, screw-joint, dresser, or other type of coupling.

33. Where additional right of way is desired for pumping stations or tank sites, application therefor should be made in like manner, accompanied by maps showing the right of way, with connecting line to the main pipe line. Application for such additional right of way may be either submitted separately or incorporated in that for the main line, and, in addition to the other papers specified by these regulations, it must be accompanied by a properly executed stipulation, embodying the following provisions:

(a) To lay all connecting pipes at a sufficient depth below the surface as not to interfere with the cultivation of the land. Upon abandonment of the premises to level all dikes, fireguards, and excavations and to remove all concrete masonry foundations, bases, and structural works so that the ground will be as nearly as practicable in the same condition as before its use for the pump station or tank site.

(b) The use of the surface for such purposes shall not interfere with the allottee's right to remove any oil or gas deposits, and the pump station or tank site grant shall always be subservient to an oil or gas lease on the land.

(c) The structures shall be erected in accordance with regulations prescribed by the Secretary of the Interior, and subject to inspection and approval by his representative after completion.

34. Damages shall be assessed in each case so as fully to compensate the Indians, and schedules submitted to the Secretary of the Interior for approval in accordance with Sections 71–84 hereof. When any subsequent damage is done by reason of the bursting of a pipe or tank or by the entry of the pipe-line or tank owner or any of his employees upon the land, they shall be assessed and paid in like manner. Prior to approval of the right of way, the applicant must submit a written agreement to pay any such latter damages within ten days after demand therefor, upon penalty of forfeiture of the grant.

35. All pipe lines shall be buried a sufficient depth under the surface as not to interfere with the cultivation of the land above, and at the risk of the company. Should it be desired at any time to lay additional lines of pipe in the same trench, or to replace the original line by larger or smaller pipe, permission therefor must be first obtained from the Secretary of the Interior and payment made of any damages sustained by the Indian owners, in the same manner as for the original line. Any right of way granted hereunder is subject to the right of the full use and enjoyment of the premises by the tribe, allottee, or occupant, except as otherwise provided by law or these regulations.

36. Any applicant obtaining a right of way for an oil or gas pipe line hereunder does so with the understanding that he waives all claims for damages of whatever nature to any of the pipes or lines arising from the cultivation of the surface in the usual manner.

37. Where a pipe or pipe line is laid under a traveled road or highway, its construction shall be in compliance with the applicable State laws; during the work at least one-half the width of the road must be kept open to travel; and, upon completion, the highway shall be restored to its original condition, any excavation to be refilled whenever, by settling or other causes, the necessity therefor may arise.

38. Whenever any such pipe crosses a ravine, canyon, or waterway, it may be laid either below the bed thereof or upon such a superstructure as will not interfere with the use of the surface.

39. Where any pipe line constructed hereunder is not subject to State taxation, the company shall pay to the Secretary of the Interior, for the use and benefit of the Indians, an annual tax, not exceeding $5.00 for each ten miles of line, under such rules and regulations as he may prescribe. But nothing herein contained shall be so construed as to exempt the owner of such a line from the payment of any tax lawfully imposed upon him by either State or municipal authority, nor to deny to any incorporated city or town into or through which the line may extend, the right to regulate the manner of construction.

Add three new sections—

39¼. In accordance with the Acts cited, lateral lines connecting with oil or gas wells on individual allotments may be constructed without securing authority from the Secretary of the Interior, when the consent of the Indian owners has been obtained and satisfactory evidence thereof filed with the Superintendent. Such lateral lines may be of any diameter or length, but must be limited to those used solely for the transportation of oil or gas from a single restricted allotment to another lateral or to a branch of the main line. The owner of the line may either independently undertake to obtain the consent of the Indian owners or negotiate therefor through the Superintendent, as preferred. The consent of the allottee for the construction of a lateral must be executed in triplicate, with a blue print copy of map showing the line attached; and should be specifically limited to twenty years. The original should be given to the company and the duplicate to the allottee, and the triplicate filed at the agency.

39½. The Acts cited in Section 30 limit oil and gas pipe line rights of way thereunder to a period of not to exceed twenty years, with the proviso that the Secretary of the Interior may grant an extension for a like term. If such an extension is desired for either a main line or a lateral, application therefor, accompanied by the necessary maps, etc., should be filed at the local agency at least sixty days before the original grant expires. The Superintendent will assess and collect adequate damages, which should not be less than 25¢ per rod, and forward a schedule thereof to the Commissioner of Indian Affairs, with the application, the consent of the allottees, and his recommendation in the premises. The Superintendent should keep a record of expirations, in order to see that applications for desired extensions are submitted within the 60-day period.

39¾. The books and records of pipe-line operators shall be open to the inspection of the Secretary of the Interior, or his duly accredited representatives at all reasonable times, in order to obtain information which pertains in any way to oil produced or run from lands under the jurisdiction of the Secretary of the Interior.

Change Section 43 to read—

43. Applications covering power projects affecting allotted Indian lands should be addressed to the Secretary of the Interior and filed in the local land office under the Act of February 15, 1901 (31 Stat., 790; 43 U. S. C., 959), or that of March 4, 1911 (36 Stat., 1253; 43 U. S. C., 961), and handled administratively as in the case of telephone and telegraph lines (See Sections 41 and 42 hereof).

43¼. Those projects which affect tribal Indian lands should be handled in the same manner except where the power is generated by hydroplants, for which a separate application must be filed with the Federal Power Commission under the Act of June 10, 1920 (41 Stat., 1063; 16 U. S. C., 776), as amended by Sections 201 to 213, inclusive, of the Act of August 26, 1935 (49 Stat., 838–847; 16 U. S. C., 791–825), and regulations issued by the Commission pursuant thereto.

43½. The consent of any tribe organized under the Act of June 18, 1934 (48 Stat., 984), is required by Section 10 (e) of the Federal Power Act of August 26, 1935 (49 Stat., 983; 16 U. S. C., 803), before a license can be issued covering water-power project on tribal lands.

Add a new section after Section 52 to be headed "Highways in Territory of Five Civilized Tribes"—

52½. The Acts cited below authorize section-line highways of the prescribed widths in the territory of the Five Civilized Tribes, Oklahoma, as follows:

Nation	Width (rods)	Act	Reference
Creek	3	Sec. 10, June 30, 1902	32 Stat., 502.
Cherokee	2	Sec. 37, July 1, 1902	32 Stat., 722.
Choctaw, Chickasaw, Seminole	2	Sec. 24, Apr. 26, 1906	34 Stat., 145.

In such cases it is only necessary for the State or county to file with the Secretary of the Interior a map, drawn on tracing cloth, with two blue print copies, showing the location of the road. Wider section-line highways and those off the line, regardless of width, will be handled through the medium of easement deeds executed by the allottees or their heirs and approved by the Secretary of the Interior. Deeds of minors should be executed by the legal guardian in each case, and have attached thereto copies of the guardian's appointment and of the order of the court specifically authorizing him to execute the deed subject to approval by the Secretary of the Interior. Upon receipt of the approved deed, the Superintendent should have attached thereto before delivery a copy of the Court's order confirming the sale, and send a copy of the order to the Commissioner of Indian Affairs.

Add a new section after Section 55 to be headed "Highways in Roadless and Wild Areas"—

55½. Whenever a public highway right of way is desired within any of the roadless or wild areas on Indian reservations established by the order of the Secretary of the Interior dated October 29, 1937, the application must contain a specific statement to this effect, with a full justification therefor; the accompanying map of definite location must clearly indicate the area involved; and the Superintendent's report must fully explain the necessity for the road, and whether or not he recommends approval of the application on the basis of the policy enunciated in the order cited. Where the proposed road will be on a reservation having such an area, but the road is not to be located therein, the superintendent's report must contain a specific statement to this effect.

Change Section 67 to read—

67. Where a right of way is desired for any purpose not covered herein, the superintendent should submit full details to the Commissioner of Indian Affairs for instructions as to procedure.

Add a new section after Section 69, to read—

69½. As the holder of the legal title to allotted Indian lands held in trust, the United States must be made a party to all such condemnation suits and the action must be brought in the appropriate Federal District Court, the *procedure*, however, to follow the provisions of the State law on the subject, so far as applicable.

Change Section 79, to read—

79. At the time of making the appraisal, or upon its completion, the question of compensation and damages should be taken up with and thoroughly explained to, the individual Indians, and, if they are agreeable, their written acceptance of the awards made by the Superintendent, either by affixing their signatures to the schedule (Form 12) or by separate statements (Form 5–104b) should be procured. Should any Indian object to the amount and demand a greater payment, if such demand is considered reasonable by the Superintendent he should revise his appraisal accordingly; otherwise, the written statement of the Indian should be forwarded with the schedule (Form 12) and a full report of the Superintendent's views. Where tribal lands are involved, belonging to a tribe which is organized under the Act of June 18, 1934 (48 Stat., 984; 25 U. S. C., 476), all right-of-way applications must be presented to the tribal council or other authorized representative body; and, in the case of unorganized tribes, all railroad rights of way and others of more than ordinary importance, should likewise be thus submitted to the council or representative body of the tribe. A record of the proceedings should be kept and a duly authenticated copy attached to the schedule.

Change Section 83 (a), to read—

83 (a). In the case of allotted lands, is a sale thereof pending, either to the tribe or to an individual? If so, give full details, with name of purchaser, status of transaction, etc.

Change Section 84, to read—

84. If a prospective sale of allotted lands develops, or if any other adverse rights or interests accrue on either allotted or tribal lands after the papers have been forwarded, and before approval of the application, the Superintendent should at once make a special report of the facts to the Commissioner of Indian Affairs.

Change Section 91 to read—

The act of April 21, 1928, extends to the Pueblo Indians of New Mexico and their lands, under such rules, regulations, and conditions as the Secretary of the Interior may prescribe, the provisions of the Statutes of the United States governing rights of way through Indian lands, as follows:

U. S. C.	Purpose	Act
Title 25:		
211	Highways	Sec. 4, Mar. 3, 1901, 31 Stat. 1084.
312	Railroads	Sec. Mar. 2, 1899, 30 Stat. 990. Feb. 28, 1902, 32 Stat. 50. June 21, 1906, 34 Stat. 330. June 25, 1910, 36 Stat. 859.
313		
314		
315		
317		
318		
319	Telegraph and telephone lines.	Sec. 3, Mar. 3, 1901, 31 Stat. 1083.
321	Oil and gas pipe lines	Mar. 11, 1904, 33 Stat. 65. Mar. 2, 1917, 39 Stat. 973.
Title 43:		
935	Railroads	Sec. 2, Mar. 3, 1875, 18 Stat. 482.

The within regulations, so far as applicable, are hereby adopted as those authorized by the Act of April 21, 1928 (45 Stat. 442; 25 U. S. C. 322)."

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1446; Filed, May 23, 1938; 9:54 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1937 CROP OF FLORIDA SUGARCANE, PURSUANT TO THE SUGAR ACT OF 1937

Whereas Section 301 (d) of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(d) That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

and

Whereas the Secretary of Agriculture, on December 4, 1937, held a public hearing in Clewiston, Florida, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1937 crop of Florida sugarcane:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine, with respect to the requirements of Section 301 (d) of the Sugar Act of 1937, fair and reasonable prices for the 1937 crop of Florida sugarcane to be paid by processors, who as producers, apply for payments under the said Act, to be not less than the prices set forth in the Standard Florida Sugarcane Purchase Contract with cooperative participation supplement now used by the United States Sugar Corporation: *Provided, however*, That, when 10 cc. of the crusher juice of any sugarcane are titrated against a N/10 solution of NaOH, using phenolphthalein as an indicator, and it requires more than 2.25 cc. of N/10 NaOH to neutralize the acidity in the crusher juice, a deduction may be made in settlement, based upon decreased boiling house efficiency, at a rate not in excess of 3.775 per centum of the payment herein provided for for each .25 cc. of acidity above 2.25 cc. (intervening fractions computed to the nearest multiple of .05 cc.).

Done at Washington, D. C., this 20th day of May, 1938. Witness my hand and the seal of the Department of Agrioulture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1439; Filed, May 20, 1938; 3:13 p. m.]

Bureau of Agricultural Economics.

MEMORANDUM No. 756

[ADMINISTRATION OF THE LAND CONSERVATION AND UTILIZATION PROGRAM AUTHORIZED BY THE BANKHEAD-JONES FARM TENANT ACT]

MAY 19, 1938.

By Memorandum No. 733, dated September 1, 1937, administration of the Land Conservation and Land Utilization Program authorized by Title III and related sections of the Bankhead-Jones Farm Tenant Act was entrusted to the Chief of the Bureau of Agricultural Economics, subject to the supervision of the Secretary. In connection with the administration of that program the Chief or Acting Chief of the Bureau of Agricultural Economics, or any employee of the Department whom either of them may designate in writing, are hereby specifically authorized, on behalf of the United States in connection with projects approved by the Secretary, to perform the functions hereinafter outlined. The requirements of Department Regulations 1712 and 3312 which conflict with this authorization are hereby waived:

1. Exercise options to purchase, and execute easements, leases, licenses, and other forms of contracts for the acquisition of real property or any interest therein, subject to any reservations or exceptions which will not interfere with the use of the property for the purposes of the project, as approved.

2. Determine whether public buildings, within the meaning of section 355 of the Revised Statutes, will or will not be constructed upon individual tracts of land under contract of purchase.

3. Execute life leases to the grantors or occupants of lands acquired, provided their occupancy and use will not interfere with the purposes of the project.

4. Execute easements, leases, licenses, and other forms of contracts permitting the construction and maintenance of telephone lines, pipe lines, roads, irrigation and drainage ditches, etc., (but not those power lines licenses for which are required by law to be granted by the Federal Power Commission), across project areas when such construction will not materially interfere with the purposes of the project.

5. Execute leases, licenses, permits, agreements and other forms of contracts permitting the use of lands acquired, when consistent with the purposes of the project, for cropping, grazing, building occupancy, recreational and incidental purposes, provided they do not extend for more than ten years.

6. File in the name of the United States, in accordance with the law of the state involved, applications for water rights covering waters to be impounded, impeded, or diverted in their flow by construction work contemplated in connection with the development of a project.

7. Exercise all powers to revoke, terminate, or cancel contracts executed in accordance with the foregoing authority, which are exercisable either by the terms of the contracts themselves or by operation of law.

All forms for leases, licenses, easements, agreements, use permits, etc., shall be submitted to the Office of the Solicitor for approval.

There is hereby reserved to the Secretary, in connection with this program, all authority:

1. To sign correspondence or other documents definitely committing the Department regarding the disposition to be made of projects or important segments thereof.

2. To execute deeds or other documents involving the sale, exchange, or other disposition of the entire fee simple title to lands acquired.

3. To make dedications and grants of lands for public purposes.

4. To execute leases, cooperative and other agreements for the administration by federal, state or territorial agencies of lands acquired.

5. To execute leases, licenses, permits, agreements, and other forms of contracts, permitting the use of lands acquired when the rights granted extend for more than ten years, except as specifically indicated above.

6. To make rules and regulations necessary to prevent trespasses and otherwise regulate the use and occupancy of lands acquired, when the rules and regulations are to be enforced as provided in section 32 (f) of Title III of The Bankhead-Jones Farm Tenant Act.

7. To compromise claims and obligations arising under, and adjust and modify the terms of leases, contracts, and agreements entered into as circumstances may require.

8. To execute abstract contracts.

Memorandum No. 733, dated September 1, 1937, also directed the Land Utilization Program theretofore administered by the Farm Security Administration to be transferred to the Bureau of Agricultural Economics for administration as rapidly as might be feasible, and, pending the completion of such transfer, all existing delegations of authority in connection with that program were affirmed. Hereafter, pending and after the completion of this transfer, the Chief or Acting Chief of the Bureau of Agricultural Economics, as the personal representative of the Secretary of Agriculture, may modify and change such delegations of authority to the extent necessary to coordinate the administration of that program with the program initiated under Title III of The Bankhead-Jones Farm Tenant Act.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-1444; Filed, May 20, 1938; 12:37 p. m.]

Bureau of Biological Survey.

ORDER PERMITTING FISHING IN CERTAIN LAKES WITHIN THE WICHITA MOUNTAINS WILDLIFE REFUGE, OKLAHOMA

Under authority of regulation 2 of the regulations of the Secretary of Agriculture, effective December 2, 1936, for the administration of Wichita Mountains Wildlife Refuge, Oklahoma, it is hereby ordered that, in accordance with the provisions of said regulations, fish may be taken for noncommercial purposes each day between the hours of 5 a. m. and 8 p. m. during the period from May 29 to September 15, 1938, both dates inclusive, within the following described waters of the Wichita Mountains Wildlife Refuge, subject to the conditions and restrictions herein specified:

1. *Waters open to fishing.*—The following waters of the Refuge are hereby designated as areas open to fishing, and fishing will not be permitted in any other waters unless and until further ordered: Lake Quanah Parker, including the one-acre stilling pool below the Quanah Parker dam; Lake Osage; and Lake Burford.

2. *State fishing laws.*—Fishing in the aforesaid waters may be conducted in accordance with the applicable laws of the State of Oklahoma except that live minnows may not be used for bait and no person may have live minnows or any seine or net which may be used in capturing minnows in his possession within the boundaries of the Refuge, and no trot line may be used in said waters. Daily bag limits, size or length of fish, and all other provisions of State law or regulations must be complied with in connection with such fishing.

3. *Fishing permits.*—Each person who fishes in any of the aforesaid waters under the aforesaid conditions must be in possession of a valid fishing license issued to him in accordance with the provisions of the State law of Oklahoma, if such a license is required, which shall serve as a Federal permit for fishing in said waters. Said license must be carried on his person when exercising the privilege of fishing in said waters and must be exhibited upon request of any Federal or State officer authorized to enforce Federal or State fishing laws or regulations, or laws and regulations applicable to the Refuge.

The right to amend or revoke any or all provisions of this Order is hereby reserved by the Chief, Bureau of Biological Survey, and said Order is subject at all times to discretionary revocation by the Secretary of Agriculture.

[SEAL] IRA M. GABRIELSON,
Chief, Bureau of Biological Survey.

[F. R. Doc. 38-1440; Filed, May 20, 1938; 3:13 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2954]

IN THE MATTER OF CENTRAL PATTERN & FOUNDRY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before John L. Hornor, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and brief filed herein in support of the complaint (no brief having been filed by respondent and no oral argument having been requested) and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Central Pattern & Foundry Company, its agents, representatives and employees, in connection with the offering for sale, sale and distribution of aluminum castings in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Using the expression "only new ingot metals", or any other expression or device of similar import and meaning, to describe its aluminum castings, or the metal from which such castings are made, unless such castings are manufactured wholly from primary or virgin aluminum.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1445; Filed, May 21, 1938; 10:08 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23rd day of May, A. D. 1938.

[File No. 50-5]

IN THE MATTER OF AMERICAN GAS AND POWER COMPANY BIRMINGHAM GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An Application and Declaration pursuant to Sections 11 (g), 7, and 12 (c) of the Public Utility Holding Company Act of 1935 and the Rules of this Commission applicable thereto having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on June 9, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 4, 1938.

The matter concerned herewith is in regard to a Report by this Commission on a Plan of Recapitalization of Birmingham Gas Company, dated February 1, 1938, and Declaration with respect to (a) solicitations of consents and acceptances, (b) the issue of securities or the exercise of a privilege or right to alter the rights of holders of outstanding securities, and (c) the acquisition of securities to effectuate such Plan.

Birmingham Gas Company is reported in the application to have had the following securities outstanding as at April 30, 1938:

First Mortgage Gold Bonds, 5% Series due 1959	$5,915,000.00
6% Notes due October 1, 1938 (publicly held)	600,000.00
6% Notes due October 1, 1938, endorsed by American and secured by 4,825 shares of capital stock of Commonwealth Distribution, Inc., owned by American (held by First National Bank of Birmingham and Birmingham Trust & Savings Company, referred to as to "Birmingham Banks")	162,434.26
6% Notes due October 1, 1938 (held by Sloss-Sheffield Steel & Iron Company and Alabama By-Products Corporation, referred to as "Coke Oven Companies")	102,353.99
Non-interest bearing Note held by American (Parent) dated November 15, 1932; due October 1, 1935; extended to October 1, 1938; with further right to renew for successive periods of three years each until the following obligations have been fully paid:	405,000.00
(a) 4½% Notes due October 1, 1932, and any notes issued and delivered in exchange therefor or for any thereof and maturing October 1, 1935;	
(b) the indebtedness to the Birmingham Banks;	
(c) the indebtedness to the Coke Oven Companies.	
Matured Notes due in 1932 and 1935 (publicly held)	1,000.00
	Shares
First Preferred Stock, $6 Series ($10 par value—$100 liquidating value)	29,789.44
Common Stock ($2 par value)	200,000

American Gas and Power Company is reported in said application to be indebted to Birmingham Gas Company as at April 30, 1938, in the sum of $1,283,920.25 for principal and interest on its Certificate of Indebtedness.

The Plan includes the following:

1. No change in the First Mortgage 5% Gold Bonds of Birmingham due May 1, 1959.

2. The exchange of the publicly held 6% Notes of Birmingham on the basis of $500 in cash and a new Six-Year 4½% Sinking Fund Note in the principal amount of $500 for each $1,000 principal amount of 6% Notes surrendered.

3. The exchange of the 6% Notes of Birmingham held by the Birmingham Banks on the basis of 50% in cash and the remainder in new Notes of Birmingham maturing ninety days after date with an option to Birmingham to renew for two successive ninety-day periods. The new Notes are not to be endorsed by American, although they are to be secured by the same collateral as the old Notes.

4. The voluntary cancellation by the Coke Oven Companies of Birmingham Notes held by them, or the extension of such Notes in whole or part, or other disposition thereof.

5. The exchange of the First Preferred Stock, $6 Series, of Birmingham together with $38 per share accrued and unpaid dividends thereon on the basis of one share of new $3.50 Cumulative Prior Preferred Stock (par value, $10; liquidating value, $50) and two shares of Common Stock for each share of First Preferred Stock, $6 Series, surrendered.

6. The cancellation of the $405,000 Note of Birmingham now pledged as partial security for the outstanding Secured Debentures, 5% and 6% Series due August 1, 1953, of American.

7. The cancellation of the Certificate of Indebtedness of American held by Birmingham in the principal amount of $1,086,743.90 upon which interest in the amount of $197,176.35 had accrued as at April 30, 1938.

8. The payment by American to Birmingham of the sum of $550,000 in cash together with the delivery of 60,000 shares of Birmingham common stock and the $405,000 non-interest bearing Note.

9. The consent of the holders of the Secured Debentures, 5% and 6% Series due August 1, 1953 of American to a modification of the Debenture Agreement securing the same so as to authorize the release from the lien thereof of 200,000 shares of the common stock of Birmingham, being all of its issued and outstanding common stock, and the $405,000 Note of Birmingham upon surrender by American of $400,000 principal amount of said Secured Debentures for cancellation.

10. American now owes Continental Bank and Trust Company of New York $150,000 which is secured by the pledge of $1,200,000 principal amount of American's Secured Debentures; $400,000 of such Debentures are to be released from such pledge and made available for surrender by American for cancellation and retirement. On the basis of continued pledge of the remaining $800,000 principal amount of Secured Debentures of American and the pledge by American of 140,000 shares of the common stock of Birmingham, Continental Bank and Trust Company of New York will increase said loan from $150,000 to $700,000, thereby making available to American $550,000 for payment to Birmingham as provided in paragraph 8 above.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1449; Filed, May 23, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of May, A. D. 1938.

[File No. 31-116]

IN THE MATTER OF HOUSTON NATURAL GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 9, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 4, 1938.

The matter concerned herewith is in regard to the application of Houston Natural Gas Corporation for exemption as a holding company from the provisions of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1450; Filed, May 23, 1938; 12:51 p. m.]

Wednesday, May 25, 1938 *No. 102*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

RESTORING LAND TO TERRITORY OF HAWAII FOR AERONAUTICAL PURPOSES AND RESERVING LAND FOR MILITARY PURPOSES

Territory of Hawaii

WHEREAS it is deemed desirable and in the public interest that the land comprising the Upolu Point Military Reservation, island of Hawaii, Territory of Hawaii, be restored to the Territory of Hawaii for aeronautical purposes, and that certain other public land on the island of Hawaii, Territory of Hawaii, be reserved for military purposes:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 91 of the act of April 30, 1900, 31 Stat. 141, 159, as amended by section 7 of the act of May 27, 1910, 36 Stat. 443, 447, it is ordered as follows:

I.

The following-described parcel of land comprising the Upolu Point, Military Reservation, Territory of Hawaii, is hereby restored to the possession, use, and control of the government of the Territory of Hawaii for aeronautical purposes:

Beginning at a pipe marking the southwest corner of the reservation, from which the azimuth (measured clockwise from true south) and distance to a cross on rock on the sea pali is 105°14'02", 1,488.67 feet, the position of which cross on rock, referred to the government survey triangulation station "Puu O Nale", is 23,683.1 feet north and 6,397.7 feet west.

Thence from said initial point, by true azimuths and distances, as follows:

162°16', 110.00 feet, to a point;
252°16', 337.54 feet, to a point;
264°15', 61.55 feet, to a point;
354°15', 110.00 feet, to a point;
84°15', 50.00 feet, to a point;
72°16', 326.00 feet, to the point of beginning.

The azimuths are measured clockwise from true south. The tract described contains an area of 0.979 acre.

Provided, however, that the parcel of land hereby restored shall be available at all times and without charge therefor, for the taking off and landing of airplanes and airships of the United States, and this privilege shall include such temporary occupation and maintenance of government airplanes and airships as may be deemed necessary by competent military authority.

II.

The following-described parcel of land, being a portion of the Upolu Airport, Opihipau and Kealahewa 3 lands, District of North Kohala, island of Hawaii, Territory of Hawaii, is hereby reserved and set apart for military purposes:

Beginning at a pipe in the boundary line between the Opihipau and Kealahewa 3 lands, the position of which pipe, referred to the government survey triangulation station "Puu O Nale", is 22,984.56 feet north and 5,922.54 feet west, as shown on government survey registered map No. 2366, and from which pipe the azimuth (measured clockwise from true south) and distance to the identical pipe marking the southwest corner of the 0.979-acre tract described above is 252°16', 1,009.2 feet.

Thence from said initial point, by true azimuths and distances, as follows:

322°15', 113.77 feet, along the boundary line between the Opihipau and Kealahewa 3 lands, to a point;
77°30', 494.33 feet, to a point;
167°30', 200.00 feet, to a point;
257°30', 400.00 feet, to a point;
252°26'30", 286.75 feet, to a point;
342°16', 100.00 feet, to a point;
72°16', 250.00 feet, to the point of beginning.

The azimuths are measured clockwise from true south. The tract as described contains an area of 2.672 acres.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 21, 1938.

[No. 7893]

[F. R. Doc. 38-1453; Filed, May 23, 1938; 2:17 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49578]

GENERAL TERM BOND FOR ENTRY OF MERCHANDISE

ARTICLE 1253 (A) (5), CUSTOMS REGULATIONS OF 1937, AMENDED TO PROVIDE FOR PRINTED FORM OF GENERAL TERM BOND FOR ENTRY OF MERCHANDISE

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 251, Revised Statutes (U. S. C. title 19, sec. 66), and section 624 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1624), article 1253 (a) (5) of the Customs Regulations of 1937 is hereby amended to read as follows:

(5) General term bond for entry of merchandise in a penalty of $100,000, or such larger amount as may be fixed by the Commissioner of Customs. A principal desiring to execute a general term bond for entry of merchandise shall file with the collector at the principal port of entry, for transmission to the Commissioner of Customs, an application for permission to file a general term bond, which application shall be accompanied by the recommendation of the collector as to the sufficiency of the penalty, together with a statement showing the port or ports at which it is intended that entry will be made, the general character and average value of merchandise consigned to the various ports together with the estimated duties payable thereon. The bond shall be executed on customs Form 7595. Upon approval of the application the Bureau will forward to the collector of customs the required number of copies of such form for execution.

JAMES H. MOYLE,
Commissioner of Customs.

Approved, May 19, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1457; Filed, May 24, 1938; 12:27 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Fisheries.

JOINT REGULATIONS OF THE SECRETARY OF THE TREASURY AND THE SECRETARY OF COMMERCE CONCERNING WHALING

Pursuant to the authority of the Whaling Treaty Act of May 1, 1936, 49 Stat. 1249 (U. S. C., Sup. III, title 16, secs. 901–915), to give effect to the Convention between the United States and certain other countries for the regulation of whaling, concluded at Geneva, September 24, 1931, signed on the part of the United States March 31, 1932, and effective January 16, 1935, we, the Secretary of the Treasury and the Secretary of Commerce, make and prescribe the following joint regulations:

ARTICLE 1. The provisions of the Convention for the regulation of whaling, the Whaling Treaty Act, and these regulations apply to all nationals, vessels, and boats of the United States in all the waters of the world, and to all persons, vessels, and boats in the United States, its territories and possessions, including the territorial waters thereof.

ART. 2. For the purposes of these regulations, baleens or whalebone whales included within the terms of the Convention for the regulation of whaling and the Whaling Treaty Act shall be deemed to include, among others, those listed below:

RIGHT WHALES

Atlantic right whale.
Arctic right whale.
Biscayan right whale.
Bowhead.
Great polar whale.
Greenland right whale.
Greenland whale.
Nordkaper.
North Atlantic right whale.
North Cape whale.
Pacific right whale.
Pigmy right whale.
Southern pigmy right whale.
Southern right whale.

GRAY WHALES

California gray.
Devil fish.
Hard head.
Mussel digger.
Gray back.
Rip sack.

SEI WHALES

Bryde's whale.
Pollock whale.
Rudolphi's whale.

BLUE WHALES

Blue whale.
Sibbald's rorqual.
Sulphurbottom.

FIN WHALES

Common fin back.
Common finner.
Common rorqual.
Finback.
Fin whale.
Herring whale.
Razorback.
True fin whale.

HUMPBACK WHALES

Bunch.
Humpbacks.
Hump whale.
Hunchbacked whale.

LEAST RORQUALS

Davidson's piked whale.
Little piked whale.
Minke's whale.
Sharpnosed finner.

ART. 3. Calves, suckling, immature whales, or the young of any whale shall be deemed to include, among others, whales having a length, measured on the level in a straight line between the tip of the upper jaw and the notch between the flukes of the tail, less than the following dimensions:

	Feet
Blue whales	60
Fin whales	50
Humpback whales	35
Sei whales	40
Least rorquals	18
Sperm whales	35

ART. 4. Except as provided in the following article, the hunting, taking, capturing, killing, possession, sale, purchase, shipment, transportation, carriage, import, or export of any baleen or whalebone whale, or the possession, sale, purchase, shipment, transportation, carriage, import, or export of the products thereof, shall be deemed compatible with the terms of said Convention and permitted by these regulations.

ART. 5. The hunting, taking, capturing, killing, possession, sale, purchase, shipment, transportation, carriage, import, or export of any right or gray whale, or of any calf, suckling, immature whale, or the young of any whale, or of any female whale accompanied by any calf or suckling whale, or the possession, sale, purchase, shipment, transportation, carriage, import, or export of the products thereof, shall be deemed incompatible with the terms of said Convention and prohibited by these regulations, except:

(a) For scientific purposes under a special permit issued by the Secretary of Commerce: *Provided*, That, in case of each such importation or exportation of any such whale or the product of any such whale, including oil, meat, bone, meal, or fertilizer, competent evidence that the Secretary of Commerce has authorized such importation or exportation, must be presented to the Collector of Customs at the port of importation or exportation.

(b) By natives or Eskimos engaged in whaling who use only canoes or other native craft propelled by oars or sails, do not carry firearms, are not employed by others than natives or Eskimos, and are not under contract to deliver products of their whaling to any third person: *Provided*, That, in the case of each such importation or exportation, the Collector of Customs for the Customs Collection District of Alaska (No. 31) may require, and all other collectors of customs for all other customs collection districts shall require, the presentation at the port of importation or exportation of satisfactory evidence of such facts.

ART. 6. (a) Each factory ship and land station shall have an inspector of whaling on the ship or at the station who shall be an officer of the Coast Guard assigned to such duty by the Secretary of the Treasury. The owner of any factory ship or land station shall notify the Secretary of the Treasury of the date on which the ship will depart on any whaling cruise, or of the date on which the station will begin whaling operations, at such time in advance thereof as will permit an inspector of whaling to report on the ship prior to its departure, or to report at the station before it begins whaling operations.

(b) The master or person in charge of any factory ship or land station shall provide an inspector of whaling with suitable and adequate subsistence and accommodations; and for each day that such inspector is provided with subsistence and accommodations as aforesaid, he shall pay to the master or person in charge of the factory ship or land station a pro-rata share of the cost of subsisting the personnel of the factory ship or land station during the season, not to exceed one dollar per day.

(c) An inspector of whaling is authorized to be present at any whaling operations conducted by a factory ship, land station, or any vessel attached thereto; to address inquiries to the master, person in charge, members of the crew, or any other employee of any such ship, station or vessel concerning such operations; to measure any whales taken; and to inspect and examine any such whales or the parts or products thereof. This provision shall not be construed in derogation of any authority conferred upon such inspectors or any other officers of the United States by any other provision of law or regulation.

(d) An inspector of whaling shall obtain and furnish to the proper authorities such data and information as may be required pursuant to law, and also shall report as soon as practicable to such authorities the violation of any provision of the Convention or of the Act or any regulation thereof. If the violation involves the taking of any whale, such report shall state all the facts relative thereto, and the amount of oil and other products derived from any such whale.

ART. 7. (a) The master or person in charge of any factory ship or land station shall keep an accurate daily record of whaling operations including (1) the number of whales taken and the number of whales injured or killed and not recovered by the whale catchers; and also the time and place of taking, injuring, or killing such whales; (2) the species, sex, and length of each whale taken, and if any such whale contains a foetus, the length and sex, if ascertainable, of the foetus; (3) whether any whale taken was producing milk; and (4) the aggregate amounts of oil of each grade and the quantities of meal, fertilizer and other products derived from whales taken; and also shall forward a report containing the foregoing data to the Commissioner of the Bureau of Fisheries within three months after the close of each whaling season. The master or person in charge of any factory ship or land station shall have available in his possession copies of the contracts of the gunners and members of the crew of such ship or station or any whale catcher attached thereto, and also an accurate account showing the monthly pay of such persons and the factors upon which such pay is based.

(b) The master or person in charge of any factory ship or land station shall permit any officer authorized to enforce the provisions of the Convention or of the Act or any regulation thereof, to examine and inspect any such record, contract or account and to make copies thereof, or excerpts therefrom at any time; shall furnish any such officer with such other data or information as may be required by the Secretary of the Treasury or the Secretary of Commerce pursuant to the provisions of the Act; and shall render all possible assistance to, and fully cooperate with, any such officer.

ART. 8. Nothing in these regulations shall be construed as applying to dolphins or porpoises, or permitting any act contrary to the laws and regulations of any State or Territory made for the purpose of giving further protection to whales when such laws and regulations are not inconsistent with the Convention or the Whaling Treaty Act.

ART. 9. The Whaling Treaty Act and any regulations made pursuant thereto shall be posted in a conspicuous and accessible place on each factory ship and at each land station.

ART. 10. The joint regulations approved October 9, 1936, issued pursuant to the authority of the Whaling Treaty Act, are hereby superseded.

DANIEL C. ROPER,
Secretary of Commerce.
STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

Approved, May 18, 1938.

FRANKLIN D ROOSEVELT
The President.

[F. R. Doc. 38-1458; Filed, May 24, 1938; 12:27 p. m.]

Bureau of Marine Inspection and Navigation.

REGULATIONS TO PROMOTE SAFETY OF LIFE DURING THE INTERCOLLEGIATE REGATTA AT POUGHKEEPSIE, NEW YORK, ON JUNE 27, 1938

The following regulations are hereby prescribed under authority of the Act of April 28, 1908 (35 Stat. 69):

On the day of the regatta all visiting yachts and excursion boats will be given positions to the eastward of the established easterly line of the course in the order of arrival and application. Small yachts and boats will be given positions in front of the larger craft. No vessels will be allowed to anchor to the westward of the course or within 100 yards up stream or down stream from the finish line on either side of course.

All visiting vessels must be anchored in their assigned positions one hour before the start of the first race, and thereafter until the finish of the last race of the day no vessel will be allowed on the course excepting the steward's boat, the launches of the competing crews, and other official boats.

No vessel shall pass up or down the river during the progress of the races. A succession of sharp, short whistles from the United States vessel patrolling the course shall serve as a signal for vessels to stop. Pilots of vessels shall stop when directed to do so by the United States officer in charge.

No vessel will be allowed to make fast to the judges' boat at the finish line, excepting boats carrying telephone or telegraph cables and the steward's dispatch boat.

Prior to the alignment of the crews on the starting line, all vessels entitled to follow excepting the steward's boat shall take their places to the eastward of the course and shall not be permitted to run ahead of the steward's boat or any crew continuing in the race.

No vessel or boat of any description shall pass over the course until fifteen minutes after the conclusion of the last race, and then with due regard for the safety of competing crews returning to their training quarters over the course.

The above regulations will be enforced subject to the discretion of the United States officer in charge.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

Approved, May 24, 1938.

[F. R. Doc. 38-1462; Filed, May 24, 1938; 12:37 p. m.]

REGULATION OF MOTOR BOATS

Pursuant to the authority contained in Section 8 of the Motor Boat Act of June 9, 1910 (36 Stat. 463; 46 U. S. C. 518), the regulations prescribed in Department Circular 236 issued December 1, 1936, are hereby amended to read as follows:

REGULATIONS

1. All violations of the above act detected by enforcement officers other than collectors of customs must be reported directly to the Department of Commerce (Bureau of Marine Inspection and Navigation) regardless of mitigating circumstances, as authority to mitigate and remit the penalties under the laws mentioned is vested solely in the Secretary of Commerce. Such reports must be forwarded to the Bureau of Marine Inspection and Navigation in triplicate. The use of the report forms heretofore used in making such reports to collectors of customs is authorized.

2. The act defines the words "motor boat" (i. e., the class of vessels subject to its requirements) as including every vessel propelled by machinery and not more than 65 feet in length, except tugboats and towboats propelled by steam. The term, therefore, includes boats temporarily or permanently equipped with detachable motors, and such vessels, when so equipped, are subject to this act.

Lights

3. The lights provided for in section 3 of the act above are running lights for motor boats subject to the provisions of the act in lieu of the lights prescribed, respectively, by article 2 of the act approved June 7, 1897 (covering certain harbors, rivers, and inland waters of the United States), rule 3 of the act approved February 8, 1895 (covering the Great Lakes and their connecting and tributary waters); and rules 3, 5, 6, and 7 of section 4233 of the Revised Statutes (covering western rivers). These running lights must be carried on all motor boats when underway on navigable waters of the United States not on the high seas in all weathers from sunset to sunrise. The penalty for failure to carry such lights is a fine not exceeding $100. Motor boats when on the high seas must exhibit the lights prescribed by the International Rules of 1890.

4. The lights provided for in section 3 are not in conflict with the anchor lights, and additional lights for pilot, towing, and fishing vessels, provided in the acts above cited.

Collectors of customs and others will observe that the penalty for violations of existing laws not in conflict with this act remain unchanged.

5. Motor boats of class 1 must carry the two-color combination light and the white stern light required by section 3 (a) of the act. The use of separate red and green side lights in lieu of the combination red and green light is prohibited.

The length of the light screens on motor boats of classes 2 and 3 is to be measured from the forward edge of the side light to the forward end of the light screen.

6. No penalty is incurred by motor boats for a failure to carry lights between the hours of sunrise and sunset.

7. If a motor boat, through temporary disablement of the machinery or lack of gasoline, or for any other reason, finds it necessary to proceed under sail, in whole or in part, the white lights should be extinguished and she should proceed with her colored lights only. This does not convert a motor boat into a sailboat, however, and all other motor boat equipment should be carried.

8. The aft light should be higher and so placed as to form a range with the forward light and should be clear of house, awnings, and other obstructions. It should be as near the stern as practicable.

9. The law does not specify the size of lights to be carried on motor boats of class 1. Such lights should be large enough however, to accomplish the purpose intended, and it is suggested that the illuminated portion of such lights or lenses should not be less than 3 inches in diameter.

Whistle, Fog Horn, and Bell

10. No size or style of whistle, fog horn, or bell (except the bell for class 3) is prescribed, provided it is available and sufficient for the use for which it is intended. The word "efficient" must be taken in its ordinary sense, considered with reference to the object intended by the provisions in which the word appears, namely, the production of certain signals.

11. A mouth whistle capable of producing a blast of two seconds or more in duration, which can be heard for at least one-half a mile, has been held to be in compliance with the law. An electric horn, or other sound-producing mechanical appliance, capable of producing a blast of two

seconds or more in duration, which can be heard for at least one-half a mile, may be used in lieu of a whistle.

12. Fog horns can not take the place of whistles on motor boats of classes 2 and 3.

Life Preservers and Life-Saving Devices on Motor Boats and All Vessels Propelled by Machinery Other Than by Steam More Than 65 Feet in Length Not Carrying Passengers for Hire

13. Every motor boat and all vessels propelled by machinery other than by steam more than 65 feet in length not carrying passengers for hire must have life preservers or life belts, or buoyant cushions, or ring buoys, or other devices in sufficient numbers to provide one for each person on board. This includes members of the crew, children, and babies. No such life preserver, life belt, buoyant cushion, ring buoy, or other device is approved for more than one person each.

The Department authorizes life preservers, life belts, buoyant cushions, and ring buoys for motor boats and all vessels propelled by machinery other than by steam more than 65 feet in length not carrying passengers for hire under the following conditions: Each such device shall be capable of sustaining afloat for a continuous period of 24 hours an attached weight so arranged that whether the said weight is submerged or not there shall be a direct downward gravitational pull upon such device of at least 20 pounds. Each such device must either be aproved by the Board of Supervising Inspectors, or it must have attached a tag on which is stated the name and address of the manufacturer, the weight and contents of the device, and that it complies with the requirements of section 5 of the Act of June 9, 1910, for motor boats not carrying passengers for hire. Every such device must have at least two strong straps securely attached to it in such a manner that they will not break or be torn loose under ordinary conditions, of sufficient length and so arranged that they may be slipped over the arms of the wearer to the shoulders. This section shall not apply to seagoing vessels of 300 gross tons and over, propelled in whole or in part by internal-combustion engines.

No such life preservers, life belts, buoyant cushions, ring buoys, or other device stuffed or filled with granulated cork or other loose granulated material, and no pneumatic life preservers, life belts, buoyant cushions, ring buoys, or other device will be approved.

Planks, gratings, floorings, oars, corks on fish nets, empty kegs or casks, wooden boxes, boats in tow, etc., are not approved as substitutes for life preservers, life belts, buoyant cushions, or ring buoys, but wooden life floats made of light buoyant wood may be used on motor boats navigating not more than three miles offshore and not carrying passengers for hire. The dimensions of every such wooden life float shall be not less than 4 feet in length, 12 inches in width, and 1¾ inches in thickness, and the weight shall not exceed 25 pounds. The float may be made in one or two pieces. If made in two pieces, they shall be securely attached together with wooden dowels. No metal shall be used in the construction of the float. It shall be provided with two hand-holes, one at each side, midway in the length, which hand-holes shall be not less than 6 inches in length and 2 inches in width, with a margin of at least 1 inch at the edge of the float. Wooden life floats made of balsa wood shall not be less than 3 feet in length, 11½ inches in width, and 2 inches in thickness. The balsa wood used in the construction of such floats shall be of the same quality as required for balsa wood life preservers. Each two-piece float, in addition to the doweling, shall be securely glued and the dowels shall be four in number of ¾ inch diameter, made of straight-grained dry hardwood, driven through and entirely across the float through holes bored to slightly less diameter than the dowel. Life floats already installed on motor boats and constructed in accordance with previous regulations may continue to be used.

On Motor Boats Carrying Passengers for Hire

Motor boats carrying passengers for hire shall carry one life preserver of the sort prescribed by the Board of Supervising Inspectors for every person carried, and the person in charge must be duly licensed.

Motor boats hired at launch liveries and operated by the liveryman or his employee are construed as carrying passengers for hire; but if the motor boat is operated by the hirer himself, it is not considered a carriage of passengers for hire even though he may take other persons on board, provided, of course, he does not receive compensation for carrying these other persons.

Fire Extinguishing Apparatus

14. Fire extinguishers of a type which have demonstrated their ability to "promptly and effectually extinguish burning gasoline" must be carried on all motor boats when being navigated. Extinguishers of the carbon dioxide, carbon tetrachloride, and foam types have demonstrated their capacity for promptly and effectually extinguishing burning gasoline. Extinguishers of any of these types, which are full and in working condition, and which are of sufficient size to be effective, may be considered as being in compliance with the law. Neither soda and acid type extinguishers, sand, nor salt and sand, have been found to be capable of promptly and effectually extinguishing burning gasoline.

Licensed Officers and Inspection

15. In lieu of the inspection of steam vessels now provided by sections 4417, 4418, and 4426, Revised Statutes, it is now required that, after due inspection or personal observation, the design of the engine, boiler, or other operating machinery of motor boats more than 40 feet in length and not more than 65 feet in length, propelled by machinery driven by steam, shall be approved by the local inspectors.

All steam vessels more than 65 feet in length are subject to inspection as heretofore.

Motor boats propelled otherwise than by steam of above 15 gross tons carrying freight or passengers for hire, but not engaged in fishing as a regular business, are subject to inspection whether under or over 65 feet in length.

The only officer required to be carried on motor boats within the contemplation of the act of June 9, 1910, is the licensed operator provided for in the act.

Documents and Name

16. All motor boats of 16 gross tons or over used exclusively for pleasure should be documented as yachts; all motor boats of 5 net tons or over engaged in trade must be documented—i. e., licensed by the Collectors of Customs. Vessels under 5 net tons are not registered, enrolled, or licensed in any case. The license of the vessel obtained from the Collector of Customs (designated a document) is additional to and must not be confounded with the license required for the operator of a motor boat.

All vessels, registered, enrolled, or licensed, except yachts, must have name and home port on stern and name on each bow. Documented yachts must have name and home port conspicuously placed on the hull. Tonnage measurement is necessary only in case of vessels required to be registered, enrolled, or licensed.

17. Motor boats are required to have on board two copies of the pilot rules to be observed by them, which will be furnished by collectors of customs and local inspectors, Bureau of Marine Inspection and Navigation, on request. Copies of this circular should be inserted therein.

Tabulated statement of equipment required

CARRYING PASSENGERS FOR HIRE

	Sec. 3	Sec. 4	Sec. 5	Sec. 6
Class 1	Combination light forward. White light aft.	Whistle	Life preservers. Licensed operator.	Fire extinguishing apparatus.
Class 2	White lights forward and aft and colored side lights, all with fresnel or fluted lenses.	Whistle, bell, and fog horn.	Same as class 1.	Same as class 1.
Class 3	Same as class 2	Same as class 2.	Same as class 1.	Same as class 1.

Tabulated statement of equipment required—Continued

NOT CARRYING PASSENGERS FOR HIRE

Class 1	Combination light forward. White light aft.	Whistle	Life preservers or life-saving devises prescribed by act.	Fire extinguishing apparatus.
Class 2	White lights forward and aft and colored side lights, all with fresnel or fluted lenses.	Whistle, bell, and fog horn.	Same as class 1.	Same as class 1.
Class 3	Same as class 2	Same as class 2.	Same as class 1.	Same as class 1.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 38-1463; Filed, May 24, 1938; 12:37 p. m.]

COMMODITY CREDIT CORPORATION.

[C. C. C. Wool Form 1 Instructions 1938]

INSTRUCTIONS CONCERNING THE MAKING OF LOANS BY COMMODITY CREDIT CORPORATION ON THE SECURITY OF WOOL OR MOHAIR REPRESENTED BY WAREHOUSE RECEIPTS—1938

Commodity Credit Corporation has authorized the making of loans and the purchase of eligible paper secured by the pledge of wool or mohair warehouse receipts. These instructions state the requirements of Commodity Credit Corporation with reference to making such loans and the purchase of such paper.

1. *Definitions.*—As used in these instructions, unless the context otherwise requires, the following terms will be construed respectively to mean:

(*a*) *Producer.*—Any person, partnership, association, or corporation producing wool or mohair.

(*b*) *Wool pool.*—Any informal pool organized by and consisting of two or more producers of wool or mohair which is represented by a bank or trust company or agricultural or livestock credit corporation acting as a borrowing representative or agent for such producers, pursuant to Producer's Authority to Pool (1938 C. C. C. Wool Form G).

(*c*) *Eligible wool.*—Wool or mohair produced in 1937 or 1938, the beneficial title to which is and always has been in the producer.

(*d*) *Lending agency.*—Any bank, cooperative marketing association, or other corporation, partnership, association, or person making loans on 1938 C. C. C. Wool Form A, B, or C, or holding notes on these forms evidencing such loans. (A Loan Agency of the Reconstruction Finance Corporation is not included within this definition.)

(*e*) *Eligible paper.*—Notes on 1938 C. C. C. Wool Forms A, B, or C or any form hereinafter approved by Commodity Credit Corporation dated subsequent to April 15, 1938, and on or before October 31, 1938, and executed in accordance with these instructions with State documentary revenue stamps affixed thereto when required by law. (Notes executed by an administrator, executor, or trustee will be acceptable only where valid in law, and all such notes must be submitted for direct loans in accordance with section 9 hereof.)

2. *Forms.*—The following forms are available for use in connection with loans made or eligible paper purchased by Commodity Credit Corporation:

(*a*) Wool Producer's Note (1938 C. C. C. Wool Form A).
(*b*) Wool Pool Note (1938 C. C. C. Wool Form B).
(*c*) Collateral Note for Cooperative (1938 C. C. C. Wool Form C).
(*d*) Appraiser's Certificate to be executed by appraisers of Commodity Credit Corporation (1938 C. C. C. Wool Form D).
(*e*) Producer's Letter of Transmittal (1938 C. C. C. Wool Form E).
(*f*) Lending Agency's Letter of Transmittal (1938 C. C. C. Wool Form F).
(*g*) Producer's Authority to Pool (1938 C. C. C. Wool Form G).
(*h*) Contract to Purchase (1938 C. C. C. Wool Form H).
(*i*) Schedule of Repayments (1938 C. C. C. Wool Form J).

3. *Wool loan basis.*—Following are the classifications and scoured or clean wool values of wool in Boston which form the basis for determining the amounts to be loaned against grease wool of comparable grades:

Classification	*Value scoured or clean wool (cents per pound)*
Fine Wool:	
Class 1.—Very choice wool	59
(*a*) Delaine.	
(*b*) Graded territory combing (strictly staple).	
Class 2.—Choice wool	57
(*a*) Choice 12 months' Texas, including original bags bulk combing length.	
(*b*) Graded territory; choice French combing length, including some staple.	
(*c*) Original bag territory; bulk staple length, including some French combing.	
Class 3.—Average to good wool	56
(*a*) 12 months' Texas, including original bags.	
(*b*) Graded territory; French combing length.	
(*c*) Original bag territory; good French combing length.	
Class 4.—Fair to average wool	54
(*a*) 12 months' Texas, including original bags.	
(*b*) Graded territory; short to average French combing length.	
(*c*) Original bag territory; average French combing length.	
Class 5.—Poor and inferior	50
(*a*) Original bag bulk clothing and some stubby.	
(*b*) Graded clothing and stubby mixed.	
Half-Blood Wool:	
Class 6	52
(*a*) Graded territory; strictly staple length.	
Class 7	51
(*a*) Graded territory; average combing length.	
(*b*) Original bag territory; mostly half-blood, may include some three-eighths or some fine.	
(*c*) Graded territory clothing.	
Three-Eighths-Blood Wool:	
Class 8	48
(*a*) Graded territory.	
Quarter-Blood Wool:	
Class 9	44
(*a*) Graded territory.	
Class 10.—Low quarter-blood—common and braid	35
Class 11.—Rejects	20
(*a*) Burry and seedy wools.	
(*b*) Black.	
(*c*) Cots.	
(*d*) Fine bucks.	
(*e*) Dead (not Murrain).	
(*f*) Navaho.	
(*g*) Karakul.	

Appraisers for Commodity Credit Corporation will determine the shrink and classification and compute the loan value of the wool. As to wool stored at points other than Boston, appraisers for Commodity Credit Corporation, in computing the loan value of the wool, will also make appropriate allowance for rail transportation to Boston. For Texas clips other than 12 months', the appraiser will reduce the value in the classification by the customary trade differential. A deduction of 5 cents per clean pound will be made by appraisers for all fleece wool and for wool produced in central and southern California and 2 cents per clean pound for wool produced in northern California. A deduction of 20 cents per bag will be made by the appraisers for an appraisal charge on each loan secured by warehouse receipts representing original bag wool which can be readily sold in such original bags of 5,000 pounds or more and/or on grading wools, whether fleece or territory, of 25,000 pounds or more. An *additional* charge of 20 cents per bag will be deducted from each loan secured by lesser quantities of wool. On wool which is graded and piled in the warehouses, the appraiser will deduct, as the appraisal charge, 20 cents for each 400 pounds or fraction thereof.

3a. *Mohair loan basis.*—Following are the classifications and grease mohair values:

Classification—Point of storage:	Cents per pound
Kid—Texas and Boston	30
Adult—Texas and Boston	20
Kid—All other points	29
Adult—All other points	19

Appraisers for Commodity Credit Corporation will determine the classification and compute the loan value of the mohair. A deduction of 20 cents per bag will be made by appraisers as an appraisal charge, provided that for lots of less than 5,000 pounds 40 cents per bag will be deducted.

3b. *Maturity and interest rate.*—The loans will mature 10 months from date or May 31, 1939, whichever is earlier, and will bear 4 percent interest.

4. *Cooperative association.*—Any producer who is a member of a cooperative marketing association may negotiate loans through such an association. Cooperative marketing associations meeting the requirements of the Capper-Volstead Act may arrange to secure funds from Commodity Credit Corporation necessary to enable such associations to make loans or advances to their members or member associations.

5. *Warehouses.*—Commodity Credit Corporation will accept only negotiable insured warehouse receipts covering wool or mohair pledged as collateral to notes on 1938 C. C. C. Wool Forms A, B, or C issued by any public warehcuse approved by the Loan Agency of the Reconstruction Finance Corporation serving the district in which such warehouse is located. Warehousemen are advised to communicate with the Loan Agency of the Reconstruction Finance Corporation concerning approval. Each approved warehouse must enter into an agreement with the Commodity Credit Corporation which may be obtained from the Loan Agency. This agreement will limit the warehouseman's lien and define his obligations to Commodity Credit Corporation. All wool and mohair pledged as security for a note must be in the same warehouse. A list of the approved warehouses and their locations will be available at any Loan Agency of the Reconstruction Finance Corporation listed in section 14 hereof.

6. *Warehouse receipts.*—Only negotiable, insured warehouse receipts dated on or prior to the date of the related note and properly assigned by an endorsement in blank so as to vest title in the holder, or issued to bearer, executed by warehousemen who are not owners of the wool or mohair, will be acceptable. The insurance furnished by the warehouseman must cover fire, lightning, and windstorm. Such receipts must set out in their written or printed terms a description by lot number, weight of the wool or mohair, and the number of bags represented thereby, or description of graded pile, and all other facts and statements required to be stated in the written or printed terms of a negotiable warehouse receipt under the provisions of section 2 of the Uniform Warehouse Receipts Act.

7. *Appraisers.*—Commodity Credit Corporation will employ appraisers who will be available from time to time at the approved warehouses for the examination and appraisal of pledged wool or mohair. Producers or wool pools or cooperatives desiring to have their wool or mohair appraised should so advise the warehouseman, who will make the necessary arrangements with the appraisers when the warehouse receipts are issued. After examining the wool or mohair the appraiser will issue an appraisal certificate on 1938 C. C. C. Wool Form D, of which two copies will be attached to the warehouse receipts and delivered to the producer or the wool pool or cooperative or order. The original appraiser's certificate and warehouse receipts must accompany the related note.

8. *Preparation of documents.*—A producer or wool pool desiring a loan upon eligible wool or mohair may obtain the necessary forms from the Loan Agencies of the Reconstruction Finance Corporation listed in section 14 of these instructions. Such forms may also be obtained from Commodity Credit Corporation, Washington, D. C. The forms are identified, and no reprints or substitutes may be used.

All blanks in both the note and loan agreement must be filled in with ink, indelible pencil, or typewriter in the manner indicated therein, and no documents containing additions, alterations, or erasures will be accepted by Commodity Credit Corporation. Only the white copy of the note and loan agreement marked "original" is to be executed; the colored copy marked "duplicate" is to be retained by the producer.

9. *Direct loans.*—It is contemplated that producers will ordinarily arrange for loans through local banks or other lending agencies, which, in turn, may sell the eligible paper evidencing such loans to Commodity Credit Corporation. Arrangements, however, have been made for making direct loans to producers on or before October 31, 1938. In the case of direct loans the notes must be made payable to Commodity Credit Corporation and must be tendered to the Loan Agency of the Reconstruction Finance Corporation serving the district in which the wool or mohair is stored, accompanied by a Producer's Letter of Transmittal (1938 C. C. C. Wool Form E), in duplicate, postmarked not later than midnight of October 31, 1938, if tendered by mail. Upon delivery of all necessary documents properly executed and upon their approval, payment will be made in accordance with the directions of the producer contained in said 1938 C. C. C. Wool Form E. When the Letter of Transmittal and documents are presented by the producer in person, the certificate printed at the bottom of the letter need not be executed, provided the producer can furnish evidence satisfactory to the Loan Agency as to his identity.

10. *Wool pools.*—Producers may join with other producers to form informal wool pools for the purpose of obtaining loans from Commodity Credit Corporation. In this connection assistance may be obtained from county extension agents or other governmental representatives. The representative of such informal pools must obtain authority from the producers for the pooling of the wool or mohair and the pledging thereof to Commodity Credit Corporation on a Producer's Authority to Pool, 1938 C. C. C. Wool Form G. Under this arrangement the representative will execute the note evidencing the advance and pledging the wool or mohair without further liability on the part of such representative to Commodity Credit Corporation, except in the case of fraud or misrepresentation. Banks or agricultural or livestock credit corporations may act as representatives of wool pools. Such notes may be made payable to Commodity Credit Corporation and submitted immediately with a Lending Agency's Letter of Transmittal (1938 C. C. C. Wool Form H) in which case no allowance for interest will be made by Commodity Credit Corporation. However, if the representative of the wool pool has executed a Contract to Purchase (1938 C. C. C. Wool Form H), allowance will be made by Commodity Credit Corporation for the interest from the date of the note.

11. *Lending agencies.*—Commodity Credit Corporation will purchase eligible paper as above defined only from lending agencies which have executed and delivered to the Loan Agency of the Reconstruction Finance Corporation serving the district in which the pledged wool or mohair is stored, a Contract to Purchase (1938 C. C. C. Wool Form H) obtainable only from Loan Agencies. Such eligible paper must be tendered to the proper Loan Agency for purchase prior to February 1, 1939. The purchase price for such eligible paper will be the face amount of the notes, plus interest thereon at the rate of two and one-half percent (2½%) per annum from the respective dates of such notes to the date of purchase. In this connection the representative of a wool pool or pools may carry under the terms of the Contract to Purchase, the notes which it has executed. Under the terms of the Contract to Purchase, lending agencies are required to report on 1938 C. C. C. Wool Form J all payments or collections on notes held by them, and to remit promptly to Commodity Credit Corporation, Washington, D. C., an amount equivalent to 1½ percent per annum interest on the principal amount collected from the respective dates of the notes to the date of payment. Notes on 1938 C. C. C. Wool Form A, B, or C may be endorsed without recourse by lending agencies tendering same.

Care should be exercised by the lending agency to determine the genuineness of the signatures to such notes and loan agreements, and that the warehouse receipts are genuine and represent merchantable wool or mohair in existence. No provision is made for any deduction from the loan proceeds as a charge for handling the loan documents. Lending agencies must complete the "Advice of Loan" slip appended to the loan agreement, detach and mail same to Commodity Credit Corporation, Washington, D. C., at the time such notes are executed. The Advice of Loan and also the Schedule of Repayments (1938 C. C. C. Wool Form J) must be filled in with ink, indelible pencil, or typewriter.

12. *Liens.*—All wool or mohair tendered to Commodity Credit Corporation as security to notes on 1938 C. C. C. Wool Form A must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in the Loan Agreement. The names of the holders of all existing liens on the pledged wool or mohair (but not warehousemen) must be listed in the space provided therefor in paragraph 2 of the loan agreement. A misrepresentation as to prior liens, or otherwise, will render the producer personally liable under the terms of the loan agreement (1938 C. C. C. Wool Form A) and subject to criminal prosecution under the provisions of section 16 (a) of the Reconstruction Finance Corporation Act, as amended, which section is printed at the end of the loan agreement. The waiver and consent to the pledge of the wool or mohair and the payment of the proceeds of the loan and the proceeds of the sale of the wool or mohair solely to the producer as contained in paragraph 2 of the loan agreement must be signed personally by all lienholders listed or by their agents, whose duly executed authority must be attached firmly; or, if corporations, by the designated officer thereof customarily authorized to execute such instruments, in which case the duly executed authority need not be attached. Notes in which the waiver and consent to pledge, as contained in paragraph 2 of the Loan Agreement, are not signed by all prior lienholders listed by the producer, will not be acceptable to Commodity Credit Corporation. The producer may direct in the Letter of Transmittal (1938 C. C. C. Wool Form E) that the proceeds check for a direct loan from Commodity Credit Corporation be made payable to him and/or such other person or concern as he may direct thereon.

All wool or mohair pledged to secure wool pool notes on 1938 C. C. C. Wool Form B must likewise be free and clear of all liens. The financial institution executing the note is required to state that each producer participating in the pool has represented and agreed that the wool or mohair delivered by him is free and clear of liens, and the bank must be satisfied as to the power of any lienholders listed by such producers to waive liens and consent to the pledge.

13. *Insurance.*—Holders of notes desiring insurance coverage in addition to the insurance coverage provided by warehousemen should obtain such coverage at their own expense. Commodity Credit Corporation will make no allowance for insurance in purchasing eligible paper.

14. *Loan agencies of the Reconstruction Finance Corporation.*—The location of the Loan Agencies of the Reconstruction Finance Corporation previously referred to herein and the districts served by them are shown below:

Loan agency	District served
Atlanta	All cities in 6th Federal Reserve District.
Boston	All cities in 1st Federal Reserve District.
Chicago	All cities in 7th Federal Reserve District.
Houston	All cities in 11th Federal Reserve District attached to Houston.
Kansas City	All cities in 10th Federal Reserve District not attached to Omaha.
Los Angeles	All cities in 12th Federal Reserve District attached to Los Angeles.
Louisville	All cities in 4th Federal Reserve District and cities in 8th Federal Reserve District attached to Louisville.
Minneapolis	All cities in 9th Federal Reserve District.
New York	All cities in 2d Federal Reserve District.
Omaha	All cities in 10th Federal Reserve District attached to Omaha.
Philadelphia	All cities in 3d Federal Reserve District.
Portland	All cities in 12th Federal Reserve District attached to Spokane, Seattle, and Portland.
Richmond	All cities in 5th Federal Reserve District.
San Antonio	All cities in 11th Federal Reserve District except those attached to Houston.
San Francisco	All cities in 12th Federal Reserve District attached to San Francisco.
St. Louis	All cities in 8th Federal Reserve District except those attached to Louisville.

15. *Release of collateral.*—If the producer's or wool pool's notes was made payable to Commodity Credit Corporation and it is desired to obtain the return of the note and the release of the collateral upon payment, the Federal Reserve bank or branch thereof serving the district in which the wool or mohair is stored should be notified. If note was made payable to a payee other than Commodity Credit Corporation, the producer or representative of the wool pool should notify the payee named therein. Warehouse receipts representing wool or mohair held by Commodity Credit Corporation will be released by the Federal Reserve bank or branch thereof holding the receipts, upon the payment of the amount of the loan, the accrued interest, and proper charges. No partial releases will be permitted. Upon written request of the producer *or the lending agency*, the note and warehouse receipts will be forwarded to an approved bank, to be released to the producer or his agent or the representative of the wool pool against payment. Where receipts are transmitted to a bank they will be sent with a request to return them to the sender if payment and release are not effected within 15 days. All charges and expenses of the collecting bank are to be paid by the producer or representative of the wool pool.

[F. R. Doc. 38-1455; Filed, May 24, 1938; 9:34 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 18th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3024]

IN THE MATTER OF TARPON SPRINGS SPONGE EXCHANGE, INC., A CORPORATION; MARY J. BOUCHLAS, TRADING AS ROCK ISLAND SPONGE CO.; JOHN DIAMANDIS AND PETER J. CARDULIS, PARTNERS, TRADING AS DIAMANDIS AND CARDULIS; N. G. ARFARAS, AN INDIVIDUAL; SPONGE PRODUCERS' CORPORATION, A CORPORATION; CHARLES SIMEON AND CHARLES HALIPILIAS, PARTNERS, TRADING AS SIMEON AND HALIPILIAS; SPONGE FISHING COMPANY, A CORPORATION; DIAMANDIS DIAMANDIS AND CRISTOS PSILAKAS, PARTNERS, TRADING AS INDUSTRIAL FLORIDA SPONGE COMPANY; ALBERT BLOCH AND SONS, INC., A CORPORATION; D. A. ALISSANDRATOS AND NICK BESSIS, PARTNERS, TRADING AS COMMERCIAL SPONGE COMPANY; ALEC STEFANIDI, AN INDIVIDUAL; C. G. ANDRIOTES, TRADING AS C. G. ANDRIOTES & COMPANY; GEORGE S. SMITZES, JAMES SMITZES, LOUIS SMITZES, AND NICK DRIVAS, PARTNERS, TRADING AS SMITZES AND DRIVAS; EM. MACRENARIS, AN INDIVIDUAL; NICK PHILIPPOU AND JOHN KOUREMATIS, PARTNERS, TRADING AS TROPICAL SPONGE COMPANY; SCHROEDER AND TREMAYNE, INC., A CORPORATION; JOHN FASSOL AND P. SACIARIDES, PARTNERS, TRADING AS FASSOL AND SACIARIDES; JAMES S. SMITZES, INC., A CORPORATION; A. L. TARAPINA, AN INDIVIDUAL; JOHN FASSOL, AN INDIVIDUAL; GEORGE CLADAKIS, AN INDIVIDUAL; W. F. FERGUSON, AN INDIVIDUAL; NIC MACRENARIS, AN INDIVIDUAL; ANASTACIOS KOTIS, AN INDIVIDUAL; DIAMANDIS LEONIS, AN INDIVIDUAL; MICHAEL GONATOS, AN INDIVIDUAL; AND VASILIO CHRISTON, AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the

answers of respondents, testimony and other evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein, and oral arguments by Karl Stecher, counsel for the Commission, and by William L. Hill, counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of an Act of Congress, approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes":

It is ordered, That the respondents, Tarpon Springs Sponge Exchange, Inc., a corporation, Mary J. Bouchlas, trading as Rock Island Sponge Co., John Diamandis and Peter J. Cardulis, partners trading as Diamandis and Cardulis, N. G. Arfaras, an individual, Sponge Producers Corporation, a corporation, Charles Simeon and Charles Halipilias, partners trading as Simeon and Halipilias, Sponge Fishing Company, a corporation, Diamandis Diamandis and Cristos Psilakas, partners trading as Industrial Florida Sponge Company, Albert Bloch and Sons, Inc., a corporation, D. A. Alissandratos and Nick Bessis, partners trading as Commercial Sponge Company, Alec Stefanides, an individual, C. G. Andriotes, trading as C. G. Andriotes & Company, George S. Smitzes, James Smitzes, Louis Smitzes, and Nick Drivas, partners trading as Smitzes and Drivas, Em. Macrenaris, an individual, Nick Philippou and John Kourematis, partners trading as Tropical Sponge Company, Schroeder & Tremayne, Inc., a corporation, John Fassol and P. Saclarides, partners trading as Fassol and Saclarides, James S. Smitzes, Inc., a corporation, A. L. Tarapina, an individual, John Fassol, an individual, George Ciadakis, an individual, W. F. Ferguson, an individual; Nic Macrenaris, an individual, Anastacios Kotis, an individual, Diamandis Leonis, an individual, Michael Gonatos, an individual, and Vasilio Christon, an individual, their representatives, officers, agents and employees, or any group of such respondents or their agents, either with or without the cooperation of persons not parties in this proceeding, cease and desist from uniting in a common course of action or entering into any understanding, agreement, combination, or conspiracy for the purpose or with the effect of restricting, restraining, or monopolizing, or eliminating competition in, the purchase or sale of sponges sold or intended to be sold in interstate commerce, and in furtherance of such understanding, agreement, combination, or conspiracy from doing any of the following acts and things:

1. Entering into and carrying out any understanding or agreement not to sell sponges on or through the sponge exchange operated by the respondent Tarpon Springs Sponge Exchange, Inc.

2. Entering into and carrying out any understanding or agreement not to buy sponges on or through the sponge exchange operated by the respondent Tarpon Springs Sponge Exchange, Inc.

3. Entering into and carrying out any understanding or agreement refusing to sell or buy sponges.

Provided, That nothing herein contained shall be construed to conflict in any manner with U. S. Code, Title 15, Chapter 13A, Sections 521 and 522.

It is further ordered, That the respondents shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1451; Filed, May 23, 1938; 1:28 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 18th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2654]

IN THE MATTER OF LASALLE EXTENSION UNIVERSITY

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the petition of respondent to modify the order to cease and desist issued herein on May 19, 1937, and upon oral argument by counsel for respondent in support of said petition to modify heard by the Commission on March 18, 1938, and the Commission having duly considered said petition and oral argument and the record herein, and being now fully advised in the premises;

It is ordered, That the petition to modify the order to cease and desist issued herein be, and the same is, hereby granted, and the said order is hereby modified so as to read:

It is ordered, That the respondent LaSalle Extension University, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of correspondence courses of instruction in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing, directly or indirectly, through the use of the term "Extension University" or the word "University" in its corporate name, or in any other manner, that it is, or that it conducts, a university or an extension university; unless and until respondent shall insert and use also the words "a correspondence institution," or the words "an institution for correspondence students," in immediate conjunction with its title, corporate name, or other designation, and in letters equally legible and conspicuous with said title, corporate name, or other designation, used on textbooks, pamphlets, stationery, letter heads, advertising matter, or otherwise.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1452; Filed, May 23, 1938; 1:29 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 16th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3104]

IN THE MATTER OF COLONIAL DAMES, INC., AND COLONIAL DAMES COMPANY, LTD., CORPORATIONS

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, the answer of respondents thereto, and the agreed stipulation as to the facts entered into between the respondents herein, Colonial Dames, Inc., and Colonial Dames Company, Ltd., and W. T. Kelley, Chief Counsel of the Commission, which stipulation provides that the statement of facts contained therein may be taken as the facts in this proceeding in connection with any further testimony in support of the charges stated in the complaint or in opposition thereto, and that the Commission may proceed upon said stipulation of facts and other evidence to be or which may be taken hereafter to make its report, stating its findings as to the facts (including inferences which it may reasonably draw from the said stipulated facts) and its conclusion based thereon, and to enter its order disposing of the proceeding without the presentation of argument or the filing of briefs, the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the said respondents, Colonial Dames, Inc., and Colonial Dames Company, Ltd., corporations, their officers, servants, employees, or agents individual or corporate, in connection with the advertising, describing, offering for sale and sale in interstate commerce or in the District of Columbia of preparations used or to be used in the care, treatment, and beautification of the skin, do forthwith cease and desist from:

(1) Representing that Colonial Dames Massage Cream is a skin rejuvenator, a skin food;

(2) Representing that the chief benefits derived from the use of Colonial Dames Massage Cream are due to the action of its ingredients rather than to massage;

(3) Representing that Colonial Dames Massage Cream banishes all traces of dryness or sluggishness, increases the circulation of fresh pure blood to every tiniest cell or tissue of the skin, thereby rebuilding and youthifying from within; reestablishes a normal circulation and drives directly at the cause of all beauty imperfections, and rids the skin of those enemies; reactivates or rejuvenates the tissues from within; stimulates cell structure and brings a surge of rich red blood to supply needed nourishment and purge out toxic impurities; or cures and prevents faulty skin texture and actually builds beauty into the skin;

(4) Representing that the effect of Colonial Dames Beauty Wash upon the skin is that of a bleach and not merely a cleansing agency;

(5) Representing that according to the weight of scientific authority Colonial Dames Beauty Wash banishes stubborn blackheads and tones sallow skins

(6) Representing that Colonial Dames Beautifier prevents pore clogging and actually builds beauty into the skin; that it acts on a different principle from most cosmetics; and from making other representations of similar tenor or import or any other or further representations concerning the efficacy and usefulness of respondents' said preparations in the care, treatment, and beautification of the skin unless and until said representations are true in fact;

(7) Using the words "Colonial Dames" in their respective corporate names, in identifying and describing the business conducted by them and in describing their said preparations in advertisements, newspapers, pamphlets, books, circulars, and radio broadcasts, or through any other means or device or in any other manner, without clearly and conspicuously adding in immediate connection or conjunction therewith the words: "Not connected with any society."

It is further ordered, That the respondent shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1456; Filed, May 24, 1938; 12:13 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

ADMINISTRATIVE ORDER No. 250

ALLOCATION OF FUNDS FOR LOANS

MAY 20, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Colorado 8015W1 Morgan	$5,000
Illinois 8028W1 Champaign	3,000
Indiana 8092W1 Jackson	3,000
Iowa 8005W1 Carroll	1,000
Kansas 8022W1 Doniphan	7,500
Kentucky 8021W1 Nelson	5,000
Minnesota 8055W1 Watonwan	3,400
Missouri 8030W1 Lawrence	5,000
Montana 8013W1 Flathead	8,700
Nebraska 8004W3 Polk	7,500
North Carolina 8021W1 Sampson	13,500
North Carolina 8023W2 Caldwell	14,400
Ohio 8056W1 Lorain	2,000
Ohio 8068W2 Fulton	3,000
Texas 8056W1 Lubbock	5,000

JOHN M. CARMODY, *Administrator*.

[F. R. Doc. 38-1454; Filed, May 24, 1938; 9:34 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of May, A. D. 1938.

IN THE MATTER OF PROCEEDING UNDER SEC. 19 (A) (3) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, TO DETERMINE WHETHER GERALD M. LOEB AND GORDON B. CRARY, INDIVIDUALLY AND AS PARTNERS OF E. F. HUTTON & CO., A PARTNERSHIP, AND H. TERRY MORRISON, INDIVIDUALLY, SHOULD BE SUSPENDED OR EXPELLED FROM MEMBERSHIP ON CERTAIN NATIONAL SECURITIES EXCHANGES

ORDER DISCONTINUING PROCEEDING

This proceeding having heretofore been instituted by order of the Commission entered December 30, 1937, pursuant to Section 19 (a) (3) of the Securities Exchange Act of 1934 to determine whether the respondents herein should be suspended or expelled from certain national securities exchanges of which they were members within the meaning of the Securities Exchange Act of 1934; and

It now appearing to the Commission that respondents Gerald M. Loeb and Gordon B. Crary have resigned from the firm of E. F. Hutton & Co., and that by reason thereof such respondents are not now members of any national securities exchange within the meaning of the Securities Exchange Act of 1934; and

The respondents Gerald M. Loeb and Gordon B. Crary, although denying all the charges made against them in the above-mentioned order, having each represented to the Commission that he proposes, for a period of ten months in the case of Gerald M. Loeb and for a period of eight months in the case of Gordon B. Crary, not to become a member of a national securities exchange, either through membership in his own name or as a partner in a member firm, and not to apply for registration as a broker or dealer, and not to become a partner, officer, director or branch manager of any broker or dealer, registered as such under the Securities Exchange Act of 1934;

It is therefore ordered, On the basis of the foregoing facts and representations, that this proceeding be and the same hereby is discontinued as to the respondents Gerald M. Loeb and Gordon B. Crary; and

The Commission having reconsidered the charges made against respondent H. Terry Morrison in the aforesaid order entered December 30, 1937, and having determined to discontinue the proceeding as to him;

It is therefore ordered, That this proceeding be and the same hereby is discontinued as to the respondent H. Terry Morrison;

It is further ordered, That the record of investigation by the Commission pursuant to order of the Commission entered March 17, 1936, and orders supplementary thereto concerning transactions in the common capital stock of Auburn Automobile Company, insofar as such investigation concerned transactions in such stock, be made a public record available for inspection at the office of the Commission in Washington, D. C.

By the Commission, Healy, C., dissenting as to discontinuance of proceeding against respondent H. Terry Morrison.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1459; Filed, May 24, 1938; 12:31 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of May, A. D. 1938.

[File No. 30-16]

IN THE MATTER OF THE TWIN STATE GAS AND ELECTRIC COMPANY

[Public Utility Holding Company Act of 1935, pursuant to Section 5 (d)]

ORDER OF THE COMMISSION

The Twin State Gas and Electric Company, a registered holding company, having made application, pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935, for an order declaring that it has ceased to be a holding company; notice and opportunity for hearing on said application having been duly given; the record in this matter having been duly considered; and the Commission having thereupon entered its findings and opinion on such application:

It is ordered, That The Twin State Gas and Electric Company has ceased to be, and at this time is not, a holding company. This order shall be effective as of the 21st day of May, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1460; Filed, May 24, 1938; 12:31 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 23rd day of May 1938.

[File No. 1-856]

IN THE MATTER OF CANAL CONSTRUCTION COMPANY CONVERTIBLE PREFERENCE STOCK, NO PAR VALUE

ORDER DESIGNATING TRIAL EXAMINER

The Chicago Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 (b) promulgated thereunder, having made application to the Commission to strike the No Par Value Convertible Preference Stock of the Canal Construction Company from listing and registration on the Chicago Stock Exchange; and

The Commission having set this matter down for hearing on May 25, 1938 before Henry Fitts, an officer of the Commission; and

It appearing that Henry Fitts will be unable to preside at said hearing;

It is ordered, That George Crossland, an officer of the Commission, be and he hereby is designated in this proceeding to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1461; Filed, May 24, 1938; 12:31 p. m.]

Thursday, May 26, 1938 *No. 103*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DELEGATING CERTAIN POWERS TO THE ATTORNEY GENERAL UNDER THE TRADING WITH THE ENEMY ACT

By virtue of and pursuant to the authority vested in me by section 5 (a) of the Trading with the Enemy Act, approved October 6, 1917 (40 Stat. 411, 415), I hereby authorize and direct the Attorney General of the United States to exercise all power and authority conferred upon the President by section 12 of the said act, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 23, 1938.

[No. 7894]

[F. R. Doc. 38-1464; Filed, May 24, 1938; 2:27 p. m.]

EXECUTIVE ORDER

ENLARGING THE HART MOUNTAIN ANTELOPE REFUGE OREGON

By virtue of and pursuant to the authority vested in me as President of the United States it is hereby ordered as follows:

1. All private lands acquired or leased by the United States since the issuance of Executive Order No. 7523 of December 21, 1936, establishing the Hart Mountain Antelope Refuge, within the area described in section 2 of that order are hereby included in and made a part of the said refuge.

2. All private lands within the said area hereafter acquired or leased by the United States shall be included in and become a part of the said refuge when so acquired or leased.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 23, 1938.

[No. 7895]

[F. R. Doc. 38-1465; Filed, May 24, 1938; 2:27 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49580]

PARROTS—REGULATIONS

IMPORTATIONS OF PRIVATELY OWNED BIRDS OF THE PARROT FAMILY REQUIRED TO BE INSPECTED BY PUBLIC HEALTH OFFICERS

To Collectors of Customs and Others Concerned:

Pursuant to Executive Order No. 5264 of January 24, 1930, the third paragraph of the regulations published as (1934) T. D. 46846 is amended by changing the period at the end of the second sentence thereof to a comma and adding the following:

but such importations must be inspected and passed by a quarantine officer of the United States Public Health Service before release for entry into the United States.

Appended hereto are a list of ports at which inspection and quarantine facilities of the United States Public Health Service are available for birds of the parrot family imported into the United States and a supplemental list of ports where inspection by a quarantine officer of the United States Public Health Service may be accomplished.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

LIST OF PORTS AT WHICH INSPECTION AND QUARANTINE FACILITIES OF THE UNITED STATES PUBLIC HEALTH SERVICE ARE AVAILABLE

Baltimore, Md.	Miami, Fla.
Boston, Mass.	Mobile, Ala.
Brownsville, Tex.	New Orleans, La.
Charleston, S. C.	Norfolk, Va.
Galveston, Tex.	Philadelphia, Pa.
Jacksonville, Fla.	Portland, Oreg.
Laredo, Tex.	Sabine, Tex.
Los Angeles, Calif.	San Francisco, Calif.

SUPPLEMENTAL LIST OF PORTS AT WHICH QUARANTINE INSPECTION OF BIRDS OF THE PARROT FAMILY MAY BE ACCOMPLISHED

Aberdeen, Wash.	New London, Conn.
Anacortes, Wash.	Newport News, Va.
Bellingham, Wash.	Niagara Falls, N. Y.
Bridgeport, Conn.	Ogdensburg, N. Y.
Brunswick, Ga.	Olympia, Wash.
Buffalo, N. Y.	Panama City, Fla.
Calexico, Calif.	Perth Amboy, N. J.
Carrabelle, Fla.	Plymouth, Mass.
Columbus, N. M.	Port Angeles, Wash.
Corpus Christi, Tex.	Port St. Joe, Fla.
Del Rio, Tex.	Port San Luis, Calif.
Douglas, Ariz.	Presidio, Tex.
Duluth, Minn.	Providence, R. I.
Eagle Pass, Tex.	Provincetown, Mass.
Eastport, Me.	Rio Grande City, Tex.
Erie, Pa.	Roma, Tex.
Eureka, Calif.	Rooseveltown, N. Y.
Everett, Wash.	Salem, Mass.
Fall River, Mass.	San Ysidro, Calif.
Fernandina, Fla.	Sault Ste. Marie, Mich.
Freeport, Tex.	Seattle, Wash.
Gloucester, N. J.	South Bend, Wash.
Hidalgo, Tex.	Tacoma, Wash.
Key West, Fla.	West Palm Beach, Fla.
Morehead City, N. C.	Wilmington, Del.
Naco, Ariz.	Wilmington, N. C.
New Bedford, Mass.	Ysleta, Tex.
New York, N. Y.	

[F. R. Doc. 38-1466; Filed, May 24, 1938; 2:54 p. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 68-FD]

IN THE MATTER OF THE APPLICATION OF THE SUNSHINE ANTHRACITE COAL COMPANY FOR CERTIFICATE OF EXEMPTION FILED PURSUANT TO ORDER NO. 28

NOTICE OF ORAL ARGUMENT ON EXCEPTIONS TO PROPOSED REPORT OF THE COMMISSION

The Sunshine Anthracite Coal Company, applicant above named, having filed with the Commission on the 21st day of May, 1938, exceptions to the proposed report of the Commission which was served upon the said applicant on the 12th day of May, 1938, and having requested that the adoption of the proposed report of the Commission and the exceptions thereto be set down for oral argument;

Now, therefore, notice is hereby given that the adoption of the proposed report of the Commission and the exceptions of the Sunshine Anthracite Coal Company thereto are set down for oral argument before the Commission in the Hearing Room of the Commission in the Walker Building at Washington, D. C., on the 1st day of June, 1938, commencing at the hour of ten o'clock A. M.

The Secretary of the Commission is forthwith directed to telegraph notice of the time and place of the oral argument provided for herein to the Sunshine Anthracite Coal Company and mail copies of this notice to the Sunshine Anthracite Coal Company, the Consumers' Counsel, and to the Secretaries of the Bituminous Coal Producers' Boards, and shall cause a copy of the same to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 23rd day of May, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-1475; Filed, May 25, 1938; 11:15 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF PRODUCERS WHO ARE ALSO PROCESSORS OF SUGAR BEETS OR SUGARCANE, PURSUANT TO SECTION 301 (D) OF THE SUGAR ACT OF 1937

Pursuant to the provisions of Section 301 (d) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that a producer shall be deemed to be also a processor:

(1) If such producer is directly engaged in the processing of sugar beets or sugarcane for sugar;

(2) If such producer, whether alone or in conjunction with others, controls a person directly engaged in the processing of sugar beets or sugarcane for sugar, either by stock ownership or otherwise; or

(3) If such producer is controlled, whether through stock ownership or otherwise, by a person directly engaged in the processing of sugar beets or sugarcane for sugar.

Done at Washington, D. C., this 24th day of May 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary*

[F. R. Doc. 38-1478; Filed, May 25, 1938; 12:15 p. m.]

[Docket No. A-74 O-74]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING OF HOPS GROWN IN THE STATES OF OREGON, CALIFORNIA, AND WASHINGTON

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of hops grown in the States of Oregon, California, and Washington;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such handling of hops grown in the States of Oregon, California, and Washington, in the Assembly Room, Court House, Santa Rosa, California, on June 10, 1938, at 9:30 a. m.; in the Auditorium, Old Senior High School, Salem, Oregon, on June 13, 1938, at 9:30 a. m.; and in the Banquet Room, Donnelly Hotel, Yakima, Washington, on June 15, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the

act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of hops grown in the States of Oregon, California, and Washington. Among other things, the proposed marketing agreement and order provide for: (a) the establishment of a Control Board, (b) the establishment of a Growers Allocation Committee, (c) the establishment of an Advisory Committee for each state included in the production area covered by the proposed marketing agreement and proposed order, (d) the regulation of any person, as a handler, who, as or through a principal, agent, broker, representative or otherwise, (1) ships hops from the State of Oregon, California, or Washington to any place outside that respective state, or (2) purchases, takes consignment of, accepts delivery of in connection with a purchase or sale by that respective person, or otherwise acquires, within any of said states, hops from a grower or any other person, or (3) uses hops, grown by himself, in making or manufacturing lupulin, or any malt beverage, or any other product, (e) expenses of administration, and other matters relating to the handling of hops grown in the States of Oregon, California, and Washington.

It is hereby declared that an emergency exists in the handling of hops in the aforesaid area, which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement and the proposed order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

Dated: Washington, D. C., May 25, 1938.

[F. R. Doc. 38-1484; Filed, May 25, 1938; 12:33 p. m.]

ACP-1938-11

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 9

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, and as amended by Supplements Nos. 3 to 8, inclusive, is hereby further amended as follows:

(1) The last sentence of item 1 of subsection A of Section IV is hereby amended to read as follows:

"The acreage planted to cotton shall be deemed to be that acreage which is seeded to cotton classified as soil-depleting."

(2) The last sentence of item 2 of subsection A of Section IV is hereby amended to read as follows:

"The acreage planted to corn shall be deemed to be that acreage which is seeded to corn classified as soil-depleting (excluding (1) any acreage of sweet corn contracted to be sold for canning; (2) any acreage of sweet corn sold for canning or roasting ears; (3) any acreage of sweet corn to be sold or used as seed; and (4) any acreage of popcorn sold as popcorn or to be sold or used as seed)."

(3) Item 6 of subsection A of Section V is hereby amended to read as follows:

"6. *Total soil-depleting acreage allotments.*—The following applicable rate for each acre of land classified as soil-depleting in excess of the total soil-depleting acreage allotment, less the acreages for which deductions are made under items 1 to 5, inclusive, of this subsection A:

(a) 5 times the rate of payment with respect to the wheat acreage allotment if a payment is computed for the farm under Section IV with respect to a wheat acreage allotment.

(b) 5 times the rate of payment with respect to general soil-depleting crops if the farm is a class A farm and no payment is computed for the farm under Section IV with respect to a wheat acreage allotment.

(c) $4.00 per acre if the farm is a class B farm and a payment is computed for the farm under Section IV with respect to a cotton, corn tobacco, peanut, potato, or rice acreage allotment but no payment is computed for the farm under Section IV with respect to a wheat acreage allotment."

(4) The last paragraph of subsection A of Section VI is hereby amended to read as follows:

"In the event that corn, cotton, rice, wheat, tobacco, peanuts, potatoes, or general crops are not harvested in 1938 on the farm, or in the event the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, finds that due to crop failure the acreage of such crop(s) was reduced sufficiently to affect materially the division of payments or deductions, the net payment or net deduction, if any, with respect to the acreage allotment for such crop(s) shall be divided among the landlords, tenants, and sharecroppers in the same proportion that the county committee determines that such persons would have shared in the proceeds of such crop(s) if such crop(s) had been harvested on the farm in 1938 or if the acreage of such crop(s) had not been so reduced."

(5) Subsection E of Section XI is hereby amended to read as follows:

"E. *Excess cotton acreage.*—Any person who makes application for payment with respect to any farm located in a county in which cotton is planted in 1938 shall file with such application a statement that the applicant has not knowingly planted or caused to be planted during 1938 cotton on land in any form in which he has an interest in excess of the cotton acreage allotment established for the farm for 1938, and that cotton was not planted in excess of such allotment by his authority or with his consent.

"Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting (seeding) of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938."

(6) Item 4 of subsection A of Section XIII is hereby amended to read as follows:

"4. Cotton (except when such crop fails to reach the stage of growth at which bolls are first formed)."

(7) The fourth paragraph following subsection G of Section XIII is hereby amended to read as follows:

"If a corn acreage allotment is established for any farm, all acreages of field corn, sweet corn, and popcorn will be regarded as corn acreage for the purpose of determining whether the corn acreage allotment for such farm has been exceeded, except (1) any acreage of sweet corn contracted to be sold for canning; (2) any acreage of sweet corn sold for canning or roasting ears; (3) any acreage of sweet corn to be sold or used as seed; and (4) any acreage of popcorn sold as popcorn or to be sold or used as seed."

(8) The definition of class A farms in Section XVIII, insofar as it relates to the State of Arkansas, is hereby amended to read as follows:

"*Arkansas.*—Arkansas, Baxter, Benton, Boone, Carroll, Clay, Crawford, Franklin, Fulton, Independence, Johnson, Logan, Madison, Marion, Newton, Perry, Prairie (except Area II), Randolph (except Area I), Saline, Scott, Searcy, Sebastion (except Area I), Sharp, Stone, Van Buren, Washington, and Yell."

Done at Washington, D. C., this 25th day of May, 1938. Witness my hand and the seal of the Department of Agriculture.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1476; Filed, May 25, 1938; 12:15 p. m.]

RCP-1938-4

1938 RANGE CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 3

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Range Conservation Program Bulletin, as amended March 12, 1938, is hereby amended as follows:

(1) Section V, Eligibility for Payment, is hereby amended to read as follows:

"A. Application for range-building payment may be made only by ranch operators. Range-building payments will be made to (1) a sole ranch operator, or (2) each ranch operator of a group of two or more ranch operators, provided they all signify in the application for the range-building payment a per centum of the total payment to be made to each ranch operator. In case there are two or more ranch operators, the application must be made by all of them, except that in cases where any ranch operator refuses to sign the application for payment the county committee shall determine the percentage share of each ranch operator and payment of his percentage share will be made to each ranch operator applying for payment in accordance with such determination.

"B. Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment to any ranch operator who fails to file any form or furnish any information required with respect to any ranching unit in which such ranch operator is interested, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Regional Director. At least two weeks' notice to the public shall be given in advance of the expiration of a time limit for filing prescribed forms.

"C. Any person who makes application for payment with respect to any ranching unit located in a county in which cotton is planted in 1938 shall file with such application a statement that the applicant has not knowingly planted or caused to be planted during 1938 cotton on land in any farm in which he has an interest in excess of the cotton acreage allotment established for the farm for 1936 and that cotton was not planted in excess of such allotment by his authority or with his consent. Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Range Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of his allotment is mailed to him prior to the completion of the planting (seeding) of cotton on the farm unless such person establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton thereon in 1938."

(2) Section XI, Assignments, is hereby amended to read as follows:

"Any person who may be entitled to a payment in connection with the 1938 Range Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing upon Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration and is filed in the office of the county agricultural conservation association; (2) the ranch operator files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any preexisting indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose. For the purposes of this section the making of a crop shall be deemed to include the carrying out of range-building practices.

"Nothing contained in this Section XI shall be construed to give an assignee a right to any payment other than that to which the ranch operator is entitled, nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the ranch operator without regard to the existence of any such assignment."

Done at Washington, D. C., this 25th day of May, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1477; Filed, May 25, 1938; 12:15 p. m.]

Forest Service.

MODIFICATION OF REGULATION L-2

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905, (33 Stat. 626), amendatory of the Act of June 4, 1897, (30 Stat. 11, 35), I, H. A. Wallace, Secretary of Agriculture, do hereby amend Regulation L-2 of the rules and regulations governing the occupancy, use, protection, and administration of the national forests by adding the following paragraph:

[REG. L-2. Special use permits for the following purposes will be issued without charge:]

"Q. Mining within the Custer State Park Game Sanctuary, Harney National Forest, South Dakota, but the permits must contain conditions to fully protect the wildlife within the game sanctuary and to prevent mining within 660 feet of any federal, state, or county highway, and be subject to cancellation for failure to observe such conditions."

In testimony whereof I have hereunto set my hand and official seal in the City of Washington this 24th day of May, 1938.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-1479; Filed, May 25, 1938; 12:16 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

ADOPTION OF RULE 340.01

The Commission, en banc, at a meeting held May 11, 1938, adopted the following Rule:

RULE NO. 340.01

Original Reports: Required of licensees and permittees of all classes of broadcast stations as to ownership, control, operation, interests therein; contracts with others.

1. Licensees and permittees of all classes of broadcast stations shall, within 30 days from adoption of this Rule, or within 30 days after becoming permittees or licensees, file with the Commission original reports containing the information required by F. C. C. Form 728 or F. C. C. Form 729 attached hereto, and made a part hereof.

Supplemental Reports:

2. Thereafter, and within 30 days of the occurrence of any event which necessitates a change in information already reported, all such licensees or permittees shall file supplemental reports containing the information required by F. C. C. Form 730[1] attached hereto, and made a part hereof.

Execution:

3. All reports required hereby must be dated and executed under oath in accordance with the provisions of the form and show the date upon which each reported event occurred.

One report (original or supplemental) may be rendered by a licensee covering more than one station provided the reported information relates equally to all stations. Otherwise, separate reports for each station must be filed.

Corporations having 1,000 stockholders or more; information limited:

4. A licensee or permittee corporation which has of record on the date of submission of any report 1,000 stockholders or more, may file the information required herein as to the stockholders who own 1% or more of the stock of said corporation.

The term "contract" includes verbal understanding:

5. The term "contract" as it appears on the forms provided by this Rule shall be construed to include every contract, understanding, or agreement, verbal or written. Verbal contracts shall be reduced to writing and certified copies thereof submitted.

Order No. 2, Broadcast Division, repealed.

6. Order No. 2, promulgated August 21, 1934 by the Broadcast Divisments thereto, is hereby repealed.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1469; Filed, May 25, 1938; 9:41 a. m.]

EXEMPTION OF ALL UNITED STATES PASSENGER VESSELS (VESSELS CARRYING OR CERTIFICATED OR LICENSED TO CARRY MORE THAN 12 PASSENGERS) OF A TONNAGE UP TO AND INCLUDING 15 GROSS TONS FROM PROVISIONS OF TITLE III PART II OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED BY PUBLIC NO. 97

The Commission, en banc, at a meeting held May 17, 1938 adopted the following order:

ORDER

Whereas, there are pending before the Commission certain applications for exemption from the provisions of Title III, Part II, of the Communications Act of 1934, as amended by Public No. 97, which applications were filed on behalf of certain passenger vessels, (the majority of which are engaged in sport-fishing) up to and including 15 gross tons, operating in the vicinity of Los Angeles, California; and

Whereas, the Commission by its Orders of November 27, 1937; April 5, 1938; and April 26, 1938, granted exemption from the radio requirements of Title III, Part II of the Communications Act of 1934, as amended by Public No. 97 of May 20, 1937, to a total of 47 small passenger vessels of under 100 gross tons navigating within specified geographical areas in the vicinity of Miami, Florida; along the Gulf seaboard between New Orleans, Louisiana, and Tampa, Florida; between Calcasieu Pass and Sabine Bank along the Gulf seaboard, and between San Diego, California and the Coronados Islands; and

It appearing, that it is impracticable for vessels up to and including 15 gross tons to be equipped and manned to meet the radio requirements of treaty and statute for passenger vessels;

It is ordered, pursuant to Section 352 (b) (1) and (3) of the Communications Act of 1934, as amended by Public No. 97 of May 20, 1937 and Article 28 of the Safety of Life at Sea Convention, London, 1929, that all United States passenger vessels (vessels carrying or certificated or licensed to carry more than 12 passengers) of a tonnage up to and including 15 gross tons be, and they are hereby, exempted from the radio requirements of the said Act and the said Treaty for a period of one year from this date, upon the express condition that such vessels shall not be navigated more than 20 nautical miles from the nearest land nor more than 200 nautical miles in the open sea between two consecutive ports, and upon the further condition that such vessels, when navigated within these limitations on an international voyage, shall have on board an appropriate certificate as prescribed by the Safety of Life at Sea Convention, London, 1929.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1470; Filed, May 25, 1938; 9:41 a. m.]

AMENDMENT TO ORDER NO. 19

The Commission, en banc, at a meeting held May 17, 1938, amended Order No. 19 to read in part as follows:

75000 *	94300 *
93500 *	109500 *
93900 *	109900 *

* Available for non-government assignment under prescribed restrictions and limitations.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1471; Filed, May 25, 1938; 9:41 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 20th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3352]

IN THE MATTER OF FAN TAN COMPANY, INC., A CORPORATION, ALSO TRADING AS LOU RAY COMPANY, GRO PRES COMPANY, AND BISHOP JONES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade

[1] Filed as part of the original document with the Division of the Federal Register. The National Archives; requests for copies should be addressed to the Federal Communications Commission.

Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1467; Filed, May 25, 1938; 9:22 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 20th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3258]

IN THE MATTER OF ROY E. REED AND FLORENCE A. REED, TRADING UNDER THE NAME AND STYLE DIESEL ENGINEERS, ASSOCIATED

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vivini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 7, 1938, at ten o'clock in the forenoon of that day (Pacific Standard Time), in Room 515, Pacific Electric Building, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1468; Filed, May 25, 1938; 9:22 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3212]

IN THE MATTER OF JACK ROSENFELD, INDIVIDUALLY AND DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF J. ROSE & COMPANY

ORDER APPOINTING EXAMINER AND SETTING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, June 4, 1938, at ten o'clock in the forenoon of that day (central standard time), Room 429, Court House and Custom House, St. Louis, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1472; Filed, May 25, 1938; 10:29 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 23rd day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin I. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3278]

IN THE MATTER OF YALE I. GLUBOK, INDIVIDUALLY AND TRADING AS RELIABLE SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, June 4, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 429, Court House and Custom House, St. Louis, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1473; Filed, May 25, 1938; 10:29 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3311]

IN THE MATTER OF SAMUEL I. SIFERS, INDIVIDUALLY, AND TRADING AS SIFERS CANDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 6, 1938, at ten o'clock in the forenoon of that day (central standard time) in Post Office Inspector Office, Federal Building, Iola, Kansas.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1474; Filed, May 25, 1938; 10:29 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 25th day of May, A. D. 1938.

[File Nos. 32-90, 32-51]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY

AMENDED NOTICE OF AND ORDER FOR HEARING

An application (File No. 32-90) pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Washington Gas Light Company, a subsidiary company of Washington and Suburban Companies, a registered holding company, for exemption from the provisions of section 6 (a) of said Act of—

(1) the issue and sale by it of 15,600 shares of $4.50 Cumulative Convertible Preferred Stock without par value, to a group of underwriters for resale to the public;

(2) the issue and delivery by it to certain holders of common stock without par value of warrants to subscribe to 2,497 shares of said 15,600 shares of preferred stock without par value;

(3) the issue and exchange from time to time of such number of shares of common stock, without par value, as may be required when and as the holders of said 15,600 shares of preferred stock may elect to exercise their conversion rights applicable thereto. Upon the basis of the initial conversion rate the number of shares of said common stock so issuable upon conversion would aggregate 46,800.

The sale to the underwriters will be subject to prior rights of holders of common stock to subscribe to their proportionate part of said 15,600 shares of preferred stock.

The funds derived from the sale are to be used to reimburse applicant's treasury for expenditures made in connection with additions and expansions of applicant's plants and distribution system made prior to December 31, 1937.

The Commission, by its order, issued June 22, 1937, upon the application of Washington Gas Light Company, (File No. 32-51) having exempted from the provisions of section 6 (a) the issuance and sale by Washington Gas Light Company of 20,000 shares of $4.50 Cumulative Convertible Preferred Stock, and also as specified in Subdivision 4 of said order: "The issue and exchange by it from time to time of such number of shares, *not exceeding 60,000*, of common stock, without par value as may be required when and as holders of such preferred stock may elect to exercise the conversion rights applicable thereto" (italics added);

Washington Gas Light Company having filed a supplemental application requesting that the Commission amend Subdivision 4 of said order issued June 22, 1937, to read as follows: "The issue and exchange of such number of shares of common stock of said company as may, in accordance with the conversion rate at the time applicable to the $4.50 Cumulative Convertible Preferred Stock, be required, for the purpose of delivering to the holders of said 20,000 shares of preferred stock, the number of shares of common stock to which such holders will be entitled, in accordance with the provisions of the resolution creating such stock, when and as they may elect to exercise their conversion rights applicable thereto (the number of shares of common stock initially to be reserved to be 60,000);"

It appearing to the Commission that these related matters should be heard and considered together;

It is ordered, That a hearing on such matters be held on June 2, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before May 31, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1480; Filed, May 25, 1938; 12:29 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of May, A. D. 1938.

[File No. 43-119]

IN THE MATTER OF MONONGAHELA WEST PENN PUBLIC SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matters be held on June 13, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 8, 1938.

The matter concerned herewith is in regard to the reduction in the par value of 584,098 shares (being all of such shares issued and outstanding, but excluding treasury shares) of declarant's common stock from $25 to $15 per share. It is stated that the capital surplus thereby created ($5,840,980) will be used in addition to the theretofore existing surplus for the purpose of eliminating a surplus deficit ($4,855,563.80) created by charging off the remaining balance of certain revaluations ($7,446,503) of its electric and gas properties and by setting up a reserve against computed losses in its electric railway properties, amounting to $7,237,565.76. It is stated that 99.983% of declarant's common stock is owned by West Penn Power Company, a subsidiary company of American Water Works and Electric Company, Incorporated, and that 0.017% of declarant's common stock is owned by the company last-named.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1481; Filed, May 25, 1938; 12:29 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of May, A. D. 1938.

[File No. 31-379]

IN THE MATTER OF H. M. BYLLESBY & CO. (APPLICATION PURSUANT TO SECTION 2 (A) (7) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935)

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (7) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 5, 1938.

The matter concerned herewith is in regard to the application of H. M. Byllesby & Co. for an order declaring it not to be a holding company in accordance with Section 2 (a) (7) of the Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1482; Filed, May 25, 1938; 12:29 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of May, 1938.

[File No. 1-2520]

IN THE MATTER OF GERMAN CENTRAL BANK FOR AGRICULTURE FARM LOAN SECURED 6% GOLD SINKING FUND BONDS, SERIES A OF 1928, DUE APRIL 15, 1938

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Farm Loan Secured 6% Gold Sinking Fund Bonds, Series A of 1928, due April 15, 1938, of German Central Bank for Agriculture; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 22, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Mooré, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR. *Secretary*.

[F. R. Doc. 38-1483; Filed, May 25, 1938; 12:29 p. m.]

Friday, May 27, 1938 ***No. 104***

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER OF JANUARY 17, 1873, TO PERMIT OFFICERS AND EMPLOYEES OF THE POLICE OR PRISON DEPARTMENTS OF THE TERRITORIAL AND MUNICIPAL GOVERNMENTS OF THE VIRGIN ISLANDS TO BE APPOINTED AS DEPUTIES OR EMPLOYEES IN THE OFFICE OF THE UNITED STATES MARSHAL FOR THE VIRGIN ISLANDS

By virtue of and pursuant to the authority vested in me by section 1753 of the Revised Statutes of the United States (U. S. C., title 5, sec. 631), and as President of the United States, the Executive Order of January 17, 1873, as amended, prohibiting, with certain exceptions, officers and employees of the United States from holding any office under any State, territorial, municipal, or other local government, is hereby further amended so as to permit any officer or employee of the Police or Prison Departments of the territorial and municipal governments of the Virgin Islands to be appointed to and hold a position as deputy or other employee in the office of the United States Marshal for the Virgin Islands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 24, 1938.

[No. 7896]

[F. R. Doc. 38-1485; Filed, May 25, 1938; 2:41 p. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF THE EXECUTIVE ORDER NO. 5894 OF JULY 26, 1932, WITHDRAWING PUBLIC LANDS

Colorado

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended

by the act of August 24, 1912, ch. 369, 37 Stat. 497, the Executive Order No. 5894 of July 26, 1932, withdrawing public lands in Colorado pending a resurvey, is hereby revoked as to the following-described townships:

NEW MEXICO PRINCIPAL MERIDIAN

Tps. 35 N., Rs. 5 and 6 E.

This order shall become effective upon the date of the official filing of the plats of the resurvey of said townships.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 24, 1938.

[No. 7897]

[F. R. Doc. 38-1486; Filed, May 25, 1938; 2:41 p. m.]

WAR DEPARTMENT.

REVOCATION OF REGULATIONS GOVERNING THE DUMPING OF BALLAST IN HILLSBORO BAY, FLORIDA

1. On October 5, 1910, the Acting Secretary of War, designated a dumping ground for ballast in Hillsboro Bay, Florida, and prescribed rules and regulations relating thereto.

2. The District Engineer reports that all ballast is now discharged on shore and disposed of by trucks, that the aforementioned ballast dumping area is and has been used for a spoil area in dredging operations, and that it cannot now be used for the dumping of ballast. There is no longer any necessity for the regulations approved in 1910, and I recommend, therefore, that they be revoked.

[SEAL] J. L. SCHLEY,
Major General,
Chief of Engineers.

Recommendation approved May 16, 1938.

HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1487; Filed, May 26, 1938; 9:55 a. m.]

MODIFICATION OF REGULATIONS TO GOVERN THE USE, ADMINISTRATION AND NAVIGATION OF THE OHIO RIVER, MISSISSIPPI RIVER ABOVE CAIRO, ILLINOIS, AND THEIR TRIBUTARIES

The 11th, 13th, 22nd (part 2, first sentence), and 24th paragraphs of the regulations approved by the Secretary of War, January 4, 1933, to govern the use, administration and navigation of the Ohio River, the Mississippi River above Cairo, Illinois, and their tributaries, are modified to read as follows:

"11. *Mooring at locks.*—All vessels when in the locks shall be moored as directed by the lockmaster. Steamboats and other craft in general shall be moored with bow, stern and spring lines to the snubbing posts provided for that purpose, and in case of a towboat accompanying the tow during a lockage, a line attached to a capstan shall be used and kept taut, when directed by the lockmaster, to prevent the tow from running in the lock chamber. Tying to lock ladders is strictly prohibited. Mooring of unattended or nonpropelled vessels or small craft at the upper or lower channel approaches will not be permitted within 1,200 feet of the lock."

"13. *Damage to walls.*—The sides of all craft passing through any lock must be free from projections of any kind which might injure the lock walls. Steamboats must be provided with suitable fenders. One or more men as the lockmaster may direct, shall be kept at the head of every tow until it has cleared the lock and guide walls, and shall protect the walls by the use of fenders. The owners or operators of floating craft shall be held responsible for the cost of repairs of injuries to locks or other structures incurred in the handling of their craft, unless such injuries may be justly attributed to natural imposing elements or neglect on the part of lock forces in the performance of their duties."

"22. * * * (2) At *movable* dams when the dam has been lowered or partly lowered so that *there is an unobstructed navigable pass through the dam,* the navigation lights indicated below will be displayed during hours of darkness until lock walls and weir piers are awash." * * *

"24. *Buoys at movable dams.*—Whenever the river (guard) wall of the lock and any portion of the dam are awash, and until covered by a depth of water equal to the project depth, the limits of the navigable pass through the dam will be marked by buoys at the upstream and downstream ends of the river (guard) wall, and by a single buoy over the end, or ends, of the portion or portions of the dam adjacent to the navigable pass over which project depth is not available. A red nun-type buoy will be used for such structures located on the left-hand side (facing downstream) of the river and a black can-type buoy for such structures located on the right-hand side (facing downstream) of the river, buoys to be lighted if practicable.

Where powerhouses or other substantial structures projecting considerably above the level of the lock wall are located on the river (guard) wall a single red light located on top of one of these structures may be used instead of river wall buoys prescribed above until these structures are awash, after which they will be marked by a buoy of appropriate type and color (red nun or black can buoy) until covered by a depth of water equal to the project depth, buoys to be lighted if practicable."

Approved, May 17, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1488; Filed, May 26, 1938; 9:55 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF AND ORDER FOR HEARING IN RE DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9 AND 10

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Congress, 1st Session), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the above entitled proceeding entitled "In the Matter of the Establishment of Minimum Prices and Marketing Rules and Regulations" is hereby instituted under General Docket No. 15, for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937.

2. That the Secretary of the Commission be and hereby is directed to cause said docket to be opened on June 2, 1938, for the purpose of receiving appearances, determinations, proposals, transcripts of testimony, exhibits, briefs, findings of facts, rulings and orders of the Commission, and other matters relating to each hearing hereinafter held as a part of the aforesaid matter.

3. Notice is hereby given to all interested parties that the initial hearing in this matter shall be held before the Commission on the 9th day of June, 1938, at 10:00 a. m., in the Hearing Room of the Commission at Shirley-Savoy Hotel in Denver, Colorado, for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts No. 16, 17, 18, 19, 20, 22 and 23, and evidence relating to any change or changes in wage rates, hours of employment, or other factors, exclusive of seasonal changes, substantially affecting costs, in each of said Districts which may have been established since January 1, 1936, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Areas 6 (Districts 16, 17 and 18), 7 (Districts 19 and 20), 9 (District 22), and 10 (District 23) as adjusted, within the meaning of Section 4, Part II, of the Act, at which time all interested persons will be afforded an opportunity to be heard.

4. The District Boards of said Districts have submitted to the Commission, pursuant to its Order No. 240, their determinations of the weighted average of the total costs of the total ascertainable tonnage produced in their respective districts in the calendar year 1936, adjusted as aforesaid, as follows:

District No.:	*District Board's Determination*
16	$2.5651 per net ton.
17	2.7989 per net ton.
18	3.1603 per net ton.
19	2.1146 per net ton.
20	2.5064 per net ton.
22	1.5723 per net ton.
23	3.2788 per net ton.

upon which evidence will be received at such hearing.

5. The Bureau of Research and Statistics of the Commission has submitted to the Commission the following computations of the weighted average costs of the total ascertainable tonnage in each District and each Minimum Price Area for the nine months period, April to December 1937, inclusive, the latest period for which cost data are available at the increased wage rates that became effective April 1, 1937, which costs are further adjusted to take account of known changes in Federal unemployment taxes, effective January 1, 1938, and to take account of the known effects of the tax imposed by the Bituminous Coal Act of 1937.

District	1936 tonnage	District cost
District No. 16	2,343,702	$2.65
District No. 17	4,891,733	2.80
District No. 18	713,782	3.15
District No. 19	5,485,095	2.15
District No. 20	3,242,617	2.49
District No. 22	2,905,389	1.60
District No. 23	1,904,085	3.27

Minimum price area	1936 tonnage	Minimum price area cost
Minimum Price Area 6	7,949,217	$2.79
Minimum Price Area 7	8,727,622	2.28
Minimum Price Area 9	2,905,389	1.60
Minimum Price Area 10	1,904,085	3.27

The Bureau of Research and Statistics has recommended to the Commission that the above costs be accepted as the best available evidence of the adjusted costs, subject to such further adjustments, as may be proved at the hearing to be necessary in order to take account of additional known factors which have been operative since January 1, 1938.

6. In order to afford interested persons an opportunity to check the accuracy of the aforesaid determinations and computations of the District Boards and of the Bureau of Research and Statistics of the Commission, there will be made available for inspection by those interested persons who have filed appearances in the said hearing as hereinafter provided, on and after June 2, 1938, at Shirley-Savoy Hotel, Denver, Colorado, (1) the determinations of the said District Boards above referred to, (2) composite exhibits prepared by the Bureau of Research and Statistics, forming the basis for its cost determinations, and (3) the verified cost reports of the individual producers within each of said districts upon which the cost data submitted to the District Boards by the Statistical Bureaus of the Commission are based, and upon which are based the said exhibits prepared by the Bureau of Research and Statistics of the Commission.

7. Any person desiring to be heard in this proceeding shall file with the Commission at the Central Savings Bank Building, Denver, Colorado, a written appearance setting forth his interest. If any such person desires to offer affirmative evidence at such hearing, or to cross-examine any witness as to the aforesaid cost data, it is requested in the interest of orderly procedure, that he file with the said office of the Commission, not later than the day preceding the date of said hearing, a concise written statement of the facts he expects to establish.

8. That the Secretary be, and he is hereby directed, to cause a copy of this Notice of and Order for Hearing to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of the aforesaid districts and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel and to the Secretary of each District Board, and to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commisison.

By order of the Commission.

Dated this 25th day of May, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-1490; Filed, May 26, 1938; 12:03 p. m.]

Office of Indian Affairs.

REGULATIONS GOVERNING NEGOTIATION AND EXECUTION OF ATTORNEY CONTRACTS WITH INDIAN TRIBES

TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

SECTION 1. *Contracts with Organized Tribes.*—Negotiation and execution of tribal attorney contracts with Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), shall be in accordance with the provisions of the approved constitutions or charters of the respective tribes. The selection of counsel by an organized tribe and the fixing of fees are subject to the approval of the Secretary of the Interior.

SEC. 2. *Admission to Practice.*—Attorneys employed by tribes organized under the Indian Reorganization Act shall be required to be admitted to practice before the Interior Department and the Bureaus thereof, under the provisions of the Act of July 4, 1884 (23 Stat. 101). Copies of the regulations governing recognition of attorneys may be obtained from the Chief Clerk, Department of the Interior.

SEC. 3. *Tentative Form of Contract.*—A tribal council or representative body having authority to employ legal counsel in behalf of an organized tribe, may, if it desires, obtain a tentative form of contract from the Commissioner of Indian Affairs. Requests for forms should include a statement of the scope of the intended employment; that is, whether an attorney is desired for investigation and prosecution of tribal claims against the United States, or as general legal counsel in connection with the ordinary business of the tribe, or specific problems on which legal advice is desired, or specific matters requiring representation in court or before committees of Congress and the departments of the Government. The period for which an attorney is desired should be stated.

SEC. 4. *Report of Superintendent.*—Contracts executed by organized tribes should be transmitted to the Commissioner of Indian Affairs by the Superintendent, with a report based upon references and independent inquiry concerning the qualifications of the attorney, his ability to perform the services required by the contract, and the Superintendent's recommendation with reference to approval of the contract.

SEC. 5. *Fees and Expenses.*—Funds held in the Treasury of an organized tribe may be used by the tribe for payment of fees and expenses of an attorney. A contract providing for payment of fees and/or expenses should be accompanied by an appropriation act passed by the governing body of the tribe in accordance with the requirements of the tribal constitution or charter, appropriating sufficient tribal funds for payment of fees and/or expenses as provided by the contract. The amount of tribal funds held in the tribal treasury, not otherwise appropriated and available for payment of fees and expenses, should be stated.

SEC. 6. *Funds in Federal Treasury.*—Under rulings of the Comptroller General and Section 27 of the Act of May 18, 1916 (39 Stat. 158–159), tribal funds held in the United States Treasury may not be used for payment of attorney fees and expenses in the absence of express authorization by Congress.

TRIBES NOT ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

SEC. 7. *Statutes Governing.*—The negotiation and execution of tribal attorney contracts with tribes not organized under the Indian Reorganization Act must be in strict accordance with the requirements of Sec. 2103 of the Revised Statutes of the United States (25 U. S. C. 81), which provides:

No agreement shall be made by any person with any tribe of Indians, or individual Indians not citizens of the United States, for the payment or delivery of any money or other thing of value, in present or in prospective, or for the granting or procuring any privilege to him, or any other person in consideration of services for said Indians relative to their lands, or to any claims growing out of, or in reference to, annuities, installments, or other moneys, claims, demands, or thing, under laws or treaties with the United States, or official acts of any officers thereof, or in any way connected with or due from the United States, unless such contract or agreement be executed and approved as follows:

First. Such agreement shall be in writing, and a duplicate of it delivered to each party.

Second. It shall be executed before a judge of a court of record, and bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs indorsed upon it.

Third. It shall contain the names of all parties in interest, their residence and occupations; and if made with a tribe, by their tribal authorities, the scope of authority and the reason for exercising that authority, shall be given specifically.

Fourth. It shall state the time when and place where made, the particular purpose for which made, the special thing or things to be done under it, and, if for the collection of money, the basis of the claim, the source from which it is to be collected, the disposition to be made of it when collected, the amount or rate per centum of the fee in all cases; and if any contingent matter or condition constitutes a part of the contract or agreement, it shall be specifically set forth.

Fifth. It shall have a fixed limited time to run, which shall be distinctly stated.

Sixth. The judge before whom such contract or agreement is executed shall certify officially the time when and place where such contract or agreement was executed, and that it was in his presence, and who are the interested parties thereto, as stated to him at the time; the parties present making the same; the source and extent of authority claimed at the time by the contracting parties to make the contract or agreement, and whether made in person or by agent or attorney or either party or parties.

SEC. 8. *Selection of Counsel.*—Except as hereinafter stated in Secs. 12 to 15, a tribal attorney and tribal delegates to execute a contract shall be selected by a general council or meeting of the tribe, to be called by the Superintendent of the particular reservation. The Superintendent, or some one representing him, shall be in attendance with a stenographer.

SEC. 9. *Record of Council Proceedings.*—Stenographic notes should be made of the proceedings of the council, transcribed, certified to by the Superintendent as correct, and a copy thereof should be sent to the Commissioner of Indian Affairs with the contract.

SEC. 10. *Resolution Required.*—The selection of counsel and of tribal delegates to execute a contract in behalf of the tribe shall be set forth in a resolution or resolutions which shall be attached to and made a part of the contract.

SEC. 11. *Authentication of Resolution.*—The resolution shall be signed by the presiding officer of the general council, attested by the Secretary of the general council, and certified by the Superintendent.

SEC. 12. *Negotiation by Tribal Business Committee.*—A tribal business committee, advisory board, or other similar representative body having standing authority to act for and in behalf of the tribe in matters of importance, may, when it finds that there is a substantial need and demand for retention of tribal counsel, negotiate with an attorney or attorneys.

SEC. 13. *Limitation of Authority.*—The tribal business committee or other representative body, when proceeding under section 12 hereof, should carefully investigate, with the assistance of the Superintendent if desired, the qualifications of available attorneys, bearing in mind the purpose for which counsel is desired and shall carry on its negotiations with attorneys subject to the distinct understanding that final action on the selection and employment of counsel shall be had in a general council or meeting of the tribe, subject to approval by the Department as required by law.

SEC. 14. *Employment by Tribal Business Committees.*—In case the tribal business committee or board has specific authority from the tribe to employ tribal attorneys and to execute a contract for that purpose, the tribal business committee or board may negotiate with attorneys and enter into a contract subject to departmental approval as provided by law.

SEC. 15. *Vote by Secret Ballot.*—Those tribes accustomed to act on important tribal matters by secret ballot, or by vote in district meetings, or in some other manner, may apply through their proper officers to the Commissioner of Indian Affairs for permission to consider and act upon employment of tribal counsel in the manner preferred by the tribe rather than by a general council or meeting.

SEC. 16. *Notice From Tribe.*—Notice of intention to negotiate with attorneys should be sent to the Superintendent by the proper tribal officers, accompanied by a full statement concerning the need for retaining counsel, showing in detail the purposes for which an attorney is needed, the scope of his intended employment, and a reference to the tribal funds, if any, which the tribe believes should be made available for payment of counsel fees and expenses. The notice and statement should be transmitted to the Commissioner of Indian Affairs by the Superintendent with the latter's report and recommendations.

SEC. 17. *Notice from Attorneys.*—Attorneys desiring to execute contracts with Indian tribes shall be required to notify the Commissioner of Indian Affairs in advance of all negotiations.

SEC. 18. *Tentative Form of Contract.*—A tentative form of contract may be obtained from the Commissioner of Indian Affairs. When the attorneys or tribe proposing to execute a contract desire to make substantial changes in the tentative form, the proposed changes should be submitted to the Commissioner of Indian Affairs, for approval as to form, prior to execution of a contract.

SEC 19. *Execution in Quintuplicate.*—The contract should be executed in quintuplicate, and all copies should be transmitted by the Superintendent to the Commisisoner of Indian Affairs.

SEC. 20. *Report of Superintendent.*—The Superintendent should submit a report when transmitting the contract, setting forth the qualifications and general reputation of the attorney selected, based upon references and independent inquiry by the Superintendent, and the Superintendent's recommendation concerning approval of the contract.

SEC. 21. *Copies of Approved Contracts.*—Upon approval of a contract, one copy will be transmitted to the attorneys, one to the Superintendent of the Agency for the information of the Indians in interest, and the other three copies will be filed in the proper offices in Washington, D. C.

SEC. 22. *Qualifications of Attorneys.*—The person selected as attorney should be a reputable member of the bar, and fully competent to carry the case through the Court of Claims, and to the Supreme Court of the United States if necessary.

SEC. 23. *Admission to Practice.*—The attorney shall also be required to be admitted to practice before the Interior Department and the Bureaus thereof under the provisions of the Act of July 4, 1884 (23 Stat., 101). Copies of the regulations governing recognition of attorneys may be obtained from the Chief Clerk, Department of the Interior.

SEC. 24. *Fees and Expenses.*—Under rulings of the Comptroller General and Section 27 of the Act of May 18, 1916 (39 Stat., 158–159), tribal funds held in the United States Treasury may not be used for payment of attorney fees and expenses, in the absence of express authorization by Congress. Unless congressional authority has been obtained for the use of tribal funds, the payment of attorney fees and expenses shall be contingent upon a recovery by the Indians in the matters or claims covered in the contract. In case congressional authority has been obtained for the use of tribal funds for attorney fees and expenses, the provisions of the contract concerning the payment of such fees and expenses should strictly conform to the provisions of the Act authorizing the use of the funds.

SEC. 25. *Invalid Contracts.*—It may be pointed out that Sec. 81, Title 25, of the United States Code provides further that all contracts made in violation of that section shall be null and void; Sec. 84, Title 25, provides that no assignment of any such contract shall be valid without the consent of the Commissioner of Indian Affairs and the Secretary of the Interior; and Sec. 85, Title 25, declares that no contract with any individual Indian, relating to tribal property shall have any validity unless the consent of the United States has *previously* been given thereto.

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner of Indian Affairs.

Approved, May 14, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1489; Filed, May 26, 1938; 9:55 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

ECR—B–101—Delaware, Supplement (b); Kentucky, Supplement (c); Maryland, Supplement (b); North Carolina, Supplement (b); Tennessee, Supplement (c); Virginia, Supplement (d); West Virginia, Supplement (d); Guilford County, N. C., Supplement (b); Johnson County, Tenn., Supplement (a); Kent County, Md., Supplement (c); White County, Tenn., Supplement (a)

1937 AGRICULTURAL CONSERVATION PROGRAM—AMENDMENTS TO BULLETINS NO. ECR—B–101, AS AMENDED, FOR THE STATES OF DELAWARE, KENTUCKY, MARYLAND, NORTH CAROLINA, TENNESSEE, VIRGINIA, AND WEST VIRGINIA; AND THE COUNTIES OF GUILFORD IN NORTH CAROLINA, JOHNSON AND WHITE IN TENNESSEE, AND KENT IN MARYLAND

DISPOSITION OF PAYMENT IN EVENT OF DEATH OR LEGAL INCOMPETENCY OF PAYEE

Subsection (c), Section 2 of Part IV of East Central Region Bulletin 101, Delaware, Kentucky, Maryland, North Carolina, Tennessee and Johnson and White Counties, Tennessee, and West Virginia, subsection (c), Section 2 of Part III of East Central Region Bulletin 101—Kent County, Maryland, and subsection (e), Section 2 of Part IV of East Central Region Bulletin 101, Virginia, Supplement (c) are hereby amended to read as follows; and Section 2 of Part IV of East Central Region Bulletin 101—Guilford County, North Carolina, is hereby amended by the addition of the following as subsection (e):

In the event of death or legal incompetency of an applicant for payment, any payment which has not been received by such applicant prior to his death or incompetency and which would otherwise be made to such applicant shall be made to the executor, administrator, committee, or guardian of the estate of the decedent or legally incompetent applicant. In the case of a deceased applicant if an executor or administrator is not and will not be appointed, the amount due shall be paid to the person or persons who under the law of the domicile of the decedent would be entitled to receive the money if administration were had.

Done at Washington, D. C., this 26th day of May, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1497; Filed, May 26, 1938; 12:35 p. m.]

Bureau of Agricultural Economics.

AMENDMENT NO. 1 TO THE STANDARDS FOR ROUGH RICE TO PROVIDE FOR THE DETERMINATION OF MILLING QUALITY ON THE BASIS OF THE LOT OF RICE AS A WHOLE

By virtue of the authority vested in the Secretary of Agriculture by the act of Congress entitled "An Act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1938 and for other purposes" approved June 29, 1937 (50 U. S. Stat. L., p. 395), I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish and give public notice of the following amendment to the standards for rough rice, as heretofore promulgated, to become effective on May 26, 1938 and to continue in force and effect as long as Congress shall provide the necessary authority therefor, unless amended or superseded by standards hereafter prescribed and promulgated under such authority.

Strike out the paragraph entitled "Basis of Grade Determinations (Southern Rice)" and insert in lieu thereof the following:

Basis of grade determinations (southern rice).—In the case of rough rice other than rough rice of the subclass (b) California-Japan of Class XIV, and of the class Calady, each determination of general appearance, temperature, odor, separable foreign material, live weevils or other insects injurious to stored rice, and milling quality, shall be on the basis of the lot of rice as a whole. Each determination of red rice, damaged kernels, heat-damaged kernels, chalky kernels, class, subclass, and rice of other classes, shall be on the basis of the rice after shelling. All other determinations shall be on the basis of the rice when free from separable foreign material and before shelling.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 26th day of May 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1496; Filed, May 26, 1938; 12:34 p. m.]

Bureau of Animal Industry.

[Amendment 3 to B. A. I. Order 309]

AMENDMENT 3 TO B. A. I. ORDER 309 (REGULATIONS GOVERNING THE INTERSTATE MOVEMENT OF LIVESTOCK), MODIFYING REGULATION 7, AS AMENDED SEPTEMBER 9, 1936

[Effective on and after June 1, 1938]

Under the authority conferred by law upon the Secretary of Agriculture, the regulations governing the interstate movement of livestock (B. A. I. Order 309), issued under date of March 5, 1928, as amended January 10, 1930, and September 9, 1936, are hereby further amended in the following particular:

Paragraph 2, section 2, regulation 7, as amended, pertaining to semirange and range cattle, steers, and spayed heifers, is hereby revoked.

This amendment, which for the purpose of identification is designated as Amendment 3 to B. A. I. Order 309, shall be effective on and after June 1, 1938.

Done at Washington this 26th day of May 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1492; Filed, May 26, 1938; 12:33 p. m.]

[Amendment 3 to B. A. I. Order 352]

AMENDMENT 3 TO B. A. I. ORDER 352. REGULATIONS GOVERNING THE IMPORTATION OF DOMESTIC LIVESTOCK AND OTHER ANIMALS INTO THE UNITED STATES FROM ALL COUNTRIES EXCEPT MEXICO[1]

[Effective on and after July 1, 1938]

Under authority conferred by law upon the Secretary of Agriculture, the regulations governing the importation of domestic livestock and other animals from all countries except Mexico (B. A. I. Order 352) dated June 7, 1935, and effective August 1, 1935, as amended September 23, 1935, and July 26, 1937, are hereby further amended as hereinafter set forth:

Regulation 21 is amended to read as follows:

ANIMALS FOR SLAUGHTER

REGULATION 21. Cattle, sheep, goats, and swine imported from Canada for slaughter shall be consigned from the port of entry to some recognized slaughtering center and there slaughtered within 2 weeks from the date of entry, or upon special permission obtained from the Chief of Bureau they may be reconsigned to other points and there slaughtered within the period aforesaid.

Regulation 22 is amended to read as follows:

CATTLE

REGULATION 22. PARAGRAPH 1. All cattle offered for importation from Canada shall be accompanied by a veterinarian's certificate showing that he has inspected the said cattle and found them free from any evidence of contagious disease and that, so far as he has been able to determine, they have not been exposed to any such disease during the preceding 60 days. Except as provided in paragraphs 2 and 3 of this regulation, all such cattle, unless imported for slaughter, shall also be accompanied by a satisfactory certificate of tuberculin test, which test shall have been made within 30 days next preceding the date of importation. The date and place of testing and the description of the cattle tested showing their ages and markings shall be given in such certificate. These certificates shall be issued or endorsed by a salaried veterinarian of the Canadian Government. When not accompanied by certificates as herein prescribed such cattle shall be detained in quarantine at the port of entry for a period of not less than 3 days and shall be subjected by an inspector to a tuberculin test and such other tests as may be deemed necessary to determine their freedom from disease.

PAR. 2. *Cattle from modified accredited areas.*—Cattle from herds in modified accredited areas of Canada may be imported without having been tuberculin tested, as prescribed in paragraph 1 of this regulation, if they are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that they originated in such modified accredited area.

PAR. 3. *Cattle from accredited herds.*—Cattle from Canadian tuberculosis-free accredited herds may be imported without having been tuberculin tested, as prescribed in paragraph 1 of this regulation, if they are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that they are from such herds and that said herds have been tested for tuberculosis within 1 year next preceding the date of the importation. Such certificate shall give the date of the last tuberculin test applied to such cattle, place of testing and a description of the cattle with ages and markings.

This amendment, which is designated Amendment 3 to B. A. I. Order 352, shall be effective on and after July 1, 1938.

Done at Washington this 26th day of May, 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary.*

[F. R. Doc. 38-1493; Filed, May 26, 1938; 12:33 p. m.]

[1] Importations from Mexico are governed by special regulations contained in another order of this Department.

[Amendment 16 to B. A. I. Order 350]

AMENDMENT 16 TO B. A. I. ORDER 350 (REGULATIONS GOVERNING THE RECOGNITION OF BREEDS AND PUREBRED ANIMALS) AMENDING REGULATION 2, SECTION 3, PARAGRAPH 1, RECOGNIZING BREEDS AND BOOKS OF RECORD ACROSS THE SEAS

[Effective on and after May 26, 1938]

Regulation 2, section 3, paragraph 1, of the regulations governing the recognition of breeds and purebred animals, effective under date of July 1, 1935, and identified as B. A. I. Order 350, is hereby amended so as to include and recognize for the purposes enumerated thereunder the following breed and book of record:

Cattle

Name of breed	Book of record	By whom published
Norman	Herd-Book de la Race Bovine Normande Pure.[1]	L'Association du Herd-Book Normand, Léon Hédiard, secretary general, Caen, France.

[1] Provided that no cattle registered in the above-mentioned book shall be certified as purebred unless a certificate giving three generations of complete and recorded purebred ancestry, issued by the above-named society, is submitted for each animal.

Done at Washington this 26th day of May 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1494; Filed, May 26, 1938; 12:34 p. m.]

[Amendment 15 to B. A. I. Order 350]

AMENDMENT 15 TO B. A. I. ORDER 350 (REGULATIONS GOVERNING THE RECOGNITION OF BREEDS AND PUREBRED ANIMALS) AMENDING REGULATION 2, SECTION 3, PARAGRAPH 1, RECOGNIZING BREEDS AND BOOKS OF RECORD ACROSS THE SEAS

[Effective on and after May 26, 1938]

Regulation 2, section 3, paragraph 1, of the regulations governing the recognition of breeds and purebred animals, effective under date of July 1, 1935, and identified as B. A. I. Order 350, is hereby amended so as to include and recognize for the purposes enumerated thereunder the following breed and book of record:

Horses

Name of breed	Book of record	By whom published
Arabian	Stud Book Argentino	Jockey Club, Felix Alzaga Unzue, president, Buenos Aires, Argentina.
Thoroughbred	do	Do.

Done at Washington this 26th day of May 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1495; Filed, May 26, 1938; 12:34 p. m.]

Bureau of Biological Survey.

ORDER PROHIBITING THE TAKING OF CERTAIN MIGRATORY BIRDS IN THE STATE OF TEXAS

It having been determined by the Game, Fish, and Oyster Commission of Texas and this Department that the Black-bellied Tree-duck (Dendrocygna autumnalis autumnalis), Masked Duck (Nomonyx dominicus), Buff-bellied Hummingbird (Amazilia yucatanensis chalconota), Beardless Flycatcher (Camptostoma imberbe), and Rio Grande Yellow-throat (Chamaethlypis poliocephala poliocephala), migratory birds included in the terms of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), have been reduced in the Rio Grande Valley in the State of Texas to numbers insufficient to insure their perpetuation in this region unless safeguarded by further restrictions on the taking of them or the eggs of such of them as nest in that region,

It is ordered, That all permits heretofore issued by the Secretary of Agriculture and now outstanding permitting the taking in the State of Texas of migratory birds and the eggs of migratory birds for scientific purposes and migratory waterfowl and the eggs of migratory waterfowl for propagating purposes are hereby amended, effective as to each such permittee upon his receipt of a copy of this order, so as to exclude from the privileges conferred by such permits the privilege to take in said Rio Grande Valley the birds and the eggs of the birds specifically mentioned in the first paragraph of this order.

It is further ordered, That the Chief of the Bureau of Biological Survey, United States Department of Agriculture, forthwith transmit a copy of this order to each person now in possession of a permit authorizing the taking in the State of Texas of migratory birds and the eggs of migratory birds for scientific purposes and migratory waterfowl and the eggs of migratory waterfowl for propagating purposes.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

MAY 26, 1938.

[F. R. Doc. 38-1491; Filed, May 26, 1938; 12:33 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of May, A. D. 1938.

[File No. 55-1 and File No. 55-2]

CHARLES TRUE ADAMS, TRUSTEE OF UTILITIES POWER & LIGHT CORPORATION AND CENTRAL SERVICE CORPORATION

[Public Utility Holding Company Act of 1935—Rule 11F-2]

ORDER

Charles True Adams, Trustee of Utilities Power & Light Corporation having filed application pursuant to Rule 11F-2, promulgated under Section 11 (f) of the Public Utility Holding Company Act of 1935; Melvin M. Hawley, Jay Samuel Hartt, and Ronald R. Monroe having filed supplemental applications pursuant to said Rule; and Central Service Corporation having filed application pursuant to said Rule; Irwin T. Gilruth and Charles A. McDonald, Trustees of Public Utilities Securities Corporation, Harry Reid, Max McGraw and B. B. Robinson, styling themselves "General Protective Committee for Security Holders of Utilities Power & Light Corporation," and Associated Investing Corporation, having filed petitions for leave to intervene herein; a public hearing having been held on these several applications pursuant to appropriate notice; all of said applicants and petitioners having waived a trial examiner's report, submission to them of proposed findings of fact by the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission, and oral argument before the Commission, prior to the entry of the Commission's findings and order herein; and the Commission having considered the record in these matters and having made and filed its findings and opinion herein; *It is ordered:*

1. That the petitions for leave to intervene, of said Gilruth and McDonald, of said Reid, McGraw and Robinson, and of said Associated Investing Corporation, are granted insofar as the present applications are concerned.

2. That the maximum interim allowance of fees, expenses, and remuneration, which the Applicant Adams shall be paid for services as Trustee of Utilities Power & Light Corporation from March 16 to March 31, 1938, shall be $1,000, on account, together with remuneration for cash disbursements in the amount of $686.11; that thereafter, until further order of the Commission, his interim fees, expenses, and remuneration are exempted from Rule 11F-2, provided that (a) any such interim allowances to said Adams for services as Trustee shall not exceed $2,000 per month, and (b) any such interim remuneration for cash disbursements shall not exceed $750 per month; and that the application of said Adams with respect to W. A. Horner is hereby dismissed for want of jurisdiction.

3. That the maximum interim allowance of fees, expenses, and remuneration, which shall be paid to Applicant Hawley as attorney to the Trustee and to the temporary Trustee during the month of March, shall be $3,000 for compensation on account, and $1,191.30 as remuneration for cash disbursements; and that thereafter, until further order of the Commission, his interim fees, expenses and remuneration are exempted from Rule 11F-2, provided that (a) any such interim allowances to said Hawley for services as attorney to the Trustee shall not exceed $3,000 per month, and (b) any such interim remuneration to Hawley for cash disbursements shall not exceed $1,200 per month.

4. That the maximum amount of fees, expenses, and remuneration, which shall be paid to Applicant Hartt, for services as temporary Trustee from February 24 to March 16, 1938, shall be $2,300, in full and final payment for such services, together with remuneration for cash disbursements during the same period in the amount of $1,170.66.

5. That the maximum interim allowance of fees, expenses, and remuneration, which shall be paid to Applicant Hartt for services as engineering adviser to the Trustee from March 17 to March 31, 1938, shall be $1,339, together with remuneration for cash disbursements during said period in the amount of $951.07; that thereafter, until further order of this Commission, his interim fees, expenses, and remuneration shall be exempted from Rule 11F-2 provided that (a) any such compensation to said Hartt for services as engineering adviser to the Trustee shall not exceed $2,500 per month, and (b) any such remuneration to Hartt for cash disbursements shall not exceed $2,500 per month.

6. That the maximum interim allowance of fees, expenses, and remuneration, which shall be paid to Applicant Monroe for the month of March, shall be $750; that thereafter, until further order of the Commission, his interim fees, expenses, and remuneration are exempted from Rule 11F-2, provided that (a) any such interim allowances to said Monroe for services shall not be such as to make the maximum amount of interim compensation for services which he receives from the debtor corporation, its subsidiaries, and Central Service Corporation in excess of $1,500 per month in the aggregate, and (b) interim remuneration for cash disbursements exceed $200 per month.

7. That the maximum amount of fees, compensation, or remuneration, which shall be paid to Central Service Corporation for services to the Trustee during the month of March, shall be $4,500, and that thereafter, until further order of the Commission, its interim fees, expenses, and remuneration are exempted from Rule 11F-2, provided that such fees, expenses, and remuneration shall not exceed $4,500 per month.

8. That the above exemptions are subject to the following additional conditions:

(a) There shall be filed with this Commission by, or on behalf of each of the aforesaid persons, three copies of any application for fees, expenses, or remuneration filed with the court, or of any bill for or statement of services which shall be submitted to the Trustee, or if no such application or bill for, or statement of, services is filed or submitted, of a statement showing the services rendered by such person and the disbursements for which remuneration is claimed.

(b) The Commission retains jurisdiction at any time to terminate the exemption hereby granted, with respect to any of the aforesaid persons, upon notice to such persons. If the exemption is terminated, such person shall thereupon be subject to all the obligations and requirements of Rule 11F-2 with respect to filing an application for and obtaining approval of the maximum amount of fees, expenses and remuneration which may be allowed. Neither the interim allowances hereby approved as to the maximum amount thereof, nor the exemptions hereby granted, shall prejudice the rights of any of the parties hereto to apply for, or the jurisdiction of the Commission over the maximum amount of any final claims for fees, expenses or remuneration in connection with this reorganization.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1500; Filed, May 26, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of May, A. D. 1938.

[File No. 31-430]

IN THE MATTER OF SLOSS-SHEFFIELD STEEL & IRON COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (3) (A) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 13, 1938, at 2:00 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 8, 1938.

The matter concerned herewith is in regard to the question of the status of Sloss-Sheffield Steel & Iron Company as an electric utility company as that term is defined in Section 2 (a) (3) (A) of the aforesaid Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1498; Filed, May 26, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of May, A. D. 1938.

[File No. 31-420]

IN THE MATTER OF THE BYLLESBY CORPORATION (APPLICATION PURSUANT TO SECTION 2 (A) (7) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935)

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (7) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 5, 1938.

The matter concerned herewith is in regard to the application of The Byllesby Corporation for an order declaring it not to be a holding company in accordance with Section 2 (a) (7) of the Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1501; Filed, May 26, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 25th day of May 1938.

[File No. 7-236]

IN THE MATTER OF ADAMS EXPRESS COMPANY COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO EXTEND UNLISTED TRADING PRIVILEGES

The Boston Stock Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the Common Stock, No Par Value, of Adams Express Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, June 15, 1938, at 82 Devonshire Street, Boston, Massachusetts, and continue thereafter at such times and places as the Commission or its officer designated herein shall determine, and that general notice thereof be given; and

It is further ordered, That Frank Kopelman, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1502; Filed, May 26, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of May, A. D. 1938.

[File No. 43-112]

IN THE MATTER OF SAN ANTONIO PUBLIC SERVICE COMPANY

[Public Utility Holding Company Act of 1935—Section 7]

ORDER FIXING EFFECTIVE DATE OF DECLARATION REGARDING ISSUE AND SALE OF BONDS, NOTES AND STOCK

San Antonio Public Service Company, a subsidiary of a registered holding company, having filed a declaration and amendments thereto pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale of $16,500,000 aggregate principal amount of First Mortgage Bonds, 4% Series due 1963, $2,500,000 aggregate principal amount of 4% Serial Notes (maturing 1939-1948) and 28,000 shares of common stock without par value;

A hearing thereon having been held after appropriate notice, the record having been duly considered, and the Commission having filed its findings herein;

It is ordered, That such declaration be and become effective forthwith, on condition, however, that the issue and sale of the before mentioned securities shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1499; Filed, May 26, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of May 1938.

IN THE MATTER OF EDWARD J. WILEY, DOING BUSINESS AS E. J. WILEY COMPANY, 70 PINE STREET, NEW YORK, NEW YORK

ORDER SUSPENDING REGISTRATION PURSUANT TO SECTION 15 (B) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The registration of Edward J. Wiley, doing business as E. J. Wiley Company, as a dealer on over-the-counter markets having come on for hearing before the Commission upon the question of revocation or suspension pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, and the Commission having entered its findings of fact in the matter, and being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors to suspend the said registration;

It is ordered, pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Edward J. Wiley, doing business as E. J. Wiley Company, as a dealer transacting business on over-the-counter markets, be and the same is hereby suspended until further order of the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1503; Filed, May 26, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 25th day of May 1938.

[File No. 2-3612]

IN THE MATTER OF RESOURCES CORPORATION INTERNATIONAL

ORDER DENYING WITHOUT PREJUDICE APPLICATION FOR WITHDRAWAL OF REGISTRATION STATEMENT

This matter coming on to be heard on the amended motion of the registrant filed on May 23, 1938 applying for leave to withdraw its registration statement; and the Commission after due notice having heard evidence and argument with respect to the motion at a hearing held at the offices of the Commission at Washington on May 24, 1938; and the Commission having duly considered the matter and having concluded that the evidence before it at this time does not support a finding that such withdrawal would be consistent with the public interest and the protection of investors;

It is ordered, That the amended motion for leave to withdraw filed by Resources Corporation International on May 23, 1938 be and the same hereby is denied without prejudice to renewal of said motion at the conclusion of the hearing now pending with respect to said registration statement pursuant to Section 8 (d) of the Securities Act of 1933.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1504; Filed, May 26, 1938; 12:54 p. m.]

Saturday, May 28, 1938 ***No. 105***

THE NATIONAL ARCHIVES.

Administrative Committee of the Federal Register.

FEDERAL REGISTER REGULATIONS

CONTENTS

I. Definitions.
II. Documents required to be filed in the office of the Director and published in the FEDERAL REGISTER.
American Battle Monuments Commission.
Board of Governors of the Federal Reserve System.
Central Statistical Board.
Committee for Reciprocity Information.
Commodity Credit Corporation.
Department of Agriculture.
General.
Agricultural Adjustment Administration.
Alaska Game Commission.
Bureau of Agricultural Economics.
Bureau of Animal Industry.
Bureau of Biological Survey.
Bureau of Dairy Industry.
Bureau of Entomology and Plant Quarantine.
Bureau of Plant Industry.
Bureau of Public Roads.
Farm Security Administration.
Federal Crop Insurance Corporation.
Food and Drug Administration.
Forest Service.
Commodity Exchange Administration.
Soil Conservation Service.
Department of Commerce.
General.
Bureau of Air Commerce.
Bureau of Fisheries.
Bureau of Foreign and Domestic Commerce.
Bureau of Lighthouses.
Bureau of Marine Inspection and Navigation.

II. Documents required to be filed in the office of the Director and published in the FEDERAL REGISTER.—Continued.
Department of Commerce.—Continued.
Bureau of Standards.
United States Patent Office.
Department of Interior.
General Land Office.
National Bituminous Coal Commission.
Office of Indian Affairs.
Indian Arts and Crafts Board.
All other Bureaus, Divisions, Offices, etc.
General.
Bureau of Mines.
Bureau of Reclamation.
Columbia Institution for the Deaf.
Division of Grazing.
Division of Territories and Island Possessions.
Freedmen's Hospital.
Geological Survey.
National Park Service.
Office of Education.
Petroleum Conservation Division.
St. Elizabeths Hospital.
United States Housing Authority.
Department of Labor.
General.
Office of the Secretary.
Immigration and Naturalization Service.
United States Employment Service and National Reemployment Service.
Children's Bureau.
Department of the Navy.
General.
Public Property Under Jurisdiction of the Department of the Navy—Sale or Loan to Civilian Agencies, etc.
Defensive Sea Areas.
Disposition of Effects of Naval Decedents.
Naval Reserve Officers Training Corps.
Prohibition Against the Making of Photographs, Sketches, or Maps of Vital Naval Defensive Installations and Equipment.
Protection of Naval Uniform.
Model Basin Experiments.
Post Office Department.
Department of State.
General.
Arms, Ammunition, and Implements of War.
Documents Required for Aliens Entering the United States.
Expatriation.
Exportation of Helium.
Exportation of Tin Plate Scrap.
Passports.
Reciprocal Release of Enemy Property.
Trade Agreements.
Department of the Treasury.
Bureau of Customs.
Bureau of Internal Revenue.
All Other Bureaus, Divisions, Offices, etc.
General.
Accounts and Deposits.
Bureau of Narcotics.
Committee on Enrollment and Disbarment.
Comptroller of the Currency.
Federal Alcohol Administration Division.
Office of Chief Clerk.
Office of the Secretary—Gold, Silver, and Foreign Exchange Matters.
Office of the Treasurer.
Procurement Division, Public Works Branch.
Public Debt Service.
Public Health Service.
Secret Service Division.
United States Coast Guard.
Department of War.
General.
Contractural Relations with the Public—Procurement Functions.
Public Property Under Jurisdiction of War Department—Issue or Loan to Civilian Agencies, etc.
Navigation and Navigable Waters.
Civilian Military Training.
Promotion of Rifle Practice.
Wearing, Manufacture, or Sale of United States Army Uniform, Decorations, etc.
Farm Credit Administration.
Federal Communications Commission.
Federal Deposit Insurance Corporation.
Federal Emergency Administration.
Federal Home Loan Bank Board and Agencies Under Its Supervision.
Federal Home Loan Bank Board.
Home Owners' Loan Corporation.
Federal Savings and Loan Insurance Corporation.
Federal Housing Administration.
Federal Power Commission.
Federal Trade Commission.

II. Documents required to be filed in the office of the Director and published in the FEDERAL REGISTER.—Continued.
Foreign-Trade Zones Board.
General Accounting Office.
International Boundary Commission, United States and Mexico.
International Fisheries Commission.
International Joint Commission, United States and Canada.
Interstate Commerce Commission.
The National Archives.
National Labor Relations Board.
The Panama Canal.
Railroad Retirement Board.
Reconstruction Finance Corporation.
Rural Electrification Administration.
Securities and Exchange Commission.
Social Security Board.
Special Mexican Claims Commission.
United States Board of Tax Appeals.
United States Civil Service Commission.
United States Employees' Compensation Commission.
United States Maritime Commission.
United States Tariff Commission.
Veterans' Administration.
Works Progress Administration.
III. Documents Effective Only Against Federal Agencies, etc.
IV. Documents Forwarded to the Division Having no General Applicability and Legal Effect.
V. Documents Prescribed Jointly by Two or More Federal Agencies.
VI. Executive Orders and Proclamations.
VII. Preparation of Documents.
VIII. Affixation of Seal.
IX. Certification.
X. Documents Issued Outside of the District of Columbia.
XI. Forwarding and Filing Documents.
XII. Receipt and Disposition of Documents.
XIII. Treaties, etc., not Affected.
XIV. Time of Publication of Documents Filed.
XV. Illustrations.
XVI. Dates of Publication of FEDERAL REGISTER.
XVII. Contents and Indexing of FEDERAL REGISTER.
XVIII. Distribution.
XIX. Copies for Official Use.
XX. Requests for Copies.
XXI. Style and Arrangement of Documents Relating to Codified Material.
XXII. Notices.

I. DEFINITIONS

As used herein, unless the context otherwise requires:

(a) The term "act" means the Federal Register Act, approved July 26, 1935 (49 Stat. 500), as amended by the act of June 19, 1937 (50 Stat. 304; reprinted 2 FR 2454).

(b) The terms "agency" or "Federal agency" mean the President of the United States, or any executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States, but not the legislative or judicial branches of the Government.

(c) The terms "Committee" or "Administrative Committee" mean the Administrative Committee established under section 6 of the act.

(d) The term "Director" means the Director of the Division of the Federal Register, The National Archives.

(e) The terms "date of issue" or "distribution day" mean Tuesday, Wednesday, Thursday, Friday, and Saturday, excepting where such days follow a legal holiday.

(f) The term "Division" means the Division of the Federal Register, The National Archives.

(g) The term "document" means any Presidential proclamation or Executive order, and any order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by a Federal agency.

(h) The term "Federal Register" means the daily issue of the FEDERAL REGISTER.

(i) The term "person" means any individual, partnership, association, or corporation.

II. DOCUMENTS REQUIRED TO BE FILED IN THE OFFICE OF THE DIRECTOR AND PUBLISHED IN THE FEDERAL REGISTER

A. There shall be filed in the office of the Director and published in the FEDERAL REGISTER:

(a) Such documents or classes of documents as may be required so to be published by act of Congress.

(b) Such documents or classes of documents as the President shall determine from time to time have general applicability and legal effect, and such documents as the President shall direct to be published.

(c) (1) All Presidential proclamations, and (2) All Executive orders required to be published under section 5 (a) (1) of the act and in addition thereto, the following documents or classes of documents which are hereby prescribed to be published under section 5 (b) of the act, (1) Executive orders establishing, amending, or revoking Civil Service Rules, and (2) Executive orders which the President directs to be published in the FEDERAL REGISTER.

(d) The following documents or classes of documents, issued by the Federal agencies listed below, which are hereby determined pursuant to section 5 (a) (2) of the act to be of general applicability and legal effect:

AMERICAN BATTLE MONUMENTS COMMISSION

Regulations issued pursuant to the authority contained in:

Sections 2 and 8 of the act of March 4, 1923 (42 Stat. 1509, 1510).

Executive Order No. 6614, dated February 26, 1934.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Rules, regulations, and orders, except such as are applicable only to the Federal Reserve Banks, the Federal Reserve agents, or the Board of Governors of the Federal Reserve System, or the officers, employees, or assistants of any of them, issued pursuant to authority contained in:

Section 2 of the Federal Reserve Act (38 Stat. 251).

Section 4 of the Federal Reserve Act, as amended by section 3 (a) of the Banking Act of 1933 (48 Stat. 162, 163), and as otherwise amended.

Section 5 of the Federal Reserve Act (38 Stat. 251, 257), as amended by section 319 (a) of the Banking Act of 1935 (49 Stat. 684, 713).

Section 6 of the Federal Reserve Act, as amended and reenacted by section 1 of the act of April 23, 1930 (46 Stat. 250), as further amended.

Section 9 of the Federal Reserve Act, as amended and reenacted by section 3 of the act of June 21, 1917 (40 Stat. 232), as amended by section 401 of the Agricultural Credits Act of 1923 (42 Stat. 1454, 1478), as amended by section 9 of the act of February 25, 1927 (44 Stat. 1224, 1229), as amended by section 5 of the Banking Act of 1933 (48 Stat. 162, 164), as amended by section 320 of the Banking Act of 1935 (49 Stat. 684, 713), and as otherwise amended.

Section 10 (b) of the Federal Reserve Act, as added by section 2 of the act of February 27, 1932 (47 Stat. 56), as amended by section 204 of the Banking Act of 1935 (49 Stat. 684, 705), and as otherwise amended.

Section 11, subsection (i), of the Federal Reserve Act (38 Stat. 251, 262).

Section 11, subsection (k), of the Federal Reserve Act, as amended and reenacted by section 2 of the act of September 26, 1918 (40 Stat. 967, 968), as amended by the act of June 26, 1930 (46 Stat. 814).

Section 11, subsection (m), of the Federal Reserve Act, as amended by section 7 of the Banking Act of 1933 (48 Stat. 162, 167), as amended by section 321 (a) of the Banking Act of 1935 (49 Stat. 684, 713), and as otherwise amended.

Section 13 of the Federal Reserve Act, as amended by the act of September 7, 1916 (39 Stat. 752), as amended by sections 4 and 5 of the act of June 21, 1917 (40 Stat. 232, 234, 235), as amended by section 402 of the Agricultural Credits Act of 1923 (42 Stat. 1454, 1478), as amended by the act of May 29, 1928 (45 Stat. 975), as amended by section 210 of the Emergency Relief and Construction Act of 1932 (47 Stat. 709, 715), as amended by section 403 of the act of March 9, 1933 (48 Stat. 1, 7), as amended by section 9 of the Banking Act of 1933 (48 Stat. 162, 180), and as otherwise amended.

Section 13a of the Federal Reserve Act, as added by section 404 of the Agricultural Credits Act of 1923 (42 Stat. 1454, 1479), as amended by section 5 of the act of May 19, 1932 (47 Stat. 159, 160).

Section 13b, subsections (b) and (c), of the Federal Reserve Act, as added by section 1 of the act of June 19, 1934 (48 Stat. 1105), as amended.

Section 14 of the Federal Reserve Act (38 Stat. 251, 264), as amended by section 16 (b) of the Federal Farm Mortgage Corporation Act (48 Stat. 344, 348), as amended by section 7 (b) of the act of April 27, 1934 (48 Stat. 643, 646), as amended by section 10 of the Banking Act of 1933 (48 Stat. 162, 181), as amended by section 206 of the Banking Act of 1935 (49 Stat. 684, 706), and as otherwise amended.

Section 16 of the Federal Reserve Act (38 Stat. 251, 265), as amended.

Section 19 of the Federal Reserve Act, as amended and reenacted by section 10 of the act of June 21, 1917 (40 Stat. 232, 239), as amended by section 11 of the Banking Act of 1933 (48 Stat. 162, 181), as amended by sections 207 and 324 of the Banking Act of 1935 (49 Stat. 684, 706, 714), and as otherwise amended.

Section 22, subsection (d), of the Federal Reserve Act, as amended and reenacted by section 5 of the act of September 26, 1918 (40 Stat. 967, 970).

Section 22, subsection (g), of the Federal Reserve Act, as added by section 12 of the Banking Act of 1933 (48 Stat. 162, 182), as amended by section 326 (c) of the Banking Act of 1935 (49 Stat. 684, 716).

Section 25 of the Federal Reserve Act (38 Stat. 251, 273), as amended by the act of September 7, 1916 (39 Stat. 752, 755), as amended.

Section 25 (a) of the Federal Reserve Act, as added by the act of December 24, 1919 (41 Stat. 378), as amended by the act of June 14, 1921 (42 Stat. 28), and as otherwise amended.

Section 8 of the act of October 15, 1914, as amended by section 329 of the Banking Act of 1935 (49 Stat. 684, 717), and as otherwise amended.

Section 32 of the Banking Act of 1933, as amended by section 307 of the Banking Act of 1935 (49 Stat. 684, 709).

Section 502, subsection (b), of the World War Adjusted Compensation Act (43 Stat. 121, 126), as amended.

Section 3 (b), 7, and 8, of the Securities Exchange Act of 1934 (48 Stat. 881, 884, et seq.).

Section 23 (a) of the Securities Exchange Act of 1934 as amended by section 8 of the Act of May 27, 1936 (49 Stat. 1375, 1379).

Section 5144 of the Revised Statutes, as amended by section 19 of the Banking Act of 1933 (48 Stat. 162, 186), as amended by section 311 of the Banking Act of 1935 (49 Stat. 684, 710).

CENTRAL STATISTICAL BOARD

Rules and regulations issued pursuant to the authority contained in:

Sections 5 and 7 of the act of July 25, 1935 (49 Stat. 498, 499, 500).

COMMITTEE FOR RECIPROCITY INFORMATION

Rules and regulations issued pursuant to the authority contained in:

Section 4 of the act of June 12, 1934 (48 Stat. 943, 945), and paragraph 3 of Executive Order No. 6750, dated June 27, 1934.

COMMODITY CREDIT CORPORATION

Instructions issued pursuant to the authority contained in:

Section 7 of the act of January 31, 1935 (49 Stat. 1, 4), as amended. Executive Order No. 6340, dated October 16, 1933.

Sections 302, 381, 382, and 383 of the Agricultural Adjustment Act of 1938 (52 Stat. 31).

Section 4 of the act of March 8, 1938 (52 Stat. 107).

DEPARTMENT OF AGRICULTURE

Rules, regulations, notices, and orders having general applicability and legal effect and not directed to and served upon particular persons, including in the term "orders"

proclamations, determinations, and obligatory standards issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.

Agricultural Adjustment Administration

Sections 8 (1), 8 (4), and 8 (5) of the Agricultural Adjustment Act of 1933, as amended by sections 2 and 4 of the act of August 24, 1935 (49 Stat. 750, 751, 753).

Section 8 (b) of the Agricultural Adjustment Act of 1933, as amended by sections 2 and 4 of the act of August 24, 1935 (49 Stat. 750, 751, 753), and as amended and reenacted and amended by the act of June 3, 1937 (50 Stat. 246, 247).

Section 8 (c) and 8 (e) of the Agricultural Adjustment Act of 1933, as added by sections 5 and 6 of the act of August 24, 1935 (49 Stat. 750, 753, 761), as amended and reenacted and amended by the act of June 3, 1937 (50 Stat. 246, 247), as amended by the act of August 5, 1937 (50 Stat. 563) and the act of April 13, 1938 (52 Stat. 215).

Section 10 (c) of the Agricultural Adjustment Act of 1933, (48 Stat. 31, 37), as amended and reenacted and amended by the act of June 3, 1937 (50 Stat. 246, 248).

Section 10 (i) of the Agricultural Adjustment Act of 1933, as added by section 18 of the act of August 24, 1935 (49 Stat. 750, 767), as amended and reenacted and amended by the act of June 3, 1937 (50 Stat. 246).

Section 22 of the Agricultural Adjustment Act of 1933, as added by section 31 of the act of August 24, 1935 (49 Stat. 750, 773), as amended, and as reenacted by the act of June 3, 1937 (50 Stat. 246), and Executive Order No. 7233, dated November 23, 1935.

Titles I, II, III, and V of the Sugar Act of 1937 (50 Stat. 903, 904, 909, 915).

Sections 8 to 17 of the Soil Conservation and Domestic Allotment Act, as added by the act of February 29, 1936 (49 Stat. 1148, 1149, 1151), as amended by the public resolution of June 24, 1936 (49 Stat. 1915), by the act of June 28, 1937 (50 Stat. 329), by Title I of the Agricultural Adjustment Act of 1938 (52 Stat. 31–36), and by the act of April 7, 1938 (52 Stat. 202), and as affected by Section 7 (c) of Title IV of the First Deficiency Appropriation Act, fiscal year of 1936 (49 Stat. 1597, 1648).

Act of April 25, 1936 (49 Stat. 1239).

Title III and section 404 of the Agricultural Adjustment Act of 1938 (52 Stat. 38–66, 71), as amended by the act of March 26, 1938 (52 Stat. 120), and the act of April 7, 1938 (52 Stat. 202).

The provisions of the item entitled, "Price Adjustment Payment to Cotton Producers" in the Third Deficiency Appropriation Act, fiscal year 1937, (50 Stat. 762), as amended by Section 381 of the Agricultural Adjustment Act of 1938 (52 Stat. 66, 67), as amended by section 12 of the Act of April 7, 1938 (52 Stat. 202, 204).

Alaska Game Commission

Section 9 of the Alaska Game Law (43 Stat. 739, 743).

Section 11, Subsections C and D of the Alaska Game Law (43 Stat. 739, 744), as amended by the Act of February 14, 1931 (46 Stat. 111, 112).

Bureau of Agricultural Economics

Section 5 of the United States Cotton Futures Act (39 Stat. 476).

Sections 2, 7, and 8 of the United States Grain Standards Act (39 Stat. 482, 484, 485).

Section 28 of the United States Warehouse Act (39 Stat. 486, 490).

Section 19 of the United States Warehouse Act (39 Stat. 486, 489), as amended by the Act of February 23, 1923 (42 Stat. 1282, 1284).

Section 4 of the Standard Container Act of 1916 (39 Stat. 673, 674).

Sections 6 and 10 of the United States Cotton Standards Act (42 Stat. 1517, 1518, 1519).

Section 3 of the Produce Agency Act of March 3, 1927 (44 Stat. 1355).

Section 3 of the act of March 3, 1927 (44 Stat. 1373).

Section 3 of the Wool Standards Act of May 17, 1928 (45 Stat. 593, 594).

Section 9 of the Standard Container Act of 1928 (45 Stat. 685, 687).

Section 2 of the Tobacco Stocks and Standards Act of January 14, 1929 (45 Stat. 1079).

Section 15 of the Perishable Agricultural Commodities Act of 1930 (46 Stat. 531, 537).

Sections 1 and 7 of the Export Apple and Pear Act of June 10, 1933 (48 Stat. 123, 124).

Sections 3, 5, 6, 8, and 14 of the Tobacco Inspection Act of August 23, 1935 (49 Stat. 731, 732, et seq.).

Sections 3, 4, and 6 of the Act of June 24, 1936 (49 Stat. 1898, 1899).

The Department of Agriculture Appropriation Act of 1938 (50 Stat. 395, 425).

Bureau of Animal Industry

Section 3 of the act of May 29, 1884 (23 Stat. 31, 32), as amended by the act of May 31, 1920 (41 Stat. 694, 699), as amended.

Sections 4 and 5 of the act of May 29, 1884 (23 Stat. 31, 32), as amended by the act of February 2, 1903 (32 Stat. 791).

Act of August 30, 1890 (26 Stat. 414), as amended by the act of June 28, 1926 (44 Stat. 774), as amended.

Act of March 3, 1891 (26 Stat. 833), as amended by the joint resolution of May 28, 1928 (45 Stat. 789).

Act of February 2, 1903 (32 Stat. 791), as amended.

Act of March 3, 1905 (33 Stat. 1264), as extended by the act of March 4, 1913 (37 Stat. 828, 831), as amended.

Act of June 30, 1906 (34 Stat. 669, 674–679), as amended by the act of March 4, 1907 (34 Stat. 1256, 1260–1265), as amended by paragraph 545 of the act of October 3, 1913 (38 Stat. 114, 159), as amended by the act of July 24, 1919 (41 Stat. 234, 239–241).

Act of March 4, 1907 (34 Stat. 1256, 1260–1265), as amended.

Act of March 4, 1913 (37 Stat. 828, 832–833).

Packers and Stockyards Act, 1921 (42 Stat. 159), as amended by the act of May 17, 1935 (49 Stat. 247, 257), and the act of August 14, 1935 (49 Stat. 648), and amended by the act of June 29, 1937 (50 Stat. 395, 406).

Paragraph 1606 of the Tariff Act of 1930 (46 Stat. 590, 673).

Section 306 of the Tariff Act of 1930 (46 Stat. 590, 689).

Section 6 of the act of April 7, 1934 (48 Stat. 528).

Act of February 23, 1931 (46 Stat. 1242, 1250).

Act of June 4, 1936 (49 Stat. 1421, 1430, 1432).

Sections 56–60 of the act of August 24, 1935 (49 Stat. 750, 781–782), as amended.

Section 37 of the act of August 24, 1935 (49 Stat. 750, 775), as amended.

Bureau of Biological Survey

Section 1 of the act of May 25, 1900 (31 Stat. 187), as amended by section 241 of the act of March 4, 1909 (35 Stat. 1088, 1137).

Act of June 3, 1902 (32 Stat. 285).

Act of January 24, 1905 (33 Stat. 614).

Section 84 of the act of March 4, 1909 (35 Stat. 1088, 1104), as amended by the act of April 15, 1924 (43 Stat. 98).

Section 3 of the Migratory Bird Treaty Act (40 Stat. 755).

The Upper Mississippi River Wild Life and Fish Refuge Act (43 Stat. 650).

Sections 8 and 10 of the Alaska Game Law (43 Stat. 739, 743), as amended by the act of February 14, 1931 (46 Stat. 1111).

Section 5 of the act of April 23, 1928 (45 Stat. 448, 449).

The Migratory Bird Conservation Act (45 Stat. 1222), as supplemented by the Migratory Bird Hunting Stamp Act (48 Stat. 451), as amended by Titles I and III of the act of June 15, 1935 (49 Stat. 378, 381), as extended by the act of June 12, 1936 (49 Stat. 579).

Section 3 of the act of March 10, 1934 (48 Stat. 400, 401).

Section 4 of the act of March 10, 1934 (48 Stat. 401, 402).

Title IV of the act of June 15, 1935 (49 Stat. 383).

Sections 7 and 10 of the act of September 2, 1937 (50 Stat. 917).

Bureau of Dairy Industry

Section 5 of the act of May 9, 1902 (32 Stat. 193, 196).

Act of May 23, 1908 (35 Stat. 251, 255).

Act of August 10, 1912 (37 Stat. 269, 273).

Bureau of Entomology and Plant Quarantine

Sections 1, 5, 7, and 9 of the act of August 20, 1912 (37 Stat. 315).

Section 8 of the act of August 20, 1912 (37 Stat. 315, 318), as amended by the act of March 4, 1917 (39 Stat. 1134, 1165), as amended.

Section 15 of the act of August 20, 1912, as added by the act of May 31, 1920 (41 Stat. 694, 726).

Act of August 31, 1922 (42 Stat. 833).

Act of June 4, 1936 (49 Stat. 1421, 1444).

Act of June 29, 1937 (50 Stat. 395, 418).

Bureau of Plant Industry

Section 1 of the act of August 24, 1912 (37 Stat. 506), as amended.

Sections 5 and 6 (h) of the act of August 24, 1912, as added by the act of April 26, 1926 (44 Stat. 325, 326).

Bureau of Public Roads

Section 18 of the Federal Highway Act (42 Stat. 212, 216).

Farm Security Administration

Rules, regulations, and orders issued pursuant to the authority contained in:

Emergency Relief Appropriation Act of 1935 (49 Stat. 115).

Emergency Relief Appropriation Act of 1936 (49 Stat. 1597, 1608).

Emergency Relief Appropriation Act of 1937 (50 Stat. 352).

National Industrial Recovery Act, Title II (48 Stat. 195, 200).

Act of June 29, 1936 (49 Stat. 2035).

Bankhead-Jones Farm Tenant Act (50 Stat. 522).

Executive Order No. 7027, dated April 30, 1935, as amended by Executive Order No. 7200, dated September 26, 1935.

Executive Order No. 7028, dated April 30, 1935.

Executive Order No. 7041, dated May 15, 1935.

Executive Order No. 7143, dated August 19, 1935.

Executive Order No. 7083, dated June 24, 1935, as amended by Executive Order No. 7347, dated April 15, 1936. (1 FR 207).

Executive Order No. 7396, dated June 22, 1936. (1 FR 651).

Executive Order No. 7530, dated December 31, 1936. (2 FR 7), as amended by Executive Order No. 7557, dated February 19, 1937. (2 FR 343).

Executive Order No. 7649, dated June 29, 1937. (2 FR 1136).

Federal Crop Insurance Corporation

Sections 506 (e) and 516 (b) of the Federal Crop Insurance Act (52 Stat. 72).

Food and Drug Administration

Sections 2, 3, and 10 of the act of March 2, 1897 (29 Stat. 604, 605, 607), as amended by the act of May 16, 1908 (35 Stat. 163), and the act of May 31, 1920 (41 Stat. 694, 712).

Section 3 of the Federal Food and Drugs Act (34 Stat. 768).

Section 8 of the Federal Food and Drugs Act (34 Stat. 768, 770), as amended by the act of March 3, 1913 (37 Stat. 732), as amended by the act of July 8, 1930 (46 Stat. 1019).

Section 10A of the Federal Food and Drugs Act, as amended by the act of August 27, 1935 (49 Stat. 871).

Section 3 of the Insecticide Act of 1910 (36 Stat. 331).

Naval Stores Act (42 Stat. 1435).

Section 3, paragraph 4, of the act of February 15, 1927 (44 Stat. 1101, 1103).

Section 9 (c) (1) of the Federal Caustic Poison Act (44 Stat. 1406, 1409).

Forest Service

Act of June 4, 1897 (30 Stat. 11, 35), as amended by the act of February 1, 1905 (33 Stat. 628).

Act of February 15, 1901 (31 Stat. 790).

Section 10 of the act of March 1, 1911 (36 Stat. 961, 962).

Act of August 11, 1916 (39 Stat. 446, 476).

Act of March 4, 1917 (39 Stat. 1150).

Section 2 of the act of June 5, 1920 (41 Stat. 986).

Section 9 of the act of June 7, 1924 (43 Stat. 653, 655).

Section 6 of the act of July 3, 1926 (44 Stat. 818, 821).

Section 4 of the act of July 3, 1926 (44 Stat. 889).

Section 2 of the act of June 13, 1933 (48 Stat. 128).

Section 3 of the act of March 10, 1934 (48 Stat. 400, 401).

Commodity Exchange Administration

Commodity Exchange Act (42 Stat. 998), formerly cited as the Grain Futures Act, as amended by the Act of June 15, 1936 (49 Stat. 1491), as amended by Commodity Exchange Act of April 7, 1938 (52 Stat. 205).

Soil Conservation Service

Act of April 27, 1935 (49 Stat. 163).

DEPARTMENT OF COMMERCE

Rules, regulations, and orders issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.

Bureau of Air Commerce

Air Commerce Act of 1926 (44 Stat. 568), as amended, and as further amended by the act of June 19, 1934 (48 Stat. 1113), and the act of June 19, 1934 (48 Stat. 1116).

Section 12 of the act of June 12, 1934 (48 Stat. 933, 937).

Joint resolution of March 2, 1936 (49 Stat. 1158).

Bureau of Fisheries

Section 5 of the act of June 14, 1906 (34 Stat. 263, 264), as amended.

Act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464) and the act of April 16, 1934 (48 Stat. 594).

Act of June 6, 1924 (43 Stat. 464) as amended by the acts of June 18, 1926 (44 Stat. 752), April 16, 1934 (48 Stat. 594), August 2, 1937 (50 Stat. 557), and August 14, 1937 (50 Stat. 639).

Act of June 18, 1926 (44 Stat. 752) as amended by the act of August 2, 1937 (50 Stat. 557).

Act of May 11, 1908 (35 Stat. 102), as amended by the act of May 31, 1920 (41 Stat. 694, 716), as amended by the act of June 16, 1934 (48 Stat. 976).

Act of April 21, 1910 (36 Stat. 326), as amended.

The Upper Mississippi River Wild Life and Fish Refuge Act (43 Stat. 650), as amended.

Act of July 2, 1930 (46 Stat. 845).

Northern Pacific Halibut Act of 1937 (50 Stat. 325).

Section 3 of the act of March 10, 1934 (48 Stat. 400, 401).

Section 4 of the act of March 10, 1934 (48 Stat. 401, 402).

Section 2 of the act of June 25, 1934 (48 Stat. 1213, 1214).

Section 5 of the Whaling Treaty Act (49 Stat. 1246, 1247).

Bureau of Foreign and Domestic Commerce

Sections 8, 12, and 17 of the China Trade Act, 1922 (42 Stat. 849, 851, et seq.), as amended.

Bureau of Lighthouses

Act of August 7, 1882 (22 Stat. 302, 309), as amended.

Section 4 of the act of March 23, 1906 (34 Stat. 84, 85), as amended.

Section 3 of the act of June 20, 1906 (34 Stat. 321, 324), as amended.

Section 10 of the act of June 17, 1910 (36 Stat. 534, 538), as amended.

Section 3 of the act of June 23, 1910 (36 Stat. 593, 594), as amended.

Section 4676 of the Revised Statutes, as amended by section 1 of the act of August 16, 1937 (50 Stat. 666).

Bureau of Marine Inspection and Navigation

Section 4177 of the Revised Statutes, as amended.

Section 4400 of the Revised Statutes, as amended by the act of March 17, 1906 (34 Stat. 68), as amended.

Section 4405 of the Revised Statutes, as amended by the act of March 3, 1905 (33 Stat. 1022), as amended by the act of February 8, 1907 (34 Stat. 881), as amended.

Section 4412 of the Revised Statutes, as amended by section 5 of the act of June 7, 1897 (30 Stat. 96, 103).

Section 4417 of the Revised Statutes, as amended by section 1 of the act of March 3, 1905 (33 Stat. 1023), as amended.

Section 4417a of the Revised Statutes, as added by the act of June 23, 1936 (49 Stat. 1889).

Section 4423 of the Revised Statutes, as amended by section 3 of the act of March 4, 1915 (38 Stat. 1216, 1217).

Section 4429 of the Revised Statutes, as amended by the act of June 13, 1933 (48 Stat. 125, 126).

Section 4450 of the Revised Statutes, as amended by Section 4 of the act of May 27, 1936 (49 Stat. 1380, 1381).

Section 4462 of the Revised Statutes, as amended.

Section 4463 of the Revised Statutes, as amended by section 1 of the act of May 11, 1918 (40 Stat. 548), as amended.

Section 4470 of the Revised Statutes, as amended by section 7 of the act of March 3, 1905 (33 Stat. 1023, 1031), as amended.

Section 4471 of the Revised Statutes, as amended by the act of June 20, 1936 (49 Stat. 1540).

Section 4472 of the Revised Statutes, as amended by section 8 of the act of March 3, 1905 (33 Stat. 1023, 1031), as amended by the act of January 24, 1913 (37 Stat. 650), as amended by the act of October 22, 1914 (38 Stat. 766), as amended by the act of March 29, 1918 (40 Stat. 499), as otherwise amended.

Section 4474 of the Revised Statutes, as amended by the act of October 18, 1888 (25 Stat. 564), as amended.

Section 4480 of the Revised Statutes, as amended by section 2 of the act of March 3, 1905 (33 Stat. 1027, 1028), as amended.

Section 4481 of the Revised Statutes.

Section 4488 of the Revised Statutes, as amended by section 3 of the act of March 3, 1905 (33 Stat. 1023, 1024), as amended.

Section 4490 of the Revised Statutes, as amended.

Section 4492 of the Revised Statutes.

Section 4581 of the Revised Statutes, as amended by section 16 of the act of December 21, 1898 (30 Stat. 755, 759), as amended by section 19 of the act of March 4, 1915 (38 Stat. 1164, 1185).

Section 4551 (j) of the Revised Statutes, as added by the act of March 24, 1937 (50 Stat. 49).

Section 13 of the act of June 20, 1874 (18 Stat. 125, 128), as amended.

Section 3 of the act of August 5, 1882 (22 Stat. 300, 301), as amended.

Section 10 (f) of the act of June 26, 1884, as amended by section 11 of the act of March 4, 1915 (38 Stat. 1164, 1169), as further amended.

Sections 1 and 3 of the act of February 8, 1895 (28 Stat. 645, 649), as amended.

Section 2 of the act of February 19, 1895 (28 Stat. 672), as amended.

Section 4 of the act of March 2, 1895 (28 Stat. 741, 743), as amended.

Act of March 6, 1896 (29 Stat. 54), as amended by the act of April 26, 1906 (34 Stat. 136), as amended.

Section 1, Article 9 (d) of the act of June 7, 1897 (30 Stat. 96, 98).

Section 2 of the act of June 7, 1897, as amended by the act of May 25, 1914 (38 Stat. 381), as amended.

Act of April 28, 1908 (35 Stat. 69), as amended.

Section 14 of the act of May 28, 1908 (35 Stat. 424, 428), as amended.

Section 8 of the act of June 9, 1910 (36 Stat. 459, 463), as amended.

Section 4 of the act of June 24, 1910 (36 Stat. 629, 630), as amended.

Section 13 of the act of March 4, 1915 (38 Stat. 1169), as amended by the act of June 25, 1936 (49 Stat. 1930), as amended by the act of May 22, 1937 (50 Stat. 199).

Section 1 (b) of the act of March 4, 1915 (38 Stat. 1193, 1194), as amended.

Section 4 of the act of June 10, 1918 (40 Stat. 602, 603).

Section 2 of the act of February 19, 1920 (41 Stat. 436, 437), as amended.

Section 2 of the act of March 2, 1929 (45 Stat. 1492, 1493).

Section 30, subsection W of the Merchant Marine Act, 1920 (41 Stat. 988, 1006).

Section 1 of the act of June 7, 1918 (40 Stat. 602), as amended by section 210 of the Anti-Smuggling Act (49 Stat. 517, 526).

Section 5 of the act of June 7, 1918 (40 Stat. 602).

Section 4 of the Anti-Smuggling Act (49 Stat. 517, 519).

Section 1 of the act of August 26, 1935 (49 Stat. 868).

Section 2 of the Coastwise Load Line Act, 1935, as amended by the act of June 20, 1936 (49 Stat. 1543).

Section 3 of the Coastwise Load Line Act, 1935 (49 Stat. 888).

Section 7 of the act of May 27, 1936 (49 Stat. 1380, 1386).

Act of June 20, 1936 (49 Stat. 1544).

Section 7 of the act of June 25, 1936 (49 Stat. 1930, 1936).

Act of June 16, 1937 (50 Stat. 303).

Bureau of Standards

Section 3 of the act of March 4, 1915 (38 Stat. 1180, 1187).

Section 4 of the act of August 23, 1916 (39 Stat. 530, 531).

United States Patent Office

Section 483 of the Revised Statutes, as amended.

Section 487 of the Revised Statutes, as amended.

Section 26 of the act of February 20, 1905 (33 Stat. 724, 730).

DEPARTMENT OF INTERIOR

General Land Office

Orders, rules, regulations, and instructions of general applicability and legal effect, issued, prescribed, or promulgated by the Secretary of the Interior and relating to the General Land Office.

National Bituminous Coal Commission

Orders, rules and regulations, and notices issued under the authority contained in:

Bituminous Coal Act of 1937 (50 Stat. 72).

Office of Indian Affairs

Orders, rules, and regulations of general applicability and legal effect, issued, prescribed, or promulgated by the Commissioner of Indian Affairs or the Secretary of the Interior relating to Indian Affairs.

Indian Arts and Crafts Board

Act of August 27, 1935 (49 Stat. 891).

All Other Bureaus, Divisions, Offices, etc.

Rules, regulations, notices, and orders issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.

Bureau of Mines

Section 5 of the act of February 25, 1913 (37 Stat. 681, 682), as amended by section 311 of the act of June 30, 1932 (47 Stat. 382, 410).

Executive Order No. 4239, dated June 4, 1925, and Executive Order No. 6611, dated February 22, 1934.

The act of March 3, 1925 (43 Stat. 1110), as amended by the act of September 1, 1937 (50 Stat. 885).

Bureau of Reclamation

Section 4 of the act of June 17, 1902 (32 Stat. 389).

Act of January 25, 1917 (39 Stat. 868).

Subsection C of the Second Deficiency Act, Fiscal Year 1924 (43 Stat. 672, 702).

Sections 41 to 45, act of May 25, 1926 (44 Stat. 636, 647, 648).

Columbia Institution for the Deaf

Section 4862 of the Revised Statutes, as amended.

Division of Grazing

Act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976).

Division of Territories and Island Possessions

Territory of Alaska.—Act of March 4, 1907 (34 Stat. 1295, 1338), as amended. Act of March 4, 1927 (44 Stat. 1452, 1455).

The Alaska Railroad.—Section 1 of the act of March 12, 1914 (38 Stat. 305). Executive Order No. 3861, dated June 8, 1923.

Alaska Road Commission.—Act of January 27, 1905 (33 Stat. 616), as amended by the act of May 14, 1906 (34 Stat. 192), as amended by the act of June 30, 1932 (47 Stat. 446).

Puerto Rico.—Joint resolution of December 21, 1928 (45 Stat. 1067), as amended by the joint resolution of June 3, 1935 (49 Stat. 320).

Territory of the Virgin Islands.—Organic act of the Virgin Islands of the United States (49 Stat. 1807). Executive Order No. 7715, dated September 26, 1937 (2 FR 2008).

Freedmen's Hospital

Section 2038 of the Revised Statutes, as amended by section 1 of the act of June 23, 1874 (18 Stat. 223).

Act of June 26, 1912 (37 Stat. 139, 172).

Geological Survey

Act of March 3, 1879 (20 Stat. 377, 394).

Section 3 of the act of February 28, 1891 (26 Stat. 794, 795).

Section 2 of the act of May 27, 1908 (35 Stat. 312).

Act of March 3, 1909 (35 Stat. 781, 783).

Section 1 of the act of August 21, 1916 (39 Stat. 519).

Section 18 of the act of February 14, 1920 (41 Stat. 408, 426).

Act of February 25, 1920 (41 Stat. 437), as extended by section 5 of the act of February 7, 1927 (44 Stat. 1057, 1058), and amended by the acts of March 4, 1931 (46 Stat. 1523), February 9, 1933 (47 Stat. 798), June 16, 1934 (48 Stat. 977), and August 21, 1935 (49 Stat. 674).

Section 6 of the act of June 4, 1920 (41 Stat. 751, 763).

Act of June 4, 1920 (41 Stat. 813).

Section 7 of the act of March 4, 1923 (42 Stat. 1448, 1450).

Act of April 17, 1926 (44 Stat. 301), as extended by the act of July 16, 1932 (47 Stat. 701).

Act of June 8, 1926 (44 Stat. 710).

Act of February 25, 1928 (45 Stat. 148).

National Park Service

Act of March 3, 1891 (26 Stat. 842), as amended.

Section 4 of the act of April 20, 1904 (33 Stat. 187, 188).

Section 4 of the act of June 8, 1906 (34 Stat. 225).

Section 3 of the act of August 25, 1916 (39 Stat. 535), as amended by the act of June 2, 1920 (41 Stat. 732).

Sections 1 and 2 of the act of March 2, 1933 (47 Stat. 1430).

Section 2 of the act of August 21, 1935 (49 Stat. 666).

Executive Order No. 6166, dated June 10, 1933, and Executive Order No. 6228, dated July 28, 1933.

Executive Order No. 7496, dated November 14, 1936 (1 FR 1946).

Office of Education

Act of February 23, 1917 (39 Stat. 929), as amended and extended.

Section 4 of the act of June 2, 1920, as amended by section 3 of the act of June 9, 1930 (46 Stat. 524, 525), as amended.

Act of February 23, 1929 (45 Stat. 1260).

Act of June 8, 1936 (49 Stat. 1488).

Act of June 20, 1936 (49 Stat. 1559, 1560).

Petroleum Conservation Division

Secretary of the Interior, and Federal Tender Board No. 1. Orders, rules, and regulations issued pursuant to the authority contained in:

Act of February 22, 1935 (49 Stat. 30), as amended by the act of June 14, 1937 (50 Stat. 257) and Executive Orders Nos. 7756, 7757, 7758, and 7759 dated December 1, 1937 (2 FR 2664, et seq.).

St. Elizabeths Hospital

Section 4839 of the Revised Statutes, as amended by the act of February 2, 1909 (35 Stat. 592), as amended.

Act of June 30, 1906 (34 Stat. 697, 731), as amended.

Act of March 6, 1920 (41 Stat. 503, 513).

United States Housing Authority

Sections 7 (a), 8, 10 (b), 16 (l) of the United States Housing Act of 1937 (50 Stat. 888).

DEPARTMENT OF LABOR

Rules and regulations issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.

Office of the Secretary

Section 3 of the act of April 13, 1934 (48 Stat. 582, 583), as amended.

Sections 4 and 6 of the act of June 30, 1936 (49 Stat. 2036, 2038).

Immigration and Naturalization Service

Sections 7, 8, and 14 of the act of September 13, 1888 (25 Stat. 476, 477, et seq.), as extended and continued by the act of April 29, 1902 (32 Stat. 176), as amended.

Act of April 29, 1902 (32 Stat. 176), as amended.

Section 28 of the act of June 29, 1906 (34 Stat. 596, 606), as amended by section 8 of the act of March 2, 1929 (45 Stat. 1512, 1515).

Sections 2 and 3 of the act of February 5, 1917 (39 Stat. 874, 875), as extended and amended.

Sections 11, 16, 17, 22, 23, and 30 of the act of February 5, 1917 (39 Stat. 874, 881, et seq.).

Act of December 26, 1920 (41 Stat. 1082).

Sections 10 (a), 10 (b), 10 (c), 11 (f), 12 (c), and 24 of the Immigration Act of 1924 (43 Stat. 153, 158, et seq.).

Act of February 27, 1925 (43 Stat. 1014, 1049).

Sections 7 (d) and 11 (b) of the act of May 20, 1926 (44 Stat. 568, 572, 574).

Sections 1 and 2 of the act of March 2, 1929 (45 Stat. 1512, 1513).

Section 3 of the act of March 17, 1932 (47 Stat. 67).

Section 8(a)(2) of the act of March 24, 1934 (48 Stat. 456, 462).

Section 3 of the act of June 24, 1935 (49 Stat. 395).

Section 3 of the act of July 10, 1935 (49 Stat. 478), as extended by the act of May 14, 1937 (50 Stat. 165).

Section 3 of the act of August 23, 1937 (50 Stat. 743, 744).

Executive Order No. 589, dated March 14, 1907.

Executive Order No. 1712, dated February 24, 1913.

Executive Order No. 4049, dated July 14, 1924.

Executive Order No. 7797, dated January 26, 1938 (3 FR 216).

Executive Order No. 7865, dated April 12, 1938 (3 FR 753).

United States Employment Service and National Reemployment Service

Section 12 of the act of June 6, 1933 (48 Stat. 113, 117).

Children's Bureau

Section 1102 of the Social Security Act (49 Stat. 620, 647).

DEPARTMENT OF THE NAVY

Rules and regulations issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.
Section 1547 of the Revised Statutes.

Public Property Under Jurisdiction of the Department of the Navy—Sale or Loan to Civilian Agencies, Etc.

Sale

Section 2 of the act of August 5, 1882 (22 Stat. 284, 296).
Act of December 23, 1932 (47 Stat. 751).

Loan

Act of October 19, 1888 (25 Stat. 565, 600).
Act of May 22, 1896, as amended by the act of February 28, 1933 (47 Stat. 1369).
Act of May 8, 1914 (38 Stat. 771).

Defensive Sea Areas

Section 44 of the act of March 4, 1909, as amended by the act of March 4, 1917 (39 Stat. 1168, 1194).

Disposition of Effects of Naval Decedents

Act of March 29, 1918 (40 Stat. 499), as amended.

Naval Reserve Officers' Training Corps

Section 22 of the act of March 4, 1925 (43 Stat. 1269, 1276), as amended.

Prohibition Against the Making of Photographs, Sketches, or Maps of Vital Naval Defensive Installations and Equipment

Act of January 12, 1938 (52 Stat. 3).

Protection of Naval Uniform

Section 125 of the National Defense Act (39 Stat. 166, 216), as amended.

Model Basin Experiments

Act of May 6, 1936 (49 Stat. 1263).

POST OFFICE DEPARTMENT

Documents issued pursuant to the authority contained in sections 161 and 396 of the Revised Statutes, and all other documents having general applicability and legal effect, promulgated pursuant to the authority contained in laws or Executive orders administered by the Post Office Department.

DEPARTMENT OF STATE

Rules, regulations, and notices issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.

Arms, Ammunition, and Implements of War

Joint resolution of August 31, 1935 (49 Stat. 1081), as amended by the joint resolution of February 29, 1936 (49 Stat. 1152), as amended by the joint resolution of May 1, 1937 (50 Stat. 121), and Proclamations Nos. 2236 and 2237 dated May 1, 1937 (2 FR 776, 778).

Documents Required for Aliens Entering the United States

Act of May 22, 1918 (40 Stat. 559), as extended by the act of March 2, 1921 (41 Stat. 1205, 1217).
Act of May 26, 1924 (43 Stat. 153).
Proclamation No. 1473 approved August 8, 1918 (40 Stat. 1829).
Executive Order No. 4049, dated July 14, 1924.
Executive Order No. 7224–A, dated November 14, 1935.
Executive Order No. 7797, dated January 26, 1938 (3 FR 216).
Executive Order No. 7865, dated April 12, 1938 (3 FR 753).

Expatriation

Act of March 2, 1907 (34 Stat. 1228), as amended.

Exportation of Helium

Act of September 1, 1937 (50 Stat. 885).

Exportation of Tin Plate Scrap

Section 2 of the act of February 15, 1936 (49 Stat. 1140), and Executive Order No. 7297, dated February 16, 1936.

Passports

Section 3 of the act of June 4, 1920 (41 Stat. 739, 751).
Section 2 of the act of July 3, 1926 (44 Stat. 887), as amended, as further amended by the act of May 16, 1932 (47 Stat. 157).
Executive Order No. 7856, dated March 31, 1938 (3 FR 681).

Reciprocal Release of Enemy Property

Subsection (e) of section 9 of the act of October 6, 1917 (40 Stat. 411), as added by the act of March 4, 1923 (42 Stat. 1511), as amended by the act of August 24, 1937 (50 Stat. 748).

Trade Agreements

Section 4 of the act of June 12, 1934 (48 Stat. 943, 945), and Executive Order No. 6750, dated June 27, 1934, and the act of March 1, 1937 (50 Stat. 24).

DEPARTMENT OF THE TREASURY

Bureau of Customs

Regulations and amendments thereto promulgated by the Secretary of the Treasury, or by the Commissioner of Customs with the approval of the Secretary of the Treasury, independently or jointly with other Federal agencies, under the authority of any statute, Executive order, Executive proclamation, or treaty pertaining to the functions of the Bureau of Customs or of its field officers.

Bureau of Internal Revenue

Regulations and Treasury Decisions, so entitled, prescribed or approved by the Secretary of the Treasury, with respect to internal revenue, issued under authority of any law or laws or Executive orders relating to internal revenue.

All Other Bureaus, Divisions, Offices, Etc.

Regulations, circulars, Treasury Decisions, notices of public hearing, and orders, so entitled, issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.

Accounts and Deposits

Act of March 3, 1913 (37 Stat. 733).
Section 9 of the Federal Reserve Act (38 Stat. 251, 259), as amended by the act of May 7, 1928 (45 Stat. 492).
Section 15 of the Federal Reserve Act (38 Stat. 251, 265).
Section 6 of the Federal Farm Loan Act (39 Stat. 360, 365).
Section 7 of the act of April 24, 1917 (40 Stat. 35, 37).
Section 8 of the Second Liberty Bond Act of September 24, 1917 (40 Stat. 288, 291).
Section 4 of the Fourth Liberty Bond Act (40 Stat. 845).
Section 201 (d) of the Federal Farm Loan Act, as added by the act of March 4, 1923 (42 Stat. 1454, 1455).
Section 203 (a) (4) of the act of March 4, 1923 (42 Stat. 1454, 1463).
Act of June 19, 1922 (42 Stat. 662).
Sections 2 (d), 3 (i), 5 (c), 6 (g), and 21 (b) of the Settlement of War Claims Act of 1928 (45 Stat. 254, 255, et seq.).
Section 3639 of the Revised Statutes.
Section 5153 of the Revised Statutes, as amended.

Section 3646 of the Revised Statutes, as amended by the act of March 21, 1916 (39 Stat. 37), and as further amended.
Section 3647 of the Revised Statutes, as amended by the act of February 23, 1909 (35 Stat. 643, 644), and as further amended.
Section 12 of the Reconstruction Finance Act (47 Stat. 5, 10).
Section 14 of the Federal Home Loan Bank Act (47 Stat. 725, 736).
Section 62 of the Farm Credit Act of 1933 (48 Stat. 267).
Section 3 (a) (12) of the Securities Exchange Act of 1934 (48 Stat. 881, 884).
Section 17 of the Federal Credit Union Act (48 Stat. 1216, 1222).
Section 5 (k) of the Home Owners' Loan Act of 1933, as added by the act of April 27, 1934 (48 Stat. 645, 646).
Sections 308 and 402 (d) of the National Housing Act (48 Stat. 1246, 1255, 1256).
Section 1126 of the Revenue Act of 1926 (44 Stat. 9, 122), as amended by the act of February 4, 1935 (49 Stat. 20, 22).
Section 12B of the Federal Reserve Act, as added by the Banking Act of 1933 (48 Stat. 162, 168), as amended by the Banking Act of 1935 (49 Stat. 684).
Sections 1, 6, and 9 of the Government Losses in Shipment Act (50 Stat. 479, 480, 482).
Section 21 (c) of the United States Housing Act of 1937 (50 Stat. 888, 898).

Bureau of Narcotics

Sections 2 (b) and 6 (c) of the act of February 9, 1909, as added by the act of May 26, 1922 (42 Stat. 596, 598), as amended, and as further amended by section 3 (a) of the act of June 14, 1930 (46 Stat. 585).
Section 2 of the act of January 17, 1914 (38 Stat. 277).
Section 1 of the act of December 17, 1914, as amended by section 703 of the Revenue Act of 1926 (44 Stat. 9, 96), and section 806 of the Revenue Act of 1936 (49 Stat. 1648, 1745), and as otherwise amended.
Section 2 of the act of December 17, 1914 (38 Stat. 785, 786), as amended.
Section 6 of the act of December 17, 1914 (38 Stat. 785, 789), as amended by section 1007 of the Revenue Act of 1918 (40 Stat. 1057, 1132), and as reenacted without change by section 1006 of the Revenue Act of 1921 (42 Stat. 227, 301), by section 706 of the Revenue Act of 1924 (43 Stat. 253, 330), and by section 704 of the Revenue Act of 1926 (44 Stat. 9, 98), and as further amended by section 806 of the Revenue Act of 1936 (49 Stat. 1648, 1745), and as otherwise amended.
Sections 2 (b), 3 (e), 5, 6, and 8 of the act of June 14, 1930 (46 Stat. 585, 586, 587).
Section 5 of Executive Order No. 6913, dated December 4, 1934.
Section 14 of the Marihuana Tax Act of 1937 (50 Stat. 551, 556).

Committee on Enrollment and Disbarment

Act of July 7, 1884 (23 Stat. 236, 258).
Section 641 of the Tariff Act of 1930 (46 Stat. 590, 759), as amended by the Act of August 26, 1935 (49 Stat. 864).

Comptroller of the Currency

Section 13 of the Federal Reserve Act, as amended by the act of September 7, 1916 (39 Stat. 752).
Section 5136 of the Revised Statutes, as amended by section 2 of the act of February 25, 1927 (44 Stat. 1224, 1226), as amended by section 16 of the Banking Act of 1933 (48 Stat. 162, 184), as amended by section 308 of the Banking Act of 1935 (49 Stat. 684, 709).
Section 211 of the act of March 9, 1933 (48 Stat. 1, 5).

Federal Alcohol Administration Division

Sections 2 (d), 2 (h), 5 (b) (3), 5 (b) (6), 5 (e), 5 (f), and 6 (a) (1) of the Federal Alcohol Administration Act (49 Stat. 977, et seq.).

Office of Chief Clerk

Sections 147 and 150 of the act of March 4, 1909 (35 Stat. 1088, 1115, 1116).

Office of the Secretary—Gold, Silver, and Foreign Exchange Matters

Section 3524 of the Revised Statutes, as amended by section 2 of the act of January 14, 1875 (18 Stat. 296), as amended by the act of March 1, 1881 (21 Stat. 374).
Section 25 of the act of August 27, 1894 (28 Stat. 509, 552), as amended by section 403 of the act of May 27, 1921 (42 Stat. 9, 17), and reenacted as amended by section 522 of the Tariff Act of 1922 (42 Stat. 858, 974), and by section 522 of the Tariff Act of 1930 (46 Stat. 590, 739).
Section 1 of the act of June 25, 1910 (36 Stat. 814), as amended.
Section 5 (b) of the Trading with the Enemy Act (40 Stat. 411, 415), as amended by the act of March 9, 1933 (48 Stat. 1).
Sections 1, 2, 3, and 4 of the act of March 9, 1933 (48 Stat. 1, 2).
Section 44 of the act of May 12, 1933 (48 Stat. 31, 53).
Sections 3 and 11 of the Gold Reserve Act of 1934 (48 Stat. 337, 340, 342).
Sections 6, 7, and 9 of the Silver Purchase Act of 1934 (48 Stat. 1178, 1179, 1181).
Proclamation No. 2039, approved March 6, 1933 (48 Stat. 1689), as supplemented and amended.
Proclamation No. 2067, approved December 21, 1933, as modified by Proclamation No. 2092, approved August 9, 1934, Proclamation No. 2124, approved April 10, 1935, Proclamation No. 2125, approved April 24, 1935, and Proclamation No. 2268, approved December 30, 1937.
Executive Order No. 6073, dated March 10, 1933, as amended.
Executive Order No. 6260, dated August 28, 1933, as amended by Executive Order No. 6359, dated October 25, 1933, as amended by Executive Order No. 6556, dated January 12, 1934.
Executive Order No. 6560, dated January 15, 1934.

Office of the Treasurer

Act of May 29, 1920 (41 Stat. 631, 655).
Act of August 27, 1935 (49 Stat. 938).

Procurement Division, Public Works Branch

Section 2 of the act of June 13, 1934 (48 Stat. 948).
Act of August 26, 1935 (49 Stat. 800).

Public Debt Service

Section 10 of the act of June 25, 1910 (36 Stat. 814, 817).
Section 39 of the act of August 5, 1909 (36 Stat. 11, 117).
The Second Liberty Bond Act of September 24, 1917 (40 Stat. 288), as amended. See section 6 of the act of April 4, 1918 (40 Stat. 502, 505); section 4 of the act of July 9, 1918 (40 Stat. 844, 845); sections 1 and 6 of the act of March 3, 1919 (40 Stat. 1309, 1311); the act of June 17, 1929 (46 Stat. 19); section 14 of the Gold Reserve Act of 1934 (48 Stat. 337, 343); and section 4 of the act of February 4, 1935 (49 Stat. 20).
Section 3702 of the Revised Statutes as amended by the act of April 9, 1934 (48 Stat. 571).
Sections 251, 3703, 3704, 3705, and 3706 of the Revised Statutes.
Adjusted Compensation Payment Act, 1936 (49 Stat. 1099), as amended by the Act of June 3, 1936 (49 Stat. 1396), and the Act of June 26, 1936 (49 Stat. 1982).
Section 8 of the Government Losses in Shipment Act (50 Stat. 479, 481).

Public Health Service

Section 6 of the act of March 3, 1875 (18 Stat. 485, 486).
Section 1 of the act of January 4, 1889 (25 Stat. 639), as amended.
Section 1 of the act of March 27, 1890 (26 Stat. 31), as amended.
Section 2 of the act of February 15, 1893 (27 Stat. 449, 450), as amended by the act of August 18, 1894 (28 Stat. 372), as amended by the act of February 27, 1921 (41 Stat. 1149), and by the act of February 7, 1925 (43 Stat. 809).

Section 3 of the act of February 15, 1893 (27 Stat. 449, 450), as amended.

Section 7 of the act of February 15, 1893 (27 Stat. 449, 452), and Executive Order No. 5264, dated January 24, 1930.

Section 10 of the act of February 15, 1893, as added by the act of March 3, 1901 (31 Stat. 1086), as amended.

Section 11 of the act of February 15, 1893, as added by the act of March 3, 1901 (31 Stat. 1086, 1087).

Sections 14 and 16 of the act of February 15, 1893, as added by the act of March 3, 1931 (46 Stat. 1491, 1492).

Section 2 of the act of March 3, 1897 (29 Stat. 687, 688), as amended by section 6 of the act of March 4, 1915 (38 Stat. 1164, 1165).

Section 9 of the act of July 1, 1902 (32 Stat. 712, 714).

Section 4 of the act of July 1, 1902 (32 Stat. 728, 729), as amended.

Section 6 of the act of March 3, 1905 (33 Stat. 1009, 1010), as amended.

Section 3 of the act of June 19, 1906 (34 Stat. 299, 300).

Act of June 24, 1914 (38 Stat. 387).

Sections 2 and 3 of the act of February 3, 1917 (39 Stat. 872, 873).

Section 16 of the act of February 5, 1917 (39 Stat. 874, 885).

Section 1 of the act of April 17, 1917 (40 Stat. 2, 6).

Section 4 of Chapter XV of the act of July 9, 1918 (40 Stat. 845, 886).

Section 7 (b) (3) and section 11 (c) of the act of May 20, 1926 (44 Stat. 568, 572, 575).

Sections 6 and 11 of the act of January 19, 1929 (45 Stat. 1085, 1086, 1087).

Section 4 of the act of April 9, 1930 (46 Stat. 150).

Sections 3 and 4 of the act of May 26, 1930 (46 Stat. 379, 380).

Section 602 (c) of the act of August 14, 1935 (49 Stat. 620, 635).

Section 8 (c) of the National Cancer Institute Act (50 Stat. 559, 562).

Act of August 4, 1894, as amended by section 2 of the act of July 30, 1937 (50 Stat. 547, 548).

Treasury Department Appropriation Act, 1938 (50 Stat. 137, 149, 150).

Treasury Department Appropriation Act, 1939 (52 Stat. 120, 132, 134).

Secret Service Division

Section 2 (b) act of January 27, 1938 (52 Stat. 6, 7).

United States Coast Guard

Regulations and amendments thereto promulgated by the Secretary of the Treasury, or by the Commandant of the Coast Guard with the approval of the Secretary of the Treasury, independently or jointly with other Federal agencies, under the authority of any statute, Executive order, Presidential proclamation, or treaty pertaining to the functions of the Coast Guard.

DEPARTMENT OF WAR

Rules and regulations issued pursuant to the authority contained in:

General

Section 161 of the Revised Statutes.

Contractual Relations With the Public—Procurement Functions

Section 3731 of the Revised Statutes.

Act of April 10, 1878 (20 Stat. 36), as amended by the act of March 3, 1883 (22 Stat. 487).

Act of February 14, 1927 (44 Stat. 1095).

Public Property Under Jurisdiction of War Department—Issue or Loan to Civilian Agencies, etc.

Section 4 of the act of March 3, 1905 (33 Stat. 1117, 1147).

Sections 3 and 4 of the act of June 8, 1906 (34 Stat. 225).

Act of June 30, 1906 (34 Stat. 817).

Act of August 29, 1916 (39 Stat. 619, 643).

Act of February 10, 1920, as amended by the act of June 5, 1920 (41 Stat. 948, 976).

Section 5 of the act of June 7, 1924 (43 Stat. 595, 598).

Sections 5 (c) and 5 (d) of the Air Commerce Act of 1926 (44 Stat. 568, 571).

Act of February 14, 1927 (44 Stat. 1096).

Act of May 22, 1896, as amended by the act of May 26, 1928 (45 Stat. 773).

Navigation and Navigable Waters

Section 5 of the act of August 18, 1894 (28 Stat. 338, 362), as amended.

Act of May 9, 1900 (31 Stat. 172).

Section 26 of the act of June 6, 1900 (31 Stat. 321, 329).

Section 4 of the act of March 23, 1906 (34 Stat. 84, 85), as amended.

Section 5 of the act of March 3, 1909 (35 Stat. 815, 818).

Section 7 of the act of March 4, 1915 (38 Stat. 1049, 1053).

Section 3 of the act of July 27, 1916 (39 Stat. 391, 411).

Section 4 of the act of August 18, 1894, as amended by section 7 of the act of August 8, 1917 (40 Stat. 250, 266).

Section 8 of the act of August 8, 1917 (40 Stat. 250, 266).

Chapter XIX of the act of July 9, 1918 (40 Stat. 845, 892).

Section 3 of the Oil Pollution Act, 1924 (43 Stat. 604, 605).

Civilian Military Training

Reserve Officers' Training Corps.—Act of September 8, 1916 (39 Stat. 853). Sections 40, 47, 47a, 47d, and 55c of the National Defense Act, as amended by sections 33, 34, and 35 of the act of June 4, 1920 (41 Stat. 759, 776, et seq.). Section 48 of the National Defense Act, as amended by the act of June 5, 1920 (41 Stat. 948, 967).

Educational Institutions to which an officer of the Army is Detailed as Professor of Military Science and Tactics.—Act of February 5, 1891 (26 Stat. 1113). Act of July 17, 1914 (38 Stat. 512). Act of May 18, 1916 (39 Stat. 123). Section 55c of the National Defense Act, as amended by section 35 of the act of June 4, 1920 (41 Stat. 759, 780).

Civilian Military Training Camps.—Section 47d of the National Defense Act, as amended by section 34 of the act of June 4, 1920 (41 Stat. 759, 779), and the act of March 9, 1928 (45 Stat. 251).

Promotion of Rifle Practice

Act of April 27, 1914 (38 Stat. 351, 370).

Act of June 7, 1924 (43 Stat. 477, 510).

Act of February 14, 1927, as amended by section 1 of the act of May 28, 1928 (45 Stat. 786).

Wearing, Manufacture, or Sale of United States Army Uniform, Decorations, etc.

Act of February 24, 1923, as amended by the act of April 21, 1928 (45 Stat. 437).

FARM CREDIT ADMINISTRATION

(Including the Federal Farm Mortgage Corporation, the production credit corporations, the Federal intermediate credit banks, the banks for cooperatives, the Federal land banks, the production credit associations, the national farm loan associations, and the regional agricultural credit corporations.)

All documents which are generally applicable to a class of persons not specifically named therein and which, in addition, prescribe, regulate, or control:

(1) Classes of persons, partnerships, associations, and corporations eligible to borrow;

(2) Purposes for which loans may be made;

(3) Fees with respect to applications, title determinations, inspections, appraisals, and attorneys' services, which may be charged, and borrowers required to pay, in connection with loans, except such fees fixed by a production credit association or a national farm loan association;

(4) Interest rates applicable to new loans, past-due loans, and renewals of loans;

(5) Capital stock of Federal intermediate credit banks, production credit corporations, production credit associations, national farm loan associations, Federal land banks, joint stock land banks, and banks for cooperatives, its classes, evidence of ownership, issue, transfer, conversion, retirement, cancelation, and impairment, its preferences, rights, and limitations, and its ownership as a condition of obtaining loans;

(6) General regulations for the consolidation or liquidation (but not documents relating to specific transactions thereof) of joint-stock land banks, production credit associations, and national farm loan associations;

(7) Making of direct loans to borrowers by Federal land banks;

(8) Insurance requirements on property mortgaged to a Federal or joint-stock land bank, the Federal Farm Mortgage Corporation, a Federal intermediate credit bank, bank for cooperatives, or production credit association;

(9) Issuance, transfer, and exchange of farm-loan bonds issued by the Federal or joint-stock land banks individually, consolidated bonds issued by the Federal land banks, bonds, issued by the Federal Farm Mortgage Corporation, and debentures (including consolidated debentures) issued by the Federal intermediate credit banks, and the replacement of such bonds, debentures, or coupons thereof, as are lost, stolen, destroyed, mutilated, or defaced;

(10) Method of calling and retiring Federal or joint-stock farm-loan bonds and the Federal Farm Mortgage Corporation bonds;

(11) Advance payments on Federal land bank mortgage loans after 5 years from the date on which the loan is made;

(12) Conditions under which notes or other obligations and supporting collateral are eligible for acceptance by Federal intermediate credit banks;

(13) Issue, publication, or availability of information, documents, papers, facts, or other material in possession of the Farm Credit Administration or institutions under its supervision; issued pursuant to the authority contained in:

Sections 2, 3, 4, 5, 7, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 28, 29, 30, 31 and 32 of the Federal Farm Loan Act (39 Stat. 360, et seq.), as amended.

Sections 203 (b), 204, 206 (b), and 209 of the Federal Farm Loan Act as added by section 2 of the Agricultural Credits Act of 1923 (42 Stat. 1454, 1457, 1459), as amended.

Act of July 2, 1926 (44 Stat. 802).

Sections 4, 7 and 8 of the Agricultural Marketing Act (46 Stat. 11, 13, and 14), as amended.

Section 6 of the act of January 23, 1932 (47 Stat. 12, 14).

Joint Resolution of March 3, 1932 (47 Stat. 60).

Section 201 (e) of the Emergency Relief and Construction Act of 1932 (47 Stat. 709, 713).

Sections 31, 32, 33, and 40 of the Emergency Farm Mortgage Act of 1933 (48 Stat. 41, et seq.), as amended.

Sections 20, 22, 23, 34, 35, 38, 41, 42, 60, and 65 of the Farm Credit Act of 1933 (48 Stat. 257, 259, et seq.), as amended.

Section 86 (a) of the Farm Credit Act of 1933, as added by section 504 of the National Housing Act (48 Stat. 1246, 1263).

Sections 1 and 4 of the Federal Farm Mortgage Corporation Act (48 Stat. 344, 345), as amended.

Act of June 18, 1934 (48 Stat. 983), as amended.

Sections 6, 7, and 16 of the Federal Credit Union Act (48 Stat. 1216, 1218, 1221), as amended.

Act of January 29, 1937 (50 Stat. 5), as supplemented by the joint resolution of February 4, 1938 (52 Stat. 26).

Sections 5, 25 (b), 32, and 33 of the Farm Credit Act of 1937 (50 Stat. 703, et seq.).

Executive Order No. 6084, dated March 27, 1933.

FEDERAL COMMUNICATIONS COMMISSION

Rules, regulations, notices, and orders, except such as are effective only against one or more specifically named persons, issued pursuant to the authority contained in:

Sections 4 (i), 5 (e), 201 (b), 203, 204, 205, 210, 211 (b), 212, 213, 214 (b), 218, 219, 220, 308 (b), 315, 319 (a), 325 (c), 410, and 416 (b) of the Communications Act of 1934 (48 Stat. 1064, 1068, et seq.).

Section 303 of the Communications Act of 1934 (48 Stat. 1064, 1082), as amended by Section 6 of the act of May 20, 1937 (50 Stat. 189, 191).

Section 318 of the Communications Act of 1934, as amended by the act of March 29, 1937 (50 Stat. 56).

Sections 351 (a) (2), 352 (b), 353 (d), 355, 356, 357, 359, 360 of the Communications Act of 1934, as added by section 10 of the act of May 20, 1937 (50 Stat. 189, 192 et seq.).

The International Telecommunication Convention, General Radio Regulations, annexed thereto, and Final Radio Protocol, signed at Madrid, December 9, 1932, and proclaimed by the President of the United States, June 27, 1934.

Section 3 of the act of August 7, 1888 (25 Stat. 382, 383), as amended by section 601 (a) of the Communications Act of 1934 (48 Stat. 1064, 1101).

Section 2 of the act of July 24, 1866 (14 Stat. 221), as amended by section 601 (b) of the Communications Act of 1934 (48 Stat. 1064, 1102).

Section 4 of the act of June 24, 1910 (36 Stat. 629, 630), as amended by the act of July 23, 1912 (37 Stat. 199), and as further amended by section 15 of the act of May 20, 1937 (50 Stat. 189, 197).

The Safety of Life at Sea Convention, with regulations, signed at London, May 31, 1929 and proclaimed by the President of the United States, September 30, 1936.

FEDERAL DEPOSIT INSURANCE CORPORATION

Rules, regulations, notices, and orders, except such as are effective only against one or more specifically named persons, issued pursuant to the authority contained in:

Subsections (c), (h), (i), (j), (k), (m), (o), and (v) of section 12B of the Federal Reserve Act, as added by section 8 of the Banking Act of 1933 (48 Stat. 162, 168), as amended by section 101 of the Banking Act of 1935 (49 Stat. 684).

FEDERAL EMERGENCY ADMINISTRATION

Rules, regulations, and orders having general applicability and legal effect issued by the Administrator or by the Assistant Administrator pursuant to the authority contained in:

Title II of the National Industrial Recovery Act (48 Stat. 195, 200).

Emergency Relief Appropriation Act of 1935 (49 Stat. 115).

Emergency Relief Appropriation Act of 1936 (49 Stat. 1608).

Emergency Relief Appropriation Act of 1937 (50 Stat. 352).

Executive Order No. 6252, dated August 19, 1933.

Executive Order No. 6929, dated December 26, 1934.

Executive Order No. 7064, dated June 7, 1935.

Executive Order No. 7083, dated June 24, 1935.

Executive Order No. 7649, dated June 29, 1937 (2 FR 1136).

FEDERAL HOME LOAN BANK BOARD AND AGENCIES UNDER ITS SUPERVISION

Rules, regulations, orders, and notices issued pursuant to the authority contained in:

Federal Home Loan Bank Board

Sections 4 (c), 6 (b), 12, 16, 17, 24 (b), and 26 of the Federal Home Loan Bank Act (47 Stat. 725, 727, et seq.).

Section 10 (a) of the Federal Home Loan Bank Act (47 Stat. 725, 731), as amended by section 501 of the National Housing Act (48 Stat. 1246, 1261), as amended by section 5 of the act of May 28, 1935 (49 Stat. 293, 294).

Section 10a of the Federal Home Loan Bank Act, as added by section 502 of the National Housing Act (48 Stat. 1246, 1261).

Section 10b of the Federal Home Loan Bank Act, as added by section 7 of the act of May 28, 1935 (49 Stat. 293, 295).

Section 11 (a), 11 (b), 11 (c), 11 (e), 11 (f), 11 (g), and 11 (h) of the Federal Home Loan Bank Act (47 Stat. 725, 733, 734), as amended by section 503 of the National Housing Act (48 Stat. 1246, 1261, et seq.).

Sections 4 (a), 4 (h), 4 (k), 5 (a), 5 (b), and 5 (d) of the Home Owners' Loan Act of 1933 (48 Stat. 128, 129, et seq.).

Section 5 (i) of the Home Owners' Loan Act of 1933 (48 Stat. 128, 134), as amended by section 6 of the act of April 27, 1934 (48 Stat. 643, 646).

Section 5 (j) of the Home Owners' Loan Act of 1933, as added by section 5 of the act of April 27, 1934 (48 Stat. 643, 645).

Home Owners' Loan Corporation

Section 4 (c) of the Home Owners' Loan Act of 1933 (48 Stat. 128, 129), as amended by section 1 of the act of April 27, 1934 (48 Stat. 643), as amended by section 11 of the act of May 28, 1935 (49 Stat. 296).

Section 4 (k) of the Home Owners' Loan Act of 1933 (48 Stat. 128, 132), as amended by section 13 of the act of April 27, 1934 (48 Stat. 643, 647).

Federal Savings and Loan Insurance Corporation

Section 402 (a) and 403 (b) of the National Housing Act (48 Stat. 1246, 1256, 1257), as amended by section 23 of the act of May 28, 1935 (49 Stat. 298).

FEDERAL HOUSING ADMINISTRATION

Rules and regulations issued pursuant to the authority contained in:

Section 2 of the National Housing Act, as amended by the act of April 3, 1936 (49 Stat. 1187), and by the act of February 3, 1938 (52 Stat. 8).

Section 6 of the National Housing Act, as added by the act of April 17, 1936 (49 Stat. 1232, 1233), as amended by the act of April 22, 1937 (50 Stat. 70).

Sections 304 and 306 of the National Housing Act (48 Stat. 1246, 1254, 1255).

Sections 203, 207, 301, and 303 of the National Housing Act, as amended by the act of February 3, 1938 (52 Stat. 8).

Sections 204 and 302 of the National Housing Act (48 Stat. 1246, 1249, 1254), as amended by sections 29 (c) and 31 of the act of May 28, 1935 (49 Stat. 293, 300), and amended and revised by the act of February 2, 1938 (52 (Stat. 8).

Sections 210 and 211 of the National Housing Act, as added by the act of February 3, 1938 (52 Stat. 8).

FEDERAL POWER COMMISSION

Notices of hearing or of opportunity to be heard, issued pursuant to the authority contained in any of the provisions of the Federal Power Act as amended (41 Stat. 1063; 41 Stat. 1353; 46 Stat. 797, and 49 Stat. 838), as affected by section 308 thereof (49 Stat. 838, 858).

Rules and regulations issued pursuant to the authority contained in sections 10 (c), 205 (c), 209 (b), 301, 308 (b), and 309 of the Federal Power Act (49 Stat. 838 et seq.).

FEDERAL TRADE COMMISSION

Rules, regulations, general orders, findings and cease and desist orders, and Trade Practice Conference rules, issued pursuant to the authority contained in:

The act of September 26, 1914 (38 Stat. 717), as amended by the act of March 21, 1938 (52 Stat. 111).

Act of October 15, 1914 (38 Stat. 730), as amended by the act of June 19, 1936 (49 Stat. 1526).

FOREIGN-TRADE ZONES BOARD

Rules and regulations issued pursuant to the authority contained in:

Sections 8, 15 (b), and 16 of the act of June 16, 1934 (48 Stat. 998, 1000, 1002).

GENERAL ACCOUNTING OFFICE

Rules and regulations issued pursuant to the authority contained in:

Sections 309 and 311 (f) of the Budget and Accounting Act, 1921 (42 Stat. 20, 25).

INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND MEXICO

Rules and regulations issued pursuant to the authority contained in:

Articles VI and VII of the Convention of March 1, 1899 (26 Stat. 1512, 1515).

Articles I and XI of the Convention of February 1, 1933 (48 Stat. 1621, 1622, 1626).

INTERNATIONAL FISHERIES COMMISSION

Regulations issued pursuant to the authority contained in:

Articles I and III of the Convention of January 29, 1937 (50 Stat. 1351, 1352).

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Rules of procedure issued pursuant to the authority contained in:

Article XII of the Treaty of January 11, 1909 (36 Stat. 2448, 2453).

INTERSTATE COMMERCE COMMISSION

Rules, regulations, and general orders, concerning a class or classes of carriers or persons, other than orders for public hearings, issued pursuant to the authority contained in:

Interstate Commerce Act of February 4, 1887 (24 Stat. 379), as amended.

Safety Appliance Act of March 2, 1893 (27 Stat. 531), as amended, as supplemented by the act of April 14, 1910 (36 Stat. 298).

Hours of Service Act of March 4, 1907 (34 Stat. 1415), as amended.

Accident Reports Act of May 6, 1910 (36 Stat. 350).

Boiler Inspection Act of February 17, 1911 (36 Stat. 913), as amended by the act of June 7, 1924 (43 Stat. 659), as amended.

Section 10 of the Clayton Antitrust Act of October 15, 1914 (38 Stat. 730, 734).

Standard Time Act (40 Stat. 450), as amended.

Section 8 of the Merchant Marine Act, 1920 (41 Stat. 988, 992).

Transportation of Explosives Act of March 4, 1921 (41 Stat. 1444).

Section 1 of the Railway Labor Act as amended by section 1 of the act of June 21, 1934 (48 Stat. 1185).

Section 77 of the Bankruptcy Act, as added by the act of March 3, 1933 (47 Stat. 1467), as amended by the act of August 27, 1935 (49 Stat. 911).

Section 6 (a) of the act of June 12, 1934, as amended by section 5 of the act of August 14, 1935 (49 Stat. 614, 616).

Section 16 of the Bituminous Coal Act of 1937 (50 Stat. 72, 90).

Section 1 of the Railroad Retirement Act of 1935, as amended by section 1 of the Railroad Retirement Act of 1937 (50 Stat. 307).

Section 1 of the Carriers Taxing Act of 1937 (50 Stat. 435).

Section 201 (a) of the Agricultural Adjustment Act of 1938 (52 Stat. 31).

THE NATIONAL ARCHIVES

Rules and regulations issued pursuant to the authority contained in:

Act of June 19, 1934 (48 Stat. 1122), as amended by the act of June 22, 1936 (49 Stat. 1821).

The Federal Register Act, approved July 26, 1935 (49 Stat. 500), as amended by the act June 19, 1937 (50 Stat. 304).

NATIONAL LABOR RELATIONS BOARD

Rules and regulations, notices of public hearing emanating from the Washington, D. C. office, and general orders issued pursuant to the authority contained in:

National Labor Relations Act (49 Stat. 449).

THE PANAMA CANAL

Rules and regulations issued pursuant to the authority contained in:

Canal Zone Code, tit. 2, sec. 303; act of February 27, 1909 (35 Stat. 658); and Executive Order No. 1253, dated October 7, 1910.

Canal Zone Code, tit. 2, secs. 5 and 7; sections 4 and 7 of the act of August 24, 1912 (37 Stat. 560, 561, 564), as amended.

Act of August 24, 1912 (37 Stat. 560); Air Commerce Act of 1926 (44 Stat. 568); and section 6 (d) of Executive Order No. 5047, dated February 18, 1929.

Canal Zone Code, tit. 2, sec. 321; section 3 of the act of August 21, 1916 (39 Stat. 527, 528); and sections 11, 171 and 172 of Executive Order No. 7242, dated December 6, 1935.

Canal Zone Code, tit. 2, 141; section 10 of the act of August 21, 1916 (39 Stat. 527, 529); and rules 9 and 119 of Executive Order No. 4314, dated September 25, 1925.

Section 1 of title II of the act of June 15, 1917 (40 Stat. 217, 220).

Canal Zone Code, tit. 2, sec. 351; section 6 of the act of December 29, 1926 (44 Stat. 924, 926).

Canal Zone Code, tit. 2, sec. 342; section 2 of the act of May 27, 1930 (46 Stat. 388).

Canal Zone Code, tit. 5, sec. 875; section 4 of the act of July 5, 1932 (47 Stat. 573).

Canal Zone Code, tit. 2, sec. 291; section 1 of the act of July 5, 1932 (47 Stat. 576).

Canal Zone Code, tit. 2, sec. 201; section 1 of the act of July 5, 1932 (47 Stat. 578).

Canal Zone Code, tit. 2, sec. 153; section 1 of the act of February 16, 1933 (47 Stat. 811).

Canal Zone Code, tit. 2, sec. 274; section 2 of the act of February 16, 1933 (47 Stat. 812); and section 6 of Executive Order No. 7234, dated November 25, 1935.

Canal Zone Code, tit. 2, sec. 272; section 1 of the act of February 16, 1933 (47 Stat. 812).

Canal Zone Code, tit. 2, secs. 61 and 62; section 1 of the act of February 16, 1933 (47 Stat. 813).

Canal Zone Code, tit. 5, sec. 484; section 60 of the act of February 21, 1933 (47 Stat. 859, 871).

Canal Zone Code, tit. 3, sec. 243; section 181a of the act of February 27, 1933 (47 Stat. 1124, 1150).

Act of July 8, 1937 (50 Stat. 478); and Executive Order No. 7837, dated March 12, 1938 (3 FR 574).

RAILROAD RETIREMENT BOARD

Rules and regulations issued pursuant to the authority contained in:

Section 4 of the Railroad Retirement Act of 1935 (49 Stat. 967), as continued by Part II of the act of June 24, 1937 (50 Stat. 318).

Sections 2 (a) 3, 2 (c), 6 (b), 8, 9, and 10 of the Railroad Retirement Act of 1937 (50 Stat. 308, 309, et seq.).

RECONSTRUCTION FINANCE CORPORATION

Rules and regulations issued pursuant to the authority contained in:

Section 4 of the Reconstruction Finance Corporation Act (47 Stat. 5, 6), as amended.

Section 5 of the Reconstruction Finance Corporation Act (47 Stat. 5, 6), as amended by section 13 of the act of June 10, 1933 (48 Stat. 119, 122), as amended by the act of June 14, 1933 (48 Stat. 141), as extended and amended.

Section 5c of the Reconstruction Finance Corporation Act, as added by section 5 of the act of January 31, 1935 (49 Stat. 1, 3).

Section 5d of the Reconstruction Finance Corporation Act, as added by section 5 of the act of June 19, 1934 (48 Stat. 1105, 1108), as amended by section 10 of the act of January 31, 1935 (49 Stat. 1, 4), and by the act of April 13, 1938 (52 Stat. 212).

Section 5e of the Reconstruction Finance Corporation Act, as added by section 3 (a) of the act of June 16, 1934 (48 Stat. 969, 971), as amended.

Section 9 of the Reconstruction Finance Corporation Act (47 Stat. 5, 9), as amended.

Act of April 13, 1934 (48 Stat. 589), as amended by the act of April 17, 1936 (49 Stat. 1232).

Section 1 of the act of January 31, 1935 (49 Stat. 1).

RURAL ELECTRIFICATION ADMINISTRATION

Rules and regulations issued pursuant to the authority contained in:

Rural Electrification Act of 1936 (49 Stat. 1363).

SECURITIES AND EXCHANGE COMMISSION

I. General rules and regulations issued pursuant to the authority contained in:

Securities Act of 1933 (48 Stat. 74), as amended.

Securities Exchange Act of 1934 (48 Stat. 881), as amended.

Public Utility Holding Company Act of 1935 (49 Stat. 803).

Provided, that all forms, instructions, and instruction books therefor, issued for the filing of information pursuant to any of the above mentioned statutes shall be filed with the Division for public inspection, but only a notation of the fact of filing shall be published in the FEDERAL REGISTER.

II. (a) Stop orders issued pursuant to the authority contained in:

Section 8 (d) of the Securities Act of 1933 (48 Stat. 74, 79).

(b) Suspension orders issued pursuant to Rule 340 (b) of the Rules and Regulations promulgated under section 3 (b) of the Securities Act of 1933 (48 Stat. 74, 76).

(c) Notices of hearings or of opportunities to be heard, and final orders, relating to the registration, or exemption or withdrawal from, or suspension of, registration of national securities exchanges, issued pursuant to the authority contained in:

Sections 5, 6, and 19 (a) (1) of the Securities Exchange Act of 1934 (48 Stat. 881, 885, 898), as amended.

(d) Notices of hearings or of opportunities to be heard, and final orders, relating to the adoption, alteration, or supplementing of rules of national securities exchanges, issued pursuant to the authority contained in:

Section 19 (b) of the Securities Exchange Act of 1934 (48 Stat. 881, 898), as amended.

(e) Notices of hearings and final orders concerning the withdrawal and striking from listing and registration of a security registered upon a national securities exchange, or the granting, denying, termination, or suspension of unlisted trading privileges, issued pursuant to the authority contained in:

Section 12 of the Securities Exchange Act of 1934 (48 Stat. 881, 892), as amended by the Act of May 27, 1936 (49 Stat. 1375).

(f) Orders revoking, suspending, refusing, or denying registration as a broker or dealer otherwise than on a national securities exchange issued pursuant to the authority contained in:

Section 15 of the Securities Exchange Act of 1934 (48 Stat. 881, 895), as amended, and rules and regulations issued thereunder.

(g) Notices of hearings or of opportunities to be heard and final orders issued pursuant to the authority contained in:

Sections 19 (a) (2) and 19 (a) (3) of the Securities Exchange Act of 1934 (48 Stat. 881, 898), as amended.

(h) Notices of public hearings or of opportunities to be heard, and final orders issued pursuant to the authority contained in:

Public Utility Holding Company Act of 1935 (49 Stat. 803).

SOCIAL SECURITY BOARD

Regulations, so entitled, having general applicability and legal effect, prescribed by the Board pursuant to the Social Security Act (49 Stat. 620); and all actions taken by the Board approving State unemployment compensation laws under section 903 (a), certifying such laws or making findings with respect thereto under section 903 (b), or making findings with respect to such laws under section 910 (a), of that Act.

SPECIAL MEXICAN CLAIMS COMMISSION

Rules and regulations issued pursuant to the authority contained in:

Section 5 of the act of April 10, 1935 (49 Stat. 149, 150); the act of August 25, 1937 (50 Stat. 755, 771).

UNITED STATES BOARD OF TAX APPEALS

Rules of Practice and Procedure prescribed pursuant to the authority of section 907 (a) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105), as amended by section 601 of the Revenue Act of 1928 (45 Stat. 791, 871).

Rules prescribed pursuant to the authority contained in:

Section 909 (a) (2) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105).

Section 1004 (b) of the Revenue Act of 1926 (44 Stat. 9, 110), as amended by section 1102 of the Revenue Act of 1932 (47 Stat. 169, 286).

UNITED STATES CIVIL SERVICE COMMISSION

Regulations insofar as they relate to applicants for positions in the Federal Government, upon receipt of formal application and through examination and certification to appointment issued pursuant to the authority contained in:

Act of January 16, 1883 (22 Stat. 404).

UNITED STATES EMPLOYEES' COMPENSATION COMMISSION

Rules and regulations issued pursuant to the authority contained in:

Section 32 of the act of September 7, 1916 (39 Stat. 742, 749), as extended by section 1 of the Act of February 15, 1934 (48 Stat. 351), section 2 of the Emergency Relief Appropriation Act of 1935 (49 Stat. 115, 117), the Emergency Relief Appropriation Act of 1936 (49 Stat. 1610), section 10 of the Civilian Conservation Act (50 Stat. 319, 321), and section 8 of the Emergency Relief Appropriation Act of 1937 (50 Stat. 352, 356).

Sections 32, 36, 37, and 39 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 1439, et seq.), and as extended by the act of May 17, 1928 (45 Stat. 600).

UNITED STATES MARITIME COMMISSION

Rules, regulations, notices and orders issued pursuant to authority contained in:

Sections 18 and 21 of the Shipping Act, 1916 (39 Stat. 728, 735, 736).

Section 40 of the Shipping Act, 1916, as added by section 4 of the act of July 15, 1918 (40 Stat. 900, 901).

Section 9 of the Shipping Act, 1916, as amended by section 18 of the Merchant Marine Act, 1920 (41 Stat. 988, 994).

Section 14 (a) of the Shipping Act, 1916, as added by section 20 of the Merchant Marine Act, 1920 (41 Stat. 988, 996).

The Shipping Act, 1916, as extended and amended by sections 2 and 5 of the Intercoastal Shipping Act, 1933 (47 Stat. 1425, 1427).

Section 19 of the Merchant Marine Act, 1920 (41 Stat. 988, 995).

Section 12 of Executive Order No. 6166, dated June 10, 1933.

Merchant Marine Act, 1936 (49 Stat. 1985).

UNITED STATES TARIFF COMMISSION

Rules and regulations issued pursuant to the authority contained in:

Sections 332, 333, 336 (a), and 337 (c) of the Tariff Act of 1930 (46 Stat. 590, 698, et seq.).

Section 22 (a) of the Agricultural Adjustment Act as added by section 31 of the act of August 24, 1935 (49 Stat. 750, 773), as "affirmed and validated" by section 1 (k) of the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), and Executive Order No. 7233, dated November 23, 1935.

VETERANS' ADMINISTRATION

Rules and regulations of general applicability and legal effect, as authorized by any law or laws, or Executive order, administered by the Veterans' Administration.

WORKS PROGRESS ADMINISTRATION

Rules, regulations, and administrative orders issued pursuant to the authority contained in:

Emergency Relief Appropriation Act of 1935 (49 Stat. 115).
Emergency Relief Appropriation Act of 1936 (49 Stat. 1608).
Emergency Relief Appropriation Act of 1937 (50 Stat. 352).
Executive Order No. 7034, dated May 6, 1935.
Executive Order No. 7083, dated June 24, 1935.
Executive Order No. 7164, dated August 29, 1935, as amended by Executive Order No. 7319, dated March 18, 1936 (1 FR 40), and Executive Order No. 7433, dated August 18, 1936 (1 FR 1164).
Executive Order No. 7396, dated June 22, 1936 (1 FR 651).
Executive Order No. 7649, dated June 29, 1937 (2 FR 1136).

IIB. All other documents having general applicability and legal effect issued, prescribed, or promulgated by any Federal agency not designated in section II A (d) of these Regulations shall be forwarded by the agency issuing the same to the Division. There shall also be forwarded to the Division any document having general applicability and legal effect issued, prescribed, or promulgated by any Federal agency pursuant to authority delegated to such agency subsequent to the approval of these Regulations and the agency should forthwith, in writing, advise the Division of any such subsequently delegated authority.

The Director shall, under the direction of the Administrative Committee, examine the documents forwarded to the Division pursuant to the above paragraph, and if, under such direction, it is determined that the documents have general applicability and legal effect, shall cause such documents to be filed in accordance with the regular routine and published in the daily issue of the FEDERAL REGISTER.

III. DOCUMENTS EFFECTIVE ONLY AGAINST FEDERAL AGENCIES, ETC.

Except as provided in section II (A) (c) hereof, no documents effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof shall be filed in the office of the Director or forwarded to the Division pursuant to the provisions of section II (A) (d) or II (B) of these Regulations.

IV. DOCUMENTS FORWARDED TO THE DIVISION HAVING NO GENERAL APPLICABILITY AND LEGAL EFFECT

All documents, except Executive orders and proclamations, forwarded to the Division pursuant to section II B of these Regulations, which the Administrative Committee shall determine to have no general applicability and legal effect, shall be returned by the Division to the agency issuing the same.

V. DOCUMENTS PRESCRIBED JOINTLY BY TWO OR MORE FEDERAL AGENCIES

Documents bearing the signature of officers of two or more Federal agencies, shall, for the purposes of these Regulations, be deemed to have been issued, prescribed, or promulgated by the officer last signing the same, and the duty of filing such documents in the office of the Director, or forwarding such documents to the Division, shall rest upon such officer. Where necessary such officer shall make the appropriate arrangements for keeping the other agency or agencies informed regarding the filing.

VI. EXECUTIVE ORDERS AND PROCLAMATIONS

The preparation, presentation, promulgation, and distribution of Executive orders and proclamations shall conform to the procedure prescribed in Executive Order No. 7298, dated February 18, 1936.

VII. PREPARATION OF DOCUMENTS

All documents required to be filed in the office of the Director or forwarded to the Division shall be prepared as follows:

(a) A suitable title shall be provided. In addition, the agencies are requested to include a headnote wherever practicable, or similar indicia of contents briefly summarizing or otherwise setting forth the scope of each document. Where a table of contents is used, all references therein should be made to paragraph or section numbers throughout the documents.

(b) The authority under which the document is promulgated shall be cited in the body thereof.

(c) Punctuation, capitalization, orthography, and other matters of style shall conform to the most recent edition of the Style Manual of the United States Government Printing Office.

(d) The spelling of geographic names shall conform to the most recent official decisions made pursuant to Executive Orders, No. 27-A of September 4, 1890, No. 399 of January 23, 1906, and No. 6680 of April 17, 1934.

(e) Descriptions of tracts of lands shall conform, so far as practicable, with the most recent edition of the Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations, published by the Federal Board of Surveys and Maps.

(f) All documents shall be typewritten on paper 8 by 12½ inches, shall have a left-hand margin of approximately 2 inches and a right-hand margin of approximately 1 inch, and shall be double-spaced, except that quotations, tabulations, or descriptions of land may be single-spaced. Where it is the established practice of an agency to cause the originals of its documents to be put in print before they are signed, such printed originals and duplicates thereof may be received if the style and form have been duly approved by the Director.

(g) There shall be attached to the original or confirmed copy, except Executive orders and proclamations, three certified copies thereof.

VIII. AFFIXATION OF SEAL

The seal, if any, of the agency issuing the same shall be affixed to the original and certified copies of all documents required to be filed in the office of the Director or forwarded to the Division.

IX. CERTIFICATION

The certified copies of all documents required to be filed in the office of the Director or forwarded to the Division, except Executive orders and proclamations, shall be certified as follows: "Certified to be a true copy of the original", and each such certification shall be signed by the officer signing the original or by an officer or employee designated by him; *Provided*, that notice of such designation be filed with the Division.

X. DOCUMENTS ISSUED OUTSIDE OF THE DISTRICT OF COLUMBIA

In the case of documents issued, prescribed, or promulgated outside of the District of Columbia which are required to be filed in the office of the Director or forwarded to the Division, there may be filed or forwarded, in lieu of the original, a confirmed copy of such document. There shall be on such copy so filed or forwarded the notation "Confirmed", which notation shall be signed by an officer or employee designated for that purpose by the head of the agency concerned; *Provided*, that notice of such designation shall be filed with the Division.

XI. FORWARDING AND FILING DOCUMENTS

Documents required to be filed in the office of the Director or forwarded to the Division shall be forwarded by messenger to the Division and received only during the hours of the working days when The National Archives Building shall be open for official business, i. e., 9:00 A. M. to 4:30 P. M. (Saturday 9:00 A. M. to 1:00 P. M.).

XII. RECEIPT AND DISPOSITION OF DOCUMENTS

(a) Immediately upon the receipt of those documents required to be filed and published in the FEDERAL REGISTER, there shall be placed upon the original and certified copies the day and hour of filing.

(b) The originals of such documents shall be forwarded to The National Archives for custody.

(c) One certified copy shall be made immediately available for public inspection in the office of the Director.

(d) One certified copy shall be forwarded to the Government Printing Office.

XIII. TREATIES, ETC., NOT AFFECTED

Nothing in these Regulations shall be construed to apply to treaties, conventions, protocols, and other international agreements or proclamations thereof by the President.

XIV. TIME OF PUBLICATION OF DOCUMENTS FILED

Documents required to be filed and published in the FEDERAL REGISTER, which are filed in the office of the Director prior to 1:00 p. m., shall be published in the issue of the FEDERAL REGISTER appearing the following distribution day. Documents required to be filed and published in the FEDERAL REGISTER which are filed in the office of the Director subsequent to 1:00 p. m., shall be published in the issue of the FEDERAL REGISTER appearing the second following distribution day; *Provided*, that where it is deemed advisable and necessary, it shall be in the discretion of the Director to withhold publication of any document until the succeeding issue or succeeding issues of the FEDERAL REGISTER.

XV. ILLUSTRATIONS

The inclusion of illustrations as a part of documents required or authorized to be published in the FEDERAL REGISTER should be avoided wherever possible. Illustrations accompanying such documents, when published, shall be reduced to a size not greater than 7 by 10 inches and be line cuts only. Copy for illustrations must be forwarded to the Division with the documents of which they are a part.

XVI. DATES OF PUBLICATION OF FEDERAL REGISTER

The FEDERAL REGISTER shall be distributed by the Government Printing Office every Tuesday, Wednesday, Thursday, Friday, and Saturday morning, excepting days following legal holidays, and shall be in the general form, style, and size of the Congressional Record: *Provided*, however, that the Administrative Committee may at its discretion provide for a two or three column format.

XVII. CONTENTS AND INDEXING OF FEDERAL REGISTER

The contents of the FEDERAL REGISTER shall be indexed daily, monthly, quarterly, annually, and at such other times as the Director may prescribe.

XVIII. DISTRIBUTION

Distribution of the FEDERAL REGISTER shall be made by delivery or by deposit at a Post Office at or before 9:00 a. m. of the day of distribution.

XIX. COPIES FOR OFFICIAL USE

Copies of the FEDERAL REGISTER shall be distributed without charge to Members of Congress, officers and employees of the United States or any Federal agency, in such numbers as shall be necessary for their official use; *Provided*, however, that extra copies of particular issues shall be paid for by the agency or official requesting them.

XX. REQUESTS FOR COPIES

All requests for copies of the FEDERAL REGISTER shall be addressed to The Superintendent of Documents, Government Printing Office, Washington, D. C.

XXI. STYLE AND ARRANGEMENT OF DOCUMENTS RELATING TO CODIFIED MATERIAL

All documents, excepting Presidential proclamations and Executive orders, amending, supplementing, revising, revoking or superseding material required to be prepared and to be filed with the Administrative Committee of the Federal Register pursuant to section 11 of the Federal Register Act, as amended by the act of June 19, 1937 (50 Stat. 304), shall be prepared in the style and arrangement prescribed by Parts B and C, as they are now or may hereafter be amended, of Chapter III of the Codification Regulations of November 10, 1937 (2 FR 2450), and shall be filed in the office of the Director of the Division of the Federal Register. In addition, there shall be prepared in the same style and arrangement and filed with the Director of the Division, all other documents, issued subsequent to June 1, 1938, which are subject to codification pursuant to section 11 of the Federal Register Act, as amended by the act of June 19, 1937 (50 Stat. 304); *Provided*, however, that in such cases as it may be necessary, in the judgment of the Director of the Division, the application of this provision, concerning style and arrangement, may be deferred until March 1, 1939.

XXII. NOTICES

Notwithstanding anything in these Regulations to the contrary, no notices shall be published in the FEDERAL REGISTER

except those which issue, amend, or repeal regulations; or those which prescribe a penalty; or notices or orders for a public hearing or opportunity for a public hearing with respect to any proceeding to which a Federal agency is required or authorized by statute to admit as a party any state or political subdivision thereof, or any authorities thereof, or representatives of investors, consumers, or other interested class or classes of persons.

These Regulations shall become effective on June 1, 1938 and shall supersede the Regulations approved by me on November 17, 1936 and the amendments thereto approved by me on December 31, 1936.

The foregoing Regulations shall be published in the FEDERAL REGISTER.

Approved:
FRANKLIN D ROOSEVELT
THE WHITE HOUSE,
May 26, 1938.

[F. R. Doc. 38-1510; Filed, May 27, 1938; 11:09 a. m.]

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND AUTHORIZED TO BE ADDED TO THE YOSEMITE NATIONAL PARK

California

By virtue of the authority vested in me as President of the United States, and in order to carry out effectively the provisions of the act of July 9, 1937, entitled "An act to provide for the acquisition of certain lands for, and the addition thereof to, the Yosemite National Park, in the State of California, and for other purposes" (50 Stat. 485), it is ordered that all public lands within the following-described area be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and, subject to valid existing rights, reserved for the purpose of being added to the Yosemite National Park when title to all privately-owned land within this area has been vested in the United States:

MT. DIABLO MERIDIAN

T. 1 S., R. 19 E.,
sec. 25, all;
sec. 34, lots 3, 4, 5, 8 and 9;
sec. 35, lots 1 to 10, inclusive, NE¼, and SE¼NW¼;
sec. 36, all.
T. 1 S., R. 20 E.,
sec. 30, lots 2, 3, and 4, SE¼NW¼, E½SW¼, and SE¼;
sec. 31, all.
T. 2 S., R. 19 E.,
secs. 1, 2, and 3;
sec. 10, E½;
secs. 11 and 12;
sec. 14, N½;
sec. 15, NE¼.
T. 2 S., R. 20 E.,
sec. 6, lots 3 to 7, inclusive, SE¼NW¼, and E½SW¼.

This order shall continue in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 26, 1938.

[No. 7898]

[F. R. Doc. 38-1516; Filed, May 27, 1938; 12:24 p. m.]

TREASURY DEPARTMENT.

Bureau of Internal Revenue.

[T. D. 4805]

TAX ON TRANSFERS OF INTERESTS IN SILVER BULLION REGULATIONS 85, AS AMENDED, CHAPTERS II, IX AND X AMENDED

To Collectors of Internal Revenue and Others Concerned:

Regulations 85, approved June 19, 1934 (relating to the tax on transfers of interests in silver bullion under subdivision 10 of Schedule A of Title VIII of the Revenue Act of 1926, as added by section 8 of the Silver Purchase Act of 1934, approved June 19, 1934, 48 Stat. 1178), as amended, are further amended as follows:

Chapter II is amended as follows:

The third sentence of Article 20 (i) as amended by Treasury Decision 4491 (approved November 2, 1934,) is further amended by striking out the word "metals" and inserting in lieu thereof the word "materials."

Chapter IX is amended as follows:

(1) The subtitle immediately preceding the quotation of section 805 (a) of the Revenue Act of 1926 and preceding Article 102, reading—

"Sections 805 (a) and 807 (a) and (c) of the Revenue Act of 1926; and section 808 of the Revenue Act of 1926, as added by section 443 of the Revenue Act of 1928"

is eliminated and the following new subtitle is substituted in lieu thereof:

"Sections 805 (a) and 807 (a) and (c) of the Revenue Act of 1926; and section 808 of the Revenue Act of 1926, as added by section 443 of the Revenue Act of 1928 and as amended by the Act of March 1, 1933 (47 Stat. 1413)."

(2) That portion of the first sentence of the quotation of section 808 appearing under the above subtitle and reading—

"in cities of over 25,000 inhabitants"

is changed to read:

"in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats."

(3) The phrase appearing at the end of the first paragraph of Article 104 and reading—

"in cities of over 25,000 inhabitants"

is changed to read:

"in all post offices of the first and second classes and such offices of the third and fourth classes as are located in county seats."

Chapter X is amended as follows:

(1) Immediately following the quotation of section 3176 of the United States Revised Statutes, as amended, which appears under the subheading "Records, Statements and Special Returns" and precedes Article 120, there is inserted a new subtitle reading—

"Section 406 of the Revenue Act of 1935."

and immediately following such new subtitle there is inserted a quotation of section 406 of the Revenue Act of 1935 which reads as follows:

"In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate."

(2) The phrase appearing at the end of the first paragraph of Article 122 and reading—

"a penalty of 25 percent of the amount of the tax"

is changed to read:

"as amended, and as further modified by section 406 of the Revenue Act of 1935, a penalty amounting to a percentage of the tax as follows: (1) in case the last date prescribed for filing the return is on or before August 30, 1935, 25 percent, or (2) in case the last date prescribed for filing the return is after August 30, 1935, 5 percent if the failure is for 30 days or less, with an additional 5 percent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate."

(3) Immediately following the quotation of section 3184 of the United States Revised Statutes, which appears under the subheading "Records, Statements and Special Returns, and immediately precedes Article 120, there is inserted a new subtitle reading—

"Section 404 of the Revenue Act of 1935."

and immediately following such new subtitle there is inserted a quotation of section 404 of the Revenue Act of 1935 which reads as follows:

"Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum."

(4) The first sentence of the second paragraph of Article 122 reading—

"If assessment is made of the tax or 25 percent penalty and payment is not made within 10 days after the issuance of the form for notice and demand, based on assessment approved by the Commissioner, there will accrue under section 3184, Revised Statutes, a 5 percent penalty and interest at the rate of 1 percent per month computed on the entire assessment (including penalty, if any) from 10 days after issuance of said form until date of payment."
is changed to read:

"If assessment is made of the tax or penalty for delinquency in filing a return and payment is not made within 10 days after the issuance of the form for notice and demand, based on assessment approved by the Commissioner, there will accrue under section 3184, Revised Statutes, as modified by section 404 of the Revenue Act of 1935, a 5 percent penalty and interest at the rate of 6 percent per annum computed on the entire assessment (including penalty, if any,) from 10 days after issuance of said form until date of payment."

This Treasury decision is issued under authority contained in section 1101 of the Revenue Act of 1926.

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, May 25, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1511; Filed, May 27, 1938; 11:49 a. m.]

DEPARTMENT OF THE INTERIOR.

General Land Office.

STOCK DRIVEWAY NO. 164, ARIZONA NO. 6, ENLARGED

MAY 19, 1938.

It appearing that the following-described public lands should be included in Stock Driveway Withdrawal No. 164, Arizona No. 6, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights and to the provisions of an existing withdrawal for reclamation purposes affecting a portion of the land:

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 7 E.,
sec. 1, NW¼,
sec. 3, NW¼;
aggregating 324.96 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1507; Filed, May 27, 1938; 9:29 a. m.]

STOCK DRIVEWAY NO. 9, NEW MEXICO NO. 3, ENLARGED

MAY 19, 1938.

It appearing that the following-described public lands should be included in Stock Driveway Withdrawal No. 9, New Mexico No. 3, it is ordered, under and pursuant to the provisions of section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

NEW MEXICO PRINCIPAL MERIDIAN

T. 4 S., R. 13 W., secs. 25 and 26, E½, SE¼NW¼, NE¼SW¼ sec. 27, sec. 28, N½, N½SW¼, SE¼SW¼, SE¼ sec. 29, NE¼NE¼, N½SW¼, SW¼SW¼ sec. 30, NW¼NE¼, S½NE¼ and NW¼ sec. 31; aggregating 3,356.05 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

And departmental order of March 27, 1936, establishing New Mexico Grazing District No. 2, under the act of June 28, 1934, 48 Stat. 1269, is hereby modified in so far as it affects the herein described lands and made subject to the withdrawal made by this order.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1508; Filed, May 27, 1938; 9:30 a. m.]

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

SUPPLEMENTAL NOTICE OF AND ORDER FOR HEARING IN RE DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9, AND 10

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Congress, 1st Session), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the hearing in the above entitled proceeding originally noticed for June 9, 1938, at 10 o'clock A. M. in Hearing Room of the Commission at Shirley-Savoy Hotel, Denver, Colorado, by order of the Commission dated May 25, 1938, be and the same hereby is continued to June 13th at 10 o'clock A. M. at the same place.

2. That the determinations of the District Boards, the composite exhibits prepared by the Bureau of Research and Statistics, and the verified cost reports of the individual producers, as referred to in paragraph numbered 6 of said original Notice of and Order for Hearing, will be made available for inspection by interested parties on and after June

6, 1938, at Shirley-Savoy Hotel, Denver, Colorado, instead of the date previously noticed.

3. This Notice of Hearing is supplemental to the Notice of and Order for Hearing in re Determination of Weighted Average of the Total Costs of the Tonnage Produced Within Minimum Price Areas 6, 7, 9 and 10, dated May 25, 1938, and said original Notice and Order shall remain in full force and effect except as herein modified.

4. That the Secretary be, and he is hereby directed, to cause a copy of this supplemental Notice of and Order for Hearing to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of the aforesaid districts and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel and to the Secretary of each District Board, and to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 26th day of May, 1938.

[SEAL] EDGAR C. FARIS, Jr.,
Acting Secretary.

[F. R. Doc. 38-1512; Filed, May 27, 1938; 12:09 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-74 O-74]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING OF HOPS GROWN IN THE STATES OF OREGON, CALIFORNIA, AND WASHINGTON

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of hops grown in the States of Oregon, California, and Washington; and

Whereas, the Acting Secretary of Agriculture gave notice, dated May 25, 1938, of a hearing to be held on a proposed marketing agreement and proposed order regulating such handling of hops grown in the States of Oregon, California, and Washington, in the Assembly Room, Court House, Santa Rosa, California, on June 10, 1938, at 9:30 a. m.; in the Auditorium, Old Senior High School, Salem, Oregon, on June 13, 1938, at 9:30 a. m.; and in the Banquet Room, Donnelly Hotel, Yakima, Washington, on June 15, 1938, at 9:30 a. m.; and

Whereas, conditions and circumstances are such that it is deemed expedient and proper not to have said hearing on the aforesaid dates, but to have the hearing on the dates stated hereinafter;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on the aforesaid proposed marketing agreement and the aforesaid proposed order regulating such handling of hops grown in the States of Oregon, California, and Washington, in the Supervisor's Room, Court House, Santa Rosa, California, on June 14, 1938, at 9:30 a. m.; in the Auditorium, Old Senior High School, Salem, Oregon, on June 17, 1938, at 9:30 a. m.; and in the Banquet Room, Commercial Hotel, Yakima, Washington, on June 20, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of hops grown in the States of Oregon, California, and Washington. Among other things, the proposed marketing agreement and order provide for: (a) the establishment of a Control Board, (b) the establishment of a Growers Allocation Committee, (c) the establishment of an Advisory Committee for each State, included in the production area covered by the proposed marketing agreement and proposed order, (d) the regulation of any person, as a handler, who, as or through a principal, agent, broker, representative or otherwise, (1) ships hops from the State of Oregon, California, or Washington to any place outside that respective state, or (2) purchases, takes consignment of, accepts delivery of in connection with a purchase or sale by that respective person, or otherwise acquires, within any of said states, hops from a grower or any other person, or (3) uses hops, grown by himself, in making or manufacturing lupulin, or any malt beverage, or any other product, (e) expenses of administration, and other matters relating to the handling of hops grown in the States of Oregon, California, and Washington.

Copies of the proposed marketing agreement and the proposed order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

Dated: Washington, D. C., May 27, 1938.

[F. R. Doc. 38-1513; Filed, May 27, 1938; 12:11 p. m.]

[Docket No. A-75 O-75]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING IN INTERSTATE COMMERCE AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE COMMERCE, OF IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN THE STATE OF CALIFORNIA, AND IN THE STATES OF COLORADO, IDAHO, MAINE, MICHIGAN, MINNESOTA, NEBRASKA, NEW JERSEY, NEW YORK, NORTH DAKOTA, OHIO, OREGON, PENNSYLVANIA, UTAH, WASHINGTON, WISCONSIN, AND WYOMING

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling of Irish potatoes grown in the counties of Monterey, Kings, Tulare, Inyo, and all counties lying north thereof, in the State of California, and in the States of Colorado, Idaho, Maine, Michigan, Minnesota, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Utah, Washington, Wisconsin, and Wyoming;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating the handling of such potatoes in the Basement, Assembly Room, City Hall, Stockton, California, on June 13, 1938, at 9:30 a. m.; in the House of Representatives Room, State Capitol, Denver, Colorado, on June 13, 1938, at 9:30 a. m.; in the District Court Room, County Court House, Idaho Falls, Idaho, on June 20, 1938, at 9:30 a. m.; in the Assembly Room, American Legion Hall, Twin Falls, Idaho, on June 22, 1938, at 9:30 a. m.; in the Auditorium, High School, Caribou, Maine, on June 13, 1938, at 9:30 a. m.; in the House of Representatives Chamber, State House, Augusta, Maine, on June 15, 1938, at 9:30 a. m.; in the Municipal Building, Gaylord, Michigan, on June 13, 1938, at 9:30 a. m.; in the Auditorium, High School, Stanton, Michigan, June 15, 1938, at 9:30 a. m.; in the Auditorium, High School, Lapeer, Michigan, on June 17, 1938, at 9:30 a. m.; in the Armory, Princeton, Minnesota, on June 22, 1938, at 9:30 a. m.; in the Ladies Aid Parlors, Methodist Church, Scottsbluff, Nebraska, on June 15, 1938, at 9:30 a. m.; in the War Memorial Building, Trenton, New Jersey, on June 20, 1938, at 9:30 a. m.; in the Polish Hall, Marcy Avenue, Riverhead, New York, on June 17, 1938, at 9:30 a. m.; in the Warsaw Grange Hall, Warsaw, New York, on June 23, 1938, at 9:30 a. m.; in the Auditorium, City Hall, Grand Forks, North Dakota, on June 24, 1938, at 9:30 a. m.; in Room 17, Foresters Temple, Ravenna, Ohio, on June 17, 1938, at 9:30 a. m.; in the Assembly Room, Court House, Wapakoneta, Ohio, on June 20, 1938, at 9:30 a. m.; in the Circuit Court Room, Court House, Klamath Falls, Oregon, on June 15, 1938, at 9:30 a. m.; in the Auditorium, Union High School, Redmond, Oregon, on June 17, 1938, at 9:30 a. m.; in the House Caucus Room, State Capitol, Harrisburg, Pennsylvania, on June 13, 1938, at 9:30 a. m.; in the Auditorium, Joseph Johns, Jr., High School, Market Street, Johnstown, Pennsylvania, on June 15, 1938, at 9:30 a. m.; in the Gold Ballroom, New House Hotel, Salt Lake City, Utah, on June 17, 1938, at 9:30 a. m.; in the Auditorium, Junior High School, Ellensburg, Washington, on June 20, 1938, at 9:30 a. m.; and in the Home Theater, Antigo, Wisconsin, on June 20, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling of Irish potatoes grown in the counties of Monterey, Kings, Tulare, Inyo, and all counties lying north thereof, in the State of California, and in the States of Colorado, Idaho, Maine, Michigan, Minnesota, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Utah, Washington, Wisconsin, and Wyoming, as is in the current of interstate commerce, or which directly burdens, obstructs or affects interstate commerce in such potatoes. Among other things, the proposed marketing agreement and proposed order provide for: (a) the establishment of area committees and a Late States Potato Committee, (b) prohibition of shipment of "cull" potatoes, (c) further grade and size regulations of shipments, (d) expenses of administration, and other matters relating to the handling of such potatoes in the aforesaid States and counties.

Copies of the proposed marketing agreement and proposed order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

Dated: Washington, D. C., May 27, 1938.

[F. R. Doc. 38-1514; Filed, May 27, 1938; 12:11 p. m.]

[Docket No. A-76 O-76]

NOTICE OF HEARING WITH RESPECT TO PROPOSED AMENDMENTS TO ORDER NO. 20 AND THE TENTATIVELY APPROVED MARKETING AGREEMENT REGULATING THE HANDLING OF MILK IN THE LA PORTE COUNTY, INDIANA, MARKETING AREA, PROPOSED BY THE LA PORTE COUNTY MILK PRODUCERS ASSOCIATION AND BY CERTAIN HANDLERS OF MILK IN THE SAID MARKETING AREA

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, M. L. Wilson, Acting Secretary of Agriculture of the United States, issued an order regulating the handling in interstate commerce, and such handling as directly burdens, obstructs or affects interstate commerce, of milk in the La Porte County, Indiana, Marketing Area, effective November 13, 1937; and

Whereas, H. A. Wallace, Secretary of Agriculture of the United States, tentatively approved a marketing agreement regulating the handling of milk in the aforesaid marketing area on September 24, 1937; and

Whereas, the La Porte County Milk Producers Association and certain handlers of milk in the aforesaid marketing area have submitted proposed amendments to the said order and the said tentatively approved marketing agreement, and the Secretary of Agriculture has reason to believe that it may be necessary to so amend the said order and the said tentatively approved marketing agreement; and

Whereas, under the aforesaid acts, notice of and opportunity for a hearing are required in connection with a proposal to amend an order or a marketing agreement, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice;

Now, therefore, pursuant to the said act and the said general regulations, notice is hereby given of a public hearing to be held on the aforementioned amendments proposed by the said La Porte County Milk Producers Association and certain handlers of milk in the La Porte County, Indiana, Marketing Area, which hearing is to be held on June 3, 1938, at 10:00 a. m., central daylight saving time, in the County Commissioners Room of the La Porte Circuit Court House, at La Porte, Indiana.

This public hearing, which will be held jointly with the Milk Control Board of the State of Indiana, is for the purpose of receiving evidence as to the necessity for: (1) redefining the marketing area so as to include only the townships of Scipio, Pleasant, Kankakee, Center, Cool Springs, Michigan, Springfield, Galena and Hudson, La Porte County, Indiana; (2) revising the provisions covering minimum prices to be paid producers for milk; (3) modifying the classification of milk; (4) modifying the base rating provisions; and (5) amending any other provision in, or adding any other provision to, the said order and the said tentatively approved marketing agreement.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area, which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement and the proposed order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

Dated, Washington, D. C., May 27, 1938.

[F. R. Doc. 38-1518; Filed, May 27, 1938; 12:31 p. m.]

Bureau of Animal Industry.

[B. A. I. Order 366]

ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

[Effective on June 1, 1938]

Pursuant to title III, section 306 (a) of the Act of Congress approved June 17, 1930 (46 Stat. 689), notice is hereby given that I, H. A. Wallace, Secretary of Agriculture, have determined that the contagious and communicable disease of rinderpest or of foot-and-mouth disease exists in the following foreign countries: All countries on the Continent of Africa, Albania, Arabia, Argentina, Belgium, Bolivia, Brazil, Bulgaria, Chile, China, Chosen (Korea), Czechoslovakia, Danzig (Free City), Denmark, Ecuador, Federated Malay States, France, Great Britain, Germany, Greece, Hungary, India, Indo-China, Iran (Persia), Iraq, Italy, Luxem-

bourg, Netherlands, Palestine, Paraguay, Peru, Philippine Islands, Poland, Portugal, Rumania, Siam, Spain, Straits Settlements, Sweden, Switzerland, Syria, Turkey, Union of Soviet Socialist Republics (Russia), Uruguay, Yugoslavia, Ceylon, the islands of the Malay Archipelago and the various islands of the Mediterranean; and I have so officially notified the Secretary of the Treasury. Wherefore, by said section 306 (a) the importation into the United States of cattle, sheep, or other domestic ruminants or swine (including the entry into any port of the United States of any vessel having on board as sea stores such animals from the above-named countries) or of fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, from the countries above named, is prohibited.

Under authority of title III, section 306 (c) of said act of Congress, it is hereby ordered that all cattle, sheep, and other domestic ruminants, and swine, and all fresh, chilled, or frozen beef, veal, mutton, lamb, or pork, offered for entry and refused admission into the United States from the countries mentioned above shall be exported by the consignees thereof within 48 hours or in the event the said animals or products shall not be so exported they shall be destroyed in accordance with the directions of the Chief of the Bureau of Animal Industry.

Under authority conferred upon the Secretary of Agriculture by section 2 of the act of Congress approved February 2, 1903 (32 Stat. 791), it is ordered that no garbage derived from fresh or frozen meat which has originated in any country in which either of the said diseases exists shall be unloaded from any vessel in the United States or within the territorial waters thereof: Provided, however, That such garbage, when contained in tight receptacles, may be so unloaded for incineration or proper disposal otherwise as directed by the Chief of the Bureau of Animal Industry, or it may be so unloaded under the direction of an inspector for transportation beyond said territorial waters for the purpose of dumping.

It is further ordered, under the authority of said act of February 2, 1903 (supra), that dressed poultry offered for importation into the United States from any country in which either of the said diseases exists shall not be allowed entry unless—

(a) The feet of such poultry have already been removed at a point above the spur or spur core; or

(b) The feet are removed and destroyed or disinfected as directed by the Chief of the Bureau of Animal Industry. Such removal and destruction or disinfection shall be accomplished by the importer or his agent at his own expense.

This order, which for the purpose of identification is designated B. A. I. Order 366, shall become effective on June 1, 1938, and shall supersede B. A. I. Order 353 and all amendments thereto.

Done at Washington this 27th day of May 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1515; Filed, May 27, 1938; 12:12 p. m.]

FEDERAL POWER COMMISSION.

APPLICATIONS OF JOHN EDWARD ALDRED (DOCKET NO. ID-178), HERBERT A. WAGNER (DOCKET NO. ID-90), JOHN ABBET WALLS (DOCKET NO. ID-769), CHARLES M. COHN (DOCKET NO. ID-87), WILLIAM SCHMIDT, JR. (DOCKET NO. ID-89), F. ABELS ALLNER (DOCKET NO. ID-847), JAMES L. RINTOUL (DOCKET NO. ID-164), JOSEPH WALWORTH (DOCKET NO. ID-179), F. JEROME ALLEN (DOCKET NO. ID-231), MORTIMER N. BUCKNER (DOCKET NO. ID-284), MITCHELL JOHNSON (DOCKET NO. ID-795), JOSEPH W. GROSS (DOCKET NO. ID-175), FREDERICK W. WOOD (DOCKET NO. ID-92), MARVIN E. BUSHONG (DOCKET NO. ID-290), JAMES E. O'CONNOR (DOCKET NO. ID-163), JAMES L. QUINN (DOCKET NO. ID-166), DAVID E. WILLIAMS, JR. (DOCKET NO. ID-796), JOHN W. DRAYTON (DOCKET NO. ID-101), IRVIN W. GLEASON (DOCKET NO. ID-132), NORMAN JAMES (DOCKET NO. ID-483)

ORDER POSTPONING HEARING

MAY 25, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application of counsel for the above-named applicants, for postponement of the hearing heretofore ordered to be held beginning at 10 a. m. on the 3rd day of June, 1938, in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., by the Commissioner's order of April 19, 1938;

It is ordered, That said hearing be and the same is hereby postponed to begin at 10 a. m. on the 1st day of September, 1938, in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1506; Filed, May 27, 1938; 9:29 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2829]

IN THE MATTER OF HAROLD L. ROTHSCHILD TRADING UNDER THE NAME AND STYLE OF CORONADO MANUFACTURING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 8, 1938, at ten o'clock in the forenoon of that day (central standard time), at room 208 Federal Building, Minneapolis, Minnesota.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1505; Filed, May 27, 1938; 9:27 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of May, A. D. 1938.

[File No. 31-397]

IN THE MATTER OF THE APPLICATION OF PHELPS DODGE CORPORATION

[Public Utility Holding Company Act of 1935]

ORDER GRANTING EXEMPTION FROM PROVISIONS OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Phelps Dodge Corporation having made application for exemption pursuant to the provisions of Section 3 (a) (3) of the Public Utility Holding Company Act of 1935; notice and opportunity for hearing on said application having been duly given; the record in this matter having been duly considered; and the Commission having made appropriate findings of fact;

It is ordered, That the said Phelps Dodge Corporation be, and it hereby is, exempted from all those provisions of the Public Utility Holding Company Act of 1935 which would require it to register under said Act because of its directly or indirectly owning, controlling or holding with power to vote 10 per cent or more of the outstanding voting securities of Ajo Improvement Company, Upper Verde Public Utilities Company, Warren Company and Morenci Water and Electric Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1517; Filed, May 27, 1938; 12:26 p. m.]

UNITED STATES MARITIME COMMISSION.

ORDER

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 26th day of May, A. D. 1938.

It appearing, That The West Indies Company has filed an application for a construction loan and a construction subsidy, under Title V of the Merchant Marine Act of 1936, in connection with the construction of a vessel to be operated between Key West, Florida, and Havana, Cuba,

It is ordered, That a public hearing be held before such member or members of the Commission, or such Examiner as the Commission may designate, in Washington, D. C., in Conference Room "A," Government Auditorium, Constitution Avenue, between Twelfth and Fourteenth Streets, on Friday, June 3, 1938, at 10:00 A. M., in accordance with the provisions of the Merchant Marine Act of 1936, for the purpose of determining whether such application should be granted.

It is further ordered, That a copy of this order be served forthwith upon The West Indies Company, that notice of said public hearing be published in the FEDERAL REGISTER, and that a copy of this notice be posted at the Office of the Collector of Customs, Key West, Florida.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

[F. R. Doc. 38-1519; Filed, May 27, 1938; 12:49 p. m.]

ORDER

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 26th day of May, A. D. 1938.

It appearing, That the Eastern Steamship Lines, Inc. has filed an application, under Title VI of the Merchant Marine Act of 1936, for financial aid in the operation of vessels which are to be operated between New York and/or Boston and Bermuda,

It is ordered, That a public hearing be held before such member or members of the Commission, or such Examiner as the Commission may designate, in Washington, D. C., in Conference Room "A," Government Auditorium, Constitution Avenue, between 12th and 14th Streets, on Wednesday, June 1, 1938, at 10:00 A. M., in accordance with the provisions of the Merchant Marine Act of 1936, for the purpose of determining whether such application should be granted.

It is further ordered, That a copy of this order be served forthwith upon the Eastern Steamship Lines, Inc., that notice of said public hearing be published in the FEDERAL REGISTER, and that notice of said hearing shall also be posted at the Office of the Collector of Customs in the City of New York and in the City of Boston.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

[F. R. Doc. 38-1520; Filed, May 27, 1938; 12:49 p. m.]

ORDER

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 26th day of May, A. D. 1938.

It appearing, That the United States Maritime Commission has heretofore entered into an operating-differential subsidy contract with The Oceanic Steamship Company, pursuant to the provisions of Title VI of the Merchant Marine Act of 1936, covering the operation of certain vessels over the following trade route: From San Francisco via Los Angeles, Honolulu, Pago Pago (Samoa), Suva (Fiji), Auckland (New Zealand) and Sydney to Melbourne (Australia), and return over same route;

It further appearing, That The Oceanic Steamship Company has filed an application, pursuant to Section 602 of the Merchant Marine Act of 1936, for an adjustment of the amount of the operating-differential subsidy so as to reflect the indirect competition with lines operating between England and Australia via the Suez Canal; and has also filed an application, pursuant to Section 604 of the Merchant Marine Act of 1936, for an additional subsidy to offset the effect of governmental aid paid to foreign competitors serving the above trade route, and a further application for an operating subsidy for depreciation on its subsidized vessels;

It is ordered, That a public hearing be held before such member or members of the Commission, or such Examiner as the Commission may designate, in Washington, D. C., in Conference Room "A", Government Auditorium, Constitution Avenue, between 12th and 14th Streets, on Saturday, June 4, 1938, at 10:00 A. M., in accordance with the provisions of the Merchant Marine Act of 1936, and particularly Section 602 thereof, for the purpose of determining whether the aforesaid applications should be granted.

It is further ordered, That a copy of this order be served forthwith upon The Oceanic Steamship Company, and that notice of said public hearing be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

[F. R. Doc. 38-1521; Filed, May 27, 1938; 12:50 p. m.]

At a regular session of the United States Maritime Commission held at its office in Washington, D. C. on the 26th day of May 1938.

ORDER FOR HEARINGS ON MINIMUM WAGE SCALES AND REASONABLE WORKING CONDITIONS FOR MEMBERS OF THE PURSER'S DEPARTMENT AND SHIP'S SURGEONS EMPLOYED ON SUBSIDIZED VESSELS

Application having been made to the Commission, pursuant to Section 301 (a) of the Merchant Marine Act, 1936, by the American Merchant Marine Staff Officers Association, of San Francisco, California, for the establishment of minimum wage scales and reasonable working conditions for members of the Purser's Department and Ship's Surgeons employed on subsidized vessels, to be incorporated in contracts authorized under Title VI and VII of said Act; and

The Commission deeming it advisable to determine what, if any, minimum wage scales and reasonable working conditions should be adopted for said employees, it is hereby

Ordered, that public hearings be held at the offices of the Commission at 45 Broadway, New York, New York, on June 20, 1938, and at the offices of the Commission at 369 Pine Street, San Francisco, California, on June 20, 1938, to take evidence of the relevant facts, concerning the working conditions of said employees in ocean-going shipping, to be considered by the Commission, together with other facts obtained through its investigations, in determining what, if any, minimum wage scales and reasonable working conditions should be established by the Commission for members of the Purser's Department and Ship's Surgeons employed on all types of vessels receiving an Operating-Differential Subsidy, and it is further

Ordered, that said hearings be conducted by a member of the Commission or a duly designated officer of the Commission, and they are hereby empowered to subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of any books, papers or other documents which are relevant or material to the matter under investigation; and it is further

Ordered, that such member or duly designated officer of the Commission may change the time and place of said hearings, may continue or adjourn said hearings from time to time, and may conduct the same in such manner and under such rules as by him may be deemed necessary or advisable.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

[F. R. Doc. 38-1509, Filed, May 27, 1938; 10:43 a. m.]

Wednesday, June 1, 1938 — *No. 106*

TREASURY DEPARTMENT.

Bureau of Narcotics.

LAW AND REGULATIONS RELATING TO THE APPEAL TO THE SECRETARY OF THE TREASURY FROM ANY ORDER, RULE OR DECISION OF THE COMMISSIONER OF NARCOTICS; AND THE COOPERATION WITH THE SEVERAL STATES IN THE INSTITUTION AND PROSECUTION OF CASES IN THE COURTS OF THE UNITED STATES AND BEFORE THE LICENSING BOARDS AND COURTS OF THE SEVERAL STATES

THE LAW

[In the original document as filed with the Division of the Federal Register, The National Archives, here follows the text of the Act of June 14, 1930, as amended by the Act of June 26, 1930.]

REGULATIONS

Chapter I. Appeal

SEC. 5. Any person, corporation, association, or partnership aggrieved by any order, rule, or decision of the Commissioner of Narcotics, or by his failure to rule upon or decide any matter presented to him by proper application, may appeal therefrom to the Secretary of the Treasury, under such regulations as he may prescribe, who may affirm, reverse, or modify such action or direct such action to be taken as he may deem equitable and just.

ARTICLE 1. *Appeal from decision of Commissioner.*—No appeal from any order, rule, or decision of the Commissioner of Narcotics (hereinafter referred to as the Commissioner) will be considered unless the aggrieved party (1) serves upon the Commissioner, within 10 days from the date of such order, rule, or decision, notice in writing of intention to appeal, and (2) files with the Secretary of the Treasury (hereinafter referred to as the Secretary) within 30 days from the date of such order, rule, or decision, a written petition as hereinafter provided.

ART. 2. *Appeal from failure of Commissioner to rule upon or decide matter.*—No appeal from failure of the Commissioner to rule upon or decide any matter presented to him by proper application shall be considered unless the aggrieved party (1) serves upon the Commissioner, not less than 20 days nor more than 30 days from the date of the presentation of such matter, written notice of intention to appeal, and (2) files with the Secretary, within 30 days from the date of such notice, a written petition as hereinafter provided.

ART. 3. *Extension or restriction of time.*—The Secretary may in his discretion, for cause shown, extend the foregoing time limits in any case. If the Secretary considers that the public interest requires the prompt execution or operation of any order, rule, or decision of the Commissioner, he may in his discretion further restrict the time limits, upon giving reasonable notice to such parties as he considers to be interested.

ART. 4. *Suspension of orders.*—The Commissioner shall suspend the operation of any order, rule, or decision upon receipt of a timely notice of intention to appeal therefrom, pending the presentation of the appeal to the Secretary and his decision thereon.

ART. 5. *Petition.*—The written petition filed with the Secretary shall set forth clearly the complaint and the facts and arguments in support thereof, and may be supported by evidence in the form of affidavits, depositions, and duly authenticated documents and records.

ART. 6. *Reference to Commissioner—Additional evidence—Hearings.*—The petition shall be referred by the Secretary to the Commissioner and shall be returned by the Commissioner within 10 days from the date of receipt, unless an extension is granted, with an answer in writing and such evidence in the form af affidavits, depositions, records, and documents as the Commissioner considers appropriate. The Secretary may require additional evidence or information from the petitioner or the Commissioner, or may permit any other interested party to intervene and present additional information, evidence, and argument. If he deems it necessary, the Secretary may appoint a representative to conduct a hearing at a designated time and place to afford interested parties, their representatives, and their witnesses an opportunity to present evidence and argument. Such representative shall report promptly to the Secretary a summary of the evidence and argument thus presented, with his recommendation.

ART. 7. *Decision of the Secretary.*—The petition and answer, and all information, evidence, and argument presented will be considered by the Secretary, who will affirm, reverse, or modify the action of the Commissioner, or direct such action to be taken as the Secretary shall deem equitable and just.

Chapter II. Cooperation With States

SEC. 8. That the Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he is authorized (1) to cooperate in the drafting of such legislation as may be needed, if any, to effect the end named, and (2) to arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States. The Secretary of the Treasury is hereby authorized to make such regulations as may be necessary to carry this section into effect.

ART. 8. *State or municipal prosecutions.*—The Commissioner may furnish to State or municipal prosecuting officers a report or statement of such information, obtained from time to time by the Bureau of Narcotics concerning a violation or suspected violation of narcotic laws, as the Commissioner may deem cognizable by the said prosecuting officers for further investigation or prosecution in their respective jurisdictions.

ART. 9. *Attendance of officers.*—The Commissioner may direct the attendance of any officer, agent, or employee of the Bureau of Narcotics who may be in possession of pertinent information, to testify as a witness in any inquiry or proceeding instituted by authority of law by or before a grand jury, municipal magistrate, or State court, where the direct object of such inquiry or proceeding is to determine whether there has been, in a particular case, a violation of the State law or Municipal ordinance relating to narcotic drugs. The Commissioner may also direct any such officer, agent, or employee to produce for examination at said inquiry or proceeding such record of the Bureau of Narcotics or copy of any part thereof as the Commissioner may deem pertinent to the particular case. The officer, agent, or employee so producing any permanent record of said Bureau for examination shall not relinquish custody or control thereof but, immediately upon conclusion of the inquiry or proceeding, shall promptly return the record to its appropriate official repository.

ART. 10. *Hearings before licensing boards or other state agencies having power to suspend or revoke licenses.*—The Commissioner may furnish to State licensing boards or other State agencies authorized by law to revoke or suspend licenses to practice a profession, or engage in a trade, in the course of which narcotic drugs are possessed, controlled, or dispensed; or to any State board, officer, or agency authorized by law to grant, suspend, or revoke any license or permit when, in the exercise of said authority, the narcotic drug addiction of the applicant, licentiate, or permittee, or his conviction of a violation of any law relating to narcotic drugs, may have a material bearing upon the granting, withholding, suspension, or revocation of said license or permit; such information in the possession of the Bureau of Narcotics as the Commissioner may deem appropriate to the enforcement of any State law or regulation or municipal ordinance relating to the granting, withholding, suspension, or revocation of State licenses or permits: Provided, that no information shall be furnished with respect to any case in which an offer in compromise has been accepted under authority of Sec. 3229, Revised Statutes, unless such case involves the reported narcotic drug addiction of a person who is registered or qualified for registration under the Harrison Narcotic Law, or unless the information is requested in a particular case by such State licensing board or State agency or duly qualified representative thereof, for use in the enforcement of any State law or regulation or municipal ordinance relating to the granting, withholding, suspension, or revocation of State licenses. The Commissioner may also direct the attendance, as a witness, in hearings held by such boards or agencies, of any officer, agent, or employee of the Bureau of Narcotics, and the production of records or copies thereof, subject to the same limitations, so far as applicable, as are hereinbefore provided with respect to an inquiry or proceeding instituted by or before a grand jury, municipal magistrate, or State court.

ART. 11. *General.*—Nothing herein contained shall be construed to authorize the Commissioner to furnish information, or to direct the attendance of any officer, agent, or employee to testify, relative to the possession of or traffic in narcotic drugs in any case where the litigants are private parties or where the object of the prospective inquiry, proceeding, or hearing is other than that indicated in Articles 8, 9, and 10 of these regulations.

The Commissioner shall exercise sound discretion in executing the authority herein granted to the end that no investigation being conducted at any time under his direct or indirect supervision shall be prejudiced by the premature disclosure of facts developed by the investigation. The Commissioner shall solicit the cooperation of appropriate State and Municipal officers in arranging to execute the authority herein granted in any given case, so that there shall be a minimum of interference with or interruption to the investigative duties of any officer or agent of the Bureau of Narcotics or with the duty of such officer or agent to present properly and promptly to Federal prosecuting attorneys, grand juries, and courts such cases as the Commissioner may direct.

ART. 12. *Effective date.*—These regulations shall take effect and be in force on and after June 1, 1938, and any rule or regulation inconsistent with these regulations is repealed to the extent of such inconsistency.

ART. 13. *Promulgation of regulations.*—In pursuance of sections 5 and 8 of the Act of June 14, 1930, as amended, the foregoing regulations are hereby made and promulgated.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1532; Filed, May 31, 1938; 12:20 p. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

MONTANA GRAZING DISTRICT NO. 1

MODIFICATION

MAY 24, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of July 11, 1935, establishing Montana Grazing District No. 1, is hereby revoked so far as it affects the following-described land:

PRINCIPAL MERIDIAN

T. 34 N., R. 18 E., sec. 34, SE¼SE¼.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1523; Filed, May 28, 1938; 9:42 a. m.]

COLORADO GRAZING DISTRICT NO. 3

MODIFICATION

MAY 24, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Colorado Grazing District No. 3, is hereby revoked so far as it affects the following-described land:

SIXTH PRINCIPAL MERIDIAN

T. 12 S., R. 89 W., sec. 22, W½.

NEW MEXICO PRINCIPAL MERIDIAN

T. 46 N., R. 10 E., sec. 12, NE¼.
T. 49 N., R. 7 W., sec. 5, lots 3, 6, and 11, NE¼SW¼.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1524; Filed, May 28, 1938; 9:42 a. m.]

General Land Office.

[Circular 1237a]

REGULATIONS GOVERNING RIGHTS OF WAY FOR CANALS, DITCHES, RESERVOIRS, WATER PIPE LINES, TELEPHONES AND TELEGRAPH LINES, TRAMROADS, ROADS AND HIGHWAYS, OIL AND GAS PIPE LINES, ETC.

1. *Application.*—No special form is required, but it should be filed at the land office for the district in which the land is located, should state the act invoked and the primary purpose for which the project is to be used. If there is no local land office, the application should be filed with the Commissioner of the General Land Office, Washington, D. C.

2. *Showing required of corporations.*—Application by a private corporation must be accompanied by a copy of its charter or articles of incorporation, duly certified to by the proper State official of the State where the corporation was organized; also an uncertified copy.

A corporation other than a private corporation should file a copy of the law under which it was formed and due proof of organization under the same.

When the project is in a State other than that in which the corporation was incorporated, it must submit a certificate of the Secretary of State or other proper official of the State in which the project is located, showing compliance with the laws relating to foreign corporations.

3. *Showing required of individuals or association of individuals.*—Application by an individual under any of the acts, except the act of March 3, 1891, and the acts amendatory or supplemental thereto, must be accompanied by affidavit of citizenship if the applicant is native born, or if a naturalized citizen, by proof of naturalization. Application by an association must be accompanied by a certified copy of the articles of association, if any; if there be none, the fact must be stated over the signature of each member of the association. Each member must furnish evidence of citizenship where it would be required if he were applying individually.

4. *Evidence which must accompany application.*—Each application must be accompanied by the following data:

(a) A map prepared on tracing linen, in duplicate, showing the survey of the right-of-way or site properly located with respect to the public-land surveys so that said right-

of-way or site may be accurately located on the ground by any competent engineer or land surveyor. The map should comply with the following requirements:

The scale should be 2,000 feet to the inch for canals, ditches, pipe lines, transmission lines, etc., and 1,000 feet to the inch for reservoirs, except where a larger scale is required to properly represent the details of the proposed developments, in which case the scales should be 1,000 feet to the inch and 500 feet to the inch, respectively.

Courses and distances of the center line of the right-of-way or traverse line of the reservoir should be given; the courses referred to the true meridian either by deflection from a line of known bearing or by independent observation, and the distances in feet and decimals thereof. Station numbers with plus distances at deflection points on the traverse line should be shown.

The initial and terminal points of the survey should be accurately connected by course and distance to the nearest corner of the public-land surveys, unless that corner is more than six miles distant, in which case the connection will be made to some prominent natural object or permanent monument, which can be readily recognized and recovered. The station number and plus distance to the point of intersection with a line of the public-land surveys should be ascertained and noted, together with the course and distance along the section line to the nearest existing corner, at a sufficient number of points throughout the township to permit accurate platting of the relative position of the right-of-way to the public-land survey.

All subdivisions of the public-land surveys within the limits of the survey should be shown in their entirety, based upon the official subsisting plats with the subdivision, section, township, and range clearly marked.

The width of the canal, ditch, or lateral at highwater line should be given and if not of uniform width, the location and amount of the change must be definitely shown. In the case of a pipe line, the diameter should be given. For reservoirs, the capacity in acre-feet, the area within the high-water line, the source of the water supply, and the location and height of the dam must be shown.

Each copy of the map should bear upon its face an affidavit of the engineer who makes the survey and the certificate of the applicant. See forms 1 and 2 on page ( ) which should be modified so as to be appropriate to the act invoked and the nature of the project.

(b) Evidence of water right, if the project involves the storage, diversion, or conveyance of water. Control and jurisdiction over the appropriation of water is vested in the State authorities. The applicant, therefore, must file evidence, obtained from the proper State official, that he has the right to appropriate the water to be stored, diverted, or conveyed.

5. *Oregon and California Railroad and Coos Bay Wagon Road lands (Oregon).*—All applications for rights of way for the construction and operation of any project over Oregon and California Railroad lands, title to which was revested in the United States by the act of June 9, 1916 (39 Stat. 218), and reconveyed Coos Bay Wagon Road lands, act of February 26, 1919 (40 Stat. 1179), must be accompanied by a stipulation executed by the applicant, agreeing to pay to the United States, by certified check drawn in favor of the Commissioner of the General Land Office, within 30 days from receipt of written notice to do so from the District Cadastral Engineer, such sum of money as may be determined by him to be fair compensation for the Government timber cut, removed or destroyed in the construction and operation of the project. Such applications should also contain an affirmative showing that favorable action thereon will not adversely affect or impair watershed protection, stream-flow regulation, and other conservation features enumerated in the act of August 28, 1937 (50 Stat. 874), amending the acts of June 9, 1916, and February 26, 1919, supra.

6. *Proposed or existing national forest.*—Whenever a right-of-way is through or in a national forest, or any area which the Secretary of Agriculture has recommended for inclusion within a national forest, the applicant must enter into such stipulations and execute such bond as the Forest Service may require for the protection of such existing or proposed national forest. No construction will be allowed in an existing or proposed national forest until an application for right-of-way has been regularly filed and approved by the Secretary of the Interior, or unless permission for such construction work has been specifically given.

7. *National parks.*—The act of March 3, 1921 (41 Stat. 1353), provides, inter alia:

"That hereafter no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission or utilization of power within the limits as now constituted of any national park or national monument, shall be granted or made without specific authority of Congress, etc."

8. *Action on application.*—When an application is filed, the register will place on the papers and accompanying maps, the serial number, the name of the office, and the date of filing. Notations will be made on the local office records opposite each unpatented tract affected by the right-of-way or site, giving serial number, date of filing, and the name of the applicant. The register will certify on each map, over his written signature, that unpatented land is affected. If no unpatented land is affected, the register will return the map and duplicate to the applicant with notice of that fact.

(a) The General Land Office shall request the Geological Survey and the Bureau of Reclamation to make reports in connection with all right-of-way applications involving the diversion, storage, or conveyance of water and shall request the Geological Survey for reports in connection with all right-of-way applications under the oil and gas leasing act. Requests by the General Land Office for reports from all Bureaus or Departments shall be made in connection with all right-of-way applications affecting lands in withdrawals or reservations in which the Bureau or Department might be interested. Upon the approval of a map by the Secretary of the Interior, the duplicate copy will be sent to the register who will mark upon the township plats the line of the right-of-way or site as shown on the approved map. The register will also note the approval in ink on the tract books, opposite each legal subdivision affected, with a reference to the act mentioned on the map.

9. *Proof of construction.*—A period of five years from the date of the approval of a map is usually allowed for construction. Upon completion of construction, proof thereof should be filed in the local office, consisting of an affidavit of the person in charge of the construction or who has checked over the construction, and the certificate of the grantee. Forms 3 and 4 for the affidavit and certificate are shown on page ( ). The forms should be modified so as to be appropriate to the act and to the nature of the project. If, in constructing, there has been a substantial deviation from the location shown on the approved map, the party in interest must file a duly executed relinquishment of the unused portion of the right-of-way or site, accompanied by a map of amended location of the right-of-way or site of the project as actually constructed. The map of amended location must be prepared in accordance with regulation 4. The relinquishment may be prepared so as to become effective upon departmental approval of the map of amended location.

Upon expiration of the 5-year period allowed for construction, if there has been no construction, grants of rights-of-way or sites are subject to cancellation through court proceedings. A permit may be revoked by the Secretary for nonconstruction or abandonment.

RIGHTS OF WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR CANALS, DITCHES, AND RESERVOIRS

10. *Statutory authority.*—Section 18 of the act of March 3, 1891 (26 Stat. 1095), as amended by the acts of March 4, 1917 (39 Stat. 1197), and May 28, 1926 (44 Stat. 668), 43 U. S. C. 946, authorizes the Secretary of the Interior to grant rights-of-way for irrigation and drainage purposes to

the extent of the ground occupied by the water of any reservoirs and any canals and laterals and fifty feet on each side of the marginal limits thereof and such additional right-of-way as may be deemed necessary for the proper operation and maintenance of said reservoirs, canals, and laterals.

Section 19 of the act of March 3, 1891, 43 U. S. C. 947, provides for the filing of maps by applicants desiring to secure the benefits of said act; that upon the approval thereof by the Secretary of the Interior, the same shall be noted upon the records and thereafter all lands affected by such right-of-way shall be disposed of subject to such right-of-way.

Section 20 of the act of March 3, 1891, 43 U. S. C. 948, provides, that this act shall apply to all canals, ditches, or reservoirs heretofore or hereafter constructed, whether by corporations, individuals, or association of individuals, on the filing of the certificates and maps as therein provided; that if any section of the project is not completed within five years after location, the right-of-way granted shall be forfeited as to the uncompleted canal, ditch, or reservoir, to the extent that the same is not completed at the date of forfeiture.

Section 21 of the act of March 3, 1891, 43 U. S. C. 949, provides that nothing in this act shall authorize the occupancy of such right-of-way except for the purpose for which the grant is made, and then only so far as may be necessary for the construction, maintenance, and care of the project.

11. *Statute construed.*—The act of March 3, 1891, as amended, is applicable to rights-of-way for pipe lines, flumes, or other conduits, although they are not specifically mentioned in the act, if water is conveyed primarily for irrigation or drainage purposes.

Material on adjacent lands. The word "adjacent," as used in section 18 of the act, in connection with the right to take material for construction from the public lands, must be construed according to the conditions of each case (28 L. D. 439). The right extends only to construction, and no public timber or material may be taken or used for repair or improvements (14 L. D. 566). These decisions were rendered under the railroad right-of-way act and are applied to this act since the words are the same in both.

12. *Use subsidiary to main purpose of irrigation.*—Section 2 of the act of May 11, 1898 (30 Stat. 404), authorizes the use of rights-of-way granted under the act of March 3, 1891, for purposes subsidiary to the main purpose of irrigation.

13. *Caretaker's building sites.*—The act of March 1, 1921 (41 Stat. 1194), authorizes the Secretary of the Interior, except as to lands within national forests, to grant permits or easements for not to exceed five acres of ground adjoining the right-of-way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by the act of March 3, 1891, as amended.

14. *Showing required for additional right-of-way.*—The act of May 28, 1926 (44 Stat. 668), amended section 18 of the act of March 3, 1891, so as to authorize, if needed, right-of-way additional to the 50 feet allowed by the section for operation and maintenance of reservoirs, etc. To obtain such additional right-of-way, explanatory showing must accompany the application. This should consist of an affidavit by the applicant's engineer or surveyor setting forth succinctly the extent of the additional right-of-way required and the necessity therefor. The additional right-of-way should also be shown graphically by lateral limit lines on the map filed in connection with the application. If additional right-of-way is wanted only for portions or sections of the reservoirs, canals, ditches, or laterals, the termini thereof should be fixed by engineer's survey stations in addition to the lateral limit lines.

15. *Nature of grant.*—Grants made under the act of March 3, 1891, are base fees with possibility of reverter to the Government in the event the grantee or successor ceases to use or retain the lands for the purposes for which they were granted. All persons settling on a tract of public land, to part of which right-of-way has attached for a canal, ditch, or reservoir, etc., take the land subject to such right-of-way, and at the total area of the subdivision entered, there being no authority to make deductions in such cases. If a settler has a valid claim to land, existing at the date of filing of the map of definite location, his right is superior, and he is entitled to such reasonable measure of damages for right-of-way as may be determined by agreement or by the courts, the question being one that does not fall within the jurisdiction of this Department.

16. *Unsurveyed land.*—Maps; filed under the said act, as amended, showing canals, ditches, reservoirs, etc., lying partly upon unsurveyed land can be approved if the application and accompanying maps conform to these regulations, but the approval will only relate to that portion of the right-of-way traversing the surveyed land.

(a) Maps showing canals, ditches, reservoirs, etc., lying wholly on unsurveyed lands may be received and placed on file in the General Land Office and the local land office of the district in which the land is located, for general informations. The date of filing will be noted thereon; but the maps will not be submitted to nor approved by the Secretary of the Interior as the act makes no provision for the approval of any but maps showing locations on surveyed lands. The filing of such maps will not dispense with the filing of maps after the survey of the lands and within the time specified in the act, and if the maps are regular in all respects, they will receive the Secretary's approval.

17. *Segregated reservoir sites.*—The act of February 26, 1897 (29 Stat. 599), permits the approval of applications under the act of March 3, 1891, for rights-of-way upon reservoir sites reserved under authority of the act of October 2, 1888 (25 Stat. 505, 526), and August 30, 1890 (26 Stat. 371, 391).

RIGHTS-OF-WAY OVER PUBLIC LANDS FOR RESERVOIRS FOR WATERING LIVESTOCK

18. *Statutory authority.*—By the act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952–953), it is provided that any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such livestock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the same is constructed, not exceeding one hundred and sixty acres, so long as such reservoir is maintained and water kept therein for such purposes.

19. *Declaratory statement.*—Any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock, desiring to construct a reservoir under the authority of this act upon unappropriated public lands of the United States, not mineral or otherwise reserved except by Executive Order No. 6910 of November 26, 1934, and amendments thereto, and Executive Order No. 6964 of February 5, 1935, as amended, or within a grazing district established under the act of June 28, 1934 (48 Stat. 1269), may file a petition, in duplicate, for the classification of the land involved, together with a declaratory statement, in the district land office for the district in which the land is located in accordance with the instructions contained in Circular No. 1353, approved June 29, 1937.

20. *Application by corporation.*—When the applicant is a corporation there shall be filed a copy of its articles of incorporation and proofs of its organization, as required in regulations 2 and 4 (b) of these regulations. If these papers are filed with the first declaratory statement made by the company, a reference thereto by its number will be sufficient in any subsequent application by the company.

The declaratory statement must be made under oath and should be drawn in accordance with Form 7 (page), and must contain the following:

(a) The post office address of the applicant; the name of the county in which the reservoir is to be or has been constructed; the description by the smallest legal subdivisions

(40-acre tracts or lots) of the land sought to be reserved which under no circumstances must exceed 160 acres; certificate that the land is not occupied or otherwise claimed; certificate that to the best of the applicant's knowledge and belief the land is not mineral or otherwise reserved; statement of the business of the applicant, which statement shall include full and minute information concerning the extent to which he is engaged in breeding, grazing, driving, or transporting livestock, the number and kinds of such stock, the place where they are being bred or grazed, whether within an enclosure or upon unenclosed lands, and also the points from which and to which they are being driven or transported; description of the land owned or claimed by the applicant in the vicinity of the proposed reservoir and statement of its amount; certificate that no part of the land sought to be reserved is or will be fenced, that all the land will be kept open to the free use of any person desiring to water animals of any kind; and that the lands so sought to be reserved are not, by reason of their proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Land Department.

(b) The location of the reservoir described by the smallest legal subdivision (40-acre tracts or lots), its area in acres, its capacity in gallons, the source from which water is to be obtained for such reservoir, whether there are any streams or springs within two miles of the land sought to be reserved; and, if so, where.

(c) The numbers, locations, and areas of all other reservoir sites filed upon by the applicant, especially designating those in the county in which the proposed reservoir is located.

21. *Action by the Land Department on declaratory statements and size, location, and number of reservoir sites.*—When such declaratory statement is filed, the date of filing will be noted thereon over the signature of the officer receiving it, and the statements will be numbered according to order of June 1, 1908. The register will make the usual notations on the records, in pencil, under the designation of "Reservoir Declaratory Statement, No. —," adding the date of the act. For the filing of such reservoir declaratory statement, the local officers will be authorized to charge the usual fee. (Section 2238, U. S. Rev. Stat.). The local officers will forward the declaratory statement with the regular monthly returns, with abstracts, in the usual manner. In acting upon these statements the following general rules will be applied:

(a) No reservation will be made for a reservoir of less than 250,000 gallons capacity, and for a reservoir of less than 500,000 gallons capacity, not more than 40 acres can be reserved. For a reservoir of 1,000,000 gallons capacity, not more than 80 acres can be reserved. For a reservoir of 1,000,000 gallons and less than 1,500,000 gallons capacity, not more than 120 acres can be reserved. For a reservoir of 1,500,000 gallons capacity or more, 160 acres may be reserved. In the case where the water is furnished the livestock by artificial means, such as by windmill, pump, tanks, troughs, etc., the regulations requiring a minimum capacity of 250,000 gallons may be waived upon the claimant's submitting a satisfactory showing that by such artificial means he will be able to furnish sufficient water and provide proper troughs, etc., to properly acccommodate all cattle likely to water at the place in question.

(b) Not more than 160 acres shall be reserved for this purpose in any section.

(c) Not more than 160 acres shall be reserved for this purpose in one group of tracts adjoining or cornering upon each other.

(d) A distance of one-half mile must be left between any two groups of tracts which aggregate more than 160 acres.

(e) The local officers will reject any reservoir declaratory statement not in conformity with these rules.

(f) Lands so reserved shall not be fenced, but shall be kept open to the free use of any person desiring to water animals of any kind. If lands so reserved are at any time fenced or otherwise enclosed, or if they are not kept open to the free use of any person desiring to water animals of any kind, or if the reservoir applicant attempts to use them for any other purpose, or if the reservation is not obtained for the bona fide and exclusive purpose of constructing and maintaining a reservoir thereon according to law, the declaratory statement, upon any such matter being made to appear, will be canceled and all rights thereunder be declared at an end.

(g) Notwithstanding the action of the local officers in accepting any such declaratory statement, the Commissioner of the General Land Office will reject the same if upon considering the matters set forth therein it appears that the declaratory statement is not filed in good faith for the sole purpose of accomplishing what the law authorizes to be done.

22. *Construction.*—The reservoir must be completed and constructed within two years after the filing of the declaratory statement; otherwise the declaratory statement will be subject to cancellation.

23. *Map of constructed reservoir.*—After the construction and completion of the reservoir, the applicant shall have the same accurately surveyed and mapped in accordance with regulations 4 and 9, so far as they are applicable. The map, which is not to be prepared in duplicate, must be filed in the proper local office and must bear Forms 8 and 9 (page).

24. *Action by register.*—When the map and other papers have been filed in the local office, the date of filing will be noted thereon and the proper notations will be made on the local office records, as in the case of the declaratory statement. The register will then promptly forward the map and papers to the General Land Office.

25. *Approval of constructed project.*—The map and papers will be examined in the General Land Office to determine whether they comply with the law and the regulations, and whether the amount of land desired is warranted by the showing made in the application. If found satisfactory, they will be submitted to the Secretary of the Interior, and upon approval, the lands shown to be necessary for the proper use and enjoyment of the reservoir will be reserved from other disposition so long as the reservoir is maintained and water kept therein for the purposes named in the act. Upon the receipt of notice of such reservation from the General Land Office, the register will make the proper notations on his records and report the making thereof promptly to the General Land Office.

26. *Annual proof of maintenance.*—In order that this reservation shall be continued, it is necessary that the reservoir "shall be kept in repair and water kept therein." For this reason the owner of the reservoir will be required, during the month of January of each year, to file in the local office an affidavit to the effect that the reservoir has been kept in repair and water kept therein during the preceding year, and that all the provisions of the act have been complied with. Form 10 (page) will be used for this affidavit. Upon failure to file such affidavit, steps will be taken looking to the revocation of the reservation of the lands.

27. *Reservoir on unsurveyed land.*—In any case where the proposed reservoir is to be located upon unsurveyed public land, the declaratory statement may be filed, the land being therein described by metes and bounds and, as well, by the description which it is believed it will bear when officially surveyed. Proof of construction must be submitted at the end of the same period of time and in the same manner as is prescribed and required in cases where the lands have been previously surveyed. Such proof should embrace the field notes and a plat of survey such as is required in cases of reservoirs on surveyed lands, with such modifications as are necessary (regulation 23).

(a) Any reservation made pursuant to this statute secures only a license to use and occupy the reserved land with and for a reservoir, and this license may endure permanently or may be of transient duration. No estate in the land is granted. For this reason it is administratively undesirable that private surveys made pursuant to the statute and these regulations shall be preserved and established by subsequent public-land surveys and approved plats thereof. When, therefore, the public-land surveys have been extended over land covered by a reservoir declaratory statement affecting unsurveyed lands, the declarant shall adjust his survey to the lines of the official survey, showing the location of the reservoir with respect to said lines by means of properly established tie lines. Any subsequent reservation which may be ordered will be of those subdivisions thus shown to be occupied by or necessary for the proper use of the reservoir.

(b) An annual affidavit of maintenance must be submitted the same as though the reservoir had been constructed on surveyed lands. Nothing in these regulations contained shall preclude the General Land Office or the Department from requiring additional information in any case where that information is deemed proper or necessary.

FENCING OF STOCKWATERING RESERVOIRS

28. *Statutory authority.*—The act of Congress approved March 3, 1923 (42 Stat. 1437), amends section 1 of the act of January 13, 1897 (29 Stat. 484), so as to authorize the Secretary of the Interior, in his discretion, under such rules, regulations, and conditions as he may prescribe, upon application by such person, company, or corporation, to grant permission to fence such reservoirs constructed under the act of January 13, 1897, in order to protect livestock, to conserve water, and to preserve its quality and conditions.

This act applies only to stock-watering reservoirs which have been or may hereafter be constructed and due proof of construction filed in the General Land Office.

29. *Application for permission to fence reservoir.*—Any person, company, or corporation, desiring to secure the benefits of this act should file in the local land office an application, under oath, duly corroborated by at least two disinterested witnesses, setting forth such facts as would show that it is necessary to fence such reservoir in order to protect the livestock, to conserve water, and to preserve its quality and conditions. There should be filed with such application, and as a part thereof, a plat showing the land embraced in the reservoir as near as may be, the location of the proposed fence with respect to such reservoir, together with all gates or other openings, and roadways leading to the same. In no instance will an application be considered unless said plat shows the location of at least two gates. Said gates shall be so constructed and maintained that they may be, at all times, readily opened and closed by any person desiring to water animals of any kind and such gates shall be so placed as to be readily accessible from the road or roads nearest the reservoir, which roads shall be the ones usually traveled and, where there are no such roads whereby to govern the location of such gates, they shall be so situated as to make the reservoir readily available from the adjacent public or other range; and that there shall be posted on the gates, and elsewhere if necessary, a notice stating that the reservoir is for stockwatering purposes, located on public lands, and that the same is opened to the free use of any person desiring to water animals of any kind.

30. *Action on application.*—Upon the filing of such an application, it should be considered by the local office as an additional paper in the case and transmitted to the General Land Office by special letter under the serial number of the reservoir declaratory statement for such action as may be deemed proper.

RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES, PIPE LINES, CANALS, DITCHES, WATER PLANTS, ETC.

31. *Statutory authority.*—The act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959), authorizes the Secretary of the Interior, under such regulations as he may fix, to permit the use of rights-of-way through public lands and certain reservations of the United States, for telephone and telegraph lines, pipe lines, canals, ditches, water plants, etc., to the extent of the ground occupied by such canals, ditches, or water plants, or other works permitted thereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipe lines, telephone and telegraph lines, by any citizen, association or corporation of the United States, where it is intended by such to exercise the use permitted under said act.

32. *Applications which may be submitted.*—Although the act of February 15, 1901, does not expressly repeal any provision of law relating to the granting of permission to use rights-of-way contained in the act of January 21, 1895, and section 1 of the act of May 11, 1898, yet in view of the general scope and purpose of the act, and of the fact that Congress has, with the exception above noted, embodied therein the main features of the former acts relative to the granting of a mere permission or license for such use, it is evident that, for the purposes of administration, the act of February 15, 1901, should control in so far as it pertains to the granting of permission to use rights-of-way for purposes therein specified. Accordingly, all applications for permission to use rights-of-way for the purposes specified in the act of February 15, 1901, must be submitted thereunder. Where, however, it is sought to acquire a right-of-way for the main purpose of irrigation as contemplated by sections 18 to 21 of the act of March 3, 1891 (26 Stat. 1095), and section 2 of the act of May 11, 1898, supra, the application must be submitted in accordance with the regulations issued under said acts.

(a) An application may be filed under the act of February 15, 1901, for a stockwatering reservoir site. An application under the act for a "water plant" site or for a pipe line right-of-way may include an area for a well to supply the water, but if, because the lands affected are within a grazing district established under the grazing act of June 28, 1934 (48 Stat. 1269), or for any other reason, the granting of a permit for a stockwatering reservoir site, or for a water plant site or for a pipe line right-of-way, would adversely affect the interests of the Government, the applications therefor will not be allowed. If the lands affected are within a grazing district, an application for a stockwatering reservoir or water well site should be filed under section 4 of said act of June 28, 1934, with the Regional Grazier, if the applicant is qualified under the section, and if the reservoir or well is necessary to the care and management of the permitted livestock and primarily for that purpose. Regulations under the said section 4 are contained in a separate circular which will be sent by the Regional Grazier upon request.

33. *No rights acquired prior to filing and approval of application.*—Application under the act of February 15, 1901, for permission to use the desired right-of-way through the public lands and parks designated in the act must be filed and approved before any rights can be claimed thereunder.

34. *Nature of permit.*—It is to be specially noted that the act of February 15, 1901, does not make a grant in the nature of an easement but authorizes a mere permit in the nature of a license, which permit may be revoked by the Secretary, or his successor, at any time in his discretion. Further, it gives no right whatever, to take from public lands, reservations, or parks adjacent to the right-of-way, any materials, earth, or stone for construction or other purposes. The final disposal by the United States of any tract traversed by a right-of-way permitted under this act shall not be considered to be a revocation of such permission in whole or in part but such final disposal shall be deemed and taken to be subject to such right-of-way until such permission shall have been specifically revoked in accordance with the provisions of said act.

35. *When application should be made to Department of Agriculture.*—Section 1 of the act of February 1, 1905 (33 Stat. 628), vested jurisdiction in the Department of Agriculture to pass upon all applications under any law of the United States providing for the granting of a permission to occupy and use lands in a national forest, provided this occupation or use is temporary, and will in no wise affect the fee or cloud the title of the United States should the reserve be discontinued.

Therefore, when it is desired to obtain permission under the act of February 15, 1901, to use a right-of-way over public lands wholly within a national forest, an application should be prepared in accordance with the instructions is-

sued by the Department of Agriculture, and should be filed with the officer in charge of such national forest.

In case the applicant desires rights and privileges upon public lands partly within and partly without a national forest, separate applications must be prepared, and the one affecting lands within the national forest filed with the forest officer and the other filed in the local land office.

36. *Buildings to be platted on map in main drawing and in separate drawing.*—When application is made for right-of-way for water plants, the location and extent of ground proposed to be occupied by buildings or other structures necessary to be used in connection therewith must be clearly designated on the map and described (forms 5 and 6, pages ( ) and ( )) by reference to course and distance from a corner of the public survey. In addition to being shown in connection with the main drawing, the buildings or other structures must be platted on the map in a separate drawing on a scale sufficiently large to show clearly their dimensions and relative positions. When two or more such proposed structures are to be located near each other, it will be sufficient to give the reference to a corner of the public survey for one of them, provided all the others are connected therewith by course and distance shown on the map. The applicant must also file an affidavit setting forth the dimensions and proposed use of each of the structures, and must show definitely that each one is necessary for a proper use of the right-of-way for the purposes contemplated in the act.

37. *Unsurveyed lands.*—Permission may be given under this act (February 15, 1901), for rights-of-way upon unsurveyed lands, maps to be prepared in accordance with the requirements of this circular.

38. *National parks.*—Whenever a right-of-way is through any of the national parks designated in the act, for purposes other than those excepted by the act of March 3, 1921, (regulation 7) the applicant must show to the satisfaction of the Department that the location and use of the right-of-way for the purposes contemplated will not interfere with the uses and purposes for which the park was originally dedicated, and will not result in damage or injury to the natural conditions of property or scenery existing therein. The applicant must also file such stipulations and bond as may be required by the Director of the National Park Service.

Whenever right-of-way within a park is desired for operations in connection with mining, quarrying, cutting timber, or manufacturing lumber, a satisfactory showing must be made of the applicant's right to engage in such operations within the park.

39. *Indian reservations.*—Applications for right-of-way, under the act of February 15, 1901, all of which is located upon land within an Indian reservation, and applications for right-of-way affecting lands within and without Indian reservations must be filed in the local land office for forwarding to the Commissioner of the General Land Office. Before such applications are transmitted to the Department, they will be submitted by the Commissioner of the General Land Office to the Commissioner of Indian Affairs for such action and recommendation as that officer may deem proper in so far as the same pertains to such Indian reservation. Attention is directed to the provisions of section 3 of the act of March 3, 1901 (31 Stat. 1083), which authorizes the granting of permanent rights-of-way, in the nature of easements, for telegraph and telephone purposes only, through Indian reservations and other Indian lands, upon payment of proper compensation for the benefit of the Indians interested therein. The provisions of the act of March 3, 1901, and the nature and character of the rights authorized to be secured thereunder differ materially from the provisions of the act on which these regulations are based and the rights authorized to be conferred thereunder. Applicants desiring to secure permanent rights-of-way through Indian reservations or other Indian lands for telegraph and telephone purposes will, therefore, be required to submit their applications under the act of March 3, 1901, supra, in accordance with the then current regulations issued thereunder. (For existing regulations under said act, see Indian Office regulations approved May 22, 1928.)

RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES

40. *Statutory authority.*—The act of March 4, 1911 (36 Stat. 1253; 43 U. S. C. 961), authorizes the head of the department having jurisdiction over the lands, under such regulations as may be fixed by him to permit the use of rights-of-way for a period not exceeding fifty years, over and across public lands and reservations of the United States, for telephone and telegraph lines to the extent of twenty feet on each side of the center line of such telephone and telegraph lines, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under said act.

41. *Jurisdiction over land.*—For the purposes of this statute, national parks, Indian reservations, and reservations for water power sites, irrigation, classification of lands, or other purposes, created under the withdrawal act of June 25, 1910 (36 Stat. 847), are considered to be under the jurisdiction of the Department of the Interior; military reservations under the jurisdiction of the War Department; and reservations created for the special occupancy, use, or control of other departments under the jurisdiction of such departments, respectively. The Attorney General on February 3, 1912, advised the Secretaries of the Interior and Agriculture that, for this purpose, national forests are under the jurisdiction of the Department of Agriculture (29 Op. 303).

42. *Nature of permit.*—This act, which authorizes the granting of easements for telephone and telegraph lines for stated periods not to exceed 50 years, follows, as closely as is possible in the accomplishment of its purposes, the language of the act of February 15, 1901 (31 Stat. 790), which authorizes mere revocable permits or licenses not only for such lines but for other purposes.

RIGHTS-OF-WAY THROUGH NATIONAL FORESTS FOR DAMS, RESERVOIRS, WATER PLANTS, DITCHES, FLUMES, PIPES, TUNNELS, AND CANALS FOR MUNICIPAL OR MINING PURPOSES

43. *Statutory authority.*—Section 4 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 524), grants rights-of-way through national forests to citizens and corporations of the United States, for the construction and maintenance of dams, reservoirs, water plants, pipes, tunnels, and canals, for municipal or mining purposes, during the period of the beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

44. *Commencement of construction.*—No construction will be allowed in national forests until an application for right-of-way has been regularly filed in accordance with these regulations and has been approved by the Secretary of the Interior, or unless permission has been specifically given.

45. *Nature of grant.*—Grants made under the act are base fees with possibility of reverter to the Government in the event the grantee or successor ceases to use or retain the lands for the purposes for which they were granted. No right, whatever, is given to take any material, earth, or stone for construction or other purposes, nor is any right given to use any land outside of what is actually necessary for the construction and maintenance of the works.

46. *Water plant structures.*—When application is made for right-of-way for water plants, regulation 36 should be followed, with appropriate changes in the prescribed forms.

47. *Unsurveyed lands.*—Maps showing reservoirs, canals, water plants, etc., wholly upon unsurveyed lands, will be received and acted upon in the manner prescribed for surveyed lands.

RIGHTS-OF-WAY OVER PUBLIC LANDS FOR TRAMROADS, TRAMWAYS, LOGGING AND OTHER ROADS

48. *Statutory authority.*—The act of January 21, 1895 (28 Stat. 635; 43 U. S. C. 956), authorizes the Secretary of the Interior under such regulations as may be fixed by him to permit the use of rights-of-way over the public lands of the United States, for tramroads to the extent of fifty feet on each side of the center line of the tramroad, by any citizen or association of citizens of the United States, engaged in the business of mining, or quarrying or of cutting timber and manufacturing lumber. The act does not authorize the use of rights-of-way within the limits of any park, national forest, military reservation or Indian reservation.

49. *"Tramroads" defined.*—This act has been superseded by other acts given in this circular, except as to tramroads. "Tramroads" is considered as including "tramways," narrow-gauge railroads, and wagon or motor-truck roads to be used in connection with mining, quarrying, logging, and the manufacturing of lumber.

50. *Nature of permit.*—Permission to use rights-of-way for tramroads over public lands, when granted, only confers a right in the nature of a license and is subject to all the conditions and limitations hereinbefore stated in regulation 34.

RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR HIGHWAYS AND ROAD-BUILDING MATERIAL SITES

51. *Statutory authority.*—Section 17 of the Federal Aid Highway Act of November 9, 1921 (42 Stat. 212; 23 U. S. C. 18), authorizes the transfer of public lands and reservations of the United States to the State highway departments on determination by the Secretary of Agriculture that such lands are necessary for the right-of-way for any highway or forest road or as a source of materials for the construction and maintenance of such roads and highways, and after his request for such transfer with a map showing the portions of such lands which it is desired to appropriate.

This statute provides that if within a period of four months after such filing the Secretary of the Interior shall not have certified to the Secretary of Agriculture that the proposed transfer of such lands is contrary to public interest or inconsistent with the object of the Government, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the protection of the Government's interest, then such land or materials may be appropriated and transferred to the State highway departments for such purposes. If and when the need for any such land or materials shall no longer exist, notice of that fact must be given by the State highway department to the Secretary of Agriculture, and such lands or materials will immediately revert to the control of the Department of the Interior.

52. *Filing of application.*—Where a highway is to be constructed or improved under the provisions of the act of November 9, 1921, and the amendment or supplements thereto, the State highway departments may take advantage of the provisions of section 17 of said act by filing application and maps with the register of the land office for the district in which the lands affected are situated, in the manner prescribed by regulations 1 and 4. Application for rights-of-way under section 17 of said act should be filed by the State highway department of the particular State and not by any political subdivision of the State. No application will be received by the register under said section 17 for right-of-way for highways or material sites affecting lands entirely within a national forest or an Indian reservation.

53. *Action on application.*—Upon receipt of an application in the local land office, filed under section 17, action thereon will be taken in accordance with regulation 8. If unpatented lands are affected, the register will forward the application and map, or set of maps, to the General Land Office and will return the duplicate map, or maps, to the State highway department which will forward them to the Bureau of Public Roads for submission to the Secretary of Agriculture for his determination that the lands are necessary for right-of-way for the highway or road-building material site purpose, as required by the act.

RIGHTS-OF-WAY FOR ROADS AND HIGHWAYS OVER PUBLIC LANDS

54. *Statutory authority.*—By section 2477, U. S. R. S., 43 U. S. C. 932, it is provided:

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

55. *When grant becomes effective.*—This grant becomes effective upon the construction or establishing of highways, in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under the act, as no action on the part of the Federal Government is necessary.

RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPE LINES AND PUMPING PLANT SITES

56. *Statutory authority.*—Section 28 of the act of February 25, 1920 (41 Stat. 437), as amended by the act of August 21, 1935 (49 Stat. 674; 30 U. S. C. 185), authorizes the Secretary of the Interior to grant rights-of-way through the public lands, including the forest reserves of the United States, for pipe line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of the act, to the extent of the ground occupied by the said pipe line and twenty feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by him, and upon the express conditions, provisions, and limitations enumerated in said section 28.

Section 29 of said act provides, in part:

"That any permit, lease, occupation, or use permitted under this Act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights of way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this Act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes."

57. *Qualification of applicants.*—Applications may be filed by citizens of the United States, or association of such persons, any corporation organized under the laws of the United States, or of any State or Territory, and municipalities.

58. *Use of pipe line.*—The applicant shall state in the application (preferably in the certificate written on the face of the map), the specific use, within the purview of the act, to which the pipe line is to be put, and any approval of the grant for the right-of-way shall be limited to such specific use, unless otherwise stated in the approval. No change in the use of the pipe line, other than that authorized by the approval, shall be allowed except with approval in writing first obtained from the Secretary of the Interior, and upon such terms and conditions as the Secretary may prescribe as a prerequisite to the approval of the change of use.

59. *Approval of right-of-way.*—The approval of such rights-of-way grant shall be subject to the express conditions that the use of the pipe line for the transportation of oil, gas, or other similar natural products, shall be limited to such products produced in conformity with State and Federal laws, including laws prohibiting waste.

60. *Pumping plant site.*—By opinion of December 2, 1931 (36 Op. Atty. Gen. 480), the Attorney General held that under section 28 of the act there may be granted a site for a pumping station reasonably necessary to the operation of a pipe line on a right-of-way granted under the section.

61. *Trespass.*—Any occupancy or use of public lands, including reservations, parks, or national forests, without proper authority, constitutes a trespass.

FRED W. JOHNSON,
Commissioner, General Land Office.

I concur:
W. C. MENDENHALL,
Director of Geological Survey.

Approved, May 23, 1938
OSCAR L. CHAPMAN,
Assistant Secretary.

FORMS[1]

[Forms to be placed on maps]

FORM 1

STATE OF _____
County of _____, *ss:*

_____, being duly sworn, says he is the chief engineer of (or the person employed to make the survey by) the _____ Company; that the survey of said company's (canals, ditches, and reservoirs), as described and shown on this map (being a total length of canals, ditches, and laterals of _____ miles, and a total area of reservoirs of _____acres), was made by him (or under his direction) as chief engineer of the company (or as surveyor employed by the company) and under authority, commenced on the _____ day of _____ 19____, and ending on the _____ day of _____ 19____, (and that the survey of the said canals, ditches, laterals, and reservoirs) accurately represents (a proper grade line for the flow of water, and accurately represents a level line, which is the proposed water line of the said reservoir), and that such survey is accurately represented upon this map. (And no lake or lake bed, stream or stream bed, is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map.)

_____

_____

Sworn and subscribed to before me this _____ day of _____, 19____.

[SEAL] _____
Notary Public.

FORM 2

I, _____, do hereby certify that I am President of the _____ Company; that _____, who subscribed the accompanying affidavit, is the chief engineer of (or was employed to make the survey by) the said company; that the survey of the said (canals, ditches, laterals, and reservoirs), as accurately represented on this map, was made under authority of the company; that the company is duly authorized by its articles of incorporation to construct the said (canals, ditches, laterals, and reservoirs) upon the location shown upon this map; that the said (canals, ditches, laterals, and reservoirs), as represented on this map, was adopted by the company, by resolution of its board of directors, on the _____ day of _____ 19____, as the definite location of the said (canals, ditches, laterals, and reservoirs) and that no lake or lake bed, stream or stream bed is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map; and that the map has been prepared to be filed for the approval of the Secretary of the Interior, in order that the company may obtain the benefits of (sections 18 to 21, inclusive, of the acts of Congress approved March 3, 1891, entitled "An act to repeal timber-culture laws, and for other purposes," and section 2 of the act approved May 11, 1898); and I further certify that the right-of-way herein described is desired for the main purpose of irrigation.

[SEAL OF THE COMPANY] _____
President of the _____ Company.

Attest:

_____
Secretary.

[Forms for proof of construction]

FORM 3

STATE OF _____,
County of _____, *ss:*

_____, being duly sworn, says that he is the chief engineer of (or was employed to supervise or check the construction of the canals, ditches, laterals, and reservoirs of) the _____ Company; that said (canals, ditches, laterals, and reservoirs) have been constructed under his supervision; that construction was commenced on the _____ day of _____, 19____, and completed on the _____ day of _____, 19____; that the constructed (canals, ditches, laterals, and reservoirs) as aforesaid, conform to the map which received the approval of the Secretary of the Interior on the _____ day of _____, 19____.

_____

_____

Sworn and subscribed to before me this _____ day of _____, 19____.

_____

FORM 4

I, _____, do certify that I am the President of the _____ Company; that the (canals, ditches, laterals, and reservoirs) were actually constructed as set forth in the accompanying affidavit of _____, chief engineer (or the person employed by the company in the premises), and on the exact location represented on the map approved by the Secretary of the Interior on the _____ day of _____, 19____; and that the company has in all things complied with the requirements of the act of Congress. (March 3, 1891, granting rights-of-way for canals, ditches, and reservoirs through the public lands of the United States.)

[SEAL OF COMPANY] _____
President of the _____ Company.

Attest:

_____
Secretary.

Forms for Water Plants Only

Act of February 15, 1901, or February 1, 1905

FORM 5

STATE OF_____
*County of*_____, *ss:*

_____, being duly sworn, says he is the chief engineer of (or the person employed by) the _____ Company, under whose supervision the survey was made of the grounds selected by the company for structures for a water plant under the act of Congress approved February 15, 1901 (or act of February 1, 1905), said grounds (here describe as required by regulation 36); that the accompanying drawing correctly represents the locations of the said structures; and that in his belief the structures represented are actually and to their entire extent required for the necessary uses contemplated by the said act of February 15, 1901 (31 Stat. 790), (or February 1, 1905).

_____
Chief Engineer.

Subscribed and sworn to before me this _____ day of _____ 19____.

[SEAL] _____
Notary Public.

FORM 6

I, _____, do hereby certify that I am the President of the _____ Company; that the survey of the structures represented on the accompanying drawing was made under authority and by direction of the company, and under the supervision of _____, its chief engineer (or the person employed in the premises), whose affidavit precedes this certificate; that the survey as represented on the accompanying drawing actually represents the structures required (here describe as required by regulation 36) for water plant, under the act of Congress approved February 15, 1901 (or act of February 1, 1905); and that the company, by resolution of its board of directors, passed on the _____ day of _____ 19____, directed the proper officers to present the said drawing for the approval of the Secretary of the Interior in order that the company may obtain the use of the grounds required for said structures, under the provisions of said act approved February 15, 1901 (31 Stat. 790), or (February 1, 1905).

[SEAL OF THE COMPANY] _____
President of the _____ Company.

Attest:

_____
Secretary.

FORM 7

Reservoir declaratory statement

Under act of January 13, 1897 (29 Stat. 484)

Res. D. S.

Land Office at _____

No. _____

_____, 19____

I, _____, of _____, do hereby certify that I am President of the _____ company, and on behalf of said company, and under its authority, do hereby apply for the reservation of land in _____ County, State of _____, for the construction and use of a reservoir for furnishing water for livestock under the provisions of the act of January 13, 1897 (29 Stat. 484). The location of said reservoir and of the land necessary for its use, is as follows: _____ of section _____ in township _____, of range _____ M., containing _____ acres.

I hereby certify that to the best of my knowledge and belief the said land is not occupied or otherwise claimed, is not mineral or otherwise reserved, and that the said reservoir is to be used in connection with the business of the applicant of_____

_____

The land owned or claimed by the applicant within the vicinity of the said reservoir (within 3 miles) is as follows:

_____

I further certify that no part of the land to be reserved under this application is or will be fenced; that the same shall be kept open to the free use of any person desiring to water animals of any kind; that the land will not be used for any purpose except the watering of stock; and that the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Land Department.

The water of said reservoir will cover an area of _____ acres in _____ of section _____ in township _____, of range _____ of said lands; the capacity of the reservoir will be _____ gallons, and the dam will be _____ feet high. The source of the water for said reservoir is _____

_____

and there are no streams or springs within two miles of the land to be reserved except as follows: _____

_____

The applicant has filed no other declaratory statements under this act except as follows:

No. _____, _____ land office, area to be reserved _____ acres.
No. _____, _____ land office, area to be reserved _____ acres.
No. _____, _____ land office, area to be reserved _____ acres.
No. _____, _____ land office, area to be reserved _____ acres.
Total, _____ acres, of which Nos. _____ are located in said county.

And I further certify that it is the *bona fide* purpose and intention of this applicant to construct and complete said reservoir and maintain the same in accordance with the provisions of said act of Congress and such regulations as are or may be prescribed thereunder.

[SEAL OF COMPANY] _____

Attest:

_____
Secretary.

STATE OF_____
County of _____, *ss:*

_____, being duly sworn, deposes and says that the statements herein made are true to the best of his knowledge and belief.

_____

Sworn to and subscribed before me this _____ day of _____, in the year 19____.

_____
Notary Public.

Land Office at _____

_____, 19____.

I, _____, register of the land office, do hereby certify that the foregoing application is for the reservation of lands subject thereto under the provisions of the act of January 13, 1897; that there is no prior valid adverse right to the same; and that the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and ruling of the Land Department.

Fees, $_____ paid.

_____
Register.

FORM 8

STATE OF _____
County of _____, *ss:*

_____, being duly sworn, says that he is the person who was employed to make the survey of a reservoir covering an area of _____ acres, the initial point of the survey being _____ (here describe as required by regulation 4a), said reservoir having been constructed upon the _____ quarter of the _____ quarter of section _____, township _____, range _____, _____ principal meridian, as proposed by reservoir declaratory statement No. _____, which was filed in the local land office at _____, under the provisions of the act of January 13, 1897 (29 Stat. 484); that the said survey was made on the _____ day of _____, 19____; that the dam and all necessary works have been constructed in a substantial manner; that the reservoir has a capacity of _____ gallons, and at the time of said survey contained _____ gallons of water.

_____

Sworn and subscribed to before me this _____ day of _____, 19____.

_____
Notary Public.

FORM 9

I, _____, do hereby certify that I am the President of the _____ company which filed (or that I am the person who filed) reservoir declaratory statement No. ____ in the local land office at _____; that the reservoir proposed has been constructed upon the _____ quarter of the _____ quarter of section _____, township _____, range _____, _____ principal meridian, covering an area of _____ acres, the initial point of the survey being _____ (describe as in Form 8); that the dam and all necessary works have been constructed in a substantial manner in good faith in order that the reservoir may be used and maintained for the purpose, and in the manner prescribed by the said act of January 13, 1897 (29 Stat. 484), the provisions of which have been and will be complied with in all respects.

[SEAL OF COMPANY] _____
President of Company.

Attest:

_____
Secretary.

FORM 10

STATE OF _____
County of _____, *ss:*

_____, being duly sworn, deposes and says that he is the President of the _____ company which filed (or that he is the person who filed) reservoir declaratory statement No. _____, in the local land office at _____; that the reservoir constructed in pursuance thereof, as heretofore certified, has been kept in repair; that the water has been kept therein to the extent of not less than _____ gallons during the entire calendar year of 19____; that neither the reservoir nor any part of the land reserved for use in connection therewith is or has been fenced during said years; and that the said company has in all things complied with the provisions of the act of January 13, 1897 (29 Stat. 484).

_____
President of _____ Company.

Sworn and subscribed to before me this _____ day of _____ 19____.

[SEAL] _____
Notary Public.

[F. R. Doc. 38-1530; Filed, May 31, 1938; 9:51 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 209, OREGON NO. 26, REDUCED

MAY 23, 1938.

Departmental order of January 19, 1937, withdrawing certain lands in Oregon for stock driveway purposes under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144) is hereby revoked in so far as it affects the following-described land:

WILLAMETTE MERIDIAN

T. 11 S., R. 26 E., sec. 34, S½ of S½, 160 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1529; Filed, May 31, 1938; 9:49 a. m.]

National Bituminous Coal Commission.

[Docket No. 68-FD]

IN THE MATTER OF THE APPLICATION OF THE SUNSHINE ANTHRACITE COAL COMPANY FOR CERTIFICATE OF EXEMPTION FILED PURSUANT TO ORDER NO. 28

NOTICE OF CONTINUANCE OF ORAL ARGUMENT ON EXCEPTIONS TO PROPOSED REPORT OF THE COMMISSION

Notice is hereby given that the oral argument on the adoption of the proposed report of the Commission and the exceptions of the Sunshine Anthracite Coal Company thereto, now set for the first day of June, 1938, commencing at the hour of 10 o'clock A. M. before the Commission in the Hearing Room at Washington, D. C., is hereby continued to a time and place to be determined upon five days notice to the applicant, the Sunshine Anthracite Coal Company.

The Secretary of the Commission is forthwith directed to telegraph notice of this continuance, provided for herein, to the Sunshine Anthracite Coal Company, and mail copies of this notice to the Sunshine Anthracite Coal Company, the Consumers' Counsel, and to the Secretaries of the Bituminous Coal Producers Boards, and shall cause a copy of same to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of May, 1938.

[SEAL] E. C. FARIS, JR.,
Acting Secretary.

[F. R. Doc. 38-1531; Filed, May 31, 1938; 10:52 a. m.]

[1] Where necessary, these forms shall be modified so as to be appropriate to the applicant (corporation, association, or individual), to the act invoked, and to the nature of the project.

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

Pursuant to call under authority of Section 4405 of the Revised Statutes by the Honorable Daniel C. Roper, Secretary of Commerce, an Executive Committee meeting of the Board of Supervising Inspectors, Bureau of Marine Inspection and Navigation, consisting of R. S. Field, Director; George Fried, Supervising Inspector, Second District; and Chester Willett, Supervising Inspector, Sixth District; was held in the hearing room of the auditorium, Department of Commerce, Washington, D. C., on May 24, 1938.

The following resolutions were unanimously adopted by the Executive Committee and were approved by the Secretary of Commerce:

[Resolution No. 3454]

REPORTS OF ACCIDENTS TO VESSELS

Resolved, That under authority of Sections 4405 and 4448, R. S., Rule V be and hereby is amended by the deletion of Section 16 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

The licensed officer in command of any vessel shall report in writing and in person to the board of local inspectors nearest the port of first arrival any accident to said vessel involving loss of life or damage to property to an approximate amount exceeding $500 and shall also report in the same manner any casualty or loss of life from whatever cause of any person on board such vessel and any stranding or grounding, whether or not any damage has been sustained by the vessel: Provided, That when from distance it may be inconvenient to report in person it may be done in writing only, and the report sworn to before any person authorized to administer oaths.

Whenever a vessel commanded by an officer licensed by the Bureau collides with a lightship, buoy, or other aid to navigation under the jurisdiction of the Bureau of Lighthouses, or is connected with any such collision, it shall be the duty of the licensed officer in command of such vessel to report the accident to the nearest local office of the Bureau. When any collision of this character is reported to a local office, that office shall immediately transmit such information to the superintendent of lighthouses of the district in which the collision occurred.

Whenever in an investigation of an accident to a vessel, made by the Bureau, it is stated by the officers of the vessel concerned, or it is developed by the investigation, or it is stated in a report of an accident, that the accident was due to a collision with a light vessel, buoy, or other aid to navigation under the jurisdiction of the Lighthouse Service, or to any fault of any such aid, or to the lack of such aid, the local inspectors investigating the case, or to whom the report was made, shall promptly report to the Commissioner of Lighthouses, through the supervising inspector of the district and the Director, on the form provided for the purpose, the location of the accident; the aid to navigation near or at which the accident occurred; the nature of the accident; the alleged cause of the accident; whether or not the accident was due to some alleged fault of the aid, either in its operation or location; the proposed improvement in the aid, if such has been suggested; and all other information or suggestions coming to them which would be of value to the Lighthouse Service. If an investigation was held, the findings of the board shall also be reported. Local Inspectors shall also report in the same manner any other information or suggestions coming to them concerning the need of additional aids to navigation or the modification of any existing aids.

The Bureau is authrized to call on the superintendent of lighthouses of the district for any information concerning aids to navigation that will be useful in an investigation of an accident.

[Resolution No. 3454–1]

REPORTS OF ACCIDENTS TO TANK VESSELS

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of sub-sections V–2–9 (c) (d) and (e) and the insertion of the following in their stead:

(c) Whenever a tank barge in tow collides with a light ship, buoy, or other aid to navigation under the jurisdiction of the Bureau of Lighthouses, or is connected with any such collision, it shall be the duty of the person in command of the towing vessel to report the accident to the nearest Board of Local Inspectors, and any collision of this character reported to the Local Inspectors shall be immediately transmitted to the Superintendent of Lighthouses of the District in which the collision occurs.

(d) Whenever in an investigation of an accident it develops that such accident was due to a collision with a light vessel, buoy, or other aid to navigation under the jurisdiction of the Lighthouse Service or to any fault of any aid or through the lack of such aid, the Bureau shall promptly notify the Commissioner of Lighthouses on the form provided for the purpose, the location of the accident; the aid to navigation near or at which the accident occurred; the nature of the accident; the alleged cause of the accident; whether or not the accident is due to some alleged fault of the aid, either in its operation or location; the proposed improvement in the aid; and all other information or recommendations developed in the investigation which would be of value to the Lighthouse Service.

Renumber present sub-section (f) to sub-section (e).

[Resolution No. 4310]

ALTERNATIVE PROCEDURES TO GOVERN NEW DESIGNS OR METHODS OF CONSTRUCTION

Resolved, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following section immediately after Section C–1–16, to read as follows:

"C–1–17. *Alternative procedures to govern new designs or methods of construction.*—When new procedures, designs, or methods of construction are submitted for approval, the Bureau is authorized to act regarding the approval or disapproval of such new developments for which no rules have been provided."

[Resolution No. 4311]

GASKETS

Resolved, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraph immediately after paragraph C–6–3 (i), to read as follows:

"C–6–3 (j) The minimum width of bearing surface for a gasket on a manhole opening shall be 11/16 inch. No gasket for use on a manhole or handhole of any boiler shall have a thickness greater than ¼ inch, when compressed."

[Resolution No. 4312]

FLUE OPENINGS IN HEADS OF EXTERNALLY FIRED FLUE BOILERS

Resolved, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, Section C–6–3 (g) be and hereby is amended by the following:

Delete the words:

"The depth of the flange shall be as hereinafter specified."

Substitute the words:

"*Provided*, That on externally fired flue boilers the inner radius of the flange for the flue openings shall be at least equal to one and one-half times the thickness of the plate."

so that the amended paragraph shall read:

"C–6–3 (g) The inner radius of the bend of the flange of any flanged opening (except manholes or other access opening as specified in C–5–3 (i) shall not be less than three times the thickness of the flanged plate. Provided, that on externally fired flue boilers the inner radius of the flange for the flue openings shall be at least equal to one and one-half times the thickness of the plate."

[Resolution No. 4313]

INSPECTION OF STEAM VESSELS SUBJECT TO THE PROVISIONS OF THE MOTOR BOAT ACT OF JUNE 9, 1910

Resolved, That under the authority of Sections 4405, 4418 and the Motor Boat Act of June 9, 1910, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following section immediately following Section I–18–13:

"I–18–14. *Inspection of Steam Vessels subject to the provisions of the Motor Boat Act of June 9, 1910.*—(a) Such vessels are subject to approval of design of boilers and machinery by the local inspectors and thereafter subject to inspection in accordance with the following instructions:

(b) The maximum allowable working pressure shall be computed by Rule II, Section 2, paragraph C–2–3, Formula No. 1.

(c) The hydrostatic tests shall be applied in accordance with the requirements of Rule II, Section 18, paragraph I–18–4.

(d) In addition to the hydrostatic tests, the boiler shall be examined and tested as provided in the paragraphs I–18–4 (b) to (j), inclusive.

(e) The mountings and attachments shall be examined in accordance with the provisions of Rule II, Section 18, paragraph I–18–5, and the boilers equipped with fusible plugs as specified in this paragraph.

(f) An examination of equipment and conditions outside of the boilers shall be made in accordance with the requirements of Sections I–18–6, I–18–7, and I–18–8, Rule II.

(g) Although certificates of inspection shall not be issued, there shall be, in addition to the letter approving the design, another letter given to the owner at each inspection, either approving the condition of the boiler or citing what requirements are necessary to put it in a safe condition, which letter shall be kept on board.

(h) Where new boilers are installed on vessels of this class, the material, design, and construction shall conform to all the requirements of Rules I and II.

(i) Forms A and B shall be used in the approval of design and annual inspection of boilers, respectively, and shall be given to the owner to be kept on board the vessel where they may be examined upon request."

[Resolution No. 4314]

WELDED SEA CHESTS

Resolved, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following section immediately after Section P–19–16, to read as follows:

"P–19–17. *Welded sea chests.*—Sea chests may be constructed by fusion welding, provided the design is first approved by the Bureau and the welding is done by approved operators who have passed the Bureau's qualification tests, and, provided further, that approved welding rods are used in their construction. This condition also applies to the attachment of sea chests to shells of vessels."

[Resolution No. 4315]

METHOD FOR REPAIRING FURNACE CROWNS

Resolved, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraph immediately after paragraph S–21–5 (e), to read as follows:

"S–21–5 (f) *Method for repairing furnace crowns.*—Furnaces which have become distorted, not in excess of the limitations provided in S–21–5 (c), may be repaired by pumping back the distorted section to as nearly a true circle as possible and reinforcing the same by means of a ring fusion welded to the distorted corrugation, as shown in Fig. S–2–A, the welding work to be done by qualified welding operators using approved welding rods or electrodes."

[Resolution No. 4316]

APPROVAL OF WELDING RODS AND ELECTRODES

Resolved, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraphs immediately after paragraph W–20–3 (m), to read as follows:

"W–20–3 (n) *Approval of Welding Rods and Electrodes.*—Welding rods or electrodes are required to be approved by the Bureau before they can be used in the fabrication of boilers, pressure vessels and engineering equipment on vessels subject to the jurisdiction of the Bureau.

(o) To obtain approval of welding rods or electrodes manufacturers shall submit to the Bureau, for test at the National Bureau of Standards, specimens of deposited metal made in the presence of an inspector. Scientific data and facts shall also be submitted to show that dependable sound welds can be made with the products on which approval is desired. Instructions for the preparation of test coupons may be obtained upon application to the Bureau."

[Resolution No. 4317]

SEAL AND TANK WELDING

Resolved, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraph immediately after Section W–20–12 (q), to read as follows:

"W–20–12 (r) *Seal and Tack Welding.*—Seal welding, i. e., the laying of a single bead of welding on the calking edge of a plate may be permitted, provided the welding rod or electrode has a diameter not exceeding $\frac{3}{8}$ inch. Tack welding, for the purpose of attaching internal baffles, strainers, or external lugs for securing lagging and similar purposes, will be permitted, provided the welds do not exceed ¼ inch in depth and 2 inches in length and are spaced at least 2 inches apart or made continuous. In both cases, however, it is required that the work be done by qualified welding operators using approved welding rods or electrodes."

[Resolution No. 4318]

SEARCHLIGHTS

Resolved, That under authority of Sections 4405, 4412, 4439 and 4442, R. S., the "Rule Relating to the Use of Searchlights" be and hereby is amended by the deletion of the present

rule appearing on page 33 of Pilot Rules for Certain Inland Waters of The Atlantic and Pacific Coasts and of the Coast of The Gulf of Mexico, page 11 of Pilot Rules for The Great Lakes and Their Connecting and Tributary Waters, and page 9 of Pilot Rules for the Rivers Whose Waters Flow Into The Gulf of Mexico and Their Tributaries and the Red River of the North and the insertion of the following in its stead:

Any master or pilot of any vessel who shall flash or cause to be flashed the rays of the searchlight into the pilot house of a passing vessel may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4318–1]

SEARCHLIGHTS

Resolved, That under authority of Sections 4405, 4412, 4439 and 4442, R. S., Rule V be and hereby is amended by the deletion of Section 26, Ocean and Coastwise; Section 25, Great Lakes; Section 26, Bays, Sounds and Lakes other than the Great Lakes; and Section 24, Rivers; and the insertion of the following in its stead:

Any master or pilot of any vessel who shall flash or cause to be flashed the rays of the searchlight into the pilot house of a passing vessel may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4318–2]

SEARCHLIGHTS

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V–2–7 and the insertion of the following in its stead:

V–2–7. *Searchlights.*—T/ALL. Any master of any vessel who shall flash or cause to be flashed the rays of the searchlight into the pilot house of a passing vessel may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4319]

RULE PROHIBITING UNNECESSARY SOUNDING OF THE WHISTLE

Resolved, That under the authority of Sections 4405 and 4412, R. S., the rule appearing on pages 33 and 34 of the Pilot Rules for Certain Inland Waters of The Atlantic and Pacific Coasts and of the Coast of The Gulf of Mexico, page 9 of Pilot Rules for the Rivers Whose Waters Flow Into the Gulf of Mexico and Their Tributaries and the Red River of the North, and page 11 of Pilot Rules for the Great Lakes and Their Connecting and Tributary Waters, entitled "Rule Prohibiting Unnecessary Sounding of the Steam Whistle," be and hereby is deleted and the following is inserted in its stead:

RULE PROHIBITING UNNECESSARY SOUNDING OF THE WHISTLE

Unnecessary sounding of the whistle is prohibited within any harbor limits of the United States. Whenever any licensed officer in charge of any vessel shall authorize or permit such unnecessary whistling, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4319–I]

WHISTLING

Resolved, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 22, Ocean and Coastwise; Section 26, Great Lakes; Section 24, Bays, Sounds and Lakes other than the Great Lakes; and Section 20, Rivers; and the insertion of the following in its stead:

Unnecessary sounding of vessel's whistle is prohibited within any harbor limits of the United States. Whenever any licensed officer in charge of any vessel shall authorize or permit such unnecessary whistling, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4319–2]

WHISTLING

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V–2–8 and the insertion of the following in its stead:

V–2–8. *Whisting.*—T/ALL. Unnecessary sounding of vessel's whistle is prohibited within any harbor limits of the United States. Whenever any licensed officer in charge of any tank ship shall authorize or permit such unnecessary whistling, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4320]

RULE PROHIBITING THE CARRYING OF UNAUTHORIZED LIGHTS ON VESSELS

Resolved, That under authority of Sections 4405 and 4412, R. S., the rule appearing on page 34 of the Pilot Rules for Certain Inland Waters of The Atlantic and Pacific Coast and of The Coast of The Gulf of Mexico, page 9 of Pilot Rules for the Rivers Whose Waters Flow Into the Gulf of Mexico and Their Tributaries and the Red River of the North, and page 11 of Pilot Rules for The Great Lakes and their Connecting and Tributary Waters, entitled "Rule Prohibiting the Carrying of Unauthorized Lights on Vessels," be and hereby is deleted and the following is inserted in its stead:

RULE PROHIBITING THE CARRYING OF UNAUTHORIZED LIGHTS ON VESSELS

Any master or pilot of any vessel who shall authorize or permit the carrying of any light, electric or otherwise, not required by law that in any way will interfere with distinguishing the signal lights may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4320–I]

UNAUTHORIZED LIGHTS

Resolved, That under authority of Sections 4405, 4412, 4439 and 4442, R. S., Rule V be and hereby is amended by the deletion of Section 27, Ocean and Coastwise; Section 27, Great Lakes; Section 25, Bays, Sounds and Lakes other than the Great Lakes; and Section 25, River; and the insertion of the following in its stead:

Any master or pilot of any vessel who shall authorize or permit the carrying of any light, electric or otherwise, not required by law that in any way will interfere with distinguishing the signal lights may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4320–2]

UNAUTHORIZED LIGHTS

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V–2–6 and the insertion of the following in its stead:

V–2–6. *Unauthorized Lights.*—T/ALL. Any master or pilot of any vessel who shall authorize or permit the carrying of any light, electric or otherwise, not required by law that in any way will interfere with distinguishing the signal lights

may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4321]

PARTING WITH LICENSE

Resolved, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 8 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

If the holder of any license granted to a master, mate, engineer, or pilot, voluntarily parts with it or places it beyond his personal control by pledging or depositing it with any other person for any purpose, he may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4322]

LAWS, GENERAL RULES AND REGULATIONS, AND PILOT RULES TO BE FURNISHED LICENSED OFFICERS

Resolved, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 12 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

Every master, mate, pilot, and engineer of vessels shall, when receiving an original license, a renewed license, or a raise of grade of license, be furnished by the inspectors with a copy of the Laws Governing Marine Inspection, and a copy of the General Rules and Regulations Prescribed by the Board of Supervising Inspectors, and every master and pilot of vessels and operator of motor vessels shall, when receiving an original license, a renewed license, or a raise of grade of license, be furnished by the inspectors with a pamphlet copy of the rules and regulations governing pilots and of the statutes upon which such rules are founded, applicable to the waters on which their licenses are intended to be used, as stated in the body thereof.

[Resolution No. 4323]

SUSPENSION AND REVOCATION OF LICENSE

Resolved, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 13 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

When the license of any master, mate, engineer, or pilot is revoked such license expires with such revocation and any license subsequently granted to such person shall be considered in the light of an original license except as to number of issue. And upon the revocation or suspension of the license of any such officer said license shall be surrendered to the local inspectors or the supervising inspector who shall forward same to the Director. Such surrender will not obtain in those instances where the officer desires to avail himself of the appeal provisions of Section 4450, R. S., as amended, until a determination of his appeal. No person whose license has been suspended or revoked shall be issued another license except upon approval of the Director.

When the license of any master, mate, engineer or pilot is suspended the Director shall determine the length of its duration, except that such suspension shall not extend beyond the time for which the license was issued. When the Director suspends a license which is about to expire, he may withhold the renewal of such license for such time as he considers necessary.

[Resolution No. 4323–I]

SUSPENSION OR REVOCATION OF LICENSE

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B–1–17 and the insertion of the following in its stead:

B–1–17. *Suspension or Revocation of License.*—T/ALL. When the license of any master, mate, engineer, or pilot is revoked such license expires with such revocation and any license subsequently granted to such person shall be considered in the light of an original license except as to number of issue. And upon the revocation or suspension of the license of any such officer said license shall be surrendered to the local inspectors or the supervising inspector. Such surrender will not obtain in those instances where the officer desires to avail himself of the appeal provisions of Section 4450, R. S., as amended, until a determination of his appeal. No person whose license has been suspended or revoked shall be issued another license except upon approval of the Director.

When the license of any master, mate, engineer or pilot is suspended the Director shall determine the length of its duration, except that such suspension shall not extend beyond the time for which the license was issued. When the Director suspends a license which is about to expire, he may withhold the renewal of such license for such time as he considers necessary.

[Resolution No. 4324]

MISCONDUCT OF LICENSED OFFICERS

Resolved, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 14 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

Whenever a supervising, local, or assistant inspector of steam vessels or any of them shall find on board any vessel subject to the provisions of these regulations any licensed officer under the influence of liquor or other stimulant to such an extent as to unfit him for duty, or when any licensed officer shall use abusive or insulting language to an inspector or assault any such inspector while on official duty, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4324–I]

MISCONDUCT OF LICENSED OFFICERS

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B–1–18 and the insertion of the following in its stead:

B–1–18. *Misconduct of licensed officers.*—T/ALL. (a) Whenever a supervising, local, or assistant inspector of steam vessels or any of them shall find on board any vessel subject to the provisions of these regulations any licensed officer under the influence of liquor or other stimulant to such an extent as to unfit him for duty, or when any licensed officer shall use abusive or insulting language to an inspector or assault any such inspector while on official duty, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

(b) The fact of a licensed officer being under the influence of liquor in the presence of the inspector or inspectors to such an extent as to unfit him for duty while on board a vessel may be sufficient cause for instituting procedure under Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4325]

EXAMINATION OF BOILERS AND MACHINERY

Resolved, That under authority of Sections 4405, 4441 and 4448, R. S., Rule V be and hereby is amended by the deletion of Section 59, Ocean and Coastwise; Section 52, Great Lakes; Section 51, Bays, Sounds and Lakes other than the Great

Lakes; and Section 44, Rivers; and the insertion of the following in its stead:

It shall be the duty of an engineer when he assumes charge of the boilers and machinery of a vessel to examine the same forthwith and thoroughly, and if he finds any part thereof in bad condition, he shall immediately report the facts to the master, owner, or agent, and to the local inspectors of the district, who shall thereupon investigate the matter, and if the former engineer has been wilfully negligent in the performance of his duties, he may be proceeded against under the provisions of R. S. 4450 as amended looking to a suspension or revocation of his license.

[Resolution No. 4325–I]

EXAMINATION OF BOILERS AND MACHINERY

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V–3–1, and the insertion of the following in its stead:

V–3–1. *Examination of Boilers and Machinery.*—T/ALL. It shall be the duty of an engineer when he assumes charge of the boilers and machinery of a vessel to examine the same forthwith and thoroughly, and if he finds any part thereof in bad condition, he shall immediately report the facts to the master, owner, or agent, and to the local inspectors of the district, who shall thereupon investigate the matter, and if the former engineer has been wilfully negligent in the performance of his duties, he may be proceeded against under the provisions of R. S. 4450 as amended looking to a suspension or revocation of his license.

[Resolution No. 4326]

PARTING WITH LICENSE

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B–1–15 and the insertion of the following in its stead:

B–1–15. *Parting with license.*—T/ALL. If the holder of any license granted to a master, mate, engineer, or pilot, voluntarily parts with it or places it beyond his personal control by pledging or depositing it with any other person for any purpose, he may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4327]

CERTIFICATED TANKER MEN

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B–2–3 (a) and the insertion of the following in its stead:

B–2–3. *Certificated tanker men.*—TB/ALL. (a) Any applicant for a certificate as tanker man, not licensed as Master, Mate, Pilot or Engineer, shall be eligible for examination after he has furnished satisfactory documentary evidence to the local inspectors that he is trained in, and capable efficiently to perform the necessary operations on tank vessels which relate to the handling of cargo.

[Resolution No. 4328]

CERTIFICATED TANKER MEN

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B–2–3 (e) and the insertion of the following in its stead:

Such certificate may be suspended or revoked on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of license of officers under the provisions of Section 4450 of the Revised Statutes and the rules and regulations issued thereunder.

[Resolution No. 4329]

CERTIFICATED TANKER MEN

Resolved, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B–2–3 (f) and the insertion of the following in its stead:

(f) The certificate as tanker man shall be surrendered to the local inspectors by the holder upon the granting to him of a license.

[Resolution No. 4330]

CONSTRUCTION OF MOTION-PICTURE BOOTHS

Resolved, That under authority of Sections 4405 and 4472, R. S., Rule V, all classes of the General Rules and Regulations, be and hereby are amended by the addition of the following new section:

BOOTHS

Apparatus for projecting motion pictures using inflammable (nitrocellulose) film or slow-burning (acetate cellulose) film shall be contained in a fire-resistive booth or inclosure. It shall be not less than 7 feet in height and of horizontal area not less than 30 square feet for each projector. It shall not be located nearer than 10 feet to the principal exits of the room.

(a) *Construction of booth.*—The framework shall be constructed of structural steel angles or T irons not less than 1½ inches by 1½ inches by ¼ inch, spaced not more than 2 feet apart, or 2 inches by ¼ inch, when spaced from 2 feet to 4 feet apart, and shall be suitably braced to withstand lateral strains. It shall be securely anchored to the deck. The ton and sides of the booth shall be covered on the inside of the steel frame with a metal sheet not thinner than No. 20 gauge, inside of which is placed asbestos millboard not less than ¼ inch thick, all properly secured to the framework. Transite asbestos boards or asbestos wood may be used without the sheet-metal covering, provided the distance between supports or the ½-inch thickness does not exceed 2 feet; for the ⅜-inch thickness, 3 feet; for the ½-inch thickness, 4 feet. The door shall be constructed similar to the booth, and shall be not less than 2 feet wide and 5 feet high, shall be self-closing, fit its frame tightly, and be provided with proper latches. The floor shall be covered with one thickness of ⅜-inch asbestos millboard or transite board.

All joints shall be made smoke proof.

(b) *Openings in booth.*—The booth shall be provided with a ventilating inlet on each of the three sides, each to be about 15 inches long and 3 inches high, covered on the outside with wire netting of mesh not greater than ⅛ inch, securely fastened to the wall. In the top of the booth shall be located an air-outlet opening of not less than 100 square inches for each projector connected by a fire-resistive flue to a safe distance above the top deck if the booth is located below deck. The flue shall be securely supported on the framework of the booth. This is designed to provide for an air current through the booth, when operating, of 30 or more cubic feet per minute. If in the given location this is not accomplished, artificial ventilation, as by means of a fan within the booth, shall be introduced.

Two openings shall be provided at the front of the booth, one for the machine and the other for observation by the operator, the maximum area of each opening not to exceed 70 square inches. These openings as well as the air inlets near the bottom of the booth shall be provided with gravity doors made of iron or steel not less than 3/16 inch in thickness, of size to overlap the openings by at least 2 inches, and arranged to slide without binding in properly constructed grooves, the joint between door and wall to be smoke-tight when doors are closed; said doors to be held open normally by the use of a fine combustible cord fastened to a fusible link located above the projector which melts at a temperature of 71° C. (160° F.), the whole being so arranged that the doors will close automatically upon severing of the cord or the fusing of the link. Provision shall also be made for closing said doors by hand from the outside of the booth.

(c) *General requirements.*—All films on board shall at all times be kept within the operating booths, except as otherwise herein provided. They shall be contained in individual metal boxes, except for the film in the machine and the film immediately before it is placed in or immediately after removal from the machine. Where not over five 5-pound reels are present in the booth they may be placed on incombustible shelves, suitably secured against displacement by the motions of the boat. Where more than 5 reels but not more than 10 reels are present, they shall be kept in closed shelves or cabinets similar in construction to that of the walls of the booth. Where more than ten 5-pound reels are present, they are to be stored in an insulated firm cabinet, the cabinet to be constructed per appended specifications.

All rewinding and repair of film shall be conducted within the projecting booth, unless a place with equal safeguards is provided.

When in use the door of the booth shall be closed and when not in use it shall be locked.

The projecting machine is to be suitably secured against displacement by the motions of the boat. All electric wiring and connections shall conform with accepted standards for the given purpose (National Electric Safety Code or National Electric Code). No smoking, matches, or lights other than properly guarded electric lights shall be permitted within the booth.

CABINETS

(a) The size of a cabinet for the temporary storage of films on board shall not exceed 10 cubic feet, and shall not be used for storage at one time of more than forty 5-pound reels. The reels shall be contained within suitable metal containers and be held on racks in such manner as not to be displaced by the motions of the boat.

(b) The cabinet shall be constructed of incombustible materials throughout and shall be tightly enclosed. It may be of sheet iron of not less than No. 18 U. S. gage, stiffened with angle irons, double walled, with not less than 2 inches of space between walls, filled with incombustible insulating material, or equivalent construction. The door shall be constructed equivalent to the walls of the cabinet, shall be self-closing, fit closely, and be kept closed and locked at all times except when films are being removed from or placed in the cabinet. If the cabinet is located within the booth, the door of the cabinet shall open outward through the wall of the booth, with tight joints between the booth wall and the cabinet or door. The cabinet shall otherwise be kept in a hold for the storage of hazardous materials. The cabinet shall be secured to the deck by fastenings attached to the outer angle irons.

FIRE EXTINGUISHER REQUIRED

At least one fire extinguisher of a kind approved by the Board of Supervising Inspectors shall be placed near every such booth and be accessible at all times.

[Resolution No. 4408]

FIRE-FIGHTING EQUIPMENT ON VESSELS USING OIL AS FUEL

Resolved, That under authority of Sections 4405, 4470 and 4472, R. S., and Public 722 (Act of June 20, 1936), Rule IV, Ocean and Coastwise, General Rules and Regulations, be and hereby is amended by deleting Section 15 and inserting in its stead the following:

Steam-propelled vessels burning oil for fuel, and seagoing vessels in excess of 300 gross tons propelled by internal-combustion engines, except such vessels engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry, shall be fitted with the fire-fighting equipment of the type and character specified below:

1. In each fire room, a metal receptacle containing not less than 10 cubic feet of sand, sawdust impregnated with soda, or other approved dry materials, and scoop or shaker for distributing same: Provided, However, that vessels of 1,000 gross tons and under using oil as fuel, shall be fitted with a metal receptacle, containing not less than 5 cubic feet of sand, sawdust impregnated with soda, or other approved dry material, and scoop or shaker for distributing same.

2. In each boiler room and in each of the machinery spaces of vessels propelled by steam, in which a part of the fuel-oil installation is situated, two or more approved fire extinguishers of the foam type of not less than 2½ gallons each or two or more approved fire extinguishers of the carbon dioxide (CO_2) type of not less than 15 pounds each shall be placed where accessible and ready for immediate use; Provided, That on vessels of 1,000 gross tons and under only one of the above-described extinguishers may be required.

3. (a) The fire hose lines in boiler and machinery spaces of existing cargo vessels of 3,000 gross tons and over, and existing passenger vessels exceeding 500 gross tons, shall be equipped with not less than two approved spray nozzles attached to sufficient length of hose so that, in each case, any part of the boiler or engine room space may be reached. This equipment shall be kept in efficient condition and ready for immediate use at all times; Provided, That on existing cargo vessels at least one such spray nozzle hydrant shall be permanently installed in the engine or boiler room space. The other spray nozzle and adapter may be used in connection with the regular fire hose and fire line equipment from the deck, provided that sufficient hose is available to reach any part of the boiler or engine room space; Provided further, That on cargo and passenger vessels propelled by electric motors, spray nozzles are not required in the main motor room or in the machinery space when the major portion of auxiliaries are electrically driven. Spray nozzles are not required in the machinery space on cargo and passenger vessels propelled by internal combustion engines when a major portion of the auxiliaries are electrically driven.

(b) In boiler and machinery spaces of new cargo and new passenger vessels of 1600 gross tons and over, there shall be fitted in each such compartment not less than two spray nozzle hydrants to which shall be attached sufficient length of hose so that any part of the boiler or machinery space may be reached. An approved spray nozzle shall be attached to each hose line.

4. (a) On all steam propelled vessels having one boiler room there shall be provided one fire extinguisher of the foam type of at least 40 gallons rated capacity or one carbon dioxide (CO_2) extinguisher of at least 100 pounds. If the vessel has more than one boiler room, an extinguisher of the above type shall be provided in each boiler room.

(b) On all steam propelled vessels of 1,000 gross tons and under, foam type fire extinguishers of at least 20 gallons rated capacity or carbon dioxide (CO_2) extinguishers of at least 50 pounds may be used in lieu of the capacities required in (a) above.

(c) Extinguishers fitted in compliance with (a) and (b) above shall be equipped with suitable hose and nozzles on reels or other practicable means easy of access, and of sufficient length to reach any part of the boiler room and spaces containing oil-fuel pumping units.

5. (a) Steam propelled passenger vessels burning oil for fuel shall be fitted with an approved fixed carbon dioxide or foam type system for extinguishing fire in the bilges of each fire room. If engine and boiler rooms are not entirely separate, or if fuel oil can drain from the boiler room bilge into the engine room, the combined engine and boiler rooms shall be considered one compartment. The system shall be capable of being operated from a convenient and accessible point outside of space protected.

(b) Passenger vessels propelled by internal combustion engines shall be fitted with an approved fixed carbon dioxide

system, for extinguishing fire in the machinery space. The system shall be capable of being operated from a convenient and accessible point outside of space protected.

6. All vessels propelled by internal-combustion engines shall be equipped with the following foam type or carbon dioxide fire extinguishers in the machinery spaces:

(a) One approved 12-gallon foam type extinguisher or one approved 35-pound carbon dioxide extinguisher.

(b) One approved 2½-gallon foam type, or one approved 15-pound carbon dioxide extinguisher for each 1,000 BHP of the main engines, or fraction thereof.

(c) The total number of 2½-gallon foam type or 15-pound carbon dioxide extinguishers carried in compliance with (b) above, shall not be less than two, and need not exceed six.

(d) When a donkey boiler fitted to burn oil as fuel is located in the machinery space, there shall be substituted for the 12-gallon foam or 35-pound carbon dioxide unit required by (a) above, one approved 40-gallon foam or one approved 100-pound carbon dioxide unit.

7. (a) On all passenger vessels there shall be provided in the machinery spaces, which contain electric propelling motors and generators of the open type, at least one 15-pound carbon dioxide extinguisher for each such electric propelling motor and generator unit.

(b) On all passenger vessels, small compartments containing auxiliary internal combustion engines, such as emergency generators, etc., shall, in addition to any other extinguishers required, be provided with one approved 15-pound carbon dioxide or 2½-gallon foam extinguisher for each such compartment. This extinguisher shall be located outside of and adjacent to the entrance of the compartment.

8. *Carbon dioxide system requirements.*—(a) When a carbon dioxide (CO_2) smothering system is fitted in the boiler room, the quantity of carbon dioxide carried shall be sufficient to give a gas saturation of 25 percent of the gross volume of the largest boiler room from tank top to top of the boilers. Top of the boilers is to be considered as the top of the shell of a Scotch or leg type of boiler, and the top of the casing or drum, whichever is the higher, on water-tube boilers. The quantity of carbon dioxide required may be determined approximately by the following formula:

$$W=\frac{L\times B\times D}{36}$$

Where W=the weight of CO_2 required in pounds.
L=the length of the boiler room in feet.
B=the breadth of the boiler room in feet.
D=the distance in feet from tank top or flat forming lower boundary to top of boilers.

(b) When a carbon dioxide (CO_2) smothering system is fitted in the machinery space of vessels propelled by internal combustion engines, the quantity of carbon dioxide required may be determined approximately by the following formula:

$$W=\frac{L\times B\times D}{22}$$

Where W=the weight of CO_2 required in pounds.
L=the length of machinery space in feet.
B=breadth of the machinery space in feet.
D=distance in feet from tank top or flat forming lower boundary to the underside of deck forming the hatch opening.

(c) The whole charge of gas shall be capable of being released simultaneously by operating one valve and control. All cylinders shall be completely discharged in not more than two minutes. The arrangement of the piping shall be such as to give a general and fairly uniform distribution over the entire area protected. An alarm which shall operate automatically with the operation of the system shall be provided to give a warning in the space when the carbon dioxide is about to be released. Provision shall be made to prevent the admission of air into the lower parts of the boiler or engine room while the system is in operation.

9. *Foam smothering system requirements.*—(a) When a foam type system is fitted, its capacity shall be such as to rapidly discharge over the entire area of the bilge (tank top) of the largest boiler room a volume of foam six inches deep. The arrangement of piping shall be such as to give a uniform distribution over the entire area protected. The system shall be completely discharged in not more than three minutes.

(b) The foregoing system may be of a type employing either two-solution tanks or one or more generators using an approved dry chemical mixture. All containers and valves by which they are operated shall be easily accessible and so placed that they will not readily be cut off from use by an outbreak of fire.

[Resolution No. 1511–93]

APPROVAL OF MISCELLANEOUS ITEMS OF EQUIPMENT

Resolved, That under authority of Sections 4405 and 4491, R. S., the following equipment be and hereby is approved for use on vessels subject to inspection:

FIRE EXTINGUISHERS

3900. Alfite Model 15–D, Series 7–D, carbon dioxide 15 pound fire extinguisher, manufactured by the American-La France and Foamite Industries, Inc., of Elmira, New York.

4128. The "Valmar" 3½-gallon carbon tetrachloride fire extinguisher, manufactured by the American-La France and Foamite Industries, Inc., of Elmira, New York, is approved for restricted use on tank vessels.

4128. The "F–R–X" 3½-gallon carbon tetrachloride fire extinguisher, manufactured by the American-La France and Foamite Industries, Inc., of Elmira, New York, is approved for restricted use on all tank vessels.

4039. Phister 3½-gallon carbon tetrachloride fire extinguisher, manufactured by the Phister Manufacturing Company, of Cincinnati, Ohio, is hereby approved for restricted use on all tank vessels.

SPRAY NOZZLES

4242. Sculler 1½-inch fixed type spray nozzle, manufactured by the Sculler Safety Corporation, 539 Broadway, New York, New York.

4109. Mystery 1½-inch fixed type spray nozzle, manufactured by the Elkhart Brass Manufacturing Company, of Elkhart, Indiana.

LIFE PRESERVERS

3226–III. Child's Kapok Sea-Lite life preserver, manufactured by the American Pad and Textile Company, of Greenfield, Ohio.

3845. Children's and Adult's Kapok Life Preserver, manufactured by the Elvin Salow Company, of Boston, Massachusetts.

BREATHING APPARATUS

3030. American-La France and Foamite Industries, Inc., fresh air hose mask, manufactured by the Mine Safety Appliances Company, of Pittsburgh, Pennsylvania.

[SEAL] R. S. FIELD, *Director.*
GEORGE FRIED,
Supervising Inspector, Second District.
CHESTER W. WILLETT,
Supervising Inspector, Sixth District.

Approved, May 28, 1938.

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–1526; Filed, May 28, 1938; 12:18 p. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Docket No. IT–5512]

IN THE MATTER OF THE CITY OF LOS ANGELES, A MUNICIPAL CORPORATION, AND DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, COMPLAINANTS VS. THE NEVADA-CALIFORNIA ELECTRIC CORPORATION, A CORPORATION, DEFENDANT

ORDER FIXING DATE OF HEARING

MAY 27, 1938.

It appearing to the Commission that:

(a) The City of Los Angeles, a municipal corporation, and the Department of Water and Power of the City of Los Angeles, by complaint filed on March 14, 1938, alleged that certain rates and charges specified in a contract in force and effect with The Nevada-California Electric Corporation were and are unjust and unreasonable and in violation of Section 205 (a) of the Federal Power Act;

(b) The Defendant, The Nevada-California Electric Corporation, on April 14, 1938, filed its answer to the complaint of The City of Los Angeles and the Department of Water and Power of the City of Los Angeles denying that the rates and charges specified in the contract in force and effect between the parties were unreasonable or otherwise unlawful and asked that complaint be dismissed.

Th Commission *orders* that:

A hearing upon the issues presented by the complaint and answer in this cause be held on June 22, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–1525; Filed, May 28, 1938; 9:42 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3345]

IN THE MATTER OF LINCOLN LOCKER CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41)

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 20, 1938, at ten o'clock in the forenoon of that day (central standard time), room 416 United States Court House, Des Moines, Iowa.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–1527; Filed, May 28, 1938; 12:38 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

ADMINISTRATIVE ORDER No. 251

MAY 27, 1938.

I hereby amend Administrative Order No. 182 by making it read $140,000 to be used for line construction on Michigan 8040A1 Allegan, and $25,000 to be used for the construction of a generating plant. This plant will be designated as Michigan 8040G1 Allegan.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38–1528; Filed, May 31, 1938; 9:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of May 1938.

[File No. 32–86]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

[Public Utility Holding Company Act of 1935, Section 6 (b)]

ORDER PURSUANT TO SECTION 6 (B) EXEMPTING ISSUE AND SALE OF BONDS AND COMMON STOCK FROM PROVISIONS OF SECTION 6 (A)

Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act, regarding the issue and sale by applicant of—

(a) First and General Mortgage Bonds, Series G, 4%, dated October 1, 1935, and maturing October 1, 1960, in the principal amount of $1,000,000 to The Travelers Insurance Company at private sale at the price of 100% of the principal amount thereof plus accrued interest to the date of delivery; and

(b) 5,000 shares of common stock, no par value, at the price of $100 per share, such shares to be first offered to the holders of applicant's common stock and 6% preferred stock under the preemptive right of such holders at said price on a pro rata basis; the proceeds of such sales, together with all such common stock not subscribed for and paid for by such holders, to be delivered to New England Public Service Company.

A hearing on such matter having been held after appropriate notice; the record in this matter having been examined, and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of said securities by the Public Utility Commission of the State of Maine shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of said securities the applicant shall file with this Commission a certificate of notification showing that the issue and sale of the securities have been effected in accordance with the terms and conditions and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1533; Filed, May 31, 1938; 12:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of May, A. D. 1938.

[File No. 32-87]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

[Public Utility Holding Company Act of 1935, Section 6 (b)]

ORDER PURSUANT TO SECTION 6 (B) EXEMPTING ISSUE AND SALE OF BONDS AND COMMON STOCK FROM PROVISIONS OF SECTION 6 (A)

Public Service Company of New Hampshire, a subsidiary of New England Public Service Company, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act, regarding the issue and sale by applicant of—

(a) First Mortgage 3¾% Bonds, Series C, dated August 1, 1935, and maturing August 1, 1960, in the principal amount of $750,000, to The Northwestern Mutual Life Insurance Company at private sale at the price of 103% of the principal amount thereof plus accrued interest from February 1, 1938 to the date of delivery; and

(b) 4,000 shares of common stock, without par or face value, to New England Public Service Company at the price of $50 per share.

A hearing on such matter having been held after appropriate notice; the record in this matter having been examined, and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of said securities by the Public Service Commission of the State of New Hampshire or the express authorization of the issue and sale of said securities by the Public Service Commission of the State of Vermont shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of said securities the applicant shall file with this Commission a certificate of notification showing that the issue and sale of the securities have been effected in accordance with the terms and conditions and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1534; Filed, May 31, 1938; 12:39 p. m.]

VETERANS' ADMINISTRATION.

REVISION OF REGULATIONS

DEATH BENEFITS, SURVIVORS OF VETERANS OF THE WORLD WAR

Definitions of Relationship

World War.

R-2514. (A) For the purposes of adjudicating claims for death compensation pending on May 13, 1938, filed prior to that date, the following definition of the term "widow" under the laws in effect on May 12, 1938, shall be for application.

(1) *Widow.*—The term "widow" of a World War veteran except as to claims filed under Section 1 of Public No. 304, 75th Congress, (Act of August 16, 1937) prior to May 13, 1938, (see R. & P. R-2514 (A) (2)), shall mean a woman:

(a) Who was married prior to July 3, 1931 to the person who served; or

(b) Who was married at any time to the person who served provided a child was born of such marriage; provided that as to (a) and (b) hereof the widow

(c) Must have lived continuously with the person who served from the date of marriage to the date of death, except where there was a separation which was due to the misconduct of or procured by the person who served, without the fault of the widow, and

(d) Must not have remarried since the death of the person who served.

(2) For the purposes of Section 1 of Public No. 304, 75th Congress, (Act of August 16, 1937), the term "widow" of a World War veteran shall mean a woman:

(a) Who was married at any time to the person who served provided a child was born of their marriage and proof of birth of such child is established as provided in R. & P. R-1046 and R-2034, and

(b) Who lived continuously with the person who served from the date of marriage to the date of death, except where there was a separation which was due to the misconduct of or procured by the person who served, without the fault of the widow, and

(c) Who has not remarried since the death of the person who served.

(B) For the purpose of adjudicating claims for death compensation filed on or after May 13, 1938, under any law granting such benefits to dependents of deceased World War veterans, the following definitions of relationship shall govern.

(1) *Widow.*—The term "widow" of a World War veteran shall mean a woman:

(a) Who was married prior to May 13, 1938, to the person who served; provided that the widow

(b) Must have lived continuously with the person who served from the date of marriage to the date of death, except where there was a separation which was due to the misconduct of or procured by the person who served, without the fault of the widow, and

(c) Must not have remarried since the death of the person who served.

(C) Child.

(1) For the purposes of Public No. 2, 73d Congress (Act of March 20, 1933), the term "child" shall mean the same as under R. & P. R-2508 (B).

(2) For the purposes of Section 28, Title III, Public No. 141, 73d Congress (Act of March 28, 1934), Public No. 484, 73d Congress (Act of June 28, 1934), as amended by Public No. 844, 74th Congress (Act of June 29, 1936), Public No. 304, 75th Congress (Act of August 16, 1937) and Public No. 514, 75th Congress (Act of May 13, 1938), the term "child" shall mean a person unmarried and under the age of eighteen years, unless prior to reaching the age of eighteen the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, who is a legitimate child, a child legally adopted, a stepchild if a member of the man's household, an illegitimate child, but as to the father, only if acknowledged in writing signed by him or if he has been judicially ordered or decreed to contribute to such child's support, or has been prior to date of death of the veteran, judicially decreed to be the putative father of such child, provided, that the payment of compensation shall be continued after the age of eighteen years and until completion of education or training (but not after such child reaches the age of twenty-one years), to any child who is or may hereafter be pursuing a course of instruction at a school, college, academy, seminary, technical institute, or university particularly designated by him and approved by the Administrator, which shall have agreed to report to the Administrator the termination of attendance of such child, and if any such institution of learning fails to make such report promptly the approval shall be withdrawn. (Section 3, World War Veterans Act, 1924, as amended, and Section (3) (c) Public No. 484, 73d Congress) (May 13, 1938.)

(D) Mother-Father.

(1) For the purposes of Public No. 2, 73d Congress (Act of March 20, 1933) the term "mother" or "father" shall mean the same as under R. & P. R-2508 (C).

(2) For the purposes of Section 28, Title III, Public No. 141, 73d Congress (Act of March 28, 1934) and Public No. 304, 75th Congress (Act of August 16, 1937), the terms "mother" and "father" shall include stepmothers and stepfathers, mothers and fathers through adoption, and persons who have stood in loco parentis to a member of the military or naval forces at any time prior to his enlistment or induction for a period of not less than one year. (Section 3 (5), World War Veterans Act, 1924, as amended.) (August 16, 1937.)

DEATH OF WORLD WAR VETERAN WHILE RECEIVING OR ENTITLED TO RECEIVE COMPENSATION, PENSION OR RETIREMENT PAY FOR DISABILITY OF 10 PER CENTUM OR MORE, 20 PER CENTUM OR MORE OR 30 PER CENTUM OR MORE

R-2548. For the purposes of Public No. 484, 73d Congress, (Act of June 28, 1934) as amended, the widow, as defined in R. & P. R-2514, (A) (1), or 2514 (B) whichever is applicable, and child or children of a person who served with the United States military or naval forces in the World War before November 12, 1918, or before April 2, 1920, if service was in Russia, and who dies or has died of a disability not due to service while receiving or entitled to receive at the time of death, compensation, pension, or retirement pay for a disability of 30 per centum or more directly or presumptively incurred in or aggravated by service after April 5, 1917, and before July 2, 1921, shall be entitled to receive compensation at the monthly rates specified in R. & P. R-2640; provided that in conformity with Section 1 of Public No. 304, 75th Congress (Act of August 16, 1937), if the person who served was receiving or entitled to receive at the time of death, compensation, pension or retirement pay for a disability of 20 per centum or more and less than 30 per centum directly or presumptively incurred in or aggravated by service as above provided, and claim was filed prior to May 13, 1938, the widow as defined in R. & P. R-2514 (A) (2), or if there be no widow, the child or children shall be entitled to receive compensation at the monthly rates specified in R. & P. R-2640; provided further, that in conformity with section 1 of Public No. 514, 75th Congress (Act of May 13, 1938), if the person who served was receiving or entitled to receive at the time of death, compensation, pension or retirement pay for a disability of 10 per centum or more directly or presumptively incurred in or aggravated by service as above provided, the widow as defined in R. & P. R-2514 (B), or if there be no widow, the child or children shall be entitled to receive compensation at the monthly rates specified in R. & P. R-2640.

(A) *Establishment of service-connected disability of 10 per centum or more, 20 per centum or more and of 30 per centum or more.*—On and after May 13, 1938, the existence of the directly or presumptively service-connected disease or injury at death and the determination of a 10 per centum or 30 per centum disability or more resulting from such disease or injury may be based upon evidence filed subsequent to death and proof of the required percentage of disability at death and evidence as to service connection may be filed at any time on or after May 13, 1938, or the date of death; subject to the limitations contained in Veterans Regulation No. 2 (a), Part II, Paragraph II, and Veterans Regulation No. 2 (d), Paragraph 1, I (a) and (3), provided that in any case in which a claim was filed on or after March 20, 1933, and prior to May 13, 1938, in which entitlement is predicated on provisions of sections 1 and 2 of Public No. 304, 75th Congress, a 20 per centum service-connected disability must have been established prior to May 13, 1938; provided further that a disease or injury or an aggravation thereof will be considered as having been established to the satisfaction of the Veterans Administration where the evidence of record in the Veterans Administration, or in the War or Navy Departments, shows the existence of such disease or injury as having been directly or presumptively incurred in or aggravated by service. Any disability that may be properly directly service connected under the provisions of Public No. 2, 73rd Congress, or Section 28, Public No. 141, 73d Congress, or under the law in effect at the time of death will be considered directly service connected for the purpose of Public No. 484, 73d Congress, as amended, and any disability that may be properly presumptively service-connected under the provisions of Sections 26, 27 and 28 of Public No. 141, 73d Congress, or under the law in effect at the time of death will be considered presumptively service connected for the purpose of Public No. 844, 74th Congress, as amended. An existing rating of the required percentage of disability shall not include ratings of temporary total granted solely by reason of hospitalization or treatment.

(B) *Evaluation of degree of disability previously established assumed to be correct.*—In the case of any deceased person who served in the World War in which an existing rating of the required degree has been established by a proper rating agency based on a directly or presumptively service connected disease or injury, as defined in subparagraph (A) above, such rating will be assumed to be correct except for fraud, clear or unmistakable error as to conclusions of fact or law; or misrepresentation of a material fact, regardless of the particular rating schedule under which evaluated, and will be accepted as having established service connection and degree of disability sufficient to constitute title to compensation in the widow, child or children of the deceased, in accordance with the provisions of Public No. 484, 73d Congress. (Act of June 28, 1934) as amended.

(C) *Rating schedules to be used in evaluation of disability.*—In any case where the service connected disability of a deceased person who served in the World War was not rated at the time of death in the degree required to confer entitlement under Public No. 484, 73d Congress (Act of June 28, 1934) as amended, and proof of the required degree of disability is filed subsequent to the date of death, the degree of disability will be evaluated in accordance with the schedule of disability ratings in effect at the time of death, or the Schedule of Disability Ratings, 1925, and extensions thereto, or the Schedule for Rating Disabilities, 1933, second edition, whichever provides the higher rating for the disease or injury evaluated. In such cases, the burden of proof shall be upon the claimant to show that the required degree of disability existed at the date of death. (May 13, 1938.)

* * * * * *

(G) *Misconduct.*—Death resulting from misconduct of the person who served is a ground for denial of compensation under the provisions of Public No. 484, 73d Congress, but not under Public No. 844, 74th Congress and Public Nos. 304 and 514, 75th Congress. (See R. & P. R-2576 (B). (May 13, 1938.)

COMMENCEMENT OF ORIGINAL AWARDS OF DEATH PENSION OR COMPENSATION

Public No. 2 and Sections 28 and 31, Title III, Public No. 141, 73d Congress, Section 3, Public No. 304, and Section 3, Public No. 514, 75th Congress.

R-2574. Original awards of death pension or compensation under Public No. 2, 73d Congress, (Act of March 20, 1933) Sections 28 and 31, Title III, Public No. 141, 73d Congress, (Act of March 28, 1934) Section 3, Public No. 304, and Section 3, Public No. 514, 75th Congress (Acts of August 16, 1937 and May 13, 1938) shall commence as follows:

(A) (1) For the purposes of Public No. 2, 73d Congress, and Sections 28 and 31, Title III, Public No. 141, 73d Congress, the effective date of an award of death pension or compensation shall be fixed in accordance with the facts found, except that no award of death pension or compensation shall be effective prior to the date of the veteran's death, date of

the happening of the contingency upon which death pension or compensation is allowed, or the date of receipt of application therefor, whichever is the later date; provided that in World War cases, if application is filed on or after August 16, 1937, and within one year from the date of death, the effective date shall be August 16, 1937, or the day following the date of death, whichever is the later, except that the increased rates of death compensation authorized solely under Public No. 304, 75th Congress, shall not be awarded from a date earlier than September 1, 1937, provided further that if entitlement is predicated wholly or in part upon Section 3 of the Act of May 13, 1938, and application is filed on or after May 13, 1938, and within one year from the date of death, the effective date shall be May 13, 1938 or the day following the date of death whichever is the later, but if application is not filed within one year from the date of death, the effective date shall be the date of filing application, but in no event prior to May 13, 1938 (See R. & P. R–2576.)

(2) For the purposes of Sections 4 and 5 of Public No. 304, 75th Congress (Act of August 16, 1937) any claim filed, subsequent to March 19, 1933, and prior to August 16, 1937, under any law granting pension or compensation to dependents of World War veterans disallowed or abandoned prior to August 16, 1937, may upon written notice from the claimant or his representative to the Veterans' Administration be revived at any time prior to August 16, 1938, and when title is otherwise established, payments under Public No. 304, 75th Congress (Act of August 16, 1937) shall commence August 16, 1937, provided that any claim filed subsequent to March 19, 1933, and prior to August 16, 1937, in which the claimant or his representative has not been notified of the disallowance thereof or if a claim was pending on August 16, 1937, it shall be considered an application under Public No. 304, 75th Congress, without the written notice required herein and if allowable only under that Act payments shall commence August 16, 1937, except that the increased rates of death compensation authorized solely under Section 3 of Public No. 304, 75th Congress, shall not be awarded from a date earlier than September 1, 1937. (See also R. & P. R–2582 (E)).

(3) For the purposes of Section 3 of Public No. 514, 75th Congress (Act of May 13, 1938), any claim filed subsequent to March 19, 1933, and prior to May 13, 1938, under any law granting pension or compensation to widows of World War veterans, disallowed or abandoned prior to May 13, 1938, may, upon written notice from the claimant or her representative to the Veterans' Administration, be revived at any time prior to May 13, 1939, and when entitlement is otherwise established, payments under Public No. 514, 75th Congress (Act of May 13, 1938), shall commence May 13, 1938; provided that any claim filed subsequent to March 19, 1933, and prior to May 13, 1938, in which the widow or her representative has not been notified of the disallowance thereof, or if a claim was pending on May 12, 1938, either of such claims shall be considered an application under Public No. 514, 75th Congress, without the written notice required herein, and if allowable only under the latter act, payments shall commence May 13, 1938 (May 13, 1938.)

Public No. 484, 73d Congress, as Amended by Public No. 844, 74th Congress and Publics No. 304 and 514, 75th Congress

R–2576. Original awards of death compensation under Public No. 484, 73d Congress (Act of June 28, 1934) as amended, shall commence:

(A) If the person who served died from a disease or injury not service connected and not the result of his own misconduct, as defined in Veterans Regulation No. 10, Paragraph IX, while receiving or entitled to receive compensation, pension, or retirement pay for a 30 per centum disability or more *directly* connected with service:

(1) On June 28, 1934, in those cases in which death of the person who served occurred prior to June 28, 1934:

(2) The date of filing application in those cases wherein death of the person who served occurred on or subsequent to June 28, 1934, except if application is filed on or after August 16, 1937 and within one year from date of death, August 16, 1937 or the day following the date of death, whichever is the later.

(B) If the person who served died under the conditions set forth in subparagraph (A) hereof, except that his death was the result of his own misconduct; or, whether or not the result of misconduct, if death occurred while he was receiving or entitled to receive compensation, pension, or retirement pay for a disability of 30 per centum or more *presumptively* connected with service or under a combined service-connected disability rating of 30 per centum or more when the directly service-connected disability was less than 30 per centum disabling:

(1) The date of filing application or June 29, 1936, whichever is the later, except if application is filed on or after August 16, 1937, and within one year from date of death, August 16, 1937, or the day following the date of death, whichever is the later;

(2) Any claim filed subsequent to March 19, 1933, and prior to June 29, 1936, under Public No. 2, Public No. 141, or Public No. 484, 73d Congress (Acts of March 20, 1933, March 28, 1934, and June 28, 1934) disallowed under Public No. 484, 73d Congress, or abandoned prior to June 29, 1936, under such laws may, upon written notice from the claimant or his representative to the Veterans' Administration, be revived at any time prior to June 30, 1937, and when title is otherwise established payments under Public No. 844, 74th Congress (Act of June 29, 1936) shall commence on the date of its enactment; provided that in any claim adjudicated under Public No. 484, 73d Congress in which the claimant or his representative has not been notified of the disallowance thereof, or if a claim under Public No. 2, Public No. 141, or Public No. 484, 73d Congress was pending on June 29, 1936, it shall be considered an application under Public No. 844, 74th Congress without the written notice required herein and, if allowed, payments thereunder shall commence June 29, 1936.

(C) For the purposes of subparagraphs (A) and (B) hereof, if marriage occurred subsequent to July 2, 1931, and prior to May 13, 1938, the date of commencement shall be the date following the date of death or May 13, 1938, whichever is the later, if application is filed within one year from date of death; otherwise from date of filing application, but in no event prior to May 13, 1938.

(D) If the person who served died while receiving or entitled to receive compensation, pension, or retirement pay for a 20 per centum or more but less than 30 per centum disability directly or presumptively connected with service and, in the case of a widow claimant, a child was born of the marriage to the person who served:

(1) August 16, 1937, or the day following the date of death, whichever is the later, if application is filed within one year from the date of death; (see subparagraph (D) (4) hereof)

(2) The date of filing application, if application is *not* filed within one year from the date of death; (see subparagraph (D) (4) hereof)

(3) Any claim filed subsequent to March 19, 1933 and prior to August 16, 1937 under any law granting pension or compensation to a widow or child of a World War veteran, disallowed or abandoned prior to August 16, 1937, under such laws, may upon written notice from the claimant or the claimant's representative to the Veterans' Administration, be revived at any time prior to August 16, 1938; and when title is otherwise established, payments under Section 1, Public No. 304, 75th Congress (Act of August 16, 1937) shall commence August 16, 1937, date of approval of the Act, provided that in any claim adjudicated under Public No. 484, 73d Congress or Public No. 844, 74th Congress in which the claimant or the claimant's representative has not been notified of the disallowance thereof, or if a claim under Public No. 2, Public No. 141, or Public No. 484, 73d Congress or Public No. 844, 74th Congress was pending on August 16, 1937, it shall be considered an application under Public No. 304, 75th Congress without the written notice required herein, and, if allowable only under the latter act shall commence August 16, 1937. (See subparagraph (D) (4) hereof)

(4) Because of the repeal of Section 1 of Public No. 304, 75th Congress, by Section 4 of the Act of May 13, 1938, awards may not be made authorizing payments under (1), (2) and (3) of subparagraph (D) hereof in any claim filed on or after the date of approval of the latter act.

(E) If the person who served died while receiving or entitled to receive pension, compensation, or retirement pay for a 10 per centum or more but less than 30 per centum disability directly or presumptively connected with service:

(1) May 13, 1938, or the day following the date of death, whichever is the *later*, if application is filed within one year from the date of death;

(2) The date of filing application, if application is not filed within one year from the date of death, but in no event prior to May 13, 1938;

(3) Any claim filed subsequent to March 19, 1933, and prior to May 13, 1938, under Public No. 2, Public No. 141, or Public No. 484, 73d Congress, as amended (Acts of March 20, 1933, March 28, 1934, and June 28, 1934) disallowed under Public No. 484, 73d Congress, Public No. 844, 74th Congress, or Section 1 of Public No. 304, 75th Congress, or abandoned prior to May 13, 1938, under such laws may, upon written notice from the claimant or a representative of the claimant to the Veterans' Administration be revived at any time prior to May 13, 1939, and when title is otherwise established payments under Public No. 514, 75th Congress (Act of May 13, 1938) shall commence on the date of its enactment; provided that in any claim adjudicated under Public No. 484, 73d Congress, as amended, in which the claimant or the claimant's representative has not been notified of the disallowance thereof, or if a claim under Public No. 2, Public No. 141, or Public No. 484, 73d Congress, or Public No. 844, 74th Congress, or Public No. 304, 75th Congress, was pending on May 12, 1938, it shall be considered an application under Public No. 514, 75th Congress, (Act of May 13, 1938), without the written notice required herein and if allowable only under Public No. 514, 75th Congress (Act of May 13, 1938) payments thereunder shall commence May 13, 1938.

(F) In the event a claim filed under this paragraph is not complete at the date of filing thereof in the Veterans' Administration, the claimant will be notified of the evidence necessary to complete the claim and if such evidence is not received within one year from the date of the request therefor, compensation will not be paid by reason of the filing of that claim. (May 13, 1938.)

RATES OF DEATH PENSION AND COMPENSATION FOR WIDOWS, REMARRIED WIDOWS, CHILDREN AND DEPENDENT PARENTS

Rates Under Public No. 484, 73d Congress (Act of June 28, 1934), as Amended

R–2640. The rates of death compensation payable under Public No. 484, 73d Congress, (Act of June 28, 1934) as amended are as follows:

	Per month
Widow but no child	$22.00
Widow and one child	30.00
(With $4 for each additional child)	
No widow but one child	15.00
No widow but two children	[1] 22.00
No widow but three children	[1] 30.00
(With $3 for each additional child, total amount to be (equally divided)	

[1] Equally divided.

The total compensation payable under this paragraph shall not exceed $56.00. Where such benefits would otherwise exceed $56.00 the amount of $56.00 may be apportioned as prescribed in R. & P. R–2592 (F). (May 13, 1938.)

ACCRUED AMOUNTS DUE AND UNPAID AT DEATH

Accrued Compensation: Public No. 484, 73d Congress (Act of June 28, 1934) as Amended

R–2664. The amount of compensation which has become payable to a widow or child under Public No. 484, 73d Congress (Act of June 28, 1934), as amended, but which has not been paid prior to death, may be awarded only for the purpose of paying the expenses of last sickness and burial, etc., of the deceased beneficiary and then only in the event that there are no funds available to the estate of the deceased for settlement of those expenses. (May 13, 1938.)

[F. R. Doc. 38–1522; Filed, May 27, 1938; 3:16 p. m.]

Thursday, June 2, 1938 *No. 107*

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AUTHORIZING THE ATTORNEY GENERAL TO SELL UPON PUBLIC EXCHANGES WITHOUT PRIOR ADVERTISEMENT CERTAIN PROPERTY HELD UNDER THE TRADING WITH THE ENEMY ACT

WHEREAS certain property held by the Attorney General of the United States as successor in interest to the Alien Property Custodian consists of shares of stock, bonds, notes, or other beneficial interests, which are listed on the various public exchanges and have an established and ready market; and

WHEREAS such property is not customarily sold, and cannot usually be sold to advantage, at public sale after public or other advertisement; and

WHEREAS public or other advertisement of the sale of such property, or an attempt to sell such property at public auction, would be a useless formality and would necessitate the incurring of unwarranted expenses and costs and would result in unnecessary inconvenience and delay:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 12 of the Trading with the Enemy Act, approved October 6, 1917 (40 Stat. 411, 423), as amended, and in the public interest, I hereby authorize the Attorney General of the United States to sell any such property upon the various public exchanges, without prior advertisement, to any individual, corporation, partnership, or association, upon such terms and conditions, and in such lots or amounts as he may deem advisable.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 31, 1938.

[No. 7901]

[F. R. Doc. 38–1546; Filed, June 1, 1938; 11:48 a. m.]

EXECUTIVE ORDER

ESTABLISHING THE TAMARAC MIGRATORY WATERFOWL REFUGE

Minnesota

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands and waters acquired or to be acquired by the United States within the following-described area, comprising approximately 47,520 acres in Becker County, Minnesota, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the areas described shall be-

come a part of the refuge hereby established upon the acquisition of title thereto or lease thereof by the United States:

Fifth Principal Meridian

Beginning at the corner common to Tps. 141 and 142 N., Rs. 38 and 39 W.;

Thence between Tps. 141 N., Rs. 38 and 39 W., Southerly to the standard township corner common to said townships;

Thence between Tps. 140 and 141 N., Rs. 38 and 39 W., Easterly to the closing township corner common to Tps. 140 N., Rs. 38 and 39 W.;

Thence between Tps. 140 N., Rs. 38 and 39 W., Southerly to the corner common to secs. 6 and 7, T. 140 N., R. 38 W., and secs. 1 and 12, T. 140 N., R. 39 W.;

Thence in T. 140 N., R. 39 W.,

Westerly to corner common to secs. 1, 2, 11, and 12;

Southerly to corner common to secs. 11, 12, 13, and 14;

Easterly to corner common to secs. 7 and 18, T. 140 N., R. 38 W., and secs. 12 and 13, T. 140 N., R. 39 W.;

Thence between Tps. 140 N., Rs. 38 and 39 W., Southerly to the meander corner common to sec. 18, T. 140 N., R. 38 W., and sec. 13, T. 140 N., R. 39 W., on the northwest shore of Island Lake;

Thence in T. 140 N., R. 39 W.,

Southwesterly with the meanders of Island Lake to the meander corner common to secs. 13 and 24;

Westerly to the corner common to secs. 13, 14, 23, and 24;

Southerly to the corner common to secs. 23, 24, 25, and 26;

Easterly to the one-quarter corner common to secs. 24 and 25;

Southerly to the center north one-sixteenth corner of sec. 25;

Easterly to the north one-sixteenth corner common to sec. 30, T. 140 N., R. 38 W., and sec. 25, T. 140 N., R. 39 W.;

Thence between Tps. 140 N., Rs. 38 and 39 W.; Southerly to the one-quarter corner common to sec. 30, T. 140 N., R. 38 W., and sec. 25, T. 140 N., R. 39 W.;

Thence in T. 140 N., R. 39 W.;

Westerly to the center east one-sixteenth corner of sec. 25;

Southerly to the southeast one-sixteenth corner of said section;

Westerly to the southwest one-sixteenth corner of said section;

Southerly to the west one-sixteenth corner common to secs. 25 and 36;

Westerly to the corner common to secs. 25, 26, 35, and 36;

Southerly to the one-quarter corner common to secs. 35 and 36;

Westerly to the one-quarter corner common to secs. 34 and 35;

Southerly to the corner common to secs. 2 and 3, T. 139 N., R. 39 W., and secs. 34 and 35, T. 140 N., R. 39 W.;

Thence between Tps. 139 and 140 N., R. 39 W., Westerly crossing Height of Land Lake, to the corner common to Tps. 139 and 140 N., Rs. 39 and 40 W.;

Thence between Tps. 139 and 140 N., R. 40 W., Westerly to the meander corner common to sec. 1, T. 139 N., R. 40 W., and sec. 36, T. 140 N., R. 40 W., on the shore of Cotton Lake;

Thence in T. 140 N., R. 40 W.,

Northwesterly with the meanders of Cotton Lake to the meander corner common to secs. 35 and 36;

Northerly to the corner common to secs. 25, 26, 35, and 36;

Westerly to the one-quarter corner common to secs. 26 and 35;

Northerly to the center one-quarter corner of sec. 26;

Easterly to the center east one-sixteenth corner of said section;

Northerly to the east one-sixteenth corner common to secs. 23 and 26;

Westerly to the corner common to secs. 22, 23, 26, and 27;

Northerly to the one-quarter corner common to secs. 22 and 23;

Easterly to the center one-quarter corner of sec. 23;

Northerly to the one-quarter corner common to secs. 2 and 11;

Easterly to the corner common to secs. 1, 2, 11, and 12;

Northerly to the closing corner common to secs. 1 and 2;

Thence between Tps. 140 and 141 N., R. 40 W., Easterly to the standard township corner common to Tps. 141 N., Rs. 39 and 40 W.;

Thence between Tps. 141 N., Rs. 39 and 40 W., Northerly to the one-quarter corner common to sec. 30, T. 141 N., R. 39 W., and sec. 25, T. 141 N., R. 40 W.;

Thence in T. 141 N., R. 30 W.,

Easterly to the center west one-sixteenth corner of sec. 30;

Northerly to the west one-sixteenth corner common to secs. 19 and 30;

Easterly to the one-quarter corner common to said sections;

Northerly to the one-quarter corner common to secs. 18 and 19;

Easterly to the east one-sixteenth corner common to said sections;

Northerly to the east one-sixteenth corner common to secs. 7 and 18;

Easterly to the one-quarter corner common to secs. 8 and 17;

Northerly to the center one-quarter corner of sec. 8;

Easterly to the one-quarter corner to secs. 8 and 9;

Northerly to the corner common to secs. 4, 5, 8, and 9;

Easterly to the one-quarter corner common to secs. 4 and 9;

Northerly to the center one-quarter corner of sec. 4;

Easterly to the one-quarter corner common to secs. 3 and 4;

Northerly to the corner common to secs. 3 and 4, T. 141 N., R. 39 W., and secs. 33 and 34, T. 142 N., R. 39 W.;

Thence in T. 142 N., R. 39 W.,

Northerly to the corner common to secs. 27, 28, 33, and 34;

Easterly to the east one-sixteenth corner common to secs. 27 and 34;

Northerly to the southeast one-sixteenth corner of sec. 27;

Easterly to the south one-sixteenth corner common to secs. 26 and 27;

Northerly to the one-quarter corner common to said sections.

Easterly to the center west one-sixteenth corner of sec. 26;

Southerly to the southwest one-sixteenth corner of said section;

Easterly to the center south one-sixteenth corner of said section;

Southerly to the one-quarter corner common to secs. 26 and 35;

Easterly to the east one-sixteenth corner common to said sections;

Northerly to the center east one-sixteenth corner of sec. 26;

Easterly to the center one-quarter corner of sec. 25;

Southerly to the one-quarter corner common to secs. 25 and 36;

Easterly to the corner common to secs. 30 and 31, T. 142 N., R. 38 W., and secs. 25 and 36, T. 142 N., R. 39 W.;

Thence between Tps. 142 N., Rs. 38 and 39 W., Southerly to the place of beginning.

A small part of the above-described area is now tribal Indian lands of the White Earth Indian Reservation, and it is not intended by this order to alter or qualify the status of those lands.

This reservation shall be known as the Tamarac Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 31, 1938.

[No. 7902]

[F. R. Doc. 38-1545; Filed, June 1, 1938; 11:48 a. m.]

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

Rhode Island

WHEREAS the hereinafter-described lands, together with the improvements thereon, have been acquired by the United States under the authority of the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), in connection with the Department of Agriculture's land-utilization and land-conservation project in Rhode Island known as LA–RI 1; and

WHEREAS such lands are immediately adjacent to the recreational demonstration project known as the Beach Pond Project, LP–RI 2, which was transferred to the Secretary of the Interior by Executive Order No. 7496, dated November 14, 1936; and

WHEREAS it appears that the administration of such lands as a part of the said Beach Pond Project would be in the public interest:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me under the aforesaid Emergency Relief Appropriation Act of 1935, it is hereby ordered that jurisdiction over the hereinafter-described lands, together with the improvements thereon, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior; and the Secretary of the Interior is authorized to administer such lands, through the National Park Service, as a part of the said Beach Pond Project, LP–RI 2, in accordance with the provisions of the said Executive Order No. 7496 of November 14, 1936:

That certain tract or parcel of land, with all the buildings and improvements thereon, situated partly in the Town of Exeter, in the County of Washington, in the State of Rhode Island, and partly in the Town of West Greenwich, in the County of Kent, in said State, and bounded and described as follows:

Beginning at the northwesterly corner of the premises hereby described, at a point on the southerly side of the Escoheag Hill Road, formerly known as the Old Road to Plain Meeting House, said Corner being also the northeasterly corner of land of Baybrink Inc.; thence turning and running southeasterly twenty-four hundred (2400) feet, more or less, along the South side of said Road to a brook; thence northwesterly, crossing said Road, five hundred forty (540) feet, more or less, along said brook, to a stone bound at the beginning of a wall; thence turning and running N. 65°20′ E. three hundred twelve (312) feet along said wall to a stone bound; thence turning and running S. 41°28′ E. four hundred twenty-four (424) feet to a stone bound; thence turning and running S. 42°23′ E. Two hundred twenty-four (224) feet to a stone bound on the North side of said Road; the last four courses bounding on land now or formerly of Baybrink Inc.; thence across the Road on the last mentioned course thirty-three (33) feet, more or less, to its southerly side; thence northeasterly and easterly eleven hundred twenty-five (1125) feet along the South side of said Road to a stone bound; thence turning and running S. 54°58′ E. two hundred eighty-four (284) feet to a stone bound; thence turning and running N. 34°42′ E. forty-seven (47) feet to a stone bound; thence turning and running S. 63°43′ E. one hundred eighteen (118) feet to a stone bound; thence turning and running S. 60°11′ E. nine hundred fifty (950) feet, more or less, along a wire and rail fence and stone wall, to a corner of said wall; thence turning and running S. 56°33′ E. twenty-four hundred twelve (2412) feet to a stone bound on the West side of Summit Road; the last five courses bounding on land now or formerly of Baybrink Inc.; thence across said Road thirty-three (33) feet more or less, to the East side of said Road; thence southwesterly and southeasterly along the East side of Summit Road and of Frosty Hollow Road to the intersection of the East side of Frosty Hollow Road with the North side of the New Ten Rod Road, thence southwesterly along the North side of the New Ten Rod Road to the intersection of the North side of the New Ten Rod Road with the East side of the Parris Brook Road; thence northerly thirteen hundred eighty (1380) feet, more or less, along the East side of said Road, to the North side of the old Ten Rod Road; thence westerly and northerly twenty-one hundred ten (2110) feet, more or less, on the northerly and easterly side of the Old Ten Rod Road to the intersection of said line with the southerly prolongation of a stone wall; thence turning and running N. 1°22′ W. five hundred (500) feet, more or less along said prolongation of wall and said wall to a bend in the wall; thence N. 11°38′ E. seventeen hundred fourteen (1714) feet to the intersection of the South line of Escoheag Trail and the line of a wall; thence northeasterly thirty-three (33) feet, more or less, on the line of said wall to the North side of Escoheag Trail; thence fourteen hundred fifty (1450) feet, more or less, southeasterly along the North side of Escoheag Trail to the old gate; thence turning and running N. 31°21′ E. three hundred (300) feet as the Fence and wall now stand, across the Wood River, to the North bank thereof; thence southeasterly on the high bank of said river twenty-one hundred (2100) feet, more or less, to the old ditch near the old Blacksmith shop, bounding northeasterly on land now or formerly of Stephen O. Metcalf; thence turning and running S. 22°30′ W. twelve (12) feet in a straight line to the middle of Wood River on a line with a stake and stones opposite the house and near the old dam on the bounds of the highway; thence southeasterly one hundred sixty (160) feet, more or less, along the middle of the Wood River, to the South side of a wooden bridge crossing said Wood River; thence turning and running N. 62°01′ E. thirty-eight (38) feet, more or less, crossing the river, to a bend on the South side of the Old Ten Rod Road; thence southeasterly twenty-three hundred (2300) feet, more or less, on the southwesterly side of the Old Ten Rod Road to the intersection of said line with the prolongation of an old rail fence; thence turning and running N. 9°36′ E. twelve hundred thirty-five (1235) feet, more or less, along said rail fence, to a bend; thence turning and running N. 38°27′ E. fifteen hundred twenty (1520) feet, more or less, along said rail fence to the North side of a trail; thence turning and running northwesterly nine hundred (900) feet, more or less, along an old rail fence to the West side of Flat River; thence turning and running northerly eight hundred twenty (820) feet, more or less, on the West side of said river, to the intersection of said line with the prolongation of a line of a wire fence; thence turning and running N. 82°30′ W. thirty-three hundred fifty-two (3352) feet, more or less, to the middle of Wood River; thence turning and running northerly sixty-one hundred (6100) feet, more or less, along the middle of said river to its intersection with the prolongation of a wire fence at the southeast corner of land now or formerly of Gardner C. and John R. Barber; thence turning and running N. 21°04′ E. sixteen hundred five (1605) feet, more or less, along said wire fence, stone wall and old rail fence, bounding westerly on said Barber land to the beginning of a wall, being a point on the southerly line of

land now or formerly of Walter D. Barber; thence turning and running S. 53°51′ E. four hundred fifty (450) feet, along a stone wall, to a bend; thence turning and running S. 49°59′ E. two hundred seventy-two (272) feet to a point on the South side of Plain Road, formerly known as the Road to Lewis City; the last two courses bounding northerly on said land now or formerly of Walter D. Barber; thence southeasterly along the southerly side of said Plain Road twenty-two hundred forty (2240) feet, more or less, to the intersection of said southerly side of Plain Road with the prolongation of a stone wall; thence turning and running N. 17°23′ E. and crossing said plain Road, five hundred (500) feet, more or less, along said wall, to a bend in wall; thence turning and running N. 35°44′ E. six hundred sixty (660) feet along and to the end of said wall; thence turning and running N. 22°30′ E. one hundred fifty (150) feet to a drill hole in a ledge; thence turning and running N. 15°35′ E. three hundred thirty-five (335) feet to the beginning of a stone wall; thence turning and running N. 6°57′ E. two hundred fifty (250) feet along said wall to a drill hole in a ledge; thence turning and running N. 52°44 W. eight hundred sixty-three (863) feet to a granite stone bound; the last six courses bounding on land now or formerly of Walter D. Barber; thence turning and running N. 12°26′ E. eleven hundred eighty (1180) feet to a stone bound; thence turning and running N. 2°57′ E. nineteen hundred forty-five (1945) feet to a stone bound; thence turning and running N. 10°44′ E. nine hundred five (905) feet to a stone bound on the South side of said Escoheag Hill Road to the point and place of beginning.

Excluding therefrom the following parcels of land lying within the above-described parcel, which said parcels are excepted from this instrument:

The first parcel is a certain tract of land situated in the Town of West Greenwich, in the County of Kent, in said State, and known as the Pine Swamp Lot, situated in the northwesterly portion of the above described parcel, South of Escoheag Road, and bounded and described as follows: Beginning at the southernmost point of said lot, at a stone bound; thence turning and running N. 63°08′ W. eight hundred fifty-six (856) feet to a stone bound on the East side of a road; thence northwesterly, northeasterly, and easterly, nineteen hundred seventy (1970) feet, more or less, along the northeasterly, southwesterly and southerly sides of said road to a stone bound; thence turning and running S. 8°11′ E. eight hundred twenty-eight (828) feet to a point in a brook; thence turning and running S. 6°12′ W. one hundred forty-one (141) feet to a stone bound on the West side of a road; thence southwesterly one hundred eighty (180) feet, along the north-west side of said road, to a bend in the road; thence turning and running S. 6°13′ W. three hundred thirteen (313) feet to the first mentioned bound, at the point of beginning. Containing by estimation twenty-eight (28) acres, more or less.

The second parcel is a certain tract of land known as the Meeting House Lot at four-corners, situated in the Town of Exeter, in the County of Washington, in said State, bounded and described as follows:—beginning at a stone wall on the West side of Frosty Hollow Road, said wall being approximately one hundred seventy (170) feet North of the North line of the New Ten Rod Road; thence S. 27°39′ W. one hundred seventy (170) feet more or less, along the West side of said Frosty Hollow Road, to the North line of the said New Ten Rod Road; thence turning and running N. 66°30′ W. one hundred sixty-four (164) feet, more or less, along the North side of said New Ten Rod Road, to the southerly prolongation of a stone wall; thence turning and running N. 24° E. one hundred fifty (150) feet, more or less, to and along the last mentioned line of wall, to a corner in the wall; thence turning and running S. 72°45′ E. one hundred seventy-five (175) feet, more or less, along the first mentioned wall, to the West side of said Frosty Hollow Road, at the point and place of beginning, and containing by estimation approximately twenty-six thousand eight hundred (26800) square feet of land.

Also excluding from this instrument any and all burial lots and highways and rights of way as now existing particularly the Old Ten Rod Road, but hereby transferring all the right, title and interest of the United States in and to said highways.

By estimation the area of the premises hereby described is one thousand eight hundred and five (1805) acres of land, more or less, which area does not include the parcels of land herein excepted.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
May 31, 1938.

[No. 7903]

[F. R. Doc. 38-1547; Filed, June 1, 1938; 11:51 a. m.]

TREASURY DEPARTMENT.

Bureau of Narcotics.

[Regulations No. 2]

IMPORTATION, EXPORTATION, AND TRANSSHIPMENT OF OPIUM OR COCA LEAVES OR ANY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, OR PREPARATION THEREOF

NARCOTIC REGULATIONS MADE BY THE COMMISSIONER OF NARCOTICS WITH THE APPROVAL OF THE SECRETARY OF THE TREASURY [1]

Effective Date, June 1, 1938

CHAPTER I. IMPORTS

Act of May 26, 1922, as amended

SEC. 2(b). That it is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the Commissioner of Narcotics finds to be necessary to provide for medical and legitimate uses only may be imported and brought into the United States or such territory under such regulations as the Commissioner of Narcotics shall prescribe, but no crude opium may be imported or brought in for the purpose of manufacturing heroin. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

SEC. 5. That no smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and, except with the approval of the Commissioner of Narcotics, no other narcotic drug may be so admitted, transferred, or transshipped.

ARTICLE 1. *Importation.*—Crude opium and coca leaves may only be imported under formal permit issued by the Commissioner of Narcotics (hereinafter referred to as the Commissioner) pursuant to a duly executed application therefor, and after a determination by said Commissioner that the quantity of crude opium or coca leaves requested in the application is necessary to provide for, and will be applied to, medical and legitimate uses only. An exception to so much of this rule as requires a formal permit may be made in the case of an emergency which, in the judgment of the Commissioner, so affects the welfare of all or a large proportion of the population as to justify such extraordinary action. No permit shall be granted for the importation of opium to be manufactured into heroin, its salts, derivatives, or preparations. No importation by mail shall be permitted.

ART. 2. *Who may import.*—In exercising the powers and discharging the duties conferred and imposed upon him by the act with respect to the importation of crude opium and coca leaves, the Commissioner shall take such action as in his opinion will effectuate the intent and purpose of the act; and pursuant to this policy, in determining whether any applicant shall be permitted to import such crude opium and coca leaves, the Commissioner shall consider the character and standing of the applicant, his production

[1] Under the Act of May 26, 1922, as amended by the Act of June 7, 1924; and the Acts of June 14, 1930 and June 17, 1930, as amended by the Act of August 5, 1935.

facilities and trade connections, whether there is reasonable probability that he will apply all crude opium and coca leaves imported and narcotic drugs manufactured by him to medical and legitimate purposes, whether he may serve the public interests by lowering costs or improving quality of narcotic drugs by the use of improved methods, or any other factors which the Commissioner deems appropriate to consider in carrying out the policy mentioned. In the case of new applicants the Commissioner shall also consider whether the allotments to them of shares in the amount of crude opium and coca leaves determined by him to be necessary for medical and legitimate uses would probably have the effect of so reducing or rendering uncertain the supply of crude opium and coca leaves available from year to year to manufacturers already engaged in the manufacture of narcotic drugs as to endanger the efficient administration of the Narcotic Drugs Import and Export Act.

ART. 3. *Application for permission to import.*—Application for permission to import crude opium or coca leaves shall be made under oath on a form provided by the Treasury Department and forwarded to the Commissioner of Narcotics, Treasury Department, Washington, D. C. The application shall show, in the spaces provided thereon, the name of the crude material desired to be imported (i. e., crude opium or coca leaves), the number of bales or cases of such crude material, the maximum total pounds of such material, the total tentative allotment to the importer of such crude material for the current calendar year, the total number of pounds of said allotment for which permits have previously been issued, and the total quantity of crude material actually imported during the current year to date. Information under the three subheads last mentioned need only be shown with respect to the particular crude drug for which application for permission to import is being made. The application shall also show the following: The name and address of the consignor, if known at the time application is submitted, but if unknown at that time, the fact should be indicated and the name and address afterwards furnished to the Commissioner as soon as ascertained by the importer; the foreign port of exportation (i. e., the place where the article will begin its journey of exportation to the United States); the port of entry into the United States; the latest date said shipment will leave said foreign port; and the stock on hand of the kind of crude drug desired to be imported under the respective subheads provided. If the application is executed and forwarded before the 15th day of a given month the stock on hand may be shown as of the last day of the penultimate preceding month, but if the application is executed and forwarded on or after the 15th day of a given month the stock on hand must be shown as of the last day of the month immediately preceding.

ART. 4. *Alternative foreign ports.*—If desired, alternative foreign ports of exportation may be indicated upon the application, thus, (1) Belgrade, (2) Istanbul. If a formal permit is issued pursuant to such an application it will bear the names of the two ports in the order given in the application, but will be construed as authority for the shipment to be made from the first port only, provided that if, prior to the certification of an invoice for a shipment under the permit from the first port mentioned, the importer wishes to have the permit applied to a shipment from the second port mentioned instead, and notifies the Commissioner in writing to that effect, an arrangement will be made looking toward the application of the permit to a shipment from such second port, thereby revoking authority to make any shipment under the permit from the first port mentioned. The arrangement for change of authorization to the second port of export will be made by cable, if requested, at the expense of the importer. If the arrangement for such change is not completed prior to the time the invoice for a shipment under the permit from the first port of export mentioned thereon is certified by the United States consul, the original authorization for the shipment from the first port will not be changed.

ART. 5. *Import permit.*—The import permit shall be prepared in sextuplet upon a form which has been approved by the Commissioner, but such permit shall not be valid unless signed by the Commissioner.

ART. 6. *Preparation of import permit.*—Import permits shall be serially numbered, the six copies of a given permit all to bear the serial number of that permit. Each copy of the permit shall have printed or stamped thereon the disposition to be made thereof. Each permit shall bear a notation to the effect that the Commissioner is satisfied that the consignment proposed to be imported is required for legitimate purposes. Each permit shall also be dated and shall certify that the importer named thereon is thereby permitted under the provisions of the Narcotic Drugs Import and Export Act, as amended, to import, through the port named, one shipment of not to exceed the specified quantity of crude opium or coca leaves, as the case may be, shipment to be made from a stated port before a specified date. All copies of import permits shall bear the signature of the Commissioner, and facsimiles of signatures shall not be used. All permits issued shall be entered in a register kept by the Commissioner for that purpose. No permit shall be altered or changed by any person after being signed by the Commissioner, and any change or alteration upon the face of any permit, after it shall have been signed by the Commissioner, shall render it void and of no effect. Permits are not transferable.

ART. 7. *Effect of permit.*—A permit duly signed and issued shall be authority to import, by the importer named thereon, one shipment only of not to exceed the maximum quantity of crude opium or coca leaves, as the case may be, specified on the permit, from a specified foreign port of export (see Articles 3 and 4), said shipment to be made on or before the date indicated for that purpose upon the permit. This date may, in the discretion of the Commissioner correspond with the date given on the application on the line labeled "Latest date shipment will leave above foreign port," but such date shall not be later than four months from the date permit is issued unless, for good cause shown, the Commissioner allows a longer period within which to make the shipment and so specifies on the permit. The maximum quantity of crude opium or coca leaves shall be stated on the permit in terms of pounds.

ART. 8. *Shipments in greater or less amount than that authorized.*—If the shipment made under the permit is greater than the maximum amount authorized to be imported under the permit as determined at the weighing by the customs officer, such difference shall be seized and forfeited to the Government.

If the shipment made under the permit is less than the maximum amount authorized to be imported under the permit as determined at the weighing by the customs officer, such difference, when ascertained by the Commissioner shall be recredited to the tentative allotment against which the quantity covered by the permit was charged, and the balance of any such tentative allotment with any such recredits will remain available to the importer to whom made (unless previously revoked in whole or in part) for importations pursuant to such permit or permits as are requested and issued during the remainder of the calendar year to which the allotment is applicable. No permit shall be issued for importation of a quantity of crude opium or coca leaves as a charge against the tentative allotment for a given calendar year, after the close of such calendar year, unless, for good cause shown, the Commissioner decides to make an exception in a proper case.

ART. 9. *Cancelation of permit.*—A permit may be canceled, after being issued, at the request of the importer, provided the necessary steps looking toward cancelation are accomplished prior to the certification by the United States consul of the invoice for a shipment under the permit from a designated foreign port of exportation, but after such certification the permit shall not be canceled at the request of the importer, irrespective of the date such request was made, unless it can be shown to the satisfaction of the Commissioner that the shipment was lost en route. In the event that a permit is lost, the Commissioner may upon the production by the importer of satisfactory proof, by affidavit or otherwise, issue a duplicate permit. Nothing herein contained shall effect the right,

hereby reserved by the Commissioner, to cancel a permit at any time for proper cause.

ART. 10. *Disposition of copies of permit.*—If it is decided to approve an application for permission to import crude opium or coca leaves, an import permit shall be prepared in sextuplet, each copy of which shall be signed by the Commissioner. The six copies of each permit are designated respectively as original, (green), duplicate, (blue), triplicate, (pink), quadruplicate, (salmon), quintuplicate, (yellow), sextuple, (white). After being signed these copies shall be distributed and shall serve purposes as follows:

(a) The original copy, together with the quintuplicate copy, shall be transmitted to the importer, who will retain the quintuplicate copy on file as his record of authority for the importation, and he shall transmit the original copy of the permit to the foreign exporter. The foreign exporter will submit the original copy of the permit to the proper governmental authority in the exporting country (if required as a prerequisite to the issuance of an export authorization), and to the United States consul for the foreign port of exportation, and after certification of the invoice by the consul, this copy of the permit will accompany the shipment. Upon arrival of the imported merchandise the collector of customs at the port of entry will forward the original copy of the permit with the bill of lading to the appraiser for the port, who, after appraising the merchandise, will return the original copy of the permit to the Commissioner with a report on the reverse side of such original copy, showing the name of the port of importation, date prepared, net quantity and kind, and report of analysis of the merchandise entered.

(b) The duplicate copy shall be forwarded to the proper governmental authorities of the exporting country.

(c) The triplicate copy of the permit shall be forwarded to the United States consul for the foreign port of exportation in order that the consul may compare it with the original copy when presented by the foreign exporter. The triplicate copy is to be retained on file by the consul.

(d) The quadruplicate copy shall be forwarded to the collector of customs at the United States port of entry, which shall be the customs port of destination in the case of shipments transported under immediate transportation entries, in order that said collector may compare it with the original copy and the bill of lading upon arrival of the merchandise.

(e) The sextuple copy of the permit shall be retained on file in the office of the Commissioner.

If a discrepancy is noted between corresponding items upon different copies of a permit bearing the same serial number when compared by the United States consul or by the United States collector of customs, the officer shall refuse to certify the invoice or to permit entry of the importation, as the case may be, until the facts are communicated to the State Department or the Commissioner, respectively, and further instructions are received.

ART. 11. *Sending original copy of import permit through State Department.*—If desired by the importer, the original copy of the permit may, in lieu of being forwarded to the importer, be transmitted through the State Department to the United States consul at the foreign port of exportation together with the triplicate copy which said consul is required to retain on file. When this procedure is followed the importer shall, as soon as possible, ascertain the name of the exporter, located in or near said foreign port of exportation, that is authorized to make the shipment from said port under the permit, and shall communicate this name to the Commissioner with authorization to cause the consul to deliver such original copy to the exporter so designated. The consul will thereupon be authorized by the State Department by mail, or, if desired, by cable, at the expense of the importer, to deliver the original copy to the party so designated, and the consul shall be authorized to certify an invoice under the permit in the same manner as though the original copy had originally been presented to said consul by the foreign exporter for comparison with the triplicate copy as outlined in article 10. However, if the original copy remains in the consul's hands without cabled authorization for its delivery to a designated exporter to accompany a shipment under the permit after the date of expiration of the permit, such permit shall be deemed to have been canceled, and shall be so marked by the consul and returned, through the State Department, to the Commissioner, and no invoice shall be certified thereunder, nor shall any shipment thereunder be admitted to entry in the United States. The procedure outlined in this article is provided for the convenience of importers, and no responsibility for improperly transmitted cablegrams or for delivery of the original copy of the permit to an improper party, or other error arising out of such special arrangement can be accepted by the Commissioner, the State Department, or their representatives, but such arrangement shall be made at the risk and expense of the importer concerned.

ART. 12. *Examination of shipment by customs officer.*—Immediately upon the unlading of crude opium from the importing vessel, the customs officer shall carefully examine the cases or packages, note their condition, seal the packages, and if the port of importation as shown on the permit covering the shipment is the same as the port of first arrival, shall cause the cases or packages to be transported under customs guard and by bonded cartman to the appraiser's stores, where they shall be placed in a separate and specially protected inclosure. If the shipment is destined to a port of entry other than the port of first arrival, it shall be entered for immediate transportation without appraisement, by bonded carrier, to the port of entry to which destined after examination, notation of condition and sealing by the customs officer at the port of first arrival. Upon arrival of the shipment at the port of entry to which destined the customs officer shall observe the same procedure as to examination, notation of condition, and sealing as required at the port of first arrival, shall compare the original copy of the permit accompanying the shipping documents with the copy theretofore furnished to the collector of the port in the manner hereinbefore provided, and shall cause the shipment to be transported under customs guard and by bonded cartman to the appraiser's stores, where it shall be placed in a separate and specially protected inclosure.

ART. 13. *Duties of appraiser.*—The original copy of the permit, with the bill of lading for the shipment shall be forwarded to the appropriate appraiser, who shall take action thereon as provided in article 10a.

The appraiser shall cause such arrangements to be made as will insure the safe-keeping of the crude opium while in the appraiser's stores.

No delivery of crude opium to the importer from the appraiser's stores shall be permitted until the collector or his representative and the appraiser or his representative shall be satisfied and so note on the delivery permit, after personal examination, that the importer has taken all proper precautions for the safe transportation of the crude opium from the appraiser's stores to the importer's premises or to the premises of the common carrier if shipment is to be made.

Except as specially provided in these regulations, the procedure in the case of coca leaves shall be the same as in the case of other dutiable merchandise.

ART. 14. *Purposes for which crude opium and coca leaves may be entered.*—Except as otherwise specifically authorized by the Secretary of the Treasury and arranged by the Commissioner, crude opium may be entered only for consumption or for transportation in bond between the port of first arrival and the port of entry specified upon the import permit. No entry of either crude opium or coca leaves shall be permitted except upon an import permit duly issued by the Commissioner, and any quantity of crude opium or coca leaves imported or attempted to be imported not in accordance with such permit and these regulations shall be subject to forfeiture under the act.

Coca leaves may be entered either for consumption or warehouse or for transportation in bond between the port of first arrival and the port of entry specified on the permit covering the shipment.

ART. 15. *Foreign trade zones.*—No narcotic drug as defined in the act of May 26, 1922, as amended, shall be permitted to be introduced into a foreign trade zone, established under the act approved June 18, 1934, except that such quantities of narcotic drugs as are required for direct emergency medical needs within a zone may be admitted into said zone from customs territory of the United States subject to the requirements of the act of December 17, 1914, as amended, and regulations thereunder. Any narcotic drugs not admissible into a zone as herein provided, found within a zone shall be seized and disposed of according to law.

ART. 16. *Statements rendered by importers.*—Whenever required by the Commissioner, importers shall render to him not later than thirty days after receipt of the request therefor a statement under oath of the stocks of narcotic drugs on hand as of the date specified by the Commissioner in his request, and, if desired by the Commissioner, an estimate of the probable requirements for medical and legitimate uses of the importer for any subsequent period that may be designated by the Commissioner. In lieu of any special statement that may be considered necessary, the Commissioner may accept the figures given upon the monthly return or returns submitted by said importer under the act of December 17, 1914, as amended, and regulations thereunder.

CHAPTER II. EXPORTS

Act of May 26, 1922, as amended

SEC. 6 (a). That it shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country: *Provided*, That narcotic drugs (except smoking opium and opium prepared for smoking, the exportation of which is hereby absolutely prohibited) may be exported to a country only which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if (1) such country has instituted and maintains, in conformity with that convention, a system, which the Commissioner of Narcotics deems adequate, of permits or licenses for the control of imports of such narcotic drugs; (2) the narcotic drug is consigned to an authorized permittee; and (3) there is furnished to the Commissioner of Narcotics proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and legitimate uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and legitimate uses within such country.

* * * * * *

(c) The Commissioner of Narcotics shall make and publish all proper regulations to carry into effect the authority vested in him by this Act.

ART. 17. *Exportation.*—No person shall in any manner export from or take out of the United States, or cause to be exported or taken out of the United States any narcotic drug, nor shall any carrier receive for exportation, or export, or carry out of the United States any narcotic drug, unless and until a permit, in due form, to export the narcotic drug in each instance shall have been issued by the Commissioner.

ART. 18. *Application for export permit.*—A separate permit must be obtained for each consignment of narcotic drugs to be exported. Application for permission to export narcotic drugs shall be made under oath on an approved form provided by the Treasury Department for the purpose, and such application shall be transmitted to the Commissioner of Narcotics, Bureau of Narcotics, Treasury Department, Washington, D. C. Each application shall show the date of execution, the exporter's internal-revenue registry number, and shall show in the space provided the name and detailed description of the narcotic drug or preparation desired to be exported, the net quantity thereof, the number and size of packages or containers, the name and quantity of the narcotic drug contained in any preparation being stated and the quantity of any solids being given in avoirdupois. The application shall contain a printed statement to the effect that the application is made for permission to export the narcotics listed therein, pursuant to the provisions of the Narcotic Drugs Import and Export Act, as amended, and the regulations thereunder. The application shall include the name, address, and business of the consignee, the foreign port of entry, the port of exportation, the approximate date of exportation, the name of the exporting carrier or vessel (if known, or if unknown it should be stated whether shipment will be made by express, freight, or otherwise, exports of narcotic drugs by mail being prohibited), the date and number, if any, of the supporting foreign import license or permit accompanying the application, and the authority by whom such foreign license or permit was issued. The application shall also contain an averment that the packages are marked according to the regulations, and to the best of affiant's knowledge and belief the narcotics therein are to be applied exclusively to medical and legitimate uses within the country to which exported, will not be reexported therefrom, and are needed therein because there is an actual shortage thereof and a demand therefor for medical and legitimate uses within such country. The application shall be signed by the exporter, or by his duly appointed agent whose title shall be given in the space provided therefor, and shall contain the address from which the drugs will be shipped for exportation.

ART. 19. *Foreign import license or permit to be submitted.*—There shall also be submitted any import license or permit (and a translation thereof if in a foreign language) or a certified copy of any such license or permit issued by competent authorities in the country of destination, or other documentary evidence deemed adequate by the Commissioner showing that the merchandise is consigned to an authorized permittee, that it is to be applied exclusively to medical and legitimate uses within the country of destination, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the merchandise for medical and legitimate uses within such country. Verification by an American consular officer of signatures on foreign import licenses will be necessary if such licenses do not bear the seal of the officer signing them.

ART. 20. *Additional information.*—If after careful consideration of the application it is found that approval cannot be given, such fact and the reasons therefor will be communicated to the applicant by the Commissioner. If additional information is required, or other action is necessary to correct any mistake or irregularity in the application or accompanying documents, opportunity will be afforded the prospective exporter by the Commissioner to furnish such additional information or to correct such mistake or irregularity before the application is finally disapproved.

ART. 21. *Disposition of copies of export permit.*—If, from the facts presented in the application, the Commissioner finds it proper to permit the requested exportation, an export permit shall be prepared in sextuplet in the office of the Commissioner. Each of the six copies of the export permit shall be marked as to disposition and shall be distributed and serve purposes as follows:

(a) The original copy, together with the duplicate and triplicate copies, shall be transmitted to the exporter who will retain the triplicate copy on file as his record of authority for the exportation. The exporter shall present to the customs authorities, at the port of export, except when the shipment is to proceed from an interior port, and then at such interior port, at the time of shipment, the original and duplicate copies. The shipper's export declaration shall be presented to the customs authorities at the port of exportation from the United States. After customs endorsement of export in the space provided on the reverse side of the export permit, the collector of customs shall forward the endorsed original copy of the export permit with the shipment, and return the endorsed duplicate copy to the office of the Commissioner.

(b) The quadruplicate copy of the export permit shall be forwarded to the collector of customs at the port of export for comparison with the original and to be retained for the customs record.

(c) The quintuplicate copy of the export permit shall be sent to the officer in the country of destination who issued the import certificate, or other documentary evidence upon which the export permit is founded.

(d) The sextuple copy of the export permit shall be retained on file in the office of the Commissioner.

ART. 22. *Shipment from interior port.*—In the event the consignment shall proceed from an interior port, the collector of customs at the interior port, after endorsing the original and duplicate copies of the export permit, shall forward the original copy with the shipment and shall transmit the duplicate copy of the export permit to the collector of customs at the port of lading on the export vessel or conveyance, and the latter collector of customs, after endorsing the duplicate copy, shall transmit it to the office of the Commissioner.

ART. 23. *Special conditions relative to export permits.*—Each export permit shall be serially numbered, and shall be predicated upon a separate import certificate or other documentary evidence, and not more than one shipment shall be made thereon. All export permits shall be entered in a register kept for that purpose in the office of the Commissioner. Export permits are not transferable.

ART. 24. *Expiration date.*—An export permit shall not be valid after the date specified therein, which date shall conform to the expiration date specified in the supporting import certificate or other documentary evidence upon which the export permit is founded, but in no event shall the rate be subsequent to three months after the date the permit is issued. Any unused export permit shall be returned by the permittee to the office of the Commissioner for cancelation.

ART. 25. *Who may export.*—No export permit will be issued unless and until the applicant shall be duly registered or qualified as an exempt official in accordance with the act of December 17, 1914, as amended, and the regulations thereunder.

ART. 26. *Exportation to countries which have exceeded estimate.*—No export permit shall be issued for the exportation of any narcotic drug to any country when the Commissioner has information to show that the estimates submitted with respect to that country for the current period, under Article 5 of the Narcotics Limitation Convention of 1931 have been, or, considering the quantity proposed to be imported, will be exceeded. If it shall appear, through subsequent advice received from the Permanent Central Opium Board, that the estimates of the country of destination have been adjusted to permit further importation of the narcotic drug, an export permit may then be issued if otherwise permissible.

ART. 27. *Records required of exporter.*—The exporter shall keep a record of any serial numbers that might appear on packages of narcotic drugs in quantities of one ounce or more in such a manner as will identify the foreign consignee.

CHAPTER III. IN-TRANSIT SHIPMENTS

Act of May 26, 1922, as Amended

SEC. 5. That no smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and, except with the approval of the Commissioner of Narcotics, no other narcotic drug may be so admitted, transferred, or transshipped.

ART. 28. *In-transit shipments.*—Each in-transit shipment under Section 5 of the act will be considered by the Commissioner on its individual merits, but in general the regulations governing exports will be applied so far as practicable.

Articles in transit manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the collector of customs that they are nonnarcotic, shall be detained and subjected at the carrier's risk and expense to such examination as may be necessary to satisfy the collector whether they are of a narcotic character. With a view to avoiding such inconvenience, the carrier should not accept in-transit shipments of such articles unless accompanied by properly verified certificates of the shippers, specifying the items in the shipment and stating whether narcotic or not.

CHAPTER IV. SPECIAL COCA LEAVES

Act of June 14, 1930

SEC. 6. In addition to the amount of coca leaves which may be imported under section 2 (b) of the Narcotic Drugs Import and Export Act, the Commissioner of Narcotics is authorized to permit, in accordance with regulations issued by him, the importation of additional amounts of coca leaves: *Provided*, That after the entry thereof into the United States all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained in such additional amounts of coca leaves, shall be destroyed under the supervision of an authorized representative of the Commissioner of Narcotics. All coca leaves imported under this section shall be subject to the duties which are now or may hereafter be imposed upon such coca leaves when imported.

ART. 29. *Importation of special coca leaves.*—Additional amounts of coca leaves (hereinafter designated as special coca leaves) may be imported only under formal permit issued pursuant to Article 33, by persons authorized to import in accordance with these regulations. Applications for such authority shall be made in writing to the Commissioner and shall include an estimate of the quantity of leaves required by the applicant for the calendar year to which the application relates.

ART. 30. *Information required of prospective importer.*—The Commissioner shall take such action on any application as in his opinion will effectuate the intent and purpose of the foregoing section of the act of June 14, 1930, and of these regulations. No authority to import will be granted unless and until the applicant shall have furnished proof satisfactory to the Commissioner:

(a) that, if an individual, he, or if a partnership, each member thereof, or if an association or corporation, the manager, each officer and director, and each member of any board of control, is of good character and standing;

(b) that the applicant is able, by means of a definite process and formula demonstrated to the satisfaction of the Commissioner, to manfuacture an extract of coca leaves containing no cocaine, ecgonine, or any salt, derivative, or preparation from which cocaine or ecgonine may be synthesized or made;

(c) that the applicant has the financial standing and responsibility to undertake such manufacturing operation with reasonable likelihood of successful compliance with the intent and purpose of the foregoing section of the Act of June 14, 1930, and of these regulations; and

(d) of any other matter or thing which the Commissioner deems appropriate to consider.

ART. 31. *Matters to be considered in granting permit.*—The applicant shall also furnish proof satisfactory to the Commissioner that the estimated quantity of special coca leaves required by the applicant for the calendar year to which the application relates is reasonable under all the circumstances, taking into consideration, among other things, the applicant's trade connections, production facilities, and financial capacity to perform the indicated manufacturing operation with such estimated quantity of leaves.

The applicant shall agree to comply with the provisions of the foregoing section of the Act of June 14, 1930, and of these regulations, and the provisions of the Act of December 17, 1914, as amended, and to destroy, as hereinafter provided, under the supervision of an authorized representative of the Commissioner, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained in and/or produced directly or indirectly from special coca leaves.

The Commissioner, in the determination of his action with respect to any application, may accept the proof furnished in connection with an application relating to a prior year, and may take into consideration any other matter or thing known to him or discovered by investigation which he may deem appropriate to consider in effectuating the intent and purpose of the Act of June 14, 1930, and of these regulations. In no event will authority to import be granted unless the Commissioner is satisfied that the application is made in good faith and not for the purpose of evading the law.

ART. 32. *Approval or disapproval of application.*—The Commissioner shall advise the applicant of his approval or disapproval of the application, and, in the event of approval, of the tentative maximum quantity of special coca leaves allowed the applicant for importation covering the requirements (as determined by the Commissioner) of the applicant for the calendar year to which the application relates. Such tentative maximum allowance may be increased or decreased in the discretion of the Commissioner, either on his own motion or on application supported by proof satisfactory to the Commissioner of the necessity therefor. No permit or permits will be issued allowing the applicant, in supplying such requirements, to import, as a charge against such tentative maximum allowance, a total quantity of special coca leaves in excess of such allowance, except as such allowance shall be increased or decreased in accordance with this article.

ART. 33. *Application for permit to import.*—A separate permit must be obtained for each shipment of special coca leaves imported by the applicant. Application for such permit or permits shall be made by the applicant on an approved form under oath. Such application shall show, in spaces provided thereon, the quantity in pounds of special coca leaves desired to be imported in the shipment and the number of bales or containers thereof; the tentative maximum quantity of special coca leaves allowed the applicant for the calendar year to which the application for permit relates, the total number of pounds of such tentative maximum quantity for which permits have previously been issued, and the total quantity of leaves actually imported thereunder; and the stock on hand of special coca leaves as such and the quantity of special coca leaves represented by finished stock or extract of coca leaves. The figures for stock on hand shall be given as of a date ascertained in the manner provided for in Article 3. The application shall also show the name and address of the consignor, if known at the time the application is submitted; if unknown, the application shall so state, and the name and address shall be furnished to the Commissioner as soon as ascertained by the importer; the foreign port of exportation (i. e., the place where the article will begin its journey of exportation to the United States); the port of entry into the United States; and the latest date the shipment will leave the foreign port. The provisions of Article 4 are hereby made applicable to importations of special coca leaves.

ART. 34. *Registration of importer.*—No permit or permits will be issued unless and until the applicant shall be duly registered in accordance with the Act of December 17, 1914, as amended, and regulations thereunder, and shall have paid the special tax, have rendered the returns and reports, and have kept the records now or hereafter required by such Act and regulations.

ART. 35. *Allotment for calendar year not importable in succeeding year.*—No application for a permit or permits to import received by the Commissioner after the expiration of the calendar year to which any authorized maximum allowance relates will be approved as a charge against such allowance.

ART. 36. *Issuance of permits.*—Permits to import shall be issued in the form, and importations thereunder shall be made in the manner, provided by these regulations. Article 8 of these regulations shall govern the procedure in the case of any shipment of a less or greater quantity of special coca leaves than the quantity authorized by the permit covering such shipment, and Article 9 of these regulations shall govern the procedure with respect to the cancelation, at the request of the importer, of permits to import special coca leaves.

ART. 37. *Withdrawal from customs custody.*—Special coca leaves, upon withdrawal from customs custody, shall be removed to the place of manufacture and safely stored in a storeroom adequately protected against theft and against entry by any persons other than the importing manufacturer and his duly authorized agents and employees, or the Commissioner and his duly authorized representative (hereinafter referred to as the Commissioner's representative). No special coca leaves shall be withdrawn or removed from said place of storage except in the presence of the Commissioner's representative. The importer shall identify each bale or other unit package of special coca leaves after its importation by attaching thereto a label or tag bearing the number of the permit authorizing the importation, the date withdrawn from customs custody, the inscription "Special Coca Leaves," and an individual serial number. Such bales or packages shall be kept apart from any bales or packages not containing special coca leaves. No special coca leaves shall be used for any purpose other than the purpose authorized by the Act of June 14, 1930 and these regulations.

ART. 38. *Manufacturing operation.*—The manufacturer shall notify the Commissioner, at least ten days in advance, of the commencement of the manufacturing operation with respect to special coca leaves, which operation shall thereafter be conducted to completion entirely separately and independently of any operation not involving special coca leaves. Nothing herein contained, however, shall be construed to prohibit the manufacture from coca leaves, other than special coca leaves, of any extract permitted by law. The manufacturing operation involving special coca leaves shall be as continuous, and completed as expeditiously, as possible, and shall be under the observation of the Commissioner's representative.

Immediately prior to the introduction into the manufacturing process of any given quantity of special coca leaves, the manufacturer or his agent duly authorized for the purpose shall, when requested by the Commissioner or his representative, furnish therefrom to the Commissioner's representative such a sample (selected in the presence of the representative) as the latter may require, together with a memorandum dated and signed by the manufacturer or his said agent showing the quantity of special coca leaves from which such sample was taken and the number, and identifying marks (see Article 37), of the original bales or unit packages of such leaves. The Commissioner's representative shall forward the sample and the memorandum to the Commissioner, or to such chemical laboratory as the Commissioner may designate. A similar sample shall be taken at the same time by the manufacturer or his agent for the purpose of analysis.

ART. 39. *Residue.*—At that point in the manufacturing process where the initial extract of special coca leaves undergoes a primary separation into two products, one containing principally flavoring extract and the other principally cocaine, ecgonine, and their salts and derivatives, the manufacturer or his duly authorized agent shall, in the presence of the Commissioner's representative, segregate the latter product, remove its content of recoverable alcohol, and ascertain the weight of the residue, and shall sign and deliver to the representative a dated memorandum showing such weight, the quantity of special coca leaves represented by such residue, and the number, and identifying marks, of the original bales or unit packages of such leaves. The Commissioner's representative shall forward such memorandum to the Commissioner or to such chemical laboratory as the Commissioner may designate, together with a sample of such residue, and the manufacturer shall take a similar sample for the purpose of analysis. The residue, after the taking of such samples, shall be immediately destroyed by the manufacturer, by incineration, in the presence of the Commissioner's representative. The same procedure shall be followed, in so far as the weighing, taking of samples, and forwarding of memoranda are concerned, with respect to the other product of the aforementioned primary separation; the residue, however, after the taking of samples, shall be continued in process. The representative may also take and forward samples of recovered alcohol.

ART. 40. *Samples.*—At any other stage in the process where substances containing cocaine, ecgonine, or salts, derivatives, or preparations from which cocaine or ecgonine, may be synthesized or made, are separated from other substances, the procedure hereinabove set forth shall be followed, including the forwarding of samples and memoranda, relative thereto, the taking of similar samples for the purpose of analysis by the manufacturer, and the destruction, after the taking of such samples, of substances required to be destroyed. The manufacturer or his agent shall also furnish

the Commissioner's representative a sample of finished extract as it is withdrawn from process supposedly free from cocaine, ecgonine, and salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, together with a memorandum dated and signed by the manufacturer or such agent showing the quantity of finished extract, the quantity of special coca leaves represented by such finished extract, and the number, and identifying marks, of the original bales or unit packages of such leaves. The memorandum relative to each quantity of finished extract withdrawn from process shall include a certificate by the manufacturer that the quantity of finished extract of special coca leaves so withdrawn does not contain any cocaine, ecgonine, or any salt, derivative, or preparation from which cocaine or ecgonine may be synthesized or made. The manufacturer or his agent shall also furnish the Commissioner's representative a sample of the spent or used special coca leaves from each factory run, and a memorandum dated and signed by the manufacturer or his agent showing the quantity of special coca leaves represented by such spent leaves, and the number, and identifying marks of the original bales or unit packages of such special coca leaves. The Commissioner's representative shall forward such samples and memoranda to the Commissioner or to such chemical laboratory as the Commissioner may designate. Similar samples of finished extract and of spent or used special coca leaves shall be taken by the manufacturer for the purpose of analysis. The spent leaves, after taking of such samples, shall be immediately destroyed by the manufacturer by incineration, in the presence of the Commissioner's representative.

The Commissioner's representative shall have authority, under the direction of the Commissioner, to select and forward to the Commissioner such other samples of special coca leaves and the products thereof as are deemed appropriate, whether or not such samples are otherwise required by these regulations.

ART. 41. *Commissioner's representative to have access to factory.*—The Commissioner's representative shall have access at all times to the factory, storage rooms, and laboratories where any operation, process, or analysis involving special coca leaves, their salts, derivatives, preparations, products, or extracts is taking place, or where any such special coca leaves, their salts, derivatives, preparations, products, or extracts are situated or found.

The Commissioner's representative shall be afforded a full measure of cooperation in the performance of his duties in order that the intent and purpose of the Act of June 14, 1930, may be accomplished. Failure on the part of any importing manufacturer or his agent or employee to afford such cooperation to the Commissioner's representative, or to permit the access authorized by the preceding paragraph to the factories, storage rooms, or laboratories of such manufacturer, shall be grounds for canceling, pursuant to Article 44, both the authority to import under these regulations and the permits granted thereunder.

ART. 42. *Reports to Commissioner.*—The manufacturer shall make such additional reports to the Commissioner, and shall furnish to him by written statement such analytical data relative to the alkaloidal content, at any stage in the process, of special coca leaves or any product therefrom and such further information regarding analytical methods, as the Commissioner may deem necessary.

ART. 43. *Discontinuance of business.*—In the event that any person, by reason of bankruptcy, insolvency, receivership, or voluntary or involuntary abandonment or discontinuance (other than mere suspension) of the business of manufacturing an authorized extract of coca leaves, or by reason of any other cause or condition (for example, see Article 44 and the last paragraph of Article 41), is unable, in accordance with the Act of June 14, 1930, and of these regulations, to make use of any special coca leaves or of any of the products thereof the destruction of which is not otherwise provided for by these regulations, such special coca leaves and such products shall be seized by the Commissioner and destroyed by incineration, provided, however, that after seizure and before destruction the manufacturer shall be given notice of the proposed destruction and the reasons therefor, and a reasonable opportunity to appear and show cause why such destruction should not be accomplished.

ART. 44. *Cancelation of permit.*—The Commissioner may withdraw any authorization and may cancel any permit previously granted to any manufacturer, if such manufacturer, by reason of bad faith, carelessness, incompetency, the causes for seizure specified in Article 43, or any other cause, fails to comply with these regulations or by any act or omission fails to observe the intent or purpose of the Act of June 14, 1930, provided, however, that the manufacturer shall be given notice of the Commissioner's proposed action in that regard and the reasons therefor, and a reasonable opportunity to appear and show cause why such action should not be taken.

ART. 45. *Compliance with act of December 17, 1914, as amended.*—Nothing contained in these regulations shall be construed to exempt any manufacturer from compliance with the Act of December 17, 1914, as amended, and regulations thereunder.

ART. 46. *Returns required.*—Every manufacturer using special coca leaves imported into the United States pursuant to the Act of June 14, 1930, shall render a quarterly return on Form 167 and its supplements, and shall thereon account for all transactions involving such leaves or substances derived therefrom which contain cocaine or ecgonine, or any salts, derivatives, or preparations from which cocaine or ecgonine may be synthesized or made. This return shall be signed and sworn to by the manufacturer or his authorized agent, and rendered direct to the Commissioner of Narcotics on or before the 12th day of the month following the period for which the return is made. Such return shall include a report of all importations of special coca leaves on Form 169a, a report of all materials entered into the processes of manufacture on Form 169b, a report of the various substances produced therefrom on Forms 169c, 169d and 169e, a report of all such substances destroyed on Form 169f, and a summary of operations on Form 169g.

ART. 47. *Report of importations.*—The report of importations on Form 169a shall show in appropriate columns the following data as to each importation:

(1) The date of the import permit
(2) The serial number of the import permit
(3) The name of the foreign consignor
(4) The address of the foreign consignor
(5) The foreign port of export
(6) The number of bales imported
(7) The serial numbers of the bales imported
(8) The quantity imported in avoirdupois pounds.

ART. 48. *Report of materials used.*—The report of materials entered into the processes of manufacture on Form 169b shall show in appropriate columns the following information as to each lot of leaves dumped:

(1) The lot number or specification, a specification to be assigned to each dump for identification purposes in order to avoid repeating the serial numbers of the bales when the lot is subsequently referred to
(2) The date the leaves were put in process of manufacture
(3) The number of bales dumped
(4) The serial numbers of the bales
(5) The quantity of leaves put in process, stated in avoirdupois pounds
(6) The quantity of alcohol used for each extraction or wash of the leaves, by alcohol
(7) The quantity of water used for each water extraction or dilution
(8) The quantity of any other or additional substance introduced at any stage into the process of manufacture
(9) The dry weight of any filter cloth or other absorbent material to be later removed from process after saturation.

ART. 49. *Reports of manufacture.*—The reports of substances produced from special coca leaves, Forms 169c, 169d and 169e, shall show, in appropriate columns the following information as to each production lot or dump:

(1) The lot number
(2) The quantity of ground leaves entered into process, in terms of avoirdupois ounces and the quantity, in ounces and grains, of alkaloid contained therein as determined by analysis
(3) The quantity of substance in process after each distinct step in the manufacturing process and the total alkaloid contained in each, stated in ounces and grains
(4) The quantity of exhausted or spent leaves and the quantity of each residue removed from process, and the total alkaloid contained in each, stated in ounces and grains
(5) The weight of the used filter cloth or other absorbent material removed, after saturation
(6) The quantity, in gallons, of finished extract produced.

ART. 50. *Report of residues destroyed.*—The report of residues destroyed, Form 169f, shall show for each lot destroyed, in appropriate columns the following data:

(1) The lot number
(2) The quantity of spent leaves, residues, and saturated materials destroyed, stated separately for each
(3) The name of the government officer witnessing the destruction.

ART. 51. *Summary.*—The summary, Form 169g, shall include a complete accounting for all transactions in raw leaves, leaves in process, and residues removed from production processes. The summary of raw coca leaves shall show:

(1) The quantity of special coca leaves on hand at the beginning of the quarter
(2) The quantity of special coca leaves imported during the quarter
(3) The quantity of special coca leaves put into process of manufacture during the quarter
(4) The quantity of special coca leaves on hand at the end of the quarter
(5) Any other transaction during the quarter which increased or decreased the quantity of raw coca leaves on hand.

The summary of coca leaves in process shall show:

(1) The quantity of special coca leaves in process at the beginning of the quarter
(2) The quantity of such leaves placed in process during the quarter
(3) The quantity of such leaves represented by lots completed during the quarter
(4) The quantity of such leaves represented by lots in process at the end of the quarter
(5) Any other transaction during the quarter which increased or decreased the quantity of leaves in process.

The summary of residues removed from production processes shall show, in appropriate columns, separately as to spent leaves, each residue and saturated material, the following information:

(1) The quantity of each, on hand at the beginning of the quarter, awaiting destruction
(2) The quantity of each removed from process during the quarter
(3) The quantity of each destroyed during the quarter
(4) The quantity of each on hand at the end of the quarter
(5) Any other transaction during the quarter affecting the quantity of such residues on hand.

CHAPTER V. GENERAL

ART. 52. *Importation or exportation by mail prohibited.*—Neither importation nor exportation of narcotic drugs shall be made by means of the regular mails or by parcel post.

ART. 53. *Medical stores on vessels.*—Collectors of customs may permit narcotic drugs in reasonable quantities and properly listed as medical stores of vessels to remain on such vessels if satisfied that such drugs are adequately safeguarded and used only for medical purposes. Smoking opium or opium prepared for smoking shall be seized, however, whenever and wherever found within the jurisdiction of the United States.

ART. 54. *Drugs seized to be delivered to collector of customs.*—All narcotic drugs seized under the Narcotic Drugs Import and Export Act, as amended, by any Federal officer, other than a customs officer, shall be immediately delivered into the custody of the collector of customs in whose district the seizure was made, with a full report of the circumstances of the seizure, provided that where the seizure is made by a narcotic inspector or agent in connection with an investigation which such inspector or agent considers may result in criminal prosecution under any Federal narcotic law, the drugs so seized shall not be delivered into the custody of the collector of customs, but custody of such drugs shall be retained by the appropriate narcotic officer until it is determined that same will not, or will no longer, be required as evidence, whereupon disposition thereof shall be made as provided by law.

ART. 55. *Forwarding drugs to Drugs Disposal Committee.*—All narcotic drugs which have been forfeited to the Government, and are no longer required for purposes of evidence, shall immediately be forwarded to the Commissioner of Narcotics, (Drugs Disposal Committee) for proper disposition.

ART. 56. *Disposition of forfeited drugs.*—Narcotic drugs forfeited to the United States under the provisions of law may be delivered to any department, bureau, or other agency of the United States Government upon proper application addressed to the Commissioner of Narcotics. The application shall show the name, address, and official title, bureau, or agency, and department, of the person to whom the narcotic drugs are to be delivered, the kind and quantity of narcotics desired, and the purpose for which intended. The delivery of such narcotic drugs shall be ordered by the Commissioner of Narcotics, if in his opinion, there exists a medical or scientific need therefor. The order will be filled by the Drugs Disposal Committee which will obtain a receipt for narcotic drugs delivered.

ART. 57. *Penalties.*—Persons who fraudulently or knowingly import or bring into the United States or any territory under its control or jurisdiction, any narcotic drug, in violation of the act, or assist in so doing, or receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale, of any such narcotic drug after being imported or brought in, knowing the same to have been imported in violation of the act, shall be liable to a fine of not more than $5,000 and imprisonment for not more than ten years.

Persons who export or cause to be exported any narcotic drug in violation of the act are liable to punishment, the maximum liability being to a fine in any sum not exceeding $5,000 nor less than $50, or imprisonment for any time not exceeding two years, or both.

However, attention is invited to the provisions of the Act of August 12, 1937 (U. S. C., Supp. III, title 21, sec. 200), which provides for additional punishment for second, third and subsequent offenders in certain cases.

ART. 58. *Permits issued prior to effective date of regulations.*—Permits to import or export narcotic drugs which shall have been issued by the Commissioner prior to the effective date of these regulations shall continue in force and effect under the laws and regulations in effect when such authorizations were issued, unless specifically revoked by the Commissioner.

ART. 59. *Regulations subject to provisions of other pertinent laws and regulations.*—These regulations shall be subject to the provisions of the customs, internal-revenue, and other pertinent laws of the United States and regulations promulgated thereunder.

ART. 60. *Effective date.*—These regulations shall take effect June 1, 1938, and shall supersede all regulations heretofore made and promulgated.

ART. 61. *Promulgation of regulations.*—In pursuance of Sections 2 (b) and 6 (c) of the Act of May 26, 1922, as amended,

and Sections 3 (a) and 6 of the Act of June 14, 1930, the foregoing regulations are hereby made and promulgated.

[SEAL] H. J. ANSLINGER,
Commissioner of Narcotics.

Approved, May 28, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1536; Filed, May 31, 1938; 3:43 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Entomology and Plant Quarantine.

[B. E. P. Q.—Q. 63]

WHITE-PINE BLISTER RUST QUARANTINE No. 63

REVISION OF REGULATIONS, EFFECTIVE JULY 1, 1938

Introductory Note

Several important changes are made in the restrictions on the interstate movement of five-leaved pines and current and gooseberry plants in the following revision of the white-pine blister rust quarantine regulations. An embargo is placed on the interstate movement of five-leaved pines into two pine-growing regions, one in the West comprising the States of Arizona, Colorado, Nevada, New Mexico, Utah, Wyoming, and part of California, and the other in the Southeast comprising the States of Georgia, Kentucky, North Carolina, South Carolina, and Tennessee. The interstate movement of such pines from States other than these 11 entire States and from 10 northern California counties into the regions described is prohibited. The new regulations are designed to protect these pine-growing areas in which the blister rust is not known to exist.

No other restrictions are placed on the interstate movement of five-leaved pines unless they are visibly infected with the rust.

The dipping and dormancy requirements for currant and gooseberry plants which formerly applied only to shipments originating in the infected States, now apply to all shipments consigned to the States and counties listed above, from any State or District other than the 11 entire States and from the 10 northern California counties.

The control-area permit requirement now applies to currant and gooseberry plants consigned to 23 States as listed in regulation 3 (*b*). The aim of this requirement is to strengthen the Federal-State control activities carried on in areas surrounding valuable stands of five-leaved pine in these States.

No modification is made in the embargo as to all interstate movement of European black currant plants and of the wild native western currant plants (*Ribes bracteosum* and *R. petiolare*) except as to unrestricted movement into and between 12 central States as heretofore.

Summary

Five-Leaved Pine Shipments (Regulation 2)

Five-leaved pines are prohibited movement into the following regions, except that no restrictions are placed on the interstate movement of such pines from or between any of these 11 entire States nor from the part of California described:

Arizona.
California (That part lying south of the south line of the counties of Humboldt, Trinity, Tehama, Butte, Plumas, and Lassen).
Colorado.
Georgia.
Kentucky.
Nevada.
New Mexico.
North Carolina.
South Carolina.
Tennessee.
Utah.
Wyoming.

No pines or their parts visibly infected with blister rust may be shipped into any State or District unless shipped in a preservative or under special authorization of regulation 7.

For permit requirements in shipping fire-leaved pines for planting on Federal lands in the above regions see regulation 7.

Currant and Gooseberry Shipments (Regulation 3)

Requirements as to shipments from any State or District into each of the States, as follows:

Destination State	*Ribes nigrum* (European black currant); *R. bracteosum* and *R. petiolare* (wild, western currants). Restrictions	Other currant and gooseberry plants	
		Control-area permit required from State of destination	Plants must be either dipped [1] or dormant and defoliated
Alabama	None	No	No.
Arizona	Prohibited	No	Yes, with exceptions.[2]
Arkansas	None	No	No.
California:			
That part south of the southern line of the counties of Humboldt, Trinity, Tehama, Butte, Plumas, and Lassen.	Prohibited	Yes	Yes, with exceptions.[2]
That part north of the above line.	Prohibited	Yes	No.
Colorado	Prohibited	No	Yes, with exceptions.[2]
Connecticut	do	Yes	No.
Delaware	do	No	No.
District of Columbia	do	No	No.
Florida	None	No	No.
Georgia	Prohibited	Yes	Yes, with exceptions.[2]
Idaho	do	Yes	No.
Illinois	do	No	No.
Indiana	do	No	No.
Iowa	do	No	No.
Kansas	None	No	No.
Kentucky	Prohibited	No	Yes, with exceptions.[2]
Louisiana	None	No	No.
Maine	Prohibited	Yes	No.
Maryland	do	Yes	No.
Massachusetts	do	Yes	No.
Michigan	do	Yes	No.
Minnesota	do	Yes	No.
Mississippi	None	No	No.
Missouri	None	No	No.
Montana	Prohibited	Yes	No.
Nebraska	None	No	No.
Nevada	Prohibited	No	Yes, with exceptions.[2]
New Hampshire	do	Yes	No.
New Jersey	do	Yes	No.
New Mexico	do	No	Yes, with exceptions.[2]
New York	do	Yes	No.
North Carolina	do	Yes	Yes, with exceptions.[2]
North Dakota	None	No	No.
Ohio	Prohibited	Yes	No.
Oklahoma	None	No	No.
Oregon	Prohibited	No	No.
Pennsylvania	do	Yes	No.
Rhode Island	do	Yes	No.
South Carolina	do	No	Yes, with exceptions.[2]
South Dakota	None	No	No.
Tennessee	Prohibited	Yes	Yes, with exceptions.[2]
Texas	None	No	No.
Utah	Prohibited	No	Yes, with exceptions.[2]
Vermont	do	Yes	No.
Virginia	do	Yes	No.
Washington	do	Yes	No.
West Virginia	do	Yes	No.
Wisconsin	do	Yes	No.
Wyoming	do	No	Yes, with exceptions.[2]

[1] Plants must be dipped immediately before shipment in a lime-sulphur solution of 4.5° B. Prepare this solution by diluting 1 part of commercial concentrated lime-sulphur solution of 32° B. with 8 parts of water.

[2] Plants originating in Arizona, Colorado, Georgia, Kentucky, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Utah, or Wyoming, or in that part of California lying south of the south line of the counties of Humboldt, Trinity, Tehama, Butte, Plumas, and Lassen, are not required to be dipped or dormant.

Applications for Control-Area Permits

Shippers should apply for control-area permits (Form 415) to the officer of the State to which shipments are to be made (addresses of officers are listed below) stating the kind of plants to be shipped and the names and addresses of the consignor and consignee.

State	*Federal inspector designated to act in the State into which shipment is to be made*
California	Chief, Bureau of Plant Quarantine, Sacramento, Calif.
Connecticut	State Entomologist, Agricultural Experiment Station, New Haven, Conn.
Georgia	State Entomologist, Atlanta, Ga.
Idaho	Director, Bureau of Plant Industry, Boise, Idaho.
Maine	State Horticulturist, Augusta, Maine.
Maryland	State Plant Pathologist, College Park, Md.
Massachusetts	Director, Division of Plant Pest Control, State House, Boston, Mass.
Michigan	Inspector in Charge, Orchard and Nursery Inspection, Department of Agriculture, Lansing, Mich.
Minnesota	Commissioner of Conservation, State Office Building, St. Paul, Minn.
Montana	Chief, Division of Horticulture, Missoula, Mont.
New Hampshire	State Nursery Inspector, Durham, N. H.
New Jersey	Chief, Bureau of Plant Industry, Trenton, N. J.
New York	Director, Bureau of Plant Industry, Albany, N. Y.
North Carolina	State Entomologist, Department of Agriculture, Raleigh, N. C.
Ohio	Chief, Division of Plant Industry, Columbus, Ohio.
Pennsylvania	Chief, Division of Forest Protection, Harrisburg, Pa.
Rhode Island	State Entomologist, 310 State House, Providence, R. I.
Tennessee	State Entomologist and Plant Pathologist, 406 Morrill Hall, University of Tennessee, Knoxville, Tenn.
Vermont	Forest Commissioner, Montpelier, Vt.
Virginia	State Entomologist, 1112 State Office Building, Richmond, Va.
Washington	Supervisor of Horticulture, Department of Agriculture, Olympia, Wash.
West Virginia	Commissioner, Department of Agriculture, Charleston, W. Va.
Wisconsin	State Entomologist, Madison, Wis.

AVERY S. HOYT,
Acting Chief, Bureau of Entomology and Plant Quarantine.

NOTICE OF QUARANTINE NO. 63

(Approved August 27, 1926; effective October 1, 1926; supersedes Quarantine No. 26, as amended, and Quarantine No. 54, as extended)

I, C. F. Marvin, Acting Secretary of Agriculture, have determined that it is necessary to quarantine every State of the continental United States and the District of Columbia, in order to prevent the spread of the white-pine blister rust (*Cronartium ribicola* Fischer), a dangerous plant disease not heretofore widely prevalent or distributed within and throughout the United States.

Now, therefore, under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), and having duly given the public hearing required thereby, I do quarantine every State in the continental United States and the District of Columbia, effective on and after October 1, 1926. Hereafter, under the authority of said act of August 20, 1912, amended as aforesaid, no five-leaved pines (*Pinus*) or currant and gooseberry plants (*Ribes* and *Grossularia*, including cultivated or wild or ornamental sorts) shall be moved or allowed to be moved from any such State or from the District of Columbia into or through any other State in the continental United States or the District of Columbia, except in manner or method or under conditions prescribed in the rules and regulations supplemental hereto and in amendments thereof: *Provided*, That the restrictions of this quarantine and the rules and regulations supplemental hereto may be limited to the areas in a quarantined State now or hereafter designated by the Secretary of Agriculture as infected when said State shall have provided for and enforced such control measures with respect to such designated areas as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to effect the control and prevent the spread of the white-pine blister rust: *Provided further*, That, for the enforcement of the restrictions under this quarantine on the interstate movement of five-leaved pines and currant and gooseberry plants, all interstate shipments of nursery stock or other plants shall be subject to inspection at place of shipment or destination or at any point en route, by duly authorized inspectors of the United States Department of Agriculture.

Done at the city of Washington this 27th day of August 1926.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] C. F. MARVIN,
Acting Secretary of Agriculture.

REVISED RULES AND REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 63

(Approved June 1, 1938; Effective July 1, 1938)

Regulation 1. Definitions

For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

(*a*) *White-pine blister rust, or blister rust.*—The fungus disease caused by *Cronartium ribicola* Fischer.

(*b*) *Five-leaved pines.*—Entire plants with roots, of the following species belonging to the genus *Pinus:*

American species:
Ayacahuite pine (*P. ayacahuite* Ehrenb.).
Bristlecone pine (*P. aristata* Engelm.).
Foxtail pine (*P. balfouriana* Murr.).
Limber pine (*P. flexilis* James).
Mexican white pine (*P. strobiformis*, Engelm.).
Sugar pine (*P. lambertiana* Dougl.).
Western white or silver pine (*P. monticola* D. Don).
White bark pine (*P. albicaulis* Engelm.).
White pine (northern) (*P. strobus* L.).

Foreign species:
Balkan pine (*P. peuce* Criseb.).
Chinese white pine (*P. armandi* Franch.).
Himalayan or Bhotan pine (*P. excelsa* Wall.).
Japanese white pine (*P. parviflora* Sieb. and Zucc.).
Korean pine (*P. koraiensis* Sieb. and Zucc.).
Swiss stone pine (*P. cembra* L.).

(*c*) *Current and gooseberry plants.*—Plants, cuttings, or scions, belonging to the genera *Ribes* L. and *Grossularia* (Tourn.) Mill., including cultivated or wild or ornamental sorts.

(*d*) *European black currant plants.*—Plants, cuttings, stocks, scions, buds, seeds, or parts of plants of *Ribes nigrum* L.

(*e*) *Inspector.*—An inspector of the United States Department of Agriculture.

(*f*) Dormant.—In a nonvegetative state, with inactive buds.

(*g*) *Moved interstate.*—Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from one State or District of the United States into or through any other State or District.

Regulation 2. Control of Movement of Five-Leaved Pines

(*a*) Five-leaved pines shall not be moved interstate into any of the States of Arizona, Colorado, Georgia, Kentucky, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Utah, or Wyoming, nor into that part of California lying south of the south line of the counties of Humboldt, Trinity, Tehama, Butte, Plumas, and Lassen: *Provided*, That no restrictions are placed on the interstate movement of such pines from or between any of the 11 above-named entire States nor from the part of California described.

(*b*) Five-leaved pines or parts thereof, when visibly infected with the white-pine blister rust shall not be moved interstate into any State or District unless such pines are shipped in a preservative or are authorized and labeled in accordance with the provisions of regulation 7.

Regulation 3. Control of Movement of Currant and Gooseberry Plants

(*a*) *Embargo on European black currant plants.*—No European black currant plants (*Ribes nigrum*) and no currant plants of the wild native western species known as *R. bracteosum* and *R. petiolare* shall be moved interstate in the continental United States except into or within the area comprised in the States of Alabama, Arkansas, Florida, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

(*b*) *Control-area permits required.*—No currant or gooseberry plants of any species or variety shall be moved inter-

state into any of the States of California,[1] Connecticut, Georgia,[2] Idaho, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Carolina,[2] Ohio, Pennsylvania, Rhode Island, Tennessee,[2] Vermont, Virginia, Washington, West Virginia, or Wisconsin, unless a Federal control-area permit has been issued therefor by an inspector designated to act for the Bureau of Entomology and Plant Quarantine in such State (see addresses in Summary). Such permit will not be issued if the plants are to be shipped into or planted in areas in which five-leaved pines have been protected from white-pine blister rust or in which such protection is contemplated. The continuance of this requirement as to any State is conditioned on the State providing such legal or other control on the planting and movement therein of currant and gooseberry plants as in the judgment of the Secretary of Agriculture may be deemed adequate to control white-pine blister rust in the protected areas.

(c) *Dipping or dormancy required.*—No currant or gooseberry plants of any species or variety shall be moved interstate into any of the States of Arizona, Colorado, Georgia,[2] Kentucky, Nevada, New Mexico, North Carolina,[2] South Carolina, Tennessee,[2] Utah, or Wyoming, nor into that part of California[3] lying south of the south line of the counties of Humboldt, Trinity, Tehama, Butte, Plumas, and Lassen, unless such plants have either been dipped (except the roots) immediately prior to shipment in lime-sulphur solution of a strength of 4.5° B.,[3] or are shipped in a dormant and defoliated condition. Such lime-sulphur dip shall be plainly visible on said plants and be easily detectable by odor, the judgment of the inspector to be final as to adequacy of the dip and as to the condition of the plants as to dormancy or defoliation: *Provided*, That no such dipping or dormancy restrictions are placed on the interstate movement of currant and gooseberry plants from or between any of the 11 above-named entire States, nor from the part of California described.

Regulation 4. Marking Requirements

(a) Every box, bale, or other container of plants for which permits are required by regulations 3 and 7 shall be plainly marked with the name and address of the consignor and of the consignee, and shall bear the permit securely attached to the outside thereof.

(b) The permit in the case of carload shipments by rail shall accompany the waybill, conductor's manifest, memorandum, or bill of lading pertaining to such shipment. In the case of shipment by road vehicle, the permit shall accompany the vehicle.

Regulation 5. Inspection in Transit

Every car, vehicle, box, bale, or other container moved interstate or offered to a common carrier for shipment interstate, which contains or which the inspector has probable cause to believe contains either infected articles or articles the movement of which is prohibited or restricted by these regulations, shall be subject to inspection by an inspector at any time or place.

Regulation 6. Cancelation of Permits

Permits issued under these regulations may be withdrawn or canceled and further permits refused, whenever in the judgment of the Bureau of Entomology and Plant Quarantine, the further use of such permits might result in the dissemination of the white-pine blister rust. After any such permit is withdrawn or has expired, the further use of any permit tags issued thereunder is prohibited.

Regulation 7. Shipments for Reforestation, Experimental, Educational, or Scientific Purposes

Plants subject to restriction in these regulations may be moved interstate for reforestation purposes on Federal lands, or for experimental, educational, or scientific purposes on such conditions and under such safeguards as may be prescribed by the Bureau of Entomology and Plant Quarantine. The container of plants so moved, except when shipped to or in care of the Inspection House, Bureau of Entomology and Plant Quarantine, Washington, D. C., shall bear, securely attached to the outside thereof, an identifying tag from the Bureau of Entomology and Plant Quarantine.

Identifying tags to authorize the interstate movement of five-leaved pines for planting on Federal lands in any of the 11 entire States named and part of California described in regulation 2, will be issued only on condition that such pines have been raised under such sanitation conditions as in the judgment of the Bureau of Entomology and Plant Quarantine are adequate to protect them from infection by white-pine blister rust: *Provided*, That no permit is required for shipping such pines from or between any of the 11 entire States named nor from the part of California described.

These revised rules and regulations shall be effective on and after July 1, 1938, and shall on that date supersede the rules and regulations promulgated February 16, 1937.

Done at the city of Washington this 1st day of June 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

PENALTIES

The Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, provides that no person shall ship or offer for shipment to any common carrier, nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, • • • or any other article • • • specified in the notice of quarantine • • • in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It also provides that any person who shall violate any of the provisions of this act or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this act or in the regulations of the Secretary of Agriculture shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not exceeding $500 or by imprisonment not exceeding 1 year, or both such fine and imprisonment, in the discretion of the court.

[F. R. Doc. 38-1544; Filed, June 1, 1938; 11:45 a. m.]

Commodity Exchange Administration.

ORDER DESIGNATING THE WOOL ASSOCIATES OF THE NEW YORK COTTON EXCHANGE, INC., AS A CONTRACT MARKET FOR WOOL TOPS UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authorization and direction contained in the Commodity Exchange Act (7 U. S. C. and Supp. III, secs. 1–17a), as amended by the act of Congress, approved April 7, 1938 (Public, No. 471, 75th Cong.), I, H. A. Wallace, Secretary of Agriculture, do hereby designate the Wool Associates of the New York Cotton Exchange, Inc., of New York, New York, as a contract market for wool tops under the Commodity Exchange Act, said exchange having applied for, and having otherwise compiled with the conditions imposed by said act precedent to, such designation. Such designation is subject hereafter to suspension or revocation in accordance with the provisions of said act.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 1st day of June 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1543; Filed, June 1, 1938; 11:45 a. m.]

[1] Dormancy and defoliation or lime-sulphur dip is also required for shipments to these States (see paragraph (c)).

[2] Control-area permits are also required for shipments to these States. See paragraph (b).

[3] Prepare this solution by diluting 1 part of commercial concentrated lime-sulphur solution of 32° B. with 8 parts of water.

DEPARTMENT OF COMMERCE.

Bureau of Foreign and Domestic Commerce.

REGULATIONS FOR THE COLLECTION OF STATISTICS OF FOREIGN COMMERCE AND NAVIGATION OF THE UNITED STATES

The following regulations are hereby prescribed pursuant to the authority contained in Secs. 161, 335 and 336 Revised Statutes, and Sec. 337 Revised Statutes as amended by the Acts of Feb. 14, 1903, c. 552, Sec. 10, 32 Stat. 829; Aug. 23, 1912, c. 350, Sec. 1, 37 Stat. 407; Mar. 4, 1913, c. 141, Sec. 1, 37 Stat. 736; Mar. 1, 1919, c. 86, 40 Stat. 1256; also the Acts of Mar. 3, 1893 and April 29, 1902, as amended.

GENERAL PROVISIONS

SECTION 1. *Compilation and publication.*—(a) Statistics of imports and exports are compiled and published by the Bureau of Foreign and Domestic Commerce of the Department of Commerce from data supplied by collectors of customs as hereinafter provided. Correspondence relative to statistical reports should be addressed to the above Bureau at Washington, D. C.

(b) Inquiries relating to statistical requirements of import entries and export declarations, and the procedure of coding and forwarding these documents, should be addressed to the Section of Customs Statistics, Department of Commerce, at New York.

SEC. 2. *Accounts, what to show.*—(a) The accounts of the commerce of the United States with foreign countries (or its noncontiguous territory) shall comprehend and include, in tabular form, the quantity, by weight or measure, as well as the value of the various articles of foreign commerce.

(b) Articles sent out of the country temporarily, such as automobiles for touring purposes, commercial samples, circuses, race horses, and other articles intended to be returned to the United States, which are not sold and do not enter the trade of the country to which sent, should not be included in the statistics as exports when shipped abroad, nor as imports when returned to the United States.

SEC. 3. *Statistical reports furnished to collectors.*—(a) The Section of Customs Statistics will supply each collector monthly with statistical reports of the imports into and exports from his district, by commodities and countries, in the form of machine-made tabulations, the district, port, vessel, country, classification, etc., being in code numbers.

(b) The statistical report of imports will appear upon white sheets and exports upon yellow sheets. These sheets should be bound by collectors and used as statistical blotters.

SEC. 4. *Statistics furnished by collectors.*—Trade papers, trade organizations, and commercial concerns may be furnished with such statistical information regarding the foreign trade by customs districts as may be available from the records kept for the purpose of making reports to the Department of Commerce, or as shown in the monthly statistical reports supplied to collectors by the Section of Customs Statistics at New York. In no case shall information be furnished in such manner as to disclose individual transactions or names of importers or exporters.

SEC. 5. *Confidential information.*—The contents of invoices, entries, manifests, and export declarations must be treated as confidential and not disclosed to others than the parties in interest by employees of the Customs Service or the Section of Customs Statistics.

SEC. 6. *Statistical information required in entries.*—(a) The kinds, quantities, and values of all imported articles shall be ascertained from the entries. Collectors of customs shall require entries of imported merchandise to contain the information required in Schedule A, statistical classification of imports, as prescribed by the Secretary of the Treasury, the Secretary of Commerce, and the chairman of the United States Tariff Commission. Tons, where required, should be long tons of 2,240 pounds as construed in section 2951, Revised Statutes, unless short tons are specified.

(b) The values of imported merchandise will be returned in the statistical reports in accordance with the dutiable values are defined in section 402 of the Tariff Act. The value of the containers or coverings and other charges or expenses incident to placing the merchandise in condition packed ready for shipment to the United States, should be included in the statistical value of merchandise, whether the merchandise is dutiable or free of duty.

(c) For statistical purposes nondutiable charges should be deducted in entries from total invoice values or imported merchandise free of duty, as well as for merchandise subject to duty at specific or ad valorem rates.

SEC. 7. *Shippers' export declarations.*—The kinds, quantities, and values of articles exported to foreign countries or shipped to noncontiguous territory of the United States shall be compiled from the export declaration furnished by the shipper to the collector of customs at the port of exportation, prepared on the official form (customs Form 7525) in accordance with the instructions of T. D. 38410.

SEC. 8. *Separation of domestic and foreign merchandise.*—(a) The export declaration must show foreign goods separately from goods of domestic production. Only those goods will be reported as foreign which have undergone no change in form or condition or enhancement in value by the application of labor in the United States. Articles made from foreign materials or changed from the conditions in which imported by repacking, grinding, refining, or smelting will be classed as of domestic production or manufacture.

(b) Articles exported which are the growth, produce, or manufacture of the United States and articles of foreign origin which have been changed in form and enhanced in value by labor or manufacture in the United States are to be classified in accordance with Schedule B, statistical classification of domestic commodities exported from the United States, issued by the Department of Commerce.

(c) Articles exported which had been previously imported, and which are the growth, produce, or manufacture of foreign countries, and are exported in the same condition in which imported, will be classified in accordance with the Department of Commerce statistical classification of foreign merchandise exported from the United States.

SEC. 9. *Values of exports.*—(a) Articles exported to foreign countries or shipped to noncontiguous territory shall be valued at their actual cost or the values which they may truly bear at the time of exportation or shipment in the ports of the United States from which they are exported or shipped, including the value of cartons, cases, crates, boxes, sacks, and coverings of any kind.

(b) The value stated should be the actual cost or selling price, if the goods are sold, including actual or estimated inland freight charges from the interior place of shipment to the seaport or border point of exportation. If shipped on consignment without a sale having been made, the market value at the time of exportation in the ports of the United States from which exported should be stated.

(c) Freight and other charges from the port of departure in the United States to the place of destination in the foreign country or noncontiguous territory to which shipped must not be included in the export value.

SEC. 10. *Classification of countries.*—(a) In the statistical reports of imports, exports, and vessels entered and cleared the foreign countries will be classified in accordance with Schedule C of the Department of Commerce.

(b) The country to which imports shall be credited for statistical purposes is the country of origin. In cases in which the merchandise is invoiced in or exported from a country other than the country of origin, care should be taken to insure that the country of origin is correctly specified.

(c) Entries for immediate consumption or for warehouse, and withdrawal from warehouse for consumption, shall clearly specify the country of origin of the imported articles as well as the nationality and motive power of the vessel from which the imported articles were landed in the United States or in Canada or Mexico if shipped through either of these countries.

SEC. 11. *Country of destination of exports.*—(a) If the country of ultimate destination of the commodities exported is different from that for which the vessel or car clears or

departs, collectors will require exporters and shippers or their agents to state in the shippers' declarations as the country of ultimate destination the country to which the commodities are sold or destined for a market.

(b) Special care should be taken to state the final destination of goods shipped through Canada to Europe and of goods to be transshipped in the United Kingdom, the Netherlands, Germany, and France to other countries, and of goods shipped through Chile or Peru destined to Bolivia.

SEC. 12. *Fractions in quantities and values.*—In the expression of values in export declarations and statistical copies of entries, fractions of a dollar less than 50 cents will be ignored, and fractions of 50 cents or upward will be counted at $1. A like rule will apply to fractions of weight, measure, and tonnage.

SEC. 13. *Dates of importation and exportation.*—For statistical purposes the date of entry will be regarded as the date of importation and the date of clearance will be regarded as the date of exportation.

SEC. 14. *Description of articles exported.*—(a) The description of merchandise in export declarations must be stated in specific and not in general terms. Such designations as "fruits," "provisions," "groceries," "canned goods," "hardware," "machinery," or any other general term must not be used. The articles should be described in sufficient detail to permit of their classification under the proper classes of export Schedule B, giving total quantity and value of each article, but omitting invoice details for different marks, sizes, and kinds of the same article.

(b) The number of packages, boxes, barrels, bales, etc., must be specified, with quantities in the unit stated in Schedule B, in net weight exclusive of the weight of barrels, boxes, or other bulky coverings and of salt or pickle in the case of salted or pickled fish and meats. Tons, where required, should be given in long tons of 2,240 pounds.

REPORTS TO THE BUREAU OF FOREIGN AND DOMESTIC COMMERCE

SEC. 15. *Errors in entries and export declarations.*—(a) Collectors will make a preliminary examination of all import entries and export declarations presented.

(b) If on examination any entries or declarations are found to be inaccurate or incomplete, either in the description of articles, or in omitting to state proper quantities and values, or insertion of the intermediate country instead of the country of final destination, or containing any error apparent on the face of the entry or declaration, the correction thereof will be required before acceptance.

SEC. 16. *Reports, forwarding of.*—The following reports will be prepared by collectors at headquarters ports in accordance with the detailed instructions printed on the blank forms and forwarded to the Bureau of Foreign and Domestic Commerce at Washington, D. C., as early as possible after the close of the month and in no case later than the time specified for the various reports.

SEC. 17. *Imports and exports of gold and silver.*—(a) The statistical copy of every entry or export declaration involving gold or silver ore, bullion, coins, etc., shall be transmitted daily by air mail, special delivery, to the Division of Foreign Trade Statistics, Department of Commerce, Washington, D. C. This shall apply to entries and export declarations covering such commodities as copper, lead, etc., if any gold or silver is included therein.

(b) All entries or export declarations covering gold or silver shall furthermore be mailed to the Division of Foreign Trade Statistics, Department of Commerce, Washington, D. C., direct by the port where the entry papers or export declarations are filed.

(c) A separate series of identifying numbers covering such entries and export declarations shall be used. These identifying numbers will be placed immediately above the regular entry or export declaration numbers, and will be continued in numerical order.

SEC. 18. *Manufactured articles exported with benefit of drawback on imported materials contained therein.*—(a) Such articles will be reported quarterly on commerce Form 1115 within 30 days after the close of each quarter. The articles will also be returned as domestic exports from the district of exportation.

(b) The articles exported will be shown, with quantities, classified according to Schedule B of the Department of Commerce, enlarged by the addition of sufficient subclasses to show separately each different kind of article exported, though several may be grouped under the same class number.

(c) For each exported article there will be shown the imported articles contained therein, classified according to Schedule A, showing quantities or values, or both, with rates of duty, sufficient to verify the amount of drawbacks paid.

SEC. 19. *Bunker coal or fuel oil.*—(a) Bunker coal or fuel oil laden on vessels cleared for foreign countries will be reported monthly on commerce Form 1182, within 15 days after the close of each month.

(b) Collectors will require masters or agents of vessels clearing in the foreign trade to show on the outward foreign vessel manifest the quantities and values of bunker or fuel coal and oil taken on board such vessels for their own fueling use apart from such quantities as may have been laden on the vessel as cargo.

SEC. 20. *Dumping duties.*—Collectors will report quarterly dumping duties collected under section 202 of the Antidumping Act, 1921, showing commodity, country from which imported, and amount of dumping duties.

SEC. 21. *No transactions report.*—Whenever there are no transactions in any of the above statements a report to that effect should be rendered within the required time on commerce Form 1175.

SEC. 22. *Statistical reports prepared at headquarters ports.*—The above statistical returns will be prepared and transmitted at the headquarters ports covering the commerce of the entire district, but the collectors may require that deputy collectors at ports of entry compile monthly reports covering transactions at such ports, to be forwarded to headquarters for consolidation with the district returns.

REPORTS TO SECTION OF CUSTOMS STATISTICS AT NEW YORK

SEC. 23. *Imported foods, drugs, etc., subject to inspection.*—(a) Statistical copies of entries for imported foods, drugs, insecticides, and fungicides; meat and meat-food products; grain and grass seeds; viruses, serums, and toxins; tea; narcotic drugs, and other special classes of merchandise subject to inspection, examination, or permit by the Department of Agriculture or other Government offices, should not be transmitted to the Section of Customs Statistics of the Department of Commerce until the goods are admitted and released to the consignee.

(b) Entries for rejected goods which are exported or destroyed, regarded as "nonimportation" under article 557, should not be transmitted to the Section of Customs Statistics; if part of an entry is admitted and part rejected, the rejected portion should be crossed out and clearly indicated on the statistical entry sent to the Section of Customs Statistics.

SEC. 24. *Import entries and warehouse withdrawals.*—(a) Statistical copies of entries and withdrawals must describe the merchandise in the detail required by the statistical import Schedule A of the Department of Commerce. Collectors will insert the code numbers of district, port, country, and flag in the proper columns and forward the entries to the Section of Customs Statistics at New York in accordance with the procedure outlined in the Treasury decisions.

(b) Collectors may insert the code numbers of commodities and units of quantities if they find it convenient to do so while examining entries for compliance with the commodity classification required by Schedule A.

(c) Entries for imported raw wool must show the class of wool, whether carpet, clothing, combing, mohair, alpaca, etc.; the condition, greasy, washed, scoured, or pulled; and the quality or grade in English or American standards; 36's to 44's as coarse or low crossbred; 44's/46's to 56's as medium crossbred; 56's to 58's as fine crossbred; and 60's and over as fine.

SEC. 25. *Reports of corrections.*—Changes in classification and changes in quantities or values amounting to $100 made in liquidating entries or withdrawals must be reported to the Section of Customs Statistics at New York on customs Form 7401, correction report of import entry or withdrawal. In order to minimize correction reports, collectors may hold entries until after examination and weighing of the goods, making any changes on the statistical copies forwarded to the New York statistical office, if that practice will not result in great delay in transmitting statistical copies of entries.

SEC. 26. *Immediate transportation entries returned by port of final destination.*—(a) Imported merchandise entered for immediate transportation without appraisement, and merchandise imported through frontier ports in cars secured by customs seals, will be excluded from the return of imports at the port of first arrival, but will be returned as imported at the port where entered for immediate consumption or for warehouse.

(b) The entries of such goods, made at the port of first arrival and the port of final destination, are required to show the country where the articles were invoiced and the nationality and motive power of the vessel in which they were brought to the United States, or to Canada, or Mexico, if the goods reach the United States through those countries.

SEC. 27. *Imports of crude ores or metals.*—(a) Imported crude ores or metals entered into bonded smelting warehouses will be reported statistically as imported at the port where entered into the bonded smelting or refining warehouse, in accordance with the instructions of T. D. 39828. Quantities and values of the different metal contents will be obtained from the consular invoice or estimated from previous similar importations in accordance with T. D. 39828.

(b) Consular invoices of gold, silver, copper, lead, tin, and other metals in ore and base bullion are required by Department of State circular of August 22, 1925, to show separately the quantities and values of each of the metals contained therein.

SEC. 28. *Coding and forwarding of export declarations.*—Export declarations will be numbered, coded, and forwarded to the Sections of Customs Statistics at New York in accordance with the instructions in paragraphs 3, 4, and 8 of T. D. 37531, sections 19 (as amended by T. D. 47088) and 20 of T. D. 38410, and other special instructions.

SEC. 29. *Shipments in transit through the United States.*—(a) Export declarations, customs Form 7525, are not required for foreign merchandise shipped in transit through the United States from one foreign country to another. In lieu thereof "Statistical Export Declaration for In-Transit Goods," customs Form 7513, will be used as provided in article 906 (a) and (b).

(b) Any export declarations filed by shippers for in-transit goods in addition to customs Form 7513, under a misunderstanding of the regulations, should not be forwarded to the Section of Customs Statistics at New York. Collectors should make a careful check of the outward foreign vessel manifest and railroad car manifest for the purpose of detecting such duplication of declarations.

EXPORT PROCEDURE

SEC. 30. *Manifests of vessels.—Shippers' declarations—Clearance.*—(a) Before clearance shall be granted to any vessel bound to a foreign place or noncontiguous territory of the United States the master shall file a manifest on commerce form 1374 of all the cargo on board his vessel. There shall also be filed with the collector declarations of the owners, shippers, or consignors of the cargo shipped by them, specifying the kinds, quantities, values, and the places to which destined. These declarations will be made in duplicate on customs form 7525 in accordance with the instructions printed thereon, the original verified by oath before a customs officer, notary public, or other authorized person for shipments valued at over $100. Collectors will number the declarations serially as received.

(b) Where the cargo is to be transshipped in another customs district, including Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, for transportation to a foreign country or noncontiguous territory of the United States, the shippers' export declarations (customs form 7525) should be filed only with the collector of customs at the port where the merchandise is last laden for its final destination.

(c) The manifest of a vessel bound to a foreign country or to or from contiguous territory of the United States must show the customhouse number of the export declaration for each consignment, also the particulars required by section 4199, Revised Statutes, namely, the destination of the vessel, the marks and numbers of the packages, and a description of the articles, contents, quantities, and values, provided that a notation on the manifest that values are as stated on shippers' declaration, copies of which are attached to such manifest, will be accepted. Any short shipment must be noted on the duplicate export declarations presented with the manifest.

SEC. 31. *Clearance on incomplete manifest under bond.*—Clearance may be granted on incomplete cargo manifest and before all shippers' declarations have been filed, upon application to the collector on customs form 7301, and the execution of the bond printed thereon. The condition of the bond is that a complete outward manifest be filed not later than the fourth business day after clearance of the vessel, together with all export declarations theretofore received. Delinquent declarations must be filed with the collector as soon as received and at the latest within six days after clearance, unless a further extension of time is granted by the collector in exceptional cases. If required by the collector, pro forma declarations on customs form 7303 must be filed enumerating shipments for which declarations are missing.

SEC. 32. *Cargo of vessel laden in different customs districts, now returned.*—When a vessel is laden in different customs districts with commodities to be exported to foreign countries, shippers' export declarations must be filed in the respective districts where laden. The collector will report as exports only the merchandise laden in his district.

SEC. 33. *Declarations for exports by railways, ferryboats, and vehicles.*—(a) Any person who delivers merchandise to any transportation company for exportation from the United States to a foreign country by rail, ferryboat, or vehicle must deliver to the collector of customs at the port through which the merchandise passes into foreign territory export declarations in duplicate on customs form 7525, showing the kinds, quantities, and values of all merchandise delivered by him or his agent to such carrier for exportation.

(b) The collector shall not permit any car or other vehicle laden with merchandise intended for exportation to any foreign country to depart from the United States until a declaration specifying the kinds, quantities, and values of the merchandise has been delivered to him by the shipper or his agent. Exportation may be permitted under bond to produce missing declarations within 15 days.

SEC. 34. *In transit shipments, customs form 7525 not to be used for.*—The foregoing article applies only to merchandise exported by land carriage or ferryboat to or through adjacent foreign territory for a market. Export declarations on customs form 7525 are not to be filed for shipments from one part of the United States to another part thereof across foreign territory, nor for merchandise passing through the United States in transit from one foreign country to another, or from one portion of a foreign country to another portion thereof, across the territory of the United States.

SEC. 35. *In transit shipments through Canada diverted.*—When grain or other commodities shipped from northern border or lake ports by vessel or railroad in transit through Canada to other United States ports are diverted for import into Canada or for export from a Canadian port to foreign countries and collectors at the port of shipment are informed to that effect, they will obtain export declarations on customs form 7525 from the original shippers and forward them to the Section of Customs Statistics at New York, in order that such diverted shipments may be included in the statistics of exports from the United States.

SEC. 36. *Shipments from interior to seaboard.*—Declarations for merchandise shipped from an interior point in the United States partly in transit through Canada or Mexico for export from a seaboard port of the United States are

not required to be delivered to the collector of customs at the first border port, but the statistics of exports will be secured from shippers' declarations filed at the seaboard port of exportation.

SEC. 37. *Reporting in transit shipments.*—Foreign merchandise entered for shipment in transit through the United States, or for transshipment in ports of the United States, will not be reported as importations when received, nor will export declarations be required therefor when shipped out. Such merchandise will be reported to the Section of Customs Statistics at New York on customs form 7513, giving the aggregate quantity and value of each of the various classes of merchandise and the countries to which destined, as prescribed by the Bureau of Foreign and Domestic Commerce.

SEC. 38. *Car manifests.*—(a) Upon arrival of merchandise for exportation at a border port the carrier must deliver to the collector of customs a car manifest, giving marks and numbers, the name of the shipper or consignor, description of the goods, and the destination thereof. This manifest may be the waybill, or a copy thereof or a copy of the manifest prepared for the foreign customs. The required shipper's export declarations in duplicate must be attached to the car manifest or waybill when delivered to the collector.

(b) Under the provisions of the Act of March 3, 1893, no railway car containing commodities for export will be permitted to leave the United States until the car manifest and shipper's export declarations have been delivered to the collector of customs; but if any declarations are missing, immediate exportation may be permitted upon the filing of pro forma declarations therefor and the execution of a bond on customs form 7303.

SEC. 39. *Exportation by ferry or vehicle.*—The shipper or his agent must deliver shipper's export declarations in duplicate to the customs officer covering all goods exported by ferry, wagon, or other vehicle. The customs officer will retain the original declaration and deliver the certified duplicate to the shipper, master, or driver as a permit for the exportation of the goods. The driver of a vehicle will deliver the certified duplicate to the customs officer when the goods are taken out of the country. The master of a ferry will deliver to the customs officer at the close of each day all duplicates received during that day, accompanied by a statement that such duplicate declarations cover all goods exported on such ferry during that day. If a declaration can not be produced, exportation may be permitted upon the filing of a pro forma declaration and bond on customs form 7303.

SEC. 40. *Penalty.*—The agent or other employee of any railway or transportation company who shall transport any merchandise into a foreign country before the delivery of a declaration, as required by law, except under bond as provided for, shall be liable to a penalty of $50 for each offense.

SEC. 41. *Report of violations of law.*—Collectors of customs shall report without delay to the nearest United States attorney all violations of the provisions of the statistical laws.

SEC. 42. *Shipments from the interior for export.*—(a) For goods shipped on a through export bill of lading from an interior point to a foreign country or to a noncontiguous territory of the United States, the shipper must prepare and deliver to the carrier the export declaration in duplicate to accompany the waybill to the seaport or border port of exportation.

(b) For shipments from the interior on domestic bills of lading consigned to the seaboard for exportation, the export declaration may be delivered to the carrier as prescribed above or mailed to the consignee at the port of exportation.

SEC. 43. *Divided shipments.*—If a shipment is divided at the port of exit by accident or intention, part being exported in one vessel or car and part in another, the agent of the carrier will note the amount shipped on the duplicate declaration attached to the vessel or car manifest. A declaration and duplicate covering subsequent shipments must be prepared by the carrier's agent from records of the previous shipment and be presented to the collector when the remainder is shipped. The number of the original declaration must be noted on each of the copies and duplicates.

SEC. 44. *Exportations from Alaska, Hawaii, and Puerto Rico via the United States.*—Shipper's export declarations in duplicate must accompany merchandise shipped from Alaska, Hawaii and Puerto Rico for transshipment and exportation from a port in the United States and be delivered by the shipping agent to the collector of customs at such port of exportation, with the name of the exporting vessel noted thereon.

SEC. 45. *Trade between the United States and its noncontiguous territory.*—The regulations in this chapter with respect to the collection of statistics of merchandise, gold, and silver exported from the United States to foreign countries by water and of clearances of vessels in such trade are extended to, and will govern, so far as applicable, in the collection of statistics of shipments between the United States and its contiguous territory and between the respective portions of said noncontiguous territory.

SEC. 46. *Government supplies shipped abroad.*—(a) No export declarations are required for shipments of furniture, stationery, and other office supplies to the United States Government offices or employees in foreign countries or noncontiguous territories for their exclusive use, or for shipments of military and naval supplies and equipment from quartermaster stores or supply depots for use of United States military or naval forces abroad, or for equipment shipped to United States lighthouses.

(b) Export declarations are required for construction material, machinery, supplies, or other merchandise shipped on commercial vessels to the Panama Canal, Panama Railroad, the Government of Puerto Rico or of the Philippine Islands, or the Manila Railroad Company, which are not regarded as branch offices of United States Government departments or bureaus.

SEC. 47. *Personal effects.*—No export declarations are required for personal effects or baggage of travelers carried on passenger trains to Canada or Mexico.

[SEAL] R. C. PATTERSON, JR.
Acting Secretary of Commerce.

MAY 31, 1938.

[F. R. Doc. 38-1537; Filed, May 31, 1938; 4: 59 p. m.]

FOREIGN-TRADE ZONES BOARD.

INSTRUCTIONS CONCERNING THE PUBLICATION, POSTING, AND FILING OF SCHEDULES CONTAINING ALL THE RULES, REGULATIONS, RATES AND CHARGES FOR ALL SERVICES AND PRIVILEGES WITHIN FOREIGN-TRADE ZONES

1. Section 14 of the Act of June 18, 1934 (48 Stat. 998–1003; 19 U. S. C., Sec. 81n) relating to Foreign-Trade Zones provides in part as follows:

> Each zone shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable, and the grantee shall afford to all who may apply for the use of the zone and its facilities and appurtenances uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments * * *.

and

Paragraphs 1000 and 1003 (b) of Article X of the Regulations promulgated by the Foreign-Trade Zones Board effective June 29, 1935, contain the following relative to schedules:

"The grantee shall, before beginning operation of a zone, submit to the Board for approval its own rules, regulations, and practices for the operation of the zone."

"Schedules containing all the rates and charges shall be published, posted, and filed with, and subject to the approval of the Board. Full instructions concerning the publication, posting, and filing of such schedules will be issued by the Board. One copy of each tariff required to be filed with any State regulatory body shall also be filed with the Board."

2. In accordance with the provisions of the Act and of the Regulations cited above, the Foreign-Trade Zones Board on February 7, 1938, adopted and issued the following instructions concerning the publication, posting, and filing of schedules containing all the rules, regulations, rates and charges for all services and privileges within foreign-trade zones. Additional instructions, and an elaboration or extension of those set forth herein, may be issued from time to time.

3. That there may be no misunderstanding the following definitions are to be followed in the preparation of the schedules:

Grantee:

The term "grantee" means a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted, in accordance with the Act, Public 397, Seventy-third Congress, approved June 18, 1934.

Schedule:

The term "schedule" means a publication stating rates and charges of a foreign-trade zone, and all rules and regulations applying in connection therewith and to general operating procedure.

Publication:

Should be construed as the act of constructing, or compiling and publishing a schedule which will include all pertinent information in connection with the rates, charges, rules, and regulations applicable thereto within a foreign-trade zone, and also such other schedules as may be inaugurated from time to time.

Posting:

Should be construed as the act of posting all effective schedules within a foreign-trade zone, and the general offices of the grantee, in such a manner that they will be accessible to the public, and can be conveniently inspected. Requests may originate from the public for copies of effective schedules, and this also comes under the general heading of "posting" as such requests should be complied with to every reasonable degree.

Filing:

All schedules must be filed with the Foreign-Trade Zones Board and such other State or Federal regulating bodies as may subsequently exercise any jurisdiction in connection with the operation of foreign-trade zones. All original schedules so filed are, of course, considered as the effective schedules, unless otherwise cancelled or revised.

4. The obligation to compile and publish, post and file schedules naming rates, charges, rules and regulations, applying at foreign-trade zones is a direct responsibility of the grantee. The grantee should place such obligation and authority, through a Power of Attorney, with a member of its organization specifically designated to perform such work, thereby definitely fixing the responsibility for publishing, posting and filing schedules on behalf of the grantee.

The granting of such authority to a specifically designated person would ratify and confirm the lawful action of such an agent of the grantee with respect to the responsibility imposed by law in connection with publishing, filing and posting of schedules. In other words, the granting of such a Power of Attorney to a designated person would serve the following purposes insofar as the grantee is concerned:

(a) Would give the person so designated the authority to publish, post and file schedules, and all revisions thereto on behalf of the grantee.

(b) Avoid duplication of this responsibility and possible conflict with respect to the material contained in schedules, by placing with one person the authority to carry out the provisions of the Act with relation to publishing, posting and filing schedules.

(c) Would also place the responsibility for the unification and dissemination of information contained within schedules to the interested public, and the many other incidental details with regard to this important subject, upon the person granted the power of attorney.

The granting of such authority to a specifically designated person could be limited in the following respects:

(a) By defining the period of time such Power of Attorney is to run.

(b) By stating the exact nature of responsibility for which the Power of Attorney is issued, for instance "to publish, post and file schedules, and all incidental duties in relation thereto."

From the above it will be seen that one of the main objectives to be accomplished thereby would be to limit the responsibility on behalf of the grantee to one person, a specifically designated authority, to handle all matters in relation to the publication, posting and filing of schedules. Future developments of foreign-trade zones will undoubtedly reveal the numbers and kinds of schedules and revisions necessary to the conduct of such organizations.

5. In order that all original schedules and revisions embracing matters pertaining to foreign-trade zones, such as rates, charges, rules and regulations, and any additional schedules and revisions that may be subsequently issued, will be constructed as uniformly as possible, the following is prescribed:

(a) All schedules shall be compiled and published in loose leaf form, both the original schedule and subsequent revised pages conforming to a size of approximately 8 inches wide by 11 inches long.

(b) Schedules and revised pages shall be plainly printed, mimeographed or reproduced by other similar durable process on paper of good quality.

(c) The loose leaf pages of the schedule shall be printed upon one side only, and each page consecutively numbered, beginning with "original page No. 1." etc., etc.

(d) A margin of not less than one (1) inch shall surround the schedule page, especially at the binding edge.

(e) No alteration in writing or erasure shall be made in any part of the schedule.

(f) A hard cardboard front and back cover shall be used in binding schedules, and allowance made for conveniently fastening and unfastening the schedule to permit insertion of revised pages from time to time.

(g) The front cover and back cover of schedules may be in any color which may be determined upon, but the pages within the schedule shall be white, at least commencing with *original page number one* up to and including the last page, and all revisions thereof.

6. All schedules should be constructed as simply as possible, but accuracy and comprehensiveness should not be sacrificed. The Board, therefore, instructs that the following general outline of the schedule be followed as closely as possible:

(a) *Title Page:*

The title page shall generally bear such items as:

(1) The name of the grantee or operator.
(2) The schedule number.
(3) Descriptive statement of the contents named within schedule.
(4) Locaton of zone.
(5) The date the schedule is issued and effective date.
(6) The name of the person by whom the schedule is issued.

This information may be given on the cover of the schedule as well as on the page constituting *original page 1* of the schedule.

(b) *Administrative Organization Page:*

On this page, which will form *original page 2*, shall be listed the public officials and managing officers connected directly with the operation of the zone.

(c) *Checking Sheet for Schedule:*

This standard method of noting corrections and additions to the schedule shall be used and followed by the grantee. The checking sheet shall carry an explanation for its use to all who are in possession of the original schedule.

(d) *Table of Contents:*

The table of contents shall follow the general outline as given in this section and shall include all major references by pages.

(e) *Explanation of Abbreviations and Symbols:*

A complete list of abbreviations and symbols used in the schedule shall be explained.

(f) *Definitions:*

There shall be given definitions of all terms used in this schedule relating to rules, regulations, rates and charges, also of any terms relating to the physical construction of this schedule. Where the Foreign-Trade Zones Board has supplied definitions for terms to be used herein, those definitions shall be used.

(g) *Rules and Regulations:*

Special care should be taken in the compilation of rules and regulations that they may be complete and self-explanatory with respect to their general application. It is suggested that rules and regulations of general application be segregated from those of specific or special application. It is also suggested that rules and regulations be grouped in their application, that is, concerning carriers, concerning cargo, concerning persons, concerning rates and charges, etc.

(h) *Prohibited Merchandise:*

There shall be listed all merchandise which has been excluded from the privileges of the zone for any reason.

(i) *Rates and Charges:*

(1) Applying to Carriers: Herein shall be listed all charges applicable to carriers, their owners or agents, in the following manner: Vessels: towage, dockage, loading and discharging, running lines, fumigation, etc. Rail cars: switching charge, demurrage, etc. Motor trucks: property privilege, loading and unloading, etc.

(2) Applying to Cargo: All rates and charges collectible by the grantee against cargo shall be listed in separate tariffs for each service. Thus tariffs for wharfage, handling, demurrage, storage, extra services, manipulation, loading and unloading, high piling, rental of equipment, minimum charges, etc., shall each show the application of the tariff, space and labor rates, commodity and description necessary to apply the particular tariff, modifications of the tariff, and such other information necessary for the determination of rates and charges for a particular service.

7. Duplication should be avoided. A commodity once named within the schedule with all rates, charges, rules and regulations applying in connection therewith, will be considered as the effective tariff in force until subsequently revised in the form provided by means of revised pages.

The Foreign-Trade Zones Board shall be furnished with the original and seven copies of all schedules.

Changes or additions in the form of revised pages shall be submitted to the Foreign-Trade Zones Board within three days after such changes have been made.

All supplementary information concerning the quotation of rates and charges for commodities not within the schedule shall be furnished the Foreign-Trade Zones Board within ten days after such quotations are made. This is in addition to the construction of the schedule and should not be confused therewith.

All items carried in the schedule shall be numbered in consecutive sequence.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce,
Acting Chairman, Foreign-Trade Zones Board.

FEBRUARY 7, 1938.

[F. R. Doc. 38-1538; Filed, May 31, 1938; 5:00 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 252]

ALLOCATION OF FUNDS FOR LOANS

MAY 27, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
North Dakota 8013A1 Foster	$102,000
Tennessee 8016C1 Madison	82,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1539; Filed, June 1, 1938; 9:51 a. m.]

[Administrative Order No. 253]

ALLOCATION OF FUNDS FOR LOANS

MAY 27, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
Ohio 9086A1 Guernsey	$274,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1540; Filed, June 1, 1938; 9:51 a. m.]

[Administrative Order No. 254]

AMENDMENT OF ALLOCATIONS OF FUNDS FOR LOANS

MAY 27, 1938.

I hereby amend Administrative Order No. 229 by rescinding the $4,000 allotted to Indiana 8001A2 Greene.

I hereby amend Administrative Order No. 160 by rescinding the $10,000 allotted to Illinois 8004BW Peoria.

I hereby amend Administrative Order No. 227 by rescinding the $4,000 allotted to Kansas 8008A2 Allen.

I hereby amend Administrative Order No. 186 by rescinding the $1,500 allotted to Maryland 8004G2 St. Marys and the $6,000 allotted to Maryland 8004A3 St. Marys.

I hereby amend Administrative Order No. 131 by reducing the allotment to Nevada 8004 Clark from $178,000 to $168,000.

I hereby amend Administrative Order No. 194 by rescinding the $3,500 allotted to Ohio 8074A2 Butler.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1541; Filed, June 1, 1938; 9:51 a. m.]

[Administrative Order No. 255]

ALLOCATION OF FUNDS FOR LOANS

MAY 27, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	Amount
Texas 8030W1 Upshur	$10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1542; Filed, June 1, 1938; 9:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

[File No. 31-441]

IN THE MATTER OF GENESEE VALLEY GAS COMPANY, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 2 (a) (8) and 3 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 20, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 16, 1938.

The matter concerned herewith is in regard to the application of Genesee Valley Gas Company, Inc. for an order declaring it not to be a subsidiary of any holding company, pursuant to Section 2 (a) (8) of the Act, and for an order, pursuant to Section 3 (a) (1) of such Act, exempting said applicant from the provisions of said Act applicable to it as a holding company, on the grounds that such applicant and every subsidiary thereof which is a public utility company, to wit: Pavilion Natural Gas Company, Churchville Oil & Natural Gas Company and Valley Gas Corporation, are intrastate in character and carry on their business in a single State, namely, New York, in which such applicant and every such subsidiary are organized.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1548; Filed, June 1, 1938; 12:44 p. m.]

VETERANS' ADMINISTRATION.

[Supplement No. 2 to Instructions of September 7, 1937]

INSTRUCTIONS GOVERNING THE SELECTION OF VETERANS TO COMPOSE THE VETERANS' CONTINGENT OF THE CIVILIAN CONSERVATION CORPS

STATE AND CORPS AREA QUOTAS

JUNE 1, 1938.

Supplement No. 1 to Instructions of September 7, 1937, Governing the Selection of Veterans to Compose the Veteran's Contingent of the Civilian Conservation Corps, is hereby superseded by the following instructions:

Effective as of July 1, 1938 the first sentence of Paragraph 1 (A) (b) of Instructions Governing the Selection of Veterans to Compose the Veterans' Contingent of the Civilian Conservation Corps released September 7, 1937, is hereby amended to read as follows:

"Based upon the provisions of the Act quoted above the Director of the Corps has established the number of war veterans which may be enrolled at any one time in the Corps at 27,200."

Pursuant to this authority the following State and Corps Area quotas for the veterans' contingent of the Civilian Conservation Corps effective July 1, 1938, and to remain effective thereafter until subsequently modified, are hereby established, and all other such quotas previously announced are hereby cancelled.

Army corps area and selecting office	Territory from which selections are to be made	Basic quota
First:		
Newington, Conn.	Connecticut	315
Togus, Maine	Maine	155
Boston, Mass.	Massachusetts	832
Manchester, N. H.	New Hampshire	91
Providence, R. I.	Rhode Island	135
Burlington, Vt.	Vermont	72
		1,600
Second:		
Philadelphia, Pa.	Delaware	48
Lyons, N. J.	New Jersey	765
New York City	Eastern New York	1,767
Batavia, N. Y.	Western New York	620
		3,200
Third:		
Washington, D. C.	District of Columbia	105
Baltimore, Md.	Maryland	345
Philadelphia, Pa.	Eastern Pennsylvania	1,224
Pittsburgh, Pa.	Western Pennsylvania	816
Roanoke, Va.	Virginia	510
		3,000
Fourth:		
Tuscaloosa, Ala.	Alabama	596
Bay Pines, Fla.	Florida	372
Atlanta, Ga.	Georgia	655
New Orleans, La.	Louisiana	475
Jackson, Miss.	Mississippi	454
Charlotte, N. C.	North Carolina	600
Columbia, S. C.	South Carolina	400
Nashville, Tenn.	Tennessee	588
		4,200
Fifth:		
Indianapolis, Ind.	Indiana	656
Louisville, Ky.	Kentucky	577
Cleveland, Ohio	Northern Ohio	842
Dayton, Ohio	Southern Ohio	562
Huntington, W. Va.	West Virginia	363
		3,000
Sixth:		
Hines, Ill.	Illinois	1,653
Detroit, Mich.	Michigan	1,071
Wood, Wis.	Wisconsin	646
		3,400
Seventh:		
Little Rock, Ark.	Arkansas	490
Des Moines, Iowa	Iowa	500
Wichita, Kans.	Kansas	490
Minneapolis, Minn.	Minnesota	730
Jefferson Barracks, Mo.	Eastern Missouri	525
Kansas City, Mo.	Western Missouri	425
Lincoln, Nebr.	Nebraska	325
Fargo, N. Dak.	North Dakota	220
Sioux Falls, S. Dak.	South Dakota	295
		4,000
Eighth:		
Tucson, Ariz.	Arizona	95
Denver, Colo.	Colorado	280
Albuquerque, N. Mex.	New Mexico	94
Muskogee, Okla.	Oklahoma	730
Dallas, Tex.	Northern Texas	852
San Antonio, Tex.	Southern Texas	698
Cheyenne, Wyo.	Wyoming	50
		2,800
Ninth:		
San Francisco, Calif.	Northern California	535
Los Angeles, Calif.	Southern California	627
Boise, Idaho	Idaho	90
Ft. Harrison, Mont.	Montana	110
Reno, Nev.	Nevada	20
Portland, Oreg.	Oregon	194
Salt Lake City, Utah	Utah	104
Seattle, Wash.	Washington	320
		2,000
Grand total		27,200

[SEAL] FRANK T. HINES, *Administrator.*

[F. R. Doc. 38-1535; Filed, May 31, 1938; 3:22 p. m.]

Friday, June 3, 1938 *No. 108*

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 13]

PETITION OF MALLORY COAL COMPANY, ET AL. FOR VACATION OF RULING BY THE COMMISSION DATED MARCH 30, 1938, AND REVOCATION OF ITS CONSTRUCTION THEREIN OF SECTION 10 (A) OF THE BITUMINOUS COAL ACT OF 1937

[Docket No. 14]

ROCHESTER AND PITTSBURGH COAL COMPANY AND EXCEPTION TO RULING OF COMMISSION DATED MARCH 30, 1938

ORDER

At a Session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 1st day of June 1938.

The above entitled matters, being consolidated for the purposes of hearing, came on to be heard before the Commission on the 25th and 26th days of May, 1938. The petitions similarly prayed that the Ruling of the Commission, dated March 30, 1938, be rescinded and the construction of Section 10 (a) of the Act therein made, be revoked. This Ruling declared that the Commission would, upon the hearing for the determination of the weighted average of the total costs of the ascertainable tonnage produced in the several districts for the calendar year 1936, cause the cost reports of the individual producers of bituminous coal, obtained pursuant to the provisions of Section 10 (a) of the Act and Order No. 15 of the Commission, to be made available for introduction in evidence. The construction of Section 10 (a) of the Act adopted by the Commission, of which petitioners complain, is that said Section permits the introduction in evidence of the said individual cost returns at a hearing before the Commission.

The Associated Industries of New York, Inc., Association of American Railroads, American Short Line Railroad Association, and the Indiana Gas & Chemical Corporation, severally sought leave to intervene. These petitions to intervene were denied. The cities of New York, Cleveland, Chicago, Boston, and Richmond, and producers Imperial Coal Corporation, Heisley Coal Company, Monroe Coal Company, Ebensburg Coal Company, Alleghany River Mining Company, Ringgold Coal Company, Reid Coal Company, and the Berwind-White Coal Company, likewise filed petitions to intervene, which were granted.

Evidence being adduced by the petitioners and by the Bureau of Statistics and Research of the Commission, and the Commission being fully advised in the premises, finds that the Ruling complained of should not be rescinded, nor the construction therein made, be revoked, and that the petitions in each of said Dockets Nos. 13, and 14 should be dismissed, for the reasons stated in the opinion of the Commission in this cause filed herewith,

Now, therefore, It is ordered:

1. That the petition of the Mallory Coal Company, et al., filed in Docket No. 13, and the petition of the Rochester and Pittsburgh Coal Company, filed in Docket No. 14, be and the same are hereby denied and dismissed.

2. That the Secretary of the Commission be and he is hereby directed to cause the individual cost returns of the producers, as above described, to be made available for inspection by interested parties in the final hearing in the establishment of minimum prices and marketing rules and regulations, so that the same will be available for introduction in evidence if and when required.

3. That the Secretary be and he is hereby directed to mail a copy of this order to each of the above named petitioners, and to all parties who filed petitions to intervene.

By the Commission.
Dated this 1st day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH. *Secretary.*

[F. R. Doc. 38-1556; Filed, June 2, 1938; 12:46 p. m.]

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

SECOND SUPPLEMENTAL NOTICE OF AND ORDER FOR HEARING IN RE DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9 AND 10

Whereas, the Commission, on the 26th day of May, 1938, issued its supplemental order and notice of a hearing to be held on the 13th day of June, 1938, at 10 o'clock A. M., in the Hearing Room of the Commission at the Shirley-Savoy Hotel, Denver, Colorado, in the matter of the determination of the weighted average of the total costs of the tonnage produced within Minimum Price Areas 6, 7, 9 and 10, and

Whereas, the original notice, dated May 25, 1938 and said supplemental notice and order provided that the verified cost reports of the individual producers within each of the aforesaid Price Areas, obtained by the Commission pursuant to Section 10 (a) of the Bituminous Coal Act of 1937 and Order No. 15 of the Commission and upon which are based the cost data submitted to the District Boards by the Statistical Bureaus of the Commission and the composite exhibits prepared by the Bureau of Research and Statistics of the Commission, would be made available for inspection by interested parties on and after June 6, 1938, at the Shirley-Savoy Hotel, Denver, Colorado, and

Whereas, certain producers within the said western Price Areas, whose individual cost returns are included in those intended to be made available for inspection, have filed petitions with the Commission challenging the right of the Commission to so disclose their said cost returns, and

Whereas, certain producers within several eastern Price Areas had previously filed similar petitions with the Commission, raising identical issues, which petitions the Commission entertained and dismissed after hearing, and

Whereas, said eastern petitioners, if aggrieved by the order of dismissal, are afforded by virtue of Section 6 of the Act the opportunity to seek judicial review of the Commission's action, and

Whereas, it is deemed inadvisable to disclose the cost data of the western as well as the eastern producers at this time,

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That paragraph numbered 1 of said original Notice of and Order for Hearing, dated May 25, 1938, be and the same is hereby amended to read as follows:

"1. That the above entitled proceeding entitled 'In the Matter of the Establishment of Minimum Prices and Marketing Rules and Regulations,' General Docket No. 15, is hereby instituted for the purpose of conducting investigations and informatory hearings relating to the determinations of the weighted averages of the total costs of the tonnage produced in the several districts and of the several minimum price areas and the proposal of minimum prices and marketing rules and regulations."

That the said original paragraph numbered 1 be and the same is hereby rescinded.

2. That paragraph numbered 2 of said original Notice of and Order for Hearing, dated May 25, 1938, be and the same is hereby rescinded.

3. That the verified cost reports of the individual producers within each of the said Price Areas upon which the cost data submitted to the District Boards by the Statistical Bureaus of the Commission are based, and upon which are based the said exhibits prepared by the Bureau of Research and Statistics of the Commission, as referred to in the fourth paragraph of the original notice of and order for hearing dated May 25, 1938, and in the second paragraph of the supplemental notice of and order for hearing in the said matter, dated May 26, 1938, shall not be made available for inspection by interested parties until the final hearing in the matter of the establishment of minimum prices and marketing rules and regulations.

4. That paragraph numbered 6 of the Commission's notice of and order for hearing in re determination of weighted average of the total costs of the tonnage produced within Minimum Price Areas 6, 7, 9 and 10, dated May 25, 1938, be and the same is hereby rescinded.

5. That paragraph numbered 7 of said original notice of and order for hearing, dated May 25, 1938, be and the same is hereby amended to read as follows:

"7. Any person desiring to offer affirmative evidence at such hearing shall, not later than the day preceding the date of said hearing, file with the Commission at its offices in the Central Savings Bank Building, Denver, Colorado, a written appearance setting forth therein the nature of his interest and a concise written statement of the facts which he wishes to present. Such cross-examination as the Commission in its discretion deems proper will be permitted."

That the said original paragraph numbered 7 be and the same is hereby rescinded.

6. That this second supplemental notice of and order for hearing is supplemental to the notice of and order for hearing in re determination of the weighted average of the total costs of the tonnage produced within Minimum Price Areas 6, 7, 9 and 10, dated May 25, 1938, as amended and supplemented by supplemental notice of and order for hearing dated May 26, 1938, and said original notice and order, as amended and supplemented, shall remain in full force and effect except as herein modified.

7. That the Secretary be and he is hereby directed to cause a copy of this second supplemental notice of and order for hearing to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of the Districts within the aforesaid Price Areas, and shall cause copies thereof to be mailed to each code member, the Consumers' Counsel and to the Secretary of each District Board, and to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.
Dated this 1st day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-1557; Filed, June 2, 1938; 12:47 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Puerto Rico Sugar Order No. 11]

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING THE DIRECT-CONSUMPTION PORTION OF THE 1938 SUGAR QUOTA FOR PUERTO RICO

General Sugar Quota Regulations, Series 5, No. 1, issued by the Secretary of Agriculture on December 20, 1937, pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), provide that the 1938 Puerto Rican sugar quota for shipment to the continental United States may be filled by shipments of direct-consumption sugar not in excess of 126,033 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2, issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the Puerto Rican sugar quota among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to section 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The preliminary finding was based upon information which the Secretary had to the effect that Puerto Rico processors were in a position to manufacture and make available for market a potential supply of approximately 400,000 short tons of direct-consumption sugar during the calendar year 1938.

The hearing was held at Washington, D. C., on the date specified in the notice. The evidence presented at the hearing indicated that the preliminary finding of the Secretary should be confirmed. Such evidence indicated a plant capacity of 401,500 short tons for all processors in Puerto Rico. The total amount of such sugar which may be shipped to continental United States under the act is limited to 126,033 short tons. Under these conditions, it was deemed probable that, without allotment of the direct-consumption portion of the quota, more raw sugar would be processed into direct-consumption sugar than could be shipped to the continental United States during any calendar year. This, it was concluded, would result in disorderly marketing of sugar.

On March 30, 1938, the Secretary issued Puerto Rico Sugar Order No. 9, allotting that portion of the 1938 Puerto Rico sugar quota for shipment to the continental United States which may be filled by direct-consumption sugar. On April 19, 1938, the Secretary issued Puerto Rico Sugar Order No. 10, which superseded the order of March 30, 1938, and which contains allotments identical with those made in the first order, together with a full statement of the facts and grounds for his decision.

Section 205 (a) of the act provides in part that:

Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him. The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made.

On April 26, 1938, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on May 3, 1938, for the purpose, among others, of receiving evidence to enable him to revise or amend Puerto Rico Sugar Order No. 10 in accordance with the provisions of section 205 (a) of the act. The hearing was held on May 3 as specified in the notice and was concluded on May 4. The following companies interested in marketing direct-consumption sugar in the

continental United States during 1938 were represented at the hearing:

Porto Rico American Sugar Refinery,
Central Aguirre,
Central Guanica,
Central Igualdad,
Central Roig,
Camuy Sugar Co.

Puerto Rico Sugar Order No. 10 states the basis for allotments therein made as follows:

"The first standard stated above for the Secretary to use in making allotments, namely, processings to which proportionate shares established under section 302 (b) of the act pertain, is inapplicable to the allotment of that portion of the quota which may be filled by direct-consumption sugar.

"The other two standards given in the act, namely, 'past marketings' and 'ability * * * to market,' are applicable and should both be used in making individual allotments, in order to provide a fair, efficient, and equitable distribution of the portion of the quota under discussion.

"In determining 'ability * * * to market', it is apparent that mill capacity alone cannot be taken as an accurate measure. That factor represents only a potential ability to produce sugar, dependent upon a number of other factors, such as the availability of raw sugar, the price of raw materials, transportation costs, and similar factors. An additional factor must be used in order to arrive at a true measure of ability to market. It is believed that the ratios of each processor's current marketings of sugar to the total of such marketings should be considered and given equal weight with the ratios of each processor's mill capacity to the total mill capacity for all processors. Since the hearing was held on January 14, 1938, it would be possible to take 1937 marketings as indicating the processor's current ability to market, but this method would be unfair to processors marketing direct-consumption sugar for the first time in 1938. In order, therefore, to be fair to both new and old processors, and in order to obtain as accurate a measure of present ability to market as possible, it is necessary to take marketings of direct-consumption sugar during the present calendar year. During the first three months of the current year, no allotment order was in effect and processors were not restricted in their shipments of direct-consumption sugar to the United States, and since there was reason to believe that allotments would be made, processors had an incentive to hasten shipments prior to the making of such allotments. [The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, contained a finding to the effect that allotment of the direct-consumption sugar was necessary, and processors were thereby put on notice that allotments for 1938 would likely be made.] Hence the official data of the Department showing actual entries against such quota during the period from January 1, 1938, to March 22, 1938 (the date of final preparation of Puerto Rico Sugar Order No. 9), are believed to constitute a necessary factor in determining actual ability to market sugar. This factor, along with that of mill refining capacity, is therefore deemed to be a fair measure of the present ability to market sugar."

Since section 205 (a) of the act requires that the Secretary, in revising or amending an allotment order, use the same basis used in making the initial allotment, it is necessary in this Order to apply the same basic formula as was used in Puerto Rico Sugar Order No. 10.

The evidence presented at the hearings of January 14 and May 3 in regard to mill refining capacity in terms of short tons, refined value, may be summarized as follows:

Porto Rico American Sugar Refinery: 700 to 800 tons per day (pages 29, 48, 62, 65, and 324 of record of hearing held on January 14).

Central Aguirre: 8000 to 9000 tons per annum (page 125 of record of hearing held on January 14).

Central Guanica: 50,000 tons per annum (page 128 of record of hearing held on January 14).

Central Igualdad: 220 tons per day (pages 103, 194, and 199 of record of hearing held on May 3).[1]

Central Roig: 210 tons per day (page 273 of record of hearing held on May 3).[2]

No testimony was given either at the hearing of January 14 or of May 3 bearing on the mill refining capacity of Central Carmen and Central San Francisco. It is, therefore, necessary to take 1936[3] entries of direct-consumption sugar into the continental United States as the mill capacity for these companies. In 1936, Central Carmen brought into the continental United States 264 short tons, raw value, of direct-consumption sugar, or 247 short tons, refined value, and Central San Francisco brought in during the same year 2,590 short tons, raw value, of direct-consumption sugar, or 2,421 short tons, refined value. (Government Exhibit No. 3.)

The actual quantities of Puerto Rican direct-consumption sugar certified for entry into the continental United States between January 1, 1938, and March 22, 1938 (Government Exhibit No. 3), were as follows:

	Short tons, raw value
Porto Rico American Sugar Refinery	46,866
Central Aguirre	1,970
Central Carmen	------
Central Guanica	------
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795
	58,825

In determining "past marketings" for processors which have shipped direct-consumption sugar to the continental United States, it is believed that the years 1935, 1936, and 1937 should be used, since they are years during which a quota system was in effect and, consequently, are believed to be fair and reasonable under a restrictive program such as that provided for under the present and prior sugar legislation. The marketing history[4] for these years (Government Exhibit No. 3) is as follows:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the U. S. (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,945	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen		264	
Central Guanica	1,015		
Central Igualdad	163	438	52
Central Roig		2,778	16,204
Central San Francisco	2,463	2,590	1,981
	122,971	118,511	121,502

It is deemed desirable to reserve 5,712 short tons of sugar to be set aside for persons who bring in raw sugar from

[1] The record of the hearing held on January 14 indicated a maximum capacity of 225 tons per day, but the same witness who testified in regard to plant capacity at the first hearing testified at the hearing of May 3 (page 199 of record) that 200 to 225 tons per day is more nearly correct. In view of the fact that a test run has shown 220 tons per day (page 103 of record of hearing held on May 3), this figure is taken as the rated mill capacity instead of 212.5 tons per day which would be taken in the absence of testimony showing actual performance in excess of that figure.

[2] Although the record of the hearing on January 14 indicated a rated plant capacity of 200 tons per day (pp. 170 and 174 of record), the fact that the company has actually exceeded that figure indicates that the rated capacity should be something in excess of 200 tons per day. The testimony shows (page 273 of record of hearing held on May 3) that the company has actually produced an average of 210 tons of sugar per day over a period of several days. Hence 210 tons per day is taken as the rated plant capacity.

[3] Being the year in which Centrals Carmen and San Francisco brought in more direct-consumption sugar than in any other year of the period 1935–1937, inclusive. (Government Exhibit No. 3.)

[4] Sugar from outside the continental United States cannot be "marketed" within the meaning of the act until after release from customs custody.

Puerto Rico for direct-consumption purposes, which amount represents the average quantity of such sugar brought in during the years 1935–1937, inclusive. It is not practicable to allot this quantity of sugar to individual processors, inasmuch as it would have to be allotted to 34 raw sugar processors, thereby rendering it impossible to make an efficient allotment as required by the act. An allotment would require continental purchasers of raw sugar for direct consumption to deal with a large number of sellers in order to obtain their requirements. Such disruption of customary trade practices could not reasonably be said to be an efficient distribution of this kind of sugar as required by the act.

On the basis of the record of the hearings held on January 14, 1938, and May 3, 1938, I hereby find:[1]

1. That the Puerto Rican processors of direct-consumption sugar are equipped to produce 415,168 short tons, refined value,[2] of sugar during the calendar year 1938.

2. That the present plant capacity of each Puerto Rican processor of direct-consumption sugar is as follows:

Processor:	*Rated refining capacity per annum, 300-day basis*
Porto Rico American Sugar Refinery	225,000
Central Aguirre	8,500
Central Carmen	247
Central Guanica	50,000
Central Igualdad	66,000
Central Roig	63,000
Central San Francisco	2,421
	415,168

3. That the quantities of direct-consumption sugar certified for entry into the continental United States from Puerto Rico between January 1, 1938, and March 22, 1938, were as follows:

Processor:	*Short tons raw value*
Porto Rico American Sugar Refinery	46,866
Central Aguirre	1,970
Central Carmen	------
Central Guanica	------
Central Igualdad	1,124
Central Roig	8,070
Central San Francisco	795

4. That during the years 1935, 1936, and 1937, Puerto Rican processors brought direct-consumption sugar (refined and turbinado) into the continental United States for consumption therein in the following amounts:

	Puerto Rican direct-consumption sugar entries (refined and turbinado) for consumption in the U. S. (in terms of short tons, raw value)		
	1935	1936	1937
Porto Rico American Sugar Refinery	116,611	109,945	97,498
Central Aguirre	2,719	2,496	5,767
Central Carmen		264	
Central Guanica	1,015		
Central Igualdad	163	438	52
Central Roig		2,778	16,204
Central San Francisco	2,463	2,590	1,981
	122,971	118,511	121,502

On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearings of January 14 and May 3, 1938, and the objections and arguments filed in opposition to the proposed order[3] revising the allotments made in Puerto Rico Sugar Order No. 10, issued April 19, 1938, I hereby determine and conclude that the allotment of that portion of the 1938 Puerto Rican sugar quota which may be filled by shipments of direct-consumption sugar is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments should be made by giving equal weight to (1) past marketings during the years 1935, 1936, and 1937, and (2) ability to market, measured by giving equal weight to present plant capacity and the quantities of direct-consumption sugar certified for entry into the continental United States between Janutry 1, 1938, and March 22, 1938.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the allotments contained in Puerto Rico Sugar Order No. 10 shall be, and they are hereby, revised, and the said quantity of 126,033 short tons, raw value, of direct-consumption sugar is hereby allotted to the following processors in the amounts which appear opposite their respective names:

Name of processor:	*Direct-consumption allotment (short tons, raw value)*
Porto Rico American Sugar Refinery	93,975
Aguirre	3,443
Carmen	62
Guanica	3,791
Igualdad	5,465
Roig	11,837
San Francisco	1,748
	120,321
Unallotted reserve for marketings of raw sugar for direct consumption	5,712
	126,033

2. That the above-named processors are hereby prohibited from bringing into the continental United States, for consumption during the calendar year 1938, any direct-consumption sugar (except the above-mentioned amount of raw sugar for direct consumption) from Puerto Rico in excess of the marketing allotments set forth in the next preceding paragraph.

3. That this order shall supersede Puerto Rico Sugar Order No. 10, issued by the Secretary on April 19, 1938.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 1st day of June 1938.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1552; Filed, June 1, 1938; 4:21 p. m.]

[1] Since section 205 (a) of the act requires that allotment be made "to persons who market or import sugar", no allotment can be made to Camuy Sugar Company, inasmuch as that company is not engaged in the manufacture of direct-consumption sugar at the present time.

[2] 300 working days per year.

[3] Following the hearing of May 3, the Secretary, on May 14, 1938, issued a proposed order which was published in the FEDERAL REGISTER on May 17, 1938. Interested persons were given until May 24, 1938, in which to file objections to the proposed order. Objections were filed by Central San Francisco, Central Roig, and Central Igualdad. Since all interested persons were given ten days in which to file written objections to the proposed order, petitions for oral argument are hereby denied.

FEDERAL COMMUNICATIONS COMMISSION.

[Commission Order No. 41]

IN THE MATTER OF RATES OF PAY FOR GOVERNMENT COMMUNICATIONS BY TELEGRAPH

The Commission, en banc, at a meeting held May 24, 1938, adopted the following order:

The Commission having under consideration the matter of rates of pay for Government communications by telegraph:

It is ordered:

1. That, unless subsequently changed by order of the Commission, from the period July 1, 1938 to June 30, 1939, both inclusive, telegraph communications between the several departments of the Government and their officers and agents, in their transmission over the lines or circuits of any telegraph company subject to the Post Roads Act, approved July 24, 1866, 14 Stat. 221, as amended, U. S. C., Title 47, shall have priority over all other business and shall be sent at charges not exceeding forty (40) per centum of the charges

applicable to commercial communications of the same class, of the same length, and between the same points in the United States, except that the charges for serial messages and timed wire service shall not exceed eighty (80) per centum of the charges applicable to like commercial serial messages and timed wire service between the same points in the United States; provided, however, that the minimum charge for day messages shall be 25 cents, for day letters 45 cents, for night messages 20 cents, for night letters 30 cents, for serial messages 54 cents, and for timed wire service 45 cents, unless any of these amounts shall be greater than the minimum for a corresponding commercial message in which event the provision set forth in paragraph 5 below shall apply; and provided, further, that a day letter shall be charged for as a day letter or a day message, according to which of these classifications shall produce the lower charge for the particular message; and that an overnight message shall be charged for as a night message or as a night letter, according to which of these two classifications shall produce the lower charge for the particular message; and provided, further, that when the first section of a serial message is not followed by another on the same day, it shall be charged for as a day message; that when more than one section is filed on the same day, the sections shall be charged for at the serial rates or each section shall be charged for as a day message, according to which of these classifications shall produce the lower total charge; and that timed wire messages shall be charged for as timed wire service or as day messages, according to which of these classifications shall produce the lower charge; and provided, further that the provisions of this paragraph shall apply only to Government messages filed as day messages, day letters, night messages, night letters, serial messages, or timed wire communications.

2. That during the period stated telegraph communications between the several departments of the Government and their officers and agents, between points in the continental United States and points in possessions of the United States, between points in different possessions, and between points in the continental United States, including such possessions, and points in foreign countries and ships at sea transmitted by any carrier or carriers subject to the Post Roads Act, or subject to the terms of a permit signed, or license granted, by the President of the United States giving the Postmaster General authority to fix rates of pay for Government communications by telegraph shall, between all points embraced within the scope of such Act, permit, or license, have priority over all other business, and shall be sent at charges not exceeding fifty (50) per centum of the full ordinary charges applicable to commercial communications of the same length and between the same points, except that charges for Government code messages shall not exceed sixty (60) per centum of the ordinary Government charges as herein prescribed: provided, however, that in cases where Government messages are transmitted between any of such points in part over the facilities of any carrier or carriers subject to the Post Roads Act, or subject to the terms of any permit signed, or license granted, by the President giving authority to the Postmaster General to fix rates (such carrier or carriers being hereinafter called domestic carrier or carriers), and in part over the facilities of a carrier, carriers, administration, or administrations not subject thereto (hereinafter called foreign carriers or administrations), the charges for Government communications shall not exceed the following, to wit:—for Government communications between points in the continental United States and Mexico or Canada, the charges shall not exceed the amounts derived by applying the percentages stated in the first ordering paragraph herein, to the prevailing commercial charges between the points of origin or destination in the continental United States and the border, plus the prevailing charges applicable to United States Government messages between points of origin or destination in Mexico and Canada and the border; and for Government communications between all other points, the charges shall not exceed the percentages specified in the second ordering paragraph herein, applied to the full portion of the charges accruing to the domestic carrier or carriers, plus the charges actually made for United States Government communications by such foreign carriers or administrations; and provided, further, (a) that with respect to government ordinary messages to and from the Philippine Islands and the Canal Zone, the percentages specified shall apply to such communications only in so far as the transmission takes place within the United States and its possessions, other than the Philippine Islands and the Canal Zone; (b) that the charges for government ordinary messages during the period stated, between the following named points, shall be:

	Per Word
Between New York, N. Y. and Canal Zone	$0.15
Between Fisherman's Point, Guantanamo Bay, Cuba and Canal Zone	.09
Between Limon, San Jose, and Puntarenas, C. R., and Canal Zone	.075
Between San Francisco, Calif., and Philippine Islands:	
Luzon Island, Manila	.195
Luzon Island, other offices	.245
Other Islands, all offices	.375
Between Honolulu, Hawaii, and Philippine Islands:	
Luzon Island, Manila	.165
Luzon Island, other offices	.215
Other Islands, all offices	.345
Between Midway Island and Philippine Islands:	
Luzon Island, Manila	.13
Luzon Island, other offices	.18
Other Islands, all offices	.31
Between Sumaye, Guam and Philippine Islands:	
Luzon Island, Manila	.075
Luzon Island, other offices	.125
Other Islands, all offices	.255
Between Manila and China:	
Shanghai	.10
Hongkong	.0575
Kwangi, Kwantung Provinces	.11
Macao	.11
Manchuria (other than Japanese offices)	.15
All other places	.15
Between Manila and Japan:	
Formosa	.23
All other places, including Caroline Islands, Chosen-Corea, Jaluit (Marshall Islands), Japanese Saghalien, Kwangtung Peninsula (China), Palaos Islands, Pescadores Islands, Saipan (Marianne Islands), and Japanese offices in Manchuria	.235
Between Washington, D. C., and Philippine Islands:	
Luzon Island, Manila	.27
Luzon Island, other offices	.32
Other Islands, all offices	.45

and provided that the charges for Government code messages between the foregoing points shall be 60 percent of the charges above specified for Government ordinary messages; and (c) that with respect to Government messages to and from ships at sea the percentages specified shall not apply to the coastal station and ship station charges; and (d) that with respect to Government night messages to and from points in Canada and Mexico transmitted by carriers having both night message and night letter classifications in effect to and from such points but having only night letter classifications in effect between points in the United States, such Government night messages shall be regarded as night letters for the purpose of determining the prevailing commercial charges for such messages to and from points in the United States and the border.

3. That the provisions of the first and second ordering paragraphs shall be construed to include messages transmitted over facilities of Naval Communications Service in connection with facilities of a domestic carrier or carriers or with facilities of a domestic carrier or carriers and foreign carriers or administrations, the Naval Communications Service making no charge for its own service.

4. That if any new service shall be established during the period stated, a supplementary order will be issued fixing the Government charge for such service.

5. That in no case shall the charge for a Government message exceed the charge for a corresponding commercial message, and that in cases where the charge for a Government message, as determined herein, shall include a fraction of a cent, such fraction, if less than one-half, shall be disregarded, if one-half or more, it shall be counted as one cent; except that the charge for Government code messages shall be rounded up to the next higher half cent, if the fraction be less than one-half, and to a full cent, if the fraction be more than one-half.

6. That all Government communications shall have priority over all other business, as above provided, and shall, unless otherwise provided herein, be subject to the classifications, practices and regulations applicable to the corresponding commercial communications.

7. That every domestic carrier which is subject to the Communications Act of 1934, shall, not later than 30 days after service of this order, file with this Commission all schedules of charges applicable to Government communications established pursuant to this order, said schedules to be filed in full compliance with the requirements of Section 203 of the Communications Act of 1934, and with the rules contained in Tariff Circular No. 1, to be constructed in such manner and form that the full charges for all Government messages from origins to destinations can be exactly and readily ascertained therefrom and to name effective dates as of July 1, next ensuing; provided, however, that if schedules applicable to Government messages are already on file and in effect and are in accord with the provisions of this order, new and revised schedules need not be filed.

8. That every domestic carrier required under the terms of any permit signed, or license granted, by the President of the United States to transmit messages for the Government of the United States or any of its possessions, free of charge, shall file schedules in accordance with paragraph 7 above, and with the terms of such permit or license.

9. That in every case where during the period stated any schedule containing charges applicable to commercial messages shall be changed, or the charges made by the foreign carriers or administrations shall be changed, the schedule containing the charges applicable to Government messages shall be correspondingly changed, effective on the same date, provided, however, that this provision shall not apply where, under the terms of the permit or license, a domestic carrier is required to transmit Government messages free of charge, nor with respect to charges to and from the Philippine Islands and the Canal Zone the specific amounts of which are fixed and stated in the second ordering paragraph above.

10. That nothing herein contained shall apply to charges fixed by agreement between the Secretary of Agriculture and the companies performing the service under the Department of Agriculture Appropriation Act.

11. That nothing herein contained shall be construed to give Government messages priority over radio communications or signals which are given absolute priority under Section 321 (b) of the Communications Act of 1934 as amended.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-1553; Filed, June 2, 1938; 9:53 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-327]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE MACARONI, NOODLES, AND RELATED PRODUCTS INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717);

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Macaroni, Noodles, and Related Products Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Communications of such views should be made to the Commission not later than June 15, 1938. Opportunity for oral hearing will be afforded at 10 a. m., June 15, 1938, in Room 332, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to such persons as may desire to appear. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1551; Filed, June 1, 1938; 4:08 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3362]

IN THE MATTER OF FIRESIDE INDUSTRIES, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, June 16, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in the Circuit Court Room, Court House, Adrian, Michigan.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1549; Filed, June 1, 1938; 3:50 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3366]

IN THE MATTER OF ALBERT E. BERGER, INDIVIDUALLY, AND TRADING AS RUN-PROOF LABORATORIES, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 22, 1938, at nine o'clock in the forenoon of that day (central standard time), at 1123 New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 38-1550; Filed, June 1, 1938; 3:50 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 20]

ORDER RELATIVE TO MOTOR CARRIER RATES IN NEW YORK, NEW JERSEY, PENNSYLVANIA, AND DELAWARE

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 21st day of May, A. D. 1938.

It appearing that income statements of Class I common carriers of property by motor vehicle (carriers which have gross revenues of $100,000.00 or over annually from motor carrier operations), which are made respondents in this proceeding, are desirable to aid the Commission in the determination of the above-entitled proceeding:

It is ordered, That each Class I common carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before June 13, 1938, income statements for the year 1937 and for the three months ending March 31, 1938, or for the first three periods in 1938 instead of the three months ending March 31, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said income statements shall be submitted under oath on the form herewith enclosed, which form is hereby made a part of this order;

And it is further ordered, That any respondent in this proceeding receiving this order, which respondent is not a Class I carrier, as above defined, shall return the blank form of income statement to the Commission at its offices in Washington, D. C., on or before June 13, 1938, accompanied by a statement that this order is not applicable to its operation.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary*.

(One copy must be submitted to the Commission at its offices in Washington, D. C., on or before June 13, 1938)

INTERSTATE COMMERCE COMMISSION

In Ex Parte No. MC-20

INCOME STATEMENT OF RESPONDENT

Class I Common Carriers of Property by Motor Vehicle

(Includes carriers which have gross revenues of $100,000 or more annually from motor carrier operations)

Name of carrier ----------

Address ----------

No.	Street	City	State

	Year 1937	Three months ending March 31, 1938
I. Carrier Operating Income:		
Revenues:		
Operating Revenues	----------	----------
Expenses:		
Operation and Maintenance Expenses	----------	----------
Depreciation Expense	----------	----------
Operating Taxes and Licenses	----------	----------
Operating Rents—Net	----------	----------
Total Expenses	----------	----------
Net Carrier Operating Income	----------	----------
II. Other Income	----------	----------
III. Income Deductions	----------	----------
Net Income (or Loss)	----------	----------

NOTE.—Include rents paid or received for leased property under operating Rents—Net. All other income items not specifically provided for shall be reported under groups II and III. Amounts reported for the year 1937 need not be restated to conform exactly to the above classification, but may be grouped to suit the carrier's convenience, based upon the records maintained for that year.

Statistics

1. Tons of revenue freight handled	----------	----------
2. Truck and tractor Miles operated	----------	----------

OATH

STATE OF ----------

County of ----------, *ss:*

---------- Makes oath and says that he is
(Name)

the ---------- of the ----------;
(Title of affiant) (Name of Applicant)

that he is authorized on the part of said respondent to verify and file with the Interstate Commerce Commission this income statement; that he has carefully examined all of the statements contained in such income statement; that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

Subscribed and sworn to before me, a ---------- in and for the State and county above named, this ---------- day of ----------, 1938.

[SEAL] ----------

My commission expires ----------

[F. R. Doc. 38-1554; Filed, June 2, 1938; 12:07 p. m.]

[Ex Parte No. MC-20]

ORDER RELATIVE TO MOTOR CARRIER RATES IN NEW YORK, NEW JERSEY, PENNSYLVANIA, AND DELAWARE

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 21st day of May, A. D. 1938.

Division 5 having under consideration the subject of an extension of the territorial scope of the investigation instituted herein by order entered on March 19, 1938, and having also under consideration a petition filed by Asa Duckworth Co., Inc., and others, for limitation of the territorial scope of the said investigation; and good cause appearing therefor:

It is ordered, That the said petition of Asa Duckworth Co., Inc., and others, be, and it is hereby, denied.

It is further ordered, That the investigation instituted by the said order be, and it is hereby, broadened to include the lawfulness of the maximum, minimum, and precise basis of all rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property, except household goods, livestock, automobiles, petroleum products in tank trucks, and articles of unusual size and value, in interstate or foreign commerce between all points in the territory described in the appendix of this order, except property moving wholly within the municipality of New York, N. Y., and municipalities contiguous thereto and the zone adjacent to and commercially a part of such municipalities, as defined in *New York, N. Y., Commercial Zone*, 1 M. C. C. 665, with a view to determining whether the rates, charges, and classifications, and the rules, regulations, and practices relating thereto, of respondents, or any of them, applicable to such transportation are in any respects in violation of law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant;

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof, be, and they are hereby, made respondents, to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

It is further ordered, That the orders entered herein on April 11 and 29, 1938, referring the said proceeding, as then instituted, to T. B. Johnston, Examiner, Bureau of Motor Carriers, for hearing and for recommendation of an appropriate order thereon accompanied by the reasons therefor, be, and they are hereby, vacated;

And it is further ordered, That the said proceeding, as broadened by this order, be, and it is hereby, referred to Examiner T. B. Johnston for hearing on the 18th day of July, A. D. 1938, at 9:00 o'clock a. m., (standard time), at the Chamber of Commerce Rooms, Philadelphia, Pa., and for recommendation of an appropriate order thereon accompanied by the reasons therefor.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary*.

APPENDIX

Description of Territory

Western and southern boundaries.—East bank of the Niagara River from Lake Ontario to Lake Erie; thence via the south shore of Lake Erie to a point just south of Buffalo, N. Y.; thence via air line to Hamburg, N. Y.; thence via an irregular line through North Collins, Gowanda, and Frewsburg, N. Y., and Warren, Tidioute, Tionesta, Oil City, Franklin, Slippery Rock, Butler, Pittsburgh (including points within a radius of fifteen miles of Pittsburgh), Canonsburg, and Washington, Pa., to Waynesburg, Pa.; thence via air line through Rogersville, Pa., and Cameron, W. Va., to New Martinsville, W. Va.; thence via the east bank of the Ohio River to St. Marys, W. Va.; thence via an irregular line through Spencer, Charleston, and Huntington, W. Va., to Kenova, W. Va.; thence via the West Virginia-Kentucky line and Kentucky-Virginia line to its intersection with U. S. Highway 23 just south of Jenkins, Ky.; thence via U. S. Highway 23 to Norton, Va., and Virgiina State Highway 64 to a point just east of Big Stone Gap, Va.; thence via U. S. Highway 23 to its intersection with the Virginia-Tennessee line; thence via the Virginia-Tennessee line to a point north of Lansing, N. C.; thence via an irregular line through Lansing and Warrensville, N. C.; to West Jefferson, N. C.; thence via U. S. Highways 221 and 21 to Sparta, N. C.; thence via North Carolina State Highway 18 and Virginia State Highway 96 to Galax, Va.; thence via U. S. Highway 221 to Roanoke, Va.; and thence via U. S. Highway 460 through Lynchburg, Petersburg, and Suffolk, Va., to Norfolk, Va.

Northern and eastern boundaries.—The northern and eastern boundaries of New York State from the Niagara River to Long Island Sound; thence via the north shore of Long Island to Montauk Point, N. Y.; thence via the shore line of the Atlantic Ocean to Cape Charles, Va.; and thence via air line across the Chesapeake Bay to Norfolk, Va.

A. Between all points in the territory on and within the boundaries above described, except between all points within that part of said territory lying on and east of the described western boundary and on and west of a line beginning at Olcott, N. Y., and running thence southward to Lockport, N. Y.; thence just east of New York State Highway 78 to the intersection with U. S. Highway 20; thence east of Jewettville, N. Y., to Colden, N. Y.; thence via U. S. Highway 240 through Glenwood and East Concord, N. Y., to Springville, N. Y.; thence via air line through Ashford and Great Valley, N. Y.; to Salamanca, N. Y.; thence via New York State Highway 17 and U. S. Highway 219 to Bradford, Pa.; thence via air line through Tiona and Cherrygrove, Pa., to Nebraska, Pa.; thence via Pennsylvania State Highway 66 to Shippenville, Pa.; thence via air line through Sligo, Rimersburg, West Kittanning, Pa., to Vandergrift, Pa.; thence via Pennsylvania State Highway 66 to Greensburg, Pa.; thence via air line through Wickhaven and Brownsville, Pa., to Waynesburg, Pa.

B. Between all points in the territory on and within the boundaries above described, on the one hand, and Clinton, Altavista, Brookneal, Phenix, Meherrin, Victoria, Kenbridge, Alberta, Jarratt, and Sebrell, Va., on the other hand.

[F. R. Doc. 38-1555; Filed, June 2, 1938; 12:08 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

[File No. 30-39]

IN THE MATTER OF APPLICATION OF HUGH M. MORRIS AND HAROLD S. SCHUTT, TRUSTEES, PEOPLES LIGHT AND POWER CORPORATION

ORDER PURSUANT TO SECTION 5 (D) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Hugh M. Morris and Harold S. Schutt, Trustees of Peoples Light and Power Corporation, having registered as a registered holding company pursuant to Section 5 (a) of the Public Utility Holding Company Act of 1935, and having filed an application pursuant to Section 5 (d) of said Act for an order that they, as Trustees, have ceased to be a holding company; hearing on said application having been held after appropriate public notice; the record in this matter having been considered and the Commission having thereupon entered its findings and opinion on such application;

It is ordered, That Hugh M. Morris and Harold S. Schutt, as Trustees of Peoples Light and Power Corporation, have ceased to be a holding company. This order shall be effective as of the 1st day of June 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-1558; Filed, June 2, 1938; 12:50 p. m.]

PARALLEL PAGE REFERENCE TABLES

Page References in Daily Issues and Bound Volumes to Federal Register Document Numbers

Daily Issue Page	Federal Register Doc. No.	Bound Volume Page
1	38–10	1
1	38–11	1
1	38–3	1
2	38–2	2
2	38–9	2
3	38–7	2
3	38–8	2
3	38–1	3
3	38–5	3
4	38–6	3
4	38–4	4
5	38–14	4
5	38–15	5
7	38–16	5
7	38–12	6
7	38–17	6
8	38–18	6
8	38–19	7
9	38–20	7
10	38–21	8
10	38–22	9
11	38–13	10
13	38–26	10
13	38–27	10
13	38–28	11
14	38–35	11
15	38–36	11
15	38–25	12
18	38–24	15
20	38–23	17
22	38–30	19
22	38–29	19
22	38–31	19
28	38–32	25
28	38–33	25
28	38–34	25
29	38–39	25
31	38–41	26
31	38–42	27
32	38–43	27
32	38–44	28
33	38–45	28
33	38–46	29
34	38–47	29
34	38–48	29
34	38–37	30
35	38–40	30
35	38–38	30
37	38–50	31
37	38–51	31
37	38–49	32
38	38–53	32
38	38–52	32
41	38–56	33
41	38–57	33
41	38–55	33
42	38–70	33
43	38–61	34
43	38–65	34
43	38–64	34
43	38–67	35
43	38–63	35
44	38–66	35
44	38–60	35
44	38–69	35
44	38–68	36
45	38–62	36
45	38–54	36
45	38–58	36
45	38–59	36
49	38–76	39
49	38–80	39
49	38–78	40
50	38–82	40
51	38–79	40
51	38–81	41
52	38–83	41
53	38–84	42
54	38–71	43
54	38–73	43
54	38–75	43
54	38–74	43
54	38–72	44
55	38–77	44
61	38–86	50
61	38–87	50
61	38–85	51
62	38–88	51
63	38–89	51
63	38–95	52
63	38–90	52
74	38–92	62
74	38–94	62
75	38–96	63
75	38–98	63
75	38–97	63
76	38–93	64
77	38–91	65
77	38–101	65
77	38–100	65
78	38–102	66
78	38–99	66
79	38–106	66
79	38–103	67
79	38–107	67
82	38–104	68
83	38–105	70
84	38–108	71
85	38–109	71
85	38–110	72
85	38–111	72
86	38–112	73
87	38–113	74
88	38–114	75
89	38–117	75
90	38–115	77
90	38–116	77
90	38–121	77
91	38–120	77
91	38–119	77
91	38–118	78
93	38–123	78
94	38–124	79
95	38–130	80
95	38–131	80
96	38–128	80
96	38–127	81
96	38–126	81
96	38–125	81
97	38–129	81
97	38–122	81
99	38–132	82
100	38–134	82
100	38–135	83
101	38–136	83
101	38–137	84
101	38–138	84
102	38–141	85
102	38–140	85
103	38–139	86
103	38–142	86
103	38–143	86
104	38–144	87
104	38–133	87
105	38–147	87
105	38–151	88
105	38–152	88
105	38–153	88
106	38–154	88
106	38–148	88
107	38–150	89
107	38–149	89
107	38–155	89
107	38–171	89
108	38–169	90
108	38–170	90
108	38–146	90
109	38–145	91
109	38–168	91
109	38–162	91
109	38–163	91
109	38–164	91
109	38–167	91
110	38–166	91
110	38–165	92
110	38–156	92
111	38–157	93
112	38–158	94
113	38–159	95
115	38–160	97
117	38–161	99
119	38–172	99
119	38–173	99
120	38–179	100
137	38–174	115
138	38–175	116
138	38–176	117
139	38–177	117
140	38–178	118
141	38–180	119
141	38–185	119
141	38–184	119
142	38–181	120
142	38–183	120
142	38–182	120
142	38–186	121
145	38–191	121
145	38–192	122
145	38–193	122
146	38–188	122
147	38–190	123
147	38–187	123
150	38–198	126
152	38–196	128
153	38–195	128
153	38–197	129
153	38–194	129
157	38–189	133
158	38–200	134
159	38–199	134
161	38–208	134
164	38–212	137
174	38–211	147
187	38–210	160
193	38–203	166
196	38–204	169
206	38–205	179
208	38–206	181
212	38–207	185
215	38–209	188
216	38–215	189
216	38–201	189
216	38–202	189
217	38–214	190
217	38–213	191
219	38–216	192
219	38–217	192
221	38–218	192
221	38–220	193
221	38–219	193
223	38–221	194
225	38–223	195
225	38–224	195
225	38–231	195
226	38–232	197
228	38–237	197
228	38–227	197
228	38–228	197
228	38–229	198
229	38–230	198
229	38–222	198
229	38–233	199
232	38–225	202
233	38–226	202
233	38–235	202
233	38–236	202

Page References in Daily Issues and Bound Volumes to Federal Register Document Numbers—Continued

Daily Issue Page	Federal Register Doc. No.	Bound Volume Page
233	38–234	202
233	38–238	203
234	38–239	203
234	38–240	203
235	38–241	204
235	38–242	204
235	38–243	204
235	38–244	204
235	38–245	204
236	38–246	205
236	38–247	205
236	38–248	205
236	38–249	205
236	38–250	206
237	38–251	206
237	38–252	206
237	38–253	206
237	38–254	206
238	38–255	207
238	38–256	207
238	38–257	207
238	38–258	207
239	38–259	208
241	38–265	208
241	38–263	208
242	38–264	209
245	38–271	212
246	38–260	212
246	38–261	213
246	38–262	213
247	38–266	213
247	38–267	213
247	38–270	214
248	38–268	214
248	38–269	214
249	38–272	214
249	38–274	215
250	38–275	215
250	38–276	216
251	38–273	216
253	38–277	216
253	38–278	217
254	38–283	217
254	38–284	217
255	38–285	217
255	38–296	218
255	38–295	218
255	38–294	218
256	38–293	218
256	38–286	218
256	38–287	219
256	38–288	219
256	38–289	219
257	38–290	219
257	38–291	220
257	38–292	220
258	38–297	220
258	38–281	221
259	38–279	221
259	38–280	221
259	38–282	222
261	38–306	222
261	38–307	222
262	38–308	223
262	38–299	223
263	38–309	223
263	38–311	224
263	38–310	224
263	38–303	224
263	38–304	224
264	38–302	225
265	38–298	225
269	38–300	230
269	38–301	230
270	38–305	230
271	38–327	231
271	38–343	231
271	38–315	231
274	38–312	233
274	38–313	233
275	38–319	234
275	38–320	234
276	38–321	235
276	38–339	235
277	38–340	236
277	38–341	236
278	38–316	237
278	38–318	237
278	38–317	237
279	38–322	237
279	38–333	238
279	38–334	238
280	38–335	239
280	38–336	239
280	38–337	239
281	38–338	240
281	38–344	240
281	38–314	240
283	38–323	242
283	38–324	242
283	38–325	242
284	38–326	243
284	38–342	243
292	38–332	251
292	38–330	251
292	38–328	251
293	38–331	252
293	38–329	252
295	38–347	252
300	38–348	257
300	38–346	257
301	38–345	258
303	38–356	258
303	38–355	258
304	38–357	259
304	38–358	259
305	38–349	259
305	38–350	259
305	38–352	260
305	38–351	260
306	38–353	260
306	38–354	261
307	38–370	261
307	38–371	261
307	38–372	261
308	38–373	262
308	38–366	262
316	38–374	270
316	38–375	270
317	38–359	270
317	38–360	271
317	38–361	271
318	38–362	271
318	38–363	271
318	38–364	272
318	38–365	272
319	38–368	272
319	38–369	272
319	38–367	273
321	38–376	273
321	38–380	274
322	38–388	274
323	38–387	275
323	38–386	275
323	38–385	275
323	38–384	275
323	38–383	275
324	38–382	275
324	38–381	276
324	38–391	276
325	38–390	276
325	38–377	277
325	38–389	277
325	38–378	277
326	38–379	277
327	38–409	278
327	38–410	278
330	38–413	280
330	38–393	280
330	38–395	280
330	38–392	280
331	38–406	281
336	38–407	286
336	38–396	286
341	38–401	291
342	38–402	292
342	38–404	292
342	38–403	292
343	38–405	293
343	38–397	293
344	38–398	294
344	38–399	294
344	38–400	294
345	38–394	295
345	38–411	295
347	38–412	297
347	38–408	297
349	38–424	297
357	38–425	305
362	38–423	310
363	38–420	311
363	38–419	311
364	38–418	312
364	38–417	312
365	38–415	313
365	38–416	313
365	38–422	313
365	38–421	313
365	38–414	313
379	38–446	326
379	38–447	326
379	38–448	327
379	38–449	327
379	38–454	327
380	38–426	327
381	38–427	328
381	38–428	328
382	38–429	329
382	38–430	329
383	38–431	329
383	38–439	330
384	38–432	330
384	38–433	331
385	38–434	331
385	38–435	332
386	38–436	332
386	38–440	333
386	38–437	333
387	38–438	333
387	38–441	334
388	38–444	334
388	38–445	334
388	38–455	334
391	38–450	337
391	38–451	337
391	38–452	338
391	38–453	338
392	38–442	338
392	38–443	339
393	38–456	339
393	38–465	339
394	38–459	340
395	38–460	341
396	38–461	341
396	38–462	342
397	38–463	342
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398	38–457	343
398	38–458	343
399	38–466	343
399	38–467	344
403	38–474	346
403	38–469	346
403	38–468	346
404	38–487	346
404	38–488	347
405	38–484	347
405	38–485	347
405	38–486	347
405	38–490	347
405	38–491	347
405	38–489	347
405	38–492	347
406	38–473	348
406	38–475	348
406	38–476	348
407	38–477	349
407	38–470	349
419	38–472	361
425	38–471	367
439	38–478	381
440	38–483	382
440	38–479	382
440	38–480	382
441	38–482	383
441	38–481	383
443	38–493	383
443	38–494	383
443	38–495	384
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447	38–508	384
447	38–509	384
448	38–510	385
448	38–496	385
449	38–499	385
449	38–506	385
449	38–505	385
449	38–507	386
449	38–497	386
450	38–503	386
451	38–511	388
451	38–500	388

Page References in Daily Issues and Bound Volumes to Federal Register Document Numbers—Continued

Daily Issue Page	Federal Register Doc. No.	Bound Volume Page
476	38–498	413
476	38–504	413
477	38–502	413
479	38–512	415
479	38–524	415
480	38–523	415
481	38–526	416
481	38–522	416
482	38–525	417
482	38–521	417
482	38–520	418
483	38–519	418
483	38–516	418
483	38–515	418
484	38–513	419
484	38–514	419
487	38–517	422
487	38–518	422
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495	38–533	428
497	38–534	430
499	38–531	432
502	38–536	435
502	38–530	435
503	38–537	435
503	38–541	435
503	38–549	436
503	38–550	436
504	38–551	436
505	38–552	437
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544	38–580	472
544	38–572	472
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552	38–619	478
552	38–598	479
552	38–599	479
552	38–600	479
552	38–601	479
553	38–602	479
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664	38–732	572
664	38–731	572
664	38–749	572
664	38–734	572
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678	38–759	584
678	38–764	584
678	38–766	584
679	38–765	585
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680	38–785	586
680	38–784	586
680	38–783	586
680	38–782	586
681	38–781	587
681	38–780	587
681	38–779	587

Page References in Daily Issues and Bound Volumes to Federal Register Document Numbers—Continued

Daily Issue Page	Federal Register Doc. No.	Bound Volume Page
681	38–778	587
682	38–777	588
682	38–776	588
682	38–775	588
683	38–774	589
683	38–773	589
683	38–772	589
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695	38–806	596
696	38–801	597
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844	38–1002	718
850	38–994	724
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853	38–996	727
853	38–998	727
854	38–997	727
855	38–1009	727
855	38–1003	728
855	38–1013	728
856	38–1004	728
856	38–1015	729
857	38–1014	729
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859	38–1006	731
859	38–1005	732
860	38–1008	732
861	38–1007	733
861	38–1016	733
861	38–1017	734
862	38–1011	734
863	38–1018	734
863	38–1026	734
864	38–1033	735
864	38–1027	735
865	38–1029	735
865	38–1025	736
866	38–1032	736
866	38–1031	737
867	38–1028	737
867	38–1019	738
867	38–1020	738
868	38–1021	738
868	38–1036	738
868	38–1035	739
868	38–1034	739
869	38–1037	739
869	38–1022	740
869	38–1024	740
869	38–1023	740
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871	38–1046	741
875	38–1043	745
875	38–1044	745
876	38–1045	746
878	38–1049	748
879	38–1048	749
882	38–1047	751
882	38–1041	752
883	38–1042	752
883	38–1038	752
883	38–1039	752
883	38–1040	753
885	38–1053	753
886	38–1050	754
886	38–1056	754

Page References in Daily Issues and Bound Volumes to Federal Register Document Numbers—Continued

Daily Issue Page	Federal Register Doc. No.	Bound Volume Page
887	38–1051	755
888	38–1052	756
890	38–1055	757
890	38–1054	758
891	38–1064	758
891	38–1063	758
891	38–1058	758
891	38–1059	759
892	38–1060	759
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912	38–1089	775
913	38–1090	776
913	38–1085	776
913	38–1088	776
914	38–1084	777
914	38–1098	777
915	38–1100	778
915	38–1099	778
918	38–1103	781
919	38–1101	782
919	38–1082	782
919	38–1081	782
920	38–1102	783
921	38–1113	783
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921	38–1109	784
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931	38–1122	792
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991	38–1199	836
991	38–1200	836
991	38–1201	836
992	38–1213	837
992	38–1219	837
993	38–1214	838
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1020	38–1250	860
1020	38–1246	861
1020	38–1243	861
1020	38–1256	861
1020	38–1254	861
1021	38–1255	861
1023	38–1259	862
1023	38–1260	862
1024	38–1261	863
1028	38–1262	867
1029	38–1263	867
1033	38–1266	871
1033	38–1264	872
1035	38–1265	874
1036	38–1267	874
1036	38–1258	875
1037	38–1270	875
1037	38–1271	875
1037	38–1272	875
1037	38–1274	875
1038	38–1277	876
1039	38–1275	876
1039	38–1276	876
1039	38–1278	877
1040	38–1268	877
1047	38–1269	885
1052	38–1273	889
1052	38–1280	890
1053	38–1281	890
1053	38–1279	890
1055	38–1284	891
1056	38–1283	892
1056	38–1286	892
1057	38–1285	893
1057	38–1288	893
1058	38–1287	893
1058	38–1291	893
1058	38–1292	893
1058	38–1290	894
1059	38–1282	894
1059	38–1289	895
1061	38–1293	895
1061	38–1296	895
1062	38–1295	896
1063	38–1294	897
1063	38–1297	897
1064	38–1298	898
1064	38–1299	898
1064	38–1300	898
1065	38–1301	899
1067	38–1313	899
1067	38–1314	899
1068	38–1315	900
1069	38–1304	900
1069	38–1312	900
1069	38–1317	901
1070	38–1316	901
1070	38–1309	901
1070	38–1311	902
1071	38–1306	902
1071	38–1310	902
1071	38–1308	903
1072	38–1307	903
1072	38–1305	903
1072	38–1302	903
1072	38–1303	903
1072	38–1318	904
1073	38–1319	904
1075	38–1320	905
1075	38–1321	905
1075	38–1326	905
1076	38–1322	905
1077	38–1324	906

Page References in Daily Issues and Bound Volumes to Federal Register Document Numbers—Continued

Daily Issue Page	Federal Register Doc. No.	Bound Volume Page
1077	38–1325	906
1077	38–1328	907
1078	38–1329	907
1082	38–1330	911
1082	38–1323	911
1082	38–1327	911
1083	38–1348	912
1084	38–1331	912
1084	38–1332	912
1085	38–1333	913
1085	38–1334	913
1085	38–1336	913
1085	38–1337	914
1086	38–1339	914
1086	38–1338	914
1086	38–1335	914
1087	38–1347	915
1087	38–1352	915
1088	38–1346	916
1088	38–1353	916
1093	38–1354	921
1095	38–1345	923
1095	38–1340	923
1095	38–1341	923
1096	38–1342	924
1096	38–1343	924
1096	38–1344	924
1096	38–1349	924
1097	38–1350	925
1097	38–1351	925
1099	38–1358	925
1099	38–1362	925
1099	38–1361	926
1100	38–1355	926
1100	38–1357	926
1101	38–1360	927
1101	38–1359	927
1101	38–1356	927
1101	38–1363	927
1102	38–1364	928
1103	38–1376	928
1103	38–1369	929
1104	38–1371	930
1104	38–1370	930
1106	38–1372	930
1107	38–1374	931
1107	38–1367	932
1108	38–1375	932
1108	38–1368	932
1108	38–1373	932
1108	38–1365	933
1108	38–1366	933
1108	38–1377	933
1111	38–1386	933
1114	38–1385	936
1115	38–1379	937
1115	38–1384	937
1116	38–1382	938
1119	38–1380	941
1119	38–1381	941
1125	38–1388	947
1126	38–1389	947
1126	38–1390	948
1126	38–1378	948
1127	38–1383	948
1127	38–1391	949
1127	38–1392	949
1128	38–1387	949
1131	38–1397	951
1131	38–1398	951
1131	38–1399	951
1131	38–1400	951
1132	38–1393	952
1132	38–1395	952
1134	38–1394	953
1140	38–1404	959
1140	38–1405	960
1147	38–1396	966
1147	38–1401	966
1147	38–1402	967
1147	38–1403	967
1149	38–1409	967
1149	38–1411	967
1150	38–1410	968
1151	38–1412	968
1151	38–1408	969
1156	38–1406	973
1156	38–1407	973
1156	38–1414	974
1157	38–1415	974
1157	38–1413	974
1159	38–1416	975
1159	38–1420	975
1160	38–1423	975
1160	38–1422	976
1161	38–1417	976
1161	38–1418	976
1161	38–1419	976
1161	38–1426	977
1162	38–1427	977
1162	38–1425	977
1162	38–1424	978
1163	38–1430	978
1163	38–1428	978
1163	38–1429	978
1163	38–1421	979
1165	38–1432	979
1165	38–1433	980
1166	38–1434	980
1166	38–1436	980
1166	38–1431	980
1167	38–1435	981
1167	38–1437	981
1167	38–1438	981
1169	38–1448	981
1169	38–1441	982
1169	38–1442	982
1170	38–1443	982
1170	38–1447	982
1171	38–1446	984
1173	38–1439	986
1174	38–1444	986
1175	38–1440	987
1175	38–1445	987
1175	38–1449	987
1176	38–1450	988
1177	38–1453	989
1177	38–1457	989
1178	38–1458	989
1179	38–1462	991
1180	38–1463	991
1181	38–1455	993
1184	38–1451	995
1185	38–1452	996
1185	38–1456	996
1186	38–1454	997
1186	38–1459	997
1187	38–1460	998
1187	38–1461	998
1189	38–1464	998
1189	38–1465	998
1189	38–1466	998
1191	38–1475	999
1191	38–1478	999
1191	38–1484	999
1191	38–1476	1000
1192	38–1477	1001
1193	38–1479	1001
1193	38–1469	1002
1194	38–1470	1002
1194	38–1471	1002
1194	38–1467	1002
1194	38–1468	1003
1195	38–1472	1003
1195	38–1473	1003
1195	38–1474	1003
1195	38–1480	1004
1196	38–1481	1004
1197	38–1482	1005
1197	38–1483	1005
1199	38–1485	1005
1199	38–1486	1005
1199	38–1487	1006
1199	38–1488	1006
1200	38–1490	1006
1201	38–1489	1007
1203	38–1497	1009
1203	38–1496	1009
1204	38–1492	1009
1204	38–1493	1010
1204	38–1494	1010
1205	38–1495	1010
1205	38–1491	1011
1205	38–1500	1011
1206	38–1498	1012
1206	38–1501	1012
1207	38–1502	1012
1207	38–1499	1013
1207	38–1503	1013
1207	38–1504	1013
1209	38–1510	1013
1224	38–1516	1028
1224	38–1511	1028
1225	38–1507	1029
1225	38–1508	1029
1226	38–1512	1029
1226	38–1513	1030
1227	38–1514	1030
1227	38–1518	1031
1228	38–1515	1031
1228	38–1506	1032
1229	38–1505	1032
1229	38–1517	1032
1229	38–1519	1033
1229	38–1520	1033
1229	38–1521	1033
1230	38–1509	1033
1231	38–1532	1034
1233	38–1523	1035
1233	38–1524	1035
1233	38–1530	1035
1241	38–1529	1043
1241	38–1531	1043
1242	38–1526	1044
1249	38–1525	1051
1249	38–1527	1051
1249	38–1528	1051
1249	38–1533	1051
1250	38–1534	1052
1250	38–1522	1052
1255	38–1546	1055
1255	38–1545	1055
1257	38–1547	1057
1258	38–1536	1058
1266	38–1544	1066
1269	38–1543	1068
1269	38–1537	1069
1273	38–1538	1072
1275	38–1539	1074
1275	38–1540	1074
1275	38–1541	1074
1275	38–1542	1074
1275	38–1548	1075
1276	38–1535	1075
1277	38–1556	1076
1277	38–1557	1076
1279	38–1552	1077
1281	38–1553	1079
1283	38–1551	1081
1283	38–1549	1081
1283	38–1550	1081
1284	38–1554	1082
1284	38–1555	1082
1285	38–1558	1083

RELATED DOCUMENTS TABLE[1]

CONTENTS

	Page
PRESIDENT OF THE UNITED STATES	1093
DEPARTMENT OF STATE	1095
Office of Arms and Munitions Control	1095
TREASURY DEPARTMENT	1095
Accounts and Deposits	1095
Bureau of Customs	1095
Bureau of Internal Revenue	1096
Bureau of Narcotics	1097
Federal Alcohol Administration	1097
Office of the Secretary	1097
Public Debt Service	1097
Public Health Service	1097
WAR DEPARTMENT	1097
DEPARTMENT OF THE INTERIOR	1098
Bureau of Mines	1098
Bureau of Reclamation	1098
Division of Grazing	1098
Division of Territories and Island Possessions	1099
General Land Office	1099
Geological Survey	1099
Indian Arts and Crafts Board	1099
National Bituminous Coal Commission	1100
National Park Service	1105
Office of Indian Affairs	1105
Petroleum Conservation Division	1106
DEPARTMENT OF AGRICULTURE	1106
Agricultural Adjustment Administration	1106
Bureau of Agricultural Economics	1109
Bureau of Animal Industry	1109
Bureau of Biological Survey	1110
Bureau of Entomology and Plant Quarantine	1110
Commodity Exchange Administration	1110
Farm Security Administration	1110
Federal Crop Insurance Corporation	1110
Food and Drug Administration	1111
Forest Service	1111
DEPARTMENT OF COMMERCE	1111
Bureau of Air Commerce	1111
Bureau of Fisheries	1111
Bureau of Foreign and Domestic Commerce	1111
Bureau of Lighthouses	1111
Bureau of Marine Inspection and Navigation	1111
DEPARTMENT OF LABOR	1111
Children's Bureau	1111
Immigration and Naturalization Service	1111
Office of the Secretary	1111
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM	1112
COMMODITY CREDIT CORPORATION	1112
FARM CREDIT ADMINISTRATION	1112
FEDERAL COMMUNICATIONS COMMISSION	1112
FEDERAL DEPOSIT INSURANCE CORPORATION	1113
FEDERAL HOME LOAN BANK BOARD	1113
Federal Savings and Loan Insurance Corporation	1114
Home Owners' Loan Corporation	1114
FEDERAL HOUSING ADMINISTRATION	1114
FEDERAL POWER COMMISSION	1114
FEDERAL TRADE COMMISSION	1115
FOREIGN TRADE ZONES BOARD	1117
INTERNATIONAL FISHERIES COMMISSION	1117
INTERSTATE COMMERCE COMMISSION	1117
THE NATIONAL ARCHIVES	1118
Administrative Committee of the Federal Register	1118
NATIONAL LABOR RELATIONS BOARD	1118
THE PANAMA CANAL	1118
RAILROAD RETIREMENT BOARD	1118
RURAL ELECTRIFICATION ADMINISTRATION	1118
SECURITIES AND EXCHANGE COMMISSION	1119
SOCIAL SECURITY BOARD	1124
UNITED STATES BOARD OF TAX APPEALS	1124
UNITED STATES MARITIME COMMISSION	1124
VETERANS' ADMINISTRATION	1124

[1] Volume and page references to related documents printed in volumes 1 and 2 are made in the following manner: 1–2160, 2–2160.

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER		RELATED DOCUMENTS AMENDMENTS	
			Doc. No.	Page	F. R. Doc. No.	Page
PRESIDENT OF THE UNITED STATES						
Proclamations						
1938						
Jan. 4	Relating to newly-mined domestic silver.	2268	38-14	4	38-107	67
Jan. 20	Nicolet National Forest, Wisconsin.	2269	38-191	121	37-46	2-23
Jan. 20	Huron National Forest, Michigan.	2270	38-192	122		
Jan. 20	Chequamegon National Forest, Wisconsin.	2271	38-193	122	37-45	2-22
Jan. 29	Extending for three years the period of operation of the Act approved June 14, 1935.	2272	38-306	222		
Feb. 17	National Wild Life Week, 1938.	2273	38-501	384		
Mar. 18	Closed area under the Migratory Bird Treaty Act, Arkansas.	2274	38-799	591	3002	1-1642
Mar. 22	Army Day	2275	38-824	604		
Mar. 24	Thomas Jefferson's Birthday.	2276	38-848	618		
Mar. 30	Cancer Control Month	2277	38-903	656		
Apr. 7	Child Health Day	2278	38-985	710		
Apr. 9	Norway, reciprocal enforcement of certain treaty provisions.	2279	38-1009	727		
Apr. 28	National Maritime Day	2280	38-1178	817		
Apr. 29	Channel Islands National Monument, California.	2281	38-1210	827		
Apr. 30	Relating to silver	2282	38-1233	841		
Apr. 30	Immigration quotas	2283	38-1234	841		
May 12	Closed area under the Migratory Bird Treaty Act, North Carolina.	2284	38-1348	912	37-3446	2-1355
May 14	Talledega National Forest, Alabama.	2285	38-1376	928		
May 20	Enlarging the Black Canyon of the Gunnison National Monument, Colorado.	2286	38-1416	975		
Executive Orders						
Jan. 1	Establishing the Lacassine Migratory Waterfowl Refuge, Louisiana.	7780	38-10	1		
Jan. 1	Amending Executive Order No. 5517 excluding a tract of land from the Chugach National Forest, Alaska.	7781	38-11	1	423	1-265
Jan. 5	Modifying Executive Order No. 1919¼ and setting apart certain lands for aviation field purposes, Alaska Road Commission.	7783	38-26	10		
Jan. 5	Establishing the Aransas Migratory Waterfowl Refuge, Texas.	7784	38-27	10		
Jan. 11	Amendment of Executive Order No. 4601, regulations, award of Distinguished Flying Cross.	7786	38-76	39		
Jan. 12	Designating the Architect of the Capitol as a member of the Alley Dwelling Authority.	7784-A	38-89	51		
Jan. 12	Power site restoration No. 487, Montana, partial revocation of Executive Orders of June 8, 1909 and July 2, 1910.	7787	38-95	52		
Jan. 15	Amendment of Executive Order No. 7302 transferring certain lands in the Virgin Islands to the control etc., of the Secretary of the Navy.	7790	38-132	82	37-2479	2-1374
PRESIDENT OF THE UNITED STATES—Continued						
Executive Orders—Continued						
1938						
Jan. 21	Transfer of jurisdiction over certain lands from the Secretary of Agriculture to the Secretary of the Interior; New Mexico.	7792	38-208	134		
Jan. 25	Partial revocation of Executive Order No. 6644, withdrawing public lands, Colorado.	7793	38-223	195		
Jan. 25	Correcting description of parcel of land contained in Executive Order No. 6050.	7794	38-224	195		
Jan. 25	Establishing the Huron Migratory Bird Refuge, Michigan.	7795	38-231	195		
Jan. 25	Amending Executive Order of January 17, 1873, to permit certain employees of Department of the Interior to hold State etc., offices.	7796	38-232	197		
Jan. 28	Documents required of bona fide alien seamen entering the United States.	7797	38-277	216	38-1053	753
Jan. 28	Transferring a portion of the Boise Barracks Military Reservation, Idaho to the control etc., of the Veterans' Administration.	7798	38-278	217		
Jan. 29	Enlarging Waterfowl Refuge, North Dakota.	7799	38-307	222		
Jan. 29	Transferring certain lands to the control etc., of the Secretary of the Navy, Cuba.	7800	38-308	223		
Feb. 1	Establishing Black Coulee Migratory Waterfowl Refuge, Montana.	7801	38-327	231		
Feb. 4	Withdrawal of public land for forest look out station, Washington.	7803	38-370	261		
Feb. 4	Reservation of public land for use of Lighthouse Service, Hawaii.	7804	38-371	261		
Feb. 8	Correcting description of lands contained in Executive Order No. 6897 of November 7, 1934.	7805	38-409	278		
Feb. 8	Fort William D. Davis Military Reservation, Canal Zone.	7806	38-410	278		
Feb. 10	Power-site restoration No. 486, Oregon.	7807	38-446	326		
Feb. 10	Power-site restoration No. 488, Oregon.	7808	38-447	326		
Feb. 10	Amending paragraph 13, Subdivision III, Schedule A of the Civil Service Rules.	7809	38-448	327		
Feb. 10	Revocation of Executive Order of December 9, 1875 establishing the Baird Fish Hatchery on M'Cloud River, California.	7810	38-449	327		
Feb. 11	Amendment of Regulation VIII, appointment of unclassified laborers.	7811	38-456	339		
Feb. 16	Revocation of Executive Order No. 6179, withdrawing public lands, Utah.	7812	38-493	383		
Feb. 16	Amendment of Rule 16 of Executive Order No. 4314, rules governing navigation of the Panama Canal.	7813	38-494	383		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
PRESIDENT OF THE UNITED STATES—Continued						
Executive Orders—Continued						
1938						
Feb. 17	Partial revocation of Executive Order No. 4430 as modified withdrawing public lands, Wisconsin.	7814	38–508	384		
Feb. 17	Amending paragraph 10 (a) Subdivision IV, Schedule A of the Civil Service Rules.	7815	38–509	384		
Feb. 17	Transferring portions of Amaknak Island, Alaska, to the control etc., of the Secretary of the Navy.	7816	38–510	385		
Feb. 19	Designating the Honorable Martin Travieso as Acting Judge of the District Court of the United States for Puerto Rico.	7817	38–528	422		
Feb. 22	Designating Port St. Joe, Fla., as a customs port of entry.	7818	38–537	435		
Feb. 22	Designating the Chairman of the United States Maritime Commission.	7821	38–541	435		
Mar. 1	Limiting the importation of red cedar shingles from Canada during the first 6 months of 1938.	7822	38–606	474	37–2691	2–1806
Mar. 2	Amendment of the Consular Regulations.	7826	38–633	485	37–3066	2–2237
Mar. 8	Placing Canton and Enderbury Islands in the Pacific Ocean under the control, etc., of the Secretary of the Interior.	7828	38–677	525		
Mar. 10	Revocation of Executive Order No. 5428, land reservation, Montana.	7829	38–696	554		
Mar. 10	Partial revocation of Executive Order No. 5341, withdrawing public lands, Arizona.	7830	38–697	554		
Mar. 10	Amendment of Executive Order No. 7293, prescribing regulations for enlisted men.	7831	38–698	555		
Mar. 10	Revocation of Executive Order No. 5923, withdrawing public lands, Oregon.	7832	38–699	555		
Mar. 10	Establishing Hewitt Lake Migratory Waterfowl Refuge, Montana.	7833	38–700	555	38–737	565
Mar. 15	Revocation of Executive Order No. 2184, withdrawing public lands, Alaska.	7835	38–728	564		
Mar. 15	Public water restoration No. 80, New Mexico and Wyoming.	7836	38–729	564		
Mar. 16	Cash relief for certain employees of the Panama Canal.	7837	38–751	574	38–1203	840
Mar. 16	Establishment of a supply fund for the procurement, etc., of materials, etc., for projects of the Works Progress Administration.	7838	38–752	575	968 37–2902	1–651 2–1136
Mar. 16	Transferring certain housing or slum-clearance projects to the Puerto Rico Reconstruction Administration.	7839	38–753	575	37–3159	2–2324
Mar. 18	Extending the limits of the port of entry of Philadelphia, Pa.	7840	38–793	591		
Mar. 18	Withdrawal of public lands for use of the Alaska Railroad.	7841	38–794	591		
Mar. 23	Prescribing regulations relating to annual leave of Government employees.	7845	38–837	612	38–1320	905
Mar. 23	Prescribing regulations relating to sick leave of Government employees.	7846	38–836	614	38–1321	905
Mar. 23	Withdrawal of public lands for use of the Navy Department.	7847	38–838	615		
Mar. 25	Designating the Secretary of the Treasury to receive certain capital stock from the Reconstruction Finance Corporation, etc.	7848	38–856	632		
Mar. 29	Authorizing the inspection of income, excess profits and capital stock tax returns.	7849	38–890	639	38–900 38–901	641 645
Mar. 29	Revocation of Executive Order No. 6087, withdrawing public lands, Colorado.	7850	38–891	640		
Mar. 31	Amending paragraph 5, Subdivision XI, Schedule A of the Civil Service Rules.	7852	38–919	663		
Mar. 31	Amending paragraph 4, Subdivision III, Schedule B of the Civil Service Rules.	7853	38–920	664		
Apr. 2	Revocation of Executive Order No. 6055, withdrawing public lands, Colorado.	7854	38–945	681		
Apr. 2	Partial revocation of Executive Order No. 5089 withdrawing public lands for classification, etc., Colorado.	7855	38–946	681		
Apr. 2	Rules governing the granting and issuing of passports in the United States.	7856	38–953	681		
Apr. 2	Transferring to the people of Puerto Rico certain lands no longer needed for the purposes of the United States.	7857	38–952	687		
Apr. 2	Authorizing the Attorney-General to reject bids for certain property, Savannah, Georgia, pursuant to the Trading with the Enemy Act.	7858	38–954	688		
Apr. 9	Reservation of land for river and harbor purposes, Minnesota.	7860	38–1003	728		
Apr. 12	Modification of Executive Order No. 7387, reserving Naval Station, Balboa, Canal Zone.	7862	38–1018	734	920	1–601
Apr. 12	Establishing Pea Island Migratory Waterfowl Refuge, North Carolina.	7864	38–1026	734		
Apr. 14	Documents required of aliens entering the United States.	7865	38–1053	753	38–277	216
Apr. 16	Withdrawal of public land, Arkansas, for use of Department of Agriculture.	7866	38–1073	764		
Apr. 19	Withdrawal of public land, Louisiana, for use of Department of Agriculture.	7867	38–1092	767		
Apr. 19	Transfer of jurisdiction over certain lands from the Secretary of Agriculture to the Secretary of the Interior.	7868	38–1094	767	37–516	2–343
Apr. 20	Inspection of income etc., by the Special Committee to Investigate Lobbying Activities, United States Senate.	7869	38–1113	783	38–1121	783
Apr. 21	Revocation of Executive Order No. 3345 withdrawing public lands for national-monument classification, Arizona.	7870	38–1125	792		
Apr. 23	Amendment of Subdivision I, Schedule B, Civil Service Rules.	7872	38–1135	795		
Apr. 27	Transferring certain land, New Mexico, to the control, etc., of the Treasury Department.	7875	38–1163	816		
Apr. 30	Revocation of Executive Orders Nos. 6814 and 6895-A.	7877	38–1231	842		
May 3	Amending paragraph 7, Subdivision III, Schedule A, Civil Service Rules.	7878	38–1247	846	2586	1–1478
May 11	Amending section 6 of Executive Order No. 7845, annual leave for Government employees.	7879	38–1320	905	38–837	612
May 11	Amending section 9 of Executive Order No. 7846, sick leave for Government employees.	7880	38–1321	905	38–836	614
May 12	Power site restoration No. 489, etc., Washington.	7881	38–1331	912		
May 12	Establishing the Tybee Migratory Bird Refuge, Georgia.	7882	38–1332	912		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
PRESIDENT OF THE UNITED STATES—Continued						
Executive Orders—Continued						
1938						
May 12	Withdrawal of public lands, California, to provide material for the construction, etc., of public roads, etc.	7883	38–1333	913		
May 12	Reestablishing the Toiyabe National Forest, Nevada.	7884	38–1334	913		
May 13	Placing certain land in Alaska under the control, etc., of the Secretary of the Treasury.	7885	38–1358	925		
May 18	Revocation of Executive Order No. 4061 and partial revocation of Executive Order No. 4844, withdrawing public lands, New Mexico.	7886	38–1397	951		
May 18	Extending the provisions provisions of the Civil Service Retirement Act.	7887	38–1398	951		
May 18	Withdrawal of public land, Alaska, for classification, etc.	7888	38–1399	951		
May 18	Revocation of Executive Order No. 7520 withdrawing lands in Arizona for the use of the War Department.	7889	38–1400	951	3893	1–2172
May 20	Restoring certain lands to the Territory of Hawaii for highway purposes.	7891	38–1420	975		
May 25	Restoring land to Hawaii for aeronautical purposes, etc.	7893	38–1453	989		
May 26	Delegating certain powers to the Attorney General under the Trading with the Enemy Act.	7894	38–1464	998		
May 26	Enlarging the Hart Mountain Antelope Refuge, Oregon.	7895	38–1465	998	3931	1–2184
May 27	Appointments as deputies or employees in the office of the United States Marshal, Virgin Islands	7896	38–1485	1005		
May 27	Partial revocation of Executive Order No. 5894 withdrawing public lands, Colorado.	7897	38–1486	1005		
May 28	Withdrawal of public land authorized to be added to the Yosemite National Park, California.	7898	38–1516	1028		
June 2	Authorizing the Attorney General to sell upon public exchanges without prior advertisement certain property held under the Trading with the Enemy Act.	7901	38–1546	1055		
June 2	Establishing the Tamarac Migratory Waterfowl Refuge, Minnesota.	7902	38–1545	1055		
June 2	Transfer of jurisdiction over certain lands, Rhode Island, from the Secretary of Agriculture to the Secretary of the Interior.	7903	38–1547	1057	3400	1–1946
Letters						
Feb. 1	Application of duties proclaimed in connection with certain trade agreements to products of Australia.	Jan. 25, 1938	38–343	231	1045 37–2147	1–684 2–1209
Mar. 19	Application of duties proclaimed in connection with certain trade agreements.	Mar. 15, 1938	38–810	594	38–1013 38–1093	728 773
Apr. 9	Application of duties proclaimed in connection with certain trade agreements to products of Austria.	Apr 6, 1938	38–1013	728	38–810	594
Apr. 19	Modification, duties proclaimed in connection with trade agreement with Czechoslovakia.	Apr. 15, 1938	38–1093	773	38–810	594
DEPARTMENT OF STATE						
1938						
Jan. 12	Public notice, trade agreement negotiations, United Kingdom, etc.		38–90	52	38–315	231
Jan. 14	Public notice, trade agreement negotiations with Turkey.		38–123	78		
Feb. 1	Supplementary list of products and notice of hearing regarding trade agreement negotiations with the United Kingdom, etc.		38–315	231	38–90	52
Feb. 2	Public notice, trade agreement negotiations with Canada.		38–347	252		
Office of Arms and Munitions Control						
Apr. 5	Laws, etc., governing international traffic in arms.		38–958	690		
TREASURY DEPARTMENT						
Accounts and Deposits						
Apr. 30	Special deposits of public moneys under the Act of Congress approved September 24, 1917 as amended.	1938—8th supp. Dept. circular No. 92 (Revised).	38–1238	842	37–2619	2–1561
Apr. 30	Regulations, deposit of public moneys and payment of Government checks and warrants.	1938—9th supp. to Dept. circular No. 176.	38–1239	842		
Bureau of Customs						
Jan. 1	Return of domestic animals to the United States free of duty.	T. D. 49316	38–3	1	37–2602	2–1444
Jan. 7	Denaturing vegetable oils, discontinuing use of oil of eucalyptus, customs regulations amended.	T. D. 49324	38–50	31	37–2602 38–103 38–106 38–269 38–512 38–654 39–678 38–790 38–791 38–822 38–863 38–864 38–865 38–881 38–911 38–957 38–965 38–1004 38–1015 38–1160 38–1161 38–1241 38–1313 38–1314 38–1362 38–1457	2–1444 67 66 223 415 519 526 578 579 604 635 636 636 640 664 698 700 728 729 801 801 843 899 899 925 989
Jan. 13	Duties of chief assistant appraiser and deputy appraiser at New York, customs regulations amended.	T. D. 49331	38–103	67	38–50	31
Jan. 13	Term cutter passes for newspaper photographers, customs regulations amended.	T. D. 49329	38–106	66	38–50	31
Jan. 15	Calexico Municipal Airport, California, redesignated as airport of entry for one year.	T. D. 49341	38–134	82	37–189	2–106
Jan. 19	Extensions of warehousing period for merchandise imported during 1934 and 1935.	T. D. 49343	38–172	99	37–171	2–105
Jan. 19	Drawback merchandise extension of period for exportation.	T. D. 49344	38–173	99	37–266	2–145

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
TREASURY DEPARTMENT—Continued						
Bureau of Customs—Continued						
1938 Jan. 22	Extensions of 3-year period, bonded wool and camel hair.	T. D. 49350	38-218	192	37-3815	2-2982
Jan. 22	Countervailing duty, dried salt fish from Nova Scotia, acceptance of certificates from consular officers in Nova Scotia.	T. D. 49351	38-220	193	37-3464	2-2563
Jan. 26	Countervailing duties on British sugar, collection of additional duties equal to net amounts of bounties or grants.	T. D. 49355	38-265	208	----------	----------
Jan. 29	Bond for manufacturing warehouse, customs regulations amended.	T. D. 49365	38-299	223	38-50	31
Feb. 5	Protest against liquidation of an entry covering fresh or dried dates.	T. D. 49377	38-376	273	37-2898	2-2008
Feb. 8	Importation of wild animals and birds from China.	T. D. 49378	38-413	280	37-2902 38-725 38-1426	2-1444 564 905
Feb. 17	Additional data to be shown, invoices, SUGAR and articles containing sugar.	T. D. 49400	38-496	385	37-2814	2-1888
Feb. 18	Release of examined packages upon a stipulation to pay any increased or additional duties.	T. D. 49410	38-512	415	38-50	31
Feb. 19	Examination of less than one package of every ten packages of certain merchandise authorized.	T. D. 49412	38-527	423	37-476 37-1138 37-2902	2-333 2-710 2-1520
Mar. 4	Production of missing declaration within 15 days, customs regulations amended.	T. D. 49436	38-654	519	38-50	31
Mar. 8	Evidence as to the country or region where seed was grown, custom regulations amended.	T. D. 49438	38-678	526	38-50	31
Mar. 15	Wild animals and birds, T. D. 49378 amended to make effective date 90 days after publication.	T. D. 49443	38-725	564	38-413	280
Mar. 15	Taxable status of coal, coke and briquets, imported from certain countries, Act of 1932.	T. D. 49444	38-726	564	38-1224 38-1315	842 900
Mar. 17	Golden Gate International Exposition, entry of articles for exhibition.	T. D. 49447	38-790	578	38-50	31
Mar. 17	New York World's Fair, entry of articles for exhibition.	T. D. 49448	38-791	579	38-50	31
Mar. 22	Vessel supplies, customs regulations amended.	T. D. 49456	38-822	604	38-50	31
Mar. 26	Release of seized property upon payment of appraised domestic value, general prior approval, etc., customs regulations amended.	T. D. 49467	38-863	635	38-50	31
Mar. 26	Illustrations of postage stamps for philatelic purposes, customs regulations amended.	T. D. 49469	38-864	636	38-50 38-499	31 385
Mar. 26	Antidumping, action by appraiser etc., customs regulations amended.	T. D. 49470	38-865	636	38-50	31
Mar. 26	Countervailing duties, obsolete treasury decisions revoked.	T. D. 49471	38-866	637	----------	----------
Mar. 29	Navigation fees, customs regulations amended.	T. D. 49468	38-881	640	38-50	31
Mar. 31	Wild animals, information in respect of the laws of Japan restricting the taking etc., consular certificates required before entry.	T. D. 49475	38-911	664	38-50	31
Apr. 2	Liquidations, manipulated merchandise, by-products and wastes, customs regulations amended.	T. D. 49487	38-957	688	38-50	31
Apr. 5	Baggage declaration and entry for steerage and cruise passengers, customs regulations amended.	T. D. 49489	38-965	700	38-50	31
Apr. 7	Countervailing duties, German agricultural products, revocation of Treasury Decisions.	T. D. 49490	38-981	710	----------	----------
1938 Apr. 9	Exemption from consular invoices of merchandise not exceeding $100 in value, etc.	T. D. 49499	38-1004	728	38-50	31
Apr. 9	Invoices, braids, plaits, etc.	T. D. 49501	38-1015	729	38-50	31
Apr. 12	Marking of country of origin, products of Austria.	T. D. 49503	38-1033	735	----------	----------
Apr. 26	Certain airports redesignated as airports of entry for one year	T. D. 49521	38-1147	801	----------	----------
Apr. 26	Exemption from entry at customhouse of vessels arriving in distress etc., exemption from tonnage duty.	T. D. 49523	38-1160	801	38-50	31
Apr. 26	Powers of attorney	T. D. 49524	38-1161	801	38-50	31
Apr. 30	Import tax on certain coal and allied fuels.	----------	38-1224	842	37-2511 38-726	2-1386 564
Apr. 30	Invoices covering silver, customs regulations amended.	T. D. 49535	38-1241	843	2630 38-50	1-1611 31
May 7	Airports of entry for one year, Wellesley Island, New York.	T. D. 49542	38-1293	895	----------	----------
May 10	Disposition of abandoned or forfeited articles subject to internal-revenue tax, customs regulations amended.	T. D. 49545	38-1313	899	38-50	31
May 10	Radio equipment and radio operations on board ship, customs regulations amended.	T. D. 49546	38-1314	899	38-50	31
May 10	Free entry of coal from the Union of Soviet Socialist Republics, domestic producers complaint.	T. D. 49547	38-1315	900	37-2511 38-726	2-1386 564
May 11	Importation of wild animals and birds from China.	T. D. 49548	38-1326	905	38-413	280
May 13	Marks of rank of customs patrol inspectors, customs regulations amended.	T. D. 49559	38-1362	925	38-50	31
May 25	General term bond for entry of merchandise.	T. D. 49578	38-1457	989	38-50	31
May 26	Importations of privately owned birds of the parrot family required to be inspected.	T. D. 49580	38-1466	998	----------	----------
Bureau of Internal Revenue						
Jan. 1	Reporting of taxable wages, regulations 91 amended.	T. D. 4786	38-2	2	3319	1-1764
Jan. 12	Income tax, compensation of state officers and employers.	T. D. 4787	38-92	62	3258 37-3687 38-94 38-179 38-219 38-845	1-1731 2-2882 62 100 193 619
Jan. 12	Income tax, cases where no return is required.	T. D. 4788	38-94	62	38-92	62
Jan. 14	Information required regarding preparation of income returns for taxable periods ending on or after Dec. 31, 1937.	T. D. 4789	38-124	79	----------	----------
Jan. 18	Modifying specially denatured alcohol Formula No. 29.	T. D. 4790	38-147	87	----------	----------
Jan. 19	Income tax, Regulations 94 amended to accord with the Revenue Act of 1937.	T. D. 4791	38-179	100	38-92	62
Jan. 22	Income tax, article 23 (P)-1 of Regulations 94 amended.	T. D. 4792	38-219	193	38-92	62
Feb. 15	Exemption of distillers of certain brandy from provisions of Internal Revenue Laws, Regulations 7, paragraph 317, amended.	T. D. 4793	38-474	346	----------	----------
Mar. 16	Waiver of survey requirements as to distilleries.	T. D. 4794	38-754	576	----------	----------
Mar. 24	Income tax, Regulations 94 amended.	T. D. 4795	38-845	619	38-92	62
Mar. 29	Marking packages of whiskey, Gauging Manual amended.	T. D. 4796	38-886	641	1055 37-1196	1-707 2-749

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
TREASURY DEPARTMENT—Continued						
Bureau of Internal Revenue—Continued						
1938 Mar. 29	Inspection of returns, regulations governing individual partnerships etc.	T. D. 4797	38-900	641	38-890 38-901	639 645
Mar. 29	Use of original returns open to inspection, income, excess-profits etc.	T. D. 4798	38-901	645	38-890 38-900	639 641
Apr. 12	Production, fortification, taxpayment, etc., of wine.	T. D. 4799	38-1027	735	37-2993	2-2111
Apr. 20	Regulations, inspection of income etc., by the Special Committee to Investigate Lobbying Activities, United States Senate.	T. D. 4800	38-1121	783	38-1113	783
May 3	Services excepted from "employment" under Title VIII of the Social Security Act, Regulations 91 amended.	T. D. 4801	38-1248	847	37-3030 37-3437	2-2198 2-2548
May 3	Authorizing completely denatured alcohol formula No. 14.	T. D. 4802	38-1257	848	----------	----------
May 13	Manufacturers of tobacco, penalty, etc., for removing or concealing articles with intent to defraud.	T. D. 4803	38-1361	926	----------	----------
May 24	Collection of internal revenue taxes on spirits smuggled into the United States.	T. D. 4804	38-1448	981	----------	----------
May 28	Tax on transfers of interests in silver bullion, Regulations 85, as amended.	T. D. 4805	38-1511	1028	----------	----------
Bureau of Narcotics						
June 1	Regulations, appeal to the Secretary from any order etc., cooperation with the states in the institution of cases, etc.	----------	38-1532	1034	----------	----------
June 2	Importation etc., of opium or coca leaves or any compound, etc., thereof.	Regulations No. 2.	38-1536	1058	----------	----------
Federal Alcohol Administration						
Feb. 3	Statements of age on imported distilled spirits.	----------	38-356	258	150 37-3074	1-92 2-2243
Feb. 15	Blackberry flavored grape wine.	----------	38-469	346	----------	----------
Mar. 2	Proper labeling of whisky stored in reused cooperage, etc., amending Labeling Regulations.	Regulations No. 5, Amendment No. 5.	38-628	486	37-2934	2-2079
Mar. 5	Class and type designations of cordials or liqueurs.	----------	38-661	521	150	1-92
Mar. 25	Notice of hearing, to consider revision of the standards for ale, etc., proposes amendments to Regulations No. 7.	----------	38-857	632	3477	1-2013
Mar. 25	Notice of hearing, to consider revisions for the substitution of appropriate nomenclature in lieu of "light wine" etc. proposed amendments to Regulations No. 4.	----------	38-860	632	143	1-83
Mar. 25	Notice of hearing, to consider the limitation of the periods of credit to retailers etc., proposed amendments to Regulations No. 6.	----------	38-861	633	----------	----------
Apr. 19	Notice of hearing, proposed amendments to Regulations No. 5, revision of standards of identity for brandy.	----------	38-1095	774	150 37-3074	1-92 2-2243
Office of the Secretary						
Jan. 7	Values of foreign moneys	1938 Dept. Cir. No. 1.	38-51	31	----------	----------
Jan. 13	Newly mined domestic silver regulations.	----------	38-107	67	38-14	4
TREASURY DEPARTMENT—Continued						
Office of the Secretary—Continued						
1938 Feb. 17	Regulations relating to illustrations of United States postage stamps.	----------	38-499	385	38-864	636
Apr. 7	Values of foreign moneys	1938 Department Circular No. 1.	38-988	710	----------	----------
Apr. 30	Revocation of Orders of the Secretary relating to silver.	----------	38-1232	843	----------	----------
Public Debt Service						
Mar. 8	United States of America 2½ percent Treasury Bonds of 1948.	1938 Department Circular No. 581.	38-689	526	----------	----------
Apr. 8	Order, officers authorized to witness etc., requests for payment of United States Savings Bonds etc., only.	----------	38-1001	715	886 38-1014	1-588 729
Apr. 9	Order, revocation of special authority to witness etc., requests for payment of Adjusted Service Bonds.	----------	38-1014	729	38-1001	715
Apr. 26	Commodity Credit Corporation ¾ percent notes of Series C.	1938 Dept. circular No. 583.	38-1159	801	----------	----------
Public Health Service						
Jan. 6	Amendment to regulations.	----------	38-39	25	----------	----------
Feb. 10	Designation of the boundaries of the quarantine anchorage off Gadsden Point, in Tampa Bay, Florida.	----------	38-454	327	----------	----------
Mar. 10	Regulating the importation of living disease organisms and vectors.	Amend. No. 17, Quarantine Regulations.	38-706	555	----------	----------
WAR DEPARTMENT						
Jan. 5	Regulations governing anchorage grounds, Port of New York.	----------	38-28	11	----------	----------
Jan. 8	Modification of regulations governing drawbridge across San Leandro Bay, California.	----------	38-56	33	----------	----------
Jan. 8	Special regulations governing Sonoma Creek, Wingo, California.	----------	38-57	33	----------	----------
Jan. 13	Regulations to govern use etc., of inland waterway from Delaware River to Chesapeake Bay.	----------	38-104	68	----------	----------
Jan. 13	Regulations to govern operation of drawbridges across Niantic River at Niantic, Connecticut.	----------	38-105	70	----------	----------
Mar. 19	Quarantine anchorage ground in Tampa Bay off Quarantine Station and rules relating thereto.	----------	38-804	595	----------	----------
Mar. 19	Special regulations, opening of the drawbridge of the Louisville and Nashville Railroad, Apalachicola River at River Junction, Florida.	----------	38-805	596	----------	----------
Mar. 19	Special regulations, opening of the drawbridge of the Louisiana Highway Commission, Sabine River, between Starks, Louisiana and Deweyville, Texas.	----------	38-806	596	----------	----------
Apr. 13	Rules and regulations, anchorage grounds in Hampton Roads, etc., Virginia.	----------	38-1046	741	----------	----------
Apr. 23	Rules, opening of drawbridge, Gloucester Turnpike Company across Big Timber Creek, New Jersey.	6371 (N. J.—Big Timber Creek-Westville).	38-1137	795	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
WAR DEPARTMENT—Continued						
1938						
Apr. 23	Rules, drawbridges over the Atchafalaya River, Louisiana.		38-1138	796		
Apr. 29	Revocation of regulations for Strongs Causeway Bridge, Flushing Creek, New York City.		38-1204	828		
Apr. 29	Revocation of rules etc., to govern use etc., of Cascades Canal, Columbia River.		38-1205	828		
Apr. 29	Regulations, use etc., of the area between Portsmouth Harbor, New Hampshire and the Isle of Shoals.		38-1206	828		
Apr. 29	Revocation of regulations, operation of Washington Southern Railway Bridge, Powells Creek, Virginia.		38-1207	828		
Apr. 29	Revocation of rules, lower drawbridge, Lewis and Clark River, Oregon.		38-1208	828		
Apr. 29	Modification of regulations, use, etc., Ouachita River, Arkansas and Louisiana.		38-1209	828		
Apr. 30	Amendment to rules, etc., operation of the drawbridges crossing all navigable waterways of the United States in California.		38-1230	843		
May 4	Rules, etc., anchorage grounds, Turners Creek, Georgia.		38-1259	862		
May 4	Rules, etc., anchorage grounds, Wilmington River in vicinity of Thunderbolt Harbor, Georgia.		38-1260	862		
May 4	Rules, etc., use, etc., of all waterways tributary to the Gulf of Mexico from St. Marks, Florida to the Rio Grande.		38-1261	863		
May 6	Revocation of regulations, New Castle County Bridge, Christiana, Delaware.		38-1283	892		
May 6	Rules, etc., vessels at localities along the Mississippi River where bank protection works have been provided by the United States.		38-1284	891		
May 6	Modification of regulations, fish traps, Boston, Massachusetts, Engineer District.		38-1285	893		
May 6	Regulations, drawbridges, Christiana River, Delaware.		38-1286	892		
May 11	Special regulations, drawbridges of the Minneapolis, St. Paul and Sault Sainte Marie Railway Company, etc., over the St. Croix River, Wisconsin.		38-1322	905		
May 13	Modifications of regulations, use, etc., of Thimble Shoal Channel, Norfolk Harbor, Virginia.		38-1355	926		
May 14	Special regulations, drawbridges over the Black River, Wisconsin.		38-1369	929		
May 14	Special regulations, drawbridges crossing the Minnesota River between its mouth and Le Sueur, Minnesota.		38-1370	930		
May 14	Rules, etc., highway bridge across Brandywine River, Wilmington, Delaware.		38-1371	930		
May 17	Modification of rules, etc., Maryland State Highway Bridge, Oak Creek, Talbot County, Maryland.		38-1385	936		
May 17	Rules, use, etc., of certain waterways tributary to the Atlantic Ocean and the Gulf of Mexico.		38-1386	933		
1938						
May 19	Regulations, use, etc., of Sandusky Harbor, Ohio.		38-1409	967		
May 19	Special regulations, highway bridge at 5th Street and the Southern Railway Company bridge at 6th Street, Augusta, Georgia.		38-1410	968		
May 19	Regulations, use, etc., of the harbor and United States breakwater, St. Lawrence River at Cape Vincent, New York.		38-1411	967		
May 24	Regulations, use, etc., of Rochester (Charlotte) Harbor, New York.		38-1441	982		
May 24	Regulations, use, etc., of Huron, Lorain, Cleveland, Fairport, Ashtabula and Conneaut Harbors, Ohio.		38-1442	982		
May 24	Regulations, use, etc., of Buffalo Harbor, New York.		38-1443	982		
May 27	Revocation of regulations, dumping of ballast in Hillsboro Bay, Florida.		38-1487	1006		
May 27	Modification of regulations, use, etc., of the Ohio River, Mississippi River above Cairo, Illinois and their tributaries.		38-1488	1006		
INTERIOR DEPARTMENT						
Bureau of Mines						
Feb. 26	Regulations governing the production and sale of helium for medical, etc., use.		38-575	463	38-887	647
Mar. 29	Amendments to regulations governing the production and sale of helium for medical, etc., use.		38-887	647	38-575	463
Bureau of Reclamation						
Jan. 26	First form reclamation withdrawal, Buffalo Rapids Project, Montana.		38-263	208		
Jan. 26	Order opening public lands for entry, etc., Owyhee Irrigation Project, Oregon-Idaho.		38-364	209	37-853 37-1039	2-585 2-674
Feb. 8	First form reclamation withdrawal, Columbia Basin Project, Washington.		38-393	280		
Feb. 19	Public notice of annual water charges, Boise Irrigation Project, Idaho-Oregon.		38-529	425		
Mar. 11	Public notice of annual water charges, Klamath Irrigation Project, Oregon-California.	No. 36	38-708	557		
Apr. 20	Public notice of annual water rental charges, Owybee Project, Oregon-Idaho.	No. 8	38-1109	784		
Apr. 20	Public notice of annual water charges, Yuma Irrigation Project, Arizona-California.	No. 49	38-1110	785		
May 24	First form reclamation withdrawal, Boise Project, Idaho.		38-1447	982		
Division of Grazing						
Feb. 8	Modification, Montana Grazing District No. 1.		38-395	280		
Feb. 26	Modification, Oregon Grazing Districts Nos. 2 and 4.		38-586	469		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
Division of Grazing—Continued						
1938						
Mar. 2	Modification, Utah Grazing District No. 5.		38-627	487		
Mar. 10	Modification, New Mexico Grazing Districts Nos. 4 and 5.		38-705	555		
Mar. 11	Modification, Colorado Grazing District No. 2.		38-709	558		
Mar. 12	Modification, California Grazing District No. 1.		38-718	562		
Mar. 15	Modification, Montana Grazing District No. 1.		38-737	565	38-700	555
Mar. 15	Modification, Oregon Grazing District No. 5.		38-738	565		
Mar. 22	The Federal Range Code.		38-820	604		
Apr. 15	Modification, Wyoming Grazing District No. 1.		38-1003	758		
Apr. 15	Modification, Idaho Grazing District No. 4.		38-1004	758	3271	1-1746
Apr. 19	Modification, California Grazing District No. 2.		38-1091	774		
Apr. 20	Modification, New Mexico Grazing District No. 4.		38-1108	785	37-1555	2-918
Apr. 28	Modification, New Mexico Grazing District No. 5.		38-1176	817		
May 6	Modification, New Mexico Grazing District No. 4.		38-1287	893		
May 6	Modification, New Mexico Grazing District No. 3.		38-1288	893		
June 1	Modification, Montana Grazing District No. 1.		38-1523	1035		
June 1	Modification, Colorado Grazing District No. 3.		38-1524	1035		
Division of Territories and Island Possessions						
Feb. 8	The Alaska Railroad local passenger tariff No. 195-A.	I. C. C. No. 241.	38-392	280		
Mar. 11	The Alaska Railroad, passenger and freight service on Tanana and Yukon Rivers.		38-710	559		
Mar. 11	The Alaska Railroad, information for freight shipments to river points between Nenana and Marshall, Alaska.	Passenger Circular No. 127-H; Freight Circular No. 69-H.	38-711	559		
Mar. 11	The Alaska Railroad, long distance telephone tariff.	Tariff No. 9 (Cancels Tariff No. 6).	38-712	558		
Mar. 29	The Alaska Railroad, Terminal tariff No. 34-B (cancels terminal tariff No. 34-A) naming charges for wharfage etc.	I. C. C. No. 132 (cancels I. C. C. No. 114).	38-888	649		
Apr. 1	The Alaska Railroad, naming commodity rates on fuel oil from Seward to Holy Cross, supplement No. 1 to Proportional Freight Tariff No. 35-B.	Supp. No. 1 to I. C. C. No. 125.	38-925	669	37-1599	2-951
Apr. 1	The Alaska Railroad, transportation department, revised schedule of freight service.	Freight Circular No. 84-M.	38-929	669		
Apr. 1	The Alaska Railroad, transportation department, revised passenger service schedule.	Passenger Circular No. 154-G.	38-930	669		
Apr. 8	The Alaska Railroad, naming commodity rates from Seattle and Tacoma to Anchorage.	I. C. C. No. 133.	38-991	715		
Apr. 15	The Alaska Railroad, naming class and commodity rates between stations.	Supp. No. 1 to I. C. C. No. 131.	38-1058	758		
Apr. 23	The Alaska Railroad, transit permits covering corpses.	Passenger circular No. 163.	38-1143	796		
May 3	The Alaska Railroad, local freight tariff No. 8-S, commodity rates on petroleum, etc., from Seward and Anchorage, Alaska.	I. C. C. No. 134 (cancels I. C. C. No. 123).	38-1245	858		
May 21	The Alaska Railroad, transportation department, local freight service.	Freight circular No. 84-O.	38-1432	979		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
General Land Office						
1938						
Jan. 8	Air navigation site withdrawal No. 116, Wyoming.		38-55	33	3234	1-1719
Mar. 18	Air navigation site withdrawal No. 118, Arizona.		38-795	592		
Mar. 18	Recreational withdrawal No. 54 revoked, Arkansas.		38-796	592		
Apr. 1	Order opening Red River lands.		38-926	670	624 37-2340	1-373 2-1298
Apr. 1	Regulations governing oil and gas lease applications for lands within 1 mile of certain reserves.	Circular No. 1446.	38-927	669		
Apr. 26	Stock driveway withdrawal No. 153, Wyoming No. 22, reduced.		38-1150	802		
May 5	Air navigation site withdrawal No. 119, California.		38-1270	875		
May 5	Air navigation site withdrawal No. 117, Utah.		38-1271	875		
May 5	Stock driveway No. 3, Wyoming No. 1, enlarged.		38-1272	875		
May 10	Stock driveway No. 144, Wyoming No. 18, enlarged.		38-1304	900		
May 12	Stock driveway withdrawal No. 7, New Mexico No. 2, reduced.		38-1336	913		
May 12	Stock driveway withdrawal No. 9, New Mexico No. 3, reduced.		38-1337	914		
May 12	Stock driveway withdrawal No. 11, Montana No. 1, reduced.		38-1338	914		
May 12	Stock driveway No. 128, Wyoming No. 13, enlarged.		38-1339	914		
May 13	Cultivation requirements eliminated as to certain homesteads.	Circular No. 1368a.	38-1357	926		
May 21	Air navigation site withdrawal No. 120, Nevada and Utah.		38-1433	980		
May 21	Stock driveway withdrawal No. 252, Washington No. 3.		38-1434	980		
May 28	Stock driveway No. 164, Arizona No. 5, enlarged.		38-1507	1029		
May 28	Stock driveway No. 9, New Mexico No. 3, enlarged.		38-1508	1029		
June 1	Stock driveway withdrawal No. 209, Oregon No. 26, reduced.		38-1529	1043		
June 1	Regulations, rights-of-way for canals, ditches, reservoirs, etc.	Circular 1237a	38-1530	1035		
Geological Survey						
Feb. 25	Operating regulations to govern coal-mining methods, etc., on leased lands on the public domain.		38-565	444		
Indian Arts and Crafts Board						
Apr. 15	Standards for Navajo, Pueblo, and Hopi silver, and turquoise products.		38-1059	759		
Apr. 15	Regulations, use of Government mark on Navajo, Pueblo, and Hopi silver.		38-1060	759	38-1062	760
Apr. 15	Regulations, use of Government certificate of genuineness for Navajo all-wool woven fabrics.		38-1061	759		
Apr. 15	Amendment to regulations, use of Government mark on Navajo, Pueblo, and Hopi silver.	Circular No. 1—Supp. No. 1 to regulations.	38-1062	760	38-1060	759

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission						
1938						
Jan. 6	Requiring reports from code members filing contracts appointing sales agents etc.	Order No. 170.	38-41	26	37-3460	2-2557
Jan. 6	Order for hearing, extent of intrastate commerce in bituminous coal and effect on interstate, Wyoming.	Order No. 171.	38-42	27	------	------
Jan. 6	Order for hearing, extent of intrastate commerce in bituminous coal and effect on interstate, Utah.	Order No. 172.	38-43	27	------	------
Jan. 6	Order for hearing, extent of intrastate commerce in bituminous coal and effect on interstate, Washington.	Order No. 173.	38-44	28	------	------
Jan. 6	Order for hearing to determine whether certain coals in Virginia are subject to the Act of 1937.	Order No. 174.	38-45	28	38-492	347
Jan. 6	Order for hearing extent of of intrastate commerce in bituminous coal and effect on interstate, Montana.	Order No. 175.	38-46	29	------	------
Jan. 7	Reports from code members, coal sold for use of railroad locomotives.	Order No. 176.	38-52	32	------	------
Jan. 7	Notice, compilation of weighted average, tonnage produced in 1936.	----------	38-53	32	------	------
Jan. 8	Empowering district boards to take samples of coals for analyses.	Order No. 178.	38-54	36	------	------
Jan. 8	Notice of hearing, Marten A. Reiber, Receiver, Butler Consolidated Coal Co.	Docket No. 142-FD.	38-60	35	37-3474 38-230 38-489	2-2585 198 347
Jan. 8	Temporary order, Sahara Coal Company.	Docket No. 132-FD.	38-61	34	------	------
Jan. 8	Notice of hearing, Pittsburgh Coal Co.	Docket No. 138-FD.	38-63	35	37-3474 38-230 38-489 37-3476	2-2585 198 347 2-2597
Jan. 8	Notice of hearing, Powhatan Mining Co.	Docket No. 135-FD.	38-64	34	38-230 38-489	198 347
Jan. 8	Notice of hearing, Boone County Coal Corp.	Docket No. 134-FD.	38-65	34	37-3480	2-2615
Jan. 8	Notice of hearing, Union Collieries Co.	Docket No. 141-FD.	38-66	35	37-3474 38-230 38-489	2-2585 198 347
Jan. 8	Notice of hearing, Pittsburgh Terminal Coal Corp.	Docket No. 137-FD.	38-67	35	37-3474 38-230 38-489	2-2585 198 347
Jan. 8	Rescinding Order No. 169.	Order No. 177.	38-68	36	37-3779 38-597	2-2964 469
Jan. 8	Temporary order, board for District No. 16.	Docket No. 143-FD.	38-69	35	37-3709 38-597	2-2890 469
Jan. 8	Temporary order, Providence Gas Company.	Docket No. 131-FD.	38-70	33	37-3479	2-2607
Jan. 11	Temporary order, West Virginia Coal and Coke Corporation.	Docket No. 139-FD.	38-78	39	37-3480 38-597	2-2615 469
Jan. 11	Temporary order, Buffalo Coal and Coke Company.	Docket No. 162-FD.	38-79	40	37-3478 38-597	2-2604 469
Jan. 11	Temporary order, Gauley Mountain Coal Company.	Docket No. 136-FD.	38-80	39	37-3479	2-2607
Jan. 11	Temporary order, Marshall Mining Co.	Docket No. 163-FD.	38-81	41	37-3478 38-597	2-2604 469
Jan. 11	Temporary order, Truax-Traer Coal Co. of West Virginia.	Docket No. 157-FD.	38-82	40	37-3480 38-597	2-2615 469
Jan. 12	Temporary order, Carter Coal Company.	Docket No. 90-FD.	38-96	63	37-3479 37-3657 38-237	2-2607 2-2811 197
Jan. 13	Order, investigation of extent of transactions in intrastate commerce in bituminous coal and effect on interstate, Michigan.	Docket No. 66-FD.	38-108	71	------	------
Jan. 13	Ordar amending temporary order, District Board No. 11, Enos Coal Mining Company, et al.	Docket No. 93-FD.	38-109	71	37-3666 38-597	2-2833 469
Jan. 13	Temporary order, North Park Coal Co.	Docket No. 173-FD.	38-110	72	37-3709 38-597	2-2890 469
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Jan. 13	Order modifying Order No. 95 as modified by Orders Nos. 131 and 163 and revising schedule of minimum prices for coal, District No. 7.	Order No. 179.	38-111	72	37-3735 38-177 38-396 38-460 38-597	2-2933 117 286 341 469
Jan. 13	Order modifying order No. 113 and revising schedule of mimimum prices for coals, District No. 14.	Order No. 180.	38-112	73	37-3595 38-597	2-2766 469
Jan. 13	Order modifying order No. 88 by amending rule 3 of section IX of marketing rules etc., Districts Nos. 1 to 13.	Order No. 181.	38-113	74	37-3460 38-341 38-597	2-2557 236 469
Jan. 13	Order modifying Orders Nos. 119 and 139 by amending rule 3 of Section IX of marketing rules, Districts Nos. 14-20, 22, 23.	Order No. 182.	38-114	75	37-3625 37-3707 38-321 38-341 38-597	2-2791 2-2873 235 236 469
Jan. 15	Order modifying Order No. 90, as modified by Orders Nos. 138, 149, and 160 and adding Supplement No. 4 to Price Schedule No. 1, District No. 2.	Order No. 183.	38-135	83	37-3729 38-175 38-339 38-597	2-2930 116 235 469
Jan. 15	Order modifying Order No. 96 as modified by Orders Nos. 132 and 164 and adding Supplement No. 3 to Price Schedule No. 1, District No. 6.	Order No. 184.	38-136	83	37-3732 38-178 38-313 38-355 38-424 38-461 38-597	2-2934 118 233 258 297 341 469
Jan. 15	Order modifying Order No. 99 as modified by Orders Nos. 137 and 154 and adding Supplement No. 3 to Price Schedule No. 1, District No. 11.	Order No. 185.	38-137	84	37-3718 38-348 38-597	2-2927 257 469
Jan. 15	Order modifying Order No. 101, as modified by Orders Nos. 114, 135 and 165 and adding Supplement No. 3 to Schedule No. 1, District No. 13.	Order No. 186.	38-138	84	37-3733 38-597	2-2938 469
Jan. 18	Notice of hearing, Bell and Zoller Coal and Mining Company, et al.	Docket No. 181-FD.	38-148	88	38-507 38-594	386 470
Jan. 18	Notice of hearing, Bituminous Coal Producers Board for District No. 6.	Docket No. 185-FD.	38-149	89	------	------
Jan. 18	Notice of hearing, Bituminous Coal Producers Board for District No. 4.	Docket No. 184-FD.	38-150	89	------	------
Jan. 18	Notice of hearing, Pyramid Coal Corporation.	Docket No. 158-FD.	38-151	88	------	------
Jan. 18	Notice of hearing, Patoka Coal Company.	Docket No. 159-FD.	38-152	88	------	------
Jan. 18	Notice of Hearing, Truax-Traer Coal Company.	Docket No. 160-FD.	38-153	88	------	------
Jan. 18	Notice of hearing, United Electric Coal Company.	Docket No. 161-FD.	38-154	88	------	------
Jan. 18	Notice of hearing, Bituminous Coal Producers Board for District No. 2.	Docket No. 189-FD.	38-155	89	38-489	347
Jan. 18	Ruling, deductions or allowances from invoices for advertising.	----------	38-169	90	------	------
Jan. 18	Ruling, sales to State, Territorial or Federal Governments.	----------	38-170	90	37-1872	2-1072
Jan. 18	Temporary order, Shirley Gas Coal Corporation.	Docket No. 123-FD.	38-171	89	38-597	469
Jan. 19	Order modifying Order No. 89, as modified by Orders Nos. 126, 148 and 159 and adding Supplement No. 4 to Price Schedule No. 1—District No. 1.	Order No. 187.	38-174	115	37-3730 38-212 38-485 38-597	2-2929 137 339 469
Jan. 19	Order modifying Order No. 90, as modified by Orders Nos. 138, 149, 160, and 183 and adding Supplement No. 5 to Price Schedule No. 1—District No. 2.	Order No. 188.	38-175	116	38-135 38-211 38-597	83 147 469

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Jan. 19	Order modifying Order No. 91, as modified by Orders Nos. 128, 150, and 161 and adding Supplement No. 4 to Price Schedule No. 1—District No. 3.	Order No. 189.	38-176	117	37-3734 38-203 38-290 38-597	2-2933 166 219 469
Jan. 19	Order modifying Order No. 95 as modified by Orders Nos. 131, 163 and 179 and adding Supplement No. 4 to Price Schedule No. 1—District No. 7.	Order No. 190.	38-177	117	38-111 38-597	72 469
Jan. 19	Order modifying Order No. 96 as modified by Orders Nos. 132, 164, and 184 and adding Supplement No. 4 to Price Schedule No. 1—District No. 8.	Order No. 191.	38-178	118	38-136 38-597	83 469
Jan. 21	Order modifying Order No. 91 as modified by Orders Nos. 128, 150, 161, and 189 and adding Revised Truck Mine Price Schedule No. 1—District No. 3.	Order No. 194.	38-203	166	38-176 38-597	117 469
Jan. 21	Order modifying Order No. 92 as modified by Orders Nos. 129 and 151 and adding Revised Truck Mine Price Schedule No. 1—District No. 4.	Order No. 195.	38-204	169	37-3715 38-597	2-2924 469
Jan. 21	Order modifying Order No. 94 as modified by Orders Nos. 130 and 152 and adding Revised Truck Mine Price Schedule No. 1—District No. 6.	Order No. 196	38-205	179	37-3716 38-597	2-2925 469
Jan. 21	Order modifying Order No. 98 as modified by Orders Nos. 133 and 153 and adding Revised Truck Mine Price Schedule No. 1—District No. 10.	Order No. 197.	38-206	181	37-3717 38-296 38-597	2-2926 218 469
Jan. 21	Order modifying Order No. 100 as modified by Orders Nos. 134 and 155 and adding Revised Truck Mine Price Schedule No. 1—District No. 12.	Order No. 199.	38-207	185	37-3719 38-597	2-2928 469
Jan. 21	Order modifying Order No. 99, as modified by Orders Nos. 137 and 154 and adding Revised Truck Mine Price Schedule No. 1—District No. 11.	Order No. 198.	38-210	160	37-3718 38-597	2-2927 469
Jan. 21	Order modifying Order No. 90 as modified by Orders Nos. 138, 149, 160, 183 and 188 and adding Revised Truck Mine Price Schedule No. 1—District No. 2.	Order No. 193.	38-211	147	38-175 38-597	116 469
Jan. 21	Order modifying Order No. 89 as modified by Orders Nos. 126, 148, 159 and 187 and adding Revised Truck Mine Price Schedule No. 1—District No. 1.	Order No. 192.	38-212	137	38-174 38-597	115 469
Jan. 25	Notice of hearing, Gundlach Coal Company.	Docket No. 213-FD.	38-227	197	------	------
Jan. 25	Notice of hearing, Central State Collieries, Inc.	Docket No. 214-FD.	38-228	197	------	------
Jan. 25	Notice of hearing, Illinois-Poanhontas Coal Company.	Docket No. 215-FD.	38-229	198	------	------
Jan. 25	Temporary order establishing minimum prices for coals having a maximum top size of three-eighths inch produced by code members in Districts Nos. 2, 3, 4, and 6, Pursglove Coal Mining Company.	Order No. 200.	38-230	198	38-60 38-63 38-64 38-66 38-67 38-272 38-597	35 35 34 35 35 214 469
Jan. 25	Order rescinding temporary order entered herein on supplemental petition, Carter Coal Company.	Docket No. 90-FD.	38-237	197	38-96	63
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Jan. 27	Temporary order amending Order No. 200 to include a minimum price for coals having a maximum top size of three eighths inch, etc.	Order No. 201.	38-272	214	38-230 38-597	198 469
Jan. 28	Notice of hearing, Rochester and Pittsburgh Coal Co., et al.	Docket No. 87-FD.	38-283	217	38-489	347
Jan. 28	Notice of hearing, A. G. and S. Mining Company, et al.	Docket No. 88-FD	38-284	217	38-489	347
Jan. 28	Notice of hearing, Bituminous Coal Producers' Board for District No. 1.	Docket No. 89-FD.	38-285	217	38-489	347
Jan. 28	Notice of hearing, Heisley Coal Company.	Docket No. 101-FD.	38-286	218	38-489	347
Jan. 28	Notice of hearing, Bituminous Coal Producers' Board for District No. 7.	Docket No. 105-FD.	38-287	219	38-489	347
Jan. 28	Notice of hearing, Bituminous Coal Producers' Board for District No. 16.	Docket No. 143-FD	38-288	219	------	------
Jan. 28	Temporary order, Bituminous Coal Producers' Board, District No. 15.	Docket No. 187-FD.	38-289	219	37-3708 38-597	2-2879 469
Jan. 28	Temporary order, Stanley Coal Co.	Docket No. 190-FD.	38-290	219	38-176 38-597	117 469
Jan. 28	Notice of hearing, Union Collieries Co.	Docket No. 209-FD.	38-291	220	38-489	347
Jan. 28	Notice of hearing, Pittsburgh Coal Co.	Docket No. 210-FD.	38-292	220	38-489	347
Jan. 28	Notice of hearing, Ebensburg Coal Co.	Docket No. 100-FD.	38-293	218	38-489	347
Jan. 28	Notice of hearing, Monroe Coal Mining Company.	Docket No. 99-FD.	38-294	218	38-489	347
Jan. 28	Notice of hearing, The Berwind-White Coal Mining Company.	Docket No. 97-FD.	38-295	218	38-489	347
Jan. 28	Temporary order, Wilmington Coal Miners, Inc.	Docket No. 95-FD.	38-296	218	38-206 38-597	181 469
Feb. 1	Order modifying Order No. 83, reclassification of coals, Capito Mine of the Atlas Coal Company, District No. 8.	Order No. 202.	38-312	233	37-3488 38-744	2-2551 565
Feb. 1	Order modifying Order No. 96 as modified by Orders Nos. 132, 164, 184, and 191, revising price index of coals, Capito Mine of the Atlas Coal Company, District No. 8.	Order No. 203.	38-313	233	38-136 38-597	83 469
Feb. 1	Order, Alabama Coals, Inc.	Docket No. 2-FD.	38-316	237	37-3688	2-2846
Feb. 1	Order, Smokeless Coal Corp.	Docket No. 4-FD.	38-317	237	37-3690	2-2846
Feb. 1	Order, Appalachian Coals, Inc.	Docket No. 3-FD.	38-318	237	37-3689	2-2846
Feb. 1	Order for hearing, regarding proposed revision of minimum prices, etc., of sales of railroad locomotive fuel.	Order No. 204.	38-319	234	37-3639 38-487 38-597 38-617	2-2798 346 469 474
Feb. 1	Order for hearing, reasonable maximum discounts by code members to distributors for resale in cargo lots.	Order No. 205.	38-320	234	38-491 38-598 38-745	347 470 566
Feb. 1	Suspension of Section 6 and amendment of the marketing rules, Districts Nos. 15-20, 22, and 23 etc.	Order No. 206.	38-321	235	38-114 38-597	75 469
Feb. 1	Investigation, extent of intrastate commerce in bituminous coal and effect on interstate, Virginia.	Docket No. 65-FD.	38-322	237	37-2874	2-1949
Feb. 1	Order for hearing, Consumers' Counsel.	Docket No. 85-FD.	38-333	238	37-3618 38-590	2-2788 470
Feb. 1	Order for hearing, City of New York, State of New York and Consumers' Counsel.	Docket No. 283-FD.	38-334	238	38-590	470
Feb. 1	Order for hearing, City of New York and State of New York.	Docket No. 284-FD.	38-335	239	38-590	470
Feb. 1	Order for hearing, City of Atlanta, Georgia.	Docket No. 290-FD.	38-336	239	38-590	470
Feb. 1	Order for hearing, City of St. Louis, Missouri.	Docket No. 291-FD.	38-337	239	38-590	470

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Feb. 1	Order for hearing, City of Rochester, New York.	Docket No. 202-FD.	38-338	240	38-590	470
Feb. 1	Order modifying Order No. 90 as modified by Orders Nos. 138, 149, 160, 183, 188 and adding Supplement No. 6 to Price Schedule No. 1—District No. 2.	Order No. 207.	38-339	235	38-135 38-381 38-382 38-383 38-384 38-385 38-386 38-387 38-388 38-597	83 276 275 275 275 275 275 274 274 469
Feb. 1	Order modifying Order No. 98 as modified by Orders Nos. 133 and 153 and adding Supplement No. 3 to Price Schedule No. 1—District No. 10.	Order No. 208.	38-340	236	37-3482 38-597	2-2031 469
Feb. 1	Order modifying marketing rules, Districts Nos. 1-20, 22, and 23, payment of discounts to wholesalers, etc.	Order No. 209.	38-341	236	38-113 38-114 38-597	74 75 469
Feb. 2	Order modifying Order No. 99 as modified by Orders Nos. 137, 154, and 185 and adding Supplement No. 4 to Price Schedule No. 1, District No. 11.	Order No. 210.	38-348	257	38-137 38-597	84 469
Feb. 3	Order modifying Order No. 96, as modified by Orders Nos. 132, 164, 184, and 191 and adding Supplement No. 5 to Price Schedule No. 1—District No. 8.	Order No. 211.	38-355	258	38-136 38-597	83 469
Feb. 4	Notice of hearing, State of New York on behalf of said State, etc.	Docket Nos. 106-FD, 108-FD, 109-FD.	38-372	261	38-590	470
Feb. 4	Notice of hearing, John Carson, Consumers' Counsel, Associated Industries of New York State, Inc.	Docket No. 107-FD.	38-373	262	38-590	470
Feb. 5	Order modifying Order No. 97, as modified by Order No. 136 and adding Supplement No. 2 to Price Schedule No. 1—District No. 9.	Order No. 212	38-380	274	37-3662 38-425 38-597	2-2824 305 469
Feb. 5	Notice of hearing, John Carson, Consumers' Counsel, Ruberoid Company.	Docket No. 274-FD.	38-381	276	38-339	235
Feb. 5	Notice of hearing, John Carson, Consumers' Counsel, School District, City of Erie, Pennsylvania.	Docket No. 183-FD.	38-382	275	38-339	235
Feb. 5	Notice of hearing, Union Collieries Co.	Docket No. 182-FD.	38-383	275	38-339	235
Feb. 5	Notice of hearing, John Carson, Consumers' Counsel, Union Iron Works.	Docket No. 180-FD.	38-384	275	38-339	235
Feb. 5	Notice of hearing, John Carson, Consumers' Counsel, City of Erie, Pennsylvania.	Docket No. 179-FD.	38-385	275	38-339	235
Feb. 5	Notice of hearing, John Carson, Consumers' Counsel, Continental Rubber Co.	Docket No. 178-FD.	38-386	275	38-339	235
Feb. 5	Notice of hearing, John Carson, Consumers' Counsel, Lovell Manufacturing Company.	Docket No. 177-FD.	38-387	274	38-339	235
Feb. 5	Notice of hearing, John Carson, Consumers' Counsel, Hammermill Paper Company.	Docket No. 176-FD.	38-388	274	38-339	235
Feb. 8	Order modifying Order No. 95 as modified by Order Nos. 131, 163, 179 and 190 and adding Truck Mine Price Schedule No. 1—District No. 7.	Order No. 215.	38-396	286	38-111 38-597	72 469
Feb. 8	Temporary order, Fentress Coal and Coke Company.	Docket No. 287-FD.	38-397	293	38-597	469
Feb. 8	Temporary order, Keystone Coal and Coke Company.	Docket No. 294-FD.	38-398	294	38-399 38-597	294 469
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Feb. 8	Notice of hearing, reclassification of coals, Keystone Coal and Coke Company, Salem and Crows Nest Mines.	Docket No. 294-FD.	38-399	294	38-398 38-485 38-595	294 347 470
Feb. 8	Notice of hearing, reclassification of coals, Jamison Coal and Coke Company, Jamison Nos. 2 and 3 Mines.	Docket No. 299-FD.	38-400	294	38-486 38-589	347 470
Feb. 8	Investigation, extent of commerce in bituminous coal and effect on interstate, Missouri.	Docket No. 71-FD.	38-401	291	37-3322	2-2469
Feb. 8	Temporary order, George M. Jones Co.	Docket No. 164-FD.	38-402	292	38-505 38-597	385 469
Feb. 8	Temporary order, Consumers' Counsel, Brooklyn Union Gas Co.	Docket No. 225-FD.	38-403	292	38-463 38-597	342 469
Feb. 8	Temporary order, Consumers' Counsel, Koppers Company, Seaboard Division.	Docket No. 224-FD.	38-404	292	38-462 38-597	342 469
Feb. 8	Temporary order, Consumers' Counsel, Consolidated Edison Co. of New York, Inc.	Docket No. 226-FD.	38-405	293	38-464 38-597	342 469
Feb. 8	Order modifying Order No. 140, and adding truck mine price schedule No. 1, District No. 15.	Order No. 213.	38-406	281	37-3708 38-597	2-2879 469
Feb. 8	Order for hearing, base rates and freight rate adjustments, Districts Nos. 1-8, inclusive.	Order No. 214.	38-407	286	38-484 38-597 38-588	347 469 470
Feb. 9	Temporary order, Bituminous Coal Producers' Board, District No. 14.	Docket No. 188-FD.	38-423	310	37-3595 38-597	2-2766 469
Feb. 9	Order modifying Order No. 96 as modified by Orders Nos. 132, 164, 184, 191 and 211 and adding Truck Mine Price Schedule No. 1—District No. 8.	Order No. 216.	38-424	297	38-136 38-597	83 469
Feb. 9	Order modifying Order No. 97 as modified by Orders Nos. 136 and 212 and adding Truck Mine Price Schedule No. 1—District No. 9.	Order No. 217.	38-425	305	38-380 38-597	274 469
Feb. 11	Order modifying Order No. 73 as modified by Order No. 125 and adding Supplement No. 1 to Revised Classification Schedule 1—District No. 1.	Order No. 219.	38-459	340	37-3659 38-744	2-2811 565
Feb. 11	Order modifying Order No. 95 as modified by Orders Nos. 131, 163, 179, 190 and 215 and adding Supplement No. 5 to Price Schedule No. 1, District No. 7.	Order No. 220.	38-460	341	38-111 38-597	72 469
Feb. 11	Order modifying Order No. 96 as modified by Orders Nos. 132, 164, 184, 191, 211 and 216 and adding Supplement No. 6 to Price Schedule No. 1—District No. 8.	Order No. 221.	38-461	341	38-136 38-597	83 469
Feb. 11	Order amending temporary order, Consumers' Counsel, Koppers Company—Seaboard Division.	Docket No. 224-FD.	38-462	342	38-404	292
Feb. 11	Order amending temporary order, Consumers' Counsel, Brooklyn Union Gas Company.	Docket No. 225-FD.	38-463	342	38-403	292
Feb. 11	Order amending temporary order, Consumers' Counsel, Consolidated Edison Company of New York, Inc.	Docket No. 226-FD.	38-464	342	38-405	293
Feb. 11	Order modifying Order No. 89 as modified by Orders Nos. 126, 148, 159, 187 and 192 and adding Supplement No. 5 to Price Schedule No. 1—District No. 1.	Order No. 218.	38-465	339	38-174 38-597	115 469

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Feb. 15	Order directing argument on petition for rehearing, Wheeling Steel Corporation, et al.	Dockets Nos. 53-FD, 31-FD, 30-FD.	38-468	346	37-3154 37-3155 37-3156 38-506	2-2393 2-2395 2-2394 385
Feb. 15	Notice of continuance of hearing, application of base rates, etc., Districts 1 to 8, inclusive.	Docket No. 11.	38-484	347	38-407	286
Feb. 15	Notice of continuance of hearing, Keystone Coal and Coke Company.	Docket No. 294-FD.	38-485	347	38-399	294
Feb. 15	Notice of continuance of hearing, Jamison Coal and Coke Company.	Docket No. 299-FD.	38-486	347	38-400	294
Feb. 15	Notice of continuance of hearing, relating to sales of railroad locomotive fuel.	Docket No. 4-C.	38-487	346	38-319	234
Feb. 15	Notice of continuance of hearing, relating to commissions, etc., on railroad locomotive fuel.	Docket No. 4-C.	38-488	347	37-3639 38-591	2-2798 469
Feb. 15	Notice of continuance of hearings, Rochester and Pittsburgh Coal Company, et al.	Dockets Nos. 87-89, 97, 99-101, 105, 135, 137, 138, 141, 142, 174, 189, 209, 210 and 233 FD.	38-489	347	38-60 38-63 38-64 38-66 38-67 38-155 38-283 38-284 38-285 38-286 38-287 38-291 38-292 38-293 38-294 38-295 38-596	35 35 31 35 35 89 217 217 218 219 220 220 218 218 218 470
Feb. 15	Notice of continuance of hearing relating to substitution.	Docket No. 9.	38-490	347	37-3658 38-592	2-2811 470
Feb. 15	Notice of continuance of hearing, relating to maximum discounts or price allowances.	Docket No. 10.	38-491	347	38-320	234
Feb. 15	Notice of continuance of hearing, to determine whether certain coals in Virginia are subject to the Act of 1937.	Docket No. 152-FD.	38-492	347	38-45	28
Feb. 17	Order amending temporary order, George M. Jones Company.	Docket No. 164-FD.	38-505	385	38-402	292
Feb. 17	Notice of continuance of argument, etc., Wheeling Steel Corporation, et al.	Dockets Nos. 53-FD, 31-FD, 30-FD.	38-506	385	38-468	346
Feb. 17	Notice of continuance of hearing, Bell and Zoller Coal Mining Company.	Docket No. 181-FD.	38-507	386	38-148	88
Feb. 18	Order extending a provision contained in Supplement No. 1 to Price Schedule No. 1—District No. 7 for thirty days.	Order No. 222.	38-522	416	37-3684 38-597	2-2861 469
Feb. 18	Temporary order, McLaren Coal Company.	Docket No. 243-FD.	38-523	415	37-3679 38-597	2-2814 469
Feb. 18	Investigation of extent of transactions in intrastate commerce in bituminous coal and effect on interstate, West Virginia.	Docket No. 64-FD.	38-524	415	37-2873	2-1948
Feb. 18	Order extending two provisions contained in Supplement No. 1 to Price Schedule No. 1—District No. 8 for thirty days.	Order No. 223.	38-525	417	37-3667 38-597	2-2833 469
Feb. 18	Temporary order, The Brewerton Company, et al.	Docket No. 263-FD.	38-526	416	37-3679 38-548 38-597	2-2814 438 469
Feb. 22	Notice of denial of registration, Cleveland Hot-House Vegetable Growers Cooperative Association.	Application No. 1273.	38-545	438	----------	----------
Feb. 22	Notice of denial of registration, Greenhouse Vegetable Packing Co.	Application No. 1490.	38-546	438	----------	----------
Feb. 22	Notice of denial of registration, Toledo Hot-House Cooperative Association.	Application No. 1728.	38-547	439	----------	----------
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Feb. 22	Order amending temporary order, The Brewerton Company, et al.	Docket No. 263-FD.	38-548	438	38-526	416
Feb. 22	Order establishing minimum prices for coals produced at the "Layton" Mine of the D. R. Layton Coal Company, etc., District No. 3.	Order No. 224.	38-549	436	37-3475 38-597	2-2592 467
Feb. 22	Order establishing minimum prices for coals produced at the "Willis Branch" Mine of the Hill-Anderson Coal Company District No. 7.	Order No. 225.	38-550	436	37-3479 38-597	2-2607 469
Feb. 22	Order revising certain minimum prices established for certain coals produced at the "Anchor Block Mine," District No. 8.	Order No. 226.	38-551	436	37-3480 38-597	2-2615 469
Feb. 22	Order establishing minimum prices for coals of size group No. 5 produced by the "Hall Mine" of the Debardeleben Coal Corp, District No. 13.	Order No. 227.	38-552	437	37-3485 38-597	2654 469
Feb. 22	Order establishing minimum prices for coals of size groups Nos. 10 and 11 "Lindbergh" Mine, Brookside-Pratt Mining Co., District No. 13.	Order No. 228.	38-553	437	37-3485 38-597	2-2654 469
Feb. 22	Order modifying Order No. 144 and adding Supplement No. 1 to Price Schedule No. 1 for District No. 19.	Order No. 229.	38-554	437	37-3701 38-597	2-2900 469
Feb. 26	Notice of continuance of hearing, application of base rates, etc., Districts 1 to 8 inclusive.	Docket No. 11.	38-588	470	38-407	286
Feb. 26	Notice of continuance of hearing, Jamison Coal and Coke Co.	Docket No. 299-FD.	38-589	470	38-400	294
Feb. 26	Notice of continuance of hearings, Consumers' Counsel, et al.	Dockets Nos. 85, 106-109, 154, 283, 284, 290-292-FD.	38-590	470	38-333 38-334 38-335 38-336 38-337 38-338 38-372 38-373	238 238 239 239 239 240 261 262
Feb. 26	Notice of continuance of hearing, commissions, etc., on railroad locomotive fuel.	Docket No. 4-C.	38-591	469	38-488	347
Feb. 26	Notice of continuance of hearing, relating to substitution.	Docket No. 9.	38-592	470	38-490	347
Feb. 26	Notice of continuance of hearing, relating to maximum discounts or price allowances.	Docket No. 10.	38-593	470	38-320	234
Feb. 26	Notice of continuance of hearing, Bell and Zoller Coal and Mining Company.	Docket No. 181-FD.	38-594	470	38-148	88
Feb. 26	Notice of continuance of hearing, Keystone Coal and Coke Co.	Docket No. 294-FD.	38-595	470	38-999	294
Feb. 26	Notice of continuance of hearings, Rochester and Pittsburgh Coal Company, et al.	Dockets Nos. 87-89, 97, 99-101, 105, 135, 137, 138, 141, 142, 174, 189, 209, 210, 233-FD.	38-596	470	38-489	347
Feb. 26	Order revoking Orders establishing minimum prices and marketing rules for Districts No. 1 to No. 20 inclusive and Districts No. 22 and 23.	Order No. 230.	38-597	469	37-3460 37-3473 37-3474 37-3475 37-3476 37-3477 37-3478 37-3479 37-3480 37-3481 37-3482 37-3483 37-3484 37-3485	2-2557 2-2566 2-2585 2-2592 2-2597 2-2602 2-2604 2-2607 2-2615 2-2626 2-2631 2-2637 2-2643 2-2654

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Feb. 26	Order revoking Orders establishing minimum prices and marketing rules for Districts No. 1 to No. 20 inclusive and Districts No. 22 and 23. (Continued)				37-3559	2-2752
					37-3595	2-2766
					37-3596	2-2769
					37-3625	2-2791
					37-3638	2-2797
					37-3639	2-2798
					37-3641	2-2708
					37-3482	2-2851
					37-3658	2-2811
					37-3663	2-2858
					37-3664	2-2812
					37-3663	2-2813
					37-3684	2-2861
					37-3667	2-2833
					37-3679	2-2814
					37-3660	2-2818
					37-3661	2-2819
					37-3662	2-2824
					37-3685	2-2868
					37-3665	2-2826
					37-3707	2-2873
					37-3708	2-2879
					37-3709	2-2890
					37-3704	2-2893
					37-3705	2-2897
					37-3701	2-2900
					37-3711	2-2905
					37-3702	2-2908
					37-3703	2-2910
					37-3712	2-2922
					37-3713	2-2923
					37-3714	2-2923
					37-3715	2-2924
					37-3716	2-2925
					37-3717	2-2926
					37-3718	2-2927
					37-3719	2-2928
					37-3736	2-2928
					37-3728	2-2929
					37-3730	2-2929
					37-3729	2-2930
					37-3734	2-2933
					37-3735	2-2933
					37-3732	2-2934
					37-3733	2-2938
					37-3776	2-2973
					37-3777	2-2963
					37-3779	2-2964
					38-48	36
					38-111	72
					38-112	73
					38-113	74
					38-114	75
					38-135	83
					38-136	83
					38-137	84
					38-138	84
					38-174	115
					38-175	116
					38-176	117
					38-177	117
					38-178	118
					38-212	137
					38-211	147
					38-203	166
					38-204	169
					38-205	170
					38-206	181
					38-210	160
					38-207	185
					38-230	198
					38-272	214
					38-313	233
					38-319	234
					38-321	235
					38-339	235
					38-340	236
					38-341	236
					38-348	257
					38-355	258
					38-380	274
					38-406	281
					38-407	286
					38-396	286
					38-424	297
					38-425	305
					38-465	339
					38-460	341
					38-461	341
					38-522	416
					38-525	417
					38-549	436
					38-550	436
					38-551	436
					38-552	437
1938						
Feb. 26	Order revoking Orders establishing minimum prices and marketing rules for Districts No. 1 to No. 20 inclusive and Districts No. 22 and 23. (Continued)				38-553	437
					38-554	437
					37-3748	2-2946
					37-3795	2-2971
					38-69	35
					38-78	39
					38-82	40
					38-79	40
					38-81	41
					38-109	71
					38-110	72
					38-171	89
					38-296	218
					38-289	219
					38-290	219
					38-402	292
					38-404	292
					38-403	292
					38-397	293
					38-405	293
					38-398	294
					38-423	310
					38-523	415
					38-526	416
Mar. 1	Notice of continuance of hearing, regarding proposed revision of minimum prices etc. of sales or railroad locomotive fuel.	Docket No. 4-C.	38-617	474	38-319	234
Mar. 15	Order revoking orders determining weighted average, costs of tonnage, areas No. 1 to No. 7 inclusive, and areas No. 9 and No. 10.	Order No. 231.	38-743	565	37-3308	2-2466
					37-3309	2-2467
					37-3323	2-2470
					37-3324	2-2470
					37-3325	2-2470
					37-3326	2-2470
					37-3327	2-2471
					37-3328	2-2471
					37-3329	2-2471
Mar. 15	Order revoking orders establishing classifications of coals, Districts No. 1 to No. 20 inclusive and Districts No. 22 and No. 23.	Order No. 232.	38-744	565	37-2563	2-1411
					37-2738	2-1833
					37-3425	2-2542
					37-3426	2-2543
					37-3427	2-2543
					37-3428	2-2544
					37-3429	2-2544
					37-3430	2-2545
					37-3431	2-2545
					37-3432	2-2545
					37-3433	2-2546
					37-3477	2-2551
					37-3488	2-2551
					37-3449	2-2551
					37-3450	2-2552
					37-3491	2-2670
					37-3492	2-2670
					37-3510	2-2672
					37-3511	2-2672
					37-3548	2-2686
					37-3549	2-2687
					37-3550	2-2687
					37-3594	2-2766
					37-3637	2-2797
					37-3659	2-2811
					38-312	233
					38-459	340
Mar. 15	Order revoking orders No. 39, No. 42 and No. 205.	Order No. 233	38-745	566	37-2569	2-1413
					37-3737	2-1832
					38-320	234
Mar. 15	Order for hearing discounts to "distributors" and rules etc. in resale of coal.	Docket No. 12.	38-746	566	.....	.....
Mar. 15	Investigation, extent of transactions in bituminous coal in intrastate commerce and the effect on interstate, Kansas.	Docket No. 72-FD.	38-747	566	.....	.....
Mar. 15	Investigation extent of transactions in bituminous coal in intrastate commerce and the effect on interstate, Arkansas.	Docket No. 73-FD.	38-748	567	.....	.....
Mar. 19	Order authorizing all District Boards to secure data concerning plant performance, etc., of coals and the analyses and filing of them.	Order No. 235.	38-800	597	.....	.....
Mar. 19	Order requiring code members to file "Questionnaire as to Analysis, Methods of Mining, Preparation of Coals etc."	Order No. 234.	38-801	597	.....	.....

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
National Bituminous Coal Commission—Continued						
1938						
Mar. 19	Investigation, extent of transactions in intrastate commerce in bituminous coal and effect on interstate, New Mexico.	Docket No. 133-FD.	38-802	598	37-3778	2-2964
Mar. 19	Order regarding the investigation to determine the extent of intrastate commerce in bituminous coal and the effect on interstate, North Carolina.	Docket No. 63-FD.	38-803	598	37-2872	2-1948
Mar. 24	Order requiring reports from producers of cost and realization data.	Order No. 236.	38-843	619	.....	.....
Mar. 24	Order for hearing to determine whether certain coals in Montana are subject to the Act.	Order No. 237.	38-844	619	.....	.....
Mar. 29	Order, Progressive Miners of America v. Ray Edmundson and United Mine Workers of America.	Docket No. 1-FD.	38-889	650	37-3010	2-2176
Apr. 2	Order, all District Boards to file with the Commission proposed reasonable maximum discounts to "distributors."	Docket No. 12.	38-948	688	.....	.....
Apr. 2	Ruling relating to cost data of producers.	.....	38-949	689	38-1379	937
Apr. 2	Ruling relating to thirty-day contract limitation.	.....	38-950	689	38-990	717
Apr. 2	Order revoking Orders Nos. 8, 11, 25, 32, 41, 46, 54, 55, 56, 57, 58, 59, 60, 72, 87, 115, 116, 117, 118.	Order No. 238.	38-951	689	37-1911	2-1097
					37-2026	2-1142
					37-2268	2-1272
					37-2522	2-1392
					37-2728	2-1832
					37-2822	2-1942
					37-2927	2-2077
					37-2938	2-2081
					37-3037	2-2214
					37-3038	2-2214
					37-3084	2-2248
					37-3085	2-2249
					37-3103	2-2270
					37-3400	2-2525
					37-3459	2-2557
					37-3020	2-2789
					37-3121	2-2790
					37-3022	2-2790
					37-3023	2-2791
Apr. 8	Modification of ruling, thirty days contract limitation, governmental agencies.	.....	38-990	717	38-950	689
Apr. 16	Order requiring producers to furnish data concerning distribution of coal, 1937.	Order No. 239.	38-1074	764	.....	.....
Apr. 22	Order, District Boards to determine weighted average of total costs of the ascertainable tonnage produced in 1936, etc.	Order No. 240.	38-1131	794	38-1490	1006
May 5	Order, Consumers Lignite Company.	Docket No. 70-FD.	38-1274	875	37-2393	2-1325
					37-3223	2-2415
May 5	Order, McAlester Fuel Company.	Docket No. 70-FD.	38-1275	876	37-2393	2-1325
					37-3223	2-2415
May 5	Order, Morton Salt Company.	Docket No. 70-FD.	38-1276	876	37-2393	2-1325
					37-3223	2-2415
May 5	Order, Malakoff Fuel Company.	Docket No. 70-FD.	38-1277	876	37-2393	2-1325
					37-3223	2-2415
May 5	Order for hearings, Cowgill Mine, Cambridge, Ohio, et al.	Docket No. 322-FD.	38-1278	877	37-3347	2-2490
					38-1325	906
May 11	Order, code members to report to the statistical bureaus any change in name of producing company, etc.	Order No. 241	38-1324	906	.....	.....
May 11	Supplemental order for hearings, Cowgill Mine, Cambridge, Ohio, et al.	Docket No. 322-FD, etc.	38-1325	906	38-1278	877
May 14	Order, matter of a public hearing, coals in Texas subject to the act, etc.	Docket No. 70-FD.	38-1372	930	37-2393	2-1325
					37-3223	2-2415
May 17	Order for hearing, Mallory Coal Company, et al.	Docket No. 13.	38-1379	937	38-949	689
May 19	Order for hearing, Rochester and Pittsburgh Coal Co.	Docket No. 14.	38-1412	968	38-1556	1076
May 21	Order, District Boards to submit a list of members delinquent in the payment of assessments.	Order No. 242	38-1436	980	.....	.....
May 26	Notice of oral argument on exceptions, Sunshine Anthracite Coal Company.	Docket No. 68-FD.	38-1475	999	38-1531	1043
May 27	Order for hearing, weighted average of the total costs of tonnage within minimum price areas 6, 7, 9, and 10.	General Docket No. 15.	38-1490	1006	38-1131	794
					38-1512	1029
					38-1557	1076
May 28	Supplemental order for hearing, weighted average of the total costs of tonnage within minimum price areas 6, 7, 9, and 10.	General Docket No. 15.	38-1512	1029	38-1490	.....
June 1	Notice of continuance of oral argument on exceptions, Sunshine Anthracite Coal Company.	Docket No. 68-FD.	38-1531	1043	38-1475	999
June 3	Order denying petitions, Mallory Coal Company, et al., Rochester and Pittsburgh Coal Company.	Docket Nos. 13 and 14.	38-1556	10763	7-2217	2-1234
					38-1379	937
					38-1412	968
June 3	Second supplemental order for hearing, weighted average of the total costs of tonnage within minimum price areas 6, 7, 9, and 10.	General Docket No. 15.	38-1557	1076	38-1490	1006
National Park Service						
Jan. 8	Feeding etc., of bears, regulations amended.	.....	38-54	36	36-1006	1-672
Feb. 4	Rules governing administration, etc., of the waters of Hot Springs National Park.	.....	38-366	262	.....	.....
Apr. 1	Order designating the Salem Maritime National Historic Site, Massachusetts.	.....	38-924	671	.....	.....
Apr. 1	Local subsidiary regulations, Great Smoky Mountains National Park.	.....	38-925	670	.....	.....
Apr. 15	Local subsidiary regulations, Sequoia National Park.	.....	38-1065	760	.....	.....
Apr. 19	Local subsidiary regulations, Yosemite National Park.	.....	38-1096	774	1006	1-672
					38-1312	900
Apr. 19	Local subsidiary regulations, Shenandoah National Park.	.....	38-1097	774	1006	1-672
					37-715	2-527
Apr. 26	Guide fees, Fort Marion and Fort Pulaski National Monuments, rules amended.	.....	38-1151	802	1006	1-672
Apr. 28	Local subsidiary regulations, Lassen Volcanic National Park.	.....	38-1175	817	.....	.....
May 4	Amendment to timber disposal regulations, Glacier National Park.	.....	38-1262	867	.....	.....
May 10	Amendment to local subsidiary regulations, Yosemite National Park.	.....	38-1312	900	38-1096	774
May 12	Rules, etc., operation of privately owned boats, etc., Lake Mead, Boulder Dam Recreational Area.	.....	38-1335	914	.....	.....
Office of Indian Affairs						
Jan. 4	Flathead Indian Reservation, Mont., restoration.	.....	38-15	5	997	1-666
Jan. 4	Wapato irrigation project, Wash., fixing operation and maintenance charges.	.....	38-16	5	1952	1-1243
Feb. 12	Order of restoration, Rosebud Reservation, South Dakota.	.....	38-466	343	.....	.....
Feb. 24	Regulations for the sale of forest products, Red Lake Indian Reservation, Minnesota.	.....	38-556	442	.....	.....
Mar. 8	Modification of grazing regulations for Navajo and Hopi Reservations.	.....	38-676	526	.....	.....

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERIOR DEPARTMENT—Continued						
Office of Indian Affairs—Continued						
1938 Mar. 15	Order of restoration, Chippewa Indian Reservations, Minnesota.	----------	38-736	567	----------	----------
Mar. 22	Establishment of roadless and wild areas on Indian Reservations.	Order No. 486.	38-807	606	38-966	700
Apr. 5	Highway regulations	----------	38-966	700	38-807	606
Apr. 7	Amendment of regulations on sale of timber products on Menominee Indian Reservation.	----------	38-985	711	----------	----------
Apr. 12	Rules and regulations for the admission of patients into Indian hospitals and sanitaria.	Health Order No. 492.	38-1029	735	----------	----------
Apr. 13	Recognition of attorneys, amendment of regulations.	----------	38-1043	745	----------	----------
Apr. 13	Regulations, distribution of funds for common schools in the Five Civilized Tribes and Quapaw Agency, Oklahoma.	----------	38-1044	745	----------	----------
Apr. 13	Regulations, public school tuition, Indian Service.	----------	38-1045	746	----------	----------
Apr. 19	Order fixing operation and maintenance charges, Crow Indian Irrigation Project, Montana.	----------	38-1083	775	----------	----------
Apr. 19	Order fixing operation and maintenance charges, Flathead Indian Irrigation Project, Montana.	----------	38-1084	777	----------	----------
Apr. 19	Order fixing maintenance and operation charges, Florence-Casa Grande Irrigation Project.	----------	38-1085	776	----------	----------
Apr. 19	Order fixing operation and maintenance charges, Pala Indian Irrigation Project, California.	----------	38-1086	775	----------	----------
Apr. 19	Order fixing operation and maintenance charges, Rincon Indian Irrigation Project, California.	----------	38-1087	775	----------	----------
Apr. 19	Order fixing maintenance and operation charge, San Carlos Project, Arizona.	----------	38-1088	776	----------	----------
Apr. 19	Order fixing operation and maintenance charges, Wind River Indian Irrigation Project, Wyoming.	----------	38-1089	776	----------	----------
Apr. 19	Order fixing operation and maintenance charges, Zuni Pueblo, New Mexico.	----------	38-1090	776	----------	----------
May 3	Regulations, leasing of lands within the ceded portion of Wind River Indian Reservation for oil and gas mining purposes.	----------	38-1249	850	----------	----------
May 4	Regulations, leasing of lands, Crow Indian Reservation, Montana, for mining purposes.	----------	38-1263	867	----------	----------
May 5	Regulations, leasing of restricted lands belonging to the Five Civilized Tribes, Oklahoma for mining purposes.	----------	38-1268	877	----------	----------
May 5	Regulations, leasing of tribal lands for mining purposes.	----------	38-1269	885	----------	----------
May 17	Regulations, deposit of Indian funds in banks.	----------	38-1384	937	----------	----------
May 18	Application of Law and Order Regulations to certain tribes.	----------	38-1393	952	----------	----------
May 18	Special regulations, law and order on Navajo and Hopi jurisdictions in Arizona and New Mexico.	----------	38-1394	952	----------	----------
May 18	Amendment of regulations, Crow Indian tribe and reservation in Montana.	----------	38-1395	952	----------	----------
May 24	Amendment of right of way regulations.	----------	38-1446	984	----------	----------
May 27	Regulations, negotiation and execution of attorney contracts with Indian tribes.	----------	38-1489	1007	----------	----------
INTERIOR DEPARTMENT—Continued						
Petroleum Conservation Division						
1938 Apr. 2	Prescribing and approving forms pursuant to authority contained in certain Executive Orders.	Order No. 1263	38-947	689	37-3506 37-3507 37-3508	2-2664 2-2664 2-2669
DEPARTMENT OF AGRICULTURE						
Agricultural Adjustment Administration						
Jan. 1	1937 A. C. P. southern region.	S R-B-101 amend. 18.	38-7	2	37-3762	2-2959
Jan. 1	Notice of hearing, sugar quotas for Puerto Rico.	----------	38-9	2	37-3801 38-923 38-1120 38-1184 38-1392 38-1552	2-2974 665 785 821 938 1077
Jan. 5	1937 A. C. P. southern region.	B101 Kemper Co. Miss. amend. 4.	38-35	11	37-788 37-3230	2-553 2-2416
Jan. 5	1937 A. C. P. southern region.	B101 Pulaski Co. Ark. Amend. 3.	38-36	11	37-2137 37-3047	2-1197 2-2214
Jan. 11	A. C. P. bulletin, 1938	Supp. No. 1.	38-83	41	37-3135 38-358 38-623	2-2270 259 487
Jan. 11	Range Conservation Program, bulletin 1938.	Supp. No. 1.	38-84	42	37-3256 38-364 38-790	2-2427 295 568
Jan. 13	Determination of proportionate shares for sugar cane producers in Puerto Rico, 1938 and 1939, revised.	----------	38-117	75	37-3362	2-2503
Jan. 14	Notice of hearing regarding amendment to proposed marketing agreement and order regulating handling of milk, Cincinnati, Ohio.	Docket No. A-59-1 O-59-1.	38-130	80	37-3755 38-851	2-2945 630
Jan. 15	Notice of hearing etc., allotment of 1938 liquid sugar quotas for foreign countries.	----------	38-141	85	38-209	188
Jan. 18	Notice of hearings, determination of wage rates, production etc., 1938 crop of sugar beets.	----------	38-146	90	38-964 38-979	702 707
Jan. 20	Re-opening of hearing on handling of milk, St. Louis, Missouri, Marketing Area.	----------	38-188	122	37-596 37-3402	2-433 2-2525
Jan. 21	Notice of hearing, 1938 liquid sugar quotas for foreign countries.	----------	38-209	188	38-141	85
Jan. 21	Determination of fair wage rates for harvesting of the 1937 crop of sugar beets.	----------	38-215	189	37-2966 38-274	2-2097 215
Jan. 27	Revision of determination of fair and reasonable wage rates for harvesting the 1937 crop of sugar beets.	----------	38-274	215	38-215	189
Feb. 1	Compliance with the provisions of paragraph (a) of Practice 7, Part IV Bulletin No. 1, A. C. P. I. R.	----------	38-344	240	----------	----------
Feb. 3	1937 A. C. P.—east central region, growing green manure crops.	ECR-B-101	38-357	259	37-1472	2-857
Feb. 3	1938 A. C. P. bulletin Supplement No. 2.	ACP-1938-2.	38-358	259	38-83	41
Feb. 5	Notice of hearing, regulating shipping of fresh pears etc., grown in California.	Docket No. A-65 O-65.	38-391	276	38-521	417
Feb. 8	1938 Range Conservation Program Bulletin supplement No. 2.	RCP—1938-2.	38-394	295	38-84	42
Feb. 10	1937 A. C. P., western region, bulletin No. 101, Arizona, supplement 5.	W R — B - 101—Ariz., Supp. 5.	38-426	327	37-3505	2-2674
Feb. 10	1937 A. C. P., western region, bulletin No. 101, California, supplement 5.	W R — B - 101—Calif., Supp. 5.	38-427	328	37-3504	2-2674
Feb. 10	1937 A. C. P., western region, bulletin No. 101, Colorado supplement 6.	WR—B-101, Colo., Supp. 6.	38-428	328	37-3122	2-2306
Feb. 10	1937 A. C. P., western region bulletin No. 101, Idaho, supplement 4.	WR—B-101, Idaho, Supp. 4.	38-429	329	37-3123	2-2307

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
DEPARTMENT OF AGRICULTURE—Continued						
Agricultural Adjustment Administration—Continued						
1938 Feb. 10	1937 A. C. P., western region bulletin No. 101, Kansas, supplement 7.	W R — B - 101—Kansas, Supp. 7.	38-430	329	37-3502	2-2673
Feb. 10	1937 A. C. P., western region bulletin No. 101, Montana, supplement 5.	W R — B - 101 — Mont., Supp. 5.	38-431	329	37-3125	2-2208
Feb. 10	1937 A. C. P., western region, bulletin No. 101, Nevada, supplement 4.	W R — B - 101—Nev., Supp. 4.	38-432	330	37-3126	2-2310
Feb. 10	1937 A. C. P., western region, bulletin No. 101, New Mexico, supplement 7.	W R — B - 101 — N. Mex., Supp. 7.	38-433	331	37-3502 38-817	2-2673 599
Feb. 10	1937 A. C. P., western region bulletin No. 101, North Dakota, supplement 5.	W R — B - 101 — N. Dak., Supp. 5.	38-434	331	37-3126	2-2311
Feb. 10	1937 A. C. P., western region bulletin No. 101, Oregon, supplement 5.	W R — B - 101 — Oreg., Supp. 5.	38-435	332	37-3129	2-1312
Feb. 10	1937 A. C. P. western region, bulletin No. 101, Utah supplement 4.	W R — B - 101—Utah, Supp. 4.	38-436	332	37-3130	2-2313
Feb. 10	1937 A. C. P., western region bulletin No. 101, Washington, supplement 4.	W R — B - 101 — Wash., Supp. 4.	38-437	333	37-3131	2-2314
Feb. 10	1937 A. C. P., western region, bulletin No. 101, Wyoming, supplement 4.	W R — B - 101—Wyo., Supp. 4.	38-438	333	37-3132	2-2315
Feb. 10	1937 A. C. P., western region bulletin No. 101, Ponders County, Montana, supplement 2.	W R — B - 101—Ponders County, Mont., Supp. 2.	38-439	330	37-3133	2-2309
Feb. 10	1937 A. C. P., western region, bulletin No. 101, Weber and Davis Counties, Utah, supplement 4.	W R — B - 101—Weber & Davis Counties, Utah, Supp. 4.	38-440	333	37-3134	2-2313
Feb. 15	Notice of hearings etc., wage rates under Sugar Act of 1937.	----------	38-473	348	----------	----------
Feb. 15	Notice of hearing, proposed marketing agreement, handling of grapes grown in Benton, Madison and Washington counties, Arkansas.	Docket No. A-64 O-64.	38-475	348	----------	----------
Feb. 18	Notice of hearing, proposal to amend proposed marketing agreement, order regulating shipping of fresh peaches etc., by including J. H. Hale peaches, California.	Docket No. A-65 O-65.	38-521	417	38-391	276
Feb. 19	Instructions for holding referendum on cotton marketing quotas on the 1938 crop.	38 AAA-1	38-532	426	38-641 38-885	507 651
Feb. 19	Instructions for holding referenda on cotton and fine-cured tobacco marketing quotas on the 1938 crop.	38-AAA-1-A.	38-533	428	38-640 38-884	507 651
Feb. 19	Instructions for holding referenda on cotton and fire-cured and dark air-cured tobacco marketing quotas on the 1938 crop.	38-AAA-1-B.	38-534	430	38-724 38-883	562 651
Feb. 19	Proclamation, national allotment of cotton.	AAA Cotton 1938-1.	38-535	425	----------	----------
Feb. 22	Proclamation, "reserve supply level" etc., of flue-cured tobacco.	AAA Flue-cured tobacco 1938-1.	38-538	439	----------	----------
Feb. 22	Proclamation, "reserve supply level" etc., of fire-cured and dark air-cured tobacco.	AAA Fire-cured and dark-air-cured tobacco, 1938-1.	38-539	440	----------	----------
Feb. 22	Determination of farming practices to be carried out in connection with the production of sugar beets during the crop year 1938.	----------	38-555	440	----------	----------
Feb. 25	Determination of fair and reasonable wages for persons employed in the production etc., of sugarcane, Puerto Rico, 1938.	----------	38-570	456	37-3354 38-707	2-2503 556
DEPARTMENT OF AGRICULTURE—Continued						
Agricultural Adjustment Administration—Continued						
1938 Feb. 25	Amendment to determination of fair and reasonable prices, 1937 crop of Louisiana sugarcane.	----------	38-571	456	37-3075	2-2246
Mar. 1	Proclamation, acreage allotment of corn in commercial corn-producing area.	AAA Corn, 1938-1.	38-620	475	----------	----------
Mar. 1	Notice of hearing, proposed marketing agreement, handling of milk in Philadelphia marketing area.	Docket No. A-66 O-66.	38-621	478	289 2998	1-155 1-1644
Mar. 2	Notice of public hearing, etc., Territory of Hawaii, Sugar Act of 1937.	----------	38-622	500	37-3258 38-956	2-2427 690
Mar. 2	1938 A. C. P. bulletin, as amended.	ACP—1938-3.	38-623	487	38-83 38-840 38-859 38-1025 38-1056 38-1099 38-1476	41 616 634 736 754 778 1009
Mar. 3	Instructions for holding referenda on cotton and flue-cured tobacco marketing quotas on the 1938 crop.	38—AAA-1—A, Supp. No. 1.	38-640	507	38-533	428
Mar. 3	Instructions for holding referendum on cotton marketing quotas on the 1938 crop.	38—AAA-1, Supp. No. 1.	38-641	507	38-532	426
Mar. 4	1937 A. C. P., north central region, bulletin 101, as amended, supplement no. 7.	N C R — B - 101, as amended, Supp. No. 7.	38-659	519	37-3522	2-2681
Mar. 10	Determination of fair prices for the 1938 crop of Puerto Rican sugarcane.	----------	38-707	556	38-570	456
Mar. 12	Instructions for holding referenda on cotton and fire-cured and dark air-cured tobacco marketing quota, 1938 crop.	38—AAA-1—B, Supp. No. 1.	38-724	562	38-534	430
Mar. 15	1938 Range Conservation Program Bulletin, as amended.	RCP—1938-3.	38-730	568	38-84 38-1477	42 1001
Mar. 19	1937 A. C. P. western region.	WR—B-101-N. Mex., Supp. 8.	38-817	599	38-433	331
Mar. 23	1938 A. C. P. bulletin supplement no. 4.	ACP—1938-5.	38-840	615	38-623	487
Mar. 24	Determination of farming practices, production of sugarcane during the crop year 1938, Hawaii.	----------	38-850	630	38-1423	975
Mar. 24	Proclamation, base period to be used in connection with execution of marketing agreement, etc., handling of milk, Cincinnati, Ohio.	----------	38-851	630	38-130	80
Mar. 24	1938 A. C. P. bulletin, Hawaii.	ACP 1938, Hawaii.	38-853	522	38-1100	778
Mar. 24	1938 A. C. P. bulletin, Alaska.	ACP 1938, Alaska.	38-854	520	38-1100	778
Mar. 24	1938 A. C. P. bulletin—Puerto Rico.	ACP—1938 Puerto Rico.	38-855	626	38-1100	778
Mar. 25	Revision of determination of farming practices, production of sugar beets, crop year 1938.	----------	38-858	634	----------	----------
Mar. 25	1938 A. C. P. bulletin, supplement no. 3.	ACP—1938-4.	38-859	634	38-623	487
Mar. 29	Amendment to determination of proportionate shares for the mainland cane sugar area for the 1938 crop.	----------	38-882	651	37-2915	2-2067
Mar. 29	Result of referendum on marketing quota for fire-cured and dark air-cured tobacco, year beginning October 1, 1938.	----------	38-883	651	38-534	430
Mar. 29	Result of referendum on marketing quota for flue-cured tobacco, year beginning July 1, 1938.	----------	38-884	651	38-533	428
Mar. 29	Result of referendum on marketing quotas for cotton marketing during year beginning August 1, 1938.	----------	38-885	651	38-532	426

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
DEPARTMENT OF AGRICULTURE—Continued						
Agricultural Adjustment Administration—Continued						
1938						
Mar. 30	Notice of hearing, proposed marketing agreement and order regulating handling of Irish (white) potatoes in Louisiana, etc.	Docket No. A-67 O-67.	38-906	659	38-1328 38-1329	907 907
Mar. 30	1937 A. C. P. east central region, soil conserving crops for farm allowances.	B-101—Guilford County, N. C.—Supp. A.	38-907	659	37-713 37-3047	2-520 2-2214
Mar. 30	Proclamation by the Secretary of Agriculture.	AAA Burley Tobacco 1938-1.	38-908	657	38-1317	901
Mar. 30	Instructions for holding referendum on 1938 Burley tobacco marketing quotas.	38—AAA-1-C.	38-909	657		
Mar. 30	Determination of sugar commercially recoverable from sugar beets.		38-910	656	38-1049	748
Mar. 31	Determination of fair rates for harvesting sugarcane in the mainland area, September 1, 1937, to June 30, 1938.		38-922	664	37-3310 37-3435	2-2467 2-2553
Mar. 31	Allotment of the direct-consumption portion of the 1938 sugar quota for Puerto Rico.	Puerto Rico Sugar Order No. 9.	38-923	665	38-9	2
Apr. 2	Determination of fair wages for persons employed in the production etc. of sugarcane in Hawaii, 1937.		38-956	690	38-622	560
Apr. 5	Determination of fair and reasonable prices for the 1937 crop of Hawaiian sugarcane.		38-963	703	37-3258	2-2427
Apr. 5	Determination of fair and reasonable prices for 1937 and 1938 crops of sugar beets.		38-964	702	38-146	90
Apr. 6	Determination of fair and reasonable wage rates for persons employed in the production, etc., of the 1938 crop of sugar beets.		38-979	707	38-146	90
Apr. 7	Notice of hearing, handling of Irish (white) potatoes grown in Louisiana and in certain counties in Alabama, etc.	Docket No. A-68 O-68.	38-989	712	38-1032	736
Apr. 8	1936 A. C. P.-north central region bulletin No. 2-D.		38-999	717	3044 37-63	1-1655 2-37
Apr. 12	1938 A. C. P. bulletin, supplement No. 5.	ACP—1938-6	38-1025	739	38-623	487
Apr. 12	Notice of hearing, amendment, handling of Irish (white) potatoes grown in Louisiana and in certain counties in Alabama etc.	Docket No. A-68 O-68.	38-1032	736	38-989	712
Apr. 13	1938 A. C. P. Upshur County, West Virginia.	ECR—205...	38-1048	749		
Apr. 13	Determination of normal yields of commercially recoverable sugar per acre for sugar beets, 1937 sugar-beet program.		38-1049	748	38-910	656
Apr. 14	Determination of proportionate shares for farms in mainland cane sugar area, 1937 crop.		38-1050	754		
Apr. 14	1938 A. C. P. bulletin, supplement No. 6.	ACP—1938-7.	38-1056	754	38-623	487
Apr. 15	Notice of hearing, proposed marketing agreement, handling of cantaloupes grown in Imperial County, California, and Yuma County, Arizona.	Docket No. A-69 O-69.	38-1068	761		
Apr. 16	Notice of hearing, proposed marketing agreement, handling of fresh prunes grown in Umatilla County, Oregon, etc.	Docket No. A-70 O-70.	38-1080	764		
Apr. 19	Determination of normal yield of commercially recoverable sugar per acre, etc.		38-1098	778		
Apr. 19	1938 A. C. P. bulletin, supplement No. 7.	ACP—1938-8.	38-1099	778	38-623	487
1938						
Apr. 19	1938 A. C. P. bulletin, Alaska, Hawaii, and Puerto Rico, supplement No. 1.	ACP—1938-1.	38-1100	778	38-853 38-854 38-855	620 622 626
Apr. 20	Determination of eligibility for payment, abandonment, and crop deficiency, farms in the domestic beet sugar area.		38-1111	785		
Apr. 20	Determination of sugar commercially recoverable from the 1937 crop of sugarcane in the mainland cane sugar area.		38-1112	786		
Apr. 20	Order, allotting the direct-consumption portion of the 1938 sugar quota for Puerto Rico.	Puerto Rico Sugar Order No. 10.	38-1120	786	38-9	2
Apr. 26	Determination of farming practices, production of sugarcane, mainland cane sugar area, 1938.		38-1158	803		
Apr. 28	Notice of hearing etc., Puerto Rico sugar quota.		38-1184	821	38-9	2
Apr. 28	Order regulating handling of milk, Cincinnati, Ohio marketing area.		38-1186	817	37-3755	2-2946
Apr. 29	1938 A. C. P. bulletin, supplement No. 8.	ACP—1938-10.	38-1211	829		
Apr. 29	Notice of hearing proposed marketing agreement, handling of milk, Toledo, Ohio.	Docket No. A-72 O-72.	38-1212	829		
Apr. 30	Notice of public hearings, proposed marketing agreement, handling of milk, New York metropolitan milk marketing area.	Docket No. A-71 O-71.	38-1240	844		
May 3	Notice of hearing, proposed amended marketing agreement, handling of fresh lettuce etc., western Washington.	Docket No. A-73 O-73.	38-1252	853	520	1-301
May 10	Result of referendum on marketing quota for Burley tobacco.		38-1317	901	38-908	657
May 11	Determination, proposed order, handling of potatoes, Louisiana and certain counties in Texas, Mississippi, Alabama, and Florida.		38-1328	907	38-906	659
May 11	Order, handling of Irish potatoes grown in Louisiana, and certain counties in Texas, Mississippi, Alabama, and Florida.		38-1329	907	38-906	659
May 11	Notice of hearing, prices for 1938 crop of sugarcane.		38-1330	911		
May 17	Notice of proposed order, allotting direct-consumption portion, 1938 sugar quota, Puerto Rico.		38-1382	938	38-9	2
May 18	Proclamation, base period to be used for marketing agreement etc., handling of cantaloupes etc., grown in Imperial County, California and Yuma County, Arizona.		38-1404	959		
May 18	Order regulating handling of cantaloupes etc. grown in Imperial County, California and Yuma County, Arizona.		38-1405	960		
May 20	Amendment, farming practices, production of sugarcane, Hawaii, crop year 1938.		38-1423	975	38-850	630
May 24	Determination of fair and reasonable prices, 1937 crop of Florida sugarcane.		38-1439	986	37-3435	2-2553
May 25	1938 A. C. P. bulletin supplement no. 9.	ACP—1938-11.	38-1476	1000	38-623	487
May 26	1938 R. C. P. bulletin supplement no. 3.	RCP—1938-4.	38-1477	1001	38-730	568
May 26	Determination of producers who are also processors of sugar beets, etc.		38-1478	999		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
DEPARTMENT OF AGRICULTURE—Continued						
Agricultural Adjustment Administration—Continued						
1938						
May 26	Notice of hearing, proposed marketing agreement etc., handling of hops grown in Oregon, California and Washington.	Docket No. A-74 O-74.	38-1484	999	38-1513	1030
May 27	1937 A. C. P. amendments to bulletins No. ECR—B-101 as amended.	ECR—B-101 Delaware, Supp. etc.	8-1497	1009	37-233 37-234 37-235 37-236 37-237 37-239 37-776 37-858 37-879 37-713	2-147 2-152 2-157 2-169 2-175 2-192 2-544 2-586 2-595 2-520
May 28	Notice of hearing, proposed marketing agreement etc., handling of hops grown in Oregon, California and Washington.	Docket No. A-74 O-74.	38-1513	1030	38-1484	999
May 28	Notice of hearing, proposed marketing agreement etc., handling of Irish potatoes grown in California, Colorado, Idaho etc.	Docket No. A-75 O-75.	38-1514	1030		
May 28	Notice of hearing, proposed amendments to Order No. 20 and tentative approval of marketing agreement, handling of milk, La Porte County, Indiana.	Docket No. A-76 O-76.	38-1518	1031	37-2835 37-3285	2-1943 2-2443
June 3	Decision of the Secretary allotting the direct-consumption portion of the 1938 sugar quota for Puerto Rico.	Puerto Rico sugar order No. 11	38-1552	1077	38-9	2
Bureau of Agricultural Economics						
Jan. 21	Amendment No. 1 to official standard grades for Burley tobacco. (U. S. type 31).		38-201	189	3550	1-2040
Mar. 3	Revised rules, etc., for carrying out provisions of Perishable Agricultural Commodities Act, 1930, as amended.		38-635	508		
Apr. 1	Grades etc., of the Secretary for carrying out the provisions of the Export Apple and Pear Act.	S. R. A.—B. A. E. 143, revised.	38-944	671		
May 6	Amendment No. 2 to the regulations, inspection etc. of rice.		38-1291	893	37-2591	2-1440
May 19	Order designating districts etc., for administration of the Grain Standards Act.		38-1408	969		
May 21	Amendment No. 2, regulations, fees and charges in appeals under the Grain Standards Act.	S. R. A. No. 148.	38-1431	980		
May 24	Administration of Land Conservation and Utilization Program.	Memo No. 756.	38-1444	986		
May 27	Amendment No. 1, standards for rough rice to provide for determination of milling quality, etc.		38-1496	1009	1477	1-892
Bureau of Animal Industry						
Jan. 6	Notice to Jones-Neuhoff Commission Co.		38-47	29		
Jan. 6	Notice to Rees Smeed and Walter Shimp.		38-48	29		
Jan. 12	Prevention of introduction of rinderpest etc., disease.	Amdt. 12 to BAI Order 353.	38-98	63	37-3533 38-145 38-309 38-1406	2-2683 91 223 973
Jan. 14	Notice to A. L. Garber, Fort Morgan, Colorado.		38-131	80		
Jan. 15	Notice to I. M. Beasley, Jackson, Mississippi.		38-139	86		
Jan. 15	Names of counties placed in modified tuberculosis-free accredited areas.	Amdt. 15 to Declaration No. 12.	38-140	85	37-3563 38-476 38-750 38-1031	2-2754 248 571 737
Jan. 18	Prevention of introduction rinderpest etc., disease.	Amdt. 13 to BAI order 353.	38-145	91	38-1347 38-98	915 63
Jan. 25	Notice to Harve R. Patterson and Hal R. Patterson.		38-222	198		
Jan. 29	Prevention of introduction of rinderpest etc. disease.	Amdt. 14 to BAI Order 353.	38-309	223	38-98	63
Feb. 5	Notice to Dean Sullivan and John W. Smoed.		38-390	276		
Feb. 10	Notice to E. T. York		38-441	334		
Feb. 15	Declaring names of counties placed in modified tuberculosis-free accredited areas.	Amdt. 16 to Declaration No. 12.	38-476	248	38-140	85
Feb. 19	General rules etc. for carrying out the provisions of the Packers and Stockyards Act, 1921, as amended, with respect to owners, etc.		38-531	432		
Feb. 25	Notice to Julius J. Williams.		38-567	457		
Feb. 25	Notice to Samuel E. Hill		38-568	457		
Feb. 25	Notice to Victor Simon		38-569	457		
Mar. 1	Notice to W. C. Martin and C. S. Dearman.		38-618	478		
Mar. 15	Declaring names of counties placed in modified tuberculosis-free accredited areas.	Amdt. 17 to Declaration No. 12.	38-750	571	38-140	85
Mar. 24	Notice to C. J. Ellington and Jess Cook.		38-852	630		
Apr. 1	Notice to Greater Little Rock Stock Yards, Inc.		38-943	673		
Apr. 12	Declaring names of counties placed in modified tuberculosis-free areas.	Amdt. 18 to Declaration No. 12.	38-1031	737	38-140	85
Apr. 28	Notice to C. W. Poore, et al., McCook, Nebraska.		38-1165	821	37-3416	2-2537
Apr. 28	Notice to Gallatin Livestock Market, Inc., Gallatin, Texas.		38-1166	821		
Apr. 28	Regulations, recognition of breeds and purebred animals.	Amdt. 14 to B. A. I. Order 350.	38-1185	822	37-1404	2-1840
May 12	Declaring names of counties place in modified tuberculosis-free accredited areas.	Amdt. 19 to Declaration No. 12.	38-1347	915	38-140	85
May 13	Releasing from quarantine the remainder of Polk County and a portion of Osceola County, Florida.	Amdt. 1 to B. A. I. Order 363.	38-1360	9273	7-3361	2-2504
May 17	Nebraska Stockgrowers Association authorized to conduct brand inspection.		38-1380	941		
May 19	Amendment of order, introduction of rinderpest and foot-and-mouth disease.	Amdt. 15 to B. A. I. Order No. 353.	38-1406	973	38-98	63
May 19	Notice to W. W. Chronister, et al.		38-1407	973		
May 27	Amendment to regulations, interstate movement of livestock.	Amdt. 3 to B. A. I. Order 309.	38-1492	1009		
May 27	Amendment to regulations, importation of domestic livestock, etc., into the United States from all countries except Mexico.	Amdt. 3 to B. A. I. Order 352.	38-1493	1010		
May 27	Amendment to regulations, recognition of breeds and purebred animals.	Amdt. 16 to B. A. I. Order 350.	38-1494	1010		
May 27	Amendment to regulations, recognition of breeds and purebred animals.	Amdt. 15 to B. A. I. Order 350.	38-1495	1019		
May 28	Order to prevent introduction into the United States of rinderpest and foot-and-mouth disease.	B. A. I. Order 366.	38-1515	1031		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
DEPARTMENT OF AGRICULTURE—Continued						
Bureau of Biological Survey						
1938 Mar. 3	Order permitting trapping on the Upper Mississippi River Wild Life and Fish Refuge.	----------	38-642	515	----------	----------
Mar. 17	Regulation designating as closed area certain lands and waters within etc., Pea Island Migratory Waterfowl Refuge, North Carolina.	----------	38-792	581	37-3446	2-1355
Apr. 1	Order permitting fishing within Chautauqua Migratory Waterfowl Refuge, Illinois.	----------	38-941	673	3961	1-2212
Apr. 26	Amendment of regulations, guides, poisons, etc., Alaska Game Commission.	----------	38-1156	813	----------	----------
Apr. 26	Regulations, game animals, etc., Alaska.	----------	38-1157	803	----------	----------
May 12	Amendment, regulations for the administration of National Wildlife Refuges.	----------	38-1352	915	----------	----------
May 24	Order permitting fishing certain lakes in Wichita Mountains Wildlife Refuge, Oklahoma.	----------	38-1440	987	3633	1-2080
May 27	Order prohibiting the taking of certain migratory birds in Texas.	----------	38-1491	1011	----------	----------
Bureau of Entomology and Plant Quarantine						
Mar. 22	List of articles exempt from certification requirements under the Japanese beetle quarantine No. 48.	B. E. P. Q.—395 (revised), superseding B. E. P. Q.—353.	38-829	610	37-2793	2-1871
Apr. 8	Revision of regulations, Japanese beetle quarantine.	B. E. P. Q.—Q. 48.	38-1002	718	38-1253	854
Apr. 9	Sterilization of grapefruit and oranges by heat, Mexican fruitfly quarantine.	B. E. P. Q.—Q. 472.	38-1010	729	37-3045	2-2226
Apr. 29	Revised rules etc., movement of plants and plant products in and out of the District of Columbia.	B. E. P. Q.—D. C. Regs.	38-1188	829	----------	----------
May 3	Administr tive instructions, fumigation of potatoes by methyl bromide.	B. E. P. Q.—473.	38-1253	854	38-1002	718
May 12	Method used for disinfection of imported broomcorn, etc.	B. E. P. Q.—474.	38-1346	916	----------	----------
June 2	White-pine blister rust quarantine regulations revised.	B. E. P. Q.—Q. 63.	38-1544	1066	----------	----------
Commodity Exchange Administration						
Feb. 18	Order in the matter of a delivery period after the close of trading in futures in wheat, etc.	Hearing, Docket C. E. A. No. 2	38-520	418	37-3293	2-2461
Mar. 1	Order designating the San Francisco Grain Exchange as a contract market for wheat and barley.	----------	38-619	478	----------	----------
Apr. 1	Amendments to rules etc., of the Secretary under the Act.	----------	38-940	674	37-3394 38-1103 38-1292	2-2526 781 893
Apr. 19	Amendments to rules etc., of the Secretary under the Act.	----------	38-1103	781	38-940	674
May 6	Amendment to rules etc., of the Secretary under the Act.	----------	38-1292	893	38-940	674
June 2	Order designating the Wool Associates of the New York Stock Exchange, Inc., as a contract market for wool tops.	----------	38-1543	1068	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
DEPARTMENT OF AGRICULTURE—Continued						
Farm Security Administration						
1938 Jan. 1	Designation of counties, South Dakota.	----------	38-8	2	----------	----------
Jan. 18	Designation of counties, Michigan.	----------	38-162	91	----------	----------
Jan. 18	Designation of counties, Minnesota.	----------	38-163	91	----------	----------
Jan. 18	Designation of counties, Oregon.	----------	38-164	91	----------	----------
Jan. 18	Designation of counties, Wisconsin.	----------	38-165	92	----------	----------
Jan. 18	Designation of counties, Utah.	----------	38-166	91	----------	----------
Jan. 18	Designation of counties, Pennsylvania.	----------	38-167	91	38-942	674
Jan. 18	Designation of counties, Idaho.	----------	38-168	91	----------	----------
Jan. 21	Loans to community and cooperative associations etc., revision of paragraph relative to loan agreements.	AO 40, Rev. 2, Supp. 6.	38-202	189	----------	----------
Jan. 26	Powers and functions of the Deputy Administrator.	----------	38-271	212	----------	----------
Jan. 29	Designation of counties, Washington.	----------	38-310	224	----------	----------
Jan. 29	Designation of counties, New Jersey.	----------	38-311	224	38-828	610
Feb. 10	Designation of counties, Arizona.	----------	38-444	334	----------	----------
Feb. 10	Designation of counties, California.	----------	38-445	334	----------	----------
Feb. 17	Designation of counties, Maine.	----------	38-497	386	----------	----------
Feb. 17	Tenure agreements and leases for resettlement type projects.	A. O. 233.	38-503	386	3874	1-2170
Feb. 17	Authorizing use of land acquired for resettlement purposes, Bankhead-Jones Farm Tenant Act.	Memo No. 748.	38-511	388	----------	----------
Feb. 18	Designation of counties, Nevada.	----------	38-519	418	----------	----------
Feb. 25	Designation of counties, Massachusetts.	----------	38-566	457	----------	----------
Mar. 2	Designation of counties, Maryland.	----------	38-634	500	----------	----------
Mar. 4	Designation of counties, Wyoming.	----------	38-657	519	----------	----------
Mar. 4	Designation of counties, Colorado.	----------	38-658	519	----------	----------
Mar. 8	Designation of counties, Montana.	----------	38-679	527	----------	----------
Mar. 8	Designation of counties, Delaware.	----------	38-680	527	----------	----------
Mar. 8	Designation of counties, Rhode Island.	----------	38-681	527	----------	----------
Mar. 15	Designation of counties, Vermont.	----------	38-731	572	----------	----------
Mar. 15	Designation of counties, New Hampshire.	----------	38-732	572	----------	----------
Mar. 15	Designation of counties, Connecticut.	----------	38-733	572	----------	----------
Mar. 22	Designation of additional counties, New Jersey.	----------	38-828	610	38-311	224
Mar. 24	Designation of county, Hawaii.	----------	38-849	630	----------	----------
Apr. 1	Designation of additional counties, Pennsylvania.	----------	38-942	674	38-167	91
Apr. 6	Delegations of authority with reference to the Tenant Purchase program.	A. O. 220 (Supplemental).	38-974	708	----------	----------
Apr. 30	Transfer of lands to the Forest Service for administration, etc., North Washington Project.	Administrative Order.	38-1295	844	----------	----------
Federal Crop Insurance Corporation						
Feb. 22	Appointment of the Board of Directors.	----------	38-542	441	----------	----------
May 3	Regulations, wheat crop insurance.	F. C. I. R., series 1, No. 1.	38-1251	854	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
DEPARTMENT OF AGRICULTURE—Continued						
Food and Drug Administration						
1938 Mar. 3	Standards under the Tea Act.	Tea No. 12...	38-643	516	37-555	2-355
May 17	Revision of rules, etc., enforcement of Naval Stores Act.	S. R. A.—Naval Stores No. 1.	38-1381	941	----------	----------
Forest Service						
Feb. 11	Minidoka National Forest, occupancy, use, etc.	----------	38-457	343	----------	----------
Feb. 11	Occupancy, use, etc., of National Forests, modification of regulation T-8½.	----------	38-458	343	37-124	2-68
Apr. 19	Occupancy, use, etc., of the National Forests, modification of Regulation T-7.	----------	38-1101	782	37-124 37-3695	2-68 2-2871
Apr. 28	Occupancy etc., of National Forest, modification of Regulation L-7.	----------	38-1183	822	----------	----------
May 26	Modification of regulation L-2.	----------	38-1479	1001	1721	1-1090
DEPARTMENT OF COMMERCE						
Bureau of Air Commerce						
Jan. 12	Designations of the federal airways system as civil airways of the United States.	----------	38-97	63	----------	----------
Jan. 20	Amendment to the Civil Air Regulations.	Amendment No. 2.	38-190	123	37-3020 37-3296 38-673	2-2181 2-2440 530
Mar. 9	Amendment to the Civil Air Regulations.	Amendment No. 3.	38-673	530	38-1179 38-190	822 123
Apr. 28	Amendment to the Civil Air Regulations.	Amendment No. 4.	38-1179	822	38-190	123
Bureau of Fisheries						
Feb. 17	Alaska fishery regulations.	No. 251-24....	38-500	388	38-1242	860
May 3	Alaska fishery regulations, amended.	No. 251-24-1..	38-1242	860	38-500	388
May 25	Joint regulations, Secretary of the Treasury and Secretary of Commerce concerning whaling.	----------	38-1458	989	----------	----------
Bureau of Foreign and Domestic Commerce						
June 2	Regulations, collection of statistics of foreign commerce and navigation of the United States.	----------	38-1537	1069	----------	----------
Bureau of Lighthouses						
May 19	Regulations, marking of wrecks for the protection of navigation.	----------	38-1414	974	----------	----------
Bureau of Marine Inspection and Navigation						
Jan. 28	Method of accounting, sale of duplicate continuous discharge books, etc.	----------	38-297	220	37-2820	2-1890
Feb. 4	Corrections to amendments, Great Lakes load line regulations.	----------	38-374	270	37-2887	2-1972
Feb. 10	Adoption of resolutions Nos. 1511-91, 3865-A, 4064, 4262, 4279.	----------	38-455	334	----------	----------
Mar. 3	Amendment to hawser regulations.	----------	38-648	516	----------	----------
Mar. 15	Notice of meeting of Executive Committee, Board of Supervising Inspectors.	----------	38-749	572	38-921 38-926	665 1044

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
DEPARTMENT OF COMMERCE—Continued						
Bureau of Marine Inspection and Navigation—Continued						
1938 Mar. 31	Resolutions, construction of new passenger vessels and approval of miscellaneous items of equipment.	Resolutions Nos. 3667, 1511-92.	38-921	665	37-2887 38-749	2-1972 572
Apr. 23	Pre-sailing examination and collection of fees, Danish passenger vessels.	Dept. circular No. 304, 1st Edition.	38-1144	796	----------	----------
May 12	Rules, etc., issuance of certificates of service and efficiency etc.	----------	38-1353	916	----------	----------
May 12	Amendments to "Admeasurement of Vessels, 1925."	----------	38-1354	921	----------	----------
May 19	Notice of meeting, Executive Committee, Board of Supervising Inspectors to consider amendments to rules, etc.	----------	38-1415	974	----------	----------
May 25	Regulations, safety of life during intercollegiate regatta, Poughkeepsie, New York.	----------	38-1462	991	----------	----------
May 25	Regulation of motor boats..	----------	38-1463	991	3065	1-2055
June 1	Resolutions adopted by the Executive Committee.	----------	38-1526	1044	38-749	572
DEPARTMENT OF LABOR						
Children's Bureau						
Jan. 25	Grants to States for maternal and child welfare, rules, etc.	----------	38-233	199	38-1374	931
May 14	Grants to states for maternal and child welfare, amendment to rules, etc.	----------	38-1374	931	38-233	199
Immigration and Naturalization Service						
Jan. 18	Naturalization of aliens married to citizens of the United States.	G. O. No. 255..	38-156	92	----------	----------
Jan. 29	Documents required of aliens in transit, amendment of rules of January 1, 1930.	G. O. No. 256..	38-303	224	3073	1-1673
Jan. 29	Status of alien applicants for nonquota or preference-quota immigration visas based upon relationship to citizenship.	G. O. No. 257..	38-304	224	----------	----------
Feb. 17	Voluntary emigration of certain Filipinos from the United States.	G. O. No. 258..	38-498	413	106	1-76
Mar. 19	Application of repatriated aliens for readmission to the United States.	G. O. No. 259..	38-815	599	37-1667	2-980
Mar. 19	Detention of seamen on board vessels on which employed.	G. O. No. 260..	38-816	600	----------	----------
Apr. 8	Chinese transits, departure, deportation.	Chinese G. O. No. 24.	38-992	725	----------	----------
Apr. 8	Admissibility of wife etc., of Chinese merchant, etc.; status of Chinese wife of American citizen; preinvestigation of citizenship of husband or parent of a Chinese applicant.	Chinese G. O. No. 25.	38-993	725	----------	----------
Apr. 8	Admission of aliens, Golden Gate International Exposition and New York World's Fair.	G. O. No. 261..	38-994	724	----------	----------
Office of the Secretary						
Jan. 12	Decision of the Secretary in the matter of determination of the prevailing minimum wage in the handkerchief industry.	----------	38-93	64	----------	----------
Jan. 29	Decision in the matter of the reconsideration of the minimum wage determination for the men's hat and cap industry.	----------	38-302	224	37-2413	1-1335

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER		RELATED DOCUMENTS AMENDMENTS	
			Doc. No.	Page	F. R. Doc. No.	Page
DEPARTMENT OF LABOR—Continued						
Office of the Secretary—Continued						
1938 Feb. 2	Decision regarding extension of minimum wage determination for the cotton garment and allied industries to the manufacture of barrack bags etc.	----------	38-346	257	37-2412	2-1333
May 5	Decision of the Secretary, prevailing minimum wages, envelope industry.	----------	38-1273	889	----------	----------
May 7	Decision of the Secretary, extension of the minimum wage determination for cotton garment and allied Industries to manufacture of wool and wool-lined jackets.	----------	38-1295	896	37-2412	2-1333
May 7	Decision of the Secretary redetermination of the prevailing minimum wage, leather and sheep-lined jackets industry.	----------	38-1296	895	37-2412	2-1333
May 10	Decision of the Secretary, prevailing minimum wages, vitreous or vitrified china industry.	----------	38-1316	901	----------	----------
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM						
Jan. 1	Additional time for obtaining statements, special—omnibus accounts, revised regulation T.	----------	38-1	3	37-3698 38-823	2-2916 610
Mar. 22	Extension and maintenance of credit by brokers etc., of National Securities Exchanges.	Amend. No. 1 of revised regulation T.	38-823	610	38-1	3
Apr. 19	Reserves required to be maintained by member banks with Federal Reserve banks.	Supplement to Regulation D.	38-1082	782	----------	----------
COMMODITY CREDIT CORPORATION						
Jan. 20	Instructions concerning the making of corn loans.	1937-38 CCC Corn Form 1.	38-187	123	----------	----------
Apr. 29	Regulations, issuance of and transactions etc., in Commodity Credit Corporation Securities.	----------	38-1189	831	----------	----------
May 25	Instructions, making of loans on the security of wool or mohair represented by warehouse receipts, 1938.	CCC Wool Form 1 Instructions 1938.	38-1455	993	----------	----------
FARM CREDIT ADMINISTRATION						
Jan. 4	Production Credit Corporation of Columbia, interest rate on loans by production credit associations.	FCA 69	38-12	6	----------	----------
Jan. 13	Federal Farm Mortgage Corporation, fees to be charged for extension of indebtedness on Land Bank Commissioners.	FCA 70	38-115	77	----------	----------
Jan. 13	Regulation governing consolidation of national farm loan associations, amendment.	FCA 71	38-116	77	37-2741	2-1843
Jan. 27	Charges for reamortizing land bank loans, The Federal Land Bank of Houston.	FCA 72	38-275	215	----------	----------
Jan. 27	Functions, etc., of Director and Assistant Director of Regional Agricultural Credit Division.	FCA 73	38-276	216	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER		RELATED DOCUMENTS AMENDMENTS	
			Doc. No.	Page	F. R. Doc. No.	Page
FARM CREDIT ADMINISTRATION—Continued						
1938 Feb. 8	Regulations relative to emergency crop and feed loans in the Continental United States.	FCA 74	38-411	295	38-504 38-644 38-645 38-646 38-647	413 516 517 517 517
Feb. 17	Amendatory regulation no. 1 emergency crop and feed loans.	FCA 75	38-504	413	38-411	295
Feb. 19	Fees to be charged applicants for extension of entire indebtedness on Federal Land Bank Loans etc.	FCA 76	38-536	435	----------	----------
Mar. 3	Amendatory regulation No. 2, emergency crop and feed loans.	FCA 77	38-644	516	38-411	295
Mar. 3	Amendatory regulation No. 3, emergency crop and feed loans.	FCA 78	38-645	517	38-411	295
Mar. 3	Amendatory regulation No. 4, emergency crop and feed loans.	FCA 79	38-646	517	38-411	295
Mar. 3	Amendatory regulation No. 5, emergency crop and feed loans.	FCA 80	38-647	517	38-411	295
Mar. 9	Conditional payments by borrowers for subsequent credit upon indebtedness to land bank.	FCA 81	38-695	550	----------	----------
Mar. 19	Authority of regional managers to subordinate liens acquired by the Governor as security for unpaid drought feed loans.	FCA 82	38-814	600	----------	----------
Mar. 22	Conversion of Class A into class B stock, amendment of rules for Production Credit Associations.	FCA 83	38-827	611	----------	----------
Apr. 1	Regulations relative to emergency crop and feed loans, Hawaii.	FCA 84	38-938	675	----------	----------
Apr. 1	Schedule of Federal Land Bank appraisal etc., Third Farm Credit District.	FCA 85	38-939	676	----------	----------
Apr. 9	Regulations, emergency crop and feed loans in Puerto Rico.	FCA 86	38-1012	729	----------	----------
Apr. 15	Schedule of Land Bank Commissioner loan long term extension fees, etc. the Federal Land Bank of Spokane.	FCA 87	38-1066	761	----------	----------
Apr. 22	Amendment of regulation, method of computing maximum amount loanable by Federal land banks to one borrower.	FCA 88	38-1133	794	----------	----------
Apr. 26	Functions, powers, etc. of Land Bank Commissioner.	FCA 89	38-1155	841	----------	----------
May 6	Fees for partial releases of security on certain loans, The Federal Land Bank of Baltimore.	FCA 90	38-1290	894	----------	----------
May 13	Approval of special interest rates on certain Federal Land Bank loans.	FCA 91	38-1359	927	----------	----------
May 17	Schedule of fees for subordination of mortgages etc., The Federal Land Bank of St. Paul.	FCA 92	38-1388	947	----------	----------
May 17	Fees and charges for reamortizing Land Bank Commissioner loans.	FCA 93	38-1389	947	----------	----------
May 17	Authority to execute Parts II and III of A. A. A. Form ACP-69.	FCA 94	38-1390	948	----------	----------
FEDERAL COMMUNICATIONS COMMISSION						
Jan. 14	Order, Eastern Steamship Lines, Inc., Boston, Massachusetts, (Ships "Falmouth, etc.").	Docket No. 4857.	38-126	81	37-3057	2-2234
Jan. 14	Order, Bonchard Transportation Co., Inc., New York, N. Y. (Ship "M/V Bacol").	Docket No. 4887.	38-127	81	37-3382	2-2530
Jan. 14	Temporary extension of rule 337A.	----------	38-128	80	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REG STER		RELTED DOCUMENTS AMENDMENTS	
			Doc. No.	Page	F. R. Doc. No.	Page
FEDERAL COMMUNICATIONS COMMISSION—Continued						
1938 Jan. 25	Amendment to Order No. 7-C.	Order No. 31.	38-225	202	----------	----------
Jan. 25	Extension of exemption, Philadelphia and Norfolk Steamship Company.	Docket No. 4833.	38-226	202	37-3374	2-2830
Feb. 1	Modification of paragraph 12 (c) and 12 (e) of the ship radiotelegraph safety rules.	----------	38-314	240	37-1503	2-881
Feb. 9	Amendment to rule 262 A. B, b and 262D.	----------	38-417	312	37-3058	2-2234
Feb. 9	Adoption of rules governing operation of "non-commercial educational" broadcast stations.	Rules 1057, 1058, 1059.	38-418	312	38-1148	814
Feb. 9	Professional radio operator licenses.	Amdt. to rule 443.	38-419	311	38-841	631
Feb. 9	Approval of Annual Report Form M. Classes A and B Telephone Carriers.	----------	38-420	311	----------	----------
Feb. 15	Adoption of order relative to statements to be filed by radio-telegraph common carriers.	Order No. 33.	38-477	349	----------	----------
Mar. 2	Uniform systems of accounts for common carriers by wire and radio.	Order No. 34.	38-632	500	----------	----------
Mar. 5	Proposed amendment to Rule 117 with respect to the power of broadcast stations on clear channels.	----------	38-663	522	38-1006	731
Mar. 17	Amendment to Order No. 28, Paragraph 7.	----------	38-760	581	37-3613 38-982	2-2800 713
Mar. 24	Extension of effective date of amended Rule 443 pertaining to Alaska.	----------	38-841	631	38-419	311
Mar. 26	Public hearing to investigate special regulations applicable to radio stations engaged in chain, etc., broadcasting and required in the public interest.	Order No. 37.	38-867	637	----------	----------
Apr. 5	Extension of working date of Rule 981.	----------	38-967	703	2890 37-2931 38-1148	1-1594 2-1781 814
Apr. 5	Report required showing financial results of broadcast operations for the year 1937.	Order No. 38.	38-968	703	----------	----------
Apr. 7	Amendment of order assigning Commissioners, etc, to act in various classes of applications.	Amdt. No. 2 to Order No. 28.	38-982	713	38-760	581
Apr. 9	Hearing notice, authorized power of broadcast stations on clear channels.	Docket No. 5072.	38-1006	731	38-663 38-1307	522 903
Apr. 12	Exemption from radio requirement for small passenger vessels engaged in fishing in areas between Tampa, Fla. and New Orleans, La.	----------	38-1028	737	38-1470	1002
Apr. 26	Standards of good engineering practice, non-commercial educational broadcast stations.	----------	38-1148	814	38-418 38-967	312 703
Apr. 26	Assignment of Commissioners, etc., to act on various classes of applications, amendment of paragraph 2, Order No. 28.	----------	38-1149	815	37-3613	2-2800
May 10	Frequency allocations, amendment to Order No. 19.	----------	38-1305	903	37-3107 38-1471	2-2291 1002
May 10	Exemption from radio requirement, small passenger vessels fishing between San Diego, California and the Coronados Islands.	----------	38-1306	902	38-1470	1002
May 10	Postponement of scheduled hearing on WLW and WHO applications, etc.	----------	38-1307	903	38-1006	731
May 10	Rules, standard broadcast stations; hearing, possible modification of Rule 117.	----------	38-1308	903	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER		RELATED DOCUMENTS AMENDMENTS	
			Doc. No.		F. R. Doc. No.	Page
FEDERAL COMMUNICATIONS COMMISSION—Continued						
1938 May 10	Request for certain information, Rule 117, employee and program questionnaires.	----------	38-1309	901	----------	----------
May 10	Extension of all licenses for radio stations in Alaska, other than broadcast and amateur.	----------	38-1310	902	----------	----------
May 10	Exemption from radio requirement, small passenger vessels fishing between Calcasieu Pass, Louisiana and Sabine Bank, Texas.	----------	38-1311	902	38-1470	1002
May 14	Allocation of frequencies, amendment to Rule 229.	----------	38-1367	932	37-1930 37-2544 37-2845	2-1112 2-1956 2-1956
May 26	Adoption of Rule 340-01	----------	38-1469	1002	----------	----------
May 26	Exemption of United States passenger vessels up to 15 gross tons from certain provisions of the Act of 1934.	----------	38-1470	1002	37-3611 38-1028 38-1306 38-1311	2-2800 737 902 902
May 26	Amendment to Order No. 19.	----------	38-1471	1002	38-1305	903
June 3	Rates of pay for government communications by telegraph.	Commission Order No. 41.	38-1553	1079	----------	----------
FEDERAL DEPOSIT INSURANCE CORPORATION						
Jan. 7	Resolution, report of condition etc., of earnings etc., insured state nonmember banks.	----------	38-49	32	----------	----------
May 14	Resolution approving certified statement forms.	----------	38-1375	932	----------	----------
May 20	Agents upon whom service of process may be made.	----------	38-1422	976	----------	----------
FEDERAL HOME LOAN BANK BOARD						
Feb. 18	Surety bonds; section 12 of the rules for Federal Savings and Loan Associations amended.	----------	38-516	418	37-1367	2-826
Mar. 2	Purchase of loans etc., insured by the Federal Housing Administrator, Sec. 39 of the rules for Federal Savings and Loan Associations amended.	----------	38-629	501	37-2483 38-692	2-1378 550
Mar. 5	Limiting powers to sell and service loans, section 42 of the rules for Federal Savings and Loan Associations amended.	----------	38-672	522	37-1368 38-1413	2-826 974
Mar. 9	Permission to lend on insured loans, section 39 of the rules for Federal Savings and Loan Associations amended.	----------	38-692	550	38-629	501
Mar. 17	Amendment to procedure for election of directors of banks, rules for Federal Home Loan Banks, Exhibit F.	----------	38-787	581	37-2194	2-1235
Mar. 30	Banks may accept prepayments of advances to members etc., amendment to rules for Federal Home Loan Banks.	----------	38-902	660	37-2193	2-1235
Apr. 5	Purchases or sales of securities may be approved by an investment committee.	----------	38-962	705	----------	----------
Apr. 12	Acceptance of insurance policies by borrowers, amendment to rules for Federal Home Loan Banks.	----------	38-1019	738	----------	----------
Apr. 12	Voluntary repurchases of full paid income shares, amendment to rules for Federal Savings and Loan Associations.	----------	38-1020	738	3708 37-3098	1-2101 2-2255
May 19	Limiting the powers of associations to sell loans, amendment to rules, etc.	----------	38-1413	974	38-672	522

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
FEDERAL HOME LOAN BANK BOARD—Continued						
Federal Savings and Loan Insurance Corporation						
1958 Mar. 3	Limiting the borrowing power of insured institutions, amendment to rules for insurance of accounts.		38-636	517	37-2621	2-1761
Mar. 17	Providing for determining the amount of each insured account, etc., amendment to rules for insurance of accounts, section 18.		38-788	582	522	1-311
Mar. 17	Requiring insured institutions to submit monthly reports, amendment to rules for insurance of accounts, section 14.		38-789	583		
Home Owners Loan Corporation						
Jan. 6	Bond retirement fund		38-37	30		
Jan. 11	Assumption of risk of loss by reason of mechanics liens within certain limits.	Amendment, Ch. VI of Manual.	38-71	43		
Feb. 4	Provision for filing of claims against decedents' estates, amendment to Loan Service Chapter of the Manual.		38-375	270		
Feb. 10	Amending the legal chapter of the manual, changing regulations for payment of taxes respecting evidence required from borrowers, etc.		38-450	337		
Feb. 10	Amending Section 206 of Chapter II of the Manual, responsibility of the Loan Service Division respecting delinquent taxes, etc.		38-451	337		
Feb. 10	Amending the General Chapter (Chapter I) of the Manual, determination, etc., of Corporation losses.		38-452	338		
Feb. 10	Amending Treasurer's Chapter of the Manual, method of granting relief to owners of lost, etc., securities and mutilated coupons.		38-453	338	1707	1-1058
Feb. 18	Authority to acquire reversionary interest in lands in Maryland where the Corporation owns the leasehold estate.		38-515	418		
Feb. 22	Revised limitations on Regional Manager's authority to authorize reconditioning.		38-540	441		
Feb. 25	Authorizing the General Manager and the Director of Purchase and Supply section to incur expense incident to purchases under $500.00.		38-564	457		
Mar. 22	Modifying procedure for the personal servicing of accounts, amendments of the loan Service Chapter of the manual.		38-821	611		
Apr. 7	Revoking provisions for escrow account, Treasury Chapter of the manual.		38-984	713	1701	1-1058
Apr. 12	Voluntary repurchases of H. O. L. C. investments, amendment to rules.		38-1021	738		
Apr. 13	Changing the provisions with respect to miscellaneous credits, Loan Service Chapter (II) amended.		38-1047	751		
Apr. 22	Consolidation of loan and advance accounts, amendment of Accounting Chapter.		38-1130	794	2764	1-1540
Apr. 26	Changing provisions, contracts for electric service, amendment, rental and contracts chapter of the manual.		38-1152	815		
FEDERAL HOME LOAN BANK BOARD—Continued						
Home Owners Loan Corporation—Continued						
1958 Apr. 28	Changing the requirements for division of security and indebtedness.		38-1177	823		
May 12	Authorizing Regional Treasurer to submit vouchers for reimbursement of the Imprest Cash Fund.		38-1345	923	37-1618 37-2939 37-2941	2-952 2-2083 2-2083
May 20	Tax searches, amendment to the Legal Chapter of the Manual.		38-1417	976		
FEDERAL HOUSING ADMINISTRATION						
Feb. 15	Property improvement loans, regulations, Title I of the Act.		38-470	349	38-1051	755
Feb. 15	Multifamily and group housing insurance administrative rules etc., under section 207 and 210 Title II of the National Housing Act.		38-471	367		
Feb. 15	Mutual mortgage insurance, administrative rules etc., under section 203 of the National Housing Act.		38-472	361		
Apr. 14	Property improvement loans under Title I of the Act.	Regulation No. 20 amended.	38-1051	755	38-470	349
FEDERAL POWER COMMISSION						
Jan. 4	Order of hearing, Portland General Electric Company.	Docket No. IT-5503.	38-17	6		
Jan. 8	Order continuing date of hearing, Wisconsin Public Service Corp.	Docket No. DI-134.	38-58	36	37-2712	2-1829
Jan. 11	Hearing on declaration of intention, Grand River Dam Authority.	Docket No. DI-141.	38-73	43		
Jan. 11	Order fixing place of hearing, Pacific Gas and Electric Company.	Project No. 1391.	38-74	43	37-2980	2-2109
Jan. 11	Order fixing place of hearing, Pacific Gas and Electric Company.	Project No. 708.	38-75	43	37-3369	2-2522
Jan. 26	Order fixing date for resumption of hearing applications of Bernard Francis Brabeney et al.	Docket Nos. ID-268, 515, 525, 444, 446, 471, 750, 230.	38-260	212		
Jan. 26	Order setting date of hearing, Union Public Service Company.	Docket No. IT-5504.	38-261	213		
Jan. 26	Order continuing date of hearing, Wisconsin Public Service Corporation.	Docket No. DI-134.	38-262	213	37-3593	2-2769
Feb. 1	Order fixing date of hearing, Oklahoma Gas and Electric Co. and Western Light and Power Corporation.	Docket No. IT-5486.	38-323	242	38-412 38-598	297 479
Feb. 1	Order setting date of hearing, The Southern Nebraska Power Company.	Docket No. IT-5506.	38-324	242		
Feb. 8	Order postponing hearing, Oklahoma Gas and Electric Company and Western Light and Power Corporation.	Docket No. IT-5486.	38-412	297	38-323	242
Feb. 10	Order fixing date of hearing, the Susquehanna Power Company and Philadelphia Electric Power Company.	Project No. 405.	38-442	338		
Feb. 18	Order fixing date of hearing, The Niagara Falls Power Company.	Project No. 16.	38-513	419	37-1624 37-1704	2-952 2-996
Mar. 1	Order postponing hearing, Oklahoma Gas and Electric Company and Western Light and Power Corporation.	Docket No. IT-5486.	38-598	479	38-323	242
Mar. 5	Order fixing date of hearing, Albany Lighting Company.	Docket Nos. IT-5484 and IT-5485.	38-662	522		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
FEDERAL POWER COMMISSION—Continued						
1958 Mar. 15	Order fixing date of hearing, Kentucky Utilities Company, Rate Schedule F. P. C. No. 8.	Docket No. IT-5502.	38-734	572		
Mar. 15	Order fixing date of hearing, Oklahoma Gas and Electric Co., Rate Schedule F. P. C. No. 3.	Docket IT-5508.	38-735	573	38-1081	782
Mar. 19	Order fixing date of hearing, Baton Rouge Electric Company and Louisiana Steam Generating Corporation.	Docket Nos. IT-5510, IT-5511.	38-808	600		
Apr. 9	Order fixing date of hearing, Robert W. Curtis.	Project No. 1401.	38-1005	732		
Apr. 12	Order fixing date of hearing, Arthur Peter, et al.	Docket Nos. ID-736, 554, 249, 440, 513, 732, 524, 812.	38-1034	739		
Apr. 12	Order fixing date of hearing, Robert F. Pack, et al.	Docket Nos. ID 546, 468, 389, 695, 252, 582, 315, 285, 495.	38-1035	739	38-1250	860
Apr. 12	Order fixing date of hearing, Victor Emanuel, et al.	Docket Nos. ID 707, 739, 758, 814, 464, 423, 491, 686, 303, 269, 432, 237, 398, 839, 658, 516.	38-1036	738	38-1244	860
Apr. 12	Order fixing date of hearing, John P. Pulliam, et al.	Docket Nos. ID-737, 504, 555, 490, 350, 327, 632, 624, 124.	38-1037	739		
Apr. 19	Order, further suspension and postponement of hearing, Oklahoma Gas and Electric Company.	Docket No. IT-5508.	38-1081	782	38-735	573
Apr. 23	Order fixing date of hearing, H. Hobart Porter, et al.	Docket No. ID-562, etc.	38-1139	797		
Apr. 23	Order fixing date of hearing, John L. Mange, et al.	Docket No. ID-447, etc.	38-1140	797		
Apr. 23	Order fixing date of hearing, John Edward Aldred, et al.	Docket No. ID-178, etc.	38-1141	796	38-1506	1032
Apr. 23	Order fixing date of hearing, Frank R. Phillips and John G. Frazer.	Docket Nos. ID-130, ID-842.	38-1142	797	38-1244	860
May 3	Order postponing hearing, Victor Emmanuel, et al.	Docket Nos. ID-707, etc.	38-1244	860	38-1036 38-1142	738 797
May 3	Order postponing hearing, Robert F. Pack, et al.	Docket Nos. ID-546, etc.	38-1250	860	38-1035	739
May 4	Order fixing date of hearing, Pennsylvania Power and Light Co.	Project No. 467.	38-1266	871	38-1368	932
May 14	Order postponing hearing, Pennsylvania Power and Light Co.	Project No. 467.	38-1368	932	38-1266	871
May 28	Order postponing hearing John Edward Aldred, et al.	Docket No. ID-178, etc.	38-1506	1032	38-1141	796
June 1	Order fixing date of hearing, City of Los Angeles vs. The Nevada-California Electric Corporation.	Docket No. IT-5512.	38-1525	1051		
FEDERAL TRADE COMMISSION						
Jan. 4	Order appointing examiner etc., A. L. Hilkemeyer and R. J. C. Tricou.	Docket No. 2956.	38-18	6		
Jan. 4	Trade practice rules, toilet brush manufacturing industry.	File No. 21-293.	38-19	7	37-650	2-503
Jan. 5	Trade practice rules, popular priced dress manufacturing industry.	File No. 21-300.	38-23	17	37-2480	2-1379
Jan. 5	Trade practice rules, house dress and wash frock manufacturing industry.	File No. 21-288.	38-24	15	37-3267	2-2441
Jan. 5	Findings as to facts etc. Oliver Brothers Inc. et al.	Docket No. 3088.	38-25	12	37-3214	2-2411
FEDERAL TRADE COMMISSION—Continued						
1958 Jan. 11	Opportunity to present views etc., proposed trade practice rules, shrinkage properties of woven cotton yard goods.	File No. 21-272.	38-72	44		
Jan. 18	Findings as to facts etc., Agricultural Laboratories, Inc.	Docket No. 3263.	38-157	93		
Jan. 18	Findings as to facts etc., Hansen Inoculator Company, Inc.	Docket No. 3264.	38-158	94		
Jan. 18	Findings as to facts etc., Albert L. and Lucille D. Whiting.	Docket No. 3265.	38-159	95		
Jan. 18	Findings as to facts etc., The Nitrogen Company, Inc.	Docket No. 3266.	38-160	97		
Jan. 20	Order appointing examiner, etc., Philadelphia Rubber Waste Company, et al.	Docket No. 3010.	38-195	128		
Jan. 20	Order appointing examiner, etc., Joseph Cominsky.	Docket No. 3193.	38-196	128		
Jan. 20	Order appointing examiner, etc., Universal Handkerchief Manufacturing Co., Inc.	Docket No. 3270.	38-197	129		
Jan. 20	Complaint, H. C. Brill Company, Inc.	Docket No. 3299.	38-198	126	38-514	419
Jan. 21	Promulgation of trade practice rules, metal clad door and accessories manufacturing industry.	File No. 21-313.	38-214	190	37-3774	2-2966
Jan. 29	Complaint and notice of hearing, United Fence Manufacturers Association, et al.	Docket No. 3305.	38-298	225		
Jan. 29	Order appointing examiner etc., Waldo W. Townsley.	Docket No. 3197.	38-300	230		
Jan. 29	Order appointing examiner, etc., Rudolph Y. Ray.	Docket No. 3242.	38-301	230		
Feb. 1	Order appointing examiner etc., Raritan Distillers Corporation.	Docket No. 2442.	38-325	242		
Feb. 1	Order appointing examiner, etc., The Sperry Corporation.	Docket No. 3250.	38-326	243		
Feb. 1	Findings as to facts etc., The Great Atlantic and Pacific Tea Company.	Docket No. 3031.	38-342	243	37-535	2-358
Feb. 4	Order appointing examiner etc., General Distilleries Corporation.	Docket No. 2445.	38-359	270		
Feb. 4	Order appointing examiner etc., West Penn Distilling Co., Inc.	Docket No. 2620.	38-360	271	38-1378	948
Feb. 4	Order appointing examiner, etc., Keystone Distilling Corporation.	Docket No. 2714.	38-361	271		
Feb. 4	Order appointing examiner etc., Golf Ball Manufacturers Association, et al.	Docket No. 3161.	38-362	271	38-626	501
Feb. 4	Order appointing examiner etc., Morris R. Shapiro.	Docket No. 3191.	38-363	271		
Feb. 4	Order appointing examiner etc., Dermay Perfumers, Inc.	Docket No. 3257.	38-364	272		
Feb. 4	Order appointing examiner etc., Alfred Boehm.	Docket No. 3286.	38-365	272		
Feb. 5	Order appointing examiner, etc., Predergast-Davies Company, Ltd.	Docket No. 2849.	38-377	277		
Feb. 15	Complaint etc., U. S. Hoffman Machinery Corporation.	Docket No. 3330.	38-478	381		
Feb. 18	Findings as to facts etc., H. C. Brill Co., Inc.	Docket No. 3299.	38-514	419	38-198	126
Feb. 26	Order appointing examiner etc., Argo Pen-Pencil Company, Inc.	Docket No. 3169.	38-572	472		
Feb. 26	Order appointing examiner etc., The Goudey Gum Company.	Docket No. 3313.	38-573	474		
Feb. 26	Order appointing examiner, etc., Moretrench Corporation.	Docket No. 3262.	38-574	473		
Feb. 26	Order appointing examiner etc., Grand Gaslight, Inc.	Docket No. 2596.	38-576	471		
Feb. 26	Order appointing examiner etc., Lednew Corporation.	Docket No. 2004.	38-577	471		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
FEDERAL TRADE COMMISSION—Continued						
1938 Feb. 26	Order appointing examiner etc., Duro-Test Corporation.	Docket No. 2788.	38-578	471		
Feb. 26	Order appointing examiner etc., Joseph C. Bradley et al.	Docket No. 3072.	38-579	471		
Feb. 26	Order appointing examiner etc., W. W. Kimball Company, et al.	Docket No. 3151.	38-580	472		
Feb. 26	Order appointing examiner etc., Chenille Corporation of America.	Docket No. 3201.	38-581	472		
Feb. 26	Order appointing examiners etc., Fee and Stemwedel, Inc.	Docket No. 3202.	38-582	472		
Feb. 26	Order appointing examiner etc., Nannette, Inc.	Docket No. 3223.	38-583	473		
Feb. 26	Order appointing examiner etc., Arthur R. Patterson.	Docket No. 3228.	38-584	473		
Feb. 26	Order appointing examiner, etc., Carter Carburetor Corporation.	Docket No. 3279.	38-585	473		
Mar. 2	Order appointing examiner, etc., Standard Container Manufacturers' Association, Inc., et al.	Docket No. 3289.	38-624	506		
Mar. 2	Order appointing examiner, etc., Specialties, Inc.	Docket No. 3248.	38-625	506		
Mar. 2	Findings as to facts, etc., Golf Ball Manufacturers Association, et al.	Docket No. 3161.	38-626	501	38-362	271
Mar. 3	Order appointing examiner etc., William L. Goetze.	Docket No. 3247.	38-637	518		
Mar. 3	Order appointing examiner etc., Paul Botwin and Eaula Louise Botwin.	Docket No. 3249.	38-638	518		
Mar. 8	Complaint and notice of hearing. Atlantic Commission Company.	Docket No. 3344.	38-675	527		
Mar. 8	Order appointing examiner etc., Reliable Specialty Corporation.	Docket No. 2876.	38-682	528		
Mar. 11	Order appointing examiner etc., Leopold Levoy and Nathan C. Blacher.	Docket No. 3267.	38-713	560		
Mar. 11	Order appointing examiner etc., National Silver Company, et al.	Docket No. 3162.	38-714	560		
Mar. 15	Notice of opportunity to present views etc. proposed trade practice rules for the fur industry.	File No. 21-295.	38-727	573		
Mar. 15	Notice of opportunity to present views etc. proposed trade practice rules for the wood cased lead pencil manufacturing industry.	File No. 21-308.	38-739	573		
Mar. 17	Order appointing examiner etc., Joseph Rosenfeld.	Docket No. 3158.	38-761	583		
Mar. 17	Order appointing examiner etc., Donald Reichgott.	Docket No. 3260.	38-762	583		
Mar. 17	Order appointing examiner etc., Irving Schwartz.	Docket No. 3277.	38-763	583		
Mar. 18	Promulgation of trade practice rules, wholesale jewelry industry.	File No. 21-289.	38-797	592	37-2568	2-1422
Mar. 19	Order appointing examiner etc., Hershey Chocolate Corporation et al.	Docket No. 3134.	38-809	603		
Mar. 19	Promulgation of trade practice rules for the carbon dioxide manufacturing industry.	File No. 21-297.	38-811	601	37-782	2-560
Mar. 24	Order appointing examiner etc., Guy J. Banta.	Docket No. 3185.	38-842	631		
Mar. 26	Order appointing examiner etc., Day-Lite Illuminating Corporation.	Docket No. 2663.	38-878	637		
Apr. 6	Order appointing examiner etc., Saks and Company.	Docket No. 3298.	38-980	709		
Apr. 8	Order appointing examiner etc., William A. Woodbury Sales Co.	Docket No. 3113.	38-1000	726		
Apr. 9	Order appointing examiner etc., Charles Atlas, Ltd.	Docket No. 3308.	38-1007	733		
Apr. 9	Complaint and notice, Merck and Company.	Docket No. 3373.	38-1008	732		
FEDERAL TRADE COMMISSION—Continued						
1938 Apr. 12	Order appointing examiner etc., Good Humor Corporation of America, et al.	Docket No. 3250.	38-1022	740		
Apr. 12	Order appointing examiner etc., Walter Jackson.	Docket No. 3348.	38-1023	740		
Apr. 12	Order appointing examiner etc., Robert E. Waterman.	Docket No. 3338.	38-1024	740		
Apr. 13	Order appointing examiner etc., Rex Merchandise Corporation of America.	Docket No. 3142.	38-1041	752		
Apr. 13	Order appointing examiner, Abraham Starr.	Docket No. 3190.	38-1042	752		
Apr. 14	Complaint etc., Miami Wholesale Drug Corporation.	Docket No. 3377.	38-1052	756		
Apr. 22	Order appointing examiner etc., U. S. Hoffman Machinery Corporation.	Docket No. 3330.	38-1132	795		
Apr. 23	Complaint etc., Curtice Brothers Company.	Docket No. 3381.	38-1136	798		
Apr. 28	Order appointing examiner etc., Joseph W. Graff.	Docket No. 3182.	38-1167	823		
Apr. 28	Order appointing examiner etc., Theodore H. Koolish.	Docket No. 3184.	38-1168	823		
Apr. 28	Order appointing examiner etc., S. C. Ross.	Docket No. 3205.	38-1169	824		
Apr. 28	Order appointing examiner etc. James I. Silver.	Docket No. 3211.	38-1170	824		
Apr. 28	Order appointing examiner etc., Cherry Specialty Co.	Docket No. 3215.	38-1171	824		
Apr. 28	Order appointing examiner etc., Irwin Scadron.	Docket No. 3219.	38-1172	824		
Apr. 28	Order appointing examiner etc., Philip H. Koolish, Jr.	Docket No. 3246.	38-1173	825		
Apr. 28	Order appointing examiner etc., J. A. Schwartz.	Docket No. 3253.	38-1174	825		
Apr. 29	Order appointing examiner, etc., Merrill Candy Company.	Docket No. 3128.	38-1190	834		
Apr. 29	Order appointing examiner, etc., Mutual Printing Inc.	Docket No. 3166.	38-1191	834		
Apr. 29	Order appointing examiner, etc., Edward and Dorothy Harris.	Docket No. 3171.	38-1192	834		
Apr. 29	Order appointing examiner, etc., J. C. Robertson.	Docket No. 3178.	38-1193	834		
Apr. 29	Order appointing examiner, etc., Hyman Mendels.	Docket No. 3179.	38-1194	835		
Apr. 29	Order appointing examiner, etc., Sidney A. Weitzman.	Docket No. 3245.	38-1195	835		
Apr. 29	Order appointing examiner, etc., Fred W. Herrschner, Jr.	Docket No. 3251.	38-1196	835		
Apr. 29	Order appointing examiner, etc., Martin. W. Slaton.	Docket No. 3252.	38-1197	835		
Apr. 29	Order appointing examiner, etc., Roy B. Davis.	Docket No. 3323.	38-1198	836		
Apr. 29	Order appointing examiner, etc., John Milton Bregstone.	Docket No. 3326.	38-1199	836		
Apr. 29	Order appointing examiner, etc., Charles M. Bregstone.	Docket No. 3327.	38-1200	836		
Apr. 29	Order appointing examiner, etc., Celia Sarasin.	Docket No. 3335.	38-1201	836		
Apr. 29	Complaint, etc., Master Lock Company.	Docket No. 3386.	38-1202	832		
Apr. 30	Order appointing examiner, etc., Fascination Candy Company.	Docket No. 3321.	38-1226	845		
Apr. 30	Order appointing examiner, etc., Ambrosia Candy Co.	Docket No. 3315.	38-1227	845		
Apr. 30	Order appointing examiner, etc., E. J. Brach and Sons, et al.	Docket No. 3307.	38-1228	845		
Apr. 30	Order appointing examiner, etc., William C. Steffy, et al.	Docket No. 3238.	38-1229	845		
May 3	Order appointing examiner, etc., John C. Meritt.	Docket No. 3207.	38-1246	861		
May 4	Complaint, etc., American Flange and Manufacturing Co., Inc.	Docket No. 3391.	38-1264	872		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
FEDERAL TRADE COMMISSION—Continued						
1938 May 4	Order appointing examiner, etc., Hochschild, Kohn and Co.	Docket No. 2966.	38-1265	874		
May 4	Order to cease and desist, Nelle K. Wing.	Docket No. 3350.	38-1267	874		
May 6	Order to cease and desist, Ralph C. Curtiss, alias C. A. Davis and Morris E. Newman.	Docket No. 3329.	38-1282	894	38-1294	897
May 7	Order to cease and desist, Morris E. Newman.	Docket No. 3328.	38-1294	897	38-1282	894
May 11	Order to cease and desist, Waldo W. Townsley.	Docket No. 3197.	38-1323	911		
May 12	Order appointing examiner etc., Frank Spors.	Docket No. 3165.	38-1340	923		
May 12	Order appointing examiner etc., Harland L. Herb.	Docket No. 3240.	38-1341	923		
May 12	Order appointing examiner etc., Cornelius P. Van Schaack, Jr.	Docket No. 3261.	38-1342	924		
May 12	Order appointing examiner etc., Kendall Company.	Docket No. 3320.	38-1343	924		
May 12	Order appointing examiner etc., Hild Floor Machine Co.	Docket No. 3356.	38-1344	924		
May 14	Order appointing examiner etc., Harry A. and Louis G. Rippner.	Docket No. 3244.	38-1373	932		
May 17	Order to cease and desist, West Penn Distilling Co., Inc.	Docket No. 2620.	38-1378	948	38-360	271
May 17	Order appointing examiner etc., Louisville Pottery Co.	Docket No. 3296.	38-1383	948		
May 18	Order appointing examiner etc., Allied Specialties, Inc.	Docket No. 3360.	38-1396	966		
May 21	Order appointing examiner etc., New York Pattern Company, Inc. et al.	Docket No. 3119.	38-1435	981		
May 24	Order to cease and desist, Central Pattern and Foundry Company.	Docket No. 2954.	38-1445	987	37-594	2-459
May 25	Order to cease and desist, Tarpon Springs Sponge Exchange, Inc. et al.	Docket No. 3024.	38-1451	995	37-2089	2-1170
May 25	Modified order to cease and desist, LaSalle Extension University.	Docket No. 2654.	38-1452	996		
May 25	Order to cease and desist, Colonial Dames, Inc.	Docket No. 3104.	38-1456	996		
May 26	Order appointing examiner etc., Fan Tan Company, Inc.	Docket No. 3352.	38-1467	1002		
May 26	Order appointing examiner etc., Roy E. Reed and Florence A. Reed.	Docket No. 3255.	38-1468	1003		
May 26	Order appointing examiner etc., Jack Rosenfeld.	Docket No. 3212.	38-1472	1003		
May 26	Order appointing examiner etc., Yale I. Glubok.	Docket No. 3275.	38-1473	1003		
May 26	Order appointing examiner, etc., Samuel I. Silfers.	Docket No. 3311.	38-1474	1003		
May 28	Order appointing examiner etc., Harold L. Rothschild.	Docket No. 2829.	38-1505	1032		
June 1	Order appointing examiner, etc., Lincoln Locker Corporation.	Docket No. 3345.	38-1527	1051		
June 3	Order appointing examiner, etc., Fireside Industries, Inc.	Docket No. 3362.	38-1549	1081		
June 3	Order appointing examiner, etc., Albert E. Berger.	Docket No. 3366.	38-1550	1081		
June 3	Notice of opportunity to present views etc., proposed trade practice rules, macaroni etc., industry.	File No. 21-327.	38-1551	1061		
FOREIGN TRADE ZONES BOARD						
June 2	Instructions; publications etc., of schedules containing all the rules etc., for all services and privileges within foreign-trade zones.		38-1538	1072		

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
INTERNATIONAL FISHERIES COMMISSION						
1938 Mar. 9	Regulations adapted pursuant to the Pacific Halibut Fishery Convention.		38-691	551		
INTERSTATE COMMERCE COMMISSION						
Jan. 4	Maximum hours of service, motor carrier employees.	Ex parte No. MC2.	38-20	7	1588	1-1015
Jan. 5	Order, annual reports from steam railway companies.		38-29	19	37-309	2-226
Jan. 5	Order, annual reports of block signals, etc.		38-30	19	37-3603	2-2771
Jan. 8	Regulations, destruction of records of steam roads, issue of 1914, amendment.		38-59	36		
Jan. 11	Order, regulations governing construction, etc., of tariffs for common carriers by motor vehicle and form, etc., of schedules of contract carriers.	Tariff Circular MF No. 2.	38-77	44		
Jan. 18	Supplemental order regarding security for protection of public and rules, etc., for filing surety bonds, etc.	Ex Parte No. MC5.	38-161	99	37-471	2-351
Jan. 19	Notice, Fifteen Percent Case, 1937.	Ex Parte No. 123.	38-180	119	37-3645	2-2802
Jan. 20	Order, regulations for transportation of explosives, etc.	3666	38-194	129	37-3602	2-2771
Jan. 25	Order relative to monthly reports of revenues and expenses Class I steam railways.		38-235	202	37-220	2-142
Jan. 25	Order relative to periodical reports of operating statistics, Class I steam railways.		38-236	202	37-1504	2-895
Feb. 5	Order, uniform system of accounts to be kept by steam roads.		38-389	277	37-3797	2-2973
Feb. 12	Supplementary regulations relative to bids of carriers subject to the Clayton Antitrust Act for securities, etc.	Ex Parte No. 54.	38-467	344		
Mar. 4	Statistical data, electric railways.		38-660	519		
Mar. 11	Order, A. Johnston, Grand Chief Engineer of the Brotherhood of Locomotive Engineers et al., v. Atlantic Coast Line Railroad Company, et al.	No. 24050	38-717	560	37-1805	2-1040
Mar. 23	Practices of motor carriers of household goods.	Ex Parte No. MC-19.	38-839	616		
Mar. 25	Order concerning motor carrier rates in New York, New Jersey, Pennsylvania and Delaware.	Ex Parte No. MC 20.	38-862	635	38-1554 38-1555	1082 1082
Mar. 29	Order, regulations for transportation of explosives, etc.	No. 3666	38-899	652	37-3602	2-2771
Mar. 30	Order, uniform system of accounts to be kept by express companies.		38-905	660		
Apr. 9	Order, investigation of motor carrier rates in central territory.	Ex Parte No. MC 21.	38-1016	733	38-1102	783
Apr. 9	Hearing, rates in central territory.	Ex Parte No. MC21; I. & S. Docket No. M-278.	38-1017	734		
Apr. 15	Order relative to motor carrier rates in New England.	Ex Parte No. MC 22.	38-1067	762	38-1187	825
Apr. 19	Order, motor carrier rates in central territory.	Ex Parte No. MC 21.	38-1102	783	38-1016	733
Apr. 28	Corrected order, motor carrier rates in New England.	Ex Parte No. MC 22.	38-1187	825	38-1067	762
May 21	Order, uniform system of accounts to be kept by steam roads.		38-1437	981		
June 3	Order relative to motor carrier rates, New York, New Jersey, Pennsylvania, and Delaware.	Ex Parte No. MC20.	38-1554	1082	38-862	635
June 3	Order relative to motor carrier rates in New York, New Jersey, Pennsylvania, and Delaware.	Ex Parte No. MC20.	38-1555	1082	38-862	635

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
THE NATIONAL ARCHIVES						
Administrative Committee of the Federal Register						
1958						
May 28	Federal Register regulations.	----------	38-1510	1013	----------	----------
NATIONAL LABOR RELATIONS BOARD						
May 13	Order changing territories, Iowa placed in 18th Region.	----------	38-1356	927	434	1-277
THE PANAMA CANAL						
Apr. 27	Open market purchases in amounts not exceeding $500.	Circular No. 690-2.	38-1164	817	----------	----------
Apr. 29	Rules, cash relief for disabled employees entitled to benefits of Act of Congress, July 8, 1937.	Circular No. 731.	38-1203	840	38-751	574
RAILROAD RETIREMENT BOARD						
Jan. 5	Regulations, preparation of employers' reports of monthly compensation of employees, etc.	----------	38-31	19	----------	----------
Jan. 20	Regulations, appeals within the Board.	----------	38-189	133	38-273	216
Jan. 21	Regulations, notification by employers of the death of employees.	----------	38-213	191	----------	----------
Jan. 27	Amendment to regulations governing appeals within the Board.	----------	38-273	216	38-189	133
Mar. 26	Regulations governing designation or change of beneficiary.	----------	38-879	638	----------	----------
Apr. 7	Regulations relating to the existence or non-existence of an employment relation as defined in the Act of 1937.	----------	38-983	713	----------	----------
RURAL ELECTRIFICATION ADMINISTRATION						
Jan. 6	Allocation of funds for loans.	A. O. No. 179.	38-40	30	----------	----------
Jan. 12	Allocation of funds for loans.	A. O. No. 180.	38-91	65	----------	----------
Jan. 14	Allocation of funds for loans.	A. O. No. 181.	38-125	81	----------	----------
Jan. 25	Allocation of funds for loans.	A. O. No. 182.	38-234	202	38-872 38-975 38-1528	639 709 1051
Feb. 3	Allocation of funds for loans.	A. O. No. 183.	38-349	259	----------	----------
Feb. 9	Allocation of funds for loans.	A. O. No. 185.	38-415	313	38-599	479
Feb. 9	Allocation of funds for loans.	A. O. No. 186.	38-416	313	38-1541	1074
Mar. 1	Amendment of allocation of funds for loans.	A. O. No. 191.	38-599	479	38-415	313
Mar. 1	Allocation of funds for loans.	A. O. No. 192.	38-600	479	----------	----------
Mar. 1	Allocation of funds for loans.	A. O. No. 193.	38-601	479	----------	----------
Mar. 1	Allocation of funds for loans.	A. O. No. 194.	38-602	479	38-871 38-1541	638 1074
Mar. 1	Allocation of funds for loans.	A. O. No. 195.	38-603	479	----------	----------
Mar. 1	Allocation of funds for loans.	A. O. No. 196.	38-604	479	----------	----------
Mar. 1	Allocation of funds for loans.	A. O. No. 197.	38-605	479	----------	----------
Mar. 4	Allocation of funds for loans.	A. O. No. 198.	38-649	520	38-874	639
Mar. 4	Allocation of funds for loans.	A. O. No. 199.	38-650	520	----------	----------
Mar. 4	Allocation of funds for loans.	A. O. No. 200.	38-651	520	38-870	638
Mar. 4	Allocation of funds for loans.	A. O. No. 201.	38-652	520	----------	----------
Mar. 4	Allocation of funds for loans.	A. O. No. 202.	38-653	590	----------	----------
Mar. 8	Allocation of funds for loans.	A. O. No. 203.	38-674	529	----------	----------
RURAL ELECTRIFICATION ADMINISTRATION—Continued						
1958						
Mar. 10	Allocation of funds for loans.	A. O. No. 204.	38-701	556	----------	----------
Mar. 10	Allocation of funds for loans.	A. O. No. 205.	38-702	557	----------	----------
Mar. 10	Allocation of funds for loans.	A. O. No. 206.	38-703	557	----------	----------
Mar. 10	Amendment of allocation of funds for loans.	A. O. No. 207.	38-704	557	37-3240	2-2424
Mar. 12	Allocation of funds for loans.	A. O. No. 208.	38-719	563	----------	----------
Mar. 12	Allocation of funds for loans.	A. O. No. 209.	38-720	563	----------	----------
Mar. 12	Allocation of funds for loans.	A. O. No 210.	38-721	563	----------	----------
Mar. 17	Allocation of funds for loans.	A. O. No. 211.	38-757	584	----------	----------
Mar. 17	Amendment of allocation of funds for loans.	A. O. No. 212.	38-758	584	37-3239 37-3343 37-3489	2-2424 2-2501 2-2676
Mar. 17	Allocation of funds for loans.	A. O. No. 213.	38-759	584	----------	----------
Mar. 22	Amendment of allocation of funds for loans.	A. O. No. 214.	38-818	611	37-3277	2-2449
Mar. 22	Allocation of funds for loans.	A. O. No. 215.	38-819	611	----------	----------
Mar. 23	Allocation of funds for loans.	A. O. No. 216.	38-830	617	----------	----------
Mar. 23	Allocation of funds for loans.	A. O. No. 217.	38-831	617	38-1124	792
Mar. 23	Allocation of funds for loans.	A. O. No. 218.	38-832	617	----------	----------
Mar. 23	Allocation of funds for loans.	A. O. No. 219.	38-833	617	----------	----------
Mar. 26	Allocation of funds for loans.	A. O. No. 220.	38-868	638	----------	----------
Mar. 26	Amendment of allocation of funds for loans.	A. O. No. 221.	38-869	638	37-3077	2-2247
Mar. 26	Amendment of allocation of funds for loans.	A. O. No. 222.	38-870	638	38-651	520
Mar. 26	Amendment of allocation of funds for loans.	A. O. No. 223.	38-871	638	38-602	479
Mar. 26	Amendment of allocation of funds for loans.	A. O. No. 224.	38-872	639	38-234	202
Mar. 26	Amendment of allocation of funds for loans.	A. O. No. 225.	38-873	639	37-3521	2-2684
Mar. 26	Amendment of allocation of funds for loans.	A. O. No. 226.	38-874	639	38-649	520
Mar. 26	Allocation of funds for loans.	A. O. No. 227.	38-875	639	38-1541	1074
Mar. 26	Allocation of funds for loans.	A. O. No. 228.	38-876	639	----------	----------
Mar. 26	Allocation of funds for loans.	A. O. No. 229.	38-877	639	38-1541	1074
Apr. 5	Amendment of allocations of funds for loans.	A. O. No. 230.	38-959	705	37-976 37-1705 37-3153 37-3009 37-2719 37-3343 37-3802 37-3489 37-3077 37-2689	2-551 2-906 2-2389 2-2176 2-1831 2-2501 2-1877 2-2676 2-2247 2-1812 2-1812
Apr. 5	Amendment of allocation of funds for loans.	A. O. No. 231.	38-960	705	37-2689	2-1812
Apr. 5	Allocation of funds for loans.	A. O. No. 232.	38-961	705	----------	----------
Apr. 6	Amendment of allocation of funds for loans.	A. O. No. 233.	38-975	709	38-234	202
Apr. 6	Allocation of funds for loans.	A. O. No. 234.	38-976	709	----------	----------
Apr. 6	Allocation of funds for loans.	A. O. No. 235.	38-977	710	----------	----------
Apr. 15	Allocation of funds for loans.	A. O. No. 236.	38-1057	762	----------	----------
Apr. 21	Allocation of funds for loans.	A. O. No. 237.	38-1122	792	----------	----------
Apr. 21	Amendment of allocation of funds for loans.	A. O. No. 238.	38-1124	792	37-3519 38-831	2-2684 617
Apr. 21	Allocation of funds for loans.	A. O. No. 239.	38-1123	792	----------	----------
Apr. 27	Allocation of funds for loans.	A. O. No. 241.	38-1162	816	----------	----------
May 3	Allocation of funds for loans.	A. O. No. 242.	38-1243	861	----------	----------
May 4	Allocation of funds for loans.	A. O. No. 243.	38-1258	875	----------	----------
May 10	Allocation of funds for loans.	A. O. No. 244.	38-1302	903	----------	----------
May 10	Allocation of funds for loans.	A. O. No. 245.	38-1303	903	----------	----------
May 14	Allocation of funds for loans.	A. O. No. 246.	38-1365	933	----------	----------
May 14	Amendment of allocations of funds for loans.	A. O. No. 247.	38-1366	933	37-2573	2-1428
May 20	Allocation of funds for loans.	A. O. No. 248.	38-1418	976	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
RURAL ELECTRIFICATION ADMINISTRATION—Continued						
1958						
May 20	Allocation of funds for loans.	A. O. No. 249.	38-1419	976	----------	----------
May 25	Allocation of funds for loans.	A. O. No. 250.	38-1454	997	----------	----------
June 1	Amendment of allocation of funds for loans.	A. O. No. 251.	38-1528	1051	38-234	202
June 2	Allocation of funds for loans.	A. O. No. 252.	38-1539	1074	----------	----------
June 2	Allocation of funds for loans.	A. O. No. 253.	38-1540	1074	----------	----------
June 2	Amendment of allocation of funds for loans.	A. O. No. 254.	38-1541	1074	37-2689 37-3343 38-416 38-602 38-875 38-877	2-1812 2-2501 313 479 639 639
June 2	Allocation of funds for loans.	A. O. No. 255.	38-1542	1074	----------	----------
SECURITIES AND EXCHANGE COMMISSION						
Jan. 1	Order pursuant to section 10, Holding Company Act of 1935, Lexington Utilities Company & Kentucky Securities Company.	File No. 46-85	38-4	4	37-3819	2-2084
Jan. 1	Applications for approval of reorganization plans.	Rule 11F-1...	38-5	3	38-1327	911
Jan. 1	Order approving acquisition of securities, Cumberland Light & Power Company.	File No. 46-84	38-6	3	37-3646	2-2803
Jan. 4	Findings and order, American Water Works and Electric Company.	File No. 54-1.	38-21	8	37-2634	2-1762
Jan. 4	Order for hearing, Gerald M. Loeb et al.	----------	38-22	9	38-1459	997
Jan. 5	Adoption of rule 170 under Article 6, Act of 1933.	----------	38-32	25	----------	----------
Jan. 5	Adoption of rule MC9, Act of 1934.	----------	38-33	25	----------	----------
Jan. 5	Order setting hearing, etc., Teck-Hughes Gold Mines, Ltd.	File No. 1-1530.	38-34	25	37-699 38-352	2-519 260
Jan. 11	Order pursuant to section 5(D) Holding Company Act of 1935, Public Service Corp. of Texas.	File No. 30-61	38-85	51	37-2627	2-1642
Jan. 11	Order granting application, etc., Adams Express Company.	File No. 1-2091.	38-86	50	37-3530 38-102 38-1428	2-2685 66 978
Jan. 11	Order granting application, etc., Seuillin Steel Company.	File No. 1-1060.	38-87	50	----------	----------
Jan. 11	Order for hearing, Obra Mines Corp.	----------	38-88	51	38-916	666
Jan. 12	Order setting hearing on application, etc., Market Street Railway Company et al.	File No. 1-957	38-99	66	38-1106	789
Jan. 12	Order under Holding Company Act of 1935, Massachusetts Lighting Companies et al.	File Nos. 50-2, 50-3, 50-4.	38-100	65	37-3515 37-3516 37-3517	2-2677 2-2676 2-2677
Jan. 12	Amendment of rules under Holding Company Act of 1935, reports of acquisitions under Rule 9C-3.	Rule 14-1....	38-101	65	----------	----------
Jan. 12	Order setting hearing on application, etc., Adams Express Company.	File No. 1-2091.	38-102	66	38-86	50
Jan. 13	Stop order, Ypres Cadillac Mines Limited.	File No. 2-3397.	38-118	78	----------	----------
Jan. 13	Order postponing hearing Chollar Extension Mining Company.	----------	38-119	77	37-3807 38-270	2-2981 214
Jan. 13	Order granting application, Berkey and Gay Furniture Company, common stock.	File No. 7-90.	38-120	77	37-83	2-50
Jan. 13	Order granting application Atlas Corporation, common stock.	File No. 7-126.	38-121	77	37-86	2-50
Jan. 14	Stop order, Gold Dust Mining & Milling Company.	File No. 2-3331	38-129	81	----------	----------
Jan. 15	Order granting application, The Annapolis Dairy Products Company.	File No. 1-1648.	38-142	86	37-3531	2-2685
Jan. 15	Order to show cause etc., Prima Company.	----------	38-143	86	38-756	577
SECURITIES AND EXCHANGE COMMISSION—Continued						
1958						
Jan. 15	Order pursuant to section 10, etc., application of Sioux Gas and Electric Company.	File No. 46-86.	38-144	87	37-3686	2-2848
Jan. 19	Order for hearing, Central New Hampshire Power Company.	File No. 30-31.	38-181	120	38-479	382
Jan. 19	Order for hearing, Utilities Holding Corporation.	File No. 31-403.	38-182	120	----------	----------
Jan. 19	Order for hearing, Permian Oil and Gas Company, et al.	File No. 31-112.	38-183	120	----------	----------
Jan. 19	Order for hearing, Godfrey L. Cabot, Inc.	File No. 31-385.	38-184	119	----------	----------
Jan. 19	Order for hearing, Burlington Railway and Light Company.	File No. 31-51.	38-185	119	----------	----------
Jan. 19	Order for hearing, Washington Gas Light Company and Washington and Suburban Companies.	File Nos. 46-88 and 32-78; 46-89 and 54-2.	38-186	121	----------	----------
Jan. 20	Stop order, Trenton Valley Distillers Corporation.	File No. 2-1879.	38-199	134	----------	----------
Jan. 20	Order dismissing declaration, The Mission Oil Company.	File No. 43-97.	38-200	134	37-3895	2-2979
Jan. 21	Order fixing effective date for declaration, American Water Works and Electric Company, Inc.	File No. 43-96.	38-216	192	37-3653	2-2807
Jan. 21	Order revoking registration, Virgil E. Walker.	----------	38-217	192	----------	----------
Jan. 22	Order for hearing, offering sheet by Fred X. Sulzbach, (Marlarnee & Shelton-Flowers Tract).	----------	38-221	194	38-518	422
Jan. 25	Amendment No. 1 of Form 1-MD, Securities Act of 1933; Securities Exchange Act of 1934.	----------	38-238	203	----------	----------
Jan. 25	Amendment No. 3 to Form 12-K, Securities Exchange Act of 1934.	----------	38-239	203	----------	----------
Jan. 25	Order for hearing, Penn Western Gas and Electric Company.	File Nos. 43-99, 51-9.	38-240	203	38-917 38-918	666 666
Jan. 25	Order granting application, etc., The Cudahy Packing Company.	File No. 7-162.	38-241	204	37-1491 37-1563	2-898 2-921
Jan. 25	Order denying application etc., Cumberland County Power and Light Company.	File No. 7-163.	38-242	204	37-1490 37-1563	2-869 2-921
Jan. 25	Order granting application etc., New England Power Company.	File No. 7-164.	38-243	204	37-1484 37-1563	2-870 2-921
Jan. 25	Order granting application, etc., The Peoples Gas Light and Coke Company.	File No. 7-167.	38-244	204	37-1464	2-892
Jan. 25	Order granting application etc., Atlantic City Electric Company.	File No. 7-171.	38-245	204	37-1461	2-860
Jan. 25	Order denying application etc., California Water Service Company.	File No. 7-172.	38-246	205	37-1460	2-861
Jan. 25	Order granting application etc., Florida Power Corporation.	File No. 7-173.	38-247	205	37-1489	2-889
Jan. 25	Order granting application etc., Metropolitan Edison Company.	File No. 7-174.	38-248	205	37-1487	2-869
Jan. 25	Order denying application etc., Missouri Power and Light Company.	File No. 7-175.	38-249	205	37-1486	2-870
Jan. 25	Order denying application etc., Pacific Lighting Corporation.	File No. 7-176.	38-250	206	37-1480	2-871
Jan. 25	Order granting application etc., Associated Gas and Electric Corporation, 4½% debentures.	File No. 7-182.	38-251	206	37-1454	2-859
Jan. 25	Order granting application etc., Associated Gas and Electric Corporation, 5% debentures.	File No. 7-183.	38-252	206	37-1453	2-860
Jan. 25	Order denying application etc., Associated Gas and Electric Corporation, 3½% debentures.	File No. 7-184.	38-253	206	37-1452	2-860
Jan. 25	Order denying application etc., Associated Gas and Electric Corporation, 4½% debentures due February 1, 1978.	File No. 7-185.	38-254	206	37-1462	2-860

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
SECURITIES AND EXCHANGE COMMISSION—Continued						
1938 Jan. 25	Order granting application etc., Cities Service Company, 5% gold debentures due April 1, 1958.	File No. 7-186.	38-255	207	37-1456	2-861
Jan. 25	Order denying application etc., Cities Service Company 5% gold debentures due November 1, 1963.	File No. 7-187.	38-256	207	37-1458	2-862
Jan. 25	Order granting application etc., Cities Service Company 5% gold debentures due March 1, 1969.	File No. 7-188.	38-257	207	37-1457	2-862
Jan. 25	Order granting application etc., Houston Lighting and Power Company.	File No. 7-189.	38-258	207	37-1488	2-869
Jan. 25	Order granting application etc., Northern States Power Company (Minn.).	File No. 7-190.	38-259	208	37-1483	2-871
Jan. 26	Rules for the regulation of short-selling.	----------	38-266	213	38-483 38-1077	382 765
Jan. 26	Order, Genesee Valley Gas Company, Inc.	File No. 52-1.	38-267	213	37-2772	2-1865
Jan. 26	Order dismissing application, etc., Richfield Oil Corporation.	File No. 1-2913.	38-268	214	37-2546	2-1403
Jan. 26	Order setting hearing, etc., Botany Consolidated Mills, Inc.	File No. 1-2140.	38-269	214	38-826	612
Jan. 26	Order dismissing proceedings, Chollar Extension Mining Co.	----------	38-270	214	38-119	77
Jan. 28	Order for hearing, Ohio Oil Company.	File No. 31-79.	38-279	221	----------	----------
Jan. 28	Order for hearing, Peoples Water and Gas Company.	File No. 43-102.	38-280	221	----------	----------
Jan. 28	Order for hearing, Community Power and Light Company.	File No. 34-12.	38-281	221	----------	----------
Jan. 28	Order for hearing, The Middle West Corporation.	File No. 46-91.	38-282	222	38-517	422
Jan. 29	Order for hearing, Stone and Webster and Blodget, Inc.	File No. 31-405.	38-305	230	----------	----------
Feb. 1	Order granting application, etc., Standard Gas and Electric Co.	File No. 7-211.	38-328	251	----------	----------
Feb. 1	Order granting application, etc., Standard Gas and Electric Company.	File No. 7-213.	38-329	252	----------	----------
Feb. 1	Order granting application, etc., Standard Gas and Electric Company.	File No. 7-210.	38-330	251	----------	----------
Feb. 1	Order granting application, etc., Standard Gas and Electric Company.	File No. 7-212.	38-331	252	----------	----------
Feb. 1	Order for hearing, Cumberland County Power and Light Company.	File No. 32-79.	38-332	251	38-655	521
Feb. 3	Order for hearing, Republic Electric Power Corporation.	File No. 43-103.	38-350	259	38-1126 38-1364	792 928
Feb. 3	Order setting hearing on application, etc., Allied Products Corporation.	File No. 1-2355.	38-351	260	38-684	529
Feb. 3	Order postponing hearing, Teck-Hughes Gold Mines, Ltd.	File No. 1-1530.	38-352	260	38-34	25
Feb. 3	Order withdrawing registration, etc., Michigan-Utah Consolidated Mines Co.	File No. 1-341.	38-353	260	37-3221	2-2413
Feb. 3	Order withdrawing registration, etc., Rosetta Mines Company.	File No. 1-2252.	38-354	261	37-3185	2-2403
Feb. 4	Order revoking registration, Foreman and Company, Denver, Colorado.	----------	38-368	272	----------	----------
Feb. 4	Order withdrawing registration of securities, Jumbo Extension Mining Co.	File No. 1-2587.	38-369	272	37-3186	2-2403
Feb. 5	Order granting application etc., The New York, Chicago and St. Louis Railroad Company.	File No. 1-742.	38-378	277	37-3582	2-2762
Feb. 5	Order setting hearing etc., Knudsen Creamery Company of California.	File No. 1-2949.	38-379	277	38-998	727
Feb. 8	Order revoking registration, Campagnoli and Company, Inc.	----------	38-408	297	----------	----------
SECURITIES AND EXCHANGE COMMISSION—Continued						
1938 Feb. 9	Order revoking registration, Trusteed Collateral Corporation.	----------	38-421	313	----------	----------
Feb. 9	Amendments to rules of practice, Acts of 1933 and 1934 and Holding Company Act.	----------	38-422	313	----------	----------
Feb. 10	Order for hearing, Southern Natural Gas Company.	File No. 47-18.	38-443	339	38-834	617
Feb. 15	Order pursuant to section 5 (D), Act of 1935, Central New Hampshire Power Company.	File No. 30-31.	38-479	382	38-181	120
Feb. 15	Order setting hearing etc., Olinda Land Company.	File No. 1-374.	38-480	382	38-997	727
Feb. 15	Stop order, Crusader Aircraft Corporation.	File No. 2-3415.	38-481	383	----------	----------
Feb. 15	Order withdrawing registration etc., United Towns Electric Company, Ltd.	File No. 1-2083.	38-482	383	37-3332	2-2485
Feb. 15	Rules for the regulation of short-selling amended, Act of 1934.	----------	38-483	382	38-266	213
Feb. 16	Order for hearing, Columbia Engineering Corporation.	File No. 37-22.	38-495	384	38-1115	790
Feb. 17	Order for hearing, etc., Missouri-Pacific Railroad Company.	File No. 1-2139.	38-502	413	38-887 38-723	474 593
Feb. 18	Order pursuant to section 10, Act of 1935, The Middle West Corporation.	File No. 46-91.	38-517	422	38-282	222
Feb. 18	Order terminating proceedings after amendment, Fred X. Suirbech (Mariarnee & Shelton-Flowers Tract).	----------	38-518	422	38-221	194
Feb. 19	Order for hearing, Republic Electric Power Corporation.	File No. 47-19.	38-530	435	38-1126 38-1364	792 928
Feb. 22	Order setting hearing etc., Cusi Mexicana Mining Company.	File No. 1-2163.	38-543	441	38-1219	837
Feb. 22	Order for hearing The Greenville Electric Light and Power Company.	File No. 32-80.	38-544	442	----------	----------
Feb. 24	Order for hearing etc., H. B. Sears (Ohio-Dahl Tract).	----------	38-557	443	38-687	530
Feb. 24	Order for hearing, Kennecott Copper Corporation.	File No. 31-407.	38-558	443	----------	----------
Feb. 24	Order revoking registration, William J. Stratton.	----------	38-559	444	----------	----------
Feb. 26	Order changing date for hearing, Missouri Pacific Railroad Company.	File No. 1-2139.	38-587	474	38-502	413
Mar. 1	Order setting hearing, New York Steam Corporation.	File No. 1-1165.	38-607	484	38-1218	839
Mar. 1	Order setting hearing, The Lehigh Valley Coal Company.	File No. 1-276.	38-608	484	38-1217	838
Mar. 1	Order setting hearing, National Railways of Mexico.	File No. 1-2433.	38-609	484	38-1216	838
Mar. 1	Order setting hearing, The Fairbanks Company.	File No. 1-1509.	38-610	484	38-1215	838
Mar. 1	Order setting hearing, Duluth, South Shore and Atlantic Railway Company.	File No. 1-1115.	38-611	483	38-1214	838
Mar. 1	Order granting request to withdraw application etc., Merchants Petroleum Company.	File No. 1-1813.	38-612	483	37-1956	2-1115
Mar. 1	Stop order, T. I. S. Management Corporation.	File Nos. 2-1363, 2-2316	38-613	485	----------	----------
Mar. 1	Stop order, Cimarron Petroleum Trust.	File No. 2-1712.	38-614	485	----------	----------
Mar. 1	Adoption of exemptions relating to interests in an oil royalty trust etc., Act of 1933.	Regulation B-T.	38-615	479	----------	----------
Mar. 1	Amendments to rules 200, 201 and 202 of the General Rules and Regulations, Act of 1933.	----------	38-616	482	----------	----------
Mar. 2	Order of suspension and expulsion, Charles C. Wright, et al.	----------	38-630	507	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
SECURITIES AND EXCHANGE COMMISSION—Continued						
1938 Mar. 2	Order granting permission to withdraw registration, Chicago Curb Exchange Association.	----------	38-631	506	----------	----------
Mar. 3	Order for hearing etc. S. Leroy Estes (Phillips-Norris Tract).	----------	38-639	518	38-668	524
Mar. 4	Order exempting securities authorized by State Commission, Cumberland County Power and Light Company.	File No. 32-79.	38-655	521	38-332	251
Mar. 4	Adoption of rule 11F-2, Act of 1935.	----------	38-656	522	38-1426	977
Mar. 5	Order setting hearing etc., Minneapolis-Moline Power Implement Company.	File No. 1-136.	38-664	524	38-1223	839
Mar. 5	Order setting hearing etc., Nicholas-Beazley Airplane Company, Incorporated.	File No. 1-865.	38-665	525	38-1221	839
Mar. 5	Order setting hearing etc., Rutland Railroad Company.	File No. 1-1554.	38-666	525	38-812 38-1222 38-1429	603 839 978
Mar. 5	Order setting hearing etc., Stutz Motor Car Company of America Inc.	File No. 1-429.	38-667	525	37-3810 38-1220	2-2080 840
Mar. 5	Order consenting to withdrawal of offering sheet etc., S. Leroy Estes (Phillips-Norris Tract).	----------	38-668	524	38-639	518
Mar. 5	Order for hearing, American Light and Traction Company, San Antonio Public Service Company.	File No. 43-105.	38-669	523	38-813	603
Mar. 5	Order granting request to withdraw application etc., The Silex Company.	File No. 1-2946.	38-670	524	37-3072	2-2245
Mar. 5	Order for hearing, Engineers Public Service Company, et al.	File Nos. 46-92, 46-93, 43-104, 51-10, 51-11.	38-671	523	----------	----------
Mar. 8	Order withdrawing registration etc., The Autoline Oil Co.	File No. 1-1852.	38-683	530	37-3331	2-2484
Mar. 8	Order granting application etc., Allied Products Corporation.	File No. 1-2355.	38-684	529	38-351	260
Mar. 8	Order granting application etc., The Pedigo Company.	File No. 1-2373.	38-685	529	----------	----------
Mar. 8	Order revoking registration, P. J. Mangan, Buffalo, New York.	----------	38-686	529	----------	----------
Mar. 8	Order terminating proceeding after amendment, H. B. Sears (Ohio-Dahl Tract).	----------	38-687	530	38-557	443
Mar. 8	Order granting application, etc., The Pure Oil Company.	File No. 1-182.	38-688	529	37-3206	2-2409
Mar. 9	Stop order, South Umpqua Mining Company.	File No. 2-2561.	38-693	554	37-29	2-18
Mar. 9	Order for hearing, Gardner Electric Light Company.	File No. 43-106.	38-694	553	38-855	655
Mar. 11	Order setting hearing etc., St. Anthony Gold Mines, Ltd.	File No. 1-93.	38-715	562	38-1078 38-1180 38-1181	766 826 826
Mar. 11	Amendments to rules of practice, Acts of 1933, 1934, Holding Company Act.	----------	38-716	561	3283 37-197 37-3791	1-1753 2-121 2-2968
Mar. 12	Order for hearing, New England Power Company.	File No. 47-21.	38-722	563	38-1237	846
Mar. 12	Order changing date for hearing, Missouri Pacific Railroad Company.	File No. 1-2139.	38-723	563	38-502	413
Mar. 15	Order for hearing, Federal Water Service Corporation.	File Nos. 46-94, 43-107.	38-740	574	38-1296	898
Mar. 15	Order for hearing, Phelps Dodge Corporation.	File No. 31-397.	38-741	574	38-1517	1032
Mar. 15	Order for hearing, Eastern Shore Gas Corporation.	File No. 31-394.	38-742	573	----------	----------
Mar. 16	Order for hearing, Avery Brundage et al.	File No. 34-13.	38-755	577	----------	----------
Mar. 16	Order withdrawing registration etc., Prima Company.	File No. 1-1638.	38-756	577	38-143	86
Mar. 17	Order for hearing, Columbia Gas and Electric Corporation.	File No. 51-12.	38-764	584	----------	----------
SECURITIES AND EXCHANGE COMMISSION—Continued						
1938 Mar. 17	Order for hearing (under rule 340 B). Southwest Royalties Company (Pan American-Richardson-Sagarin-Erwin Tract).	----------	38-765	585	38-880	639
Mar. 17	Order for hearing (under rule 340 B), Andrew J. Barrett. (Pan American-Richardson-Sagarin-Erwin Tract).	----------	38-766	584	38-894	655
Mar. 17	Order directing hearing, The United Corporation.	File No. 7-233.	38-767	591	----------	----------
Mar. 17	Order directing hearing, Radio Corporation of America.	File No. 7-232.	38-768	590	----------	----------
Mar. 17	Order directing hearing, Philip Morris and Company, Ltd., Inc.	File No. 7-231.	38-769	590	----------	----------
Mar. 17	Order directing hearing, Paramount Pictures, Inc.	File No. 7-230.	38-770	590	----------	----------
Mar. 17	Order directing hearing, Niagara Hudson Power Corporation.	File No. 7-229.	38-771	589	----------	----------
Mar. 17	Order directing hearing, National Lead Company.	File No. 7-228.	38-772	589	----------	----------
Mar. 17	Order directing hearing, International Paper and Power Company, preferred stock.	File No. 7-227.	38-773	589	----------	----------
Mar. 17	Order directing hearing, International Paper and Power Company, common stock.	File No. 7-226.	38-774	589	----------	----------
Mar. 17	Order directing hearing, International Hydro-Electric System.	File No. 7-225.	38-775	588	----------	----------
Mar. 17	Order directing hearing, Inspiration Consolidated Copper Co.	File No. 7-224.	38-776	588	----------	----------
Mar. 17	Order directing hearing, Homestake Mining Company.	File No. 7-223.	38-777	588	----------	----------
Mar. 17	Order directing hearing, Electric Boat Company.	File No. 7-222.	38-778	587	----------	----------
Mar. 17	Order directing hearing, Consolidated Aircraft Corporation.	File No. 7-221.	38-779	587	----------	----------
Mar. 17	Order directing hearing, Boeing Airplane Company, common stock.	File No. 7-220.	38-780	587	----------	----------
Mar. 17	Order directing hearing, Baldwin Locomotive Works.	File No. 7-219.	38-781	587	----------	----------
Mar. 17	Order directing hearing, American Steel Foundries.	File No. 7-218.	38-782	586	----------	----------
Mar. 17	Order directing hearing, United Aircraft Corporation.	File No. 7-217.	38-783	586	----------	----------
Mar. 17	Order directing hearing, Insurance Company of North America.	File No. 7-216.	38-784	586	38-915	667
Mar. 17	Order directing hearing, Cambria Iron Company.	File No. 7-215.	38-785	586	38-914	666
Mar. 17	Order directing hearing, Boeing Airplane Company, capital stock.	File No. 7-214.	38-786	585	----------	----------
Mar. 18	Order for hearing, Keystone Pipe and Supply Company.	File No. 31-369.	38-798	594	----------	----------
Mar. 19	Order setting hearing, etc., Rutland Railroad Company.	File No. 1-1554.	38-812	603	38-666	525
Mar. 19	Order fixing effective date for declaration etc., American Light and Traction Company, San Antonio Public Service Company.	File No. 43-105.	38-813	603	38-669	523
Mar. 22	Order for hearing, Louisiana Steam Generating Corporation and Gulf States Utilities Company.	File No. 43-108.	38-825	611	38-1154	816
Mar. 22	Order granting application to strike, etc., Botany Consolidated Mills, Inc.	File No. 1-2140.	38-826	612	38-269	214
Mar. 23	Order approving acquisition of utility assets, Southern Natural Gas Company.	File No. 47-18.	38-834	617	38-443	339
Mar. 23	Order for hearing etc., H. B. Sears (Stahl-Dennis Tract).	----------	38-835	618	38-978	710

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
SECURITIES AND EXCHANGE COMMISSION—Continued						
1938						
Mar. 24	Order for hearing, Industrial Investment Corporation (Gulf-Wise-Vinson Tract).	----------	38-846	631	38-893	656
Mar. 24	Order for hearing, L. H. Witwer (Sinclair-Prairie-Rice Tract).	----------	38-847	631	38-937	677
Mar. 26	Order consenting to withdrawal etc., Southwest Royalties Company (Pan-American-Richardson Sagarin-Erwin Tract).	----------	38-880	639	38-765	585
Mar. 29	Amendment to rules governing unlisted trading privileges, Act of 1934.	----------	38-892	654	1406	1-870
Mar. 29	Order terminating effectiveness, Industrial Investment Corporation (Gulf-Wise-Vinson Tract).	----------	38-893	656	38-846	631
Mar. 29	Order terminating effectiveness etc., Andrew J. Barrett, (Pan American-Richardson-Sagarin-Erwin Tract).	----------	38-894	655	38-766	584
Mar. 29	Order permitting declaration to become effective, Gardner Electric Light Company.	File No. 43-106.	38-895	655	38-694 38-904	553 663
Mar. 29	Order for hearing, United Light and Power Engineering and Construction Company.	File No. 37-24.	38-896	655	----------	----------
Mar. 29	Order for hearing, Engineers, Public Service Company, Inc.	File No. 37-23.	38-897	654	----------	----------
Mar. 29	Order for hearing, Louisiana Steam Generating Corporation and Baton Rouge Electric Company.	File Nos. 43-109 and 43-110.	38-898	655	----------	----------
Mar. 30	Corrected order permitting declaration to become effective etc., Gardner Electric Light Co.	File No. 43-106.	38-904	663	38-895	655
Mar. 31	Order postponing hearing, Cambria Iron Company.	File No. 7-215.	38-914	666	38-785	586
Mar. 31	Order postponing hearing, Insurance Company of North America.	File No. 7-216.	38-915	667	38-784	586
Mar. 31	Findings and order withdrawing registration, Obrt Mines Corporation.	File No. 1-2239.	38-916	666	38-88	51
Mar. 31	Order denying application of Hortense U. Braunschweiger to be made a party, matter of Penn Western Gas and Electric Company.	File Nos. 43-99, 51-9.	38-917	666	38-240	203
Mar. 31	Order granting conditional approval etc., Penn Western Gas and Electric Company.	File Nos. 43-99, 51-9.	38-918	666	38-240	203
Apr. 1	Amendment to Rule AN 21, Act of 1934.	----------	38-936	677	37-2841 37-3787	2-1945 2-2968
Apr. 1	Order terminating proceeding L. H. Witmer (Sinclair-Prairie-Rice Tract).	----------	38-937	677	38-847	631
Apr. 2	Order granting application, etc., Mother Lode Coalition Mines Company.	File No. 1-1429	38-955	690	37-3723	2-2921
Apr. 5	Order for hearing, Fall River Electric Light Company.	File No. 32-82.	38-969	705	38-1392	949
Apr. 5	Order disposing of applications, Los Angeles Stock Exchange.	----------	38-970	707	37-2314 37-2316 37-2317 37-2318 37-2319 37-2321 37-2322 37-2323 37-2324 37-2325 37-2326 37-2327 37-2328 37-2329 37-2330 37-2331 38-1402	2-1299 2-1291 2-1291 2-1291 2-1291 2-1292 2-1292 2-1293 2-1293 2-1293 2-1293 2-1294 2-1294 2-1294 2-1294 2-1295 997
Apr. 5	Order for hearing, Arthur H. Gilbert et al.	File No. 30-83.	38-971	706	----------	----------
Apr. 5	Stop order, Sunbeam Gold Mines Company.	File No. 2-3537.	38-972	707	----------	----------
Apr. 5	Order for hearing, South Carolina Utilities Company, and Walnut Electric & Gas Corporation.	File Nos. 32-81, 46-95.	38-973	706	38-1182	826
Apr. 6	Order terminating proceeding H. B. Sears (Stahl-Dennis Tract).	----------	38-978	710	38-835	618
Apr. 7	Amendment to order granting temporary exemption etc., Citizens Utilities Company.	File No. 37-14.	38-987	715	37-1102 37-2525 37-2405	2-696 2-1396 2-1340
Apr. 8	Order for hearing, San Antonio Public Service Company.	File No. 43-112.	38-995	726	38-1499	1013
Apr. 8	Order for hearing, Billie Smallwood, (Champlin-McFall Tract).	----------	38-996	727	38-1134	795
Apr. 8	Order granting application, etc., Olinda Land Company.	File No. 1-374.	38-997	727	38-480	382
Apr. 8	Order granting application, Knudsen Creamery Company of California.	File No. 1-2949.	38-998	727	38-379	277
Apr. 9	Order for hearing, Georgia Power Company.	File No. 32-83.	38-1011	734	----------	----------
Apr. 12	Order for hearing, Iowa Power and Light Company.	File Nos. 43-111, 47-22.	38-1030	740	38-1351	925
Apr. 14	Order for hearing, Northeastern Water and Electric Corporation.	File No. 46-96.	38-1054	758	----------	----------
Apr. 14	Order for hearing, Charles True Adams.	File No. 55-1	38-1055	757	38-1107 38-1500	789 1011
Apr. 15	Order for hearing, New York State Electric and Gas Corporation.	File No. 32-84.	38-1069	763	----------	----------
Apr. 15	Order for hearing, Puget Sound Power and Light Company.	File No. 43-114.	38-1070	763	----------	----------
Apr. 15	Amendment No. 1 to Form 20-K, Securities Exchange Act of 1934.	----------	38-1071	763	----------	----------
Apr. 15	Amendment No. 1 to Form 21-K, Securities Exchange Act of 1934.	----------	38-1072	763	----------	----------
Apr. 16	Order for hearing, Northeastern Water and Gas Corporation.	File No. 43-115.	38-1075	766	----------	----------
Apr. 16	Order for hearing, New York State Electric and Gas Corporation.	File No. 32-85.	38-1076	765	38-1279	890
Apr. 16	Rules for the regulation of short selling under the Act of 1934, as amended.	----------	38-1077	765	38-266	213
Apr. 16	Order, St. Anthony Gold Mines, Ltd.	File No. 1-93.	38-1078	766	38-715	502
Apr. 16	Order revoking registration, Jesse and Harry Philip Engle.	----------	38-1079	766	----------	----------
Apr. 20	Order setting hearing Lima Cord Sole and Heel Corporation.	File No. 1-2816.	38-1104	790	----------	----------
Apr. 20	Adoption of rule, sale of public utility securities etc., by registered holding companies.	----------	38-1105	789	----------	----------
Apr. 20	Order granting application to withdraw from listing etc., Market Street Railway Company et al.	File No. 1-957	38-1106	789	38-99	66
Apr. 20	Order for hearing, Charles True Adams.	Files Nos. 55-1, 55-2.	38-1107	789	38-1055 38-1500	757 1011
Apr. 20	Order for hearing, Middle West Corporation.	File No. 46-97.	38-1114	790	----------	----------
Apr. 20	Order in re declaration, Columbia Engineering Corporation.	File No. 37-22.	38-1115	790	38-495	381
Apr. 20	Order granting application, Nash-Kelvinator Corporation.	File No. 7-181.	38-1116	790	37-2366	2-1316
Apr. 20	Order amending condition (5) of order granting exemption Wheeling Stock Exchange.	File No. 10-44-1.	38-1117	791	----------	----------
Apr. 20	Order amending condition (5) of order granting exemption, Seattle Stock Exchange.	File No. 10-41-1.	38-1118	791	----------	----------
Apr. 20	Order amending condition (5) of order granting exemption, Minneapolis-St. Paul Stock Exchange.	File No. 10-24-1.	38-1119	791	----------	----------
Apr. 21	Order for reconvening of hearing, Republic Electric Power Corporation.	File Nos. 43-103, 47-19.	38-1126	792	38-350 38-530	259 435

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER Doc. No.	FEDERAL REGISTER Page	RELATED DOCUMENTS AMENDMENTS F. R. Doc. No.	RELATED DOCUMENTS AMENDMENTS Page
SECURITIES AND EXCHANGE COMMISSION—Continued						
1938						
Apr. 21	Order granting request to withdraw, Cambria Iron Company.	File No. 7-215.	38-1127	793	----------	----------
Apr. 21	Order granting request to withdraw application, Insurance Company of North America.	File No. 7-216.	38-1128	793	----------	----------
Apr. 21	Order granting exemption, the Cleveland-Cliffs Iron Company et al.	File No. 31-11.	38-1129	793	6	1-15
Apr. 22	Order consenting to withdrawal etc., Billie Smallwood, (Champlin-McFall Tract).	----------	38-1134	795	38-996	727
Apr. 23	Amendment No 32 to instruction book for Form A-2, Act of 1933.	----------	38-1145	800	----------	----------
Apr. 23	Adoption of Rule 210, Act of 1933.	----------	38-1146	799	1239	1-806
Apr. 26	Stop order, Puget Sound Distillery, Inc.	File No. 2-3531.	38-1153	816	37-1156	2-719
Apr. 26	Order permitting declaration to become effective, Louisiana Steam Generating Corporation and Gulf States Utilities Company.	File No. 43-108.	38-1154	816	38-825	611
Apr. 28	Order granting application etc., St. Anthony Gold Mines, Ltd.	File No. 1-93.	38-1180	826	38-715	562
Apr. 28	Order relative to amended application, St. Anthony Gold Mines, Ltd.	File No. 1-93.	38-1181	826	38-715	562
Apr. 28	Order granting exemption etc., South Carolina Utilities Company and Walnut Electric and Gas Corporation.	File Nos. 32-81, 46-95.	38-1182	826	38-973	706
Apr. 29	Adoption of Rule 9 C-4 Public Utility Holding Company Act of 1935.	----------	38-1213	837	----------	----------
Apr. 29	Order granting application, Duluth, South Shore and Atlantic Railway Company.	File No. 1-115.	38 1214	838	38-611	483
Apr. 29	Order granting application, The Fairbanks Company.	File No. 1-1509.	38-1215	838	38-610	484
Apr. 29	Order granting application, National Railways of Mexico.	File No. 1-2433.	38-1216	838	38-609	484
Apr. 29	Order granting application, The Lehigh Valley Coal Company.	File No. 1-276.	38-1217	838	38-608	484
Apr. 29	Order granting application, New York Steam Corporation.	File No. 1-1165.	38-1218	839	38-607	484
Apr. 29	Order granting application, Cusi Mexicana Mining Company.	File No. 1-2163.	38-1219	837	38-543	441
Apr. 29	Order granting application, Stutz Motor Car Company of America.	File No. 1-429.	38-1220	840	38-667	525
Apr. 29	Order granting application, Nicholas-Beazley Airplane Company, Incorporated.	File No. 1-865.	38-1221	839	38-665	525
Apr. 29	Order granting application, Rutland Rail-Road Company.	File No. 1-1554.	38-1222	839	38-666	525
Apr. 29	Order granting application, Minneapolis-Moline Power Implement Company.	File No. 1-136.	38-1223	839	38-664	524
Apr. 30	Adoption of Rule GB4, Act of 1934.	----------	38-1235	846	38-1289	895
Apr. 30	Order setting hearing on application, Canal Construction Company.	File No. 1-856.	38-1236	846	38-1461	998
Apr. 30	Order permitting application to become effective, New England Power Company.	File No. 47-21.	38-1237	846	38-722	563
May 3	Order for hearing, The Twin State Gas and Electric Company.	File No. 30-16.	38-1254	861	38-1460	998
May 3	Order granting San Francisco Curb Exchange permission to withdraw its registration as a national securities exchange.	----------	38-1255	861	----------	----------
May 3	Repeal of Form D-2, amendment of Form E-1.	----------	38-1256	861	----------	----------
May 5	Order exempting issue and sale of note, New York State Electric and Gas Corporation.	File No. 32-85.	38-1279	890	38-1076	765
May 5	Order for hearing, Central Maine Power Company.	File No. 32-86.	38-1280	890	38-1533	1051
May 5	Order for hearing, Public Service Company of New Hampshire.	File No. 32-87.	38-1281	890	38-1534	1052
May 6	Amendment to Rule GB4, Act of 1934.	----------	38-1289	895	38-1235	846
May 7	Order for hearing, Kansas Electric Power Company.	File No. 43-116.	38-1297	897	----------	----------
May 7	Order approving acquisition of securities etc., Federal Water Service Corporation.	File Nos. 46-94, 43-107.	38-1298	898	38-740	574
May 7	Order setting hearing on application, Pierce Oil Corporation.	File No. 1-301.	38-1299	898	----------	----------
May 7	Order setting hearing on application, Federal Knitting Mills Company.	File No. 1-264.	38-1300	898	----------	----------
May 7	Order setting hearing on application, Como Mines Company.	File No. 1-419.	38-1301	899	----------	----------
May 10	Order for hearing, York Railways Company.	File No. 31-433.	38-1318	904	----------	----------
May 11	Minor amendment to Rule 11 F-1, Act of 1935.	----------	38-1327	911	38-5	3
May 12	Order for hearing, Hugh M. Morris and Harold S. Schutt.	File No. 30-39.	38-1349	924	38-1558	1053
May 12	Order for hearing, NY Pa NJ Utilities Company, Keystone Utilities, Inc.	File Nos. 46-100, 56-1.	38-1350	925	----------	----------
May 12	Order fixing effective date of declaration etc., Iowa Power and Light Company.	File Nos. 43-111, 47-22.	38-1351	925	38-1030	740
May 13	Order for hearing, Edison Light and Power Company.	File No. 31-432.	38-1363	927	----------	----------
May 13	Order for reconvening of hearing, Republic Electric Power Corporation.	File Nos. 43-103, 47-19.	38-1364	928	38-350 38-530	259 435
May 14	Order setting hearing, on application, Market Street Railway Company	File No. 7-235.	38-1377	933	----------	----------
May 17	Order for hearing, Washington Gas Light Company.	File No. 32-90.	38-1391	949	38-1480	1004
May 17	Order exempting issue and sale of notes, Fall River Electric Light Company.	File No. 32-82.	38-1392	949	38-969	705
May 18	Annual reports of registrants, amendment of Rule MD 1, Act of 1934.	----------	38-1401	966	37-43	2-33
May 18	Order granting request to withdraw application, Twentieth Century-Fox Film Corporation.	File No. 7-117.	38-1402	967	38-970	707
May 18	Order setting hearing on application, New York Dock Company.	File No. 1-132.	38-1403	967	----------	----------
May 20	Order for hearing, Hickok Oil Corporation.	File No. 31-413.	38-1424	978	----------	----------
May 20	Adoption of Rule 14-2, Act of 1935.	----------	38-1425	977	----------	----------
May 20	Minor amendments of rules Act of 1935.	----------	38-1426	977	38-656	520
May 20	Amendments to Rule 5B-1, Act of 1935.	----------	38-1427	977	2989	1-1645
May 20	Order granting application, Adams Express Company.	File No. 1-2091.	38-1428	978	38-86	50
May 20	Order granting application, Rutland Railroad Company.	File No. 1-1554.	38-1429	978	38-666	525
May 20	Order denying application, Collins and Aikman Corporation	File No. 7-234.	38-1430	978	----------	----------
May 21	Order for hearing, New York State Electric and Gas Corporation.	File No. 32-91.	38-1438	981	----------	----------
May 24	Order for hearing, American Gas and Power Company, Birmingham Gas Company.	File No. 50-5.	38-1449	987	----------	----------
May 24	Order for hearing, Houston Natural Gas Corporation.	File No. 31-116.	38-1450	988	----------	----------

PUBLICATION DATE	SUMMARY	AGENCY DESIGNATION	FEDERAL REGISTER		RELATED DOCUMENTS AMENDMENTS	
			Doc. No.	Page	F. R. Doc. No.	Page
SECURITIES AND EXCHANGE COMMISSION—Continued						
1958						
May 25	Order discontinuing proceeding, Gerald M. Loeb, et al.	----------	38-1459	997	38-22	6
May 25	Order of the Commission, The Twin State Gas and Electric Company.	File No. 30-16.	38-1460	998	38-1254	861
May 25	Order designating trial examiner, Canal Construction Company.	File No. 856.	38-1461	998	38-1236	846
May 26	Amended order for hearing, Washington Gas Light Company.	File Nos. 32-90, 32-51.	38-1480	1004	37-1006 38-1391	2-659 949
May 26	Order for hearing, Monongahela West Penn Public Service Company.	File No. 43-119.	38-1481	1004	-------	------
May 26	Order for hearing, H. M. Byllesby and Company.	File No. 31-379.	38-1482	1005	-------	------
May 26	Order setting hearing on application, German Central Bank for Agriculture.	File No. 1-2520.	38-1483	1005	-------	------
May 27	Order for hearing, Sloss-Sheffield Steel and Iron Company.	File No. 31-430.	38-1498	1012	-------	------
May 27	Order fixing effective date of declaration, San Antonio Public Service Company.	File No. 43-112.	38-1499	1013	38-995	726
May 27	Order, Charles True Adams.	File Nos. 55-1, 55-2.	38-1500	1011	38-1055 38-1107	757 789
May 27	Order for hearing, the Byllesby Corporation.	File No. 31-420.	38-1501	1012	-------	------
May 27	Order setting hearing on application, Adams Express Company.	File No. 7-236.	38-1502	1012	-------	------
May 27	Order suspending registration, Edward J. Wiley.	----------	38-1503	1013	-------	------
May 27	Order denying without prejudice application, Resources Corporation International.	File No. 2-3612.	38-1504	1013	-------	------
May 28	Order granting exemption, application of Phelps Dodge Corporation.	File No. 31-397.	38-1517	1032	38-741	574
June 1	Order pursuant to Section 6 (b), Central Maine Power Company.	File No. 32-86.	38-1533	1051	38-1280	890
June 1	Order pursuant to Section 6 (b), Public Service Company of New Hampshire.	File No. 32-87.	38-1534	1052	38-1281	890
June 2	Order for hearing, Genesee Valley Gas Company Inc.	File No. 31-441.	38-1548	1075	-------	------
June 3	Order pursuant to Section 5 (d), Act of 1935, Hugh M. Morris and Harold S. Schutt.	File No. 30-39.	38-1558	1083	38-1349	924
SOCIAL SECURITY BOARD						
Jan. 4	Certification of state unemployment compensation laws to the Secretary of the Treasury.	----------	38-13	10	-------	------
UNITED STATES BOARD OF TAX APPEALS						
Jan. 14	Amendment to rules of practice.	----------	38-122	81	37-3743	2-2950
UNITED STATES MARITIME COMMISSION						
Feb. 4	Registrations of persons entitled to practice before the commission.	G. O. No. 21.	38-367	273	37-3260	2-2441
Feb. 9	Prescribing uniform system of accounts for operating differential subsidy contractors.	G. O. No. 22.	38-414	313	-------	------
Mar. 9	Rules, etc., regarding cadet officers and cadets.	G. O. No. 23.	38-690	554	38-912	667
Mar. 31	Rules etc., regarding cadet officers and cadets.	G. O. No. 23, amended.	38-912	667	38-690	554
Mar. 31	Order for hearing, American South African Line and Seas Shipping Company, Inc.	----------	38-913	668	38-1038	752
UNITED STATES MARITIME COMMISSION—Continued						
1958						
Apr. 13	Order postponing hearing American South African Line and Seas Shipping Company, Inc.	----------	38-1038	752	38-913	668
May 10	Minimum manning scales, individual subsidized vessels, Baltimore Mail Steamship Company.	Supp. No. 1 to G. O. No. 15.	38-1319	904	37-3091	2-2257
May 20	Order, application of Baltimore Mail Steamship Company to transfer certain vessels to intercoastal trade.	No. 486.	38-1421	979	-------	------
May 28	Order for hearings, minimum wage scales etc., for members of the Purser's Department and Ship's Surgeons on subsidized vessels.	----------	38-1509	1033	-------	------
May 28	Order for hearing, The West Indies Company.	----------	38-1519	1033	-------	------
May 28	Order for hearing, Eastern Steamship Lines, Inc.	----------	38-1520	1033	-------	------
May 28	Order for hearing, The Oceanic Steamship Company.	----------	38-1521	1033	-------	------
VETERANS' ADMINISTRATION						
Jan. 6	Yearly renewable term insurance, disabilities deemed to be total etc.	R-3140	38-38	30	-------	------
Jan. 15	Revision of regulations, medical examinations.	R-2095	38-133	87	-------	------
Feb. 2	Revision of regulations, concurrent payment of two benefits to the same person.	R-2550	38-345	258	-------	------
Feb. 25	Revision of regulations, medical and domiciliary care.	R-6048, 6050, 6051, 6060.	38-560	458	-------	------
Feb. 25	Transportation and traveling expenses of claimants and beneficiaries.	R-6100, 6102, 6103, 6104, 6105, 6106, 6107.	38-561	459	-------	------
Feb. 25	Revision of regulations, dental services.	R-6120, 1622, 6129, 1632, 6135.	38-562	462	-------	------
Feb. 25	Revision of regulations, orthopedic and prosthetic appliances.	R-6115	38-563	462	-------	------
Apr. 1	Revision of regulations, subpoenas and witnesses.	R-5392	38-931	677	-------	------
Apr. 1	Revision of regulations, supervision of fiduciaries, legal services.	R-5251 (A), (B).	38-932	677	-------	------
Apr. 1	Revision of regulations, adjudication, veterans' claims.	R-1260, 2160	38-933	677	-------	------
Apr. 1	Revision of regulations, death occurring while traveling under prior authorization or in Veterans' Administration facility.	R-2096	38-934	678	-------	------
Apr. 1	Revision of regulations, release of information concerning claimants and beneficiaries.	----------	38-935	678	-------	------
Apr. 13	Revision of regulations, service connection and evaluation.	R-2071, 2109, 2110.	38-1039	752	-------	------
Apr. 13	Revision of regulations, sales to trainees.	----------	38-1040	753	-------	------
May 17	Revision of regulations, reimbursement for expenses of unauthorized medical services.	R-6140, 6141, 6142, 6143, 6144, 6145, 6146, 6147, 6148.	38-1387	949	-------	------
June 1	Revision of regulations, death benefits, survivors of veterans of the World War, definition of relationship.	R-2514, 2548, 2574, 2576, 2640, 2664.	38-1522	1052	-------	------
June 2	Instructions, selection of veteran's contingent, Civilian Conservation Corps, state and corps area quotas.	Supp. No. 2 to instructions.	38-1535	1075	37-3605	2-2804

VOL 3

INDEX

OCT 1

FEDERAL REGISTER

Volume 3 INDEX, *June–September 1938* Nos. 106–191

A

Page

ACCOUNTS AND DEPOSITS. *See* Money and Finance: Treasury.

ACE AUTO SUPPLY CO., notice of hearing by Federal Trade Commission 1421

ACME MERCHANDISE CO.:
- Cease and desist order by Federal Trade Commission; sale of merchandise 2239
- Notice of hearing 1545

ADAMS, CHARLES TRUE:
- Notice of hearings, etc., by Securities and Exchange Commission 1831, 1864, 1973
- Order allowing petitioner to intervene 2258

ADAMS EXPRESS CO.:
- Listing and registration withdrawal, order by Securities and Exchange Commission 1748
- Unlisted trading privileges extended 1941

ADAMS, S. W., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845

ADVANCE-RUMELY CORP., order for hearing by Securities and Exchange Commission 2041, 2142

AGENTS, employed by foreign principals, registration with Secretary of State 2177

AGRICULTURAL ADJUSTMENT ADMINISTRATION. *See* Agriculture; Agriculture Department.

AGRICULTURAL COMMODITIES, use as collateral for farm loans 1805

AGRICULTURAL CONSERVATION PROGRAM, 1937, 1938. *See* Agriculture: Agricultural Adjustment Administration.

AGRICULTURAL CREDIT:
- Commodity Credit Corporation:
  - Corn loans, instructions amended 1399
  - Wheat loans, instructions 1997, 2025

Page

AGRICULTURAL CREDIT—Con.
- Commodity Credit Corporation—Continued.
  - Wool and mohair loan program, 1938, security represented by warehouse receipts 1400, 1617
- Farm Credit Administration:
  - Acting Governor, authority and designation of order of precedence 1701, 1721, 2285
  - Federal Land Bank of Berkley, fees schedule 1473
  - Federal Land Bank of Columbia, partial release of security fees 1962
  - Federal Land Bank of Wichita, special interest rates on loans 2337
  - Joint stock land banks:
    - Authority to hold real estate titles over five years 2001
    - Receivers, approval of acts 2001
  - Stock retirement upon repayment of loan 2099

AGRICULTURAL ECONOMICS BUREAU. *See* Agriculture.

AGRICULTURE:
- Agricultural Adjustment Administration:
  - Agricultural conservation program, 1937, Bulletin 101:
    - East central region, White County, Tenn 1625
    - Southern region; Amendments 19 and 20 2193, 2245
  - Agricultural conservation program, 1938:
    - North central region:
      - Licking County, Ohio 1373
      - Tama County, Iowa 1599
    - Puerto Rico, Supplement No. 2 1625
    - Southern region, Pulaski County, Ark 1413
    - Supplement No. 10 1697
    - Suplement No. 11 1939
    - Supplement No. 13 2147
    - Western region:
      - Pondera County, Mont 1591
      - Thomas County, Kans 1547
      - Weber and Davis Counties, Utah 1556

Page

AGRICULTURE—Continued.
- Agricultural Adjustment Administration—Continued.
  - Corn, administrative review of marketing quotas 1749
  - Cotton:
    - Administrative review of marketing quotas 1749
    - County normal yields for 1938 2072
    - Marketing quotas for 1938–39, regulations 1569
    - Pool Participation Trust Certificates, Form C–5–I, retirement 1754, 2194
    - Price Adjustment Payment Plan, 1937 1701
  - Farmers' Committees, selection and exercise of functions under certain Acts 1885
  - Grapes, handling of, Arkansas:
    - Base period to be used 1741
    - Regulatory order 1741
  - Honey and queen bees (package), handling of:
    - Marketing agreement and license for shippers terminated 2153
    - Regulatory order 2149
  - Hops, order regulating handling of, Oregon, California, and Washington 1979
  - Milk, handling of:
    - Des Moines, Iowa, Sales Area, license terminated 1591
    - La Porte County, Indiana, Marketing Area, regulatory order amended 2015
    - New York Metropolitan Marketing Area:
      - Prices, Classes I and II–A, effective time 2100
      - Regulatory order 1945
    - Richmond, Va., Sales Area, license terminated 2341
    - Toledo, Ohio, Marketing Area:
      - Base period to be used 1893
      - Regulatory order 2169

AGRICULTURE—Continued. Page
Agricultural Adjustment Administration—Continued.
Loans, inspection and sealing of agricultural commodities on farm to be used as collateral, etc 1805
Naval Stores Conservation Program, 1938, assignments of interest in payments 2207
Oranges and grapefruit, handling of, Texas:
Base period to be used, etc 2222
Regulatory order 2213
Prunes, handling of, Oregon and Washington:
Base period to be used 1779
Regulatory order 1779
Range Conservation Program Bulletin, 1938:
Jones County, S. Dak 1378
Meagher County, Mont 1459
Rice, administrative review of marketing quotas 1749
Sugar Act of 1937:
Consumption requirements and quotas, 1938 1389
Domestic beet sugar area, proportionate share determination for farms 1625, 2245
Hawaii:
Proportionate shares determination, 1937 crop 1359
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1441, 1626
Wage rate determination, 1937 1649
Liquid sugar quota allotments for foreign countries, 1938 1427
Louisiana sugarcane, price determination for 1938 crop 2306
Mainland cane sugar area:
Farming practices, determination amended 2263
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1786
Wage rate determination, 1938 1626
Philippine Islands, proration of 1938 deficit 1391
Puerto Rico:
Direct-consumption portion allotment, 1938 quota 1279
Farming practices, determination for 1938–39 crop 1786
Sugar commercially recoverable; payment eligibility for abandonment and crop deficiency 1474, 1627

AGRICULTURE—Continued. Page
Agricultural Adjustment Administration—Continued.
Sugar Act of 1937—Contd.
Puerto Rico—Continued.
Sugar quota allotment, 1938 1337
Quota prorations for foreign countries other than Cuba 2207
Sugar beets, wage rate determination for 1938 crop 2263
Tobacco:
Administrative review of marketing quotas 1749
Flue-cured:
Farm marketing quotas for 1938, instructions 1438, 1547, 1839, 1963, 2148, 2203
Marketing quotas for 1938–39, regulations 1833
National marketing quota for 1938–39, apportionment and adjustment 1839, 2149
Wheat:
Farm acreage allotments, 1939 crop 1807
Marketing quotas, administrative review 1749
National acreage allotment, 1939 crop 1754
State acreage allotments, 1939 1807
Agricultural Economics Bureau:
Bankhead-Jones Farm Tenant Act, protection of lands acquired or transferred under 2026
Cotton:
Classification and market news services 1360
Sea Island cotton, grade standards 1966
Standards for length of staple 1966
Cotton Standards Act, regulations amended 1965
Cottonseed, for crushing purposes:
Grade standards 1343
Inspection, sampling, and certification regulations 1361
Export Apple and Pear Act, regulations amended 1769
Fruits, vegetables, etc., inspection and certification regulations 1451
Hay and straw, inspection and certification regulations 1867
Land utilization program, delegations of authority 1786, 1867
Perishable Agricultural Commodities Act, 1930, regulations 2208
Tobacco markets designated:
Owensboro, Ky 2208
South Hill, Va 2074
United States Warehouse Act, regulations amended 1400

AGRICULTURE—Continued. Page
Commodity Exchange Administration:
Wool tops, regulations under Commodity Exchange Act 1873
Entomology and Plant Quarantine Bureau:
Gypsy moth and brown-tail moth quarantine, regulations revised 2341
Japanese beetle quarantine:
Fruit and vegetable restrictions, termination date 2264
Onions moving by refrigerator car, fumigation of 1769
Pink Bollworm Quarantine, cotton regulations 1618
Tomatoes, fumigation by methyl bromide as certification of moving by refrigerator car 2048
White-pine blister rust quarantine, regulations revised 1266
Farm Security Administration:
Emergency Relief Appropriation Act of 1938, certain Executive orders, rules, etc., made applicable to, for loans 1619
Loans to individuals for rural rehabilitation 2129
Non-appointive workers, employment, wages, hours and conditions of work 1708
Regional Directors, authority to designate Acting Directors 1967
Tenant purchase loans, redelegations of authority by Administrator 2305
Federal Crop Insurance Corporation:
Wheat crop insurance 1364, 1640, 1722, 1987
Plant Industry Bureau:
Federal Seed Act, regulations amended 2002
Secretary's Office:
Land utilizatiton projects, occupancy, use, etc., by Forest Service 1755
Migratory Bird Regulations, amendment 1766
AGRICULTURE DEPARTMENT:
Agricultural Adjustment Administration. *See also* Agriculture.
Citrus fruit, handling of, Texas, hearing on regulatory order amendment, etc 1456
Corn, supply for marketing year 1938–39 2163
Honey and queen bees (package), handling of, base period to be used, etc 2163
Mainland cane sugar area wage rates, notice of hearings, etc 1830

AGRICULTURE DEPARTMENT—Continued. Page
Agricultural Adjustment Administration—Continued.
Milk, handling of:
Fort Wayne, Ind., Marketing Area, hearing on marketing agreement amendment, etc 1516
La Porte County, Indiana, Marketing Area, proposed regulatory order 2018
New York Metropolitan Marketing Area:
Base period to be used 1957
Proposed regulatory order 1849, 2102
Toledo, Ohio, Marketing Area, proposed regulatory order 2180
Peaches, handling of, Georgia, hearing on proposed marketing agreement, etc 2116
Pears (fresh), handling of, Oregon, Washington, and California, hearing on proposed marketing agreement, etc 2045
Sugar Act of 1937, hearings on wage rates and prices, 1939 California crop 1971
Walnuts, handling of, California, Oregon, and Washington, hearing on proposed marketing agreement amendment 2139
Agricultural Economics Bureau. *See* Agriculture.
Animal Industry Bureau. *See also* Animals and Animal Products.
Packers and Stockyards Act, notices:
Farmers' Livestock Sales Co. (Hugh L. Anderson), Benkelman, Nebr 2293
Garber Livestock Commission Co., Julesburg, Colo 2181
Holdrege Livestock Sales Co. (Roy M. Strong), Holdrege, Nebr 1503
Jackson Livestock Commission Co. (I. M. Beasley), Jackson, Miss 1408
Moore & McCord Commission Co., Tupelo, Miss 2181
Northwestern Live Stock Commission Co., York, Nebr 2181
Owens, C. V., and Son Auction Sales Commission Co., Fort Morgan, Colo 2314
St. Johns Stockyard Co. (The Lapeer Stockyards), Lapeer, Mich 1503
South Greeley Sales Yards, Greeley, Colo 2182
Biological Survey Bureau. *See* Fish and Game.

AGRICULTURE DEPARTMENT—Continued. Page
Commodity Exchange Administration:
Wool Associates of New York Cotton Exchange, Inc., designated contract market for wool tops 1269
Commodity Exchange Commission:
Grain, limits on position and trading for future delivery 1408
Entomology and Plant Quarantine Bureau. *See also* Agriculture.
White-fringed beetle quarantine in Alabama, Florida, Louisiana, and Mississippi, public hearing 2045
Farm Security Administration. *See also* Agriculture.
Bankhead-Jones Farm Tenant Act, equitable distribution of loan funds 1456
Standing Stone Experimental Forest, Pa., lands transferred to Forest Service 2314
Tenant purchase loans, counties designated for:
Alabama 1761
Arizona 2350
Arkansas 1870
California 2239
Colorado 1957
Connecticut 1935
Delaware 1935
Florida 1903
Georgia 1862
Hawaii 2117
Idaho 2117
Illinois 1863
Indiana 1719
Iowa 1760
Kansas 1761
Kentucky 1903
Louisiana 1761
Maine 1692
Maryland 1761
Massachusetts 1935
Michigan 1719
Minnesota 1854
Mississippi 1719
Missouri 1903
Montana 1957
Nebraska 1761
Nevada 2350
New Hampshire 1935
New Jersey 1936
New Mexico 1854
New York 1903
North Carolina 1877
North Dakota 1877
Ohio 1692
Oklahoma 1692
Oregon 2041
Pennsylvania 1903
Region XII exclusive of New Mexico 1876
Rhode Island 1935
South Carolina 1877
South Dakota 1862
Tennessee 1863
Texas 1738

AGRICULTURE DEPARTMENT—Continued. Page
Farm Security Administration—Continued.
Tenant purchase loans, counties designated—Contd.
Utah 2350
Vermont 1935
Virginia 1920
Washington 2117
West Virginia 1935
Wisconsin 1800
Wyoming 2079
Federal Crop Insurance Corporation. *See* Agriculture.
Food and Drug Administration. *See* Food and Drugs.
Forest Service. *See* Parks and Forests.
Plant Industry Bureau. *See* Agriculture.
Secretary's Office:
Jurisdiction over lands transferred to Secretary of Interior:
New Mexico 2252
Rhode Island 1257
Lands transferred from Farm Security Administration to Forest Service:
Magazine Mountain Project, Ark 1761
Northeast Georgia Project, Ga 1762
Standing Stone Experimental Forest Huntingdon County, Pa 2314
Lands transferred for use, administration, etc., under Bankhead-Jones Farm Tenant Act 1389
AIR COMMERCE BUREAU. *See* Aviation; Commerce Department.
AIR CORPS, applicants for appointment as flying cadets 2174
AIR MAIL:
Contractors for, application to transport mail on nonmail schedule or plane 2056
Service under supervision of First Assistant Postmaster General 1991
AIR NAVIGATION SITES. *See* Public Lands: General Land Office.
AIRCRAFT. *See also* Aviation; Civil Aeronautics Authority.
Airspace reservation established over portion of District of Columbia 1437
Convention between United States and United Mexican States for return of stolen or embezzled planes, etc.: regulations 2106
Supplies, drawback on distilled spirits 2043
Temporary free importation from Mexico 1933
AIRPORTS OF ENTRY. *See* Ports of Entry.

ALABAMA: Page
- Agricultural conservation program, 1938, southern region 2193
- Bituminous coal in intrastate commerce, investigation of nature and extent, etc 1605
- Tenant purchase loans, designation of counties for 1761
- Wheeler Migratory Waterfowl Refuge, establishment 1669
- White-fringed beetle, hearing on proposed State quarantine 2045

ALASKA. *See also* Alaska Railroad.
- Fishery regulations, amended 1382, 1840, 1940, 2018, 2043, 2063, 2082, 2100, 2116, 2131, 2143, 2222, 2337
- Fort Yukon, airport of entry designated 1657, 1692
- Indian Service hospitals, admission of patients 1663
- Native towns and Indian possessions in trustee towns, sale and disposal 1653
- Public lands:
  - Reservation for lighthouse purposes, description corrected 1944
  - Timber, free use for churches, hospitals and charitable institutions 2066
- Withdrawals revoked 1639, 2072
- Reindeer:
  - Grazing regulations 1335
  - Ownership declarations, filing 1641

ALASKA RAILROAD:
- Joint freight tariffs 1515, 1760, 1919, 2102
- Local passenger tariffs 1954, 2044, 2045
- Mt. McKinley Park Route time tables 1515

ALEXANDRIA GAS CO., notice of hearing, etc., by Securities and Exchange Commission 1832, 1922

ALGREN MANUFACTURING CO., INC., notice of hearing by Federal Trade Commission 1340

ALIENS AND CITIZENSHIP:
- Aliens entering the United States, documents required 1657
- Immigration and Naturalization Service:
  - Border crossing cards, issuance and description 1951
  - Ports of entry designated:
    - Fort Yukon, Alaska 1657
    - Fortuna, N. Dak 1657
    - Maida, N. Dak 2021
    - Niagara Falls, N. Y 1698
    - Scobey, Mont 1657
    - Tampa, Fla 1951
    - Thousand Islands Bridge, N. Y 1698

ALLEGHENY LUDLUM STEEL CORP., unlisted trading privileges extended by Securities and Exchange Commission 1871

ALLEN, H. F., notice of hearing by Federal Trade Commission 2266

ALLISON-BEDFORD CO., notice of hearing by Federal Trade Commission 1541

ALUMINUM CO., OF AMERICA, notice of hearing by Securities and Exchange Commission 2295

ALUMINUM ORE CO., notice of hearing by Securities and Exchange Commission 2295

AMARILLO, TEX., special air traffic rule 1664

AMERICAN AIRLINES, INC., exemption from provisions of Civil Aeronautics Act of 1938 2350

AMERICAN BUREAU OF HYGIENE, notice of hearing by Federal Trade Commission 1542

AMERICAN COLLEGE, ET AL., cease and desist order by Federal Trade Commission; sale of instruction courses, etc 2030

AMERICAN CREDIT CORP., findings and order by Securities and Exchange Commission 2294

AMERICAN FIELD SEED CO., cease and desist order by Federal Trade Commission; sale of agricultural seed 1968

AMERICAN FRUIT GROWERS, INC., complaint by Federal Trade Commission; sale of food products 1888

AMERICAN HEALTH ASSOCIATION OF WASHINGTON, D. C., notice of hearing by Federal Trade Commission 1542

AMERICAN HEALTH SOCIETY, INC., cease and desist order by Federal Trade Commission; sale of medical books 1512

AMERICAN LAWN MOWER CO., cease and desist order by Federal Trade Commission; sale of blackboards 1858

AMERICAN LIGHT & TRACTION CO.:
- Notice of hearing by Securities and Exchange Commission 2164
- Sales of stock approved 2283

AMERICAN MEMORIAL CO., notice of hearing by Federal Trade Commission 1801

AMERICAN OPTICAL CO., ET AL, notice of hearing by Federal Trade Commission 2315

AMERICAN REPUBLICS, instruction of citizens at educational institutions maintained by United States Government 2105

AMERICAN STEEL FOUNDRIES, unlisted trading privileges extended by Securities and Exchange Commission 1941

AMERICAN ZINC AND CHEMICAL CO., application for exemption granted by National Bituminous Coal Commission 1368

AMMUNITION, issuance of licenses to manufacturers or dealers 1868

AMMUNITION DEPOT, lands reserved as, Canal Zone 2322

ANDERSON, HUGH L., notice under Packers and Stockyards Act 2293

ANGELUS CAMPFIRE CO., notice of hearing by Federal Trade Commission 1541

ANIMAL INDUSTRY BUREAU. *See* Agriculture Department; Animals and Animal Products.

ANIMALS AND ANIMAL PRODUCTS:
- Animal Industry Bureau:
  - Animals and poultry, control of interstate transportation to prevent spread of diseases 1840
  - Appraisement and compensation for cattle condemned for tuberculosis, paratuberculosis, and Bang's disease 1527, 2108
  - Breeds and purebred animals, recognition of 1451
  - Greeneville Livestock Co., Inc., notice under Packers and Stockyards Act 1933
  - Rinderpest and foot-and-mouth disease, order to prevent introduction of 2107, 2271
  - Splenetic or tick fever quarantine release, Nacogdoches County, Tex 1840
  - Tuberculosis-free accredited areas, names of counties 1382, 1755, 2002, 2253
  - Viruses, etc., production, testing, etc., for treatment of domestic animals 1857
  - Western North Dakota Stockmen's Assn., authorized to conduct brand inspection 2285

ANNUITIES, income tax regulations 2140

ANTIDUMPING, certain findings revoked 1287

APACHE GAS CO. OF NEV., notice of hearing by Securities and Exchange Commission 2240, 2268

APALACHEE BAY, FLA., line dividing high seas from rivers, harbors, and inland waters 1478

APACHICOLA NATIONAL FOREST, FLA., lands added 1505

APPALACHIAN ELECTRIC POWER CO., order for hearings by Securities and Exchange Commission 1540, 1666

APPLES, regulations under Export Apple and Pear Act 1769

ARATA, JOHN B., cease and desist order by Federal Trade Commission; sale of candy 2349

ARCHITECTURAL TILING CO., INC., complaint by Federal Trade Commission; sale of tile 2124

ARIZONA:
- Coconino National Forest, lands excluded and added to Walnut Canyon National Monument 2321
- Colorado River Storage Project, reclamation withdrawal 2245
- Coronado National Forest:
  - Lands excluded and added to Chiricahua National Monument 1399
  - Lands transferred to control of Treasury Department 1944
- Grazing district established 1795
- Navajo, Zuni and Hopi Indian Reservations, conduct of trade regulations 1690
- Public land withdrawal revoked 1995
- San Carlos Project, new standard rate schedules for electricity 1607
- Tenant purchase loans, designation of counties for 2350

ARKANSAS:
- Agricultural conservation program, 1937, 1938, southern region 1413, 2193
- Big Lake Reservation, fishing regulations 2075
- Coals produced, investigation by National Bituminous Coal Commission 2154
- Grapes, handling of, base period to be used; regulatory order 1741
- Magazine Mountain Project, lands transferred to Forest Service for use, etc 1761
- Ouachita National Forest, lands added 2169
- Public land withdrawal for lookout station 1995
- Tenant purchase loans, designation of counties for 1870

ARLINGTON CONCRETE PIPE CORP., cease and desist order by Federal Trade Commission; sale of concrete pipes 2028

ARMISTICE DAY, November 11 included in Customs Regulations as legal holiday 1344

ARMY:
- Air Corps, applicants for appointment as flying cadets 2174
- Bids and awards 2027
- Contracts, miscellaneous amendments 1879
- Enlisted men, grades and ratings for fiscal year 1939 2235
- Federal, state, county, and municipal taxes on items 1975
- Invitations for bids 1710, 1975
- Medical Corps. *See* War Department.
- National rifle matches, 1938, Camp Perry, Ohio, regulations 1723
- Reserve Officers' Training Corps, supply and equipment 2109
- River and Harbor Act:
  - Frankford Creek at Bridge Street, Philadelphia, Pa., drawbridge regulations 2138
  - Sanitary District of Chicago, operation of controlling district and use of lock on Chicago River 2139
  - Texas and Pacific Railway Company Drawbridge at Bayou Lafourche, Napoleonville, La., regulations 2116
- Vouchers for money accounts 2107

ARSPHENAMINE, control of manufacture, importation, and sale of 1620

ARVIL CO., notice of hearing by Federal Trade Commission 2316

ASKIN'S RETAIL STORES, INC., cease and desist order by Federal Trade Commission; sale of wearing apparel 1969

ASPHALT, leasing of segregated deposits, Choctaw and Chickasaw Nations, Okla 1433

ASSOCIATED CORP.:
- Effective date of declaration by Securities and Exchange Commission 1695, 1699
- Notice of hearing 1411

ASSOCIATED ELECTRIC CO., order for hearing by Securities and Exchange Commission 1666

ASSOCIATED LABORATORIES, INC., N. Y., notice of hearing by Federal Trade Commission 1540

ATCHISON, TOPEKA & SANTA FE RAILWAY CO., ET AL.:
- Court proceedings pending, orders by Interstate Commerce Commission 1478, 2244
- Emergency board created to investigate dispute with employees 2321

ATCO SOAP CO., notice of hearing by Federal Trade Commission 2316

ATLANTIC PORTS, investigation of commodity rates by Interstate Commerce Commission 2018

ATTORNEY GENERAL, authorized to sell certain property under Trading With the Enemy Act 1255

ATTORNEYS, applications to practice before Interstate Commerce Commission 1992

ATWATER, L. P., & CO., registration denied by Securities and Exchange Commission 2013

AUSTIN SILVER MINING CO., stop order by Securities and Exchange Commission 1720

AUSTRIA, currency appreciation, payment of losses to United States employees 2015

AUTOMOBILES:
- Convention between United States and Mexico for return and recovery of stolen or embezzled vehicles; regulations 2106
- Temporary free importation from certain countries 1933

AVERBACH, J., cease and desist order by Federal Trade Commission; sale, etc., of hosiery 1428

AVIATION:
- Air Commerce Bureau:
  - Entry and clearance of aircraft 2130
  - National Airport Corp., use of military road, Fort Myer Military Reservation, Va., for runway purposes 1987
- Civil Aeronautics Authority:
  - Air carriers, issuance of passes for free transportation, etc 2222, 2274
  - Air carriers, filing of tariff schedules and contracts 2049, 2274
  - Air Mail Act of 1934, repeal of certain provisions postponed 2056
  - Air travel cards (scrip) entitling holders to fare and rate discounts 2143, 2307
  - Certificate of competency, certain foreign aircraft and airmen exempted 2056
  - Certificates of convenience and necessity, applications for 2049, 2272
  - Civil Air Regulations adopted 2051
  - Foreign air carrier permits (Grandfather Clause), application for 2272
- Postal employees, free travel 2209

B

B & T FLOOR CO., notice of hearing by Federal Trade Commission 2317

BABY CHICK INDUSTRY, proposed trade practice rules by Federal Trade Commission 2293

BACK BAY MIGRATORY WATERFOWL REFUGE, VA., establishment 1358

BALDWIN LOCOMOTIVE WORKS, unlisted trading privileges, order by Securities and Exchange Commission 1941

BANGOR, ME., redesignated airport of entry 1540

BANKERS INDEMNITY INSURANCE CO., OF NEWARK, N. J., bonds executed in favor of the United States 1532

BANKHEAD COTTON ACT OF 1934, tax refunds authorized 1969

BANKHEAD-JONES FARM TENANT ACT: Page
- Equitable distribution of loan funds, schedule 1456
- Lands acquired or transferred under, protection of 2026
- Lands transferred to Secretary of Agriculture for use, administration, etc., under 1389
- Magazine Mountain Project, Ark., lands transferred to Forest Service for use, etc 1761
- Northeast Georgia Project, Ga., lands transferred to Forest Service for use, etc 1762
- Public lands, N. Mex., transferred to Secretary of the Interior for land-conservation and utilization program 2252
- Standing Stone Experimental Forest, Huntingdon County, Pa., lands transferred to Forest Service for administration, etc., under 2314
- Tenant purchase loans. *See* under name of State concerned.
- Tenant purchase loans, redelegations of authority by Administrator 2305

BANKING AND CREDIT:
- Comptroller of the Currency:
  - Investment securities regulation 1619
- Federal Deposit Insurance Corporation:
  - Insured State nonmember banks, report of condition required 1627
  - Loans on security of savings deposits 1528
- Federal Reserve System:
  - Interlocking bank directorates under Clayton Act 2194

BANKRUPTCY ACT, documentary stamp taxes 1330

BANKS. *See also* Banking and Credit; Housing Credit: Federal Home Loan Bank Board.
- Federal Reserve, etc.:
  - Reconstruction Finance Corporation ⅞ percent Notes of Series N, offering of 1715
  - Special deposits of public moneys 1419
- Joint stock land banks:
  - Authority to hold real estate titles over five years 2001
  - Receivers, approval of acts 2001
- Loans on wheat 1997
- Payment of Government checks and warrants 1419
- Treasury Bonds 2½ percent of 1950–52, offering of 2204
- Treasury Notes 1⅛ percent of Series A–1943, offering of 1334, 2205

BARBARA GOULD SALES CORP., cease and desist order by Federal Trade Commission; sale of cosmetics 1711

BATON ROUGE ELECTRIC CO., effective date of declaration by Securities and Exchange Commission 1695

BAYOU LAFOURCHE, NAPOLEONVILLE, LA., operation of Texas and Pacific Railway Company Bridge 2116

BEASLEY, I. M., Jackson, Miss., notice under Packers and Stockyards Act 1408

BEAUMONT NAVIGATION DISTRICT, TEX., use and navigation of lock and dam across Taylors Bayou 1642

BECK COAL AND MINING CO., notice of hearing by National Bituminous Coal Commission 2161, 2282

BEES (HONEY AND QUEEN):
- Handling in interstate commerce, etc., regulatory order 2149
- Base period to be used, etc 2163
- Marketing agreement and license for shippers terminated 2153

BELLE ALKALI CO., notice of hearing by Federal Trade Commission 2134

BELMONT COAL CO., notice of hearing by National Bituminous Coal Commission 1516

BELVEDERE SILKS, INC., cease and desist order by Federal Trade Commission; sale, etc., of fabrics 1442

BENCHLEY & VERMILLION COAL CO., notice of hearing by National Bituminous Coal Commission 1516

BENTON ANNOUNCEMENTS, INC., notice of hearing by Federal Trade Commission 2134

BERGER, ALBERT E., notice of hearing by Federal Trade Commission 1283

BERK, HARRY S., AND STELLA, cease and desist order by Federal Trade Commission; sale of silverplated ware 1923

BERNSTEIN, SAMUEL E., ET AL., cease and desist order by Federal Trade Commission; sale of silverplated ware 1923

BERRY SEED CO., cease and desist order by Federal Trade Commission; sale of agricultural seed 2347

BEVERLY GAS AND ELECTRIC CO.:
- Effective date of declaration by Securities and Exchange Commission 2126
- Notice of hearing 1936

BIDS:
- Navy contracts, general expenses 2279
- War Department:
  - Bids and awards 2027
  - Default in performance 1879
  - Forms of agreement 1879
  - Invitations for 1710, 1975
  - Wildlife restoration projects, regulations 1713

BIG LAKE RESERVATION, ARK., fishing regulations 2075

BIOLOGICAL SURVEY BUREAU. *See* Fish and Game.

BIRDS. *See* Migratory Birds; Refuges.

BIRMINGHAM WATER WORKS CO., application for exemption granted by National Bituminous Coal Commission 1369

BISSON, ALBERT L., notice of hearing by Federal Trade Commission 1541

BITUMINOUS COAL. *See* Commerce: National Bituminous Coal Commission; Interior Department.

BLACK, LOUIS, cease and desist order by Federal Trade Commission; sale, etc., of rubber prophylactics 1366

BLEECKER-FOSTER, INC., cease and desist order by Federal Trade Commission; sale of food flavors, novelties, etc 1627

BLUE SEAL PRODUCTS CO., notice of hearing by Federal Trade Commission 1541

BLUFFTON GROCERY CO., notice of hearing by Federal Trade Commission 1541

BOATS, temporary free importation from Canada 1933

BOBWHITE QUAIL, importation from Mexico 2081

BOEING AIRPLANE CO., unlisted trading privileges extended by Securities and Exchange Commission 1941

BOEING, MARTHA A., notice of hearing by Federal Trade Commission 1541

BOND, ORVILLE J., notice of hearing by Federal Trade Commission 1340

BONDS:
- Brewers of malt liquors 1911
- Distilled spirits, manufacture, etc 1514
- Executed by Bankers Indemnity Insurance Company of Newark, N. J., in favor of the United States 1532
- Federal, corporations acceptable as sureties 1532
- Treasury 2½ percent of 1950–52, offering of 2204
- Treasury 2¾ percent of 1958–63, offering of 1333
- United States, delivery regulations 1566
- United States Savings, regulations amended 2233

BONUSES. *See* Pensions, Bonuses, and Veterans' Relief. Page

BORDO PRODUCTS CO., notice of hearing by Federal Trade Commission 1541

BOSTON, MASS.:
- Municipality and commercial zone, investigation by Interstate Commerce Commission 1892
- Wool transportation by motor vehicle, investigation 1891

BOURJOIS, INC., cease and desist order by Federal Trade Commission; sale of cosmetics 1711

BOYCE, W. D., CO.:
- Cease and desist order by Federal Trade Commission; sale of magazines 2348
- Notice of hearing 1371

BRADFORD ELECTRIC CO.:
- Effective date of declaration by Securities and Exchange Commission 1880
- Notice of hearing 1589

BRADLEY BROTHERS COAL CO., notice of hearing by National Bituminous Coal Commission 2161, 2282

BRANDY. *See also* Wine.
- Blending of pure fruit brandies 1925
- Distillates, collection or removal for denaturation, etc 1912
- Domestic, designation as "cognac" or "cognac brandy" 1903
- Fortification tax abatement or refund on 1926
- Losses in fortifying room of bonded winery or in transit, etc 1929
- Losses of, intended for fortification of wine 1925
- Manufacture of 1926
- Samples, withdrawal for laboratory analysis, etc 1924
- Transfer by pipe line for fortification of wine 1930

BREEZE CORPORATIONS, INC., stop order by Securities and Exchange Commission 1958

BROADCAST STATIONS. *See* Telecommunication.

BROTHERHOOD OF LOCOMOTIVE ENGINEERS, ET AL., orders by Interstate Commerce Commission 1478, 2244

BROWN, GLENN, notice of hearing by Federal Trade Commission 1543

BROWN-TAIL MOTH QUARANTINE, regulations revised 2341

BRUNING, CHARLES, CO., notice of hearing by Federal Trade Commission 1420

BRUNNER, ALPHONSE A., notice of hearing by Federal Trade Commission 1420

BUCKLEY-YOUNG CO., complaint by Federal Trade Commission; sale of wholesale grocery products 1888

BUCKSTAFF, NOEL H., hearing postponed by Federal Power Commission 1396

BUFFALO INDUSTRIAL CO., cease and desist order by Federal Trade Commission; sale of snow fence products 1845

BUFFALO, N. Y., airport of entry redesignated 1902

BUNTE BROS., INC., cease and desist order by Federal Trade Commission; sale of candy 2286

BURD KNITTING MILLS CO., cease and desist order by Federal Trade Commission; sale of hosiery 2031

BURLINGTON, VT., redesignated airport of entry 1540

BUTTER (adulterated, process or renovated), tax regulations amended giving effect to legislative enactments 1332

BYLLESBY CORP., hearing postponed by Securities and Exchange Commission 1354, 2318

BYLLESBY, H. M. & CO., hearing postponed by Securities and Exchange Commission 2318

C

CABLE FACILITIES, excise tax regulations amended 1651

CADETS, applicants for appointment in Air Corps, War Department 2174

CALIFORNIA:
- Air navigation site, withdrawal 1690
- Hops, order regulating handling of 1979
- Kings River Project, reclamation withdrawal 2040
- Motor carrier rates, investigation by Interstate Commerce Commission 1762, 1802, 1940
- Pears, handling of, hearing on proposed marketing agreement, etc 2045
- Sugar beet crop, wage rates and prices 1971
- Tenant purchase loans, counties designated for 2239
- Walnuts, handling of, hearing on proposed marketing agreement amendment 2133

CALIFORNIA LUMBERMEN'S COUNCIL, cease and desist order by Federal Trade Commission; sale of lumber, etc 1897

CALIFORNIA UTILITIES CORP. OF CALIF., notice of hearing by Securities and Exchange Commission 2240, 2268

CAMBRIA CLAY PRODUCTS CO., application for exemption granted by National Bituminous Coal Commission 1370

CAMP PERRY, OHIO, regulations for national rifle matches, 1938 1723

CANADA:
- Automobiles and boats, temporary fee importation from 1933
- Lumber importations pursuant to trade agreements with 1888
- Red cedar shingles from, importation limited 1965

CANAL CONSTRUCTION CO., order by Securities and Exchange Commission 1665

CANAL ZONE:
- Cerro Pelado Ammunition Depot Military Reservation, lands set apart as 2322

CANDIDATES, public office, rules for standard broadcast stations 1691

CANNED GOODS, investigation of motor carrier rates in far West by Interstate Commerce Commission 2022

CANON, F. T., & CO., INC., registration revoked by Securities and Exchange Commission 1654

CAPE MEARES MIGRATORY BIRD REFUGE, OREG., establishment 2047

CAPITAL STOCK TAX, time extensions for filling returns 1393

CARD CLOTHING MANUFACTURERS' ASSOCIATION, ET AL., notice of hearing by Federal Trade Commission 1972

CARRIERS TAXING ACT OF 1937, tax returns 2179

CATTLE. *See* Animals and Animal Products.

CEASE AND DESIST ORDERS. *See* Competitive Practices.

CENTRAL MAINE POWER CO., exemption from provisions of Public Utility Holding Company Act of 1935 1249

CENTRAL SERVICE CORP., notice of hearing by Securities and Exchange Commission 1509

CENTRAL VALLEY LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber 1897

CERRO PELADO AMMUNITION DEPOT MILITARY RESERVATION, lands set apart as, Canal Zone 2322

CERTANE CO., notice of hearing by Federal Trade Commission 2267

CHAMBERS, WILLIAM W., notice of hearing by Federal Trade Commission 1622

CHAMPION CHEMICAL WORKS, notice of hearing by Federal Trade Commission 1541

CHATTAHOOCHEE NATIONAL FOREST, GA., lands added 1961

CHEESE (FILLED), definition, tax, etc., regulations 1464

CHEROKEE NATIONAL GAME REFUGE NO. 2, GA., name changed to Noontootly National Game Refuge; boundaries redefined 1357

CHERRY, ALBERT T., notice of hearing by Federal Trade Commission — 2316

CHESAPEAKE BAY, use and navigation regulations within firing range of Fort Monroe Military Reservation — 1288

CHESTERFIELD COAL CO.:
- Notice of hearing by National Bituminous Coal Commission — 1367
- Petition on production cost data denied — 1955

CHICAGO, ILL., operation of Sanitary District controlling works; use of lock on Chicago River — 2139

CHICAGO, INDIANAPOLIS AND LOUISVILLE RAILWAY CO., order setting hearing, etc., by Securities and Exchange Commission — 1435, 1871

CHICAGO MATTRESS CO., notice of hearing by Federal Trade Commission — 2316

CHICAGO RIVET & MACHINE CO., cease and desist order by Federal Trade Commission; sale of industrial rivets — 1528

CHIPPEWA INDIANS, MINN.:
- Loans to Cooperative Marketing Association — 1320
- Undisposed-of opened lands restored to — 2223

CHIRICAHUA NATIONAL MONUMENT, ARIZ., lands added from Coronado National Forest — 1399

CHURCH CREEK, S. C., special drawbridge regulations — 1567

CINCINNATI GAS & ELECTRIC CO.:
- Effective date of declaration by Securities and Exchange Commission — 2258
- Notice of hearing — 1942

CITIZENSHIP, rules to overcome presumption of having ceased to be an American citizen — 1506

CIVIL AERONAUTICS AUTHORITY. *See also* Aviation.
- Aircraft operations in North Carolina during Joint Anti-Aircraft-Air Corps Exercises of War Department — 2234
- Certificate of transportation requirement, exemptions:
  - American Airlines, Inc., service to Huntington, W. Va. — 2350
  - Pan American Airways, Inc., service between Seattle, Wash., and Juneau, Alaska — 2103
  - Pennsylvania-Central Airlines Corp., service between Detroit and Sault Sainte Marie, Mich — 2066

CIVIL AERONAUTICS AUTHORITY—Continued.
- Certificate of transportation requirement; exemptions—Continued.
  - United Air Lines Transport Corp., service in California — 2067
  - Western Air Express Corp., service between Great Falls and Glacier National Park, Mont. — 2068
- Division of Personnel Supervision and Management required to be established — 2271
- Personnel, property, and appropriations transferred from Commerce Department and Interstate Commerce Commission — 2071

CIVIL SERVICE COMMISSION. *See* United States Civil Service Commission.

CIVIL SERVICE RULES, amendment — 1519

CIVILIAN CONSERVATION CORPS:
- Enrollment, discharge, hospitalization, etc., of enrollees — 1759, 1849, 2065
- Selection to compose Veterans' Contingent — 1276

CLALLAM INDIANS, reservation proclaimed for Port Gamble Band — 1867

CLANTON, LETA M., notice of hearing by Federal Trade Commission — 1541

CLARK, HAROLD BENJAMIN, suspension order by Securities and Exchange Commission — 1509

CLARK, ROBERT L., hearing postponed by Federal Power Commission — 1396

CLAYTON ANTITRUST ACT, interlocking bank directorates — 2194

CLIFFE, RAY Y., notice of hearing by Federal Trade Commission — 2265

COAL. *See also* Commerce; Interior Department: National Bituminous Coal Commission.
- Deposits in Choctaw and Chickasaw Nations, Okla., leasing regulations — 1433
- Imports from Union of Soviet Socialist Republics:
  - Commercial agreement extended — 2018
  - Liquidation of entries suspended — 2012

COAST COUNTIES LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber — 1897

COCA LEAVES, narcotic regulations:
- Importation, exportation and transshipment — 1258

COCA LEAVES, narcotic regulations—Continued.
- Taxes on importation, manufacture, sale, etc. — 1291–1313

COCONINO NATIONAL FOREST, ARIZ., lands excluded and added to Walnut Canyon National Monument — 2321

COHEN BROTHERS CORP.:
- Cease and desist order by Federal Trade Commission; sale of knitted outerwear — 2347
- Notice of hearing — 1542

COLORADO:
- Air navigation site withdrawal — 1862
- Bituminous coal in intrastate commerce, etc., investigation of nature and extent — 2253
- Dinosaur National Monument, enlargement — 1765
- Garber Livestock Commission Co., Julesburg, notice under Packers and Stockyards Act — 2181
- Grazing district modifications; rule — 1233, 1508, 1870, 2157
- Ownes, C. V., and Son Auction Sales Commission Co., notice under Packers and Stockyards Act — 2314
- South Greeley Sales Yards, Greeley, notice under Packers and Stockyards Act — 2182
- Tenant purchase loans, designation of counties for — 1957

COLORADO RIVER STORAGE PROJECT, reclamation withdrawal — 2245

COLUMBIA ALKALI CORP., notice of hearing by Federal Trade Commission — 2134

COLUMBIA BASIN PROJECT, WASH., reclamation withdrawal — 2040

COLUMBIA GAS & ELECTRIC CORP.:
- Declaration and dividends approved by Securities and Exchange Commission — 1646
- Notice of hearings — 1354, 1941

COMMERCE:
- Foreign and Domestic Commerce Bureau:
  - Statistics of foreign commerce and navigation of the United States, collection regulations — 1269
- National Bituminous Coal Commission:
  - Arkansas, determination of character of coal produced — 2154
  - Bituminous coal in intrastate commerce, investigations of nature and extent:
    - Alabama — 1605
    - Colorado — 2253
    - Montana — 1565
    - Oklahoma — 1606
    - Washington — 1511
    - Wyoming — 1606

COMMERCE—Continued.
- National Bituminous Coal Commission—Continued.
  - District Boards required to submit regulations for assessments — 1879
  - District No. 13, minimum price proposals for coal produced in Tennessee; regulations — 2058
  - Minimum Price Area No. 1:
    - Price proposals for kinds, qualities, and sizes of coal; regulations — 1988
    - Sale and distribution of coal by code members, proposed rules — 1989
    - Tonnage, determination of weighted average of total costs — 1987
  - Minimum Price Areas Nos. 2, 3, 4 and 5:
    - Price proposals for kinds, qualities, and sizes of coal; regulations — 2057
    - Sale and distribution of coal by code members, proposed regulations — 2058
    - Tonnage, determination of weighted average of total costs — 2061
  - Minimum Price Areas Nos. 6, 7, 9, and 10:
    - Price proposals for kinds, qualities and sizes of coal; regulations — 1895
    - Sale and distribution of coal by code members, proposed regulations — 1894
    - Tonnage, determination of weighted average of total costs — 1893, 1905
  - Rules of Practice and Procedure; amendment — 1840, 2059
  - Thirty-day contract limitation — 1951
- Secretary's Office:
  - Line dividing the high seas from rivers, harbors, and inland waters, Juan de Fuca Strait, Washington and Puget Sounds — 2254

COMMERCE DEPARTMENT:
- Air Commerce Bureau. *See also* Aviation.
  - Air traffic rules, special:
    - Amarillo, Tex. — 1664
    - Gettysburg Battlefield, Pa. — 1614
    - Latonia, Ky. — 1664
    - Marietta, Ohio — 1664
    - New York World's Fair Grounds, June 30, 1938 — 1589
    - Oklahoma City, Okla. — 1664
- Employment of examiners, etc., to carry out functions of National Economic Committee — 1945
- Fisheries Bureau. *See* Fish and Game.
- Foreign and Domestic Commerce Bureau. *See* Commerce.

COMMERCE DEPARTMENT—Continued.
- Marine Inspection and Navigation Bureau. *See also* Navigation and Navigable Waters; Shipping.
  - Board of Supervising Inspectors, notice of meeting of Executive Committee — 1800
- Transfer of certain personnel, property, and appropriations to Civil Aeronautics Authority — 2071

COMMITTEE FOR RECIPROCITY INFORMATION. *See* State Department.

COMMODITY CREDIT CORPORATION. *See* Agricultural Credit.

COMMODITY EXCHANGE ADMINISTRATION. *See* Agriculture; Agriculture Department.

COMMODITY EXCHANGE COMMISSION. *See* Agriculture Department.

COMMONWEALTH AND SOUTHERN CORP., notice of hearing by Securities and Exchange Commission — 1720

COMMUNICATIONS. *See* Telecommunications.

COMMUNITY POWER AND LIGHT CO.:
- Notice of hearing by Securities and Exchange Commission — 1878
- Sale of securities approved — 2019

COMO MINES CO., order by Securities and Exchange Commission — 1665

COMPENSATION, regulations under Railroad Retirement Act of 1937 — 1478

COMPETITIVE PRACTICES:
- Cease and desist orders, etc.:
  - Acme Merchandise Co. — 2238
  - Adams, S. W. — 1845
  - American College, et al. — 2030
  - American Field Seed Co. — 1968
  - American Health Society, Inc — 1512
  - American Lawn Mower Co. — 1858
  - Arata, John B. — 2349
  - Arlington Concrete Pipe Corp. — 2028
  - Askin's Retail Stores, Inc. — 1969
  - Averbach, J. — 1428
  - Barbara Gould Sales Corp. — 1711
  - Belvedere Silks, Inc. — 1442
  - Berk, Harry S., and Stella — 1923
  - Bernstein, Samuel E., et al. — 1923
  - Berry Seed Co., et al. — 2347
  - Black, Louis — 1366
  - Bleecker-Foster, Inc. — 1627
  - Bourjois, Inc. — 1711
  - Boyce, W. D., Co. — 2348
  - Buffalo Industrial Co. — 1845
  - Bunte Brothers, Inc. — 2286
  - Burd Knitting Mills Co. — 2031
  - California Lumbermen's Council — 1897
  - Central Valley Lumbermen's Club — 1897

COMPETITIVE PRACTICES—Continued.
- Cease and desist orders, etc.—Continued.
  - Coast Counties Lumbermen's Club — 1897
  - Cohen Brothers Corp. — 2347
  - Concrete Pipe and Products Co. — 2028
  - Connecticut Retail Liquor Package Stores Assn., Inc. — 1629, 1630, 1631
  - Cooperative Library Co. — 2062
  - Craddick, William F. — 2237
  - D. C. Exclusive Retail Liquor Dealers Assn. — 1629, 1630, 1631
  - Davis, Roy B. — 1899
  - Day-Lite Illuminating Corp. — 2154, 2155
  - Deran Confectionery Co. — 1391, 2003
  - Easterly, H. W. — 2028
  - Elbee Chocolate Co., Inc. — 1858
  - Engel, Jane, Inc. — 1859
  - Eta Co., Inc. — 1659
  - Excello Fabrics, Inc. — 1392
  - Florida Building Material Institute, Inc., et al. — 2346
  - Glade Candy Co — 2005
  - Golden Peacock, Inc. — 1712
  - Gooderham & Worts, Ltd. — 1629
  - Goodyear Associates — 2176
  - Gotham Sales Co., Inc. — 2287
  - Gottsegen, Harry J., et al. — 2287
  - Granada Vineyards, Inc. — 1896
  - Gray Concrete Pipe Co. — 2028
  - Great Lakes Novelty Co. — 1899
  - Greater New York Licensed Liquor Stores Assn., Inc. — 1629, 1630, 1631
  - Gum, Inc. — 2242
  - Hammond Clock Co. — 1712
  - Harper Manufacturing Co. — 1900
  - Helena Rubinstein, Inc. — 1391
  - Higbe, Denton N. — 2030
  - Hiner, Melvin — 2062
  - Hiram Walker, Inc. — 1630
  - Hudson Bay Fur Co. — 1898
  - Hutchinson, L. L. — 1845
  - Illinois Wire and Manufacturing Co — 1845
  - Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, et al. — 1528
  - Jacobsen, Irving Roy — 2061
  - John Hancock Pen Co. — 2028
  - Joy Package Co., Inc. — 1419
  - Kadetsky, Hyman — 2239
  - Kallman & Morris, Inc. — 1859
  - Kar-Nu Co — 2238
  - Katz, Harry J. — 1366
  - Kluger, H., Inc. — 1441
  - Lady Fair Laboratories — 2287
  - Lee, George H., Co. — 1711
  - Letellier-Phillips Paper Co., Inc. — 2032
  - Lincoln Dental Supply Co., Inc — 2348
  - Lindabury, H. R., and Sons — 1845
  - Liquidation Merchandise Co. — 2239
  - Lock Joint Pipe Co., et al. — 2027
  - Louisville Pottery Co — 2029
  - Lumino Co., Inc. — 1713
  - Madison Milling Co — 1952
  - Magic Chemical Co — 1512

79500—38——2

COMPETITIVE PRACTICES—Continued. Page
Cease and desist orders, etc.—Continued.
Mahler, Teolinda (D. J. Mahler Co.) 1713
Mall Tool Co 2176
Marvo Beauty Laboratories, Inc 1366
Master Lock Co 2349
Mattson Wire and Manufacturing Co 1845
Medical Book Distributors, Inc 1512
Merco Sales Co 2081
Merritt, John C 2081
Metropolitan Boston Retail Liquor Package Stores Assn., et al 1629, 1630, 1631
Metropolitan Distributing Co 1859
Mid-Atlantic Concrete Pipe and Products Co 2028
Midwest Publishing Co., et al 1896
Moses, G. M 1428
National Distillers Products Corp 1631
National Institute of Wine & Spirit Distributors, Inc 1629, 1630, 1631
National Retail Liquor Package Stores Assn 1629, 1630, 1631
National Silver Co 1923, 1967
Nebraska Bridge Supply and Lumber Co 1845
New Jersey Fence Co 1845
New Jersey Retail Liquor Package Stores Assn., et al 1629, 1630, 1631
No-Flatz Co 2238
Northern Counties Lumbermen's Club 1897
Novelcrafts Co., et al 2031
N-Urg-Izr, Vit-O-Net, and Electronet 2237
Nutex Co 1366
Ostler Candy Co 2005
Parrish, Jack M., and J. Scott 2028
Peninsula Lumbermen's Club 1897
Perfect Manufacturing Co., Inc 2238
Pergande Institute, et al 1898
Petrie, John 1906
Pincus, J. W 2031
Prize Medal Laboratories 2287
Progressive Education Society, Inc 2062
Pro-Ker Laboratories, Inc 2241
Purity Products Co 1906
Reliable Specialty Corp 2029
Richmond School Furniture Co 1858
Roth, Lou 2031
Rowe Manufacturing Co 1845
RX Manufacturing Co 2287
Sales on Sound Corp 2237
San Joaquin Lumbermen's Club 1897
Sarasin, Celia 1899
Scadron, Irwin 1859
Schenley Distillers Corp 1630
Scientific Laboratories, etc 2287

COMPETITIVE PRACTICES—Continued. Page
Cease and desist orders, etc.—Continued.
Seagram-Distillers Corp 1628
Shaddy, Kelly J 1512
Shelton Tubular Rivet Co 1528
Shupe-Williams Candy Co 2004
Silver, Dan 2031
Soft-Lite Lens Co., Inc 1627
Springfield Milling Corp 2203, 2204
Standard Seed Co 1968
Startup Candy Co 2003
Stock's Nu-Tone Tonic 2032
Sun-Field Seed Service 1968
Superwear Hosiery Co 1428
Tarex Co 1366
Taylor Washing Machine Co 1505
Tip Top Laboratories 2287
Tucker, Benjamin 1898
United Distillers (of America) Ltd 1628
United Fence Manufacturers Assn., et al 1845
Universal Advertisers Service 1899
Universal Merchandise Co 2287
Wain's Laboratory, Inc 1712
Warner's Renowned Remedies Co 1513
Willys-Overland Motors, Inc 1900
Zimmer, H. R 1952
Trade practice rules promulgated:
Fur Industry 1442
Macaroni, Noodles, and Related Products Industry 1660
Oleomargarine Manufacturing Industry 2323
Tomato Paste Manufacturing Industry 2155
Woven Cotton Yard Goods, shrinkage properties 1583
COMPLAINTS. *See* Federal Trade Commission.
COMPTROLLER OF THE CURRENCY. *See* Banking and Credit.
CONCRETE PIPE AND PRODUCTS CO., cease and desist order by Federal Trade Commission; sale of concrete pipes 2028
CONNECTICUT:
Tenant purchase loans, designation of counties for 1935
Westport, highway drawbridge regulations revoked across Saugatuck River 2264
CONNECTICUT RETAIL LIQUOR PACKAGE STORES ASSN., INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631
CONSERVATION AND POWER:
Electric utilities and licensees, Classes C and D, form and filing of annual financial and statistical report 2254, 2255
Natural Gas Act, Provisional Rules of Practice and Regulations 1681

CONSOLIDATED AIRCRAFT CORP., unlisted trading privileges extended by Securities and Exchange Commission 1941
CONSOLIDATED INDIANA COAL CO., application for exemption denied by National Bituminous Coal Commission 1369
CONSOLIDATED PINNACLE COAL CO., notice of hearing by Federal Trade Commission 2257
CONSOLIDATED TEXTILE CORP.:
Listing and registration orders by Securities and Exchange Commission 1977, 2069
Order for hearing 1665
CONSULAR REGULATIONS, consolidated into Foreign Service Regulations 1749
CONTINENTAL ROYALTIES CORP., registration denied by Securities and Exchange Commission 2014
CONTINENTAL SECURITIES CORP., order for hearing by Securities and Exchange Commission 1802
CONTRACTS:
Lincoln Gardens Project, New Brunswick, N. J., release forms adopted 2144
Navy, excess profits on contracts 2279
War Department, forms of agreement; defaults 1879
CONTROL PRODUCTS CO., notice of hearing by Federal Trade Commission 1420
COOMBS, J. W., MFG. CO., INC., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
COOPERATIVE LIBRARY CO.:
Cease and desist order by Federal Trade Commission; sale of reference books 2062
Notice of hearing 1370
COOS BAY WAGON ROAD, OREG., sale of timber from grant lands 1795
COPPER DISTRICT POWER CO.:
Effective date of declaration, etc., by Securities and Exchange Commission 2012
Notice of hearing 1775
COPPS CO., notice of hearing by Federal Trade Commission 1541
CORN:
Loans to producers, instructions amended 1399
Marketing quotas, administrative review 1749
Supply for marketing year 1938–39 2163
CORONADO NATIONAL FOREST, ARIZ.:
Lands excluded and added to Chiricahua National Monument 1399

CORONADO NATIONAL FOREST, ARIZ.—Continued. Page
Portion transferred to jurisdiction of Treasury Department 1944
COTTON:
Bankhead Cotton Act of 1934, tax refunds authorized 1969
Classification and market news services, regulations 1360
County normal yields for 1938 2072
Entry from Mexico, regulations 1618
Farm marketing quotas, 1938–1939, regulations 1569
Marketing quotas, administrative review 1749
Pink bollworm quarantine regulations 1618
Pool Participation Trust Certificates, Form C–5–I, retirement 1754, 2194
Price Adjustment Payment Plan, 1937, regulations 1701
Sea Island cotton, grade standards established 1966
Standards for length of staple 1966
United States Cotton Standards Act, regulations 1965
COTTON, ERNEST H., order for hearing by Federal Power Commission 1340, 1396
COTTON YARD GOODS, WOVEN, trade practice rules promulgated by Federal Trade Commission 1583
COTTONSEED, sale for crushing purposes:
Inspection, sampling, and certification regulations 1361
Standards for grades 1343
COUNCIL BLUFFS GAS CO.:
Acquisition of securities approved by Securities and Exchange Commission 2097
Documents made part of record 2135
Effective date of declaration 2097
Notice of hearing 1881
COUNTY GAS CO.:
Documents made part of record 2135
Effective date of declaration 2097
Notice of hearing 1881
CRADDICK, WILLIAM F.:
Cease and desist order by Federal Trade Commission; sale of electric blankets, etc 2237
Notice of hearing 1543
CRANE CHOCOLATE CO., notice of hearing by Federal Trade Commission 2228
CRESCENT PUBLIC SERVICE CO., notice of hearing by Securities and Exchange Commission 1422
CRETE MILLS, notice of hearing by Federal Trade Commission 1545
CROCKER, THEODORE E., hearing postponed by Federal Power Commission 1396
CROSBY, N. DAK., redesignated airport of entry 1540

CUBA: Page
Automobiles, temporary free importation from 1933
Lumber importations pursuant to trade agreements with 1888
CULBERTSON, JAMES G.:
Maximum interim allowance of fees, etc., from Utilities Elkhorn Coal Co 2303
Notice of hearing by Securities and Exchange Commission 1509
CUPPLES CO., notice of hearing by Federal Trade Commission 1541
CURTIS WRIGHT CORP., unlisted trading privileges extended by Securities and Exchange Commission 1372, 1763
CUSTOMS BUREAU. *See* Customs Duties; Treasury Department.
CUSTOMS DUTIES:
Customs Bureau:
Antidumping, certain findings revoked 1287
Automobiles, boats and aircraft, temporary free importation 1933
Bobwhite Quail, importation from Mexico 2081
Coal, coke, and briquets from Soviet Union, commercial agreement extended 2018
Customs Regulations of 1937, amendments:
American fisheries redefined to include shore stations, etc 2033
Articles exempt from marking to indicate country of origin 2082
Articles in chief value of manufactured sugar, additional invoice data 2033
Cargo, statistical reports 1429
Drawback, obsolete general regulations revoked 1607
Legal public holidays, Armistice Day, November 11, included 1344
Merchandise subject to control, restriction, or prohibition by Federal agencies 1392
Miscellaneous amendments 1808–1828, 2307
Officers and employees, rate of extra compensation for overtime services 1969
Oils (imported), etc., additional facts required on invoices 1640
Seeds imported, kinds and proportions to be colored 2063
Vessels covered by a preferred mortgage, surrender of documents 1428
Oils, etc., tax assessment on importations 1632
Wool hooked rugs, domestic manufacturer's protest overruled on classification and rate of duty 2063

CUSTOMS PORTS. *See* Ports of Entry. Page

D

D. C. EXCLUSIVE RETAIL LIQUOR DEALERS ASSN., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631
DAKOTA POWER CO.:
Effective date of declaration by Securities and Exchange Commission 2019
Notice of hearing 1668
DALLAS GAS CO.:
Acquisition of securities approved by Securities and Exchange Commission 2097
Documents made part of record 2135
Effective date of declaration 2097
Notice of hearing 1881
DAVIS, ROY B., cease and desist order by Federal Trade Commission; sale of radios, etc 1899
DAVIS, WARREN T., notice of hearing by Federal Trade Commission 1920
DAWSON, JOHN A., effective date of declaration by Securities and Exchange Commission 2046
DAY-LITE ILLUMINATING CORP., cease and desist order by Federal Trade Commission; electric light fixtures 2154, 2155
DAYTON POWER AND LIGHT CO., notice of hearing by Securities and Exchange Commission 1941
DE BAR, HAROLD L., notice of hearing by Federal Trade Commission 1542
DEAN MILK CO., notice of hearing by Federal Trade Commission 1541
DEKAMA, INC., notice of hearing by Federal Trade Commission 2267
DEL BONITA, MONT., designated customs port of entry 1965
DELAWARE:
Motor carrier rates, investigation by Interstate Commerce Commission 1284, 1636
Tenant purchase loans, designation of counties for 1935
DENMARK, pre-sailing examination and collection of fees for vessels 1567
DERAN CONFECTIONERY CO., cease and desist order by Federal Trade Commission; sale, etc., of candy 1391, 2003
DES MOINES, IOWA, Sales Area, license termination for milk 1591
DETECTIVE PUBLISHING CO., notice of hearing by Federal Trade Commission 1544
DETROIT AND MACKINAC RAILWAY CO., order for hearing by Securities and Exchange Commission 1434, 1614

DIAMOND ALKALI CO., notice of hearing by Federal Trade Commission ---- 2134
DIAMOND BLOCK COAL CO., notice of hearing by National Bituminous Coal Commission ---- 2161, 2282
DIAMOND CAP CO., notice of hearing by Federal Trade Commission ---- 2041
DICKERSON, KENNETH, notice of hearing by National Bituminous Coal Commission ---- 1516
DIESEL ENGINES TRAINING, notice of hearing by Federal Trade Commission ---- 1447
DIESEL POWER-UNITED ENGINEERING SCHOOLS, notice of hearing by Federal Trade Commission ---- 1446
DIETZEN, EUGENE, CO., notice of hearing by Federal Trade Commission ---- 1420
DINOSAUR NATIONAL MONUMENT, COLO., UTAH, enlargement ---- 1765
DIPLOMATIC OFFICERS, Instructions consolidated into Foreign Service Regulations ---- 1749
DISTILLED SPIRITS:
- Bonds covering manufacture, etc., of ---- 1514
- Bottling in bond:
  - Bottling house, establishment; regulations ---- 1348
  - Caution notice revised ---- 1756
  - Stamps, marks and brands ---- 1641
- Distilling and rectifying, authority to conduct business at less than 600 feet apart; fences ---- 2034
- Drawback of, bottled for export ---- 2043
- Floor taxes ---- 1469, 1612
- Labeling and Advertising Regulations amended:
  - Domestic brandy, designations as "cognac" ---- 1903
  - Name and address on brands bottled by same person at different premises ---- 1395
  - Use of coloring, flavoring, etc ---- 1394, 1885, 1902
  - Whiskeys produced after March 1, 1938 ---- 2338
- Regulation of traffic in containers of ---- 2325
- Stills or worms for distilling, manufacture, tax-payment, etc ---- 1608

DISTRICT OF COLUMBIA, airspace reservation established ---- 1437
DIVCO-TWIN TRUCK CO., order for hearing by Securities and Exchange Commission ---- 2230
DOCUMENTARY STAMP TAXES, regulations amended giving effect to legislative enactments ---- 1330
DOLLAR STEAMSHIP LINE, hearing on operating-differential subsidy contract ---- 2260
DOMINION STORES LIMITED, order setting hearing by Securities and Exchange Commission ---- 1904
DOW CHEMICAL CO., order for hearing by Securities and Exchange Commission ---- 2212
DOW FRUIT CO., complaint by Federal Trade Commission; sale of food products ---- 1888
DRAWBACK:
- Customs obsolete general regulations revoked ---- 1607
- Stills for export ---- 1608

DRAWBRIDGES:
- Church Creek between Charleston and Rockville, S. C., regulations ---- 1567
- Frankford Creek, Bridge Street, Philadelphia, Pa., regulations ---- 2138
- Kalamazoo River between Douglas and Saugatuck, Mich., regulations ---- 2314
- Saugatuck River, Westport, Conn., highway bridge regulations revoked ---- 2264
- Texas and Pacific Railway Bridge across Bayou Lafourche, Napoleonville, La., operation of ---- 2116

DRUGS. *See* Food and Drugs.
DUNLAP, AL, notice of hearing by Federal Trade Commission ---- 1544

E

EARLE COAL CO., notice of hearing by National Bituminous Coal Commission ---- 1516
EASTERLY, H. W., cease and desist order by Federal Trade Commission; sale of concrete pipes ---- 2028
EASTERLY UTILITIES ASSOCIATES:
- Effective date of declaration by Securities and Exchange Commission ---- 2103
- Notice of hearing ---- 1882

EBERSBACH COAL CO., notice of hearing by National Bituminous Coal Commission ---- 1516
ECONOMY BLUE PRINT PRODUCTS, INC., notice of hearing by Federal Trade Commission ---- 1420
EDUCATIONAL INSTITUTIONS, instruction of citizens of American Republics ---- 2105
EDWARDS, WILLIAM, CO., notice of hearing by Federal Trade Commission ---- 1541
EL PASO-JUAREZ VALLEY, maintenance and preservation of Rio Grande Rectification Project ---- 2297
ELBEE CHOCOLATE CO., INC., cease and desist order by Federal Trade Commission; sale of candy ---- 1858
ELDER, ERNEST E., cease and desist order by Federal Trade Commission; sale of agricultural seed ---- 1968
ELECTRIC ADVISERS, INC., notice of hearing by Securities and Exchange Commission ---- 1748
ELECTRIC BOAT CO., unlisted trading privileges extended by Securities and Exchange Commission ---- 1941
ELECTRIC MINE LAMPS, requirements for approval, tests made, and fees ---- 1529
ELECTRIC UTILITIES, form and filing of financial and statistical reports ---- 2254, 2255
ELECTRICAL ENERGY, excise tax regulations amended ---- 1651
ELECTRICITY, new standard rate schedules, San Carlos Project, Ariz ---- 1607
ELECTRO BLEACHING GAS CO., notice of hearing by Federal Trade Commission ---- 2134
ELK HORN COAL CO., order by Securities and Exchange Commission ---- 2013
EMERGENCY BOARD, created to investigate dispute of Atchison, Topeka & Santa Fe Railway and Other Carriers—Employees ---- 2321
EMERGENCY RELIEF APPROPRIATION ACT OF 1938:
- Executive orders, rules, etc., made applicable to, for loans ---- 1619
- Monthly earnings of persons engaged on projects ---- 1912

National Youth Administration:
- Part-time employment of out of school youths ---- 1914
- Student aid program ---- 1913
- Rates of pay, hours of work, etc., on projects ---- 1916
- Supply fund for materials and equipment ---- 1918

EMPIRE SOUTHERN SERVICE CO., notice of hearing by Securities and Exchange Commission ---- 1421
EMPLOYEES AND EMPLOYERS:
- Atchison, Topeka & Santa Fe Railway and other carriers, emergency board created to investigate dispute ---- 2321
- Motor carrier, maximum hours of service ---- 2339
- National system of employment offices, establishment and maintenance ---- 1470
- Non-appointive emergency workers, wages, hours, and conditions, etc ---- 1708
- Railroad Retirement Act of 1937, regulations ---- 1478

Social Security Act:
- Information returns abolished for certain employees ---- 2303
- Tax credits and refunds ---- 1463

ENDURA CORP., notice of hearing by Federal Trade Commission ---- 2265
ENGEL, JANE, INC., cease and desist order by Federal Trade Commission; sale of dresses ---- 1859
ENGINEERS PUBLIC SERVICE CO., effective date of declaration by Securities and Exchange Commission ---- 1695
ENTOMOLOGY AND PLANT QUARANTINE BUREAU. *See* Agriculture; Agriculture Department.
ENVELOPE INDUSTRY, minimum wage determination amended ---- 1613
EQUITY CORP., unlisted trading privileges, hearing on extension by Securities and Exchange Commission ---- 1426
ERBLANG, JOSEPH B., order for hearing by Federal Power Commission ---- 1340, 1396
ERNSTROM & CO., INC., registration revoked by Securities and Exchange Commission ---- 1863
ESKIMOS, survey and disposal of native towns and possession, Alaska ---- 1653
ESTATE TAX. *See* Taxes.
ETA CO., INC., cease and desist order by Federal Trade Commission; sale of food products ---- 1659
EUCOZONE LABORATORIES, INC., notice of hearing by Federal Trade Commission ---- 2316
EXAMINERS AND EXPERTS, employment to carry out functions of National Economic Committee ---- 1945
EXCELLO FABRICS, INC., cease and desist order by Federal Trade Commission; sale, etc., of fabrics ---- 1392
EXCISE TAX. *See* Taxes.
EXECUTIVE ORDERS. *See* President, The.
EXPATRIATION, rules to overcome presumption of having ceased to be an American citizen ---- 1506
EXPLOSIVES, transportation regulations ---- 1621
EXPORT APPLE AND PEAR ACT, regulations amended by Secretary of Agriculture ---- 1769

F

F. B. PRODUCTS CO., notice of hearing by Federal Trade Commission ---- 1542
FAASEN, JOSEPH F., cease and desist order by Federal Trade Commission; sale of agricultural seed ---- 2347
FAERMAN, HARRY, notice of hearing by Federal Trade Commission ---- 2041
FAIRBANKS TAILORING CO., notice of hearing by Federal Trade Commission ---- 2317
FAIRCHILD ENGINE AND AIRPLANE CORP., order setting hearing by Securities and Exchange Commission ---- 1958
FAIRMONT COALS, INC., notice of hearing by National Bituminous Coal Commission ---- 2206, 2282
FARM CREDIT ADMINISTRATION. *See also* Agricultural Credit.
- Division of Personnel Supervision and Management required to be established ---- 2271

FARM SECURITY ADMINISTRATION. *See also* Agriculture; Agriculture Department.
- Magazine Mountain Project, Ark., lands transferred to Forest Service ---- 1761

FARM TENANT ACT. *See* Bankhead-Jones Farm Tenant Act.
FARMERS' LIVESTOCK SALES CO., notice under Packers and Stockyard Act ---- 2293
FEDERAL ADVISERS, INC., notice of hearing by Securities and Exchange Commission ---- 2135
FEDERAL AGENCIES, establishment of Divisions of Personnel Supervision and Management ---- 2271
FEDERAL AID WILDLIFE RESTORATION ACT, regulations ---- 1713
FEDERAL ALCOHOL ADMINISTRATION DIVISION. *See* Intoxicating Liquors; Treasury Department.
FEDERAL COMMUNICATIONS COMMISSION. *See also* Telecommunication.
- Great Lakes and inland waters radio requirements survey, investigation and hearing ---- 1516, 1517
- Power requirements for ship radio transmitters, investigation ---- 1409

FEDERAL CROP INSURANCE CORPORATION. *See* Agriculture.
FEDERAL DEPOSIT INSURANCE CORPORATION. *See* Banking and Credit.
FEDERAL FIREARMS ACT, issuance of licenses to manufacturers and dealers in firearms or ammunition ---- 1868
FEDERAL FOOD, DRUG, AND COSMETIC ACT, regulations ---- 1846, 2064
FEDERAL HOME LOAN BANK BOARD. *See* Housing Credit.
FEDERAL HOUSING ADMINISTRATION. *See* Housing Credit.
FEDERAL KNITTING MILLS CO., order by Securities and Exchange Commission ---- 1664
FEDERAL LAND BANK OF BERKLEY, fees schedule ---- 1473
FEDERAL LAND BANK OF COLUMBIA, partial release of security fees ---- 1962
FEDERAL LAND BANK OF WICHITA, special interest rates on certain loans ---- 2337
FEDERAL NATIONAL MORTGAGE ASSOCIATION:
- Obligations of, special deposit of public moneys ---- 1419
- Securities designated for exemption under Securities Exchange Act of 1934 ---- 1419

FEDERAL POWER COMMISSION. *See also* Conservation and Power.
Natural Gas Act:
- Investigation of natural gas companies; filing of report ---- 1692
- Schedules of rates and charges and reports, filing of ---- 1694

Notice of hearings, etc.:
- Appalachian Electric Power Co ---- 1540
- Brown, Glenn ---- 1543
- Buckstaff, Noel H ---- 1396
- City of Los Angeles, et al v. Nevada-California Electric Corp ---- 1249, 1396, 1457
- Clark, Robert L ---- 1396
- Cotton, Ernest H ---- 1340, 1396
- Crocker, Theodore E ---- 1396
- Erblang, Joseph B ---- 1340, 1396
- Gobler, Leslie N ---- 1340, 1396
- Grenacher, Henry ---- 1396
- Holston River Electric Co ---- 1654
- House, Garrett O ---- 1340, 1396
- Jersey Central Power & Light Co ---- 1654, 1932, 2209
- Kellett, Ernest G ---- 1396
- McGuire, John F ---- 1340, 1396
- McMillen, James S ---- 1340, 1396
- Miller, Roy F ---- 1340, 1396
- Molyneaux, John J ---- 1396
- New Jersey Power & Light Co ---- 1654, 1932, 2209
- Pack, Robert F ---- 1396
- Rork, Glen V ---- 1396
- Tennessee Public Service Co ---- 1540
- Twin State Gas & Electric Co ---- 1387, 1503
- Young, Harold E ---- 1396

FEDERAL RANGE CODE:
- Administration of grazing districts ---- 2100
- Supplementary rules ---- 1533

FEDERAL RESERVE SYSTEM. *See* Banking and Credit.
FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION. *See* Housing Credit.
FEDERAL SAVINGS AND LOAN SYSTEM. *See* Housing Credit: Federal Home Loan Bank Board.
FEDERAL SEED ACT:
- Imported seeds, kinds and proportions to be colored ---- 2063

FEDERAL SEED ACT—Contd. Page
Joint regulations of Secretaries of Agriculture and Treasury 2002
FEDERAL SHIP MORTGAGE INSURANCE, information and application form 1886
FEDERAL TRADE COMMISSION:
Cease and desist orders. *See* Competitive Practices.
Complaints:
American Fruit Growers, Inc. 1888
Architectural Tiling Co., Inc. 2124
Buckley-Young Co 1888
Dow Fruit Co 1888
Henderson, William, Sugar Refinery 1888
Jobbers Produce Co., Inc. 1888
Matawan Tile Co 2120
Mississippi Sales Co., Inc. 1888
Mosaic Tile Co 2119
Muir, E. O., Co 1888
National Tile Co., Inc. 2125
Pacific Fruit and Produce Co. 1888
Pardee, C., Works 2120
Penny Stores, Inc 1888
Superior Ceramic Corp. 2117
Trent Tile Co., Inc. 2118
Wenczel Tile Co 2122
Wheeling Tile Co 2123
Employment of examiners, etc., to carry out functions of National Economic Committee 1945
Notice of hearings, etc.:
Ace Auto Supply Co 1421
Acme Merchandise Co 1545
Algren Manufacturing Co., Inc. 1340
Allen, H. F. 2266
Allison-Bedford Co 1541
American Bureau of Hygiene 1542
American Health Association of Washington, D. C. 1542
American Memorial Co. 1801
American Optical Co., et al. 2315
Angelus Campfire Co 1541
Arvil Co 2316
Associated Laboratories, Inc., N. Y. 1540
Atco Soap Co 2316
B & T Floor Co 2317
Bell Alkali Co 2134
Benton Announcements, Inc. 2134
Berger, Albert E 1283
Bisson, Albert L 1541
Blue Seal Products Co 1541
Bluffton Grocery Co 1541
Boeing, Martha A 1541
Bond, Orville J 1340
Bordo Products Co 1541
Boyce, W. D., Co 1371
Bruning, Charles, Co., Inc. 1420
Brunner, Alphonse A 1420
Card Clothing Manufacturers' Association, et al 1972
Certane Co 2267
Chambers, William W 1622
Champion Chemical Works 1541
Cherry, Albert T 2316
Chicago Mattress Co 2316
Clanton, Leta M 1541
Cliffe, Ray Y 2265
FEDERAL TRADE COMMISSION—Continued. Page
Notice of hearings, etc.—Contd.
Cohen Brothers Corp. 1542
Columbia Alkali Corp. 2134
Consolidated Pinnacle Coal Co. 2257
Control Products Co. 1420
Co-Operative Library Co. 1370
Copps Co 1541
Craddick, Wm. F. 1543
Crane Chocolate Co. 2228
Crete Mills 1545
Cupples Co. 1541
Davis, Warren T. 1920
De Bar, Harold L. 1542
Dean Milk Co 1541
DeKama, Inc. 2267
Detective Publishing Co. 1544
Diamond Alkali Co. 2134
Diamond Cap Co., et al. 2041
Diesel Engines Training 1447
Diesel Power-United Engineering Schools 1446
Dietzen, Eugene, Co. 1420
Dunlap, Al 1544
Economy Blue Print Products, Inc. 1420
Edwards, William, Co. 1541
Electro Bleaching Gas Co. 2134
Endura Corp 2265
Eucozone Laboratories, Inc. 2316
F. B. Products Co. 1542
Fairbanks Tailoring Co. 2317
Federal Advisers, Inc. 2135
Fireside Industries, Inc. 1283
Floracube Co., Inc. 2257
Forson Laboratories 1543
Fromm, Joseph 1421
General Research Foundation, Inc. 1920
Gimbel Brothers, Inc. 1801
Gold Medal Farms, Inc. 1421
Goldblatt Bros., Inc. 2227
Grand National Films, Inc. 2134
Grant, G. G. 1541
Gravitonic Life Ray Corp., Inc. 1932
Greater Chambers Co. 1622
Gulf Refining Co. 1446
Hall & Ruckel, Inc. 1544
Hastings, Clayton R. 1447
Heininger, Sylvan B. 1541
Hemphill, Roy 1446
Hiner, Melvin 1370
Hitt Fireworks Co. 2264
Hoffman, E. A., Candy Co. 2266
Honbaum, W. K. 1446
Hooker Electrochemical Co. 2134
Huey Co 1420
Hunter, Eugene H., and Rae LaMarr 2257
Hygienic Corp., of America 1542
Inderrieden, J. B., Co. 1541
International University of Commerce 2318
Jelke, John F., Co., Inc. 2134
Jones, Josiah L. 1801
K & K Supply Co., Inc. 2134
Kadetsky, Hyman 1545
Kaplan, Morris, & Son, Inc. 1801
Keuffel & Esser Co. 1420
Keystone Blue Paper Co. 1420
Knapp, Charles E. 2317
Lady Frances Laboratories 2228
FEDERAL TRADE COMMISSION—Continued. Page
Notice of hearings, etc.—Contd.
Landrum, A. B. 2317
Lau, H. P., Co. 1541
Leaderbrand, R. E., and Gladys M 1542
Letellier-Phillips Paper Co., Inc 1447
Lewis, Rosemarie 2267
Lima-Kenton Grocery Co. 1541
Lincoln Dental Supply Co., Inc. 1446
Lincoln Locker Corp. 1249
Liquidation Merchandise Co. 1545
Lowe, Jean, Cosmetic Co. 1543
Magnecoil Co., Inc. 2257
Manning, Paul V. 2318
Marvel Products Co. 1340
Mathieson Alkali Works, Inc. 2134
Merrill-Saunders Co., Ltd. 1542
Metzler McKean Corp. 2228
Meyer, M. J. & H. J., Co., Inc. 1541
Millar, Adele 2264
Mitchell, Stafford T., et al. 2316
Modern American Co. 2317
Monarch China Co. 1801
Monarch Stove Top Co. 1446
Monsanto Chemical Co. 2134
Monticello Drug Co. 1802
Morrell, Ellis 2257
Morris, Callie E. 1420
Mosby, G. H. 1541
National Employees Training Service 1543
National Institute for Physical Advancement 2266
National Institute, Inc. 1447
National Training Institute, Inc., et al. 1543
N-Urg-Izer, Vit-O-Net, and Electronet 1543
O. K. Tailoring Co. 1544
Pacific China Co. 2265
Palazzolo, J. 1800
Paradise Co. 1541
Parker-McCrory Manufacturing Co. 2228
Patch Premek Corp. 2266
Pease, C. F., Co. 1420
Pennsylvania Salt Manufacturing Co. 2134
Perfect Recognition Spark Plug Co. 1421
Perma Maid Co., Inc. 2316
Peters, Karl W. 2266
Plate, Robert Theodore 2317
Politis, Harry 2257
Post, Frederick, Co. 1420
Prostex Co. 1542
Protex-U-Hygienic Service 1542
Publishers Finance Co., Inc. 1920
Reed, Fred W. 1932
Rey, Thomas, Co. 1543
Reynolds, T. A., & Co. 1543
Rink, Joseph J. 1920
Rivenbark, A. J., Jr. 2317
Rowdabaugh, Seth E. 1447
Run-Proof Laboratories, Inc. 1283
Sales on Sound Corp. 1801
Samdahl, Cleo 2317
Sanders, Peter, Harry, and Samuel 1421
Scientific Apparatus Makers of America, et al. 1420

FEDERAL TRADE COMMISSION—Continued. Page
Notice of hearings, etc.—Contd.
Sherman, Jacob 2316
Smith, John C 1447
Solvay Sales Corp 2134
Speidel, Chas. W., & Co. 1420
Square Deal Candy Co. 2265
Steffin, Paul 1421
Stylecraft Leather Goods Co., Inc 1446
Surete Laboratories 1542
Taylor, Robert C 1340
Technical Laboratories, et al. 2266
Thomas Quilt Factories 2227
Thomson, Ray 1543
United Buyers Corp., et al. 1541
United Educators, Inc. 1920
United States Blue Print Paper Co. 1420
Vacu-Matic Carburetor Co. 1544
Van-Tage Medicine Co., Inc. 1541
Waco Drug Co 2266
Watkins, Warren 2265
Weil, J. H., & Co., et al. 1420
Weinberg, Marcus A., and Belle 2265
White, Morris, Mfg. Co., Inc. 1446
Wolford, Elmer C 1920
Women's Advisory Bureau 1542
Wynne, Blanche 2317
Yancey, R. Frank 1801
Young, W. R. 1543
Zephyr Radio Co. 1340
Zollinger, S., Co. 1541
Zonite Products Corp. (Larvex Division) 1420
Trade practice rules proposed. *See also* Competitive Practices.
Baby Chick Industry 2293
Infants' and Children's Knitted Outwear Industry 1664
Macaroni, Noodles, and Related Products Industry 1283
Oleomargarine Manufacturing Industry 1396
Paint and Varnish Brush Manufacturing Industry 1831
Roll Leaf Manufacturing Industry 1354
Silk Industry 1738
Tomato Paste Manufacturing Industry 1425
FEDERAL WATER SERVICE CORP., notice of hearing by Securities and Exchange Commission 1803
FELBER, JOHN C., AND LOUISE D., notice of hearing by Federal Trade Commission 1543
FINANCIAL DISTRIBUTORS, INC., notice of hearing, etc., by Securities and Exchange Commission 2246
FINEBERG, SAMUEL, cease and desist order by Federal Trade Commission; sale of merchandise 2176
FINNELL COAL CO., notice of hearing by National Bituminous Coal Commission 1516
FIRE PREVENTION WEEK—1938, proclamation 2261
FIREARMS:
Licenses, issuance to manufacturers or dealers 1868
Tax regulations 1900
FIRESIDE INDUSTRIES, INC., notice of hearing by Federal Trade Commission 1283
FISH AND GAME:
Biological Survey Bureau:
Big Lake Reservation, Ark., fishing regulations 2075
Federal Aid Wildlife Restoration Act, regulations 1713
Migratory birds depredating to agricultural interests, killing of 1400
Moosehorn Migratory Bird Refuge, Maine, fishing regulations 1401
Tamarac Migratory Waterfowl Refuge, Minn., fishing regulations 1662, 2034
Upper Mississippi River Wild Life and Fish Refuge, hunting regulations 2309
Fisheries Bureau:
Alaska fishery regulations amended 1382, 1840, 1940, 2018, 2043, 2063, 2082, 2100, 2116, 2131, 2143, 2222, 2337
FISHERIES (AMERICAN), redefined to include shore stations operated in conjunction with United States vessels 2033
FISHERIES BUREAU. *See* Fish and Game.
FIVE CIVILIZED TRIBES, OKLA.:
Leasing of coal and asphalt deposits 1433
Sale of allotted and inherited lands; reinvestment of proceeds 1344
FLATHEAD INDIAN RESERVATION, MONT.:
Assessments on land in non-Indian ownership for construction cost repayments 2009
Irrigation Project:
Flathead, Jocko Valley, and Mission Irrigation Districts, operation and maintenance charges 1608
Operation and maintenance regulations 2011
Leasing of allotted and tribal lands for agricultural, etc., purposes 1860
FLEMING, WILLIAM, JR., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
FLINT GLASS INDUSTRY, prevailing minimum wage determination 1612
FLORACUBE CO., INC., notice of hearing by Federal Trade Commission 2257
FLORIDA: Page
Agricultural conservation program, 1938, southern region 2193
Apalachee Bay, line dividing the high seas from rivers, harbors, and inland waters 1478
Apalachicola National Forest, lands added 1505
Miami, airport of entry redesignated at 2293
Ocala National Forest, lands added and reserved 1769
St. Petersburg, designated customs port of entry 1749
Tampa, International Airport designated port of entry for aliens 1951
Tenant purchase loans, designation of counties for 1903
White-fringed beetle, hearing on proposed State quarantine 2045
FLORIDA BUILDING MATERIAL INSTITUTE, INC., ET AL., cease and desist order by Federal Trade Commission; sale of lumber, etc. 2346
FLUORSPAR, production cost investigation dismissed by United States Tariff Commission 1964
FOOD AND DRUG ADMINISTRATION. *See* Food and Drugs.
FOOD AND DRUGS:
Food and Drug Administration:
Federal Food, Drug, and Cosmetic Act, regulations 1846, 2064
Shrimp, canned, inspection regulations revised 1313
Narcotics Bureau:
Appeal to Secretary of Treasury from any order, etc., of Commissioner of Narcotics; cooperation with States in court cases 1231
Opium manufactured for smoking, tax regulations 1402
Opium or coca leaves:
Importation, exportation and transshipment 1258
Tax regulations, importation, sale, etc. 1291
Administrative provisions 1310
Commodity taxes 1296
Definitions 1291
Laws applicable 1291
Order forms 1297
Retail dealers, practitioners, dealers in exempt preparations and laboratories 1308
Special exemptions 1300
Special taxes 1292
Returns of manufacturers and wholesale dealers 1303
FOOT-AND-MOUTH DISEASE (cattle), order to prevent introduction of 2107, 2271
FOREIGN AGENTS, registration required with Secretary of State 2177

FOREIGN AND DOMESTIC COMMERCE BUREAU. *See* Commerce.

FOREIGN CORPORATIONS. *See* Holding Companies.

FOREIGN CURRENCIES, appreciation in relation to American dollar, payment of losses to officers, enlisted men, etc. 2015, 2249

FOREIGN MONEYS, values of 1645

FOREIGN RELATIONS:
- Agents of foreign principals, registration 2177
- International Boundary Commission, United States and Mexico:
  - Rio Grande Rectification Project in El Paso-Juarez Valley, maintenance and preservation regulations 2297
- Passports, regulations of Secretary of State 1404
- Rule to overcome presumption of having ceased to be an American citizen 1506
- Tin-plate scrap, issuance of exportation licenses 1566

FOREIGN SERVICE, regulations consolidated; amendment 1749, 2185

FOREIGN-TRADE ZONES BOARD:
- Foreign-trade zone grantees, notice of issue of uniform system of accounts, records, and reports for use by 2257
- Services and privileges, instructions for publication, posting, etc., of rules, rates, etc. 1273

FOREST SERVICE. *See also* Parks and Forests.
- Land utilization projects, protection, occupancy, etc., by 1755
- Lands transferred to, for administration, etc.:
  - Magazine Mountain Project, Ark 1761
  - Northeast Georgia Project, Ga 1762
  - Standing Stone Experimental Forest, Huntingdon County, Pa 2314

FORESTS. *See* National Forests; Parks and Forests.

FORSON LABORATORIES, notice of hearing by Federal Trade Commission 1543

FORT BERTHOLD INDIAN RESERVATION, N. DAK., restoration order 1860

FORT HALL RESERVATION, leasing of allotted and tribal lands for agricultural, etc., purposes 1860

FORT LARAMIE NATIONAL MONUMENT, WYO., lands reserved as 1768

FORT MONROE MILITARY RESERVATION, use and navigation of Chesapeake Bay within firing range of 1288

FORT MYER MILITARY RESERVATION, VA., use of military road by National Airport Corporation for runway purposes 1987

FORT TYLER MIGRATORY BIRD REFUGE, N. Y., establishment 1945

FORT WAYNE, IND., MARKETING AREA, handling of milk, hearing on proposed marketing agreement amendment, etc. 1516

FORT YUKON, ALASKA, airport of entry designated 1657, 1692

FORTUNA, N. DAK., designated port of entry for aliens 1657

FRANKFORD CREEK, drawbridge regulations at Bridge Street, Philadelphia, Pa. 2138

FROMM, JOSEPH, notice of hearing by Federal Trade Commission 1421

FRUITS:
- Citrus, handling of, Texas, hearing on proposed regulatory order amendment, etc. 1456
- Dried, investigation of motor carrier rates in far West 2022
- Export Apple and Pear Act, regulations amended 1769
- Grapefruit, order regulating handling of, etc., Texas 2213, 2222
- Grapes, handling of, Arkansas, base period to be used; regulatory order 1741
- Inspection and certification, regulations 1451
- Japanese Beetle Quarantine, termination date on restrictions 2264
- Oranges, order regulating handling of, etc., Texas 2213, 2222
- Peaches, handling of, Georgia, hearing on proposed marketing agreement, etc. 2116
- Pears (fresh), handling of, Oreg., Wash., and Calif., hearing on proposed marketing agreement, etc. 2045

FRUIT SPIRITS. *See* Brandy; Wine.

FUR INDUSTRY, trade practice rules promulgated by Federal Trade Commission 1442

G

GARBER LIVESTOCK COMMISSION CO., notice under Packers and Stockyards Act 2181

GARDNER, HENRY A., notice of hearing by Securities and Exchange Commission 2070

GAS. *See also* Natural Gas Act. Tax regulations amended; vessel supplies 1860

GAS ADVISERS, INC., notice of hearing by Securities and Exchange Commission 1882

GAS TRANSPORT CO. OF NEV., notice of hearing by Securities and Exchange Commission 2240, 2268

GATES, LOUIS R.:
- Effective date of declaration by Securities and Exchange Commission 2230
- Reorganization plan approved 1920, 1940

GENERAL ACCOUNTING OFFICE, designated to establish Division of Personnel Supervision and Management 2271

GENERAL AMERICAN TRANSPORTATION CORP., listing and registration orders by Securities and Exchange Commission 2269, 2294

GENERAL LAND OFFICE. *See* Public Lands.

GENERAL PUBLIC UTILITIES, INC.:
- Acquisition of securities approved by Securities and Exchange Commission 2019
- Notice of hearing 1667

GENERAL RESEARCH FOUNDATION, INC., notice of hearing by Federal Trade Commission 1920

GENESSEE VALLEY GAS CO., INC.:
- Exemptiton from provisions of Public Utility Holding Company Act of 1935 1936
- Notice of hearing by Securities and Exchange Commission 1275

GEORGIA:
- Agricultural conservation program, 1938, southern region 2193
- Chattahoochee National Forest, lands added 1961
- Cherokee National Game Refuge No. 2, name changed to Noontootly National Game Refuge 1357
- Northeast Georgia Project, lands transferred to Forest Service for use, administration, etc 1762
- Peaches, handling of, hearing on proposed marketing agreement, etc 2116
- Tenant purchase loans, designation of counties for 1862

GERMAN CENTRAL BANK, order by Securities and Exchange Commission 1699

GETTYSBURG, PA., special air traffic rule 1614

GIFT TAX. *See* Taxes.

GIMBEL BROTHERS, INC., notice of hearing by Federal Trade Commission 1801

GLADE CANDY CO., cease and desist order by Federal Trade Commission; sale of candy 2005

GLASS INDUSTRY (FLINT), prevailing minimum wage determination 1612

GLOUCESTER ELECTRIC CO.:
- Effective date of declaration by Securities and Exchange Commission 2126
- Notice of hearing 1936

GOBLER, LESLIE N., order for hearing by Federal Power Commission 1340, 1396

GOLD, shipment exemptions under Government Losses in Shipment Act 2281

GOLD HUNTER EXTENSION, INC., stop order by Securities and Exchange Commission 2326

GOLD MEDAL FARMS, INC., notice of hearing by Federal Trade Commission 1421

GOLD STAR MOTHER'S DAY, designation 2241

GOLDBERG, LOUIS, notice of hearing by Federal Trade Commission 2041

GOLDBLATT BROS., INC., notice of heading by Federal Trade Commission 2227

GOLDEN PEACOCK, INC., cease and desist order by Federal Trade Commission; sale of toilet preparations 1712

GOODERHAM & WORTS, LTD., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629

GOODYEAR ASSOCIATES, cease and desist order by Federal Trade Commission; sale of merchandise 2176

GORHAM, WALTER H., cease and desist order by Federal Trade Commission; sale of books 1896

GOTHAM SALES CO., INC., cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287

GOTTSEGEN, HARRY J., ET AL., cease and desist order by Federal Trade Commission; sale of cosmetics, etc 2287

GOVERNMENT:
- Checks and warrants, payment regulations; special deposits of public moneys 1419
- Telegraph communications, rates of pay 1281

GOVERNMENT EMPLOYEES. *See also* United States Civil Service Commission.
- Civil Aeronautics Authority, transfers from Commerce Department and Interstate Commerce Commission 2071
- Customs officers, etc., extra compensation rate for overtime services 1969
- Examiners and experts, employment to carry out functions of National Economic Committee 1945

GOVERNMENT EMPLOYEES—Continued.
- Grazing Division, Interior Department, order permitting holding of State and Federal offices 1945
- Indian Service health personnel, regulations 1383
- Payment of losses sustained by, due to appreciation of foreign currencies 2015
- Postal employees, free travel on air lines 2209
- Public Works Administration, employment without regard to Civil Service Rules 2047
- Wage and Hour Division, Labor Department, appointments to executive positions authorized without regard to Civil Service Rules 2105

GOVERNMENT LOSSES IN SHIPMENT ACT, gold and silver exemption order amended 2281

GOVERNMENT PRINTING OFFICE, designated to establish Division of Personnel Supervision and Management 2271

GRAIN, position and daily trading for future delivery 1408

GRANADA VINEYARDS, INC., cease and desist order by Federal Trade Commission; sale of wines 1896

GRAND NATIONAL FILMS, INC., notice of hearing by Federal Trade Commission 2134

GRAND PORTAGE INDIAN RESERVATION, MINN., undisposed-of opened lands restored to Chippewa Indians, Minn 2223

GRAND RAPIDS GAS LIGHT CO.:
- Acquisition of assets approved by Securities and Exchange Commission 2283
- Notice of hearing 2164

GRANT, G. G., notice of hearing by Federal Trade Commission 1541

GRAPE PRODUCTS, tax regulations amended 1860

GRAPEFRUIT, order regulating handling of, etc., Texas 2213, 2222

GRAPES, handling of, Arkansas, base period to be used; regulatory order 1741

GRAVITONIC LIFE RAY CORP., INC., notice of hearing by Federal Trade Commission 1932

GRAY CONCRETE PIPE CO., cease and desist order by Federal Trade Commission; sale of concrete pipes 2028

GRAZING. *See also* Public Lands: Grazing Division.
- Indian lands, leasing regulations 1287, 1288

GRAZING—Continued.
- Reindeer in Alaska, regulations 1335
- Taylor Grazing Act:
  - Disposition of conflicting sale and lease applications 1335
  - Exchanges of State lands 1367

GRAZING DIVISION. *See* Public Lands.

GREAT FALLS, MONT., redesignated airport of entry 1386

GREAT LAKES, ship radio requirements survey, investigation and hearing 1516, 1517

GREAT LAKES NOVELTY CO., cease and desist order by Federal Trade Commission; sale of radios, etc 1899

GREATER CHAMBERS CO., notice of hearing by Federal Trade Commission 1622

GREATER NEW YORK LICENSED LIQUOR STORES ASSN., INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631

GREENE, CHESTER AND PATTON TRUST, withdrawal of application with Securities and Exchange Commission 1993

GREENVILLE LIVESTOCK CO., INC., subject to provisions of Packers and Stockyards Act 1933

GRENACHER, HENRY, hearing postponed by Federal Power Commission 1396

GROTH, ARTHUR W., notice of hearing by Federal Trade Commission 1543

GUERNSEY COAL CO., notice of hearing by National Bituminous Coal Commission 1516

GULF REFINING CO., notice of hearing by Federal Trade Commission 1446

GULF STATES UTILITIES CO.:
- Effective date of declaration by Securities and Exchange Commission 1695, 2142
- Notice of hearing 1959
- Stock exchange plan adopted 1993

GUM, INC., cease and desist order by Federal Trade Commission; sale of chewing gum 2242

GYPSY MOTH QUARANTINE, regulations revised 2341

H

HAINES, J. ALBERT, notice of rehearing by Securities and Exchange Commission 2144

HALL & RUCKEL, INC., notice of hearing by Federal Trade Commission 1544

HAMMOND CLOCK CO., cease and desist order by Federal Trade Commission; sale of Hammond organs 1712

HARBISON-WALKER REFRACTORIES CO., application for exemption granted by National Bituminous Coal Commission ---- 1368
HARPER MANUFACTURING CO., ET AL., cease and desist order by Federal Trade Commission; sale of brushes ---- 1900
HARRISON NARCOTIC LAW, tax regulations on importation, manufacture, sale, etc., of opium or coca leaves ---- 1291–1313, 1402
HASSALL, JOHN, INC., cease and desist order by Federal Trade Commission; sale of industrial rivets ---- 1528
HASTINGS, CLAYTON R., notice of hearing by Federal Trade Commission ---- 1447
HAVERHILL ELECTRIC CO.:
  Effective date of declaration by Securities and Exchange Commission ---- 2126
  Notice of hearing ---- 1936
HAVRE, MONT., redesignated airport of entry ---- 1386
HAWAII:
  Public lands, title transferred to ---- 1437
  Sugar Act of 1937:
    Proportionate shares determination, 1937 crop ---- 1359
    Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency ---- 1441, 1626
    Wage rate determination, 1937 ---- 1649
  Tenant purchase loans, designation of county for ---- 2117
HAY, inspection and certification regulations ---- 1867
HEARINGS. *See* agency holding hearing or name of person concerned.
HECKER PRODUCTS CORP., unlisted trading privileges granted by Securities and Exchange Commission ---- 1655, 1699
HEININGER, SYLVAN B., notice of hearing by Federal Trade Commission ---- 1541
HELENA RUBINSTEIN, INC., cease and desist order by Federal Trade Commission; sale of cosmetics, etc ---- 1391
HEMPHILL, ROY, notice of hearing by Federal Trade Commission ---- 1446
HENDERSON, WILLIAM, SUGAR REFINERY, complaint by Federal Trade Commission; sale of food products ---- 1888
HIBBARD, CHARLTON B., notice of hearing by Securities and Exchange Commission ---- 1411, 1504
HICKOK OIL CORP., exemption from provisions of Public Utility Holding Company Act of 1935 ---- 1397
HIGBE, DENTON N., cease and desist order by Federal Trade Commission; sale of instruction courses, etc ---- 2030
HI-HEAT COAL CO.:
  Notice of hearing by National Bituminous Coal Commission ---- 3167
  Petition on production cost data denied ---- 1955
HINER, MELVIN:
  Cease and desist order by Federal Trade Commission; sale of reference books ---- 2062
  Notice of hearing ---- 1370
HIRAM WALKER, INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc ---- 1630
HITT FIREWORKS CO., notice of hearing by Federal Trade Commission ---- 2264
HOFFMAN, E. A., CANDY CO., notice of hearing by Federal Trade Commission ---- 2266
HOLDING COMPANIES. *See also* Securities and Exchange Commission.
  Foreign personal:
    Income tax information returns ---- 1464, 1467
    Liquidation regulations ---- 1424
HOLDREGE LIVESTOCK SALES CO., notice under Packers and Stockyards Act ---- 1503
HOLSTON RIVER ELECTRIC CO., order for hearing by Federal Power Commission ---- 1654
HOME OWNERS' LOAN CORPORATION. *See* Housing Credit.
HOME UTILITIES CO., withdrawal of application with Securities and Exchange Commission ---- 2259
HOMESTAKE MINING CO., unlisted trading privileges, order by Securities and Exchange Commission ---- 1941
HONBAUM, W. K., notice of hearing by Federal Trade Commission ---- 1446
HONEY BEES. *See* Bees.
HOOKER ELECTROCHEMICAL CO., notice of hearing by Federal Trade Commission ---- 2134
HOPEWELL VILLAGE NATIONAL HISTORIC SITE, PA., designation ---- 2039
HOPI INDIAN RESERVATION, ARIZ., N. MEX., regulations governing conduct of trade ---- 1690
HOPS, order regulating handling of, Oreg., Calif., and Wash ---- 1979
HOSPITALS, Indian Service, Alaska, admission of patients ---- 1663
HOT SPRINGS NATIONAL PARK, local subsidiary regulation ---- 2012
HOUSE, GARRETT O., order for hearing by Federal Power Commission ---- 1340, 1396
HOUSE OF REPRESENTATIVES, inspection of income, excess-profits, and capital stock tax returns by Special Committee on Un-American Activities ---- 1943, 1953
HOUSING CREDIT:
  Federal Home Loan Bank Board:
    Bank President's Conference, change of name ---- 1989
    Bank System regulations:
      Bank membership, effective date of ---- 2239
      Directors - at - large, residences of ---- 1698
    Federal Savings and Loan System, approval requirement repealed for field examinations and appraisals for conversion ---- 2116
    Investment in securities of savings and loan associations, regulations ---- 1317
  Federal Housing Administration:
    Mutual mortgage insurance fund and housing insurance fund debentures, transactions and operations ---- 2298
  Federal Savings and Loan Insurance Corporation:
    Insurance of Accounts, approval requirement repealed for field examinations and appraisals ---- 2116
  Home Owners' Loan Corporation, Consolidated Manual amendments:
    Accounting Chapter, prepayments and curtailments; funds for credit to loan accounts ---- 1990
    Auditing Chapter, discontinuing certification of paid-in-full loans ---- 1319, 1463
    Housing and Credit Chapter, analysis and review section; remittance by mortgagors and vendees ---- 1990
    Insurance Chapter, waiving rights of Corporation to insurance loss drafts under $100 ---- 1880
    Legal Chapter:
      Bonds of indemnity ---- 2079
      Judgments in favor of the Corporation ---- 1907
    Loan Service Chapter:
      Extensions, special cases ---- 1908
      Loan service procedure ---- 2075
      Miscellaneous credits ---- 1907
      Payments, time extensions ---- 1906

HOUSING CREDIT—Continued.
  Home Owners' Loan Corporation, Consolidated Manual amendments—Continued.
    Property Management Chapter, authority of contract brokers to incur charges and make payments ---- 1788
    Purchase and Supply Chapter:
      Expenditures in excess of one hundred dollars ---- 1690
      Purchases and execution of recurring contracts authorized ---- 1423
    Treasury Chapter:
      Assistant Treasurer to act as Treasurer ---- 1990
      Authorization to sign checks on Regional Working Fund ---- 1953
      Bond of indemnity for lost checks ---- 1787
      Claims due deceased or incompetent persons ---- 1934
      Imprest Cash Fund, change in disbursement procedure ---- 1513
      Paid-in-full loans, release of ---- 1319
      Regional Treasurer, submission of administrative expenses for pre-audit ---- 1514
      Regional Working Fund, change in disbursement procedure ---- 1513
      Section 703 revoked ---- 1788
  United States Housing Authority:
    Low rent housing projects:
      Construction contracts ---- 1908
      Use of domestic and foreign materials ---- 1900
HOUSTON NATURAL GAS CORP., exemption from provisions of Public Utility Holding Company Act of 1935 denied ---- 1921
HOWEL, CLAYTON J., effective date of declaration by Securities and Exchange Commission ---- 2046
HUDSON BAY FUR CO., cease and desist order by Federal Trade Commission; sale of furs ---- 1898
HUEY CO., notice of hearing by Federal Trade Commission ---- 1420
HUFF AND HASKINS, INC., registration cancelled by Securities and Exchange Commission ---- 2014
HUNTER, EUGENE H., AND RAE LAMARR, notice of hearing by Federal Trade Commission ---- 2257
HUNTING, regulations for Upper Mississippi River Wild Life and Fish Refuge ---- 2309
HUTCHISON, L. L., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products ---- 1845
HYGIENIC CORP., OF AMERICA, notice of hearing by Federal Trade Commission ---- 1542

I

IDAHO, counties designated for tenant purchase loans ---- 2117
IDAHO POWER CO., order for hearing by Securities and Exchange Commission ---- 1666
ILLINOIS:
  Chicago Sanitary District, operation of controlling works; use of lock on Chicago River ---- 2139
  Motor carrier rates, investigation by Interstate Commerce Commission ---- 1719, 1762
  Tenant purchase loans, counties designated for ---- 1862
ILLINOIS IOWA POWER CO., notice of hearing by Securities and Exchange Commission ---- 2294
ILLINOIS WIRE AND MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products ---- 1845
IMMIGRATION AND NATURALIZATION SERVICE. *See* Aliens and Citizenship.
INCOME TAX. *See* Taxes.
INDEPENDENT COAL & COKE CO.:
  Notice of hearing by National Bituminous Coal Commission ---- 1367
  Petition on production cost data denied ---- 1955
INDERRIEDEN, J. B., CO., notice of hearing by Federal Trade Commission ---- 1541
INDIAN TOWNS, survey and disposal, etc., Alaska ---- 1653
INDIANA:
  Milk, handling of:
    Fort Wayne Marketing Area, hearing on proposed marketing agreement amendment, etc ---- 1516
    La Porte County Marketing Area, regulatory order ---- 2015, 2018
  Tenant purchase loans, designation of counties for ---- 1719
INDIANA GENERAL SERVICE CO., notice of hearing by Securities and Exchange Commission ---- 2247
INDIANAPOLIS POWER & LIGHT CO.:
  Exemption from provisions of Public Utility Holding Company Act of 1935 ---- 1972
  Notice of hearing by Securities and Exchange Commission ---- 1775
INDIANS:
  Chartered corporations:
    Identification of property purchased with credit funds and insurances ---- 1325
INDIANS—Continued.
  Chartered corporations—Contd.
    Title to property, security, and bills of sale ---- 1321
  Chippewa Indian Cooperative Marketing Association, Minn., loans to ---- 1320
  Choctaw and Chickasaw Nations, Okla., leasing of coal and asphalt deposits ---- 1433
  Commitment to St. Elizabeths Hospital ---- 2338
  Cooperative Associations, Okla.:
    Loans to ---- 1321
    Organization of ---- 1323
  Credit Association, Okla.:
    Loans by ---- 1328
    Loans to ---- 1324
  Flathead Indian Irrigation Project, Mont.:
    Assessments authorized on land in non-Indian ownership for construction cost repayments ---- 2009
    Operation and maintenance charges for Flathead, Jocko Valley, and Mission irrigation districts ---- 1608
    Operation and maintenance regulations ---- 2011
  Fort Berthold Indian Reservation, N. Dak., restoration order ---- 1860
  Grand Portage Reservation, Minn., undisposed-of opened lands restored to Chippewa Indians, Minn ---- 2223
  Health facilities and duties of personnel, regulations ---- 1383
  Indian Service hospitals, admission of patients ---- 1663
  Klamath Tribal Loan Fund, administration regulations ---- 1325
  Lands, leasing regulations amended:
    Agricultural, possessed by heirs of deceased allottee, etc ---- 1287
    Allotted and tribal, for agricultural, etc., purposes ---- 1288
    Flathead, Fort Hall, Kiowa, Omaha, Umatilla, and Winnebago Reservations ---- 1860
    Tribal lands for mining purposes ---- 1429
  Loans to Indians from reimbursable funds ---- 2299
  Loans to individual Indians, regulations ---- 1406
  Navajo, Zuni and Hopi Indian Reservations, Ariz. and N. Mex., conduct of trade regulations ---- 1690
  Patents in fee, certificates of competency, sale of allotted and inherited lands, reinvestment of proceeds, regulations ---- 1344
  Port Gamble Band of Clallam Indians, Wash., reservation proclamation ---- 1867

INDIANS—Continued. Page
Pueblo lands, acreage benefited by irrigation works of Middle Rio Grande Conservancy District, N. Mex. 1620
Reindeer in Alaska, declarations of ownership 1641
San Carlos Federal Irrigation Project, defining joint, district and Indian works 2006
San Carlos Project, Ariz., new standard rate schedules for electricity 1607
Wapato Indian Irrigation Project, Wash., assessments on land in non-Indian ownership for construction cost repayments 2223
Wind River Mountain Roadless Area, boundaries amended 2085

INDUSTRIAL MINING CO., notice of hearing by National Bituminous Coal Commission 1516

INDUSTRY COMMITTEES. *See* Labor: Wage and Hour Division.

INFANTS' AND CHILDREN'S KNITTED OUTERWEAR INDUSTRY, proposed trade practice rules by Federal Trade Commission 1664

INLAND STEEL CO., order by National Bituminous Coal Commission 2161

INSPIRATION CONSOLIDATED COPPER CO., unlisted trading privileges extended by Securities and Exchange Commission 1941

INSTITUTE OF TUBULAR-SPLIT AND OUTSIDE PRONGED RIVET MANUFACTURERS, cease and desist order by Federal Trade Commission; sale of industrial rivets 1528

INSURANCE:
Federal Housing Fund, transactions and operations 2298
Life, persons entering active military or naval service 2289

INTERIOR DEPARTMENT:
Employees in Grazing Division permitted to hold State and Federal offices 1945
General Land Office. *See* Public Lands.
Grazing Division. *See* Public Lands.
Indian Affairs Office. *See* Indians.
National Bituminous Coal Commission. *See also* Commerce.
Bituminous Coal Producers Board for District No. 4 *vs.* Massilon-Akron Coal Co., et al., hearing 1516

INTERIOR DEPARTMENT—Continued. Page
National Bituminous Coal Commission—Continued.
Bituminous coal production and commerce, applications for exemption:
American Zinc and Chemical Co. 1368
Beck Coal and Mining Co. 2161, 2282
Birmingham Water Works Co. 1369
Bituminous Coal Producers Board for District No. 12, petition to intervene 1958
Bradley Brothers Coal Co. 2161, 2282
Cambria Clay Products Co. 1370
Consolidated Indiana Coal Co. 1369
Diamond Block Coal Co. 2161, 2282
Harbison-Walker Refractories Co. 1368
Inland Steel Co. 2161
Liter Coal Co. 2161, 2282
Mahaska Coal Co., Inc. 1956, 2161, 2282
McLain Fire Brick Co. 1368
Norfolk and Western Railway Co. 2159
Pennsylvania Electric Co. 2160
Pittsburgh Steel Co. 2159, 2160
Riggen, C. A., Coal Co. 2161, 2282
Ross Clay Products Co. 2161
Sunshine Anthracite Coal Co. 1241, 1396
Marketing agencies, applications for approval as:
Fairmont Coals, Inc. 2206, 2282
Kentucky Coal Agency 2350
Middle States Fuels, Inc. 1830
Southern Illinois Coals, Inc. 1956
Western Pennsylvania Coal Corp. 2206, 2233
Maximum discounts or price allowances to distributors; marketing rules 1395
Minimum prices and marketing rules and regulations, notice of hearing 2132, 2281
Production costs, introduction in hearing evidence, petitions:
Chesterfield Coal Co. 1367, 1955
Hi-Heat Coal Co. 1367, 1955
Independent Coal & Coke Co. 1367, 1955
Liberty Fuel Co. 1367, 1955
MacLean Coal Co. 1367, 1955
Mallory Coal Co., et al. 1277, 1955
National Coal Co. 1367, 1955
Peerless Sales Co. 1367, 1955
Rochester and Pittsburgh Coal Co. 1277
Royal Coal Co. 1367, 1955
Spring Canyon Coal Co. 1367, 1955
Standard Coal Co. 1367, 1955
Sweet Coal Co. 1367, 1955
United States Fuel Co. 1367, 1955
Utah Fuel Co. 1367, 1955

INTERIOR DEPARTMENT—Continued. Page
National Bituminous Coal Commission—Continued.
Price violations by use of storage, etc., facilities; investigation 1955
Tonnage cost reports of producers, order rescinded permitting inspection by interested parties 2243
Tonnage, determination of weighted average of total costs, hearings:
Minimum Price Areas Nos. 1, 2, 3, 4 and 5 1457, 1568, 2162
Minimum Price Areas 6, 7, 9, and 10 1277, 2162, 2227
National Park Service. *See* Parks and Forests.
Reclamation Bureau. *See* Public Lands.
Secretary of, control over certain lands transferred to:
New Mexico 2252
Rhode Island 1257
Territories and Island Possessions Division:
Alaska Railroad:
Joint freight tariffs 1515, 1760, 1919, 2102
Local passenger tariffs 1954, 2044, 2045
Mt. McKinley Park Route time tables 1515

INTERLAKE IRON CORP., declared not an electric utility company by Securities and Exchange Commission 1637

INTERLAKE POWER CORP., notice of hearing by Securities and Exchange Commission 1410

INTERNAL REVENUE:
Internal Revenue Bureau:
Brandies:
Blending of pure fruit brandies 1925
Fortification tax abatement or refund on, unfit for use as wine, etc. 1926
Losses in fortifying room of bonded winery or in transit 1929
Losses of, intended for fortification of wine 1925
Manufacture of 1926
Samples, withdrawal for laboratory analysis, etc. 1924
Transfer by pipe line for fortification of wine 1930
Brewers' Bonds 1911
Capital stock tax, time extensions for filing returns 1393
Carriers Taxing Act of 1937, tax returns 2179
Cheese (Filled), definition, tax, etc., regulations amended 1464

INTERNAL REVENUE—Contd. Page
Internal Revenue Bureau—Con.
Closing agreements as to future tax liability 2064
Distillates, removal for denaturation, etc. 1912
Distilled spirits:
Bonds covering manufacture, etc., of 1514
Bottled for export, drawback 2043
Bottling in bond 1348, 1641
Floor taxes 1469, 1612
Regulation of traffic in containers of 2325
Distilling and rectifying, conduct of business at less than 600 feet apart; fences 2034
Documentary stamp taxes, regulations giving effect to legislative enactments 1330
Estate tax, regulations amended 1792
Excise-Profits Tax, regulations 1771
Excise tax:
Miscellaneous regulations amended 1651
Sales by manufacturers 2034
Federal Firearms Act, issuance of licenses to manufacturers and dealers in firearms or ammunition 1868
Firearms and machine guns, tax regulations 1900
Gift tax, regulations amended 1788
Income tax, regulations amended:
Annuity payments 2140
Corporate liquidations:
Basis of property received 1466
Capital stock, information returns on 1455
Foreign holding companies, distributions 1424
Recognition of gain, determination of electing shareholder 1393
Corporation reorganization, basis of property acquired after December 31, 1937 1477
Deficiency payments, time extensions 1771
Foreign corporations, information returns 1464, 1467
Mitigation of effect of limitation provisions, etc. 2085
Property repossessed, gain or loss upon installment obligations 1847
Sale of personal property 1652
Test of taxability to the grantor 2242
Liquor dealers, special taxes 1911
Oleomargarine, adulterated, etc., butter, tax regulations giving effect to legislative enactments 1332
Palm oil, processing tax 1469

INTERNAL REVENUE—Contd. Page
Internal Revenue Bureau—Con.
Social Security Act:
Information returns abolished for certain employees 2303
Tax credits and refunds, Title IX 1463
Stamp tax, regulations amended 1650, 2141
Stills and worms, manufacture, tax-payment, etc.; drawback exportation 1608
Tax refunds under Bankhead Cotton Act of 1934, Kerr Tobacco Act, and Potato Act of 1935 1969
Tax returns (income, excess-profits and capital stock), inspection by Special Committee on Un-American Activities, House of Representatives 1953
Taxes on admission, dues and initiation fees 1756
Taxes on gasoline, lubricating oil, brewer's wort and malt products, grape products, and matches 1860
Vermouth, manufacture on bonded winery premises 1927
Wine:
Fruit wines, production, fortification, etc. 1929
Removal for transfer in bond or use as distilling material 1928
Weights for testing scales 2011
United States Board of Tax Appeals:
Rules of Practice amended, computation of time 1367
United States Processing Tax Board of Review:
Proceedings, public inspection of records 1507

INTERNATIONAL BOUNDARIES, issuance and description of border crossing cards 1951

INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND MEXICO, maintenance and preservation of Rio Grande Rectification Project, El Paso-Juarez Project 2297

INTERNATIONAL CINEMA, INC., order setting hearing by Securities and Exchange Commission 1932

INTERNATIONAL HYDRO-ELECTRIC SYSTEM, unlisted trading privileges extended by Securities and Exchange Commission 1941

INTERNATIONAL PAPER & POWER CO., unlisted trading privileges extended by Securities and Exchange Commission 1941

INTERNATIONAL RADIO CORP., order for hearing by Securities and Exchange Commission 2230

INTERNATIONAL UNIVERSITY OF COMMERCE, notice of hearing by Federal Trade Commission 2318

INTERSTATE COMMERCE COMMISSION. *See also* Transportation and Railroads. Page
Applicants for admission to practice before Commission 1992
Boston, Mass., investigation of extent and area of municipality and commercial zone 1892
Carriers by motor vehicle, qualifications of employees and safety of operation and equipment, hearing 1425
Division of Personnel Supervision and Management required to be established 2271
Eastern passenger fares in coaches, hearing reopened 1425
Express rates, 1938, hearings on increases and modifications 1397
Freight rates and charges, hearing on increases 2209
Johnston, A., (Brotherhood of Locomotive Engineers), et al v. Atchison, Topeka & Santa Fe Railway Co., et al, order 2244
Motor carrier rates, investigations:
Atlantic ports to North Carolina 2019
California 1762
Income statements to be submitted 1802, 1940
Canned goods and dried fruit in far West 2022
Central territory 1958
Income statements to be filed 1503, 1972
Iowa, Illinois, Eastern Kansas, Missouri, Eastern Nebraska 1719
Income statements to be submitted 1762
New York, New Jersey, Pennsylvania, and Delaware 1284
Income statements to be filed 1636
Passenger motor carriers, reports of revenues, etc. 2022
Property motor carriers, report of revenues, etc. 2022
Public stockyard companies, status as common carriers 2209
Transfer of certain personnel, property, and appropriations to Civil Aeronautics Authority 2071
Wool transportation by motor vehicle, Boston, Mass., investigation 1891

INTERSTATE HOSIERY MILLS, INC., order for hearing by Securities and Exchange Commission 1447

INTERSTATE UTILITIES CO., withdrawal of application with Securities and Exchange Commission 2259

INTOXICATING LIQUORS. *See also* Distilled Spirits. — Page
- Distilled spirits:
  - Bottled in bond, caution notice revised — 1756
  - Labeling and advertising regulations amended:
    - Name and address on brands bottled by same person at different premises — 1395
    - Use of coloring, flavoring, etc — 1394, 1885, 1902
    - Whiskey produced after March 1, 1938 — 2338
  - Malt beverages, labeling and advertising regulations amended — 1515
  - Wine, standards of identity, etc — 2093

INVESTMENT SECURITIES, regulations by Comptroller of the Currency — 1619

IOWA:
- Agricultural conservation program, 1938, north central region, Tama County — 1599
- Des Moines Sales Area, license termination for milk — 1591
- Motor carrier rates, investigation by Interstate Commerce Commission — 1719, 1762
- Tenant purchase loans, designation of counties for — 1760
- Union Slough Migratory Waterfowl Refuge, establishment — 2261

IOWA PUBLIC SERVICE CO., notice of hearing by Securities and Exchange Commission — 1545, 1615

IRRIGATION PROJECTS:
- Flathead Indian, Mont.:
  - Assessments on land in non-Indian ownership for construction cost repayments — 2009
  - Operation and maintenance charges for Flathead, Jocko Valley, and Mission Irrigation Districts — 1608
  - Operation and maintenance regulations — 2011
- San Carlos Federal, defining joint, district, and Indian works — 2006
- Shoshone, Wyo., public lands opened to entry; availability of water — 1716
- Wapato Indian, Wash., assessments on land for construction cost repayments — 2223

ISTHMIAN STEAMSHIP CO., hearing on operating-differential subsidy contract — 2260, 2340

J

JACKSON LIVESTOCK COMMISSION CO., notice under Packers and Stockyards Act — 1408

JACOBSON, IRVING ROY, cease and desist order by Federal Trade Commission; sale of books — 2061, 2062

JAPANESE BEETLE QUARANTINE:
- Fruit and vegetable restrictions, termination date — 2264
- Fumigation of onions moving by refrigerator car — 1769

JELKE, JOHN F., CO., INC., notice of hearing by Federal Trade Commission — 2134

JERSEY CENTRAL POWER & LIGHT CO., investigation and hearing by Federal Power Commission — 1654, 1932, 2209

JOBBERS PRODUCE CO., INC., complaint by Federal Trade Commission; produce jobber — 1888

JOCKO VALLEY IRRIGATION DISTRICT, MONT., operation and maintenance charges — 1608

JOHN HANCOCK PEN CO., cease and desist order by Federal Trade Commission; sale of fountain pens — 2028

JOHNSTON, A., ET AL., order by Interstate Commerce Commission — 1478, 2244

JOINT ANTI-AIRCRAFT - AIR CORPS EXERCISES, navigation and operation of aircraft in North Carolina — 2233

JOLIET HEATING CORP., order setting hearing by Securities and Exchange Commission — 2126

JONES, JOSIAH L., notice of hearing by Federal Trade Commission — 1801

JOY PACKAGE CO., INC., cease and desist order by Federal Trade Commission; sale, etc., of candy — 1419

JUAN DE FUCA STRAIT, WASHINGTON AND PUGET SOUNDS, designating line dividing high seas from rivers, harbors, etc — 2254

JUSTICE DEPARTMENT, employment of examiners, etc., to carry out functions of National Economic Committee — 1945

K

K & K SUPPLY CO., INC., notice of hearing by Federal Trade Commission — 2134

KADETSKY, HYMAN:
- Cease and desist order by Federal Trade Commission; sale of merchandise — 2239
- Notice of hearing — 1545

KALAMAZOO RIVER, drawbridge regulations between Douglas and Saugatuck, Mich — 2314

KALLMAN & MORRIS, INC., cease and desist order by Federal Trade Commission; sale of dresses, etc — 1859

KANSAS:
- Agricultural conservation program, 1938, western region, Thomas County — 1547
- Motor carrier rates, investigation by Interstate Commerce Commission — 1719, 1762
- Tenant purchase loans, designation of counties for — 1761

KANSAS ELECTRIC POWER CO., effective date of declaration by Securities and Exchange Commission — 1397

KAPLAN, MORRIS, & SON, INC., notice of hearing by Federal Trade Commission — 1801

KAR-NU CO., cease and desist order by Federal Trade Commission; sale of auto refinisher — 2238

KASLEY, W. H., notice of hearing by National Bituminous Coal Commission — 1516

KATZ, HARRY J., cease and desist order by Federal Trade Commission; sale, etc., of rubber prophylactics — 1366

KELLETT, ERNEST G., hearing postponed by Federal Power Commission — 1396

KELLY, CHARLES M., cease and desist order by Federal Trade Commission; sale of agricultural seed — 2347

KENNEDY, MILLARD B., hearing and order by Securities and Exchange Commission — 1774, 2267

KENT, RALPH C., notice of hearing, etc., by Securities and Exchange Commission — 2165

KENTUCKY:
- Latonia, special air traffic rule — 1664
- Owensboro, designated tobacco market — 2203
- Tenant purchase loans, counties designated for — 1903

KENTUCKY COAL AGENCY, notice of hearing by National Bituminous Coal Commission — 2350

KENTUCKY UTILITIES CO., notice of hearing by Securities and Exchange Commission — 2211

KENTUCKY WOODLANDS WILDLIFE REFUGE, KY., establishment — 2137

KERR TOBACCO ACT, tax refunds authorized — 1969

KEUFFEL & ESSER CO., notice of hearing by Federal Trade Commission — 1420

KEYSTONE BLUE PAPER CO., notice of hearing by Federal Trade Commission — 1420

KEYSTONE UTILITIES, INC., sale of securities approved by Securities and Exchange Commission — Page 1636

KINGS RIVER PROJECT, CALIF., reclamation withdrawal — 2040

KINNER AIRPLANE & MOTOR CORP., LTD., order setting hearing by Securities and Exchange Commission — 1932

KIOWA RESERVATION, leasing of allotted and tribal lands for agricultural, etc., purposes — 1860

KLAMATH TRIBE, loan fund regulations — 1325

KLUGER, H., INC., cease and desist order by Federal Trade Commission; sale, etc., of piece goods — 1441

KNAPP, CHARLES E., notice of hearing by Federal Trade Commission — 2317

KNITTED OUTERWEAR INDUSTRY, INFANTS' AND CHILDREN'S, proposed trade practice rules by Federal Trade Commission — 1664

L

LA PORTE COUNTY, IND., MARKETING AREA, order regulating handling of milk — 2015, 2018

LA SALLE-WACKER CORP., order setting hearing by Securities and Exchange Commission — 1880

LABOR:
- United States Employment Service:
  - National system of public employment offices, cooperation with States in establishment and maintenance of — 1470
- Wage and Hour Division:
  - Industry Committee No. 1 (textile industry), appointment — 2313
  - Industry Committees, rules and regulations applicable to — 2312

LABOR DEPARTMENT:
- Employment of examiners, etc., to carry out functions of National Economic Committee — 1945
- Immigration and Naturalization Service. *See* Aliens and Citizenship.
- Public Contracts Division. *See* Public Contracts.
- Wage and Hour Division. *See also* Labor.
  - Appointments to executive positions without regard to Civil Service Rules — 2105
  - Textile Industry Committee, convening of — 2315

LADY FAIR LABORATORIES, cease and desist order by Federal Trade Commission; sale of cosmetics, etc — 2287

LADY FRANCES LABORATORIES, notice of hearing by Federal Trade Commission — 2228

LAFERTY COAL CO., notice of hearing by National Bituminous Coal Commission — 1516

LAKE ISOM MIGRATORY WATERFOWL REFUGE, TENN., establishment — 1995

LAND UTILIZATION PROJECTS:
- Delegations of authority for functions — 1786, 1876
- Protection, occupancy, use, etc., by Forest Service — 1755

LANDRUM, A. B., notice of hearing by Federal Trade Commission — 2317

LANGE, C. E., suspension order by Securities and Exchange Commission — 2258

LAPEER STOCKYARDS, notice under Packers and Stockyards Act — 1503

LATONIA, KY., special air traffic rule — 1664

LAU, H. P., CO., notice of hearing by Federal Trade Commission — 1541

LAWRENCE GAS AND ELECTRIC CO.:
- Exemption from provisions of Public Utility Holding Company Act of 1935 — 1863
- Notice of hearing, etc — 1458, 1655

LEADERBRAND, R. E., AND GLADYS M., notice of hearing by Federal Trade Commission — 1542

LEE, GEORGE H., CO., cease and desist order by Federal Trade Commission; sale of Gizzard Capsules, etc — 1712

LETELLIER-PHILLIPS PAPER CO.:
- Cease and desist order by Federal Trade Commission; buying and selling waste materials — 2032
- Notice of hearing — 1447

LEWIS, ROSEMARIE, notice of hearing by Federal Trade Commission — 2267

LEXINGTON UTILITIES CO., notice of hearing by Securities and Exchange Commission — 2211

LIBERTY FUEL CO.:
- Notice of hearing by National Bituminous Coal Commission — 1367
- Petition on production cost data denied — 1955

LIMA-KENTON GROCERY CO., notice of hearing by Federal Trade Commission — 1541

LINCOLN DENTAL SUPPLY CO., INC.:
- Cease and desist order by Federal Trade Commission; sale of dental products — 2348
- Notice of hearing — 1446

LINCOLN GARDENS PROJECT, New Brunswick, N. J., contract release forms adopted — 2144

LINCOLN LOCKER CORP., notice of hearing by Federal Trade Commission — 1249

LINDABURY, H. R., AND SONS, cease and desist order by Federal Trade Commission; sale, etc., of snow fence products — 1845

LIQUIDATION MERCHANDISE CO.:
- Cease and desist order by Federal Trade Commission; sale of merchandise — 2239
- Notice of hearing — 1545

LIQUOR. *See also* Distilled Spirits.
- Brewers' bonds — 1911
- Concessions at World's Fairs, New York and San Francisco — 2256
- Dealers, special taxes — 1911

LITER COAL CO., notice of hearing by National Bituminous Coal Commission — 2161, 2282

LOANS:
- Bankhead-Jones Farm Tenant Act, equitable distribution of funds — 1456
- Commodity Credit Corporation, corn loan instructions — 1399
- Emergency Relief Appropriation Act of 1938, orders, rules, etc., made applicable — 1619
- Farm tenant purchase loans. *See* Bankhead-Jones Farm Tenant Act.
- Farms, inspection and sealing of agricultural commodities to be used as collateral — 1805
- Federal Deposit Insurance Corporation, loans on security of savings deposits — 1528
- Federal Land Bank of Berkley, fees schedule — 1473
- Home Owners' Loan Corporation — 1319, 1463
- Indian cooperative associations, corporations, etc — 1320–1330, 1406
- Indian loans — 1406, 2299
- Rural electrification. *See* Rural Electrification Administration.
- Rural rehabilitation loans to individuals — 2129
- Tenant purchase loans. *See* Bankhead-Jones Farm Tenant Act.
- Wheat stored on farms or in public warehouses — 1997, 2025
- Wool and mohair 1938 loan program, instructions amended — 1400, 1617

LOCK JOINT PIPE CO., cease and desist order by Federal Trade Commission; sale of concrete pipe products 2027
LONE STAR GAS CORP.:
Acquisition and sale of securities approved by Securities and Exchange Commission 2097
Documents made part of record 2135
Effective date of declaration 2097
Notice of hearing 1881
LOS ANGELES, CITY OF, orders for hearings by Federal Power Commission 1249, 1396, 1457
LOUISIANA:
Agricultural conservation program, 1938, southern region 2193
Sugarcane crop for 1938, price determinations 2306
Tenant purchase loans, designation of counties for 1761
Texas and Pacific Railway Company Drawbridge across Bayou Lafourche, Napoleonville, regulations 2116
White-fringed beetle State quarantine, public hearing 2045
LOUISIANA ICE AND ELECTRIC CO., INC.:
Effective date of declaration by Securities and Exchange Commission 1614
Notice of hearing 1421
LOUISIANA PUBLIC SERVICE CORP., notice of hearing by Securities and Exchange Commission 1738
LOUISIANA STEAM GENERATING CORP., effective date of declaration by Securities and Exchange Commission 1695
LOUISVILLE POTTERY CO., cease and desist order by Federal Trade Commission; sale of pottery products 2029
LOWE, JEAN, COSMETIC CO., notice of hearing by Federal Trade Commission 1543
LUCAS, HERMAN, notice of rehearing by Securities and Exchange Commission 2145
LUGGAGE INDUSTRY, prevailing minimum wage determination 1733
LUMBER:
Import tax amendments 1632
Importations of, conflict with international agreements 1888
Invitations for bids, War Department 1710
LUMINO CO., INC., cease and desist order by Federal Trade Commission; sale of waterproofing, etc., material 1713
McCOY, ED., notice of hearing by National Bituminous Coal Commission 1516
McFETRIDGE, C. D., notice under Packers and Stockyards Act 2182
McGUIRE, JOHN F., order for hearing by Federal Power Commission 1340, 1396
McKEE, CHARLES S., cease and desist order by Federal Trade Commission; sale of agricultural seed 2347
McLAIN FIRE BRICK CO., application for exemption granted by National Bituminous Coal Commission 1368
McMILLEN, JAMES S., order for hearing by Federal Power Commission 1340, 1396
MACARONI, NOODLES, AND RELATED PRODUCTS INDUSTRY, trade practice rules promulgated by Federal Trade Commission 1283, 1660
MACHINE GUNS, tax regulations 1900
MACLEAN COAL CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
MADISON MILLING CO., cease and desist order by Federal Trade Commission; sale of flour 1952
MAGAZINE MOUNTAIN PROJECT, ARK., lands transferred to Forest Service for use, etc. 1761
MAGIC CHEMICAL CO., cease and desist order by Federal Trade Commission; sale of hair preparations 1512
MAGNECOIL CO., INC., notice of hearing by Federal Trade Commission 2257
MAHASKA COAL CO., notice of hearing, etc., by National Bituminous Coal Commission 1956, 2161, 2282
MAHLER, TEOLINDA, cease and desist order by Federal Trade Commission; sale of electrolysis machines and dental cream 1713
MAIDA, N. DAK., designated port of entry for aliens 2021
MAINE:
Bangor, redesignated airport of entry 1540
Moosehorn Migratory Bird Refuge:
Enlargement 2138
Fishing regulations 1401
Tenant purchased loans, designation of counties for 1692
MALDEN ELECTRIC CO.:
Effective date of declaration by Securities and Exchange Commission 2126
Notice of hearing 1936
MALL TOOL CO., cease and desist order by Federal Trade Commission; sale of engines or motors 2176
MALLORY COAL CO., ET AL., order by National Bituminous Coal Commission 1277
MALT BEVERAGES, labeling and advertising regulations amended 1515
MANNING, PAUL V., notice of hearing by Federal Trade Commission 2318
MANUFACTURER'S BELT HOOK CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
MANZELMAN, GEORGE F., effective date of declaration by Securities and Exchange Commission 2046
MARIETTA, OHIO, special air traffic rule 1664
MARINE INSPECTION AND NAVIGATION BUREAU. *See* Commerce Department; Navigation and Navigable Waters; Shipping.
MARKET STREET RAILWAY CO.:
Listing and registration orders by Securities and Exchange Commission 1870, 1993
Order for hearing, etc. 1397, 1434, 2046
Unlisted trading privileges denied 2013
MARVEL PRODUCTS CO., notice of hearing by Federal Trade Commission 1340
MARVO BEAUTY LABORATORIES, INC., cease and desist order by Federal Trade Commission; sale, etc., of toilet preparations 1366
MARYLAND, counties designated for tenant purchase loans 1761
MASSACHUSETTS, counties designated for tenant purchase loans 1935
MASSACHUSETTS UTILITIES ASSOCIATES:
Effective date of declaration by Securities and Exchange Commission 1864
Notice of hearing, etc. 1398, 1545
MASSENA SECURITIES CORP., notice of hearing by Securities and Exchange Commission 2295
MASSILON-AKRON COAL CO., notice of hearing by National Bituminous Coal Commission 1516
MASTER LOCK CO., cease and desist order by Federal Trade Commission; sale of padlocks 2349
MATAWAN TILE CO., complaint by Federal Trade Commission; sale of tile 2120
MATCHES, tax regulations 1860

MATHIESON ALKALI WORKS, INC., notice of hearing by Federal Trade Commission 2134
MATTSON WIRE AND MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
MAXWELL, JOSEPH S., notice of hearing by Securities and Exchange Commission 1411, 1504
MEDICAL BOOK DISTRIBUTORS, INC., cease and desist order by Federal Trade Commission; sale of medical books 1512
MEDICAL CORPS, ARMY, examination for appointment 1935, 2141
MERCHANDISE:
Antidumping, certain findings revoked 1287
Customs Regulations of 1937, amendment 1808
Drawback, obsolete general regulations revoked 1607
Oil, lumber, etc., assessment of taxes on importations 1632
Subject to control, restriction, etc., by Federal agencies, Customs Regulations amended 1392
Vessel and aircraft supplies, taxes on gasoline, lubricating oil, matches, etc 1860
MERCO SALES CO., cease and desist order by Federal Trade Commission; sale of merchandise 2081
MERRILL-SAUNDERS CO., LTD., notice of hearing by Federal Trade Commission 1542
MERRITT, JOHN C., cease and desist order by Federal Trade Commission; sale of merchandise 2081
METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSN., ET AL., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631
METROPOLITAN DISTRIBUTING CO., cease and desist order by Federal Trade Commission; sale of clocks, etc. 1859
METZLER McKEAN CORP., notice of hearing by Federal Trade Commission 2228
MEXICO:
Automobiles and aircraft from, temporary free importation 1933
Bobwhite Quail, importation from 2081
Convention for recovery and return of stolen or embezzled motor vehicles, etc., concluded with United States 2106
MEYER, M. J. & H. J., CO., INC., notice of hearing by Federal Trade Commission 1541
MIAMI, FLA., airport of entry redesignated 2293
MICHIGAN:
Kalamazoo River, highway drawbridge regulations between Douglas and Saugatuck 2314
Sault Ste. Marie, airport of entry redesignated at 1902
Tenant purchase loans, designation of counties for 1719
MICHIGAN CONSOLIDATED GAS CO.:
Acquisition of stocks approved by Securities and Exchange Commission 2283
Notice of hearing 2164
MID-ATLANTIC CONCRETE PIPE AND PRODUCTS CO., cease and desist order by Federal Trade Commission; sale of concrete pipe products 2028
MIDDLE RIO GRANDE CONSERVANCY DISTRICT, N. MEX., Pueblo Indian lands benefited by irrigation works of 1620
MIDDLE STATES FUELS, INC., notice of hearing by National Bituminous Coal Commission 1830
MIDDLE WEST CORP.:
Effective date of declaration, etc., by Securities and Exchange Commission 2012
Exemption from provisions of Public Utility Holding Company Act of 1935 1646
Notice of hearings 1775, 2247, 2295
MIDLAND UNITED CO., notice of hearing by Securities and Exchange Commission 1774
MIDLAND UTILITIES CO., notice and order on expense allowances by Securities and Exchange Commission 1921, 2023, 2267
MIDWEST PUBLISHING CO., cease and desist order by Federal Trade Commission; sale of books 1896
MIGRATORY BIRDS. *See also* Refuges.
Killing of, when depredating agricultural interests 1400
Regulations of Secretary of Agriculture amended 1766
MILFORD RIVET & MACHINE CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
MILK, HANDLING OF. *See* Agriculture: Agricultural Adjustment Administration; Agriculture Department.
MILLAR, ADELE, notice of hearing by Federal Trade Commission 2264
MILLER, ROY F., order for hearing by Federal Power Commission 1340, 1396
MILWAUKEE ELECTRIC RAILWAY AND LIGHT CO., notice of hearing by Securities and Exchange Commission 2318
MIMS, A. S., suspension order by Securities and Exchange Commission 2258
MINERAL LANDS AND MINING:
Electric mine lamps, requirements for permissibility, tests, and fees 1529
MINIMUM WAGES:
Envelope Industry, determination amended 1613
Flint Glass Industry, determination 1612
Luggage Industry, determination 1733
Saddlery Industry, determination 1733
MINING:
Mineral Leasing Act:
Applications for leases, disposition of filing fees 1800
Stipulation for permits and leases for lands in national forests 2131
Phosphate, leases or use permits 1795
MINNESOTA:
Chippewa Indian Cooperative Marketing Association, loans to 1320
Grand Portage Reservation, undisposed-of opened lands restored to Chippewa Indians 2223
Tamarac Migratory Waterfowl Refuge:
Establishment 1255
Fishing regulations 1662, 2034
Tenant purchase loans, designation of counties for 1854
Warroad, airport of entry redesignated at 2158
MINNESOTA UTILITIES CO., notice of hearing by Securities and Exchange Commission 1738
MISSION IRRIGATION DISTRICT, MONT., operation and maintenance charges 1608
MISSISSIPPI:
Agricultural conservation program, 1938, southern region 2193
Moore & McCord Commission Co., Tupelo, notice under Packers and Stockyards Act 2181
Tenant purchase loans, designation of counties for 1719
White-fringed beetle State quarantine, public hearing 2045
MISSISSIPPI SALES CO., INC., complaint by Federal Trade Commission; general merchandise broker 1888
MISSOURI:
Motor carrier rates, investigation by Interstate Commerce Commission 1719, 1762

MISSOURI—Continued. Page
Tenant purchase loans, designation of counties for 1903
MISSOURI PACIFIC RAILROAD CO., registration order by Securities and Exchange Commission 2246
MISSOURI SERVICE CO.:
Effective date of declaration by Securities and Exchange Commission 2126, 2127
Notice of hearing 1517
MITCHELL, STAFFORD T., ET AL., notice of hearing by Federal Trade Commission 2316
MODERN AMERICAN CO., notice of hearing by Federal Trade Commission 2317
MOHAIR, loan program, 1938, instructions amended 1400, 1617
MOLYNEAUX, JOHN J., hearing postponed by Federal Power Commission 1396
MONARCH CHINA CO., notice of hearing by Federal Trade Commission 1801
MONARCH STOVE TOP CO., notice of hearing by Federal Trade Commission 1446
MONEY AND FINANCE: TREASURY:
Accounts and Deposits:
Bonds executed by Bankers Indemnity Insurance Co., of Newark, N. J., in favor of the United States 1532
Federal bonds, corporations acceptable as sureties 1532
Payment of Government checks and warrants 1419
Public money, special deposits 1419
Special Mexican Claims Commission, payments on account of awards 1757
Public Debt Service:
Reconstruction Finance Corporation ⅞ Percent Notes of Series N, offering of 1715
Treasury Bonds of 1950–52, 2½ percent, offering of 2204
Treasury Bonds of 1958–63, 2¾ percent, offering of 1333
Treasury Notes 1⅛ percent, of Series A–1943, offering of 1334, 2205
United States bonds and notes, delivery regulations 1566
United States Savings Bonds, regulations amended 2233
Secretary's Office:
Disclosure of official information 2065
Federal National Mortgage Association, securities designated for exemption under Securities Exchange Act of 1934 1419
Government Losses in Shipment Act, gold and silver exemption order amended 2281
MONEY AND FINANCE: TREASURY—Continued. Page
Secretary's Office—Continued.
Navy contracts, excess profits on 2279
Silver, newly-mined domestic, acceptance by mints 1794
MONSANTO CHEMICAL CO., notice of hearing by Federal Trade Commission 2134
MONTANA:
Agricultural conservation program, 1938, western region, Pondera County 1591
Airports of entry designated:
Great Falls 1386
Havre 1386
Scobey 1657
Bituminous coal in intrastate commerce, investigation of nature and extent 1565
Del Bonita, designated customs port of entry 1965
Flathead Indian Reservation:
Irrigation districts:
Assessments on land in non-Indian ownership for construction cost repayments 2009
Operation and maintenance charges; regulations 1608, 2011
Grazing district modification 1233
Range Conservation Program, 1938, Meagher County 1459
Reservoir-Site Reserve No. 20, Tongue River 2072
Stock driveway withdrawal modified 1539
Tenant purchase loans, designation of counties for 1957
MONTEZUMA MIGRATORY BIRD REFUGE, N. Y., establishment 2235
MONTICELLO DRUG CO., notice of hearing by Federal Trade Commission 1802
MOORE & McCORD COMMISSION CO., notice under Packers and Stockyards Act 2181
MOOSEHORN MIGRATORY BIRD REFUGE, MAINE:
Enlargement 2138
Fishing regulations 1401
MORRELL, ELLIS, notice of hearing by Federal Trade Commission 2257
MORRIS, CALLIE E., notice of hearing by Federal Trade Commission 1420
MORRIS, HUGH M.:
Declared no longer a holding company by Securities and Exchange Commission 1285
Expense allowances, order 2267
Notice of hearing 1774
MORRISTOWN NATIONAL HISTORICAL PARK, local subsidiary regulation 2303
MOSAIC TILE CO., complaint by Federal Trade Commission; sale of tile 2119
MOSBY, G. H., notice of hearing by Federal Trade Commission 1541
MOSES, G. M., cease and desist order by Federal Trade Commission; sale, etc., of hosiery 1428
MOTOR BOAT ACT OF JUNE 9, 1910, inspection of steam vessels subject to 1243
MOTOR CARRIERS. *See* Interstate Commerce Commission; Transportation and Railroads.
MOUNTAIN STATES POWER CO., notice of hearing by Securities and Exchange Commission 1426
MUIR, E. O., CO., complaint by Federal Trade Commission; sale of food products 1888
MUSKEGON GAS CO.:
Acquisition of assets approved by Securities and Exchange Commission 2283
MYERS, GEORGE I., notice under Packers and Stockyards Act 2181

N

NARCOTICS BUREAU. *See* Food and Drugs.
NATCHEZ TRACE PARKWAY, regulations for use, management, etc 2040
NATIONAL AIRPORT CORP., use of military road for runway purposes revoked, Fort Myer Military Reservation, Va 1987
NATIONAL BITUMINOUS COAL COMMISSION. *See* Commerce; Interior Department.
NATIONAL COAL CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
NATIONAL DISTILLERS PRODUCTS CORP., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1631
NATIONAL ECONOMIC COMMITTEE, employment of certain examiners, etc., to carry out functions of 1945
NATIONAL EMERGENCY COUNCIL, date of abolishment extended 1358
NATIONAL EMPLOYEES TRAINING SERVICE, notice of hearing by Federal Trade Commission 1543
NATIONAL FORESTS:
Apalachicola, Fla., lands added 1505
Chattahoochee, Ga., lands added 1961

NATIONAL FORESTS—Contd. Page
Coconino, Ariz., lands excluded and added to Walnut Canyon National Monument 2321
Coronado, Ariz.:
Lands excluded and added to Chiricahua National Monument 1399
Portion transferred to jurisdiction of Treasury Department 1944
Exchanges for consolidation or extension 1642
Ocala, Fla., lands added 1769
Ouachita, Ark., lands added 2169
Permits and leases for lands, stipulation required 2131
NATIONAL INSTITUTE FOR PHYSICAL ADVANCEMENT, notice of hearing by Federal Trade Commission 2266
NATIONAL INSTITUTE, INC., notice of hearing by Federal Trade Commission 1447
NATIONAL INSTITUTE OF WINE & SPIRIT DISTRIBUTORS, INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631
NATIONAL LEAD CO., unlisted trading privileges extended by Securities and Exchange Commission 1941
NATIONAL MONUMENTS. *See also* Parks and Forests: National Park Service.
Chiricahua, Ariz., lands added from Coronado National Forest 1399
Dinosaur, Colo., and Utah, enlargement 1765
Fort Laramie, Wyo., creation 1768
Walnut Canyon, Ariz., lands added from Coconino National Forest 2321
White Sands, N. Mex., modification 2129
NATIONAL PARK SERVICE. *See* Parks and Forests.
NATIONAL PUMPS CORP., listing and registration orders by Securities and Exchange Commission 1877, 2142
NATIONAL RETAIL LIQUOR PACKAGE STORES ASSN., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631
NATIONAL RIFLE MATCHES, 1938, Camp Perry, Ohio, regulations 1723
NATIONAL RIVET & MFG. CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
NATIONAL SILVER CO., cease and desist order by Federal Trade Commission; sale of silverplated ware 1923, 1967
NATIONAL TILE CO., complaint by Federal Trade Commission; sale of title 2125
NATIONAL TRAINING INSTITUTE, INC., notice of hearing by Federal Trade Commission 1543
NATIONAL YOUTH ADMINISTRATION. *See* Unemployment and Old Age Benefits.
NATURAL GAS ACT:
Natural gas companies, investigation; filing of report 1692
Provisional Rules of Practice and Regulations 1681
Schedules of rates and charges and reports, filing of 1694
NAVAJO INDIAN RESERVATION, ARIZ., N. MEX., regulations governing conduct of trade 1690
NAVAL STORES CONSERVATION PROGRAM, 1938, assignments of interest in payments 2207
NAVIGATION AND NAVIGABLE WATERS:
Marine Inspection and Navigation Bureau:
Line dividing the high seas from rivers, harbors, and inland waters designated and defined 1478
Vessels:
Boiler and machinery examinations 1246
Carrying of unauthorized lights prohibited 1244, 1245
Certificated tanker men 1246
Construction, alternative procedures for new designs or methods 1242
Equipment, approval of miscellaneous items 1248
Fire-fighting equipment on vessels using oil for fuel 1247
Flue openings in heads of externally fired flue boilers 1243
Furnace crowns, method for repairing 1243
Gaskets 1243
Inspection of steam vessels subject to Motor Boat Act provisions 1243
Laws, General Rules and Regulations, and Pilot Rules to be furnished licensed officers 1245
License suspension and revocation 1245
Misconduct of licensed officers 1245
Motion-picture booths, construction 1246
Parting with license 1246
Reports of accidents 1242
Searchlights 1244
Welded sea chests 1243
Welding rods and electrodes, approval 1243
Whistle, unnecessary sounding prohibited 1244
NAVIGATION AND NAVIGABLE WATERS—Continued. Page
War Department:
Beaumont Navigation District lock and dam across Taylors Bayou, Tex., use, administration, etc 1642
Chesapeake Bay, use and navigation regulations within firing range of Fort Monroe Military Reservation 1288
Church Creek between Charleston and Rockville, S. C., drawbridge regulations 1567
Kalamazoo River between Douglas and Saugatuck, Mich., highway drawbridge regulations 2314
Saugatuck River, Westport, Conn., highway drawbridge regulations revoked 2264
NAVY DEPARTMENT:
Life insurance policies for persons entering active naval service 2289
Navy contracts, excess profits on 2279
NEBRASKA:
Farmers' Livestock Sales Co., Benkelman, notice under Packers and Stockyards Act 2293
Motor carrier rates, investigation by Interstate Commerce Commission 1719, 1762
Northwestern Live Stock Commission Co., York, notice under Packers and Stockyards Act 2181
Tenant purchase loans, designation of counties for 1761
NEBRASKA BRIDGE SUPPLY AND LUMBER CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
NEEDLES GAS AND ELECTRIC CO. OF CALIF., notice of hearing by Securities and Exchange Commission 2240
NEPSCO APPLIANCE FINANCE CORP., notice of hearing by Securities and Exchange Commission 2326
NEVADA:
Grazing district modifications 1698
Ruby Lake Migratory Waterfowl Refuge, establishment 1639
Tenant purchase loans, designation of counties for 2350
NEVADA-CALIFORNIA ELECTRIC CORP., order for hearing by Federal Power Commission 1249, 1396, 1457
NEW ENGLAND CAPITAL CORP., notice of hearing by Securities and Exchange Commission 2182, 2183, 2269

NEW HAMPSHIRE, counties designated for tenant purchase loans ... 1935

NEW JERSEY:
- Bankers Indemnity Company of Newark, bonds executed in favor of the United States ... 1532
- Lincoln Gardens Project, New Brunswick, contract release forms ... 2144
- Motor carrier rates, income statements and investigation by Interstate Commerce Commission ... 1284, 1636
- Tenant purchase loans, designation of counties for ... 1936

NEW JERSEY FENCE CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products ... 1845

NEW JERSEY POWER & LIGHT CO., investigation and hearing by Federal Power Commission ... 1654, 1932, 2209

NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSN., ET AL, cease and desist order by Federal Trade Commission; sale of whiskies, etc ... 1629, 1630, 1631

NEW MEXICO:
- Grazing district modification ... 2239
- Navajo, Zuni and Hopi Indian Reservations, conduct of trade regulations ... 1690
- Public lands, transfer of jurisdiction from Secretary of Agriculture to Secretary of the Interior ... 2252
- Pueblo Indian lands, acreage benefited by irrigation works of Middle Rio Grande Conservancy District ... 1620
- Rio Grande Project, reclamation withdrawal ... 1869
- Tenant purchase loans, designation of counties for ... 1854
- White Sands National Monument, modification ... 2129

NEW ORLEANS, TEXAS & MEXICO RAILWAY CO., order setting hearing by Securities and Exchange Commission ... 1435

NEW YORK:
- Airports of entry designated:
  - Buffalo ... 1902
  - Niagara Falls ... 1654, 1698
  - Plattsburg ... 1386
  - Thousand Islands Bridge ... 1698
  - Watertown ... 1386
- Fort Tyler Migratory Bird Refuge, establishment ... 1945
- Montezuma Migratory Bird Refuge, establishment ... 2235
- Motor carrier rates, income statements and investigation by Interstate Commerce Commission ... 1284, 1636
- New York Metropolitan Marketing Area, handling of milk:
  - Base period to be used ... 1957

NEW YORK—Continued.
- New York Metropolitan Marketing Area—Continued.
  - Price announcements ... 2100
  - Regulatory order; notice ... 1849, 1945, 2102
- New York World's Fair, special air traffic rule, June 30, 1938 ... 1589
- Tenant purchase loans, designation of counties for ... 1903

NEW YORK COTTON EXCHANGE, INC., Wool Associates designated contract market for wool tops ... 1269

NEW YORK DOCK CO., order by Securities and Exchange Commission ... 1664

NEW YORK STATE ELECTRIC & GAS CORP.:
- Exemption from provisions of Public Utility Holding Company Act of 1935 ... 1341, 1614, 1882
- Notice of hearing by Securities and Exchange Commission ... 1371

NEWARK, N. J., bonds executed by The Bankers Indemnity Insurance Company in favor of the United States ... 1532

NEWFOUNDLAND, temporary free importation of automobiles from ... 1933

NIAGARA FALLS, N, Y., airport of entry designated ... 1654, 1698

NIAGARA HUDSON POWER CORP., unlisted trading privileges extended by Securities and Exchange Commission ... 1941

NO-FLATZ CO., cease and desist order by Federal Trade Commission; sale of auto tires, etc ... 2238

NOONTOOTLY NATIONAL GAME REFUGE, GA., name changed from Cherokee National Game Refuge No. 2; boundaries re-defined ... 1357

NORFOLK AND WESTERN RAILWAY CO., order by National Bituminous Coal Commission ... 2159

NORFOLK SOUTHERN RAILROAD CO., order setting hearing by Securities and Exchange Commission ... 1435

NORTH AMERICAN EDISON CO., notice of hearing by Securities and Exchange Commission ... 2318

NORTH CAROLINA:
- Aircraft operation during Joint Anti-Aircraft Corps Exercises of War Department ... 2234
- Common carrier commodity rates, investigation by Interstate Commerce Commission ... 2019
- Tenant purchase loans, designation of counties for ... 1877

NORTH DAKOTA:
- Crosby, airport of entry redesignated ... 1540
- Fort Berthold Indian Reservation, land restoration order ... 1860
- Fortuna, designated port of entry for aliens ... 1657
- Maida, designated port of entry for aliens ... 2021
- Tenant purchase loans, designation of counties for ... 1877
- Western North Dakota Stockmen's Assn., authorized to conduct brand inspection ... 2285

NORTHEAST GEORGIA PROJECT, GA., lands transferred to Forest Service for use, etc ... 1762

NORTHEASTERN WATER AND ELECTRIC CORP.:
- Acquisition of securities approved by Securities and Exchange Commission ... 2165
- Notice of hearing, etc ... 1855, 1904

NORTHEASTERN WATER & ELECTRIC SERVICE CORP., notice of hearing by Securities and Exchange Commission ... 2166

NORTHEASTERN WATER COMPANIES, INC.:
- Declaration, order consenting to withdrawal ... 1615
- Notice of hearing by Securities and Exchange Commission ... 1448

NORTHERN COUNTIES LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber, etc ... 1897

NORTHERN STATES POWER CO., notice of hearing by Securities and Exchange Commission ... 2127

NORTHWESTERN LIVE STOCK COMMISSION CO., notice under Packers and Stockyards Act ... 2181

NOTICE OF HEARINGS. *See* agency holding hearings or name of person concerned.

NOVELCRAFTS CO., ET AL., cease and desist order by Federal Trade Commission; sale of candy ... 2031

N-URG-IZER, VIT-O-NET, AND ELECTRONET:
- Cease and desist order by Federal Trade Commission; sale of electric blanket ... 2237
- Notice of hearing ... 1543

NUTEX CO., cease and desist order by Federal Trade Commission; sale, etc., of rubber prophylactics ... 1366

NY PA NJ UTILITIES CO., acquisition of securities approved by Securities and Exchange Commission ... 1636

O

O. K. TAILORING CO., notice of hearing by Federal Trade Commission ... 1544

OCALA NATIONAL FOREST, FLA., lands added ... 1769

OHIO:
- Agricultural conservation program, 1938, north central region, Licking County ... 1373
- Camp Perry, regulations for national rifle matches, 1938 ... 1723
- Marietta, special air traffic rule ... 1664
- Sandusky, airport of entry redesignated ... 1386
- Tenant purchase loans, designation of counties for ... 1692
- Toledo Marketing Area, handling of milk:
  - Base period to be used, etc ... 1893
  - Regulatory order ... 2169, 2180
- West Sister Island Migratory Bird Refuge, establishment ... 1943, 2047

OHIO BLOCK COAL CO., notice of hearing by National Bituminous Coal Commission ... 1516

OILS:
- Imported, additional facts required on customs invoices ... 1640
- Lubricating, tax regulations amended ... 1860
- Processing tax ... 1469
- Tax assessments and collections on importations ... 1632

OKLAHOMA:
- Agricultural conservation program, 1938, southern region ... 2193
- Bituminous coal in intrastate commerce, investigation of nature and extent, etc ... 1606
- Choctaw and Chickasaw Nations, leasing of coal and asphalt deposits ... 1433
- Indian lands, preference rights, sales, etc ... 1344
- Indian Welfare Act:
  - Loans to cooperative and credit associations ... 1321–1330
  - Loans to individual Indians ... 1406
  - Organization of cooperative associations ... 1323
- Oklahoma City, special air traffic rule ... 1664
- Salt Plains Wildlife Refuge, enlargement ... 1640
- Tenant purchase loans, designation of counties for ... 1692

OKLAHOMA ELECTRIC AND WATER CO., withdrawal of declaration ordered by Securities and Exchange Commission ... 1426

OKLAHOMA POWER AND WATER CO., notice of hearing by Securities and Exchange Commission ... 1878

OLEOMARGARINE, tax regulations amended giving effect to legislative enactments ... 1332

OLEOMARGARINE MANUFACTURING INDUSTRY, trade practice rules promulgated by Federal Trade Commission ... 1396, 2322

OMAHA RESERVATION, leasing of allotted and tribal lands for agricultural, etc., purposes ... 1860

ONIONS, fumigation by methyl bromide when moving by refrigerator car ... 1769

OPIUM, narcotic regulations:
- Importation, exportation and transshipment ... 1258
- Manufactured for smoking, tax regulations ... 1402
- Taxes on importation, manufacture, sale, etc ... 1291–1313

ORANGES, order regulating handling of, etc., Texas ... 2213, 2222

OREGON:
- Cape Meares Migratory Bird Refuge, establishment ... 2047
- Hops, order regulating handling of ... 1979
- Pears, handling of, hearing on proposed marketing agreement, etc ... 2045
- Power Site Reserve No. 730, partial revocation ... 2233
- Prunes (fresh), handling of, base period to be used; regulatory order ... 1779
- Stock driveway withdrawals reduced ... 1241, 2131
- Tenant purchase loans, designation of counties for ... 2041
- Timber sales from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands ... 1795
- Walnuts, handling of, hearing on proposed marketing agreement amendment ... 2133

OSTLER CANDY CO., cease and desist order by Federal Trade Commission; sale of candy ... 2005

OUACHITA NATIONAL FOREST, ARK., lands added ... 2169

OWENS, C. V., AND SON AUCTION SALES COMMISSION CO., notice under Packers and Stockyards Act ... 2314

OWENSBORO, KY., designated tobacco market ... 2208

P

PACIFIC CHINA CO., notice of hearing by Federal Trade Commission ... 2265

PACIFIC FRUIT AND PRODUCE CO., complaint by Federal Trade Commission; sale of food products ... 1888

PACK, ROBERT F., hearing postponed by Federal Power Commission ... 1396

PACKERS AND STOCKYARDS ACT. *See* Agriculture Department: Animal Industry Bureau.

PAGE POWER CO.:
- Exemption from provisions of Public Utility Holding Company Act of 1935 ... 2070
- Notice of hearing by Securities and Exchange Commission ... 1388

PAINT AND VARNISH BRUSH MANUFACTURING INDUSTRY, proposed trade practice rules by Federal Trade Commission ... 1831

PALAZZOLO, J., notice of hearing by Federal Trade Commission ... 1800

PALM OIL, processing tax ... 1469

PAN AMERICAN AIRWAYS, INC., exemption from provisions of Civil Aeronautics Act of 1938 ... 2103

PANAMA CANAL, THE, designated to establish Division of Personnel Supervision and Management ... 2271

PANAMA CANAL ZONE, narcotic tax regulations ... 1303

PANTEPEC OIL CO., OF VENEZUELA, unlisted trading privilege denied by Securities and Exchange Commission ... 2096

PARADISE CO., notice of hearing by Federal Trade Commission ... 1541

PARAMOUNT PICTURES, INC., unlisted trading privileges extended by Securities and Exchange Commission ... 1941

PARDEE, C., WORKS, complaint by Federal Trade Commission; sale of tile ... 2120

PARKER-McCRORY MANUFACTURING CO., notice of hearing by Federal Trade Commission ... 2228

PARKS AND FORESTS:
- Forest Service:
  - Lands conveyed to the United States:
    - Grantor's right to occupy and use ... 1953
    - Rights of way reserved by grantor ... 1954
    - Water rights reserved by grantor ... 1953
- National Park Service:
  - Hopewell Village National Historic Site, Pa., designation ... 2039
  - Hot Springs National Park, local subsidiary regulation ... 2012
  - Morristown National Historical Park, local subsidiary regulation ... 2303
  - Natchez Trace Parkway, regulations for use, management, etc ... 2040
  - Swift Creek Recreational Demonstration Area, local subsidiary regulation ... 1963

PARKS, JOHN THOMAS, notice of hearing by Securities and Exchange Commission 2229
PARRISH, JACK M., AND J. SCOTT, cease and desist order by Federal Trade Commission; sale of concrete pipes 2028
PASSPORTS, regulations by Secretary of State 1404
PATCH PREMEK CORP., notice of hearing by Federal Trade Commission 2266
PATTERSON, A. Z.:
Effective date of declaration by Securities and Exchange Commission 2230
Reorganization plan approved 1920, 1940
PATUXENT GAS CO., notice of hearing, etc., by Securities and Exchange Commission 1832, 1922
PEACHES, handling of, Georgia, hearing on proposed marketing agreement, etc 2116
PEARS:
Export Apple and Pear Act, regulations amended 1769
Handling of, Oreg., Wash., and Calif., hearing on proposed marketing agreement, etc 2045
PEASE, C. F., CO., notice of hearing by Federal Trade Commission 1420
PEERLESS SALES CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
PENINSULA LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber, etc 1897
PENN RIVET CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
PENNSYLVANIA:
Gettysburg Battlefield, special air traffic rule 1614
Hopewell National Historic Site, designation 2039
Motor carrier rates, investigation by Interstate Commerce Commission 1284, 1636
Philadelphia, drawbridge regulations for Frankford Creek at Bridge Street 2138
Standing Stone Experimental Forest, Huntingdon County, lands transferred to Forest Service for administration, etc 2314
Tenant purchase loans, designation of counties for 1903
PENNSYLVANIA-CENTRAL AIRLINES CORP., exemption from provisions of Civil Aeronautics Act of 1938 2066
PENNSYLVANIA ELECTRIC CO., order by National Bituminous Coal Commission 2160
PENNSYLVANIA SALT MANUFACTURING CO., notice of hearing by Federal Trade Commission 2134
PENNY STORES, INC., complaint by Federal Trade Commission; operation of chain grocery stores 1888
PENSIONS, BONUSES, AND VETERANS' RELIEF:
Awards, amendments and discontinuances 2288
Civilian Conservation Corps, selection of Veterans' contingent 1276
Computation of service 2288
Death pensions and benefits:
Death of veteran due to service 1758
Rates for widows, children, and parents 1252, 1758, 2083
Survivors of World War veterans 1250
Disability compensation, application for increase based upon physical condition 2082
Disallowances and awards 1424
Insurance applied for by persons entering active military or naval service, effective date 2289
Occupational therapy 2083
Pensions, determinations as to basic entitlement and service connection 2287
Veterans' personal effects and funds on station upon death, discharge, etc., disposition of 2289
PEOPLES LIGHT AND POWER CORP., order declaring trustees have ceased to be a holding company 1285
PEOPLES LIGHT CO., notice of hearing by Securities and Exchange Commission 2166
PEOPLES WATER AND GAS CO., effective date of declaration by Securities and Exchange Commission 1289
PERFECT MANUFACTURING CO., INC., cease and desist order by Federal Trade Commission; sale of auto tires, etc 2238
PERFECT RECOGNITION SPARK PLUG CO., notice of hearing by Federal Trade Commission 1421
PERGANDE INSTITUTE, ET AL., cease and desist order by Federal Trade Commission; sale of instruction courses for Civil Service examinations 1898
PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930, regulations to carry out provisions of 2208
PERMA MAID CO., INC., notice of hearing by Federal Trade Commission 2316
PERMIAN OIL & GAS CO., withdrawal of application with Securities and Exchange Commission 2259
PERSONNEL SUPERVISION AND MANAGEMENT DIVISIONS, establishment in Federal agencies designated 2271
PETERS, KARL W., notice of hearing by Federal Trade Commission 2266
PETRIE, JOHN, cease and desist order by Federal Trade Commission; sale of medical products 1906
PETTIS, DONALD L.:
Effective date of declaration by Securities and Exchange Commission 2230
Reorganization plan approved 1920, 1940
PHILIP MORRIS & CO., LTD., INC., unlisted trading privileges extended by Securities and Exchange Commission 1941
PHILIPPINE ISLANDS:
Narcotic drugs, tax regulations 1302
Sugar, proration of 1938 deficit 1391
PHOSPHATE, leases or use permits for mining of 1795
PIERCE OIL CORP., order by Securities and Exchange Commission 1665
PINCUS, J. W., cease and desist order by Federal Trade Commission; sale of candy 2031
PINK BOLLWORM QUARANTINE, cotton regulations modified 1618
PITTSBURGH COAL CO., order by National Bituminous Coal Commission 1277
PITTSBURGH STEEL CO., order by National Bituminous Coal Commission 2159, 2160
PITTSBUHGH TERMINAL COAL CORP., order setting hearing by Securities and Exchange Commission 1434
PLANT INDUSTRY BUREAU. *See* Agriculture.
PLATE, ROBERT THEODORE, notice of hearing by Federal Trade Commission 2317
PLATORO GOLD MINES, INC., Stop order by Securities and Exchange Commission 2259
PLATTSBURGH, N. Y., redesignated airport of entry 1386
POLITIS, HARRY, notice of hearing by Federal Trade Commission 2257
PORT GAMBLE BAND OF CLALLAM INDIANS, reservation proclamation, Wash 1867
PORTS OF ENTRY, designations:
Aliens:
Fort Yukon, Alaska 1657
Fortuna, N. D 1657

PORTS OF ENTRY—Continued.
Aliens—Continued.
Maida, N. D 2021
Niagara Falls, N. Y 1698
Scobey, Mont 1657
Tampa, Fla 1951
Thousand Islands Bridge, N. Y 1698
Airports:
Buffalo, N. Y 1902
Miami, Fla 2293
Sault Ste. Marie, Mich 1902
Warroad, Minn 2158
Customs ports:
Del Bonita, Mont 1965
St. Petersburg, Fla 1749
POST, FREDERICK, CO., notice of hearing by Federal Trade Commission 1420
POST OFFICE DEPARTMENT:
Employees, free travel on air lines 2209
POSTAL SERVICE:
Air mail service under supervision of First Assistant Postmaster General 1991
POTATO ACT OF 1935, tax refunds authorized 1969
POULTRY, control of interstate transportation to prevent spread of diseases 1840
POWER SITES:
Reserve No. 730, Oreg., partial revocation 2233
PRESIDENT, THE:
Executive Orders:
Alabama, establishing Wheeler Migratory Water-fowl Refuge 1669
Alaska, public lands:
Reservation for lighthouse purposes, description corrected 1944
Withdrawals revoked 2072
American Republics, instruction of citizens at educational institutions maintained by United States Government 2105
Arizona:
Coronado National Forest, lands transferred to jurisdiction of Treasury Department 1944
Public land withdrawal revoked 1995
Arkansas, public land withdrawal for lookout station 1995
Army, grades and ratings of enlisted men for fiscal year 1939 2235
Attorney General, authorized to sell certain property held under Trading With the Enemy Act 1255
Bankhead-Jones Farm Tenant Act, lands transferred to Secretary of Agriculture for use, administration, etc., under 1389
PRESIDENT, THE—Continued.
Executive Orders—Continued.
Canada, limiting importation of red cedar shingles from 1965
Canal Zone, lands set apart as Cerro Pelado Ammunition Depot Military Reservation 2322
Civil Aeronautics Authority, certain personnel, property, and appropriations transferred from Commerce Department and Interstate Commerce Commission 2071
Civil Service Rules, amendment 1519
Competitive Classified Civil Service, extension 1526
Convention for recovery and return of stolen or embezzled motor vehicles, etc., between United States and United Mexican States; regulations 2106
District of Columbia, airspace reservation established 1437
Florida:
St. Marks Migratory Bird Refuge, enlargement 2262
St. Petersburg, designated customs port of entry 1749
Foreign currency appreciation, payment of losses to officers, enlisted men, etc 2015, 2249
Foreign Service Regulations of the United States, consolidation; amendment 1749, 2185
Government agencies required to establish Divisions of Personnel Supervision and Management 2271
Hawaii, title to certain public lands transferred to 1437
Interior Department, certain employees in Grazing Division permitted to hold Federal and State offices 1945
Iowa, establishing Union Slough Migratory Waterfowl Refuge 2261
Kentucky, establishing Kentucky Woodlands Wildlife Refuge 2137
Maine, enlarging Moosehorn Migratory Bird Refuge 2138
Minnesota, establishing Tamarac Migratory Waterfowl Refuge 1255
Montana:
Del Bonita, designated customs port of entry 1965
Reservoir-Site Reserve No. 20, Tongue River 2072
National Economic Committee, employment of certain examiners, etc., to carry out functions of 1945
PRESIDENT, THE—Continued.
Executive Orders—Continued.
National Emergency Council, date of abolishment extended 1358
Nevada, establishing Ruby Lake Migratory Waterfowl Refuge 1639
New Mexico, jurisdiction over certain lands transferred from Secretary of Agriculture to Secretary of the Interior 2252
New York:
Fort Tyler Migratory Bird Refuge, establishment 1945
Montezuma Migratory Bird Refuge, establishment 2235
Ohio, establishing West Sister Island Migratory Bird Refuge 1943, 2047
Oklahoma, enlarging Salt Plains Wildlife Refuge 1640
Oregon:
Cape Meares Migratory Bird Refuge, establishment 2047
Power Site Reserve No. 730, partial revocation 2233
Public Works Administration Appropriation Act of 1938, employment of personnel without regard to Civil Service Rules 2047
Quetico-Superior Committee, existence extended to June 30, 1942 1625
Rhode Island, jurisdiction over certain lands transferred from Secretary of Agriculture to Secretary of the Interior 1257
Special Mexican Claims Commission, powers, rights, and duties terminated 1423
Tax returns (income, excess-profits, and capital stock), inspection by Special Committee on Un-American Activities, House of Representatives 1943
Tennessee, establishing Lake Isom Migratory Waterfowl Refuge 1995
Virginia, establishing Back Bay Migratory Waterfowl Refuge 1358
Wage and Hour Division, Labor Department, initial appointments to executive positions authorized without regard to Civil Service Rules 2105
Wyoming, public land withdrawal revoked 1944
Proclamations:
Apalachicola National Forest, Fla., lands added 1505
Chattahoochee National Forest, Ga., lands added 1961
Coconino National Forest, Ariz., lands excluded and added to Walnut Canyon National Monument 2321

PRESIDENT, THE—Continued. Page
Proclamations—Continued.
Coronado National Forest, Ariz., lands excluded and added to Chiricahua National Monument 1399
Dinosaur National Monument, Colo., and Utah, enlargement 1765
Emergency Board, Atchison, Topeka & Santa Fe Railway and other Carriers—Employees 2321
Fire Prevention Week—1938 2261
Fort Laramie National Monument, Wyo., lands reserved as 1768
General Pulaski Memorial Day 2147
Gold Star Mother's Day 2241
Migratory Bird Regulations, amendment 1766
Noontootly National Game Refuge, Ga., name changed from Cherokee National Game Refuge No. 2; boundaries re-defined 1357
Ocala National Forest, Fla., lands added 1769
Ouachita National Forest, Ark., lands added 2169
White Sands National Monument, N. Mex., modification 2129
Trade agreements, application of duties proclaimed to articles of certain foreign countries 2323
PRIZE MEDAL LABORATORIES, cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287
PROCLAMATIONS. *See* President, The.
PROCUREMENT DIVISION. *See* Treasury Department.
PRODUCERS CORP., order by Securities and Exchange Commission 1665
PROGRESSIVE EDUCATION SOCIETY, INC., cease and desist order by Federal Trade Commission; sale of books 2061, 2062
PROJECTS. *See also* Irrigation Projects; Rural Electrification Administration.
Colorado River Storage Project, reclamation withdrawal 2245
Columbia Basin, Wash., reclamation withdrawal 2040
Farm Security Administration, employment, wages, etc., for non-appointive workers 1708
Kings River, Calif., reclamation withdrawal 2040
Land utilization projects:
Delegations of authority for functions 1786, 1867
Protection, occupancy, etc., by Forest Service 1755

PROJECTS—Continued. Page
Lincoln Gardens, New Brunswick, N. J., contract release forms adopted 2144
Low rent housing:
Construction contracts 1908
Use of foreign and domestic materials 1900
Magazine Mountain, Ark., lands transferred to Forest Service for use, etc 1761
National Youth Administration projects 1913, 1914
Northeast Georgia Project, Ga., lands transferred to Forest Service for use, etc 1762
Rio Grande, N. Mex., reclamation withdrawal 1869
Rio Grande Rectification, El Paso-Juarez Valley, maintenance and preservation regulations 2297
San Carlos, Ariz., standard rate schedules for electricity 1607
Wildlife restoration, etc., regulations 1713
Works Progress Administration:
Monthly earnings 1912
Rates of pay, hours of work, conditions of employment, etc 1916
Supply fund for procurement, use, etc., of materials and equipment 1918
PRO-KER LABORATORIES, INC., cease and desist order by Federal Trade Commission; sale of hair preparations 2241
PROSTEX CO., notice of hearing by Federal Trade Commission 1542
PROTEX-U-HYGIENIC SERVICE, notice of hearing by Federal Trade Commission 1542
PROVIDENCE GAS CO., order for hearing by Securities and Exchange Commission 1667
PRUNES (FRESH), handling of, Oreg. and Wash., base period to be used; regulatory order 1779
PUBLIC CONTRACTS:
Minimum wage determinations:
Envelope Industry, decision amended 1613
Flint Glass Industry 1612
Luggage Industry 1733
Saddlery Industry 1733
PUBLIC DEBT SERVICE. *See* Money and Finance: Treasury.
PUBLIC HEALTH SERVICE. *See* Public Health, Welfare and Education.
PUBLIC HEALTH, WELFARE AND EDUCATION:
Civilian Conservation Corps:
Enrollees, regulations for enrollment, discharge, hospitalization, etc. 1759, 1849, 2065
Public Health Service:
Arsphenamines, control of manufacture, importation, and sale of 1620

PUBLIC HEALTH, WELFARE AND EDUCATION—Contd. Page
Public Health Service—Contd.
Social Security Act, allotments and payments to States from appropriated funds 1634
Venereal diseases, allotments to States for control measures, 1939 1828
PUBLIC LANDS. *See also* under names of States.
General Land Office:
Alaska:
Reindeer grazing regulations 1335
Survey and disposal of native towns and Indian possessions in trustee towns 1653
Timber, free use by churches, hospitals, and charitable institutions 2066
California, air navigation site withdrawal 1690
Colorado, air navigation site withdrawal 1862
Mineral Leasing Acts:
Disposition of fees accompanying applications 1800
Stipulation for permits and leases of lands in national forests 2131
Montana, stock driveway withdrawal modified 1539
National forests, exchanges for consolidation or extension 1642
Oregon:
Stock driveway withdrawal reduced 2131
Timber, sale from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands 1795
Phosphate, leases or use permits for mining of 1795
Rights of way for canals, ditches, reservoirs, water pipe lines, etc 1233
Taylor Grazing Act:
Disposition of conflicting applications 1335
Exchanges of State lands, regulations amended 1367
Public sale applications for lands in grazing districts 1508
Utah, air navigation site withdrawals 1642, 1690, 1862
Wyoming, air navigation site withdrawals 1862, 2326
Grazing Division:
Federal Range Code:
Administration of grazing districts 2100
Supplementary rules 1533
Grazing district modifications, etc.:
Arizona 1795
Colorado 1233, 1508, 1870, 2157
Montana 1233
Nevada 1698

PUBLIC LANDS—Continued. Page
Grazing Division—Continued.
Grazing district modifications, etc.—Continued.
New Mexico 2239
Utah 1539, 1870, 2243
Oregon, stock driveway withdrawal reduced 1241
Reclamation Bureau:
Colorado River Storage Project, reclamation withdrawal 2245
Columbia Basin Project, Wash., reclamation withdrawal 2040
Kings River Project, Calif., reclamation withdrawal 2040
Rio Grande Project, N. Mex., reclamation withdrawal 1869
Shoshone Irrigation Project, Wyo., public lands opened to entry; availability of water 1716
Rhode Island, jurisdiction transferred from Secretary of Agriculture to Secretary of the Interior 1257
PUBLIC MONEYS:
Payment of Government checks and warrants 1419
Special deposits 1419
PUBLIC PROPERTY, sale by the Attorney General under Trading With the Enemy Act 1255
PUBLIC SERVICE CO., OF NEW HAMPSHIRE, exemptions from provisions of public Utility Holding Company Act of 1935 1250
PUBLIC SERVICE CO., OF OKLAHOMA:
Notice of hearing by Securities and Exchange Commission 1973, 2210
Withdrawal of declaration 2202
PUBLIC UTILITIES, Foreign-trade zones operated as 1273
PUBLIC UTILITIES MANAGEMENT CORP., notice of hearing by Securities and Exchange Commission 1622
PUBLIC UTILITY HOLDING COMPANY ACT OF 1935. *See* Securities and Exchange Commission; Securities and Exchanges.
PUBLIC WORKS ADMINISTRATION APPROPRIATION ACT OF 1938, employment of personnel with funds allotted without regard to Civil Service Rules 2047
PUBLISHERS FINANCE CO., INC., notice of hearing by Federal Trade Commission 1920
PUEBLO INDIANS, land acreage benefited by irrigation works of Middle Rio Grande Conservancy District, N. Mex 1620
PUERTO RICO:
Agricultural conservation program, 1938, Supplement No. 2 1625

PUERTO RICO—Continued. Page
Narcotic tax regulations 1302
Sugar:
Commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1474, 1627
Farming practices, determination for 1938–39 crop 1786
Quota allotments, 1938 1279, 1337
PUGET SOUND, line dividing high seas from rivers, harbors, etc., Juan de Fuca Strait 2254
PUGET SOUND POWER & LIGHT CO., effective date of declaration by Securities and Exchange Commission 1636
PULASKI MEMORIAL DAY, designation 2147
PURITY PRODUCTS CO., cease and desist order by Federal Trade Commission; sale of medical products 1906

Q

QUAIL (BOBWHITE), importation from Mexico 2081
QUARANTINES. *See also* Agriculture: Entomology and Plant Quarantine Bureau.
Japanese beetle, fumigation of tomatoes moving by refrigerator car 2048
Splenetic or tick fever quarantine release, Nacogdoches County, Tex 1840
White-fringed beetle quarantine, Ala., Fla., La., Miss 2045
QUEEN BEES. *See* Bees.
QUETICO-SUPERIOR COMMITTEE, existence extended to June 30, 1942 1625

R

RADIO. *See also* Telecommunication.
Radio facilities, excise tax regulations amended 1651
RADIO CORPORATION OF AMERICA, unlisted trading privileges extended by Securities and Exchange Commission 1941
RAILROAD RETIREMENT BOARD. *See also* Unemployment and Old Age Benefits.
Division of Personnel Supervision and Management required to be established 2271
RAILWAY EXPRESS AGENCY, INC., express rate increases, etc., hearing by Interstate Commerce Commission 1397
RAINBOW LUMINOUS PRODUCTS CO., order for hearing by Securities and Exchange Commission 1776
RANGE CONSERVATION PROGRAM, 1938. *See* Agriculture: Agricultural Adjustment Administration.

RECLAMATION BUREAU. *See* Public Lands. Page
RECONSTRUCTION FINANCE CORPORATION, offering of ⅞ Percent Notes of Series N, due July 20, 1941 1715
RED CEDAR SHINGLES, importation from Canada limited 1965
REED, FRED W., notice of hearing by Federal Trade Commission 1932
REFUGES:
Black Bay Migratory Waterfowl, Va., establishment 1358
Big Lake Reservation, Ark., fishing regulations 2075
Cape Meares Migratory Bird, Oreg., establishment 2047
Fort Tyler Migratory Bird, N. Y., establishment 1945
Kentucky Woodlands Wildlife, Ky., establishment 2137
Lake Isom Migratory Waterfowl, Tenn., establishment 1995
Montezuma Migratory Bird, N. Y., establishment 2235
Moosehorn Migratory Bird, Maine:
Enlargement 2138
Fishing regulations 1401
Noontootly National Game, Pa., name changed from Cherokee National Game Refuge No. 2; boundaries redefined 1357
Ruby Lake Migratory Waterfowl, Nev., establishment 1639
St. Marks Migratory Bird, Fla., enlargement 2262
Salt Plains Wildlife, Okla., enlargement 1640
Tamarac Migratory Waterfowl, Minn.:
Establishment 1255
Fishing regulations 1662, 2034
Union Slough Migratory Waterfowl, Iowa, establishment 2261
Upper Mississippi River Wild Life and Fish, hunting regulations 2309
West Sister Island Migratory Bird, Ohio, establishment 1943, 2047
Wheeler Migratory Waterfowl, Ala., establishment 1669
REGISTER, J. T., & CO., registration revoked by Securities and Exchange Commission 1695
REINDEER, Alaska:
Declarations of ownership 1641
Grazing regulations 1335
REIS, ROBERT, & CO.:
Listing and registration order by Securities and Exchange Commission 1870
Order setting hearing 1435
RELIABLE SPECIALTY CORP., cease and desist order by Federal Trade Commission; sale of patent medicines 2029

REPUBLIC ELECTRIC POWER CO. OF DEL., notice of hearing by Securities and Exchange Commission 2240, 2268
REPUBLIC MUTUAL SERVICE CO. OF CALIF., notice of hearing by Securities and Exchange Commission 2240, 2268
RESERVE OFFICERS' TRAINING CORPS, supply and equipment 2109
RESERVOIR SITE, Reserve No. 20, Tongue River, Mont 2072
REY, THOMAS, CO., notice of hearing by Federal Trade Commission 1543
REYNOLDS, T. A., & CO., notice of hearing by Federal Trade Commission 1543
RHODE ISLAND:
Public lands, jurisdiction transferred to Secretary of the Interior 1257
Tenant purchase loans, designation of counties for 1935
RICE, administrative review of marketing quotas 1749
RICHMOND SCHOOL FURNITURE CO., cease and desist order by Federal Trade Commission; sale of blackboards 1858
RICHMOND, VA., SALES AREA, license for milk terminated 2341
RIDGE COAL CO., notice of hearing by National Bituminous Coal Commission 1516
RIFLE MATCHES, 1938, Camp Perry, Ohio, regulations 1723
RIGGEN, C. A., COAL CO., notice of hearing by National Bituminous Coal Commission 2161, 2282
RIGHTS OF WAY:
Canals, ditches, reservoirs, etc., over public lands 1233
Use, etc., by grantor of lands to the United States 1954
RINDERPEST DISEASE (cattle), order to prevent introduction of 2107, 2271
RINK, JOSEPH J., notice of hearing by Federal Trade Commission 1920
RIO GRANDE RECLAMATION PROJECT, N. MEX., reclamation withdrawal 1869
RIO GRANDE RECTIFICATION PROJECT, El Paso-Juarez Valley, maintenance and preservation regulations 2297
RIPPNER, HARRY A., AND LOUIS G., cease and desist order by Federal Trade Commission; sale of pens 2028
RIVENBARK, A. J., JR., notice of hearing by Federal Trade Commission 2317
RIVER AND HARBOR ACT. *See* Army.
ROGERS, CHARLES E., registration revoked by Securities and Exchange Commission 1695
ROLL LEAF MANUFACTURING INDUSTRY, hearing on proposed trade practice rules by Federal Trade Commission 1354
RORK, GLEN V., hearing postponed by Federal Power Commission 1396
ROSS CLAY PRODUCTS CO., order by National Bituminous Coal Commission 2161
ROTH, LOU, cease and desist order by Federal Trade Commission; sale of candy 2031
ROWDABAUGH, SETH E., notice of hearing by Federal Trade Commission 1447
ROWE MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
ROYAL COAL CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1855
RUBY LAKE MIGRATORY WATERFOWL REFUGE, NEV., establishment 1639
RUGS (WOOL HOOKED), domestic manufacturer's protest overruled on classification and duty rate imposed 2063
RULES OF PRACTICE. *See* agency concerned.
RUN-PROOF LABORATORIES, INC., notice of hearing by Federal Trade Commission 1283
RURAL ELECTRIFICATION ADMINISTRATION:
Allocation of funds for loans 1275, 1289, 1341, 1371, 1410, 1425, 1694, 1774, 1892, 2069, 2079, 2080, 2182, 2244, 2282, 2283
Amendments 1249, 1275, 1410, 1421, 1472, 2228
Interest on loans 1721
Project designations amended 1863
RURAL REHABILITATION, loans to tenant farmers for 2129
RUSSELL, FARIS R., suspension order by Securities and Exchange Commission 1509
RUSSIA. *See* Union of Soviet Socialist Republics.
RX MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287

S

ST. ELIZABETHS HOSPITAL, commitment of Indians to 2338
ST. JOHNS STOCKYARD CO., notice under Packers and Stockyards Act 1503
ST. MARKS MIGRATORY BIRD REFUGE, FLA., enlargement 2262
ST. PETERSBURG, FLA., designated customs port of entry 1749
SADDLERY INDUSTRY, prevailing minimum wage determination 1733
SALEM GAS LIGHT CO.:
Effective date of declaration by Securities and Exchange Commission 2126
Notice of hearing 1936
SALES ON SOUND CORP.:
Cease and desist order by Federal Trade Commission; sale of motion picture sound screens 2237
Notice of hearing 1801
SALT PLAINS WILDLIFE REFUGE, OKLA., enlargement 1640
SAMUELSON, R. W.:
Effective date of declaration by Securities and Exchange Commission 2230
Reorganization plan approved 1920, 1940
SAN CARLOS FEDERAL IRRIGATION PROJECT, joint, district and Indian works defined 2006
SAN CARLOS PROJECT, ARIZ., new standard rate schedules for electricity 1607
SAN JOAQUIN LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber, etc 1897
SANDAHL, CLEO, notice of hearing by Federal Trade Commission 2317
SANDAR CORP., notice of hearing by Securities and Exchange Commission 2259
SANDERS, HARRY, ET AL, notice of hearing by Federal Trade Commission 1421
SANDUSKY, OHIO, redesignated airport of entry 1386
SARASIN, CELIA, cease and desist order by Federal Trade Commission; sale of electric razors, etc 1899
SAUGATUCK RIVER, highway drawbridge regulations revoked at Westport, Conn 2264
SAULT STE. MARIE, MICH., airport of entry redesignated 1902
SAVINGS AND LOAN ASSOCIATIONS, investment in securities of, by Home Owners' Loan Corporation 1317
SCADRON, IRWIN, cease and desist order by Federal Trade Commission; sale of clocks, etc 1859
SCHENLEY DISTILLERS CORP., ET AL, cease and desist order by Federal Trade Commission; sale of whiskies, etc 1630

SCHNEITER COAL CO., notice of hearing by National Bituminous Coal Commission 1516
SCHUTT, HAROLD S., order by Securities and Exchange Commission 1285
SCIENTIFIC APPARATUS MAKERS OF AMERICA, ET AL, notice of hearing by Federal Trade Commission 1420
SCIENTIFIC LABORATORIES, ETC., cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287
SCOBEY, MONT., airport of entry designated for aliens 1657
SCOVILL MFG. CO., complaint dismissed by Federal Trade Commission; sale of industrial rivets 1528
SEAGRAM-DISTILLERS CORP., ET AL, cease and desist order by Federal Trade Commission; sale of whiskies, etc 1628
SECOND LIBERTY BOND ACT:
Treasury Bonds 2¾ percent, of 1958–63, offering of 1333
Treasury Notes 1⅛ percent, of Series A–1943, offering of 1334
SECURITIES AND EXCHANGE COMMISSION. *See also* Securities and Exchanges.
Division of Personnel Supervision and Management required to be established 2271
Employment of examiners, etc., to carry out functions of National Economic Committee 1945
Notice of hearings, etc.:
Adams, Charles True 1831, 1864, 1973
Advance-Rumely Corp 2041, 2142
Alexandria Gas Co 1832, 1922
Aluminum Co. of America 2295
Aluminum Ore Co 2295
American Light & Traction Co 2164
Apache Gas Co. of Nev 2240, 2268
Appalachian Electric Power Co 1666
Associated Corp 1411
Associated Electric Co 1666
Beverly Gas and Electric Co 1936
Bradford Electric Co 1589
Byllesby Corp 1354, 2318
Byllesby, H. M., and Co 2318
California Utilities Corp. of Calif 2240, 2268
Central Service Corp 1509
Chicago, Indianapolis and Louisville Railway Co 1435
Cincinnati Gas & Electric Co 1942
Columbia Gas & Electric Corp 1354, 1941
Commonwealth and Southern Corp 1720
Community Power and Light Co 1878
Consolidated Textile Corp 1665, 2069
Continental Securities Corp 1802
Copper District Power Co 1775
Council Bluffs Gas Co 1881
County Gas Co 1881
Crescent Public Service Co 1422
Culbertson, James G 1509
Dakota Power Co 1668
Dallas Gas Co 1881
Dayton Power and Light Co 1941
Detroit and Mackinac Railroad Co 1434, 1614
Divco-Twin Truck Co 2230
Dominion Stores Limited 1904
Dow Chemical Co 2212
Eastern Utilities Associates 1882
Electric Advisers, Inc 1748
Empire Southern Service Co 1421
Fairchild Engine and Airplane Corp 1958
Federal Water Service Corp 1803
Financial Distributors, Inc 2246
Gas Advisers, Inc 1882
Gas Transport Co. of Nev 2240, 2268
General American Transportation Corp 2269
General Public Utilities, Inc 1667
Genesee Valley Gas Co., Inc 1275
Gloucester Electric Co 1936
Grand Rapids Gas Light Co 2164
Gulf States Utilities Co 1959
Haines, J. Albert 2144
Haverhill Electric Co 1936
Hibbard, Charlton B 1411, 1504
Idaho Power Co 1666
Illinois Iowa Power Co 2294
Indiana General Service Co 2247
Indianapolis Power & Light Co 1775
Interlake Iron Corp 1410
International Cinema, Inc 1932
International Radio Corp 2230
Interstate Hosiery Mills, Inc 1447
Iowa Public Service Co 1545, 1615
Joliet Heating Corp 2126
Kennedy, Millard B 1774
Kent, Ralph C 2165
Kentucky Utilities Co 2211
Kinner Airplane & Motor Corp., Ltd 1932
La Salle-Wacker Corp 1880
Lawrence Gas & Electric Co 1458, 1655
Lexington Utilities Co 2211
Lone Star Gas Corp. et al 1881
Louisiana Ice & Electric Co., Inc 1427
Louisiana Public Service Corp 1738
Lucas, Herman 2145
Malden Electric Co 1936
Market Street Railway Co 1397, 1434, 2046
Massachusetts Utilities Associates 1398, 1545
Massena Securities Corp 2295
Maxwell, Joseph S 1411, 1504
Michigan Consolidated Gas Co 2164
Middle West Corp 1775, 2247, 2295
Midland United Co 1774
Midland Utilities Co 1921, 2023
Milwaukee Electric Railway and Light Co 2318
Minnesota Utilities Co 1738
Missouri Service Co 1517
Morris, Hugh M 1774
Mountain States Power Co 1426
Muskegon Gas Co 2164
National Pumps Corp 1877
Needles Gas and Electric Co. of Calif 2240, 2268
Nepsco Appliance Finance Corp 2326
New England Capital Corp 2182, 2183, 2269
New York State Electric & Gas Corp 1371
Norfolk Southern Railroad Co 1435
North American Edison Co 2318
Northeastern Water and Electric Corp 1855, 1904
Northeastern Water & Electric Service Corp 2166
Northeastern Water Companies, Inc 1448
Northern States Power Co. (Minn.), (Del.), (Wis.) 2127
Oklahoma Power and Water Co 1878
Page Power Co 1388
Parks, John Thomas 2229
Patuxent Gas Co 1832, 1922
Peoples Light Co 2166
Pittsburgh Terminal Coal Corp 1434
Providence Gas Co 1667
Public Service Co., of Oklahoma 1973, 2210
Public Utilities Management Corp 1622
Rainbow Luminous Products, Inc 1776
Reis, Robert, & Co 1435
Republic Electric Power Co. of Del 2240, 2268
Republic Mutual Service Co. of Calif 2240, 2268
Salem Gas Light Co 1936
Sandar Corp 2259
Shannahan, John N 1774
Shields, Paul V 1411, 1504
Simplicity Pattern Co., Inc 2211
Southern Colorado Power Co 1959
Southern Oregon Gas Corp. of Calif 2240, 2268
Southwestern Electric Co 1878
Staten Island Edison Corp 1425, 1646
Suburban Gas and Electric Co 1936
Texas Cities Gas Co 1881
Toledo Edison Co 1854
Union Electric Co., of Missouri 2295
Union Producing Co 1855
Utilities Elkhorn Coal Co 1509, 2070
Utilities Employees Securities Co 2182, 2183, 2269
Utilities Power & Light Corp., et al 1411, 1449, 1504, 1803, 1831, 1855, 1864, 1871, 1963, 1972, 1973

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Notice of hearings, etc.—Con.
Virginia City Gold Mining Co 2230
Virginia Electric and Power Co. 2269
Virginia Public Service Co. 1458
Walling, William English, II. 1871
Washington Railway and Electric Co. 2294
Washington Suburban Gas Co. 1832, 1922
Washtenaw Gas Co. 2164
Weaverville Electric Co. of Calif. 2240, 2268
Wells, Fargo & Co. 1434, 1589, 1696
West Ohio Gas Co. 1993
West Penn Power Co. 1668
Wisconsin Public Service Corp 1667
Worcester Suburban Electric Co. 1355
Public Utility Holding Company Act of 1935:
Acquisition of assets, securities, etc.:
General Public Utilities, Inc. 2019
Grand Rapids Gas Light Co. 2283
Keystone Utilities, Inc. 1636
Lone Star Gas Corp. 2097
Michigan Consolidated Gas Co. 2283
Muskegon Gas Co. 2283
Northeastern Water and Electric Corp. 2165
NY PA NJ Utilities Co. 1636
Union Producing Co. 1977
Washtenaw Gas Co. 2283
Adams, Charles True, petition to intervene 2258, 2284
American Light & Traction Co., sales of stock approved 2283
Community Power and Light Co., sale of securities approved 2019
Culbertson, James G., maximum interim fees, etc. 2303
Declarations, effective dates, withdrawals, etc.:
Associated Corp. 1695, 1699
Baton Rouge Electric Co. 1695
Beverly Gas and Electric Co. 2126
Bradford Electric Co. 1880
Cincinnati Gas & Electric Co. 2258
Columbia Gas & Electric Corp. 1646
Copper District Power Co. 2012
Council Bluffs Gas Co. 2097, 2135
County Gas Co. 2097, 2135
Dakota Power Co. 2019
Dallas Gas Co. 2097, 2135
Eastern Utilities Associates 2103
Engineers Public Service Co. 1695
Gloucester Electric Co. 2126
Gulf States Utilities Co. 1695, 2142
Haverhill Electric Co. 2126
Kansas Electric Power Co. 1397

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Public Utility Holding Company Act of 1935—Continued.
Declarations, effective dates, withdrawals, etc.—Con.
Lone Star Gas Corp., et al. 2097, 2135
Louisiana Ice and Electric Co., Inc. 1614
Louisiana Steam Generating Corp. 1695
Malden Electric Co. 2126
Massachusetts Utilities Associates 1864
Middle West Corp. 2012
Missouri Service Co. 2126, 2127
Northeastern Water Companies, Inc. 1615
Oklahoma Electric and Water Co. 1426
Peoples Water and Gas Co. 1289
Public Service Co., of Oklahoma 2202
Puget Sound Power & Light Co. 1636
Salem Gas Light Co. 2126
Southern Colorado Power Co. 2240
Suburban Gas and Electric Co. 2126
Texas Cities Gas Co. 2097, 2135
United Telephone and Electric Co., reorganization managers of 2230
Utilities Elkhorn Coal Co. 2046
West Penn Power Co. 2013
Worcester Suburban Electric Co. 1637
Exemptions from provisions of:
Central Maine Power Co. 1249
Genesee Valley Gas Co., Inc. 1936
Greene, Chester and Patton Trust 1993
Hickok Oil Corp. 1397
Houston Natural Gas Corp. 1921
Indianapolis Power & Light Co. 1972
Lawrence Gas and Electric Co. 1863
Middle West Corp. 1646
New York State Electric & Gas Corp. 1341, 1614, 1882
Page Power Co. 2070
Public Service Co., of New Hampshire 1250
South Carolina Utilities Co. 1763
Toledo Edison Co. 1973
Virginia Public Service Co. 1448
Washington Gas Light Co. 1387
Wisconsin Public Service Corp. 2145
Gulf States Utilities Co., stock exchange plan adopted 1993
Home Utilities Co., withdrawal of application 2259
Interlake Iron Corp., declared not an electric utility company 1637
Interstate Utilities Co., withdrawal of application 2259

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Public Utility Holding Company Act of 1935—Continued.
Kennedy, Millard B., compensation for services, etc. 2267
Midland Utilities Co., maximum ad interim expense allowances, etc. 2267
Morris, Hugh M.:
Declared not a holding company 1285
Maximum ad interim expenses, etc. 2267
Permian Oil & Gas Co., withdrawal of application 2259
Schutt, Harold S., declared not a holding company 1285
Shannahan, John N., maximum ad interim expense allowances, etc. 2267
Sloss-Sheffield Steel & Iron Co., declared not an electric utility company 1448
Southwestern Electric Co., sale of securities approved 2019
United Light and Power Engineering and Construction Co., subsidiary service company approved 2352
United Telephone and Electric Co., et al, reorganization plan approved 1920, 1940
Utilities Elkhorn Coal Co., maximum interim fees to attorney, etc. 2303
Utilities Power & Light Corp., petition to intervene 2258, 2284
Securities Act of 1933:
Lange, C. E., suspension order 2258
Mims, A. S., suspension order 2258
Stop orders:
Austin Silver Mining Co. 1720
Breeze Corporations, Inc. 1958
Gold Hunter Extension, Inc. 2326
Platoro Gold Mines, Inc. 2259
Unity Gold Corp. 1776
West Park Apartments Corp 2319
Securities Exchange Act of 1934:
Application for registration of business on over-the-counter markets, Form 3–M amended 1458
Listing and registration orders:
Adams Express Co. 1748
Canal Construction Co. 1665
Chicago, Indianapolis and Louisville Railway Co. 1871
Como Mines Co. 1665
Consolidated Textile Corp. 1977
Federal Knitting Mills Co. 1664
General American Transportation Corp. 2294
German Central Bank 1699
Market Street Railway Co. 1870, 2013
National Pumps Corp. 2142
New York Dock Co. 1664
Pierce Oil Corp. 1665
Producers Corp. 1665

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Securities Exchange Act of 1934—Continued.
Listing and registration orders—Continued.
Reis, Robert, & Co. 1870
Teck-Hughes Gold Mines, Ltd 1504
National securities exchanges, suspension orders:
Clark, Harold Benjamin 1509
Russell, Faris F. 1509
White, Weld & Co., et al. 1509
Registrations revoked, suspended, etc.:
American Credit Corp. 2294
Atwater, L. P., & Co. 2013
Canon, F. T., & Co., Inc. 1654
Continental Royalties Corp. 2014
Ernstrom & Co., Inc. 1863
Huff and Haskins, Inc. 2014
Missouri Pacific Railroad Co. 2246
Rogers, Charles E. (J. T. Register & Co.) 1695
Steiner, Joseph M. 1877
Unlisted trading privileges, extension, denial, etc.:
Adams Express Co. 1941
Allegheny Ludlum Steel Corp 1871
American Steel Foundries 1941
Baldwin Locomotive Works 1941
Boeing Airplane Co. 1941
Consolidated Aircraft Corp. 1941
Curtiss Wright Corp. 1372, 1763
Electric Boat Co. 1941
Elk Horn Coal Corp. 2013
Equity Corp. 1426
Hecker Products Corp. 1655, 1699
Homestake Mining Co. 1941
Inspiration Consolidated Copper Co. 1941
International Hydro-Electric System 1941
International Paper & Power Co. 1941
Market Street Railway Co. 1397, 1993
National Lead Co. 1941
Niagara Hudson Power Corp 1941
Pantepec Oil Co., of Venezuela 2096
Paramount Pictures, Inc. 1941
Philip Morris & Co., Ltd., Inc 1941
Radio Corporation of America 1941
Standard Gas and Electric Co. 1864, 2014
United Corp. 1941

SECURITIES AND EXCHANGES: Page
Public Utility Holding Company Act of 1935:
Acquisition of securities, etc., Rule U–9A2–3 corrected 1539
Certificate of notification, Rule U–6B–2 adopted 1621, 1734

SECURITIES AND EXCHANGES—Continued Page
Public Utility Holding Company Act of 1935—Continued.
Evidences of indebtedness, issue and sale to consumers, Rule U–3D–11 adopted 1613
Foreign utility subsidiaries, exemption, Rule U–3B–2 amended 1691
Registered holding company employees, annual statements 2012
Rule U–3D–13:
Notification of acquisition of utility assets by acquiring company 1977
Public utility subsidiaries exempted with respect to acquisition of utility assets 1971
Sale of public utility securities, etc., by registered holding companies, Rule U–12D–1 amended 1540
Sale of utility assets, Instructions to Form U–12D–2 corrected 1539
Small holding company systems, exemption, Rule U–3D–12 adopted 1691
Statements, Rule U–12(I)–1 adopted, etc 1663
Rules of Practice, amendment 1584
Securities Exchange Act of 1934:
Evidences of indebtedness, Rule AN21 amended 1613
Exemption of securities, Rule X–AN24 adopted 1472
Hearings, Rule X–UB2 amended 1636
Over-the-counter markets, regulation of, rules readopted 1613
Proxy rules amended 1991
Registration on an additional exchange 1508
Securities not registered on a national securities exchange, Rule X–GB4 1621, 1912
SEEDS (IMPORTED), kinds and proportions to be colored 2063
SHADDY, KELLY J., cease and desist order by Federal Trade Commission; sale of hair preparations 1512
SHANNAHAN, JOHN N., notice and order on expense allowances by Securities and Exchange Commission 1774, 2267
SHELTON TUBULAR RIVET CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
SHERMAN, JACOB, notice of hearing by Federal Trade Commission 2316
SHIELDS, PAUL V., notice of hearing by Securities and Exchange Commission 1411, 1504

SHIPPING: Page
Marine Inspection and Navigation Bureau:
Certificates of Service and Efficiency, Discharge, Identification and Continuous Discharge Books, issuance of 2338
Danish passenger vessels, pre-sailing examination and collection of fees 1567
Manifests and shippers' export declarations 2131
River passenger vessels, subdivision of; items of fire equipment approved 1934
Vessels undocumented, numbering and recording regulations 2303
United States Maritime Commission:
Subsidized vessels, practices in terminating voyages and determining lay-up periods 2144
United States Maritime Service:
Establishment 1760
Regulations for government of 2224
SHOES, women's and misses', investigation of cost production, etc., dismissed by United States Tariff Commission 1964
SHOSHONE IRRIGATION PROJECT, WYO., public lands opened to entry; availability of water 1716
SHRIMP (CANNED), inspection regulations revised 1313
SHUPE-WILLIAMS CANDY CO., cease and desist order by Federal Trade Commission; sale of candy 2004
SILK INDUSTRY, proposed trade practice rules by Federal Trade Commission 1738
SILVER:
Newly mined domestic, acceptance by mints 1794
Shipment exemptions under Government Losses in Shipment Act 2281
SILVER, J. DAN, cease and desist order by Federal Trade Commission; sale of candy 2031
SIMPLICITY PATTERN CO., order for hearing by Securities and Exchange Commission 2211
SINN, J. FRANK, cease and desist order by Federal Trade Commission; sale of agricultural seed 1968, 2347
SLOSS-SHEFFIELD STEEL & IRON CO., declared not an electric utility company by Securities and Exchange Commission 1448

Page

SMITH, JOHN C., notice of hearing by Federal Trade Commission 1447

SNYDER, IRA C.:
Effective date of declaration by Securities and Exchange Commission 2230
Reorganization plan approved 1920, 1940

SOCIAL SECURITY ACT:
Allotments, etc., to States for public health service 1634
Information returns abolished for certain employees 2303
Tax credits and refunds under Title IX 1463

SOCIAL SECURITY BOARD, designated to establish Division of Personnel Supervision and Management 2271

SOFT-LITE LENS CO., INC., cease and desist order by Federal Trade Commission; sale of optical lenses 1627

SOLVAY SALES CORP., notice of hearing by Federal Trade Commission 2134

SOUTH CAROLINA:
Agricultural conservation program, 1938, southern region 2193
Church Creek between Charleston and Rockville, drawbridge regulations 1567
Tenant purchase loans, designation of counties for 1877

SOUTH CAROLINA UTILITIES CO., order by Securities and Exchange Commission 1763

SOUTH DAKOTA:
Range Conservation Program, 1938, Jones County 1378
Tenant purchase loans, designation of counties for 1862

SOUTH GREELEY SALES YARDS, notice under Packers and Stockyards Act 2182

SOUTH HILL, VA., designated tobacco market 2074

SOUTHEASTERN EXPRESS CO., express rate increases, etc., hearing by Interstate Commerce Commission.

SOUTHERN COLORADO POWER CO.:
Effective date of declaration by Securities and Exchange Commission 2240, 2268
Notice of hearing 1959

SOUTHERN ILLINOIS COALS, INC., notice of hearing by National Bituminous Coal Commission 1956

SOUTHERN OREGON GAS CORP. OF CALIF., notice of hearing by Securities and Exchange Commission 2240, 2268

SOUTHWESTERN ELECTRIC CO.:
Notice of hearing by Securities and Exchange Commission 1878
Sale of securities approved 2019

Page

SPECIAL COMMITTEE ON UN-AMERICAN ACTIVITIES, House of Representatives, inspection of income, excess-profits, and capital stock tax returns 1943, 1953

SPECIAL MEXICAN CLAIMS COMMISSION:
Payments on account of awards 1757
Powers, rights, and duties terminated 1423

SPEIDEL, CHAS. W., & CO., notice of hearing by Federal Trade Commission 1420

SPIELDOCK, LEOPOLD, cease and desist order by Federal Trade Commission; sale of merchandise 2176

SPOKANE, WASH., redesignated airport of entry 1386

SPRING CANYON COAL CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955

SPRINGFIELD MILLING CORP., cease and desist order by Federal Trade Commission; sale of flour 2203

SQUARE DEAL CANDY CO., notice of hearing by Federal Trade Commission 2265

STAMP TAX. *See* Taxes.

STANDARD COAL CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955

STANDARD GAS AND ELECTRIC CO., unlisted trading privileges extended by Securities and Exchange Commission 1864, 2014

STANDARD SEED CO., cease and desist order by Federal Trade Commission; sale of agricultural seed 1968

STANDING STONE EXPERIMENTAL FOREST, Huntingdon County, Pa., lands transferred to Forest Service for administration, etc 2314

STARTUP CANDY CO., cease and desist order by Federal Trade Commission; sale of candy 2003

STATE DEPARTMENT. *See also* Foreign Relations.
Committee for Reciprocity Information:
Venezuela, public notice of trade agreement negotiations 1747, 1748

STATEN ISLAND EDISON CORP., notice of hearing by Securities and Exchange Commission 1425, 1646

STEAM VESSELS. *See* Navigation and Navigable Waters: Vessels.

Page

STEFFIN, PAUL, notice of hearing by Federal Trade Commission 1421

STEINER, JOSEPH M., registration revoked by Securities and Exchange Commission 1877

STILLS, ETC., manufacture, taxpayment, etc.; drawback exportation 1608

STOCK DRIVEWAYS:
Montana No. 1, modified 1539
Oregon No. 26, reduced 1241

STOCKS, stamp tax on transfers 2141

STOCK'S NU-TONE TONIC, cease and desist order by Federal Trade Commission; sale of medicinal preparation 2032

STOCKYARDS. *See* Packers and Stockyards Act.

STRAW, inspection and certification regulations 1867

STRONG, ROY M., notice under Packers and Stockyards Act 1503

STYLECRAFT LEATHER GOODS CO., INC., notice of hearing by Federal Trade Commission 1446

SUBURBAN GAS AND ELECTRIC CO.:
Effective date of declaration by Securities and Exchange Commission 2126
Notice of hearing 1936

SUGAR ACT OF 1937:
Articles in chief value of manufactured sugar, additional data on customs invoice 2033
California, wage rates and prices for 1939 sugar beet crop, hearings 1971
Consumption requirements and quotas, 1938 1389
Domestic beet sugar area, proportionate shares determination for farms 1625, 2245
Hawaii:
Proportionate shares determination, 1937 crop 1359
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1441, 1626
Wage rate determination, 1937 1649
Liquid sugar quota allotments for foreign countries, 1938 1427
Louisiana sugarcane, price determinations for 1938 crop 2306
Mainland cane sugar area:
Farming practice determination, 1938 crop 2263
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1786
Wage rate determination, 1938 1626
Wage rates, notice of hearings 1830
Philippine Islands, proration of 1938 deficit 1391

Page

SUGAR ACT OF 1937—Continued.
Puerto Rico:
Direct-consumption portion allotment, 1938 quota 1279
Farm practice determination for 1938–39 crop 1786
Quota allotments, 1938 1337
Sugar commercially recoverable; payment eligibility for farm abandonment and crop deficiency 1474, 1627
Quota prorations for foreign countries other than Cuba 2207
Sugar beets, wage rate determination for 1938 crop 2263

SUN-FIELD SEED SERVICE, cease and desist order by Federal Trade Commission; sale of agricultural seed 1968

SUNSHINE ANTHRACITE COAL CO., application for certificate of exemption, National Bituminous Coal Commission 1241, 1396, 2154

SUPERIOR CERAMIC CORP., complaint by Federal Trade Commission; sale of tile 2117

SUPERWEAR HOSIERY CO., cease and desist order by Federal Trade Commission; sale, etc., of hosiery 1428

SURETE LABORATORIES, notice of hearing by Federal Trade Commission 1542

SWEET COAL CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955

SWIFT CREEK RECREATIONAL DEMONSTRATION AREA, local subsidiary regulation 1963

T

TAMARAC MIGRATORY WATERFOWL REFUGE, MINN.:
Establishment 1255
Fishing regulations 1662, 2034

TAMPA, FLA., airport of entry designated for aliens 1951

TAREX CO., cease and desist order by Federal Trade Commission; sale, etc., of pharmaceutical preparations 1366

TAXES:
Admissions, dues and initiation fees 1756
Brandy:
Blending of pure fruit brandies 1925
Fortification tax abatement or refund 1926
Losses of, intended for fortification of wine 1925
Manufacture of 1926
Samples withdrawn for laboratory analysis, etc 1924
Brewers of malt liquors 1911

Page

TAXES—Continued.
Capital stock, time extensions for filing returns 1393
Carriers Taxing Act of 1937, initial and quarterly returns 2179
Cheese (Filled), regulations amended 1464
Closing agreements as to future tax liability 2064
Coal, etc., from Union of Soviet Socialist Republics 2012, 2018
Coca leaves, importation, manufacture, sale, etc 1291–1313
Distilled spirits:
Bonds covering manufacture, etc.; tax increase 1514
Bottling in bond 1348, 1641
Floor taxes 1469, 1612
Documentary stamp, effect given to certain legislative enactments 1330
Estate, regulations amended 1792
Excise:
Miscellaneous regulations amended 1651
Sales by manufacturers 2034
Excise-Profits, corporations 1771
Federal, state, county, and municipal taxes on War Department procurements 1975
Firearms and machine guns 1900
Gift, regulations amended 1788
Imports of articles in chief value of manufactured sugar 2033
Income:
Annuity payments 2140
Deficiency payments, time extensions 1771
Foreign corporations, information returns 1464, 1467
Information returns, dissolution or liquidation of capital stock 1455
Liquidation, recognition of gain 1393
Liquidations, basis of property received 1466
Mitigation of effect of limitation provisions, etc 2085
Property repossessed, gain or loss upon installment obligations 1847
Reorganization, basis of property acquired after December 31, 1937 1477
Sale of personal property 1652
Test of taxability to the grantor 2242
Liquor dealers, special payments 1911
Oils, etc., assessment and collection on importations 1632
Oleomargarine, adulterated butter, etc., effect given to certain legislative enactments 1332
Opium, importation, manufacture, sale, etc 1291–1313, 1402
Processing, on certain oils 1469
Refunds under Bankhead Cotton Act of 1934, Kerr Tobacco Act, and Potato Act of 1935 1969

Page

TAXES—Continued.
Returns (income, excess-profits, and capital stock), inspection by Special Committee on Un-American Activities, House of Representatives 1943, 1953
Social Security Act:
Information returns abolished for employees of sixty-five years, etc 2303
Refunds and credits under Title IX 1463
Stamp, regulations amended 1650, 2141
Stills and worms, manufacture, sale, etc 1608
Taxes on gasoline, lubricating oil, brewer's wort and malt products, matches, etc 1860
Wine:
Fruit wines 1929
Removal for transfer in bond, etc 1928

TAYLOR GRAZING ACT:
Disposition of conflicting sale and lease applications 1335
Exchanges of State lands, regulations amended 1367
Federal Range Code, supplementary rules 1533
Public sale applications for lands in grazing districts 1508

TAYLOR, ROBERT C., notice of hearing by Federal Trade Commission 1340

TAYLOR WASHING MACHINE CO., cease and desist order by Federal Trade Commission; sale, etc., of washing machine products 1505

TAYLORS BAYOU, TEX., navigation regulations for Beaumont Navigation District lock and dam 1642

TECK-HUGHES GOLD MINES, LTD., order by Securities and Exchange Commission 1504

TECHNICAL LABORATORIES, ET AL, notice of hearing by Federal Trade Commission 2266

TELECOMMUNICATION:
Broadcasts by candidates for public office 1691
Emergency radio services, rules 1734
Government telegraph communications, rates of pay 1281
Radio, emergency services 2202
Standard broadcast stations, approved power ratings 2255
Telecommunication carriers, destruction of records 2194
Telephone carriers, filing of information, contracts, etc 2202

TELEGRAPH, ETC., FACILITIES, excise tax regulations 1651

TENANT PURCHASE LOANS. *See* Bankhead-Jones Farm Tenant Act.

TENNESSEE:
Agricultural conservation program, 1937, east central region, White County 1625

TENNESSEE—Continued. Page
Coal, minimum price proposals to National Bituminous Coal Commission 2058
Lake Isom Migratory Waterfowl Refuge, establishment 1995
Tenant purchase loans, designation of counties for 1863
TENNESSEE PUBLIC SERVICE CO., order setting hearing by Federal Power Commission 1540
TERRITORIES AND ISLAND POSSESSIONS DIVISION. *See* Interior Department.
TEXAS:
Agricultural conservation program, 1938, southern region 2193
Amarillo, special air traffic rule 1664
Citrus fruits, handling of, hearing on proposed regulatory order amendment, etc 1456
Nacogdoches County, release of splenetic or tick fever quarantine 1840
Oranges and grapefruit, order regulating handling of, etc., Texas 2213, 2222
Taylors Bayou, use and navigation regulations for Beaumont Navigation District lock and dam 1642
Tenant purchase loans, designation of counties for 1738
TEXAS AND PACIFIC RAILWAY COMPANY BRIDGE, operation regulations across Bayou Lafourche, Napoleonville, La 2116
TEXAS CITIES GAS CO.:
Acquisition of securities approved by Securities and Exchange Commission 2097
Documents made part of record 2135
Effective date of declaration 2097
Notice of hearing 1881
TEXTILE INDUSTRY COMMITTEE:
Appointment by Wage and Hour Division 2313
Order to convene 2315
THOMAS QUILT FACTORIES, notice of hearing by Federal Trade Commission 2227
THOMSON, JUDSON L., MFG. CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
THOMSON, RAY, notice of hearing by Federal Trade Commission 1543
THOUSAND ISLANDS BRIDGE, N. Y., designated port of entry for aliens 1698
TIMBER:
Free use by churches, hospitals, and charitable institutions, Alaska 2066
Importations of, conflict with any international agreements 1888
Sales from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands, Oreg 1795
TIN-PLATE SCRAP, rules for issuance of exportation licenses 1566
TIP TOP LABORATORIES, cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287
TOBACCO:
Flue-cured:
Farm marketing quotas for 1938 1839, 1963, 2148, 2203
Marketing quotas for 1938–39 1438, 1547, 1833
National marketing quota for 1938–39, apportionment and adjustment 1839, 2149
Kerr Tobacco Act, tax refunds authorized 1969
Markets designated:
Owensboro, Ky 2208
South Hill, Va 2074
Marketing quotas, administrative review 1749
TOLEDO EDISON CO.:
Exemption from provisions of Public Utility Holding Company Act of 1935 1973
Notice of hearing by Securities and Exchange Commission 1854
TOLEDO, OHIO, MARKETING AREA:
Milk, handling of:
Base period to be used, etc 1893
Regulatory order 2169, 2180
TOMATO PASTE MANUFACTURING INDUSTRY, trade practice rules promulgated by Federal Trade Commission 1425, 2155
TOMATOES, fumigation by methyl bromide as certification of moving by refrigerator car 2048
TOWNSEND CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
TRADE AGREEMENTS:
Application of duties proclaimed to products of certain foreign countries 2323
Lumber importations, conflict with any international agreements 1888
Venezuela, public notice of negotiations 1747, 1748
TRADE PRACTICE RULES:
Baby Chick Industry, proposals 2293
Fur Industry, promulgation 1442
Infants' and Children's Knitted Outerwear Industry, notice of hearing 1664
Macaroni, Noodles, and Related Products Industry 1283, 1660
Oleomargarine Manufacturing Industry 1396, 2323
Paint and Varnish Brush Manufacturing Industry, notice of hearing 1831
Roll Leaf Manufacturing Industry, notice of hearing 1654
TRADE PRACTICE RULES—Con. Page
Shrinkage of Woven Cotton Yard Goods, promulgation 1583
Silk Industry, notice of hearing 1738
Tomato Paste Manufacturing Industry 1425, 2155
TRADING WITH THE ENEMY ACT, authorizing the Attorney General to sell certain property 1255
TRANSPORTATION AND RAILROADS:
Carriers by water, depreciation charges 1445
Explosives, etc., transportation regulations 1621
Inventory of materials and supplies, valuation orders waived 1386
Johnston, A., Grand Chief Engineer of the Brotherhood of Locomotive Engineers, et al. v. Atchison, Topeka & Santa Fe Railway Co., et al 1478
Motor Carrier Act of 1935:
Carriers, effective date of Rule 27 of Tariff Circular 20 postponed 1719
Common and contract carriers by motor vehicle, qualifications of employees and safety of operation and equipment 1902
Contract to operate or lease operating rights, certificates, or permits 2180
Motor carrier employees, maximum hours of service 1439, 1875, 2339
Motor carriers of passengers, Class I, statistical reports 2021
Motor carriers of property, Class I, statistical reports 2021
Proceedings instituted under, special instructions 1335
Substitution of prospective purchasers; transfers of certificates, permits, etc 2179
Transfers of rights to operate as a motor carrier 2157
Notification of transfer of operating rights 2180
TREASURY DECISIONS:
Bound volumes, notice of changes in numbering and issuance 1699
Court decisions published in, identification of 1931
TREASURY DEPARTMENT:
Accounts and Deposits. *See* Money and Finance: Treasury.
Comptroller of the Currency. *See* Banking and Credit.
Customs Bureau. *See also* Customs Duties.
Airports of entry designated:
Bangor, Me., Crosby, N. Dak., Burlington, Vt 1540
Buffalo, N. Y 1902
Fort Yukon, Alaska 1692
Miami, Fla 2293
Niagara Falls, N. Y 1654

TREASURY DEPARTMENT—Continued. Page
Customs Bureau—Continued.
Airports of entry designated—Continued.
Sandusky, Ohio, Great Falls, Mont., Havre, Mont., Plattsburg, N. Y., Spokane, Wash., Watertown, N. Y 1386
Sault Ste. Marie, Mich 1902
Warroad, Minn 2158
Coal from Russia, liquidation of entries suspended 2012
Lumber importations, conflict with international agreements 1888
Treasury Decisions:
Bound volumes, notice of changes in numbering and issuance 1699
Court decisions published in, identification of 1931
Employment of examiners, etc., to carry out functions of National Economic Committee 1945
Federal Alcohol Administration Division. *See also* Intoxicating Liquors.
Brandy (domestic), designations as "cognac" 1903
Liquor-selling concessions at World's Fairs, New York and San Francisco 2256
Internal Revenue Bureau. *See* Internal Revenue.
Lands within Coronado National Forest, Ariz., transferred to jurisdiction of 1944
Narcotics Bureau. *See* Food and Drugs.
Procurement Division:
Lincoln Gardens Project, New Brunswick, N. J., release forms adopted 2144
Public Debt Service. *See* Money and Finance: Treasury.
Secretary's Office. *See also* Money and Finance: Treasury.
Foreign moneys, values 1645
TREASURY NOTES, 1⅛ percent of Series A–1943, offering of 1334, 2205
TRENT TILE CO., INC., complaint by Federal Trade Commission; sale of tile 2118
TUBERCULOSIS (CATTLE):
Appraisement and compensation for cattle condemned and destroyed 1527, 2018
Modified accredited areas, names of counties 1382, 1755, 2002, 2253
TUBULAR RIVET & STUD CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
TUCKER, BENJAMIN, cease and desist order by Federal Trade Commission; sale of furs 1898
TWIN STATE GAS & ELECTRIC CO., order for hearing by Federal Power Commission 1387, 1503

U

UMATILLA RESERVATION, leasing of allotted and tribal lands for agricultural, etc., purposes 1860
UN-AMERICAN ACTIVITIES, SPECIAL COMMITTEE ON, House of Representatives, inspection of income, excess-profits, and capital stock tax returns 1943, 1953
UNEMPLOYMENT AND OLD AGE BENEFITS:
Railroad Retirement Board, regulations under Railroad Retirement Act of 1937 1478
Works Progress Administration:
Monthly earnings, persons paid from project funds 1912
National Youth Administration:
Part-time employment of out of school youths 1914
Student aid program 1913
Rates of pay, hours of work, conditions of employment, etc., on projects 1916
Supply fund for the procurement, use, etc., of materials and equipment 1918
UNION ELECTRIC CO., OF MISSOURI, notice of hearing by Securities and Exchange Commission 2295
UNION OF SOVIET SOCIALIST REPUBLICS:
Coal imported from:
Commercial agreement extended 2018
Liquidation of entries suspended 2012
UNION PRODUCING CO.:
Notice of hearing by Securities and Exchange Commission 1855
Withdrawal of application for lease acquisitions 1977
UNION SLOUGH MIGRATORY WATERFOWL REFUGE, IOWA, establishment 2261
UNITED AIR LINES TRANSPORT CORP., exemption from provisions of Civil Aeronautics Act of 1938 2067
UNITED BUYERS CORP., ET AL., notice of hearing by Federal Trade Commission 1541
UNITED CORP., unlisted trading privileges extended by Securities and Exchange Commission 1941
UNITED DISTILLERS (OF AMERICA) LTD., cease and desist order by Federal Trade Commission; sale of whiskies, gins, etc 1628
UNITED EDUCATORS, INC., notice of hearing by Federal Trade Commission 1920
UNITED FENCE MANUFACTURERS ASSN., ET AL., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
UNITED LIGHT AND POWER ENGINEERING AND CONSTRUCTION CO., order by Securities and Exchange Commission 2352
UNITED STATES BLUE PRINT PAPER CO., notice of hearing by Federal Trade Commission 1420
UNITED STATES BOARD OF TAX APPEALS. *See* Internal Revenue.
UNITED STATES CIVIL SERVICE COMMISSION:
Apportionment, condition at close of business:
May 31, 1938 1372
June 15, 1938 1450
June 30, 1938 1637
July 15, 1938 1777
July 30, 1938 1937
August 15, 1938 2023
August 31, 1938 2166
September 15, 1938 2259
Division of Personnel Supervision and Management required to be established 2271
UNITED STATES EMPLOYMENT SERVICE. *See* Labor.
UNITED STATES FUEL CO.:
Notice of hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
UNITED STATES HOUSING AUTHORITY. *See also* Housing Credit.
Division of Personnel Supervision and Management required to be established 2271
UNITED STATES MARITIME COMMISSION. *See also* Shipping.
Division of Personnel Supervision and Management required to be established 2271
Federal Ship Mortgage Insurance, information and application form 1886
Minimum manning scales for subsidized vessels, supplements 2145
Minimum wage scales and working conditions for members of Purser's Department and Ship's Surgeons on subsidized vessels, hearings 1355
Operating-differential subsidy contract, hearings:
Dollar Steamship Line 2260
Isthmian Steamship Co 2260, 2340
United States Maritime Service, establishment 1760

79500—38——6

UNITED STATES PROCESSING TAX BOARD OF REVIEW. *See* Internal Revenue.

UNITED STATES TARIFF COMMISSION:
- Investigations in production costs, etc., dismissed:
  - Fluorspar ... 1964
  - Women's and Misses' cemented shoes of leather ... 1964

UNITED TELEPHONE AND ELECTRIC CO.:
- Effective date of declaration by Securities and Exchange Commission ... 2230
- Reorganization plan approved ... 1920, 1940

UNITY GOLD CORP., stop order by Securities and Exchange Commission ... 1776

UNIVERSAL ADVERTISERS SERVICE, cease and desist order by Federal Trade Commission; sale of electric razors, etc ... 1899

UNIVERSAL MERCHANDISE CO., cease and desist order by Federal Trade Commission; sale of cosmetics, etc ... 2287

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE, hunting regulations ... 2309

UTAH:
- Agricultural conservation program, 1938, western region, Weber and Davis Counties ... 1556
- Air navigation site withdrawals ... 1642, 1690, 1862
- Dinosaur National Monument, enlargement ... 1765
- Grazing district modification ... 1539, 1870, 2243
- Tenant purchase loans, designation of counties for ... 2350

UTAH FUEL CO.:
- Notice of hearing by National Bituminous Coal Commission ... 1367
- Petition on production cost data denied ... 1955

UTILITIES ELKHORN COAL CO.:
- Effective date of declaration by Securities and Exchange Commission ... 2046
- Notice of hearing ... 1509, 2070
- Order on maximum interim allowances for fees, etc ... 2303

UTILITIES EMPLOYEES SECURITIES CO., notice of hearings by Securities and Exchange Commission ... 2182, 2183, 2269

UTILITIES POWER & LIGHT CORP., ET AL.:
- Notice of hearing, etc.; by Securities and Exchange Commission ... 1411, 1449, 1504, 1803, 1831, 1855, 1864, 1871, 1963, 1972, 1973.

UTILITIES POWER & LIGHT CORP., ET AL.—Continued.
- Orders on petition to intervene ... 2258, 2284

V

VACU-MATIC CARBURETOR CO., notice of hearing by Federal Trade Commission ... 1544

VAN-TAGE MEDICINE CO., INC., notice of hearing by Federal Trade Commission ... 1541

VEGETABLES:
- Inspection and certification regulations ... 1451
- Japanese beetle quarantine restrictions, termination date ... 2264

VENEREAL DISEASES, allotments to States for control measures, 1939 ... 1828

VENEZUELA, public notice of trade agreement negotiations ... 1747, 1748

VERMONT:
- Burlington, airport of entry redesignated ... 1540
- Tenant purchase loans, designation of counties for ... 1935

VERMOUTH. *See* Wine.

VESSELS. *See also* Navigation and Navigable Waters.
- American fisheries redefined, United States vessels ... 2033
- Beaumont Navigation District lock and dam across Taylors Bayou, Tex., use, navigation, etc., regulations ... 1642
- Cargo, statistical reports ... 1429
- Certificates of Service and Efficiency, Identification, and Discharge and Continuous Discharge books, issuance of ... 2338
- Chicago River, Ill., operation of controlling works and use of lock ... 2139
- Customs Regulations of 1937, amendment ... 1808
- Danish passenger, pre-sailing examination and collection of fees ... 1567
- Documents, surrender of ... 1428
- Federal Ship Mortgage Insurance, information and application form ... 1886
- Fire equipment, miscellaneous items approved ... 1934
- Great Lakes and inland waters, radio requirements survey ... 1516, 1517
- Manifests and shippers' export declarations for cargo ... 2131
- Minimum manning scales, supplements ... 2145
- Radio transmitters, investigation of power requirements ... 1409
- River passenger vessels, subdivision of ... 1934

VESSELS—Continued.
- Subsidized, hearings on minimum wage scales and working conditions for Purser's Department and Ship's Surgeons ... 1355
- Supplies:
  - Drawback on distilled spirits ... 2043
  - Taxes on gasoline, lubricating oil, matches ... 1860
- Undocumented, numbering and recording ... 2303
- Voyage terminations and lay-up periods ... 2144

VETERANS' ADMINISTRATION. *See also* Pensions, Bonuses, and Veterans' Relief.
- Division of Personnel Supervision and Management required to be established ... 2271

VIRGIN ISLANDS, narcotic tax regulations ... 1301

VIRGINIA:
- Back Bay Migratory Waterfowl Refuge, establishment ... 1358
- Commodity rate investigation by Interstate Commerce Commission ... 2019
- Fort Myer Military Reservation, use of military road by National Airport Corporation for runway purposes ... 1987
- Richmond Sales Area, license for milk terminated ... 2341
- South Hill, designated tobacco market ... 2074
- Tenant purchase loans, designation of counties for ... 1920

VIRGINIA CITY GOLD MINING CO., order for hearing by Securities and Exchange Commission ... 2230

VIRGINIA ELECTRIC AND POWER CO., notice of hearing by Securities and Exchange Commission ... 2269

VIRGINIA PUBLIC SERVICE CO.:
- Application for exemption, order by Securities and Exchange Commission ... 1448
- Notice of hearing ... 1458

W

WACO DRUG CO., notice of hearing by Federal Trade Commission ... 2266

WAGE AND HOUR DIVISION. *See also* Labor; Labor Department.
- Appointments to executive positions authorized without regard to Civil Service Rules ... 2105

WAGES. *See* Minimum Wages.

WAIN'S LABORATORY, INC., cease and desist order by Federal Trade Commission; sale of Wain's Compound, etc ... 1712

WALLING, WILLIAM ENGLISH, II, notice of hearing by Securities and Exchange Commission ... 1871

WALNUT CANYON NATIONAL MONUMENT, ARIZ., lands added from Coconino National Forest ... 2321

WALNUTS, handling of, Calif., Oreg., and Wash., hearing on proposed marketing agreement amendment ... 2133

WAPATO INDIAN IRRIGATION PROJECT, WASH., assessments on land in non-Indian ownership for construction cost repayments ... 2223

WAR DEPARTMENT. *See also* Army; Navigation and Navigable Waters.
- Civilian Conservation Corps. *See* Public Health, Welfare and Education.
- Life insurance policies for persons entering active military service ... 2289
- Medical Corps, Regular Army, examination for appointments ... 1935, 2141

WAREHOUSE ACT, UNITED STATES, regulations of Secretary of Agriculture amended ... 1400

WARM SPRINGS BAY LIGHTHOUSE RESERVE, ALASKA, land description corrected ... 1944

WARNER'S RENOWNED REMEDIES CO., cease and desist order by Federal Trade Commission; sale of pharmaceutical preparations ... 1513

WARROAD, MINN., airport of entry redesignated ... 2158

WASHINGTON:
- Bituminous coal in intrastate commerce, investigation of nature and extent ... 1511
- Columbia Basin Project, reclamation withdrawal ... 2040
- Hops, order regulating handling of ... 1979
- Pears, handling of, hearing on proposed marketing agreement, etc ... 2045
- Port Gamble Band of Clallam Indians, reservation proclamation ... 1867
- Prunes (fresh), handling of, base period to be used; regulatory order ... 1779
- Spokane, airport of entry redesignated ... 1386
- Tenant purchase loans, designation of counties for ... 2117
- Walnuts, handling of, hearing on proposed marketing agreement amendment ... 2133
- Wapato Indian Irrigation Project, assessments on land in non-Indian ownership for construction cost repayments ... 2223

WASHINGTON GAS LIGHT CO., exemption from provisions of Public Utility Holding Company Act of 1935 ... 1387

WASHINGTON RAILWAY AND ELECTRIC CO., notice of hearing by Securities and Exchange Commission ... 2294

WASHINGTON SOUND, line dividing high seas from rivers, harbors, etc., Juan de Fuca Strait ... 2254

WASHINGTON SUBURBAN GAS CO., notice of hearing, etc., by Securities and Exchange Commission ... 1832, 1922

WASHTENAW GAS CO.:
- Acquisition of assets approved by Securities and Exchange Commission ... 2283
- Notice of hearing ... 2164

WATERFOWL REFUGES. *See* Refuges.

WATERTOWN, N. Y., redesignated airport of entry ... 1386

WATKINS, WARREN, notice of hearing by Federal Trade Commission ... 2265

WEAVERVILLE ELECTRIC CO. OF CALIF., notice of hearing by Securities and Exchange Commission ... 2240, 2268

WEIL, J. H. & CO., notice of hearing by Federal Trade Commission ... 1420

WEINBERG, MARCUS A., AND BELLE, notice of hearing by Federal Trade Commission ... 2265

WELLS, FARGO & CO., order setting hearing by Securities and Exchange Commission ... 1434, 1589, 1696

WENCZEL TILE CO., complaint by Federal Trade Commission; sale of tile ... 2122

WEST OHIO GAS CO., notice of hearing by Securities and Exchange Commission ... 1993

WEST PARK APARTMENTS CORP., stop order by Securities and Exchange Commission ... 2319

WEST PENN POWER CO.:
- Effective date of declaration by Securities and Exchange Commission ... 2013
- Notice of hearing ... 1668

WEST SISTER ISLAND MIGRATORY BIRD REFUGE, OHIO, establishment ... 1943, 2047

WEST VIRGINIA, counties designated for tenant purchase loans ... 1935

WESTERN AIR EXPRESS CORP., exemption from provisions of Civil Aeronautics Act of 1938 ... 2068

WESTERN FUEL CO., notice of hearing by National Bituminous Coal Commission ... 1516

WESTERN NORTH DAKOTA STOCKMEN'S ASSN., authorized to conduct brand inspection ... 2285

WESTERN PENNSYLVANIA COAL CORP., notice of hearing by National Bituminous Coal Commission ... 2206, 2233

WESTPORT, CONN., highway drawbridge regulations revoked across Saugatuck River ... 2264

WHEAT:
- Crop insurance regulations ... 1364, 1640, 1722, 1987
- Farm acreage allotments, 1939 crop ... 1807
- Limits on position and daily trading for future delivery, proposed order ... 1408
- Loan instructions ... 1997, 2025
- Marketing quotas, administrative review ... 1749
- National acreage allotment, 1939 crop ... 1754
- State acreage allotments, 1939 ... 1807

WHEELER MIGRATORY WATERFOWL REFUGE, ALA., establishment ... 1669

WHEELING TILE CO., complaint by Federal Trade Commission; sale of tile ... 2123

WHISKEY. *See* Distilled Spirits.

WHITE-FRINGED BEETLE, public hearing on quarantining Alabama, Florida, Louisiana, and Mississippi for ... 2045

WHITE, MORRIS, MFG. CO., INC., notice of hearing by Federal Trade Commission ... 1446

WHITE-PINE BLISTER RUST, quarantine regulations revised ... 1266

WHITE SANDS NATIONAL MONUMENT, N. MEX., modification ... 2129

WHITE, WELD & CO., ET AL, suspension order by Securities and Exchange Commission ... 1509

WILDLIFE REFUGES. *See* Refuges.

WILDLIFE RESTORATION ACT, regulations ... 1713

WILLYS-OVERLAND MOTORS, INC., cease and desist order by Federal Trade Commission; sale of automobiles ... 1900

WIND RIVER MOUNTAIN ROADLESS AREA, Shoshone Indian Reservation, boundaries amended ... 2085

WINE. *See also* Brandy.
- Fortification tax abatement or refund when used as distilling material, etc ... 1926
- Fruit wines ... 1929
- Losses of brandy intended for fortification of ... 1925
- Regauging of, customs regulations ... 2307
- Removal for transfer in bond or for distilling material ... 1928
- Standards of identity, etc ... 2093
- Vermouth, manufacture on bonded winery premises ... 1927
- Weights for testing scales ... 2011

WINNEBAGO RESERVATION, leasing of allotted and tribal lands for agricultural, etc., purposes ... Page 1860

WISCONSIN, counties designated for tenant purchase loans ... 1800

WISCONSIN PUBLIC SERVICE CORP.:
- Issue and sale of bonds exempted by Securities and Exchange Commission ... 2145
- Notice of hearing ... 1667

WOLFORD, ELMER C., notice of hearing by Federal Trade Commission ... 1920

WOMEN'S ADVISORY BUREAU, ET AL., notice of hearing by Federal Trade Commission ... 1542

WOMEN'S AND MISSES CEMENTED SHOES OF LEATHER, production cost investigation dismissed by United States Tariff Commission ... 1964

WOOL:
- Hooked rugs, domestic manufacturer's protest overruled on classification and duty rate ... 2063
- Loan Program, 1938, instructions amended ... 1400, 1617
- Transportation by motor vehicle, Boston, Mass., investigation ... 1891
- Wool Associates of New York Cotton Exchange, Inc., designated contract market ... 1269
- Wool tops, regulations under Commodity Exchange Act ... 1873

WORCESTER SUBURBAN ELECTRIC CO.:
- Effective date of declaration by Securities and Exchange Commission ... 1637
- Notice of hearing ... 1355

WORKS PROGRESS ADMINISTRATION. *See* Unemployment and Old Age Benefits.

WOVEN COTTON YARD GOODS, SHRINKAGE, trade practice rules promulgated by Federal Trade Commission ... 1583

WYNNE, BLANCHE, notice of hearing by Federal Trade Commission ... 2317

WYOMING:
- Air navigation site withdrawals ... 1862, 2326
- Bituminous coal in intrastate commerce, investigation of nature and extent, etc ... 1606
- Fort Laramie National Monument, lands reserved as ... 1768
- Public land withdrawal revoked ... 1944
- Shoshone Irrigation Project, public lands opened to entry; availability of water ... 1716
- Tenant purchase loans, designation of counties for ... 2079

Y

YANCEY, R. FRANK, notice of hearing by Federal Trade Commission ... 1801

YOUNG, HAROLD E., hearing postponed by Federal Power Commission ... 1396

YOUNG, W. R., notice of hearing by Federal Trade Commission ... 1543

Z

ZEPHYR RADIO CO., notice of hearing by Federal Trade Commission ... 1340

ZIMMER, H. R., cease and desist order by Federal Trade Commission; sale of Radium Emanator ... 1952

ZIPPER, MORRIS, notice of hearing by Federal Trade Commission ... 2041

ZOLLINGER, S., CO., notice of hearing by Federal Trade Commission ... 1541

ZONITE PRODUCTS CORP. (Larvex Division), notice of hearing by Federal Trade Commission ... 1420

ZUNI INDIAN RESERVATION, ARIZ., N. MEX., regulations governing conduct of trade ... 1690

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Rules, Regulations, Orders

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49586]

ANTIDUMPING — REVOCATION OF CERTAIN FINDINGS OF DUMPING

MAY 31, 1938.

To Collectors of Customs and Others Concerned:

As it appears from reports received from all collectors of customs and appraisers of merchandise and from other evidence before the Department that the practices which necessitated the issuance of the following findings of dumping have been discontinued and that there has not been any importation of merchandise of a class or kind covered by any finding of dumping specified below at less than fair value since January 1, 1933, the following Bureau circular letters and treasury decisions are revoked as of this date:

Commodity	Country or subdivision	Date	B. C. L. or T. D.
Paper, goatskin parchment.	England	10-11-21	B. C. L.
Embroideries, cotton.	Switzerland	11- 1-21	B. C. L.
Hamburgs	Austria	1-13-22	B. C. L.
Paper, sheathing	British Columbia.	4-18-22	39067
Flour, wheat	Canada	4-22-22	39071
Syringes, fountain	Canada	5-26-22	39139
Raspberries, canned, red.	Ontario, Canada.	6-19-22	39177
Iron oxide	Quebec, Canada.	7-26-22	39210
Brick, plastic	Quebec, Canada.	10-13-22	39272
Canvas	England	10-30-22	39294
Roofing, deadening felt.	British Columbia.	11- 4-22	39303
Balls, rubber	Germany	1-20-23	39422
Castings, No. 1 spuds, malleable.	Ontario, Canada.	2-26-23	39481
Veneers, or thin lumber.	Quebec, Canada.	4-16-23	39583
Paper, white sulphite wrapping, or bag.	Germany	7- 1-25	41005
Strychnine	Switzerland	7-28-25	41045
Butyl acetate	Germany	2-19-30	43869
Acid, stearic	Holland	9-12-33	46616

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1565; Filed, June 3, 1938; 11:34 a. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

AMENDING SECTIONS 6 AND 7 OF THE LEASING REGULATIONS

To all Superintendents:

Communications have been received from numerous superintendents from time to time concerning principally the leasing of agricultural land which is now in the possession of the heirs of a deceased allottee. After considering the problem the conclusion has been reached that modification should be made of Sections 6 and 7 of Departmental regulations, approved May 9, 1929.

Accordingly, existing Sections 6 and 7 of these regulations are hereby modified to read as follows:

"SECTION 6. Leases upon the land of Indians non compos mentis, nonresident allottees whose whereabouts are unknown to the superintendent and who therefore cannot be reached, and all minors shall be made by the superintendent as ex-officio guardian. Superintendents shall not make leases for competent nonresident allottees whose whereabouts are known without their written authority. Leases on the land of minors should not, except for special reasons beneficial to the minors' interests, extend beyond the age of majority under the state laws. Any Indian who supports his dependent minor children and desires to use their land for farming or grazing purposes may do so without charge and use or dispose of the resultant crops and livestock without accounting therefor.

"SECTION 7. Leases of inherited lands where the heirs have not been officially determined may be made by the superintendent and should be limited, except in unusual cases, to the period of one year. Rentals shall be deposited to the credit of the estate pending the formal determination of the heirs. After the heirs of an estate have been determined leases on the land should be made by the heirs. When the heirs owning a substantial majority in interest are desirous of leasing their inherited trust or restricted lands, the Superintendent is authorized to approve such a lease provided the heirs holding a minority interest in the estate have been notified of the proposed lease and have not objected to such a lease. In case the heirs holding such minority interest have objected to the approval of a lease on such inherited lands, the superintendent, if in his judgment owners of the majority interest are best served, may approve the lease, and in such case, the share of the rentals that would accrue thereunder to the owners of the minority interest shall be held in escrow by the superintendent to be paid to such heirs upon their request or when

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs: Page
Antidumping; revocation of certain findings of dumping ---- 1287
TITLE 25—INDIANS:
Leasing of allotted and tribal lands for agricultural, etc., purposes; extension of regulations ---- 1288
Leasing regulations, amendment of Sections 6 and 7 ---- 1287
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department:
Chesapeake Bay, use and navigation within firing range of Fort Monroe Military Reservation ---- 1288

NOTICES

Rural Electrification Administration:
Allocation of funds for loans ---- 1289
Securities and Exchange Commission:
Peoples Water and Gas Co., order in the matter of ---- 1289
Public Utility Holding Company Act of 1935:
Registration statement, form adopted ---- 1289
Annual supplement, form adopted ---- 1289

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and if they sign the lease. Such minority owners may, however, be permitted through partition or other arrangement with their co-heirs to make use of such part of the land as may be equivalent to their undivided interests in the whole, in which event the rentals otherwise due them and held in escrow shall be refunded to the lessee. Approved leases executed by the heirs holding a majority interest shall be regarded as covering the entire acreage included in the lease and no refund of any portion of the rentals paid thereunder shall be made to the lessee save when by partition or other arrangement, heirs not parties to the lease have been permitted to use a portion of the land included in the lease."

In all cases in which the heirs holding a minority interest in the inherited lands do not agree to the leasing of such lands the following covenant shall be included in the lease before execution thereof by the parties:

"The following heir(s) to the land covered by this lease; namely,

---

---

who hold a minority interest therein, having refused to agree with the heirs holding a majority interest therein to lease the land, it is understood and agreed by the parties to this lease that if during the existence of the lease the said named heirs holding a minority interest shall desire to use and do actually use an area equal to their share of the undivided interest in the leased premises, or do have partitioned to them their proper share of the leased land, thus preventing the lessee from using the entire area covered by the lease, proper credit shall be given to the lessee and at the expiration of the lease the proper share of the leased rental held in escrow by the superintendent for the dissenting heirs to the lease shall be paid to the lessee. It is further agreed that at any time during the life of the lease the holders of the minority interest shall be permitted to sign the lease."

This change in the regulations approved May 9, 1929, should permit an equitable adjustment in all proper cases and at the same time insure income from the inherited allotments where the heirs holding a majority interest in the land desire to lease the allotment. You will govern yourself accordingly.

Sincerely yours,

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner.

Approved, December 18, 1936.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1562; Filed, June 3, 1938; 9:48 a. m.]

EXTENSION OF REGULATIONS GOVERNING LEASING OF ALLOTTED AND TRIBAL LANDS FOR AGRICULTURAL, ETC., PURPOSES

The Honorable THE SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: The regulations governing leasing of allotted and tribal lands for agricultural, grazing and business purposes, approved May 9, 1929, as amended from time to time, are being codified.

Under the Reorganization Act of June 18, 1934, as amended on June 15, 1935, and May 1, 1936, and the Oklahoma Welfare Act of June 26, 1936, the law has been changed with respect to leasing tribal lands where constitutions, by-laws and charters have been adopted by organized tribes. It is necessary, therefore, to modify these regulations to bring them consistent with the provisions of these acts.

The amendment of November 6, 1930 to the leasing regulations eliminated sections 11 and 12 and substituted one new section, which will hereafter be referred to in the regulations, as now being codified, as section 11. This leaves the regulations without a section numbered 12. The following modification, to appear in the regulations as section 12 hereafter, is recommended for your approval:

"SEC. 12. *Organized tribes.*—These regulations shall apply to tribes organized pursuant to the Reorganization Act of June 16, 1934 (48 Stat. 988), as amended June 15, 1935 (49 Stat. 378) and May 1, 1936 (49 Stat. 1250), and the Oklahoma Welfare Act of June 26, 1936 (49 Stat. 1967), except where inconsistent with the provisions of the constitution, bylaws, or charter granted to such tribes pursuant thereto, or any ordinance or resolution adopted by such tribes pursuant to the authority of such constitution, bylaws and charter. The provisions of the constitution, bylaws, charter and ordinances and resolutions, adopted by such tribes pursuant thereto, dealing with leases and permits of tribal lands shall govern where they conflict with the provisions of the regulations."

As the time for codifying these regulations has nearly expired, it is recommended that this amendment to the said regulations be given early consideration so that they may be codified as required by the Federal Register Act of July 26, 1935, as amended.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

Approved, May 18, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1563; Filed, June 3, 1938; 9:48 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

MODIFICATION OF REGULATIONS TO GOVERN THE USE AND NAVIGATION OF CHESAPEAKE BAY WITHIN THE FIRING RANGE OF FORT MONROE MILITARY RESERVATION

Paragraph No. 1 of the fishing and navigation regulations approved by the Secretary of War on July 5, 1935, to govern the use and navigation of Chesapeake Bay within the firing range of Fort Monroe Military Reservation, is modified to read as follows:

1. The firing range off Fort Monroe includes the waters of Chesapeake Bay within the following areas: A sector, the northerly limit of which bears North 30 degrees East, and the southerly limit of which bears North 50 degrees 13 minutes East, from No. 10 searchlight tower on the Fort Monroe Reservation, both limits having a length of 15,000 yards; an adjacent sector the northerly limit of which bears North 50 degrees 13 minutes East and the southerly limit of which bears South 63 degrees 28 minutes East from No. 10 searchlight tower, both limits having a length of 20,000 yards; and an adjacent triangular area lying between the southerly limit of the 20,000 yard radius sector, and a line bearing South 75 degrees East from Fort Monroe light, having a length of 19,800 yards (approx.). All bearings are referred to true meridian.

Approved, May 18, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1561; Filed, June 3, 1938; 9:45 a. m.]

DEPOSITED BY THE
UNITED STATES OF AMERICA

Notices

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 256]

ALLOCATION OF FUNDS FOR LOANS

MAY 31, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Virginia 9002B1 Craig	$70,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-1564; Filed, June 3, 1938; 9:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of May, A. D. 1938.

[File No. 43-102]

IN THE MATTER OF PEOPLES WATER AND GAS COMPANY

ORDER

Peoples Water and Gas Company, a subsidiary of a registered holding company, having filed with this Commission a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the reissuance of $400,000 face amount of First Mortgage 5% Gold Bonds, Series A, to its parent, Federal Water Service Corporation;

A hearing on this application having been duly held after appropriate notice;[1] the record in this matter having been duly considered; and the Commission having made and filed its findings herein;

It is ordered, That such declaration be and become effective forthwith on the condition, however, that the reissuance of the aforesaid $400,000 face amount of First Mortgage 5% Gold Bonds, Series A, shall be effected in substantial compliance with the terms and conditions set forth in and for the purposes represented by said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1566; Filed, June 3, 1938; 12:52 p. m.]

[1] 3 F. R. 259 (DI).

REGISTRATION STATEMENT

Form U5B, Registration Statement,[1] was adopted by the Commission on May 17, 1938, pursuant to the provisions of the Public Utility Holding Company Act of 1935, and was filed with the Division of the Federal Register, The National Archives, on June 2, 1938, at 12:51 p. m. (F. R. Doc. 38-1560).

ANNUAL SUPPLEMENT TO REGISTRATION STATEMENT

Form U5S, Annual Supplement to Registration Statement (Form U5B),[1] was adopted by the Commission on May 17, 1938, pursuant to the provisions of the Public Utility Holding Company Act of 1935, and was filed with the Division of the Federal Register, The National Archives, on June 2, 1938, at 12:51 p. m. (F. R. Doc. 38-1559).

[1] Requests for copies should be addressed to the Securities and Exchange Commission.

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1934
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FEDERAL REGISTER

VOLUME 3 NUMBER 110

Washington, Tuesday, June 7, 1938

Rules, Regulations, Orders

TITLE 21—FOOD AND DRUGS

BUREAU OF NARCOTICS

[Regulations No. 5 [1]]

IMPORTATION, MANUFACTURE, PRODUCTION, COMPOUNDING, SALE, DEALING IN, DISPENSING AND GIVING AWAY OF OPIUM OR COCA LEAVES OR ANY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, OR PREPARATION THEREOF

JOINT NARCOTIC REGULATIONS MADE BY THE COMMISSIONER OF NARCOTICS AND THE COMMISSIONER OF INTERNAL REVENUE WITH THE APPROVAL OF THE SECRETARY OF THE TREASURY

Effective Date, June 1, 1938

INTRODUCTORY

The Act of Congress approved December 17, 1914, as amended, known as the Harrison Narcotic Law, imposes special (occupational) taxes upon persons engaging in activities involving opium and coca leaves, and any compound, manufacture, salt, derivative, or preparation of opium or coca leaves. The law also imposes a stamp (commodity) tax upon any such materials which have been produced in or imported into the United States and sold, or removed for consumption or sale.

These regulations deal with details as to tax computation, procedure, the forms of records and returns, and similar matters. These matters in some degree are controlled by certain sections of the United States Revised Statutes and other statutes of general application. Provisions of these statutes, as well as of the Harrison Narcotic Law, are quoted, in whole or in part, as the immediate or general basis for the regulatory provisions set forth. The quoted provisions are from the Harrison Narcotic Law, unless otherwise indicated.

Provisions of the statutes upon which the various articles of the regulations are based generally have not been repeated in the articles. Therefore, the statutory excerpts preceding the several articles should be examined to obtain complete information.

CHAPTER I. LAWS APPLICABLE

SEC. 1. • • • and all provisions of existing law relating to special taxes, as far as necessary, are hereby extended and made applicable to this section. • • •

And all the provisions of existing laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal revenue laws are, in so far as necessary, hereby extended and made to apply to stamps provided by this section.

SEC. 7. That all laws relating to the assessment, collection, remission, and refund of internal-revenue taxes including section thirty-two hundred and twenty-nine of the Revised Statutes of the United States, so far as applicable to and not inconsistent with the provisions of this Act, are hereby extended and made applicable to the special taxes imposed by this Act.

ART. 1. *Statutes applicable.*—All general provisions of the internal revenue laws, not inconsistent with the Harrison Narcotic Law, as amended, are applicable in the enforcement of the latter.

CHAPTER II. DEFINITIONS

SEC. 1. • • • Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the aforesaid drugs shall be deemed to be an importer, manufacturer, or producer.

Every person who sells or offers for sale any of said drugs in the original stamped packages, as hereinafter provided, shall be deemed a wholesale dealer.

Every person who sells or dispenses from original stamped packages, as hereinafter provided, shall be deemed a retail dealer: • • •

That the word "person" as used in this Act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; • • •

ART. 2. As used in these regulations:

(a) The term "act" or "this act" means the Act approved December 17, 1914, as amended, unless otherwise indicated.

(b) The term "narcotic," "narcotics" or "narcotic drugs" means opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, including "exempt preparations," defined below.

(c) The term "exempt preparations" means the preparations and remedies described in section 6 of the act, which contain not more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid or avoirdupois ounce, and liniments, ointments, or other preparations for external use only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them, provided that such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and a record of all sales, exchanges, or gifts of such preparations and remedies is kept as provided in Article —.

(d) The term "exempt officials" includes officials of the United States, insular possessions, Territories, the District of Columbia, States and political subdivisions. (For provisions applicable to such officials, see Chapter VI.)

(e) The term "collector" means collector of internal revenue.

(f) The term "person" includes an individual, partnership, trust, association, company, or corporation; also a hospital, college of pharmacy, medical or dental clinic, sanatorium, or other institution or entity.

(g) The term "special tax" means any of the taxes, pertaining to the several occupations or activities covered by the Act, imposed upon persons who import, manufacture, produce, compound, sell, deal in, dispense, administer, or give away narcotics.

(h) The term "stamp tax" means the tax on narcotics payable by attachment of stamps.

(i) The term "practitioner" includes a physician, dentist, veterinary surgeon, or any other person who may be lawfully entitled to distribute, dispense,

[1] Under the Act of December 17, 1914, as amended by Secs. 1006 and 1007 of the Act of February 24, 1919, Secs. 703 and 704 of the Act of February 26, 1926, Act of January 22, 1927, Sec. 432 of the Act of May 29, 1928, and Sec. 806 of the Act of June 22, 1936; and the Acts of March 3, 1927 and June 14, 1930.

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CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 21—FOOD AND DRUGS:
Bureau of Narcotics: Page
Opium or coca leaves, etc., importation, manufacture, sale, etc., of 1291
Food and Drug Administration:
Canned shrimp, inspection of 1313
TITLE 24—HOUSING CREDIT:
Federal Home Loan Bank Board:
Investment by Home Owners' Loan Corporation in securities of savings and loan associations 1317
Home Owners' Loan Corporation:
Paid-in-full loans, discontinuance of certification by Auditor 1319
Release by Regional Treasurers 1319
TITLE 25—INDIANS:
Chartered corporations, loans to:
Identification of property purchased with credit funds and insurances 1325
Title to property, security, and bills of sale 1321
Chippewa Indian Cooperative Marketing Association, loans to 1320
Cooperatives:
Loans to 1321
Organization of 1323
Credit associations:
Loans by 1328
Loans to 1324
Klamath tribal loan fund, regulations governing 1325

CONTENTS—Continued

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue: Page
Amendments to give effect to certain legislative enactments relating to:
Documentary stamp taxes 1330
Oleomargarine, etc., taxes on 1332
TITLE 31—MONEY AND FINANCE: TREASURY:
Public Debt Service:
Offering of:
2¾% Treasury Bonds of 1958–63 1333
1⅛% Treasury Notes of Series A–1943 1334
TITLE 43—PUBLIC LANDS:
General Land Office:
Reindeer grazing in Alaska 1335
Taylor Grazing Act, disposition of conflicting applications 1335
TITLE 49—TRANSPORTATION AND RAILROADS:
Motor Carrier Act, 1935, special instructions governing proceedings under 1335

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Puerto Rico, 1938 sugar quotas, proposed decision and order 1337
Federal Power Commission:
House, Garrett O., et al, date of hearing on applications of 1340
Federal Trade Commission:
Orders appointing examiners, etc., in matter of:
Algren Manufacturing Co., Inc 1340
Bond, Orville J., trading as Zephyr Radio Co 1340
Taylor, Robert C., trading as Marvel Products Co 1340
Rural Electrification Administration:
Allocation of funds for loans 1341
Securities and Exchange Commission:
New York State Electric & Gas Corp., order relative to issue and sale of note, etc 1341

prescribe, or administer narcotics to patients.

(j) Words importing the singular may include the plural; words importing the masculine gender may be applied to the feminine or the neuter.

(k) The definitions contained herein shall not be deemed exclusive.

CHAPTER III. SPECIAL TAXES

Registration

SEC. 3232. *United States Revised Statutes.*—No person shall be engaged in, or carry on, any trade or business hereinafter mentioned until he has paid a special tax therefor in the manner hereinafter provided.

SEC. 1. That on or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business, and place or places where such business is to be carried on, and pay the special taxes hereinafter provided;

Every person who on January 1, 1919, is engaged in any of the activities above enumerated, or who between such date and the passage of this act first engages in any of such activities, shall within 30 days after the passage of this act make like registration, and shall pay the proportionate part of the tax for the period ending June 30, 1919; and

Every person who first engages in any of such activities after the passage of this act shall immediately make like registration and pay the proportionate part of the tax for the period ending on the following June 30th.

ART. 3. *Persons liable.*—Liability to payment of special tax and registration attaches to every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, administers, or gives away narcotics. As to the tax rates applicable to a person engaged in one or more of the foregoing activities see Article 13.

ART. 4. *Manner and time of registration.*—Every person required to register shall execute and file with the collector for the district in which he proposes to engage in any activity involving use of narcotic drugs, an application for registration on Form 678 or 678–A and pay the special tax or taxes enumerated in Article 13. Form 678–A shall be executed by new applicants and approved by the collector before the activity is commenced. Form 678 shall be executed and filed on or before the succeeding July 1, and annually thereafter as long as liability is incurred. These forms may be obtained from the collector.

ART. 5. *Investigation of applicants.*—All applications on Form 678–A shall be referred by the collector to the appropriate narcotic district supervisor for investigation, report and recommendation. Applications on Form 678 shall also be referred by the collector to the appropriate narcotic district supervisor for investigation, report and recommendation, if the collector is in doubt as to the applicant's being lawfully entitled to engage in the activity for which he seeks registration.

In the case of applications which have been so referred, the collector shall not issue a special tax stamp in connection with any registration until information has been submitted to him, by the narcotic district supervisor, that the applicant is properly licensed or otherwise lawfully entitled to engage in the activity in the district in which he seeks registration.

All applications for registration that are referred to the narcotic district supervisor shall be returned by him to the collector with recommendation for approval or disapproval and, in case of disapproval, with a statement annexed

concerning applicant's lack of license or qualification, to lawfully engage in the activity for which registration is sought. The application together with any required statement shall be returned to the collector within ten days from date of receipt of the application by the supervisor, unless a longer time shall be required within which to complete an investigation. In the latter event the district supervisor shall, upon or before the expiration of the said ten days, so notify the collector stating the estimated additional time required.

ART. 6. *Evidence of qualification.*—The application for registration of every person shall be supported by his affidavit, or acknowledgment executed in accordance with Article 9 showing that, under the laws of the jurisdiction in which he is operating or proposes to operate, he is legally qualified or lawfully entitled to engage in the activities for which registration is sought.

SEC. 3451. *United States Revised Statutes.*—Every person who simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal-revenue laws, or by any regulation made in pursuance thereof, or who procures the same to be falsely or fraudulently executed, or who advises, aids in, or connives at such execution thereof, shall be imprisoned for a term not less than one year nor more than five years; and the property to which such false or fraudulent instrument relates shall be forfeited.

ART. 7. *False applications.*—The false or fraudulent execution or signing of application for registration or supporting affidavit as required by the preceding article shall subject the offending person to the penalties provided by Section 3451 of the Revised Statutes.

ART. 8. *Signatures—Individuals.*—The application shall be signed by the person desiring registration.

Firms and corporations.—The application of a firm shall be signed by a member, that of a corporation by an officer duly authorized to act. The names of the real owners shall be disclosed if the business is being carried on under an assumed name or that of a former owner. If owned by a partnership, the name of each partner shall appear. In the case of a corporation the names of the principal officers shall be shown.

Institutions.—When an institution is subject to tax the head thereof or of the department wherein narcotic drugs are used shall sign the application for registration.

ART. 9. *Oath—When required.*—If the tax is more than $10, the application shall be under oath. If the tax is not in excess of $10, the application may be signed or acknowledged before two witnesses in lieu of an oath. The witnesses shall themselves sign the application in their capacity as such.

Execution.—The jurat may be executed by any officer authorized to administer oaths. No charge is made if documents required by these regulations are sworn and subscribed to before a deputy collector or an internal-revenue agent.

ART. 10. *Inventory required.*—Every person, making application for registry or reregistry in any class (see Art. 13), except Classes I and II, shall, as of December 31 preceding the date of his application, or any date between December 31 and the date of applying for such registry or reregistry, prepare under oath or affirmation, in duplicate, an inventory of all narcotic drugs and preparations on hand at the time of making such inventory. The inventories shall be prepared on Form 713, copies of which may be obtained from collectors upon request. If the taxpayer is engaged in business in more than one class, a separate inventory shall be prepared for each class. A Class V registrant is not required to make an inventory of preparations or remedies exempt under section 6, but he is required to make an inventory of all nonexempt narcotic drugs and preparations in his possession. The original inventory shall be forwarded to the collector with the application for registration, and the duplicate shall be kept on file by the maker for a period of 2 years.

ART. 11. *Registry numbers.*—Upon approval of the application the collector will assign a registry number to the applicant. The numbers are issued serially without regard to classes. The same number shall be retained throughout all the consecutive periods for which the applicant may be registered. One registry number will cover all classes at the same location except Class IV, for which a separate registry number will be assigned. However, a person registering in Classes IV and V only will be assigned the same number for both classes. In the case of one engaged in business at two or more places, a separate number will be assigned for each place of business. The registry number of a person who discontinues operations will not be assigned to any other person for any portion of the same fiscal year.

ART. 12. *Recording and filing.*—Each approved application will be recorded by the collector on card Record 10 and the cards filed alphabetically. The applications will be filed numerically according to registry numbers. (See Art. 201.)

Classification

SEC. 1. • • • Importers, manufacturers, producers or compounders, lawfully entitled to import, manufacture, produce, or compound any of the aforesaid drugs, $24 per annum; wholesale dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $12 per annum; retail dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $3 per annum; physicians, dentists, veterinary surgeons, and other practitioners, lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, $1 per annum or fraction thereof during which they engage in any of such activities; persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain and use in a laboratory any of the aforesaid drugs for the purpose of research, instruction, or analysis shall pay $1 per annum, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of the aforesaid drugs as the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer, employee, or agent of the Treasury Department.

Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the aforesaid drugs shall be deemed to be an importer, manufacturer, or producer.

Every person who sells or offers for sale any of said drugs in the original stamped packages, as hereinafter provided, shall be deemed a wholesale dealer.

Every person who sells or dispenses from original stamped packages, as hereinafter provided, shall be deemed a retail dealer: • • •

SEC. 3237. United States Revised Statutes, as amended by section 322, Act of June 26, 1936.

(a) All special taxes shall become due on the 1st day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year, and in the latter case it shall be reckoned proportionately, from the 1st day of the month in which the liability to a special tax commenced, to and including the 30th day of June following • • •.

ART. 13. *Rates of tax.*—Persons subject to tax are divided into classes as shown by the table below:

Class	Annual tax rate	Persons liable
I	$24	Importers, manufacturers, producers, compounders.
II	12	Wholesale dealers.
III	3	Retail dealers.
IV	1	Physicians, dentists, veterinary surgeons and other practitioners.
V [1]	1	Manufacturers of and dealers in exempt preparations (including dispensing physicians).
VI	1	Persons not registered in Class I, but lawfully entitled to obtain and use in a laboratory narcotics for the purpose of research, instruction or analysis.

[1] Persons paying tax in any of the Classes I to IV, inclusive, are not required to pay tax in Class V on account of manufacture or sale of exempt preparations.

When business is done during the month of July, tax shall be paid for the full year. The tax in Classes IV or V is at the rate of $1 a year or any fraction thereof, regardless of when business is first commenced. In Classes I to III, inclusive, and in Class VI, if business is commenced after the month of July, the amount due is to be reckoned proportionately by months from the first day of the month in which business is begun to July 1 following.

ART. 14. *Importers.*—Every person who imports narcotic drugs is subject to tax as an importer at the rate of $24 per annum in Class I. A manufacturer or compounder who is also an importer is not thereby required to pay more than one tax.

ART. 15. *Manufacturers and compounders.*—As a general rule, every person who, by compounding, mixing, or other process of manufacture, produces narcotic drugs or preparations for sale or distribution is subject to tax as a

manufacturer or compounder at $24 per annum in Class I, with the following exceptions as to retail dealers:

Prescription compounding.—Persons who have paid tax as retail dealers (see Art. 18) do not incur liability as manufacturers or compounders on account of compounding narcotic preparations to fill legitimate prescriptions of registered practitioners, even though the preparations are compounded in advance of receipt of prescriptions, so long as they are used for prescription purposes only.

Aqueous and oleaginous solutions.—Persons qualified as retail dealers may also supply registered practitioners on order forms, or exempt officials on orders, in quantities not exceeding one ounce at any one time, with aqueous or oleaginous solutions, in which the narcotic content does not exceed a greater proportion than 20 per cent of the complete solution, to be used in legitimate office practice. In cases where the dealer is also registered in Class I or Class II, or both, these transactions should not appear in the monthly returns which he is required to make as a member of these last-named classes. The original order forms must be filed by the dealer with his narcotic prescriptions. Each package containing an aqueous or oleaginous solution so furnished must bear a label showing the date of the order, number of the order form if any, the name and proportion of narcotic drug contained in the solution, and the name, address, and registry number of the vendee and vendor, respectively.

ART. 16. *Producers.*—Every person who produces narcotic drugs or preparations to be sold on order forms not by mixing or compounding but by merely transferring the contents of one package or of a number of packages to one or more packages of the same or of greater or smaller size is liable to tax as a producer at the rate of $24 per annum in Class I. As to liability to stamp tax, see Article 51.

ART. 17. *Wholesale dealers.*—Every person who sells or offers for sale narcotic drugs or preparations in original stamped packages is subject to tax as a wholesale dealer at the rate of $12 per annum in Class II.

ART. 18. *Retail dealers.*—Every person who sells narcotic drugs or preparations from original stamped packages, with or without compounding, pursuant to prescriptions written by registered practitioners in the course of professional practice only is liable to tax as a retail dealer at the rate of $3 per annum in Class III, with the following exceptions:

Manufacturers.—One registered as a member of Class I, who is qualified under the laws of the jurisdiction in which his place of business is located to fill prescriptions, will be permitted to do so from original stamped packages of his own production without payment of tax as a retail dealer. If, however, prescriptions are filled from packages produced by any other person, additional liability to tax as a retail dealer will be incurred.

Practitioners.—A duly qualified practitioner (see Art. 19) is not required to pay additional tax on account of the sale of narcotic drugs for legitimate medical purposes to his own bona fide patients. A practitioner who operates a drug store and in his capacity as a druggist sells narcotic drugs or preparations, pursuant to prescriptions written by other practitioners, incurs additional liability as a retail dealer.

ART. 19. *Practitioners.* — Physicians, dentists, veterinary surgeons, and other practitioners, including institutions, who prescribe, distribute, dispense, give away, or administer narcotic drugs or preparations, and who are entitled to do so under the laws of the jurisdiction in which they practice, are subject to tax at the rate of $1 per annum or fraction thereof in Class IV.

Interdistrict practice.—A practitioner maintaining an office where he is duly registered with the collector of the district in which the office is located, and where his complete stock of narcotic drugs and all narcotic records are kept, may distribute, dispense, give away, administer, or prescribe narcotic drugs in other collection districts in which he may be lawfully engaged in the practice of his profession, within the United States, in the course of his professional practice only, without incurring additional tax liability.

ART. 20. *Laboratory use.*—Chemists occupying an independent status and not that of employees, in other words, in business for themselves, who, being thereunto lawfully entitled, make analyses of narcotic drugs or preparations or use such drugs in analyzing other substances in a laboratory, and other lawfully entitled persons who obtain and use in a laboratory any narcotic drugs or preparations for the purpose of research, instruction, or analysis, if not registered in Class I and not manufacturing or compounding narcotic drugs or preparations for sale or for removal for consumption or sale, are liable to tax at the rate of $1 per annum in Class VI.

Particular Situations

SEC. 1. (Cont.) * * * *Provided*, That the office, or if none, the residence, of any person shall be considered for the purpose of this Act his place of business; but no employee of any person who has registered and paid special tax as herein required, acting within the scope of his employment, shall be required to register and pay special tax provided by this section: * * *

SEC. 3235. *United States Revised Statutes.*—The payment of the special tax imposed shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the collector's register; but nothing herein contained shall require a special tax for the storage of goods, wares, or merchandise in other places than the place of business, nor, except as hereinafter provided, for the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept except as samples at said office or place of business.

SEC. 3236. *United States Revised Statutes.*—Whenever more than one of the pursuits or occupations hereinafter described are carried on in the same place by the same person at the same time, except as hereinafter provided, the tax shall be paid for each according to the rates severally prescribed.

ART. 21. *Dual liabilities.*—As a general rule, one conducting two or more classes of business at the same location must pay a separate tax with respect to each such class. However, see Article 13 as to Class V tax.

ART. 22. *Several places of business.*—Generally a taxpayer must pay as many special taxes as he has places of business. Thus if a concern has one or more separate branches where any of the various taxable businesses is carried on, tax must be paid for each branch separately. However, a manufacturer, compounder or producer who has paid tax as such, and who has a principal office or place of business separate and apart from the place where the actual manufacturing, compounding or producing is done, is not required to pay an additional tax with respect to such office or place of business, provided no merchandise except samples is kept thereat, on account of orders taken at such office or place of business for narcotics to be delivered from the place of manufacture, compounding or production. If sales are made at a principal office or place of business separate and apart from the place of manufacture, compounding or production, from stock kept at such office or place of business, tax as a wholesale or retail dealer, or both, as the case may be, must be paid with respect to such office or place of business.

ART. 23. *Warehouses.*—Tax does not attach with respect to a warehouse where narcotic drugs are stored, provided no sales are made at such place.

ART. 24. *Itinerant venders.*—No person is permitted to dispense or deal in narcotic drugs or preparations except upon orders received or engagements made at, with respect to, or by reason of, a fixed address. A peddler of such drugs or preparations will be regarded as incurring a separate tax liability and committing an additional offense at each place where a sale is made.

ART. 25. *Partnerships.*—A partnership is subject to the same tax liability as an individual. Should either of the partners also individually engage in a taxable activity, he will incur additional liability with respect to such activity.

ART. 26. *Institutions.*—Hospitals, colleges, medical and dental clinics, sanatoriums, and other institutions not exempt as public institutions are subject to the same special tax liability as other persons dealing or handling narcotic drugs or preparations in the same manner.

ART. 27. *Principals.*—Principals, rather than agents, are liable to the taxes imposed. Employers and other principals will be regarded as responsible for the acts of employees and other agents within the scope of their employment.

ART. 28. *Employees.*—An employee of a person who has registered and paid tax will not himself incur liability to tax so long as he acts solely within the scope of his employment. However, an employee who, within or without the scope of his employment, does any unlawful act, will be held personally liable.

ART. 29. *Nurses.*—Nurses are regarded as agents of the practitioners or institutions under whose direction or supervision their duties are performed, and they are not permitted to register, nor are they permitted to be in possession of narcotic drugs or preparations except as such agents, or as patients. Any unused narcotic drugs left by a practitioner with a nurse, to be administered during his absence, upon discharge of the nurse must be returned to the practitioner, who will account for the drugs on his records. Any such narcotic drugs found in the possession of a nurse not at the time under the supervision of a practitioner shall be forfeited to the Government.

ART. 30. *Traveling salesmen.*—Traveling salesmen who merely solicit orders and forward them to their respective principals are not required to register or pay any tax.

SEC. 3243. *United States Revised Statutes.*—The payment of any tax imposed by the internal-revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

ART. 31. *Operation of State laws.*—Payment of special tax under Federal law confers no right or privilege to conduct business contrary to State law. The holder of a special-tax stamp issued by the Federal Government may still be punishable under a State law prohibiting or regulating the production, manufacture, or sale of narcotic drugs. On the other hand, compliance with State law affords no immunity under Federal law. Persons who engage in business in violation of the law of a State are, nevertheless, required to pay special tax as imposed under the internal-revenue laws of the United States.

Delinquent and False Returns

SEC. 3176. United States Revised Statutes, as amended by Sec. 1103 of the Revenue Act of 1926 and by Sec. 619 (d) of the Revenue Act of 1928. * * * If the failure to file a return (other than a return of income tax) or a list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper. * * * In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

Sec. 406 of the Revenue Act of 1935.—In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

SEC. 3184. *United States Revised Statutes, as amended by Sec. 805 of the Revenue Act of 1938.*—Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of six per centum per annum from the date of such notice to the date of payment.

ART. 32. *Delinquent returns.*—Every person from whom a special-tax return is required who, without reasonable cause, fails to file such return on time is subject to certain penalties. Under section 406 of the Revenue Act of 1935 the penalty for delinquency is 5 per cent, if the failure is for not more than 30 days, and an additional 5 per cent for each additional 30 days, or fraction thereof, during which the delinquency continues, not to exceed 25 per cent in the aggregate.

ART. 33. *Sickness or absence.*—If the collector is satisfied that failure to file a return is due to sickness or absence, he may extend the time for not more than 30 days. Since any member of a firm may make the return, sickness or absence of less than all the members of a firm will not relieve from liability to the penalty for failure to make return, nor afford ground for extension of time.

ART. 34. *Failure of agent.*—If an attorney or agent is delegated to make a return and pay special tax, the principal will incur the penalty if the return is not filed within the time prescribed by law.

ART. 35. *Delinquent payment.*—Failure to pay the amount of an assessment within 10 days after issuance of Form 17 (First Notice and Demand) causes to accrue a 5 per cent penalty and interest at the rate of 6 per cent per annum from the date of such notice to the date of payment.

ART. 36. *False returns.*—For making a false or fraudulent return additional liability amounting to 50 per cent of the total tax is incurred. If a return covers only a portion of a year or period for which liability is incurred, the return is false as a whole and not merely as to that portion of the year or period omitted.

ART. 37. *When penalty accrues.*—In view of the positive language of section 1 of the Act, all persons engaging in business under this Act will be regarded as delinquent, and the penalties provided are applicable, unless applications are filed not later than July 1 of each year or on or before the date upon which liability is incurred.

Changes After Tax Payment

SEC. 3241. *United States Revised Statutes.*—When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house, and upon the same premises, without the payment of any additional tax. And when any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the collector's register at the place to which he removes without the payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal shall be registered with the collector, under regulations to be prescribed by the Commissioner of Internal Revenue.

ART. 38. *Change of control.*—Certain persons other than the taxpayer may, without incurring additional liability, carry on the business at the same address and for the remainder of the period for which special tax was paid. To secure such right the party or parties continuing the business must execute, within 30 days, a return on Form 678–A, showing the basis of the right. Under the conditions indicated the parties having such right include the following:

(1) The relict, children, or other legal representatives of a deceased taxpayer.

(2) A receiver or referee in bankruptcy, or an assignee for the benefit of creditors.

(3) The partner or partners remaining after death or withdrawal of a member.

Special tax, reckoned from the first day of the month in which the change occurs, is incurred and must be paid by the parties indicated under the conditions stated:

(1) Where additional partners are taken into a firm operating under the old or a new firm name.

(2) Where a corporation is formed to continue the business of a partnership,

or a new charter is issued to a former corporation.

(3) Where a stockholder or other party continues a business previously conducted by a corporation, whether or not the corporation is dissolved

ART. 39. *Qualification of successor.*—No collector will issue a special-tax stamp to any person who desires to carry on business as shown in the last paragraph of Article 38 until the collector is satisfied that such person is lawfully entitled to obtain registration.

ART. 40. *Change of name or location.*—The name of an individual, firm, or corporation that has paid special tax may be changed, or a special-tax payer may relocate his place of business, without incurring additional tax liability, provided the change is registered with the collector.

ART. 41. *Registration.*—A special-tax payer who changes his name or relocates his place of business shall within 30 days execute a new return on Form 678–A, marking it "Revised Registry". The return shall set forth the date of change and the new name or address. The return shall be forwarded with the special-tax stamp to the collector who issued the stamp for recording the change

ART. 42. *Removal within district.*—Where a taxpayer removes his business to another address within the district the collector will enter on his Record 10 the new address and the date of removal, and will note the change on the face of the special-tax stamp which he will return to the taxpayer.

ART. 43. *Removal to another district.*—Where a taxpayer removes his business to another district the collector who issued the stamp will enter on his Record 10 the new address and date of removal, and will transmit the stamp to the collector of the district to which the taxpayer removed. The collector of that district will then make entry on his Record 10, as in the case of a new registrant, and note the taxpayer's new address and the collector's name, title, and district, and the date, on the stamp, which will be returned to the taxpayer.

ART. 44. *Liability for failure to register change.*—A person succeeding to a business for which tax has been paid, or a taxpayer who relocates his business, without registering the change within 30 days, as required by Articles 38 and 41, respectively, will be liable to the tax, to the penalty set forth in Article 32 for failure to make return, and also to penalty for carrying on business without payment of tax.

Special Tax Stamps

SEC. 3238. *United States Revised Statutes.*—All special taxes imposed by law, including the tax on stills or worms, shall be paid by stamps denoting the tax, and the Commissioner of Internal Revenue is required to procure appropriate stamps for the payment of such taxes; and the provisions of sections thirty-three hundred and twelve and thirty-four hundred and forty-six, and all other provisions of law relating to the preparation and issue of stamps for distilled spirits, fermented liquors, tobacco, and cigars, shall, so far as applicable, extend to and include such stamps for special taxes; and the Commissioner of Internal Revenue shall have authority to make all needful regulations relative thereto.

ART. 45. *Issuance of stamps.*—Stamps covering special taxes are issued in two forms, with and without coupons. Stamps without coupons are for use in cases where the full tax is always due regardless of the period covered. Coupon stamps are for use in cases where the tax may be prorated. The coupon stamps are issued to registrants in Classes I, II, III, and VI, and the stamps without coupons to registrants in Classes IV and V.

Collectors will distinctly write or print on the stamp, before it is issued, the taxpayer's name, address, and registry number, and the number of the class or classes in which registered.

SEC. 3239. *United States Revised Statutes, as amended by Sec. 26 of the Act of October 1, 1890.*—Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax, shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax; and any person who shall, through negligence, fail to so place and keep said stamps, shall be liable to a penalty equal to the special tax for which his business rendered him liable and the costs of prosecution; but in no case shall said penalty be less than ten dollars. And where the failure to comply with the foregoing provision of law shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed: *Provided*, That nothing in this section shall in any way affect the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

ART. 46. *Posting of stamps.*—Every special tax stamp issued to a taxpayer must be kept posted conspicuously on the premises where the business is operated. One who fails so to post a stamp thereby incurs liability to a penalty, equal to and in addition to the tax, plus the costs of prosecution; but in no case shall the penalty (not including the costs of prosecution) be less than $10. Where the failure is willful the penalty is doubled. This liability is additional to any and all liability otherwise incurred.

ART. 47. *Loss of stamp.*—If a taxpayer loses his special-tax stamp, or if it is accidentally destroyed, he shall immediately notify the collector, who will issue a certificate of payment, Form 785, which must be displayed in lieu of the stamp. Unless a certificate is so obtained and displayed liability for failure to display special-tax stamp will be incurred.

CHAPTER IV. COMMODITY TAXES

Rates of Tax

SEC. 1. • • • That there shall be levied, assessed, collected, and paid upon opium, coca leaves, and compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal-revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce, such tax to be paid by the importer, manufacturer, producer, or compounder thereof, and to be represented by appropriate stamps, to be provided by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the stamps herein provided shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

The tax imposed by this section shall be in addition to any import duty imposed on the aforesaid drugs.

It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the aforesaid drugs except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps from any of the aforesaid drugs shall be prima facie evidence of a violation of this section by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any person who has not registered and paid special taxes as required by this section shall be prima facie evidence of liability to such special tax: *Provided*, That the provisions of this paragraph shall not apply to any person having in his or her possession any of the aforesaid drugs which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under this act; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or to the dispensing, or administration, or giving away of any of the aforesaid drugs to a patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical purposes, and the record kept as required by this act of the drug so dispensed, administered, distributed, or given away.

ART. 48. *Scope of tax.*—The tax attaches to all narcotics domestically manufactured or produced, and all narcotics imported in crude or manufactured form.

A new tax liability will attach whenever a new derivative, compound, or preparation is produced, whether or not tax has been paid on the component ingredients or parts thereof. Thus imported opium is subject to one tax, morphine produced in this country from such imported opium is subject to another tax, a preparation manufactured by the use of such morphine also will be subject to tax, and so on.

Preparations and remedies coming within the provisions of section 6 of the Act are not subject to the tax. (See Arts. 180 to 182, incl.)

ART. 49. *Repacking.*—Repacking narcotics is production within the intent of the Act, and narcotics so produced are taxable, regardless of any tax previously paid thereon.

Retail druggists may, under the conditions indicated in Article 15 under heads of "Prescription compounding" and "Aqueous and oleaginous solutions" fill prescriptions and supply solutions for office practice without payment of tax on the narcotics furnished in such manner.

ART. 50. *International movements—Exports.*—Manufactured narcotic drugs or preparations which are subsequently exported are subject to tax whether manufactured expressly for export or not.

In-transit shipments.—Narcotic merchandise arriving in a port of the United States, shown by the shipping papers, i. e., either the bill of lading, manifest, or invoice, to be intended for transportation through the port, or through the United States or territorial waters thereof, to another country, and which is permitted by the Commissioner of Narcotics to be transported to a foreign destination, is not subject to tax.

ART. 51. *Persons liable.*—The tax on imported narcotics is to be paid by the importer. The tax on narcotic drugs domestically manufactured, produced, or compounded, is payable by the manufacturer, producer or compounder.

ART. 52. *Time of payment—Importations.*—The tax on imported narcotics must be paid before removal from customs custody.

Manufactured products.—The tax on narcotics domestically manufactured, produced, or compounded must be paid before sale or removal for consumption or sale.

ART. 53. *Amount of tax.*—The tax is 1 cent per ounce or fraction thereof in each package constituting a taxable unit. (See Article 54.) For instance, the tax on a package containing 5½ ounces will be 6 cents. The tax on a package containing less than 1 ounce will be 1 cent. The tax is measured by the entire drug content of a taxable package or container, not by the weight of the narcotic content therein.

ART. 54. *Unit of tax.*—With the exception noted below, the taxable unit is the smallest individual package or container. Thus if a manufacturer sells a preparation in packages containing one-tenth of an ounce each and puts 10 such packages into a larger container, it is not sufficient to place a stamp of the denomination of 1 cent on the outer container, but each of the inner packages must be separately stamped.

Ampoules.—When ampoules or other hermetically sealed units, each containing only a single dose, are put up in packages holding not more than 12 such units, tax may be paid on the joint contents of the entire number of units by affixing a stamp or stamps to the outer package or container.

ART. 55. *Manner of payment.*—The tax is paid by attachment to the package forming the taxable unit of a stamp or stamps in sufficient amount. One or more stamps of an appropriate size shall be so affixed as to securely seal the package. In the case of bottles, cans, or other containers with stoppers, lids, or other removable closing devices the stamp or stamps shall seal the stopper, lid, or other closing device at two opposite points.

ART. 56. *Kinds of stamps.*—Adhesive strip stamps are issued in the following denominations and sizes:

Sizes	*Denominations*
1½ by ¼ inches	1 cent.
2½ by ⅜ inches	1 and 2 cent.
4 by ½ inches	1, 2, 5, 6, 8, 10, and 16 cent.
6 by ¾ inches	1, 2, 5, 6, 8, 10, 16, 25, and 40 cent, and $1 and $1.28

ART. 57. *Procurement of stamps.*—Stamps for affixing to packages or containers of narcotics will be furnished only on requisition of persons registered in Class I. The stamps are not transferable except to a successor in business who has registered and paid tax in Class I at the same location, but unused stamps may be redeemed. See Art. 191. The requisitions shall be made on Form 786. Blank requisition forms may be procured from collectors. Collectors will preserve the requisitions and keep a record of the total quantity of stamps secured by each person making requisitions.

ART. 58. *Marking containers.*—Each original stamped package containing a narcotic drug unmixed with other ingredients shall show the name or kind of narcotic drug contained therein. If the narcotic drug is mixed with some other ingredient or ingredients the kind and quantity of narcotic to the ounce shall be shown unless the preparation is prepared in accordance with the United States Pharmacopoeia or the National Formulary. If the preparation contains more than one kind of narcotic, the name and quantity of each to the ounce shall be indicated. If the drug or preparation is in tablet, pill, ampoule, or suppository form, the quantity of each unit shall be given; if such information is given it will not be necessary, so far as this act is concerned, for the entire net weight of the contents to be shown. The packages and their contents will, however, be subject to the provisions of the Food and Drugs Act and regulations issued thereunder.

ART. 59. *Indentification numbers.*—The manufacturer or producer of each package containing one ounce or more of morphine or cocaine or any of their salts or derivatives, and each package containing tablets, pills, or preparations, the morphine or cocaine content of which amounts to one ounce or more, shall place thereon his name and location, and an individual identification number, and shall make record of such number together with the name and address of the purchaser, so arranged that upon disclosure of the identification number the identity of the purchaser can be readily ascertained. Likewise a wholesale dealer shall keep a record showing as to each such package of which he disposes, the manufacturer's name, location, and identification number, the name and address of the purchaser, and the date of disposal, so arranged that upon disclosure of the identity of the manufacturer and the identification number, the identity of the purchaser can be readily ascertained. Such records shall not be made a part of the monthly returns of such manufacturer, producer, or wholesale dealer, but shall constitute separate permanent records.

SEC. 1. • • • And all the provisions of existing laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal revenue laws are, in so far as necessary, hereby extended and made to apply to stamps provided by this section.

SEC. 803. *Revenue Act of 1926.* — Whoever— • • •

(c) Willfully removes, or alters the cancelation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

Is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

ART. 60. *Cancellation of stamps.*—Stamps will be canceled by noting thereon in red or black ink or by perforation the full or abbreviated name of the manufacturer, producer, or compounder, and the date of cancellation.

ART. 61. *Reuse of stamps prohibited.*—A stamp once affixed to one package or container cannot lawfully be removed and affixed to another. As to refunds of amounts paid for stamps, see Article 191.

CHAPTER V. ORDER FORMS

Procurement of Order Forms

SEC. 2. That it shall be unlawful for any person to sell, barter, exchange, or give away any of the aforesaid drugs except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue. Every person who shall accept any such order, and in pursuance thereof shall sell, barter, exchange, or give away any of the aforesaid drugs, shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section 5 of this Act. Every person who shall give an order as herein provided to any other person for any of the aforesaid drugs shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue, and in case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned. Nothing contained in this section shall apply—

(a) To the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist, or veterinary surgeon registered under this Act in the course of his professional practice only: *Provided*, That such physician, dentist, or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient

to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in this Act.

(b) To the sale, dispensing, or distribution of any of the aforesaid drugs by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under this Act: *Provided, however,* That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further,* That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned.

(c) To the sale, exportation, shipment, or delivery of any of the aforesaid drugs by any person within the United States or any Territory or the District of Columbia or any of the insular possessions of the United States to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(d) To the sale, barter, exchange, or giving away of any of the aforesaid drugs to any officer of the United States Government or of any State, Territorial, district, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, district, county, or municipal or insular hospitals or prisons.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors of internal revenue for sale by them to those persons who shall have registered and paid the special tax as required by section one of this Act in their districts, respectively; and no collector shall sell any of such forms to any persons other than a person who has registered and paid the special tax as required by section one of this Act in his district. The price at which such forms shall be sold by said collectors shall be fixed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, but shall not exceed the sum of $1 per hundred. Every collector shall keep an account of the number of such forms sold by him, the names of the purchasers, and the number of such forms sold to each of such purchasers. Whenever any collector shall sell any of such forms, he shall cause the name of the purchaser thereof to be plainly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring any of the aforesaid drugs, or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of any of the aforesaid drugs. It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession.

The provisions of this Act shall apply to the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. In Puerto Rico and the Philippine Islands the administration of this Act, the collection of the said special tax, and the issuance of the order forms specified in section two shall be performed by the appropriate internal-revenue officers of those governments, and all revenues collected hereunder in Puerto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising under this Act in said islands. The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of this Act by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations. The President is further authorized and directed to issue such Executive orders as will permit those persons in the Virgin Islands of the United States lawfully entitled to sell, deal in, dispense, prescribe, and distribute the aforesaid drugs, to obtain said drugs from persons registered under this Act within the continental United States for legitimate medical purposes, without regard to the order forms described in this section.

ART. 62. *Written order required.*—Except as otherwise provided, order forms are required for all sales or other dispositions of narcotic drugs.

ART. 63. *By whom procurable.*—Blank forms may be obtained only by persons who are duly qualified and registered under this Act and have legitimate use therefor. Order forms will not be furnished to persons registered in Class V who are not manufacturers.

ART. 64. *Manner of procurement.*—A person desiring and entitled to receive order forms should submit requisition on Form 679 to the collector of the district in which he is doing business. The order forms are issued in books each containing 10 original and 10 duplicate forms. Blank requisitions, Form 679, may be obtained from the collector. The requisition shall show the taxpayer's name, address, registry number and class, and the number of books of order forms desired. A charge of 10 cents is made for each book of order forms, and the requisition should be accompanied by remittance of the proper amount in the form of a certified check, cash, or money order.

ART. 65. *Signing of requisitions.*—Generally requisitions for order forms shall be signed by the same person or persons signing the application for registration (see Art. 8). However, they may be signed by another person authorized by power of attorney previously filed with and approved by the collector. The power of attorney shall be executed in the same manner as applications for registration, shall show the signature of the person thereby authorized to sign requisitions for order forms, and shall affirm that the signature so shown is his signature.

ART. 66. *Signatures to be compared.*—Upon receipt by the collector of a requisition for order forms the signature on such requisition shall be compared with that appearing on the application for registration or in the power of attorney (see Art. 65). Unless the collector is satisfied that the requisition is authentic it will not be honored.

ART. 67. *Procedure regarding order forms.*—Upon receipt of a properly executed requisition, accompanied by a sum sufficient to cover the cost of the order forms desired, the collector will issue the order forms requested. Before issuing the order forms the collector will cause to be shown thereon in a legible and permanent manner the name, address, registry number, and class number or numbers of the person to whom they are supplied, also the date of issuance and his signature or his name and the initials of the issuing employee.

ART. 68. *Requisitions to be filed.*—The collector will stamp each requisition with the date when filed, enter thereon the first and last serial number of the order forms sold in pursuance thereof, and file all requisitions alphabetically according to the name of the purchaser.

Execution of Order Forms

ART. 69. *Execution of forms.*—Order forms are issued in duplicate and shall be executed in duplicate. They are arranged to permit the execution of the original and duplicate simultaneously by insertion of a carbon sheet. The original shall not leave the possession of the person executing it until the duplicate is made.

The attachment of extra sheets to order forms is not permitted. If one order form is not sufficient to include all the items of an order, a second form shall be used. The order forms are intended solely to cover disposition of narcotic drugs and preparations to registered persons. They shall not in any case be used as prescriptions.

ART. 70. *Manner of preparations.*—The order forms shall become a part of the permanent records of the registrant filing them, and are required by law to be kept available for inspection for a period of two years. The manufacturer or wholesale dealer should insist for his own protection that the order forms be prepared in such manner as to render their subsequent alteration both difficult of accomplishment and easy of detection. Purchasers also should be careful to protect order forms signed by them against subsequent alteration. Official order forms for the purchase of taxable narcotic drugs should therefore be prepared by the use of typewriter, ink, or indelible pencil, and manufacturers and wholesale dealers should return unfilled any order form executed in a less permanent manner.

ART. 71. *Date.*—The full and exact date when the order form is actually made out shall be inserted by the purchaser. Purchasers are also required to enter, in the space provided therefor at the bottom of the form, the number of items ordered. If in any case the number of items has not been so entered by the purchaser, the order form shall be returned for completion before it is filled.

ART. 72. *Name and address of purchaser.*—The name, address, registry and class numbers, and district of the purchaser as inserted by the collector shall not be changed by either the purchaser or consignor in any manner whatsoever. The merchandise requested on the form may be sent only to the person designated by the collector and at the location specified by him. The name of the purchaser, as registered with the collector, and as entered by the collector on the form, shall be shown on the first line in the lower right-hand space of the form, except where the form is signed personally by an individual registrant in which event this line may be left blank. The signature of an individual purchaser acting personally, or of an individual acting for a registrant, whether acting under power of attorney or otherwise authorized, shall be entered on the second line of the lower right-hand space.

ART. 73. *Signing of order forms.*—Official narcotic order forms shall be signed by the purchasing registrant with ink or indelible pencil. The signature shall be in the same form as on the application for registration.

The signing of such forms merely with a firm, corporate or trade name, without indication of personal responsibility, is not permissible, but the signature of the person signing the application for registration must appear. However, they may be signed by another person authorized by power of attorney previously filed with and approved by the collector. The power of attorney shall be executed in the same manner as applications for registration, shall show the signature of the person thereby authorized to sign order forms, and shall affirm that the signature so shown is his signature. The signature of the responsible individual may not be printed or stamped on the order form, but must be shown in his own handwriting.

ART. 74. *Qualifications of purchaser.*—The purchaser shall at the time the order is submitted be registered under the Act at the location, in the classes and under the registry number specified thereon by the collector, and shall have paid the special taxes necessary to qualify him in such classes for the fiscal year ending on the following June 30. The purchaser shall likewise be qualified for the fiscal year within which the merchandise is received. Any person executing and presenting for filling an order form who at the time of such presentation is not so registered and has not paid the necessary special taxes will be liable to the penalties provided by law.

ART. 75. *Items.*—Only one item shall be entered on each numbered line and not more than 10 items shall be entered on a single order form. An item shall consist of one or more packages or bottles of the same kind and size; two or more such packages or bottles shall always be regarded as a single item and shall never be counted on the form as two or more items. A separate item shall be made for each article of different description or size. The number of items entered on the form shall be stated by the purchaser in the space provided near the bottom of the form for that purpose. The purchaser shall show with respect to each item the number of stamped packages, the size of each package in terms of pounds, ounces, grains, pills, or tablets (indicating size in case of pills or tablets), if in a solid form, or in terms of gallons, quarts, pints, or ounces, if in liquid form; the name of the article desired, and the name and quantity of the narcotic drug contained in the article if it is not itself a pure narcotic drug. The showing of the catalogue number is optional with the purchaser.

ART. 76. *Dishonored order forms.*—Any order form returned because of improper preparation (see Art. 83) must be retained on file with the duplicate thereof and a new form prepared if the articles are still desired.

ART. 77. *Unused order forms.*—Where, as to one or more classes, a registrant discontinues business or transfers to a different location in the same or a different district, he shall return for cancelation all unused order forms on which such class number or numbers have been entered by the collector.

Filling of Order Forms

ART. 78. *Who may fill.*—Except as hereinafter provided, order forms may be filled only by a registered importer, manufacturer, producer, compounder, or wholesale dealer (a Class I or II registrant).

ART. 79. *Solutions.*—An order form calling for one ounce or less of an aqueous or oleaginous narcotic solution may be filled by a retail dealer under the conditions outlined in Article 15.

ART. 80. *Returned goods.*—A person registered in any class may return narcotics to the person from whom obtained pursuant to the latter's order form.

ART. 81. *Discontinuance of business.*—A person discontinuing, or who has discontinued, business in any class may dispose of his narcotics pursuant to order forms, provided he has obtained specific approval from the collector for the district in which the proposed recipient is located to dispose of his narcotic stock to such recipient.

ART. 82. *Filling of orders.*—The consignor shall enter upon the order form the number and size of the stamped packages furnished on each item and the date when each item is filled. When an order can not be filled in its entirety it may be filled in part and the balance supplied by additional shipments within 30 days from the date of the order form. A notation, covering each shipment, showing the actual quantities supplied and the date of delivery, shall be made by the vendor on the original and by the vendee on the duplicate.

ART. 83. *Alterations.*—No alteration, erasure, or change of any description may be made in any order, or in the indorsement thereon, by any person. The merchandise requested on an order form may not be furnished if the form shows any alteration or erasure, or evidence of any change whatsoever. If an order is not properly prepared in every respect it must be returned to the vendee.

ART. 84. *Acceptance.*—An order is regarded as accepted when notice to that effect is given or, if no notice is given, when the goods are delivered or shipped.

ART. 85. *Unaccepted orders.*—If an order is not accepted or if, for any reason, one can not be filled, the form shall be returned to the vendee with a letter of explanation. When received by the vendee the returned original and the letter of explanation shall be attached to the duplicate and retained on file.

ART. 86. *Endorsements.*—An order form made out to a Class I or II registrant who can not fill it may be endorsed in the spaces provided for that purpose on the reverse side of the form and referred by him to another such registrant for filling. The endorsement may be made only by the person to whom the order is issued who shall be a Class I or II registrant. It shall show the name and address of the endorsee, shall bear the signature of the endorsing registrant or another person, provided a power of attorney authorizing such other person to make such endorsements has been executed and approved in accordance with Articles 65 and 73, and shall indicate the class or classes in which the endorser is registered, his registry number, the district in which he is located and his complete address. The endorsee shall, upon receipt of such order, if he can fill the same, ship the drugs directly to the person and at the location specified by the collector on the face of the order and make notation of the filling of each item in the same manner as in other cases. No change or alteration by the endorsee in any endorsement is permissible.

ART. 87. *Reporting sales on endorsed orders in monthly returns.*—Sales made on endorsed order forms shall be reported on Form 810b or 811b, as the case may be, in the same manner as other sales, except that on the line following that on which the sale is recorded, there shall be entered the name, address, registry and class numbers, and district of the endorser.

Filing of Order Forms

ART. 88. *Filing of orders.*—The duplicate shall be kept on file by the vendee for at least two years. The original shall be filed and preserved for a like period by the vendor.

Any order form which is improperly executed or mutilated so as to make it unusable, shall not be destroyed, but both

the original and duplicate shall be kept on file with the other duplicates.

ART. 89. *Lost and stolen order forms.*—It a purchaser ascertains that an original unfilled order form has been lost, he shall execute another order in duplicate and an affidavit stating that the goods covered by the first order were not received through loss of the order form, and shall note on the second order the number and date of the lost order and the fact that it was lost. The duplicate of the second order and the affidavit shall be filed with the duplicate of the order form first executed. If the first order form is subsequently received by the person to whom it was directed, he shall mark upon the face thereof, "Not accepted", and return it to the purchaser who shall attach it to the duplicates and the affidavit.

Whenever any used or unused order forms are stolen from, or lost (otherwise than in the course of transmission) by, any person registered under the Act, he shall immediately upon discovery of such theft or loss, report the same to the Commissioner of Narcotics, Washington, D. C., stating the serial number of each duplicate and original form stolen or lost. If the theft or loss includes any original orders received from other persons and the registrant is unable to state the serial numbers of such orders, he shall report the date of receipt thereof and the names and addresses of the purchasers. If an entire book of order forms is lost or stolen, and the registrant is unable to state the serial numbers of the order forms contained therein, he shall report the theft or loss to the collector from whom such book was purchased, instead of to the Commissioner of Narcotics, and shall report, in lieu of the numbers of the forms contained in such book, the date or approximate date of purchase thereof. Immediately upon receipt of such report the collector shall transmit it to the Commissioner of Narcotics together with advice from his records (Form 679) as to the serial numbers of the forms contained in such book. If any unused order form reported stolen or lost is subsequently recovered or found, the Commissioner of Narcotics shall be notified thereof.

Exceptions to Use of Order Forms

ART. 90. *When not required.*—The use of order forms is not required:

(1) For dispositions by a duly qualified and registered practitioner in the course of his professional practice only.

(2) For sales or other dispositions pursuant to properly executed prescriptions for legitimate medical purposes.

(3) For lawful exportations.

(4) For sales or other dispositions to exempt officials.

(5) For the sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than 2 grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than 1 grain of codeine, or any salt or derivative of any of them in 1 fluid ounce, or, if a solid or semi-solid preparation, in 1 avoirdupois ounce; or of liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them, provided that such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act and that a record of dispositions is kept as required by Article 185.

CHAPTER VI. SPECIAL EXEMPTIONS

Exempt Officials

SEC. 1. • • • *Provided further*, That officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business herein described, shall not be required to register, nor pay special tax, nor stamp the aforesaid drugs as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

ART. 91. *Exempt officials.*—Officials of the United States, the District of Columbia, any State, Territory, or insular possession of the United States, or of any county, municipality, or other political subdivision therein, who, in the exercise of their official duties, acquire, dispense, or handle narcotic drugs or preparations, are not thereby required to register, pay special tax, or stamp packages containing narcotics which they compound or produce, but their right to such exemption shall be evidenced as hereinafter provided.

ART. 92. *Military and Naval officers.*—On or before July 1 of each year, the Surgeon General of the Army and the Surgeon General of the Navy will each furnish, to the Commissioner of Internal Revenue, a list showing the names, addresses, and official status of all officers and contract surgeons authorized to obtain narcotic drugs and preparations for official use. Quarterly amendatory lists showing additions to, eliminations from, or other changes to be made in previous lists will also be furnished. The commanding officer of the National Guard of each State will likewise furnish original and amendatory lists to each collector of such State, similarly identifying the officers authorized to procure narcotic drugs and preparations. With respect to procurement of narcotic drugs and preparations by officers of the character indicated, see Article 94 entitled "Procurement of narcotics".

ART. 93. *Civil officers.*—Each civil officer of the United States, or the District of Columbia, or of any State, Territory, or insular possession of the United States, or any county, municipality, or other political subdivision, who is engaged in any activity mentioned in the Act and who claims exemption from registration and tax under the Act, shall file with the collector for the district in which he is located a certificate from a superior official showing the official status and official address of the person claiming exemption and (1) whether he is to purchase the narcotics or obtain them from official stocks, and (2) whether or not the officer is to administer or dispense narcotics. Each such statement shall be renewed on or before July 1 of each year and, except in the case of civil officers of the United States, shall be accompanied by an inventory on Form 713 of the narcotic drugs and preparations on hand at the time the certificate is filed.

ART. 94. *Procurement of narcotics.*—Each order for the purchase of taxable narcotic drugs by an exempt official shall be accompanied by a certificate, issued by the collector for the district in which the purchasing official is located, on official stationery in the following form:

(Name) (Rank or official capacity)

(Post of duty or official address)

has evidenced his exemption from registration and payment of taxes under the Act of December 17, 1914, as amended, in the manner prescribed by the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, and is entitled to purchase narcotics without the use of official order forms for the use of

(Name of government and department thereof)

Certificates in accordance with the foregoing form shall be issued by the collectors upon request, but no certificate shall be issued for any officer or official unless the list or statement on file indicates that such officer or official is required to purchase narcotic drugs. These certificates are not required for the purchase of exempt preparations by exempt officials.

If an official is engaged in a private business or privately practices a profession in which narcotics are manufactured, produced, compounded, sold, dealt in, dispensed, prescribed, administered, or given away, such official shall register and pay the special tax for such private activity, and the narcotics for such private purposes shall be secured upon regular order forms.

ART. 95. *Orders and prescriptions.*—Orders and prescriptions for taxable narcotic drugs and preparations issued by exempt officials as such shall be prepared on official blanks if such blanks are provided, or otherwise on official stationery, and shall show the name, title and official address of the person by whom executed.

ART. 96. *Filling and filing orders and prescriptions.*—Except as to an order for one ounce or less of an aqueous or oleaginous narcotic solution (See Art. 15), an order for taxable narcotic drugs or preparations issued by an exempt official as such shall be filled only by a person registered as a manufacturer or wholesale dealer. Prescriptions issued by exempt officials shall be filled only by retail dealers or by manufacturers supplying thereon narcotics of their own manufacture or production. A manufacturer or dealer who fills an improperly prepared order or prescription may be liable for violation of section 2 of the Act. After filling, orders and prescriptions of exempt officials shall be filed with the regular narcotic orders and prescriptions.

ART. 97. *Enforcement officers.*—Special agents and customs agents, for the establishment of draw-back under customs laws and regulations, inspectors of the Food, Drug, and Insecticide Administration, Department of Agriculture, in connection with their duties in enforcing the Food and Drugs Act, and State or Federal officials engaged in their duties in enforcing any State or Federal narcotic drug law, are entitled to procure from any person registered under the Act of December 17, 1914, as amended, samples of narcotics, and registrants may lawfully furnish to any such persons for the purposes stated, the required samples, taking a receipt therefor, which shall be filed with their official order forms and records.

ART. 98. *Reporting, furnishing of samples.*—Class I and II registrants who furnish samples of narcotic drugs and preparations under the provisions of the preceding Article to law enforcement officers shall report such dispositions on their monthly returns, Forms 810b and 811b, respectively, under the heading "Other dispositions" as provided for by Articles 116 and 151.

ART. 99. *Ocean vessels.*—Narcotic drugs and preparations for stocking medicine chests and dispensaries maintained on board vessels engaged in international trade, vessels engaged in trade between ports of the United States, and merchant vessels belonging to the Government, may be obtained only (1) by the physician or surgeon employed upon such vessel and duly licensed in some State, Territory, or the District of Columbia, to practice his profession; or (2) by a retired commissioned medical officer of the United States Army, Navy, or Public Health Service, employed upon such vessel; or (3), if no physician, surgeon, or retired commissioned medical officer of the United States Army, Navy, or Public Health Service is employed upon such vessel, by the master; and only with the approval of commissioned medical officers and acting assistant surgeons of the United States Public Health Service, upon special order forms procurable from such officers.

Shipments to the Insular Possessions and the Panama Canal Zone

SEC. 2. (cont.) The provisions of this Act shall apply to the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. In Puerto Rico and the Philippine Islands the administration of this Act, the collection of the said special tax, and the issuance of the order forms specified in section two shall be performed by the appropriate internal-revenue officers of those governments, and all revenues collected hereunder in Puerto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising under this Act in said islands. The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of this Act by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations. The President is further authorized and directed to issue such Executive orders as will permit those persons in the Virgin Islands of the United States lawfully entitled to sell, deal in, dispense, prescribe, and distribute the aforesaid drugs, to obtain said drugs from persons registered under this Act within the continental United States for legitimate medical purposes, without regard to the order forms described in this section.

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Virgin Islands

EXECUTIVE ORDER

RULES GOVERNING THE OBTAINING OF NARCOTIC DRUGS AND PREPARATIONS BY QUALIFIED PERSONS IN THE VIRGIN ISLANDS FROM MANUFACTURERS AND WHOLESALE DEALERS IN THE UNITED STATES

WHEREAS section 2 of the act of December 17, 1914 (38 Stat. 786), as amended by section 2 of the act of January 22, 1927 (44 Stat. 1023), provides in part as follows:

"The President is further authorized and directed to issue such Executive orders as will permit those persons in the Virgin Islands of the United States lawfully entitled to sell, deal in, dispense, prescribe, and distribute the aforesaid drugs, to obtain said drugs from persons registered under this Act within the continental United States for legitimate medical purposes, without regard to the order forms described in this section."

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by the above-quoted provision of the said act, it is hereby ordered:

1. That any person lawfully entitled to sell, deal in, dispense, prescribe, or distribute opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, in the Virgin Islands of the United States, may obtain such narcotics as shall be necessary for legitimate medical purposes within those islands by executing a written order therefor upon a duly qualified importer, manufacturer, producer, compounder, or dealer in such drugs located in the continental United States: *Provided*, That such order has been first submitted to the Commissioner of Health of the Virgin Islands and bears upon its face the approval of said Commissioner of Health of the Virgin Islands, the official seal of the Government of the Virgin Islands, and the date of such approval.

2. Upon receipt of the order for narcotic drugs from the person in the Virgin Islands ordering such drugs, the Commissioner of Health of the Virgin Islands, if he finds that such person is qualified in accordance with the terms of the preceding section, and if he is satisfied that such person is ordering the drugs for legitimate medical purposes only, shall approve the order form by signing a suitable notation on the face thereof, including the date of such approval, and impress the seal of the Government of the Virgin Islands thereon, and return same to the person from whom it was received, who may then transmit the approved order to the appropriate prospective vendor in the continental United States, who is hereby authorized to furnish and ship the drugs called for in the said order in the same manner and to the same extent that he would be authorized if the order were properly executed on an official order form submitted by a duly qualified dealer or practitioner in the continental United States under section 2 of the act of December 17, 1914 (38 Stat. 786), as amended.

3. No order as above described shall be filled by any importer, manufacturer, producer, compounder, or dealer in the continental United States if received after 2 months from the date of approval described in the preceding section. If, for any reason, an approved order is not forwarded to the person in the continental United States from whom the drug is to be ordered in time to reach such person on or before the expiration of a period of 2 months after the date of approval, such order shall be returned to the Commissioner of Health of the Virgin Islands for cancellation. The Commissioner of Health of the Virgin Islands shall keep a record of all orders received by him, showing the date the order was received, the date it was approved, if approved, and the date the approved order was returned to the person submitting it. The Commissioner of Health of the Virgin Islands shall submit semiannually to the Commissioner of Narcotics of the United States, not later than the 1st of September and the 1st of March respectively, reports covering the respective preceding semiannual periods ending June 30 and December 31, showing the total amounts and kinds of narcotic drugs for which orders were approved, the total amounts and kinds of narcotic drugs actually received in the islands during the periods, the total amounts and kinds of narcotic drugs actually sold or dispensed in the islands during the periods, and the total amounts and kinds of narcotic drugs on hand in the islands at the close of the said periods. For the purpose of carrying out the provisions of this order, the Commissioner of Health of the Virgin Islands, with the advice and consent of the Governor of the Virgin Islands, is hereby authorized to require such periodical reports concerning narcotic drugs from persons ordering, dealing in, selling, dispensing, prescribing, or distributing such drugs in the Virgin Islands as he shall deem appropriate for the purpose.

4. The word "person," as used in this order, shall be construed to mean and include a partnership, association, company, or corporation as well as a natural person.

5. The Commissioner of Narcotics of the United States, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying into effect the provisions of this order insofar as it concerns persons registered under the said act of December 17, 1914, as amended, in the continental United States.

6. Responsibility is placed upon the Governor of the Virgin Islands to enforce the provisions of this order in the said islands in such manner that the sale, dealing in, dispensing, prescribing, distribution, and use of narcotic drugs therein shall be confined to legitimate medical purposes. Any shipment or transfer of narcotic drugs from the continental United States not in accordance with the provisions and requirements of this order shall subject the parties responsible for such shipment or transfer to the penalties provided in the said act of December 17, 1914, as amended.

This order supersedes Executive Order No. 5502, of December 2, 1930.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
December 4, 1934.

[No. 6913]

ART. 100. *Shipments to be made pursuant to orders.*—No person in the United States may ship narcotics to a person in the Virgin Islands, except pursuant to an

order which has been approved by the Commissioner of Health of the Virgin Islands and which bears the official seal of the Government of the Virgin Islands and the date of approval. The shipment or other disposition of narcotics by any person in the United States contrary to the Executive order shall subject the offending party or parties to the penalties provided by the Act of December 17, 1914, as amended. (See Art. 203.)

ART. 101. *Who may fill orders.*—An order for narcotic drugs submitted by a qualified dealer or practitioner in the Virgin Islands in accordance with the terms of the foregoing Executive order may be filled only by a person duly registered, in the continental United States, in Classes I or II under Section 1 of the Harrison Narcotic Law, as amended, and regulations issued thereunder, except that an order for only such preparations and remedies as are considered exempt under Section 6 of said law and regulations issued thereunder may be filled by a person duly registered, in the continental United States, in Class V under Section 1 of said law and regulations.

ART. 102. *Record and report of sales.*—Each sale or other disposition of narcotic drugs under the foregoing Executive order shall be recorded and reported as an insular sale by the person filling the order therefor. He shall enter upon Form 810b or 811b, as the case may be, of his monthly return, the date upon which the order was approved by the Commissioner of Health of the Virgin Islands, in lieu of and in the space provided for the date of the purchaser's official order form. The column headed "Serial number" shall be used for inserting the date of receipt of the purchaser's approved order. The columns headed "Registry number", "Class", and "District" shall be left blank. If the order covers items of preparations or remedies which are considered exempt under Section 6 of said law and regulations, such items shall not be reported in the monthly return, but the person filling the order for such items shall keep a record in the same manner as in the case of a domestic sale, except that in lieu of the record of the registry number of the purchaser, required to be kept, there shall be kept a record of the date upon which the order was approved by the Commissioner of Health of the Virgin Islands and the date when the order was received by the vendor.

Puerto Rico

ART. 103. *Shipment of drugs.*—Registrants or exempt officials of Puerto Rico, in order to procure narcotic drugs, either taxable or exempt, must comply with the requirements of the Government of Puerto Rico, with respect to official order forms and certificates of exemption. Accordingly, manufacturers and wholesale dealers in the United States, shall not make shipments of narcotic drugs to persons located in Puerto Rico except pursuant to the proper order form or certificate of exemption, as the case may be. In order that registrants in the United States may determine whether a prospective purchaser in Puerto Rico is properly authorized to receive narcotic drugs, the practices and requirements of the Puerto Rican authorities with respect to orders by registrants and exempt officials are set out in Articles 104 to 108, inclusive.

ART. 104. *Taxable drugs.*—Registrants procuring taxable narcotic drugs must present orders therefor upon official order forms of the Department of Finance of Puerto Rico. Such forms bear the name and number of the registrant to whom issued, the date issued, a serial number, a one-cent revenue tax stamp, and a certificate signed by the local collector of internal revenue, showing that the person to whom issued is registered, has paid the required tax, and is entitled to acquire and sell narcotics Accordingly, no order form from Puerto Rico for taxable narcotic drugs shall be accepted or filled unless such form bears the name of the registrant, the appropriate tax stamp, a serial number, the described certificate signed by the local collector of internal revenue (either stamped or printed thereon) and the signature of the registrant specified or his authorized agent. Such forms are issued in duplicate; only those marked "Original" shall be accepted and filled.

ART. 105. *Exempt preparations.*—Separate order forms are provided for purchases of exempt preparations. While these are similar in appearance to those provided for taxable drugs, they are different in that no space is provided for any revenue tax stamp and they are designated in the heading as orders to procure "Medicines and preparations exempt as per Section 6" of the law. These likewise bear serial numbers, the date issued, the name of the registrant to whom issued, and a certificate signed by the local collector of internal revenue. Accordingly, no order from Puerto Rico for exempt preparations shall be accepted or filled unless it bears the appropriate serial number, the name of the registrant, the certificate of the local collector of internal revenue and the signature of the registrant specified or his authorized agent. Such forms are issued in duplicate and only those marked "Original" shall be accepted and filled.

ART. 106. *Forms not interchangeable.*—Taxable narcotics shall not be supplied pursuant to orders on forms provided for exempt preparations nor shall exempt preparations be supplied pursuant to orders on forms provided for taxable narcotics.

ART. 107. *Shipments to exempt officials.*—An exempt official of Puerto Rico who purchases narcotic drugs, either taxable or exempt, is required by the insular authorities to present the order for such drugs to the Assistant Treasurer of the Island who affixes thereon a certificate to the effect that the purchaser has presented the necessary credentials establishing his right to exemption and is entitled to obtain the narcotics specified in the order without the use of official order forms. Accordingly, no order from one who purports to be an exempt official in Puerto Rico shall be accepted or filled unless it bears such certificate signed by the Assistant Treasurer.

ART. 103. *Penalty for unauthorized shipment.*—No narcotic drugs or preparations, either taxable or tax-exempt, shall be furnished or shipped to any person, in Puerto Rico, except by registered persons in the continental United States and then only pursuant to an order on an appropriate form as prescribed in the preceding articles. The sale, bartering, exchanging, or giving away of any such narcotic drugs or preparations by any person in the United States to any person in Puerto Rico, otherwise than as above prescribed, shall subject the offending party or parties to the penalties provided by the Act of December 17, 1914, as amended.

Philippine Islands

ART. 109. *Shipment of drugs.*—Registrants in the Philippine Islands, in order to procure narcotic drugs, either taxable or exempt, must comply with the requirements of the Government of the Philippine Islands with respect to official order forms and certificates of importation. Accordingly, manufacturers and wholesale dealers in the United States, shall not make shipments of such drugs to persons located in the Philippine Islands except pursuant to the proper order form or certificate of importation, as the case may be. In order that registrants in the United States may determine whether a prospective purchaser is properly authorized to receive narcotic drugs, the practices and requirements of the Philippine authorities with respect to orders by registrants are set out in Articles 110 to 113, inclusive.

ART. 110. *Taxable drugs.*—Registrants procuring taxable drugs must present their orders for such drugs upon official order forms provided by the Department of Finance, Bureau of Internal Revenue of the Philippine Islands. These are identified as B. I. R. Form No. 26.01. In order to entitle a purchaser to receive taxable narcotic drugs into the Philippine Islands, the permit portion of the form must be completed and signed by the Collector of Internal Revenue for the Islands or his authorized representative. Accordingly, no taxable drugs shall be shipped to the Philippine Islands except pursuant to such an order form, fully completed and signed by the proper authority.

ART. 111. *Exempt preparations.*—Certificates of importation for purchase of exempt preparations, identified as B. I. R. Form No. 26.04, are provided by the Department of Finance, Bureau of Internal Revenue, of the Philippine Islands. The certificates are issued by the Collector of Internal Revenue of the Islands and signed by him or his authorized representative. They specify in each instance the items authorized to be purchased. Accordingly, no exempt narcotic preparations may be shipped to the Philippine Islands except pursuant to such a certificate of importation, specifying the name and address of the purchaser and the drugs and preparations authorized.

ART. 112. *Forms not interchangeable.*—Taxable narcotics shall not be supplied pursuant to orders on forms provided for exempt preparations nor shall exempt preparations be supplied pursuant to orders on forms provided for taxable narcotics.

ART. 113. *Penalty for unauthorized shipment.*—The shipment of narcotic drugs by any person in the United States to any person in the Philippine Islands, otherwise than as above prescribed, shall subject the offending party or parties to the penalties provided by the Act of December 17, 1914, as amended.

Panama Canal Zone

EXECUTIVE ORDER

Whereas, the act of Congress, approved December 17, 1914 (Public, No. 223), is made specifically applicable in the Canal Zone, but further provides that—

The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of this act by providing for the registration and imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations;

and

Whereas the auditor of the Panama Canal and the collector of the Panama Canal perform in the Canal Zone corresponding duties in connection with the revenues of the Canal Zone as are performed in the United States by the Commissioner of Internal Revenue and the collectors of internal revenue, respectively:

Now, therefore, by virtue of the authority conferred upon me by the above-quoted provisions of the said act of Congress, it is hereby ordered:

SECTION 1. That in enforcing the provisions of the act of Congress approved December 17, 1914, entitled "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," the auditor of the Panama Canal shall perform in the Canal Zone administrative duties like unto those the Commissioner of Internal Revenue is required to perform outside of the Canal Zone, and the collector of the Panama Canal shall perform duties in the Canal Zone like unto those the collectors of internal revenue are required to perform in the districts outside of the Canal Zone.

SEC. 2. That on and after the 1st day of March, 1915, no person shall produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away in the Canal Zone opium or coca leaves, their salts, derivatives, or preparations, unless he shall have complied with the provisions of the act of Congress approved December 17, 1914, in the manner provided for in the Executive order.

SEC. 3. That every person who by the terms of said act would be required, if located outside of Porto Rico, the Philippine Islands, or the Canal Zone, to register with the collector of internal revenue of his district, his name or style, place of business and place or places where such business is to be carried on, shall register the like information with the collector of the Panama Canal on forms to be prescribed by the auditor of the Panama Canal. At the time of such registry and on or before the 1st day of July annually thereafter, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away any of the aforesaid drugs shall pay to the collector of the Panama Canal a special tax at the rate of $1 per annum: *Provided, however*, That any person who would not be required, if located outside of the Canal Zone, to register or pay a special tax shall not be required to register or pay the special tax as herein provided.

SEC. 4. That the auditor of the Panama Canal, with the approval of the Governor of the Panama Canal, shall cause suitable order forms and blanks to be prepared and placed in the hands of the collector of the Panama Canal for sale by such collector to persons who shall have registered and paid the special tax as required by said act and this Executive order. The price to be paid for such order forms and blanks shall be $1 per hundred, and the collector of the Panama Canal shall be subject to the same limitation as to sales of said order forms and blanks as collectors of internal revenue in districts outside of the Canal Zone. The collector shall account monthly to the auditor of the Panama Canal for the special taxes collected by him and for all moneys received by him for the sale of blanks, or for any other purpose under the provisions of said act. The auditor of the Panama Canal, with the approval of the Governor of the Panama Canal, shall provide such regulations as may be necessary to carry into full force and effect the provisions of this Executive order. In providing such regulations the form of regulations prescribed by the Internal Revenue Commissioner and approved by the Secretary of the Treasury shall be followed so far as they can be made applicable to conditions in the Canal Zone.

SEC. 5. That the auditor of the Panama Canal, with the approval of the Governor of the Panama Canal, shall have the right to make such inspection and take such action as may be necessary to enforce the provisions of the act of December 17, 1914, under this Executive order.

SEC. 6. That any person who violates or fails to comply with any of the requirements of said act in the manner provided for in this Executive order in the Canal Zone shall be subject to such penalties as are provided for in said act.

WOODROW WILSON

THE WHITE HOUSE,
March 1, 1915.

[No. 2142]

CHAPTER VII. RETURNS OF MANUFACTURERS AND WHOLESALE DEALERS

SEC. 1. • • • Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require.

Manufacturers, Producers and Compounders

ART. 114. *Returns required.*—Every person registered in Class I, as an importer, manufacturer, producer or compounder, shall render a monthly return on Form 810, and its supplements, Forms 810a, 810b, 810c and 810d, and shall account therein for all stocks on hand at the beginning and end of the month, and for receipts, dispositions, manufacture and packaging of taxable narcotics during the month. Such return shall be sworn to and shall be submitted to the collector of internal revenue for the district in which the business is conducted, on or before the 15th day of the month succeeding that for which it is rendered.

Each return shall consist of Forms 810a showing all receipts of taxable narcotics; Forms 810b showing all dispositions of taxable narcotics; Forms 810c showing all manufacturing transactions; Forms 810d showing all packaging transactions; and a Form 810 showing a complete summary and a balanced stamp account. Forms 810a and 810b shall be headed in accordance with the classifications of transactions set out in the instructions appearing thereon and on Form 810.

ART. 115. *Form 810a—Receipts.*—All taxable narcotics received by a manufacturer as such, including transfers from other classes at the same location, shall be recorded on Form 810a in the order and at the time of receipt. Where record on Form 810a can not, for any good and sufficient reason, be made immediately, the manufacturer shall have available for inspection such invoices, delivery or duplicate sales slips, or other papers or records as may be required to evidence any unrecorded purchase or receipt. Forms 810a shall be prepared in accordance with the instructions thereon and on Form 810.

ART. 116. *Form 810b—Dispositions.*—All taxable narcotics disposed of by a manufacturer as such, including transfers to other classes at the same location, shall be recorded on Form 810b in the order and at the time of disposition. Where record on Form 810b can not, for any good and sufficient reason, be made immediately, the manufacturer shall have available for inspection original sales orders, delivery slips, or other papers or records which may be required to evidence any unrecorded disposition. Forms 810b shall be prepared in accordance with the instructions thereon and on Form 810.

ART. 117. *Form 810c—Manufacturing.*—All taxable narcotics used in the production of other drugs or preparations, with the exception of transactions involving original manufacture from raw opium or coca leaves, shall be entered on Form 810c in the order and at the time they are placed into the process of manufacture. All taxable narcotic drugs and preparations produced therefrom shall be entered on the same form, at the time of production, which entry shall be clearly identified with the entry of drugs used in their production. Where record of "Used for production" or "Production" cannot be made immediately the manufacturer shall have available such batch tags, production orders, or other papers as may be required to evidence any unrecorded quantity used or produced. Any loss in manufacture and any recoverable wastes salvaged from the manufacture shall be reported. All such wastes shall be returned to raw stock and

included in the report of raw materials on hand at the end of the month. Any narcotics actively in process of manufacture at the end of the month shall be so reported.

Where drugs or preparations are placed in process during one month and a portion of the production is removed from process as finished goods during the same month, the portion thus removed from process shall be reported "Produced" and the remainder reported as "In process" at the close of the month.

Taxable drugs or preparations placed in process for the manufacture of exempt preparations shall be reported on a separate Form 810c, on which the kind and quantity of narcotic used and the name of the exempt preparation to be produced therefrom shall be stated.

ART. 118. *Form 810d—Packaging.*—All taxable narcotic drugs, either bulk finished goods or goods already in stamped packages, which are used during the month for packaging or repackaging into marketable packages shall be reported on Form 810d. By "Marketable packages" is meant the package, bottle or container in which it is intended that the goods shall be sold, whether stamped at the time of packaging or left without stamping until time of sale.

All taxable narcotic drugs or preparations placed in marketable packages during the month shall be reported as credit entries on Form 810d, and in each instance clearly identified with the entry of drugs used in such packaging. A separate entry shall be made for each different size of package produced, but all entries representing a single packaging lot shall be grouped together.

The number of packages of a given size produced, the size of the package (indicating the number of pills, tablets, ounces, etc.), the narcotic contained in each unit in the package, the total narcotic content of each package, and the aggregate narcotic content of all packages represented by the entry shall be indicated.

The recoverable wastes salvaged from the packaging operation and the losses in packaging shall be shown as credit entries on the form. All recoverable wastes reported during the month shall be returned to raw stock and further accounted for as raw materials.

Any goods actively in process of packaging at the close of the month shall be so reported, and the total amount of tax stamps affixed to packages at the time of packaging shall be shown.

Where drugs or preparations are placed in process for packaging during one month and a portion thereof are removed as packages produced during the same month, the portion thus removed shall be reported as packages produced and the remainder reported as in process at the end of the month.

ART. 119. *Form 810—Summary.*—The manufacturer shall report on Form 810, in accordance with the instructions appearing thereon, a summary of operations and the total value of stamps affixed to packages.

ART. 120. *Form 810—Stamp account.*—The manufacturer will also report on Form 810, in accordance with instructions on the form, the value of narcotic strip stamps on hand at the beginning and end of the month and purchased and affixed during the month. The manufacturer may elect whether to affix stamps at time of packaging or at time of sale but one of the two methods shall be followed consistently.

ART. 121. *Assembling.*—Form 810 shall be used as a jacket or outside sheet for Forms 810a, 810b, 810c, 810d and 810e, which shall constitute the inside sheets. The inside sheets shall be numbered consecutively, beginning with the number 1. Before transmitting the return to the collector the registrant shall securely fasten together all sheets.

ART. 122. *Examination by collector.*—The collector will examine and verify the name entered on page 1 of Form 810, the sworn statement and signature, and the entry of the value of stamps purchased during the month. The person examining the return shall sign in the space provided on Form 810 therefor, and the date received in the collector's office shall be stamped or entered in the space provided.

Manufacturers Importing Opium

ART. 123. *Returns required.*—Every manufacturer importing crude opium shall render, in addition to the return on Form 810 and its supplements, an "Opium importing manufacturer's return" on Form 163 and its supplements 163a and 163b, accounting, in accordance with the instructions on the forms, for the detail of such importation and for all manufacturing operations performed between such importation and the production in bulk of finished marketable products, standardized in accordance with U. S. P., N. F., or other recognized medical standards. (Subsequent manufacture from such products, including bottling or packaging operations, shall be accounted for in the monthly returns on Form 810 and its supplements.) Returns on Form 163 and its supplements shall be rendered quarterly by manufacturers extracting the alkaloids of opium and their salts, and monthly by all other manufacturers importing and using crude opium. Each such return shall be sworn to and submitted direct to the Commissioner of Narcotics on or before the 12th day of the month immediately following the period for which it is rendered.

ART. 124. *Form 163 and supplements.*—The return of manufacture from crude opium shall consist of summaries on Forms 163 and 163a with supporting detail sheets on Form 163b accounting for original manufacture from crude opium, production from morphine for further manufacture and production from manufacturing opium, and also accounting for stocks of crude opium, manufacturing opium, morphine for further manufacture and other crude alkaloids, as such substances are defined on the forms. One Form 163b shall be used for each major class of transaction on each summary except where the entries represent mere deduction or total items, or balances carried forward from previous returns. Each detail sheet shall be headed to correspond with the major title of the group of entries which it supports and shall be numbered to correspond with the line and summary numbers.

ART. 125. *Detailed reports.*—The detail sheets, Form 163b, supporting the summary of original manufacture from crude opium shall show separately the crude opium used for the manufacture of medicinal opium, crude opium used for the direct manufacture of opium tinctures and extracts, crude opium used for the extraction of alkaloids, crude opium used for the manufacture of exempt preparations, and crude opium used for the production of manufacturing opium; and shall show separately the medicinal opium, alkaloids and salts, opium tinctures and extracts, exempt preparations, and manufacturing opium produced.

ART. 126. *Importation reports.*—Importations of opium shall be reported in summarized entries in the debit summary of the monthly return, Form 810, together with the amount of the tax stamps affixed thereto, and shall be immediately reported by similar summarized entries in the credit summary of Form 810 as "Transferred to importing manufacturer's return". Such importations shall then be reported on a detail sheet, Form 163b, in the importing manufacturer's return and shall be further accounted for in the crude opium account and in the appropriate manufacturing statements in such return. Products manufactured therefrom shall be reported as produced in accordance with Articles 124 and 125 and, with the exception of manufacturing opium, morphine for further manufacture, and other crude or unfinished alkaloids, shall be transferred to the monthly return, Form 810, when reported produced.

ART. 127. *Assays.*—Upon importation of crude opium, samples will be selected and assays made by the importing manufacturer in the manner and according to the method specified in the United States Pharmacopoeia, eleventh edition. These assays shall form the basis of accounting for such opium, which shall be accounted for in terms of its anhydrous morphine alkaloid content and its equivalency in standard 10 per cent opium. Where final assay data is not determined at the time of rendering return, report shall be made on the basis of the best data available, subject to adjustment, and the necessary adjusting entries shall be made on the next return.

ART. 128. *Withdrawal from customs custody.*—Upon withdrawal of crude opium from customs custody, the importing manufacturer shall assign to each chest or container an identification mark or number by which the opium will be associated with the lot assay and identified in returns.

ART. 129. *Recording withdrawals.*—Where factory procedure is such that partial withdrawals of opium are made from individual containers, there shall be attached to each container a stock record card on which shall be kept a complete record of all withdrawals therefrom.

ART. 130. *Reporting production.*—Manufacturing opium shall be reported produced when it comes into existence in that form in which it is intended for exclusive use in further manufacture. Medicinal opium, morphine and its salts, or other alkaloids or derivatives produced exclusively for sale as such shall be reported as produced when manufacture has actually been completed and the finished marketable product ready for packaging and sale. Such products shall be regarded as ready for packaging and sale as soon as all processing other than mere packaging and stamping has been completed. Medicinal opium, tinctures, extracts, or other products manufactured partly for sale and partly for use in further manufacture will be reported produced as soon as manufacture is complete and they are ready either for use in further manufacture or for packaging for sale.

ART. 131. *Completing manufacture.*—No accumulations of morphine or other narcotic drugs in their pure or near-pure states shall be permitted to remain inactively in process. All such products nearing completion of their respective processes and approaching a condition of purity shall be carefully protected, promptly completed, and immediately transferred to finished stocks, and reported as produced.

ART. 132. *Conversion factors.*—In making conversions of opium alkaloids and their salts to anhydrous morphine and to 10 per cent opium the quantity of the particular alkaloid or salt in avoirdupois ounces shall be multiplied by a conversion factor arrived at by ascertaining the ratio, carried to the fourth decimal place, between the respective molecular weight of such alkaloid or salt and the molecular weight of anhydrous morphine (285.16), such weights being computed to the third decimal place from the chemical formulae of the substances and the atomic weights of elements, as adopted by the International Committee on Chemical Elements in 1934 and published in the eleventh edition of the United States Pharmacopoeia.

Manufacturers Importing Medicinal Coca Leaves

ART. 133. *Returns required.*—Every manufacturer importing raw coca leaves for the manufacture of medicinal products shall render, in addition to the return on Form 810 and its supplements, a "Medicinal Coca Leaf Importing Manufacturer's Return", on Form 168 and its supplements 168a and 168b, accounting, in accordance with the instructions on the forms, for the detail of such importation and for all manufacturing operations performed between such importation and the manufacture in bulk of finished products standardized in accordance with U. S. P., N. F. or other recognized standards. Subsequent manufacture from such products, including bottling or packaging operations, shall be accounted for in monthly returns on Form 810 and its supplements. Returns on Form 168 and its supplements shall be rendered quarterly by manufacturers extracting the alkaloids of coca leaves and their salts, and monthly by all other manufacturers importing and using raw coca leaves in the manufacture of medicinal products. Each such return shall be sworn to and submitted direct to the Commissioner of Narcotics on or before the 12th day of the month immediately following the period for which it is rendered.

ART. 134. *Form 168 and supplements.*—The return of manufacture from medicinal coca leaves shall consist of summaries on Forms 168 and 168a with supporting detail sheets on Form 168b accounting for original manufacture from such leaves, conversion or synthesis from the ecgonine base or other coca alkaloids, production from manufacturing coca extracts, and also accounting for stocks of raw coca leaves, manufacturing coca extracts, and other crude coca alkaloids as such substances are defined on the forms. One Form 168b shall be used for each major class of transactions on each summary except where the entries represent mere deduction or total items, or balances carried forward from previous returns. Each detail sheet shall be headed to correspond with the major title of the group of entries which it supports and shall be numbered to correspond with the line and summary numbers.

ART. 135. *Detailed reports.*—The detail sheets, Form 168b, supporting the summary of original manufacture from medicinal coca leaves, shall show separately the coca leaves used for the manufacture of manufacturing coca extracts, coca leaves used for the direct manufacture of marketable coca tinctures and extracts, and coca leaves used for the extraction of alkaloids, and shall show separately the coca alkaloids and salts, coca tinctures and extracts, and manufacturing coca extracts produced.

ART. 136. *Importation reports.*—Importations of medicinal coca leaves shall be reported in summarized entries in the debit summary of the monthly return, Form 810, together with the amount of the tax stamps affixed thereto, and shall be immediately reported by similar summarized entries in the credit summary of Form 810 as "Transferred to importing manufacturer's return". Such importations shall then be reported in detail on Form 168b, and shall be further accounted for in Form 168 and in the appropriate manufacturing statements in the return. Products manufactured therefrom shall be reported as produced in accordance with Article 140 and, with the exception of manufacturing coca extracts, residues or bases for further manufacture, and other crude or unfinished alkaloids, shall be transferred to the monthly return, Form 810, when reported produced.

ART. 137. *Assays.*—Upon importation of medicinal coca leaves, samples will be selected and assays made by the importing manufacturer in accordance with recognized chemical procedures. These assays shall form the basis of accounting for such coca leaves, which shall be accounted for in terms of their cocaine alkaloid content or equivalency or their total anhydrous coca alkaloid content. Where final assay data is not determined at the time of rendering return, report shall be made on the basis of the best data available, subject to adjustment, and the necessary adjusting entries shall be made on the next return.

ART. 138. *Withdrawal from customs custody.*—Upon withdrawal of medicinal coca leaves from customs custody, the importing manufacturer shall assign to each bale or container an identification mark or number by which the coca leaves will be associated with the lot assay and identified in returns.

ART. 139. *Recording withdrawals.*—Where factory procedure is such that partial withdrawals of medicinal coca leaves are made from individual containers, there shall be attached to the container a stock record card on which shall be kept a complete record of withdrawals therefrom.

ART. 140. *Reporting production.*—Manufacturing coca extracts shall be reported produced when they come into existence in that form in which they are intended for exclusive use in further manufacture. Cocaine and its salts, ecgonine and its salts, or other alkaloids or derivatives produced exclusively for sale as such shall be reported as produced when manufacture has actually been completed and the finished marketable product is ready for packaging and sale. Such products shall be regarded as ready for packaging and sale as soon as all processing other than mere packaging and stamping has been completed. Tinctures, extracts, or other products manufactured partly for sale and partly for use in further manufacture shall be reported produced as soon as manufacture is complete and they are ready either for use in further manufacture or for packaging for sale.

ART. 141. *Completing manufacture.*—No accumulations of cocaine or ecgonine or other narcotic drugs in their pure or near-pure states shall be permitted to remain inactively in process. All such products nearing completion of their respective processes and approaching a condition of purity shall be carefully protected, promptly completed, and immediately transferred to finished stocks, and reported as produced.

ART. 142. *Conversion factors.*—In making conversions of coca alkaloids and their salts to cocaine alkaloid and to anhydrous ecgonine alkaloid, the quantity of the particular alkaloid or salt in avoirdupois ounces shall be multiplied by a conversion factor arrived at by ascertaining the ratio, carried to the fourth decimal place, between the molecular weight of such alkaloid or salt, and the molecular weight of cocaine alkaloid (303.172) or anhydrous ecgonine alkaloid (185.125), as the case may be, such weights being computed to the third decimal place from the chemical formulae of the substances and the atomic weights of elements, as adopted by the International Committee on Chemical Elements in 1934 and published in the eleventh edition of the United States Pharmacopoeia.

Manufacturers Importing Special Coca Leaves

ART. 143. *Returns required.*—Every manufacturer using special coca leaves imported into the United States pursuant to the Act of June 14, 1930, shall render a quarterly return on Form 169 and its supplements, and shall thereon account for all transactions involving such leaves or substances derived therefrom which contain cocaine or ecgonine, or any salts, derivatives, or preparations from which cocaine or ecgonine may be synthesized or made. This return shall be signed and sworn to by the manufacturer or his authorized agent, and rendered direct to the Commissioner of Narcotics on or before the 12th day of the month following the period for which the return is made. Such return shall include a report of all importations of special coca leaves on Form 169a, a report of all materials entered into the processes of manufacture on Form 169b, a report of the various substances produced therefrom on Forms 169c, 169d and 169e, a report of all such substances destroyed on Form 169f, and a summary of operations on Form 169g.

ART. 144. *Report of importations.*—The report of importations on Form 169a shall show in appropriate columns the following data as to each importation:

(1) The date of the import permit.
(2) The serial number of the import permit.
(3) The name of the foreign consignor.
(4) The address of the foreign consignor.
(5) The foreign port of export.
(6) The number of bales imported.
(7) The serial numbers of the bales imported.
(8) The quantity imported in avoirdupois pounds.

ART. 145. *Report of materials used.*—The report of materials entered into the processes of manufacture on Form 169b shall show in appropriate columns the following information as to each lot of leaves dumped:

(1) The lot number or specification, a specification to be assigned to each dump for identification purposes in order to avoid repeating the serial numbers of the bales when the lot is subsequently referred to.
(2) The date the leaves were put in process of manufacture.
(3) The number of bales dumped.
(4) The serial numbers of the bales.
(5) The quantity of leaves put in process, stated in avoirdupois pounds.
(6) The quantity of alcohol used for each extraction or wash of the leaves, by alcohol.
(7) The quantity of water used for each water extraction or dilution.
(8) The quantity of any other or additional substance introduced at any stage into the process of manufacture.
(9) The dry weight of any filter cloth or other absorbent material to be later removed from process after saturation.

ART. 146. *Reports of manufacture.*—The reports of substances produced from special coca leaves, Form 169c, 169d and 169e, shall show, in appropriate columns the following information as to each production lot or dump:

(1) The lot number.
(2) The quantity of ground leaves entered into process, in terms of avoirdupois ounces and the quantity, in ounces and grains, of alkaloid contained therein as determined by analysis.
(3) The quantity of substance in process after each distinct step in the manufacturing process and the total alkaloid contained in each, stated in ounces and grains.
(4) The quantity of exhausted or spent leaves and the quantity of each residue removed from process, and the total alkaloid contained in each, stated in ounces and grains.
(5) The weight of the used filter cloth or other absorbent material removed, after saturation
(6) The quantity, in gallons, of finished extract produced.

ART. 147. *Report of residues destroyed.*—The report of residues destroyed, Form 169f, shall show for each lot destroyed, in appropriate columns the following data:

(1) The lot number.
(2) The quantity of spent leaves, residues, and saturated materials destroyed, stated separately for each.
(3) The name of the government officer witnessing the destruction.

ART. 148. *Summary.*—The summary, Form 169g, shall include a complete accounting for all transactions in raw leaves, leaves in process, and residues removed from production processes. The summary of raw coca leaves shall show:

(1) The quantity of special coca leaves on hand at the beginning of the quarter.
(2) The quantity of special coca leaves imported during the quarter.
(3) The quantity of special coca leaves put into process of manufacture during the quarter.
(4) The quantity of special coca leaves on hand at the end of the quarter.
(5) Any other transaction during the quarter which increased or decreased the quantity of raw coca leaves on hand.

The summary of coca leaves in process shall show:

(1) The quantity of special coca leaves in process at the beginning of the quarter.
(2) The quantity of such leaves placed in process during the quarter.
(3) The quantity of such leaves represented by lots completed during the quarter.
(4) The quantity of such leaves represented by lots in process at the end of the quarter.
(5) Any other transaction during the quarter which increased or decreased the quantity of leaves in process.

The summary of residues removed from production processes shall show, in appropriate columns, separately as to spent leaves, each residue and saturated material, the following information:

(1) The quantity of each, on hand at the beginning of the quarter, awaiting destruction.
(2) The quantity of each removed from process during the quarter.
(3) The quantity of each destroyed during the quarter.
(4) The quantity of each on hand at the end of the quarter.
(5) Any other transaction during the quarter affecting the quantity of such residues on hand.

Wholesale Dealers

ART. 149. *Returns required.*—Every person registered in Class II as a wholesale dealer shall render a monthly return on Form 811 and its supplements 811a and 811b accounting for all transactions involving taxable narcotics. The return shall be sworn to and submitted to the collector of internal revenue for the district, on or before the 15th day of the month succeeding that for which the return is rendered.

Each return shall consist of Forms 811a showing all receipts of taxable narcotics and Forms 811b showing all dispositions of taxable narcotics, and a Form 811 showing a complete summary of transactions for the month. Forms 811a and 811b shall be headed in accordance with the classifications of the transactions set out in the instructions on Form 811.

ART. 150. *Form 811a—Receipts.*—All taxable narcotic drugs and preparations received by a wholesale dealer as such, including transfers from other classes at the same location, shall be recorded on Form 811a in the order and at the time of receipt. Where record on Form 811a can not, for any good and sufficient reason, be made immediately, the wholesale dealer shall have available for inspection such invoices, delivery or duplicate sales slips, or other papers or records as may be required to evidence any unrecorded purchase or other receipt.

ART. 151. *Form 811b—Dispositions.*—All taxable narcotic drugs and preparations disposed of by a wholesale dealer as such, including transfers to other classes at the same location, shall be recorded on Form 811b in the order and at the time of disposition. Where record on Form 811b can not, for any good and sufficient reason, be made immediately, the wholesale dealer shall have available for inspection original sales orders, delivery slips, or other papers or records which may be required to evidence any unrecorded disposition.

ART. 152. *Form 811—Summary.*—The wholesale dealer shall report on Form 811, in accordance with instructions appearing thereon, a complete summary of operations.

ART. 153. *Assembling.*—Form 811 shall be used as a jacket or outside sheet for Forms 811a, 811b and 811c, which shall constitute the inside sheets. The inside sheets shall be numbered consecutively, beginning with the number 1. Before transmitting the return to the collector the registrant shall securely fasten together all sheets.

ART. 154. *Examination by collector.*—The collector will examine and verify the name entered on page 1 of Form 811, and the sworn statement and signature. The person examining the return shall sign in the space provided on Form 811 therefor, and the date received in the collector's office shall be stamped or entered in the space provided.

Inventories

ART. 155. *Form 810c—Manufacturers, producers, compounders.*—Each manufacturer, producer or compounder registered in Class I under the Act shall render as a part of his June and December returns on Form 810 a detailed inventory on Form 810e of all narcotic substances, except those specifically required by Articles 156 and 157 to be reported on other forms, which are in his possession on June 30 and December 31 of each year, classified and grouped as follows:

(a) Raw materials.
(b) Goods in process.
(c) Finished bulk stock.
(d) Finished goods in marketable packages.
(e) Miscellaneous stock.

ART. 156. *Form 163b—Manufacturers importing opium.*—Each manufacturer who imports crude opium shall, in addition to the inventory required by Article 155, render an inventory on Form 163b of crude opium, goods in process of manufacture from crude opium, and substances resulting from such processes of manufacture which have not been transferred to the return on Form 810, which are in his possession as an opium importing manufacturer on June 30 and December 31 of each year. However, manufacturers engaged in extracting alkaloids from opium may render inventories of goods in process of such extraction annually instead of semiannually, and such inventories may be rendered by any such manufacturer either as of June 30 or December 31, but shall be rendered as of the same date each year. Each inventory on Form 163b shall group the substances on hand on separate sheets in accordance with the classifications in the summaries of Forms 163 and 163a and each sheet shall be numbered to correspond with the appropriate line and summary numbers of such Forms 163 and 163a. Each such inventory shall be made a part of the return rendered on Form 163 for the month or quarter ending with the date for which the inventory is rendered.

ART. 157. *Form 168b—Manufacturers importing medicinal coca leaves.*—Each manufacturer who imports coca leaves for the manufacture of medicinal products shall, in addition to the inventory required by Article 155, render an inventory on Form 168b of raw coca leaves, goods in process of manufacture from such leaves and substances resulting from such processes of manufacture which have not been transferred to the return on Form 810, which are in his possession as a coca leaf importing manufacturer on June 30 and December 31 of each year. Each inventory on Form 168b shall group the substances on hand on separate sheets in accordance with the classifications in the summaries of Forms 168 and 168a and each sheet shall be numbered to correspond with the appropriate line and summary numbers of such Forms 168 and 168a. Each such inventory shall be made a part of the return rendered on Form 168 for the month or quarter ending with the date for which the inventory is rendered.

ART. 158. *Form 811c—Wholesale dealers.*—Every wholesale dealer shall render, as part of his June and December returns on Form 811, an inventory, on Form 811c, of taxable narcotic drugs on hand on June 30 and December 31 of each year. A separate entry shall be made with respect to each kind of drug or preparation, and each kind or size of package. Each entry shall show the name, quantity and narcotic content of the drug or preparation and the size of the individual package, the number of packages, and the total narcotic content of all the packages covered by the entry, classified according to the kind of narcotic contained in the drug or preparation.

Miscellaneous

ART. 159. *Substitute forms.*—Where the manufacturing processes of any manufacturer are such that in the opinion of the Commissioner the forms herein prescribed do not provide an adequate accounting therefor, or where in the opinion of the Commissioner some other form will provide a more satisfactory accounting, such manufacturer shall render returns on such forms and for such periods as the Commissioner shall provide and prescribe.

ART. 160. *Discontinuance of business.*—Upon discontinuance of business, any registrant required by these regulations to render returns shall, in addition to complying with the requirements of Article 195, render on the appropriate form a final return, marked "Final," which shall show in detail the disposition of all narcotics carried in the class for which the return is rendered, and, in the case of a Class I registrant, the disposition of all narcotic strip stamps purchased by him.

ART. 161. *Transfer of business.*—Any registrant required by these regulations to render returns, upon transferring his business to a successor at the same location shall, upon qualification of the successor, render a final return on the prescribed forms to the date of discontinuance of business, and in case business is discontinued on any date other than the close of a fiscal year an affidavit must be furnished in duplicate as provided in Article 195. This return shall be marked "Final," shall contain a statement indicating to whom the business was transferred, and shall show in detail the disposition of all the narcotics carried in the class for which the return is rendered. The initial return of the successor shall account for transactions beginning with the day next succeeding the date of discontinuance of business by the predecessor, and if the narcotics of the predecessor have been purchased by him, they shall be reported as receipts in his initial return. Where strip stamps are transferred to a successor at the same location, as provided in Article 57, a report of all such stamps transferred shall be made by both the person discontinuing business and his successor in the same manner as the report of narcotics transferred. Any strip stamps not transferred to a successor in business at the same location should be returned to the collector of internal revenue for redemption or cancelation. In all cases where a transfer of ownership or identity, as by the taking in of a partner, etc., is made, the same procedure shall be followed.

ART. 162. *Signing and verifying returns.*—In preparing returns required by this chapter the name of the person entered on the first page shall be the name as registered with the collector. The registrant shall swear that the statements and details of the return are correct and true, and shall sign such statement, except that it may be signed by another person authorized by power of attorney previously filed with and approved by the collector. The power of attorney shall be executed in the same manner as applications for registration, shall show the signature of the person thereby authorized to sign such statements, and shall affirm that the signature so shown is his signature.

ART. 163. *Duplicate copy.*—A duplicate copy of any return required by this chapter, properly sworn to as in the case of the original copy, shall be retained on file together with other narcotic records, and shall be kept available for inspection for not less than two years.

ART. 164. *Examination by collectors.*—Collectors shall examine returns within five days after receipt from taxpayers and shall so far as practicable forward them immediately in a single shipment to the Commissioner of Narcotics with a letter of transmittal.

ART. 165. *Inspection by food and drug inspectors.*—Each collector is authorized to make the narcotic returns of manufacturers and wholesale dealers available for examination by properly identified federal food and drug inspectors during such time as the returns may be in his office.

CHAPTER VIII. RETAIL DEALERS, PRACTITIONERS, DEALERS IN EXEMPT PREPARATIONS AND LABORATORIES

Prescriptions

SEC. 2. • • • Nothing contained in this section shall apply—

(a) To the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist, or veterinary surgeon registered under this Act in the course of his professional practice only: *Provided*, That such physician, dentist, or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in this Act.

(b) To the sale, dispensing, or distribution of any of the aforesaid drugs by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under this Act: *Provided, however*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned.

ART. 166. *Who may issue.*—A prescription for narcotic drugs may be issued only by a physician, dentist, veterinary surgeon, or other practitioner who has duly registered, or an exempt official.

ART. 167. *Purpose of issue.*—A prescription, in order to be effective in legalizing the possession of unstamped narcotic drugs and eliminating the necessity for use of order forms, must be issued for legitimate medical purposes. The responsibility for the proper prescribing and dispensing of narcotic drugs is upon the practitioner, but a corresponding liability rests with the druggist who fills the prescription. An order purporting to be a prescription issued to an addict or habitual user of narcotics, not in the course of professional treatment but for the purpose of providing the user with narcotics sufficient to keep him comfortable by maintaining his customary use, is not a prescription within the meaning and intent of the act; and the person filling such an order, as well as the person issuing it, may be charged with violation of the law.

ART. 168. *Manner of execution—Practitioners.*—All prescriptions for drugs and preparations not specifically exempt under section 6 of the act (see Articles 180 to 182, incl.) shall be dated as of and signed on the day when issued and shall bear the full name and address of the patient and the name, address, and registry number of the practitioner. A physician may sign a prescription in the same manner as he would sign a check or legal document, as, for instance, J. H. Smith, John H. Smith, or John Henry Smith. Prescriptions should be written with ink or indelible pencil or typewritten; if typewritten, they shall be signed by the practitioner. The duty of properly preparing prescriptions is upon the practitioner, and he is liable to the penalties provided by the act in case of failure to insert the information required by the law. A prescription may be prepared by a secretary or agent for the signature of a practitioner, but the practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the druggist who fills a prescription not prepared in the form prescribed by law.

ART. 169. *Who may fill.*—A prescription for narcotic drugs may be filled only by a retail dealer registered in Class III, an exempt official, or a member of Class I who is qualified to sell drugs at retail.

ART. 170. *Refilling.*—The refilling of a prescription for taxable narcotics is prohibited.

ART. 171. *Partial filling.*—As a general rule, the partial filling of narcotic prescriptions is not permissible. If, however, a dealer is unable to supply the full quantity called for in a prescription and an emergency exists, he may supply a portion of the drugs called for by the prescription, provided he makes a suitable notation on the face of the prescription of the quantity furnished and the reason for not supplying the full quantity on the back of the prescription and advises the issuing practitioner thereof. No further quantity shall be supplied except upon a new prescription.

ART. 172. *Telephone orders.*—The furnishing of narcotics pursuant to telephone advice of practitioners is prohibited, whether prescriptions covering such orders are subsequently received or not, except that in an emergency a druggist may deliver narcotics through his employee or responsible agent pursuant to a telephone order, provided the employee or agent is supplied with a properly prepared prescription before delivery is made, which prescription shall be turned over to the druggist and filed by him as required by law.

ART. 173. *Forms to be used.*—The Government does not furnish prescription forms, and the order forms which are supplied must not be used as prescriptions. Any prescription form may be used, provided the required data is shown thereon.

ART. 174. *Filing.*—Dealers who fill prescriptions shall keep them in a separate file in such manner as to be readily accessible to inspection by investigating officers, for not less than two years.

ART. 175. *Labels on containers.*—The dealer filling a prescription shall affix to the package a label showing his name and registry number, the serial number of the prescription, the name and address of the patient, and the name, address, and registry number of the practioner issuing the prescription.

Dispensing

ART. 176. *Prescriptions unnecessary.*—Practitioners may dispense narcotic drugs to bona fide patients pursuant to the legitimate practice of their professions without prescriptions or order forms.

ART. 177. *Practitioners records.*—All persons and institutions registered in Class IV (practitioners, see Art. 19, shall keep a daily record showing the kind and quantity of narcotics dispensed or administered, the name and address of each person to whom dispensed or administered, the name and address of the person upon whose authority and the purpose for which dispensed or administered. Practitioners are not required to keep a record of narcotics dispensed to persons upon whom they in the course of their professional practice are in personal attendance.

ART. 178. *Form of record.*—No special record form for the use of those registered as practitioners is prescribed. Hospitals and institutions shall keep records in the manner best calculated to meet the conditions existing therein and to enable an inspecting officer quickly to ascertain the kinds and quantities of narcotics used daily. The initials of the practitioner giving directions for the administering of a narcotic should be entered on the patient's record chart, or a separate prescription giving the name and address of the patient, the date, and the physician's signature or initials, filed with the pharmacist in charge of the drug room before the narcotic leaves his control. If both chart and prescription are used, reference to the prescription should be made on the chart.

ART. 179. *Stock preparations.*—A practitioner who, in his office practice, administers minute quantities of narcotics in stock preparations, may keep, as to such preparations, in lieu of the record required by Art. 177, a record of the date when each stock preparation is made or purchased and the date when the preparation is exhausted.

Exempt Preparations

SEC. 6. That the provisions of this Act shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act: *Provided further*, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section lawfully entitled to manufacture, produce, compound, or vend such preparations and remedies, shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 5 of this Act, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 1 of this Act and, if he is not paying a tax under this Act, he shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of internal revenue of the district in which he carries on such occupation as provided in this Act. The provisions of this Act as amended shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

ART. 180. *Extent of exemption.*—The section of the law last quoted has the effect of conditionally exempting from liability under the other sections of the act persons manufacturing and dealing in certain narcotic preparations or remedies. Such persons are, however, subject to certain requirements laid down in section 6. Manufacturers of and dealers in exempt preparations are required to register as such whether liable to tax in that capacity or not. (See Art. 13 as to tax liability.)

Preparations containing cocaine or pantopon in any quantity, whether for internal or external use, are not within section 6 but are subject to all other provisions of the act.

ART. 181. *Standards of exemption.*—Preparations designed for or capable of internal use to be exempt shall not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce. The preparation shall contain active medicinal drugs other than narcotics in sufficient proportion to confer upon the preparation valuable medicinal qualities other than those possessed by the narcotic drug alone. Use for aural, nasal, ocular, rectal, urethral, or vaginal purposes is not regarded as external use and, therefore, preparations manufactured or used for such purposes containing more than the percentages of narcotic drugs as above indicated are not within the exemption.

There is no limitation upon the percentage of narcotic drugs external preparations may contain. In order to be within the exemption a preparation for external use, containing more than the maximum percentage of narcotic drugs above specified, shall contain ingredients rendering it unfit for internal administration.

ART. 182. *Restrictions on dispositions.*—A preparation conforming to the standards set out in Article 181 is exempt from stamp tax and the requirements pertaining to taxable narcotics only when manufactured, sold, distributed, given away, dispensed, or possessed as a medicine. A manufacturer may produce and sell as exempt only preparations readily capable of use for claimed medicinal purposes, and sales thereof, if not to consumers, shall be made only to persons registered in Class V. Sales made to consumers, either by manufacturers or dealers shall be made only in such quantities and with such frequency to the same purchaser as will restrict their use to the medicinal purpose for which intended.

ART. 183. *Dispositions to dealers.*—Orders for exempt preparations except where sold to a registrant in Class VI are not required to be on any particular forms, but an order from a dealer shall not be honored by a manufacturer or other dealer unless it bears the registry number of the dealer giving the order. (See Articles 100, 105 and 111, relative to orders received from the Virgin Islands, Puerto Rico and the Philippine Islands, respectively.)

Where orders for exempt preparations are taken by a traveling salesman the salesman shall ascertain the registry number of the purchaser. The order shall not be filled by the manufacturer or vendor unless he knows the purchaser's registry number.

ART. 184. *Dispositions to consumers.*—Preparations or remedies which are within the exemption may be sold with or without prescriptions, and a prescription for such a preparation may be refilled provided, of course, the preparation is furnished in good faith for medicinal purposes only. The filling or refilling of narcotic prescriptions calling for more than one exempt preparation or a mixture consisting of an exempt preparation or remedy further reduced or diluted by the addition of non-narcotic medicinal agents is authorized, provided, of course, the preparation is furnished in good faith for medicinal purposes.

An extemporaneous prescription calling for narcotic drugs not in excess of the amounts specified in section 6 may be refilled in the same manner as a prescription calling for ready-made preparations or remedies, provided the mixture is sold in good faith for medicinal purposes only, and a record is kept of the sale in the manner indicated in Article 185.

ART. 185. *Records required.*—Every manufacturer, producer, compounder, or vendor (including dispensing physicians), of exempt preparations shall record all sales, exchanges, gifts, or other dispositions, the entries to be made at the time of delivery. Separate records shall be kept of dispositions to registrants and of dispositions to consumers. The record of dispositions to registrants shall show the name, address, and registry number of the registrant to whom disposed, the name and quantity of the preparation, and the date upon which delivery to the registrant, his agent or a carrier is made. The record of dispositions to consumers shall show the name of the recipient, his address, the name and quantity of the preparation, and the date of delivery.

Forms are not furnished for the keeping of these records, but the records shall be in the following form:

Form of record of dispositions to registrants

Date	Registration No. of recipient	Name of recipient	Address	Name of preparation	Quantity

Form of record of dispositions to consumers

Date	Name of recipient	Address	Name of preparation	Quantity

In the case of manufacturers of or dealers in exempt preparations who are also registered as manufacturers of or dealers in taxable drugs in Class I or II, the foregoing requirement as to records of dispositions to registrants shall be deemed to be complied with, if all such dispositions are evidenced by vouchers or invoices containing all the required information and such vouchers or invoices are kept in a separate file arranged chronologically.

As to records required in the case of registrants supplying exempt preparations to consumers pursuant to prescriptions issued by registered physicians, the foregoing requirement as to records of dispositions to consumers shall be deemed to be complied with if each such prescription shows the name and address of the recipient, the name

and quantity of the preparation, and the date of filling, and the prescriptions are kept on the narcotic prescription file.

Laboratories

SEC. 1. • • • persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain and use in a laboratory any of the aforesaid drugs for the purpose of research, instruction, or analysis shall pay $1 per annum, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of the aforesaid drugs as the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer, employee, or agent of the Treasury Department.

ART. 186. *Records required.*—Persons registered in Class VI shall keep complete records of receipts, disposals, and stocks on hand, of all narcotic drugs and preparations. Duplicate copies of official order forms used to obtain narcotic drugs and preparations shall be retained (see Art. 88) and inventory on Form 713 shall be prepared, the original of which shall be kept on file by the maker and the duplicate forwarded to the collector of internal revenue with the application for registration (see Art. 10). A special record shall be kept showing the date, kind, and quantity of narcotic drug or preparation used, the particular purpose or object of such use, and of the identification and disposition of the narcotics or resulting products or residues so used, showing the date, quantity of resulting products or residues, and manner of disposition.

Forms are not furnished for the keeping of this record, but the record shall be in the following form, which lists sample items as a guide:

Narcotic used				Identification and disposition of narcotics or resulting products and residues			
Date	Kind	Quantity	Purpose	Date	Products or residues	Quantity	Disposition (destroyed, retained or returned)
------	Thebaine	1 oz	Experimental synthesis.	------	None	None	All residues destroyed.
------	Morphine	1 oz	Experimental synthesis.	------	Codeine	½ oz	Retained for instructional exhibit.
------	Narcotine	30 gr	Mineral analysis	------	None	None	Consumed in analysis.
------	Crude opium	1 lb	Assay.	------	Crude opium	½ lb	Returned to registered person desiring assay on Order Form No. —.

ART. 187. *Handling of drugs.*—Official order forms shall be used to cover all transfers of narcotic drugs to and from registrants in Class VI, including preparations and remedies which might otherwise be exempt from this requirement under section 6 of the Act.

Any product or residue resulting from the use of a narcotic drug or preparation obtained upon an order form, which is desired to be retained for further research, instruction or analysis, shall be placed in a container legibly labeled with the name of the product or residue and the date produced.

Any sale of a narcotic drug or preparation by a registrant in Class VI will render him liable to registration and to payment of tax in Classes I or II, as the facts may warrant, and to compliance with all other requirements of the law and regulations governing sales by registrants in Classes I or II.

CHAPTER IX. ADMINISTRATIVE PROVISIONS

Assessment of Tax

SEC. 3182. *United States Revised Statutes.*—The Commissioner of Internal Revenue is hereby authorized and required to make • • • assessments of all taxes and penalties • • • where such taxes had not been duly paid by stamp at the time and in the manner provided by law, • • •.

ART. 188. *Assessment of taxes not paid by stamp.*—Tax due on narcotic drugs not paid by attachment of stamps to containers shall be reported for assessment. Special tax which the taxpayer refuses or fails to pay may likewise be reported for assessment.

SEC. 1105. *Revenue Act of 1932, as amended by section 510, Revenue Act of 1934.*—

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3187 of the Revised Statutes, as amended.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

ART. 189. *Jeopardy assessment.*—Whenever, in the opinion of the collector, the collection of tax will be jeopardized by delay, he shall report the matter promptly to the Commissioner of Internal Revenue by telegram or letter. The communication should recite the full name and address of the person involved, the kind and amount of tax, the period involved, and such statement of the circumstances and recommendation as will enable the Commissioner immediately to determine and assess the tax due, together with all penalties.

If a jeopardy assessment is made, the taxpayer may stay the collection of the tax by filing with the collector a bond in such amount, not exceeding double the amount of the tax, and with such sureties, as the collector deems necessary, conditioned upon the payment of the tax at the usual time. In lieu of surety or sureties the taxpayer may deposit with the collector United States Liberty bonds or other bonds or notes of the United States having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the collector to sell or collect the bonds or notes in case of default.

Sec. 1118 (a) Revenue Act of 1926.—Collectors may receive, at par with an adjustment for accrued interest, notes or certificates of indebtedness issued by the United States and uncertified checks in payment of income, war-profits, and excess-profits taxes and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions to the same extent as if such check had not been tendered.

ART. 190. *Payment by check, etc.*—Collectors may receive uncertified checks in payment of assessments (but not in payment for stamps), if such checks are collectible at par—that is, for their full amount, without deduction for exchange or other charges. The collector will stamp on the face of each check before deposit the words "This check is in payment of an obligation to the United States and must be paid at par. No protest.", with his name and title.

If the bank upon which any such check is drawn refuses, for any reason, to pay it at par, the check shall be returned through the depository bank and treated as a dishonored check. All expenses incident to the attempt to collect such check and the return of it through the depository bank shall be borne by the drawer, since no deduction can be made from amounts received in payment of taxes. Unless the taxpayer whose check has been returned uncollected by the depository bank makes the check good immediately, or pays the amount thereof, the collector shall proceed to collect the tax as though no check had been given. A taxpayer who tenders a check, whether certified or not, in payment of taxes, is not released from his obligation until the check has been paid.

Redemption of, or Allowance for Stamps

Act of May 12, 1900, as amended by section 1013 (a) of the Revenue Act of 1924.—That the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any internal-revenue tax, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected. Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed, for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner of Internal Revenue, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the said Commissioner, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid. • • • *Provided, further,* That no claim for the redemption of, or allowance for, stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government.

SEC. 2. That the finding of facts in and the decision of the Commissioner of Internal Revenue upon the merits of any claim presented under or authorized by this Act shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

SEC. 3. That all laws and parts of laws in conflict with any of the provisions of this Act are hereby repealed.

ART. 191. *Claims.*—Amounts paid for stamps used in excess, spoiled, destroyed, or rendered unless or unfit for the purpose intended, may be refunded, upon claim properly presented to the collector. All claims for the redemption of or allowance for stamps shall be presented to the collector on Form 843 within 4 years after the purchase of said stamps from the Government. In filing a claim for the redemption of or allowance for stamps covering the tax on narcotic drugs, the stamps involved shall be submitted therewith, or if it is impracticable to submit the stamps, they shall be presented to a deputy collector or other authorized internal-revenue representative, who shall write on the face of the stamps the words "Claim for refund filed" and a statement from such internal-revenue representative shall be furnished showing that such endorsement has been made. The claim shall be forwarded to the collector of internal revenue for the district in which the taxpayer is located who shall certify as to the date the stamps were purchased. The provisions of Sections 3220 to 3228, United States Revised Statutes, do not apply to the redemption of or allowance for internal-revenue stamps, and the authority for such redemption or allowance is the Act of May 12, 1900 (31 Stat. 177), as amended by Section 1013 (a) of the Revenue Act of 1924, set forth hereinbefore.

SEC. 3220. *United States Revised Statutes, as amended by section 1111 of the Revenue Act of 1926 and section 619 (b) of the Revenue Act of 1928.*—Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expense of suit; also all damages and costs recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section.

SEC. 3228. *United States Revised Statutes, as amended by section 1112 of the Revenue Act of 1926, section 619 (c) of the Revenue Act of 1928, and section 1106 of the Revenue Act of 1932.*—(a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

Sec. 1106 (b) of the Revenue Act of 1932.—The amendment made by subsection (a) of this section to section 3228 of the Revised Statutes shall not bar from allowance a claim for refund filed prior to the enactment of this Act which but for such enactment would have been allowable.

ART. 192. *Refunds.*—As indicated hereinbefore, the tax on narcotics is ordinarily paid by the purchase and affixing of stamps, while special-tax stamps are issued in payment of special taxes. However, in exceptional cases, such taxes may be paid pursuant to assessment. Claims for refund of amounts so paid by assessment are governed by sections 3220 and 3228, United States Revised Statutes, as amended. Such claims are not valid unless presented within 4 years next after payment of the taxes.

Miscellaneous

ART. 193. *Safeguarding of narcotics.*—Narcotic drugs and preparations shall at all times be properly safeguarded and securely kept where they will be available for inspection by properly authorized officers, agents, and employees of the Treasury Department.

ART. 194. *Procedure in case of loss.*—Where, through breakage of the container or other accident, otherwise than in transit, narcotics are lost or destroyed, the person having title thereto shall make affidavit as to the kinds and quantities of narcotics lost or destroyed and the circumstances involved, and immediately forward the affidavit to the narcotic district supervisor. A copy of such affidavit shall be retained and filed with the other narcotic records. See appendix for list of narcotic district supervisors, their headquarters and States embraced.

Where narcotics are lost by theft, or otherwise lost or destroyed in transit, the consignee shall immediately upon ascertainment of the occurrence file with the narcotic district supervisor, a sworn statement of the facts, including a list of the narcotics stolen, lost, or destroyed, and documentary evidence that the local authorities were notified. A copy of the sworn statement shall be retained and filed with the other narcotic records of the consignee.

A loss in transit does not authorize a vendor to duplicate a shipment on the same order form. A separate order form covering each and every shipment of narcotics is required.

ART. 195. *Procedure on discontinuance of business.*—Where it is desired to discontinue business the taxpayer shall, before the discontinuance, dispose of all narcotics on hand and return all unused order forms to the collector for cancellation. Where the discontinuance occurs on any date other than June 30 the taxpayer shall also return the special-tax stamp or stamps to the collector who will mark each such stamp "Business discontinued" with the date, and return the stamp to the taxpayer who shall file it with his narcotic records and retain it for a period of not less than 2 years. Narcotics on hand may be disposed of either by disposition with the approval of the collector to another registrant or exempt official pursuant to official order forms or orders of purchase, or as provided in Article 196 for the disposition of excess and undesired narcotics.

In the case of Class I or II registrants returns for periods subsequent to the date of discontinuance will not be demanded, provided all narcotics have been disposed of and an affidavit is submitted in duplicate to the collector certifying to that effect and that no further transactions of the class for which registration is discontinued will be consummated. The collector will forward one copy of this affidavit to the Commissioner of Narcotics.

ART. 196. *Excess and undesired narcotics.*—Excess and undesired narcotics in the possession of a registrant may be disposed of by shipment, charges prepaid (shipments by mail shall not be made), to the narcotic district supervisor of the district. If the person has paid tax in a class under which returns are required to be rendered and the narcotics to be disposed of are a part of the stock for such class, an inventory of the narcotics shipped shall be prepared in quadruplicate on the form used for detailed reporting of dispositions. The original inventory shall be filed with the return for such class for the month in which the disposition takes place, the duplicate copy made a part of the retained copy of the return, the triplicate copy forwarded with the narcotics when shipped for disposition, and the quadruplicate for-

warded to the narcotic district supervisor. If the narcotics are held in a class for which returns are not required, an inventory shall be prepared in quadruplicate on Form 142, the triplicate of which shall be forwarded with the narcotics when shipped, the duplicate retained on file by the taxpayer for a period of 2 years, and the original and quadruplicate forwarded to the narcotic district supervisor.

In any case the shipper shall notify the narcotic district supervisor when the shipment is made, advising of the size and description of the container in which the narcotics are being forwarded, and enclosing the required copy or copies of the inventory. The narcotic district supervisor will forward the original copy of Form 142 to the Commissioner of Narcotics.

Accumulated manufacturing wastes or other excess or undesired narcotics in the possession of registrants may be destroyed by such registrants in the presence of such of the narcotic inspectors or agents as may be specifically authorized by the Commissioner of Narcotics to witness such destruction. Such authorization shall be in writing and signed by the Commissioner. It may be either general, authorizing the inspector or agent to witness such destruction in connection with any inspection or investigation conducted by him, or may be specific, authorizing him to witness such destruction in specified instances. In all cases the terms of the written authorization shall be strictly followed.

ART. 197. *Court sales.*—Court officers in making sales of narcotics under judicial proceedings shall require the purchaser thereof, who must be a registered person or exempt official, to make out official order forms or purchase orders therefor, the originals to be given to the registrant and the duplicates to be retained by the purchaser.

ART. 198. *Sales of unclaimed freight or express packages.*—The sale of unclaimed freight or express packages containing narcotics, by officials of railways and express companies, at public auction, to unregistered persons, is in violation of the law.

When a sale of such packages is to be made the narcotic district supervisor shall be notified by the railway or express officials in advance. A narcotic officer will be detailed to inspect all unclaimed packages to be sold and identify such as contain narcotic drugs. He must be present at the time of the sale to see that the packages containing narcotics are sold only to registered persons pursuant to official order forms, or to exempt officials on orders of purchase.

SEC. 5. * * * And collectors of internal revenue are hereby authorized to furnish upon written request, to any person, a certified copy of the names of any or all persons who may be listed in their respective collection districts as special taxpayers under the provisions of this Act, upon payment of a fee of $1 for each one hundred names or fraction thereof in the copy so requested.

SEC. 3240. *United States Revised Statutes, as amended.*—Each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and upon application of any prosecuting officer of any State, county, or municipality he shall furnish a certified copy thereof, as of a public record, for which a fee of one dollar for each one hundred words or fraction thereof in the copy or copies so requested may be charged.

ART. 199. *List of taxpayers.*—The list of narcotic special-tax payers required by the foregoing statute shall be kept on Record 10, and may be inspected and copied in the collector's office at such reasonable and proper times as not to interfere with the collector's use of it, or exclude other persons from inspecting it.

SEC. 3. That any person who shall be registered in any internal-revenue district under the provisions of section one of this Act, shall, whenever required so to do by the collector of the district, render to the said collector a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs received by him in said internal-revenue district during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine; the names of the persons from whom the said drugs were received; the quantity in each instance received from each of such persons; and the date when received.

ART. 200. *Special reports.*—Statements pursuant to the foregoing section shall be rendered on Form 680 in the manner and at the time requested by the collector of internal revenue.

SEC. 5. That the duplicate order forms and the prescriptions required to be preserved under the provisions of section two of this Act, and the statements or returns filed in the office of the collector of the district, under the provisions of section three of this Act, shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs. Each collector of internal revenue is hereby authorized to furnish, upon written request, certified copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia, or any insular possession of the United States, as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of $1 for each one hundred words or fraction thereof in the copy or copies so requested. Any person who shall disclose the information contained in the said statements or returns or in the said duplicate order forms, except as herein expressly provided, and except for the purpose of enforcing the provisions of this Act, or for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs, shall, on conviction, be fined or imprisoned as provided by section nine of this Act.

ART. 201. *Records open to inspection.*—Any officer, agent, or employee of the Treasury Department authorized to enforce the act, and any officer of any State, Territory, the District of Columbia, or insular possession of the United States charged with the enforcement of any law or municipal ordinance relating to the traffic in narcotic drugs, shall have authority to examine the books, papers, and records kept pursuant to these regulations, and may require the production thereof.

All order forms, duplicate forms, prescription records, returns, and inventories required under the act or these regulations to be kept on file shall be kept so that they can be readily inspected.

Forfeitures and Penalties

SEC. 1. * * * That all unstamped packages of the aforesaid drugs found in the possession of any person, except as herein provided, shall be subject to seizure and forfeiture, and all the provisions of existing internal-revenue laws relating to searches, seizures, and forfeiture of unstamped articles are hereby extended to and made to apply to the articles taxed under this Act and the persons upon whom these taxes are imposed. * * *

Sec. 705 of the Revenue Act of 1926.—All opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, which may now be under seizure or which may hereafter be seized by the United States Government from any person or persons charged with any violation of the Act of October 1, 1890, as amended by the Acts of March 3, 1897, February 9, 1909, and January 17, 1914, or the Act of December 17, 1914, as amended, shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States, and the Secretary is hereby authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulation as may be prescribed by the Commissioner, with the approval of the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States.

The provisions of this section shall also apply to any of the aforesaid drugs seized or coming into the possession of the United States in the enforcement of any of the above-mentioned Acts, where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possession of the United States under the operation of said Acts, or the provisions of this section, shall be destroyed without certification by a committee appointed by the Commissioner, with the approval of the Secretary, that they are of no value for medical or scientific purposes.

ART. 202. *Disposition of forfeited narcotics.*—Narcotic drugs forfeited to the United States under these provisions of the law may be delivered to any department, bureau, or other agency of the United States Government upon proper application addressed to the Commissioner of Narcotics. The application shall show the name, address, and official title, bureau, or agency, and department, of the person to whom the narcotics are to be delivered, the kind and quantity of narcotics desired, and the purpose for which intended. The delivery of such narcotics shall be ordered by the Commissioner of Narcotics if, in his opinion, there exists a medical or scientific need therefor. The order will be filled by the Drugs Disposal Committee which will obtain a receipt for narcotic drugs delivered.

SEC. 9. That any person who violates or fails to comply with any of the requirements of this Act shall, on conviction, be fined not more than $2,000 or be imprisoned not more than five years, or both, in the discretion of the court.

ACT OF AUGUST 12, 1937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a person who, after having been convicted of selling, importing, or exporting, or conspiring to sell, import, or export, opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine, again sells, imports, or exports, or conspires to sell, import, or export, any of the said narcotic drugs, in violation of the laws of the United States, shall, upon conviction of such second offense, be fined not more than $5,000 or imprisoned in a Federal penitentiary for not more than ten years, or both, in the discretion of the court, whenever the fact of such previous conviction is established in the manner prescribed in section 3 of this Act.

SEC. 2. A person who, after having been two times convicted of selling, importing, or exporting, or conspiring to sell, import, or export, opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine, again sells, imports, or exports or conspires to sell, import, or export, any of the said narcotic drugs, in violation of the laws of the United States, shall, upon conviction of such third offense, or any offense subsequent thereto, be fined not more than $10,000 or imprisoned in a Federal penitentiary for not more than twenty years, or both, in the discretion of the court, whenever the fact of such previous convictions is established in the manner prescribed in section 3 of this Act.

SEC. 3. Whenever it shall appear, after conviction and before or after sentence, that a person convicted of unlawfully selling, importing, or exporting, or conspiring unlawfully to sell, import, or export, any of the narcotic drugs enumerated in this Act has previously been convicted of unlawfully selling, importing, or exporting, or conspiring unlawfully to sell, import, or export, any of said narcotic drugs, in violation of the laws of the United States, it shall be the duty of the United States district attorney for the district in which such subsequent conviction was had to file an information alleging that the defendant has previously been so convicted, and further alleging the number of such previous convictions. The court in which the defendant was convicted shall cause the said defendant, whether confined in prison or otherwise, to appear before it and shall apprise him of the allegations of the information and of his right to a trial by jury as to the truth thereof. The court shall inquire of the defendant whether he is the person who has previously been convicted. If the defendant states he is not such person, or if he refuses to answer or remains silent, a plea of not guilty shall be entered by the court, and a jury shall be empaneled to determine whether the defendant is the person alleged in the information to have previously been convicted, and the number of such previous convictions. If after a trial on the sole issue of the truth of such allegations the jury determines that the defendant is in fact the person previously convicted as charged in the information, or if he acknowledges in open court, after being duly cautioned as to his rights, that he is such person, he shall be punished as prescribed in sections 1 or 2 of this Act, as the case may be, and the previous sentence of the court, if any, shall be vacated and there shall be deducted from the new sentence the amount of time actually served under the sentence so vacated.

ART. 203. *Specific penalty.*—Persons who violate the act or fail to fulfill its requirements in any particular are liable to punishment, the maximum liability being to a fine of not more than $2,000 or imprisonment for not more than 5 years, or both, for each offense. However, attention is invited to the provisions of the Act of August 12, 1937 (U. S. C., Supp. III, title 21, sec. 200), which provides for additional punishment for second, third and subsequent offenders in certain cases.

General

ART. 204. *Correspondence.* — Correspondence relative to interpretation of the law and these regulations should be addressed to the Commissioner of Narcotics, Washington, D. C. All remittances shall be sent and inquiries relative to registration and requests for blank forms addressed to the local collector of internal revenue. Correspondence regarding charges of violations of the law or regulations should be addressed to the narcotic district supervisor in charge of the proper district. (See appendix for list of collectors and narcotic district supervisors.)

ART. 205. *Effective date.*—These regulations shall take effect June 1, 1938, and shall supersede all regulations heretofore made and promulgated.

ART. 206. *Promulgation of regulations.*—In pursuance of Sections 1, 2, 3 and 6 of the Act of December 17, 1914, as amended; Section 4 (b) of the Act of March 3, 1927; and Section 3 (b) of the Act of June 14, 1930, the foregoing regulations are hereby made and promulgated.

[SEAL] H. J. ANSLINGER,
Commissioner of Narcotics.
GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 1, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1582; Filed, June 4, 1938; 11:40 a. m.]

FOOD AND DRUG ADMINISTRATION

REVISED REGULATIONS FOR THE INSPECTION OF CANNED SHRIMP

SECRETARY OF AGRICULTURE:

Under the authority conferred by the Amendment of August 27, 1935, to the Federal Food and Drugs Act (Sec. 10A), I recommend the adoption and promulgation, to become effective July 1, 1938, of the following revised regulations to supersede the former regulations[1] governing the inspection of canned shrimp.

[SEAL] W. G. CAMPBELL,
Chief.

Approved: June 6, 1938.

H. A. WALLACE,
Secretary of Agriculture.

[Public—No. 346—74th Congress]

AN ACT To amend Section 10A of the Federal Food and Drugs Act of June 30, 1906, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That section 10A of the Act entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, as amended, is amended to read as follows:

"SEC. 10A. The Secretary of Agriculture, upon application of any packer of any sea food for shipment or sale within the jurisdiction of this Act, may, at his discretion, designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of this Act and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in such amounts as may be necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary of Agriculture for expenditures incurred in carrying out the purposes of this section, including expenditures for salaries of additional inspectors when necessary to supplement the number of inspectors for whose salaries Congress has appropriated. The Secretary is hereby authorized to promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and maintained, and for otherwise carrying out the purposes of this section. Any person who forges, counterfeits, simulates, or falsely represents, or without proper authority uses any mark, stamp, tag, label, or other identification devices authorized or required by the provisions of this section or regulations thereunder, shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than one year or a fine of not less than $1,000 nor more than $5,000, or both such imprisonment and fine."

Approved, August 27, 1935.

APPLICATION FOR INSPECTION SERVICE

1. (a) Applications for inspection service on canned shrimp under the provisions of section 10A of the Federal Food and Drugs Act shall be on forms supplied by the Food and Drug Administration. A separate application shall be made for each inspection period in each establishment in which the service is applied for. Each application for an initial inspection period shall be accompanied by bank draft or certified check drawn to the order of the Treasurer, United States for $360, as prescribed by regulation 13.

(b) An application by two or more packers for inspection service in one establishment to be jointly or severally operated by them shall be accompanied by an agreement signed by such packers binding each to be jointly and severally liable for the payment of all fees and deposits required for such establishment by regulation 13.

GRANTING OR REFUSING INSPECTION SERVICE; CANCELLATION OF APPLICATION

2. (a) The Secretary of Agriculture may grant the inspection service applied for when he determines that the establishment covered by such application complies with the requirements of regulation 6.

[1] 2 F. R. 987 (DI).

(b) The Secretary may refuse to grant the inspection service at any establishment for cause. In case of refusal he shall notify the applicant of the reason therefor and shall return to such applicant the payment which accompanied the application, less any expenses incurred by the Administration for preliminary inspection of the establishment, or for other purposes incident to such application.

(c) The applicant, by giving written notice to the Secretary, may withdraw his application for inspection service before an inspector is assigned to the establishment. In case of such withdrawal, the Secretary shall return to such applicant the payment which accompanied the application, less any expenses incurred by the Administration for preliminary inspection of the establishment, or for other purposes incident to such application.

INSPECTION PERIODS

3. (a) The initial inspection period in each establishment in which inspection service under these regulations is granted shall be six months; extension inspection periods, each of which shall begin at the close of the preceding inspection period, may be granted in such establishment on application accompanied by a deposit of $120 as prescribed by regulation 13: *Provided*, That upon application by the packer and with the approval of the Administration, such service during any inspection period may be transferred from one establishment to another to be operated by the same packer; but such transfer shall not serve to lengthen any inspection period or to take the place of an extension inspection period. In case of such transfer the packer shall furnish all necessary transportation of inspectors.

(b) Each initial inspection period shall begin on or after July 1, but not later than September 15, of each year. No extension inspection period shall extend beyond June 30 of any year.

(c) The date of the beginning of each initial inspection period shall be regarded as the date specified for the beginning of the service in the application therefor, or such other date as may be specified by amendment to such application and approved by the Administration; but if the Secretary is not prepared to begin the service on the specified date, the date of the beginning of such period shall be regarded as the date on which the service is begun.

(d) Inspection service shall be continuous throughout the inspection periods, except that, where the canning of shrimp is suspended as a result of the enforcement of State conservation laws, the inspection service may be withdrawn for the period of suspension or any part thereof. An inspection period in which such a withdrawal occurs shall be lengthened to compensate for the time of withdrawal.

ASSIGNMENT OF INSPECTORS

4. (a) An initial assignment of at least one inspector shall be made to each establishment in which inspection service under these regulations is granted. Thereafter the Administration shall adjust the number of inspectors assigned to each establishment to the number required for continuous and efficient inspection.

(b) Inspectors shall have free access at all times to all parts of the establishment to which they are assigned and to all fishing and freight boats and other conveyances catching shrimp for, or transporting shrimp to, such establishment

UNINSPECTED SHRIMP EXCLUDED FROM INSPECTED ESTABLISHMENTS

5. (a) No establishment to which inspection service on canned shrimp has been granted shall at any time thereafter can shrimp which has not been inspected under these regulations, or handle or store in such establishment any canned shrimp which has not been so inspected; but this paragraph shall not apply to an establishment after termination of inspection service therein as authorized by regulation 14.

(b) All shrimp delivered to or held in an establishment during an inspection period shall be subject to inspection, but certificates of inspection shall be issued under these regulations only on canned shrimp.

GENERAL REQUIREMENTS FOR PLANT AND EQUIPMENT

6. (a) All exterior openings of the cannery shall be adequately screened, and roofs and exterior walls shall be tight. When necessary, fly traps or other approved insect control devices shall be installed.

(b) Picking and packing rooms shall be separate, and fixtures and equipment thereof shall be so constructed and arranged as to permit thorough cleaning. Such rooms shall be adequately lighted and ventilated, and the floors thereof shall be tight and arranged for thorough cleaning and proper drainage. Blanching tanks shall not be located in picking room. Open drains from picking room shall not enter packing or blanching room. If picking and packing rooms are in separate buildings, such buildings shall not be more than 100 yards apart unless adequate provisions are made to enable efficient inspection.

(c) All surfaces of tanks, belts, tables, flumes, utensils, and other equipment with which either picked or unpicked shrimp come in contact after delivery to the establishment, shall be of metal other than lead, or of other nonporous and easily cleanable material. Metal seams shall be smoothly soldered.

(d) Adequate supplies of steam and of clean, unpolluted running water shall be provided for washing, cleaning, and otherwise maintaining the establishment in a sanitary condition.

(e) Adequate toilet facilities of sanitary type shall be provided.

(f) An adequate number of sanitary wash basins, with liquid or powdered soap, shall be provided in both the picking and packing rooms. Paper towels shall be provided in the packing room.

(g) Signs requiring employees handling shrimp to wash their hands after each absence from post of duty shall be conspicuously posted in the picking and packing rooms and elsewhere about the cannery as conditions require.

(h) Suitable space and facilities shall be provided for the inspector to prepare records and examine samples, and for the safekeeping of records and equipment.

(i) One or more suitable washing devices and one or more suitable inspection belts shall be installed for the washing and subsequent inspection of the shrimp before delivery to the picking tables.

(j) Suitable containers, flumes, chutes, or conveyors shall be provided for removal of offal from picking room.

(k) Picking tables shall be equipped with flumes supplied with clean, unpolluted water for removing the picked shrimp.

(l) Equipment shall be provided for code marking cans or other immediate containers.

(m) An automatic container counting device shall be installed in each cannery line.

(n) Each processing retort shall be fitted with at least the following equipment:

(1) An automatic control for regulating temperatures.

(2) An indicating mercury thermometer of a range from 170° F. to 270° F. with scale divisions not greater than 2°. For steam cook such thermometers shall be installed either within a fitting attached to the shell of the retort or within the door or shell of the retort. For water cook such thermometers shall be installed in the door or shell of the retort below the water level. If the thermometer is installed within a fitting such fitting shall communicate with the chamber of the retort through an opening at least 1 inch in diameter. Such fitting shall be equipped with a bleeder at least ⅛ inch in diameter. If the thermometer is installed within the door or shell of the retort the bulb shall project at least two-thirds of its length into the principal chamber thereof.

(3) A recording thermometer of a range from 170° F. to 270° F. with scale divisions not greater than 2°. The bulb of such thermometer shall be installed as prescribed for the indicating mercury thermometer. The case which houses the charts and recording mechanism shall be provided with an approved lock, all keys to which shall be in the sole custody of the inspector.

(4) A pressure gauge of a range from 0 to 30 pounds with scale divisions not greater than 1 pound. Such gauge shall be connected to the chamber of the retort by a short gooseneck tube. The gauge shall be not more than 4 inches higher than the gooseneck.

(5) For steam cook, a blow-off vent of at least ¾ inch inside diameter in the top of the retort.

(6) For steam cook, a ⅛ inch bleeder in top of retort.

(7) For steam cook, a baffle plate in the base of retort, unless retort baskets with perforated base plates are provided.

GENERAL OPERATING CONDITIONS

7. (a) The decks and holds of boats catching shrimp for, or transporting shrimp to, an inspected establishment, and the bodies of other conveyances so transporting shrimp, shall be kept in a sanitary condition. When necessary the shrimp shall be iced down immediately after they are caught, and shall be kept adequately refrigerated until delivery to cannery.

(b) Canneries, cannery freight boats, and other cannery conveyances shall accept only fresh, clean, sound shrimp.

(c) After delivery of each load of shrimp to the cannery, decks and holds of each boat and the body of each other conveyance making such delivery shall be washed down with clean, unpolluted water and all debris shall be cleaned therefrom before such boat or other conveyance leaves the cannery premises.

(d) Before picking the shrimp shall be washed with clean, unpolluted water and then passed over the inspection belt and culled to remove all shrimp that are filthy, decomposed, putrid, or unfit for food, and all extraneous material.

(e) Offal from picking tables shall not be piled on the floor, but shall be placed in suitable containers for frequent removal, or shall be removed by flumes, conveyors, or chutes.

(f) Shrimp shall not be picked into cups but shall be picked into flumes which immediately remove the picked meats from the picking tables.

(g) Picked shrimp being transported from one building to another before enclosure in the can or other immediate container shall be properly covered and protected against contamination.

(h) From the time of delivery to the cannery up to the time of final processing, shrimp shall be handled expeditiously and under such conditions as to prevent contamination or spoilage.

(i) The packer shall immediately destroy for food purposes all shrimp in his possession condemned by the inspector as filthy, decomposed, putrid, or unfit for food. Shrimp condemned on boat or unloading platform shall not be taken into the ice box or picking room.

(j) All portions of the establishment shall be adequately lighted to enable the inspector to perform his duties properly.

(k) All floors and other parts of the establishment, including unloading platforms, and all fixtures, equipment, and utensils shall be cleaned as often as may be necessary to maintain them in sanitary condition.

(l) The packer shall require all employees handling shrimp to wash their hands after each absence from post of duty.

(m) The packer shall require all employees to observe proper habits of cleanliness, and shall not knowingly employ in or about the establishment any person afflicted with infectious or contagious disease.

(n) Offal, debris, or refuse from any source whatever, shall not be allowed to accumulate in or about the establishment.

CODE MARKING

8. (a) Code marks shall be affixed to all cans and other immediate containers before they are placed in the processing retorts. Such marks shall show at least (1) the date of packing, (2) the establishment where packed, and (3) the size of the shrimp when such shrimp were graded for size and are not in containers through which they are clearly visible.

(b) Keys to all code marks shall be given to the inspector.

(c) Each lot shall be stored separately pending final inspection. For the purposes of these regulations all cans or other immediate containers bearing the same code mark shall be regarded as comprising a lot.

PROCESSING

9. (a) The closure of the can or other immediate container and the time and temperature of processing the canned shrimp shall be adequate to prevent bacterial spoilage.

(b) The following processes shall be employed for the containers indicated:

Dry Pack

Kind of container	Liner	Size	Time at 240° F.	Time at 250° F.
Tin	One piece	211 x 400	85 minutes	66 minutes.
Do	do	307 x 208	do	Do.
Do	do	307 x 400	90 minutes	70 minutes.
Do	Two piece	211 x 400	80 minutes	62 minutes.
Do	do	307 x 208	do	Do.
Do	do	307 x 400	85 minutes	66 minutes.
Do	Three piece or no liner	211 x 400	70 minutes	53 minutes.
Do	do	307 x 208	do	Do.
Do	do	307 x 400	75 minutes	57 minutes.
Do (High vacuum.)	do	307 x 208	55 minutes	

Wet Pack

Kind of container	Size	Time at 240° F.	Time at 250° F.
Tin	102 x 300		10 minutes.
Do	211 x 400	30 minutes	Do.
Do	307 x 208	do	Do.
Do	307 x 400	23 minutes	12 minutes.
Do	502 x 510		13 minutes.
Do	603 x 700		15 minutes.
Glass	2 to 9 fl. oz. inclusive.	22 minutes	14 minutes.

(c) For steam cook, blow-off vent shall be open during the coming-up period until the mercury thermometer registers at least 215° F. Bleeders shall emit steam during the entire processing period.

(d) The inspector shall identify each record on the thermometer chart with the code mark of the lot to which such record relates and the date of such record. The Administration shall keep such charts for at least five years, and upon request shall make them available to the packer.

(e) The packer shall keep for at least one year all shipping records covering shipments from each lot, and upon request shall furnish such records to any inspector of the Administration.

EXAMINATION AFTER CANNING

10. (a) Adequate samples shall be drawn by the inspector from each lot of canned shrimp and shall be examined to determine whether or not such canned shrimp conforms to all requirements of the Federal Food and Drugs Act, amendments thereto, and regulations thereunder.

(b) The packer shall destroy for food purposes, under the immediate supervision of the inspector, all canned shrimp condemned by the inspector as not complying with regulation 9 (a), or as filthy, decomposed, putrid, or unfit for food.

LABELING

11. (a) Labels on canned shrimp covered by a certificate issued as authorized by regulation 12 (a) shall bear the mark "Production Supervised by U. S. Food and Drug Administration." Such mark shall be plainly and conspicuously displayed in type of uniform size and style on a strongly contrasting, uniform background; and shall appear on the principal panel or panels of the label so as to be easily observable in connection with the name of the article.

(b) Two proofs, or one proof and one photostat thereof, or eight specimens of all labeling intended for use on inspected canned shrimp or on or within the cases therefor, shall be submitted to the Administration for approval. If proofs or photostat and proof are submitted, eight specimens of the labeling shall be sent to the Administration after printing. The Administration is hereby authorized to approve labeling for use on or with canned shrimp inspected under these regulations; approval shall be subject to the condition that such labeling shall be

so used as to comply with the provisions of the Food and Drugs Act, amendments thereto, and regulations thereunder. The Administration is also authorized hereby to revoke any such approval for cause. The Administration shall not approve labeling for canned shrimp intended for export under the provisions of regulation 12 (e).

(c) No commercial brand or brand name appearing on labeling approved as authorized under (b) of this regulation, and no labeling simulating any such approved labeling, shall be used after such approval on canned shrimp other than that which has been handled, prepared and packed in compliance with all provisions of these regulations; but this paragraph shall not apply to any packer's labeling after termination of inspection as authorized by regulation 14, or to any distributor's labeling after three-months written notice by the owner thereof to the Administration that the use of such labeling on inspected canned shrimp has been discontinued and will not be resumed.

CERTIFICATES OF INSPECTION; WAREHOUSING AND EXPORT PERMITS

12. (a) After finding that the canned shrimp comprising any parcel (1) has been handled, prepared and packed in compliance with all provisions of these regulations, (2) bears labeling approved as authorized under regulation 11 (b), and (3) complies with all the provisions of the Food and Drugs Act, amendments thereto, and regulations thereunder, the inspector shall issue a certificate showing that such canned shrimp so complies. The certificate shall specify the code marks to which it applies, the quantity of the parcel so marked, the place where such parcel is stored, the size of the shrimp, the size and kind of containers, the type of pack, the commercial brand name on the labels, and the quality grade of the shrimp if it is fancy or broken. Such certificate shall become void if such labeling is removed, altered, obliterated, or replaced; but such canned shrimp may be relabeled under the supervision of an inspector and recertified if the inspector finds that, after being relabeled, it complies with the requirements laid down by this paragraph for the issuance of a certificate.

(b) Unless covered by certificate, canned shrimp shall be moved from an inspected establishment only for storage authorized under (c), or export authorized under (e), of this regulation, or for destruction as provided by regulation 10 (b).

(c) Applications to move unlabeled canned shrimp for storage in a warehouse elsewhere than in the establishment where such shrimp was packed shall be on forms supplied by the Administration. The application shall give the name and location of the warehouse in which such canned shrimp is to be stored, and shall be accompanied by an agreement signed by the operator of such warehouse that inspectors shall have free access at all times to all canned shrimp so stored, and that conditions which will preserve the identity of each parcel of such canned shrimp shall be continuously maintained pending issuance of a certificate thereon or removal as authorized by (d) of this regulation. If such application is approved and it appears to the inspector that the canned shrimp comprising any parcel (1) has been packed in compliance with these regulations, (2) is not slack filled, and (3) conforms, except for the absence of labeling, to all requirements of the Food and Drugs Act, amendments thereto, and regulations thereunder, the inspector shall issue to the applicant, on his request, a warehousing permit covering such canned shrimp. Such permit shall specify the code marks to which it applies, the quantity of the parcel so marked, the places from and to which such parcel is to be moved, the size of the shrimp, the size and kind of containers, the type of pack, and the quality grade of the shrimp if it is fancy or broken. When any provision of the agreement is violated the Administration may revoke any permit issued pursuant to such agreement, and may also revoke its approval of the application for warehousing which accompanied such agreement.

(d) Unless covered by certificate, canned shrimp stored under the authority of (c) of this regulation shall be moved from the warehouse where stored only for restorage under such authority, or for return upon written permission of the inspector to the establishment where packed, or for export authorized under (e) of this regulation, or for destruction as provided by regulation 10 (b).

(e) The proviso of section 2 of the Federal Food and Drugs Act declares that no article shall be deemed misbranded or adulterated within the provisions of this Act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped. Application to export canned shrimp under this proviso may be made after the applicant receives specifications or directions from a foreign purchaser for the shipment of unlabeled canned shrimp, or canned shrimp bearing labeling which fails to comply with section 8 or 10A of the Act or regulations thereunder only because of the absence of descriptive or informational statements, designs, or devices. The application shall be accompanied by (1) the original or a verified copy of such specifications or directions; (2), if so required by the Administration, evidence showing that such canned shrimp complies with the laws of the foreign country to which it is intended to be shipped; and (3), if shipment of labeled canned shrimp is specified or directed, eight specimens of the labeling therefor. If canned shrimp prepared or packed according to such specifications or directions complies with the laws of such foreign country, and bears no labeling in violation of section 8 or 10A of the Act or regulations thereunder except for the absence of descriptive or informational statements, designs, or devices, the Administration shall direct the inspector to issue to the applicant an export permit covering such canned shrimp comprising any parcel ordered by such purchaser under such specifications or directions, when the inspector finds that such canned shrimp (1) was packed in compliance with the requirements of these regulations regarding sanitary conditions and processing, (2) is not filthy, decomposed, putrid, or unfit for food, (3) accords with such specifications and directions, and (4) is packed in cases plainly and conspicuously marked "For Export." Such permit shall specify the code marks to which it applies and the quantity of the parcel so marked, and shall show that such canned shrimp was packed under sanitary conditions, is wholesome, and accords with such specifications and directions. The applicant shall furnish to the inspector documentary evidence showing the exportation of all such canned shrimp. Canned shrimp intended for export under this paragraph shall not be stored in any warehouse in the United States elsewhere than in the establishment where such canned shrimp was prepared or packed, except on written permission of the inspector, or of the chief of the Food and Drug Administration Station within whose territory such warehouse is located.

INSPECTION FEES

13. (a) Except as otherwise provided by these regulations, the fee prescribed for inspection service shall be three (3) cents for each case of canned shrimp packed under such service. For the purpose of this regulation a case of canned shrimp shall be 48 No. 1 cans (211×400) or the equivalent thereof. Each application for an initial inspection period shall be accompanied by an advance deposit of at least $180 to cover such fees, and thereafter similar advance deposits shall be made whenever necessary to prevent arrears in the payment of fees, unless the Administration on an estimate of output authorizes payment in other amounts. Any excess advance deposits so made for the fiscal year shall be returned to the packer by the Administration after the inspection service is closed in the establishment.

(b) In addition to the fee prescribed by (a) of this regulation, an advance deposit of $120 multiplied by the number of months of the inspection period shall be made for each inspection period in each establishment. The sum of not less than $180 shall accompany each application for an initial inspection period, and subsequent deposits of $180 shall be made at monthly intervals from the date of the beginning of such period as defined in regulation 3 (c) until the total amount of the deposit for the initial inspection period shall have been made. Each application for an extension inspection period shall be accompanied by a deposit of $120 and at subsequent monthly intervals thereafter additional deposits of $120 shall be made; but if the final deposit is to cover a time of less than 30 days, then such deposit shall be at the rate of $4 for each day of such time. Advance deposits made under this paragraph shall be charged with the cost of the inspection service which has not been provided for by fees under paragraph (a) of this regulation and any appropriations made by Congress for such purpose. The deposits by each packer shall be so charged in the same ratio to the total deposits as the number of months of inspection service rendered in such packer's establishment bears to the total number of months of inspection service rendered in all establishments. The balance remaining after such charges have been made shall be returned by the Administration to the packers at the end of the fiscal year. When inspection service is withdrawn from an establishment as authorized by regulation 14 (a), the Administration shall not return to the packer any of the advance deposits made for such establishments; and such deposits shall be charged with the cost incurred and the balance transferred into the Treasury as a miscellaneous receipt. Such deposits shall not be included in the total deposits when computing charges against such total deposits.

(c) A separate fee shall be paid to cover all expenses, incurred in accordance with the regulations of the Department, for salary, travel, subsistence, and other purposes incident to inspection for the purpose of issuing a certificate or warehousing or export permit on canned shrimp stored or held at any place at which a sea food inspector is not assigned.

(d) When the cannery and the cannery warehouse of an establishment are located at different points of such distance apart that transportation between them is required for the inspector to perform his duties in the establishment, the packer shall furnish such transportation or shall pay an extra fee to cover all expenses therefor.

(e) All payments required by these regulations shall be by bank draft or certified check, collectible at par, drawn to the order of the Treasurer, United States, and payable at Washington, D. C. All such drafts and checks except those for the payment required by regulation 1, shall be delivered to the inspector and promptly scheduled to the Food and Drug Administration, Department of Agriculture, Washington, D. C., whereupon after making appropriate records thereof they will be endorsed and transmitted to the Chief Disbursing Officer, Division of Disbursement, Treasury Department for deposit to the receipt account "128013 Deposits, Sea Food Inspection Fees, Food and Drug Administration."

(f) Refunds to the packers making advance deposits will be by check drawn on the Treasury of the United States pursuant to refund vouchers duly certified and approved by the designated administrative officers.

SUSPENSION, WITHDRAWAL, AND TERMINATION OF INSPECTION SERVICE

14. (a) The Administration may suspend and the Secretary may withdraw inspection service in any establishment (1) upon failure of the packer to comply with any provision of these regulations, or (2) upon the dissemination by the packer or any person in privity with him of any representation which is false or misleading in any particular regarding canned shrimp packed under the inspection service provided by these regulations.

(b) When inspection service is suspended in an establishment, as authorized by (a) of this regulation, the Administration shall not lengthen the inspection period in such establishment to compensate for any of the time of suspension.

(c) After inspection service for a fiscal year is closed in an establishment, but before the resumption of packing therein during the next fiscal year, the packer may terminate inspection service under these regulations by giving written notice of such termination to the Secretary.

[F. R. Doc. 38-1589; Filed, June 6, 1938; 11:37 a. m.]

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

RULES AND REGULATIONS FOR INVESTMENT BY HOME OWNERS' LOAN CORPORATION IN SECURITIES OF SAVINGS AND LOAN ASSOCIATIONS

Be it resolved, That pursuant to the authority vested in the Federal Home Loan Bank Board by subsection k of Section 4 of Home Owners' Loan Act of 1933 (12 U. S. C. 1463 (k)), the rules and regulations for investment by Home Owners' Loan Corporation in securities of savings and loan associations are hereby amended to read as follows:

SEC. 50. *Authority.*—Purchase of full paid income shares of Federal savings and loan associations shall be made on the same terms and conditions as have been heretofore authorized by law for the purchase of such shares by the Secretary of the Treasury, provided that the total amount of such shares in any one association held by the Secretary of the Treasury and the Corporation shall not exceed the total amount of such shares heretofore authorized to be held by the Secretary of the Treasury in any one association, and the Corporation may make deposits and purchase certificates of deposit, investment certificates and/or shares, in any institution, which is (1) a member of a Federal Home Loan Bank, or (2) whose accounts are insured under Title IV of the National Housing Act, as amended, if the institution is eligible for insurance under such Title. Purchases herein authorized shall be made under the following procedure on such approved forms as are provided therefor.

Subscription to shares of state chartered building and loan associations shall be made in conformance with the procedure hereinafter prescribed for subscription by the Corporation to shares of Federal savings and loan associations.

SEC. 51. *Procedure for Federal savings and loan associations*—Any Federal savings and loan association may request the Corporation to purchase its full-paid income shares on the forms approved by the Board supported by:

(a) Statement of condition on the forms approved by the Board.

(b) Statement of loans (aggregating approximately the amount of the last preceding purchase by the Secretary of the Treasury of the United States or the Corporation) made since such last request to the Secretary of the Treasury or the Corporation (if such previous request has been made), using the form approved by the Board.

(c) The tender by the applicant of a duly executed certificate of full-paid income shares for the amount of such shares requested to be purchased, issued in the name of "Home Owners' Loan Corporation." Such tender shall be made with the understanding that if the request for purchase is approved and such purchase is made by the Corporation, certificates evidencing the interest purchased shall be delivered to the Corporation and such securities shall become issued and outstanding securities on the date of such purchase by the Corporation.

SEC. 52. *Procedure for State chartered associations.*—Any institution which is a member of a Federal Home Loan Bank or whose accounts are insured under Title IV of the National Housing Act, as amended may make application to the Corporation requesting it to purchase the shares, certificates of deposit or investment certificates of the applicant in the forms approved by the Board, and supported as follows:

(a) If the applicant is an insured institution, such application shall be supported by:

(1) Statement of condition on the form approved by the Board.

(2) Statement of loans (aggregating approximately the amount of the last preceding purchase by the Corporation)

made since such last request to the Corporation (if any such previous request has been made) using the form approved by the Board.

(3) If the applicant issues only one class of shares which participate equally in dividends and assets with all other shares, and does not accept deposits, applicant shall tender fully executed certificates of share interest for an amount equal to the amount of shares of such association requested to be purchased, issued in the name of "Home Owners' Loan Corporation." If the applicant issues more than one class of securities (that is, different classes of shares which participate unequally in assets or earnings with other classes or shares or certificates of deposit or investment certificates), the applicant shall tender fully executed certificates issued in the name of "Home Owners' Loan Corporation" evidencing the type of share interest or of creditor interest which gives to the holder of such security the most preferred participation in the assets and earnings of the institution. Such tender shall be made with the understanding that if the request for purchase is approved and such purchase is made by the Corporation, certificates evidencing the interest purchased shall be delivered to the Corporation and such securities shall become issued and outstanding securities on the date of such purchase by the Corporation. The securities tendered shall expressly provide how income thereon shall accrue and be payable in accordance with the charter and by-laws of the applicant.

(b) If the applicant is a member of a Federal Home Loan Bank but not an insured institution, such application shall be supported by:

(1) The financial report forms containing statements regarding the financial policies, condition, and management, which applicants for membership in a Federal Home Loan Bank are at the time of this application required to file in support of such application for membership, together with appropriate schedules.

(2) Statement of loans on the forms approved by the Board.

(3) Executed forms of securities shall be tendered in the manner and upon the conditions set forth in Section 52 (a) (3) above.

SEC. 53. *Acceptance requirements.*—Upon receipt by the Corporation of any such request, properly authorized, executed and supported, the applicant will be informed either:

(a) That the Corporation rules that such request is approved without further examination, in which event the applicant will be required to pay the cost of office analysis of the application, as computed by the Corporation, or

(b) That such request cannot be approved on the data submitted and that further examination and/or appraisal is necessary to determine whether the Corporation will make such purchase.

In the latter event, the applicant may either:

(1) Withdraw its application, or

(2) Request the Corporation to make such examination and/or appraisal as in its judgment may be necessary to determine whether the financial condition and the character of the Management are such that the purchase may be safely made by the Corporation. The examination shall be made in such manner as may be prescribed by the Corporation, the cost, as computed by the Corporation, of any such examination of applicant, including office analysis, audit and appraisals made in connection with such examination, overhead, per diem and travel expense, shall be paid by the applicant before any such purchase will be consummated. If the Corporation rules that appraisals are necessary in connection with any such examination, such appraisals will be conducted in accordance with the procedure governing appraisals made by the Federal Home Loan Bank Board in connection with the examinations conducted by said Board. It will be the policy of the Corporation by such purchases to make funds available for the encouragement of local home financing in the community to be served and for the reasonable financing of homes in such community. It is expected that substantially all of such funds will be employed in the financing of homes. Applicants for such funds whose total assets are less than $100,000 may apply for investment by the Corporation at any time. Applicants for such funds whose total assets exceed $100,000 shall first use at least 10% of their borrowing capacity to secure funds. Such applicant which shall have used 10% of its borrowing capacity shall be eligible for investments by the Corporation in amounts which at no time exceed sums borrowed by applicant in addition to the aforesaid 10% of its borrowing capacity until the applicant has exhausted 30% of its borrowing capacity, which percentage shall be the maximum use of its borrowing capacity required at any time to qualify the applicant for further approval of investments by the Corporation. On and after September 1, 1937 no further investments by purchase of shares will be made by the Home Owners' Loan Corporation except in rehabilitation cases of extreme need.

SEC. 54. *Repurchase and withdrawal requirements.*—Purchase of shares, certificates of deposit and investment certificates will be made by the Corporation only upon the understanding and agreement that no request will be made by the Corporation for the repurchase or withdrawal of such shares, certificates of deposit or investment certificates for a period of five years from the date of such purchase and that thereafter no institution shall be requested to repurchase or pay withdrawal requests in any one year in excess of 10 per cent of the total amount invested by the Corporation in such institution. Investments repaid voluntarily to the corporation will be credited upon the next succeeding requests by the Corporation for the repurchase or withdrawal of investments from such institution to the extent of such voluntary repayments. If the applicant proposes at any time after the Corporation has purchased any of its securities to issue securities having participation in assets or earnings which is preferred as to the time or amount of payment to securities which the Corporation has purchased, the applicant will give the Corporation notice in writing of such intention and of the form of certificates evidencing such securities and a 30 days' option to surrender the certificates held by the Corporation in exchange for a like amount of securities having such preferred participation. If the application fails to grant such option, to give such notice or to issue to the Corporation in exchange for certificates held by the Corporation certificates for a like amount representing such preferred participation, the Corporation shall have the right forthwith to request the repurchase or withdrawal of such shares.

SEC. 55. *Approved applicants.*—An approved list of applicants for investment by the Corporation shall be established and maintained in the following manner:

Simultaneously with the approval by the Board of the first request for investment by the Corporation in the securities of an applicant, such institution shall be placed upon such an approved list which will be maintained by the General Manager and shall be made available to the Federal Home Loan Banks and such divisions of the Board's activities as the Board shall direct.

Each institution which is placed upon such approved list and which is under the supervision of the Board, as to examination and periodical reports resulting, either from rules and regulations governing its present status, or from its voluntary request for such supervision, shall remain thereon until such time as the Board by its action, based upon information contained in periodic reports filed by such institution or contained in reports of supervisory field examinations or from other sources, removes the institution from such approved list.

Each other institution shall remain on such approved list for a period of six months from the date when placed thereon, unless by action of the Board, based upon information received in reports filed by the institution or upon reports of examinations made by its supervisory authority or from other sources, it is removed from the list before the expiration of the six months period; but any such institution may be reinstated at any time upon such approved list by action of the Board after complying with the provisions as set forth in Section 51 (b) hereof, except that it shall not be necessary for such institution to support such subsequent application with instruments or documents which are exact duplicates of instruments or documents previously filed with its original application as provided in said Section.

So long as any institution remains upon such approved list, it may request investment by the Corporation by filing forms approved by the Board and duly executed forms of securities in the manner and upon the conditions set forth in Section 51 (c) or in Section 52 (a) (3) hereof whichever is applicable.

SEC. 56. *80 percent loan limitation.*—No investment will be made in the shares, certificates, or deposits of an institution authorized by law, its charter, or by-laws to lend in excess of 80% of the value of real estate securing its loans unless such institution commits itself to Home Owners' Loan Corporation in writing not to lend in excess of 80% of the value of the real estate securing its loans while Home Owners' Loan Corporation has an investment in its shares, certificates, or deposits, nor will such investment be made in such institution after its next regular stockholders meeting unless its by-laws are amended limiting its lending to such percentage of value. The foregoing provisions of this section shall not apply with respect to loans insured under Title II of the National Housing Act, as amended, and not exceeding the percentage of appraised value permitted under said Title, as amended.

SEC. 57. *Fidelity bond requirements.*—The Board of Directors of each institution requesting share purchases by the Home Owners' Loan Corporation shall, before approval of such requests, procure a fidelity bond covering each officer, director or employee who has control over or access to cash or securities of such institution in the regular discharge of his duties; that in lieu of individual bonds for each officer, director or employee, such institution may procure a blanket bond covering all persons having control over or access to its cash and securities; that each of such bonds shall be executed by a responsible surety company or organization acceptable to this Board in a sum of not less than $2,500 or 2 per cent of the assets of such institution up to $1,250,000, whichever be the greater; and that such bond shall be approved by the board of directors of such institution; and institutions which employ collection agents outside of their home offices or branch offices, if any, who for any reason are not covered by the bond hereinabove described, shall provide for the bonding of such agents in an amount at least twice the average monthly collections of such agents, and that such agents be required to make settlement with the institution at least monthly, that the premiums upon all bonds shall be paid by such institutions, and receipts therefor shall at all times be in their possession.

SEC. 58. *Repurchase requests.*—Requests for the privilege of retiring investments held by the Home Owners' Loan Corporation in securities of savings and loan associations shall be governed by the following provisions:

(a) No request for the privilege of retiring any such investment held by the Home Owners' Loan Corporation will be approved by this Board unless such request is submitted on a form approved by this Board and unless such request is received by this Board at its office in Washington, D. C., within 30 days subsequent to the last preceding dividend or interest date, accompanied by a check, postal money order or bank draft in the amount of the investment sought to be retired, together with any dividends or interest accrued, but unpaid, on such investment to the last preceding dividend or interest date.

(b) No request by an institution for the privilege of retiring any such investment held by the Home Owners' Loan Corporation will be approved by this Board if such institution has any outstanding investment held by the Secretary of the Treasury until such institution shall have retired or made provision satisfactory to this Board for the retirement of all investments held by the Secretary of the Treasury in such institution.

(c) No request by an institution for the privilege of retiring any investment held by the Home Owners' Loan Corporation in such institution will be approved by this Board unless such institution shall have retired or made provision satisfactory to this Board for the retirement of all investments made by said Corporation in such institution prior to the investment sought to be retired.

SEC. 59. *Quadruplicate forms.*—All forms must be executed in quadruplicate, and three copies sent to the Federal Home Loan Bank of the district wherein the institution is located.

SEC. 60. *Discretion of corporation.*—Nothing herein contained shall be construed as in any way limiting the freedom of action or discretion of the Corporation in investing in the shares of applicant institutions.

Be it further resolved, That all resolutions or portions of resolutions heretofore adopted in conflict herewith are hereby repealed.

Adopted by the Federal Home Loan Bank Board on June 1, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-1586; Filed, June 6, 1938; 11:09 a. m.]

HOME OWNERS' LOAN CORPORATION

AMENDING AUDITING CHAPTER OF MANUAL TO PROVIDE FOR DISCONTINUANCE OF CERTIFICATION BY AUDITOR OF PAID-IN-FULL LOANS

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by subsections a and k of Section 4 of said Act as amended, Section 1406 (b) of Chapter XIV of the Consolidated Manual is hereby revoked, effective June 1, 1938; and,

Be it further resolved, That Supervising Auditors in the Regional Offices at New York, Atlanta, Detroit and San Francisco, shall continue after June 1, 1938 to verify and certify statements prepared by Regional Accountants for loans to be paid-in-full, loans to be recast under a new set of collateral instruments, and in connection with proposals for division or substitution of collateral, on a preaudit basis, compatible with Consolidated Manual regulations, until such time as, in the discretion of the Auditor, this audit function may be discontinued.

Adopted by the Federal Home Loan Bank Board on June 2, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-1588; Filed, June 6, 1938; 11:09 a. m.]

AMENDING TREASURERS CHAPTER OF MANUAL TO PROVIDE FOR RELEASE BY REGIONAL TREASURERS OF PAID-IN-FULL LOANS

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 750 of the Treasury Chapter of the Consolidated Manual [1] is amended to read as follows:

SECTION 750. The Supervisor of the Mortgage Document Subsection, under the general supervision of the Regional Treasurer, shall have custody of and be responsible for the safe-keeping of all loan files and valuable papers or instruments pertaining thereto within the Region, and the expeditious delivery of those instruments and papers to which a borrower is entitled upon payment in full of loan or upon the execution of a partial release.

Upon receipt of any satisfaction, release or other appropriate instruments (in connection with a loan paid in full, a loan to be recast under a new set of collateral instruments, a substitution of collateral, or a partial release) from Regional Counsel accompanied by his certificate that such instruments are in proper legal form for execution, and a statement of the account as certified by the Regional Accountant, the Regional Treasurer and the Assistant Regional Treasurer are each authorized and directed, individually, to execute such satisfaction, release or other appropriate instruments.

[1] 1 F. R. 1060.

Procedure covering the foregoing shall be promulgated by the Treasurer of the Corporation, subject to the approval of the General Counsel, the General Manager, and the Budget Director, and

Be it further resolved, That the foregoing resolution shall not be effective in the New York, Atlanta, Detroit, and San Francisco Regional Offices until such time as certification of statements of accounts by Supervising Auditors is discontinued.

Adopted by the Federal Home Loan Bank Board on June 2, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-1587; Filed, June 6, 1938; 11:09 a. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

RULES AND REGULATIONS GOVERNING THE LOANING OF FUNDS TO THE CHIPPEWA INDIAN COOPERATIVE MARKETING ASSOCIATION

Under the provisions of an Act approved August 15, 1935 (49 Stat. 654), the sum of $100,000 now on deposit to the credit of the Chippewa Indians in Minnesota, or so much thereof as may be necessary, may be withdrawn from the Treasury of the United States and loaned to the Chippewa Indian Cooperative Marketing Association. Loans shall be made under the following rules and regulations:

1. The amount loaned to the Chippewa Indian Cooperative Marketing Association shall be available for all purposes necessary to the businesslike operation of a cooperative marketing organization, including the following:

(a) Purchase of land for building sites and such other purposes as are necessary for the economic conduct of the business of the association. Abstracts of title to all land must be furnished the Commissioner of Indian Affairs for examination and approval prior to the purchase;

(b) Improvements on lands, the title to which lands must be in the name of the association, or the Chippewa Indians in Minnesota, or held in trust by the Government for the Chippewa Indians in Minnesota;

(c) Machinery and equipment necessary for the proper conduct of its business;

(d) Office supplies, stationery, equipment and such materials as may be required for the conduct of a businesslike office;

(e) Operating expenses of the association, including the salary of a manager and other employees, expenses incidental to truck operation, containers for commodities handled, transportation charges on commodities handled, the purchasing of products from Indians, the buying of supplies, insurance premiums, storage costs, lights, water, fuel, and repairs to equipment and machinery used in the business;

(f) Compensation and expenses of attorneys, if reasonable in the opinion of the Commissioner of Indian Affairs;

(g) Reasonable expenses of directors in conducting the business affairs of the association;

(h) Costs incurred in the filing of papers and documents in connection with the affairs of the association; and

(i) Payment of costs for technical and professional services in the improvement of processing and marketing methods of crops and commodities of Indians.

2. The application for a loan must be made out in quintuplicate by the association, and presented to the superintendent of the Consolidated Chippewa Agency who will review the application, attach his recommendations thereto, and forward all copies to the credit agent of the region who will in turn attach his recommendations and forward all copies to the Commissioner of Indian Affairs. The application shall contain:

(a) A program showing the nature and extent of the enterprises to be undertaken;

(b) A statement of the general plan of operation, the financial policy and business methods to be followed, copies of proposed marketing contracts between members and the association, and a statement of the proposed bookkeeping and accounting system accompanied by sample forms to be used in connection therewith;

(c) A statement of provisions for establishing a reserve in accordance with Article X of the association's articles of incorporation;

(d) A statement of how and when repayment will be made;

(e) A statement of security or guarantee of repayment offered;

(f) A copy of the resolution of the board of directors of the association, certified by the secretary, authorizing the filing of the application for loan;

(g) A financial statement showing assets, liabilities and net worth of the association;

(h) A statement showing that the provisions of Article IV, Section 3 of the association's by-laws regarding bonding of the officers or employees has been, or will be, complied with;

(i) A statement showing the depository in which the association intends to place its funds, together with all information regarding the depository required by Article V, Section 4 of the by-laws;

(j) Any other reasonable data which the Commissioner of Indian Affairs may require for making a sound appraisal of the application.

3. Upon the approval of the application for a loan a commitment order shall be prepared in quintuplicate by the Secretary of the Interior to cover the approved amount of the application. The commitment order when accepted and signed by the authorized officer or officers of the association, shall constitute the agreement for making advances to the association. The association will retain one copy of the commitment order and application and submit the original and three copies of each to the superintendent. The superintendent will assign a contract number to the original and hold same for attachment to the first disbursement voucher, retain one copy of each for the agency files, and forward two copies of each to the credit agent of the region, who will forward one copy of each to the Commissioner of Indian Affairs.

4. All advances made in accordance with the commitment order shall be evidenced by promissory note or notes. A record of all advances and repayments shall be kept on the back of the note or notes, and interest charged only on advances from date of the check evidencing the advance, until paid.

5. The association may be required to give security for loans in the form of liens or mortgages on improvements, equipment, inventories, commodities, accounts receivable, and such other forms of security as are available. Advances shall not be made to the cooperative association until the instruments covering the security as prescribed by the Secretary of the Interior have been duly executed and delivered by the association to the superintendent. The association shall pay all costs of filing or recording the securing instruments.

6. A copy of the commitment order, and the properly executed note or notes, mortgage or mortgages and all accompanying papers shall be filed in an appropriate file in the agency office.

7. When the commitment order, the note or notes, and accompanying papers have been filed in the agency office, the association's written order or orders shall serve as the superintendent's authority to request the Indian Office for allotments and advances of funds and the authority for their expenditure. Requests for allotments and advances of funds shall be made in such amounts and at such times as are authorized by the commitment order and as the association may deem necessary to meet its requirements as set forth in the program submitted with the application.

8. Upon receipt of notice of allotment, authority for expenditure, advice that an accountable warrant has been issued by the Treasury Department, and the submission of a voucher in favor of the association on a form provided for the purpose, the superintendent will cause to be drawn by the appropriate regional disbursing officer an official check for the amount of the advance in favor of the bonded officer of the association for deposit in the approved depository. The original of the commitment order shall be attached to the first disbursement voucher and identified on subsequent vouchers by number, date, and amount.

9. Repayment of principal and interest shall be made to the superintendent of the Consolidated Chippewa Agency who shall issue an official receipt to the association and shall take the amount into his appropriation ledger under "Sundry Receipts." The remittance shall then be scheduled as a repayment to the fund "Chippewa in Minnesota Fund" and forwarded to the appropriate regional disbursing officer for deposit to the credit of the United States.

10. The word "superintendent" wherever used herein means the administrative officer in charge of the Consolidated Chippewa Agency.

11. The association shall follow the plan of operation as specified in the application for loan and must expend funds for approved purposes only. Modifications in the use of funds may be made only with the approval of the Secretary of the Interior. Requests for such modifications shall be made in writing through the superintendent and the credit agent.

12. Should it appear, and, after hearing conducted by one of his authorized representatives, should the Secretary of the Interior determine, that the association has used or is using funds for purposes other than those for which the funds were granted or has failed to conform to other terms set forth in the application for loan, the accompanying papers, and the commitment order, the Secretary of the Interior may, with or without recourse to law, do any one or more of the following: (a) declare the loan to the association immediately due and payable; (b) discontinue further advances of funds provided for in the commitment order; (c) require the return of any funds remaining in the account of the association; (d) take possession of any and all property given as security for the loan by the association; and (e) direct, or arrange for the direction of, the management of the association until such time as the association offers acceptable assurance that it will function in accordance with its obligations.

13. The Commissioner of Indian Affairs may require the association to insure against loss by fire, or any other cause, property purchased with funds borrowed from the "Chippewa in Minnesota Fund" and property accepted as security for the repayment of such funds.

14. All advances of funds made to the Chippewa Indian Cooperative Marketing Association shall bear interest, payable annually, at four (4) per centum per annum from the time made until paid.

15. No loan shall be made for a longer period than ten years.

16. All records of the Chippewa Indian Cooperative Marketing Association shall be subject to inspection at all reasonable times by the Commissioner of Indian Affairs or his authorized representative or representatives.

17. During the time the association is indebted to the "Chippewa in Minnesota Fund" it must keep records in a manner satisfactory to the Commissioner of Indian Affairs and make reports as directed by him.

18. All reports of the auditor or auditors of the Chippewa Indian Cooperative Marketing Association accounts shall be submitted to the Commissioner of Indian Affairs, the credit agent, and the superintendent within ten (10) days after their completion.

19. Sound business practices are to be observed in fixing the prices to be paid for commodities.

20. No advance of funds shall be made the association for the production or manufacture of food products unless such production and manufacture shall be in compliance with the pure food laws of the United States and of the State of Minnesota.

Approved July 17, 1936.

T. A. WALTERS,
Acting Secretary of the Interior.

[F. R. Doc. 38-1576; Filed, June 4, 1938; 10:14 a. m.]

[Circ. 3143, Supp. 1]

MODIFICATION OF REGULATIONS GOVERNING LOANS TO INDIAN CHARTERED CORPORATIONS

TITLE TO PROPERTY, SECURITY, AND BILLS OF SALE

JULY 17, 1936.

To Superintendents and other Indian Service Employees:

Section 18 of the Regulations Governing Loans to Indian Chartered Corporations from the fund "Revolving Fund for Loans to Indian Corporations," as approved by the Secretary March 11, 1936, is modified to read as follows:

18. Title to Property, Security, and Bills of Sale

Title to property.—Except as otherwise provided for in the loan agreement between the corporation and the United States, all property purchased with credit revolving funds shall be purchased in the name of the United States in trust for the corporation.

The legal title to property purchased with credit funds for or by a corporate enterprise shall not be transferred to the corporation before the corporation has repaid in full the loan under which the property was purchased, except under the provisions of Section 28 of the regulations.

Except under the provisions of Section 28 of the regulations, neither the corporation's right to or interest in nor the legal title to property purchased with credit funds for or by a borrower of the corporation shall be transferred to him before he has repaid in full to the corporation the loan under which the property was purchased.

The increase or issue of any livestock purchased with credit funds in the name of the United States also shall be considered as security for the repayment of the loan and shall be governed by the foregoing provisions of this section.

The corporation and its borrowers must agree that all buildings, and fences constructed entirely or in part with credit funds shall not be considered as part of the realty until the loan under which they were constructed has been repaid in full to the corporation.

Security.—Unless other arrangements are approved by the Commissioner of Indian Affairs, appropriate liens, mortgages, or other securing instruments in favor of the United States must be furnished the United States by the corporation to cover property purchased with credit funds which is not purchased in the name of the United States. Such instruments, as well as other securing instruments the corporation furnishes the United States on property for which the United States does not hold the legal title, must be filed, registered, or recorded in keeping with the local recording statutes, except when otherwise authorized by the Commissioner of Indian Affairs. Any expenses in connection with the execution and filing, registering, or recording of any securing instrument shall be borne by the maker of the instrument.

On all loans and advances made by the corporation, it must obtain from its borrowers all security possible, up to an adequate amount.

The corporation may require each borrower to agree that if he is in default any trust funds to or accruing to his credit or any personal property of his may be applied on his indebtedness to the corporation.

Bills of sale.—The corporation must obtain from the vendors appropriate bills of sale for all purchases aggregating twenty-five dollars or more, and for all livestock, machinery, and equipment purchased with credit funds. When he has completely repaid his loan under which such property was purchased, the corporation shall release its interest in the property in favor of the borrower and the borrower may be furnished with a bill of sale upon receipt of his request therefor.

WILLIAM ZIMMERMAN, JR.
Assistant Commissioner.

Approved, July 23, 1936.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-1571; Filed, June 4, 1938; 9:44 a. m.]

REGULATIONS FOR LOANS TO INDIAN COOPERATIVES

The following regulations shall govern loans by the United States under the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress) to Indian Cooperative Associations in Oklahoma except to those engaged in relending funds

loaned to them under the terms of the Act.

Definitions.—Except as otherwise indicated, "cooperative" refers to an Indian cooperative association organized under the Act, not engaged in relending funds loaned to it under the Act; "Commissioner" to the Commissioner of Indian Affairs; "superintendent" to the superintendent of the jurisdiction under which the principal office of the cooperative is to be located; "credit agent" to the credit agent in charge of loans under the Act in Oklahoma or his duly authorized associate; "Act" to the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress); "loan agreement" collectively to the applicaton, notes, securing instruments and accepted commitment order.

1. *Eligibility.*—To be eligible for a loan, the cooperative must be organized in accordance with the terms of the Act and of the "Regulations for Organization of Indian Cooperative Associations." The cooperative must state in its application that all of its members are eligible for membership and must promise not to admit to membership any persons not eligible thereto.

2. *Bylaws.*—The bylaws of the cooperative must be arranged in the same general order and form as specimens that will be supplied by the Office of Indian Affairs to the superintendent, and must be approved by the Commissioner.

a. *Structure of the cooperative.*—The bylaws of the cooperative shall make adequate provision for each of the following:

(1) The time, place, and manner of holding, calling, adjourning, and postponing all meetings of members and directors and the requirements for quorums.

(2) The number, titles, tenure of office, powers, duties, and manner of election, filling vacancies, and removal of the officers, directors, and committees if any.

(3) The manner of making and recording receipts and disbursements and of keeping all accounts, records, books and minutes of the cooperative.

(4) If the cooperative is organized with capital stock, the manner of issue, transfer, retirement, and evidence of ownership thereof.

(5) The manner of expulsion and withdrawal of members.

(6) The disposition of income, including the payment of debts and losses and the creation of reserves.

b. *Management of the cooperative.*—The bylaws of the cooperative shall also provide:

(1) That meetings of the members must be held at least annually; that the superintendent shall be given at least ten days written notice of all meetings and that he or his representative shall be permitted to attend; that all members shall be given at least ten days written notice of all meetings of members; that the Commissioner or the superintendent may call special meetings in the manner provided in the bylaws; that special meetings without the required notice may be held if all members and the superintendent or his representative are present.

(2) That all officers and employees having custody of the cooperative's funds shall furnish and deposit with the superintendent bonds in favor of the cooperative satisfactory to the Commissioner unless he shall waive them because the cooperative's funds are handled by a bonded government disbursing officer or because a government employee designated by the superintendent countersigns all checks and orders; that the officers of the cooperative must all be directors except the treasurer and secretary thereof; that all directors must be members in good standing; that the compensation of all officers, directors, and employees shall be subject to the approval of the superintendent; that officers and directors shall be disqualified from acting on a question in which they have a personal pecuniary interest.

(3) That the funds of the cooperative shall be deposited in a depository approved by the Commissioner.

(4) That all transfers of the property of the cooperative, except in the usual course of its business, shall be by direction of the board of directors and shall be in writing and signed by the president and attested by the secretary of the cooperative.

(5) That all the accounts, records, books, and minutes of the cooperative shall be subject to examination by the Commissioner or his representative at any reasonable time; that the cooperative shall maintain the same in a manner satisfactory to the Commissioner or his representative and shall make such reports as the Commissioner or his representative shall require; that the forms of all membership agreements shall be subject to the approval of the Commissioner or his representative.

(6) That the cooperative shall take such legal action as may be necessary or desirable or may be required by the Commissioner or his representative to protect its rights or its property.

(7) That any retail trade carried on by the cooperative shall be on a cash basis.

(8) That any goods or services bought from members or sold to members by the cooperative shall be bought or sold at the prices prevailing in the profit business of the neighborhood or with which the association competes.

(9) That the business of the association shall be conducted in accordance with recognized cooperative principles.

3. *Procedure.*—The application for the loan shall be submitted in quintuplicate to the superintendent on a form prescribed by the Secretary of the Interior. The application may be signed by any officer duly authorized by the board and shall contain a copy of the articles of association and bylaws of the cooperative and any pending amendments thereto, a list of the officers and a statement of their training and experience, a complete statement of assets and liabilities of the cooperative and such further information as may assist in the sound consideration of the application.

The cooperative shall report any compensation it has paid or is obligated to pay anyone in connection with the preparation, submission, or consideration of said application. The cooperative shall promise to notify promptly the superintendent of any material change in any facts stated in its application. If the application is duly approved by the Commissioner, the Secretary of the Interior shall in his discretion grant the loan by issuing a commitment order which shall be effective if accepted by the cooperative within a period not to exceed ninety days from the date thereof and may be withdrawn at any time before acceptance. The acceptance of the cooperative must be approved by majority vote of the board of directors. The accepted commitment order shall be submitted in quadruplicate to the superintendent.

The money shall be advanced as near as possible at the time it is needed upon submission of vouchers prepared for the purpose if the cooperative has complied with its loan agreement to date. The time of each advance shall be stated as definitely as possible in the loan agreement. The cooperative shall execute a note or notes for each advance on forms approved by the Secretary of the Interior.

Repayment shall be made to the superintendent or his duly authorized agent for credit to the United States.

4. General loan policies.—The granting or refusal of the loan and its maximum amount shall be governed by the nature and extent of the enterprise to be financed, its prospects of success, the extent to which it will promote a permanent improvement of the economic condition of the members of the cooperative and the community, the willingness of the members to invest their own funds in the enterprise, and the amount and kind of security offered. A cooperative that is eligible for a loan from any incorporated tribe must show that an application to that tribe has been rejected before an application hereunder will be considered.

5. *Purposes.*—Loans may be granted for any legitimate purpose that conforms to the purposes of the association, except the purchase of land unless it is a site necessary to the operation of the cooperative's business. Preference shall be given to agricultural enterprises and to enterprises lying within or adjacent to Indian agricultural communities.

6. *Plan.*—The cooperative must agree to use the money in accordance with the plan included in its application. The plan shall be set forth fully and specifically.

7. *Size of loan.*—No Loan shall be granted for less than $50.

8. *Maturity.*—Loans shall be made for the shortest possible period consistent with the purposes thereof.

9. *Interest.*—Interest shall be paid to the United States annually on all loans hereunder at the rate of three percent per annum from the date the money is advanced until repaid.

10. *Security.*—The cooperative shall execute and deliver as security for the loan the instruments provided for in its loan agreement. All possible security shall be given up to an adequate amount. It may consist of the assignment of income, mortgages on property owned wholly or in part by the cooperative, or other suitable security. The net proceeds of any sale of property given as security shall be applied on the payment of the loan unless the credit agent shall authorize some other disposition thereof.

(a) *Filing.*—The cooperative shall file all securing instruments covering trust property in the agency office and file, register, or record, at its own expense all securing instruments covering nontrust property in accordance with Oklahoma law in such a way as to fully protect the interest of the United States herein.

(b) *Warranty.*—The cooperative shall warrant that, except as stated in its application, the property given as security is owned by it absolutely, or is held in trust for it by the United States, is in its possession, free from all incumbrances and that it will warrant and defend the title thereof against the claims and demands of anyone.

(c) *Fixtures.*—The cooperative must agree that, until fully paid for, all buildings, fences and fixtures the expense of whose erection is paid wholly or partly with the loan shall not be a part of the realty.

(d) *Insurance.*—The cooperative shall carry the insurance specified in its loan agreement on all property purchased with or given as security for a loan.

(e) *Title to property purchased.*—The cooperative may be required to agree that the title to all property purchased with the loan, except property purchased for resale, shall remain in the United States in trust for the cooperative until the loan is repaid.

(f) *Inspection.*—The cooperative shall permit representatives of the Indian Service to enter its premises at any reasonable time to inspect the property purchased with or given as security for the loan.

(g) *Capital stock.*—The cooperative may be required to invest the proceeds of sales of its capital stock, if any, in designated securities, and to deposit the same as additional security for the loan.

(h) *Non-agricultural enterprises.*—Generally, greater security will be required on loans for non-agricultural enterprises and full security will be required on loans for non-agricultural enterprises not in or adjacent to Indian communities.

(i) *Branding.*—All property purchased in the name of the United States and all trust property given as security and any increase therefrom shall be permanently branded or marked "ID" in addition to the brand of the cooperative.

(j) *Care of property.*—The cooperative shall not permit any disposition of the title or possession of any property given as security for or purchased with the loan except property purchased for resale, nor permit any liens or charges against it to remain unsatisfied without the consent of the superintendent and shall care for said property so that the security of the United States shall not be diminished.

(k) *Other indebtedness.*—The cooperative must make acceptable plans for the payment or release of any outstanding liens upon its property and debts. It shall not borrow money from or pledge or assign any of its property to anyone but the United States without the consent of the Secretary of the Interior.

11. *Penalty on default.*—Upon failure by the cooperative to conform to any of the terms of its loan agreement, the Secretary of the Interior may take any or all of the following steps with or without recourse to legal proceedings: (a) declare the entire amount advanced immediately due and payable; (b) discontinue any further advances under the loan agreement; (c) take possession of and sell all collateral and security and property purchased with the loan; (d) take possession of the assets of the cooperative and exercise or arrange for the exercise of its powers until the indebtedness hereunder shall be repaid or until the Secretary of the Interior shall receive acceptable assurance of compliance with the loan agreement.

Approved by the Secretary of the Interior, October 27, 1936.

[F. R. Doc. 38-1574; Filed, June 4, 1938; 9:45 a. m.]

Regulations for Organization of Indian Cooperative Associations

Under the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress) the Secretary of the Interior may issue charters to cooperative associations organized under the Act and according to his regulations for one or more of the following purposes: credit administration, production, marketing, consumers' protection, and land management.

Indians who wish to organize such cooperatives shall execute four copies of the attached articles of association and submit them, together with such information as may be necessary to determine the eligibility of the organizers, to the superintendent of the jurisdiction in which the principal office of the association shall be located. He shall certify to the eligibility of the organizers, and transmit the articles to the Commissioner of Indian Affairs who shall attach his recommendations thereto and transmit to the Secretary of the Interior.

The Secretary of the Interior will in his discretion attach and sign a certificate of incorporation, which, with the articles of association, shall constitute the charter of the association.

Articles of Association

We, the undersigned ten or more persons, all of whom are Indians as determined by the official tribal rolls, or Indian descendants of such members, or Indians as defined in the Indian Reorganization Act (Public No. 383, 73rd Congress), and all of whom reside in the State of Oklahoma in convenient proximity to each other, do hereby voluntarily associate together for the purpose of forming a local cooperative association with(out) capital stock under the terms of the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress) hereafter referred to as the Act.

1. *Name.*—The name of this association shall be

2. *Purposes.*—The purposes of this association shall be: (Give purposes very specifically so as to indicate the character of the business to be carried on.)

3. *Powers.*—The powers of this association, which shall exist and be exercised only in legal pursuance of its purposes, shall be:

To adopt, use, and alter a corporate seal;

To purchase, take by gift, bequest, or otherwise, own, hold, manage, operate, and dispose of property;

To engage in any business that will further its purposes;

To make and perform contracts;

To borrow money and give liens on its property as security therefor;

To sue and be sued in any court of the State of Oklahoma or of the United States having jurisdiction of the cause of action, subject to the provisions of the Act; and

Such further powers as may be incidental or necessary to the conduct of its business.

The powers of the association shall be exercised by its board of directors in accordance with its bylaws.

4. *Organizing directors.*—The persons whose names and addresses appear below shall serve as directors until the first meeting of the members which meeting said directors shall call within ninety days after the issuance of a charter to the association.

Name	*Address*
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5. *Principal office.*—The principal office of this association shall be at ---------- in the county of ---------- under the jurisdiction of ---------- Indian Agency in the State of Oklahoma.

6. *Term.*—This association shall exist until dissolved in accordance with law.

7. *Membership.*—Membership in this association shall be open to all Indians as determined by the official tribal rolls, or Indian descendants of such enrolled members, or Indians as defined in the Indian Reorganization Act (Public No. 383, 73rd Congress) who reside within the following prescribed district and to no other persons:

Any such Indian shall be admitted to membership upon complying with the following conditions: (Insert any desired payment or agreement to pay membership fees, execution of marketing or purchasing agreements, or other requirements.)

8. *Member control.*—The directors shall be elected and the bylaws and amendments to these articles passed by a majority vote of the members present at a membership meeting. Bylaws and amendments thereto shall not be valid until approved by the Secretary of the Interior. Amendments to these articles shall not be valid until approved by the Secretary of the Interior. The members of the association shall not be personally liable for its corporate debts.

9. *Dissolution.*—This association may be dissolved by Act of Congress or, upon the request of the association by a majority vote of the members at a meeting called for the purpose, by the Secretary of the Interior. Upon such request, the Secretary shall take possession of the assets of the association and exercise or arrange for the exercise of its powers insofar as may be necessary or proper to liquidate its assets, pay its debts, and distribute the balance to the members.

10. *Distribution.*—(Strike this out if the association will have capital stock.) Any distribution of the net profits of the association shall be on a patronage basis to members only. In case of dissolution, the net assets of the association shall be distributed to its members equally.

10. *Capital stock.*—(Strike this out if the association will have no capital stock.) The capital stock of this association shall consist of ____ shares of $____ each. It shall be purchased, owned, or held only by members of the association and shall not be transferred without the consent of the association. It shall bear no voting rights. The board of directors may pay, out of the realized surplus of the association, ratable cash dividends on stock at the rate of ____ per cent per year. Cash dividends not paid on stock in any year shall not be paid in any succeeding year, but such dividends must be paid in full in any year before patronage dividends are paid for such year. After cash dividends on stock are paid to the extent permitted hereby, any remaining realized surplus shall be distributed to members on a patronage basis.

11. *Default.*—(This may be stricken out if the association will not borrow from the United States under the Act.) While this association is indebted to the United States under the terms of the Act, if the Secretary of the Interior shall find that it has violated any of the terms of the loan agreement on which its indebtedness is based, he may take possession of the assets of the association, and exercise or arrange for the exercise of its powers until the indebtedness is paid or until he receives acceptable assurance of compliance with the loan agreement.

Subscribed this _____ day of _____, 19 ____.

Name	*Address*	*Tribe*	*Roll No. (if any)*

Sworn to this _____ day of _____, 19__, before me by the persons personally known to me to be the same as those whose signatures appear above.

[SEAL] _____,
Notary Public.

CERTIFICATE OF INCORPORATION

I hereby approve the attached articles of association and hereby charter _____ as a local cooperative _____ association under the terms of the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress) with all the rights, powers, privileges, and immunities and subject to the conditions set forth in said articles which are incorporated herein.

Date _____, 19____.

_____,
Secretary of the Interior.

As approved by the Secretary of the Interior on October 27, 1936, together with the amendments approved October 31, 1936, and May 4, 1937.

[F. R. Doc. 38-1573; Filed, June 4, 1938; 9:45 a. m.]

REGULATIONS FOR LOANS TO INDIAN CREDIT ASSOCIATIONS

The following regulations shall govern loans by the United States under the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress) to Indian Credit Associations in Oklahoma.

Definitions.—Except as otherwise indicated, "credit association" refers to an Indian cooperative association engaged in the business of borrowing money from the United States and relending it to its members; "Commissioner" to the Commissioner of Indian Affairs; "superintendent" to the superintendent of the jurisdiction under which the principal office of the credit association is located; "credit agent" to the credit agent in charge of loans made in Oklahoma under the Act or his duly authorized associate; "Act" to the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress), and "loan agreement" collectively to the application, notes, securing instruments and accepted commitment order.

1. *Eligibility.*—To be eligible for a loan the credit association must be organized with capital stock under the Act and the "Regulations for Organization of Indian Cooperative Associations in Oklahoma." Its name shall include the words "Indian Credit Association" and its articles of association shall provide as its purpose the following: "To carry on the business of borrowing money from the United States and relending it to its members under instructions and regulations prescribed from time to time by the Secretary of the Interior and the Commissioner of Indian Affairs."

2. *Bylaws.*—The bylaws of the credit association must be arranged in the same general order and form as specimens which will be supplied by the superintendent, and must be approved by the Secretary of the Interior.

3. *Procedure.*—The application for the loan shall be submitted in quintuplicate to the superintendent on a form prescribed by the Secretary of the Interior. It may be signed by any officer duly authorized by the board. It shall contain a copy of the articles of association and bylaws of the credit association and any pending amendments thereto, a list of the officers and their training and experience, a complete statement of assets and liabilities of the credit association and such further information as may assist in the sound consideration of the application.

The credit association shall report any compensation it has paid or is obligated to pay anyone in connection with the preparation, submission, or consideration of said application. The credit association shall promise to notify the superintendent of any material change in any facts stated in its application.

If the application is duly approved by the Commissioner, the Secretary of the Interior shall in his discretion grant the loan by issuing a commitment order. The commitment order shall be effective if accepted by the credit association within a period not to exceed 90 days from the date thereof and may be withdrawn at any time before acceptance. The acceptance of the credit association must be approved by a majority vote of the board of directors. The accepted commitment order shall be submitted in quadruplicate to the superintendent.

The money shall be advanced as nearly as possible at the time it is to be reloaned, upon submission of vouchers prepared for the purpose, if the credit association has complied with its loan agreement to date. The time of each advance shall be stated as definitely as possible in the loan agreement. The credit association shall execute a note or notes for each advance on forms approved by the Secretary of the Interior.

4. *Purposes.*—Loans may be granted only for the purpose of relending the same to qualified members of the association under instructions and regulations prescribed from time to time by the Secretary of the Interior or the Commissioner.

5. *Plan.*—The credit association shall agree to relend the funds in accordance with the plan attached to the application. The plan shall describe the economic conditions, including the opportunities for productive use of credit, of the people it will serve, the kind of loans it will make, and its scheme of administration, including bonding, designation of depository, and such further information as may be suitable.

6. *Maturity.*—Loans shall be made for no longer than 20 years.

7. *Interest.*—Interest shall be paid annually to the United States on all loans hereunder at the rate of one percent per annum from the date the money is advanced until repaid.

8. *Security.*—The credit association shall execute and deliver as security for the loan the instruments provided for in its loan agreement. All possible security shall be given up to an adequate amount. It may consist of an assignment or agreement to assign all instruments and property taken as security by the credit association in the course of relending the money and other suitable security.

(a) *Filing.*—The credit association shall file all securing instruments received by it covering trust property in the agency office and file, register, or record at its own expense all securing instruments covering non-trust property in accordance with Oklahoma law in such a way as to protect fully its interest therein.

(b) *Capital Stock.*—The credit association may be required to invest the proceeds of sales of its capital stock in designated securities and to deposit the same as additional security for the loan.

(c) *Other Indebtedness.*—The credit association shall not borrow from or rediscount paper with or pledge or assign any of its property to anyone but the United States without the consent of the Secretary of the Interior.

9. *Penalty on default.*—Upon failure by the credit association to conform to any of the terms of its loan agreement, the Secretary of the Interior may take any or all of the following steps with or without recourse to legal proceedings: (a) declare the entire amount advanced immediately due and payable; (b) discontinue any further advances under the loan agreement; (c) take possession of all collateral and security, and property purchased with the loan; (d) take possession of the assets of the credit association and exercise or arrange for the exercise of its powers until the indebtedness hereunder shall be repaid or until the Secretary of the Interior shall receive acceptable assurance of its repayment and of compliance with the loan agreement.

As approved by the Secretary of the Interior, October 31, 1936, and amended May 4, 1937.

[F. R. Doc. 38-1575; Filed, June 4, 1938; 9:45 a. m.]

[Circ. 3206, Supp. 2]

MODIFICATION OF REGULATIONS GOVERNING LOANS TO INDIAN CHARTERED CORPORATIONS

IDENTIFICATION OF PROPERTY PURCHASED WITH CREDIT FUNDS AND INSURANCES

MARCH 31, 1937.

To Governing bodies of Indian Chartered Corporations, superintendents, and other Indian Service employees:

Section 22 of the Regulations Governing Loans to Indian Chartered Corporations from the fund "Revolving Fund for Loans to Indian Corporations" as approved by the Secretary March 11, 1936, is modified to read as follows:

22. *Identification of property purchased with credit funds and insurances.*—All livestock and issue therefrom, and all major articles of equipment purchased with credit funds, and trust property given as security for loans of credit funds shall be branded or marked with the letters "ID" to make identification permanently possible. In addition such property and livestock shall be marked or branded with the brands or marks of individuals. Borrowers may be required to insure any property purchaser with credit funds against loss from fire or any other cause.

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

Approved, April 27, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1572; Filed, June 4, 1938; 9:45 a. m.]

REGULATIONS GOVERNING THE KLAMATH TRIBAL LOAN FUND

1. *Creation of loan board; election of members.*—The loan fund created by the Act of Congress of August 28, 1937 (50 Stat. 872), shall be administered under and subject to the following regulations, by a board composed of three adult enrolled members of the Klamath Reservation. The members of said Board shall be duly elected by the Klamath General Council from among the adult enrolled members of the Klamath Tribes, and shall serve for a period of two years, or until their successors are elected and qualify: Provided, that the first term of office shall end on June 30, 1939. The loan board thus elected shall not be qualified to act until approved by the Commissioner of Indian Affairs. In the event of a vacancy in the membership of the board, by reason of death or resignation, or because of the failure of a member to qualify, election of a successor shall be made as provided for in the original election to the board.

2. *Authority of loan board.*—The loan board thus created is authorized, pursuant to the Act of Congress of August 28, 1937 (50 Stat. 872), under and subject to these regulations, to make loans, from the loan fund thus created, to enrolled members of the Klamath Tribe for (1) industrial and agricultural assistance and the construction and improvement of homes; (2) educational advancement; (3) financial assistance in case of illness, death, or other emergency; (4) maintenance and support of the aged, infirm, and incapacitated members; or (5) the repayment of reimbursable loans previously made from tribal funds.

3. *General.*—The loan board is charged with the duty of explaining to borrowers the nature of all instruments signed, and the duty of impressing upon the borrowers the responsibility for the care of the property purchased or pledged and the necessity for carrying out the provisions of the loan agreements.

4. *Examination of records and accounts and suspension of power to make loans.*—The loan board must keep records, files, and accounts, and make signed reports as directed by the Commissioner of Indian Affairs. Accounts of credit funds must be kept separate from all other accounts. The duly authorized representatives of the Commissioner of Indian Affairs shall have access to the books, records and accounts of the loan fund at all reasonable times for the purpose of making examinations of the mode of procedure and the previous activities of the loan board, and for the purpose of making a semi-annual audit of the accounts of the fund. If upon such examination or audit it shall appear that the loan board is not properly conserving the loan funds, the Commissioner of Indian Affairs, in his discretion, may suspend the power of the loan board to make any loans until the Superintendent has approved the application, except that upon mutual agreement of the loan board and the Superintendent, authority may be granted in writing by the Commissioner of Indian Affairs to the loan board to approve loans of specified classes, under specified amounts.

5. *Restrictions on assignment, discounting, and borrowing.*—The loan board shall not (a) assign any loan agreement or any interest therein to a third party; or (b) discount paper with or borrow money from any person or agency for relending.

6. *Individuals not eligible as borrowers.*—Without specific authority from the Superintendent, the board shall not make loans to a member who, (a) is a minor; (b) is a regular employee of the Government; (c) is married to and living with a person already a borrower unless their loans are consolidated; (d) has individual funds on deposit in the agency office sufficient to finance the approved plans; (e) is an Indian woman married to a white man; or (f) will have an aggregate indebtedness exceeding two thousand dollars ($2,000.00). In no event shall the aggregate loan to any individual exceed three thousand dollars ($3,000.00) at any time.

7. *Applications of individuals and cooperatives.*—Applications of individuals and cooperatives for loans must be prepared in keeping with approved forms. Each application form must be completely filled in in compliance with these regulations and must include such additional information as may be required by the loan board.

8. *Programs for use of funds loaned.*—The loan board shall only advance funds to borrowers for industrial, commercial, or agricultural purposes following the submission of signed agricultural, industrial, or commercial plans which are approved by the Extension Agent or other person in charge of Extension work. No changes may be made in such plans before the loan is repaid unless such changes are approved by the loan board and the Extension Agent.

Loans shall not be made to any applicant indebted to the Government for loans from "Industry Among Indians," or "Tribal Revolving Funds," or if he has livestock or crops of the same class involved in such proposed loans, upon which a lien exists or the title to which is affected because of existing debts or obligations from any source, unless plans, acceptable to the loan board, for the immediate repayment of said existing obligations are presented in the applicant's approved plans.

9 *Maturities and minimum amount of loans to individuals.*—Crop loans shall not be granted with maturities exceeding one year, and the maturity dates should be fixed at the time when the crops are to be harvested and available for sale. Loans for livestock, machinery and equipment shall not be granted with maturities exceeding five years. On all other loans, the board shall set the maturity dates, which shall not exceed ten years without the specific approval of the

Superintendent. No loans will be made to an individual for an amount less than twenty-five dollars ($25.00).

10. *Depository and bonding of officers of cooperatives.*—Funds loaned to a cooperative shall be deposited only in a depository approved by the Commissioner of Indian Affairs. Each officer, employee, or agent of the cooperative authorized to handle funds must furnish a bond satisfactory to the Commissioner of Indian Affairs, unless all funds of the cooperative are collected and disbursed similar to individual Indian Moneys by bonded Government disbursing officers. All transactions shall be accounted for in writing, and receipts issued for all money received. Business affairs of the cooperative shall be conducted in accordance with the terms of the approved loan agreement.

11. *Maturity and authority for expenditure of funds of a cooperative.*—The maturity of loans to cooperatives shall be determined by the character and nature of the enterprise for which the funds are used. The method by which cooperatives expend their funds shall be regulated by their bylaws and in accordance with the approved loan agreement.

12. *Disposition of earnings of cooperatives.*—While indebted to the loan fund the cooperative must agree to set aside annually not less than twenty-five per cent of its net earnings until a surplus fund equal to at least ten percent of its total outstanding indebtedness has been established.

13. *Restrictions on assignment of rights, discounting, and obligation of security.*—While borrowers are indebted for loans from the loan fund, the loan board shall require them to agree not to assign their loan agreements or any interest therein to a third party, nor to rediscount paper with, assign, pledge, or otherwise obligate any of their property of the same class in which the Tribe has an interest, to any individual, bank, or agency, without the consent of the loan board.

14. *Security, buildings not part of realty, and bills of sale.*—The loan board must obtain an adequate amount of security on all loans and advances made. In all cases, as part of the security, the board must require that title to property, and issue therefrom purchased with loan funds be placed in the United States until the borrower has repaid his loan in full. Each borrower shall be required to agree that if he is in default the Superintendent upon request of the loan board, shall apply on his indebtedness any trust funds to his credit, or any personal property of his or in which he has an interest. The board must obtain from the borrower, bills of sale from the vendors to the United States in trust for the Klamath Indians for all livestock and machinery; and for all equipment, tools and household goods costing more than twenty-five dollars ($25.00), purchased with loan funds. When the borrower has repaid his loan in full, the loan board shall transfer the interest of the Tribe in the property pledged or mortgaged as security or purchased with loan funds to the borrower. In turn, the Superintendent, upon request, shall furnish the borrower with a bill of sale when he has completely repaid the loan under which such property was purchased. All borrowers must agree that, until fully paid for, all houses, buildings, and fences constructed entirely or in part with loan funds shall not be considered as part of the realty.

15. *Inspection of property offered as security.*—All property offered as security for loans must be inspected before any advance of funds may be made. To reduce costs, agency records or reports of inspection by Government employees, if adequate, may be used in lieu of a physical inspection, but the use of such reports by the loan board shall not reduce the responsibility of the loan board for the soundness of the loan. The loan board must obtain in the application for loan, permission for representatives of the board of the Superintendent, or other representatives of the Commissioner of Indian Affairs to enter upon the premises of the borrowers at all reasonable times to inspect the property purchased with loan funds or given as collateral security for a loan.

16. *Filing of liens, mortgages, and other repayment guarantees.*—The loan board shall record all liens, mortgages, or other securing instruments on unrestricted property in accordance with local recording statutes, and shall file securing instruments on restricted or trust property in accordance with instructions of the Superintendent before any advances of funds are made on loans. The cost of such filing shall be considered an administrative expense and shall be paid out of the loan fund in the hands of the Superintendent. Upon full repayment of a loan, the board shall advise the borrower of the action necessary to effect the release of all guarantees of repayment, but the cost of securing such releases must be borne by the borrower.

17. *Identification of property purchased with credit funds and insurances.*—All livestock and issue therefrom, and all major articles of equipment purchased with loan funds or trust property given as security for loans shall be branded or marked with the letters "ID" to make identification permanently possible. In addition such property and livestock shall be marked or branded with the brands or marks of individuals.

The loan board and the Superintendent, by mutual agreement, may authorize a borrower to sell personal property pledged as security for a loan or purchased with loan funds, free of encumbrance, where after the release of such personal property there will remain adequate security for the repayment of the unpaid balance of the loan, and the borrower is not in default, or an agreed portion of the receipts from such sale will be applied to the repayment of the borrower's loan.

Borrowers may be required by the loan board and the Superintendent to insure any property pledged as security for a loan or purchased with loan funds against loss from fire or any other cause until the loan is paid in full; buildings of an aggregate value of more than five hundred dollars ($500.00) which have been pledged as security for a loan or acquired with loan funds, must be insured against loss by fire. All such insurances shall be made payable to the Secretary of the Interior, who shall utilize the proceeds to pay off any indebtedness of the borrower to the Klamath Tribal Loan Fund, and shall pay the balance remaining, if any, to the borrower.

18. *Signature by thumb mark.*—Signature made by thumb marks must be witnessed by at least two persons who must sign the documents together with their addresses. Where non-trust property is involved, state laws governing signatures to thumb marks shall be complied with also.

19. *Five per cent surcharge on industrial, agricultural, or commercial loans.*—The loan board shall require each person borrowing from the loan fund for industrial, agricultural, or commercial purposes, to deposit with the Superintendent at the time of receiving the first advance upon his loan, an amount equal to five per cent of his total approved loan to cover administrative expenses and other carrying charges incident to the making and subsequent safe-guarding of the loan. The Superintendent shall deposit all such collections in the Treasury of the United States to the credit of the loan fund.

20. *Charges and interest.*—Borrowers may not be required to pay directly or indirectly, any fees, interest, or charges except as specifically provided in these regulations. Borrowers shall not be charged interest at a rate of more than three per cent per annum on funds from the date advanced until paid.

21. *Educational loans.*—Educational loans may be granted to cover tuition, subsistence and other reasonable expenses. The courses pursued and the institution to be attended will be subject to the approval of the Commissioner of Indian Affairs. Any change in schools after the loan is granted must be approved by the Commissioner of Indian Affairs. Loans shall be limited to the amount required to meet the needs of students for one year only. Additional loans for the second and succeeding years of the course may be made, provided the student gives evidence of industry and a definite purpose and demonstrates that he can make progress in the type of training he has selected. Need of aid shall be shown, and the loan shall be limited to the amount required in addition to personal and family resources.

Applications for loans must be submitted at least three months before opening of the school term for which the loan is required. Applicants must furnish satisfactory reference as to ability, character, and performance. They must, also, provide authentic reports from reliable educators and other persons who know of their ability and they must demonstrate definite aptitude for the training desired and the vocation chosen. A medical certificate shall be required on forms prescribed by the Indian Service. Physically handicapped persons must give evidence of general good health.

Advances made on the amount loaned shall be immediately deposited in the borrower's individual Indian money account. Repayment contracts of minors must be signed by the borrowers and one or more co-signers. Co-signers may be either or both parents, the nearest responsible relative, or guardian. Loans may be made to borrowers upon the basis of character, except that the borrower must agree that if he is in default any income which may accrue to his credit in the hands of the Superintendent may be applied to the repayment of the loan, as provided in Section 14. Careful investigation must be made of the reliability and honesty of the borrower and co-signers, and evidence submitted concerning the ability of the borrower to complete the course, probability to taking advantage of the course to increase earning power, past accomplishments, and adequate appreciation of the obligation to repay the loan. Repayment should begin within three months after completion of the course, and continue in monthly payments until the debt is liquidated. The date of maturity of educational loans shall be fixed by the loan board in accordance with Section 9 and may not be thereafter extended without the approval of the Superintendent.

22. *Maintenance and support of the aged, infirm or incapacitated.*—Loans may be made to an aged, infirm or incapacitated member for his maintenance and support up to the full value of the security tendered by him. Advances made on the amount loaned shall be immediately deposited in the borrower's individual Indian money account. Disbursements therefrom shall be made by the Superintendent as the needs of the borrower appear.

The applicant shall present, with his application, a statement of his income from all sources during the calendar year preceding, a statement of the prospective income from all sources during the next succeeding calendar year, and competent evidence that he is within the class or classes intended to be benefitted by this section.

23. *Financial assistance in cases of illness, death, or other emergency.*—In case of serious emergency affecting the applicant, such as the illness or death of a person in his immediate family, loans may be made, up to the full value of the security offered. Character loans may be made in such cases, where the applicant has an established reputation for financial integrity, provided the amount of the loan does not exceed five hundred dollars ($500.00).

24. *Quorum.*—Three members of the loan board shall constitute a quorum for the transaction of business. Unanimous consent of the members of the loan board is required for the final approval of all agreements and loans except as hereinafter provided:

(a) Two members may receive applications and consider other business.

(b) One or more members of the loan board, acting with the Superintendent or his authorized representative, by unanimous vote, may transact the business of the loan board, including the final approval of applications for loans, where (1) the application, because of extreme emergency such as serious illness or death, should receive immediate consideration; or (2) the remaining members of the loan board are unable to be present because of serious illness, death, or because of absence from the Reservation upon official tribal business.

25. *Approval of loans.*—Applications of individuals for loans must be approved by the three members of the loan board at a regular meeting, or special meeting except as provided in Section 24 (b).

Where the applicant's indebtedness to the loan fund, and to reimbursable loans previously made from tribal funds, if the application were approved, would not exceed the sum of $1,000.00 including interest and charges, approval by the loan board shall be final, and in cases where, if the application were approved, the individual's indebtedness to the loan fund would exceed the sum of $1,000.00, the approval by the loan board shall be subject to review by the Superintendent.

In such cases, after the board has approved the loan, a copy of the application for loan, together with all supporting papers, shall be delivered to the Superintendent, who shall have fourteen days from the date of such delivery within which to approve or disapprove the application. Within the prescribed period he shall report his action in writing to the loan board. If he has disapproved the application he shall, in writing, state his reasons for disapproval. In the case of failure by the Superintendent to report his action upon an application within such fourteen day period, he shall be deemed to have approved the same.

In cases where the Superintendent has disapproved, and if the application were approved the applicant's indebtedness to the loan fund would not exceed $2,000.00, the loan board may thereafter, by the unanimous vote of all duly qualified members of the board, at a special or regular meeting, approve the application. In cases where the applicant's indebtedness would exceed $2,000.00 the disapproval of the application by the Superintendent shall be conclusive.

All loans to cooperatives must be approved by the Commissioner of Indian Affairs.

Loans may be approved only for enterprises which are to be conducted on tribal, allotted, or other lands within the boundaries of the reservation, except in special instances where specific prior approval is obtained from the Superintendent. Except with the consent of the Superintendent, credit funds may not be spent for promotional or educational expenses in connection with the organization or operation of any cooperative enterprise, nor may funds be used by the loan board to purchase property for resale at a profit as part of its activities.

Loans for the development of commercial enterprises shall be approved only when such enterprises are to be operated on a cash basis.

Loans shall not be granted for obtaining grazing permits or leasing land for the grazing of livestock, where grazing facilities are available through a cooperative livestock association, except where sufficient reasons are presented for not using such facilities.

In determining which applicants should receive industrial or agricultural loans, preference shall be given to: (a) applicants offering adequate security; (b) applicants with an established reputation of financial responsibility; (c) applicants presenting evidence of their probable success in the undertaking for which the loan is requested, which evidence must rest on past performance; and (d) applicants requesting loans for enterprises which will probably be most productive and self-liquidating.

26. *Commitment order of the board and loan agreement.*—When an application for a loan has been approved, a commitment order in keeping with approved forms shall be prepared to cover the amount of the approved application, and shall be executed and signed by the Board and accepted in writing by the borrower. The approved application, accepted commitment order and the borrower's note or notes evidencing advances constitute the loan agreement. The loan agreement may not be altered or amended except in writing, under the procedure provided in Section 25 relating to approval of loans.

27. *Advances and restrictions.*—All advances made by the Board must be in keeping with the approved loan agreement and may not be made until all securing instruments have been executed, delivered, and recorded. In the case of a borrower with inadequate security, the initial advance shall be limited, and subsequent advances made dependent upon the borrower's accomplishments.

28. *Advance and expenditure of loan funds.*—The loan board, in requesting the advance of funds under approved loan agreements, shall present to the Superintendent satisfactory evidence that there has been a complete compliance with all the applicable provisions of these

regulations. To effect the initial advance to a borrower, the board shall submit to the Superintendent the originals and copies of the approved application, the accepted commitment order, and the note signed by the borrower, and a voucher on forms 5–809, and 5–809a, executed by the borrower. The Superintendent will certify the copies and return the originals to the loan board. As additional advances are required vouchers for the amounts thereof will be presented to the Superintendent together with the originals and copies of the notes. If they are in proper order, the Superintendent will certify the copies, return the originals to the loan board, and send the certified copies to the Regional Disbursing Officer for payment. In the discretion of the loan board, and as provided in Sections 21 and 22 of these regulations, borrowers may be required to deposit their loans with the Superintendent for credit to an individual Indian money account, and in such cases the voucher shall be prepared so as to require the check drawn in payment thereof to be sent to the Superintendent.

Where loans are deposited to the individual credit of borrowers on the books of the Agency they shall not be merged with any other individual monies but shall be held in separate accounts. Except in the case of loans made for the maintenance and support of aged, infirm or incapacitated Indians, expenditures shall be made from the individual Indian money accounts of borrowers upon receipt of requests from the loan board prepared on approved forms, provided the Superintendent considers such expenditures to be within the law and in keeping with approved loan agreements and amendments.

29. *Reports from borrowers.*—The board shall require its borrowers to furnish such signed statements and reports and follow such procedures, as are necessary to provide proper information as to the status of the loan at all times.

30. *Repayment of loans.*—Repayments on loans shall be made to the Superintendent, who shall accept them at all reasonable times and issue written receipts therefor. Such repayments shall be immediately deposited in the Treasury of the United States to the credit of the loan fund, and the loan board notified of the amount of such repayments. The repayments so deposited may be reloaned under the act of Congress of August 28, 1937 (50 Stat. 872) and these regulations.

31. *Default by borrower.*—Failure on the part of any borrower to make repayments when due, to use loan funds in keeping with the loan agreement as originally approved or amended, to make every honest effort possible to continue operations successfully, or failure to use the funds loaned properly, shall be grounds for any one or all of the following steps to be taken at the option of the Superintendent or the loan board: (a) Declare the entire amount advanced immediately due and payable; (b) Discontinue any further advance of funds contemplated by the loan agreements; (c) Prevent further disbursements of credit funds under the control of the borrower; and (d) Take possession of any and all collateral or security. These rights may be enforced without recourse to legal proceedings, except as to foreclosures or repossession affecting fee patented land or other security not held in trust. The defaultng borrower may, thereafter be requested to submit in writing reasons for his default, together with plans for amending it.

Where the Superintendent is not satisfied with the steps taken to insure payment, the loan board must take such further action to insure repayment as he may prescribe in writing, and where extensions or renewals are desirable, to abide by written instructions of the Superintendent as to the conditions under which such extensions or renewals may be granted.

32. *Property of deceased borrowers on which Government holds lien.*—The board shall take all steps which may be necessary to safeguard and protect the property of a deceased borrower in which the Tribe has an interest until the obligation is liquidated or assumed by the heirs of the deceased borrower or by other parties The board may collect from the ultimate owners of such property, or deduct from the proceeds of the sale of personal property, reasonable expenses for its care. The board shall also protect its interest in assignments of income from real property or other sources by promptly notifying the Superintendent and examiner of inheritance in writing of its interest in the estate of the decedent. In the event the heirs or devisees or a deceased borrower fail or refuse, for three years, to assume the deceased's indebtedness, which is secured by real property, the loan board and the Superintendent shall proceed in the manner provided for in Sections 31 and 33.

33. *Disposition of property not fully paid for, or given as security.*—The loan board shall abide by instructions of the Superintendent regarding sale or other disposal of any property purchased with loan funds which has not been paid in full, or given as security for a loan upon which the borrower has defaulted.

34. *Additional rules and regulations.*—The loan board may adopt and promulgate such additional rules and regulations, not inconsistent with these regulations, as it deems advisable.

35. *Compensation of members of the loan board.*—

(a) Each duly elected and qualified member of the loan board shall be compensated for the time during which he is actually engaged upon the business of the loan board, at the rate of eight dollars ($8.00) per day. A day shall be deemed to consist of eight hours of actual employment upon the business of the loan board.

(b) Any claims for over-time rendered by any or all members, over and above the prescribed eight hours, in any one calendar day, shall not be allowed.

(c) Any necessary mileage required for the purpose of recording instruments, appraisal of collateral offered for security, investigations, repossessions, or other purposes in connection with the proper execution of the business of the loan board, shall be paid for at the rate of five cents (5¢) per mile actually traveled by any member or members in his or their personally owned automobile. However, mileage shall not be allowed for travel by members to and from their respective homes or places of residence and the board office.

(d) Any necessary travel by railroad, bus, or other public conveyance, for the purposes set forth in paragraph (c) above, shall be performed on Government transportation request in accordance with existing regulations. Transportation requests shall be issued by the Superintendent only when travel by common carrier is justified.

(e) All claims for services rendered, mileage, or travel, shall be submitted to the Superintendent upon duly executed forms provided for that purpose, and shall not be paid oftener than semi-monthly.

(f) All claims for services rendered, mileage, or travel, of whatsoever nature, shall be subject to audit and approval of the Superintendent of the Klamath Agency.

36. *Amendment to regulations.*—These regulations may be amended at any time by the Secretary of the Interior upon the suggestion of representatives of the Klamath tribes, provided said representatives are specifically and duly authorized by the Klamath General Council so to do; or whenever the Secretary of the Interior deems it necessary or expedient to promulgate amendments.

November 13, 1937.

JOHN COLLIER,
Commissioner of Indian Affairs.

Approved, December 4, 1937.

OSCAR L. CHAPMAN,
Acting Secretary of the Interior.

[F R. Doc. 38–1577; Filed, June 4, 1938; 10:14 a. m.]

REGULATIONS FOR LOANS BY INDIAN CREDIT ASSOCIATIONS

The following regulations shall govern loans by Indian Credit Associations under the Oklahoma Indian Welfare Act (Public No. 816, 74th Congress) to individual Indians in Oklahoma.

Definitions.—Except as otherwise indicated, "Secretary" refers to the Secretary of the Interior; "Commissioner" to the Commissioner of Indian Affairs; "Superintendent" to the superintendent of the jurisdiction under which the principal office of the credit association is located; "Association" to an Indian cooperative association engaged in borrowing money from the United States under the Act and relending it to its members; "Credit Agent" to the credit agent in charge of loans under the Act in Oklahoma or his duly authorized associate; "Loan Agreement" collectively to the application, securing documents, and all other papers submitted in connection with the application.

1. *Eligibility.*—To be eligible for a loan an individual must be eligible for membership in the credit association. All loans must be approved by the credit agent. Without specific authority from the Commissioner, loans shall not be made to a member who is: (a) a minor; (b) a regular employee of the Government; (c) married to and living with a person already a borrower, unless their loans are consolidated; (d) an Indian woman married to a white man; (e) any individual who has funds on deposit sufficient to finance the approved plans; or (f) who will have an aggregate indebtedness to the association exceeding one thousand dollars.

2. *General loan policies.*—The granting or refusal of the loan and the amount thereof shall be governed by the nature and extent of the enterprise to be financed, its prospects of success, the extent to which the enterprise will promote a permanent improvement in the applicant's economic condition, the character and past performance of the borrower both generally and in the particular work involved in the enterprise, and the amount and kind of the security offered.

3. *Purpose.*—Loans may be granted for any income producing purpose except the purchase of land unless it is a site necessary in the applicant's occupation. Preference shall be given to agricultural enterprises and to enterprises lying within or adjacent to Indian agricultural communities.

4. *Plan.*—The applicant shall submit a plan in duplicate for the use of the money, which shall be set forth fully and specifically. It shall indicate that the applicant will carry on the enterprise personally, reap the benefits, and sustain the losses thereof. If the borrower finds it necessary or desirable to make changes in his plan, he may do so, provided such changes are first approved by the association and the superintendent, and do not involve an increase in the amount of the loan.

5. *Size of loans.*—No loan shall be granted for less than $25.

6. *Maturity.*—Loans shall be made for the shortest period consistent with the purposes thereof, and the ability of the applicant to repay. Crop loans shall be made for no longer than one year and livestock and machinery loans no longer than six years.

7. *Interest.*—Interest shall be paid annually at not less than three percent per annum.

8. *Security.*—All possible security shall be given up to an adequate amount. It may consist of the assignment of income, mortgages on property owned wholly or in part by the borrower, or other suitable collateral.

(a) *Filing.*—The securing instruments covering trust property shall be filed in the Agency Office. Instruments covering nontrust property shall be filed, registered, or recorded in accordance with Oklahoma law at the borrower's expense, in such a way as to fully protect the interests of the association therein.

(b) *Non-agricultural enterprises.*—Generally greater security will be required on loans for non-agricultural enterprises and full security will be required on loans for non-agricultural enterprises not in or adjacent to Indian communities.

(c) *Joint loans.*—In the case of a loan to a married person, if his or her spouse is an Indian, the application must be made jointly by both parties. If the spouse is not an Indian, he or she should not sign the application, but may be required to endorse securing documents.

(d) *Mortgages on trust and restricted real estate.*—Trust and restricted real estate may not be mortgaged to the association for a loan. Liens on crops raised on such land, assignments of income therefrom, or other types of security not involving a transfer of title to the land may be taken. Mortgages may be taken or nontrust or unrestricted real estate.

9. *Other indebtedness.*—Applicants must make acceptable plans for the payment or release of any debts or outstanding liens upon their property.

10. *Signature by mark.*—Signature by mark shall be witnessed by two witnesses, one of whom shall write in the name of the person who cannot write, near the mark. Post office addresses of both witnesses must be shown, and they must actually see the mark made. Both witnesses must be disinterested parties to the loan agreement.

11. *Stock.*—The applicant must own at the time the loan is made, shares in the association in an amount equal to $3 for each $100 or fraction thereof of the amount of the loan.

12. *Procedure.*—The application for a loan shall be submitted to the secretary of the association in quintuplicate on a form prescribed by the Secretary. The form must be completely filled out, and the applicant must agree to the various provisions thereof. Accompanying the application shall be two copies of a detailed financial statement and operating plan on a form approved by the Secretary, and three unexecuted copies of all securing instruments, including a note for the amount of the first advance as set forth in the application.

(a) *Action of the Secretary of the Association.*—The secretary of the association shall submit all copies of the application, and supporting papers, to the loan committee of the association. If the application is approved by that body, these papers shall then be submitted to the superintendent. If the application is not approved, one copy shall be retained for the files of the association, and the remaining copies returned to the applicant.

(b) *Action of the Superintendent.*—The superintendent shall make his recommendations in triplicate on a form approved by the Secretary. One copy of his recommendations shall be retained by him and two copies submitted to the credit agent, together with all copies of the application and supporting papers. This procedure shall be followed whether or not the superintendent approves the application.

(c) *Action of the Credit Agent.*—The credit agent shall prepare five copies of his approval or disapproval of the application on a form approved by the Secretary. If the loan does not require specific authority from the Commissioner as set forth in Section 1, and the loan is approved in whole or in part by the credit agent, he shall return all copies of the application, supporting papers, and his report as to the action the association is to take, to the secretary of the association through the superintendent. If the loan requires specific authority from the Commissioner as set forth in Section 1, one copy of the application shall be submitted to the Commissioner with copy of the recommendations of the superintendent and credit agent. The Commissioner shall prepare five copies of a letter indicating either his approval or disapproval of the loan, and submit the same to the credit agent with the application and recommendations of the superintendent and credit agent. If the Commissioner approves the loan in whole or in part, the credit agent shall, upon return of these documents, attach one copy of the Commissioner's letter to each copy of the application and follow the same procedure as in the case of loans which do not require specific authority from the Commissioner. The recommendations of the superintendent shall not be returned to the secretary of the association. The credit agent shall place one copy of the same in his files, and the other shall be transmitted to the Commissioner with his copy of the application as set forth in Section 12 (g). In case the loan has been disapproved by either the credit agent or the Commissioner, the procedure as set forth in Section 12 (j) shall be followed.

(d) *Action of the Secretary of the Association upon return of the application.*—If the application is approved by the Commissioner or the credit agent, the secretary of the association shall then grant the loan by filling out the commitment order on the last page of the application. Unless the secretary is also the treasurer of the association, the commitment order must also be signed by the treasurer Any necessary modifications in the application, which were conditions of approval, shall be incorporated into, and made a part of the commitment order.

(e) *Acceptance of commitment order by borrower.*—The applicant must accept the commitment order within thirty

days from the date thereof, and it may be withdrawn at any time before acceptance. He shall retain the fourth copy, and submit the original and three copies to the secretary of the association. He shall also execute the original copies of the securing documents, including the note, retain one copy and deliver two copies, one of which shall be the original, to the secretary of the association.

(f) *Action of the Secretary of the Association upon acceptance of the commitment order and execution of the securing documents and notes.*—Upon the borrower's compliance with the provisions of Section 12 (e) the secretary of the association shall assign a number to the loan agreement. Such numbers shall follow consecutively beginning with "1," with "CF" preceding such number. He shall have all securing documents covering non-trust property filed, registered, or recorded as required under Section 8 (a). The original securing documents, or a certified copy, showing the same to have been properly filed, registered, or recorded, shall be forwarded to the superintendent. The originals of securing documents covering trust property shall be forwarded to the superintendent with a request for filing. Copies of all securing documents and notes shall be placed in the files of the association. Copies of the approved application and financial statement and operating plan shall also be placed in the files of the association. The remaining copies shall be forwarded to the superintendent.

(g) *Disposition of other copies of the loan agreement.*—The original copy of the application, financial statement and operating plan, securing documents, and note, shall be placed in a place of safekeeping in the Agency Office. The remaining two copies of the application shall be submitted to the credit agent. He shall retain one copy for his files, and submit one copy, together with a copy of the superintendent's recommendations, as outlined in Section 12 (c), to the Commissioner.

(h) *Disbursement of funds.*—When the superintendent has the various documents in his files as outlined under Section 12 (g), they shall serve as his authority to advance funds by field journal voucher entry from funds on deposit in an Individual Indian Money Account to the credit of the association to an Individual Indian Money Account of the borrower. Disbursements from the borrower's Individual Indian Money Account shall be in the form of cash or purchase orders as the superintendent may determine, in accordance with the terms of the approved loan agreement. At the time the funds are advanced from the account of the credit association to the individual borrower, the date of such advance shall be entered on the back of the executed note, and interest shall be figured from that date. Notice of such transfer shall be given to the association and to the borrower. Money on deposit to the credit of borrowers of the association shall be earmarked for expenditure only in accordance with the borrower's approved plan of operation.

(i) *Repayments.*—Unless otherwise provided in the loan agreement between the credit association and the United States, all repayments on loan agreements shall be made to the bonded Government Disbursing Officer, or his authorized agent, for the account of the treasurer of the association. Repayments shall be first applied on interest, and the balance on principal. Appropriate entries shall be made on the back of the note.

(j) *Disapproved Applications.*—If the credit agent does not approve the loan, he shall retain one copy of the application, of his recommendations, and of the superintendent's recommendations. He shall send one copy of each of these documents to the Commissioner, and return all other papers to the superintendent. The superintendent shall retain one copy of the application, credit agent's recommendations, superintendent's recommendations, unexecuted securing instruments and note, and the financial statement and operating plan. The credit association shall retain one copy of the application, credit agent's recommendations, securing instruments and note, and financial statement and operating plan. All other papers shall be returned to the applicant. If the loan required specific authority from the Commissioner as outlined in Section 1, and is disapproved, the same procedure outlined in Section 12 (c) shall be followed. Upon receipt of the Commissioner's letter, the credit agent shall attach one copy of the Commissioner's letter to each copy of the application and follow the procedure set forth herein.

Summary of loan agreement papers to be placed in files of—

Borrower:
- Fourth copy of application.
- Fourth copy of credit agent's recommendations.
- Second copy of securing instruments and note.

Credit Association:
- Third copy of application.
- Third copy of credit agent's recommendations.
- First copy of securing instruments and note.
- First copy of financial statement and operating plan.

Agency Office:
- Original copy of application.
- Original copy of credit agent's recommendations.
- Original copy of superintendent's recommendations.
- Original or certified copy of securing instruments and note.
- Original copy of the financial statement and operating plan.

Credit Agent:
- First copy of the application.
- First copy of the credit agent's recommendations.
- First copy of the superintendent's recommendations.

Indian Office:
- Second copy of the application.
- Second copy of the credit agent's recommendations.
- Second copy of the superintendent's recommendations.

NOTE.—In case the loan agreement required the approval of the Commissioner, as set forth in Section 1, each file shall also contain a copy of the Commissioner's letter of approval or disapproval. In case applications were disapproved, the securing instruments and note in the above files will be unexecuted, and the application will not contain the acceptance of the commitment order by the applicant.

Approved by Assistant Secretary Chapman, December 17, 1937.

[F. R. Doc. 38-1578; Filed, June 4, 1938; 10:14 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4806]

AMENDING REGULATIONS TO GIVE EFFECT TO CERTAIN LEGISLATIVE ENACTMENTS RELATING TO THE DOCUMENTARY STAMP TAXES

To Collectors of Internal Revenue and Others Concerned:

Regulations 71 (revised July 1932) as amended by Treasury Decision 4701, approved October 16, 1936, are further amended as follows:

Chapter I is amended as follows:

(1) The subtitle immediately preceding the quotation of subsection (c) of section 721 of the Revenue Act of 1932 and preceding article 4, which reads—

"Section 721 (c) of the Revenue Act of 1932" is eliminated, and the following new subtitle is substituted in lieu thereof:

"Section 721 (c) of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

(2) The date "July 1, 1934" appearing in the quotation of subsection (c) of section 721 immediately following the above subtitle is changed to read "July 1, 1939."

(3) A new article is designated "Art. 24A" and reading as follows is added immediately following article 24:

"ART. 24A. *Bonds issued in reorganization under Bankruptcy Act.*—Bonds issued to make effective any plan of reorganization confirmed under the provisions of section 77 (i) or section 77B (f) of the Bankruptcy Act are exempt from tax."

Chapter II is amended as follows:

(1) The subtitle immediately preceding the quotation of subsection (c) of section 722 of the Revenue Act of 1932 and preceding article 25, which reads—

"Section 722 (c) of the Revenue Act of 1932" is eliminated, and the following new subtitle is substituted in lieu thereof:

"Section 722 (c) of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

(2) The date "July 1, 1934" appearing in the quotation of subsection (c) of section 722 immediately following the subtitle is changed to read "July 1, 1939."

(3) A new paragraph designated "(k)" and reading as follows is added to article 29 immediately following subparagraph (j):

"(k) The issue of stock to make effective any plan of reorganization confirmed under the provisions of section 77 (i) or section 77B (f) of the Bankruptcy Act."

Chapter III is amended as follows:

(1) Immediately following the quotation of Schedule A-3 of Title VIII of the Revenue Act of 1926, as amended, as substituted by Treasury Decision 4701, and which precedes article 31, a new subtitle is inserted reading—

"Section 723 (c) of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

and immediately following such new subtitle there is inserted a quotation of section 723 (c) of the Revenue Act of 1932, as amended, which reads as follows:

"(c) Effective July 1, 1939, such subdivision 3, as amended by subsection (a) of this section, is amended by striking out '4 cents' wherever appearing in such subdivision and inserting in lieu thereof '2 cents', and by striking out the following: 'in case the selling price, if any, is $20 or more per share the above rate shall be 5 cents instead of 4 cents: *Provided further*, That'."

(2) A new subparagraph designated "(u)" and reading as follows is added to article 35 immediately following subparagraph (t):

"(u) Transfers of shares or certificates of stock to make effective any plan of reorganization confirmed under the provisions of section 77 (i) or section 77B (f) of the Bankruptcy Act."

Chapter IV is amended as follows:

(1) The subtitle immediately following the chapter heading and reading—

"Schedule A-4 of Title VIII of the Revenue Act of 1926, as amended by section 726 (a) of the Revenue Act of 1932"

is eliminated, and the following new subtitle is substituted in lieu thereof:

"Schedule A-4 of Title VIII of the Revenue Act of 1926, as amended by section 726 (a) of the Revenue Act of 1932, and further amended by section 612 (a) of the Revenue Act of 1934."

(2) The rate "5 cents" appearing twice in the first sentence of the quotation of Schedule A-4 immediately following the above subtitle is changed to read "3 cents."

(3) The subtitle immediately preceding the quotation of subsection (c) of section 726 of the Revenue Act of 1932 and preceding article 41, which reads—

"Section 726 (c) of the Revenue Act of 1932" is eliminated, and the following new subtitle is substituted in lieu thereof:

"Section 726 (c) of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by section 612 (b) of the Revenue Act of 1934, by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

(4) The date "July 1, 1934" and the rate "5 cents" appearing in the quotation of subsection (c) of section 726 immediately following the above subtitle are changed to read, respectively, "July 1, 1939" and "3 cents".

(5) The rate "5 cents" appearing in article 42 is changed to read "3 cents".

Chapter VIII is amended as follows:

(1) The subtitle immediately following the chapter heading and reading—

"Schedule A-8 of Title VIII of the Revenue Act of 1926, as added by section 725 of the Revenue Act of 1932"

is eliminated, and the following new subtitle is substituted in lieu thereof:

"Schedule A-8 of Title VIII of the Revenue Act of 1926, as added by section 725 of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

(2) A new subparagraph designated "(u)" and reading as follows is added to article 35 immediately following subparagraph (t):

"(u) Transfers of shares or certificates of stock to make effective any plan of reorganization confirmed under the provisions of section 77 (i) or section 77B (f) of the Bankruptcy Act."

Chapter IV is amended as follows:

(1) The subtitle immediately following the chapter heading and reading—

"Schedule A-4 of Title VIII of the Revenue Act of 1926, as amended by section 726 (a) of the Revenue Act of 1932"

is eliminated, and the following new subtitle is substituted in lieu thereof:

"Schedule A-4 of Title VIII of the Revenue Act of 1926, as amended by section 726 (a) of the Revenue Act of 1932, and further amended by section 612 (a) of the Revenue Act of 1934."

(2) The rate "5 cents" appearing twice in the first sentence of the quotation of Schedule A-4 immediately following the above subtitle is changed to read "3 cents."

(3) The subtitle immediately preceding the quotation of subsection (c) of section 726 of the Revenue Act of 1932 and preceding article 41, which reads—

"Section 726 (c) of the Revenue Act of 1932" is eliminated, and the following new subtitle is substituted in lieu thereof:

"Section 726 (c) of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by section 612 (b) of the Revenue Act of 1934, by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

(4) The date "July 1, 1934" and the rate "5 cents" appearing in the quotation of subsection (c) of section 726 immediately following the above subtitle are changed to read, respectively, "July 1, 1939" and "3 cents".

(5) The rate "5 cents" appearing in article 42 is changed to read "3 cents".

Chapter VIII is amended as follows:

(1) The subtitle immediately following the chapter heading and reading—

"Schedule A-8 of Title VIII of the Revenue Act of 1926, as added by section 725 of the Revenue Act of 1932"

is eliminated, and the following new subtitle is substituted in lieu thereof:

"Schedule A-8 of Title VIII of the Revenue Act of 1926, as added by section 725 of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

(2) The date "July 1, 1934" appearing in the quotation of Schedule A-8 immediately following the above subtitle is changed to read "July 1, 1939".

(3) A new article designated "Art. 118A" and reading as follows is added immediately following article 118:

"ART. 118A. *Conveyance to effectuate plan of reorganization.*—A conveyance of real estate to make effective any plan of reorganization confirmed under the provisions of section 77 (i) or section 77B (f) of the Bankruptcy Act, is not subject to tax."

Chapter IX is amended as follows:

(1) The subtitle immediately preceding the quotation of subsection (c) of section 724 of the Revenue Act of 1932 and preceding article 119, which reads—

"Section 724 (c) of the Revenue Act of 1932" is eliminated, and the following new subtitle is substituted in lieu thereof:

"Section 724 (c) of the Revenue Act of 1932, as amended by the Act of June 16, 1933 (Sec. 212, 48 Stat. 206), by Joint Resolution No. 36 (49 Stat. 431), approved June 28, 1935, and as further amended by Joint Resolution No. 48 (50 Stat. 358), approved June 29, 1937."

(2) That portion of the first sentence of the quotation of section 724 appearing in the quotation of subsection (c) of section 724 immediately following the above subtitle is changed to read "July 1, 1939."

(3) The following new sentence is added to article 120 at the end of the fourth paragraph:

"Nor is any tax imposed upon deliveries or transfers of bonds to make effective any plan of reorganization confirmed under the provisions of section 77 (i) or section 77B (f) of the Bankruptcy Act."

Chapter X is amended as follows:

(1) The subtitle immediately preceding the quotation of section 805 (a) of the Revenue Act of 1926 and preceding article 128, which reads—

"Sections 805 (a) and 807 of the Revenue Act of 1926; and section 808 of the Revenue Act of 1926, as added by section 443 of the Revenue Act of 1928"

is eliminated, and the following new subtitle is substituted in lieu thereof:

"Section 805 (a) and 807 of the Revenue Act of 1926; and section 808 of the Revenue Act of 1926, as added by section 443 of the Revenue Act of 1928, and as amended by the Act of March 1, 1933. (47 Stat. 1413)."

(2) That portion of the first sentence of the quotation of section 808 appearing under the above subtitle and reading—

"in cities of over 25,000 inhabitants"

is changed to read—

"in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats."

(3) The phrase appearing at the end of article 130 and reading—

"in cities of over 25,000 inhabitants"

is changed to read—

"in all post offices of the first and second classes and such post offices of the third and fourth classes as are located in county seats".

(4) Immediately following the quotation of section 3176 of the Revised Statutes, as amended, which appears under the subheading "Administrative Provisions," a new subtitle is inserted reading—

"Section 406 of the Revenue Act of 1935"

and immediately following such new subtitle there is inserted a quotation of section 406 of the Revenue Act of 1935, which reads as follows:

"In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate."

(5) The subtitle immediately preceding the quotation of section 1108 (a), as amended, under the subheading "Regulations", and preceding article 149, which reads—

"Retroactive Regulations

"Section 1108 of the Revenue Act of 1926, as amended by section 605 of the Revenue Act of 1928"

is eliminated, and the following new subtitle is substituted in lieu thereof:

"Retroactivity of Regulations, Rulings, etc.

"Section 1108 of the Revenue Act of 1926, as amended by section 605 of the Revenue Act of 1928, and as further amended by section 506 of the Revenue Act of 1934."

(6) The quotation of section 1108 (a) immediately following the above subtitle and reading—

"(a) In case a regulation or Treasury decision relating to the internal-revenue laws is amended by a subsequent regulation or Treasury decision, made by the Secretary or by the Commissioner with the approval of the Secretary, such subsequent regulation or Treasury decision may, with the approval of the Secretary, be applied without retroactive effect."

"(a) The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury decision, relating to the internal-revenue laws, shall be applied without retroactive effect."

This Treasury decision is issued under authority prescribed in section 1101 of the Revenue Act of 1926.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 1, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1584; Filed, June 6, 1938; 9:54 a. m.]

[T. D. 4807]

AMENDING REGULATIONS TO GIVE EFFECT TO CERTAIN LEGISLATIVE ENACTMENTS RELATING TO TAXES ON OLEOMARGARINE, ADULTERATED BUTTER, AND PROCESS OR RENOVATED BUTTER

To Collectors of Internal Revenue and others concerned:

Regulations 9 (revised April 1936) [1] are amended as follows:

Chapter IV is amended as follows:

(1) The parenthetical reference at the end of article 20 (c) reading—

"(See section 3, Act of August 2, 1886.)"

is changed to read—

"(See section 3, Act of August 2, 1886, as amended by section 2 of the Act of May 9, 1902.) (32 Stat. 193)".

(2) The phrase in the first sentence of article 27 (a) (4) reading—

"as provided in section 1126 of the Revenue Act of 1926"

is changed to read—

"as provided in section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935 (49 Stat. 22)".

(3) The parenthetical reference at the end of article 31 (e) reading—

"(See section 6, Act of August 2, 1886.)"

is changed to read—

"(See section 6, Act of August 2, 1886, as amended by the Act of October 1, 1918.) (40 Stat. 1008)".

(4) The parenthetical reference at the end of article 33 (b) reading—

"(See section 3, Act of August 2, 1886.)"

is changed to read—

"(See section 3, Act of August 2, 1886, as amended by section 2 of the Act of May 9, 1902.) (32 Stat. 193)".

Chapter V is amended as follows:

(1) The parenthetical reference at the end of article 40 (c) reading—

"(See section 3, Act of August 2, 1886.)"

is changed to read—

"(See section 3, Act of August 2, 1886, as amended by section 2 of the Act of May 9, 1902.) (32 Stat. 193)".

(2) The parenthetical reference at the end of the first sentence of article 41 (j) (1) reading—

"(See section 3, Act of August 2, 1886.)"

is changed to read—

"(See section 3, Act of August 2, 1886, as amended by section 2 of the Act of May 9, 1902.) (32 Stat. 193)".

Chapter VI is amended as follows:

The phrase in the first sentence of article 54 (c) reading—

"in section 6, Act of August 2, 1886"

is changed to read—

"in section 6, Act of August 2, 1886, as amended by the Act of October 1, 1918 (40 Stat. 1008)".

Chapter VII is amended as follows:

(1) The subtitle immediately following the quotation of section 3233 of the Revised Statutes, preceding article 60 and reading—

"Section 3173, Revised Statutes, as amended and reenacted in section 1018, Revenue Act of 1924 (43 Stat., 345)"

is changed to read—

"Section 3173, Revised Statutes, as amended and reenacted in section 1115, Revenue Act of 1926 (44 Stat., 118)".

(2) The subtitle and partial quotation of section 3237 of the Revised Statutes immediately following the quotation of section 3232 of the Revised Statutes, preceding article 60 and which read—

"Section 3237, Revised Statutes, as amended by section 53, Act of October 1, 1890 (26 Stat., 624)

"That all special taxes shall become due * * * on the first day of July in each year * * * or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year; and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced to the first day of July following. * * * And it shall be the duty of special tax payers to render their returns to the deputy collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, not later than the last day of the month, except in cases of sickness or absence, as provided for in section three thousand one hundred and seventy-six of the Revised Statutes."

are eliminated, and the following new subtitle and quotation of section 3237 of the Revised Statutes are substituted in lieu thereof:

"Section 3237, Revised Statutes, as amended by section 322, Act of June 26, 1936 (49 Stat., 1953)

"(a) All special taxes shall become due on the 1st day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year, and in the latter case it shall be reckoned proportionately, from the 1st day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

"(b) It shall be the duty of the special taxpayers to render their returns with remittances to the collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, together with the remittances, not later than the last day of the month, except in cases of sickness or absence, as provided for in section 3176 of the Revised Statutes, as amended."

(3) The subtitle immediately following the quotation of section 3183 of the Revised Statutes, preceding article 66 and reading—

"Section 3239, United States Revised Statutes"

is changed to read—

"Section 3239, United States Revised Statutes, as amended by section 26, Act of October 1, 1890 (26 Stat., 618)".

Chapter VIII is amended as follows:

The subtitle and the quotation of section 314, Act of September 21, 1922, immediately preceding article 83, which read—

"Section 314, Act of September 21, 1922 (42 Stat., 941)

"That upon the reimportation of articles once exported, of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed by the internal revenue laws upon such articles, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury."

are eliminated, and the following new subtitle and quotation of section 314 of the Act of June 17, 1930, are substituted in lieu thereof:

"Section 314, Act of June 17, 1930 (46 Stat., 695).

"Upon the reimportation of articles once exported, of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed upon such articles by the internal revenue laws at the time of reimportation, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under regulations to be prescribed by the Secretary of the Treasury."

Chapter IX is amended as follows:

(1) The last sentence of article 90 (c) reading—

"Sections 3220 and 3228, R. S., are generally inapplicable."

is changed to read—

"Sections 3220, R. S., as amended by section 619 (b) of the Revenue Act of 1928 (45 Stat. 878), and 3228, R. S., as amended by section 1106 (a) of the Revenue Act of 1932 (47 Stat. 287), are generally inapplicable."

(2) The subtitle at the head of the partial quotation of section 3173 of the Revised Statutes, as amended, both immediately preceding and immediately following article 93, which reads—

"Section 3173, United States Revised Statutes, as amended by section 1317, Act of February 24, 1919 (40 Stat., 1146)."

is changed to read—

"Section 3173, Revised Statutes, as amended and reenacted in section 1115, Revenue Act of 1926 (44 Stat., 118)."

(3) The reference at the end of article 96 (b) reading—

"see section 3462, R. S., above."

is changed to read—

"see section 3462, R. S., as amended by section 289, Act of March 3, 1911 (36 Stat., 1167)."

(4) The subtitle immediately following the subheading "Removal or Concealment of Commodities" and reading—

"Section 3450, United States Revised Statutes"

is changed to read—

"Section 3450, United States Revised Statutes, as amended and reenacted by section 325, Act of June 26, 1936 (49 Stat., 1955)."

(5) The phrase at the end of the partial quotation of section 3450 of the Revised Statutes immediately following the above subtitle and reading—

"to a fine or penalty of not more than five hundred dollars."

is changed to read—

"to a fine of not more than $5,000 or be imprisoned for not more than three years, or both."

Chapter X is amended as follows:

(1) The parenthetical reference at the end of article 104 reading—

"(See section 2, Act of August 2, 1886.)"

is changed to read—

"(See section 2, Act of August 2, 1886, as amended by the Act of July 10, 1930.) (46 Stat. 1022)".

(2) The phrase at the end of article 111 (d) reading—

"by section 4, Act of May 9, 1902."

is changed to read—

"by section 4, Act of May 9, 1902, as amended by the Act of February 24, 1933. (47 Stat. 902)."

This Treasury decision is issued under authority prescribed in section 20 of the Act of August 2, 1886 (24 Stat., 212).

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 1, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1585; Filed, June 6, 1938; 9:54 a. m.]

[1] 1 F. R. 160.

TITLE 31—MONEY AND FINANCE: TREASURY

PUBLIC DEBT SERVICE

[1938—Department Circular No. 584]

OFFERING OF UNITED STATES OF AMERICA 2¾ PERCENT TREASURY BONDS OF 1958–63

REDEEMABLE AT THE OPTION OF THE UNITED STATES AT PAR AND ACCRUED INTEREST ON AND AFTER JUNE 15, 1958; INTEREST PAYABLE JUNE 15 AND DECEMBER 15

I. Offering of bonds

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par, from the people of the United States for 2¾ percent bonds of the United States, designated Treasury Bonds of 1958–63, in payment of which only Treasury Notes of Series B–1938, maturing June 15, 1938, or Treasury Notes of Series D–1938, maturing September 15, 1938, may be tendered. The amount of the offering under this circular will be limited to the amount of Treasury Notes of Series B–1938 ten-Treasury Notes of Series B–1938 and of Series D–1938 tendered and accepted.

II. Description of Bonds

1. The bonds will be dated June 15, 1938, and will bear interest from that date at the rate of 2¾ percent per annum, payable semiannually on December 15, 1938, and thereafter on June 15, and December 15 in each year until the principal amount becomes payable. They will mature June 15, 1963, but may be redeemed at the option of the United States on and after June 15, 1958, in whole or in part, at par and accrued interest, on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The bonds shall be exempt, both as to principal and interest, from all tax-

ation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, or gift taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of bonds authorized by the Second Liberty Bond Act, approved September 24, 1917, as amended, the principal of which does not exceed in the aggregate $5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in clause (b) above.

3. The bonds will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege and will not be entitled to any privilege of conversion.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $50, $100, $500, $1,000, $5,000, $10,000 and $100,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. Subscription and allotment

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. Payment

1. Payment at par for bonds allotted hereunder must be made or completed on or before June 15, 1938, or on later allotment, and may be made only in Treasury Notes of Series B-1938, maturing June 15, 1938, or in Treasury Notes of Series D-1938, maturing September 15, 1938, which will be accepted at par, and should accompany the subscription. In the case of Treasury Notes of Series D-1938 tendered in payment, coupons dated September 15, 1938, must be attached to the notes when surrendered, and accrued interest from March 15, 1938, to June 15, 1938, ($6.25 per $1,000), will be paid following acceptance of the notes.

V. General Provisions

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38-1591; Filed, June 6, 1938; 12:34 p. m.]

[1938—Department Circular No. 585]

OFFERING OF UNITED STATES OF AMERICA 1⅛ PERCENT TREASURY NOTES OF SERIES A-1943

INTEREST PAYABLE JUNE 15 AND DECEMBER 15

JUNE 6, 1938.

I. Offering of Notes

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par, from the people of the United States for 1⅛ percent notes of the United States, designated Treasury Notes of Series A-1943, in payment of which only Treasury Notes of Series B-1938, maturing June 15, 1938, or Treasury Notes of Series D-1938, maturing September 15, 1938, may be tendered. The amount of the offering under this circular will be limited to the amount of Treasury Notes of Series B-1938 and of Series D-1938 tendered and accepted.

II. Description of Notes

1. The notes will be dated June 15, 1938, and will bear interest from that date at the rate of 1⅛ percent per annum, payable semiannually on December 15, 1938, and thereafter on June 15 and December 15 in each year until the principal amount becomes payable. They will mature June 15, 1943, and will not be subject to call for redemption prior to maturity.

2. The notes shall be exempt, both as to principal and interest, from all taxation (except estate or inheritance taxes, or gift taxes) now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be accepted at par during such time and under such rules and regulations as shall be prescribed or approved by the Secretary of the Treasury in payment of income and profits taxes payable at the maturity of the notes.

4. The notes will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege.

5. Bearer notes with interest coupons attached will be issued in denominations of $100, $500, $1,000, $5,000, $10,000 and $100,000. The notes will not be issued in registered form.

III. Subscription and Allotment

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. Payment

1. Payment at par for notes allotted hereunder must be made or completed on or before June 15, 1938, or on later allotment, and may be made only in Treasury Notes of Series B-1938, maturing June 15, 1938, or in Treasury Notes of Series D-1938, maturing September 15, 1938, which will be accepted at par, and should accompany the subscription. In the case of Treasury Notes of Series D-1938 tendered in payment, coupons dated September 15, 1938, must be attached to the notes when surrendered. Interest from March 15, 1938, to September 15, 1938, on the maturing notes will be credited to subscribers, and interest from June 15, 1938 to September 15, 1938 on the new notes will be charged to subscribers. The difference ($9.672131 per $1,000) will be paid following acceptance of the notes.

V. General Provisions

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38-1592; Filed, June 6, 1938; 12:34 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1138a]

REGULATIONS RELATIVE TO REINDEER GRAZING IN ALASKA

1. *Statutory authority.*—The act of March 4, 1927 (44 Stat. 1452), authorized the Secretary of the Interior to lease public lands in Alaska for grazing reindeer and other animals on the public lands of Alaska. Section 14 of the act of September 1, 1937 (50 Stat. 900), authorizes the Secretary of the Interior, in order to coordinate the use of public lands in Alaska for grazing reindeer, to regulate the grazing of reindeer upon said lands. It authorizes him, in his discretion, to define reindeer ranges and to regulate the use thereof for grazing reindeer, to issue reindeer grazing permits and to issue rules and regulations to carry into effect the provisions of said section of the act.

2. *No reindeer leases to issue under the act of March 4, 1927.*—In view of the provisions of section 14 of the act of September 1, 1937, no reindeer leases will issue under the act of March 4, 1927, after the date of this circular, and the grazing of reindeer in Alaska will be governed by the act of September 1, 1937, and the rules and regulations that may be promulgated thereunder.

3. *Circular No. 1138 as amended by Circular No. 1203, amended.*—In accordance with the foregoing, Circular No. 1138 as amended by Circular No. 1203 is hereby amended by substituting for sections 3 and 4 thereof the following:

"3. After the establishment of a grazing district, applications for leases may be filed in the proper district land office. Applications should be filed in duplicate.

"(a) After a serial number has been assigned by the Register of the district land office to an application for a lease, one copy will be forwarded to the Commissioner of the General Land Office and one to the Office of the Division of Investigations at Anchorage, Alaska, each copy to be accompanied by a status report.

"(b) Applications for leases must conform substantially to the Form 4-469.

"4. The Special Agent in Charge will cause an investigation to be made of all applications to lease for grazing purposes and report to the General Land Office as to the livestock to be grazed on the land; as to the carrying capacity of the areas sought; as to the improvements, if any, existing thereon; as to their use and occupancy and as to the feasibility of granting the lease applied for. Recommendation should also be made as to what rental should be charged and whether such charge should be deferred for any particular period."

FRED W. JOHNSON,
Commissioner.

Approved, May 26, 1938.
OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1568; Filed, June 4, 1938; 9:43 a. m.]

[Circular 1384a]

DISPOSITION OF CONFLICTING APPLICATIONS UNDER SECTIONS 8 (B), 14 AND 15 OF THE TAYLOR GRAZING ACT

1. *Allowance of applications discretionary with the Secretary of the Interior.*—The exchange of privately-owned lands under Section 8 (b) of the Taylor Grazing Act approved June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), the ordering of public sales under Section 14 of the act, and the issuance of leases under Section 15 thereof are within the discretionary power of the Secretary of the Interior. In adjudicating such applications, the General Land Office will give consideration to all rights and interests and to all attendant circumstances.

2. *Action by the register on conflicting applications.*—The register will not reject an application of the classes mentioned in the preceding paragraph solely for conflict with a prior application of such classes, but will suspend it and will attach to the original and each copy a memorandum stating the facts as to the conflict. The register will forward the original and copies of such applications as directed by the governing regulations.

3. *Regulations superseded and supplemented.*—These regulations supersede the regulations contained in Circular No. 1384 dated April 15, 1936, and supplement the regulations in Circulars Nos. 684, 1401 (revised), and 1408[1] dated November 23, 1934, April 30, 1937, and September 3, 1936, respectively.

FRED W. JOHNSON,
Commissioner.

Approved May 25, 1938.
OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1569; Filed, June 4, 1938; 9:43 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

SPECIAL INSTRUCTIONS GOVERNING PROCEEDINGS UNDER THE MOTOR CARRIER ACT, 1935

MAY 31, 1938.

The Commission has adopted the following special instructions governing proceedings under the Motor Carrier Act, 1935, which revise, supplement, and correct the special instructions dated May 10, 1937.[2]

1. Except as indicated in these special instructions, proceedings under the Motor Carrier Act, 1935, are governed by the applicable or analogous provisions of the Commission's Rules of Practice.

2. When, in the Rules of Practice, reference is made to commissioners or examiners, it will be understood that the reference also includes a special board composed of State representatives (herein called "joint board") to whom matters have been referred pursuant to section 205 of the act for hearing, consideration, and recommendation of an appropriate order thereon (herein called "referred matter"). Those to whom matters are so referred will be called referees.

3. A referee may not grant leave to amend or file any pleadings, or to intervene, in a referred matter, upon application tendered at the hearing, if thereby the issues would be unduly broadened, or if thereby the issues would be so narrowed as to make the referred matter one which should properly be referred to a different referee.

(a) A person may enter his appearance at the hearing in proceedings upon applications under sections 206, 207, 208, 209, 211, 213, and 214, without formal intervention or other pleading: provided he discloses fully the identity of the party or parties in whose behalf the appearance is to be entered; that he states the interest of such party in the proceeding and the position he intends to take therein; and shows that his contentions will be reasonably pertinent to the issues already presented and disclaims any right to broaden them unduly. Those in whose behalf appearances are entered in this manner

[1] 1 F. R. 1372; 2 F. R. 836 (DI).
[2] 2 F. R. 1017 (DI).

thereby become parties to the proceeding, as if upon leave they had become interveners by the filing of a petition in intervention.

4. Formal complaints must be filed with the Commission at Washington and should be accompanied by a statement of the point at which hearing is desired. They should specifically name the States in which the assailed rates, fares, or charges apply. Addresses of all defendants should be shown in order to insure proper service. Sufficient copies must accompany each formal complaint to enable the Commission to serve one upon each defendant, to supply one to the State board of each State included within the scope of the complaint, and to retain three for its own use.

5. Informal complaints may be communicated to the Commission at Washington or at the nearest district office of the Bureau of Motor Carriers of the Commission.[1]

6. Protests against applications under any provisions of the Motor Carrier Act, 1935, or any requirement established pursuant thereto, must conform to the requirements of rule XXI of the Rules of Practice. They must contain a concise statement of the interest of the protestant in the proceeding and the grounds upon which the protest is based, and when practicable each ground of protest should be set up in separately numbered paragraphs.

7. In shortened procedure cases sufficient copies of memoranda should be submitted to enable the Commission to retain five copies, in addition to the original, for use by itself and the referees, and to make service upon each party previously designated to receive copies.

8. In referred matters, which are governed so far as applicable by the usual procedure of the Commission as to "proposed report" cases (Rule XIV of the Rules of Practice), the referee will fix the time for the simultaneous filing of briefs; and after the expiration of such time will file with the Commission a report and recommended order containing the statement of the issues and facts and the findings and recommended conclusions, which will be served by the Commission. Exceptions may be taken as provided by Rule XIV (d) 4 of the Rules of Practice. If no exceptions are filed within the period allowed the referee's recommended order shall become the order of the Commission and become effective unless within such period it is stayed or postponed by the Commission. If exceptions are filed within the period allowed the Commission will grant such review or make such orders or hold or authorize such further hearings or proceedings in the premises as may be necessary or proper. In all cases where an order becomes effective within the meaning of this rule a notice to that effect will be served on the parties.

9. A petition for rehearing, reargument, or reconsideration of an order entered in proceedings under the provisions of sections 206, 209, or 211 of the act, whereby applicants, after formal hearing, have been granted a certificate, permit, or license, must be filed within 30 days after service of the final report therein, or after service of notice that the recommended order of the referees has become effective, and the date of mailing of the report or notice to the parties shall be considered as the date of the service.

10. Whenever the Commission orders, without hearing, that a certificate of public convenience and necessity or a permit, under sections 206 or 209 of the act shall be issued and become effective on a designated date unless on the Commission's own motion or for good cause shown it is otherwise ordered, petitions for the staying of the order or for the withholding of the issuance of such certificate or permit, or other objection thereto, must be in writing, which shall contain a statement of the grounds relied upon, and be verified by one having knowledge of the facts therein stated. Such petition or objection shall be filed at the office of the Commission in Washington at least 10 days prior to the date designated in the order for the issuance of such certificate or permit.

11. Applications for the granting of any right, privilege, authority, or relief under any provision of Part II, or any requirement established pursuant thereto, and the reporting of certain information pursuant thereto, shall be in the form and contain the information called for on the appropriate form for each purpose as provided in the appendix hereto, and shall be filed and served, and shall otherwise conform to the instructions contained on the pertinent form.

[SEAL] W. P. BARTEL,
Secretary.

APPENDIX

List of Forms Used in Making Application for the Granting of Certain Rights, Privileges, Authorities, or Relief Under, or From, Certain Provisions of Part II, or Requirements Established Pursuant Thereto, and the Reporting of Certain Information Pursuant Thereto. Date When Each Form Was Approved is Shown by Brackets.

B. M. C. 3. Designation of agent for service of notices, orders and process. Sections 221 (a) and 221 (c). This form is required to be filed with all applications for authority to operate under the act on Forms B. M. C. A-1, A-2, 4, 5, 8, 9, 10, and 11. [October 8, 1935.]

B. M. C. 4. Application for brokerage license—property. Section 211. B. M. C. 3 required. [November 1, 1935.]

B. M. C. 5. Application for brokerage license—passengers. Section 211. B. M. C. 3 required. [November 1, 1935.]

B. M. C. 6. Application to register by common carriers engaged, within a single State, in the transportation of property in interstate or foreign commerce. Section 206 (a). Order issued covering form is directed to carriers lawfully engaged in operation solely within a single State under authority of a certificate granted by such State who between places within such State engage in transportation of property in interstate or foreign commerce. [November 1, 1935.]

B. M. C. 7. Application to register by common carriers engaged within a single State in the transportation of passengers in interstate or foreign commerce. Section 206 (a). See reference to the order in connection with B. M. C. 6. [November 1, 1935.]

B. M. C. 8. Application for certificate of public convenience and necessity—property. Sections 206, 207, and 208. Covers application by *common carriers* of property (1) to institute new operations, (2) to extend an operation for which a separate application has been filed with or certificate issued by the Commission, and (3) for any operations for which application was not filed under the "grandfather" clause on or before February 12, 1936. B. M. C. 15 (notice) required in addition to B. M. C. 3. [October 28, 1935.]

B. M. C. 9. Application for certificate of public convenience and necessity—passengers. Sections 206, 207, and 208. See description of operations outlined under B. M. C. 8. Forms B. M. C. 3 and 15 required. [October 28, 1935.]

B. M. C. 10. Application for permit—property. Section 209. See description of operations under B. M. C. 8. B. M. C. 3 and 15 required. [October 28, 1935.]

B. M. C. 11. Application for permit—passengers. Section 209. See description of operations under B. M. C. 8. B. M. C. 3 and 15 required. [October 28, 1935.]

B. M. C. 12. Application for determination of status under section 203 (b) (8) of carriers engaged in the local interstate transportation of *passengers* wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of a municipality or municipalities, but not under a common control, management, or arrangement for a continuous carriage to or from a point without such municipality, municipalities, or zone. B. M. C. 16 (notice) required. [November 12, 1935.]

B. M. C. 15. Notice. To be served, in person or by registered mail, upon each motor carrier and each carrier by rail or water, known to applicant, with whose service the operations covered by Forms B. M. C. 8, 9, 10, and 11 are or will be directly competitive. [May 31, 1938.]

B. M. C. 16. Notice. To be served, in person or by registered mail, upon each motor carrier with whose service the operations covered by B. M. C. 12 are directly competitive. [May 31, 1938.]

B. M. C. 18. Application for determination of status under section 203 (b) (8) of carriers engaged in local interstate transportation of *property* wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of a municipality or municipalities, but not under a common control, management, or arrangement for a continuous carriage to or from a point without such municipality, municipalities, or zone. B. M. C. 19 (notice) required. [November 29, 1935.]

B. M. C. 19. Notice. To be served, in person or by registered mail, upon each motor carrier known to applicant, with whose service the operations covered by B. M. C. 18 are directly competitive. [May 31, 1938.]

B. M. C. 20. Application for authority under section 213 to consolidate or merge. [January 10, 1936.]

B. M. C. 21. Application for authority under section 213 to purchase, to lease, or to contract to operate the properties, or any part thereof, of a motor carrier, or for acquisition of control of such carrier through ownership of its stock. [January 10, 1936.]

B. M. C. 22. Application for authority under section 214 to issue securities. [January 10, 1936.]

B. M. C. 23. Application for authority under section 214 to assume obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial. [January 10, 1936.]

B. M. C. 26. Applications under sections 206 and 209, for substitution of prospective purchaser in lieu of applicant. [April 28, 1936.]

B. M. C. 27. Applications under section 212 (b) to transfer certificates of public convenience and necessity or permits. [April 28, 1936.]

B. M. C. 28. Certificate of notification of securities sold, pledged, repledged, or otherwise disposed of, required by section 214 (paragraph (5), section 20 (a), Interstate Commerce Act), including obligations of the applicant authenticated or issued by trustees or others. [August 3, 1936.]

B. M. C. 29. Certificate of notification of the issue of notes maturing not more than two years after the dates thereof, required by section 214 (paragraph (9), section 20 (a), Interstate Commerce Act). [August 3, 1936.]

B. M. C. 30. Periodical report of the disposition made of securities authorized under section 214 (paragraph (10), section 20 (a), Interstate Commerce Act), or of notes maturing not more than two years after the date thereof, and of the application of the proceeds of such securities, or notes, required by said section. [August 3, 1936.]

B. M. C. 31. Endorsement for motor-carrier policies of insurance for bodily-injury liability, and property-damage liability, under section 215. [August 3, 1936.]

B. M. C. 32. Endorsement for motor common-carrier policies of insurance for cargo liability under section 215. [August 3, 1936.]

B. M. C. 33. Motor-carrier automobile bodily-injury liability and property-damage liability certificate of insurance. For use, when applicable, in connection with Form B. M. C. 31. [August 3, 1936.]

B. M. C. 34. Motor-carrier cargo liability certificate of insurance. For use, when applicable, in connection with Form B. M. C. 32. [August 3, 1936.]

B. M. C. 35. Notice of cancelation motor-carrier policies of insurance. [August 3, 1936.]

B. M. C. 36. Notice of cancelation of motor-carrier and broker's surety bonds. [August 3, 1936.]

B. M. C. 37. Motor-carrier bodily-injury liability and property-damage liability surety bond under section 215. [August 3, 1936.]

B. M. C. 38. Motor-carrier cargo-liability surety bond under section 215. [August 3, 1936.]

B. M. C. 39. Broker's surety bond under section 211 (c). [August 3, 1936.]

B. M. C. 40. Application for authority to self-insure under section 215. [August 3, 1936.]

B. M. C. 50. Accident reports by common carrier and contract carriers by motor vehicle. [March 18, 1937.]

B. M. C. 54. Driver information form. Must be filed for every driver, including owner-drivers, so employed as of July 1, 1937. [June 5, 1937.]

B. M. C. 70. Application for change of route. [May 17, 1937.]

B. M. C. 71. Application for identification plates. [May 7, 1937.]

[F. R. Doc. 38-1590; Filed, June 6, 1938; 12:30 p. m.]

[1] District offices, numbered as follows, are maintained at the following points: 1, Boston, Mass.; 2, New York, N. Y.; 3, Philadelphia, Pa.; 4, Columbus, Ohio; 5, Charlotte, N. C.; 6, Atlanta, Ga.; 7, Nashville, Tenn.; 8, Chicago, Ill.; 9, Minneapolis, Minn.; 10, Kansas City, Mo.; 11, Little Rock, Ark.; 12, Fort Worth, Tex.; 13, Denver, Colo.; 14, Salt Lake City, Utah; 15, Portland, Oreg.; 16, San Francisco, Calif.

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

1938 SUGAR QUOTAS FOR PUERTO RICO

NOTICE OF PROPOSED ORDER

Notice is hereby given of a proposed order, set forth below, of the Secretary of Agriculture allotting the 1938 Puerto Rican sugar quota for the continental United States and the 1938 sugar quota for Puerto Rico for local consumption. The proposed order is based on evidence presented to the Secretary of Agriculture at the hearings held in Washington, D. C. on January 14, 1938, and May 3, 1938.[1]

Objections to the proposed order should be filed with the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., on or before 4:30 p. m., June 15, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

JUNE 3, 1938.

PROPOSED DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING THE 1938 SUGAR QUOTAS FOR PUERTO RICO

General Sugar Quota Regulations, Series 5, No. 1, issued by the Secretary of Agriculture on December 20, 1937,[2] pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), establish a 1938 sugar quota for Puerto Rico for the continental United States of 819,344 short tons, raw value.[3] General Sugar Quota Regulations Series 5, No. 2, issued by the Secretary of Agriculture on December 28, 1937,[4] establish a 1938 sugar quota for Puerto Rico for local consumption of 73,851 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2,[5] issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938, for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1938 Puerto Rican sugar quotas among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The Notice of Hearing and

[1] 3 F. R. 2973 (DI).
[2] 2 F. R. 3367 (DI).
[3] These regulations also provide that 126,033 short tons, raw value, of this quota may be filled by direct-consumption sugar, the allotment of which was made in Puerto Rico Sugar Order No. 11, issued June 1, 1938.
[4] 2 F. R. 3439 (DI).
[5] 2 F. R. 2200 (DI).

Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to sections 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The preliminary finding was based upon information which the Secretary had to the effect that, for the calendar year 1938, Puerto Rican processors have an apparent excess of supplies over quota requirements of approximately 244,000 short tons of sugar.

The hearing was held in Washington, D. C., on the date specified in the notice. The evidence presented at that hearing was found inadequate to enable the Secretary to make a fair, efficient, and equitable distribution of the 1938 United States sugar quota for Puerto Rico and the 1938 Puerto Rican sugar quota for local consumption. Accordingly, on April 26, 1938, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on May 3, 1938, for the purpose, among others, of receiving additional evidence to enable him to make a fair, efficient, and equitable distribution of such quotas. The notice of the hearing also contained a confirmation by the Secretary of his prior finding of December 31, 1937, to the effect that the allotment of the 1938 quotas for Puerto Rico is necessary to prevent the disorderly marketing and importation of sugar. The hearing was held on May 3, as specified in the notice, and was concluded on May 4.

The evidence presented at the hearing of May 3 indicated that the preliminary finding of the Secretary regarding the necessity for allotment of the quotas should be confirmed. Such evidence (p. 117 of the record) indicated that, for the calendar year 1938, there would be available for market in Puerto Rico approximately 1,137,000 short tons of sugar, consisting of 137,000 short tons of sugar in stocks carried over from prior years, and an estimated out-turn of the 1938 crop of approximately 1,000,000 tons. Since the quota requirements for 1938, both for the continental United States and for local consumption, are 893,195 short tons, raw value; Puerto Rican processors will have available for market an excess of supplies over quota requirements of approximately 244,000 short tons of sugar. Under these conditions, it is concluded that, without allotment of these quotas, disorderly marketing of sugar will result.

Section 205 of the act provides in part that:

"Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him."

Under section 302 (a) of the act the Secretary is required to fix proportionate shares of sugar beets or sugarcane for farms in each domestic sugar-producing area on the basis of which payments authorized in title III of the act are to be made. The proportionate share for a farm represents a share of the quantity of sugar beets or sugarcane for the extraction of sugar required to be processed to enable the producing area in which the farm is located to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for the calendar year during which the larger part of the sugar from the crop of sugar beets or sugarcane normally would be marketed. Section 301 of the act provides, as a condition of payment, that there shall not be marketed (or processed) an amount of sugar beets or sugarcane grown on the farm and used for the extraction of sugar in excess of the proportionate share for the farm.[1]

"Marketing allotments" made to Puerto Rican producers of sugarcane under the Jones-Costigan Act are equivalent to "proportionate shares" made to such producers under the present act. These marketing allotments for the calendar year 1936 were obtained as follows:

(a) A marketing allotment for each mill area was first computed on the basis of the average sugar production in such area during the years 1931, 1932, and 1934, adjusted to the estimated Puerto Rican sugar quota for 1936; and

(b) The base production of each producer was adjusted to the marketing allotment for the mill area in which the producer was located.

The base production of each producer, adjusted to the marketing allotment for the mill area in which he was located, became the producer's 1936 marketing allotment.

The 1936 marketing allotment of the processor was equal to the sum of the 1936 marketing allotments of individual growers whose sugar cane was ground by the processor in 1936.[2] These marketing allotments to processors were approved and ratified by the Congress in Public Resolution No. 109, approved June 19, 1936, which amended the Jones-Costigan Act.

Public Resolution No. 109 further provided that the Secretary might allot any sugar quota on the basis of prior allotments made under the Jones-Costigan Act. Accordingly, allotment of the 1937 Puerto Rican sugar quota was made on the basis of the 1937 marketing allotments[3] to individual growers and such individual growers' allotments were computed by adjusting the 1936 marketing allotments of individual growers to the 1937 sugar quota.

In view of the intention of Congress to hold the marketings of sugar beets and sugarcane for sugar within the limits of quota requirements, as expressed in title III of the act, and in view of the further fact that allotments to processors for the past two years under similar legislation have been made on the basis of marketing allotments to producers, it is concluded that, in order to provide a fair, efficient, and equitable distribution of the quotas for Puerto Rico, allotments should be made on the basis of the first standard stated in the act, namely, the processings of sugar from sugarcane to which proportionate shares, determined pursuant to section 302 of the act, pertain.

The use of either or both of the other two standards given in the act (except insofar as "past marketings" are reflected in the determination of proportionate shares), namely, "past marketings" and "ability * * * to market", would not provide a fair, efficient, and equitable distribution of the quotas, since allotments resulting therefrom would not protect the interest of individual producers of sugarcane in Puerto Rico.[4] It is believed that the act contemplates the allotment of the quota which will be fair and equitable to producers of sugar beets and sugarcane, as well as those who market the sugar made therefrom. If allotments were made on any basis other than that proposed, individual producers in Puerto Rico would have no assurance that they would be able to market the entire amount of their proportionate shares.

[1] Section 301 (e) of the act provides that this condition shall not apply to the first crop harvested after the enactment of the act. Hence the condition is not applicable to the 1938 crop in Puerto Rico.

[2] The marketing allotments made to processors by this method resulted in allotments practically identical with those that would have been made had the allotments been based on the marketings of processors during the years 1931, 1932, and 1934. The maximum variation amounted to .619% and the minimum variation amounted to .002%. In the majority of cases the variation was less than .1 of 1%.

[3] Since no payments were made with respect to the 1937 crop of sugarcane in Puerto Rico, the allotments were made solely for purpose of computing allotments to processors.

[4] Eastern Sugar Associates and Central Igualdad contend that allotments should be made on the basis of past marketings or ability to perform (pages 18, 37, and 38 of the record of hearing of January 14 and page 132 of record of hearing of May 3). None of the other 32 processors of sugarcane in Puerto Rico has objected.

At the time of the issuance of the notice of the hearing of May 3, all interested persons were furnished with proposed allotments (Government Exhibits 1 and 8) based upon the determination of proportionate shares for the 1938 crop of sugarcane in Puerto Rico, which determination was issued by the Secretary on January 11, 1938 (Government Exhibit No. 14). The proposed allotment of each processor represented the sum of the proportionate share made to the processor as producer plus the proportionate shares to individual producers whose 1938 crop the processor has agreed to grind. The proposed allotments were based upon contracts for grinding made by processors up to April 6, 1938. At the hearing of May 3, however, there was introduced in evidence the sum of the proportionate shares of sugarcane which processors had contracted to grind up to April 30, 1938 (Government Exhibit No. 11). The total includes also any proportionate share established for the processor under the Secretary's determination.

The evidence presented at the hearing shows that on April 30, 1938, Puerto Rican processors had commitments for grinding proportionate shares of sugarcane of the 1938 crop (including administration sugarcane) in the following amounts (Government Exhibit 11):

Processors	*Summation of 1938 Proportionate Shares*
Aguirre (3 mills)	108,082
Cambalache	44,654
Canovanas	34,315
Carmen	16,468
Coloso	37,386
Constancia-Toa	23,653
El Ejemplo	14,124
Eureka	15,107
Fajardo	66,115
Guanica	103,627
Guamani	12,220
Herminia	2,126
Igualdad	17,968
Juanita	22,043
Lafayette	32,107
Plazuela and Los Canos	42,213
Monserrate	13,116
Pellejas	2,817
Plata	13,331
Playa Grande	8,205
Rochelaise	9,791
Roig	29,250
Rufina	30,367
San Vicente	36,823
Santa Barbara	2,881
Soller	7,452
Vannina	16,765
Victoria	18,333
Eastern Sugar Associates	93,849
San Francisco	6,435
Caribe	7,047
Constancia-Ponce	8,441
Mercedita	37,786
Boca Chica	16,387
Total	951,284
Reserve for future allotment	2,594
	953,878

The reserve for future allotment represents proportionate shares which on April 30, 1938, were not under contract for grinding. The total of the proportionate shares of 953,878 short tons of sugar represents the amount of sugar which the Secretary estimated to be necessary to enable Puerto Rico to meet its 1938 quota and provide a normal carry-over inventory (Government Exhibit No. 13).

On the basis of the record of the hearings, I hereby find:

1. That for the calendar year 1938 Puerto Rican processors of sugar will have available for market, 1,137,000 short tons of sugar.

2. That for the calendar year 1938 Puerto Rican processors of sugar will have supplies in excess of quota requirements of 244,000 short tons of sugar.

3. That as of April 30, 1938, Puerto Rican processors had commitments to grind proportionate shares of sugarcane of the 1938 crop in the following amounts:

Processors	*Summation of 1938 proportionate shares*
Aguirre (3 mills)	108,082
Cambalache	44,654
Canovanas	34,315
Carmen	16,468
Coloso	37,386
Constancia—Toa	23,653
El Ejemplo	14,124
Eureka	15,107
Fajardo	66,115
Guanica	103,627
Guamani	12,220
Herminia	2,126
Igualdad	17,968
Juanita	22,043
Lafayette	32,107
Plazuela and Los Canos	42,213
Monserrate	13,116
Pellejas	2,817
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Santa Barbara	2,881
Soller	7,452
Vannina	16,765
Victoria	18,333
Eastern Sugar Associates	93,849
San Francisco	6,435
Caribe	7,047
Constancia—Ponce	8,441
Mercedita	37,786
Boca Chica	16,387
Total	951,284
Reserve for future allotment	2,594
	953,878

On the basis of the foregoing, I hereby determine and conclude that the allotment of the 1938 sugar quota for Puerto Rico for the continental United States and the 1938 sugar quota for Puerto Rico for local consumption is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments should be made on the basis of proportionate shares, determined pursuant to section 302 of the act, by multiplying the sum of the 1938 proportionate shares of sugarcane to be ground by each processor (based on contracts as of April 30, 1938) (1) by 85.8960999[1] per centum to obtain the continental United States marketing allotment, (2) by 7.742185[2] per centum to obtain the marketing allotment for local consumption, and (3) by 6.361715[3] per centum to obtain the allotment for a normal carry-over inventory.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the said quantity of 819,344 short tons, raw value, and the said quantity of 73,851 short tons, raw value, of sugar, representing the 1938 quota for Puerto Rico for the continental United States and the 1938 quota for local consumption in Puerto Rico, respectively, shall be allotted to the following processors in the amounts which appear opposite their respective names:

Processors	Continental U. S. marketing allotment	Allotment for local consumption
Aguirre (3 mills)	92,838	8,368
Cambalache	38,356	3,457
Canovanas	29,475	2,657
Carmen	14,145	1,275
Coloso	32,113	2,894
Constancia—Toa	20,317	1,831
El Ejemplo	12,132	1,093
Eureka	12,976	1,170
Fajardo	56,790	5,119
Guanica	88,912	8,023
Guamani	10,497	945
Herminia	1,826	165
Igualdad	15,434	1,391
Juanita	18,934	1,707
Lafayette	27,579	2,486
Plazuela and Los Canos	36,259	3,268
Monserrate	11,266	1,016
Pellejas	2,420	218
Plata	11,451	1,032
Playa Grande	7,048	635
Rochelaise	8,410	758
Roig	25,819	2,295
Rufina	26,084	2,351
San Vicente	31,630	2,850
Santa Barbara	2,475	223
Soller	6,401	577
Vannina	14,400	1,298
Victoria	15,747	1,420
Eastern Sugar Associates	79,918	7,206
San Francisco	5,528	498
Caribe	6,053	546
Constancia—Ponce	7,250	654
Mercedita	32,457	2,925
Boca Chica	14,076	1,269
Total	817,116	73,650
Reserve for future allotment	2,228	201
	819,344	73,851

2. That the above-named processors are hereby prohibited from bringing into the continental United States from Puerto Rico, for consumption during the calendar year 1938, or from marketing

[1] Percentage which the quota for marketing in the continental United States is of 1938 quota requirements plus a normal carry-over inventory.

[2] Percentage which the quota for local consumption is of the 1938 quota requirements plus a normal carry-over inventory.

[3] Percentage which the normal carry-over inventory is of the 1938 quota requirements plus a normal carry-over inventory.

locally in Puerto Rico during the calendar year 1938, any sugar in excess of the respective marketing allotments therefor set forth in paragraph 1.

3. That the quantity of sugar specified in paragraph 1 as "Reserve for future allotment" shall be allotted to processors who contract to grind the proportionate shares represented thereby, and the allotments of such processors set forth above shall be increased accordingly.

4. That any increase or decrease in the 1938 sugar quotas for Puerto Rico shall be prorated among processors on the basis of the allotments set forth above, and that one and one-half per centum of the allotment for marketing in the continental United States made to each processor shall be withheld (but not beyond December 1, 1938) for adjustments in the event of a decrease in the 1938 quota for Puerto Rico for marketing in the continental United States pursuant to section 201 of the act.

5. That the allotments established above shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.

[F. R. Doc. 38–1583; Filed, June 4, 1938; 12:06 p. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. ID–857, 859–864]

APPLICATIONS OF GARRETT O. HOUSE, JOHN F. MCGUIRE, JOSEPH B. ERBLANG, ERNEST H. COTTON, JAMES S. MCMILLEN, ROY F. MILLER, LESLIE N. GOBLER

ORDER FIXING DATE OF HEARING

JUNE 1, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) Upon applications separately filed by the above-named applicants pursuant to Section 305 (b) of the Federal Power Act for authorization to hold certain interlocking positions within the purview of said Section 305 (b), it is in the public interest that each of the above-named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding said positions;

(b) Such further showing can best be made in the form and manner of a public hearing held for that purpose;

(c) The application of each of the above-named applicants contains the following request:

"In view of the fact that the Companies covered herein are all included in the Northern States Power Company group with respect to which a general public hearing is to be held in re Robert F. Pack, I. D. 546, et al., in the City of Chicago, Illinois, on June 15, 1938, Applicant respectfully requests that the Commission also act upon this Application on the same date and at the same place.";

The Commission orders that:

A public hearing on said applications be held beginning on June 15, 1938, at 10 a. m., in room 988, Merchandise Mart, Chicago, Illinois, and that at said hearing each of the above-named applicants make further showing that neither public nor private interests will be adversely affected by reason of his holding positions within the purview of Section 305 (b) of the Federal Power Act.

[SEAL] LEON M. FUQUAY,
By the Commission.
Secretary.

[F. R. Doc. 38–1570; Filed, June 4, 1938; 9:44 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3200]

IN THE MATTER OF ALGREN MANUFACTURING COMPANY, INC. A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, June 10, 1938, at nine-thirty o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York City, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1579; Filed, June 4, 1938; 11:08 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3294]

IN THE MATTER OF ORVILLE J. BOND, INDIVIDUALLY AND TRADING AS ZEPHYR RADIO COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 15, 1938, at ten o'clock in the forenoon of that day (eastern standand time) in Room 921, Federal Building, Detroit, Michigan.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1580; Filed, June 4, 1938; 11:08 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3316]

IN THE MATTER OF ROBERT C. TAYLOR, AN INDIVIDUAL, TRADING AS MARVEL PRODUCTS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 13, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 921, Federal Building, Detroit, Michigan.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–1581; Filed, June 4, 1938; 11:08 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 257]

ALLOCATION OF FUNDS FOR LOANS

JUNE 2, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Alabama 9022A1 Butler	$184,000
Georgia 9084A1 Cobb	143,000
Idaho 9011A1 Kootenai	214,000
Louisiana 9010A1 Washington	102,000
Oklahoma 9006A2 Caddo	130,000
South Carolina 9009D1 Richland	228,000
Tennessee 9009C1 Macon	211,000

JOHN N. CARMODY,
Administrator.

[F. R. Doc. 38–1567; Filed, June 4, 1938; 9:43 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 3rd day of June, A. D. 1938.

[File No. 32–91]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER RELATIVE TO ISSUE AND SALE OF NOTE AND ISSUE AND PLEDGE OF BONDS PREVIOUSLY AUTHORIZED BY STATE COMMISSION

New York State Electric & Gas Corporation, a subsidiary company of NY PA NJ Utilities Company, Associated Gas & Electric Corporation, and Associated Gas & Electric Company, registered holding companies, having duly filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of said Act of the issue and sale, by the applicant to the Rural Electrification Administration of the United States of America, for cash, at its face value, of a 2.88% Serial Note for $250,000, to be secured by $336,000 principal amount of applicant's first mortgage bonds, 4% Series, due 1965, (exemption also being sought for the issuance of such bonds as collateral security); a hearing on said application, as amended, having been duly held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of such note, and the issue and pledge as collateral security of such bonds, be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; subject, however, to the following conditions:

(1) That such issue and sale of such note, and issue and pledge of the bonds shall be in compliance with the terms and conditions of, and for the purposes represented by, said application, and in compliance with the terms and conditions imposed by the order of the Public Service Commission of New York.

(2) That such exemption shall immediately terminate, without further order of this Commission if, at any time, the authorization of the issue and sale of the note and issue and pledge of the bonds by the Public Service Commission of New York shall be revoked or shall otherwise terminate.

(3) That such bonds shall not be sold except at a bona fide sale by or on behalf of the pledgee, or its successors or assigns, to satisfy said note, or by the purchaser at such sale, or by his or its successors or assigns.

(4) That within ten days after the issue and sale of such note, and the issue and pledge of the bonds, the applicant shall file with this Commission its certificate of notification showing that the issue and sale of the note and the issue and pledge of the bonds have been effected in accordance with the terms and conditions of, and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1593; Filed, June 6, 1938; 12:48 p. m.]

[1] 3 F. R. 1167 (DI).

JUN 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 111

Washington, Wednesday, June 8, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

PUBLIC NOTICE ESTABLISHING STANDARDS FOR GRADES OF COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES WITHIN THE UNITED STATES

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1938, * * * and for other purposes" (Public No. 173, 75th Congress), I, H. A. Wallace, Secretary of Agriculture do hereby fix, establish, and promulgate the following official standards of the United States for grades of cottonseed sold or offered for sale for crushing purposes, the same to supersede the standards for cottonseed promulgated July 30, 1937,[1] and to be in force and effect as long as Congress shall provide the necessary authority therefor, unless amended or superseded by standards hereafter prescribed and promulgated under such authority.

SECTION 1. The grade of cottonseed shall be determined from the analysis of samples, and it shall be the result, stated in the nearest whole or half numbers, obtained by multiplying a quantity index by a quality index and dividing the result by 100 as hereinafter provided.

(a) The basis grade of cottonseed shall be grade 100.

(b) High grades of cottonseed shall be those grades above 100.

(c) Low grades of cottonseed shall be those grades below 100.

SEC. 2. The following formulae shall be used in determining the quantity index of cottonseed:

(a) For cottonseed that by analysis contain 17 percent or more of oil, the quantity index shall equal 4 times the percentage of oil, plus 6 times the percentage of ammonia, plus 5.

[1] 2 F.R. 1608 (DI).

(b) For cottonseed that by analysis contain less than 17 percent oil, the quantity index shall equal 5 times the percentage of oil, plus 6 times the percentage of ammonia, minus 12.

SEC. 3. The quality index of cottonseed shall be an index of purity and soundness, and shall be determined as follows:

(a) *Superior quality cottonseed.*—Cottonseed that, by analysis, contain not less than 18.7 percent oil, nor more than one-half of one percent foreign mater, 8 percent but not more than 10.0 percent moisture, and not more than one-half of one percent free fatty acids in the oil in the seed shall be known as superior quality cottonseed and shall have a quality index of 102.

(b) *Prime quality cottonseed.*—Cottonseed that, by analysis, contain not more than 3 percent foreign matter, not more than 12 percent moisture, and not more than 1.8 percent free fatty acids in the oil in the seed, shall be known as prime quality cottonseed and shall have a quality index of 100.

(c) *Subquality cottonseed.*—The quality index of cottonseed that, by analysis, contain foreign matter, moisture, and/or free fatty acids in the oil in the seed in excess of the percentages shown in section 3–6 shall be found by reducing the quality index of prime quality cottonseed as follows:

(1) Not to exceed five-tenths of a unit for each 0.1 percent of free fatty acids in the oil in the seed in excess of 1.8 percent.

(2) Not to exceed 1 unit for each 1 percent of foreign matter in excess of 3 percent.

(3) Not to exceed 1 unit for each 1 percent of moisture in excess of 12 percent.

Such cottonseed shall be known as subquality cottonseed, except as hereinafter provided.

(d) *Off quality cottonseed.*—Cottonseed that have been treated by either mechanical or chemical process other than the usual cleaning, drying, and ginning (except such sterilization as may be required by the United States Department of Agriculture for quarantine purposes) or that are fermented and hot, or that upon analysis are found to contain 12 percent or more free fatty acids in the oil, or more than 10 percent foreign matter, or more than 18 percent moisture, or

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE: Page
Bureau of Agricultural Economics:
Cottonseed sold or offered for sale for crushing purposes, standards for grades of 1343
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Customs Regulations of 1937 amended to include Armistice Day in list of legal holidays 1344
TITLE 25—INDIANS:
Issuance of patents in fee, certificates of competency, the sale of allotted and inherited Indian lands, etc 1344
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Distilled spirits in bond, bottling of 1348

NOTICES

Federal Trade Commission:
Roll Leaf Manufacturing Industry, proposed trade practice rules 1354
Securities and Exchange Commission:
Byllesby Corp., hearing postponed 1354
Columbia Gas & Electric Corp., hearing reopened 1354
Worcester Suburban Electric Co., hearing 1355
United States Maritime Commission:
Members of purser's department and ship's surgeons employed on subsidized vessels, hearings on minimum wage scales, etc 1355

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more than 25 percent combined moisture and foreign matter, shall be designated as Off Quality Grade.

(e) *Below grade cottonseed.*—Cottonseed the grade of which when calculated according to section 3–c above is below Grade 25 shall be designated as "Below Grade Cottonseed." A grade shall not be indicated.

SEC. 4. *Sampling, analysis, and certification of samples and grades.*—The drawing and preparation and certification of samples of cottonseed and the analysis and certification of grades of cottonseed shall be performed in accordance with methods approved from time to time by the Chief of the Bureau of Agricultural Economics.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 7th day of June 1938.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38–1600; Filed, June 7, 1938; 12:37 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49588]

CUSTOMS REGULATIONS OF 1937 AMENDED BY INCLUDING NOVEMBER 11, ARMISTICE DAY, IN THE LIST OF LEGAL PUBLIC HOLIDAYS THEREIN SET FORTH

To Collectors of Customs and Others Concerned:

The act of May 13, 1938 (Public No. 510, 75th Congress, 3d Session) made the 11th day of November in each year a legal public holiday. In line with the provisions of such act, the Customs Regulations of 1937 are hereby amended as follows:

Article 112 (n)[1] is amended by inserting the date "November 11," before the word "Thanksgiving" in line 3 thereof.

Article 1243[2] is amended by inserting the date "November 11," before the word "Thanksgiving" in line 6 thereof.

Article 1461 (b)[3] is amended by inserting the date "November 11," before the word "Thanksgiving" in line 2 thereof.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, June 1, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1601; Filed, June 7, 1938; 12:41 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

REGULATIONS RELATING TO THE ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, THE SALE OF ALLOTTED AND INHERITED INDIAN LANDS, INCLUDING LANDS BELONGING TO THE FIVE CIVILIZED TRIBES, AND THE REINVESTMENT OF THE PROCEEDS IN NON-TAXABLE LANDS

PATENTS IN FEE

MAY 7, 1938.

SEC. 1. The Act of May 8, 1906 (34 Stat., 183) provides for the issuance of patents in fee to Indian allottees.

The Secretary of the Interior, whenever he shall be satisfied that any Indian 21 years of age or over is capable of managing his or her affairs and has made an application therefor, may cause to be issued to such applicant a patent in fee for his original or inherited land held under a trust patent. This Act does not apply to members of the Five Civilized Tribes or the Indians under the jurisdiction of the Quapaw, Kaw, or Osage Agencies. The issuance of a patent in fee is discretionary with the Secretary of the Interior. Such a patent will not be issued unless it can be affirmatively shown that its issuance will not affect unfavorably the consolidation and use by the Indians of restricted Indian lands and that the applicant is in all respects competent to care for his or her own affairs. Such competency must be shown affirmatively regardless of the blood status of the applicant.

SEC. 2. All applications for patents in fee should be made on form 5–105 to the Superintendent having jurisdiction over the land the applicant seeks to have patented. Whenever an applicant for a patent in fee is obviously not qualified to receive one, or the land covered by the application lies within a territory largely occupied and used by Indians, the Superintendent will deny his application in writing, stating therein the reasons therefor and advising the applicant that he may if he desires appeal to the Commissioner of Indian Affairs. A copy of the Superintendent's denial should be furnished the Indian Office for its records. All cases in which Superintendents are in doubt that an application should be denied and in those cases in which they believe the applications should be approved are to be submitted to the Indian Office accompanied by the recommendation of the tribal council, tribal executive committee, or other governing body.

CERTIFICATES OF COMPETENCY

SEC. 3. Applications on form 5–105, modified for Certificates of Competency authorized by Section 1 of the Act of June 25, 1910 (36 Stat., 855) shall be filed with the Indian Superintendent having jurisdiction over the land from which the allottee or heirs seek to have all restrictions removed. When the land is not located within the territorial limits of an Indian reservation the allottee or heirs may petition the most convenient Superintendent or other officer in charge of an Indian Agency or Indian Tribe or such other public officer of the United States as may be designated by the Secretary of the Interior, who shall take like action as if the lands were within the territorial limits of an Indian reservation.

SEC. 4. Reports on applications for Certificates of Competency should be on form 5–110f and should be accompanied by the recommendation of the tribal council. The issuance of a Certificate of Competency is discretionary with the Secretary of the Interior. Such a certificate will not be issued unless it can be affirmatively shown that its issuance will not affect unfavorably the consolidation and use by the Indians of restricted Indian lands. The provisions of the Act of June 25, 1910 apply only to Indians or their heirs to whom a patent in fee containing restrictions on alienation has been issued.

CERTIFICATES OF COMPETENCY, OSAGE

SEC. 5. Paragraph 7 of section 2 of the act of June 28, 1906 (34 Stat. 539, 542), and section 5 of the act of March 2, 1929 (45 Stat. 1478), provide for the issuance of certificates of competency to Osage Indians.

SEC. 6. Applications for the issuance of certificates of competency to adult members of the Osage Tribe of Indians shall be on forms prescribed by the Secretary of the Interior. These forms may be obtained from the Superintendent of the Osage Indian Agency, Pawhuska, Oklahoma. If the applicant be of one-half or more Indian blood and the Secretary finds that the applicant is capable of managing his or her own affairs and transacting his or her own business, a certificate of competency removing the restrictions from the surplus lands and funds of the applicant may be issued to be effective 30 days from the date of its issuance.

All restrictions against the alienation of allotment selections, both homestead and surplus, of all adult Osage Indians of less than one-half Indian blood, were removed by the act of March 3, 1921 (41 Stat. 1249). Certificates of competency may, however, be issued to Osage Indians of less than one-half blood and such certificates, when issued, will have the effect of releasing from Federal control all funds accrued and accruing to the applicants from the Osage tribal income.

The issuance of certificates of competency in all cases is discretionary with the Secretary of the Interior. Certificates of competency will not be issued unless it can be affirmatively shown that its issuance will not affect unfavorably the consolidation and use by the Indians of restricted Indian lands.

CERTIFICATES OF COMPETENCY, KAW OR KANSAS INDIANS

SEC. 7. Section 10 of the Act of July 1, 1902 (32 Stat. 639–640) provides for the issuance of Certificates of Competency to the Kaw or Kansas Indians.

SEC. 8. Applications for the issuance of Certificates of Competency to adult members of the Kaw or Kansas Tribe of Indians shall be upon forms prescribed by the Secretary of the Interior and furnished by the Superintendent in charge of Kaw or Kansas allottees, Pawnee, Oklahoma.

SEC. 9. When the Secretary of the Interior finds that the applicant is capable of transacting his or her own affairs and transacting his or her own business, the restrictions may be removed and a Certificate of Competency issued to be effective 30 days from the date of its issuance. The issuance of a Certificate of Competency is discretionary with the Secretary of the Interior. Such a certificate will not be issued unless it be affirmatively shown that its issuance will not affect unfavorably the consolidation and use by the Indians of restricted Indian lands.

PARTITIONS OF INHERITED ALLOTMENTS

SEC. 10. The Act of June 25, 1910 (36 Stat., 855) as amended by the Act of May 18, 1916 (39 Stat., 127) provides for the partition of inherited Indian allotments and the issuance of patents to the heirs for the lands set apart to each.

SEC. 11. In case the trust land of a deceased allottee is susceptible of partition among the heirs, the Secretary of the Interior may make such partition and issue new patents to the several heirs for the portions selected by them. If the allotment is held under a restricted fee title (as distinguished from a trust title) partition may be made by approved deeds among the heirs. Petitions for partition should be made upon form 5–110 1.

SALE OF ALLOTTED LANDS EXCLUSIVE OF FIVE CIVILIZED TRIBES

SEC. 12. On all reservations heirship lands may be sold by the Secretary of the Interior to an Indian tribe. Such sale may be made with or without the consent of the interested heirs. It is necessary that reasonable compensation be paid by the tribe for the land thus sold. Such reasonable compensation may be based upon the actual income-producing prospects and record of the land, due consideration being given to the expenses of leasing created by heirship status in so far as these expenses would be deducted from the sums paid to the lessors. Except for the requirement that 10 percent of the purchase price be paid in advance, the terms of payment are within the discretion of the Secretary of the Interior.

SEC. 13. On reservations within the act of June 18, 1934, sales of heirship land may be made to the United States in trust for the tribe or for individual Indians. With respect to the terms and manner of sale and the basis of valuation, Section 12 hereof shall govern.

SEC. 14. On reservations not within the act of June 18, 1934, heirship lands may be sold directly to individual Indians or to an Indian cooperative or tribe. It is within the discretion of the Secretary of the Interior to make such sales with or without the consent of the heirs, without calling for bids or after bids have been called for. Patents in fee must issue to the purchaser upon final completion of payments for the land, unless all the heirs join in making a conveyance of the trust title. If bids are called for, the call for bids may limit the bidders either to Indians or to Indians of a particular tribe or to Indians interested in the particular estate or to any other reasonably defined class of Indians, provided that in any case a fair price, in the light of all circumstances, is obtained for the land that is sold. With respect to the terms and manner of sale, and the basis of valuation, Section 12 hereof shall govern.

SEC. 15. On reservations not under the Indian Reorganization Act, in cases where sales cannot be consummated pursuant to sections 12, 13 and 14 of the regulations, sales may be made of both original and inherited allotments. In such cases sales of Indian lands except where special or specific acts govern, are authorized under the acts of May 27, 1902 (32 Stat., 245–275); March 1, 1907 (34 Stat., 1015, 1018); June 25, 1910 (36 Stat., 855) as amended by the act of April 30, 1934 (48 Stat., 647).

PREFERENCE RIGHT IN OKLAHOMA

SEC. 16. In the case of any sale of restricted Indian land at public auction or by sealed bids in Oklahoma, except in the case of the Osage Reservation, the act of June 26, 1936 (49 Stat., 1967), provides in part that whenever any restricted Indian land or interests in land other than sales or leases of oil, gas, or other minerals therein, are offered for sale, pursuant to the terms of this or any other Act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians of the same or any other tribe, at a fair valuation to be fixed by the appraisement satisfactory to the Indian owner or owners, or if offered for sale at auction said Secretary shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians by meeting the highest bid otherwise offered therefor.

In order to expeditiously carry out these requirements Superintendents or other officers in charge of the several Indian Agencies and reservations in the State of Oklahoma, except Osage, are required to keep close watch for notice of the sale of restricted Indian land at public auction or through sealed bids. In all cases of this class full cooperation of State and County authorities is desired, and in order to avoid unnecessary delay in exercising the preferential right and in waiving it in cases where the lands are not wanted for Indian purposes, and to avoid undue hardship either to the Indian or to others in the exercise of such preferential right, such cases shall receive prompt consideration by the several agencies and officers in the field and forwarded to the Indian Office and the Department to the end that this right to purchase shall be either exercised or waived as promptly as circumstances will permit. Such preference right to purchase is placed in the Secretary of the Interior under the Act and is recognized as remaining in full force and effect until released by said Secretary through endorsement on deeds of conveyance or in an appropriate order the form of which is "Preference right of purchase resting in the Secretary of the Interior under section 2 of the Act of June 26, 1936 (49 Stat., 1967), is hereby waived as to the lands herein described."

SEC. 17. Preference right of purchase is not to be construed as indiscriminate land purchasing. Land acquired under this Act must be agricultural or grazing of good character and quality. The purchase of town lots or homesites is not authorized. The Superintendent is to exercise this right to purchase in areas where there are Indian settlements and schools available for education of the children, or at other points where desirable lands can be obtained in comparatively consolidated areas for Indian benefit. All lands being considered for purchase must be carefully examined and appraised. The Superintendent whenever feasible shall utilize the services of the special land purchasing force and in

[1] 2 F. R. 1760 (DI).
[2] 2 F. R. 2013 (DI).
[3] 2 F. R. 2048 (DI).

all instances the Land Field Agent's office must be notified of each such proposed purchase to the end that his record of land acquisition in Oklahoma may be kept current. Where Superintendents conduct all the land purchase activities within their jurisdiction all papers are to be transmitted direct to the Commissioner for consideration and appropriate action. In all cases copies of such papers are to be sent to the Land Field Agent. In those cases where the purchase work has been handled by or with the assistance of the Land Field Agent's force, all purchase papers should be routed through the Land Field Agent for preparation of report to the Commissioner.

SEC. 18. Where restricted lands are offered for sale which are not within an area wanted for rehabilitation or other Indian purposes and the Superintendents in charge are fully satisfied that the tract or tracts offered will not be needed in connection with the land program, Superintendents are hereby authorized to waive such preferential purchase right for and on behalf of the Secretary of the Interior.

SEC. 19. Funds derived from the sale of restricted lands may be used to acquire other lands as provided for by the Act of March 2, 1931 (46 Stat., 1471) as amended by the Act of June 30, 1932 (47 Stat., 474). The lands so acquired shall be restricted and non-taxable as provided in said Act.

METHOD OF SALES

SEC. 20. Any Indian owner may petition the Commissioner of Indian Affairs through his Superintendent, or other officer in charge, for the sale of the land described therein. When petition is made for the sale of an original allotment, there must be set forth clearly, on form 5–110, the reason for the sale and a showing made as to whether the allotment, or any part thereof, is leased; and if so, the annual rental thereof. The owner must subscribe his name or affix his mark or thumb mark to the petition.

SEC. 21. If the petition is made by the heirs of a decedent, it shall set forth every material fact necessary to show full title in the petitioners, on form 5–110j, and shall be signed by all the adult heirs on their own behalf, by the guardian of a minor heir who has such guardian, and by the Superintendent or other officer in charge of the Agency or School on behalf of any orphan minor heir.

Guardians for orphan minors and mental incompetents duly appointed by the properly constituted authority under the terms, provisions and conditions of the constitution, by-laws or charter of the tribe or tribes of such reservation shall be recognized.

SEC. 22. Only parents will be recognized as natural guardians. If the father and mother are living together, the father must sign the petition on behalf of his minor child; otherwise the parent having the actual care and custody of the minor must sign. No sale of inherited land shall be permitted without a petition from the heirs except when expressly authorized by the Department.

SEC. 23. When the land is not located within the territorial limits of an Indian reservation the owner thereof must petition the most convenient Superintendent or other officer in charge of an Indian Agency or Indian Tribe or such other officer of the United States as may be designated by the Secretary of the Interior, who may take like action thereon as if the land were within the territorial limits of an Indian reservation.

SEC. 24. Purchasers shall pay all costs of conveyancing and in addition the following sums, to wit: If the purchase price is $1,000 or less, $1.50. If it be more than $1,000 and not more than $2,000, $2. If the purchase price is more than $2,000, $2.50. Such fees should not be included in checks covering payment for the land, but collected separately, taken into accounts as "Sundry receipts" and deposited to the credit of the United States.

SEC. 25. In all cases of the sale of restricted allotted Indian lands, either on a cash basis or on deferred payments, the purchasers will be required to deposit with the Superintendent, in addition to the consideration for the land and the fee provided for in Section 17 hereof, the sum of $20, such amount to be paid when the purchaser is notified that he is the successful bidder. This fee is collected for the purpose of paying for the work incident to the sale as required by the Act of February 14, 1920 (41 Stat., 415) as amended by the Act of March 1, 1933 (47 Stat., 1417). The fee may be reduced to a lesser amount than $20 or to a nominal amount if the circumstances justify such reduction in the discretion of the Secretary of the Interior. The sales fee if conditions warrant may be deducted from the proceeds of sale.

SEC. 26. In sales involving irrigable land, the purchaser will be required to pay the proportionate per acre construction cost of the particular project to be assessed against the land. Payments made by the Indian owner prior to July 1, 1932 will be taken into consideration in fixing the appraisements of the land. All appraisements covering irrigable land will be submitted to the Supervising or Project Engineer of the district in which such land is situated for his approval. Purchasers will be required to pay in addition to the per acre construction cost the annual operation and maintenance charges assessed against the land which will be based on the annual cost of the operation of the system. All such charges remaining unpaid as of the date of the acceptance of the bid must be paid by the purchaser. In all cases purchasers will be required to enter into an agreement for the payment of all such charges. A lien clause covering the cost of all irrigation charges, past and future, will be inserted in the patent or other instrument issued to the purchaser.

SEC. 27. Before any tract of land is offered for sale the Superintendent or other officer in charge shall visit, view and appraise it at its full value for the purpose for which it is best adapted, according to his best judgment. If a Superintendent or other officer in charge is for any cause unable personally to appraise the lands he shall require the appraisement to be made by the officer or employe under his charge best qualified for the purpose. No bid for less than the appraised value will be considered. If the appraisement is made by a person other than the Superintendent or officer in charge, the Superintendent or officer in charge shall file with the papers a certificate of the qualifications and integrity of the appraiser, to the effect that he believes the appraisement to be the value of the land. Lands shall not be offered for sale unless an appraisement thereof has been made within six months prior thereto. Certificates of appraisement should be made on form 5–110a.

BIDS

SEC. 28. Each bid on Indian lands offered for sale must be accompanied by a duly certified check payable to the order of the Superintendent or other officer in charge for the use of the vendor, for not less than 10 per cent of the offer made, as a guaranty of the bidder's faithful performance of his proposition. If the bid is accepted and the successful bidder shall within 30 days after due notice fail to comply with the terms of his bid, his deposit shall be forfeited to the use of the owner of the land. All bids should be enclosed in a sealed envelope which must be marked by the bidder "Bid for Indian Land" and show the date of opening, but the description of the land shall not be noted on the envelope.

SEC. 29. No bidder will be permitted to include more than one allotment in any bid, but if a prospective purchaser desires to bid on more than one allotment he must submit a separate bid for each allotment. A bidder shall have the privilege, however, of designating in his bid not more than three allotments as first, second and third choice and his offer on each such allotment will be considered according to such designations. In that case but one certified check for 10 per cent of the highest amount offered by him need acompany the bid.

SEC. 30. Under no circumstances will the Superintendent or other officer in charge or any person connected with the Agency office or the Indian Service directly or indirectly be permitted to bid or to make or to prepare any bid or assist any bidder in preparing his bid.

SEC. 31. The right to reject any and all bids is reserved to the Commissioner of Indian Affairs.

SEC. 32. Bidders, owners and other interested persons may be present when bids are opened and when so opened the bids shall be recorded in a book or on cards kept for that purpose so as to show the name of the bidder, description of the land, amount offered, and action taken thereon. The award shall be made to the highest bidder and the checks of the unsuccessful bidders shall be returned immediately to them, receipts therefor being taken and filed at the Agency.

SEC. 33. The exchange submitted with the bid of the successful bidder shall be immediately deposited by the Superintendent or other officer in charge to his official credit in a designated depositary for Individual Indian Money. As soon as practicable the Superintendent or other officer in charge shall require the successful bidder to furnish additional exchange for the remaining 90 per cent of the amount bid, which shall be deposited forthwith to the official credit of the disbursing officer in the same depositary to await the action of the Department on the sale.

SEC. 34. In any case where the Indian owner and purchaser desire, a sale may be completed on the deferred payment plan and in such case the purchaser shall pay not less than 25 per cent of his bid in cash and execute notes for the balance payable in three equal payments on or before one, two and three years after date, on form 5–110g.

SEC. 35. At the time the petition for sale is executed by the allottee or heirs interested they should designate thereon whether they wish the sale to be made for cash or on deferred payments bearing the usual rate of interest of the locality. In deferred payment sales 10 per cent of the purchase price should accompany the bid, an additional 15 per cent to be paid when the bid be accepted, and the balance to be paid on or before one, two and three years. When the purchase price and the agreed interest on the notes have been paid in full, a patent in fee will be issued to the purchaser or his assigns, and in cases where a patent in fee is not authorized by law or cannot be issued on account of irregular description of the land, a deed executed by the allottee or heirs and approved by the Secretary of the Interior will be delivered to such purchaser or assignee. When lands are sold on deferred payments a certificate or memorandum of purchase, setting out fully the terms thereof and approved by the said Secretary, will be delivered to the purchaser. If the purchaser makes default in the first or subsequent payments, all payments, including interest, previously made will be forfeited to the Indian owner. When lands are sold on deferred payments, and title is to be conveyed by approved deed, the deed shall be held in the Indian Office in escrow until full payment is made when it will be delivered to the grantee.

SEC. 36. All sales of lands made under the Acts referred to herein, to be valid must be approved by the Secretary of the Interior and accompanied by the original petition for sale, the appraisement, all bids relating to the land covered by the petition, and a full report in accordance with Forms 5–110e, 5–110m or 5–110n or as required by the Commissioner of Indian Affairs, by the Superintendent or other officer in charge of all proceedings prior to his report which relates to the sale.

REMOVAL OF RESTRICTIONS, AND THE SALE OF LANDS OF THE FIVE CIVILIZED TRIBES, AND THE REINVESTMENT OF FUNDS IN NON-TAXABLE LANDS

SEC. 37. Sections 1 and 9 of the Act of May 27, 1908 (35 Stat., 312–315) as amended and supplemented by Section 1 of the Act of May 10, 1928 (45 Stat., 495) and Sections 1 and 8 of the Act of January 27, 1933 (47 Stat., 777–779) authorized the removal of restrictions and sales of restricted allotted and inherited lands of the Five Civilized Tribes in Oklahoma. Restricted funds derived from the sale of such restricted lands may be used to acquire other lands for such Indians, as provided for in the Act of March 2, 1931 (46 Stat., 1471) as amended June 30, 1932 (47 Stat., 474) and the lands so acquired for such Indians to the extent provided for in said Act shall be exempt from taxation.

SEC. 38. Subject to the limitations of Order No. 420, approved on August 14, 1933, precluding the removal of restrictions and sales of land except in individual cases of great distress or other emergency, etc., applications must be made in triplicate on approved form Five Civilized Tribes, 5–484. These forms will be furnished free of charge on application to the Superintendent for the Five Civilized Tribes or any field clerk.

SEC. 39. When an application is received by the field clerk, he shall, after investigation, including a personal interview with the applicant, forward the application with report and recommendation to the Superintendent for the Five Civilized Tribes to be transmitted with his report and recommendation for such action as the Secretary of the Interior may deem proper.

SEC. 40. Upon proper showing to the Secretary of the Interior that an applicant for the removal of restrictions should have the unrestricted control of his allotment or a part thereof, he may remove the restrictions therefrom.

SEC. 41. When the Secretary of the Interior finds it to be for the best interest of any applicant that all or part of his restricted lands should be sold with conditions concerning terms of sale and disposal of the proceeds, he may remove the restrictions, to become effective only and simultaneously with the execution of a deed by said applicant and issue an order specifically providing the terms under which the land may be sold and providing for the disposal of the proceeds.

SEC. 42. The Superintendent for the Five Civilized Tribes will advertise for sale at public auction for not less than 30 days the land included in conditional removal of restrictions orders by posting notices at his office; at the offices of the several field clerks, and at the county court houses of the Five Civilized Tribes area. Such notices shall contain information as to time and place of sale, legal description of the land, information as to character of land, minimum price at which the land may be sold, and terms of sale, with reservation of right to reject any bid submitted. The determination of the minimum price at which lands may be sold will be made by the Superintendent after an inspection and appraisement of the land by a representative of his office. No bid for an amount less than the minimum price will be considered. All cost of conveyance and recording shall be at the expense of the purchaser.

SEC. 43. Bids may be made in writing on any of the lands to be offered for sale. Any written bid submitted to be given consideration must be received at the place of sale prior to the hour of sale by the officer named in the notice offering the land for sale and accompanied by a deposit of 10 per cent of the amount bid. Deposits accompanying unsuccessful bids will be returned promptly. Each successful oral bid must be accompanied by a deposit of 10 per cent of the amount bid as guaranty of faithful compliance of the bidder with the terms of sale.

SEC. 44. A remittance of $20 will be required from the successful bidder as a land sale fee on each tract sold. This fee is collected for the purpose of paying for the work incident to the sale as required by the Act of February 14, 1920 (41 Stat., 415) as amended by the Act of March 1, 1933 (47 Stat., 1417). Where the circumstances justify a reduction in the sales fee the Secretary of the Interior may reduce the amount. The sales fee if conditions warrant and the advertisement so provides may be deducted from the proceeds of the sale.

If a bid is accepted and the successful bidder shall fail within 10 days from the receipt of notice of the acceptance of his bid, to comply with the terms thereof, such deposit will be subject to forfeiture by the Superintendent for the Five Civilized Tribes for the use of the owner of the land.

The proceeds of all such sales shall be held by said Superintendent for the Five Civilized Tribes in his official capacity, and be disbursed for the benefit of the respective Indians.

SEC. 45. Upon the approval by the Secretary of the Interior of a conditional order for the removal of restrictions the land covered thereby to be sold under the supervision of the Superintendent for the Five Civilized Tribes,

the said Superintendent is hereby authorized, in such cases as he considers to be for the best interests of the respective allottees so to do, to advertise and sell said land at public auction for not less than the appraised value for cash or upon deferred payments, any such deferred payment sales to be made under the following terms:

A. Where the consideration is $500 or less, at least one-half to be paid in cash at the time of the sale and the remainder to be evidenced by purchaser's notes due and payable in not more than 18 months after the date of purchase and secured by first mortgage on the premises conveyed.

B. Where the consideration exceeds $500 and is not more than $1,500, at least one-third to be paid in cash at the time of sale and the remainder in two equal payments evidenced by purchaser's note or notes to fall due not more than 2½ years from date of purchase, and secured by first mortgage on the premises conveyed.

C. Where the consideration exceeds $1,500 at least one-fourth to be paid in cash at the time of sale and the remainder in three equal payments evidenced by purchaser's note or notes to fall due not more than 3½ years from the date of purchase and secured by first mortgage on the premises conveyed.

SEC. 46. All cash payments at the time of sale to be paid into the hands of the cashier and special disbursing agent for the Five Civilized Tribes, Muskogee, Oklahoma, or his successor in authority, and all notes and mortgages securing same to contain the express condition that no payment purporting to discharge, satisfy, or release the indebtedness evidenced thereby shall operate as a release, satisfaction, discharge, or payment thereof unless such payments and interest accruing thereon are made to the said cashier or his successor, for the benefit of the proper allottees, or if such note or notes are properly negotiated with the approval of the Secretary of the Interior, to the owner or owners of such notes, and such notes shall be nonnegotiable except with the approval of the said Secretary. The note or notes shall be held by the said cashier or his successor for collection when due. Said notes shall draw interest from date of execution until paid at the rate of 6 per cent per annum.

SEC. 47. All moneys received by the cashier or his successor as consideration for land, including moneys received on account of deferred payments and accrued interest thereon, shall be deposited or held to the credit of the proper allottee in Individual Indian Accounts and be subject to the rules, regulations and orders of this Department governing the holding of moneys so deposited and the disbursement thereof.

SEC. 48. Upon the consummation of a sale in compliance with these regulations the Superintendent, or other officer in charge of the office of the Five Civilized Tribes, will make appropriate endorsements upon the order for the removal of restrictions from the land sold and on the deed of conveyance as prescribed by forms Five Civilized Tribes 5–540 and 5–183c. The order for the removal of restrictions and the deed thus endorsed shall, after proper record thereof has been made at the office of the said Superintendent, be delivered to the grantee.

SEC. 49. In any case where lands are purchased for the use and benefit of any citizen of the Five Civilized Tribes of the restricted class, payment for which is made from proceeds arising from the sale of restricted non-taxable land, the said Superintendent shall cause conveyance of such lands to be made on form of conveyance containing an habendum clause against alienation, taxation or encumbrances, as follows:

TO HAVE AND TO HOLD said described premises, unto said grantee _____ heirs and assigns, forever, free, clear, and discharged of all former grants, charges, taxes, judgments, mortgages, and other liens and encumbrances of whatsoever nature, subject to the condition that no lease, deed, mortgage, power of attorney, contract to sell, or other instrument affecting the land herein described or the title thereto shall be of any force and effect, unless approved by the Secretary of the Interior or the restrictions from said land are otherwise removed by operation of law.

SEC. 50. Before delivery and recording of such deed of conveyance the said Superintendent will attach a certificate of notice in the following form:

I hereby certify that the land described in the above deed was purchased for a home for the said _____ with funds HELD IN TRUST by the United States for H _____ derived from the sale of restricted lands as authorized by the terms of the Act of March 2, 1931 (46 Stat. 1471) as amended June 30, 1932 (47 Stat. 474), and is nontaxable as therein provided.

_____
Superintendent for the Five Civilized Tribes.

PURCHASE OF RESTRICTED, NON-TAXABLE PERSONAL PROPERTY WITH RESTRICTED FUNDS

SEC. 51. In all cases where purchases of automobiles, horses, wagons, buggies, cattle, agricultural implements, or other personal property are made for individual Indians, payments for which are made from moneys received from the sale of restricted allotted lands, or from other moneys held under the control of the Department of the Interior, the Superintendent for the Five Civilized Tribes, will, when in his judgment it is to the Indian's best interest, cause a bill of sale to be executed by the vendor or vendors conveying the property purchased to the United States, to be held in trust for the use and benefit of the respective allottees or their heirs who are of the restricted class.

SEC. 52. The Superintendent for the Five Civilized Tribes may cause all such property to be branded on some prominent place, "U. S. I. S." to indicate that the property was purchased by the United States through the Indian Service.

The law of the State of Oklahoma shall be followed in taking bills of sale. The bill of sale should be filed at the Office of the County Clerk for the county in which the property is located and duplicate thereof retained in the office of the Superintendent for the Five Civilized Tribes.

Before filing the bill of sale, certificate of notice shall be indorsed thereon by the said Superintendent or such other officer of the Department as he may designate for the purpose, evidencing the official character of the transaction and the nature of the funds affected.

SEC. 53. No sale, mortgage, or other disposition of the property covered by a bill of sale, as provided in these regulations, shall be of any force or validity except with the written consent previously obtained and the approval subsequently given of the Superintendent for the Five Civilized Tribes, or such other officer as he may designate for the purpose; and in the event the Indian attempts to sell, mortgage, or otherwise dispose of such property the said Superintendent shall promptly notify the Department to that effect, forwarding the original bill of sale, in order that proper proceedings may be instituted for the recovery of the property.

SEC. 54. These regulations shall become effective 30 days from date hereof and supersede all prior regulations relating to the issuance of patents in fee, certificates of competency, the sale of allotted and inherited Indian lands, including lands belonging to the Five Civilized Tribes, and the reinvestment of the proceeds in non-taxable lands.

WILLIAM ZIMMERMAN, JR.,
Acting Commissioner.

Approved, May 31, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–1595; Filed, June 7, 1938; 9:42 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[Regulations No. 6]

BOTTLING OF DISTILLED SPIRITS IN BOND

The Act of Congress entitled "An Act to allow the bottling of distilled spirits in bond," approved March 3, 1897 (U. S. C., 1934 ed., title 26, sections 1278 to 1283), as amended by Section 306, of the Liquor Tax Administration Act (U. S. C., 1934 ed., Sup. II, sections 1276 and 1277) and the Act of July 9, 1937 (Public No. 198, 75th Congress).

SECTION 1. That whenever any distilled spirits deposited in the Internal Revenue Bonded Warehouse have been duly entered for withdrawal, before or after tax payment, or for export in bond, and have been duly gauged and the required marks, brands, and tax-paid stamps (if required) or export stamps, as the case may be, have been affixed to the package or packages containing the same, the distiller or owner of said distilled spirits, if he has declared his purpose so to do in the entry for withdrawal, which entry for bottling purposes may be made by the owner as well as the distiller, may remove such spirits to a separate portion of said warehouse which shall be set apart and used exclusively for that purpose, and there, under the supervision of a United States storekeeper-gauger in charge of such warehouse, may immediately draw off such spirits, bottle, pack, and case the same. For convenience in such process any number of packages of spirits of the same kind, differing only in proof, but produced at the same distillery by the same distiller, may be mingled together in a cistern provided for that purpose, but nothing herein shall authorize or permit any mingling of different products, or of the same products of different distilling seasons, or the addition or subtraction of any substance or material or the application of any method or process to alter or change in any way the original condition or character of the product except as herein authorized; nor shall there be at the same time in the bottling room of any Internal Revenue Bonded Warehouse any spirits entered for withdrawal upon payment of the tax and any spirits entered for export.

Every bottle when filled shall have affixed thereto and passing over the mouth of the same a stamp denoting the quantity of distilled spirits contained therein and evidencing the bottling in bond of such spirits under the provisions of this Act, and of regulations prescribed hereunder.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying stamps required by this section, the form and denominations of such stamps, applications for purchase of the stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps, and (b) such other regulations as the Commissioner shall deem necessary for the enforcement of this Act.

Such stamps shall be issued by the Commissioner of Internal Revenue to each Collector of Internal Revenue, upon his requisition in such numbers as may be necessary in his district, and, upon compliance with the provisions of this Act and regulations issued hereunder shall be sold by collectors to persons entitled thereto, at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one-half pint, the price shall be one-quarter of 1 cent for each stamp.

And there shall be plainly burned, embossed, or printed on the side of each case, to be known as the Government side, such marks, brands, and stamps to denote the bottling in bond of the whisky packed therein as the Commissioner may by regulations prescribe.

And no trade-marks shall be put upon any bottle unless the real name of the actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused, shall also be placed conspicuously on said bottle.

SEC. 2. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulations, prescribe the mode of separating and securing the additional warehouse or portion of the warehouse hereinbefore required to be set apart, the manner in which the business of bottling spirits in bond shall be carried on, the notices, bonds, and returns to be given and accounts and records to be kept by the persons conducting such business, the mode and time of inspection of such spirits, the accounts and records to be kept and returns made by the Government officers, and all such other matters and things as in his discretion he may deem requisite for a secure and orderly supervision of said business; and he may also, with the approval of the Secretary of the Treasury, prescribe and issue the stamps required.

The distiller may, in the presence of the United States storekeeper or storekeeper and gauger, remove by straining through cloth, felt, or other like material any charcoal, sediment, or other like substance found therein, and may whenever necessary reduce such spirits as are withdrawn for bottling purposes by the addition of pure water only to one hundred per centum proof for spirits for domestic use, or to not less than eighty per centum proof for spirits for export purposes, under such rules and regulations as may be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury; but no spirits (except gin for export) shall be bottled in bond until they have remained in bond in wooden containers for at least four years from the date of original gauge as to fruit brandy, or original entry as to all other spirits: *Provided*, That nothing in this Act shall authorize the labeling of spirits in bottles contrary to the provisions of regulations issued pursuant to the Federal Alcohol Administration Act, or any amendment thereof.

SEC. 3. That all distilled spirits intended for export under the provisions of this Act shall be inspected, bottled, cased, weighed, marked, labeled, stamped, or sealed in such manner and at such time as the Commissioner of Internal Revenue may prescribe; and the said Commissioner, with the approval of the Secretary of the Treasury, may provide such regulations for the transportation, entry, reinspection, and lading of such spirits for export as may from time to time be deemed necessary; and all provisions of existing law relating to the exportation of distilled spirits in bond, so far as applicable, and all penalties therein imposed, are hereby extended and made applicable to distilled spirits bottled for export under the provisions of this Act, but no drawbacks shall be allowed or paid upon any spirits bottled under this Act.

SEC. 4. That where, upon inspection at the bonded warehouse in which the spirits are bottled at aforesaid, the quantity so bottled and cased for export is less than the quantity actually contained in the distiller's original casks or packages at the time of withdrawal for that purpose the tax on the loss or deficiency so ascertained shall be paid before the removal of the spirits from such warehouse, and the tax so paid shall be receipted and accounted for by the collector in such manner as the Commissioner of Internal Revenue may prescribe.

SEC. 5. That where, upon reinspection at the port of entry, any case containing or purporting to contain distilled spirits for export is found to have been opened or tampered with, or where any mark, brand, stamp, label, or seal placed thereon or upon any bottle contained therein has been removed, changed, or willfully defaced, or where upon such reinspection any loss or discrepancy is found to exist as to the contents of any case so entered for export, the tax on the spirits contained in each such case at the time of its removal from warehouse shall be collected and paid.

SEC. 6. That any person who shall reuse any stamp provided under this Act after the same shall have been once affixed to a bottle as provided herein, or who shall reuse a bottle for the purpose of containing distilled spirits which has once been filled and stamped under the provisions of this Act without removing and destroying the stamp so previously affixed to such bottle, or who shall, contrary to the provisions of this Act or of the regulations issued thereunder remove or cause to be removed from any bonded warehouse any distilled spirits inspected or bottled under the provisions of this Act, or who shall bottle or case any such spirits in violation of this Act or of any regulation issued thereunder, or who shall, during the transportation and before the exportation of any such spirits, open or cause to be opened any case or bottle containing such spirits, or who shall willfully remove, change, or deface any stamp, brand, label, or seal affixed to any such case or to any bottle contained therein, shall for each such offense, be fined not less than one hundred nor more than one thousand dollars, and be imprisoned not more than two years, in the discretion of the court, and such spirits shall be forfeited to the United States.

SEC. 7. That every person who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under any provision of this Act, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or who shall make, use, sell, or have in his possession any paper in imitation of the paper used in the manufacture of any stamp required by this Act, shall on conviction be punished by a fine not exceeding one thousand dollars and by imprisonment at hard labor not exceeding five years.

SEC. 8. That nothing in this Act shall be construed to exempt spirits bottled under the provisions of this Act from the operation of chapter seven hundred and twenty-eight of the public laws of the Fifty-first Congress, approved August eighth, eighteen hundred and ninety.

SEC. 626. (Act of February 24, 1919) (U. S. C., 1934 ed., title 26, section 1283) That distilled spirits known commercially as gin of not less than 80 per centum proof may at any time within eight years after entry in bond at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

By virtue of the authority conferred by the foregoing provisions of law, the following regulations are hereby prescribed:

SECTION 1. *Establishment of bottling house.*—Any proprietor of an Internal Revenue Bonded Warehouse who desires to bottle distilled spirits in bond, shall first set apart a portion of such warehouse for this purpose, and separate the same from the remainder of the warehouse by solid, secure, and unbroken partitions, extending from the floor to the ceiling or roof, with no interior communication whatever between the bottling room and other portions of the warehouse, except as hereinafter provided. No door or window will be permitted opening into another room or building. One door must be secure on the outside with a Goverment seal lock and all others shall be locked on the inside with Government locks, except that if the room is to be used exclusively for bottling distilled spirits in bond a door in the partition or wall separating the bottling room from the storage portion of the warehouse will be permitted for the purpose of transferring spirits to the bottling room and, if bottled before tax payment, their return for storage. The door must be equipped for locking with a Government lock on the storage side of the warehouse, and must be kept locked except while actually being used for the transfer of spirits: Provided however, that if the bottling room is eliminated from the warehouse premises in order that it may be operated as a tax-paid bottling house, or for any other purpose, the door in the wall separating such

room from the warehouse must be eliminated and the opening permanently boarded or bricked up in such a manner as to provide a solid and unbroken wall. If a separate building on the warehouse premises is to be used for bottling spirits in bond, it must be constructed as prescribed in Regulations 8.

SEC. 2. *Equipment of bottling house.*—The dumping, mixing or reducing and bottling tanks must be constructed of metal and shall be of uniform dimensions from top to bottom, and each such tank shall be equipped with a suitable measuring device whereby the actual contents will be correctly indicated. All tanks must be so constructed as to admit of examination of every part thereof. Each tank shall have painted thereon its designated use, such as "Dump Tank", "Bottling Tank", etc., the serial number and its capacity in wine gallons. Manheads, inlets and outlets to the tanks must be provided with facilities for locking with Government locks. The tanks must not be permanently connected with pipelines used for the conveyance of distilled water or materials other than spirits. If a reducing tank is provided, the bottling tanks must have sufficient capacity to hold the entire contents thereof, and each must be connected with the reducing tank by closed and securely connected metal pipelines. If dump tanks are provided, the same shall be of a capacity not greater than the reducing tank where reducing tanks are being used, and shall be connected with either the reducing or bottling tank by means of closed metal pipes. Valves in pipelines will be equipped for the attachment of Government locks. The storekeeper-gauger will open and close such locks, but the proprietor will manipulate the valves controlling the flow of spirits into and out of all tanks in the bottling house. Filters must be connected with tanks by means of secure and closed metal pipelines.

SEC. 3. *Form 27D and plans.*—When a portion of an Internal Revenue Bonded Warehouse has been set apart for the bottling of distilled spirits in bond, and before any spirits are transferred to the bottling house, the proprietor of the warehouse will file an application on Form 27D and plans, in triplicate, with the district supervisor.

SEC. 4. *Examination of bottling house.*—Upon receipt of the notice (Form 27D) and plans the district supervisor, or one of his inspectors, will make a careful examination of the premises and apparatus proposed to be used for bottling spirits, and if found to be in accordance with these regulations, and as set forth in the notice, the supervisor will approve the notice and plans. One copy of the Form 27D will be forwarded to the Commissioner with the other required documents. Upon receipt of notice of action taken by the Commissioner, the supervisor will return one copy of the notice, Form 27D, to the applicant, and retain the third copy.

SEC. 5. *Cabinet for keys, stamps, etc.*—There must be provided in the bottling house a metal cabinet of adequate strength and size, in which to safeguard Government property and stamps. Each cabinet must be approved by the district supervisor as to construction and security. The cabinet will be locked with a Government seal lock. Where a cabinet or other secure place for the safekeeping of keys, seals, stamps, records, etc., has previously been provided, which, in the opinion of the district supervisor, affords adequate protection for the keys, seals, etc., the supervisor may authorize the continued use of such cabinet or other secure place of safekeeping in lieu of the cabinet specified above.

SEC. 6. *Notice on Form 404.*—After the bottling house has been duly approved by the Commissioner of Internal Revenue, the proprietor of the warehouse will, before engaging in the business of bottling spirits, give notice to the district supervisor of his district on Form 404, in duplicate, of his intention to carry on the business of bottling distilled spirits in bond. The proprietor will also file notice on Form 404, in duplicate, with the district supervisor at such time as operations of the bottling house are discontinued. In making up Form 404 the instructions printed thereon must be followed. Upon completion of the Form 404 by the district supervisor, one copy will be forwarded to the proprietor of the warehouse through the storekeeper-gauger-in-charge, and one copy retained by the supervisor.

SEC. 7. *Entry for withdrawal of spirits for bottling.*—Except as to gin to be bottled for export, the entry for withdrawal for bottling-in-bond must bear date not less than four years after date of original gauge as to fruit brandy, or original entry as to all other spirits. The period during which spirits are stored in tanks in warehouse must be deducted from the age in determining whether such spirits are eligible for bottling-in-bond.

SEC. 8. *Spirits in process of bottling.*—Spirits of two or more distillers, spirits of two or more seasons' production, or spirits produced by the same distiller in the names of two or more individuals, firms, partnerships, corporations, or associations, may not be in the process of bottling in the same bottling room at the same time: Provided, that where one lot of spirits is in the process of bottling, another lot may be dumped and reduced and held in locked tanks until the process of bottling of the first lot has been completed. The process of bottling will be regarded as complete for the purpose of this section when the bottled spirits have been placed in the cases and the cases closed. Tax-paid and untax-paid spirits, or spirits bottled for export and spirits bottled before tax payment, may not be in the same bottling room at the same time.

SEC. 9. *Bottling house having more than one bottling room.*—Two or more bottling rooms, with separate bottling equipment for each room, may be provided, and each bottling room may in accordance with the limitations set out in the preceding section be operated simultaneously with, and independently of, the other bottling rooms. A bottling house having more than one bottling room, as herein provided, will be regarded as a single bottling house, and only one record will be kept by the officer in charge. Where spirits are bottled in more than one bottling room at the same time, the spirits bottled and cased in each bottling room should not be numbered until near the close of the day, and each distiller's spirits will then be numbered in consecutive order in the regular series in use at the warehouse.

SEC. 10. *Definition of bottling room.*—A "bottling room" shall consist of a complete set of bottling equipment, separated from another such set by a complete partition, or by a wire net partition not less than nine gauge, not more than two inch mesh. Doors or other necessary openings will be permitted in such partitions at such points as will not interfere with adequate supervision and segregation of the spirits being bottled in the different rooms.

SEC. 11. *Storage of cases and bottling supplies.*—If cases and other bottling supplies are kept or stored in the bottling house, they must be kept completely segregated and so stored as not to interfere with proper supervision of the bottling house.

SEC. 12. *Custody of bottling house.*—The bottling house when established will be under the control of the district supervisor of the district and in the joint custody of the storekeeper-gauger and of the proprietor and shall at no time be unlocked or opened or remain open when spirits are therein except in the presence of the storekeeper-gauger. Where there is a communicating door between the bottling house and the warehouse, as authorized in Section 1, the bottling house must be locked at night in the usual way, regardless of whether spirits are stored therein.

SEC. 13. *Spirits which may be bottled.*—Except as to gin to be bottled for export, only spirits which have remained in bond in wooden containers for at least four years can be withdrawn for bottling in bond. Spirits may be bottled-in-bond either before or after payment of the internal-revenue tax. Spirits bottled in bond before payment of the tax will be returned to the bonded warehouse for storage until tax-paid or until removed without payment of tax under the provisions of law and regulations applicable thereto. Spirits bottled after tax payment must be removed from the bottling house immediately upon completion of the bottling, without being returned to the bonded warehouse.

SEC. 14. *Sizes of bottles.*—Spirits may be bottled-in-bond in the following size bottles, and no others: one-quart, $\frac{4}{5}$ quart, one pint, $\frac{1}{2}$ pint, $\frac{1}{5}$ pint, $\frac{1}{10}$ pint, and in the case of brandy $\frac{1}{16}$ pint. Bottles must be filled as nearly as possible to conform to the amount stated to be contained therein, but in no case may the amount of spirits contained in any bottle vary from the amount intended or stated to be contained in such bottle more than 2 per cent.

SEC. 15. *Stamp denominations.*—Stamps will be provided in the following denominations, and in no others: one quart, $\frac{4}{5}$ quart, 1 pint, $\frac{1}{2}$ pint, and less than $\frac{1}{2}$ pint. Stamps of less than $\frac{1}{2}$ pint denomination will be used on bottles of the following sizes: $\frac{1}{5}$ pint, $\frac{1}{10}$ pint, and $\frac{1}{16}$ pint.

SEC. 16. *Form 403, Requisition for stamps.*—Requisition for bottled-in-bond stamps will be made on Form 403, in triplicate, by the proprietor of the warehouse in which the spirits are stored. All copies will be submitted by the proprietor to the storekeeper-gauger-in-charge, who will indicate his approval by signing each copy of the form. Before approving the form the officer will see that the requisition is properly executed, and will satisfy himself that the number of stamps for which requisition is made is necessary. Upon approval of the forms the officer will retain one copy and will return the other two copies to the proprietor, who will forward both copies to the Collector of Internal Revenue with his remittance for the stamps. The collector will enter the serial numbers of the stamps issued and stamp the date of sale on both copies of Form 403. The collector will retain one copy and immediately forward one copy to the district supervisor.

SEC. 17. *Number of stamps in a sheet.*—Stamps of "Less than $\frac{1}{2}$ Pint" denomination will be issued 50 in a sheet. Stamps of all other demoninations will be issued 42 in a sheet. Requisitions for stamps by proprietors of warehouses must be made for full sheets. Stamps less than a full sheet may not be sold by a collector.

SEC. 18. *Shipment of stamps.*—The collector will forward the stamps by registered mail to the storekeeper-gauger named on the Form 403. In instances where it is impractical to ship large quantities of strip stamps by registered mail it is permissible to make the shipment by express, provided that a return receipt is procured in each case from the storekeeper-gauger. The expense of forwarding the stamps by registered mail or express to the storekeeper-gauger will be borne by the applicant. All stamps in the custody of the storekeeper-gauger will be kept by him in the cabinet prescribed in Section 5.

SEC. 19. *Overprinting of stamps.*—Stamps may be used either blank or overprinted, at the option of the proprietor of the warehouse. At such time as the proprietor of the warehouse desires to have stamps overprinted and cut the storekeeper-gauger will deliver the stamps to him. One overprinting only will be permitted on any stamp and the printer will be approved by the supervisor. Overprinting will be done in red ink with not less than eight point type. The season when the spirits were made and the season when bottled will be placed in the blank space on the end of the stamp bearing the serial number, except in the case of stamps of "Less than $\frac{1}{2}$ Pint" denomination, which do not have serial numbers, the season when made and the season when bottled will be placed on the right-hand end of the stamp. In the blank space on the other end of the stamp will be placed the name of the actual bona fide distiller, or the name of the individual firm, partnership, corporation, or association in whose name the spirits were produced and warehoused. Overprinting of the stamp will be in the following form:



SEC. 20. *Delivery of stamps to storekeeper-gauger.*—When the stamps have been overprinted the proprietor will deliver them to the storekeeper-gauger, who will determine whether the correct number has been returned. When application Form 1515 is received in accordance with Section 38, the storekeeper-gauger will deliver to the proprietor of the warehouse the stamps required to be affixed to the bottles. Storekeeper-gaugers who have custody of stamps will be held strictly responsible for the proper control and accounting of all stamps received, issued, used, and on hand. They shall determine whether the number of stamps requisitioned is needed; that those issued are properly affixed to bottles; that all stamps issued to the proprietor and not used are returned to them; and that a proper accounting is made of all stamps reported mutilated.

SEC. 21. *Mutilated stamps.*—There is no provision of law for the redemption or exchange of bottled-in-bond stamps. Stamps which are mutilated in overprinting, cutting, or in the bottling house, must be returned to the storekeeper-gauger, who will make the necessary record on Form 1606. All such mutilated stamps will be destroyed under the immediate supervision of the storekeeper-gauger.

SEC. 22. *Form 1606—Record of stamps.*—The storekeeper-gauger will keep a detailed record on Form 1606 of stamps of each denomination received by him during the month, the number turned over to the proprietor for overprinting and returned to him, and the number used during the month, showing the date of each transaction. The record must also show the number of stamps of each denomination on hand at the beginning and at the end of the month.

SEC. 23. *Caution notice.*—Every person bottling distilled spirits in bond except for export shall attach to each bottle filled by him a caution notice reading as follows:

This bottle has been filled and stamped under the provisions of the Act of Congress entitled "An Act to allow the bottling of distilled spirits in bond," approved March 3, 1897, as amended. Any person who shall reuse the stamp affixed to this bottle, or remove the contents of this bottle without so destroying the stamp affixed thereto as to prevent reuse, or who shall sell this bottle, or reuse it for distilled spirits, will be liable to the penalties prescribed by law.

When spirits are bottled for export the bottler may attach the caution notice if he so desires.

This notice shall be of convenient size for attachment to the bottle, shall be printed in plain, legible, black characters, with a black border, and shall be securely attached to the bottle. The type used in printing caution labels shall not be less than eight point when used on bottles of one-half pint or more.

SEC. 24. *Trade-marks and distiller's name.*—The provision of the law that no trade-marks shall be put upon any bottle unless the real name of the actual bona fide distiller or the name of the individual, firm, partnership, corporation or association in whose name the spirits were produced and warehoused, shall also be placed conspicuously on said bottle renders it absolutely necessary that either the label which contains the trade-mark or special name which the owner may see fit to give to his spirits, or some additional label equally conspicuous shall bear the real name of the actual bona fide distiller or the name of the individual, firm, partnership, corporation or association in whose name the spirits were produced and warehoused. In addition thereto the labels must conform to the provisions of regulations issued by the Federal Alcohol Administration and Regulations 13 of this Bureau, except when bottled for export.

SEC. 25. *Capacity of cases.*—Spirits bottled in bond shall be packed in cases containing 3 gallons of spirits each, as follows: 12 bottles containing one quart each; 24 bottles containing 1 pint each; 48 bottles containing $\frac{1}{2}$ pint each; 192 bottles containing $\frac{1}{5}$ pint each; 240 bottles containing $\frac{1}{10}$ pint each; and 384 bottles containing $\frac{1}{16}$ pint of brandy each. Bottles of $\frac{4}{5}$ quart shall be packed in cases containing 2.4 gallons.

SEC. 26. *Case numbers.*—Each case filled will be given a serial number. Where an Internal Revenue Bonded Warehouse has a bottling warehouse already established, the series in use will be continued. At warehouses hereafter established, the cases bottled will be numbered serially, beginning with No. 1 for the first case filled. When the serial numbers of cases bottled at any ware-

house, whether established before or after the issuance of these regulations, have reached the number 999999 the proprietor may, if he so desires, begin a new series, commencing with No. 1 as originally.

SEC. 27. *Wooden cases.*—Distilled spirits bottled in bond may be placed in cases constructed of wood, the outer surface of the "Government" side dressed, and the top, bottom, and sides of a thickness not less than one-half inch and the ends of a thickness not less than three-fourths of an inch. The corners of the cases will be put together by the lock-corner or dovetail method. The top, bottom, sides, and ends of the cases must not consist of more than two pieces of wood each. When two pieces are used the same will be tongued and grooved, glued, and fastened on the inside with not less than two metal corrugated fasteners. Each end piece must be mortised to the extent of half its thickness and the top and bottom of the case set therein. The sides must extend the full height of the end pieces. Cement-coated nails must be used of a size not less than fourpenny. At least six such nails will be driven through each end of the top and bottom pieces into the end piece; at least two such nails will be driven through each side piece into the bottom piece; at least two such nails will be driven through each side piece into the top piece; at least two such nails will be driven through each end piece into the bottom piece; and at least two such nails will be driven through each end piece into the top piece.

In addition to being nailed as above provided, the cases must be wired by drawing metal straps or heavy wire around the same about 4 inches from each end, or by passing a wire around the center of the case, both laterally and crosswise, so as to form right angles in the center and be countersunk, and, instead of passing over the edges of the case, must pass under or through the edges at a depth sufficient to carry the wire through the side or end and adjoining top or bottom of the case. The ends will then be securely knotted or twisted together and countersunk in the wood at the point indicated and below the surface to which the stamp is to be affixed and will be secured in place by a small wire staple or nail.

SEC. 28. *Fiberboard cases.*—Spirits bottled in bond may also be placed in cases (boxes) constructed of solid fiberboard, single and double wall corrugated fiberboard, one-piece style, meeting the requirements of rule 41, Consolidated freight classification; rule 18, Official express classification; and Section IV (Part 5), Federal specifications of April 28, 1936.

In addition to meeting such requirements, the outer container of the cases shall be double-faced, and shall not be less than 0.080 of an inch thick for solid fiberboard, and three-sixteenths of an inch thick for single and double wall corrugated fiberboard, and shall have a bursting strength of not less than 200 pounds per square inch, Mullen or Cady test, for solid and single wall corrugated fiberboard containers, and 275 pounds per square inch for double wall fiberboard containers, and be faced on the outside with tough smooth material. The outer ply shall be water-proofed, as required by the above-mentioned rules, and the inner plies may be water-proofed where desired. The outer flaps of both the top and bottom shall meet at the center of the case.

The manufacturer's joint of the case shall be secured by adhesive cloth tape, metal fastenings of staples, or stitching wire made of steel, treated to resist rust, and not less than one-half an inch long. The staples or stitches shall be spaced not more than 2 inches apart, shall pass through all the pieces to be fastened, and shall be clinched on the inside.

The top, bottom, and sides of the case shall be lined with double-faced corrugated board, having facings at least 0.016 of an inch thick and the combined board shall be not less than three-sixteenths of an inch thick and have a bursting strength of not less than 200 pounds per square inch, Mullen or Cady test. The case shall also contain partitions separating each bottle. Such partitions shall be tightly fitting, touching the top, bottom and all sides of the case, and made of the same board as the liners for the top, bottom and sides. The corrugated medium of the liners and partitions, as well as of the outer containers, shall be made of chestnut, strawboard, sulphate, sulphite, or pine wood fiberboard not less than 0.009 of an inch thick. The interior packing of pads, liners, or partitions is not required where the bottles are placed in individual double-faced corrugated cartons testing 200 pounds or more per square inch.

Each case shall bear the box maker's certificate required by the above-mentioned rules, and a further certificate by the box maker, as follows:

OUTER CONTAINER

Minimum bursting strength—
200 pounds per square inch (solid or single wall).
275 pounds per square inch (double wall).
Minimum combined thickness 0.080 inch (solid).
Minimum combined thickness 3/16 of an inch (corrugated).

LINERS AND PARTITIONS

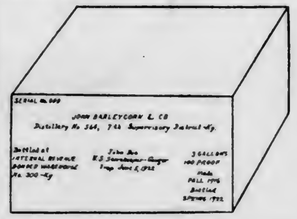
Minimum bursting strength 200 pounds per square inch.
Minimum combined thickness 3/16 of an inch.

The top and bottom of the case shall be secured by gluing the entire inner surface of the inner flaps to the top and bottom liners and the entire inner surface of the outer flaps to the inner flaps with silicate of soda or an equally efficient adhesive. Containers sealed with automatic sealing machines are not required to have the inner flaps glued to the top and bottom pads or liners.

SEC. 29. *Cases of other material and construction.*—Distilled spirits bottled in bond may also be placed in such other cases of secure material and construction and affording adequate protection to the spirits against breakage and theft as may be approved therefor by the Commissioner of Internal Revenue.

SEC. 30. (a) *Marks and brands.*—On the Government side of cases of distilled spirits bottled in bond there shall be plainly burned, embossed, or printed, in letters and figures not less than one-half of an inch in height, the real name of the actual bona fide distiller or of the individual, firm, partnership, corporation or association in whose name the spirits were produced and warehoused, the number and location (city or town and State) of the distillery at which the spirits were produced, the quantity and proof of the spirits, the season and year of production and bottling, and the number and State of the warehouse at which the spirits are bottled. Where spirits are bottled at a warehouse not on the premises of the distillery where produced, or contiguous thereto, the name of the distiller or of the individual, firm, partnership, corporation or association in whose name the spirits were produced and warehoused, the number and location (city or town and State) of the distillery at which the spirits were produced, and the season and year of production and bottling may be stenciled on the cases. The serial number of the case and the date of bottling (inspection) shall also be marked on each case. All marks on cases, whether embossed, printed or stenciled, must be made with permanent black ink. No marks, brands, labels, caution notices, or other devices whatever, other than those required by law and regulations, will be permitted on the Government side of the case.

(b) The marks and brands will be placed on the cases in the following manner and order:



SEC. 31. *Bottling before tax payment.*—Application for bottling distilled spirits in bond before payment of tax will be made to the storekeeper-gauger-in-charge at the warehouse on Form 1518 (part 1) in quadruplicate. Upon receipt of such application the officer will inspect, gauge, and mark the packages and make detailed report thereof on Form 1520, also in quadruplicate. If the regauge discloses excess losses to be tax-paid, the Forms 1518, together with the gauger's report on Form 1520, will be forwarded by the taxpayer with remittance for the tax on such excess losses to the Collector of Internal Revenue for the district in which the bonded warehouse is located. The collector will sign the certificate as to payment of the tax (part 3), of Form 1518, retain one copy of each form, and forward the other copies to the storekeeper-gauger-in-charge of the warehouse. When the bottling is completed the storekeeper-gauger will enter the details of the cases returned to warehouse on part 4 of Form 1518 and forward one copy of the form and one copy of Form 1520, to the district supervisor for the district, deliver one copy of each form to the proprietor, and file one copy of each form in his office. When no excess loss is disclosed by the regauge it will not be necessary to send the forms to the collector.

SEC. 32. *Bottling tax-paid spirits.*—Proprietors of bonded warehouses desiring to bottle distilled spirits after tax payment should so indicate on Form 179, covering the entry for tax payment of the spirits. The form will be submitted in quadruplicate to the storekeeper-gauger-in-charge. The storekeeper-gauger making the regauge will report same in detail on Form 1520, also in quadruplicate, three copies of which, together with all copies of Form 179, will be delivered to the proprietor of the warehouse, who will forward same to the Collector of Internal Revenue of the district with remittance for the tax. Upon issuance of the tax-paid stamps, the collector will fill in the serial numbers of the stamps in the appropriate spaces on the forms, sign the certificates of tax payment on the Forms 179, retain one copy of each form, and return the other copies of both forms to the taxpayer, who will deliver same to the storekeeper-gauger-in-charge of the warehouse on the date the spirits are to be withdrawn. Upon withdrawal of the spirits, the storekeeper-gauger will forward one copy of each form to the district supervisor, deliver one copy of each to the proprietor, and file one copy of each form in his office. The words, "Tax-paid," the date of tax payment, and the name of the storekeeper-gauger, will be stenciled on each case of tax-paid spirits bottled-in-bond.

SEC. 33. *Prompt removal of spirits to bottling house.*—Packages of spirits intended to be bottled must be immediately removed, after withdrawal from the warehouse where stored, to the bottling portion of the warehouse and their contents promptly drawn off into the proper tanks.

Empty casks or barrels must be thoroughly rinsed with water or steamed. So much of such water or condensed steam as may be required should be used to reduce the proof of the spirits to 100, and any excess should be poured upon the ground or into a sewer.

SEC. 34. *No substance to be added or subtracted.*—No material or substance of any kind other than pure water can be added to distilled spirits during the process of bottling in bond, nor can any substance or material be subtracted from the spirits, except that charcoal, sediment, or other like substances may be removed from the spirits by straining them through cloth, felt, or other like material; nor can any method or process be applied to alter or change in any way the original condition or character of the product, except as authorized by statute.

SEC. 35. *Spirits remaining in tanks over night.*—If for any reason spirits are held in the bottling house over night, the tanks in which such spirits are contained must be locked by the storekeeper-gauger.

At the conclusion of the process of drawing the spirits from the reducing tank to the bottling tank or tanks the latter must be securely locked, as well as the inlets and outlets thereto, and so remain until the spirits are to be drawn off into bottles, which should be done as promptly as possible.

SEC. 36. *Bottling conducted under supervision of storekeeper-gauger.*—The entire operation of bottling spirits in bond, including the withdrawal of the spirits from the packages, the effacement and obliteration of every mark, brand, and stamp from the packages emptied, the straining of the spirits and their reduction by the addition of pure water to 100 proof required by the statute, the filling and stamping of the bottles and the casing of the bottles and the immediate removal of the cases from the bottling premises upon the completion of bottling of each lot will be performed by the proprietor of the warehouse under the supervision of the storekeeper-gauger. The proof will be determined in accordance with the rules stated in the Gauging Manual. While the storekeeper-gauger is charged with the duty of requiring compliance with the provisions of the law and regulations by the persons engaged in the various operations of bottling the spirits, his failure in any instance will not relieve the proprietor of the warehouse from responsibility.

SEC. 37. *Testing bottles.*—Every proprietor of a bottling house engaged in bottling spirits in bond will provide a standardized glass graduate suitable for the purpose of determining the capacity of the various bottles used; and, in order to avoid delay in bottling, should see that the bottles delivered in the warehouse are of the capacities required by this regulation.

Whenever a supply of bottles is brought into a bottling house, the storekeeper-gauger will test a number of each size before allowing any to be filled. If it is found that any of the bottles are of less caapcity than that required by this regulation, he shall not allow any of them to be used, and the entire lot shall be removed from the warehouse and all bottles not of the required capacity excluded.

The test should be made with water or spirits 60° F. In filling bottles with spirits above or below such temperature, allowance should be made for contraction or expansion of the spirits. The bottles should, therefore, be of sufficient capacity to hold the required amount at 60° F. with sufficient wantage to allow for expansion of the spirits in hot weather.

SEC. 38. *Stamping and casing distilled spirits.*—All distilled spirits of each particular "dump" transferred to a bottling tank should be immediately drawn off into bottles of the desired size or sizes, as provided in section 14. Application should then be made in duplicate on Form 1515 (part 1) to the storekeeper-gauger-in-charge of the warehouse for stamps sufficient to cover the quantity of spirits to be bottled. Stamps will be issued by the storekeeper-gauger to the proprietor in proper serial order, starting with the lowest serial number of the stamps of the denomination desired on hand at the time of issuance. The proprietors will not be required to affix stamps to containers in serial order. If after filling the cases there remain bottles less than the number necessary to constitute a full case, such bottles may be stamped and placed in a container constructed in the same manner as the cases described in section 27 or section 28, which remnant is to be given the serial number of the last full case containing spirits in the same lot followed by the letter "R," thus: "100R," or "161R." Such remnant should be removed from the warehouse with the cases; appropriate entries to be made in the records. The stamps must be securely affixed to the bottles with the use of a good adhesive. The adhesive used must be in proper liquid condition, and care must be taken to cover the entire back of the stamp with the adhesive, and to press the whole surface of the stamp firmly against the surface of the bottle sufficiently long to cause the entire surface of the stamp to adhere securely to the bottle. The stamp must pass over the neck of the bottle, extending in equal distance on two sides of the bottle. No part of the stamp shall be concealed or obscured by any label or other covering, except that a cup may be placed over the opening of the bottle or the bottle may be placed in a carton as hereinafter provided. Seals made of cellulose or other material which is shrunk or otherwise fitted over the necks of the bottles to cover the stamps must be so completely transparent as to permit the stamps to be plainly seen and the printed matter thereon easily read. No cup or cap may be placed over the opening of a bottle and cover the stamp, unless such cup or cap is completely transparent or is so placed on the bottle that it may be

readily removed at any time without injury to the stamp and the arrangement is such that the ends of the stamp will be plainly visible when the cap or cup is in place. Cartons or other coverings of bottles of distilled spirits are permitted, if so made that they may be opened and closed without being torn or broken. Sealed cartons or other coverings may not be used unless transparent or unless openings therein permit the entire stamp to be plainly seen and the printed matter thereon easily read. Upon completion of the bottling the storekeeper will enter the details thereof on part 2, of Form 1515, and will forward one copy of the form to the district supervisor and file one copy in his office.

SEC. 39. *Losses and gains in bottling to be tax-paid.*—All losses sustained in the process of bottling, on distilled spirits bottled before tax payment, and, all gains in bottling, on distilled spirits bottled after tax payment, must be tax-paid. When Forms 1516 have been audited, the district supervisor shall prepare a notice on Form 1607, in triplicate, for each bottling house, showing thereon the total losses and gains in bottling for the month upon which tax is due. The original copy thereof will be forwarded to the proprietor of the Internal Revenue Bonded Warehouse on whose premises the bottling house is situated and one copy will be transmitted to the proper Collector of Internal Revenue, and if the taxpayer does not within thirty days from the date of such notice pay the tax due, the collector shall enter the amount for assessment on his current distilled spirits list. The third copy of the notice will be filed in the supervisor's office. At the end of sixty days from the date of the notice the district supervisor shall ascertain from the collector whether the amount of tax due has been paid or assessed and appropriate notations will be entered on the retained copy of the form.

SEC. 40. *Remnants of low-proof spirits.*—Remnants of spirits resulting from overflow in filling bottles, and spirits which have deteriorated in proof by evaporation or repacking of filters, may be returned, under the immediate supervision of the storekeeper-gauger in charge of the bottling house, to the mixing or reducing tank or bottling tank containing another lot of spirits of the same kind, produced by the same distiller at the same distillery during the same distilling season. Distilled spirits so returned to the bottling tank will be reported in red ink on Forms 1515 and 1516.

SEC. 41. *Monthly reports, Form 1516.*—At the close of each day storekeeper-gaugers will enter the details of all spirits bottled during the day on Form 1516. The entries will be made in the order of the bottling without regard to the name of the distiller who produced the spirits. At the close of the month the storekeeper-gauger will prepare two additional copies of the report and forward both copies to the district supervisor. The district supervisor will, after audit and before the last day of the month succeeding that for which rendered, forward one copy thereof to the Commissioner of Internal Revenue. The original report will be filed at the bottling house as a permanent record.

SEC. 42. *District Supervisor's Account, Form 1517.*—District supervisors will render monthly bonded account on Form 1517, with inside sheets, sections 1 and 2, of spirits bottled in bond. One copy of this account will be forwarded to the Commissioner of Internal Revenue on or before the last day of the month succeeding the month for which rendered, and one copy will be retained in the office of the district supervisor rendering the same. Instructions as to the manner in which this account should be prepared will be found on the last page of the form.

SEC. 43. *Effective date.*—This regulation shall, on and after July 1, 1938, supersede Regulations No. 6, approved March 31, 1928, and all amendments and modifications thereof.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 3, 1938.
H. MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38–1594; Filed, June 6, 1938; 1:04 p. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File 21–315]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE ROLL LEAF MANUFACTURING INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717);

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Roll Leaf Manufacturing Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Communications of such views should be made to the Commission not later than June 22, 1938. Opportunity for oral hearing will be afforded at 10 a. m., June 22, 1938, in Room 388, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to such persons as may desire to appear. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1596; Filed, June 7, 1938; 10:55 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of June A. D. 1938.

[File No. 31–420]

IN THE MATTER OF THE BYLLESBY CORPORATION

ORDER POSTPONING HEARING

An order having been issued by the Commission on the 24th day of May, 1938,[1] setting June 10, 1938 as the date at which a hearing shall be held on the the application of The Byllesby Corporation, pursuant to Section 2 (a) (7) of the Public Utility Holding Company Act of 1935, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and designating Edward C. Johnson, an officer of the Commission to preside at such hearing;

It is ordered, That such hearing be postponed until 10:00 A. M. in the forenoon of June 15, 1938, at the same place.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1597; Filed, June 7, 1938; 12:22 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of June, A. D. 1938.

[File No. 51–12]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR REOPENED HEARING

Columbia Gas & Electric Corporation, a registered holding company, having heretofore filed an application pursuant to Section 12 (c) of the Public Utility Holding Company Act of 1935, and Rule 12C–2 promulgated thereunder, concerning the declaration and payment of certain dividends on its various classes of capital stock; the Commission by its order of April 8, 1938 having granted said application in part, denied said application in part, and having reserved jurisdiction with respect to the declaration and payment of dividends on said applicant's preferred and preference stocks payable on August 15, 1938 and November 15, 1938; and the applicant having filed with this Commission a request that the hearing be re-opened for the purpose of considering, and adducing evidence in support of, the declaration, on or about July 7, 1938, and payment, on August 15, 1938 of, the regular quarterly dividends on its Cumulative 6% Preferred Stock, Series A, Cumulative Preferred Stock, 5% Series, and 5% Cumulative Preference Stock, the aggregate amount of said dividends being approximately $1,627,175.00;

It is ordered, That said hearing be re-opened and that such re-opened hearing be held on June 25, 1938, at 10:00 of the forenoon of that day, at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the Hearing Room Clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 20, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1599; Filed, June 7, 1938; 12:22 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of June, A. D. 1938.

[File No. 32–88]

IN THE MATTER OF WORCESTER SUBURBAN ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 24, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 20, 1938.

The matter concerned herewith is in regard to the application of the above named company, a subsidiary of Massachusetts Utilities Associates, for exemption from the provisions of section 6 (a) of said Act of the issue of 24,433 shares of its capital stock of the par value of $25 per share, it being stated in said application that such shares are to be exchanged by applicant for all the outstanding shares of Marlborough Electric Company, also a subsidiary of Massachusetts Utilities Associates, upon the basis of 2–5683/9375 shares of applicant for each share of Marlborough Electric Company the same being of the par value of $100 per share, the latter shares to be cancelled by applicant upon the exchange being effected and upon the conveyance and transfer by Marlborough Electric Company to applicant of all of its assets and property of every description.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1598; Filed, June 7, 1938; 12:22 p. m.]

UNITED STATES MARITIME COMMISSION.

[Supplement No. 1]

ORDER FOR HEARINGS ON MINIMUM WAGE SCALES AND REASONABLE WORKING CONDITIONS FOR MEMBERS OF THE PURSER'S DEPARTMENT AND SHIP'S SURGEONS EMPLOYED ON SUBSIDIZED VESSELS

At a regular session of the United States Maritime Commission held at its office in Washington, D. C., on the 26th day of May, 1938.

Public hearings on the above matter[1] will be held in Room 904, 45 Broadway, New York, N. Y., at 10:00 A. M., June 20, 1938, and in the Federal Grand Jury Room, Post Office Building, San Francisco, California, at 10:00 A. M. on June 23, 1938.

[SEAL] W. C. PEET, JR.,
Secretary.

JUNE 7, 1938

[F. R. Doc. 38–1602; Filed, June 7, 1938; 12:43 p. m.]

[1] 3 F. R. 1206 (DI).

[1] 3 F. R. 678 (DI).

[1] 3 F. R. 1230 (DI).

FEDERAL REGISTER

VOLUME 3 NUMBER 112

Washington, Thursday, June 9, 1938

The President

NOONTOOTLY NATIONAL GAME REFUGE—GEORGIA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it appears that it would be in the public interest to change the name of the Cherokee National Game Refuge No. 2, in the State of Georgia, as hereinafter indicated, and re-define the boundaries of the said refuge:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power in me vested by the act of Congress approved August 11, 1916, 39 Stat. 446, 476 (U. S. C., title 16, sec. 683), do proclaim that the name of the Cherokee National Game Refuge No. 2, in the State of Georgia, is hereby changed to the Noontootly National Game Refuge; and that the boundaries of the said refuge are hereby re-defined, for the purpose of clarification and without change in the status of any of the lands involved, as follows:

Lying and being on the watersheds of Noontootly and Rock Creeks, tributaries of the Toccoa River, in Fannin, Gilmer, Union, and Lumpkin Counties, Georgia.

Beginning at a point, which is a triangulation station (latitude 34°39'40.54", longitude 84°08'26.32"), at the Hawk Mountain Fire Tower on top of the Blue Ridge Divide, also lying on the Union-Lumpkin County line;

Thence southwesterly along and with the meanders of the Blue Ridge Divide, approximately 260 chains to Winding Stair Gap in Land Lot 204. Thence westerly along the said Divide, approximately 190 chains to the junction with the Fannin-Gilmer County line, in Land Lot 131.

Thence northwesterly along and with the meanders of the Blue Ridge Divide, approximately 510 chains to the center of the road in Double Head Gap, in Land Lot 55 of District 6, Section 2.

Thence, leaving the Blue Ridge Divide, northeasterly along and with the meanders of the Ellijay-Blairsville Road, approximately 90 chains to the east line of Land Lot 5, District 6 Section 1.

Thence, in District 6, Section 1

South with the east line of lot 5, 23.00 chains,

East with the north line of lot 31, 39.00 chains,

North with the West line of lot 42, 5.00 chains,

East with the north line of lot 42, 40.00 chains,

North with the west line of lot 68, 38.50 chains,

East with the north line of lots 68 and 77, 45.50 chains,

Northwesterly with the meanders of an old road or trail, 9.00 chains,

North with the west line of lot 76, 34.58 chains,

East with the north line of lot 76, 35.67 chains,

South with the east line of lot 76, 1.00 chains,

East with the north line of lot 105, 2.00 chains,

North 13° west, into lot 106, 6.75 chains,

North 63°54' east, in lot 106, 10.10 chains,

North 26°49' east, in lot 106, 31.59 chains,

North 0°19' west, into lot 107, 0.36 chains,

North 15°37' west, in lot 107, 13.66 chains,

North 10°48' west, in lot 107, 5.99 chains,

North 88°40' east, in lot 107, 4.77 chains,

Northerly with the meanders of a creek, 6.07 chains,

North 33°32' east, in lot 107, 13.13 chains,

West with the south line of lot 108, 30.24 chains,

North 0°29' east, with the west line of lot 108, 40.08 chains,

East with the north line of lots 108 and 109, 47.79 chains,

South 49°02' west, into lot 109, 1.31 chains,

Southeasterly following the meanders of a fence, 14.13 chains,

North 33°51' east, in lot 109, 1.98 chains,

North 5°26' east, in lot 109, 3.38 chains,

South 89°36' east, with the north line of lots 109 and 144, 34.00 chains,

North, into District 7, Section 1, with the west line of lot 317, 38.00 chains,

North 88°58' east, with the north line of lot 317, 1.27 chains,

North 5°14' west, into lot 295, 28.70 chains,

North 83°28' east, in lot 295, 1.12 chains,

North 0°16' west, with the west line of lot 296, 5.57 chains,

North 88°47' east, into lot 296, 28.82 chains,

North 7°55' west, in lot 296, 3.72 chains,

South 89°55' east, with the north line of lots 296 and 297, 18.50 chains to the center of the Toccoa River.

Thence, southeasterly and then northeasterly, up and with the meanders of the Toccoa River, approximately 120 chains to the north line of lot 278.

Thence,

North, 89°13' east, with the north line of lot 278, 27.00 chains,

South 0°13' west, with the east line of lot 278, 30.04 chains,

North 89°13' east, with the north line of lot 300, 7.27 chains,

Southerly, through lot 300, with the eastern boundary of tracts number 39 and number 1, 41.24 chains to the north line of lot 313,

North 89°50' east, with the north line of lot 313, approximately 15.50 chains to the top of the Divide between the Toccoa River and Rock Creek.

Thence, southeasterly, following the meanders of the Divide, approximately 100 chains to Rocky Mountain triangulation station (latitude 34°43'22.17" and longitude 84°08'10.96"), in lot 252, District 6, Section 1.

FEDERAL REGISTER

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CONTENTS

THE PRESIDENT

Executive Orders: Page
Back Bay Migratory Waterfowl Refuge, Va., establishment 1358
National Emergency Council, extension 1358
Proclamation:
Cherokee National Game Refuge No. 2, Ga., changed to Noontootly National Game Refuge 1357

RULES, REGULATIONS, ORDERS

Title 7—Agriculture:
Agricultural Adjustment Administration:
Hawaii, determination of proportionate shares for farms, 1937 sugar crop 1359
Bureau of Agricultural Economics:
Cotton classification and market news services for organized groups of producers 1360
Cottonseed sold or offered for crushing purposes, inspection, etc 1361
Federal Crop Insurance Corporation:
Wheat crop insurance, amendments 1364
Title 16—Competitive Practices:
Federal Trade Commission:
Orders to cease and desist:
Marvo Beauty Laboratories, Inc 1366
Nutex Co. (Harry J. Katz and Louis Black) 1366
Tarex Co 1366
Title 26—Internal Revenue:
United States Board of Tax Appeals:
Rules of Practice, amendment 1367

CONTENTS—Continued

Title 43—Public Lands:
General Land Office: Page
Exchanges of State lands under Taylor Grazing Act, amendment 1367

NOTICES

Department of the Interior:
National Bituminous Coal Commission:
Applications for exemption under Bituminous Coal Act of 1937:
American Zinc and Chemical Co 1368
Birmingham Water Works Co 1369
Cambria Clay Products Co 1370
Consolidated Indiana Coal Co 1369
Harbison-Walker Refractories Co 1368
McLain Fire Brick Co 1368
Chesterfield Coal Co., et al., hearing 1367
Federal Trade Commission:
Orders appointing examiners, etc.:
Boyce, W. D., Co 1371
Hiner, Melvin, trading as Co-Operative Library Co 1370
Rural Electrification Administration:
Allocation of funds for loans 1371
Securities and Exchange Commission:
Los Angeles Stock Exchange, application to extend unlisted trading privileges 1372
New York State Electric & Gas Corp., hearing 1371
United States Civil Service Commission:
Condition of apportionment at close of business, May 31, 1938 1372

Thence, southeasterly with the meanders of the Divide approximately 155 chains to the junction with the Fannin-Union County line, in lot 323.

Thence, southerly with the meanders of the Divide, approximately 380 chains to the junction with the Lumpkin-Union County line, in lot 280.

Thence, southwesterly with the meanders of the Blue Ridge Divide, approximately 70 chains to the Hawk Mountain triangulation station, the point of beginning.

Warning is hereby given to all persons not to hunt, catch, trap, wilfully disturb, or kill any kind of game animal, game or non-game bird, or fish, or to take the eggs of any such bird, on any lands herein designated or in or on the waters thereof, except under such general rules and regulations as may be prescribed from time to time by the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this sixth day of June in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2287]

[F. R. Doc. 38-1617; Filed, June 8, 1938; 11:32 a. m.]

EXECUTIVE ORDER

FURTHER MODIFICATION OF EXECUTIVE ORDER NO. 7709-A OF SEPTEMBER 16, 1937, ABOLISHING THE NATIONAL EMERGENCY COUNCIL

By virtue of and pursuant to the authority vested in me under the Emergency Relief Appropriation Act of 1935 (49 Stat. 115), and the Emergency Relief Appropriation Act of 1937 (50 Stat. 352), and otherwise, Executive Order No. 7709-A of September 16, 1937, as modified by Executive Order No. 7776 of December 27, 1937,[1] abolishing the National Emergency Council, is hereby further modified so as to extend the date for the abolishment of the said National Emergency Council and for the transfer of its funds, records and property, to June 30, 1939, unless the said Council shall be sooner abolished by order of the President.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 6, 1938.

[No. 7906]

[F. R. Doc. 38-1604; Filed, June 7, 1938; 2:41 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE BACK BAY MIGRATORY WATERFOWL REFUGE

Virginia

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands and waters acquired or to be acquired by the United States within the following-described area, in Princess Anne County, Virginia, be, and they are hereby, reserved and set apart, subject to existing valid rights, for the use of the Department of Agriculture, as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the area described shall become part of the refuge hereby established upon acquisition of title thereto or lease thereof by the United States:

[1] 2 F. R. 2195, 3437 (DI).

Beginning at a point S. 34°02′ E., 35.18 chains, from U. S. C. & G. S. Triangulation Station "Club", and about one-half mile south of the Little Island Coast Guard Station, on the Atlantic Ocean shore, marked with a U. S. Biological Survey standard concrete post;

Thence along the Atlantic Ocean shore, with the meanders thereof,

S. 23°58′ E., 36.61 chains;
S. 18°50′ E., 10.24 chains;
S. 24°52′ E., 10.24 chains;
S. 24°07′ E., 10.57 chains;
S. 25°15′ E., 10.43 chains;
S. 24°59′ E., 11.61 chains;
S. 24°32′ E., 24.70 chains;
S. 24°01′ E., 11.15 chains;
S. 22°26′ E., 11.64 chains;
S. 20°07′ E., 14.49 chains;
S. 22°15′ E., 23.54 chains;
S. 19°20′ E., 12.11 chains;
S. 22°37′ E., 23.71 chains;
S. 22°51′ E., 22.14 chains;
S. 18°44′ E., 10.62 chains;
S. 24°19′ E., 11.05 chains;
S. 17°52′ E., 10.90 chains;
S. 19°22′ E., 11.05 chains;
S. 17°56′ E., 10.68 chains;
S. 14°40′ E., 22.66 chains;
S. 19°57′ E., 12.19 chains;
S. 17°02′ E., 9.79 chains;
S. 20°26′ E., 7.51 chains, to a point;

Thence inland,

S. 87°59′ W., 97.21 chains, to a point on the east shore of Sand Bay;

Thence in Sand Bay,

West, to a point 22.73 chains east of the eastern edge of the Ragged Islands;

Southerly, with a line parallel to, and easterly 22.73 chains distant from, the eastern edge of the Ragged Islands;

West, 22.73 chains, to the southernmost point of the Ragged Islands;

Thence in Back Bay,

Northwesterly, approximately 190.00 chains, to the southwestern extremity of Haul Over Island at Rocky Point;

Thence in Red Head Bay,

Northeasterly, approximately 16.00 chains, to the northwestern extremity of Haul Over Island, near North Point on said island;

Northeasterly, approximately 78.00 chains, to Heaven Point on the Ragged Islands;

Northwesterly, approximately 42.00 chains, to the southwestern extremity of a marshy island lying southwest of Long Island, and immediately north of Little Narrows;

Northerly, approximately 37.00 chains, to a point on the western edge of a marshy island lying west of Long Island, and east of Great Narrows;

Thence across Great Narrows,

Westerly, approximately 23.00 chains to a point on the eastern edge of a marshy island bounded by Great Cove, Great Narrows, Red Head Bay, and Long Point Creek;

Thence along the eastern edge of said island with the meanders thereof,

S. 34°47′ W., 3.43 chains;
S. 13°21′ E., 2.80 chains;
S. 12°59′ W., 2.70 chains;
S. 6°45′ E., 3.80 chains;
S. 27°28′ W., 4.00 chains;
S. 2°26′ E., 2.73 chains;
S. 24°00′ W., 1.12 chains;
S. 41°31′ E., 1.88 chains;
S. 56°11′ W., 1.44 chains;
S. 30°42′ W., 3.09 chains;
S. 56°50′ W., 2.90 chains, to a point on the southeastern extremity of said island;

Thence in Red Head Bay,

Westerly, approximately 34.00 chains, to the Southwestern extremity of Long Point Island;

Northwesterly, approximately 43.00 chains, to a point on East Head Bay Point, at the entrance to Head Bay Cove;

Thence across Head Bay Cove,

Northwesterly, approximately 11.00 chains, to a point on West Head Bay Point;

Thence across marsh,

N. 80°35′ W., 43.24 chains, to a point in the line between marsh and fast land;

Thence between marsh and fast land,

N. 23°17′ E., 11.16 chains;
N. 16°29′ W., 11.90 chains;
N. 1°57′ W., 2.35 chains;
N. 12°58′ E., 6.95 chains;
N. 2°04′ E., 2.05 chains;
N. 25°44′ W., 2.47 chains;
N. 7°38′ E., 10.63 chains;
N. 25°14 W., 0.56 chain, to a point;

Thence across marsh,

S. 73°22′ E., 34.50 chains;
S. 74°04′ E., 16.02 chains;
N. 8°00′ E., 5.92 chains, to a point on the west shore of Cedar Creek Cove:

Thence along west shore of said cove,

Northerly, approximately 2.50 chains, to a point;

Thence across marsh,

N. 8°00′ E., 5.83 chains;
N. 18°35′ W., 4.68 chains, to a point on the southeast shore of Sylvesters Cove;

Thence along the shore of Sylvesters Cove, with the meanders thereof,

N. 22°39′ E., 2.56 chains;
N. 82°05′ E., 2.44 chains;
S. 78°03′ E., 3.32 chains, to a point on the west bank at the mouth of ditch connecting said cove and Cedar Creek Cove;

Thence across said ditch,

Northeasterly, approximately 0.50 chain, to a point on the south shore of Shipps Bay;

Thence in Shipps Bay,

Northeasterly, approximately 19.00 chains, to a point on the north bank at the mouth of Kemps Creek, at Shipps Bay;

Thence along the shore of Shipps Bay with the meanders thereof,

N. 22°06′ E., 5.39 chains;
N. 39°34′ E., 1.75 chains;
N. 60°47′ E., 9.07 chains;
N. 28°05′ E., 2.80 chains;
N. 36°40′ E., 3.07 chains;
N. 1°27′ E., 2.61 chains;
N. 12°15′ E., 1.74 chains;
N. 89°05′ E., 5.82 chains;

Thence in Shipps Bay,

Northeasterly, approximately 35.00 chains, to the northwestern extremity of Augers Island Bend;

Northeasterly, approximately 25.00 chains, to the most northerly point of Walkers Island Point;

Northeasterly, approximately 102.00 chains, to the most northerly point of Long Island at the mouth of Deep Creek;

Thence across Deep Creek,

Easterly, approximately 22.00 chains, to a point on the east shore at the mouth of Deep Creek at Shipps Bay;

Thence across marsh and sand flats, East, 25.22 chains, to the point of beginning.

This reservation shall be known as the Back Bay Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 6, 1938.

[No. 7907]

[F. R. Doc. 38-1603; Filed, June 7, 1938; 2:41 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN THE TERRITORY OF HAWAII FOR THE 1937 SUGAR CROP

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the proportionate share for each farm in the Territory of Hawaii for the 1937 crop, with respect to which payment is authorized under section 302 (c) of the said act, shall be the amount of sugar, raw value, commercially recoverable from sugarcane grown on each farm and marketed (or processed by the producer) for the extraction of sugar on and after July 1, 1937.

Done at Washington, D. C. this 8th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-1626; Filed, June 8, 1938; 12:49 p. m.]

BUREAU OF AGRICULTURAL ECONOMICS

REGULATIONS TO GOVERN COTTON CLASSIFICATION AND MARKET NEWS SERVICES FOR ORGANIZED GROUPS OF PRODUCTS

By virtue of authority vested in the Secretary of Agriculture by the provisions of the Act of April 13, 1937 (Public No. 28, 75th Congress), authorizing the Secretary of Agriculture to provide for the classification of cotton, to furnish information on market supply, demand, location, condition, and market prices for cotton, and for other purposes, I, H. A. Wallace, Secretary of Agriculture do prescribe, publish, and give public notice of the following regulations to be in force and effect on and after this date and until amended or superseded by regulations hereafter made by the Secretary of Agriculture.

REGULATION 1.—ADMINISTRATION

SECTION 1. The Chief of the Bureau of Agricultural Economics is charged with the supervision on behalf of the Secretary of Agriculture of the performance of all duties arising in the administration of the Act and these regulations.

SEC. 2. *Regional offices.*—Regional field offices shall be maintained at points designated by the Chief of the Bureau.

SEC. 3. *Field classing offices.*—The Chief of the Bureau may from time to time authorize the establishment of field cotton classing offices at other points.

REGULATION 2.—CLASSIFICATION AND MARKET NEWS SERVICES

SECTION 1. *Classification of samples.*—The Chief of the Bureau or his authorized representatives, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with these regulations, shall, as hereinafter provided, furnish to such producers without charge the classification in accordance with the official cotton standards of the United States, of samples representing cotton produced by them. It appearing that funds appropriated for the administration of the Act may be insufficient to provide for the classification of all of the cotton grown by members of such groups, only samples representing that portion of members' cotton produced from an adopted improved variety shall be considered eligible for classification under these regulations.

SEC. 2. *Market News.*—The Chief of the Bureau shall cause to be distributed to groups of producers organized to promote the improvement of cotton who comply with these regulations, and to others on request, for posting at gins, in post offices, or other public or conspicuous places in cotton growing communities, timely information on prices for various grades and staple lengths of cotton.

REGULATION 3.—ORGANIZED GROUPS

SECTION 1. Groups of producers organized to promote the improvement of cotton may be recognized as such within the meaning of the Act if they meet the following requirements.

(a) Such an organization may be an unincorporated association or it may be incorporated.

(b) The cotton fields of members of an organized group shall be located within the area generally recognized by the group as its community and any fields of members in which planting seed of the adopted variety and strain is produced shall be so located as to prevent or minimize cross pollination with other varieties or strains. The seed planted pursuant to the crop improvement program of any group shall be of such variety and seed stock of proven merit as shall have been agreed upon by the group, and the cotton produced shall be ginned in such a manner as to prevent the mixing of the seed or lint of an adopted variety with the seed or lint of other varieties or strains. Provision shall be made by the group for the procurement, production and economical distribution of approved planting seed of the adopted variety and strain for use by members of the group.

(c) Each organized group shall assume responsibility for obtaining, identifying, and shipping samples to be classified and for posting market information furnished to it in accordance with these regulations; shall see that samples are drawn, handled, and shipped in accordance with instructions furnished from time to time by representatives of the Bureau; and shall designate a responsible representative and an alternate representative to act for members of the group in matters pertaining to compliance with these regulations. Such representative or alternate representative need not be a producer or a member of the group.

REGULATION 4.—SAMPLING AND CLASSIFICATION

SECTION 1. A sample of approximately 6 ounces in weight representative of both sides of each square bale of cotton (of an adopted variety) ginned for a member of an organized group will be drawn and submitted for classification. For each round bale a representative sample of approximately 3 ounces will be submitted.

SEC. 2. Each lot of samples submitted for classification shall be enclosed in packages or bags which shall be labeled or marked so as to show the name and address of the representative or sampling agency of the organized group. Each sample shall contain a tag bearing the identification of the bale from which it was drawn and the name and address of the producer of such bale.

SEC. 3. Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be without expense to the Government except that tags and containers for the shipment of samples may be furnished and transportation charges paid by the Bureau. The samples shall become the property of the Government.

SEC. 4. Samples submitted as herein provided shall be classified by representatives of the Bureau and a statement showing the grade and staple length of each sample according to the official cotton standards of the United States will be mailed to the producer whose name appears on the tag accompanying the sample.

SEC. 5. The representative or alternative representative of a group may be designated by the group to receive classification data for its members.

REGULATION 5.—APPLICATIONS

SECTION 1. Applications shall be made on forms furnished or approved by the Bureau.

SEC. 2. Each such application shall include (a) the date; (b) the name and location of the organized group; (c) the name, address, acreage, and estimated production of each member of the group and the variety of the cotton to be grown by him; (d) a statement that the variety and strain adopted by the group has been agreed upon by a majority of the members; (e) a statement that the group is organized for the purpose of promoting the improvement of cotton; (f) copies of the organization papers of the group, such as articles of association and by-laws, and copies of ginners' agreements, and other documents relating to cotton improvement by members of the group; (g) the name, title and post office address of the representative and the alternative representative designated to act for the group; (h) the estimated total number of acres of cotton of an adopted variety to be grown during the year; (i) the arrangements that have been made for posting market information; (j) the arrangements for procuring and distributing planting seed; (k) other information that may be required by the Bureau; (l) a statement that the group agrees to comply with the Act and these regulations; and (m) the signature of an authorized official or leader of the group. It shall be further required that a statement be furnished from the cooperating state extension service or other state agency cooperating with the Bureau of Plant Industry of the United States Department of Agriculture, and subject to approval by representatives of that Bureau, or from a committee appointed by the Chief of the Bureau of Agricultural Economics for the purpose, that the group is organized for promoting the improvement of cotton; that all members' fields on which seed stocks are to be produced are so located as to prevent or minimize cross pollination; that the varieties of cotton and seed stocks are approved by such cooperating state agency or committee; that arrangements have been made for ginning the cotton in a manner which will prevent or minimize damage to the fiber and prevent the mixing of the seed or lint of one variety or strain with seed or lint of other varieties or strains; and that satisfactory arrangements have been made for procuring and/or distributing planting seed.

SEC. 3. Application shall be filed with an authorized representative of the Bureau of Agricultural Economics or mailed to such representative within a period of time to be announced by that Bureau for the receipt of applications for services during the year to which such application relates. To receive consideration, any such application submitted by mail shall have been postmarked before midnight of the last day of such announced period.

SEC. 4. Applications may be rejected for non-compliance with the act or these regulations, or when funds or facilities are not available to provide the services requested.

SEC. 5. Proof of authority of any person to make application on behalf of an organized group may be required.

SEC. 6. An organized group may withdraw its application at any time.

SEC. 7. Applications shall be subject to renewal from year to year in accordance with a procedure to be prescribed by the Chief of the Bureau or his representatives.

SEC. 8. Any expense involved in the preparation and filing of applications and requests for renewal shall be paid by the applicants.

REGULATION 6.—LIMITATION OF SERVICES

SECTION 1. The Chief of the Bureau or his authorized representatives may suspend, terminate, or withhold cotton classing and market news services to any organized group upon its request or upon its failure to comply with the Act or these regulations, or when funds or facilities are insufficient to provide or continue such services.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 7th day of June 1938.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-1628; Filed, June 8, 1938; 12:49 p. m.]

PUBLIC NOTICE ESTABLISHING RULES AND REGULATIONS TO GOVERN THE INSPECTION, SAMPLING, AND CERTIFICATION OF COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1938, • • • and for other purposes" (Public No. 173, 75th Congress), I, H. A. Wallace, Secretary of Agriculture, do hereby fix, establish, and promulgate the following rules and regulations to govern the inspection, sampling, and certification of cottonseed sold or offered for sale for crushing purposes, the same to be in force and effect as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority. These rules and regulations shall supersede the rules and regulations governing the inspection, sampling, and certification of cottonseed promulgated by the Acting Secretary of Agriculture on July 30, 1937.[1]

REGULATION 1.—DEFINITIONS

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice-versa, as the case may demand.

SEC. 2. As used throughout these regulations, unless the context otherwise requires, the following terms shall be construed, respectively to mean:

PARAGRAPH 1. *The act.*—The Act of Congress entitled "An Act making appropriations for the Department of Agriculture • • • for the fiscal year ending June 30, 1938, "Public No. 173, 75th Congress, which makes provision "for enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, • • • and other perishable farm products • • • under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered."

PAR. 2. *Custodian.*—Person who has possession or control of cottonseed or of samples of cottonseed, as agent, controller, broker, or factor, as the case may be.

PAR. 3. *Owner.*—Person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

PAR. 4. *Bureau.*—Bureau of Agricultural Economics of the United States Department of Agriculture.

PAR. 5. *Official cottonseed standards.*—The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes.

PAR. 6. *Supervisor of cottonseed inspection.*—An officer of the Department of Agriculture designated as such by the Chief of the Bureau.

PAR. 7. *Secretary.*—The Secretary of Agriculture of the United States.

PAR. 8. *The Chief of the Bureau.*—The Chief of the Bureau of Agricultural Economics, United States Department of Agriculture.

PAR. 9. *Regulations.*—Regulations made under the act by the Secretary.

PAR. 10. *License.*—A license issued under the act by the Secretary.

PAR. 11. *Licensed cottonseed chemist.*—A person licensed under the act by the Secretary to make quantitative and qualitative chemical analyses of samples of cottonseed according to the methods prescribed by the Chief of the Bureau and to certificate the grade according to the official cottonseed standards of the United States.

PAR. 12. *Licensed cottonseed sampler.*—A person licensed by the Secretary to draw and to certificate the authenticity of samples of cottonseed in accordance with these regulations.

PAR. 13. *Dispute.*—A disagreement as to the true grade of a sample of cottonseed analyzed and graded by a licensed chemist.

PAR. 14. *Party.*—A party to a dispute.

PAR. 15. *Commercial laboratory.*—A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

PAR. 16. *Cottonseed.*—The word "cottonseed" as used herein means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

PAR. 17. *Lot.*—That parcel or quantity of cottonseed offered for sale or tendered for delivery or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits prescribed from time to time by the Chief of the Bureau for the drawing and preparation of official samples by licensed cottonseed samplers.

PAR. 18. *Official sample.*—A specimen of cottonseed drawn and prepared by a licensed cottonseed sampler and certified by him as representative of a certain identified lot, in accordance with these regulations.

REGULATION 2.—ADMINISTRATIVE AND GENERAL

SECTION 1. The Chief of the Bureau is charged with the supervision on behalf of the United States Department of Agriculture of the performance of all duties arising in the administration of the act.

SEC. 2. The Chief of the Bureau, whenever he deems necessary, may designate an officer of the Department of Agriculture as supervisor of cottonseed inspection who shall supervise the inspection and sampling of cottonseed and perform such other duties as may be required of him in administering the act and these regulations.

SEC. 3. The inspection, sampling, analyzing, and grading of cottonseed in the United States pursuant to the act shall

[1] 2 F. R. 1608 (DI).

be performed as prescribed in methods approved from time to time by the Chief of the Bureau.

SEC. 4. Any person, partnership, or corporation that shall have undertaken to utilize the services of licensed cottonseed samplers and licensed cottonseed chemists under these regulations who shall not make available for official sampling and analysis each lot of cottonseed purchased or sold on grade and received by such person or partnership or corporation, may be denied further services under the act and these regulations: Provided, That in cases of persons, partnerships, or corporations operating two or more cottonseed crushing units under separate local managements, such penalty shall apply only to the offending unit, unless it shall be shown that the actions of such unit were at the direction or with the knowledge, approval or acquiescence of the general management.

SEC. 5. *Misrepresentation.*—Any willful misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for a cottonseed sampler's certificate or for a cottonseed chemist's certificate or for an appeal grade certificate in connection with the sampling or grading of cottonseed by persons licensed under the Act and these regulations or the issuance or use of a certificate not issued by a person licensed under these regulations in imitation of or that might mislead anyone to believe that such certificate was in fact issued by a person licensed under the act, or that might be otherwise false, misleading, or deceptive, may be deemed sufficient cause for debarring such applicant from any further benefits of the act.

SEC. 6. In case of dispute in which a review is desired of the grading of any sample of cottonseed covered by a valid certificate issued by a licensed cottonseed chemist, application therefor shall be filed with or mailed to the designated agent of the Chief of the Bureau within one week after the date of the original certificate, whereupon the licensed chemist issuing the certificate shall immediately surrender to the agent of the Chief of the Bureau the retained portion of the original sample together with such records as may be required, for the determination of the true grade. Should the grade found on re-analysis differ from the original by not more than plus or minus one full grade, the original grade shall be considered as the true grade. Should the re-analysis indicate a grade differing more than plus or minus one full grade from the original, all work sheets involved shall be submitted to the Chief of the Bureau or his designated agent who shall determine the correct grade.

SEC. 7. In cases of review of the grade of any official sample of cottonseed, payment covering the costs of re-analysis shall accompany the application.

REGULATION 3.—LICENSED COTTONSEED CHEMISTS

SECTION 1. PARAGRAPH 1. Application for licenses to analyze and grade cottonseed shall be made to the Chief of the Bureau on forms authorized for the purpose by the Bureau.

PAR. 2. Each such application shall be in English and shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by satisfactory evidence (a) that he has passed his twenty-fifth birthday and that he is an actual resident of the continental United States; (b) that he holds a degree in chemistry or chemical engineering from a recognized college or university and has had not less than three years' practical experience in laboratory work in which he shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that he has had at least five years' practical laboratory experience, three years of which shall have been devoted chiefly to the analysis of samples of cottonseed; (c) that he will have no financial interest in any cottonseed oil mill or cotton ginning establishment; (d) that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him; (e) that he is an independent analytical chemist or an employee of a commercial analytical laboratory; (f) that he owns or will have the use of all of the apparatus specified in the methods established hereunder for the analysis and grading of cottonseed; and (g) such other information as the Chief of the Bureau may deem necessary.

PAR. 3. Every chemist licensed hereunder to analyze cottonseed and to certificate the grade thereof shall follow precisely the methods of analysis approved from time to time by the Chief of the Bureau.

PAR. 4. The applicant shall furnish such additional information as the Secretary or the Chief of the Bureau shall at any time find to be necessary to the consideration of his application.

SEC. 2. Each applicant for a license as a chemist and each licensed chemist shall, when requested, submit to an examination or test to show his ability to analyze and grade cottonseed.

SEC. 3. The period for which a license may be issued shall be from the first day of August until and including the 31st day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

SEC. 4. It shall be a condition of the licensing of any person under this regulation, and of the retention by him of a license, that during the active cotton season each year he shall be engaged in or in connection with the grading of cottonseed; that all cottonseed offered for grading shall be analyzed and graded in accordance with the official cottonseed standards of the United States; that each sample of cottonseed received for analysis and grading shall be handled in the order of its receipt at his place of business; and that such license shall not be used or be allowed to be used for any improper purpose.

SEC. 5. Whenever any chemist licensed under the act and in accordance with these regulations shall grade and/or certificate any cottonseed or samples in consideration of a fee, the fee charged shall be reasonable, unconditional, nondiscriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Bureau. The schedule shall include the certificate fee provided for in Section 3 of Regulation 5, of these Regulations.

SEC. 6. Each licensed chemist, shall keep, or shall cause to be kept for him, for a period of at least 1 year, a record of the analysis of each individual sample of cottonseed graded by him. Each licensed chemist shall permit any officer or agent of the Bureau, authorized by the Chief of the Bureau for the purpose, to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations.

SEC. 7. (a) Each official sample of cottonseed as received by a licensed chemist shall be assigned a laboratory number and shall be analyzed and the grade certificated in the order of its receipt.

(b) Certificates of the grade of lots of cottonseed may be issued only upon samples certified by licensed samplers as official samples and received in good condition by licensed chemists, or known by such licensed chemists to be true and correct samples of the cottonseed involved.

(c) Certificates of the grade of unofficial samples of cottonseed may be issued upon samples received by licensed chemists if the samples are sufficient for proper analysis, have not been drawn by a licensed sampler, and are not known to be samples of the same seed represented by an official sample. Such certificates shall be plainly marked "Sample not official; grade applies to the sample only."

(d) No certificate of the grade of a sample of cottonseed shall be issued by a licensed chemist based on a sample the condition of which on receipt at the laboratory does not comply with the methods prescribed for the preparation and forwarding of samples of cottonseed.

SEC. 8. Each grade certificate issued under the act by a licensed chemist shall be in a form approved for the purpose by the Chief of the Bureau and shall embody within its written or printed terms—

(a) The caption "Cottonseed Grade Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) A statement that the certificate is issued by a chemist licensed by the Secretary of Agriculture to analyze and certificate the grade of cottonseed.

(e) A statement in accordance with the facts in each case, either (1) that the chemist knows the samples upon which his classification is based to be true and correct samples of the cottonseed involved; or (2) that the samples were received in proper condition from a sampler licensed by the Secretary; or (3) that the samples were not received from a licensed sampler.

(f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken.

(g) All analytical data required by the Chief of the Bureau.

(h) The signature of the licensed chemist.

In addition, the grade certificate may include any other matter not inconsistent with the act or these regulations.

Four copies of the grade certificate form shall be submitted to and approved by the Bureau before use by a licensed chemist.

A copy of each certificate shall be mailed to a designated office of the Bureau within 36 hours after its issuance.

SEC. 9. Each licensed chemist shall from time to time when requested by the Bureau, make reports on forms furnished for the purpose by the Bureau bearing upon his activities as such licensed chemist.

SEC. 10. Every person licensed under the act shall immediately furnish the Chief of the Bureau any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

SEC. 11. Upon written request and a satisfactory statement of reasons therefor submitted by the licensed chemist, the Chief of the Bureau may, without a hearing, suspend or revoke the license issued to such licensed chemist. Pending investigation the Secretary or the Chief of the Bureau may, whenever he deems necessary, suspend the license of a licensed chemist temporarily without hearing. The Secretary may, after opportunity for hearing, when requested, has been afforded in accordance with this section, suspend or revoke a license issued to a licensed chemist when such licensed chemist (a) has ceased to perform services as such chemist, (b) has knowingly or carelessly analyzed cottonseed improperly, (c) has violated or evaded any provision of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist. Before the license of any licensed chemist is finally suspended or revoked, such licensed chemist shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, in which event an oral hearing shall be accorded him. Such hearing shall be held before and at the time and place fixed by the Secretary or the Chief of the Bureau or an official of the Department of Agriculture designated for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his official duty which is relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

SEC. 12. If a license issued to a licensed chemist is suspended, revoked, or cancelled, such license shall be returned to the Bureau. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or cancelled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed chemist to whom it was originally issued.

SEC. 13. Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number, in the discretion of the Secretary.

SEC. 14. No person shall in any way represent himself to be a chemist licensed under the act unless he holds an unsuspended, unrevoked, and uncancelled license issued under the act.

SEC. 15. Every person licensed under the act as a licensed chemist shall keep confidential all information secured by him relative to cottonseed analyzed and graded by him. He shall not disclose such information to any person except to the owner or custodian of the seed in question, or to an authorized agent of the Chief of the Bureau.

REGULATION 4.—LICENSED COTTONSEED SAMPLERS

SECTION 1. PARAGRAPH 1. Applications for licenses to sample cottonseed shall be made to the Chief of the Bureau of Agricultural Economics on forms furnished for the purpose by him.

PAR. 2. Each such application shall be in English and shall be signed by the applicant, shall be verified by him under oath or affirmation, administered by a duly authorized officer, and shall contain or be accompanied by (a) satisfactory evidence that he has passed his twenty-first birthday and that he is an actual resident of the continental United States, (b) satisfactory evidence of his experience in the handling and sampling of cottonseed, (c) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him, and with instructions issued from time to time by the Chief of the Bureau governing the sampling of cottonseed, and (d) such other information as the Chief of the Bureau may deem necessary.

PAR. 3. Every sampler shall include in his application to the Chief of the Bureau for a license a statement showing the fees, wages, or salary to be received by him as compensation for his work as a sampler of cottonseed.

SEC. 2. PARAGRAPH 1. Each applicant for a license to sample cottonseed shall, as a condition to the granting thereof, execute and file with the Chief of the Bureau a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act and these regulations. Said bond shall be in such form and amount, not less than $1,000, and shall have such surety or sureties as shall be approved by the Chief of the Bureau, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cottonseed sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

PAR. 2. If the Chief of the Bureau finds that conditions warrant such action, there shall be added to the amount previously required under paragraph 1 of this section such additional amount as he shall deem necessary.

SEC. 3. The period for which a license may be issued under this regulation shall be from the first day of August until and including the 31st day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year, provided that licenses or renewals issued on and after June 1 of any year shall be for the period ending July 31 of the following year.

SEC. 4. It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by, the Chief of the Bureau or his authorized representative, provided that in the discretion of the Chief of the Bureau or his authorized representative a properly executed instrument in form approved by him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with this regulation may be filed in lieu of a new bond.

SEC. 5. No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of this regulation until it has been approved by the Chief of the Bureau or his authorized representative.

SEC. 6. Each applicant for a license as a sampler and each licensed sampler whenever requested by an authorized representative of the Bureau, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Bureau any information requested at any time in regard to his sampling of cottonseed.

SEC. 7. Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Bureau.

SEC. 8. Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cottonseed if the same be made available to him at his place of business, under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity.

SEC. 9. Each licensed sampler shall have available suitable triers or sampling tools, sample containers, scales, seed cleaners, seed mixers, and air-tight containers for enclosing and forwarding the official samples to licensed chemist, and with tags and samplers' certificates approved or furnished by the Chief of the Bureau or his representative for identifying the samples of cottonseed and for certificating the condition of the cottonseed represented by such samples. There shall be clearly written or printed on the face of such certificate (a) the number thereof; (b) a suitable caption; (c) the location of the cottonseed involved and its point of origin; (d) the identification of the lot from which the sample was drawn; (e) the date on which the sample was drawn; (f) the gross weight of the original sample, and the net weight of the cleaned sample; (g) a statement indicating that the sample was drawn in accordance with these regulations, as amended; and (h) the signature of the licensed sampler as such. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Bureau.

SEC. 10. Each licensed cottonseed sampler shall draw, prepare and identify one official sample of cottonseed and a duplicate thereof from each lot made available to him in such manner as may be required by the Chief of the Bureau, and shall promptly prepare it for forwarding to a licensed cottonseed chemist for analysis and grading. The duplicate shall be sealed and retained by the sampler until the original official sample shall have been alayzed by a licensed chemist. If the original official sample shall become lost or destroyed before having been analyzed the duplicate shall become the official sample; otherwise the licensed sampler shall immediately remove the identification marks from the duplicate and discard it. In no case shall the duplicate be offered for analysis unless the original shall have been lost or destroyed before analysis.

SEC. 11. Each licensed sampler shall permit any authorized representative of the Bureau to inspect at any time his books, papers, records, and accounts relating to the performance of his duties under this regulation.

SEC. 12. The failure or refusal of any cottonseed sampler, duly licensed as such under these regulations, to draw, prepare, identify and to forward an official sample of every lot of cottonseed made available to him for the purpose, in accordance with these regulations, shall be cause for the suspension or revocation of his license.

SEC. 13. Pending final action by the Secretary, a sampler's license may be suspended by the Chief of the Bureau or by any official by whom it may be countersigned whenever such official shall deem such action to be for the good of the service. Within 10 days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

SEC. 14. In case a license issued to a sampler is suspended or revoked such license shall be returned to the Department. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in section 7 of this regulation.

SEC. 15. Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder, a new license may be issued under the same or a new number.

SEC. 16. Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Bureau bearing upon his activity as such licensee.

SEC. 17. No person shall in any way represent himself to be a sampler licensed under the act unless he holds an unsuspended and unrevoked license issued thereunder.

SEC. 18. Every person licensed under the act as a sampler of cottonseed shall keep confidential all information secured by him relative to shipments of cottonseed sampled by him. He shall not disclose such information to any person except an authorized representative of the Bureau.

REGULATION 5.—FEES AND COSTS

SECTION 1. For the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $5.00, but no additional charge shall be made for the issuance of a license. For each renewal of a samplers' license the fee shall be $3.00.

SEC. 2. For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $50.00, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $30.00.

SEC. 3. To cover in part the cost of administering these regulations each licensed cottonseed chemist shall pay to the Bureau 25 cents for each certificate of the grade of cottonseed issued by him. A statement showing the number of certificates issued shall be rendered to the Bureau each month, the same to be accompanied by the appropriate remittance in the form of a certified check, draft, or money order payable to the Treasurer of the United States.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 7th day of June, 1938.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-1627; Filed, June 8, 1938; 12:48 p. m.]

FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Series 1, No. 1]

AMENDMENTS TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

The regulations relating to wheat crop insurance adopted by the Board of Directors on April 26, 1938, and approved by the Secretary of Agriculture on April 28, 1938,[1] are hereby amended as follows:

1. Section 61 is hereby amended to read as follows:

SEC. 61. *Payment of premium in wheat.*—(a) When premiums are paid in wheat such payments shall be made by the delivery of a negotiable warehouse receipt representing the quantity, class, and grade of wheat specified in the premium notice. Warehouse receipts shall be accepted only when issued by a warehouse designated in the premium notice. In no event shall premiums be paid with wheat of a lower grade than No. 3 or with wheat not classified as a straight or unqualified grade. No warehouse receipt will be accepted in payment of the premium unless it is delivered at the office of the county committee for the county in which the farm is located within the time fixed by the Corporation, and unless there are no warehousing charges or other liens outstanding against the wheat represented by the receipt at the time of such delivery other than the usual charges for receiving, and storage from the date of issuance of the receipt to the time of delivery. Premiums shall not be regarded as paid until the warehouse receipts used in payment of such premiums are accepted by a representative of the Corporation duly authorized for that purpose.

(b) If for any reason whatsoever it appears at any time that the transfer of the warehouse receipt to the Corporation did not convey to it complete and unencumbered title to the receipt and the wheat represented thereby, except as provided in subsection (a) of this section, or if at any time the Corporation's title to such receipt or wheat is drawn into question by any person, then, unless the stipulated premium is paid on demand by the Corporation, the policy shall at the option of the Corporation become void, and in case any payments have been made thereunder they shall be refunded to the Corporation.

2. Section 62 is hereby amended to read as follows:

SEC. 62. *Payment of premium in cash equivalent.*—Payment of premiums in cash equivalent shall be made in cash, check, money order, or bank draft. Checks and drafts will be accepted subject to collection. The cash equivalent of any premium shall be determined by multiplying the number of bushels of wheat of the basic class and grade specified in the premium notice by the basic market price of such wheat at a basic market designated by the Corporation for the area in which the farm is located less an amount per bushel, fixed by the Corporation, representing freight and other usual charges in connection with the movement and handling of wheat between the local station fixed by the Corporation for the farm and the specified basic market.

3. Section 80 is hereby amended to read as follows:

SEC. 80. *Manner of Payment of indemnity.*—The indemnity under any policy for which the Corporation may be liable shall be paid in wheat or the cash equivalent thereof. The insured may indicate in his proof of loss whether he wishes the indemnity to be paid in wheat or in cash, and if payment is to be made in wheat, the point at which he desires such wheat to be delivered, but the Corporation reserves the right to make payment in a form or at a point other than that indicated by the insured.

4. Section 81 is hereby amended to read as follows:

SEC. 81. *Payment of indemnity in cash.*—Where an indemnity is to be paid in cash, the amount thereof shall be computed by multiplying the amount of loss, in terms of wheat of the basic class and grade specified for the payment of premiums in the area where the farm is located, by the current basic market price of such wheat at a basic market designated by the Corporation for the area in which the farm is located, less an amount per bushel, fixed by the Corporation, to cover freight and other usual charges in connection with the movement and handling of wheat between the local station fixed for the farm by the Corporation and the specified basic market. The current basic market price for any class or grade of wheat at any such designated basic market shall be the basic market price for such wheat for the day when ascertainment of the amount of loss is made by agreement between the insured and the adjuster, subject to the approval of the proof of loss for payment by a duly authorized officer of the Corporation.

5. Section 82 is hereby amended to read as follows:

SEC. 82. *Payment of indemnity in wheat.*—(a) Where an indemnity is to be paid in wheat, it shall be paid in the form of a negotiable warehouse receipt representing wheat of the basic class and grade specified for the payment of premiums in the area where the farm is located, or its equivalent in wheat of another class or grade (except wheat of a lower grade than No. 3, or wheat not classified as of a straight or unqualified grade) determined in accordance with conversion factors fixed by the Corporation.

(b) If the warehouse receipt represents wheat stored at the local station fixed for the farm by the Corporation, it shall be for a quantity of wheat equal to the amount of loss.

(c) If the warehouse receipt represents wheat stored at the basic market designated by the Corporation for the area in which the farm is located, it shall represent the amount of loss less an amount of wheat, fixed by the Corporation, equivalent at the current basic market price to freight and other usual charges in connection with the movement and handling between the local delivery point and the specified basic market of a quantity of wheat equal to the amount of loss.

(d) If the warehouse receipt represents wheat stored at any other point or market, it shall be for a quantity of wheat equal to a number of bushels computed by dividing the amount of the indemnity that would be paid if the indemnity were to be paid in cash by the current market price for such wheat at such other point or market. The current market price at such other point or market shall be determined by deducting from the current basic market price at the designated basic market, an amount per bushel, fixed by the Corporation, to cover freight, from the point at which the wheat originated (as shown on the receipted freight bill which is transferred with the warehouse receipt), to the basic market, and adding thereto an amount per bushel representing the freight necessary to move such wheat from such point of origin to the point or market at which the wheat is stored.

(e) When warehouse receipts are delivered as provided in subsection (c) of this section, they shall be accompanied by evidence of the payment of sufficient inbound freight to assure the insured customary transit privileges. When warehouse receipts are delivered as provided in subsection (d) of this section, they shall be accompanied by evidence of the payment of an amount of freight equal to the amount of freight from the point of origin to the point of storage used in making the calculation under said subsection (d).

(f) The current market prices to be applied under this section 82, including the determination of the amount of indemnity in cash, shall be such prices for the day when the proof of loss is approved for payment by the Corporation.

6. Section 122 is hereby amended to read as follows:

SEC. 122. *Review of determinations of county committees.*—All determinations by county committees shall be subject to review and approval or revision by duly authorized representatives of the Corporation.

Adopted by the Board of Directors on May 27, 1938.

[SEAL] R. M. EVANS,
Acting Chairman.

Approved, June 8, 1938.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1625; Filed, June 8, 1938; 12:48 p. m.]

[1] 3 F. R. 1013 (DI).

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2925]

IN THE MATTER OF THE TAREX COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles P. Vicini, an Examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief filed by counsel for the Commission (respondent having filed no brief and not having requested oral argument); and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, The Tarex Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of pharmaceutical preparations for the treatment and cure of eczema, psoriasis and other diseases and ailments of the skin, now designated as "Tarex No. 1," "Tarex No. 2," and "Tarex No. 3" or any other preparations containing substantially similar ingredients or possessing substantially similar properties, whether sold under those names or under any other names, in commerce as defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or indirectly, in any manner:

(a) That said preparations constitute competent and effective treatments for eczema and psoriasis in any form, or for all the known marks of skin ailments, such as lesions, pimples, blisters, scales, scabs, cuts, fissures, redness, wetness or dryness, or any other forms or marks of skin diseases or skin ailments, unless such representations are limited to representations that said preparations will serve as palliatives or temporarily alleviate those types of said diseases and disorders which are not caused by, or associated with, a systemic or metabolic disorder, or are not caused by syphilis;

(b) That said preparations constitute competent and effective remedies and cures for eczema and psoriasis in any form, or for all the known marks of skin ailments, such as lesions, pimples, blisters, scales, scabs, cuts, fissures, redness, wetness or dryness, or any other forms or marks of skin diseases or skin ailments.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1614; Filed, June 8, 1938; 10:23 a. m.]

[1] 2 F. R. 286, 1226 (DI).

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3012]

IN THE MATTER OF MARVO BEAUTY LABORATORIES, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission and the answer thereto and the stipulation as to the facts entered into between W. T. Kelley, Chief Counsel of the Commission, and John A. Bolles, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Marvo Beauty Laboratories, Inc., its representatives, agents and employees, in connection with the offering for sale, sale and distribution of toilet preparations now designated as "Marvo Liquid Skin Peel," "Marvo Skin Peel" and "Marvo" or any other toilet products containing substantially the same ingredients or possessing the same properties sold under these names or any other name in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

That the respondent's product is a new, harmless product; that it will remove blemishes and signs of age visible in the epidermis or outer layer of the skin, including pimples, blackheads, acne, pustules, whiteheads, freckles, tan, coarse pores, dry skin scales, oily skin, blotches, sallow skin, discolorations, flabbiness, simple eczema or any other condition of the skin; that it will restore clearness and beauty to the outer layer of the skin; that it will impart to the skin the magic of a new, clear, youth-like skin; that it will give a fresh outer skin on any part of the body; that it will remove ugly blemishes and renew youthful beauty; that it is recommended by physicians for quickly and harmlessly removing blemishes and signs of age visible in the epidermis or outer layer of the skin; that it will prevent the development of horrible skin conditions or diseases; and that the product will quickly reduce enlarged pores and remove blackheads.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1615; Filed, June 8, 1938; 10:23 a. m.]

[1] 2 F. R. 2291 (DI).

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3271]

IN THE MATTER OF HARRY J. KATZ AND LOUIS BLACK, INDIVIDUALLY, AND TRADING AS THE NUTEX COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer thereto, and the stipulation as to the facts entered into between W. T. Kelley, Chief Counsel of the Commission, and Ralph S. Fowler, counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Harry J. Katz and Louis Black, individually, and trading as The Nutex Company, or under any other trade name, their representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of rubber prophylactics in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing, through the use of the word "manufacturers" and the phrase "mfg. by" in connection with the use of their trade name or names, or through the use of any words or terms of similar import and meaning, or through any other means or device, or in any manner, that said respondents, or either of them, are the manufacturers of the products sold by them, unless and until such respondents actually own and operate, or directly and absolutely control, a manufacturing plant wherein said products are manufactured by them.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-1613; Filed, June 8, 1938; 10:22 a. m.]

TITLE 26—INTERNAL REVENUE

UNITED STATES BOARD OF TAX APPEALS

AMENDMENT TO RULES OF PRACTICE BEFORE THE UNITED STATES BOARD OF TAX APPEALS REVISED TO JANUARY 1, 1938

Authority: Rules of Practice and Procedure prescribed pursuant to the authority of section 907 (a) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105), as amended by section 601 of the Revenue Act of 1928 (45 Stat. 791, 871). Section 909 (a) (2) of the Revenue Act of 1924, as added by section 1000 of the Revenue Act of 1926 (44 Stat. 9, 105).

AMENDMENT TO RULE 61

Computation of Time—Sundays and Holidays

Armistice Day, November 11 (Act of May 13, 1938, 52 Stat. 351.)

NOTE.—Insert between Labor Day and Thanksgiving.

[SEAL] EUGENE BLACK, *Chairman.*

JUNE 7, 1938.

[F. R. Doc. 38-1612; Filed, June 8, 1938; 10:21 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1436 (a)]

AMENDMENT OF REGULATIONS GOVERNING EXCHANGES OF STATE LANDS UNDER SECTION 8 OF THE TAYLOR GRAZING ACT

1. *Amendment.*—In order to provide that both original and duplicate copies of State exchange applications filed under section 8 of the Taylor Grazing Act, as amended, shall be forwarded by the Registers of the district land offices, to the General Land Office, paragraphs 2 and 3 of Circular No. 1398, approved July 22, 1936,[1] as amended by Circular No. 1436, approved September 16, 1937, hereby are amended further to read as follows:

2. *Action by the Register.*—If the application for exchange appears regular and in conformity with the law and these regulations, the register will assign the current serial number thereto, and, after making appropriate notations upon his records, will transmit the original and duplicate copies of the application to the General Land Office, together with a report as to any conflicts of record, transmitting the triplicate copy of each application to the proper Special Agent in Charge, Division of Investigations, together with a carbon copy of his report as to conflicts of record.

An application for exchange will be noted "suspended" by the register and unless disallowed, the lands applied for in exchange will be segregated upon the records of the district land office and General Land Office, and will not be subject to other appropriation, application, selection, or filing.

Circular No. 1384, approved April 15, 1936, is hereby revoked in so far as it pertains to exchanges by a State under section 8 of the Grazing Act, as amended.

3. *Action of the General Land Office.*—If the selected lands are within a grazing district, all else being regular, the Commissioner of the General Land Office will transmit the duplicate copy of the application to the Director of Grazing with a request for a report as to whether, in his opinion, the selected lands are so located as not to interfere with the administration or value of the remaining lands in the district for grazing purposes, within the meaning of the Act.

When an exchange is based upon equal values, upon receipt of a favorable report from the Director of Grazing (where the selected lands are within a grazing district), all else being regular, the Commissioner of the General Land Office will request the Director of Investigations to have a field inyestigation made for the purpose of determining the values of the offered and selected lands; whether the selected lands are occupied, improved, cultivated, or claimed by anyone adversely to the State; whether the selected lands contain minerals, timber, springs, water holes, hot or medicinal springs, or any special features which should be considered in acting on the application; and whether the reservation which the State desires to make in the offered lands, if any, together with the contemplated use of such reservation, will in any way affect adversely the administration of the grazing district, if the offered lands are within a grazing district. The field examination should be made as soon as possible, and report and special recommendation should be submitted to the General Land Office.

When an exchange is based upon equal areas, if a field examination is found necessary to determine the character of the selected lands as to mineral or springs or water holes, the Director of Investigations will be requested to have a field investigation made for either or both of such purposes.

FRED W. JOHNSON, *Commissioner.*

Approved, May 23, 1938.

OSCAR L. CHAPMAN, *Assistant Secretary.*

[F. R. Doc. 38-1611; Filed, June 8, 1938; 9:41 a. m.]

[1] 1 F. R. 927.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 16]

IN THE MATTER OF THE PETITION AND MOTION OF CHESTERFIELD COAL COMPANY, HI-HEAT COAL COMPANY, INDEPENDENT COAL & COKE COMPANY, LIBERTY FUEL COMPANY, MACLEAN COAL COMPANY, NATIONAL COAL COMPANY, PEERLESS SALES COMPANY, ROYAL COAL COMPANY, SPRING CANYON COAL COMPANY, STANDARD COAL COMPANY, SWEET COAL COMPANY, UTAH FUEL COMPANY, UNITED STATES FUEL COMPANY

NOTICE OF AND ORDER FOR HEARING

The petitioners above named, having on the 31st day of May, 1938, petitioned this Commission to vacate its Ruling dated March 30, 1938, and to revoke its construction therein of Section 10 (a) of the Bituminous Coal Act of 1937 permitting the introduction in evidence at a hearing before the Commission of data with respect to 1936 costs of production of individual producers, *Notice is Hereby Given* that the above entitled proceeding is assigned for hearing before the Commission on June 15, 1938, at 10:00 o'clock a. m. at the Hearing Room of the Commission, at the Shirley-Savoy Hotel, Denver, Colorado, at which time an opportunity will be afforded interested parties to be heard.

The Secretary of the Commission is, forthwith, directed to mail a copy of this Notice of Hearing to the petitioners above named, to each code member in Districts Nos. 16, 17, 18, 19, 20, 22 and 23, and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER. A copy of the aforesaid petition is on file and available to interested parties for inspection at the Office of the Secretary of the Commission.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-1618; Filed, June 8, 1938; 11:38 a. m.]

[Docket 23–FD]

ORDER IN THE MATTER OF THE APPLICATION OF AMERICAN ZINC AND CHEMICAL COMPANY, A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 6th day of June, 1938.

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, American Zinc and Chemical Company, a corporation, on the 10th day of July, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it or produced and transported to itself for consumption by it, in its operations as a zinc and chemical plant, which application was filed by virtue of the authority granted in the second paragraph of Section 4–A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission by its order referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C. on the 16th day of August, 1937; and

It further appearing, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on said 16th day of August, 1937, on which day said hearing was duly continued to the 8th day of September, 1937; that on said 8th day of September, 1937, said cause came on to be heard pursuant to said orders of the Commission; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than fifteen days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

Now, therefore, It is hereby ordered:

1. That the application of American Zinc and Chemical Company, a corporation, is hereby granted to the extent that the bituminous coal produced at its mine at Langeloth, Washington County, Pennsylvania, is consumed by applicant in the operation of its plant at Langeloth, Washington County, Pennsylvania, which production is within the purview of subsection (1) of section 4 of the Bituminous Coal Act of 1937, and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1619; Filed, June 8, 1938; 11:38 a. m.]

[Docket No. 24–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MCLAIN FIRE BRICK COMPANY, A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 6th day of June, 1938.

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, The McLain Fire Brick Company, a corporation, on the 28th day of July, 1937, filed with the Commission its application for exemption, seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937, all bituminous coal produced by and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of fire brick, which application was filed by virtue of the authority granted in the second paragraph of Section 4–A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission by its orders, referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C. on the 13th day of August, 1937; and

It further appearing, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on said 13th day of August 1937; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which report were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than 15 days have elapsed since said service and no exceptions to the said report have been filed with the Commission; and

The Commission, being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

Now, therefore, It is hereby ordered:

1. That the application of the McLain Fire Brick Company, a corporation, is hereby granted to the extent that the bituminous coal produced at its mine in the State of Ohio, near one of the plants of the applicant, known as "Irondale Works," is consumed by applicant in the operation of its plants in the State of Ohio, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937, and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1620; Filed, June 8, 1938; 11:39 a. m.]

[Docket No. 32–FD]

ORDER IN THE MATTER OF THE APPLICATION OF HARBISON-WALKER REFRACTORIES COMPANY, A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C. on the 6th day of June, 1938.

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Harbison-Walker Refractories Company, a corporation, on the 7th day of July, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it, or produced and transported to itself for consumption by it, in its operation as a fire brick plant, which application was filed by virtue of the authority granted in the second paragraph of Section 4–A of the Act, and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission by its orders, referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C. on the 11th day of August, 1937; and

It further appearing, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on said 11th day of August, 1937; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which report were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than 15 days have elapsed since said service and no exceptions to this said report having been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner, are in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

Now, therefore, It is hereby ordered:

That the application of Harbison-Walker Refractories Company, a corporation, is hereby granted to the extent that the bituminous coal produced by it at its five mines located in Dean, Cambria County, Pennsylvania; Templeton, Armstrong County, Pennsylvania; Croft, Clearfield County, Pennsylvania; Surveyor, Clearfield County, Pennsylvania; and Retort, Center County, Pennsylvania, is consumed by applicant in the operation of its fire brick plants, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937, and therefore is exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1621; Filed, June 8, 1938; 11:39 a. m.]

[Docket No. 37–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE CONSOLIDATED INDIANA COAL COMPANY FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 6th day of June, 1938.

It appearing, That on the 2nd day of July, 1937, the above named applicant, Consolidated Indiana Coal Company, filed an application for exemption from the provisions of Section 4 and the first paragraph of Section 4–A of the Bituminous Coal Act of 1937, in which application it was claimed that the coal produced by the applicant and consumed by the Bankruptcy Trustees of the Chicago, Rock Island & Pacific Railway Company was exempt from the provisions of the Bituminous Coal Act of 1937 by virtue of Section 4, Part II (1) thereof, and for the further reason that the transactions in bituminous coal in intrastate commerce do not directly affect interstate commerce in coal. The Commission, by Order of Assignment dated August 11, 1937, assigned the cause to an examiner for a hearing on August 19, 1937, at the Hearing Room of the Commission in the Washington Hotel, Washington, D. C., which hearing was continued until September 15, 1937 upon the motion of the applicant.

It further appearing, That due and proper notice of said hearing was given to all interested parties, and the cause came on to be heard before the examiner; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission. On the 14th day of May, 1937, within the period described for the filing of Exceptions and Brief, as provided by the Rules of Practice and Procedure, the applicant filed with the Commission Exceptions to the Report of the examiner and Brief in support thereof. The Commission, upon due consideration of the said Exceptions, overruled the Exceptions for the reason stated in an opinion filed herein dated the 1st day of June 1938, which is hereby referred to and made part hereof; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcript of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusions submitted by the examiner are in all respects true and correct, and the same are hereby adopted as the findings of fact and conclusions of the Commission;

Now, therefore, It is hereby ordered:

1. That the bituminous coal produced by the applicant and consumed by the Bankruptcy Trustees of the Chicago, Rock Island & Pacific Railway Company does not come within the scope of Section 4, Part II (1) of the Act and, accordingly, cannot be for such reason exempted from the provisions of Section 4 of the Act; that the application for exemption, insofar as the same is based on the exemption provisions of Section 4, Part II (1) of the Act, be and the same is hereby denied.

2. That the application for exemption, having been filed prior to the entry of the order subjecting intrastate transactions within the State of Iowa, where the applicant's coal is produced, to the provisions of Section 4 of the Act, insofar as such application is based on the ground that the transactions of the applicant in intrastate commerce in coal do not directly affect interstate commerce in coal, be and the same is hereby dismissed as premature, without prejudice.

By order of the Commission.

Dated this 6th day of June 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1622; Filed, June 8, 1938; 11:39 a. m.]

[Docket No. 45–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE BIRMINGHAM WATER WORKS COMPANY, A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 6th day of June, 1938.

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, The Birmingham Water Works Company, a corporation, on the 14th day of June, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it or produced and transported to itself for consumption by

it in its operations in supplying water for domestic and industrial use to the City of Birmingham, Alabama, and adjacent territory thereto within the State of Alabama, which application was filed by virtue of the authority granted in the second paragraph of Section 4–A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission, by its orders, referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C. on the 26th day of August, 1937; and

It further appearing, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on the 26th day of August, 1937; that said hearing was duly continued from time to time until the 22nd day of October, 1937; that on said 22nd day of October, 1937, said cause came on to be heard pursuant to said orders of the Commission and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than 15 days have elapsed since said service and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

Now, therefore, It is hereby ordered:

That the application of The Birmingham Water Works Company, a corporation, is hereby granted to the extent that the bituminous coal produced by it at its mine known as the Cahaba Mine, Jefferson County, Alabama, is consumed by applicant in its operations in supplying water for domestic and industrial use to the City of Birmingham, Alabama, and territory adjacent thereto within the State of Alabama, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937, and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1623; Filed, June 8, 1938; 11:40 a. m.]

[Docket No. 47–FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE CAMBRIA CLAY PRODUCTS COMPANY A CORPORATION, FOR EXEMPTION UNDER THE BITUMINOUS COAL ACT OF 1937

At a regular session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 6th day of June, 1938.

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.) known as the Bituminous Coal Act of 1937, applicant, The Cambria Clay Products Company, a corporation, on the 20th day of July, 1937, filed with the Commission its application for exemption seeking to have exempted from the provisions of Section 4 of the Bituminous Coal Act of 1937 all bituminous coal produced by it and consumed by it or produced and transported to itself for consumption by it in its business of manufacturing clay products, which application was filed by virtue of the authority granted in the second paragraph of Section 4–A of the Act and the exemption was requested under subsection (1) of Section 4 of the Act. The Commission by its orders referred and assigned the cause to an examiner of the Commission for hearing at Washington, D. C., on the 27th day of August, 1937; and

It further appearing, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to said orders of reference and assignment on said 27th day of August, 1937; and the evidence being adduced and being submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which report were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure before the Commission. More than 15 days have elapsed since said service, and no exceptions to the said report have been filed with the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcripts of the testimony and documentary evidence filed herein, finds that the proposed findings of fact and the conclusion submitted by the examiner are, in all respects, true and correct, and the same are hereby adopted as the findings of fact and conclusion of the Commission;

Now, therefore, It is hereby ordered:

That the application of The Cambria Clay Products Company, a corporation, is hereby granted to the extent that the bituminous coal produced at its mines at Lawrence County, Ohio, is consumed by applicant in its business of manufacturing clay products, which production is within the purview of subsection (1) of Section 4 of the Bituminous Coal Act of 1937 and therefore exempt from the provisions of Section 4 of said Act. This order of exemption is made, however, upon the condition that the Commission may hereafter require applicant to apply periodically for renewals of this order and to file such reports as the Commission may find necessary or appropriate to enable it to determine whether the conditions heretofore ascertained and found by the Commission to support this order of exemption continue to exist.

By Order of the Commission.

Dated this 6th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1624; Filed, June 8, 1938; 11:40 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3349]

IN THE MATTER OF MELVIN HINER, AN INDIVIDUAL, TRADING AS CO-OPERATIVE LIBRARY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, June 23, 1938, at nine o'clock in the forenoon of that day (central standard time), at room 1123 New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1607; Filed, June 8, 1938; 9:37 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3358]

IN THE MATTER OF W. D. BOYCE COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, June 24, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1606; Filed, June 8, 1938; 9:37 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 258]

ALLOCATION OF FUNDS FOR LOANS

JUNE 6, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Arkansas 8011W1 Jackson	$10,000
Missouri 8028W1 Barton	2,500
Ohio 8083W1 Huron	5,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–1608; Filed, June 8, 1938; 9:39 a. m.]

[Administrative Order No. 259]

ALLOCATION OF FUNDS FOR LOANS

JUNE 6, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia 8051A2 Newton	$40,000
Maine 8002A2 Penobscot	21,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–1609; Filed, June 8, 1938; 9:39 a. m.]

[Administrative Order No. 260]

ALLOCATION OF FUNDS FOR LOANS

JUNE 6, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Minnesota 9035B1 Brown	$229,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–1610; Filed, June 8, 1938; 9:39 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of June, A. D. 1938.

[File No. 32–93]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 27, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 22, 1938.

The matter concerned herewith is in regard to an application by New York State Electric & Gas Corporation, a subsidiary of NY PA NJ Utilities Company, a registered holding company, pursuant to Section 6 (b) for exemption from the provisions of Section 6 (a) of the issue and sale to consumers, under a customers finance plan for the construction of rural electric line extension, of $75,000 principal amount of 6% Customers Receipts against a like amount of advances made or to be made by the customers. It is stated that the proceeds are to be applied exclusively to the construction of rural electric line extensions for the consumers who have made or are to make the advances. The issue and sale of The Customers Receipts were approved by The Public Service Commission of the State of New York by its order of May 24, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1630; Filed, June 8, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 4th day of June, 1938.

JUN 13 1938

[File No. 7-108]

IN THE MATTER OF APPLICATION OF THE LOS ANGELES STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO CURTISS WRIGHT CORPORATION CLASS A STOCK, $1 PAR VALUE

ORDER MAKING SUPPLEMENTAL APPLICATION PART OF THE RECORD

The Los Angeles Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, to extend unlisted trading privileges to the above-mentioned security; and

After appropriate notice, a hearing having been held in this matter in Washington, D. C.; and

The Commission having made and filed its Findings and Opinion in this proceeding[1] in which it reserved decision with respect to the above-mentioned application for a reasonable period of time within which the applicant might obtain and submit further evidence; and

Said applicant having submitted such further evidence in the form of a supplemental application dated May 10, 1938;

It is ordered, That said supplemental application be and the same is hereby made a part of the record herein.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1629; Filed, June 8, 1938; 12:53 p. m.]

[1] 3 F. R. 828 (DI).

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS, TUESDAY, MAY 31, 1938

Important.—Although the apportioned classified civil service is by law located only in Washingon, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	569	37
2. Hawaii	136	15
3. Alaska	22	7
4. California	2,092	729
5. Texas	2,146	846
6. Louisiana	774	353
7. Michigan	1,784	837
8. Arizona	160	77
9. New Jersey	1,489	759
10. South Carolina	641	364
11. Oklahoma	883	514
12. Ohio	2,449	1,450
13. Mississippi	741	451
14. Arkansas	683	416
15. Alabama	975	601
16. New Mexico	156	98
17. North Carolina	1,168	762
18. Georgia	1,072	719
19. Kentucky	963	663
20. Wisconsin	1,083	816
21. Tennessee	964	734
22. Illinois	2,812	2,144
23. Nevada	34	26
24. Connecticut	592	461
25. Oregon	351	313
26. Delaware	88	79
27. Florida	541	490
28. Indiana	1,193	1,084
29. New York	4,638	4,304
30. Utah	187	174
31. Pennsylvania	3,549	3,303
32. Wyoming	83	78
33. Washington	576	545
34. New Hampshire	171	165
35. Idaho	164	160
36. Maine	294	289
37. North Dakota	251	248
38. Massachusetts	1,566	1,557

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
QUOTA FILLED			
IN EXCESS			
39. West Virginia	637	641	+20
40. Rhode Island	253	256	+9
41. Vermont	132	134	−2
42. Colorado	382	388	+17
43. Kansas	693	724	+41
44. Missouri	1,337	1,417	+58
45. South Dakota	255	275	+7
46. Montana	198	219	+29
47. Minnesota	945	1,047	+121
48. Iowa	910	1,034	+82
49. Nebraska	568	592	+67
50. Virginia	892	1,941	−94
51. Maryland	601	1,850	−48
52. D. C	179	8,776	−201

GAINS	
By appointment	18
By reinstatement	7
By transfer	46
By correction	2
Total	73
LOSSES	
By separation	145
By transfer	58
Total	203
Total appointments	45,965

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's Opinion of August 25, 1934, 13,714.

By direction of the Commission:

[SEAL] L. A. MOYER,
Chief Examiner.

[F. R. Doc. 38-1616; Filed, June 8, 1938; 11:10 a. m.]

JUN 13 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 113

Washington, Friday, June 10, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form NCR-201, Licking County, Ohio]

1938 AGRICULTURAL CONSERVATION PROGRAM, LICKING COUNTY, OHIO

CONTENTS

SECTION I. Definitions.
II. Classification of Land Use or Treatment with Associated Productivity Factors.
III. Establishment of Productivity Balance Value for the Farm.
IV. Cropland Conserving Payments.
V. Pasture Land Conserving Payments.
VI. Soil-Conserving Payments for Tree Planting.
VII. Division of Payments.
VIII. Increase in Small Payments.
IX. Deductions Incurred on Other Farms.
X. Deductions for Association Expenses.
XI. General Provisions Relating to Payments.
XII. Application for Payment.
XIII. Appeals.
XIV. Bulletins, Instructions and Forms.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of the said Act in 1938, payments will be made in Licking County, Ohio, for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments will necessarily be within the limits finally determined by such appropriation. The rates of payments specified herein are subject to an increase or decrease of not more than 10 percent, depending upon the extent of participation in the Licking County Program and the final estimate of payments which would be made in Licking County under the 1938 Agricultural Conservation Program.

The provisions of the 1938 Agricultural Conservation Program contained in this bulletin are not applicable to (1) counties other than Licking County, Ohio, and (2) public domain of the United States, including land owned by the United States and administered by the Forest Service of the United States Department of Agriculture, or other lands in which the beneficial ownership is in the United States.

Section I. Definitions

For the purpose of the 1938 Agricultural Conservation Program in Licking County, Ohio.

Secretary means the Secretary of Agriculture of the United States.

Director of the North Central Division means the director of the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the North Central Region.

North Central Region means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

State Committee means the group of persons designated in Ohio to assist in the administration of the 1938 Agricultural Conservation Program in Ohio.

County Committee means the group of persons elected in Licking County to assist in the administration of the 1938 Agricultural Conservation Program in that county.

County means the political or civil division of a State designated as a county.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Landlord means a person who owns land and rents such land to another person or operates such land.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Agricultural conservation program, 1938, Licking County, Ohio	1373
Range conservation program, 1938, Jones County, S. Dak.	1378
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:	
Bureau of Animal Industry:	
Modified tuberculosis-free accredited areas, names of counties	1382
TITLE 20—FISH AND GAME:	
Bureau of Fisheries:	
Alaska fishery regulations amended	1382
TITLE 25—INDIANS:	
Beneficiaries of health facilities; duties of health personnel	1383
TITLE 49—TRANSPORTATION AND RAILROADS:	
Inventory of materials and supplies, requirements waived	1386
NOTICES	
Treasury Department, Bureau of Customs:	
Airports of entry redesignated for one-year period	1386
Federal Power Commission:	
Twin State Gas & Electric Co., hearing	1387
Securities and Exchange Commission:	
Page Power Co., hearing	1388
Washington Gas Light Co., exempted order amended	1387
Securities exempted	1387

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Tenant means a person who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitute a unit with respect to the rotation of crops; *Provided*, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Cropland means farm land which was tilled in 1937 or is tilled in 1938 or in regular rotation, excluding commercial orchards and any land growing a sod producing crop in 1938 which if tilled will constitute a wind erosion hazard to that farm or to the community, but including any other land which has been planted since January 1, 1930 to permanent pasture or forest trees and which was classified as cropland under the 1937 Agricultural Conservation Program, and including also land planted to noncommercial orchards other than abandoned orchards.

Commercial Orchards means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1938 (excluding non-bearing orchards and vineyards), from which the principal part of the production is normally sold.

Open Non-cropland Pasture means any farm land not cropland on which the predominant growth is forage characteristic of grazing lands, provided this land is essentially free of brush, briars, stumps, and trees. Any acreage of non-cropland pasture occupied to such an extent by stumps, trees, or other objects as to materially interfere with the application of liming or fertilizing materials or with the taking of measurements shall not qualify as open non-cropland pasture. The term "open non-cropland pasture" shall include any non-cropland used for the production of wild hay.

Winter Cover Crop means (a) any biennial or perennial legume or grass or stubble of any of these crops, or (b) any small grain which will live through or into the winter, provided there is good and sufficient cover to protect the soil from wind and water erosion and leaching.

Productivity Factor is that rating given each crop, land use, or unit of land treatment denoting the relative degree to which that crop, land use, or unit of land treatment degrades or restores the soil. Restorative crops, land uses, or land treatments are denoted by positive factors, degrading by negative factors.

Productivity Balance Value is that rating given each farm on the basis of the combined productivity factors for each crop, land use, or unit of land treatment on cropland, combined with the erosion factor on that cropland, denoting the degree to which the cropland on that farm is being degraded, maintained, or improved. A farm with a negative productivity balance value is assumed to be in a relative state of cropland deterioration, while a farm with a positive productivity balance value is assumed to be in a relative state of cropland improvement, and the size of the balance value denotes the relative rate of deterioration or improvement.

Erosion Factor is that rating given each field and each farm on the basis of the average slope shown by the cropland on that farm, for the purpose of indicating the degree to which the cropland on such farm is subject to erosion.

Section II. Classification of Land use or Treatment with Associated Productivity Factors

The acreage of cropland upon a farm shall be classified according to its use or treatment in 1938 and shall receive the appropriate productivity factor as follows:

1. CROPLAND NOT PLANTED	
Cropland idle and bare during season	−2.0
Cropland idle but not bare nor fallowed during season	−0.5
Cropland fallowed during season	−2.0
Cropland not fall plowed but bare of sod or of winter cover crop as of October 31	−0.5
2. CROPLAND PLANTED TO FIELD CROPS FOR HARVESTING WITHIN THE CROP YEAR	
Field corn for silage or grain harvested or hogged off	−2.0
Winter-grains (wheat, rye) harvested as grain, hay, or pasture, including hogged off	−1.0
Spring or summer seeded small grains (oats, barley, flax, buckwheat) harvested as grain, hay, or pasture	−0.9
Soybeans or cowpeas harvested as seed or hay	−0.5
Sudan grass harvested as hay or pasture	−1.5
Millet harvested as hay or pasture	−1.5
Sorghums for harvesting	−2.0
Rape for pasture	−1.0
3. CROPLAND ON WHICH IS GROWING A GOOD STAND OF HAY OR PASTURE PLANTS	
For a land use to be classified as producing one of the crops listed in this subsection 3, at least 75 percent of the stand must be of that particular crop.	
Alfalfa, stand in year of seeding	+1.5
Alfalfa, 2nd year stand	+1.0
Alfalfa, 3rd year stand	+0.5
Alfalfa, 4th year and more stand	0.0
Sweet clover (biennial) year of seeding	+1.5
Sweet clover, 2nd year of growth, pastured or cut for hay	+1.0
Sweet clover, 2nd year of growth, not pastured or cut for hay	+1.5
Clovers (red, mammoth, alsike) year of seeding	+1.0
Clovers (red, alsike, mammoth) 2nd year of growth, pastured or cut for hay	+1.0
Clovers (red, alsike, mammoth) 2nd year of growth, not pastured or cut for hay	+1.5
Alfalfa-grass mixtures, year of seeding	+1.5
Alfalfa-grass mixtures, 2nd year of growth	+0.5
Alfalfa-grass mixtures, 3rd year of growth	+0.5
Alfalfa-grass mixture, 4th year of growth	0.0
Clover-grass mixture, year of seeding	+0.5
Clover-grass mixture, 2nd year of growth	+0.5
Timothy, orchard grass, or mixtures regardless of year of seeding	0.0
Bluegrass and other permanent pasture grasses	0.0
Sudan grass for hay or pasture	−1.5
Millet for hay or pasture	−1.5
Any of these crops grown from unadapted seed planted between November 1, 1937, and October 31, 1938, shall receive a productivity factor of	0.0
4. CROPLAND INTO WHICH IS INCORPORATED A GREEN MANURE OR A RESIDUE CROP	
Sweet clover, 2nd year of growth, not pastured, plowed under green prior to June 1	+1.0
Sweet clover, 2nd year of growth, not pastured nor cut for hay or seed, plowed under after June 1	+2.0
Alfalfa, 2nd or more years of growth, not pastured and plowed under green prior to June 1	+1.0
Alfalfa, 2nd or later years of growth, not pastured nor cut for hay or seed, plowed under green after June 1	+2.0
Clovers (red, alsike, mammoth), 2nd year of growth, not pastured and plowed under green prior to June 1	+0.75
Clovers (red, alsike, mammoth), 2nd year of growth, not pastured nor cut for hay or seed, plowed under after June 1	+1.75
Soybeans, cowpeas, or vetch, entire plant plowed under in bloom stage	+1.5
Rye, wheat, or buckwheat not pastured, plowed under green with at least sixty days of growth	+0.5
Sweet Corn, entire stalk and leaves plowed under green after removal of ears (This factor in addition to that indicated under subsection 5, this Section II)	+0.5
Field corn, drilled solid and entire plant plowed under green in tassel stage	+1.5
5. CROPLAND PLANTED TO VEGETABLES AND SPECIAL CROPS FOR HARVESTING WITHIN THE CROP YEAR	
Popcorn for harvesting	−1.5
Sweet corn harvested for market or canning	−1.5
Sweet corn for other uses	−2.0
Tomatoes for harvesting	−2.0
Irish potatoes for harvesting	−2.0
Sweet potatoes for harvesting	−2.0
Onions for harvesting	−2.0
Melons for harvesting	−2.0
Pumpkins for harvesting	−2.0
Cucumbers for harvesting	−2.0
Cabbage for harvesting	−1.5
Canning peas for harvesting	−0.5
Field peas for harvesting	−0.5
Field beans for harvesting	−0.5
6. CROPLAND OCCUPIED BY FRUIT OR FOREST TREE PLANTINGS	
Non-commercial Orchards (entire acreages) (Orchards interplanted, in addition to this factor shall receive the factor assigned to the interplanted crop for the acreage of such interplanted crop)	—
Cane and Bush Fruits	−2.5
Rhubarb	−2.0
Asparagus	−1.0
Forest Trees and Windbreaks	−1.0
	0.0
7. COMMERCIAL FERTILIZER APPLIED TO CROPLAND	
a. For each 100 lbs. of single strength commercial[1] fertilizer	+0.07
b. For each 100 lbs. of 1½ strength commercial fertilizer	+0.11
c. For each 100 lbs. of double strength commercial fertilizer	+0.15
d. For each 100 lbs. of other commercial fertilizer credit in accordance with its proportional strength based on the officially registered, guaranteed analysis.	

No credit will be given for the application of any fertilizer not guaranteed by the manufacturer and registered with the Ohio State Department of Agriculture in conformity with the Ohio State Fertilizer Control Law. For application upon cropland of fertilizing materials which are furnished to the farmer by any State or Federal agency credit will be given subject to the provisions of subsection 3, Section VI.

8. LIMESTONE APPLIED TO CROPLAND	
a. For each 1,000 lbs. of "agricultural ground limestone" possessing a neutralizing power of 90 to 108	+0.25
b. For each 1,000 lbs. of "agricultural meal" possessing a neutralizing power of 90 to 108	+0.20
c. For each 1,000 lbs. of "pulverized limestone" possessing a neutralizing power of 90 to 108	+0.30
d. For each 1,000 lbs. of "hydrated lime" possessing a neutralizing power of 120 to 154	+0.40
e. For each 1,000 lbs. of "hydrated lime" possessing a neutralizing power of 155 to 175	+0.50
f. For each 1,000 lbs. of other types of liming materials of certified neutralizing power, credit in proportion to that for 1,000 lbs. of "agricultural ground limestone."	

Credit will not be given for the application upon cropland of liming materials unless officially registered and guaranteed in conformity with the provisions of the Ohio Fertilizer Control Law, or unless the neutralizing power has been determined and certified by the Ohio State Soil Testing Laboratory. For application upon cropland of liming materials which are furnished to the farmer by any State or Federal agency credit will be given subject to the provisions of subsection 3, Section VI.

Section III. Establishment of Productivity Balance Value for the Farm

There shall be established for each farm in 1938 a productivity balance value. In determining this value the following procedure shall be used:

1. Determine the erosion factor for each cropland field on the farm as follows: (1) obtain the average slope for the cropland in that field, (2) divide this average slope by ten, (3) round to the nearest one tenth, and (4) express as a minus quantity. The result is the erosion factor for that field. (Example: (1) Slope=5.7%; (2) 5.7+10=.57; (3) .57 rounded=.6; (4)−.6=the erosion factor)

2. List the various crops, cropland uses, and treatments of cropland showing their acreages or units and the appropriate productivity factors listed in Section II, and the appropriate erosion factor obtained in subsection 1, this Section III.

3. Multiply the various acreages or units by the appropriate productivity factor for such crop, use, or treatment.

4. Multiply those acreages devoted to crops, uses, or treatments having negative productivity factors by the appropriate erosion factor for such acreage.

5. Determine the algebraic sum of the positive and negative factors obtained in 3 and 4.

6. Divide the factor obtained in 5 by the number of crop acres in the farm. The result obtained by this procedure is the productivity balance value for the cropland on the farm.

Section IV. Cropland Conserving Payments

1. *Maintenance payment.*—For each farm in Licking County a cropland maintenance payment scale will be established. A maintenance payment will be made on each farm for which the 1938 productivity balance value is in excess of the lower extreme of this scale. The upper extreme of the payment scale on all farms shall be +0.20. The lower extreme of the payment scale shall be −0.90 plus 50 percent of the weighted average erosion factor for all the cropland on that farm. The maintenance payment shall be equal to 1.25 cents per crop acre for each point (0.01) which the productivity balance value for that farm is above the lower extreme of the payment scale for that farm up to a limit of the number of such points between the lower and upper extremes of the payment scale for that farm.

2. *Building payment.*—A cropland building payment will be made on each farm at the rate of 1.50 cents per crop acre per point (0.01) by which the 1938 productivity balance value exceeds the 1937 productivity balance value up to a limit of 40 such points.

To be eligible for cropland conserving payments a farm must be in an active state of cultivation in 1938.

Section V. Pasture Land Conserving Payments

A pasture conserving allowance shall be established for each farm. This allowance shall be the maximum amount which may be earned in 1938 by the carrying out on a farm of any of the pasture conserving practices listed below. The pasture conserving allowance for a farm shall be 25 cents for each acre of open non-cropland pasture. Those farms for which this method of calculation results in a pasture conserving allowance of less than $3.00 shall have an allowance of $3.00 established for them. The practices and the conditions under which these practices must be performed in order to earn payment are:

1. *Fertilizing materials.*—The application on open non-cropland pasture in 1938 of commercial fertilizing materials which are officially registered and guaranteed in conformity with the provisions of the Ohio State Fertilizer Control Law shall earn payments as follows:

a. For each 100 lbs. single strength commercial fertilizer ($0.75).

(A single strength fertilizer is one for which the summation of the units of plant nutrients equals 20. For example, 2–12–6, 2–16–2, 0–14–6, 0–20–0, etc.)

b. For each 100 lbs. of 1½ strength commercial fertilizer ($1.10).

c. For each 100 lbs. of double strength commercial fertilizer ($1.50).

[1] NOTE.—20 units of plant nutrients constitute a single strength fertilizer. Example: 2–12–6, 2–16–2, 0–14–6, 0–20–0.

d. For each 100 lbs. of other strength commercial fertilizer, payment in proportion to its strength in relation to single strength.

2. *Liming materials.*—The application on open non-cropland pasture between November 1, 1937 and October 31, 1938 of liming materials which are officially registered and guaranteed in conformity with the provisions of the Ohio State Fertilizer Control Law, or such other liming materials for which the neutralizing power has been determined and certified by the State soil testing laboratory shall earn payments as follows:

a. For each ton of "agricultural ground limestone" possessing a neutralizing power of 90 to 108 ($1.25).

b. For each ton of "agricultural meal" possessing a neutralizing power of 90 to 108 ($0.90).

c. For each ton of "pulverized limestone" possessing a neutralizing power of 90 to 108 ($1.50).

d. For each ton of "hydrated lime" possessing a neutralizing power of 120 to 150 ($2.25).

e. For each ton of "hydrated lime" possessing a neutralizing power of 155 to 175 ($2.50).

f. For each ton of other liming materials of certified neutralizing power, payment in proportion to that for one ton of "agricultural ground limestone."

To be eligible for pasture land conserving payments, practices listed herein must be carried out by such methods as conform to good farm practice. Proof of performance for any practice shall consist of satisfactory evidence that the practice was completed in accordance with conditions specified. Pasture land conserving payments for any practice herein set forth will be subject to the qualifications indicated in subsection 3, Section VI.

Section VI. Soil-Conserving Payments for Tree Planting

Each farm in Licking County shall be eligible for payment in 1938 for the planting between November 1, 1937, and October 31, 1938, of forest trees or windbreaks on farm land at the rate of $10.00 per acre, up to an acreage limit equivalent to 5 percent of the total farm acreage, provided these plantings are made with acceptable species, classes of stock, rates of planting, and are properly protected. Payments for tree planting shall be subject to the following qualifications:

1. That in the case of forest tree plantings there is on the date as of which final inspection is made for the purpose of determining performance on the farm, a stand of at least 650 living trees per acre; or if due to uncontrollable natural causes a stand of 650 living trees per acre is not obtained on the date as of which final inspection is made for the purpose of determining performance on the farm, there is satisfactory evidence that such trees were planted in accordance with good tree culture and that such trees have been properly protected. such trees have been properly protected.

2. That in the case of windbreak or shelterbelt plantings, there is on the date as of which final inspection is made for the purpose of determining performance on the farm, a stand of at least 300 living trees per acre, or if due to uncontrollable natural causes a stand of 300 living trees is not obtained on the date as of which final inspection is made for the purpose of determining performance on the farm, there is satisfactory evidence that such trees were planted in accordance with good trees culture practice and that such trees have been properly protected.

3. Practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or State agency, other than the Agricultural Adjustment Administration, shall not be counted as a practice eligible for payment under this section. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency, and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted as a practice eligible for payment under this section; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted as a practice eligible for payment under this section. If trees are purchased from a Clark-McNary Co-operative State Nursery, such purchases shall not be deemed to be paid for in whole or in part by a State or Federal agency.

Section VII. Division of Payments

The share of any person in any payments computed with respect to any farm in Licking County, subject to the provisions of sections IX, X, and XI shall be determined in accordance with the methods specified in this Section VII.

1. *Cropland conserving payments.*—The payment computed for any farm with respect to cropland conserving payments shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crops are harvested, to share in the proceeds (other than a fixed commodity payment) of the crops grown on the farm in 1938.

2. *Conserving payments for pasture land and for tree planting.*—The amount of payment earned under section V and section VI shall be paid to the landlord or tenant who carried out the practices to earn these payments. If the county committee determines that more than one such person contributed to the carrying out of one or more of such practices on the farm in 1938, such payment shall be divided in the proportion that the quantity of practices contributed by each such person bears to the total quantity of practices carried out on the farm in 1938. Each person contributing to the practices carried out on a particular acreage shall be deemed to have contributed equally to such practices, unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event credit for such practices shall be divided in the proportion which the county committee determines each such person contributed thereto.

Section VIII. Increase in Small Payments

The total payment, computed under sections IV to VII, inclusive, for any person with respect to any farm shall be increased as follows:

1. Any payment amounting to 71 cents or less shall be increased to $1.00;

2. Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

3. Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200 and over	(2)

[1] Increase to $200.
[2] No increase.

Section IX. Deductions Incurred on Other Farms

1. *Other farms in Licking County.*—If a person who has made application for payment with respect to any farm in Licking County has an interest as landlord or tenant in any other farm in Licking County which fails to qualify for a cropland conserving payment as calculated under section IV, the payment which otherwise would be made to such person shall be decreased by an amount equal to such person's share of the deduction with respect to such other farm. Such deduction shall be computed by multiplying the number of points by which the productivity balance value for such other farm is below the foot of the maintenance payment scale therefor, by the number of crop acres on such other farm times the regular maintenance payment rate.

Any deduction computed for a farm in accordance with the above provision shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crops are harvested, to share in the proceeds (other than a fixed commodity payment) of the crops grown on the farm in 1938.

2. *Other farms in the State.*—If the deductions computed for a landlord or tenant with respect to one or more farms in a county exceed the payments computed for such landlord or tenant on other farms in such county, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in the State, if the State committee finds that the crops grown and practices adopted on the farms with respect to which such deductions are computed substantially offset the contribution to the program made on such other farms.

Section X. Deductions for Association Expenses

There shall be deducted pro rata from the payments with respect to any farm in Licking County all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the Licking County Agricultural Conservation Association.

Section XI. General Provisions Relating to Payments

1. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program, (2), if by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the director of the North Central Division finds is contrary to sound conservation practices.

2. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection 4 of this Section XI) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

3. *Changes in leasing and cropping agreements, reductions in number of tenants, and other devices.*—If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 is made between the landlord and the tenants and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, payments to the landlord under the 1938 Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the county committee certified that the change is not justified and disapproves such change.

If on any farm the number of share tenants in 1938 is less than the average number on the farm during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made, if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

4. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP–69 in accordance with instructions issued by the Agricultural Adjustment Administration and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certified that the payment is being assigned without discount for such purpose. Nothing contained in this Section XI, shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

5. *Cotton acreage in excess of allotment.*—Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting (seeding) of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938.

Section XII. Application for Payment

1. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of section VII, a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices.

2. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the director of the North Central Division. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

3. *Application for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in Licking County and makes application for payment with respect to one of such farms, such person must make

application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

Section XIII. Appeals

Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (1) eligibility to file an application for payment; (2) the determination of the productivity balance value for cropland; (3) the division of payment; (4) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.

Section XIV. Bulletins, Instructions and Forms

The Agricultural Adjustment Administration shall prepare and issue such bulletins, instructions, and forms as may be required in administering the 1938 Agricultural Conservation Program for Licking County, Ohio.

Done at Washington, D. C., this 9th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1640; Filed, June 9, 1938; 12:51 p. m.]

[NCR-251 Jones County, S. Dak.]

RANGE CONSERVATION PROGRAM BULLETIN, 1938

JONES COUNTY, SOUTH DAKOTA

CONTENTS

SECTION I. Range-Building Allowance.
II. Payment for Full Performance.
III. Conditions of Payment.
IV. Changes in Leasing Arrangements and Other Devices.
V. Eligibility for Payment.
VI. Payment Restricted to Effectuation of the Purposes of the Program.
VII. Payments Computed and Made Without Regard to Claims.
VIII. Increase in Small Payments.
IX. Deductions for Association Expenses.
X. Assignments.
XI. Establishment of Grazing Capacities.
XII. Establishment of Range-Building Goals.
XIII. Determination of County in Which a Ranching Unit Is Located.
XIV. Appeals.
XV. Definitions.

This bulletin sets forth provisions for establishing an individual range building goal to be attained as quickly as possible and at least by the end of three years, and yearly cumulative goals which should be attained by the end of each respective year and which accumulate to equal the three-year range building goal. Subject to the provisions of this bulletin and within the yearly range-building allowance, payment will be made for the attainment of these separate yearly goals. Goals in all cases include the retention of 20 percent of the annual growth of palatable forage at the end of the grazing season, the showing of performance of a designated quantity of practices listed in this bulletin, and may include at the discretion of the committee the performance of additional non-listed range-building practices considered essential to the conservation of the range land in the ranching unit. All payments are contingent upon the attaining of the yearly cumulative goal; there is no provision for partial performance. For those ranches for which the number of units of listed practices in the cumulative goal for the year in question is no larger than the number of units of such practices in the cumulative goal for the previous year, a payment of 75 percent of the annual range-building allowance will be made, provided the requirements of the goal for that year are met.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments will be made for participation in the 1938 Jones County, South Dakota, Range Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other revisions as may hereafter be made.

The provisions of this program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided are contingent upon such appropriations as the Congress may hereafter provide. The rates of payments specified herein are subject to an increase or decrease of not more than 10 percent, depending upon the extent of participation in the Jones County program and the final estimate of payments which would be made in Jones County under the 1938 Range Conservation Program.

The provisions of the 1938 Jones County, South Dakota, Range Conservation Program contained in the bulletin are not applicable (1) to counties other than Jones County, South Dakota, and (2) to public domain of the United States, and other lands in which the beneficial ownership is in the United States.

The provisions of this bulletin are to be renewed each year through 1940 except in case the Agricultural Adjustment Administration finds that (1) the national range program has been modified in such manner as to adopt the essential provisions of the Jones County, South Dakota, Program or is otherwise modified in such manner as to indicate a continuation of the Jones County Program is unnecessary or undesirable, or (2) the resulting performance under this program has proven it is not administratively feasible, and that it is not contributing to the improvement of the national range program, or for other reasons indicates its continuation is undesirable, or (3) modifications of the Soil Conservation and Domestic Allotment Act, as amended, or the Agricultural Adjustment Act of 1938 are such as to prohibit its continuation, or are such as to indicate its continuation is not administratively advisable.

Section I. Range-Building Allowance

The range-building allowance shall be $1.40 times the grazing capacity (expressed as animal units) of the range land in the ranching unit, provided, that this item shall not be calculated on more than one animal unit for each ten acres of range land in the ranching unit.

Section II. Payment for Full Performance

A. For those ranches for which the quantity of practices selected from subsection C, Section XII, which are in the cumulative goal for the year in question *is* in excess of the quantity of practices selected from subsection C, Section XII, which are in the cumulative goal for the previous year, payment will be made for attaining the goal for the year in question in an amount which shall be equal to the yearly range-building allowance.

B. For those ranches for which the quantity of practices selected from subsection C, Section XII, which are in the cumulative goal for the year in question *is not* in excess of the quantity of practices selected from subsection C, Section XII, which are in the cumulative goal for the previous year, payment will be made for attaining the goal for the year in question in an amount equal to 75 percent of the yearly range-building allowance.

Section III. Conditions of Payment

A. No payment will be made with respect to any ranching unit for which the yearly range building goal does not include the following practices and unless full performance is shown for those practices on that ranching unit.

1. Natural reseeding by limited grazing to assure that 20 percent of the palatable forage growth is retained at the end of the grazing season on all range land in that ranching unit, as indicated by comparison with adjacent non-grazed check-plot areas specified for the ranching unit, supplemented if specified in the range building goal by deferred or rotational grazing, provided if deferred or rotational grazing is specified for the ranching unit the conditions of grazing shall be as follows:

(a) Upon ranching units on which cattle or horses are grazed, the area to be kept free of grazing shall be fenced and the fences maintained sufficiently to prevent the entry of livestock;

(b) on ranching units used exclusively for grazing sheep, either the area to be kept free of grazing shall be fenced and the fence maintained sufficiently to prevent entry of livestock or the entry of livestock on the non-grazed area shall be prevented by herding;

(c) the remaining range land in such ranching unit shall not be pastured to such an extent as will decrease the stand of grass or injure the forage, tree growth or water shed;

(d) such practices shall not be applicable to range land in the ranching unit which normally is not used for grazing during the period from the start of the forage growth to seed maturity.

Provided further, If because of fire, insect or rodent damage, or other uncontrollable causes, the palatable forage growth in the check-plot areas is not representative of the palatable forage growth upon the range land in the ranching unit at large, no payment will be made with respect to that ranching unit unless it can be established by the operator that the number of animal units grazed upon the ranching unit during the grazing season did not exceed the number of animal units in the grazing capacity for that ranching unit.

B. No payment will be made with respect to any ranching unit unless the performance for those practices which are included as a part of the range building goal and the respective yearly cumulative goals for that ranching unit, but not listed in subsection C, Section XII, is shown in the year specified and in a manner satisfactory to the State and county committee.

C. Practices listed in subsection C, Section XII, which are a part of the range building goal and which are carried out with labor or materials furnished by any State or Federal agency shall not be eligible in the year of performance for meeting the range building goal if the portion of the labor or materials furnished by any State or Federal agency represents one-half or more of the total cost of carrying out such practices. If the portion of the labor or materials, used in carrying out such practices furnished by any State or Federal agency represents less than one-half of the total cost of carrying out such practices, one-half of the amount of such practices shall be eligible in the year of performance for use in attaining the range building goal for the ranching unit.

D. No payment will be made with respect to any ranching unit in excess of the range-building allowance for such ranching unit. No range-building practice shall be eligible for use in attaining the range building goal unless carried out according to specifications recommended by the State committee and approved by the Director of the North Central Division. All such practices must be in a proper state of maintenance at the time of checking performance.

E. Payments made for attaining the range building goal for a ranching unit shall not be subject to the provisions of Section V of the Agricultural Conservation Program bulletin, as amended.

Section IV. Changes in Leasing Arrangements and Other Devices

A. No payment will be made to any person who has for 1938 made any change from the 1937 leasing arrangements of range land for the purpose of, or which would have the effect of, diverting to such person any payment to which any lessee would be entitled if the 1937 leasing arrangements of such range land were in effect for 1938. If the State committee finds that any person who files an application for a payment pursuant to the provisions of the 1938 Jones County, South Dakota, Range Conservation Program has made any changes from the 1937 leasing arrangements of such range land or has employed any other scheme or device whatsoever for the purpose of, or which would have the effect of, depriving any other person of any payment or share therein to which such other person otherwise would be entitled, the Secretary may withhold in whole or in part from the person participating in such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or otherwise would be made to such person for performance in connection with the 1938 Jones County, South Dakota, Range Conservation Program.

B. If on any ranching unit in 1938 any change of the leasing arrangements which existed on the ranching unit in 1937 is made between the landlord and the tenants and such change would cause a greater proportion of the payment to be made to the landlord under the 1938 Jones County, South Dakota, Range Conservation Program than would have been made to the landlord for performance on the ranching unit under the 1937 Range Conservation Program, payment to the landlord under the 1938 Jones County, South Dakota, Range Conservation Program with respect to the ranching unit shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the ranching unit in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

C. If on any ranching unit the number of tenants in 1938 is less than the average number on the ranching unit during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

Section V. Eligibility for Payment

A. Application for range-building payment may be made only by ranch operators. Range-building payments will be made to (1) a sole ranch operator, or (2) each ranch operator of a group of two or more ranch operators, provided they all signify in the application for the range-building payment a percentum of the total payment to be made to each ranch operator. In case there are two or more ranch operators, the application must be made by all of them, except that in cases where any ranch operator refuses to sign the application for payment the county committee shall determine the percentage share of each ranch operator and payment of his percentage share will be made to each ranch operator applying for payment in accordance with such determination.

B. Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting (seeding) of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938.

C. Payments will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment to

any ranch operator who fails to file any form or furnish any information required with respect to any ranching unit in which such ranch operator is interested, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Director of the North Central Division. At least two weeks' notice to the public shall be given in advance of the expiration of a time limit for filing prescribed forms.

Section VI. Payment Restricted to Effectuation of the Purposes of the Program

All or any part of any payments which otherwise would be made to any person under the 1938 Jones County, South Dakota, Range Conservation Program may be withheld (1) if he has adopted any practice or been a party to the establishment of any goals which the Secretary determines tends to defeat any of the purposes of this program, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the Director of the North Central Division finds is contrary to sound conservation practices.

No payment will be made to any person if it is determined in accordance with instructions issued by the Agricultural Adjustment Administration, that with respect to any ranch which he owns or operates, the stand of grass has been decreased or the forage, tree growth, or watershed has been injured by overgrazing in 1938.

Section VII. Payments Computed and Made Without Regard to Claims

Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in Section X), and without regard to any claim or lien against any crop or livestock, or proceeds thereof, in favor of the owner or any other creditor.

Section VIII. Increase in Small Payments

The total payment computed for any person for any year with respect to any ranching unit shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to$22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200 and over	(2)

[1] Increase to $200.
[2] No increase.

Section IX. Deductions for Association Expenses

There shall be deducted pro rata from the payments with respect to any ranching unit all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the ranching unit is located.

Section X. Assignments

Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration, and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing contained in this Section X shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

Section XI. Establishment of Grazing Capacities

There shall be established a grazing capacity for each ranching unit for which an application for determination of grazing capacity is received on or before a date established by the Director of the North Central Division as affording reasonable opportunity for the filing of such applications. In determining grazing capacity, consideration shall be given to the following: (a) composition, palatability, and density of forage growth; (b) climatic fluctuations; (c) distribution and character of watering facilities; (d) topographic and cultural features; (e) presence or absence of rodents and poisonous plant infestations; and (f) number and classes of livestock previously carried. The average of the individual grazing capacities established for all ranching units in a county shall not exceed the county average grazing capacity limit established by the Agricultural Adjustment Administration on the basis of available statistics.

Section XII. Establishment of Range-Building Goals

A. *Range-building goal.*—There shall be established for each ranching unit a range-building goal which shall consist of that list of practices, requirements, and methods of range management most suited to the promotion of an economic and conservation use of the range, and the assurance that the range will not be stocked in excess of the sustainable grazing capacity of the range land in the ranching unit. This goal shall be one which is attainable at least by the end of 1940, but shall not be one which is attainable within the limits of the range-building allowance, prior to 1940 unless it can be shown that the performance of additional range-building practices or of additional units of the same range-building practice will contribute nothing further to the effectuation of the purposes of this program. This goal shall include only those practices the performance of which is to occur during the period November 1, 1937, to October 31, 1940. This goal shall be developed at the beginning of the 1938 grazing season by the State and county committees and the ranch operator.

B. *Yearly cumulative goal.*—Within the range-building goal, and subject to approval by the State committee, yearly cumulative goals shall be established for each ranching unit which shall be used as a basis for determining performance in each respective year. These yearly range-building goals shall accumulate in the least number of years possible to the range-building goal for the ranching unit. The yearly cumulative goals shall be such as to require performance in keeping with the size of the range-building allowance. The county committee shall not establish for any ranching unit a yearly cumulative goal consisting of practices selected from subsection C, Section XII, in excess of the quantity of

practices selected therefrom in the yearly cumulative goal for the preceding year, unless the performance required to attain such goal is reasonably commensurate with the additional payment which will be made for that performance. The yearly cumulative goal for any year shall be deemed to have been accomplished, if at the time of checking performance for that year, the practices outlined in the goal are found to have been carried out and maintained on the ranching unit in accordance with the specifications set forth for such practices. For this purpose it is to be assumed that performance of the practice "natural reseeding by limited grazing" and its attendant requirements as indicated in Section III, A, 1, is worth 40 percent of the yearly range-building allowance. In establishing the yearly cumulative range-building goal, the practices listed in subsection C below, with the assigned rates shall be used as a guide. No rates shall apply to other requirements or practices; but these shall be considered necessary contributions of the ranch operator upon which all payments are contingent.

In the event of a change in the identity of the ranching unit after the establishment of the range-building goal, or the yearly cumulative goals, the appropriate modifications shall be made in these goals for the ranching unit.

C. *Range-building practices*

1. *Reseeding of range land.*—

a. Reseeding depleted range land with good seed of adapted varieties of range grasses, legumes, or forage shrubs, $0.20 per pound specified but not in excess of $2.00 per acre.

2. *Erosion and run-off control.*—

b. (1) *Contour listing, furrowing, or subsoiling.*—For listing, furrowing, or subsoiling range land on the contour, $0.50 per acre.

(2) *Contour ridging.*—For ridging range land on the contour, $0.10 per 100 linear feet.

c. *Spreader dams and terraces.*—For constructing spreader dams and spreader terraces alone or in combination with each other for the diversion of surface water to prevent soil washing of range land.

(1) Spreader dams, $0.15 per cubic yard of material.

(2) Spreader terraces, $0.40 per 100 linear feet.

3. *Development of stock water on range land.*—

d. *Excavations, dams, or fills.*—For constructing dams, fills, or excavations for the purpose of supplying water for range livestock. This practice shall not be eligible for use in attaining the range-building goal unless performed according to specifications outlined by the State Committee and approved by the Director of the North Central Division, $0.15 per cubic yard of fill or excavation.

e. *Wells.*—(1) For drilling or digging wells with casing not less than 4 inches in diameter, for the purpose of providing water for range livestock. This practice shall not be eligible for use in attaining the range building goal unless a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir or if the well is developed at ranching unit headquarters. The development of an artesian well which provides adequate stock water during the grazing season and from which the water is conveyed to a tank or trough will be considered equivalent to a well for which a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir, $2.00 per linear foot.

(2) For drilling or digging wells with casing less than 4 inches but not less than 2 inches in diameter, for the purpose of providing water for range livestock. This practice shall not be eligible for use in attaining the range building goal unless a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir or if the well is developed at ranching unit headquarters. The development of an artesian well which provides adequate stock water during the grazing season and from which the water is conveyed to a tank or trough will be considered equivalent to a well for which a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir, $1.00 per linear foot.

Section XIII. Determination of County in Which a Ranching Unit is Located

A ranching unit shall be regarded as located in the county in which its principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the ranching unit is located.

Section XIV. Appeals

Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any ranching unit in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment, (b) grazing capacity established for the range land in such ranching unit, or (c) any other matter affecting the right to or the amount of his payment with respect to the ranching unit. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the Director of the North Central Division to review the decision of the State committee.

Section XV. Definitions

For the purpose of the 1938 Jones County, South Dakota, Range Conservation Program,

Secretary means the Secretary of Agriculture of the United States.

North Central Region means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

North Central Division means the Division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural and Range Conservation Programs in the North Central Region.

Director of the North Central Division means the director of the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural and Range Conservation Program in the North Central Region.

State Committee means the group of persons designated for any State to assist in the administration of the 1938 Agricultural Conservation and the 1938 Range Conservation Program in such State.

County Agricultural Conservation Association or County Association means the association of the county organized to assist in the administration of the 1938 Agricultural and Range Conservation Programs in such county.

County Committee means the group of persons elected for any county to assist in the administration of the 1938 Agricultural Conservation Program and the 1938 Range Conservation Program in such county.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable a State, a political subdivision of a State, or any agency thereof.

Range Building Goal means that goal established for the ranching unit under the provisions of subsection A, Section XII.

Cumulative Goal or Yearly Cumulative Goal is that goal established for the ranching unit for each year, 1938, 1939, and 1940, under the provisions of subsection B, Section XII.

Range-building payment means a payment for the attainment of the yearly cumulative goal approved for the ranching unit.

Range-Building Allowance means the largest amount for any ranching unit which may be earned in any one year as a range-building payment on such ranching unit.

Ranch Operator means a person who as owner, cash tenant, or share tenant operates, or a person who acts in similar capacity in the operator of, a ranching unit in 1938.

Range Land means any land in which a ranch operator has such a legal estate or interest as to give him control thereof, which produces forage grazed by range livestock, without cultivation or general irrigation. Range land shall not include public domain of the United States, and other lands in which the beneficial ownership is in the United States.

Ranching unit means all range land which is used in 1938 by the ranch operator as a single unit in producing range livestock, with machinery, workstock, and labor substantially separate from that of any other range land. The ranching unit shall consist of not less than 640 acres of range land.

Animal unit means one cow, one horse, five sheep, or five goats, or the equivalent thereof.

Grazing capacity of range land means the number of animal units which such land will sustain, on a 12-month basis, over a period of years without decreasing the stand of grass or other grazing vegetation, and without injury to the forage, tree growth, or watershed.

In testimony whereof H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 9th day of June, 1938.

[SEAL] H. A. Wallace,
Secretary of Agriculture.

[F. R. Doc. 38-1641; Filed, June 9, 1938; 12:51 p. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 20 to Declaration No. 12]

Declaring Names of Counties Placed in Modified Tuberculosis-Free Accredited Areas

June 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

California.—Los Angeles, June 1, 1941.

South Dakota.—Lincoln, June 1, 1941; Yankton, June 1, 1941.

Puerto Rico.—Corozal, June 1, 1941; Naranjito, June 1, 1941; Orocovis, June 1, 1941; Villalba, June 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the Status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama.—Franklin, June 1, 1941; Limestone, June 1, 1941; Macon, June 1, 1941.

Arizona.—Gila, June 1, 1941; Mohave, June 1, 1941; Pinal, June 1, 1941; Yavapai, June 1, 1941.

Arkansas.—Columbia, June 1, 1941; Hempstead, June 1, 1941; Lafayette, June 1, 1941; Monroe, June 1, 1941.

Georgia.—Bacon, June 1, 1941; Ben Hill, June 1, 1941; Berrien, June 1, 1941; Candler, June 1, 1941; Echols, June 1, 1941; Jeff Davis, June 1, 1941; Lamar, June 1, 1941; Long, June 1, 1941; Murray, June 1, 1941; Wayne, June 1, 1941.

Idaho.—Payette, June 1, 1941.

Illinois.—Johnson, June 1, 1944; Peoria, June 1, 1941.

Indiana.—Rush, June 1, 1941; Shelby, June 1, 1941.

Iowa.—Cerro Gordo, June 1, 1941; Franklin, June 1, 1941; Hardin, June 1, 1941; Marshall, June 1, 1941.

Kansas.—Ellis, June 1, 1941; Gove, June 1, 1941; Johnson, June 1, 1941; Nemaha, June 1, 1941; Ness, June 1, 1941; Rush, June 1, 1941; Russell, June 1, 1941.

Kentucky.—Barren, June 1, 1941; Jefferson, June 1, 1941; Perry, June 1, 1941; Union, June 1, 1941.

Louisiana.—Beauregard, June 1, 1941; Bienville, June 1, 1941; Claiborne, June 1, 1941; East Carroll, June 1, 1941; East Feliciana, June 1, 1941; Iberia, June 1, 1941; Jackson, June 1, 1941; Morehouse, June 1, 1941; Natchitoches, June 1, 1941; Red River, June 1, 1941; St. Mary, June 1, 1941; Sabine, June 1, 1941; Union, June 1, 1941; Vernon, June 1, 1941; West Baton Rouge, June 1, 1941; West Carroll, June 1, 1941; Winn, June 1, 1941.

Massachusetts.—Essex, June 1, 1941; Hampden, June 1, 1941; Hampshire, June 1, 1941; Suffolk, June 1, 1941.

Michigan.—Isabella, June 1, 1941; Midland, June 1, 1941.

Mississippi.—Bolivar, June 1, 1941; Humphreys, June 1, 1941; Issaquena, June 1, 1941; Sharkey, June 1, 1941; Sunflower, June 1, 1941; Washington, June 1, 1941.

Missouri.—Christian, June 1, 1941; Douglas, June 1, 1941; Hickory, June 1, 1941; Howell, June 1, 1941; Ozark, June 1, 1941; Taney, June 1, 1941; Texas, June 1, 1941.

Montana.—Fallon, June 1, 1941.

New York.—Steuben, June 1, 1941; Tompkins, June 1, 1941.

North Carolina.—Buncombe, June 1, 1941; Caldwell, June 1, 1941; Macon, June 1, 1941.

North Dakota.—Bottineau, June 1, 1944; Burke, June 1, 1944; Eddy, June 1, 1944; Mountrail, June 1, 1944; Rolette, June 1, 1944.

Ohio.—Henry, June 1, 1941; Shelby, June 1, 1941; Wyandot, June 1, 1941.

Rhode Island.—Washington, June 1, 1941.

South Carolina.—Dorchester, June 1, 1941.

Tennessee.—Campbell, June 1, 1941; Dickson, June 1, 1941; Hickman, June 1, 1941; Pickett, June 1, 1941.

Texas.—Blanco, June 1, 1941; Brooks, June 1, 1941; Burnet, June 1, 1941; Camp, June 1, 1941; Dickens, June 1, 1941; Hansford, June 1, 1941; Hidalgo, June 1, 1941; Hill, June 1, 1941; Hutchinson, June 1, 1941; Kerr, June 1, 1941; Morris, June 1, 1941; Motley, June 1, 1941.

Vermont.—Lamoille, June 1, 1941.

Virginia.—Buckingham, June 1, 1941; Giles, June 1, 1941; Grayson, June 1, 1941; Henry, June 1, 1941; Patrick, June 1, 1941; Smyth, June 1, 1941; Wythe, June 1, 1941.

West Virginia.—Brooke, June 1, 1941; Ohio, June 1, 1941.

Wyoming.—Carbon, June 1, 1941; Sheridan, June 1, 1941; Teton, June 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended,[1] is hereby further amended accordingly.

[SEAL] J. R. Mohler,
Chief of Bureau.

[F. R. Doc. 38-1639; Filed, June 9, 1938; 12:50 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-2]

Amendment of Alaska Fishery Regulations

June 7, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938,[2] together with subsequent regulations, are hereby amended by the following regulations:

KODIAK AREA

Herring fishery.—Regulation No. 3 prohibiting commercial fishing for herring from 6 o'clock antemeridian of Saturday of each week until 6 o'clock postmeridian of the Sunday following is rescinded.

PRINCE WILLIAM SOUND AREA

Herring fishery.—Regulation No. 2[3] prohibiting commercial fishing for herring from 6 o'clock antemeridian of Saturday of each week until 6 o'clock postmeridian of the Sunday following is rescinded.

SOUTHEASTERN ALASKA AREA

Sumner Strait District

Salmon fishery.—Regulation No. 2 (2) of supplement No. 251-24-1 issued on April 27, 1938, is amended to read as follows: Within 1,500 feet of a point on an unnamed island at the entrance to Port Protection, at 56 degrees 20 minutes 41 seconds north latitude, 133 degrees 38 minutes 4 seconds west longitude.

Clarence Strait District

Salmon fishery.—Regulation No. 15 (m) (3) is amended to read as follows: The Bronaugh Islands south of 55 degress 7 minutes 10 seconds north latitude and west of 131 degrees 43 minutes 30 seconds west longitude.

[SEAL] Daniel C. Roper,
Secretary of Commerce.

[F. R. Doc. 38-1633; Filed, June 9, 1938; 10:20 a. m.]

[1] 1 F. R. 2024.
[2] 3 F. R. 451, 512 (DI).
[3] 3 F. R. 1019 (DI).

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

Regulations Governing Beneficiaries of Health Facilities and Duties of Health Personnel[1]

1. *Purpose.*—The purpose of these regulations is to promote the efficiency of the health activities of the Indian Service. They shall be enforced with tact and judgment to the end that cooperation and unity of effort may be obtained throughout the Service.

2. *Application in Alaska.*—Due to varying conditions, these regulations shall apply to medical activities for the natives of Alaska only so far as practicable.

3. *Previous regulations.*—All regulations, orders, and circulars hitherto in operation which are inconsistent or in conflict with these rules and regulations are abrogated.

4. *Appointments, promotions, retirement, etc.*—Appointments, promotions, retirement, allowances or deductions for quarters, fuel, light and subsistence, and compensation shall be made in accordance with Rules and Regulations of the Civil Service Commission, the Secretary of the Interior, and the Commissioner of Indian Affairs as they apply to these several subjects.

5. *Educational leave for physicians.*—Physicians, in addition to annual leave, may be granted educational leave not to exceed 30 days per calendar year, or 60 days in every alternate year, under such regulations as the Secretary of the Interior may prescribe, and no additional salary or expense on account of this leave of absence shall be incurred. (45 Stat. 493; 25 U. S. C. 275.)

6. *Private practice.*—Physicians, other than those employed under contract and under special arrangement that limits their compensation to less than full-time salary, shall devote their whole time and attention to the duties of their positions and shall not be permitted to engage in outside practice except in cases of emergency involving life or limb and when no private physician is available.

7. *Emergency service.*—When emergency or other medical service is rendered to any non-beneficiary, the physician will make full report to the superintendent, who will render a bill to the recipient or other responsible person for the services rendered at rates not in excess of those charged locally and take the necessary steps to make collection. Any funds thus obtained will be taken up as Sundry Receipts and deposited for credit to the appropriate Proceeds of Labor hospital or agency account.

8. *Indian beneficiaries.*—All persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction; all persons who are descendents of such members and who reside within the present boundaries of any Indian reservation and all other persons of one half or more Indian blood are entitled to the services of the physician and to such drugs or medicines as he may dispense. Indians receiving medical, hospital, or dental service shall be expected to pay such fees, based upon the cost of service, as may hereafter be specified by the Commissioner of Indian Affairs. Free services need not be given to Indians who are economically able to pay such fees and refuse to do so. All fees received shall be covered into the Treasury of the United States as required by the Act of May 9, 1938 (Pub. No. 497—75th Cong.).

9. *Employees.*—The services of Indian Service physicians shall be available to all regular employees of the Indian Service as a privilege and an act of courtesy and in no sense as a contract or obligation on the part of the Government or its agents, except when such services interfere with the physicians' duties to the Indians. No additional expense to the Government shall be incurred in connection with such services. Fees for services to employees shall be charged and handled as indicated in Section 7 hereof.

10. *Applicants for pension or retirement.*—Physicians on full-time duty will examine applicants for pension or retirement when requested to do so by the Indian Office or other appropriate office.

11. *Intermarried white men not entitled to services.*—Physicians are not required to give medical treatment to intermarried white men but are required to attend the Indian wives and mixed-blood children of such white men on the same basis as other Indians.

12. *Care of persons not entitled to services.*—Persons not otherwise entitled to medical attendance may be admitted to Indian Service hospitals or sanatoria in cases of emergency when no other facilities are available, and when so admitted shall pay a fee equal to the per diem cost of operation, but not to exceed $5 per day, and shall pay for any special services, appliances, drugs or supplies which may be required. This service should not extend beyond the period when the patient can be safely removed elsewhere for treatment. Fees collected shall be deposited for credit to the appropriate Proceeds of Labor hospital account.

12a. *Surgical fees.*—Fees for surgery not in excess of those approved for services to Indians in private hospitals should be collected and deposited in the same manner.

13. *Beneficiaries of other Federal agencies.*—Beneficiaries of other governmental agencies may be hospitalized for whom reimbursement will be obtained at per diem rates determined from time to time by the Federal Board for Hospitalization. No additional charges for special services are allowable.

14. *Compensation cases.*—Employees injured in line of duty and coming within the scope of the Employees' Compensation Act of September 7, 1916 (39 Stat. 742), as amended, shall be given medical and hospital care without cost.

15. *Duties of physicians.*—While responsible to the superintendent and under his control, the physician will be held responsible for acquainting himself with health conditions on the reservation, making proper reports thereon, treating diseases, and taking such preventive measures as may be authorized under applicable laws and ordinances.

16. The physician will not only treat Indians in his office or dispensary but will also visit them in their homes and will do all in his power to give needed treatment and care to the sick. He will be governed by the highest code of professional conduct; give prompt attention to all calls for his services; impress upon his patients and their attendants the importance of the careful and regular administration of medicines and food. He will also endeavor to improve sanitary and hygienic conditions generally and instruct the Indians how to do so. He will endeavor to hospitalize all serious cases of illness, provided facilities are available.

17. *Epidemic diseases.*—Physicians shall promptly report to the superintendent cases of epidemic diseases for transmission to the State health authorities, the District Medical Director and the Washington Office.

18. *Vital Statistics.*—Physicians shall promptly report known births and deaths not otherwise reported and render appropriate certificates for the State health authorities and the Indian Office.

19. *Senior physician.*—The senior physician is defined as the physician who receives the highest salary or, if all physicians are in the same pay status, the one senior in length of service unless

[1] Issued under authority of Title 5 U. S. C. 485, Title 25 U. S. C. 2, 9, 13 and 31, and other citations noted.

otherwise designated by the Commissioner of Indian Affairs.

20. *Senior physician in charge.*—The senior physician is charged with the responsibility of administering the health service of the jurisdiction to which attached, including the formulation of the health program and the coordination of the health activities.

21. *Physician in charge of hospital.*—Ordinarily, the senior physician will have charge of the hospital or sanitorium and its employees and will formulate rules for hospital or sanatorium routine, subject to approval of the District Medical Director and Director of Health. He will prepare annual estimates for supplies, requisitions for supplies and equipment, and requests for repairs and improvements, submitting them to the superintendent for appropriate action. All recommendations for repairs and improvements to hospitals or sanatoria involving structural changes must be submitted through the superintendent to the Commissioner of Indian Affairs.

22. *Efficiency reports.*—The senior physician shall prepare efficiency reports on the other physicians of the jurisdiction, if any, and on field and supervisory hospital nurses, and review efficiency reports on other personnel engaged in health work for submission through the superintendent to the Washington Office.

23. *Oral orders.*—Oral orders by a physician concerning care of hospital patients shall be confirmed in writing at the first opportunity.

24. *Immunizations and inoculations.*—The senior physician is charged with proper immunization of Indians and employees of the jurisdiction against smallpox, typhoid fever, diphtheria, and other diseases prevented by such means.

25. *Records.*—Records of patients treated shall be kept upon the prescribed forms, and reports required shall be rendered promptly upon the proper forms.

26. *Quarantine.*—When examination by the physician reveals that an Indian is afflicted with trachoma, tuberculosis, or other contagious or infectious disease, and such Indian refuses to submit to remedial treatment, the physician shall prepare a transcript of the record of the case including any statement of objection by the Indian together with his recommendations and submit same to the Secretary of the Interior through the Commissioner of Indian Affairs. In all such cases where the Secretary approves the findings of the physician, and in all cases where Indians afflicted with any of such diseases do not object to remedial treatment, the physician through the superintendent is authorized to take necessary measures including that of calling upon the police force of the agency or the tribe to enforce quarantine and treatment of such diseases. When the use of such force proves ineffective, the said physician after first obtaining authority from the Washington Office therefor may call in the police force of the State for such purpose. (25 U. S. C. 198; 38 Stat. 584.)

27. *Cooperation in health matters.*—It shall be the duty of physicians and other employees engaged in health activities to cooperate with and advise the governing bodies of organized tribes in matters of sanitation and the prevention of disease or its spread, and to cooperate with State, county, and local health organizations or officers in preventing the spread of communicable diseases and in all matters that will promote the health and general welfare of the Indians.

28. *Sanitation of camps.*—The physician shall have charge of and be held responsible for the sanitary features of all camps maintained within the jurisdiction.

29. *Sanitary inspections.*—The physician shall make systematic inspections twice a month, or oftener if necessary, of sanitary conditions of the agency, hospital and school buildings, grounds, and property, and other conditions affecting the health of the Indians and employees, and report his findings, with recommendations, to the superintendent, sending copies to the District Medical Director and the Director of Health.

30. *Records.*—Records of patients treated shall be kept upon required forms. Reports of medical activities and vital statistics shall be rendered promptly upon prescribed forms.

31. *Vaccination of employees.*—All persons employed in the Indian Field Service should be vaccinated against smallpox upon entrance except such as can show evidence of immunity.

32. *Vaccination during epidemics.*—When an epidemic of smallpox is threatened by reason of the presence of the disease in the neighborhood, all employees and their families, both adults and children, should be vaccinated unless evidence of immunity can be shown.

33. *Record of vaccinations and other immunizations.*—A complete record of the dates, names, ages, home addresses, and reactions shall be kept in the permanent records of every Indian Service physician of persons vaccinated or inoculated, such record to include name of manufacturer of product used, lot number, and expiration date.

34. *Arsenicals and heavy metals.*—A similar record shall be kept of administrations of arsenicals and other heavy metals as required for vaccinations and immunizations covered by Section 33 hereof.

35. *Quarantinable diseases.*—Smallpox, chickenpox, measles, German measles, mumps, scarlet fever, diphtheria, cerebro-spinal meningitis, infantile paralysis, whooping cough, and acute epidemic conjunctivitis (pink eye), shall be segregated or quarantined under treatment until all danger of communicability is passed. The directions of the physician in regard to the time of releasing patients from detention or quarantine, the methods of disinfection, and the precautions to be observed shall be strictly enforced. Scabies and impetigo, though not quarantinable, should be segregated until cured.

36. *Polluted water supplies.*—The superintendent and physician shall see that all sources of water supply are inspected at regular intervals, samples analyzed, and that all possible measures are taken for their protection against pollution. All cases of contaminated water supply, dangerous to health, must be reported to the District Medical Director at once. Indians should be warned of the danger from polluted water, which should be placarded.

37. *Narcotics.*—One physician preferably the senior physician, shall be solely responsible for the stock supply of narcotics at each jurisdiction, except where necessary to maintain a stock at more than one place within the jurisdiction, when the superintendent shall designate in writing other physician or physicians responsible therefor. The narcotic stock shall be properly safeguarded under lock and key, and the responsible physician shall have sole possession of the key. A narcotic stock record of receipts and issues shall be kept accurately for each form or class of narcotics separately on form 5–364a. A dispensary or ward narcotic record shall be kept accurately by each physician and at each hospital on form 5–364b to account for all narcotics withdrawn from stock for proper use.

38. *Alcohol.*—All medicinal and rubbing alcohol shall be properly safeguarded under lock and key and accurate record kept of receipts and issues by the physician in charge. Alcohol used for other purposes shall be properly accounted for by the superintendent.

39. *Accidents.*—All unusual accidents occurring within the jurisdiction, and especially in the hospital, must be immediately reported in detail to the Office, a copy of the report to be furnished to the District Medical Director.

40. *Admission and discharge of patients.*—Except in his absence, all admissions to and discharges from Indian Service hospitals shall be made upon the order of the physician in charge of the hospital. If possible, adult patients leaving the hospital against the advice of the physician in charge should be required to sign a certificate releasing the Service from all responsibility.

41. *Signed agreement to prevent removal of patients.*—Parents, guardians, or, in the absence of such, proper responsible parties shall consent in writing before a minor or incompetent person is admitted to the hospital agreeing not to remove such minor or incompetent person from the hospital against the advice of the physician.

42. *Consent for operations.*—Signed consent for surgical operations shall be obtained from the patient if an adult, or from the parents or guardians of minors, before operation is undertaken. The nature of condition or operation must be made known to patient, or other signer, and stated on prescribed form for consent. In emergency, oral consent may be taken from adults provided one or more witnesses sign the prescribed form, also setting forth circumstances. In emergency, when patient is unconscious, or parents or guardians of minors cannot be reached, the physician or physicians shall consult with the superintendent or officer in charge and certify necessity of action before proceeding with operation.

43. *Examination of pupils.*—All Indian pupils in boarding, day, mission, or public schools must be examined at the beginning of the school year and the results recorded on forms provided for this purpose. In addition, they must be examined as often as is necessary properly to safeguard their health.

44. *Physical examination for pupils to be transferred.*—Pupils designated for transfer to non-reservation schools shall be examined by a physician, who shall enter his findings on card No. 5–354, and also on such other form as may be prescribed, one copy of this card to go with the pupil and one to remain in the local files. Card shall also show immunizations given and past record of sickness. No pupil suffering from tuberculosis in an infectious stage shall be transferred to any Indian boarding school.

45. *Exclusions from schools.*—No pupils suffering from active pulmonary tuberculosis in any of its stages shall be admitted to any Indian school. Those who develop pulmonary tuberculosis and those who develop the suppurative stage of glandular tuberculosis while attending school shall be sent to a sanatorium, a general hospital with provisions for treating tuberculosis, or to their homes. Other exclusions shall be enforced at the discretion of the Indian Service physician.

46. *Weight of pupils.*—All pupils shall be weighed on admission to the school, and monthly thereafter. The weights shall be recorded on a form for that purpose. Physicians shall examine the weight records of the pupils after each regular weighing and give necessary attention to all who lose weight.

47. *Communicable diseases: Control of.*—All cases of illness among employees and pupils suspected of being of a communicable character shall be isolated until they are proved non-communicable.

48. When communicable disease is present, the physician shall make a medical examination of all Indian Service employees and the members of their families who live on the school grounds, or who associate with the pupils, to determine whether such employees and their families are free from dangerous communicable diseases.

49. No pupil in whose family exists a case of dangerous communicable disease shall be permitted to attend school until the patient or patients shall have recovered, proper disinfection been made, and the fact established that the attendance of the pupil will not endanger the health of others attending the school.

50. *Report of epidemics.*—The presence of epidemic diseases in a school shall be reported immediately to the Commissioner of Indian Affairs and the State and County Health Officers by the superintendent and adequate measures taken by the physician for the control of such diseases. Superintendents shall submit a complete report at the close of every epidemic affecting the Indians of their jurisdiction, giving the number of cases and the number of deaths.

51. *Trachoma: Segregation of acute cases.*—The seating in schoolrooms shall be so arranged as to put trachomatous pupils as far as possible from non-trachomatous, and they shall be subjected to treatment; and such pupils shall not be released from this arrangement except by permission of the attending physician.

51a. A card shall be made and kept in the permanent files for each trachomatous pupil.

52. *Vaccination of pupils.*—School physicians shall vaccinate all pupils in school once every year unless such pupils show evidence of a recent successful vaccination or can furnish satisfactory proof of having had smallpox.

53. *Nurses' uniforms.*—Nurses are required to wear the prescribed uniform pertaining to the line of duty to which they are assigned when on official business in their territory or at their place of work.

54. *Organization.*—All nursing activities are under the administrative control of the senior physician of the agency but are under the professional guidance of the Director of Nursing, who is responsible for developing the quality of nursing care rendered in the Service.

55. *Efficiency reports.*—Nurses in a reservation unit charged with supervising duties shall submit to the Washington Office, through the medical officer in charge, reports on the efficiency of the nurses working under their supervision. They may be required by the medical officer to prepare efficiency reports on other personnel engaged in hospital activities.

56. *Records.*—Nurses shall keep such station records of nursing activities as are required by the Washington Office and shall submit required reports of their work through the physician and superintendent.

57. *Duties (hospital).*—Hospital nurses are required to carry out the written orders of the physicians in charge of the case. Oral orders will be carried out; but the physician is responsible for confirming them, and the nurse is not responsible for errors made in accepting them. All such orders given by the physician over the telephone, or when impossible to write on the order sheet, must be recorded by the nurse as an oral order by the physician. Orders will be checked or initialed by the nurse who begins the treatment. The proper administration of the hospital is the responsibility of the physician, but the chief or head nurse charged with the executive and supervising duties shall be responsible for the hospital housekeeping and the nursing care. All complaints and instructions shall be carried through her by the medical officer in charge to and from the subordinate personnel.

57a. *Accidents and complaints.*—All accidents and complaints (serious) from patients and their families shall be reported in writing by the charge nurse, through the medical officer, to the superintendent.

58. *Duties (field nurses).*—Field nurses are under the administrative guidance of the senior physician. Their program of work is part of the whole program of health service for the community and as such must be formulated or approved by the senior physician. The purpose of the field nurse service is the promotion of health and the prevention of disease. The standard techniques and procedures of public health nursing will obtain, and the development of these nursing techniques is the professional responsibility of the Director of Nursing.

59. Field nurses shall not be assigned to hospital duty nor hospital nurses assigned to field duty without prior authority from the Indian Office.

60. *Special physicians.*—The Medical Director in Charge of Trachoma Activities shall give consultant service and general direction to the work of the special physicians performing eye, ear, nose and throat work. The District Medical Director will have immediate supervision and assist in directing the itineraries of special physicians engaged in eye work.

61. Special Physicians engaged in tuberculous work will be under the direction of the Director of Health.

62. *Special physician report.*—Each special physician shall submit a report on the completion of work at a jurisdiction and also an annual report for work done during the fiscal year.

63. *Designations.*—All dentists employed by the Indian Service on a full-time basis will be known as field dentists. All dentists employed by the Indian Service on a part-time or fee basis will be known as resident dentists.

64. *Jurisdiction.*—Field dentists will be assigned to prescribed districts for the purpose of furnishing oral health service and clinical treatment to Indians. They will be assigned and work under the general direction of the Dental Supervisor and the local District Medical Director. Resident dentists will be assigned to a designated station and will furnish oral health service and clinical treatment to Indians of that jurisdiction. They will work under the immediate supervision of the senior physician of the jurisdiction and under the

general direction of the Dental Supervisor and the District Medical Director.

66. *Duties.*—Dentists of the Indian Service are required to instruct teachers, nurses, advisers and other school or hospital personnel in all matters relating to oral health in order that Indian children may be educated along these lines. Dentists are required to inspect facilities and equipment for the care of the mouth and teeth and report on these conditions to the superintendent, the District Medical Director and the Indian Office, on Form No. 5–243.

67. *Clinical treatment.*—All recognized Indians are entitled to such dental treatment as may be prescribed by the Indian Office. In general, this shall consist of extractions, restoration of decayed teeth with non-precious materials, prophylaxes, and the treatment of all oral pathological conditions. (See Section 8 hereof).

67a. *Employees.*—Employees of the Indian Field Service at isolated stations where local practicing dentists are not accessible are entitled to a limited amount of dental treatment, such as extractions, alloy and cement dental restorations, and treatment for diseased conditions.

67b. Prior to visiting a jurisdiction, field dentists will notify the superintendent in order that Indians not in the immediate vicinity of the clinic will have an opportunity to visit field dentists for necessary treatment. Prior to rendering treatment for children at a particular school, field dentists will make a complete dental examination of all pupils, recording the findings of the oral examination on form 5–243b. This examination should show not only carious teeth but also indicate missing, devitalized or abscessed teeth, and any pathological condition that may be present. This shall constitute a permanent record at the school or station at which the services are performed.

67c. *Itineraries.*—Itineraries shall be arranged by the District Medical Director; and unless otherwise directed by him, the field dentists will remain at a station until all routine treatment is completed.

68. *Records and reports.*—All dentists of the Indian Service will keep records and submit reports on form 5–243.

69. *Efficiency reports on traveling personnel.*—The District Medical Director will render efficiency reports on special physicians, field dentists, and district supervisory nurses at stated intervals.

70. *Monthly reports.*—The following records are to be submitted monthly:

(1) Monthly In-Patient and Dispensary Patient Report of Hospital.

(2) Monthly Report of Domiciliary Patients and Out-Patients.

(3) Birth Certificates.

(4) Death Certificates.

71. *Donations.*—All donations or contributions of funds or property for health or other purposes shall be reported in detail to the Indian Office for acceptance by the Secretary of the Interior. (45 Stat. 1106; 25 U. S. C. 451).

72. *Admissions to hospitals.*—The admission of patients into Indian hospitals and sanatoria is governed by Order No. 492, approved by the Department, March 10, 1938.

73. *Enforcement of State health laws.*—State health authorities are authorized to enter upon Indian tribal lands, reservations or allotments within the respective States for the purpose of making inspection of health conditions looking to the enforcement, except as hereinafter provided, of sanitation and quarantine regulations of the particular State in like manner as such regulations are enforced in the surrounding territory. In connection with and prior to such proposed enforcement, the physician in charge of each reservation shall schedule the State sanitation and quarantine regulations which ought to be enforced upon the reservation, together with a statement of any limitations and conditions which should govern the application of such State regulations. Tribal authorities and individual Indians shall be afforded ample opportunity to submit protests or recommendations with respect to specific State regulations thus proposed for extension to the reservation. It shall be the duty of the superintendent to transmit to the Secretary of the Interior through the Commissioner of Indian Affairs, the schedule of State regulations thus posted, together with any protests or criticisms made by Indians with respect thereto. Such State regulations as are approved by the Secretary of the Interior shall thereafter be in force upon the reservation subject to such conditions as the Secretary may prescribe. No State law shall be applied within the jurisdiction of any organized tribe which is in conflict with any ordinance or resolution of the tribe. (45 Stat. 1185; 25 U. S. C. 231.)

74. *Indian Service Physicians as Deputy State Health Officers.*—Physicians in the Indian Service shall act as Deputy State Health Officers of the reservations to which assigned without additional compensation when so appointed by the State Board of Health, subject to approval by the Secretary of the Interior. (Ex. Order No. 7369, May 13, 1936).

75. *Relation to State board of health.*—Physicians, when appointed pursuant to Section 74 hereof, shall bear, so far as compatible with State laws, the same relation to the State Board of Health as do county and local health officers.

76. *Application with relation to constitutions, by-laws, and charters of organized tribes.*—These regulations shall apply to tribes organized pursuant to the Reorganization Act of June 18, 1934, as amended June 15, 1935, and May 1, 1936, and the Oklahoma Welfare Act of June 26, 1936, except where inconsistent with the provisions of the constitutions, by-laws, or charters granted to such tribes pursuant thereto, or any ordinances or resolutions adopted by such tribes pursuant to the authority of such constitutions, by-laws, or charters. The provisions of the constitutions, by-laws, charters, ordinances, and resolutions adopted by such tribes pursuant thereto dealing with matters of health and sanitation among the Indians shall govern where they conflict with the provisions of the regulations.

77. *Contracts for medical, nursing, and hospital service.*—The Secretary of the Interior may enter into contracts for medical, nursing, or hospital services with any State or territory or political subdivision thereof, or any State university, college, or school, or with any appropriate State or private corporation, agency, or institution. (49 Stat. 1458; 25 U. S. C. 452–5, Sup. III.)

JOHN HERRICK,
Acting Commissioner.

Approved, May 27, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–1631; Filed, June 8, 1938; 3:40 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

INVENTORY OF MATERIALS AND SUPPLIES

ORDER WAIVING THE PROVISIONS OF VALUATION ORDERS NOS. 4 AND 22 FOR THE YEAR 1938

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 22nd day of April, A. D. 1938.

It is ordered, That the requirements of Valuation Orders Nos. 4 and 22, relating to inventory of materials and supplies, made and entered by the commission under dates of June 25, 1914, and July 26, 1918, respectively, be, and they are hereby, waived in so far as applicable to the year 1938.

By the commission, division 1.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–1635; Filed, June 9, 1938; 12:39 p. m.]

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49602]

CERTAIN AIRPORTS REDESIGNATED AS AIRPORTS OF ENTRY FOR A PERIOD OF ONE YEAR

JUNE 6, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the following-named airports are hereby redesignated as airports of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from the dates shown opposite their respective names:

Name	Location	Date of redesignation
Sandusky Municipal Airport.	Sandusky, Ohio...	June 1, 1938
Great Falls Municipal Airport.	Great Falls, Mont.	June 2, 1938
Havre Municipal Airport.	Havre, Mont.....	June 2, 1938
Plattsburg Municipal Airport.	Plattsburg, N. Y..	June 2, 1938
Spokane Municipal Airport (Felts Field).	Spokane, Wash...	June 2, 1938
Watertown Municipal Airport.	Watertown, N. Y.	June 2, 1938

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1634; Filed, June 9, 1938; 10:36 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT–5513]

APPLICATION OF THE TWIN STATE GAS & ELECTRIC COMPANY

ORDER SETTING DATE OF HEARING

JUNE 7, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application filed April 27, 1938, pursuant to Section 203 (a) of the Federal Power Act, by The Twin State Gas & Electric Company, a corporation organized under the laws of the State of Connecticut, having its principal business office in the city of Rutland, Vermont, for an order authorizing it to sell and dispose of certain of its electric facilities to New York Power and Light Corporation, a corporation organized under the laws of the State of New York and having its principal business office in the city of Albany, New York;

The Commission orders that:

A public hearing on said application be held on June 23, 1938, at 10:00 A. M. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38–1632; Filed, June 9, 1938; 9:37 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of June, A. D. 1938.

[File No. 32–51]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY

ORDER AMENDING ORDER GRANTING EXEMPTION

Washington Gas Light Company, a subsidiary company of Washington and Suburban Companies, a registered holding company, having filed a supplemental application requesting this Commission to amend Subdivision (4) of its order issued June 22, 1937 (upon the amended application of said company (File No. 32–51) for exemption from the provisions of section 6 (a) of the above described Act (among other things), of the issue and sale of $4.50 Cumulative Convertible Preferred Stock), which reads:

"the issue and exchange by it from time to time of such number of shares, not exceeding 60,000 of common stock without par value, as may be required when and as holders of such preferred stock may elect to exercise conversion rights applicable thereto;"

A hearing on such supplemental application having been held after appropriate notice; [1] the record in this matter having been duly considered; and the Commission having made and filed its findings herein;

It is ordered, That Subdivision (4) of this Commission's Order dated June 22, 1937, issued upon the amended application of Washington Gas Light Company (File No. 32–51) be amended by striking out the following:

"the issue and exchange by it from time to time of such number of shares, not exceeding 60,000 of common stock without par value, as may be required when and as holders of such preferred stock may elect to exercise conversion rights applicable thereto;"

and inserting in lieu thereof, the following:

"the issue and exchange of such number of shares of common stock of said company as may, in accordance with the conversion rate at the time applicable to the $4.50 Cumulative Convertible Preferred Stock be required for the purpose of delivering to the holders of said 20,000 shares of preferred stock the number of shares of common stock to which such holders would be entitled, in accordance with the provisions of the resolution creating such stock when and as they may elect to exercise their conversion rights applicable thereto (the number of shares of common stock initially to be reserved to be 60,000)."

It is further ordered, That if Order No. 1611 of the Public Utilities Commission of the District of Columbia, authorizing the issue and sale of the securities set out in said amended application (File No. 32–51) shall be revoked or shall otherwise terminate, this Order shall immediately terminate without further action by this Commission.

The authority granted herein, extends to the issuance of transferable scrip upon the conversion of $4.50 Cumulative Convertible Preferred Stock as is authorized by Order No. 1611 of the Public Utilities Commission of the District of Columbia and contained in the stockholders' resolution of June 16, 1937 adopted pursuant to Public Act No. 577 of the 74th Congress.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1638; Filed, June 9, 1938; 12:48 p. m.]

[1] 2 F.R. 778 (DI).

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of June, A. D. 1938.

[File No. 32–90]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY

ORDER EXEMPTING SECURITIES AUTHORIZED BY STATE COMMISSION

Washington Gas Light Company, a subsidiary company of Washington and Suburban Companies, a registered holding company, having filed an application, and amendments thereto (File No. 32–90), for exemption from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935 of—

(1) the issue and sale by it of 15,600 shares of $4.50 Cumulative Convertible Preferred Stock, without par value;

(2) The issue and delivery by it to certain holders of common stock, of warrants to subscribe to 2,497 shares of said 15,600 shares of $4.50 preferred stock plus such additional number of shares of said preferred stock, not exceeding 2,400, as may be represented by additional warrants required by reason of the conversion of presently outstanding preferred stock into shares of common stock, prior to the record date (as specified in the underwriting agreement) of holders of shares of common stock entitled to such warrants;

(3) the issue and exchange of such number of shares of common stock, as may in accordance with the conversion rate at the time applicable to the $4.50 Cumulative Convertible Preferred stock, from time to time be required to satisfy the conversion rights applicable to 15,600 shares of such stock (46,800 shares initially based on the original conversion rate); and

a hearing having been held upon said application, as amended, after appropri-

ate notice,[1] the record in this matter having been duly considered and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in and for the purposes represented by, said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; provided, however, that if the authorization of the issue and sale of said securities by the Public Utilities Commission of the District of Columbia shall be revoked or otherwise terminate, this exemption shall immediately terminate without further order of this Commission. The authority herein granted also extends to the issuance of transferable scrip certificates, upon the conversion of $4.50 Cumulative Convertible Preferred Stock, as are authorized, by Order No. 1692 of the Public Utilities Commission of the District of Columbia, and the stockholders' resolution adopted June 16, 1937, pursuant to Public Act No. 577 of the 74th Congress; and

It is further ordered, That nothing contained herein shall be deemed to constitute an approval of the accounting entries which applicant has proposed in connection with this transaction, and the Commission reserves jurisdiction to issue such further orders, after opportunity for hearing, as it may deem appropriate, pursuant to any provision of the Act, regarding the manner in which applicant shall keep its accounts as well as the accounting procedures to be followed as to said issuance of securities and as to the accounting treatment of the amount by which the net proceeds received from the sale of such preferred stock may be less than the minimum liquidating value thereof, or to take any other appropriate action pursuant to the Act with reference to said accounting matters.

[1] 3 F. R. 1196 (DI).

It is further ordered, That, within ten days after the issue and sale of such securities the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purpose represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1637; Filed, June 9, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of June, A. D. 1938.

[File No. 32-92]

IN THE MATTER OF PAGE POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 23, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 18, 1938.

The matter concerned herewith is in regard to an application filed by Page Power Company, a subsidiary company of Republic Service Corporation, a registered holding company, for exemption from the provisions of section 6 (a) of said Act of the issue and sale by it, to Republic Service Corporation, of 1,400 shares of its no par value common capital stock at a price of $50 per share or a total sum of $70,000.

The funds derived from the sale are to be used, to partially reimburse applicant's treasury for cash expenditures made between October 31, 1931, and March 31, 1938, for betterments and improvements to its property, and to permit applicant to liquefy earnings heretofore accrued to the end that its Board of Directors, may declare and pay a dividend upon its outstanding capital stock, if they deem such action advisable and to the best interests of the applicant.

The issue and sale of said stock has been expressly authorized by the State Corporation Commission of the Commonwealth of Virginia, the State commission, of the State in which applicant is organized and doing business.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1636; Filed, June 9, 1938; 12:47 p. m.]

Reference

JUN 13 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES 1934

FEDERAL REGISTER

VOLUME 3 NUMBER 114

Washington, Saturday, June 11, 1938

The President

EXECUTIVE ORDER

TRANSFERRING CERTAIN LANDS TO THE SECRETARY OF AGRICULTURE FOR USE, ADMINISTRATION, AND DISPOSITION UNDER TITLE III OF THE BANKHEAD-JONES FARM TENANT ACT

WHEREAS I find suitable for the purposes of Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525), and the related provisions of Title IV thereof, all lands of the United States now under the supervision of the Secretary of Agriculture (1) which have been acquired by the Department of Agriculture for use in connection with those land-development and land-utilization projects transferred to it by Executive Order No. 7530 of December 31, 1936, as amended by Executive Order No. 7557 of February 19, 1937[1] (including lands transferred to it by the said Executive order, lands thereafter acquired pursuant to the said Executive order, as amended, lands set apart and reserved from the public domain, and lands acquired by transfer from other Federal agencies, whether by Executive order or otherwise), and (2) which are now in process of acquisition by the Department of Agriculture, pursuant to existing contracts of purchase and pending condemnation proceedings, for use in connection with the said projects:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 45 of the said Bankhead-Jones Farm Tenant Act, it is ordered that all the right, title, and interest of the United States in the lands so acquired or in process of acquisition, be, and they are hereby, transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the said Act and the related provisions of Title IV thereof; and immediately upon acquisition of legal title to those lands now in process of acquisition, this order shall become applicable to all the additional right, title, and interest thereby acquired by the United States;

Provided, that no lands heretofore set apart and reserved from the public domain shall be disposed of by sale, exchange, or grant, in accordance with the provisions of said act, without the approval of the Secretary of the Interior;

And Provided further, that this order shall not apply to any of the said lands which have been, by Executive order or proclamation, included in or reserved as a part of a national forest or of a wildlife, waterfowl, migratory bird, or research refuge, or to the right, title, and interest of the United States in the mineral resources of those lands which have heretofore been set apart and reserved from the public domain, and shall not restrict the disposition of such mineral resources under the public-land laws.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 9, 1938.

[No. 7908]

[F. R. Doc. 38-1658; Filed, June 10, 1938; 12:46 p. m.]

[1] 2 F. R. 9, 411 (DI).

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[G. S. Q. R., Series 5, No. 1, Rev. 1]

SUGAR CONSUMPTION REQUIREMENTS AND QUOTAS FOR THE CALENDAR YEAR 1938

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937 (hereinafter referred to as the "act"), I, H. A. Wallace, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give

CONTENTS

THE PRESIDENT

Executive Order: Page
Land transferred to Secretary of Agriculture for use, etc., under Bankhead - Jones Farm Tenant Act 1389

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Sugar consumption requirements and quotas, 1938 1389
Philippine Islands, proration of 1938 deficit 1391
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Orders to cease and desist:
Deran Confectionery Co 1391
Excello Fabrics, Inc 1392
Rubinstein, Helena, Inc 1391
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Merchandise subject to control, etc., by Federal agencies 1392
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Capital stock tax returns, time extension for filing 1393
Income tax, "qualified electing shareholder"; election as to recognition of gain in certain corporate liquidations 1393
TITLE 27—INTOXICATING LIQUORS:
Federal Alcohol Administration Division:
Distilled spirits labeling, reference to use of coloring, etc 1394
Name and address required on brands bottled by same person at different premises 1395

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Department of the Interior, National Bituminous Coal Commission: Page

Maximum discounts or price allowances to "distributors", etc.; hearing continued 1395

Sunshine Anthracite Coal Co., argument on exceptions to proposed report 1396

Federal Power Commission:

City of Los Angeles and Department of Water and Power v. Nevada-California Electric Corp., hearing 1396

Pack, Robert F., et al., hearing postponed 1396

Federal Trade Commission:

Oleomargarine Manufacturing Industry, proposed trade practice rules 1396

Interstate Commerce Commission:

Express rates, 1938, investigation, etc 1397

Securities and Exchange Commission:

Hickok Oil Corp, exemption 1397

Kansas Electric Power Co., effective date for declaration 1397

Market Street Railway Co., common stock, etc., effective date of order 1397

Massachusetts Utilities Associates, hearing 1398

public notice of these regulations[1] (constituting a revision of and superseding General Sugar Quota Regulations, Series 5, No. 1[2]) which shall have the force and effect of law and shall remain in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

I

It is hereby determined pursuant to section 201 of the said act, that the quantity of direct consumption sugar distributed for consumption as indicated by official statistics of the Department of Agriculture during the 12-month period ended October 31, 1937, is 6,965,170 short tons, raw value, and that, having made the allowances provided for in said section 201, the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1938 is 6,780,566 short tons of sugar, raw value.

II

1. There are hereby established, pursuant to section 202 of the said act, for domestic sugar-producing areas, for the calendar year 1938, the following quotas:

Area	Quotas in terms of short tons, raw value
Domestic beet sugar	1,572,559
Mainland cane sugar	426,310
Hawaii	951,753
Puerto Rico	809,649
Virgin Islands	9,046

2. There are hereby established, pursuant to section 202 of the said act, for foreign countries and the Commonwealth of the Philippine Islands, for the calendar year 1938, the following quotas:

Area	Quotas in terms of short tons, raw value
Philippine Islands	1,044,903
Cuba	1,939,546
Foreign countries other than Cuba	26,800

3. The quota for foreign countries other than Cuba is hereby prorated, pursuant to section 202 of the said act, among such countries as follows:

Country	Quotas in pounds
Argentine	15,651
Australia	219
Belgium	315,994
Brazil	1,285
British Malaya	28
Canada	605,778
China & Hong Kong	309,344
Colombia	286
Costa Rica	22,115
Czechoslovakia	282,703
Dominican Republic	7,159,845
Dutch East Indies	226,960
Dutch West Indies	7
France	188
Germany	125
Guatemala	359,580
Haiti, Republic of	989,523
Honduras	3,685,496
Italy	1,880
Japan	4,304
Mexico	6,476,334
Netherlands	233,919
Nicaragua	10,974,135
Peru	11,933,039
Salvador	8,813,386
United Kingdom	376,506
Venezuela	311,370
Sub-total	53,100,000
Unallotted reserve	500,000
Total	53,600,000

III

1. The quotas established in paragraph 1 of section II hereof for the following listed areas may be filled by direct consumption sugar not in excess of the following amount for each such area:

Area	Amounts of direct consumption sugar in terms of short tons, raw value
Hawaii	29,616
Puerto Rico	126,033
Virgin Islands	0

2. The quotas established in paragraph 2 of section II hereof for the following listed areas may be filled by direct consumption sugar not in excess of the following amount for each such area:

Area	Amounts of direct consumption sugar in terms of short tons, raw value
Commonwealth of the Philippine Islands	80,214
Cuba	375,000

IV

There are hereby established, pursuant to section 208 of the said act, for foreign countries, for the calendar year 1938, quotas for liquid sugar as follows:

Country	In terms of wine gallons of 75% total sugar content
Cuba	7,970,558
Dominican Republic	830,894
Other foreign countries	0

V

1. For the calendar year 1938, all persons are hereby forbidden pursuant to section 209 of the said act, from bringing or importing into the continental United States from the Territory of Hawaii, Puerto Rico, the Virgin Islands, the Commonwealth of the Philippine Islands, or any foreign country, any sugar or liquid sugar after the quota for such area, or the proration of any such quota, has been filled.

2. For the calendar year 1938, all persons are hereby forbidden, pursuant to section 209 of the said act, from shipping, transporting or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets or sugarcane grown in either the domestic beet sugar area or the mainland cane sugar area after the quota for such area has been filled.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, City of Washington, this 9th day of June, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1656; Filed, June 10, 1938; 12:38 p. m.]

[1] These regulations shall not apply to (1) the first 10 short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba; (2) the first 10 short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba, for religious, sacramental, educational, or experimental purposes; (3) liquid sugar imported from any foreign country, other than Cuba, in individual sealed containers not in excess of one and one-tenth gallons each; or (4) any sugar or liquid sugar imported, brought into, or produced or manufactured in the United States for the distillation of alcohol or for livestock feed, or for the production of livestock feed.

[2] 2 F. R. 3367 (DI).

[G. S. Q. R., Series 5, No. 3]

PRORATION OF 1938 DEFICIT FOR PHILIPPINE ISLANDS

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937 (hereinafter referred to as the "act"), I, H. A. Wallace, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give public notice of these regulations, which shall have the force and effect of law and shall remain in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

1. It is hereby determined, pursuant to Section 204 (a) of the said act, that for the calendar year 1938 the Commonwealth of the Philippine Islands will be unable by an amount of 107,766,000 pounds of sugar, raw value, to market the quota established for that area in General Sugar Quota Regulations, Series 5, No. 1, Revision 1, approved June 9, 1938.

2. An amount of sugar equal to the deficit determined in paragraph 1 is hereby prorated, pursuant to Section 204 (a) of the said act, to foreign countries other than Cuba as follows:

Country	(In terms of pounds, raw value) Additional prorations
Argentine	31,764
Australia	444
Belgium	641,307
Brazil	2,608
British Malaya	57
Canada	1,229,421
China and Hong Kong	627,811
Colombia	580
Costa Rica	44,882
Czechoslovakia	573,743
Dominican Republic	14,530,845
Dutch East Indies	460,613
Dutch West Indies	14
France	382
Germany	254
Guatemala	729,765
Haiti, Republic of	2,008,229
Honduras	7,479,683
Italy	3,815
Japan	8,735
Mexico	13,143,665
Netherlands	474,737
Nicaragua	22,271,914
Peru	24,218,001
Salvador	17,886,692
United Kingdom	764,116
Venezuela	631,923
Total	107,766,000

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 9th day of June, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1657; Filed, June 10, 1938; 12:38 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2939]

IN THE MATTER OF HELENA RUBINSTEIN, INC.

ORDER TO CEASE AND DESIST

This matter coming on to be heard by the Commission upon the complaint filed herein on the 2nd day of October, 1936, and a stipulation as to the facts in lieu of testimony heretofore entered into by and between the respondent and the Federal Trade Commission in which stipulation the respondent admits without further evidence and without intervening procedure the Commission may make, enter, issue and serve upon respondent its findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having considered the complaint and the facts so stipulated and having made its findings as to the facts and conclusion and its modified findings as to the facts and conclusion that respondent has violated the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes";

It is ordered, That the respondent, Helena Rubinstein, Inc., a corporation, its directors, officers, agents and representatives and employees, in connection with the distribution and sale of cosmetics, facial creams and toilet preparations in interstate commerce cease and desist from:

Advertising or representing directly or indirectly, in newspapers, magazines, radio broadcasts, circulars, display cards, on cartons or any other form of advertising literature or in any other way, that any of said cosmetics, facial creams and toilet preparations

(1) will serve as a food for or nourish the human skin, muscles, or tissues;

(2) will prevent crow's feet and wrinkles and revitalize the skin tissues;

(3) will strengthen the eye nerves;

(4) contain living sparks of life which increase the therapeutic value of the products;

(5) will rebuild worn-out cells;

(6) will restore youth to dry, lined, wrinkled skin;

(7) will dissolve fatty tissues or act as effective weight reducers;

It is further ordered, That the respondent, Helena Rubinstein, Inc., a corporation, its directors, officers, agents and representatives and employees shall within ninety days from the date of service upon it of a copy of this order file with the Commission a report in writing setting forth the manner and form in which it has complied with the order herein set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1644; Filed, June 9, 1938; 3:45 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3111]

IN THE MATTER OF DERAN CONFECTIONERY COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, testimony and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein and oral arguments by Henry C. Lank, counsel for the Commission, and by Mark Wainer, counsel for the respondent, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Deran Confectionery Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribu-

[1] 2 F. R. 2277 (DI).

tion of candy in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing to dealers, candies so packed and assembled that sales of such candy to the general public are to be made, or may be made, by means of a lottery, gaming device or gift enterprise.

(2) Supplying to or placing in the hands of dealers assortments of candy which are used, or which may be used, without alteration or rearrangement of the contents of such packages or assortments, to conduct a lottery, gaming device or gift enterprise in the sale and distribution of candy contained in said assortments to the public.

(3) Packing or assembling in the same package or assortment of candy for sale to the public at retail individually wrapped pieces of candy of uniform size and shape with different colored centers, together with packages or boxes of candy or any other merchandise, which said packages or boxes of candy or other merchandise are to be given as prizes to the purchasers procuring pieces of candy with centers of a particular color.

(4) Representing in any manner that certain of its products are composed of malted milk, when in fact, such products are not in substantial part manufactured from, or made of, malted milk.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1647; Filed, June 10, 1938; 10:43 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 1st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3287]

IN THE MATTER OF EXCELLO FABRICS, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein on the 13th day of May, 1938, by the respondent admitting all the material allegations to be true and waiving the taking of further evidence and other intervening procedure, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Excello Fabrics, Inc., a corporation, its officers, agents, servants and employees, in connection with the advertising and offering for sale, sale and distribution of fabrics in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Using, assisting or cooperating in the using of the words "Pure Dye", or any other word or words of similar import or meaning, to describe or designate fabrics or products which are not composed wholly of silk, the product of the cocoon of the silkworm;

2. Using, assisting or cooperating in the using of the word "Satin" or any other word or words of similar import or meaning to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm, unless there is used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, a word or words actually naming or describing the fiber, material or materials from which said fabric or product is actually made; and provided that such disclosure of the fiber or material content thereof shall be made by accurately designating each constituent fiber or material thereof, in the order of its predominance by weight, beginning with the largest single constituent;

3. Using, assisting or cooperating in the using of the word "Silk" or any other word or words of similar import or meaning to describe or designate fabrics or products which are not composed wholly of silk, the product of the cocoon of the silkworm, unless in the case of a fabric or product composed in part of silk and in part of rayon or a material or materials other than silk there is used in immediate connection or conjunction therewith in letters of equal size and conspicuousness a word or words accurately describing the fiber, material or materials from which said fabric or product was actually made; and provided that the fiber or material content of such fabric or product be accurately disclosed by designating each constituent fiber or material thereof, in the order of its predominance by weight, beginning with the largest single constituent;

It is further ordered, That the respondent, Excello Fabric, Inc., shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1648; Filed, June 10, 1938; 10:43 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49600]

CUSTOMS REGULATIONS AMENDED—MERCHANDISE SUBJECT TO CONTROL, RESTRICTION, OR PROHIBITION BY FEDERAL AGENCIES

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in the Plant Quarantine Act of August 20, 1912, as amended by the acts of March 4, 1913, March 4, 1917, April 13, 1926, and May 1, 1928 (U. S. C., title 7, secs. 151 to 164, inclusive, and secs. 164 (a) and 167); the act of August 30, 1890, prohibiting the importation of diseased livestock, as amended by the act of June 28, 1926 (U. S. C., title 21, sec. 104); the act of February 2, 1903, to prevent the introduction and spread of livestock diseases, as amended by the act of February 7, 1928 (U. S. C., title 21, secs. 111, 112, 113, 120 and 121); the Meat Inspection Act of March 4, 1907 (U. S. C., title 21, secs. 71 to 89, inclusive); sections 306 and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 1306 and 1624); and section 161 of the Revised Statutes (U. S. C., title 5, sec. 22), the Customs Regulations of 1937 are hereby amended as follows:

Paragraph (d) of article 880[1] is amended to read as follows:

(d) *Shipments subject to restriction or prohibition by Federal agencies.*—The diversion of shipments in bond which may be subject on importation to restriction or prohibition under quarantines and regulations administered by the Bureau of Animal Industry or the Bureau of Entomology and Plant Quarantine shall be allowed only upon written permission or under regulations issued by the agency concerned (see ch. X).

Paragraph (h) of article 887[2] is amended to read as follows:

(h) Entries for immediate transportation without appraisement covering merchandise subject to detention or supervision by other Federal agencies must contain a sufficient description of the merchandise to enable the representative of the agency concerned to determine the contents of the shipment. Such merchandise covered by quarantines and regulations administered by the Bureau of Entomology and Plant Quarantine shall be forwarded under such entries only upon written permission of or under regulations issued by that Bureau (see ch. X).

Paragraph (a) of article 904[3] is amended to read as follows:

(a) Merchandise subject upon importation to examination, disinfection, or further treatment under quarantines and regulations administered by the Bureau of Entomology and Plant Quarantine cannot be released for transportation or exportation except upon written permission of or under regulations issued by that Bureau (see ch. X).

Paragraph (b) of article 907[1] is amended to read as follows:

(b) Such merchandise may be entered for consumption or warehouse. If the merchandise is subject on importation to quarantines and regulations administered by the Bureau of Entomology and Plant Quarantine, it may be entered for consumption or warehouse only upon written permission of or under regulations issued by that Bureau (see ch. X).

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

Date, May 17, 1938.

[F. R. Doc. 38-1649; Filed, June 10, 1938; 11:02 a. m.]

[1] 2 F. R. 1938.
[2] 2 F. R. 1940.
[3] 2 F. R. 1943.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4808]

CAPITAL STOCK TAX

EXTENSIONS OF TIME FOR FILING RETURNS UNDER SECTION 601 (D) OF THE REVENUE ACT OF 1938

To Collectors of Internal Revenue and Others Concerned:

Section 601 (d) of the Revenue Act of 1938, under which capital stock tax returns for the taxable year July 1, 1937, to June 30, 1938, must be filed, provides:

(d) • • • The Commissioner may extend the time for making the returns and paying the taxes imposed by this section, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

Pending the issuance of complete regulations, the following rules and regulations are hereby promulgated in respect of extensions of time for filing capital stock tax returns for the taxable year ended June 30, 1938:

The respective collectors of internal revenue are hereby authorized to grant, under the conditions prescribed herein, extensions of time for filing capital stock tax returns and for payment of such taxes. In the exercise of such authority, collectors of internal revenue shall grant an extension of time for filing the return and paying the tax, only: (1) upon a written application under oath filed on or before the statutory due date of the return and showing reasonable cause for the extension; (2) for such reasonable period as may be required by the circumstances, not to extend in any case beyond the 29th day of September next following the close of the taxable year; (3) with the provision that interest at the rate of 6 per cent per annum shall be paid upon the tax from the statutory due date (July 31) to the date of payment of the tax; and (4) in accordance with such procedure as may be prescribed from time to time by the Commissioner. The determination whether an application presents reasonable cause for an extension depends upon the particular circumstances of each case. Ordinarily, a showing of sickness or absence of the officers charged with the responsibility of making the return, or of other circumstances beyond the control of the corporation which prevent the filing of a proper return within the time required by law, constitutes reasonable cause warranting an extension. Accordingly, a corporation desiring an extension of time for filing its capital stock tax return and paying the tax must file with the collector on or before the statutory due date of the return an application under oath setting forth the reasons necessitating an extension and stating the time for which the extension is requested. In every case in which an extension is allowed, a copy of the collector's letter granting the extension shall be attached to the return when filed.

This Treasury decision is issued under authority contained in section 601 (d) of the Revenue Act of 1938.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 8, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1654; Filed, June 10, 1938; 12:24 p. m.]

[1] 2 F. R. 1943.

[T. D. 4809]

INCOME TAX

REGULATIONS RELATIVE TO DETERMINATION OF WHO IS A QUALIFIED ELECTING SHAREHOLDER AND TO THE MAKING AND FILING OF ELECTIONS UNDER SECTION 112 (B) (7) OF THE REVENUE ACT OF 1938, RELATING TO THE RECOGNITION OF GAIN IN CERTAIN CORPORATE LIQUIDATIONS

To Collectors of Internal Revenue and Others Concerned:

[In the original document, here follows the text of Section 112 (b) (7) of the Revenue Act of 1938.]

Pursuant to the authority contained in sections 62 and 112 (b) (7) of the Revenue Act of 1938, the following regulations are prescribed with respect to the determination of who is a qualified electing shareholder and the making and filing of written elections in connection with the complete liquidation of a domestic corporation occurring within the month of December, 1938.

ARTICLE 1. *Scope of regulations.*—These regulations relate only to the determination of who is a qualified electing shareholder and to the making and filing of elections under section 112 (b) (7) of the Revenue Act of 1938, which provides special tax treatment for the gain realized by a qualified electing shareholder on the shares of stock which he owned on the date of the adoption of a plan for the complete liquidation of a domestic corporation pursuant to which all its stock is canceled or redeemed, and the transfer of all its property occurs entirely within the month of December, 1938.

ART. 2. *Qualified electing shareholder.*—No corporate shareholder may be a qualified electing shareholder if at any time between April 9, 1938, and the date of the adoption of the plan of liquidation, both dates inclusive, it is the owner of stock of the liquidating corporation possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote upon the adoption of the plan of liquidation. All other shareholders are divided into two groups for the purpose of determining whether they are qualified electing shareholders: (a) shareholders other than corporations, and (b) corporate shareholders. Any shareholder of either of such two groups (whether or not the stock he owns is entitled to vote on the adoption of the plan of liquidation) is a qualified electing shareholder if—

(1) His written election to be governed by the provisions of section 112 (b) (7) of the Act has been made and filed as prescribed in article 3 of these regulations; and

(2) Like elections have been made and filed by owners of stock possessing at least 80 percent of the total combined voting power of all classes of stock owned by shareholders of the same group on the date of, and entitled to vote upon, the adoption of the plan of liquidation.

Example.—The R Corporation has outstanding 20 shares of common stock on July 1, 1938, the date of the adoption of a plan of liquidation within the provisions of section 112 (b) (7) of the Act, each entitled to one vote upon the adoption of such plan of liquidation. Ten of such shares are owned by the S Corporation, two each by the X Corporation and the Y Corporation, one by the Z Corporation, and one each by A, B, C, D, and E, individuals. There are also outstanding two shares of preferred stock, not entitled to vote on liquidation, one share being owned by F, an individual, and one share by the P Corporation. The S Corporation, being a corporate shareholder and the owner of 50 percent of the voting stock, may not be a qualified electing shareholder under any circumstances. In order for any other corporate shareholder to be a qualified electing shareholder, it is necessary that the X Corporation and the Y Corporation file their written elections to be governed by section 112 (b) (7) of the Act. If this is done, the P Corporation will also be a qualified electing shareholder if it has filed a like election. Similarly, in the case of the individual shareholders, some combination of four of the individual holders of the

common stock must have filed their written elections, before any individual shareholder may be considered a qualified electing shareholder, but if this is done, F will also be a qualified electing shareholder if he has filed a like election.

An election to be governed by the provisions of section 112 (b) (7) of the Act relates to the treatment of gain realized upon the cancelation or redemption of stock upon liquidation and can therefore be made only by or on behalf of the person by whom such gain will be realized. Thus, the shareholder who may make such election must be the actual owner of stock and not a mere record holder, such as a nominee.

A shareholder is entitled to make an election relative to the gain only on stock owned by him at the time of the adoption of the plan of liquidation. The election is personal to the shareholder making it and does not follow such stock into the hands of a transferee.

ART. 3. *Making and filing of written elections.*—An election to be governed by section 112 (b) (7) of the Act shall be made in duplicate under oath or affirmation on Form 964 in accordance with the instructions printed thereon and with these regulations. Such duplicate originals shall be filed by the shareholder or by the liquidating corporation with the Commissioner of Internal Revenue, Washington, D. C., attention of the Income Tax Unit, Records Division, within thirty days after the adoption of the plan of liquidation. A copy shall also be attached to and made a part of the shareholder's income tax return for his taxable year in which the transfer of all the property under the liquidation occurs.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 8, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1655; Filed, June 10, 1938; 12:24 p. m.]

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

[Regulations No. 5, Amendment No. 6]

AMENDING CERTAIN PROVISIONS OF THE DISTILLED SPIRITS LABELING REGULATIONS WITH REFERENCE TO THE USE OF HARMLESS COLORING, FLAVORING, OR BLENDING MATERIALS, USE OF THE PHRASE "ARTIFICIALLY COLORED" AND TO OTHER MATTERS

Pursuant to the provisions of Section 5 (e) of the Federal Alcohol Administration Act, as amended, Regulations No. 5,[1] Relating to Labeling and Advertising of Distilled Spirits, as amended, are further amended as follows:

1. Article II, Section 21, Class 7, of said regulations is amended to read:

CLASS 7. *Imitations.*—Imitations shall bear, as a part of the designation thereof, the word "imitation" and shall include the following:

(a) Any class or type of distilled spirits to which has been added coloring or flavoring material of such nature as to cause the resultant product to simulate any other class or type of distilled spirits;

(b) Any class or type of distilled spirits (other than distilled spirits required under Section 34, Article III, of these regulations to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has been added synthetic flavoring material;

(c) Any class or type of distilled spirits (other than distilled spirits required under Section 34, Article III, of these regulations to bear a distinctive or fanciful name and a truthful and adequate statement of composition) to which has been added a natural flavoring material which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any other flavoring material, if the labeling of such distilled spirits creates the impression that such other flavoring material has been employed in the manufacture of the product;

(d) Any class or type of distilled spirits (except cordials, liqueurs and specialties marketed under labels which do not indicate, or infer, that a particular class or type of distilled spirits was used in the manufacture thereof) to which has been added any whiskey essence, brandy essence, rum essence or similar essence or extract which simulates or enhances, or is used by the trade or in the particular product to simulate or enhance, the characteristics of any class or type of distilled spirits;

(e) Any type of rum to which neutral spirits or other distilled spirits than rum have been added;

(f) Any type of brandy to which neutral spirits or other distilled spirits than brandy have been added; and

(g) Any type of brandy distilled from a fermented mash of fruit and sugar or dextrose.

2. Article II of said regulations is amended by adding at the end thereof a new section to read:

SECTION 22. *Alteration of Class and Type: Harmless Coloring, Flavoring and Blending Materials.*—Except as otherwise provided in this section, the addition of any coloring, flavoring or blending materials whatsoever, to any class or type of distilled spirits shall be deemed to alter the class and type thereof. If the class or type of any distilled spirits shall be so altered, and if there is no class or type designation for the product as so altered, either specified in this Article or in accordance with trade understanding, such distilled spirits shall be designated with a distinctive or fanciful name together with a truthful and adequate statement of composition in accordance with Section 34, Article III, of these regulations. There may be added to any class or type of distilled spirits, without changing the class or type thereof, (1) such harmless coloring, flavoring or blending materials as are an essential component part of the particular class or type of distilled spirits to which added, and (2) harmless coloring, flavoring or blending materials such as caramel, straight malt or straight rye malt whiskeys, fruit juices, sugar or wine, which are not an essential component part of the particular distilled spirits to which added, but which are customarily employed therein in accordance with established trade usage, if such coloring, flavoring or blending materials do not total more than 2½% by volume of the finished product.

"Harmless coloring, flavoring and blending materials" shall not include (1) any material which would render the product to which it is added an imitation, or (2) any material whatsoever in the case of straight whiskey or in the case of neutral spirits, or (3) any material, other than caramel and sugar, in the case of cognac brandy.

Nothing herein shall be construed as in any manner modifying the Standards of Identity for cordials and liqueurs, or as authorizing any product which is defined in Class 7 as an imitation to be otherwise designated.

3. Article III, Section 34 (a) and (b), of said regulations is amended to read:

SEC. 34. *Class and Type.*—(a) The class and the type of the distilled spirits shall be stated in conformity with Article II of these regulations, if defined therein. If the class is not so defined, then the class shall be stated in conformity with the trade understanding thereof, and if the type is not so defined, any reference to type shall be similarly stated, but no product shall be regarded as having a designation in conformity with trade understanding unless through established usage such product has become known to the trade and to the public under such designation. If the class is not defined in Article II of these regulations, and there is no trade understanding as to the designation of the product, a distinctive or fanciful name, which shall be deemed the class designation for the purpose of these regulations, shall be stated on the brand label of the product. Notwithstanding the foregoing provisions of this section, the words "cordial" or "liqueur" need not be stated to indicate the class of distilled spirits which in fact are cordials or liqueurs, unless the Administrator finds that, without a designation of the class, the type designation is one which does not clearly indicate to the consumer that the product is a cordial or liqueur.

(b) Except as herein otherwise provided, a truthful and adequate statement of composition shall appear upon the brand label of any product which, in conformity with subsection (a), bears a distinctive or fanciful name or a designation in accordance with trade understanding. In the case of products such as highballs, cocktails, and similar prepared specialties, bearing, in conformity with subsection (a), trade designations which adequately indicate to the consumer the general character of the product, a statement of the classes and types of distilled spirits used in the manufacture thereof shall be deemed a sufficient statement of composition. No statement of composition is required to appear upon products bearing designations in accordance with trade understanding if such designation, through general and established usage, in itself adequately indicates to the consumer the composition of the product.

4. Article III, Section 34, of said regulations is further amended, effective July 1, 1938, by adding at the end thereof a new subsection to read:

(f) All distillates (other than neutral spirits) produced in a foreign country from a fermented mash of grain, and possessing the taste, aroma and characteristics generally attributed to whiskey, and all mixtures thereof, bottled at not less than 80° proof, which are not of a type defined in Class 2, Section 21, Article II, shall be deemed to be "whiskey" and shall be so designated. In the case of mixtures of whiskey, the component parts of which were distilled in more than one country, there shall be stated in direct conjunction with the class designation "whiskey" a truthful and adequate statement of the composition of the product. All whiskey (other than American type whiskeys, blended Scotch type whiskey, and blended Irish type whiskey) manufactured in Scotland, Ireland or Canada, shall be deemed to be Scotch, Irish or Canadian whiskey, and shall be so designated, in conformity with paragraphs (k), (l) and (m) of Class 2, Section 21, Article II, unless the application of such designation to the particular product will result in consumer deception, or unless such product is not entitled to such designation under the laws of the country in which manufactured.

5. Article III, Section 38 (d) of said regulations is amended to read:

(d) There shall be stated the words "artificially colored" on the label of any distilled spirits containing synthetic coloring materials, or natural materials the primary contribution of which is color, as well as upon the label of any distilled spirits the labeling of which is such as to convey the impression that the color of the product is derived from a given source if such color is, in whole or in part, not so derived: *Provided*, That this statement shall not be required by reason of the use of caramel in any brandy or rum or in any type of whiskey other than straight whiskey, and *Provided further*, That where such statement would be required by reason of the use of natural flavoring materials solely, there may be stated in lieu of "artificially colored," a truthful and adequate statement of the source of the color, such as "Color derived from (name of fruit, plant, etc., the name of which the product bears) and other fruits (plants, herbs, etc., or the names of such other fruits, plants, or herbs)."

Except as otherwise expressly provided, these amendments shall become effective fourteen days after the date of filing with the Division of the Federal Register.

[SEAL] W. S. ALEXANDER,
Administrator,
Federal Alcohol Administration.

Approved: June 8, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1642; Filed, June 9, 1938; 1:10 p. m.]

[Regulations No. 5, Amendment No. 8]

AMENDING THE REGULATIONS IN RESPECT TO THE STATEMENT OF THE NAME AND ADDRESS REQUIRED ON LABELS OF BRANDS OF DISTILLED SPIRITS BOTTLED BY THE SAME PERSON AT DIFFERENT PREMISES

Pursuant to the provisions of Section 5 (e) of the Federal Alcohol Administration Act, as amended, Regulations No. 5,[1] Relating to Labeling and Advertising of Distilled Spirits, as amended, are further amended as follows:

Article III, Section 35, subsections (a), (b) and (d) of said regulations are amended to read:

(a) *"Distilled by."*—On labels of domestic distilled spirits bottled by or for the actual distiller thereof, there shall be stated the words "distilled by", and immediately thereafter the name of such distiller and the place where distilled. If the distiller is the actual bona fide operator of more than one distillery distilling the same brand of whiskey or spirits, there may be stated immediately following the name of such distiller, the addresses of the distilleries at which such brand is distilled: Provided, That the State of distillation or State where distilled is specifically set forth upon the package, as provided by subsection (g) of this section.

(b) *"Blended by", "Made by", "Prepared by", "Manufactured by"*, or *"Produced by."*—On labels of domestic distilled spirits bottled by or for the actual rectifier thereof, there shall be stated the words "blended by", "made by", "prepared by", "manufactured by", or "produced by", whichever may be applicable, and immediately thereafter the name of the rectifier and the place where blended, made, or prepared. If the rectifier is the actual bona fide operator of more than one rectifying plant blending, making, preparing, manufacturing, or producing the same brand of whiskey or spirits, there may be stated immediately following the name of such rectifier the addresses of the rectifying plants so processing such brand: Provided, That there is stated upon a separate label on the front or back of the package the words "blended by", "made by", "prepared by", "manufactured by", or "produced by" and immediately thereafter the name of the rectifier and the place where blended, made, or prepared.

(d) *"Bottled by."*—On labels of domestic distilled spirits bottled without taxable rectification by the holder of a warehousing and bottling permit, or by any State or political subdivision thereof, who is not the actual distiller or rectifier of such distilled spirits, there shall be stated the words "bottled by", and immediately thereafter the name of the bottler and the place where bottled. If such bottler is the actual bona fide operator of more than one bottling plant engaged in bottling the same brand of whiskey or spirits, there may be stated immediately following the name of such bottler the addresses of the bottling plants at which such brand is bottled: Provided, That the State of distillation or State where the product is distilled is specifically set forth upon the package, as provided by subsection (g) of this section.

W. S. ALEXANDER,
Administrator,
Federal Alcohol Administration.

Approved, June 8, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1643; Filed, June 9, 1938; 1:10 p. m.]

[1] 1 F. R. 92.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 12]

IN THE MATTER OF PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" UNDER SECTION 4, PART II (H), OF THE BITUMINOUS COAL ACT OF 1937, AND ESTABLISHING RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS TO BE ESTABLISHED BY THE COMMISSION

NOTICE OF CONTINUANCE OF HEARING

1. Notice is hereby given that the hearing in the above entitled matter, previ-

[1] 1 F. R. 92.

ously adjourned to June 27, 1938,[1] is further continued indefinitely, to be resumed upon further notice of the Commission.

2. The Secretary of the Commission is forthwith directed to cause to be served a copy of this notice by mailing a copy thereof to the Secretary of each of the Bituminous Coal Producers Boards, the Consumers' Counsel, to code members within the several districts, to all known distributors; and to publish a copy of this notice in the FEDERAL REGISTER.

By Order of the Commission.

Dated this 10th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-1652; Filed, June 10, 1938; 12:12 p. m.]

[Docket No. 68-FD]

IN THE MATTER OF THE APPLICATION OF THE SUNSHINE ANTHRACITE COAL COMPANY FOR CERTIFICATE OF EXEMPTION FILED PURSUANT TO ORDER NO. 28

NOTICE OF ORAL ARGUMENT ON EXCEPTIONS TO PROPOSED REPORT OF THE COMMISSION

Notice is hereby given that the oral argument on the adoption of the proposed report of the Commission in the above-entitled matter and the exceptions of the Sunshine Anthracite Coal Company thereto, having been originally set for the first day of June, 1938, and continued by Order of the Commission dated the 28th day of May, 1938,[2] to a time and place to be determined upon five days' notice to the Sunshine Anthracite Coal Company, is now set for the 24th day of June, 1938, commencing at the hour of 10 o'clock a. m. before the Commission in the Hearing Room at Washington, D. C.

The Secretary of the Commission is forthwith directed to mail copies of this notice to the Sunshine Anthracite Coal Company, Consumers' Counsel and to the Secretaries of the Bituminous Coal Producers Boards, and shall cause a copy of the same to be published in the FEDERAL REGISTER.

By Order of the Commission.

Dated this 9th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-1651; Filed, June 10, 1938; 12:12 p. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. ID 546, 468, 389, 695, 252, 582, 315, 285, 495, 857, 959, 860, 861, 862, 863, 864]

APPLICATIONS OF ROBERT F. PACK, JOHN J. MOLYNEAUX, HENRY GRENACHER, HAROLD E. YOUNG, THEODORE E. CROCKER, GLEN V. RORK, ROBERT L. CLARK, NOEL H. BUCKSTAFF, ERNEST G. KELLETT, GARRETT O. HOUSE, JOHN F. MCGUIRE, JOSEPH B. ERBLANG, ERNEST H. COTTON, JAMES S. MCMILLEN, ROY F. MILLER, LESLIE N. GOBLER

ORDER POSTPONING HEARING

JUNE 7, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application of Counsel for nine of the above applicants; namely, ID-Nos. 546, 468, 389, 695, 252, 582, 315, 285, 495, for postponement of the hearing heretofore ordered to be held beginning at 10 a. m. on the 15th day of June, 1938, in Room 988, Merchandise Mart, Chicago, Illinois, by the Commission's orders of April 8, 1938, and April 29, 1938; [1] and

It appearing that the hearing on the remaining seven applications; namely, ID-Nos. 857, 859, 860, 861, 862, 863, 864, heretofore ordered to be held at the same time and place by the Commission's order of June 1, 1938,[2] should be held at the same time and place as that on the nine applications mentioned in the first paragraph hereof;

The Commission *orders* that:

The hearing on all of the applications mentioned in the caption hereof be postponed to begin at 10:00 a. m. on June 29, 1938, in the Regional Office of this Commission, Room 988, Merchandise Mart, Chicago, Illinois.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-1645; Filed, June 10, 1938; 10:20 a. m.]

[Docket No. IT-5512.]

IN THE MATTER OF THE CITY OF LOS ANGELES, A MUNICIPAL CORPORATION, AND DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, COMPLAINANTS, VS. THE NEVADA-CALIFORNIA ELECTRIC CORPORATION, A CORPORATION, DEFENDANT

ORDER DESIGNATING COMMISSIONER TO CONDUCT HEARING AND CHANGING PLACE THEREOF

JUNE 7, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(1) The issues presented by the pleadings in the above cause have heretofore been assigned for hearing on June 22, 1938,[3] in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

(2) The Nevada-California Electric Corporation has requested that the hearing in the above matter be held at some convenient point in the State of California, since all of the parties to the proceeding are residents of that State and it would be inconvenient and expensive to the parties if required to bring to Washington all of the witnesses and records which will be required;

The Commission *orders* that:

(A) The hearing upon the issues presented by the pleadings in this cause, now ordered to be held on June 22, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., be and the same is hereby canceled;

(B) Hearing before Commissioner Claude L. Draper upon the issues presented by the complaint and answer in this cause be held on June 22, 1938, at 10 a. m., in Room 706, State Building, Los Angeles, California.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-1646; Filed, June 10, 1938; 10:20 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-314]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE OLEOMARGARINE MANUFACTURING INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717);

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Oleomargarine Manufacturing Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of any such views should be filed with the Commission not later than June 27, 1938. Opportunity for oral hearing will also be afforded at 10 a. m., June 27, 1938, in Room 332, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to any such persons as may desire to appear. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1653; Filed, June 10, 1938; 12:20 p. m.]

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[1] 3 F. R. 807 (DI).
[2] 3 F. R. 1191, 1241 (DI).
[1] 3 F. R. 868, 1020 (DI).
[2] 3 F. R. 1340 (DI).
[3] 3 F. R. 1249 (DI).

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. 126]

ORDER RELATIVE TO EXPRESS RATES, 1938

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 9th day of June, A. D. 1938.

The Commission, having before it petition filed June 8, 1938, by the Railway Express Agency, Inc., and Southeastern Express Company (in this proceeding termed applicants) for authority to increase their rates and charges and to make other modifications of the express rate structure, in the manner and to the extent set forth in such petition; and it appearing that petitioners pray that they permitted to make such increases and changes, and that the Commission institute an investigation to determine whether the increases and changes proposed will be just and reasonable and not in excess of maximum reasonable charges, and that the Commission enter a general order modifying its outstanding orders to the extent necessary to enable them to make effective the rates proposed, and that where the application of the rates herein proposed to the existing rates would result in departures from Section 4 of the act, the Commission authorize such departures, which petitions so filed are referred to for greater certainty:

It is ordered, That the Commission enter upon an investigation of the proposals made in such petition as above summarized; and that a copy of this order be served upon the applicants and upon the Governors and regulatory bodies of the several States:

It is further ordered, That the above-entitled proceeding be, and it is hereby, assigned for hearing before Division 7 of the Commission, at the office of the Commission in Washington, D. C., July 6, 1938, at 10 o'clock a. m., Standard Time, when the applicants will be expected to proceed with their testimony and others who may be prepared with testimony will be heard.

And it is further ordered, That further hearings shall hereafter be assigned, as may be directed by Division 7, at convenient places to be designated by it, of which notice will hereafter be given.

By the Commisison.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1650; Filed, June 10, 1938; 12 m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of June 1938.

[File No. 1-957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, ETC.

EFFECTIVE DATE OF ORDER

The Market Street Railway Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $100 Par Value, 6% Cumulative Prior Preference Stock, $100 Par Value, 6% Cumulative Preferred Stock, $100 Par Value, and 6% Non-Cumulative Second Preferred Stock, $100 Par Value, from listing and registration on the San Francisco Stock Exchange; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission, after due consideration of said application together with the evidence introduced at said hearing, having entered an order granting said application effective at the close of the trading session on June 12, 1938; and

The San Francisco Stock Exchange having made application to the Commission to extend unlisted trading privileges on said Exchange to the securities above-named, and said Exchange having requested the Commission to postpone the effective date of the order herein pending the disposition by the Commission of the application to extend unlisted trading privileges;

It is ordered, That the effective date of said order be and the same is hereby postponed from June 12, 1938, until the close of the trading session on August 12, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1661; Filed, June 10, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of June A. D. 1938.

[File No. 31-413]

IN THE MATTER OF THE APPLICATION OF HICKOK OIL CORPORATION

ORDER GRANTING EXEMPTION

Hickok Oil Corporation having made application for exemption pursuant to the provisions of Section 3 (a) (3) of the Public Utility Holding Company Act of 1935; hearing on said application having been duly held after appropriate notice; [1] the record in this matter having been duly considered; and the Commission having made appropriate findings of fact;

It is ordered, That the said Hickok Oil Corporation be, and it hereby is, exempted from all those provisions of the Public Utility Holding Company Act of 1935 which would require it to register under said Act because of its directly or indirectly owning, controlling or holding with power to vote 10 per cent or more of the outstanding voting securities of Cisco Gas Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1662; Filed, June 10, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3d day of June A. D. 1938.

[File No. 43-116]

IN THE MATTER OF THE KANSAS ELECTRIC POWER COMPANY

ORDER FIXING EFFECTIVE DATE FOR DECLARATION REGARDING ISSUE AND SALE OF BONDS AND STOCK

The Kansas Electric Power Company, a subsidiary of The Middle West Corporation, a registered holding company, having duly filed with this Commission a declaration, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of $1,000,000 principal amount of its First Mortgage Bonds, Series A, 3½%, due December 31, 1966, and of 7,000 shares of its no par value Common Stock;

A hearing on said declaration having been duly held after appropriate notice; [2] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That said declaration be and become effective forthwith, upon condition, however, that the issue and sale of said bonds and stock shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration; and

It is further ordered, That, within ten days after the issue or sale of any of said stock, the declarant shall file with this Commission a certificate of notification showing that such issue or sale has been

[1] 3 F. R. 1108 (DI).
[1] 3 F. R. 1162 (DI).
[2] 3 F. R. 1063 (DI).

effected in accordance with the conditions imposed by this order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1660; Filed, June 10, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

[File No. 43-127]

IN THE MATTER OF MASSACHUSETTS UTILITIES ASSOCIATES

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 23, 1938.

The matter concerned herewith is in regard to a declaration filed by the above-named party, a subsidiary of New England Power Association, regarding the issue and sale of an unsecured note or notes, dated August 8, 1938, and payable two years after date, for the face amount of $4,000,000, bearing interest at the rate of 2½% per annum, to be paid at the end of each month. The proceeds of said issue and sale will be applied to the following purposes: (1) $3,390,480 to the redemption, on August 9, 1938, of $3,324,000 principal amount of Sinking Fund Gold Debentures Series A 5%, due April 1, 1949, of the declarant; (2) $300,000 to the payment of open account indebtedness of declarant to New England Power Association; and (3) $309,520 to finance plant expenditures of subsidiaries and to, in part, reimburse the treasury of the declarant for amounts heretofore devoted to the acquisition of capital stocks.

By the Commission.

[SEAL] FRANCIS P BRASSOR,
Secretary.

[F. R. Doc. 38-1659; Filed, June 10, 1938; 12:54 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 115

Washington, Tuesday, June 14, 1938

The President

EXCLUDING CERTAIN LANDS FROM THE CORONADO NATIONAL FOREST AND ADDING THEM TO THE CHIRICAHUA NATIONAL MONUMENT—ARIZONA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it appears that the hereinafter-described lands comprising a part of the Coronado National Forest, in the State of Arizona, are adjacent to the Chiricahua National Monument, established by proclamation dated April 18, 1924, and are required for the proper care and management of the objects of historic and scientific interest being protected by the said monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 1 of the act of June 4, 1897, 30 Stat. 11, 34, 36 (U. S. C., title 16, sec. 473), and section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in the State of Arizona are hereby excluded from the said Coronado National Forest and are hereby added to and made a part of the said Chiricahua National Monument:

GILA AND SALT RIVER MERIDIAN—ARIZONA

T. 16 S., R. 29 E.,
sec. 22, all,
sec. 23, all, partly unsurveyed,
sec. 24, N½, unsurveyed,
sec. 25, all, unsurveyed,
sec. 26, all,
sec. 27, N½;
T. 17 S., R. 29 E.,
sec. 1, N½, N½SE¼, NE¼SW¼,
sec. 2, N½;
T. 16 S., R. 29½ E., sec. 13, S½;
T. 17 S., R. 29½ E., sec. 1, N½, unsurveyed;
T. 16 S., R. 30 E.,
sec. 18, S½,
sec. 19, E½,
sec. 30, E½,
sec. 31, E½,
sec. 32, W½W½;
T. 17 S., R. 30 E.,
sec. 5, W½NW¼, unsurveyed,
sec. 6, N½, unsurveyed;
containing approximately 6,407 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of the monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this tenth day of June in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2288]

[F. R. Doc. 38-1676; Filed, June 13, 1938; 12:38 p. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

[1937 Corn Circular Letter No. 4]

AMENDMENT TO INSTRUCTIONS CONCERNING THE MAKING OF CORN LOANS

MARCH 15, 1938.

Loans to producers under the 1937–38 corn loan program will be available

CONTENTS

THE PRESIDENT

Proclamation: Page
Chiricahua National Monument, Ariz., lands from Coronado National Forest added to... 1399

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Commodity Credit Corporation:
Corn loans, instructions amended... 1399
Wool or mohair, instructions amended concerning loans on security of... 1400
TITLE 7—AGRICULTURE:
Bureau of Agricultural Economics:
Warehouse Act, amendments to regulations under... 1400
TITLE 20—FISH AND GAME:
Bureau of Biological Survey:
Depredating migratory birds, killing of... 1400
Moosehorn Migratory Bird Refuge, Maine, fishing permitted... 1401
TITLE 21—FOOD AND DRUGS:
Bureau of Narcotics:
Opium manufactured in United States for smoking purposes, tax on... 1402
TITLE 22—FOREIGN RELATIONS:
Passports and applications for passports... 1404
TITLE 25—INDIANS:
Loans to individual Indians... 1406

NOTICES

Department of Agriculture:
Bureau of Animal Industry:
Jackson Livestock Commission Co. (I. M. Beasley), Jackson, Miss... 1408
Commodity Exchange Commission:
Grain for future delivery, proposed order on limits on position and daily trading in... 1408

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Federal Communications Commission:	
Ship radio transmitters, investigation of power requirements for	1409
Rural Electrification Administration:	
Allocation of funds for loans	1410
Amendment of prior allocations	1410
Securities and Exchange Commission:	
Associated Corp., hearing	1411
Interlake Iron Corp., hearing	1410
Utilities Power & Light Corp. (Protective Committee for Preferred Stockholders), hearing	1411

after March 31, 1938 and until further notice.

The Corporation's printed Instructions (1937–38 C. C. C. Corn Form 1) and 1937 Corn Circular Letter No. 3, issued under date of March 1, 1938,[1] are amended accordingly.

JOHN D. GOODLOE,
Vice President.

[F. R. Doc. 38–1671; Filed, June 13, 1938; 9:50 a. m.]

[1938 Wool Circular Letter No. 2]

AMENDMENT TO INSTRUCTIONS CONCERNING LOANS ON SECURITY OF WOOL OR MOHAIR REPRESENTED BY WAREHOUSE RECEIPTS

MAY 13, 1938.

The instructions (1938 CCC Wool Form 1)[2] issued by Commodity Credit Corporation provide that all wool and mohair pledged as security to notes must be appraised by appraisers employed by Commodity Credit Corporation. Said instructions are hereby amended to provide that all notes submitted on 1938 CCC Wool Forms A, B and C must be dated not later than thirty (30) days after the date of the Appraiser's Certificate (1938 CCC Wool Form D) covering the wool or mohair pledged as security therefor.

The appraisers of Commodity Credit Corporation will not reappraise any wool or mohair which has once been appraised for the Corporation.

COMMODITY CREDIT CORPORATION,
By S. H. SABIN, *Secretary.*

[F. R. Doc. 38–1672; Filed, June 13, 1938; 9:50 a. m.]

[1] 3 F. R. 147 (DI).
[2] 3 F. R. 1181 (DI).

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

AMENDMENTS TO REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE UNITED STATES WAREHOUSE ACT

By virtue of the authority vested in the Secretary of Agriculture by the United States Warehouse Act, approved August 11, 1916 (39 U. S. Stat. L., pp. 446, 486) as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish and give public notice of the following amendments to the regulations of the Secretary of Agriculture for Warehousemen Storing Cotton, Grain, Wool, Tobacco, Nuts, Broomcorn, Dry Beans, Sirup, Dried Fruit, Canned Foods, Cottonseed, Cold Pack Fruit, Seeds, and Cherries in Sulphur Dioxide Brine,[1] promulgated under said Act, such amendments to be effective immediately:

In Regulation 6, Sections 3 and 4, strike out the words, "Disbursing Clerk, Department of Agriculture" wherever they appear and insert in lieu thereof, "Treasurer of the United States."

In Regulation 9, Section 9 of the Regulations for Cotton Warehouses, strike out "Disbursing Clerk, Department of Agriculture" and insert in lieu thereof, "Treasurer of the United States."

In Regulation 9, Section 13, Paragraphs 1 and 2 of the Regulations for Warehousemen Storing Grain, strike out "Disbursing Clerk, Department of Agriculture" and insert in lieu thereof, "Treasurer of the United States."

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be hereunto affixed in the City of Washington, this 10th day of June, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1668; Filed, June 11, 1938; 12:47 p. m.]

[1] SRA No. 126, Cotton; SRA 127, Grain; SRA No. 128, Wool; SRA 129, Tobacco; SRA 119, Nuts; SRA 84, Broomcorn; SRA 130, Dry Beans; SRA 89, Sirups; SRA 88, Dried Fruit; SRA 132, Canned Foods; SRA 102, Cottonseed; SRA 111, Cold Pack Fruit; SRA 122, Seeds; and SRA 134, Cherries in Sulphur Dioxide Brine.

TITLE 20—FISH AND GAME

BUREAU OF BIOLOGICAL SURVEY

ORDER RELATING TO THE KILLING OF CERTAIN DEPREDATING MIGRATORY BIRDS

Investigations having been made by the Department of Agriculture to determine the nature and extent, if any, of injury to agricultural or other interests by migratory birds included in the terms of the convention with Great Britain for the protection of birds migrating between Canada and the United States and included in the terms of the convention with Mexico for the protection of birds migrating between the United States and Mexico, and it having been found and determined that certain groups or species of migratory birds, to wit: loons, grebes, herons, bitterns, waterfowl, sandhill cranes, coots, gulls, terns, pigeons, doves, martins, woodpeckers, larks, mockingbirds, catbirds, waxwings, shrikes, meadowlarks, orioles, blackbirds, grackles, bobolinks, robins, and sparrows, are, or are likely to become, under extraordinary conditions in particular communities seriously injurious to agricultural or other interests, and it having been determined, further, that to check or abate such injury it may become necessary to kill the birds committing or about to commit such injury,

Therefore, by virtue of authority conferred upon the Secretary of Agriculture by the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended by the Act of June 20, 1936, 49 Stat. 1555, and pursuant to regulation 10 of the Migratory Bird Treaty Act Regulations of July 30, 1937 (2 F. R. 1615),

It is ordered, That the Chief of the Bureau of Biological Survey, United States Department of Agriculture, or, when authorized by said Chief of Bureau, the regional directors of said Bureau, in their respective regions, upon ascertainment of any serious injury in any particular community, may issue permits to kill any specified species of the aforesaid birds found, under extraordinary conditions, to be committing or about to commit such injury in such community, such permits to be effective during the period therein specified and subject to the following conditions, restrictions, and requirements, and such others as the issuing officer may deem necessary to include in the permit to guard against abuses thereof:

1. No permit shall be effective to authorize the killing of any bird unless such permit is countersigned by the

Chief Game Official, or by his authorized representative, of the State in which the permit is operative, or unless the permittee is in possession of a permit from such Chief Game Official, or his authorized representative, permitting such killing.

2. The permission conferred by any permit is nontransferable and may be exercised solely by those named in the permit and on the premises specified.

3. Birds authorized to be killed under any permit shall not be shot at or killed by shooting (1) from any blind, sink, pit, or any other device or means of concealment, whether natural or artificial, movable or stationary, or on land or water; (2) by means of any gun larger than No. 10 gage, or of any gun to which a silencer has been attached or otherwise affixed, or, if game birds, by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than three shells, the magazine of which has not been cut off or plugged with a one-piece metal or wooden filler incapable of removal through the loading end thereof so as to reduce the capacity of said gun to not more than three shells at one time in the magazine and chamber combined; or (3) by the use of decoys of any description or of traps or nets of any kind.

4. Every bird killed pursuant to a permit, and every part thereof, shall be totally destroyed as promptly as possible and shall not be sold or offered for sale or be shipped, transported, or carried in any manner except for the purpose of destruction in the immediate vicinity where killed, but such birds or parts thereof may be shipped or transported as a gift, but not for sale, to public, scientific, or educational institutions for scientific purposes; the birds may be requisitioned for scientific purposes by the officer issuing the permit; and, when specifically authorized by the permit, game birds so killed may be donated to charitable institutions for food. All packages containing such birds or parts thereof when shipped or transported as permitted by the permit shall be plainly and clearly marked to show the names and addresses of the shipper and consignee, the number of the permit, and the species and number of each species contained therein.

5. The permittee shall keep a record of the species and number of each of all birds killed by him, and whenever requested by the Chief of the Bureau or by the regional director, shall submit promptly a report thereof, and in any event shall submit such report to the regional director on or before January 10 of each year.

6. The permittee shall at all reasonable times, and particularly during any operations authorized by the permit, allow any Federal or State game or deputy game agent, warden, protector, or other game-law enforcement officer free and unrestricted access to the premises on which such operations have been or are being conducted and shall promptly furnish such officer all such information regarding his operations as such officer shall require.

7. A permit is revocable at any time in the discretion of the Secretary of Agriculture or the officer who issued it and when revoked shall be surrendered by the permittee promptly upon demand of said Secretary or of such officer or his authorized representative.

It is further ordered, That all orders heretofore issued by the Secretary of Agriculture authorizing the killing of migratory birds for the protection of agricultural or other interests, except the order of June 5, 1937, permitting the killing of red-winged, yellow-headed, and Brewer's blackbirds, meadowlarks, horned larks, Gambel's, Nuttall's golden-crowned, white-crowned, and other crowned sparrows, goldfinches, and juncos in California when necessary to protect crops from their depredations, and the order of November 17, 1937 (2 F. R. 2915) permitting the shooting of yellow-headed, red-winged, bicolored red-winged, tricolored red-winged, and Brewer's blackbirds and boat-tailed grackles by the owner or custodian of any agricultural crop or of ornamental or shade trees, are hereby revoked, effective 30 days from the publication of this order in the FEDERAL REGISTER, but such revocation shall not affect any outstanding permit issued under any such order, and such permit shall remain in force and effect until the expiration thereof as specified therein.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

JUNE 10, 1938.

[F. R. Doc. 38–1669; Filed, June 11, 1938; 12:47 p. m.]

ORDER PERMITTING FISHING ON THE MOOSEHORN MIGRATORY BIRD REFUGE, MAINE

Pursuant to regulations 2 and 3 of the regulations of the Secretary of Agriculture of November 23, 1937,[1] governing the administration of National wildlife refuges under the jurisdiction of the Bureau of Biological Survey and in accordance with the provisions of said regulations, it is hereby ordered until further notice that fish may be taken for noncommercial purposes when and as permitted by the laws and regulations of the State of Maine from the waters of the Moosehorn Migratory Bird Refuge as established by Executive Order No. 7650, dated July 1, 1937,[2] subject to the following conditions and restrictions:

1. *Waters open to fishing.*—The following waters of the Refuge are hereby designated as areas open to fishing and fishing will not be permitted in any other waters unless and until further ordered: Moosehorn Stream from Pennamaquan Crossing on the Charlotte Road southerly to the south boundary of the Refuge; Cranberry Brook from the dam southeasterly to Moosehorn Stream; Mahar Brook; Maguerrewock Stream; Little (Bearce's) Lake; James Pond; and Ledge Pond.

2. *State fishing laws.*—Every person who fishes in any of the aforesaid waters under the aforesaid conditions must comply with the applicable fishing laws and regulations of the State of Maine and in the absence of any State law or regulation in respect to fishing seasons and number and size of fish that may be taken, the Chief of the Bureau of Biological Survey of the United States Department of Agriculture, may fix such seasons and limits; and in the event he shall find that fishing in any of the aforesaid waters is unduly depleting any species of fishes therein, he may suspend the privilege of fishing in such waters pending final determination by the Secretary of Agriculture.

3. *Fishing permits.*—No person is permitted to fish in the aforesaid waters until he has obtained a permit from the officer in charge, which permit shall be limited to the period specified therein, and such officer will not issue a permit until the applicant therefor exhibits to him a valid State fishing license issued to such applicant if such license is required by State law or regulation. The permit must be carried on the person of the permittee when exercising the privileges thereunder and must be exhibited upon request to any Federal or State officer authorized to enforce Federal and/or State fishing laws and regulations or laws and regulations applicable to the Refuge, provided that fishing shall be done in such manner as will not interfere with the objects for which the Refuge was established.

4. *Firearms and fires.*—The carrying or being in possession of firearms of any description or the lighting of fires for any purpose by permittees hereunder while on such Refuge is not permitted. Special care must be observed by such permittees to prevent lighted matches, cigars, cigarettes or pipe ashes from being dropped in grass or other inflammable material.

5. *Routes of travel.*—Persons entering the Refuge for the purpose of reaching waters thereof open to fishing shall follow such routes of travel as shall from time to time be designated by the officer in charge of the Refuge and shall not enter upon any other portion of the Refuge other than said open waters and areas immediately adjacent thereto.

In testimony whereof I have hereunto set my hand and caused the official seal

[1] 2 F. R. 2951 (DI).
[2] 2 F. R. 1377 (DI).

of the United States Department of Agriculture to be affixed in the City of Washington, this 11th day of June 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1679; Filed, June 13, 1938; 12:39 p. m.]

TITLE 21—FOOD AND DRUGS

BUREAU OF NARCOTICS

[Regulations No. 3]

TAX ON OPIUM MANUFACTURED IN THE UNITED STATES FOR SMOKING PURPOSES

JOINT SMOKING OPIUM REGULATIONS MADE BY THE COMMISSIONER OF NARCOTICS AND THE COMMISSIONER OF INTERNAL REVENUE WITH THE APPROVAL OF THE SECRETARY OF THE TREASURY

Effective Date, June 1, 1938

THE LAW

[*In the original document, here follows the text of the Act of January 17, 1914 (38 Stat. 277; 26 U. S. C. 1057-61); Sections 1, 4 (a) and (b) of the Act of March 3, 1927 (44 Stat. 1381; 5 U. S. C. 281 c; 26 U. S. C. 1063-4); Sections 1 and 3 (b) of the Act of June 14, 1930 (46 Stat. 585; U. S. C. 282-282b (b); 26 U. S. C. 1064.)*]

[T. D. 1]

ORDER OF THE SECRETARY OF THE TREASURY PRESCRIBING THE DUTIES AND POWERS OF THE COMMISSIONER AND OTHER OFFICERS AND EMPLOYEES OF THE BUREAU OF PROHIBITION, • • •

APRIL 1, 1927.

In pursuance of the authority conferred upon the Secretary of the Treasury by the above act, it is hereby ordered as follows: • • •

VI. RIGHTS, PRIVILEGES, POWERS, AND DUTIES CONFERRED AND IMPOSED ON THE COMMISSIONER OF PROHIBITION RELATING TO NARCOTIC DRUGS

(1) There are hereby conferred and imposed upon the Commissioner of Prohibition, subject to the general supervision and direction of the Secretary of the Treasury, all the rights, privileges, powers, and duties conferred or imposed upon the Commissioner of Internal Revenue (and which are transferred to and conferred and imposed upon the Secretary of the Treasury by subdivision (a) of section 4 of the above act of March 3, 1927) by the Harrison narcotic act, as amended, or by the act entitled "An act regulating the manufacture of smoking opium within the United States and for other purposes," approved January 17, 1914, in so far as such rights, privileges, powers, and duties relate to—

(a) The investigation and the detection and punishment of violations of either of the above laws, or any regulations issued thereunder;

(b) Exemptions from any of the provisions of the above laws;

(c) The books, records, and returns required to be kept or rendered, under any of the above laws;

(d) The prescribing of forms and order forms under any of the above acts;

(e) The manner in which the record of sales, exchanges and gifts of tax-exempt preparations and remedies containing narcotic drugs shall be kept;

(f) The manner in which application shall be made for confiscated narcotic drugs;

(g) The appointment of a committee for the certification and disposition of confiscated narcotic drugs;

(h) The compromise of any civil or criminal case under either of the above laws in accordance with section 3229 of the Revised Statutes, except that all moneys shall be received and accounted for by the collectors of internal revenue, under the direction of the Commissioner of Internal Revenue;

(i) Seizures, for violation of either of the above laws, of property, whether real or personal (except under distraint warrant), and the custody, control, sale, and disposition of property so seized;

(j) The appointment of such officers and employees as may be necessary for the execution of the functions imposed upon the Bureau of Prohibition relating to narcotic drugs.

(2) Power is hereby conferred upon the Commissioner of Prohibition to prescribe such regulations as he may deem necessary for the execution of the functions imposed upon him or upon the officers or employees of the Bureau of Prohibition relating to narcotic drugs, but all regulations and changes in regulations shall be subject to the approval of the Secretary of the Treasury.

VII. RIGHTS, PRIVILEGES, POWERS, AND DUTIES CONFERRED AND IMPOSED UPON THE OFFICERS AND EMPLOYEES OF THE BUREAU OF PROHIBITION, INCLUDING THE FIELD SERVICE OF THE BUREAU OF PROHIBITION, RELATING TO NARCOTIC DRUGS

There are hereby conferred and imposed upon the officers and employees of the Bureau of Prohibition, including the agents, inspectors and other employees in the field service of the Bureau of Prohibition, all the rights, privileges, powers, and duties conferred or imposed upon the assistants, agents, and inspectors of the Commissioner of Internal Revenue (and which are transferred to and conferred and imposed upon the Secretary of the Treasury by subdivision (a) of section 4 of the above act of March 3, 1927) by either of the laws referred to in Section VI of this order, in so far as such rights, privileges, powers, and duties relate to any of the matters referred to in paragraphs (a) to (j), inclusive, of such section. All such officers and employees of the Bureau of Prohibition, including the agents, inspectors, and other employees in the field service of the Bureau of Prohibition, shall have, in the performance of their functions under the narcotic drug laws, all the rights, privileges, and powers of internal-revenue officers.

VIII. RIGHTS, PRIVILEGES, POWERS, AND DUTIES CONFERRED AND IMPOSED UPON THE COMMISSIONER OF INTERNAL REVENUE

There are hereby conferred and imposed upon the Commissioner of Internal Revenue all the rights, privileges, powers, and duties conferred or imposed upon such officer (and which are transferred to and conferred and imposed upon the Secretary of the Treasury by subdivision (a) of section 4 of the above act of March 3, 1927) by any law, except the rights, privileges, powers, and duties conferred or imposed upon any other person by Sections IV, V, VI, or VII of this order, but not exception rights, privileges, powers, and duties relating to internal-revenue taxes where no violation of a law relating to the enforcement of the eighteenth amendment is involved. All regulations and changes in regulations shall be subject to the approval of the Secretary of the Treasury. • • •

[T. D. 2]

ORDER OF THE SECRETARY OF THE TREASURY PRESCRIBING THE DUTIES AND POWERS OF THE COMMISSIONER AND OTHER OFFICERS AND EMPLOYEES OF THE BUREAU OF NARCOTICS, • • •

JULY 1, 1930.

In pursuance of the authority conferred upon the Secretary of the Treasury by the act entitled "An Act To create in the Treasury Department a Bureau of Narcotics, and for other purposes," approved June 14, 1930, as amended, it is hereby ordered as follows: • • •

III. RIGHTS, PRIVILEGES, POWERS, AND DUTIES CONFERRED AND IMPOSED UPON THE COMMISSIONER OF NARCOTICS

(1) There are hereby conferred and imposed upon the Commissioner of Narcotics, subject to the general supervision and direction of the Secretary of the Treasury, all the rights, privileges, powers, and duties conferred or imposed upon the Commissioner of Internal Revenue (and which are transferred to and conferred and imposed upon the Secretary of the Treasury by subdivision (a) of section 4 of the act of March 3, 1927) by the act of December 17, 1914, as amended, known as the Harrison Narcotic Law, or by the act entitled "An Act regulating the manufacture of smoking opium within the United States and for other purposes," approved January 17, 1914, in so far as such rights, privileges, powers, and duties relate to—

(a) The investigation and the detection and punishment of violations of either of the above laws or any regualtions issued thereunder;

(b) Exemptions from any of the provisions of the above laws;

(c) The books, records, and returns required to be kept or rendered under any of the above laws;

(d) The prescribing of forms and order forms under any of the above acts;

(e) The manner in which the record of sales, exchanges, and gifts of tax-exempt preparations and remedies containing narcotic drugs shall be kept;

(f) The manner in which application shall be made for confiscated narcotic drugs;

(g) The appointment of a committee for the certification and disposition of confiscated narcotic drugs;

(h) The compromise of any criminal or civil case arising under either of the above laws, in accordance with section 3229 of the Revised Statutes of the United States, and the determination, assertion, and compromise of liability for internal-revenue taxes and penalties under either of the above laws, except that all moneys shall be received and accounted for by collectors of internal revenue, under the direction of the Commissioner of Internal Revenue;

(i) Seizures, for violation of either of the above laws, of property, whether real or personal (except under distraint warrant), and the custody, control, sale, and disposition of property so seized;

(j) The appointment of such officers and employees as may be necessary for the execution of the functions imposed upon the Bureau of Narcotics.

(2) Power is hereby conferred upon the Commissioner of Narcotics to prescribe such regulations as he may deem necessary for the execution of the functions imposed upon him or upon the officers or employees of the Bureau of Narcotics, but all regulations and changes in regulations shall be subject to the approval of the Secretary of the Treasury.

The Commissioner of Internal Revenue and the Commissioner of Narcotics may, if they are of the opinion that the good of the service will be promoted thereby, prescribe regulations relating to internal-revenue taxes where no violation of the narcotic laws is involved, jointly, subject to the approval of the Secretary of the Treasury.

IV. RIGHTS, PRIVILEGES, POWERS, AND DUTIES CONFERRED AND IMPOSED UPON THE OFFICERS AND EMPLOYEES OF THE BUREAU OF NARCOTICS, INCLUDING THE FIELD SERVICE

There are hereby conferred and imposed upon the officers and employees of the Bureau of Narcotics, including the agents, inspectors, and other employees in the field service, all the rights, privileges, powers, and duties conferred or imposed upon the assistants, agents, and inspectors of the Commissioner of Internal Revenue (and which are

transferred to and conferred and imposed upon the Secretary of the Treasury by subdivision (a), of section 4 of the act of March 3, 1927), by any narcotic law in so far as such rights, privileges, powers, and duties relate to any of the matters referred to in paragraphs (a) to (j), inclusive, of Section III of this order. All such officers and employees of the Bureau of Narcotics, including the agents, inspectors, and other employees of the field service, shall have, in the performance of their functions under the narcotic drug laws, all the rights, privileges, and powers of internal revenue officers.

V. RIGHTS, PRIVILEGES, POWERS, AND DUTIES CONFERRED AND IMPOSED UPON THE COMMISSIONER OF INTERNAL REVENUE

There are hereby conferred upon the Commissioner of Internal Revenue all the rights, privileges, powers, and duties conferred or imposed upon such officer (and which are transferred to and conferred and imposed upon the Secretary of the Treasury by subdivision (a) of section 4 of the act of March 3, 1927) by any narcotic law, except such rights, privileges, powers, and duties as are hereinbefore conferred or imposed upon the Commissioner of Narcotics. • • •

REGULATIONS

ART. 1. *Taxing of smoking opium.*—All opium suitable for smoking purposes, prepared from crude gum opium or from any preparation thereof, or from the residue of smoked or partially smoked opium commonly known as yen shee, or from any mixture of the above or any of them, is subject to tax when produced and sold, or offered for sale, or kept for sale or consumption, by the producer or others. The tax is at the rate of $300 per pound and is payable by the manufacturer. In addition, every manufacturer of smoking opium is required to register, pay special tax, and otherwise comply with the Act approved December 17, 1914, commonly known as the Harrison Narcotic Act, as amended, and the provisions of any regulations issued in pursuance thereof.

ART. 2. *"Manufacturer" defined.*—Every person who prepares opium suitable for smoking purposes from crude gum opium, or from any preparation thereof, or from the residue of smoked or partially smoked opium, commonly known as yen shee, or from any mixture of the above, or any of them, shall be regarded as a manufacturer of smoking opium. To be legally entitled to manufacture smoking opium a person must be a citizen of the United States and shall have given the required bond (see Art. 6).

ART. 3. *Proof of citizenship.*—Every person who proposes to engage in the manufacture of smoking opium or of opium for smoking purposes shall, before commencing operations, file with the collector of internal revenue for the district in which it is proposed to operate record evidence, which must satisfy the proper officers of the Government, including the collector, that he is a citizen of the United States.

ART. 4. *Manner of tax payment.*—The tax on smoking opium is paid by attachment of stamps. Stamps for packages of four, eight or sixteen ounces will be furnished for the payment of the internal revenue tax on opium manufactured for smoking purposes. As to attachment of stamps see Art. 13 (c).

All opium manufactured, prepared or suitable for smoking purposes, shall be put up by the manufacturer in packages containing four, eight, or sixteen ounces each, net weight.

ART. 5. *Notice required.*—Every person, before commencing the manufacture of smoking opium, shall furnish to the collector of the district, without previous demand, a notice, in duplicate, and subscribed under oath, on Form 268, accurately setting forth the place where manufacture is to be carried on and the number and kind of utensils, machines, or other apparatus, kept on the premises for use in the manufacture of smoking opium. Upon any change of location or other conditions evidenced by a notice, another notice setting forth the change shall be filed forthwith.

ART. 6. *Bond required.*—Every manufacturer of smoking opium shall, before commencing business, furnish to the collector of the district a bond on Form 269 with sureties, and in a penal sum, not less than $100,000, satisfactory to the collector. There shall be not less than three personal sureties, each of whom shall qualify in the full amount of the bond. The sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner of Internal Revenue. The description in the bond of the factory premises and the utensils or machines must coincide with the notice on Form 268. The liability on such bond shall continue until cancelation by the Government. Such cancelation may occur when operations are discontinued and all liabilities satisfied or a new bond is accepted.

ART. 7. *Collector's certificate.*—The collector, on receiving the notice on Form 268 and approving the bond of a manufacturer of smoking opium, shall issue to him a certificate on Form 270 which will specify the penal sum of the bond furnished. This certificate shall contain a transcript from the manufacturer's notice (Form 268), giving an accurate description of the factory premises. This certificate must be posted by the manufacturer in a conspicuous place within his manufactory.

ART. 8. *Type of premises required.*—The premises of a manufacturer of smoking opium (to be described in his notice and bond on Forms 268 and 269, respectively) must be at least an entire room, walled off completely from all other parts of the building. The premises must be so situated that they can be constantly under the surveillance of internal revenue officers and agents. Two manufacturers of smoking opium are not permitted to occupy the same premises at the same time. No such manufacturer will be permitted to operate more than one factory within the same premises, nor to have more than one factory number for each factory, nor on such premises to carry on any business deemed to be incompatible with the business of manufacturing smoking opium.

ART. 9. *Sign required.*—Every manufacturer of smoking opium shall put up in a conspicuous place on the outside of the factory building, a sign (in the English language), with letters thereon not less than three inches in length, painted in oil colors or gilded, showing his full name, business, factory number, the number of the district, and the State.

ART. 10. *Records required.*—Every manufacturer of smoking opium shall keep a book, which shall conform to Form 271, and shall enter therein daily an accurate account of the quantity of crude gum opium (which shall include all forms, preparations, or derivatives thereof suitable for manufacturing opium for smoking purposes) and other materials purchased and sold, with the name and address of each person from whom purchased or to whom sold and, if articles sold are shipped or delivered to some other person, the name of such other person and the place of delivery; the sizes of the packages, and the number of packages of each size purchased and sold; the total quantity of prepared smoking opium (a) manufactured, (b) sold, and (c) removed tax paid; and the number and value of stamps purchased and used. This book shall be kept at the manufacturer's place of business and shall be open at all hours to the inspection of any internal revenue officer or agent.

ART. 11. *Inventories required.*—Every manufacturer of smoking opium shall, at the time of commencing business, on the first day of January of each year thereafter, and at the time of concluding business if other than the first day of January, make and deliver to the collector a true inventory on Form 272 of the quantity of opium, in whatever unmanufactured form it may be, other materials, manufactured smoking opium, and number and value of stamps on hand. The inventory shall show the *actual*, not the *estimated*, and the *net* not *gross*, weights and numbers of materials and articles on hand at the time the inventory is made. Each such inventory shall be verified by a deputy collector who shall make personal examination of the stock to satisfy himself of the correctness of the inventory, and the verification shall be evidenced by the sworn endorsement of the deputy collector.

ART. 12. *Monthly returns required.*—On or before the tenth day of each calendar month, every manufacturer of smoking opium shall furnish to the collector of his district a true and complete abstract on Form 273, under oath, showing for the preceding calendar month: all opium in crude form and other materials purchased, and smoking opium and other material sold, with the names, addresses, and businesses of the persons from whom purchases and to whom

sales were made; the total quantity of opium suitable for smoking purposes, and the size of the packages and the number of packages of each size manufactured and removed tax paid; the number of packages of each size sold or transferred to each recipient; the value of stamps purchased and used.

ART. 13. *Labeling and stamping of packages.*—Each manufacturer of smoking opium shall mark each package of smoking opium before removal from the factory in accordance with the following requirements:

(a) There shall be printed, indented, branded, or marked on the package, the number of the factory, the number of the district, the name of the State, and the net weight of the opium contained in the package.

(b) There shall be affixed securely to the package a label on which shall be printed in plain, open, legible letters, the number of the manufactory, the district and State, and a caution notice in the following form:

Factory No. --------- District ---------

NOTICE.—The manufacturer of this prepared smoking opium has complied with all the requirements of law. Every person is cautioned under penalties of the law not to use this package for smoking opium again.

The label on which the above notice is to be printed shall be not less than two inches long and one inch wide. If the notice is printed on the box, it shall cover a space of two square inches. No part of this space shall be occupied by ornamentation or by any other words than those above mentioned. This label shall not be covered or concealed by any other label or mark, nor by the stamp.

(c) There shall be affixed to each package a single stamp of the proper denomination to cover the amount of tax actually due on the smoking opium. The stamp shall be affixed in a permanent manner so that on opening the package the stamp will be broken in two places. The stamp shall be cancelled by the manufacturer by writing or imprinting thereon *in red ink* in a legible and durable manner his factory number, the number of the district, the name of the State, and the date of cancelation.

ART. 14. *Forfeiture of smoking opium.*—Collectors shall seize forthwith all opium prepared for smoking, wherever found, without proper stamps, and destroy same summarily without judicial proceedings or procedure, but a sufficient quantity shall be retained for use as evidence.

ART. 15. *Penalty.*—Any person who violates or fails to comply with any provision of this Act or these regulations shall be liable to a fine of not less than $10,000 or to imprisonment for not less than five years, or both, in the discretion of the court.

ART. 16. *Effective date.*—These regulations shall take effect June 1, 1938, and shall supersede all regulations heretofore made and promulgated.

ART. 17. *Promulgation of regulations.*—In pursuance of Section 2 of the Act of January 17, 1914, the foregoing regulations are hereby made and promulgated.

[SEAL] H. J. ANSLINGER,
Commissioner of Narcotics.
GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 1, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1663; Filed, June 10, 1938; 4:18 p. m.]

TITLE 22—FOREIGN RELATIONS

[Departmental Order No. 749]

ORDER BY THE SECRETARY OF STATE REGARDING PASSPORTS AND APPLICATIONS FOR PASSPORTS

SECTION I. PREVIOUS RULES AND REGULATIONS

1. All previous departmental rules and regulations relating to the subject of this Order are hereby revoked.

SECTION II. PASSPORT AGENTS OF THE DEPARTMENT OF STATE

2. Agents of the Department of State authorized to take applications for passports and perform passport services in the United States are stationed at New York, Boston, Chicago, San Francisco and in the Department of State at Washington.

SECTION III. BLANK FORMS OF APPLICATIONS FOR PASSPORTS

3. Blank forms of applications for use in applying for passports will be furnished, on request, without charge, by the Department of State to persons who wish to apply for passports.

4. Passport agents of the Department of State and clerks of courts authorized to take passport applications should, upon request, be supplied with the necessary blank forms of application for passports.

SECTION IV. TRANSMISSION OF APPLICATIONS EXECUTED IN THE UNITED STATES

5. Applications after being properly prepared and executed should be sent by registered mail directly to the Passport Division, Department of State, Washington, D. C., by the passport agents or by the clerks of courts before whom they are executed.

6. An applicant who so requests may have his application transmitted to this Department *at his own risk* by special delivery or air mail. For this purpose he must furnish the passport agent or clerk of the court taking the application with a special delivery stamp or sufficient air mail stamps.

7. If there is a valid reason for immediate action upon any application, a brief statement to that effect by the officer before whom the application is executed may be endorsed on the face of the application.

SECTION V. TRANSMISSION OF PASSPORTS TO APPLICANTS THEREFOR

8. As a rule a passport will be forwarded to the applicant by registered mail, directed to the address given in the application, except that a passport will not be forwarded to a hotel unless the hotel is the applicant's place of permanent residence, which fact should be set forth in a supplementary statement, or unless the applicant sets forth in a supplementary statement a reason for sending the passport to a hotel other than that in which he may reside, making it clear that it is unlikely that if the passport is sent to the hotel named it would be lost. In such an exceptional case the passport will be forwarded at the risk of the applicant.

9. On the request of the applicant, a passport which has been issued, or a passport which has been submitted for amendment or extension, will be forwarded to the applicant by special delivery or air mail at the applicant's risk, provided there is attached to the application sufficient special delivery or air mail stamps. If the applicant desires the passport forwarded by air mail a registry stamp should also be forwarded. If stamps are not enclosed when it is desired that the passport be forwarded by air mail or special delivery, a separate money order should be enclosed covering postage. The cost of postage should not be included in the money order covering the passport or renewal fee.

SECTION IV. SURRENDER OF OLD PASSPORTS

10. An applicant for a new passport who holds an expired or an unexpired passport issued on or after January 3, 1918, should submit the old passport to the official before whom he executes his application for a new passport.

11. Old passports submitted to clerks of courts by native citizens may be canceled by cutting off with scissors about one inch of the lower outer corners of both covers and all the pages of the passport.

12. A notation of the cancellation, giving the date, number, and place of issue of the canceled passport, should be made on the margin of the new application.

13. An old passport held by a person who claims citizenship through naturalization should be attached to the application for a new passport and forwarded to the Department for cancellation.

14. If the applicant for a new passport is unable to present for cancellation or surrender a previous passport, issued since January 2, 1918, which has expired, he should state in his application the disposition of the passport. If the previous passport is still valid, the applicant should submit *a separate statement, under oath, setting forth in circumstantial detail the disposition of the passport.*

SECTION VII. PERIOD OF VALIDITY OF PASSPORTS AND THE RENEWAL AND EXTENSION THEREOF

15. Section 2 of the Act of May 16, 1932, (U. S. C., title 22, sec. 217a) provides in part as follows:

SEC. 2. That the validity of a passport, • • • shall be limited to a period of two years: *Provided*, That a passport may be renewed under regulations prescribed by the Secretary of State for a period, not to exceed two years, upon payment of a fee of $5 for such renewal, but the final date of expiration shall not be more than four years from the original date of issue: *Provided further*, That the Secretary of State may limit the validity of a passport, • • • or the period of renewal of a passport to less than two years: *Provided further*, That the charge for the issue of an original passport shall be $9.

16. Hereafter passports will be issued valid for a period of two years from the date of their issue. They may, however, be restricted in validity to a period of less than two years from the date of issue. A passport which has been restricted for a period of less than two years shall not be extended by a passport agent, the chief executive of one of the outlying possessions of the United States, the United States High Commissioner to the Philippine Islands, or by an American diplomatic or consular officer of the United States except upon the express authorization of the Department of State.

17. A passport which was issued within the period of four years prior to application for renewal may be renewed but in any case where a person fails to apply for renewal of his passport prior to or immediately after the expiration of the original period of validity of his passport, his passport, when renewed, shall not extend beyond a period of four years from the original date of issue. The validity of the renewal of a passport may be restricted to a period of less than two years and a passport so limited may not be extended except upon the express authorization of the Department of State.

18. The fee for the renewal of a passport is $5.00.

19. No fee shall be collected for the extension of a passport to make it valid for a period of two years from the date of issue where it was originally issued valid for a period of less than two years. No fee shall be collected for the extension of a passport which has been renewed to make it valid for more than two but less than four years from the date of issue.

20. When an application is made for a passport to include a minor child who will attain majority before the expiration of the period of two years from the date of issue, the passport shall be limited in validity to the date upon which such child will attain majority. An exception may be made to this rule when the child will attain majority within a period not exceeding three months prior to the date of expiration of the two-year period. The two preceding sentences shall be applicable to a case where application is made for the renewal of a passport which includes a minor child who will attain majority before four years from the date of the original issue of the passport.

21. Passports having a remaining validity of more than six months should not be renewed unless special circumstances warrant exceptional procedure.

22. Requests for renewal may be made by personal application or letter addressed to the Department of State or a passport agent of the Department of State.

23. Each request for renewal should be accompanied by the passport desired to be renewed.

24. A person in the United States who has been issued a passport the original period of validity of which was restricted to less than two years from the date of issue or whose passport when renewed beyond the original period of two years was restricted to less than four years from the date of issue and who desires to apply for an extension of the validity of such passport to the two or four-year period, as the case may be, should communicate with the Department of State, unless he resides in a place where there is an agent of the Department of State, in which case the application for extension may be forwarded through such agent.

25. An applicant for the renewal or extension of his passport may be required to submit satisfactory documentary evidence of the necessity and purpose of his journey abroad.

SECTION VIII. CLERKS OF COURTS AUTHORIZED TO RETAIN $1 FEE FOR THE EXECUTION OF PASSPORT APPLICATIONS

26. Section 1 of the Act of June 4, 1920 (41 Stat. 750; U. S. Code, title 22, sec. 214), reads in part as follows:

That nothing herein contained shall be construed to limit the right of the Secretary of State by regulation to authorize the retention by State officials of the fee of $1 for executing an application for a passport.

27. Clerks of courts other than Federal courts, who are authorized to take applications for passports, are hereby authorized to retain a fee of $1 for executing each application for a passport. They may not charge nor retain more than that amount for executing an application for a passport. This regulation does not in any manner restrict the right of any State to make laws or regulations concerning the disposition of fees retained by clerks of State courts for executing applications for passports.

SECTION IX. RETURN OF PASSPORT FEES

28. Section 4 of the Act of June 4, 1920 (41 Stat. 751; U. S. Code, title 22, sec. 216), reads in part as follows:

Whenever the appropriate officer within the United States of any foreign country refuses to visé a passport issued by the United States, the Department of State is hereby authorized upon request in writing and the return of the unused passport within six months from the date of issue to refund to the person to whom the passport was issued the fees which have been paid to Federal officials, and the money for that purpose is hereby appropriated and directed to be paid upon the order of the Secretary of State.

29. A person who desires to have the fee or fees paid to a Federal official or officials for a passport returned to him because of his inability to secure the necessary visa must return his unused passport to the Department of State within six months from the date of issue of the passport and submit therewith a signed request for refund. The request must contain a statement to the effect that he has applied for a visa and that the visa has been refused, and should state the reasons, if any, assigned for the refusal of the visa. If such person has received a statement in writing from a foreign official refusing to visa his passport, the statement should be submitted to this Department as evidence of the refusal of the visa.

30. Section 3 of the Act of July 3, 1926 (44 Stat. 887; U. S. Code, title 22, sec. 214a), provides in part as follows:

That whenever a fee is erroneously charged and paid for the issue of a passport to a person who is exempted from the payment of such a fee by Section 1 of "An Act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921", approved June 4, 1920 (Forty-first Statutes, page 750), the Department of State is hereby authorized to refund to the person who paid such fee the amount thereof, and the money for that purpose is hereby authorized to be appropriated.

When a fee has been erroneously collected from any person who is exempted from the payment of the fee for the issue of a passport, he or she may submit the matter in writing to the Department of State and at the same time submit such evidence as is required by the Rules Governing the Granting and Issuing of Passports in the United States to show that he or she is exempted from the payment of such fee.

SECTION X. INQUIRIES CONCERNING APPLICATIONS SUBMITTED

31. The Department of State will act upon applications as promptly as possible after their receipt. Inquiry concerning applications should be made only in cases of emergency, since the time consumed in responding to such inquiries necessarily retards the examination of applications. However, in such emergency cases inquiry should be made directly to the Department of State by the applicant.

32. Application should be submitted sufficiently far in advance of the date upon which a passport is required to permit the Department to communicate, when necessary, with the applicant or other persons concerning the citizenship of the applicant or with respect to any defects which may appear in the application or any further information concerning the applicant which the Department may deem necessary.

33. Communications should be addressed to the Department of State,

Passport Division, Washington, D. C. Each communication should give the post office address of the person to whom the answer is to be directed.

SECTION XI. INFORMATION PRESCRIBED IN PASSPORT APPLICATIONS

34. Application for passports should be made on the most recent form or forms prepared by the Department of State and should contain complete information called for in such form or forms.

[SEAL] CORDELL HULL,
Secretary of State.

March 31, 1938.

[F. R. Doc. 38-1667; Filed, June 11, 1938; 12:36 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

REGULATIONS FOR LOANS FROM THE UNITED STATES TO INDIVIDUAL INDIANS

The following regulations promulgated pursuant to Section 9 of the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967) shall govern loans by the United States to individual Indians in Oklahoma.

Definitions.—Except as otherwise indicated "Secretary" refers to the Secretary of the Interior; "Commissioner" to the Commissioner of Indian Affairs; "superintendent" to the superintendent of the jurisdiction where the borrower resides, or under whom he has been placed for administrative purposes in connection with credit operations; "credit agent" to the credit agent in charge of loans under the Act of Oklahoma or his duly authorized associate; "loan agreement" collectively to the application, securing documents, and all other papers submitted in connection with the application.

1. *Eligibility.*—To be eligible for a loan, an individual must be domiciled in and a resident of Oklahoma and (a) an Indian as determined by the official tribal rolls, or (b) an Indian descendant of such an enrolled member, or (c) an Indian as defined in the Indian Reorganization Act (Act of June 18, 1934; 48 Stat. 984); (Said Act states: "The term 'Indian' as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members, who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood."); provided that in a case where the individual is not an enrolled member of a tribe, he must further be a resident of an Indian agricultural community.

The credit agent shall have authority to approve all loans, except that without specific authority from the Commissioner of Indian Affairs a loan shall not be made to an Indian who is: (a) a minor; (b) a regular employee of the Government; (c) married to and living with a person already a borrower, unless their loans are consolidated; (d) an Indian woman married to a white man; (e) under guardianship other than that of the United States, or (f) any individual who has funds sufficient to finance the approved plans, or (g) who will have an aggregate indebtedness in excess of one thousand dollars.

2. *General loan policies.*—The granting or refusal of the loan and the amount thereof shall be governed by the nature and extent of the enterprise to be financed, its prospects of success and assurance that the loan will be repaid, the equipment and funds otherwise available for execution of the plan, the extent to which the enterprise will promote a permanent improvement in the applicant's economic condition, the character and past performance of the applicant, both generally and in the particular work involved in the enterprise, and the amount and kind of security offered. An Indian who is a member of an incorporated tribe, or who resides in the territory of an Indian credit association must show that his application to such tribe or association has been rejected before an application hereunder will be accepted.

3. *Purpose.*—Loans may be granted for any income producing purpose except the purchase of land, unless it is a site necessary in the applicant's occupation. Preference shall be given to agricultural enterprises and to enterprises lying within or adjacent to Indian agricultural communities.

4. *Plan.*—The applicant shall submit a plan for the use of the money, which shall be set forth fully and specifically. It shall indicate that the applicant will carry on the enterprise personally, reap the benefits, and sustain the losses thereof. If the borrower finds it necessary or desirable to make changes in his plan, he may do so, provided such changes are first approved by the superintendent and do not involve an increase in the amount of the loan.

5. *Size of loans.*—No loan shall be granted for less than $25.

6. *Maturity.*—Loans shall be made for the shortest period consistent with the purpose thereof and the ability of the borrower to repay. Crop loans shall be made for no longer than one year and livestock and machinery loans for no longer than six years.

7. *Interest.*—Interest shall be paid annually to the United States on all loans hereunder at the rate of three percent per annum.

8. *Security.*—All possible security shall be given up to an adequate amount. It may consist of the assignment of income, mortgages on property owned wholly or in part by the borrower, or other suitable collateral.

(a) *Filing.*—The securing instruments covering trust property shall be filed in the Agency Office. Instruments covering nontrust property shall be filed, registered, or recorded in accordance with Oklahoma law at the borrower's expense, in such a way as to fully protect the interests of the United States therein.

(b) *Nonagricultural enterprises.*—Generally, greater security will be required on loans for nonagricultural enterprises and full security will be required on loans for nonagricultural enterprises not in or adjacent to Indian communities.

(c) *Joint loans.*—In the case of a loan to a married person, if his or her spouse is an Indian, the application must be made jointly by both parties. If the spouse is not an Indian, he or she should not sign the application, but may be required to endorse securing documents.

(d) *Mortgages on trust and restricted real estate.*—Trust and restricted real estate may not be mortgaged to the United States as security for a loan. Liens on crops raised on such land, assignments of income therefrom, or other types of security not involving a transfer of the title to the land may be taken. Mortgages may be taken on nontrust or unrestricted real estate.

9. *Other indebtedness.* — Applicants must make acceptable plans for the payment or release of any debts or outstanding liens upon their property.

10. *Signatures by mark.*—Signatures by mark shall be witnessed by two witnesses, one of whom shall write in the name of the person who cannot write, near the mark. Post office addresses of both witnesses must be shown, and they must actually see the mark made. Both witnesses must be disinterested parties to the loan agreement.

11. *Procedure.*—The application for a loan shall be submitted to the superintendent in quintuplicate on a form prescribed by the Secretary. The form must be completely filled out, and the applicant must agree to the various provisions thereof. Accompanying the application shall be one copy of a detailed financial statement and operating plan on a form approved by the Secretary, and three unexecuted copies of all securing instruments, including a note for the amount of the first advance as set forth in the application.

(a) *Action of the superintendent.*—The superintendent shall make his recommendations in triplicate on a form approved by the Secretary. One copy of his recommendations shall be retained by him, and two copies submitted to the credit agent, together with all copies of the application, a financial statement and operating plan, and securing documents. This procedure shall be followed whether or not the superintendent approves the application.

(b) *Action of the credit agent.*—The credit agent shall review and analyze the application, and if the loan does not require specific authority from the Commissioner as set forth in Section 1, he shall, in his discretion, grant the loan in whole or in part by issuing a commitment order in quintuplicate. He shall attach the financial statement and operating plan, and three copies of the securing instruments, including note, to the application, which shall be returned to the applicant through the superintendent. He shall also issue appropriate instructions and explanations regarding any changes or modifications which have been incorporated into the commitment order. The recommendations of the superintendent shall not be returned to the applicant. The credit agent shall place one copy of the same in his files, and the other shall be transmitted to the Commissioner with his copy of the application as set forth in Section 11 (c).

If the loan requires specific authority from the Commissioner, one copy of the application shall be submitted to the Commissioner with a copy of the recommendations of the superintendent, and a request from the credit agent for authority to issue the commitment order. The Commissioner shall prepare five copies of a letter indicating either his approval or disapproval of such request, and submit the same to the credit agent with the application and recommendations of the superintendent. The credit agent shall attach one copy of the Commissioner's letter to each copy of the application, and follow the same procedure as in the case of loans which do not require specific authority from the Commissioner. If the loan is not approved, the procedure as set forth in Section 11 (i) shall be followed.

(c) *Acceptance of commitment order by borrower.*—The applicant must accept the commitment order within thirty days from the date thereof, and it may be withdrawn at any time before acceptance. He shall retain the fourth copy and submit the original and three copies of the application together with the financial statement add operating plan to the superintendent. He shall also execute the original copy of the securing documents, including note, and submit it with one copy to the superintendent.

(d) *Action of superintendent upon borrower's compliance with section 11 (c).*—Upon return of the original executed securing documents, the superintendent shall have all such documents covering nontrust property filed, registered, or recorded as required under Section 8 (a). The original, or a certified copy of the original of such securing documents, showing the same to have been properly filed, registered, or recorded, shall be placed in a place of safekeeping in the Agency Office. The originals of all securing instruments covering trust property shall likewise be placed in a place of safekeeping in the Agency Office. An appropriate contract number shall be given to each loan agreement, as well as a number preceded by "CF". The latter numbers shall follow consecutively.

(e) *Disposition of copies of the loan agreement.*—The original copy of the loan agreement shall be submitted as outlined in Section 11 (f). The first copy, including the original detailed financial statement and operating plan, and securing documents, including note, as set forth in Section 11 (d) shall be retained in the Agency Office. The remaining two copies of the application shall be submitted to the credit agent. He shall retain one copy for his files, and submit one copy, together with a copy of the superintendent's recommendations, as outlined in Section 11 (b) to the Commissioner.

(f) *Disbursements of funds.*—No disbursement of funds shall be made until the various copies of the loan agreement have been completed and distributed, and the superintendent has the documents in his files as outlined in Sections 11 (d) and (e). The borrower shall submit a voucher made out in his favor on form 5-809 to the superintendent for an amount in accordance with the terms of the loan agreement. The original application, with a copy of the securing documents, including note, and a copy of the credit agent's recommendations shall accompany the voucher to the Regional Disbursing Office, which will issue an official check in favor of the borrower for the amount of the advance authorized by the approved loan agreement. When the check is received, it should be endorsed by the borrower and deposited, immediately, to the credit of the borrower in his Individual Indian Money Account. The date of the check should be entered on the back of the note previously executed by the borrower, and interest should commence as of the date of the check. Disbursements from the borrower's Individual Indian Money Account shall be in the form of cash or purchase orders as the superintendent may determine. Subsequent advances, if any are provided for in the loan agreement, shall be made by attaching a copy of subsequently executed notes (the originals of which shall be filed at the Agency Office) to an executed voucher, which should be identified by date, number, and amount. Interest should be figured as in the case of the original advance.

(g) *Collections.*—When collections are made, the superintendent should issue an official receipt and take the amount into his appropriation ledger under "Sundry Receipts". The remittance should then be scheduled as a repayment to the original fund from which the loan was made and deposited to the credit of the United States. Collections on loans shall be credited first to interest, which must be shown as a separate item on the receipt. Sufficient information shall be given to show clearly the loan and fund to which each collection applies. The total amount of the receipt, and the amount applied to principal and interest, should be posted in the proper columns of the ledger, to the correct account, and on the back of the appropriate note.

(h) *Reports.*—Reports from borrowers shall be made in accordance with instructions of the Commissioner, or credit agent.

(i) *Disapproved applications.*—If the credit agent does not approve the loan by issuing a commitment order as outlined in Section 11 (b), he shall indicate the reasons for his disapproval on a form approved by the Secretary of the Interior and attach a copy to each copy of the application. He shall retain one copy of the application, his disapproval, and of the superintendent's recommendations. He shall send one copy of each of these documents to the Commissioner, and return all other papers to the superintendent. The superintendent shall retain one copy of the application, the unexecuted securing instruments, including note, the financial statement and operating plan, the credit agent's disapproval, and return the remaining papers to the applicant. The applicant will thus receive two copies of his disapproved application, unexecuted securing documents, including note, and the credit agent's disapproval. In the event the application required specific authority from the Commissioner of Indian Affairs, each copy of the application will have attached to it a copy of the Commissioner's letter of disapproval as outlined in Section 12 (b).

Summary of loan agreement papers to be placed in files of—

Borrower:

Fourth copy of application.
Second copy of securing instruments and note.

Agency office:

First copy of application.
Original copy of superintendent's recommendations.
Original copy of securing instruments and notes.
Original copy of financial statement and operating plan.

General accounting office:

Original copy of application.
First copy of securing instruments and notes.

Credit agent:

Second copy of application.
First copy of superintendent's recommendations.

Indian office:

Third copy of application.
Second copy of superintendent's recommendations.

NOTE.—In the case of applications requiring specific approval from the Commissioner as outlined in Section 1, each file will also contain a copy of the Commissioner's approval or, except in the case of the General Accounting Office, of his disapproval. In the case of disapproved applications, the files of the superintendent, credit agent, Indian Office, and applicant will also contain a copy

of the credit agent's disapproval. No copies will be supplied the General Accounting Office, and the applicant will have returned to him all copies intended for that Office. The securing instruments, note, and commitment order in all files will be unexecuted.

JOHN COLLIER,
Commissioner.

Approved, May 27, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1666; Filed, June 11, 1938; 9:49 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE TO I. M. BEASLEY, DOING BUSINESS AS JACKSON LIVESTOCK COMMISSION COMPANY, JACKSON, MISS.

JUNE 11, 1938.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And, whereas the stockyard of the Jackson Livestock Commission Company, at Jackson, Mississippi, was posted on the 26th day of January, 1938,[1] as coming within the foregoing definition:

And, whereas after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard of the Jackson Livestock Commission Company is no longer operated as a public stockyard subject to the provisions of said Act:

Now, therefore, notice is hereby given that the stockyard of the Jackson Livestock Commission Company, at Jackson, Mississippi, no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1677; Filed, June 13, 1938; 12:39 p. m.]

[1] 3 F. R. 103 (DI).

Commodity Exchange Commission.

[Hearing Docket C. E. A. No. 3]

NOTICE OF PROPOSED ORDER IN THE MATTER OF LIMITS ON POSITION AND DAILY TRADING IN GRAIN FOR FUTURE DELIVERY

Notice is hereby given that the following proposed findings of fact, conclusions and order have been submitted to the Commodity Exchange Commission. Before they are considered, any interested party may taken exceptions to matters set out therein by transmitting his exceptions, with brief statements concerning each of them, to the Secretary of Agriculture, Chairman of the Commodity Exchange Commission, in quadruplicate, on or before July 10, 1938. Exceptions to findings of fact should refer to that part of the record upon which the exceptions are based.

Dated at Washington, D. C., this 13th day of June, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture,
Chairman of Commodity Exchange Commission.

NOTE.—As used herein, the word "grain" includes wheat, corn, oats, barley, rye, and flaxseed, and the word "person" includes individuals, associations, partnerships, corporations, and trusts.

FINDINGS OF FACT

Pursuant to the provisions of Section 4a of the Commodity Exchange Act (U. S. C., 1934 ed. and Supp. III, title 7, sec. 6a), the Commodity Exchange Commission, after full consideration of the record made at a public hearing held in Chicago, Illinois, beginning December 1, 1937, of which due public notice had been given,[1] and at which all persons were given opportunity to hear, present, refute, and comment upon evidence in the premises, does hereby find the following:

A. Except as otherwise stated herein, trading in any one grain for future delivery on a contract market, by a person who holds or controls a speculative net position of more than 2,000,000 bushels, long or short, in any one future or in all futures combined, in such grain on such contract market, tends to cause sudden and unreasonable fluctuations and changes in the price of such grain not warranted by changes in the conditions of supply or demand, and is not needed to maintain the liquidity of such contract market or to facilitate hedging thereon. It is a matter of common knowledge in the grain trade that such trading during the delivery month of a future has a greater effect on price fluctuations than at any other time during the life of a future, and therefore such trading by a person having a much smaller speculative net position during the delivery month of any future may have the same effect as trading by a person having a 2,000,000 bushel net position at any other time during the life of the future.

B. The fluctuations and changes in prices mentioned in paragraph A hereof are likely to be less, except during the delivery month of a future, if the long or short position of such person consists of spreads in any one grain, between markets or between futures.

C. Trading in any one grain for future delivery by a person who assumes a total long position in such grain, all futures on all markets combined, not in excess of his reasonably anticipated requirements of the cash grain for manufacturing or processing during the following six months, and who liquidates such position gradually as he obtains the cash grain, does not, except during the delivery month of any future, cause sudden or unreasonable fluctuations or changes in the price of such grain not warranted by changes in the conditions of supply or demand.

D. Except as otherwise stated herein, speculative buying or speculative selling by any person during one business day of more than 2,000,000 bushels in any one future, or in all futures combined of any one grain on any one contract market, tends to cause sudden and unreasonable fluctuations and changes in the price of such grain not warranted by changes in the conditions of supply or demand, and is not needed to maintain the liquidity of such contract market or to facilitate hedging thereon. It is a matter of common knowledge in the grain trade that such speculative buying or speculative selling by any person during the delivery month of a future has a greater effect on prices than at any other time during the life of a future, and therefore much smaller daily speculative purchases or sales during the delivery month of any future may have the same effect as speculative buying or speculative selling by any person during one business day of more than 2,000,000 bushels in any one future at any other time during the life of the future.

E. The fluctuations and changes in prices mentioned in paragraph D hereof are likely to be less, except during the delivery month of a future, if the buying or selling of such person consists of spreads in any one grain between markets, or between futures.

F. Speculative buying and speculative selling for future delivery by a person whose purchases and sales during the same business day substantially offset each other cause less fluctuations and changes in price, except during the delivery month of a future, than the buying and selling mentioned in paragraph D hereof.

[1] 2 F. R. 2859 (DI).

CONCLUSIONS

Upon the foregoing facts, it is concluded that in order to diminish, eliminate or prevent the undue burden of excessive speculation in grain futures which causes unwarranted price changes, it is necessary to establish limits on the amount of trading, under contracts of sale of grain for future delivery on contract markets, which may be done by any one person; that 2,000,000 bushels is a reasonable limitation on the net long or net short position which any person may hold or control and upon the daily purchases or sales which any person may make, in any one grain on any one contract market, in any one future or all futures combined; that a lower limitation should be fixed for a future during the delivery month thereof and 1,000,000 bushels is a reasonable limitation for a future during the delivery month thereof; that a higher limitation should be fixed for the net position and for purchases and sales if any part thereof represents spreading in the same grain between markets or between futures and 3,000,000 bushels is a reasonable limitation under such circumstances, but in no event should the increase over 2,000,000 bushels exceed the amount of the net position represented by spreading; that the limitation on trading by any person whose purchases and sales during any business day substantially offset each other should be higher and a limitation of 3,000,000 bushels on trading by any person whose net position does not change more than 200,000 bushels during any business day is reasonable; and that allowance should be made for the needs of manufacturers and processors to buy futures to insure the price of their reasonably anticipated requirements of cash grain.

ORDER

It is therefore ordered, That the following limits on the amount of trading under contracts of sale of grain for future delivery on or subject to the rules of contract markets which may be done by any person be, and they are hereby, proclaimed and fixed, to be in full force and effect on and after
1938:

Position Limits

1. The limit on the maximum net long or net short position which any one person may hold or control in any one grain on any one contract market, except as specifically authorized by paragraphs 2 and 3 hereof, is: 2,000,000 bushels in all futures combined, subject to a limitation of 2,000,000 bushels in any one future and a further limitation of 1,000,000 bushels in any one future during the delivery month for that future.

2. To the extent that the net position held or controlled by any one person in any one future and in all futures combined in any one grain on any one contract market is shown to represent spreading in the same grain between markets or between futures, the limit set forth in paragraph 1 hereof may be exceeded on such contract market, but in no case shall the excess result in a net position of more than 3,000,000 bushels in any one future and all futures combined, and in no event shall the limitation of 1,000,000 bushels for any one future during the delivery month for that future be exceeded.

3. If any person establishes, to the satisfaction of the Secretary of Agriculture, what his requirements of any one grain for manufacturing or processing are likely to be for a future period not exceeding six months, and that he liquidates his futures position gradually as he obtains the cash grain, the amount of his anticipated requirements, so established, when approved in writing by the Secretary of Agriculture, shall constitute the limit on the maximum total long position which may be held or controlled by such person in any one future and in all futures combined, in such grain, on all contract markets combined, but in no event shall the limitation of 1,000,000 bushels in any one future during the delivery month for that future be exceeded.

Daily Trading Limits

4. The limit on the maximum amount which any person may buy, and on the maximum amount which any person may sell, of any one grain on any one contract market during any one business day, except as specifically authorized by paragraphs 5 and 6 hereof, is: 2,000,000 bushels in all futures combined, subject to a limitation of 1,000,000 bushels in any one future during the delivery month for that future.

5. To the extent that purchases or sales of any one grain on any one contract market during any one business day made by any one person are shown to represent spreading or the closing of spreads in the same grain between markets or between futures, the limit set forth in paragraph 4 hereof may be exceeded on such contract market, but in no case shall the excess result in total purchases or total sales of more than 3,000,000 bushels and in no event shall the limitation of 1,000,000 bushels in any one future during the delivery month for that future be exceeded.

6. A person whose net position in any one future and in all futures combined, in any one grain on any one contract market, does not change more than 200,000 bushels during any business day, may, during such business day, on such contract market, exceed the limit set forth in paragraph 4 hereof, but in no case shall the excess result in total purchases or total sales of more than 3,000,000 bushels and in no event shall the limitation of 1,000,000 bushels in any future during the delivery month for that future be exceeded.

[F. R. Doc. 38-1678; Filed, June 13, 1938; 12:39 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

IN THE MATTER OF INVESTIGATION OF POWER REQUIREMENTS FOR SHIP RADIO TRANSMITTERS

The Commission, en banc, at a meeting held May 31, 1938, designated the following matter for hearing before a Commissioner to be named by order of the Commission at a later date, and adopted the following Order:

The Commission having under consideration the protests of various shipping companies to the terms of paragraph 12 (c) of its Ship Radiotelegraph Safety Rules, and further having under consideration a definite proposal for modification of the said paragraph, which proposal is attached hereto and made a part hereof; and

It appearing, That the Commission may not at this time be in possession of all the information necessary to a satisfactory determination of the matters involved in paragraph 12 (c)[1] of the said rules.

It is ordered, That the Commission, upon its own motion, enter into an investigation of the facts, circumstances and conditions affecting the determination of power required for ship transmitters in order to comply with the terms of treaty and statute.

It is further ordered, That any person who desires to present evidence bearing on this rule at any hearing which may be had in this matter shall file notice of intention thereof at least ten days in advance of the date set for such hearing.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

PROPOSED MODIFICATIONS OF PARAGRAPH 12 OF THE SHIP RADIOTELEGRAPH SAFETY RULES

Change paragraph 12 (c) (3) to read as follows, adding new sections (4), (5), (6) and (7), and renumbering remaining sections.

12 (c) (3) A main transmitter which has been continuously installed aboard a subject vessel since (*date of proposed action by Commission*), but is not capable of developing the power specified in 12 (c) 1 or 2 hereof, is approved for further use in compliance with paragraph 12 (b) of these rules, provided (a) the transmitter is capable of developing at least 50 watts power, type A-2 emis-

[1] 3 F. R. 281 (DI).

sion, into the average ship station antenna circuit, or at least 100 watts power into the plate circuit of the oscillator or amplifier supplying power for A–2 emission to the antenna circuit; or (b) is capable of developing type B emission with an input into the power transformer of at least 500 watts when the transmitter is supplying power for B emission to an average ship station antenna circuit with proper coupling thereto.

12 (c) (4) The use of main transmitters in compliance with paragraph 12 (b) of these rules, subject to the conditions specified in 12 (c) (3) hereof, may be continued only under the following conditions and limitations:

(a) For passenger vessels having transmitters which can be modified to conform to full requirements, except as provided in 12 (c) (5) hereof, until not later than October 1, 1938.

(b) For passenger vessels having transmitters which must be replaced, except as provided in 12 (c) (5) hereof, until not later than January 1, 1939.

(c) For cargo vessels having transmitters which can be modified to conform to full requirements, except as provided in 12 (c) (5) hereof, until March 1, 1939.

(d) For cargo vessels having transmitters which must be replaced, except as provided in 12 (c) (5) hereof, until January 1, 1940.

(e) No increase in power beyond that specified in 12 (c) (3) hereof shall be required (1) for dry cargo vessels launched prior to January 1, 1922, or (2) for tank vessels launched prior to January 1, 1925.

12 (c) (5) Notwithstanding any other requirements of 12 (c) (3) and (4) hereof, an increase of power shall not be required beyond that specified in 12 (c) (3) for (a) cargo vessels navigating exclusively along the Atlantic and Pacific coasts 100 miles or less offshore, or (b) passenger vessels navigating exclusively along the Atlantic and Pacific coasts 20 miles or less offshore that are on (*date of this order*) equipped with transmitters capable of developing at least 100 watts power, Type A–2 emission, into the average ship station antenna circuit, or at least 200 watts power into the plate circuit of the oscillator or amplifier supplying power for A–2 emission to the antenna circuit; provided that neither such cargo nor passenger vessels operate south of 25 degrees North Latitude.

12 (c) (6) Where two or more tube transmitters are a part of the radio installation aboard a vessel, one or more of these shall not be removed for the primary purpose of operating the remaining transmitter(s) under the exceptions of this rule.

12 (c) (7) Where the provisions of this rule require the installation of new equipment or the modification of existing equipment on board vessels when such vessels are about to be replaced or retired within a reasonable time, the Commission may, upon appropriate application, authorize the continuance of existing equipment or the use of such other equipment as in the circumstances may seem proper to the Commission. Where the specific conditions and limitations prescribed by this rule with respect to the periods of time during which the use of existing radio transmitter equipment may be continued, and with respect to the classes of vessels which are authorized to continue to use such equipment, any owner or operator affected, who believes that these requirements are unjust or impracticable, may request appropriate relief from the Commission in a written application stating the reasons therefor; and nothing herein contained shall affect the right of any owner or operator to any other exemptions to which the Commission may find them entitled in accordance with law.

[F. R. Doc. 38–1670; Filed, June 13, 1938; 9:50 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 261]

AMENDMENT OF PRIOR ALLOCATIONS OF FUNDS FOR LOANS

JUNE 9, 1938.

I hereby amend Administrative Order No. 128 [1] by rescinding the $155,000 allotted to Kentucky 8031B Union.

I hereby amend Administrative Order No. 128 [1] by rescinding the $9,500 allotted to Mississippi 8001D Monroe.

I hereby amend Administrative Order No. 241 [2] by rescinding the $12,000 allotted to Nebraska 8053A2 Buffalo.

I hereby amend Administrative Order No. 179 [3] by reducing the allocation to New Jersey 8004W Monmouth from $25,000 to $12,500.

I hereby amend Administrative Order No. 170 [4] by rescinding the $35,000 allotted to Pennsylvania 8004C Crawford.

I hereby amend Administrative Order No. 183 [5] by rescinding the $36,000 allotted to Virginia 8020B1 Prince Williams.

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–1664; Filed, June 11, 1938; 9:49 a. m.]

[Administrative Order No. 262]

ALLOCATION OF FUNDS FOR LOANS

JUNE 9, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Georgia 8075W1 Lamar	$5,000
Illinois 8029W1 Shelby	5,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–1665; Filed, June 11, 1938; 9:49 a. m.]

[1] 2 F. R. 2091 (DI).
[2] 3 F. R. 965 (DI).
[3] 3 F. R. 35 (DI).
[4] 2 F. R. 3197 (DI).
[5] 3 F. R. 305 (DI).

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of June, A. D. 1938.

[File No. 31–396]

IN THE MATTER OF INTERLAKE IRON CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (3) (A) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 23, 1938.

The matter concerned herewith is in regard to the question of the status of Interlake Iron Corporation as an electric utility company as that term is defined in Section 2 (a) (3) (A) of the aforesaid Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1673; Filed, June 13, 1938; 12:26 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1938.

[File No. 43–124]

IN THE MATTER OF THE ASSOCIATED CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 30, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 25, 1938.

The matter concerned herewith is in regard to a declaration by The Associated Corporation to issue a promissory note or notes containing the best obtainable terms with respect to interest (not to exceed 6%), maturity and collateral security to be issued on or before July 11, 1938, in an aggregate amount not to exceed $1,000,000. The note or notes are to be issued by declarant to refund its now outstanding 5% promissory note, dated February 25, 1938 and due July 11, 1938, and secured by the pledge of $7,000,000 National Public Service Corporation Secured Gold Debentures 5% series due 1978, and/or Certificate of Deposit therefor which securities are presently owned by New Jersey Utilities Company subject to said pledge. The declaration also states that the declarant proposes to refund the new note or notes from time to time, the maturity and refunding thereof, however, not to exceed in the aggregate, two years. The $1,000,000 note to be refunded is stated to be payable to The Public National Bank and Trust Company of New York.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1674; Filed, June 13, 1938; 12:26 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1938.

[File No. 55–3]

IN THE MATTER OF PAUL V. SHIELDS, JOSEPH S. MAXWELL, CHARLTON B. HIBBARD, PROTECTIVE COMMITTEE FOR PREFERRED STOCKHOLDERS OF UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) and Rule U–11F–2 on the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on June 30, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 25, 1938.

The matter concerned herewith is in regard to an application of Paul V. Shields, Joseph S. Maxwell, and Charlton B. Hibbard, constituting a Protective Committee for the preferred stockholders of Utilities Power & Light Corporation (now in reorganization under Section 77B of the Bankruptcy Act, as amended, in the District Court of the United States for the Northern District of Illinois), requesting approval of an interim allowance for expenses incurred by the Protective Committee from February 4, 1937, to May 10, 1938, the maximum amount for which approval is asked being stated at $11,234.30.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1675; Filed, June 13, 1938; 12:26 p. m.]

Reference JUN 16 1938

Reference

JUN 16 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 116

Washington, Wednesday, June 15, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[SR—B-201—Pulaski County, Ark.]

1938 PULASKI COUNTY, ARKANSAS, AGRICULTURAL CONSERVATION PROGRAM SOUTHERN REGION BULLETIN 201

CONTENTS

SECTION I. Farm Acreage Allotments and Goals.
- A. Cotton allotment.
- B. Soil-building goals.
- C. Posting acreage allotments.

SECTION II. Payment for Full Performance.
- A. Payment on class A farms located in the administrative area designated as "bottom land."
- B. Payment on class A farms located in the administrative area designated as "hill land."
- C. Payment on class B farms receiving a cotton acreage allotment.
- D. Payment on class B farms receiving no cotton acreage allotment.
- E. Payment on any farm receiving a cotton acreage allotment.

SECTION III. Payments for Partial Performance.
- A. Deductions for excess acreage of cotton.
- B. Deductions for failure to carry out soil-building practices.

SECTION IV. Division of Payments and Deductions.
- A. Payments and deductions in connection with cotton acreage allotments.
- B. Deductions with respect to soil-building practices on class A farms.
- C. Payments with respect to soil-building practices on class B farms.
- D. Proration of net deductions.

SECTION V. Increase in Small Payments.

SECTION VI. Deductions Incurred on Other Farms.
- A. Other farms in the same county.
- B. Other farms in the State.

SECTION VII. Deduction for Association Expenses.

SECTION VIII. Materials Furnished as Grants of Aid.

SECTION IX. General Provisions Relating to Payments.
- A. Payment restricted to effectuation of purposes of the program.
- B. Payment computed and made without regard to claims.
- C. Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.

SECTION IX. General Provisions Relating to Payments.—Continued.
- D. Assignments.
- E. Excess cotton acreage.
- F. Use of soil-conserving crops for market.

SECTION X. Application for Payment.
- A. Persons eligible to file applications.
- B. Time and manner of filing application and information required.
- C. Applications for other farms.

SECTION XI. Soil-Building Practices.

SECTION XII. Normal Cotton Yields.

SECTION XIII. Appeals.

SECTION XIV. Bulletins, Instructions, and Forms.

SECTION XV. Definitions.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Pulaski Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Pulaski Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amount of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation. The rates of payments and deductions specified herein are subject to an increase or decrease of not more than 10 percent, depending upon the extent of participation in the Pulaski County Program and the final estimate of payments which would be made in Pulaski County under the 1938 Agricultural Conservation Program.

The provisions of the 1938 Pulaski Program are not applicable in the Southern Region to (1) counties other than Pulaski County and (2) land owned by the United States and administered

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program, 1938, southern region — Pulaski County, Ark. 1413

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Joy Package Co., Inc., order to cease and desist 1419

TITLE 31—MONEY AND FINANCE, TREASURY:
Accounts and Deposits:
Deposit of public moneys and payment of Government checks and warrants 1419
Special deposits of public moneys 1419
Office of the Secretary:
Federal National Mortgage Association securities designated for exemption under Securities Exchange Act of 1934 1419

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc.:
Gold Medal Farms, Inc., et al 1421
Morris, Callie E., trading as Control Products Co 1420
Sanders, Peter, Harry and Samuel, trading as Perfect Recondition Spark Plug Co., etc 1421
Scientific Apparatus Makers of America, et al 1420
Zonite Products Corp. (Larvex Division) 1420
Rural Electrification Administration:
Amendment of prior allocations of funds for loans 1421
Securities and Exchange Commission:
Hearings in the matter of:
Crescent Public Service Co 1422
Empire Southern Service Co 1421
Louisiana Ice & Electric Co., Inc 1421

FEDERAL REGISTER

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by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

SECTION I. *Farm acreage allotments and goals.*—The county committee, with the assistance of other local committees in the county, shall determine cotton acreage allotments and soil-building practice goals, in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. The cotton soil-depleting acreage allotments determined for farms in the county shall not exceed the county cotton acreage allotment [1] established for the county by the Agricultural Adjustment Administration; and the sum of the cotton acreage allotments for farms furnishing required forms and information shall not exceed their proportionate share of the county cotton acreage allotment.

A. *Cotton allotment.*—1. The county cotton acreage allotment shall be apportioned among the farms in the county on which cotton was planted in any one of the years, 1935, 1936, and 1937, in a manner that will result in a cotton acreage allotment for each such farm which is a percentage (which shall be the same percentage for all farms in the administrative area [1]) of the land in the farm in 1937 which was tilled annually or in regular rotation exclusive of the acres of such land normally devoted to the production of wheat for market or for feeding to livestock for market except that—

(a) For any farm on which cotton was planted in any one of the years 1935, 1936, and 1937, and on which the highest acreage planted to cotton and diverted from the production of cotton in any one of these three years was less than five acres, the cotton acreage allotment for the farm shall be such highest number of acres, if the county cotton acreage allotment is sufficient therefor;

(b) For any farm on which cotton was planted in any one of the years 1935, 1936, and 1937, and on which the highest number of acres planted to cotton and diverted from the production of cotton in any one of these three years was five acres or more, the allotment for the farm shall not be less than five acres, if the county cotton acreage allotment is sufficient therefor;

(c) Notwithstanding the foregoing provisions of item 1 of this subsection A, a number of acres equal to not more than 3 percent of the county acreage allotment in excess of the allotments made to farms on which the highest number of acres planted to cotton plus the acres diverted from the production of cotton in any of the years 1935, 1936, and 1937, was five acres or less and the number of acres required for allotments of five acres for each other farm in the county on which cotton was planted in 1935, 1936, or 1937 may be apportioned among farms in the county on which cotton was planted in 1935, 1936, or 1937 and for which the allotment otherwise provided is five acres or more but less than 15 acres and less than the highest number of acres planted to cotton and diverted from the production of cotton in any one of the years 1935, 1936, and 1937.

In making such allotments under clause (c) in the preceding sentence consideration shall be given to the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton, and such increases shall not be such as to increase the allotment to any farm above 15 acres. In no event shall the allotment for any farm under this subsection A 1 exceed the highest number of acres planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937.

2. In case the county allotment is insufficient to provide allotments to farms in the county, which are determined, under instructions issued by the Agricultural Adjustment Administration, to be adequate and representative in view of their past production of cotton and their tilled lands, there shall be apportioned to such farms, under instructions issued by the Agricultural Adjustment Administration, such part of a State reserve equal to 4 percent of the State acreage allotment as is necessary to give such farms allotments in conformity with subsection A 1 which are as nearly adequate and representative as such 4-percent reserve will permit. Such additional allotment shall be used first to increase allotments to farms under clauses (a) and (b) of subsection A 1.

3. Notwithstanding the provisions of subsection A 1 above the cotton acreage allotment for any farm shall be increased by such amount as may be necessary to provide an allotment of not less than 50 percent of the sum of the acreage as determined by the county committee under instructions issued by the Agricultural Adjustment Administration to have been planted in cotton in 1937 and the acreage diverted from cotton production in 1937 under the agricultural conservation program, provided that the cotton acreage allotment for any farm shall not be increased under this paragraph to more than 40 percent of the acreage on such farm which is tilled annually or in regular rotation.

4. That portion of the State acreage allotment (not to exceed 2 percent of the State acreage allotment) not apportioned among the counties shall be apportioned to farms in the State on which cotton will be planted in 1938 but on which cotton was not planted in any of the years 1935, 1936, and 1937, so as to result in comparable allotments to farms similar with respect to land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton. The county committee shall report, through the State committee, to the Agricultural Adjustment Administration the acreage required for the allotments to such farms in the county together with such substantiating data as may be required by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall allot to the county the proportion of that part of the State acreage allotment reserved for this purpose which it finds reasonable on the basis of the data so reported.

B. *Soil-building goals.*—

1. *Soil-building goals on class A farms located in the administrative area designated as "bottom land."*—The soil-building goal shall be a number of units of soil-building practices equal to 65 percent of the number of acres in the cotton acreage allotment established for the farm.

2. *Soil-building goals on class A farms located in the administrative area designated as "hill land."*—The soil-building goal shall be a number of units of soil-building practices equal to 150 percent of the number of acres in the cotton acreage allotment established for the farm.

3. *Soil-building goals on class B farms.*—The soil-building goal shall be a number of units of soil-building practices equal to 50 percent of the number of acres of cropland in the farm.

C. *Posting of acreage allotments.*—All acreage allotments established for farms in the county shall be posted or kept freely available for public inspection in the office of the county agricultural extension agent.

SECTION II. *Payment for full performance.*—Payment will be made with respect to any farm for not exceeding the cotton acreage allotment and for achieving the soil-building goal in the following amount:

A. *Payment on class A farms located in the administrative area designated as "bottom land."*—2.7 cents per pound of the normal yield per acre of cotton for the farm for each acre in the cotton acreage allotment.

B. *Payment on class A farms located in the administrative area designated as "hill land."*—3.6 cents per pound of the normal yield per acre of cotton for the farm for each acre in the cotton acreage allotment.

C. *Payment on class B farms receiving a cotton acreage allotment.*—$1.00 per acre of cropland in the farm.

D. *Payment on class B farms receiving no cotton acreage allotment.*—70 cents per acre of cropland in the farm.

E. *Payment on any farm receiving a cotton acreage allotment.*—Notwithstanding the foregoing provisions of this section II, if the acreage planted to cotton on any farm is less than 80 percent of the cotton acreage allotment for the farm, and the county committee finds that the failure to plant 80 percent of such cotton acreage allotment was not due to flood or drought, the payment for the farm will be computed with respect to 125 percent of the acreage planted to cotton. The acreage planted to cotton shall be deemed to be that acreage on which the cotton crop reaches the stage of growth at which bolls are first formed.

SECTION III. *Payments for partial performance.*—Payments computed for any farm under the provisions of section II shall be subject to all of the following deductions which are applicable to the farm.

A. *Deductions for excess acreage of cotton.*—6 cents per pound of the normal yield per acre for the farm for each acre of cotton in excess of the cotton acreage allotment (see subsection E, section IX for a special provision regarding excess cotton acreage).

B. *Deductions for failure to carry out soil-building practices.*—$2.00 for each unit on any farm by which the soil-building goal is not reached.

SECTION IV. *Division of payments and deductions.*—

A. *Payments and deductions in connection with cotton acreage allotments.*—The net payment or net deduction computed for any farm with respect to the cotton acreage allotment shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the cotton grown on the farm in 1938.

In the event that cotton is not harvested in 1938 on the farm or in the event the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, finds that due to crop failure the acreage of cotton was reduced sufficiently to affect materially the division of payments or deductions the net payment or net deduction, if any, with respect to the cotton acreage allotment shall be divided among the landlords, tenants, and sharecroppers in the same proportion that the county committee determines that such persons would have shared in the proceeds of the cotton crop had cotton been harvested on the farm in 1938 or the cotton acreage had not been so reduced.

B. *Deductions with respect to soil-building practices on class A farms.*—The net deductions for any farm with respect to failure to meet the soil-building goal shall be divided among the landlords, tenants, and sharecroppers in the same proportion that such persons are entitled to share in the proceeds of the cotton crop as indicated under the division of payments in subsection A of this section IV.

C. *Payments with respect to soil-building practices on class B farms.*—The amount of payment earned in connection with the soil-building goal for the farm shall be paid to the landlord, tenant, or sharecropper who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice; provided, that if the persons who carried out the practice establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, such units shall be divided in the proportion which the county committee determines each person contributed thereto.

D. *Proration of net deductions.*—If, with respect to any farm, the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the other persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm, the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of such net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm, except that the amount of such net deductions in excess of such net payments for any Class B farm for which no cotton acreage allotment is established shall be disregarded.

SECTION V. *Increase in small payments.*—The total payment computed under sections II to IV, inclusive, for any person with respect to any farm shall be increased as follows:

1. Any payment amounting to 71 cents or less shall be increased to $1.00;

2. Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

3. Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.
[2] No increase.

SECTION VI. *Deductions incurred on other farms.*—

A. *Other farms in the same county.*—If the deductions computed under section III with respect to any farm exceed the payment for full performance on such farm computed under section II, a landlord's or tenant's share of the amount by which such deduction exceeds such payments shall be deducted from such landlord's or tenant's share of the payment which would otherwise be made to him with respect to any other farms in the county.

B. *Other farms in the State.*—If the deductions computed for a landlord or

[1] The county cotton acreage allotment established in accordance with item 2, subsection A, section II of the 1938 Agricultural Conservation Program Bulletin, as amended, shall be apportioned pro rata among the two administrative areas (established by the Agricultural Adjustment Administration because of differences in the types, kinds, and productivity of the soil, or other conditions) on the basis of the acreage planted to cotton in 1937 plus the acreage diverted from the production of cotton under the 1937 Agricultural Conservation Program.

tenant with respect to one or more farms in a county exceed the payments computed for such landlord or tenant on other farms in such county, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in the State, if the State committee finds that the crops grown and practices adopted on the farm with respect to which such deductions are computed substantially offset the contribution to the program made on such other farms.

SECTION VII. *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm in Pulaski County all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the Pulaski County Agricultural Conservation Association.

SECTION VIII. *Materials furnished as grants of aid.*—Wherever it is found practicable, limestone, superphosphate, trees, seeds, and other materials, upon request of the producer, may be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out approved soil-building practices which shall be counted toward meeting the soil-building goal for the farm. Wherever such materials are furnished, a deduction from the payment for the farm shall be made in the amount of the approximate cost of such material to the Agricultural Adjustment Administration. Such deduction shall be applied first to the payment computed for the person to whom such materials are furnished and the balance, if any, of such deduction shall be prorated among the payments to other persons sharing in the payment with respect to the farm on which such materials were used.

In making a request for materials pursuant to this section the producer to whom such materials are furnished shall agree that, in the event the amount of the deduction for the materials exceeds the amount of the payment with respect to the farm, the amount by which the deduction exceeds the payment shall be repaid by him to the Secretary.

SECTION IX. *General provisions relating to payments.*—

A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Pulaski Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1938 or previous agricultural conservation programs, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the regional director finds is contrary to sound conservation practices. No payment shall be computed with respect to any farm which is idle in 1938.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deductions of claims for advances (except as provided in subsection D of this section IX), and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—1. If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 is made between the landlord and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Pulaski Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, Pulaski County, Arkansas, and the county committee certifies that the change is not justified and disapproves such change, payments to the landlord under the 1938 Pulaski Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938.

2. If on any farm the number of sharecroppers or share tenants in 1938 is less than the average number on the farm during the three years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord and the county committee certifies that the reduction is not justified and disapproves such reduction, the payments to the landlord shall not be greater than the amount that would otherwise be made if the average number of tenants in such three-year period had not been reduced.

3. If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Pulaski Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Pulaski Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Pulaski Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP–69 in accordance with instructions issued by the Agricultural Adjustment Administration and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any preexisting indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for the purpose mentioned in clause (2) above.

Nothing contained in this section IX shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled, nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Excess cotton acreage.*—1. Any person who makes application for payment with respect to any farm located in Pulaski County shall file with such application a statement that the applicant has not knowingly planted or caused to be planted during 1938 cotton on land in any farm in which he has an interest in excess of the cotton acreage allotment established for the farm for 1938, and that cotton was not planted in excess of such allotment by his authority or with his consent.

2. Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Pulaski Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting (seeding) of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938.

F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farms unless on such farm in 1938 an acreage not devoted to cotton, corn, small grains harvested for grain or hay, grain sorghums, sweet sorghums for sirup, soybeans harvested for seed for crushing, and truck and vegetable crops is withheld from the production of soil-conserving crops for market equal to the acreage by which the normal acreage of cotton, corn, small grains harvested for grain or hay, grain sorghums, sweet sorghums for sirup, soybeans harvested for seed for crushing and truck and vegetable crops on such farm exceeds the acreage devoted to cotton, corn, small grains harvested for grain or hay, grain sorghums, sweet sorghums for sirup, soybeans harvested for seed for crushing, and truck and vegetable crops on the farm in 1938; provided, that payment shall not be denied any farmer for using such soil-conserving crops for market (1) if, in Pulaski County, the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows, (2) if, on such farm, the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows, or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph if either (1) the increase above normal in the number of dairy cows on his farm does not exceed two cows, or (2) none of the soil-conserving crops to which such provisions are applicable is used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than 10 percent of the milk, or products thereof, produced on the farm. The county, as a whole, shall be deemed to be in substantial compliance with such provisions if the increase above normal in the number of dairy cows in the county does not exceed 10 percent.

The normal acreage of soil-depleting crops and the normal number of cows kept for the production of milk, or the products thereof, for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department and shall announce the counties in which the number of cows kept for the production of milk, or the products thereof, for market exceeds by more than 10 percent the normal number of such cows.

As used in this subsection F, the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this subsection F, the term "soil-conserving crops" means grasses and legumes grown on cropland, excluding peanuts harvested for nuts, soybeans harvested for seed for crushing, and legumes used as truck crops.

SECTION X. *Application for payment.*—

A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of section IV, a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2), if the farm is a class B farm, who is owner of such class B farm and participates thereon in 1938 in carrying out approved soil-building practices.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks notice to the public shall be given of the expiration of a time limit for filing prescribed forms by mailing the same to the office of the county committee and making copies of the same available to the press.

C. *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in the county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SECTION XI. *Soil-building practices.*—The soil-building practices listed in the following schedule shall count toward the achievement of the soil-building goal to the extent indicated therein when carried out in 1938 in accordance with specifications, if any, issued by the regional director, or by the State committee with the approval of the regional director, and when performed in a workmanlike manner and in accordance with good farming practice for the locality.

Practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency other than the Agricultural Adjustment Administration shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal.

Trees purchased from a Clark-McNary Cooperative State Nursery shall not be deemed to be paid for in whole or in part by a State or Federal Agency.

SCHEDULE OF SOIL-BUILDING PRACTICES

A. Each of the following practices in the amounts specified shall be counted as one unit, provided that when the materials specified in items 1 or 2 are applied to biennial or perennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, or Natal grass, when seeded or grown in connection with a small-grain crop, no part of the material applied shall be counted.

1. Application of 300 pounds of 16-percent superphosphate (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

2. Application of 500 pounds of basic slag or rock phosphate (including colloidal phosphate) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

3. Construction of 200 linear feet of standard terrace for which proper outlets are provided.

4. Reseeding depleted pastures with good seed of adapted pasture grasses or legumes—10 pounds of seed.

5. Contour ridging of noncrop open pasture land—750 linear feet of ridge or terrace.

6. Application of not less than two tons, air dry weight, of straw or equivalent mulching materials, excluding barnyard and stable manure, per acre in commercial orchards or on commercial vegetable land.

7. Application of 1500 pounds of ground limestone or its equivalent.

B. Each acre of the following shall be counted as one unit:

8. Seeding annual legumes alone, biennial legumes, perennial legumes, per-

ennial grasses, or mixtures containing perennial grasses, perennial legumes, or biennial legumes (except permanent pasture mixtures qualifying under practice number 10).

9. Green manure crops and cover crops (excluding lespedeza, peanuts hogged off, and any crop for which credit is given in 1938 under any other practice) of which a good stand and good growth is (1) plowed or disced under on land not subject to erosion, or, if subject to erosion, such crop is followed by a winter cover crop, or (2) left on the land as a temporary mulch in orchards or on commercial vegetable or Irish potato land, or on cropland in a regular cropping rotation.

C. Each acre of the following shall be counted as two units:

10. Seeding permanent pasture mixtures containing a full seeding of legumes or grasses, or both, other than timothy and redtop.

11. Cultivating, protecting, and maintaining by replanting, if necessary, a good stand of forest trees, planted between January 1, 1934 and January 1, 1938.

12. Establishment of permanent vegetative cover by planting sod pieces of perennial grasses.

D. Each acre of the following shall be counted as five units:

13. Planting forest trees (including shrubs in protective plantings) provided such trees are protected and cultivated in accordance with good tree culture practice.

E. Each two acres of the following shall be counted as one unit:

14. Summer legumes (excluding peanuts and summer legumes used as truck crops interplanted or grown in combination with row crops such as corn, sorghums, and cotton, provided a good stand and a good growth is left on the land or turned under, and provided further that the summer legume occupies at least one-third of the land.

F. Each four acres of the following shall be counted as one unit:

15. Contour listing or furrowing noncrop land.

16. Stripcropping other than for protection of summer-fallowed acreage.

SECTION XII. *Normal cotton yields.*—The county committee, with the assistance of other local committees in the county, in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration, shall determine a normal yield per acre for each farm for which a cotton allotment will be established.

1. Where reliable records of the actual average yield of cotton per acre for the years 1933 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields, adjusted for abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

2. If for any year of such five-year period records of the actual average yield per acre are not available or there was no actual yield because cotton was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such five-year period.

3. The yields determined under paragraph 2 of this section shall be adjusted so that the average of the normal yields determined for all farms in the county or administrative area (weighted by the cotton acreage allotments established for such farms) shall conform to the county (or administrative area) average yield established by the Secretary.

SECTION XIII. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest, within 15 days after notice thereof is forwarded to or available to him, may request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters:

1. Eligibility to file an application for payment;

2. Any cotton acreage allotment or soil-building goal;

3. The division of payment; or

4. Any other matter affecting the right to or the amount of his payment with respect to the farm.

The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee, he may appeal in writing to the State committee within 15 days after such decision is forwarded to or made available to him. The State committee shall inform such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may request the regional director to review the decision of the State committee within 15 days after such decision is forwarded to or made available to him.

SECTION XIV. *Bulletins, instructions, and forms.*—The Agricultural Adjustment Administration shall prepare and issue such bulletins, instructions, and forms as may be required in administering the 1938 Pulaski Program.

SECTION XV. *Definitions.*—For the purposes of the 1938 Pulaski Program:

Secretary means the Secretary of Agriculture of the United States.

Regional Director or *Director of the Southern Division* means the director of the Southern Division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the Southern Region.

Southern Region means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

State Committee means the group of persons designated within the State to assist in the administration of the 1938 Agricultural Conservation Program.

County Committee means the group of persons elected within the county to assist in the administration of the 1938 Pulaski Program.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Landlord means a person who owns land and rents such land to another person, or operates such land.

Tenant means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Sharecropper means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Pulaski Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

provided, that land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Class A Farms are farms for which a cotton acreage allotment of 5 acres or more is made.

Class B Farms means all farms which are not class A farms.

Cropland means farm land which is tilled annually or in a regular rotation, including commercial orchards and any other land which has been planted since January 1, 1930, to permanent pasture or forest trees and which was classified as cropland under the 1937 Agricultural Conservation Program, Pulaski County, Arkansas, and including also land planted to non-commercial orchards other than abandoned orchards.

1938 Pulaski Program means the 1938 Pulaski County, Arkansas, Agricultural Conservation Program.

Cotton means cotton the staple of which is normally less than 1⅛ inches in length.

Done at Washington, D. C., this 14th day of June, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1690; Filed, June 14, 1938; 12:43 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3203]

IN THE MATTER OF JOY PACKAGE COMPANY, INC. A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, testimony and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and in opposition thereto, briefs filed herein (oral argument not having been requested), and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is now ordered, That the respondent, Joy Package Company, Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of candy in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing to dealers, candies so packed and assembled that sales of such candy to the general public are to be made, or may be made, by means of a lottery, gaming device or gift enterprise.

(2) Supplying to or placing in the hands of dealers assortments of candy which are used, or which may be used, without alteration or rearrangement of the contents of such packages or assortments, to conduct a lottery, gaming device or gift enterprise in the sale and distribution of candy contained in said assortments to the public.

(3) Packing or assembling in the same assortment of candy for sale to the public at retail, individually wrapped pieces of candy of uniform size and shape with different colored centers, together with other articles of merchandise, which said articles of merchandise are to be given as prizes to the purchasers procuring pieces of candy of a particular color.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1680; Filed, June 13, 1938; 1:40 p. m.]

[1] 2 F. R. 2293 (DI).

TITLE 31—MONEY AND FINANCE, TREASURY

ACCOUNTS AND DEPOSITS

[1938—9th Supp. to Dept. Circ. No. 92 (Rev.)]

SPECIAL DEPOSITS OF PUBLIC MONEYS UNDER THE ACT OF CONGRESS APPROVED SEPTEMBER 24, 1917 AS AMENDED

JUNE 9, 1938.

To Federal Reserve Banks and Other Banks and Trust Companies, Incorporated Under the Laws of the United States or of Any State:

Treasury Department Circular No. 92, dated February 23, 1932, as amended, is hereby further amended to include obligations of the Federal National Mortgage Association. Paragraph 11, therefore, under the caption "Collateral Security" will read as follows:

"11. *Federal Land Bank Bonds, Obligations of the Federal Home Loan Banks, and Obligations of the Federal National Mortgage Association.*—Bonds of the Federal Land Banks, obligations of the Federal Home Loan Banks, and obligations of the Federal National Mortgage Association; all at face value."

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1689; Filed, June 14, 1938; 10:01 a. m.]

[1938—10th Supp. to Dept. Circ. No. 176]

REGULATIONS GOVERNING DEPOSIT OF PUBLIC MONEYS AND PAYMENT OF GOVERNMENT CHECKS AND WARRANTS

JUNE 9, 1938.

To the Treasurer of the United States, Federal Reserve Banks and Branches, Member Bank Depositaries, Special Depositaries of Public Moneys, Collectors of Internal Revenue, Collectors of Customs, Receivers of Public Moneys, Marshals and Clerks of Court, All Other Officers or Agents of the United States Engaged in Collecting, Depositing, or Transmitting Public Moneys, and Others Concerned:

Treasury Department Circular No. 176, dated September 2, 1930, as amended, is hereby further amended so that subsection (b) of section 28 will read as follows:

"(b) Bonds of the Federal Land Banks, obligations of the Federal Home Loan Banks, obligations of the Federal National Mortgage Association, bonds of Puerto Rico and bonds and certificates of indebtedness of the Philippine Islands; all at face value."

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1688; Filed, June 14, 1938; 10:01 a. m.]

OFFICE OF THE SECRETARY

[Misc. T. D. 3]

DESIGNATION OF FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES FOR EXEMPTION UNDER SECURITIES EXCHANGE ACT OF 1934

JUNE 10, 1938.

SECURITIES AND EXCHANGE COMMISSION,
1778 Pennsylvania Avenue, NW., Washington, D. C.

GENTLEMEN: Paragraph 12 of Section 3 (a) of the Securities Exchange Act of 1934 provides in part that the term "exempted security" or "exempted securities" as used in such act shall include "such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors."

In accordance with the provisions of this paragraph, I am designating for exemption securities issued by the Federal National Mortgage Association under the authority of section 302 of the National Housing Act, as amended. This designation for exemption may be revoked, modified, or amended at any time with respect to securities not issued prior to such time.

Very truly yours,

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1687; Filed, June 14, 1938; 10:01 a. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3092]

IN THE MATTER OF SCIENTIFIC APPARATUS MAKERS OF AMERICA, A CORPORATION, ITS OFFICERS AND DIRECTORS, AND CERTAIN OF ITS MEMBERS, SEPARATELY AND AS REPRESENTATIVE OF CERTAIN OTHERS OF ITS MEMBERS; CARL S. HALLAUER, R. E. GILLMOR, JOHN M. ROBERTS, KARL L. KELLER, INDIVIDUALLY, AS OFFICERS AND DIRECTORS OF AND AS REPRESENTATIVES OF OTHER OFFICERS AND DIRECTORS OF, SCIENTIFIC APPARATUS MAKERS OF AMERICA; SURVEYING-DRAFTING-COATERS SECTION OF THE SCIENTIFIC APPARATUS MAKERS OF AMERICA, AN ASSOCIATION, ITS OFFICERS AND CERTAIN MEMBERS, SEPARATELY AND AS REPRESENTATIVES OF THE OTHER MEMBERS; ARTHUR L. PARKER, MANAGER, PAUL J. BRUNING, CHAIRMAN EXECUTIVE COMMITTEE, KARL J. KELLER, MEMBER EXECUTIVE COMMITTEE, W. A. BERGER, MEMBER EXECUTIVE COMMITTEE, R. FRED ALLIN, INDIVIDUALLY AND AS MANAGER, CHAIRMAN AND MEMBERS OF THE EXECUTIVE COMMITTEE FOR THE SURVEYING-DRAFTING-COATERS SECTION OF THE SCIENTIFIC APPARATUS MAKERS OF AMERICA; CHARLES BRUNING COMPANY, INC., A CORPORATION; THE HUEY COMPANY, A CORPORATION; THE FREDERICK POST COMPANY, A CORPORATION; EUGENE DIETZEN COMPANY, A CORPORATION; ECONOMY BLUE PRINT PRODUCTS, INC., A CORPORATION; KEUFFEL & ESSER COMPANY, A CORPORATION; ALPHONSE A. BRUNNER, TRADING AS KEYSTONE BLUE PAPER COMPANY, THE C. F. PEASE COMPANY, A CORPORATION; CHAS. W. SPEIDEL & COMPANY, A CORPORATION; UNITED STATES BLUE PRINT PAPER COMPANY, A CORPORATION; JACOB H. WEIL, EDWIN H. WEIL AND MANFRED R. KRAUSKOPF, TRADING AS J. H. WEIL & COMPANY SEPARATELY AND AS MEMBERS, AND REPRESENTATIVES OF THE OTHER MEMBERS, OF THE SURVEYING-DRAFTING-COATERS SECTION OF THE SCIENTIFIC APPARATUS MAKERS OF AMERICA

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 21, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500 at 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1685; Filed, June 13, 1938; 1:43 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3340]

IN THE MATTER OF CALLIE E. MORRIS, AN INDIVIDUAL DOING BUSINESS UNDER THE TRADE NAME OF CONTROL PRODUCTS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, June 17, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1681; Filed, June 13, 1938; 1:41 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3363]

IN THE MATTER OF ZONITE PRODUCTS CORPORATION (LARVEX DIVISION) A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered that John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered that the taking of testimony in this proceeding begin on Tuesday, June 21, 1938, at one o'clock in the afternoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1682; Filed, June 13, 1938; 1:41 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3380]

IN THE MATTER OF GOLD MEDAL FARMS, INC., A CORPORATION, JOSEPH FROMM, AND PAUL STEFFIN, INDIVIDUALS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 299E, Postoffice Building, Syracuse, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1683; Filed, June 13, 1938; 1:42 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3392]

IN THE MATTER OF PETER SANDERS, HARRY SANDERS AND SAMUEL SANDERS, INDIVIDUALS, DOING BUSINESS AS THE PERFECT RECONDITION SPARK PLUG COMPANY, AND HARRY SANDERS, AN INDIVIDUAL DOING BUSINESS AS ACE AUTO SUPPLY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 22, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1684; Filed, June 13, 1938; 1:42 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 263]

AMENDMENT OF PRIOR ALLOCATIONS OF FUNDS FOR LOANS

JUNE 13, 1938.

I hereby amend Administrative Order No. 249[1] by rescinding the $35,000 allotted to Minnesota 8003A2 Meeker.

I hereby amend Administrative Order No. 128[2] by rescinding the $145,000 allotted to Oklahoma 8002B Kay.

I hereby amend Administrative Order No. 134[3] by rescinding the $7,000 allotted to Oklahoma 8006AW Caddo.

I hereby amend Administrative Order No. 131[4] by rescinding the $15,000 allotted to Oklahoma 8010W Cleveland.

I hereby amend Administrative Order No. 131[4] by rescinding the $30,000 allotted to Oklahoma 8014W Love.

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–1686; Filed, June 14, 1938; 9:53 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14 day of June, A. D. 1938.

[File No. 43–128]

IN THE MATTER OF EMPIRE SOUTHERN SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 24, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 21, 1938.

The matter concerned herewith is in regard to a declaration pursuant to section 7 for the issuance of a note by the declarant in the face amount of $701,817.31 payable June 30, 1940 with interest at 6 per cent to Crescent Public Service Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1691; Filed, June 14, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14 day of June, A. D. 1938.

[File No. 43–129]

IN THE MATTER OF LOUISIANA ICE & ELECTRIC COMPANY, INC.

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 24, 1938, at 2 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

[1] 3 F. R. 1161 (DI).
[2] 2 F. R. 2091 (DI).
[3] 2 F. R. 2145 (DI).
[4] 2 F. R. 2119 (DI).

JUN 17 1938

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 21, 1938.

The matter concerned herewith is in regard to a declaration pursuant to section 7 for the issuance of the following serial collateral notes payable to City National Bank and Trust Company of Chicago, Illinois, or order:

Maximum principal amount	Date of issue	Date of maturity	Annual interest rate
			Percent
$70,000	Dec. 30, 1938	Dec. 30, 1939	[1] 3
$70,000	do	Dec. 30, 1940	[1] 3½
$70,000	do	Dec. 30, 1941	[1] 4
$70,000	do	Dec. 30, 1942	[1] 4½
$70,000	do	Dec. 30, 1943	[1] 5

[1] Payable semiannually.

These serial collateral notes are to be secured by a mortgage note which will in turn be secured by a mortgage upon certain of the operating properties of the declarant. Such mortgage note is to be dated June 1, 1938 and is to mature June 1, 1948 with interest at 5 per cent payable semi-annually, but the declarant is to be exonerated from such interest payments if and so long as no default exists under any of the serial collateral notes. The proceeds of such notes are to be used by the declarant to defray in part the estimated cost of installing certain generating equipment in the plant of the declarant located at Bunkie, Louisiana.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1692; Filed, June 14, 1938; 12: 47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14 day of June, A. D. 1938.

[File No. 46-101]

IN THE MATTER OF CRESCENT PUBLIC SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 9 (c) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on June 24, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 21, 1938.

The matter concerned herewith is in regard to an application pursuant to section 9 (c) (3) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of section 9 (a) (1) for the acquisition by Crescent Public Service Company of a note to be issued by Empire Southern Service Company (a wholly owned subsidiary of the applicant) in the principal amount of $701,-817.31 payable June 30, 1940 with interest at 6 per cent.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1693; Filed, June 14, 1938; 12:47 p. m.]

Reference

JUN 17 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 117

Washington, Thursday, June 16, 1938

The President

EXECUTIVE ORDER

TERMINATING THE POWERS, RIGHTS, AND DUTIES OF THE SPECIAL MEXICAN CLAIMS COMMISSION

WHEREAS section 6 of the act approved April 10, 1935, 49 Stat. 149, as amended by section 5 of the public resolution approved August 25, 1937, 50 Stat. 783, provides that the Special Mexican Claims Commission, created in pursuance of that act, shall complete its work within three years from the date on which it undertakes the performance of its duties; and

WHEREAS the three-year period so fixed for the completion of the work of the said Commission will expire on August 31, 1938; and

WHEREAS section 6 of the said act, as amended, also provides that if the President shall find that the Commission has completed its work prior to the expiration of the period so fixed, he may by Executive order terminate all powers, rights, and duties of the Commission; and

WHEREAS the Special Mexican Claims Commission has reported to the Secretary of State the completion of its work, and I find that the Commission has completed its work prior to the expiration of the period so fixed:

NOW, THEREFORE, by virtue of the power vested in me by section 6 of the said act of April 10, 1935, as amended, I hereby terminate as of this date all powers, rights, and duties conferred upon the said Special Mexican Claims Commission by the said act of April 10, 1935, as amended by the said resolution of August 25, 1937.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 15, 1938.

[No. 7909]

[F. R. Doc. 38-1698; Filed, June 15, 1938; 12:12 p. m.]

Rules, Regulations, Orders

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

AUTHORIZING PURCHASE OF SUPPLIES, EQUIPMENT AND SERVICES AND THE MAKING AND EXECUTION OF RECURRING CONTRACTS

AMENDMENT TO PURCHASE AND SUPPLY CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129), as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-sections a and k of Section 4 of said Act as amended, Section 1007 of Chapter X of the Manual is hereby amended to read as follows:

SEC. 1007. (a) Purchases of supplies, equipment, and services not otherwise provided for, and the making and execution of contracts for recurring services, for the use of the Corporation in the Home Office and in the Field, shall be as follows: (1) law books, law periodicals, law publications and like material for law libraries shall be purchased and paid for as provided in Section 617 of Chapter VI; (2) the Director of the Purchase and Supply Section is authorized to purchase supplies, equipment, and services not otherwise provided for and to make and execute contracts for recurring services up to and including $500.00; (3) purchases of supplies, equipment, services not otherwise provided for, and contracts for recurring services, exceeding $500.00 for the use of the Auditing Department and the Comptroller's and Treasurer's Divisions in the Home Office, shall be approved by the Budget Director and a Member of the Board of Directors; and (4) purchases of all other supplies, equipment, services not otherwise provided for, and contracts for recurring services, ex-

CONTENTS

THE PRESIDENT

Executive Order: Page
Special Mexican Claims Commission, terminating powers, rights, and duties of 1423

RULES, REGULATIONS, ORDERS

TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Purchase of supplies, equipment and services; recurring contracts 1423
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, liquidation of foreign personal holding companies 1424
TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:
Veterans' Administration:
Disallowances and awards 1424

NOTICES

Federal Trade Commission:
Tomato Paste Manufacturing Industry, proposed trade practice rules 1425
Interstate Commerce Commission:
Common and contract carriers by motor vehicle, qualifications of employees, safety of operation and equipment 1425
Eastern passenger fares in coaches 1425
Rural Electrification Administration:
Allocation of funds for loans 1425
Securities and Exchange Commission:
Equity Corp., unlisted trading privileges, extension 1426
Mountain States Power Co., hearing 1426
Oklahoma Electric and Water Co., withdrawal of declaration 1426
Staten Island Edison Corp., hearing 1425

FEDERAL REGISTER

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ceeding $500.00, for the use of the Corporation in the Home Office and in the Field, shall be approved by the General Manager and a Member of the Board of Directors.

(b) The Director of the Purchase and Supply Section is authorized to certify as to the receipt of and administratively approve vouchers for supplies, equipment, services not otherwise provided for, and services performed under contracts for recurring services; provided, that such purchases and services have been previously authorized as provided in sub-section (a) above.

The authority herein conferred upon the Director of the Purchase and Supply Section to certify as to receipt of and administratively approve vouchers for purchases and services, may be exercised also by the Regional and State Managers, under procedure and limitations prescribed by the General Manager and the General Counsel.

In the exercise of the authority conferred herein or by procedure issued pursuant hereto, to certify as to the receipt of and administratively approve vouchers for purchases and services, the usual and customary variation in quantity due to processes of manufacture may be allowed on vouchers covering supplies and forms.

Be it further resolved, That all regulations in conflict herewith are hereby repealed.

Adopted by the Federal Home Loan Bank Board on June 14, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-1695; Filed, June 15, 1938; 11:01 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4810]

INCOME TAX

REGULATIONS UNDER REVENUE ACT OF 1938 RELATING TO LIQUIDATION OF FOREIGN PERSONAL HOLDING COMPANIES

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 115 (c) of Title I (Income Tax) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, third session), provides in part:

SEC. 115. DISTRIBUTIONS BY CORPORATIONS.

* * * * * * *

(c) *Distributions in liquidation.*—* * * If any distribution in complete liquidation (including any one of a series of distributions made by the corporation in complete cancelation or redemption of all its stock) is made by a foreign corporation which with respect to any taxable year beginning on or before, and ending after, August 26, 1937, was a foreign personal holding company, and with respect to which a United States group (as defined in section 331 (a) (2)) existed after August 26, 1937, and before January 1, 1938, then, despite the foregoing provisions of this subsection, the gain recognized resulting from such distribution shall be considered as a short-term capital gain—

(1) Unless such liquidation is completed before July 1, 1938; or

(2) Unless (if it is established to the satisfaction of the Commissioner by evidence submitted before July 1, 1938, that due to the laws of the foreign country in which such corporation is incorporated, or for other reason, it is or will be impossible to complete the liquidation of such company before such date) the liquidation is completed on or before such date as the Commissioner may find reasonable, but not later than December 31, 1938.

PAR. B. Section 331 (a) (2) of Title I of the Revenue Act of 1938 provides:

SEC. 331. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY.

(a) *General rule.*—For the purposes of this title the term "foreign personal holding company" means any foreign corporation if—

* * * * * * *

(2) *Stock ownership requirement.*—At any time during the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter called "United States group."

PAR. C. Section 62 of the Revenue Act of 1938 provides:

SEC. 62. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

Pursuant to the above-quoted provisions and other provisions of the internal revenue laws, the following regulations are hereby prescribed with respect to the liquidation of foreign personal holding companies:

ARTICLE 1. *Distributions in liquidation of foreign personal holding companies.*—In any case coming within the purview of the last sentence of section 115 (c) of the Revenue Act of 1938 in which it is or will be impossible to complete the liquidation of the corporation before July 1, 1938, and in which it is desired that the shareholders obtain the benefit of section 117 with respect to the amount of gain from the distribution in liquidation to be taken into account in computing net income and particularly the long-term capital gain provisions thereof, the corporation shall submit to the Commissioner before July 1, 1938, a complete statement of the facts, circumstances, and reasons why it is or will be impossible to complete the liquidation before July 1, 1938, and the earliest reasonable date after July 1, 1938, on which such liquidation will be completed.

For the purposes of the last sentence of section 115 (c), a liquidation may be completed prior to the actual dissolution of the liquidating corporation but no liquidation is completed until the liquidating corporation and the receiver or trustees in liquidation are finally divested of all the property (both tangible and intangible).

ART. 2. *Application of prior acts.*—For the purpose of these regulations the determination of whether a foreign corporation was a foreign personal holding company with respect to a taxable year beginning on or before, and ending after, August 26, 1937, shall be made under section 331 of the Revenue Act of 1936, added to such Act by section 201 of the Revenue Act of 1937 and articles 331-1, 331-2 and 331-3 Chapter XXXIV added to Regulations 94 by Treasury Decision 4782, approved December 7, 1937[1] (I. R. B. XVI-50, 3 (1937)).

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 13, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1700; Filed, June 15, 1938; 12:33 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

DISALLOWANCES AND AWARDS

SEC. 2.1256. *Adjustment of award of veteran in an institution.*—(A) Where a veteran without dependents is admitted to a hospital, facility, or any other institution maintained by the United States Government, or any political subdivision thereof, any running award of pension, compensation, or emergency officers retirement pay will be adjusted in accordance with the rates provided in Section 8.06, paragraph VI, effective as of the date of the veteran's admission to the institution.

[1] 2 F. R. 3213 (DI).

(B) Upon termination of the period of hospitalization, institutional or domiciliary care, the award to or in behalf of the veteran will be adjusted, in accordance with the last valid rating, if otherwise in order, effective the day the veteran leaves the facility or institution. While a veteran is on trial visit or other temporary absence from a facility or institution, no adjustment of his award by reason thereof will be made for any period of less than thirty days, inclusive of the day on which he left the institution. If the veteran is discharged without returning to the institution, the award will be adjusted in accordance with the last valid rating, if otherwise in order, effective as of the day the veteran left the facility or institution. The report of such absence will be made to the office having custody of the case file in accordance with effective procedure. (June 15, 1938.) Sec. 6, 48 Stat. 9; 38 U. S. C. 706.

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-1696; Filed, June 15, 1938; 11:41 a. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-334]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE TOMATO PASTE MANUFACTURING INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717);

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Tomato Paste Manufacturing Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of any such views should be filed with the Commission not later than June 29, 1938. Opportunity for oral hearing will also be afforded at 10 a. m., June 29, 1938, in Room 388 Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to any such persons as may desire to appear. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1697; Filed, June 15, 1938; 11:56 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC-4]

ORDER IN THE MATTER OF QUALIFICATIONS OF EMPLOYEES AND SAFETY OF OPERATION AND EQUIPMENT OF COMMON CARRIERS AND CONTRACT CARRIERS BY MOTOR VEHICLE

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 7th day of June, A. D. 1938.

Upon further consideration of the record in the above entitled case, and of the petition dated May 5, 1938, of M. & G. Convoy, Inc., Maurer & Myers Auto Convoy, John G. Reeser, et al., and good cause therefor appearing;

It is ordered, That this proceeding be, and it is hereby, reopened[1] solely for the purpose of investigating the safety of operation of motor vehicles used in the transportation of automobiles, which motor vehicles are so constructed that all or part of one of the automobiles being transported protrudes over the cab, and of prescribing reasonable rules and regulations governing the operation of such motor vehicles.

And it is further ordered, That this proceeding be, and it is hereby, assigned for hearing before Examiner R. W. Snow, at the offices of the Interstate Commerce Commission at Washington, D. C., on the sixth day of July, A. D., 1938, at ten o'clock A. M., Standard Time.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1699; Filed, June 15, 1938; 12:13 p. m.]

[Ex Parte No. 123]

EASTERN PASSENGER FARES IN COACHES

ORDER IN THE MATTER OF INCREASES IN RATES, FARES, AND CHARGES

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 13th day of June, A. D. 1938.

Upon consideration of the petition of the eastern carriers for reargument and reconsideration, and of the replies thereto:

[1] 2 F. R. 2793 (DI).

It is ordered, That this proceeding be, and it is hereby, reopened[1] for further hearing before Division 7 of the Commission, at the office of the Commission in Washington, D. C., on June 27, 1938, 10 o'clock a. m., Standard Time, when the applicants and any others who may wish to testify in this proceeding will be heard.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1701; Filed, June 15, 1938; 12:49 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 264]

ALLOCATION OF FUNDS FOR LOANS

JUNE 13, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Indiana 8092A2 Jackson	$200,256.16
Mississippi 8024A3 Lafayette	8,000.00
Ohio 8065A3 Fairfield	233,000.00

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-1694; Filed, June 15, 1938; 10:07 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of June, A. D. 1938.

[File No. 43-126]

IN THE MATTER OF STATEN ISLAND EDISON CORPORATION

NOTICE OF AND ORDER FOR HEARING

A Declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 6, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

[1] 2 F. R. 3242 (DI); 3 F. R. 141 (DI).

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 1, 1938.

The matter concerned herewith is in regard to a Declaration filed by the above-named party, a subsidiary of New York State Electric and Gas Corporation, in turn a subsidiary of NY PA NJ Utilities Company, a registered holding company, concerning the issue and/or sale of Refunding and Improvement Mortgage 4% Bonds, due July 1, 1939, in the principal amount of $2,000,000; such issue and/or sale to be under and by virtue of an extension agreement to be dated as of July 15, 1938, made by and between the declarant to Irving Trust Company as Trustee and The Chase National Bank of the City of New York and the President and Directors of The Manhattan Company, which provides for the extension of the maturity date of the declarant's outstanding $2,000,000 principal amount of Refunding and Improvement Mortgage 4% Bonds, originally due August 15, 1937, and extended to July 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1702; Filed, June 15, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1938.

[File No. 52-7]

IN THE MATTER OF MOUNTAIN STATES POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by H. S. Payson Rowe, Julian D. Anthony, W. H. Duff, T. A. Phillips, F. T. Pratt and E. B. Sherwin as a protective committee representing holders of First Mortgage Gold Bonds (Series A, 5%, due January 1, 1938; Series B, 6%, due January 1, 1938) of Mountain States Power Company;

It is ordered, That a hearing on such matter be held on July 6, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 1, 1938.

The matter concerned herewith is in regard to a plan of reorganization of said Mountain States Power Company which this application asks this Commission to approve prior to submission of such plan to the District Court of the United States for the District of Delaware in proceedings therein pending for the reorganization of said company under Section 77B of the Bankruptcy Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1703; Filed, June 15, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of June 1938.

[File No. 7-237]

IN THE MATTER OF THE EQUITY CORPORATION $3 CONVERTIBLE PREFERRED STOCK, FIRST SERIES, PAR VALUE $1.00

ORDER SETTING HEARING ON APPLICATION TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the $3 Convertible Preferred Stock, First Series, Par Value $1.00, of The Equity Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, June 30, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1704; Filed, June 15, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

[File No. 43-117]

IN THE MATTER OF OKLAHOMA ELECTRIC AND WATER COMPANY

ORDER CONSENTING TO WITHDRAWAL OF DECLARATION

Oklahoma Electric and Water Company, a subsidiary of Walnut Electric & Gas Corporation, a registered holding company, having heretofore filed with this Commission a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale of a promissory note bearing 6% interest in the amount of $521,000, maturing May 1, 1942; and said Oklahoma Electric and Water Company having requested the withdrawal of said declaration:

The Commission, having due regard to the public interest and the interest of investors and consumers, upon request of the declarant, consents to the withdrawal of the above declaration and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1705; Filed, June 15, 1938; 12:54 p. m.]

JUN 17 1938

FEDERAL REGISTER

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Washington, Friday, June 17, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION REGARDING ALLOTMENT OF THE 1938 LIQUID SUGAR QUOTAS

Section 208 of the Sugar Act of 1937 establishes quotas for liquid sugar for foreign countries for each calendar year. Under the provisions of section 205 (a) of said act the Secretary of Agriculture is required to allot these liquid sugar quotas whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of liquid sugar in the channels of interstate or foreign commerce, (2) to prevent disorderly marketing or importation of liquid sugar, (3) to maintain a continuous and stable supply of liquid sugar, or (4) to afford all interested persons an equitable opportunity to market liquid sugar within any area's quota. Section 205 (a) also provides that such allotments shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe.

On January 19, 1938, the Acting Secretary of Agriculture, pursuant to General Sugar Regulations, Series 2, No. 2,[1] issued a notice of a public hearing to be held in Washington, D. C. on February 1, 1938,[2] for the purpose of receiving evidence to enable the Secretary of Agriculture to make a fair, efficient, and equitable distribution of the liquid sugar quotas among persons who bring liquid sugar from foreign countries into the continental United States, and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under Section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The notice of hearing and designation of presiding officers issued by the Acting Secretary on January 19, 1938, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, Harry L. Brown, Acting Secretary of Agriculture, do hereby find that the allotment of the 1938 liquid sugar quotas for foreign countries, established pursuant to section 208 of the said act, is necessary to afford all interested persons an equitable opportunity to market such sugar • • •."

The preliminary finding was made upon the basis of information which the Acting Secretary had indicating that without an allotment interested persons would not be afforded an equitable opportunity to purchase supplies of liquid sugar and, as a result, would not have an equitable opportunity to market liquid sugar.

The hearing was held at the time and place mentioned in the notice of hearing and a number of witnesses appeared and testified. Only one witness testified that the making of allotments was necessary and the reason as stated by him was that his company was not able to secure its supplies of liquid sugar for 1938 (Wadsworth, R. p. 30). The other witnesses opposed the making of allotments and two of them testified that such action would eliminate competitive bidding by importers for liquid sugar and would tend to create a monopoly (Wilson, R. p. 76; Boots, R. p. 101).

As stated above, one company requested that the allotment be made. Considerable testimony was given at the hearing bearing upon the question whether this company was afforded an equitable opportunity to purchase its supplies of liquid sugar. Such testimony indicates that the failure of this company to obtain its supplies of liquid sugar was due to its refusal to pay the price asked for such supplies. The mill from which this company had been purchasing its supplies offered the 1938 supply to this company first (Wadsworth, R. pp. 18, 20, 22, 25; Douglas, R.

[1] 2 F. R. 2200 (DI).
[2] 3 F. R. 215 (DI).

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Liquid sugar quotas, 1938, determination regarding allotment of	1427
TITLE 16—COMPETITIVE PRACTICES:	
Federal Trade Commission:	
Superwear Hosiery Co. (G. M. Moses and J. Averbach), order to cease and desist	1428
TITLE 19—CUSTOMS DUTIES:	
Bureau of Customs:	
Statistical reports of cargo	1429
Surrender of documents of vessels covered by a preferred mortgage	1428
TITLE 25—INDIANS:	
Choctaw and Chickasaw Nations, Okla., leasing of segregated coal and asphalt deposits	1433
Tribal lands, leasing for mining purposes	1429
TITLE 49—TRANSPORTATION AND RAILROADS:	
Motor carrier employees, maximum hours of service	1433

NOTICES

Securities and Exchange Commission:	
Hearings on applications to strike from listing and registration certain stocks of:	
Chicago, Indianapolis and Louisville Railway Co	1435
Detroit and Mackinac Railway Co	1434
Market Street Railway Co	1434
New Orleans, Texas & Mexico Railway Co	1435
Norfolk Southern Railroad Co	1435
Pittsburgh Terminal Coal Corp	1434
Reis, Robert, & Co	1435
Wells, Fargo & Co	1434

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p. 44; R. Exhibit 3); the price asked was the same price being paid by other buyers (Douglas, R. p. 44; Wilson, R. p. 75; Saar, R. p. 112); the supply in question was subsequently sold at the asked price to another company (Douglas, R. p. 49; Saar, R. p. 112), which paid the same price for other supplies (Saar, R. p. 112); the same price was offered for this supply by still another company (Douglas, R. p. 49; Wilson, R. p. 75), which company paid the same price for its other supplies (Wilson, R. p. 86).

The testimony given at the hearing of February 1, 1938, does not substantiate the information on which the preliminary finding was based. On the basis of the record of the hearing, it is hereby determined:

That the allotment of the 1938 liquid sugar quotas for foreign countries is not necessary in order to afford all interested persons an equitable opportunity to market such sugar.

Done at Washington, D. C., this 15th day of June, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1707; Filed, June 15, 1938; 3:56 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3379]

IN THE MATTER OF G. M. MOSES AND J. AVERBACH, INDIVIDUALS, DOING BUSINESS AS SUPERWEAR HOSIERY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein on May 13, 1938, by respondents, admitting all the material allegations of the complaint to be true, and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, G. M. Moses and J. Averbach, individuals, doing business as Superwear Hosiery Company, or under any other name or style, their representatives, agents, and employees, in connection with the offering for sale, sale and distribution of men's and women's hosiery in interstate commerce and in the District of Columbia, do forthwith cease and desist from:

Representing in newspapers or magazines, or through circulars, catalogs, labels, or in any other form of printed matter, or in any other way:

(1) That respondents' hosiery is woven with a special lock-stitch which prevents it from snagging, running or developing holes;

(2) That respondents' hosiery will wear better and last longer than the hosiery manufactured, offered for sale, and sold by competitors;

(3) That the purchasers' orders will be filled in accordance with the representations made by respondents' salesmen;

when such are not the facts.

It is further ordered, That said respondents, in conducting their business in interstate commerce and in the District of Columbia, do forthwith cease and desist from misrepresenting in any manner whatsoever the nature or character of the employment offered by them to salesmen, agents, solicitors or other persons in soliciting prospective purchasers and selling their products, or the manner of deriving compensation or the amount thereof to be derived from said employment, or from representing that any products or samples are given away free to persons so employed when such is not the fact.

And it is hereby further ordered, That the said respondents shall, within sixty (60) days from the date of service upon them of this order, file with this Commission a report in writing setting forth the manner and form in which they shall have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1706; Filed, June 16, 1938; 3:17 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49615]

CUSTOMS REGULATIONS AMENDED—SURRENDER OF DOCUMENTS OF VESSELS COVERED BY A PREFERRED MORTGAGE

JUNE 11, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the Act of June 5, 1920, chapter 250, section 30 (O), 41 Stat. 1004 (U. S. C. title 46, sec. 961), the Act of June 29, 1933, chapter 858, title II, section 204, 49 Stat. 1987 (U. S. C., Sup. III, title 46, sec. 1114), and the authority contained in section 161 of the Revised Statutes (U. S. C. title 5, sec. 22), the Customs Regulations of 1937[1] are hereby amended as follows:

Article 48 is amended by adding the following sentence:

The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage must be obtained except in cases stated in article 56 (f).

Article 50 is amended by adding the following paragraph:

(e) The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage must be obtained except in cases stated in article 56 (f).

Article 56 is amended by adding the following paragraph:

(f) The requirement of the Merchant Marine Act, 1920, section 30 (O) (a) (U. S. C. title 46, sec. 961 (a)), that the documents of a vessel covered by a preferred mortgage may not be surrendered without the approval of the United States Maritime Commission and the mortgagee, does not refer to renewals of licenses or changes of documents incident to change of trade where the ownership and home port remain the same.

Article 67 (o) is amended by adding the following paragraph:

(3) Incident to the change of the home port of a vessel, the old document must be surrendered and a new one issued showing the new home port. The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage must be obtained prior to surrender of the old document.

Article 68 is amended by deleting paragraph (f).

Article 87 is amended by adding the following paragraph:

(n) Incident to the change of name of a vessel, the old document must be surrendered and a new one issued under the new name. The approval of the United States Maritime Commission of the surrender of a document of a vessel covered by a preferred mortgage must be obtained prior to the surrender of the old document.

Insert "U. S. C. title 46, sec. 961 (a)" as a marginal reference opposite articles 48, 50 (e) and 67 (o) (3).

Insert "T. D. 43837" as a marginal reference opposite article 56 (f).

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1711; Filed, June 18, 1938; 12:26 p. m.]

[1] 2 F. R. 1729 (DI).

[T. D. 49617]

CUSTOMS REGULATIONS AMENDED—STATISTICAL REPORTS OF CARGO

JUNE 10, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C., title 5, sec. 22), article 213 of the Customs Regulations of 1937[1] is hereby amended by deleting paragraph (d).

The reports of cargo laden or unladen at domestic ports heretofore filed by the masters or owners of vessels on commerce Form 1387 are no longer required.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.
J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 38-1712; Filed, June 16, 1938; 12:26 p. m.]

[1] 2 F. R. 1729 (DI).

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

REGULATIONS GOVERNING THE LEASING OF TRIBAL LANDS FOR MINING PURPOSES

CONTENTS

	Section No.
Acreage limitation	9
Assignments	26
Cancellations	27
Definitions	1
Effective date of regulations	28
Exemption of leases made by organized tribes	29
Fees	25
Forms	30
Government reserves right to purchase minerals produced	11
How to acquire leases:	
Additional information	7
Bonds	6
Corporations and corporate information	5
Government employees may not become lessees	4
Lands must be in compact body	8
Sales of leases	3
Tribal authority	2
Operations:	
Diligence and prevention of waste	19
Mines to be timbered properly	23
Inspection of premises and books and accounts	18
Penalties	22
Permission to begin operations	20
Restrictions on operations	21
Surrender of leased premises in good condition	24
Rents and royalties:	
Annual rentals and expenditures for development on leases other than oil and gas	14
Division orders	17
Manner of payments	12
Rates of rents and royalties under oil and gas leases	13
Rates of royalty for leases other than oil and gas	15
Time of making royalty payments	16
Term of leases	10

[*Here follows, in the original document, the text of Public 506, 75th Congress, approved, May 11, 1938, entitled "AN ACT To regulate the leasing of certain Indian lands for mining purposes."*]

To carry these provisions of law into effect, except as to the reservations named in Section 6 of the above quoted act where separate regulations are in effect, the following regulations are prescribed:

DEFINITIONS

SECTION 1. The term "superintendent" herein refers to the superintendent or other office of the Indian Service or of the Government who may have jurisdiction over the lands involved.

The term "supervisor" herein refers to a representative of the Secretary of the Interior, under direction of the Geological Survey, authorized and empowered to supervise and direct operations under oil and gas or other mining leases, to furnish scientific and technical information and advice, to ascertain and record the amount and value of production, and to determine and record rentals and royalties due and paid.

HOW TO ACQUIRE LEASES

SEC. 2. *Tribal Council may authorize leases to be made.*—The Tribal Council of any Indian tribe, speaking for such Indians by resolution properly authenticated, may authorize the Secretary of the Interior to advertise the sale of leases for mining purposes on their tribal lands not needed for farming or agricultural purposes. Except where a tribe is organized to execute its own leases pursuant to tribal constitution and charter adopted and approved pursuant to provisions contained in the act of June 18, 1934 (48 Stat. 984), the act of May 1, 1936 (49 Stat. 1250) or the act of June 26, 1936 (49 Stat. 1967), the Secretary of the Interior may thereafter authorize and empower any person to be by him designated to execute for and on behalf of any tribe, and subject to his approval, all leases on such lands for oil and gas or other mining purposes.

SEC. 3. *Sale of oil and gas leases.*—At such times as the Secretary of the Interior may direct, after being authorized by the tribal council, the superintendent shall publish and distribute notices, at least 15 days prior to the sale, that oil and gas leases on specific tracts, each of which shall be in a compact body, will be offered at public auction to the highest responsible bidder. The successful bidder must deposit with the superintendent, on the day of the sale, a certified check or bank draft on a solvent bank in an amount equal to 20 per cent of the bonus bid and of the first year's rental as a guaranty of good faith. The balance of the bonus and of the first year's rental shall be paid and the lease in completed form shall be filed with the superintendent within 20 days after the lease is forwarded to the lessee for execution, unless such period shall have been extended by the superintendent for good and sufficient reason. If the successful bidder fails to complete the lease or pay the full consideration within said period or extension thereof, or if the lease is disapproved through no fault of the lessor or of the Department, the amount of bonus and rental deposited will be forfeited, as liquidated damages, for the use and benefit of the Indian lessor.

All notices or advertisements of sales of oil and gas leases shall reserve to the Secretary of the Interior the right to reject all bids when in his judgment the interests of the Indians will be best served by so doing, and that if no satisfactory bid is received, or if the accepted bidder fails to complete the lease, or if the Secretary of the Interior shall determine that it is unwise in the interests of the Indians to accept the highest bid, the Secretary may readvertise such lease for sale, or if deemed advisable, with the consent of the Tribal Council or other governing tribal authorities, a lease may be made by private negotiations.

SEC. 4. *Government employees cannot acquire leases.*—No lease, assignment thereof, or interest therein will be approved to any employee or employees of the United States Government whether connected with the Indian Service or otherwise, and no employee of the Interior Department shall be permitted to acquire any interest in any mineral lease covering restricted Indian lands by ownership of stock in corporations having such leases or in any other manner.

SEC. 5. *Corporations and corporate information.*—If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its articles of incorporation, and, if foreign to the State in which the lands are located, evidence showing compliance with the corporation laws thereof.

Statements of changes in officers and stockholders shall be furnished by a corporation lessee to the superintendent January 1 of each year, and at such other times as may be requested.

Whenever deemed advisable in any case the superintendent may require a corporation applicant or lessee to file:

(I) Lists of officers, principal stockholders, and directors, with post-office addresses and number of shares held by each.

(II) A sworn statement of the proper officer showing:

(a) The total number of shares of the capital stock actually issued and the amount of cash paid into the treasury on each share sold; or, if paid in property, the kind, quantity, and value of the same paid per share.

(b) Of the stock sold, how much remains unpaid and subject to assessment.

(c) The amount of cash the company has in its treasury and elsewhere.

(d) The property, exclusive of cash, owned by the company and its value.

(e) The total indebtedness of the company and the nature of its obligations.

(f) Whether the applicant or any person controlling, controlled by or under common control with the applicant has filed any registration statement, application for registration, prospectus or offering sheet with the Securities and Exchange Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934 or said Commission's rules and regulations under said Acts; if so, under what provision of said Acts or rules and regulations; and what disposition of any such statement, application, prospectus or offering sheet has been made.

(III) Affidavits of individual stockholders, setting forth in what corporations or with what persons, firms, or associations such individual stockholders are interested in mining leases on restricted lands within the State, and whether they hold such interests for themselves or in trust.

SEC. 6. *Bond.*—Lessees shall furnish with each lease, a bond (form 5–157c) with an acceptable company authorized to act as sole surety. Such bond shall be in amount as follows: For less than 80 acres, $1,000; for 80 acres and less than 120 acres, $1,500; for 120 acres and not more than 160 acres, $2,000; and for each additional 40 acres, or part thereof, above 160 acres, $500: *Provided*, That a lessee may file one bond (form 5–157f) in the sum of $15,000, covering all leases of a particular class in any one State up to 10,240 acres, to which he is or may become a party. The right is reserved at any time before or after approval of the lease to increase the amount of a bond above the sum named, in any case where the Secretary of the Interior deems it proper to do so. Personal surety bonds may be accepted where the sureties deposit as collateral with the said Secretary of the Interior any public-debt obligations of the United States guaranteed as to principal and interest by the United States equal to the full amount of such bonds, or other collateral satisfactory to the Secretary of the Interior, or show ownership of unencumbered real estate of a value equal to twice the amounts of the bonds. In lieu of other bonds, lessees may execute their own surety contracts upon deposit, with the Secretary of the Interior, of Government bonds, equal in value to the full amount of the bond, as collateral (form 5–154a).

SEC. 7. *Lessees to furnish additional information.*—The superintendent may, either before or after approval of a lease, call for any additional information desired to carry out these regulations. If a lessee shall fail to furnish the papers necessary to put his lease and bond in proper form for consideration, the superintendent shall forward such lease for disapproval.

SEC. 8. *Lands to be in compact body.*—The area covered by a lease shall be in a reasonably compact body and shall conform to the system of public-land surveys, except that leases covering lode ground may consist of one or more adjoining parallelograms 1,500 feet in length by 600 feet in width, as provided by the United States mining laws. No lease under these regulations shall convey any extralateral rights, and no coal lease shall have a length exceeding one mile along the outcrop.

ACREAGE LIMITATION

SEC. 9. (a) Except in the State of Oklahoma, no individual, corporation, partnership, company, or association shall be permitted to hold under leases for oil and/or gas mining purposes, restricted allotted or unallotted Indian lands in any one State in excess of 10,240 acres in the aggregate: *Provided*, That any such individual, corporation, partnership, company, or association may hold leases on not to exceed 10,240 acres of tribal lands within that part of the Navajo Reservation lying within the State of New Mexico, irrespective of other holdings in said State: *Provided further*, That the acreage leased by any officer or director of a company shall be charged against the company, and vice versa, and the acreage shall also be charged in the case of stockholders owning 40 or more per cent of the stock. The acreage of companies having common stockholders owning a majority of the stock of each company shall be charged against each other, or in case such companies have one or more common officers or directors. In all other cases each corporation will be considered a separate and distinct entity.

(b) On deposits of the nature of lodes or veins, containing ores of gold, silver, copper, lead, zinc, or other useful metals, not more than 640 acres.

(c) For beds of placer gold, gypsum, asphaltum, phosphate, iron ores, or other useful minerals other than coal, oil, and gas, not more than 960 acres.

(d) For coal, not more than 10,240 acres.

TERM OF LEASES

SEC. 10. Oil and gas mining leases shall be made for periods of ten years from the date of approval by the Secretary of the Interior and as much longer as the substances specified in the lease are produced in paying quantities.

Leases for minerals other than oil and gas shall be for a period of ten years.

GOVERNMENT RESERVES RIGHT TO BUY MINERALS PRODUCED

SEC. 11. In time of war or other public emergency all of the executive departments of the United States Government shall have the option to purchase at the posted market price on the date of sale all or any part of the substance or substances produced under any lease.

RENTS AND ROYALTIES

SEC. 12. *Manner of payments.*—Except where otherwise provided by the terms of leases where the tribes are organized under the act of June 18, 1934 (48 Stat. 984), all rents and other payments due under leases which have been or may be approved by the Secretary of the Interior shall be paid to the superintendent or to such other persons as may be designated by the Secretary of the Interior, for the benefit of the lessors. Except advance payments for the first year which shall be sent direct to the superintendent at the time of filing leases, payments of rental and royalty under leases shall be transmitted through the supervisor, shall be accompanied by a statement by the lessee, in triplicate, showing the specific items of rental or royalty that the remittance is intended to cover, and shall be made at such time or times as the lease provides.

In the event of the discovery of minerals in paying quantities all advance payments shall be allowed as credit on stipulated royalties for the year for which such advance payments have been made. No refund will be made under oil, gas, or other mining leases, in the event that royalty from production is not sufficient to equal the advance payment, nor will any part of the moneys so paid be refunded to the lessee because of any subsequent surrender or cancellation of the lease, nor shall the lessee be relieved from the obligation to pay said advance rental annually when it becomes due, by reason of any subsequent surrender or cancellation of the lease.

SEC. 13. *Rates of rentals and royalties under oil and gas leases.*—The lessee shall pay, beginning with the date of approval of oil and gas leases by the Secretary of the Interior, a rental of $1.25 per acre per annum in advance during the continuance thereof, together with a royalty of 12½ per cent of the value or amount of all oil, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and saved from the land leased, save and except oil, and/or gas used by the lessee for development and operation purposes on the lease, which oil or gas shall be royalty free. During the period of supervision, "value" for the purposes of the lease may, in the discretion of the Secretary of the Interior, be calculated on the basis of the highest price paid or offered (whether calculated on the basis of short or actual volume) at the time of production for the major portion of the oil of the same gravity, and gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary of the Interior, be deemed mere evidence of or conclusive evidence of such value. When paid in value, such royalties shall be due and payable monthly on the last day of the calendar month following the calendar month in which produced; when royalty on oil produced is paid in kind, such royalty oil shall be delivered in tanks provided by the lessee on the premises where produced without cost to the lessor unless otherwise agreed to by the parties thereto, at such time as may be required by the lessor. The lessee shall not be required to hold such royalty oil in storage longer than 30 days after the end of the calendar month in which said oil is produced. The lessee shall be in no manner responsible or held liable for loss or destruction of such oil in storage by causes beyond the lessee's control. In determining the value for royalty purposes of products, such as natural gasoline, that are derived from treatment of gas, a reasonable allowance for the cost of manufacture shall be made, such allowance to be two-thirds of the value of the marketable product unless otherwise determined by the Secretary of the Interior on application of the lessee or on his own initiative, and that royalty will be computed on the value of gas or casinghead gas, or on the products thereof (such as residue gas, natural gasoline, propane, butane, etc.), whichever is the greater.

If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, then the lessor may use sufficient gas, free of charge, for any desired school or other buildings belonging to the tribe, by making his own connections to a regulator installed, connected to the well and maintained by the lessee, and the lessee shall not be required to pay royalty on gas so used. The use of such gas shall be at the lessor's risk at all times.

SEC. 14. *Annual rentals and expenditures for development on leases other than oil and gas.*—Lessees other than oil and gas lessees shall pay on all leases annually in advance for the first calendar year or fraction thereof a rent of 25 cents per acre; for the second and third years, 50 cents per acre; and for the fourth and each succeeding calendar year $1 per acre.

On all leases of class (b) referred to in section 9 of these regulations, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $5 per acre.

On all leases of class (c) referred to in section 9 of these regulations, there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $100 for each 160 acres or fraction thereof included in the lease.

On all leases of class (d) referred to in section 9 of these regulations there shall be expended annually in actual mining operations, development, or improvements upon the land leased, or for the benefit thereof, a sum which, with the annual rental, shall amount to not less than $10 per acre.

Each lessee of a nonproducing lease designated in class (b), (c), or (d) in section 9 of these regulations, shall file with the superintendent an itemized statement in duplicate within 20 days after the close of each calendar year of the amount and character of said expenditure during such year, the statement to be certified under oath by the lessee or his agent having personal knowledge of the facts contained therein.

SEC. 15. *Royalty rates for minerals other than oil and gas.*—For substances other than gold, silver, copper, lead, zinc, tungsten, coal, asphaltum and allied substances, oil, and gas, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten per cent of the value, at the nearest shipping point, of all ores, metals, or minerals marketed.

For gold, silver, copper, lead, zinc, and tungsten, the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten per cent, to be computed on the value of bullion as shown by mint returns after deducting forwarding charges to the point of sale, and to be computed on the value of ores and concentrates as shown by reduction returns after deducting freight charges to the point of sale. Duplicate returns shall be filed by the lessee with the superintendent within ten days after the ending of the quarter or other period specified in the lease within which such returns are made: *Provided, however*, That the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten per cent of the value of ores and concentrates sold at the mine.

For coal the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than ten cents per ton of 2,000 pounds of mine-run, or coal as taken from the mine, including what is commonly called "slack".

For asphaltum and allied substances the lessee shall pay quarterly or as otherwise provided in the lease, a royalty of not less than 10 cents per ton of 2,000 pounds on crude material and of not less than 60 cents per ton on refined substances.

SEC. 16. *Time of making royalty payments.*—Royalty payments under producing oil and gas leases shall be made monthly on or before the last day of the calendar month following the calendar month for which such payment is to be made.

SEC. 17. *Division orders.*—Lessees may make arrangements with the purchasers of oil for the payment of the royalties to the superintendent by such purchasers, but such arrangement, if made, shall not operate to relieve a lessee from responsibility should the purchaser fail or refuse to pay royalties when due. Where lessees avail themselves of this privilege, division orders permitting the pipe line companies or other purchasers of the oil to withhold the royalty interest shall be executed and forwarded to the supervisor for approval, as pipe line companies are not permitted to accept or run oil from leased Indian lands until after the approval of a division order showing that the lessee has a lease regularly approved and in effect. When the lessee company runs its own oil, it shall execute an intra-company division order and forward it to the supervisor for his consideration. The right is reserved for the supervisor to cancel a division order at any time or require the pipe line company to discontinue to run the oil of any lessee who fails to operate the lease properly or otherwise violates the provisions of the lease, of these regulations, or of the operating regulations.

When oil is taken by authority of a division order, the lessee or his representative shall be actually present when the oil is gauged and records are made of the temperature, gravity, and impurities. The lessee will be held responsible for the correctness and the correct recording and reporting of all of the foregoing measurements; which, except lowest gauge, shall be made at the time the oil is turned into the pipe line. Failure of the lessee to perform properly these duties will subject the division order to revocation.

OPERATIONS

SEC. 18. *Inspection of leased premises, and books and accounts of lessee.*—Lessees shall agree to allow the lessors and their agents or any authorized representative of the Interior Department to enter, from time to time, upon and into all parts of the leased premises for the purpose of inspection, and shall further agree to keep a full and correct account of all

operations and make reports thereof, as required by the regulations of the Department governing operations on public and restricted Indian lands; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination of such officers of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations, to make such examination.

SEC. 19. *Diligence, and prevention of waste.*—The lessee shall exercise diligence in drilling and operating wells for oil and gas on the leased lands while such products can be secured in paying quantities; carry on all operations in a good and workmanlike manner in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the productive sands or oil or gas-bearing strata to the destruction or injury of the oil or gas deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; plug securely all wells before abandoning the same and to shut off effectually all water from the oil or gas-bearing strata; not drill any well within 200 feet of any house or barn on the premises without the lessor's written consent approved by the superintendent; carry out at his expense all reasonable orders and requirements of the supervisor relative to prevention of waste, and preservation of the property and the health and safety of workmen; bury all pipelines crossing tillable lands below plow depth unless other arrangements therefor are made with the superintendent; pay the lessor all damages to crops, buildings, and other improvements of the lessor occasioned by the lessee's operations: *Provided*, That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

SEC. 20. *Permission to start operations.*—No operations will be permitted on any lease before it is approved by the Secretary of the Interior.

Written permission must be secured from the supervisor before any operations are started on the leased premises. After such permission is secured the operations must be in accordance with the operating regulations promulgated by the Secretary of the Interior. Copies of these regulations may be secured from either the supervisor or the superintendent and no operations should be attempted without a study of the operating regulations.

SEC. 21. *Restrictions on operations.*—Oil and gas leases issued under the provisions of these regulations shall be subject to imposition by the Secretary of the Interior of such restrictions as to time or times for the drilling of wells and as to the production from any well or wells as in his judgment may be necessary or proper for the protection of the natural resources of the leased land and in the interest of the lessor. In the exercise of his judgment the Secretary of the Interior may take into consideration, among other things, the Federal laws, State laws, regulations by competent Federal or State authorities, lawful agreements among operators regulating either drilling or production, or both, and any regulatory action desired by tribal authorities.

All such leases shall be subject to any co-operative or unit development plan affecting the leased lands that may be required by the Secretary of the Interior, but no lease shall be included in any co-operative or unit plan without prior approval of the Secretary of the Interior, and consent of the Indian tribe affected.

SEC. 22. *Penalties.*—Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of these regulations, order of the superintendent or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than $500 per day for each and every day the terms of the lease, the regulations, or such orders are violated; or to both such penalty and cancellation: *Provided*, That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30 days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

SEC. 23. *Mines to be timbered properly.*—In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the leased property and safety of the workmen.

SEC. 24. *Surrender of leased premises in good condition.*—On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground with the mine workings in good order and condition, and bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate the mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

FEES

SEC. 25. All leases and assignments shall be executed in sextuplet and when filed with the superintendent shall be accompanied by a filing fee of $5 which is hereby required pursuant to provisions contained in the act of February 14, 1920 (41 Stat. 408–415), as amended by the act of March 1, 1933 (47 Stat. 1417; 25 U. S. C. 413). This fee will be refunded in case the instrument is disapproved.

ASSIGNMENTS

SEC. 26. (a) Approved leases or any interest therein may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof: *Provided*, That in order for such assignment to receive favorable consideration the lessee shall assign either his whole interest or an undivided interest in the whole lease.

(b) No lease or interest therein or the use of such lease shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior.

(c) Assignments of leases, and stipulations modifying the terms of existing leases, which stipulations are also subject to the approval of the Secretary of the Interior, shall be filed with the superintendent within 30 days after the date of execution.

CANCELLATIONS

SEC. 27. When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, the Secretary of the Interior shall have the right at any time after 30 days' notice to the lessee specifying the terms and conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(a) That he make application for cancellation to the superintendent having jurisdiction over the land.

(b) That he pay a surrender fee of one dollar at the time the application is made.

(c) That he pay all royalties and rentals due to the date of such application.

(d) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(e) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(f) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of the assignment.

(g) If the lease (or portion being surrendered or canceled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(h) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(i) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the superintendent for five days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(j) In the event oil or gas is being drained from the leased premises by wells not covered by the lease; the lease, or any part of it, may be surrendered only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

EFFECTIVE DATE OF THESE REGULATIONS

SEC. 28. These regulations shall become effective and in full force from and after the date of approval, and shall be subject to change or alteration at any time by the Secretary of the Interior: *Provided*, That no regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties to the lease. All former regulations governing the leasing of tribal lands for mining purposes are superseded by these regulations.

EXEMPTION OF LEASES MADE BY ORGANIZED TRIBES

SEC. 29. These regulations may be superseded by the provisions of any tribal constitution, bylaw or charter issued pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the Alaska Act of May 1, 1936 (49 Stat. 1250), or the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), or by ordinance, resolution or other action authorized under such constitution, bylaw or charter. These regulations, in so far as they are not so superseded, shall apply to leases made by organized tribes if the validity of the lease depends upon the approval of the Secretary of the Interior.

FORMS

SEC. 30. Applications, leases, and other papers must be upon forms prescribed by the Secretary of the Interior, and the superintendent will furnish prospective lessees with such forms at a cost of ten cents each or $1 per set.

Form 5–154a. Lessee's personal bond supported by Government securities.
Form 5–157. Oil and Gas Lease.
Form 5–157b. Mining lease other than oil and gas.
Form 5–157c. Bond for separate leases.
Form 5–157d. Authority of officers to execute papers.
Form 5–157e. Assignment.
Form 5–157f. Collective bond.
Form 5–157g. Stipulation.

Moneys received from the sale of forms should be deposited as Miscellaneous Receipts to the credit of Receipt Account 145060 "Sale of Forms" unless the expense of printing the forms was paid from tribal moneys, in which event, the receipts from the sale of the forms should be deposited to the credit of the tribe.

MAY 25, 1938.

The foregoing regulations are respectfully submitted to the Secretary of the Interior with the recommendation that they be approved.

JOHN HERRICK,
Acting Commissioner of Indian Affairs.

Approved, May 31, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1709; Filed, June 16, 1938; 9:59 a. m.]

AMENDMENT TO SECTION 6 OF REGULATIONS GOVERNING LEASING OF SEGREGATED COAL AND ASPHALT DEPOSITS IN THE CHOCTAW AND CHICKASAW NATIONS, OKLAHOMA

ADDING OF ADDITIONAL ACREAGE TO EXISTING LEASES; EXTENSION OF TIME WITHIN WHICH PURCHASERS OF SUCH DEPOSITS MAY COMPLETE PAYMENTS UNDER ACT OF CONGRESS APPROVED APRIL 21, 1932 [1]

Section 6 of the regulations is hereby amended to read as follows:

"Lessees shall mine on each lease not less than fifteen thousand tons of coal annually, or pay royalty at ten cents a ton as if said amount of coal had been mined. A payment of five hundred dollars on the minimum tonnage royalty shall be made annually in advance commencing with the date of approval of the lease by the Secretary of the Interior. The five hundred dollar payment for the first year shall be made at the time of the filing of the lease in the office of the Superintendent for the Five Civilized Tribes and like payments for subsequent years shall be made annually in advance upon the anniversary date of the approval of the lease: *Provided*, That said lessee may take credit against said five hundred dollars on royalty becoming due on coal mined at any time during the year for which such advance royalty was paid: *Provided further*, That upon failure or neglect of any lessee to pay such advance royalty or the royalty becoming due each month on coal mined under each lease, for sixty days after such advance or monthly royalty becomes due, shall subject such lease to cancellation by the Secretary of the Interior upon thirty days notice from him or such officer as he may designate, and upon such cancellation all royalties standing to the credit of any lease shall thereby be forfeited and become the property of said nations: *And provided further*, That no part of the royalty paid for any year shall be credited on the minimum royalty due for any prior or subsequent year."

Approved, May 31, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1708; Filed, June 16, 1938; 9:59 a. m.]

[1] 47 Stat. 88.

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–2]

ORDER IN THE MATTER OF MAXIMUM HOURS OF SERVICE OF MOTOR CARRIER EMPLOYEES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 14th day of June, A. D. 1938.

It appearing, That by order dated July 30, 1936, the Commission, by Division 5, entered upon an investigation into and concerning the above entitled matter;

It further appearing, That after full investigation of the matter and things involved, the Commission, by division 5, on December 29, 1937,[1] issued its report and order, prescribing rules and regulations effective on and after July 1, 1938, and good cause therefor appearing:

It is ordered, That the effective date of the rules and regulations prescribed by the aforesaid order of December 29,

[1] 3 F. R. 9 (DI).

1937, be and it is hereby postponed from July 1, 1938, until August 1, 1938, but in all other respects the said order shall remain in full force and effect.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1710; Filed, June 16, 1938; 12:14 p. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of June 1938.

[File No. 1-178]

IN THE MATTER OF WELLS, FARGO & COMPANY CAPITAL STOCK, $1 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Capital Stock, $1 Par Value, of Wells, Fargo & Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1714; Filed, June 16, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of June 1938.

[File No. 1-957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY 6% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE, 6% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE, AND COMMON STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the 6% Cumulative Preferred Stock, $100 par value, 6% Non-Cumulative Second Preferred Stock, $100 par value, and Common Stock, $100 par value, of Market Street Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1713; Filed, June 16, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of June 1938.

[File No. 1-1203]

IN THE MATTER OF PITTSBURGH TERMINAL COAL CORPORATION PREFERRED STOCK (6% CUMULATIVE), $100 PAR VALUE COMMON STOCK, $1 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Preferred Stock (6% Cumulative), $100 Par Value and the Common Stock, $1 Par Value, of Pittsburgh Terminal Coal Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1715; Filed, June 16, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of June 1938.

[File No. 1-1327]

IN THE MATTER OF DETROIT AND MACKINAC RAILROAD COMPANY PREFERRED CAPITAL STOCK 5% NON-CUMULATIVE, $100 PAR VALUE, AND COMMON CAPITAL STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Preferred Capital Stock 5% Non-Cumulative, $100 par value, and Common Capital Stock, $100 par value, of Detroit and Mackinac Railway Company; and

The Commission deemed it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1720; Filed, June 16, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of June 1938.

[File No. 1-1419]

IN THE MATTER OF ROBERT REIS & CO. COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Common Stock, No Par Value, of Robert Reis & Co.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1719; Filed, June 16, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of June 1938.

[File No. 1-2066]

IN THE MATTER OF CHICAGO, INDIANAPOLIS AND LOUISVILLE RAILWAY COMPANY 4% NON-CUMULATIVE PREFERRED STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the 4% Non-Cumulative Preferred Stock, $100 par value, of Chicago, Indianapolis and Louisville Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1718; Filed, June 16, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of June 1938.

[File No. 1-2123]

IN THE MATTER OF NEW ORLEANS, TEXAS & MEXICO RAILWAY COMPANY CAPITAL STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Capital Stock, $100 Par Value, of New Orleans, Texas & Mexico Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1716; Filed, June 16, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of June 1938.

[File No. 1-2211]

IN THE MATTER OF NORFOLK SOUTHERN RAILROAD COMPANY CAPITAL STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, hav-

ing made application to the Commission to strike from listing and registration the Capital Stock, $100 Par Value, of Norfolk Southern Railroad Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on June 29, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1717; Filed, June 16, 1938; 12:38 p. m.]

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 119

Washington, Saturday, June 18, 1938

The President

EXECUTIVE ORDER

ESTABLISHING AN AIRSPACE RESERVATION OVER A PORTION OF THE DISTRICT OF COLUMBIA

By virtue of and pursuant to the authority vested in me by section 4 of the Air Commerce Act of 1926 (44 Stat. 568, 570), the airspace above the following-described portion of the District of Columbia is hereby reserved and set apart for national defense and other governmental purposes, and for public safety purposes, as an airspace reservation within which civil aircraft are forbidden to be operated except by special permission of the Secretary of Commerce:

All that area within the City of Washington, D. C., lying within the following-described boundary, together with all the area in the horizontal plane extending one-quarter of a mile outward from all points on such boundary:

Beginning at Union Station, thence to the Capitol, thence to the Naval Hospital, thence to the Executive Mansion, and thence to Union Station, the point of beginning.

Persons operating aircraft within this airspace reservation in violation of the provisions of this order or of the said Air Commerce Act of 1926 will be subject to the penalties prescribed by section 11 of that act.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 16, 1938.

[No. 7910]

[F. R. Doc. 38-1725; Filed, June 17, 1938; 10: 05 a. m.]

EXECUTIVE ORDER

TRANSFERRING TO THE TERRITORY OF HAWAII TITLE TO CERTAIN PUBLIC LANDS

WHEREAS section 91 of the act of Congress approved April 30, 1900, entitled "An act to provide a government for the Territory of Hawaii" (31 Stat. 141), as amended by section 7 of the act approved May 27, 1910, 36 Stat. 443, authorizes the transfer to the Territory of Hawaii by direction of the President of the title to certain public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July 7, 1898, 30 Stat. 750, and in the possession and use of the Territory of Hawaii for public purposes, or required for any such purposes; and

WHEREAS title to certain public lands hereinafter described is required by the Territory of Hawaii for the public purpose of providing for the construction of a causeway to give the citizens of the Territory a safe way of passage along the coast line at the point where said lands are located;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, by virtue of the power vested in me by section 91 of an act of Congress approved April 30, 1900, 31 Stat. 141, as amended by section 7 of an act approved May 27, 1910, 36 Stat. 443, do hereby transfer to the Territory of Hawaii the title to two parcels of land owned by the United States, situate at Kaalawai, Kapahulu, District of Honolulu, Island of Oahu, Territory of Hawaii, described as follows:

PARCEL 1

Beginning at a point on seashore at highwater mark at the end of Course 37 of Land Court Application 1136, the coordinates of said point of beginning referred to Government Survey Trig. Station "Leshi" being 1076.52 feet South and 5421.15 feet East, and running by azimuths measured clockwise from true South:

Along highwater mark for the following twenty-eight courses, the direct azimuths and distances from point to point along sea coast as described in said Land Court Application 1136 being as follows:

1. 271° 01′ 19.00 feet;
2. 319° 43′ 23.20 feet;
3. 247° 37′ 36.80 feet;
4. 220° 00′ 29.50 feet;

CONTENTS

THE PRESIDENT

Executive Orders: Page
District of Columbia, airspace reservation ---- 1437
Hawaii, transferring title to certain public lands ---- 1437

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Flue-cured tobacco farm marketing quotas for 1938, determination ---- 1438
Hawaii, normal yield of commercially recoverable sugar; eligibility for payment with respect to abandonment and crop deficiency ---- 1441
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Belvedere Silks, Inc., cease and desist order ---- 1442
Fur Industry, trade practice rules ---- 1442
Kluger, H., Inc., cease and desist order ---- 1441
TITLE 49—TRANSPORTATION AND RAILROADS:
Carriers by water, depreciation charges of ---- 1445

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc.:
Gulf Refining Co ---- 1446
Hemphill, Roy, trading as Diesel Power-United Engineering Schools, etc ---- 1446
Honbaum, W. K., trading as Monarch Stove Top Co ---- 1446
Letellier-Phillips Paper Co., Inc ---- 1447
Lincoln Dental Supply Co., Inc ---- 1446
National Institute, Inc., trading as Diesel Engines Training, etc ---- 1447

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Federal Trade Commission—Con.
Orders appointing examiners, etc.—Continued. Page
White, Morris, Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc. 1446
Securities and Exchange Commission:
Interstate Hosiery Mills, Inc., common capital stock, hearing 1447
Northeastern Water Cos., Inc., hearing 1448
Sloss-Sheffield Steel & Iron Co., order declaring applicant not an electric utility company 1448
Utilities Power & Light Corp., Ltd., hearing reopened 1449
Virginia Public Service Co., withdrawal of part of application for exemption 1448
United States Civil Service Commission:
Apportionment at close of business, June 15, 1938 1450

5. 250° 53′ 16.50 feet;
6. 287° 08′ 15.30 feet;
7. 324° 50′ 13.80 feet;
8. 13° 30′ 20.70 feet;
9. 319° 45′ 16.20 feet;
10. 281° 12′ 24.20 feet;
11. 322° 27′ 17.20 feet;
12. 350° 31′ 12.40 feet;
13. 307° 02′ 31.80 feet;
14. 329° 02′ 50.60 feet;
15. 332° 27′ 28.80 feet;
16. 246° 45′ 31.00 feet;
17. 193° 01′ 19.90 feet;
18. 255° 13′ 13.20 feet;
19. 227° 24′ 32.10 feet;
20. 318° 22′ 41.00 feet;
21. 331° 19′ 48.40 feet;
22. 38° 05′ 14.20 feet;
23. 80° 46′ 18.40 feet;
24. 11° 37′ 13.70 feet;
25. 345° 13′ 19.60 feet;
26. 52° 59′ 17.20 feet;
27. 5° 47′ 26.30 feet;
28. 311° 56′ 12.00 feet to the end of Course 9, Land Court Application 1136; thence
29. 128° 05′ 405.92 feet to the point of beginning.

Area 0.563 acre.

PARCEL 2

Beginning at a point on seashore at highwater mark at the end of Course 9 of said Land Court Application 1136, the coordinates of said point of beginning referred to Government Survey Trig. Station "Leahi" being 1326.89 feet South and 5740.66 feet East, and running by azimuths measured clockwise from true South;

Along highwater mark for the following five courses, the direct azimuths and distances from point to point along sea coast as described in said Land Court Application 1136 being as follows:

1. 268°13′ 11.20 feet;
2. 213°40′ 42.50 feet;
3. 306°39′ 29.60 feet;
4. 305°48′ 34.80 feet;
5. 16°08′ 13.20 feet to the end of Course 4 of Land Court Application 1136; thence
6. 100°14′ 84.40 feet to the point of beginning.

Area 0.045 acre.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 16, 1938.

[No. 7911]

[F. R. Doc. 38-1726; Filed, June 17, 1938; 10:06 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 11]

INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

PART 1. PROCEDURE FOR DETERMINATION OF FLUE-CURED TOBACCO MARKETING QUOTAS

SECTION I. *General outline of method of establishing farm marketing quotas.*—This section outlines, in general terms, the procedure for establishing flue-cured tobacco farm marketing quotas in accordance with the provisions of the Agricultural Adjustment Act of 1938. The term "tobacco" as used in these instructions means flue-cured tobacco unless otherwise indicated.

A. *Farms for which quotas will be established.*—A marketing quota will be established for each farm on which tobacco is produced in the year 1938. For the purpose of establishing farm marketing quotas, farms are divided into two general classes:

1. *Old farms.*—Farms producing tobacco in 1938 and on which tobacco also was produced in one or more of the four years, 1934–37 will be referred to as "old farms." An old farm will also be referred to as a "large farm" if for the three years, 1935–37, the average tobacco production and diversion was more than 3,200 pounds, and as a "small farm" if the three-year average was 3,000 pounds or less. Diversion means the normal production of the acres on the farm diverted from the production of tobacco during the three years, 1935–37, under agricultural adjustment or conservation programs.

2. *New farms.*—Farms on which tobacco is produced in the year 1938 for the first time since the year 1933 will be referred to as "new farms."

B. *Basis for the establishment of farm marketing quotas.*—1. *Old farms.*—(a) Quotas for all old farms will be established by allotting the State marketing quota among such farms on the basis of the following factors: (1) past marketings of tobacco, making due allowance for abnormal weather conditions and plant diseases; (2) land, labor, and equipment available for the production of tobacco; (3) crop-rotation practices; and (4) the soil and other physical factors affecting the production of tobacco. The quota for an old farm will not be less than the smaller of 3,200 pounds or the three-year (1935–37) average tobacco production and diversion.

(b) An addition to the State quota, of a number of pounds not exceeding four percent of such quota, will be used in the State to increase quotas for old farms which are inadequate in view of the past production of tobacco on the farm.

2. *New farms.*—Marketing quotas will be established for new farms by the allotment among such farms of a number of pounds equal to three percent of the national marketing quota of 705,000,000 pounds. These allotments will be made upon the basis of the same factors as for old farms, except past marketings of tobacco. The marketing quota established for a new farm cannot be more than 75 percent of the quota which would be established for an old farm which was similar with respect to such factors.

C. *Determination of normal marketings.*—The first step in the procedure for the establishment of farm marketing quotas will be to determine for each farm on which tobacco is produced in 1938 a "normal marketings" based upon the same factors as are required to be taken into consideration in establishing farm marketing quotas (Sec. II). The normal marketings for old farms will be the sum of (1) seventy-five percent of the "adjusted past marketings" which will be calculated so as to take into account the marketings from the farm during the three years 1935–37 (making due allowance for abnormal weather conditions and plant diseases) and the soil and other physical factors affecting the production of tobacco on the farm (Sec. II, A), and (2) 25 percent of the marketings indicated by the land, labor and equipment available for the production of tobacco on the farm (Sec. II, B). The normal marketings for new farms will be 100 percent of the marketings indicated by the land, labor and equipment available for the production of tobacco on the farm (Sec. II, B). However, the normal marketings for a farm computed as indicated above, will be subject to certain limitations (Sec. III). These limitations will be measured by a factor representing the acreage necessary to permit crop-rotation practices on the farm (Sec. III, B) and also by the 1938 acreage of tobacco on the farm (Sec. III, A), the land, labor and equipment available for the production of tobacco on the farm in 1938 (Sec. III, C) and the past marketings of tobacco (Sec. III, D).

D. *Establishment of farm marketing quotas on the basis of normal marketings.*—Farm marketing quotas will be established by adjusting normal marketings in the following manner:

1. *Old farms.*—The total of the normal marketings of all old farms in each State will be brought within the State marketing quota by adjusting the normal marketings of each old farm in the State by a uniform percentage. The normal marketings for old farms, after being thus adjusted, will be subject to such further adjustment as is necessary in order to provide each such farm with a "minimum quota" (the smaller of 3,200 pounds or the three year, 1935–37, average production plus diversion) and at the same time keep the total of the quotas for all such farms within the State quota. Normal marketings for a farm, as finally adjusted, will constitute the farm marketing quota (Sec. IV, A). Farm marketing quotas, established as indicated above for old farms, will be increased if they are found, under prescribed standards, to be inadequate in view of past production on the farm. The 4 percent addition to the State marketing quota will be used for this purpose (Sec. IV, C).

2. *New farms.*—The total marketing quotas of all new farms will be brought within the amount represented by three percent of the national quota of 705,000,000 pounds by adjusting the normal marketings for all new farms in the United States by a uniform percentage. The normal marketings for a new farm, thus adjusted, will be the farm marketing quota (Sec. IV, B).

E. *Detailed procedure.*—The detailed procedure for the establishment of farm marketing quotas, in the manner outlined above, is set forth in the following sections of these instructions.

SECTION II. *Procedure for calculation of normal marketings.*—The data for use in calculating normal marketings will be collected and tabulated by county offices in accordance with Sections VI to IX of these instructions.

The normal marketings for each old farm will be seventy-five percent of the adjusted past marketings as calculated pursuant to subsection A below, plus twenty-five percent of the marketings for the farm indicated by land, labor and equipment, as calculated pursuant to subsection B below. The normal marketings for each new farm will be the marketings indicated by the land, labor and equipment available for the production of tobacco on the farm. If necessary, adjustments of the normal marketings for a farm will be made pursuant to Section III below.

A. *Calculation of adjusted past marketings.*—(1) The adjusted past marketings for any farm will be the largest of the following three items:

(a) 33⅓ percent of the total harvested and diverted acreage in the three years, 1935–37, multiplied by the farm yield;

(b) 40 percent of the total harvested and diverted acreage in the two years of the three years, 1935–37, in which such acreage was the highest, multiplied by the farm yield;

(c) 60 percent of the highest harvested and diverted acreage in any one of the three years, 1935–37, multiplied by the farm yield;

Provided, That, if, for any farm, the average of the marketings from the farm and of the normal production of tobacco on the diverted acreage during the three years, 1935–37, is greater than any of the items (a), (b), or (c) above, and records satisfactory to the community and county committees have been presented in support of all marketings reported by the operator, the three-year average of marketings and diversion shall be used in lieu of items (a), (b), or (c) above.

(2) The harvested acreage shall be the acreage actually harvested on the farm, except that if the community and county committees find that, because of flood, drought, hail or blue-mold, the harvested acreage of tobacco for the farm in any of the three years, 1935–37, was less than 60 percent of the base acreage established for the farm for such year under the agricultural adjustment or conservation program the harvested acreage for such year shall be adjusted to 70 percent of such base acreage.

(3) The farm yield shall be the 1935 yield per acre of tobacco for the farm, if such yield is known, provided that such yield shall be fixed at not more than 300 pounds below the county average yield[1] for 1935, nor more than the larger of (a) 300 pounds above the 1935 county average yield, or (b) the average yield per acre for the farm for the three years 1935, 1936 and 1937. If the committee finds that because of flood, drought, hail or blue-mold the 1935 yield per acre for any farm was materially lower than the yield which otherwise would have been obtained, the committee shall assign as the farm yield that yield which it finds to be normal for the farm, taking into consideration the yields on farms in the locality which have similar types of soil, provided that such yield shall not be more than the higher of the 1936 or 1937 yield per acre for the farm. If the 1935 yield for a farm is not known, the 1935 community average yield[1] shall be used. If the 1935 county or community average yield cannot be established because the 1935 yields for farms in such county or community are not known, the average yield for the nearest county or community which the State committee finds to be most similar with respect to type of soil, topography and productivity to such county or community, as the case may be, shall be used. If, for any community, the committee finds that the 1935 average yield was reduced materially because of flood, drought, hail or blue-mold, the county committee shall make recommendations to the State committee with respect to an adjusted yield for the community and the State committee shall establish a 1935 yield for the community on the basis of the recommendations of the county committee and other available information.

B. *Calculation of marketings indicated by land, labor, and equipment.*—1. *County land- and labor-cash crops factors.*—For each county in which tobacco is produced in 1938, a county land-cash crops factor and a county labor-cash crops factor shall be established by computing the following items with respect to a representative sample[2] of tobacco farms:

(a) The acres of cropland;

(b) The 1937 harvested and diverted acres of flue-cured tobacco;

(c) The sum of: (1) the number of acres of tobacco other than flue-cured tobacco on such farms in 1937; (2) one-half of the number of the harvested and diverted acres of cotton on such farms in 1937; (3) one-half of the number of acres of peanuts harvested for nuts on such farms in 1937; (4) one-half of the

[1] The 1935 community average yield and the 1935 county average yield shall be determined by calculating the simple average of the 1935 tobacco yields per acre for a representative sample of tobacco farms in each community and in the county. A "representative sample" shall be 20 percent or more of the tobacco farms from each of the communities in the county. The farms included in the sample shall consist, as far as practical, of alternate farms (i. e., every third, fourth or fifth farm listed on Form 38—Tobacco 10) in each community.

[2] Same as described in footnote one.

number of acres of commercial truck and vegetables (including Irish potatoes) on such farms in 1937.

(d) The number of families on such farms in the year 1938;

(e) Item (a) shall be divided into the sum of item (b) and (c) and the quotient shall be the "county land-cash crop factor."

(f) Item (d) shall be divided into the sum of (b) and (c) and the quotient shall be the "county labor-cash crop factor."

2. *Land.*—(a) Multiply the number of acres of cropland in each farm by the county land-cash crops factor.

(b) From item (a) above, subtract the sum of: (1) the number of acres of tobacco other than flue-cured tobacco on the farm in 1937; (2) one-half of the number of the harvested and diverted acres of cotton on the farm in 1937; (3) one-half of the number of acres of peanuts harvested for nuts on the farm in 1937; (4) one-half of the number of acres of commercial truck and vegetables (including Irish potatoes) on the farm in 1937.

(c) The number of acres obtained under item (b) above, will represent the land available for the production of tobacco on the farm in relation to other farms.

3. *Labor.*—(a) Multiply the number of families on each farm by the county labor-cash crop factor.

(b) From item (a) above, subtract the sum of: (1) the number of the harvested and diverted acres of tobacco other than flue-cured tobacco on the farm; (2) one-half the number of harvested and diverted acres of cotton on the farm in 1937; (3) one-half of the number of acres of peanuts harvested for nuts on the farm in 1937; (4) one-half of the number of acres of commercial truck and vegetables (including Irish potatoes) on the farm in 1937.

(c) The number of acres obtained under item (b) above will represent the labor available for the production of tobacco on the farm in relation to other farms.

4. *Equipment.*—Compute for each farm the average acreage capacity of the flue-cured tobacco curing barns on the farm in condition for use in 1938. The average acreage capacity of such barns will be computed as follows:

Size Barn:	*Average Acres Capacity*
16' x 16'----------	4
16' x 18'----------	5
16' x 20'----------	6
20' x 20'----------	7

5. *Land, labor and equipment.*—Marketings for a farm as indicated by the land, labor and equipment available for the production of tobacco on the farm will be one-third of the sum of the number of acres computed for the farm under "Land," "Labor", and "Equipment" (items 2, 3, and 4), multiplied by the farm yield.

SECTION III. *Adjustments of normal marketings.*—Normal marketing for a farm computed as provided in Section II shall be adjusted as follows:

A. *Marketings in relation to 1938 acreage of tobacco.*—The normal marketings for any farm shall not be greater than the number of pounds obtained by multiplying the farm yield by 150 percent of the 1938 acreage of tobacco on the farm.

B. *Marketings in relation to acreage required for minimum crop-rotation practices.*—The normal marketings for any farm shall not be greater than the number of pounds obtained by multiplying a percentage of the cropland in the farm by the farm yield. The percentage of cropland shall be 40 to 50 percent, increasing above 40 percent by 1 percent for each acre by which the cropland in the farm is less than 25 acres.

C. *Marketings in relation to land, labor, and equipment and to 1938 acreage.*—For any farm for which the "adjusted past marketings" was the number of pounds obtained by multiplying 33⅓ percent of the harvested and diverted acreage on the farm for the three years 1935–37) by the farm yield and to which B above is not applicable, the normal marketings shall not be less than 90 percent of the smaller of:

(1) The marketings indicated by land, labor and equipment available for the production of tobacco; or

(2) 150 percent of the acreage of flue-cured tobacco to be harvested on the farm in 1938 multiplied by the farm yield.

D. *Marketings in relation to past marketings.*—In no case shall the normal past marketings for any farm be more than twice as large as the "adjusted past marketings" for the farm.

SECTION IV. *Calculation of farm marketing quotas from normal marketings.*—Farm marketing quotas will be established by adjusting normal marketing determined as provided in Sections II and III above, and apportioning the 4 percent addition to the State quota, as follows:

A. *Old farms.*—(1) The normal marketings for all old farms (large and small) in each State will be adjusted by a uniform percentage (determined by the State Office and the Agricultural Adjustment Administration) so as to equal the State marketing quota.

(2) There will be allocated to each such farm a "minimum quota" equal to the three-year average (1935–37) for the farm of marketings and diversion but not more than 3,200 pounds. The sum of such "minimum quotas" for all farms in each State will be deducted from the State quota.

(3) There will be subtracted from the normal marketings for each farm, as adjusted under item 1 above, the "minimum quota" for the farm. The resulting figure will be the "excess" for the farm.

(4) The "excess" for all farms in each State will be reduced by a uniform percentage so as to equal the amount of the State quota remaining after subtraction therefrom of the total (computed under item 2) "minimum quotas" for all farms in the State.

(5) The marketing quota for each farm will be the "minimum quota" for the farm plus the "excess" (if any) for the farm as adjusted under item 4 above.

B. *New farms.*—The total of the normal marketings for all new farms will be reduced so as to equal three percent of the national marketing quota of 705,000,000 pounds. This adjustment will be made by reducing the normal marketings for all new farms by a uniform percentage. The normal marketing for a new farm adjusted as indicated will be the farm marketing quota.

C. *Four percent addition to the State quota.*—A number of pounds equal to 4 percent of the farm quotas established (pursuant to A above) for all old farms in each county will be apportioned among such farms. The apportionment to each such farm shall be made in proportion to the amount by which the farm marketing quota is less than the smaller of the adjusted past marketings for the farm or 150 percent of the 1938 acreage of tobacco times the farm yield.

SECTION V. *Definitions.*—As used in these instructions and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires:

1. *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

2. *Secretary of Agriculture* means the Secretary of Agriculture of the United States.

3. *Administrator* means the Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

4. *State Office* means those persons or committees in the State who, under authorization by the Secretary of Agriculture, are responsible for the administration in the State of the Agricultural Adjustment Act of 1938.

5. *State Committee* means the group of persons designated within any State to assist in the administration in the State of the Agricultural Adjustment Act of 1938.

6. *Committee* means a committee within a county or community utilized under the Agricultural Adjustment Act of 1938. "County committee", "community committee", or "local committee" shall have corresponding meanings in the connection in which they are used.

7. *County Office* means those persons or committees in the county who, under authorization by the Secretary of Agriculture, are responsible for the local administration of the Agricultural Adjustment Act of 1938.

8. *Family* means a body of persons who live on the farm in 1938 in one house and under one head, and who are working regularly on the farm in 1938.

9. *Diversion* means the normal production on diverted acreage; diverted acreage for a farm for any year means the acres on the farm diverted from the production of tobacco during such year under the agricultural adjustment or conservation program for such year.

10. *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest. Words importing the masculine gender may be construed or applied in the feminine or neuter gender wherever the context or application of such words so requires or permits.

11. *Owner* or *Landlord* means a person who owns farm land and rents such land to another person or operates such land.

12. *Cash Tenant* or *Standard-Rent Tenant* or *Fixed Rent Tenant* means a person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

13. *Share Tenant* means a person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

14. *Sharecropper* means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

15. *Operator* means a person who as a landlord or cash tenant or standing or fixed-rent tenant is operating a farm and is entitled to receive all or a portion of the crops produced thereon or the proceeds of such crops, or who as a share tenant is operating a whole farm and is entitled under a written or oral lease or agreement to receive a portion of the crops produced thereon or of the proceeds of such crops.

16. *Producer* or *Farmer* means a person who is entitled to a share of the tobacco crop, or the proceeds thereof, produced on the farm in 1938, as owner, landlord, cash tenant, standing-rent tenant, fixed-rent tenant, share-tenant or sharecropper. The term "producer" or "farmer" also includes a wage hand (or cropper) who as a laborer on a farm instead of receiving daily or other cash wages for his labor receives either all the tobacco produced by him or another on an agreed or specified acreage or all the tobacco produced on an agreed or specified portion of the acreage cultivated by him or another.

17. *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land) the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under these instructions;

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or the local administrative area within the county, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county or local administrative area, as the case may be, in which the major portion of the farm is located.

18. *Tobacco* means flue-cured tobacco unless otherwise indicated.

19. *Flue-cured tobacco* means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department, as types 11, 12, 13 and 14 collectively known as flue-cured tobacco.

20. *Farm Marketing Quota* means a flue-cured tobacco marketing quota established for a farm under section 313 of the Agricultural Adjustment Act of 1938.

21. *Cropland* means farm land tilled annually or in regular rotation, excluding commercial orchards.

Done at Washington, D. C., this 16th day of June, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1721; Filed, June 16, 1938; 12:46 p. m.]

DETERMINATION OF NORMAL YIELD OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE AND ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN THE TERRITORY OF HAWAII

Pursuant to the provisions of Section 303 of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine:

I

1. That for any farm on which sugarcane was grown and marketed (or processed by the producer) for the extraction of sugar during all three of the 1934, 1935 and 1936 crop years, the normal yield of commercially recoverable sugar per acre shall be the product of:

(a) the average number of hundredweights of sugar, raw value, recovered per short ton of sugarcane processed during such crop years for the extraction of sugar by the mill, or mills, where such sugarcane was ground, and

(b) the average number of short tons of sugarcane per acre harvested on the farm for the extraction of sugar during the said three crop years.

2. That for any farm on which sugarcane was not grown and marketed (or processed by the producer) for the extraction of sugar during all three of the 1934, 1935 and 1936 crop years, the normal yield of commercially recoverable sugar per acre shall be the average of such yields for all farms, within the same mill area, on which sugarcane was harvested for the extraction of sugar during all three of the 1934, 1935 and 1936 crop years.

II

That any farm located in a county in which the actual yields of commercially recoverable sugar per acre for farms comprising 10 per cent or more of the total acreage of sugarcane for the extraction of sugar were 80 per cent, or less, of the normal yields therefor, because of drought, flood, storm, freeze, disease or insects, shall be eligible for abandonment and deficiency payments, pursuant to Section 303 of the said Act.

Done at Washington, D. C. this 17th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38–1736; Filed, June 17, 1938; 12:21 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3206]

IN THE MATTER OF H. KLUGER, INC. A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent and a stipulation as to the facts executed by William T. Kelley, Chief Counsel of the Federal

[1] 2 F. R. 2449 (DI).

Trade Commission, and Cole and Morrill, counsel for respondent, the filing of briefs having been waived and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the Federal Trade Commission Act;

It is ordered, That respondent, H. Kluger, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of piece goods in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Using, assisting or cooperating in the using of the words and figures "Pur'Di", "Genuine Pur'Di", "Pur Dye", "100% Pure Dye" and "100% Pure Dye Crepe," or any other word or words, or combination of words and figures, of similar import or meaning, to describe or designate fabrics or products which are not composed wholly of silk, the product of the cocoon of the silk worm.

(2) Using, assisting or cooperating in the using of the word or words, "Pure Silk Filled," or any other word or words of similar import or meaning, to describe or designate products which are not composed wholly of silk, the product of the cocoon of the silk worm, unless, in the case of a fabric or product composed in part of silk and in part of rayon, or material or materials other than silk, there is used in immediate connection and conjuction therewith, and in letters of at least equal size and conspicuousness, a word or words accurately describing the fiber, material or materials from which said fabric or product was actually made; and provided that the fiber or material content of such fabric or product be actually disclosed by designating each constituent fiber or material thereof, in the order of its predominance by weight, beginning with the largest single constituent.

(3) Using, assisting or cooperating in the using of the word "crepe," or any other word or words of similar import or meaning, to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silk worm, unless there is used in immediate connection and conjunction therewith, in letters of at least equal size and conspicuousness, a word or words accurately naming or describing the fiber, material or materials from which said fabric or product is actually made; and provided that such disclosure of the fiber or material content thereof shall be made by accurately designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent.

(4) Representing, through the use of the words "factories," "manufacturer," or "manufacturers," or through the use of any other word or term of similar import or meaning, or through any other means or device, or in any manner, that said respondent is the manufacturer of the product sold by it,—unless and until such respondent actually owns or operates, or directly and absolutely controls a manufacturing plant or factory wherein said products are manufactured by it.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1722; Filed, June 16, 1938; 4:17 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3280]

IN THE MATTER OF BELVEDERE SILKS, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent and the stipulation as to the facts executed by W. T. Kelley, Chief Counsel for the Federal Trade Commission, and the respondent, Belvedere Silks, Inc., (the filing of briefs having been waived) and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, Belvedere Silks, Inc., its officers, representatives, agents and employees in connection with the advertising and offering for sale, sale and distribution of its merchandise and fabrics in interstate commerce, or in the District of Columbia, do forthwith cease and desist from:

1. Using, assisting or cooperating in the using of the word or words "Silk" or "Belvedere Silk," or any other word or words of similar import or meaning in its corporate name, or in any other manner, to describe or designate fabrics or products which are not composed wholly of silk, the product of the cocoon of the silkworm, unless, in the case of fabrics or products composed in part of silk and in part of rayon, or materials other than silk, there is used in immediate connection or conjunction therewith, and in letters of at least equal size and conspicuousness, a word or words accurately describing the fiber, material or materials from which said fabrics or products are actually made; and provided, that the fiber or material content of such fabrics or products be accurately disclosed, by designating each constituent fiber or material thereof, in the order of its predominance by weight, beginning with the largest single constituent.

It is further ordered, That the respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1723; Filed, June 16, 1938; 4:17 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-295]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE FUR INDUSTRY

PROMULGATION

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914 (38 Stat. 717),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding and the rules in Group II which have been received by the Commission as expressions of the industry be, and the same are, hereby promulgated for the Fur Industry.

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. Misrepresentation of Products

(a) Making, or causing to be made or published, directly or indirectly, through advertisement, pictorial representation, invoice, label, tag, or otherwise, any false, misleading, or deceptive statement or representation concerning the grade, quality, substance, character, material, name, nature, or zoological origin of any furs or fur products, or in any other material respect, is an unfair trade practice.

(b) It is an unfair trade practice to use, in advertisements or on labels, tags, brands, or otherwise, any description, designation, or representation of any fur which deceptively conceals the true name or nature of the fur with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

NOTE.—In order properly to describe a fur, the correct name of the fur must be the last word of the description, and if any dye or blend is used simulating another fur, the word "dyed" or "blended" must be inserted between the name signifying the fur that is simulated and the true name of the fur, as, for example, "Seal-dyed Muskrat."

RULE 2. Fictitious Animal Designations

It is an unfair trade practice to use, falsely or deceptively, in advertisements, labels, tags, brands, or other representations of furs, any trade name, coined name, or other name or words descriptive of the fur as being the fur of an animal which is in fact non-existent.

RULE 3. Passing off Cross-breeds as True Breeds

(a) In the case of fur which simulates a certain true species or breed of animal, it is an unfair trade practice, in advertising, branding, labeling, or otherwise representing such fur, not to make in connection therewith full and nondeceptive disclosure of the fact that such fur has been obtained from an animal which is of a different species or is a cross-breed or other than a true breed.

(b) Advertising, offering for sale, selling, branding, or otherwise representing furs as the product of a true species or breed of animals, unless such fur in fact has been obtained from a true species or breed of animals, is an unfair trade practice.

RULE 4. Deceptive Use of Trade or Corporate Names, or Trade-marks

The use of any trade name, corporate name, trade-mark, or other trade designation in a manner which is calculated to or does mislead or deceive purchasers, prospective purchasers, or the consuming public as to the character, name, nature, or geographical or zoological origin of any fur or fur product or product made partly of fur, or in any other material respect, is an unfair trade practice.

RULE 5. Misrepresentation of Geographical Origin of Furs

Making, or causing to be made or published, directly or indirectly, through advertisement, or on labels or tags, or otherwise, in connection with the sale or offering for sale of furs or fur garments, or garments made partly of fur, any false, misleading, or deceptive statement as to the geographical origin of the animal from which the peltry has been obtained, is an unfair trade practice.

NOTE.—Nothing in these rules shall prohibit the use of the designation "Persian Lamb" to describe one of the Karakul breed, a fat-tailed sheep with hair in regular curls lying close to the pelt; nor shall anything in these rules prohibit the use of the designation "Broadtail" as applied to baby lamb, the offspring of this breed of Karakul sheep, not including in either case, however, Krimmer or other cross-breeds of Karakul sheep, or other types of Karakul sheep, such as caracul.

RULE 6. Passing Off Domestic Furs as Imported Furs

Selling, or offering for sale, advertising, describing, branding, labeling, or otherwise representing any fur or fur product as imported, when such is not the fact, is an unfair trade practice.

RULE 7. Failure to Disclose Tipping, Blending, Pointing, or Dyeing of Furs

It is an unfair trade practice to fail to disclose in advertisements, bills of sale, or invoices, or on labels, tags, or otherwise, the fact that furs, fur garments, or the fur trimming on garments made partly of fur, have been tipped, blended, or pointed, or have been dyed to simulate other kinds or grades of fur, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

RULE 8. Used, Worn, or Secondhand Garments—Failure to Disclose

It is an unfair trade practice to sell or offer for sale used or worn fur garments, including those which have been renovated or rebuilt, unless the fact is clearly indicated, in advertising or on labels or tags, that such garments are used, worn, or secondhand, or have been made over.

RULE 9. Failure to Disclose that Garments are Made of Pieces, Tails, Paws, etc.

The selling or offering for sale, through advertisement or otherwise, of fur-trimmed garments the fur of which is composed of pieces and not of full skins, or of fur garments made in whole or in part of pieces, tails, paws, throats, heads, or scraps, or of plates or mats composed of pieces and not of full skins, without fully disclosing such fact and with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 10. Misrepresentation as to Character of Business

For any person, firm, or corporation to hold himself or itself out to the public, by means of misrepresentation as to price or otherwise, as a trapper, custom furrier, dyer, dresser, fur farmer, wholesaler, jobber, or a manufacturer of fur garments, when such is not the fact, or in any other manner to misrepresent the character of his or its business, is an unfair trade practice.

RULE 11. Misuse of Word "Genuine"

It is an unfair trade practice to use the word "genuine" to describe a fur which has been processed or dyed to imitate the fur of an animal known by another name in commerce and in zoology.

For example, the following should not be used:

Genuine Mink Marmot
Genuine Northern Seal

RULE 12. Asterisk or Dagger References

In the case where any explanatory statement or representation in advertisements, labels, tags, brands, or descriptions is necessary to avoid the probability of deception, misunderstanding, or misrepresentation, it is an unfair trade practice to omit such explanatory statement or representation, or to place the same, by the use of asterisk or dagger references or otherwise, in such manner or in such remote or obscure place as to deceptively minimize, obscure, or render it inconspicuous.

RULE 13. Deceptive Substitution of Furs

(a) For any member of the industry deceptively to substitute inferior furs for furs of better quality which have been entrusted to him or it by fur merchants or garment manufacturers is an unfair trade practice.

(b) For any member of the industry deceptively to substitute inferior furs for furs of better quality sold by him or it to any member of the trade or to the purchasing public is an unfair trade practice.

RULE 14. Misrepresenting Services as "Free"

Representing as "free" the repair or storage of or other service in connection with fur garments when in fact such repairs or services are regularly included as part of another charge, with the tendency or capacity to mislead or deceive purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 15. Misrepresenting the manufacture or Dyeing of Assembled Garments

(a) It is an unfair trade practice to sell, offer for sale, advertise, describe, or otherwise represent assembled garments as being the product of one manufacturer or of one dyer when such is not the fact, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

(b) In case peltries are dyed to simulate other furs, it is an unfair trade

practice for the dyer thereof to fail to stamp such peltries with the true name of the furs, where such failure has the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

RULE 16. Misrepresenting Fur Garments as "Hollywood Models", etc.

The sale or offering for sale, through advertising or otherwise, of fur garments as bankrupt stock, samples, showroom models, "Hollywood Models", "Paris Models", "French Models", "Parisian Creations", "Furs worn by society women", receivers stock, auction stock, assets of a liquidating estate, or the like, when such is not the fact, is an unfair trade practice.

RULE 17. Deceptive Guarantees or Warranties

Making, or causing to be made or published directly or indirectly, any false, misleading, or deceptive statement or representation in connection with any guarantee or warranty of fur garments as to their performance, durability, or resistance to discoloration is an unfair trade practice.

RULE 18. False Invoicing

Withholding from or inserting in invoices, bills of sale, or other documents of title, any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, bills of sale, or other documents of title, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 19. Defamation of Competitors and Disparagement of Their Products

The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

RULE 20. Commercial Bribery

It is an unfair trade practice for a member of the industry, directly or indirectly, to give or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase, or contract to purchase, products manufactured or sold by such industry member, or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors, or from dealing or contracting to deal with competitors.

RULE 21. Inducing Breach of Contract

Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 22

(a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc.,[1] which effect unlawful price discrimination.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential,[1] where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[2] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[2] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[2] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity brought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[2] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

[1] Paragraph (a) of Rule 22 shall not be construed as embracing practices prohibited by paragraphs (b), (c), and (d) of this rule.

[2] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or insular possession or other place under the jurisdiction of the United States: *Provided*, That this shall not apply to the Philippine Islands.

RULE 23. Discriminatory Returns

It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one customer-purchaser against another customer-purchaser of fur pieces or garments made wholly or in part of fur, bought from such member of the industry for resale, by contracting to furnish or furnishing in connection therewith, *upon terms not accorded to all customer-purchasers on proportionally equal terms*, the service or facility whereby such favored purchaser is accorded the privilege of returning such merchandise so purchased and receiving therefor credit or refund of purchase price: *Provided, however*, nothing in any of the rules herein shall prohibit or be used to prevent the return of merchandise by purchaser, for credit or refund of purchase price, when and because such merchandise has not been properly labeled by the seller as to its true character, or has been otherwise falsely or deceptively labeled or represented, or when and because such merchandise is defective in material, workmanship, or in any other respect contrary to warranty or purchase contract.

RULE 24. Imitation of Trade-marks, Trade Names, Etc.

The imitation or use of valid and exclusively owned trade-marks, trade names, brands, or labels of competitors, having the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 25. Representing Retail Prices as Wholesale

For any wholesaler, manufacturer, jobber, or broker to advertise for sale, offer to sell, or sell, fur garments at prices represented to be wholesale, through the medium of invoices, letterheads, statements, labels, printed matter, or by the use of the words "Wholesaler", "Manufacturer", "Jobber", or "Broker", or in any other manner, when in truth and in fact such prices are not wholesale prices, is an unfair trade practice.

RULE 26. Consignment Selling

It is an unfair trade practice for any member of the industry to use the practice of shipping goods on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade: *Provided, however*, that nothing herein shall be construed or used as restricting or preventing consignment shipping or marketing of commodities in good faith and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

[1] See footnote 2, p. 1444.

RULE 27. Misrepresenting the Price of Remodeling, Restyling, Remaking, or Altering Fur Garments

It is an unfair trade practice deceptively to advertise or offer to remodel, remake, restyle, or alter a fur garment at a specified price, as an inducement to secure such work, thereafter charging a higher price than the price advertised or represented.

RULE 28. Failure to Disclose Damage to Peltries

It is an unfair trade practice to sell or offer for sale furs or fur garments which have been burned, damaged, or otherwise injured in process of dyeing, dressing, or otherwise, without disclosing such fact through suitable tags, stamps, or labels, with the tendency and capacity or effect of misleading or deceiving customers, prospective customers, or the consuming public.

RULE 29. Fictitious Prices

Offering merchandise for sale at prices purported to be reduced from what are in fact fictitious prices, or offering merchandise for sale at a purported reduction in price when such purported reduction is in fact fictitious, with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

Group II

The trade practices embraced in these Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. However, the failure to observe them under certain circumstances may result in an unfair method of competition contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. Return of Merchandise

The practice, by members of the industry, of selling merchandise and later permitting the purchaser to return it for credit or refund of purchase price, without just cause, creates waste and loss, increases the cost of doing business, to the detriment of both the industry and the public, and is condemned by the industry, subject, however, to requirements and limitations set forth in the provisions of Rule 23 of Group I, herein.

RULE B. Selling Furs at Auction

In order to protect the purchasing public from fraud in the purchase of furs at auction, it is the judgment of the industry that the name and address of the member of the industry offering furs for sale in such manner should be disclosed.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1727; Filed, June 17, 1938; 11:04 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[No. 15780]

ORDER RELATIVE TO DEPRECIATION CHARGES OF CARRIERS BY WATER

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 10th day of June, A. D. 1938.

Good cause appearing therefor:

It is ordered, That the order of August 1, 1935, in this proceeding, as amended April 2, 1936, March 17, 1937 and November 22, 1937, be, and it is hereby, further amended as follows:

By changing the latest date upon which carriers by water shall file with the Commission estimates of percentage rates as provided in paragraph (7) thereof, as amended, from August 1, 1938 to August 1, 1939.

It is further ordered, That in all other respects the said order of August 1, 1935, as amended, shall become effective on January 1, 1939, as provided therein.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1737; Filed, June 17, 1938; 12:29 p. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3052]

IN THE MATTER OF MORRIS WHITE MFG. CO., INC., AND STYLECRAFT LEATHER GOODS COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500, at 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directly to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1728; Filed, June 17, 1938; 11:04 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3318]

IN THE MATTER OF ROY HEMPHILL, DOING BUSINESS UNDER THE NAME AND STYLE OF DIESEL POWER-UNITED ENGINEERING SCHOOLS, DIESEL POWER-UNITED ENGINEERING SCHOOLS, INC., A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF MINNESOTA, AND DIESEL POWER-UNITED ENGINEERING SCHOOLS, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF MISSOURI

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1729; Filed, June 17, 1938; 11:04 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3351]

IN THE MATTER OF LINCOLN DENTAL SUPPLY COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 208, Federal Building, Minneapolis, Minn.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1730; Filed, June 17, 1938; 11:05 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3371]

IN THE MATTER OF GULF REFINING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 300, New Orleans Association of Commerce Building, New Orleans, La.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commissioner.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1731; Filed, June 17, 1938; 11:05 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3383]

IN THE MATTER OF W. K. HONDAUM, AN INDIVIDUAL DOING BUSINESS UNDER THE TRADE NAME OF MONARCH STOVE TOP COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1732; Filed, June 17, 1938; 11:06 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3417]

IN THE MATTER OF NATIONAL INSTITUTE, INC., A CORPORATION, DOING BUSINESS UNDER THE NAME AND STYLE OF DIESEL ENGINES TRAINING, AND CLAYTON R. HASTINGS, SETH E. ROWDABAUGH, AND JOHN C. SMITH, INDIVIDUALLY AND AS OFFICERS OF SAID CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at ten o'clock in the forenoon of that day (central standard time), in the Office of the Postmaster, Post Office Building, Muncie, Ind.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1733; Filed, June 17, 1938; 11:07 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3434]

IN THE MATTER OF LETELLIER-PHILLIPS PAPER COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in the proceeding begin on Monday, June 20, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 300, New Orleans Association of Commerce Building, New Orleans, Louisiana.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1734; Filed, June 17, 1938; 11:07 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of June, A. D. 1938.

[File No. 1–300]

IN THE MATTER OF INTERSTATE HOSIERY MILLS, INC., COMMON CAPITAL STOCK OF NO PAR VALUE

ORDER FOR HEARING

It appearing to the Commission:

That the Interstate Hosiery Mills, Inc., a corporation, is the issuer of Common Capital Stock of no par value; and

That 98,291 shares of Common Capital Stock of no par value of Interstate Hosiery Mills, Inc., are registered pursuant to Section 12 of the Securities Exchange Act of 1934, as amended, on the New York Curb Exchange, a national securities exchange; and

That in connection with such registration the issuer of such securities, on or about April 4, 1935, filed an application on Form 10 for Corporations with said Exchange and duplicate originals thereof with the Commission, covering the registration of 96,991 shares, signed for the company by Ivan Selig, President, and attested by Harold D. Greenwald, Treasurer, containing, among other things, financial statements, required to be included therein pursuant to Section 12 of the said Act, as amended, and Rule JB1, as amended, promulgated by the Securities and Exchange Commission thereunder; and that on or about June 12, 1937, an additional block of 1300 shares was registered on the said Exchange, although no additional financial statements were filed or required to be filed in connection therewith; and

That the issuer of such securities, pursuant to Section 13 of the said Act, as amended, and Rules KA1 and KA2, promulgated by the Securities and Exchange Commission thereunder, filed on April 2, 1936, and April 24, 1937, annual reports on Form 10–K for Corporations with the said Exchange and duplicate originals thereof with the Commission, for the fiscal years ended December 31, 1935, and December 31, 1936, respectively, signed for the company by Ivan Selig, President, and attested by Harold D. Greenwald, Vice President and Treasurer, which reports contained, among other things, financial statements of the issuer for said fiscal years; and

That Interstate Hosiery Mills, Inc., procured the services of Homes & Davis, certified public accountants, for the purpose of preparing and certifying such financial statements; that such accounting firm, purporting to act as independent certified public accountants, did prepare and certify said financial statements as fairly presenting in accordance with accepted principles of accounting consistently maintained by Interstate Hosiery Mills, Inc., the financial position of said Company as of the respective dates of such statements and the results of its operations for the respective periods embraced by such statements; and that thereafter Interstate Hosiery Mills, Inc., filed such statements as aforesaid; and

The Commission having reason to believe;

That the financial statements contained in said Form 10 application for registration and said Form 10–K annual reports did not fairly present the financial positions of the Company as of the respective dates of such statements, or the results of its operations for the respective periods embraced by such statements, and were false and misleading with respect to various items, including cash and cash items, notes and accounts receivable, inventories, and cost of goods sold, whereby the assets of Interstate Hosiery Mills, Inc. were made to appear substantially greater than was actually the fact and whereby far greater earnings and profits for the periods involved were reflected than was actually the fact; and

That the New York Curb Exchange, on or about February 15, 1938, temporarily suspended the Common Capital Stock, of no par value, of Interstate Hosiery Mills, Inc., from trading on that Exchange pending completion of investigation by the Exchange of the accounts of said company, and that such suspension is still in effect; and

The Commission being of the opinion that, pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, a hearing should be held to determine:

(a) Whether Interstate Hosiery Mills, Inc., has failed to comply with the provisions of Section 12 (b) or Section 13 (a) or (b) of said Act, as amended, or the Rules and Regulations promulgated by the Commission thereunder;

(b) Whether such financial statements fail fairly to present the financial position of the Company as of the respective dates of such statements and fail fairly to present the results of the Company's operations for the respective periods embraced by such statements, and, if such financial statements fail fairly to present such financial position or such results, whether Interstate Hosiery Mills, Inc., or Homes & Davis knew or, in the exercise of reasonable diligence, should have known that such was the case;

(c) Whether, although the Rules and Regulations of the Commission, promulgated pursuant to Section 12 (b) and Section 13 (a) and (b) of said Act, as amended, require the person certifying such financial statements to review the accounting principles and procedures followed by the registrant and to take appropriate measures to satisfy himself that such accounting principles and procedures were, in fact, followed, there was a failure to make such review and to take such measures with respect to the financial statements hereinabove referred to, to permit or warrant the certification by Homes & Davis as independent certified public accountants that the accounting principles followed by the registrant were consistently maintained during the periods under review in accordance with accepted principles of accounting, and, if there was a failure to make such review or take such measures, whether Interstate Hosiery Mills, Inc., or the firm of Homes & Davis knew or, in the exercise of reasonable diligence, should have known that such was the case;

(d) Whether, although such Rules and Regulations do not authorize the omission of any procedure which independent public accountants would ordinarily employ in the course of a regular annual audit, there was in fact an omission of a procedure which independent public accountants would ordinarily employ in the course of such an audit;

(e) Whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or withdraw the registration of said Common Capital Stock of no par value on the New York Curb Exchange.

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated, beginning on the 24th day of June, 1938, at 10:00 A. M. at the Regional Office of the Securities and Exchange Commission, Room 2006, 120 Broadway, New York, New York, and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding Adrian Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1739; Filed, June 17, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of June 1938.

[File No. 31-57]

IN THE MATTER OF THE APPLICATION OF VIRGINIA PUBLIC SERVICE COMPANY

ORDER CONSENTING TO WITHDRAWAL OF PART OF APPLICATION FOR EXEMPTION

Virginia Public Service Company, having filed on November 29, 1935, an application for exemption as a holding company under Section 3 (a) (2) of the Public Utility Holding Company Act of 1935 and said company in its own behalf and in behalf of its subsidiaries:

Harpers Ferry Paper Company.
Shenandoah Pulp Company.
Citizens Rapid Transit Corporation.
Hampton Towing Corporation.
Newport News Distilled Ice Company.
Virginia Northern Ice Corporation.
Middle Virginia Power Company.

for exemption under Sections 3 (b) and 3 (d) of said Act from all obligations, duties or liabilities imposed upon such companies as subsidiary companies or affiliates under any and all provisions of the said Act;

Virginia Public Service Company, having requested permission on June 14th, 1938, to withdraw the application to the extent that said application sought an exemption in behalf of it and its subsidiaries above-mentioned under Sections 3 (b) and 3 (d) of said Act;

The Commission, having due regard to the public interest and the interest of investors and consumers, consents to withdrawal of the application to the extent requested.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1742; Filed, June 17, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 15th day of June 1938.

[File No. 31-430]

IN THE MATTER OF SLOSS-SHEFFIELD STEEL & IRON COMPANY

ORDER DECLARING APPLICANT NOT TO BE AN ELECTRIC UTILITY COMPANY

Sloss-Sheffield Steel & Iron Company having made application for a declaration that it is not an electric utility company pursuant to the provisions of Section 2 (a) (3) (A) of the Public Utility Holding Company Act of 1935; a hearing on said application having been duly held after appropriate notice;[1] the record in this matter having been duly considered; and the Commission having made appropriate findings;

It is ordered, Pursuant to Section 2 (a) (3) (A) of the Public Utility Holding Company Act of 1935, that Sloss-Sheffield Steel & Iron Company be and it is hereby declared not to be an electric utility company.

By the Commission:

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1741; Filed, June 17, 1938; 12:55 p.m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of June, A. D. 1938.

[File No. 43-118]

IN THE MATTER OF NORTHEASTERN WATER COMPANIES, INC.

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 7, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102, will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commisison on or before July 2, 1938.

The matter concerned herewith is in regard to the filing of a declaration by Northeastern Water Companies, Inc., a registered holding company, and a subsidiary of Associated Gas and Electric Corporation and Associated Gas and Electric Company, both registered holding companies, pursuant to section 7, relating to the issue and sale of a promissory note not to exceed $2,100,000, to mature in not more than three years and to bear interest at the rate of not more than 6%. The note is to be secured by the pledge of 151,947 shares of the common stock of Northeastern Water and Electric Corporation. The note is being issued to renew or refund declarant's now outstanding promissory 5% note, dated July 14, 1937, and due July 14, 1938, which is presently held by International Holdings, Limited, a Canadian corporation. The declaration states that the new note may be issued to the present holder of the old note in cancellation or renewal of the old note or that it may be necessary to issue the new note to other persons and to use the proceeds therefrom to pay the old note at maturity.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1738; Filed, June 17, 1938; 12:54 p. m.]

[1] 3 F. R. 1206 (DI).

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of June, A. D. 1938.

[File Nos. 46-69; 46-70]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION LIMITED

NOTICE OF AND ORDER FOR REOPENING HEARING

Utilities Power & Light Corporation Limited, a subsidiary of Utilities Power & Light Corporation, which is a registered holding company, heretofore filed with this Commission an application (File Nos. 46-69), pursuant to the Public Utility Holding Company Act of 1935, wherein said applicant asked for an order of exemption pursuant to Section 9 (c) (3) of said Act or in the alternative an order of approval pursuant to Section 10 (a) (1) thereof with respect to the acquisition by the applicant by purchases for cash from time to time on the open market through brokers on national exchanges of Thirty-Year 5% Gold Debentures due February 1, 1959 and Twenty-Year Gold Debentures 5½% due June 1, 1947 of said Utilities Power & Light Corporation (parent company) to the extent of the expenditure by said applicant of not more than $3,000,000;

Said applicant also filed with this Commission an application (File No. 46-70) wherein applicant asked for an order of exemption pursuant to said Section 9 (c) (3) or in the alternative an order of approval pursuant to said Section 10 (a) (1) with respect to the acquisition by the applicant by purchases for cash from time to time on the open market, through brokers on national exchanges and by over-the-counter transactions in the cases of unlisted securities, of certain securities of certain associated companies to the extent of the expenditure by the applicant of not more than $3,000,000;

A joint hearing with respect to the foregoing applications, as then amended, was held.[1] On January 11, 1938, such hearing was closed.

Subsequently said applicant and Charles True Adams in his capacity of Trustee of said parent company under Section 77B of the Bankruptcy Act, intervening applicant, have submitted a further amendment to said application with respect to debentures of said parent company (File No. 46-69). As so amended such application asks that the Commission enter its order exempting said applicant and said intervening applicant from the provisions of Section 9 (a) of the Public Utility Act of 1935 pursuant to Section 9 (c) (3) of said Act and that the Commission, by appropriate orders, permit and authorize the applicant to use $12,000,000 of cash now held by it, or such other amount as the Commission shall deem proper, in one or more of the following methods:

(a) By permitting the applicant to acquire said parent company's debentures above described, by tender or tenders, at a price not exceeding such price as the Commission shall determine, or

(b) By permitting the applicant to purchase such debentures at such other price as the Commission shall determine, or

(c) By permitting said parent company to acquire from the applicant $10,000,000 in cash, or such other sum as the Commission shall determine, which sum shall be distributed pro rata to all creditors of said parent company, and

(d) That an order be entered by the Commission approving the acquisition of said securities pursuant to the provisions of Section 10 (a) (1) of the said Public Utility Act of 1935.

It appearing to the Commission that both the before mentioned applications are now pending undetermined before it, that the amendment last mentioned should be received and the before mentioned joint hearing reopened;

It is ordered, That such last mentioned amendment be received with leave to file additional amendments if desired to either or both of said applications until such hearing shall again be closed; and

It is further ordered, That the before mentioned joint hearing be reopened on July 7, 1938 at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing evidence may be offered with respect to either or both of said applications as now or hereafter amended.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at such reopened hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such reopening of such hearing is hereby given to all parties to this proceeding and to any other person whose participation in this proceeding may be in the public interest or for the protection of investors or consumers. It

[1] 2 F. R. 2988 (DI).

Reference

is requested that any person desiring to be heard or to be admitted as a party to this proceeding shall file a notice to that effect with the Commission on or before July 1, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1740; Filed, June 17, 1938; 12:54 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS, WEDNESDAY, JUNE 15, 1938

IMPORTANT.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	573	38
2. Hawaii	137	15
3. Alaska	22	7
4. California	2,105	742
5. Texas	2,160	853
6. Louisiana	779	362
7. Michigan	1,796	844
8. Arizona	162	79
9. New Jersey	1,499	767
10. South Carolina	645	370
11. Oklahoma	889	525
12. Ohio	2,465	1,460
13. Arkansas	688	419
14. Mississippi	745	456
15. Alabama	981	605
16. New Mexico	157	99
17. North Carolina	1,176	765
18. Georgia	1,079	727
19. Kentucky	970	668
20. Nevada	34	25
21. Wisconsin	1,090	821
22. Illinois	2,930	2,159
23. Tennessee	970	742
24. Connecticut	596	470
25. Oregon	354	316
26. Indiana	1,201	1,086
27. Florida	544	498
28. Wyoming	84	77
29. New York	4,668	4,327
30. Washington	680	542
31. Pennsylvania	3,572	3,340
32. Utah	188	176
33. Delaware	88	84
34. Idaho	165	158
35. New Hampshire	173	167
36. North Dakota	252	249
37. Maine	296	294
38. Massachusetts	1,576	1,574
QUOTA FILLED		
39. Rhode Island	255	255
IN EXCESS		
40. Colorado	384	386
41. West Virginia	641	646
42. Kansas	698	725
43. Vermont	133	139
44. Missouri	1,346	1,426
45. South Dakota	257	278
46. Minnesota	951	1,049
47. Montana	199	224
48. Iowa	916	1,056
49. Nebraska	511	611
50. Virginia	898	1,943
51. Maryland	605	1,852
52. Dist. of Columbia	181	8,766

GAINS	
By appointments	416
By reinstatements	6
By transfers	39
Total	461
LOSSES	
By separation	109
By transfers	55
Total	164
Total Appointments	46,262

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of August 25, 1934, 13,777.

By direction of the Commission.

[SEAL] L. A. MOYER,
Chief Examiner.

[F. R. Doc. 38-1724; Filed, June 17, 1938; 10:05 a. m.]

Reference

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
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VOLUME 3 NUMBER 120

Washington, Tuesday, June 21, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

[Amendment No. 1 to Service and Regulatory Announcements No. 93, 2d Rev.]

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION AND CERTIFICATION OF FRUITS, VEGETABLES, AND OTHER PRODUCTS

By virtue of authority vested in the Secretary of Agriculture by the provision in the act of Congress entitled "An Act making appropriations for the Department of Agriculture * * * for the fiscal year ending June 30, 1938, approved June 29, 1937, (50 Stat. 425), I, [H. A. Wallace,] Secretary of Agriculture, do hereby give public notice of the following amendment to become effective immediately to the Rules and Regulations of the Secretary of Agriculture governing the inspection and certification of fruits, vegetables, and other products (Service and Regulatory Announcements No. 93, Second Revision)[1] approved June 24, 1936.

Amend Regulation 7, Section 4, by addition of the following:

Provided further, That in computing the number of carlot fees for the purposes of this section the total of fees paid by an applicant for refund on any basis of charges other than the carlot as provided in Regulation 7, Sec. 1, Paragraph 1 shall be reduced to a carlot basis by dividing by 4.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 18th day of June 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1747; Filed, June 20, 1938; 11:44 a. m.]

[1] 1 F. R. 654.

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[B. A. I. Order 365]

REGULATIONS GOVERNING THE RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

Under authority of paragraph 1606 of the act of Congress approved June 17, 1930 entitled "An act to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes", the following regulations are issued governing the recognition of breeds and books of record of purebred animals imported into the United States for breeding purposes. For purposes of identification these regulations are designated as B. A. I. Order 365 and supersede all previous regulations on the same subject. They shall become and be effective on and after July 15, 1938.

Done at Washington this 17th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

PARAGRAPH 1606 (A) (B) OF THE TARIFF ACT OF 1930

Extract from "The act to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes," approved June 17, 1930 (U. S. C., Sup. VII, Title 19, Sec. 1201), is as follows:

Par. 1606. (*a*) Any animal imported by a citizen of the United States specially for breeding purposes, shall be admitted free, whether intended to be used by the importer himself or for sale for such purposes, except black or silver foxes: *Provided*, That no such animal shall be admitted free unless pure-bred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed: *Provided further*, That the certificate of such record and pedigree of such animal shall be produced and submitted to the Department of Agriculture, duly authenticated by the proper custodian of such book of record,

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Agricultural Economics:
Fruits, vegetables, etc., amendment relative to inspection and certification.. Page 1451
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Recognition of breeds and books of record of purebred animals.. 1451
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, return of information by corporation within 30 days after adoption of resolution or plan for dissolution, etc.. 1455

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Citrus fruit grown in Cameron, Hidalgo and Willacy Counties, Tex., hearing.. 1456
Farm Security Administration:
Bankhead-Jones Farm Tenant Act, distribution of funds.. 1456
Department of the Interior:
National Bituminous Coal Commission:
Minimum Price Area No. 1, weighted average of total costs of tonnage produced; hearing.. 1457
Federal Power Commission:
City of Los Angeles and Department of Water and Power vs. Nevada-California Electric Corp., hearing postponed.. 1457
Securities and Exchange Commission:
Application for registration of broker or dealer transacting business on over-the-counter markets, amendment Form 3-M.. 1458

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Lawrence Gas & Electric Co., hearing 1458
Virginia Public Service Co., hearing 1458

together with an affidavit of the owner, agent, or importer that the animal imported is the identical animal described in said certificate of record and pedigree. The Secretary of Agriculture may prescribe such regulations as may be required for determining the purity of breeding and the identity of such animal: *And provided further*, That the collectors of customs shall require a certificate from the Department of Agriculture stating that such animal is purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed.

(b) The Secretary of the Treasury may prescribe such additional regulations as may be required for the strict enforcement of this provision.

DIRECTIONS CONCERNING FREE ENTRY OF PUREBRED ANIMALS IMPORTED FOR BREEDING PURPOSES

Address all questions relating to duties to the United States collector of customs at the port of entry. In all cases the duty is assessed or bond given for its payment at the time of entry. Refund is made or the bond canceled after the importation has been certified as purebred.

The Department of Agriculture issues the certificate of pure breeding which the collector of customs requires as one of the conditions of free entry. The certificates are issued only if the following requirements are met:

1. The importer must be an American citizen.

2. The horse, bovine, sheep, swine, goat, dog, or cat must be registered in one of the foreign books of record listed in this order, or must be acceptable for registry by an American breed record association having reciprocity with the foreign association with which it is recorded.

3. The animal must be accompanied at the United States port of first arrival by:

a. Pedigree certificate.

b. Complete transfer of ownership from foreign breeder to American importer.

4. After the animal has been examined by a Federal inspector, the pedigree certificate and transfer must be forwarded to the Bureau of Animal Industry, Washington, D. C. They will later be returned to the sender.

5. Description of the animal taken at port of entry must agree with pedigree certificate as to age, sex, color markings, and other identification such as eartag and tattoo markings.

6. An application for certificate of pure breeding must be made showing:

a. Number of animals imported, their breed and sex.

b. Port of arrival into the United States.

c. Name of vessel, express company, or other carrier.

d. Date of arrival.

e. Name and address of importer.

7. An affidavit of identity must be furnished, signed by the importer or his agent, stating that the animals are identical with those described in the accompanying pedigree certificates. This must be acknowledged before an officer having authority to administer oaths, who must attach his official seal thereto.

Importers may obtain from Federal officials at port of entry or from the Bureau of Animal Industry, Washington, D. C., application and affidavit forms for use in applying for the certificate of pure breeding. These forms are:

1. A. H. Form 105, Application for Certificates.

2. A. H. Form 283, Affidavit of Identity.

Address all communications regarding this order to: Chief, Bureau of Animal Industry, United States Department of Agriculture, Washington, D. C.

REGULATIONS

Regulation 1.—Certification of Purebred Animals

SECTION 1. *Issuance of certificates of pure breeding.*—The Bureau of Animal Industry of the Department of Agriculture shall issue certificates of pure breeding under the provisions of this order and forward them to the collector of customs at the port of entry.

SEC. 2. *Requirements for issuance of certificates of pure breeding.*—

PARAGRAPH 1. *Application for certificates.*—An application for certificates shall be made to the Bureau of Animal Industry on forms furnished or approved by the Department, showing the number of animals imported, the breed and sex, the port of arrival into the United States, customs entry number, the name of the vessel or carrier by which shipped, and the date of arrival. This application may be signed by either the owner, agent, or importer, stating the name and address (in the United States) of the owner of the animal or animals.

PAR. 2. *Certificates of pedigree.*—Certificates of pedigree for such animals, issued by the custodian of a book of record given in regulation 2, section 2, of this order, or which are acceptable to an American registry association having reciprocity with the foreign association in the registration of animals, shall be furnished to the Bureau of Animal Industry. They will later be returned to the sender.

PAR. 3. *Transfer of ownership.*—Complete transfer of ownership from the breeder to the importer shall be furnished, such transfers to be recorded on the pedigree certificates, or on official certificates of transfer of the registry association.

PAR. 4. *Affidavit of identity.*—An affidavit, duly acknowledged before an officer having authority to administer oaths and bearing his official seal, from the owner, agent, or importer, that the animals so imported are the identical animals described in the certificates of pedigree, shall be furnished to the Bureau of Animal Industry.

SEC. 3. *Examination of animals.*—An examination (for the purpose of determining identity) shall be made by an authorized Federal inspector at the coast or border port of arrival of all animals imported under these regulations. All such animals must be accompanied to the United States customs port of first arrival with pedigree certificates and transfers in order that identification may be accomplished. If the animals are moved from such port prior to the presentation of the pedigree certificates and transfers, such action shall constitute a waiver of any further claim to certification under these regulations. Descriptions of animals taken by the Federal inspector must agree with the records for these animals as given in the pedigree certificates. The certificates of pure breeding will not be issued until these descriptions are received in Washington, D. C.

SEC. 4. *Eligibility of animals.*—When the provisions of this order have been otherwise complied with, animals will be certified as purebred which have been fully registered in good faith in a book of record for one of the recognized breeds given in regulation 2, section 2, of this order, except those which have been registered on inspection, without regard to purity of breeding.

Regulation 2.—Recognition of Breeds

SECTION 1. *Current books of record required.*—Custodians of books of record for recognized breeds should forward volumes of their books of record as soon as published in order to receive continued recognition. Address such books to the Chief of the Bureau of Animal Industry, in care of the United States dispatch agent, 45 Broadway, New York, N. Y., U. S. A.

SEC. 2. *Recognized breeds and books of record.*—The following books of record of breeds of domestic animals are recognized:

PAR. 1. *Breeds and books of record in countries other than Canada, as follows:*

CATTLE

Name of breed	Book of record	By whom published
Aberdeen-Angus	Aberdeen-Angus Herd Book.	Aberdeen-Angus Cattle Society, James R. Barclay, secretary, 91 Union Street, Aberdeen, Scotland.
Africander	Africander Section of the South African Stud Book.	South African Stud Book Association, W. Smith, secretary, Whiteco House, St. Andrew Street, Bloemfontein, Union of South Africa.
Alderney	Herd Book of the Bailiwick of Guernsey (Alderney Branch).	Royal Alderney Agricultural Society (The Alderney Branch of the Royal Guernsey A. and H. Society), G. H. Thrussell, secretary, High Street, Alderney, Channel Islands.
Ayrshire	Ayrshire Herd Book.	Ayrshire Cattle Herd Book Society of Great Britain and Ireland, Hugh Bone, secretary, 58 Alloway Street, Ayr, Scotland.
Charolaise	Herd Book De La Race Bovine Charolaise.	Syndicat Central D'Exportation De La Race Bovine Charolaise, Etienne Chatelin, secretary, 9, Rue Gambetta, Nevers, France.
Devon	Davy's Devon Herd Book.	Devon Cattle Breeders' Society, A. E. Gerrard, secretary, Wivelscombe, Somerset, England.
Dexter	Dexter Herd Book.	Dexter Cattle Society, Edward Ashby, secretary, 19 Bloomsbury Square, London, W. C. 1, England.
Galloway	Galloway Herd Book.	Galloway Cattle Society of Great Britain and Ireland, James Carlyle, secretary, Minsca, Waterbeck, Lockerbie, Dumfriesshire, Scotland.
Guernsey	English Guernsey Herd Book.	English Guernsey Cattle Society, Robert F. Ling, secretary, 12 Hanover Square, London, W. 1, England.
Do	Herd Book of the Bailiwick of Guernsey (Guernsey Branch).	Royal Guernsey Agricultural and Horticultural Society, Ernest de Garis, secretary, States arcade, Guernsey, Channel Islands.
Hereford	Herd Book of Hereford Cattle.	Hereford Herd Book Society, W. G. C. Britten, secretary, 3 Offa Street, Hereford, England.
Highland	Highland Herd Book.	Highland Cattle Society of Scotland, Angus Cameron, secretary, 182 Eastwood Mains Road, Clarkston, Glasgow, Scotland.
Holstein-Friesian	Friesch Rundvee-Stamboek.	Vereeniging: "Het Friesch Rundvee-Stamboek," dr. E. van Walderen Baron Rengers, secretary, Zuiderplein 2-4, Leeuwarden, Netherlands.
Do	Nederlandsch Rundvee-Stamboek.	Vereeniging: "Het Nederlandsche Rundvee-Stamboek," Ir. H. Wibens, secretary, 24 Surinamestraat, The Hague, Netherlands.
Jersey	Jersey Herd Book.	Royal Jersey Agricultural and Horticultural Society, H. G. Shepard, secretary, 3 Mulcaster Street, St. Helier, Jersey, Channel Islands.
Do	English Jersey Herd Book.	English Jersey Cattle Society, Edward Ashby, secretary, 19 Bloomsbury Square, London, W. C. 1, England.
Kerry	British Kerry Cattle Herd Book.	British Kerry Cattle Society, M. R. Leather, secretary, 12 Hanover Square, London, W. 1, England.
Do	Kerry Cattle Herd Book.	Royal Dublin Society, J. Hesketh Carnegie, editor, Ball's Bridge, Dublin, Ireland.
Norman	Herd-Book de la Race Bovine Normande Pure.[1]	L'Association du Herd-Book Normand, Léon Hédiard, secretary general, Caen, France.
Red Danish	Stambog over Kær af Rød Dansk Malkerace. Stambog over Tyre af Rød Dansk Malkerace. Register-Stambog over Kvæg af Rød Dansk Malkerace.	De Samvirkende Danske Landboforeninger, M. Nielsen, registrar, Axelborg 4 Sal, Copenhagen V, Denmark.
Red Poll	Red Poll Herd Book.	Red Poll Cattle Society of Great Britain and Ireland, C. H. Clarke, secretary, 29 Warrington Road, Ipswich, England.
Shorthorn	Coates's Herd Book.	Shorthorn Society of the United Kingdom of Great Britain and Ireland, Leonard Bull, secretary, Victoria House, Southampton Row, London, W. C. 1, England.

[1] Provided that no cattle registered in this book shall be certified as purebred unless a certificate, giving three generations of complete and recorded purebred ancestry, issued by the association named, is submitted for each animal.

CATTLE—Continued

Name of breed	Book of record	By whom published
South Devon	Herd Book of South Devon Cattle.	South Devon Herd Book Society, S. Arthur Yeo, secretary, 3 West Street, Okehampton, Devon, England.
Sussex	Sussex Herd Book.	Sussex Herd Book Society, A. G Holland, secretary, 12 Hanover Square, London, W. 1, England.
Welsh	Welsh Black Cattle Herd Book.	Welsh Black Cattle Society, G. O. Thomas, secretary, Bank Chambers, Bangor, North Wales.

HORSES

Arabian	General Stud Book.	Weatherby & Sons, 15 Cavendish Square, London, W. 1, England.
Do	Stud Book Argentino.	Jockey Club, Felix Alzaga Unzue, president, Buenos Aires, Argentina.
Do	Registro-Matricula de Caballos de Pura Sangre.	General Livestock Administration, The Minister of Agriculture, Madrid, Spain.
Do	Stud Book Français Registre des Chevaux de Pur Sang.	Commission du Studbook Français de Pur Sang, M. de Villaine, director of Haras for the Minister of Agriculture, Paris, France.
Belgian	Stud-Book des Chevaux de Trait Belges.	Société Royale "Le Cheval de Trait Belge", Chevalier Hynderick de Thoulegoet, secretary, 60 rue Royale, Brussels, Belgium.
Cleveland Bay	Cleveland Bay Stud Book.	Cleveland Bay Horse Society, Tom Kirby, secretary, Great Ayton (Middlesbrough), Yorkshire, England.
Clydesdale	Clydesdale Stud-Book.	Clydesdale Horse Society of the United Kingdom of Great Britain and Ireland, Samuel Mackenzie, secretary, 93 Hope Street, Glasgow, C. 2, Scotland.
East Prussian	Ostpreussisches Stutbuch für Warmblut Trakehner Abstammung.[2]	Ostpreussische Stutbuchgesellschaft, Dr. F. Schilke, secretary, Wallring, 30, Königsberg (Pr.) Germany.
Hackney	Hackney Stud Book.	Hackney Horse Society, Robert F. Ling, secretary, 12 Hanover Square, London, W. 1, England.
Percheron	British Percheron Stud Book.	British Percheron Horse Society, Edward Ashby, secretary, 19 Bloomsbury Square, London, W. C. 1, England.
Do	Stud-Book Percheron de France.	Société Hippique Percheronne de France, E. Lemarié, secretary, 7 Rue Villette-Gaté, Nogent-le-Rotrou (E.-&-L.), France.
Shetland Pony	Shetland Pony Stud Book.	Shetland Pony Stud-Book Society, Robert W. Walker, secretary, 3 Golden Square, Aberdeen, Scotland.
Shire	Shire Horse Stud Book.	Shire Horse Society, A. G. Holland secretary, 12 Hanover Square, London, W. 1, England.
Suffolk	Suffolk Stud-Book.	Suffolk Horse Society, Raymond Keer, secretary, 6 Church Street, Woodbridge, Suffolk, England.
Thoroughbred	Australian Stud Book.	Australian Jockey Club and Victoria Racing Club, A. Loddon Yuille, keeper, 6 Bligh Street, Sydney, New South Wales, Australia.
Do	General Stud Book.	Weatherby & Sons, 15 Cavandish Square, London, W. 1, England.
Do	New Zealand Stud Book.	New Zealand Racing Conference, H. R. Sellers, secretary, Dominion Building, Mercer and Wakefield Streets, Wellington, New Zealand.
Do	Registro-Matricula de Caballos de Pura Sangre.	General Livestock Administration. The Ministrer of Agriculture, Madrid, Spain.
Do	Stud Book Argentino.	Jockey Club, Felix Alzaga Unzue, president, Buenos Aires, Argentina.
Do	Stud Book Français Registre des Chevaux de Pur Sang.	Commission du Studbook Français de Pur Sang, M. de Villaine, director of Haras for the Minister of Agriculture, Paris, France.
Welsh Pony and Cob.	Welsh Stud Book.	Welsh Pony and Cob Society, T. A. Howson, secretary, Offices of the Royal Welsh Agricultural Society, Queen Buildings, Queen Street, Wrexham, North Wales.

[2] Provided that no horses registered in this book shall be certified as purebred unless a certificate, giving three generations of complete and recorded purebred ancestry, issued by the association named, is submitted for each horse.

ASSES

Name of breed	Book of record	By whom published
Poitou	Jack and Jennet Section of the Stud-Book ou Livre Généalogique des Animaux Mulassiers du Poitou.	Société Centrale d'Agriculture des Deux-Sèvres, Eugene Sagot, president, Niort, France.

SHEEP

Cheviot	Cheviot Sheep Flock Book.	Cheviot Sheep Society, George Davidson, secretary, 1 Bridge Street, Hawick, Scotland.
Corriedale	The Australasian Corriedale Society Flock Book.	The Australasian Corriedale Society, G. C. Somerville, secretary, Endeavour House, 33 Macquarie Place, Sydney, Australia.
Do	Corriedale Flock Book	The Corriedale Sheep Society, Inc., C. H. Lawrence, secretary, 154 Hereford Street, Christchurch, New Zealand.
Dorset Horn	Dorset Horn Flock Book.	Dorset Horn Sheep Breeders' Association, J. Dean Smith, secretary, Bank Chambers, Dorchester, Dorset, England.
Hampshire Down	Hampshire Down Flock Book.	Hampshire Down Sheep Breeders' Association, W. J. Wooff, secretary, 40 Canal, Salisbury, England.
Kent or Romney Marsh.	Kent or Romney Marsh Flock Book.	Kent or Romney Marsh Sheet Breeders' Association, W. A. Ball, secretary, Victoria House, Southampton Row, London, W. C. 1, England.
Kerry Hill	Kerry Hill Flock Book	Kerry Hill (Wales) Sheep Breeders' Association and Flock Book Society, Morris, Marshall, and Poole, secretaries, Newtown, Montgomeryshire, England.
Leicester	Leicester Flock Book	Leicester Sheep Breeders' Association, C. H. Simpson, secretary, Rosslea, Hunmanby, Filey, Yorks, England.
Leicester (Border)	Border Leicester Flock Book.	Society of Border Leicester Sheep Breeders, Rose J. E. Grant, secretary, 11 St. Ronan's Terrace, Edinburgh, Scotland.
Lincoln	Flock Book of Lincoln Longwool Sheep.	Lincoln Longwool Sheep Breeders' Association, Fred P. Taylor, secretary, 184 High Street, Lincoln, England.
Oxford Down	Flock Book Oxford Down Sheep.	Oxford Down Sheep Breeders' Association, Maxwell & Stilgoe, secretaries, 21 Marlborough Road, Banbury, Oxon, England.
Ryeland	Ryeland Flock Book	Ryeland Flock Book Society, Ltd., William Henry Woodcock, secretary, St. Cuthbert's, Whitecross Road, Hereford, England.
Shropshire	Shropshire Flock Book.	Shropshire Sheep Breeders' Association and Flock Book Society, Alfred Mansell & Co., secretaries, College Hill, Shrewsbury, England.
Southdown	Southdown Flock Book.	Southdown Sheep Society, Inc., W. O. Stride, secretary, 63 East Street, Chichester, Sussex, England.
Suffolk	Suffolk Flock Book	Suffolk Sheep Society, Guy P. Lempriere, secretary, 24 Princes Street, Ipswich, England.
Wensleydale	Wensleydale Longwool Sheep Flock Book.	The Wensleydale Longwool Sheep Breeders' Association, J. B. Walker, secretary, Boarbank Farm, Grange-over-Sands, England.

GOATS

Saanen and Toggenburg.	British Goat Society Herd Book (Saanen and Toggenburg sections).	British Goat Society, H. E. Jeffery, secretary, The Cottage, Roydon, Diss, Norfolk, England.

HOGS

Large Black	Large Black Pig Society Herd Book.	Large Black Pig Society, B. J. Roche, secretary, 12 Hanover Square, London, W. 1, England.

HOGS—Continued

Name of breed	Book of record	By whom published
Berkshire, Large White, Middle White, Tamworth	Herd Book of the National Pig Breeders' Association.	National Pig Breeders' Association, Alec Hobson, secretary, Victoria House, Southampton Row, London, W. C. 1, England.

DOGS[3]

Boxer	Boxer-Zuchtbuch	Fachschaft für Deutsche Boxer, Max Haunstetter, secretary, Osterwaldstrasse 6 b, München 23, Germany.
Dobermannpinscher	Zuchtbuch der Fachschaft für Dobermannpinscher.	Fachschaft für Dobermannpinscher, Walter Kappe, secretary, Lichtenrader Weg 3, Berlin-Buckow-West, Germany.
Foxhound	Foxhound Kennel Stud Book.	Masters of Foxhounds Association, Major Cecil A. Pelham, secretary, 3 St. James Square, London, S. W. 1, England.
Do	Welsh Hound Stud Book.	Welsh Hound Association, W. M. Llewellyn, secretary, Tynewydd, Hirwaun, Aberdare, England.
German Shepherd	Reichs - Zuchtbuch (Abteilung: Deutsche Schäferhunde).	Fachschaft für Deutsche Schäferhunde, Fr. Schaller, director, Ulmerstr. 3, Augsburg 3, Germany.
Great Dane	Stammbuch für Deutsche Doggen.	Deutscher Doggen-Verein, C. Narbe, secretary, Leipzigerstr. 74, Hanau a. M., Germany.
Greyhound	Greyhound Stud Book.	National Coursing Club, Sydney H. Dalton, secretary, 11 Haymarket, London, S. W. 1, England.
Do	Irish Greyhound Stud Book.	Irish Coursing Club, T. A. Morris, secretary, Davis Road, Clonmel, Ireland.
Harrier and Beagle	Harrier and Beagle Stud Book.	Association of Masters of Harriers and Beagles, J. Pawle, secretary, Little Havers, Bishop's Stortford, England.
Rottweiler	Reichs-Zuchtbuch (Abteilung: Rottweiler).	Fachschaft für Rottweiler, Fr. Bazille, president, Rotenwaldstrasse 83 a, Stuttgart-W, Germany.
St. Bernard	Zuchtbuch der Fachschaft für Bernhardiner.	Fachschaft für Bernhardiner, Max Näther, secretary, Untermenzing, Post Allach bei München, Germany.
Schnauzers and Pinschers.	Zuchtbuch der Fachschaft für Schnauzer und Pinscher.	Fachschaft für Schnauzer und Pinscher, Josef Ilest, Breeding Warden, Wehrheim im Taunus, Germany.
Various recognized breeds.	Irish Kennel Club Studbook.	Irish Kennel Club, Richard G. Quirk, secretary, 23 Eden Quay, Dublin, C. 8, Ireland.
Do	Kennel Club Studbook.	English Kennel Club, H. T. W. Bewell, secretary, 84 Piccadilly, London, W. 1, England.
Do	Livre des Origines de la Société Royale Saint-Hubert.	Société Royale Saint-Hubert, Maurice Puissant, secretary, Chaussée Saint-Pierre, 391, Brussels, Belgium.
Do	Livre des Origines Français.	Société Central Canine pour l'Amélioration des Races de Chiens en France, Paul Bert, secretary, 3 Rue de Choiseul, Paris 2, France.
Do	Norsk Hunde-Stambok	Norsk Kennelklub, Birger Berggrav, secretary, Akersgaten 184, Oslo, Norway.
Do	Schweizerisches Hundestammbuch.	Schweizerische Kynologischen Gesellschaft, C. Wittwer, secretary, Waldegg, Liebefeld bei Bern, Switzerland.
Do	Zuchtbuch für Rauhhaarige Terrier.	Fachschaft für Rauhhaarige Terrier, Heinrich Kaeuffer, president, Kelsterbach bei Frankfurt am Main, Germany.

[3] Provided that no dogs registered in books named shall be certified as purebred unless a three-generation certificate of pedigree issued by one of the associations named is submitted for each dog.

CATS[4]

Long-haired and Short-haired.	Register of the Governing Council of the Cat Fancy.	Governing Council of the Cat Fancy, H. F. Barrat, secretary, 14 Coleherne Road, London, S. W. 10, England.

[4] Provided that no cats registered in the book named shall be certified as purebred unless a three-generation certificate of pedigree issued by the Governing Council is submitted for each cat.

PAR. 2. *Books of record in Canada.*—The books of record of the Canadian National Live Stock Records, Ottawa, Canada, are recognized for the following breeds: *Provided*, That no animal or animals registered in the Canadian National Live Stock Records shall be certified by the Secretary of Agriculture as purebred unless such animal or animals trace only to animals which are proved to the satisfaction of the Department to be of the same breed:

CATTLE

Aberdeen-Angus	Guernsey
Ayrshire	Hereford
Brown Swiss	Jersey
Canadian	Red Poll
Galloway	Shorthorn

SHEEP

Blackface	Lincoln
Cheviot	Merino
Corriedale	Oxford Down
Cotswold	Rambouillet
Dorset Horn	Ryeland
Hampshire	Shropshire
Kerry Hill	Southdown
Leicester	Suffolk

HORSES

Belgian Draft	Shire
Clydesdale	Standardbred
Hackney	Suffolk
Percheron	Thoroughbred
Shetland Pony	Welsh Pony and Cob

HOGS

Berkshire	Large Black
Chester White	Poland China
Duroc-Jersey	Tamworth
Hampshire	Yorkshire

GOATS

Angora	Saanen
Nubian	Toggenburg

PAR. 3. *Holstein-Friesian cattle.*—The Holstein-Friesian Association of Canada, of which G. M. Clemons, of Brantford, Ontario, Canada, is secretary and editor, is recognized for the Holstein-Friesian breed registered in the Holstein-Friesian Herd Book of that association.

PAR. 4. *Dogs in Canada.*—The Canadian Kennel Club Stud Book (Canadian National Live Stock Records) is recognized for all the breeds of dogs registered therein: *Provided*, That no dog or dogs so registered shall be certified as purebred unless a three-generation certificate of pedigree issued by the Canadian Kennel Club is submitted for each dog.

Regulation 3.—Recognition of Additional Breeds

Application for recognition.—Before a book of record shall be added to those in this order, the custodian of such book of record shall submit to the Department a complete set of the published volumes of that book up to the date of making application, together with a copy of all rules and forms in force on said date affecting the registration of animals in said book.

[F. R. Doc. 38-1735; Filed, June 17, 1938; 12:21 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4811]

INCOME TAX

RETURN OF INFORMATION BY CORPORATION WITHIN THIRTY DAYS AFTER ADOPTION OF A RESOLUTION OR PLAN FOR DISSOLUTION OR FOR LIQUIDATION OF THE WHOLE OR ANY PART OF ITS CAPITAL STOCK

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 148 (d) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Third Session), provides:

SEC. 148. *Information by Corporations.*

* * * * * *

(d) *Contemplated dissolution or liquidation.*—Every corporation shall, within thirty days after the adoption by the corporation of a resolution or plan for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock, render a correct return to the Commissioner, verified under oath, setting forth the terms of such resolution or plan and such other information as the Commissioner shall, with the approval of the Secretary, by regulations prescribe.

PAR. B. Section 62 of the Revenue Act of 1938 provides:

SEC. 62. *Rules and regulations.*

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

PAR. C. Section 145 of the Revenue Act of 1938 provides:

SEC. 145. *Penalties.*

(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(d) For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 340.

Pursuant to the authority contained in sections 62 and 148 (d) of the Revenue Act of 1938, the following regulations are hereby prescribed with respect to the return of information required to be rendered by every corporation within thirty days after the adoption of a resolution or plan for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock:

ARTICLE 148 (d)-1. *Return of information respecting contemplated dissolution or liquidation.*—Within thirty days after the adoption on or after May 28, 1938, of any resolution or plan for or in respect of the dissolution of a corporation or the liquidation of the whole or any part of its capital stock, the corporation shall file with the Commissioner of Internal Revenue, Washington, D. C., attention of the Income Tax Unit, Records Division, a correct return on Form 966, made under oath or affirmation and containing the information required by article 148 (d)-2 of these regulations and by such form. A like return shall be filed by the corporation in the case of any amendment of, or supplement to, a resolution or plan for or in respect of the dissolution of the corporation or the liquidation of the whole or any part of its capital stock adopted on, before, or after May 28, 1938, if such amendment or supplement was adopted on or after May 28, 1938.

ART. 148 (d)-2. *Contents of return.*—(a) *General.*—There shall be attached to and made a part of the return required by section 148 (d) of the Act and article 148 (d)-1 of these regulations a duly certified copy of the resolution or plan, together with any amendments thereof or supplements thereto, and such return shall in addition contain the following information:

(1) The name and address of the corporation;

(2) The place and date of incorporation;

(3) The date of the adoption of the resolution or plan and the dates of any amendments thereof or supplements thereto; and

(4) The collection district in which the last income tax return of the corporation was filed and the taxable year covered thereby.

(b) *Liquidation in December, 1938.*—In the event that the plan of liquidation (adopted after May 28, 1938) provides for a distribution in complete cancelation or redemption of all the capital stock of the corporation, and for the transfer of all the property of the corporation under the liquidation entirely within the month of December, 1938, such return shall, in addition to the information required by paragraph (a) of this article, contain the following information:

(1) A statement showing the number of shares of each class of stock outstanding on the date of the adoption of the plan of liquidation, together with a description of the voting power of each such class;

(2) A list of all the shareholders owning stock on the date of the adoption of the plan of liquidation, together with the number of shares of each class of stock owned by each shareholder, the certificate numbers thereof, and the total number of votes to which entitled on the adoption of the plan of liquidation; and

(3) A list of all corporate shareholders as of April 9, 1938, together with the number of shares of each class of stock owned by each such shareholder, the certificate numbers thereof, the total number of votes to which entitled on the adoption of the plan of liquidation, and a statement of all changes in ownership of stock by corporate shareholders between April 9, 1938, and the date of the adoption of the plan of liquidation, both dates inclusive.

(c) *Returns in respect of amendments or supplements.*—If a return in respect of any resolution or plan for or in respect of the dissolution of a corporation or the liquidation of the whole or any part of its capital stock has already been filed pursuant to section 148 (d) of the Act,

a return in respect of any amendment thereof or supplement thereto will be deemed sufficient if it gives the date such prior return was filed and contains a duly certified copy of such amendment or supplement and all other information required by these regulations and by Form 966 which was not given in such prior return. If no return was filed relative to the resolution or plan which is being amended or supplemented, the return relative to the amendment thereof or supplement thereto shall contain a duly certified copy of the resolution or plan which is being amended or supplemented, together with all amendments thereof and supplements thereto, and all other information required by these regulations and by Form 966.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 17, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1749; Filed, June 20, 1938; 12:25 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A–77 O–77]

NOTICE OF HEARING ON PROPOSAL TO AMEND ORDER AND MARKETING AGREEMENT WHICH REGULATE HANDLING OF CITRUS FRUIT GROWN IN CAMERON, HIDALGO AND WILLACY COUNTIES IN THE STATE OF TEXAS

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the Secretary of Agriculture on the 9th day of July, 1937, issued Order No. 15 and Marketing Agreement No. 71,[1] which regulate the handling in interstate and foreign commerce and such handling as directly burdens, obstructs or affects interstate and foreign commerce in grapefruit and oranges grown in Cameron, Hidalgo and Willacy Counties in the State of Texas; and

Whereas, certain amendments to said marketing agreement and order have been proposed and have been incorporated into a proposed marketing agreement and order; and

Whereas, a hearing has been requested upon such amendments and the Secretary of Agriculture has reason to believe that amendments to said marketing agreement and order should be made; and

Whereas, under said act notice of a hearing is required in connection with a proposal to amend an order and marketing agreement and the General Regulations, Series A, No. 1,[1] as amended of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice and an opportunity to be heard upon such proposal;

Now, therefore, pursuant to said act and the general regulations notice is hereby given of a hearing to be held in the Stephen F. Austin School Building, Weslaco, Texas, June 27, 1938, at 10:00 a. m. c. s. t. on a proposal to amend the marketing agreement and order regulating the handling in interstate and foreign commerce and such handling as directly burdens, obstructs or affects interstate and foreign commerce in grapefruit and oranges grown in Cameron, Hidalgo and Willacy Counties in the State of Texas.

This public hearing is for the purpose of receiving evidence as to the necessity of such amendments which would: (a) amend various definitions set forth in Article I of the order, (b) revise and add to certain duties of the Growers Industry Committee as set forth in Section 3 of Article II, (c) revise and add to certain provisions of Article III, relating to assessments and expenses, (d) completely revise Article IV relating to regulation of shipments, alter the base period for determination of past performance, and provide additional limitations upon allotment loan transactions, (e) completely revise Article V relating to regulation of grade and size and provide for compulsory grading by federal-state inspection, (f) provide for detailed handlers' weekly reports, shipping manifest reports, and other reports, and (g) provide for interchange of interstate and intrastate allotments. Like evidence will be received upon any other amendments that may be proposed at said hearing.

Copies of the marketing agreement and order incorporating said proposed amendments may be procured from the Hearing Clerk, Room 0318 South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: June 18, 1938.

[F. R. Doc. 38–1745; Filed, June 20, 1938; 11:44 a. m.]

Farm Security Administration.

[Administration Order 231 (Rev. 1)[2]]

DETERMINATION OF EQUITABLE DISTRIBUTION OF FUNDS APPROPRIATED FOR FISCAL YEAR ENDING JUNE 30, 1939, PURSUANT TO BANKHEAD-JONES FARM TENANT ACT

JUNE 18, 1938.

I. Pursuant to the provisions of Section 4 of Title I of the Bankhead-Jones Farm Tenant Act, there is attached hereto as Exhibit A, a schedule representing the equitable distribution of the money appropriated for the purposes of Title I, for the fiscal year ending June 30, 1939, among the several states and territories on the basis of farm population and the prevalence of tenancy, as determined by the Secretary of Agriculture.

II. The unencumbered balances of the previous fiscal year's allotment remaining in each state and territory will be withdrawn as of June 30, 1938, and redistributed equitably to the states and territories on the basis of farm population and the prevalence of tenancy as determined by the Secretary of Agriculture, and a revised schedule of allotments will be issued immediately thereafter.

III. No allotment shall be made to any state or territory in excess of the amounts so distributed.

[SEAL] Signed C. B. BALDWIN,
Acting Administrator.

Approved, June 18, 1938.
H. A. WALLACE,
Secretary of Agriculture.

[Exhibit A]

Equitable distribution of loan funds available for the fiscal year ending June 30, 1939, for Title I of the Bankhead-Jones Farm Tenant Act

Region I	$770,527.50
Connecticut	17,987.50
Delaware	29,085.00
Dist. of Columbia	217.50
Maine	21,935.00
Maryland	113,110.00
Massachusetts	17,420.00
New Hampshire	9,550.00
New Jersey	44,232.50
New York	191,742.50
Pennsylvania	297,070.00
Rhode Island	5,167.50
Vermont	23,010.00
Region II	1,145,002.50
Michigan	274,880.00
Minnesota	538,580.00
Wisconsin	331,542.50
Region III	3,421,045.00
Illinois	779,475.00
Indiana	463,955.00
Iowa	826,402.50
Missouri	790,395.00
Ohio	560,817.50
Region IV	3,979,047.50
Kentucky	835,150.00
North Carolina	1,318,965.00
Tennessee	1,040,477.50
West Virginia	249,537.50
Virginia	534,917.50
Region V	4,295,805.00
Alabama	1,538,827.50
Florida	154,057.50
Georgia	1,587,507.50
South Carolina	1,015,412.50
Region VI	3,762,602.50
Arkansas	1,218,890.00
Louisiana	942,225.00
Mississippi	1,601,487.50
Region VII	1,531,395.00
Kansas	479,462.50
Nebraska	492,762.50
North Dakota	259,522.50
South Dakota	299,647.50
Region VIII	$3,176,540.00
Oklahoma	1,058,392.50
Texas	2,118,147.50
Region IX	297,340.00
Arizona	30,665.00
California	227,407.50
Nevada	3,812.50
Utah	35,455.00
Region X	254,642.50
Colorado	131,662.50
Montana	93,100.00
Wyoming	29,880.00
Region XI	306,140.00
Idaho	97,612.50
Oregon	92,915.00
Washington	115,612.50
Region XII	355,095.00
New Mexico	61,927.50
Colorado	53,745.00
Texas	174,500.00
Oklahoma	11,405.00
Kansas	53,517.50
Territories	454,817.50
Alaska	1,297.50
Hawaii	217,610.00
Puerto Rico	235,910.00
Continental U. S. and Territories	23,750,000.00

[F. R. Doc. 38–1746; Filed, June 20, 1938; 11:44 a. m.]

[1] 1 F. R. 155.
[2] 2 F. R. 2525 (DI).

[1] 2 F. R. 1426 (DI).

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF AND ORDER FOR HEARING IN RE DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREA NO. 1

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Congress, 1st Session), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. Notice is hereby given to all interested parties that a hearing in this matter shall be held before the Commission commencing on the 6th day of July, 1938, at 10:00 A. M., in the Hearing Room of the Commission at 15th and Eye Streets, N. W., Washington, D. C., for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts 1 to 8, inclusive, and so much of District 13 as is in Minimum Price Area 1, and evidence relating to any change or changes in wage rates, hours of employment, or other factors, exclusive of seasonal changes, substantially affecting costs, in each of said Districts which may have been established since January 1, 1936, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Area 1 (Districts 1, 2, 3, 4, 5, 6, 7, and 8, and so much of 13 as in Minimum Price Area 1) in the calendar year 1936, as adjusted, within the meaning of Section 4, Part II, of the Act, at which time all interested persons will be afforded an opportunity to be heard.

2. The District Boards of said Districts have submitted to the Commission, pursuant to its Order No. 240,[1] their determinations of the weighted average of the total costs of the total ascertainable tonnage produced in their respective Districts in the calendar year 1936, adjusted as aforesaid, as follows:

District No.:	*District board's determination (Per net ton)*
1	$2.3940
2	2.2948
3	1.8745
4	1.9755
5	3.5679
6	2.0167
7	2.2087
8	2.0535

upon which evidence will be received at such hearing.

3. The Division of Research and Statistics of the Commission has submitted to the Commission as evidence of weight in determining the adjusted 1936 costs the following computations of the weighted average of the actual costs of the ascertainable tonnage in each District and in Minimum Price Area 1 for the nine months period, April to December 1937, inclusive, the latest period for which cost data are available at the increased wage rates that became generally effective April 1, 1937, which costs are further adjusted to take account of known changes in Federal unemployment taxes, effective January 1, 1938, and to take account of the known effects of the tax imposed by the Bituminous Coal Act of 1937. (In the case of District 5, the actual costs for the nine-month period April to December 1937 have been combined with the three-month costs for January to March 1937, so adjusted as to raise the three-month costs to the level of the wage scale effective April 1.)

District No.:	*1936 tonnage*	*Cost per ton*
1	37,793,264	$2.37
2	69,116,894	2.22
3	22,203,799	1.86
4	22,392,066	1.95
5	618,121	3.82
6	4,247,196	2.02
7	52,981,211	2.21
8	86,498,544	2.06
Total, Minimum Price Area 1	295,851,095	2.147

4. Any person desiring to offer affirmative evidence at such hearing shall, not later than the day preceding the date of said hearing, file with the Commission at its offices in Washington, D. C., a written appearance setting forth therein the nature of his interest and a concise written statement of the facts which he wishes to present. Such cross-examination as the Commission in its discretion deems proper will be permitted.

5. That the Secretary cause a copy of this Notice of and Order for Hearing to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of the aforesaid Districts and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel and to the Secretary of each District Board, and to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By Order of the Commission.
Dated this 16th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1743; Filed, June 18, 1938; 10:44 a. m.]

[1] 3 F. R. 935 (DI).

FEDERAL POWER COMMISSION.

[Docket No. IT–5512]

IN THE MATTER OF THE CITY OF LOS ANGELES, A MUNICIPAL CORPORATION, AND DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, COMPLAINANTS, VS. THE NEVADA-CALIFORNIA ELECTRIC CORPORATION, A CORPORATION, DEFENDANT

ORDER POSTPONING HEARING

JUNE 17, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, John W. Scott, Basil Manly not participating.

It appearing to the Commission that: The complainants in the above cause have requested a postponement of the hearing now assigned at Los Angeles, California, on June 22, 1938,[1] due to the fact that a material and necessary witness, because of personal injury, will not be able to appear and testify during the course of the hearing beginning on June 22, 1938;

The Commission *orders* that: The hearing in the above cause now assigned at Los Angeles, California, on June 22, 1938, be postponed and continued to June 29, 1938, at 10 a. m., in Room 706, State Building, Los Angeles, California.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38–1744; Filed, June 20, 1938; 9:52 a. m.]

[1] 3 F. R. 1396 (DI).

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO FORM 3–M, APPLICATION FOR REGISTRATION OF BROKER OR DEALER TRANSACTING BUSINESS ON OVER-THE-COUNTER MARKETS

The Securities and Exchange Commission, deeming it necessary for the exercise of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 15 (b) and 23 (a) thereof, hereby amends Form 3–M to read as set forth in the printed copies of Form 3–M marked "Revised June 15, 1938."[1]

The foregoing action shall be effective immediately upon publication.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1750: Filed, June 20, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of June, A. D. 1938.

[File No. 32–89]

IN THE MATTER OF VIRGINIA PUBLIC SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 11, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 6, 1938.

The matter concerned herewith is in regard to an application by Virginia Public Service Company, a subsidiary of a registered holding company, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of section 6 (a) of the issue and private sale of $677,000 principal amount of Newport News and Hampton Railway Gas and Electric Company (a constituent company) First and Refunding Mortgage 5% Gold Bonds, due January 1, 1944. It is stated that the proceeds are to be used solely to retire, at or before maturity, $677,000 Newport News and Old Point Railway and Electric Company First Mortgage Forty Year Five Per Cent Gold Bonds, due November 1, 1938, assumed by Applicant as successor company by merger as of December 31, 1926. The issue and sale of the Bonds was authorized by the State Corporation Commission of the Commonwealth of Virginia on May 27, 1938.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1752: Filed, June 20, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of June, A. D. 1938.

[File No. 32–95]

IN THE MATTER OF LAWRENCE GAS & ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 7, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 2, 1938.

The matter concerned herewith is in regard to an application filed by Lawrence Gas & Electric Company, a subsidiary of Massachusetts Light & Power Associates, in turn a subsidiary of New England Power Association, a registered holding company, concerning the issue and sale at no less than par of $1,500,000 principal amount of First Mortgage Bonds, Series A, due July 1, 1968, the proceeds of such issue to be devoted on or before August 1, 1938, to the redemption of the $1,500,000 principal amount of First Mortgage 4½% Twenty Year Gold Bonds, Series B, due August 1, 1940, being the total funded indebtedness of the applicant now outstanding.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1753: Filed, June 20, 1938; 12:53 p. m.]

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[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives.

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 121

Washington, Wednesday, June 22, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[RCP–1938 Meagher County, Mont.]

1938 RANGE CONSERVATION PROGRAM BULLETIN, WESTERN REGION, FOR MEAGHER COUNTY, MONTANA

This bulletin supersedes for Meagher County all portions of WR–1938–Montana relating to range.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments will be made for participation in the 1938 Meagher County, Montana, Range Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other revisions as may hereafter be made.

The provisions of this program, are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided are contingent upon such appropriation as the Congress may hereafter provide and the rates of payments specified herein are subject to an increase or decrease of not more than 10 percent, depending upon the extent of participation in the Meagher County program and the final estimate of payments which would be made in Meagher County under the 1938 Range Conservation Program.

The provisions of the 1938 Meagher County, Montana, Range Conservation Program contained in this bulletin are not applicable (1) to counties other than Meagher County, Montana, (2) to public domain of the United States, including lands owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and (3) other lands in which the beneficial ownership is in the United States.

The provisions of this bulletin are to be renewed each year through 1940 except in case the Agricultural Adjustment Administration finds that (1) the Range Conservation Program has been modified in such manner as to adopt the essential provisions of the Meagher County, Montana, Program or is otherwise modified in such manner as to indicate the continuation of this program is unnecessary or undesirable, or (2) the resulting performance under this program has proven it is not administratively feasible, and that it is not contributing to the improvement of the Range Conservation Program or for other reasons indicates its continuation is undesirable, or (3) modifications of the Soil Conservation and Domestic Allotment Act, as amended, and the Agricultural Adjustment Act of 1938 are such as to prohibit its continuation, or are such as to indicate its continuation is not administratively advisable.

SECTION I. RATES OF RANGE-BUILDING PAYMENTS

A. Natural Reseeding by Limited Grazing. Subject to the conditions hereinafter set forth, payments will be made for the performance of limited grazing on range land, if approved by the county committee for the ranching unit prior to its institution, during the year 1938 as follows:

1. *Ranches designated as not overgrazed.*—a. 40% of the range-building allowance, computed under Section II, subsection A, if no goal is established for the ranching unit by the county committee or if a goal is established by the county committee for the ranching unit and the operator fails to fully comply with the provisions thereof.

b. 60% of the range-building allowance, computed under Section II, subsection A, if a goal is established for the ranching unit by the county committee and if the operator fully complies with the provisions thereof.

2. *Ranches designated as overgrazed.*—a. 60% of the range-building allowance, computed under Section II,

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Meagher County, Mont., 1938 Range Conservation Program Bulletin, western region	1459
TITLE 24—HOUSING CREDIT:	
Home Owners' Loan Corporation:	
Discontinuance of certification by Auditor of paid-in-full loans, change of effective date	1463
TITLE 26—INTERNAL REVENUE:	
Bureau of Internal Revenue:	
Distilled spirits, floor taxes on	1469
Filled cheese, definition of	1464
Income tax:	
Corporate liquidations, basis of property received in	1466
Foreign corporations, returns by officers, directors and shareholders	1464
Foreign corporations, returns of information with respect to	1467
Oils, processing tax on certain	1469
Social Security Act, credits against and refunds of tax under Title IX	1463
TITLE 29—LABOR:	
United States Employment Service:	
Public employment offices, cooperation with States	1470
TITLE 45—SECURITIES AND EXCHANGES:	
Securities and Exchange Commission:	
Exemption of certain securities, adoption of Rule X–AN24	1472

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Rural Electrification Administration: Page
Amendment of prior allocation of funds for loans-------- 1472

subsection A, if no goal is established for the ranching unit by the county committee of if a goal is established by the county committee for the ranching unit and the operator fails to fully comply with the provisions thereof.

b. 75% of the range-building allowance, computed under Section II, subsection A, if a goal is established for the ranching unit by the county committee and if the operator fully complies with the provisions thereof.

3. For the purposes of this Section I A, the county committee shall determine the ranching units in the county which are overgrazed and those not overgrazed. In making such determination with respect to a ranching unit, the county committee shall give consideration to the following: varieties, palatability, and density of forage growth; climatic fluctuations; distribution and character of watering facilities; topographic and cultural features, presence or absence of rodents and poisonous plant infestations; the number and classes of livestock currently grazed upon such ranching unit, and other similar factors.

4. The provisions of this Section I A, subsections 2 and 3, shall be applicable only during 1938 and 1939. In 1940, the rates for all ranches will be as prescribed under subsections 1a and 1b above.

5. The goal provided for in this Section I A shall be established by the county committee and shall consist of conditions and specifications other than those listed in this bulletin, and in addition to limited grazing, which the county committee determines are necessary on the ranch either to support and complement the effective conservation use to be made of the range in connection with such range-building practices as are contained in this bulletin or to assist in connection with limited grazing in bringing about on the ranching unit such use of the forage resources as will more effectively carry out the purposes of the Soil Conservation and Domestic Allotment Act. The county committee's determination with respect to goals shall be based on conservative range management, forage and feed resources of the ranch, topographic and cultural features, utilization of forage by wildlife and the extent to which the resources of the ranch have been utilized in a conservative manner.

B. Within the limits of that part of the range-building allowance remaining after applying the provisions of subsection A above, and subject to the conditions hereinafter set forth, there will be paid for carrying out in 1938 on range land such of the following range-building practices as are approved by the county committee for the ranching unit prior to their institution.

Practices, Conditions of Payment, and Rate of Payment

Reseeding of Range Land

1. Artificial reseeding: $0.20 per pound of seed sown, but not in excess of $2.00 per acre.

For reseeding depleted range land with good seed of adapted varieties of range grasses, legumes, or forage shrubs.

Erosion and Runoff Control

2. Contour listing, furrowing, or subsoiling: $0.50 per acre.

For listing, furrowing, or subsoiling range land on the contour.

3. Spreader dams and terraces: For constructing spreader dams and spreader terraces alone or in combination with each other for the diversion of surface water to prevent soil washing of range land.

(a) Spreader dams: $0.15 per cubic yard of material moved.

(b) Spreader terraces: $0.40 per 100 linear feet.

Development of Stock Water on Range Land

4. Earthen tanks or reservoirs; $0.15 per cubic yard of fill or excavation.

For constructing reservoirs or earthen tanks with spillways adequate to prevent dams from washing out, for the purpose of providing water for range livestock.

5. Wells:

(a) For drilling or digging wells with casing not less than 4 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. Payment will not be made for a well developed at ranching unit headquarters: $2.00 per linear foot.

(b) For drilling or digging wells with casing less than 4 inches but not less than 2 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. An artesion well will qualify for payment provided adequate stock water is made available during the grazing season and the water is conveyed to a tank or trough. Payment will not be made for a well developed at ranching unit headquarters: $1.00 per linear foot.

6. Development of natural watering places—For developing springs or seeps, protecting the source from trampling and conveying the water in a trough or in a pipe not less than one inch in diameter to a tank, for the purpose of providing water for range livestock: $0.40 per cubic foot for excavation in soil or gravel, and $0.70 per cubic foot for excavation in rock.

Fire Guards

7. For the establishment of fire guards not less than 10 feet in width by plowing furrows or otherwise exposing the mineral soil. Payment will not be made if the fire guard is used in connection with controlled burning within the ranching unit: $0.05 per 100 linear feet.

SECTION II. RANGE-BUILDING ALLOWANCE

A. The range-building allowance shall be 3¢ per acre of range land in the ranching unit plus 75¢ times the grazing capacity of the range land: *Provided*, however, that the grazing capacity item shall not be calculated on more than one animal unit for each ten acres of range land in the ranching unit, and the acreage item shall not be calculated on more that 60 acres for each animal unit of grazing capacity established for the ranching unit.

B. In addition the range-building allowance shall include 35¢ times the number of acres of mountain meadow land in the ranching unit from which hay is normally harvested for feeding on the ranching unit to range livestock owned by the operator of the ranching unit: *Provided*, however, that mountain meadow land for which this additional allowance is made shall not be considered in calculating the portion of the range-building allowance provided for in subsection A.

SECTION III. CONDITION OF PAYMENT

A. No payment for range-building practices carried out pursuant to subsection B of Section I will be made unless limited grazing has been carried out on the ranch during 1938 or the county committee shall have determined that

the method of ranch management has been adjusted before December 31, 1938 in the manner required to successfully carry out limited grazing.

B. The total payment made with respect to any ranching unit shall not exceed the range-building allowance for such ranching unit. Payment will be made only if range-building practices are carried out according to specifications recommended by the county and State committees and approved by the Regional Director. Payments made for performance pursuant to the provisions of this bulletin shall not be subject to the provisions of Section V of Part I of WR–1938–Montana.

C. No payment will be made for practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency, or for practices with respect to which a portion of the labor, seed, trees, or other materials used in carrying out such practices is furnished by a State or Federal agency, if such portion represents one-half or more of the total cost of carrying out such practices. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency and such portion represents less than one-half of the total cost of carrying out such practice, payment will be made for such practice at one-half of the rate specified in Section I.

SECTION IV. CHANGES IN LEASING ARRANGEMENTS AND OTHER DEVICES

A. No payment will be made to any person who has for 1938 made any change from the 1937 leasing arrangements of range land for the purpose of, or which would have the effect of, diverting to such person any payment to which any lessee would be entitled if the 1937 leasing arrangements of such range land were in effect for 1938. If the State committee finds that any person who files an application for a payment pursuant to the provisions of the 1938 Meagher County, Montana, Range Conservation Program has made any change from the 1937 leasing arrangements of such range land or has employed any other scheme or device whatsoever for the purpose of, or which would have the effect of depriving any other person of any payment or share therein to which such other person otherwise would be entitled, the Secretary may withhold in whole or in part from the person participating in such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or otherwise would be made to such person for performance in connection with the 1938 Meagher County, Montana, Range Conservation Program.

B. If on any ranching unit in 1938 any change of the leasing arrangements which existed on the ranching unit in 1937 is made between the landlord and the tenants and such change would cause a greater proportion of the payment to be made to the landlord under the 1938 Meagher County, Montana, Range Conservation Program than would have been made to the landlord for performances on the ranching unit under the 1937 Range Conservation Program, payment to the landlord under the 1938 Meagher County, Montana, Range Conservation Program with respect to the ranching unit shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the ranching unit in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

C. If on any ranching unit the number of tenants in 1938 is less than the average number on the ranching unit during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

SECTION V. ELIGIBILITY FOR PAYMENT

A. Application for range-building payment may be made only by ranch operators. Range-building payments will be made to (1) a sole ranch operator, or (2) each ranch operator of a group of two or more ranch operators, provided they all signify in the application for the range-building payment a percentum of the total payment to be made to each ranch operator. In case there are two or more ranch operators, the application must be made by all of them, except that in cases where any ranch operator refuses to sign the application for payment the county committee shall determine the percentage share of each ranch operator and payment of his percentage share will be made to each ranch operator applying for payment in accordance with such determination.

B. Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment to any ranch operator who fails to file any form or furnish any information required with respect to any ranching unit in which such ranch operator is interested, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Regional Director. At least two weeks' notice to the public shall be given in advance of the expiration of a time limit for filing prescribed forms.

C. Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Range Conservation Program nor under the provisions of the 1938 Meagher County, Montana, Range Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of his allotment is mailed to him prior to the completion of the planting (seeding) of cotton on the farm unless such person establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton thereon in 1938.

SECTION VI. PAYMENT RESTRICTED TO EFFECTUATION OF THE PURPOSES OF THE PROGRAM

All or any part of any payments which otherwise would be made to any person under the 1938 Meagher County, Montana, Range Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the Regional Director finds is contrary to sound conservation practices. No payment will be made to any person if it is determined in accordance with instructions issued by the Agricultural Adjustment Administration that, with respect to any ranch which he owns or operates, the stand of grass has been decreased or the forage, tree growth or watershed has been injured by overgrazing in 1938.

SECTION VII. PAYMENTS COMPUTED AND MADE WITHOUT REGARD TO CLAIMS

Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in Section XI), and without regard to any claim or lien against any crop or livestock, or proceeds thereof, in favor of the owner or any other creditor.

SECTION VIII. INCREASE IN SMALL PAYMENTS

The total payment computed for any person with respect to any ranching unit shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $19.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SECTION IX. DEDUCTIONS FOR ASSOCIATION EXPENSES

There shall be deducted pro rata from the payments with respect to any ranching unit all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the Meagher County Agricultural Conservation Association.

SECTION X. ASSIGNMENTS

Any person who may be entitled to a payment in connection with this program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing upon Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration and is filed in the office of the county agricultural conservation association; (2) the ranch operator files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any preexisting indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose. For the purposes of this Section the making of a crop shall be deemed to include the carrying out of range-building practices.

Nothing contained in this Section X shall be construed to give an assignee a right to any payment other than that to which the ranch operator is entitled, nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the ranch operator without regard to the existence of any such assignment.

SECTION XI. ESTABLISHMENT OF GRAZING CAPACITIES

There shall be established a grazing capacity for each ranching unit for which an application for determination of grazing capacity is received on or before a date established by the Regional Director as affording reasonable opportunity for the filing of such applications. In determining grazing capacity, consideration shall be given to the following: (a) composition, palatability, and density of forage growth; (b) climatic fluctuations; (c) distribution and character of watering facilities; (d) topographic and cultural features; (e) presence or absence of rodents and poisonous plant infestations; and (f) number and classes of livestock previously carried. The average of the individual grazing capacities established for all ranching units in a county shall not exceed the county average grazing capacity limit established by the Agricultural Adjustment Administration on the basis of available statistics.

SECTION XII. DETERMINATION OF COUNTY IN WHICH A RANCHING UNIT IS LOCATED

A ranching unit shall be regarded as located in the county in which its principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the ranching unit is located.

SECTION XIII. APPEALS

Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any ranching unit in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment, (b) grazing capacity established for the range land in such ranching unit, or (c) any other matter affecting the right to or the amount of his payment with respect to the ranching unit. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee he may, within 15 days after such decision is forwarded to or made available to him, request the Regional Director to review the decision of the State committee.

SECTION XIV. STATE AND REGIONAL BULLETINS, INSTRUCTIONS AND FORMS

The Agricultural Adjustment Administration shall prepare and issue such State and regional bulletins, instructions, and forms as may be required in administering the 1938 Meagher County, Montana, Range Conservation Program.

SECTION XV. DEFINITIONS

For the purposes of the 1938 Meagher County, Montana, Range Conservation Program,

Secretary means the Secretary of Agriculture of the United States.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

Regional Director means the Director of the Western Division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program, the 1938 Range Conservation Program, and the 1938 Meagher County, Montana, Range Conservation Program, in the State of Montana.

State Committee means the group of persons designated for the State of Montana to assist in the administration of the 1938 Agricultural Conservation Program, the 1938 Range Conservation Program, and the 1938 Meagher County, Montana, Range Conservation Program, in the State of Montana.

County Committee means the group of persons elected for Meagher County to assist in the administration of the 1938 Agricultural Conservation Program and the 1938 Meagher County, Montana, Range Conservation Program.

Person means an individual, partnership, association, corporation, estate or trust, and wherever applicable a State, a political subdivision of a State, or any agency thereof.

Range-Building Allowance means the largest amount for any ranching unit which may be earned as a range-building payment on such ranching unit.

Ranch Operator means a person who as owner, cash tenant, or share tenant operates, or a person who acts in similar capacity in the operation of, a ranching unit in 1938.

Range Land means any land in which a ranch operator has such a legal estate or interest as to give him control thereof, which produces forage grazed by range livestock, without cultivation or general irrigation. Range land shall not include public domain of the United States, including lands owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

Ranching Unit means all range land which is used in 1938 by the ranch operator as a single unit in producing range livestock, with machinery, workstock, and labor substantially separate from that of any other range land. In order to facilitate the administration of the program the Regional Director may prescribe that for the purposes of this program, tracts shall be deemed ranching units only if they contain more than the minimum acreage of range land fixed by him.

Animal unit means one cow, one horse, five sheep, or five goats, or the equivalent thereof.

Grazing capacity of range land means the number of animal units which such land will sustain, on a 12-month basis, over a period of years without decreasing the stand of grass or other grazing vegetation, and without injury to the forage, tree growth, or watershed.

Limited grazing means the grazing of the forage of the ranching unit at such a rate during the year as to result in a sustained yield of grass or other grazing vegetation, and without injury to the forage, tree growth, or watershed.

Done at Washington, D. C. this 21st day of June, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1762; Filed, June 21, 1938; 12:29 p. m.]

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

DISCONTINUANCE OF CERTIFICATION BY AUDITOR OF PAID-IN-FULL LOANS

CHANGING THE EFFECTIVE DATE TO JULY 1, 1938

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-sections a and k of Section 4 of said Act as amended, the resolution adopted June 2, 1938[1] revoking Section 1406 (b) of the Consolidated Manual is hereby amended by changing its effective date from June 1, 1938 to July 1, 1938; and by changing the date June 1, 1938 in the third line of the second resolving clause to July 1, 1938.

Adopted by the Federal Home Loan Bank Board on June 20, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-1763; Filed, June 21, 1938; 12:35 p. m.]

[1] 3 F. R. 1319 (DI).

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4812]

CREDITS AGAINST, AND REFUNDS OF, TAX UNDER TITLE IX OF THE SOCIAL SECURITY ACT FOR 1936

REGULATIONS 90, AMENDED

To Collectors of Internal Revenue and Others Concerned:

Section 810 of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress), provides as follows:

SEC. 810. CREDITS AGAINST SOCIAL SECURITY TAX FOR 1936.

(a) *Allowance of credit.*—Against the tax for the calendar year 1936 imposed by section 901 of the Social Security Act, any taxpayer shall be allowed credit for the amount of contributions, with respect to employment during such year, paid by him, before the sixtieth day after the date of the enactment of this Act, into an unemployment fund under a State law. The provisions of the Social Security Act (except the provision limiting such credit to amounts paid before the date of filing returns) shall apply to allowance of credit under this section, and the terms used in this subsection shall have the same meaning as when used in Title IX of the Social Security Act.

(b) *Refund.*—Refund of the tax (including penalty and interest collected with respect thereto, if any), based on any credit allowable under this section, may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund.

Pursuant to the foregoing provisions of law, Regulations 90, approved February 17, 1936,[1] relating to the excise tax on employers under Title IX of the Social Security Act, are amended as follows:

(1) There is inserted after the provision of law under the caption "Section 907 (f) of the Act," and immediately preceding article 211, the following:

Section 810 (a) of the Revenue Act of 1938

Allowance of credit.—Against the tax for the calendar year 1936 imposed by section 901 of the Social Security Act, any taxpayer shall be allowed credit for the amount of contributions, with respect to employment during such year, paid by him, before the sixtieth day after the date of the enactment of this Act, into an unemployment fund under a State law. The provisions of the Social Security Act (except the provision limiting such credit to amounts paid before the date of filing returns) shall apply to allowance of credit under this section, and the terms used in this subsection shall have the same meaning as when used in Title IX of the Social Security Act.

(b) *Refund.*—Refund of the tax (including penalty and interest collected with respect thereto, if any), based on any credit allowable under this section, may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund.

(2) Article 211 (b), relating to the conditions under which contributions are allowable as credit against the tax imposed by Title IX of the Social Security Act, is amended by striking out paragraph (2) thereof and the example immediately following such paragraph, and by inserting in lieu thereof the following:

"(2) With respect to the calendar year 1937 and each calendar year thereafter the contributions must have been actually paid into the State unemployment fund before the date on which the return for the calendar year is required to be filed. (This date is January 31 next following the close of the calendar year unless the time for filing the return is extended. See articles 303 to 305.) With respect to the calendar year 1936 the contributions must have been actually paid into the State unemployment fund before July 27, 1938.

"*Example (a).*—The return of employer A for the calendar year 1937 is filed on January 31, 1938, and proper credit taken therein for contributions actually paid into a State unemployment fund prior to that date. Thereafter, in June 1938, additional contributions are paid by A to a State fund with respect to employment during the calendar year 1937. No part of such additional contributions is allowable as credit against the tax for the calendar year 1937, or for any other calendar year.

"*Example (b).*—If in example (a) above, the additional contributions paid in June 1938 are with respect to employment during the calendar year 1936, such additional contributions are allowable as credit against the tax for the calendar year 1936."

(3) Chapter V is amended by inserting immediately preceding article 504 thereof the following:

Section 810 of the Revenue Act of 1938

(a) *Allowance of credit.*—Against the tax for the calendar year 1936 imposed by section 901 of the Social Security Act, any taxpayer shall be allowed credit for the amount of contributions, with respect to employment during such year, paid by him, before the sixtieth day after the date of the enactment of this Act, into an unemployment fund under a State law. The provisions of the Social Security Act (except the provision limiting such credit to amounts paid before the date of filing returns) shall apply to allowance of credit under this section, and the terms used in this subsection shall have the same meaning as when used in Title IX of the Social Security Act.

(b) *Refund.*—Refund of the tax (including penalty and interest collected with respect thereto, if any), based on any credit allowable under this section, may be made in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund.

ART. 503½. *Refund under section 810 of the Revenue Act of 1938.*—(a) Prior to the enactment of section 810 of the Revenue Act of 1938 the taxpayer was not allowed to credit against the tax for 1936, imposed by Title IX of the Social Security Act, any contributions for that year which he paid into the State unemployment fund on or after the date upon which the return was required to be filed. That date was April 1, 1937, under the general extension of time for filing returns which was granted to all taxpayers for the calendar year 1936 only. Pursuant to section 810, however, contributions with respect to employment during 1936 are allowable as credit against the 1936 tax if

[1] 1 F. R. 3.

they are actually paid into the State fund before July 27, 1938. Accordingly, if the taxpayer paid or pays contributions for the calendar year 1936 into a State unemployment fund on or after April 1, 1937, but prior to July 27, 1938, he is entitled to credit that amount against his 1936 tax subject, however, to all the limitations contained in section 902 except the limitation with respect to the time of payment (see article 211 (b)). If the tax against which the amount so allowable as credit under section 810 has been paid without the benefit of such credit, the taxpayer shall be entitled to a refund of the tax equal to the amount of such credit. The taxpayer shall also be entitled to a refund of the amount of interest or penalty, if any, collected from him with respect to the amount of tax refunded. No interest, however, shall be allowed or paid by the Government on the amount of any such refund.

(b) Every claim for refund under section 810 of the Revenue Act of 1938 shall be made on Form 843 in accordance with the provisions of this article and article 503. A claim which does not comply with these requirements will not be considered for any purpose as a claim for refund.

This Treasury Decision is prescribed under the authority contained in Section 908 of the Social Security Act.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 18, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1755; Filed, June 21, 1938; 11:17 a. m.]

[T. D. 4813]

FILLED CHEESE

AMENDING REGULATIONS 22 (REVISED AUGUST, 1926) TO GIVE EFFECT TO THE PROVISIONS OF SECTION 706 OF THE REVENUE ACT OF 1938

To Collectors of Internal Revenue and Others Concerned:

Section 706 of the Revenue Act of 1938 reads as follows:

(a) Section 2 (relating to the definition of filled cheese) of the Act entitled "An Act Defining cheese, and also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of 'filled cheese,'" approved June 6, 1896, is amended by adding at the end thereof the following: "Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered 'filled cheese' within the meaning of this Act."

(b) The amendment made by subsection (a) shall be effective July 1, 1938.

To give effect to the above amendment Regulations 22 (Revised August, 1926) are amended as follows:

1. Chapter I is amended by inserting after the subhead "Filled Cheese" and before article 1, the following:

Sections 1 and 2 of the Act of June 6, 1896.

SEC. 1. That for the purposes of this Act, the word "cheese" shall be understood to mean the food product known as cheese, and which is made from milk or cream and without the addition of butter, or any animal, vegetable, or other oils or fats foreign to such milk or cream, with or without additional coloring matter.

SEC. 2. That for the purposes of this Act certain substances and compounds shall be known and designated as "filled cheese," namely: All substances made of milk or skimmed milk, with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese.

Section 706 of the Revenue Act of 1938.

(a) Section 2 (relating to the definition of filled cheese) of the Act entitled "An Act Defining cheese, and also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of "filled cheese,'" approved June 6, 1896, is amended by adding at the end thereof the following: "Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered 'filled cheese' within the meaning of this Act."

(b) The amendment made by subsection (a) shall be effective July 1, 1938.

2. Article 2 (a) of Chapter I is amended by adding at the end thereof, as part of the same paragraph, the following:

On and after July 1, 1938, substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered "filled cheese" within the above definition.

3. The phrase in the first sentence of article 13, which reads: "There is no provision in the act of June 6, 1896," is changed to read: "There is no provision in the act of June 6, 1896, as amended by section 706 of the Revenue Act of 1938,".

This Treasury decision is issued under the authority prescribed in section 18 of the Act of June 6, 1896.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 18, 1938.

STEPHEN B. GIBBONS
Acting Secretary of the Treasury.

[F. R. Doc. 38–1756; Filed, June 21, 1938; 11:17 a. m.]

[T. D. 4814]

INCOME TAX

REGULATIONS RELATING TO INFORMATION RETURNS BY OFFICERS, DIRECTORS AND SHAREHOLDERS OF CERTAIN FOREIGN CORPORATIONS

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 338 (a) of Supplement P of Title I (Income Tax) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, third session), provides:

SEC. 338. INFORMATION RETURNS BY OFFICERS AND DIRECTORS.

(a) *Monthly returns.*—On the fifteenth day of each month which begins after the date of the enactment of this Act each individual who on such day is an officer or a director of a foreign corporation which, with respect to its taxable year (if not beginning before August 26, 1936) preceding the taxable year (whether beginning on, before, or after January 1, 1938) in which such month occurs, was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this Act. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the individuals who on such day are officers and directors of the corporation.

PAR. B. Section 339 (a) of Supplement P of Title I of the Revenue Act of 1938 provides:

SEC. 339. INFORMATION RETURNS BY SHAREHOLDERS.

(a) *Monthly returns.*—On the fifteenth day of each month which begins after the date of the enactment of this Act each United States shareholder, by or for whom 50 per centum or more in value of the outstanding stock of a foreign corporation is owned directly or indirectly (including in the case of an individual, stock owned by the members of his family as defined in section 333 (a) (2)), if such foreign corporation with respect to its taxable year (if not beginning before August 26, 1936) preceding the taxable year (whether beginning on, before, or after January 1, 1938) in which such month occurs was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this Act. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the persons who on such day are United States shareholders.

PAR. C. Section 340 of Supplement P of Title I of the Revenue Act of 1938 provides:

SEC. 340. PENALTIES.

Any person required under section 338 or 339 to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of the penalties provided in section 145 (a) for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than one year, or both.

PAR. D. Section 333 (a) (2) of Supplement P of Title I of the Revenue Act of 1938 provides:

SEC. 333. STOCK OWNERSHIP.

(a) *Constructive Ownership.*—• • •

(2) *Family and partnership ownership.*—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

PAR. E. Section 804 (Title V—Miscellaneous Provisions) of the Revenue Act of 1938 provides:

SEC. 804. INFORMATION RETURNS AS TO FOREIGN CORPORATIONS.

Sections 338 (a), 339 (a), and 341 (insofar as it relates to sections 338 (a) and 339 (a)) of the Revenue Act of 1936, added to such Act by section 201 of the Revenue Act of 1937, shall remain in force only with respect to months beginning on or before the date of the enactment of this Act.

PAR. F. Section 806 of Title V of the Revenue Act of 1938 provides:

SEC. 806. ADMINISTRATION OF OATHS OR AFFIRMATIONS.

Any oath or affirmation required or authorized by any internal-revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This section shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

PAR. G. Section 62 of Title I of the Revenue Act of 1938 provides:

SEC. 62. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

Pursuant to the above-quoted provisions and other provisions of the internal revenue laws, the following regulations are hereby prescribed with respect to information returns to be filed by officers and directors and shareholders of certain foreign corporations:

ARTICLE 1. *Information returns by officers and directors of certain foreign corporations.*—(a) *Requirement for filing returns.*—(1) *General.*—Under section 338 (a) of the Revenue Act of 1938, on the fifteenth day of each month which begins after May 28, 1938, each individual who on such fifteenth day is an officer or a director of a foreign corporation which, with respect to its taxable year (if not beginning before August 26, 1936) preceding the taxable year (whether beginning on, before, or after January 1, 1938) in which such month occurs, was a foreign personal holding company, is required to file with the Commissioner a monthly information return as provided in that section and this article.

(2) *Returns for a period exceeding one month.*—In the case of a foreign personal holding company which before the close of its taxable year specified in paragraph (a) (1) of this article and ending on or after May 31, 1938, distributed to its shareholders 90 percent or more of its Supplement P net income as defined in Supplement P, added to the Revenue Act of 1936 by section 201 of Title II of the Revenue Act of 1937 or in Supplement P of the Revenue Act of 1928, the following periods are prescribed with respect to which information returns on Form 957 shall be filed during the following year.

The return required under section 338 (a) for the last month of the preceding taxable year shall be filed on the fifteenth day of the first month following the close of such taxable year. Subsequent returns shall be filed for each six-month period following the close of such taxable year and shall be filed on the fifteenth day of the first month following such period. If any change in the stockholdings or in the holdings of securities convertible into stock of the corporation occurs during such periods or if a resolution or plan (including any amendments thereof or supplements thereto) for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock is adopted during such periods, a monthly information return must also be filed on the fifteenth day of the month following each month in which the change occurs or the resolution or plan is adopted. In any case under this paragraph where the date for filing a monthly return coincides with the date for filing the return for a six-month period only the return for the six-month period need be filed.

In the case of a foreign personal holding company which before the close of its taxable year specified in paragraph (a) (1) of this article and ended before May 31, 1938, distributed to its shareholders 90 percent or more of its Supplement P net income as defined in Supplement P of the Revenue Act of 1936, as amended, the following periods are prescribed with respect to which information returns under section 338 (a) of the Revenue Act of 1938 and this article shall be filed during the year following the year in which such distribution occurred and after May 28, 1938.

The first information return shall be filed on the same day an information return would have been required to be filed under section 338 (a) of Supplement P of the Revenue Act of 1936, as amended, and paragraph (a) (2) of article 338–1 of Chapter XXXIV added to Regulations 94 by Treasury Decision 4782, approved December 7, 1937[1] (I. R. B. XVI–50, 3 (1937)), had the Revenue Act of 1938 not been enacted. Subsequent returns shall be filed for each six-month period following the close of the month preceding the month in which such day occurs and shall be filed on the fifteenth day of the first month following such six-month period. If any change in the stockholdings or in the holdings of securities convertible into stock of the corporation occurs during such periods or if a resolution or plan (including any amendments thereof or supplements thereto) for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock is adopted during such periods, a monthly information return must be filed on the fifteenth day of each month following the month in which the change occurs or the resolution or plan is adopted. In any case under this paragraph where the date for filing a monthly return coincides with the date for filing a return for a six-month period, only the return for the six-month period need be filed.

(3) *Returns jointly made.*—If two or more officers or directors of a foreign corporation are required to file information returns for any period under section 338 (a) and this article, any two or more of such officers or directors may, in lieu of filing separate returns for such period, jointly execute and file one return.

(b) *Form of return.*—The returns under section 338 (a) and this article shall be made on Form 957. Such forms may, upon request, be procured from any collector. Each officer or director should carefully prepare his return so as to set forth fully and clearly the information called for therein and by the applicable regulations. Returns which have not been so prepared will not be considered as meeting the requirements of the Act.

(c) *Contents of return.*—The return shall, in accordance with the provisions of this article and the instructions on the form, set forth with respect to the preceding period the following information:

(1) Name and address of corporation;

(2) Kind of business in which the corporation is engaged;

(3) Date of incorporation;

(4) The country under the laws of which the corporation is incorporated;

(5) Number of shares and par value of common stock of the corporation outstanding as of the beginning and end of the period;

(6) Number of shares and par value of preferred stock of the corporation outstanding as of the beginning and end of the period, the rate of dividend on such stock and whether such dividend is cumulative or noncumulative;

(7) A description of the convertible securities issued by the corporation, including a statement of the fact value of, and rate of interest on, such securities;

[1] 2 F. R. 3213 (DI).

(8) The name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period;

(9) The name and address of each holder of securities convertible into stock of the corporation, the class, number and face value of the securities held by each, together with any changes in the holdings of such securities during the period;

(10) A duly certified copy of any resolution or plan, and any amendments thereof or supplements thereto, for or in respect of the dissolution of the corporation or the liquidation of the whole or any part of its capital stock; and

(11) Such other information as may be required by the return form.

If a person is required to file a return under section 338 (a) and this article with respect to more than one foreign corporation, a separate return must be filed with respect to each foreign corporation.

(d) *Verification of returns.*—All returns required by section 338 (a) and this article shall be verified under oath or affirmation. The oath or affirmation may be administered by a person authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by a consular officer of the United States. Persons in the Naval or Military service of the United States may verify their returns before any official authorized to administer oaths for the purposes of those respective services. Returns executed abroad may be attested free of charge before the United States consular officers. If a foreign notary or other official having no seal shall act as attesting officer, the authority of such attesting officer should be certified to by some judicial official or other proper officer having knowledge of the appointment and official character of the attesting officer.

(e) *Penalties.*—For criminal penalties for failure to file the returns required by section 338 (a) and this article, see section 340.

ART. 2. *Information returns by shareholders of certain foreign corporations.*—(a) *Requirement for filing returns.*—(1) *General.*—On the fifteenth day of each month which begins after May 28, 1938 each United States shareholder, by or for whom 50 percent or more in value of the outstanding stock of a foreign corporation is owned, directly or indirectly (including in the case of an individual, stock owned by members of his family as defined in section 333 (a) (2)), if such foreign corporation with respect to its taxable year (if not beginning before August 26, 1936) preceding the taxable year (whether beginning on, before, or after January 1, 1938) in which such month occurs was a foreign personal holding company, shall file with the Commissioner an information return as provided in section 339 (a) and this article.

(2) *Returns for a period exceeding one month.*—In the case of a foreign personal holding company which before the close of its taxable year specified in paragraph (a) (1) of this article, distributed to its shoreholders 90 percent or more of its Supplement P net income, the periods with respect to which information returns under section 339 (a) shall be filed shall be the same as the periods prescribed in paragraph (a) (2) of article 1.

(3) *Duplicate returns.*—If a shareholder in a foreign corporation files, as an officer or director in such corporation, the returns required by section 338 (a) and article 1 such returns shall be considered as returns filed under section 339 (a).

(b) *Form of return.*—The return under section 339 (a) and this article shall be on Form 957, copies of which, upon request, may be secured from any collector. Each shareholder should carefully prepare his return so as to set forth fully and clearly the information called for therein and by the applicable regulations. Returns which have not been so prepared will not be considered as meeting the requirements of the Act.

(c) *Contents of return.*—The return on Form 957 shall, in accordance with the provisions of this article and the instructions on the form, set forth with respect to the preceding period the same information as required to be shown on that form by section 338 (a) and paragraph (c) of article 1.

If a person is required to file a return under section 339 (a) and this article with respect to more than one foreign corporation, a separate return must be filed with respect to each foreign corporation.

(d) *Verification of returns.*—All returns required by section 339 (a) and this article shall be vertified under oath or affirmation as prescribed in paragraph (d) of article 1.

(e) *Penalties.*—For criminal penalties for failure to file the returns required by section 339 (a) and this article, see section 340.

ART. 3. *Time and place of filing returns.*—Returns required by sections 338 (a) and 339 (a) and these regulations shall be filed with the Commissioner of Internal Revenue, Washington, D. C., attention Income Tax Unit, Records Division, and will be considered filed within the time or times required by law if, within such time or times, such returns are made and placed in the mails in due course, properly addressed and postage paid, provided they are actually received in the office of the Commissioner of Internal Revenue, Washington, D. C., even though received after such time or times.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 18, 1938.
STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1757; Filed, June 21, 1938; 11:17 a. m.]

[T. D. 4815]

INCOME TAX

REGULATIONS 94, AMENDED RELATIVE TO THE BASIS OF PROPERTY RECEIVED IN CERTAIN CORPORATE LIQUIDATIONS

To Collectors of Internal Revenue and Others Concerned:

In order to accord with section 808 of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, third session), amending section 113 (a) (15) of the Revenue Act of 1936, relating to the basis of property received in certain corporate liquidations, Regulations 94 are amended as follows:

The following is inserted immediately preceding article 113 (a) (15)-1:[1]

Section 808 of the Revenue Act of 1938 provides:

SEC. 808. BASIS OF PROPERTY ACQUIRED IN CONNECTION WITH LIQUIDATION

(a) Section 113 (a) (15) of the Revenue Act of 1936 is amended by inserting at the end thereof the following: "If upon the complete liquidation of a corporation within the meaning of section 112 (b) (6) of the Revenue Act of 1934, as amended, in case the first of the series of distributions in liquidation was made after August 29, 1935, and the last of the series of distributions was made before June 23, 1936, if with respect to all the property (other than money) received by a corporation prior to June 23, 1936, and in a taxable year beginning after December 31, 1935, no gain or loss would have been recognized on the receipt of such property under such section 112 (b) (6), the basis of such property in the hands of such corporation shall be the basis prescribed by the Revenue Act of 1934, as amended, if such corporation (within 180 days after the date of the enactment of the Revenue Act of 1938) elects, under regulations prescribed by the Commissioner, to have such basis apply."

Article 113 (a) (15)-1 is amended to read as follows:

"ART. 113 (a) (15)-1. *Basis of property received in complete liquidation of controlled corporation.*—(*a*) *General rule.*—Except as provided in paragraphs (b) and (c) of this article, the basis of property received in complete liquidation, without the recognition of gain or loss as provided in section 112 (b) (6), shall be the same as the basis of the property in the hands of the liquidating corporation, with proper adjustments as provided in section 113. See section 112 (b).

[1] 1 F. R. 1887.

"(*b*) *Exception to General Rule.*—In the case of property received in liquidation after December 31, 1935 and before June 23, 1936, in a taxable year of the recipient corporation beginning after December 31, 1935, the basis of such property in the hands of the recipient corporation shall be the basis prescribed by section 113 (a) (6) of the Revenue Act of 1934, as amended by the Revenue Act of 1935, if—

"(1) Such property was received in a liquidation which was completed before June 23, 1936;

"(2) Such liquidation constituted a complete liquidation within the meaning of section 112 (b) (6) of the Revenue Act of 1934, as added by the Revenue Act of 1935;

"(3) No gain or loss would have been recognized under section 112 (b) (6) of the Revenue Act of 1934, as amended, upon the receipt of such property; and

"(4) The recipient corporation (within 180 days after the enactment of the Revenue Act of 1938) elects under these regulations to have such basis apply to such property.

If such an election is made, the basis of such property received in liquidation shall be the cost or other basis (adjusted as provided in section 113) of the stock of the liquidating corporation surrendered in exchange for the property, decreased in the amount of money received and increased in the amount of gain or decreased in the amount of loss to the recipient corporation that was recognized upon the liquidation under the Revenue Act of 1936. If such property consists of more than one class of property the basis shall be allocated among the several properties (other than money) received, in the proportion that the fair market value of each such property as of the date of distribution bears to the fair market value of all such properties on that date.

"(*c*) *Written election as to basis.*—In order to elect under section 113 (a) (15) of the Revenue Act of 1936, as amended by section 808 of the Revenue Act of 1938, to have the basis provisions of the Revenue Act of 1934, as amended, apply to property received in complete liquidation of a corporation, it is necessary that affirmative action be taken, in the manner prescribed herein, by the corporation entitled to make the election. To be effective, the election must be made with respect to all of the property received in liquidation from the liquidating corporation after December 31, 1935 and before June 23, 1936, in a taxable year of the recipient corporation beginning after December 31, 1935. Failure so to act will not be considered as an election. An election once made under these regulations is irrevocable. A corporation entitled to make the election permitted under section 113 (a) (15) of the Revenue Act of 1936, as amended, shall, within 180 days after May 28, 1938, the date of the enactment of the Revenue Act of 1938, file with the Commissioner of Internal Revenue, Washington, D. C., for the attention of the Income Tax Unit, Records Division, its written election, in duplicate, under oath, on Form 965, signifying such election. Such form shall be executed and filed in accordance with these regulations and the instructions on the form. If prior to filing of the election the recipient corporation has filed its income and excess-profits tax return for any taxable year beginning after December 31, 1935, the election shall be accompanied by an amended return for each such year or by a statement explaining in detail the adjustments to be made in the return for each such year as a result of the election."

This Treasury Decision is prescribed pursuant to the provisions of section 62 of the Revenue Act of 1936.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 18, 1938.
STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1758; Filed, June 21, 1938; 11:18 a. m.]

[T. D. 4816]

INCOME TAX

REGULATIONS RELATING TO RETURNS OF INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 803 (Title V—Miscellaneous Provisions) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, third session), provides:

SEC. 803. RETURNS AS TO FORMATION, ETC., OF FOREIGN CORPORATIONS.

(a) *Requirement.*—Under regulations prescribed by the Commissioner with the approval of the Secretary, any attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who, after the date of the enactment of this Act, aids, assists, counsels, or advises in, or with respect to, the formation, organization, or reorganization of any foreign corporation, shall, within 30 days thereafter, file with the Commissioner a return.

(b) *Form and contents of return.*—Such return shall be in such form, and shall set forth, under oath, in respect of each such corporation, to the full extent of the information within the possession or knowledge or under the control of the person required to file the return, such information as the Commissioner with the approval of the Secretary prescribes by regulations as necessary for carrying out the provisions of the income-tax laws. Nothing in this section shall be construed to require the divulging of privileged communications between attorney and client.

(c) *Penalty.*—Any person required under subsection (a) to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of other penalties provided by law for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than one year, or both.

(c) *Aid, etc., before enactment of Act.*—The provisions of sections 340 and 341 (insofar as it relates to section 340) of the Revenue Act of 1936, added to such Act by section 201 of the Revenue Act of 1937, shall remain in force only with respect to aiding, assisting, counselling, or advising, on or before the date of the enactment of this Act.

PAR. B. Section 806 of Title V of the Revenue Act of 1938 provides:

SEC. 806. ADMINISTRATION OF OATHS OR AFFIRMATIONS.

Any oath or affirmation required or authorized by any internal-revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This section shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

PAR. C. Section 901 (Title VI—General Provisions) of the Revenue Act of 1938 provides in part:

SEC. 901. DEFINITIONS.

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

• • • • • •

(5) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

• • • • • •

(11) The term "Secretary" means the Secretary of the Treasury.

(12) The term "Commissioner" means the Commissioner of Internal Revenue.

Pursuant to the above-quoted provisions and other provisions of the internal-revenue laws, the following regulations are hereby prescribed with respect to returns of information to be filed by attorneys, accountants, fiduciaries, banks, trust companies, financial institutions, or other persons as to the formation, organization, or reorganization of foreign corporations:

ARTICLE 1. *Information returns.*—(a) *General.*—Any attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who, after May 28, 1938, aids, assists, counsels, or advises in, or with respect to, the formation, organization, or reorganization of any foreign corporation shall file with the Commissioner, within 30 days after giving such aid, assistance, counsel, or advice, an information return as provided in section 803 (a) and these regulations. The return must be filed in every such case (1) regardless of the nature of the counsel or advice given, whether for or against the formation, organization, or reorganization of the foreign corporation, or the nature of the aid or assistance rendered and (2) regardless of the action taken upon the advice or counsel, that is, whether

the foreign corporation is actually formed, organized, or reorganized.

If, in a particular case, the aid, assistance, counsel or advice given by any person extends over a period of more than one day and not for more than 30 days, such person, to avoid the multiple filing of returns, may file a single return for the entire period. In such case, the return shall be filed within 30 days from the first day of such period. If, in a particular case, the aid, assistance, counsel or advice given by any person extends over a period of more than 30 days, such person may file a return at the end of each 30 days included within such period and at the end of the fractional part of a 30 day period, if any, extending beyond the last full 30 days. In each such case, the return must disclose all the required information which was not reported on a prior return.

(b) *Special provisions.*—(1) *Employers.*—In the case of aid, assistance, counsel, or advice, in, or with respect to, the formation, organization, or reorganization of a foreign corporation given by a person in whole or in part through the medium of subordinates or employees (including in the case of a corporation the officers thereof), the return of the employer must set forth to the full extent all information prescribed by these regulations including that which, as an incident to such employment, is within the possession or knowledge or under the control of such subordinates or employees.

(2) *Employees.*—The obligation of a subordinate or employee (including in the case of a corporation the officers thereof) to file a return with respect to any aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of a foreign corporation, given as an incident to his employment, will be satisfied if a complete and accurate return as prescribed by these regulations is duly filed by the employer setting forth all of the information within the possession or knowledge or under the control of such subordinate or employee.

Clerks, stenographers, and other subordinates or employees, rendering aid or assistance solely of a clerical or mechanical character in, or with respect to, the formation, organization, or reorganization of a foreign corporation are not required to file returns by reason of such services.

(3) *Partners.*—In the case of aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of a foreign corporation given by one or more members of a partnership in the course of its business, the obligation of each such individual member to file a return will be satisfied if a complete and accurate return, as prescribed by these regulations, is duly filed by the partnership, executed by all the members of the firm who gave any such aid, assistance, counsel, or advice. If, however, the partnership has been dissolved at the time the return is due, individual returns must be filed by each member of the former partnership who gave any such aid, assistance, counsel, or advice.

(4) *Returns, jointly made.*—If two or more persons aid, assist, counsel, or advise in, or with respect to, the formation, organization, or reorganization of a particular foreign corporation, any two or more of such persons may, in lieu of filing several returns, jointly execute and file one return.

(c) *Penalties.*—For criminal penalties for failure to file the returns required by section 803 (a) and these regulations, see section 803 (c) quoted in Paragraph A.

(d) *Information returns and penalties under prior Acts.*—For information returns in the case of aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of any foreign corporation given on or before May 28, 1938, and for criminal penalties for failure to file such returns, see articles 340–1 and 340–2 of Chapter XXXIV added to Regulations 94 by Treasury Decision 4782, approved December 7, 1937[1] (I. R. B. XVI–50, 3 (1937)), and section 803 (d) of the Revenue Act of 1938 quoted in Paragraph A.

ART. 2. *Form of return.*—The returns under article 1 shall be made on Form 959. Such forms may, upon request, be procured from any collector. Each person should carefully prepare his return so as to set forth fully and clearly the information called for therein. Returns which have not been so prepared will not be accepted as meeting the requirements of the Act.

ART. 3. *Contents of returns.*—The return shall, in accordance with the provisions of these regulations and the instructions on the form, set forth the following information to the full extent such information is within the knowledge or possession or under the control of the person required to file the return:

(1) The name and the address of the person (or persons) to whom and the person (or persons) for whom or on whose behalf the aid, assistance, counsel, or advice was given;

(2) A complete statement of the aid, assistance, counsel, or advice given;

(3) Name and address of the foreign corporation and the country under the laws of which it was formed, organized, or reorganized;

(4) The month and year when the foreign corporation was formed, organized, or reorganized;

(5) A statement of how the formation, organization, or reorganization of the foreign corporation was effected;

(6) A complete statement of the reasons for, and the purposes sought to be accomplished by, the formation, organization, or reorganization of the foreign corporation;

(7) A statement showing the classes and kinds of assets transferred to the foreign corporation in connection with its formation, organization, or reorganization, including a detailed list of any stock or securities included in such assets, and a statement showing the names and addresses of the persons who were the owners of such assets immediately prior to the transfer;

(8) The names and addresses of the shareholders of the foreign corporation at the time of the completion of its formation, organization, or reorganization, showing the classes of stock and number of shares held by each;

(9) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation;

(10) Such other information as may be required by the return form; and

(11) Where any of the information required to be furnished is withheld because its character is claimed to be privileged as a communication between attorney and client within the meaning of section 803 (b), the return must so state and must contain a complete statement of the nature and the circumstances of the communication on which a decision as to the propriety of the claim of privilege may be reached.

If a person aids, assists, counsels or advises in, or with respect to, the formation, organization, or reorganization of more than one foreign corporation, a separate return must be filed with respect to each foreign corporation.

ART. 4. *Verification of return.*—All returns required by section 803 (a) and these regulations shall be verified under oath or affirmation. The oath or affirmation may be administered by a person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by a consular officer of the United States. Such returns executed abroad may be attested free of charge before United States consular officers. If a foreign notary or other official having no seal shall act as attesting officer, the authority of such attesting officer shall be certified to by some judicial official or other proper officer having knowledge of the appointment and official character of the attesting officer.

ART. 5. *Place of filing returns.*—Returns required by section 803 (a) of the Revenue Act of 1938 and these regulations shall be filed with the Commissioner of Internal Revenue, Washington, D. C., attention of the Income Tax Unit, Records Division.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 20, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1759; Filed, June 21, 1938; 11:18 a. m.]

[1] 2 F. R. 3213 (DI).

[T. D. 4817]

PROCESSING TAX ON CERTAIN OILS

ARTICLES 1 AND 3, REGULATIONS 48, AMENDED

To Collectors of Internal Revenue and Others Concerned:

In conformity with the provisions of section 703 of the Revenue Act of 1938, Regulations 48, approved August 17, 1934, as amended by Treasury Decision 4695, approved September 11, 1936[1] are further amended as follows:

Immediately following the partial quotation of section 602½ (a) of the Revenue Act of 1934 at the head of Article 1, a new subtitle is inserted reading—

Section 703 of the Revenue Act of 1938

and immediately following such new subtitle there is inserted a quotation of section 703 of the Revenue Act of 1938, which reads as follows:

SEC. 703. *Exemption of palm oil and palm oil residue from processing tax.*—Effective July 1, 1938, section 602½ (a), as amended, of the Revenue Act of 1934 (relating to the processing tax on certain oils) is amended by striking out "but does not include the use of palm oil in the manufacture of tin plate" and inserting in lieu thereof "but does not include the use of palm oil in the manufacture of tin plate or terne plate, or any subsequent use of palm oil residue resulting from the manufacture of tin plate or terne plate."

After the last sentence of subparagraph (m) (4) of Article 1, the following is added:

"In like manner, on and after July 1, 1938, the use of palm oil, by the processor, in the manufacture of terne plate and the use of palm oil residue resulting from the manufacture of tin plate or terne plate, are specifically excepted by the Act."

Subparagraph (c) of Article 3 is changed to read:

"No tax is imposed on the use of palm oil, by the processor, in the manufacture of tin plate, nor, on and after July 1, 1938, on the use of palm oil, by the processor, in the manufacture of terne plate, nor, on and after said date, on the use of palm oil residue resulting from the manufacture of tin plate or terne plate."

These regulations are prescribed under the authority of section 1101 of the Revenue Act of 1926, made applicable by section 602½ (f) of the Revenue Act of 1934.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 20, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1760; Filed, June 21, 1938; 11:18 a. m.]

[1] 1 F. R. 1352.

[T. D. 4818]

FLOOR TAXES ON DISTILLED SPIRITS

To District Supervisors, Collectors of Internal Revenue and Others Concerned:

Joint Resolution H. J. Res. 683 provides:

Resolved, etc., That there shall be levied, assessed, collected, and paid a floor tax of 25 cents on each proof-gallon and a proportionate tax at a like rate on all fractional parts of such proof-gallon upon all distilled spirits, except brandy, produced in or imported into the United States upon which the internal-revenue tax imposed by law has been paid and which, on July 1, 1938, are held by a retail dealer in liquors in a quantity in excess of 250 wine-gallons in the aggregate or by any other person, corporation, partnership, or association in any quantity and which are intended for sale for beverage purposes or for use in the manufacture or production of any article intended for sale for beverage purposes.

Each retail dealer in liquors and each person required hereunder to pay the floor tax shall within 30 days after July 1, 1938, make return under oath in such form and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding 7 months after July 1, 1938, upon the filing of a bond for payment in such form and amount and with such surety or sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

All provisions of law, including penalties, applicable in respect of internal-revenue taxes on distilled spirits shall, insofar as applicable and not inconsistent with this section, be applicable in respect of the floor tax imposed hereunder.

Pursuant to the above quoted resolution the following regulations are prescribed:

1. Each distiller, proprietor of an industrial alcohol plant, bonded warehouse, tax-free warehouse or agency, wholesale dealer in liquors, retail dealer in liquors, rectifier, manufacturer, or any other person, corporation, partnership or association, having on hand on July 1, 1938, tax-paid alcohol or other tax-paid distilled spirits, except brandy and beverages containing brandy without the addition of other spirits, intended for sale for beverage purposes or for use in the manufacture or production of any article intended for sale for beverage purposes, shall before the beginning of business on that date make an inventory of all such distilled spirits. Distilled spirits in stamped containers of one gallon or less shall be presumed to be held for sale for beverage purposes.

2. The inventory shall be prepared in triplicate on sheets of paper not larger than 10½ x 16 inches to be furnished by the taxpayer. The distilled spirits shall be listed separately by kinds showing the wine gallons, proof and proof gallons. In the case of original packages and unbroken cases of bottled spirits, the serial numbers of the packages and cases, and the name of the distiller, rectifier, importer, or bottler of the spirits shall also be shown. The size of the bottles contained in the cases, must also be stated. Where bottled distilled spirits have been removed from the original cases, the number of bottles of each size containing spirits of the same kind and proof shall be listed as separate items, showing the wine gallons, proof, and proof gallons.

Spirits in process of rectification and in bottling or storage tanks shall be measured and proofed and the wine gallons, proof, and proof gallon content of each tank reported separately on the inventory. The number and kind of receptacle containing the spirits should also be shown.

Storekeeper-gaugers assigned to distilleries, industrial alcohol plants, bonded warehouses, rectifying plants, tax-paid bottling houses, etc., shall verify the inventories and certify thereon as to the correctness thereof. Where practicable, District Supervisors will assign inspectors or storekeeper-gaugers to verify and certify inventories made by other persons having large quantities of spirits subject to the floor tax.

3. The inventory shall show separately all tax-paid spirits not on the premises of the taxpayer but owned by him and stored elsewhere, or consigned direct to him and in transit on July 1, 1938, giving the name of the consignor. Any spirits which have been consigned to other persons by the person making the inventory and the title thereto has not been transferred to the consignee shall also be included by the person making the inventory, giving the name of the consignee.

Where tax-paid distilled spirits are consigned by the shipper to his own order with instructions on the shipping tag to notify the person named thereon, who is a bona fide purchaser, and bill of lading is indorsed in good faith to the person named on the shipping tag and draft attached for the sum due, and bill of lading with draft attached is sent to a bank or other collection agency for collection, the purchaser only is liable for the floor tax and shall include such spirits in his inventory.

If tax-paid distilled spirits are shipped under bills of lading in which the shipper is named as consignee and the bills of lading are not indorsed or are indorsed in blank, the spirits will be presumed to be the property of the shipper held for sale and the shipper shall inventory such spirits.

In cases where tax-paid distilled spirits are not accepted or delivered, and title has not passed to the consignee, the floor tax shall be due from the shipper, who must include such spirits in his inventory.

4. A list to be attached to the return shall be prepared, in triplicate, of all tax-paid distilled spirits held for sale or for use for non-beverage purposes, showing all information required under Para-

graphs 2 and 3. At the time of taking the inventory there shall be securely affixed to each container in possession of the owner a label showing the name and address of the owner and that the spirits are for non-beverage purposes and are not subject to the floor tax under Res. 683. Such label shall also be attached to spirits in transit or in the custody of any other person upon receipt thereof by the owner.

5. An exemption of 250 wine gallons is allowed to each retail dealer in liquors. The items selected for this exemption shall be shown separately on the inventory. Each such dealer shall prepare an inventory and make return regardless of whether the quantity of spirits on hand on July 1, 1938 is more or less than 250 wine gallons. A retail dealer in liquors operating more than one retail establishment is allowed the exemption for each such establishment.

6. The term distilled spirits shall include, among others, the following which are subject to the floor tax when intended for sale for beverage purposes or for use in the manufacture or production of any article intended for sale for beverage purposes:

(a) Alcohol.
(b) Spirits-Grain, Spirits-Cane and Spirits-Fruit.
(c) Whiskey, rum and gin (rectified and unrectified).
(d) Vermouth containing distilled spirits other than brandy.
(e) Cocktails containing distilled spirits other than brandy.
(f) Liqueurs, cordials and similar compounds containing distilled spirits other than brandy.

7. The following spirits are not subject to the floor tax:

(a) Untax-paid distilled spirits in bond or in customs custody.
(b) Distilled spirits or products made from distilled spirits which are not intended for sale for beverage purposes or for use in the manufacture or production of any article intended for sale for beverage purposes.
(c) Brandy (rectified and unrectified).
(d) Vermouth made with a wine or brandy base without the addition of other distilled spirits.
(e) Cocktails made with a wine or brandy base without the addition of other distilled spirits.
(f) Liqueurs, cordials and similar compounds made with a wine or brandy base, to which no other distilled spirits were added in the process of manufacture.

8. Each person designated in Paragraph 1, and each retail dealer in liquors whether or not he is required to pay tax, shall make return on Form 758 (Revised 1938), in triplicate, for each place of business in accordance with the instructions thereon. The original and duplicate copies must be filed with the Collector of Internal Revenue of the district in which the taxpayer's business is located on or before July 31, 1938. The triplicate copy will be retained at the location covered by the return. A copy of the inventory and/or list must be attached to each copy of Form 758.

9. The floor tax shown by the return to be due shall be paid to the Collector of Internal Revenue at the time the return is filed, except that the time for payment of this tax may be extended to a date not exceeding seven months after July 1, 1938, upon the filing of a bond on Form 723A or 723C, in triplicate, as the case may be, in a penal sum of not less than the amount of tax, including penalties and interest due, if any, and with such surety or surities as the Commissioner of Internal Revenue, with the approval of the Secretary, may prescribe.

10. After the returns have been received and the tax has been entered on the Assessment lists, Collectors of Internal Revenue will forward the duplicates to the appropriate District Supervisor for inspection and audit.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 20, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1761; Filed, June 21, 1938; 11:19 a. m.]

TITLE 29—LABOR

UNITED STATES EMPLOYMENT SERVICE

RULES AND REGULATIONS RELATING TO THE COOPERATION OF THE UNITED STATES EMPLOYMENT SERVICE AND STATES IN ESTABLISHING AND MAINTAINING A NATIONAL SYSTEM OF PUBLIC EMPLOYMENT OFFICES *#

JUNE 18, 1938.

CONTENTS

Sec.
1. Definitions.
2. Documents to be furnished by a State.
3. Approval of State plans.
4. Administration of State Service.
5. (a) Fiscal control and reports.
(b) Audits.
6. Name of State Service.
7. Selection and tenure of personnel of State Service.
8. (a) Statistics.
(b) Responsibility for conduct of reporting program.
9. Research.
10. Veterans' Placement Service.
11. Farm Placement Service.
12. Affiliated employment agencies.
13. Interstate clearance of workers.
14. Notice of strikes and lockouts.
15. Free transmission of official mail.
16. Amendments, supplements, repeals.
17. Effective date.

* Sections 1 through 17 issued under authority contained in Sec. 12, 48 Stat. 117; 29 U. S. C. 49K.

\# The source of sections 1 through 17 in this part is the rules and regulations prescribed on June 7, 1937, by the Director of the United States Employment Service, with the approval of the Secretary of Labor, 2 F. R. 986.

SEC. 1. *Definitions.*—In these rules and regulations the following words shall, unless otherwise stated, be considered as having the meaning herein defined:

(a) *Federal Service.*—The term "Federal Service" means the United States Employment Service;

(b) *Designated Agency.* — The term "Designated Agency" means that agency designated by the State law to cooperate with the United States Employment Service;

(c) *State Administrative Agency.* — The term "State Administrative Agency" means the department or agency of the State Government within which the State Employment Service is included as a part;

(d) *State Service.*—The term "State Service" means a State Employment Service;

(e) *Federal Director.*—The term "Federal Director" means the Director of the United States Employment Service, Washington, District of Columbia;

(f) *State Director.*—The term "State Director" means the Administrative Head of the State Employment Service;

(g) *Official forms.*—The term "Official forms" means forms prescribed by the United States Employment Service;

(h) *Wagner-Peyser Act.*—The term "Wagner-Peyser Act" means the Federal Act of June 6, 1933, as amended, (*; 48 Stat. 113); 29 U. S. C. 49, et seq.) [Rule 1, #].

SEC. 2. *Documents to be furnished by a State.*—Each designated State agency shall submit through and with the approval of the State Administrative Agency the following documents to the Federal Director;

(a) A certified copy of the Act of the State legislature accepting the provisions of the Wagner-Peyser Act, if changed since the date of previous certification thereof;

(b) Certified statements on official forms of all amounts of State and local funds appropriated or otherwise made available for expenditure for the operation of the State Service. The certificates shall be signed by the State Treasurer, or by the Treasurer of the local subdivision or by the proper custodian of the available funds;

(c) State plans of cooperation which shall include the following information and data:

(1) A statement of acceptance of these rules and regulations by the State Administrative Agency and the Designated State Agency;

(2) A statement of the organization of the State Service, showing—

(i) Of what department or agency of State Government the State Service is a part;

(ii) The line of administrative authority from the State Administrative Agency to the State Director;

(iii) The delegation of responsibility and lines of authority expected to be followed within the State Service during the period covered by the plans;

(3) Such organization charts as will accurately present the form of organization and the lines of authority and responsibility;

(4) The designation of that official or agency having legal authority to make appointments of personnel in the State Service as defined in State law, or as properly delegated in accordance with State law;

(5) The statement of the location of, and area served by, all existing and proposed offices of the entire public employment service system of the State;

(6) A statement of the total estimated available funds, and of the total estimated expenditure by offices of the State Service, during the period covered by the plans;

(7) Provision for cooperation between the State board, department or agency which is charged with the administration of State laws for vocational rehabilitation of physically handicapped persons and the State Service (in each State where such a State board, department or agency exists). (*; Sec. 8, 48 Stat. 115; 29 U. S. C. 499.) [Rule 2, #.]

SEC. 3. *Approval of State plans.*—Notice of approval by the Federal Director of the plans as submitted shall be in the form of an "Agreement of Affiliation" between the State Administrative Agency and the Federal Service, which agreement shall incorporate the complete statement of such plans. (*; Sec. 8, 48 Stat. 116; 29 U. S. C. 49g.) [Rule 3, #.]

SEC. 4. *Administration of State Service.*—Each State Service shall be under the direction of a State Director, who shall devote his full time to the activities of such service. These rules and regulations shall be applied uniformly in the administration of the State Service. (*; Sec. 3 (a), 48 Stat. 114; 29 U. S. C. 49b (a).) [Rule 4, #.]

SEC. 5. (a) *Fiscal control and reports.*—Fiscal control, preparation of budgets, maintenance of accounts and quarterly reports of expenditures, for the State Service shall be conducted in accordance with the Bulletin of the Federal Service, entitled "Fiscal Rules and Regulations for State Employment Services affiliated with the United States Employment Service and aided by grants from both the United States Employment Service and the Social Security Board. Employment Office Manual, Series M. Revised."

(b) *Audits.*—The accounting records and the supporting data pertaining to expenditures for the State Service shall be subject to audit by the Federal Service annually, or so often as the Federal Director may require. (*; Sec. 9, 48 Stat. 116; 29 U. S. C. 49h.) [Rule 5, #.]

SEC. 6. *Name of State Service.*—The official name of the State Service shall be "---------- State Employment Service affiliated with the United States Employment Service," and this name shall be used on all official signs, official stationery, and official documents used in connection with the State Service. (*; Sec. 3, 48 Stat. 114; 29 U. S. C. 49b.) [Rule 6, #.]

SEC. 7. *Selection and tenure of personnel of State Service.*—Unless there is application of State Civil Service Laws to the personnel of the State Service, such personnel shall be selected and shall hold office in accordance with the Merit System established by the State Administrative Agency and approved by the Federal Director; in the absence of the application both of such Civil Service Law and of such approved State Merit System established by the State Administrative Agency, then, such personnel shall be selected and shall hold office in accordance with the Merit System of the Federal Service as provided in the Bulletin of the Federal Service entitled, "Personnel Standards of the United States Employment Service." (*; Sec. 3, 48 Stat. 114; 29 U. S. C. 49b) [Rule 6, #.]

SEC. 8. (a) *Statistics.*—Each State Administrative Agency shall report to the Federal Service current activities in accordance with the definitions and procedures as set forth in the Manual of the Federal Service entitled, "Preparation of Reports of Activities in Public Employment Offices."

(b) *Responsibility for conduct of reporting program.*—A member of the administrative staff of each State Service shall be charged with responsibility for the supervision of the reporting program in all offices of the State Service, and in each employment office a qualified member of the staff shall be charged with responsibility for administration of the reporting program. (*; Sec. 3 (a) and Sec. 9, 48 Stat. 114, 116; 29 U. S. C. 49b and 49h.) [Rule 7, #.]

SEC. 9. *Research.*—All research projects for the State Service which may involve the expenditure of Federal funds or of State funds made available for the State Service, shall be referred by the State Administrative Agency to the Federal Service for approval before incorporation in the program of the State Service. (*; Sec. 3 (a) and Sec. 9, 48 Stat. 114, 116; 29 U. S. C. 49b and 49h.) [Rule 7, #.]

SEC. 10. *Veterans' Placement Service.*—The State Administrative Agency shall be responsible for the maintenance by the State Service of a veterans' service to be devoted to securing employment for veterans. For that purpose the State Service shall utilize as a member of its administrative staff, the State Veterans' Placement Representative of the Federal Service in the performance of the duties outlined in the "Guide for the Directors of State Employment Service and Veterans' Placement Representatives." Each State Service shall incorporate and coordinate the Veterans' Placement Service in all operating offices of its system. (*; Sec. 3 (a), 48 Stat. 114; 29 U. S. C. 49b.) [Rule 8, #.]

SEC. 11. *Farm Placement Service.*—The State Administrative Agency shall be responsible for the maintenance by the State Service of a farm placement service. For that purpose the State Service shall utilize as a member of its administrative staff the service of the State Farm Placement Supervisor (in those States where such supervisors have been appointed by the Federal Service), in the performance of his duties. Each State Service shall incorporate and coordinate the Farm Placement Service in all operating offices of its system. (*; Sec. 3 (a), 48 Stat. 114; 29 U. S. C. 49b.) [Rule 9, #.]

SEC. 12. *Affiliated employment agencies.*—A municipal, junior, or other public employment agency may be affiliated with a State Service, at the discretion of the State Administrative Agency, and with the concurrence of the Federal Director, only if such municipal, junior, or other employment agency:

(a) Is supported in whole or in part by funds made available by an agency of the State, or by a local subdivision;
(b) Is administered by a public board or agency;
(c) Accepts no fees for its services;
(d) Does not duplicate the service provided by an office of the State Service;
(e) Employs one or more workers giving full time to placement work, or to employment counseling;
(f) Maintains its activities for the entire twelve months of the year;
(g) Becomes by agreement of affiliation with the State Service a part of the State-controlled system of public employment offices. (*; Sec. 5 (a), 48 Stat. 114; 29 U. S. C. 49d.) [Rule 10, #.]

SEC. 13. *Interstate clearance of workers.*—Provision shall be made in each State for the interstate clearance of workers and of unfilled openings. (*; Sec. 3 (a), 48 Stat. 114; 29 U. S. C. 49b.) [Rule 11, #.]

SEC. 14. *Notice of strikes and lockouts.*—Each State Service shall give notice of strikes and lockouts in accordance with the instructions entitled "Procedure for Giving Effect to the Provision of the Wagner-Peyser Act Regarding Strikes or Lockouts." (*; Sec. 11 (b),

48 Stat. 117; 29 U. S. C. 49j.) [Rule 12, #.]

SEC. 15. *Free transmission of official mail.*—It shall be the duty of each State Service, which becomes entitled to free transmission of official mail matter, to see that all offices of its system exercise that privilege subject to the requirements of law and of the regulations of the Post Office Department as well as subject to the rules of the Federal Service as stated in "Use of the Penalty Mailing Privilege by State Employment Services Affiliated with United States Employment Service." (*; Sec. 13, 48 Stat. 117; 29 U. S. C. 49c.) [Rule 13, #.]

SEC. 16. *Amendments, supplements, repeals.*—The foregoing rules and regulations may from time to time be amended, supplemented, or repealed by appropriate orders isued by the Director of the United States Employment Service, with approval of the Secretary of Labor. *[The above section occurred in the Rules and Regulations prescribed by the Director of the United States Employment Service with approval of the Secretary of Labor on June 8, 1937, but it did not have a Rule No.]

SEC. 17. *Effective date.*—The foregoing rules and regulations become effective on July 1, 1938, and supersede the rules and regulations prescribed by the Director of the United States Employment Service, with the approval of the Secretary of Labor, on June 7, 1937, 2 F. R. 986.*

[SEAL] W. FRANK PERSONS,
Director of the United States Employment Service.

Approved,

C. V. MCLAUGHLIN,
Acting Secretary of Labor.

[F. R. Doc. 38-1748; Filed, June 20, 1938; 12:18 p. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

ADOPTION OF RULE X-AN24

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Section 3 (a) (12) thereof, adopts the following rule:

SEC. 10. X-AN24 (*Rule X-AN24*). *Exemption of Certain Securities from Section 16* (c).—

Any security shall be exempt from the operation of Section 16 (c)[1] to the extent necessary to render lawful under such section the execution by a broker of an order for an account in which he has no direct or indirect interest. (C. 404, sec. 3, 48 Stat. 882; 15 U. S. C. 78c.) [Rules and Regs., Rule X-AN24, effective June 18, 1938.]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1764; Filed, June 21, 1938; 12:47 p. m.]

[1] C. 404, sec. 16, 48 Stat. 896; 15 U. S. C. 78p.

Notices

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 266]

AMENDMENT OF PRIOR ALLOCATION OF FUNDS FOR LOANS

JUNE 17, 1938.

I hereby amend Administrative Order No. 80[1] by reducing the amount of the allocation to Michigan 37 Huron from $1,700,000 to $1,650,000 and, by virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, by allocating the sum of $50,000 to Michigan 37W2 Huron.

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-1754; Filed, June 21, 1938; 9:53 a. m.]

[1] 2 F. R. 777 (DI).

Reference

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

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Washington, Thursday, June 23, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 95]

FEDERAL LAND BANK OF BERKELEY

FEES SCHEDULE

Under authority of the Executive Committee of The Federal Land Bank of Berkeley, with the approval of the Board of Directors, the following schedules of fees are in effect May 24, 1938 in connection with the business of The Federal Land Bank of Berkeley and the Federal Land Bank of Berkeley as Agent of the Land Bank Commissioner in the Eleventh Farm Credit District:

Application Appraisal Fees

[All types of loans]

Up to and including $15,000	$15.00
$15,500 to $20,000	20.00
$20,500 to $25,000	25.00
$25,500 to $30,000	30.00
$30,500 to $35,000	35.00
$35,500 to $40,000	40.00
$40,500 to $45,000	45.00
$45,500 to $57,500	50.00

For increased loans in active Class 1 and 2 associations, fee collected on basis of amount of increase only. However, if unpaid balance of loan plus increased amount applied for exceeds $25,000, necessitating two appraisals or more, Bank collects twice amount of apraisal fee based on amount of increase.

If association endorsing old loan is in Class 3 or 4, or is inactive, and increased loan is applied for, the unpaid balance will be refunded by new loan closed through Class 1 or 2 association or direct. In such case fee collected is based on full amount, that is, the unpaid balance of the old loan to be refunded and the increased loan desired.

Bank Loan Fees

Closing and title determination fees collected for land bank, joint, direct and Commissioner loans:

Effective July 16, 1937:
Up to and including $2,000 ..... $5.00
Over $2,000 ..... 5.00
plus 30 cents per hundred dollars in excess of $2,000.
For joint loans an additional fee of $5.00 is charged.

Applications filed prior to July 16, 1937:
Up to and including $1,000 ..... $10.00
Over $1,000 ..... 10.00
plus 30 cents for each additional $100.00.
Appraisal fees are credited to loan closing fees.
For joint loans, fee is charged on each loan separately, crediting appraisal fee to land bank loan.

Direct Loans

In addition to the above closing fee, 1 per cent of amount of loan closed.

For increased direct loan, preliminary and closed loan fees are collected on the basis of amount of increase only.

Personal Risk Investigation Fees

Investigation of applicant made by this Bank at request of other Federal land banks	$7.50
Investigation of applicants for loans through facilities of other Federal land banks for this bank, in addition to appraisal fee	$7.50
Investigation of non-resident applicants applying for loans in 11th District, in addition to application fee	$7.50

Inspection Fee

If loan funds are used for buildings or improvements, necessitating appraiser's inspection upon completion, fee charged $7.50

Reappraisal Fee

A reappraisal fee equal to the original application appraisal fee is charged when a reappraisal is requested from sources outside of the Federal land bank system.

Partial Release Fees

Selling portion of farm; construction of highway across farm; selling water rights; removing trees or timber, gravel or buildings from mortgaged land; easements for rights of way; minerals subordinations, fee to accompany application

Direct land bank loans and Land Bank Commissioner loans	$15.00
Land Bank or joint loans through associations	$20.00

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Farm Credit Administration: Page
Federal Land Bank of Berkeley, fees schedule 1473
TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Normal yield; eligibility for payment, abandonment and crop deficiency for farms in Puerto Rico 1474
Sugar quotas for Puerto Rico, 1938 1474
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, basis of property acquired after December 31, 1917, by a corporation in connection with a reorganization 1477
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
Bureau of Marine Inspection and Navigation:
Line dividing high seas from rivers, harbors, inland waters; amendment 1478
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
A. Johnston, etc., v. Atchison, Topeka & Santa Fe Railway Co., et al., effective date of order postponed 1478
TITLE 50 — UNEMPLOYMENT AND OLD AGE BENEFITS:
Railroad Retirement Board:
Railroad Retirement Act of 1937, regulations 1478

NOTICES

Department of Agriculture:
Bureau of Animal Industry:
Notices under Packers and Stockyards Act:
Holdrege Livestock Sales Co. (Roy M. Strong) 1503

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Department of Agriculture—Con.
Bureau of Animal Industry—Continued.
Notices under Packers and Stockyards Act—Contd.
Lapeer Stockyards (St. Johns Stockyards Co.) - 1503
Federal Power Commission:
Twin State Gas and Electric Corp., hearing postponed - 1503
Interstate Commerce Commission:
Motor carrier rates in central territory - 1503
Securities and Exchange Commission:
Teck-Hughes Gold Mines, Ltd., withdrawal from listing and registration - 1504
Utilities Power & Light Corp. (Protective Committee Preferred Stockholders), hearing - 1504

Partial release application filed simultaneously with new loan application, both application and partial release fees charged.

Release or partial release of Commissioner chattel mortgage, if appraiser's inspection is necessary - $15.00

Return Fees

Bank appraisal fee if application is rejected before appraisal.

Non-resident personal investigation fee of $7.50, if investigation is unnecessary.

Partial releases, easements or subordinations appraisal fees are returned if appraisal deemed by Bank to be unnecessary, or if application is rejected before appraisal.

Conversion Fees

For loans closed after March 16, 1936, one-half of 1 per cent of the amount of direct loan closed collected by the Bank when the loan is closed.

For loans closed prior to March 16, 1936, fee of $5.00 or ¼ of 1 per cent of unpaid amount of indebtedness, whichever fee is greater, provided the amount of fee collected shall not exceed 1 per cent of the unpaid indebtedness.

Transfer Fees

Active associations	$2.50
Inactive or liquidated assocations	5.00
Direct loans	5.00

Insurance Fire Loss Fees

Fire Loss:	Fee
Up to $50	$
$51 to $499	2.50
$500 to $999	5.00
$1,000 and over	10.00

If buildings are not replaced and fire loss funds are applied by the Bank to reduce or protect loan, no fee is charged.

Liquidation or Prepayment Fees

For land bank loans less than five years, prepayment in excess of 20 per cent of original loan during any single year, including partial release payment on principal, ½ of 1 percent per annum is charged on unexpired portion of first five-year period computed on the amount of the additional principal payment made by the borrower.

Reamortization Fees

Land bank, joint and Commissioner loans	$7.50

Foreclosure Attorney's Fees

California:	
If case is handled by attorney not on Bank's staff,	
Balance of loan plus delinquencies under $5000	$100.00
Balance of loan plus delinquencies over $5000	$200.00
Arizona, Utah and Nevada:	
$1000 to $1400	$50.00
$1500 to $2400	62.50
$2500 to $3400	75.00
$3500 to $4400	87.50
$4500 to $5400	100.00
$5500 to $6400	112.50
$6500 to $8400	137.50
$8500 to $10,000	150.00

[SEAL] FEDERAL LAND BANK OF BERKELEY,
By JOHN W. LAWTON,
Assistant Secretary.

[F. R. Doc. 38-1767; Filed, June 22, 1938; 12:09 p. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF NORMAL YIELD OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE AND ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN PUERTO RICO

Pursuant to the provisions of Section 303 of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine:

I

1. That for any farm on which sugarcane was grown and marketed (or processed by the producer) for the extraction of sugar during all three of the 1934–35, 1935–36, and 1936–37 crop years, the normal yield of commercially recoverable sugar per acre shall be the product of:

(a) the average number of hundredweights of sugar, raw value, recovered per short ton of sugarcane processed during such crop years for the extraction of sugar by the mill, or mills, where such sugarcane was ground, and

(b) the average number of short tons of sugarcane per acre harvested on the farm for the extraction of sugar during the said three crop years.

2. That for any farm on which sugarcane was not grown and marketed (or processed by the producer) for the extraction of sugar during all three of the 1934–35, 1935–36, and 1936–37 crop years, the normal yield of commercially recoverable sugar per acre shall be the average of such yields for all farms, within the same municipality, on which sugarcane was harvested for the extraction of sugar during all three of the 1934–35, 1935–36 and 1936–37 crop years.

II

That any farm located in a municipality in which the actual yields of commercially recoverable sugar per acre for farms comprising 10 per cent or more of the total acreage of sugarcane for the extraction of sugar were 80 per cent, or less, of the normal yields therefor, because of drought, flood, storm, freeze, diseases, or insects, shall be eligible for abandonment and deficiency payments, pursuant to section 303 of the said act.

Done at Washington, D. C. this 21st day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1770; Filed, June 22, 1938; 12:18 p. m.]

DECISION AND ORDER OF SECRETARY OF AGRICULTURE ALLOTTING THE 1938 SUGAR QUOTAS FOR PUERTO RICO

General Sugar Quota Regulations, Series 5, No. 1, Rev. 1, issued by the Secretary of Agriculture on June 9, 1938,[1] pursuant to the Sugar Act of 1937 (hereinafter referred to as the "act"), establish a 1938 sugar quota for Puerto Rico for the continental United States of 809,649 short tons, raw value.[2] General Sugar Quota Regulations, Series 5, No. 2, issued by the Secretary of Agriculture on December 28, 1937,[3] establish a 1938 sugar quota for Puerto Rico for local consumption of 73,851 short tons, raw value.

Under the provisions of section 205 (a) of the act, the Secretary is required to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for any area. Section 205 (a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulations prescribe. On December 31, 1937, the Secretary, pursuant to General Sugar Regulations, Series 2, No. 2,[4] issued a notice of a public hearing to be held in Washington, D. C., on January 14, 1938,[5] for the purpose of receiving evidence to enable him to make a fair, efficient, and equitable distribution of the 1938 Puerto Rican sugar quotas among interested persons and such other evidence as might be pertinent to the exercise of the powers vested in the Secretary under section 205 (a) of the act.

Section 205 (a) of the act requires a preliminary finding of the Secretary as a condition precedent to the calling of a hearing. The Notice of Hearing and Designation of Presiding Officers issued by the Secretary on December 31, 1937, provided in part as follows:

"Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of the 1938 sugar quota for Puerto Rico for shipment to the continental United States (including the portion which may be filled by direct-consumption sugar, pursuant to section 207 (b) of said act) and the 1938 sugar quota for Puerto Rico for local consumption, established pursuant to sections 202 and 203, respectively, of the said act is necessary to prevent disorderly marketing and importation of such sugar * * *."

The preliminary finding was based upon information which the Secretary had to the effect that, for the calendar year 1938, Puerto Rican processors have an apparent excess of supplies over quota requirements of approximately 244,000 short tons of sugar.

The hearing was held in Washington, D. C., on the date specified in the notice. The evidence presented at that hearing was found inadequate to enable the Secretary to make a fair, efficient, and equitable distribution of the 1938 United States sugar quota for Puerto Rico and the 1938 Puerto Rican sugar quota for local consumption. Accordingly, on April 26, 1938, the Secretary issued a notice of a public hearing to be held in Washington, D. C., on May 3, 1938,[6] for the purpose, among others, of receiving additional evidence to enable him to make a fair, efficient, and equitable distribution of such quotas. The notice of the hearing also contained a confirmation by the Secretary of his prior finding of December 31, 1937, to the effect that the allotment of the 1938 quotas for Puerto Rico is necessary to prevent the disorderly marketing and importation of sugar. The hearing was held on May 3, as specified in the notice, and was concluded on May 4.

The evidence presented at the hearing of May 3 indicated that the preliminary finding of the Secretary regarding the necessity for allotment of the quotas should be confirmed. Such evidence (p. 117 of the record) indicated that, for the calendar year 1938, there would be available for market in Puerto Rico approximately 1,137,000 short tons of sugar, consisting of 137,000 short tons of sugar in stocks carried over from prior years, and an estimated out-turn of the 1938 crop of approximately 1,000,000 tons. Since the quota requirements for 1938, both for the continental United States and for local consumption, are 883,500 short tons, raw value, Puerto Rican processors will have available for market an excess of supplies over quota requirements of approximately 253,000 short tons of sugar. Under these conditions, it is concluded that, without allotment of these quotas, disorderly marketing of sugar will result.

Section 205 of the act provides in part that:

> Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; or the ability of such person to market or import that portion of such quota or proration thereof allotted to him.

Under section 302 (a) of the act the Secretary is required to fix proportionate shares of sugar beets or sugarcane for farms in each domestic sugar-producing area on the basis of which payments authorized in title III of the act are to be made. The proportionate share for a farm represents a share of the quantity of sugar beets or sugarcane for the extraction of sugar required to be processed to enable the producing area in which the farm is located to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for the calendar year during which the larger part of the sugar from the crop of sugar beets or sugarcane normally would be marketed. Section 301 of the act provides, as a condition of payment, that there shall not be marketed (or processed) an amount of sugar beets or sugarcane grown on the farm and used for the extraction of sugar in excess of the proportionate share for the farm.[7]

"Marketing allotments" made to Puerto Rican producers of sugarcane under the Jones-Costigan Act are equivalent to "proportionate shares" made to such producers under the present act. These marketing allotments for the calendar year 1936 were obtained as follows:

(a) A marketing allotment for each mill area was first computed on the basis of the average sugar production in such area during the years 1931, 1932, and 1934, adjusted to the estimated Puerto Rican sugar quota for 1936; and

(b) The base production of each producer was adjusted to the marketing allotment for the mill area in which the producer was located.

The base production of each producer, adjusted to the marketing allotment for the mill area in which he was located, became the producer's 1936 marketing allotment.

The 1936 marketing allotment of the processor was equal to the sum of the 1936 marketing allotments of individual growers whose sugarcane was ground by the processor in 1936.[8] These marketing allotments to processors were approved and ratified by the Congress in Public Resolution No. 109, approved June 19, 1936, which amended the Jones-Costigan Act.

Public Resolution No. 109 further provided that the Secretary might allot any sugar quota on the basis of prior allotments made under the Jones-Costigan Act. Accordingly, allotment of the 1937 Puerto Rican sugar quota was made on the basis of the 1937 marketing allotments[9] to individual growers, and such individual growers' allotments were computed by adjusting the 1936 marketing allotments of individual growers to the 1937 sugar quota.

In view of the intention of Congress to hold the marketings of sugar beets and sugarcane for sugar within the limits of quota requirements, as expressed in title

[1] 3 F. R. 1389 (DI).

[2] These regulations also provide that 126.033 short tons, raw value, of this quota may be filled by direct-consumption sugar, the allotment of which was made in Puerto Rico Sugar Order No. 11, issued June 1, 1938. 3 F. R. 1279 (DI).

[3] 2 F. R. 3439 (DI).

[4] 2 F. R. 2200 (DI).

[5] 3 F. R. 2 (DI).

[6] 3 F. R. 973 (DI).

[7] Section 301 (e) of the act provides that this condition shall not apply to the first crop harvested after the enactment of the act. Hence the condition is not applicable to the 1938 crop in Puerto Rico.

[8] The marketing allotments made to processors by this method resulted in allotments practically identical with those that would have been made had the allotments been based on the marketings of processors during the years 1931, 1932, and 1934. The maximum variation amounted to 0.619% and the minimum variation amounted to 0.002%. In the majority of cases the variation was less than 0.1 of 1%.

[9] Since no payments were made with respect to the 1937 crop of sugarcane in Puerto Rico, the allotments were made solely for purpose of computing allotments to processors.

III of the act, and in view of the further fact that allotments to processors for the past two years under similar legislation have been made on the basis of marketing allotments to producers, it is concluded that, in order to provide a fair, efficient, and equitable distribution of the quotas for Puerto Rico, allotments should be made on the basis of the first standard stated in the act, namely, the processings of sugar from sugarcane to which proportionate shares, determined pursuant to section 302 of the act, pertain.

The use of either or both of the other two standards given in the act (except insofar as "past marketings" are reflected in the determination of proportionate shares), namely, "past marketings" and "ability * * * to market", would not provide a fair, efficient, and equitable distribution of the quotas, since allotments resulting therefrom would not protect the interest of individual producers of sugarcane in Puerto Rico.[10] It is believed that the act contemplates the allotment of the quota which will be fair and equitable to producers of sugar beets and sugarcane, as well as those who market the sugar made therefrom. If allotments were made on any basis other than that proposed, individual producers in Puerto Rico would have no assurance that they would be able to market the entire amount of their proportionate shares.

At the time of the issuance of the notice of the hearing of May 3, all interested persons were furnished with proposed allotments (Government Exhibits 1 and 8) based upon the determination of proportionate shares for the 1938 crop of sugarcane in Puerto Rico, which determination was issued by the Secretary on January 11, 1938 (Government Exhibit No. 14). The proposed allotment of each processor represented the sum of the proportionate share made to the processor as producer plus the proportionate shares to individual producers whose 1938 crop the processor has agreed to grind. The proposed allotments were based upon contracts for grinding made by processors up to April 6, 1938. At the hearing of May 3, however, there was introduced in evidence the sum of the proportionate shares of sugarcane which processors had contracted to grind up to April 30, 1938 (Government Exhibit No. 11). The total includes also any proportionate share established for the processor under the Secretary's determination.

The evidence presented at the hearing shows that on April 30, 1938, Puerto Rican processors had commitments for grinding proportionate shares of sugarcane of the 1938 crop (including administration sugarcane) in the following amounts (Government Exhibit 11):

Processors:	*Summation of 1938 Proportionate Shares*
Aguirre (3 mills)	108,082
Cambalache	44,654
Canovanes	34,315
Carmen	16,468
Coloso	37,386
Constancia-Toa	23,653
El Ejemplo	14,124
Eureka	15,107
Fajardo	66,115
Guanica	103,627
Guamani	12,220
Herminia	2,126
Igualdad	17,968
Juanita	22,043
Lafayette	32,107
Plazuela and Los Canos	42,213
Monserrate	13,116
Pellejas	2,817
Plata	13,331
Playa Grande	8,205
Rochelaise	9,791
Roig	29,250
Rufina	30,367
San Vicente	36,823
Santa Barbara	2,881
Soller	7,452
Vannina	16,765
Victoria	18,333
Eastern Sugar Associates	93,849
San Francisco	6,435
Caribe	7,047
Constancia-Ponce	8,441
Mercedita	37,786
Boca Chica	16,387
Total	951,284
Reserve for future allotment	2,594
	953,878

The reserve for future allotment represents proportionate shares which on April 30, 1938, were not under contract for grinding. The total of the proportionate shares of 953,878 short tons of sugar represents the amount of sugar which the Secretary estimated to be necessary to enable Puerto Rico to meet its 1938 quota and provide a normal carry-over inventory (Government Exhibit No. 13).

On the basis of the record of the hearings, I hereby find:

1. That for the calendar year 1938 Puerto Rican processors of sugar will have available for market 1,137,000 short tons of sugar.

2. That for the calendar year 1938 Puerto Rican processors of sugar will have supplies in excess of quota requirements of 253,000 short tons of sugar.

3. That as of April 30, 1938, Puerto Rican processors had commitments to grind proportionate shares of sugarcane of the 1938 crop in the following amounts:

Processors:	*Summation of 1938 Proportionate Shares*
Aguirre (3 mills)	108,082
Cambalache	44,654
Canovanas	34,315
Carmen	16,468
Coloso	37,386
Constancia-Toa	23,653
El Ejemplo	14,124
Eureka	15,107
Fajardo	66,115
Guanica	103,627
Guamani	12,220
Herminia	2,126
Igualdad	17,968
Juanita	22,043
Lafayette	32,107
Plazuela and Los Canos	42,213
Monserrate	13,116
Pellejas	2,817
Plata	13,331
Playa Grande	8,205
Rochelaise	9,791
Roig	29,250
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Eastern Sugar Associates	93,849
San Francisco	6,435
Caribe	7,047
Constancia-Ponce	8,441
Mercedita	37,786
Boca Chica	16,387
Total	951,284
Reserve for future allotment	2,594
	953,878

On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearings of January 14 and May 3, 1938, and the objections filed in opposition to the proposed order allotting the 1938 sugar quotas for Puerto Rico,[11] I hereby determine and conclude that the allotment of the 1938 sugar quota for Puerto Rico for the continental United States and the 1938 sugar quota for Puerto Rico for local consumption is necessary in order to prevent disorderly marketing of sugar, and that in order to make a fair, efficient, and equitable distribution of such sugar, as required by section 205 (a) of the act, allotments should be made on the basis of proportionate shares, determined pursuant to section 302 of the act, by multiplying the sum of the 1938 proportionate shares of sugarcane to be ground by each processor (based on contracts as of April 30, 1938) (1) by 84.879722[12] per centum to obtain the continental United States marketing allotment, (2) by 7.742185[13] per centum to obtain the marketing allotment for local consumption, and (3) by 7.3780924[14] per centum to obtain a normal carry-over inventory.

ORDER

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, it is hereby ordered:

1. That the said quantity of 809,649 short tons, raw value, and the said quantity of 73,851 short tons, raw value, of sugar, representing the 1938 quota for Puerto Rico for the continental United States and the 1938 quota for local consumption in Puerto Rico, respectively, shall be allotted to the following processors in the amounts which appear opposite their respective names:

Processors:	*Continental U. S. Marketing allotment*	*Allotment for local consumption*
Aguirre (3 mills)	91,740	8,368
Cambalache	37,902	3,457
Canovanas	29,126	2,657
Carmen	13,978	1,275
Coloso	31,733	2,894
Constancia-Toa	20,077	1,831
El Ejemplo	11,988	1,093
Eureka	12,823	1,170
Fajardo	66,119	5,119
Guanica	87,958	8,023
Guamani	10,372	945
Herminia	1,805	165
Igualdad	15,251	1,391
Juanita	18,710	1,707
Lafayette	27,252	2,486
Plazuela and Los Canos	35,830	3,268
Monserrate	11,133	1,016
Pellejas	2,391	218
Plata	11,315	1,032
Playa Grande	6,964	635
Rochelaise	8,311	758
Roig	25,522	2,265
Rufina	25,775	2,351
San Vicente	31,255	2,850
Santa Barbara	2,445	223
Soller	6,325	577
Vannina	14,230	1,298
Victoria	15,562	1,420
Eastern Sugar Associates	78,965	7,266
San Francisco	5,462	498
Caribe	5,981	546
Constancia-Ponce	7,165	654
Mercedita	32,073	2,925
Boca Chica	13,909	1,269
Total	807,447	73,650
Reserve for future allotment	2,202	201
	809,649	73,851

2. That the above-named processors are hereby prohibited from bringing into the continental United States from Puerto Rico, for consumption during the calendar year 1938, or from marketing locally in Puerto Rico during the calendar year 1938, any sugar in excess of the respective marketing allotments therefor set forth in paragraph 1.

3. That the quantity of sugar specified in paragraph 1 as "Reserve for future allotment" shall be allotted to processors who contract to grind the proportionate shares represented thereby, and the allotments of such processors set forth above shall be increased accordingly.

4. That any increase or decrease in the 1938 sugar quotas for Puerto Rico shall be prorated among processors on the basis of the allotments set forth above.

5. That the allotments established above shall not be assigned or transferred without the approval of the Secretary or his duly appointed agent.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 21st day of June, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1771; Filed, June 22, 1938; 12:18 p. m.]

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[10] Eastern Sugar Associates and Central Igualdad contend that allotments should be made on the basis of past marketings or ability to perform (pages 18, 37, and 38 of the record of hearing of January 14 and page 132 of record of hearing of May 3). None of the other 32 processors of sugarcane in Puerto Rico has objected.

[11] Following the hearing of May 3, the Secretary on June 3, 1938, issued a proposed order which was published in the Federal Register on June 7, 1938, 3 F. R. 1337 (DI). Interested persons were given until June 15, 1938, in which to file objections to the proposed order. Eastern Sugar Associates was the only processor filing objections to the proposed order.

[12] Percentage which the quota for marketing in the continental United States is of 1938 quota requirements plus a normal carry-over inventory.

[13] Percentage which the quota for local consumption is of the 1938 quota requirements plus a normal carry-over inventory.

[14] Percentage which the normal carry-over inventory is of the 1938 quota requirements plus a normal carry-over inventory.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4819]

INCOME TAX

BASIS OF PROPERTY ACQUIRED AFTER DECEMBER 31, 1917, BY A CORPORATION IN CONNECTION WITH A REORGANIZATION

To Collectors of Internal Revenue and Others Concerned:

In order to accord with section 807 of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, third session), amending section 113 (a) (7) of the Revenue Act of 1936, relating to the basis of property acquired after December 31, 1917, by a corporation in connection with a reorganization, Regulations 94 are amended as follows:

The following is inserted immediately preceding article 113 (a) (7)-1:[1]

Section 807 of Title V of the Revenue Act of 1938 provides:

SEC. 807. BASIS OF PROPERTY ACQUIRED IN CONNECTION WITH REORGANIZATIONS.

(a) Section 113 (a) (7) of the Revenue Act of 1936 is amended to read as follows:

(7) *Transfers to corporation.*—If the property was acquired—

(A) after December 31, 1917, and in a taxable year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them, or

(B) in a taxable year beginning after December 31, 1935, by a corporation in connection with a reorganization,

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(b) The amendment made by subsection (a) shall be applied in the computation of net income for taxable years beginning after December 31, 1935, and before January 1, 1938.

Article 113 (a) (7)-1 is amended to read as follows:

"ART. 113 (a) (7)-1. *Property acquired by corporation in reorganization after December 31, 1917.*—Section 113 (a) (7) of the Act, as amended, sets forth the conditions under which the basis of property acquired by a corporation after December 31, 1917 in connection with a reorganization as defined in section 112 of the Act is the same as it would be in the hands of the transferor, increased or decreased as therein provided in the amount of gain or loss recognized to the transferor under the applicable revenue law. In the case of property so acquired in a taxable year beginning prior to January 1, 1936, section 113 (a) (7) is applicable only if immediately after the transfer there remained in the same persons or any of them an interest or control in such property of 50 per cent or more. In the case, however, of property so acquired in a taxable year governed by the Act, section 113 (a) (7) is applicable irrespective of the extent of the interest or amount of control in such property remaining, immediately after the transfer, in the hands of the same persons or any of them.

"The application of the provisions of section 113 (a) (7) (A) of the Act may be illustrated by the following examples:

"*Example* (1).—In 1925 the X Corporation caused the organization of the Y Corporation and transferred to the Y Corporation, in exchange for all the capital stock of that corporation, property which it had previously purchased for $10,000. The basis of the property in the hands of the Y Corporation is $10,000.

"*Example* (2).—In 1925 the M Corporation exchanged 10 per cent of its voting stock for all the property of the N Corporation which had a basis of $10,000 in the hands of the N Corporation. The basis of the property in the hands of the M Corporation is cost thereof to it at the time of the transfer, that is, the fair market value of the M stock exchanged for the property.

"Section 113 (a) (7) of the Act, as amended, does not apply if, irrespective of when acquired, the property consists of stock or securities in a corporation a party to a reorganization as defined in section 112 of the Act, unless such stock or securities are acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer. The application of the last sentence of section 113 (a) (7) to a case where such stock or securities are acquired by the issuance of stock or securities of the transferee may be illustrated as follows:

"*Example* (3).—The Y Corporation owns all of the stock of the X Corporation, which stock it acquired in 1936 by the issuance of all of its own voting stock to the individual shareholders of the X Corporation. The stock of the X Corporation was acquired by the individuals in 1924 for $100,000 in cash. The stock of the Y Corporation had a fair market value of $1,000,000 at the time it was exchanged in 1936 for the stock of the X Corporation. The fair market value of the stock of the X Corporation at the time of the exchange in 1936 was also

[1] 1 F. R. 1884.

$1,000,000. The basis to the Y Corporation of the stock of the X Corporation is the basis which such stock would have had in the hands of the individuals from which it was acquired by the Y Corporation, that is, $100,000."

This Treasury Decision is prescribed pursuant to the provisions of section 62 of the Revenue Act of 1936.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 20, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1766; Filed, June 22, 1938; 12: 01 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

BUREAU OF MARINE INSPECTION AND NAVIGATION

AMENDMENT TO REGULATION OF SECRETARY OF COMMERCE DESIGNATING AND DEFINING A LINE DIVIDING THE HIGH SEAS FROM RIVERS, HARBORS, AND INLAND WATERS

JUNE 22, 1938.

Pursuant to the authority granted to the Secretary of Commerce under section 2 of the Act of February 19, 1895, (33 U. S. C. 151), the following line dividing the high seas from rivers, harbors, and inland waters, is hereby designated and defined. Waters inshore of the line here laid down are "inland waters" and upon them the inland rules and pilot rules made in pursuance thereof apply. Upon the high seas, viz., waters outside of the line here laid down, the international rules apply.

Apalachee Bay, Florida.—Those waters lying north of a line drawn 58° true from Lighthouse Point on St. James Island to Gamble Point on the east side of the entrance to the Aucilla River, Florida.

Pilot rules for western rivers are to be followed in the Wakulla River inside Wakulla River Entrance Buoy 2, in Ochlockonee River north of its junction with Ochlockonee Bay, and in Aucilla River inside a line from the extremity of Gamble Point to the extremity of Cabell Point.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1774; Filed, June 22, 1938; 12:44 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[No. 24049]

ORDER RELATIVE TO A. JOHNSTON, GRAND CHIEF ENGINEER OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, ET AL. *v.* THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, ET AL.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 17th day of June, A. D. 1938.

Upon further consideration of the record in the above-entitled proceeding, and to meet the request of United States District Judge S. H. West, Northern District of Ohio that the effective date of the order of December 27, 1937,[1] therein, be postponed to afford opportunity for proper consideration of the case by the court:

It is ordered, That the effective date of the said order be, and it is hereby, postponed from July 1 to October 1, 1938.

It is further ordered, That the said order shall in all other respects remain in full force and effect.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1772; Filed, June 22 1938; 12: 35 p. m.]

TITLE 50—UNEMPLOYMENT AND OLD AGE BENEFITS

RAILROAD RETIREMENT BOARD

REGULATIONS UNDER THE RAILROAD RETIREMENT ACT OF 1937

AUTHORITY FOR REGULATIONS

Parts 1 to 65 of these regulations are issued by the Railroad Retirement Board under the general authority contained in Section 10 of the Act of June 24, 1937 (50 Stat. 314; 45 U. S. C., Sup. III, 228j). These regulations shall be effective as of June 1, 1938 and shall supersede all the previous regulations promulgated on November 22, 1937, December 10, 1937, December 31, 1937, January 17, 1938, January 25, 1938, March 22, 1938, and April 4, 1938.

TABLE OF CONTENTS

Part
1. Definitions.
2. Employers.
3. Employees.
4. Employment relation.
5. Employee representative.
8. Eligibility for an annuity.
10. Execution and filing of an application.
14. Annuity beginning date.
16. Relinquishment of rights.
20. Definition and creditability of service.
22. Definition and creditability of compensation.
25. Computation of an annuity.
30. Elections of joint and survivor annuities.
35. Payments at death.
36. Payments of benefits of $500 or less.
40. Pensions.
50. Reports, information, hearings and witnesses.
55. Recovery of erroneous payments.
60. Appeals within the Board.
62. Miscellaneous.
65. Applicability of 1935 or 1937 Act.

PART 1. DEFINITIONS

Section
1.01 Words and Phrases—
(a) Act.
(b) Employer.
(c) Employee.
(d) Service.
(e) Compensation.
(f) Board.
(g) Company.
(h) United States.
(i) Carrier.

[1] 2 F. R. 3450 (DI).

SEC. 1.01 *Words and phrases.*—For the purposes of these regulations, except where the language or context indicates otherwise:

(a) *Act.*—The term "Act", or "1937 Act", means the Railroad Retirement Act of 1937. The term "1935 Act" means the Railroad Retirement Act of 1935.

(b) *Employer.*—The term "employer" means an employer as defined in the Act and Part 2 of these regulations.

(c) *Employee.*—The term "employee" means an employee as defined in the Act and Part 3 of these regulations.

(d) *Service.*—The term "service" means service as defined in the Act and Part 20 of these regulations.

(e) *Compensation.*—The term "compensation" means compensation as defined in the Act and Part 22 of these regulations.

(f) *Board.*—The term "Board" means the Railroad Retirement Board.

(g) *Company.*—The term "company" means a partnership, association, joint stock company, corporation, or institution.

(h) *United States.*—The term "United States", where used in a geographical sense, means the States, Alaska, Hawaii, and the District of Columbia.

(i) *Carrier.*—The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to Part I of the Interstate Commerce Act. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

PART 2. EMPLOYERS UNDER THE ACT

Sec.
2.01. Statutory provisions.
2.02. Company or person principally engaged in carrier business.
2.03. Company or person principally engaged in non-carrier business.
2.04. Control.
2.05. Company or person under common control.
2.06. Casual service and the casual operation of equipment or facilities.
2.07. Service or operation in connection with railroad transportation.
2.08. Controlled company or person principally engaged in service or operation in connection with railroad transportation.
2.09. Controlled company or person not principally engaged in service or operation in connection with railroad transportation.
2.10. Commencement of employer status of receiver or trustee, etc.
2.11. Termination of employer status of receiver or trustee, etc.
2.12. Termination of employer status of other employers.
2.13. Electric railways.
2.14. Service incidental to railroad transportation.
2.15. Railway labor organizations.

SEC. 2.01. *Statutory provisions.*—"The term 'employer' means any carrier (as defined in subsection (m) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: Provided, however, That the term 'employer' shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term 'employer' shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations." (Sec. 1 (a), 50 Stat. 307; 45 U. S. C. Sup. III, 228a.)

"The term 'carrier' means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act." (Sec. 1 (m), 50 Stat. 309; 45 U. S. C. Sup. III, 228a.)

SEC. 2.02. *Company or person principally engaged in carrier business.*—Any company or person principally engaged in carrier business is an employer. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.03. *Company or person principally engaged in non-carrier business.*—With respect to any company or person principally engaged in business other than carrier business, but which, in addition to such principal business, engages in some carrier business, the Board will require submission of information pertaining to the history and all operations of such company or person with a view to determining whether some identifiable and separable enterprise conducted by the person or company is to be considered to be the employer. The determination will be made in the light of considerations such as the following:

(a) the primary purpose of the company or person on and since the date it was established;

(b) the functional dominance or subservience of its carrier business in relation to its non-carrier business;

(c) the amount of its carrier business and the ratio of such business to its entire business;

(d) whether its carrier business is a separate and distinct enterprise.

In the event that the employer is found to be an aggregate of persons or legal entities or less than the whole of a legal entity or a person operating in only one of several capacities, then the unit or units competent to assume legal obligations shall be responsible for the discharge of the duties of the employer. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.04. *Control.*—A company or person is controlled by one or more carriers, whenever there exists in one or more such carriers the right or power by any means, method or circumstance, irrespective of stock ownership, to direct, either directly or indirectly, the policies and business of such a company or person and in any case in which a carrier is in fact exercising direction of the policies and business of such a company or person. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.05. *Company or person under common control.*—A company or person is under common control with a carrier, whenever the control (as that term is used in section 2.04 above) of such company or person is in the same person, persons or company as that by which such carrier is controlled. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.06. *Casual service and the casual operation of equipment or facilities.*—The service rendered or the operation of equipment or facilities by a controlled company or person in connection with the transportation of passengers or property by railroad is "casual" whenever such service or operation is so irregular or infrequent as to afford no substantial basis for an inference that such service or operation will be repeated, or whenever such service or operation is insubstantial. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.07. *Service or operation in connection with railroad transportation.*—The service rendered or the operation of equipment or facilities by persons or companies owned or controlled or under common control with a carrier is in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, if such service or operation is reasonably directly related, functionally or economically, to the performance of obligations which a company or person or companies or persons have undertaken as common carriers by railroad, or to the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 226a, 228j.)

SEC. 2.08. *Controlled company or person principally engaged in service or operation in connection with railroad transportation.*—Any company or person owned or controlled by one or more carriers or under common control therewith, whose principal business is the operation of equipment or facilities or the performance of service (other than trucking service) in connection with the transportation of passengers or property by railroad, shall be an employer. (Secs. 1, 10, 50 Stat. 307, 314, 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.09. *Controlled company or person not principally engaged in service or operation in connection with railroad transportation.*—With respect to any company or person owned or controlled by one or more carriers or under common control therewith, performing a service or operating equipment in connection with the transportation of passengers or property by railroad, but which is principally engaged in some other business, the Board will require the submission of information pertaining to the history and all operations of such company or person with a view to determining whether it is an employer or whether some identifiable and separable enterprise conducted by the person or company is to be considered to be the employer, and will make a determination in the light of considerations such as the following:

(a) the primary purpose of the company or person on and since the date it was established;

(b) the functional dominance or subservience of its business which constitutes a service or operation of equipment or facilities in connection with the transportation of passengers or property by railroad in relation to its other business;

(c) the amount of its business which constitutes a service or operation of equipment or facilities in connection with the transportation of passengers or property by railroad and the ratio of such business to its entire business;

(d) whether such service or operation is a separate and distinct enterprise;

(e) whether such service or operation is more than casual, as that term is defined in section 2.06.

In the event that the employer is found to be an aggregate of persons or legal entities or less than the whole of a legal entity or a person operating in only one of several capacities, then the unit or units competent to assume legal obligations shall be responsible for the discharge of the duties of the employer. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.10. *Commencement of employer status of receiver or trustee, etc.*—A receiver, trustee, or other individual or body, judicial or otherwise, in the possession of the property or operating all or any part of the business of a carrier, or of a company or person owned or controlled by or under common control with such a carrier, which operates any

equipment or facility or performs any service in connection with the transportation of passengers or property by railroad, shall be deemed to be an employer beginning as of whichever of the following three dates is the earliest:

(a) the date that it takes possession of such property; or

(b) the first date on which it has authority to operate all or any part of the business of such a carrier, company or person; or

(c) the date that it begins operating without appointment or authorization all or any part of the business of such a carrier, company or person;

Provided, however, That the receiver, trustee, or other individual or body, judicial or otherwise, shall be an employer only with respect to such individuals as would be employees if the preceding employer had continued in the possession of the property or the operation of the business. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.11. *Termination of employer status of receiver or trustee, etc.*—Such employer status shall terminate as of whichever of the following four dates shall be the latest:

(a) the effective date of a discharge duly given by the court or authority which made the appointment or issued the authorization; or

(b) the effective date of a certificate of public convenience and necessity authorizing abandonment; or

(c) the date that the receiver, trustee or other individual or body ceases operating the business of such carrier, company or person; or

(d) the date that possession of all property of such carrier, company or person is relinquished;

Provided, however, That if there be in fact a complete cessation and abandonment of operations and if no certificate authorizing abandonment is applied for nor is any discharge necessary, such employer status shall cease as of the date of such complete cessation and abandonment. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.12. *Termination of employer status of other employers.*—The applicable provisions of section 2.11 concerning the termination of an employer status shall apply to all other employers. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.13. *Electric railways.*—The General Counsel will require the submission of information pertaining to the history and operations of an electric railway with a view to determining whether it is an employer and will inquire into and make his recommendations upon the following considerations:

(a) whether the electric railway is more than a street, suburban or interurban electric railway; or

(b) whether it is operating as a part of a general steam-railroad system of transportation; or

(c) whether it is part of the national transportation system.

If in the opinion of the General Counsel an electric railway has the characteristics set forth in either (a), (b) or (c), he will conclude that it is an employer under the Act and if the operator concurs in such opinion, the decision will be made final by the Board. If the operator does not concur in the conclusion reached the question will be submitted to the Interstate Commerce Commission for determination. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.14. *Service incidental to railroad transportation.*—An organization, association, bureau or agency is performing a service in connection with or incidental to railroad transportation whenever it is engaged in the performance of functions which would normally be performed by the constituent employers in the absence of such organization, association, bureau or agency. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 2.15. *Railway labor organizations.*—Railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations, shall be employers within the meaning of the Act. (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C. Sup. III, 228a, 228j.)

PART 3. EMPLOYEES UNDER THE ACT

Sec.
3.01. Statutory provisions.
3.02. General definition of employee.
3.03. When is an individual engaged in performing service?
3.04. When is service "compensated"?
3.05. Service outside the United States.
3.06. Immaterial factors.
3.07. Local lodge employee.

SEC. 3.01. *Statutory provision.*—"The term 'employee' means (1) any individual in the service of one or more employers for compensation, (2) any individual who is in the employment relation to one or more employers, and (3) an employee representative. The term 'employee' shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after the enactment date." (Sec. 1 (b) 50 Stat. 308; 45 U. S. C. Sup. III, 228a.)

"The term 'employee' includes an officer of an employer." (Sec. 1 (1) 50 Stat. 309; 45 U. S. C. Sup. III, 228a.)

SEC. 3.02. *General definition of employee.*—An individual shall be an employee whenever (a) he is engaged in performing compensated service for an employer or (b) he is in an employment relation to an employer, or (c) he is an employee representative, or (d) he is an officer of an employer. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 3.03. *When is an individual engaged in performing service.*—An individual shall be engaged in performing service for an employer if he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of that service, irrespective of whether such supervision and direction is exercised and irrespective of whether such service is performed on a part-time basis. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 3.04. *When is service "compensated."*—Service shall be "compensated" if it is performed for compensation, as that term is defined in the Act and part 22 of these regulations. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 3.05. *Service outside the United States.*—An individual shall not be an employee by reason of rendition of service to an employer not conducting the principal part of its business in the United States except while engaged in performing for it service in the United States. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 3.06. *Immaterial factors.*—The age, citizenship, or residence of an individual, or his designation as other than an "employee" shall be of no force or effect in determining whether or not such individual is an employee within the meaning of the Act. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 3.07. *Local lodge employee.*—An individual who, prior to January 1, 1937, shall have rendered service to a local lodge or division of a railway labor organization included as an employer under Section 1 (a) of the Act, shall be an employee with respect to such service to such local lodge or division only if he was on August 29, 1935, in the service of or in an employment relation to an employer which was a carrier. An individual who, subsequent to December 31, 1936, shall have rendered service to a local lodge or division of a railway labor organization included as an employer under Section 1 (a) of the Act, shall be an employee with respect to such service to such local lodge or division only with respect to such service as was preceded by service on or after August 29, 1935, to an employer which was a carrier. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

PART 4. EMPLOYMENT RELATION

Sec.
4.01. Statutory provision.
4.02. Employment relation—Determination by the Board.
(a) Importance of rule or practice.
(b) Furlough, leave of absence, etc.
(c) Rule defined.
(d) Practice defined.
(e) Actual service to precede relation.
(f) Termination of relation.
(g) Relation based on service outside United States.

Sec.
4.03. Bearing of specific factors upon existence of employment relation.
(a) Probability of return to service.
(b) Limitations of time.
(c) Failure to preserve or exercise rights.
(d) Seniority roster.
(e) Promise of further employment after termination of rights.
(f) Reinstatement.
(g) Reaching retirement age while in employment relation.
(h) Abolition of job, discontinuance of service and abandonment of line.
(i) Pass privileges, or retention of employer property.
4.04. Statutory provision of 1935 Act.
4.05. Employment relation under the 1935 Act.

SEC. 4.01. *Statutory provision.*—"An individual is in the employment relation to an employer if he is on furlough, subject to call for service within or outside the United States and ready and willing to serve, or on leave of absence, or absent on account of sickness or disability; all in accordance with the established rules and practices in effect on the employer: Provided, however, That an individual shall not be deemed to have been on the enactment date in the employment relation to an employer not conducting the principal part of its business in the United States unless during the last payroll period in which he rendered service to it prior to the enactment date, he rendered service to it in the United States." (Sec. 1 (d) 50 Stat. 308; 45 U. S. C. Sup. III, 228a.)

SEC. 4.02. *Employment relation—Determination by the Board.*—The existence or non-existence of an employment relation as defined in Section 1 (d) of the Railroad Retirement Act of 1937 is a conclusion which must be reached by the Board or its authorized representatives upon the basis of the evidence before it; the burden of formulating the conclusion may not be delegated to the employer or to the individual or to any representative of either; the employer or the individual or their representatives are the principal sources of evidence with respect to the established rules and practices in effect on the employer and with respect to the facts constituting the conditions under which the individual was not in active service, but the Board will not make a determination on the basis of a conclusion of the employer or of the individual or of a representative of either to the effect that the individual had or had not an employment relation.

(a) *Importance of rule or practice.*—An employment relation exists if there was, at the time in question, in effect on the employer an established rule or practice in accordance with which the individual was either (1) on furlough (subject to call for service and ready and willing to serve) or (2) on leave of absence, or (3) absent on account of sickness or disability.

(b) *Furlough, leave of absence, etc.*—A furlough, leave of absence, or absence on account of sickness or disability, within the scope of these regulations or the Railroad Retirement Act of 1937, does not exist unless the terms of the established rule or practice in accordance with which the individual is out of active service are such that they would operate to restore him to active service upon the occurrence of definite and ascertainable events or conditions. Within the limitations of the preceding sentence: A furlough is an involuntary absence from active service which is brought about by action of the employer. A leave of absence is action of the employer permitting or requiring the employee to remain away from active service and relieving the employee from the obligations or conditions attached to active service, or to a furlough relationship or to absence on account of sickness or disability; absence on account of sickness or disability is an interruption of active service, or of a furlough, by reason of sickness or disability. An individual on furlough can have an employment relation only if at the time in question he was subject to call for service and ready and willing to serve.

(c) *Rule defined.*—An established rule is an authoritative and binding declaration definitely and specifically formulated and of general application to employees within the same class. A rule may be expressed either in the form of specific authoritative instructions in force on the employer or in a contract or working agreement covering the individual and made between the employer and an employee organization, and may derive its authoritative effect either from the authority of the officer issuing the declaration or from the binding nature of the contract between the employer and the employee organization.

(d) *Practice defined.*—An established practice is a custom not expressed in the form of a rule but followed with such frequency and uniformity as to give reasonable assurance that it would be followed in the individual's case, and to permit ascertainment of the practice with such precision as to render it capable of statement in the form of a rule.

(e) *Actual service to precede relation.*—No employment relation can exist unless it represents a continuous relationship following immediately upon actual compensated service; it cannot be brought into existence through an application for employment, or inclusion on a waiting list, or a promise of employment, or similar circumstances preceding actual service or following an interruption of the relationship: Provided, however, that a rule may be amended so as to create anew an employment relationship which has lapsed, but such relationship can exist only from the time of the adoption of such amendment.

(f) *Termination of relation.*—The termination of an employment relation need not involve a specific action but may be inferred from circumstances. It is terminated in any case in which there has been discharge, resignation, or retirement, with or without pension. Discharge, resignation or retirement must be determined according to the substance of the transaction, even though the transaction may have been denominated furlough, leave of absence or absence on account of sickness or disability. A transaction so denominated, but which represents in substance and effect a discharge, resignation or retirement, terminates the employment relation.

(g) *Relation based on service outside the United States.*—An individual shall not have been on August 29, 1935 an employee by reason of an employment relation to an employer not conducting the principal part of its business in the United States unless during his last pay roll period prior to August 29, 1935, he rendered service to it in the United States. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 4.03. *Bearing of specific factors upon existence of employment relation.*—In the application of the general rules set forth in section 4.02 of these regulations, certain specific and frequently recurring factors shall be dealt with in accordance with the respective paragraphs of this section. Such paragraphs do not constitute an exhaustive catalogue of all factors which may arise in the application of the general rules to concrete cases.

(a) *Probability of return to service.*—Any established rule or practice, in order to be relevant to the existence of an employment relation, and any furlough, leave of absence, or absence on account of sickness or disability which is claimed to express an employment relation, must contemplate a resumption of active service. Physical or mental incapacity to return to service, even though judged to be "permanent", is not in and of itself significant, except that it is significant in connection with definitive action of the employer or of the individual, including statements or actions on the part of the individual indicating his retirement or statements or actions of the employer treating the individual as a retired employee, such as, application for and the award of a pension or gratuity of indefinite duration.

(b) *Limitations of time.*—Where the terms of a furlough, or the rules or practices under which it was issued, place a limitation on the time within which the furlough will operate to return an individual to active service, the employment relation ceases upon the expiration of such period, unless he has resumed active service within the period. Where the terms of a leave of absence or the conditions under which an individual is absent on account of sickness or disability, or the rules or practices under which a leave of absence is granted or an absence on account of sickness or disability is permitted, place a limitation on the time during which the individual may be absent, the employment relation ceases upon the expiration of such period, unless he has reported for active service upon or before the expiration of such period. However, the period may be extended by action of the employer

if such action is permissible under the established rules or practices in effect on the employer.

(c) *Failure to preserve or exercise rights.*—Where the terms of a furlough, leave of absence or absence on account of sickness or disability, or the rules or practices under which it is granted, require periodic or continuous action of the individual (such as periodic renewal of address, or continuous availability for service, or the exercise of rights upon proper occasion) in order to preserve his status, or require the continuance of a condition (such as the continuance of incapacity as the basis of absence on account of sickness or disability) and the individual fails to take such action, or the condition ceases to exist, the employment relation terminates.

(d) *Seniority roster.*—The appearance of the individual's name on a seniority roster is not, in and of itself, indicative of an employment relation. There must appear the further fact that the appearance of the individual's name on the seniority roster is based on established rules or practices in effect on the employer which would operate to restore him to active service upon the occurrence of definite and ascertainable events or conditions.

(e) *Promise of further employment after termination of rights.*—When such rights to return to service as an individual may hold, in accordance with the established rules and practices in effect on the employer, are terminated, but in connection with such termination or coincidentally therewith, a promise not in accordance with the established rules or practices in effect on the employer is made, indicating some future employment, such promise does not operate to maintain an employment relation.

(f) *Reinstatement.*—A bona fide reinstatement with restoration of seniority privileges, with or without pay for time lost, made for the purpose of and in contemplation of return to actual service (irrespective of whether actual service is resumed) operates to maintain the employment relation throughout the breach in service, provided that the reinstatement is not a violation of the rights of other employees. Participation in the reinstatement by representatives of the other employees, or acquiescence on their part in an actual return to service, shall be conclusive evidence that the reinstatement was not a violation of the rights of such other employees.

(g) *Reaching retirement age while in employment relation.*—If there is in effect upon the employer an established rule or practice requiring automatic retirement upon attainment of a particular age, or at the end of the month in which such age is attained, such rule or practice will operate to terminate the employment relation of an individual who is on furlough, leave of absence, or absent on account of sickness or disability when the time for automatic retirement is reached, unless it is shown by express evidence that such individual was retained in his relationship with the employer and that such retention was in accordance with established rules or practices.

(h) *Abolition of job, discontinuance of service and abandonment of line.*—Abolition of a job, or the discontinuance of a service, in which the individual was engaged is not in and of itself relevant to the determination of the existence or nonexistence of an employment relation. When an individual is out of active service under such circumstances, determination must be made under the other provisions of these regulations as to whether the individual was on furlough, leave of absence, or absent on account of sickness or disability, in accordance with established rules or practices in effect on the employer. However, abandonment of line or facility involving abandonment of all jobs to which the individual's preference or seniority attaches under the established rules or practices in effect on the employer terminates the employment relation, unless, by agreement between the employer and the individuals affected, the latter acquire seniority on some other line or facility of the employer; or in cases of merger or consolidation of two or more employers, on the consolidated or merged employer; such agreement need not be entered into simultaneously with the abandonment of the line or facility, provided that it is so immediately and directly connected therewith as to constitute part of the disposition of the same matter.

(i) *Pass privileges, or retention of employer property.*—The fact that an individual continues to receive free transportation, or is permitted to retain employer property, such as rule books and switch keys, is not indicative of the existence of an employment relation. However, definite action of the employer terminating free transportation privileges or requiring the surrender of employer property may be indicative of the termination of the employment relation. (Sec. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 4.04. *Statutory provision of 1935 Act.*—"A person is in the employment relation to a carrier when furloughed or on leave of absence, and subject to call for service and ready and willing to serve, all in accordance with the established rules and practices usually in effect on railroads." (Sec. 1, 49 Stat. 967–973; 45 U. S. C. Sup. II, 215d.)

SEC. 4.05. *Employment relation under the 1935 Act.*—The regulations relating to the existence or non-existence of an employment relation as defined in the 1937 Act (Sections 4.01, 4.02 and 4.03 above) shall apply with equal force and effect to determinations regarding the existence or non-existence of an employment relation under the 1935 Act except that:

(a) Individuals absent on account of sickness or disability, as that term is used in such regulations, do not have an employment relation under the 1935 Act, and

(b) Individuals on leave of absence, as well as individuals on furlough, are required to be subject to call for service and ready and willing to serve in order to have an employment relation under the 1935 Act. (Sec. 6, 49 Stat. 967–973; 45 U. S. C. Sup. II, 215.) (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a (d), 228j.)

PART 5. EMPLOYEE REPRESENTATIVE

Sec.
5.01. Statutory provision.
5.02. Definition of employee representative.
5.03. Reports of employee representative.
5.04. Service of employee representative.

SEC. 5.01. *Statutory provision.*—"The term 'employee representative' means any officer or official representative of a railway labor organization other than a labor organization included in the term 'employer' as defined in section 1 (a) who before or after the enactment date was in the service of an employer as defined in section 1 (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office." (Sec. 1 (b) 50 Stat. 308; 45 U. S. C., Sup. III, 228 a.)

SEC. 5.02. *Definition of employee representative.*—An individual shall be an employee representative within the meaning of the Act (a) if he is an officer or official representative of a railway labor organization not an employer, as defined in the Act, and is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended; provided, however, that before or after August 29, 1935, and before the time in question he must have been in the service of an employer; or (b) if he is regularly assigned to or regularly employed by an employee representative as described in (a) above in connection with the duties of the office of such employee representative, irrespective of whether he possesses the qualifications described in (a) above. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C., Sup. III, 228a, 228j.)

SEC. 5.03. *Reports of employee representatives.*—(See Section 50.05.)

SEC. 5.04. *Service of employee representatives.*—(See Section 20.03.) (Secs. 3, 10, 50 Stat. 308, 314, 311; 45 U. S. C., Sup. III, 228a, 228j, 228c.)

PART 8. ELIGIBILITY FOR AN ANNUITY

Sec.
8.01. Statutory provision.
8.02. Employee status.
8.03. Annuity based on age sixty-five.
8.05. Annuity based on age sixty to sixty-five and service.
8.10. Annuity based on age sixty to sixty-five and disability.
8.15. Annuity based on service and disability.
816. Age of applicant—How established.
8.20. Establishment of disability.
8.25. Proof of continuance of disability.
8.26. No proof of disability after age sixty-five.
8.27. When disability annuity ceases.
8.28. Cessatiton of disability annuity not prejudicial to further eligibility.
8.29. Disability annuitant to notify of recovery or performance of service.

SEC. 8.01. *Statutory provision.*—"(a) The following-described individuals, if they shall have been employees on or after the enactment date, shall, subject to the conditions set forth in subsections (b), (c), and (d), be eligible for annuities after they shall have ceased to render compensated service to any person, whether or not an employer as defined in section 1 (a) (but with the right to engage in other employment to the extent not prohibited by subsection (d)):

"1. Individuals who on or after the enactment date shall be sixty-five years of age or over.

"2. Individuals who on or after the enactment date shall be sixty years of age or over and (a) either have completed thirty years of service or (b) have become totally and permanently disabled for regular employment for hire, but the annuity of such individuals shall be reduced one one-hundred-and-eightieth for each calendar month that they are under age sixty-five when the annuity begins to accrue.

"3. Individuals, without regard to age, who on or after the enactment date are totally and permanently disabled for regular employment for hire and shall have completed thirty years of service.

"Such satisfactory proof of the permanent total disability and of the continuance of such disability until age sixty-five shall be made from time to time as may be prescribed by the Board. If the individual fails to comply with the requirements prescribed by the Board as to proof of the disability or the continuance of the disability until age sixty-five, his right to an annuity under subdivision 2 or subdivision 3 of this subsection by reason of such disability shall, except for good cause shown to the Board, cease, but without prejudice to his rights under subdivision 1 or 2 (a) of this subsection. If, prior to attaining age sixty-five, such an individual recovers and is no longer disabled for regular employment for hire, his annuity shall cease upon the last day of the month in which he so recovers and if after such recovery the individual is granted an annuity under subdivision 1 or 2 (a) of this subsection, the amount of such annuity shall be reduced on an actuarial basis to be determined by the Board so as to compensate for the annuity previously received under this subdivision.

"(b) An annuity shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person by whom he was last employed; but this requirement shall not apply to the individuals mentioned in subdivision 2 (b) and subdivision 3 of subsection (a) prior to attaining age sixty-five.

"(c) An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto), but

(1) not before the date following the last day of compensated service of the applicant, and

(2) not more than sixty days before the filing of the application." (Sec. 2, 50 Stat. 309, 310; 45 U. S. C. Sup. III, 228b.)

SEC. 8.02. *"Employed" status.*—To be eligible for an annuity an individual, in addition to other qualifications, must have been an employee on August 29, 1935 or, if not an employee on that date, he must thereafter have become an employee and rendered service subsequent to December 31, 1936 to an employer, or as an employee representative. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 8.03. *Annuity based on age sixty-five.*—Any individual who has the employee status described in section 8.02 is eligible for an annuity if:

(a) he has attained the age of sixty-five years or more, and

(b) he has ceased to render service for compensation to any person or company, whether or not an employer under the Act:

Provided, however, (1) That no annuity shall be certified for payment to such individual until such time as he has filed with the Board a duly executed application form, has established by proof satisfactory to the Board that he possesses the above qualifications and has relinquished such rights as he may have to return to the service of any employer under the Act and of all other persons or companies by whom he was last employed, whether or not employers under the Act, and (2) that no annuity may begin to accrue for him earlier than two months prior to the date upon which such application is filed with the Board nor prior to the date following the last day of his compensated service. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.05 *Annuity based on age sixty to sixty-five and service.*—Any individual who has the employee status described in section 8.02 is eligible for an annuity if:

(a) he is between sixty and sixty-five years of age, and

(b) he has completed at least three hundred and fifty-four months of creditable service, and

(c) he has ceased to render service for compensation to any person, whether or not an employer under the Act;

Provided, however, (1) That no annuity shall be certified to such individual until such time as he has filed with the Board a duly executed application form, has established by proof satisfactory to the Board that he possesses the above qualifications and has relinquished such rights as he may have to return to the service of any employer under the Act and of all other persons or companies by whom he was last employed, whether or not employers under the Act; (2) that no annuity may begin to accrue for him earlier than two months prior to the date upon which such application is filed with the Board nor prior to the date following the last day of his compensated service, and (3) that the annuity of such individual shall be reduced one one-hundred-and-eightieth for each calendar month during all of which he is less than sixty-five years of age when his annuity begins to accrue. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.10. *Annuity based on age sixty to sixty-five and on disability.*—Any individual who has the employee status described in section 8.02 is eligible for an annuity if:

(a) he is between sixty and sixty-five years of age, and

(b) he has become totally and permanently disabled for regular employment for hire, and

(c) he has ceased to render service for compensation to any person, whether or not an employer under the Act;

Provided, however, (1) That no annuity shall be certified to such individual until such time as he has filed with the Board a duly executed application form and has established by proof satisfactory to the Board that he possesses the above qualifications, (2) that no annuity may begin to accrue for him earlier than two months prior to the date upon which such application is filed with the Board nor prior to the date following the last day of his compensated service, and (3) that the annuity of such individual shall be reduced one one-hundred-and-eightieth for each calendar month during all of which he is less than sixty-five years of age when his annuity begins to accrue. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.15. *Annuity based on service and disability.*—Any individual who has the employee status described in section 8.02 is eligible for an annuity if:

(a) he has completed at least three hundred and fifty-four months of creditable service, and

(b) he is totally and permanently disabled for regular employment for hire, and

(c) he has ceased to render service for compensation to any person, whether or not an employer under the Act;

Provided, however, (1) That no annuity shall be certified to such individual until such time as he has filed with the Board a duly executed application form and has established by proof satisfactory to the Board that he possesses the above qualifications, (2) that no annuity may begin to accrue for him earlier than two months prior to the date upon which such application is filed with the Board nor prior to the date following the last day of his compensated service, and (3) that the annuity of such individual shall be reduced one one-hundred-and-eightieth for each calendar month during all of which he is less than sixty-five years of age when his annuity begins to accrue. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.16. *Age of applicant—how established.*—If in order, any one form of documentary evidence will be accepted to establish the age of the applicant, and, if a joint and survivor annuity has been elected, of the applicant's spouse, and a distinction will not be made between primary and secondary evidence. Original documents ordinarily are more credible than certified or photostatic copies, and records made or filed at an early date carry greater credibility than those of more recent origin. Ordinarily, preference will be accorded various types of evidence in the following order:

(1) Civil and Church birth records.
(2) School records.
(3) Insurance records.
(4) Labor Union and Fraternal records.
(5) Naturalization records.
(6) Vaccination records.
(7) Immigration papers.
(8) Passports.

(9) Bible and family records.
(10) Marriage records.
(11) Military records.
(12) Employer's records.
(13) Driver's permits.
(14) Voting registration records.
(15) Game licenses.
(16) Newspaper and magazine clippings.
(17) Poll Tax exemption certificates.
(18) Affidavits.

Civil and Church birth records in order to be acceptable shall have been made at or near the time of birth. Other records shall be at least fifteen years old. Types of evidence listed in items 13 to 18 inclusive should be used only as a last resort. Evidence in any other form may be accepted if of equal or greater reliability than the items listed from 1 to 12 above. If the file contains the employer's verified record of the applicant's birth date, or an unverified birth date recorded fifteen years prior to the date of the report, it will be accepted if it agrees with the age or birth date claimed by the applicant, or comes within the scope of the following paragraph:

(a) A date of birth not fully proved but indicated by the best obtainable evidence may be fixed by the Adjudicator, subject to approval by the Reviewer and Supervisor, under the following conditions: (1) Where evidence to establish age or birth date cannot be obtained; (2) Where the file contains evidence which shows that the applicant attained the age of sixty-five years on or prior to the date on which his annuity begins to accrue, but either does not show the exact birth date or is not in agreement with the birth date claimed, provided that if the date to be fixed results in age sixty-five being attained prior to June 30, 1937, the applicant's eligibility must not depend upon the creditability of service subsequent to June 30, 1937, and, that, generally, a birth date cannot be so fixed if the applicant has elected a joint and survivor annuity. (Sec. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.20. *Establishment of disability.*—Total and permanent disability for regular employment for hire shall, in the absence of facts to the contrary, be presumed to exist upon a satisfactory showing of any one or more of the disabilities set forth below:

(a) Loss of, or permanent loss of use of both feet.

(b) Loss of, or permanent loss of use of both hands.

(c) Loss of, or permanent loss of use of one hand and one foot.

(d) Permanent industrial blindness (corrected vision of twenty two-hundredths or less in both eyes).

(e) Permanent total loss of hearing in both ears (inability to hear the conversational tone of voice at any distance) unless offset or capable of being offset by some practicable device.

(f) Permanently helpless or permanently bedridden.

(g) Aphonia (complete loss of vocalization, (phonetic) from organic, i. e., non-functional cause).

(h) Any other condition which in the judgment of the Board causes an individual to be totally and permanently disabled for regular employment for hire. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.25. *Proof of continuance of disability.*—Every annuitant, granted an annuity by reason of total and permanent disability for regular employment for hire, shall without notice from the Board, unless and until he is specifically notified otherwise, submit to the Board one year from the date that such annuity is awarded and annually thereafter prior to age sixty-five, a statement concerning the status of his disability, which statement shall be made by a physician or board of physicians designated by the Board. This statement shall be based upon an examination of the annuitant made within ten days prior to the date that it is submitted; provided, however, that the Board may at any other time or times require additional proof of the continuance of the disability. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.26. *No proof of disability after age sixty-five.*—No annuitant shall be required to furnish proof of disability or continuance of disability after he has attained the age of sixty-five years. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.27. *When disability annuity ceases.*—An annuity granted upon the basis of total and permanent disability for regular employment for hire shall, except for good cause shown to the Board, cease (a) as of the last day of the month in which such annuitant recovers and is no longer disabled for regular employment for hire; provided, however, that if during the month in which he so recovers he engages in compensated service for any person, whether or not an employer under the Act, his annuity shall cease as of the last day of the month preceding such recovery; or (b) as of the last day of the month in which the annuitant is required without notice to file proof of the continuance of his disability but fails to do so; or (c) as of the last day of the month following the mailing of a notice to furnish additional proof of the continuance of disability, if the annuitant fails to comply with such notice; or (d) as of the last day of the month in which the individual becomes sixty-five years of age and fails to relinquish such rights as he may have to return to the service of any employer and of the last person or persons by whom he was employed prior to the beginning date of his disability annuity; or (e) as of the last day of the month preceding the month during which the annuitant dies. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.28. *Cessation of disability annuity not prejudicial to further eligibility.*—The cessation of a disability annuity prior to age sixty-five shall not prejudice any rights which an individual may have or may thereafter acquire to an annuity based upon the attainment of sixty or more years of age and the completion of at least three hundred and fifty-four months of creditable service or based upon the attainment of age sixty-five; *Provided, however,* That the amount of such further annuity shall be reduced on an actuarial basis to be determined by the Board to compensate for any annuity previously received on the basis of service and disability (see section 8.15). (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 8.29. *Disability Annuitant to notify of recovery or performance of service.*—It shall be the duty of every individual granted an annuity by reason of total and permanent disability for regular employment for hire promptly to notify the Board of his recovery, or of any service for any person or company which he performs for compensation. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

PART 10. EXECUTION AND FILING OF AN APPLICATION

Sec.
10.01. Statutory provision.
10.02. Application to be filed.
10.03. Filing date.
10.04. Signature on application form.
10.05. Presumptions from application.
10.06. Individual presumed to be mentally competent.
10.07. Application where individual is mentally incompetent.
10.08 Evidence of authority of guardian or committee.
10.09. Effect of matters or actions submitted or taken by guardian or committee.
10.10. Alteration of application.
10.11. Cancellation of an application.
10.12. Effect of cancellation.
10.13. Applicant's file to be confidential.

SEC. 10.01. *Statutory provision.*—"An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto) * * *" (Sec. 2 (c) 50 Stat. 310; 45 U. S. C. Sec. III, 228b.)

SEC. 10.02. *Application to be filed.*—No individual, irrespective of his qualifications, shall receive an annuity under the 1935 or 1937 Act unless he has, on or before the date of his death, filed with the Board, in Washington, D. C. a duly executed application, upon such application form as the Board may from time to time provide. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b 228j.)

SEC. 10.03. *Filing date.*—An application shall be considered filed as of the date that it is received by the Board, at the office and in the manner and form stated in Section 10.02. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III and 228b, 228j.)

SEC. 10.04. *Signature on application form.*—The application form shall be signed personally by the applicant in his usual manner, provided, however, that if the applicant is unable to sign his name because of physical inability or illiteracy, he shall then make his mark (X) and a witness shall affix the applicant's name. In every case the signature or mark shall be executed and authenticated in such manner as the form provided may require. In the event that the signature or any written portion of the application form is, within the judgment of the Board, substantially illegible or of doubtful authenticity, or if in the judgment of the Board there are substantial omissions in the application form, the Board may require its reexecution or correction; provided, however, that such reexecuted or corrected application form shall be returned and shall be received by the Board within thirty days after notice to correct such deficiency is mailed to the address the applicant has given in the application form; otherwise, the filing date of the application shall be the date when such corrected or reexecuted application form is received by the Board. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 10.05. *Presumptions from application.*—The receipt by the Board of a duly executed application form prior to the death of the applicant shall be prima facie evidence of the filing thereof by the applicant or in his behalf by his authority: *Provided, however,* That such prima facie evidence, in the presence of facts or circumstances to the contrary, is not to be considered conclusive unless thereafter confirmed to the satisfaction of the Board. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 10.06. *Individual presumed to be mentally competent.*—In the absence of facts to the contrary every individual shall be presumed to be mentally competent. (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228j.)

SEC. 10.07. *Application where individual is mentally incompetent.*—In the event that an individual is mentally incompetent, a duly appointed guardian, conservator or committee shall execute and file the application on his behalf. In the event that the mentally incompetent individual has himself filed an application form the guardian, conservator or committee shall execute and file another application form and when this has been done, the filing date of the application may be the date on which the first application form was received by the Board. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 10.08. *Evidence of authority of guardian, etc.*—In all cases in which a guardian, conservator or committee acts on behalf of an individual, there shall be filed with the Board a duly certified copy of the appointment as guardian, conservator or committee of the individual. In cases in which a guardian, conservator or committee wishes to make a joint and survivor election, the guardian, conservator or committee shall also submit a duly certified copy of a court order specifically authorizing him to make an election under one of the three available options. (Secs. 2, 4, 10, 50 Stat. 310, 311, 314; 45 U. S. C. Sup. III, 228b, 228d, 228j.)

SEC. 10.09. *Effect of matters or actions submitted or taken by guardian, etc.*—All matters and actions in connection with an annuity submitted or taken by the guardian, conservator or committee shall be considered by the Board in the same manner and with the same effect as though such matters or actions had been submitted or taken by the person in whose behalf the guardian, conservator or committee so acts; provided, however, that the Board may, if it deems it necessary, require the guardian, conservator or committee to submit a certified copy of an order from the court which appointed the guardian, conservator or committee, authorizing some particular action which the guardian, conservator or committee desires to take in connection with such application. (Secs. 2, 4, 10, 50 Stat. 310, 311, 314; 45 U. S. C. Sup. III, 228b, 228d, 228j.)

SEC. 10.10. *Alteration of application.*—An application filed with the Board cannot be changed or altered in any respect except by the applicant or by his duly authorized agent or guardian, conservator or committee. The authority of an agent or guardian, conservator or committee to change or alter an application shall be evidenced in such manner and to the extent required by the Board. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 10.11. *Cancellation of an application.*—Prior to certification of his annuity an applicant may by written request filed with the Board cancel or suspend his application. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 10.12. *Effect of cancellation.*—The effect of the cancellation or suspension of an application shall be the same as though no application had been filed. In the event the individual whose application is canceled or suspended dies, there are no greater rights than if no application had ever been filed. The individual whose application has been canceled may reapply by filing a written request for an annuity. In the event of such reapplication the application shall be deemed filed as of the date that such written request is received by the Board. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 10.13. *Applicant's file to be confidential.*—All information in connection with any claim shall be confidential and shall not be divulged to or be accesible to other than duly authorized persons who within the judgment of the Board are entitled to receive such information. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

PART 14. ANNUITY BEGINNING DATE

Sec.
14.01. Statutory provisions.
14.02. Annuity beginning date.
14.03. Beginning date in month of applicant's sixty-fifth birthday.
14.04. Change or clarification of unintelligible beginning date.
14.05. Effect of date.
14.06. Beginning date following cancellation of application.
14.07. Effect of service after designated beginning date.
(a) By individuals whose eligibility is not based upon disability.
(b) By individuals whose eligibility is based upon eligibility.
14.08. Applicant's general right to change dates.

SEC. 14.01. *Statutory provisions.*—"An annuity shall begin to accrue as of a date to be specified in a written application (to be made in such manner and form as may be prescribed by the Board and to be signed by the individual entitled thereto), but—

"(1) not before the date following the last day of compensated service of the applicant, and

"(2) not more than sixty days before the filing of the application." (Sec. 2 (c) 1, 2 (c) 2, 50 Stat. 310; 45 U. S. C. Sup. III, 228b.)

"Any individual who, prior to the date of the enactment of this Act, relinquished all rights to return to the service of a carrier as defined in the Railroad Retirement Act of 1935 or ceased to be an employee representative as defined in such Act, and who is not eligible for an annuity under that Act but who would have been eligible for an annuity under the Railroad Retirement Act of 1937 had such Act been in force from and after August 29, 1935, shall have his right to an annuity adjudicated under the Railroad Retirement Act of 1937: Provided, however, That no such annuity shall begin prior to the date of the enactment of this Act." (Sec. 203, 50 Stat. 318; 45 U. S. C. Sup. III, 215.)

SEC. 14.02. *Annuity beginning date.*—An annuity shall begin to accrue as of the date specified in the application, provided, that such date is not earlier than that permitted by Sections 2 (c) 1, 2 (c) 2, and 203 quoted above, nor prior to the date upon which the applicant attains eligibility for an annuity; and provided further, that no joint and survivor annuity shall begin to accrue prior to the date on which a joint and survivor annuity election is made in accordance with Part 30 of these regulations. (Secs. 2, 4, 10, 50 Stat. 310, 311, 314; 45 U. S. C. Sup. III, 228b, 228d, 228j.)

SEC. 14.03. *Beginning date in month of applicant's sixty-fifth birthday.*—In any instance in which an applicant is not eligible for any annuity unless and until he attains age sixty-five his annuity cannot begin until the day preceding the date of his sixty-fifth birthday, but an applicant eligible for an annuity under sections 8.05 and 8.10 of these regulations, who is less than sixty-five years of age, may have his annuity without reduction begin as of the first day of the month

during which he becomes sixty-five years of age. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 14.04. *Change or clarification of invalid or unintelligible beginning data.*—In any case wherein an individual has made an unintelligible designation of the beginning date, he shall be notified that the annuity will begin on the earliest date permitted by law, unless, within one month of the date upon which the notice is mailed, he designates a later date. Non-action in response to such notification shall operate to designate the earliest date permitted by law. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 14.05. *Effect of death.*—If the applicant dies, without having made a designation of a beginning date, or prior to the date upon which his annuity would have begun to accrue, no annuity shall accrue and any election of a joint and survivor annuity shall be inoperative. (Secs. 2, 4, 10, 50 Stat. 310, 311, 314; 45 U. S. C. Sup. III, 228b, 228d, 228j.)

SEC. 14.06. *Beginning date following cancellation of application.*—In the event an annuity beginning date is designated and, because of a cancellation of the application, such date becomes ineffective, the annuity thereafter cannot begin to accrue earlier than two months prior to the receipt of the request to renew the application nor until the date following the last date of compensated service, whichever date is later; provided, however, that the applicant may, in renewing such application, designate a later date. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. 228b, 228j.)

SEC. 14.07. *Effect of service performed after designated beginning date.*—(a) *By individuals whose eligibility is not based upon disability.*—If such an individual continues in the compensated service of any employer or of the last persons by whom he is employed through the designated beginning date or returns to such service after that date but prior to relinquishment of rights, (or other evidence of permanent cessation of service in the event no rights to return to the position exist), his annuity cannot begin to accrue earlier than the date following the last date of such compensated service. If the individual renders such compensated service after having relinquished rights (or having otherwise evidenced a permanent cessation of service in the event no rights to return to the position exist), the beginning date of the annuity is not affected, but no annuity shall be payable with respect to the month in which such service is performed.

(b) *Individuals whose eligibility is based upon disability.*—If such an individual renders compensated service through or after the designated beginning date, such fact must be reconciled with the claim of total and permanent disability for regular employment for hire before eligibility for a disability annuity is established. Where, however, it is shown that the individual, notwithstanding his rendition of compensated service, is totally and permanently disabled for regular employment for hire, the following shall apply:

(1) If the individual continued in compensated service through the designated beginning date the annuity cannot begin to accrue earlier than the date following the last date of such compensated service.

(2) If the individual was not in service on the designated beginning date and thereafter rendered compensated service the beginning date of the annuity is not affected, but no annuity shall be payable with respect to the month during which such service is performed. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 14.08. *Applicant's general right to change date.*—In any case where a change of beginning date is not inconsistent with other provisions of the Act or these regulations, the applicant shall have the right, prior to the date upon which his claim is certified for payment, to change the annuity beginning date; provided, however, that no such change shall be effective until a request or designation in writing signed by the applicant is received by the Board on or before the date of his death. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

PART 16. RELINQUISHMENT OF RIGHTS

Sec.
16.01. Statutory provision.
16.02. Relinquishment of rights as condition for payment.
16.03. Relinquishment of rights in case of disability annuity.
16.04. What constitutes relinquishment of rights.

SEC. 16.01. *Statutory provision.*—"An annuity shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person by whom he was last employed; but this requirement shall not apply to the individuals mentioned in subdivision 2 (b) and subdivision 3 of subsection (a) prior to attaining age sixty-five." (Sec. 2 (b), 50 Stat. 310; 45 U. S. C. Sup. III, 228b.)

SEC. 16.02. *Relinquishment of rights as condition for payment.*—No annuity other than a disability annuity, shall be paid until the applicant has relinquished all rights which he may have to return to the service of an employer, and of all persons with whom he has any rights to return to service. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 16.03. *Relinquishment of rights in case of disability annuity.*—In the case of an individual, whose eligibility for an annuity is based upon total and permanent disability for regular employment for hire, an annuity is payable prior to age sixty-five even though he retains rights to return to service until age sixty-five, provided, however, that such individual shall, upon the attainment of age sixty-five, relinquish all rights which he may have to return to the service of an employer, as defined in the Act, and of all persons with whom he has any rights to return to service; otherwise payment of his disability annuity shall not be made for any calendar month in which he becomes or is sixty-five years of age or over, unless and until such individual relinquishes such rights as he may have to return to the service of any employer and of the last person or persons by whom he was employed prior to the beginning date of his disability annuity. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 16.04. *What constitutes relinquishment of rights.*—An individual shall be deemed to have relinquished his rights to return to the service of any employer, whether or not under the Act, whenever it is established to the satisfaction of the Board:

(a) that the records of such employer evidence that, because of some action taken by the employer, all rights which the individual may have had no longer exist; or

(b) that such individual has by a written or oral notice communicated to the employer a clear and unambiguous intention thereby to terminate any and all rights to return to the service of such employer (such relinquishment of rights shall be presumed to have occurred whenever such individual has certified to the Board that he has relinquished his rights to return to service, the employer has been notified by the Board of such certification, and the employer has expressly confirmed such certification or has failed to reply within two weeks following the mailing of the notification); or

(c) that there has been communicated to the employer by a duly authorized agent of the individual a clear and unambiguous intention on the part of the individual thereby to terminate any and all rights to return to the service of such employer; or

(d) that the individual has died; or

(e) that some events have occurred which under the established rules or practices in effect on the employer automatically terminate all rights to return to service; or

(f) that some cognizable action has been taken by the individual or his employer or by both which when considered in the light of the facts and circumstances of the particular case clearly and unambiguously manifest a termination of all rights to return to service. (Sec. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

PART 20. DEFINITION AND CREDITABILITY OF SERVICE

Sec.
20.01. Meaning of service.
20.02. What constitutes a month and a year of service.
20.03. Creditability of service.
- (a) When a company is not an employer.
- (b) Place of performance of service.
- (c) Service based on time lost.
- (d) Service after age sixty-five.
- (e) Service prior to January 1, 1937.
- (f) Service prior to January 1, 1937 where individual was employee on August 29, 1935.
- (g) Service subsequent to December 31, 1936.
- (h) Service performed subsequent to beginning date of an annuity.
- (i) Service as employee representative.

20.04. Verification of service claimed.

SEC. 20.01. *Meaning of service.*—Service shall consist of time devoted to active service as an employee for compensation or time with respect to which remuneration is paid for time lost as an employee. Such service shall be computed in accordance with section 20.02 and the creditability thereof shall be determined in accordance with section 20.03, and shall be verified in accordance with section 20.04. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 20.02. *What constitutes a month and a year of service.*—Any calendar month in which an individual renders service for compensation or for which he receives remuneration for time lost as an employee constitutes a month of service, irrespective of the amount of such service or of the amount of time for which such remuneration is received. Twelve such months, consecutive or otherwise, shall be a year of service; provided, however, that in totaling the service of an employee, an ultimate fraction of six months or more shall constitute a year of service and an ultimate fraction of less than six months shall be taken at its actual value. (Secs. 1, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 20.03. *Creditability of service.*—(a) *When a company is not an employer.*—Service rendered to any person or company other than an employer shall not be creditable except that (1) service rendered prior to August 29, 1935 for a person or company which was an employer on August 29, 1935 shall be creditable even though such person or company was not an employer at the time the service was rendered and (2) service rendered to any person or company which was at some time during its existence an express company, sleeping-car company or carrier by railroad and which was a predecessor of an express company, sleeping-car company or carrier by railroad subject to the Act on August 29, 1935 shall be creditable even though such person or company was not an employer at the time such service was rendered. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

(b) *Place of performance of service.*—Service performed for an employer shall be creditable whether rendered within or without the United States, if such employer conducts the principal part of its business within the United States; but if such employer does not conduct the principal part of its business within the United States, service to it shall be creditable only when performed by the employee within the United States. (Secs. 1, 10, 50 Stat. 308, 314; 45 U. S. C. Sup. III, 228a, 228j.)

(c) *Service based on time lost.*—Any month during which an individual performs no active creditable service, but for all or part of which he received remuneration as an employee, which remuneration is creditable as compensation within the meaning of Part 22 of these regulations, shall be creditable in the same manner as active service. (Secs. 1, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228a, 228j.)

(d) *Service after age sixty-five.*—Service rendered in any month after the month in which age sixty-five is attained shall not be creditable unless rendered prior to July 1, 1937. (Secs. 3, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228c, 228j.)

(e) *Service prior to January 1, 1937.*—If an individual was not an employee on August 29, 1935, no service prior to January 1, 1937 shall be creditable. (Secs. 3, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228c, 228j.)

(f) *Service prior to January 1, 1937 where individual was employee on August 29, 1935.*—Service performed prior to January 1, 1937 by an individual who was an employee on August 29, 1935 shall be creditable in the manner and to the extent provided in section 20.03 (g) but not so as to cause the total years of service to exceed thirty; provided, however, that with respect to any such individual who rendered service to any employer after January 1, 1937, and who on August 29, 1935 was not an employee of an employer conducting the principal part of its business in the United States no greater proportion of his service rendered prior to January 1, 1937, shall be included in his "years of service" than the proportion which his total compensation (including compensation in any month in excess of $300) for service after January 1, 1937, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (including compensation in any month in excess of $300) for service rendered anywhere to an employer after January 1, 1937. (Secs. 3, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228c, 228j.)

(g) *Service subsequent to December 31, 1936.*—Service rendered as an employee after December 31, 1936 shall be creditable even in excess of thirty years; provided, however, that in any case in which both service prior to January 1, 1937 and service subsequent to December 31, 1936 are to be credited, all service subsequent to December 31, 1936 shall first be credited, and if it be less than thirty years, then service prior to January 1, 1937 shall be included, but only to an extent sufficient to bring the total of all years of service to thirty; and provided further, that whenever service prior to January 1, 1937 is to be included it shall be taken in reverse order. (Secs. 3, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228c, 228j.)

(h) *Service performed subsequent to the beginning date of an annuity.*—Service rendered as an employee after the beginning date of an annuity shall not be creditable, nor shall such annuity be recomputed because of such service except, if such annuity be granted upon the basis of total and permanent disability for regular employment for hire and the disability annuity ceases, service performed after such cessation of the annuity and before the end of the month during which age sixty-five is attained may be credited toward any other annuity to which such individual may become entitled. (Secs. 2, 3, 10, 50 Stat. 310, 311, 314; 45 U. S. C. Sup. III, 228b, 228c, 228j.)

(i) *Service as employee representative.*—Service rendered as an employee representative, as defined in section 5.02 of these regulations, shall be creditable in the same manner and to the same extent as though the organization by which he was employed were an employer. (Secs. 3, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 20.04. *Verification of service claimed.*—Service claimed, to be credited, shall be verified to the satisfaction of the Board, in the following manner:

(a) Service claimed shall be vertified from the pay roll or other detailed records of the employer.

(b) In the event the pay roll or other detailed records are incomplete or missing, the service claimed and not established by such records shall be verified from the personnel records of the employer.

(c) If the pay roll, personnel, and detailed records are incomplete or missing, the service claimed and not established by such records shall be verified from any other books and records of the employer.

(d) If employer records do not establish service claimed, the individual may submit affidavits and other evidence in support thereof in either of the following instances: (1) when there are no employer records available to show whether or not the service claimed was rendered; or (2) when there are employer records available which do not verify the service claimed and do not establish that the service claimed was not rendered.

(e) When service is verified as to overall dates, but is not supported in detail by employer records, and when there are no employer records showing in detail absences from service, a deduction shall be made to cover an average amount of such absences. The deduction shall be the absences shown by the applicant or 5 per centum of the total period in question, whichever is greater, provided, however, that the individual may be permitted to establish in a manner satisfactory to the Board the actual amount of his absences. (Secs. 2, 3, 10, 50 Stat.

309, 310, 314; 45 U. S. C. Sup. III, 228b, 228c, 228j.)

PART 22. DEFINITION AND CREDITABILITY OF COMPENSATION

Sec.
22.01. Statutory provisions.
22.02. Definition of compensation.
22.03 Creditability of compensation.
(a) Compensation for one month in excess of $300.
(b) Compensation earned after age sixty-five.
(c) Compensation dependent upon creditability of service.
(d) Remuneration by an annuitant.
22.04. Payments in settlement for personal injuries not creditable as compensation.
22.05. Verification of compensation claimed.

SEC. 22.01. *Statutory provisions.*—"The term 'compensation' means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee." (Sec. 1 (h), 50 Stat. 309; 45 U. S. C. Sup. III, 228a.)

"• • • If the employee earned compensation after June 30, 1937, and after the last day of the month in which he attained age sixty-five, such compensation shall be disregarded if the result of taking such compensation into account would be to diminish his annuity. In computing the monthly compensation, no part of any month's compensation in excess of $300 shall be recognized." (Sec. 3 (c), 50 Stat. 311; 45 U. S. C. Sup. III, 228c.)

SEC. 22.02. *Definition of compensation.*—Compensation shall mean the amount an individual earns for service performed as an employee, (a) where such amount is payable in money, or (b) where such amount is payable, in whole or in part, in the form of some commodity, service or privilege other than money at a money value agreed upon by the employer and the employee prior to the rendition of the service for which such commodity, service or privilege is earned, and compensation shall also include amounts paid by an employer to an individual for time lost during which time the individual had, with the employer, an employment relation, as defined in the Act and part 4 of these regulations. (Sec. 1, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 22.03. *Creditability of compensation.*—(a) *Compensation for one month in excess of $300.00.*—In no case shall compensation in excess of three hundred dollars be credited for any one month of service.

(b) *Compensation earned after age sixty-five.*—Compensation earned after the last day of the month in which the individual becomes sixty-five years of age shall not be credited unless the crediting thereof would increase the amount of his annuity.

(c) *Compensation dependent upon creditability of service.*—No amount shall be credited as compensation unless it is received or earned for service creditable in accordance with section 20.3.

(d) *Remuneration by an Annuitant.*—Remuneration earned or received by an individual for service performed while he is in receipt of an annuity shall not be creditable as compensation. (Secs. 1, 3, 10, 50 Stat. 309, 311, 314; 45 U. S. C. Sup. III, 228a, 228c, 228j.)

SEC. 22.04. *Payments in settlement for personal injury not creditable as compensation.*—A sum or sums paid by an employer solely in settlement or in lieu of settlement of a real or supposed liability for personal injury shall not be creditable as compensation; provided, however, that payments shall be presumed, in the absence of facts to the contrary, not to have been made solely in settlement or in lieu of settlement of such liability when such payments (a) cover a period not in excess of six months, (b) are computed at a rate not in excess of that which had previously been the individual's rate of pay, and (c) are made at or before the end of the period covered by them. The Board shall determine the creditability of the payments made in any other case on the basis of the facts of the particular case. (Secs. 1, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228a, 228j.)

SEC. 22.05. *Verification of compensation claimed.*—Compensation claimed shall be verified to the extent deemed necessary by the Board, to determine the "monthly compensation" referred to in section 25.03 of these regulations and shall be verified from employers' pay roll or other detailed records; where such records are not available the compensation claimed shall be verified as follows:

(a) By the employee submitting income tax records or a diary or other personal record; provided, however, that such records shall not be considered unless similar records are furnished covering a reasonable period of time for which employer records are available, and the difference between the amount of compensation shown by the employee's records and that shown by the employer's records is not more than 2 per centum.

(b) Notwithstanding the lack of some compensation records required to calculate the "monthly compensation" during the years 1924 to 1931, inclusive, the amounts of annuities may be determined finally on the basis of such compensation records as are available.

(1) If 48 months or more service in the period 1924–1931 are proved and carrier compensation records are furnished for every month in which service was proved.

(2) If some but less than 48 months service in the period 1924–1931 are proved and carrier compensation records are furnished for all the months proved, if the average monthly compensation calculated from the foregoing is $200 or more.

(3) If 48 months or more of service in the period 1924–1931 are proved but carrier compensation records are missing for some of these months and *where no change* in occupation in the period 1924–1931 is reported *either by the carrier* or *the employee*, provided that carrier compensation records are furnished for at least one-half of the service proved in the period.

(4) If 48 months or more of service in the period 1924–1931 are proved but carrier compensation records are missing for some of these months and *where a change in occupation in the period 1924–1931 is reported either by the carrier* or *the employee*, provided that carrier compensation records are furnished for at least ⅞ of the service proved in the period and for at least ⅝ of the service proved in any one calendar year.

Provided, however, That if subsequent to such adjudication, compensation records should be supplied or found, the annuity shall be redetermined.

(c) In any case in which compensation records required to calculate the "monthly compensation" during the years 1924–1931, inclusive, are not available, and a final determination cannot be made according to the rules set forth in the preceding paragraph, a claim otherwise ready for certification may be temporarily certified on the basis of compensation for the period of missing records calculated as follows:

(1) Compute an average annual compensation for each year in which records are missing and for each occupation in which the employee was engaged during each such year, by dividing the total compensation reported to the Interstate Commerce Commission for the year and for the appropriate occupation group or groups by the employer by whom the applicant was employed, by the average number of employees on the fifteenth of each month for the same occupation group and year; provided that where, because of small numbers involved, the resulting average is not typical, an appropriate adjustment may be made; and provided further, if the annual average is greater than $3600, $3600 shall be used as the average;

(2) Compute the total compensation for the period of missing records by summating the totals of the averages so computed, appropriately adjusted for the proportion of year worked in each occupation;

(3) Compute the compensation claimed by the applicant for the period of missing records, using, if a total or average compensation is not claimed, such hourly, daily or weekly rates as may be reported by the applicant, using 208 hours or 25.5 days per month, and 12 months per year or 52⅐ weeks per year. In summating the claimed compensation the same adjustments for time worked shall be made as were made for the averages in the preceding sub-paragraph;

(4) Divide 90 per cent of the sum in sub-paragraph (2) or 90 per cent of the sum in sub-paragraph (3), whichever is smaller, plus the actual compensation for the period reported, not in excess of $300 per month, by the total number of months in the eight-year period, less the number of whole calendar months of absence indicated by the employer's personnel records during the period of missing compensation records and by the pay rolls, for the period for which they are available. Annuities thus temporarily certified shall be subject to recertification upon submission by the railroad of satisfactory proof of the compensation actually received.

(d) Claims which cannot be certified finally or temporarily under the rules set forth in the two preceding sub-paragraphs shall be certified finally or temporarily under regulations which the Board may from time to time prescribe.

(e) In any case involving verification of compensation the Board may prescribe the extent and manner in which such compensation shall be established. (Secs. 1, 3, 10, 50 Stat. 309, 311, 314; 45 U. S. C. Sup. III, 228a, 228c, 228j.)

PART 25. COMPUTATION OF ANNUITY

Sec.
25.01. Formula for computing annuity.
25.02. Determination of "years of service."
25.03. Determination of "monthly compensation."
25.04. "Compensation" that is included in determining "monthly compensation."
25.05. Annuities subject to reduction where individual is under age sixty-five.
25.06. Reduction by reason of previous disability annuity.
25.07. Reduction by reason of election of joint and survivor annuity.
25.08. Maximum amount of annuity.
25.09. Minimum amount of annuity.
(a) Employee at age sixty-five with twenty years' service.
(b) Minimum applicable to all cases.
25.10. Annuity not subject to recomputation.

SEC. 25.01. *Formula for computing annuity.*—The annuity shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": 2 per centum of the first $20; 1½ per centum of the next $100; and 1 per centum of the next $150. (Secs. 3, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228c, 228j.)

SEC. 25.02. *Determination of "years of service."*—The "years of service" of an individual shall be determined in accordance with the provisions of section 20.03 of these regulations. (Secs. 3, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228c, 228j.)

SEC. 25.03. *Determination of "monthly compensation."*—The "monthly compensation" of an individual shall be computed by totalling the compensation earned by him in his "years of service" (excluding compensation in excess of $300 earned in any one month) and dividing that sum by the number of months in his "years of service", except (a) with respect to service prior to January 1, 1937 included in his "years of service", the "monthly compensation" shall be the arithmetic mean of the monthly compensation earned in calendar months included in his "years of service" in the years 1924–1931, and (b) where the "years of service" does not include service in the period 1924–1931 or where service in the period 1924–1931 which is included in the "years of service" is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining the "monthly compensation" for service prior to January 1, 1937, the Board shall determine the "monthly compensation" for such service in such manner as in its judgment shall be just and equitable. (Secs. 3, 10, 50 Stat. 45 U. S. C. Sup. III, 228c, 228j.)

SEC. 25.04. *"Compensation" that is included in determining "monthly compensation."*—The "compensation" to be included in determining the "monthly compensation" shall be determined in accordance with the provisions of Part 22 of these regulations. (Secs. 3, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228c, 228j.)

SEC. 25.05. *Annuities subject to reduction where individual is under age sixty-five.*—Where eligibility for an annuity is based on age sixty to sixty-five and service (see section 8.05 of these regulations) or on age sixty to sixty-five and disability (see section 8.10 of these regulations) the amount of the annuity, as computed under sections 25.01 to 25.04, shall be reduced by one one-hundred-and-eightieth for each calendar month during all of which the individual is less than sixty-five years of age when the annuity begins to accrue. (Secs. 2, 10, 50 Stat. 309, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 25.06. *Reduction by reason of previous disability annuity.*—Where an individual who has been paid an annuity based on disability and service (see section 8.15 of these regulations), and subsequent to the cessation of this annuity is granted an annuity based on age sixty-five or on age sixty to sixty-five and service (see sections 8.02 and 8.05, respectively, of these regulations), the amount of such latter annuity, computed under sections 25.01 to 25.05, shall be reduced on an actuarial basis to be determined by the Board, in order to compensate for the disability annuity previously paid. (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 25.07. *Reduction by reason of election of joint and survivor annuity.*—If a joint and survivor election is operative, the value of the annuity, as computed under sections 25.01 to 25.06, shall be applied to the payment of two annuities, one to the individual during life, and the other to the surviving spouse during life. The amounts of both annuities shall be such that their combined actuarial value as determined by the Board shall be the same as the actuarial value of the annuity computed under sections 25.01 to 25.06. (Secs. 4, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 25.08. *Maximum amount of annuity.*—

(a) Where the annuity is based in whole or in part upon service rendered prior to January 1, 1937 the amount of the annuity shall not exceed one hundred twenty dollars per month.

(b) Where the annuity is based wholly upon service rendered subsequent to December 31, 1936 there shall be no maximum limit upon the amount of the annuity. (Secs. 3, 10, 50 Stat. 310, 314; 45 U. S. C. Sup. III, 228c, 228j.)

SEC. 25.09. *Minimum amount of annuity.*—

(a) Employee at age sixty-five with twenty years' service. In the case of an individual who is an employee under the Act at age sixty-five and has at least 234 months of creditable service, the minimum annuity shall be as follows: (1) If the "monthly compensation" is $50 or more, the minimum annuity shall be $40, or (2) If the "monthly compensation" is at least $25 but less than $50, the minimum annuity shall be 80 per cent of the "monthly compensation," or (3) If the "monthly compensation" is at least $20 but less than $25, the minimum annuity shall be $20, or (4) If the "monthly compensation" is less than $20, the annuity shall be the full amount of the "monthly compensation." (Secs. 3, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228c, 228j.)

(b) *Minimum applicable to all cases.*—In no case, irrespective of whether the individual has the qualifications enumerated under (a) above, shall the amount of the annuity be less than the value of the additional old-age benefit the individual would receive under Title II of the Social Security Act if the individual's service as an employee, as defined in the Railroad Retirement Act of 1937, after December 31, 1936 were included in the Security Act. (Secs. 3, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228c, 228j.)

SEC. 25.10. *Annuity not subject to recomputation.*—After an annuity has begun to accrue it shall not be subject to recomputation by reason of services rendered thereafter to an employer, except in computing an annuity granted after the cessation of a disability annuity. (Secs. 3, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228c, 228j.)

PART 30. ELECTIONS OF JOINT AND SURVIVOR ANNUITIES

Sec.
30.01. Statutory provision.
30.02. Definition of election.
30.03. Communication to the Railroad Retirement Board.
30.04. Prima facie evidence of further elements of election.
30.05. Confirmation of prima facie evidence.
30.06. Prima facie evidence to become conclusive under certain circumstances.
30.07. Rebuttal of prima facie evidence.
30.08. Further communication after rebuttal of prima facie evidence.

30.09. Application of regulations to communications received prior to promulgation of regulations.
30.10. When can an election be made; effect of proof of health on election.
30.11. Election where individual attempts, but fails, to prove health.
30.12. What constitutes proof of health satisfactory to the Board.
30.13. Election to be irrevocable.
30.14. When new election may be made.

SEC. 30.01. *Statutory provision.*—"An individual whose annuity shall not have begun to accrue may elect prior to January 1, 1938, or at least five years before the date on which his annuity begins to accrue, or upon furnishing proof of health satisfactory to the Board, to have the value of his annuity apply to the payment of a reduced annuity to him during life and an annuity after his death to his spouse during life equal to, or 75 per centum of, or 50 per centum of such reduced annuity. The amounts of the two annuities shall be such that their combined actuarial value as determined by the Board shall be the same as the actuarial value of the single-life annuity to which the individual would otherwise be entitled. Such election shall be irrevocable, except that it shall become inoperative if the individual or the spouse dies before the annuity begins to accrue or if the individual's marriage is dissolved or if the individual shall be granted an annuity under subdivision 3 of section 2 (a): *Provided, however,* That the individual may, if his marriage is dissolved before the date his annuity begins to accrue, or if his annuity under subdivision 3 of section 2 (a) ceases because of failure to make the required proof of disability, make a new election under the conditions stated in the first sentence of this subsection. The annuity of a spouse under this subsection shall begin to accrue on the first day of the calendar month in which the death of the individual occurs." (Sec. 4, 50 Stat. 311; 45 U. S. C. Sup. III, 228d.)

SEC. 30.02. *Definition of election.*—An election of a joint and survivor annuity shall have been made when the individual entitled thereto (a) shall have made a choice to have the value of his annuity at accrual applied to the payment of a reduced annuity to him during life and an annuity after his death to his spouse during life; (b) shall have made a choice whether the value of his annuity at accrual shall be applied to the payment of an annuity to him during life so reduced as to provide for an annuity after his death to his spouse equal to such reduced annuity, or 75 per centum of such reduced annuity, or 50 per centum of such reduced annuity; (c) shall have made such choice with knowledge of the essence of the transaction; (d) and shall have communicated such choice in writing, clearly and unambiguously, to the Railroad Retirement Board; (e) all within the time provided in section 4 of the Railroad Retirement Act of 1937. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.03. *Communication to the Railroad Retirement Board.*—Communication of the choice as hereinabove set forth may be made by executing, in such manner as may be indicated in the application form provided by the Board, the designated provisions thereof relevant to an election, or by the due execution of the appropriate form provided by the Board, or by the execution of any legible writing clearly and unambiguously stating that the choice has been made; any such communication shall become effective as a communication upon its receipt by the Railroad Retirement Board. In the event that the communication takes a form other than the execution of the application form provision or the form provided by the Board, the individual will be required, where possible, to verify the communication by the execution of the form provided by the Board. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.04. *Prima facie evidence of further elements of election.*—Receipt of a communication as set forth above shall constitute prima facie evidence of the existence of all the elements of an election as defined in section 30.02. Whenever such *prima facie* evidence becomes conclusive or is confirmed as hereinafter provided, an election shall have been made on the date on which the communication containing such *prima facie* evidence is received by the Railroad Retirement Board. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.05. *Confirmation of prima facie evidence.*—Upon receipt of a communication as hereinabove described, the Railroad Retirement Board will advise the individual of the nature of the transaction and will solicit his confirmation of the existence of all the elements of an election. Upon receipt of such confirmation by the Railroad Retirement Board, an election shall be conclusively established to have been made on the date the original communication as hereinabove described was received by the Railroad Retirement Board; except that, in the event an annuity is awarded which is reduced as provided in Section 8.05 or Section 8.10 of these regulations, further opportunity for rebuttal predicated upon lack of knowledge of that fact shall be afforded. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.06. *Prima facie evidence to become conclusive under certain circumstances.*—The *prima facie* evidence of the existence of the elements of an election contained in a communication as hereinabove set forth shall become conclusive without confirmation in any of the following circumstances:

(a) If the individual dies before confirmation or rebuttal is received by the Railroad Retirement Board.

(b) If an intervening right of the spouse to a survivor annuity is asserted on the basis of such prima facie evidence. In any case in which the individual seeks to rebut the *prima facie* evidence and to claim an annuity less favorable to the spouse, he shall be required to furnish evidence that no intervening right is asserted by obtaining the signature of the spouse upon the Railroad Retirement Board form furnished for that purpose; except that no such evidence shall be required in the event that any election which might be asserted to have been made becomes inoperative by law through the award of an annuity under subdivision 3 of section 2 (a) of the Railroad Retirement Act of 1937.

(c) If no confirmation or rebuttal is received by the Railroad Retirement Board within thirty days from the date on which a solicitation of confirmation is mailed to the individual at the address furnished by him, except upon a conclusive showing of special and unusual circumstances depriving the individual of an opportunity to indicate rebuttal within such thirty days. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.07. *Rebuttal of prima facie evidence.*—In order to rebut the *prima facie* evidence of the existence of all the elements of an election contained in a communication as hereinabove described, the individual will be required to furnish evidence convincing to the Railroad Retirement Board that some element or elements of an election, as defined in section 30.02, did not exist. If the elements of an election were present, a mere change of judgment upon reconsideration is not sufficient. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.08. *Further communication after rebuttal of prima facie evidence.*—If *prima facie* evidence of the existence of all the elements of an election contained in a communication in writing from the individual received by the Railroad Retirement Board expressing clearly and unambiguously a choice as set forth in section 30.02 shall constitute conclusive evidence of the existence of all the elements of an election, and such communication, in order to be effective, shall be received within the limitations of time set forth in section 4 of the Railroad Retirement Act of 1937. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.09. *Application of regulations to communications received prior to promulgation of regulations.*—These regulations shall apply to all elections under the Railroad Retirement Act of 1937, irrespective of whether communications with respect thereto are received by the Railroad Retirement Board before or after the promulgation of these regulations; except that in the case of any individual from whom such communication has been received before the date of promulgation of these regulations and who has not theretofore been advised of the nature of the transaction, and to whom no annuity has been awarded, advice of the nature of the transaction and solicitation of confirmation will be transmitted as promptly as possible after the promulgation of these regulations, and confirmation or rebuttal shall thereafter proceed as provided in sections 30.05, 30.06 and 30.07 of these regulations; and except that in the case of individuals who have theretofore been advised of the nature of the transaction and individuals to whom annuities have theretofore been awarded, the original

communication shall be conclusive evidence of the existence of all the elements of an election unless rebuttal evidence is received within thirty days from the promulgation of these regulations. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.10. *When can an election be made; effect of proof of health on election.*—Any individual, irrespective of whether he has applied for an annuity, can, prior to the date on which his annuity begins to accrue, make (in accordance with sections 30.02 to 30.08, inclusive) an election of a joint and survivor annuity; provided, however, that if he is granted an annuity which begins to accrue earlier than five years after the date on which the election is so made such election shall be ineffective, unless, prior to the date on which his annuity begins to accrue, he submits proof of health in accordance with section 30.12, or unless such election was made before January 1, 1938. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.11. *Election where individual attempts, but fails, to prove health.*—Where an individual attempts, but fails, to prove health satisfactory to the Board in connection with a joint and survivor election, an election shall not have been made unless, following notice from the Board of such failure, an election not based upon proof of health is confirmed or becomes conclusive in accordance with section 30.06 (c); provided, however, that such an election shall be subject to the provisions of section 30.10. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.12. *What constitutes proof of health satisfactory to the Board.*—In order to furnish proof of health satisfactory to the Board, an individual shall submit, in such manner as the Board may from time to time require, (a) a statement of health by himself, (b) a complete report by a medical examiner who shall be a duly qualified and licensed physician, not related by blood or marriage to the individual or his spouse and not pecuniarily interested in any survivor annuity which might become payable to the individual's spouse by reason of a joint and survivor election by the individual, and (c) such additonal statements as, under the facts of the particular case, the Board may require; such statements and report to show, to the satisfaction of the Board, that the individual is free from any disease or condition which would tend to shorten the individual's normal life. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.13. *Election to be irrevocable.*—An election once made in accordance with this section cannot be revoked or changed. An election shall not be operative if:

(a) the individual does not become eligible for an annuity;

(b) the individual although eligible for an annuity does not file on or before the date of death an application for an annuity;

(c) the individual dies before the annuity begins to accrue;

(d) the individual's spouse dies before the annuity begins to accrue;

(e) the individual's marriage is dissolved either before or after the annuity begins to accrue; in the event of such dissolution after the annuity begins to accrue the individual shall be paid from and after the effective date of such dissolution an annuity in the same amount per month as if no election had been made;

(f) the individual is granted an annuity based on service and disability (see section 8.15 of these regulations). (Secs. 4, 10, 50 Stat. 312, 45 U. S. C. Sup. III, 228d, 228j.)

SEC. 30.14. *When new election may be made.*—An individual may, in accordance with the provisions of this section, make a new election if (a) his marriage was dissolved and he remarries before the annuity begins to accrue, or (b) his spouse died and he remarries before the annuity begins to accrue, or (c) he was granted an annuity based on disability and service (see section 8.15 of these regulations) and this annuity ceases because of failure to make proof of disability in accordance with section 8.25 of these regulations. (Secs. 4, 10, 50 Stat. 311, 314; 45 U. S. C. Sup. III, 228d, 228j.)

PART 35. PAYMENTS AT DEATH

Sec.
35.01. Death benefit—amount of, and when payable.
35.02. Death benefit—to whom payable.
35.03. Annuity payments due but unpaid at death.
(a) Under 1937 Act.
(b) Under 1935 Act.
35.04. Survivor annuities due but unpaid at death.
(a) Under 1937 Act.
(b) Under 1935 Act.
35.05. Revocation or change of designation of beneficiary.
35.06. Designation on other than prescribed form.
35.07. Witnessing of designation or revocation.
35.08. Designees to share equally unless otherwise specified.

SEC. 35.01. *Death benefit—amount of, and when payable.*—(a) Upon the death of an individual to whom no annuities have become payable there shall be paid a death benefit equal to 4 per centum of the aggregate compensation, if any, earned by the individual as an employee after December 31, 1936, excluding compensation in excess of three hundred dollars in any one month.

(b) Upon the death of an individual to whom annuities have become payable and who is not survived by a spouse entitled to a survivor annuity, there shall be paid a death benefit equal to an amount computed as in (a) above, less all annuities paid or payable to the individual.

(c) In any case wherein an individual dies survived by a spouse entitled to a survivor annuity, there shall be paid after the death of such surviving spouse a death benefit equal to an amount computed as in (b) above, less all survivor annuities paid or payable to such surviving spouse. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j.)

SEC. 35.02. *Death benefit—to whom payable.*—Any individual who was an employee after December 31, 1936, may designate the person or persons whom he wishes to receive any death benefit payable under Section 5 of the Railroad Retirement Act of 1937. Such designation to be valid must be made by such individual in writing on the designation form provided by the Board, and must be received by the Railroad Retirement Board prior to the individual's death. If the person or persons designated to receive a death benefit die before the death benefits become payable, such benefits shall be paid to the designator's legal representative. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j.)

SEC. 35.03. *Annuity payments due but unpaid at death.*—(a) *Under 1937 Act.*—Such payments shall be paid to a surviving spouse if such spouse is entitled to an annuity under a joint and survivor election made pursuant to Section 4 of the 1937 Act; otherwise they shall be paid to the same individual or individuals who may be entitled to receive any death benefit under Section 5 of the 1937 Act, as provided in section 35.02 of these regulations, and shall be paid in the same proportion that such death benefits are so payable. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j.)

(b) *Under 1935 Act.*—Such payments shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of Section 5 of the 1935 Act; otherwise they shall be paid to such person or persons as the deceased may have designated, or if there be no designation, to the legal representative of the deceased. A designation by the deceased to be valid must be made by him in writing on the designation form provided by the Board, and must be received by the Railroad Retirement Board prior to the deceased's death. If the person or persons designated by the deceased do not survive him, the annuity payments shall be made to the legal representative of the deceased. (Secs. 10, 202, 50 Stat. 314, 318; 45 U. S. C. Sup. III, 215, 314.)

SEC. 35.04. *Survivor annuities due but unpaid at death.*—(a) *Under 1937 Act.*—All annuity payments due a surviving spouse who is entitled to a survivor annuity under an election made pursuant to Section 4 of the Railroad Retirement Act of 1937, but not yet paid at the death of such spouse, shall be paid to the same individual, or individuals, who may be entitled to receive any death benefit that may be payable under Section 5 of such Act and shall be paid in the same proportion that such death benefits are so payable. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j.)

(b) *Under 1935 Act.*—All annuity payments due a surviving spouse by reason

of an election made pursuant to Section 5 of the Railroad Retirement Act of 1935 but not yet paid at the death of such spouse shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his death or, if there be no designation or if the person or persons designated do not survive such spouse, such annuity payments shall be paid to the legal representative of the deceased employee. The designation of a person or persons to receive accrued annuities due at the death of the employee under the Railroad Retirement Act of 1935 shall operate to designate the same person or persons to receive, in the same proportion, all annuity payments due to a surviving spouse by reason of an election made pursuant to Section 5 of such Act, but not yet paid at the death of such spouse. The designation of an alternate beneficiary or alternate beneficiaries, in the event that the primary beneficiaries do not survive the designator, shall operate to designate any such alternate beneficiary in the place of the primary beneficiaries and in the event also that the primary beneficiaries survive the designator but do not survive a surviving spouse entitled to survivor annuities. If more than one beneficiary is designated, the share of any beneficiary or beneficiaries who die before a surviving spouse entitled to a survivor annuity shall be paid in equal shares to the survivors, or entirely to the survivor if only one survives. (Secs. 10, 202, 50 Stat. 314, 318; 45 U. S. C. Sup. III, 215, 228j.)

SEC. 35.05. *Revocation or change of designation of beneficiary.*—A revocation or change of designation of beneficiary, or a designation of an additional or new beneficiary or beneficiaries, may be made at any time and without the knowledge or consent of the previous beneficiary or beneficiaries, but to be valid must be made by the designator in writing on the form provided by the Board for that purpose, and must be received by the Railroad Retirement Board prior to the designator's death. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j.)

SEC. 35.06. *Designation on other than prescribed form.*—Where a writing, other than the form provided by the Board, signed by the designator is received by the Board prior to the designator's death, in which a clear and unambiguous designation of beneficiary or revocation or change of designation is made in substantially the same manner as that provided on such form and the designator dies without executing such form, the designation, revocation or change shall be given the same effect as if executed on such form. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j.)

SEC. 35.07. *Witnessing of designation or revocation.*—No effect shall be given to a designation of beneficiary or revocation or change of designation which does not bear the signatures of two witnesses, neither of whom is named as beneficiary, unless the execution of the designation, revocation or change by the designator is provided to the satisfaction of the Board. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j.)

SEC. 35.08. *Designees to share equally unless otherwise specified.*—Where more than one person is designated as beneficiary, each beneficiary shall receive an equal share, unless the percentage to be paid to each beneficiary is specified, in which case each beneficiary shall receive only the percentage specified. (Secs. 5, 10, 202, 50 Stat. 312, 314, 318; 45 U. S. C. Sup. III, 228e, 228j, 215.)

PART 36. PAYMENTS OF BENEFITS OF $500 OR LESS

Sec.
36.01. "Benefit" as used in this part.
36.02. Payment without formal administration.
36.03. Agreements and renunciations by creditor.
36.04. Direction of payment to other individuals.
36.05. Selection under State allowance or exemption laws.

SEC. 36.01. *"Benefit" as used in this part.*—The term "benefit" as used in this part means a death benefit under Section 5 of the 1937 Act, annuity or pension payments due under the 1937 Act, or annuity payments due under the 1935 Act, but unpaid at death. (Secs. 5, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228e, 228j) (Sec. 202, 50 Stat. 318; 45 U. S. C. Sup. III, 215.)

SEC. 36.02. *Payment without formal administration.*—When any benefit in an amount of five hundred dollars or less is payable to a legal representative, and when no executor or administrator has been or is expected to be appointed, the Board may, without formal administration, make certification for payment to the surviving spouse or kindred of the deceased who are determined by the Board to be entitled thereto under the laws of the State of last domicile of such deceased. (Secs. 5, 10, 202, 50 Stat. 312, 314, 318; 45 U. S. C. Sup. III, 228e, 228j, 215.)

SEC. 36.03. *Agreements and renunciations by creditor.*—If, in the judgment of the Board, any creditor of the estate of the deceased possesses rights superior to those of his surviving spouse or kindred, payments shall not be made without formal administration unless and until such creditor has, on a form approved by the Board, agreed with the Board that payment shall be made without administration to a specified person or persons, and in consideration thereof, renounced any right or remedy for the payment of such benefit to any one other than the person or persons specified. (Secs. 5, 10, 202, 50 Stat. 312, 314, 318; 45 U. S. C. Sup. III, 228e, 228j, 215.)

SEC. 36.04. *Direction of payment to other individuals.*—If it is determined by the Board that the benefit is payable to two or more individuals mentioned in section 36.02, any one or more of such individuals may, if he wishes, upon a form approved by the Board, direct the payment of his interest to any other of such individuals. (Secs. 5, 10, 202, 50 Stat. 312, 314, 318; 45 U. S. C. Sup. III, 228e, 228j, 215.)

SEC. 36.05. *Selection under state allowance or exemption laws.*—Whenever, under the laws of the state in which the deceased was last domiciled, the surviving spouse or kindred is, in the judgment of the Board, entitled to allowance or exemption, the benefit may become payable without court proceedings, in accordance with the provisions of such allowance or exemption laws, if such spouse or kindred executes and files with the Board a prescribed form in which he selects and accepts the benefit as a first payment toward the allowance or exemption, and agrees in the event of any proceedings concerning the administration or distribution of assets of the estate of the deceased to notify the Probate Court or other proper authority of such selection and acceptance. (Secs. 5, 10, 202; 50 Stat. 312, 314, 318; 45 U. S. C. Sup. III, 228e, 228j, 215.)

PART 40. PENSIONS

Sec.
40.01. Statutory provisions.
40.02. Eligibility for pensions under Section 6.
40.03. Rate and time at which pension is payable.
40.04. Duty of employer.
40.05. Eligibility of pensioner for annuity on July 1, 1937.
40.06. Adjustment of dual payments.
40.07. Pension by Board not to affect additional payments by employer.

SEC. 40.01. *Statutory provisions.*—"(a) Beginning July 1, 1937, each individual then on the pension or gratuity roll of an employer by reason of his employment, who was on such roll on March 1, 1937, shall be paid on July 1, 1937, and on the 1st day of each calendar month thereafter during his life, a pension at the same rate as the pension or gratuity granted to him by the employer without diminution by reason of a general reduction or readjustment made subsequent to December 31, 1930, and applicable to pensioners of the employer: Provided, however, That no pension payable under this section shall exceed $120 monthly: And provided further, That no individual on the pension or gratuity roll of an employer not conducting the principal part of its business in the United States shall be paid a pension under this section unless, in the judgment of the Board, he was, on March 1, 1937, carried on the pension or gratuity roll as a United States pensioner.

"(b) No individual covered by this section who was on July 1, 1937, eligible for an annuity under this Act or the Railroad Retirement Act of 1935, based in whole or in part on service rendered prior to January 1, 1937, shall receive a pension payment under this section subsequent to the payments due on October 1, 1937, or due on the 1st day of the month in which the application for an annuity of such individual has been awarded and certified by the Board, whichever of the two dates is earlier. The annuity claims of such individuals who receive pension payments under this section shall be adjudicated in the same manner and with the same effect as if no pension payments had been made: Provided, however, That no such individual shall be entitled to receive both a pension under this section and an annuity under this Act or the Railroad Retirement Act of 1935, and in the event pension payments have been made to any such individual in any month in which such individual is entitled to an annuity under this Act or the Railroad Reitrement Act of 1935, the difference between the amounts paid as pensions and the amounts due as annuities shall be adjusted in accordance with such rules and regulations as the Board may deem just and reasonable.

"(c) The pension paid under this section shall not be considered to be in substitution for that part of the pension or gratuity from the employer which is in excess of a pension or gratuity at the rate of $120 a month. (Sec. 6, 50 Stat. 312; 45 U. S. C. Sup. III, 228f.)

"SEC. 7. Nothing in this Act or the Railroad Retirement Act of 1935 shall be taken as restricting or discouraging payment by employers to retired employees of pensions or gratuities in addition to the annuities or pensions paid to such employees under such Acts, nor shall such Acts be taken as terminating any trust heretofore created for the payment of such pensions or gratuities." (Sec. 7, 50 Stat. 313; 45 U. S. C. Sup. III, 228g.)

SEC. 40.02. *Eligibility for pensions under Section 6.*—Any individual shall be eligible for a pension under Section 6 of the Act if it is claimed and established to the satisfaction of the Board: (a) that he was, on March 1, 1937 and on July 1, 1937, on the pension or gratuity roll of an employer, as defined in the Act; (b) that he was on such roll by reason of employment with an employer; (c) that his pension or gratuity was payable at a fixed rate; (d) that he was not, on July 1, 1937, eligible under either the 1935 Act or the 1937 Act for an annuity based in whole or in part on service rendered prior to January 1, 1937; (e) that if, on March 1, 1937 and on July 1, 1937, the employer was not conducting the principal part of its business within the United States, the individual was, on March 1, 1937, carried on the pension or gratuity roll by reason of having performed, within the United States, all or a substantial portion of his service with such employer during a reasonable period preceding the granting of such pension or gratuity. (Secs. 6, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228f, 228j.)

SEC. 40.03. *Rate and time at which pension is payable.*—Any individual establishing the above qualifications shall be paid a monthly pension on the first day of July, 1937 and on the first day of each calendar month thereafter during his lifetime, in the same amount as he was receiving, or would have received had he been on the pension or gratuity roll of his employer, on December 31, 1930, or on the earliest date that such rolls were commenced, whichever date shall be later; provided, however, that if the pension or gratuity has been reduced by reason of a special (not general) reduction or readjustment made subsequent to December 31, 1930, the pension shall be at such reduced rate, but in no case shall a pension payable under Section 6 of the Act exceed one hundred and twenty dollars per month. A pension payment does not accrue nor become payable until the first day of a month, and only if the pensioner be alive on that date. (Secs. 6, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228f, 228j.)

SEC. 40.04. *Duty of Employer.*—Each employer, as defined in the Act, shall report to the Board, on such form or forms as the Board may provide, with respect to all individuals on its pension or gratuity rolls by reason of employment on both March 1, 1937 and July 1, 1937, the information requested on such forms relating to the eligibility of such individuals for pensions under Section 6 of the Act, and shall submit such further evidence and information relating thereto as may be required by the Board. (Secs. 6, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228f, 228j.)

SEC. 40.05. *Eligibility of pensioner for an annuity on July 1, 1937.*—The claim for an annuity of any individual in receipt of or eligible for a pension under Section 6 of the Act shall be adjudicated in the same manner and with the same effect as the claims of other individuals; provided, however, that such an individual shall not be granted an annuity unless he was, on July 1, 1937, eligible under the 1935 or the 1937 Act for an annuity based in whole or in part on service rendered prior to January 1, 1937. (Secs. 6, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228f, 228j.)

SEC. 40.06. *Adjustment of dual payments.*—In the event of payment by the Board to an individual, who was, on July 1, 1937, eligible under either the 1935 Act or the 1937 Act for an annuity based in whole or in part on service rendered prior to January 1, 1937, of pensions in months in which for all or a part thereof the individual is entitled to annuities, the difference between the pensions paid and the annuities accruing for the same period or fraction thereof, if any, shall be adjusted by the Board as follows:

(a) If the total or the allocated portion of the pension payments made in such months equals the total of the unpaid annuities due, the latter amount shall be canceled.

(b) If the total or the allocated portion of the pension payments made in such months exceeds the total of the unpaid annuities due, the latter amount shall be canceled and the difference shall be deducted from annuities subsequently becoming due.

(c) If the total or the allocated portion of the pension payments made in such months is less than the total of the unpaid annuities due, the individual shall be paid the difference.

(d) If, under either (a), (b) or (c) of this section, the annuity payments have been made for the month or months or fractional portions thereof in which the pension payments were made or if, for any other reason, it is, in the judgment of the Board, inequitable or impractical to cancel or reduce the annuity payments for such month or months, the unpaid annuity payments for the succeeding month or months shall be canceled or reduced.

(e) In any case wherein the payment of an annuity or a pension was based upon fraudulent or erroneous information or statements submitted by the individual to whom payment has been made or his employer, or both, the Board may require from the individual or the employer submitting such fraudulent or erroneous information or statements reimbursement of any amounts thus paid, and in addition thereto shall cause to be taken under Section 13 of the Act such action as it deems proper under the circumstances. (Secs. 6, 10, 50 Stat. 312, 314; 45 U. S. C. Sup. III, 228f, 228j.)

SEC. 40.07. *Pension by Board not to affect additional payments by employer.*—In any case wherein a pensioner eligible under Section 6 of the Act was receiving a pension or gratuity of more than one hundred and twenty dollars per month from an employer, the payment by the Board of a pension under Section 6 of the Act shall have no effect upon the payment by the employer of such additional gratuities as it sees fit, nor upon any trust fund created for the payment of pensions or gratuities. (Secs. 7, 10, 50 Stat. 313, 314; 45 U. S. C. Sup. III, 228g, 228j.)

PART 50. REPORTS, INFORMATION, HEARINGS AND WITNESSES

Sec.
50.01. Duty to furnish information and records.
50.02. Employer to notify of death of employee.
50.03. Employers' reports of monthly compensation of employees.
50.04. Registration of employees.
50.05. Employers to distribute annual statements of compensation.
50.06. Report of employee representatives.
50.07. Hearings.
50.08. Witnesses.
50.09. Application for witnesses.
50.10. Petition for summoning Recalcitrant Witnesses.
50.11. Service of subpoenas.
50.12. Returns.
50.13. Examiners.
50.14. Procedure when examiner appointed.

SEC. 50.01. *Duty to furnish information and records.*—In connection with any matter or inquiry directly or indirectly involving (a) the employer status of any individual, person or company, (b) the employee or pension status of any individual, (c) the amount and creditability of service and compensation, or (d) any other matter arising in or necessary for the administration of the Railroad Retirement Acts of 1935 and 1937, the Board may require any individual, person or company to furnish or submit, in such form and at such times as the Board may require, any information, records, contracts, documents, reports or other material within their possession or control, that, in the judgment of the Board, may have any bearing upon such matter or inquiry. (Secs. 10, 13, 50 Stat. 314, 316; 45 U. S. C. Sup. III, 228j, 228m.)

SEC. 50.02. *Employer to notify of death of employee.*—It shall be the duty of every employer coming within the purview of the Act to notify the Railroad Retirement Board of the death of any employee in active employment, and when known, of the death of any employee in an employment relation, within 30 days following the receipt by the employer of notice of such death. Such

notification to the Board shall be made on the form provided for that purpose, and, to the extent known to the employer, shall show, among other things, the date of death, place thereof and the name and address of the surviving spouse or nearest relative.

The notice of death shall also contain a statement of the amount of compensation earned by the deceased for service to the employer for each month of the period beginning with the first month of the last completed calendar quarter and ending with the date of death and any other statement which the Board may deem necessary in carrying out the provisions of the Act.

This report does not take the place of the regular reports of employee's compensation to the Bureau of Accounts but represents an additional report with respect to deceased employees. The regular reports will be rendered when due, including any amounts which may be reported as the result of the death of the employee. (Secs. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 50.03. *Employers' Reports of monthly compensation of employees.*—The following regulations became effective with the quarterly period ending March 31, 1938, and supersede all other regulations on the same subject previously issued by the Railroad Retirement Board. In order to make possible compliance with Section 8 of the Railroad Retirement Act of 1937, it is necessary that a uniform record be maintained by the Board showing the monthly earnings of each individual for employment covered by the Act in any calendar month subsequent to December 31, 1936. The Bureau of Accounts will furnish the forms necessary for reporting compensation of employees.

(a) The Board may accept punched tabulating cards in substitution of report forms hereinafter provided. The Board cannot permit substitution of report forms which would materially increase the cost of recording, or provide for reporting at longer intervals than those provided for regular reports.

(b) Unless otherwise specifically agreed heretofore or hereafter, in writing approved by the Director of the Bureau of Accounts of the Railroad Retirement Board, every employer shall forward to the Board on or before the expiration of thirty days after the close of each quarter ending March 31, June 30, September 30 and December 31, of each year a report of compensation earned by each employee for service during each month of such quarter. The report of compensation of employees shall consist of:

(1) A report of compensation for 3 months, (2) a report of compensation adjustments for 3 months, and (3) a summary report of compensation of employees for such period.

(c) A brief description of the items for which provision is made follows:

(1) *Employer.*—The corporate name of the employer shall be shown on each sheet of the report.

(2) *Employer number.*—The identification number assigned by the Railroad Retirement Board to the employer shall be shown on each sheet of the report.

(3) *Employee account number.*—The 9-digit number assigned either by the Social Security Board or the Railroad Retirement Board and shown on the employee's account number card shall be shown. If, at the time of preparing the report there are employees to whom account numbers have not been assigned, but for whom Forms CER–1 have been forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C., such employees should be reported on the RRB form furnished for that purpose in the regular manner except that the "Account Number" column should be left blank. These employees should then be re-listed on another such form made up in duplicate, leaving the "Account Number" column blank and reporting to the right of the name in the remaining columns the notation "CER–1 submitted on _____," together with the Sheet Number and Line Number on which the employee is reported on the regular RRB form. An employer who regularly assigns account numbers should show no employees without account numbers except those individuals who applied for a number while working for another employer but who never received one, or who lost their original number and do not recall it. In both cases Forms CER–1 should have been forwarded to this Bureau with proper explanation.

(date)

(4) *Employee name*—The last name, or surname, of the employee shall be shown in full as it appears on the account number card, together with the first name or initials. The order in which this information is shown is optional with the employer and may follow the method used in preparation of his payroll. The Board prefers the surname first, followed by either the first name and middle initial, or by both initials.

(5) *I. C. C. occupation classification.*—The number of the occupation classification to be shown on each quarterly report shall be that to which the employee is assigned in reports to the Interstate Commerce Commission during the first month in which the individual was employed in each reporting period. No employee should be reported under more than one occupation classification on any one quarterly report. In assigning the occupation classification code the predominant type of service rendered should govern. Since certain employers do not submit a "MONTHLY REPORT OF EMPLOYEES, SERVICE AND COMPENSATION" to the Interstate Commerce Commission they may not be familiar with the I. C. C. Occupation Classification. For the benefit of these employers excerpt from the complete "List of Occupations of Positions in Each Reporting Division" for those divisions which appear to be applicable to the employees of such employers are shown hereunder together with explanatory notes:

EXECUTIVES, OFFICIALS, AND STAFF ASSISTANTS

Code	Description
1	Executives, General Officers, and Assistants. Executive officer or assistant. General officer or assistant. NOTE.—Executive officers and general officers, assistant executive officers and assistant general officers of railroad and other associations and of national railway labor organizations should be reported under this clasification.
2	Division Officers, Assistants, and Staff Assistants. Division officer. Official staff assistant. NOTE.—Division or district officials occupying positions of importance comparable to "Superintendent of of Shops" in a railroad organization shall be reported under this Classification.

PROFESSIONAL, CLERICAL AND GENERAL

3	Attorney. Legal assistant. Draftsman. Assistant Engineer. Chemist. NOTE.—Employees whose work is comparable to the duties generally performed by employees of carriers in the positions indicated shall be reported under this classification.
5	Chief Clerk and Assistant Chief Clerk, and Supervising Cashiers. Supervisor or chief clerk. Supervising cashier.
6	Clerks and Clerical Specialists. Clerk. Accountant. Statistician. Cashier or teller. Note.—This classification should include all clerks who are performing work of a very difficult nature comparable to that performed by accountants, statisticians, cashiers and tellers in carrier organizations.
7	Clerks. Clerk. Ticket clerk.
9	Secretaries.
10	Stenographers and Typists.
15	Messengers and Office Boys.
16	Elevator Operators and Other Office Attendants. Elevator operator. Elevator starter. Office matron. Office porter.
18	Patrolmen and Watchmen.
19	Traffic and Various Other Agents, Inspectors and Investigators.
20	Claim Agents or Investigators.
26	Janitors and Cleaners. Cleaner (brass, marble, etc.) Janitor and cleaner. Head janitor.

MAINTENANCE OF WAY AND STRUCTURES

27	Roadmasters, General Foreman, and Assistants.
40	Gang or Section Foremen.
42	Section Men.
47	Linemen and Groundmen. Electrical worker.

MAINTENANCE OF EQUIPMENT AND STORES

50	General, Assistant General, and Department Foremen. Shop Foreman. Enginehouse Foreman.
57	Carmen (Includes Inspector).
61	Machinists (Includes engine inspectors).
71	General Laborers.
73	Stationary Engineers.

TRANSPORTATION (OTHER THAN TRAIN, ENGINE AND YARD)

76	Train Dispatchers.
79	Station Agents (non-telegraphers). Station agent. Assistant station agent. Station agent—non-supervisory. Station agent—part time.
80	Station Agents (telegraphers and telephoners). Agent—telegrapher. Agent—telephoner.
83	Telegraphers, Telephoners and Towermen.
90	Gang Foremen (freight station, grain elevator, warehouse and dock labor).
92	Truckers.
94	Common Laborers.
98	Officers, Workers, and Attendants on Barges, Launches, Ferry Boats, Towing Vessels and Steamers; and Shore Workers.
102	Bridge Operators and Helpers.
103	Crossing and Bridge Flagmen and Gatemen.
105	Yardmasters.
107	Switch Tenders.
108	Hostlers.

TRANSPORTATION—(TRAIN AND ENGINE)

111	Road Passenger Conductors.
114	Road Freight Conductors.
115	Road Passenger Baggagemen.
116	Road Passenger Brakemen and Flagmen.
118	Road Freight Brakemen and Flagmen.
119	Yard Conductors and Yard Foremen.
120	Yard Brakemen and Yard Helpers.
121	Road Passenger Engineers and Motormen.
123	Road Freight Engineers and Motormen.
124	Yard Engineers and Motormen.
125	Road Passenger Firemen and Helpers.
127	Road Freight Firemen and Helpers.
128	Yard Firemen and Helpers.

EXPRESS COMPANIES WILL USE THE FOLLOWING CLASSIFICATION: EXECUTIVES, OFFICIALS AND STAFF ASSISTANTS

301	Executives and general officers.
302	Staff officials, division officers and assistants.

PROFESSIONAL, CLERICAL AND GENERAL

303	Professional and subprofessional assistants.
304	Chief Clerks A.
305	Chief Clerks B, head clerks and clerical specialists.
306	Clerks.
307	Non-listing adding and calculating machine operators.
308	Stenographers and typists.
309	Office attendants.
310	Route agents.
311	Agents—office, depot, and terminal.
312	Foremen—vehicle, depot and platform.
313	Warehouse and platform clerks.
314	Warehouse and platform laborers.
315	Vehicle employees.
316	Police.
317	Claim agents and claim adjusters.

TRAIN TRANSPORTATION

318	Train messengers.
319	Train helpers and guards.

MAINTENANCE AND STORES

320	Foremen.
321	Machinists.
322	Other craftsmen.
323	Apprentices and helpers—all trades.
324	Garage employees.
325	Laborers, unclassified.

In the event any employer has employees who do not appear to be includable in any of the classifications shown herein, a statement giving a brief description of the duties of such employees should be transmitted to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C., in duplicate, and the copy of that statement will be returned to the employer showing the classification in which the employee should be included.

The following account classifications have been provided by the Bureau of Accounts of the Railroad Retirement Board for use by all employers to cover employees not presently included in the "Monthly report of employees, service and compensation:"

Code	Description
201	Station caretakers and other persons regularly employed on a part time basis.
210	Miners, Laborers and other employees used in the operation of mines.
211	Doctors.
212	Hospital employees other than doctors.

(6) *Compensation.*—The total compensation for every employee shown on a payroll or other disbursement document for a particular calendar month shall be reported on a form provided by the Board with two exceptions:

(i) Compensation for employees in I. C. C. Occupation Classification 1, Executives, Officials and Staff Assistants, and 2, Division Officers, Assistants, and Staff Assistants, which exceeds $300 in any one month may be reported on the basis of total compensation or $300, unless such employees receive compensation from two or more employers, in which case the full amount of the compensation received from the reporting employer should be shown. (See *Adjustments*, paragraph 7.)

(ii) Compensation for employees whose earnings are carried on weekly payrolls, provided such payrolls are required by State laws, shall include the total compensation received for all payroll weeks, all or a major portion of which falls within a particular calendar month, except that compensation earned in one calendar year shall not be reported as compensation earned in another calendar year, further provided that the total compensation of any individual for a four-week month shall not exceed $275; or the total compensation of any individual for a five-week month shall not exceed $300; or no amount shall be reported as compensation for a particular calendar month which represents the only earnings of a particular individual in another calendar month.

All compensation for employees whose earnings are carried on weekly payrolls, the total of which exceeds $275 in any four-week month, or $300 in any five-week month, and:

Amounts, the inclusion of which as a part of the compensation for a particular month would affect the service months creditable, shall be separated and allocated to the calendar month in which earned and shall be reported in accordance with the general instructions applicable to all employers.

The practice of reporting under exceptions (i) and (ii) above shall be constant for a particular employer and may be changed only after approval by the Director, Bureau of Accounts, Railroad Retirement Board.

(7) *Adjustments.*—Any adjustment of compensation shown on a payroll or other disbursement document for a current month, and included in the report as compensation for the month which represents an adjustment of compensation shown on the payroll for a prior month, or any adjustment of compensation shown on a payroll or other disbursement document for a prior month which was made subsequent to the filing of the report and therefore not included as compensation for that month shall be reported (on a form to be provided by the Bureau of Accounts) provided it affects the service period, or it affects creditable earnings.

The total amount earned in the service of the reporting employer by an employee who concurrently performs compensated service for two or more employers under the Act shall be reported regardless of occupation classification. If the total earnings of an individual from all employers under the Act exceed $300, adjustment should be made to reduce the creditable earnings and to increase the non-creditable earnings in such manner as to accomplish a net of creditable earnings equivalent to the proportion of $300 that the amount of total earnings from the reporting employer bears to the total earnings from all employers under the Act. If the total earned by such an employee from the reporting employer exceeds $300, the amount in excess of $300 should be included as the amount of compensation reported in excess of $300 for any individual in any one month.

If an employee is paid for all service by a single employer who is reimbursed for a portion of those earnings by another employer, the employee shall be considered as the employee of the employer initially making the payment of earnings for the purposes of reports herein required.

It is the intent of instructions concerning the reporting of adjustments that any adjustment of compensation shown on a payroll or other disbursement document for a current month which would not affect the amount of annuity if reported as a part of current earnings instead of as an adjustment of prior earnings, shall be reported on the proper form as a part of the compensation earned during the month covered by the payroll or other disbursement document on which the adjustment is made.

In considering these adjustments it should be borne in mind that all amounts up to but not exceeding $300 per month reported are considered by the bureau to be creditable carnings, and are transcribed as such to a punch card, and all

amounts in excess of $300 per month are considered to be non-creditable earnings and are transcribed to another punch card. By punching these two cards the bureau is able to balance to the total compensation reported, the excess and net compensation reported.

(8) *Summary, recapitulation, and execution.*—The total for each sheet of the reporting form shall be shown and recapitulated on additional sheets of the same form, using the name column for sheet number and the last three columns for the amounts. If the report is of sufficient size to justify a grand recapitulation, the same forms shall be used for that purpose. In addition to the summary of total compensation reported, a summary of amounts shown in excess of $300 shall be shown by Department, State, Division, or any other convenient segregation conforming with the reporting divisions used in the preparation of the detail form. The employer may show "excess" totals at the bottom of each sheet if he desires to do so. In summarizing excess earnings any amount reported on the detail form in excess of $300 should be considered as non-creditable. No amounts shown should be considered as excess unless the amount shown exceeds $300, irrespective of the fact that some of these amounts not so considered may be non-creditable earnings. The latter should be adjusted by use of a form provided for that purpose.

The declaration on the reporting forms shall be signed by an authorized responsible official of the employer, and the jurat completed by a notary public. (Secs. 8, 10, 50 Stat. 313, 314; 45 U. S. C. Sup. III, 228b, 228j.)

SEC. 50.04. *Registration of employees.*—(a) On July 1, 1937 the Railroad Retirement Board took over the assignment of account numbers to employees covered by the Railroad Retirement Act, and the cooperative arrangement in effect with the Post Office Department was discontinued. All numbers previously issued to employees under the Social Security Act were issued on the basis of an application Form SS–5 while those issued to employees under the Railroad Retirement Act were issued on the basis of an application Form CER–1. The information shown on the application Form SS–5 or Form CER–1 was transcribed to Form OA–702. The original Forms OA–702 based on Form SS–5 are on file in the office of the Bureau of Old-Age Insurance of the Social Security Board, Baltimore, Maryland. The original Forms OA–702 based on Form CER–1 are on file in the office of the Bureau of Accounts, Railroad Retirement Board, Washington, D. C.

Account numbers assigned under the direction of the Railroad Retirement Board shall continue to be referred to as "Social Security Account Numbers" and Form CER–1 ("Social Security—Carrier Employee Registration Application for Account Number") shall continue in use.

The principal change resulting from the transfer of the assignment of account numbers to the Railroad Retirement Board was the cooperative arrangement entered into between the Railroad Retirement Board and certain large employers whereby those employers secure supplies of pre-numbered office record forms and make direct assignments of account numbers.

(b) It is essential that all persons who perform compensated service for an employer, and who are employees be assigned an account number. The account number is a 9-digit number under which a record of service and compensation is maintained for an employee under either the Railroad Retirement Act or the Social Security Act. A block of numbers, the first three digits of which are in the series of 700 to 739, has been allocated to the Railroad Retirement Board for assignment to employees under the Railroad Retirement Act of 1937 who have not previously received account numbers. The separation of the number into groups of three digits representing "area," two digits representing "group," and four digits representing "serial," with a dash between each group, has no meaning and is merely for convenience in writing the number.

Employees engaged in the future by employers in whose service they have not previously been engaged will come into one of the following classifications:

(1) Persons who have not, since January 1, 1937, had any employment requiring an account number. These persons should fill out Form CER–1.

(2) Persons having a number in other than the series seven hundred (700) to seven hundred thirty-nine (739) will continue to use such numbers, but should fill out Form CER–1 if they have not already done so while in prior service with some other employer under the Railroad Retirement Act, and turn it over to their employer for filing with the Board.

(3) Persons holding account numbers of which the first three digits are in the seven hundred (700) to seven hundred thirty-nine (739) series, and persons holding account numbers in any series who have performed service for an employer after June 30, 1937, should have been registered on Form CER–1, and there should be no necessity, so far as the Railroad Retirement Board is concerned, to secure their re-registration. But, if a person with an account number in this series works for an employer after June 30, 1937, and subsequently works for another employer under the Retirement Act, such subsequent employer may wish to maintain a complete file of Forms CER–1; in such case, however, no such form need be sent to the Board.

(c) The procedure to be followed in filling out Form CER–1 and making account number assignments in the above cases is prescribed hereunder:

(1) Employers will requisition the estimated number of Forms CER–1, "Social Security-Carrier Employee Registration Application for Account Number," for periods of six months in advance. The requisition form furnished by the Board should be used for this purpose.

(2) Employers will secure a properly executed Form CER–1 from each new employee who has not previously received an account number, the first three digits of which are within the series seven hundred (700) to seven hundred thirty-nine (739), unless such employee has previously completed such form. After entering the previously assigned account number on the original and duplicate form, it should be examined with particular reference to the following items:

(i) Is each question answered in full? If the answer to any question is unknown, the word "unknown" should be written. If on Line 1 the employee has no middle name, this should be indicated by a line; otherwise, middle name should be required.

(ii) Addresses should be complete.

(iii) The name on Line 1 should be the correct name of the applicant. If this name differs from the name signed on Line 16, an explanation should be attached to the CER–1 application. This applies to such cases as abbreviations of long foreign names, married women working under their maiden names, and other persons working under a name different from their correct name.

(3) Employers who are supplied with Forms OA–702 will transcribe the information on Form CER–1 to the Form OA–702, in the case of each employee who has not previously received an account number. Before transcribing this information the same examination of Form CER–1 as described in paragraph (2) above should be made. In typing Form OA–702 the following rules should be adhered to:

(i) The lower part of the identification card which contains the employee account number can be detached and used by the employer or can be turned over to the employee at the discretion of the employer.

(ii) Capitalize the first letter only of each name on the Form OA–702.

(iii) If a name is too long to be typed in full on the account number card, initials may be typed for the middle name or for the first and middle names, if necessary. Include "Jr." or "Sr." if part of name given.

(iv) Erasures are permitted if the result is neat and legible.

(v) Numerical sequence of Forms, OA–702 should be maintained.

(vi) If necessary to void a form, mark it "void" but include it in series sent to this office.

(vii) When OA–702's are prepared and account numbers assigned, the account number should be transcribed from OA–702's to the upper right-hand corner of the corresponding CER–1 in the space between the heading and the black corner.

The original account number card (right-hand portion) of Form OA–702 should be delivered to the employee. The original of Form OA–702 (left-hand portion) and Form CER–1 should be forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. The carrier may retain the right-hand portion of the duplicate Form OA–702 (Duplicate Account Number Card Portion) if desired, or it may be forwarded to the Bureau of Accounts. The left-hand portion of the duplicate copy of Form OA–702 should be sent to:

Washington Regional Office,
Social Security Board,
Bond Building,
New York Avenue & 14th St. NW.
Washington, D. C.

The duplicate copy of Form CER–1 may be retained by the employer.

(4) Employers who do not have a supply of Forms OA–702 will forward to the Bureau of Accounts, Railroad Retirement Board, Forms CER–1, covering employees who have not previously received an account number. The Board will thereupon prepare Form OA–702 and forward the account number card to the employer for recording the number, and delivery to the employee.

(d) Other problems which may arise at the time of filling out Form CER–1 and with which the employer should be familiar in order to expedite delivery of the account numbers to employees are set forth below:

(1) *Corrections.*—All applications for correction of data previously furnished by the employee as a basis for the issuance of the account number, or correction in the account number card should be made over the signature of the employee concerned. This includes changes in names on account of marriage. The employee should prepare a corrected Form CER–1, inserting the correct information in all cases. The form should also show the word "Correction" at the top of the form. The employee's account number should be shown under Item 14, if he has been assigned one. All applications for corrections in records (Form CER–1) should be forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. If the correction involves a change of the name on the account number card, this card should be returned with the Form CER–1 and a corrected Account Card will be forwarded to the employer for delivery to the employee.

(2) *Applications for duplicate account number cards.*—Applications for duplicate account number cards will be made on Form CER–1 over the signature of the employee. Applications for duplicate account number cards should be addressed to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. In all applications for duplicate account number cards the reason should be indicated in the answer to question 14 as to why a duplicate card is necessary. Usually this will be because the original has been lost. If insufficient room is available in which to supply this explanation, a supplementary statement should be attached.

(3) *Cancellations.*—The question of cancellations of account numbers for employees who hold two or more numbers should be handled as follows: If an employee holds two or more numbers, the first number issued, regardless of origin, should be retained by him, and subsequent account number cards should be picked up from the employee and forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C., with a letter of explanation indicating the account number which was retained by the employee.

(4) *Assignment of numbers to former employees who have left the service before receiving an account number.*—If an employee applies for an account number on Form CER–1 but leaves the service of his employer before receiving his account number card, every possible effort should be made to deliver the employee's account number card to him. Where such delivery is impossible, the account number card should be forwarded to the Bureau of Accounts, Railroad Retirement Board, for filing and for reference in case of future inquiries concerning such number. If an employee leaves the service of his employer before having applied for an account number, an effort should be made to locate the former employee and have him prepare Form CER–1, at the same time getting his mailing address for delivery of account number upon assignment. If the former employee cannot be located, the employer should prepare Form CER–1, inserting all available information concerning the employee, including any information that might be helpful to subsequent identification even though not provided for by the form. This type of application should clearly state on Line 14 that the employer filed the Form CER–1 because he was unable to locate the former employee. The signature of the employer should be entered on Line 16, followed by the word employer. If signature is stamped or typed, it should be initialed. If the employer cannot furnish the complete information called for on CER–1, an account number may be assigned subject to the minimum requirement of the name, place of employment, occupation, race and sex. Employers who are supplied with Forms OA–702 should prepare this form and forward it without detaching the identification card to the Bureau of Accounts, Railroad Retirement Board, accompanied by the CER–1. The lower portion of the identification card should be noted "Undeliverable."

(5) *Employees who refuse to sign CER–1.*—Where employees refuse to sign Forms CER–1 for religious or other reasons, the necessary information should be secured from employee, if possible. If the employee refuses any information, all data available to the carrier should be inserted on both the Form CER–1 and the Form OA–702, if in use, together with an explanation such as "Employee refuses to sign—religious conviction," or whatever the reason may be. The account number card should be delivered to the employee. Form CER–1 and Form OA–702 should be forwarded to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C.

(6) *Employees who previously submitted application for an account number not yet received.*—An employee who has previously submitted an application Form CER–1 or SS–5 but has not received an account number should prepare Form CER–1, indicating on Line 14 the name of the employer for whom he was working at the time the original application was filed. All CER–1 forms of this type should be forwarded immediately to the Bureau of Accounts, Railroad Retirement Board, Washington, D. C. If our alphabetical files show that the employee has been assigned an account number, either the original account number card or a duplicate bearing the account number will be mailed to the present employer for delivery to the employee concerned. If a check develops the fact that no number has been assigned the employee, the CER–1 will be treated as an original and a number assigned and mailed to the employer for delivery to the employee. If the account number is not received by the date reports are prepared, the account number column of the reporting Form should be left blank and the employees without numbers re-listed on additional sheets of such form, as prescribed under Section 50.03 (c) (3).

(7) *Account number cards undelivered because of death of employee.*—If an employee dies before an account number card is received, the account number card should be delivered to his wife or next surviving relative. If this is impossible, make appropriate notation on the account number cards and forward to the Bureau of Accounts, Railroad Retirement Board, where they will be filed.

(e) This section became effective January 1, 1938. (Sec. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 50.05. *Employers to distribute annual statements of compensation.*—Upon the basis of compensation reports furnished to the Board under Section 50.03 of these regulations, the Board will annually forward to employers copies of statements of the annual compensation of employees as reported to the Board under Section 50.03 and it shall, except for good cause shown to the Board, be

the duty of each employer receiving such annual reports of compensation promptly to distribute them to each individual to whom the report is applicable. Distribution of these reports shall be completed within ninety days following the date on which they are received by the employer and if at the end of such ninety-day period any reports have not been distributed to any employee to whom the report is applicable, the employer shall note thereon the reason for its failure to make distribution as required by this section and the last address of the employee known to the employer, and shall return all such undistributed reports to the Board. (Secs. 8, 10, 50 Stat. 313, 316; 45 U. S. C. Sup. III, 228h, 228j.)

SEC. 50.06. *Reports of employee representatives.*—An initial report setting forth the facts upon which he bases his status as an employee representative will be required of an individual claiming such a status. If the facts establish to the satisfaction of the Board that the individual claiming such status is an employee representative within the meaning of the Act and these regulations, he will be so advised and will thereafter be required to furnish to the Board periodic reports of his compensation as such, from and after January 1, 1937. These reports will be used for the adjudication and computation of his annuity upon qualification therefor. Proper forms and instructions will be furnished from time to time for use in making these reports. (Sec. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 50.07. *Hearings.*—To such extent as may be necessary to determine (a) the employee or pension status of any individual or group of individuals, (b) the employer status of any company or person, and (c) any other matter arising in or necessary for the administration of the Railroad Retirement Acts of 1935 and 1937, the Board may itself or through a member or a designated subordinate or subordinates, require and compel the attendance of witnesses and the production of records and documents, administer oaths, take testimony, make all pertinent investigations and findings of fact and render decisions upon such findings. (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III 228j.)

SEC. 50.08. *Witnesses.*—In any hearing before the Appeals Council, the Board, a member thereof, or a designated subordinate or subordinate witnesses may be summoned to appear and give testimony.

Designation by the Board of any person or persons to preside at and conduct such hearings shall constitute a delegation of authority to such person or persons to require and compel the attendance of witnesses, to administer oaths, and to take testimony. (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228j.)

SEC. 50.09. *Application for Witnesses.*—The Appeals Council, the Board, a member thereof, or a designated subordinate or subordinates conducting a hearing may upon its or their own motion or upon application of any party to such hearing issue a subpoena for a witness or witnesses. The application shall be by affidavit filed with the body or person conducting the hearing within such period of time as will permit service and return of a subpoena prior to the date set for the hearing at which the witness is to appear but in no case shall such application be filed later than ten days prior to the date of hearing. The application shall set forth

(1) the name of the witness,

(2) his address,

(3) the title of the matter to be heard, i. e., names of parties,

(4) the issue to which the testimony of the witness will be directed,

(5) the substance of the testimony which such witness is expected to give or the facts to which such witness will testify,

(6) the books, papers, or documents which are requested, if a subpoena duces tecum is applied for.

In addition to the above the party filing such application shall, at the time of filing, deposit therewith a sum of money sufficient to cover the fees and mileage of the witness, or in lieu thereof, shall state in the application that satisfactory arrangements have been made with the witness for the direct payment of his fees and mileage and any other allowable expense. (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228j.)

SEC. 50.10. *Petition for Summoning Recalcitrant Witness.*—In connection with any hearing a party thereto may petition the Appeals Council, the Board, a member thereof, or a designated subordinate or subordinates to subpoena, upon its or their own motion, a witness or witnesses. The petition shall be in writing under oath and be filed with the body or person conducting the hearing within the time limit prescribed for an application for subpoena, shall set forth the same information required in an application for subpoena and in addition thereto shall show (1) that the person or persons named therein as witnesses will not appear voluntarily and (2) that a failure of such person or persons to appear and testify will operate to prejudice substantive rights of the petitioner.

The body or person designated to conduct the hearing shall upon receipt of the petition determine whether the fact to which it is alleged the witness will testify or the testimony which it is alleged the witness will give is material and relevant and if such body or person finds that such fact or testimony is material and relevant it or he shall either subpoena such witness upon its or his own motion or by agreement of all parties to the hearing, except the petitioner, shall stipulate and agree in the record that such witness would testify as alleged in the petition or (if the petition be for the production of books, papers or documents) that the records requested would appear as alleged. The body or person shall also have the power to deny any part of a petition which in its or his judgment is not material or relevant to the issues to be heard. If, in the judgment of the body or person designated to conduct the hearing the testimony which it is alleged the witness will give is merely cumulative, or immaterial or irrelevant the petition may be denied. (Sec. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 50.11 *Service of Subpoenas.*—Service of subpoenas issued under Section 50.08 shall be made by any individual designated by the Board. Such individual shall deliver to the person or persons named therein a copy of the subpoena and at that time tender to the person or persons the fees for one day's attendance and the mileage allowed by law, provided, however, that if the witness or witnesses be summoned to appear upon motion of the body or person designated to conduct the hearing no fees or mileage need be tendered. Fees and mileage allowed shall be in the same amount as is allowed to witnesses in the Courts of the United States. Sec. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 50.12 *Returns.*—The person serving the subpoena shall make affidavit on the original subpoena of the manner and time of service and shall file such original subpoena with the person or body by whom it was issued. (Sec. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 50.13. *Examiners.*—The Board may refer proceedings to an examiner for hearing and determination of any or all issues raised. Such appointment made in writing and entered upon the minutes of the Board shall constitute authorization for the examiner to preside at and conduct hearings, require and compel the attendance of witnesses, administer oaths, take testimony and cause the same to be recorded, and do such other acts as may be necessary for the hearing and determination of the issues referred. (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228j.)

SEC. 50.14. *Procedure when examiner appointed.*—When the taking of testimony has been completed the examiner shall as soon as practicable mail to each party at the address stated in his appearance a transcript of the record of the proceedings had before the examiner. Thereafter, the examiner shall give all parties participating in the hearing the opportunity for presentation to him of argument upon both law and facts. Upon conclusion of the proceedings before him, the examiner shall prepare an examiner's report, which, together with the record of the proceedings before him shall be submitted to the Board. The report shall set forth the examiner's findings of fact, conclusions of law, and recommendations as to decision. The report may also contain such discussion of the question raised, both legal and factual, as the examiner may desire to present to the Board.

A copy of the examiner's report shall be served by the examiner upon each party participating in the hearing by mailing such copy to him at the address stated in his appearance.

Each party shall within twenty days (exclusive of Sundays and legal holidays in the District of Columbia) after the date of mailing to him of the examiner's report, file with the Board and serve upon other parties by mailing to their addresses as stated in their appearances such exceptions in writing as he desires to make to the examiner's findings of fact and conclusions of law. Each exception shall specifically designate the particular finding of fact or conclusion of law to which objection is taken, and shall set forth in detail the grounds of the objection. General exceptions and exceptions not specifically directed to particular findings of fact or conclusions of law will not be considered by the Board. Exceptions to findings of fact shall make specific reference by page numbers to those portions of the record upon which reliance is placed.

Each party shall have ten days after receipt of exceptions taken by other parties in which to file with the Board replies to the exceptions. Replies to exceptions to findings of fact shall make specific reference by page numbers to those portions of the record upon which reliance is placed.

The Board may upon the application of a party and for cause shown extend the time for filing and serving of exceptions or filing of replies thereto.

The Board will render its decision upon the record, the examiner's report, and such exceptions and replies thereto as are made. Where the record is voluminous (more than one hundred pages including exhibits) the Board will consider only such points of law and fact as are specifically raised by the exceptions and such other points, if any, which it deems necessary for decision; and will examine only those portions of the record to which its attention is specifically directed, and such other portions of the record, if any, as the Board deems necessary.

The examiner's report shall be advisory only and the Board may, in any case, exercise its right to reject or adopt the examiner's report in whole or in part or adopt such report with modifications. The examiner's report, while advisory, shall nevertheless be presumed to be correct. Findings of fact to which no exceptions are taken will, subject only to the power of the Board upon its own consideration to reject or modify, stand confirmed.

The decision of the Board shall be communicated to the parties participating in the hearing within thirty days of the date upon which the decision of the Board is entered upon its records. (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228j.)

PART 55. RECOVERY OF ERRONEOUS PAYMENTS

Sec.
55.01. Statutory provisions.
55.02. Erroneous payments.
55.03. When erroneous payments to be recovered.
55.04. Methods of recovering erroneous payments.
55.05. Recovery by cash payment.
55.06. Recovery by set-off.
55.07. Recovery by deduction in computation of death benefit under 1937 Act.
55.08. Recovery by adjustment in connection with subsequent payments.
55.09. Effect of adjustment in connection with subsequent payments.
55.10. Waiver of recovery.
55.11. Waiver of methods of recovery.
55.12. Waiver not a matter of right; factors considered.

SEC. 55.01. *Statutory provisions.*—"(a) If the Board finds that at any time more or less than the correct amount of any annuity or pension has theretofore been paid to any individual under this Act or the Railroad Retirement Act of 1935, then, under regulations made by the Board, proper adjustments shall be made in connection with subsequent payments under such Acts to the same individual.

"(b) There shall be no recovery of payments of annuities, death benefits, or pensions from any person who, in the judgment of the Board, is without fault and if, in the judgment of the Board, such recovery would be against equity and good conscience. No disbursing officer shall be held liable for any amount paid by him to any person where the recovery of such amount is waived under this section." (Sec. 9, 50 Stat. 314; 45 U. S. C. Sup. III, 228i.)

SEC. 55.02. *Erroneous payments.*—An "erroneous payment", within the meaning of this section, shall have been made in any case in which an individual receives, as a payment under the 1937 Act or the 1935 Act, a payment all or part of which he is not entitled to receive. (Secs. 9, 10, 50 Stat. 314; U. S. C. Sup. III, 228i, 228j.)

SEC. 55.03. *When erroneous payments to be recovered.*—Erroneous payments shall be recovered in all cases except those in which recovery is waived under Section 55.10. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.04. *Methods of recovering erroneous payments.*—Erroneous payments may be recovered by any one or any combination of the methods described in Sections 55.05, 55.06, 55.07 and 55.08. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.05. *Recovery by cash payment.*—The Board shall have the right to require that erroneous payments be immediately and fully repaid in cash and any individual shall have the absolute right to repay such erroneous payments in this manner. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.06. *Recovery by set-off.*—Any payments due an individual to whom erroneous payments were made, or due the estate or designee of such individual, may be applied toward satisfaction of the erroneous payments. Annuity payments due the surviving spouse of an individual by reason of a joint and survivor election may be applied toward satisfaction of any erroneous payments made to the individual or the surviving spouse. In any case in which the application of payments due does not effect complete recovery, the balance may be recovered by one or more of the other methods described in this section. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.07. *Recovery by deduction in computation of death benefit under 1937 Act.*—In computing the death benefit under Section 5 of the 1937 Act with respect to the death of an individual, the Board shall include in the annuities to be deducted from 4 per centum of the aggregate compensation mentioned in that section all erroneous payments, not otherwise recovered, which were paid as annuities to the individual or to his surviving spouse by reason of a joint and survivor election. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.08. *Recovery by adjustment in connection with subsequent payments.*—Adjustment with respect to erroneous payments received by any individual may be made by subtracting the total amount of the erroneous payments from the actuarial value, as determined by the Board, of any annuity or pension payments due and becoming due to such individual (or, if such individual be deceased, then any survivor annuities due and becoming due to his spouse) and recertifying such annuity or pension on the basis of the reduced actuarial value; provided, however, that in case an individual entitled to a joint and survivor annuity and his spouse are both alive, they may, upon their joint request, have the adjustment made by subtracting the total amount of the erroneous payments from the combined actuarial value of both their annuities and having both their annuities recomputed on the basis of the reduced actuarial value. The adjustment described in this section may not be made unless all of the following conditions are shown to exist: (a) That the person or persons whose annuities or pension are being adjusted are alive on the date that the annuity or pension is recertified and on the due date of the first annuity or pension payment affected by the adjustment; (b) That, on the dates mentioned in (a) above, there are annuities accruing or pensions becoming due to one of such persons; (c) That the Board has waived, in accordance with section 55.11, any right to recover by the methods described in sections 55.05 and 55.06, but has not waived recovery in accordance with section 55.10. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.09. *Effect of adjustment in connection with subsequent payments.*—Adjustment by the method described in section 55.08 shall constitute a recovery of the amount of erroneous payments included in the adjustment. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.10. *Waiver of recovery.*—Recovery of erroneous payments may be waived in whole or in part if, in the judgment of the Board, the individual who received the erroneous payments is without fault and if, in the judgment of the Board, such recovery by any of the

methods described in sections 55.05, 55.06, 55.07 and 55.08 would be against equity and good conscience. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.11. *Waiver of methods of recovery.*—The Board may waive any right to recover all or any part of the erroneous payments by any one or more methods without waiving the right to recover by some other method or methods if, in the judgment of the Board, the individual is without fault and if, in the judgment of the Board, recovery by the methods waived would be against equity and good conscience and recovery by such other methods would not be against equity and good conscience. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

SEC. 55.12. *Waiver not a matter of right; factors considered.*—A waiver under section 55.10 or 55.11 is not a matter of right, but is at all times within the judgment of the Board. The following, while neither controlling nor fully measuring the discretion of the Board, indicate the character of reasons which will be considered: (a) whether the erroneous payment was caused by an incorrect statement made by the individual receiving such payment, and the individual knew or should have known it was incorrect; (b) whether the erroneous payment was caused by the failure of the individual to disclose facts or make a statement which he knew or should have known to be material; (c) whether, at the time or times of receipt of payments the individual knew or should have known the amount thereof to be incorrect and failed to inquire or advise the Board of the incorrectness of the amount of the payment or payments; (d) the extent to which the individual is dependent upon the current payment of his annuity or pension for the necessities of life; (e) whether the individual has, by reason of the erroneous payment, changed his position in such manner as to make recovery a severe hardship. (Secs. 9, 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228i, 228j.)

PART. 60. APPEALS WITHIN THE BOARD

Sec.
60.01. Initial decisions by Claims Service.
60.02. Appeal from an initial decision of the Claims Service.
60.03. Final appeal from a decision of the Appeals Council.
60.04. Effective date of this part and application thereof to decisions made prior to such date.

SEC. 60.01. *Initial decisions by the Claims Service.*—(a) Claims will be adjudicated and initial decisions made by the Claims Service upon the basis of the application, the evidence submitted by the applicant, and evidence otherwise available. Adjudication and initial decision will be in accordance with instructions issued by the Board. (b) Notice of an initial decision shall be communicated by the Claims Service to the applicant in writing within thirty days after such decision is made. (Sec. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 60.02. *Appeal from an initial decision of the Claims Service.*—(a) Every applicant shall have a right to appeal to the Appeals Council from any initial decision of the Claims Service by which he claims to be aggrieved. The Appeals Council shall consist of five members, one of whom shall have legal training and shall be the chairman. Each other member shall have a background of experience in the railroad industry calculated to familiarize him with the practices, procedures, and conduct prevailing in the railroad industry; two of such members shall have a background of experience in the representation of employee organizations, and two shall have had experience calculated to familiarize them with the problems of railway management. (b) Appeal from an initial decision of the Claims Service shall be made by the execution and filing of the appeal form prescribed by the Board, and must be filed with the Appeals Council within one year from the date upon which notice of the initial decision is mailed to the applicant at the address furnished by him. (c) The right to further review of an initial decision of the Claims Service shall be forfeited unless formal appeal is filed in the manner and within the time prescribed herein. (d) In the event that the applicant makes informal complaint without taking formal appeal, which complaint is not eliminated by explanation of the basis of the initial decision of the Claims Service, the Appeals Council shall endeavor to ascertain, by correspondence or conference with the applicant, whether he takes issue with any point of fact or law involved in the initial decision of the Claims Service, and, if so, whether the applicant desires to take a formal appeal to the Appeals Council. In the latter event, he shall be supplied with the appeal form prescribed by the Board, which form shall be duly executed and filed before the applicant is considered to have made an appeal. (e) The appellant, or his representative, shall be afforded full opportunity to present further evidence upon any controversial question of fact, orally or in writing or by means of exhibits; to examine and cross-examine witnesses; and to present argument in support of the appeal. If, in the judgment of the Appeals Council, evidence not offered by the appellant is available and relevant and is material to the merits of the claim, the Appeals Council shall obtain such evidence upon its own initiative. The Appeals Council shall protect the record against scandal, impertinence and irrelevancies, but the technical rules of evidence shall not apply. (f) In the development of appeals, the Appeals Council shall have power to hold hearings, require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations. (g) All oral evidence presented at any hearing shall be reduced to writing. All evidence presented by the appellant and all evidence developed by the Appeals Council shall be preserved. Such evidence, together with a record of the arguments, oral or written, and the file previously made in the adjudication of the claim, shall constitute the record for decision of the appeal. After an appeal form is filed, the compilation of the record shall be initiated by the inclusion therein of the file made in the adjudication of the claim; the compilation of the record shall be kept up to date by the prompt addition thereto of all parts of the record subsequently developed. The entire record at any time during the pendency of an appeal shall be available for examination by the appellant or his representative. (h) Upon completion of the record, the Appeals Council shall render decision thereon as soon as practicable, and within thirty days after the making thereof, such decision shall be communicated to the appellant in writing. Decision shall be taken by unanimous vote of the members of the Appeals Council, and such decision shall be either a decision upon the merits of the appeal, or a decision to certify the entire record as an automatic appeal to the Board. (Sec. 10, 50 Stat. 315, 45 U. S. C. Sup. III, 228j.)

SEC. 60.03. *Final appeal from a decision of the Appeals Council.*—(a) Every appellant shall have a right to a final appeal to the Railroad Retirement Board from any decision of the Appeals Council by which he claims to be aggrieved. (b) Final appeal from a decision of the Appeals Council shall be made by the execution and filing of the final appeal form prescribed by the Board, except as provided in paragraph (h) of section 60.02, and must be filed with the Board within four months from the date upon which notice of the decision by the Appeals Council is mailed to the appellant at the address furnished by him. As used herein, a month shall be considered to have elapsed between any date and the date corresponding thereto in the next succeeding month. (c) The right to further review of a decision of the Appeals Council shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed herein. (d) Upon final appeal to the Board, no additional evidence shall be received. In the event that the appellant shows that he is ready to present further material evidence, which for any reason he was not able to present to the Appeals Council, the claim shall be referred back to the Appeals Council for presentation of the further evidence. Upon receipt of such further evidence the Appeals Council shall transmit to the Board a transcript thereof together with its recommendation to the Board for final decision. (e) The decision of the Board shall be made upon the record of evidence and argument which has been made in the handling of the case before final appeal to the Board. Further argument will not be permitted except upon a showing by the appellant that he has arguments to present which for valid reasons he was unable to present at an earlier stage, and in cases where the Board requests further elaboration of the appellant's arguments. In such cases, the further argument shall be submitted orally or in writing, as the Board may indicate in each case, and shall be subject to such restrictions as to form, subject matter, length and time as the Board may indicate to the appellant. (Sec. 10, 50 Stat. 315; 45 U. S. C. Sup. III, 228j.)

SEC. 60.04. *Effective date of this part and application thereof to decisions made prior to such date.*—(a) The effective date of this part of the regulations shall be February 1, 1938. (b) All decisions upon applications for annuities or death benefits made by the Board prior to the effective date of these regulations shall be subject to review and reconsideration under these regulations, and for such purpose any such decision shall constitute an initial decision by the Claims Service as that term is used in these regulations. (c) For the purpose of applying the several limitations of time contained in these regulations, every decision made prior to the effective date of these regulations, by the Board or by the Claims Service, upon any application for annuity or death benefits, shall be considered to have been mailed to the applicant on the effective date of these regulations. (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228j.)

PART 62. MISCELLANEOUS

Sec.
62.01. Penalties.
62.05. Exemption.
62.10. Free transportation.
62.15. Office of the Board.
62.16. Service of process on the Board.
62.17. Actuarial Advisory Committe statutory Provision.
62.18. Actuaries to be recommended annually by employees and carriers.
62.19. Qualification, compensation and term of office of actuaries.

SEC. 62.01. *Penalties.*—"Any officer or agent of an employer, as the word 'employer' is hereinbefore defined, or any employee acting in his own behalf, or any individual whether or not of the charcter hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required, in accordance with the provisions of section 10 (b) 4, by the Board in the administration of this Act or the Railroad Retirement Act of 1935, or who shall knowingly make or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purpose of such acts, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of causing an award or payment under such Acts, shall be punished by a fine of not more than $10,000 or by imprisonment not exceeding one year." (Sec. 13, 50 Stat. 316; 45 U. S. C. Sup. III, 228m.)

SEC. 62.05. *Exemption.*—"No annuity or pension payment shall be assignable or be subject to any tax or to garnishment, attachment or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated." (Sec. 12, 50 Stat. 316; 45 U. S. C. Sup. III, 228 letter l.)

SEC. 62.10. *Free transportation.*—"It shall not be unlawful for carriers by railroad subject to this Act to furnish free transportation to individuals receiving annuities or pensions under this Act or the Railroad Retirement Act of 1935 in the same manner as such transportation is furnished to employees in their service." (Sec. 18, 50 Stat. 318; 45 U. S. C. Sup. III, 228n.)

SEC. 62.15. *Office of the Board.*—The only office established by the Board is in the District of Columbia. (Headquarters of field forces are not offices within the meaning of this section.) (Sec. 10, 50 Stat. 314; 45 U. S. C., Sup. III, 228j.)

SEC. 62.16. *Service of process.*—No officer or employee of the Board is authorized to accept or receive service of subpoenas, summons or other judicial process except as the Board may from time to time delegate such authority by power of attorney. The Board has issued such power of attorney to the General Counsel. (Sec. 10, 50 Stat. 314, 315; 45 U. S. C. Sup. III, 228j, 228k.)

SEC. 62.17. *Actuarial Advisory Committee—statutory provision.*—"The Board is hereby authorized and directed to select two actuaries, one from recommendations made by representatives of employees and the other from recommendations made by representatives of carriers. These actuaries, along with a third who shall be designated by the Secretary of the Treasury, shall be known as the Actuarial Advisory Committee with respect to the Railroad Retirement Account. The committee shall examine the actuarial reports and estimates made by the Railroad Retirement Board and shall have authority to recommend to the Board such changes in actuarial methods as they may deem necessary. The compensation of the members of the committee of actuaries, exclusive of the member designated by the Secretary, shall be fixed by the Board on a per diem basis." (Sec. 15 (c), 50 Stat. 317; 45 U. S. C., Sup. III, 228o.)

SEC. 62.18. *Actuaries to be recommended annually by employees and carriers.*—In accordance with section 62.17 above the Board shall on July 1, 1939 and annually thereafter on July 1 select two actuaries to serve as members of the Actuarial Advisory Committee for that year. One of such actuaries shall be selected from recommendations made by "carrier representatives." "Carrier representatives," as used herein, shall mean any organization formed jointly by the express companies, sleeping-car companies and carriers by railroad subject to Part 1 of the Interstate Commerce Act which own or control more than 50 per cent of the total railroad mileage within the United States.

Such "carrier representatives" shall submit their recommendations for a new member of the Actuarial Advisory Committee prior to July 1 of each year.

The other member of the Actuarial Advisory Committee to be selected by the Board shall be recommended by "representatives of employees."

"Representatives of employees", as used in this section, shall mean any organization or body formed jointly by a majority of railway labor organizations organized in accordance with the provisions of the Railway Labor Act, as amended, or any individual or committee authorized by a majority of such railway labor organization to make such recommendation.

These "representatives of employees" shall submit their recommendations for a new member of the Actuarial Advisory Committee prior to July 1 of each year. (Sec. 15, 50 Stat. 317; 45 U. S. C. Sup. III, 228j, 228o.)

SEC. 62.19. *Qualifications, compensation and term of office of actuaries.*—No individual shall be selected as a member of the Actuarial Advisory Committee who does not under applicable provisions and regulations of the Civil Service Commission possess qualifications in actuarial training and experience sufficient to enable him actively to assume the duties and responsibilities of such appointment. The compensation of each of the two members selected as members of the Actuarial Advisory Committee shall not exceed the maximum per diem permitted under Civil Service classification and regulations for each day that such member shall engage in the performance of the duties prescribed in section 62.17. The Board will provide the Actuarial Advisory Committee with offices, supplies and equipment and such clerical and stenographic assistants from its regular staff of employees as shall be necessary to the performance of the duties prescribed in section 62.17.

The actuaries selected as members of the Actuarial Advisory Committee shall be appointed for a period not to exceed one year or until June 30 of the year following their respective appointments, whichever period is less; provided, however, that if no new recommendation be made by or requested from "carrier representatives" or "representatives of employees" for their member of the committee, the member then holding such appointment shall continue to hold such appointment until June 30 of the following year or until June 30 following a new recommendation by such member's sponsors. (Secs. 10, 15, 50 Stat. 314, 317; 45 U. S. C. Sup. III, 228j, 228o.)

PART 65. APPLICABILITY OF 1935 OR 1937 ACT

Sec.
65.01. Annuities granted prior to June 24, 1937
65.02. Applicability of 1935 or 1937 Act to other cases
65.03. Modification of 1935 Act by Section 202 of Act of June 24, 1937
65.04. Adjudication under the 1935 Act

SEC. 65.01. *Annuities granted prior to June 24, 1937.*—The Railroad Retirement Act of 1935 shall continue in force and effect with respect to the rights of individuals granted annuities prior to June 24, 1937, except as provided in section 65.03. (Secs. 10, 204, 50 Stat. 314, 319; 45 U. S. C. Sup. III, 228j, 215.)

SEC. 65.02. *Applicability of 1935 or 1937 act to other cases.*—All claims in which no annuity was granted prior to June 24, 1937 are to be adjudicated under the 1937 Act except: (a) the claims of individuals (and of spouses and next of kin of such individuals) who, prior to June 24, 1937 have (1) relinquished all rights to return

to the service of a carrier as defined in the 1935 Act or ceased to be employee representatives, as defined in the 1935 Act, and (2) become eligible for annuities under the provisions of the 1935 Act, and (b) in the case of an individual who (1) did not prior to June 24, 1937 relinquish rights to return to the service of a carrier as defined in the 1935 Act and (2) can have an annuity begin to accrue prior to June 24, 1937, the claim shall be adjudicated under the 1937 Act, but substantial rights under the 1935 Act which accrued prior to June 24, 1937 shall be preserved. (Secs. 10, 202, 50 Stat. 314, 318; 45 U. S. C. Sup. III, 228j, 215.)

SEC. 65.03. *Modification of 1935 act by section 202 of act of June 24, 1937.*—With respect to claims which are to be adjudicated under the 1935 Act in accordance with section 65.02 (a), the following provisions, not contained in the 1935 Act, are to apply:

(a) No reduction shall be made in any annuity certified after June 24, 1937 by reason of continuance in service after age sixty-five.

(b) Service rendered prior to August 29, 1935, to a company which on that date was was a carrier as defined in the 1935 Act, shall be included in the service period in connection with any annuity certified in whole or in part by the Board after June 24, 1937, irrespective of whether at the time such service was rendered such company was a carrier as defined in the 1935 Act; and service rendered prior to August 29, 1935, to any express company, sleeping-car company, or carrier by railroad which was a predessor of a company which on that date was a carrier as defined in the 1935 Act, shall also be included in the service period in connection with any annuity certified in whole or in part by the Board after June 24, 1937, irrespective of whether at the time such service was rendered such predecessor was a carrier as defined in the 1935 Act.

(c) Annuity payments due an individual under the 1935 Act but not yet paid at death shall be paid to a surviving spouse if such spouse is entitled to an annuity under an election made pursuant to the provisions of Section 5 of the 1935 Act; otherwise they shall be paid to such person or persons as the deceased may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the legal representative of the deceased. (Secs. 10, 202, 203, 50 Stat. 314, 318; 45 U. S. C. Sup. III, 215, 228j.)

SEC. 65.04. *Adjudication under the 1935 Act.*—The following regulations, to the extent that they are not in conflict with other sections of this part; shall apply to the adjudication of annuities under the 1935 Act, and to the rights which an individual may have accured under that Act:

(a) *Definition of Employee under the 1935 Act.*—The term "employee" means any individual (1) who shall be on August 29, 1935 or shall have been at any time after August 29, 1935 in the service of a carrier, or (2) who shall be on August 29, 1935 or shall have been at any time after August 29, 1935 in the employment relation to a carrier, and (3) each officer or other official representative of an "employee organization," who before or after August 29, 1935 has performed service for a carrier, who on August 29, 1935 or at any time after August 29, 1935 is or shall be duly designated and authorized to represent employees in accordance with the Railway Labor Act, and who, during, or immediately following employment by a carrier, is, shall be, or shall have been engaged in such representative service in behalf of such employees. (Sec. 1, 49 Stat. 967; 45 U. S. C. Sup. II, 215.)

(b) *Definition of annuity under 1935 act.*—The term "annuity" means a fixed sum payable at the beginning of each month during retirement, ceasing at death except as otherwise provided in paragraph (i) hereof or at resumption of service for which an employee receives compensation. (Sec. 1, 49 Stat. 967, 45 U. S. C. Sup. II, 215.)

(c) *Definition of compensation under 1935 act.*—The term "compensation" means any form of money remuneration for service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, pensions, or other form of relief. (Sec. 1, 49 Stat. 967; 45 U. S. C. Sup. II, 215.)

(d) *Definition of age under the 1935 act.*—The term "age" means age at the latest attained birthday. (Sec. 1, 49 Stat. 967; 45 U. S. C. Sup. II, 215.)

(e) *Eligibility for annuities under the 1935 act.*—The following-described employees, after retirement whether or not then in the service of a carrier, shall be paid annuities:

(1) An individual (without regard to the period of service and whether rendered before or after the enactment hereof), who either on August 29, 1935 or thereafter shall be sixty-five years of age or over.

(2) An individual who either on August 29, 1935 or who thereafter shall be fifty years of age or over and who shall have completed a service period of thirty years. An annuity paid under this subdivision shall be reduced by one-one-hundred-and-eightieth of such annuity for each month during all of which such employee may be less than sixty-five years of age at the time of the first annuity payment.

(3) An individual who either before or after August 29, 1935, shall have completed a service period of thirty years and who shall be after August 29, 1935 retired by the carrier on account of mental or physical disability. An annuity paid under this subdivision shall not be subject to the deduction specified in subdivision (2) of this paragraph. Applicants claiming full annuities by reason of disability but who were retired because the carrier ceased operations do not fall within the purview of this subdivision. Any annuity granted such an applicant under subdivision (2) above will be reduced by the appropriate amounts indicated in that subdivision.

(f) *Factual retirement under the 1935 act.*—If an employee ceases to engage in compensated carrier service by reason of a permanent disability, or if, while on leave of absence or furlough, he is prevented from returning to such service by reason of such a disability, and if he subsequently dies and such death occurred prior to June 24, 1937, he may be regarded as having been retired within the meaning of the 1935 Act, if, at the time his disability became permanent, he was not faced with impending death, or if faced therewith, his impending death was not apparent. In all such cases the fact of disability, the fact that it was permanent, and the fact that, at the time the disability became permanent, the employee was not faced with impending death, or, if faced therewith, that his impending death was not apparent, must be affirmed by the medical officer of the carrier, or, if the carrier does not have a medical officer, or if his affirmation cannot be secured, by the employee's private physician; and must, in all cases, be confirmed by the Board. (Sec. 3, 49 Stat. 969; 45 U. S. C. Sup. II, 217.)

(g) *Application, beginning date and computation.*—An annuity shall begin as of a date to be specified in a written application to be signed by the employee entitled thereto, and approved by the Board, which date shall not be more than sixty days before the filing of the application, nor before the date on which the first annuity shall have become due and payable. No annuity shall be due and payable until June 1, 1936. The annuity shall be payable on the 1st day of the month during the lifetime of the annuitant. Such annuity shall be based upon the service period of the employee and shall be the sum of the amounts determined by multiplying the total number of years of service not exceeding thirty years by the following percentages of the monthly compensation: 2 per centum of the first $50; 1½ per centum of the next $100; and 1 per centum of the compensation in excess of $150. The "monthly compensation" shall be the average of the monthly compensation paid to the employee by the carrier, except that where applicable for service before the effective date the monthly compensation shall be the average of the monthly compensation for all payroll periods for which the employee shall have received compensation from any carrier out of eight consecutive calendar years of such services ended December 31, 1931. No part of any monthly compensation in excess of $300 shall be recognized in determining any annuity. Any employee who shall be entitled to an annuity with a commuted value determined by the Board of less than $500 shall be paid such value in a lump sum. (Sec. 3, 49 Stat. 969; 45 U. S. C. Sup. II, 217.)

(h) *Annuities to employee representatives under the 1935 act.*—The annuity of an employee representative shall be, as near as may be, the same annuity as if he were still in the employ of his last former carrier. (Sec. 4, 49 Stat. 969; 45 U. S. C. Sup. II, 218.)

(i) *Payments at death under the 1935 act.*—If an individual receiving or entitled to receive an annuity shall die, the Board, for one year after the first day of the month in which the death occurred, shall pay an annuity equal to one-half of the annuity which such individual may have received or may have been entitled to receive, to the widow or widower of the deceased, or if there be no widow or widower, to the dependent next of kin of the deceased. (Sec. 5, 49 Stat. 970; 45 U. S. C. Sup. II, 219.)

(j) *Joint and survivor annuity under the 1935 act.*—(1) Any employee may elect, at any time prior to the certification of his annuity, to have the present value of the annuity apply to the payment of a reduced annuity to the employee during life and an annuity during the life of a surviving spouse. The present values and amounts of the annuity payments shall be determined on the basis of the combined annuity tables with interest at 3 per centum per annum.

(2) An election, a modification, or cancellation of a joint and survivor annuity may be made by the applicant, or if he is incompetent, by his duly appointed guardian, conservator, or committee at any time prior to the date that the claim is certified. (Sec. 5, 49 Stat. 970, 45 U. S. C. Sup. II, 219) (Sec. 10, 50 Stat. 314; 45 U. S. C. Sup. III, 228j.)

[SEAL] MURRAY W. LATIMER,
Chairman.

MAY 31, 1938.

[F. R. Doc. 38-1751; Filed, June 20, 1938; 1:29 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT

JUNE 21, 1938.

To Roy M. Strong, doing business as Holdrege Livestock Sales Company, Holdrege, Nebr.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C., Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Holdrege Livestock Sales Company, at Holdrege, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1768; Filed, June 22, 1938; 12:18 p. m.]

NOTICE UNDER PACKERS AND STOCKYARDS ACT

JUNE 21, 1938.

To The St. Johns Stockyard Company, doing business as The Lapeer Stockyards, Lapeer, Mich.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Lapeer Stockyards, at Lapeer, State of Michigan, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1769; Filed, June 22, 1938; 12:18 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5513]

APPLICATION OF THE TWIN STATE GAS AND ELECTRIC CORPORATION

ORDER POSTPONING DATE OF HEARING

JUNE 21, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott, Claude L. Draper not participating.

Upon application filed April 27, 1938, by The Twin State Gas and Electric Corporation, a corporation organized under the laws of the State of Connecticut, having its principal business office in the City of Rutland, Vermont, for an order authorizing it to dispose of certain of its properties, business and franchises, as the same are described and set forth in said application and the exhibits attached thereto, a public hearing thereon having been set for June 23, 1938, by the Commission's order adopted June 7, 1938; [1]

The Commission, upon its own motion, orders that: The hearing on said application now set for June 23, 1938, be and is hereby postponed to a date to be fixed by the Commission upon not less than 10 days' notice to all interested parties.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-1765; Filed, June 22, 1938; 9:58 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 21]

ORDER RELATIVE TO MOTOR CARRIER RATES IN CENTRAL TERRITORY

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 20th day of June, A. D. 1938.

It appearing, That additional information relative to income statements of Class I common carriers of property (carriers which have gross revenue of $100,000.00 or over annually from both intrastate and interstate motor carrier operations) submitted in response to the Commission's order of April 15, 1938,[1] is necessary and desirable in the determination of matters covered by the above-entitled proceeding:

It is ordered, That each Class I common carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before July 1, 1938, statements of operation and maintenance expenses for the year 1937 and for the two months ending February 28, 1938, or for the first two periods in 1938 instead of the two months ending February 28, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said statements of operation and maintenance expenses shall be submitted under oath on the form herewith enclosed which form is hereby made a part of this order.[2]

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1773; Filed, June 22, 1938; 12:35 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of June, A. D. 1938.

[1] 3 F. R. 1387 (DI).

[1] 3 F. R. 920 (DI).

[2] Filed as a part of original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[File No. 1-1530]

IN THE MATTER OF THE TECK-HUGHES GOLD MINES, LIMITED (NO PERSONAL LIABILITY) $1 PAR VALUE COMMON STOCK

ORDER GRANTING APPLICATION FOR WITHDRAWAL FROM LISTING AND REGISTRATION

The Teck-Hughes Gold Mines, Limited (No Personal Liability) having made application to the Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, for permission to withdraw from listing and registration on the New York Curb Exchange 4,807,-144 shares of Capital Stock, $1 Par Value; and

The Commission having ordered a hearing with respect to said application, which hearing, after due notice,[1] was held on the 8th day of March, 1938; and

The Commission having considered said application, together with the evidence introduced at said hearing and the report of the trail examiner thereon, and having due regard for the public interest and the protection of investors, and having filed its findings and opinion herein;

It is ordered, That said application be and hereby is granted, effective at the close of the trading session on July 1, 1938.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38-1777; Filed, June 22, 1938; 12:57 p. m.]

[1] 3 F. R. 28, 305 (DI).

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of June, A. D. 1938.

[File No. 55-3]

IN THE MATTER OF PAUL V. SHIELDS, JOSEPH S. MAXWELL, CHARLTON B. HIBBARD, PROTECTIVE COMMITTEE PREFERRED STOCKHOLDERS OF UTILITIES POWER & LIGHT CORPORATION

NOTICE AND ORDER FOR HEARING ON MOTION

A motion having been filed by Harlow B. Lester and F. Arnold Daum, Counsel to the Securities and Exchange Commission, moving the Commission to postpone the hearing heretofore set on the above-entitled application from June 30, 1938 at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., to a date within a reasonable time after the said applicants shall have obtained a judicial determination of their legal right to an interim allowance for expenses by the District Court of the United States for the Northern District of Illinois, Eastern Division; and that said motion be set down for hearing prior to June 30, 1938;

It is ordered, That a hearing on said motion be held before the Securities and Exchange Commission on June 27, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38-1776; Filed, June 22, 1938; 12:57 p. m.]

JUN 27 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 123

Washington, Friday, June 24, 1938

The President

APALACHICOLA NATIONAL FOREST—FLORIDA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain lands adjacent to the Apalachicola National Forest, in the State of Florida, have been acquired, or are in process of acquisition, by the United States through the Farm Security Administration or its predecessors under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that the said lands are suitable for national forest purposes and that it would be in the public interest to reserve such lands as part of the said Apalachicola National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), the said National Industrial Recovery Act, and the said Emergency Relief Appropriation Act of 1935, do proclaim that there are hereby reserved and set apart as an addition to the Apalachicola National Forest all lands which have been acquired or which are in course of acquisition by the United States through the Farm Security Administration or its predecessors within the area shown on the diagram attached and made a part hereof [1] under authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 21'' day of June in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-second.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2289]

[F. R. Doc. 38-1780; Filed, June 23, 1938; 10:58 a. m.]

[1] See Page 1507.

Rules, Regulations, Orders

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2733]

IN THE MATTER OF TAYLOR WASHING MACHINE COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before John L. Hornor, an Examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and in opposition thereto, briefs filed herein, and oral arguments, by Jay L. Jackson, counsel for the Commission, and by Harold A. Fein, counsel for respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

CONTENTS

THE PRESIDENT

Proclamation: Page
Apalachicola National Forest, Fla., addition 1505

RULES, REGULATIONS, ORDERS

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Taylor Washington Machine Co., cease and desist order 1505

TITLE 22—FOREIGN RELATIONS:
Department of State:
Rules prescribed to overcome presumption of having ceased to be an American citizen 1506

TITLE 26—INTERNAL REVENUE:
U. S. Processing Tax Board of Review:
Public inspection of records 1507

TITLE 43—PUBLIC LANDS:
Division of Grazing:
Colorado Grazing District No. 2, modification 1508
General Land Office:
Public sale applications for lands in grazing districts established under Taylor Grazing Act 1508

TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Registration on an additional exchange 1508

NOTICES

SECURITIES AND EXCHANGE COMMISSION:
Utilities Elkhorn Coal Co., Central Service Corp., and James G. Culbertson, hearing 1509
White, Weld & Co. (Harold T. White et al), Harold Benjamin Clark and Faris R. Russell, suspension order 1509

FEDERAL REGISTER

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It is ordered, That respondent, Taylor Washing Machine Company, its agents, employees, and representatives, in connection with the offering for sale, sale and distribution of its washing machine products, in interstate commerce, do forthwith cease and desist, directly or indirectly, from representing:

(1) That a free home trial or a free home demonstration, or any home trial or home demonstration, or any trial or demonstration without contractual or financial obligation, red tape, or inconvenience, is offered or provided by respondent to members of the buying public, when such is not the fact;

(2) That any instrument in printed form or in writing, to which the name and signature of any member of the buying public is being, or to be, procured or signed thereto, which instrument constitutes, or is intended for, or is to be used as, a contract of purchase and sale of a washing machine, or the terms and provisions of which purport to bind the person signing the same to the purchase of a washing machine, is not such an instrument or contract; or that the said instrument is a receipt for a washing machine being, or to be, delivered for trial and demonstration, or for the purpose of showing that a machine is being delivered for trial and demonstration, or a necessary instrument for the company to have to show that a machine has been left during the term of trial and demonstration, or a form of insurance or protection covering the washing machine while in the prospective purchaser's possession, when in fact the said instrument constitutes, or is intended for, or is to be used as, a contract of purchase and sale for a washing machine;

(3) That any purported contract of purchase and sale procured, or the signature to which has been procured, through or by means of any representation prohibited by Paragraphs (1) and (2) of this order, is valid or enforceable, or that the signer thereto, or anyone, is in any way bound or obligated for or to the purchase of a washing machine;

(4) That assignment of future wages, or powers of attorney to assign future wages, or powers of attorney to appear in any court of record or in any court of Justice of the Peace, at any time and confess judgment, to release errors or the right of appeal from any so taken, or to consent to the issue of execution upon such judgment, in favor of the holder of a contract or instrument containing such assignments, or powers of attorney, upon default of the payment of moneys payable thereunder when the same becomes due, are valid or enforceable, when such is not the fact, or when the same have been, or are being, procured within the State of Indiana, or from persons employed and residing in the State of Indiana; or

(5) That the washing machine to be delivered to the purchaser of a washing machine is, or will be, the particular washing machine represented and sold to the purchaser at the time of sale and purchase, when such is not the fact, or when in fact the machine delivered, or to be delivered, is materially different from the particular washing machine purchased by said purchaser.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1782; Filed, June 23, 1938; 12:02 p. m.]

TITLE 22—FOREIGN RELATIONS

DEPARTMENT OF STATE

[Departmental Order No. 761]

RULES PRESCRIBED PURSUANT TO SECTION 2 OF THE ACT OF MARCH 2, 1907, TO OVERCOME THE PRESUMPTION OF HAVING CEASED TO BE AN AMERICAN CITIZEN

1. Section 2 of the Act of March 2, 1907 (34 Stat., 1228; U. S. C., Title 8, Section 17), concerning expatriation provides as follows:

SEC. 2. That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegience to any foreign state.

When any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any other foreign state it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: Provided, however, That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: And provided also, That no American citizen shall be allowed to expatriate himself when this country is at war.

2. Naturalized citizens against whom the presumption of expatriation shall have arisen, under the second paragraph of the section of law quoted above, because of protracted residence abroad may overcome such presumption upon presenting to a diplomatic or consular officer of the United States satisfactory evidence of the existence of any of the following facts:

(a) That they are residing abroad solely or principally as representatives of American trade and commerce, and that they intend eventually to return to the United States permanently to reside.

(b) That their residence abroad is in good faith for reasons of health or education in special subjects, and that they intend eventually to return to the United States permanently to reside.

(c) That some unforeseen and controlling exigency beyond their power to foresee has prevented their carrying out a bona fide intention to return to the United States within the time limited by law, and that it is their intention to return and reside permanently in the United States immediately upon the removal of the preventing cause.

(d) That they are residing abroad principally for the purpose of representing a recognized American educational, scientific, philanthropic, or religious organization, and that they intend eventually to return to the United States permanently to reside.

(e) That they reside in a foreign state other than that from which they came principally for the purpose of engaging independently in educational, philanthropic, or religious work or principally for the purpose of engaging independently in some legitimate professional or scientific occupation, for which work or occupation they were trained in American institutions; that such work or occupation is not inconsistent with American interests; that they maintain effective ties with the United States, and that they intend eventually to return to the United States permanently to reside.

(f) In the cases of naturalized American citizens residing in Canada, Mexico, the West Indies, Central America, or Panama, that they are following the profession of teaching in a recognized educational institution for which they were trained in an American institution, or that they are employed by a legitimate corporation or company or are principally engaged by or connected with a legitimate concern, which is effectively owned and controlled by a citizen or citizens of the United States and materially promotes the interests of this country, and that they intend eventually to return to the United States permanently to reside.

(g) That they have made definite arrangements to return immediately to the United States permanently to reside.

(h) In the cases of naturalized American citizens who have resided in the United States twenty years subsequent to their naturalization, have attained the age of sixty years, and have retired from active participation in professional or business pursuits, that they have during the period of their residence outside of the United States held themselves out as American citizens, have from time to time applied for American passports or to be registered as American citizens in American consulates, or satisfactorily explained their failure to do so, have maintained effective ties with the United States, and intend eventually to return to the United States permanently to reside.

3. The affidavits and other proofs required to overcome the presumption must set forth the specific facts and circumstances which bring the persons concerned under one or more of the above rules. Mere assertions even under oath of the existence of such specific facts and circumstances without corroborating proof will not ordinarily be accepted as sufficient.

4. The burden is upon an applicant who alleges that he has made definite arrangements to return immediately to the United States permanently to reside, under the provisions of Rule (g), to show that he is in good faith about to establish a permanent home in this country. If such a person is married it should clearly appear that he or she intends to be accompanied to the United States by his or her spouse and the minor unmarried members of their immediate family residing abroad. If the spouse and minor children are aliens and residing abroad, and if immigration visas have not yet been obtained and the failure to obtain them is satisfactorily explained, it should clearly appear that an effort is being made to obtain visas to enable such aliens to come to the United States in the immediate or near future permanently to reside. The allegation of a naturalized American citizen resting under the presumption that because of financial reasons he is unable to defray the expenses incident to the transportation of the members of his family to the United States will not of itself be considered as a sufficient reason for not bringing his or her family to the United States and will ordinarily vitiate the allegation that definite arrangements have been made to return immediately to the United States permanently to reside as is required under Rule (g).

5. Section 3 of the Act of September 22, 1922 (42 Stat., pt. 1, 1021; U. S. C., Title 8, Section 9), concerning the status of married women provided in part as follows:

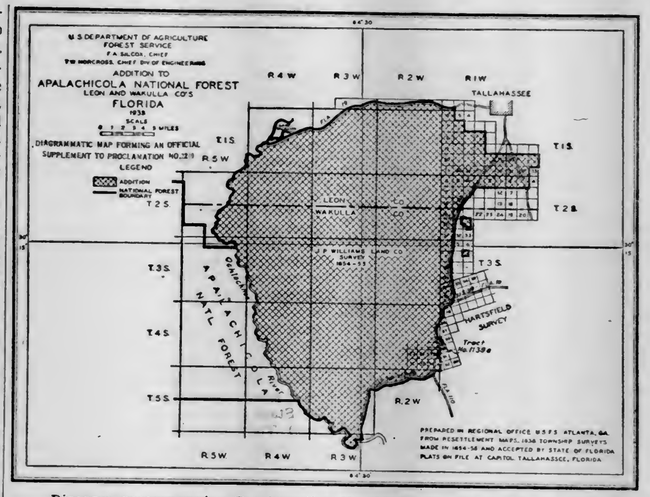


Diagram accompanying Proclamation No. 2289 appearing on Page 1505

SEC. 3. That a woman citizen of the United States shall not cease to be a citizen of the United States by reason of her marriage after the passage of this act, unless she makes a formal renunciation of her citizenship before a court having jurisdiction over naturalization of aliens: • • • If at the termination of the marital status she is a citizen of the United States she shall retain her citizenship regardless of her residence. If during the continuance of the marital status she resides continuously for two years in a foreign state of which her husband is a citizen or subject, or for five years continuously outside the United States, she shall thereafter be subject to the same presumption as is a naturalized citizen of the United States under the second paragraph of section 2 of the act entitled "An Act in reference to the expatriation of citizens and their protection abroad", approved March 2, 1907. • • •

The last two sentences of the above quoted provision of law were repealed by the Act of July 3, 1930. However, with respect to an American woman who was on July 3, 1930, resting under the presumption mentioned in the Act of September 22, 1922, and who has not since July 3, 1930, resumed permanent residence in the United States, she must in order to be eligible to receive the protection of the United States while abroad show by affidavits and other proofs that she was on the date when the presumption arose against her in a position to overcome it under Rules (a) to (f), inclusive.

6. *Special rule for China.*—The presumption of expatriation may also be overcome by a naturalized American citizen by showing that he resides in China in the employ of the Chinese Government in a capacity not inconsistent with his American citizenship and calculated to advance legitimate American interests, commercial or otherwise, and that he intends eventually to return to the United States to reside.

This Order supersedes all previous Departmental Orders prescribing rules whereunder the presumption of having ceased to be an American citizen may be overcome.

[SEAL] CORDELL HULL.

JUNE 18, 1938.

[F. R. Doc. 38-1781; Filed, June 23, 1938; 10:58 a. m.]

TITLE 26—INTERNAL REVENUE

U. S. PROCESSING TAX BOARD OF REVIEW

ORDER CONCERNING PUBLIC INSPECTION OF RECORDS

The records of proceedings before the United States Processing Tax Board of Review shall be open to the public for inspection in such manner as is consistent with the orderly conduct of the business of the Board.

By direction of the Board.

[SEAL] L. S. CANNON,
Chairman.

Approved, June 18, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1775; Filed, June 22, 1938; 12:49 p. m.]

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

COLORADO GRAZING DISTRICT NO. 2

MODIFICATION

JUNE 3, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Colorado Grazing District No. 2, is hereby revoked so far as it affects the following-described land:

SIXTH PRINCIPAL MERIDIAN

T. 1 N., R. 81 W.,
sec. 27, N½NE¼, SW¼NE¼, NW¼, N½SW¼, SW¼SW¼;
sec. 28, SE¼SW¼, SE¼;
sec. 32, NE¼, SE¼NW¼, SW¼, W½SE¼;
sec. 33, NW¼NW¼, NE¼NE¼;
T. 1 S., R. 81 W., sec. 6, lots 1, 2, 3, SE¼SW¼, SE¼SE¼;
T. 4 S., R. 78 W.,
sec. 15, lots 3 and 4;
sec. 22, W½SW¼.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38–1778; Filed, June 23, 1938; 9:52 a. m.]

GENERAL LAND OFFICE

[Circular No. 1447]

PUBLIC SALE APPLICATIONS FOR LANDS IN GRAZING DISTRICTS ESTABLISHED UNDER AUTHORITY OF THE TAYLOR GRAZING ACT

JUNE 14, 1938.

Circular No. 684, dated November 23, 1934, which indicates that public sale applications must be restricted to tracts of unreserved public lands, is hereby amended by adding thereto the following:

PUBLIC SALE APPLICATIONS FOR LANDS IN GRAZING DISTRICTS ESTABLISHED UNDER AUTHORITY OF THE TAYLOR GRAZING ACT

29. *Statutory authority.*—Section 7 of the Taylor Grazing Act of November 26, 1934 (48 Stat. 1269), as amended by Section 2 of the act of June 26, 1936 (49 Stat. 1976), authorizes the Secretary of the Interior, in his discretion, to examine and classify any lands within a grazing district, established under authority of said act, which are more valuable or suitable for any other use than for the use provided for under said act, and to open such lands to entry, selection, or location for disposal in accordance with such classification under applicable public land laws. On April 4, 1938, the Department construed the said section as authorizing the Secretary of the Interior to classify lands within a grazing district for disposition at public sale.

30. *Action on applications.*—Applications for public sales of lands in grazing districts, made under authority of the appropriate public sale law and said Section 7 of the Taylor Grazing Act, as amended, must be accompanied by petitions for classification, as required by Circular No. 1353.[1] Such applications and petitions, when received by the register, will be acted upon by him in accordance with instructions contained in said circular. If the Division of Grazing shall report as to the land applied for that there is no objection to the classification and opening, the General Land Office, through the Division of Grazing, will recommend the classification of the land to the Secretary of the Interior. If and when the land is classified for disposition at public sale, the usual public sale procedure will be followed.

31. *Applicant will not secure preference right of entry.*—An applicant for the classification and public sale of lands in grazing districts will not secure a preference right of entry by reason of the filing of the application and petition.

FRED W. JOHNSON,
Commissioner.

Approved, June 2, 1938.
F. R. CARPENTER,
Division of Grazing.

Approved, June 14, 1938.
OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–1779; Filed, June 23, 1938; 9:52 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

REGISTRATION ON AN ADDITIONAL EXCHANGE

Amendment of Rule JB1 and Amendment No. 1 to the Instructions for Form 8–C

The Securities and Exchange Commission, finding

(1) that the requirements of Form 8–C, as defined in the instructions to that form, are necessary and appropriate in the public interest and for the protection of investors, and that, insofar as the information required by such form is not within the provisions of Section 12 (b) of the Securities Exchange Act of 1934, it is of a character comparable to such information and is applicable to the class of issuers and securities for which such form is authorized; and

(2) that the action herein taken is necessary and appropriate in the public interest and for the proper protection of investors and to insure fair dealing in the securities registered on such form,

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 12 and 23 (a) thereof, hereby takes the following action:

I. The paragraph of Rule JB1 [X–(Sec. 10.X–JB1)] under the caption "Form 8–C [Sec. 11.8–C] for Registration on an additional Exchange" and the paragraph under the caption "Rule for the Use of Form 8–C [Sec. 11.8–C]", at the beginning of the instructions for such form are amended by deleting subparagraphs (a) and (b) thereof and inserting after the word "if" in the third line the words "securities of the registrant are registered pursuant to Section 12 (b), (c) and (d) [c. 404, Sec. 12, 48 Stat. 892; c. 462, Sec. 1, 49 Stat. 1375; 15 U. S. C., 781 and Sup. III] on another exchange."

The rule as amended reads as follows:

"This form may be used for applications for registration of securities on an exchange upon which no securities of the registrant are listed and registered, if securities of the registrant are registered pursuant to Section 12 (b), (c) and (d) [c. 404, Sec. 12, 48 Stat. 892; c. 462, Sec. 1, 49 Stat. 1375; 15 U. S. C., 781 and Sup. III] on another exchange."

II. Paragraph 4 having the caption "Exhibits" of the instructions for Form 8–C [Sec. 11.8–C] is amended by deleting from subparagraph (a) thereof the words "an application meeting the requirements of paragraph (b) of the Rule for the Use of this form" and inserting in lieu thereof the words "the latest application on a form other than Form 8–A, 8–B or 8–C [Sec. 11, 8–A, 11.8–B or 11.8–C] which was filed by the registrant (or by the predecessor of the registrant if the registrant had securities registered pursuant to an application on Form 8–B [Sec. 11.8–B]) and which has become effective."

Subparagraph (a) as amended reads as follows:

"(a) A copy of the latest application on a form other than Form 8–A, 8–B or 8–C [Sec. 11.8–A, 11.8–B, or 11.8–C] which was filed by the registrant (or by the predecessor of the registrant if the registrant had securities registered pursuant to an application on Form 8–B [Sec. 11.8–B]) and which has become effective."

The foregoing action shall be effective immediately upon publication.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1784; Filed, June 23, 1938; 12:38 p. m.]

[1] 2 F. R. 1395 (DI).

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23 day of June, A. D. 1938.

[File No. 55–4]

IN THE MATTER OF UTILITIES ELKHORN COAL COMPANY, CENTRAL SERVICE CORPORATION, AND JAMES G. CULBERTSON

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) and Rule U–11F–2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on July 13, 1938 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 7, 1938.

The matter concerned herewith is in regard to an application filed by Utilities Elkhorn Coal Company, Debtor, (now in reorganization under Section 77B of the Bankruptcy Act, as amended, in the District Court of the United States for the Northern District of Illinois, Eastern Division) requesting approval of certain allowances to be paid to the following persons in such maximum amounts as hereinafter set forth for services rendered and cash disbursed by such persons:

(a) To Central Service Corporation for services rendered in March, April and May, 1938, $1,050.00; cash disbursements during same period, $68.14.

(b) To James G. Culbertson for services rendered in February, March, April and May, 1938, $4,000.00; cash disbursements during same period, $202.92.

The applicant further requests an exemption from the provisions of Rule U–11F–2 concerning the payments of compensation and reimbursements to the following persons in such maximum amounts as are hereinafter stated until further order of the Commission:

(a) Central Service Corporation for its services to Utilities Elkhorn Coal Company a sum not to exceed a maximum of $350.00 per month plus such other amounts as may be expended by said Central Service Corporation for the reasonable and necessary expenses incurred by it in connection with the services rendered to Utilities Elkhorn Coal Company.

(b) James G. Culbertson for his services as attorney for Utilities Elkhorn Coal Company, debtor, a sum not to exceed a maximum of $1500.00 per month plus such other amounts as may be expended by said James G. Culbertson for the reasonable and necessary expenses incurred by him in the performance of his duties as attorney for Utilities Elkhorn Coal Company.

All such payments for compensation and reimbursement for expenses to be subject to the approval of the District Court of the United States for the Northern District of Illinois, Eastern Division, which court now has jurisdiction over the proceedings for the reorganization of Utilities Elkhorn Coal Company, Debtor, No. 64605.

By the Commission.

[SEAL] ORVAL DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1783; Filed, June 23, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of June, A. D. 1938.

IN THE MATTER OF THE PROCEEDINGS TO DETERMINE WHETHER HAROLD T. WHITE, FRANCIS M. WELD, FARIS R. RUSSELL, HAROLD BENJAMIN CLARK, W. J. K. VANSTON, WILLIAM A. BARRON, JR., J. PRESTON RICE, PHILIP GOSSLER, JR., JEAN E. V. CATTIER, NATHANIEL S. HOWE, ALEXANDER M. WHITE, JR., GILBERT G. BROWNE, PARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF WHITE, WELD & CO., AND HAROLD BENJAMIN CLARK AND FARIS R. RUSSELL, INDIVIDUALLY, SHOULD BE SUSPENDED OR EXPELLED FROM MEMBERSHIP ON CERTAIN NATIONAL SECURITIES EXCHANGES

ORDER OF SUSPENSION

This matter, after appropriate notice and hearing and argument by counsel, having been duly considered by the Commission, and the Commission having found that the respondent Faris R. Russell has violated Section 9 (a) (2) of the Securities Exchange Act of 1934, as amended, and being of the opinion that it is necessary and appropriate for the protection of investors to suspend the respondent Faris R. Russell from membership upon all of the national securities exchanges of which he is a member for a period of ninety days, all as more fully set forth in the Findings and Opinion of the Commission:

It is ordered, Pursuant to Section 19 (a) (3) of said Act:

That, effective August 21, 1938, respondent Faris R. Russell, a member, as that term is defined in said Act of the New York Stock Exchange, the New York Curb Exchange, and the Board of Trade of the City of Chicago, national securities exchanges, be and hereby is suspended from membership on said exchanges for a period of ninety days.

The Commission having further found that the evidence herein fails to prove the violations of law charged to have been committed by the other respondents herein.

It is further ordered, That these proceedings be dismissed as to the other respondents herein.

It is further ordered, That a copy of this Order, accompanied by the Findings and Opinion of the Commission, be served upon the respondent Faris R. Russell, or his counsel, and be transmitted by registered mail to the Secretaries of the New York Stock Exchange, of the New York Curb Exchange, and of the Board of Trade of the City of Chicago, and to the firm of White, Weld & Company, New York City.

By order of the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1785; Filed, June 23, 1938; 12:38 p. m.]

JUN 27 ...

Reference

THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES

VOLUME 3 — NUMBER 124

Washington, Saturday, June 25, 1938

Rules, Regulations, Orders

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Docket No. 151–FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF WASHINGTON AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 22nd day of June, 1938.

It appearing, That by Orders Nos. 2 and 173,[1] the Commission, upon its own motion entered into and conducted an investigation under the provisions of Section 4–A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Washington and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard, that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 6th day of May, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Washington directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in Washington in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 1st day of August, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Washington, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June 1937,[2] and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Washington.

2. That any producer of bituminous coal in intrastate commerce within the State of Washington, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Sections 4 and 4–A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4–A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Washington, who is not upon the date of this Order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this Order, together with three

[1] 2 F. R. 1256 (DI); 3 F. R. 32 (DI).

[2] 2 F. R. 1267 (DI).

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 15—COMMERCE:
National Bituminous Coal Commission: Page
Washington, investigation, intrastate commerce in bituminous coal, etc. 1511
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission, orders to cease and desist:
American Health Society, Inc., and Medical Book Distributors, Inc 1512
Shaddy, Kelly J., doing business as Magic Chemical Co 1512
Warner's Renowned Remedies Co 1513
TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Imprest cash fund, disbursement procedure 1513
Regional Treasurer, submission of administrative expenses for pre-audit 1514
Regional working fund, disbursement procedure 1513
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Bonds covering manufacture, etc., of distilled spirits 1514
TITLE 27—INTOXICATING LIQUORS:
Federal Alcohol Administration Division:
Malt beverages labeling and advertising regulations amended 1515

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Fort Wayne, Ind., Marketing Area, hearing on handling of milk 1516
Department of the Interior:
Division of Territories and Island Possessions:
Alaska Railroad:
Joint freight tariff, class and commodity rates 1515

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Department of the Interior—Con.
Division of Territories and Island Possessions—Contd.
Alaska Railroad—Continued. Page
Mt. McKinley Park Route, time tables 1515
National Bituminous Coal Commission:
Bituminous Coal Producers Board for District No. 4, vs. Massilon-Akron Coal Co., et al., hearing 1516
Federal Communications Commission:
Great Lakes and inland waters survey, investigation 1516
Notice of hearing 1517
Securities and Exchange Commission:
Missouri Service Co., hearing 1517

(3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances,[3] and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this Order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Washington known to produce bituminous coal, publication thereof to be made three (3) times within fifteen (15) days from the date of this Order.

By order of the Commission.

Dated this 22nd day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-1797; Filed, June 24, 1938; 12:10 p. m.]

[3] 2 F. R. 1050 (DI).

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2761]

IN THE MATTER OF AMERICAN HEALTH SOCIETY, INC., AND MEDICAL BOOK DISTRIBUTORS, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and the brief filed herein by counsel for the Commission, and the Commission having made its findings as to the facts and its conclusion that said respondents, American Health Society, Inc., and Medical Book Distributors, Inc., have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, American Health Society, Inc., and Medical Book Distributors, Inc., whether trading under said names, or any other names, their officers, representatives, agents, and employes, in connection with the offering for sale, sale and distribution of the two-volume set of books now known as, and sold under the name of, "Health Knowledge," or under any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing, through such statements as "The New, Revised Edition of 1934", or other statements of like import and meaning, or in any other manner, that said books are modern, up-to-date, new, or recently revised;

2. Representing that said books are a modern, up-to-date medical treatise for use in the home diagnosis and treatment of various illnesses and diseases, and contain the methods of diagnosis and treatment of various illnesses and diseases which are in current use and accepted by the general medical profession;

3. Representing, by means of inclusion of names of outstanding and eminent medical authorities under the heading of "Authorities Consulted", or in any other manner, that said books were written by outstanding and eminent medical authorities of the United States or foreign countries;

4. Representing, through the use of the words "American Health Society" in the corporate name of the respondent American Health Society, Inc., or through the use of any other word or words of similar import and meaning, or by the use of identification cards, or other advertising matter, or in any other manner, that their salesmen are in any way connected with any health society or any public or private health authorities, or that the publishers and distributors of such books are endorsed by, and are affiliated with, any public health authorities.

It is further ordered, That the respondents, American Health Society, Inc., and Medical Book Distributors, Inc., shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1786; Filed, June 23, 1938; 4:12 p. m.]

[1] 2 F. R. 1492 (DI).

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2870]

IN THE MATTER OF KELLY J. SHADDY, DOING BUSINESS AS MAGIC CHEMICAL CO.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, answer of the respondent, testimony and other evidence in support of the allegations of said complaint, and the brief filed in support of the complaint, respondent having not filed brief herein and having not requested oral argument, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Kelly J. Shaddy, an individual, doing business under the name Magic Chemical Co., or under any other name, in connection with the offering for sale, sale and distribution of a vegetable oil preparation for use on the scalp, now designated as "Shaddy's Hair Rejuvenator," or of any other preparation containing substantially similar ingredients, or possessing substantially similar properties, whether sold under that name or under any other name in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

1. That said preparation eradicates or permanently removes dandruff;

2. That said preparation takes care of the entire needs of the hair, or stimulates perfect circulation, or plays any part in keeping the hair organs functioning normally;

3. That said preparation stops or prevents falling hair;

4. That said preparation will grow hair or promote or in any way bring about hair growth;

5. That said preparation rejuvenates the growth of hair or is a hair rejuvenator;

6. That said preparation is the world's safest hair dressing;

7. That dandruff is the main cause of baldness.

It is further ordered, That the respondent shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1789; Filed, June 24, 1938; 9:49 a. m.]

[1] 1 F. R. 1340.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3084]

IN THE MATTER OF WARNER'S RENOWNED REMEDIES COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the testimony and other evidence submitted before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, the briefs filed, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Warner's Renowned Remedies Company, a corporation, its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of certain pharmaceutical preparations now designated as Warner's Renowned Vaginal Creme, Warner's Renowned Frem Pills, and Warner's Renowned Vigo Tablets, or of any other preparations possessing similar ingredients or properties, whether sold under those names or under any other names, do forthwith cease and desist from representing, either directly or by implication, as to the preparation designated

"Warner's Renowned Vaginal Creme"

(1) That it will prevent conception;

(2) That it is manufactured under the formula or supervision of a member of the medical profession;

(3) That it is a prophylactic, deodorant, is harmless, and a remedy and cure for the various maladies and diseases peculiar to women; and

(4) That it is a germicide and possesses germicidal strength equal to bichloride of mercury and carbolic acid;

as to the preparation

"Warner's Renowned Frem Pills"

(1) That it will safely bring on an abortion

(2) That menstrual delay generally is caused by colds, exposure, or similar natural causes; that the preparation is a remedy for menstrual delay generally; and

(3) That the preparation is manufactured by or under the supervision of a member of the medical profession;

as to the preparation

"Warner's Renowned Vigo Tablets"

(1) That the taking of the preparation assures a person of vitality and strength;

(2) That the preparation has a peculiar value for persons suffering from sexual debility;

(3) That it is manufactured by or under the supervision of a member of the medical profession; and

(4) That the preparation is famous for its claimed attributes.

It is further ordered, that the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1787; Filed, June 23, 1938; 4:12 p. m.]

[1] 2 F. R. 2987 (DI).

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

CHANGE IN IMPREST CASH FUND DISBURSEMENT PROCEDURE

MANUAL AMENDMENT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 721 of the Treasury Chapter of the Consolidated Manual is amended to read as follows:

SECTION 721. Incidental Expense Accounts for State, Division, Territorial, or District Offices maintained with the United States Treasury shall be in such amounts as may be determined by the Treasurer with the approval of the General Counsel, General Manager, and the Budget Director, provided the maximum amount shall not exceed $2,000.00 in any account.

The State, Division, Territorial, and District Managers shall be fully responsible and accountable to the Treasurer in Washington for the established amounts of the Incidental Expense Accounts and for the propriety of disbursements therefrom. These accounts shall be available for the disbursement of both administrative and non-administrative expenses as stipulated in the Independent Offices Appropriation Act for the fiscal year, and for such other purposes as may be provided elsewhere in this Manual; however, wherever practicable, vouchers for administrative expenses shall be submitted to the Home Office for disbursement. Non-administrative expenses shall be submitted to the proper Regional Office for reimbursement, and administrative expenses shall be submitted to the Home Office for reimbursement. Wherever, in the opinion of the State, Division, Territorial or District Manager, a payment from the Incidental Expense Account may be classified as administrative expense, the respective Manager is authorized, instead of paying same, to submit the voucher for proper disposition by the Regional Treasurer.

Adopted by the Federal Home Loan Bank Board on June 22, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-1793; Filed, June 24, 1938; 11:57 a. m.]

CHANGE IN REGIONAL WORKING FUND DISBURSEMENT PROCEDURE

MANUAL AMENDMENT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 716 of the Treasury Chapter of the Consolidated Manual is amended to read as follows:

SECTION 716. The Regional Working Fund in each Regional Office shall be maintained as a Disbursing Account, and funds therein shall be available for non-administrative expenses as distinguished from administrative expenses stipulated in the Independent Offices Appropriation Act for the fiscal year, and for such other purposes as may be provided elsewhere in this Manual.

Transfers to the respective Regional Working Funds shall be requested by the

Regional Treasurer or the Assistant Regional Treasurer and approved by the Regional Manager.

Adopted by the Federal Home Loan Bank Board on June 22, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–1794; Filed, June 24, 1938; 11: 57 a. m.]

RESTATEMENT OF DUTIES OF REGIONAL TREASURER AUTHORIZING SUBMISSION OF ADMINISTRATIVE EXPENSES FOR PRE-AUDIT

MANUAL AMENDMENT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 700 of the Treasury Chapter of the Consolidated Manual is amended to read as follows:

SECTION 700. The Treasurer of the Home Owners' Loan Corporation, is responsible for the safe-keeping and proper disbursement of funds of the Corporation in his custody. Except for salary advances, advances for travel, transfers between funds and any similar items, vouchers for disbursement shall be administratively certified by the Auditor of the Corporation; however the Treasurer may in his discretion submit any vouchers to the General Accounting Office for pre-audit prior to disbursement. The Treasurer is responsible for the safe-keeping of those bonds, investment certificates, notes, agreements and other valuable papers and instruments pertinent to loans or sales made by the Corporation, entrusted to his care.

The Regional Treasurer is responsible to the Treasurer in the Home Office for the safe-keeping and proper disbursement of funds of the Corporation in his custody in accordance with procedure prescribed by the Treasurer. In all other respects he is under the supervision of the Regional Manager.

The Regional Treasurer is authorized in his discretion to submit, through the Treasurer in Washington, any vouchers which, in his opinion, may be classified in whole or in part as administrative expense, and any vouchers or sub-vouchers for payment from the Imprest Cash Fund, to the General Accounting Office for pre-audit, prior to disbursement; and is responsible for the safe-keeping of those notes, agreements and other valuable papers and instruments pertinent to loans or sales made by the Corporation within the respective Region and entrusted to his care.

The Treasurer is authorized to prescribe, subject to the approval of the General Counsel, the General Manager, and the Budget Director, procedure necessary for the discharge of his functions.

Adopted by the Federal Home Loan Bank Board on June 22, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–1795; Filed, June 24, 1938; 11:57 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4820]

BONDS COVERING MANUFACTURE, ETC., OF DISTILLED SPIRITS

To District Supervisors, and Others Concerned:

Section 710 of the Revenue Act of 1938 reads as follows:

SEC. 710.
TAX ON DISTILLED SPIRITS.
(a) Section 600 (a) (4) of the Revenue Act of 1918, as amended, is amended to read as follows:

"(4) On and after January 12, 1934, and until July 1, 1938, $2.00, and on and after July 1, 1938, $2.25, on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon."

(b) Section 600 (c) of such Act, as amended, is amended by striking out "$2.00 per wine gallon" and inserting in lieu thereof "$2.25 per wine gallon."

(c) Section 4 of the Liquor Taxing Act of 1934 is amended by striking out "$2.00" and inserting in lieu thereof "$2.25."

(d) The amendments made by this section shall not apply to brandy and the rates of tax applicable to such brandy shall be the rates applicable without regard to such amendments.

Pursuant to the authority contained in Section 3447, Revised Statutes (U. S. C. title 26, sec. 1691 (a) (2)), and Title III of the National Prohibition Act, as amended and supplemented (U. S. C. title 27, sec. 83; U. S. C., Sup. I, title 27, sec. 151 (6)), the following regulations are prescribed relative to bonds affected by the increase in the tax rate imposed on distilled spirits:

1. Effective on and after July 1, 1938, the penal sums of bonds covering the manufacture, transportation, storage, warehousing, and exportation of distilled spirits, including alcohol, but not including brandy, shall be computed on the basis of $2.25 per proof gallon, or wine gallon when below proof; provided, that in the case of alcohol withdrawn free of tax by scientific universities or colleges of learning, laboratories for use exclusively in scientific research, or by hospitals or sanatoriums, or clinics, under the provisions of Title III of the National Prohibition Act, as amended and supplemented, the bond shall be for a penal sum of not less than double the amount of the tax at the increased rate. The penal sums of bonds of dealers in, and users of, specially denatured alcohol shall be computed on the basis of $4.50 for each wine gallon authorized to be withdrawn.

2. In all cases where the penal sums of bonds now in effect, if not in the maximum penal sum, are not sufficient, new or additional bonds should be required in penal sums corresponding with the increased rate of taxation, or the rates provided herein for tax-free and specially denatured alcohol bonds, unless the quantities of spirits or denatured alcohol covered by such bonds are reduced within the month of July, 1938, so that the penal sums thereof will be sufficient.

3. The bonds affected are identified as follows:

Form 30. Distiller's bond.
Form 544. Bond for the withdrawal of distilled spirits.
Form 547. Distilled spirits for export.
Form 548. Transportation Bond—spirits for export.
Form 643. Transportation Bond—spirits to bonded manufacturing warehouse.
Form 572. Distiller's denaturing warehouse bond.
Form 654. Bond for storage of distilled spirits for export.
Form 657. Export bond for distilled spirits.
Form 658. Transportation bond—distilled spirits for export.
Form 1432. Bond for industrial alcohol plant.
Form 1432A. Bond for industrial alcohol plant, etc.
Form 1435. Warehouse bond for storage of alcohol.
Form 1448. Bond for withdrawal of alcohol free of tax for hospital use, etc.
Form 1459. Transportation bond for alcohol.
Form 1460. Transportation bond for alcohol.
Form 1462. Bond for denaturing plant.
Form 1475. Bond of dealer in specially denatured alcohol.
Form 1480. Bond of manufacturer using specially denatured alcohol and recovering completely or specially denatured alcohol.
Form 1495. Export bond for alcohol.
Form 1496. Transportation bond—alcohol for export.
Form 1497. Export bond for alcohol.
Form 1498. Transportation bond—alcohol for export.
Form 1571. Transportation and warehousing bond for distilled spirits.
Form 1581. Bond for drawback of tax paid on distilled spirits.

4. Except as modified by this Treasury Decision, the provisions of prior regulations respecting bonds[1] of all classes required under the internal revenue liquor laws and Title III of the National Prohibition Act, as amended and supplemented, shall remain in force and effect.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 22, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1792; Filed, June 24, 1938; 11:04 a. m.]

[1] 2 F. R. 841 (DI).

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION

[Regulations No. 7, Amendment No. 1]

AMENDING CERTAIN PROVISIONS OF THE MALT BEVERAGES LABELING AND ADVERTISING REGULATIONS WITH REFERENCE TO DESIGNATING PRODUCTS AS "ALE," "PORTER," OR "STOUT," OR BY DISTINCTIVE OR FANCIFUL NAMES, AND TO OTHER MATTERS

Pursuant to the provisions of Sections 5 (e) and (f) of the Federal Alcohol Administration Act, as amended, Regulations No. 7,[1] Relating to Labeling and Advertising of Malt Beverages, are amended as follows:

1. Article II, Section 24 (a), of said regulations is amended to read:

"(a) The class of the malt beverage shall be stated and, if desired, the type thereof may be stated. Statements of class and type shall conform to the designation of the product as known to the trade. If the product is not known to the trade under a particular designation, a distinctive or fanciful name, together with an adequate and truthful statement of the composition of the product, shall be stated, and such statement shall be deemed to be a statement of class and type for the purposes of these regulations."

2. Article II, Section 24 (d), of said regulations is amended to read:

"(d) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to 'ale', 'porter', or 'stout' and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall bear any of these class designations."

3. Article II, Section 24 (e), of said regulations is amended to read:

"(e) Geographical names for distinctive types of malt beverages (other than names found by the Administrator under subsection (f) to have become generic) shall not be applied to malt beverages produced in any place other than the particular region indicated by the name unless (1) in direct conjunction with the name there appears the word 'type' or the word 'American', or some other statement indicating the true place of production in lettering substantially as conspicuous as such name, and (2) the malt beverages to which the name is applied conform to the type so designated. The following are examples of distinctive types of beer with geographical names that have not become generic: Dortmund, Dortmunder, Vienna, Wien, Wiener, Bavarian, Munich, Munchner, Salvator, Kulmbacher, Wurzburger, Pilsen (Pilsener and Pilsner): *Provided*, That notwithstanding the foregoing provisions of this section, beer which is produced in the United States may be designated as 'Pilsen,' 'Pilsener,' or 'Pilsner' without further modification, if it conforms to such type."

4. Article II, Section 24 (f), of said regulations is amended to read:

"(f) Only such geographical names for distinctive types of malt beverages as the Administrator finds have by usage and common knowledge lost their geographical significance to such an extent that they have become generic shall be deemed to have become generic, e. g. India Pale Ale."

5. Article V, Section 54 (d) (2), of said regulations is amended to read:

"(2) No product other than a malt beverage fermented at comparatively high temperature, possessing the characteristics generally attributed to 'ale,' 'porter,' or 'stout' and produced without the use of coloring or flavoring materials (other than those recognized in standard brewing practices) shall be designated in any advertisement by any of these class designations."

These amendments shall become effective fourteen days after the date of filing with the Division of the Federal Register.

[SEAL] W. S. ALEXANDER,
Administrator,
Federal Alcohol Administration.

Approved, this 21st day of June, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1788; Filed, June 23, 1938; 4:16 p. m.]

[1] 1 F. R. 2013.

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

ALASKA RAILROAD—MT. MCKINLEY PARK ROUTE TIME TABLES

The Mt. McKinley Park Route time tables, corrected to June 7, 1938, were filed with the Division of the Federal Register, The National Archives, on June 24, 1938, at 10:58 a. m. (F. R. Doc. 38–1791).

[Supplement No. 3 to I. C. C. No. 128[1]]

THE ALASKA RAILROAD IN CONNECTION WITH ALASKA STEAMSHIP COMPANY, AMERICAN YUKON NAVIGATION COMPANY, PUGET SOUND FREIGHT LINES

SUPPLEMENT NO. 3 TO JOINT FREIGHT TARIFF NO. 5–E NAMING CLASS AND COMMODITY RATES BETWEEN SEATTLE AND TACOMA, WASH., AND POINTS ON THE ALASKA RAILROAD, AMERICAN YUKON NAVIGATION COMPANY, IN ALASKA

Governed, except as otherwise provided herein, by the Western Classification No. 67 (as published in Consolidated Freight Classification No. 12), R. C. Fyfe's I. C. C. No. 25, supplements thereto or successive reissues thereof. Transportation service in connection with The Alaska Railroad, American Yukon Navigation Company, is subject to restoration and discontinuance as indicated on page 17 of Tariff. Issued, May 12, 1938. Effective, June 15, 1938 (Except as otherwise provided herein). Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

[*Here follows, in the original document, the joint freight tariff, of which the following rules and regulations are a part.*]

RULES AND REGULATIONS

Item No. 190–A (cancels 190). *Freight must be in suitable packages for shipment.*—All freight for shipment must be packed in shape for safe and expeditious handling. When tariff does not specify kind of package, it is understood that bags, barrels, boxes, crates or other suitable packages will be used; and when freight is offered in bulk or in such packages as would endanger contents or other cargo or steamer when handled with ordinary care, it shall be optional with the carrier to refuse to transport it or to accept it with notation on shipping receipt or bill of lading fully releasing the carriers from liability for any and all damages that may occur.

The carrier shall have the right to refuse to carry any freight offered for shipment which is likely to damage other freight or steamer or prove offensive to passengers.

Boilers must be put on skids to facilitate handling.

Pieces or packages of Machinery weighing over 4,000 pounds, except Tractors, destined to stations on the Tanana and Yukon Rivers in Alaska, stations Index Nos. 152 to 212 inclusive, requiring transfer to River Steamers at Nenana, Alaska, must be put on skids to facilitate handling.

Skids provided by Carrier will be at Shipper's or Consignee's expense.

Item No. 235–A (cancels 235). *Prepayment of freight charges.*—Household goods, personal effects, samples or ore and other goods of doubtful valuation must be fully prepaid.

Item No. 290–A (cancels 290). *Western classification rules—application of.*—The "Rules" published in current Western Classification also govern the application of rates named in this tariff, except as otherwise provided below or in individual items or rules of tariff.

Exceptions to application of Western Classification rules.

The following rules of the current Western Classification will not apply in connection with this tariff:

Rule No. 10—Mixed carloads.

Rule No. 24—Freight in excess of full carloads.

[1] Cancels Supplements Nos. 1 and 2; contains all changes from the original tariff that are effective on the date hereof.

Rule No. 34—Minimum carload weights.

Rule No. 47—C. O. D. (Collection on Delivery) shipments.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

[F. R. Doc. 38–1790; Filed, June 24, 1938; 10:58 a. m.]

National Bituminous Coal Commission.

[Docket Nos. 345–360–FD]

BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 4, COMPLAINANT, VS. MASSILON-AKRON COAL CO., EARLE COAL CO., RIDGE COAL CO., INDUSTRIAL MINING CO., LAFFERTY COAL CO., OHIO BLOCK COAL CO., WESTERN FUEL CO., BELMONT COAL CO., BENCHLEY & VERMILLION COAL CO., KENNETH DICKERSON, EBERSBACH COAL CO., FINNELL COAL CO., GUERNSEY COAL CO., W. H. KASLEY, ED. MCCOY, SCHNEITER COAL CO., DEFENDANTS

NOTICE AND ORDER FOR HEARING

The Bituminous Coal Producers Board for District No. 4, the complainant above-named, having filed with the Commission separate complaints against each of the defendants above-named, code members within said District No. 4, alleging that the said defendants have wilfully violated the provisions of the Bituminous Coal Code by their failure to pay assessments levied against them by the said District Board in accordance with the Bituminous Coal Act of 1937 and Order No. 10 of the Commission, and praying for the revocation of defendants' membership in the Bituminous Coal Code, all of which is more fully set forth in the respective written formal complaints filed in each of the above entitled matters;

Now, therefore, it is hereby ordered:

1. That a hearing upon each of the said complaints, before an Examiner to be designated by the Commission, shall be held in the Hearing Room of the Commission at 705 Rockefeller Building, Cleveland, Ohio, on the first day of August, 1938, commencing at the hour of ten o'clock A. M., at which interested parties will be given an opportunity to be heard.

The Secretary of the Commission is forthwith directed to mail, by registered mail, copies of this Notice and Order for Hearing to each of the defendants abovenamed; to mail copies of this Notice and Order for Hearing to the Secretaries of each of the District Boards, and the Consumers' Counsel; and cause copy of the same to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 22nd day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1796; Filed, June 24, 1938; 12:10 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A–78 O–78]

NOTICE OF PUBLIC HEARING ON PROPOSED ORDER AND ON AMENDMENT TO APPROVED MARKETING AGREEMENT REGULATING HANDLING OF MILK IN FORT WAYNE, INDIANA, MARKETING AREA

Whereas, the Secretary of Agriculture on February 1, 1937, entered into a marketing agreement with handlers of milk in the Fort Wayne, Indiana, Marketing Area, which marketing agreement regulates such handling of milk in the Fort Wayne, Indiana, Marketing Area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, the Wayne Cooperative Milk Producers, Inc. has requested the Secretary to hold a public hearing on an amendment to said marketing agreement and on an order designed to regulate such handling of milk in the Fort Wayne, Indiana, Marketing Area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of an amendment to said marketing agreement or the issuance of an order or both will tend to effectuate the declared policy of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 with respect to such handling of milk in the Fort Wayne, Indiana, Marketing Area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, under said act notice of and opportunity for a hearing is required prior to the execution of an amendment to a marketing agreement or the issuance of an order and the General Regulations, Series A, No. 1,[1] as amended, of the Agricultural Adjustment Act, United States Department of Agriculture, provide for such notice;

Now, therefore, pursuant to said act and said general regulations notice is hereby given of a public hearing to be held in the Community Room, Court House, Fort Wayne, Indiana, on July 6, 1938, at 10:00 a. m., c. d. s. t., on an aforementioned amendment to said marketing agreement and on said proposed order.

At this public hearing representatives of the Secretary will receive factual evidence (1) as to whether the amendment to said marketing agreement will effectuate the declared policy of the act and (2) as to whether marketing conditions for such handling of milk in the Fort Wayne, Indiana, Marketing Area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk are so disorderly as to necessitate regulation in order that the declared policy of the act may be effectuated.

The proposed amendment to the marketing agreement provides, among other things, for (a) payment of premiums for grade A milk from the proceeds of the equalization pool, (b) changes in the classification of milk, (c) changes in the price for Class II milk, (d) changes in the method of computing the equalization pool, and (e) deletion of the provisions relative to base ratings.

The proposed order provides, among other things, for (a) selection of a market administrator, (b) classification of milk, (c) minimum prices, (d) reports of handlers, (e) payments to producers through the use of an equalization pool, (f) deductions from payments to producers for marketing services by the market administrator, and (g) expenses of administration.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area, which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed amendment to the marketing agreement and of the proposed order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated, June 24, 1938.

[F. R. Doc. 38–1798; Filed, June 24, 1938; 12: 24 p. m.]

[1] 1 F. R. 155.

FEDERAL COMMUNICATIONS COMMISSION.

ORDER OF INVESTIGATION AND HEARING ON GREAT LAKES AND INLAND WATERS SURVEY

In a meeting of the Federal Communications Commission held at its offices in Washington, D. C., on the ninth day of June, 1938,

Whereas, the Congress has requested and directed the Commission to make a special study of the radio requirements necessary or desirable for safety purposes for ships navigating the Great Lakes and the inland waters of the United States, and

Whereas, it appears desirable to hold public hearings for the purpose of receiving testimony and other evidence that may be offered by interested parties,

It is ordered, That an investigation be conducted under the direction of Commissioner Thad H. Brown and that hearings in respect thereto be held at such times and at such places as may be hereafter determined.

It is further ordered, That any party who desires to appear and present evidence shall file written notice of intention thereof prior to the date of the hearing, which notice shall briefly set forth the nature and scope of the evidence to be offered.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38–1800; Filed, June 24, 1938; 1:11 p. m.]

[Docket No. 5222]

IN THE MATTER OF GREAT LAKES AND INLAND WATERS SURVEY

NOTICE OF HEARING

In connection with the study of radio requirements necessary or desirable for safety purposes for ships navigating the Great Lakes (Commission Order of June 9, 1938), a hearing has been scheduled in Cleveland, Ohio, for July 18, 1938, beginning at 10 a. m. in the auditorium of the Board of Education Building, 1385 East Third Street, before Commissioner Thad H. Brown.

Evidence will be received in respect to any matters or circumstances affecting the safety of life and property on the Great Lakes, but for convenience there is attached hereto an outline of some of the subjects which it is deemed advisable to include in this hearing.

All persons who desire to appear and present evidence are requested, where possible, to file written notice of intention thereof, which notice should briefly state the general nature of the proposed evidence and the estimated time required for presentation. It is further requested that such notice be forwarded in time to be in the hands of the Commission at least five days prior to the date of the hearing.

This hearing, which will begin in Cleveland on the date above stated, may be resumed at such times, and at such other places in the Great Lakes area, as may be necessary to obtain all pertinent information bearing on the subject.

[SEAL] T. J. SLOWIE,
Secretary.

OUTLINE OF SOME OF THE SUBJECTS UPON WHICH THE COMMISSION WILL BE PLEASED TO RECEIVE TESTIMONY

1. Routes used by vessels navigating the Great Lakes.

2. Types of freight and passenger services rendered by vessels navigating the Great Lakes.

3. Types of cargo transported.

4. Navigation hazards on Great Lakes and connecting channels.

a. Seasonal weather conditions.
b. Hazardous areas.
c. Vessel construction.

5. Facilities other than communications (except within the vessel itself) for preserving safety of life and property.

6. Usefulness of present radiotelegraph, radiotelephone, and land-line communication facilities in preventing and mitigating loss of life and property on Great Lakes and connecting channels.

a. Shore radio station facilities.
b. Vessel radio station facilities.
c. Land-line facilities.
d. Personnel.

7. Effectiveness of radio direction-finding facilities in navigation on the Great Lakes and connecting channels.

8. Engineering facts bearing upon the use of radio and wire communication for safety of life and property on the Great Lakes and connecting channels.

9. Cost of operating present radio and wire communication systems useful for promoting the safety of life and property on the Great Lakes and connecting channels.

10. To determine whether the extent and nature of radio installations and the required listening watch should vary with:

a. Tonnage and dimension of vessel.
b. Length of voyage.
c. Number of passengers and crew.
d. Other physical factors.
e. Economic factors.

11. Contractual relationship between the American Telephone and Telegraph Company and the Radiomarine Corporation, a subsidiary of the Radio Corporation of America, pertaining to the furnishing of radio-telephone service to the public through coastal harbor stations in the United States.

[F. R. Doc. 38–1801; Filed, June 24, 1938; 1:12 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23 day of June, A. D. 1938.

[File No. 43–125]

IN THE MATTER OF MISSOURI SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to sections 6 and 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 11, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 6, 1938.

The matter concerned herewith is in regard to a change in the interest provisions of the $635,000 First Mortgage Gold Bonds 6% Series A, due July 1, 1953, of the declarant. At present interest is payable at the fixed rate of 6% per annum. Under the changes proposed by the declaration, interest from and after January 1, 1938, would be payable only to the extent of surplus income available therefor as set forth in the declaration.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1799; Filed, June 24, 1938; 12:40 p. m.]

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FEDERAL REGISTER

VOLUME 3 NUMBER 125

Washington, Tuesday, June 28, 1938

The President

EXECUTIVE ORDER

AMENDMENT OF CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the Constitution, by section 1753 of the Revised Statutes (U. S. C., title 5, sec. 631), by the Civil Service Act of January 16, 1883 (22 Stat. 403), and as President of the United States, the Civil Service Rules are hereby amended, effective February 1, 1939, to read as follows:

RULE I. POLITICS AND RELIGION

1. *No interference with elections.*—No person in the executive civil service shall use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express privately their opinions on all political subjects, shall take no active part in political management or in political campaigns.

2. *No disclosure or discriminations.*—No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions or affiliations, and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened, or promised by any person in the executive civil service against or in favor of an applicant, eligible, or employee in the classified service because of his political or religious opinions or affiliations.

3. *Recommendations not considered.*—No recommendation of an applicant, eligible, or employee in the classified service involving disclosure of his political or religious opinions or affiliations shall be considered or filed by the Civil Service Commission, hereinafter called the Commission, or by any officer concerned in making appointments or promotions.

RULE II. CLASSIFICATION OF THE SERVICE

1. *Extent of the classified service.*—The classified service shall include all persons who have heretofore or may hereafter be given a competitive status in the classified civil service, with or without competitive examination, by legislative enactment, or under the civil service rules promulgated by the President, or by executive orders covering groups of employees with their positions into the competitive classified service, or authorizing the appointment of individuals to positions within such service. It shall include all positions now existing or hereafter created by legislative or executive action, of whatever function or designation, whether compensated by a fixed salary or otherwise, unless excepted from classification by specific affirmative legislative or executive action. No right of classification shall accrue to persons whose appointment or assignment to classified duties is in violation of the civil service rules.

2. *Examination required.*—No person shall be appointed, employed, promoted, or transferred in the classified service, or perform the duties of any position therein, until he passes the examination prescribed by the Commission in his case, unless especially exempted.

3. *Appointment without examination.*—(a) Schedules A and B of the civil service rules are continued as a part of the said rules as amended by this order, and positions named in such Schedules are excepted from the classified service.

(b) Appointments to the excepted positions named in Schedule A may be made without examination or upon noncompetitive examination.

(c) Appointments to the excepted positions named in Schedule B may be made upon such noncompetitive examination as the Commission shall prescribe.

(d) The proper appointing officer may fill any position named in Schedule A or Schedule B, or any other excepted position, as classified positions are filled, in which case the person so appointed shall be eligible for transfer, reinstatement, or promotion to positions in the classified service, subject to the provisions of these

CONTENTS

THE PRESIDENT

Executive Orders: Page
Civil Service Rules, amendment.. 1519
Competitive classified Civil Service, extension---------- 1526

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Appraisement and compensation for tuberculous, etc., reacting cattle condemned and destroyed-- 1527
TITLE 12—BANKING AND CREDIT:
Federal Deposit Insurance Corporation:
Loans upon security of savings deposits---------- 1528
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Shelton Tubular Rivet Co., et al., cease and desist order ---------- 1528
TITLE 30—MINERAL LANDS AND MINING:
Bureau of Mines:
Electric mine lamps, other than cap lamps, requirements for permissibility, etc---------- 1529
TITLE 31—MONEY AND FINANCE: TREASURY:
Accounts and Deposits:
Bonds executed by Bankers Indemnity Insurance Co., in favor of United States- 1532
Corporations acceptable as sureties on Federal bonds- 1532
TITLE 43—PUBLIC LANDS:
Division of Grazing:
Federal Range Code, supplementary rules---------- 1533
Utah Grazing District No. 1, modification---------- 1539
General Land Office:
Montana (No. 1), stock driveway withdrawal No. 11, modified ---------- 1539

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Correction of Rule U-9A2-3, etc. — 1539
Sale of public utility securities and assets by registered holding companies, amendment — 1540

NOTICES

Federal Power Commission:
Tennessee Public Service Co., and Appalachian Electric Power Co., hearing — 1540
Federal Trade Commission:
Orders appointing examiners, etc.:
Associated Laboratories, Inc. — 1540
Cohen Brothers Corp. — 1542
Craddick, Wm. F., trading as N-Urg-Izer, etc. — 1543
Crete Mills — 1545
Dunlap, Al, trading as Detective Publishing Co. — 1544
Forson Laboratories — 1543
Hall & Ruckel, Inc. — 1544
Hygienic Corp. of America, et al. — 1542
Kadetsky, Hyman, trading as Acme Merchandise Co., etc. — 1545
Leaderbrand, R. E., and Gladys M., trading as F. B. Products Co., etc. — 1542
Meyer, M. J. & H. J., Co., Inc. — 1541
Mosby, G. H. (Van-Tage Medicine Co., Inc.) — 1541
National Training Institute, Inc., et al. — 1543
O. K. Tailoring Co. — 1544
Paradise Co., et al. — 1541
Prostex Co. — 1542
Thomson, Ray, trading as T. A. Reynolds & Co., etc. — 1543

Federal Trade Commission—Con. — Page
Orders appointing examiners, etc.—Continued.
United Buyers Corp., et al. — 1541
Vacu-Matic Carburetor Co. — 1544
Young, W. R., trading as National Employees Training Service — 1543
Securities and Exchange Commission:
Iowa Public Service Co., hearing — 1545
Massachusetts Utilities Associates, new trial examiner designated — 1545
Treasury Department:
Bureau of Customs:
Airports of entry redesignated — 1540

rules. The incumbent of any excepted position so filled will not be entitled to protection against removal afforded by these rules; nor will the incumbent of any excepted-by-law position so filled be entitled to the benefits of the Civil Service Retirement Act solely by virtue of such employment.

4. *Assignment of excepted employees.*—A person appointed without competitive examination under section 3 of this rule or by authority of an act of Congress shall not be assigned to the work of a competitive classified position without the approval of the Commission or specific provision of law.

5. *Laborers.*—Laborers who, in connection with their usual duties, are to perform work of the grade performed by classified employees shall be appointed upon certification by the Commission from appropriate registers of eligibles in the manner provided by these rules; and a person employed merely as a laborer or workman without examination under these rules shall not be assigned to work of the grade performed by classified employees. Unclassified laborers may be assigned to classified work incidentally, but not as a part of their main work, in cases where such work cannot be conveniently and economically done by classified employees, but not without the prior consent of the Commission obtained before such assignment.

6. *Excepted employees—when classified.*—Except as provided in section 7 of this rule a person holding a position when it becomes classified or otherwise subject to competitive examination shall, upon recommendation to the Commission by the head of the department or establishment in which he is employed, have all the rights which he would acquire if appointed thereto upon competitive examination: *Provided*, (a) that he was appointed at least six months prior to the effective date of the change in the status of the position; (b) that he has performed satisfactory active service during at least three months of the year immediately preceding the change in the status of the position; (c) that he shall pass such appropriate non-competitive tests of fitness as the Commission may prescribe; and (d) that he is not disqualified by any of the provisions of section 3 of Civil Service Rule V or of any provision of the Civil Service Act and rules, or of any other statute or executive order. Any such person who fails to meet the foregoing requirements of this section shall be separated from the service within thirty days (exclusive of leave to which he is entitled) after the Commission reports that he is ineligible for classification unless the head of the agency concerned certifies to the Commission that such person has rendered satisfactory service and that he should be retained although without acquiring a competitive classified status.

7. *Classification in post offices.*—The Postmaster General shall promptly notify the Commission of each order for the advancement of any post office from the third class to the second class, or for the consolidation of any post office with one in which the employees are classified as competitive. On the date of effect of such order, section 6 of this rule shall apply to the positions, officers, and employees of the offices affected, and all other provisions of these rules shall become applicable to all officers and employees who so qualify and to all such positions thereafter filled in the same manner as they apply to those in offices now classified. The Postmaster General shall, upon the date he reports the advancement of any post office from the third to the second class, or as soon thereafter as is practicable, notify the Commission as to which of the employees in such office he recommends for classification.

8. *Appointment without competitive examination in rare cases.*—Whenever the Commission shall find that the duties or compensation of a vacant position are such, or that qualified persons are so rare that in its judgment such position cannot, in the interest of good civil-service administration, be filled at that time through open competitive examination, it may authorize such vacancy to be filled without competitive examination, and in any case in which such authority is given, evidence satisfactory to the Commission of the qualifications of the person to be appointed without competitive examination shall be required. A detailed statement of the reasons for its action in any case arising hereunder shall be made in the records of the Commission and shall be published in its annual report. Any subsequent vacancy in such position shall not be filled without competitive examination except upon express authority of the Commission in accordance with this section.

RULE III. EXAMINATIONS

1. *Competitive examinations.*—The Commission shall prepare, recruit for, hold, and rate open competitive examinations for admission to the classified service, and in all other cases required by these rules or by executive order, which examinations shall be of a practical and suitable character, and shall be held at such times and places as may most nearly meet the needs of the service, with due consideration for the convenience of applicants.

2. *Noncompetitive examinations.*—The Commission may give noncompetitive examinations to test fitness for (a) reinstatement, (b) appointment to positions excepted from the classified service under these rules or by executive order; and shall give noncompetitive examinations for transfer or promotion when competitive promotion examinations are not held.

3. *Examinations.*—Examinations shall whenever practicable be assembled and include written or practical tests; the rating of experience when part of the test shall, so far as practicable, follow personal interview and be qualitative as well as quantitative. Whenever the announcement of any examination in which education, training, or experience is prerequisite shall so state, and the applicants are given opportunity to file detailed sworn statements of their qualifications, a preliminary competitive rating may be given on the basis of the duties, requirements, and conditions of work in the position to be filled before any applicant shall be required to travel for further tests. Applicants rated highest on such preliminary rating, to a number not incommensurate with the number of vacancies expected during the life of the list, shall be afforded opportunity to assemble or otherwise compete in such further competitive tests as the Commission may require. The character, record, and physical fitness of applicants shall be tested or investigated and approved whenever practicable prior to certification.

4. *Examinations for professional or technical positions.*—All examinations for professional or technical positions or positions which under existing executive practice are filled only by persons having professional or technical training shall be formulated by the Civil Service Commission in collaboration with the head of the affected department, independent establishment, or corporation, or his designated representative, and shall make due allowance for the particular training, experience, and skill regarded as requisite under existing administrative practice.

RULE IV. BOARDS OF EXAMINERS

1. *Appointment and duties.*—(a) The Commission shall designate from among persons in the federal service, after consulting the head of the department or office in which such persons serve, such boards of examiners as it shall deem necessary. Their members shall perform such duties as the Commission may direct, in connection with the execution of the Civil Service Act and these rules, and in the performance thereof they shall be under the direct and sole control of the Commission. Such duties shall be considered part of the duties of the office in which they are serving and time shall be allowed therefor during office hours. No such board shall be composed solely of adherents of one political party when other persons are available and competent to serve.

(b) Where qualified special examiners are not available in the federal service, the Commission may, by unanimous vote, designate individuals outside the service specially qualified by experience and training and of outstanding reputation in their own field to serve on a board of examiners for a particular examination and compensate them for such service on a *per-diem* basis.

2. *Cooperation with other boards, commissions, and agencies.*—The Commission shall render all practicable assistance to the Philippine and Puerto Rico civil-service boards, and such other federal, state, or local agencies as shall request its cooperation and offer like cooperation or adequately provide its share of the expense, and shall conduct or join in conducting examinations, upon their request, under such regulations as may be jointly agreed upon. Where the Commission has joined in the conduct of such examinations, it may certify eligibles from appropriate resulting registers to fill vacancies in the United States civil service.

3. *Executive officers to facilitate examinations.*—Persons in the executive civil service shall facilitate the holding of examinations and other work of the Commission; and executive officers in charge of public buildings shall permit and arrange for the use of suitable rooms under their charge, and for heating, lighting, and furnishing them.

RULE V. QUALIFICATIONS OF APPLICANTS

1. *Citizenship.*—No person shall be admitted to examination unless he is a citizen of or owes allegiance to the United States, and no person shall be examined or certified for appointment if his appointment would be contrary to law.

2. *Form of application.*—Application for examination must be made under oath, in such form and manner and accompanied by such certificates as the Commission may prescribe.

3. *Disqualifications.*—The Commission may, in its discretion, refuse to examine an applicant for appointment or reinstatement or to certify an eligible for any of the following reasons: (a) Dismissal from the service for delinquency, inefficiency, or misconduct; (b) physical or mental unfitness for the position for which he applies: *Provided*, that the Commission may, in its discretion, exempt from the physical requirements established for any position a disabled honorably-discharged soldier, sailor, or marine upon a certificate of the United States Veterans Administration attesting that he has completed an appropriate and sufficient rehabilitatory course of training for the duties of the class of positions in which employment is sought; *And provided further*, that the Commission, may in its discretion, waive the physical requirements in the case of a disabled veteran not so trained to permit his examination; (c) criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct; (d) intentionally making a false statement as to any material fact, or practicing any deception or fraud in securing examination, registration, certification, or appointment; (e) refusal to furnish testimony as required by Rule XIV; and (f) the habitual use of intoxicating beverages to excess.

Any of the reasons stated in the foregoing clauses (b) to (f), inclusive, shall also be good cause for removal from the service.

4. *Age limits.*—The Commission may, with the approval of the proper appointing officer, change by regulation the existing age limits for entrance to the examinations under these rules, but persons entitled to veteran preference may be examined without regard to age except for such positions as the Commission shall by regulation specify: *Provided*, that they have not reached the retirement age for the position sought.

5. *Trades positions.*—Applicants for positions in the recognized mechanical trades must have served as apprentices or journeymen for such periods as the Commission may prescribe.

RULE VI. RATINGS AND ELIGIBILITY

1. *Rating.*—Examination papers shall be rated on a scale of 100 and the subjects therein shall be given such relative weights as the Commission may prescribe. Honorably discharged soldiers, sailors, and marines, shall have 5 points added to their earned ratings in examinations for entrance to the classified service. Applicants for entrance examination who are honorably discharged and who establish by official records the present existence of a service-connected disability, or who are over fifty-five years of age and, because of disability, are entitled to pension or compensation under existing laws, and widows of honorably discharged soldiers, sailors, and marines, and wives of honorably discharged soldiers, sailors, and marines who because of service-connected disability or who are over fifty-five years of age and because of disability, are themselves not qualified but whose wives are qualified for appointment, shall have 10 points added to their earned ratings; and this shall also apply to retired officers and enlisted men who establish through official sources the present existence of a service-connected disability in the same manner as is required of others who are granted disability preference. In examinations where experience is an element of qualification, time spent in the military or naval service of the United States during the World War or the War with Spain shall be credited in an applicant's ratings where the applicant's actual employment in a similar vocation to

that for which he applies was temporarily interrupted by such military or naval service but was resumed after his discharge. The Commission, not oftener than once each quarter, may reopen examinations to applicants granted disability preference.

Employees in any positions in the classified service who are qualified to enter any open competitive examination shall, upon earning a passing mark therein, be placed also upon a separate list of eligible government employees, which list may be certified separately in accordance with the civil service rules to fill vacancies occurring in the positions for which the examination is held. Age limitations may be waived for employees otherwise eligible to compete in such examinations. Employees eligible to compete in any such examination shall be granted leave of absence for the time required to take such examination.

Competitors shall be notified of their ratings, and upon their request, they shall also be notified of their standing on the list.

2. *Eligible registers.*—All competitors rated at 70 or more shall be eligible for appointment, and their names shall be placed on the proper register according to their ratings; but the names of persons entitled to disability preference as defined in section 1 of this rule shall be placed above all others.

3. *Term of eligibility.*—The term of eligibility shall be one year beginning with the date on which the name of the eligible is entered on the register. This term may be extended, in the discretion of the Commission, for one additional year, and thereafter a register may be certified only for such eligibles as continue to meet all examination requirements, and where experience was part of the test only after supplementary examination of additional and interim experience and rerating of such experience. All eligibles on a list more than two years old who fail to file additional experience data as required by the Commission or who fail to meet the requirements or receive a passing mark on rerating shall be dropped from the list. No register hereafter established shall be used for more than two years unless it has been extended and revised in accordance with the provisions of this rule.

RULE VII. CERTIFICATION

1. *Method of filling vacancies.*—All vacancies in any position or employment not excepted from examination shall be filled as hereinafter provided: (a) By transfer upon requisition to and certificate of the Commission, of any employee employed anywhere in the service holding a position in the same class of the same grade, or otherwise eligible for such transfer under Rule X; (b) by reinstatement upon requisition to and certificate of the Commission under Rule IX or by certificate without requisition under section 4 of Rule XII in the discretion of the Commission; (c) by competitive promotion upon requisition to and certificate by the Commission from a competitive promotion register of eligibles in the department or establishment where the vacancy exists, or if there are no such eligibles, then from such a register of eligibles in other departments or establishments having the same status in the service, such certification to be in the order of standing on such eligible register unless the Commission shall determine that a selective certification is necessary pursuant to the rules; (d) by noncompetitive promotion upon requisition to and certificate of the Commission following noncompetitive examination when competitive promotion examinations are not held; (e) by transfer from a lower to a higher position of any employee eligible for such transfer upon requisition to and certificate of the Commission following examination; and (f) from open competitive eligible registers upon requisition to and certificate by the Commission.

2. *Method of certification.*—Certification for original appointment and competitive promotion shall be made as follows:

(a) *Certification.*—The nominating or appointing officer shall request the certification of eligibles, and the Commission shall certify, from the head of the appropriate register of eligibles, a number of persons sufficient to permit the nominating or appointing officer to consider three persons in connection with each vacancy. When so provided by regulation of the Commission, selection shall be made from the register by the nominating or appointing officer without preliminary certification of the Commission. Where the Commission finds that there is no register in existence appropriate as a whole to fill a particular existing vacancy, the Commission in its discretion may certify selectively from the most nearly appropriate existing register, in the order of their ranking, the names of any individuals thereon found by it to be adequately qualified to fulfill the particular requirements of the vacant position. Certification of an eligible for temporary appointment shall not affect his eligibility for certification for probational appointment. Certification shall be made without regard to sex unless the sex desired is specified in the original requisition.

(b) *Selections.*—The nominating or appointing officer shall make selections for the first vacancy from not more than the highest three persons certified, or on the register, with sole reference to merit and fitness, unless objection shall be made and sustained by the Commission, to one or more of the persons certified, for any of the reasons stated in Rule V, section 3. For the second vacancy he shall make selection from not more than the highest three remaining, who have not been within his reach for three separate vacancies, or against whom objection has not been made and sustained in the manner indicated. The third and any additional vacancies shall be filled in like manner. More than one selection may be made from the three persons next in order for appointment, or from two persons if the register contains the names of only two, subject to the requirements of section 3 of this rule as to the apportionment.

An appointing officer who passes over an eligible veteran and selects another eligible with the same or a lower rating shall file with the Civil Service Commission a written statement setting forth in detail his reasons for so doing, which reasons will not be made available to the veteran or any one else except in the discretion of the appointing officer. The Commission will review these reasons and in every instance where they are not regarded as adequate will so advise the head of the appropriate department or independent establishment for his consideration.

Any eligible who has been within reach for three separate vacancies in his turn may be subsequently selected, subject to the approval of the Commission, from the certificate on which his name last appeared, if the condition of the register has not so changed as to place him in other respects beyond reach of certification.

(c) *Probationary appointment.*—A person selected for appointment shall be duly notified by the appointing officer and upon accepting and reporting for duty shall receive from such officer a certificate of probational appointment. The first year of service under this appointment shall be the probationary period unless a shorter period, not less than six months, is provided by regulation. If and when, after full and fair trial for not less than one month, the conduct or capacity of the probationer be not satisfactory to the appointing officer, the probationer may at any time thereafter during this period be so notified in writing, with a full statement of reasons, and this notice shall terminate his service. Efficiency-rating reports of all probationers shall be periodically filed with the Commission at such time and in such form as the regulations of the Commission shall provide. If at the end of the probationary period the probationer's service rating has been satisfactory, to the extent required by regulation, his retention in the service shall confirm his absolute appointment. If, however, his service rating has been unsatisfactory as so provided, his service shall be terminated at the end of the probationary period.

A probationer separated from the service without delinquency or misconduct may be restored to the register of eligibles in the discretion of the Commission for the remainder of any period of eligibility thereon.

3. *Apportionment.*—Certification for appointment in the departments or independent offices at Washington shall be so made as to maintain, as nearly as the conditions of good administration warrant, the apportionment of appointments among the several States and Territories and the District of Columbia upon the basis of population, but eligibles who have been granted military preference shall be certified without regard to apportionment, and the appointments of persons covered into the classified service by executive order or otherwise, or exempted from the restrictions of the quota provision in certification, shall be excluded from the apportionment figures: *Provided*, that appointments to the following positions shall not be so apportioned:

(a) In all departments and offices: Apprentice, electric lineman, electric wireman, engraver, gardner, helper (if approved by the Commission), skilled laborer (female), student, telephone operator, and mechanical trades and allied positions of the noneducational class incumbents of which are retirable at not over 65 years of age.

(b) In the Government Printing Office, mail equipment shops (now field), local offices in the District of Columbia, field service of the military staff departments, and at Army headquarters: All positions.

(c) In the Bureau of Engraving and Printing: Plate printer and skilled helper.

4. *District certification.*—The Commission may arrange the territory of the United States into appropriate districts for the purpose of certification to positions in parts of the service not subject to apportionment, and certification to any such position may be confined to residents of the district in which such position is located.

RULE VIII. TEMPORARY APPOINTMENT

1. *Pending regular filling of vacancy.*—Temporary appointment without examination and certification by the Commission shall not be made to a competitive position in any case, except when the public interest so requires, and then only upon the prior authorization of the Commission; and any appointment so authorized shall continue only for such period as may be necessary to make appointment through certification of eligibles, and in no case, without prior approval of the Commission, shall extend beyond thirty days from the date of the receipt by the appointing officer of the Commission's certificate. When a vacancy is to be filled by promotion or transfer under the civil service rules and a temporary appointment is authorized by the Commission under the provisions of this section pending the promotion or transfer, such temporary appointment shall in no case continue beyond the period of thirty days without prior approval of the Commission.

2. *Pending establishment of register.*—Whenever there are no eligibles upon a register for any grade in which a vacancy exists and the public interest requires that the vacancy be filled before eligibles can be provided by the Commission, the Commission may authorize temporary appointment without examination. Such appointment shall continue only for such period as may be necessary to make appointment through certification, and in no case, without prior approval of the Commission, shall extend beyond thirty days from the date of the receipt by the appointing officer of the Commission's certification of eligibles.

3. *Pending full certification.*—Whenever there is at least one eligible and not more than two eligibles on a register for any grade in which a vacancy exists, the Commission shall, upon requisition from the proper appointing officer, certify the one eligible or the two eligibles, as the case may be, who shall be considered by the appointing officer with a view to probational appointment; and if the appointing officer shall elect not to make probational appointment from such certification, and temporary appointment is required, such appointment shall be made from such certification unless reasons satisfactory to the Commission are given why the appointment should not be so made. Such temporary appointment may continue until three eligibles are provided. If selection is not made from the certification for either probational or temporary appointment under the provisions of this section, then temporary appointment, if required, may be made under the provisions of section 2 of this rule.

4. *Job employment.*—When there is work of a temporary character, at the completion of which the services of an additional employee will not be required, a temporary appointment may be made with the prior consent of the Commission for a period not to exceed three months, and may with like consent of the Commission be extended for a further period of three months. Such temporary appointment shall be made through certification from the Commission's eligible registers unless the Commission shall decide, in a particular case, that there are no available eligibles. Such temporary appointment shall not extend beyond six months, unless there are no eligibles available for the additional period or under unusual circumstances which seem to the Commission to justify an extension beyond six months; and in no case shall such temporary appointment extend beyond six months for any purpose other than to complete the job of work for which the person was originally employed. The Commission may restrict certification for temporary appointment to such eligibles as by reason of residence or other conditions are immediately available.

5. *Temporary appointment made permanent.*—The acceptance by an eligible of a temporary appointment shall not affect his standing on any register for permanent employment, and experience gained as a temporary appointee shall in no way vary the order of certification for permanent appointment. A temporary appointment may be made permanent when the temporary appointee is within reach for permanent appointment at the time of his temporary appointment or in case he is so within reach during his temporary service. In such case the probational appointment may date from the time when he became within reach for probational appointment. A person who has been temporarily employed under the provisions of one section of this rule shall not for that reason be ineligible for employment under any other section. Any appointment under sections 1, 2, or 3 of this rule shall be promptly reported by letter to the Commission, as made, with a statement of the action taken for making a permanent appointment.

The Commission is authorized to inspect the records of any department or office to aid it in observing and enforcing the operation of the provisions of this rule and reporting thereon to the President.

RULE IX. REINSTATEMENT

1. *Certificate required—conditions.*—A person separated without delinquency, misconduct, or inefficiency from a civilian position in the federal service after absolute appointment may be reinstated upon certificate of the Commission subject to the following limitations:

(a) Upon requisition for reinstatement by the appointing office having a vacancy to fill, made within one year of separation if the period of service was less than two years; within two years if the period of service was two years or more but less than three years; within three years if the period of service was three years or more but less than four years; within four years if the period of service was four years or more but less than five years; and without time limit if the period of service was five years or more: *Provided*, that the applicant is otherwise eligible under the conditions of the executive order of June 2, 1920.

(b) A former classified employee entitled to military preference in appointment may be reinstated without time limit.

(c) A former classified employee retired upon annuity under the Civil Service Retirement Act by reason of total disability who is eligible for reinstatement by reason of recovery and termination of annuity, shall be eligible for reinstatement subject to the conditions and limitations of the civil service rules.

(d) No person may be reinstated to a position in the classified service who did not have a classified status at the time of separation, or eligibility for such status through examination.

(e) No person may be reinstated to a position in the classified service without passing an appropriate noncompetitive examination testing fully his present fitness for the position when the Commission shall so require.

2. *Probationer.*—A person separated during or at the end of his probationary

period unless separated solely by reason of reduction in force may not be reinstated, but if he has been restored through the discretion of the Commission to the eligible register he may be certified for a new probational appointment therefrom; and if said register has been terminated and separation was without fault on his part, he may be certified in the discretion of the Commission, during a period of one year following separation, for a new probational appointment upon requisition from any appointing officer for such certification to fill any vacancy for which he was originally eligible.

3. *Removed person.*—A person removed from the service, may, in the discretion of the Commission, be certified for reinstatement to any vacancy in any position for which he was formerly eligible to any other department or establishment pursuant to the provisions of Rule XII, section 4.

RULE X. TRANSFER

1. *Transfers subordinate to promotions.*—No transfer shall be made to a position above the grade in which the proposed transferee has served unless the position cannot practicably be filled by promotion.

2. *Transfers from excepted to competitive position.*—No person appointed without competitive examination to a position classified at the time of such appointment, and no person serving in an unclassified position or in a position excepted from the classified service under these rules or by executive order, not appointed by competitive examination, or by transfer or promotion from a classified position, shall be transferred to a classified position, except as hereinafter provided in this rule.

3. *Retransfer.*—Any person may be retransferred to a position in which he was formerly employed or to any position to which transfer could be made therefrom if, since his transfer, he has served continuously and satisfactorily under any of the following conditions:

(1) In the executive or judicial civil service of the United States or of its insular possessions.

(2) In the legislative service.

(3) In the service of a state, county, municipality, or foreign government in a position in which he has acquired valuable training and experience.

(4) In a training course approved by the Commission in any educational institution of recognized standing.

Such retransfer may be made without compliance with clauses (b), (c), and (d) of section 6 of this rule.

4. *From the office of the President.*—Any person who has served for at least two years in the office of the President of the United States may be transferred to a classified position upon such tests of fitness as the Commission may deem proper.

5. *Without certificate.* — Transfers within the same branch of the field service of a department or office, and transfers among the military staff departments and from the War Department to any military staff department, subject to the rules and regulations regarding promotions, may be made without certificate of the Commission unless different tests are prescribed for original entrance to the position to which transfer is proposed and unless otherwise provided by regulations of the Commission.

6. *Certificate required.*—Unless otherwise specifically provided in this rule no person shall be transferred except on certificate of the Commission previously obtained and subject to the following limitations:

(a) *Absolute appointment.* — Such person must have received absolute appointment and have served at least six months in the position from which transfer is sought; but this limitation may be waived by the Commission in any cases where reduction in force is involved.

(b) *Examination.*—Such person must pass an appropriate examination whenever different tests are prescribed for original entrance to the position to which transfer is proposed.

(c) *Qualifications and experience.*—Such person shall not be transferred unless, in the judgment of the Commission, he possesses experience, qualifications, or training which are required for the proper performance of the duties of the position to which transfer is proposed and unless promotion in the manner provided by the civil service rules is not practicable.

(d) *Apportionment.*—The apportionment must be observed unless waived by the Commission upon the certificate of the appointing officer that the transfer is required in the interests of good administration, setting forth in detail the reasons therefor.

7. *Residence.*—The person to be transferred from a nonapportioned to an apportioned position shall be required, previous to his transfer, to prove his residence in the same manner as for original appointment.

8. *Philippine service.*—An officer or employee occupying a competitive position in the Philippine classified service who has served three years or more therein, may be transferred to the federal classified service, subject to the provisions of these rules; but the Commission may authorize the transfer of an officer or employee who has served two years in the Philippine classified service and who has been separated by necessary reduction of force or by displacement by a Filipino, if he is especially recommended by the War Department because of his efficiency and good character. In all cases of proposed transfer from the Philippine classified service the War Department shall furnish the Commission, for its consideration, all relevant information contained in its files, together with the service record of the employee.

9. *Puerto Rican service.*—The Commission may, in its discretion, authorize the transfer of employees from the civil service of Puerto Rico to that of the United States, subject to the limitations respecting transfer within the civil service of the United States.

10. *Panama Canal service.*—A citizen of the United States in the service of The Panama Canal on or before January 1, 1915, in an excepted position may, if recommended by The Panama Canal, be transferred to any position in the classified service for which he can qualify, provided:

(a) This section shall not apply to a person appointed to a competitive position in accordance with the civil service rules, the transfer of such person to be governed by the general provisions of the rules.

(b) This section shall not apply to a person appointed without examination to perform the duties of clerk of any grade, bookkeeper, stenographer, typewriter, surgeon, physician, trained nurse, or draftsman.

(c) The transferee has rendered at least two years of service in a position above the grade of unskilled laborer in the service of The Panama Canal or of the Panama Railroad by transfer from The Panama Canal.

11. *Service beyond seas.*—In a case of exceptional merit where an employee has rendered long and faithful service beyond seas in a civil capacity, under conditions such that his appointment and services were not in contravention of the civil service rules or executive orders, he may be given a classified status by the head of the department or office in which such service was rendered on certification by such officer that the case is one of exceptional merit and with the approval of the Commission. The provisions of this section may be applied in the case of Philippine constabulary officers who have rendered at least seven years of efficient and satisfactory service.

RULE XI. PROMOTION

1. *Competitive tests.*—In addition to the method of competitive promotion provided by Rules III, VI, and VII, competitive examinations for promotion and transfer may from time to time be held under the direction of the Commission to test fitness for promotion and transfer, subject to the following limitations:

(a) No employee during probation shall be eligible to participate in a promotion examination or be promoted to a position higher than that for which he was eligible at time of appointment; and eligibility to participate in each such examination shall be limited to employees declared by the Commission to be in line of promotion and to employees declared by the Commission to be eligible for transfer to the position for which the examination is held and who are otherwise qualified.

(b) The service ratings of the employee in the position from which he seeks promotion, when declared by the Commission to be in line of promotion, shall be given due weight in any such examination, which weight shall constitute at least 50 per cent of the final rating.

2. *Limitations.*—Promotion registers shall be prepared by the Commission in the order of standing in such examinations. Employees eligible for promotion upon any register shall be certified in the order of their standing on the register to a vacancy in the bureau or department in which they have been serving before certification of eligibles who are serving in any other department or independent establishment shall be made. The apportionment and requisition as to sex shall be observed in certifications for promotion, and upon cause shown that particular experience or qualification is required for the position to be filled selective certification may be made by the Commission in its discretion, but otherwise certification for promotion shall be made from the first three eligibles in the order of standing on the promotion register.

3. *Improper recommendations.* — No recommendation for promotion except in the regular form of periodical service-rating reports or unless it be made by the person or persons under whose supervision such employee has served shall be considered by any officer concerned in making promotions. Recommendation in any other form or by any other person, if made with the knowledge and consent of the employee, shall be sufficient cause for debarring him from the promotion proposed, and a repetition of the offense shall be sufficient cause for removing him from the service.

4. *Promotion of substitutes.*—Substitutes shall be promoted to the first vacancies occurring in regular positions in the order of their original appointment, whenever there are substitutes of the required sex who are eligible and will accept, unless such vacancies are filled by promotion, transfer, or reinstatement.

5. *Promotion to former grade.*—A person who has been reinstated in the classified service in a grade lower than that from which he had been separated may be promoted to his former grade without examination.

RULE XII. REMOVALS AND REDUCTIONS

1. *Reasons to be furnished.*—No person in the classified service of the United States shall be removed therefrom except for such cause as will promote the efficiency of the service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing; and affidavits in support thereof; but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of removal shall be made a part of the records of the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request, and the Commission also shall, upon request, be furnished copies of the same.

2. *Like penalties for like offenses.*—In making removals or reductions, and in other punishment, like penalties shall be imposed for like offenses, and no discriminations shall be exercised for political or religious reasons.

3. *Suspensions.*—Pending action under section 1 of this rule, or for disciplinary reasons, a person may be suspended for a period not to exceed ninety days, but the reasons for such suspension shall at the time of the suspension be filed in the records of the proper department or office and copies shall be furnished the Commission upon request. The period of suspension may be extended beyond ninety days with the prior consent of the Commission.

4. *Power to investigate.*—The Commission shall have no jurisdiction to review the findings of a removing officer upon the reasons and answer provided for in section 1 of this rule, nor shall the Commission have authority to investigate any removal or reduction, unless it is alleged, with offer of proof, that the procedure required by section 1 of this rule has not been followed, or that the removal was made for political or religious reasons. The Commission may, however, receive or hear the statement of any employee removed on charges, and may, in its discretion, certify the employee to any other department or establishment for reinstatement to a vacancy in any position for which the employee is qualified, and in the event of such reinstatement the employee shall retain his former status and tenure in the service for all purposes.

5. *Retention of soldiers and sailors.*—In harmony with statutory provisions, when reductions are being made in the force, in any part of the classified service, no employee entitled to military preference in appointment shall be discharged, dropped, or reduced in rank or salary if his record is good, or if his efficiency rating is equal to that of any employee in competition with him who is retained in the service.

RULE XIII. REPORT OF CHANGES

1. *Report by appointing officer.*—Every nominating or appointing officer in the executive civil service shall report in detail to the Commission whenever and in such manner as it may prescribe, all changes in the service under his authority, whether they affect positions or employees that are classified, unclassified, excepted, permanent, temporary, or subject to contract.

2. *List of positions.*—Such officers shall also furnish to the Commission, when requested, and in such manner as it may prescribe, information as to numbers of employees, payroll data, and a list of all the positions, and employments under their authority, together with the names, designations, compensations, duties, and dates of appointment or employment of all persons serving therein.

3. *Statement of duties.*—Reports of appointments and changes in status of laborers or workmen shall be supplemented, when requested, by a statement setting forth specifically the kind of labor performed, in detail sufficient to enable the Commission to determine the status of each position as classified or unclassified; and a similar statement of duties performed by any employee or pertaining to any position in the executive civil service shall be furnished to the Commission on request. All essential changes of duties pertaining to persons appointed as laborers or workmen without examination under the civil service rules shall be reported at once to the Commission.

RULE XIV. TESTIMONY

Duty of officers and employees.—It shall be the duty of every officer and employee in the executive civil service, and of every applicant or eligible for a position therein, to give to the Commission or its authorized representative, all proper and competent information and testimony in regard to matters inquired of arising under the Civil Service Act and rules, and to subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.

RULE XV. WITHHOLDING SALARY

Legal appointment necessary to compensation.—For the proper supervision and enforcement of its functions, the Commission shall, if it finds that any person has been appointed to or is holding any position, whether by original appointment, promotion, assignment, transfer, or reinstatement, in violation of the Civil Service Act or of the rules promulgated in accordance therewith, or in violation of any executive order or any regulations of the Commission, or that any employee subject to such Act, rules, orders, or regulations is taking active part in political management or political campaigns, after notice to the person affected and opportunity for explanation, certify the facts to the proper appointing officer with specific recommendation for discipline or dismissal; and such appointing officer shall carry out the recommendation. In the event of any continued violation for ten days after such recommendation, the Commission shall certify the facts to the proper disbursing and auditing officers,

and such officers shall not pay or allow the salary or wages of such person thereafter accruing.

RULE XVI. REGULATIONS

1. *Authority to make regulations.*—The Commission shall have authority to make regulations for the execution of these rules.

2. *Regulations.*—No executive department or agency shall make any modification of its civil service regulations without the approval of the Commission.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE
June 24, 1938.

[No. 7915]

[F. R. Doc. 38-1814; Filed, June 24, 1938; 3:19 p.m.]

EXECUTIVE ORDER

EXTENDING THE COMPETITIVE CLASSIFIED CIVIL SERVICE

By virtue of and pursuant to the authority vested in me by the Constitution, by Section 1753 of the Revised Statutes (U. S. C., Title 5, Section 631), by the Civil Service Act of January 16, 1883 (22 Stat. 403), and as President of the United States, it is hereby ordered as follows:

SECTION 1. Effective February 1, 1939, all positions in the Executive civil service, including positions in corporations wholly owned or controlled by the United States, which are not now in the competitive classified civil service and which are not exempted therefrom by statute, except (1) policy-determining positions and (2) other positions which special circumstances require should be exempted, are covered into the competitive classified civil service: *Provided*, That this section shall not be deemed to apply to positions filled by appointment by and with the advice and consent of the Senate; *And provided further*, That no positions shall be exempted from the competitive classified civil service under clauses (1) and (2) above except such as shall be designated in subsequent Executive orders issued after investigation showing the necessity and justification for such exemptions. This section shall also apply to positions affected by statutes which exempt them from the competitive classified civil service but authorize the President in his discretion to cover them into such service.

SECTION 2. Within ninety days from the date of this order the heads of all departments and independent establishments, including corporations wholly owned or controlled by the United States, whose personnel or any part thereof is affected by Section 1 of this order, shall certify to the Civil Service Commission for transmission by it with its recommendations to the President the positions in their respective departments or agencies which in their opinion should be excepted from the provisions of Section 1 of this order as policy-determining or for other reasons.

SECTION 3. The incumbent of any position which is covered into the competitive classified civil service by Section 1 of this order shall acquire a classified civil service status (1) upon recommendation by the head of the agency concerned and certification by such head to the Civil Service Commission that such incumbent was in the service on the date of this order and has rendered satisfactory service for not less than six months, and (2) upon passing a suitable noncompetitive examination prescribed by the Civil Service Commission under the civil service rules: *Provided*, That he is a citizen of the United States and is not disqualified by any provision of law or civil service rule. Any such incumbent who fails to meet the foregoing requirements of this section shall be separated from the service within thirty days (exclusive of leave to which he is entitled) after the Commission reports that he is ineligible for classification unless the head of the agency concerned certifies to the Commission that such incumbent has rendered satisfactory service and that he should be retained although without acquiring a competitive classified status.

SECTION 4. New appointments to any positions covered into the competitive classified civil service by Section 1 of this order shall not be affected by the provisions of said section until the Civil Service Commission shall have established registers of eligibles for such positions as a result of examinations held in accordance with the civil service rules and regulations and with this order.

SECTION 5. The Civil Service Commission shall, subject to the Civil Service Act, the rules thereunder, and the Classification Act of 1923, as amended, initiate, supervise, and enforce a system as uniform as practicable, for the recruitment, examination, certification, promotion from grade to grade, transfer, and reinstatement of employees in the classified civil service, other than employees therein excepted by Executive orders, issued pursuant to clauses (1) and (2) of Section 1 hereof, which system shall, so far as practicable, be competitive, with due regard to prior experience and service.

SECTION 6. Effective not later than February 1, 1939, the heads of the Executive departments and the heads of such independent establishments and agencies subject to the civil service laws and rules as the President shall designate, shall establish in their respective departments or establishments a division of personnel supervision and management, at the head of which shall be appointed a director of personnel qualified by training and experience, from among those whose names are certified for such appointment by the Civil Service Commission pursuant to such competitive tests and requirements as the Civil Service Commission shall prescribe: *Provided*, however, that if the head of a department or establishment requests authority to appoint a presently acting personnel or appointment director, officer, or clerk, as such director of personnel, such personnel or appointment director, officer, or clerk may be appointed upon certification by the Civil Service Commission that he is qualified therefor after passing such tests as the Civil Service Commission shall prescribe. It shall be the duty of each director of personnel to act as liaison officer in personnel matters between his department or establishment and the Civil Service Commission, and to make recommendations to the departmental budget officer with respect to estimates and expenditures for personnel. He shall supervise the functions of appointment, assignment, service rating, and training of employees in his department or establishment, under direction of the head thereof, and shall initiate and supervise such programs of personnel training and management as the head thereof after consultation with the Civil Service Commission shall approve, including the establishment of a system of service ratings for departmental and field forces outside of the Classification Act of 1923, as amended, which shall conform as nearly as practicable with the system established under the said Act. Subject to the approval of the head of such department or establishment and of the Civil Service Commission he shall establish means for the hearing of grievances of employees and present appropriate recommendation for the settlement thereof to the head of his department or establishment. He shall serve as a member of the Council of Personnel Administration hereinafter established, and perform such other functions as the head of the department or agency after consultation with the Civil Service Commission shall prescribe. A director of personnel may be transferred from one department or establishment to another from time to time, subject to the provisions of the civil service rules and with the approval of the head of the agency to which transfer is proposed.

SECTION 7. Effective February 1, 1939, there is established a Council of Personnel Administration consisting of the directors of personnel of the several departments and independent establishments, one additional representative of the Bureau of the Budget, one additional representative of the Civil Service Commission, and such additional members as the President shall designate. The President shall designate one of the members of the Council to act as chairman thereof, and the Council may designate an executive director. The Council shall advise and assist the President and the Commission in the protection and improvement of the merit system, and recommend from time to time to the President or the Commission needed changes in procedure, rules, or regulations. When directed so to do by the President or the Commission, the Council shall hold hearings and conduct investigations with respect to alleged abuses and proposed changes. The Council shall carry on programs of study to coordinate and perfect the executive personnel service in all its branches, and shall report upon the progress of personnel administration throughout the service. The Council shall have an executive committee of five members: one representing the ten executive departments to be chosen by the Directors of Personnel thereof; one representing the independent establishments and agencies to be chosen by the Directors of Personnel thereof; one representing the Bureau of the Budget to be chosen by the Director thereof; one representing the Civil Service Commission to be chosen by it; and one to be designated by the President. Executive Order No. 5612 of April 25, 1931, is hereby revoked.

SECTION 8. The Civil Service Commission shall, in cooperation with operating departments and establishments, the Office of Education, and public and private institutions of learning, establish practical training courses for employees in the departmental and field services of the classified civil service, and may by regulations provide credits in transfer and promotion examinations for satisfactory completion of one or more of such training courses.

SECTION 9. Schedules A and B of the Civil Service Rules, as presently existing, relating to positions excepted from examination and positions which may be filled upon noncompetitive examination, will be superseded by schedules designating policy-determining positions and other positions which special circumstances require should be exempted, which schedules will be set forth in subsequent Executive orders as provided in section 1 hereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 24, 1938.

[No. 7916]

[F. R. Doc. 38-1815; Filed, June 24, 1938; 3:20 p. m.]

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[B. A. I. Order 367]

REGULATIONS GOVERNING APPRAISEMENT OF AND COMPENSATION FOR TUBERCULOUS, PARATUBERCULOUS AND BANG'S DISEASE REACTING CATTLE CONDEMNED AND DESTROYED IN THE CONTROL AND ERADICATION OF TUBERCULOSIS, PARATUBERCULOSIS, AND BANG'S DISEASE OF ANIMALS

JUNE 25, 1938.

Under the authority conferred by law upon the Secretary of Agriculture the following regulations are hereby prescribed, to govern the condemnation, slaughter, or death after condemnation of animals, and expenditures on account of the control and eradication of tuberculosis, paratuberculosis, and Bang's disease of animals which for purposes of identification are designated as B. A. I. Order 367, and shall supersede B. A. I. Order 329, dated May 1, 1931, and amendments thereto; B. A. I. Order 344, dated June 12, 1934, and amendments thereto; and B. A. I. Order 347, dated July 19, 1934, and amendments thereto.

These regulations shall be effective on and after July 1, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

REGULATION 1.—DEFINITIONS

For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

SECTION 1. *The Department.*—The United States Department of Agriculture.

SEC. 2. *The Secretary.*—The Secretary of Agriculture of the United States.

SEC. 3. *The Bureau.*—The Bureau of Animal Industry of the United States Department of Agriculture.

SEC. 4. *Diseases.*—Tuberculosis, paratuberculosis, and Bang's disease of animals.

SEC. 5. *Bureau employees.*—Inspectors and all other individuals employed in the Bureau who are authorized by the Chief of Bureau to do any work or perform any duty in connection with the arrest and eradication of diseases of animals.

SEC. 6. *Accredited veterinarians.*—Veterinarians accredited by State and Bureau.

SEC. 7. *Destroyed.*—Condemned and destroyed by slaughter or by death otherwise.

REGULATION 2.—PAYMENT FOR CATTLE

SECTION 1. If it appears to be necessary, for the control or eradication of tuberculosis, paratuberculosis, or Bang's disease of cattle, to destroy cattle affected with such diseases, and to compensate owners for loss thereof, an indemnity not to exceed one-third of the difference between the appraised value of each animal so destroyed and the value of the salvage thereof, shall be paid to such owner: Provided, however, That in no case shall any payment be more than $25 for any grade animal, or more than $50 for any purebred animal.

SEC. 2. For animals condemned or destroyed after May 1, 1939, no such payment shall exceed the amount paid or to be paid by the State, Territory, county, and municipality where the animal shall be condemned.

REGULATION 3.—APPRAISAL OF CATTLE

SECTION 1.—Cattle affected with tuberculosis, paratuberculosis, or Bang's disease shall be appraised by a representative of the Bureau, or a cooperating representative of the State, Territory, county, or municipality. However, the Bureau reserves the right to decline to accept any appraisals that appear to be unreasonable and out of proportion to the market value for similar cattle of a like quality. When such cattle are appraised, due consideration shall be given to their breeding value as well as to their dairy or meat value.

SEC. 2. Appraisals of cattle shall be reported on forms furnished by the Bureau (T. E. Form 23, revised). Reports of appraisals shall show the number of animals, the value of each per head, and shall be signed by the appraiser or appraisers and approved by the Bureau inspector in charge. Registration names, numbers, and ages of all purebred animals shall be shown (owners are required to present registration papers of all purebred animals 3 years of age or over at the time of appraisal). The Chief of the Bureau of Animal Industry may grant a reasonable time for the registration of animals under 3 years of age, otherwise, such animals shall be appraised as grades. Ages of all animals shall be shown on T. E. Form 23 (revised). The T. E. Form 23 (revised) shall show the amount paid or to be paid by the State, Territory, county, or municipality for said animals, and it shall be signed by a duly authorized official of the State, Territory, county, or municipality making partial payment for said animals. The T. E. Form 23 (revised) shall be signed by the owner of the said animals or his agent certifying that the appraisal is accepted by him, and that the amounts due him from the United States and the State, Territory, county, or municipality are correct. One copy of T. E. Form 23 (revised) shall be submitted to the Bureau with the claim and one copy shall be retained by the Bureau inspector in charge who approves the claim. Additional copies may be prepared and furnished to the State, Territory, county, or municipality officials if required. One copy may also be furnished the owner.

SEC. 3. The tuberculous, paratuberculous, or Bang's disease reacting cattle, for the elimination of which payment is to be made, shall be slaughtered within a period of 15 days after the date of appraisal. When the situation is such as to make it appear justifiable to the Bureau inspector in charge, he may extend the period within which such slaughter shall take place to 30 days. In a like situation the Chief of the Bureau of Animal Industry may extend the period within which such slaughter shall take place to more than 30 days. A report of the salvage derived from the sale of such animals shall be made on T. E. Form 24, which form shall be signed by the purchaser or his agent or by the selling agent handling the animals. If animals are sold by the pound, the T. E. Form 24 must show the weight, price per pound, gross receipts, expenses, if any, and net

proceeds. If animals are not sold on a per pound basis, a full explanation must appear on T. E. Form 24, showing how the amount received was arrived at. In the event that the animals are not disposed of through regular slaughterers or through selling agents, in lieu of the T. E. Form 24 the owner shall furnish an affidavit showing the amount of net salvage obtained by him, and certify that said amount is all that he has received or will receive as salvage for said animal or animals. A certificate executed by the inspector in charge will be accepted in lieu of the owner's affidavit. The salvage is the net amount received for the animal. Freight, yardage, commissions, slaughtering charges, truckage, etc., may be deducted, but any charges for holding the animals on the farm pending slaughter shall not be deducted, and any such charges will not be paid by the Department. One copy of T. E. Form 24, or the affidavit or certificate of the inspector in charge which, as set forth above, may be furnished in lieu thereof, shall be submitted to the Bureau with the claim and one copy shall be retained by the Bureau inspector in charge who approves the claim. Additional copies may be prepared and furnished to the State, Territory, county, or municipal authorities, if required.

SEC. 4. Claim for tuberculous, paratuberculous, or Bang's disease reacting animals shall be presented on the Standard Form 1034, properly executed and accompanied by the above-mentioned T. E. forms.

REGULATION 4.—CLAIMS NOT ALLOWED

SECTION 1. No payment shall be made for any cattle destroyed on account of tuberculosis, paratuberculosis, or Bang's disease unless the owner has complied with all requirements contained in these regulations.

SEC. 2. Claims will not be allowed which arise out of the condemnation of cattle for tuberculosis, paratuberculosis, or Bang's disease on a tuberculin, johnin, or agglutination test applied by other than a Bureau veterinarian, a cooperating regularly employed State, Territory, county, or municipal veterinary inspector, or an accredited veterinarian.

SEC. 3. No compensation will be paid to owners of tuberculous, paratuberculous, or Bang's disease reacting cattle except for cattle in States, Territories, counties, or municipalities in which cooperative tuberculosis, paratuberculosis, or Bang's disease work is being conducted.

SEC. 4. Claims will not be allowed which arise (1) out of the condemnation of cattle for tuberculosis or paratuberculosis on a tuberculin or johnin test applied by an accredited veterinarian, or (2) the drawing of blood for the purpose of making an agglutination test for Bang's disease by such veterinarian, unless in either case, specific instructions have been issued to the accredited veterinarian by the proper State and Federal authorities.

SEC. 5. No compensation will be paid to any owner of tuberculous, paratuberculous, or Bang's disease reacting cattle whose entire herd is not under Federal and State supervision for the eradication of tuberculosis, paratuberculosis, or Bang's disease.

SEC. 6. No payment will be made for any cattle destroyed on account of tuberculosis, paratuberculosis, or Bang's disease after May 1, 1939, except in cooperation with, and supplementary to payments to be made by, the State, Territory, county or municipality, in which said cattle are condemned.

SEC. 7. No compensation will be paid to any owner for cattle destroyed on account of tuberculosis, paratuberculosis, or Bang's disease unless the infected premises have been properly cleaned and disinfected with a disinfectant permitted by the United States Bureau of Animal Industry in accordance with recommendations of the proper State or Bureau official.

SEC. 8. No compensation will be paid for tuberculous, paratuberculous, or Bang's disease reacting steers, except in cases of work oxen, nor will compensation be paid for bulls which are not purebred.

SEC. 9. No payment will be made for any cattle destroyed on account of tuberculosis or paratuberculosis unless such animals are marked for identification by branding the letter "T" on the left jaw, or for cattle destroyed on account of Bang's disease unless such animals are marked with the letter "B." In either instance the letter used shall not be less than 2 or more than 3 inches high. A metal tag bearing the serial number and the inscription "U. S. B. A. I. Reactor" or "U. S. B. A. I. Reactor, B. D.," or a similar State reactor tag shall be suitably attached to the left ear of each reactor animal.

SEC. 10. No compensation will be paid to owners for calves under 6 months of age that react to the agglutination test for Bang's disease.

SEC. 11. No claim for compensation for the destruction of cattle on account of tuberculosis or paratuberculosis shall hereafter be paid or allowed under the regulations contained in B. A. I. Order 237, dated March 19, 1915, but all such claims shall be presented and paid pursuant to and in compliance with regulations contained in this order.

SEC. 12. No compensation will be paid to any owners for cattle classified as tuberculous or paratuberculous unless such cattle react to the tuberculin test or johnin test, or reveal lesions of the disease upon autopsy.

SEC. 13. No payment shall be made for any cattle contained in a herd if there is substantial evidence that the owner or his agent has in any way been responsible for any attempt unlawfully or improperly to obtain indemnity funds for condemned cattle.

[F. R. Doc. 38-1824; Filed, June 25, 1938; 12:40 p. m.]

TITLE 12—BANKING AND CREDIT

FEDERAL DEPOSIT INSURANCE CORPORATION

LOANS UPON SECURITY OF SAVINGS DEPOSITS

Be it resolved, That effective June 18, 1938, subsection (e) of Section 5 of Regulation IV [1] relating to the payment of deposits and interest thereon by insured nonmember banks, as adopted February 10, 1937, be and is hereby amended to read as follows:

"Loans upon security of savings deposits.—An insured nonmember bank may make a loan to any of its depositors upon the security of his savings deposits, provided that if the bank's practice is to require notice before permitting withdrawal of any amount or percentage of the savings deposits of any depositor, the rate of interest on such loan shall not be less than 2 per cent per annum in excess of the rate of interest on the savings deposit."

[SEAL] E. F. DOWNEY,
Acting Secretary.

[F. R. Doc. 38-1813; Filed, June 24, 1938; 3:18 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3107]

IN THE MATTER OF SHELTON TUBULAR RIVET CO., SHELTON TACK CO., TUBULAR RIVET & STUD CO., JUDSON L. THOMSON MFG. CO., MILFORD RIVET & MACHINE CO., CHICAGO RIVET & MACHINE CO., MANUFACTURER'S BELT HOOK CO., NATIONAL RIVET & MFG. CO., SCOVILL MFG. CO., PENN RIVET CORP., TOWNSEND CO., JOHN HASSALL, INC., J. W. COOMBS MFG. CO., INC., THE INSTITUTE OF TUBULAR-SPLIT AND OUTSIDE PRONGED RIVET MANUFACTURERS, AND WILLIAM FLEMING, JR., INDIVIDUALLY AND AS PRESIDENT OF THE INSTITUTE OF TUBULAR-SPLIT AND OUTSIDE PRONGED RIVET MANUFACTURERS

[1] 2 F. R. 373 (DI).

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers thereto filed herein by all of the respondents, in which answers said respondents (except the Penn Rivet Corporation and the Scovill Mfg. Co., both of whom pray for dismissal), admitted all the material allegations of the complaint, insofar as this proceeding relates to the business of selling or offering for sale of industrial rivets, which term as used herein shall be deemed to mean tubular, split and outside pronged rivets, including compressed rivet sets, countersunk rivets, shoulder rivets, bifurcated rivets, rivet caps, brake lining rivets, harness rivets, and similar rivets, but not, however, including solid rivets; said admissions having been made only for the purposes of this proceeding and any proceeding which may be brought or instituted by virtue of the authority contained in the Federal Trade Commission Act, as amended and approved March 21, 1938, for the recovery of penalties therein provided in case of any violation hereof, and respondents (except the said Penn Rivet Corporation and the Scovill Mfg. Co.) having waived the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents (except the said Penn Rivet Corporation and the Scovill Mfg. Co.) have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the said respondents, Shelton Tubular Rivet Co., Shelton Tack Co., Tubular Rivet & Stud Company, Judson L. Thomson Mfg. Company, Milford Rivet & Machine Co., Chicago Rivet & Machine Co., Manufacturer's Belt Hook Company, National Rivet & Mfg. Co., Townsend Company, John Hassall, Inc., J. W. Coombs Mfg. Co., Inc., The Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, and William Fleming, Jr., individually and as President of The Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, their respective officers, agents and employees, cease and desist from entering into and carrying out any understanding, agreement, combination or conspiracy between and among any two or more of said respondents or between and among any one or more of the respondents and any member or members of the industry for the purpose or with the effect of restricting, restraining or monopolizing, or eliminating competition in the sale in interstate commerce of industrial rivets as hereinabove described and as a part of such understanding, agreement, combination or conspiracy from doing any of the following acts or things:

(a) Agreeing to fix and maintain and fixing and maintaining uniform delivered prices;

(b) Inducing by intimidation or persuasion members of the industry to raise the prices quoted by them to the uniform delivered prices resulting from said understanding, agreement, combination or conspiracy;

(c) Holding meetings of The Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, its members and officers, to devise methods of asserting influence, pressure, coercion, or other means of inducing or requiring manufacturers and producers of industrial rivets to fix, establish or maintain prices or to fix, establish and publish prices for industrial rivets or to abide by or adhere to any uniform price list resulting from such said understanding, agreement, combination or conspiracy;

(d) Using and engaging in other cooperative acts, coercive means and practices in promoting the establishment of, and carrying out said understanding, agreement, combination or conspiracy;

Provided, That nothing herein contained shall prevent the lawful gathering, compilation and distribution to the trade of statistics, including discounts, net prices, terms and conditions and other particulars of closed transactions.

It is further ordered, That because of its dissolution on May 5, 1937, the complaint herein be, and the same hereby is, dismissed as to the respondent Penn Rivet Corporation;

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to the respondent, Scovill Mfg. Co., because there is no evidence showing that it participated in the acts and practices charged in the complaint;

It is further ordered, That all respondents hereinabove mentioned, except the Penn Rivet Corporation and the Scovill Mfg. Co., shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1816; Filed, June 24, 1938; 4:24 p. m.]

TITLE 30—MINERAL LANDS AND MINING

BUREAU OF MINES

[Schedule 10C]

ELECTRIC MINE LAMPS, OTHER THAN CAP LAMPS

REQUIREMENTS FOR PERMISSIBILITY, TESTS MADE, AND FEES CHARGED

CONTENTS

Sec.
1. Authorization and purpose.
2. Definitions.
3. Instructions for making applications.
4. Fees charged.
5. Conditions governing investigations.
6. Requirements for approval.
I. General.
II. Specific requirements.
(1) Class 1 lamps.
(2) Class 2 lamps.
III. Tests.
7. Material required for Bureau of Mines records.
8. How approvals are granted.
9. Wording, purpose and use of approval plate.
10. Instructions for handling future changes in lamp design.

1. Authorization and Purpose

Investigations conducted at the Pittsburgh Experiment Station under the provisions of this schedule are authorized by the act of Congress approved February 25, 1913 (37 Stat. 682). This act, as amended by the act of June 30, 1932 (47 Stat. 410), contains the following provisions in regard to fees charged for investigations by the Bureau of Mines:

For tests or investigations authorized by the Secretary of the Interior under the provisions of this Act, as amended and supplemented, except those performed for the Government of the United States or State governments within the United States, a fee sufficient in each case to compensate the Bureau of Mines for the entire cost of the services rendered shall be charged, according to a schedule prepared by the Director of the Bureau of Mines and approved by the Secretary of the Interior, who shall prescribe rules and regulations under which such tests and investigations may be made. All moneys received from such sources shall be paid into the Treasury to the credit of miscellaneous receipts.

The purpose of the investigations made under this schedule is to aid in the development and use of electric lamps, other than cap lamps, that may be used in mines, especially in mines that may contain dangerous proportions of methane.

This schedule supersedes Schedule 10B, issued under date of June 1, 1932, and Schedule 11A, issued under date of January 13, 1936, and goes into effect when approved by the Secretary of the Interior.

Electric lamps and flashlights that meet the requirements set forth in this schedule will be termed "permissible" by the Bureau, and if actively marketed will be listed as such in publications relating to permissible equipment, in order that State mine inspection departments, compensation bureaus, mine operators, miners, and others interested in safety equipment for mines may have information in regard to electric lamps and flashlights approved by the Bureau.

2. Definitions

Adequate.—Appropriate and sufficient as determined by mutual agreement between the manufacturer and the Bureau of Mines.

Approval.—Official notification in writing, issued only by the Director of the Bureau of Mines to a responsible organization, stating that upon investigation its lamp has been adjudged satisfactory under the requirements of this schedule.

Explosion-proof compartment.—An enclosure that withstands internal ex-

plosions of methane-air mixtures without damage to itself or discharge of flame and without ignition of surrounding explosive methane-air mixtures.

Permissible.—A permissible lamp or flashlight is one that conforms in all respects to the design and assembly formally approved by the Bureau.

3. Instructions for Making Applications

Before the Bureau of Mines will undertake the active investigation of any equipment, manufacturers shall have filed an application in the form of a letter requesting that the necessary inspections and tests leading to approval be made.

A sample application for an investigation of a lamp or flashlight follows:

THE DIRECTOR OF THE BUREAU OF MINES
Department of the Interior,
Washington, D. C.

Subject: Investigation of the _____ electric lamp

DEAR SIR: We hereby make application for an investigation leading to the approval of our_____lamp (or flashlight) under the provisions of Schedule 10C. Attached is a certified check for_____dollars ( ) made payable to the Treasurer of the United States to cover the fee for the investigation.

A copy of this application, one set of drawings, one complete lamp, and a full set of instructions for operating the lamp are being sent to the Central Experiment Station, 4800 Forbes Street, Pittsburgh, Pa., marked "Attention of the electrical engineer."

Very truly yours,

_____
(Signature of Applicant)

4. Fees Charged

The fees charged in connection with the investigation of lamps and flashlights are listed below. Manufacturers who desire to have their product investigated for permissibility, shall forward a bank draft or certified check covering the required fees, to Washington, D. C., with their letter of application. This shall be made payable to "Treasurer of the United States."

Item 1.—The fee for a complete investigation of a storage-battery lamp under this schedule is $75. The fee for a complete investigation of a lamp using dry cells is $65. A certified check for the proper amount should be submitted at the time the application is made.

The Bureau reserves the right to charge in amounts proportionate to the work involved in case an especially complicated design of lamp is submitted.

Item 2.—The fee for a partial investigation leading to the extension of an approval shall be proportional to the work involved. The applicant in this case will be advised of the amount of the deposit he should submit after an examination of the redesigned lamp has been made.

Item 3.—Extensions of approvals that do not require tests will be made without charge.

Item 4.—Tests to assist manufacturers in the development of electric lamps may be made upon request to the Director of the Bureau of Mines and will be charged for in amounts proportionate to the work involved. The making of this class of tests shall, however, be optional with the Bureau.

5. Conditions governing investigations

1. One complete lamp, with assembly and detail drawings that show the construction of the lamp and the materials of which it is made, should be submitted at the time the application for investigation is made. This material should be sent prepaid to the Central Experiment Station, 4800 Forbes Street, Pittsburgh, Pa., marked "Attention of electrical engineer."

2. When the lamp has been inspected by the Bureau's engineers, the applicant will be notified as to the amount of material that will be required for the tests. He will also be notified of the date on which the tests will start and will be given an opportunity to witness the tests.

3. No one is to be present during the tests of the lamp except the necessary Bureau of Mines engineers, their assistants, representatives of the manufacturer, and such other persons as may be mutually agreed upon by the manufacturer and the Bureau.

4. Permissibility tests will not be made unless the lamp is complete and in a form that can be marketed.

5. The results of the tests shall be regarded as confidential by all present at the tests and shall not be made public in any way prior to the formal approval of the lamp by the Bureau of Mines.

6. No verbal report of approval or disapproval will be made to the applicant. Approval will be made only in writing by the Director of the Bureau of Mines. The applicant shall not be free to advertise the lamp as being permissible, or as having passed the tests, prior to receipt of formal notice of approval.

6. Requirements for Approval

I. General

The lamps shall be durable in construction, practical in operation, and suitable for the service for which they are designed and approved.

The intensity of light, distribution of light, and battery capacity shall be adequate for the use for which the lamp is intended.

Battery terminals and leads therefrom, as well as the battery gas vents, shall be designed to minimize corrosion of the electrical contacts.

Bulbs and other replacement parts of the lamps shall be adequately marked as a means of identification.

II. Specific Requirements

Two general classes of electric lamps are recognized in these requirements, namely: Class 1, those that are self-contained and easily carried by hand, and class 2, those that may or may not be self-contained and not so readily portable as the first class.

Class 1 includes hand lamps, signal lamps, inspection lamps, flashlights, and animal lamps that are operated by small storage batteries or dry cells.

Class 2 includes lamps such as the pneumatic-electric types and large battery lamps.

(1) Class 1 Lamps:

Protection against explosion hazards.—Unless properly designed, class 1 lamps present two sources of probable explosion hazards: (1) Ignition of an explosive atmosphere by the heated filament of the bulb in case the bulb glass is accidentally broken, and (2) ignition by electric sparks or arcs from the battery or connections thereto. The Bureau, therefore, requires the following safeguards:

A. *Safety device.*—The lighting unit shall be provided with a safety device that will prevent the ignition of explosive mixtures of methane and air by the heated filament if the bulb glass surrounding the filament is broken.

B. *Safety device (protection).*—The design of the safety device and the housing which protects it shall be such that the action of the safety device is positive; yet the lamp shall not be too readily extinguished during normal service by the unnecessary operation of the device.

C. *Locks or seals.*—For lamps other than flashlights, all parts, such as bulb housing and battery container, through which access may be had to live terminals or contacts shall be adequately sealed or equipped with magnetic or other equally reliable locks to prevent opening by unauthorized persons. For flashlights, provision shall be made for sealing the battery container.

D. *Battery current restricted.*—Unless all current-carrying parts, including conductors, are adequately covered and protected by the sealed or locked compartments, the maximum possible current flow through that part shall be limited by battery design, or by an enclosed-type fuse inside the sealed or locked container, to values that will not produce sparks or arcs sufficient to ignite an explosive mixture of methane and air.

Protection against bodily hazard.—This hazard is chiefly due to the possible burning of the user by electrolyte spilled from the battery. The Bureau, therefore, requires that—

A. *Spilling of electrolyte.*—The lamp shall be so designed and constructed that when properly filled the battery will neither leak nor spill electrolyte under conditions of normal use. Lamps passing a laboratory spilling test will be considered satisfactory in this respect, contingent upon satisfactory performance in service.

B. *Corrosion of battery container.*—The material of which the container is made shall resist corrosion under conditions of normal use.

(2) Class 2 Lamps:

Safety.—Unless special features of the lamp prevent ignition of explosive mixtures of methane and air by the broken bulb or other igniting sources within the lamp, the bulb and all spark-producing parts must be enclosed in explosion-proof compartments.

Explosion-proof compartments will be tested while filled and surrounded with explosive mixtures of Pittsburgh natural gas[1] and air. A sufficient number of tests of each compartment will be made to prove that there is no danger of ignition of the mixture surrounding the lamp by explosions within the compartment. The lamp will not pass the above tests, even though the surrounding explosive mixtures are not ignited, if external flame is observed, if excessive pressures are developed, or if excessive distortion of any part of the compartment takes place.

Glass-enclosed parts of such compartments must be guarded and be of extra-heavy glass to withstand pick blows, and be adequately protected by shrouds or by an automatic cut-out that opens the lamp circuit if the enclosure is broken.

When an explosion-proof enclosure consists of two or more parts that are held together securely by bolts or some suitable means to permit assembly, the flanges comprising the joints between parts shall have surfaces with metal-to-metal contact, except enclosures requiring glass, in which case glass-to-metal joints are permitted. Gaskets, if adequate, may be used to obtain a firm seat for the glass, but not elsewhere. Rubber, putty, and plaster of Paris are not acceptable as material for gaskets. For enclosures having an unoccupied volume (air space) of more than 60 cubic inches the width of the joint measured along the shortest flame path from the inside to the outside of the enclosure shall not be less than 1 inch. When the unoccupied volume (air space) is less than 60 cubic inches, this path shall not be less than three-fourths inch.

Locks and seals (lighting attachment).—Explosion-proof compartments shall be equipped with seals or locks that prevent unauthorized and unsafe opening of the compartments in a mine.

Locks or seals (battery).—The battery shall be enclosed in a locked or sealed container that will prevent exposure of live terminals.

Temperature of lamp.—The temperature of the lamp under conditions of use shall not be such that a person may be burned in handling it.

Cable and connection.—(a) The cable or cord connecting the lamp to its battery shall be of high-grade design and materials, comparable to the specially recommended trailing cables as listed by the Bureau and shall be not more than 15 feet in length.

(b) The cable (or cord) shall be adequately protected at the battery end by a fuse in the locked battery box or housing. The cable (or cord) and the fuse shall be considered parts of the lamp, and specifications for them shall be submitted by the lamp manufacturer.

(c) The method of terminating the cable (or cord) at the lamp and at the battery housing shall be adequate, but in no case shall the cable or cord be detachable.

The Bureau reserves the right to make minor changes in the requirements outlined in paragraphs (a), (b), and (c), as experience and service prove to be necessary in the interests of safety.

III. Tests (Class 1 and 2 lamps)

Such tests will be made as are necessary to prove the adequacy of a lamp or any of its parts in fulfilling the purposes for which it was designed. These tests include the following:

(a) Safety tests, including tests of safety devices, electrical contacts, and explosion-proof features.

(b) Photometric tests.

(c) Tests to demonstrate adequacy of mechanical strength.

(d) Tests of nonspilling features (storage-battery lamps of class 1).

(e) Temperature tests.

7. Material Required for Bureau of Mines Records

In order that the Bureau may know exactly what it has tested and approved, detailed records are kept covering each investigation. These include drawings and actual equipment, as follows:

Drawings. — The original drawings submitted with the application for the tests and the final drawings which the manufacturer must submit to the Bureau before approval is granted, to show the details of the lamp as approved. These drawings are used to identify the lamp and its parts in the approval and as a means of checking the future commercial product of the manufacturer.

Equipment.—If the Bureau so desires, parts of the lamps that are used in the tests will be retained as a permanent record of the investigation and of the lamps submitted.

If the lamp is approved, the Bureau will require the manufacturer, as soon as his first manufactured lamps are available, to submit one complete lamp, with the approval plate attached, as a record of his commercial product.

8. How Approvals Are Granted

All approvals are granted through the Director's office at Washington, D. C. A lamp will be approved under this schedule only when the testing engineers judge that the lamp has met the requirements of the schedule and after the Bureau's records concerning the lamp are complete, including manufacturer's drawings that show the lamp as it is to be made commercially. No verbal reports of the Bureau's decision concerning the investigation will be given, and no informal approvals will be granted.

As soon as the manufacturer has received the formal approval he shall be free to advertise his lamp as permissible.

9. Wording, Purpose, and Use of Approval Plate

Approval plate.—The manufacturer shall attach, stamp, or mold an approval plate on the battery container or housing of each permissible lamp. The plate shall bear the seal of the Bureau of Mines, and be inscribed as follows: "Permissible _____ Lamp. Approval No. _____ issued to the _____ Company." When deemed necessary, an appropriate caution statement shall be added. The size, material, and position of the approval plate shall be satisfactory to the Bureau.

Purpose of approval plate.—The approval plate is a label that identifies the lamp so that anyone can tell at a glance whether or not the lamp is of the permissible type. By it the manufacturer can point out that his lamp complies with specifications of the Bureau of Mines and that it has been adjudged safe for use in gassy and dusty mines.

Use of approval plate.—Permission to place the Bureau's approval plate on his lamp obligates the manufacturer to maintain the quality of his product and to see that each lamp is constructed according to the drawings that have been accepted by the Bureau for this lamp and are in the Bureau's files. Lamps exhibiting changes in design that have not been approved are not permissible lamps and must not bear the Bureau's approval plate.

Withdrawal of approval.—The Bureau reserves the right to rescind for cause at any time any approval granted under this schedule.

10. Instructions for Handling Future Changes in Lamp Design

All approvals are granted with the understanding that the manufacturer will make his lamp according to the drawings that he has submitted to the Bureau and that have been considered and included in the approval. Therefore, when he desires to make any change in the design of the lamp, he should first of all obtain an extension of the original approval to cover the change. The procedure is as follows:

1. The manufacturer shall write to the Director of the Bureau of Mines at Washington, D. C., requesting an extension of his original approval and describing the change or changes proposed. He should send a copy of the letter, a revised drawing showing the change in detail, and one of each of the lamp parts affected to the Central Experiment Station, 4800 Forbes Street, Pittsburgh, Pa., marked "Attention of the electrical engineer."

2. The Bureau will consider the application and inspect the drawings and parts to determine whether it will be necessary to make any tests.

3. If no tests are necessary, the applicant will be advised of the acceptance or rejection of the proposed change through the Director's office.

4. If tests are judged necessary, the applicant will be advised of the mate-

[1] Investigation has shown that for practical purposes Pittsburgh natural gas (containing a high percentage of methane) is a satisfactory substitute for pure methane.

rial that will be required and of the necessary deposit to cover the fee for the test.

JOHN W. FINCH,
Director.

Approved, May 17, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1818; Filed, June 25, 1938; 10:02 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

ACCOUNTS AND DEPOSITS

[1938—Department Circular No. 570 Revised.[1]]

CORPORATIONS ACCEPTABLE AS SURETIES ON FEDERAL BONDS

JUNE 21, 1938.

The following is a list of companies, as of May 1, 1938, holding certificates of authority from the Secretary of the Treasury, issued under the Acts of Congress of August 13, 1894 (28 Stat. 279), and March 23, 1910 (36 Stat. 241), as acceptable sureties on Federal bonds; this list also includes acceptable reinsurance companies under Department Circular No. 297, dated July 5, 1922, as amended. Further details including the amount of underwriting limitation of each company, as well as the extent and localities with respect to which they are acceptable as sureties on Federal bonds may be found at any time by reference to the current issue of Treasury Department Form 356, copies of which may be procured from the Treasury Department, Section of Surety Bonds, Washington, D. C.

Names of companies, locations of principal executive offices, and States in which incorporated.

California

1. Associated Indemnity Corporation, San Francisco.
2. Fireman's Fund Indemnity Co., San Francisco.
3. National Automobile Insurance Co., Los Angeles.
4. Occidental Indemnity Co., San Francisco.
5. Pacific Indemnity Co., Los Angeles.

Connecticut

6. The Aetna Casualty and Surety Co., Hartford.
7. The Century Indemnity Co., Hartford.
8. Hartford Accident and Indemnity Co., Hartford.

Delaware

9. Mellbank Surety Corporation, Pittsburgh, Pa.
10. Saint Paul-Mercury Indemnity Co. of St. Paul, Minn.

Illinois

11. American Motorists Insurance Co., Chicago.

Indiana

12. Continental Casualty Co., Chicago, Ill.
13. Inland Bonding Co., South Bend.

Kansas

14. The Kansas Bankers Surety Co., Topeka.
15. The Western Casualty and Surety Co., Fort Scott.

Maryland

16. American Bonding Co. of Baltimore.
17. Fidelity and Deposit Co. of Maryland, Baltimore.
18. Maryland Casualty Co., Baltimore.
19. United States Fidelity and Guaranty Co., Baltimore.

Massachusetts

20. American Employers' Insurance Co., Boston.
21. Massachusetts Bonding and Insurance Co., Boston.

Michigan

22. National Casualty Co., Detroit.
23. Standard Accident Insurance Co., Detroit.

Missouri

24. Central Surety & Insurance Corporation, Kansas City.
25. Employers Reinsurance Corporation, Kansas City.

New Hampshire

26. Peerless Casualty Co., Keene.

New Jersey

27. Commercial Casualty Insurance Co., Newark.
28. The Excess Insurance Co. of America, New York, N. Y.
29. International Fidelity Insurance Co., Jersey City.

New York

30. American Re-Insurance Co., New York.
31. American Surety Co. of New York.
32. Columbia Casualty Co., New York.
33. Eagle Indemnity Co., New York.
34. The Fidelity and Casualty Co. of New York.
35. General Reinsurance Corporation, New York.
36. Glens Falls Indemnity Co., Glens Falls.
37. Globe Indemnity Co., New York.
38. Great American Indemnity Co., New York.
39. The Home Indemnity Co., New York.
40. London & Lancashire Indemnity Co. of America, Hartford, Conn.
41. Merchants Indemnity Corporation of New York.
42. The Metropolitan Casualty Insurance Co. of New York, Newark, N. J.
43. National Surety Corporation, New York.
44. New Amsterdam Casualty Co., Baltimore, Md.
45. New York Casualty Co., New York.
46. The Preferred Accident Insurance Co. of New York.
47. Royal Indemnity Co., New York.
48. Seaboard Surety Co., New York.
49. Standard Surety and Casualty Co. of New York.
50. Sun Indemnity Co. of New York
51. United States Casualty Co., New York.
52. United States Guarantee Co., New York.
53. The Yorkshire Indemnity Co. of New York.

Ohio

54. The Ohio Casualty Insurance Co., Hamilton.

Pennsylvania

55. Eureka Casualty Co., Philadelphia.
56. Indemnity Insurance Co. of North America, Philadelphia.

South Dakota

57. Western Surety Co., Sioux Falls.

Texas

58. American General Insurance Co., Houston.
59. American Indemnity Co., Galveston.
60. Commercial Standard Insurance Co., Fort Worth.
61. Employers Casualty Co., Dallas.
62. Texas Indemnity Insurance Co., Galveston.
63. Trinity Universal Insurance Co., Dallas.

Virginia

64. Virginia Surety Co., Inc., Roanoke.

Washington

65. General Casualty Co. of America, Seattle.
66. Northwest Casualty Co., Seattle.
67. United Pacific Insurance Co., Seattle.

Foreign Companies Authorized To Do a Reinsurance Business Only

68. Accident and Casualty Insurance Co. of Winterthur, Switzerland (U. S. Office, New York, N. Y.)
69. The Employers' Liability Assurance Corp., Ltd., London, England (U. S. Office, Boston, Mass.).
70. The European General Reinsurance Co., Ltd., London, England (U. S. Office, New York, N. Y.).
71. The Guarantee Co. of North America, Montreal, Canada (U. S. Office, New York, N. Y.).
72. London Guarantee and Accident Co., Ltd., London, England (U. S. Office, New York, N. Y.).
73. The Ocean Accident and Guarantee Corp., Ltd., London, England (U. S. Office, New York, N. Y.).

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1822; Filed, June 25, 1938; 11:01 a. m.]

[1] 1 F. R. 1515.

[1938—Department Circular No. 586]

BONDS EXECUTED BY THE BANKERS INDEMNITY INSURANCE COMPANY OF NEWARK, NEW JERSEY, IN FAVOR OF THE UNITED STATES

JUNE 21, 1938.

To the Heads of Departments and Independent Establishments of the Government, Bond-Approving Officers, and Others Concerned:

The Bankers Indemnity Insurance Company of Newark, New Jersey, was authorized by the Treasury, effective March 16, 1929, to qualify as sole surety on recognizances, stipulations, bonds and all other undertakings permitted or required by the laws of the United States to be given with one or more sureties, as provided by the Act of Congress approved August 13, 1894, as amended by the Act of March 23, 1910 (U. S. C., Title 6, Sections 6 to 13). The company, because of particular business reasons, by resolution of its Board of Directors dated August 18, 1931, discontinued writing fidelity and surety business, and ceased writing bonds in favor of the United States, and has now requested permission of the Treasury to voluntarily withdraw from transacting any further business in favor of the United States. In accordance with the company's request, the certificate of authority issued by the Secretary of the Treasury to the company to act as an acceptable surety on obligations in favor of the United States expired on April 30, 1938, and was not renewed.

The provisions of the Act of Congress approved August 13, 1894, as amended, contemplate a constant supervision by the Treasury of all companies acting as sureties on Federal bonds. The Bankers Indemnity Insurance Company, therefore, entered into a reinsurance agreement with The European General Reinsurance Company, Limited, of London, England, with executive offices in New York, N. Y., dated June 6, 1938, under the terms and conditions of which The European General Reinsurance Company, Limited, reinsured, effective at and from 12:01 A. M., May 1, 1938, all the unexpired and unmatured fidelity and surety bonds or obligations of the Bankers Indemnity Insurance Company in favor of the United States of America and/or any wholly owned corporation thereof and/or the District of Columbia and all bonds or obligations naming as obligee officers or employees of the United States of America and/or any wholly owned corporation thereof and/or the District of Columbia, and accepted liability for all claims incurred on or after 12:01 A. M., May 1, 1938, in connection with such business.

The Bankers Indemnity Insurance Company of Newark, New Jersey is actively engaged in the transaction of business. Therefore, all administrative matters in connection with its bonds or other obligations in favor of the United States should continue to be transacted direct with the company.

The Treasury has obtained from The European General Reinsurance Company, Limited, a separate indemnifying agreement, dated June 6, 1938, whereby in consideration of the acceptance by the United States of America of The European General Reinsurance Company, Limited as reinsurer on such bonds, undertakings or other forms of obligations heretofore executed or assumed by the Bankers Indemnity Insurance Company, and allowing such bonds, undertakings, or obligations to be continued in force with the Bankers Indemnity Insurance Company without requiring principals to take out fresh bonds, The European General Reinsurance Company, Limited, agrees to assume and it does assume the liability for any losses and claims under or in connection with any bond, undertaking, or other form of obligation entered into and assumed by the Bankers Indemnity Insurance Company and reinsured by The European General Reinsurance Company, Limited, in which the United States of America has or may have an interest direct or indirect, except such losses as to which claims or notices of claims have been duly filed with the Bankers Indemnity Insurance Company on or before 12:01 A. M. May 1, 1938, it being expressly understood and agreed by The European General Reinsurance Company, Limited, that the purpose and intent of such agreement is to afford the United States of America complete and strengthening security and to indemnify and protect it against any and all losses that have arisen or may arise under or in connection with any and all bonds, undertakings, or obligations of the Bankers Indemnity Insurance Company as sole surety or co-surety, insurer, co-insurer or reinsurer, upon which the United States of America is or may become entitled to make demand or institute proceedings, and which may have been executed by the Bankers Indemnity Insurance Company on or before April 30, 1938, the date on which its authority to act as an acceptable surety on bonds or obligations in favor of the United States expired, except such losses as to which claims or notices of claims have been duly filed with the Bankers Indemnity Insurance Company on or before 12:01 A. M. May 1, 1938.

The aforesaid indemnifying agreement also provides that all persons who have supplied labor and/or materials in the prosecution of the work contemplated by any contract for the security of which a bond has been given to the United States of America with the Bankers Indemnity Insurance Company as sole or co-surety, and covered by the reinsurance agreement referred to above, shall have the same rights and equities against The European General Reinsurance Company, Limited, to sue and recover in the name of the United States of America, as such persons would have under the provisions of existing law against the Bankers Indemnity Insurance Company on account of its said bonds and obligations.

The agreement further provides that The European General Reinsurance Company, Limited, shall be subject to legal process for the purpose of all suits by the United States of America on account of said bonds, or undertakings and obligations included in the reinsurance agreement referred to, and, in the name of the United States of America for their use, by such persons furnishing materials and/or labor as aforesaid, under the provisions of existing law and on account of said bonds, obligations and undertakings, through the acceptance of service and entry of appearance by its duly appointed agents for such purpose in any judicial district of the United States as provided by law.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1823; Filed, June 25, 1938; 11:01 a. m.]

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

THE FEDERAL RANGE CODE

SUPPLEMENTARY RULES

CONTENTS

SEC. 8. Fees; Time of Payment; Refunds.
Par. a. Free-use Licenses and Permits.
Par. b. Regular Licenses and Permits.
Par. c. Nonuse Licenses and Permits.
Par. d. Crossing Permits.
Par. e. Payment of Fees.
Par. f. Refunds.
SEC. 9. Procedure in Applications, Hearings and Appeals.
Par. a. Consideration of Application; Recommendation; Service of Notice.
Par. b. Hearing of Protests; Reconsideration by Advisory Board; Service of Notice.
Par. c. Allowance or Rejection of Application by the Regional Grazier; Modification; Service of Notice; Appeal to Examiner; Intervention.
Par. d. Fixing of Place and Date for Hearing Before Examiner on Appeal; Notice.
Par. e. Authority of Examiner.
Par. f. Conduct of Hearing Before Examiner.
Par. g. Witness Fees.
Par. h. Findings of Fact and Decision by Examiner; Notice; Submittal to Secretary of the Interior.
Par. i. Notice of Appeal; Furnishing Copies of Record.
Par. j. Decision in Effect Pending Appeal.
Par. k. Appeals to the Secretary of the Interior.
SEC. 10. General Rules of the Range.
Par. a. Acts Prohibited.
Par. b. Rules of Fair Range Practice.
SEC. 11. Procedure for Enforcement of Rules and Regulations.
Par. a. Service of Notice; Report of Violations.
Par. b. Unlawful Grazing on Federal Range; Removal of Livestock; Impoundment; Liability.
Par. c. Amicable Settlement of Civil Cases Involving Damage to Government Property.
Par. d. Disciplinary Action for Violations.
SEC. 12. District Advisory Boards.
Par. a. Authorization for Establishment; Number of Members; Qualifications.
Par. b. Elections—Time and Place of Holding; Notice.
Par. c. Elections—Qualifications of Electors.
Par. d. Elections—Judges; Nominations; Ballots; Registration; Challenges.
Par. e. Elections—Method of Voting.
Par. f. Elections—Close of Polls; Results; Ties; Judges' Certificate.
Par. g. Appointment by Secretary of the Interior; Oath and Term of Office; Removal; Vacancies.
Par. h. Meetings; Organization.
Par. i. Functions and Duties of District Advisors.
SEC. 13. Local Associations of Stockmen.
Par. a. Organization.
Par. b. Articles of Incorporation, Constitutions and By-laws.
Par. c. Powers.
Par. d. Cooperative Agreements for Use of Lands; Obligation of All Licensees and Permittees to Share Cost.
SEC. 14. Construction and Maintenance of Improvements on the Federal Range.
Par. a. Statutory Authorization.
Par. b. Applicants for Permits and Cooperative Agreements; Qualifications.
Par. c. Applications; Form and Contents; Filing.
Par. d. Applications for Construction of Improvements; Consideration; Appeals.
Par. e. Application for Use of Improvements Owned by Prior Occupant; Procedure upon Failure to Agree.
Par. f. Approval of Application.
SEC. 15. Special Rules for Grazing Districts.
SEC. 16. Penal Provision.

Rules for the Administration of Grazing Districts Under the Act of June 28, 1934 (48 Stat. 1269), as Amended by the Act of June 26, 1936 (49 Stat. 1976), Commonly Known as the Taylor Grazing Act

[*Note.—That part of the Federal Range Code approved March 16, 1938,*[1] *superseded the compiled Rules for the Administration of Grazing Districts, as approved June 14, 1937, as far as the heading "Fees", on page 3 thereof. The following rules supersede the remainder of the compiled rules of June 14, 1937, and constitute a continuation and completion of the Federal Range Code.*]

SEC. 8. *Fees; time of payment; refunds.*—

PAR. *a. Free-use licenses and permits.*—No fee will be charged for the issuance of a free-use license or permit.

PAR. *b. Regular licenses and permits.*—A grazing fee of five cents per head for cattle and horses, and one cent per head for sheep and goats will be charged each regular license or permittee for each month of the grazing period covered by the license or permit, provided that a different fee may be charged in any district or unit thereof in which the carrying capacity of Federal range is increased by reason of the addition of land not owned by the United States or by reason of a cooperative agreement or memorandum of understanding between the Division of Grazing and any other governmental agency, State or Federal, or any person, association or corporation. When the grazing period involves a fraction of a month, the fees for such fraction will be prorated on the basis of a 30-day month. All livestock six months of age or over and allowed on the Federal range will be counted, at any point of time during the grazing period, as a part of the total number for which a license or permit has been issued.

PAR. *c. Nonuse licenses and permits.*—No fee will be charged for the issuance of a nonuse license or permit.

PAR. *d. Crossing permits.*—A fee of one-fourth of a cent per head per day, for cattle and horses, and one-twentieth of a cent per head per day, for sheep and goats, will be charged for a crossing permit, which will be issued upon application by any person showing the necessity of crossing the Federal range for proper and lawful purposes, except that no fee will be charged for a crossing permit to the extent that it involves the use of a stock driveway established under section 10 of the act of December 29, 1916 (39 Stat. 862), or a limited and defined trail.

PAR. *e. Payment of fees.*—All fees for crossing permits, and all fees for regular licenses or permits which total $10 or less or which are for a period of three months or less, shall be paid in full at the time of issuance of the license or permit. Fees for other regular licenses or permits may be paid in two annual installments, each of which must be paid before the license or permit will be effective for the portion of the grazing period covered by the particular installment. No license or permit shall be issued or renewed until payment of any amounts due as grazing fees has been made. Upon application by a transferee of any property or part thereof on the basis of which a license or permit has been issued, a new form of license representing that part of the grazing privileges to which he may thereby become entitled will be issued to him upon payment of his proportionate part of any unpaid installment of fees then due.

PAR. *f. Refunds.*—No refund of fees properly paid will be made because of a failure to use the grazing privileges, either in whole or in part, represented by a license or permit, except that during periods of range depletion due to severe drought or other natural causes or in case of a general epidemic of disease during the life of a license or permit, the Secretary of the Interior will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of fees for such depletion period as long as the emergency exists. When fees have been paid which are not required by law, or in excess of lawful requirements, an application for refund may be made under the provisions of the act of June 27, 1930 (46 Stat. 822).

SEC. 9. *Procedure in applications, hearings and appeals.*—

PAR. *a. Consideration of application; recommendation; service of notice.*—An application for a grazing license or permit will be considered in the first instance by the advisory board of the district in which it is sought. The advisory board will make its recommendation to the Division of Grazing. If such recommendation is favorable, the Division will so notify the applicant by ordinary mail. If the recommendation is to any extent adverse, notice thereof will be served on the applicant personally either by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. Such notice will name a place and a date, not less than ten days thereafter, when protests against the recommendation of the advisory board will be heard.

PAR. *b. Hearing of protests; reconsideration by advisory board; service of notice.*—At the dates and places fixed for hearing protests any party may appear, either in person or by attorney or other representative, or may file a written protest with the advisory board, which thereupon will reconsider its previous recommendation in the light of the protest and make a final recommendation to the Division of Grazing. If such recommendation is favorable to the applicant, the Division will so notify him by ordinary mail. If the recommendation is to any extent adverse, notice thereof will be served on the applicant either personally by the regional grazier or such person as may have been designated by him, or by registered letter sent to the address given by the applicant in his application, and will contain the regional grazier's action thereon as provided in the next section.

PAR. *c. Allowance or rejection of application by the regional grazier; modification; service of notice; appeal to examiner; intervention.* — The regional grazier is vested with authority, in the light of all facts and circumstances, to issue or refuse to issue a grazing license or permit. If a grazing license or permit is refused or if the action of the regional grazier is to any extent adverse to the applicant, a notice including a recital of the specific reasons for the action taken will be served on the applicant either personally by the regional grazier or such person as may be have been designated by him or by registered letter sent to the address given by the applicant in his application. If the action taken by the regional grazier on any application is substantially different from that recommended by the advisory board, a notice including a recital of the specific reasons for the action taken will be served on any other applicant or applicants affected by such action, either personally by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. The notice given the particular applicant will advise him of his privilege to file an appeal to an examiner of the Division of Grazing. The appeal must be filed in the local office of the Division of Grazing within fifteen days following the receipt of the notice. The appeal shall be accompanied by specifications of error setting forth in a clear and concise manner the matter upon which it is based. Any party or parties who would be directly affected by the decision in the appeal may file a request for permission to be heard in the appeal and shall serve the appellant with a copy of such request. Such a party shall be known and designated as an intervener. Where separate appeals are filed and the issue or issues involved are common to both appeals, the appeals may be heard at the same hearing.

PAR. *d. Fixing of place and date for hearing before examiner on appeal; notice.*—Upon the filing of the appeal and specifications of error, the regional grazier will notify the Chief Examiner, naming a place within or near the district at which a hearing will be held. The Chief Examiner will then advise the regional grazier of the date of hearing, which shall be not less than ten days after the date of the filing of the appeal, and the regional grazier thereupon will notify the applicant and all interveners then of record of the time and place of hearing, which will be held by one of such representatives of the Division of Grazing as may have been designated by the Secretary of the Interior to conduct hearings. Such representative, however, shall be one other than the regional grazier from whose decision the appeal is taken. For the purpose of the hearing, such representative of the Division of Grazing shall be known and designated as an examiner.

PAR. *e. Authority of Examiner.*—The examiner is vested with general authority to conduct the hearing in an orderly and judicial manner, including authority to subpoena witnesses and to administer oaths, to call and question witnesses and to make findings of fact and a decision.

PAR. *f. Conduct of hearing before examiner.*—The appellant, the regional grazier, and recognized interveners will stipulate as far as possible all material facts and the issue or issues involved. The examiner will state any other issues on which he may wish to have evidence presented and issues which clearly appear to be unnecessary to a proper disposition of the case will be excluded, provided that the party asserting such an issue may state briefly for the record the substance of the proof which otherwise would be offered in support of the issue. The regional grazier, or his representative, will then state the grounds of the decision from which the appeal has been taken, together with such explanation as may be deemed necessary, and may call and examine witnesses on the issues involved. Upon the conclusion of this testimony the appellant shall present his case, following which recognized interveners may present evidence if such a presentation appears to the examiner to be necessary for a proper disposition of the matters in controversy. All oral testimony shall be under oath, and witnesses will be subject to cross-examination by any party. The examiner will himself question any witness whenever it appears necessary. Documentary evidence will be received by the examiner and made a part of the record, if pertinent to any issue, or may be entered by stipulation. Objections to evidence will be ruled upon by the examiner and exceptions duly noted, and such exceptions will be considered upon an appeal from the decision of the examiner. In noting an exception to a ruling sustaining an objection to the admission of evidence, the party affected may insert in the record, as a tender of proof, a summary written statement of the substance of the excluded evidence. The examiner will summarily stop examination and exclude testimony which is obviously irrelevant and immaterial.

PAR. *g. Witness fees.*—Under the subpoena issued a witness will be entitled to a witness fee of $1.50 per day, plus $0.05 per mile for miles actually traveled from his home to the place of hearing and return. Witnesses who attend hearings so far removed from their residences as to prohibit return thereto from day to day are allowed a par diem of $3.00 for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to attend hearings and return home. The allowances for witness fees, mileage and subsistence are prescribed by the act of April 26, 1925 (44 Stat. 323), as modified and amended by the Economy Act of June 30, 1932 (47 Stat. 413), and the act of May 15, 1936 (49 Stat. 1331). Under the act of January 31, 1903 (32 Stat. 790), providing for issuance of the subpoena, a witness cannot be compelled to appear outside of his own county, and if he does so appear, can claim mileage in but one county, that is, the county of his residence. Claims for witness fees and mileage will be presented on Form No. 1–327, properly certified by the regional grazier and submitted in the usual way for payment.

PAR. *h. Findings of fact and decision by examiner; notice; submittal to Secretary of the Interior.*—Within ten days following the conclusion of the hearing the examiner will make findings of fact and render a decision, which shall become a part of the record in any appeal, and a copy of which shall be sent by registered mail to the appellant and all interveners, provided, however, that the examiner may, before promulgating a decision, submit it to the Secretary of the Interior for consideration. Upon approval by the Secretary it shall constitute the decision of the Department, without prejudice to the right of any party affected to be furnished with a copy of the transcript of testimony, as provided in the next paragraph, and to request reconsideration of the decision under the Rules of Practice of the Department.

PAR. *i. Notice of appeal; furnishing copies of record.*—Within ten days after the receipt of the decision of the examiner any party desiring to appeal to the Secretary of the Interior shall file a written notice of his intention to appeal and may request a copy of the transcript of testimony. Copies of the transcript will be furnished to the appellant and to the interveners, at a charge of 5 cents per folio, except that upon a sufficient showing to the examiner, supported by an affidavit, that an appellant or intervener is financially unable to pay such fee, a copy will be furnished him without charge. Notice of appeal and request for a copy of the transcript shall be filed in the office of the Chief Examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah.

PAR. *j. Decision in effect pending appeal.*—Pending an appeal to the examiner and determination thereof, the decision of the regional grazier shall be in full force and effect. Pending an appeal from the examiner to the Secretary of the Interior and determination thereof, the decision of the examiner shall be in full force and effect. Any action taken by the regional grazier pursuant to the examiner's decision shall be subject to modification or revocation by the Secretary upon an appeal from the decision of the examiner.

PAR. *k. Appeals to the Secretary of the Interior.*—An appeal from the decision of the examiner to the Secretary of the Interior shall be filed, together with any brief desired in support thereof, within thirty days after date of receipt of the transcript of testimony, or, in the event the transcript of testimony is not requested, such appeal shall be filed within thirty days after receipt of the examiner's decision, in the office of the Chief Examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah. The appeal in other respects shall be made in accordance with the Rules of Practice of the Department of the Interior in effect at the time such appeal is taken.

SEC. 10. *General rules of the range.*—

PAR. *a. Acts prohibited.*—The following acts are prohibited on the Federal range:

(1) Grazing livestock upon or driving livestock across the Federal range, including stock driveways, without an appropriate license or permit, whether regular or free-use, or a crossing permit.

(2) Grazing livestock upon or driving livestock across the Federal range, including stock driveways, in violation of the terms of a license or a permit, either by exceeding the number of livestock permitted, or by allowing livestock to be on the Federal range in an area or at a time different from that designated, or in any other manner.

(3) Allowing livestock to drift and to graze on Federal range, including stock driveways, without a license or a permit, either regular or free-use.

(4) Constructing or maintaining any kind of improvements, structures, fences, or enclosures on the Federal range, including stock driveways, without authority of law or a permit.

(5) Destroying, molesting, disturbing, or injuring property used or acquired for use by the United States in the administration of Federal range, including stock driveways, or improvements constructed or maintained under section 4 of the act.

(6) Cutting or removing vegetative cover, brush, woodland growth or timber for any purpose, except as authorized by law.

PAR. *b. Rules of fair range practice.*—The following rules of fair range practice shall be complied with by all licensees and permittees, both regular and free-use:

(1) The provisions of statutory law of any State in which grazing districts are located with reference to the number and kind of bulls permitted on land which is Federal range, the branding of livestock, and sanitary requirements, are hereby incorporated as a part of these rules and all licensees and permittees shall comply with the provisions in effect in the State or States in which any part of the grazing district or districts in which their

[1] 3 F. R. 705 (DI).

licenses or permits are to be effective are located.

(2) A crossing permittee shall follow the route prescribed in the crossing permit at an average rate of not less than five miles per day for sheep or goats, and ten miles per day for cattle or horses.

SEC. 11. *Procedure for enforcement of rules and regulations.*—

PAR. *a. Service of notice; report of violations.*—Whenever it appears that there has been any willful violation of any provision of the act or of the Federal Range Code, the regional grazier shall cause the alleged violator to be served with a written notice, which shall set forth the act or acts constituting such violation and in which reference shall be made to the provision or provisions of the act or the Federal Range Code alleged to have been violated. Such notice may be served in person or by registered mail and the affidavit of the person making personal service or the registry receipt shall be preserved. Any violation of the act or the Federal Range Code shall be reported immediately to the Division of Investigations, Department of the Interior.

PAR. *b. Unlawful grazing on Federal range; removal of livestock; impoundment; liability.*—Whenever the charge consists of unlawfully grazing livestock on the Federal range, the notice served on the alleged violator will order him to remove the livestock or to cause them to be removed immediately or within such reasonable time as may be specified. If the alleged violator fails to comply with the notice the regional grazier shall forthwith issue a written order addressed to any grazier or other person designated by him, directing such person to remove the livestock from the area in which they are unlawfully grazing. Proper care will be exercised in such removal, which will be accomplished in the following manner:

(1) If the owner of the livestock has a license or permit which is then effective in any area, the number of livestock for which such license or permit has been issued will be removed to such area. Any livestock not covered by the license or permit will be removed either to land controlled by the licensee or permittee or will be impounded, in the manner hereinafter provided.

(2) If the owner of the livestock has no license or permit then in effect but controls land within or near the district, the livestock will be removed to such land.

(3) If in emergency the foregoing procedure is impossible or impracticable, or if resort by the United States to the particular local statutory procedure for the exercise of its right as a proprietor is impracticable, ineffective, or will entail delay, or if for any reason whatever the adequate protection of its property requires that the livestock be removed immediately from the Federal range, the regional grazier may order that the livestock be impounded. Written notice of the impoundment will be given to the owner or any other interested person, if known. Such notice will assert a lien in favor of the United States for a certain amount of damages incurred and the reasonable expense of driving, handling and feeding from the time of impoundment. Such notice shall be given also by posting in at least three conspicuous public places within the county in which the livestock were found unlawfully grazing. Upon payment of the amounts claimed the lien will be released and the livestock delivered to the owner or other person showing a right to their possession. In the event that payment of such amounts to discharge the lien is not made, then it shall be foreclosed in accordance with the law of the State in which the livestock have been impounded.

Neither the removal of livestock from unlawful grazing nor the foreclosure of a lien by the United States will relieve the alleged violator of civil liability for damages, except to the extent that its claim may have been satisfied through a foreclosure, and in neither case will the alleged violator be relieved of criminal prosecution.

PAR. *c. Amicable settlement of civil cases involving damage to Government property.*—Any offer of settlement for damage to Federal range or to other property of the United States resulting from an alleged violation of any provision of the act or of the Federal Range Code shall be transmitted by the regional grazier, with his recommendation, to the Department for consideration. An offer of settlement will not constitute satisfaction of civil liability for the damage involved until finally accepted by the United States and will in no event relieve the violator of criminal prosecution.

PAR. *d. Disciplinary action for violations.*—The regional grazier is authorized to reduce or revoke a grazing license or permit or to deny renewal thereof for a clearly established violation of the terms or conditions of the license or permit or for a violation of any of the provisions of the Federal Range Code. Before any license or permit is reduced or revoked, or renewal thereof denied, because of such a violation, however, the regional grazier shall cause the licensee or permittee to be served with a written notice which shall set forth the act or acts constituting the violation and the amount of damage resulting therefrom. Such notice also shall refer to the terms or conditions of the license or permit or to the provision or provisions of the Federal Range Code alleged to have been violated. The notice shall cite the licensee or permittee to appear before an examiner of the Division of Grazing at a designated time and place to show cause why his license or permit should not be reduced or revoked and satisfaction of damages made. The notice may be served in person or by registered mail and the affidavit of the person making personal service or the registry receipt shall be preserved.

The hearing before the examiner upon the order to show cause will be conducted in so far as practicable in the same manner as other hearings before an examiner. The licensee or permittee may appear in his own behalf or by counsel. The evidence shall be confined to the commission of the acts charged and the amount of damage due the United States. If upon the hearing of the order to show cause the violation with which the licensee or permittee is charged is established to the satisfaction of the examiner, he will make a finding of the amount of damages, in writing, and will direct the regional grazier to reduce or revoke the license or the permit, as the facts may warrant, provided that if the licensee or permittee makes an offer of settlement which appears reasonable and satisfactory to the examiner, he will, except in cases of flagrant or repeated violation, withhold such direction and will order the regional grazier to transmit such offer of settlement to the Department for consideration.

Upon the failure of the person served in the notice to appear at the time and place designated in the notice, and in the absence of a good and sufficient showing to the examiner of the reason for his failure to appear, the examiner may direct the regional grazier to reduce or revoke the license or permit, as the violations charged in the notice and the amount of damages alleged may warrant.

No license or permit shall be issued or renewed until payment of any amounts found by the examiner to be due the United States as damages under this section has been offered, and until payment of any amounts due as grazing fees has been made.

The decision of the examiner on any matters in this section shall be final unless an appeal is taken within 15 days to the Director of Grazing, whose decision likewise shall be final unless an appeal is taken within 30 days to the Secretary of the Interior. Pending an appeal and final determination thereof the decision of the examiner or of the Director of Grazing, as the case may be, shall remain in full force and effect. Appeals to either the Director of Grazing or the Secretary of the Interior shall be filed in the office of the Director of Grazing, Washington, D. C.

SEC. 12. *District advisory boards.*—

PAR. *a. Authorization for establishment; number of members; qualifications.*—To assist the Director of Grazing in the performance of his duties, the establishment of an advisory board of local stockmen in each grazing district is authorized. The regional grazier will fix the number of members to be elected to each board in the region and may fix the number to be elected as representatives of each class of stockmen, according to the kind of livestock owned, or the number to be elected from each voting precinct established by him, or both, provided that the free-use applicants or free-use licensees or permittees in each district will be entitled to one representative, who shall be a member of the class represented. All district advisors shall be elected in the manner hereinafter provided and, excepting free-use and wild life representatives, shall be electors qualified to vote at the particular election. If a district is divided into precincts, an advisor representing a precinct shall qualify in the precinct in the same manner as in the district.

PAR. *b. Elections—Time and place of holding; notice.*—An election of district advisors will be held in each grazing district within 90 days after the publication in the FEDERAL REGISTER of the order establishing the district, and annually thereafter. The regional grazier may divide the district into voting precincts and will designate a voting place within each district or precinct. Notice of the time and place or places of holding an election will be given by publication in one newspaper of general circulation in the district, by posting in the office of the regional grazier and in the office of each district grazier and by such posting in such other public places as may be necessary to give the matter proper publicity. No election shall be held to be invalid by reason of failure to give any of the foregoing notices unless it shall be made to appear that there was a failure to give substantial notice.

PAR. *c. Elections — Qualifications of electors.*—At the first election after the establishment of a grazing district only qualified applicants for grazing licenses or permits in such district shall be eligible to vote and at any subsequent election any person offering to vote shall be one of the following:

(1) A regular licensee or permittee;
(2) A free-use licensee or permittee;
(3) A nonuse licensee or permittee;
(4) Anyone having the personal qualifications of an applicant for a grazing license or permit and controlling land or water in any of the three classes of base property, provided that if such an elector has not been the holder of a license or permit for the preceding grazing season, he shall register his name with the representative of the Division of Grazing in charge of the election before voting begins.

An elector may vote in more than one district if so qualified. A minor may vote if otherwise qualified, provided that upon request by his natural or legal guardian his ballot may be cast by the guardian in the name of the minor. The judges at any election will be furnished by the representative of the Division of Grazing in charge with a list of all electors entitled to vote in the district. No one whose name does not appear on such list shall be allowed to vote, provided that any one claiming to have been wrongfully omitted from the list may have his name placed thereon upon submitting two qualified electors' sworn statements of facts qualifying him as an elector.

PAR. *d. Elections — Judges; nominations; ballots; registration; challenges.*—The representative of the Division of Grazing in charge of an election will choose three qualified electors to act as election judges. The electors present may then place in nomination the names of candidates, but ballots may be cast for any other person qualified to represent a particular class of precinct. Voting shall be only by ballots cast personally by qualified electors and proxies will not be recognized. No elector shall receive a ballot until he has registered by signing opposite his name on the list of persons entitled to vote. Before receiving a ballot any elector may be challenged by any other elector qualified to vote in the district and thereupon the judges, or any of them, may require the elector challenged to answer such questions concerning his qualifications as a voter as may be deemed necessary. Upon his failure or refusal to answer such questions satisfactorily, he shall not be permitted to register or to receive a ballot. Each candidate may designate any qualified elector to remain within the polling places during the casting and counting of votes and the declaration of the results thereof, and such person may act as a challenger. Before any elector shall be permitted to deposit his completed ballot in the ballot box, the judges shall write "Voted" opposite his signature on the registration list.

PAR. *e. Elections—Method of voting.*—Only one ballot may be cast by the holder or holders of any one license or permit, whether regular, free-use or nonuse, or by a qualified elector or electors controlling any one base property. An elector eligible only for a free-use license or permit may cast a ballot for one free-use candidate only and for no other candidate. All other electors, regardless of the precincts in which they may reside or operate, each shall cast one ballot on which shall be written the name or names of the total number of candidates to be elected in the district as representatives of the class of owners of livestock to which the elector belongs, provided that if he belongs to more than one such class he shall vote only for the candidates of the class in which he predominates in numbers of livestock, on the basis of one cow being the equivalent of five sheep. If a certain number are to be elected from each precinct, no ballot shall include the names of more candidates from any one precinct than are to be elected therefrom.

PAR. *f. Elections—Close of polls; results; ties; judges' certificate.*—Polling places shall remain open on the day of the election from 2:00 p. m. to 5:00 p. m., or until those present at 5:00 p. m. shall have voted. Upon the closing of the polls the judges shall open the ballot box and count the votes. In case of a tie vote, a choice by lot shall be made by the judges in the presence of the tie candidates or of at least one representative designated by each such candidate for such purpose. As soon as the ballots have been counted, the judges shall make out a certificate of returns under their hands, stating the number of votes cast, the number of excess, unused or spoiled ballots, and, in both words and figures, the number of votes received by each candidate. The certificate, together with the ballots and the registration list of voters, shall be enclosed and sealed and forthwith delivered to the representative of the Division of Grazing in charge of the election.

PAR. *g. Appointment by Secretary of the Interior; oath and term of office; removal; vacancies.*—No person elected as a district advisor may assume office until he has been appointed by the Secretary of the Interior and has taken an oath of office. Persons elected as district advisors at the first election after the organization of a grazing district shall be divided into three classes by lot by the regional grazier. Those in class 1 shall hold office for one year, those in class 2 for two years and those in class 3 for three years, and until their successors are elected and have qualified. Thereafter at each election the class whose term has expired shall be elected for a term of three years. The Secretary of the Interior may remove any district advisor from office for failure to discharge his duties or for the good of the service. Upon a vacancy occurring in the office of a district advisor by reason of resignation, removal or otherwise, the board shall recommend to the Secretary of the Interior the name of a person to fill the vacancy and such recommendations, together with that of the regional grazier, shall be transmitted by him to the Secretary for consideration. A person appointed by the Secretary to fill a vacancy shall hold office until the next regular election, when a successor shall be elected to serve for the remainder of the unexpired term, if any, of the member causing the vacancy.

PAR. *h. Meetings; organization.*—District advisory boards shall meet at any time and place within the district designated by the regional grazier or his authorized representative. At the first meeting of a board after an election, it shall organize by electing one of its members as chairman and such other officers from its membership as it may deem necessary. Meetings of a district advisory board shall be open to the public except that, with the approval of the representative of the Division of Grazing present, it may meet in executive session in considering applications for the granting of licenses or permits or any other business.

PAR. *i. Functions and duties of district advisors.*—District advisors may

advise or make recommendations on the following matters:

(1) The carrying capacity of the Federal range in the district.

(2) Applications, under the Federal Range Code, for grazing licenses or permits, either regular, free use, or nonuse, provided that no board shall make a recommendation on an application by any of its members. Such an application shall be acted on in the first instance by the regional grazier or district grazier.

(3) Proper rules for fair range practice.

(4) Allotments of range by classes of livestock or for community or individual use.

(5) Seasonal use of the Federal range or any part thereof.

(6) Applications for the construction or maintenance of improvements on the Federal range under section 4 of the act.

(7) Any recommendations made by local associations of stockmen in the district.

(8) Any other matters on which their opinion may be requested by the Secretary of the Interior.

SEC. 13. *Local associations of stockmen.*—

PAR. *a. Organization.*—Qualified applicants for grazing licenses or permits in any grazing district may organize a local association, or several associations, according to classes of livestock, or by community of interest or otherwise.

PAR. *b. Articles of incorporation, constitutions and bylaws.*—Such associations shall be organized as corporations "not-for-profit", if permissible under the laws of the State in which the grazing district, or the greater part thereof, is situated; otherwise, they may be organized as cooperative unincorporated associations. In either case the articles of incorporation, the charters, or the constitutions of such associations, together with the by-laws, shall be submitted to the Secretary of the Interior before the organization of the association shall be recognized by the Department of the Interior.

PAR. *c. Powers.*—Such local associations should be authorized to exercise the following powers:

(1) To lease, or otherwise acquire the control of State, county, privately owned, tax-default, or other lands within or near a district.

(2) To make contributions in cash, property, material or labor, toward the administration, protection and improvement of the Federal range lying within the district.

(3) To construct and maintain fences, wells, reservoirs and other improvements necessary to the care and management of the livestock grazed in the district, if and when authorized by the Secretary of the Interior.

(4) To act in an advisory capacity to the Secretary of the Interior in the administration of the Federal range lying within the district. All recommendations made by the association to the Secretary shall be subject to the provisions of the Federal Range Code and shall include the right of a hearing before an examiner of the Division of Grazing on the necessity and propriety of any action recommended and an appeal to the Secretary from the examiner's findings of fact and decision.

(5) To recommend the amount, manner of apportionment, time and method of collection of assessments for strictly association purposes, as well as for the public purposes contemplated by the act.

(6) To enter into cooperative agreements with the Secretary of the Interior for any of the foregoing purposes or for any other purpose authorized by the act.

PAR. *d. Cooperative agreements for use of lands; obligation of all licensees and permittees to share cost.*—Whenever the carrying capacity of Federal range is increased by reason of the acquisition of control of any lands by the Division of Grazing through a cooperative agreement with a local association, any licensee or permittee benefiting thereby, whether a member of the association or not, shall pay to the association his proportionate share of the cost of the association lands, based on the number of livestock by which his license or permit is increased by reason of the administration of the association lands by the Division of Grazing, plus any authorized association assessments for other expenses. The regional grazier is authorized to refuse to issue a license or permit to any applicant or to cancel or refuse to renew the license or permit of any licensee or permittee to graze on any lands covered by such an agreement, whether public or association lands, and whether or not such applicant, licensee or permittee is a member of the association, if he fails or refuses to pay to the association any of the foregoing charges.

SEC. 14. *Construction and maintenance of improvements on the Federal range.*

PAR. *a. Statutory authorization.*—Section 4 of the act provides:

> Fences, wells, reservoirs, and other improvements necessary to the care and management of the permitted livestock may be constructed on the public lands within such grazing districts under permit issued by the authority of the Secretary, or under such cooperative arrangement as the Secretary may approve. Permittees shall be required by the Secretary of the Interior to comply with the provisions of law of the State within which the grazing district is located with respect to the cost and maintenance of partition fences. No permit shall be issued which shall entitle the permittee to the use of such improvements constructed and owned by a prior occupant until the applicant has paid to such prior occupant the reasonable value of such improvements to be determined under rules and regulations of the Secretary of the Interior. The decision of the Secretary in such cases is to be final and conclusive.

PAR. *b. Applicants for permits and cooperative agreements; qualifications.*—An applicant for a permit or for a cooperative agreement or an arrangement to construct and maintain improvements of the character described in section 4 of the act, or to use and maintain improvements of such character constructed and owned by a prior occupant, on the Federal range, if an individual, must be a citizen of the United States or must have declared his intention to become such. If an association, its members must possess like qualifications, and if either an association or a corporation, it must be authorized to do business in the State in which the lands upon which the improvements to be erected are situated.

PAR. *c. Applications; form and contents; filing.*—Applications for such permits, cooperative agreements or arrangements shall set forth the location of such improvements by legal subdivision of the public land survey, the necessity, use, cost and description of such improvements, item by item, shall designate the time and manner of their construction, the period of use, the method of operation, protection, repair, removal or other disposition, and shall include any other pertinent information. If an application concerns the use and maintenance of improvements constructed and owned by a prior occupant under permit issued by the authority of the Secretary, it shall include also an itemized showing of their reasonable value at the time of filing the application and either evidence that the applicant has paid this amount to the prior occupant and has obtained title to the improvements free of all encumbrances, or a clear and concise explanation of the reasons for a lack of such agreement between the applicant and the prior occupant. When necessary properly to explain the improvements and matters connected therewith, the application shall be accompanied by a sketch of the improvements with specifications and a map showing their location in the grazing district. All applications shall be made on forms provided by the Division of Grazing, with such modifications as may be necessary, and shall be filed in triplicate with the regional grazier, who will submit them to the advisory board for consideration and recommendation.

PAR. *d. Applications for construction of improvements; consideration; appeals.*—When an application concerning the construction of improvements entailing a cost of three hundred dollars or less in labor and material is filed, the regional grazier shall, after the recommendation of the advisory board, act on the application and such action shall be final unless the applicant appeals to the Director of Grazing within 15 days following receipt of notice. If the improvement entails a cost in excess of three hundred dollars in labor and materials, the regional grazier immediately will submit it, together with his own recommendation and that of the advisory board, to the Director of Grazing for action. The decision of the Director of Grazing on any such application, irrespective of the cost involved, shall be final unless the applicant appeals to the Secretary of the Interior within 30 days. In the latter event, the decision of the Secretary shall be final.

PAR. *e. Applications for use of improvements owned by prior occupant; procedure upon failure to agree.*—An application to use and maintain improvements constructed and owned by a prior occupant, under permit issued by the authority of the Secretary, if accompanied by the evidence of ownership provided for in paragraph c of this section, shall be considered in the same manner as an application for the construction of improvements. Upon the filing of such an application showing that the applicant and the prior occupant have not agreed on the value of the improvements, the regional grazier will immediately, at the applicant's expense, cause the prior occupant to be served either personally or by registered mail with a notice of the filing of the application, together with copies of the application and any accompanying papers and an order to show cause within thirty days why the improvements should not be determined to be of the value alleged by the applicant. Upon such a showing or, if the prior occupant applies within thirty days from the date of service for a hearing, in the light of such evidence as the applicant and the prior occupant may desire to present in such hearing, the regional grazier will determine the present reasonable value of the improvements. Such determination shall be final unless an appeal is taken within 15 days to the Director of Grazing, whose decision in the matter likewise shall be final unless an appeal is taken within 30 days to the Secretary of the Interior. In the latter event, the decision of the Secretary shall be final. Upon the failure of the prior occupant to show cause or to apply within 30 days for a hearing, the reasonable value of the improvements will be determined by the regional grazier, provided that in the event of such default by the prior occupant the value determined shall not be less than the amount alleged by the applicant in his application and the decision of the regional grazier in such cases shall be final. In any case when a decision has become final, payment by the applicant to the prior occupant of the amount determined and a showing that the improvements are free of all encumbrances shall be a condition precedent to favorable action on the application.

PAR. *f. Approval of application.*—Upon the approval of an application concerning the construction or use and maintenance of any improvements on the Federal range by the issuance of a permit or the approval of a cooperative agreement or other arrangement, the applicant may construct the improvements or use the improvements constructed and owned by the prior occupant, as the case may be.

SEC. 15. *Special rules for grazing districts.*—Whenever it appears to a regional grazier that local conditions in any district in his region make necessary the application of a special rule on any of the matters in this code in order better to achieve an administration consistent with the purposes of the act, he may recommend such a rule, supported by a factual showing of its necessity, to the Secretary of the Interior for approval.

SEC. 16. *Penal provision.*—By section 2 of the act any willful violation of the provisions of the act or of the rules and regulations thereunder (the Federal Range Code), after actual notice thereof, is punishable by a fine of not more than $500.

F. R. CARPENTER,
Director of Grazing.

Approved, June 22, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1817; Filed, June 25, 1938; 10:00 a. m.]

UTAH GRAZING DISTRICT NO. 1

MODIFICATION

JUNE 17, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Utah Grazing District No. 1 is hereby revoked as far as it affects the following-described land:

SALT LAKE MERIDIAN

T. 11 N., R. 19 W., sec. 21, lots 1 and 4, W½NE¼, NE¼NW¼, SE¼SW¼;
sec. 22, SW¼SW¼;
sec. 28, lot 1, NE¼NW¼, N½NE¼.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1819; Filed, June 25, 1938; 10:02 a. m.]

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 11, MONTANA NO. 1, MODIFIED

JUNE 15, 1938.

It appearing that Stock Driveway Withdrawal No. 11, Montana No. 1, should be modified by adding certain lands thereto and by releasing certain lands therefrom, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that the following-described public lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights and to certain power transmission line and public water reservations affecting a portion of the land:

PRINCIPAL MERIDIAN

T. 6 S., R. 10 W.,
sec. 34, NE¼SE¼, SW¼SE¼,
sec. 35, N½SW¼;
T. 7 S., R. 10 W.,
sec. 3, W½NE¼,
sec. 7, S½S½,
sec. 8, SE¼SW¼, S½SE¼,
sec. 9, SW¼SW¼,
sec. 10, W½E½,
sec. 15, NW¼NE¼, N½NW¼,
sec. 17, N½N½,
sec. 18, N½N½.
T. 7 S., R. 11 W.,
sec. 11, S½S½,
sec. 12, S½S½,
sec. 13, N½N½,
sec. 14, N½N½;
aggregating 1,784.22 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

And departmental orders of withdrawal of January 19 and February 1, 1921, for driveway purposes are hereby revoked in so far as they affect the following-described land:

T. 7 S., R. 10 W.,
sec. 3, N½SW¼, NE¼SE¼,
sec. 4, N½SE¼;
aggregating 200 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1820; Filed, June 25, 1938; 10:03 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

CORRECTION OF RULE U-9A2-3 AND THE INSTRUCTIONS TO FORM U-12D-2

The Securities and Exchange Commission announces two minor corrections of clerical errors in Rule U-9A2-3[1] and in the instructions accompanying Form U-12D-2 which is used by a registered holding company making application for approval of a sale of utility assets. The text of the Commission's action follows:

Rule U-9A2-3 (sec. 15.U-9A2-3).—In the first clause of paragraph (a) of Rule U-9A2-3 (sec. 15.U-9A2-3) the "(d)" should read "(c)" so that the first clause of this paragraph (a) will read, "Subject to the provisions of paragraph (c) of this rule."

Rule U-9A2-3 (sec. 15.U-9A2-3) appears in Holding Company Act Release No. 929 and in the General Rules and Regulations under the Public Utility Holding Company Act of 1935, as amended May 15, 1938, at page 902 and the correction here made should be noted in both places.

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[1] 2 F.R. 3276 (DI).

Instructions to Form U–12D–2 (sec. 17.U–12D–2).—Item 1 in the instructions to Form U–12D–2 (sec. 17.U–12D–2) is corrected by striking out the words "or for the sale of utility assets by a subsidiary of a registered holding company to another company in the same holding company system," so that Item 1 to the instructions will read, "This form is to be used for applications for the approval of the sale of utility assets by registered holding companies." The instructions to form U–12D–2 (sec. 17.U–12D–2) are attached to the Form U–12D–2 and this correction should be noted thereon in the instructions.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1837; Filed, June 27, 1938; 12:45 p. m.]

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

SALE OF PUBLIC UTILITY SECURITIES AND UTILITY ASSETS BY REGISTERED HOLDING COMPANIES

Amendment of Rule U–12D–1

Acting pursuant to the authority conferred upon it by the Public Utility Holding Company Act of 1935 and particularly by Sections 12 (d), 20 (a) and 27 (a) thereof [C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 791: c. 687, sec. 20, 49 Stat. 833; 15 U. S. C. Sup. III, 79t: c. 687, sec. 27, 49 Stat. 836; 15 U. S. C., Sup. III, 79z–1], the Securities and Exchange Commission, finding it necessary and appropriate in the public interest and for the protection of investors and consumers, hereby amends Rule U–12D–1[1] [sec. 15.U–12D–1] by adding to that rule a paragraph (f) to read as follows:

(f) Paragraph (a) of this rule shall not apply to the sale of any securities or any utility assets to a federal or state government or to any subdivision or instrumentality thereof or, if the sale of said securities or utility assets to a federal or state government or any subdivision or instrumentality thereof is conditioned upon the consummation of a sale of utility assets to any other person, to the sale of such utility assets to such other person *provided that* (1) the consideration paid by the federal or state government or the subdivision or instrumentality thereof is at least twice the consideration paid by such other person, and (2) the utility assets to be sold to such other person are physically interconnected with facilities already owned by such other person.

The foregoing action shall be effective as of June 25, 1938.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38–1838; Filed, June 27, 1938; 12:45 p. m.]

[1] 3 F. R. 927 (DI).

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49631]

CERTAIN AIRPORTS REDESIGNATED AS AIRPORTS OF ENTRY FOR A PERIOD OF ONE YEAR

JUNE 22, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the following-named airports are hereby redesignated as airports of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from the dates shown opposite their respective names:

Name	Location	Date of redesignation
Bangor Municipal Airport.	Bangor, Me.	June 26, 1938
Crosby Municipal Airport.	Crosby, N. Dak.	June 28, 1938
Burlington Municipal Airport.	Burlington, Vt.	June 29, 1938

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1821; Filed, June 25, 1938; 11:01 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT–5521]

APPLICATION OF TENNESSEE PUBLIC SERVICE COMPANY AND APPALACHIAN ELECTRIC POWER COMPANY

ORDER SETTING DATE OF HEARING

JUNE 24, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon joint application filed June 24, 1938, pursuant to Section 203 (a) of the Federal Power Act, by Tennessee Public Service Company, a corporation organized under the laws of the State of Maine, having its principal business office in Knoxville, Tennessee, and by Appalachian Electric Power Company, a corporation organized under the laws of the Commonwealth of Virginia, having its principal business offices in Roanoke, Virginia, Charleston, West Virginia, and Kingsport, Tennessee, for an order authorizing the disposition and sale by Tennessee Public Service Company of all of the electrical facilities (exclusive of all transportation properties) of said company to the City of Knoxville, Tennessee, the Tennessee Valley Authority, and the Appalachian Electric Power Company, all as set forth in said joint application and the exhibits attached thereto;

The Commission orders that: A public hearing on said application be held on July 11, 1938, at 10 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, Northwest, Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38–1825; Filed, June 27, 1938; 9:51 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2979]

IN THE MATTER OF ASSOCIATED LABORATORIES, INC., NEW YORK, NEW YORK

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Hearing Room 332, Federal Trade Commission Building, Sixth St. and Constitution Ave., N. W., Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1802; Filed, June 24, 1938; 1:39 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3055]

IN THE MATTER OF G. H. MOSBY, INDIVIDUALLY AND AS PRESIDENT, VAN-TAGE MEDICINE COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, July 7, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1803; Filed, June 24, 1938; 1:39 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3086]

IN THE MATTER OF M. J. & H. J. MEYER COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500 at 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1804; Filed, June 24, 1938; 1:40 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3213]

IN THE MATTER OF THE PARADISE COMPANY, A CORPORATION, AND ALBERT L. BISSON, SYLVAN B. HEININGER, MARTHA A. BOEING, LETA M. CLANTON AND G. G. GRANT.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1805; Filed, June 24, 1938; 1:40 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3221]

IN THE MATTER OF UNITED BUYERS CORPORATION; ARTHUR E. KOENIGER, INDIVIDUALLY AND AS PRESIDENT AND AS ONE OF THE DIRECTORS OF UNITED BUYERS CORPORATION; ELI P. GALE, INDIVIDUALLY AND AS VICE-PRESIDENT IN CHARGE OF BUYING AND AS ONE OF THE DIRECTORS OF UNITED BUYERS CORPORATION; W. WENDELL CALDWELL, INDIVIDUALLY AND AS VICE-PRESIDENT IN CHARGE OF MERCHANDISING AND AS ONE OF THE DIRECTORS OF UNITED BUYERS CORPORATION; HELEN M. DRISCOLL, INDIVIDUALLY AND AS SECRETARY OF UNITED BUYERS CORPORATION; STELLA E. NORDLUND, INDIVIDUALLY AND AS TREASURER OF UNITED BUYERS CORPORATION; PAUL E. PAINTER, MILTON E. ROLFSMEYER, ALFRED M. COPPS, ELDON B. SMITH, AND OLIVER J. LECKLIDER, AND EACH OF THEM, INDIVIDUALLY AND AS DIRECTORS OF UNITED BUYERS CORPORATION; H. P. LAU COMPANY, A CORPORATION; BLUFFTON GROCERY COMPANY, A CORPORATION; LIMA-KENTON GROCERY COMPANY, A CORPORATION; S. ZOLLINGER COMPANY, A CORPORATION; WILLIAM EDWARDS COMPANY, A CORPORATION; COPPS COMPANY, A CORPORATION; ALLISON-BEDFORD COMPANY, A CORPORATION; ANGELUS CAMPFIRE COMPANY, A CORPORATION; BLUE SEAL PRODUCTS COMPANY, A CORPORATION; BORDO PRODUCTS COMPANY, A CORPORATION; CHAMPION CHEMICAL WORKS, A CORPORATION; CUPPLES COMPANY, A CORPORATION; DEAN MILK COMPANY, A CORPORATION; J. B. INDERRIEDEN COMPANY, A CORPORATION, RESPONDENTS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U. S. C. A., Section 41), and (49 Stat. 1526, U. S. C. A., Section 13, as amended),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, July 6, 1938, at nine o'clock in the forenoon of that day (central standard time), Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and receive evidence on behalf of the respondent. The examiner

will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1806; Filed, June 24, 1938; 1:41 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3291]

IN THE MATTER OF PROSTEX COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, July 18, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 313, Federal Building, Joplin, Mo.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1807; Filed, June 24, 1938; 1:41 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3292]

IN THE MATTER OF R. E. LEADERBRAND AND GLADYS M. LEADERBRAND, PARTNERS, TRADING AS F. B. PRODUCTS COMPANY AND F. B. DRUG COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, New Federal Building, Columbus, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1808; Filed, June 24, 1938; 1:42 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3297]

IN THE MATTER OF COHEN BROTHERS CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, July 1, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500 at 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1809; Filed, June 24, 1938; 1:42 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3303]

IN THE MATTER OF HYGIENIC CORPORATION OF AMERICA, HYGIENIC COMPANY OF AMERICA, MERRILL-SAUNDERS COMPANY, LTD., CORPORATIONS, HAROLD L. DE BAR, INDIVIDUALLY AND TRADING AS AMERICAN HEALTH ASSOCIATION OF WASHINGTON, D. C., WOMEN'S ADVISORY BUREAU, WOMEN'S CO-OPERATIVE SERVICE, PROTEX-U-HYGIENIC SERVICE, AMERICAN BUREAU OF HYGIENE, SURETE LABORATORIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, New Federal Building, Columbus, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1810; Filed, June 24, 1938; 1:42 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3304]

IN THE MATTER OF NATIONAL TRAINING INSTITUTE, INC., A CORPORATION, AND JOHN C. FELBER, ARTHUR W. GROTH, AND LOUISE D. FELBER, INDIVIDUALLY AND AS OFFICERS OF SAID CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, July 1, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1811; Filed, June 24, 1938; 1:43 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3331]

IN THE MATTER OF W. R. YOUNG, AN INDIVIDUAL, DOING BUSINESS UNDER THE NAME AND STYLE OF NATIONAL EMPLOYEES TRAINING SERVICE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, July 5, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 921, Federal Building, Detroit, Mich.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1812; Filed, June 24, 1938; 1:43 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3333]

IN THE MATTER OF WM. F. CRADDICK, INDIVIDUALLY AND TRADING AS N-URG-IZER, VIT-O-NET, AND ELECTRONET

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 437, Post Office Building, Pittsburgh, Pa.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1826; Filed, June 27, 1938; 9:56 a. m.]

United States of America—Before Federal Trade Commission

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3361]

IN THE MATTER OF FORSON LABORATORIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 424, Federal Building, Cleveland, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1827; Filed, June 27, 1938; 9:56 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3384]

IN THE MATTER OF RAY THOMSON, TRADING AS T. A. REYNOLDS & COMPANY, AND AS THOMAS REY COMPANY, INDIVIDUALLY AND AS PARTNER, TRADING AS JEAN LOWE COSMETIC COMPANY, AND GLENN BROWN, INDIVIDUALLY AND AS PARTNER, TRADING AS JEAN LOWE COSMETIC COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, July 11, 1938, at ten o'clock in the forenoon of that day (central standard time), in the Civil Service Room, Post Office, Olney, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1828; Filed, June 27, 1938; 9:56 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 338]

IN THE MATTER OF VACU-MATIC CARBURETOR COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, June 30, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 316, Federal Building, Milwaukee, Wis.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1829; Filed, June 27, 1938; 9:57 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3389]

IN THE MATTER OF HALL & RUCKEL, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1830; Filed, June 27, 1938; 9:57 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3402]

IN THE MATTER OF AL DUNLAP, TRADING AS THE DETECTIVE PUBLISHING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1831; Filed, June 27, 1938; 9:57 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3404]

IN THE MATTER OF O. K. TAILORING COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1832; Filed, June 27, 1938; 9:58 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3408]

IN THE MATTER OF CRETE MILLS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, July 15, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 334, Post Office Building, Lincoln, Nebr.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1833; Filed, June 27, 1938; 9:58 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3442]

IN THE MATTER OF HYMAN KADETSKY, TRADING AS ACME MERCHANDISE COMPANY AND AS LIQUIDATION MERCHANDISE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, July 2, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 316, Federal Building, Milwaukee, Wisconsin.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1834; Filed, June 27, 1938; 9:58 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of June, A. D. 1938.

[File No. 43-131]

IN THE MATTER OF IOWA PUBLIC SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 14, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 9, 1938.

The matter concerned herewith is in regard to the declaration of Iowa Public Service Company, a subsidiary of Sioux City Gas and Electric Company, which is in turn a subsidiary of Penn Western Gas & Electric Company, a registered holding company, regarding the issue and sale by declarant, at private sale, of $300,000 principal amount of its First Mortgage Gold Bonds 5% Series due 1957, at 101½% of the principal amount thereof plus accrued interest, to John Hancock Mutual Life Insurance Company and to Investors Syndicate, such purchasers to acquire, respectively, $250,000 and $50,000 principal amount of such bonds. Of the proceeds of such sale, approximately $200,000 is to be expended by the declarant to finance new construction under a proposed plan of rural electrification and $85,000 is to be deposited with the Trustee for such bonds to be withdrawn by the declarant, in the future, to reimburse itself for expenditures made for fundable property additions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1835; Filed, June 27, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of June, A. D. 1938.

[File No. 43-127]

IN THE MATTER OF MASSACHUSETTS UTILITIES ASSOCIATES

ORDER DESIGNATING NEW TRIAL EXAMINER

Massachusetts Utilities Associates having duly filed a declaration with this Commission, pursuant to Section 7 of the Public Utility Holding Company Act of 1935; the Commission by order dated June 10, 1938, having set the matter down for hearing on June 28, 1938,[1] at ten o'clock in the forenoon of that day, at the Securities and Exchange Commission Building, Washington, D. C., and the Trial Examiner designated to preside at said hearing now being engaged in another matter and unable to preside at said hearing

It is ordered, That Robert P. Reeder, an officer of the Commission, be and hereby is designated to preside at such hearing in the place and stead of and with the same powers and duties as the Trial Examiner hereintofore designated to preside at such hearing.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 38-1836; Filed, June 27, 1938; 12:45 p. m.]

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[1] 3 F. R. 1398 (DI).

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Reference

JUN 30 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 126

Washington, Wednesday, June 29, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 11—Supp. 1]

INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

Issued pursuant to the Agricultural Adjustment Act of 1938 as amended

Section II, A (3) of Form 38–Tobacco 11, "Instructions for Determination of Flue-Cured Tobacco Marketing Quotas for 1938,"[1] is amended by striking out the first three sentences and inserting in lieu thereof the following:

(3) The farm yield shall be the 1935 yield per acre for the farm, if such yield is known, subject to the following adjustments:

(a) If the 1935 yield per acre for the farm is more than 300 pounds below the 1935 county average yield,[2] the farm yield shall be fixed at 300 pounds below the 1935 county average unless adjusted upward as provided in (c) below.

(b) If the 1935 yield per acre for the farm is more than 300 pounds above the 1935 county average yield[2] the farm yield shall be fixed at 300 pounds above the 1935 county average yield[2] or, if larger, at the average yield per acre for the farm in the three years, 1935, 1936 and 1937.

(c) If the committee finds that because of flood, drought, hail or blue-mold the 1935 yield per acre for any farm was materially lower than the yield which otherwise would have been obtained, the committee shall assign as the farm yield that yield which it finds to be normal for the farm, taking into consideration the yield on farms in the locality which have similar types of soil; provided that such yield shall not be more than the higher of the 1936 or 1937 yield per acre for the farm nor more than the maximum yield which could be established under (b) above.

If the 1935 yield per acre for a farm is not known, the 1935 community average yield per acre[2] shall be used as the farm yield.

Section V "Definitions" is amended by striking out the definition of "family" and inserting in lieu thereof the following:

Family means a body of persons who live in one house and under one head. In the determination of the number of families on a farm, a family shall be considered as "on a farm" if the head of the family and other members of the family who ordinarily take part in farm work are regularly engaged in work on the particular farm, even though such family may not live in a house located on the farm. If a family lives in a house located on one farm and works part time on that farm and part time on another farm, the family shall be included as a family on the farm on which the greater proportion of time is spent in work.

Done at Washington, D. C., this 27th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1844; Filed, June 28, 1938; 11:15 a. m.]

[1] 3 F. R. 1438 (DI).

[ACP—1938—Thomas County, Kans.]

WESTERN REGION, 1938 AGRICULTURAL CONSERVATION PROGRAM FOR THOMAS COUNTY, KANS.

CONTENTS

Introduction.
PART I. 1938 Agricultural Conservation Program.
SECTION I. County Acreage Allotments and Goals.
A. County acreage allotments of soil-depleting crops.
B. County soil-building goals.
SECTION II. Farm Acreage Allotments and Goals.
A. Soil-depleting acreage allotments.
B. Soil-building goals.
C. Posting of acreage allotments.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program, 1938, for:
Thomas County, Kans. 1547
Weber and Davis Counties, Utah 1556
Flue-cured tobacco farm marketing quotas for 1938, determination 1547
TITLE 15—COMMERCE:
National Bituminous Coal Commission:
Montana, transactions in intrastate commerce in bituminous coal 1565
TITLE 22—FOREIGN RELATIONS:
Department of State:
Tin-plate scrap, issuance of licenses for exportation of 1566
TITLE 31—MONEY AND FINANCE: TREASURY:
Public Debt Service:
United States bonds and notes, delivery of 1566
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department:
Church Creek, S. C., drawbridge operation 1567
TITLE 46—SHIPPING:
Bureau of Marine Inspection and Navigation:
Danish passenger vessels, presailing examination; collection of fees 1567

NOTICES

Department of the Interior:
National Bituminous Coal Commission:
Minimum Price Areas Nos. 2–5, hearing on weighted average of total costs of tonnage produced 1568

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SECTION III. Payment for Full Performance.
A. Acreage allotments.
B. Soil-building goal.
SECTION IV. Payments for Partial Performance.
A. Deductions for excess acreages of soil-depleting crops.
B. Deductions for failure to carry out soil-building practices and conservation measures.
C. Deduction for failure to prevent wind and water erosion.
D. Deduction for breaking out of native sod.
SECTION V. Division of Payments and Deductions.
A. Payments and deductions in connection with acreage allotments and restoration land goals.
B. Payments with respect to soil-building and wind erosion control practices.
C. Proration of net deductions.
SECTION VI. Increase in Small Payments.
SECTION VII. Deductions Incurred on Other Farms.
A. Other farms in the same county.
B. Other farms in the State.
SECTION VIII. Deduction for Association Expenses.
SECTION IX. General Provisions Relating to Payments.
A. Payment restricted to effectuation of purposes of the program.
B. Payments computed and made without regard to claims.
C. Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.
D. Assignments.
E. Excess cotton acreage.
F. Use of soil-conserving crops for market.
SECTION X. Application for Payment.
A. Persons eligible to file applications.
B. Time and manner of filing application and information required.
C. Applications for other farms.
SECTION XI. Soil-Depleting Crops.
SECTION XII. Soil-Building and Wind Erosion Control Practices.
SECTION XIII. Normal Yields and Productivity Indexes.
A. Normal Yields of special soil-depleting crops.
B. Productivity Indexes.
SECTION XIV. Appeals.
SECTION XV. Bulletins, Instructions, and Forms.
SECTION XVI. Definitions.

INTRODUCTION

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of the said Act in 1938, payments and grants of aid will be made in Thomas County, Kansas, for participating in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program for Thomas County, Kansas, are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact.

The rates of payments (and deductions) specified herein are subject to an increase or decrease of not more than 10 percent depending upon the extent of participation in the Thomas county program and the final estimate of payments which would be made in Thomas county under the 1938 Agricultural Conservation Program.

The provisions of the 1938 Agricultural Conservation Program as contained in this bulletin are applicable only in Thomas County, Kansas.

SECTION I. *County acreage allotments and goals.*—A. *County acreage allotments of soil-depleting crops.*—The Agricultural Adjustment Administration with assistance of the State committee shall establish for Thomas county, county acreage allotments for total soil-depleting crops and for wheat as hereinafter set forth. The soil-depleting acreage allotments for Thomas county shall not exceed its prorata share of the applicable acreage allotments established for the State by the Secretary except as otherwise provided in the bulletin.

1. *Total soil-depleting acreage allotment.*—The county acreage allotment of total soil-depleting crops shall be established for Thomas county by assigning to Thomas county its proportionate share of the State acreage allotment of total soil-depleting crops on the basis of the average acreage of soil-depleting crops grown in whichever of the periods of five or more consecutive years since 1927 the Agricultural Adjustment Administration finds is most representative of normal conditions and the base acreages of total soil-depleting crops established in connection with the 1937 Agricultural Conservation Program, adjusted where necessary for farms for which provision was not made in 1937, with due allowance for trends in acreage of soil-depleting crops.

2. *Wheat acreage allotment.*—The county acreage allotment of wheat for Thomas county shall be established by assigning to Thomas county its proportionate share of the State acreage allotment of wheat determined by the Secretary on the basis of the acreage of wheat seeded for the production of wheat during the ten years, 1928 to 1937, inclusive, plus in applicable years the acreage diverted under agricultural adjustment and conservation programs. If, on account of abnormal weather conditions, the acreage seeded for the production of wheat in the county in any year of such ten-year period was less than 50 percent or more than 150 percent of the average computed for the other nine years, such year shall be eliminated in calculating the average acreage seeded for the production of wheat in the county. The average acreage seeded in the county for the production of wheat so determined shall be adjusted for trends in acreage by giving equal weight to the acreages seeded for the production of wheat and the acreages diverted from the production of wheat during the years 1935, 1936, and 1937, and to the acreages so seeded and diverted during the ten-year period 1928 to 1937, inclusive, as adjusted for abnormal weather conditions.

B. *County soil-building goals.*—Insofar as practicable, a county goal shall be established for particular soil-building practices which are not routine farming practices and which are most needed in the county in order to preserve and improve soil fertility and to prevent wind and water erosion.

SEC. II. *Farm acreage allotments and goals.*—The county committee, with the assistance of other local committees in the county, shall determine acreage allotments, wind erosion control goals, and soil-building practice goals, in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. The soil-depleting acreage allotments determined for the farms in the county shall not exceed the applicable county acreage allotments established for the county by the Agricultural Adjustment Administration, and the sum of the acreage allotments for farms furnishing required forms and information shall not exceed their proportionate share of the county acreage allotments.

A. *Soil-depleting acreage allotments.*—1. *Total soil-depleting acreage allotment.*—The total soil-depleting acreage allotment for any farm shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion and the acreage of all soil-depleting crops customarily grown on the farm taking into consideration allotments established for individual soil-depleting crops. The total soil-depleting acreage allotment for any farm shall be comparable with the allotments determined for other farms in the same community which are similar with respect to such factors.

2. *Wheat allotment.*—Acreage allotments of wheat shall be determined for farms on which wheat has been seeded for harvest in one or more of the years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. Not more than 3 percent of the county wheat acreage allotment shall be apportioned to farms in such county on which wheat was not seeded for harvest in any one of the three years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. The wheat acreage allotment for any farm shall be comparable with the allotment determined for other farms in the same community which are similar with respect to such factors.

B. *Soil-Building goals.*—1. *Soil-building goal.*—The soil-building goal for any farm shall be the number of units of soil-building practices equal to 30 percent of "the number of dollars" computed for the farm under Section III, subsection A, items 1, 2, and 3. The goal so established shall represent the number of units of applicable practices to be carried out on the farm. On farms which are all noncrop pasture land the soil-building goal expressed in units shall equal the number of dollars in the total payment computed for the farm under Section III, subsection A, item 3. Insofar as practicable, the county committee shall determine for individual farms practices to be followed in meeting the goal which are not routine farming practices on the farm but which are needed on the farm in order to preserve and improve soil fertility and prevent wind and water erosion, and which will tend to accomplish the goals, if any, established for the county with respect to particular soil-building practices.

2. *Wind erosion control goal.*—On a farm on which the county committee has designated special wind erosion acreage a wind erosion control goal in units shall be established equal to the number of dollars computed for the farm under Section III, subsection A, item 4.

C. *Posting of acreage allotments.*—All acreage allotments established for farms in a county shall be posted or kept freely available for public inspection in the office of the county committee or county agricultural extension agent.

SEC. III. *Payment for full performance.*—Payment will be made with respect to any farm for not exceeding soil-depleting acreage allotments, and for achieving soil-building and wind erosion control goals in an amount which shall be the sum of the following:

A. *Acreage allotments.*—70% of the total of items 1, 2 and 3 below shall be payments for not exceeding the total soil-depleting acreage allotment.

1. *Wheat.*—10 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat acreage allotment; or, if the acreage planted to wheat is less than 80 percent of the wheat acreage allotment and the county committee finds that the failure to plant 80 percent of such wheat acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to wheat. The acreage planted to wheat shall be deemed to be that acreage which is seeded to wheat classified as soil-depleting under subsection B of Section XI.

2. *Cropland.*—70 cents per acre adjusted by farm productivity for the acres of cropland in excess of acres used in determining wheat payment under item 1 above.

3. *Non-cropland.*—20 cents per acre of noncrop open pasture land in the farm.

4. *Designated wind erosion acres.*—65 cents per acre of designated wind erosion acreage. Designated wind erosion acreage under this item of payment which may be alloted to the county shall not exceed a total of 15,000 acres.

B. *Soil-building goal.*—30 percent of the total of items 1, 2, and 3 of subsection A above shall be payment for achieving a soil-building goal.

SEC. IV. *Payments for partial performance.*—Payments computed for any farm under the provisions of Section III shall be subject to all the following deductions which are applicable to the farm.

A. *Deductions for excess acreages of soil-depleting crops.*—1. $5.00 multiplied by farm productivity for each acre by which the 1938 acreage of soil-depleting crops exceeds the total soil-depleting acreage allotment for the farm.

B. *Deductions for failure to carry out soil-building practices and conservation measures.*—1. $1.00 for each unit by which the soil-building goal is not reached.

2. $1.00 for each unit by which the wind erosion control goal is not reached.

C. *Deduction for failure to prevent wind and water erosion.*—$1.50 for each acre of land, with respect to which there are not adopted in 1938 methods recommended by the State committee and approved by the Agricultural Adjustment Administration for the prevention of wind or water erosion if such protection is needed.

D. *Deduction for breaking out of native sod.*—$3.00 for each acre of native sod or any other land which has been cropped but is not classified as cropland which is broken out during the period November 1, 1937 to October 31, 1938, inclusive, unless the breaking out of such land is approved by the county committee as a good farming practice and an equal acreage of cropland on the same farm is restored to permanent vegetative cover, such acreage of cropland to be in addition to that designated as restoration land.

SEC. V. *Division of payments and deductions.*—A. *Payments and deductions in connection with acreage allotments and restoration land goals.*—The net payment or net deduction computed for any farm with respect to 70 percent of items 1, 2 and 3 of Section III, A, or item A, 1, Section IV shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds of the wheat, or if there is no wheat, as the proceeds of the major soil-depleting crop is divided on the farm in 1938.

In computing such net payments and net deductions with respect to acreage allotments the total amount of deductions computed under Section IV with respect to (1) soil-depleting crops grown in excess of the total soil-depleting acreage allotment (subsection A–1); (2) failure to prevent wind and water erosion (subsection B–2 and subsection C); and (3) breaking out of native sod (subsection D) shall be regarded (a) as deductions with respect to 70 percent of items 1, 2 and 3 in Section III.

In the event that wheat or other soil-depleting crops are not harvested in 1938 on the farm the payment, if any, with respect to 70 percent of items 1, 2 and 3 of Section III-A shall be divided among the landlords, tenants, and sharecroppers in the same proportion that the county committee determines that such persons would have shared in the proceeds of the wheat crop had wheat been harvested on the farm in 1938.

B. *Payments with respect to soil-building and wind erosion control practices.*—The amount of payment earned in connection with the soil-building goal and wind erosion control goal for the farm shall be paid to the landlord, tenant or sharecropper who carried out the soil-building and wind erosion control practices. If the county committee determines that more than one such person contributed to the carrying-out of soil-building and wind erosion control practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event such unit shall be divided in the proportion which the county committee determines each such person contributed thereto. Payment earned in connection with practice A–7 of restoring farmland to pasture shall be divided as the wheat payment is divided or if no wheat payment is computed with respect to a wheat acreage allotment on the farm this payment shall be divided as the proceeds of general crops are divided.

C. *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the persons on the farm for whom a net payment is computed in the

proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SEC. VI. *Increase in small payments.*—The total payment computed under Section III to V, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SEC. VII. *Deductions incurred on other farms.*—A. *Other farms in the same county.*—If the deductions computed under Section IV with respect to any farm exceed the payment for full performance on such farm computed under Section III, any person's share of the amount by which such deductions exceed such payments shall be deducted from such person's share of the payments which would otherwise be made to him with respect to any other farms in the county.

B. *Other farms in the State.*—If the deductions computed for any person with respect to one or more farms in a county exceed the payments computed for such person on other farms in the county, the amount of such excess deductions shall be deducted from the payments computed for such person with respect to any other farms in the State, if the State committee finds that the crops grown and practices adopted on the farms with respect to which such deductions are computed are such as substantially to offset the contribution to the program made on such other farms.

SEC. VIII. *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

SEC. IX. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1938 or previous agricultural conservation programs, (2) if, by means of any corporation, partnership, estate, trust or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized. No payment, other than a payment in connection with soil-building practice A 7, shall be made with respect to any farm which is idle in 1938.

B. *Payments computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection D of this Section IX) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 is made between the landlord and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, payments to the landlord under the 1938 Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

If on any farm the number of sharecroppers or share tenants in 1938 is less than the average number on the farm during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP–69 in accordance with instructions issued by the Agricultural Adjustment Administration and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Excess cotton acreage.*—Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is

planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the seeding of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938.

F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farm unless on such farm in 1938 an acreage, not devoted to soil-depleting crops, is withheld from the production of soil-conserving crops for market, equal to the acreage by which the normal acreage of soil-depleting crops on such farm exceeds the larger of (1) the total soil-depleting acreage allotment for the farm or (2) the acreage devoted to soil-depleting crops on the farm in 1938; *Provided*, That payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable is used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions if the increase above normal in the number of dairy cows in the county does not exceed ten percent.

The normal acreage of soil-depleting crops and the normal number of cows kept for the production of milk, or the products thereof, for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department and shall announce the counties in which the number of cows kept for the production of milk, or the products thereof, for market exceeds by more than ten percent the normal number of such cows.

As used in this subsection F, the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this subsection F, the term "soil-conserving crops" means grasses and legumes grown on cropland except those classified as soil-depleting under Section XI hereof.

SEC. X. *Application for payment.*—A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building and wind erosion control practices.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Regional Director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

C. *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms. Upon request by the State committee such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SEC. XI. *Soil-depleting crops.*—Land devoted in 1938 to any of the following crops or uses or such other similar crops and uses as are designated by the Agricultural Adjustment Administration shall be classified as soil-depleting.

A. Land planted to the following crops for harvest in 1938:

1. Corn (including field corn, sweet corn, and popcorn).
2. Oats.
3. Cowpeas.
4. Flax.
5. Speltz.
6. Potatoes.
7. Field beans.
8. Sweet potatoes.

B. Land planted to wheat harvested for grain or hay in 1938 or any other land planted to wheat between August 1, 1937 and July 31, 1938, except

1. When used as temporary pasture under practice A–2.

2. When the acreage of such crop seeded in the fall of 1937 is tilled, before May 1, 1938, in preparation for another crop or in connection with an approved conservation measure, provided, that the conservation measure to be instituted before such date shall be approved by the county committee and the land to be so handled shall be designated in accordance with instructions issued by the Agricultural Adjustment Administration.

C. Land devoted in 1938 to buckwheat, Broomcorn, grain sorghums, sweet sorghums, Sudan grass, millet, when harvested for grain or seed, (except when used under practice F–1 or A–4 in which case these crops are not soil-depleting) sirup, or silage.

D. Land planted in 1938 to field peas harvested for peas or soybeans harvested for seed for crushing. Field peas or soybeans hogged off shall be deemed to be harvested.

E. Land devoted to Barley and rye except when used as nurse crops and not harvested for grain or hay or except when used as temporary pasture under practice A–2.

The acreage of land which is devoted consecutively to two or more of the above soil-depleting crops in 1938 shall be counted as follows: If only one of such crops reaches maturity such land shall be regarded as devoted to the crop reaching maturity. If none of such crops reaches maturity or if more than one of such crops reaches maturity and an individual crop acreage allotment is established for one of such crops, such land shall be regarded as devoted to the crop for which an individual crop acreage allotment is established. If one or more of such crops reach maturity or if none of such crops reaches maturity and individual crop acreage allotments are not established for any of

such crops the land shall be regarded as devoted to the last planted of such crops.

The acreage of land which is devoted simultaneously to two or more of the above soil-depleting crops shall be divided among such crops on the basis of the land determined in accordance with instructions issued by the Agricultural Adjustment Administration to be devoted to each.

In connection with determinations regarding the maturity of crops, field corn, sweet corn, and popcorn hogged off or cut for silage, fodder or other similar uses, will be deemed to have reached maturity.

Land devoted to volunteer crops harvested shall be classified as if such crops were planted.

SECTION XII. *Soil-building and wind-erosion control practices.*—The soil-building practices listed in the following schedule shall count toward the achievement of the soil-building goal and the wind erosion control practices shall count toward the achievement of the wind erosion control goal to the extent indicated therein, when such practices are carried out in 1938 in the county and in accordance with the following specifications and such modifications thereof or additions thereto as may be issued by the Regional Director or by the State committee with the approval of the Regional Director. Each practice must be carried out in accordance with the individual specifications applicable thereto and such of the general specifications as apply.

Practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or State agency other than the Agricultural Adjustment Administration shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal.

If trees are purchased from a Clark-McNary Cooperative State Nursery, such purchases shall not be deemed to be paid for in whole or in part by a State or Federal agency.

General Specifications

(1) Seed used for or in connection with any seeding practice must be good clean seed free of noxious weeds and of good quality.

(2) All soil-building practices, including minimum seeding rates and methods of seeding, unless otherwise specified under the individual practice, shall be such as are determined by the county committee to be in accordance with the generally accepted good farming practice in the county.

(3) Approval of a soil-building practice carried out on the same land as other soil-building practices shall not be approved for payment, by the county committee, if the carrying out of the two or more practices on the same land results in one practice interfering with the effects of other practices. Practice specifications under certain practices prohibit such practices from being carried out for credit on the same acreage as other specified practices.

(4) The term "good stand" when used in connection with seeding practices shall mean a stand which would produce a normal crop without any reseeding.

(5) The soil-building practices listed below may be carried out on cropland and noncrop land unless otherwise provided in the specifications applicable to individual practices.

Schedule of Soil-Building Practices

A–1. *Protecting summer fallow.*—Rate of credit—1⅓ acres equal 1 unit.

Specifications. — Protecting summer fallow by using tillage implements that will leave a rough, cloddy surface with small grain stubble and straw incorporated into the surface soil.

This practice is applicable on cropland only.

First tillage operation shall be completed before May 15.

The surface must be reasonably free from weeds and volunteer growth at all times.

A–2. *Seeding wheat, rye and/or barley for temporary pasture.*—Rate of credit—1 acre equals 1 unit.

Specifications.—For each four acres of non-crop pasture land on which practice L–3 is adopted there may be planted on cropland, before August 1, 1938, one acre of wheat, rye, and/or barley for temporary pasture. Such acreage planted for temporary pasture under this practice will not be classed as soil-depleting; *Provided*, That (1) a soil-depleting crop has not been harvested on such land in 1938; (2) no other practice except L–1 may be performed for credit on the same acreage.

A–3. *Seeding Sudan grass for temporary pasture.*—Rate of credit—1 acre equals 1 unit.

Specifications.—For each four acres of non-crop pasture land on which practice L–3 is adopted there may be planted on cropland one acre of Sudan grass for temporary pasture. No other practice except practice L–1 may be performed for credit on the same acreage as A–3.

A–4. *Planting cover crops on contour.*—Rate of credit—1 acre equals 1 unit.

Specifications.—Sorghums, Sudan grass, broomcorn and millets when planted as cover, close drilled, or in rows not greater than 44 inches apart, *provided:* (1) a good growth is attained, (2) only the heads of the crop are removed, (3) all of the stalks are left on the ground where grown and the operator's farming plan provides that such stalks be left on the land until March 31, 1939, as a protection against wind erosion, (4) no pasturing is allowed, (5) this practice is applicable only for credit towards the special wind erosion control goal.

A–5. *Protecting summer fallow by stripcropping.*—Rate of credit—1 acre equals 1 unit.

Specifications.—The fallow strips (two or more strips of fallow) to be not less than five rods nor more than twenty rods in width with intervening strips of equal or twice the width of the fallow strips. Cover on the protective strips shall consist of small grain crops, sorghums, and/or Sudan grass, or small grain stubble. Only the heads of the crop may be harvested or removed.

This practice is applicable on cropland only.

A–6. *Protecting summer fallow by contour cultivation.*—Rate of credit—1 acre equals 1 unit.

Specifications.—Protecting summer fallow from erosion by cultivating on the contour with implements which will create and maintain a rough and cloddy surface with sufficient small grain straw and stubble in the surface soil to protect the summer fallow from erosion. The line of operation shall not deviate from a true contour line by more than one percent. Contour guide lines shall be marked with a ridge. An acceptable ridge is one back furrow with at least two rounds of a single bottom plow or any equal sized ridge.

When the lister is used as the implement of tillage the practice may be approved without straw and stubble in the surface soil.

This practice is applicable on cropland only.

A–7. *Restoration of farm land to natural vegetative cover.*—Rate of credit—⅔ acre equals 1 unit.

Specifications.—Restoring farm land (cropped once since 1930) to natural vegetative cover. No soil-depleting crop shall be harvested in 1938. The land must be so handled as to prevent erosion. Practices A–2 and A–3, seeding temporary pasture, shall not be given credit on the same acreage as A–7.

In future programs, the acreage approved under this practice may be considered as non-crop land.

Land used for credit under this practice shall not be designated as special wind erosion control acreage.

B–1 *Seeding perennial legumes, biennial legumes, and perennial grasses.*—Rate of credit.—1 acre equals 2 units.

Specifications.—Approved varieties of alfalfa for Thomas County include Kansas common, other northern strains of common, Grimm and Ladak. Varieties which are not approved include southern common, peruvian, hairy peruvian, Utah common and all foreign seeds except Canadian grown.

Approved varieties of perennial grasses include western and slender wheat grass, perennial rye grass, Italian rye grass, crested wheat grass, blue hairy and side oats grama, and harvested native perennial grasses.

Sweet clover is the only approved biennial legume.

Fall seedings prior to September 20 will be approved if seedbed is fine and firm and there is a good supply of moisture in the soil.

B–2. *Cultivating, protecting, maintaining, and replacing one acre of forest trees.*—Rate of credit—1 acre equals 2 units.

Specifications. — Cultivating, protecting, maintaining, and replacing one acre of forest trees which were planted between January 1, 1934, and January 1, 1938. One hundred living trees per acre at compliance time shall be considered a good stand.

Cultivation shall consist of at least four cultivations for the period April 1 to August 31.

Trees must be protected from livestock damage.

C–1. *Seeding and establishment of a good stand of biennial legumes, perennial legumes and perennial grasses.*—Rate of credit—1 acre equals 3 units.

Seeding and establishing a good stand of the crops applicable under practice B–1.

C–2. *Control of seriously infested plots of bindweed the second year.*—Rate of credit—1 acre equals 3 units.

Specifications.—Second year means an attempt was made to control the bindweed in 1937.

(a) *Control by chemicals.*—If only a partial kill of bindweed was obtained from the first season's work and a considerable number of old plants remained alive after May 1, the area shall be sprayed again by May 15 with chemicals as recommended in Bulletin 269, "Field Bindweed and Methods of Control," issued July, 1934, by the Agricultural Experiment Station at Manhattan, Kansas.

(b) *Control by cultivation.*—Intensive cultivation shall start as soon as growth has started but not later than May 15, 1938. The soil shall be cultivated every two weeks thereafter during the balance of the season, except when there is no growth due to dry weather in which case the cultivation should be performed as soon as growth begins. Cultivation shall be to a depth of not less than 4 inches.

C–3. *Planting sod pieces of perennial grasses.*—Rate of credit—1 acre equals 3 units.

Specifications.—Buffalo and grama grasses are the two varieties of grass approved for use under this practice. Planting must be made between April 1 and May 31. The sod shall be stripped not less than two inches thick and the blocks shall be not less than four inches square. The sod pieces must be planted in rows not more than 52 inches apart with the pieces not more than four feet apart in the row. A good seed bed must be prepared for the area to be seeded. The sod may be planted in shallow furrows. These must be shallow enough so that the sod will be approximately level with the ground to prevent the sod from being entirely covered during planting operations or from rains.

D–1. *Control of seriously infested plots of bindweed the first year.*—Rate of credit—1 acre equals 8 units.

Specifications.—Control the first year means that no attempt has been made to control the bindweed previous to 1938.

(a) *Control by chemicals.*—First application shall be made between July 15 and September 15, 1938.

Application of the sodium chlorate spray and other requirements shall be as recommended in Bulletin 269, "Field Bindweed and Method of Control" issued July, 1934, by Agricultural Experiment Station, Manhattan, Kansas.

(b) *Control by cultivation.*—An intensive cultivation shall start as soon as a growth has started but not later than May 15, 1938. The cultivation shall be repeated every two weeks thereafter, until the close of the growing season, except where there is no growth due to dry weather in which case the cultivation should be performed as soon as the growth begins. The cultivation should be from four to six inches in depth.

E–1. *Planting forest trees (including shrubs in protective plantings).*—Rate of credit—1 acre equals 5 units.

Specifications.—Species included in the following approved list are applicable:

American Elm.
Chinese Elm.
Honey Locust.
Cottorwood.
Hackberry.
Green Ash.
Osage orange.
Coffee tree.
Mulberry.
Russian Olive.
Wild Plum.
Chokecherry.
Red Cedar.
Western yellow pine.
Austrian pine.
Apricot.

One hundred living trees per acre at compliance time shall be considered a stand. This practice shall not be carried out on soils which local experience has shown will not grow trees successfully.

No planting shall be approved for payment when the total area is less than one acre. A single row of trees 160 rods long may be considered to occupy one acre.

Planting shall be made on a well prepared seedbed, plantings shall be kept free from weeds during the season, and plantings shall be protected from livestock, rodents and from fire damage.

F–1. *Growing cover crops on designated wind erosion acreage.*—Rate of credit—1⅓ acres equal 1 unit.

Specifications.—Sorghums, Sudan grass, broom corn and millets when planted in rows not greater than 44 inches apart, or close drilled; provided, however, (1) that a good growth is attained, (2) that only the heads of such crops are removed, (3) that all the stalks are left on the ground where grown and that the operator's farming plan provides that such stalks be left on the land without pasturing until March 31, 1939, as a protection against wind erosion.

Credit will be given for this practice only towards meeting the wind erosion control goal.

G–1. *Contour tillage during the period November 1 to December 31, 1938, to prevent wind erosion.*—Rate of credit—2 acres equal 1 unit.

Specifications.—Credit for this practice will be given only towards meeting the wind erosion control goal.

Contour tillage will be approved if the tillage is started on a contour line and the line of operation does not deviate from a contour line by more than one percent.

Implements to be used are the double mold board lister or chisel implement. Contour guide lines shall be marked with a ridge. An acceptable ridge is one back furrowed with at least two rounds of a single bottom plow or any equal ridge.

This practice is applicable on cropland only.

H–1. *Contour furrowing or listing noncrop open pasture.*—Rate of credit—2½ acres equal one unit.

Specifications. — Shallow furrows on noncrop land shall be constructed along a contour line. The furrows shall not be more than seven feet apart horizontally. The furrows shall not be less than three inches in depth from the natural ground level, except where a chisel implement is used the depth of the furrow shall be six inches.

H–2. *Tillage during period November 1 to December 31, 1938, to prevent wind erosion.*—Rate of credit—Two and one-half acres equal one unit.

Specifications. — Tillage with double mold board lister or chisel.

Credit for this practice will be given only towards meeting the wind erosion control goal.

This practice is applicable on cropland only.

H–3. *Contour tillage between January 1 to March 15, 1938, to prevent wind erosion.*—Rate of credit—Two and one-half acres equal one unit.

Specifications.—Credit for this practice will be given only towards meeting the wind erosion control goal. Specifications same as practice G–1.

This practice is applicable on cropland only.

H–4. *Planting intertilled crops on the contour.*—Rate of credit—Two and one-half acres equal one unit.

Specifications.—Contour planting of intertilled crops will be approved provided the planting is started on a contour line and the line of operation does not deviate from any contour line by more than one percent. Contour guide lines shall be marked with a ridge.

Contour planting shall not be approved on gullied land unless the gullies are adequately protected by close growing vegetation, terracing, ends of lister furrows turned up hill near the gullies or furrows are blocked to prevent discharge of water into the gullies. When planting operation is performed parallel to terraces, this shall be approved as contour planting.

This practice is applicable on cropland only.

H–5. *Contour ridging of non crop pasture.*—Rate of credit—Two and one-half acres equal one unit.

Specifications.—Contour ridges are small ridges constructed on a contour line on non-crop pasture. The ridges shall not average more than twenty-five feet apart horizontally.

I–1. *Tillage between January 1 to March 15, 1938, to prevent wind erosion.*—Rate of credit—4 acres equal one unit.

Specifications.—Specifications same as practice H–2. Credit for this practice will be given only towards meeting the wind erosion control goal.

This practice is applicable on cropland only.

I–2. *Contour tillage between March 16 to May 1, 1938, to prevent wind erosion.*—Rate of credit—4 acres equal one unit.

Specifications.—Credit for this practice shall be given towards meeting the wind erosion control goal only.

Specifications same as practice G–1.

This practice is applicable on cropland only.

J–1. *Basin tillage when not a part of a seeding operation.*—Rate of credit—Four acres equal one unit.

Specifications.—Basin tillage means tillage with an implement which leaves furrows at least 4 inches in depth dams in the furrows shall not be more than sixteen and one-half feet apart in the furrow and the furrows shall not be more than 4 feet apart. Basin tillage on land having slopes of more than two percent shall not be approved unless the tillage operations are carried out approximately on the contour. A variation in slope of two percent from the true contour line shall be the maximum allowed along a basin furrow to qualify it as being approximately on the contour.

Credit for this practice shall not be given on the same acreage as tillage practices which are given credit towards the wind erosion control goal or on the same acreage as practices A–1, A–5, or A–6.

This practice is applicable on cropland only.

J–2. *Tillage between March 16 and May 1, 1938, to prevent wind erosion.*—Rate of credit—6 acres equal one unit.

Specifications.—Specifications same as practice H–2. This practice can be given credit only towards meeting the wind erosion control goal.

This practice is applicable on cropland only.

J–3. *Planting close drilled crops on the contour when all seed bed operations are performed on the contour.*—Rate of credit—4 acres equal one unit.

Specifications.—Planting of close drilled crops on the contour shall be approved. When all operations of preparing a seedbed and the seeding of the crop are performed parallel to a contour line providing no line of operation deviates in slope more than one percent from the contour line. Contour guide lines marked with a ridge are considered necessary for approval of this practice. When all farming operations are performed parallel to terraces this shall be classified as being on the contour.

This practice is applicable on cropland only.

K–1. *Contouring seeding of small grain crops.*—Rate of credit—6 acres equal one unit.

Specifications.—Contour planting of small grain crops will be approved provided the seeding is started on the contour line and the line of operation does not deviate from any contour line more than one percent. Contour guide lines shall be marked with a ridge. Where the seeding is performed parallel to terrace, this shall be classified as contour seeding.

This practice is applicable on cropland only.

L–1. *Construction of 130 feet linear of standard terrace.*—Rate of credit—130 ft. of terrace equals 1 unit.

Specifications.—A terrace is a broad ridge of earth constructed immediately below and adjacent to a broad shallow water channel, running across the slope in such a manner that it will intercept the runoff water from above the terrace and either absorb and hold this water without overtopping the ridge, or carry it off the field at velocities that will not cause channel erosion. Terraces shall be built to the following minimum dimensions.

Land slope	Total width in feet from upper edge of channel to lower edge of ridge	Distance in feet center of channel to upper edge of channel	Distance in feet center of channel to center of ridge	Distance in feet center of ridge to lower edge of ridge	Vertical height in inches top of ridge above bottom of channel		Width in feet bottom of channel and width for top of terrace ridge
					Immediately after constructing	After settling	
0 to 2½	44	14	16	14	18	12	4
2½ to 5	32	10	12	10	18	12	4
5 to 7½	26	8	10	8	18	12	4
7½ to 10	24	7½	9	7½	18	12	3

A maximum variation of 10 percent from the above dimensions will be allowed.

In general, a variable grade from 0 to 4 inches of fall per 100 feet towards the outlet shall be used. Grades may vary with length of terrace, local rainfall conditions, and soil type. Terraces may be built on the contour in highly pervious soils and in clay pan soils the terrace grade may be as much as 5 inches per 100 feet. Terrace spacing shall average not more than 5 feet vertically nor more than 200 feet horizontally from center to center of adjacent terrace channels. The first terrace shall not intercept water from more than 4 acres of drainage area.

When more than 4 acres of drainage is intercepted and diverted, the water carrying capacity of the channel shall be increased as found necessary and the resulting ditch and ridge shall be known as an interception ditch. When interception ditches are constructed to terrace dimensions or larger they may be approved under this section.

Adequate provisions shall be made to handle runoff water from terraces in such a manner that no serious erosion will occur in the vicinity of the outlet. The following methods will be approved:

(a) Outlets on permanent pasture sod, meadow sod, or woodland cover, when the water will spread widely over the ground and will not concentrate on definite channels or flow back into the field.

(b) Outlets on well sodded meadow strips 6 rods, or wider, if necessary to prevent concentration of water at ends of fields or adjacent to draws or gullies in the interior of fields when the flow of water from each terrace will spread over the sod and will not concentrate in definite channels or flow back into the field.

(c) Outlets without definite overfall into ditches when ditches are of sufficient capacity to handle the runoff water and when such ditches are adequately protected from erosion by paving, sod cover, or structures built with concrete, masonry, or other durable materials. (See table, page 39 Kansas Extension Bulletin 70 Revised.)

(d) Outlets that are more than one foot below the channel elevation at the end of a terrace shall have some type of structure made of durable material to drop the runoff water to the lower elevation without danger of erosion.

(e) Outlets other than the above shall be approved only after recommendations are secured from the State Committee.

This practice is applicable on cropland only.

L–2. *Reseeding depleted pastures.*—Rate of credit—5 pounds of seed equal one unit.

Specifications.—Approved varieties of grasses include western and slender wheat grass; perennial rye grass; Italian rye grass; crested wheat grass; blue hairy and side oats grama; and native harvested perennial grasses. Maximum credit per acre shall not exceed two units.

L–3. *Restoration of non crop open pasture by non grazing.*—Rate of credit—20 acres for one month equal one unit.

Specifications.—Restoration of twenty acres of non-crop open pasture by non-grazing for one month during the period April 1, 1938, to October 1, 1938, providing (1) non-grazing is adopted for three consecutive months, (2) period of non-grazing is continuous, (3) any other non-crop pasture which is being grazed in the farming unit is not grazed in such a manner as to injure the forage or watershed in such non-crop pasture.

L–4. *Removing cactus plants from non crop pasture land.*—Rate of credit—One cubic yard equals one unit.

Specifications.—Cactus plants shall be cut below the crown of the plant, removed from the pasture, and put into ricks for the purpose of burning.

L–5. *Construction of reservoirs and dams.*—Rate of credit—Seven cubic yards of material moved equals 1 unit.

Specifications.—A dam is an embankment of earth placed across the course of a drainage way in such a manner that the resulting reservoir will hold water and form a pond. The constructions shall conform to the following: For dams which are less than 10 feet high, the top width shall be at least 6 feet. The downstream slope of the embankment shall be not steeper than 2 feet horizontally to one foot vertically, and the upstream slope shall be not steeper than 3 feet horizontally to one vertically. All reservoirs shall be at least 5 feet deep in the deepest portion when measured from the elevation of the spillway floor. The lowest point on the top of the dam shall be at least 3 feet higher than the floor of the spillway section used to secure the area required in the following table: Spillways for small drainage areas shall be at least 6 feet wide at the bottom of the channel. Minimum widths required for various drainage basins up to one-half square mile are shown in the following table:

Drainage area—Acres	1	5	10	20	30	40	50	60	70	80	90	100	125	150	175	200	250	300	320
Minimum width of spillway—Feet	6	6	6	6	6	8	11	13	16	18	20	23	26	28	31	34	39	45	47

Dams which are more than 10 feet high when measured from the bed of the stream to the top of the dam or those which impound more than 15 acre feet of water or receive water from a drainage area of more than 320 acres shall not be approved unless prior approval is secured from the State Division of Water Resources, Topeka, Kansas. In cases of this kind, dams must be built strictly in accordance with specifications contained in the State Board of Agriculture Bulletin #213–B and Supplements, entitled, Dams of Dry Water Courses.

The dam shall be placed on compact, solid earth, Muck, stones, roots, sod, and other vegetative materials shall be removed from the base to be occupied by the dam before the embankment is started. This base shall be plowed or otherwise furrowed to provide bond before the first layer of the dam is placed. When the soil below the base of the dam is of porous material, a core-wall of puddled clay at least 3 feet wide shall be built along the center line of the dam or another type of impervious wall may be used. This core-wall shall extend through the porous material into the firm soil below at least 2 feet and up into the dam at least 3 feet. The material for the dam shall be clean and free from stones or vegetative materials. It is desirable that the embankments be placed in successive horizontal layers not over 6 inches thick for the full width and this thickness be more than 1 foot. The inner slope of the dam on ponds having a surface area of over 1 acre shall be protected from wave action by rock rip-rap, board or pole fencing, brush or timber securely staked in place, or by other applicable methods. A fence, capable of turning all livestock, shall enclose the dam and the spillway. Pipes through a dam, if used, shall be laid in a trench excavated below the natural ground level or below the surface of the embankment at any level during construction. At least two concrete collars 2 feet square shall be placed around the pipe approximately at the third points across the dam. The backfill into the trench shall be carefully tamped to prevent seepage along the pipe. (*Recommended but not required.*) The State Technical Committee strongly recommends fencing the entire pond and urges that cooperators adopt this practice even though it is not required for payment.

SEC. XIII. *Normal yields and productivity indexes.*—A. *Normal yields of special soil-depleting crops.*—The county committee with the assistance of other local committees in the county shall determine for each farm for which a wheat acreage allotment is to be established a normal yield for wheat in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration.

1. *Wheat.*—(a) Where reliable records of the actual average yield per acre of wheat for the years 1928 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

(b) If, for any year of such ten-year period reliable records of the actual average yield are not available or there was no actual yield because the commodity was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such ten-year period. Where the productivity index most recently established for the farm in connection with the agricultural conservation programs is determined by the county committee to be an accurate reflection of the foregoing factors, the yield obtained by multiplying such index by the county average yield established by the Secretary shall be used as the normal yield for the farm.

(c) The yields determined under paragraph (b) of this subdivision 1 shall be adjusted so that the average of the normal yields for all farms in the county (weighted by the wheat acreage allotments established for such farms) shall conform to the county average yield established by the Secretary.

B. *Productivity indexes.*—The Secretary shall establish a county productivity index or per-acre rate on the basis of the productivity of the cropland in the county devoted to the production of general soil-depleting crops as compared with the productivity of cropland in the United States devoted to the production of such crops

A productivity index or rate per acre shall be established in accordance with instructions issued by the Agricultural Adjustment Administration for each farm by the county committee, subject to the approval of the State committee. Such productivity index or rate per acre shall be based upon the normal yield per acre for the farm of the major soil-depleting crop in the county as compared with the normal yield per acre for such crop in the county. Where the yield of the major soil-depleting crop in the county does not accurately reflect the productivity of a farm, the yield of a crop that reflects the productivity of the farm may be used provided that the productivity index or rate per acre for such farm shall be adjusted, if necessary, so

as to be fair and equitable as compared with the productivity indexes or rates per acre for other farms in the county having similar soils or productive capacity, and as contrasted with other farms in the county having different soils or productive capacity.

The average productivity index or per-acre rate for all farms in the county shall not exceed 100 or the county per-acre rate, respectively, unless it is determined that farms for which such indexes or rates per acre are established are not representative of all farms in the county and a variation from 100 or the county per-acre rate is approved by the Agricultural Adjustment Administration.

SEC. XIV. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment; (b) any soil-depleting acreage allotment or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the Regional Director to review the decision of the State committee.

SEC. XV. *Bulletins, instructions, and forms.*—The Agricultural Adjustment Administration shall prepare and issue such bulletins, instructions, and forms as may be required in administering the 1938 Agricultural Conservation Program in Thomas County, Kansas.

SEC. XVI. *Definitions.*—For the purposes of the 1938 Agricultural Conservation Program.

Secretary means the Secretary of Agriculture of the United States.

Regional Director means the director of the Western Division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the Western Region.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

State Committee means the group of persons designated within the State to assist in the administration of the 1938 Agricultural Conservation Program in the State.

County Committee means the group of persons elected within any county to assist in the administration of the 1938 Agricultural Conservation Program in such county.

County means the political or civil division of a State designated as a county.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Sharecropper means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Cropland means farm land which is tilled annually or in a regular rotation, excluding commercial orchards, and any land which constitutes, or will constitute if such tillage is continued, a wind erosion hazard to the community, but including any other land which has been planted since January 1, 1934 to permanent pasture or forest trees and which was classified as cropland under the 1937 Agricultural Conservation Program, and including also land planted to non-commercial orchards other than abandoned orchards.

Commercial orchards means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1938 (excluding non-bearing orchards and vineyards), from which the principal part of the production is normally sold.

Commercial Vegetables means the acreage of vegetables or truck crops (including potatoes on farms where a potato acreage allotment is not established, sweetpotatoes, tomatoes, sweet corn, melons, cantaloupes, strawberries, and commercial bulbs and flowers, but excluding peas for canning and sweet corn for canning and artichokes for use other than as vegetables) of which the principal part of the production is sold to persons not living on the farm.

Noncrop Open Pasture means pasture land (other than rotation pasture land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

General Soil-Depleting Crops means all soil-depleting crops other than sugar beets and those for which individual crop acreage allotments are established on the farm.

Animal Unit means one cow, one horse, five sheep, or five goats, two calves, or two colts, or the equivalent thereof.

Done at Washington, D. C. this 27th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1843; Filed, June 28, 1938; 11:14 a. m.]

[ACP—1938—Weber and Davis Counties, Utah]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR WEBER AND DAVIS COUNTIES, UTAH

CONTENTS

Introduction.

PART I.—1938 AGRICULTURAL CONSERVATION PROGRAM

SECTION I. County Acreage Allotments and Goals.
- A. County acreage allotments of soil-depleting crops.
- B. County soil-building goals.

SECTION II. Farm Acreage Allotments and Goals.
- A. Soil-depleting acreage allotments.
- B. Soil-building goal.
- C. Posting of acreage allotments.

SECTION III. Payment for Full Performance.
- A. Soil-depleting acreage allotments.
- B. Payments in connection with soil-building practices.

SECTION IV. Payments for Partial Performance.
- A. Deductions for excess acreages of soil-depleting crops.
- B. Deductions for failure to carry out soil-building practices.

SECTION V. Division of Payments and Deductions.
- A. Payments and deductions in connection with acreage allotments.
- B. Payments with respect to soil-building practices.
- C. Proration of net deductions.

SECTION VI. Increase in Small Payments.

SECTION VII. Deductions Incurred on Other Farms.
- A. Other farms in the same county.
- B. Other farms in the State.

SECTION VIII. Deductions for Association Expenses.

SECTION IX. General Provisions Relating to Payments.
- A. Payment Restricted to effectuation of purposes of the program.
- B. Payment computed and made without regard to claims.
- C. Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.
- D. Assignments.
- E. Excess cotton acreage.
- F. Use of soil-conserving crops for market.

SECTION X. Application for Payment.
- A. Persons eligible to file applications.
- B. Time and manner of filing application and information required.
- C. Application for other farms.

SECTION XI. Soil-depleting Crops.

SECTION XII. Soil-Building Practices.

SECTION XIII. Normal Yields and Productivity Indexes.
- A. Normal Yields of special soil-depleting crops.

SECTION XIV. Appeals.

SECTION XV. State and Regional Bulletins, Instructions, and Forms.

PART II.—DEFINITIONS

SECTION I. Definitions for the purposes of the 1938 Agricultural Conservation Program.

INTRODUCTION

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of the said Act in 1938, payments and grants of aid will be made in Weber and Davis Counties, Utah, for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact. The making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amount of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation. The rates of payment and deductions specified herein which may be made in Weber or Davis County are subject to an increase or decrease of not more than 10 percent depending upon the extent of participation in Weber County or Davis County, as the case may be, under this program and the final estimate of payments which would be made in Weber County or Davis County, whichever is applicable, under the 1938 Agricultural Conservation Program.

The provisions of the 1938 Agricultural Conservation Program as contained in this bulletin are applicable only in Weber and Davis Counties, Utah.

PART I.—1938 AGRICULTURAL CONSERVATION PROGRAM

SECTION I. *County acreage allotments and goals.*—A. *County acreage allotments of soil-depleting crops.*—The Agricultural Adjustment Administration with the assistance of the State committee shall establish for Weber County and for Davis County, county acreage allotments for total soil-depleting crops, and for wheat and potatoes, as hereinafter set forth. The soil-depleting acreage allotments for Weber and Davis Counties shall not exceed their prorata share of the applicable acreage allotments established for the State by the Secretary except as otherwise provided in this bulletin.

1. *Total soil-depleting acreage allotments.*—County acreage allotments of total soil-depleting crops shall be established for Weber County and for Davis County by distributing their proportionate part of the State acreage allotment of total soil-depleting crops between such counties on the basis of the average acreage of soil-depleting crops grown in whichever of the periods of five or more consecutive years since 1927 the Agricultural Adjustment Administration finds is most representative of normal conditions and the base acreages of total soil-depleting crops established in connection with the 1937 Agricultural Conservation Program, adjusted where necessary for farms for which provision was not made in 1937, with due allowance for trends in acreage of soil-depleting crops, farms for which the general crop acreage allotment will be as large as the usual acreage of general soil-depleting crops, and the relationship of the usual acreage of individual soil-depleting crops to the 1938 acreage allotments for individual soil-depleting crops.

2. *Wheat acreage allotments.*—County acreage allotments of wheat for Weber and Davis Counties shall be established by distributing their proportionate part of the State acreage allotment of wheat pro rata between such counties on the basis of the acreage of wheat seeded for the production of wheat during the ten years, 1928 to 1937, inclusive, plus in applicable years the acreage diverted under agricultural adjustment and conservation programs. If, on account of abnormal weather conditions, the acreage seeded for the production of wheat in either such county in any year of such ten-year period was less than 50 percent or more than 150 percent of the average computed for the other nine years, such year shall be eliminated in calculating the average acreage seeded for the production of wheat in such county. The average acreage seeded in either such county for the production of wheat so determined shall be adjusted for trends in acreage by giving equal weight to the acreages seeded for the production of wheat and the acreages diverted from the production of wheat during the years 1935, 1936, and 1937, and to the acreages so seeded and diverted during the ten-year period 1928 to 1937, inclusive, as adjusted for abnormal weather conditions.

3. *Potato acreage allotments.*—County acreage allotments of potatoes for Weber and Davis Counties, designated as commercial potato-producing counties, shall be established by distributing their proportionate part of the State acreage allotment of potatoes between such counties pro rata on the basis of the average acreage devoted to potatoes in such counties during the years 1933 to 1937, inclusive, taking into consideration trends in acreage on commercial potato-producing farms as reflected by the acreage planted to potatoes in 1937, as compared with the average acreage planted during such five-year period and also taking into consideration the acreage of potatoes on non-commercial potato-producing farms in such counties.

B. *County soil-building goals.*—Insofar as practicable, county goals for Weber and Davis Counties shall be established for particular soil-building practices which are not routine farming practices and which are most needed in the county in order to preserve and improve soil fertility and to prevent wind and water erosion.

SEC. II. *Farm acreage allotments and goals.*—The county committee for Weber County, and the county committee for Davis County, with the assistance of local committees in each such county, shall determine acreage allotments and soil-building practice goals for Weber and Davis Counties, respectively, in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. The sum of the soil-depleting acreage allotments determined for all of the farms in each such county shall not exceed the applicable county acreage allotment established by the Agricultural Adjustment Administration for each such county, and the sum of the acreage allotments for farms furnishing required forms and information in each such county shall not exceed its proportionate share of the county acreage allotment.

A. *Soil-depleting acreage allotments.*—1. *Total soil-depleting acreage allotment.*—The total soil-depleting acreage allotment for any farm shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion and

the acreage of all soil-depleting crops customarily grown on the farm, taking into consideration allotments established for individual soil-depleting crops. The total soil-depleting acreage allotment for any farm shall be comparable with the allotments determined for other farms in the same community which are similar with respect to such factors.

2. *Wheat allotment.*—Acreage allotments of wheat shall be determined for farms on which wheat has been seeded for harvest in one or more of the years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. Not more than 3 percent of the county wheat acreage allotment for any county shall be apportioned to farms in such county on which wheat was not seeded for harvest in any one of the three years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. The wheat acreage allotment for any farm shall be comparable with the allotment determined for other farms in the same community which are similar with respect to such factors. No allotment shall be established for any farm for which the normal production of wheat for market is less than 100 bushels.

3. *Potato allotment.*—In Weber and Davis Counties, designated as commercial potato-producing counties, allotments shall be determined for each farm normally producing potatoes excluding farms on which the acreage normally planted to potatoes for market is determined to be less than three acres. No potato acreage allotment shall be less than three acres. Potato acreage allotments shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, production facilities, and the acreage of potatoes customarily grown on the farm. The potato acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

B. *Soil-building goal.*—The soil-building goal for any farm shall be the number of units of soil-building practices equal to two-thirds of the number of dollars computed for the farm under Section III, Subsection B, with respect to the acreage of cropland for which a payment of 70 cents per acre is computed and the commercial vegetable acreage, commercial orchards, and non-crop pasture land. The goal so established shall represent the number of units of applicable practices to be carried out on the farm. Insofar as practicable, the county committee shall determine for individual farms practices to be followed in meeting the goal which are not routine farming practices on the farm but which are needed on the farm in order to preserve and improve soil fertility and prevent wind and water erosion, and which will tend to accomplish the goals, if any, established for the county with respect to particular soil-building practices.

C. *Posting of acreage allotments.*—All acreage allotments established for farms in a county shall be posted or kept freely available for public inspection in the office of the county committee or county agricultural extension agent.

SEC. III. *Payment for full performance.*—Payment will be made with respect to any farm for not exceeding soil-depleting acreage allotments, and for achieving soil-building goals in an amount which shall be the sum of the following:

A. *Soil-depleting acreage allotments.*—1. *Wheat.*—12 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat acreage allotment; or, if the acreage planted to wheat is less than 80 percent of the wheat acreage allotment and the county committee finds that the failure to plant 80 percent of such wheat acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to wheat. The acreage planted to wheat shall be deemed to be that acreage which is seeded to wheat classified as soil-depleting under Subsection B of Section XI.

2. *Potatoes.*—3.6 cents per bushel of the normal yield of potatoes for the farm for each acre of potatoes planted on the farm in 1938 not in excess of the potato acreage allotment. The acreage planted to potatoes shall be deemed to be that acreage which is seeded to potatoes.

B. *Payments in connection with soil-building practices.*—1. 70 cents per acre of cropland on the farm in excess of the sum of (1) the acreages used in computing payments with respect to the wheat and potato acreage allotments established for the farm; (2) the acreage of sugar beets planted on the farm in 1938; and (3) the normal acreage of summer fallow for the farm, not in excess of the wheat acreage allotment established for the farm.

2. $1.50 per acre of the average acreage of land on which commercial vegetables were grown on the farm in 1936 and 1937.

3. $2.00 per acre of commercial orchards on the farm January 1, 1938.

4. (a) 3 cents per acre of noncrop open pasture land plus 75 cents for each animal unit of grazing capacity (on a 12-month basis) of such pasture.

SEC. IV. *Payments for partial performance.*—Payments computed for any farm under the provisions of Section III shall be subject to all the following deductions which are applicable to the farm.

A. *Deductions for excess acreages of soil-depleting crops.*—1. *Potatoes.*—(a) 10 times the payment rate specified in Section III for the normal yield for the farm on the acreage by which the acreage of potatoes exceeds the potato acreage allotments established for the farm, and on farms for which potato acreage allotments are not established on each acre by which the acreage of potatoes for market exceeds three acres.

2. *Total soil-depleting acreage allotments.*—The following applicable rate for each acre of land classified as soil-depleting in excess of the total soil-depleting acreage allotment, less the acreages for which deductions are made under item 1 of this subsection A:

(a) 5 times the rate of payment with respect to the wheat acreage allotment if a payment is computed for the farm under Section III with respect to a wheat acreage allotment.

(b) $4.00 per acre if a payment is computed for the farm under Section III with respect to a potato acreage allotment but no payment is computed for the farm under Section III with respect to a wheat acreage allotment.

B. *Deductions for failure to carry out soil-building practices.*—1. $1.50 for each unit by which the soil-building goal is not reached.

SEC. V. *Division of Payments and Deductions.*—A. *Payments and deductions in connection with acreage allotments.*—The net payment or net deduction computed for any farm with respect to the wheat or potato acreage allotment shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the wheat or potatoes, respectively, grown on the farm in 1938.

The total amount of deductions computed under Section IV with respect to soil-depleting crops grown in excess of the total soil-depleting acreage allotment (item 2, subsection A); shall be regarded (a) as deductions with respect to the wheat acreage allotment on farms for which a payment is computed under Section III in connection with a wheat acreage allotment; (b) as prorata deductions with respect to the payments computed under Section III in connection with crop acreage allotments on farms for which no payment is computed in connection with a wheat acreage allotment; or (c) as deductions with respect to the soil-building goal on farms for which no payment is computed under Section III in connection with crop acreage allotments, provided, that any net amount of such deductions computed for such farms shall be divided equally among the landlords and tenants on the farm.

In the event that wheat or potatoes are not harvested in 1938 on the farm, or in the event the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, finds that due to crop failure the acreage of such crop(s) was reduced sufficiently to affect materially the division of payments or deductions, the net payment or net deduction, if any, with respect to the acreage allotment for such crop(s) shall be divided among the landlords and tenants in the same proportion that the county committee determines that such person would have shared in the proceeds of such crop(s) had such crop(s) been harvested on the farm in 1938 or the acreage of such crop(s) had not been reduced.

B. *Payments with respect to soil-building practices.*—The amount of payment earned in connection with the soil-building goal for the farm shall be paid to the landlord or tenant who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying-out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bear to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event such units shall be divided in the proportion which the county committee determines each such person contributed thereto.

C. *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the other persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SEC. VI. *Increase in small payments.*—The total payment computed under Sections III to V inclusive for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	$6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SEC. VII. *Deductions incurred on other farms.*—A. *Other farms in the same county.*—If the deductions computed under Section IV with respect to any farm in a county exceed the payment for full performance on such farm computed under Section III, a landlord's or tenant's share of the amount by which such deduction exceeds such payments shall be deducted from such landlord's or tenant's share of the payment which would otherwise be made to him with respect to any other farms in such county.

B. *Other farms in the State.*—If the deductions computed for a landlord or tenant with respect to one or more farms in a county exceeds the payments computed for such landlord or tenant on other farms in such county, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in the State if the State committee finds that the crops grown and practices adopted on the farm with respect to which such deductions are computed substantially offset the contribution to the program made on such other farms.

SEC. VIII. *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

SEC. IX. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1938 or previous agricultural conservation programs; (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the regional director finds is contrary to sound conservation practices. If on any farm for which no wheat or potato acreage allotment is established, the acreage of soil-depleting crops in 1938 is in excess of 50 acres and in excess of the total soil-depleting acreage allotment, the deduction provided in paragraph 2 (b) of subsection A of Section IV shall be applicable to such farm if the county committee determines that the increase in soil-depleting crops was not due to the rotation of crops normally followed on the farm. No payment shall be computed with respect to any farm which is idle in 1938.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection D of this Section IX) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 is made between the landlord and the tenants and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, payments to the landlord under the 1938 Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

If on any farm the number of share tenants in 1938 is less than the average number of the farm during the years

1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any Agricultural Conservation Program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing contained in this Section IX shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Excess cotton acreage.*—Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the seeding of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938.

F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farm unless on such farm in 1938 an acreage, not devoted to soil-depleting crops, is withheld from the production of soil-conserving crops for market, equal to the acreage by which the normal acreage of soil-depleting crops on such farm exceeds the larger of (1) the total soil-depleting acreage allotment for the farm or (2) the acreage devoted to soil-depleting crops on the farm in 1938; *Provided*, That payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable is used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions if the increase above normal in the number of dairy cows in the county does not exceed ten percent.

The normal acreage of soil-depleting crops and the normal number of cows kept for the production of milk, or the products thereof, for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department and shall announce the counties in which the number of cows kept for the production of milk, or the products thereof, for market exceeds by more than ten percent the normal number of such cows.

As used in this subsection F, the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this subsection F, the term "soil-conserving crops" means grasses and legumes grown on cropland except those classified as soil-depleting under Section XI hereof.

SEC. X. *Application for payment.*—A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

C. *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms. Upon request by the State commitee such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SEC. XI. *Soil-depleting crops.*—Land devoted in 1938 to any of the following crops or uses or such other similar crops and uses as are designated by the Agricultural Adjustment Administration shall be classified as soil-depleting.

A. Land planted to the following crops for harvest in 1938:

1. Corn (including field corn, sweet corn, and popcorn, but excluding sown or close-drilled corn used as a cover crop or green manure crop.)
2. Grain sorghums.
3. Sugar beets.
4. Commercial mustard.
5. Broomcorn.
6. Mangels and cowbeets.
7. Cultivated sunflowers.
8. Truck and vegetable crops (including strawberries, melons, and sweetpotatoes) and their seeds.
9. Potatoes.
10. Bulbs and flowers.
11. Safflower.
12. Field beans.
13. Canning peas.

B. Land planted to wheat harvested for grain or hay in 1938 or any other land planted to wheat between August 1, 1937, and July 31, 1938, except—

1. When the acreage is seeded to true type winter wheat in the spring of 1938 (prior to June 15) on non-irrigated cropland and such crop is used only as a pasture or cover crop; or
2. When the acreage of such crop is used as a green manure crop in orchards, on commercial vegetable or potato land.

C. Land planted to oats, barley, rye, flax, emmer, speltz, or mixtures of these crops between August 1, 1937, and July 31, 1938, except—

1. When a good stand and good growth of such crop is used as a green manure crop in orchards, on commercial vegetable land, potato land or on irrigated land; or
2. When such crop is used as a nurse crop and is not harvested for grain or hay, or is used as a cover crop and is not harvested for grain or hay, and is not allowed to mature as grain.

D. Land planted in 1938 to buckwheat, sweet sorghums, Sudan grass, millet, or sown or close-drilled corn harvested for grain, seed, sirup, silage, or forage.

E. Land planted in 1938 to field peas harvested for peas or soybeans harvested for seed for crushing. Field peas or soybeans hogged off will be deemed to be harvested.

F. Land summer-fallowed; *provided*, however, that if such summer-fallowed acreage is seeded in 1938 to perennial grasses or perennial legumes in accordance with good farming practice such acreage shall not be classified as soil-depleting.

The acreage of land which is devoted consecutively to two or more of the above soil-depleting crops in 1938 shall be counted as follows: If only one of such crops reaches maturity such land shall be regarded as devoted to the crop reaching maturity. If none of such crops reaches maturity or if more than one of such crops reach maturity and an individual crop acreage allotment is established for only one of such crops, such land shall be regarded as devoted to the crop for which an individual crop acreage allotment is established. If none of such crops reaches maturity and individual crop acreage allotments are established for two or more of such crops, the land shall be regarded as devoted to the last planted of such crops for which an individual crop acreage allotment is established. If two or more of such crops reach maturity and individual crop acreage allotments are established for two or more of such crops reaching maturity, the land shall be regarded as devoted to each of the crops which reached maturity and for which an individual crop acreage allotment is established. If one or more of such crops reach maturity and individual crop acreage allotments are not established for any of such crops, the land shall be regarded as devoted to the last planted of such crops.

The acreage of land which is devoted simultaneously to two or more of the above soil-depleting crops shall be divided among such crops on the basis of the land determined in accordance with instructions issued by the Agricultural Adjustment Administration to be devoted to each.

In connection with determinations regarding the maturity of crops, canning peas will be deemed to have reached maturity when such crop is harvested for canning and field corn, sweet corn, and popcorn hogged off or cut for silage, fodder or other similar uses, will be deemed to have reached maturity.

Land devoted to volunteer crops harvested shall be classified as if such crops were planted.

SEC. XII. *Soil-building practices.*—The soil-building practices listed in the following schedule shall count toward the achievement of the soil-building goal to the extent indicated therein, when such practices are carried out in 1938 in the areas designated and in accordance with the following specifications and such revision thereof or addition thereto as may be issued by the Regional Director or by the State Committee with the approval of the Regional Director. Each practice must be carried out in accordance with the individual specifications applicable thereto and such of the general specifications as apply.

Practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or State agency shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal.

If trees are purchased from a Clark-McNary Cooperative State Nursery, such purchases shall not be deemed to be paid for in whole or in part by a State or Federal agency.

General Specifications

(1) Seed used for or in connection with any seeding practice must be good clean seed free of noxious weeds and of good quality.

(2) All soil-building practices, including minimum seeding rates and methods of seeding, unless otherwise specified under the individual practice, shall be such as are determined by the County Committee to be in accordance with the generally accepted good farming practice in the county.

(3) Any seeding practice involving the use of red clover, either alone or in mixtures, requires that only adapted red clover seed be used. Any seeding practice involving the use of alfalfa seed, either alone or in mixtures, requires that only adapted alfalfa seed be used. Clover and alfalfa seed grown in the United States or Canada will be regarded as adapted except when grown in the following States or areas: Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Nevada, South Carolina, Tennessee, Texas; the area west of the Cascade Mountains in Washington and Oregon, or in Yakima or Klickitat Counties, Washington, unless certified by the State Pure Seed Growers Association of the State where the seed was grown; that area of Oklahoma including the counties of Roger Mills, Dewey, Blaine, Kingfisher, Logan, Payne, Creek, Okmulgee, Wagoner, Cherokee, Adair, and all counties south of those counties.

(4) Approval of a soil-building practice carried out on the same land as another soil-building practice shall not be approved for payment by the County Committee unless the carrying out of more than one practice on the same land is authorized in practice specifications.

(5) The term "good stand" when used in connection with seeding practices shall mean a stand which would produce a normal crop without any reseeding.

(6) The soil-building practices listed below are applicable in both Weber and Davis Counties, Utah, and may be carried out on cropland and non-crop land unless otherwise provided in any individual practice or the specifications applicable to such individual practice.

Schedule of Soil-Building Practices

PRACTICE A–1. *Application of 300 pounds of 16 percent superphosphate (or its equivalent) except that no credit will be allowed when such application is made in connection with a soil-depleting crop.*—Rate of credit—one unit.

Credit may be given for this practice in addition to credits given for practice A–14 carried out on the same land.

Specifications.—Application of 112 pounds of 43 percent treble superphosphate to, or in connection with the seeding of perennial or biennial legumes, perennial grasses, or permanent pasture.

Credit may be given for this practice in addition to credits given for practices A–7 or B–1 carried out on the same land.

PRACTICE A–5. *Construction of 200 linear feet of standard terrace for which proper outlets are provided.*—Rate of credit.—one unit.

Specifications.—(a) Terraces must be constructed so as to effectively control soil erosion or conserve moisture on the area involved. The work should preferably be done under supervision of a competent engineer. Terraces on dry land should be from 15 to 20 feet wide (the steeper the soil the narrower the terrace) and 18 inches high when settled, with sufficient grade to carry to the outlet. The length of a terrace should not exceed 1,800 feet. The vertical drop between terraces shall be approximately three feet on a 4% slope, 3½ feet on a 6% slope, 4 feet on an 8% slope, and 4½ feet on a 10% slope. Each terrace must have an outlet of such character to prevent erosion at the outlet.

(b) When terraces are constructed on irrigated land plans must be approved in advance by the county committee, and the practice must be carried out in accordance with good farming and irrigation practices for the locality. The grade of the terrace shall not be greater than 1½ percent.

Credit may be given for this practice in addition to credits given for practice A–14 carried out on the same land.

PRACTICE A–6. *Construction of reservoirs and dams—15 cubic yards of material moved in making the fill or excavation.*—Rate of credit—fifteen cubic yards moved equals one unit.

Specifications.—Construction of Reservoirs and Dams.—In the construction of small dams involving the placement of 15 cubic yards or less of earth fill, particular attention should be given to the type of soil; sloping of gully banks to at least the slope of repose of the parent material; an adequate bond between the earth fill and the native soil must be insured. Ordinarily, an impervious core wall will not be required on small dams of this type, but excavation for the base of the dam should be carried at least 2 feet below the bed of the gully and an excavation of equal depth should be made into the gully banks in order to provide a suitable bond between the fill material and the parent earth. The foundation of the dam shall be stripped of all loose material and burmas, and the fill tied securely to the original earth. Excavation for fill material should be made from the reservoir and placed in the fill in layers of uniform thickness, not exceeding six inches in depth. Each layer should be thoroughly compacted by the trampling of teams or by the constant operation of a tractor or equally heavy equipment. Slope of the upstream side of the dam should not be less than 3:1 and slope of the downstream side of the dam should be not less than 2:1. Slopes of dams shall be adequately protected. Width of the crest of the dam should be not less than one-half of the height measured from the gully bottom to the top of the crest, with a minimum crest width of four feet. Freeboard should be at least 3 feet above the maximum stage when the spillway is discharged at the designed flood rate. Spillways must be provided which will adequately handle the estimated maximum flood discharge in accordance with recognized hydraulic practices. Spillways not lined with wood, stone or concrete shall be sodded or heavily grassed. Upon request of county agricultural agents, representatives of the Soil Conservation Service may be made available to assist cooperating farmers in working out proper practices in specific problem areas.

Prior approval of this practice by the county committee is required. Fencing may be required by the county committee. Dams are not to be constructed on active streams, nor on intermittent streams in excess of three miles of length. Practice is not applicable on sandy soils. The purpose of this practice is for stock-watering and erosion control. Such reservoirs cannot be used for irrigation.

PRACTICE A–7. *Reseeding depleted pastures with good seed of adapted pasture grasses or legumes—ten pounds of seed.*—Rate of credit—ten pounds of seed equals one unit.

Specifications.—(a) Applicable grasses and legumes are as follows: Mixtures of alfalfa, sweet clover, alsike clover, white clover, Kentucky blue grass, smooth brome grass, meadow fescue, perennial rye grass, tall meadow oat grass, orchard grass, crested wheat grass, Reed's canary grass; under dry land conditions crested wheat grass may be seeded alone.

The following seed mixtures recommended by the Utah State Experiment Station, are approved for Weber and Davis Counties, Utah:

	Amount (lbs.)
No. I. For good, well-drained irrigated land:	
Smooth brome grass	4
Orchard grass	4
Meadow fescue	3
Perennial rye grass	3
Kentucky blue grass	4
White clover	3
Alsike clover	2
No. II. For damp, fertile soils:	
Redtop	3
Meadow fescue	4
Perennial rye grass	4
Orchard grass	4
White clover	2
Alsike clover	4
Kentucky blue grass	3
No. III. For damp, slightly alkali soils:	
Redtop	3
Meadow fescue	4
Orchard grass	4
White sweet clover	3
Yellow sweet clover	3
No. IV. Bench land with irrigation water:	
Smooth brome grass	4
Orchard grass	4
Kentucky blue grass	6
White clover	3
Alsike clover	2
No. V. Bench land with very little irrigation water:	
Slender wheat grass	5
Crested wheat grass	5
Western wheat grass	5

Credit may be given for this practice in addition to credits given on practices A–1 or A–13 carried out on the same land.

PRACTICE A–10. *Application of not less than two tons, air dry weight, of straw, excluding barnyard and stable manure, per acre in commercial orchards or on commercial vegetable land.*—Rate of credit—application of two tons of mulching material equals one unit.

Specifications.—When straw or hay is applied in winter or early spring, it is recommended that this practice be followed immediately by an addition of three pounds of ammonium sulphate to each bearing plum, prune, apricot, or cherry tree or five pounds for each bearing apple or pear tree.

PRACTICE A–13. *Restoration of noncrop open pasture by nongrazing during the normal pasture season on an acreage equal to one-half of the number of acres of such pasture required to carry one animal unit for a twelve-month period.*—Rate of credit—one unit.

Specifications.—(a) The normal pasture season will be from the start of forage growth to seed maturity with a minimum period of four months during which period no livestock shall be grazed on the deferred pasture.

(b) On land on which cattle or horses are grazed the area to be restored by nongrazing must be fenced sufficiently to prevent the entry of livestock.

(c) On land used exclusively for grazing sheep either the area to be restored is fenced and the fence sufficiently maintained to prevent the entry of livestock or the entry of livestock is prevented by herding.

(d) The remaining noncrop open pasture land on such farm shall not be pastured to such an extent as will decrease the stand of grass or injure the forage, tree growth, or watershed.

(e) The operator shall submit to the county committee in writing the designation of the area to be restored by nongrazing previous to carrying out such practice.

Credit may be given for this practice in addition to credit given for practice A–7 carried out on the same land.

PRACTICE A–14. *Prevention of soil erosion and leaching of irrigated cropland and orchard land by control of the application of irrigation water.*—Rate of credit—One acre equals one unit.

Specifications.—1. The operator must obtain approval to use this practice from the county committee before the first irrigation.

2. Water distribution system and control structures with respect to any farm must be such as to make possible adequate control and measurement of irrigation water applications. Structures described in Utah Extension Service Bulletin New Series 69, or types of structure which have prior approval of the State committee, shall be deemed to be adequate.

3. Credit will be given for the acreage in fields on which there is no erosion or leaching resulting from excessive applications of irrigation water or from too frequent applications thereof on the area approved for this practice as evidenced by:

a. The absence of silt deposits at the end of irrigation runs,

b. No eroded furrows not leveled out or which will not level out at the next cultivation, when the furrow method of irrigation is practiced,

c. No gullies washed when other than the furrow method of irrigation is practiced, and

d. No evidence of excessive run-off or waste water from the field irrigated.

4. Accurate and complete records of all irrigations with respect to any farm shall be kept on forms supplied by the State committee and approved by the Director of the Western Division, these records to be made available for inspection by authorized representatives of the State or county committees at any time prior to the submission of such records to the county committee as a compliance requirement.

5. Credit for this practice shall not be recommended by the county committee if it determines from an examination of the irrigation records or from other evidence that irrigations with respect to any farm have been excessive or too frequent to be consistent with good farming practice.

Credit may be given for this practice in addition to credits given for practices A–1, A–5, A–10, B–1, B–3, C–6, D–2, E–2 or E–3 carried out on the same land.

PRACTICE B–1. *Seeding biennial legumes, perennial legumes, perennial grasses (other than timothy or redtop) or mixtures (other than a mixture consisting solely of timothy or redtop) containing perennial grasses, perennial legumes, or biennial legumes.*—Rate of credit—One acre equals one unit.

Credit may be given for this practice in addition to credits given for practices A–1 or A–14.

Specifications.—(a) Seeding alfalfa, sweet clover, alsike clover, white clover, Kentucky blue grass, smooth brome grass, meadow fescue, perennial rye grass, tall meadow oat grass, orchard grass, crested wheat grass and Reed's canary grass, or mixtures of legumes or perennial grasses named under A–4 above.

(b) For seeding on cropland in 1938, biennial sweet clover, alsike clover, orchard grass, or mixtures of timothy or redtop and legumes; provided such mixtures do not have a predominance by weight of timothy and/or redtop.

(c) Sweet clover, yellow or white, alsike clover or mixtures of timothy, redtop and biennial or perennial legumes, which mixtures do not have a predominance of timothy and/or redtop, may be sown.

(d) It is recommended that either yellow or white sweet clover be sown on irrigated land in Weber and Davis Counties, Utah, but that only yellow sweet clover be sown on dry land.

(e) This practice limited to cropland and orchard land.

PRACTICE B–3. *Green manure and cover crops (excluding lespedeza and any crop for which credit is given in 1938 under any other practice).*—Rate of credit—one acre equals one unit.

(a) *Green manure crops of which a good stand and good growth is plowed or disced under on land not subject to erosion.*—Crops applicable are: annual and biennial legumes, cereals (except wheat) and other crops commonly used as green manure (except perennial legumes, and perennial grasses).

The amount of such green growth to be turned under shall equal or exceed approximately one ton of air-dried material per acre. Crops to be turned under must be in a green succulent condition when turned under.

The above crops shall be utilized as green manure crops only on irrigated land and on orchards and on commercial vegetable and potato land as cover crops if not pastured or used for grain, hay, seed or forage.

Credit may be given for this practice in addition to credit given for practice A–14.

PRACTICE C–3. *Cultivating, protecting, and maintaining by replanting, if necessary, a good stand of forest trees, planted between January 1, 1934, and January 1, 1938.*—Rate of credit—One acre equals two units.

Specifications.—Two cultivations per season with suitable farm implements; the trees to be enclosed with fence to protect them from livestock. Replanting must maintain a minimum of 200 living trees per acre. The trees to be irrigated, if possible, when in need of irrigation water.

PRACTICE C–6. *Green manure crops of which a good stand and a good growth is plowed or disced under on farms on which the average acreage of land on which commercial vegetables were grown in 1936 and 1937 exceeds 50 percent of the acreage of cropland in the farm in excess of the potato acreage allotment established for the farm.*—Rate of credit—One acre equals two units.

Specifications.—Crops applicable as green manure are annual and biennial legumes (except lespedeza), cereals (except wheat) and other crops commonly used as green manure (except perennial legumes and perennial grasses). The amount of green growth to be turned under shall equal or exceed approximately one ton of air dried material per acre.

Credit may be given for this practice in addition to credit given for practice A–14.

PRACTICE D–1. *Planting forest trees (including shrubs in protective plantings) provided such trees are protected and cultivated in accordance with good tree culture practice.*—Rate of credit—One acre equals five units.

Specifications.—Species to be considered as forest trees or shrubs for protective planting: Russian olive, Siberian elm, Eastern red cedar, Green ash, Siberian pea tree, Black locust, Honey locust. Minimum spacing, 12 feet for conifers, 8 feet for hardwood species in rows, these rows to be spaced at a minimum of 8 feet. Trees to be staggered in adjoining rows, planting to be done in a workmanlike manner in the spring of 1938 in ground properly prepared for the planting of trees, preparation of ground to be done previously by plowing.

There shall be a minimum of 300 trees and/or shrubs per acre on land properly prepared for planting.

PRACTICE D–2. *Control of seriously infested plots of perennial noxious weeds on cropland in organized weed control districts, in accordance with good chemical or tillage methods.*—Rate of credit—One acre equals five units.

Specifications.—Approved chemical methods include the application at the rate of 2 pounds of sodium chlorate or 2 pounds of atlacide per square rod in the first application. Chemicals may be applied as a spray or a dust and should be applied to the plant preferably in the bloom stage. The second application of chemicals should be made if and when the weeds reappear, this application to be at the rate of 1 pound per square rod.

Approved tillage methods include the preparation of the ground by deep plowing so that cultivation may be readily effected. Cultivation should begin early in the spring and continue at 5 to 15 day intervals, the length of interval being determined by the dampness and fertility of the soil. That is, the more fertile, damper soils where the rate of growth is more rapid, and particularly in the spring of the year, cultivation should be more frequent than later in the season, or on poor dry soils. Cultivation should be done with effective weeders that cut off rather than mash the weeds along the ground.

Noxious weeds which may be cultivated under these practices include Russian Knapweed, white top, morning glory or bind weed, Canada thistle, leafy spurge.

An organized weed control district is an area defined under State statute as an area wherein designated officials are authorized to require effective weed control practices to be instituted on all land on which such practices are necessary to control or eradicate noxious weeds in such area, or any other organized area comprising all or a part of a county wherein the State committee finds that effective weed control practices will be instituted on all land on which such practices are necessary to control or eradicate noxious weeds in such area.

Credit may be given for this practice in addition to credits given for practice A–14.

PRACTICE E–2. *Renovation of perennial legumes and mixtures of perennial grasses and legumes.*—Rate of credit—two acres equal one unit.

Specifications.—One year old alfalfa and/or mixtures of perennial grasses and perennial legumes, by cultivation to a minimum depth of two inches shall qualify, providing the area is reseeded at a rate of not less than four pounds per acre. Irrigation must not follow this practice until all dislodged weed roots have been exposed long enough to completely die. Approval of this practice by the county committee is required prior to performance. This practice limited to cropland.

Credit may be given for this practice in addition to credits given for practice A–14.

PRACTICE E–3. *Seeding timothy or redtop or a mixture consisting solely of timothy and redtop.*—Rate of credit—two acres equal one unit.

Specifications.—It is recommended that these crops be seeded only in meadows having sufficient water. Seeding must be done in a workmanlike manner on a fine well-mulched seed bed.

Credit may be given for this practice in addition to credits given for practice A–14.

PRACTICE F–3. *Contour-listing or furrowing noncrop land.*—Rate of credit—four acres equal one unit.

Specifications.—Contour-listing consists of running a furrow with a corn lister, or other suitable implement, at right angles to the direction of the slope.

If the contour-listing is done with a view that the furrows shall retain all of the moisture that falls, the lister furrows shall be spaced close together. If the furrowing is done with a view only of retaining the moisture for a short period or to slow up its descent the furrows may be spaced farther apart. In this latter event the furrows should be of the discontinuous type wherein the lister is lifted out of the ground about every fifty feet along the length of the furrow and is allowed to remain out of the ground each time of lifting for a distance of about ten feet. The next furrow below each other furrow shall be listed in such a manner that the fifty foot listed section falls imediately below the non-listed space of the upper furrow. This creates a checkerboard pattern which causes the runoff water to work back and forth between openings in the furrows.

In contour-listing a small acreage, it is usually advisable to space either lister furrows or contour plow furrows very close together in order to retain all of the moisture that falls and to allow it to soak into the ground. This is especially true where there is no stand of perennial vegetation, under which condition some reseeding with grass or other perennial species should accompany the listing operations. When land that has a sparse vegetative cover is contour furrowed, it is usually good practice to space the furrows farther apart and make them of the discontinuous type. By spacing the furrows farther apart where there is a sparse stand of vegetation little of the native stand is disturbed and the accumulated moisture, due to the contour furrows, gives it an excellent chance to make a hurried vegetative come-back by natural reseeding or spreading by underground roots depending on the type of vegetation present.

Before institution of the practice of contour-listing or furrowing non-crop land the prior approval of the county committee, including plans and specifications, must have been obtained. Furrows shall be run on the contour. Furrows shall be at least 4 inches in depth below the original ground level, not less than 8 inches wide and spaced not more than 20 feet apart.

PRACTICE F–5. *Protecting summer-fallowed acreage from wind and water erosion by incorporating small-grain stubble and straw into the surface soil. No credit will be given for this practice on any farm when carried out on light sandy soils or on soils in any area where destruction of the vegetative cover has resulted in the land becoming subject to serious wind erosion.*—Rate of credit—four acres equal one unit.

Specifications.—Protecting summer fallow by incorporating sufficient small-grain stubble and straw into the surface soil to prevent wind and water erosion. All tillage implements used for incorporating the straw or trash into the surface soil shall leave the surface rough and shall leave the stubble and trash on and near the surface and no straw or stubble shall be burned or destroyed by other methods.

Credit may be given for this practice in addition to credit given for practice I–1.

PRACTICE I–1. *Contour seeding of small-grain crops.*—Rate of credit—ten acres equal one unit.

Specifications.—Contour seeding of small-grain crops in 1938 at right angles to the prevailing slope of the ground and on ground having a minimum slope of 2% average. Drill rows should not deviate from any contour line more than one percent. At the time performance is checked, at least 95% of the area should meet the foregoing specifications with respect to contour lines. The practice must be carried out according to specifications on an entire field if the field is to qualify.

Credit may be given for this practice in addition to credit given for practice F–5 carried out on the same land.

SEC. XIII. *Normal yields and productivity indexes.*—A. *Normal yields of special soil-depleting crops.*—The county committee with the assistance of other local committees in the county shall determine for each farm for which a wheat or potato acreage allotment is to be established a normal yield for each crop in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration.

1. *Wheat.*—(a) Where reliable records of the actual average yield per acre of wheat for the years 1928 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

(b) If for any year of such ten-year period reliable records of the actual average yield are not available or there was no actual yield because wheat was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such ten-year period. Where the productivity index most recently established for the farm in connection with the agricultural conservation programs is determined by the county committee to be an accurate reflection of the foregoing factors, the yield obtained by multiplying such index by the county average yield established by the Secretary shall be used as the normal yield for the farm.

(c) The yields determined under paragraph (b) of this subdivision 1 shall be adjusted so that the average of the normal yields for all farms in the county (weighted respectively by the wheat acreage allotments established for such farms) shall conform to the county average yield established by the Secretary.

2. *Potatoes.*—(a) The normal yield of potatoes for any farm shall be the yield which may reasonably be expected from the land devoted to the production of potatoes in 1938 with due consideration for type of soil, drainage, production practices, general fertility of the land and the yield of potatoes customarily secured on the farm. The average yield for all farms in any county with respect to potatoes shall not exceed the county average yield for potatoes established by the Secretary.

SEC. XIV. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment; (b) any soil-depleting acreage allotment or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.

SEC. XV. *State and regional bulletins, instructions, and forms.*—The Agricultural Adjustment Administration shall prepare and issue such State and regional bulletins, instructions, and forms as may be required in administering the 1938 Agricultural Conservation Program.

PART II—DEFINITIONS

As used herein and in all forms and documents relating to the 1938 Agricultural Conservation Program in Weber and Davis Counties, Utah, the following terms shall have meanings ascribed to them as follows:

SECTION I. *Definitions for the purposes of the 1938 Agricultural Conservation Program.*—

Secretary means the Secretary of Agriculture of the United States.

Regional Director means the Director of the Western Division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the Western Region.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

State Committee means the group of persons designated within the State to assist in the administration of the 1938 Agricultural Conservation Program in State.

County Committee means the group of persons elected within any county to assist in the administration of the 1938 Agricultural Conservation Program in such county.

County means the political or civil division of a State designated as a county.

Landlord means a person who owns land and rents such land to another person or operates such land.

Tenant means a person who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Animal Unit means one cow, one horse, five sheep, or five goats, or the equivalent thereof.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

All farms in Weber and Davis Counties, Utah, are class B farms, i. e., farms for which no general soil-depleting acreage allotment is established.

Cropland means farm land which is tilled annually or in regular rotation, excluding commercial orchards, restoration land, and any land which constitutes, or will constitute if such tillage is continued, a wind erosion hazard to the community, but including any other land which has been planted since January 1, 1930, to permanent pasture or forest trees and which was classified as cropland under the 1937 Agricultural Conservation Program, and including also land planted to non-commercial orchards other than abandoned orchards.

Commercial orchards means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1938 (excluding non-bearing orchards and vineyards), from which the principal part of production is normally sold.

Commercial vegetables means the acreage of vegetables or truck crops (including potatoes on farms where a potato acreage allotment is not established, sweetpotatoes, tomatoes, sweet corn, melons, cantaloupes, strawberries, and commercial bulbs and flowers, but excluding peas for canning and sweet corn for canning and artichokes for use other than as vegetables) of which the principal part of the production is sold to persons not living on the farm.

Noncrop open pasture means pasture land (other than rotation pasture land and range land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

Done at Washington, D. C., this 27th day of June, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–1842; Filed, June 28,1938; 11:14 a. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Docket No. 153–FD]

INVESTIGATION OF NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN STATE OF MONTANA AND EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 27th day of June, 1938.

It appearing, That by Orders Nos. 2 and 175,[1] the Commission, upon its own motion, entered into and conducted an investigation under the provisions of Section 4–A of the Bituminous Coal Act

[1] 2 F. R. 1058; 3 F. R. 22 (DI).

of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Montana and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having, on the 27th day of June, 1938, adopted the Examiner's report and recommendations as its own, which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Montana directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference or prejudice as between localities in Montana in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce, or any substantial part thereof, are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore it is further ordered:

1. That on and after the 1st day of August, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Montana, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code as promulgated by the Commission and made effective on the 21st day of June, 1937,[1] and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Montana.

2. That any producer of bituminous coal in intrastate commerce within the State of Montana, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Montana who is not, upon the date of this order, a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances,[2] and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Montana known to produce bituminous coal, publication thereof to be made three (3) times within fourteen (14) days from the date of this order.

By order of the Commission.

Dated this 27th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-1847; Filed, June 28, 1938; 12:56 p. m.]

[1] 2 F. R. 1059.

[1] 2 F. R. 880.
[2] 2 F. R. 2751.

TITLE 22—FOREIGN RELATIONS

DEPARTMENT OF STATE

RULES OF PROCEDURE GOVERNING THE ISSUANCE OF LICENCES FOR THE EXPORTATION OF TIN-PLATE SCRAP

JUNE 24, 1938.

The Secretary of State announces that he has been authorized by the National Munitions Control Board to assign additional allotments to producers of tin-plate scrap under the provisions of paragraph (7) of the rules of procedure governing the issuance of licenses for the exportation of tin-plate scrap announced on December 6, 1937.[1]

These additional allotments will be granted to producers of tin-plate scrap only and will be assigned after July 1, 1938, in the order of the receipt of requests therefor, provided that, in the event that it shall be necessary in order that the quantity of tin-plate scrap to be exported during the calendar year 1938 shall not exceed the total figure agreed upon by the National Munitions Control Board, the available balance of such total shall be apportioned among the applicants on the basis of their production during the first six months of 1938. Allotments will be based on the individual producer's request therefor with the provision that no allotment of more than twenty-five long tons shall exceed in amount twenty-five percent of the quantity of tin-plate scrap produced by him during the first six months of the calendar year 1938. It is provided further that no allotment to any one producer, including his affiliated or associated companies, shall exceed 1,000 long tons. Requests for allotments of twenty-five long tons or less may be granted in full, without reference to the quantity of tin-plate scrap produced during the first six months of 1938, provided the producer concerned presents convincing evidence, in the form of a sworn statement, establishing that he will, as far as can be foreseen, during the calendar year 1938, produce at least the equivalent of the allotment he requests in excess of the total of any allotments previously assigned to him for export during the calendar year 1938.

No producer shall be eligible to receive an allotment under the provisions of paragraph (7) until the Secretary of State has received from him a sworn statement setting forth the quantity of tin-plate scrap, in long tons, produced by him during the first six months of the calendar year 1938. Sworn statements submitted under the provisions of this paragraph shall include the name and address of the producer, the name and location of each factory, and the quantity of tin-plate scrap produced at each factory.

The Secretary of State's announcement to the press, No. 196 of April 26, 1938, is modified accordingly.

[SEAL] CORDELL HULL,
Secretary of State.

[F. R. Doc. 38-1841; Filed, June 28, 1938; 9:45 a. m.]

[1] 2 F. R. 2751.

TITLE 31—MONEY AND FINANCE: TREASURY:

PUBLIC DEBT SERVICE

[1938—Supp. 3 to Dept. Circ. No. 300]

REGULATIONS WITH RESPECT TO UNITED STATES BONDS AND NOTES

JUNE 27, 1938.

1. Paragraphs 15 and 16 of Department Circular No. 300, dated July 31, 1923, as amended, prescribing regulations with respect to United States bonds and notes, are hereby amended to read as follows:

"15. *On issues of registered bonds.*—Registered bonds to be delivered upon exchange, transfer, or other transactions, unless delivered in person to the registered owner or his duly authorized representative, will be delivered by registered mail without expense to, but at the risk of, the registered owner, except that delivery will be made by express collect at the risk and expense of the owner, if written instructions to that effect are given.

"16. *On issues of coupon bonds and notes.*—Coupon bonds or notes to be delivered upon exchange or other transaction, whether the bonds or notes to be exchanged are presented to the Treasury Department or to a Federal Reserve Bank, unless delivered in person to the owner or his duly authorized representative, will be delivered in regular course by a Federal Reserve Bank, by registered mail insured at the risk and expense of the owner, except that delivery will be made by express collect, likewise at the risk and expense of the owner, if written instructions to that effect are given."

2. This supplementary circular shall be effective July 1, 1938, and the Secretary of the Treasury may at any time, or from time to time, withdraw or amend any or all of the provisions thereof.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1839; Filed, June 27, 1938; 3:48 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

SPECIAL REGULATIONS TO GOVERN OPERATION OF DRAWBRIDGE ACROSS CHURCH CREEK BETWEEN JOHNS AND WADMALAW ISLANDS, S. C., ON COUNTY HIGHWAY BETWEEN CHARLESTON AND ROCKVILLE, S. C.

Supplemental to rules and regulations to govern the operation of drawbridges crossing all navigable waters of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries.

THE LAW

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 1056 (DI).*]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of the drawbridge across Church Creek on the county highway between Charleston and Rockville, S. C.

1. The owner of, or agency controlling, the bridge will not be required to keep a draw tender in constant attendance.

2. Whenever a vessel unable to pass under the closed drawspan desires to pass through the draw, at least twenty-four (24) hours advance notice of the time the opening is required shall be given to the authorized representative of the owner of, or agency controlling the bridge.

3. Upon the receipt of such notice, the authorized representative of the owner of, or agency controlling the bridge in compliance therewith shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owner of, or agency controlling, the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can easily be read at any time a copy of these regulations together with a notice stating exactly how the representative specified in paragraph 2 may be reached.

5. The operating machinery of the draw shall be maintained in a serviceable condition, and the draw opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof.

Approved, June 16, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1840; Filed, June 28, 1938; 9:45 a. m.]

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

[Department Circular No. 304—Second Edition [1]]

PRE-SAILING EXAMINATION OF DANISH PASSENGER VESSELS AND COLLECTION OF FEES FOR SAME

By virtue of the authority conferred by section 4400 of the Revised Statutes of the United States, as amended (46 U. S. C. 362), the following regulations are established for the purpose of carrying out the provisions of that statute providing for the inspection of foreign passenger steamers carrying passengers from the United States, and the collection of fees for such examination:

It has come to the attention of the Department that the Government of Denmark, under the "Ordinance Relating to the Application of the Merchant Shipping (Inspection of Ships) Act of March 29, 1920, to Foreign Ships", with subsequent amendments and regulations promulgated thereunder, requires the inspection of all American passenger vessels prior to their departure from a Danish port for a voyage to a port or place in any country other than Denmark. A fee of kroner 10 is imposed against an American passenger vessel for each such pre-sailing inspection.

In view of the above and pursuant to the third understanding of the President of the United States contained in the ratification of the International Convention for Safety of Life at Sea, 1929, and the provisions of section 4400 of the Revised Statutes of the United States, it is hereby ordered that a pre-sailing examination shall be made of all passenger vessels flying the flag of Denmark prior to their departure from any port or place in the United States on a voyage to any port or place in any country other than the United States. No pre-sailing examination is required to be made of such Danish passenger vessel when proceeding from one port or place in the United States to another port or place in the United States, the examination to be made only at the final port of departure for a foreign port.

Fees shall be imposed against every Danish passenger vessel for such pre-sailing examination, the amount of the fee being the equivalent in dollars and cents, at the rate of exchange on the date on which the examination is made, of kroner 10.

In carrying out the pre-sailing examination and the collection of fees, the local inspectors and collectors of customs shall conform to the following procedure:

The certificate of examination, Form 989, shall be issued as heretofore and on the back of such certificate of examination the local inspectors will enter the date the pre-sailing examination is made. The certificate of examination so endorsed shall be presented by the master, owner, or agent at the time of clearance to the collector of customs, who shall collect the fee and endorse upon the certificate the fact of such collection. The collector of customs will issue a receipt to the master, owner, or agent of the vessel on Cat. 1008. The fee so collected shall be accounted for in the same manner as any other navigation fee. In order that this fee may be properly identified on Cat. 1008, the caption "Pre-sailing Examination" shall be inserted directly under the caption "Post Entry."

No clearance shall be granted to any Danish passenger vessel to depart for a foreign port or place unless the fee has been collected for such examination and receipt thereof endorsed on the certificate of examination. This procedure will be followed each time a Danish passenger vessel applies for clearance to a foreign port or place in order to insure that such vessel has been examined and the fee for such examination has been paid to the collector of customs.

This fee will be levied on and after May 1, 1938.

Approved, June 28, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-1845; Filed, June 28, 1938; 12:38 p. m.]

[1] The first edition of this circular was issued April 21, 1938, 3 F. R. 940 (DI). This edition supersedes the first.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF AND ORDER FOR HEARING IN RE DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS NOS. 2, 3, 4 AND 5

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Congress, 1st Session), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. Notice is hereby given to all interested parties that a hearing in this matter shall be held before the Commission commencing on the 13th day of July, 1938, at 10:00 A. M., in the Hearing Room of the Commission at 15th and Eye Streets, N. W., Washington, D. C., for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts 9, 10, 11, 12, 14 and 15, inclusive, and so much of District 13 as is in Minimum Price Area 3, and evidence relating to any change or changes in wage rates, hours of employment or other factors, exclusive of seasonal changes, substantially affecting costs, in each of said Districts which may have been established since January 1, 1936, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Area 2 (Districts 9, 10, 11 and 12), Area 3 (so much of District 13 as is in Minimum Price Area 3), Area 4 (District 14), and Area 5 (District 15), in the calendar year 1936, as adjusted within the meaning of Section 4, Part II, of the Act, at which time all interested persons will be afforded an opportunity to be heard.

2. The District Boards of said Districts have submitted to the Commission, pursuant to its Order No. 240,[1] their determinations of the weighted average of the total costs of the total ascertainable tonnage produced in their respective Districts in the calendar year 1936, adjusted as aforesaid, as follows:

District No.	*District Board's Determination*
9	$1.5887
10	1.7766
11	1.6697
12	2.8406
13	2.4238
14	3.6296
15	2.0481

[1] 3 F. R. 935 (DI).

District or minimum price area	Actual 1937 costs: 1936 tonnage	Actual 1937 costs: Period	Actual 1937 costs: Per-ton cost	Actual costs plus two adjustments for unemployment and Coal Act taxes[1]
District				
District 9	7,892,942	May–Dec.[2]	$1.5711	$1.59
District 10	48,919,533	Apr.–Dec.	1.7611	1.77
District 11	16,646,367	Apr.–Dec.[3]	[4] 1.6366	1.65
District 12	3,551,750	Apr.–Dec.	2.8265	2.85
District 13	12,543,778	June–Dec.[4]	2.4691	2.48
District 14	1,936,412	Jan.–Dec.[5]	3.6049	3.63
District 15	7,050,077	Apr.–Dec.	2.0473	2.06
Minimum price area				
Price area 2	77,010,592	([6])	1.7646	1.78
Price area 3	12,543,778	([6])	2.4691	2.48
Price area 4	1,936,412	([6])	3.6049	3.63
Price area 5	7,050,077	([6])	2.0473	2.06

[1] Rounded to nearest cent.
[2] In District 9, the wage increase became effective May 1.
[3] In District 11, wages were increased on April 1 and again on November 1. The figure cited is the average for 7 months at the April scale plus 2 months at the November scale, without attempt at proration.
[4] April and May omitted because of prolonged strike.
[5] Actual costs for nine-month period April to December 1937, combined with three-month costs for January to March 1937, so adjusted as to raise the three-month costs to the level of the wage scale effective April 1.
[6] For period of 1937 covered see above.

3. The Division of Research and Statistics of the Commission has submitted to the Commission the following computations of the weighted average of the actual costs of the ascertainable tonnage in each District and Minimum Price Area for the nine-months period (except as otherwise specified), April to December, 1937, the latest period for which cost data are available at the increased wage-rates that became generally effective April 1, 1937. These costs have been further adjusted to take account of known changes in Federal unemployment taxes, effective January 1, 1938, and to take account of the known effects of the tax imposed by the Bituminous Coal Act of 1937.

The Division of Research and Statistics has recommended to the Commission that the above costs be considered as evidence of weight in determining the adjusted costs, subjects to such further adjustments as may be proved at the hearing to be advisable, in order to take account of additional known factors of increase or decrease which are not herein fully reflected.

4. Any person desiring to offer affirmative evidence at such hearing shall, not later than the day preceding the date of said hearing, file with the Commission at its offices in Washington, D. C., a written appearance setting forth therein the nature of his interest and a concise written statement of the facts which he wishes to present. Such cross-examination as the Commission in its discretion deems proper will be permitted.

5. That the Secretary cause a copy of this Notice of and Order for Hearing to be published forthwith in the Federal Register and in two consecutive issues of a newspaper of general circulation in each of the aforesaid Districts and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel and to the Secretary of each District Board, and to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 27th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–1846; Filed, June 28, 1938; 12:56 p. m.]

JUL 1 1938

FEDERAL REGISTER

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Washington, Thursday, June 30, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Cotton 207]

REGULATIONS PERTAINING TO COTTON MARKETING QUOTAS FOR THE 1938–1939 MARKETING YEAR

CONTENTS

PART I. ALLOTMENTS AND YIELDS

SEC. 101. National Baleage Allotment.
SEC. 102. State Baleage Allotments and State Acreage Allotments.
SEC. 103. County Acreage Allotments.
SEC. 104. Apportionment of Acreage Allotments Among Established Farms.
SEC. 105. Apportionment of Acreage Allotments Among New Farms.
SEC. 106. Normal Yields.
SEC. 107. Applicability of Detailed Instructions.

PART II. FARM MARKETING QUOTAS

SEC. 201. Amount of Farm Marketing Quota.
SEC. 202. Publication of Farm Acreage Allotments and Farm Marketing Quotas.
SEC. 203. Notice of Farm Marketing Quotas.
SEC. 204. Apportionment of Farm Marketing Quotas for Farms Planting Within Acreage Allotments.
SEC. 205. Apportionment of Farm Marketing Quotas for Farms Planting in Excess of Acreage Allotments.
SEC. 206. Successors in Interest.
SEC. 207. Transfer of Farm Marketing Quotas.
SEC. 208. Review of Quotas.
SEC. 209. Marketing Quotas in Effect.

PART III. MEASUREMENT OF FARMS

SEC. 301. Provision for Measuring Farms.
SEC. 302. Report of Measurements.

PART IV. MARKETING CARDS, MARKETING CERTIFICATES, AND IDENTIFICATION OF COTTON

SEC. 401. Issuing Marketing Cards for Farms Planting Within Acreage Allotments.
SEC. 402. Issuing Marketing Cards for Farm Planting in Excess of Acreage Allotments.
SEC. 403. Issuing Marketing Cards for Multiple Farms.
SEC. 404. Issuing Marketing Certificates.
SEC. 405. Reissuing Marketing Cards.
SEC. 406. Lost, Destroyed, or Stolen Marketing Cards.
SEC. 407. Color of Marketing Cards.
SEC. 408. Identification of Cotton.

PART V. PENALTIES

SEC. 501. General.
SEC. 502. Farms Producing Less Than 1,000 Pounds of Lint Cotton.
SEC. 503. Long Staple Cotton.
SEC. 504. Cotton Marketed by Publicly-Owned Agricultural Experiment Stations.
SEC. 505. Payment and Collection of Penalties.
SEC. 506. Remittance of Penalties.
SEC. 507. Penalties Secured by Bonds or Money Held in Escrow.
SEC. 508. Adjustment of Penalties by County Committees.
SEC. 509. Remittance of Penalties to the Secretary of Agriculture by Treasurers of County Committees.
SEC. 510. Records and Accounts of Treasurers of County Committees.
SEC. 511. Refund of Penalties.
SEC. 512. Court Proceedings to Collect Penalties.

PART VI. RECORDS AND REPORTS

SEC. 601. Records to be Kept and Reports to be Submitted by Ginners.
SEC. 602. Records to be Kept and Reports to be Submitted by Buyers.
SEC. 603. Records to be Kept and Reports to be Submitted by Producers.
SEC. 604. Records to be Kept and Reports to be Submitted by Transferees.
SEC. 605. Data to be Kept Confidential.
SEC. 606. Enforcement.

PART VII. MISCELLANEOUS

SEC. 701. Forms and Instructions.
SEC. 702. Interim Marketing Cards, Marketing Certificates, and Penalty Receipts.
SEC. 703. Long Staple Cotton.

PART VIII. DEFINITIONS

SEC. 801. Definitions.

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, I do make, prescribe, publish, and give public notice of the following regulations governing cotton marketing quotas for the 1938–1939 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.[1]

[1] Unless otherwise indicated, all citations herein are to sections of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 52 Stat. 31, as amended).

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Cotton marketing quotas for 1938–1939 marketing year ... Page 1569
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Woven cotton yard goods, trade practice rules relative to shrinkage of ... 1583
TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Rules of practice amended ... 1584

NOTICES

Department of Commerce:
Bureau of Air Commerce:
Air traffic rule, New York World's Fair Grounds, June 30, 1938 ... 1589
Securities and Exchange Commission:
Bradford Electric Co., hearing ... 1589
Wells, Fargo & Co., capital stock, hearing postponed ... 1589

Done at Washington, D. C., this 25th day of June, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

PART I. ALLOTMENTS AND YIELDS

SECTION 101. *National baleage allotment.*—The national allotment of cotton for the calendar year beginning January 1, 1938, is 10,000,000 standard bales of 500 pounds gross weight, increased by that number of standard bales of 500 pounds gross weight equal to the production in 1938 of that number of acres required to be allotted for 1938 as set forth in section 102 (c), relating to minimum State acreage allotments, and in

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section 103 (b), relating to minimum county acreage allotments. The production in 1938 of the acreage allotment referred to in section 102 (e), relating to a special fund of acreage allotments consisting of 4 percent of the State acreage allotment, and in section 102 (f), relating to minimum farm acreage allotments, shall be in addition to such national allotment. [Sec. 343 (a), (b), and (c).]

SEC. 102. *State baleage allotments and State acreage allotments.*—(a) Ten million standard bales of the national baleage allotment of cotton for the calendar year 1938 shall be apportioned among the several States on the basis of the average of the normal production of cotton in each State for the five years 1933 to 1937. The normal production of a State for each such year shall be (1) the quantity of cotton produced therein in such year plus (2) the normal production of the acres diverted from the production of cotton in all counties in the State under the agricultural adjustment or conservation program in such year. The normal production of the acres diverted from the production of cotton in any county in any year shall be the average yield per acre of the acres planted to cotton in such county in such year times the number of acres so diverted in such county in such year. [Sec. 344 (a).]

(b) A State acreage allotment shall be established for each State to which an allotment is made under subsection (a) of this section. The State acreage allotment shall be that number of acres equal to the result obtained by dividing the number of standard bales allotted to the State under subsection (a) of this section by the average yield per acre for the State expressed in standard bales. The average yield per acre for any State shall be determined on the basis of the average of the normal production for the State for the five years 1933 to 1937 and the average, for the same period, of the acres diverted from the production of cotton in the State under the agricultural adjustment or conservation programs and the acres planted to cotton. [Sec. 344 (b).]

(c) Notwithstanding the foregoing provisions of this section, the State acreage allotment for any State which is less than 5,000 acres shall be increased to 5,000 acres if at least 3,500 bales of cotton were produced in such State in any of the five years 1933 to 1937. [Sec. 344 (e) (2).]

(d) An acreage not greater than two percent of the State acreage allotment shall be made available for apportionment to farms in the State on which cotton was not planted in any one of the three years 1935, 1936, and 1937. [Sec. 344 (c) (2).]

(e) In addition to the State acreage allotment, a special fund of acreage allotments equal to 4 percent of the State acreage allotment shall be established for each State for apportionment as set forth in sections 103 (c) and 104 (b), (e), and (f). [Sec. 344 (g).]

(f) There shall be available in each State for allotment to farms that number of acres, in addition to the State acreage allotment and the special fund of acreage allotments equal to 4 percent of the State acreage allotment, equal to the total amount by which farm acreage allotments in the State are increased as set forth in section 104 (h) relating to minimum farm acreage allotments. [Sec. 344 (h).]

SEC. 103. *County acreage allotments.*—(a) The State acreage allotment (less that part set aside under section 102 (d) for apportionment to new farms) shall be apportioned among the counties in the State on the basis of the sum of (1) the acreage therein planted to cotton during the five years 1933 to 1937 and (2), in the applicable years, the acreage therein diverted from the production of cotton under agricultural adjustment and conservation programs, with adjustments for abnormal weather conditions and trends in acreage during such five-year period. [Sec. 344 (c) (1).]

(b) The acreage allotment for each county to which an allotment is apportioned under subsection (a) of this section shall be increased by the number of acres, if any, required to provide an acreage allotment for each such county of not less than 60 percent of the sum of (1) the acreage therein planted to cotton in 1937 and (2) the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program. The acreage so diverted shall be estimated in case data are not available at the time of making such allotment of additional acreage. [Sec. 344 (e) (1).]

(c) If the acreage allotment for any county is inadequate and not representative in view of the past production of cotton therein, the acreage allotment for such county shall be increased, after considering the increases set forth in section 104 (b) and (e), from any acreage remaining in the special fund of acreage allotments referred to in section 102 (e) after the allotments set forth in section 104 (b) and (e) have been made out of such fund. The apportionment under this subsection shall be made first to that county in which there is the highest relative disparity between the county acreage allotment established in accordance with subsections (a) and (b) and a county acreage allotment which is adequate and representative in view of the past production of cotton in such county; and thereafter such county and in turn other counties in which there is a disparity, but to a smaller degree, shall participate in the apportionment of such remainder of the special fund as is available until existing relative disparities have been reduced to a minimum, which shall be the same for all such counties in the State, or have been extinguished. [Sec. 344 (g) (2).]

(d) If in any county there are one or more areas which, because of difference in types, kinds, and productivity of the soil or other conditions, should be treated separately in order to prevent discrimination, each such area shall be designated by the county committee and the county acreage allotment, including the allotment, if any, made to such county as set forth in subsection (c), shall be apportioned among such areas (1) on the basis of the acreage in each such area planted to cotton in 1937 plus the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program, or (2) if conditions affecting the acreage planted to cotton were not reasonably uniform throughout the county in 1937, on the basis of the cotton base acreage in each such area which was or could have been established in 1937 under the agricultural conservation program. [Sec. 344 (f).]

SEC. 104. *Apportionment of acreage allotments among established farms.*—(a) The county committee, with the assistance of other local committees established in the county, shall apportion, in the manner set forth in this section, acreage allotments among all farms in the county on which cotton was planted in any one of the three years 1935 to 1937. The acreage allotments to be apportioned among such farms shall consist of (1) the regular county acreage allotment, consisting of an apportionment of the State acreage allotment made to the county, with such increase in the county acreage allotment as is necessary to provide for the county a minimum acreage allotment of not less than 60 percent of the planted plus diverted cotton acreage in the county in 1937, and (2) a distributive part, applicable to the county, of the special fund of acreage allotments consisting of that amount which is equal to 4 percent of the State acreage allotment. This distributive part, hereinafter referred to as the "special fund," is to be applied, insofar as the amount thereof will permit, and in the following order: (a) in supplying any deficiency in the regular county acreage allotment for the making of initial acreage allotments not exceeding five acres for each such farm; (b) in supplementing any acreage allotment made to any farm out of the regular county acreage allotment which, in consequence of the making of such initial acreage allotments, is inadequate and unrepresentative, and (c) in supplementing the regular acreage allotment made to the county which, in view of the past production of cotton in the county, is inadequate and unrepresentative. The committee shall not establish any farm acreage allotment which is not covered by the allotments mentioned above, except that after but not before the apportionment among farms of all the allotments mentioned above in this subsection an additional farm acreage allotment shall be made, as set forth in subsection (h), to any farm in respect to which the acreage allotment otherwise made is less than the minimum acreage allotment set forth in said subsection. The term "planted plus diverted cotton acreage", as used in this section, shall be taken to mean the sum of the acreage planted in cotton and the acreage diverted from cotton production under agricultural adjustment or conservation programs. [Sec. 344 (d), (e), (f), (g), (h).]

(b) The regular county acreage allotment shall be first apportioned among such farms, and in making such apportionment there shall be first established for each such farm an initial acreage allotment equal to the highest planted plus diverted cotton acreage on the farm in any one of said three years, provided that no initial allotment shall exceed five acres for any such farm. These allotments shall be known as initial allotments and are referred to accordingly in this section. Any deficiency in the amount of the regular county acreage allotment for the making of such initial allotments shall be supplied by the use of the special fund of acreage allotments, insofar as said fund will permit. [Sec. 344 (d) (1).]

(c) In the event that the regular county acreage allotment is more than sufficient to make the initial allotments, there shall be set aside, for increase of allotments to small farms, as set forth in subsection (g), an amount of not more than 3 percent of that amount of the regular county acreage allotment which remains after making the initial allotments. [Sec. 344 (d) (2).]

(d) The remainder of the regular county acreage allotment shall be apportioned among all farms on which the highest planted plus diverted cotton acreage in any one of said three years was more than five acres. The acreage thus to be apportioned to each such farm shall, together with the initial allotment made to the farm, be a percentage (which shall be the same percentage for all farms in the county or administrative area within the county) of the acreage on the farm in 1937 which is tilled annually or in regular rotation, excluding therefrom the acreage devoted to the production of sugarcane for sugar, wheat, tobacco, or rice for market, or wheat or rice for feeding to livestock for market. [Sec. 344 (d) (3).]

(e) If, as a result of the making of initial allotments, the farm acreage allotments for farms made in accordance with subsection (d) are substantially smaller than the farm acreage allotments which would have been made without regard to any provision for the making of initial allotments, the farm acreage allotments to such farms shall be increased to the acreage which would have resulted in the absence of any provision for the making of initial allotments, insofar as any portion of the special fund of acreage allotments not used in the making of initial allotments will permit. [Sec. 344 (g) (2).]

(f) The additional acreage allotment, if any, received by the county, consisting of that part of the special fund of acreage allotments not used in, or in consequence of, the making of initial acreage allotments as aforesaid, shall be apportioned, in accordance with the provisions of subsection (d), among farms receiving allotments under said subsection. [Sec. 344 (g) (3).]

(g) Any farm acreage allotment made as aforesaid of more than five acres, but not exceeding 15 acres, may be increased from the reserve of not more than 3 percent of the county acreage allotment mentioned in subsection (c). In making such increase due consideration shall be given to, and such allotments shall be made on the basis of, the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton. [Sec. 344 (d) (2).]

(h) Notwithstanding any other provision of this section, (1) the farm acreage allotment made to any farm shall not exceed the highest planted plus diverted cotton acreage in any one of said three years, and (2) any farm acreage allotment which after but not before the apportionment of all acreage allotments, as provided in the foregoing subsections of this section, is less than 50 percent of the planted plus diverted cotton acreage on the farm in 1937, shall be increased to such amount, provided that such increase shall not be so made as to raise the cotton acreage of the farm above 40 percent of the acreage on the farm which, as determined in accordance with applicable instructions, is tilled annually or in regular rotation. The acreage allotments required to effect this minimum provision shall be in addition to all acreage allotments represented by the regular county acreage allotment and by the special fund of acreage allotments. [Sec. 344 (d) (3), Sec. 344 (h).]

(i) After making the allotments under this section, any part of the acreage allotted to individual farms which it is determined, in accordance with applicable instructions, will not be planted to cotton in 1938, shall be deducted from the allotments to such farms and may be apportioned in accordance with applicable instructions, preference being given to farms in the same county receiving allotments which are inadequate and not representative in view of the past production of cotton and the acreage diverted from the production of cotton on such farms under the agricultural conservation program in 1937. Any transfer of allotments for 1938 as set forth in this subsection shall not affect apportionment for any subsequent year. The allotment for any farm shall not be increased under this subsection to an acreage greater than the highest planted plus diverted cotton acreage on the farm in any one of the three years 1935 to 1937, nor to an acreage greater than 40 percent of the acreage on such farm which is tilled annually or in regular rotation. [Sec. 344 (h).]

SEC. 105. *Apportionment of acreage allotments among new farms.*—The county committee, with the assistance of other local committees, shall, in accordance with applicable instructions, apportion among farms on which cotton was not planted in any one of the three years 1935 to 1937 and on which cotton is planted in 1938 the distributive part, applicable to the county, of acreage allotments which constitute a reserve of not more than 2 percent of the State acreage allotment. The basis of the apportionment shall be the land, labor, and equipment available on the farm for the production of cotton, crop rotation practices thereon, and the soil and other physical facilities affecting the production of cotton thereon. [Sec. 344 (c) (2).]

SEC. 106. *Normal yields.*—(a) The county committee, with the assistance of the other local committees established in the county, shall determine the normal yield per acre of lint cotton for each farm for which a farm acreage allotment is established.

(b) Where reliable records of the actual average yield of lint cotton per acre for all of the five years 1933 to 1937 are presented by the farmer or are available to the committee, the normal yield per acre of lint cotton for the farm shall be the average of such yields adjusted, in accordance with applicable instructions, for abnormal weather conditions.

(c) If for any year of the five-year period 1933 to 1937 (1) records of the actual average yield are not available, or (2) there was no actual yield because cotton was not planted in such year, the normal yield per acre of lint cotton for the farm shall be appraised by the county committee, taking into consideration the normal yield for the county, the yield in the years for which data are available, and the rainfall, tempera-

ture, and other weather conditions during the years for which data are available as compared with those for which data are not available, provided the appraised yield so obtained shall be adjusted in accordance with subsection (d) of this section.

(d) The yields determined under subsection (c) of this section shall be adjusted so that the average of the normal yields per acre of lint cotton determined for all farms in the county or local administrative area therein (weighted by the cotton acreage allotments established for such farms) shall conform to the county normal yield per acre of lint cotton established for 1938 by the Secretary of Agriculture. [Sec. 301 (b) (13) (B) and (E).]

SEC. 107. *Applicability of detailed instructions.*—The provisions of Part I hereof shall be carried out in detail in accordance with the provisions of Part I, "Determining 1938 Farm Cotton Acreage Allotments and Yields", of the following instructions applicable to the regions indicated below:

Southern Region.—Cotton 208-SR, "Instructions pertaining to cotton marketing quotas for 1938."

East Central Region.—Cotton 208-ECR, "Instructions pertaining to cotton marketing quotas for 1938."

Western Region.—Cotton 208-WR, "Instructions pertaining to cotton marketing quotas for 1938."

North Central Region.—Cotton 208-NCR, "Instructions pertaining to cotton marketing quotas for 1938."

PART II. FARM MARKETING QUOTAS

SECTION 201. *Amount of farm marketing quota.*—(a) The farm marketing quota for any farm for 1938 shall be that number of pounds of lint cotton equal to the sum of the following:

1. The amount of the normal production or the actual production, whichever is the greater, of the farm acreage allotment, and

2. The amount of cotton from any previous crop which the farmer has on hand.

(b) 1. Notwithstanding the foregoing provisions of this section, the amount of the normal production of the farm acreage allotment, plus the amount of cotton from any previous crop on hand, shall be considered to be the farm marketing quota for any farm on which the acreage planted to cotton in 1938 is in excess of the farm acreage allotment for the farm, unless and until it is determined by the county committee that the actual production of the farm acreage allotment for such farm, as shown by the reports of cotton ginned from the farm or other satisfactory evidence, is in excess of the normal production of the farm acreage allotment.

2. If and when the actual production for 1938 of the farm acreage allotment for any such farm, as shown by the reports of cotton ginned from the farm or other satisfactory evidence, is found by the county committee to be in excess of the normal production of the farm acreage allotment, it shall adjust said farm marketing quota for the farm upward by that amount by which the actual production of the farm acreage allotment exceeds the normal production thereof. Such adjustment shall be made as soon as practicable after all the cotton produced on the farm in 1938 has been harvested and satisfactory records pertaining thereto have been presented or are available; however, one such adjustment with respect to any such farm may be made earlier if requested by the operator of such farm and deemed by the county committee, on the basis of the amount of cotton produced on the farm in 1938 that has been harvested at the time of the request, to be justifiable. [Sec. 346 (a).]

SEC. 202. *Publication of farm acreage allotments and farm marketing quotas.*—(a) Immediately upon the establishment of farm acreage allotments and the determination of normal yields per acre of lint cotton for farms in a county or other local administrative area, the county committee shall prepare a list on form Cotton 210 showing the calendar year for which the farm acreage allotments are made and the marketing year for which the farm marketing quotas shown are in effect and giving for each farm for which a farm acreage allotment is established (1) the farm acreage allotment, (2) the normal yield per acre of lint cotton, (3) the farm marketing quota (for the purpose of publishing farm marketing quotas, the farm marketing quota for each farm shall be expressed in terms of the normal production of the farm acreage allotment), (4) the name of the owner or operator and the legal description or location of the farm or the name by which it is commonly known, and (5) the farm serial number.

(b) A copy of the list prepared pursuant to subsection (a) shall be permanently kept freely available for public inspection in the office of the county committee and a copy of it shall be posted for not less than thirty days in a conspicuous place in the county (or in each local administrative area in the county if the county is divided into two or more local administrative areas for the purposes of the cotton marketing quota provisions of the Act). Another copy of such list shall be furnished to the county agricultural extension agent in the county, who shall keep the list permanently available for public inspection in his office. Each such list or copy shall be plainly marked on the front page "Property of the Government of the United States—must not be removed, taken, carried away, mutilated, altered, destroyed, or concealed." [Sec. 362.]

SEC. 203. *Notice of farm marketing quotas.*—(a) Immediately upon the establishment of farm acreage allotments and the determination of the normal yield per acre of lint cotton for farms in a county or other local administrative area, the county committee shall cause to be mailed to the operator of each farm for which such a farm acreage allotment is established a written notice on form Cotton 209 of the farm marketing quota for the farm. The notice shall contain at or near the top thereof the following statement: "To all persons who as operator, landlord, tenant, or sharecropper, are interested in the farm for which this quota is established". Notice so given shall constitute notice to all such persons. The notice shall contain the information required by section 202 to be contained in the list of farm acreage allotments and farm marketing quotas for publication, together with a brief statement that the amount of the farm marketing quota for the farm is the number of pounds of lint cotton equal to the amount of the normal production of the farm acreage allotment plus the amount, if any, of the cotton from any previous crop which the farmer has on hand and the amount, if any, by which the actual production of the farm acreage allotment exceeds the normal production thereof. The notice shall contain also on the face or back thereof a statement of the procedure whereby application for review of the quota may be made under Section 363 of the Act.

(b) A copy of each notice required pursuant to subsection (a), containing a notation thereon of the date of mailing the notice to the operator of the farm, shall be kept among the records of the county committee, and upon request a copy thereof, duly certified as true and correct, shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper is interested in the cotton produced in 1938 on the farm with respect to which the quota is established. [Sec. 362.]

SEC. 204. *Apportionment of farm marketing quotas for farms planting within acreage allotments.*—(a) If the acreage planted to cotton in 1938 on any farm does not exceed the farm acreage allotment for the farm, each producer shall be entitled to a share of the farm marketing quota equal to the amount of his share in the cotton produced thereon in 1938 plus the amount of cotton from any previous crop which he has on hand.

(b) In case a producer is engaged in 1938 in the production of cotton on more than one farm in a county and the acreage planted to cotton in 1938 on one or more but not all of such farms is in excess of the farm acreage allotment therefor, and a red marketing card (form Cotton 212) is to be issued under section 403 to such producer, the county committee shall, in accordance with the procedure prescribed in section 205, determine the share of such producer in the farm marketing quota (which share is hereinafter referred to as "producer marketing quota") for such farm or farms on which the acreage planted to cotton in 1938 is not in excess of the farm acreage allotment therefor.

SEC. 205. *Apportionment of farm marketing quotas for farms planting in excess of acreage allotments.*—If the acreage planted to cotton in 1938 on any farm is in excess of the farm acreage allotment for the farm, the county committee shall apportion to each producer on the farm (where there is only one producer who shares in the acreage planted to cotton in 1938 on the farm he shall receive the whole of the farm marketing quota) a share of the farm marketing quota (such share being hereinafter referred to as "producer marketing quota"), exclusive of cotton from any previous crop on hand, in accordance with the following:

1. The producer marketing quota for each producer shall first be determined, as soon as practicable after measurements with respect to the farm have been made as set forth in section 301, to be an amount of lint cotton equal to that percentage of the normal production of the farm acreage allotment for the farm which the normal production in 1938 of such producer's share of the acreage planted to cotton in 1938 on the farm is of the normal production in 1938 of the total acreage planted to cotton in 1938 on the farm. The normal production in 1938 of any such producer's share of the acreage planted to cotton in 1938 on the farm shall be the normal yield per acre of lint cotton for the farm times such number of acres.

2. If the farm marketing quota is adjusted as set forth in paragraph 2 of section 201 (b), relating to adjustments for actual production, or if the actual production of the acreage planted to cotton on the farm in 1938 is in excess of the normal production of the farm acreage allotment for the farm, the county committee shall adjust the producer marketing quota or quotas determined pursuant to paragraph 1 of this section so that the producer marketing quota for each producer shall be that amount of lint cotton equal to that percentage of the farm marketing quota as adjusted which the actual production in 1938 of such producer's share of the acreage planted to cotton in 1938 on the farm is of the actual production in 1938 of the total acreage planted to cotton in 1938 on the farm. In making adjustments in producer marketing quotas before all cotton on the farm has been harvested, the county committee shall adjust them so that the producer marketing quota for each producer shall be that amount of lint cotton equal to that percentage of the farm marketing quota as adjusted which the normal production in 1938 of such producer's share of the acreage planted to cotton in 1938 is of the normal production in 1938 of the total acreage planted to cotton in 1938 on the farm. In making adjustments under this paragraph, no producer on the farm who produces in 1938 more than the amount of the producer marketing quota previously apportioned to him shall have such producer marketing quota reduced and such part of the producer marketing quota of any producer on the farm as is in excess of his actual production in 1938 on the farm shall, in cases where more than one producer shares in the acreage planted to cotton in 1938 on the farm, be reapportioned to the other producer or producers on the farm.

3. If one or more of the producers on a farm complains in writing to the county committee that the apportionment of the farm marketing quota to producers as originally determined under paragraph 1 or as adjusted under paragraph 2 is not fair and equitable because of variations in productivity, the acreage planted to cotton by each producer, crop failure, or other cause and the county committee has good ground to believe that any complaint so made is well-founded, it shall review the apportionment made under paragraph 1 or paragraph 2, as the case may be, and, if it finds that such apportionment is not fair and equitable, shall reapportion the farm marketing quota among the various producers on the farm in a manner which, in view of all the facts adduced, is fair and equitable to all producers on the farm.

4. If the actual production of the acreage planted to cotton on the farm in 1938 is not in excess of the normal production of the farm acreage allotment for the farm and the county committee finds that the producer marketing quota for any producer with respect to such farm is in excess of the amount of his share in the actual production in 1938 thereon, that portion of his producer marketing quota which is in excess of his share in the actual production in 1938 on such farm shall, in cases where more than one producer shares in the acreage planted to cotton in 1938 on the farm, forthwith be treated as an undistributed part of the farm marketing quota for such farm and shall be reapportioned by the county committee, in accordance with the foregoing provisions of this section, to the producer or other producers on the farm whose production is in excess of their respective producer marketing quotas. Not more than one such reapportionment with respect to any farm shall be made during the marketing year unless the county committee determines that more than one such reapportionment is necessary to assure a fair and equitable apportionment of the farm marketing quota among the producers thereon.

5. There shall be added to and made a part of any producer marketing quota, as determined in accordance with this section or section 204 (b), the amount of cotton from any previous crop which the county committee determines, in accordance with applicable instructions, that the producer has on hand at the time of the determination.

6. The producer marketing quota or the sum of all the producer marketing quotas with respect to any farm shall not exceed the sum of (1) the normal production of the farm acreage allotment or the actual production of the farm acreage allotment, as provided for in section 201 (b), and (2) the amount of cotton from any previous crop which the producer or producers on the farm have on hand.

SEC. 206. *Successors in interest.*—Any person who succeeds to the interest of a producer in a farm or in a cotton crop or cotton with respect to which a farm marketing quota has been established shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and be subject to the restrictions on the marketing of cotton.

SEC. 207. *Transfer of farm marketing quotas.*—A farm marketing quota is established with respect to a farm and may not be assigned or otherwise transferred in whole or in part to any other farm. A producer marketing quota may not be assigned or otherwise transferred in whole or in part, except that it may be reapportioned among producers on a farm as set forth in these regulations.

SEC. 208. *Review of quotas.*—(a) Any producer who is dissatisfied with the farm marketing quota established for his farm may, by making application within 15 days after the mailing to him of the notice provided for in section 203, have such quota reviewed by a local review committee composed of three farmers appointed by the Secretary of Agriculture. Unless such application is made within such 15 days the original determination of the farm marketing quota shall be final. All applications for review shall be made in accordance with regulations issued by the Secretary of Agriculture. [Sec. 363 and 364.]

(b) If the producer is dissatisfied with the determination of the review committee he may, within 15 days after notice thereof is mailed to him by registered mail, file a bill in equity against the review committee to have the determination of the review committee reviewed by a court in accordance with Section 365 of the Act. [Sec. 365.]

SEC. 209. *Marketing quotas in effect.*—Marketing quotas shall be in effect during the marketing year with respect to the marketing of cotton. Cotton produced in the calendar year 1938 shall be subject to the quotas in effect notwithstanding that it may be marketed prior to August 1, 1938. [Sec. 345.]

PART III. MEASUREMENT OF FARMS

SECTION 301. *Provision for measuring farms.*—The county committee shall provide for measuring each farm in the county for which a farm acreage allotment was established for the purpose of ascertaining whether the acreage planted thereon to cotton in 1938 is in excess of the farm acreage allotment therefor. The measuring of any farm shall be done in accordance with the established procedure used by the Agricultural Adjustment Administration. [Sec. 374.]

SEC. 302. *Report of measurements.*—A record of the result of the measure-

ments made as provided for in section 301 shall be kept by the county committee. In the case of farms on which the acreage planted in cotton in 1938 is in excess of the farm acreage allotment, the county committee shall file promptly with the State committee a written report on form Cotton 218 stating for each such farm (1) the farm serial number, (2) the name of the operator, (3) the total acreage in cultivation in 1938, (4) the farm acreage allotment, (5) the acreage planted to cotton in 1938, and (6) the name of each person having an interest in the cotton crop produced thereon in 1938 or in the proceeds thereof. [Sec. 374.]

PART IV. MARKETING CARDS, MARKETING CERTIFICATES, AND IDENTIFICATION OF COTTON

SECTION 401. *Issuing marketing cards for farms planting withing acreage allotments.*—(a) As soon as practicable after it has been determined as set forth in section 301 that the acreage planted to cotton on any farm in 1938 does not exceed the farm acreage allotment for the farm, the county committee shall, except as provided for in subsection (b), issue a white marketing card (form Cotton 211) to the operator and, unless the county committee finds that it will not serve a useful purpose, to other producers on the farm, as evidence that such operator and all other producers on the farm may market without penalty all cotton produced on such farm in 1938 and the amount of cotton from any previous crop which they have on hand. Such marketing card shall show (1) the name and address of the operator, (2) the State and county code number and serial number of the farm, (3) the signature of a number of the county committee signing for the county committee, and (4) the countersignature of the operator or other producer to whom the card is issued, or his duly authorized agent.

(b) A marketing card shall not be issued under this section to any operator or producer who is engaged in the production of cotton on more than one farm in a county if the acreage planted to cotton on any of such farms in 1938 is in excess of the farm acreage allotment therefor.

(c) If the county committee finds that cotton from seed of a pure strain of Sea Island or American-Egyptian cotton that normally produces a staple of 1 1/2 inches or more in length in districts where it is commonly grown is the only cotton being produced in 1938 on a farm located in a district where such cotton is commonly grown and determines as provided for in paragraph 5 of section 205 that the producer of such cotton has on hand any cotton that was produced in a prior year, the county committee shall issue him a white marketing card (form Cotton 211) as evidence that such producer is entitled to market without penalty all cotton from any previous crop which he has on hand. A marketing card issued under this subsection shall bear evidence and show information comparable to that provided to be shown on a marketing card issued under subsection (a), except that the expression "carry-over" shall be endorsed in bold characters across its face.

(d) In any case where a white marketing card (form Cotton 211) has been issued to a producer, the county committee may furnish such producer a form of certificate, form Cotton 211–A, to be used by such producer only in the marketing of cotton by telephone, telegraph, or mail or by any means or method other than directly to and in the presence of a buyer or transferee as evidence of the fact that the county committee has issued to such producer a white marketing card (form Cotton 211).

SEC. 402. *Issuing marketing cards for farms planting in excess of acreage allotments.*—(a) As soon as practicable after it has been determined as set forth in section 301 that the acreage planted to cotton on any farm in 1938 exceeds the farm acreage allotment for the farm, the county committee shall (except as otherwise provided for in subsection (b) of this section) issue a red marketing card (form Cotton 212) to each producer on the farm as evidence that the producer to whom the card is issued is entitled to market without penalty the amount of the cotton entered on such card, provided such cotton is produced by or for him on such farm in 1938 or is cotton from any previous crop which he has on hand. Such marketing card shall show (1) the name and address of the operator, (2) the State and county code number and serial number of the farm, (3) the signature of a member of the county committee signing for the county committee, (4) the countersignature of the operator or other producer to whom the card is issued, or his duly authorized agent, and (5) the amount of the producer marketing quota for the producer determined as provided for in section 205 or the amount of the farm marketing quota if the card is issued to the operator as provided for in subsection (b). The farm marketing quota or the total of all producer marketing quotas with respect to any farm as evidenced by a marketing card, or marketing cards, issued under this subsection or subsection (b), as the case may be, shall not be greater than the normal production of the farm acreage allotment for the farm plus the amount of cotton from any previous crop which the producer or producers on the farm have on hand. In entering the amount of the producer marketing quota or the farm marketing quota, as the case may be, on a red marketing card (form Cotton 212) there shall be entered, in addition to that portion of the farm marketing quota or producer marketing quota to which the producer or producers to or for whom the card is issued are entitled with respect to the 1938 cotton crop, the amount of cotton from any previous crop which he or they, as the case may be, have on hand, determined as provided for in paragraph 5 of section 205, less the amount of any such cotton which is pledged as security for a Commodity Credit Corporation loan. If such a producer desires to market any such cotton so pledged, the county committee shall, upon his request, issue to him a red marketing card (form Cotton 212) for the amount of such cotton which he desires to market.

(b) In cases where more than one producer shares in the acreage planted to cotton in 1938 on a farm, if all producers on the farm agree in writing, on form Cotton 212A, a red marketing card (form Cotton 212) showing the entire farm marketing quota for the farm shall be issued to the operator, but the operator shall nevertheless make available to each producer on the farm the amount of the producer marketing quota to which each such producer is entitled under section 205. Such operator shall report to the county committee, as provided for in section 603 (b), the distribution of the farm marketing quota among the producers on the farm.

(c) The county committee shall issue a red marketing card (form Cotton 212) to each producer on the farm for his proportionate share, if any, determined as provided for in paragraph 2 of section 205, of any increase, or a red marketing card (form Cotton 212) for the entire amount of any increase shall be issued to the operator as provided for in subsection (b), as evidence that such producer or producers may market without penalty the amount of any cotton produced by or for him or them on such farm in 1938 entered on such card or cards. A marketing card issued under this subsection shall bear evidence and show information comparable to that provided to be shown on the marketing card originally issued to the producer, except that the letters "XX" shall be placed before the State and county code number preceding the serial number of the farm, and the information shown with respect to the amount of the farm marketing quota shall be only the amount of the increase in the farm marketing quota for the farm if the card is issued to the operator under subsection (b), or the amount of the producer's share in the increase in the farm marketing quota for the farm if a card is issued to each producer on the farm. The farm marketing quota or the total of all producer marketing quotas with respect to any farm as evidenced by marketing cards issued shall not be greater than the amount of the farm marketing quota for the farm determined as provided for in section 201 (b).

(d) If the county committee has made an estimate that the actual production of the acreage planted to cotton in 1938 on the farm will not exceed the normal production of the farm acreage allotment for the farm or has made an estimate of the amount of cotton to be produced on a farm in 1938 in excess of the farm marketing quota for the farm and the payment of the estimated penalty with respect to the marketing of such cotton has been secured, as provided for in section 507, it may issue a white marketing card (form Cotton 211) to the operator of such farm and, unless the county committee finds that it will not serve a useful purpose, to other producers on the farm as evidence that such operator and other producers on the farm may market all cotton produced on the farm in 1938 and cotton from any previous crop which they have on hand without paying the penalty at the time of marketing. A marketing card issued under this subsection shall bear evidence and show information comparable to that provided to be shown on a marketing card issued under section 401 (a), except that the words "Penalty Secured" shall be endorsed in bold characters across its face. The county committee shall not issue a white marketing card (form Cotton 211) under this subsection if the estimated penalty is to be secured by funds tendered in the form of a check, draft, or money order unless and until the treasurer of the county committee notifies such committee that such check, draft, or money order has been collected and the proceeds thereof are held in the special deposit account provided for in section 510, nor shall such committee issue a marketing card under this subsection to a producer or producers to whom a marketing card or cards has or have been previously issued until such card or cards previously issued has or have been returned to and canceled by such committee by endorsing thereon in bold letters the notation "Canceled—Sec. 402 (d)". Any marketing card issued under this subsection shall be issued upon condition that any producer to or for whom it is issued shall nevertheless be subject to the penalty referred to in section 501 with respect to the marketing of cotton in excess of the farm marketing quota for the farm.

(e) The county committee may, upon request, issue to any producer on a farm on which the acreage planted to cotton in 1932 exceeds the farm acreage allotment for such farm a white marketing card (form Cotton 211) as evidence of the fact that, notwithstanding the amount of the marketing quota for the farm, there may be marketed, without regard to the manner prescribed in Part V for the payment, collection, and remittance of penalties, the entire amount of the cotton produced on the farm in 1938 plus the amount of cotton from any previous crop which the producers on such farm have on hand, if the county committee finds (1) that the actual production on the entire farm in 1938 does not exceed one thousand pounds of lint cotton or (2) that the estimated production on the entire farm in 1938 does not exceed one thousand pounds of lint cotton and (3) that any marketing card or cards previously issued with respect to such farm have been returned to and canceled by such committee by endorsing thereon in bold letters the notation "Canceled—Sec. 402 (e)". A marketing card issued under this subsection shall bear evidence and show information comparable to that provided to be shown on a marketing card issued under section 401 (a), except that the words "One Thousand Pounds" shall be endorsed in bold characters across its face. Any marketing card issued under this subsection shall be issued upon condition that any producer to or for whom it is issued shall nevertheless be subject to the penalty referred to in section 501 with respect to the marketing of cotton in excess of the farm marketing quota for the farm if the total production in 1938 of the farm exceeds one thousand pounds of lint cotton.

SEC. 403. *Issuing marketing cards for multiple farms.*—(a) In case a producer is engaged in 1938 in the production of cotton on more than one farm in a county and the acreage planted to cotton on each of such farms does not exceed the farm acreage allotment therefor, separate white marketing cards (form Cotton 211) shall be issued by the county committee with respect to each of such farms in accordance with the provisions of section 401.

(b) In case a producer is engaged in 1938 in the production of cotton on more than one farm in a county and the acreage planted to cotton in 1938 on each of such farms is in excess of the farm acreage allotment therefor, separate red marketing cards (form Cotton 212) shall be issued by the county committee with respect to each of such farms in accordance with the provisions of section 402.

(c) In case a producer is engaged in 1938 in the production of cotton on more than one farm in a county and the acreage planted to cotton in 1938 on one or more but not all of such farms is in excess of the farm acreage allotment therefor and a marketing card is issued to such producer by the county committee with respect to any such farm on which the acreage planted to cotton in 1938 does not exceed the farm acreage allotment therefor, a red marketing card (form Cotton 212) shall be issued to such producer by the county committee in accordance with the provisions of section 402 for the amount of the producer marketing quota apportioned to such producer with respect to each such farm as provided for in section 204 (b). In case a red marketing card (form Cotton 212) is so issued, the county committee shall nevertheless issue a white marketing card (form Cotton 211) under section 401 (a) to or for all other producers on each such farm on which the acreage planted to cotton in 1938 does not exceed the farm acreage allotment therefor.

SEC. 404. *Issuing marketing certificates.*—(a) If the county committee finds that cotton from seed of a pure strain of Sea Island or American-Egyptian cotton that normally produces a staple of 1 1/2 inches or more in length in districts where it is commonly grown is being produced in 1938 on a farm in such a district, it shall issue a "Sea Island or American-Egyptian Cotton Marketing Certificate" on form Cotton 214 to each producer of such cotton as evidence that such producer is entitled to market without penalty all such cotton.

(b) Upon request of a responsible executive officer of any publicly-owned agricultural experiment station, the State committee shall issue to such experiment station, with respect to cotton which is grown solely for experimental purposes, a certificate, signed by the chairman or the secretary of such committee, evidencing the fact that the marketing of such cotton, as provided for in section 372 (d) of the Act, is not subject to the penalty. Such request shall be made in writing and shall show: (1) the name and address of the experiment station, (2) the location of the land on which such cotton was or is being produced, and (3) the number of acres planted to cotton on such experiment station in 1938 solely for experimental purposes.

SEC. 405. *Reissuing marketing cards.*—(a) In the event a portion or all of a producer marketing quota is reapportioned, as provided for in paragraph 2 or paragraph 4 of section 205, the county committee shall deduct the portion reapportioned from such producer marketing quota as shown on the marketing card by entering on such marketing card the amount deducted and the amount remaining of such producer marketing quota with the signature or initials of a member of the county committee signing next to the entry for the committee. Any marketing card issued to any producer shall be returned by such producer to the county committee at the time the amount of his producer marketing quota is reapportioned. In the event any producer fails or refuses, after being duly requested in writing to do so, to deliver to the county committee, within ten calendar days after the date of the request, any marketing card issued with respect to any producer marketing quota a portion or all of which has been reapportioned, the county committee shall forthwith cancel such marketing card by giving notice to such producer that such marketing card is void and of no effect by depositing written notice to such effect in the United States mails, registered and addressed to such producer at his last-known address. A copy of such notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county committee. Such committee shall immediately notify the ginners and buyers in the county that the marketing card has been canceled. Such committee shall also notify the county committee of each adjoining county, which shall in turn notify the ginners and buyers in such county.

(b) After the county committee has reapportioned a portion or all of a producer marketing quota, as provided for in paragraph 2 or paragraph 4 of section 205, in cases where the farm marketing quota is not increased as provided for in section 201 (b), it shall issue to each producer who has received a portion of the amount of the quota reapportioned a red marketing card (form Cotton 212) for the additional amount so reapportioned. The word "Reissue" shall be endorsed in bold characters across the face of marketing cards issued under this section and such cards shall bear evidence and show information comparable with that provided to be shown in marketing cards issued under section 402 (a).

SEC. 406. *Lost, destroyed, or stolen marketing cards.*—(a) In case any marketing card issued to a producer is lost, destroyed, or stolen, any person having knowledge of such loss, destruction, or theft, shall, insofar as he be able, immediately notify the county committee of (1) the name of the operator of the farm with respect to which such marketing card was issued, (2) the name of the producer to whom the marketing card was issued, if someone other than the operator, (3) the serial number of the marketing card, (4) the color of the marketing card, and (5) whether in his judgment it was lost, destroyed, or stolen and by whom.

(b) The county committee shall make or cause to be made a thorough investigation of the circumstances of such loss, destruction, or theft. If, after such investigation, the county committee finds that such marketing card was in fact lost, destroyed, or stolen, it shall cancel such card by giving notice to the producer to whom the card was issued that such card is void and of no effect by depositing a written notice to that effect in the United States mail, addressed to such producer at his last-known address, and if it also finds that there has been no collusion or connivance in connection therewith on the part of the producer to or for whom it was issued, it shall issue to or for such producer a duplicate marketing card of the same color and bearing the same name, information, and identification as the lost, destroyed, or stolen marketing card. However, if the card lost, destroyed, or stolen was a red marketing card (form Cotton 212), such committee shall, after determining the amount of cotton marketed without penalty by or for the producer or producers to or for whom the card was issued, enter on the duplicate card issued, in addition to the amount of the farm marketing quota or the producer marketing quota, as the case may be, entered on the lost, destroyed, or stolen card, a deduction for the amount of the cotton which it determines has been so marketed without penalty. Each marketing card issued under this section shall bear across its face in bold characters the word "Duplicate". In case a marketing card is canceled as provided for in this section the county committee shall immediately notify the ginners and buyers in the county that the marketing card has been canceled and a duplicate has been issued. Such committee shall also notify the county committee of each adjoining county, which shall in turn notify the ginners and buyers in its county. Any ginner or buyer or any other person coming into possession of a canceled marketing card shall immediately return it to the county committee which issued it.

SEC. 407. *Color of marketing cards.*—The color of marketing cards (form Cotton 211) issued as provided for in sections 401, 402 (d), 402 (e), and 403 (a) shall be white and the color of marketing cards (form Cotton 212) issued as provided for in sections 402 (a), 402 (b), 402 (c), 403 (b), 403 (c), and 405 shall be red.

SEC. 408. *Identification of cotton.*—(a) Each buyer or transferee who buys or receives cotton during the marketing year, or prior to the beginning of the marketing year if the cotton was produced in the calendar year 1938, shall, unless it is identified by the producer as provided in these regulations, deem it to be subject to the penalty provided for in section 348 of the Act.

(b) A white marketing card (form Cotton 211), issued under sections 401, 402 (d), 402 (e), 403 (a), or 406, shall be used to identify cotton with respect to which it was issued as—

(1) Cotton which is not subject to the penalty provided for in section 348 of the Act;

(2) Cotton with respect to the marketing of which it has been estimated that the penalty will not be due or with respect to which a bond has been executed or money has been placed in escrow as provided for in section 507;

(3) Cotton with respect to the marketing of which the penalty, if any, will not be paid until it is determined whether the total production in 1938 of lint cotton on the farm on which it was produced exceeds 1,000 pounds.

If such cotton marketed directly to and in the presence of the buyer or transferee, the producer shall identify the cotton by showing his marketing card to the buyer or transferee. If the marketing of such cotton is effected by telephone, telegraph, or mail, or by any means or method other than directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by delivering to the buyer or transferee a certificate properly executed in duplicate on form Cotton 211–A as evidence that the county committee has issued a white marketing card (form Cotton 211) to such producer.

(c) A red marketing card (form Cotton 212), issued under sections 402 (a), 402 (b), 402 (c), 403 (b), 403 (c), 405, or 406, accompanied by an applicable certified statement properly executed on form Cotton 213 shall be used to identify cotton with respect to which it was issued as—

(1) Cotton, the marketing of which is not subject to the penalty provided for in section 348 of the Act, if the total amounts of lint cotton entered on form Cotton 213, as provided for in part VI, as having been marketed under such card plus the amount of lint cotton being marketed, is not greater than the farm marketing quota or producer marketing quota, as the case may be, shown on such card;

(2) Cotton, the marketing of which is subject to the penalty provided for in section 348 of the Act, if the total amounts of lint cotton entered on forms Cotton 213, as provided for in part VI, as having been marketed under such card, is equal to or greater than the farm marketing quota or producer marketing quota, as the case may be, shown on such card;

(3) Cotton, the marketing of that amount of which is subject to the penalty provided for in section 348 of the Act, if the amount being marketed, together with the total amount of lint cotton, if any, entered on forms Cotton 213, as provided for in part VI, as having been marketed under such card, is in excess of the farm marketing quota or producer marketing quota, as the case may be, shown on such card.

If such cotton is marketed directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by showing his marketing card and by delivering to the buyer or transferee an applicable certified statement properly executed on form Cotton 213. If the marketing of such cotton is effected by telephone, telegraph, or mail, or any means or method other than directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by delivering to the buyer or transferee an applicable certified statement properly executed on form Cotton 213.

(d) A certificate issued on form Cotton 214 (Sea Island or American-Egyptian Cotton Marketing Certificate), as provided for in section 404, shall be used to identify cotton with respect to which it is issued as cotton the staple of which is 1½ inches or more in length and the marketing of which is not subject to the penalty provided for in section 348 of the Act. If such cotton is marketed directly to and in the presence of the buyer or transferee, the producer shall identify such cotton by showing his marketing certificate (form Cotton 214) to the buyer or transferee. If the marketing of such cotton is effected by telephone, telegraph, or mail, or by any means or method other than directly to or in the presence of the buyer or transferee, the producer shall deliver to the buyer or transferee a certificate in duplicate on form Cotton 211–A properly executed as evidence that the county committee has issued a certificate on form Cotton 214 to such producer.

(e) A certificate issued with respect to publicly-owned agricultural experiment stations, as provided for in section 404 (b), shall be presented by the producer to the buyer or transferee at the time the cotton is marketed, for the purpose of identifying the cotton with respect to which it is issued as cotton grown solely for experimental purposes by a publicly-owned agricultural experiment station and the marketing of which is not subject to the penalty provided for in section 348 of the Act.

(f) A certificate on form Cotton 221 by a Federally-licensed cotton classifier that the staple of cotton covered by such certificate is 1½ inches or more in length shall, if presented by the producer to the buyer or transferee at the time of marketing, be used to identify such cotton as not subject to the penalty provided for in section 348 of the Act. [Sec. 375 (a) and (b).]

PART V. PENALTIES

SECTION 501. *General.*—Any producer who, while farm marketing quotas with respect to the marketing of cotton are in effect, markets cotton subject to such quotas in excess of the farm marketing quota for the farm on which such cotton was produced shall, as provided for in section 348 of the Act, be subject to a penalty of two cents per pound with respect to the excess so marketed (hereinafter referred to as "the penalty"). Any producer shall be presumed to have marketed cotton in excess of the farm marketing quota for the farm on which such cotton was produced if he markets cotton in excess of the amount of the farm marketing quota or the producer marketing quota to which he is entitled under the terms of these regulations as evidenced by the marketing card issued to or for him in accordance with these regulations. [Sec. 348.]

SEC. 502. *Farms producing less than 1,000 pounds of lint cotton.*—As provided for in section 346 (b) of the Act, the penalty shall not apply to the marketing of cotton in excess of the farm marketing quota for a farm for which a farm acreage allotment was established if the total production of lint cotton thereon in 1938 does not exceed 1,000 pounds. [Sec. 346 (b).]

SEC. 503. *Long staple cotton.*—(a) As provided for in section 350 of the Act, the penalty shall not apply to the marketing of cotton the staple of which is 1½ inches or more in length. [Sec. 350.]

(b) Cotton produced from a pure strain of Sea Island or American-Egyptian cotton which normally produces a staple of 1½ inches or more in length shall be deemed to be cotton the staple of which is 1½ inches or more in length provided a "Sea Island or American-Egyptian Marketing Certificate", form Cotton 214, with respect thereto has been issued under section 404 and provided further that such cotton is being produced in a district where it is commonly grown.

(c) Any other cotton shall be deemed to be cotton the staple of which is less than 1½ inches in length unless the producer thereof obtains a certification by a Federally-licensed cotton classifier that such cotton has a staple of 1½ inches or more in length. Such certification shall be made in triplicate on form Cotton 221.

SEC. 504. *Cotton marketed by publicly-owned agricultural experiment stations.*—Except as set forth in sections 502 and 503, the penalty shall apply to any cotton grown by any publicly-owned agricultural experiment station which is not grown solely for experimental purposes. The penalty shall not apply to the marketing of any cotton grown for experimental purposes only by any publicly-owned agricultural experiment station. [Sec. 372 (d).]

SEC. 505. *Payment and collection of penalties.*—(a) The penalty shall be due at the time the cotton is marketed by sale, barter, or exchange. Cotton shall be deemed to be sold when either title to or actual or constructive possession of the cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. Cotton shall be deemed to have been marketed by barter or exchange when it is delivered to the transferee of the cotton by actual or constructive delivery or the transferor has received any part of the property, goods, or services for which the cotton is being bartered or exchanged. The penalty with respect to the marketing of cotton by sale to any person within the United States shall be collected by the buyer at the time of sale. The penalty with respect to the marketing of cotton by barter or exchange or by sale to any person not within the United States shall be paid by the producer liable for the penalty and may be collected by the person to whom such cotton is transferred, in the case of an exchange or barter, if the producer and the transferee of such cotton agree, as evidenced by the form Cotton 213 covering the transaction, that the penalty shall be collected by the transferee as in the case of the marketing of cotton by sale to any person within the United States. The penalty, if any, due with respect to the marketing of any cotton produced on any farm with respect to which a white marketing card (form Cotton 211) is issued shall not be collected by the buyer or transferee of such cotton but shall be paid by the producer who marketed such cotton.

(b) Any producer who would be liable for the penalty upon the marketing of any cotton produced by or for him may nevertheless pay such penalty prior to the time such cotton is marketed and the treasurer of the county committee for the county in which such cotton was produced shall receive the penalty as in the case of other penalties.

(c) The penalty may be collected by a buyer by deducting from the purchase price of the cotton the amount of the penalty due with respect to the marketing of such cotton.

(d) Any buyer or transferee of cotton who, as provided for in subsection (a), collects the penalty with respect to the marketing of cotton shall issue to the producer who paid the penalty a receipt. [Sec. 372.]

SEC. 506. *Remittance of penalties.*—(a) The penalty shall be remitted not later than thirty calendar days next succeeding the day on which the cotton was marketed by the producer. For and on behalf of the Secretary of Agriculture, the treasurer of the county committee for the county in which the farm on which the cotton was produced is located shall receive the penalty and issue to the person remitting the penalty a receipt therefor on form Cotton 219 or form Cotton 219–A.

(b) The penalty shall be remitted only in legal tender or by draft, check, or money order drawn payable to the order of the treasurer of the county committee for the county in which the farm on which the cotton was produced is located. All checks, drafts, or money orders tendered in payment of the penalty shall be received by the treasurer of the county committee subject to collection and payment at par, and any receipt issued in connection therewith as provided for in subsection (a) shall bear a notation to that effect and a description of the check, draft, or money order.

(c) The penalty collected by the buyer or transferee as provided for in section 505 shall be accompanied at the time it is remitted by a copy of the receipt issued by such buyer or transferee to the producer from whom the penalty was collected. [Sec. 372.]

SEC. 507. *Penalties secured by bonds or money held in escrow.*—(a) In cases where the acreage planted to cotton in 1938 on any farm is in excess of the farm acreage allotment for the farm, the county committee, upon request of the owner or operator of such farm, may estimate the amount of the penalty which may become due with respect to the marketing of cotton produced on such farm in 1938 in excess of the farm marketing quota for the farm and the penalty, if any, with respect to the marketing of such cotton may be paid as provided for in subsection (d), *provided*, that either (1) a good and sufficient bond of indemnity on form Cotton 215 is executed and filed with the treasurer of the county committee in an amount equal to not less than the amount of the estimated penalty for which the producers having an interest in the cotton crop produced on the farm would otherwise be liable upon the marketing of the cotton estimated to be produced in excess of the farm marketing quota or (2) an amount of money not less than the amount of such estimated penalty is

deposited with the treasurer of the county committee to be held in escrow by him to secure the payment of any penalty which might accrue, or (3) it is estimated that the penalty will not be due with respect to the marketing of cotton produced on such farm in 1938 because it is estimated that the actual production of the acreage planted to cotton in 1938 on the farm will not exceed the normal production of the farm acreage allotment for the farm.

(b) Any bond pursuant to subsection (a) shall be made on form Cotton 215 and executed as principal by the owner or operator of the farm for and on behalf of each producer having an interest in the cotton crop or proceeds thereof produced in 1938 on such farm and as sureties by two owners of real property (other than such owner or operator or producer) situated within the county and shall contain the condition that so much of the principal sum of such bond as is equal to the penalty incurred shall be forthwith paid to the Secretary of Agriculture upon proof that the penalty secured thereby or any part or amount thereof has not been paid as provided for in subsection (d). The county committee shall examine the bond and, if it finds such bond to be good and sufficient and in proper form, the same shall be marked "Approved" and signed by a member of the committee acting for the committee and the bond shall be delivered to the treasurer of the county committee for safe-keeping. Any funds delivered to the treasurer of the county committee to be held by him in escrow to secure the payment of the penalty shall be only in legal tender or in the form of a check, draft, or money order drawn payable to the order of the treasurer of the county committee and shall be deposited by him in a special deposit account as provided for in section 510. The treasurer shall issue a receipt for such funds to the person who tenders them to be held in escrow. Such funds shall be received subject to payment and collection at par, and the provisions of subsection (a) shall not be operative in favor of any producer unless and until such check, draft, or money order tendered by him has been collected at par and the proceeds thereof are held in such special deposit account.

(c) In estimating the production of cotton for any farm under the terms of this section, the county committee shall take into consideration the appraised yield of the cotton crop and the number of acres planted to cotton on the farm. Such estimate shall be made after bolls are formed on the cotton plants with respect to which the estimate is made. The number of pounds of lint cotton estimated to be produced on the farm in excess of the farm marketing quota shall be the amount by which the total estimated production of lint cotton in 1938 on the farm is in excess of the normal production of the farm acreage allotment established for the farm. Any bond or funds to be held in escrow pursuant to the foregoing provisions of this section shall be in an amount not less than the amount determined by multiplying two cents by the number of pounds so estimated to be produced in excess of the farm marketing quota.

(d) The owner or operator of a farm who has furnished bond or placed funds in escrow or the owner or operator of a farm with respect to which it was estimated that the actual production of the acreage planted to cotton in 1938 on the farm would not exceed the normal production of the farm acreage allotment for the farm, as provided for in this section, shall file a report with the county committee, as provided in section 603 (b), for and on behalf of every producer having an interest in the cotton crop produced on such farm in 1938 or in the proceeds thereof. The report shall be in writing on form Cotton 217 and certified to be true and correct by the owner or operator, as the case may be, and shall show the amount of the penalty, if any, due with respect to the marketing of cotton in excess of the farm marketing quota for the farm. If the county committee finds such report to be true and accurate and in proper form, the same shall be marked "Approved" and signed by a member of the committee acting for the committee, and the report shall be delivered to the treasurer of the county committee. The amount of the penalty set forth in the report as approved by the county committee shall forthwith be paid to the treasurer of the county committee. If funds are held in escrow to secure payment of the penalty, the penalty shall be paid by the use of such funds or, in the event such funds are not sufficient to cover the amount of the penalty incurred, the producer or producers who incurred the penalty shall pay a sufficient additional amount. Any part of the funds held in escrow which is in excess of the amount of the penalty set forth in the report as approved by the county committee, shall be returned by the treasurer of the county committee to the owner or operator, as the case may be, against his receipt.

(e) If a producer is engaged in the production of cotton on more than one farm in the county on which the acreage planted to cotton in 1938 is in excess of the farm acreage allotment therefor, the county committee shall not accept funds to be placed in escrow or a bond to secure payment of the penalty under the terms of this section from or on behalf of such producer for any one such farm unless such funds or bond is offered and accepted with respect to all such farms in the county on which such producer is so engaged in the production of cotton.

(f) The provisions of this section shall have no effect on the apportionment of the farm marketing quota for a farm among producers as provided for in section 205.

SEC. 508. *Adjustment of penalties by county committees.*— (a) Any farmer who has paid the penalty or a sum of money with respect to the marketing of cotton may request the county committee to review the amount so paid to determine whether the amount thereof is in excess of that due for any one or more of the following reasons:

1. The penalty or sum of money was paid with respect to the marketing of cotton produced on a farm on which the actual production of the farm acreage allotment for the farm is greater than the amount of the farm marketing quota for the farm as expressed in terms of the normal production of the farm acreage allotment for the farm;

2. The penalty or sum of money was paid with respect to the marketing of cotton produced on a farm for which the farm marketing quota was increased by a determination of a review committee appointed by the Secretary of Agriculture or as a result of a court review of the determination of the review committee;

3. The penalty or sum of money was paid with respect to the marketing of cotton produced on a farm on which the total amount of production in 1938 on the farm did not exceed 1,000 pounds of lint cotton;

4. The penalty or sum of money was paid with respect to the marketing of cotton the staple of which is 1½ inches or more in length;

5. The penalty or sum of money was paid with respect to the marketing of cotton grown solely for experimental purposes by a publicly-owned agricultural experiment station; or

6. The penalty or sum of money was paid through error.

(b) Any request for a review of the amount of the penalty or sum of money paid shall be made in writing and signed by the person claiming to have paid the penalty or sum in excess of that due. If the claim is made with respect to any of the matters set forth in subsection (a), the county committee and the treasurer of the county committee shall determine the total amount of the penalty due with respect to the marketing of cotton in excess of the farm marketing quota for the farm and, on the basis of the apportionment or reapportionment of the farm marketing quota for such farm among the producers having an interest in the cotton crop or proceeds thereof produced in 1938 on such farm, shall determine the total amount of the penalty paid and the total amount of the penalty incurred by the claimant and all other producers having an interest in the cotton crop produced in 1938 on such farm. If the county committee and the treasurer of the county committee find that the amount paid with respect to the farm is in excess of the total amount of the penalty incurred and that the sum paid by the claimant is in excess of the total amount of the penalty due to be paid by him, the treasurer of the county committee shall pay to the claimant, insofar as the sum in excess of the penalty due with respect to the farm and the amounts of such excess due other producers on the farm will permit, an amount not to exceed the sum paid by the claimant in excess of that due. If the county committee and the treasurer of the county committee find that the amount paid with respect to the farm is not in excess of the total amount of the penalty incurred, or that, if the amount paid with respect to the farm is in excess of the total amount of the penalty incurred, the amounts of such excess due other producers on the farm equals the total amount of such excess, the claim shall be disallowed and the claimant so notified in writing. Any determination made by the county committee and the treasurer of the county committee under the terms of this section shall not prejudice the right of any other person who has paid the penalty or a sum of money and who has an interest in the cotton crop produced on the farm with respect to which the determination was made to request the county committee and treasurer of the county committee to review the amount of the penalty or sum of money paid by him nor shall such determination prejudice the right of a claimant to file a claim with the Secretary of Agriculture in accordance with the procedure set forth in section 511. Any determination of the county committee and treasurer of the county committee under the terms of this section shall be made in writing and signed by at least one member of such committee and such treasurer and filed with such treasurer. The county committee shall conduct any investigation or hold any hearing it deems necessary for a proper settlement of a claim made pursuant to this section.

(c) If the county committee and the treasurer of the county committee upon their own motion determine that, for any reason which, under the terms of these regulations, such committee and treasurer consider to be good and sufficient, any sum of money paid as the penalty by a producer who has not made a request for a review as provided for in subsection (a) is in excess of the amount of the penalty due by such producer, the county committee and the treasurer of the county committee shall review such sum in accordance with the procedure set forth in subsection (b) and pay to such producer the amount so determined which may be refunded to him, obtain a receipt therefor, and make and file a record of the transaction.

(d) No refund of the penalty or sum of money paid shall be allowed under this section unless the penalty or sum of money has been remitted to the treasurer of the county committee and has not been remitted by him to the Secretary of Agriculture.

SEC. 509. *Remittance of penalties to the Secretary of Agriculture by treasurers of county committees.*—The county committee and the treasurer of the county committee shall at the end of each month examine the amounts of the penalties or sums of money paid with respect to the marketing of cotton in excess of the farm marketing quota for each farm in the county. If the amounts of the penalties or sums are correct, and if no request for a review has been made, the treasurer of the county committee shall forthwith remit such penalties to the secretary of the State committee who, in accordance with applicable instructions, shall remit them to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.) to be covered into the general fund of the Treasury of the United States, in accordance with existing procedure. [Sec. 372 (b).]

SEC. 510. *Records and accounts of treasurers of county committees.*—(a) The treasurer of each county committee or his successor in office is hereby authorized and empowered to receive for and on behalf of the Secretary of Agriculture the penalties referred to in section 501 and each such treasurer or successor in office shall give, in accordance with established procedure of the United States Department of Agriculture, a good and sufficient bond, with a corporate surety approved by the Treasury Department of the United States, for the faithful discharge of the duties required of him under these regulations.

(b) Any funds received by the Treasurer of the county committee in payment of the penalties referred to in section 501 or to secure payment of such penalties as provided in section 507 shall immediately be deposited by him in a special deposit account in a bank, designated by the county committee as the depository of such funds, which is covered by deposit insurance with the Federal Deposit Insurance Corporation. The special deposit account shall be kept by the bank as a special deposit account and designated on its records as the "Cotton Special Deposit Trust Account, County Agricultural Conservation Association, _____, Treasurer." The funds deposited in the special deposit account shall be kept separate and apart from funds belonging to the bank or to any other account of the county agricultural conservation association or the county committee. At no time shall the balance in any such account exceed the sum of $5,000.00, and where necessary the county committee shall designate one or more such banks in addition to that first designated in which shall be deposited the excess sums. The treasurer of the county committee shall deliver all checks, drafts, or money orders in payment of the penalties referred to in section 501 or to secure payment of such penalties as provided for in section 507 to the bank for immediate collection. The proceeds of such checks, drafts, or money orders, when collected, shall be placed in the special deposit account. Any funds received by the treasurer of the county committee pursuant to these regulations shall be withdrawn or disbursed only by checks drawn by him to carry out the provisions of these regulations. The Administrator shall provide for periodical reports from each treasurer as to the status of the special deposit account and for periodic examination in the office of the county committee of the records and documents in connection therewith.

(c) Whenever a treasurer of a county committee is succeeded in office, any funds received by his successor shall be deposited in a new special deposit account. The Administrator shall cause the account of the former treasurer to be audited, and no withdrawal or disbursement shall be made from the special deposit account of the former treasurer until such audit is completed. The special deposit account used by the former treasurer shall be closed by transferring the balance thereof into the account established by his successor, who shall thereupon assume charge of the records of the former treasurer. [Sec. 372 (b).]

SEC. 511. *Refund of penalties.*—Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of the penalty collected from any person, the Secretary of Agriculture finds that the penalty was erroneously, illegally, or wrongfully collected he shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of all or a portion of the penalty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations to be prescribed by him. [Sec. 372 (c).]

SEC. 512. *Court proceedings to collect penalties.*—It shall be the duty of the county committee to report in writing to the State committee forthwith each case of failure or refusal to pay the penalty or to remit the same to the Secretary of Agriculture when collected. It shall be the duty of the State committee to report each such case forthwith in writing in triplicate to the United States Department of Agriculture with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties, as provided for in section 376 of the Act. [Sec. 376.]

PART VI. RECORDS AND REPORTS

SECTION 601. *Records to be kept and reports to be submitted by ginners.*—(a) Each ginner shall record on form Cotton 216 with respect to all cotton of the 1938 crop ginned by him (1) the date of ginning, (2) the name of the operator of the farm on which the cotton was produced, (3) the name of the producer of

the cotton, (4) the gin bale number of mark, (5) the county in which the farm on which the cotton was produced is located, (6) the gross weight of each bale, or lot of cotton if less than a bale, ginned for each producer, and (7) the serial number of the farm on which the cotton was produced.

(b) The original of the ginning record provided for in subsection (a), shall be made for each period beginning with the first day of each month and ending on the fifteenth day of such month and for each period beginning with the sixteenth day of each month and ending on the last day of such month during which any cotton from the 1938 crop is ginned by the ginner. The record shall be submitted to the treasurer of the county committee for the county in which the gin is located not later than 5 calendar days next succeeding the last day of the period covered by the report. A copy of such record shall be retained by the ginner.

(c) Any ginner failing to keep any record or make any report as required by this section or making any false report or false record shall, as provided for in section 373 (a) of the Act, be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.00. [Sec. 373 (a).]

SEC. 602. *Records to be kept and reports to be submitted by buyers.*—(a) Each buyer shall keep records and make reports with respect to each transaction in which he purchases cotton during the marketing year, or prior to the beginning of the marketing year if the cotton was produced in the calendar year 1938, as follows:

1. If the cotton is identified to him or his agent by the use of a white marketing card (form Cotton 211), as provided for in section 408 (b), or by the use of form Cotton 214, as provided for in section 408 (d), or by the use of a certificate issued to a publicly owned agricultural experiment station, as provided for in section 408 (e), the buyer or his agent shall not keep a record or make a report with respect to such cotton other than the record and report provided for in subsection (b) of this section.

2. If the cotton is identified to him or his agent by the use of a certificate on form Cotton 211–A, as provided for in sections 408 (b) and 408 (d), or by the certification of a Federally-licensed cotton classifier on form Cotton 221, as provided for in section 408 (f), the buyer or his agent shall examine and execute each such certificate and shall retain the original thereof and shall forward one copy thereof on the postal card to the treasurer of the county committee of the county in which the cotton covered thereby was produced and one copy thereof shall be retained by the producer of the cotton covered thereby.

3. If the cotton is identified to him or his agent by the use of a red marketing card (form Cotton 212) and form Cotton 213 at the time cotton is purchased directly from and in the presence of the producer or his agent holding his marketing card, as provided for in section 408 (c), the buyer or his agent, with the assistance of the producer, shall execute form Cotton 213 in triplicate by entering thereon, in the spaces provided, (1) the amount, if any, of the unused portion of the farm marketing quota or producer marketing quota, (2) the amount of lint cotton purchased from the producer in the particular transaction, (3) the amount of the farm marketing quota or producer marketing quota, as the case may be, remaining after deducting the amount of cotton purchased from the producer in the particular transaction from the amount of the unused portion of the farm marketing quota or producer marketing quota, as the case may be, or the amount of lint cotton purchased from the producer in the particular transaction which is in excess of the unused portion of the farm marketing quota or producer marketing quota, (4) the amount of the penalty, if any, which is due with respect to the lint cotton marketed in the particular transaction, (5) the gin bale numbers or marks of the cotton purchased in the particular transaction, (6) the date on which the cotton was purchased, (7) the fact that the penalty with respect to the marketing of the cotton was or was not collected, (8) the name of the producer to whom the red marketing card (form Cotton 212) was issued, (9) the State and county code number and the serial number of the farm on which the cotton was produced, and (10) the name and address of the buyer. After such entries have been made, form Cotton 213 shall be executed by the buyer and the producer who shall certify to the correctness of the entries. In case cotton is purchased in the seed, the buyer and the producer shall estimate the amount of lint cotton for the purpose of entering the information required to be shown on form Cotton 213 and shall enter thereon in lieu of the gin bale numbers or marks the number of pounds of seed cotton marketed in the particular transaction followed by the words "pounds of seed cotton." Form Cotton 213 so executed by the buyer and the producer shall be the receipt from the buyer to the producer for the amount of the penalty, if any, collected by the buyer as provided for in section 505. One copy of form Cotton 213 executed as provided for in this paragraph shall be retained by the producer, the original thereof shall be retained by the buyer, and the copy thereof on the postal card shall (1) be forwarded by the buyer to the treasurer of the county committee by depositing it in the United States mails, if no penalty was collected with respect to the marketing of the cotton covered thereby, or (2) delivered by the buyer to the treasurer of the county committee at the time the penalty with respect to the marketing of the cotton covered thereby is remitted as provided for in section 506 (a).

4. If the cotton is identified to him or his agent by the use of form Cotton 213 when the cotton is marketed by telephone, telegraph, or letter, or by any means or method other than directly to and in the presence of the producer or his agent holding his marketing card, as provided for in section 408 (c), the buyer or his agent shall examine the original of form Cotton 213 and the copy thereof on the postal card submitted by the producer and, if the information required to be shown thereon as provided for in paragraph 3 of this subsection has been correctly entered thereon by the producer, the buyer or his agent shall execute the original and copy thereof and state therein the fact that the penalty due with respect to the marketing of such cotton was or was not collected, as the case may be, and enter the date and place of his signature. Form Cotton 213 may be returned by the buyer or his agent to the producer or his agent for the purpose of correcting any errors made in its execution by the producer or his agent. The original of form Cotton 213 so executed shall be retained by the buyer and the copy thereof on the postal card transmitted to the treasurer of the county committee in the manner provided in paragraph 3 of this subsection. The buyer or his agent shall execute and transmit to the producer a receipt in a form acceptable to the producer for the amount of the penalty, if any, collected.

5. If the cotton is identified to him or his agent by the use of a red marketing card (form Cotton 212) and form Cotton 213 and the producer or his agent presents to the buyer or his agent a receipt or receipts, describing the cotton purchased in the particular transaction, executed by the treasurer of the county committee on form Cotton 219–A as evidence of the fact that the penalty with respect to the marketing of the cotton described in such receipt or receipts has been paid in advance by the producer, as provided for in paragraph 6 of section 603 (a), the buyer or his agent shall execute form Cotton 213 in the manner provided for in paragraph 3 or 4, whichever is applicable, of this section, except that the buyer shall state therein the fact that the penalty was not collected by him. The original of form Cotton 213 and the original of each form Cotton 219–A relating thereto shall be retained by the buyer.

(b) Persons buying cotton are hereby requested, in conformity with section 373 (a) of the Act, to report to the Secretary of Agriculture in the following manner the following information and to keep the following records on form Cotton 220, which information and records the Secretary of Agriculture hereby finds to be necessary to enable him to carry out with respect to cotton the provisions of Title III of the Act. In the event it is found by the county committee, upon the basis of evidence submitted to it or upon the basis of an investigation made or caused to be made by it, that any buyer has failed to collect the penalty on any cotton which he has purchased, the marketing of which is subject to the penalty and was so identified to him as provided for in section 408, or that any buyer has purchased any cotton without requiring the seller thereof to identify such cotton as provided for in section 408, the buyer shall, within 15 days after being requested to do so in writing deposited in the United States mail, registered and addressed to such buyer at his last-known address by such county committee, make a report to such committee on all the cotton which he has purchased during the marketing year up to and including the day on which he was so notified, in order that the county committee may make an investigation or an additional investigation to determine whether any cotton purchased during such time by such buyer was cotton the marketing of which was subject to the penalty and the penalty was not collected. Such report shall include for each bale, or lot of cotton if less than a bale, purchased during such time by such buyer (1) the name and address of the producer from whom the bale or lot of cotton was purchased, (2) the gin bale number or mark on the bale of cotton, (3) the number of pounds of lint cotton in the bale or lot, (4) a statement as to whether the buyer collected the penalty with respect to the marketing of the bale or lot of cotton, and (5) the amount of the penalty if it was collected. Such information shall be reported on form Cotton 220 and the buyer shall submit with such report a statement verified by affidavit that the report is true and correct to his best knowledge.

(c) Any person engaged in the business of purchasing cotton from producers failing to keep any record or make any report as required by this section or making any false report or false record shall, as provided for in Section 373 (a) of the Act, be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.00 [Sec. 373 (a).]

SEC. 603. *Records to be kept and reports to be submitted by producers.*—(a) A producer to whom a red marketing card (form Cotton 212) was issued shall keep the following records in connection with all cotton marketed by him:

1. If the producer or his agent markets cotton by sale directly to and in the presence of the buyer or his agent, the producer or his agent shall execute the applicable portion of form Cotton 213 and assist the buyer or his agent in the execution thereof as provided for in paragraph 3 of section 602 (a) and one copy thereof so executed by the buyer and the producer or their agents shall be retained by the producer.

2. If the producer or his agent markets cotton by sale by telephone, telegraph, or letter, or by any means or method other than directly to and in the presence of the buyer or his agent, the producer or his agent shall execute form Cotton 213 by showing therein the information provided for in paragraph 3 of section 602 (a) and shall (1) retain one copy thereof so executed and (2) transmit the original thereof and the copy thereof on the postal card to the buyer or his agent by attaching the original and copy thereof on the postal card so executed to the bill of lading or the draft or bill of exchange used in the transaction or by any other means or method consistent with the nature of the transaction.

3. If the producer or his agent markets cotton by barter or exchange directly to and in the presence of the transferee or his agent, the producer or his agent shall execute form Cotton 213 and assist the transferee or his agent in the execution thereof as provided for in section 604 and one copy thereof so executed by the transferee and the producer or their agents shall be retained by the producer and the original thereof delivered to the transferee. The copy of form Cotton 213 on the postal card shall be (1) delivered to the transferee or his agent if the transferee collected the penalty, if any, with respect to the marketing of the cotton as provided for in section 505 (a) or (2) forwarded by the producer to the treasurer of the county committee by depositing it in the United States mails if no penalty was incurred with respect to the marketing of the cotton or (3) delivered by the producer to the treasurer of the county committee at the time the producer remits the penalty with respect to the marketing of the cotton as provided for in section 506 (a).

4. If the producer or his agent markets cotton by barter or exchange by telephone, telegraph, or letter, or by any means or method other than directly to and in the presence of the transferee or his agent, the producer or his agent shall execute form Cotton 213 by showing therein the information provided for in paragraph 3 of section 602 (a) and the producer or his agent shall (1) retain one copy thereof so executed and (2) transmit the original thereof to the transferee or his agent and (3) transmit the copy thereof on the postal card to the transferee or his agent if the transferee collected the penalty, if any, with respect to the marketing of the cotton as provided for in section 505 (a), or delivered the copy thereof on the franked card to the treasurer of the county committee at the time the producer remits the penalty with respect to the marketing of the cotton as provided for in section 506 (a), or forward it to the said treasurer by depositing it in the United States mails if no penalty was incurred with respect to the marketing of the cotton. If the penalty is collected by the transferee in such a transaction, as provided for in section 505 (a), he or his agent shall execute and transmit to the producer a receipt for the penalty collected in a form acceptable to the producer.

5. If the producer or his agent markets the cotton to any person not within the United States, the producer or his agent shall execute form Cotton 213 by showing therein the information provided for in paragraph 3 of section 602 (a) and shall indicate in the space provided thereon for the signature of the buyer or transferee that the buyer or transferee is a person not within the United States. The producer shall retain one copy of form Cotton 213 so executed and shall forward the original thereof and copy thereof on the postal card to the treasurer of the county committee together with the penalty, if any, incurred with respect to the marketing of such cotton.

6. If the producer pays the penalty with respect to the marketing of any cotton prior to the time such cotton is marketed, as provided for in section 505 (b), the treasurer of the county committee to whom such penalty is paid shall execute, in triplicate, form Cotton 219–A by describing therein the cotton with respect to the marketing of which the penalty has been paid and shall retain one copy thereof and deliver the original and one copy thereof to the producer. The original of form Cotton 219–A so executed shall be delivered by the producer or his agent to the buyer or transferee of the cotton described therein at the time such cotton is marketed, and the producer or his agent shall execute form Cotton 213 with respect to such cotton in accordance with the foregoing provisions of this subsection.

7. Any operator or producer to whom a red marketing card (form Cotton 212) is issued shall, upon executing a form Cotton 213 covering cotton the beneficial title to any part or all of which was originally held by one or more other producers, forthwith execute form Cotton 222 in duplicate, retain the copy thereof and forward the original to the treasurer of the county committee for the county in which such form Cotton 213 was issued. Form Cotton 222 so executed shall be identified with the form Cotton 213 to which it relates and shall show the name of each such producer and the share of each such producer in the cotton covered by such form Cotton 213.

(b) The operator of each farm on which the acreage planted to cotton in 1938 is in excess of the farm acreage allotment for the farm shall file with the county committee after all the cotton on the farm has been harvested or January 1, 1939, whichever is the earlier, a report on form Cotton 217 showing (1) the total pounds of lint cotton produced in 1938 by all producers on the farm, (2) the pounds of lint cotton carried over into the marketing year from any previous crop by each producer on the farm, (3) the producer marketing quota for each producer on the farm, (4) the amount of lint cotton produced on each

producer's acreage share of the acreage planted to cotton in 1938 on the farm, (5) the amount of cotton marketed by each producer prior to the date of submitting this report, (6) the pounds of lint cotton sold by each producer, the marketing of which is or was subject to the penalty, (7) the amount of the penalty paid by each producer, (8) the pounds of lint cotton each producer has on hand which has not been marketed at the time of submitting the report, and (9) the estimated amount of lint cotton that each producer will harvest from the 1938 crop after the report is submitted. In the event the total production of cotton in 1938 on such farm is not harvested or marketed prior to January 1, 1939, the operator shall make on form Cotton 217 and file with the county committee an additional report of the information required by this subsection after the total production of cotton in 1938 on such farm has been harvested and marketed or not later than August 1, 1939, whichever is the earlier. [Sec. 373 (b).]

SEC. 604. *Records to be kept and reports to be submitted by transferees.*—Each transferee of cotton shall execute form Cotton 213 by signing his name thereon in the space provided and by stating therein whether the penalty, if any, with respect to the marketing of such cotton was or was not collected by him from the producer. The original of form Cotton 213 so executed shall be retained by the transferee. If the transferee collected the penalty with respect to the marketing of such cotton as provided for in section 505 (a), he shall issue and deliver to the producer who paid the penalty a receipt and receive from the producer the copy of form Cotton 213 on the postal card and deliver it to the treasurer of the county committee at the time of remitting the penalty as provided for in section 506.

SEC. 605. *Data to be kept confidential.*—All data reported to or acquired by the Secretary of Agriculture pursuant to and in the manner provided in this Part VI shall be kept confidential by all officers and employees of the United States Department of Agriculture, members of county committees, other local committees, and State committees, county agents, and the employees of such committees and of county agents' offices, and shall not be disclosed to anyone not having an interest in or responsibility for any cotton, farm, or transaction covered by the particular data, record, information, report, or form and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them to anyone not having such an interest or not being employed in the administration of the Act and then only in a suit or administrative hearing under Title III of the Act. [Sec. 373 (c).]

SEC. 606. *Enforcement.*—It shall be the duty of the county committee to report in writing to the State committee forthwith each case of failure or refusal to make any report or keep any record as required by these regulations and each case of making any false report or record. It shall be the duty of the State committee to report each such case forthwith in writing in triplicate to the United States Department of Agriculture with a view to the institution of proceedings by the United States attorney for the appropriate district, under the direction of the Attorney General of the United States, to enforce the provisions of Title III of the Act. [Sec. 376.]

PART VII. MISCELLANEOUS

SECTION 701. *Forms and instructions.*—The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions (as parts of the general series referred to in section 107) and such forms as may be required to carry out these regulations. Copies of such forms and necessary instructions shall be furnished free to persons needing them upon request made to the office of the appropriate county committee.

SEC. 702. *Interim marketing cards, marketing certificates, and penalty receipts.*—Whenever the regional director shall authorize the use of form Cotton 223 in lieu of the red marketing card (form Cotton 212) and form Cotton 224 in lieu of the marketing certificate and penalty receipt (form Cotton 213), form Cotton 223 and form Cotton 224 shall be issued, accounted for, used, and executed in the manner herein otherwise provided in the case of form Cotton 212 and form Cotton 213, respectively, *provided*, that the use of any forms Cotton 223 or 224 shall not be authorized if forms Cotton 212 and 213 are available for use.

SEC. 703. *Long staple cotton.*—Except as herein otherwise specifically set forth the provisions of these regulations do not apply to cotton the staple of which is 1½ inches or more in length. [Sec. 350.]

PART VIII. DEFINITIONS

SECTION 801. *Definitions.*—As used in these regulations and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires;

1. *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

2. *Secretary of Agriculture* means the Secretary of Agriculture of the United States.

3. *Administrator* means the Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

4. *Regional Director* means the director of the division of the Agricultural Adjustment Administration in charge of the administration of Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act in the region.

5. *East Central Region* means the area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

6. *Southern Region* means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

7. *North Central Region* means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

8. *Western Region* means the area included in the States of Arizona, California, Colorado, Idaho, Kansas Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

9. *State Committee* means the group of persons designated within any State to assist in the administration of Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

10. *Committee* means a committee within a county or community utilized under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act. "County committee", "community committee", or "local committee" shall have corresponding meanings in the connection in which they are used

11. *Review Committee* means the review committee appointed by the Secretary as provided in Section 363 of the Act.

12. *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State. The term "person" shall include two or more persons having a joint or common interest. Words importing the masculine gender may be applied to and include partnerships, firms, joint-stock companies, corporations, associations, trusts, estates, agencies of a State, and women.

13. *Owner* or *Landlord* means a person who owns farm land and rents such land to another person or operates such land.

14. *Cash Tenant* or *Standing-Rent Tenant* or *Fixed-Rent Tenant* means a person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

15. *Share Tenant* means a person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

16. *Sharecropper* means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

17. *Operator* means a person who as a landlord or cash tenant or standing or fixed-rent tenant is operating a farm and is entitled to receive all or a portion of the crops produced thereon or the proceeds of such crops, or who as a share tenant is operating a whole farm and is entitled under a written or oral lease or agreement to receive a portion of the crops produced thereon or of the proceeds of such crops.

18. *Producer* or *Farmer* means a person who is entitled to a share of the cotton crop, or the proceeds thereof, produced on the farm in 1938, as owner, landlord, cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, or sharecropper. The term "producer" or "farmer" also includes a wage hand (or cropper) who as a laborer on a farm instead of receiving daily or other cash wages for his labor receives either all the cotton produced by him or another on an agreed or specified acreage or all the cotton produced on an agreed or specified portion of the acreage cultivated by him or another.

19. *Buyer* means a person who buys cotton from a producer.

20. *Transferee* means a person who receives cotton from a producer by barter or exchange.

21. *Ginner* means a person who gins cotton.

22. *Treasurer of the County Committee* means the treasurer of the county agricultural conservation association or the treasurer of the county committee, as the case may be.

23. *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land) the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under these regulations;

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

Provided, that land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or the local administrative area within the county, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county or local administrative area, as the case may be, in which the major portion of the farm is located.

24. *Farm Marketing Quota* means a cotton marketing quota established for a farm under section 201 of these regulations.

25. *Producer Marketing Quota* means a producer's share of a farm marketing quota.

26. *Farm Acreage Allotment* means a cotton acreage allotment established for a farm under section 104 of these regulations.

27. *Normal Yield Per Acre of Lint Cotton* means the number of pounds of lint cotton established as the normal yield for the farm in accordance with section 105.

28. *Actual Production* of any number of acres of cotton on a farm means the actual average yield of lint cotton for the farm for 1938 times such number of acres.

29. *Normal Production* as applied to any number of acres of cotton means the normal yield per acre of lint cotton for the farm times such number of acres.

30. *Lint Cotton* means the fiber taken from seed cotton by ginning.

31. *Seed Cotton* means the harvested fruit of the cotton plant before it is ginned.

32. *Ginning* means separating lint cotton from the seed.

33. *Market* means to dispose of by sale, barter, or exchange.

1. The term "sale" as used herein means any transfer of title to cotton by a producer to another by any means other than barter or exchange.

2. The terms "barter" and "exchange" mean transfer of title to cotton by a producer to another in return for cotton or other commodities, services, or property in cases where the value of the cotton or such other commodities, services, or property is not considered in terms of money, or the transfer of title to cotton by a producer to another in payment of a fixed rental or other charge for land.

3. "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

34. *Marketing year* means the period beginning on August 1, 1938, and ending with July 31, 1939, both dates inclusive.

35. *Penalty* means the penalty provided in Section 348 of the Act.

36. *State and county code number* means the applicable number assigned by the Agricultural Adjustment Administration to each county for the purpose of identification.

37. *Serial number of the farm or farm serial number* means the serial number assigned to a farm.

38. *Gin bale numer or mark* means the number on the bale tag or any mark made or used by the ginner to identify a bale of cotton.

[F. R. Doc. 38-1849; Filed, June 29, 1938; 9:52 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-272]

IN THE MATTER OF TRADE PRACTICE RULES CONCERNING THE SHRINKAGE OF WOVEN COTTON YARD GOODS

PROMULGATION

Due proceedings having been had[1] under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act),

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding be promulgated June 30, 1938.

Trade Practice Rules—Shrinkage of Woven Cotton Yard Goods

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

Unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. *Definition.*—As used in these rules, the term "residual shrinkage" applied to woven cotton yard goods in the piece means the shrinkage or shrinking properties remaining in such goods after the same have undergone a shrinking process.

RULE 2. The practice of selling, offering for sale, advertising, describing, branding, marking, or labeling woven cotton yard goods in a manner which is calculated to mislead or deceive or has the tendency and capacity or effect of mis-

[1] 3 F. R. 54 (DI).

leading or deceiving purchasers, prospective purchasers, or the consuming public with respect to the preshrunk character of such goods, the residual shrinkage remaining therein, or with respect to the extent of the shrinkage to which such goods have been subjected, or respecting any other shrinkage properties, quality, or character of such goods, is an unfair trade practice.

RULE 3. In the sale or distribution of woven cotton yard goods, it is an unfair trade practice: (a) to use, or cause to be used, directly or indirectly, the terms "Full Shrunk," "Preshrunk," "Shrunk," "Shrinkproof," "Will not Shrink," "Mill Shrunk," "Double Shrunk," "Non-Shrinkable," or word, term, mark, label, or representation of like effect or similar import, as descriptive of such goods when the same are not in fact shrinkproof or non-shrinkable, or have not in fact been fully shrunk or preshrunk to the extent that no residual shrinkage is left remaining in such goods, or (b) otherwise to use, or cause to be used, any such word, term, mark, label, or representation so as to mislead or deceive purchasers, prospective purchasers, or the consuming public into the belief that such goods have been shrunk to a greater degree than is in fact true or that the residual shrinkage of such goods is less than is in fact true.

RULE 4. Nothing in these rules shall prohibit the use of the term "Full Shrunk," "Preshrunk," "Shrunk," "Shrinkproof," "Non-Shrinkable," or word, term, mark, label, or representation of like effect or similar import, as descriptive of woven cotton yard goods which have undergone the application of a shrinking process and thereby have been shrunk or preshrunk to the extent that no residual shrinkage is left remaining in such goods, and provided that subsequent to the application of such shrinking process the goods have not been subjected to stretching or to any condition or process which has restored shrinking properties or residual shrinkage to such goods.

RULE 5. *Use of terms "Preshrunk" or "Shrunk" with qualifications.*—(I) In the case of woven cotton yard goods which have undergone the application of a shrinking process and have been shrunk to a substantial extent but as to which there remains a certain amount of residual shrinkage, nothing in these rules shall prohibit the use of the term "Preshrunk", "Shrunk", or term or word of like effect or similar import, as an integral part of or in immediate conjunction with a truthful phrase, statement, or assertion clearly and unequivocally stating the fact that such goods have been preshrunk or shrunk to a substantial extent and also setting forth in percentage or percentages the amount or residual shrinkage remaining in both the warp and the filling, or in the warp or the filling whichever has the greater residual shrinkage. To avoid confusion, deception, or misunderstanding, the standard shrinkage test provided for in paragraph (V) of this rule should be used in determining percentages to be specified in such designations. The following are typical examples of designations provided for in this rule:

(a) "Preshrunk (or shrunk)—will not shrink more than ----% under Commercial Standard CS59–36"

(b) "Preshrunk (or shrunk)—residual shrinkage will not exceed ----% under Commercial Standard CS59–36"

(c) "Preshrunk (or shrunk)—residual shrinkage will not exceed warp ----%, filling ----%, Commercial Standard CS59–36"

(d) "These goods have been shrunk (or preshrunk) to the extent that residual shrinkage will not exceed ----% when tested in accordance with the recognized and approved standards or tests."

(II) The residual shrinkage percentage designations provided for in this Rule 5 for woven cotton yard goods should be stamped on or otherwise firmly affixed to the material in conspicuous size and legibility of type or style, and should also appear similarly on all invoices, labels, marks, or advertisements which carry reference to the shrinkage of the goods.

(III) The use of residual shrinkage percentage designations not in conformity with results obtainable under the test specified in paragraph (V) of this rule, with the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

(IV) The use or specification of an unreliable or inadequate test in any such designations, or the refusal to specify a test which is proper and applicable, when done for the purpose or with the capacity and tendency or effect of directly or indirectly misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

(V) The following test is deemed to be an accepted and recognized test for determining shrinkage properties or residual shrinkage of woven cotton yard goods in the application of these rules and is recommended for use as a standard shrinkage test for this purpose:

"Commercial Standard CS59–36"

RULE 6. It is an unfair trade practice for any person, firm or corporation to aid, abet, coerce or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in these rules.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

Entered June 29, 1938.

[F. R. Doc. 38–1850; Filed, June 29, 1938; 12:11 p. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDED RULES OF PRACTICE

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, the Securities Exchange Act of 1934, as amended, particularly Section 23 (a) thereof, the Public Utility Holding Company Act of 1935, particularly Section 20 (a) thereof, and finding that it is necessary to carry out the provisions of the Securities Act of 1933, as amended, and the Public Utility Holding Company Act of 1935 and that it is necessary for the execution of the functions vested in the Commission by the Securities Exchange Act of 1934, as amended, hereby (1) repeals as of July 1, 1938, the Rules of Practice of the Commission in effect on June 25, 1938 and (2) adopts the following Amended Rules of Practice effective July 1, 1938:

*Rules of Practice as Amended June 25, 1938.**

(Effective July 1, 1938)

SEC. 1.I (*Rule I*). *Business hours—Regional offices.*—The principal office of the Commission at Washington, D. C., is open on each business day, excepting Saturdays, from 9 a. m. to 4:30 p. m., and on Saturdays from 9 a. m. to 1 p. m. Regional offices are maintained at New York, Boston, Atlanta, Chicago, Fort Worth, Denver, San Francisco, and Seattle.*

SEC. 1.II. (*Rule II*). *Appearance and practice before the Commission.*—(a) An individual may appear in his own behalf, a member of a partnership may represent the partnership, a bona-fide officer of a corporation, trust or association may represent the corporation, trust or association, and an officer or employee of a state commission or of a department or political subdivision of a state may represent the state commission or the department or political subdivision of the state, in any proceeding.

(b) A person may be represented in any proceeding by an attorney at law admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States, or the Court of Appeals or the District Court of the United States for the District of Columbia.

(c) A person shall not be represented at any hearing before the Commission or a trial examiner except as stated in paragraphs (a) and (b) of this rule.

(d) Any person appearing before or transacting business with the Commission in a representative capacity may be required to file a power of attorney with the Commission showing his authority to act in such capacity.

(e) The Commission may disqualify, and deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to, any person who is found by the Commission after hearing in the matter

(1) Not to possess the requisite qualifications to represent others; or

(2) To be lacking in character or integrity or to have engaged in unethical or improper professional conduct.

(f) Contemptuous conduct at any hearing before the Commission or a trial examiner shall be ground for exclusion from said hearing and for summary suspension without a hearing for the duration of the hearing.

(g) For the purposes of this rule, practicing before the Commission shall include the preparation of any statement, opinion or other paper by any attorney, accountant, engineer or other expert, filed with the Commission in any registration statement, application, report or other document with the consent of such attorney, accountant, engineer or other expert.*

SEC. 1.III (*Rule III*). *Notice of hearing.*—(a) Whenever a hearing is ordered by the Commission in any proceeding, notice of such hearing shall be given by the Secretary or other duly designated officer of the Commission to the registrant, applicant, or other parties to the proceeding, or to the person designated as being authorized to receive notices issued by the Commission. Such notice shall state the time, place and subject matter of the hearing and, in proceedings instituted by the Commission, shall be accompanied, except as provided in paragraph (b) hereof, by a short and simple statement of the matters to be considered and determined. Such notice shall be given by personal service, registered mail, or confirmed telegraphic notice, a reasonable time in advance of the hearing.

(b) Whenever a hearing is ordered by the Commission in any proceeding pursuant to Section 8 of the Securities Act of 1933, as amended,[1] notice of such hearing shall be given by the Secretary or other duly designated officer of the Commission to the person designated in the registration statement as being authorized to receive service and notice of orders and notices issued by the Commission relating to such registration statement. Such notice shall state the time and place of hearing and shall include a statement of the items in the registration statement by number or name which appear to be incomplete or inaccurate in any material respect, or to include any untrue statement of a material fact, or to omit a statement of any material fact required to be stated therein or necessary to make the statement therein not misleading. Such notice shall be given either by personal service or by confirmed telegraphic notice a reasonable time in advance of the hearing. The personal notice or the confirmation of telegraphic notice shall be accompanied by a short and simple statement of the matters and items specified to be considered and determined.*

SEC. 1.IV (*Rule IV*). *Amendments.*—(a) Whenever a hearing is ordered by the Commission in any proceeding pursuant to Section 8 of the Securities Act of 1933, as amended,[1] and items in the registration statement which appear to be incomplete or inaccurate in any material respect, or to include any untrue statement of a material fact, or to omit a statement of any material fact required to be stated therein or necessary to make the statements therein not misleading, are not particularly specified in the notice, such items shall be so specified by amendment to the notice prior to the taking of testimony in regard to such items. The trial examiner may grant or deny a motion for such amendment. Such motions shall be in writing, and may be filed with the trial examiner at any time prior to the termination of the hearing. On request of the registrant the trial examiner, after granting such motion, shall grant a reasonable time within which the registrant may familiarize himself with such matters before taking testimony in regard to such items.

(b) In any other proceeding instituted by the Commission, amendment may be allowed to the order, rule to show cause or other moving papers, by the Commission on application to it, or by it upon its own motion.

(c) When issues not raised by the pleading of a party or the Commission's statement of matters to be considered and determined are tried by express or implied consent of the parties, they may be treated in all respects as if they had been raised in the pleadings.*

SEC. 1.V (*Rule V*). *Hearings for the purpose of taking evidence.*—(a) Hearings for the purpose of taking evidence shall be held as ordered by the Commission.

(b) All such hearings shall be held before the Commission, one or more of its members, or a duly designated officer, herein referred to as the trial examiner, and all such hearings, except hearings pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933 as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or Section 22 (b) of the Public Utility Holding Company Act of 1935,[4] shall be public unless otherwise ordered by the Commission.

(c) Hearings for the purpose of taking evidence shall be stenographically reported and a transcript thereof shall be made which shall be a part of the record of the proceeding. Transcripts of public hearings will be supplied by the official reporter at the prescribed rates. Transcripts of private hearings will be supplied at the prescribed rates to the parties.

(d) Objections to the admission or exclusion of evidence before the Commission or trial examiner shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument or debate thereon except as ordered by the Commission or the trial examiner. Exception to any such ruling must be noted before the trial examiner in order to be urged before the Commission. Rulings by the Commission or trial examiner on such objections shall be a part of the transcript.

(e) In any proceeding the Commission or the trial examiner may call for the production of further evidence upon any issue, and, upon notice to all parties, may reopen any hearing at any time prior to the Commission's order disposing of such proceeding.

(f) Subpoenas requiring the attendance of witnesses from any place in the United States at any designated place of hearing may be issued by any member of the Commission or any officer designated by it for that purpose in connection with any hearing ordered by the Commission, upon written application therefor.

(g) Subpoenas for the production of documentary evidence will issue only upon application in writing, which must specify, as nearly as may be, the documents desired and the facts to be proved by them, in sufficient detail to indicate the materiality and relevance of the documents desired.

(h) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

(i) In proceedings pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or Section 22 (b) of the Public Utility Holding Company Act of 1935,[4] if a hearing for the purpose of taking testimony is requested, the Commission may in its discretion, prior to the hearing, require the registrant to furnish in writing additional information in respect of its grounds of objection. Failure to supply the information so requested within fifteen days from the date of receipt by the registrant of a notice of the information required, shall be deemed a waiver of the objections to public disclosure of that portion of the information filed confidentially with respect to which the additional information required by the Com-

NOTE.—Footnotes at end of this article.

mission relates, unless the Commission shall otherwise order for good cause shown at or before the expiration of such fifteen-day period.*

SEC. 1.VI (*Rule VI*). *Motions.*—(a) Motions in any proceeding before a trial examiner which relate to the introduction or striking of evidence, or motions before a trial examiner in any proceeding pursuant to Section 8 of the Securities Act of 1933, as amended,[1] which relate to amendment of the notice of hearing to include additional items of the registration statement as provided in Rule IV (a), [Sec. 1.IV] may be ruled on by the trial examiner. All other motions shall be ruled on by the Commission.

(b) Motions or similar pleadings calling for determination by the Commission shall be filed with the Secretary or other duly designated officer of the Commission in writing, provided that motions or similar pleadings calling for determination by the Commission but made in the course of a hearing, may be filed with the trial examiner in writing who shall refer such motion to the Commission. Any such motion or similar pleading shall be accompanied by a written brief of the points and authorities relied upon in support of the same. Any party or counsel to the Commission may file a reply brief within 5 days after service upon him of such motion or other pleading as provided in Rule XIV, [Sec. 1.XIV] unless otherwise ordered by the Commission. Motions and similar pleadings will be considered on the briefs filed following the time for filing the reply brief, unless otherwise ordered by the Commission. No oral argument will be heard on such matters unless the Commission so directs.*

SEC. 1.VII (*Rule VII*). *Extension of time—continuances and adjournments.*—Except as otherwise expressly provided by law, the Commission for cause shown may extend any time limits prescribed by these rules for filing any papers, and may continue or adjourn any hearing. A hearing before a trial examiner shall begin at the time and place ordered by the Commission, but thereafter may be successively adjourned to such time and place as may be ordered by the Commission or by the trial examiner.*

SEC. 1.VIII (*Rule VIII*). *Depositions.*—(a) The Commission may, for cause shown, order testimony to be taken by deposition.

(b) If any party or counsel to the Commission desires to take a deposition he shall make application in writing, setting forth the reasons why such deposition should be taken, the name and residence of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition. Thereupon the Commission may, in its discretion, issue an order which will name the witness whose deposition is to be taken and specify the time when, the place where, and the designated officer before whom the witness is to testify. Such order shall be served upon all parties and counsel to the Commission by the Secretary, or other duly designated officer of the Commission, a reasonable time in advance of the time fixed for taking testimony.

(c) Witnesses whose testimony is taken by deposition shall be sworn or shall affirm before any questions are put to them. Each question propounded shall be recorded and the answers shall be taken down in the words of the witness.

(d) Objections to questions or evidence shall be in short form, stating the grounds of objection relied upon, but no transcript filed by the officer shall include argument or debate. Objections to questions or evidence shall be noted by the officer upon the deposition, but he shall not have power to decide on the competency or materiality or relevancy of evidence. Objections to questions or evidence not taken before the officer shall be deemed waived.

(e) The testimony shall be reduced to writing by the officer, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. The original deposition and exhibits shall be forwarded under seal to the Secretary of the Commission with such number of copies as may be requested by the Secretary of the Commission. Upon receipt thereof the Secretary shall file the original in the proceedings and shall forward a copy to each party or his attorney of record and to counsel to the Commission.

(f) Such depositions shall conform to the specifications of Rule XV [Sec. 1.XV].

(g) Any part of a deposition not received in evidence at a hearing before the Commission or a trial examiner shall not constitute a part of the record in such proceeding, unless the parties and counsel to the Commission shall so agree, or the Commission so orders.

(h) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. The interrogatories shall be filed with the application in triplicate, and copies thereof shall be served on all other parties and counsel to the Commission by the Secretary or other duly designated officer of the Commission. Within 5 days any other party or counsel to the Commission may file with the Secretary his objections, if any, to such interrogatories, and may file such cross-interrogatories as he desires to submit. Cross-interrogatories shall be filed in triplicate, and copies shall be served on all other parties and counsel to the Commission, who shall have 3 days thereafter to file their objections, if any, to such cross-interrogatories. Objections to interrogatories or cross-interrogatories shall be settled by the Commission or trial examiner. Objections to interrogatories shall be made before the order for taking the deposition issues and if not so made shall be deemed waived. When a deposition is taken upon written interrogatories and cross-interrogatories, neither any party nor counsel to the Commission shall be present or represented, and no person other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.*

SEC. 1.IX (*Rule IX*). *Trial examiner's report.*—(a) Following any hearing before a trial examiner, except hearings in proceedings pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or Section 22 (b) of the Public Utility Holding Company Act of 1935,[4] the transcript of the testimony shall forthwith be filed with the Secretary of the Commission. Following any hearing before trial examiner in the excepted cases, the transcript of the testimony shall forthwith be filed with the Chairman of the Commission.

(b) Following any hearing before a trial examiner other than (1) a hearing under the Public Utility Holding Company Act of 1935, or (2) a hearing on the question of postponement of the effective date of registration of a broker or dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended,[5] pending final determination whether such registration shall be denied, or (3) a hearing pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] the trial examiner shall, within ten days after service upon him by the Secretary or other duly designated officer of the Commission of a copy of the transcript of the testimony file with the Secretary of the Commission his report containing his findings of fact.

(c) Such report shall be advisory only, and the findings of fact therein contained shall not be binding upon the Commission. The initial page of the report shall contain a statement to such effect. In any proceeding in which, under the provisions of Rule XIII (b) [Sec. 1.XIII] of the Rules of Practice of the Commission, the report is first to be made available to the public on the opening date of public argument on the merits before the Commission, or in the event of submission to the Commission without argument, on the date of such submission, the initial page of the report shall also contain a statement to the effect that the report is confidential, shall not be made public, and is for the use only of the Commission, the respondent or respondents, and counsel, but copies of the report issued on or after

NOTE.—Footnotes at end of this article.

such opening date or submission may omit such statement.

(d) A copy of such report shall be forthwith served on each party and on counsel to the Commission by the Secretary or other duly designated officer of the Commission.

(e) Within five days after the conclusion of the hearing in any proceeding any party or counsel to the Commission may submit to the presiding officer, or, in the case of a hearing before a trial examiner in respect of which no trial examiner's report is required to be submitted, to the officer designated in paragraph (a) of this rule as the person with whom transcripts of testimony are to be filed, a statement in writing in terse outline setting forth such party's request for specific findings, which may be accompanied by a brief in support thereof. A copy of such request and brief in support thereof shall be served upon each party and upon counsel to the Commission as provided in Rule XIV [Sec. 1. XIV] in the case of a hearing before a trial examiner in respect of which no trial examiner's report is required to be submitted. A copy of such request and brief in support thereof shall be served upon each party and upon counsel to the Commission by the presiding officer in the case of a hearing in which a trial examiner's report is to be submitted in which event the trial examiner shall immediately certify the facts concerning such service, including the dates thereof to the Secretary of the Commission. In all cases where such requests and briefs in support thereof are served upon each party and upon counsel to the Commission by the trial examiner the provisions of Rule XIII (d) [Sec. 1. XIII] shall not be applicable. This paragraph shall not apply to any proceeding on the question of postponement of the effective date of registration of a broker or dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended,[5] pending final determination whether such registration shall be denied.

(f) All requests for specific findings filed pursuant to paragraph (e) of this Rule shall be a part of the record.*

SEC. 1.X (*Rule X*). *Exceptions.*—(a) Within five days after receipt of a copy of the trial examiner's report, any party or counsel to the Commission may file exceptions to the findings of the trial examiner or to his failure to make findings, or to the admission or exclusion of evidence. A copy of such exceptions shall be forthwith served on each party and on counsel to the Commission by the Secretary or other duly designated officer of the Commission. Exceptions shall be argued only at the final hearing on the merits before the Commission.

(b) Objections to the findings of the trial examiner or to his failure to make findings not saved by exception filed pursuant to this rule will be deemed to have been abandoned and may be disregarded. Objections to the admission or exclusion of evidence not saved by exception at the time of the hearing for the purpose of taking evidence and included in the exceptions filed pursuant to this rule will be deemed to have been abandoned and may be disregarded.*

SEC. 1.XI (*Rule XI*). *Briefs.*—(a) Any party to a proceeding or counsel to the Commission may file a brief in support of his contentions and exceptions within 15 days from the date of service on such party or on counsel to the Commission of a copy of the trial examiner's report. In a case where no trial examiner's report is to be filed and a request for specific findings is filed by a party to the proceeding or counsel to the Commission, any party to the proceeding or counsel to the Commission may file a brief in support of his contentions and exceptions within 15 days of the filing as provided in paragraph (e) of Rule IX [Sec. 1.IX] hereof by such party or counsel to the Commission of such request for specific findings, or within 15 days from the date of service on such party or on counsel to the Commission of a copy of such request for specific findings. In a case where no trial examiner's report is to be filed and where no request for specific findings is filed, any party to a proceeding or counsel to the Commission may file a brief in support of his contentions and exceptions within 15 days from the date when the transcript of testimony is filed with the Secretary or other duly designated officer of the Commission.

(b) All briefs shall be confined to the particular matters in issue. Each exception or request for findings which is briefed shall be supported by a concise argument and by citation of such statutes, decisions and other authorities and by page references to such portions of the record, as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript. Reply briefs shall be confined to matters in original briefs of opposing parties. Reply briefs in proceedings held pursuant to the provision of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or Section 22 (b) of the Public Utility Holding Company Act of 1935,[4] will be received only by special permission of the Commission. Any scandalous or impertinent matter contained in any brief may be stricken on order of the Commission.

(c) Exceptions and, in cases where no trial examiner's report is to be filed, requests for specific findings not briefed in accordance with Rule XI [Sec. 1.XI] may be regarded by the Commission as waived.

(d) All briefs, including briefs filed pursuant to Rule VI [Sec. 1.VI], containing more than 10 pages shall include an index and table of cases. The date of each brief must appear on its front cover or title page. If briefs are typewritten or mimeographed, 10 copies shall be filed; if printed, 20 copies, provided that only 7 copies of briefs in proceedings held pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or Section 22 (b) of the Public Utility Holding Company Act of 1935,[4] need be filed in any instance. No brief shall exceed 60 pages in length, except with the permission of the Commission.

(e) Copies of briefs shall be served by the Secretary or other duly designated officer of the Commission on the parties to the proceeding and on counsel to the Commission, and reply briefs may be filed within 5 days thereafter. Such reply briefs as are authorized by the Commission in proceedings held pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or section 22 (b) of the Public Utility Holding Company Act of 1935,[4] shall be filed within 5 days after such authorization.

(f) Briefs not filed on or before the time fixed in these rules will be received only upon special permission of the Commission.

(g) Without regard to the foregoing provisions of this rule with respect to filing of briefs, in the event an application is submitted to the Commission for final determination pursuant to paragraph (e) of Rule X–UB2 [Sec. 10.X–UB2] under the Securities Exchange Act of 1934, as amended, or paragraph (c) of Rule U–22B–1 [Sec. 15.U–22B–1] under the Public Utility Holding Company Act of 1935, either party or counsel to the Commission may file a brief in support of his contentions within fifteen days from the time of such submission. In such proceeding, reply briefs will be received only upon special permission of the Commission.

(h) This rule shall not apply to any proceeding on the question of postponement of the effective date of registration of a broker or dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended,[5] pending final determination whether such registration shall be denied and in any such proceeding neither any party nor counsel to the Commission shall be entitled to file a brief.*

SEC. 1.XII (*Rule XII*). *Hearing before the Commission.*—(a) Upon written request of any party or of counsel to the Commission, which must be made within the time provided for filing the original briefs or, in the case of a proceeding on the question of postponement of the effective date of registration of a broker or dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended,[5] pending final determination whether such registration shall be denied, before the close of the hearing for the purpose of taking evidence, the matter will be

NOTE.—Footnotes at end of this article.

set down for oral argument before the Commission; provided that, except upon order of the Commission, neither any party nor counsel to the Commission will be permitted to make oral argument before the Commission on matters arising out of proceedings pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or Section 22 (b) of the Public Utility Holding Company Act of 1935.[4]

(b) In a case where no trial examiner's report is made, the Commission shall determine the matter on the moving papers, the transcript of the testimony and exhibits received at the hearing, requests for specific findings, if any, the briefs of the parties and counsel to the Commission, if any, and oral argument before the Commission, if any.

(c) The Commission, upon its own motion or upon application in writing by any party or counsel to the Commission for leave to adduce additional evidence which application shall show to the satisfaction of the Commission that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence at the hearing before the Commission or the trial examiner, may hear such additional evidence or may refer the proceeding to the trial examiner for the taking of such additional evidence.

(d) Any petition for rehearing by the Commission shall be filed within five days after issuance of the order complained of and shall clearly state the specific grounds and the specific matters upon which rehearing is sought.*

SEC. 1.XIII (*Rule XIII*). *Filing papers—docket—computation of time.*—(a) All reports, exceptions, briefs, and other papers required to be filed with the Commission in any proceeding shall be filed with the Secretary, except that all papers containing data as to which confidential treatment is sought pursuant to Rules S–580 [Sec. 5.S–580], X–UB2 [Sec. 10.X–UB2] or U–22B–1 [Sec. 15.U–22B–1] of the Rules and Regulations of the Commission, together with applications making objection to the disclosure thereof, shall be filed with the Chairman. Any such papers may be sent by mail or express to the officer with whom they are directed to be filed, but must be received by such officer at the office of the Commission in Washington, D. C., within the time limit, if any, for such filing.

(b) All papers containing data as to which confidential treatment is sought pursuant to Rules S–580 [Sec. 5.S–580], X–UB2 [Sec. 10.X–UB2] or U–22B–1 [Sec. 15.U–22B–1] of the Rules and Regulations of the Commission, together with any application making objection to the disclosure thereof, or other papers relating in any way to such application, shall be made available to the public only in accordance with the applicable provisions of Rules S–580 (h) [Sec. 5.S–580], X–UB2 (i) [Sec. 10.X–UB2] or U–22B–1 [Sec. 15.U–22B–1]. The report of the trial examiner, exceptions thereto, requests for findings, and briefs in support of such requests or in support of or in opposition to such exceptions, which are filed in connection with any hearing pursuant to Section 15 (b) or Section 19 (a) (3) of the Securities Exchange Act of 1934, as amended,[6] shall first be made available to the public on the opening date of public argument on the merits before the Commission or in the event of submission to the Commission without argument upon the date of such submission.

(c) The Secretary shall maintain a docket of all proceedings, and each proceeding shall be assigned a number.

(d) Wherever under these Rules, unless otherwise expressly provided, any limitation is made as to the time within which any reports, exceptions, briefs, or other papers are required to be filed with the Commission in any proceeding, trial examiners and parties who are residents of the following states: Montana, Idaho, Wyoming, Colorado, New Mexico, Utah, Arizona, Nevada, Washington, Oregon and California, shall have an additional period of five days; and trial examiners and parties who reside beyond the confines of the continental United States shall have an additional period of twenty days within which to file such reports, exceptions, briefs, and other papers. For the purposes of this rule the person upon whom service is made by the Commission is the party whose residence shall determine whether the additional time provided herein shall be granted.

(e) In computing any period of time prescribed or allowed by these rules or by order of the Commission, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday in the District of Columbia, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. Intermediate Sundays and holidays shall be included in the computation. A half-holiday shall be considered as other days and not as a holiday.

(f) Unless otherwise specifically provided in these rules, an original and eight copies of all papers shall be filed, unless the same be printed, in which case 20 copies shall be filed.*

SEC. 1.XIV (*Rule XIV*). *Service of reports, exceptions, briefs, and other papers.*—(a) All reports, exceptions, briefs, requests for specific findings, or other documents or papers required by these rules to be served on any party to a proceeding, or on counsel to the Commission, shall be served by the Secretary or other duly designated officer of the Commission, provided that such papers concerning applications for confidential treatment pursuant to the Provisions of Clause 30 of Schedule A of the Securities Act of 1933, as amended,[2] or Section 24 (b) of the Securities Exchange Act of 1934, as amended,[3] or Section 22 (b) of the Public Utility Holding Company Act of 1935,[4] shall be served by the Chairman.

(b) Subject to the provisions of Rule III (a) [Sec. 1.III] hereof, such service, except on counsel to the Commission, shall be made by personal service on the party or his attorney of record or by registered mail addressed to the party or his attorney of record.*

SEC. 1.XV (*Rule XV*). *Formal requirements as to papers filed in proceedings.*—(a) All papers filed under these rules shall be typewritten, mimeographed, or printed, shall be plainly legible, shall be on one grade of good unglazed white paper approximately 8 inches wide and 10½ inches long, with left-hand margin 1½ inches wide, and shall be bound at the upper left-hand corner. They shall be double-spaced, except that quotations shall be single-spaced and indented. If printed, they shall be in either 10- or 12-point type with double-leaded text and single-leaded quotations.

(b) All papers must be signed in ink by the party filing the same, or his duly authorized agent or attorney, or counsel to the Commission, and must show the address of the signer.

(c) All papers filed must include at the head thereof, or on a title page, the name of the Commission, the names of the parties, and the subject of the particular paper or pleading, and the docket number assigned to the proceeding.*

SEC. 1.XVI (*Rule XVI*). *Signature of Commission orders.*—All orders of the Commission shall be signed by the Secretary or such other person as may be authorized by the Commission.*

SEC. 1.XVII (*Rule XVII*). *Intervention.*—Any person upon proper showing of sufficient interest in the subject matter may, upon application in writing to the Commission duly made, be allowed to intervene in any proceeding upon such terms and conditions as the Commission may prescribe.*

SEC. 1.XVIII (*Rule XVIII*). *Consolidation.*—By order of the Commission, or upon agreement between the parties and counsel to the Commission, proceedings involving a common question of law or fact may be joined for hearing of any or all the matters in issue in such proceedings and such proceedings may be consolidated; and the Commission may make such orders concerning the conduct of such proceedings as may tend to avoid unnecessary costs or delay.*

SEC. 1.XIX (*Rule XIX*). *Nonapplicability of rules to investigations.*—These rules, other than Rule II [Sec. 1.II], shall not be applicable to investigations conducted by the Commission pursuant to Section 8 (e), 19 (b), and 20 (a) of the Securities Act of 1933, as amended,[7] Sections 21 (a) and 21 (b) of the Securities Exchange Act of 1934, as amended,[8] or Sections 11 (a), 13 (g), 18 (a), 18 (e) and 30 of the Public Utility Holding Company Act of 1935.[9]

NOTE.—Footnotes at end of this article.

REFERENCES

* C. 38, sec. 19, 48 Stat. 85; c. 404, sec. 209, 48 Stat. 908; 15 U. S. C. 77s; c. 404, sec. 23, 48 Stat. 901; c. 462, sec. 8, 49 Stat. 1379; 15 U. S. C., 78w and Sup. III: c. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t.

[1] C. 38, sec. 8, 48 Stat. 79; 15 U. S. C. 77h.

[2] C. 38, schedule A, 48 Stat. 88; 15 U. S. C. 77aa.

[3] C. 404, sec. 24, 48 Stat. 901; 15 U. S. C. 78x.

[4] C. 687, sec. 22, 49 Stat. 834; 15 U. S. C., Sup. III, 79v.

[5] C. 404, sec. 15, 48 Stat. 895; c. 462, sec. 3, 49 Stat. 1377; 15 U. S. C., 78o and Sup. III.

[6] C. 404, sec. 15, 48 Stat. 895; c. 462, sec. 3, 49 Stat. 1377; 15 U. S. C., 78o and Sup. III; c. 404, sec. 19, 48 Stat. 898; 15 U. S. C. 78s.

[7] C. 38, sec. 8, 48 Stat. 79; 15 U. S. C. 77h: C. 38, sec. 19, 48 Stat. 85, c. 404, sec. 20, 48 Stat. 908; 15 U. S. C. 77s: C. 38, sec. 20, 48 Stat. 86; 15 U. S. C. 77t.

[8] C. 404, sec. 21, 48 Stat. 899; C. 462, sec. 7, 49 Stat. 1377; 15 U. S. C. 78u and Sup. III.

[9] C. 687, sec. 11, 49 Stat. 820; 15 U. S. C., Sup. III, 79k: C. 687, sec. 13, 49 Stat. 825; 15 U. S. C., Sup. III, 79m: C. 687, sec. 18, 49 Stat. 831; 15 U. S. C., Sup. III, 79r: C. 687, sec. 30, 49 Stat. 837; 15 U. S. C., Sup. III, 79z–4.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1851; Filed, June 29, 1938; 1:01 p. m.]

Notices

DEPARTMENT OF COMMERCE.

Bureau of Air Commerce.

SPECIAL AIR TRAFFIC RULE

NEW YORK WORLD'S FAIR GROUNDS, JUNE 30, 1938

Pursuant to Section 3 (e) of the Air Commerce Act of 1926, as amended, (44 Stat. 568), the following Special Air Traffic Rule is promulgated regarding the navigation or operation of aircraft over and in the vicinity of the New York World's Fair Grounds, New York City, between the hours of 10:00 A. M. and 5:00 P. M., on June 30, 1938, on which day the President of the United States will visit the Fair Grounds:

No aircraft shall be navigated or operated at any altitude above the New York World's Fair Grounds, or at any altitude above that area described by a line drawn horizontally one mile outside of and parallel to the exterior boundaries of such Fair Grounds, between the hours of 10:00 A. M. and 5:00 P. M., June 30, 1938, unless special permission for such flight has been granted by O. P. Harwood, Acting Supervising Inspector of the Bureau of Air Commerce stationed at Roosevelt Field, Long Island, New York.

Approved, to take effect June 30, 1938.

[SEAL] J. M. JOHNSON,
Secretary of Commerce.

[F. R. Doc. 38–1848; Filed, June 28, 1938; 5:29 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1938.

[File No. 43–130]

IN THE MATTER OF BRADFORD ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 18, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 13, 1938.

The matter concerned herewith is in regard to the filing of a declaration by Bradford Electric Company, a direct subsidiary of Keystone Utilities, Inc., a registered holding company, and an indirect subsidiary of NY PA NJ Utilities Company, Associated Gas and Electric Corporation and Associated Gas and Electric Company, all registered holding companies, relating to the proposed issue of a promissory note or notes to mature in eleven months from the date of issue in an amount not to exceed $450,000, the note or notes to be issued on or before August 2, 1938. The declarant states that the note or notes will be issued on the best obtainable terms in respect to rate of interest and are being issued by it to refund its now outstanding promissory note, bearing interest at the rate of 3%, dated September 2, 1937, and maturing August 2, 1938. The note sought to be refunded is in the face amount of $450,000 and is payable to the Chase National Bank of the City of New York.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1857; Filed, June 29, 1938; 1:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 27th day of June, 1938.

[File No. 1–178]

IN THE MATTER OF WELLS, FARGO & COMPANY CAPITAL STOCK, $1 PAR VALUE

ORDER POSTPONING HEARING

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Capital Stock, $1 Par Value, of Wells, Fargo & Company; and

The Commission having ordered that the matter be set down for hearing on June 29, 1938, in Washington, D. C.;[1] and

The issuer having requested a postponement of said hearing, to which request said Exchange has agreed;

It is ordered, That said hearing be postponed until 10 A. M., on Thursday, July 14, 1938, in Room 1103, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as may be determined by the Commission or its officer presiding at said hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1856; Filed, June 29, 1938; 1:02 p. m.]

[1] 3 F. R. 1434 (DI).

Retention 2

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THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 128

Washington, Friday, July 1, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

TERMINATION OF LICENSE FOR MILK, DES MOINES, IOWA, SALES AREA

Whereas, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under the provisions of the Agricultural Adjustment Act, Public Law No. 10, 73rd Congress, approved May 12, 1933, as amended, for the purposes and within the limitations therein contained and pursuant to the General Regulations issued thereunder, on the 10th day of February, 1934, issued, under his hand and the official seal of the Department of Agriculture, a license for milk—Des Moines, Iowa, Sales Area, effective the 14th day of February, 1934, which license was subsequently amended on the 5th day of May, 1934, on the 16th day of June, 1934, and on the 5th day of December, 1934; and

Whereas, the Secretary of Agriculture finds that such license no longer tends to effectuate the declared policy of the act and has determined to terminate said license as amended;

Now, therefore, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under the authority vested in the Secretary by said act, as amended, and pursuant to the general regulations issued thereunder, hereby terminates said license, as amended, subject, however, to the following conditions:

1. That the provisions of article III of the said license, as amended, relating to the designation, rights and duties of the Market Administrator, shall remain in force and effect for the purpose of enabling the Market Administrator, or his successor, to liquidate and settle all matters arising under the terms and provisions of the said license, as amended;

2. That any and all of the obligations which have arisen thereunder, or which may hereafter arise in connection therewith, by virtue of, or pursuant to, the said license, as amended, shall not be affected, waived or terminated hereby; and

3. That the Market Administrator, or his successor in office, designated in accordance with the provisions of the license, shall have the power and authority

(a) to collect any and all of the moneys due to the Market Administrator under the terms and provisions of the said license, as amended,

(b) to distribute any moneys heretofore or hereafter collected in accordance with the provisions of the said license, as amended, and

(c) to have and exercise all of the powers and authority vested in the Market Administrator under the terms and provisions of the said license, as amended, as may be necessary or proper to carry out the foregoing purposes.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this termination in duplicate and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 29th day of June 1938, and hereby declare that this termination shall be effective on and after 12:01 a. m., c. s. t., July 1, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1858; Filed, June 29, 1938; 1:07 p. m.]

[ACP—1938—Pondera County, Montana]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR PONDERA COUNTY, MONTANA

CONTENTS

PART 1.—1938 AGRICULTURAL CONSERVATION PROGRAM

SECTION I. County Soil-Depleting Base Acreage and Restoration Land Goal.
II. Farm Soil-Depleting Base Acreages, and Restoration Land Goals.
III. Payment for Full Performance.
IV. Deductions with Respect to Individual Farms.
V. Division of Payments and Deductions.
VI. Increase in Small Payments.
VII. Deductions Incurred on Other Farms.

Notice

The documents published in the daily issues of the FEDERAL REGISTER during the calendar year 1937 are now available in bound form, with ancillaries and index, designated "Volume 2." Hereafter, citations in the daily issues to documents contained in Volume 2 will give the page number in the bound volume as well as the page number in the daily issue. The latter will be followed by the abbreviation for "daily issue": DI. Example: 2 F. R. 1109 (1326 DI).

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Agricultural conservation program, 1938:	
Pondera County, Mont.	1591
Tama County, Iowa	1599
Des Moines, Iowa, Sales Area, termination of license for milk	1591
TITLE 15—COMMERCE:	
National Bituminous Coal Commission:	
Investigations, transactions in intrastate commerce in bituminous coal:	
Alabama	1605
Oklahoma	1606
Wyoming	1606
TITLE 19—CUSTOMS, DUTIES:	
Bureau of Customs:	
Revocation of obsolete general drawback regulations	1607
TITLE 25—INDIANS:	
Flathead Indian Reservation, Mont., operation and maintenance charges:	
Flathead Irrigation District	1608
Jocko Valley Irrigation District	1608
Mission Irrigation District	1608
San Carlos Project, Ariz., electricity rates	1607

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue: Page
Floor taxes on distilled spirits 1612
Manufacture, etc., of stills and worms; exportation of stills with benefit of drawback 1608

TITLE 41—PUBLIC CONTRACTS:
Department of Labor; Division of Public Contracts:
Envelope industry, amendment of decision determining minimum wages 1613
Flint glass industry, prevailing minimum wages 1612

TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Public Utility Holding Company Act, adoption of Rule U-3D-11 1613
Securities Exchange Act:
Rule AN21, amendment 1613
Over-the-counter markets, regulation of 1613

NOTICES

Department of Commerce:
Bureau of Air Commerce:
Air traffic rule, Gettysburg Battlefield, July 3, 1938 1614
Securities and Exchange Commission:
Detroit and Mackinac Railway Co., hearing postponed 1614
Iowa Public Service Co., designation of new trial examiner 1615
Louisiana Ice and Electrtic Co., Inc., effectiveness of declaration 1614

CONTENTS—Continued

Page
Securities and Exchange Commission—Continued
New York State Electric & Gas Corp., withdrawal of application for exemption 1614
Northeastern Water Cos., Inc., withdrawal of declaration 1615

VIII. Deduction for Association Expenses.
IX. General Provisions Relating to Payments.
X. Application for Payment.
XI. Soil-Depleting Crops.
XII. Soil-Conserving Crops.
XIII. Diversion and Farm Allowance Rates.
XIV. Appeals.
XV. Instructions and Forms.

PART 2.—DEFINITIONS

SECTION I. Definitions for the Purpose of the 1938 Agricultural Conservation Program.

Pursuant to the authority vested in the Secretary of Agriculture under Section 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of section 7 (a) of the said Act in 1938, payments and grants of aid will be made in Pondera County, Montana, for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said programs as the Congress of the United States may hereafter enact. The making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amount of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation. The rates of payments and deductions specified herein are subject to an increase or decrease of not more than 10 percent, depending upon the extent of participation in the Pondera County program and the final estimate of payments which would be made in Pondera County under the 1938 Agricultural Conservation Program.

The provisions of the 1938 Agricultural Conservation Program as contained in this bulletin are applicable only in Pondera County, Montana.

PART 1.—1938 AGRICULTURAL CONSERVATION PROGRAM

SECTION I. *County soil-depleting base acreage, and restoration land goal*—A. *County soil-depleting base acreage.*—The Agricultural Adjustment Administration with the assistance of the State Committee shall establish for Pondera County, Montana, a base acreage for total soil-depleting crops taking into consideration the average acreage of soil-depleting crops in Pondera County as compared with the average acreage of soil-depleting crops in other counties of the State in whichever of the periods of five or more consecutive years since 1927 the Agricultural Adjustment Administration finds is most representative of normal conditions and base acreage of total soil-depleting crops established in 1937 for Pondera County compared with the base acreage of total soil-depleting crops established for other counties of the State of Montana in connection with the 1937 Agricultural Conservation Program.

B. *County restoration land goal.*—A county goal for restoration land shall be established for Pondera County, Montana, which is designated as a county subject to serious wind erosion and which contains large acreages unsuited to continued production of cultivated crops, by assigning to it its applicable part of the State restoration land goal on the basis of the amount of land in Pondera County which was cropped at least once since January 1, 1930, but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

SEC. II. *Farm soil-depleting base acreages, and restoration land goals.*—The county committee for Pondera County, Montana, with the assistance of local committees in the county, shall establish base acreages for total soil-depleting crops, and restoration land goals for the farms within such county in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. The total soil-depleting base acreages determined for the farms in Pondera County shall not exceed the total soil-depleting base acreage established for such county by the Agricultural Adjustment Administration, and the sum of the base acreages of total soil-depleting crops for farms furnishing required forms and information in such county shall not exceed their proportionate share of the county total soil-depleting base acreage.

A. *Total soil-depleting base acreage.*—The total soil-depleting base acreage for any farm shall be determined on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion and the acreage of all soil-depleting crops customarily grown on the farm, and when the Agricultural Adjustment Administration finds it applicable, the acreage of food and feed crops needed for home consumption on the farm. The total soil-depleting base acreage established for any farm shall be comparable with the total soil-depleting base acreages established for other farms in the same community which are similar with respect to such factors.

All base acreages established for farms in a county shall be posted or kept freely available for public inspection in the office of the county committee or county agricultural extension agent.

B. *Restoration land goal.*—A restoration land goal shall be determined on the basis of the land on the farm which has been cropped at least once since January 1, 1930 but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

SEC. III. *Payment for full performance.*—A. *Restoration land.*—Payment of 50 cents per acre will be made with respect to any farm for each acre in the restoration land goal established for such farm.

B. *Soil-building practices.*—Payment for the following soil-building practices will be made with respect to any farm when such practices are carried out in 1938 on cropland or non-cropland, as designated in accordance with the following specifications and such revision thereof or additions thereto as may be issued by the Regional Director or by the State Committee, with the approval of the Regional Director, provided that the total payment for such practices with respect to any farm shall not exceed the farm allowance for such farm.

Practices and Conditions—Rates of Payment

A. Perennial legumes including alfalfa, kudzu, sericea, white clover, and such other perennial legumes as are approved by the Director of the Western Division:

1. Seeding and establishment of a good stand on cropland and in orchards other than those abandoned, in 1938 when good seed of an adapted variety is used, either alone or with a nurse crop which is not harvested for grain or hay: $6.00 per acre.

2. Seeding on cropland in 1938 and in orchards other than those abandoned when good seed of an adapted variety is used under either of the following conditions: $3.00 per acre:

a. Without establishment of a good stand if seeded alone or with a nurse crop which is not harvested for grain or hay.

b. With or without establishment of a good stand if seeded with a nurse crop which is harvested for grain or hay.

B. Biennial legumes including red clover, alsike clover, and mammoth clover, and such other biennial legumes as are approved by the Director of the Western Division:

1. Seeding and establishment of a good stand on cropland and in orchards other than those abandoned, in 1938, when good seed of an adapted variety is used, either alone or with a nurse crop which is not harvested for grain or hay: $3.00 per acre.

2. Seeding on cropland and in orchards other than those abandoned, in 1938, when good seed of an adapted variety is used under either of the following conditions, $2.00 per acre:

a. Without establishment of a good stand if seeded alone or with a nurse crop which is not harvested for grain or hay.

b. With or without establishment of a good stand if seeded with a nurse crop which is harvested for grain or hay.

C. Annual and biennial sweet clover and such other annual legumes as are approved by the Director of the Western Division:

1. Seeding and establishment of a good stand on cropland and in orchards other than those abandoned, in 1938, either alone or with a nurse crop which is not harvested for grain or hay: $2.50 per acre.

2. Seeding on cropland and in orchards other than those abandoned, in 1938, under either of the following conditions: $1.50 per acre:

a. Without establishment of a good stand if seeded alone or with a nurse crop which is not harvested for grain or hay.

b. With or without establishment of a good stand if seeded with a nurse crop which is harvested for grain or hay.

D. Seeding and establishment of perennial grasses including blue gross, orchard, Bermuda, Brome, grama, buffalo, wheat grasses (except crested wheat grass) rye grasses and such other perennial grasses as are approved by the Director of the Western Division, when seeded alone or in approved mixtures:

1. Seeding and establishment of a good stand on cropland and in orchards other than those abandoned, in 1938, either alone or with a nurse crop which is not harvested for grain or hay: $5.00 per acre.

2. Seeding on cropland and in orchards other than those abandoned, in 1938, under either of the following conditions: $2.50 per acre.

a. Without establishment of a good stand if seeded alone or with a nurse crop which is not harvested for grain or hay.

b. With or without establishment of a good stand if seeded with a nurse crop which is harvested for grain or hay.

E. Mixtures of perennial and biennial legumes and perennial grasses recommended by the State Experiment Station and approved by the State Committee:

1. Seeding and establishment of a good stand on cropland and in orchards other than those abandoned, in 1938, either alone or with a nurse crop which is not harvested for grain or hay: $4.00 per acre.

2. Seeding on cropland and in orchards other than those abandoned, in 1938, under either of the following conditions: $2.50 per acre:

a. Without establishment of a good stand if seeded alone or with a nurse crop which is not harvested for grain or hay.

b. With or without establishment of a good stand if seeded with a nurse crop which is harvested for grain or hay.

F. Crested wheat grass seeded on cropland and in orchards other than those abandoned, in 1938: $6.00 per acre.

Specifications applicable to practices A, B, C, D, E, and F:

Seeding the following:

a. Alfalfa—varieties—Ladak, Cossack, Grimm, Northern grown common, Canadian variegated. Seed to be 70 percent germination and weigh not less than 59 lbs. per bushel.

Rate of seeding: Minimum:

8 pounds irrigated.

1 pound non-irrigated rows.

2 pounds non-irrigated close-drilled.

Seeding dates irrigated land, April 1 to September 15, 1938; non-irrigated land, April 1 to June 15, 1938.

b.—

Kind	Minimum rates	Dates
White clover	8	April 1 to June 15.
Astragalus Rubyi	10	April 1 to June 15.
Crested wheat grass	1 4	Jan. 1 to Dec. 31.
Western wheat grass	4	Jan. 1 to Dec. 31.
Slender wheat grass	4	Jan. 1 to Dec. 31.
Indian rice grass	6	Jan. 1 to Dec. 31.
Brome grass	.6	April 1 to June 15.
Blue grass	15	April 1 to Aug. 15.
Reed's canary grass	6	April 1 to June 15.
Alsike clover	6	April 1 to June 15.
Strawberry Clover	4	April 1 to June 15.
Meadow fescus	4	April 1 to June 15.
Perennial rye grass	4	April 1 to June 15.
Tall oat grass	4	April 1 to June 15.
Grama	4	April 1 to June 15.

[1] Broadcast 2 pounds when seeded in rows not less than 30 inches apart and not more than 44 inches apart.

Mixtures of any of the above are acceptable, including orchard grass, at a minimum rate of seeding of 8 pounds seed per acre of the mixture except for a mixture of sweet clover and crested wheat grass which shall be seeded at a minimum rate of 4 pounds per acre.

c. Sweet clover—yellow or white variety, Domestic or Canadian grown seed, rate not less than 5 pounds per acre, seeding date January 1 to December 31, 1938.

d. Orchard grass—not less than 6 pounds irrigated land, not less than 2 pounds in rows or not less than 4 pounds close-drilled on dry land. Seeding dates, April 1, 1938, to December 31, 1938.

e. Timothy and legume mixtures—rate not less than 25 percent of mixture to be legume seed, rate not less than 6 pounds on irrigated land, not less than 4 pounds on non-irrigated land. Dates before June 15, 1938.

f. Redtop and legume mixture—not less than 25 percent of mixture to be legume seed, rate not less than 6 pounds on irrigated land, not less than 4 pounds on non-irrigated land. Dates up to June 15, 1938.

G. *Restoring to native grass.*—Land on which a crop was harvested or seeded for harvest at least once since January 1, 1930, and which in accordance with good farming practices should be permanently devoted to grass: $0.25 per acre; *Provided*—

1. The operator and owner have designated the acreage and stated his or their intention to restore such acreage to grass,

2. Approval has been obtained from the county committee, and

3. Such land is not pastured, cropped or tilled in 1938.

H. *Forest trees.*—1. Planting of trees on cropland in 1938 provided the land is maintained in a good state of cultivation and the plantings are protected from livestock, with not less than 200 living trees per acre at the time performance is checked. Approval by the county committee of the site for such planting shall have been obtained before planting: $10.00 per acre.

a. Varieties acceptable: Caragana, Russian olive, buffalo berry, green ash, American elm, Chinese elm, Colorado blue spruce, Black Hills spruce, Yellow pine, Red cedar, Douglas fir, Jack pine, and native tree fruits. On irrigated land: Box elder, Willows, Canadian and Northwestern Poplar, native cottonwood in addition to those eligible on non-irrigated land.

b. The area devoted to tree planting shall be determined by measuring one-half rod outside the last row of trees.

2. Maintaining trees planted since January 1, 1934, by cultivation of interspaces and replacement of any dead trees to not less than 200 living trees per acre at the time performance is checked: $4.00 per acre.

Specifications.—a. All tree lots to be protected from livestock by a substantial fence, if necessary.

b. To be clean cultivated until August 1, 1938, with a duckfoot cultivator or other implement to control weeds.

c. The area devoted to maintaining trees shall be determined by measuring one-half rod outside the last row of trees.

I. *Perennial noxious weed control.*—When, after approval of the county committee, seriously infested plots of Canadian thistle, bindweed or wild morning glory, White top, leafy spurge, Russian knapweed are controlled on cropland or non-cropland by periodic cultivation or by chemical treatment in accordance with specifications as follows:

1. Chemical treatment: $10.00 per acre.

a. Chemicals to be used: Calcium or sodium chlorate at not less than 4 pounds per square rod. Carbon bisulphide at not less than 1½ gallons per square rod.

2. Cultivation: $5.00 per acre.

a. Cultivation at least once each week during the growing season or sufficient to keep any green growth from appearing above surface.

A map of the weed-control areas must be presented to the county committee for its assistance in considering such areas for approval and following approval by the county committee, such map must be forwarded to the State committee for its approval of the designated weed-control areas.

J. *Establishment on cropland of strip cropping and fallow.*—The fallow strips (two or more strips of fallow) to be not less than five rods nor more than 20 rods in width with intervening strips of small grain crops or small grain stubble the width or twice the width of the fallow strips. The first tillage operation must be completed before July 15, 1938, strips to be approximately at right angles to the prevailing winds. Payment to be made on the acreage of fallow land only and then only when additional to the acreage used for that practice in 1937: $1.00 per acre.

K. *Approved fallow.*—Approved fallow on cropland carried out in accordance with the following provison: (a) First tillage operation to be completed not later than June 1, 1938; provided, however, such date may be extended by the county committee not to exceed 15 days on account of seasonal variation and moisture conditions. The exact date of extension shall be announced by the county committee not later than May 25, 1938, (b) Approved implements for first tillage operation to be: disc harrow, one-way disc, filed cultivator, or plow; deep tillage machine may be used provided deep tillage has not taken place in 1936 or 1937, (c) Final cultivation for the season to leave the surface with a cloddy mulch or surface trash or ridged approximately at right angles to the prevailing winds.

1. Carried out on the fallow strips of the strip cropping and fallow strip practice: $0.75 per acre.

2. Carried out on entire field, which is commonly referred to as "block fallow": $0.50 per acre.

Any acreage which the county committee determines has been handled in accordance with the above provisions but which they further determine is subject to severe wind erosion shall not qualify under these practices.

L. *Cover crop.*—Seeding of small grains other than rye or winter wheat on summer fallowed land and in orchards after July 15, 1938, and left as a winter cover crop: $0.50 per acre.

M. *Green manure crop.*—Annual legumes including soybeans, cowpeas, field beans, and field peas, when seeded on irrigated cropland or in orchards or on commercial vegetable land or potato land in 1938 and turned under after attaining at least two months' growth: $2.00 per acre.

N. *Diking for flood water diversion.*—$1.00 per acre diked for flooding:

1. When practiced on non-irrigated cropland in 1938.

2. When practiced on non-crop pasture land in 1938, provided, that after inspection of the proposed diking area the county committee approves such practice.

Specifications.—a. Diking for flood water spreading for slopes of 1 percent or less.

1. Standard dikes may be used for spreading flood water on cropland having a slope of 1 percent (1 percent or less when constructed on level grade.)

2. The maximum vertical distance between dikes shall be 1 foot.

3. The minimum height of dike shall be double the vertical interval or slope between dikes measured at ground level at the time of construction.

4. Dikes shall be constructed with side slopes of 3 to 1 except that the minimum base width shall be 8 feet on noncrop land and 12 feet on cropland. For further details see Montana Extension Circular 84, page 11.

5. Dikes must be protected by adequate outlets from washing around ends and constructed on the contour. Diversion structures must provide control of water diverted to the capacity of dikes.

b. Diking for flood water spreading for slopes of 1 percent to 5 percent.

1. When dikes of the Nichols type are used for flood water spreading on lands having a slope of from 1 percent to 5 percent, the maximum grade shall be 0.2 foot per 100 feet.

2. The maximum spacing between such dikes shall be 300 feet.

3. The minimum depth of channel shall be 18 inches from the bottom of channel to top of settled bank.

4. The dike bank on the water side shall have a minimum slope of 1½ to 1 on noncrop land and 3 to 1 on cropland except that the minimum base width shall be 8 feet on noncrop land and 12 feet on cropland.

5. An adequate number of outlets installed at proper intervals shall be provided to protect against overtopping of dike banks and to prevent erosion on the fields.

6. Diversion structures and system must provide control of water to restrict amount of water diverted to the capacity of the dike system.

O. *Terracing.*—Establishment of terraces on cropland in 1938, provided, however, plans for the terracing projects are approved in advance by the county committee and such practice is carried out in accordance with specifications as follows: $0.40 per 100 linear feet.

Specifications.—a. Erosion control terraces may be constructed on the contour or with a maximum grade of 0.2 foot per 100 feet.

b. The base of the terrace measured at ground level shall have a minimum width of 12 feet.

c. The minimum depth of channel shall be 18 inches from the bottom of channel to top of settled bank.

d. The following spacing shall be observed:

Slope of land	*Vertical distance between dikes (feet)*
1%----------	2.0
2%----------	2.6
3%----------	3.0
4%----------	3.3
5%----------	3.6
6%----------	4.0
7%----------	4.3
8%----------	4.6

e. Adequate outlets shall be provided at the ends of terraces to prevent erosion.

P. *Solid contour listing.*—When practiced on cropland in 1938 in accordance with specifications as follows: $1.00 per acre:

1. Land subject to wind and water erosion may be contour listed between January 1, 1938, and December 1, 1938, provided, however, that such practice occupies the land during the entire season.

2. The area to be contour listed must have prior approval by the county committee or the community committee.

Q. *Reseeding restoration land and non-crop pasture land.*—The following practice will be applicable only to non-crop pasture land and restoration land. Reseeding with native perennial grasses in 1938, in accordance with specifications as follows: $0.20 per pound of seed sown but not in excess of $2.00 per acre:

1. Perennial grasses include brome grass, slender wheat grass, crested wheat grass, western wheat grass, Buffalo grass, blue grass, grama or other native grasses approved by the State Committee.

2. Broadcast seeding without covering will not qualify except for rough, hilly, brushy, or stony land, or blow soils, covered by weeds, where it is not feasible to use a drill.

R. *Control of rodents.*—For destroying at least 90 percent of the crop destroying rodents on infested areas of non-crop open pasture subject to prior approval and designation by the county committee.

1. Ground squirrels and prairie dogs: $0.06 per acre.

S. *Earthen pits or reservoirs for holding run-off and impounding precipitation.*—For constructing earthen pits or reservoirs, with spillways adequate to prevent dams from washing out, in accordance with specifications as follows: $0.15 per cubic yard of fill or excavation:

1. Dams for forming pits or reservoirs shall be constructed for only two purposes, either for stock watering, or for erosion control.

2. Prior approval must be obtained from the county committee in all counties. The county committee may require that the dam be fenced to exclude stock.

3. Before construction of an earth dam, a survey shall be made and a map prepared for the county committee showing the water area, the profile, capacity of reservoir, the yardage of earth fill, and cross section of spillway.

Prior to the construction of a dam, the dam site shall be prepared by removing all brush, sod, and other vegetation.

Earth for the dam shall be spread in layers kept thoroughly packed during the course of construction.

Slope of the dam may vary with the type of material used, but the minimum slope shall be 3 horizontal to 1 vertical on the upstream slope and 2 horizontal to 1 vertical on the downstream slope. In medium soils the slopes should be 4 to 1 on the upstream, and 2½ to 1 on the downstream side. Practice not applicable on the light sandy soils.

The height of dam shall be at least 3 feet above the bottom of the spillway and the top of the dam shall have a minimum width of 8 feet.

The spillway shall be 25 feet wide for the first square mile of drainage with an increase of 7½ feet for each additional square mile of drainage. The spillway, unless vegetated, must be protected against erosion by heavy rip rap. The county committee may require the dam to be fenced to exclude stock from the entire embankment if fencing is necessary to protect the dam, but the spillway must not be fenced.

T. *Diversion.*—With respect to farms effecting diversion from the soil-depleting base, payment will be made for each acre diverted in 1938 from the soil-depleting base established for the farm, not in excess of 15 percent of such base, at the rate of $5.50 per acre, varying among individual farms as the productivity of the cropland on each such farm varies from the productivity of all cropland in Pondera County (varied by productivity of farm): $5.50 per acre.

C. *Farm allowance.*—The farm allowance for a farm shall be $20.00 for each farm, or the sum of the following items, whichever is the larger:

1. $0.85 for each acre of cropland (except the 1938 sugar beet acreage) on the farm in 1938, varying among the individual farms as the productivity of the cropland on the farm varies from the average productivity of all such cropland in Pondera County.

2. $1.00 for each acre of soil-conserving crops on the farm in 1938 not in excess of the soil-conserving base.

D. *General provisions and specifications regarding practices.*—1. Payments will not be made for more than one practice carried out on the same acreage except that payment will be made for the practice prescribed in Item T in addition to any other practice prescribed herein, payment will be made for the practice prescribed in Item J (Establishment of strip cropping and fallow) in addition to the practice prescribed in Item K, 1 (Approved fallow), payment will be made for the practice prescribed in Item L (Cover crop) in addition to the practice prescribed in Item K, 2 (Approved block fallow), payment will be made for the practice prescribed in Item F (Crested wheat grass) in addition to the practice prescribed in Item J (Establishment of strip cropping and fallow, payment will be made for any one of the practices prescribed in Items A, B, D, E, or F (Seeding of legumes or grasses) in addition to the practice prescribed in Item N (Diking for flood water diversion), payment will be made for the practice prescribed in Item F (Crested wheat grass) in addition to the practice prescribed in Item P (Solid contour listing).

2. Practices carried out with labor, seed, trees and materials furnished entirely by any Federal or State agency shall not be counted for payment. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted for payment; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted for payment.

3. If trees are purchased from a Clark-McNary Cooperative State Nursery, such purchases shall not be deemed to be paid for in whole or in part by a State or Federal agency.

4. All soil-building practices, including minimum seeding rates and methods of seeding, unless otherwise specified under the individual practice, shall be such as are determined by the county committee to be in accordance with the generally accepted good farming practice in the county.

5. Seed used for or in connection with any seeding practice must be good clean seed free of noxious weeds and of good quality.

6. The term "good stand" when used in connection with seeding practices shall mean a stand which would produce a normal crop without any reseeding.

7. Any seeding practice involving the use of red clover, either alone or in mixtures, requires that only adapted red clover seed be used. Any seeding practice involving the use of alfalfa seed, either alone or in mixtures, requires that only adapted alfalfa seed be used. Clover and alfalfa seed grown in the United States or Canada will be regarded as adapted except when grown in the following States or areas: Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, North Carolina, New Mexico, Nevada, South Carolina, Tennessee, Texas; the area west of the Cascade Mountains in Washington, and Oregon, or in Yakima or Klickitat Counties, Washington, unless certified by the State Pure Seed Growers Association of the State where the seed was grown; that area of Oklahoma including the counties of Roger Mills, Dewey, Blaine, Kingfisher, Logan, Payne, Creek, Okmulgee, Wagoner, Cherokee, Adair, and all counties south of these counties.

SEC. IV. *Deductions with respect to individual farms.*—Payment computed for any farm under the provisions of Section III shall be subject to all of the following deductions which are applicable to such farm:

A. *Deduction for excess acreage of soil-depleting crops.*—If the 1938 acreage of soil-depleting crops on any farm is in excess of the soil-depleting base for such farm, a deduction in the amount obtained by multiplying the number of such excess acres by the rate of payment per acre for diversion from the soil-depleting base (Part I, Section III, practice T) will be made: Provided, however, That if the soil-depleting base for the farm is less than 20 acres, such deduction shall be computed only with respect to the 1938

acreage of soil-depleting crops in excess of 20 acres.

B. *Deduction with respect to restoration land.*—$1.00 for each acre of restoration land on which there are not carried out in 1938 conservation measures specified by the county committee in accordance with instructions issued by the Agricultural Adjustment Administration.

C. *Deduction for failure to prevent wind and water erosion.*—$1.00 for each acre of land, other than restoration land with respect to which there are not adopted in 1938 methods recommended by the State committee and approved by the Agricultural Adjustment Administration for the prevention of wind or water erosion.

D. *Deduction for breaking out of native sod.*—$3.00 for each acre of native sod or any other land which has been cropped but is not classified as cropland or pasture land which is broken out during the period November 1, 1937 to October 31, 1938, inclusive, unless the breaking out of such land is approved by the county committee as a good farming practice and an equal acreage of cropland on the same farm is restored to permanent vegetative cover, such acreage of cropland to be in addition to that designated as restoration land.

SEC. V. *Division of payments and deductions*—A. *Payments and deductions in connection with practice T (diversion), erosion, breaking-out of native sod, and the restoration land goal.*—For any farm the payment for deduction in connection with practice T (Diversion), the net payment or net deduction with respect to the restoration land goal and the deductions computed under the provisions of subsections C and D of Section IV shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time of harvest, to share in the proceeds of the soil-depleting crops seeded on the farm for harvest in 1938.

B. *Payments with respect to soil-building practices, excluding practice T (diversion).*—The amount of payment earned in connection with soil-building practices for any farm excluding practice T (Diversion), shall be paid to the landlord or tenant who carried out such soil-building practices. If the county committee determines that more than one person contributed to the carrying out of such soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the contribution by each such person bears to the total contribution of all such persons who carried out such practices on the farm in 1938, as determined by the county committee.

C. *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the other persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm the sum of the deductions computed for all persons on the farm equals or exceeds the sum of the payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SEC. VI. *Increase in small payments.*—The total payment computed under Sections III to V, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SEC. VII. *Deductions incurred on other farms*—A. *Other farms in the same county.*—If the deductions computed under Section IV with respect to any farm in a county exceed the payment for full performance on such farm computed under Section III, a landlord's or tenant's share of the amount by which such deduction exceeds such payments shall be deducted from such landlord's or tenant's share of the payment which would otherwise be made to him with respect to any other farms in such county.

B. *Other farms in the State.*—If the deductions computed for a landlord or tenant with respect to one or more farms in a county exceed the payments computed for such landlord or tenant on other farms in such county, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in the State if the State committee finds that the crops grown and practices adopted on the farm with respect to which such deductions are computed substantially offset the contribution to the program made on such other farms.

SEC. VIII. *Deduction for association expenses.*—There shall be deducted pro rata from the payment with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county Agricultural Conservation association in the county in which the farm is located.

SEC. IX. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1938 or previous agricultural conservation programs, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the Regional Director finds is contrary to sound conservation practices. No payment, other than a payment in connection with the restoration land goal, shall be computed with respect to any farm which is idle in 1938.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection D of this Section VIII) and without regard to any claims or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 would cause a greater proportion of the payments to be made to the landlord under the 1938 Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, payments to the landlord under the 1938 Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

If on any farm the number of share tenants in 1938 is less than the average number on the farm during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration, and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any preexisting indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing contained in this Section VIII shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Excess cotton acreage.*—Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton allotment if notice of the farm allotment is mailed to him prior to the completion of the seeding of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938.

F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farm unless on such farm in 1938 an acreage, not devoted to soil-depleting crops, is withheld from the production of soil-conserving crops for market, equal to the acreage by which the normal acreage of soil-depleting crops on such farm exceeds the larger of (1) the total soil-depleting acreage allotment for the farm, or (2) the acreage devoted to soil-depleting crops on the farm in 1938: *Provided*, That payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable is used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions if the increase above normal in the number of dairy cows in the county does not exceed ten percent.

The normal acreage of soil-depleting crops and the normal number of cows kept for the production of milk, or the products thereof, for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department and shall announce the counties in which the number of cows kept for the production of milk, or the products thereof, for market exceeds by more than ten percent the normal number of such cows.

As used in this subsection E, the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family employees, or household. As used in this subsection F, the term "soil-conserving crops" means grasses and legumes grown on cropland except those classified as soil-depleting under Section X hereof.

SEC. X. *Application for payment.*—A. An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

C. *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms,

such person must make application for payment with respect to all such farms. Upon request by the State committee such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SEC. XI. *Soil-depleting crops.*—Land devoted in 1938 to any of the following crops or uses or such other similar crops and uses as are designated by the Agricultural Adjustment Administration shall be classified as soil-depleting.

A. Land planted to the following crops for harvest in 1938:

1. Corn (including field corn, sweet corn, and popcorn, but excluding sown or close-drilled corn used as cover crop or green manure crop).
2. Grain sorghums.
3. Sugar beets.
4. Commercial mustard.
5. Hemp.
6. Mint.
7. Mangels and cowbeets.
8. Cultivated sunflowers.
9. Truck and vegetable crops (including strawberries, melons, and sweetpotatoes) and their seeds.
10. Potatoes.
11. Bulbs and flowers.
12. Safflower.
13. Field beans.
14. Canning peas.

B. Land planted to wheat harvested for grain or hay in 1938 or any other land planted to wheat between August 1, 1937, and July 31, 1938, except—

1. When the acreage of such crop is used as a green manure crop in orchards, on commercial vegetable or potato land.

C. Land planted to oats, barley, rye, flax, emmer, speltz, or mixtures of these crops between August 1, 1937 and July 31, 1938, except—

1. When a good stand and good growth of such crop is used as a green manure crop in orchards, on commercial vegetable land, potato land, or on irrigated land; or

2. When such crop is used as a nurse crop and is not harvested for grain or hay or is used as a cover crop and is not harvested for grain or hay, and is not allowed to mature as grain.

D. Land planted in 1938 to buckwheat, sweet sorghums, Sudan grass, millet, or sown or close-drilled corn harvested for grain, seed, syrup, or silage.

E. Land planted in 1938 to field peas harvested for peas or soybeans harvested for seed for crushing. Field peas or soybeans hogged off will be deemed as harvested.

F. *Land summer-fallowed.*—Cultivated fallow land (summer fallow) except any of such fallow land on which perennial or biennial legumes or perennial grasses have been seeded following such summer fallow when no soil-depleting crop has been seeded on such land for harvest in 1938.

The acreage of land which is devoted consecutively to two or more of the above soil-depleting crops in 1938 shall be counted as follows: If only one of such crops reaches maturity such land shall be regarded as devoted to the crop reaching maturity. If none of such crops reaches maturity or if more than one of such crops reach maturity and an individual crop acreage allotment is established for only one of such crops, such land shall be regarded as devoted to the crop for which an individual crop acreage allotment is established. If none of such crops reaches maturity and individual crop acreage allotments are established for two or more of such crops, the land shall be regarded as devoted to the last planted of such crops for which an individual crop acreage allotment is established. If two or more of such crops reach maturity and individual crop acreage allotments are established for two or more of such crops reaching maturity, the land shall be regarded as devoted to each of the crops which reached maturity and for which an individual crop acreage allotment is established. If one or more of such crops reach maturity and individual crop acreage allotments are not established for any of such crops, the land shall be regarded as devoted to the last planted of such crops.

The acreage of land which is devoted simultaneously to two or more of the above soil-depleting crops shall be divided among such crops on the basis of the land determined in accordance with instructions issued by the Agricultural Adjustment Administration to be devoted to each.

In connection with determinations regarding the maturity of crops, canning peas will be deemed to have reached maturity when such crop is harvested for canning and field corn, sweet corn, and popcorn hogged off or cut for silage, fodder or other similar uses, will be deemed to have reached maturity.

Land devoted to volunteer crops harvested shall be classified as if such crops were planted.

SEC. XII. *Soil-conserving crops.*—Cropland devoted in 1938 to any of the following crops, excluding such cropland upon which no stand of a soil-conserving crop is secured in 1938, shall be regarded as used for the production of a soil-conserving crop:

A. The following legumes and perennial grasses, and such other legumes and grasses as may be approved by the Director of the Western Division, when seeded without a nurse crop or when seeded with a nurse crop if such nurse crop is not harvested for grain or hay.

1. Legumes: Alfalfa, sweet, red, alsike, white, strawberry, Ladino, Mammoth, crimson, bur, and sour clover, Austrian winter peas, sericea, kudzu.

2. Grasses: bluegrass; orchard, brome, wheat grasses; rye grasses; timothy, redtop, bent grasses; fescues; tall oat grass; Reed's canary grass, and velvet grass.

B. Green manure crops on irrigated land only, including annual legumes when turned under in 1938 after attaining at least two months' growth, when not followed by summer fallow.

C. Forest trees planted on cropland since January 1, 1934.

SEC. XIII. *Diversion and farm allowance rates.*—For any individual farm the rate of payment for diversions set up under Practice T of Section III and the rate to be used in computing the farm allowance with respect to acreage of cropland under Section III shall be determined by multiplying the applicable average rate per acre by the productivity index established for the farm and by dividing the result by 100.

The productivity index for the farm shall be determined on the basis of the farm yield as compared with the county yield of a crop which is generally grown throughout the county or, on such other basis as the Director of the Western Division may authorize for the purpose of obtaining an accurate reflection of the productivity of the cropland on the farm. The average of the productivity indexes for all farms for which work sheets are filed in the county, weighted by the respective crop acreages for such farms shall not exceed 100, unless a variance therefrom is recommended by the State Committee and approved by the Agricultural Adjustment Administration because of the fact that the average productivity of all farms participating in the program is found to be higher than the average productivity of all farms in the county.

SEC. XIV. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment; (b) the division of payment; or (c) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him request the Regional Director to review the decision of the State committee.

SEC. XV. *Instructions and forms.*—Agricultural Adjustment Administration shall prepare and issue such instructions and forms as may be required in administering the 1938 Agricultural Conservation Program for Pondera County.

PART 2. DEFINITIONS

As used herein and in all forms and documents relating to the 1938 Agricultural Conservation Program in Pondera County, Montana, the following terms shall have meanings ascribed to them as follows:

SECTION I. *Definitions for the purposes of the 1938 Agricultural Conservation Program.*—

Secretary means the Secretary of Agriculture of the United States.

Regional Director means the Director of the Western Division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the Western Region.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

State Committee means the group of persons designated within the State to assist in the administration of the 1938 Agricultural Conservation Program in the State.

County Committee means the group of persons elected within any county to assist in the administration of the 1938 Agricultural Conservation Program in such county.

County means the political or civil division of a State designated as a county.

Landlord means a person who owns land and rents such land to another person or operates such land.

Tenant means a person who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Animal unit means one cow, one horse, five sheep, or five goats, or the equivalent thereof.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Farm Allowance means the largest amount for any farm which may be earned as soil-building payments on such farm.

Cropland means farm land which is tilled annually or in a regular rotation, excluding restoration land, and any land which constitutes, or will constitute if such tillage is continued, a wind erosion hazard to the community, but including any other land which has been planted since January 1, 1930 to permanent pasture or forest trees and which was classified as cropland under the 1937 Agricultural Conservation Program, and including also land devoted to orchards other than abandoned orchards.

Restoration Land means farm land subject to serious wind erosion and unsuited to continued production of cultivated crops, which has been cropped at least once since January 1, 1930 and which is designated by the county committee as land on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

General Soil-Depleting Crops means all soil-depleting crops other than sugar beets.

Commercial Vegetables means the acreage of vegetables or truck crops (including potatoes, tomatoes, sweet corn, melons, cantaloupes, strawberries, and commercial bulbs and flowers, but excluding peas for canning and sweet corn for canning and artichokes for use other than as vegetables) of which the principal part of the production is sold to persons not living on the farm.

Soil-Depleting Base means the total number of acres of soil-depleting crops established for the farm.

Soil-Conserving Base means the number of acres obtained by subtracting the soil-depleting base from the total number of acres of cropland in the farm.

Noncrop Open Pasture means pasture land (other than rotation pasture land and range land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered woodland.

Done at Washington, D. C., this 30th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1868; Filed, June 30, 1938; 11:43 a. m.]

[Form NCR-201, Tama County, Iowa]

1938 AGRICULTURAL CONSERVATION PROGRAM, TAMA COUNTY, IOWA

CONTENTS

Section I. Definitions.
II. County Acreage Allotments and Goals.
III. Farm Acreage Allotments and Goals.
IV. Payment for Performance.
V. Deductions.
VI. Division of Payments and Deductions.
VII. Increase in Small Payments.
VIII. Deductions Incurred on Other Farms.
IX. Deduction for Association Expenses.
X. General Provisions Relating to Payments.
XI. Application for Payment.
XII. Classification of Cropland.
XIII. Soil-Building Practices.
XIV. Normal Yields of Corn.
XV. Appeals.
XVI. Bulletins, Instructions, and Forms.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of the said Act in 1938, payments will be made in Tama County, Iowa, for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purposes; and the amounts of such payments and grants of aid will necessarily

be within the limits finally determined by such appropriation. The rates of payments and deductions specified herein are subject to an increase or decrease of not more than 10 percent, depending upon the extent of participation in the Tama County Program and the final estimate of payments which would be made in Tama County under the 1938 Agricultural Conservation Program.

The provisions of the 1938 Agricultural Conservation Program contained in this bulletin are not applicable to (1) counties other than Tama County, Iowa, and (2) public domain of the United States, including land owned by the United States and administered by the Forest Service of the United States Department of Agriculture, or other lands in which the beneficial ownership is in the United States.

SECTION I. *Definitions.*—For the purpose of the 1938 Agricultural Conservation Program in Tama County, Iowa

Secretary means the Secretary of Agriculture of the United States.

Director of the North Central Division means the director of the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the North Central Region.

North Central Region means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

State Committee means the group of persons designated in Iowa to assist in the administration of the 1938 Agricultural Conservation Program in Iowa.

County Committee means the group of persons elected in Tama County to assist in the administration of the 1938 Agricultural Conservation Program in that county.

County means a political or civil division of a State designated as a county.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Landlord means a person who owns land and rents such land to another person or operates such land.

Tenant means a person who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Cropland means farm land which is tilled annually or in a regular rotation, excluding commercial orchards and any land which constitutes, or will constitute if such tillage is continued, a wind erosion hazard to the community, but including any other land which has been planted since January 1, 1930, to permanent pasture or forest trees and which was classified as cropland under the 1937 Tama County Agricultural Conservation Program, and including also land planted to non-commercial orchards other than abandoned orchards.

Commercial Orchards means the acreage in planted or cultivated fruit trees, nut trees, vineyards, or bush fruits on the farm on January 1, 1938 (excluding non-bearing orchards and vineyards), from which the principal part of the production is normally sold.

Noncrop Open Pasture means pasture land (other than rotation pasture land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

Conserving Acreage on a farm means the acreage upon such farm used in accordance with subsection B of Section XII.

Soil-Conserving Goal for a farm means the acreage established for such farm under subsection B of section III.

Soil-Conserving Payment means a payment for the establishment or maintenance of conserving acreage on a farm.

Soil-building payment means a payment for carrying out an approved soil-building practice.

Winter Cover Crop means any small grain which will normally live through or into the winter, provided there is on October 1, 1938 a good and sufficient cover to protect the soil from wind and water erosion and leaching.

SEC. II. *County acreage allotments and goals.*—A. *Corn acreage allotment.*—The Tama County acreage allotment of corn shall be 112,188 acres.

B. *Soil-conserving goal.*—The soil-conserving goal for Tama County shall be that acreage determined by the Agricultural Adjustment Administration to be equal to the difference between the total cropland in the county and 199,409 acres, (such 199,409 acres representing the total soil-depleting acreage allotment which would be established under the provisions of the 1938 Agricultural Conservation Program pertaining to the North Central Region [NCR–201] if said provisions were applicable in Tama County).

SEC. III. *Farm acreage allotments and goals.*—The county committee, with the assistance of other local committees in the county shall determine corn acreage allotments and soil-conserving goals in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration.

A. *Corn acreage allotment.*—Acreage allotments of corn shall be determined for farms in Tama County on the basis of tillable acreage, crop rotation practices, type of soil, and topography. The allotment for any farm shall be comparable to the allotments recommended for other farms in the same community which are similar with respect to such factors. The corn acreage allotments for farms in Tama County shall not exceed the county acreage allotment for Tama County, specified in subsection A, Section II, and the sum of the corn acreage allotments for farms furnishing required forms and information shall not exceed their proportionate share of the county acreage allotment.

B. *Soil-conserving goal.*—The soil-conserving goal for any farm shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, and degree of erosion. The soil-conserving goal for any farm shall be comparable with the goals determined for other farms in the same community which are similar with respect to such factors. The soil-conserving goals for all farms in Tama County shall equal the county soil-conserving goal for Tama County determined in accordance with subsection B, Section II, and the sum of the soil-conserving goals for farms furnishing required forms and information shall equal their proportionate share of the county soil-conserving goal.

C. *Posting of acreage allotments.*—All acreage allotments and goals established for farms in Tama County shall be posted or kept freely available for public inspection in the office of the county committee or county agricultural extension agent.

SEC. IV. *Payment for performance.*—Payments will be made with respect to any farm in Tama County for not exceeding the corn acreage allotment, for any soil-conserving acreage on the farm not in excess of the soil-conserving goal, and for the adoption of acceptable soil-building practices not in excess of the soil-building allowance, as follows:

A. *Payments with respect to corn.*—Subject to the provisions of Sections V to X, inclusive, 6 cents per bushel of the normal yield per acre of corn for the farm for each acre in the corn acreage allotment; or, if the acreage planted to corn is less than 80 percent of the corn acreage allotment and the county committee finds that the failure to plant 80 percent of such corn acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to corn. The acreage planted to corn shall be deemed to be that acreage which is seeded to corn, excluding (1) any acreage of sweet corn contracted to be sold for canning; (2) any acreage of sweet corn sold for canning or roasting ears; (3) any acreage of sweet corn to be sold or used as seed; and (4) any acreage of popcorn sold as popcorn or to be sold or used as seed.

B. *Payments with respect to soil-conserving acreage.*—Subject to the provisions of Sections V to X, inclusive, payments with respect to acreage classified as soil-conserving on the farm in 1938 as follows:

$0.75 per acre of the acreage on the farm classified as soil-conserving not exceeding one-half of the acreage in the soil-conserving goal, plus

$1.50 per each additional acre of the acreage so classified not in excess of one-fourth the acreage in the soil-conserving goal, plus

$6.75 per each additional acre of the acreage so classified not in excess of one-fourth the acreage in the soil-conserving goal.

Payment will be made for soil-conserving acreage at the $1.50 rate only in case payment is made at the $0.75 rate on all the acreage required to equal one-half of the soil-conserving goal. Payment will be made for soil-conserving acreage at the $6.75 rate only in case payment is made at the $1.50 rate on all the acreage required to equal one-fourth of the soil-conserving goal. The sum of the acreages upon which payment is made at the $0.75, $1.50, and $6.75 rates shall not be in excess of the acreage in the soil-conserving goal.

C. *Payments with respect to soil-building practices.*—Subject to the provisions of Sections V to X, inclusive, payment will be made for the adoption of soil-building practices listed in Section XIII at the rates applicable to these practices in an amount not in excess of a soil-building allowance for the farm, which allowance shall be that sum equal to $0.70 for each acre in the soil-conserving goal for such farm.

SECTION V. *Deductions.*—Payments computed for any farm under the provisions of Section IV shall be subject to all the following deductions which are applicable to such farm, the deductions to be made as indicated in Section VI.

A. *Corn.*—42 cents per bushel of the normal yield per acre of corn for the farm for each acre of corn in excess of the corn acreage allotment.

B. *Soybeans.*—$4.00 for each acre of soybeans grown in rows more than 8 inches apart which are not followed by a winter cover crop showing a good stand and a good vegetative growth on October 31, 1938.

C. *Use of non-cropland as cropland.*—$5.00 for each acre of native sod or any other land classified as non-cropland which is broken out during the period November 1, 1937 to October 31, 1938, inclusive, provided, however, that if the breaking out of such land is approved by the county committee as a good farming practice, the deduction provided for in this subsection C shall apply only with respect to (1) an acreage equal to the number of acres by which the sum of the soil-conserving goal and the acreage so broken out exceeds the soil-conserving acreage on the farm, or (2) the acreage so broken out, whichever is the smaller.

SECTION VI. *Division of payments and deductions.*—A. *Payments and deductions in connection with corn acreage allotments.*—Net payments or net deductions computed for any farm with respect to the corn acreage allotment shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the corn grown on the farm in 1938.

In the event that corn is not harvested in 1938 on the farm, or in the event the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, finds that due to crop failure the acreage of corn was reduced sufficiently to affect materially the division of payments or deductions, the net payment or net deduction, if any, with respect to the corn acreage allotment shall be divided among the landlords and tenants in the same proportion that the county committee determines that such persons would have shared in the proceeds of the corn if corn had been harvested on the farm in 1938 or if the acreage of corn had not been so reduced. In computing such net payments and net deductions with respect to corn acreage allotments, the total amount of deductions computed under Section V with respect to (1) failure to follow soybeans grown in wide rows with an acceptable cover crop (subsection B, Section V); and (2) the use of non-cropland as cropland (subsection C, Section V) shall be regarded as deductions with respect to the corn acreage allotment.

B. *Payments with respect to soil-conserving acres.*—Except for farms rented for cash or a fixed commodity payment, the amount of payment earned in connection with the soil-conserving acreage for the farm shall be divided 50 percent to the landlords and 50 percent to the tenants. The payment to the landlords shall be divided among them as indicated by their acreage shares in the cropland in the farm. The payment to the tenants shall be divided among them as indicated by their acreage shares in the cropland in the farm. The payment computed for a farm rented for cash or a fixed commodity payment shall be made entirely to the tenant.

C. *Payments with respect to soil-building practices.*—The amount of payment earned under Section IV with respect to soil-building practices shall be paid to the landlord or tenant who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying out of one or more of such practices on the farm in 1938, such payment shall be divided in the proportion that the quantity of practices contributed by each such person bears to the total quantity of practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to such practice, unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event credit for such practice shall be divided in the proportion which the county committee determines each such person contributed thereto.

D. *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the other persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm, the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SEC. VII. *Increase in small payments.*—The total payment computed under Sections IV to VI, inclusive, for

any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SEC. VIII. *Deductions incurred on other farms.*—A. *Other farms in Tama County.*—If the deductions computed under Section V with respect to any farm in Tama County exceed the payment for performance on such farm computed under Section IV, a landlord's or tenant's share of the amount by which such deductions exceed such payments shall be deducted from such landlord's or tenant's share of the payment which otherwise would be made to him with respect to any other farms in Tama County.

B. *Other farms in Iowa.*—If the deductions computed for a landlord or tenant with respect to one or more farms in Tama County exceed the payments computed for such landlord or tenant on other farms in Tama County, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in the State, if the State committee finds that the crops grown and practices adopted on the farms with respect to which such deductions are computed are such as substantially to offset the contribution to the program made on such other farms.

SEC. IX. *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in Tama County.

SEC. X. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Tama County Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the director of the North Central Division finds is contrary to sound conservation practices. No payment shall be computed with respect to any farm which is idle in 1938.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection D of this Section X) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1938 any change of arrangements which existed on the farm in 1937 is made between the landlord and the tenants and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Tama County Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Tama County Agricultural Conservation Program, payments to the landlord under the 1938 Tama County Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

If on any farm the number of sharetenants in 1938 is less than the average number on the farm during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made, if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Tama County Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Tama County Agricultural Conservation Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Tama County Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on Form ACP-69 in accordance with instructions issued by the Agricultural Adjustment Administration, and is filed in the office of the county agricultural conservation association; (2) the farmer files with the assignment a statement that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a crop in 1938 and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing contained in this Section X shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Cotton acreage in excess of allotment.*—Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment established for the farm for 1938 shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1938 on acreage in excess of the cotton acreage allotment for the farm for 1938 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting (seeding) of cotton on the farm, unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1938.

F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farm unless on such farm in 1938 an acreage of soil-conserving crops is withheld from market equal to the acreage by which the normal acreage of soil-conserving crops on such farm is less than the smaller of (1) the soil-conserving goal for the farm or (2) the acreage devoted to soil-conserving crops on the farm in 1938: Provided, that payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph or (b) that the county as a whole is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable is used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions if the increase above normal in the number of dairy cows in the county does not exceed ten percent.

The normal acreage of soil-conserving crops and the normal number of cows kept for the production of milk or the products thereof, for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department and shall announce the counties in which the number of cows kept for the production of milk, or the products thereof, for market exceeds by more than ten percent the normal number of such cows.

As used in this subsection F the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this subsection F the term "soil-conserving crops" means those crops listed under subsection B of Section XII.

SEC. XI. *Application for payment.*—A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section VI, a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil building practices.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Director of the North Central Division. At least two weeks' notice to the public shall be given to the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

C. *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in Tama County, and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee, such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SEC. XII. *Classification of cropland.*—Cropland in 1938 shall be classified as follows:

A. *Corn.*—For the purpose of determining whether corn has been planted on the farm in 1938 or the corn acreage allotment for a farm has been exceeded, corn means all acreages of field corn, sweet corn, and popcorn, except (1) any acreage of sweet corn contracted to be sold for canning; (2) any acreage of sweet corn to be sold for canning or roasting ears; (3) any acreage of sweet corn to be sold or used as seed; and (4) any acreage of popcorn sold as popcorn or to be sold or used as seed.

B. *Soil conserving*—

(1) Cropland upon which there is a good stand on or after July 1, 1938, of any of the crops listed in this subsection B seeded before November 1, 1937, shall be classified as soil conserving acreage.

(2) Cropland upon which there is on the date as of which final inspection is made for the purpose of determining performance, a good stand of annual sweet clover, or a good stand which would normally survive the winter of 1938–39, of any of the crops listed in a, b, c, e, and f of this item (2), subsection B, seeded with adapted seed between November 1, 1937 and October 31, 1938, inclusive, shall be classified as soil-conserving acreage:

a. Perennial legumes: alfalfa and white clover.

b. Perennial grasses: bluegrass, timothy, redtop, reed canary grass, orchard grass, Bermuda grass, bromegrass, crested wheat grass, slender wheat grass, western wheat grass, bluestem grasses, perennial ryegrass, meadow fescue, or mixtures of these grasses.

c. Biennial legumes: sweet, red, alsike, and mammoth clovers.

d. Annual sweet clover.

e. Mixtures of legumes listed under a, c, and d of this item 2, subsection B, or mixtures of such legumes and the grasses listed under b of this item 2, subsection B.

f. Trees, other than fruit or nut trees, planted since January 1, 1934.

(3) Cropland upon which there has been incorporated into the soil as green manure by plowing or discing a good green vegetative growth of close-drilled or broadcast soybeans, seeded before July 1, 1938, and followed by a winter cover crop shall be classified as soil conserving acreage.

(4) Cropland which otherwise qualifies as soil conserving according to the provisions of this subsection B of Section XII which is devoted to grassed waterways constructed according to good farming practice shall be classified as soil conserving acreage.

(5) Land devoted to volunteer soil conserving crops shall be classified as if such crops were planted.

No cropland from which a crop, other than a crop listed in item (2) of this subsection B, is harvested between November 1, 1937 and October 31, 1938, shall classify as soil conserving acreage.

C. *Neutral.*—Cropland devoted in 1938 to uses other than those specified in subsections A and B of this Section XII shall be classified as neutral.

SEC. XIII. *Soil-building practices.*—Payment will be made with respect to the soil-building practices listed in this section at the designated rate not in excess of the soil-building allowance for the farm only if such practices are carried out in 1938 in accordance with speci-

fications issued by the Director of the North Central Division or by the Iowa State Committee with the approval of the Director of the North Central Division. The specifications issued shall be such as to assure that the soil-building practice will be performed in workmanlike manner and in accordance with good farming practice for the locality.

In order to count toward the earning of the soil-building allowance, all seedings of red clover and any mixtures containing red clover must be made with adapted red clover seed, and all seedings of alfalfa and any mixtures containing alfalfa on such farm must be made with adapted alfalfa seed, the origin of which must be certified by the county committee in accordance with instructions issued by the Agricultural Adjustment Administration. Red clover and alfalfa seed grown in Canada and in the following States shall be regarded as adapted: Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

Red clover and alfalfa seed grown in the following counties of the following States shall also be regarded as adapted: The counties of Alfalfa, Beaver, Cimarron, Craig, Delaware, Ellis, Garfield, Grant, Harper, Kay, Major, Mayes, Noble, Nowata, Osage, Ottawa, Pawnee, Rogers, Texas, Tulsa, Washington, Woods, and Woodward in Oklahoma; the counties of Baker, Creek, Deschutes, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler in the State of Oregon; the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman in the State of Washington. Red clover seed grown in counties in Washington and Oregon other than those enumerated in this paragraph shall be regarded as adapted if certification is made by the State Crop Improvement Association of the State in which such seed was produced that such seed was produced in such State and that such seed was produced from parent seed of Ohio red clover or Tennessee anthracnose-resistant red clover and evidence in the form of the special certification tag attached to such seed is filed with the county committee where quantities of 100 pounds or more are purchased.

Practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or State agency other than the Agricultural Adjustment Administration shall not be counted toward earning the soil-building allowance for the farm. If a portion of the labor, seed, trees or other materials used in carrying out any practice is furnished by a State or Federal agency, and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward earning the soil-building allowance, if such portion represents less than half of the total cost of carrying out such practice, that practice will be counted at one-half the designated rate toward earning the soil-building allowance.

If trees are purchased from a Clark-McNary Cooperative State Nursery, such purchases shall not be deemed to be paid for in whole or in part by a State or Federal agency.

A soil-building payment for any practice listed under subsections A and B shall not be made on any land plowed in 1938 after the performance of that practice.

Where several soil-building practices are adopted on the same acreage, payment will not be made for (1) more than one of the practices listed in subsections C and F, inclusive, and (2) more than one practice of the nine soil-building practices listed in subsections A and B.

A. *Seedings of adapted legumes.*—Seedings of adapted seed of any of the following legumes on farm land:

1. Alfalfa, $2.00 per acre.
2. Red clover, mammoth, and white clover, $2.00 per acre.
3. Alsike clover, $1.50 per acre.
4. Legume mixtures or mixtures of legumes and the perennial grasses listed under subsection B hereof, which contain at least 50 percent by weight of alfalfa, red clover, white clover, alsike clover, and mammoth clover, or more than one of these legumes—$1.50 per acre.
5. Biennial or annual sweet clover, $1.00 per acre.
6. Legume mixtures or mixtures of legumes and the perennial grasses listed under subsection B hereof, except those qualifying under A (4) of this Section XIII, which contain at least 50 percent by weight of alfalfa, red clover, white clover, alsike clover, mammoth clover, biennial sweetclover, and annual sweet clover, or more than one of these legumes, $1.00 per acre.

B. *Seedings of adapted perennial grasses.*—Seedings of adapted seed of any of the following grasses on farm land:

1. Bluegrass and bromegrass, $2.00 per acre.
2. Orchard grass and permanent pasture mixtures of grasses or grasses and legumes containing at least 50 percent by weight of the grasses listed in item (1) of this subsection, $1.50 per acre.
3. Timothy, redtop, and permanent pasture mixtures of grasses or grasses and legumes containing at least 50 percent by weight of bluegrass, bromegrass, orchard grass, timothy, redtop, or more than one of these grasses, but which do not contain at least 50 percent of bluegrass, bromegrass, and orchard grass, $1.00 per acre.

C. *Limestone.*—Application on cropland or noncrop pasture land of ground limestone or its equivalent.

1. Application of ground limestone or its equivalent, $1.25 per ton. (The ground limestone should not be coarser than that obtained by grinding calcareous or dolomitic limestone so that not less than 90 percent with all finer particles obtained in the grinding process included, will pass through a ten-mesh sieve. It must contain calcium and magnesium carbonates equivalent to not less than 80 percent of calcium carbonate. The following quantities of other calcareous substances are equivalent to one ton of ground limestone; 1400 pounds of hydrated lime; 2 cubic yards of water softening process refuse lime.)

D. *Phosphates.*—Application of the following minimum amounts of phosphate materials per acre on non-crop pasture land or on cropland used in 1938 for the growing of a crop specified in subsection B of Section XII, and on which cropland or non-crop pasture land in connection with such application no crop (other than those listed in subsection B of Section XII) is planted in 1938.

1. One hundred and thirty-three pounds of 20 percent superphosphate or its equivalent, $1.00 per acre. (The 20 percent superphosphate designated in this subsection D shall contain 20 percent by weight of available phosphoric acid. Other phosphates may be substituted for 20 percent superphosphate, provided that the quantity of such substitute applied shall contain not less than the quantity by weight of available phosphoric acid contained in the specified quantity of 20 percent superphosphate.)

E. *Planting and protection of trees.*—Planting and protection of forest trees and trees for windbreak or shelterbelt purposes in accordance with good tree culture practices, $7.50 per acre: *Provided*,

1. In the case of forest planting there is on the date as of which final inspection is made for the purpose of determining performance on the farm, a stand of at least 650 living trees per acre; or if due to uncontrollable natural causes a stand of 650 living trees per acre is not obtained on the date as of which final inspection is made for the purpose of determining performance on the farm, there is satisfactory evidence that such trees were planted in accordance with good tree culture practice and that such trees have been properly protected.

2. In the case of windbreak or shelterbelt planting, there is on the date as of which inspection is made for the purpose of determining performance on the farm, a stand of at least 300 living trees per acre; or if due to uncontrollable natural causes a stand of 300 living trees per acre is not obtained on the date as of which final inspection is made for the purpose of determining performance on the farm, there is satisfactory evidence that such trees were planted in accordance with good tree culture practice and that such trees have been properly protected.

F. *Terracing.*—Terracing, between November 1, 1937 and October 31, 1938, of tillable land or non-tillable pasture land in accordance with good terracing practices—$0.40 per hundred feet, provided, the county committee after inspection has approved and designated in writing the area on which such practice is to be carried out.

SEC. XIV. *Normal yields of corn.*—The county committee, with the assistance of other local committees in the county, shall determine for each farm for which a corn acreage allotment is to be established a normal yield for corn in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration.

A. Where reliable records of the actual average yield per acre of corn for the years 1928 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

B. If for any year of such ten-year period reliable records of the actual average yield are not available or there was no actual yield because the commodity was not planted on the farm in such year, the normal yield for the farm shall be the yield which on the basis of all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such ten year period. Where the productivity index most recently established for the farm in connection with the agricultural conservation programs is determined by the county committee to be an accurate reflection of the foregoing factors, the yield obtained by multiplying such index by the county average yield established by the Secretary shall be used as the normal yield for the farm.

C. The yields determined under paragraph B of this Section XIV shall be adjusted so that the average of the normal yields for all farms in the county (weighted respectively by the corn acreage allotments established for such farms) shall conform to the county average yield established by the Secretary.

SEC. XV. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment; (b) any acreage allotment or soil conserving goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision, appeal in writing to the State committee. The State committee shall within 30 days after the receipt of the appeal inform such person of its decision. If such person is dissatisfied with the decision of the State committee he may, within 15 day thereafter, request the regional director to review the decision of the State committee.

SEC. XVI. *Bulletins, instructions, and forms.*—The Agricultural Adjustment Administration shall prepare and issue such bulletins, instructions, and forms as may be required in administering the 1938 Agricultural Conservation Program for Tama County, Iowa.

Done at Washington, D. C., this 30th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1869; Filed, June 30, 1938; 11:43 a. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Docket No. 67-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF ALABAMA AND THE EFFECT OF SUCH TRANSACTIONS IN INTERSTATE COMMERCE IN SUCH COAL

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 29th day of June, 1938.

It appearing, That by Orders Nos. 2 and 52,[1] the Commission, upon its own motion entered into and conducted an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Alabama and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 29th day of June, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Alabama directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference, or prejudice as between localities in Alabama in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 1st day of August, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Alabama, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937,[2] and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Alabama.

2. That any producer of bituminous coal in intrastate commerce within the State of Alabama, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Alabama, who is not upon the date of this order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this order, together with three (3) copies of the Form of Code Acceptance and

[1] 2 F. R. 1058 (1266 DI); 2 F. R. 1950 (2285 DI).

[2] 2 F. R. 1059 (1267 DI).

rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Alabama known to produce bituminous coal, publication thereof to be made three (3) times within fifteen (15) days from the date of this order.

By order of the Commission.

Dated this 29th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-1871; Filed, June 30, 1938; 12:51 p. m.]

[Docket No. 74-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF OKLAHOMA AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 29th day of June, 1938.

It appearing, That by Orders No. 2 and 105,[1] the Commission, upon its own motion entered into and conducted an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Oklahoma and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 29th day of June, 1938, adopted the Examiner's report and recommendations as its own, which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Oklahoma directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference, or prejudice as between localities in Oklahoma in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 1st day of August, 1938, all bituminous coal sold, delivered, or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Oklahoma, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937,[2] and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Oklahoma.

2. That any producer of bituminous coal in intrastate commerce within the State of Oklahoma, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Sections 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Oklahoma, who is not upon the date of this order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Oklahoma known to produce bituminous coal, publication thereof to be made three (3) times within fifteen (15) days from the date of this order.

By order of the Commission.

Dated this 29th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-1872; Filed, June 30, 1938; 12:51 p. m.]

[1] 2 F. R. 1058 (1266 DI); 2 F. R. 2671 (3099 DI).

[2] 2 F. R. 1059 (1267 DI).

[Docket No. 149-FD]

INVESTIGATION OF THE NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF WYOMING AND THE EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 29th day of June 1938.

It appearing, That by Orders No. 2 and 171,[1] the Commission, upon its own motion entered into and conducted an investigation under the provisions of Section 4-A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in the State of Wyoming and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, That reasonable public notice of a hearing was provided and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding Examiner duly designated by the Commission having filed his report and recommendations and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and, the Commission having on the 29th day of June, 1938, adopted the Examiner's report and recommendations as its own which said report is hereby referred to and made a part hereof;

Now, therefore, It is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Wyoming directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference, or prejudice as between localities in Wyoming in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 1st day of August, 1938, all bituminous coal sold, delivered, or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Wyoming, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937,[2] and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Wyoming.

2. That any producer of bituminous coal in intrastate commerce within the State of Wyoming, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Sections 4 and 4-A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4-A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Wyoming, who is not upon the date of this order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this order, together with three (3) copies of the Form of Code Acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER, and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Wyoming known to produce bituminous coal, publication thereof to be made three (3) times within fifteen (15) days from the date of this order.

By order of the Commission.

Dated this 29th day of June, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-1873; Filed, June 30, 1938; 12:51 p. m.]

[1] 2 F. R. 1058 (1266 DI); 3 F. R. 31 DI.

[2] 2 F. R. 1059 (1267 DI).

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49639]

REVOCATION OF OBSOLETE GENERAL DRAWBACK REGULATIONS

JUNE 27, 1938.

To Collectors of Customs and Others Concerned:

There are now outstanding a number of general regulations authorizing the allowance of drawback on various articles manufactured or produced in the United States with the use of imported merchandise. The articles and the regulations covered by the Treasury decisions listed below are among the products and regulations concerned:

Treasury Decisions	*Products*
34448	Cans.
37377-G	Typewriter ribbons.
34716, as amended by 35312, 39958, 40120, and 41058	Dynamite.
34717, as amended by 35312	Refined glycerine.
38396-G, as amended by 41820, 42998, and 45517	Processed fur-skins.
35875, as extended by 35906 and 36060	Processed yarns.
35965, as amended and extended by 36060, 37265-C, 37265-I, 37878-E, 38380-G, 42342, 42374, 42695, and 44907	Processed piece goods.

It is no longer the practice to issue drawback authorizations under the regulations listed and the Bureau's records indicate that drawback claims are no longer filed thereunder. In the circumstances, the regulations referred to and all others of a similar character, excepting the regulations covered by T. D. 39415, as extended by T. D. 40422-V, relating to bags and meat wrappers, T. D. 39424, as amended by T. D. 40605, and T. D. 44291, relating to sugars and syrups, and T. D. 48149, relating to linseed oil, cake and meal, are hereby revoked. However, this revocation shall not prejudice any rights which have accrued under the regulations affected.

Should any firm which has not had an individual drawback rate issued in its behalf desire to obtain drawback on articles manufactured or produced in accordance with the provisions of any of the revoked regulations, it may file an application for an individual rate of drawback under the provisions of article 1043 of the Customs Regulations of 1937.[1]

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

[F. R. Doc. 38-1866; Filed, June 30, 1938; 10:31 a. m.]

[1] 2 F. R. 1674 (1967 DI).

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

PUBLIC NOTICE OF NEW STANDARD SCHEDULE OF RATES FOR ELECTRICITY, SAN CARLOS PROJECT, ARIZONA

EFFECTIVE ON DATE OF APPROVAL

MAY 13, 1938.

Combination Rate

Application of schedule.—This schedule is applicable to residences, stores, and other customers whose load is limited to five (5) kilovolt amperes.

All energy being measured through one meter.

Net monthly rate.—

(a) A minimum charge of $3 per month, which $3 entitles the customer to the use of 60 kw.-h.

(b) 2.5 cents per kw.-h. for the next 250 kw.-h.

(c) 2.0 cents per kw.-h. for all additional kw.-h.

Minimum contract period.—One year, except that, unless an extension has been constructed to supply the customer, the contract may be terminated if the customer vacates the premises.

Rules and regulations.—Service under this schedule is rendered pursuant to the Rules and Regulations governing the operation of the Electric Power System of the San Carlos Project, approved March 14, 1936.

General rate

Application of schedule.—This schedule is applicable to all classes of service and is available to customers whose load is not limited or who for some other reason do not desire to take energy on the Combination Rate.

Rate per month.—

(a) 6.0 cents per kw.-h. for first 25 kw.-h. per kw of Maximum Demand.

(b) 2.0 cents per kw.-h. for next 100 kw.-h. per kw of Maximum Demand.

(c) 1.5 cents per kw.-h. for all additional kw.-h.

(d) Minimum Charge: $1 per month per kw of the customer's actual or agreed Maximum Demand, but not less than $5 per month.

Demand discounts.—The following discounts will be applied in accordance with Maximum Billing Demand. Discounts do not apply to Minimum Charge:

	Percent
Less than 10 kw demand	0
10 kw demand and less than 15 kw demand	4
15 kw demand and less than 20 kw demand	6
20 kw demand and less than 25 kw demand	8
25 kw demand and less than 32 kw demand	10
32 kw demand and less than 40 kw demand	12
40 kw demand and less than 48 kw demand	14
48 kw demand and less than 58 kw demand	16
58 kw demand and less than 70 kw demand	18
70 kw demand and less than 85 kw demand	20
85 kw demand and less than 100 kw demand	22
100 kw demand and less than 125 kw demand	24
125 kw demand and less than 150 kw demand	26
150 kw demand and less than 175 kw demand	28
175 kw demand and less than 210 kw demand	30
210 kw demand and less than 245 kw demand	32
245 kw demand and less than 295 kw demand	34
295 kw demand and less than 360 kw demand	36
360 kw demand and less than 600 kw demand	38
600 kw demand and over	40

Minimum contract period.—One year, except that, unless an extension has been constructed to supply the customer, the contract may be terminated if the customer vacates the premises.

Rules and regulations.—Service under this schedule is rendered pursuant to the Rules and Regulations governing the operation of the electric power system of the San Carlos Project.

This Public Notice supersedes the Public Notice of March 14, 1936, effective as of October 1, 1935.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1863; Filed, June 30, 1938; 9:41 a. m.]

FLATHEAD IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

JUNE 16, 1938.

In pursuance of the provisions of a contract executed by the Flathead Irrigation District, Flathead Irrigation Project, Montana, on May 12, 1928 as supplemented by agreements between the Secretary of the Interior and the Flathead Irrigation District dated February 27, 1929, March 28, 1934 and August 26, 1936, notice is hereby given that the assessment for operation and maintenance of the irrigation system to serve that portion of the Flathead Irrigation Project within the confines of the Flathead Irrigation District for the irrigation season of 1939 is $80,234. This assessment involves an assessable area of approximately 67,925 acres, but does not include any lands held under Indian trust patent, and covers all project overhead and general charges. This amount shall be paid by the District to the United States, one-half thereof to be paid on or before February 1, 1939, in advance of delivery of water, and the remainder to be paid on or before July 1, 1939.

The Flathead Irrigation District shall comply fully with the general rules and regulations applicable to the areas included in the Irrigation Districts on the Flathead Irrigation Project approved by the Secretary of the Interior under date of June 5, 1937.[1]

This order supersedes order approved June 5, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1860; Filed, June 30, 1938; 9:41 a. m.]

JOCKO VALLEY IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

JUNE 16, 1938.

In pursuance of the provisions of a contract executed by the Jocko Valley Irrigation District, Flathead Irrigation Project, Montana, on November 13, 1934, and approved by the Secretary of the Interior on February 26, 1935 as supplemented by an agreement dated August 26, 1936, notice is hereby given that the assessment for operation and maintenance of the irrigation system to serve that portion of the Flathead Irrigation Project within the confines of the Jocko Valley Irrigation District for the irrigation season of 1939 is $3,570. This assessment involves an assessable area of approximately 4,695 acres, but does not include any lands held under Indian trust patent, and covers all proper project overhead and general charges. This amount shall be paid by the District to the United States, one-half thereof to be paid on or before February 1, 1939, in advance of delivery of water, and the remainder to be paid on or before July 1, 1939.

The Jocko Valley Irrigation District shall comply fully with the general rules and regulations applicable to the areas included in the Irrigation Districts on the Flathead Irrigation Project, approved by the Secretary of the Interior under date of June 5, 1937.[1]

This order supersedes order approved June 5, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1862; Filed, June 30, 1938; 9:41 a. m.]

MISSION IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

ORDER FIXING OPERATION AND MAINTENANCE CHARGES

JUNE 16, 1938.

In pursuance of the provisions of a contract executed by the Mission Irrigation District, Flathead Irrigation Project, Montana, on March 7, 1931, and approved by the Secretary of the Interior on April 21, 1931, as supplemented by agreements between the Secretary of the Interior and the Mission Irrigation District dated June 2, 1934, and August 26, 1936, notice is hereby given that the assessment for operation and maintenance of the irrigation system to serve that portion of the Flathead Irrigation Project within the confines of the Mission Irrigation District for the irrigation season of 1939 is $14,070. This assessment involves an assessable area of approximately 11,500 acres, but does not include any lands held under Indian trust patent, and covers all proper project overhead and general charges. This amount shall be paid by the District to the United States, one-half thereof to be paid on or before February 1, 1939, in advance of delivery of water, and the remainder to be paid on or before July 1, 1939.

The Mission Irrigation District shall comply fully with the general rules and regulations applicable to the areas included in the Irrigation Districts on the Flathead Irrigation Project, approved by the Secretary of the Interior under date of June 5, 1937.[1]

This order supersedes order approved June 5, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1861; Filed, June 30, 1938; 9:41 a. m.]

[1] 2 F. R. 1109 (1326 DI).

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4821]

MANUFACTURE, TAX-PAYMENT, SALE, REMOVAL, AND REGISTRATION OF STILLS AND WORMS, AND THE EXPORTATION OF STILLS WITH BENEFIT OF DRAWBACK

To Collectors of Internal Revenue, District Supervisors, and Others Concerned:

Pursuant to the provisions of Section 3237, Revised Statutes, as amended (U. S. C., 1934 Ed., Supp. II, Title 26, Secs. 1402 (b) and 1403), Section 3238, Revised Statutes (U. S. C., 1934 Ed., Title 26, Sec. 1402 (c)), Section 3244, Revised Statutes, as amended, (U. S. C., 1934 Ed., Title 26, Secs. 1394 (j) (1), Section 10, Act of March 1, 1879 (U. S. C., 1934 Ed., Title 26, Sec. 1394 (j) (3), Section 18, Act of May 28, 1880 (U. S. C., 1934 Ed., Title 26, Secs. 1394 (j) (2)), Section 3258, Revised Statutes (U. S. C. 1934 Ed., Title 26, Sec. 1162), Section 3265, Revised Statutes (U. S. C., 1934 Ed., Title 26, Sec. 1169), Section 3443, Revised Statutes (U. S. C., 1934 Ed., Title 26, Sec. 1446), Section 3447, Revised Statutes, (U. S. C., 1934 Ed., Title 26, Secs. 1534, 1542, and 1691), Act of March 4, 1915, (U. S. C., 1934 Ed., Title 26, Sec. 1461 (c)), Section 251, Revised Statutes (U. S. C., 1934 Ed., Title 26, Sec. 1821), Section 161, Revised Statutes (U. S. C., 1934 Ed., Title 5, Sec. 22), Section 8, Liquor Law Repeal & Enforcement Act (U. S. C. 1934 Ed., Supp. II, Title 27, Sec. 157), the following regulations are prescribed:

MANUFACTURE, TAX-PAYMENT, REMOVAL, AND REGISTRATION OF STILLS AND WORMS

PARAGRAPH 1. *Special tax liability.*—(a) *Rate of tax.*—The Second subsection of Section 3244, Revised Statutes, as amended, provides that any person who manufactures any still or worm for distilling shall be deemed a manufacturer of stills, and shall pay a special (occupational) tax of $50 and, in addition thereto, a special (commodity) tax of $20 for each still or worm to be used in distilling made by him, i. e., $20 for each still and each worm, or condenser.

(b) *Exemption.*—By Section 18 of the Act of May 28, 1880, distillers in registered distilleries who manufacture wooden stills for their own use are exempted from the payment of the special taxes imposed under the provisions of the second subsection of Section 3244, Revised Statutes, as amended, but they are required to give written notice to the Collector of the District in which the distillery is located of each still manufactured before the same is used.

PAR. 2. *Name plate of manufacturer on still.*—Each still and worm or condenser must have a name plate securely attached hereto by riveting or brazing, or have cut by suitable die, legibly and durably in the material of which it is made, showing:

1. Name of Manufacturer.
2. Address of Manufacturer.

3. Manufacturer's serial number for the article.

Such marking of stills and worms or condensers must be by the manufacturer, and this information will be disclosed by the manufacturer or vendor in the notice to the Collector and in the affidavits required by Paragraph 8.

PAR. 3. *When tax is due.*—The commodity tax on each still, worm, or condenser is due when the manufacture thereof is completed, and must be paid by affixing to the article a special tax stamp as provided by Section 3238, Revised Statutes, as amended. At the time of affixing such stamp the same must be cancelled by the manufacturer by writing across the face thereof, in ink, the word "cancelled," followed by the date and name of the manufacturer. The special (occupational) tax as manufacturer of stills is due on the 1st day of July in each year, or on commencing such trade or business, as provided by Section 3237, Revised Statutes, as amended. It is provided in the former case that the tax shall be reckoned for one year, and in the latter that it shall be reckoned proportionately, from the first day of the month in which the liability to the special tax commenced, to and including the 30th day of June following. The statute further provides that it shall be the duty of the special taxpayers to render their returns with remittances to the collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, together with the remittances, not later than the last day of the month, except in cases of sickness or absence, as provided by Section 3176 of the Revised Statutes, as amended (U. S. C., 1934 Ed., Title 26, Section 1524). The special tax return, Form 11, will be used by manufacturers of stills in rendering their returns of the occupational and commodity taxes due on stills and worms, or condensers. Such returns shall be sworn to before a Notary Public or other official duly authorized to administer oaths. The special (occupational) tax stamp must be conspicuously posted in the place of business of the manufacturer of stills.

PAR. 4. *Types of distilling apparatus subject to tax.*—Under the law the $20 tax is due on each still, and on each worm or condenser used as herein indicated and not merely one tax on the unit. This means that tax is due on the beer still, and each successive still or worm or condenser through which the spirits are passed, subject to the following interpretation as to worms or condensers:

1. A tubular type condenser made up of numerous metal tubes, enclosed within a water jacket for the condensation of spirits in their course to the trybox, is subject to the tax of $20.

2. A worm or condenser for the condensation of aldehydes or fusel oil only, where such aldehydes or fusel oil contain only negligible quantities of alcohol, would not be subject to the $20 tax.

3. An intermediate or primary condenser for low wines, which require doubling, is subject to the $20 tax.

PAR. 5. *"Distilling" defined.*—The term "distilling" used in the Second subsection of Section 3244, Revised Statutes, as amended, means the distillation of spirits as defined by the internal-revenue laws including Section 1 of Title III of the National Prohibition Act, as amended, (U. S. C., 1934 Ed., Title 27, Section 71). Such distillation includes (a) the original manufacture of distilled spirits from mash, wort, or wash, or any material suitable for the production of spirits; (b) the redistillation of spirits, in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits within the provisions of the Third subsection of Section 3244, Revised Statutes, as amended (U. S. C., 1934 Ed., Title 26, Section 1398 (f); (d) the redistillation or recovery of ethyl alcohol or of completely or specially denatured alcohol, or of proprietary solvents containing specially denatured alcohol; (e) the redistillation or recovery of tax-free alcohol.

PAR. 6. *Manufacture of parts of stills and assembling thereof.*—If separate parts of a still, worm, or condenser of any kind are furnished by the manufacturer to a distiller or other person who assembles the same into a complete unit for distilling, the manufacturer of the parts is liable as a manufacturer of stills. Conversely, if a distiller or other person procures parts which are not in themselves designed, constructed, or sold as stills, worms, or condensers, or parts thereof, for use in distilling, and alters and assembles such parts as a distilling unit, liability to the occupational and commodity taxes as a manufacturer of stills will be incurred by such distiller or person, as provided in Par. 1 (a).

PAR. 7. *Reconstruction of stills.*—(a) *Repairs or alterations.*—Whenever a still, worm, or condenser is repaired or altered by the addition of new material to such an extent as to virtually result in the construction of a new still, worm or condenser, the manufacturer, distiller, or other person making such repairs or alterations, will be held liable to the commodity tax of $20 for each still, worm, or condenser so repaired or altered, and in addition will incur liability to the occupational tax of $50 as a manufacturer of stills.

(b) *Extent of changes.*—Minor structural changes made in a still, worm or condenser, such as the limited replacement of parts or the addition of new materials, which do not effect any material change in the mode of operation, character, or capacity of the distilling apparatus, will not be deemed to constitute the manufacture of a new still, worm or condenser. Major alterations, however, involving extensive replacements of parts or additions of new materials to a still, worm or condenser, whereby the mode of operation, character or capacity of the apparatus is materially changed, and which result in the virtual construction of a new still, worm or condenser, will render the manufacturer thereof liable to the occupational and commodity taxes imposed by law on manufacturers of stills.

(c) *Action by collector.*—Collectors will determine in each instance whether repairs to any still, worm or condenser constitute the manufacture of a new still, worm or condenser, and will collect the taxes found to be due in such cases, according to law. District Supervisors will cooperate with Collectors in making such determinations. The necessary investigations and inspections in connection therewith will be made by District Supervisors. In the event of doubt whether repairs made to any still, worm or condenser are of such nature or extent as to incur tax, the case will be referred to the Commissioner by the Collector, together with all the evidence available, for a ruling. Such evidence should include a sketch of the apparatus showing the extent of new material and replacements.

PAR. 8. *Taxable status of stills*—(a) *Evidence of use.*—Any still, worm, or condenser of whatever size or capacity, with the exception only of retorts for the production of wood alcohol, and glass laboratory stills of trivial capacity, sold to a user by the manufacturer or otherwise disposed of or used by the manufacturer, will be presumed to be intended for use in the distillation of spirits, and special tax as manufacturer of stills and tax on the still, worm, or condenser, incurred by the manufacturer, unless such presumption shall be removed by filing satisfactory evidence as hereinafter provided showing that the same will not be used for the distillation of spirits, or products containing spirits.

(b) *Purchase by mail order house, jobber or dealer.*—When the purchase is by a mail order house, jobber, or dealer, the same presumption will prevail, unless the vendee furnishes the manufacturer with a sworn statement to the effect that sales will be made only for purposes other than distilling spirits and before removal of a still, worm, or condenser from the vendor's premises a sworn statement will be obtained from the user as herein provided.

(c) *Successive sales between dealers.*—In case of successive sales between dealers, the vendor shall, in each case, take an affidavit of similar purport from the vendee.

(d) *Sale of still for purpose other than distilling spirits.*—When a sale is made by a manufacturer or by a dealer to a person who intends to use the still otherwise than for distilling spirits, a sworn statement of the purchaser must be executed in triplicate, and must show the purchaser's name and address, the purpose for which the still will be used,

that it will not be used for the distillation of spirits, or products containing spirits, the address where the still will be registered or other apparatus used, the manufacturer's serial number of the still, and the manufacturer's name and address. Such affidavit shall be filed with the manufacturer or vendor as the case may be, who will retain one copy for his files, and transmit two copies to the collector, as provided by Paragraph 9 (c).

(e) When a still, worm or condenser is manufactured by a person who intends to use the distilling apparatus for purposes other than the distillation of spirits, as defined in Par. 5, a sworn statement of such person must be executed in triplicate, and must show that such distilling apparatus was manufactured by him for his own use and is not to be used for the distillation of spirits or products containing spirits, the purpose for which it is to be used, the address where the apparatus will be registered and used, the manufacturer's serial number of the still, worm or condenser, and the manufacturer's name and address. Such affidavit shall be filed with the Collector, together with the application on Form 110, as provided by Par. 9.

PAR. 9. *Procedure for removal*—(a) *Notice and permit.*—No still, boiler (doubler or pot still), worm, or other distilling apparatus shall be removed from the premises of the manufacturer or dealer, as the case may be, for delivery to a user, or removed by the manufacturer for his own use, until the collector of the district in which the manufacturer or vendor is located has received from the manufacturer or vendor an application on Form 110, in triplicate, for permission to remove the distilling apparatus and permit on such form has been received from the collector to remove the same. The collector issuing the removal permit, shall furnish a copy of such permit to the District Supervisor, in whose district the apparatus is to be set up, registered and used. No such distilling apparatus may be set up or used for the distillation of spirits as defined by Paragraph 5, without application to and permit from the District Supervisor in whose district the apparatus is to be used, as provided in Paragraph 9 (b).

(b) *Application and permit to set up and use distilling apparatus.*—Upon receipt of such distilling apparatus and before setting up the same for distilling, as defined in Paragraph 5, the user shall apply to the District Supervisor on Part 1, Form 1609, in duplicate, for permission to set up such apparatus, specifying the type of apparatus, the capacity, the serial number thereof, the name and address of the manufacturer, the name and address of the vendor, and the purpose for which the apparatus will be used. The District Supervisor shall then, if he has in his possession copy of the permit issued by the collector for removal of the distilling apparatus from the premises of the manufacturer or vendor, issue permit on Part 2, Form 1609, authorizing the distilling apparatus to be set up by the user. Such permission will contain the stipulations: (1) That the distilling apparatus must be immediately registered when set up, as required by Paragraph 10 of these regulations; and (2) that all provisions of internal-revenue law and regulations, as may be applicable to the class of operations to be conducted, will be complied with prior to use of such apparatus for the distillation of spirits. Persons setting up stills for purposes other than distilling spirits are not required to obtain the permit to set up and use, but the apparatus must be registered as provided by Par. 10.

(c) *Use of still for purposes other than distilling spirits.*—In case the distilling apparatus is to be used for purposes other than the distillation of spirits, as defined in Paragraph 5, two copies of the required affidavit of the user must accompany the application on Form 110 filed by the manufacturer or vendor with the collector. The collector should send one copy of the affidavit to the District Supervisor of the district in which the apparatus will be used or set up and will retain the remaining copy for his files. The copy of the affidavit retained by the manufacturer or vendor will be filed with the permit to remove the still, worm, or condenser, etc., in his place of business and will be carefully preserved thereat, and will be subject to examination by internal-revenue officers at all reasonable hours.

(d) *Failure to give notice; penalty.*—Failure to give the notice of intention to remove and obtain the permit to set up a still is punishable in the sum of $500, and the distilling apparatus is forfeitable to the Government.

PAR. 10. *Registry of stills*—(a) *Registration with district supervisor.*—Every person having in his possession, custody, or under his control, any still or distilling apparatus, set up, shall register the same with the District Supervisor of the District in which such still or distilling apparatus is located, except where such stills have heretofore been registered and no change in ownership, possession, custody, control, or location has occurred since such registry. This requirement applies to all stills set up, except retorts for the production of wood alcohol and glass laboratory stills of trivial capacity. This registry of stills shall be made on Form 26, in triplicate, with the District Supervisor. The specific information required by the instructions on Form 26 will be entered in the spaces provided therefor. One copy of each registration of stills on Form 26 will be retained by the District Supervisor, one copy will be returned to the registrant, and the remaining copy will be immediately forwarded to the Commissioner. The approved copy of the Form 26, returned to the registrant by the Supervisor, shall be retained on the premises where the still is set up for examination by visiting internal-revenue officers.

(b) *When still is "set up."*—A still will be regarded as set up and subject to registry when the same is in such condition that spirits may be distilled therewith. When the still is in position over a furnace, or connected with a boiler so that heat may be applied, the still will be regarded as set up although the worm or worm tank is not in position. These instructions will apply to all stills of vacuum type, still or apparatus in a horizontal position capable of separating alcoholic vapors from liquid alcoholic mixtures, or solutions, or any other apparatus designed, intended, actually used, or capable of use for the distillation of spirits. These instructions as to stills set up are intended merely as illustrations and are not expected to cover all types of stills, worms, or condensers requiring registration under the law.

(c) *Change in location or ownership of still.*—In the event a user removes a still to another location, after the same has been registered, no permit therefor will be required, but the still, when set up at the new location must be immediately registered on Form 26 with the District Supervisor. Likewise, when a user sells, or otherwise disposes of a still, no permit for removal, sale, or disposition thereof will be required, but the new owner must immediately register the still on Form 26 with the District Supervisor of the district in which the still is set up. If the apparatus so removed or sold, is to be used for distilling, as defined in Paragraph 5, no permit to set up and use the same will be required, but prior to use of such apparatus there must be full compliance with the internal-revenue laws and regulations governing the class of operations to be conducted.

(d) *Naval, Coast Guard, and War Department vessels.*—The registration of stills, worms, or condensers, for use other than in the distillation of spirits, set up on vessels operated by the Navy Department, the War Department, or the Coast Guard will not be required.

PAR. 11. *Illicit stills.*—Internal Revenue officers in reporting illicit stills must, in all cases, if possible, ascertain the name and address of the manufacturer of the still, worm, etc., and whether or not the taxes due the Government have been paid. If the officer, upon investigation, shall ascertain that there has not been compliance with the provisions of law and these regulations, respecting tax-payment and removal, taxes and penalties should be asserted against the manufacturer. Every effort must be made by the officers to obtain convincing and complete evidence in such cases.

PAR. 12. *Exportation of stills with benefit of drawback*—(a) *Exportation.*—An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. (Article 1267, Customs' Regulations, 1937.) The export character of any shipment will be determined by the intention with which it is made. The shipment assumes an export character only when destined for use in a foreign country.

(b) *Puerto Rico and Philippine Islands.*—Where reference is made in these regulations, and in the form prescribed, to exportation to a foreign country their provisions will apply to like shipments to Puerto Rico or to the Philippine Islands, the same as though such shipments were expressly mentioned.

PAR. 13. *Drawback of tax.*—Under the law the allowance of drawback is restricted to stills "manufactured for export and actually exported."

PAR. 14. *Branding or marking.*—Every person who manufactures stills intended for exportation will brand or stamp upon each still, and in a conspicuous place, the words "FOR EXPORT," followed by the serial number of the article and the manufacturer's name. When such stills are manufactured from metal plates the words "FOR EXPORT" with the serial number of the article and the manufacturer's name directly thereunder, will be stamped (in letters and figures which must, in no case, be less than one-half inch in height) thereon with a suitable die, or otherwise permanently affixed to each still. Where the still is constructed of or encased in wood, the words "FOR EXPORT," the serial number of the article and the manufacturer's name will be branded thereon.

PAR. 15. *Request for inspection; entry for exportation; drawback claim.*—After completion of the stills, and before the same are removed from the place of manufacture, the manufacturer (exporter) will forward to the collector of his district Form 1610, in quadruplicate, with Part 1 and Part 2 duly executed. Request for inspection and release of the stills for immediate exportation, and application for allowance of drawback, equal to the internal-revenue tax paid on the stills, when actually exported, will be made in Part 1 of Form 1610. Entry for exportation of the stills, and claim for drawback of the internal-revenue tax paid thereon, will be made and sworn to by the manufacturer (exporter) in Part 2 of the form. The stamps denoting payment of the tax must be attached to the original of the claim.

PAR. 16. *Payment of tax; inspection by deputy; certificate.*—Upon the receipt of claim and entry on Form 1610, and upon the payment of the tax due, the collector will direct a deputy to proceed to the place of manufacture, and, if the stills are found to agree with those described in the form, and are properly marked or branded as required by these regulations, the deputy will execute the certificate in Part 4 of the form. The stamp or stamps attached to the claim must, in the presence of the deputy, be cancelled by the manufacturer by writing across the face thereof in ink the word "cancelled" followed by the date and name of the manufacturer. The deputy will then release the stills for delivery to carrier or into customs' custody, and will mail or deliver three copies (one the original, with the tax-paid stamps attached), of the claim and entry, Form 1610, to the Collector of Customs and forward the remaining copy to the Collector of Internal Revenue.

PAR. 17. *Delivery of shipment; bills of lading.*—The manufacturer, upon release of a shipment of stills for export, will deliver such shipment either to the carrier or directly for Customs' inspection, as follows:

(a) If the place of manufacture is located at the port of exportation, he will deliver the shipment directly for Customs' inspection and supervision of lading. A copy of the export bill of lading shall be forwarded and filed with the Collector of Customs.

(b) If the place of manufacture is located elsewhere than at the port of exportation, he will deliver the shipment to the common carrier for transportation to the port of exportation. He shall procure two copies of the bill of lading covering such transportation. In case of exportation through a border port to foreign contiguous territory, the bill of lading will cover transportation to destination, and must show the routing, particularly the carrier which will deliver the shipment for Customs' inspection at the border; also that shipment was sent in care of the collector or deputy collector of customs at the border port. He will immediately transmit by letter one copy of the bill of lading to the collector of customs at the port of exportation, and transmit the other to the Collector of Internal Revenue.

PAR. 18. *Inspection and lading.*—The collector of customs to whom claim and entry on Form 1610 is transmitted by the deputy collector of internal revenue, will fill in on each copy of said form the order for inspection and lading. The inspector of customs will carefully examine the stills described in the entry and he will, if he finds the articles to be otherwise than described, make a special report thereon. After having complied with the order of inspection and after the stills have been duly laden on board the exporting vessel or car, the inspector will complete and sign the certificate of inspection and lading in Part 6 of Form 1610. If the inspector discovers any evidence of fraud, he will detain the stills and notify the collector of customs, who will inform the collector of internal revenue of the district in which said port is located. The collector of internal revenue will see that seizure is made and report immediately to the Commissioner of Internal Revenue.

PAR. 19. *Certificate of Exportation.*—After inspection and lading and clearance for a foreign port of the vessel or car on which the stills described in the entry are laden, and after receipt of the export or through bill of lading (Par. 17), the collector of customs will execute certificate of exportation on each copy of the claim and entry, Form 1610. Such collector will retain one copy for his entry record and transmit the remaining two copies of the Form 1610, to the collector of internal revenue for the district from which the stills were shipped.

PAR. 20. *Approval and submission of claim*—(a) *Action by collector.*—The collector of internal revenue will immediately examine the two copies of the claim for drawback on Form 1610, received from the collector of customs (Par. 19), and if satisfied that the claim is a valid one, he will indorse his approval thereon and forward both copies (one the original with the tax-paid stamps attached) to the Commissioner of Internal Revenue, attention Alcohol Tax Unit.

(b) *Action by Commissioner.*—Upon review of the claim by the Commissioner appropriate action will be taken, and the amount of allowance of drawback due will be certified for payment on Form 1611. If the claim is allowed, in whole or in part, the Commissioner will forward it, together with his certificate, Form 1611, and schedule of claims, Form 1612, to the Comptroller General of the United States for certification of the amount allowed. If the claim is disallowed, the Commissioner will so notify the claimant and state the reasons therefor.

PAR. 21. *Penalty for fraudulently claiming drawback.*—One who fraudulently claims or seeks to obtain an allowance of drawback on merchandise on which no tax has been paid, or a greater allowance of drawback than the tax actually paid, is liable to forfeiture of triple the amount claimed or $500, at the election of the Secretary of the Treasury.

Administration of Regulations

PAR. 22. *Administration.*—These regulations shall be administered by the Deputy Commissioner of Internal Revenue in charge of the Alcohol Tax Unit.

Prior Regulations Revoked

PAR. 23. *Prior regulations.*—All prior regulations relating to the manufacture, tax-payment, sale, removal and registration of stills and worms, or condensers for domestic purposes are hereby revoked in so far as they are inconsistent with the provisions of these regulations. The provisions of Regulations 73, Chapter IV, relative to the drawback of tax on stills exported, are hereby revoked.

Effective Date of Regulations

PAR. 24. *Effective date.*—These regulations shall be effective on and after July 1, 1938.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, June 27, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1864; Filed, June 30, 1938; 10: 31 a. m.]

(T. D. 4822)

FLOOR TAXES ON DISTILLED SPIRITS

To District Supervisors, Collectors of Internal Revenue, and Others Concerned:

Paragraph 2 of Treasury Decision 4818,[1] entitled "Floor Taxes on Distilled Spirits," approved June 20, 1938, is hereby amended to eliminate the requirement for the listing on the floor tax inventory of the serial numbers of packages and cases, and the name of the distiller, rectifier, importer, or bottler of the spirits, except where the spirits are in transit at 12:01 A. M. July 1, 1938.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, June 29, 1938.
STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1865; Filed, June 30, 1938; 10:31 a. m.]

TITLE 41—PUBLIC CONTRACTS

DIVISION OF PUBLIC CONTRACTS

IN THE MATTER OF DETERMINING THE PREVAILING MINIMUM WAGES IN THE FLINT GLASS INDUSTRY

This matter is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on November 30, 1937, in the above entitled matter.

Notices of the hearing were sent to all known members of the industry, to trade unions, and to trade associations in the field. Invitation to attend the hearing was extended through the national press to all other interested parties. There were no members of the industry present at the hearing on November 30, 1937, but letters from glass manufacturers received in response to the notice of hearing were made a part of the record. A representative of the American Flint Glass Workers Union of North America was present at the hearing, and testified.

Subsequent to the hearing there was received from the American Glassware Association a copy of a labor survey of the American Glassware Industry, dated January 29, 1938. After consideration of the wage data contained therein and the information of record, the Board advised the Administrator that another hearing should be called to give interested parties an opportunity to show cause why the prevailing minimum wages in the flint glass industry should not be determined to be 42½ cents an hour or $17.00 a week for a week of 40 hours. This hearing was held on April 11, 1938. Notices of the second hearing were likewise sent to all known members of the industry, to trade unions, trade associations and trade publications in the field.

No members of the industry appeared at this hearing.

Twenty-seven letters received from glass manufacturers in response to the notice of hearing were made a part of the record. These letters set forth the views of manufacturers with respect to the proposed minimum wage and in some instances furnished wage data. The labor survey of the American Glassware Industry, dated January 29, 1938, heretofore referred to, was made a part of the record. A representative of the American Flint Glass Workers Union of North America was present at the hearing and testified. The Board has reviewed the testimony received at the hearing and on the basis thereof advises me as follows:

The flint glass industry produces such types of glassware as illuminating, table glassware, all thin blown glass, thermos bottles, chemical and laboratory ware, perfumery ware, stoppers, and bottles, and the like, which character of glassware is produced by the Pressed, Pressed and Blown, Off Hand and Blown Method, Cutting and Polishing; in fact all types of glassware other than window, plate and rolled glass, common bottles, containers, and prescription glassware.

It was estimated that there were between 23,000 and 24,000 workers in the industry in 1934. The Secretary-Treasurer of the American Flint Glass Workers Union at the 1937 convention stated that the total membership of the Union on May 31, 1937, was 19,017 workers. As of May 31, 1937, 11,992 of these workers were organized as miscellaneous workers, the category into which the low wage employees fall. The American Glassware Association in its labor survey has furnished wage data for 20,243 factory employees in the industry. The survey covers workers in 46 companies and it is estimated by the Association that 85% of the total production of the industry is accounted for by the companies included in the survey.

The Union representative has indicated that he believes that this survey prepared by the American Glassware Association is as adequate as any that could be furnished by the workers themselves. Wage data are given in the form of the average hourly rates currently paid by members of the industry. The lowest paid 25 percent of the workers in the wage sample, or in other words the first quartile, falls at 51 cents an hour. In the group below the first quartile, 110 workers averaged 38 cents an hour; 122 averaged 39 cents; 662 averaged 41 cents; 12 averaged 42 cents; and 2,190 averaged 43 cents an hour. Eleven percent of all the workers included in the labor survey and almost 45 percent of the workers whose wages fall below the first quartile are at this figure. In order to give recognition to the minor downward tendency indicated by a lesser concentration at 41 cents, the Board concludes from the labor survey that 42½ cents an hour is indicative of the minimum wage prevailing in the industry.

Several manufacturers have indicated an objection to the finding of a 42½ cent minimum, mostly on the basis that such finding would interfere with a collective bargaining relationship which has set a lower wage. The Union representative who appeared at the hearing indicated that he had no fear that such result would follow, inasmuch as there were only a few employees at the absolute minimum. The Union agreement provides for a basic minimum wage of 38 cents an hour for women and 45 cents an hour for men with a further provision that existing wage rates which are higher shall be maintained. The labor survey of the American Glassware Association, however, presents the actual wages paid in the industry and indicates clearly that the actual minimum paid are in excess of the basic minima provided for in the trade union agreement.

The Board finds that the geographic concentration of the industry is such that regional influences are not of primary consideration in the shaping of the wage structure of the industry, and that this factor and the fact that there is extensive collective bargaining in the industry exerts an influence toward uniformity throughout the entire industry.

The Board recommends that the minimum wage in the flint glass industry be found to be 42½ cents an hour or $17.00 a week for a week of 40 hours, arrived at either upon a time or piece work basis.

I have examined the findings and recommendations of the Board, and the record of the hearing, and I am of the opinion that such findings and recommendations are correct, and I adopt them as my own.

Therefore, I hereby determine:

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35), for the manufacture or supply of flint glass shall be 42½ cents an hour or $17.00 a week of 40 hours, arrived at either upon a time or piece work basis.

This determination shall be effective and the minimum wage hereby established shall apply to all such contracts bids for which are solicited on or after July 12, 1938.

[SEAL] C. V. MCLAUGHLIN,
Acting Secretary of Labor.

Dated this 27th day of June, 1938.

[F. R. Doc. 38-1859; Filed, June 29, 1938; 1:29 p.m.]

[1] 3. F. R. 1469 DI.

AMENDMENT OF DECISION DETERMINING MINIMUM WAGES IN THE ENVELOPE INDUSTRY

Pursuant to the authority contained in Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", the decision of the Secretary of Labor, dated April 27, 1938 (3 F. R. 1052 DI), establishing minimum wages for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the aforesaid Act for the manufacture or supply of envelopes, is amended by striking the last paragraph therefrom and substituting the following:

This determination shall be effective and the minimum wage hereby established shall apply to all such contracts for which bids are opened on or after May 12, 1938.

[SEAL] C. V. MCLAUGHLIN,
Acting Secretary of Labor.

Dated: June 22, 1938.

[F. R. Doc. 38-1867; Filed, June 30, 1938; 11:07 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U-3D-11

Acting pursuant to the authority conferred on it by sections 3 (d) and 20 (a) of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission deems it necessary and appropriate in the public interest and for the protection of investors and consumers, and not contrary to the purposes of that Act, to adopt, and does hereby adopt a rule which shall be known as Rule U-3D-11 and shall read as follows:

SEC. 15. U-3D-11 (Rule U-3D-11) *Issue and sale of evidences of indebtedness to consumers for advances by them to be used solely for construction of electric or gas line extensions.*—The provisions of section 6 (a)[1] of the Act shall not apply to any public utility company which is a subsidiary company of a registered holding company with respect to the issue or sale by such company of its evidences of indebtedness the proceeds of which are to be used solely for construction of electric or gas line extensions and related facilities, which evidences of indebtedness are issued or sold exclusively to consumers to be served by the proposed extension: *Provided*, that—

(a) Such issue or sale has been authorized or approved by the State commission of the State in which such public utility company is organized or by the State commission of each State in which the extension is to be located; and

(b) The aggregate amount of indebtedness represented by such evidences of indebtedness outstanding (including those proposed to be issued) does not exceed 5 per cent of the gross revenues of such public utility company for its last fiscal year. (Ch. 687, sec. 3, 49 Stat. 810; 15 U. S. C., Sup. III, 79c; Ch. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79 t.) (Rules and Regs., Rule U-3D-11, effective June 29, 1938.)

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1853; Filed, June 29, 1938; 1:01 p. m.]

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO RULE AN21

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 3 (a) (12), 10 (b) and 23 (a) thereof, hereby amends paragraph (a) of Rule X-AN21 [Sec. 10.X-AN21] by deleting the words "seven hundred and seventy-first" and inserting in lieu thereof the words "eight hundred and sixty-third."

Paragraph (a), as amended, reads as follows:

"(a) Evidences of indebtedness (i) which have been issued by any foreign state that is presently governed by an interim government which is holding office temporarily and which is to continue to hold such office only until the assumption thereof by a regular government which has been elected and (ii) as to which temporary exemption from the operation of Section 12 (a) [ch. 404, sec. 12, 48 Stat. 892; c. 462, sec. 1, 49 Stat. 1375; 15 U. S. C., 781 and Sup. III] shall expire pursuant to the terms of Rule AN7[1] on May 15, 1936, and as to which registration shall not be effective on that date, shall be exempt from the operation of said Section 12 (a) [ch. 404, sec. 12, 48 Stat. 892; c. 462, sec. 1, 49 Stat. 1375; 15 U. S. C., 781 and Sup. III] to and including the eight hundred and sixty-third day following the assumption of office by such elected regular government."

The foregoing action shall be effective immediately upon publication.[2]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1852; Filed, June 29, 1938; 1:01 p. m.]

SECURITIES EXCHANGE ACT OF 1934

RE-ADOPTION OF RULES FOR THE REGULATION OF OVER-THE-COUNTER MARKETS, WITH AMENDMENTS

By reason of enactment of Section 2 of the Act of June 25, 1938, Public, No. 719, 75th Congress, 3rd Session (the Maloney Act), the Securities and Exchange Commission, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 15 (c) (1), 17 (a) and 23 (a) thereof, re-adopted with amendments the rules for regulation of the over-the-counter markets,[1] and re-numbered the rules as indicated.

The text of the Commission's action follows:

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 15 (c) (1) [Ch. 404, sec. 15, 48 Stat. 895; c. 462, sec. 3, 49 Stat. 1377; Pub. 719, June 25, 1938; 15 U. S. C., 78o and Sup. III] and 23 (a) [Ch. 404, sec. 23, 48 Stat. 901; ch. 462, sec. 8, 49 Stat. 1379; 15 U. S. C., 78w and Sup. III] thereof, hereby re-adopts Rules X-MC1 through X-MC9 and re-numbers such rules as follows:

Sec. 10. X-MC1 (Rule X-MC1) becomes Sec. 10. X-15C1-1 (Rule X-15C1-1).

Sec. 10. X-MC2 (Rule X-MC2) becomes Sec. 10. X-15C1-2 (Rule X-15C1-2).

Sec. 10. X-MC3 (Rule X-MC3) becomes Sec. 10. X-15C1-3 (Rule X-15C1-3).

Sec. 10. X-MC4 (Rule X-MC4) becomes Sec. 10. X-15C1-4 (Rule X-15C1-4).

Sec. 10. X-MC5 (Rule X-MC5) becomes Sec. 10. X-15C1-5 (Rule X-15C1-5).

Sec. 10. X-MC6 (Rule X-MC6) becomes Sec. 10. X-15C1-6 (Rule X-15C1-6).

Sec. 10. X-MC7 (Rule X-MC7) becomes Sec. 10. X-15C1-7 (Rule X-15C1-7).

Sec. 10. X-MC8 (Rule X-MC8) becomes Sec. 10. X-15C1-8 (Rule X-15C1-8).

Sec. 10. X-MC9 (Rule X-MC9) becomes Sec. 10. X-15C1-9 (Rule X-15C1-9).

provided, however, That all references in such rules to "Section 15 (c)" (ch. 404, sec. 15, 48 Stat. 895; ch. 462, sec. 3, 49 Stat. 1377; 15 U. S. C., 78o and Sup. III) be amended to read "Section 15 (c) (1) (ch. 404, sec. 15, 48 Stat. 895; ch. 462, sec. 3, 49 Stat. 1377; Pub. 719, June 25, 1938; 15 U. S. C., 78o and Sup. III)."

[1] Ch. 687, sec. 6, 49 Stat. 814; 15 U. S. C., Sup. III, 79 f.

[1] Rule AN7 has been repealed.
[2] June 28, 1938.

[1] 2 F. R. 1391 (1664 DI).

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 17 (a) [ch. 404, sec. 17, 48 Stat. 897; ch. 462, sec. 4, 49 Stat. 1379; 15 U. S. C., 78q and Sup. III] and 23 (a) [ch. 404, sec. 23, 48 Stat. 901; ch. 462, sec. 8, 49 Stat. 1379; 15 U. S. C., 78w and Sup. III] thereof, hereby redesignates Rule X–OA1 [Sec. 10.X–OA1] as Rule X–17A–1 [Sec. 10.X–17A–1] and amends the reference in such rule to "Section 15 (c)" [ch. 404, sec. 15, 48 Stat. 895; ch. 462, sec. 3, 49 Stat. 1377; 15 U. S. C., 78o and Sup. III] to read "Section 15 (c) (1)" [ch. 404, sec. 15, 48 Stat. 895; ch. 462, sec. 3, 49 Stat. 1377; Pub. 719, June 25, 1938; 15 U. S. C., 78o and Sup. III], and the reference to "Rule X–MC7" [Sec. 10.X–MC7] to read "Rule X–15C1–7" [Sec. 10.X–15C1–7].

The foregoing action of the Commission is immediately effective.[1]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1874; Filed, June 30, 1938; 12:53 p. m.]

Notices

DEPARTMENT OF COMMERCE.

Bureau of Air Commerce.

SPECIAL AIR TRAFFIC RULE

GETTYSBURG BATTLEFIELD

JULY 3, 1938.

Pursuant to Section 3 (e) of the Air Commerce Act of 1926, as amended, (44 Stat. 568), the following Special Air Traffic Rule is promulgated regarding the navigation or operation of aircraft over and in the vicinity of the Gettysburg Battlefield, Gettysburg, Pennsylvania, between the hours of 4:30 P. M. and 8:30 P. M. on July 3, 1938, on which day the President of the United States will visit the Battlefield and deliver an address at the Eternal Light Peace Memorial on Oak Ridge, Gettysburg Battlefield, Gettysburg, Pennsylvania:

No aircraft shall be navigated or operated within a radius of five (5) miles on the horizontal plane from the center of the Adams County Court House in the City of Gettysburg, State of Pennsylvania, between the hours of 4:30 P. M. and 8:30 P. M. on July 3, 1938, unless special permission for such flight has been granted by A. S. Koch, Chief, General Inspection Section, Bureau of Air Commerce, Department of Commerce, Washington, D. C.

Approved, June 30, 1938.

[SEAL] SOUTH TRIMBLE, Jr.,
Acting Secretary of Commerce.

[F. R. Doc. 38–1870; Filed, June 30, 1938; 12:26 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 27th day of June, 1938.

[File No. 1–1327]

IN THE MATTER OF DETROIT AND MACKINAC RAILWAY COMPANY PREFERRED CAPITAL STOCK 5% NON-CUMULATIVE, $100 PAR VALUE, AND COMMON CAPITAL STOCK, $100 PAR VALUE

ORDER POSTPONING HEARING

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Preferred Capital Stock 5% Non-cumulative, $100 Par Value, and Common Capital Stock, $100 Par Value, of Detroit and Mackinac Railway Company; and

The Commission having ordered that the matter be set down for hearing on June 29, 1938,[1] in Washington, D. C.; and

The issuer having requested a postponement of said hearing, to which request said Exchange has agreed;

It is ordered, That said hearing be postponed until 10 A. M., on Wednesday, October 19, 1938, in Room 1103, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as may be determined by the Commission or its officer presiding at said hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1855, Filed, June 29, 1938; 1:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of June, A. D. 1938.

[File No. 32–93]

IN THE MATTER OF THE APPLICATION OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION

New York State Electric & Gas Corporation having, on June 7, 1938, filed an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of that Act of the issue and sale to consumers, under a customers finance plan for the construction of rural electric line extensions, of $75,000 principal amount of 6% Customers Receipts against a like amount of advances made or to be made by the customers, and

The Commission having, on June 8, 1938,[1] ordered that a hearing be held on said matter on June 27, 1938, and having designated Charles S. Lobingier, an officer of the Commission, to preside at such hearing, and

New York State Electric & Gas Corporation, having requested that it be permitted to withdraw its application and that the hearing, previously ordered to be held by the Commission on June 27, 1938, be cancelled;

It is ordered, That the aforesaid order dated June 8, 1938, directing that a hearing be held on the said application on June 27, 1938, and designating Charles S. Lobingier, an officer of the Commission, to preside at such hearing be, and the same hereby is, rescinded, and

The Commission having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant, consents to the withdrawal of the said application, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1854; Filed, June 29, 1938; 1:02 p. m.]

United States of America—Before the Securities and Exchange Commission

[File No. 43–129]

IN THE MATTER OF LOUISIANA ICE AND ELECTRIC COMPANY, INC.

ORDER RELATIVE TO EFFECTIVENESS OF DECLARATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of June A. D., 1938.

Louisiana Ice and Electric Company, Inc., a subsidiary of Utility Stock & Bond Corporation, a registered holding company, having duly filed with this Commission a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale to the City National Bank and Trust Company of Chicago, Illinois, of five serial collateral notes, to be dated December 30, 1938, in a maximum face amount of $70,000 each to be secured by a mortgage and mortgage note in the principal amount of $350,000 with interest at 5%, dated June 1, 1938 to mature June 1, 1948, and such interim notes, in a maximum face amount of $350,000, to mature December 30, 1938 as shall be necessary to evidence

[1] June 27, 1938.

[1] 3 F. R. 1340 DI.

[1] 3 F. R. 1371 DI.

advances made from time to time by the City National Bank and Trust Company for the purpose of securing funds for the construction of an electric generating plant at Bunkie, Louisiana;

A hearing[1] on said declaration having been duly held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That said declaration be and become effective forthwith, upon condition, however that the issue and sale of said serial collateral notes shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1875; Filed, June 30, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

[File No. 43–118]

IN THE MATTER OF THE APPLICATION OF NORTHEASTERN WATER COMPANIES, INC.

ORDER CONSENTING TO WITHDRAWAL OF DECLARATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1938.

Northeastern Water Companies, Inc., having, on May 19, 1938, filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 relating to the issue and sale of a promissory note in an amount not to exceed $2,100,000 to renew or refund its outstanding 5% promissory note dated July 14, 1937, and due July 14, 1938, and

The Commission having, on June 16, 1938, ordered that a hearing be held on said matter on July 7, 1938, and having designated Robert P. Reeder, an officer of the Commission, to preside at such hearing, and

Northeastern Water Companies, Inc., having requested on June 18, 1938, that it be permitted to withdraw its declaration and that the hearing previously ordered to be held by the Commission on July 7, 1938, be cancelled;

It is ordered, That the aforesaid order[1] dated June 16, 1938, directing that a hearing be held on the said declaration on July 7, 1938, and designating Robert P. Reeder, an officer of the Commission, to preside at such hearing be, and the same hereby is, rescinded, and

The Commission having due regard to the public interest and the interest of investors and consumers, upon the request of the declarant, consents to the withdrawal of the said declaration, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1876; Filed, June 30, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

[File No. 43–131]

IN THE MATTER OF IOWA PUBLIC SERVICE COMPANY

ORDER DESIGNATING NEW TRIAL EXAMINER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 29th day of June, A. D. 1938.

Iowa Public Service Company having duly filed a declaration with this Commission, pursuant to Section 7 of the Public Utility Holding Company Act of 1935; such matter having been set down for hearing on July 14, 1938, at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue, Washington, D. C., by an order[1] of the Commission dated June 27, 1938; and it appearing that the Trial Examiner designated to preside at such hearing will be unable to preside thereat;

It is ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to preside at such hearing in the place and stead of and with the same powers and duties as the Trial Examiner heretofore designated to preside at such hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1877; Filed, June 30, 1938; 12:53 p. m.]

[1] 3 F. R. 1421 DI.

[1] 3 F. R. 1448 DI.

[1] 3 F. R. 1545 DI.

JUL 5 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 129

Washington, Saturday, July 2, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

[1938 Wool Circular Letter No. 3]

1938 WOOL AND MOHAIR LOAN PROGRAM

AMENDMENT TO INSTRUCTIONS

JUNE 17, 1938.

The instructions (1938 CCC Wool Form 1) issued by Commodity Credit Corporation for the 1938 wool and mohair loan program [1] are hereby amended to provide for the making of loans and the purchase of eligible paper secured by pooled, graded wool in lines.

The following definition is added to Section 1 of the Instructions:

"(f) *Graded wool pool.*—Any informal pool of graded wool delivered by two or more producers of wool which is represented by a dealer or others acting as a borrowing or selling representative or agent for such producers pursuant to Producer's Authority to Pool and Grade (1938 CCC Wool Form L)."

The following forms are approved and available for use in connection with loans made and eligible paper purchased by Commodity Credit Corporation and secured by pooled, graded wool in lines:

"Producer's Authority to Grade and Pool (1938 CCC Wool Form L), Graded Wool Note (1938 CCC Wool Form M)."

Section 10 of the instructions is hereby amended by adding thereto a paragraph as follows:

"Producers may also join with other producers to form informal graded wool pools for the purpose of obtaining loans from Commodity Credit Corporation upon the security of pooled, graded wool in lines. The representative of such informal graded wool pools must obtain authority from the producers for the pooling, grading and the pledging thereof to Commodity Credit Corporation on a Producer's Authority to Pool and Grade (1938 CCC Wool Form L). Under this arrangement the representative will execute the note (1938 CCC Wool Form M) evidencing the advance and pledging the graded wool without further liability on the part of such representative to Commodity Credit Corporation except in case of fraud or misrepresentation or the failure of the representative to comply with the terms of the Producer's Authorities to Grade and Pool (1938 CCC Wool Form L). Dealers or others may act as representatives of graded wool pools. Commodity Credit Corporation will not accept notes on 1938 CCC Wool Form M which were originally secured by less than 75,000 pounds of graded wool in any one line or when the range of shrinkage in any pile exceeds four per cent. Such notes may be made payable to Commodity Credit Corporation and submitted immediately after appraisal with a Lending Agency's Letter of Transmittal (1938 CCC Wool Form F) in which case no allowance for interest will be made by Commodity Credit Corporation. However, if the representative of the graded wool pool has executed a Contract to Purchase (1938 CCC Wool Form H) allowance will be made by Commodity Credit Corporation for interest from the date of the note in accordance with the terms of the Contract to Purchase. Such notes on 1938 CCC Wool Form M may be endorsed without recourse by the lending agencies tendering same.

It is suggested that the representatives of such pools should arrange for the issuance of warehouse receipts on the basis of not more than 50,000 pounds of graded wool to each receipt, provided all the wool in the graded pile is pledged as security to one note. This will greatly aid in the partial release of such graded wool on a warehouse receipt basis. All the wool in the pool may be pledged as security to one note or a separate note may be used for the graded wool in each line subject to the minimum quantity noted

[1] 3 F. R. 1181 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Commodity Credit Corporation: Page
Wool and mohair loan program, 1938, instructions amended ---- 1617
TITLE 7—AGRICULTURE:
Bureau of Entomology and Plant Quarantine:
Cotton regulations modified-- 1618
Farm Security Administration:
Emergency Relief Appropriation Act of 1938, applicability of orders, rules, etc- 1619
TITLE 12—BANKING AND CREDIT:
Comptroller of the Currency:
Investment securities regulation ---- 1619
TITLE 25—INDIANS:
Pueblo Indian lands benefited by irrigation and drainage works, Middle Rio Grande Conservancy District, N. Mex ---- 1620
TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION:
Public Health Service:
Arsphenamine, control of manufacture, etc., of---- 1620
TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Public Utility Holding Company Act, adoption of Rule U–6B–2 ---- 1621
Securities Exchange Act, Rule X–GB4 amended---- 1621
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Transportation of explosives, etc.; tank-car fabrication for butyraldehyde---- 1621

(Continued on next page)

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CONTENTS—Continued

NOTICES

Federal Trade Commission: Page
Chambers, William W., trading as The Greater Chambers Co., hearing ---------- 1622
Securities and Exchange Commission:
Public Utilities Management Corp., hearing ---------- 1622

above. Graded lines of wool as used herein shall mean the lines set forth in the 1938 CCC Wool Form L."

Section 15 of the Instructions is hereby amended by adding thereto a paragraph as follows:

"Partial releases of pledged wool or mohair pledged to secure a note on 1938 CCC Wool Form A, B, C, or M will be permitted upon condition that all wool or mohair represented by any one warehouse receipt is withdrawn and that the entire net sales proceeds in an amount not less than the loan value of the released wool or mohair are applied upon the note."

If the borrower's note is made payable and has been submitted to Commodity Credit Corporation, borrowers desiring to obtain partial releases should notify the Federal Reserve Bank or Branch thereof serving the district in which the wool or mohair is stored of the warehouse receipts representing wool or mohair to be released. If the note is not held by Commodity Credit Corporation the borrower should notify the holder of such note.

Warehouse receipts representing wool or mohair held by Commodity Credit Corporation will be forwarded to an approved bank to be released to the borrower or agent against payment of the net sales proceeds (as certified by the borrower), which shall be not less than the amount loaned on the wool or mohair to be released plus interest on such amount and any charges applicable thereto.

Banks and other lending agencies, including representatives of wool pools and graded wool pools, may also permit partial releases as provided above and Commodity Credit Corporation will purchase notes on which partial releases have been made, provided the note is credited by the lending agencies with the net sales proceeds (as certified by the borrower and attached to this note), which shall be not less than the full amount loaned on the wool or mohair released plus interest at the rate of four per cent per annum thereon. An amount equivalent to one and one-half per cent per annum on the amount of such principal collected at the time of such partial releases from the date of the note or notes to the date of payment should be remitted to Commodity Credit Corporation in accordance with the terms of the Contract to Purchase (1938 CCC Wool Form H).

The certification by the borrower in regard to the net sales proceeds should be substantially in the following form:

"The undersigned has heretofore executed a note on 1938 CCC Wool Form ____, dated ----------, in the amount of $----------. Warehouse receipt No. ____ has been withdrawn and the undersigned hereby certifies that the sales proceeds for the wool or mohair represented by such receipt is $----------, from which there has been deducted the amount of $----------, representing selling commission and transportation or handling costs, leaving net sales proceeds in the amount of $----------.

(Borrower)"

Payment will be made to the lending agencies on the basis of the amount loaned on the collateral remaining pledged as security to the note plus interest on such amount at the rate of two and one-half per cent per annum from the date of the note to the date of purchase.

[SEAL] SAMUEL H. SABIN
Secretary.

[F. R. Doc. 38-1880; Filed, July 1, 1938; 10:03 a. m.]

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

MODIFICATION OF COTTON REGULATIONS

AMENDMENT NO. 4 OF RULES AND REGULATIONS GOVERNING THE IMPORTATION OF COTTON AND COTTON WRAPPINGS INTO THE UNITED STATES

Introductory Note

The Cotton Regulations revised effective February 24, 1923, provided for the entry of cotton lint and cotton linters from Mexico via border ports only when they originated in the Imperial Valley of Lower California, Mexico. Effective December 15, 1924, the regulations were modified to provide for entry from other specified areas in Mexico through ports on the border. Since that date, the Bureau has acquired a wider knowledge of pink bollworm control measures, and has been able, in connection with its administration of Quarantine No. 52, the domestic Pink Bollworm Quarantine, to acquaint itself more thoroughly, through the cooperation of the Mexican Government, with the pink bollworm conditions in areas in Mexico adjacent to the border and with control measures carried on in such areas by the Ministry of Agriculture and Development of that country.

In the light of this wider knowledge, a more liberal policy is adopted to allow the entry of baled cotton lint and linters from Mexico, subject to conditions of entry paralleling the conditions under which cotton lint and linters, produced in the pink bollworm infested areas of the United States, may move interstate under the provisions of Quarantine No. 52.

Regulation 13 of the Cotton Regulations, as hereby amended, is predicated upon a continuance of the enforcement, in cotton-producing areas of Mexico, of measures of suppression and of measures to prevent the spread of the pink bollworm which are deemed by the United States Department of Agriculture to be equal in effectiveness to measures enforced in cotton-producing areas of the United States having a similar status with respect to the pink bollworm. The importation of baled cotton lint and linters from Mexico, as provided in regulation 13, as amended, is further contingent upon the determination, from time to time, by manner and method deemed satisfactory to the Department, of the status of Mexican cotton-producing areas with respect to the pink bollworm and upon the determination, by manner and method deemed satisfactory to the Department, of suppression and control measures enforced in Mexican cotton-producing areas.

AVERY S. HOYT,
Actg. Chief, Bureau of Entomology and Plant Quarantine.

Under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315) as amended, it is ordered that regulation 13, of the Rules and Regulations Governing the Importation of Cotton and Cotton Wrappings into the United States, be, and the same is hereby, amended to read as follows: Regulation 13. Provision for the Entry via Border Ports of Cotton Lint and Linters from Mexico.

Baled cotton lint and linters produced in Mexico may be imported into pink bollworm infested areas of the United States through border ports approved by the Chief of the Bureau of Entomology and Plant Quarantine for that purpose, subject to such treatment on arrival as is required under the regulations of the domestic Pink Bollworm Quarantine No. 52, for the interstate movement of cotton lint and linters produced in those areas: *Provided, however,* That no cotton lint and linters produced in areas of Mexico determined by the Chief of the Bureau of Entomology and Plant Quarantine as heavily infested with the pink bollworm may enter the United States under the provisions of this regulation unless such areas are adjacent to heavily infested areas of the United States.

Baled cotton lint and linters produced in areas of Mexico determined by the Chief of the Bureau of Entomology and Plant Quarantine to be uninfested with the pink bollworm may be imported through border ports approved by the Chief of the Bureau of Entomology and Plant Quarantine for that purpose subject to compression at compresses designated in the permit.

This regulation leaves in full force and effect the provisions of regulation 10 affecting the entry of cotton grown in the Imperial Valley in the State of Lower California, Mexico.

Regulation 13, as amended herein, shall be effective on and after July 1, 1938.

Done at the city of Washington this 30th day of June 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1883; Filed, July 1, 1938; 12:15 p. m.]

FARM SECURITY ADMINISTRATION

[Memorandum No. 760]

MAKING APPLICABLE TO THE EMERGENCY RELIEF APPROPRIATION ACT OF 1938 CERTAIN EXECUTIVE ORDERS, RULES AND REGULATIONS ISSUED UNDER AUTHORITY OF THE EMERGENCY RELIEF APPROPRIATION ACTS OF 1935, 1936 AND 1937

JUNE 30, 1938.

By virtue of and pursuant to the authority vested in me by the Emergency Relief Appropriation Act of 1938, approved June 21, 1938, I hereby order and direct that the expenditure of funds appropriated by said Act for loans, relief and rural rehabilitation for needy persons, and the administration thereof, shall be in accordance with the orders, rules and regulations heretofore issued relating to the expenditure of funds appropriated for said purposes by the Emergency Relief Appropriation Acts of 1935, 1936 and 1937, and to the administration of said Acts, insofar as said orders, rules and regulations are applicable, except as to rates of pay and eligibility and conditions of employment, which shall be prescribed by the Administrator of the Farm Security Administration, with the approval of the Secretary: *Provided, however,* That loans under said Act shall be repayable in such installments as the Administrator of the Farm Security Administration shall prescribe, in accordance with the standards set forth in section 4 of Executive Order 7143, and any orders heretofore in effect requiring the repayment of loans in equal annual installments are hereby rescinded.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1884; Filed, July 1, 1938; 12:15 p. m.]

TITLE 12—BANKING AND CREDIT

COMPTROLLER OF THE CURRENCY

INVESTMENT SECURITIES REGULATION

By virtue of the authority vested in the Comptroller of the Currency by paragraph Seventh of Section 5136 of the Revised Statutes, the following regulation is promulgated:

SECTION 1

(1) An obligation of indebtedness which may be purchased for its own account by a national bank or State member bank of the Federal Reserve System, in order to come within the classification of "investment securities" within the meaning of paragraph Seventh of said Section 5136, must be a marketable obligation, i. e., it must be salable under ordinary circumstances with reasonable promptness at a fair value; and with respect to the particular security, there must be present one or more of the following characteristics:

(a) A public distribution of the securities must have been provided for or made in a manner to protect or insure the marketability of the issue; or,

(b) Other existing securities of the obligor must have such a public distribution as to protect or insure the marketability of the issue under consideration; or,

(c) In the case of investment securities for which a public distribution as set forth in (a) or (b) above can not be so provided, or so made, and which are issued by established commercial or industrial businesses or enterprises, that can demonstrate the ability to service such securities, the debt evidenced thereby must mature not later than ten years after the date of issuance of the security and must be of such sound value or so secured as reasonably to assure its payment; and such securities must, by their terms, provide for the amortization of the debt evidenced thereby so that at least 75% of the principal will be extinguished by the maturity date by substantial periodic payments: Provided, That no amortization need be required for the period of the first year after the date of issuance of such securities.

(2) Where the security is issued under a trust agreement, the agreement must provide for a trustee independent of the obligor, and such trustee must be a bank or trust company.

(3) All purchases of investment securities by national and State member banks for their own account must be of securities "in the form of bonds, notes, and/or debentures, commonly known as investment securities"; and every transaction which is in fact such a purchase must, regardless of its form, comply with this regulation.

SECTION II

(1) Although the bank is permitted to purchase "investment securities" for its own account for purposes of investment under the provisions of R. S. 5136 and this regulation, the bank is not permitted otherwise to participate as a principal in the marketing of securities.

(2) The statutory limitation on the amount of the "investment securities" of any one obligor or maker which may be held by the bank, is to be determined on the basis of the par or face value of the securities, and not on their market value.

(3) The purchase of "investment securities" in which the investment characteristics are distinctly or predominantly speculative, or the purchase of securities which are in default, either as to principal or interest, is prohibited.

(4) Purchase of an investment security at a price exceeding par is prohibited, unless the bank shall:

(a) Provide for the regular amortization of the premium paid so that the premium shall be entirely extinguished at or before the maturity of the security and the security (including premium) shall at no intervening date be carried at an amount in excess of that at which the obligor may legally redeem such security; or

(b) Set up a reserve account to amortize the premium, said account to be credited periodically with an amount not less than the amount required for amortization under (a) above.

(5) Purchase of securities convertible into stock at the option of the issuer is prohibited.

(6) Purchase of securities convertible into stock at the option of the holder or with stock purchase warrants attached is prohibited if the price paid for such

security is in excess of the investment value of the security itself, considered independently of the stock purchase warrants or conversion feature. If it is apparent that the price paid for an otherwise eligible security fairly reflects the investment value of the security itself and does not include any speculative value based upon the presence of a stock purchase warrant or conversion option the purchase of such a security is not prohibited.

(7) As to the purchase of securities under repurchase agreement, subject to the limitations and restrictions set forth in the law and this regulation:

(a) It is permissible for the bank to purchase "investment securities" from another under an agreement whereby the bank has an option or a right to require the seller of the securities to repurchase them from the bank at a price stated or at a price subject to determination under the terms of the agreement, but in no case less than the market value at the time of repurchase.

(b) It is permissible for the bank to purchase "investment securities" from another under an agreement whereby the seller or a third party guarantees the bank against loss on resale of the securities.

(c) It is not permissible for the bank to purchase "investment securities" from another under an agreement whereby the seller reserves the right or the option to repurchase said securities itself or through its nominee at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement, have the right or option to compel the seller to repurchase the securities at a price stated or at a price subject to determination under the terms of the agreement.

(8) As to repurchase agreements accompanying sales of securities,

(a) It is permissible for the bank selling securities to another to agree that the bank shall have an option or right to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement, but in no case in excess of the market value at the time of repurchase.

(b) It is not permissible for the bank selling securities to another to agree that the purchaser shall have the right or the option to require the bank to repurchase said securities at a price stated or at a price subject to determination under the terms of the agreement, notwithstanding the fact that the bank may also, under such agreement, have the right or option to repurchase the securities from the buyer at a price stated or at a price subject to determination under the terms of the agreement.

In view of the fact that some banks may have bought or sold securities under a form of agreement which is prohibited by this regulation, the bank should either terminate or modify same so as to conform to this regulation, where such action may lawfully be taken. Existing agreements of the prohibited type must not be renewed.

EXCEPTION

The restrictions and limitations of this regulation do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim or to avert an apprehended loss in connection with a debt previously contracted, or to real estate securities acquired pursuant to Section 24 of the Federal Reserve Act, as amended.

This regulation supersedes prior regulations governing the purchase of "investment securities" and is effective from and after July 1, 1938.

Signed and promulgated this 27th day of June, 1938.

[SEAL] MARSHALL R. DIGGS,
Acting Comptroller of the Currency.

[F. R. Doc. 38-1878; Filed, June 30, 1938; 3:42 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

ORDER CLASSIFYING AND DESIGNATING ACREAGE OF PUEBLO INDIAN LANDS BENEFITED BY THE IRRIGATION AND DRAINAGE WORKS OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT, NEW MEXICO

MAY 16, 1938.

Pursuant to the provisions of the Act of March 13, 1928 (45 Stat., 312) the contract executed between the Middle Rio Grande Conservancy District of New Mexico and the United States under date of December 14, 1928, the official plan approved pursuant thereto, as modified, and the terms of Section 24 of a contract between said parties dated September 4, 1936 dealing among other things with the payment of operation and maintenance and betterment assessments by the United States to the District, and Section 24 of a similar contract dated April 8, 1938 executed by the representative of the United States, on this date, I hereby find that a total of 20,242.05 acres of Pueblo Indian lands of the Pueblos of Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia and Isleta is susceptible of economic irrigation and cultivation and is materially benefited by the works constructed by said District. This acreage is designated as follows:

	Acres
Lands with recognized water rights not subject to operation and maintenance or betterment charges by the District and designated as "now irrigated"	8,847
Lands classified as "newly reclaimed" lands (exclusive of the purchased area)	11,074.4
Lands classified as newly reclaimed lands (the area recently purchased)	320.65
Total irrigable area materially benefited	20,242.05

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1881; Filed, July 1, 1938; 10:03 a. m.]

TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION

PUBLIC HEALTH SERVICE

REGULATIONS FOR CONTROL OF MANUFACTURE, IMPORTATION, AND SALE OF ARSPHENAMINE AND ITS DERIVATIVES, REFERRED TO COLLECTIVELY AS "THE ARSPHENAMINES"

Pursuant to the authority contained in section 4 of the Act of July 1, 1902, 32 Stat. 729 (U. S. C. title 42, sec. 145), the following regulations for the control of the manufacture, importation, and sale of arsphenamine and its derivatives, referred to collectively as "the arsphenamines," are hereby promulgated:

1. The arsphenamines (which term, as used in these regulations, means arsphenamine and its derivatives) shall not be sold, bartered, or exchanged, or offered for sale, barter, or exchange in the District of Columbia, or sent, carried, or brought for sale, barter, or exchange from any State, Territory, or the District of Columbia, into any State, Territory, or the District of Columbia, or from any foreign country into the United States, or from the United States into any foreign country, except after compliance with these regulations.

2. The arsphenamines shall be manufactured only in laboratories which have been duly licensed by the Secretary of the Treasury upon recommendation of the Surgeon General of the Public Health Service, but no recommendation for license will be made until clinical evidence of the safety and therapeutic efficacy of the preparation has been submitted by the manufacturer.

3. Laboratories licensed for the manufacture of any of the arsphenamines shall be subject to inspection, at any time, by officers of the Public Health Service when detailed by the Surgeon General.

4. The manufacturer shall keep records (a) of the production, (b) of the tests made to determine the purity and safety, and (c) of the distribution of each lot of any of the arsphenamines which is to be sold under these regulations.

5. The tests to be made for determining the purity and safety of each lot of any of the arsphenamines shall include those for (a) stability, (b) solubility, (c) arsenic content, (d) moisture content, and (e) relative nontoxicity.

(a) Stability shall be determined by exposing the ampuled product to a temperature and for a period to be determined by the Surgeon General of the Public Health Service, during which time it should show no marked change in color, consistency, or solubility.

(b) Any product, both before and after being subjected to the above test, shall be *completely* soluble in distilled water within 15 minutes, in a concentration as great as is recommended for its intravenous administration.

(c) The arsenic content shall be determined by Lehmann's method as described in Public Health Reports, volumes 33, June 21, 1918, page 1012; the minimal amount allowed for arsphenamine is 30 per cent and for any of its derivatives, 19 per cent, unless otherwise specifically provided by the Surgeon General of the Public Health Service. Variations above these figures are permissible provided the theoretical arsenic content of the preparation is not exceeded.

(d) The moisture content shall be determined by exposing approximately one gram of powder in a weighing bottle of not less than 20 mm. diameter in vacuum of at least 5 mm. over fresh phosphorus pentoxide for not more than 24 hours at room temperature.

(e) The relative nontoxicity shall be determined by administration of the arsphenamines, in the concentrations and doses given below, into the saphenous vein of healthy albino rats weighing from 100 to 150 grams (pregnant females excluded) at the rate of 0.1 c.c. in 12 to 15 seconds. For each toxicity test at least five rats shall be used, and at least 60 per cent must survive the periods of observation stated below, but, in any case, the final result must be based on the total number of rats injected. The rats should be fed a well-balanced ration but should have no access to food for from 12 to 18 hours preceding injection. An adequate supply of fresh clean water should be provided at all times.

Doses, concentrations, and periods of observation

Product	Tolerated dose in mgm. per kg.	Concentration of solution	Period of observation
		Percent	*Days*
Arsphenamine [1]	120	2	2
Neoarsphenamine	240	4	6
Sodium arsphenamine	180	4	2
Silver arsphenamine [2]	140	2	2
Neosilverarsphenamine [3]	240	4	4
Sulpharsphenamine	300	4	3

[1] Arsphenamine must be converted into its disodium salt solution before making up to final volume, by adding 0.85 c. c. normal sodium hydrate per 0.1 gram of the drug used. To insure stabilization of the solution it should stand at room temperature for from 15 to 30 minutes before the injections are begun.

[2] Silver arsphenamine should have a silver content of 13 percent, but a variation of 1 percent in either direction is permissible.

[3] Neosilverarsphenamine should have a silver content of between 6 and 7 percent.

6. The manufacturer shall forward to the National Institute of Health not less than 15 ampules, maximum size human dose, from each lot, together with the protocols of the tests set forth above; these protocols should be furnished on forms approved by the Surgeon General, Public Health Service, or his representative.

7. At the time of official release manufacturers shall retain not less than 15 ampules, maximum size human dose, of the product from each lot.

8. Each *ampule* shall be plainly labeled showing the amount (in grams) of drug contained, the lot number, the official name of the preparation, and the name of the manufacturer. The label should be small, leaving as much as possible of the glass exposed to afford ready inspection of the drug. The container of one or more ampules shall show the name of the manufacturer, his address, the license number, the official name of the drug, the amount contained in each ampule, the lot number, and the expiration date. Route for administration of products not intended for intravenous injection shall be plainly stated on the labels for both the carton and the ampule.

9. Dating decisions shall be issued by the Surgeon General of the Public Health Service from time to time as may be required.

10. When lots have satisfactorily passed the prescribed tests they may be offered for sale upon being released by the National Institute of Health, but the right is reserved to require withdrawal from the market of any lot designated by the Surgeon General of the United States Public Health Service.

These regulations supplement the Regulations for the sale of viruses, serums, toxins and analogous products approved February 25, 1935, and supersede the Regulations for the control of the manufacture, importation and sale of arsphenamine and its derivatives approved September 20, 1923.

C. R. REYNOLDS,
Surgeon General, U. S. Army.
[SEAL] P. S. ROSSITER,
Surgeon General, U. S. Navy.
THOMAS PARRAN,
Surgeon General, U. S. Public Health Service.

Approved, June 27, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1879; Filed, June 30, 1938; 3:42 p. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U-6B-2

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Section 6 (b) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, the Securities and Exchange Commission hereby adopts Rule U-6B-2 which shall read as follows:

SEC. 15. U-6B-2 (Rule U-6B-2). *Certificate of notification.*—A registered holding company or subsidiary company thereof, within ten days after any issue, renewal or guaranty of a security exempt from the provisions of Section 6 (a) [1] of the Act by or under authority of Section 6 (b) of the Act and neither the subject of an order of the Commission nor included within the exemption provided by Rule U-3D-9 [2] (Sec. 15. U-3D-9), shall file with the Commission a certificate of notification on Form U-6B-2 (Sec. 17. U-6B-2) containing the information prescribed by that form (ch. 687, 49 Stat. 814; 15 U. S. C., Sup. III, 79f) (Rules and Regs., Rule U-6B-2, effective July 1, 1938).

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1887; Filed, July 1, 1938; 12:54 p. m.]

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT OF RULE X-GB4 POSTPONING EFFECTIVENESS OF THE RULE [3]

The Securities and Exchange Commission deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 10 (b) and 23 (a) thereof, hereby amends its Rule X-GB4 [4] (Sec. 10. X-GB4) by striking out in Paragraph (c) thereof "July 1, 1938" and inserting in lieu thereof "August 1, 1938."

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1886; Filed, July 1, 1938; 12:54 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[No. 3666]

IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES [5]

Decided June 22, 1938

Application for authority to construct for experimental service in the transpor-

[1] Ch. 687, 49 Stat. 814, 15 U. S. C., Sup. III, 79f.
[2] 2 F. R. 2831 (3277 DI).
[3] June 30, 1938.
[4] 3 F. R. 1059 DI.
[5] 3 F. R. 764 DI.

tation of butyraldehyde five tank-car tanks fabricated by fusion-welding granted.

R. W. Thompson for General American Transportation Corporation.

SUPPLEMENTAL REPORT OF THE COMMISSION [1]

McMANAMY, *Commissioner:*

In our several prior reports we granted upon applications therein considered authority to build and use for experimental service in the transportation of dangerous articles other than explosives a total of 522 tank cars to be equipped with tanks fabricated by fusion-welding but otherwise conforming to I. C. C. shipping container specifications.

By application dated March 14, 1938, filed with us by General American Transportation Corporation through the Tank Car Committee, Association of American Railroads, we are asked to authorize the construction and use of five further tank cars, conforming to ICC specification 103, except that tanks will be fabricated by fusion welding instead of riveting and be of stainless steel in place of carbon steel. The commodity to be transported is butyraldehyde.

This is the first application received for authority for experimental fusion welding and use of tank cars of I. C. C. specification 103 type for butyraldehyde. The commodity previously has moved under our regulations in drums and riveted tank cars. It is classed by those regulations as an inflammable liquid, having flash point of 12° F. Weight per gallon is 6.81 pounds. Among other facts, applicant submits the following:

Tanks will have capacity of 8,000 gallons each. Construction will be in accordance with herein proposed I. C. C. shipping container specification 103–W, except that stainless steel will be used in place of carbon steel. Stainless steel construction of tank is necessary to insure against contamination of the commodity, a water-white liquid, and not because of any corrosive action on an ordinary carbon steel tank. Plates for tank and all other rolled or forged parts and castings will be made of stabilized stainless steel alloy of appropriate composition and construction. Tank and anchor design is the same as that authorized by us for stainless steel tanks for nitric acid in 225 I. C. C. 607, except that 18–8 chrome-nickel alloy will be used instead of 16 percent straight chrome alloy, and tanks will have calculated bursting strength more than twice that of riveted tanks built under current specification 103. All essential fittings, openings, safety valves and other equipment will be in accordance with good design and practice as set forth in the application and drawings by which it is accompanied. Fabrication by fusion welding will be in compliance with procedure set out herein in 213 I. C. C. 207, understood to follow in substance that prescribed in current rules for construction of unfired pressure vessels approved by the American Society of Mechanical Engineers.

Applicant further submits that the alloy steel to be used in cars herein considered has been successfully fusion welded into upward of 200 tanks for chemicals, which are as thick as one inch plate with working pressures up to 250 pounds per square inch, butyraldehyde having vapor pressure of 4.35 pounds at 104 degrees, Fahrenheit, and the proposed thickness of plate being 7/16 inch. The tanks for chemicals are being used under varying conditions of temperature and pressure in manufacturing processes in the chemical industry. American Society of Mechanical Engineers has approved the use of the proposed alloy steel for Class I welded construction, including X-ray photographing of all seams, special stress relieving and stabilizing heat treatment, embrittlement test and chemical analysis of deposited weld metal. Applicant anticipates a large increase in shipments in tank cars of the type for which authority is requested. The Tank Car Committee and Bureau of Explosives, Association of American Railroads, recommend approval of the application.

Upon further consideration of the record and in the light of added facts disclosed in the application, the construction and use of five additional tanks of tank cars, in accordance with current specification 103, is forthwith authorized, provided that tanks may be fabricated of chrome-nickel alloy steel and be fusion welded instead of riveted, and must be constructed and marked in compliance with proposed revised I. C. C. specification 103–W, filed as an exhibit at the hearing herein and referred to in our prior reports; cars to be used in further service tests in the transportation of butyraldehyde.

In all other respects the regulations for the transportation of dangerous articles herein referred to are and shall remain in full force and effect.

Owners or operators of cars, where construction is authorized herein, shall make semiannual inspection of the tanks and report their condition to the same parties as receive reports required by I. C. C. specification 103.

By the Commission, Commissioner McManamy.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–1885; Filed, July 1, 1938; 12:43 p. m.]

[1] Under the authority of section 17 (6) of the Interstate Commerce Act, the above entitled matter was referred by the Commission to Commissioner McManamy for consideration and disposition.

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3035]

IN THE MATTER OF WILLIAM W. CHAMBERS, AN INDIVIDUAL, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE GREATER CHAMBERS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, July 12, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Hearing Room 332, Federal Trade Commission Building, Sixth St. and Constitution Ave., Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–1882; Filed, July 1, 1938; 12:04 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of July, A. D. 1938.

[File No. 37–30]

IN THE MATTER OF PUBLIC UTILITIES MANAGEMENT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 19, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 14, 1938.

The matter concerned herewith is in regard to an application for approval of a mutual service company, pursuant to Section 13 of the Public Utility Holding Company Act of 1935 and Rule U–13–22 under that Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1888; Filed, July 1, 1938; 12:54 p. m.]

Reference

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 130

Washington, Wednesday, July 6, 1938

The President

EXECUTIVE ORDER

EXTENDING THE EXISTENCE OF THE QUETICO-SUPERIOR COMMITTEE, CREATED BY EXECUTIVE ORDER No. 6783 OF JUNE 30, 1934

By virtue of the authority vested in me as President of the United States, I hereby extend the existence of the Quetico-Superior Committee, created by Executive Order No. 6783 of June 30, 1934, for a period of four years, from June 30, 1938 to June 30, 1942.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 30, 1938.

[No. 7921]

[F. R. Doc. 38-1898; Filed, July 2, 1938; 12:14 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN THE DOMESTIC BEET SUGAR AREA FOR THE 1937 CROP

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, Harry L. Brown, Acting Secretary of Agriculture, do hereby determine that the proportionate share for the 1937 crop for each farm in the domestic beet sugar area shall be the number of acres of sugar beets planted thereon for the production of sugar beets marketed (or processed by the producer) for the extraction of sugar or liquid sugar during the 1937 crop season.

Done at Washington, D. C., this 30th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary.

[F. R. Doc. 38-1889; Filed, July 1, 1938; 3:28 p. m.]

[ECR-B-101—White County, Tenn., Supp. (b)]

1937 AGRICULTURAL CONSERVATION PROGRAM—EAST CENTRAL REGION

BULLETIN NO. 101—WHITE COUNTY, TENNESSEE, SUPPLEMENT (B)

Precedence in the Use of the General Farm Allowance

Section 2 of Part I of East Central Region Bulletin 101, White County, Tennessee,[1] is hereby amended by changing the first paragraph thereof to read as follows:

"*General Farm Allowance.*—The general farm allowance for the farm is the maximum amount for which payment may be made for carrying out soil-building practices and for diversion from the general soil-depleting base; provided that where both soil-building practices and diversion from the general soil-depleting base have been carried out on the farm, the general farm allowance shall be applied first to the payment for diversion from the general soil-depleting base, and the balance of the general farm allowance, if any, shall be applied to the payment for soil-building practices."

Done at Washington, D. C., this 1st day of July 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1897; Filed, July 2, 1938; 12:10 p. m.]

[ACP—1938—Puerto Rico-2]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN—PUERTO RICO

SUPPLEMENT NO. 2

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin—Puerto

[1] 2 F. R. 544 (637 DI).

CONTENTS

THE PRESIDENT

Executive Order: Page
Quetico-Superior Committee, extending the existence of 1625

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Domestic beet sugar area, 1937 crop, proportionate shares for farms 1625
Hawaii, sugar commercially recoverable from sugarcane 1626
Mainland cane sugar area, wage rates for persons employed in planting and cultivating of sugarcane 1626
Puerto Rico:
Agricultural conservation program bulletin, 1938, supplement 1625
Sugar commercially recoverable from sugarcane, determination 1627
White County, Tenn., supplement to 1937 agricultural conservation program 1625
TITLE 12—BANKING AND CREDIT:
Federal Deposit Insurance Corporation:
Insured State nonmember banks, report of condition 1627
TITLE 16—COMPETITIVE PRACTICES:
Cease and desist orders:
Bleecker-Foster, Inc 1627
Gooderham & Worts, Ltd., et al 1629
Hiram Walker, Inc., et al 1630
National Distillers Products Corp. et al 1631
Schenley Distillers Corp., etc. 1630
Seagram-Distillers Corp., etc. 1628
Soft-Lite Lens Co., Inc 1627
United Distillers (of America) Ltd 1628

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Taxes on importation on certain oils, etc., assessment and collection ---------- 1632
TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION:
Public Health Service:
Social Security Act, allotments and payments to States from funds appropriated under ---------- 1634
TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Securities Exchange Act, amendment to Rule X-UB2 ---------- 1636

NOTICES

Interstate Commerce Commission:
Motor carrier rates in New York, New Jersey, Pennsylvania, and Delaware ---------- 1636
Securities and Exchange Commission:
Interlake Iron Corp., declared not to be electric utility company ---------- 1637
NY PA NJ Utilities Co., Keystone Utilities, Inc., acquisition and sale of securities ---------- 1636
Puget Sound Power & Light Co., effectiveness of declaration ---------- 1636
Worcester Suburban Electric Co., effectiveness of declaration ---------- 1637
United States Civil Service Commission:
Apportionment at close of business Thursday, June 30, 1938 ---------- 1637

Rico, issued March 22, 1938,[1] is hereby amended as follows:

(1) Section IV is hereby amended to read as follows:

"SEC. IV. *Payment in connection with tobacco acreage allotments.*—Payment will be made with respect to any farm at the rate of $15.00 for each acre in the tobacco acreage allotment established for the farm. The payment with respect to any farm shall be subject to a deduction of $45.00 for each acre of tobacco planted on the farm in the 1938–1939 tobacco season in excess of the tobacco acreage allotment established for the farm."

(2) The first sentence of Section VIII is hereby amended to read as follows:

"The acreage allotment of tobacco for Puerto Rico shall be 30,000 acres and the tobacco acreage allotments established for all farms in Puerto Rico shall not exceed such amount."

Done at Washington, D. C., this 5th day of July 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1909; Filed, July 5, 1938; 12:05 p. m.]

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN PLANTING AND CULTIVATING OF SUGARCANE IN MAINLAND CANE SUGAR AREA DURING CALENDAR YEAR 1938

Whereas, Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas, The Secretary of Agriculture has held a number of public hearings in the mainland cane sugar area for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the planting and cultivating of sugarcane in such area in 1938.

Now, therefore, I, Harry L. Brown, Acting Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine fair and reasonable wage rates for persons employed in the planting and cultivating of sugarcane in the mainland cane sugar area during 1938 to be not less than the following:

Louisiana.—For adult male workers, not less than $1.20 per day, and for adult female workers, not less than $1.00 per day.

Florida.—For adult male workers, not less than $1.60 per day, and for adult female workers, not less than $1.30 per day.

Provided, however, That the producer shall furnish to the laborer, without charge, the customary perquisites, such as, a habitable house, a suitable garden spot with facilities for its cultivation, pasturage for livestock, medical attention, and similar incidentals; and *Provided further,* That the producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above.

Nothing in this determination shall be construed to mean that a producer may qualify for a payment under the said act who has not paid in full the amount agreed upon between the producer and the laborer.

Done at Washington, D. C., this 2nd day of July 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1912; Filed, July 5, 1938; 12:06 p. m.]

DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE FROM SUGARCANE IN TERRITORY OF HAWAII

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, Harry L. Brown, Acting Secretary of Agriculture, do hereby determine that the amount of sugar, raw value, commercially recoverable from the sugarcane grown on a farm in the Territory of Hawaii and marketed (or processed by the producer) for the extraction of sugar shall be calculated by dividing the number of hundredweights of such sugarcane by the cane ratio of such sugarcane determined in accordance with "Methods of Chemical Control for Cane Sugar Factories of the Association of Hawaiian Sugar Technologists, revised 1931," and multiplying the result by the factor 1.02625.

Done at Washington, D. C. this 2nd day of July 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary.

[F. R. Doc. 38-1911; Filed, July 5, 1938; 12:06 p. m.]

[1] 3 F. R. 731 DI.

DETERMINATION OF SUGAR COMMERCIALLY RECOVERABLE FROM SUGARCANE IN PUERTO RICO

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, Harry L. Brown, Acting Secretary of Agriculture, do hereby determine that the amount of sugar commercially recoverable from the sugarcane grown on a farm in Puerto Rico and marketed (or processed by the producer) for the extraction of sugar shall be obtained by multiplying the number of short tons of such sugarcane by the number of hundredweights of sugar, raw value, commercially recoverable per ton of such sugarcane, computed in accordance with the applicable provisions, with respect to recoverable sugar, set forth in the "Determination of Fair and Reasonable Prices for the 1938 Crop of Puerto Rican Sugarcane, Pursuant to the Sugar Act of 1937," issued March 9, 1938.

Done at Washington, D. C., this 5th day of July 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary.

[F. R. Doc. 38-1910; Filed, July 5, 1938; 12:05 p. m.]

TITLE 12—BANKING AND CREDIT

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED STATE NONMEMBER BANKS

RESOLUTION REQUIRING REPORT OF CONDITION

Paragraph (3) of subsection (k) of Section 12B of the Federal Reserve Act, as amended, provides as follows:

Each insured State nonmember bank (except a District bank) shall make to the Corporation reports of condition in such form and at such times as the board of directors may require. The board of directors may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, not less than five days, as the board of directors may require, shall be subject to a penalty of not more than $100 for each day of such failure recoverable by the Corporation for its use.

Pursuant to the provisions of paragraph (3) of subsection (k) of Section 12B of the Federal Reserve Act, as amended, be it resolved that each insured State nonmember bank, except a District bank, be, and hereby is, required to submit to the Federal Deposit Insurance Corporation within ten days after receipt of notice of this resolution a report of its condition as of the close of business Thursday, June 30, 1938, on Form No. 64, Call No. 9. Said report of condition shall be prepared in accordance with the instructions set forth in a booklet entitled "Instructions for the Preparation of Reports of Condition on Form 64 and Reports of Earnings and Dividends on Form 73."[1]

[SEAL] E. F. DOWNEY,
Acting Secretary.

[F. R. Doc. 38-1907; Filed, July 5, 1938; 11:33 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2679]

IN THE MATTER OF BLEECKER-FOSTER, INC., A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[2] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before W. C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief in support of the complaint (respondent not having submitted a brief, and not having requested oral argument) and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Bleecker-Foster, Inc., trading under its own name or under any other trade name, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of food flavors, novelties, toilet preparations and other products, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing that salesmen, representatives, or dealers of the respondent, earn "up to $25.00 a day," or any other amount or amounts, whether expressed in terms of money or in words indicative of the same, until and unless such salesmen, representatives or dealers consistently earn such amount or amounts in the ordinary course of business under normal conditions and circumstances.

2. Representing that salesmen, representatives or dealers of the respondent procure a stated number of customers within any specified length of time until and unless such salesmen, representatives or dealers consistently procure such stated number of customers within such specified length of time in the ordinary course of business under normal conditions and circumstances.

3. Representing, through fictitious prices marked or stamped on or affixed to said products, or on the containers thereof, or through any other means or device or in any manner, that said prices so marked, stamped or affixed are the regular or customary retail prices for such products.

4. Representing, as the customary or regular retail prices for such products, prices which are in fact fictitious and greatly in excess of the prices at which said products are regularly and customarily offered for sale and sold at retail.

It is further ordered, That the respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1899; Filed, July 2, 1938; 12:33 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2717]

IN THE MATTER OF SOFT-LITE LENS COMPANY, INC., A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the substituted answer filed herein by respondent on the 17th day of June, 1938, admitting certain of the material allegations of the complaint, for the purpose of this proceeding only and waiving the taking of further evidence and other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent, Soft-Lite Lens Company, Inc., has violated the provisions of Section 3 of an Act of Congress, approved October 15, 1914, entitled "An Act to Supplement existing laws against restraints and monopolies and for other purposes";

It is ordered, That respondent, Soft-Lite Lens Company, Inc., a corporation, and its officers, directors, agents and employees, in connection with the manufacture, sale and distribution of optical

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Federal Deposit Insurance Corporation.

[2] 1 F. R. 1015.

[1] 2 F. R. 165 (201-DI).

lenses in interstate commerce, forthwith cease and desist from:

1. Requiring by oral or written condition, agreement or understanding with any wholesale or retail dealer in optical lenses or blanks, stock dealer or licensee, prescription dealer or licensee, optician, optometrist or oculist, or any other distributor of Soft-Lite lenses purchasing said lenses directly or indirectly from respondent for resale, that he or they will not, while engaged in selling respondent's said lenses, sell or deal in any other lenses of the same type as the Soft-Lite lens, or of a similar tint, color or shade, provided, however, that nothing herein shall require respondent to cease and desist from seeking to prevent the palming off of other lenses similar in color to Soft-Lite lenses as and for Soft-Lite lenses, on purchasers desiring to buy Soft-Lite lenses, or the substitution of such other lenses for Soft-Lite lenses, in connection with the sale of the latter by dealers to users.

It is further ordered, That respondent shall, within thirty (30) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1901; Filed, July 2, 1938; 12:33 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2807]

IN THE MATTER OF UNITED DISTILLERS (OF AMERICA) LTD.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and briefs filed herein in support of the complaint and in opposition thereto (no oral argument having been requested or made) and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, United Distillers (of America) Ltd., its officers, representatives, agents, and employees, in connection with the offering for sale, or sale and distribution by it in interstate commerce or in the District of Columbia; of whiskies, gins, or other spirituous beverages, do cease and desist from:

Representing, through the use of the word "Distillers" in its corporate name, on its stationery, advertising, or on the labels attached to the bottles in which it sells and ships said products, or in any way by a word, or words of like import (a) that respondent is a distiller of the said whiskies, wines, liquors, gins, or other spirituous beverages; or (b) that the said whiskies, gins, or other spirituous beverages were by it manufactured through a process of distillation; or (c) that respondent owns, operates or controls a place or places where such products are by it manufactured by a process of original and continuous distillation from mash, wort or wash, through continuous closed pipes and vessels until the manufacture thereof is completed, unless and until respondent shall actually own, operate, or control such a place or places.

It is further ordered, That the said respondent, within sixty (60) days from and after the date of service upon it of this order, shall file with the Commission a report or reports in writing setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1900; Filed, July 2, 1938; 12:33 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2988]

IN THE MATTER OF SEAGRAM-DISTILLERS CORPORATION AND SEAGRAM-DISTILLERS CORPORATION OF MASSACHUSETTS

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the substituted answer filed herein on May 31, 1938, by respondents Seagram-Distillers Corporation and Seagram-Distillers Corporation of Massachusetts, in which said answer the respondent Seagram-Distillers Corporation admitted all the material allegations against it in said complaint insofar as the same relate to the sale or offering for sale of liquors in the District of Columbia, or the shipping of liquors for resale in the District of Columbia, said admission having been made for the purposes only of this proceeding, and any proceedings which may be brought or instituted under the Federal Trade Commission Act as amended and approved March 21, 1938, for the recovery of penalties therein provided in case of violation hereof; and said respondent Seagram-Distillers Corporation having waived the taking of further evidence and all other intervening procedure; and the respondent Seagram-Distillers Corporation of Massachusetts having neither admitted nor denied the allegations of said complaint as to it, and having affirmatively alleged that it never has and does not now engage in business in the District of Columbia and the Commission having made its findings as to the facts and its conclusion that said respondent Seagram-Distillers Corporation has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Seagram-Distillers Corporation, in connection with the offering for sale of whiskies and other alcoholic beverages in the District of Columbia, and in connection with the shipment of whiskies and other alcoholic beverages into the District of Columbia and their resale therein, do forthwith cease and desist from:

(1) Entering into or enforcing the provisions of any contract, agreement or understanding, verbal or written, with any retailer, jobber, wholesaler or other distributor, the purpose and effect of which is to maintain a specified standard or uniform minimum resale price, discount or "mark-up" at which respondent's said products are to be resold by such retailers, jobbers, wholesalers or other distributors;

(2) Enforcing or attempting to enforce the resale of respondent's said products at specified standard or uniform minimum resale prices, discounts or "mark-ups" by any of the following methods or means:

(a) By reinstating or causing to be reinstated retailers, jobbers, wholesalers or other distributors who have been cut off, upon any agreement or understanding with such retailers, jobbers, wholesalers or other distributors, that respondent's suggested minimum resale prices, discounts or "mark-ups" will thereafter be maintained.

(b) By circulating, or threatening to circulate, among retailers, jobbers, wholesalers or other distributors, reports or lists of those retailers, jobbers, wholesalers or other distributors who have cut prices on respondent's said products.

(c) By combining or agreeing directly or indirectly with any individuals, corporations, firms or partnerships to do or cause to be done any of the aforesaid acts or things.

(d) By combining with retailers, jobbers, wholesalers or other distributors with the purpose and effect of exhausting the supply of its products on hand with any other retailers, jobbers, wholesalers or other distributors through the purchase of said supply of its products.

(e) By securing or endeavoring to secure, through contract, agreement or understanding, the active support or cooperation of any wholesaler, retail dealer, association or individual, individually or collectively, in the doing of any of the acts or things hereinabove prohibited.

It is further ordered, That as to the respondent Seagram-Distillers Corporation of Massachusetts, this case be and the same is hereby closed without prejudice to the right of the Commission to reopen the same in the course of its regular procedure should future facts and circumstances so warrant.

It is further ordered, That the said respondent, within sixty (60) days from and after the date of service upon it of this order, shall file with the Commission a report or reports in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1902; Filed, July 2, 1938; 12:34 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2989]

IN THE MATTER OF GOODERHAM & WORTS, LTD., A CORPORATION; GREATER NEW YORK LICENSED LIQUOR STORES ASSOCIATION, INC.; D. C. EXCLUSIVE RETAIL LIQUOR DEALERS ASSOCIATION, A CORPORATION; METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A VOLUNTARY UNINCORPORATED ASSOCIATION AND ALL ITS MEMBERS; MATT PATTERSON, INDIVIDUALLY, AND AS PRESIDENT OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; DAVID R. SHIR, INDIVIDUALLY, AND AS SECRETARY OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; WILLIAM S. HUBER, INDIVIDUALLY, AND AS TREASURER OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; SAMUEL LEVY, JOSEPH BALTER, SAMUEL BERKMAN, WILLIAM DORR, BENJAMIN F. FOLSOM, WILLIAM GAFFNEY, JOSEPH HINES, CHARLES H. MAHONEY, A. J. MCDONALD, JOHN MCMORROW, JOHN F. MURPHY, EDWARD O'HEARN, BENJAMIN RODMAN, LOUIS ROSE, EDWARD SLINEY, BENJAMIN STARR, AND JOSEPH A. VESCE, JOINTLY AND SEVERALLY AS REPRESENTATIVE MEMBERS AND AS THE EXECUTIVE COMMITTEE OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; NATIONAL RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A CORPORATION; NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A VOLUNTARY UNINCORPORATED ASSOCIATION, ITS OFFICERS, EXECUTIVE COMMITTEE, AND ALL ITS MEMBERS; AUGUSTINE L. WALDRON, INDIVIDUALLY, AND AS PRESIDENT AND MEMBER OF NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSOCIATION; CONNECTICUT RETAIL LIQUOR PACKAGE STORES ASSOCIATION, INC.; AND NATIONAL INSTITUTE OF WINE & SPIRIT DISTRIBUTORS, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substituted answer filed herein on May 31, 1938, by respondent Gooderham & Worts, Ltd., admitting all the material allegations against it in said complaint insofar as the same relate to the sale or offering for sale of liquors in the District of Columbia or the shipping of liquors for resale in the District of Columbia, except the allegation that it has entered into any unlawful contract, agreement or understanding, or engaged in any unlawful act or practice with the respondent D. C. Exclusive Retail Liquor Dealers Association; said admission having been made for the purposes only of this proceeding and any proceedings which may be brought or instituted under the Federal Trade Commission Act as amended and approved March 21, 1938, for the recovery of penalties therein provided in case of violation hereof; and respondent having waived the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Gooderham & Worts, Ltd., in connection with the offering for sale of whiskies and other alcoholic beverages in the District of Columbia, and in connection with the shipment of whiskies and other alcoholic beverages into the District of Columbia for resale therein, do forthwith cease and desist from:

(1) Entering into or enforcing any contract, agreement or understanding, verbal or written, with any retailer, jobber, wholesaler or other distributor, the purpose and effect of which is to maintain a specified standard or uniform minimum resale price, discount, or "mark-up" at which respondent's said products are to be resold by such retailers, jobbers, wholesalers and other distributors;

(2) Enforcing or attempting to enforce the resale of respondent's said products at specified standard or uniform minimum resale prices, discounts or "mark-ups" by any of the following methods or means:

(a) By reinstating or causing to be reinstated retailers, jobbers, wholesalers or other distributors who have been cut off, upon any agreement or understanding with such retailers, jobbers, wholesalers or other distributors, that respondent's suggested minimum resale prices, discounts or "mark-ups" will thereafter be maintained.

(b) By circulating, or threatening to circulate, among retailers, jobbers, wholesalers or other distributors, reports or lists of those retailers, jobbers, wholesalers or other distributors who have cut prices on respondent's said products.

(c) By combining or agreeing directly or indirectly with any individual or association of individuals to do or cause to be done any of the aforesaid acts or things.

(d) By combining with retailers, jobbers, wholesalers or other distributors with the purpose and effect of exhausting the supply of its products on hand with any other retailers, jobbers, wholesalers or other distributors through the purchase of said supply of its products.

(e) By securing or endeavoring to secure, through contract, agreement, or understanding, the active support or cooperation of any wholesaler, retail dealer, association or individual, individually or collectively, in the doing of any of the acts or things hereinabove prohibited.

The acts and practices with which respondent D. C. Exclusive Retail Liquor Dealers Association is charged in the aforesaid complaint having been incorporated and charged in a separate and new complaint against that respondent and others by direction of the Commission of March 21, 1938,

It is further ordered, That the case growing out of the said complaint against the said respondent D. C. Exclusive Retail Liquor Dealers Association be, and the same is hereby closed without prejudice to the right of the Commission to resume prosecution thereof, in accordance with its regular procedure, pursuant to such new complaint.

It further appearing to the Commission that the acts and practices of all the respondents named in the caption hereof other than respondent Gooderham & Worts, Ltd., and respondent D. C. Exclusive Retail Liquor Dealers Association, transpired and occurred either in, or with respect to alcoholic liquors shipped for resale into states or territories having "Fair Trade" laws or public policies in effect therein within the intent and meaning of the Miller-Tydings Act (Title VIII of an Act to Provide Additional Revenue for the District of Columbia, and for other purposes, approved August 17, 1937, H. R. 7472, Public Act 314, 75th Congress, 1st Session),

It is further ordered, That the case growing out of the Commission's complaint against all of the above named respondents other than Gooderham & Worts, Ltd. and D. C. Exclusive Retail

[1] 2 F. R. 352 (420 DI).

[1] 2 F. R. 694 (817 DI).

Liquor Dealers Association, be, and the same is hereby closed without prejudice to the right of the Commission to resume prosecution in accordance with its regular procedure whenever future facts and circumstances should appear to so warrant.

It is further ordered, That the said respondent, within sixty (60) days from and after the date of service upon it of this order, shall file with the Commission a report or reports in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1903; Filed, July 2, 1938; 12:34 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2990]

IN THE MATTER OF SCHENLEY DISTILLERS CORPORATION; SCHENLEY DISTRIBUTORS, INC.; SCHENLEY PRODUCTS COMPANY, A CORPORATION; AND SCHENLEY DISTRIBUTORS OF NEW ENGLAND, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the substituted answer filed herein on May 31, 1938, by all of the respondents herein, in which said answer the respondents Schenley Distillers Corporation and Schenley Products Company admitted all the material allegations against them in said complaint insofar as the same relate to the sale or offering for sale of liquors in the District of Columbia, or the shipping of liquors for resale in the District of Columbia, said admission having been made for the purposes only of this proceeding, and any proceedings which may be brought or instituted under the Federal Trade Commission Act as amended and approved March 21, 1938, for the recovery of penalties therein provided in case of violation hereof; and said respondents Schenley Distillers Corporation and Schenley Products Company having waived the taking of further evidence and all other intervening procedure, and the respondents Schenley Distributors, Inc., and Schenley Distributors of New England, Inc., having neither admitted nor denied the allegations of said complaint as to them, and having affirmatively alleged that they do not now and never have engaged in business in the District of Columbia; and the Commission having made its findings as to the facts and its conclusion that said respondents Schenley Distillers Corporation and Schenley Products Company have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents Schenley Distillers Corporation and Schenley Products Company, a corporation, in connection with the offering for sale of whiskies and other alcoholic beverages in the District of Columbia, and in connection with the shipment of whiskies and other alcoholic beverages into the District of Columbia for resale therein, do forthwith cease and desist from:

(1) Entering into or enforcing the provisions of any contract, agreement or understanding, verbal or written, with any retailer, jobber, wholesaler or other distributor, the purpose and effect of which is to maintain a specified standard or uniform minimum resale price, discount or "mark-up" at which respondent's said products are to be resold by such retailers, jobbers, wholesalers or other distributors;

(2) Enforcing or attempting to enforce the resale of respondent's said products at specified standard or uniform minimum resale prices; discounts or "mark-ups" by any of the following methods or means:

(a) By reinstating or causing to be reinstated retailers, jobbers, wholesalers or other distributors who have been cut off, upon any agreement or understanding with such retailers, jobbers, wholesalers or other distributors, that respondent's suggested minimum resale prices, discounts or "mark-ups" will thereafter be maintained.

(b) By circulating, or threatening to circulate, among retailers, jobbers, wholesalers or other distributors, reports or lists of those retailers, jobbers, wholesalers or other distributors who have cut prices on respondent's said products.

(c) By combining or agreeing directly or indirectly with any individuals, corporations, firms or partnerships to do or cause to be done any of the aforesaid acts or things.

(d) By combining with retailers, jobbers, wholesalers or other distributors with the purpose and effect of exhausting the supply of its products on hand with any other retailers, jobbers, wholesalers or other distributors through the purchase of said supply of its products.

(e) By securing or endeavoring to secure, through contract, agreement or understanding, the active support or cooperation of any wholesaler, retail dealer, association or individual, individually or collectively, in the doing of any of the acts or things hereinabove prohibited.

It is further ordered, That as to the respondents Schenley Distributors, Inc. and Schenley Distributors of New England, Inc. this case be and the same is hereby closed without prejudice to the right of the Commission to reopen the same in the course of its regular procedure should future facts and circumstances so warrant.

It is further ordered, That the said respondents, within sixty (60) days from and after the date of service upon them of this order, shall file with the commission a report or reports in writing, setting forth in detail the manner and form in which they are complying and have complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1904; Filed, July 2, 1938; 12:35 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2991]

IN THE MATTER OF HIRAM WALKER, INC.; GREATER NEW YORK LICENSED LIQUOR STORES ASSOCIATION, INC.; D. C. EXCLUSIVE RETAIL LIQUOR DEALERS ASSOCIATION, A CORPORATION; METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A VOLUNTARY UNINCORPORATED ASSOCIATION AND ALL ITS MEMBERS; MATT PATTERSON, INDIVIDUALLY, AND AS PRESIDENT OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; DAVID R. SHIR, INDIVIDUALLY, AND AS SECRETARY OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; WILLIAM S. HUBER, INDIVIDUALLY, AND AS TREASURER OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; SAMUEL LEVY, JOSEPH BALTER, SAMUEL BERKMAN, WILLIAM DORR, BENJAMIN F. FOLSOM, WILLIAM GAFFNEY, JOSEPH HINES, CHARLES H. MAHONEY, A. J. MCDONALD, JOHN MCMORROW, JOHN F. MURPHY, EDWARD O'HEARN, BENJAMIN RODMAN, LOUIS ROSE, EDWARD SLINEY, BENJAMIN STARR, AND JOSEPH A. VESCE JOINTLY AND SEVERALLY AS REPRESENTATIVE MEMBERS AND AS THE EXECUTIVE COMMITTEE OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; NATIONAL RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A CORPORATION; NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A VOLUNTARY UNINCORPORATED ASSOCIATION, ITS OFFICERS, EXECUTIVE COMMITTEE, AND ALL ITS MEMBERS; AUGUSTINE L. WALDRON, INDIVIDUALLY, AND AS PRESIDENT AND MEMBER OF NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSOCIATION; CONNECTICUT RETAIL LIQUOR PACKAGE STORES ASSOCIATION, INC.; AND NATIONAL INSTITUTE OF WINE & SPIRIT DISTRIBUTORS, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substituted answer filed herein on May 31, 1938, by respondent Hiram Walker, Inc., admitting all the material allegations against it in said complaint insofar as the same relate to the sale or offering for sale of liquors in the District of Columbia or the shipping of liquors for resale in the District of Columbia, except the allegations that it has entered into any unlawful contract, agreement or understanding, or engaged in any unlawful act or practice with the respondent D. C. Exclusive Retail Liquor Dealers Association; said admission having been made for the purposes only of this proceeding, and any proceedings which may be brought or instituted under the Federal Trade Commission Act as amended and approved March 21, 1938, for the recovery of penalties therein provided in case of violation hereof; and respondent having waived the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Hiram Walker Incorporated, its agents, salesmen and employees, in connection with the offering for sale, sale and distribution of whiskies and other alcoholic beverages in the District of Columbia, and in connection with whiskies and other alcoholic beverages to be transported into the District of Columbia for resale therein, do forthwith cease and desist from:

(1) Entering into or enforcing any contract, agreement or understanding, verbal or written, with any retailer, jobber, wholesaler or other distributor, the purpose and effect of which is to maintain a specified standard or uniform minimum resale price, discount or "mark-up" at which respondent's said products are to be resold by such retailers, jobbers, wholesalers or other distributors;

(2) Enforcing or attempting to enforce the resale of respondent's said products at specified standard or uniform minimum resale prices, discounts or "mark-ups" by any of the following methods or means:

(a) By reinstating or causing to be reinstated retailers, jobbers, wholesalers or other distributors who have been cut off, upon any agreement or understanding with such retailers, jobbers, wholesalers or other distributors, that respondent's suggested minimum resale prices, discounts or "mark-ups" will thereafter be maintained.

(b) By circulating, or threatening to circulate, among retailers, jobbers, wholesalers or other distributors, reports or lists of those retailers, jobbers, wholesalers or other distributors who have cut prices on respondent's said products.

(c) By combining or agreeing directly or indirectly with any individual or association of individuals to do or cause to be done any of the aforesaid acts or things.

(d) By combining with retailers, jobbers, wholesalers or other distributors with the purpose and effect of exhausting the supply of its products on hand with any other retailers, jobbers, wholesalers or other distributors through the purchase of said supply of its products.

(e) By securing or endeavoring to secure, through contract, agreement or understanding, the active support or cooperation of any wholesaler, retail dealer, association, or individual, individually or collectively, in the doing of any of the acts or things hereinabove prohibited.

The acts and practices with which respondent D. C. Exclusive Retail Liquor Dealers Association is charged in the aforesaid complaint having been incorporated and charged in a separate and new complaint against that respondent and others by direction of the Commission of March 21, 1938,

It is further ordered, That the case growing out of the said complaint against the said respondent D. C. Exclusive Retail Liquor Dealers Association be, and the same is hereby closed without prejudice to the right of the Commission to resume prosecution thereof, in accordance with its regular procedure, pursuant to such new complaint.

It further appearing to the Commission that the acts and practices of all the respondents named in the caption hereof other than respondent Hiram Walker, Inc. and respondent D. C. Exclusive Retail Liquor Dealers Association, transpired and occurred either in, or with respect to alcoholic liquors shipped for resale into states or territories having "Fair Trade" laws or public policies in effect therein within the intent and meaning of the Miller-Tydings Act (Title VIII of an Act to Provide Additional Revenue for the District of Columbia, and for other purposes, approved August 17, 1937, H. R. 7472, Public Act 314, 75th Congress, 1st Session),

It is further ordered, That the case growing out of the Commission's complaint against all of the above named respondents other than Hiram Walker, Inc. and D. C. Exclusive Retail Liquor Dealers Association, be, and the same is hereby closed without prejudice, to the right of the Commission to resume prosecution in accordance with its regular procedure whenever future facts and circumstances should appear to so warrant.

It is further ordered, That the said respondent, within sixty (60) days from and after the date of service upon it of this order, shall file with the Commission a report or reports in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1905; Filed, July 2, 1938; 12:35 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2992]

IN THE MATTER OF NATIONAL DISTILLERS PRODUCTS CORPORATION; GREATER NEW YORK LICENSED LIQUOR STORES ASSOCIATION, INC.; D. C. EXCLUSIVE RETAIL LIQUOR DEALERS ASSOCIATION, A CORPORATION; METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A VOLUNTARY UNINCORPORATED ASSOCIATION AND ALL ITS MEMBERS; MATT PATTERSON, INDIVIDUALLY, AND AS TREASURER OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; SAMUEL LEVY, JOSEPH BALTER, SAMUEL BERKMAN, WILLIAM DORR, BENJAMIN F. FOLSOM, WILLIAM GAFFNEY, JOSEPH HINES, CHARLES H. MAHONEY, A. J. MCDONALD, JOHN MCMORROW, JOHN F. MURPHY, EDWARD O'HEARN, BENJAMIN RODMAN, LOUIS ROSE, EDWARD SLINEY, BENJAMIN STARR AND JOSEPH A. VESCE, JOINTLY AND SEVERALLY AS REPRESENTATIVE MEMBERS AND AS THE EXECUTIVE COMMITTEE OF METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSOCIATION; NATIONAL RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A CORPORATION; NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSOCIATION, A VOLUNTARY UNINCORPORATED ASSOCIATION, ITS OFFICERS, EXECUTIVE COMMITTEE, AND ALL ITS MEMBERS; AUGUSTINE L. WALDRON, INDIVIDUALLY, AND AS PRESIDENT AND MEMBER OF NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSOCIATION; CONNECTICUT RETAIL LIQUOR PACKAGE STORES ASSOCIATION, INC.; AND NATIONAL INSTITUTE OF WINE & SPIRIT DISTRIBUTORS, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein on May 31, 1938, by respondent National Distillers Products Corporation, admitting all the material allegations of the complaint, insofar as

[1] 2 F. R. 953 (1134 DI).

the same relate to the sale or offering for sale of liquors in the District of Columbia or the shipping of liquors for resale in the District of Columbia, except the allegation that it has entered into any unlawful contract, agreement or understanding, or engaged in any unlawful act or practice, with the respondent D. C. Exclusive Retail Liquor Dealers Association; said admission having been made for the purposes only of this proceeding, and any proceedings which may be brought or instituted under the Federal Trade Commission Act as amended and approved March 21, 1938, for the recovery of penalties therein provided in case of violation hereof; and respondent having waived the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent National Distillers Products Corporation, its agents, salesmen and employees, in connection with the offering for sale, sale and distribution of whiskies and other alcoholic beverages in the District of Columbia, and in connection with whiskies and other alcoholic beverages, to be transported into the District of Columbia for resale therein, do forthwith cease and desist from:

(1) Entering into or enforcing any contract, agreement or understanding, verbal or written, with any retailer, jobber, wholesale or other distributor, the purpose and effect of which is to maintain a specified standard or uniform minimum resale price, discount or "mark-up" at which respondent's said products are to be resold by such retailers, jobbers, wholesalers or other distributors;

(2) Enforcing or attempting to enforce the resale of respondent's said products at specified standard or uniform minimum resale prices, discounts or "mark-ups" by any of the following methods or means:

(a) By reinstating or causing to be reinstated retailers, jobbers, wholesalers or other distributors who have been cut off, upon any agreement or understanding with such retailers, jobbers, wholesalers or other distributors, that respondent's suggested minimum resale prices, discounts or "mark-ups" will thereafter be maintained.

(b) By circulating, or threatening to circulate, among retailers, jobbers, wholesalers or other distributors, reports or lists of those retailers, jobbers, wholesalers or other distributors who have cut prices on respondent's said products.

(c) By combining or agreeing directly or indirectly with any individual or association of individuals to do or cause to be done any of the aforesaid acts or things.

(d) By combining with retailers, jobbers, wholesalers or other distributors with the purpose and effect of exhausting the supply of its products on hand with any other retailers, jobbers, wholesalers or other distributors through the purchase of said supply of its products.

(e) By securing or endeavoring to secure, through contract, agreement or understanding, the active support or cooperation of any wholesaler, retail dealer, association or individual, individually or collectively, in the doing of any of the acts or things hereinabove prohibited.

The acts and practices with which respondent D. C. Exclusive Retail Liquor Dealers Association is charged in the aforesaid complaint having been incorporated and charged in a separate and new complaint against that respondent and others by direction of the Commission of March 21, 1938.

It is further ordered, That the case growing out of the said complaint against the said respondent D. C. Exclusive Retail Liquor Dealers Association be, and the same is hereby closed without prejudice to the right of the Commission to resume prosecution thereof, in accordance with its regular procedure, pursuant to such new complaint.

It further appearing to the Commission that the acts and practices of all the respondents named in the caption hereof other than respondent National Distillers Products Corporation and respondent D. C. Exclusive Retail Liquor Dealers Association, transpired and occurred either in, or with respect to alcoholic liquors shipped for resale into states or territories having "Fair Trade" laws or public policies in effect therein within the intent and meaning of the Miller-Tydings Act (Title VIII of an Act to Provide Additional Revenue for the District of Columbia, and for other purposes, approved August 17, 1937, H. R. 7472, Public Act 314, 75th Congress, 1st Session),

It is further ordered, That the case growing out of the Commission's complaint against all of the above named respondents other than National Distillers Products Corporation and D. C. Exclusive Retail Liquor Dealers Association, be and the same is hereby closed without prejudice to the right of the Commission to resume prosecution in accordance with its regular procedure whenever future facts and circumstances should appear to so warrant.

It is further ordered, That the said respondent, within sixty (60) days from and after the date of service upon it of this order, shall file with the Commission a report or reports in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–1906; Filed, July 2, 1938; 12:36 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49643]

REGULATIONS GOVERNING THE ASSESSMENT AND COLLECTION OF TAXES ON IMPORTATIONS OF CERTAIN OILS AND OTHER PRODUCTS[1]

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C. title 5, sec. 22), sections 481 and 624 of the Tariff Act of 1930 (U. S. C. title 19, secs. 1481 and 1624), and section 601 (c) (8) of the Revenue Act of 1932 (U. S. C., Sup. III, title 26, sec. 999a), as amended by section 702 of the Revenue Act of 1938 (Public, No. 554, 75th Congress), the following regulations are hereby promulgated for your information and guidance:

Section 601 (a) of the Revenue Act of 1932 (47 Stat. 259).

In addition to any other tax or duty imposed by law, there shall be imposed a tax as provided in subsection (c) on every article imported into the United States unless treaty provisions of the United States otherwise provide.

Sections 701, 702, and 704 of the Revenue Act of 1938 (Public, No. 554, 75th Congress).

SECTION 701. *Termination of certain excise taxes.*

* * * * *

(i) *Brewer's wort, malt syrup, etc.*—The tax imposed by section 601 (c) (2), as amended, of the Revenue Act of 1932 shall not apply to articles sold or imported after June 30, 1938.

SECTION 702. *Tax on certain oils.*—(a) Section 601 (c) (8) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(8) (A) Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine-animal oil, tallow, inedible animal oils, inedible animal fats, inedible animal greases, fatty acids derived from any of the foregoing, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed, 3 cents per pound: *Provided*, That no whale oil (except sperm oil), fish oil, or marine-animal oil of any kind (whether or not refined, sulphonated, sulphated, hydrogenated or otherwise processed), or fatty acids derived therefrom, shall be admitted to entry, after June 30, 1939, free from the tax herein provided unless such oil was produced on vessels of the United States or in the United States or its possessions, from whales, fish, or marine animals or parts thereof taken and captured by vessels of the United States;

"(B) Sesame oil provided for in paragraph 1732 of the Tariff Act of 1930, sunflower oil, rapeseed oil, kapok oil, hempseed oil, perilla oil, fatty acids derived from any of the foregoing or from linseed oil, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed, 4½ cents per pound;

"(C) Any article, merchandise, or combination (except oils specified in section 602½ of the Revenue Act of 1934, as amended),[1] 10 per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified above in this paragraph or of the oils, fatty acids, or salts specified in section 602½ of the Revenue Act of 1934, as amended,[2] a tax at the rate or rates per pound equal to that proportion of the rate or rates prescribed in this paragraph or such section 602½ in respect of such product or products which the quantity by weight of the imported article, merchandise, or combination, consisting of or derived from such product or products, bears to the total weight of the imported article, merchandise, or combination; but there shall not be taxable under this subparagraph any article, merchandise, or combination (other than an oil, fat, or grease, and other than products resulting from processing seeds without full commercial extraction of the oil content), by reason of the presence therein of an oil, fat, or grease which is a natural component of such article, merchandise, or combination and has never had a separate existence as an oil, fat, or grease;

"(D) Hempseed, 1.24 cents per pound; perilla seed, 1.38 cents per pound; kapok seed, 2 cents per pound; rapeseed, 2 cents per pound; and sesame seed, 1.18 cents per pound;

"(E) The tax on the articles described in this paragraph shall apply only with respect to the importation of such articles after the date of the enactment of the Revenue Act of 1934, and shall not be subject to the provisions of subsection (b) (4) of this section (prohibiting drawback) or section 629 (relating to expiration of taxes).

"(F) The tax imposed under subparagraph (B) shall not apply to rapeseed oil imported to be used in the manufacture of rubber substitutes or lubricating oil, and the Commissioner of Customs shall, with the approval of the Secretary, prescribe methods and regulations to carry out this subparagraph.

"(G) The taxes imposed by this section shall not apply to any article, merchandise, or combination, by reason of the presence therein of any coconut oil produced in Guam or American Samoa or any direct or indirect derivative of such oil."

(b) Section 601 (b) (5) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(5) Such tax (except tax under subsection (c) (4) to (7), inclusive, and except as specifically provided in subsection (c) (8) (G) with reference to certain products of Guam and American Samoa) shall be imposed in full notwithstanding any provision of law granting exemption from or reduction of duties to products of any possession of the United States; and for the purposes of taxes under subsection (c) (4) to (7), inclusive, the term 'United States' includes Puerto Rico."

(c) The amendments made by this section shall be effective July 1, 1938.

SECTION 704. *Amendments to tax on lumber.*—(a) Section 601 (c) (6) of the Revenue Act of 1932 is further amended by adding at the end thereof the following: "In determining board measure for the purposes of this paragraph no deduction shall be made on account of planing, tonguing, and grooving. As used in this paragraph, the term 'lumber' includes sawed timber."

(b) Each sentence of the amendment made by subsection (a) shall become effective (1) on the sixtieth day after the date of the enactment of this Act unless in conflict with any international obligation of the United States or (2) if so in conflict, then on the termination of such obligation otherwise than in connection with the undertaking by the United States of a new obligation which continues such conflict.

(c) Section 601 (c) (6) of the Revenue Act of 1932 is further amended by inserting after the amendment made by subsection (a) of this section the following: "The tax imposed by this paragraph shall not apply to lumber of Northern white pine (pinus strobus), Norway pine (pinus resinosa), and Western white spruce."

(d) The amendment made by subsection (c) shall be effective July 1, 1938.

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(1) Entries covering imported brewer's wort, liquid malt, malt syrup, and malt extract, fluid, solid, or condensed, made from malted cereal grains in whole or in part, arriving on or after July 1, 1938, at a port of entry with intent there to unlade, shall be liquidated without assessment of the import tax prescribed by section 601 (c) (2) of the Revenue Act of 1932, as amended.

(2) The taxes prescribed by section 601 (c) (8), as amended by section 702 of the Revenue Act of 1938, *supra*, apply to articles entered for consumption or withdrawn from warehouse for consumption on or after July 1, 1938, except that no tax should be collected under the said section on articles which arrived prior to May 11, 1934, within the limits of a port of entry with intent there to unlade.

(3) The taxes imposed by section 601 (c) (8), as amended, shall be levied, assessed, collected; and paid in accordance with the Customs Regulations of 1937 as heretofore or hereafter amended, in so far as they are applicable, and shall be scheduled, deposited, reported, and accounted for as, and with other collections of duties on imports, in the same manner as duties imposed by the Tariff Act of 1930, as amended (U. S. C., title 19, sec. 1001).

(4) The provisions of the first clause of section 601 (b) (5) of the Revenue Act of 1932, as amended, will remain in force in so far as they may affect the collection of the taxes provided for in section 601 (c) (8), as amended. The taxes collected under this section will be subject to drawback under the same conditions as duties paid under the Tariff Act of 1930.

(5) In the case of any article, merchandise, or combination subject to a tax under section 601 (c) (8), as amended, not less than 10% of the quantity by weight of which consists of or is derived directly or indirectly from one or more of the products (except seeds) specified in the said section or of the oils, fatty acids or salts specified in section 602½ of the Revenue Act of 1934 (U. S. C. title 26, sec. 999), as amended by section 702 of the Revenue Act of 1936, the appraising officer shall indicate in his return the percentage of the total net weight of the imported article which consists of or is derived directly or indirectly from each of the products above mentioned. If the facts for the assessment of duty can not be determined from an examination of the imported article or from other available sources, the maximum tax likely to be due shall be collected and the liquidation of the entry suspended for a reasonable time to enable the importer to furnish the necessary information.

Coconut oil, palm oil, and palm-kernel oil, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed, so long as they are oils of the kinds mentioned, are not subject to import tax under section 601 (c) (8) of the Revenue Act of 1932, as amended. Any article, merchandise, or combination of the character provided for in that section, 10% or more of the quantity by weight of which consists of or is derived directly or indirectly from one or more of the above-named oils, fatty acids derived therefrom, or salts of the foregoing, when entered for consumption or withdrawn from warehouse for consumption on or after July 1, 1938, will be subject to a tax at the rate or rates

[1] Imposed by section 601 (c) (8), Revenue Act of 1932, 47 Stat. 259, as amended by section 602, Revenue Act of 1934, 48 Stat. 762, and sections 701, 703, and 704 of the Revenue Act of 1936, 49 Stat. 1742–3 (U. S. C., Sup. III, title 26, sec. 999a), as amended by the Revenue Act of 1938 (Public, No. 554, 75th Congress).

[1] Coconut oil, palm oil, and palm-kernel oil (whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed).

[2] Coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or salts have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed).

per pound equal to that proportion of the rate or rates prescribed in section 602½ of the Revenue Act of 1934, as amended, in respect of such oil, fatty acid, or salt which the quantity by weight of the imported article consisting of or derived from such oil, fatty acid, or salt bears to the total weight of the imported article. T. Ds. 48469 and 49161 (8) (a) are accordingly hereby modified to the extent herein indicated, and the rule set forth in T. D. 49161 (8) (b) is extended, effective July 1, 1938, to cover articles 10% or more of which consists of or is derived from coconut oil, palm oil, or palm-kernel oil, fatty acids derived from such oils, and salts of the foregoing. This rule also continues applicable to any article, merchandise, or combination 10% or more by weight of which consists of or is derived from one or more of the products (except seeds) specified in section 601 (c) (8), as amended.

(6) In conformity with the provisions of section 601 (c) (8), subparagraph (F), rapeseed oil imported to be used in the manufacture of rubber substitutes or lubricating oil may be released without deposit of the import tax imposed under subparagraph (B) upon compliance with the following conditions:

(a) There shall be filed in connection with the entry an affidavit of the importer that such rapeseed oil is imported to be used in the manufacture of rubber substitutes or lubricating oil.

(b) If the oil is entered for consumption there shall also be filed in connection with the entry a bond on customs Form 7551 or 7553 with an added condition, concurred in by the surety, for the payment of the tax prescribed by subparagraph (B) in the event the rapeseed oil is not used in the manufacture of rubber substitutes or lubricating oil. If the importer has on file a general term bond for the entry of merchandise, as provided for in article 1253 of the Customs Regulations 1937,[1] the rapeseed oil may be charged against such bond provided there is added thereto, with the concurrence of the surety, the beforementioned condition. When the rapeseed oil is entered for warehouse the regular warehouse entry bond, customs Form 7555, shall be given, unless the importation is charged against a general term bond for the entry of merchandise, customs Form 7595, and withdrawals shall be made on customs Form 7506. Liquidation of the consumption entries and warehouse entries shall be suspended pending the submission of proof that the rapeseed oil has been used in the manufacture of rubber substitutes or lubricating oil.

(c) Within three years from the date of entry (in the case of warehouse entries as well as consumption entries) the importer shall submit to the collector of customs at the port of entry an affidavit of the superintendent or manager of the factory or plant at which the rapeseed oil has been processed, showing: (1) The name and location of the factory or plant; (2) the entry number, date, and port of entry (if the factory or plant is not in possession of this information a reference to invoices, purchase orders or other documents which link the shipment with the entry may be substituted); (3) the date or inclusive dates of the processing of the oil; and (4) a description of the processing in sufficient detail to enable the collector to determine whether the rapeseed oil in question has been used in the manufacture of rubber substitutes or lubricating oil.

In appropriate cases the processing of rapeseed oil covered by more than one entry may be included in one affidavit. Such affidavits shall be based on adequate and carefully kept factory, plant, and import records, which shall be available at all reasonable times for inspection by proper officers of the Government. The affidavits shall be filed in duplicate, one copy to be forwarded to the comptroller of customs.

(d) Upon satisfactory proof that the rapeseed oil has been used in the manufacture of rubber substitutes or lubricating oil the entry may be liquidated free of the import tax imposed by section 601 (c) (8) (B), *supra*. When such proof is not filed within three years from the date of the entry, the entry shall be liquidated with the assessment of the import tax.

(7) Upon the presentation of satisfactory proof, the tax imposed by section 601 (c) (8) (C) shall not be assessed on any article, merchandise, or combination by reason of the presence therein of any coconut oil produced in Guam or American Samoa, or any direct or indirect derivative of such oil.

(8) With respect to lumber claimed to be exempt by reason of section 704 (c) of the Revenue Act of 1938 from the import tax imposed by section 601 (c) (6) of the Revenue Act of 1932, as amended, which exemption applies to such lumber entered for consumption or withdrawn from warehouse for consumption on or after July 1, 1938, there shall be filed in connection with the entry, preferably on the invoice filed with the entry, a declaration of the shipper or other person having actual knowledge of the facts, as to the species of the lumber comprising the shipment, that is, whether it is Northern white pine (pinus strobus), Norway pine (pinus resinosa), or Western white spruce, and in the case of Western white spruce the declaration shall contain in addition a statement as to the locality of origin of the wood from which the lumber was produced.

[SEAL] J. H. MOYLE,
Commissioner of Customs.

Approved, June 29, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1891; Filed, July 2, 1938; 11:02 a. m.]

[1] 2 F. R. 1720 (2014 DI).

TITLE 42—PUBLIC HEALTH, WELFARE, AND EDUCATION

PUBLIC HEALTH SERVICE

REGULATIONS OF THE SURGEON GENERAL GOVERNING ALLOTMENTS AND PAYMENTS TO STATES FROM FUNDS APPROPRIATED UNDER THE PROVISIONS OF SECTION 601, SOCIAL SECURITY ACT, FOR THE FISCAL YEAR 1939

I. *Compliance with law and regulations.*—In order that funds allotted to the States may be of maximum use in assisting States, municipalities, counties, and health districts, and other political sub-divisions of the States, in establishing and maintaining adequate public health service, payments made to a State under authority of Title VI of the Social Security Act will be certified by the Surgeon General only after such State has complied with the provisions of the Act and the Regulations authorized thereunder.

II. *Allotments.*—The Surgeon General pursuant to the authority contained in Title VI of the Social Security Act shall allot the total amount available for the fiscal year 1939 to the several States, including the District of Columbia, Alaska, and Hawaii on the basis of (1) the population, (2) the extent of special health problems, and (3) the financial needs of the respective States, "in establishing and maintaining adequate public health services" in accordance with the following percentage distribution:

(1) *Population.*—Allotments amounting to 34.1 percent of the available appropriations will be made to the several States in the ratio which the population of each State bears to the population of the United States as shown by the Census Bureau 1937 mid-year population estimates.

(2) *Special health problems.*—Allotments amounting to 31.8 per cent of available appropriations will be made to the several States on the basis of special health problems including the training of personnel, as determined by the Surgeon General.

The term "special health problems" shall be interpreted to mean necessity arising out of (a) high morbidity or mortality on a State-wide basis from particular causes, such as malaria, hookworm disease, bubonic plague, trachoma, typhus fever, and similar geographically limited diseases or other conditions that result in inequality of exposure to public health hazards among the States; (b) special industrial hazards; and (c) other special conditions which create unequal burdens in the administration of equal public health services among the States.

(3) *Financial needs.*—Allotments amounting to 34.1 per cent of available appropriations will be made to the several States on the basis of the financial needs of such States, which is determined to be the ability of the State to raise revenue expressed indirectly in terms of per capita income.

III. *Balances from allotments.*—Unpaid balances from allotments at the end of the fiscal year shall not be paid but shall remain in the appropriation for reallotment to the States in the succeeding fiscal year in accordance with the provisions of Subsection (b), Section 602, of the Social Security Act.

IV. *Balances from payments.*—Unexpended balances remaining from quarterly payments made to the States in accordance with the provisions of Subsection (c), Section 602, of the Social Security Act during the fiscal year ending June 30, 1939, or any previous fiscal year, may be retained by the States and utilized for carrying out the purposes for which such funds were allotted and paid, subject to the following conditions:

(1) Balances required under these regulations to be matched with State or local funds must be so matched before they are expended.

(2) Itemized budgets for the expenditure of such balances must be submitted and approved prior to such expenditure.

(3) In those instances where unexpended balances have accumulated the Surgeon General may, in his discretion, make deductions from payments due in a subsequent quarter in the amount of such unexpended balances. Funds so deducted from the payment to a State may be paid to a State in the discretion of the Surgeon General in any subsequent quarter upon the submission and approval of budgets.

V. *Submission of plans.*—To be eligible to receive payments from allotments each State shall submit to the Surgeon General:

(1) A comprehensive statement of any changes in the State health organization, programs and budget since the last outline of such organization, programs and budget was filed. This statement should include activities initiated through the use of Social Security funds.

(2) A proposed plan for extending and improving the administrative functions of the State department of health.

(3) A proposed plan for extending and improving local (county, district, city) health services to be carried out with the assistance of funds available under the provisions of Title VI of the Social Security Act.

VI. *Submission and approval of budgets.*—Before payments shall be made to any State, the State health officer shall:

(1) Submit to the Surgeon General and secure approval of a proposed budget, for each project, on forms supplied by the Public Health Service. The budget shall show the sources, proposed uses, and amounts of all funds, the amounts requested from the Public Health Service for the fiscal year, together with such other information relating to such proposed project as the Surgeon General may require. The application for quarterly payment to a State shall include only those funds required for financing budgets actually in force, or which definitely will become operative, in the quarter for which payment is requested.

(2) Certify that State and local expenditures have not been replaced or curtailed through the use of federal funds.

VII. *Budgets subsequent to July 1, 1938.*—Budgets for new projects and revised budgets for existing projects may be submitted in any quarter after the beginning of the fiscal year, but such budgets will not be made effective prior to the beginning of the next succeeding quarter; provided, that exceptions to this rule may be made by the Surgeon General, when necessary, to meet emergencies.

VIII. *Existing appropriations not to be replaced.*—No funds paid to a State pursuant to Title VI of the Social Security Act shall be used to replace State or local funds in such a way as to affect a conservation or reduction of appropriations for health work by State and local governmental agencies.

IX. *Matching requirements.* — Allotments to the several States shall be available for payment when matched by State or local public funds appropriated and expended for public health work, as follows:

(1) The amount of funds (old and new) necessary to meet matching requirements for 1939 shall be the same as those determined in 1937 in accordance with the regulations for that year.

(2) The Surgeon General, in his discretion, may waive matching requirements in those States wherein the per capita[1] appropriation for the State health department (exclusive of funds for the maintenance of institutions) exceeds the average per capita appropriations of all of the States for the same purposes.

X. *Training of personnel.*—In order to meet the needs for properly qualified professional and technical personnel with which to conduct effectively the State and local health services, the sum of $947,500 shall be set aside for the fiscal year 1939 and allotted to the several States for this purpose. Of this sum $827,000 shall be allotted among the several States as far as practicable to meet in full the training demands as submitted by the State health officers. The sum of $120,500 shall be allotted for approved training centers.

Funds paid to a State for the training of personnel may be used to pay living stipends, tuition, and traveling expenses of personnel employed or to be employed in the State and local health services, such training period not to exceed one year for any individual.

The Surgeon General will specify to the States the maximum allowances for stipends, traveling and other permissible items of expense for the training of personnel with Public Health Service funds.

These funds may also be used to aid training centers in the equipment and maintenance of training courses.

XI. *Method of payment to States and custody of funds.*—Subject to the approval of the Secretary of the Treasury, payments shall be made in quarterly installments, to the Treasurer of the State or other State official authorized by law to receive such funds.

All such payments shall be held by the State official to whom made in a separate fund distinct from other State funds and shall be disbursed by him solely for the purposes specified in budgets approved by the State health officer and the Surgeon General and filed with such official.

XII. *Financial reports.*—The State health officer shall submit and certify to the Surgeon General on forms provided for that purpose financial reports as follows:

(1) A quarterly project financial report for each budget in force, which shall show the actual amount of expenditure of Public Health Service funds, of State, and of local funds budgeted, and such other information as the Surgeon General may from time to time require.

(2) A consolidated quarterly report summarizing all budget expenditures of Public Health Service, of State, and of local funds, and such other information as the Surgeon General may from time to time require.

(3) An annual report of all State expenditures for public health purposes, showing by appropriations all such State expenditures for the latest State fiscal year ended on or before December 31, 1938. This report must be certified also by the Treasurer or other State official charged with the responsibility for disbursing State health department funds.

XIII. *Progress reports of activities.*—Reports of activities will be required by the Public Health Service from each State health department as follows:

(1) Activities of central administration pursuant to approved budgets shall be reported annually in duplicate and may be submitted in narrative form.

(2) A copy of the progress report from each local health project pursuant to approved budgets shall be furnished quarterly to the Regional Office on forms of the State health department.

(3) A consolidated summary report for all local projects pursuant to approved budgets shall be made quarterly to the Surgeon General on forms provided by the Public Health Service for that purpose.

The listing of certain items on the summary report form referred to above should not be interpreted as requiring that all such activities be carried out in every local health project. Also, other activities not listed on the report form should be reported in an appropriate manner.

[1] To be calculated on the Census Bureau 1937 mid-year estimate of population.

Statistical reports may be submitted with narrative reports wherever considered desirable by the State health officer.

XIV. *Reports of activities from other agencies not required.*—No detailed reports of activities will be required for personnel paid from funds supplied by other agencies.

[SEAL] THOMAS PARRAN,
Surgeon General.

JUNE 21, 1938.

[F. R. Doc. 38-1890; Filed, July 2, 1938; 11:02 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

AMENDMENT TO RULE X-UB2

The Securities and Exchange Commission, finding that Rule X-UB2 [sec. 10.X-UB2], as herein amended, is necessary and appropriate in the public interest and for the proper protection of investors and necessary for the exercise of the functions vested in the Commission, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 23 (a) and 24 (b) thereof [ch. 404, sec. 23, 48 Stat. 901; ch. 462, sec. 8, 49 Stat. 1379; 15 U. S. C., 78w and Sup. III: ch. 404, sec. 24, 48 Stat. 901; 15 U. S. C. 78x], hereby amends paragraph (e) of Rule X-UB2 [sec. 10.X-UB2] to read as follows:

(e) Prior to any determination overruling the objection, if a hearing shall have been requested in accordance with paragraph (b), at least ten days' notice of the time and place of such hearing will be given by registered mail to the person or his agent for service. Failure of any person making an application pursuant to paragraph (b) to request a hearing, to appear at such hearing, or to offer evidence at the hearing in support of his application, shall be deemed a consent by such person to the submission of his objection for determination by the Commission. In any case in which a hearing has been held, the Commission need consider only such grounds of objection as shall have been supported by evidence adduced at the hearing and the failure at the hearing to adduce evidence in support of any ground of objection may be deemed by the Commission a waiver thereof.

The foregoing action shall be effective immediately upon publication.[1]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1893; Filed, July 2, 1938; 11:36 a. m.]

[1] July 1, 1938.

Notices

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 20]

ORDER RELATIVE TO MOTOR CARRIER RATES IN NEW YORK, NEW JERSEY, PENNSYLVANIA, AND DELAWARE

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of July, A. D. 1938.

It appearing, That additional information relative to income statements of Class I common carriers of property (carriers which have gross revenue of $100,000.00 or over annually from both intrastate and interstate motor carrier operations) submitted in response to the Commission's order of May 21, 1938,[1] is necessary and desirable in the determination of matters covered by the above-entitled proceeding:

It is ordered, That each Class I common carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before July 13, 1938, statements of operation and maintenance expenses for the year 1937 and for the three months ending March 31, 1938, or for the first three periods in 1938 instead of the three months ending March 31, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said statements of operation and maintenance expenses shall be submitted under oath on the form herewith enclosed which form is hereby made a part of this order.[2]

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-1908; Filed, July 5, 1938; 12:04 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1938.

[File No. 43-114]

IN THE MATTER OF PUGET SOUND POWER & LIGHT COMPANY

ORDER RELATIVE TO EFFECTIVENESS OF DECLARATION

Puget Sound Power & Light Company, a subsidiary company of Engineers Public Service Company, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of $7,000,000 principal amount of its First and Refunding Mortgage 6% Gold Bonds, Series E, due October 1, 1950; a public hearing having been held in this matter after appropriate notice,[1] and the Commission having considered the record and having made its findings herein:

It is ordered, That said declaration be and become effective forthwith, subject however, to the following terms and conditions:

(1) That the bonds covered by this declaration shall be sold at a price to net declarant, after deduction of underwriting commissions, but before declarant's other expenses incidental to and in connection with the issue and sale thereof, not less than 100% of the principal amount thereof, plus accrued interest thereon to the date of the sale.

(2) That the proceeds of the sale of the bonds shall be used for the specific purposes outlined in the declaration.

(3) That the Commission reserves jurisdiction of these proceedings for the purpose of approving or disapproving any underwriting or pledge agreements or exchange offers, and that the declarant shall not enter into any such agreements or make such offers except upon the approval by this Commission being first obtained.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1894; Filed, July 2, 1938; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of June 1938.

[File Nos. 46-100, 56-1]

IN THE MATTER OF NY PA NJ UTILITIES COMPANY, KEYSTONE UTILITIES, INC.

ORDER APPROVING ACQUISITION AND SALE OF SECURITIES

NY PA NJ Utilities Company, a registered holding company, and a direct subsidiary of Associated Gas and Electric Corporation and Associated Gas and Electric Company, both registered holding companies, having filed an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 for approval of the acquisition by it of 3,000 shares of the common stock of Bradford Electric Company, said shares constituting the entire issued and outstanding capital stock of that company, from Keystone Utilities, Inc., a registered holding company, and the wholly-owned subsidiary of NY PA NJ Utilities Company; Keystone Utilities, Inc., having filed an application, pursuant to Rule 12D-1, promulgated under the Public Utility Holding Company Act of 1935, for approval of the sale by it of the said 3,000 shares of the common stock of Bradford Electric Company, to NY PA NJ Utilities Company; a joint hearing on said applications, as amended, having been held after appropriate notice;[1] the record in these matters having been duly considered; and the Commission having filed its findings herein:

It is ordered, That such acquisition of the aforesaid securities by NY PA NJ Utilities Company and that such sale of the aforesaid securities by Keystone Utilities, Inc., in accordance with the terms and conditions and for the purposes represented by said applications, be, and the same hereby are, approved: Provided, that within ten days after such acquisition and sale the applicants shall file with this Commission Certificates of Notification showing that such acquisition and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said applications and containing abstracts of the entries recorded on the books of NY PA NJ Utilities Company in connection with the acquisition of the common stock of Bradford Electric Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1895; Filed, July 2, 1938; 11:37 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of July A. D. 1938.

[File No. 31-396]

IN THE MATTER OF INTERLAKE IRON CORPORATION

ORDER DECLARING APPLICANT NOT TO BE AN ELECTRIC UTILITY COMPANY

Interlake Iron Corporation having made application for a declaration that it is not an electric utility company pursuant to the provisions of Section 2 (a) (3) (A) of the Public Utility Holding Company Act of 1935; a hearing on said application having been duly held after appropriate notice;[2] the record in this matter having been duly considered; and the Commission having made appropriate findings:

It is ordered, pursuant to Section 2 (a) (3) (A) of the Public Utility Holding Company Act of 1935, that Interlake Iron Corporation be declared and it is hereby declared not to be an electric utility company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1892; Filed, July 2, 1938; 11:36 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of July, A. D. 1938.

[File No. 32-88]

IN THE MATTER OF WORCESTER SUBURBAN ELECTRIC COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

An application having been filed with this Commission by Worcester Suburban Electric Company, a subsidiary of Massachusetts Utilities Associates, in turn a subsidiary of New England Power Association, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act of the issue of 24,433 shares of its capital stock of the par value of $25 per share, such shares to be exchanged by applicant for all of the outstanding shares of the par value of $100 per share of Marlborough Electric Company, also a subsidiary of Massachusetts Utilities Associates, upon the basis of 2 and 5683/9375ths shares of applicant for each share of Marlborough Electric Company; the shares of the latter company to be canceled by applicant upon the exchange being effected and upon the conveyance and transfer to applicant by Marlborough Electric Company of all of its assets and property of every description subject to its liabilities and obligations;

Hearing on such application as amended having been held after appropriate notice,[1] and the Commission having determined that the application shall be considered as a declaration under Section 7 of the Act, and having accordingly filed its findings therein:

It is ordered, That such declaration be and become effective forthwith on the condition, however, that the issuance and exchange of the aforesaid stock shall be effected in substantial compliance with the terms and conditions set forth in, and for the purpose represented by said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1913; Filed, July 5, 1938; 12:43 p. m.]

[1] 3 F. R. 1284 DI.

[2] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[1] 3 F. R. 897 DI.

[1] 3 F. R. 1097 DI.

[2] 3 F. R. 1410 DI.

[1] 3 F. R. 1355 DI.

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS THURSDAY, JUNE 30, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	575	37
2. Hawaii	137	15
3. Alaska	22	7
4. California	2,114	746
5. Texas	2,169	867
6. Louisiana	783	365
7. Michigan	1,803	849
8. Arizona	162	79
9. New Jersey	1,505	769
10. South Carolina	648	371
11. Oklahoma	892	528
12. Ohio	2,476	1,466
13. Arkansas	691	421
14. Alabama	986	606
15. Mississippi	749	463
16. New Mexico	158	98
17. North Carolina	1,181	769
18. Georgia	1,083	728
19. Kentucky	974	666
20. Wisconsin	1,095	825
21. Illinois	2,842	2,172
22. Tennessee	974	747
23. Connecticut	598	472
24. Nevada	34	27
25. Indiana	1,206	1,093
26. Oregon	355	322
27. Delaware	89	81
28. Wyoming	84	77
29. Florida	547	502
30. New York	4,688	4,332
31. Pennsylvania	3,587	3,367
32. Utah	189	179
33. Washington	582	555
34. Idaho	166	160
35. New Hampshire	173	167
36. North Dakota	254	250
37. Colorado	386	384

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
QUOTA FILLED			
38. Massachusetts	1,583	1,583	−21

Reference

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1937
IN EXCESS			
39. Rhode Island	256	257	+7
40. West Virginia	644	647	+19
41. Maine	297	299	+12
42. Kansas	701	721	+30
43. Vermont	134	140	+2
44. Missouri	1,352	1,424	+50
45. Minnesota	955	1,048	+112
46. South Dakota	258	286	+15
47. Montana	200	227	+35
48. Iowa	920	1,076	+114
49. Nebraska	513	626	+96
50. Virginia	902	1,940	−105
IN EXCESS			
51. Maryland	608	1,848	−57
52. District of Columbia	181	8,757	−224

GAINS

By appointment	352
By reinstatement	3
By transfer	53
By correction	1
Total	409

LOSSES

By separation	137
By transfer	73
Total	210
Total appointments	4[illegible]

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of August 25, 1934: 13,875.

By direction of the Commission.

[SEAL] L. A. MOYER,
Chief Examiner.

[F.R. Doc. 38-1896; Filed, July 2, 1938; 11:46 a. m.]

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 131

Washington, Thursday, July 7, 1938

The President

EXECUTIVE ORDER

ESTABLISHING RUBY LAKE MIGRATORY WATERFOWL REFUGE

NEVADA

By virtue of and pursuant to the authority vested in me as President of the United States and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands owned or controlled by the United States within the following-described areas and within the meander line of Ruby Lake, comprising approximately 37,540 acres, in Elko and White Pine Counties, Nevada, be, and they are hereby, reserved and set apart, subject to existing valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, That any private lands within the areas described shall become a part of the refuge hereby established upon the acquisition of title thereto or lease thereof by the United States:

MOUNT DIABLO MERIDIAN

T. 25 N., R. 57 E.,
secs. 1 and 2,
sec. 3, E½NE¼ and NE¼SE¼;
T. 26 N., R. 57 E.,
sec. 1, E½,
sec. 11, NE¼SE¼ and S½SE¼,
secs. 12 and 13,
sec. 14, lots 1, 2, 3, 4 and NW¼NE¼,
secs. 23 and 26, all,
sec. 27, E½SE¼,
sec. 34, lots 1, 2, 3 and SE¼SE¼,
sec. 35, all;
T. 27 N., R. 57 E.,
sec. 24, SE¼SE¼,
sec. 25, E½NE¼,
sec. 36, NE¼NE¼ and SE¼SE¼;
T. 25 N., R. 58 E.,
sec. 6, lots 1, 2, 3 and 4;
T. 26 N., R. 58 E.,
sec. 4, W½,
secs. 5, 6 and 8,
secs. 9 and 16, W½,
secs. 17 and 20,
secs. 21 and 28, W½,
secs. 29, 31 and 32,
sec. 33, W½;
T. 27 N., R. 58 E.,
sec. 2, lots 3, 4 and SW¼NW¼,
secs. 3 to 7, inclusive,
sec. 9, all,
sec. 10, NW¼NW¼, S½NW¼ and SW¼,
sec. 15, W½,
secs. 16, 18, 19 and 21,
secs. 22 and 27, W½,
secs. 28, 30, 31, 32 and 33;
T. 28 N., R. 58 E.,
sec. 20, E½NE¼ and lots 1 and 2,
secs. 21 and 22,
sec. 23, N½SW¼, lots 1, 2 and SE¼,
sec. 26, all,
sec. 29, lots 1, 2, 3 and 4,
sec. 31, W½SE¼,
sec. 32, lots 1, 2, 3 and 4,
secs. 34 and 35.

This reservation shall be known as the Ruby Lake Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 2, 1938.

[No. 7923]

[F. R. Doc. 38-1914; Filed, July 5, 1938; 3:10 p. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6908 OF NOVEMBER 21, 1934, WITHDRAWING PUBLIC LANDS

ALASKA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497 and Public Resolution No. 85, approved June 12, 1930, ch. 471, 46 Stat. 580, it is ordered as follows:

SECTION 1. Executive order No. 6908 of November 21, 1934, withdrawing land in Alaska pending legislation, is hereby revoked.

SECTION 2. Subject to valid existing rights, and pursuant to Public Resolution No. 85, approved June 12, 1930, ch. 471, 46 Stat. 580, the vacant, unreserved public lands in the areas released from such withdrawal shall be open to entry, under the homestead laws applicable to Alaska, by qualified ex-service men for whose service recognition is granted by the said resolution under the terms and conditions of the said resolution and the regulations issued pursuant thereto, for

CONTENTS

THE PRESIDENT

Executive Orders: Page
Alaska, land withdrawal revocation 1639
Nevada, establishing Ruby Lake Migratory Waterfowl Refuge 1639
Oklahoma, enlarging Salt Plains Wildlife Refuge 1640

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Federal Crop Insurance Corporation:
Wheat crop insurance regulations, amendment 1640
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Customs invoices of certain imported oils, etc 1640
TITLE 25—INDIANS:
Alaska, declarations of ownership of reindeer 1641
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Distilled spirits in bond, bottling regulations amended 1641
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department:
Taylors Bayou, Tex., use, etc., lock and dam, Beaumont Navigation District 1642
TITLE 43—PUBLIC LANDS:
General Land Office:
National forests, exchanges for consolidation or extension 1642
Utah, air navigation site withdrawal No. 73 enlarged 1642

NOTICES

Securities and Exchange Commission:
Columbia Gas & Electric Corp., declaration and payment of dividends 1646
Middle West Corp., amendment to order granting exemption 1646

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Securities and Exchange Commission—Continued.	
Staten Island Edison Corp., hearing	1646
Treasury Department:	
Office of the Secretary:	
Foreign moneys, values of	1645

a period of ninety-one days beginning with the sixty-third day from and after the date hereof, and thereafter the lands shall be subject to appropriation by the general public under any public-land law applicable thereto. Subsequent to the date hereof and prior to the date of restoration for general disposition as herein provided, no right may be acquired to such lands by settlement in advance of entry or otherwise, except strictly in accordance with the provisions of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 5, 1938.

[No. 7924]

[F. R. Doc. 38-1915; Filed, July 5, 1938; 3:10 p. m.]

EXECUTIVE ORDER

ENLARGING THE SALT PLAINS WILDLIFE REFUGE

OKLAHOMA

By virtue of and pursuant to the authority vested in me as President of the United States and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described public land, comprising 5.60 acres, more or less, in Alfalfa County, Oklahoma, be, and it is hereby, withdrawn from settlement, location, sale, or entry, and reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as an addition to the Salt Plains Wildlife Refuge, established by Executive Order No. 5314 of March 26, 1930:

INDIAN MERIDIAN

T. 26 N., R. 9 W., sec. 11 lot 5.

Executive Order No. 6964 of February 5, 1935, withdrawing for classification and other purposes all vacant, unreserved, and unappropriated public lands in Oklahoma and certain other states, is hereby revoked as to the above-described land.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 5, 1938.

[No. 7925]

[F. R. Doc. 38-1923; Filed, July 6, 1938; 11:01 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Series 1, No. 1]

AMENDMENT TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

Section 34 of the "Regulations Relating To Wheat Crop Insurance" adopted by the Board of Directors on April 26, 1938, and approved by the Secretary of Agriculture on April 28, 1938,[1] is hereby amended by adding thereto the following new subsection:

"(c) In any county where the data regarding yields of wheat for the period 1930–35 compiled in connection with wheat adjustment programs are not available for a representative sample of the farms in the county, the adjustment figure for the county will be determined so as to result in adjusted average yields for farms in the county which the Corporation determines will be fair and just."

Approved, June 18, 1938.

[SEAL] CECIL A. JOHNSON,
Acting Manager.

Approved, June 24, 1938.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1924; Filed, July 6, 1938; 12:35 p. m.]

[1] 3 F. R. 1015 DI.

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49640]

NOTICE OF ADDITIONAL FACTS REQUIRED TO BE INCLUDED ON CUSTOMS INVOICES OF CERTAIN IMPORTED OILS OR THE PRODUCTS OF SUCH OILS

JULY 2, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 481 (a) (10), Tariff Act of 1930 (U. S. C. title 19, sec. 1481 (a) (10)), and with reference to article 274 (e) (2), Customs Regulations of 1937, as amended by T. D. 49426, customs invoices of the oils or the products of such oils, upon which an import tax is imposed by section 601 (c) (8), Revenue Act of 1932, as amended by section 701, Revenue Act of 1936 (U. S. C., Sup. III, title 26, sec. 999 (a)), as further amended by section 702 (a), Revenue Act of 1938 (Public, No. 554, 75th Congress), are required to contain a statement of the identity of the taxable article, merchandise, or combination, the name of the oils or products from which each taxable ingredient present is derived, and the percentage by weight which each ingredient present in the imported article bears to the total weight of the article imported. This additional data is required in respect to the following articles:

Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine-animal oil, tallow, inedible animal oils, inedible animal fats, inedible animal greases, sesame oil provided for in paragraph 1732 of the Tariff Act of 1930, sunflower oil, rapeseed oil, kapok oil, hempseed oil, perilla oil, fatty acids derived from any of the foregoing or from linseed oil, salts of any of the foregoing, and fatty acids, and salts thereof, derived from coconut oil, palm oil, or palm-kernel oil, all of the foregoing, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed; any article, merchandise, or combination 10 per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified above.

The number of this Treasury decision should be noted as a marginal reference opposite article 274 (e) (2), Customs Regulations of 1937, as amended.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

[F. R. Doc. 38-1925; Filed, July 6, 1938; 12:43 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

DECLARATIONS OF OWNERSHIP OF REINDEER IN ALASKA

JUNE 11, 1938.

Memorandum to the Secretary:

In accordance with the provisions of Section 3 of the Act of September 1, 1937 (50 Stat. 900), which requires that all persons other than natives of Alaska who claim title to reindeer shall file with the duly authorized agent of the Secretary of the Interior declarations of their ownership within the time limits specified in the Act, there are transmitted herewith a suggested blank form listing information desired to be furnished in such declarations, together with a circular of instructions to reindeer owners, which provides that declarations of ownership shall be filed with the General Reindeer Supervisor at Nome, Alaska, as the duly authorized agent of the Secretary of the Interior, with whom all declarations of reindeer ownership required by the Act of September 1, 1937, must be filed within the time limits specified in the Act.

WILLIAM ZIMMERMAN, JR.
Assistant Commissioner.

JUNE 17, 1938.

The General Reindeer Supervisor at Nome, Alaska, is hereby designated as the duly authorized agent of the Secretary of the Interior, with whom all declarations of reindeer ownership required by the Act of September 1, 1937, must be filed within the time limits specified in the Act.

The attached instructions regarding the filing of declarations of ownership of reindeer in Alaska and the attached blank form for use in filing such declarations are hereby approved.[1]

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior

INSTRUCTIONS REGARDING FILING OF DECLARATION OF OWNERSHIP OF REINDEER IN ALASKA, AS REQUIRED BY THE ACT OF SEPTEMBER 1, 1937 [1]

JUNE 17, 1938.

1. Section 3 of the Act of September 1, 1937, reads as follows:

All persons, other than natives of Alaska, who upon the date of this enactment claim title to any Alaskan reindeer shall, within one year after the date of this enactment, file in Alaska, with the duly authorized agent or agents of the Secretary of the Interior, declarations of their ownership. Similar declarations concerning Alaskan reindeer acquired by any person not a native of Alaska by purchase or by gift at any time after the date of this enactment shall be filed as aforesaid within thirty days after the date of such acquisition. Records of all declarations thus filed shall be made and kept open to public inspection in Alaska. If any owner of Alaskan reindeer, to whom the foregoing provisions of this section are applicable, shall fail to file the required declaration within the stated period, he shall be barred thereafter from asserting his claim of title.

2. Section 15 of the Act defines "natives of Alaska" thus:

"• • • to mean the native Indians, Eskimos, and Aleuts of whole or part blood inhabiting Alaska at the time of the Treaty of Cession of Alaska to the United States and their descendants of whole or part blood, together with the Indians and Eskimos who, since the year 1867 and prior to the enactment hereof, have migrated into Alaska from the Dominion of Canada, and their descendants of the whole or part blood."

3. Pursuant to the provisions of Section 3 of the Act, declarations of ownership of reindeer in Alaska should be made by claimants upon the prescribed form attached. This form should be executed in quadruplicate. All four copies should be submitted in person or by mail to the General Reindeer Supervisor, Nome, Alaska, who has been designated as the duly authorized agent of the Secretary of the Interior pursuant to Section 3 of the afore-mentioned Act. Envelopes containing declarations of ownership of reindeer which are mailed to said agent must bear postmarks not later than midnight of September 1, 1938, in order to meet the requirements of the law. All declarations submitted in person by the owner, or his representative, must be filed with said agent at his office at Nome, Alaska, on or before five o'clock P. M., September 1, 1938.

4. Upon receipt of each person's declaration of ownership of reindeer in Alaska, the General Reindeer Supervisor shall sign the receipt thereof in the proper place in the form, and shall submit two copies of the declaration to the Commissioner of Indian Affairs, retain one copy in his record, and return one copy to the claimant. All declarations of ownership of reindeer in Alaska which are included in the records of the Office of the General Reindeer Supervisor shall be kept open to public inspection in Alaska in accordance with Section 3 of the said Act.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1920; Filed, July 6, 1938; 9:53 a. m.]

[1] The form was filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the General Reindeer Supervisor at Nome, Alaska.

[1] 50 Stat. 900.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

(T. D. 4823)

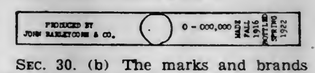
BOTTLING OF DISTILLED SPIRITS IN BOND

AMENDING REGULATIONS NO. 6

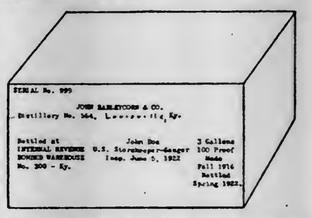
To District Supervisors and Others Concerned:

Sections 19, 30 (b) and 38, of Regulations No. 6, Bottling of Distilled Spirits in Bond, approved June 3, 1938,[1] are hereby amended to read as follows:

SEC. 19. *Overprinting of stamps.*—Bottled-in-bond stamps must be overprinted, such overprinting to be in the blank spaces provided therefor. At such time as the proprietor of the warehouse desires to have stamps overprinted and cut the storekeeper-gauger will deliver the stamps to him. One overprinting only will be permitted on any stamp and the printer will be approved by the supervisor. Overprinting will be done in red ink with not less than eight point type. The season when the spirits were made and the season when bottled will be placed in the blank space on the end of the stamp bearing the serial number, except in the case of stamps of "Less than ½ Pint" denomination, which do not have serial numbers, the season when made and the season when bottled will be placed on the right-hand end of the stamp. In the blank space on the other end of the stamp will be placed the name of the actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused. Overprinting of the stamp will be in the following form:



SEC. 30. (b) The marks and brands will be placed on the cases in the following manner and order:



SEC. 38. Stamping and casing distilled spirits.—All distilled spirits of each particular "dump" transferred to a bottling tank should be immediately drawn off into bottles of the desired size or sizes, as provided in section 14. Application should be made in duplicate on Form 1515 (part 1) to the storekeeper-gauger-in-charge of the warehouse for stamps sufficient to cover the quantity of spirits to be bottled. Stamps will be issued by the storekeeper-gauger to the proprietor in proper serial order, starting with the lowest serial number of the stamps of the denomination desired on hand at the time of issuance. The proprietors will not be required to affix stamps to containers in serial order. If after filling the cases there remain bottles less than the number necessary to constitute a full case, such bottles may be stamped

[1] 3 F. R. 1348 DI.

and placed in a container constructed in the same manner as the cases described in section 27 or section 28, which remnant is to be given the serial number of the last full case containing spirits in the same lot followed by the letter "R," thus: "100R," or "161R." Such remnant should be removed from the warehouse with the cases; appropriate entries to be made in the records. The stamps must be securely affixed to the bottles with the use of a good adhesive. The adhesive used must be in proper liquid condition, and care must be taken to cover the entire back of the stamp with the adhesive, and to press the whole surface of the stamp firmly against the surface of the bottle sufficiently long to cause the entire surface of the stamp to adhere securely to the bottle. The stamp must pass over the neck of the bottle, extending in equal distance on two sides of the bottle. No part of the stamp shall be concealed or obscured by any label or other covering, except that a cup may be placed over the opening of the bottle or the bottle may be placed in a carton as hereinafter provided. Seals made of cellulose or other material which is shrunk or otherwise fitted over the necks of the bottles to cover the stamps must be so completely transparent as to permit the stamps to be plainly seen and the printed matter thereon easily read. No cup or cap may be placed over the opening of a bottle and cover the stamp, unless such cup or cap is completely transparent or is so placed on the bottle that it may be readily removed at any time without injury to the stamp and the arrangement is such that the ends of the stamp will be plainly visible when the cap or cup is in place. Cartons or other coverings of bottles of distilled spirits are permitted, if so made that they may be opened and closed without being torn or broken. Sealed cartons or other coverings may not be used unless transparent or unless openings therein permit the entire stamp to be plainly seen and the printed matter thereon easily read. Upon completion of the bottling the storekeeper will enter the details thereof on part 2, of Form 1515, and will forward one copy of the form to the district supervisor and file one copy in his office.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 2, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1926; Filed, July 6, 1938; 12:43 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

TEMPORARY REGULATIONS GOVERNING USE, ADMINISTRATION, AND NAVIGATION OF LOCK AND DAM, BEAUMONT NAVIGATION DISTRICT, ACROSS TAYLORS BAYOU, TEXAS

THE LAW

[Here follows, in the original document, an excerpt from Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266), which may be found at 3 F. R. 1111 DI.]

THE REGULATIONS

In pursuance of the foregoing law, the following temporary regulations are hereby prescribed to govern the use, administration, and navigation of the Beaumont Navigation District lock and dam across Taylors Bayou, Texas, from June 25 to October 1, 1938, inclusive.

Pleasure boats, house boats and other craft not employed for commercial purposes, will be locked through only at 6:00 and 11:45 a. m. and 6:30 p. m., except in cases of emergency; but whenever a lockage is made for a commercial boat other craft may likewise pass through if there is room in the lock.

The lock tender or one in charge of the lock shall be the judge as to whether the boat presenting itself for lockage is a commercial or pleasure boat.

Approved, June 24, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-1921; Filed, July 6, 1938; 9:53 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

AIR NAVIGATION SITE WITHDRAWAL NO. 73, UTAH, ENLARGED

JUNE 2, 1938.

It appearing that the following-described public land in Utah is necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section four of the act of May 24, 1928, 45 Stat. 728, that such land be, and it is hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

SALT LAKE MERIDIAN

T. 1 S., R. 19 W., sec. 20, N½NE¼ and SE¼NE¼, 120 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1919; Filed, July 6, 1938; 9:53 a. m.]

[Circular No. 863 (b)]

EXCHANGES FOR THE CONSOLIDATION OR EXTENSION OF NATIONAL FORESTS

CONTENTS

1. Statutory authority.
2. Preliminary negotiations.
3. Approval of informal application.
4. Formal application.
5. Affidavits required.
6. Fees.
7. Publication and posting.
8. Action by register.
9. Deed of conveyance.
10. Evidence of title.
11. Application for timber.
12. Action by the General Land Office.
13. Practice and procedure.
14. Right reserved to reject applications.
15. Other forest exchanges.
16. Conveyed lands added to National Forests.

JUNE 17, 1938.

1. *Statutory authority.*—The act of March 20, 1922 (42 Stat. 465), provides that when the public interests will be benefited thereby, the Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States title to any lands within national forests which, in the opinion of the Secretary of Agriculture, are chiefly valuable for national forest purposes, and in exchange therefor may patent not to exceed an equal value of such national forest land, in the same State, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forests in the same State; the values in each case to be determined by the Secretary of Agriculture.

The act of March 20, 1922, was amended by the act of February 28, 1925 (43 Stat. 1090), by adding thereto section 2, which provides that either party to such an exchange may make reservations of timber, minerals, or easements, the values of which shall be duly considered in determining the values of the exchanged lands.

2. *Preliminary negotiations.*—All preliminary negotiations relating to an exchange under the act are to be conducted with the local representatives of the Forest Service, and any owner of land subject to exchange who desires to take advantage of the privilege conferred by this act must file with the local national forest officers an informal application describing the land to be conveyed as well as that to be selected, or if timber is desired in exchange the land on which such timber is located. The land must be specifically described according to Government subdivisions, and, as a rule, nothing less than a legal subdivision may be offered or selected, except where the applicant or the Government does not own the entire legal subdivision, or where a portion of a legal subdivision offered the Government is not valuable for national forest purposes, or where the United States desires to retain ownership of a portion or portions of a legal subdivision

selected by the applicant due to the fact that such tract or tracts are chiefly valuable for national forest purposes. The selected land or timber must be entirely within national forest boundaries and in the same State in which the offered lands are located. The applicant must show by affidavit or other evidence satisfactory to the Forest Service that he is the owner of the land to be conveyed, and that such land is equal in value to the land or timber selected.

3. *Approval of informal application.*—When a tentative agreement has been reached between the applicant and the local national forest officer the case will be submitted to the Regional Forester and if approved by him to the Chief, Forest Service, Washington, D. C., for consideration. If the Chief, Forest Service, finds the exchange to be in the public interests and that the selected land or timber does not exceed the offered land in value, he will request the Secretary of Agriculture to advise the Secretary of the Interior that the acceptance of the certain described lands offered under the act and the granting in lieu thereof of other certain described lands, or of stumpage upon other described lands, meets with the approval of the Department of Agriculture; that the offered lands are chiefly valuable for national forest purposes, and that the appraised value of the land or timber selected does not exceed that of the land offered in exchange. The Secretary of the Interior, upon receipt of such letter from the Secretary of Agriculture, unless he has reason to do otherwise, will approve the exchange, subject to the submission of acceptable title to the offered lands and to full compliance by the applicant with these regulations, and subject to any protests or other valid objections which may appear.

4. *Formal application.*—The General Land Office will notify the register of the district land office in whose district the land or timber to be selected is located of the approval of the exchange, and such register will in turn notify the person desiring to make such exchange of the approval thereof and that he is allowed 60 days from receipt of notice within which to file his formal application specifically describing the offered and selected lands, and in case timber is selected, the land on which the timber is located. The application must be accompanied by the necessary affidavits and fees.

Applications for exchange under this act, and the affidavits required by these regulations as to the offered and selected lands, should be in accordance with the appended form, or its substantial equivalent. Each application will be given a serial number and have the hour and date of filing stamped thereon. The register will note on his records against the land, "Selected under act of March 20, 1922 (42 Stat. 465), by ---------- (date ----------, serial No. ------, pending)"

5. *Affidavits required.*—An affidavit by the applicant that he or it is the owner of the land offered in exchange and that said land is not the basis of another selection or exchange must be filed. There must also be furnished an affidavit by the applicant or by some credible person possessed of the requisite personal knowledge, showing that the land selected is nonmineral in character; that it contains no salt springs or deposits of salt in any form sufficient to render it chiefly valuable therefor; that it is not in any manner occupied or claimed adversely to the selector.

Where the application is filed by an individual he will be required to show by affidavit that he is 21 years of age, and otherwise capable of carrying through the transaction.

These affidavits may be executed before any officer qualified to administer oaths.

Where the application is made by or in behalf of a corporation, a certified copy of the articles of incorporation must be furnished.

6. *Fees.*—Fees must be paid by the applicant at the rate of $2 for each 160 acres, or fraction thereof, of the base lands offered and conveyed to the Government.

7. *Publication and posting.*—Within 30 days from the filing of his formal application to select land or timber the applicant will begin publication of notice thereof, at his own expense, in some newspaper or newspapers designated by the General Land Office and having general circulation in the county or counties in which the land offered and the land or timber selected are situated. Such notice must be published once each week for four successive weeks during which time a similar notice of the application must be posted in the district land office. The notice should describe the land or timber applied for as well as the land offered in exchange and give the date of filing of the application and state that the purpose thereof is to allow all persons claiming the land selected or having bona fide objections to such application an opportunity to file their protests with the register of the land district in which the land selected is situated. Proof of publication shall consist of an affidavit of the publisher or of the foreman or other proper employee of the newspaper in which the notice was published, with a copy of the published notice attached. The register shall certify to the posting in his office. The dates of such publication and posting must in all cases be given.

8. *Action by register.*—If a protest is filed, all the papers should be transmitted to the General Land Office for consideration; but should no protest be filed against the allowance of the selection within 30 days from the date of the first publication of notice, and no objections appear on the records of the district land office, the register will notify the selector that he is allowed 60 days from receipt of notice within which to file the deed conveying the offered land to the Government, and abstract of title, as prescribed in paragraphs numbered 9, 10 and 11. The proof papers necessary to complete a selection should be filed at the same time. However, if additional time is necessary to complete the abstract, the same will be granted upon a proper showing. After the filing of the required deed of conveyance, abstract of title, and other proof, the register will certify the condition of the record on the application and will promptly transmit the original application and accompanying papers to the General Land Office by special letter.

9. *Deed of conveyance.*—The deed conveying the land offered as a basis of exchange must be executed and acknowledged in the same manner as a conveyance of real property is required to be executed and acknowledged by the laws of the State in which the land is situated. The deed should also be duly recorded. The deed should recite that the consideration for the conveyance to the United States of the land offered is the exchange therefor of not exceeding an equal value of certain other land, or of timber equal in value to the land conveyed, depending upon whether the exchange is one of land for land, or land for timber. The act or acts under which the exchange is made should be cited in the deed.

Such revenue stamps as are required by law must be affixed to the deed and canceled.

Where the conveyance is made by an individual it must show whether the person conveying is married or single, and if married, the wife or husband of such person, as the case may be, must join in the execution of the conveyance in such a manner as to effectually bar any right of curtesy or dower, or any claim whatsoever to the land conveyed, or it must be fully shown that under the laws of the State in which the conveyed land is situated such wife or husband has no interest whatsoever, present or prospective, which makes her or his joining in the conveyance necessary.

Where the conveyance is by a corporation, it should be recited in the instrument of transfer that it was executed pursuant to an order or by the direction of the board of directors or other governing body, a copy of which order or direction should accompany such instrument of transfer, and should bear the impression of the corporate seal.

10. *Evidence of title.*—Each conveyance must be accompanied by a duly authenticated abstract of title, showing that at the time the conveyance was recorded the title was in the party conveying, and that the land was free from conflicting record claims, tax liabilities, judgment or mortgage liens, pending suits or other encumbrances.

(a) *Authentication of abstract.*—The certificate of authentication of the abstract must be signed by the recorder of

deeds or other proper official, under his official seal, or, if it is preferred, the abstract may be authenticated by an abstracter or an abstract company, approved by the General Land Office, in accordance with section 42 of the Mining Regulations of April 11, 1922 (49 L. D. 15, 69). The certificate must show the title memoranda to be a full, true, and complete abstract of all matters of record or on file in the appropriate office or offices of the county or counties in which the offered land is located, including all conveyances, mortgages, or other encumbrances, judgments against the various grantors, mechanics' liens, lis pendens, or other instruments which are required by law to be filed with the recording officers affecting in any manner whatsoever the title to the described land.

(b) *Taxes.*—The authenticity of the tax records must be certified showing that all taxes levied or assessed against the land, or that could operate thereon as a lien, have been fully paid; or whether there is a tax lien although such tax is not assessed, due or payable; that there are no unredeemed tax sales and no tax deeds outstanding as shown by the records of the proper county office. In case taxes have been assessed or levied on lands conveyed to the United States and such taxes are not due and payable until some future date, the applicant, in addition to the certificate above required relative to taxes and tax assessments, may submit a sum equal to at least twice the amount of taxes paid on the land for the previous year or in lieu thereof furnish a bond in like amount with qualified corporate surety, in order to indemnify the United States against loss for the taxes assessed or levied but not yet due and payable.

(c) *Judgment liens, lis pendens, absence of.*—The absence of judgment liens or pending suits against the various grantors which might affect the title of the land conveyed must be shown by the official certificate of the clerks of the courts of record, whose judgments, under the laws of the United States or the State in which the land is situated, would be a lien on the land conveyed.

(d) *Title insurance.*—Title insurance issued by a company which is acceptable to the General Land Office may be furnished in lieu of an abstract of title and same accepted upon proof that the insuring company is solvent and properly qualified, provided the policy is free from conditions and stipulations unacceptable to the United States.

11. *Application for timber.*—If timber is desired in exchange for the land to be conveyed to the United States, proof that notice has been published and posted will be all the evidence necessary to be filed in regard to the timber, but all the proof required in connection with the land offered as a basis for the exchange must be filed.

12. *Action by the General Land Office.*—The application and accompanying proof will, upon receipt by the General Land Office, be examined at as early a date as practicable, and if found defective opportunity will be given the parties in interest to cure the defects, if possible. If the selection appears regular and in conformity with the law and these regulations, the selection will, in the absence of objections, if for land only, be formally approved for patent by letter to the district land office, but if timber is taken in exchange the Secretary of Agriculture will, upon advice of the Secretary of the Interior that the regulations have been fully complied with, issue proper permit or certificate for the cutting of the timber.

13. *Practice and procedure.*—Notice of additional or further requirements, rejections, or other adverse actions of Registers, the Commissioner or the Secretary, will be given and the right of appeal, review, or rehearing recognized in the manner now prescribed by the Rules of Practice, except as otherwise herein provided. A protest or other objection against the selection or the application to select, must be filed with the register to be forwarded to the General Land Office for consideration and disposal. If there is no district land office in the State in which the lands involved in an application for exchange are situated, the formal application for exchange and all papers required in connection therewith, as well as all protests or other objections against the application, should be filed in the General Land Office.

Application to enter filed subsequent to any conflicting application to select will be rejected, except where the subsequent application to enter is supported by allegations of prior right, in which event it will be transmitted to the General Land Office with appropriate recommendation. Applications presented under these regulations not in substantial conformity with the requirements herein made, not accompanied by the prescribed proof, or where land offered as basis of exchange or the land selected is not situated within the boundaries prescribed by existing laws will be rejected, subject to appeal or curing of the defect where possible.

14. *Right reserved to reject applications.*—Applications to select either land or timber under the provisions of the act will not defeat the right of the United States to withdraw or reserve the land for such purposes or uses as may be proper prior to the filing in the district land office of an application complete in all particulars.

15. *Other forest exchanges.*—Other acts providing for exchanges of lands in national forests will be found in a list appended hereto. Special regulations governing these acts have not been prepared, but exchanges thereunder must be made under the foregoing regulations, modified however to meet the limitations, conditions and provisions of the acts mentioned.

16. *Conveyed lands added to National Forests.*—All lands conveyed to the United States pursuant to these regulations shall, upon acceptance of title, become parts of the national forests within whose boundaries they are located.

These regulations supersede those approved March 20, 1925 (51 L. D. 69).

FRED W. JOHNSON,
Commissioner.

Approved, June 2, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

JUNE 17, 1938.

W. R. GREGG,
Acting Secretary of Agriculture.

THE FOLLOWING ACTS OF CONGRESS AUTHORIZE EXCHANGES WITHIN THE VARIOUS NATIONAL FORESTS

Date of Act and Forest

3–13–08 (35 Stat. 42), Crow Creek National Forest.
2–18–09 (35 Stat. 626), Calaveras Big Trees.
5–7–12 (37 Stat. 108), Calaveras Big Trees.
7–31–12 (37 Stat. 241), State of Michigan.
8–22–12 (37 Stat. 323), Pecos-Zuni.
4–16–14 (38 Stat. 345), Sierra-Stanislaus.
3–3–17 (39 Stat. 1122), National Forests in Montana.
6–5–20 (41 Stat. 986), Harney.
3–4–21 (41 Stat. 1366), Rainier.
12–20–21 (42 Stat. 350), Shoshone.
2–2–22 (42 Stat. 362), Deschutes.
3–20–22 (42 Stat. 465), All.
9–22–22 (42 Stat. 1018), State of Idaho.
9–22–22 (42 Stat. 1017), All.
9–22–22 (42 Stat. 1036), Wenatchee, Olympic, Snoqualmie.
2–14–23 (42 Stat. 1245), Lincoln (For regulations see Circular 888, approved April 9, 1923, 49 L. D. 529).
6–7–24 (43 Stat. 643), Forests in New Mexico.
1–12–25 (43 Stat. 739), Forests in New Mexico.
2–20–25 (43 Stat. 952), Plumas, Eldorado, Stanislaus, Shasta, Tahoe.
2–28–25 (43 Stat. 1079), Mt. Hood.
2–28–25 (43 Stat. 1090), All.
2–28–25 (43 Stat. 1074), Snoqualmie.
3–3–25 (43 Stat. 1215), All.
3–3–25 (43 Stat. 1117), Custer.
3–4–25 (43 Stat. 1279), Umatilla, Wallowa, Whitman.
3–4–25 (43 Stat. 1282), Whitman.
4–21–26 (44 Stat. 303), All Forests in New Mexico and Arizona.
5–26–26 (44 Stat. 655), Absaroka, Gallatin, Yellowstone Park.
6–15–26 (44 Stat. 746), National Forests in New Mexico.
2–15–27 (44 Stat. 1099), Black Hills and Harney.
3–2–27 (44 Stat. 1262), State of Oregon.
3–3–27 (44 Stat. 1378), Arapaho.
3–4–27 (44 Stat. 1412), Colville.
3–26–28 (45 Stat. 370), Manti.
4–10–28 (45 Stat. 415), Challis, Sawtooth.
4–16–28 (45 Stat. 431), Carson, Manzano, Santa Fe.
4–23–28 (45 Stat. 450), Crater.
5–17–28 (45 Stat. 598), Missoula.
1–30–29 (45 Stat. 1145), Montana.
2–7–29 (45 Stat. 1154), Lincoln (For regulations see Circular approved March 22, 1929, "K" 1327799).
5–14–30 (46 Stat. 278), Fremont.
2–25–32 (47 Stat. 55), Cache.
6–30–32 (47 Stat. 451), Siuslaw.
3–4–33 (47 Stat. 1563), Modoc.
3–4–33 (47 Stat. 1569), Gunnison.
4–30–34 (48 Stat. 649), St. Joe.
6–13–35 (49 Stat. 338), Siskiyou.
6–13–35 (49 Stat. 338), Willamette.
6–25–35 (49 Stat. 422), Lincoln.
8–2–35 (49 Stat. 508), Chelan.
6–19–36 (49 Stat. 1534), Umatilla and Whitman.
7–27–37 (50 Stat. 534), Rogue River.
8–12–37 (50 Stat. 622), Columbia.
8–21–37 (50 Stat. 739), Snoqualmie.

FORMAL APPLICATION AND AFFIDAVITS

Act of March 20, 1922 (42 Stat. 465)

Serial Number------
Receipt Number ------

---, of ---,
(Applicant) (Post Office)
a citizen of the United States, of the age of 21 years, or over ---, hereby applies to exchange under the act of March 20, 1922 (42 Stat. 465), ---, (amendatory acts, if any) the following described land situated in the --- National Forest.

(Reservations or exceptions to which the land is subject should be recited)
for (the following land) (timber from the following land)
(cross out item not applicable)

---
situated in the --- National Forest.

The undersigned, being first duly sworn according to law, deposes and says that --- is the applicant in the proposed exchange, is the owner of the above first described land, and that said land is not the basis of any other selection or exchange.

Subscribed and sworn to before me, this --- day of --- 19---.

(Official Designation)

(The following affidavit to be executed only when land is selected.)

The undersigned, whose post office address is ---, being duly sworn according to law, deposes and says that ---- is well acquainted with the character of the land selected in this exchange; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not to his knowledge any valuable mineral of any character whatsoever within the limits thereof; that the land contains no salt springs or deposits of salt in any form sufficient to render it chiefly valuable therefor; that said land is essentially nonmineral and nonsaline in character, and is not in any manner occupied or claimed adversely to the selector.

Subscribed and sworn to before me this --- day of --- 19---.

(Official Designation)

[F. R. Doc. 38–1918; Filed, July 6, 1938; 9:52 a. m.]

Notices

TREASURY DEPARTMENT.

Office of the Secretary.

[1938—Department Circular No. 1]

VALUES OF FOREIGN MONEYS

JULY 1, 1938.

Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning July 1, 1938, expressed in any such foreign monetary units: *Provided, however*, That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate, as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1922; Filed, July 6, 1938; 9:59 a. m.]

Values of Foreign Monetary Units (at Par as Regards Gold Units; Nongold Units Have No Fixed Par With Gold)

Country	Monetary unit	Value in terms of U. S. money	Remarks
Argentine Republic	Peso	$1.6335	Given valuation is of gold peso. Paper nominally convertible at 44% of face value. Conversion suspended Dec. 16, 1929.
Australia	Pound	8.2397	Control of gold stocks and exports authorized Dec. 17, 1929.
Belgium	Belga	.1695	By decree of Mar. 31, 1936. One belga equals 5 Belgian francs.
Bolivia	Boliviano	.6180	Conversion of notes into gold suspended Sept. 23, 1931.
Brazil	Milreis		Conversion of Stabilization-Office notes into gold suspended Nov. 22, 1930.
British Honduras	Dollar	1.6631	Conversion of notes suspended.
Bulgaria	Lev	.0122	Exchange control established Oct. 15, 1931.
Canada	Dollar	1.6931	Embargo on export of gold, Oct. 19, 1931; redemption of Dominion notes in gold suspended Apr. 10, 1933.
Chile	Peso	.2060	Given valuation is of gold peso. Gold pesos are received for conversion at the rate of 4 paper pesos for one gold peso. Conversion of notes suspended July 30, 1931.
China	Yuan		Silver standard abandoned by decree of Nov. 3, 1935; bank notes made legal tender under Currency Board control; exchange rate for British currency primarily fixed at about 1s. 2¼d., or about 29½¢ U. S., per yuan.
Hong Kong	Dollar		Treasury notes and notes of the three banks of issue made legal tender by silver nationalization ordinance of Dec. 5, 1935; exchange fund created to control exchange rate.
Colombia	Peso	1.6479	Obligation to sell gold suspended Sept. 24, 1931.
Costa Rica	Colon	.7879	Conversion of notes into gold suspended Sept. 18, 1914; exchange control established Jan. 16, 1932.
Cuba	Peso	1.0000	By law of May 25, 1934.
Czechoslovakia	Koruna	.0351	By decree of Oct. 9, 1936.
Denmark	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Dominican Republic	Dollar	1.6931	U. S. money is principal circulating medium.
Ecuador	Sucre	.3386	Conversion of notes into gold suspended Feb. 9, 1932.
Egypt	Pound (100 piasters)	8.3662	Conversion of notes into gold suspended Sept. 21, 1931.
Estonia	Kroon	.4537	Conversion of notes into gold suspended June 28, 1933.
Finland	Markka	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
France	Franc		Provisions of Monetary law of Oct. 1, 1936, providing for gold content of franc, superseded by decree of June 30, 1937, which stated that the gold content of the franc shall be fixed ultimately by a decree adopted by the Council of Ministers. Until issuance of such decree a stabilization fund shall regulate the relationship between the franc and foreign currencies.
Germany	Reichsmark	.4033	Exchange control established July 13, 1931.
Great Britain	Pound Sterling	8.2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Greece	Drachma	.0220	Conversion of notes into gold suspended Apr. 26, 1932.
Guatemala	Quetzal	1.6931	Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Honduras	Lempira	.8466	Gold exports prohibited Mar. 27, 1931; lempira circulates as equivalent of half of U. S. dollar.
Hungary	Pengö	.2961	Exchange control established July 17, 1931.
India [British]	Rupee	.6180	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Indo-China	Piaster		Piaster pegged to French franc at the rate of 1 piaster=10 French francs; conversion of notes into gold suspended Oct. 2, 1936.
Ireland	Pound	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Italy	Lira	.0526	New gold content of 46.77 milligrams of fine gold per lira established by monetary law of Oct. 5, 1936.
Japan	Yen	.8440	Embargo on gold exports Dec. 13, 1931.
Latvia	Lat		Currency pegged to sterling Sept. 28, 1936, at 2,522 lati=£100.
Liberia	Dollar	1.6931	British money is principal circulating medium.
Lithuania	Litas	.1693	Free export of gold suspended Oct. 1, 1935.
Mexico	Peso		Decree of Aug. 28, 1936, left the monetary unit, the peso, to be later defined by law.
Netherlands and colonies	Guilder (florin)	.6806	Suspension of convertibility of notes into gold and restrictions placed on free gold exports—Sept. 26, 1936.
Newfoundland	Dollar	1.6931	Newfoundland and Canadian notes legal tender.
New Zealand	Pound	8.2397	Conversion of notes into gold suspended and export of gold restricted, Aug. 5, 1914; exchange regulations December 1931.
Nicaragua	Cordoba	1.6933	Embargo on gold exports Nov. 13, 1931.
Norway	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.

Values of Foreign Monetary Units (at Par as Regards Gold Units; Nongold Units Have No Fixed Par With Gold)—Continued

Country	Monetary unit	Value in terms of U. S. money	Remarks
Panama	Balboa	1.6933	U. S. money is principal circulating medium.
Paraguay	Peso (Argentine)	1.6335	Paraguayan paper currency is used; exchange control established June 28, 1932.
Persia (Iran)	Rial	.0824	Obligation to pay out gold deferred Mar. 13, 1932; exchange control established Mar. 1, 1936.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932.
Philippine Islands	Peso	.5000	By act approved Mar. 16, 1935.
Poland	Zloty	.1899	Exchange control established Apr. 27, 1936.
Portugal	Escudo	.0749	Gold exchange standard suspended Dec. 31, 1931.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Salvador	Colon	.8466	Conversion of notes into gold suspended Oct. 7, 1931.
Siam	Baht (Tical)	.7491	Conversion of notes into gold suspended May 11, 1932.
Spain	Pesata	.3267	Exchange control established May 18, 1931.
Straits Settlement	Dollar	.9613	British pound sterling and Straits dollar and half dollar legal tender.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Switzerland	Franc		Order of Federal Council enacted Sept. 27, 1936, instructed the Swiss National Bank to maintain the gold parity of the franc at a value ranging between 190 and 215 milligrams of fine gold.
Turkey	Piaster	.0744	100 piasters equal to the Turkish £; conversion of notes into gold suspended 1916; exchange control established Feb. 26, 1930.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Republics	Chervonetz	8.7123	
Uruguay	Peso	.6583	Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931. New gold content of .858018 grams of pure gold per peso established by monetary law of Jan. 12, 1938.
Venezuela	Bolivar	.3267	Exchange control established Dec. 12, 1936.
Yugoslavia	Dinar	.0298	Exchange control established Oct. 7, 1931.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of July, A. D. 1938.

[File No. 46–77]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

AMENDMENT TO ORDER GRANTING EXEMPTION

The Middle West Corporation, a registered holding company, having heretofore applied, pursuant to Section 9 (c) (3) of the Public Utility Holding Company Act of 1935, for an order exempting from the provisions of Section 9 (a) the applicant's acquisition of not more than 10,000 shares of the $6.00 cumulative preferred stock of Central Illinois Public Service Company, one of its subsidiaries; the Commission having by its order of November 26, 1937, granted such exemption subject to certain conditions specified in such order, one of which was that such order should expire at the close of business on June 30, 1938;

The Middle West Corporation having now filed an application in the same proceeding to extend the life of such order until the close of business on October 30, 1938, and having represented that at the close of business on June 16, 1938, it had acquired 7,200 shares of said stock out of the 10,000 authorized to be acquired and that it believes that acquisitions under such order will be concluded by September 30, 1938;

It appearing to the Commission that said The Middle West Corporation has heretofore filed a separate application (File No. 46–97) for an order exempting from the provisions of Section 9 (a) the applicant's acquisition of not more than an additional 20,000 shares of said preferred stock, which application has not yet been acted upon by the Commission:

It is ordered, That said order of the Commission dated November 26, 1937, be, and the same hereby is, amended by striking from paragraph (3) of the conditions to the order the words "June 30, 1938" and substituting in lieu thereof the words "on or after the date the Commission issues its order upon the application of The Middle West Corporation (File No. 46–97), the Commission reserving jurisdiction to further extend the life of the original order in these proceedings, if it be then so advised, and to attach such additional terms and conditions to such amendatory or supplemental order or orders as the Commission may prescribe":

It is further ordered, That in all other respects the conditions to said order shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1917; Filed, July 5, 1938; 3:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of July, A. D. 1938.

[File No. 51–12]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION

ORDER REGARDING DECLARATION AND PAYMENT OF DIVIDENDS

Columbia Gas & Electric Corporation, a registered holding company, having filed a supplemental application, pursuant to Section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule 12C–2 promulgated thereunder, regarding the declaration and payment of its regular August 15, 1938 quarterly dividends on its Cumulative 6% Preferred Stock, Series A, its Cumulative Preferred Stock, 5% Series, and its 5% Cumulative Preference Stock;

A hearing having been held on such supplemental application after appropriate notice,[1] and the Commission having considered the record in this matter and having made and filed its opinion and findings herein:

It is ordered, That the declaration and payment of said dividends be and the same hereby are approved, upon condition, however, that said declaration and payment shall be out of earnings since December 31, 1937 insofar as such earnings shall be available and that to the extent that the August 15 dividend requirements may exceed 1938 earnings and to the extent that applicant may be required to charge any deficiency to "Surplus at December 31, 1937", applicant shall restore to said surplus account an equivalent amount out of its next available 1938 earnings.

It is further ordered, That the reservation of jurisdiction contained in the Commission's order of April 8, 1938, insofar as it concerns the declaration and payment of the November 15, 1938 preferred and preference dividends, remains in full force and effect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1916; Filed, July 5, 1938; 3:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of July, A. D. 1938.

[File No. 43–133]

IN THE MATTER OF STATEN ISLAND EDISON CORPORATION

NOTICE OF AND ORDER FOR HEARING

A Declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 13, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 12, 1938.

The matter concerned herewith is in regard to a Declaration filed by the above-named party, a subsidiary of New York State Electric and Gas Corporation, in turn a subsidiary of NY PA NJ Utilities Company, a registered holding company, concerning the issue and sale of Refunding and Improvement Mortgage 4% Bonds, due July 1, 1939, in the principal amount of $2,000,000; said bonds to be secured by an Indenture of Mortgage dated July 1, 1923 as supplemented and/or amended by certain supplemental indentures, including a supplemental indenture dated as of July 15, 1938; the proceeds of such bonds to be used for the purpose of refunding the presently outstanding principal amount of $2,000,000 of Refunding and Improvement Mortgage 4% Bonds, originally due August 15, 1937 and extended to July 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–1927; Filed, July 6, 1938; 12:50 p. m.]

[1] 3 F. R. 678, 1354 (DI).

Reference

JUL 11 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES 1934

FEDERAL REGISTER

VOLUME 3 NUMBER 132

Washington, Friday, July 8, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF FAIR AND REASONABLE WAGES FOR PERSONS EMPLOYED IN PRODUCTION, CULTIVATION, OR HARVESTING OF SUGARCANE IN HAWAII DURING PERIOD SEPTEMBER 1, 1937 TO DECEMBER 31, 1937

(Revised)

Whereas Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment

and

Whereas Section 301 (e) of the said Act provides, in part, as follows:

The conditions provided in • • • subsection (b) with respect to wage rates, of this section shall not apply to work performed prior to the enactment of this Act; • • •

and

Whereas the Secretary of Agriculture, on November 29, 1937,[1] held a public hearing in Honolulu, Hawaii, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in Hawaii during the period September 1, 1937, to December 31, 1937:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine that the requirements of Section 301 (b) of the Sugar Act of 1937 shall be deemed to have been met with respect to the production, cultivation or harvesting of sugarcane on the farm in the Territory of Hawaii, during the period from September 1, 1937, to December 31, 1937, if all persons employed for such work on the farm during that period shall, in addition to receiving the customary perquisites furnished by the producer, have been paid in full for all such work at not less than the rates agreed upon, including the turnout and sugar price bonus earned (such rates in the case of long term cultivation or irrigation agreements in effect, or entered into during the period from September 1, 1937, to December 31, 1937, to be the amounts due and payable under such agreements in said period for such work), plus a per centum of such rates to be paid to all such persons who were not paid monthly salaries of $100 or more, as specified below:

For farms for which the average daily wage paid in 1937 was—[1]	*The applicable percentum by which the agreed upon rates are to be increased shall be—*
$1.916 or less	20
From $1.917 through $1.932	19
From $1.933 through $1.948	18
From $1.949 through $1.965	17
From $1.966 through $1.982	16
From $1.983 through $1.999	15
From $2.000 through $2.017	14
From $2.018 through $2.035	13
From $2.036 through $2.053	12
From $2.054 through $2.072	11

[1] In rounding numbers to the third decimal digit: A digit less than 5 is discarded; a digit greater than 5 adds 1 to the next digit to the left. An even 5 is dropped, and the digit next to the left, if even, is unchanged; if odd, is raised.

[1] 3 F. R. 576 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Hawaii, wages for persons employed in production, etc., sugarcane, September 1, 1937 to December 31, 1937 ---- 1649
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax regulations amended ---- 1652
Miscellaneous excise tax regulations amended ---- 1651
Stamp tax regulations amended ---- 1650
TITLE 43—PUBLIC LANDS:
General Land Office:
Alaska, survey and disposal of Indian possessions in trustee towns, etc ---- 1653

NOTICES

Federal Power Commission:
Holston River Electric Co., hearing ---- 1654
New Jersey Power & Light Co., and Jersey Central Power & Light Co., investigation and hearing ---- 1654
Securities and Exchange Commission:
Canon, F. T., & Co., Inc., order revoking registration ---- 1654
Hecker Products Corp., order granting application ---- 1655
Lawrence Gas and Electric Co., new trial examiner designated ---- 1655
Treasury Department:
Bureau of Customs:
Niagara Falls Municipal Airport, N. Y., designated airport of entry ---- 1654

FEDERAL REGISTER

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For farms for which the average daily wage paid in 1937 was—Continued	*The applicable percentum by which the agreed upon rates are to be increased shall be*—
From $2.073 through $2.091	10
From $2.092 through $2.110	9
From $2.111 through $2.130	8
From $2.131 through $2.150	7
From $2.151 through $2.170	6
$2.171 or more	5

For the purpose of computing the increased amounts to be paid for work performed under long term cultivation or irrigation agreements, the applicable per centum shall be applied to a rate of not less than $2.20 in the case of adult males and not less than $1.65 in the case of females and non-adult males, for each day (computed on the basis of eight hours per day, as herein provided) worked thereunder by them during the period from September 1, 1937, to December 31, 1937.

The average daily wage paid in 1937 shall be calculated by taking the average wage paid for an eight-hour working day (including the total turn-out and sugar price bonus applicable to each month of the calendar year 1937) to adult unskilled male laborers employed in the production, cultivation or harvesting of sugarcane during the calendar year 1937 (including such laborers employed by adherent planters in the cutting of sugarcane on the farm during the calendar year 1937). Such average shall be determined by computing the wages paid to those employed in planting, fertilizing, irrigating, cutting, loading, hauling or fluming, cultivating (short term), mechanical harvesting of sugarcane, laying or removing portable track or flumes, those employed under long term cultivation or irrigation agreements and those employed as minimum rate field hands. In such average, the earnings of adult unskilled male laborers who are employed under long term cultivation or irrigation agreements shall be computed at the rate of $2.20 for an eight-hour working day, by applying such rate of earnings to the number of days worked thereunder during the calendar year 1937.

In those cases where the hourly time is kept, the eight-hour working day shall be computed by dividing the total number of men hours worked in 1937 by eight. In those cases where the hourly time is not kept, any day during which work was performed, as aforesaid, by adult unskilled male laborers shall be deemed to be an eight-hour working day.

This determination supersedes the "Determination of Fair and Reasonable Wages for Persons Employed in the Production, Cultivation, or Harvesting of Sugarcane in Hawaii, during the period September 1, 1937 to December 31, 1937. Pursuant to the Sugar Act of 1937", issued April 1, 1938.[1]

Done at Washington, D. C., this 7th day of July, 1938. Witness my hand and the Seal of The Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-1933; Filed, July 7, 1938; 12:36 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4824]

STAMP TAX REGULATIONS AMENDED

REGULATIONS 71, ARTICLES 2, 35, AND 41, AMENDED

To Collectors of Internal Revenue and Others Concerned:

In conformity with the provisions of sections 701 (j) and 711 of the Revenue Act of 1938, Regulations 71, approved July 16, 1932, as amended, are further amended as follows:

Article 2, as amended by Treasury Decision 4752,[2] is further amended to read as follows:

"ART. 2. *Effective period.*—The stamp tax provisions of the Revenue Act of 1926, as amended by the Revenue Act of 1928, are still in full force and effect, except as amended by the Revenue Acts of 1932 and 1934, the Act of June 29, 1936, and the Revenue Act of 1938. The amendments made by the Revenue Act of 1932 are effective on and after June 21, 1932. The amendment made by the Revenue Act of 1934 is effective on and after May 11, 1934. The amendment made by the Act of June 29, 1936, is effective on and after that date. The rates of tax, as well as the additional taxes, imposed by the amendments made by the Revenue Acts of 1932 and 1934 to Schedule A of Title VIII of the Revenue Act of 1926, as amended by the Revenue Act of 1928, are effective only to and including June 30, 1939. The amendments made by section 711 of the Revenue Act of 1938 are effective on and after July 1, 1938. The repeal by section 701 (j) of the Revenue Act of 1938 of the tax imposed by Schedule A–4 of Title VIII of the Revenue Act of 1926, as amended, on sales of produce for future delivery is effective as of July 1, 1938."

Immediately after the quotation of section 723 (c) of the Revenue Act of 1932, as amended, which precedes article 31, the following subtitle and quotation of section 711 (a) and (c) of the Revenue Act of 1938 are inserted:

Section 711 (a) and (c) of the Revenue Act of 1938

(a) Subdivision 3 of Schedule A of Title VIII of the Revenue Act of 1926, as amended, is amended by inserting at the end thereof the following new paragraphs:

"The tax shall not be imposed upon deliveries or transfers of shares or certificates—

"(1) From the owner to a custodian if under a written agreement between the parties the shares or certificates are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

"(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

"No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

"Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than six months, or both."

* * * * *

(c) The amendments made by this section shall be effective with respect to transfers or deliveries made after June 30, 1938.

Article 35, as amended by Treasury Decision 4806,[1] is further amended by adding the following new subparagraph at the end thereof:

"(v) (1) The delivery or transfer after June 30, 1938, of shares or certificates from the owner thereof to a custodian, if under a written agreement between the owner and the custodian, the shares or certificates so delivered or transferred are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; also from such custodian to such owner. No exemption shall be granted in either case unless the delivery or transfer is accompanied by a certificate setting forth the following:

(1) Name and address of owner,

(2) Name and address of custodian,

(3) Name of issuing corporation and class and number of shares,

(4) Date of the delivery or transfer,

(5) Date of the written custodian agreement, and

(6) A statement that the agreement requires the custodian to hold the shares or certificates for the owner and subject to his instructions.

"(2) The delivery or transfer after June 30, 1938, from such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if the shares or certificates continue to be held by the nominee for the same purpose for which they would be held if retained by such custodian; also from such nominee to such custodian. No exemption shall be granted unless the nominee is registered in the manner provided for the registration of persons conducting a stock brokerage business as specified in subparagraph (h) added to article 126 by Treasury Decision 4701,[1] and the delivery or transfer is accompanied by a certificate setting forth the facts.

"(3) The custodian contemplated by this subparagraph (v) is a mere custodian and does not include a trustee. A mere custodian is a person to whom there are delivered or transferred shares or certificates of stock to be held or disposed of by the custodian for, and subject at all times to the instructions of, the owner and not otherwise."

Immediately after the quotation of section 726 (c) of the Revenue Act of 1932, as amended, which precedes article 41, the following subtitle and quotation of section 701 (j) of the Revenue Act of 1938 are inserted:

Section 701 (j) of the Revenue Act of 1938

(j) *Sales of produce for future delivery.*—The tax imposed by subdivision 4 of Schedule A of Title VIII of the Revenue Act of 1926, as amended, shall not apply to sales, agreements of sale, or agreements to sell made after June 30, 1938. Effective July 1, 1938, section 726 (c) of the Revenue Act of 1932, as amended, is repealed.

Article 41 is amended by adding the following new paragraph at the end thereof:

"By virtue of the provisions of section 701 (j) of the Revenue Act of 1938, the stamp tax on sales of products or merchandise for future delivery does not apply to sales made on and after July 1, 1938. Accordingly, the provisions of these regulations relative to such tax do not apply to transactions which take place after June 30, 1938. However, such provisions remain in full force and effect with respect to transactions occurring prior to July 1, 1938."

Immediately after the quotation of section 724 (c) of the Revenue Act of 1932, as amended, which precedes article 119, the following subtitle and quotation of section 711 (b) and (c) of the Revenue Act of 1938 are inserted:

Section 711 (b) and (c) of the Revenue Act of 1938

(b) Subdivision 9 of Schedule A of Title VIII of the Revenue Act of 1926, as amended, is amended by inserting at the end thereof the following new paragraphs:

"The tax shall not be imposed upon deliveries or transfers of instruments—

"(1) From the owner to a custodian if under a written agreement between the parties the instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

"(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

"No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

"Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than six months, or both."

(c) The amendments made by this section shall be effective with respect to transfers or deliveries made after June 30, 1938.

This Treasury decision shall be effective as of July 1, 1938.

This Treasury decision is issued under the authority prescribed in section 1101 of the Revenue Act of 1926.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 5, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1931; Filed, July 7, 1938; 11:59 a. m.]

[T. D. 4825]

MISCELLANEOUS EXCISE TAX REGULATIONS AMENDED

ARTICLES 18, 20, AND 43, REGULATIONS 42, RELATING TO THE TAX ON TELEGRAPH, TELEPHONE, RADIO, AND CABLE FACILITIES, AND THE TAX ON ELECTRICAL ENERGY, AMENDED

To Collectors of Internal Revenue and Others Concerned:

In conformity with the provisions of sections 708 and 713 of the Revenue Act of 1938, Regulations 42, approved October 22, 1932, as amended by Treasury Decision 4393, approved September 20, 1933, are further amended as follows:

Immediately after the quotation of section 701 (b) of the Revenue Act of 1932 which precedes article 18 the following subtitle and quotation of section 708 of the Revenue Act of 1938 are inserted:

Section 708 of the Revenue Act of 1938

(a) Section 701 (b) of the Revenue Act of 1932 is amended to read as follows:

"(b) No tax shall be imposed under this section upon any payment received for services or facilities furnished to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia, nor upon any payment received from any person for services or facilities utilized in the collection of news for the public press or radio broadcasting, or in the dissemination of news through the public press or by means of radio broadcasting, if the charge for such services or facilities is billed in writing to such person. The right to exemption under this subsection shall be evidenced in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe."

(b) The amendment made by subsection (a) of this section shall apply to the utilization after June 30, 1938, of services or facilities.

The first paragraph of article 18 is amended to read as follows:

"The exemptions authorized in section 701 (b), prior to its amendment by section 708 of the Revenue Act of 1938, are twofold in their scope, one being with reference to payments for services or facilities furnished 'to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia' and the other being with reference to payments received for services or facilities 'utilized in the collection of news for the public press or in the dissemination of news through the public press, if the charge for such services or facilities is billed in writing to such person'. Section 701 (b), as amended by section 708 of the Revenue Act of 1938, also exempts payments received for services or facilities utilized on or after July 1, 1938, 'in the collection of news for radio broadcasting or in the dissemination of news by means of radio broadcasting if the charge for such services or facilities is billed in writing to such person'."

Article 20 is amended to read as follows:

"ART. 20. *Public press and news radio broadcasting agencies.*—The tax does not apply to an amount paid solely for any of the services or facilities specified in section 701 (a) (1) or (2) which are utilized in connection with the collection of news for the public press or in the dissemination of news through the public press, provided such amount is billed in writing to the person paying for the services or facilities. On and after July 1, 1938, the tax does not apply, also, to amounts paid solely for any of the services or facilities specified in section 701 (a) (1) or 701 (a) (2) which are utilized on and after such date in the collection

[1] 3 F. R. 808 DI.
[2] 2 F. R. 1284 (1537 DI).
[1] 3 F. R. 1330 DI.
[1] 1 F. R. 1642.

of news for radio broadcasting, or in the dissemination of news by means of radio broadcasting, provided the charge for such services is billed in writing to the person paying for the services.

"The exemption does not apply generally to all services or facilities furnished persons or agencies engaged in collecting and disseminating news through the public press or by means of radio broadcasting, but only to such dispatches, messages, conversations, leased wires, or talking circuit special services which deal with the collection and dissemination of news through the public press or by means of radio broadcasting. Carriers transmitting strictly news in connection with the collection and dissemination of such items through the public press or by means of radio broadcasting, will not be required to collect the tax on the charges therefor if a bill is rendered in writing and such charges are paid by a person or organization known to the carrier as being engaged in the business of collecting news or disseminating news through the public press or by means of radio broadcasting, and such person or organization certifies in writing that the services or facilities are so utilized.

"The exemption from tax authorized with respect to any payment received for services or facilities of this character applies only to amounts charged to newspapers, press associations, or news radio broadcasting agencies for messages from one newspaper, press association, or news radio broadcasting agency to another newspaper, press association, or news radio broadcasting agency, or to or from their bona fide correspondents which deal exclusively with the collection of news items for the public press or radio broadcasting or with the dissemination of news items through the public press or by means of radio broadcasting. The exemption does not extend to the collection and dissemination of information or items for publication in magazines, periodicals and trade and scientific publications published for information on certain subjects of interest to certain groups."

Immediately after the quotation of section 616 (c) of the Revenue Act of 1932, as amended by section 6 (a) of the Act of Congress approved June 16, 1933 (Public No. 73—73d Congress), which precedes article 43 as amended by Treasury Decision 4393, the following subtitle and quotation of section 713 of the Revenue Act of 1938 are inserted:

Section 713 of the Revenue Act of 1938

(a) Section 616 (c) of the Revenue Act of 1932, as amended, is further amended by inserting after the word 'plants' in the second sentence thereof a comma and the following words: 'or to electric and power plants or systems owned and operated by cooperative or nonprofit corporations engaged in rural electrification'.

(b) The amendment made by subsection (a) shall apply only to electric energy sold on or after July 1, 1938.

Article 43, as amended, is further amended by adding the following new paragraph at the end thereof:

"On and after July 1, 1938, sales of electrical energy by electric and power plants or systems owned and operated by cooperative or nonprofit corporations engaged in rural electrification, are exempt from tax."

This Treasury decision shall be effective as of July 1, 1938.

This Treasury decision is issued under authority prescribed in section 628 of the Revenue Act of 1932.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 5, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1937; Filed, July 7, 1938; 12:46 p. m.]

[T. D. 4826]

INCOME TAX

INCOME FROM SALE OF PERSONAL PROPERTY DERIVED FROM SOURCES PARTLY WITHIN AND PARTLY WITHOUT THE UNITED STATES

To Collectors of Internal Revenue and Others Concerned:

1. In order to accord with section 812 of Title V of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), Regulations 94, 86, 77, 74, and 69 are amended as follows:

(a) The following is inserted immediately proceeding: article 119–1, Regulations 94[1] and 86; article 671, Regulations 77 and 74; and article 311, Regulations 69, relating to income from sources within the United States:

"Section 812 of the Revenue Act of 1938, relating to retroactive exclusion of gain from purchase of personal property within the United States and sale within a possession of the United States, provides:

"'*Sec. 812. Retroactive exclusion of gain from purchase of personal property within the United States and sale within possession.*

"'Section 119 (e) of the Revenue Act of 1936, of the Revenue Act of 1932, and of the Revenue Act of 1928, and section 217 (e) of the Revenue Act of 1926, are amended by striking out of the last sentence "purchase of personal property within the United States and its sale within a possession of the United States or from the." The amendments made by this section to the respective Acts amended shall be effective as to each of such Acts as of the date of enactment of such Act.'"

[1] 1 F. R. 1896.

(b) The following sentence is substituted for the first sentence of article 119–8 of Regulations 94 and 86, the first sentence of article 678 of Regulations 77 and 74, and the first sentence of article 324 of Regulations 69:

"Income derived from the purchase and sale of personal property shall be treated as derived entirely from the country in which sold, except that income derived from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within and partly from sources without the United States."

(c) Article 119–8 of Regulations 94 and 86, article 678 of Regulations 77 and 74, and article 324 of Regulations 69 are further amended by adding after the first sentence thereof the following:

"A possession of the United States constitutes a 'country', within the meaning of this article, separate and distinct from the United States. Hence income derived from the purchase of personal property within the United States and its sale within a possession of the United States shall be treated as derived entirely from within a possession of the United States.

(d) The following is substituted for the paragraph under subdivision "B" entitled "Personal property purchased and sold" and the subparagraph thereof entitled "Case I B" of article 119–12 of Regulations 94 and 86, of article 682 of Regulations 77 and 74, and of article 328 of Regulations 69:

"*Personal property purchased and sold.*—Gross income derived from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within the United States and partly from sources within a possession of the United States under one of the following cases:

"Case I B. The net income shall first be computed by deducting from such gross income the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The amount of net income so determined shall be apportioned in accordance with the total business of the taxpayer within the United States and within the possession of the United States, the portion attributable to sources within the United States being that percentage of such net income which the amount of the taxpayer's business for the taxable year or period within the United States bears to the amount of the taxpayer's business for the taxable year or period both within the United States and within the possession of the United States. The 'business of the taxpayer' as that term is used in this paragraph shall be measured by the amounts which the taxpayer paid out during the taxable year or period for wages, salaries, and other compensation of employees and for the purchase of goods, materials, and supplies sold or consumed in the regular course of business, plus the amount received during the taxable year or period from gross sales, such expenses, purchases, and gross sales being limited to those attributable to the purchase of personal property within a possession of the United States and its sale within the United States."

2. This Treasury Decision is issued under the authority of section 62 of the Revenue Acts of 1936, 1934, 1932 and 1928, and section 1101 of the Revenue Act of 1926.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 5, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38–1938; Filed, July 7, 1938; 12:46 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1082a]

SURVEY AND DISPOSAL OF INDIAN POSSESSIONS IN TRUSTEE TOWNS AND SURVEY AND DISPOSAL OF NATIVE TOWNS, IN ALASKA

1. *Statutory authority.*—The act of May 25, 1926 (44 Stat. 629), provides for the town-site survey and disposition of public lands set apart or reserved for the benefit of Indian or Eskimo occupants in trustee town sites in Alaska and for the survey and disposal of the lands occupied as native towns or villages.

2. *Administration of Indian possessions in trustee towns.*—As to Indian possessions in trustee town sites in Alaska established under authority of section 11 of the act of March 3, 1891 (26 Stat. 1095), and for which the town-site trustee has closed his accounts and been discharged as trustee, and as to such possessions in other trustee town sites in Alaska, such person as may be designated by the Secretary of the Interior will perform all necessary acts and administer the necessary trusts in connection with the act of May 25, 1926.

3. *Survey and disposal of Indian or Eskimo possessions.*—Where the matter of surveying and disposing of Indian or Eskimo possessions in trustee town sites is taken up for consideration, the town-site trustee will submit a report to the Commissioner of the General Land Office showing whether or not it would be of interest to the Indian or Eskimo occupants of the land to extend the established streets and alleys of the town site upon and across the tract, and whether or not subdivisional surveys should be made. The report will be examined and considered by the Commissioner of the General Land Office, and will be referred to the Commissioner of Indian Affairs for consideration before transmittal to the Secretary with appropriate recommendations.

Before directing the survey and disposal of such Indian or Eskimo possessions under authority of the act of May 25, 1926, the Secretary of the Interior will determine whether or not the patent which issued for the town-site tract includes the tract designated as "Indian possessions". If it does not, a supplement patent will be issued, to accompany the departmental order for survey and disposal.

4. *Sale of land for which restricted deed has issued.*—If the parties to a proposed sale involving land for which a restricted deed has been issued under authority of the act of May 25, 1926, wish to have the sale approved by the Secretary of the Interior, the fact should first be submitted to the town-site trustee. Upon receiving information regarding any proposed sale, the trustee will make such investigation as he deems proper, and he will submit a report to the Commissioner of the General Land Office as to the advisability of approving the proposed sale. The report will be examined by the Commissioner of the General Land Office and will be referred to the Commissioner of Indian Affairs for consideration before transmittal to the Secretary of the Interior with appropriate recommendation.

5. *Administration of native towns.*—The trustee for any and all native towns in Alaska which may be established and surveyed under authority of section 3 of the said act of May 25, 1926, will take such action as may be necessary to accomplish the objects sought to be accomplished by that section. In any case in which he thinks it would be of advantage to the Indian or Eskimo occupants to have the lands occupied and claimed by them surveyed as town or village, he should bring the matter to the attention of the Commissioner of the General Land Office with appropriate recommendation.

6. *No payment, publication or proof required on entry for native towns.*—In connection with the entry of lands as a native town or village under section 3 of the said act of May 25, 1926, no payment need be made as purchase money or as fees, and the publication and proof which are ordinarily required in connection with trustee town sites will not be required.

7. *Provisions to be inserted in restricted deeds.*—The town-site trustee will note a proper reference to the act of May 25, 1926, on each deed which is issued under authority of that act and each such deed should provide that the title conveyed is inalienable except upon approval of the Secretary of the Interior, and that the issuance of the restricted deed does not subject the tract to taxation, to levy and sale in satisfaction of the debts, contracts, or liabilities of the transferee, or to any claims of adverse occupancy or law of prescription; also, if the established streets and alleys of the town site have been extended upon and across the tract, that there is reserved to the town site the area covered by such streets and alleys as extended. The deed should further provide that the approval by the Secretary of the Interior of a sale by the Indian or Eskimo transferee shall vest in the purchaser a complete and unrestricted title from the date of such approval.

8. *Unrestricted deeds not to be issued.*—The trustee shall not issue other than restricted deeds to Indians or other Alaskan natives.

9. *Native towns occupied partly by white occupants.*—Native towns which are occupied partly by white lot occupants will be surveyed and disposed of under the provisions of both the act of March 3, 1891 (26 Stat. 1095, 1099), and the act of May 25, 1926 (44 Stat. 629).

In each case of this kind the town site trustee will report the facts to the Commissioner of the General Land Office, showing the name and location of the town, the number of Indian or Eskimo lot occupants and the number of white lot occupants, the amount of land used or claimed by each and the approximate periods for which it has been used or claimed, the value of the improvements on the lands and by whom owned, and such other facts as he may deem appropriate.

Upon receipt of such report special instructions will be issued as to the procedure which should be followed with respect to the survey, entry, and disposal of the lands, assessment of costs, etc.

10. *Forms.*—The following forms have been issued for use in connection with the regulations under the act of May 25, 1926: (a) Application for deed by native Indian or Eskimo of Alaska, Form 4–231; (b) trustee's deed to native Indian or Eskimo of Alaska, Form 4–232; and (c) deed of native Indian or Eskimo of Alaska, Form 4–232a.

11. *Regulations superseded and amended.*—These regulations supersede the regulations contained in Circular 1082 and amend the regulations contained in Circular 491 in so far as they refer to the subject matter herein.

12. *Regulations revoked.*—Paragraph 8 of the regulations concerning town sites in Alaska entered by trustees under the act of March 3, 1891 (26 Stat. 1095) page 103, Circular 491, dated February 24, 1928, is hereby revoked. The section so revoked reads as follows:

"Indian or native Alaskan occupants who have secured certificates of citizenship under the Territorial laws of Alaska shall be treated in all respects like white

citizen occupants; but all land occupied by other Indians or Alaskan natives shall not be assessed by the trustee."

Very respectfully,

FRED W. JOHNSON,
Commissioner.

I concur: June 17, 1938.

WILLIAM ZIMMERMAN, JR.
Assistant Commissioner of Indian Affairs.

Approved, June 21, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1930; Filed, July 7, 1938; 9:55 a. m.]

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49647]

NIAGARA FALLS MUNICIPAL AIRPORT, NIAGARA FALLS, NEW YORK, DESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

JULY 2, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Niagara Falls Municipal Airport, Niagara Falls, New York, is hereby designated as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from the date of this order.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1932; Filed, July 7, 1938; 11:59 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5518]

IN THE MATTER OF NEW JERSEY POWER & LIGHT COMPANY AND JERSEY CENTRAL POWER & LIGHT COMPANY

ORDER INSTITUTING INVESTIGATION AND SETTING DATE OF HEARING

JULY 5, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

It appearing to the Commission that:

(1) By order to show cause in the above matter adopted June 7, 1938, New Jersey Power & Light Company (hereinafter referred to as respondent) was required to submit on or before June 24, 1938, detailed information concerning its reported acquisition of 341,350 shares of common stock of Jersey Central Power & Light Company in apparent violation of Section 203 (a) of the Federal Power Act, and show cause why the Commission should not proceed to enforce the requirements of said Act;

(2) On June 24, 1938, the respondent filed a return to said order to show cause wherein it avers that:

(a) On March 14, 1938, respondent, after obtaining the approval of the Board of Public Utility Commissioners of the State of New Jersey, by decision dated March 11, 1938, acquired 341,350 shares of the common stock of Jersey Central Power & Light Company, and that all of the conditions contained in said decision had been complied with;

(b) Jersey Central Power & Light Company is not a public utility as defined by the Federal Power Act;

(c) No approval of the Federal Power Commission was required by law to the acquisition by respondent of said shares of stock of Jersey Central Power & Light Company, and that respondent has not violated Section 203 (a) or any other provision of the Act in connection with the acquisition of such stock;

The Commission, having considered the matters set forth in the order to show cause and the return thereto, upon its own motion, *orders* that:

(1) An investigation be and is hereby instituted to determine all facts, conditions, practices or matters relating to the transaction whereby the respondent on March 14, 1938, acquired 341,350 shares of common stock of Jersey Central Power & Light Company;

(2) A public hearing on said matter be held on August 29, 1938, at 10 A. M. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., to ascertain:

(a) Whether or not the transaction described in (1) hereinabove involved the purchase, acquisition, or taking by a public utility of any security of any other public utility within the meaning of Section 203 (a) of the Federal Power Act;

(b) All facts pertaining to any other issue raised by the order to show cause and the return thereto.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-1928; Filed, July 7, 1938; 9:54 a. m.]

[Docket No. IT-5522]

APPLICATION OF HOLSTON RIVER ELECTRIC COMPANY

ORDER SETTING DATE OF HEARING

JULY 5, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon application filed July 2, 1938, pursuant to Section 203 (a) of the Federal Power Act by Holston River Electric Company, a corporation organized under the laws of the State of Tennessee, having its principal place of business at 626 South Gay Street, Knoxville, Tennessee, for an order authorizing the disposition and sale of all of its electrical facilities to the Tennessee Valley Authority, as set forth in said application and the exhibits attached thereto;

The Commission orders that: A public hearing on said application be held on July 15, 1938, at 10 a. m. in the Hearing Room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-1929; Filed, July 7, 1938; 9:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of July 1938.

IN THE MATTER OF F. T. CANON & COMPANY, INC., 40 EXCHANGE PLACE, NEW YORK, NEW YORK

ORDER REVOKING REGISTRATION

F. T. Canon & Company, Inc., a corporation, hereinafter called the registrant, having filed with the Commission on August 21, 1937 an application for registration on Form 3-M pursuant to Rule MB1 [1] adopted by the Commission under Sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934, as amended; and registration having become effective September 20, 1937; and

The Commission having issued an order on June 20, 1938, that proceedings be held to determine whether the registration of said registrant should be revoked or suspended pursuant to the provisions of Section 15 (b) of said Act; and

The Commission having reasonable grounds to believe that the said registrant is enjoined by decree of the Supreme Court of the State of New York, New York County, entered on November 30, 1937 from engaging in and continuing certain conduct and practices in connection with the purchase or sale of securities; and that the said registrant has willfully violated the provisions of Rule MB2 of the Rules and Regulations under the Securities Exchange Act of 1934, as amended; and that the said registrant has willfully made in the aforesaid application statements which

[1] F. R. 1578.

were, at the time and in the light of the circumstances under which they were made, false and misleading with respect to material facts; and that the said registrant has willfully violated the provisions of Section 5 (a) of the Securities Act of 1933, as amended; and having reasonable grounds to believe that it is in the public interest to revoke the said registration; and

The said registrant on June 25, 1938, having consented in writing to the revocation of said registration and having waived notice and opportunity for hearing in connection therewith, and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of F. T. Canon & Company, Inc., as a broker and dealer transacting business on the over-the-counter markets be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1936; Filed, July 7, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of July 1938.

[File No. 7-244]

IN THE MATTER OF HECKER PRODUCTS CORPORATION COMMON STOCK, $1 PAR VALUE

ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the Philadelphia Stock Exchange in the voting trust certificates representing the common stock, no par value, of Hecker Products Corporation having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security, after said changes, is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application be and the same is hereby made.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1934; Filed, July 7, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of July, A. D. 1938.

[File No. 32-95]

IN THE MATTER OF LAWRENCE GAS AND ELECTRIC COMPANY

ORDER DESIGNATING NEW TRIAL EXAMINER

Lawrence Gas and Electric Company having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935; the Commission by order dated June 20, 1938 having set the matter down for hearing on July 7, 1938 at ten o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C.,[1] and the Trial Examiner designated to preside at said hearing now being engaged in another matter and unable to preside at said hearing;

It is ordered, That Robert P. Reeder, an officer of the Commission, be and hereby is designated to preside at such hearing in the place and stead of and with the same powers and duties as the Trial Examiner heretofore designated to preside at such hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1935; Filed, July 7, 1938; 12:45 p. m.]

[1] 3 F. R. 1458 DI.

Reference

JUL 11 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 133

Washington, Saturday, July 9, 1938

Rules, Regulations, Orders

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[General Order No. C–1]

PORT OF ENTRY FOR ALIENS

FORTUNA, NORTH DAKOTA

JULY 7, 1938.

Pursuant to the authority contained in Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Fortuna, North Dakota, is hereby designated as a port for the entry of aliens into the United States.

Sec. 11.31, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by inserting Fortuna, North Dakota, between Dunseith and Hannah, North Dakota, in the list of ports of entry for aliens in District No. 13.

[SEAL] EDW. J. SHAUGHNESSY,
Deputy Commissioner of Immigration and Naturalization.

Approved.

C. V. MCLAUGHLIN,
Acting Secretary.

[F. R. Doc. 38–1946; Filed, July 8, 1938; 11:57 a. m.]

[General Order No. C–2]

PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

SCOBEY AIRPORT, SCOBEY, MONTANA AND FORT YUKON AIRFIELD, FORT YUKON, ALASKA

JULY 7, 1938.

Pursuant to the authority contained in Subsection (d) of Section 7 of the Air Commerce Act of 1926 (Act of May 20, 1926, 44 Stat. 572; 49 U. S. C. 177 (d)), Fort Yukon Airfield, Fort Yukon, Alaska is hereby designated as a temporary port for the entry into the United States of aliens arriving by aircraft. The designation of Scobey Airport, Scobey, Montana as a temporary port for the entry into the United States of aliens arriving by aircraft is hereby discontinued.

Sec. 11.33, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 3 (b) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended as follows:

By inserting Fort Yukon, Alaska, Fort Yukon Airfield, between Fairbanks, Alaska, Weeks Municipal Airfield and Great Falls, Montana, Great Falls Airport in the list of temporary ports of entry for aliens arriving by aircraft.

By striking Scobey, Montana, Scobey Airport from the list of temporary ports of entry for aliens arriving by aircraft.

[SEAL] EDW. J. SHAUGHNESSY,
Deputy Commission of Immigration and Naturalization.

Approval Recommended.

C. V. MCLAUGHLIN,
Acting Secretary.

[F. R. Doc. 38–1947; Filed, July 8, 1938; 11:57 a. m.]

[General Order No. C–3]

DOCUMENTS REQUIRED OF ALIENS ENTERING THE UNITED STATES

JULY 7, 1938.

Pursuant to the authority contained in Section 24 of the Immigration Act of 1924 (Act of May 26, 1924, 43 Stat. 166, 8 U. S. C. 222), and Executive Order No. 7865, dated April 12, 1938, 3 F. R. 885 (DI), the following rules and regulations are prescribed for enforcement of the immigration laws:

Sec. 11.41, Title 8, Code of Federal Regulations (Rule 3, Subdivision F, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended to read as follows:

SEC. 11.41 (a). *Necessity for immigration and passport visas; inadmissibility in absence thereof; exceptions.*—No immigrant, whether a quota immigrant or

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 8—ALIENS AND CITIZENSHIP:
Immigration and Naturalization Service: Page
Documents required of aliens entering United States... 1657
Ports of entry for aliens:
Fortuna, N. Dak... 1657
Scobey Airport, Mont., and Fort Yukon Airfield, Alaska... 1657
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Eta Co., Inc., and Willis G. Sheeman, cease and desist order... 1659
Macaroni, Noodles, and Related Products Industry, trade practice rules... 1660
TITLE 20—FISH AND GAME:
Bureau of Biological Survey:
Tamarac Migratory Waterfowl Refuge, Minn., fishing permitted... 1662
TITLE 25—INDIANS:
Alaska, admission of patients into Indian Service hospitals... 1663
TITLE 45—SECURITIES AND EXCHANGES:
Public Utility Holding Company Act of 1935, repeal of Rule U–12(I)–1; adoption of new rule and forms... 1663

NOTICES

Department of Commerce:
Bureau of Air Commerce:
Air traffic rule, Marietta, Ohio, Latonia, Ky., Oklahoma City, Okla., and Amarillo, Tex... 1664
Federal Trade Commission:
Infants' and Children's Knitted Outerwear Industry, proposed trade practice rules... 1664

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission:
Applications granted to strike from listing and registration: Page
Canal Construction Co., convertible preference stock 1665
Como Mines Co., capital stock 1665
Federal Knitting Mills Co., common stock 1664
New York Dock Co., serial gold notes 1664
Pierce Oil Corp., common stock 1665
Hearings:
Appalachian Electric Power Co., first mortgage bonds 1666
Sinking fund debentures 1666
Associated Electric Co., gold bonds 1666
Consolidated Textile Corp., capital stock 1665
Dakota Power Co 1668
General Public Utilities, Inc 1667
Idaho Power Co., first mortgage bonds 1666
Providence Gas Co., common stock 1667
West Penn Power Co 1668
Wisconsin Public Service Corp 1667
Producers Corp., preferred stock withdrawal from listing and registration 1665

a nonquota immigrant, of any nationality shall be admitted to the United States unless such immigrant shall present to the proper immigration official at the port of arrival an unexpired passport or official document in the nature of a passport issued by the government of the country to which he owes allegiance, or other travel document showing his origin and identity, and an immigration visa duly issued and authenticated by a consular officer, except in the following cases: (*; sec. 13, 43 Stat. 161, 8 U. S. C. 213 (a), E. O. 7865 April 12, 1938, 3 F. R. 885 (DI)).

(1) *Child born after issuance of visa to parent.*—An alien immigrant child born subsequent to the issuance of the immigration visa of an accompanying parent, the visa not having expired; (*; sec. 13, 43 Stat. 161, 8 U. S. C. 213 (a), E. O. 7865 April 12, 1938, 3 F. R. 885 (DI)).

(2) *Child born to alien mother visiting abroad.*—An alien immigrant child born during the temporary visit abroad of an alien mother who has previously been legally admitted into the United States for permanent residence, provided the child is accompanying a parent to the United States upon the first return of the parent to the United States and applies for admission into the United States within a period of two years after the date of birth. The case of an alien child of tender age which does not come precisely within the terms of these conditions, may be referred to the Central Office for determination as to whether it comes within the provisions of Section 13 (a) of the Immigration Act of 1924; (*; sec. 13, 43 Stat. 161, 8 U. S. C. 213 (a), E. O. 7865, April 12, 1938, 3 F. R. 885 (DI)).

(3) *Lawful resident of United States visiting nearby countries.*—An alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed temporarily therefrom, and returned within six months, not having proceeded to any place outside Canada, Newfoundland, St. Pierre, Miquelon, Mexico, Cuba, Haiti, the Dominican Republic, Panama, the Panama Canal Zone, Bermuda, or the British, French, or Netherland possessions in the West Indies; (*; sec. 13, 43 Stat. 161, 8 U. S. C. 213 (b), E. O. 7865 April 12, 1938, 3 F. R. 885 (DI)).

(4) *Lawful resident of United States returning from cruise.*—An alien immigrant who has previously been legally admitted into the United States for permanent residence, reentering from a journey beginning in an American port, without transshipment from the original vessel to another vessel. This provision allows a lawfully admitted immigrant to reenter the United States without a passport or visa from a journey which is not a round-trip as, for example, from a journey which begins at New York and ends at San Francisco with the vessel touching at Central or South American ports en route; (*; sec. 13, 43 Stat. 161, 8 U. S. C. 213 (b), E. O. 7865 April 12, 1938, 3 F. R. 885 (DI)).

(5) *Lawful resident of United States presenting reentry permit.*—An alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed therefrom and is returning from a temporary visit abroad, and who holds an unexpired permit to reenter issued pursuant to Section 10 of the Immigration Act of 1924. The alien must present the permit to the appropriate immigration officer at the port of arrival; (*; sec. 13, 43 Stat. 161, 8 U. S. C. 213 (b), E. O. 7865 April 12, 1938, 3 F. R. 885 (DI)).

(6) *Philippine citizens; reentry into Hawaii without visa or permit.*—Philippine citizens, upon returning from a temporary visit to any foreign country, or the Philippine Islands, may be readmitted into Hawaii without an immigration visa or reentry permit upon establishing that their residence in Hawaii began prior to May 1, 1934, that their absence from the Territory was temporary and that they are otherwise admissible under the immigration laws; (* ; sec. 8, 48 Stat. 462, 48 U. S. C. 1238).

(7) *Philippine citizens; reentry into United States without visa or permit.*—Philippine citizens, upon returning from a temporary visit to any foreign country, or the Philippine Islands, may be readmitted into the United States (including Hawaii) without an immigration visa or a reentry permit upon establishing that their residence in the United States, except the Territory of Hawaii, began prior to May 1, 1934, that their absence from the United States was temporary, and that they are otherwise admissible under the immigration laws; (*; sec. 8, 48 Stat. 462, 48 U. S. C. 1238).

(8) *Residents of Hawaii; reentry thereto from Guam or Wake Islands without documents.*—An alien who establishes that he has been previously lawfully admitted into the Territory of Hawaii for permanent residence and is returning from a temporary visit of not more than six months to Guam or Wake Islands, not having proceeded to any place outside of those insular possessions, shall be permitted to reenter the Territory of Hawaii without a passport, immigration visa, or permit to reenter. (*; sec. 13, 43 Stat. 161, 8 U. S. C. 213 (b).)

(b) *Student visiting nearby countries.*—An alien who has previously been legally admitted into the United States as a nonquota immigrant student, has departed therefrom and is returning within six months, not having proceeded to any place outside Canada, Newfoundland, St. Pierre, Miquelon, Mexico, Cuba, Haiti, the Dominican Republic, Panama, the Panama Canal Zone, Bermuda, or the British, French, or Netherland possessions in the West Indies, and not having relinquished his student status

may reenter without an immigration visa. A valid passport or other travel document, however, is required of such alien students. (*; E. O. 7865 April 12, 1938, 3 F. R. 885 (DI).)

(c) *Spanish national; entry into Puerto Rico for permanent residence; passport visa sufficient.*—A Spanish national who on April 11, 1899 (whether adult or minor) was a bona fide resident of Puerto Rico or adjacent islands which comprised the Province of Puerto Rico, and who, in conformity with article IX of the Treaty between the United States and Spain of April 11, 1899, has preserved his allegiance to Spain, may present a passport visa, in lieu of an immigration visa, for entry into Puerto Rico for permanent residence. The act of May 26, 1926 named in this paragraph, provides that such aliens may be admitted into Puerto Rico without regard to the provisions of the Immigration Act of 1924, except section 23 thereof. Passport visas issued to such aliens will bear the following notation: "Visa issued to Spanish citizens under provisions of act of May 26, 1926." If such aliens travel by a mainland port, the visa will bear the notation: "Via (name of port)." For statistical purposes there will be entered in the space provided in the manifest for noting the date, place, issue, and number of immigration visa a notation reading as follows: "Admitted under act of May 26, 1926." (*; 44 Stat. 657, 8 U. S. C. 231, E. O. 7865 April 12, 1938, 3 F. R. 885 (DI).)

(d) *Waiver of passport requirements for immigrants citizens of nearby countries.*—An immigrant who is a citizen of Canada, Newfoundland, St. Pierre, Miquelon, Mexico, Cuba, Haiti, the Dominican Republic, Panama, Bermuda, or any British, French, or Netherland possession in the West Indies, domiciled therein, or who is a British subject domiciled in Canada, Newfoundland, Bermuda, or any British possession in the West Indies, or who is a French citizen domiciled in St. Pierre, Miquelon, or any French possession in the West Indies, or who is a Netherland subject domiciled in any Netherland possession in the West Indies, need not be in possession of a valid passport or other document issued in lieu thereof. (*; E. O. 7865 April 12, 1938, 3 F. R. 885 (DI), Department of State Circular to all American diplomatic or consular officers of June 9, 1938.)

SEC. 11.42 (a), Title 8, Code of Federal Regulations (Rule 3, Subdivision F, Paragraph 2 (a) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended to read as follows:

SEC. 11.42 (a) *Through passengers on vessels touching United States ports.*—A nonimmigrant alien who is a passenger on a vessel entering a port of the United States, landing temporarily while the vessel is in port. This provision covers the case of an alien who is on a round-trip cruise from a foreign port to a port of the United States as, for example, a vessel sailing from Liverpool to New York and returning to Liverpool. An alien destined to a foreign port beyond the United States on a vessel which may touch at a United States port while en route to such foreign destination is also covered by this provision. An alien who embarks on a cruise ship returning to the United States where the cruise ends but who continues with the same ship to a foreign port likewise is within this paragraph. Cases of this kind shall be handled in the manner provided by sec. 11.65. (*; E. O. 7865 April 12, 1938, 3 F. R. 885 (DI).)

SEC. 11.65, Title 8, Code of Federal Regulations (Rule 3, Subdivision H, Paragraph 8 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended to read as follows:

SEC. 11.65. *Through passengers on vessels touching United States ports; when and manner of landing; liability of vessels, etc.*—Aliens who are through passengers on vessels touching at ports of the United States may land temporarily therefrom without visaed passports for the limited period of time during which the vessel is in port when the examining officer is satisfied they will depart on the vessel on the same voyage. In every case the alien shall be informed that he is permitted to land temporarily on that condition. When the examining officer is not so satisfied he shall notify the master in writing that landing privilege is denied the alien and inform the master of the requirements and fine provisions of section 10 of the Immigration Act of 1917 as amended by section 27 of the Immigration Act of 1924. Aliens seeking landing with the intention of remaining beyond the period for which the vessel is to be in port must present visaed passports, if required generally of aliens applying for temporary admission. Liability to fines for bringing to any seaport of the United States aliens seeking admission to proceed directly or by way of any other United States port or ports to a foreign port who upon arrival at any such United States seaport are found to be under certain disabilities described in section 9 of the Immigration Act of February 5, 1917, as amended, is covered by sec. 11.273. (*; sec. 15, 43 Stat. 162, 47 Stat. 524, 8 U. S. C. 215.)

[SEAL] EDW. J. SHAUGHNESSY,
Deputy Commissioner of Immigration and Naturalization.

Approved.

C. V. MCLAUGHLIN,
Acting Secretary.

[F. R. Doc. 38-1948; Filed, July 8, 1938; 11:57 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3243]

IN THE MATTER OF THE ETA COMPANY, INC., A CORPORATION, AND WILLIS G. SHEEMAN, AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and answer thereto and the stipulation as to the facts entered into between W. T. Kelley, Chief Counsel of the Commission, and Ray E. Lane, Counsel for respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, The Eta Company, Inc., its officers, representatives, agents and employees, and Willis G. Sheeman, an individual, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of so-called food products, now designated and described generally as "Eta Concentrated Foods", or any other so-called food products containing substantially the same ingredients or possessing substantially the same properties under whatever name sold, or in connection with the offering for sale, sale and distribution of the books or pamphlets now known as, and sold under the name of, "Mastery of Success" and "Brain Power Supreme", under whatever name sold, in interstate commerce or in the District of Columbia, do forthwith cease and desist from directly or indirectly representing:

1. That said "Eta Concentrated Foods" have any curative, remedial or therapeutic value or are in any way beneficial in the treatment of any of the ailments, diseases or conditions hereinafter named.

2. That any of said "Eta Concentrated Foods" contain sufficient minerals when taken in the dosage directed by the respondents, to remedy or correct any mineral deficiency in the diet.

3. That the "Eta Concentrated Food" sold under the name of "Eta Food Sodium" will improve digestion, prevent fermentation of food, increase will power, eliminate carbon dioxide, remove acid and waste, "alkalinize nerves and clear the brain", and that a lack of "Food Sodium" will cause acidity, serious stomach disorders, rheumatic ailments and the formation of acid in the nerves and brain.

4. That the "Eta Concentrated Food" sold under the name of "Eta Food Potassium" will build and reconstruct muscles, make motor nerves function properly, help to assimulate fat, gain weight, multiply body cells, cause the growth of muscles and tissues, alkalize the blood, increase power of resistance, increase pep, courage and magnetism, and that a

lack of "Food Potassium" in the diet will cause fermentation of food, neuralgia, insomnia, water to form in the tissues, swollen ankles, moroseness, lack of ambition, hallucinations, a feeling of bruised muscles and weak and sagging ligaments.

5. That the "Eta Concentrated Food" sold under the name of "Eta Food Magnesium" will convert acid into a neutral salt, calm the nerves, stimulate bowel action, aid in increasing weight, prevent acid stomach, catarrhal discharges, overheated blood, dry and torpid bowels, fainting spells, jerky nerves, backache, stringy-mucus, greasy hair, acne pimples, itching blisters, noxious acids, gases and toxins, soothe the sexual instinct and promote sleep.

6. That the "Eta Concentrated Food" sold under the name of "Eta Food Iron" will prevent trembling spells, shooting pains, disturbed blood pressure, will renew strength, cause a youthful appearance, increase popularity and fascination of women, make men strong and courageous, and promote enthusiasm and cheerfulness.

7. That the "Eta Concentrated Food" sold under the name of "Eta Food Chlorin" will promote the elimination of water from the body, remove impurities, germs and pus, make tissues dense and elastic, exclude water, fat and carbohydrates from tissues and increase the strength of the voice, and that a lack of "Food Chlorin" in the diet will cause puffiness under the eyes, between finger joints and around the ankles, skin to become dull and red, and white spots to appear on the skin, dry throats, nervousness, heart trouble, noises in the ear, pale skin and a heavy tongue and limbs.

8. That the "Eta Concentrated Food" sold under the name of "Eta Food Phosphorous" will improve nutrition of nerves and tissues, strengthen bones and teeth and increase red corpuscles, and that a lack of "Food Phosphorous" will destroy self-confidence, lead to sterility, neuralgia and pus formation, cause children to be dumb and prevent them from controlling their fingers, cause irritation of nerves, lack of will power, destroy the ability to concentrate, destroy the appetite, cause nervousness, morbidity, pallid faces, waxy skin, night sweats and twitching in the muscles of the eyelids.

9. That the "Eta Concentrated Food" sold under the name of "Eta Food Silicon" will make the blood warmer, muscles firmer, increase growth of hair, prevent ovarian and menstrual trouble, increase endurance of elderly people, improve eyesight, hair and complexion, free the nasal canals permitting discharge of phlegm and mucus, and cause catarrh, headaches and disturbance of the brain, and colds, to disappear.

10. That the "Eta Concentrated Food" sold under the name of "Eta Food Fluorin" will provide material for feeding teeth enamel, work against tubercular, syphilitic and vaccine pus formation, prevent spinal diseases and brain trouble, and that a lack of "Food Fluorin" in the diet will cause head, neck, skin and the lower abdomen to become puffed and swollen, the gums to become loose, tender and spongy, development of ailments of the nails and eyelashes, brown and yellow spots to appear on the skin, and the eyesight to become poor and large veins to appear.

11. That the "Eta Concentrated Food" sold under the name of "Eta Food Sulphur" will prevent jerky nerves, fitful moods, fussy notions, panting for air in warm rooms, tired eyelids, flushes of heat, sudden indigestion, lame fingers, partial closure of the throat, tension in the neck with restlessness and headache, and dryness of the skin, and that by the use of "Food Sulphur" there will be maintained a more uniform temperature in the nerves, the brain centers, the sexual nerves, nerves of the kidneys, liver and optic centers, the lymph, the cerebrospinal fluid and the neurolin in nerve and brain matter.

12. That the "Eta Concentrated Food" sold under the name of "Eta Food Calcium" will improve the nerves, prevent tooth decay, has a beneficial effect upon ulcers, infection, eczema and psoriasis skin diseases, and that a lack of "Food Calcium" will cause brain softening, running ears and pasty complexions.

13. That the "Eta Concentrated Food" sold under the name of "Eta Food Iodin" will neutralize toxins, cause skin eruptions, pimples, sores, ulcers and unsightly blemishes to clear up quickly, disintegrate fat, reduce bodily weight, preserve the tint of nails, complexion, hair, beauty of the eyes, eyelashes and brows, strengthen nerves, make the mind more alert, and that the users of "Food Iodin" will never suffer from goiter, scrofula, nervous ailments, defective bone metabolism, and blood and skin diseases.

14. That the "Eta Concentrated Food" sold under the name of "Eta Food Manganese" possesses antiseptic and germicidal properties, that it will counteract body acids and toxic products, increase power of body purification, hinder the development of cancerous growths in the membranes, linings and organs, toughen and harden the linings of the heart, bones cranium, membranes surrounding the viscera, the abdominal cavity and joint structures, and that a lack of "Food Manganese" will cause the linings of the human structures and conductors to become thin and lose their ductility, the organs, vessels and their nerves to suffer, cause a state of fever in the nerves, result in congested headaches, chronic neuralgia, nerve cramps, shrunken facial tissues, terrific cramps before menstruation, shrinkage of the brain, lack of ability to concentrate, absentmindedness and optical illusions.

15. That the "Eta Concentrated Food" sold under the name of "Etalax" corrects constipation, is one of the surest, safest and most effective means of flushing the intestinal tract of impurities, strengthening the intestinal muscles, will give new power to and tone up the entire eliminative system.

16. That the "Eta Concentrated Food" sold under the name of "Eta Food No. 26" nourishes and builds up eye structure and possesses the positive power to improve eyesight, will enable one to "lay off" glasses for good, and the use of this product and certain exercises, distributed in connection with the sale thereof, will restore the natural shape of the eyeball.

17. That the "Eta Concentrated Foods" sold under the names of "Eta Food #2", "Eta Food #3", "Etagland Food Male", and "Etagland Food Female" will give food elements to the cell structures and give strength to the functions of generation, and that the said preparations will be of benefit in cases of sexual debility.

18. That respondents' books or pamphlets known as "Mastery of Success" and "Brain Power Supreme" will enable persons to shape their own destiny and make a complete and satisfying success of their lives, or will assure anyone of immediate physical, mental and financial success, unattainable without these books or pamphlets; or that these books or pamphlets will enable anyone to overcome all obstacles which retard success, and prevent or cure bodily ailments and diseases regardless of their cause and nature.

19. That the prices at which said books or pamphlets "Mastery of Success" and "Brain Power Supreme" are offered for sale and sold are special, when in fact the prices at which said books or pamphlets are offered for sale and sold are the usual and customary prices therefor.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-1939; Filed, July 7, 1938; 1:28 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 5th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-327]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE MACARONI, NOODLES,[1] AND RELATED PRODUCTS INDUSTRY

PROMULGATION

Due proceedings having been had under the trade practice conference procedure in pursuance of the Act, of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding be promulgated July 7, 1938.

[1] 3 F. R. 1283 DI.

TRADE PRACTICE RULES

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

Unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. *Misrepresentation of industry products.*—The practice of selling, advertising, describing, branding, marking, labeling, or packing macaroni, noodles, or related products, or any simulation or imitation thereof, in a manner which is calculated to mislead or deceive, or has the tendency and capacity or effect of misleading or deceiving, purchasers, prospective purchasers or the consuming public with respect to the grade, quality, quantity, substance, character, nature, origin, size, material, content, composition, coloring, preparation, or manufacture of such products, or in any other material respect, is an unfair trade practice.

RULE 2. *Specifications—Macaroni and noodle products.*—For the purpose of and as used in these rules:

(a) *Macaroni* is understood to be the shaped and dried doughs prepared by adding water to one or more of the following: semolina, farina, wheat flour. It may contain added salt. In the finished product the moisture content does not exceed 13 percent. Various shapes of macaroni are known under distinguishing names, such as spaghetti, vermicelli, etc.

(b) *Egg Macaroni* is understood to be the shaped and dried doughs prepared by adding eggs and water, with or without salt, to one or more of the following: semolina, farina, wheat flour. The egg ingredient may be whole egg and/or egg yolk. In the finished product the moisture content does not exceed 13 percent and the egg-solids content upon the moisture-free basis is not less than 5.5 percent.

(c) *Noodles, Egg Noodles* are understood to be the shaped and dried doughs prepared from semolina, farina, or wheat flour and eggs, with or without water, and with or without salt. The egg ingredient may be whole egg and/or egg yolk. In the finished product the moisture content does not exceed 13 percent and the egg-solids content upon the moisture-free basis is not less than 5.5 percent. Noodles are commonly ribbon-shaped.

(d) *Plain Noodles* are understood to be the shaped and dried doughs prepared from semolina, farina, or wheat flour and water, with or without salt. In the finished product the moisture content does not exceed 13 percent: Plain noodles are commonly ribbon-shaped.

RULE 3. *Misuse of words "macaroni," "spaghetti," "vermicelli," "egg-macaroni," "noodles," "egg noodles," "plain noodles," etc.*—It is an unfair trade practice to sell, offer for sale, advertise, describe, brand, label, or otherwise represent, directly or indirectly, any product as being macaroni, spaghetti, vermicelli, egg macaroni, noodles, egg noodles, plain noodles, or other similar macaroni or noodle product, when such product does not conform to the specifications hereinbefore set forth in Rule 2.

RULE 4. *Misrepresentation of semolina or farina products.*—It is an unfair trade practice to sell, offer for sale, advertise, describe, brand, label, or otherwise represent any macaroni or noodle product as being a semolina or farina product when such is not true in fact.

RULE 5. *Misrepresentation as to egg content of product.*—It is an unfair trade practice to sell, offer for sale, advertise, describe, brand, label, or otherwise represent, directly or indirectly, any product as being egg macaroni, noodles, or egg noodles when such is not true in fact, or when such product does not actually contain egg in sufficient proportion to meet the specifications hereinbefore set forth in Rule 2.

RULE 6. *Use of deceptive coloring or deceptive containers.*—It is an unfair trade practice to use yellow coloring in, or yellow transparent containers for, any macaroni, noodle, or related product, in such manner as deceptively to import or imply to purchasers, prospective purchasers or the consuming public that such product contains egg in greater proportion than is in fact present, or in such manner as to mislead or deceive in any other respect.

RULE 7. *Deception as to additional food ingredients.*—(a) In case additional food ingredients, not including those specified under Rule 2, are used in macaroni, noodles, or related products, full and non-deceptive disclosure of such fact should be made; and it is an unfair trade practice to conceal, or fail or refuse to disclose, or to misrepresent, directly or indirectly, the proportion of such food ingredients present in said macaroni, noodles, or related products, with the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

(b) It is an unfair trade practice to advertise, describe, brand, label, or otherwise represent any product of the industry as containing a food ingredient when such food ingredient is not present at all or when such food ingredient is not present in substantial and characterizing amounts, with the capacity and tedency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

(c) Nothing in these rules shall be construed as authorizing or permitting the use of any food ingredient contributing a yellow color for the purpose or with the effect of misleading or deceiving the purchasing public.

RULE 8. *Deceptive depictions.*—The use of photographs, cuts, engravings, illustrations, or pictorial or other depictions or devices of industry products in catalogs, sales literature, or advertisements, or on packages or containers, or otherwise, in such manner as to have the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public as to the grade, quality, quantity, substance, character, nature, origin, size, material, content, composition, coloring, preparation, or manufacture of such products, is an unfair trade practice.

RULE 9. *Defamation of competitors and disparagement of their products.*—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

RULE 10. *Failure to brand industry products.*—In the sale, offering for sale or shipment of industry products, the failure to brand, mark, or identify such products so as to disclose their true character, where such failure has the tendency, capacity, or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 11. *Selling below cost.*—The practice of selling industry products below the seller's cost, with the intent and with the effect of injuring a competitor and where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably restrain trade, is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 12. *Imitation or simulation of trade-marks, etc.*—The imitation or simulation of the trade-marks, trade names, labels, or brands of competitors with the

purpose or with the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 13. *Publication or circulation of false or misleading price quotations, etc.*—The publishing or circulating, by any member of the industry, of false or misleading price quotations, price lists, or terms of sale, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 14. *False invoicing.*—Withholding from or inserting in invoices any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 15. (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc.,*[1] *which effect unlawful price discrimination.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential,[1] where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[2] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[2] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[2] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[2] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

A Committee on trade practices is hereby created by the industry to cooperate with the Federal Trade Commission and to perform such acts as may be legal and proper to put these rules into effect.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

Entered July 5, 1938.

[F. R. Doc. 38-1940; Filed, July 7, 1938; 2:15 p. m.]

[1] Paragraph (a) of Rule 15 shall not be construed as embracing practices prohibited by Paragraphs (b), (c), and (d) of this rule.

[2] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That this shall not apply to the Philippine Islands.

TITLE 20—FISH AND GAME

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING FISHING ON TAMARAC MIGRATORY WATERFOWL REFUGE, MINNESOTA

Pursuant to regulations 2 and 3 of the regulations of the Secretary of Agriculture of November 23, 1937,[1] governing the administration of National wildlife refuges under the jurisdiction of the Bureau of Biological Survey, and in accordance with the provisions of said regulations, it is hereby ordered, 'until further notice, that fish may be taken from June 1 to September 30, both dates inclusive, for noncommercial purposes in the Tamarac Migratory Waterfowl Refuge, Minnesota, as established by Executive Order No. 7902, dated May 31, 1938, subject to the following conditions and restrictions:

1. *Waters open to fishing.*—All waters of the Refuge, except as hereinafter provided, are hereby designated as areas open to hook and line fishing as defined by State law. Fishing is prohibited in the following described waters: That portion of Big Egg Lake northerly of the south one-sixteenth line of Section 3, T 141 N., R. 39 W.; That portion of Two Island Lake lying westerly of the west one-sixteenth line of Sections 9 and 16 respectively, T. 141 N., R. 39 W.; That portion of Waboose Lake lying westerly of the west one-sixteenth line of Section 14, T. 141 N., R. 39 W.; That portion of Carmen Lake lying in Section 16, T. 141 N., R. 39 W.

2. *State fishing laws.*—Every person who fishes in any of the aforesaid waters under the aforesaid conditions must comply with the applicable fishing laws and regulations of the State of Minnesota, and in the absence of any State law or regulation in respect to number and size of fish that may be taken, the Chief of the Bureau of Biological Survey of the United States Department of Agriculture may fix such limits; and in the event he shall find that fishing in any of the aforesaid waters is unduly depleting any species of fishes therein, he may suspend the privilege of fishing in such waters pending final determination by the Secretary of Agriculture.

3. *Fishing permits.*—Any person exercising the privilege of fishing within the Refuge shall be in possession of a valid State fishing license issued by the State of Minnesota, if such license is required, and shall carry such license on his person while fishing, and when requested to do so shall exhibit the license to any representative of the Minnesota State Conservation Commission authorized to enforce the game and fish laws of the State, or to any representative of the Bureau of Biological Survey: Provided, that fishing shall be done in such manner as will not interfere with the objects for which the Refuge was established.

4. *Routes of travel.*—Persons entering the Refuge for the purpose of reaching waters thereof open to fishing shall follow such routes of travel as shall from time to time be designated by the officer in charge of the Refuge and shall not enter upon any other portion of the Refuge other than said open waters and areas immediately adjacent thereto.

5. *Special fishing restrictions.*—No seine, trap, or net shall be employed to take minnows, frogs, crawfish, or other aquatic animals for bait and neither shall minnows, frogs, crawfish, or other aquatic animals be used for bait in any of the waters of the Refuge.

6. *Use of motor boats.*—Motor boats, both inboard and outboard, will not be permitted on any of the waters of the Refuge except for administrative purposes by employees of the Department of Agriculture and of the Minnesota State Conservation Commission.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 8th day of July, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1945; Filed, July 8, 1938; 11:52 a. m.]

[1] 2 F. R. 2537 (2951 DI).

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

RULES AND REGULATIONS FOR THE ADMISSION OF PATIENTS INTO INDIAN SERVICE HOSPITALS IN ALASKA

JUNE 13, 1938.

1. Indian Service hospitals in Alaska are maintained and operated primarily for the benefit of Indians, Eskimos, and Aleuts, who are wards of the Federal Government.

2. Due to great distances between villages in Alaska, and the lack at many places of any hospital other than an Indian Service hospital, it is recognized that in emergencies, and where no other hospital facilities are available, the dictates of humanity require that persons other than Indians, Eskimos, and Aleuts be received into Indian Service hospitals for treatment.

3. Under regulations which have been in force to date, the charge for hospitalization of non-beneficiaries has been fixed at $2.00 a day. As a result of this low rate, admissions of non-beneficiaries to Indian Service hospitals in Alaska have been increasing rapidly. The rate of $2.00 a day is not sufficient to cover the actual cost of service rendered.

4. As promptly as possible there shall be put into effect in all Indian Service hospitals in Alaska a rate of $5.00 a day to be charged to all non-beneficiaries for hospitalization. In addition to this per diem rate for hospitalization, the Indian Office schedule of fees for medical treatment shall be in effect in Alaska, and collections should be made from non-beneficiaries in accordance with such schedule.

5. Employees of the Indian Service and their families shall be charged a rate of $3.50 a day for hospitalization in Indian Service hospitals, but shall not be required to pay any fees for medical treatment such as are required of other non-beneficiaries.

6. Charge shall be made for the date of admission, but no charge shall be made for the date of discharge.

7. The present rate of 75¢ a day which is charged to all beneficiaries who are able to pay for hospitalization will be continued.

[SEAL] WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

Approved, June 17, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-1941; Filed, July 8, 1938; 9:47 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

REPEAL OF RULE U-12(I)-1 AND ADOPTION OF NEW RULE U-12(I)-1 AND FORMS U-12(I)-A AND U-12(I)-B

Acting pursuant to the authority conferred on it by Sections 12 (i) and 20 (a) of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission deems it necessary and appropriate to carry out the provisions of said Act, to repeal, and does hereby repeal the rule known as "Rule U-12(I)-1 (Sec. 15. U-12(I)-1): Statements under Section 12 (I)."[1] This repeal shall be effective on and after August 1, 1938.

Acting pursuant to the authority conferred on it by Sections 12 (i) and 20 (a) of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission deems it necessary and appropriate in the public interest and for the protection of investors and consumers and to carry out the provisions of said Act, to adopt, and does hereby adopt a rule which shall be known as Rule U-12(I)-1 and shall read as follows:

SEC. 15. U-12(I)-1 (*Rule U-12(I)-1*). *Statements to be filed pursuant to Section 12 (i).*—(a) Any person employed or retained by any registered holding company or any subsidiary thereof who presents, advocates, or opposes any matter affecting any registered holding company or any subsidiary thereof, before the Congress or any member or committee thereof, or before the Commission or Federal Power Commission, or any member, officer or employee of either such commission, shall file with the Commission within ten days after the date of such activity a statement on Form U-12(I)-A (Sec. 17. U-12(I)-A)[2] containing the information specified in said form and the instructions relating thereto, *subject, however,* to the exception provided in paragraph (b) hereof.

(b) Any person regularly employed or retained by a registered holding company or subsidiary thereof on a weekly, monthly, annual, or similar basis, for compensation fixed and paid on a regular periodic basis, may file with the Commission an annual statement on Form U-12(I)-B (Sec. 17. U-12(I)-B,[2] containing the information specified in said form and the instructions relating thereto. Any such person who has on file a current annual statement on Form U-12(I)-B (Sec. 17. U-12(I)-B) shall not be required to file a statement on Form U-12(I)-A (Sec. 17. U-12(I)-A) pursuant to paragraph (a) hereof during the remainder of the calendar year to which such annual statement relates except as to activities not described in said annual statement or for which additional compensation is to be received or activities on behalf of persons other than those designated in Item 3 of said annual statement.

(c) The Commission may by order require any person who has on file an annual statement under paragraph (b) hereof to file statements pursuant to paragraph (a), and may, regardless of the provisions of this Rule, require that any person subject to this rule file a statement of the subject matter in re-

[1] C. 687, sec. 12, 49 Stat. 823; 15 U. S. C. Sup. III, 791.

[2] C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 791: C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t (Form U-12(I)-A, adopted August 1, 1938).

[2] C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 791: C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t (Form U-12(I)-B, adopted August 1, 1938).

spect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received in connection therewith, in such form and detail as the Commission shall by order prescribe.

(d) The provisions of this rule shall be applicable to activities occurring on or after August 1, 1938. (C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 791; c. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t) (Rules and Regs., Rule U–12(I)–1, effective August 1, 1938).

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1965; Filed, July 8, 1938; 12:47 p. m.]

Notices

DEPARTMENT OF COMMERCE.

Bureau of Air Commerce.

SPECIAL AIR TRAFFIC RULE

MARIETTA, OHIO; LATONIA, KY.; OKLAHOMA CITY, OKLA.; AND AMARILLO, TEX.

Pursuant to Section 3 (e) of the Air Commerce Act of 1926, as amended, (44 Stat. 568) the following Special Air Traffic Rules are promulgated regarding the navigation and operation of aircraft over and in the vicinity of the cities of Marietta, Ohio; Latonia, Kentucky; Oklahoma City, Oklahoma; and Amarillo, Texas, during the visit of the President of the United States to each of such cities on the dates and between the hours hereinafter named:

No aircraft shall be navigated or operated at any altitude above that area lying within a radius of two miles on the horizontal plane from the center of Washington County Courthouse in the City of Marietta, State of Ohio, between the hours of 8 o'clock A. M. and 11 o'clock A. M. on July 8, 1938; the center of Latonia Race Track near the City of Covington, County of Kenton, State of Kentucky, between the hours of 1 o'clock P. M. and 4 o'clock P. M. on July 8, 1938; the center of Oklahoma State Fair Grounds near the City of Oklahoma City, County of Oklahoma, State of Oklahoma, between the hours of 4 o'clock P. M. and 7 o'clock P. M. on July 9, 1938; and the center of Ellwood Park in the City of Amarillo, County of Potter, State of Texas, between the hours of 6 o'clock P. M. and 9 o'clock P. M. on July 11, 1938, unless special permission for such flight be granted by the local Aeronautical Inspector of the Bureau of Air Commerce, Department of Commerce, temporarily stationed at the particular city involved.

Approved, July 7, 1938.

[SEAL] SOUTH TRIMBLE, Jr., *Acting Secretary of Commerce.*

[F. R. Doc. 38–1944; Filed, July 8, 1938; 11:46 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 7th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21–329]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE INFANTS' AND CHILDREN'S KNITTED OUTERWEAR INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Infants' and Children's Knitted Outerwear Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of any such views should be filed with the Commission not later than July 26, 1938. Opportunity for oral hearing also will be afforded at 10 a. m., July 26, 1938, in Room 332, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to any such persons as may desire to appear and be heard. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–1942; Filed, July 8, 1938; 10:42 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 6th day of July, 1938.

[File No. 1–132]

IN THE MATTER OF NEW YORK DOCK COMPANY 5% SERIAL GOLD NOTES, SERIES DUE 1938 (DUE APRIL 1, 1938)

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 5% Serial Gold Notes, Series due 1938 (Due April 1, 1938), of New York Dock Company; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby, granted, effective at the close of the trading session on July 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1961; Filed, July 8, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of July 1938.

[File No. 1–264]

IN THE MATTER OF THE FEDERAL KNITTING MILLS COMPANY COMMON STOCK, NO PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Federal Knitting Mills Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its Common Stock, No Par Value, from listing and registration on the Cleveland Stock Exchange; and

After appropriate notice,[2] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on July 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1962; Filed, July 8, 1938; 12:46 p. m.]

[1] 3 F. R. 1147 DI.
[2] 3 F. R. 1064 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of July 1938.

[File No. 1–419]

IN THE MATTER OF COMO MINES COMPANY CAPITAL STOCK, $1 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Curb Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, $1 Par Value, of Como Mines Company; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on July 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1963; Filed, July 8, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 6th day of July, 1938.

[File No. 1–856]

IN THE MATTER OF CANAL CONSTRUCTION COMPANY CONVERTIBLE PREFERENCE STOCK, NO PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Chicago Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Convertible Preference Stock, No Par Value, of Canal Construction Company; and

After appropriate notice,[2] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on July 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1964; Filed, July 8, 1938; 12:47 p. m.]

[1] 3 F. R. 1065 DI.
[2] 3 F. R. 1002 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of July 1938.

[File No. 1–1301]

IN THE MATTER OF PIERCE OIL CORPORATION COMMON STOCK, $25 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $25 Par Value, of Pierce Oil Corporation; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on July 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1960; Filed, July 8, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of July 1938.

[File No. 1–2797]

IN THE MATTER OF PRODUCERS CORPORATION 6% CUMULATIVE CONVERTIBLE PREFERRED STOCK, $10 PAR VALUE

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

Producers Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its 6% Cumulative Convertible Preferred Stock, $10 Par Value, from listing and registration of the Board of Trade of the City of Chicago; and

The Commission having considered said application together with the facts relating thereto, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on July 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1959; Filed, July 8, 1938; 12:46 p. m.]

[1] 3 F. R. 1064 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 7th day of July 1938.

[File No. 1–1284]

IN THE MATTER OF CONSOLIDATED TEXTILE CORPORATION CAPITAL STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Capital Stock, No Par Value, of Consolidated Textile Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10:00 A. M. on Thursday, July 21, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–1954; Filed, July 8, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 7th day of July 1938.

[File No. 7-238]

IN THE MATTER OF APPALACHIAN ELECTRIC POWER COMPANY FIRST MORTGAGE BONDS 4% SERIES DUE FEBRUARY 1, 1963

ORDER DIRECTING HEARING

The New York Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the First Mortgage Bonds 4% Series due Feb. 1, 1963, of Appalachian Electric Power Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 A. M. on Tuesday, July 26, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1951; Filed, July 8, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of July 1938.

[File No. 7-239]

IN THE MATTER OF APPALACHIAN ELECTRIC POWER COMPANY SINKING FUND DEBENTURES 4½% SERIES DUE FEBRUARY 1, 1948

ORDER DIRECTING HEARING

The New York Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Sinking Fund Debentures 4½% Series due Feb. 1, 1948, of Appalachian Electric Power Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 A. M. on Tuesday, July 26, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1950; Filed, July 8, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 7th day of July 1938.

[File No. 7-240]

IN THE MATTER OF ASSOCIATED ELECTRIC COMPANY 5% GOLD BONDS DUE JANUARY 1, 1961

ORDER DIRECTING HEARING

The New York Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the 5% Gold Bonds due Jan. 1, 1961 of Associated Electric Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 A. M. on Tuesday, July 26, 1938, in Room 1102 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1949; Filed, July 8, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of July, 1938.

[File No. 7-241]

IN THE MATTER OF IDAHO POWER COMPANY FIRST MORTGAGE BONDS, 3¾% SERIES DUE OCTOBER 1, 1967

ORDER DIRECTING HEARING

The New York Curb Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended for extension of unlisted trading privileges to the First Mortgage Bonds, 3¾% Series due October 1, 1967 of Idaho Power Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 A. M. on Tuesday, July 26, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1953; Filed, July 8, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 7th day of July 1938.

[File No. 7-243]

IN THE MATTER OF PROVIDENCE GAS COMPANY COMMON STOCK, WITHOUT PAR VALUE

ORDER DIRECTING HEARING

Providence Gas Company, having made application to the Commission pursuant to Rule JF3 under the Securities Exchange Act of 1934, as amended, for termination of unlisted trading privileges on the New York Curb Exchange in the Common Stock, Without Par Value, of Providence Gas Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 A. M. on Wednesday, July 27, 1938, in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1952; Filed, July 8, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of July, A. D. 1938.

[File No. 32-96]

IN THE MATTER OF WISCONSIN PUBLIC SERVICE CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered That a hearing on such matter be held on July 26, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 21, 1938.

The matter concerned herewith is in regard to an application by Wisconsin Public Service Corporation, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act of the issuance and sale of $2,500,000 principal amount of Applicant's First Mortgage Bonds, 4% Series due 1963, said issuance and sale having been approved by the Wisconsin Public Service Commission in its order 2-SB-102, dated June 21, 1938.

The proceeds of the sale of the bonds would be used for permanent additions to property and plant of the Applicant, or liquidation of short-term indebtedness incurred or reimbursement of the treasury for expenditures already made for such purpose.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1958; Filed, July 8, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of July, A. D. 1938.

[File No. 46-103]

IN THE MATTER OF GENERAL PUBLIC UTILITIES, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 25, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 20, 1938.

The matter concerned herewith is in regard to an application filed by General Public Utilities, Inc., requesting the approval of the acquisition by it of the following securities to be issued and sold by The Dakota Power Company:

(1) General Mortgage 7% Gold Bonds in the face amount of $250,000, the proceeds of which, together with an amount contributed by The Dakota Power Company, are to be used to retire the First Mortgage 6% Gold Bonds, due September 1, 1938;

(2) Fixed and Cumulative Income Notes in the face amount of $469,229.10 (with fixed interest at the rate of 2% per annum with an additional 3% per annum to the extent earned by The Dakota Power Company) which are to fund or refund certain obligations which The Dakota Power Company now has outstanding.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1956; Filed, July 8, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of July, A. D. 1938.

[File No. 43-132]

IN THE MATTER OF DAKOTA POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 25, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 20, 1938.

The matter concerned herewith is in regard to declaration filed by the Dakota Power Company pursuant to Section 7, Public Utility Holding Company Act of 1935, in regard to the issue and sale to General Public Utilities, Inc. of $250,000 of General Mortgage 7% Gold Bonds, the proceeds of which are to be used to retire on September 1, 1938 (together with certain funds to be contributed by the declarant), $256,250 principal amount of First Mortgage 6% Bonds due September 1, 1938; and for the issue and sale by the declarant to General Public Utilities, Inc. of $469,229.10, face amount of Fixed and Cumulative Income Notes (with fixed interest at the rate of 2% per annum, with an additional 3% per annum to the extent earned by the declarant), the proceeds of which are to be used to fund (or to refund) the following obligations of the declarant:

(1) Obligations with respect to conditional sale agreements in face amount of $111,500, which agreements were originally made to facilitate the purchase by the declarant of certain machinery and equipment.

(2) Unsecured notes due April 1, 1956, in a face amount of $337,000, bearing interest at the rate of 7% per annum, which the declarant states were issued for advances by General Public Utilities, Inc. and which have not been repaid in whole or in part.

(3) An unsecured promissory note of the declarant in the principal amount of $20,729.10, dated September 28, 1937, and payable September 15, 1938, with interest at 6% per annum, which note was issued in payment of cumulative dividends on the Preferred Stock of the declarant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1957; Filed, July 8, 1938; 12: 45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of July, A. D. 1938.

[File No. 43-136]

IN THE MATTER OF WEST PENN POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 22, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 18, 1938.

The matter concerned herewith is in regard to an issue and sale by declarant, a subsidiary company of American Water Works and Electric Company, Incorporated, a registered holding company, of $17,000,000 principal amount of its First Mortgage Bonds, Series J, 3¼%, due August 1, 1968, such issue and sale to be privately to a limited number of purchasers. It is stated that the price will be approximately 104.9 plus accrued interest from August 1, 1938 to the date of delivery. It is further represented that the purposes for which the bonds covered by this declaration are to be issued are as follows:

(a) To redeem and refund $10,000,000 principal amount of First Mortgage Bonds, Series H, 4%, due July 1, 1961, of the declarant which are presently outstanding;

(b) To pay and discharge bank loans aggregating $5,300,000 heretofore made by the declarant from various banks for the acquisition or construction of improvements, betterments and additions to the plant and property of the declarant or to reimburse its treasury in part for expenditures made for such purposes; and

(c) To provide for expenditures made or to be made subsequent to June 30, 1938 for the acquisition, construction or completion of improvements, additions and betterments to the plant and property of the declarant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1955; Filed, July 8, 1938; 12:45 p. m.]

Reference

THE NATIONAL ARCHIVES LITTERA SCRIPTA MANET 1934 OF THE UNITED STATES

JUL 13 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 134

Washington, Tuesday, July 12, 1938

The President

EXECUTIVE ORDER

ESTABLISHING WHEELER MIGRATORY WATERFOWL REFUGE

ALABAMA

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands owned or controlled by the United States within the following-described area in Limestone, Madison, and Morgan Counties, Alabama, be, and they are hereby, reserved and set apart, subject to existing valid rights, for the use of the Department of Agriculture, as a refuge and breeding ground for migratory birds and other wild life:

HUNTSVILLE MERIDIAN

T. 4 S., R. 1 W.,
sec. 31, S½SW¼SW¼;
T. 5 S., R. 1 W.,
sec. 3, part of lots A to E, inclusive; all of lot F; part of lots G, H, I, K, and M; all of lot N; and part of lots O and P;
sec. 4, S½W½SW¼SW¼, S½SW¼SW¼, SW¼SE¼SW¼, part of S½S½NE¼SE¼, SE¼SW¼SE¼, and SE¼SE¼;
sec. 5, S½SE¼SE¼;
sec. 6, SW¼NW¼NE¼, W½SW¼NE¼, NW¼, N½SW¼, N½SW¼SW¼, NW¼SE¼SW¼, and W½NW¼SE¼;
sec. 7, part of NE¼NE¼, S½N½NW¼NE¼, S½NW¼NE¼, S½NE¼, S½N½N½NW¼, S½N½NW¼, S½N½W¼, N½SE¼, N½SE¼SE¼, and part of SE¼SE¼SE¼;
sec. 8, E½NE¼, E½NE¼SW¼NE¼, S½S½SW¼NE¼, NE¼SE¼SW¼NE¼, NW¼SW¼NW¼, S½SW¼NW¼, and S½;
sec. 9, N½NE¼, SW¼NE¼, N½SE¼NE¼, SW¼SE¼NE¼, NW¼, N½SW¼, SW¼SW¼, NW¼SE¼SW¼, S½SE¼SW¼, and N½NW¼SE¼;
sec. 10, NW¼NW¼;
sec. 16, N½NE¼NW¼ and N½N½NW¼NW¼;
sec. 17, N½NE¼, N½SW¼NE¼, SE¼NE¼, NE¼NW¼, and NE¼NW¼NW¼;
sec. 19, SW¼NE¼NW¼, NW¼NW¼NW¼, S½NW¼NW¼, SW¼NW¼, NW¼SE¼NW¼, S½SE¼NW¼, W½SW¼, lying northeast of the Tennessee River, and part of E½SW¼ lying northeast of the Tennessee River;
T. 4 S., R. 2 W.,
sec. 36, S½SE¼;
T. 5 S., R. 2 W.,
sec. 1, NE¼, part of S½SW¼NW¼, SE¼NW¼, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, and N½S½SE¼SE¼;
sec. 2, S½SW¼NE¼, SE¼SE¼NW¼, E½NE¼SW¼, NE¼SE¼SW¼, W½NW¼NE¼SE¼, S½NE¼SE¼, NW¼SE¼, N½SW¼SE¼, SE¼SW¼SE¼, and SE¼SE¼;
sec. 3, NW¼NW¼SW¼, S½NW¼SW¼, N½SW¼SW¼, N½SW¼SW¼, and SE¼SW¼SW¼;
sec. 4, SW¼SW¼ and S½S½SW¼SE¼;
sec. 5, SE¼SE¼;
sec. 8, E½NE¼NE¼;
sec. 9, N½NE¼, N½SW¼NE¼, SE¼NE¼, N½NW¼, SW¼SW¼NE¼, SE¼NW¼SW¼, S½NE¼SW¼, E½NW¼SW¼, NE¼SW¼SW¼, SE¼SW¼, SE¼SW¼SE¼, and SW¼SE¼SE¼;
sec. 10, SW¼NE¼NE¼, NW¼NE¼, S½NE¼, NE¼NW¼, NE¼NW¼NW¼, W½SW¼NW¼, E½E½SE¼NW¼, W½SW¼, W½SE¼SW¼, NE¼SE¼, E½NW¼SE¼, E½W½NW¼SE¼, E½W½SW¼SE¼, E½SW¼SE¼, and SE¼SE¼;
sec. 11, NE¼NE¼NE¼, NW¼SW¼NW¼, S½SW¼NW¼, S½SE¼NW¼, SW¼, W½W½NW¼SE¼, and W½SW¼SE¼;
sec. 12, S½NE¼NE¼, W½NW¼NE¼, SW¼, SE¼SW¼SW¼, SE¼SW¼, SW¼, W½SE¼, and part of E½SE¼;
sec. 13, W½NE¼, SW¼SE¼NE¼, NE¼NW¼, E½SW¼NW¼, SE¼SW¼, SW¼, W½SE¼, and part of E½SE¼;
sec. 14, NW¼NW¼NE¼, N½NE¼NW¼, SW¼NE¼NW¼, NW¼NW¼, W½SW¼NW¼, W½W½SW¼, E½E½NE¼SE¼, and E½SE¼SE¼;
sec. 15, N½, N½SW¼, N½SW¼SW¼, SE¼SW¼SW¼, SE¼SW¼, and SE¼;
sec. 16, E½E½NE¼NE¼;
sec. 19, SE¼SW¼NW¼, SW¼SE¼NW¼, NW¼NE¼SW¼, S½NE¼SW¼, E½NW¼SW¼, NE¼SW¼SW¼, SE¼SW¼, SE½SW¼SE¼, and SW¼SE¼SE¼;
sec. 22, NE¼, NE¼NW¼, part of E½NW¼NW¼, E½SE¼NW¼, E½W½SE¼NW¼, part of E½SW¼, and all of SE¼ lying northwest of the Tennessee River;
sec. 23, all lying north of the Tennessee River, and that part of SW¼, N½NE¼SW¼SE¼, W½SW¼SE¼, and N½N½SE¼SE¼ lying south of the Tennessee River;
sec. 24, all lying north of the Tennessee River, and that part of NE¼SW¼SW¼, N½NW¼SW¼SW¼, N½SE¼

CONTENTS

THE PRESIDENT

Page

Executive Order:
Wheeler Migratory Waterfowl Refuge, Ala., establishment.. 1669

RULES, REGULATIONS, ORDERS

TITLE 17—CONSERVATION AND POWER:
Federal Power Commission:
Natural Gas Act, provisional rules of practice and regulations 1681

TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Expenditures in excess of $100; Purchase and Supply Chapter of Manual amended 1690

TITLE 25—INDIANS:
Navajo, Zuni and Hopi Reservations, Ariz., and N. Mex., conduct of trade within 1690

TITLE 43—PUBLIC LANDS:
General Land Office:
California and Utah, air navigation site withdrawal No. 121 1690

TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Public Utility Holding Company Act, exemption of:
Foreign utility subsidiaries 1691
Small holding company systems 1691

TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Broadcasts by candidates for public office 1691

NOTICES

Department of Agriculture:
Farm Security Administration:
Designation of counties for tenant purchase loans:
Maine 1692
Ohio 1692
Oklahoma 1692

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Federal Power Commission:	
Natural Gas Act, filing of schedules of rates and charges under	1694
Natural gas companies, investigation; filing of report	1692
Rural Electrification Administration:	
Allocation of funds for loans	1694
Securities and Exchange Commission:	
Associated Corp., effectiveness of declaration	1695
Engineers Public Service Co., et al, effectiveness of declaration	1695
Rogers, Charles E., doing business as J. T. Register & Co., registration revoked	1695
Wells, Fargo & Co., hearing postponed	1696
Treasury Department:	
Bureau of Customs:	
Fort Yukon Airfield, Alaska, designated airport of entry	1692

SW¼, N½SW¼SE¼SW¼, SE¼SE¼SW¼, and SE¼ lying south of the Tennessee River;

sec. 25, N½NE¼ lying southwest of the Tennessee River, NE¼SW¼NE¼, N½SE¼NE¼, and NE¼NE¼NW¼;

sec. 26, NW¼NW¼NE¼, part of NW¼ lying southeast of the Tennessee River, and NW¼SW¼;

sec. 27, NE¼ lying northwest and southeast of the Tennessee River, part of NW¼ lying northwest of the Tennessee River, SW¼ lying northwest and southeast of the Tennessee River, N½SE¼ lying southeast of the Tennessee River, and SW¼SE¼;

sec. 28, SE¼SE¼NE¼, that part of E½SE¼ and E½SW¼SE¼ lying northwest of the Tennessee River, and SW¼SW¼SE¼;

sec. 29, S½SW¼SW¼;

sec. 30, W½NE¼NE¼, W½NE¼, NW¼SE¼NE¼, S½SE¼NE¼, NE¼NW¼, E½SE¼NW¼, E½W½SE¼NW¼, E½NE¼SW¼, N½SE¼, N½SW¼SE¼, SE¼SW¼SE¼, and SE¼SE¼;

sec. 31, all;

sec. 32, part of E½NW¼, W½NW¼, SW¼ lying north of the Tennessee River, SE¼NE¼SE¼, W¼NW¼SE¼, and S½SE¼ lying north of the Tennessee River;

sec. 33, all that part of NW¼NE¼, SE¼NE¼NW¼, SE¼NW¼, NE¼SW¼, NE¼NW¼SW¼ S½NW¼SW¼, and SW¼SW¼ lying northwest of the Tennessee River, E½E½SW¼NW¼, and all southeast of the Tennessee River;

sec. 34, part of N½N½NW¼NE¼, SE¼SW¼NE¼, S½SE¼NE¼, N½NE¼NW¼, SE¼NE¼, S½SW¼NE¼, NW¼SW¼, N½SE¼SW¼, and SW¼SW¼ lying southeast of the Tennessee River;

T. 6 S., R. 2 W.,

sec. 2, SW¼NE¼SW¼, W½SE¼NE¼SW¼, part of NW¼NW¼SW¼, S½S½NW¼SW¼, SW¼SW¼, W½E½SE¼SW¼, and W½SE¼SW¼;

sec. 3, N½, N½SW¼, SW¼SW¼, N½SE¼SW¼, and SE¼;

sec. 4, N½ lying southeast of the Tennessee River, W½NE¼SW¼, W½SW¼, W¼SE¼SW¼, and E½E½SE¼;

sec. 5, N½ lying north and south of the Tennessee River, N½SW¼, NE¼SW¼SW¼, SE¼SW¼, and SE¼;

sec. 6, all lying north of the Tennessee River, that part of N½N½S½ lying south of the Tennessee River, and part of S½NE¼SE¼ and SE¼NW¼SE¼;

sec. 8, N½NE¼, N½SW¼NE¼, W½E½SE¼NE¼, and W½SE¼NE¼;

sec. 9, N½NE¼NE¼NE¼ and part of W½NE¼NW¼ and NW¼NW¼;

sec. 10, N½NE¼, diagonal NE½SW¼NE¼, SE¼NE¼, N½NW¼NW¼NW¼; and part of NE¼SE¼;

sec. 11, SW¼NE¼SE¼NE¼, S½NW¼SE¼NE¼, SW¼SE½NE¼, W½SE¼SE¼NE¼, W½NE¼NW¼, W½W½SE¼NW¼, NW¼NE¼SW¼, S½NE¼SW¼, NW¼SW¼, N½SW¼SW¼, N½S½SW¼SW¼, N½SE¼SW¼, N½NE¼SE¼, SE¼NE¼SE¼, NE¼NW¼SE¼, SW¼NW¼SE¼, N½SE¼NW¼SE¼, SW¼SE¼NW¼SE¼, NW¼SW¼SE¼, SE¼SE¼SW¼SE¼, NE¼SW¼SE¼, NE¼NW¼SE¼SE¼, S½NW¼SE¼SE¼, and S½SE¼SE¼;

sec. 12, SW¼SW¼NW¼, W½NW¼SW¼, and SW¼SW¼;

sec. 13, W½NE¼NW¼ and NW¼NW¼;

sec. 14, W½NE¼NE¼ part of E½E½NW¼NE¼ and E½NE¼SW¼NE¼, W½SE¼NE¼, W½SE¼SE¼NE¼, W½E½NE¼SE¼, N½NE¼SE¼, SE¼SW¼NW¼SE¼, S½SE¼NW¼SE¼, and part of SW¼SE¼;

sec. 23, W½E½NW¼NE¼, W½NW¼NE¼, W½SW¼NE¼, part of S½NE¼NW¼, E½E½SE¼NW¼, NE¼NE¼SW¼, E½NW¼NE¼SW¼, S½NE¼SW¼, part of SW¼SW¼, SE¼SW¼, and W½NW¼NW¼SE¼;

sec. 25, NW¼NW¼SW¼ and N½SW¼NW¼SW¼;

sec. 26, S½N½SW¼NE¼, S½SW¼NE¼, S½SW¼SE¼NE¼, W½NW¼, S½NE¼SE¼NW¼, W½SE¼NW¼, SE¼SE¼NW¼, N½SW¼, NE¼SW¼SW¼, N½NW¼SW¼SW¼, SE¼SW¼, NE¼NE¼SE¼, N½NW¼NE¼SE¼, and W½NW¼NW¼SE¼;

sec. 27, E½NE¼NE¼SE¼;

sec. 34, part of S½S½;

sec. 35, W½E½NE¼NW¼, E½W½NE¼NW¼, W½NE¼SE¼NW¼, W½SE¼NW¼, NW¼NE½SW¼, N½SW¼NE¼SW¼, E½NE½NW¼SW¼, SE¼NW¼SW¼, and SW¼SW¼;

T. 7 S., R. 2 W.,

sec. 2, W½SW¼SW¼SW¼NE¼, S½NE¼NW¼, part of W½NW¼, SE¼NW¼, E½SW¼, E½E½SW¼SW¼, and W½W½NW¼SE¼;

sec. 3, NE¼NE¼NE¼ and part of NW¼NE¼NE¼;

sec. 11, NW¼SW¼NE¼, S½SW¼NE¼, SE¼SE¼NE¼, E½NW¼, E½NW¼NW¼, NE¼SW¼NW¼, part of SE¼SW¼NW¼, N½NE¼SE¼, N½SW¼NE¼SE¼, and N½SE¼NW¼SE¼;

T. 4 S., R. 3 W.,

sec. 34, part of SE¼SW¼, SW¼SE¼, NE¼SE¼SE¼, and S½SE¼SE¼;

sec. 35, SW¼NE¼NW¼, W½NW¼, W½SE¼NW¼, NW¼NE¼SW¼, S½NE¼SW¼, NW¼SW¼, S½SW¼, NW¼SW¼SE¼, and S½SW¼SE¼;

T. 5 S., R. 3 W.,

sec. 2, W½NE¼NE¼, NW¼NE¼, NE¼SW¼NE¼, NW¼SE¼NE¼, N½NW¼, SW¼NW¼, W½E½SE¼NW¼, W½NE¼NW¼SW¼, NE¼SW¼, E½NW¼SW¼, NE¼W¼W¼W¼SW¼, S½SW¼, W½W¼NW¼SE¼, and W½W½SW¼SE¼;

sec. 3, E½E½NE¼ and diagonal SE½SE¼SE¼;

sec. 7, part of NE¼NE¼, NW¼NE¼, part of SW¼NE¼, SE¼NE¼, part of E½NE¼NW¼ and SE¼NE¼SW¼, NE¼SE¼SW¼, part of SE¼SE¼SW¼, E½SE¼, and part of NW¼SE¼ and SW¼SE¼;

sec. 8, part of NE¼, W½NW¼, and N½SW¼; S½SW¼; and SE¼;

sec. 9, W½E½NW¼SW¼, W½NW¼SW¼, SW¼SW¼, and part of SE¼SW¼;

sec. 10, NE¼NE¼, part of E½NW¼NE¼ and SW¼NE¼, SE¼NE¼, part of SE¼NW¼, NE¼SW¼, NE¼NW¼SW¼, S½NW¼SW¼, SW¼SW¼, W½SE¼SW¼, and NW¼SE¼;

sec. 11, W½W½W½NE¼, N½NW¼, NW¼SW¼NW¼, part of NE¼SW¼NW¼, and E½SE¼NW¼, and part of NW¼SE¼NW¼;

sec. 15, W½W½NE¼NW¼, NW¼NW¼, W½E½SW¼NW¼, W½SW¼NW¼, W½W½NE¼SW¼, W½SW¼, and W½SE¼SW¼;

sec. 16, part of N½N½NE¼, S½NE¼NE¼, NE¼SW¼NE¼, S½SW¼NE¼, SE¼NW¼, NW¼, and S½;

sec. 17, all;

sec. 18, NE¼, E½E½NE¼NW¼, SW¼SE¼NE¼NW¼, part of SW¼NW¼, E½SE¼NW¼, E½W½SE¼NW¼, part of W½W½SE¼NW¼, and S½;

sec. 19, all;

sec. 20, N½NW¼NE¼, SW¼NW¼NE¼, NW¼SW¼NE¼, S½SW¼NE¼, W½, W½SE¼, NW¼SE¼SE¼, and S½SE¼SE¼;

sec. 21, N½NE¼, N½S½NE¼, and NE¼NE¼NW¼;

sec. 22, W½NE¼NW¼ and W½NW¼;

sec. 23, S½SW¼SE¼;

sec. 25, W½W½SW¼NW¼, NW¼NE¼SW¼, and W½SW¼;

sec. 26, W½NE¼NE¼, E½NW¼NE¼, E½W½NW¼NE¼, part of SW¼NE¼, SE¼NE¼, NE¼SE¼, and part of SE¼SE¼;

sec. 28, S½SW¼NW¼, SW¼NE¼SW¼, NW¼SW¼, S½SW¼ lying northeast of the Tennessee River, and S½ SW¼SE¼;

sec. 29, all lying north of the Tennessee River;

sec. 30, all lying north and southwest of the Tennessee River;

sec. 31, N½ lying south of the Tennessee River, N½NE¼SW¼, SW¼NE¼SW¼, NW¼SW¼, NW¼SW¼SW¼, N½SE¼, NE¼SW¼SE¼, and SE¼SE¼;

sec. 32, all lying south of the Tennessee River;

sec. 33, all lying northeast and southwest of the Tennessee River;

sec. 34, SW¼NE¼, part of SE¼NE¼ and S½NW¼NW¼, S½NW¼ lying northeast of the Tennessee River, and N½S½ lying north of the Tennessee River;

sec. 35, NE¼NE¼, part of NE¼NW¼NE¼, S½NW¼NE¼, S½NE¼, SE¼NE¼NE¼, and S½ lying north of the Tennessee River;

sec. 36, all lying north of the Tennessee River;

T. 6 S., R. 3 W.,

sec. 1, all lying northeast of the Tennessee River, N½ lying south of the Tennessee River, N½SW¼, N½SW¼SW¼, SW¼SW¼SW¼, SE¼SW¼SW¼, N½NE¼SE¼, SW¼NE¼SE¼, NW¼SE¼, and W½SW¼SE¼;

sec. 2, N½ lying south of the Tennessee River, N½SW¼, SW¼SW¼, N½S½SW¼SW¼, SW¼SE¼SW¼, and SE¼;

sec. 3, N½ lying south of the Tennessee River, W½NE¼SW¼, NW¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, N½NE¼SE¼, and N½NE¼SE¼;

sec. 4, N½ lying southwest of the Tennessee River, N½NE¼SW¼, SE¼NE¼SW¼, N½NW¼SW¼, N½S½NW¼SW¼, E½NW¼SW¼, and SE¼;

sec. 5, N½NE¼, N½SW¼NE¼, SE¼SW¼NE¼, N½NW¼, N½E½SW¼NW¼, E½W½SW¼NW¼, NE¼NW¼SW¼, E½SW¼, and E½SE¼SE¼;

sec. 6, E½NE¼NE¼ and E½W½NE¼NE¼;

sec. 10, NE¼NE¼NE¼;

sec. 11, NW½NE¼NW¼ and NW¼NW¼NW¼;

sec. 12, W½NW¼NE¼ and E½NE¼NW¼;

T. 5 S., R. 4 W.,

sec. 2, E½E½SW¼;

sec. 3, S½SW¼SW¼;

sec. 4, part of SE¼SE¼SE¼;

sec. 8, part of SE¼SE¼ lying northeast of the Tennessee River and southeast of the southeast right-of-way boundary of U. S. Highway No. 31;

sec. 9, all lying southeast of the southeast right-of-way boundary of U. S. Highway No. 31;

sec. 10, SW¼NW¼NE¼, SW¼NE¼, NW¼SE¼NE¼, S½SE¼NE¼, NW¼, and S½;

sec. 11, NE¼, E½E½NE¼NW¼, part of SE¼SW¼NW¼, E½NE¼SE¼NW¼, S½SE¼NW¼, NE¼SW¼, part of NW¼SW¼, S½SW¼, and SE¼;

sec. 13, part of NW¼NW¼ and S½NW¼, SW¼, and part of SW¼NW¼SE¼ and S½SE¼;

sec. 14, all;

secs. 15 to 17, inclusive, all lying northeast of the Tennessee River;

sec. 21, part of NE¼ lying southwest of the Tennessee River, and part of E½NW¼ and NE¼SE¼;

sec. 22, all lying northeast of the Tennessee River, that part of NW¼ and N½SW¼ lying southwest of the Tennessee River, N½SW¼SW¼, SE¼SW¼SW¼, and that part of SE¼SW¼ and SE¼ lying southwest of the Tennessee River;

sec. 23, all lying north of the Tennessee River;

sec. 24, all lying northeast of the Tennessee River;

sec. 25, all lying north and south of the Tennessee River;

sec. 26, all lying south of the Tennessee River;

sec. 27, NE¼ lying southwest of the Tennessee River, N½NE¼NW¼, SE¼NE¼NW¼, NE¼NW¼NW¼, S½N½SW¼NW¼, S½SW¼SW¼, NE¼SE¼, E½NW¼SE¼, and S½SE¼;

sec. 28, all lying south of the Tennessee River;

sec. 33, SE¼SE¼NE¼, NE¼NE¼SW¼, S½NE¼SW¼, NW¼NW¼SW¼, that part of S½NW¼SW¼ and N½SW¼SW¼ lying east of the west right-of-way boundary of the Somerville Pike; part of S½SW¼SW¼, SE¼SW¼, E½NE¼SE¼, part of NW¼SE¼, and S½SE¼;

sec. 34, NE¼, NE¼NW¼, NE¼NW¼NW¼, S½NW¼NW¼, S½NW¼, SW¼NW¼, and W½SE¼;

sec. 35, N½NE¼NE¼, W½NW¼NE¼, N½NW¼, SW¼NW¼NE¼, SW¼NW¼NW¼, N½NE¼SW¼NW¼, SW¼SE¼NW¼NW¼, and SW¼SW¼NW¼;

sec. 36, NE¼, NE¼NW¼, N½NW¼NW¼, SE¼NW¼NW¼, SE¼NW¼, NE¼SW¼, and N½SE¼;

T. 6 S., R. 4 W.,

sec. 3, N½, SW¼, W½SE¼, and part of E½SE¼;

sec. 4, NE¼, NE¼NW¼, NE¼NW¼NW¼, part NW¼NW¼NW¼, S½NW¼NW¼, N½SW¼, SE¼SW¼, N½SW¼SW¼, SE¼SW¼, and SE¼;

sec. 5, S½SE¼SE¼NE¼, NE¼SE¼, E½NW¼SE¼, and N½NE¼SE¼SE¼;

sec. 8, SW¼NE¼NE¼, SE¼NW¼NE¼, E½SW¼NE¼, SE¼NE¼, NE¼SE¼, that part of NW¼SE¼ lying east of the east right-of-way boundary of Alabama State Highway No. 3, E½SW¼SE¼, that part of SW¼SW¼SE¼ lying east of the east right-of-way boundary of Alabama State Highway No. 3, and W½W½SE¼SE¼;

sec. 9, NE¼, NE¼NW¼, NE¼NW¼NW¼, S½NW¼, and S½;

sec. 10, N½, SW¼, W½E½NW¼SE¼, and W½W½SE¼;

sec. 11, part of NW¼;

sec. 15, W½W½NE¼NW¼, NW¼NW¼, and part of W½SW¼NW¼;

sec. 16, NE¼, NE¼NW¼, N½NW½NW¼, SE¼NW¼NW¼, E½SW¼NW¼, SE¼NW¼, SW¼NW¼, W½NE¼SW¼, and S½SE¼;

sec. 17, that part of S½S½SE¼SE¼ lying east of the east right-of-way boundary of U. S. Highway No. 31;

sec. 19, SW¼NE¼SW¼, S½SE¼NE¼SW¼, SE¼SW¼, part of S½N½SE¼, and S½SE¼;

sec. 20, N½NE¼NE¼, W½NW¼SW¼, part of N½SW¼SW¼, S½SW¼SW¼, and part of S½SE¼SW¼ and SE¼SE¼;

sec. 21, W½NE¼NE¼, W½NE¼, W½SE¼NE¼, NW¼, NE¼SW¼, part of NW¼SW¼, S½SW¼, and part of S½SE¼SW¼ and SE¼SE¼;

sec. 22, W½SW¼SW¼;

sec. 27, W½W½NW¼, W½E½NW¼SW¼, W½NW¼SW¼, W½NE¼SW¼, and NW¼SW¼SW¼;

sec. 28, N½NE¼, N½NW¼SW¼NE¼, SE¼NE¼, N½NW¼, SW¼NW¼, part of NE¼SE¼NW¼, that part of S½SE¼NW¼ and N½N½SW¼ lying southwest of the northeast right-of-way boundary of L. & N. R. R., W½E½NW¼SW¼, W½NW¼SW¼, part of SW¼SW¼, NE¼SE¼, and NE¼SE¼SE¼;

sec. 29, NE¼, NE¼NW¼, N½NW¼NW¼, NE¼SE¼NW¼, SW¼SW¼, NE¼SE¼, NE¼SE¼, and N½N½SW¼SE¼;

sec. 30, N½NE¼NE¼NE¼, NW¼NE¼NE¼, N½NW¼NE¼, N½S½NW¼NE¼, NE¼NW¼, E½NW¼NW¼, N½SW¼NW¼, N½SW¼SW¼NW¼, and N½SE¼NW¼;

sec. 31, diagonal SE½SE¼SW¼NE¼, S½N½SE¼NE¼, S½SE¼NE¼, part of W½NE¼SE¼, SE¼NE¼SE¼, and part of E½NW¼SE¼ and SE¼SE¼;

sec. 32, part of N½N½ and SW¼NW¼, W½NW¼SW¼SW¼, SW¼SW¼SW¼, E½E½SW¼SW¼, S½N½SW¼SW¼, and S½SE¼SW¼;

T. 7 S., R. 4 W.,

sec. 5, part of SW¼NE¼, SW¼SE¼NE¼, part of N½NW¼ and SE¼NW¼, S½N½N½SW¼, S½N½N½SW¼, S½SW¼SW¼, and S½SE¼;

sec. 6, S½SW¼NE¼, NE¼NW¼SW¼, S½N½NW¼SW¼, SW¼SW¼, part of E½NE¼SW¼, S½SE¼SW¼, and part of S½SE¼;

sec. 7, W½NW¼NE¼NE¼, E½W½NE¼, W½NW¼SE¼NE¼, NW¼NW¼, S½S½NE¼NE¼, NE¼SE¼NE¼, E½NW¼SE¼, N½SE¼, and N½NW¼SE¼ SE¼;

sec. 8, SW¼NW¼NE¼SW¼, W½SW¼NE¼SW¼, S½NE¼NW¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, part of SE¼SW¼SW¼, and N½SE¼SW¼;

sec. 17, part of NW¼NW¼, and W½NW¼SW¼NW¼;

sec. 18, E½E½NE¼NE¼, SE¼SW¼NE¼, SE¼NE¼, NE¼SE¼, E½NW¼SE¼, S½SW¼NE¼, N½SW¼SE¼, NW¼SW¼, and N½SE¼SE¼;

T. 6 S., R. 5 W.,

sec. 25, part of SE¼NE¼, SE¼NE¼NE¼SW¼, E½SE¼NE¼SW¼, E½E½SE¼SW¼, NE¼SE¼, NE¼NE¼NW¼SE¼, S½N½NW¼SE¼, and S½SE¼;

sec. 36, NE¼NE¼NE¼ and W½NW¼NW¼NE¼;

sec. 12, NE¼NE¼ and N½SE¼NE¼,

all of which area is bounded by the following-described lines:

Beginning at the corner common to secs. 26, 27, 34, and 35, T. 4 S., R. 3 W.,

Thence between secs. 26 and 35,
Easterly to the west one-sixteenth corner of said secs;

Thence in sec. 35,
Southerly to the northwest corner of SW¼NE¼NW¼,
Easterly to the northeast corner of SW¼NE¼NW¼,
Southerly to the northwest corner of SE¼NE¼SW¼,
Easterly to the northeast corner of SE¼NE¼SW¼,
Southerly to the center south one-sixteenth corner,
Easterly to the northeast corner of NW¼SW¼SE¼,
Southerly to the northwest corner of SE¼SW¼SE¼,
Easterly to the northeast corner of SE¼SW¼SE¼,
Southerly to the east one-sixteenth corner of sec. 35, T. 4 S., R. 3 W., and sec. 2, T. 5 S., R. 3 W.;

Thence between sec. 35, T. 4 S., R. 3 W., and sec. 2, T. 5 S., R. 3 W.,
Easterly to the northeast corner of NW¼NE¼NE¼ of sec. 2, T. 5 S., R. 3 W.;

Thence in sec. 2, T. 5 S., R. 3 W.,
Southerly to the southeast corner of NW¼SE¼NE¼,
Westerly to the southwest corner of NE¼SW¼NE¼,
Northerly to the northwest corner of NE¼SW¼NE¼,
Westerly to the northeast corner of NW¼NE¼SE¼NW¼,
Southerly to the southeast corner of SW¼SE½SE¼NW¼,
Easterly to the northeast corner of NW¼NW¼NW¼SE¼,
Southerly to the southeast corner of SW¼SW½SW½SE¼,

Thence in sec. 11,
Southerly to the southeast corner of SW¼SW½SW¼NE¼,
Westerly to the southwest corner of SE¼SE¼NW¼,
N. 0°04′ E., 13.53 chains, to a point in the west line of E½E½NW¼,
N. 89°55′ W., 20.55 chains, to a point in the east line of W½W½NW¼,
Southerly to the southeast corner of NW¼SW¼NW¼,
Westerly to the southwest corner of NW¼SW¼NW¼;

Thence between secs. 10 and 11,
Southerly to the one-quarter corner of said secs.;

Thence in sec. 10,
Westerly to the center east one-sixteenth corner,
Southerly to the southeast one-sixteenth corner,
Westerly to the northeast corner of NW¼SE¼SW¼,
Southerly to the southeast corner of SW¼SE¼SW¼,
Thence between secs. 10 and 15,
Westerly to the northeast corner of NW¼NW¼NE¼NW¼ of sec. 15;
Thence in sec. 15,
Southerly to the southeast corner of SW¼SW¼NE¼NW¼,
Westerly to the northeast corner of NW¼NE¼SW¼NW¼,
Southerly to the southeast corner of SW¼SE¼SW¼NW¼,
Easterly to the northeast corner of NW¼NW¼NE¼SW¼,
Southerly to the northwest corner of NE¼NW¼SE¼SW¼,
Easterly to the northeast corner of NE¼NW¼SE¼SW¼,
Southerly to the southeast corner of SW¼SE¼SW¼;
Thence in sec. 22,
Southerly to the southeast corner of SW¼NE¼NW¼,
Westerly to the northwest one-sixteenth corner,
Southerly to the center west one-sixteenth corner,
Westerly to the one-quarter corner of secs. 21 and 22;
Thence between secs. 21 and 22,
Northerly to the southeast corner of NE¼SE¼NE¼ of sec. 21;
Thence in sec. 21,
Westerly to the southwest corner of NW¼SW¼NE¼,
Northerly to the southeast corner of NE¼NE¼NW¼,
Westerly to the southwest corner of NE¼NE¼NW¼,
Northerly to the northwest corner of NE¼NE¼NW¼,
Thence between secs. 16 and 21,
Westerly to the corner common to secs. 16, 17, 20, and 21;
Thence between secs. 17 and 20,
Westerly to the east one-sixteenth corner of said secs.;
Thence in sec. 20,
Southerly to the southeast corner of NE¼NW¼NE¼,
Westerly to the southwest corner of NE¼NW¼NE¼,
Southerly to the northwest corner of SE¼SW¼NE¼,
Easterly to the northeast corner of SE¼SW¼NE¼,
Southerly to the southeast one-sixteenth corner,
Easterly to the northeast corner of NW¼SE¼SE¼,
Southerly to the southeast corner of NW¼SE¼SE¼,
Easterly to the northeast corner of SE¼SE¼SE¼;
Thence between secs. 20 and 21,
Southerly to the corner common to secs. 20, 21, 28, and 29;
Thence between secs. 28 and 29,
Southerly to the northwest corner of SW¼SW¼NW¼ of sec. 28;
Thence in sec. 28,
Easterly to the northeast corner of SE¼SW¼NW¼,
Southerly to the northwest corner of SW¼NE¼SW¼,
Easterly to the northeast corner of SW¼NE¼SW¼,
Southerly to the southeast corner of SW¼NE¼SW¼,
Easterly to the center south one-sixteenth corner,
Southerly to the northwest corner of SW¼SW¼SE¼,
Easterly to the northeast corner of SE¼SW¼SE¼,
Southerly to the east one-sixteenth corner of secs. 28 and 33;
Thence between secs. 28 and 33,
Easterly to the corner common to secs. 27, 28, 33, and 34;
Thence between secs. 33 and 34,
Southerly to a point that is north approximately 23.48 chains from the meander corner of said secs. on the north bank of the Tennessee River;
Thence in sec. 34,
S. 89°36' E., 14.82 chains, to a point,
S. 0°16' W., 6.44 chains, to a point in the north one-sixteenth line,
S. 89°38' E., 26.18 chains, to the center north one-sixteenth corner,
S. 89°36' E., 29.74 chains, to a point in the north one-sixteenth line,
S. 1°35' W., 1.64 chains, to a point,
S. 89°37' E., 11.29 chains, to a point in the line between secs. 34 and 35;
Thence between secs. 34 and 35,
Northerly to the north one-sixteenth corner of said secs.;
Thence in sec. 35,
Easterly to the southwest corner of SE¼NE¼NW¼,
Northerly to the northwest corner of SE¼NE¼NW¼,
Easterly to the northeast corner of SE¼NE¼NW¼,
S. 88°03' E., 12.09 chains, to a point in the north line of the S½N½NE¼,
N. 1°00' E., 10.44 chains, to a point in the line between secs. 26 and 35;
Thence between secs. 26 and 35,
Easterly to a point;
Thence in sec. 26,
N. 0°17' E., 17.88 chains, to a point,
S. 88°52' W., 3.82 chains, to a point in the east one-sixteenth line,
N. 3°00' E., 22.33 chains, to the center east one-sixteenth corner,
N. 88°37' W., 12.53 chains, to a point in the east-west center line,
N. 1°35' E., 20.00 chains, to a point in the north one-sixteenth line,
S. 89°45' W., 3.26 chains, to the southwest corner of SE¼SW¼NW¼NE¼,
Northerly to the northwest corner of NE¼NW¼NW¼NE¼;
Thence between secs. 23 and 26,
Westerly to the one-quarter corner of said secs.;
Thence in sec. 23,
Northerly to the northwest corner of SW¼SW¼SE¼,
Easterly to the northeast corner of SE¼SW¼SE¼,
Southerly to the east one-sixteenth corner of secs. 23 and 26;
Thence between secs. 23 and 26,
Easterly to the northeast corner of NW¼NE¼NE¼ of sec. 26;
Thence in sec. 26,
Southerly to the northwest corner of NE¼SE¼NE¼,
Easterly to the north one-sixteenth corner of secs. 25 and 26;
Thence in sec. 25,
Easterly to the northeast corner of NW¼NW¼SW¼NW¼,
Southerly to the southeast corner of SW¼SW¼SW¼NW¼,
Easterly to the northeast corner of NW¼NE¼SW¼,
Southerly to the southeast corner of NW¼NE¼SW¼,
Westerly to the southwest corner of NW¼NE¼SW¼,
Southerly to the west one-sixteenth corner of secs. 25 and 36;
Thence between secs. 25 and 36,
Easterly to the corner common to secs. 30 and 31, T. 5 S., R. 2 W., and secs. 25 and 36, T. 5 S., R. 3 W.;
Thence between secs. 30 and 31, T. 5 S., R. 2 W.,
Easterly to the southwest corner of SE¼SW¼SE¼ of sec. 30;
Thence in sec. 30,
Northerly to the southeast corner of NW¼SW¼SE¼,
Westerly to the southeast corner of NW¼SW¼SE¼,
Northerly to the center south one-sixteenth corner,
Westerly to the southwest corner of SE¼NE¼SW¼,
Northerly to the southeast corner of SE¼SW¼SE¼NW¼,
Westerly to the southwest corner of SE¼SW¼SE¼NW¼,
Northerly to the northwest corner of NE¼NW¼SE¼NW¼,
Westerly to the northwest one-sixteenth corner,
Northerly to the west one-sixteenth corner of secs. 19 and 30;
Thence in sec. 19,
Northerly to the southeast corner of NE¼SW¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Northerly to the northwest corner of SE¼SW¼NW¼,
Easterly to the northeast corner of SW¼SE¼NW¼,
Northerly to the southeast corner of SE¼NW¼NW¼,
Easterly to the southwest corner of SE¼SW¼SE¼ of sec. 19;
Thence in sec. 19,
Northerly to the northwest corner of SE¼SW¼SE¼,
Easterly to the northeast corner of SW¼SE¼SE¼,
Southerly to the southeast corner of SW¼SE¼SE¼,
Thence in sec. 30,
Southerly to the northwest corner of SE¼SE¼NE¼,
Easterly to the northeast corner of SE¼SE¼NE¼,
Thence between secs. 29 and 30,
Southerly to the northwest corner of SW¼SW¼SW¼ of sec. 29;
Thence in sec. 29,
Easterly to the northeast corner of SE¼SW¼SW¼,
Southerly to the west one-sixteenth corner of secs. 29 and 32;
Thence in sec. 32,
S. 0°28' W., 16.79 chains, to a point in the west one-sixteenth line,
S. 88°30' E., 16.17 chains, to a point,
S. 1°54' W., 24.29 chains, to a point in the east-west center line,
Easterly to the northeast corner of NW¼NW¼SE¼,
Southerly to the southeast corner of SW¼NW¼SE¼,
Easterly to the southwest corner of SE¼NE¼SE¼,
Northerly to the northwest corner of SE¼NE¼SE¼,
Easterly to the northeast corner of SE¼NE¼SE¼;
Thence in sec. 33,
Easterly to the southwest corner of NE¼NW¼SW¼,
Northerly to the northwest corner of NE¼NW¼SW¼,
Easterly to the southwest corner of SE¼SE¼SW¼NW¼,
Northerly to the northwest corner of NE¼NE¼SW¼NW¼,
Easterly to the southwest corner of SE¼NE¼NW¼,
Northerly to the northwest corner of SE¼NE¼NW¼,
Easterly to the northeast corner of SE¼NE¼NW¼,
Northerly to the one-quarter corner of secs. 28 and 33;
Thence in sec. 28,
Northerly to the northwest corner of SW¼SW¼SE¼,
Easterly to the northeast corner of SW¼SW¼SE¼,
Northerly to the northwest corner of NE¼SW¼SE¼,
Easterly to the southeast one-sixteenth corner,
Northerly to the center east one-sixteenth corner,
Easterly to the southwest corner of SE¼SE¼NE¼,
Northerly to the northwest corner of SE¼SE¼NE¼,
Easterly to the southeast corner of SE¼SW¼SE¼NW¼,
Westerly to the southwest corner of SE¼SW¼SE¼NW¼,
Northerly to the northwest corner of NE¼NW¼SE¼NW¼,
Westerly to the northwest one-sixteenth corner,
Northerly to the west one-sixteenth corner of secs. 19 and 30;
Thence in sec. 19,
Northerly to the southeast corner of NE¼SW¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Northerly to the northwest corner of SE¼SW¼NW¼,
Easterly to the northeast corner of SW¼SE¼NW¼,
Northerly to the southeast corner of SE¼NW¼NW¼,
Easterly to the southwest corner of SE¼SW¼SE¼ of sec. 19;
Thence between secs. 19 and 30,
Easterly to the southwest corner of SE¼SW¼SE¼,
Thence in sec. 19,
Northerly to the northwest corner of SE¼SW¼SE¼,
Easterly to the northeast corner of SW¼SE¼SE¼,
Southerly to the southeast corner of SW¼SE¼SE¼,
Thence in sec. 30,
Southerly to the northwest corner of SE¼SE¼NE¼,
Easterly to the northeast corner of SE¼SE¼NE¼,
Thence between secs. 29 and 30,
Southerly to the northwest corner of SW¼SW¼SW¼ of sec. 29;
Thence in sec. 29,
Easterly to the northeast corner of SE¼SW¼SW¼,
Southerly to the west one-sixteenth corner of secs. 29 and 32;
Thence in sec. 32,
S. 0°28' W., 16.79 chains, to a point in the west one-sixteenth line,
S. 88°30' E., 16.17 chains, to a point,
S. 1°54' W., 24.29 chains, to a point in the east-west center line,
Easterly to the northeast corner of NW¼NW¼SE¼,
Southerly to the southeast corner of SW¼NW¼SE¼,
Easterly to the southwest corner of SE¼NE¼SE¼,
Northerly to the northwest corner of SE¼NE¼SE¼,
Easterly to the northeast corner of SE¼NE¼SE¼;
Thence in sec. 33,
Easterly to the southwest corner of NE¼NW¼SW¼,
Northerly to the northwest corner of NE¼NW¼SW¼,
Easterly to the southwest corner of SE¼SE¼SW¼NW¼,
Northerly to the northwest corner of NE¼NE¼SW¼NW¼,
Easterly to the southwest corner of SE¼NE¼NW¼,
Northerly to the northwest corner of SE¼NE¼NW¼,
Easterly to the northeast corner of SE¼NE¼NW¼,
Northerly to the one-quarter corner of secs. 28 and 33;
Thence in sec. 28,
Northerly to the northwest corner of SW¼SW¼SE¼,
Easterly to the northeast corner of SW¼SW¼SE¼,
Northerly to the northwest corner of NE¼SW¼SE¼,
Easterly to the southeast one-sixteenth corner,
Northerly to the center east one-sixteenth corner,
Easterly to the southwest corner of SE¼SE¼NE¼,
Northerly to the northwest corner of SE¼SE¼NE¼,
Easterly to the southeast corner of SE¼SW¼SE¼NW¼,
Westerly to the southwest corner of SE¼SW¼SE¼NW¼,
Northerly to the northwest corner of NE¼NW¼SE¼NW¼,
Westerly to the northwest one-sixteenth corner,
Northerly to the west one-sixteenth corner of secs. 19 and 30;
Thence in sec. 19,
Northerly to the southeast corner of NE¼SW¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Northerly to the northwest corner of SE¼SW¼NW¼,
Easterly to the northeast corner of SW¼SE¼NW¼,
Northerly to the southeast corner of SE¼NW¼NW¼,
Easterly to the southwest corner of SE¼SW¼SE¼ of sec. 19;
Thence between secs. 19 and 30,
Easterly to the southwest corner of SE¼SW¼SE¼,
Thence in sec. 19,
Northerly to the northwest corner of SE¼SW¼SE¼,
Easterly to the northeast corner of SW¼SE¼SE¼,
Southerly to the southeast corner of SW¼SE¼SE¼,
Thence in sec. 30,
Southerly to the northwest corner of SE¼SE¼NE¼,
Easterly to the northeast corner of SE¼SE¼NE¼,
Thence between secs. 29 and 30,
Southerly to the northwest corner of SW¼SW¼SW¼ of sec. 29;
Thence in sec. 29,
Easterly to the northeast corner of SE¼SW¼SW¼,
Southerly to the west one-sixteenth corner of secs. 29 and 32;
Thence in sec. 32,
S. 0°28' W., 16.79 chains, to a point in the west one-sixteenth line,
S. 88°30' E., 16.17 chains, to a point,
S. 1°54' W., 24.29 chains, to a point in the east-west center line,
Easterly to the northeast corner of NW¼NW¼SE¼,
Southerly to the southeast corner of SW¼NW¼SE¼,
Easterly to the southwest corner of SE¼NE¼SE¼,
Northerly to the northwest corner of SE¼NE¼SE¼,
Easterly to the northeast corner of SE¼NE¼SE¼;
Thence in sec. 33,
Easterly to the southwest corner of NE¼NW¼SW¼,
Northerly to the northwest corner of NE¼NW¼SW¼,
Easterly to the southwest corner of SE¼SE¼SW¼NW¼,
Northerly to the northwest corner of NE¼NE¼SW¼NW¼,
Easterly to the southwest corner of SE¼NE¼NW¼,
Northerly to the northwest corner of SE¼NE¼NW¼,
Easterly to the northeast corner of SE¼NE¼NW¼,
Northerly to the one-quarter corner of secs. 28 and 33;
Thence in sec. 28,
Northerly to the northwest corner of SW¼SW¼SE¼,
Easterly to the northeast corner of SW¼SW¼SE¼,
Northerly to the northwest corner of NE¼SW¼SE¼,
Easterly to the southeast one-sixteenth corner,
Northerly to the center east one-sixteenth corner,
Easterly to the southwest corner of SE¼SE¼NE¼,
Northerly to the northwest corner of SE¼SE¼NE¼,

Easterly to the northeast corner of SE¼SE¼NE¼;
Thence between secs. 27 and 28,
S. 1°52' W., 0.47 chain, to a point;
Thence in sec. 27,
N. 50°08' E., 18.32 chains, to a point,
N. 6°36' W., 8.29 chains, to a point,
N. 82°35' E., 2.82 chains, to a point in the south right-of-way boundary of road,
Easterly with the south right-of-way boundary of said road, approximately 10.91 chains, to a point,
N. 6°47' W., 12.47 chains, to a point,
N. 83°09' E., 7.24 chains, to a point,
N. 6°41' W., approximately 0.23 chain, to a point in the line between secs. 22 and 27;
Thence in sec. 22,
N. 6°41' W., approximately 3.03 chains, to a point,
N. 83°13' E., 3.23 chains, to a point,
N. 6°47' W., 14.50 chains, to a point,
N. 83°02' E., 4.00 chains, to a point,
N. 6°47' W., 19.32 chains, to a point,
N. 53°08' W., 5.48 chains, to the southwest corner of SE¼SW¼SE¼NW¼,
N. 2°14' E., 20.03 chains, to the northwest corner of NE¼NW¼SE¼NW¼,
N. 88°37' W., 5.00 chains, to the northwest one-sixteenth corner,
N. 2°10' E., 5.62 chains, to a point in the west one-sixteenth line,
S. 82°37' W., 10.15 chains, to a point in the west line of E½NW¼NW¼,
N. 2°13' E., 16.11 chains, to the northwest corner of NE¼NW¼NW¼;
Thence in sec. 15,
Northerly to the southeast corner of NW¼SW¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼;
Thence between secs. 15 and 16,
Northerly to the north one-sixteenth corner of said secs.;
Thence in sec. 16,
Westerly to the southwest corner of SE¼SE¼NE¼NE¼,
Northerly to the northwest corner of NE¼NE¼NE¼NE¼;
Thence between secs. 9 and 16,
Westerly to the southwest corner of SE¼SE¼SE¼ of sec. 9;
Thence in sec. 9,
Northerly to the southeast corner of NW¼SE¼SE¼,
Westerly to the southwest corner of NW¼SE¼SE¼,
Northerly to the southeast corner of NE¼SW¼NE¼,
Westerly to the southeast corner of SE¼SW¼NE¼,
Northerly to the northeast corner of SE¼SW¼NE¼,
Westerly to the center west one-sixteenth corner,
Westerly to the one-quarter corner of secs. 8 and 9;
Thence between secs. 8 and 9,
Northerly to the north one-sixteenth corner of said secs.;
Thence in sec. 8,
Westerly to the southwest corner of SE¼NE¼NE¼,
Northerly to the northwest corner of NE¼NE¼NE¼;
Thence between secs. 5 and 8,
Westerly to the east one-sixteenth corner of said secs.;
Thence in sec. 5,
Northerly to the southeast one-sixteenth corner,
Easterly to the south one-sixteenth corner of secs. 4 and 5;
Thence in sec 4,
Easterly to the southwest one-sixteenth corner,
Southerly to the west one-sixteenth corner of secs. 4 and 9;
Thence between secs. 4 and 9,
Easterly to the one-quarter corner of said secs.;
Thence in sec. 4,
Northerly to the northwest corner of SW¼SW¼SE½,
Easterly to the northeast corner of SE¼SE¼SW¼SE¼,
Southerly to the east one-sixteenth corner of secs. 4 and 9;
Thence between secs. 4 and 9,
Easterly to the corner common to secs. 3, 4, 9, and 10;
Thence between secs. 9 and 10,
Southerly to the north one-sixteenth corner of said secs.;
Thence in sec. 10,
Easterly to the northeast corner of NW¼SW¼NW¼,
Southerly to the southeast corner of SW¼SW¼NW¼,
Easterly to the center west one-sixteenth corner,
Southerly to the southwest one-sixteenth corner,
Easterly to the northeast corner of NW¼SE½SW¼,
Southerly to the southeast corner of SW¼SE¼SW¼;
Thence between secs. 10 and 15,
Easterly to the southwest corner of SE¼SW¼SW¼SE¼ of sec. 10;
Thence in sec. 10,
Northerly to the northwest corner of NE¼NW¼NW¼SE¼,
Westerly to the southwest corner of SE¼SE¼SE¼NW¼,
Northerly to the northwest corner of NE¼NE¼SE¼NW¼,
Westerly to the northwest one-sixteenth corner,
Northerly to the southeast corner of NW¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼,
Northerly to the northwest corner of NW¼NW¼NW¼;
Thence in sec. 3,
Northerly to the southeast corner of NE¼SW¼SW¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼SW¼;
Thence between secs. 3 and 4,
Northerly to the one-quarter corner of said secs.;
Thence in sec. 3,
Easterly to the northeast corner of NW¼NW¼SW¼,
Southerly to the southeast corner of NW¼NW¼SW¼,
Easterly to the northeast corner of SE¼NW¼SW¼,
Southerly to the west one-sixteenth corner of secs. 3 and 10;
Thence between secs. 3 and 10,
Easterly to the east one-sixteenth corner of said secs.;
Thence in sec. 10,
Southerly to the northwest corner of SW¼NE¼NE¼,
Easterly to the northeast corner of SW¼NE¼NE¼,
Southerly to the southeast corner of SW¼NE¼NE¼,
Easterly to the north one-sixteenth corner of secs. 10 and 11;
Thence in sec 11,
Easterly to the northeast corner of NW¼SW¼NW¼,
Southerly to the southeast corner of NW¼SW¼NW¼,
Easterly to the northeast corner of SE¼SE¼NW¼,
Southerly to the center one-quarter corner,
Easterly to the northeast corner of NW¼NW¼NW¼SE¼,
Southerly to the northwest corner of NE¼NW¼SW¼SE¼,
Easterly to the northeast corner of NE¼NW¼SW¼SE¼,
Southerly to the southeast corner of SW¼SW¼SE¼;
Thence in sec. 14,
Southerly to the southeast corner of NW¼NW¼NE¼,
Westerly to the northeast corner of SW¼NE¼NW¼,
Southerly to the southeast corner of SW¼NE¼NW¼,
Westerly to the northeast corner of NW¼SW¼NW¼,
Southerly to the southeast corner of SW¼SW¼NW¼;
Thence between secs. 14 and 23,
Easterly to the southwest corner of SE¼SE¼SE¼ of sec. 14;
Thence in sec. 14,
Northerly to the northeast corner of NE¼SE¼SE¼,
Easterly to the southwest corner of SE¼SE¼NE¼SE¼,
Northerly to the northwest corner of NE¼NE¼SE¼SE¼,
Easterly to the one-quarter corner of secs. 13 and 14;
Thence in sec. 13,
Easterly to the southwest corner of SE¼SW¼NW¼,
Northerly to the northwest corner of NE¼SW¼NW¼,
Easterly to the northwest one-sixteenth corner,
Northerly to the west one-sixteenth corner of secs. 12 and 13;
Thence between secs. 12 and 13,
Westerly to the southwest corner of SE¼SW¼SW¼ of sec. 12;
Thence in sec. 12,
Northerly to the southeast corner of NW¼SW¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼;
Thence between secs. 11 and 12,
Northerly to the southeast corner of NE¼NE¼NE¼ of sec. 11;
Thence in sec. 11,
Westerly to the southwest corner of NE¼NE¼NE¼,
Northerly to the northwest corner of NE¼NE¼NE¼;
Thence between secs. 2 and 11,
Westerly to the southwest corner of SE¼SW¼SE¼ of sec. 2;
Thence in sec. 2,
Northerly to the southeast corner of NW¼SW¼SE¼,
Westerly to the southwest corner of NE¼SE¼SW¼,
Northerly to the northwest corner of SE¼SE¼NW¼,
Easterly to the northeast corner of SE¼SW¼NE¼,
Southerly too the center east one-sixteenth corner,
Easterly to the northeast corner of NW¼NW¼NE¼SE¼,
Southerly to the southeast corner of SW¼NW¼NE¼SE¼,
Easterly to the northeast corner of SE¼NE¼SE¼;
Thence between secs. 1 and 2,
Northerly to the one-quarter corner of said secs.;
N. 1°56' E., 8.30 chains to a point;
Thence in sec. 1,
S. 88°20' E., 20.30 chains, to a point in the west one-sixteenth line,
Northerly to the northwest one-sixteenth corner,
Easterly to the center north one-sixteenth corner,
Northerly to the one-quarter corner of sec. 36, T. 4 S., R. 2 W., and sec. 1, T. 5 S., R. 2 W.;
Thence in sec. 36, T. 4 S., R. 2 W.,
Northerly to the center south one-sixteenth corner,
Easterly to the south one-sixteenth corner of sec. 31, T. 4 S., R. 1 W., and sec. 36, T. 4 S., R. 2 W.;
Thence between sec. 31, T. 4 S., R. 1 W., and sec 36, T. 4 S., R. 2 W.,
Southerly to the northwest corner of SW¼SW¼SW¼ of sec. 31, T. 4 S., R. 1 W.;
Thence in sec. 31, T. 4 S., R. 1 W.,
Easterly to the northeast corner of SE½SW¼SW¼,
Southerly to the west one-sixteenth corner of sec. 31, T. 4 S., R. 1 W., and sec. 6, T. 5 S., R. 1 W.;
Thence between sec. 31, T. 4 S., R. 1 W., and sec. 6, T. 5 S., R. 1 W.;
Easterly to the one-quarter corner of said secs.;
Thence in sec. 6, T. 5 S., R. 1 W.,
Southerly to the northwest corner of SW¼NW¼NE¼,

Easterly to the northeast corner of SW¼NW¼NE¼,
Southerly to the southeast corner of SW¼NW¼SE¼,
Westerly to the northeast corner of NW¼SE¼SW¼,
Southerly to the southeast corner of NW¼SE¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼,
Thence between sec. 6, T. 5 S., R. 1 W., and sec. 1, T. 5 S., R. 2 W.,
Southerly to the southeast corner of NE¼SE¼SE¼SE¼ of sec. 1, T. 5 S., R. 2 W.;
Thence in sec. 1, T. 5 S., R. 2 W.,
Westerly to the southwest corner of NW¼SW¼SE¼SE¼,
Southerly to the east one-sixteenth corner of secs. 1 and 12;
Thence between secs. 1 and 12,
Westerly to the northeast corner of NW¼NW¼NE¼ of sec. 12;
Thence in sec. 12,
Southerly to the southeast corner of SW¼NW¼NE¼,
Easterly to the northeast one-sixteenth corner,
Northerly to the northwest corner of SW¼NE¼NE¼,
Easterly to the northeast corner of SE¼NE¼NE¼;
Thence between sec. 7, T. 5 S., R. 1 W., and sec. 12, T. 5 S., R. 2 W.,
Northerly to the northwest corner of SW¼NW¼NW¼NW¼ of sec. 7, T. 5 S., R. 1 W.;
Thence in sec. 7, T. 5 S., R. 1 W.,
Easterly to the northeast corner of SE¼NE¼NW¼NE¼,
North, 2.50 chains, to a point in the east one-sixteenth line,
S. 87°31' E., 10.08 chains, to a point in the east line of W½NE¼NE¼,
S. 2°18' W., 9.17 chains, to a point in the east line of W½NE¼NE¼,
S. 2°16' W., 7.48 chains, to a point in the east line of W½NE¼NE¼,
S. 88°32' E., 10.08 chains, to a point in the line between secs. 7 and 8;
Thence between secs. 7 and 8,
S. 2°22' W., 0.98 chain, to the north one-sixteenth corner of said sec.;
Thence in sec. 8,
Easterly to the northeast corner of NW¼SW¼NW¼,
Southerly to the southeast corner of NW¼SW¼NW¼,
Easterly to the northeast corner of SE¼SW¼NW¼,
Southerly to the center west one-sixteenth corner,
Easterly to the center one-quarter corner,
Northerly to the northwest corner of SW¼SW¼SW¼NE¼,
Easterly to the southwest corner of NE¼SE¼SW¼NE¼,
Northerly to the northwest corner of NE¼NE¼SW¼NE¼,
Easterly to the northeast one-sixteenth corner,
Northerly to the east one-sixteenth corner of secs. 5 and 8;
Thence in sec. 5,
Northerly to the northwest corner of SW¼SE¼SE¼,
Easterly to the northeast corner of SE¼SE¼SE¼;
Thence between secs. 4 and 5,
Northerly to the northwest corner of SW¼NW¼SW¼SW¼ of sec. 4;
Thence in sec. 4,
Easterly to the northeast corner of SE¼NE¼SW¼SW¼,
Southerly to the northwest corner of SW¼SE¼SW¼,
Easterly to the northeast corner of SW¼SE¼SW¼,
Southerly to the southeast corner of SW¼SE¼SW¼;
Thence between secs. 4 and 9,
Easterly to the southwest corner of SE¼SW¼SE¼ of sec. 4;
Thence in sec. 4,
Northerly to the northwest corner of SE¼SW¼SE¼,
Easterly to the northeast corner of SE¼SW¼SE¼,
N. 2°26' E., 13.80 chains, to a point in the east one-sixteenth line,
S. 89°00' E., 19.30 chains, to a point in the line between secs. 3 and 4;
Thence between secs. 3 and 4,
North to a point that is 32.27 chains north of the corner common to secs. 3, 4, 9, and 10;
Thence in sec. 3,
S. 88°41' E., 9.83 chains, to a point,
N. 2°28' E., 21.52 chains, to a point,
S. 88°27' E., 21.38 chains, to a point,
N. 2°10' E., 12.14 chains, to a point,
S. 88°42' E., 39.86 chains, to a point,
S. 1°02' W., 43.64 chains, to a point,
N. 88°48' W., 35.85 chains, to a point,
S. 0°34' W., 22.03 chains, to a point in the line between secs. 3 and 10;
Thence between secs. 3 and 10,
Westerly to the west one-sixteenth corner of said secs.;
Thence in sec. 10,
Southerly to the northwest one-sixteenth corner,
Westerly to the north one-sixteenth corner of secs. 9 and 10;
Thence between secs. 9 and 10,
Southerly to the southeast corner of NE¼SE¼NE¼ of sec. 9;
Thence in sec. 9,
Westerly to the northeast corner of SW¼SE¼NE¼,
Southerly to the southeast corner of SW¼SE¼NE¼,
Westerly to the center east one-sixteenth corner,
Southerly to the southeast corner of NE¼NW¼SE¼,
Westerly to the northeast corner of SE¼NE¼SW¼,
Southerly to the center south one-sixteenth corner,
Westerly to the northeast corner of NW¼SE¼SW¼,
Southerly to the southeast corner of NW¼SE¼SW¼,
Easterly to the northeast corner of SE¼SE¼SW¼,
Southerly to the one-quarter corner of secs. 9 and 16;
Thence in sec. 16,
Southerly to the southeast corner of NE¼NE¼NW¼,
Westerly to the southwest corner of NW¼NE¼NW¼,
Northerly to the southeast corner of NE¼NE¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼NW¼;
Thence between secs. 16 and 17,
Southerly to the one-quarter corner of said secs.;
Thence in sec. 17,
Westerly to the center east one-sixteenth corner,
Northerly to the southeast corner of NE¼SW¼NE¼,
Westerly to the southwest corner of NW¼SW¼NE¼,
Northerly to the center north one-sixteenth corner,
Westerly to the northwest one-sixteenth corner,
Northerly to the southeast corner of NE¼NW¼NW¼,
Westerly to the southwest corner of NE¼NW¼NW¼,
Northerly to the northwest corner of NE¼NW¼NW¼;
Thence between secs. 8 and 17,
Westerly to the corner common to secs. 7, 8, 17, and 18;
Thence between secs. 7 and 18,
N. 88°34' W., 8.67 chains, to a point in the center line of county road;
Thence in sec. 7,
Northerly with center line of county road to a point in the south line of N½SE¼SE¼,
N. 88°25' W., 12.21 chains, to the southwest corner of NW¼SE¼SE¼,
Northerly to the southeast one-sixteenth corner,
Westerly to the center south one-sixteenth corner,
Northerly to the center one-quarter corner,
Westerly to the one-quarter corner of sec. 7, T. 5 S., R. 1 W., and sec. 12, T. 5 S., R. 2 W.;
Thence in sec. 12, T. 5 S., R. 2 W.,
Westerly to the northeast corner of NW¼NE¼SE¼,
Southerly to the southeast corner of NW¼NE¼SE¼,
Westerly to the northeast corner of SW¼NW¼SE¼,
Southerly to the northwest corner of SE¼SW¼SE¼,
Easterly to the northeast corner of SE¼SW¼SE¼,
Southerly to the east one-sixteenth corner of secs. 12 and 13;
Thence in sec. 13,
Southerly to the northwest corner of SW¼SE¼NE¼,
Easterly to the northeast corner of SW¼SE¼NE¼,
Southerly to the southeast corner of SW¼SE¼NE¼,
S. 2°38' W., approximately 13.45 chains, to a point in the east line of W½NE¼SE¼,
N. 88°44' W., 4.98 chains, to a point in the east line of W½W½NE¼SE¼,
S. 2°32' W., 13.42 chains, to a point in the east line of W½W½SE¼SE¼,
S. 88°33' E., 5.02 chains, to a point in the east line of W½SE¼SE¼,
S. 2°25' W., 13.44 chains, to the southeast corner of SW¼SE¼SE¼;
Thence between secs. 13 and 24,
Easterly to the corner common to secs. 18 and 19, T. 5 S., R. 1 W., and secs. 13 and 24, T. 5 S., R. 2 W.;
Thence between secs. 18 and 19, T. 5 S., R. 1 W.,
Easterly to the northeast corner of NW¼NW¼NW¼ of sec 19;
Thence in sec. 19,
Southerly to the southeast corner of NW¼NW¼NW¼,
Easterly to the northeast corner of SW¼NE¼NW¼,
Southerly to the northwest corner of SE¼SE¼NW¼,
Easterly to the northeast corner of SE¼SE¼NW¼,
S. 2°04' W., with the north-south center line, approximately 21.97 chains, to the center line of farm road,
Southwesterly with the center line of the farm road and its prolongation, to a point on the north bank of the Tennessee River, which point is approximately 10.91 chains north of, and 56.52 chains west of, the corner common to secs. 19, 20, 29, and 30;
Thence crossing the Tennessee River,
Southwesterly, approximately 35.00 chains, to a point on the south bank of the Tennessee River, the meander corner of sec. 30, T. 5 S., R. 1 W., and sec. 25, T. 5 S., R. 2 W.;
Thence between sec. 30, T. 5 S., R. 1 W., and sec. 25, T. 5 S., R. 2 W.,
Southerly to the southeast corner of NE¼SE¼NE¼ of sec. 25, T. 5 S., R. 2 W.;
Thence in sec. 25, T. 5 S., R. 2 W.,
Westerly to the southwest corner of NE¼SW¼NE¼,
Northerly to the northwest corner of NE¼SW¼NE¼,
Westerly to the center north one-sixteenth corner,
Northerly to the southeast corner of NE¼NE¼NW¼,
Westerly to the southwest corner of NE¼NE¼NW¼,
Northerly to the northwest corner of NE¼NE¼NW¼;
Thence in sec. 24,
Northerly to the southeast corner of NE¼SW¼SE¼SW¼,
Westerly to the southwest corner of NW¼SW¼SE¼SW¼,

Northerly to the northwest corner of NW¼SW¼SE¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Northerly to the southeast corner of NE¼NW¼SW¼SW¼,
Westerly to the southwest corner of NW¼NW¼SW¼SW¼;
Thence in sec. 23,
Westerly to the northeast corner of SE¼NW¼SW¼SE¼,
Southerly to the southeast corner of SW¼SW¼SE¼;
Thence in sec. 26,
Southerly to the southeast corner of NW¼NW¼NE¼,
Westerly to the southwest corner of NW¼NW¼NE¼,
N. 2°23' E., 1.09 chains, to a point in the north-south center line,
Southwesterly to a point in the east-west center line,
S. 87°22' E., 5.27 chains, to the center west one-sixteenth corner,
Southerly to the southwest one-sixteenth corner,
Westerly to the south one-sixteenth corner of secs. 26 and 27;
Thence in sec. 27,
Westerly to the southeast one-sixteenth corner,
Southerly to the east one-sixteenth corner of secs. 27 and 34;
Thence in sec. 34,
S. 0°43' W., 1.21 chains, to a point in the east one-sixteenth line,
Southwesterly to a point in the south line of N½N½NW¼NE¼,
N. 88°34' W., 13.41 chains, to the northeast corner of SE¼NE¼NE¼NW¼,
Southerly to the southeast corner of SE¼NE¼NE¼NW¼,
Westerly to the northeast corner of SW¼NE¼NW¼,
Southerly to the southeast corner of NW¼SE¼NW¼,
Westerly to the southwest corner of NW¼SE¼NW¼,
Southerly to the center west one-sixteenth corner,
Easterly to the southwest corner of SE¼SW¼NE¼,
Northerly to the northwest corner of SE¼SW¼NE¼,
Easterly to the northeast corner of SE¼SW¼NE¼;
Thence between secs. 34 and 35,
Southerly to the corner common to secs. 34 and 35, T. 5 S., R. 2 W., and secs. 2 and 3, T. 6 S., R. 2 W.;
Thence between secs. 2 and 3, T. 6 S., R. 2 W.,
Southerly to the one-quarter corner of said secs.;
Thence in sec. 2,
S. 88°27' E., 3.94 chains, to a point in east-west center line,
South, 3.26 chains to a point,
N. 88°27' W., 3.94 chains, to a point in the line between secs. 2 and 3;
Thence between secs. 2 and 3,
Southerly to the northwest corner of SW¼SW¼NW¼SW¼ of sec. 2;
Thence in sec. 2,
Easterly to the southwest corner of NW¼SW¼NE¼SW¼,
Northerly to the northwest corner of NW¼SW¼NE¼SW¼,
Easterly to the northeast corner of NW¼SE¼NE¼SW¼,
Southerly to the southeast corner of SW¼SE¼SE¼SW¼;
Thence between secs. 2 and 11,
Westerly to the northeast corner of NW¼NE¼NW¼ of sec. 11;
Thence in sec. 11,
Southerly to the southeast corner of SW¼NE¼NW¼,
Westerly to the northeast corner of NW¼NW¼SE¼NW¼,
Southerly to the southeast corner of SW¼SW¼SE¼NW¼,
Easterly to the northeast corner of NW¼NE¼SW¼,
Southerly to the southeast corner of NW¼NE¼SW¼,
Easterly to the northeast corner of NW¼SE¼SW¼,
Southerly to the southeast corner of SW¼SE½NW¼NE¼,
Westerly to the southwest corner of SW¼SE½NW¼NE¼,
Southerly to the southeast corner of SW¼SW¼NW¼NE¼,
Westerly to the southeast corner of SW¼NW½NW¼NE¼,
Southerly to the one-quarter corner of secs. 11 and 12;
Thence between secs. 11 and 12,
Northerly to the northwest corner of SW¼SW¼NW¼ of sec. 12;
Thence in sec. 12,
Easterly to the northeast corner of SW¼SW¼NW¼,
Southerly to the southeast corner of SW¼NW¼SW¼,
Easterly to the southwest one-sixteenth corner,
Southerly to the west one-sixteenth corner of secs. 12 and 13;
Thence between secs. 12 and 13,
Easterly to the northeast corner of NW¼NE¼NW¼ of sec. 13;
Thence in sec. 13,
Southerly to the southeast corner of SW¼NE¼NW¼,
Westerly to the north one-sixteenth corner of secs. 13 and 14;
Thence between secs. 13 and 14,
Northerly to the corner common to secs. 11, 12, 13, and 14;
Thence between secs 11 and 14,
Westerly to the northwest corner of NW¼NE¼NE¼ of sec. 14;
Thence in sec. 14,
Southerly to the northwest corner of NW¼SE¼SE¼NE¼,
Easterly to the northeast corner of NW¼SE¼SE¼NE¼,
Southerly to the southeast corner of SW¼SE¼NE½SE¼,
Westerly to the southeast one-sixteenth corner,
Southerly to the east one-sixteenth corner of secs. 14 and 23;
Thence between secs. 14 and 23,
Westerly to the northeast corner of NW¼NE¼NW¼NE¼ of sec. 23;
Thence in sec. 23,
Southerly to the southeast corner of SW¼SE½NW¼NE¼,
Westerly to the southwest corner of SW¼SE¼NW¼NE¼,
Southerly to the southeast corner of SW¼SW¼NE¼,
Westerly to the northeast corner of NW¼NW¼NW¼SE¼,
Southerly to the southeast corner of SW¼NW¼NW¼SE¼,
Westerly to the southwest corner of SW¼NW½NW¼SE¼,
Southerly to the one-quarter corner of secs. 23 and 26;
Thence between secs. 23 and 26,
Westerly to the west one-sixteenth corner of said secs.;
Thence in sec. 26,
Southerly to the northwest one-sixteenth corner,
Easterly to the northeast corner of NE¼NW¼SE¼NW¼,
Southerly to the southeast corner of NE¼NW¼SE¼NW¼,
Easterly to the northeast corner of SE¼NE¼SW¼NE¼,
Southerly to the northwest corner of SW¼SW¼NE¼,
Easterly to the northeast corner of SW¼SW¼NE¼,
Southerly to the southeast corner of SW¼SW¼NE¼,
Easterly to the one-quarter corner of secs. 25 and 26;
Thence in sec. 25,
Easterly to the northeast corner of NW¼NW¼SW¼,
Southerly to the southeast corner of NE¼SW¼NW¼SW¼,
Westerly to the southwest corner of NW¼SW¼NW¼SW¼;
Thence between secs. 25 and 26,
Northerly to the southeast corner of NE¼NE¼SE¼ of sec. 26;
Thence in sec. 26,
Westerly to the southwest corner of NE¼NE¼SE¼,
Northerly to the southeast corner of NE¼NW¼NE¼SE¼,
Westerly to the southwest corner of NW¼NW½NE¼SE¼,
Northerly to the center east one-sixteenth corner,
Westerly to the northeast corner of NW¼NW¼NW¼SE¼,
Southerly to the southeast corner of SW¼NW¼NW¼SE¼,
Westerly to the southwest corner of SW¼NW¼NW¼SE¼,
Southerly to the one-quarter corner of secs. 26 and 35,
Thence between secs. 26 and 35,
Westerly to the northeast corner of NW¼NE¼NE¼NW¼ of sec. 35;
Thence in sec. 35,
Southerly to the southeast corner of SW¼NE¼SE¼NW¼,
Westerly to the southwest corner of SW¼NE¼SE¼NW¼,
Southerly to the southeast corner of NE¼SW¼NE¼SW¼,
Westerly to the southwest corner of NW½SW½NE¼SW¼,
Southerly to the west one-sixteenth corner of sec. 35, T. 6 S., R. 2 W., and sec. 2, T. 7 S., R. 2 W.;
Thence in sec. 2, T. 7 S., R. 2 W.,
Southerly to the northwest corner of SW¼NE¼NW¼,
Easterly to the northeast corner of SE¼NE¼NW¼,
Southerly to the northwest corner of NW¼SW¼SW¼NE¼,
Easterly to the northeast corner of NW¼SW¼SW¼NE¼,
Southerly to the southeast corner of SW¼SW¼NW¼SE¼,
Westerly to the center south one-sixteenth corner,
Southerly to the one-quarter corner of secs. 2 and 11;
Thence in sec. 11,
Southerly to the center north one-sixteenth corner,
Easterly to the northeast corner of NW¼SW¼NE¼,
Southerly to the southeast corner of NW¼SW¼NE¼,
Easterly to the northeast corner of SE¼SW¼NE¼,
Southerly to the center east one-sixteenth corner,
Easterly to the southwest corner of SE¼SE¼NE¼,
Northerly to the northwest corner of SE¼SE¼NE¼,
Easterly to the northeast corner of SE¼SE¼NE¼;
Thence between secs 11 and 12,
Southerly to the southeast corner of NE¼NE¼SE¼ of sec. 11;
Thence in sec. 11,
Westerly to the northeast corner of NE¼SW¼NE¼SE¼,
Southerly to the southeast corner of NE¼SW¼NE¼SE¼,
Westerly to the southwest corner of NW¼SE¼NW¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼,
Westerly to the center west one-sixteenth corner,
Northerly to the southeast corner of NE¼SE¼SW¼NW¼,
Westerly to the southwest corner of NW¼SE¼SW¼NW¼,
Northerly to the northwest corner of NE¼NW¼NW¼;
Thence between secs. 2 and 11,
Easterly to the southwest corner of SE¼SE¼SW¼SW¼ of sec. 2;
Thence in sec. 2,
Northerly to the northwest corner of NE¼NE¼SW¼SW¼,

Easterly to the southwest one-sixteenth corner,
Northerly to the southeast corner of NE¼NE¼SW¼NW¼,
Northwesterly to the southwest corner of NW¼NW¼NW¼;
Thence in sec. 3,
Westerly to the southwest corner of NE¼NE¼NE¼,
Northerly, with the west line of E½ NE¼NE¼, to a point that is 0.76 chain south of the line between sec. 34, T. 6 S., R. 2 W., and sec. 3, T. 7 S., R. 2 W.,
Westerly to a point on the east one-sixteenth line,
Northerly, 0.76 chain, to the east one-sixteenth corner of sec. 34, T. 6 S., R. 2 W., and sec. 3, T. 7 S., R. 2 W.;
Thence in sec. 34, T. 6 S., R. 2 W.,
N. 0°12'E., 4.41 chains, to a point in the east one-sixteenth line,
N. 69°55' W., 12.48 chains, to a point,
S. 4°55' E., 8.48 chains, to a point in the line between sec. 34, T. 6 S., R. 2 W., and sec. 3, T. 7 S., R. 2 W.;
Thence between sec. 34, T. 6 S., R. 2 W., and sec. 3, T. 7 S., R. 2 W.,
N. 88°40' W., 4.55 chains, to a point;
Thence in sec. 34, T. 6 S., R. 2 W.,
N. 18°06' W., 15.06 chains, to a point in center line of stream or ditch;
Thence with the center line of said stream and Town Creek, with the meanders thereof, downstream, approximately 64.85 chains, to a point in the north line of SE¼SE¼SE¼, East, 6.29 chains, to the northeast corner of SE¼SE¼SE¼;
Thence between secs. 34 and 35,
Northerly to the south one-sixteenth corner of said secs.;
Thence in sec. 35,
Easterly to the southwest corner of SE¼NW¼SW¼,
Northerly to the northwest corner of SE¼NW¼SW¼,
Easterly to the southwest corner of SE¼NE¼NW¼SW¼,
Northerly to the northwest corner of NE¼NE¼NW¼SW¼,
Easterly to the center west one-sixteenth corner,
Northerly to the northwest one-sixteenth corner,
Easterly to the southwest corner of SE¼SW¼NE¼NW¼,
Northerly to the northwest corner of NE¼NW¼NE¼NW¼;
Thence between secs. 26 and 35,
Westerly to the west one-sixteenth corner of said secs.;
Thence in sec. 26,
Northerly to the southeast corner of NE¼SW¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Northerly to the southeast corner of NE¼NW¼SW¼SW¼,
Westerly to the southwest corner of NW¼NW¼SW¼SW¼;
Thence between secs. 26 and 27,
Northerly to the southeast corner of SE¼NE¼NE¼SE¼ of sec. 27;
Thence in sec. 27,
Westerly to the southwest corner of SE¼NE¼NE¼SE¼,
Northerly to the northwest corner of NE¼NE¼NE¼SE¼,
Easterly to the one-quarter corner of secs. 26 and 27;
Thence between secs. 26 and 27,
Northerly to the corner common to secs. 22, 23, 26, and 27;
Thence between secs. 22 and 23,
N. 0°45' E., 16.36 chains, to a point;
Thence in sec. 23,
S. 47°26' E., 1.95 chains, to a point,
S. 47°26' E., 1.95 chains, to a point,
N. 8°17' E., 5.79 chains, to a point in the south one-sixteenth line,
S. 89°15' E., 16.91 chains, to the southwest one-sixteenth corner,
Northerly to the northwest corner of NW¼SW¼NE¼SW¼,
Easterly to the northeast corner of NW¼SW¼NE¼SW¼,
Northerly to the northwest corner of NE¼NW¼NE¼SW¼,
Easterly to the southwest corner of SW¼NE¼NW¼NE¼,
Northerly to the northwest corner of NE¼NW¼NW¼NE¼;
Thence in sec. 14,
N. 0°10' E., 20.52 chains, to a point,
West, 0.08 chain, to the southwest corner of SE¼SW¼NW¼SE¼,
Northerly to the northwest corner of SE¼SW¼NW¼SE¼,
Easterly to the northeast corner of SE¼SE¼NW¼SE¼,
N. 0°53' E., 28.62 chains, to a point in the east one-sixteenth line,
N. 88°44' W., 4.98 chains, to a point,
N. 0°58' E., 26.77 chains, to the northwest corner of NE¼NE¼NW¼NE¼;
Thence in sec 11,
Northerly to the northwest corner of SE¼SE¼SW¼SE¼,
Easterly to the northeast corner of SE¼SE¼SW¼SE¼,
Northerly to the northwest corner of SW¼NW¼SE¼SE¼,
Easterly to the northeast corner of SW¼NW¼SE¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼SE¼,
Easterly to the northeast corner of NE¼NW¼SE¼SE¼,
Northerly to the southeast corner of NW¼NE¼SE¼,
Westerly to the southwest corner of NW¼NE¼SE¼,
Southerly to the southeast corner of NE¼SE¼NW¼SE¼,
Westerly to the southwest corner of NE¼SE¼NW¼SE¼,
Southerly to the southeast corner of SW¼SE¼NW¼SE¼,
Westerly to the southwest corner of SW¼SE¼NW¼SE¼,
Southerly to the southeast corner of NW¼SW¼SE¼,
Westerly to the northeast corner of NE¼SE¼SW¼SW¼,
Southerly to the southeast corner of NE¼SE¼SW¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼SW¼;
Thence between secs. 10 and 11,
Northerly to the south one-sixteenth corner of said secs.;
Thence in sec. 10,
Westerly to the southwest corner of SE¼SE¼NE¼SE¼,
Northwesterly to the southwest corner of NW¼NW¼NE¼SE¼,
Northerly to the center east one-sixteenth corner,
Northwesterly to the center north one-sixteenth corner,
Northerly to the one-quarter corner of secs. 3 and 10;
Thence in sec. 3,
Northerly to the southeast corner of NE¼SE¼SW¼,
Westerly to the southwest corner of NW¼SE¼SW¼,
Southerly to the west one-sixteenth corner of secs. 3 and 10;
Thence between secs. 3 and 10,
Westerly to the northeast corner of NE¼NW¼NW¼NW¼ of sec. 10;
Thence in sec. 10,
Southerly to the southeast corner of NE¼NW¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼NW¼;
Thence in sec. 9,
Westerly to the southwest corner of NW¼NE¼NE¼NE¼,
Northerly to the northwest corner of NW¼NE¼NE¼NE¼;
Northerly to the northwest corner of NE¼NW¼NE¼SW¼,
Easterly to the southwest corner of SE¼SE¼SE¼NW¼,
Northerly to the southwest corner of SE¼SE¼NE¼NW¼,
N. 89°12' W., 7.26 chains, to a point in the north one-sixteenth line,
N. 0°44' E., 6.06 chains, to a point,
S. 89°13' E., 12.27 chains, to a point in the north-south center line,
Northerly to the one-quarter corner of secs. 14 and 23;
Thence between secs. 14 and 23,
S. 89°08' E., 5.03 chains, to a point;
Thence in sec. 14,
N. 0°10' E., 20.52 chains, to a point,
West, 0.08 chain, to the southwest corner of SE¼SW¼NW¼SE¼,
Northerly to the northwest corner of SE¼SW¼NW¼SE¼,
Easterly to the northeast corner of SE¼SE¼NW¼SE¼,
N. 0°53' E., 28.62 chains, to a point in the east one-sixteenth line,
N. 88°44' W., 4.98 chains, to a point,
N. 0°58' E., 26.77 chains, to the northwest corner of NE¼NE¼NW¼NE¼;
Thence in sec 11,
Northerly to the northwest corner of SE¼SE¼SW¼SE¼,
Easterly to the northeast corner of SE¼SE¼SW¼SE¼,
Northerly to the northwest corner of SW¼NW¼SE¼SE¼,
Easterly to the northeast corner of SW¼NW¼SE¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼SE¼,
Easterly to the northeast corner of NE¼NW¼SE¼SE¼,
Northerly to the southeast corner of NW¼NE¼SE¼,
Westerly to the southwest corner of NW¼NE¼SE¼,
Southerly to the southeast corner of NE¼SE¼NW¼SE¼,
Westerly to the southwest corner of NE¼SE¼NW¼SE¼,
Southerly to the southeast corner of SW¼SE¼NW¼SE¼,
Westerly to the southwest corner of SW¼SE¼NW¼SE¼,
Southerly to the southeast corner of NW¼SW¼SE¼,
Westerly to the northeast corner of NE¼SE¼SW¼SW¼,
Southerly to the southeast corner of NE¼SE¼SW¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼SW¼;
Thence between secs. 10 and 11,
Northerly to the south one-sixteenth corner of said secs.;
Thence in sec. 10,
Westerly to the southwest corner of SE¼SE¼NE¼SE¼,
Northwesterly to the southwest corner of NW¼NW¼NE¼SE¼,
Northerly to the center east one-sixteenth corner,
Northwesterly to the center north one-sixteenth corner,
Northerly to the one-quarter corner of secs. 3 and 10;
Thence in sec. 3,
Northerly to the southeast corner of NE¼SE¼SW¼,
Westerly to the southwest corner of NW¼SE¼SW¼,
Southerly to the west one-sixteenth corner of secs. 3 and 10;
Thence between secs. 3 and 10,
Westerly to the northeast corner of NE¼NW¼NW¼NW¼ of sec. 10;
Thence in sec. 10,
Southerly to the southeast corner of NE¼NW¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼NW¼;
Thence in sec. 9,
Westerly to the southwest corner of NW¼NE¼NE¼NE¼,
Northerly to the northwest corner of NW¼NE¼NE¼NE¼;
Thence in sec. 4,
Northerly to the northwest corner of NE¼NE¼SE¼,
Westerly to the northeast corner of NW¼NE¼SW¼,
Southerly to the southeast corner of SW¼SE¼SW¼;
Thence in sec. 9,
S. 1°11' W., 19.41 chains, to a point in the east line of W½NE¼NW¼,
N. 89°23' W., 19.73 chains, to a point in the east line of W½NW¼NW¼,
S. 17°51' W., 0.41 chain, to a point in the north one-sixteenth line,
N. 89°23' W., 10.29 chains, to the north one-sixteenth corner of secs. 8 and 9;
Thence in sec. 8,
Westerly to the northeast corner of NW¼NE¼SE¼NE¼,
Southerly to the southeast corner of SW¼SE¼SE¼NE¼,
Westerly to the center east one-sixteenth corner,
Northerly to the southeast corner of NE¼SW¼NE¼,
Westerly to the southwest corner of NW¼SW¼NE¼,
Northerly to the one-quarter corner of secs. 5 and 8;
Thence between secs. 5 and 8,
Westerly to the west one-sixteenth corner of said secs.;
Thence in sec. 5,
Northerly to the southeast corner of NE¼SW¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Northerly to the northwest corner of NE¼SW¼SW¼,
Westerly to the south one-sixteenth corner of secs. 5 and 6;
Thence between secs. 5 and 6,
North, 0.38 chain, to a point;
Thence in sec. 6,
N. 85°43' W., 29.88 chains, to a point in the west line of E½NW¼SE¼,
N. 0°28' W., 7.35 chains, to the northwest corner of SE¼NW¼SE¼,
S. 89°54' W., 9.95 chains, to the southwest corner of NW¼NW¼SE¼,
S. 89°55' W., 38.20 chains, to the southwest corner of NW¼NW¼SW¼;
Thence in sec. 1, T. 6 S., R. 3 W.,
Westerly to the northeast corner of SW¼NE¼SE¼,
Southerly to the southeast corner of SW¼NE¼SE¼,
Westerly to the northeast corner of NW¼SW¼SE¼,
Southerly to the southeast corner of SW¼SW¼SE¼;
Thence in sec. 12,
Southerly to the southeast corner of SW¼NW¼NE¼,
Westerly to the southwest corner of SE¼NE¼NW¼,
Northerly to the northwest corner of NE¼NE¼NW¼;
Thence between secs. 1 and 12,
Westerly to the west one-sixteenth corner of said secs.;
Thence in sec. 1,
Northerly to the southeast corner of NE¼SW¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Southerly to the southeast corner of SW¼SW¼SW¼;
Thence between secs. 1 and 12,
Westerly to the corner common to secs. 1, 2, 11, and 12;
Thence between secs. 2 and 11,
Westerly to the one-quarter corner of said secs.;
Thence in sec. 2,
Northerly to the southeast corner of NE¼SE¼SW¼,
Westerly to the southwest corner of NE¼SE¼SW¼,
Southerly to the southeast corner of SW¼SE¼SW¼;
Thence in sec. 11,
Southerly to the southeast corner of NW¼NE¼NW¼,
Westerly to the southwest corner of NW¼NE¼NW¼,

Northerly to the west one-sixteenth corner of secs. 2 and 11
Thence between secs. 2 and 11,
Westerly to the northeast corner of NW¼NW¼NW¼ of sec. 11;
Thence in sec. 11,
Southerly to the southeast corner of NW¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼;
Thence in sec. 10,
Westerly to the southwest corner of NE¼NE¼NE¼,
Northerly to the northwest corner of NE¼NE¼NE¼;
Thence between secs. 3 and 10,
Easterly to the corner common to secs. 2, 3, 10, and 11;
Thence between secs. 2 and 3,
Northerly to the southeast corner of NE¼SE¼NE¼SE¼ of sec. 3;
Thence in sec. 3,
Westerly to the southwest corner of NW¼SW¼NE¼SE¼,
Northerly to the northwest corner of NW¼SW¼NE¼SE¼,
Westerly to the southwest corner of NE¼NW¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼,
Westerly to the northeast corner of NW¼NE¼SW¼,
Southerly to the southeast corner of SW¼NE¼SW¼,
Westerly to the southwest one-sixteenth corner,
Northerly to the southeast corner of NE¼SW¼SW¼,
Westerly to the southwest corner of NE¼SW¼SW¼,
Northerly to the northwest corner of NE¼SW¼SW¼,
Westerly to the south one-sixteenth corner of secs. 3 and 4;
Thence between secs. 3 and 10,
Westerly to the corner common to secs. 3, 4, 9, and 10;
Thence between secs. 4 and 9,
Westerly to the southwest corner of SE¼SE¼SE¼ of sec. 4;
Thence in sec. 4,
Northerly to the northwest corner of NE¼SE¼SE¼,
Westerly to the southwest corner of SE¼NE¼SW¼,
Northerly to the northwest corner of SE¼NE¼SW¼,
Westerly to the northeast corner of NE¼SE¼NW¼SW¼,
Southerly to the southeast corner of NE¼SE¼NW¼SW¼,
Westerly to the southwest corner of NW¼SW¼NW¼SW¼;
Thence between secs. 4 and 5,
Northerly to the southeast corner of NE¼NE¼SE¼ of sec. 5;
Thence in sec. 5,
Westerly to the southwest corner of NW¼NE¼SE¼,
Northerly to the center east one-sixteenth corner,
Westerly to the southwest corner of SE¼SW¼NE¼,
Northerly to the northwest corner of SE¼SW¼NE¼,
Westerly to the southwest corner of NW¼SW¼NE¼,
Northerly to the center north one-sixteenth corner,
Westerly to the northwest one-sixteenth corner,
Southerly to the southeast corner of NE¼NW¼SW¼,
Westerly to the southwest corner of NE¼NW¼SW¼,
Northerly to the southeast corner of SE¼SW¼SW¼NW¼,
Westerly to the southwest corner of SE¼SW¼SW¼NW¼,
Northerly to the northwest corner of NE¼NW¼SW¼NW¼,
Westerly to the north one-sixteenth corner of secs. 5 and 6;
Thence in sec. 6,
Westerly to the southwest corner of SE¼SW¼NE¼NE¼,

No. 134——2

Northerly to the northwest corner of NE¼NW¼NE¼NE¼;
Thence between sec. 31, T. 5 S., R. 3 W., and sec. 6, T. 6 S., R. 3 W.,
Westerly to the east one-sixteenth corner of said secs.;
Thence in sec. 31, T. 5 S., R 3 W.,
Northerly to the southeast corner of NE¼SW¼SE¼,
Westerly to the southwest corner of NE¼SW¼SE¼,
Northerly to the northwest corner of NE¼SW¼SE¼,
Westerly to the center south one-sixteenth corner,
Northerly to the southeast corner of NE¼NE¼SW¼,
Westerly to the southwest corner of NE¼NE¼SW¼,
Southerly to the southeast corner of NE¼NE¼NW¼SW¼,
Westerly to the southwest corner of NE¼NE¼NW¼SW¼,
Southerly to the southeast corner of NW¼SW¼NW¼SW¼,
Westerly to the southwest corner of NW¼SW¼NW¼SW¼;
Thence in sec. 36, T. 5 S., R. 4 W.,
Westerly to the southwest corner of NW¼SE¼SE¼,
Northerly to the southeast one-sixteenth corner,
Westerly to the southwest one-sixteenth corner,
Northerly to the northwest one-sixteenth corner,
Westerly to the southwest corner of SE¼NW¼NW¼,
Northerly to the northwest corner of SE¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼;
Thence in sec. 35,
Westerly to the southwest corner of NW¼NE¼NE¼,
Northerly to the east one-sixteenth corner of secs. 26 and 35;
Thence between secs. 26 and 35,
Westerly to the northeast corner of NW¼NW¼NE¼ of sec. 35;
Thence in sec. 35,
Southerly to the southeast corner of SW¼NW¼NE¼,
Westerly to the center north one-sixteenth corner,
Southerly to the southeast corner of NE¼SE¼NW¼,
Westerly to the southwest corner of NE¼SE¼NW¼,
Southerly to the southeast corner of SW¼SE¼NW¼,
Westerly to the center west one-sixteenth corner,
Southerly to the southeast corner of NE¼NW¼SW¼,
Westerly to the southwest corner of NE¼NW¼SW¼,
Southerly to the southeast corner of SW¼NW¼SW¼,
Westerly to the south one-sixteenth corner of secs. 34 and 35;
Thence in sec. 34,
Westerly to the northeast corner of NW¼SE¼SE¼,
Southerly to the southeast corner of SW¼SE¼SE¼;
Thence between sec. 34, T. 5 S., R. 4 W., and sec. 3, T. 6 S., R. 4 W.,
Easterly to the corner common to secs. 34 and 35, T. 5 S., R. 4 W., and secs. 2 and 3, T. 6 S., R. 4 W.;
Thence between secs. 2 and 3, T. 6 S., R. 4 W.,
Southerly to the one-quarter corner of said secs.,
S. 0°19' W., 9.47 chains, to a point;
Thence in sec. 3,
S. 76°08' W., 12.35 chains, to a point,
S. 15°51' E., 22.33 chains, to a point,
S. 63°14' E., 6.41 chains, to a point in the line between secs. 2 and 3;
Thence between secs. 2 and 3,
S. 0°15' W., 3.56 chains, to the corner common to secs. 2, 3, 10, and 11;
Thence between secs. 2 and 11,
S. 89°52' E., 6.65 chains, to a point;
Thence in sec. 11,
South, 0.41 chain, to a point,
S. 63°26' E., 5.30 chains, to a point,
N. 88°18' E., 0.88 chain, to a point,
N. 14°15' W., 1.32 chains, to a point,
N. 19°30' W., 0.97 chain, to a point,
N. 1°38' W., 0.53 chain, to a point in the line between secs. 2 and 11;
Thence between secs. 2 and 11,
S. 89°52' E., 18.48 chains, to the northeast corner of NW¼NE¼NW¼ of sec. 11;
Thence in sec. 11,
S. 1°08' W., 32.80 chains, to a point in the east line of W½E½NW¼,
N. 89°25' W., 20.02 chains, to a point in the east line of SW¼SW¼NW¼,
S. 1°56' W., 7.17 chains to the southeast corner of SW¼SW¼NW¼,
N. 89°29' W., 10.03 chains, to the one-quarter corner of secs. 10 and 11;
Thence in sec. 10,
Westerly to the northeast corner of NW¼NE¼NW¼SE¼,
Southerly to the southeast corner of SW¼SE¼NW¼SE¼,
Westerly to the southwest corner of SW¼SE¼NW¼SE¼,
Southerly to the southeast corner of SW¼SW¼SE¼;
Thence between secs. 10 and 15,
Westerly to the northeast corner of NW¼NW¼NE¼NW¼ of sec. 15;
Thence in sec. 15,
Southerly to the southeast corner of SW¼SW¼NE¼NW¼,
S. 89°58' W., 21.68 chains, to a point in the north one-sixteenth line,
Southwesterly to a point in the east-west center line,
N. 89°26' W., 3.21 chains, to the one-quarter corner of secs. 15 and 16;
Thence in sec. 16,
Westerly to the northeast corner of NW¼NE¼SE¼,
Southerly to the southeast corner of SW¼NE¼SE¼,
Easterly to the south one-sixteenth corner of secs. 15 and 16;
Thence between secs. 15 and 16,
Southerly to the corner common to secs. 15, 16, 21, and 22;
Thence between secs. 16 and 21,
Westerly to the northeast corner of NW¼NE¼NE¼ of sec. 21;
Thence in sec. 21,
Southerly to the southeast corner of SW¼SE¼NE¼,
S. 2°08' W., 4.89 chains, to a point in the east line of NW¼NE¼SE¼,
Southeasterly to a point in the line between secs. 21 and 22;
Thence between secs. 21 and 22,
S. 1°52' W., 12.14 chains, to the south one-sixteenth corner of said secs.;
Thence in sec. 22,
Easterly to the northeast corner of NW¼SW¼SW¼,
Southerly to the southeast corner of SW¼SW¼SW¼;
Thence in sec. 27,
Southerly to the northwest corner of NW¼NE¼NW¼SW¼,
Easterly to the northeast corner of NW¼NE¼NW¼SW¼,
Southerly to the southeast corner of SW¼NE¼NW¼SW¼,
Westerly to the southwest corner of NW¼SW¼NW¼SW¼;
Thence in sec. 28,
Westerly to the southwest corner of NE¼SE¼SE¼,
Northerly to the northwest corner of NE¼SE¼SE¼,
Westerly to the southeast one-sixteenth corner,
Northerly to the northeast one-sixteenth corner,
Westerly to the northeast corner of NE¼NW¼SW¼NE¼,
Southerly to the southeast corner of NE¼NW¼SW¼NE¼,

N. 89°34' W., 11.58 chains, to a point in the north line of S½N½SE¼ NW¼,
S. 1°03' W., 4.98 chains, to a point in the south line of N½SE¼NW¼,
N. 89°36' W., 5.79 chains, to a point, the intersection of the south line of the N½SE¼NW¼ and the east right-of-way boundary of the L. & N. Railroad,
Southerly, with the east right-of-way boundary of the present and abandoned location of the L. & N. Railroad, to a point in the south line of the N½N½NE¼SW¼,
Westerly to the southwest corner of NW¼NW¼NE¼SW¼,
Northerly to the center west one-sixteenth corner,
Westerly to the northeast corner of NW¼NE¼NW¼SW¼,
Southerly to the southeast corner of SW¼SE¼NW¼SW¼,
Easterly to the west right-of-way boundary of U S Highway No. 31,
Southerly, with the west right-of-way boundary of U. S. Highway No. 31, to a point in the center line of a county road, which point is 10.38 chains north of, and 9.62 chains east of, the corner common to secs. 28, 29, 32, and 33,
Southwesterly with the center line of said county road to a point in the line between secs. 28 and 29;

Thence between secs. 28 and 29,
S. 0°42' W., 6.26 chains, to the corner common to secs. 28, 29, 32, and 33;

Thence between secs. 32 and 33,
S. 0°50' W., 5.05 chains, to the southeast corner of NE¼NE¼NE¼NE¼ of sec. 32;

Thence in sec. 32,
N. 89°23' W., 12.88 chains, to a point in the south line of N½N½NE¼NE¼,
S. 0°50' W., 10.08 chains, to a point in the south line of N½S½N½NE¼,
N. 89°25' W., 17.23 chains, to a point in said line,
N. 0°51' E., 5.06 chains, to a point in the south line of N½N½N½,
N. 89°24' W., 34.65 chains, to a point in said line,
N. 0°38' E. 5.08 chains, to a point in the south line of N½N½NW¼NW¼,
N. 89°23' W., 5.91 chains, to a point in said line,
S. 0°38' W., 10.14 chains, to a point in the north line of S½S½NW¼NW¼,
S. 80°25' E., 5.91 chains, to a point in said line,
S. 0°38' W., 25.35 chains, to a point in the east-west center line,
N. 89°20' W., 15.76 chains, to the one-quarter corner of secs. 31 and 32;

Thence in sec. 31,
Westerly to the northeast corner of NW¼NE¼SE¼,
Southerly to the southeast corner of NW¼NE¼SE¼,
Easterly to the northeast corner of SE¼NE¼SE¼;

Thence between secs. 31 and 32,
Southerly to the south one-sixteenth corner of said secs.;

Thence in sec. 32,
Easterly to the northeast corner of NW¼NW¼SW¼SW¼,
Southerly to the northwest corner of NE¼SW¼SW¼SW¼,
Easterly to the northeast corner of NE¼SW¼SW¼SW¼,
Southerly to the southeast corner of SW¼SW¼SW¼;

Thence between sec. 32, T. 6 S., R. 4 W., and sec. 5, T. 7 S., R. 4 W.,
Easterly to the southwest corner of SE¼SE¼SW¼SW¼ of said sec. 32;

Thence in sec. 32, T. 6 S., R. 4 W.,
Northerly to the northwest corner of NE¼SE¼SW¼SW¼,
Easterly to the northeast corner of NE¼SE¼SW¼SW¼,
Northerly to the northwest corner of SW¼NW¼SE¼SW¼,
Easterly to the northeast corner of SW¼NW¼SE¼SW¼,
Southerly to the southeast corner of SW¼NW¼SE¼SW¼,
Easterly to the northeast corner of NE¼SE¼SW¼SW¼,
Southerly to the one-quarter corner of sec. 32, T. 6 S., R. 4 W., and sec. 5, T. 7 S., R. 4 W.;

Thence in sec. 5, T. 7 S., R. 4 W.,
S. 56°00' W., 17.88 chains, to a point,
S. 33°25' E., 12.83 chains to a point,
S. 51°00' E., 9.08 chains, to a point in the north-south center line,
S. 61°00' E., 8.94 chains, to a point in the north line of S½S½NE¼,
N. 89°09' E., 22.42 chains, to the northeast corner of SW¼SE¼NE¼,
S. 1°11' W., 10.11 chains, to the southeast corner of SW¼SE¼NE¼,
Westerly to the center east one-sixteenth corner,
Southerly to the southeast one-sixteenth corner,
Westerly to the southwest corner of SE¼NW¼SE¼,
Northerly to the northwest corner of SE¼NW¼SE¼,
Westerly to the southwest corner of NW¼NW¼SE¼,
Southerly to the center south one-sixteenth corner,
Westerly to the south one-sixteenth corner of secs. 5 and 6;

Thence between secs. 5 and 6,
Southerly to the corner common to secs. 5, 6, 7, and 8;

Thence between secs. 6 and 7,
Westerly to the northeast corner of NW¼NW¼NE¼NE¼ of sec. 7;

Thence in sec. 7,
Southerly to the southeast corner of SW¼NW¼NE¼NE¼,
Westerly to the southwest corner of SW¼NW¼NE¼NE¼,
Southerly to the northeast one-sixteenth corner,
Easterly to the northeast corner of NW¼NW¼SE¼NE¼,
Southerly to the southeast corner of SW¼NW¼SE¼NE¼,
Westerly to the southwest corner of SW¼NW¼SE¼NE¼,
Southerly to the northwest corner of SW¼SW¼NE¼SE¼,
Easterly to the southwest corner of NE¼SE¼NE¼SE¼,
Northerly to the northwest corner of NE¼SE¼NE¼SE¼,
Easterly to the northeast corner of NE¼SE¼NE¼SE¼;

Thence in sec. 8,
Easterly to the southwest corner of SE¼NW¼NW¼SW¼,
Northerly to the northwest corner of SE¼NW¼NW¼SW¼,
Easterly to the northeast corner of SW¼NW¼NE¼SW¼,
Southerly to the southeast corner of SW¼SW¼NE¼SW¼,
Easterly to the center south one-sixteenth corner,
Southerly to the southeast corner of NE¼SE¼SW¼,
Westerly to the southwest corner of NW¼SE¼SW¼,
S. 49°32' W., 5.52 chains, to a point,
S. 12°35' W., 6.52 chains, to a point in the line between secs. 8 and 17;

Thence between secs. 8 and 17,
Easterly to a point, which point is approximately 17.05 chains east of the corner common to secs. 7, 8, 17, and 18;

Thence in sec. 17,
S. 0°42' W., 5.00 chains, to a point in the south line of N½N½NW¼NW¼,
N. 87°58' W., 6.52 chains, to a point in said line,
S. 28°04' W., 12.21 chains, to the northeast corner of SW¼SW¼NW¼NW¼,
S. 0°48' W., 14.65 chains, to the southeast corner of SW¼NW¼SW¼NW¼,
N. 89°49' W., 5.02 chains, to the southwest corner of SW¼NW¼SW¼NW¼;

Thence between secs. 17 and 18,
Southerly to the southwest corner of NE¼SE¼SE¼ of sec. 18;

Thence in sec. 18,
Westerly to the northeast corner of NE¼SW¼SE¼SE¼,
Southerly to the southeast corner of NE¼SW¼SE¼SE¼,
Westerly to the southwest corner of NW¼SE¼SW¼SE¼,
Northerly to the northwest corner of NW¼SE¼SW¼SE¼,
Westerly to the southwest corner of NW¼SW¼SE¼,
Northerly to the northwest corner of SW¼SW¼NW¼SE¼,
Easterly to the northeast corner of SE¼SW¼NW¼SE¼,
Northerly to the northwest corner of SE¼SW¼NE¼,
Easterly to the northeast corner of SE¼SW¼NE¼,
Northerly to the northeast one-sixteenth corner,
Easterly to the southwest corner of SE¼SE¼NE¼NE¼,
Northerly to the northwest corner of NE¼NE¼NE¼NE¼;

Thence between secs. 7 and 18,
Easterly to the corner common to secs. 7, 8, 17, and 18;

Thence between secs. 8 and 17,
Easterly to the southwest corner of SE¼SW¼SW¼SW¼ of sec. 8;

Thence in sec. 8,
Northerly to the northwest corner of NE¼SW¼SW¼SW¼,
Easterly to the northeast corner of NE¼SW¼SW¼SW¼,
Northerly to the northwest corner of NE¼SW¼SW¼,
Westerly to the south one-sixteenth corner of secs. 7 and 8;

Thence in sec. 7,
Westerly to the northeast corner of NW¼NE¼SE¼SE¼,
Southerly to the southeast corner of NW¼NE¼SE¼SE¼,
Westerly to the southwest corner of NW¼NW¼SE¼SE¼,
Southerly to the southeast corner of NE¼SE¼SW¼SE¼,
Westerly to the southwest corner of NW¼SE¼SW¼SE¼,
Northerly to the northwest corner of NW¼SE¼SW¼SE¼,
Westerly to the southwest corner of NW¼SW¼SE¼,
Northerly to the northwest corner of SW¼SW¼NW¼SE¼,
Easterly to the northeast corner of SE¼SW¼NW¼SE¼,
Northerly to the northwest corner of NE¼NW¼NE¼;

Thence in sec. 6,
N. 74°55' E., 10.26 chains, to a point in the east one-sixteenth line,
N. 35°05' E., 21.00 chains, to a point in the south one-sixteenth line,
Westerly, approximately 14.39 chains, to a point in said line,
S. 31°06' W., 14.44 chains, to a point,
N. 89°28' W., 9.83 chains, to a point in the north-south center line,
S. 1°16' W., 7.58 chains, to the one-quarter corner of secs. 6 and 7;

Thence between secs. 6 and 7,
Westerly to the west one-sixteenth corner of said secs.;

Thence in sec. 7,
Southerly to the northwest one-sixteenth corner,
Westerly to the north one-sixteenth corner of sec 7, T. 7 S., R. 4 W., and sec. 12, T. 7 S., R. 5 W.;

Thence between sec. 7, T. 7 S., R. 4 W., and sec. 12, T. 7 S., R. 5 W.,
Southerly to the southeast corner of NE¼SE¼NE¼ of said sec. 12;

Thence in sec. 12, T. 7 S., R. 5 W.,
Westerly to the southwest corner of NW¼SE¼NE¼,

Northerly to the east one-sixteenth corner of secs. 1 and 12;

Thence between secs. 1 and 12,
Easterly to the corner common to secs. 6 and 7, T. 7 S., R. 4 W., and secs. 1 and 12, T. 7 S., R. 5 W.,

Thence between sec. 6, T. 7 S., R. 4 W., and sec. 1, T. 7 S., R. 5 W.,
Northerly to the northwest corner of SW¼SW¼SW¼ of said sec. 6;

Thence in sec. 6, T. 7 S., R. 4 W.,
Easterly to the northeast corner of SW¼SW¼SW¼,
Northerly to the northwest corner of SW¼NE¼SW¼SW¼,
Easterly to the southwest corner of NE¼NW¼SE¼SW¼,
Northerly to the northwest corner of SW¼SW¼NW¼SE¼,
Easterly to the northeast corner of SE¼SW¼NW¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼SW¼,
Easterly to the center south one-sixteenth corner,
Northerly to the northwest corner of SW¼SW¼NW¼SE¼,
Easterly to the northeast corner of SE¼SW¼NW¼SE¼,
Northerly to the northwest corner of NW¼SE¼NW¼SE¼,
Easterly to the northeast corner of SE¼NE¼NW¼SE¼;

Thence in sec. 5,
Easterly to the northeast corner of SE¼NE¼NE¼SW¼,
Northerly to the center one-quarter corner,
East, 13.35 chains, to a point in the east-west center line,
N. 61°05' W., 15.00 chains, to a point in the north-south center line,
N. 48°40' W., 19.68 chains, to a point in the north one-sixteenth line,
S. 89°49' W., 4.70 chains, to a point in said line,
N. 44°35' W., 28.15 chains, to the corner common to secs. 31 and 32, T. 6 S., R. 4 W., and secs. 5 and 6, T. 7 S., R. 4 W.;

Thence in sec. 31, T. 6 S., R. 4 W.,
Northwesterly to the northwest corner of NE¼NW¼SE¼,
Northeasterly to the northeast corner of SE¼SW¼NE¼,
Northerly to the northwest corner of SW¼NW¼SE¼NE¼,
Easterly to the northeast corner of SE¼NE¼SE¼NE¼;

Thence between secs. 31 and 32,
Northerly to the corner common to secs. 29, 30, 31, and 32;

Thence between secs. 29 and 30,
Northerly to the south one-sixteenth corner of said secs.;

Thence in sec. 29,
Easterly to the southwest one-sixteenth corner,
Southerly to the west one-sixteenth corner of secs. 29 and 32;

Thence between secs. 29 and 32,
Easterly to the southwest corner of SE¼SE¼SW¼SE¼ of sec. 29;

Thence in sec. 29,
Northerly to the northwest corner of NE¼NE¼SW¼SE¼,
Easterly to the southeast one-sixteenth corner,
Northerly to the southeast corner of NE¼NW¼SE¼,
Westerly to the southwest corner of NE¼NW¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼,
Westerly to the center one-quarter corner,
Northerly to the southeast corner of NE¼SE¼NW¼,
Westerly to the southwest corner of NE¼SE¼NW¼,
Northerly to the northwest corner of NE¼SE¼NW¼,
Westerly to the northwest one-sixteenth corner,
Northerly to the southeast corner of NE¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼;

Thence between secs. 29 and 30,
Northerly to the southeast corner of NE¼NE¼NE¼NE¼ of sec. 30;

Thence in sec. 30,
Westerly to the northeast corner of SE¼NW¼NE¼NE¼,
Southerly to the southeast corner of SE¼NW¼NE¼NE¼,
Westerly to the northeast corner of NE¼SE¼NW¼NE¼,
Southerly to the southeast corner of NE¼SE¼NW¼NE¼,
Westerly to the southwest corner of NW¼SW¼NW¼NE¼,
Southerly to the southeast corner of NE¼SE¼NW¼,
Westerly to the northeast corner of NW¼SW¼NW¼,
Southerly to the southeast corner of NE¼SE¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼;

Thence between sec. 30, T. 6 S., R. 4 W., and sec. 25, T. 6 S., R. 5 W.,
Southerly to the corner common to secs. 30 and 31, T. 6 S., R. 4 W., and secs. 25 and 36, T. 6 S., R. 5 W.,

Thence between sec. 31, T. 6 S., R. 4 W., and sec. 36, T. 6 S., R. 5 W.,
Southerly to the southeast corner of NE¼NE¼NE¼ of said sec. 36;

Thence in sec. 36, T. 6 S., R. 5 W.,
Westerly to the southwest corner of NE¼NE¼NE¼,
Northerly to the northwest corner of NE¼NE¼NE¼;

Thence between secs. 25 and 36,
Westerly to the northeast corner of NW¼NW¼NW¼NE¼ of sec. 36;

Thence in sec. 36,
Southerly to the southeast corner of SW¼NW¼NW¼NE¼,
Westerly to the southwest corner of SW¼NW¼NW¼NE¼,
Northerly to the one-quarter corner of secs. 25 and 36;

Thence between secs. 25 and 36,
Westerly to the southwest corner of SE¼SE¼SE¼SW¼ of sec. 25;

Thence in sec. 25,
Northerly to the northwest corner of SE¼NE¼NE¼SW¼,
Easterly to the southwest corner of NE¼NE¼NW¼SE¼,
Northerly to the northwest corner of NE¼NE¼NW¼SE¼,
Easterly to the center east one-sixteenth corner, S. 89°01' E., 7.73 chains, to a point in the east-west center line,
N. 31°00' E., 14.39 chains, to a point,
S. 89°21' E., 5.29 chains, to a point in the line between sec. 30 T. 6 S., R. 4 W., and sec. 25, T. 6 S., R. 5 W.;

Thence between sec. 30 T. 6 S., R. 4 W., and sec. 25, T. 6 S., R. 5 W.,
Northerly to the north one-sixteenth corner of said secs.;

Thence in sec. 30, T. 6 S., R. 4 W.,
Easterly to the southwest corner of SE¼NW¼NW¼,
Northerly to the northwest corner of NE¼NW¼NW¼;

Thence between sec. 19 and 30,
Easterly to the west one-sixteenth corner of said secs.;

Thence in sec. 19,
Northerly to the northwest corner of SW¼NE¼SW¼,
Easterly to the northeast corner of SW¼NE¼SW¼,
Southerly to the southwest corner of SW¼SE¼NE¼SW¼,
Easterly to the northeast corner of SE¼SE¼NE¼SW¼,
S. 88°11' E., 13.80 chains, to a point in the north line of S½S½NW¼SE¼,
N. 2°14' E., 5.14 chains, to a point in the north line of S½N½SE¼,
S. 89°24' E., 16.24 chains, to the northeast corner of SW¼NE¼SE¼,
S. 1°01' W., 7.91 chains, to a point in the east line of SW¼NE¼SE¼,
S. 88°05' E., 10.03 chains, to a point in the line between secs. 19 and 20;

Thence between secs. 19 and 20,
Northerly to the one-quarter corner of said secs.;

Thence in sec. 20,
S. 84°52' E., 10.12 chains, to the northeast corner of NW¼NW¼SW¼,
S. 2°28' W., 19.95 chains, to the southeast corner of SW¼NW¼SW¼,
S. 87°48' E., 6.38 chains, to a point in the south one-sixteenth line,
S. 2°10' W., 9.95 chains, to a point in the north line of S½S½SW¼,
S. 89°07' E., 19.52 chains, to a point in said line,
S. 1°33' W., 0.55 chain, to a point,
S. 89°08' E., 5.05 chains, to a point in the north-south center line,
S. 2°08' W., 9.58 chains, to the one-quarter corner of secs. 20 and 29;

Thence between secs. 20 and 29,
Easterly to a point in the east right-of-way boundary of U. S. Highway No. 31;

Thence in sec. 20,
N. 10°45' W., 3.09 chains, to a point in the east right-of-way boundary of said highway,
S. 89°49' E., 4.82 chains, to a point in the line between secs. 20 and 21;

Thence between secs. 20 and 21;
Northerly to the south one-sixteenth corner of said secs.;

Thence in sec. 21,
S. 89°51' E., 5.27 chains, to a point, the intersection of the southeast right-of-way boundary of a county road with the south one-sixteenth line,
Northwesterly to a point, which is 12.88 chains north of, and 0.64 chain east of, the south one-sixteenth corner of secs. 20 and 21,
Westerly to a point in the line between secs. 20 and 21;

Thence between secs. 20 and 21,
Northerly to the southeast corner of NE¼NE¼NE¼ of sec. 20;

Thence in sec. 20,
Westerly to the southwest corner of NW¼NE¼NE¼,
Northerly to the east one-sixteenth corner of secs. 17 and 20;

Thence between secs. 17 and 20,
Easterly to a point in the east right-of-way boundary of U. S. Highway No. 31;

Thence in sec. 17,
Northerly, with the east right-of-way boundary of U. S. Highway No. 31, to a point in the north line of S½S½SE¼SE¼,
Easterly to the northeast corner of SE¼SE¼SE¼SE¼;

Thence between secs. 16 and 17,
Northerly to the one-quarter corner of said secs.;

Thence in sec. 16,
Easterly to the southwest corner of SE¼SW¼NW¼,
Northerly to the southeast corner of NW¼NW¼NW¼,
Westerly to the southwest corner of NW¼NW¼NW¼;

Thence between secs. 16 and 17,
Northerly to the corner common to secs. 8, 9, 16, and 17;

Thence between secs. 8 and 9,
Northerly to the south one-sixteenth corner of said secs.;

Thence in sec. 8,
Westerly to the northeast corner of NW¼NW¼SE¼SE¼,
Southerly to the southeast corner of SW¼SW¼SE¼SE¼;

Thence between secs. 8 and 17,
S. 89°58' W., 20.91 chains, to a point in the east right-of-way boundary of Alabama State Highway No. 3;

Thence in sec. 8,
Northerly with the east right-of-way boundary of said Highway, to a point in the north line of SW¼SW¼SE¼,
S. 89°23' E., 8.61 chains, to the northeast corner of SW¼SW¼SE¼.

Northerly to the northwest corner of NE¼SW¼SE¼,
Westerly, with the south one-sixteenth line, to a point in the east right-of-way boundary of Alabama State Highway No. 3,
Northerly, with the east right-of-way boundary of said Highway, to a point in the east-west center line,
Easterly to the southwest corner of SE¼SW¼NE¼,
Northerly to the northwest corner of SE¼NW¼NE¼,
Easterly to the northeast corner of SW¼NE¼NE¼,
Southerly to the southeast corner of SW¼NE¼NE¼,
Easterly to the north one-sixteenth corner of secs. 8 and 9;

Thence in sec. 9,
Easterly to the northwest one-sixtenth corner,
Northerly to the southeast corner of NE¼NW¼NW¼,
Westerly to the southwest corner of NE¼NW¼NW¼,
Northerly to the northwest corner of NE¼NW¼NW¼;

Thence in sec. 4,
Northerly to the southeast corner of NW¼SW¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼;

Thence between secs. 4 and 5,
Northerly to the southeast corner of NE¼NE¼SE¼SE¼ of sec. 5;

Thence in sec. 5,
Westerly to the southwest corner of NW¼NE¼SE¼SE¼,
Northerly to the northwest corner of NW¼NE¼SE¼SE¼,
Westerly to the southwest corner of SE¼NW¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼,
Easterly to the southwest corner of SW¼SE¼SE¼NE¼,
Northerly to the northwest corner of SW¼SE¼SE¼NE¼,
Easterly to the northeast corner of SE¼SE¼SE¼NE¼;

Thence between secs. 4 and 5,
Northerly to the northwest corner of SW¼NW¼NW¼ of sec. 4;

Thence in sec. 4,
Easterly to the southwest corner of NE½NW¼NW¼,
N. 0°21' E., 4.50 chains, to a point in the south right-of-way boundary of a highway,
Northwesterly, with the south right-of-way boundary of said highway, to a point in the line between secs. 4 and 5;

Thence between secs. 4 and 5,
North, 0.21 chain, to the corner common to secs. 32 and 33, T. 5 S., R. 4 W., and secs. 4 and 5, T. 6 S., R. 4 W.;

Thence between sec. 33, T. 5 S., R. 4 W., and sec. 4, T. 6 S., R. 4 W.,
S. 89°52' E., 6.61 chains, to a point;

Thence in sec. 33, T. 5 S., R. 4 W.,
N. 0°39' W., 9.92 chains, to a point, the intersection of the west right-of-way boundary of the Somerville Pike with the north line of S½SW¼SW¼,
Northwesterly, with the west right-of-way boundary of the Somerville Pike, to a point in the line between secs. 32 and 33;

Thence in sec. 32,
N. 18°31' W., 9.17 chains, to a point in the west right-of-way boundary of aforesaid pike,
N. 32°28' W., 1.45 chains, to a point,
N. 48°35' W., 4.95 chains, to a point,
N. 47°00' W., 4.02 chains, to a point,
N. 6°03' E., 7.48 chains, to a point in the north line of SE¼SE¼NE¼,
S. 89°02' E., 9.94 chains, to the northeast corner of SE¼SE¼NE¼;

Thence between secs. 32 and 33,
S. 0°51' W., 10.15 chains, to the one-quarter corner of said secs.;

Thence in sec. 33,
Easterly to the northeast corner of NW¼NW¼SW¼,
Southerly to the southeast corner of NW¼NW¼SW¼,
Easterly to the southwest corner of NE¼NE¼SW¼,
Northerly to the northwest corner of NE¼NE¼SW¼,
Easterly to the center one-quarter corner,
S. 1°00' W., with the north-south center line, 4.23 chains, to a point in the western edge of a farm road,
Southeasterly, with the western edge of said farm road, to a point in the south one-sixteenth line,
S. 88°57' E., 23.06 chains, to the southwest corner of SW¼NE¼SE¼,
Northerly to the northwest corner of SE¼SE¼NE¼,
Easterly to the northeast corner of SE¼SE¼NE¼;

Thence between secs. 33 and 34,
Northerly to the northwest corner of SW¼NW¼NW¼ of sec. 34;

Thence in sec. 34,
Easterly to the southwest corner of NE¼NW¼NW¼,
Northerly to the northwest corner of NE¼NW¼NW¼;

Thence between secs. 27 and 34,
Westerly to the corner common to secs. 27, 28, 33, and 34;

Thence between secs. 27 and 28,
Northerly to the northwest corner of SW¼NW¼SW¼SW¼ of sec. 27;

Thence in sec. 27,
Easterly to the northeast corner of SE¼NE¼SW¼SW¼,
Southerly to the west one-sixteenth corner of secs. 27 and 34;

Thence between secs. 27 and 34,
Easterly to the one-quarter corner of said secs;

Thence in sec. 27,
Northerly to the center south one-sixteenth corner,
Easterly to the southwest corner of SE¼NW¼SE¼,
Northerly to the northwest corner of NE¼NW¼SE¼,
Westerly to the center one-quarter corner,
Northerly to the southeast corner of NE¼SE¼NW¼,
Westerly to the southwest corner of NE½SE½NW¼,
Northerly to the southeast corner of NW¼NE¼NW¼,
Westerly to the southwest corner of NE¼NW¼NW¼,
Northerly to the northwest corner of NE¼NW¼NW¼;

Thence in sec. 22,
Northerly to the southeast corner of NW¼SW¼SW¼,
Westerly to the southwest corner of NW¼SW¼SW¼;

Thence between secs. 21 and 22,
Northerly to the southeast corner of NE¼NE¼SE¼ of sec. 21;

Thence in sec. 21,
N. 53°07' W., 53.64 chains, to a point in the east corporation boundary of the City of Decatur,
Northerly, with said east corporation boundary, 4.55 chains, to a point,
S. 50°07' E., 9.85 chains, to a point,
N. 78°53' E., 5.00 chains, to a point,
N. 12°53' E., 6.52 chains, to a point on the south bank of the Tennessee River;

Thence crossing the Tennessee River,
Northwesterly, approximately 115.00 chains, to a point at the intersection of the southeast right-of-way boundary of U. S. Highway No. 31 and the north bank of the Tennessee River;

Thence through secs. 8 and 9,
Northeasterly, with the southeast right-of-way boundary of U. S. Highway No. 31, to a point in the line between secs. 4 and 9;

Thence in sec. 4,
Northeasterly, with the southeast right-of-way boundary of U. S. Highway No. 31, to a point,
N. 80°25' E., to the northeast corner of SE¼SE¼SE¼;

Thence in sec. 3,
Easterly to the northeast corner of SE¼SW¼SW¼,
Southerly to the west one-sixteenth corner of secs. 3 and 10;

Thence between secs. 3 and 10,
Easterly to the one-quarter corner of said secs.;

Thence in sec. 10,
Southerly to the northwest corner of SW¼NW¼NE¼,
Easterly to the northeast corner of SW¼NW¼NE¼,
Southerly to the southeast corner of SW¼NW¼NE¼,
Easterly to the northeast corner of NW¼SE¼NE¼,
Southerly to the southeast corner of NW¼SE¼NE¼,
Easterly to the northeast corner of SE¼SE¼NE¼;

Thence between secs. 10 and 11,
Southerly to the one-quarter corner of said secs.,
S. 0°52' W., 0.80 chain, to a point;

Thence in sec. 11,
S. 88°44' E., 8.33 chains, to a point;
N. 4°19' E., 0.80 chain, to a point in the east-west center line,
S. 89°22' E., 6.83 chains, to a point in said line,
N. 1°13' E., 9.94 chains, to a point in the north line of S½S½NW¼,
S. 88°42' E., 20.09 chains, to the northeast corner of NW¼SE¼SE¼NW¼,
Northerly to the northwest corner of NE¼NE¼NE¼NW¼;

Thence between secs. 2 and 11,
Westerly to the southeast corner of SE¼SE¼SW¼ of sec. 2;

Thence in sec. 2,
Northerly to the northwest corner of NE¼NE¼SW¼,
Easterly to the center one-quarter corner,
Southerly to the one-quarter corner of secs. 2 and 11;

Thence between secs. 2 and 11,
Easterly to the corner common to secs. 1, 2, 11, and 12;

Thence between secs. 11 and 12,
Southerly to the corner common to secs. 11, 12, 13, and 14;

Thence between secs. 13 and 14,
S. 0°47' W., 4.55 chains, to a point;

Thence in sec. 13,
Southeasterly to the southeast corner of SW¼SE¼NW¼NW¼,
Southeasterly to the southeast corner of SW¼SE¼NW¼,
Easterly to the center one-quarter corner,
Southerly to the northwest corner of SW¼SW¼NW¼SE¼,
S. 57°29' E., 20.02 chains, to a point,
S. 89°02' E., 23.33 chains, to a point in the line between sec. 18, T. 5 S., R. 3 W., and sec. 13, T. 5 S., R. 4 W.;

Thence between sec. 18, T. 5 S., R. 3 W., and sec. 13, T. 5 S., and R. 4 W.,
Northerly to the one-quarter corner of said secs.,
N. 0°50' E., 19.68 chains, to a point;

Thence in sec. 18, T. 5 S., R. 3 W.,
S. 75°45' E., to a point,
N. 1°02' W., 6.67 chains, to the northwest corner of NE¼NW¼SE¼NW¼,
Easterly to the southwest corner of SW¼SE¼NE¼NW¼,
Northerly to the northwest corner of SW¼SE¼NE¼NW¼,
Easterly to the northeast corner of SW¼SE¼NE¼NW¼,
Northerly to the northwest corner of NE¼NE¼NE¼NW¼;

Thence between secs. 7 and 18,
Easterly to the one-quarter corner of said secs.,
East, 3.68 chains, to a point;

Thence in sec. 7,
N. 5°49' E., 7.68 chains, to a point,
N. 76°24' W., 3.79 chains, to a point,
S. 5°25' E., 3.06 chains, to a point in the south line of N½S½S½S½,
N. 89°15' W., 3.47 chains, to a point in said line,
N. 14°24' E., 5.18 chains, to a point in the south line of N½SE¼SW¼,
N. 89°08' W., 8.97 chains, to the southwest corner of NE¼SE¼SW¼,
N. 1°47' E., 16.61 chains, to a point in the west line of E½E½SW¼,
S. 89°12' E., 8.62 chains, to a point,
N. 20°12' E., 3.77 chains, to the northwest corner of SW¼NW¼SE¼,
N. 0°40' E., 6.44 chains, to a point in the north-south center line,
S. 89°13' E., 7.88 chains, to a point,
N. 0°31' E., 3.64 chains, to a point in the east-west center line,
N. 0°25' E., 4.24 chains, to a point,
N. 25°54' W., 17.70 chains, to the center north one-sixteenth corner,
N. 89°00' W., 3.48 chains, to a point in the north one-sixteenth line,
N. 0°37' E., 4.26 chains, to a point,
N. 89°52' W., 6.79 chains, to a point in the west line of E½NE¼NW¼,
N. 0°40' E., 15.92 chains, to the northwest corner of NE¼NE¼NW¼;

Thence between secs. 6 and 7,
S. 88°54' E., 10.23 chains, to the one-quarter corner of said secs.,
S. 88°58' E., 28.61 chains, to a point;

Thence in sec. 7,
S. 0°58' W., 1.68 chains, to the northeast corner of lot No. 23, City of Decatur,
N. 88°35' W., 1.85 chains, to the northwest corner of said lot No. 23,
S. 0°58' W., 4.33 chains, to the northwest corner of lot No. 25, of said city,
S. 88°36' E., 1.85 chains, to the northeast corner of said lot No. 25,
S. 1°04' W., 5.79 chains, to the northeast corner of lot No. 78, of said city,
S. 88°26' E., 1.65 chains, to the northeast corner of the W½ of lot No. 69, of said city,
S. 1°19' W., 1.30 chains, to the southeast corner of the W½ of said lot No. 69,
S. 88°26' E., 1.02 chains, to the northeast corner of lot No. 70, of said city,
S. 1°19' W., 2.50 chains to the northwest corner of lot No. 65, of said city,
S. 56°35' E., 2.23 chains, to the southeast corner of said lot No. 65,
S. 1°19' E., 1.23 chains, to the southeast corner of lot No. 64, of said city,
S. 89°30' E., 3.05 chains, to the southeast corner of lot No. 63, of said city,
S. 1°11' W., 1.52 chains, to a point,
S. 89°05' E., 1.91 chains, to a point,
N. 1°03' E., 1.52 chains, to the southeast corner of lot No. 54, of said city,
S. 89°12' E., 3.02 chains, to the southwest corner of lot No. 91, of said city;

Thence in sec. 8,
Southerly to a point, which point is approximately 0.05 chain east of the north one-sixteenth corner of secs. 7 and 8,
Easterly to the northeast corner of NW¼SW¼NW¼,
S. 1°45' W., 13.42 chains, to a point in the east line of W½SW¼NW¼,
N. 88°17' W., 4.55 chains, to a point,
S. 1°42' W., 8.14 chains, to a point,
S. 88°18' E., 4.55 chains, to a point in the east line of W½SW¼NW¼,
S. 0°51' W., 1.02 chains, to the southeast corner of SW¼SW¼NW¼,
S. 1°34' W., 4.97 chains, to the southeast corner of NE¼NW¼NW¼SW¼,
S. 89°27' E., 30.98 chains, to the northeast corner of SE¼NE¼NE¼SW¼,
N. 0°52' E., 4.92 chains, to the center one-quarter corner,
N. 0°53' E., 17.53 chains, to a point in the north-south center line,
S. 89°55' E., 28.08 chains, to a point,
N. 6°05' W., 7.71 chains, to a point,
N. 28°27' W., 9.53 chains, to a point,
N. 30°28' W., 0.30 chain, to a point,
N. 18°48' E., 6.82 chains, to a point in the line between secs. 5 and 8;

Thence between secs. 5 and 8,
S. 89°34' E., 16.82 chains, to the corner common to secs. 4, 5, 8, and 9,

Thence between secs. 8 and 9,
Southerly to the one-quarter corner of said secs.;

Thence in sec. 9,
Easterly to the northeast corner of NW¼NE¼NW¼SW¼,
Southerly to the southeast corner of SW¼SE¼NW¼SW¼,
Easterly to the southwest one-sixteenth corner,
Southerly to the west one-sixteenth corner of secs. 9 and 16;

Thence between secs. 9 and 16,
Easterly to the one-quarter corner of said secs.;

Thence in sec. 16,
Southerly to the northwest corner of SW¼SW¼NE¼,
Easterly to the northeast corner of SW¼SW¼NE¼,
Northerly to the northwest corner of NE¼SW¼NE¼,
Easterly to the northeast one-sixteenth corner,
Northerly to the northwest corner of SW¼NE¼NE¼,
N. 89°15' E., 3.48 chains, to a point in the south line of N½NE¼NE¼,
N. 1°22' E., 10.15 chains, to a point in the line between secs. 9 and 16;

Thence between secs. 9 and 16,
Easterly to a point, which point is approximately 15.45 chains west of the corner common to secs. 9, 10, 15, and 16;

Thence in sec. 9,
N. 0°11' E., 13.00 chains, to a point,
S. 89°56' E., 15.38 chains, to a point in the line between secs. 9 and 10;

Thence between secs. 9 and 10,
Northerly to the northwest corner of SW¼NW¼SW¼ of sec. 10;

Thence in sec. 10,
Easterly to the southwest corner of NE¼NW¼SW¼,
Northerly to the northwest corner of NE¼NW¼SW¼,
Easterly to the southwest corner of SE¼SW¼SE¼NW¼,
N. 24°42' E., 12.38 chains, to the southwest corner of NE¼SE¼NW¼,
North, 5.08 chains, to the northwest corner of SW¼NE¼SE¼NW¼,
N. 45°35' E., 7.26 chains, to the northeast corner of NW¼NE¼SE¼NW¼,
East, 1.82 chains, to a point in the north one-sixteenth line,
South, 7.88 chains, to a point,
N. 60°00' E., 3.86 chains, to a point in the north-south center line,
N. 60°02' E., 11.98 chains, to the northwest corner of NE¼SW¼NE¼,
N. 0°08' W., 12.12 chains, to a point in the west line of E½NW¼NE¼,
N. 88°44' E., 10.33 chains, to a point in the east one-sixteenth line,
North, 7.68 chains, to the east one-sixteenth corner of secs. 3 and 10;

Thence in sec. 3,
Northeasterly to the south one-sixteenth corner of sec. 2 and 3;

Thence in sec. 2,
Easterly to the southwest corner of SE¼SW¼NW¼SW¼,
Northerly to the northwest corner of SE¼SW¼NW¼SW¼,
Easterly to the northeast corner of SE¼SW¼NW¼SW¼,
Northerly to the southeast corner of NE¼NW¼NW¼SW¼,
Westerly to the southwest corner of NE¼NW½NW¼SW¼,
Northerly to the northwest corner of NE¼NW¼NW¼SW¼,
Westerly to the one-quarter corner of secs. 2 and 3;

Thence in sec. 3,
Westerly to the southwest corner of SE¼SE¼NE¼,
Northerly to the northwest corner of NE¼NE¼NE¼;

Thence between sec. 34, T. 4 S., R. 3 W., and sec. 3, T. 5 S., R. 3 W.,
S. 89°48' W., 31.15 chains, to a point;

Thence in sec. 34, T. 4 S., R. 3 W.,
N. 2°08' W., 20.38 chains, to a point in the south one-sixteenth line,
East, 21.61 chains, to the southeast one-sixteenth corner,
Southerly to the northwest corner of SW¼SE¼SE¼,
Easterly to the northeast corner of SW¼SE½SE¼,
Northerly to the northwest corner of NE¼SE½SE¼,
Easterly to the south one-sixteenth corner of secs. 34 and 35;
Thence between secs. 34 and 35,
Northerly to the place of beginning.

The above-described lands are under the primary jurisdiction of the Tennessee Valley Authority, and their reservation for purposes set forth in this order is subject to use thereof by said Authority in the carrying out of its statutory purposes, and the enforcement of law and regulations and the uses thereof by the Department of Agriculture shall be without interference with any existing or future uses or regulations of the Tennessee Valley Authority.

This reservation shall be known as the Wheeler Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 7, 1938.

[No. 7926]

[F. R. Doc. 38–1969; Filed, July 9, 1938; 10: 31 a. m.]

Rules, Regulations, Orders

TITLE 17—CONSERVATION AND POWER

FEDERAL POWER COMMISSION

[Order No. 52]

PROVISIONAL RULES OF PRACTICE AND REGULATIONS UNDER THE NATURAL GAS ACT WITH APPROVED FORMS EFFECTIVE JULY 11, 1938 [1]

JULY 5, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott. Secretary: Leon M. Fuquay.

The Commission, pursuant to authority vested in it by the Natural Gas Act, particularly section 16 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act, hereby adopts, promulgates, and prescribes the accompanying "Provisional Rules of Practice and Regulations under the Natural Gas Act, with Approved Forms, Effective July 11, 1938."

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[1] Sections 50.1 to 67.5 and 250.1 to 250.4 issued under authority contained in section 16 of the Natural Gas Act (Public No. 688, 75th Congress, approved June 21, 1938).

TABLE OF CONTENTS

PART 50.—ADMINISTRATION

Section
Address of the Commission, office hours:
50.1 Address; office hours.
Public sessions and hearings:
50.2 Notice.
Parties; appearances:
50.3 Classes.
50.4 Appearances.
50.5 Former employees barred for one year.
50.6 Applicant defined.
50.7 Complainants.
50.8 Petitioners.
50.9 Defendants.
50.10 Interveners.
50.11 Protestants.
50.12 Respondents.
Petitions:
50.13 Contents.
50.14 Intervening petitions.
Complaints:
50.15 Complaints; informal and formal.
50.16 Informal complaints.
50.17 Substance of informal complaints.
50.18 Formal complaints; form and style.
50.19 Joinder of complaints or complainants.
50.20 Substance of formal complaints.
50.21 Subscription and verification.
50.22 Supplemental complaints.
Answers:
50.23 Answers to formal complaints.
50.24 Answers to petitions.
50.25 Satisfaction of complaints.
Protests:
50.26 Contents.
50.27 Subscription and verification.
Amendments to pleadings:
50.28 Allowance or refusal discretionary.
50.29 Subscription and verification.
50.30 Directed amendments.
Specifications as to applications, complaints, answers, petitions, briefs, etc.:
50.31 Typewritten or printed only.
50.32 Size and legibility.
50.33 Sizes of printed paper.
50.34 Signature.
50.35 Improper matter.
Service, number of copies:
50.36 By the commission.
50.37 Service by parties.
50.38 Service upon attorneys.
50.39 Number of copies of pleadings.
50.40 Number of copies of reports, etc.
Continuances, extensions of time:
50.41 Contents; time of filing.
50.42 Discretion in granting or denying.
Documentary evidence:
50.43 Designation.
50.44 Commission's files.
50.45 Records in other proceedings.
50.46 Objections.
50.47 Copies to opposing counsel.
50.48 Size; form.
50.49 Copies for the Commission.
Stipulations:
50.50 How evidenced.
50.51 Form and style; service.
Witnesses and Subpoenas.
50.52 Subpoenas.
50.53 Fees of witnesses.
50.54 Subpoenas; service; return.
Depositions:
50.55 When permissible.
50.56 Officer before whom taken.
50.57 Notice of application; service; order for taking.
50.58 Oath; reduction to writing.
50.59 Fees of officers and witnesses.
Hearings:
50.60 How ordered.
50.61 Notice of hearing.
50.62 Appearances.
50.63 Order of procedure.
50.64 Calling for further evidence.
50.65 Closing of record.
Transcript of testimony:
50.66 Copies not furnished by the Commission.
Briefs and oral argument:
50.67 Oral argument.
50.68 Forms and style of briefs.
50.69 Arrangement of contents.
50.70 Filing; service; number of copies.
50.71 Reply briefs.
Application for further hearing, rehearing, reargument, reconsideration or modification of an order:
50.72 Petition; filing; service.
50.73 Statement as to new evidence.
50.74 Specification of errors.
50.75 Time of filing.
50.76 Form and style; service.
Computation of time:
50.77 When Sunday and holiday not included.
Access to Commission's records:
50.78 Formal dockets.
50.79 Reports and statements.
50.80 Hours for inspection.
Copies of records:
50.81 Charge.
Notice of compliance:
50.82 Filing.

PART 53.—APPLICATION FOR AUTHORIZATION TO EXPORT OR IMPORT NATURAL GAS

53.1 Who shall apply.
53.2 Form and time of filing.
53.3 Contents of application.

PART 54.—FILING OF RATE SCHEDULES

54.1 Definition.
54.2 Effective rates and charges.
54.3 Filing of rate schedules, rates, charges, etc.
54.4 Identification and numbering of rate schedules.
54.5 Notice of cancellation.
54.6 Notice of succession.
54.7 Rates established by order of the Commission.
54.8 Posting for public inspection.
54.9 Protests and complaints against rate changes.
54.10 Number of copies of rate schedules to be supplied.
54.11 Form and style of rate schedules.
54.12 Filing date.
54.13 Report of termination date.
54.14 Report of transactions.

PART 57.—APPLICATION FOR APPROVAL OF ABANDONMENT OF FACILITIES OR SERVICE AND FOR CERTIFICATE OF CONVENIENCE AND NECESSITY

57.1 Contents of application.
57.2 Form of filing.

PART 58.—ACCOUNTS, RECORDS, AND MEMORANDA

Adjustment of accounts and reports:
58.1 Notice of deficiencies.
58.2 Response to notification.
58.3 Facts and argument.
58.4 Form and style.
58.5 Verification.
58.6 Determination.
58.7 Assignment for oral hearing.
58.8 Burden of proof.

PART 67.—COOPERATIVE PROCEDURE WITH STATE COMMISSIONS

67.1 Notice of institution of proceeding.
67.2 Procedure governing joint conferences.
67.3 Procedure governing matters referred to a board.
67.4 Procedure governing joint hearings.
67.5 Special procedure may be prescribed in each case.

PART 250.—APPROVED FORMS

250.1 Certificate of service.
250.2 Certificate of concurrence.
250.3 Notice of cancellation.
250.4 Notice of succession in ownership or operation.

PART 50.—ADMINISTRATION

Address of the Commission; Office Hours

SEC. 50.1 *Address, office hours.* All communications to the Commission must be addressed to Washington, D. C., unless otherwise specifically directed. Pleadings and other papers required to be filed with the Commission shall be filed in the office of the Secretary of the Commission at Washington, D. C., within the time limit, if any, for such filing.

The office is open from 9 a. m. until 4:30 p. m. of each business day except Saturday, upon which day it is open from 9 a. m. to 1 p. m., or as provided by statute or Executive order.

Public Sessions and Hearings

SEC. 50.2 *Notice.* Public sessions of the Commission for hearing evidence or oral argument or for public conferences and hearings before any Commissioner, examiner, or other representative of the Commission, will be held as set upon notice by the Commission, subject to change upon reasonable notice.

Parties; Appearances

SEC. 50.3 *Classes.* The parties to proceedings before the Commission are applicants, complainants, petitioners, defendants, interveners, and respondents, according to the nature of the proceedings and their relationship thereto. Admission of a party as intervener or protestant shall not be construed as recognition by the Commission that such party might be aggrieved by any order of the Commission in such proceeding.

SEC. 50.4. *Appearances.* Any party may appear and be heard in person or by an attorney at law or attorney in fact and a corporation or association may be represented by a bona fide officer thereof. All persons appearing in such proceedings must conform to the standards of ethical conduct required of practitioners before the courts of the United States and, where applicable, to the requirements of section 12 (*i*) of the Public Utility Holding Company Act of 1935. Failure to conform to these standards will be ground for declining to permit appearance in any proceeding before the Commission.

SEC. 50.5 *Former employees barred for one year.* No person serving or having served as a Commissioner, officer, expert, examiner, attorney, accountant, engineer, or other employee in the Federal Power Commission shall be permitted to practice, appear, or act as counsel, attorney, representative, or agent in any proceeding before the Commission, or before any regional office, division, or agency thereof, or in any manner or by any means aid or assist in the prosecution of any such matter or proceeding, within one year next after the separation of the said person from the service of the Commission; provided, however, this rule shall not be construed to bar any such person from appearing before the Commission in behalf of any other branch of the Federal Government or in behalf of any State, municipality, or other public agency.

SEC. 50.6 *Applicants defined.* In proceedings involving applications, by persons subject to the act, for permission or authorization which the Commission may give under the authority of the act, the parties on whose behalf the applications are made are styled applicants.

SEC. 50.7 *Complainants.* Parties who complain to the Commission of anything done or omitted to be done in violation of the provisions of the act by any person subject to the act, are styled complainants. (See Sec. 50.15 to Sec. 50.22.)

SEC. 50.8 *Petitioners.* Parties seeking relief, not otherwise designated herein, are styled petitioners. (See Sec. 50.13 to Sec. 50.14.)

SEC. 50.9 *Defendants.* Persons subject to the act, against whom any complaint is filed, are styled defendants. (See Sec. 50.15 to Sec. 50.22.)

SEC. 50.10 *Interveners.* Parties permitted to intervene as hereinafter provided, are styled interveners. (See Sec. 50.13 to Sec. 50.14.)

SEC. 50.11 *Protestants.* A protestant is anyone objecting on the ground of private or public interest to the approval of an application or petition which the Commission may have under consideration. (See Sec. 50.26 to Sec. 50.27.) Protestants desiring to become parties to any proceeding before the Commission may file a petition for intervention.

SEC. 50.12 *Respondents.* Persons subject to the act, to whom an order or notice is issued by the Commission instituting a proceeding or investigation on its own initiative, are styled respondents.

Petitions

SEC. 50.13 *Contents.* Petitions for relief under the act should be under oath and state clearly and concisely the interest of the petitioner in the subject matter of the petition and the relief sought and cite by appropriate reference the section, paragraph, etc., of the act relied upon for relief and must conform to the requirements of Sec. 50.31 to Sec. 50.40.

SEC. 50.14 *Intervening petitions.* Any interested State, State commission, municipality, or any representative of interested consumers or security holders, or any competitor of a party to any pending proceeding, or any other person whose participation in a pending proceeding may be in the public interest, may petition to intervene in any proceeding pending before the Commission prior to or at the time it is called for hearing, but not thereafter except for good cause shown. Petitions for intervention must set forth the grounds of the proposed intervention; the position and interest of the petitioner in the proceeding; and must conform to the requirements of a formal complaint and must be subscribed and verified in the same manner as a formal complaint. If leave is granted, the petitioner thereby becomes an intervener and a party to the proceeding.

Complaints

SEC. 50.15 *Complaints; informal and formal.* Complaints may be informal or formal.

SEC. 50.16 *Informal complaints.* Informal complaints may be made by letter or other writing, and will be filed as received. Matters informally presented will, if their nature so warrants, be taken up by correspondence or conference with the party or parties complained of in an endeavor to bring about satisfaction of the complaint without formal hearing.

SEC. 50.17 *Substance of informal complaints.* No form of informal complaint is prescribed, but in substance the letter or other writing should contain the name and address of complainant, the name of the party against whom the complaint is made, and a brief statement of the facts forming the basis of such complaint. While the filing of an informal complaint is without prejudice to complainant's right to file formal complaint, only formal complaints submitted and prosecuted in the manner hereinafter prescribed will entitle any person, natural or artificial, to initiate formal proceedings or to become a party to any proceedings already initiated, and only formal complaints will be admitted in the record of formal proceedings. It is desirable that the informal complaint be accompanied by sufficient copies to enable the Commission to transmit one to each party named, and retain one for its own use, and it may be accompanied by supporting papers.

SEC. 50.18 *Formal complaints; form and style.* Formal complaints must conform to the requirements of Sec. 50.31 to Sec. 50.40. The names of all parties, complainant and defendant, must be stated in full without abbreviations, and the address of each complainant with the name and address of its attorney, if any, must appear.

SEC. 50.19 *Joinder of complaints or complainants.* Two or more grounds of complaint involving the same purposes, subject, or state of facts, may be included in one complaint, but should be separately stated and numbered; and two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants, and involve substantially the same purposes and subject, and a like state of facts.

SEC. 50.20 *Substance of formal complaints.* Formal complaints should be so drawn as fully and completely to advise the parties defendant and the Commission, wherein the provisions of the act have been or are violated by the acts or omissions complained of, or will be violated by a continuance of such acts or omissions, and should set forth briefly and in plain language the facts claimed to constitute such violations, and the relief sought.

SEC. 50.21 *Subscription and verification.* Every formal complaint must be personally subscribed by the duly authorized representative of the complainant or complainants. In addition, the facts alleged must be verified under oath by the duly authorized representative of the complainant.

SEC. 50.22 *Supplemental complaints.* Supplemental complaints may be tendered for filing by the complainant against the defendant in the original complaint, setting forth any causes of action under the act alleged to have accrued in favor of the complainant and against the defendant since the filing of the original complaint, and, upon leave granted, will be filed and served by the Commission as provided for original complaints, and heard, considered, and disposed of therewith in the same proceeding, if practicable.

Answers

SEC. 50.23 *Answers to formal complaints.* Answers to formal complaints must be filed with the Commission within 30 days after the day on which the complaint was served. This period may be shortened or extended by the Commission in its discretion. Any defendant failing to file answer within such period will be deemed in default, and issue as to such defendant will be thereby joined. All answers should be under oath and so drawn as fully and completely to advise the parties and the Commission as to the nature of the defense, and should admit or deny, specifically and in detail, each material allegation of the pleading answered and must conform to requirements of Sec. 50.31 to Sec. 50.40.

SEC. 50.24 *Answers to petitions.* Answers to petitions in intervention or amended complaints, filed and served upon leave granted, need not be separately made unless the defendants so elect, and their answers to the formal complaint will be deemed answers to the petition in intervention or amended complaint. Answers if separately made should be filed and served in the same manner as is provided for answers to the original complaint.

SEC. 50.25 *Satisfaction of complaints.* If the defendant satisfies a formal complaint either before or after answering, a statement to that effect signed by the opposing parties must be filed setting forth when and how the complaint has been satisfied and requesting dismissal.

Protests

SEC. 50.26 *Contents.* Protests to be considered formal must set forth the position and interest of the protestant in the proceeding and must be so drawn as fully and completely to advise the parties and the Commission as to the acts or omissions complained of, and should in other respects conform to the requirements of Sec. 50.15 to Sec. 50.21 and Sec. 50.31 to Sec. 50.40.

SEC. 50.27 *Subscription and verification.* Every formal protest must be personally subscribed (1) by the protestant, and by each protestant if there be more than one, (2) by an officer of the protestant if it be a corporation or (3) for the protestant by his attorney. In addition, the facts alleged must be verified under oath by a protestant, an officer of protestant, or by the attorney for the protestant. If the subscription and verification, or either thereof be by anyone

other than the protestant or an officer or attorney thereof as aforesaid, the reason it is so made must be stated, and the power of attorney or authority authorizing such affiant to prosecute the protest or make the verification must be filed with the protest.

Amendments to Pleadings

SEC. 50.28 *Allowance or refusal discretionary.* Amendments to any pleading will be allowed or refused by the Commission in its discretion.

SEC. 50.29 *Subscription and verification.* Whenever by these rules a principal pleading is required to be subscribed and verified an amendment thereto must be similarly subscribed and verified.

SEC. 50.30 *Directed amendments.* The Commission, or during a hearing a Commissioner, examiner, or other representative presiding, may direct a party to state his case by way of amendment, more fully or in more detail.

Specifications as to Applications, Complaints, Answers, Petitions, Briefs, Etc.

SEC. 50.31 *Typewritten or printed only.* Except where otherwise specifically provided, all papers to be filed under these rules must be typewritten or printed.

SEC. 50.32 *Size and legibility.* If typewritten, they must, unless otherwise specifically provided, be on paper cut or folded to 8½ inches wide by 11 inches long, with left-hand margin not less than 1½ inches wide. The impression must be on only one side of the paper and must be double-spaced, except that long quotations should be single-spaced and indented. Mimeographed, multigraphed, or planagroph copies will be accepted as typewritten. All copies must be clearly legible.

SEC. 50.33 *Sizes of printed paper.* If printed, they must be not less than 10-point type on unglazed paper cut or folded so as not to exceed 8½ inches wide by 11 inches long, with inside margin not less than 1 inch wide and with double-leaded text and single-leaded citations.

SEC. 50.34 *Signature.* Applications, complaints, answers, petitions, statements, protests, and notices must be signed in ink by the party in interest, or by his or its duly authorized attorney, and must show the office and post office address of the same.

SEC. 50.35 *Improper matter.* Any paper containing defamatory, scurrilous, or unethical matter will be rejected by the Commission, and the person submitting the same, after hearing, may be debarred from practice before the Commission.

Service, Number of Copies

SEC. 50.36 *By the Commission.* Applications, formal complaints, petitions, and upon leave granted, petitions in interventions, supplemental complaints, and amended complaints, will be served by the Commission. Such service will be by mail or otherwise, as may be appropriate in each specific case.

SEC. 50.37 *Service by parties.* Protests, answers, briefs, notices and all other papers, except depositions, in formal proceedings pending before the Commission shall, when tendered to the Commission for filing, show service thereof upon all parties to the proceeding. Such service shall be made by delivering in person or by mail, properly addressed with postage prepaid, one copy to each party. (See Sec. 250.1.)

SEC. 50.38 *Service upon attorneys.* When any party has appeared by attorney service upon such attorney will be deemed service upon the party.

SEC. 50.39 *Number of copies of pleadings.* Except where otherwise specifically provided in these rules, all pleadings which are served by the Commission must be accompanied by copies in sufficient number to enable the Commission to transmit one copy to each party to the proceeding and retain five copies for its own use. Where service is made by the parties or service is not required to be made, five copies are required for the use of the Commission.

SEC. 50.40 *Number of copies of reports, etc.* Except where otherwise specifically provided, all reports and other statements required under these rules shall be filed in triplicate.

Continuances, Extensions of Time

SEC. 50.41 *Contents; time of filing.* Applications for continuances or for the extension of time in which to file any pleadings or briefs shall be by petition, in writing, stating the facts on which the application rests, and must be filed with the Commission at least seven days before the date set for hearing, or on or before the time for filing such pleadings or briefs, and must conform to the requirements of Sec. 50.31 to Sec. 50.40.

SEC. 50.42 *Discretion in granting or denying.* Continuances and extensions of time will be granted or denied at the discretion of the Commission.

Documentary Evidence

SEC. 50.43 *Designation.* When relevant and material matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the same must plainly designate the matter so offered. If other matter is in such volume as would necessarily cumber the record, such book, paper, or document will not be received in evidence, but may be marked for identification, and, if properly authenticated, the relevant or material matter may be read into the record, or, if the presiding Commissioner, examiner, or other representative so directs, a true copy of such matter, in proper form, shall be received as an exhibit, and like copies delivered by the party offering the same to opposing parties or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the book, paper, or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

SEC. 50.44 *Commission's files.* In case any matter contained in a report or other document on file with the Commission is offered in evidence, such report or other document need not be produced or marked for identification, but in other respects the provisions of the foregoing Sec. 50.43 will apply.

SEC. 50.45 *Records in other proceedings.* In case any portion of the record in any other proceeding is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless—

A. The party offering the same agrees to supply such copies later at his own expense, if and when required by the Commission; or

B. The portion is specified with particularity in such manner as to be readily identified; or

C. The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any portion offered by any other party may be incorporated by like reference subject to A and B; and

D. The presiding Commissioner, examiner, or other representative directs such incorporation.

SEC. 50.46 *Objections.* Any documentary evidence offered, whether in the form of exhibit or by reference, shall be subject to appropriate objection.

SEC. 50.47 *Copies to opposing counsel.* When exhibits of a documentary character are offered in evidence, copies must be furnished to opposing counsel unless the presiding Commissioner, examiner, or other representative otherwise directs.

SEC. 50.48 *Size; form.* Whenever practicable, all exhibits of a documentary character received in evidence must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed or typewritten; if typewritten, they must conform to the requirements of Sec. 50.31 to Sec. 50.35.

SEC. 50.49 *Copies for the Commission.* Unless the presiding Commissioner, examiner, or other representative shall otherwise direct, three copies of each exhibit of a documentary character must be furnished for the use of the Commission, in addition to the copies provided for under Sec. 50.47 hereof.

Stipulations

SEC. 50.50 *How evidenced.* A party or parties may, in writing filed with the Commission or presented at the hearing, stipulate as to any facts involved in the proceeding; but such stipulation shall not bind the Commission.

SEC. 50.51 *Form and style; service.* Stipulations must conform to the requirements of Sec. 50.31 to Sec. 50.41.

Witnesses and Subpoenas

SEC. 50.52 *Subpoenas.* Subpoenas for the attendance of witnesses or for the production of books, papers, or documents, unless directed by the Commission upon its own motion, will issue only upon application in writing. Applications to compel witnesses to produce documentary evidence must be verified, and must specify as nearly as may be, the books, papers, or documents desired and the facts to be proved by them.

SEC. 50.53 *Fees of witnesses.* Witnesses who are summoned are entitled to the same fees as are paid for like services in the courts of the United States, such fees to be paid by the party at whose instance the testimony is taken, and the Commission before issuing subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.

SEC. 50.54 *Subpoenas; service; return.* If service of subpoena is made by a United States marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereof, describing the manner in which service is made and return such affidavit on or with the original subpoena. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service, a copy of the subpoena shall be exhibited to and left with the person to be served. The original subpoena, bearing or accompanied by the required return, affidavit, or statement, shall be returned forthwith to the Secretary of the Commission, or if so directed on the subpoena, to the presiding Commissioner, examiner, or other representative of the Commission before whom the person named in the subpoena is required to appear.

Depositions

SEC. 50.55 *When permissible.* The testimony of any witness may be taken by deposition, at the instance of a party to any proceeding pending before the Commission, at any time before the hearing is closed, upon approval by the Commission, in compliance with these rules of practice, but not otherwise.

SEC. 50.56 *Officer before whom taken.* Such depositions may be taken before a Commissioner, examiner, or other authorized representative of the Commission, and judge, commissioner, or clerk of any court of the United States, any chancellor, judge, or justice of a State court, mayor or chief magistrate of a city, or any notary public not being of counsel or attorney to either of the parties or interested in the proceeding or investigation, according to such designation as the Commission may make in its order in the premises. Where such deposition is taken in a foreign country, it may be taken before an officer or person designated by the Commission or agreed upon by the parties by stipulation in writing to be filed with the Commission. The magistrate, person, or officer so designated in Sec. 50.55 to Sec. 50.59 will be referred to as the officer.

SEC. 50.57 *Notice of application; service; order for taking.* Reasonable notice of not less than 10 days, and when the deposition is to be taken in a foreign country, of not less than 15 days, must first be given in writing by the party or his attorney proposing to take such deposition, to the opposing party or his attorney of record, and to the Commission. In such notice, there should be stated the name and post office address of the witness, the subject matter concerning which the witness is expected to testify, the time and place of taking the deposition, and the name and post office address of the officer before whom it is desired that the deposition be taken. The opposing party may, within the time stated above, make any appropriate response to such notice. Thereupon, if the application so warrants, the Commission will make and serve upon the parties or their attorneys an order, wherein the Commission will name the witness whose deposition is to be taken, and specify the time, place, and the officer before whom the witness is to testify, but such time and place and the officer before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as those named in said notice to the Commission.

SEC. 50.58 *Oath; reduction to writing.* Every person whose deposition is so taken shall be sworn (or permitted to affirm if he so requests) to testify to the whole truth and nothing but the truth concerning the matter about which he shall testify, and shall be carefully examined. His testimony shall be reduced to typewriting by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness, and certified in usual form by the officer. After the deposition has been so subscribed and certified it shall, together with two copies thereof made by such officer or under his direction, be forwarded by such officer, in a sealed envelope addressed to the Commission at its office in Washington, D. C., with sufficient stamps for postage affixed. Upon receipt of the deposition and copies, the Commission will file the deposition in the record in said proceeding, and forward one copy to the party at whose instance the deposition has been taken or his attorney, and the other copy to the opposing party or his attorney. When the deposition is taken at the instance of more than one party, or there is more than one opposing party, the copies will be forwarded by the Commission to the parties or their attorneys designated for that purpose in advance.

SEC. 50.59. *Fees of officers and witnesses.* Witnesses whose depositions are taken and the officers taking same, shall be entitled to the same fees as are paid for like services in the courts of the United States, which fees shall be paid by the party at whose instance the depositions are taken.

Hearings

SEC. 50.60 *How ordered.* Hearings may be ordered by the Commission in its discretion, either upon its own motion, or upon the motion of any party to the proceeding. Witnesses will be examined orally, unless the testimony is taken by deposition, as provided in Sec. 50.55 to Sec. 50.59 or the facts are stipulated in the manner provided for in Sec. 50.50 to Sec. 50.51.

SEC. 50.61 *Notice of hearing.* Appropriate public notice of any hearing will be given. The notice will state the nature of the matters to be heard, the time and place of the hearing, and, if designated, the name of the Commissioner, examiner, or other representative before whom the testimony is to be taken or the evidence produced. Such notice will be mailed to the parties to the proceeding, to State or other governmental authorities having official interest in the proceeding.

SEC. 50.62 *Appearance.* The presiding Commissioner, examiner, or other representative before whom the hearing is held will enter upon the record all appearances, with a notation in whose behalf the appearance is made.

SEC. 50.63 *Order of procedure.* At hearings on formal complaints, the complainant shall open and close. At hearings upon applications, the applicant shall open and close. At hearings on investigations, the presiding Commissioner, examiner, or other representative may direct who shall open and close. In hearings on several proceedings on a consolidated record the presiding Commissioner, examiner, or other representative shall designate who shall open and close. Interveners shall follow the parties in whose behalf the intervention is made, and in all cases where the intervention is not in support of either original party, the presiding Commissioner, examiner, or other representative will designate at what stage such intervener shall be heard.

SEC. 50.64 *Calling for further evidence.* At any stage of the hearing, or after the close of testimony, the presiding Commissioner, examiner, or other representative may call for further evidence upon any issue, and require such evidence to be presented by the party or parties concerned or by the staff of the Commission, either at that hearing or at a further hearing. At the hearing, the Commissioner, examiner, or other representative presiding, if he deems advisable, may authorize any party to the proceeding to file specific documentary evidence as a part of the record within a time to be fixed by him, but which shall expire not less than 10 days before the date fixed for filing and serving briefs.

SEC. 50.65 *Closing of record.* Except as provided in Sec. 50.64 the Commissioner, examiner, or other representative conducting the hearing will not receive in evidence or consider as part of the record any document, letter, or other writing submitted after the close of testimony, and will so advise the sender.

Transcript of Testimony

SEC. 50.66 *Copies not furnished by the Commission.* The Commission will make provision for a stenographic record of the proceeding and for such copies of the transcript as it requires for its own purposes, but no copies will be furnished to parties by the Commission.

Briefs and Oral Argument

SEC. 50.67. *Oral argument.* If oral argument before the presiding Commissioner, examiner, or other representative is desired, he should be so notified before or at the hearing, and he may arrange to hear the argument at the close of the testimony. He may impose such limits of time on the argument as he may determine, having regard for other assignments for hearing before him. Such argument will be transcribed and bound with the transcript of testimony and will be available to the Commission for consideration in deciding the case.

SEC. 50.68 *Forms and style of briefs.* Briefs must comply with the requirements of Sec. 50.31 to Sec. 50.35. The date of each brief must appear on the front cover or title page. Each brief should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects with reference to the pages of the record or exhibit where the evidence appears. It should include requests for such specific findings as the party thinks the Commission should make.

SEC. 50.69 *Arrangement of contents.* The brief should contain a concise statement of the case, which should precede the abstract of evidence. The abstract of evidence should precede the argument. Exhibits should not be reproduced in the brief, but if desired may be reproduced in the appendix of the brief. Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain. Every brief of more than 20 pages should contain on its front leaves a subject index with page references, and a list of all cases cited, alphabetically arranged, with references to the pages where the citations appear.

SEC. 50.70 *Filing; service; number of copies.* At the close of the testimony in each case, the presiding Commissioner, examiner, or other representative will, within his discretion, fix the time for filing and service of the respective briefs, depending upon the magnitude of the issues involved. All briefs should be filed simultaneously. Only one initial brief shall be filed by each party. All briefs must be accompanied by notice showing service upon all parties or their attorneys who appeared at the hearing or on brief, and 15 copies of each brief shall be furnished for the use of the Commission.

SEC. 50.71 *Reply briefs.* The presiding Commissioner, examiner, or other representative shall fix for all parties the same time within which to file their reply briefs. Parties who fail to file an opening or initial brief as required by this rule will not be permitted, except upon leave granted, to file reply to the brief of an opposing party.

Application for Further Hearing, Rehearing, Reargument, Reconsideration, or Modification of an Order

SEC. 50.72 *Petition; filing; service.* An application for further hearing in a proceeding before final submission, for reopening a proceeding after final submission, or for rehearing, reargument, or reconsideration after decision, must be made by petition, under oath, stating specifically the grounds relied upon, filed with the Commission, and served by the petitioner upon all parties to the proceeding or their attorneys of record.

SEC. 50.73 *Statement as to new evidence.* If the application be for further hearing before final submission, or for reopening the proceeding to take further evidence, the nature and purpose of the evidence to be adduced must be briefly stated, and it must appear not to be merely cumulative.

SEC. 50.74 *Specification of errors.* If the application be for rehearing, reargument, or reconsideration, the matters claimed to have been erroneously decided must be specified, and the alleged errors briefly stated. If the order of the Commission is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing, or of a consequence which would result from compliance therewith, the matters relied upon by the petitioner must be set forth in the petition.

SEC. 50.75 *Time of filing.* A petition for rehearing must be filed within 30 days after service of the order therein.

SEC. 50.76 *Form and style; service.* Applications under this rule must conform to the requirements of Sec. 50.31 to Sec. 50.35.

Computation of Time

SEC. 50.77 *When Sunday and holiday not included.* When the time prescribed by these rules for doing any act expires on a Sunday or legal holiday, such time shall extend to and include the next succeeding day that is not a Sunday or legal holiday.

Access to Commission's Records

SEC. 50.78 *Formal dockets.* Dockets open to public inspection, except as hereinafter provided, will be maintained by the Commission containing all formal documents and proceedings with reference to all cases pending before the Commission under the Natural Gas Act.

SEC. 50.79 *Reports and statements.* Annual or periodic reports of natural gas companies, filed with the Commission under oath, will be available for public inspection. Other reports and statements made to the Commission by natural gas companies or others may be withheld from public inspection in the discretion of the Commission.

SEC. 50.80 *Hours for inspection.* Dockets and other records open for public inspection may be inspected during office hours of the Commission insofar as consistent with the proper discharge of the Commission's duties.

Copies of Records

SEC. 50.81 *Charge.* Copies of documents available for public insection, and of other documents with the consent of the party who filed the same, will be furnished upon request and payment of charges therefor. Charges will be based upon cost. A schedule of charges will be furnished upon request. An additional charge of 25 cents will be made for each certification of documents by the Secretary of the Commission.

Notice of Compliance

SEC. 50.82 *Filing.* When, by any provision of these rules or by an order of the Commission in a proceeding before it, a natural gas company is required to perform any act (e. g., make entries on its books of account) it shall, unless otherwise provided by these rules or by an order of the Commission, file with the Commission within 30 days following the date when such requirement became effective, a notice, under oath, stating that such requirement has been met or complied with.

PART 53.—APPLICATION FOR AUTHORIZATION TO EXPORT OR IMPORT NATURAL GAS

SEC. 53.1 *Who shall apply.* The owner of a source of supply of natural gas who proposes to export or import any portion of such natural gas or who has entered or proposes to enter into a contract to supply natural gas to be so exported or imported, and the exporter or importer thereof, are necessary parties to an application for the authorization sought under this rule.

SEC. 53.2 *Form and time of filing.* An application under this part shall conform with Sec. 50.31 to Sec. 50.35, shall be made at least 30 days in advance of the proposed exportation or importation, except where otherwise ordered by the Commission for good cause shown, and the original application shall be signed and verified under oath by an executive officer or officers of the applicant or applicants having knowledge of the matters therein set forth.

SEC. 53.3 *Contents of application.* Until such time as the Commission shall promulgate rules and regulations pertaining to the contents of applications required to be filed under the provisions of section 3 of the Act, an application for an order authorizing any person to export any natural gas from the United States to a foreign country or import any natural gas from a foreign country shall set forth sufficient facts to enable the Commission to determine whether the authorization sought would be consistent with the public interest. The applicant shall furnish such additional information as the Commission may deem pertinent.

PART 54.—FILING OF RATE SCHEDULES

SEC. 54.1 *Definition.* The term "rate schedule" as used herein shall include and mean any contract, agreement, lease of facilities or other writing, including supplements thereto, which specifies or affects the rates and charges to be assessed or collected for the transportation or sale of natural gas subject to the jurisdiction of the Commission, or which establishes any rule, regulation, classification, or practice affecting such rates and charges or the service rendered or to be rendered.

SEC. 54.2 *Effective rates and charges.* No natural gas company shall directly or indirectly demand, collect, or receive, for the transportation or sale of natural gas subject to the jurisdiction of the Commission, or for the lease or utilization of any facilities subject to the jurisdiction of the Commission, any rate or charge different from that prescribed in its rate schedule or schedules actually on file with the Commission, unless the Commission shall, for good cause shown, otherwise provide by order.

SEC. 54.3 *Filing of rate schedules, rates, charges, etc.*

A. *Obligation to file.* Every natural gas company shall post and file with the Commission full and complete rate schedules clearly and specifically setting forth all rates and charges for any transportation or sale of natural gas, the classification, practices, and regulations affecting such rates, and all contracts which affect or relate to such rates, charges, classifications, or services as required by section 4 (c) of the Natural Gas Act. Where two or more natural gas companies are parties to the same rate schedule, each natural gas company furnishing service, transporting, selling, or pooling natural gas shall post and file such rate schedule, or the rate schedule may be filed by one such natural gas company and all other parties having an obligation to file may post and file a certificate of concurrence on the form indicated in Sec. 250.2.

B. *Newly established rates, charges, etc.* Unless otherwise provided by order of the Commission, every rate or charge for the transportation or sale of natural gas subject to the jurisdiction of the Commission, as well as any classification, practice, regulation, or operation affecting such rate or charge and any contract or agreement which affects or relates to such rate, charge, classification, regulation, or service which has not theretofore been in effect, shall be posted and filed with the Commission not less than ten days prior to the date upon which it is to become effective.

C. *Changes in filed rates, charges, etc.* All rate schedules making a change in any rate, charge, classification, or service, on file with the Commission, or in any rule, regulation, or contract relating thereto shall be posted and filed with the Commission not less than 30 days prior to the proposed effective date thereof, unless a shorter period of time is authorized by the Commission; and as to each proposed change there shall be submitted to the Commission at the same time—

(1) A statement outlining the reasons for the proposed change and the desirability thereof;

(2) Pertinent data supporting the statements in (1) above, and

(3) An estimate of the probable sales and revenue under the rate after the proposed change becomes effective for a period of 12 months thereafter.

D. *Changes in rate schedules to be indicated.* All rate schedules making a change in any existing rate schedule on file with the Commission shall state plainly the change, or changes, to be made. The following symbols, which shall appear in the margin opposite each paragraph, shall be used to indicate changes in the superseding rate schedule.

O=No Change.
C=Change.
N=New Provision.

E. *Rates, charges, etc., made effective prior to date of filing upon order of the Commission.* For good cause shown, and upon application duly made at the time of filing, the Commission may by order provide that any rate schedule, charge, classification or service, or any rule, regulation, practice, or contract relating thereto, shall be effective as of a date prior to the date of filing.

F. *Acceptance for filing not approval.* The acceptance for filing by the Commission of any rate schedule, or supplement thereto, is not to be considered as approval of the reasonableness of any such rate schedule or any part thereof.

SEC. 54.4 *Identification and numbering of rate schelules.*

A. Every rate schedule filed will be numbered in the office of the Commission and the filing natural gas company advised of the Rate Schedule FPC number. Whenever a rate schedule offered for filing, changes, alters, or modifies any rate, charge, classification, or service, or any rule, regulation or contract relating thereto or provides additionally for a rate, charge, classification or service, or any rule, regulation, or contract relating thereto, but is dependent upon and amendatory of an existing rate schedule, it will be designated as a supplement to the existing rate schedule and will be so numbered.

B. Every rate schedule offered for filing with the Commission under these rules shall show on a title page, which shall be otherwise blank, (1) the name of the filing natural gas company, (2) the names of other natural gas companies receiving or rendering service under the rate schedule, and (3) a brief description of the service to be provided thereunder.

SEC. 54.5 *Notice of cancellation.* When a rate schedule, rate, charge, classification, or service, or any rule, regulation, or contract relating thereto and on file with the Commission is proposed to be cancelled and no new rate schedule is filed in its place, except as hereinafter provided, each natural gas company required to file the schedule shall formally notify the Commission of the proposed cancellation on the form indicated in Sec. 250.3 at least 30 days prior to the proposed effective date of such cancellation; and shall therewith submit a statement showing the reasons therefor and that notice has been served upon each natural gas company that is a party to the rate schedule. A copy of such notice to the Commission shall be duly posted. For good cause shown, the Commission may permit notice of cancellation to be filed within less than 30 days of the proposed effective date thereof.

SEC. 54.6 *Notice of succession.* Whenever, the name of a natural gas company is changed, or its operating control is transferred to another natural gas company in whole or in part, or a receiver or trustee is appointed to operate any natural gas company, the exact name of the natural gas company, receiver, or trustee which will operate the property thereafter shall be filed within 30 days after such change, transfer or appointment with the Commission on the form indicated in Sec. 250.4.

SEC. 54.7 *Rates established by order of the Commission.* Every rate schedule filed to make effective the rates, charges, classifications, or services or any rule or regulation relating thereto, established in conformity with an order of the Commission shall bear the following additional notation on the title page, viz.:

Issued in Compliance with an Order of the Federal Power Commission

Docket No. ----------

Entered -------- day of --------

SEC. 54.8. *Posting for public inspection.* A true copy of every rate schedule required to be filed with the Commission shall be posted by each natural gas company, not later than the date of filing with the Commission, by keeping such rate schedules open and available for public inspection in a convenient form and place, during ordinary business hours at its principal and district or division offices in the territory served.

SEC. 54.9 *Protests and complaints against rate changes.* Every protest and complaint concerning any rate, charge, classification or service, or any rule, regulation, or contract relating thereto may be filed at any time prior to the date upon which such rate, charge, classification, or service, or rule, regulation, or contract relating thereto is proposed to become effective.

SEC. 54.10 *Number of copies of rate schedules to be supplied.* Four copies of

every rate schedule, certificate of concurrence, notice of succession in ownership or operation, and notice of cancellation submitted for filing must be supplied to the Commission. All copies are to be included in one package, together with a letter of transmittal listing all rate schedules included, and addressed to the Federal Power Commission, Washington, D. C. The Commission reserves the right to request such additional copies of any of the above mentioned instruments as it may find necessary or appropriate to carry out the provisions of the Natural Gas Act.

SEC. 54.11 *Form and style of rate schedules.* All rate schedules filed under these rules must be printed, or if printed copies are not available, must be typewritten on paper 8½ inches wide by 11 inches long. Photostatic copies on white paper, in lieu of written or printed copies, may be filed. All copies must be clear and legible and complete as to signatures, dates, and other essential data. The Commission reserves the right to reject any rate schedule that does not meet the requirements of this section.

SEC. 54.12 *Filing date.* By filing date is meant the date on which a rate schedule submitted by a natural gas company is received in the office of the Secretary of the Commission, unless rejected by the Commission for failure to comply with provisions of these rules of practice and regulations.

SEC. 54.13 *Report of termination date.* All natural gas companies having rate schedules on file with the Commission, shall advise the Commission of the termination date of all rate schedules, thirty days in advance of such termination date.

SEC. 54.14 *Report of transactions.* On or before January 20, 1939, every natural gas company shall report to the Commission the amount of natural gas transported or sold in each month during the six months period ending December 31, 1938, under each rate schedule on file with the Commission during said period, together with the consideration received from each sale so reported.

PART 57.—APPLICATION FOR APPROVAL OF ABANDONMENT OF FACILITIES OR SERVICE AND FOR CERTIFICATE OF CONVENIENCE AND NECESSITY

SEC. 57.1 *Contents of application.* Until such time as the Commission shall promulgate rules and regulations pertaining to the contents of applications required to be filed under the provisions of section 7 of the act, an application for the permission and approval of the abandonment of all or any portion of facilities subject to the jurisdiction of the Commission or any service rendered by means of such facilities, pursuant to subsection (b) thereof, or an application for a certificate of convenience and necessity pursuant to subsection (c) thereof, shall set forth sufficient facts to enable the Commission to ascertain the matters required to be determined under the provisions of such subsections. The applicant shall furnish such additional information as the Commission may deem pertinent.

SEC. 57.2 *Form of filing.* An application under this part shall conform with Sec. 50.31 to Sec. 50.35, and the original application shall be signed and verified under oath by an executive officer of the applicant having knowledge of the matters therein set forth.

PART 58.—ACCOUNTS, RECORDS, AND MEMORANDA

Adjustment of Accounts and Reports

SEC. 58.1 *Notice of deficiencies.* If, as the result of an examination by a representative of the Commission of the accounts of a person subject to the act and to the Commission's accounting requirements, or of an examination of any statement or report submitted by such person, it appears that the accounts, or any books or records pertaining to or in support thereof, are not being kept and maintained as required by the Commission, or that the statements or reports prepared and submitted are not in proper form, the failure or deficiency will be called to the attention of such person either formally or informally as the circumstances appear to warrant.

SEC. 58.2. *Response to notification.* If, as the result of such formal or informal notice, the matter is not adjusted within the time fixed by said notice, or within a reasonable time in case no date is specified, or if there is a disagreement between such person and the Commission or its representative respecting the application or interpretation of the act or requirements of the Commission with respect to the matter at issue, such person will be requested to advise the Commission in writing within a time to be specified whether it consents to the disposition of the questions involved under the shortened procedure hereinafter provided.

SEC. 58.3 *Facts and argument.* If the person consents to the matter being handled under such shortened procedure, the person and any other parties interested, including representatives of the Commission, shall submit to the Commission, within 30 days after the receipt of notice from the Commission to do so, a memorandum of the facts and, separately stated, of the argument relied upon, to sustain the position taken respecting the matter at issue together with copies in sufficient number to enable the Commission to retain three copies for its own use and make service in accordance with Sec. 50.36 to Sec. 50.40 upon all parties designated in said notice. Twenty days will be allowed in which to file a reply by any party who filed an original memorandum.

SEC. 58.4 *Form and style.* All memoranda must conform to the requirements of Sec. 50.31 to Sec. 50.35, and each copy must be complete in itself. All pertinent data should be set forth fully, and each memorandum should set out the facts and argument as prescribed for briefs in Sec. 50.67 to Sec. 50.71.

SEC. 58.5 *Verification.* The facts stated in the memorandum must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses if hearing were had to testify as to the facts stated in the memorandum.

SEC. 58.6 *Determination.* If no formal hearing is had the matter in issue will be determined by the Commission on the basis of the facts and arguments submitted.

SEC. 58.7 *Assignment for oral hearing.* In case consent to the shortened procedure is not given, or if at any stage of the proceeding prior to the submission of the case to the Commission any party in interest requests a hearing, the proceeding will be assigned for hearing as provided for by Sec. 50.60 to Sec. 50.65. The Commission may also in its discretion set the proceeding for hearing on its own motion at any stage thereof.

SEC. 58.8 *Burden of proof.* The burden of proof to justify every accounting entry shall be on the person making, authorizing, or requiring such entry.

PART 67.—COOPERATIVE PROCEDURE WITH STATE COMMISSIONS

NOTE. Section 17 of the Natural Gas Act authorizes cooperation between the Federal Power Commission and the State commissions of the several States in the administration of said act. Subsection (a) authorizes the reference of any matter arising in the administration of the act to a board to be composed of a member or members from the State or States affected or to be affected by particular matters pending before the Federal Power Commission. Subsection (b) authorizes conferences with State commissions regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of natural gas companies, and joint hearings with State commissions in connection with any matter with respect to which the Federal Power Commission is authorized to act.

Obviously, it is impossible to determine in advance what matters should be the subject of a conference, what matters should be referred to a board, and what matters should be heard at a joint hearing of State commissions and the Federal Power Commission. It is understood, therefore, that the Federal Power Commission or any State commission will freely suggest cooperation with respect to any proceeding or matter affecting any natural gas company, and concerning which it is believed that cooperation will be in the public interest.

To enable this to be done, whenever a proceeding shall be instituted before any commission, Federal or State, in which another commission is believed to be interested, notice should be promptly given each such interested commission by the commission before which the proceeding has been instituted. Inasmuch, however, as failure to give notice as contemplated by the provisions of this plan will sometimes occur purely through inadvertence, any such failure should not operate to deter any commission from suggesting that any such proceeding be made the subject matter of cooperative action, if cooperation therein is deemed desirable.

SEC. 67.1 *Notice of institution of proceeding.*

A. Whenever there shall be instituted before the Federal Power Commission any proceeding under the Natural Gas Act, the State commission or commissions of the State or States affected thereby will be notified immediately thereof by the Federal Power Commission, and each notice given a State commission will request such commission, if it deems the proceeding one which should be considered under the cooperative provisions of the act, to notify the Federal Power Commission as to the nature of its interest in said matter, and to request a conference, the creation of a board, or a joint hearing, if desired, indicating its preference and the reasons therefor.

B. Upon the receipt of such request the Federal Power Commission will consider the same, and may confer with the commission making the request and with other interested commissions, if any, in such manner as may be most suitable and, if cooperation shall appear to be practicable and desirable, shall so advise each interested State commission.

C. Each State commission should in like manner notify the Federal Power Commission of any proceeding instituted before it, the subject matter of which is also subject to the jurisdiction of the Federal Power Commission.

SEC. 67.2 *Procedure governing joint conferences.* The Federal Power Commission, in accordance with the indicated procedure, will confer with any State commission regarding any matter relating to the regulation of natural gas companies. The commission desiring a conference upon any such matter should notify the other without delay, and thereupon the Federal Power Commission will promptly arrange for a conference in which all interested State commissions will be invited to be represented.

SEC. 67.3 *Procedure governing matters referred to a board.* Whenever the Federal Power Commission, either upon its own motion or upon the suggestion of a State commission or at the request of any interested party, shall determine that it is desirable to refer a matter arising in the administration of the Natural Gas Act to a board to be composed of a member or members from the State or States affected or to be affected by such matter, the procedure shall be as follows:

The Federal Power Commission will send a request to each interested State commission to nominate a specified number of members to serve on such board. Whenever more than one State is involved, the representation of each State concerned shall be equal, unless one or more of the States affected chooses to waive such right of equal representation. When the member or members of any board have been nominated and appointed in accordance with the provisions of the Natural Gas Act, the Federal Power Commission will make an order referring the particular matter to such board, and such order shall fix the time and place of hearing, define the force and effect the action of the board shall have, the manner in which its proceedings shall be conducted, and specify the allowances to be made for the expenses of the members of the board. The rules of practice and procedure, as from time to time adopted or prescribed by the Federal Power Commission, shall govern such board, as far as applicable. The board shall have authority to adjourn the hearing from day to day, subpoena witnesses, rule on the relevancy, competency, and materiality of evidence, and, after hearing all interested parties, submit its recommendations to the Federal Power Commission, together with its findings of fact and conclusions of law.

SEC. 67.4 *Procedure governing joint hearings.* Whenever the Federal Power Commission, either upon its own motion or at the suggestion of any interested State commission, shall determine that a joint hearing is desirable in connection with any matter pending before the Federal Power Commission in which it is authorized to act, the procedure shall be as follows:

A. The Federal Power Commission will send a request to each interested State commission to name a specified number of members or representatives to sit with said Federal Power Commission or its member or representative in the joint hearing of said matter. Where more than one State is affected, the representation of each State concerned shall be equal, unless one or more of the States affected chooses to waive such right of equal representation, except that in cases where the number of States affected makes it impracticable for each State to be represented, the commissions of such States will be requested to name a representative committee not exceeding five in number to sit with the Federal Power Commission or its member or representative in the joint hearing of said matter. Where the joint hearing is upon a matter concerning which a proceeding is pending before a State commission in which action can be taken by said State commission, a joint record will be made.

B. Joint hearings will be followed by a conference to consider the facts developed of record, so as to provide opportunity for an exchange of views before final determination of the subject matter of the proceeding. Where a satisfactory exchange of views at such time proves impracticable, the State representative or representatives shall be afforded subsequent opportunity therefor in such manner as may be convenient.

C. When joint hearings are held, the rules of practice and procedure as from time to time adopted or prescribed by the Federal Power Commission shall govern, as far as applicable. The Federal Power Commission shall have authority to set the time and place of the hearing, subpoena witnesses, rule on the relevancy, competency, and materiality of evidence, and control in all other respects the conduct of such hearings.

SEC. 67.5 *Special procedure may be prescribed in each case.* The foregoing sections of this part are a general outline of procedure to be followed with respect to cooperation with State commissions under section 17 of the Federal Power Act. In any particular case, an order may be entered setting forth the manner in which said proceeding shall be conducted.

PART 250.—FORMS

SEC. 250.1 *Certificate of service*[1] *(See Sec. 50.36 to Sec. 50.40):*

(One original, no copies required)

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by delivering a copy thereof in person to _____ (Name of person) _____ and/or by mailing a copy thereof served) properly addressed to _____ (Names of persons served by mail) _____, dated at _____ this _____ day of _____, 19__.

_____
(Signature)

Of counsel for
_____
_____

SEC. 250.2 *Certificate of concurrence (See Sec. 54.3):*

(An original and three conformed copies to be submitted)

This is to certify that _____ (Name of Natural Gas Company concurring) _____ assents to and concurs in the rate schedule (rate schedule supplement) described below, which the _____ (Name of Natural Gas Company filing rate) _____ has filed, and hereby files this schedule) certificate of concurrence in lieu of the filing of the rate schedule (rate schedule supplement) specified. (Here give exact description of rate schedule or supplement, including F. P. C. number)

_____
(Name of Natural Gas Company)

By _____
_____
(Title)

Dated _____, 19__.

[1] To be shown on the original when tendered for filing with the Commission of every paper as specified in rule Sec. 50.37.

SEC. 250.3 *Notice of cancellation (see Sec. 54.5)*:

(An original and three conformed copies to be submitted)

Notice is hereby given that effective the ------ day of ----------, 19--, Rate Schedule F. P. C. No. ----, effective date ---------- ---------- and filed with the Federal Power Commission by ---------- (Name of Natural ---------- is to be Gas Company filing rate schedule) cancelled.

Notice of the proposed cancellation has been served upon the following:

(Name of Natural Gas Company)

By ----------

(Title)

Dated ----------, 19--.

SEC. 250.4 *Notice of succession in ownership or operation (See Sec. 54.6)*:

(An original and three conformed copies to be submitted)

The ----------, ----------
(Exact name of new owner, receiver, or trustee)
---------- (Address) on this ------ day of ----------, 19----, hereby adopts, ratifies, and makes his own, or its own, in every respect all applicable rate schedules, and supplements thereto, listed below, heretofore filed with the Federal Power Commission by---------- ---------- effective -------
(Exact name of predecessor)

(Effective date of change in ownership or operation)

(List all Rate Schedule F. P. C. numbers adopted)

(Exact name of successor)

By ----------

(Title)

[F. R. Doc. 38-1971; Filed, July 9, 1938; 12:29 p. m.]

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

EXPENDITURES IN EXCESS OF ONE HUNDRED DOLLARS

AMENDING THE PURCHASE AND SUPPLY CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 1001 of Chapter X of the Manual is amended to read as follows:

SEC. 1001. Every purchase under the jurisdiction of the Purchase and Supply Section involving an expenditure in excess of $100.00 shall be made after advertising for bids, except:

a. Where the exigency of the service requires the immediate delivery of the articles that will not admit of the delay incident to advertising;

b. Where there is only one source of supply; and

c. Where for any other reason it is impracticable to secure competition; and

Provided, however, That the necessity for making purchases under the foregoing exceptions a, b, and c, shall be determined by the Director of the Purchase and Supply Section who shall approve all such purchases. The reason for not advertising for bids must be clearly explained in each instance by the requisitioning office, and such explanation shall accompany the voucher covering payment; and

Be it further resolved, That the Director of the Purchase and Supply Section is authorized and directed to transfer, through the Treasurer, to the General Accounting Office, all of the following instruments in his possession and in force and effect as of July 1, 1938 (1) formal contracts, regardless of amount, (2) less formal agreements, whether one or more payments is involved, where amount determined at the time of making the agreement is $1,000 or more, and (3) less formal agreements, involving more than one payment, regardless of amount; and to transfer, through the Treasurer, currently as received, from time to time, to the General Accounting Office, all new instruments received by him of the above character to which the Corporation becomes a party.

Adopted by the Federal Home Loan Bank Board on July 6, 1938.

[SEAL] R. L. NAGEL,
Secretary.

[F. R. Doc. 38-1943; Filed, July 7, 1938; 1:00 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

NAVAJO, ZUNI AND HOPI INDIAN RESERVATIONS, ARIZONA AND NEW MEXICO

AMENDMENT OF REGULATIONS GOVERNING CONDUCT OF TRADE

JUNE 25, 1938.

The "Special regulations governing the conduct of trade within the Navajo, Zuni, and Hopi Indian Reservations in Arizona and New Mexico," approved June 2, 1937, are hereby extended to include the Indian reservations (including Indian Pueblos) within the United Pueblos jurisdiction in New Mexico, and are otherwise amended to include the following provisions:

SEC. 28. All carnival companies, circuses, theatrical companies, all persons, firms or companies conducting or operating portable dance pavilions, mechanical devices such as ferris wheels, carousals, or other devices for carrying passengers, and all persons operating games of skill, shall be considered traders and shall be required to obtain a license and to pay such fee as may be prescribed by the Superintendent in charge of the jurisdiction, based on the number and class of devices or units to be operated (not less than $5.00 nor more than $25.00 per unit); and shall post a surety bond in an amount not exceeding $10,000.00 and a personal injury and property damage liability bond of not less than $500.00 nor more than $20,000 as may be required by the Superintendent.

SEC. 29. All itinerant peddlers or purveyors of foodstuffs or other merchandise shall be considered traders and shall be required to obtain a license or permit from the Superintendent setting forth the class of trade or peddling to be carried on; shall pay such fee as may be prescribed by the Superintendent, and shall post such surety bond (not less than $500.00 nor more than $10,000) as may be required by the Superintendent.

Section 9 of the existing regulations is hereby amended to read:

Application for license must be accompanied by a bond in the name of the proposed licensee in the amount of $10,000, or such less sum as may be designated by the Superintendent or the Commissioner of Indian Affairs, with two or more sureties approved by the Superintendent, or with a guaranty company qualified under the Act of August 13, 1894 (28 Stats., 279). The bond shall be for the same period covered by the license.

SEC. 30. The fees prescribed by these regulations shall not be considered as precluding the governing body of any Indian reservation or pueblo from assessing and collecting such fees, etc., as it may deem appropriate.

Section 28 of the present regulations is hereby renumbered as Section 31.

JOHN COLLIER,
Commissioner.

Approved, June 29, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-1968; Filed, July 9, 1938; 9:50 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

AIR NAVIGATION SITE WITHDRAWAL NO. 121

CALIFORNIA AND UTAH

JUNE 11, 1938.

It is ordered, under and pursuant to the provisions of section four of the act of May 24, 1928, 45 Stat. 728, that the following-described public lands in California and Utah be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

CALIFORNIA

San Bernardino Meridian

T. 8 N., R. 23 E.,
sec. 8, N½S½, 160 acres.

UTAH

Salt Lake Meridian

T. 19 S., R. 7 W.,
sec. 10, SW¼SW¼;
T. 26 S., R. 10 W.,
sec. 1, lots 1, 2, 3, 4;
T. 29 S., R. 12 W.,
sec. 25, NE¼NE¼;
T. 34 S., R. 14 W.,
sec. 5, lots 1, 2, 5, SW¼NE¼;
aggregating 401.40 acres.

And departmental orders of June 22, 1923, creating Power Site Classification No. 55, California No. 18; October 16, 1931, withdrawing the tract in California for reclamation purposes, and April 8, 1935, establishing Utah Grazing Districts Nos. 3 and 4, are hereby modified to the extent of permitting the above withdrawal: *Provided*, That the said reclamation withdrawal shall take precedence for all purposes connected with the construction, operation, and maintenance of the Colorado River Storage Project.

E. K. BURLEW,
First Assistant Secretary of the Interior.

[F. R. Doc. 38-1967; Filed, July 9, 1938; 9:50 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

EXEMPTION OF CERTAIN FOREIGN UTILITY SUBSIDIARIES

Amendment of Rule U-3B-2

Acting pursuant to the Public Utility Holding Company Act of 1935, particularly Sections 3 (b), 3 (d) and 20 (a) [C. 687, sec. 3, 49 Stat. 810; 15 U. S. C., Sup. III, 79c: c. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t] thereof, and finding that such action is necessary and appropriate in the public interest and for the protection of investors and consumers and not contrary to the purposes of said Act, the Securities and Exchange Commission hereby amends Rule U-3B-2 [Sec. 15. U-3B-2] to read as follows:

SEC. 15. U-3B-2 (*Rule U-3B-2*).—*Exemption of Certain Foreign Utility Subsidiaries.*—If any company which is primarily an electric utility company owning and operating utility assets located in the United States also owns, directly or through one or more subsidiary companies, all of the outstanding securities (except only such minimum number of shares as may be necessary to qualify directors) of one or more electric utility companies operating exclusively outside of the United States, and if such electric utility assets located outside of the United States are interconnected with such electric utility assets located within the United States and do not have a value of more than 5 per cent thereof, and the electric utility company operating such utility assets within the United States.

(1) would not itself be a holding company except for its control over such foreign electric utility subsidiaries as aforesaid; and

(2) has no such foreign subsidiary company which owns any securities of any public-utility company operating within the United States or of any holding company which directly or indirectly owns securities of any such public-utility company or derives any income from any such public-utility or holding company by reason of service, sales, construction or other contracts;

then and in that case, each such subsidiary company owning or operating such foreign utility assets shall be exempt from all provisions of the Public Utility Holding Company Act of 1935 and, so long as such conditions shall continue to exist, no such subsidiary company shall be deemed to be a subsidiary of such public-utility company.

Effective July 13, 1938.

By the Commission,

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1935; Filed, July 11, 1938; 12:39 p. m.]

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

EXEMPTION OF CERTAIN SMALL HOLDING COMPANY SYSTEMS

Adoption of Rule U-3D-12

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Section 3 (d) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out the purpose of said Act, the Securities and Exchange Commission hereby adopts Rule U-3D-12 to read as follows:

SEC. 15.U-3D-12 (*Rule U-3D-12*).—*Exemption of certain small holding company systems.*—If during the last fiscal year the aggregate gross revenues of a holding company and every associate company thereof (including every company of which such company is a subsidiary company and associates thereof) which are derived from their operations as public-utility companies do not exceed $150,000, each such company shall be exempt from the obligations, duties or liabilities imposed upon such company as a holding company and as a subsidiary company by any provisions of the Act or any rule or regulation thereunder and such subsidiary company shall not be deemed to be a subsidiary company of such holding company within the meaning of any provision of the Act. (C. 687, sec. 3, 49 Stat. 810; 15 U. S. C., Sup. III, 79c) [Rules and Regs., rule U-3D-12, effective July 13, 1938]

By the Commission,

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1986; Filed, July 11, 1938; 12:39 p. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER III. RULES GOVERNING STANDARD BROADCAST STATIONS

PART 36. BROADCASTS BY CANDIDATES FOR PUBLIC OFFICE*

SEC. 36a 1. *General requirements.*—No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all other such candidates for that office to use such facilities, provided that such licensee shall have no power of censorship over the material broadcast by any such candidate.*

SEC. 36a 2. *Definitions.*—The following definitions shall apply for the purposes of Sec. 36a 1:

(a) "A legally qualified candidate" means any person who has met all the requirements prescribed by local, state or federal authority, as a candidate for the office which he seeks, whether it be municipal, county, state, or national, to be determined according to the applicable local laws.

(b) "Other candidates for that office" means all other legally qualified candidates for the same public office."

SEC. 36a 3. *Rates and practices.*—The rates, if any, charged all such candidates for the same office, shall be uniform and shall not be rebated by any means, directly or indirectly; no licensee shall make any discrimination in charges, practices, regulations, facilities or services for or in connection with service rendered pursuant to this Part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the *exclusion of other legally*

*Sections 36a 1 to 36a 4 issued under the authority contained in Sec. 315, 48 Stat. 1088; 47 U. S. C. 315.

Sections 36a 1 to 36a 4, inclusive, promulgated by the Federal Communications Commission on July 1, 1938.

qualified candidates for the same public office."

SEC. 36a 4. *Records; inspection.*—Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted."

Rule 178 (C. F. R. Sec. 34.38) is hereby rescinded.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-1982; Filed, July 11, 1938; 10:11 a. m.]

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49648]

FORT YUKON AIRFIELD, FORT YUKON, ALASKA, DESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

JULY 6, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Fort Yukon Airfield, Fort Yukon, Alaska, is hereby designated as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from the date of this order.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1983, Filed, July 11, 1938; 12:23 p. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MAINE

JULY 9, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Maine State Farm Security Advisory Committee, the county listed below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional county:

Aroostook.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1977; Filed, July 11, 1938; 10:06 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

OHIO

JULY 9, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Ohio State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional counties:

Auglaize, Belmont, Butler, Morrow, Paulding, Seneca, and Trumbull.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1976; Filed, July 11, 1938; 10:06 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

OKLAHOMA

JULY 9, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Oklahoma State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional counties:

Bryan, Cherokee, Choctaw, Creek, Garfield, Grady, Haskell, Hughes, Johnston, Kiowa, Logan, Osage, Pittsburg, Pottawatomie, Rogers, Sequoyah, and Woods.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-1975; Filed, July 11, 1938; 10:06 a. m.]

FEDERAL POWER COMMISSION.

[Order No. 51]

INSTITUTING AN INVESTIGATION OF NATURAL GAS COMPANIES AND DIRECTING THE FILING OF A REPORT

JULY 5, 1938.

Whereas, the Natural Gas Act, approved June 21, 1938, confers upon the Federal Power Commission certain powers and authority relating to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale, and to persons engaged in such transportation or sale; and

Whereas, Section 14 of said Act authorizes and empowers the Commission to inquire into and investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to aid in the enforcement of the provisions of said Act or in prescribing rules or regulations thereunder; and

Whereas, Section 10 of said Act, further, authorizes and empowers the Commission to require every natural-gas company to file with the Commission such reports, as the Commission may by order prescribe as necessary or appropriate to assist the Commission in the proper administration of said Act; and

Whereas, the proper administration of said Act requires that (1) the Commission determine what persons are engaged in the transportation of natural gas in interstate commerce, or in the sale in interstate commerce of natural gas for resale, and (2) the Commission prescribe appropriate rules and regulations thereunder;

Now, therefore, the Commission orders that:

A. An investigation be and is hereby instituted to ascertain certain facts, conditions, practices, or matters necessary and proper to aid the Commission in determining what persons are natural-gas companies within the meaning of the Natural Gas Act, and in prescribing rules and regulations necessary and appropriate to carry out the provisions of said Act;

B. For the purposes of said investigation, each person engaged in the transportation of natural gas or the sale thereof for resale shall file with the Commission on or before August 15, 1938, a report containing the information called for in the attached questionnaire;

C. The attached questionnaire be and is hereby approved for the purposes of this order and is prescribed as necessary and appropriate to assist the Commission in the proper administration of the Natural Gas Act.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

QUESTIONNAIRE AUTHORIZED BY ORDER NO. 51

Instructions

A. Whenever the term "reporting person" is used in this questionnaire, it shall be construed to mean and include any individual, corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or receivers, trustee or trustees of any of the foregoing, upon whom a copy of Order No. 51 of the Federal Power Commission has been served by registered mail and who is, by that order, called upon to furnish the information and data specified in this questionnaire.

B. The term "natural gas" as used in this questionnaire shall mean either natural gas unmixed, or any mixture of natural and artificial gas.

C. All communications concerning this questionnaire and the report responsive thereto shall be addressed to the Federal Power Commission, Washington, D. C.

D. The report required by this questionnaire shall be filed on or before the 15th day of August, 1938, in duplicate, and shall be attested as hereinafter required.

If the report shall be made by the reporting person who shall be an individual, the attestation shall state that the reporting person has prepared or has supervised the preparation of the foregoing report, shall certify that such report is based upon the records of the reporting person, is correct to the best of such reporting person's knowledge and belief, and shall state that the answers contained therein are as full and complete as can be supplied from the records of such reporting person. The attestation shall be dated.

If the report shall be made on behalf of the reporting person, which is other than an individual, by a responsible officer thereof, the attestation shall state that such officer has prepared or has supervised the preparation of the foregoing report, shall certify that such report is based upon the records of the reporting person, and is correct to the best of such officer's knowledge and belief. The attestation shall be dated and shall state the title of such responsible officer. The attestation shall be supplemented by one of a proper executive officer of the reporting person which officer shall state that he has examined the foregoing report, shall certify that the answers contained in such report are as full and complete as can be supplied from the records of the reporting person, and that such answers are true and accurate to the best of his knowledge and belief. Such attestation shall be dated and shall state the title of such executive officer.

Information And Data To Be Supplied By Each Reporting Person

1. Give in full the exact name and business address of the reporting person.

2. State the legal status of the reporting person, i. e., individual, corporation, trustee, etc.

3. Give name of the state or states under the laws of which the reporting person, if not an individual, is organized, and, whatever the legal status, is authorized to do business, and of what such authorizations consist.

4. If the reporting person is not an individual, give the full name and address of each principal officer, and of each member of the board of directors or other governing body of such reporting person, together with the principal business address of each such officer or member.

5. Give the name, title, and address of the representative or official of the reporting person to whom correspondence concerning the report called for by this questionnaire should be addressed.

6. If the reporting person directly or indirectly owns, controls, or holds with power to vote ten per centum or more of the outstanding voting securities of any other person or company engaged in the transportation or sale for resale of natural gas, give in detail the financial and corporate relationship existing between and among the reporting person and all such other persons or companies, including the percentage of voting power represented by such ownership of such securities; if any other person or company directly or indirectly owns, controls, or holds with power to vote ten per centum or more of the outstanding voting securities of the reporting person, give the financial and corporate relationship existing between and among the reporting person and all such other persons or companies, including the percentage of voting power represented by such ownership of such securities. (An appropriate chart or table shall be included as an exhibit.) State in addition to the names of all such other persons or companies the nature of the business conducted by such other persons or companies.

7. Furnish a map or maps, drawn to scale, showing by states as of July 1, 1938 the miles of pipe line operated, the location of all facilities now owned or operated for the production, gathering, transportation, sale, and distribution of natural gas and indicate pipe sizes and the normal operating pressures of pipe lines, compressor stations, capacities of equipment, and other essential and appurtenant equipment. Plainly designate points at which pipe lines owned or operated by the reporting person cross state lines and points where connections are made with gas pipe lines of other individuals or companies, indicating the pipe sizes at the state lines and of all connecting pipes at the points of connection. The map should designate all points on the system where natural gas is purchased and delivered.

8. Give a brief general description of the use and method of operation of all facilities shown on the map, including a statement of the purpose of each connection with the facilities of other individuals or companies not listed in response to paragraph 9 below.

9. The reporting person shall include in its report the following information and data:

(a) A complete statement by months for the twelve-month period ending June 30, 1938 of the amount of gas produced from each gas field owned or operated by the reporting person, and the B. T. U. content of such gas.

(b) A complete list of all individuals or companies from which natural gas was purchased or collected, (group, if possible, by gas fields) during the twelve-month period ending June 30, 1938 and the quantity purchased or collected from each such individual or company during said period, and the B. T. U. content thereof.

(c) A complete list of all individuals or companies to which natural gas was delivered for transportation during the twelve-month period ending June 30, 1938, and the quantity delivered to each such individual or company during said period.

(d) A complete list of all individuals, companies, municipalities, etc., to which natural gas was sold or delivered during the twelve-month period ending June 30, 1938 with amounts so sold or delivered during said period, specifying the points at which delivery was made, and where known, the general use of such gas sold or delivered, e. g., ultimate public consumption for domestic, commercial, industrial, or any other use. State explicitly that such use is not known if such is the case.

(e) A full and complete list of the communities in which natural gas was delivered and sold at retail by the reporting person during the twelve-month period ending June 30, 1938, with the total quantity so sold during said period.

(f) A complete list of individuals and companies for whose account gas was transported during the twelve-month period ending June 30, 1938, specifying the amounts transported in each instance during said period, and the points at which such gas was received for transportation and the points of delivery.

(g) Furnish such other pertinent information relating to natural gas operations of the reporting person as will be required in rendering full and complete answers to the particular questions asked herein. If any changes have been made in the location of gas pipe lines of the reporting person, or if any additions have been made thereto, within the twelve months ending June 30, 1938, so state, indicating fully the nature and purpose of such changes.

10. Furnish two copies of the annual operating and financial report of the reporting person for the 12 months ending December 31, 1937. If such reports are not available, submit two copies of the income statement, in detail, of the re-

porting person for the above period and two copies, in detail, of a balance sheet as of December 31, 1937.

[F. R. Doc. 38-1970; Filed, July 9, 1938; 12:29 p. m.]

[Order No. 53]

DESIGNATING THE TIME FOR FILING OF SCHEUDLES OF RATES AND CHARGES UNDER SECTION 4 (c) OF THE NATURAL GAS ACT AND CERTAIN REPORTS IN CONNECTION THEREWITH

JULY 5, 1938.

The Commission having under consideration the matter of the filing under Section 4 (c) of the Natural Gas Act of schedules showing all rates and charges for any transportation or sale of natural gas subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications and services, hereby orders that:

A. Each natural gas company shall file with the Commission, not later than the date hereinafter specified, schdules showing all rates and charges for, or in connection with any transportation or sale of natural gas subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications and services, in accordance with Part 54 of Provisional Rules of Practice and Regulations under the Natural Gas Act, effective July 11, 1938, promulgated by Order No. 52, issued July 5, 1938.

B. If any agreement or practice pertaining to any such transportation or sale of natural gas is not in writing, the basic terms of such agreement or practice shall be reduced to writing, approved by the parties thereto, and filed with the Commission, as prescribed in paragraph "A" above.

C. The date not later than which schedules shall be filed relating to the transportation or sale of natural gas within the various States, as required by paragraph "A" above, shall be as follows:

1. August 22, 1938 for those schedules covering deliveries within the following States: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

2. August 29, 1938 for those schedules covering deliveries within the following States: Alabama, Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Tennessee, and Wisconsin.

3. September 6, 1938 for those schedules covering deliveries within the following States: Connecticut, Delaware, Florida, Georgia, Indiana, Maine, Massachusetts, Maryland, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

D. As to each rate in each instrument filed in accordance with paragraph "A" above, there shall be submitted to the Commission at the time of filing the instrument a report showing by months for a 12-month period ending July 1, 1938, the amount of natural gas transported or sold and the amount charged therefor under each rate in effect during the 12 months ended July 1, 1938, such report to be accompanied by a true copy of a monthly bill rendered thereunder.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-1972; Filed, July 9, 1938; 12:29 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 267]

ALLOCATION OF FUNDS FOR LOANS

JULY 7, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia 9007A3 Catoosa	$20,000
Georgia 9034B1 Carroll	110,000
Georgia 9035C1 Walton	237,000
Georgia 9070B1 Mitchell	251,000
Georgia 9074B1 Jefferson	141,000
Indiana 9011A1 Warren	290,000
Indiana 9018A3 Rush	223,000
Indiana 9021A2 Bartholomew	165,000
Indiana 9029A2 Fulton	166,000
Indiana 9041A1 LaGrange	218,500
Indiana 9042A1 Parke	267,000
Indiana 9080A3 Noble	265,000
Indiana 9088A1 Kosciusko	367,000
Iowa 9005B1 Carroll	100,000
Iowa 9014B1 Humboldt	175,000
Iowa 9021A1 Guthrie	195,000
Iowa 9030B1 Franklin	101,000
Iowa 9031B1 Grundy	288,000
Iowa 9032B1 Butler	128,000
Iowa 9036A3 Wright	170,000
Iowa 9038B1 Pocahontas	219,000
Iowa 9041A2 Hancock	215,000
Iowa 9043A3 Greene	151,000
Iowa 9049A3 Hardin	147,000
Kentucky 9020B1 McCracken	55,000
Kentucky 9049A1 Clark	173,000
Minnesota 9003B1 Meeker	165,000
Minnesota 9039A1 Chippewa	288,000
Minnesota 9055A3 Watonwan	271,000
Minnesota 9057A2 Otter Tail	252,000
Minnesota 9059B1 Olmstead	180,000
Minnesota 9063C1 Scott	251,000
Minnesota 9071A2 Blue Earth	250,000
Mississippi 9028D1 Hancock	50,000
Mississippi 9031A1 Washington	195,000
Mississippi 9034A1 Leflore	396,000
Montana 9002B1 Cascade	74,000
Montana 9009C1 Yellowstone	144,000
Nebraska 9025A2 Saline	196,000
Nebraska 9054A2 Cuming	216,000
North Carolina 9023B1 Caldwell	128,000
Ohio 9029B1 Pike	197,000
Ohio 9085A1 Hardin	309,000
Ohio 9087A1 Wood	333,000
Oregon 9005A2 Clatsop	17,000
Pennsylvania 9004A4 Crawford	357,000
Pennsylvania 9006C1 Indiana	145,000
Pennsylvania 9013B1 Tioga	120,000
Pennsylvania 9015B1 Bradford	321,000
Puerto Rico 9002A1 Guayama	460,000
Texas 9030A2 Upshur	125,000
Texas 9074A1 Baylor	104,000
Virginia 9022C1 Caroline	137,000
Virginia 9027D1 Nottoway	333,000
Virginia 9029C1 Nelson	100,000
Wisconsin 9031B2 Columbia	75,000
Wisconsin 9040B1 Barron	91,000
Wyoming 9010A2 Platte	3,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1978; Filed, July 11, 1938; 10:10 a. m.]

[Administrative Order No. 268]

ALLOCATION OF FUNDS FOR LOANS

JULY 7, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation.	*Amount*
Colorado 9014W2 Alamosa	$1,500
Georgia 9067W2 Bacon	15,000
New Mexico 9009W1 Curry	10,000
Ohio 9001W1 Miami	15,000
Puerto Rico 9002W1 Guayama	40,000
Virginia 9002W1 Craig	5,000
Virginia 9029W1 Nelson	10,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1979; Filed, July 11, 1938; 10:10 a. m.]

[Administrative Order No. 269]

ALLOCATION OF FUNDS FOR LOANS

JULY 7, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Florida 9017G1 Jackson	$30,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1980; Filed, July 11, 1938; 10:10 a. m.]

[Administrative Order No. 270]

ALLOCATION OF FUNDS FOR LOANS

JULY 7, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Ohio 9075B1 Williams	$65,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-1981; Filed, July 11, 1938; 10:10 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of July, A. D. 1938.

IN THE MATTER OF CHARLES E. ROGERS, DOING BUSINESS AS J. T. REGISTER & COMPANY

ORDER REVOKING REGISTRATION

The registration of Charles E. Rogers, doing business as J. T. Register & Company, as a broker and dealer on the over-the-counter markets, having come on for hearing before the Commission upon the question of revocation or suspension; and

The Commission having this day made and filed its findings of fact herein;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Charles E. Rogers, doing business as J. T. Register & Company, be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1966; Filed, July 8, 1938; 4:04 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commmission, held at its office in the City of Washington, D. C., on the 7th day of July, A. D. 1938.

[File No. 43-124]

IN THE MATTER OF THE ASSOCIATED CORPORATION

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE IN PART

The Associated Corporation, a direct subsidiary of Associated Gas and Electric Corporation and an indirect subsidiary of Associated Gas and Electric Company, both registered holding companies, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale to The Public National Bank and Trust Company of New York of its $1,000,000 5% promissory note to be dated July 11, 1938, to mature October 11, 1938, and to be secured by the pledge of $7,000,000 principal amount of National Public Service Corporation Secured Gold Debentures, 5% Series, due 1978, and regarding the refunding and extension of the said note from time to time for a period not to exceed, in the aggregate, two years from July 11, 1938;

Hearings on said declaration, as amended, having been held after appropriate notice; [1] the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration, insofar as it relates to the issue and sale of the aforesaid promissory note to be dated July 11, 1938, and to mature October 11, 1938, be and become effective forthwith, on condition, however, that the issue and sale of the aforesaid promissory note shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration and, on the further condition, that within ten days after the issue and sale of the said note the declarant shall file with this Commission its Certificate of Notification showing that such issue and sale have been effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration;

It is further ordered, That the declaration, insofar as it relates to the refunding and extension from time to time of the said promissory note for a period not to exceed, in the aggregate, two years from July 11, 1938, be and the same hereby is dismissed without prejudice to the declarant to file a declaration relating to such proposed refunding and extension at some later date.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1973; Filed, July 9, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of July, A. D. 1938.

[File No. 46-92; Nos. 46-93, 43-104, 43-108; Nos. 51-10, 43-110; Nos. 51-11, 43-109]

IN THE MATTER OF ENGINEERS PUBLIC SERVICE COMPANY, GULF STATES UTILITIES COMPANY, BATON ROUGE ELECTRIC COMPANY, LOUISIANA STEAM GENERATING CORPORATION

ORDER RELATIVE TO EFFECTIVENESS OF DECLARATIONS

Engineers Public Service Company, a registered holding company, Gulf States Utilities Company, Baton Rouge Electric Company, and Louisiana Steam Generating Corporation, subsidiary companies thereof, having filed various declarations and applications pursuant to Sections 7, 10 and 11 (g) of the Public Utility Holding Company Act of 1935, and Rule 12C-2 and Rule 12D-1,[1] promulgated thereunder; public hearings on said matters having been held after appropriate notice; [2] all of said applicants and declarants having waived, prior to the entry of the Commission's findings, opinion and order, a trial examiner's report, submission to them of proposed findings of fact by the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission, and oral argument before the Commission; and the Commission having considered the record in these matters and having made and filed its findings and opinion herein:

It is ordered, That said applications be granted and that said declarations be and become effective forthwith, subject, however, to the following terms and conditions:

(1) That Gulf States Utilities Company shall charge to capital surplus and credit equivalent amounts to appropriate reserve accounts created to represent the difference between the present aggregate stated values of its preferred stocks (being the aggregate consideration received or to be received for its preferred stocks now outstanding and presently to be issued) and the aggregate minimum liquidating values thereof.

(2) That the Commission reserves jurisdiction as to the amounts at which Engineers Public Service Company carries its investment in the common capital stock of Gulf State Utilities Company.

(3) That at least five days before Gulf States Utilities Company makes its proposed exchange offer to the preferred shareholders of Baton Rouge Electric Company, it shall advice this Commission by written amendment to File 43-104 of the market price of Gulf States Utilities Company $6 preferred stock which it proposes to use as a basis for such an exchange offer and of purchases, if any, of said preferred stock which have been made by or on behalf of Gulf States Utilities Company or any of its affiliates during the period of 90 days prior thereto; and that the Commission reserves jurisdiction to suspend summarily its order herein insofar as it relates to such exchange offer and to revoke its order hereinsofar, after notice and opportunity for hearing to the parties hereto.

(4) That (subject to the provisions of the last preceding paragraph of this order) a report on the plan will issue after this Commission has been advised as to the market price of Gulf States Utilities Company $6 preferred stock

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[1] 3 F. R. 1411 DI.

[1] 3 F. R. 927 DI.
[2] 3 F. R. 605 DI.

which it proposes to use as the basis of the exchange offer.

By the commission,

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F R Doc 38—1974; Filed, July 9, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 9th day of July 1938.

[File No. 1-178]

IN THE MATTER OF WELLS, FARGO & COMPANY CAPITAL STOCK, $1 PAR VALUE

ORDER POSTPONING HEARING

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the Capital Stock, $1 Par Value, of Wells, Fargo & Company; and

The Commission having ordered that a hearing be held in this matter on July 14, 1938, in Washington, D. C.;[1] and

[1] 3 F. R. 1434 DL

The issuer having requested a postponement of said hearing to which request said Exchange has agreed;

It is ordered, That said hearing be postponed until 10 A. M., on Thursday, January 12, 1939, in Room 1103, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as may be determined by the Commission or its officer presiding at said hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1984; Filed, July 11, 1938; 12:39 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 135

Washington, Wednesday, July 13, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-1938-12]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 10

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938,[1] and as amended by Supplements Nos. 3 to 9, inclusive,[2] is hereby further amended as follows:

(1) Item 9 of subsection A of Section III is hereby deleted.

(2) The last sentence of item 1 of subsection A of Section IV is hereby amended to read as follows:

"The acreage planted to cotton shall be deemed to be that acreage which is seeded to cotton and classified as soil-depleting and also, for the purposes of this provision, that acreage seeded to cotton which is seriously damaged or destroyed by flood, drought, hail, insects, or other uncontrollable natural causes but is not classified as soil-depleting."

(3) The word "other" appearing in the first sentence of subsection C of Section VI is hereby deleted.

(4) Subsection A of Section XII is hereby amended to read as follows:

"A. *Persons Eligible to File Applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section VI a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land."

(5) Item 2 of subsection A of Section XV is hereby amended by adding at the end thereof the following paragraph:

"(d) Where normal wheat yields are used for the purpose of computing deductions for farms in the States of Washington, Oregon, Idaho, and Utah (where land summer fallowed is classified as soil-depleting) such yields shall be reduced for such purpose in accordance with instructions issued by the Agricultural Adjustment Administration, to reflect the average production of wheat on the acreage normally devoted to wheat and summer fallow on the farm."

(6) The definition of class A farms in Section XVIII is hereby amended to read as follows:

"Class A farms include:

(1) All farms in the North Central Region.

(2) All farms in Kansas, North Dakota, and Oklahoma.

(3) All farms in Texas except in Reeves and El Paso counties.

(4) All farms in the following counties in Montana, Wyoming, Colorado, New Mexico, California, and Arkansas:

Montana: Glacier, Pondera, Teton, Lewis and Clark, Broadwater, Gallatin, and all counties east thereof.
Wyoming: Campbell, Converse, Crook, Goshen, Johnson, Laramie, Niobrara, Platte, Sheridan, and Weston.
Colorado: Larimer, Boulder, Jefferson, Teller, El Paso, Pueblo, Herfano, Las Animas, and all counties east thereof.
New Mexico: Union, Harding, Quay, Curry, Roosevelt, De Baca, Torrance, Lincoln, and Lea.
California: Butte, Colusa, Fresno, Glenn, Kern, Kings, Madera, Merced, San

[1] 3 F. R. 563 DI.
[2] 3 F. R. 719, 741, 865, 886, 915, 984, 1191 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Agricultural conservation program bulletin, 1938, Supplement No. 10	1697
TITLE 8—ALIENS AND CITIZENSHIP:	
Immigration and Naturalization Service:	
Ports of entry for aliens:	
Niagara Falls Municipal Airport, N. Y.	1698
Thousand Islands Bridge, N. Y.	1698
TITLE 24—HOUSING CREDIT:	
Federal Home Loan Bank Board:	
Residences of directors-at-large of Federal home loan banks	1698
TITLE 43—PUBLIC LANDS:	
Division of Grazing:	
Nevada Grazing Districts Nos. 1 and 4, modification	1698
NOTICES	
Securities and Exchange Commission:	
Associated Corp., effectiveness of declaration	1699
German Central Bank for Agriculture, gold sinking fund bonds, listing and registration	1699
Hecker Products Corp., common stock, application granted	1699
Treasury Department:	
Bureau of Customs:	
Treasury Decisions, changes in numbering and issuance of bound volumes	1699

FEDERAL REGISTER

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Benito, Monterey, Sacramento, San Joaquin, San Luis Obispo, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yolo, Yuba, and that portion of Placer County lying west of the east boundary of Range 6 East, Mt. Diablo Meridian.

Arkansas: Arkansas, Baxter, Benton, Boone, Carroll, Clay, Crawford, Franklin, Fulton, Independence, Johnson, Logan, Madison, Marion, Newton, Perry, Prairie (except Area II), Randolph (except Area I), Saline, Scott, Searcy, Sebastian (except Area I), Sharp, Stone, Van Buren, Washington, and Yell.

(5) All farms in Aroostook County, Maine, and in the townships of Patten, Mt. Chase, and Stacyville in Penobscot County, Maine, for which potato acreage allotments are established; and

(6) All farms in the Northeast Region on which the average acreage of commercial vegetables grown on the farm in 1936 and 1937 exceeds 50 percent of the acreage of cropland in excess of the sum of the average acreages of potatoes and tobacco grown on the farm in 1936 and 1937."

(7) The definition of "early potato-producing area" in Section XVIII is hereby amended to read as follows:

"Early potato-producing area means all the States in the East Central and Southern Regions, the States of Missouri and Kansas, the counties of Kern, Los Angeles, Riverside, San Bernardino, San Diego, and Santa Barbara in the State of California, the counties of Floyd, Harrison, Jasper, Perry, and Spencer in the State of Indiana, and the counties of Dawson and Buffalo in Nebraska."

Done at Washington, D. C., this 11th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-1995; Filed, July 12, 1938; 12:45 p. m.]

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[First Supplement to General Order No. C-1 [1]]

THOUSAND ISLANDS BRIDGE, NEW YORK

PORT OF ENTRY FOR ALIENS

JULY 9, 1938.

Pursuant to the authority contained in Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Thousand Islands Bridge, New York, is hereby designated as a port for the entry of aliens into the United States, effective August 1, 1938.

SEC. 11.31, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by inserting Thousand Islands Bridge, New York, between St. Albans, Vermont, and West Berkshire, Vermont, in the list of ports of entry for aliens in District No. 1, effective August 1, 1938.

[SEAL] EDW. J. SHAUGHNESSY,
Deputy Commissioner.

Approved:

C. V. MCLAUGHLIN,
Acting Secretary.

[F. R. Doc. 38-1988; Filed, July 12, 1938; 9:55 a. m.]

[First Supplement to General Order No. C-2 [1]]

NIAGARA FALLS MUNICIPAL AIRPORT, NIAGARA FALLS, N. Y.

PORT OF ENTRY FOR ALIENS

JULY 9, 1938.

Pursuant to the authority contained in Subsection (d) of Section 7 of the Air Commerce Act of 1926 (Act of May 20, 1926, 44 Stat. 572; 49 U. S. C. 177 (d)), the Niagara Falls Municipal Airport, Niagara Falls, New York, is hereby designated as a temporary port for the entry into the United States of aliens arriving by aircraft.

SEC. 11.33, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 3 (b) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by inserting Niagara Falls, New York, Niagara Falls Municipal Airport, between Miami, Florida, Dinner Key, and Plattsburg, New York, Plattsburg Municipal Airport, in the list of temporary ports of entry for aliens arriving by aircraft.

[SEAL] C. V. MCLAUGHLIN,
Acting Secretary.

Approval recommended:

EDW. J. SHAUGHNESSY,
Deputy Commissioner.

[F. R. Doc. 38-1989; Filed, July 12, 1938; 9:55 a. m.]

[1] 3 F. R. 1657 DI.

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

AMENDMENT TO THE RULES AND REGULATIONS FOR THE FEDERAL HOME LOAN BANK SYSTEM

RESIDENCES OF DIRECTORS-AT-LARGE OF FEDERAL HOME LOAN BANKS

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (d) of Section 7 of the Federal Home Loan Bank Act, as amended (12 U. S. C. 1427 (d)), subparagraph (3) of paragraph a of Section 2.004 of the Rules and Regulations for the Federal Home Loan Bank System is hereby amended to read as follows:

"(3) Two of the eight directors to be elected shall be elected by the membership at large without regard to classes; shall be known as directors-at-large; and shall hold office for terms of two years. Each of these directors shall be a citizen of the United States and a bona fide resident of the Bank district. Each of these directors who is an officer or director of a member of the Bank shall be deemed to be from the State in which such member is located. Each of these directors who is not an officer or director of a member of the Bank, shall be deemed to be from the State in which he has established a bona fide residence."

Adopted by the Federal Home Loan Bank Board on July 11, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-1991; Filed, July 12, 1938; 10:33 a. m.]

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

NEVADA GRAZING DISTRICTS NOS. 1 AND 4

MODIFICATION

JUNE 21, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental orders of April 8, 1935 and November 3, 1936,[1] establishing Nevada Grazing Districts Nos. 1 and 4, respectively, are hereby revoked as far as they affect the following-described lands, such revocation to be effective upon the reservation of the lands for the Ruby Lake Migratory Waterfowl Refuge:

MOUNT DIABLO MERIDIAN

Nevada Grazing District No. 1

T. 26 N., R. 57 E.,
sec. 1, E½,
sec. 11, NE¼SE¼ and S½SE¼,
secs. 12 and 13,
sec. 14, lots 1, 2, 3, 4, and NW¼NE¼.
T. 27 N., R. 57 E.,
sec. 24, SE¼SE¼,
sec. 25, E½NE¼,
sec. 36, NE¼NE¼ and SE¼SE¼.
T. 26 N., R. 58 E.,
sec. 4, W½,
secs. 5, 6, and 8,
secs. 9 and 16, W½,
sec. 17.
T. 27 N., R. 58 E.,
sec. 2, lots 3, 4, and SW¼NW¼,
secs. 3 to 7, inclusive,
sec. 9, all,
sec. 10, NW¼NW¼, S½NW¼, and SW¼,
sec. 15, W½,
secs. 16, 18, 19, and 21,
secs. 22 and 27, W½,
secs. 28, 30, 31, 32, and 33.
T. 28 N., R. 58 E.,
sec. 20, E½NE¼ and lots 1 and 2,
secs. 21, and 22,
sec. 23, N½SW¼, lots 1, 2, and SE¼,
sec. 26, all,
sec. 29, lots 1, 2, 3, and 4,
sec. 31, W½SE¼,
sec. 32, lots 1, 2, 3, and 4,
secs. 34 and 35.

Nevada Grazing District No. 4

T. 25 N., R. 57 E.,
secs. 1 and 2,
sec. 3, E½NE¼ and NE¼SE¼.
T. 26 N., R. 57 E.,
secs. 23 and 26, all,
sec. 27, E½SE¼,
sec. 34, lots 1, 2, 3, and SE¼SE¼,
sec. 35, all.
T. 25 N., R. 58 E.,
sec. 6, lots 1, 2, 3, and 4.
T. 26 N., R. 58 E.,
sec. 20,
secs. 21 and 28, W½,
secs. 29, 31, and 32,
sec. 33, W½.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-1990; Filed, July 12, 1938; 9:55 a. m.]

[1] 1 F. R. 1748.

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49649]

NOTICE OF CHANGES IN NUMBERING AND ISSUANCE OF BOUND VOLUMES OF TREASURY DECISIONS

JULY 8, 1938.

To Collectors of Customs and Others Concerned:

Attention is invited to changes in numbering of decisions appearing in the weekly Treasury Decisions and issuance of the bound volumes thereof, such changes to be effective after June 30, 1938.

The weekly Treasury Decisions will be changed only by the omission of Treasury decision numbers from decisions of the Customs Court and the Court of Customs and Patent Appeals.

Bound volumes of all decisions appearing in the weekly Treasury Decisions after June 30, 1938, will be available as follows:

1. Administrative decisions, notices, etc., published in the weekly issue under the heading "CUSTOMS," will be bound annually under the title "Treasury Decisions";

2. Customs Court decisions will be bound semiannually and entitled "United States Customs Court Reports";

3. Court of Customs and Patent Appeals decisions will be bound in an annual volume as heretofore.

Bureau of Internal Revenue Treasury decisions and the semiannual pamphlet index to the decisions pertaining to customs will be published as heretofore.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-1987; Filed, July 11, 1938; 2:39 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 11th day of July 1938.

[File No. 1-2520]

IN THE MATTER OF GERMAN CENTRAL BANK FOR AGRICULTURE FARM LOAN SECURED 6% GOLD SINKING FUND BONDS, SERIES A OF 1928, DUE APRIL 15, 1938

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Farm Loan Secured 6% Gold Sinking Fund Bonds, Series A of 1928, due April 15, 1938, of German Central Bank for Agriculture; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on July 21, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1993; Filed, July 12, 1938; 12:26 p. m.]

[1] 3 F. R. 1197 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 11th day of July 1938.

[File No. 7-245]

IN THE MATTER OF HECKER PRODUCTS CORPORATION COMMON STOCK, $1 PAR VALUE

ORDER GRANTING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Continuance of unlisted trading privileges on the Boston Stock Exchange in the voting trust certificates representing the common stock, no par value, of Hecker Products Corporation having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security, after said changes, is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application be and the same is hereby made.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1992; Filed, July 12, 1938; 12:26 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of July, A. D. 1938.

[File No. 43-124]

IN THE MATTER OF THE ASSOCIATED CORPORATION

ORDER AMENDING ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE IN PART

The Associated Corporation, a direct subsidiary of Associated Gas and Electric Corporation and an indirect subsidiary of Associated Gas and Electric Company,

both registered holding companies, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale to The Public National Bank and Trust Company of New York of its $1,000,000 5% promissory note to be dated July 11, 1938, to mature October 11, 1938, and to be secured by the pledge of $7,000,000 principal amount of National Public Service Corporation Secured Gold Debentures, 5% Series, due 1978, and regarding the refunding and extension of the said note from time to time for a period not to exceed, in the aggregate, two years from July 11, 1938;

The Commission having, on July 8, 1938,[1] by its order permitted the said declaration to become effective in part;

It appearing to the Commission that the said order bears the date of July 7, 1938;

It is ordered, That the said order of the Commission be, and the same hereby is, amended by striking the words "on the 7th day of July, A. D., 1938" appearing at the top of said order and substituting in lieu thereof the words "on the 8th day of July, A. D., 1938".

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-1994; Filed, July 12, 1938; 12:26 p. m.]

[1] 3 F. R. 1695 DI.

JUL 15 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 136

Washington, Thursday, July 14, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 96]

AUTHORITY, AND DESIGNATION OF ORDER OF PRECEDENCE

JULY 8, 1938.

Sec. 3.1 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 3.1 *Authority, and designation of order of precedence, of Deputy Governors, General Counsel, and Assistant to the Governor to act as Governor in the absence of the latter.*—F. F. Hill, Deputy Governor, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor is unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Charles A. Stewart, Deputy Governor, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor and Deputy Governor Hill are both unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Peyton R. Evans, General Counsel, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor, Deputy Governor Hill, and Deputy Governor Stewart, are unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Arthur T. Kasgate, Assistant to the Governor, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor, Deputy Governor Hill, Deputy Governor Stewart, and Peyton R. Evans, General Counsel, are unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause. (E. O. 6084, March 27, 1933, 6 CFR 1.1 (12).) [FCA Order No. 228, July 6, 1936.]"

[SEAL] W. I. MYERS,
Governor.

[F. R. Doc. 38-1998; Filed, July 13, 1938; 9:41 a. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[CAP-105]

REGULATIONS PERTAINING TO 1937 COTTON PRICE ADJUSTMENT PAYMENT PLAN

By virtue of the authority vested in the Secretary of Agriculture by the item entitled "Price Adjustment Payment to Cotton Producers" contained in the Third Deficiency Appropriation Act, fiscal year 1937, approved August 25, 1937 (Public Law No. 354, 75th Congress, 1st Session; 50 Stat. 762), by section 381 (a) of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 3d Session; 52 Stat. 67), as amended by section 12 of Public Law No. 470, 75th Congress, approved April 7, 1938 (52 Stat. 202), and by the next to the last proviso to the item entitled "Conservation and Use of Agricultural Land Resources, Department of Agriculture," contained in the Department of Agriculture Appropriation Act, 1939, approved June 16, 1938 (public Law No. 644, 75th Congress), I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following regulations governing payments which will be made to cotton producers with respect to the 1937 cotton crop, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said provisions of law.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 6—AGRICULTURAL CREDIT:	
Farm Credit Administration:	
Precedence, authority and designation of order of	1701
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Cotton price adjustment payment plan, 1937	1701
Farm Security Administration:	
Employment, wages, hours, conditions of work for non-appointive workers	1708
TITLE 10—ARMY:	
War Department:	
Invitations for bids: options permitted by specifications	1710
TITLE 16—COMPETITIVE PRACTICES:	
Federal Trade Commission:	
Cease and desist orders:	
Bourjois, Inc., and Barbara Gould Sales Corp	1711
Golden Peacock, Inc	1712
Hammond Clock Co	1712
Lee, George H., Co	1711
Lumino Co., Inc	1713
Mahler, Teolinda, trading as D. J. Mahler Co	1713
Wain's Laboratory, Inc	1712
TITLE 20—FISH AND GAME:	
Bureau of Biological Survey:	
Federal Aid Wildlife Restoration Act, regulations	1713
TITLE 31—MONEY AND FINANCE:	
TREASURY:	
Public Debt Service:	
Reconstruction Finance Corporation 7/8% Notes of Series N, due July 20, 1941, offering of	1715
TITLE 43—PUBLIC LANDS:	
Bureau of Reclamation:	
Shoshone Irrigation Project, Wyo., opening public lands to entry; availability of water	1716

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission: Page
Tariff Circular 20, effective date of second paragraph of Rule 27 postponed ---- 1719

NOTICES

Department of Agriculture:
Farm Security Administration:
Designation of counties for tenant purchase loans:
Indiana ---- 1719
Michigan ---- 1719
Mississippi ---- 1719
Interstate Commerce Commission:
Rate investigation, etc., Iowa-Illinois - Eastern Kansas - Missouri-Eastern Nebraska motor carrier rates ---- 1719
Securities and Exchange Commission:
Austin Silver Mining Co., stop order ---- 1720
Commonwealth and Southern Corp., hearing ---- 1720

TEXT OF THE ACTS OF CONGRESS GOVERNING THE 1937 COTTON PRICE ADJUSTMENT PAYMENT PLAN

1. *Excerpt from the Third Deficiency Appropriation Act, fiscal year 1937, 50 Stat. 762.*

PRICE ADJUSTMENT PAYMENT TO COTTON PRODUCERS

Notwithstanding any other provisions of section 32 of Public Law Numbered 320, Seventy-fourth Congress, as amended, not to exceed $65,000,000 of the funds available under said section 32 in each of the fiscal years 1938 and 1939 shall be available (at such times and in such amounts as the Secretary of Agriculture may determine) until expended for a price-adjustment payment, upon such terms and conditions as the Secretary of Agriculture may determine, with respect to the 1937 cotton crop to cotton producers who have complied with the provisions of the 1938 agricultural adjustment program formulated under the legislation contemplated by Senate Joint Resolution Numbered 207, Seventy-fifth Congress [being Public Resolution No. 69, 75th Congress, 1st Session, approved August 24, 1937, 50 Stat. 754]. Such payments to any producer shall be at a rate per pound equal to the difference between 12 cents per pound and the average price of seven-eighths Middling cotton on the ten designated spot cotton markets on the dates of sale of such cotton, but in no case shall exceed 3 cents per pound. The bases for any such payment, or the amount thereof, when officially determined in conformity with rules prescribed by the Secretary of Agriculture shall be reviewable only by the Secretary of Agriculture.

2. *Section 381 (a) of the Agricultural Adjustment Act of 1936, approved February 16, 1938, 52 Stat. 67, as amended by section 12 of the Act of April 7, 1938, Public No. 470, 75th Congress, 52 Stat. 202.*

SEC. 381. (a) For the purposes of the provisions (relating to cotton price adjustment payments with respect to the 1937 cotton crop) of the Third Deficiency Appropriation Act, fiscal year 1937, a producer shall be deemed to have complied with the provisions of the 1938 agricultural adjustment program formulated under the legislation contemplated by Senate Joint Resolution Numbered 207, Seventy-fifth Congress, if his acreage planted to cotton in 1938 does not exceed his farm acreage allotment for 1938 under the Soil Conservation and Domestic Allotment Act, as amended (including the amendments made by this Act), or under section 344 of this Act, whichever is the lesser. For the purposes of this subsection a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded his farm acreage allotment. Such compliance shall not be required in any case where the producer is not engaged in cotton production in 1938. In cases where in 1937 a total or partial crop failure resulted from hail, drought, flood, or boll-weevil infestation, or where any part of a producer's 1937 cotton crop was destroyed after the harvesting thereof by fire or other unavoidable natural cause, if the producer is otherwise eligible for payment, payment shall be made at the same rate per pound on the same percentage of the producer's normal base production established by the Secretary [of Agriculture] as in the case of other producers. For the purpose of such provisions of the Third Deficiency Appropriation Act, fiscal year 1937, cotton not sold prior to July 1, 1938, shall be held and considered to have been sold on June 30, 1938, and all applications for price adjustment payments shall be filed with the Secretary not later than July 15, 1938. Such payments shall be made at the earliest practicable time. Application for payment may be made by the 1937 operator of a farm on behalf of all persons engaged in cotton production on the farm in 1937 and need be signed only by such operator, but payment shall be made directly to each of the persons entitled thereto. In case any person who is entitled to payment hereunder dies, becomes incompetent, or disappears before receiving such payment or is succeeded by another who renders or completes the required performance, payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable in all the circumstances and provide by regulations.

3. *Excerpt from the Department of Agriculture Appropriation Act, 1939.*

"*And provided further*, That in carrying out the provisions of the Third Deficiency Appropriation Act, fiscal year 1937, and section 381 (a) of the Agricultural Adjustment Act of 1938, as amended, relating to cotton price adjustment payments with respect to the 1937 cotton crop, in order to accelerate such payments the Secretary [of Agriculture] shall, notwithstanding said provisions, (1) treat all cotton not sold prior to September 10, 1937, as if it had been sold on a date when the average price of seven-eighths-inch Middling cotton on the ten designated spot cotton markets was less than 9 cents per pound; (2) make payment on the basis of applications filed prior or subsequent to July 16, 1938, on forms prescribed by the Secretary, by the 1937 operator or other person designated pursuant to regulations prescribed by the Secretary on behalf of all the producers on the farm in 1937 or by individual producers, provided that (a) payment will not be made to the 1938 operator of the farm unless he certifies that he has complied thereon with the requirements defined in said section 381 (a), which certificate shall be taken to certify to such compliance on the part of all producers on the farm in 1938 who produced cotton in 1937, (b) payment shall not be delivered to any operator or producer until he has agreed in writing to refund the payment forthwith upon demand in case it is subsequently found that he has failed to comply with the requirements as defined herein and in said section 381 (a), (c) in cases where cotton was produced in 1937 on two or more producer units on the farm it shall be assumed that the production thereon was uniform, and (d) it shall be assumed that there was a total or partial crop failure resulting from hail, drought, flood, or boll-weevil infestation (which is defined to include any other insect or fungus) only if the yield in 1937 is below the base yield for the farm and in such case the total production shall be considered to be the normal yield for the farm multiplied by the number of acres planted to cotton in 1937; and (3) make payments, as soon as practicable, on the basis of his estimate of the amounts which will be covered by the applications to be filed and of the funds to be used out of the appropriation for the necessary administrative expenses of making the cotton price adjustment payments".

[NOTE.—The above-mentioned section 344 of the Agricultural Adjustment Act of 1938 provides for farm cotton acreage allotments in connection with cotton marketing quotas.]

PART I.—ELIGIBILITY FOR PAYMENT

SEC. 1. *Producers eligible for payment.*—A. Every person who was a cotton producer in 1937, whether or not he is engaged in cotton production in 1938, shall be entitled to receive a payment upon the terms and conditions set forth in these regulations, but no payment shall be made to any person—

(1) if he is an operator of a farm in 1938 unless he certifies that he has not knowingly planted, or caused or permitted the planting of, cotton in 1938, on any farm in which he has an interest as a cotton producer in 1938, in excess of the cotton acreage allotment established for the farm for 1938; or

(2) who the County Committee finds has knowingly planted or caused or permitted the planting of, cotton in 1938, on any farm in which such person is interested as a cotton producer in 1938, in excess of the cotton acreage allotment established for the farm for 1938.

B. No payment shall be delivered to any person unless (1) he has certified that he has not knowingly planted, or caused or permitted the planting of, cotton in 1938, on any farm in which he has an interest as a cotton producer in 1938, in excess of the cotton acreage allotment established for the farm for

1938, and (2) he has agreed in writing to refund to the United States, forthwith upon demand, any payment received by him in case it is subsequently found that he has knowingly planted, or caused or permitted the planting of, cotton on any such farm in 1938 in excess of such allotment.

SEC. 2. *Eligible cotton.*—A. Payments may be made with respect to the following:

(1) cotton grown in 1937 and harvested and sold prior to September 10, 1937.

(2) cotton grown in 1937 and harvested but which was not sold prior to September 10, 1937, which shall include (but not be restricted to) cotton stored in a warehouse or elsewhere, cotton under the 1937 Commodity Credit Corporation Cotton Loan, and cotton destroyed by fire or other unavoidable natural cause without a sale of such cotton having been made, and

(3) the normal production on the acreage planted to cotton in 1937 where there was a total or partial crop failure for the farm as a whole caused by hail, drought, flood, or infestation by boll-weevils or any other insect or fungus (hereinafter referred to as "crop failure").

B. The amount of cotton with respect to which payment may be made for any farm shall be the smaller of the following:

(1) that percentage (which shall be the same for all eligible farms) of the 1937 base cotton production established for the farm which the Secretary of Agriculture determines will result in total payments for all cotton producers approximating but not in excess of the $130,000,000 appropriated less estimated expenses for administration, or

(2) the total amount of cotton produced on the farm in 1937 and harvested (including cotton destroyed after harvesting by fire or other unavoidable natural cause), except that in cases of crop failure payment may be made with respect to an amount of cotton equal to the smaller of the following:

(a) the base yield per acre multiplied by the acreage planted to cotton on the farm in 1937, or

(b) the percentage of the base cotton production for the farm specified in paragraph (1) of this subsection B.

SEC. 3. *Total or partial crop failure.*—A crop failure shall be deemed to have resulted only if the County Committee finds that:

(1) a total or partial crop failure on the acreage planted to cotton on the farm as a whole in 1937 did in fact result from hail, drought, flood, or infestation by boll-weevils or any other insect or fungus, and

(2) the total production in 1937 on the acreage planted to cotton on the farm was less than the product obtained by multiplying such acreage by the 1937 base yield per acre designated for the farm in accordance with subsection B of section 4.

SEC. 4. *Base acreage yield per acre, and base production.*—A. The 1937 cotton soil-depleting base acreage for any farm shall be whichever of the following is applicable:

(1) the cotton soil-depleting base which was or could have been established for the farm pursuant to the provisions of the 1937 program, except that the sum of the cotton soil-depleting bases for all such farms in a county (or other specified area) for which cotton soil-depleting bases are established pursuant to these regulations shall not exceed their proportionate share of the quota established therefor under such program for the county (or other specified area); or

(2) for farms on which cotton was planted in 1937 and on which a cotton soil-depleting base could not have been established under the 1937 program, a cotton soil-depleting base acreage shall be established which shall be comparable with cotton soil-depleting bases established under the 1937 program for other farms in the same community on which cotton was grown in 1936 for the first time since 1927 and which are similar with respect to size, type of soil, topography, production facilities, type of farming, and farming practices.

B. The 1937 base yield per acre of lint cotton shall be the yield per acre which was or could have been designated for the farm pursuant to the provisions of the 1937 program.

C. The 1937 base cotton production for each farm on which cotton was planted in 1937 shall be the product obtained by multiplying the 1937 cotton soil-depleting base acreage established for the farm by the 1937 base yield per acre designated for the farm except that:

(1) the sum of the base cotton production for all farms in the county (or other specified area) for which a cotton soil-depleting base acreage is established pursuant to subsection (A) 1 shall not exceed their proportionate share of the quota of cotton production established for the county (or other specified area) under the 1937 program; and

(2) the total 1937 base cotton production for all farms for which a cotton soil-depleting base acreage is established pursuant to A (2) of this section 4 shall not exceed the product obtained by multiplying the sum of the base cotton acreage established for all such farms in the county (or other specified area) by the yield derived by dividing the quota of cotton production by the quota of cotton acreage for the county (or other specified area).

PART II.—PAYMENTS

SEC. 21. *Rates of Payment.*—A. The payment per pound to each eligible producer by or for whom an application is made shall be whichever of the following is applicable:

(1) with respect to cotton sold prior to September 10, 1937, the amount per pound by which the base price is below 12 cents per pound on the date of sale of such cotton, but in no case in excess of 3 cents,

(2) with respect to cotton not sold prior to September 10, 1937, 3 cents per pound, and

(3) with respect to the normal cotton production in case of crop failure, 3 cents per pound, except that the rate of payment with respect to whatever cotton was produced on the farm shall be the rate specified in (1) or (2) of this subsection A, whichever is applicable.

B. If on any day prior to September 10, 1937, the official average base price is 12 cents or above, no payment will be made with respect to cotton sold on such day. If for any reason the base price was not announced on any particular day, the rate of payment shall be computed on the basis of the base price announced for the next succeeding day for which a base price was announced. The payments to be made respecting sales of cotton on any day will be computed at the rate applicable for such day without regard to variances in grade or staple or to the price received by the producer for the cotton sold. Following is the official average base price for each day beginning with January 1, 1937, and ending with September 9, 1937:

Date (1937)	Cents per pound	Date (1937)	Cents per pound
Jan. 1	H.	Feb. 15	12.87
Jan. 2	H.	Feb. 16	12.74
Jan. 3	S.	Feb. 17	12.76
Jan. 4	12.68	Feb. 18	12.75
Jan. 5	12.68	Feb. 19	12.73
Jan. 6	12.72	Feb. 20	12.76
Jan. 7	12.82	Feb. 21	S.
Jan. 8	12.75	Feb. 22	H.
Jan. 9	12.82	Feb. 23	12.81
Jan. 10	S.	Feb. 24	12.93
Jan. 11	12.80	Feb. 25	12.94
Jan. 12	12.86	Feb. 26	13.00
Jan. 13	12.83	Feb. 27	13.08
Jan. 14	12.78	Feb. 28	S.
Jan. 15	12.80	Mar. 1	13.24
Jan. 16	12.82	Mar. 2	13.43
Jan. 17	S.	Mar. 3	13.60
Jan. 18	12.82	Mar. 4	13.58
Jan. 19	12.69	Mar. 5	13.73
Jan. 20	12.78	Mar. 6	13.91
Jan. 21	12.79	Mar. 7	S.
Jan. 22	12.82	Mar. 8	13.74
Jan. 23	12.82	Mar. 9	13.96
Jan. 24	S.	Mar. 10	14.13
Jan. 25	12.82	Mar. 11	14.13
Jan. 26	12.88	Mar. 12	14.15
Jan. 27	13.03	Mar. 13	14.21
Jan. 28	13.06	Mar. 14	S.
Jan. 29	13.05	Mar. 15	14.52
Jan. 30	13.12	Mar. 16	14.68
Jan. 31	S.	Mar. 17	14.55
Feb. 1	13.06	Mar. 18	14.40
Feb. 2	13.00	Mar. 19	14.16
Feb. 3	13.05	Mar. 20	14.21
Feb. 4	13.02	Mar. 21	S.
Feb. 5	12.97	Mar. 22	14.32
Feb. 6	12.96	Mar. 23	14.20
Feb. 7	S.	Mar. 24	14.29
Feb. 8	12.94	Mar. 25	14.23
Feb. 9	12.90	Mar. 26	H.
Feb. 10	12.90	Mar. 27	14.38
Feb. 11	12.91	Mar. 28	S.
Feb. 12	12.95	Mar. 29	14.43
Feb. 13	12.84	Mar. 30	14.91
Feb. 14	S.	Mar. 31	14.75

Date (1937)	Cents per pound	Date (1937)	Cents per pound
Apr. 1	14.82	June 21	12.37
Apr. 2	14.62	June 22	12.46
Apr. 3	14.70	June 23	12.60
Apr. 4	S.	June 24	12.47
Apr. 5	14.73	June 25	12.54
Apr. 6	14.59	June 26	12.54
Apr. 7	14.30	June 27	S.
Apr. 8	14.43	June 28	12.53
Apr. 9	14.23	June 29	12.53
Apr. 10	14.17	June 30	12.42
Apr. 11	S.	July 1	12.49
Apr. 12	14.12	July 2	12.30
Apr. 13	14.03	July 3	12.29
Apr. 14	13.99	July 4	S.
Apr. 15	13.78	July 5	H.
Apr. 16	13.48	July 6	12.36
Apr. 17	13.63	July 7	12.41
Apr. 18	S.	July 8	12.65
Apr. 19	13.53	July 9	12.85
Apr. 20	13.64	July 10	12.70
Apr. 21	13.82	July 11	S.
Apr. 22	13.57	July 12	12.67
Apr. 23	13.49	July 13	12.74
Apr. 24	13.53	July 14	12.76
Apr. 25	S.	July 15	12.40
Apr. 26	13.30	July 16	12.33
Apr. 27	13.54	July 17	12.33
Apr. 28	13.27	July 18	S.
Apr. 29	13.05	July 19	12.34
Apr. 30	13.30	July 20	12.19
May 1	13.19	July 21	12.00
May 2	S.	July 22	11.97
May 3	13.28	July 23	11.64
May 4	13.33	July 24	11.55
May 5	13.43	July 25	S.
May 6	13.40	July 26	11.30
May 7	13.36	July 27	11.51
May 8	13.37	July 28	11.38
May 9	S.	July 29	11.14
May 10	13.18	July 30	11.16
May 11	13.03	July 31	11.10
May 12	13.08	Aug. 1	S.
May 13	12.90	Aug. 2	10.89
May 14	12.96	Aug. 3	10.95
May 15	13.04	Aug. 4	11.14
May 16	S.	Aug. 5	11.24
May 17	12.93	Aug. 6	11.18
May 18	13.04	Aug. 7	11.14
May 19	13.05	Aug. 8	S.
May 20	13.14	Aug. 9	10.67
May 21	13.03	Aug. 10	10.62
May 22	13.13	Aug. 11	10.55
May 23	S.	Aug. 12	10.34
May 24	13.08	Aug. 13	10.56
May 25	12.93	Aug. 14	10.54
May 26	12.94	Aug. 15	S.
May 27	13.04	Aug. 16	10.34
May 28	13.08	Aug. 17	10.34
May 29	13.08	Aug. 18	10.18
May 30	S.	Aug. 19	9.94
May 31	13.11	Aug. 20	9.87
June 1	12.99	Aug. 21	9.77
June 2	13.02	Aug. 22	S.
June 3	12.88	Aug. 23	9.61
June 4	12.98	Aug. 24	9.61
June 5	13.02	Aug. 25	9.54
June 6	S.	Aug. 26	9.49
June 7	12.57	Aug. 27	9.37
June 8	12.47	Aug. 28	9.49
June 9	12.28	Aug. 29	S.
June 10	12.37	Aug. 30	9.31
June 11	12.39	Aug. 31	9.16
June 12	12.28	Sept. 1	9.07
June 13	S.	Sept. 2	9.35
June 14	12.15	Sept. 3	9.16
June 15	12.20	Sept. 4	9.14
June 16	12.24	Sept. 5	S.
June 17	12.31	Sept. 6	H.
June 18	12.35	Sept. 7	9.24
June 19	12.26	Sept. 8	9.05
June 20	S.	Sept. 9	9.11

H=Holiday.
S=Sunday.

SEC. 22. *Sales.*—A. Sales of cotton shall include the following:

(1) Any transaction, contract, or agreement made in good faith prior to September 10, 1937, whereby a person entitled to the whole of or a share in the cotton crop produced by or for him transfers or agrees to transfer the title to the whole or any part of his cotton or share in cotton to another, called the purchaser, for money or some thing of value.

(2) Any transaction whereby as a result of attachment, foreclosure, or other legal process the cotton is sold prior to September 10, 1937, by a sheriff or other officer of the law and the title to and possession of the cotton is transferred from the producer by or for whom the cotton was produced and harvested.

(3) The delivery of cotton prior to September 10, 1937, by the producer thereof in payment of standing-rent or fixed-rent or the whole or any part of the purchase price of real or personal property (except cotton) or in payment for labor or services.

(4) Any transaction whereby pursuant to any contract or agreement of membership in any cooperative marketing association or other cotton farmers' association the producer delivers his share of the cotton crop or any part thereof or title thereto to such association prior to September 10, 1937, provided the control over the cotton is relinquished by the producer and such producer had not previously entered into any contract or agreement such as specified in paragraph A (1).

B. Cotton harvested from the 1937 crop but which had not been sold prior to September 10, 1937, shall be held and considered to have been sold on a date on which the base price was below 9 cents per pound, and such cotton shall include (but shall not be restricted to) cotton destroyed by fire or other unavoidable natural cause before consummation of a sale thereof.

C. At the time application for payment is made it must be established to the satisfaction of the County Committee that all cotton sold in accordance with subsection A up to the amount eligible for payment is covered by one or more cotton sale certificates or cotton sale receipts filed in the office of the Secretary of the County Association.

SEC. 23. *Date of sale.*—The date of sale shall be deemed to be whichever of the following is applicable:

(1) For cotton sold as specified in paragraph A (1) of section 22 the date of sale shall be the date on which the person by or for whom such cotton was produced and harvested entered into the contract or agreement to sell such cotton whether or not delivery thereof was simultaneously made and whether or not title thereto simultaneously passed.

(2) For cotton sold as specified in paragraph A (2) of section 22 the date of sale shall be the date on which the sheriff or other officer of the law entered into any agreement or contract to sell such cotton whether or not delivery thereof was simultaneously made and whether or not title thereto simultaneously passed.

(3) For cotton sold as specified in paragraph A (3) of section 22 the date of sale shall be the date on which the cotton was delivered in payment of standing-rent or fixed-rent or the whole or any part of the purchase price of real or personal property (except cotton) or in payment for labor or services.

(4) For cotton sold as specified in paragraph A (4) of section 22 the date of sale shall be the date on which the cotton or title thereto was delivered to the marketing association, whichever was earlier.

SEC. 24. *Division of payment among producers on a farm.*—In determining the amount of the payment which may be made to each producer on a particular farm the following provisions shall apply:

A. Where two or more persons under their lease or operating agreement (whether written or oral) were entitled to share in the cotton crop planted on the farm, or its proceeds, the acreage planted to cotton by each producer on the farm in 1937 shall be divided in accordance with such producer's respective lease or operating agreement.

B. The total amount of cotton eligible for payment with respect to the farm shall be apportioned among the cotton producers on the farm in 1937 by dividing the total eligible cotton by the total acreage planted to cotton on the farm in 1937 and multiplying the result so obtained by each producer's share of the acreage planted to cotton as determined by the rule in subsection A. The result so obtained for each producer shall be such producer's share of the cotton eligible for payment.

C. The payment with respect to each producer's share of the eligible cotton for a farm shall be computed, first, with respect to cotton sold prior to September 10, 1937, sales of which shall be considered in their chronological order, and second, with respect to the eligible cotton not sold prior to September 10, 1937. The amount of payment attributable to any particular number of pounds of a producer's eligible cotton having the same rate of payment shall be the product obtained by multiplying such poundage by the applicable rate as determined under the provisions of section 21. The total amount of payment for each individual shall be the sum of the products so obtained with respect to the entire amount of such producer's eligible cotton.

D. If only one person had any interest in cotton produced on the farm in 1937, he shall be entitled to receive the entire amount of payment attributable to the eligible cotton for the farm.

SEC. 25. *Checks.*—A separate check for each individual's share of the payment will be issued to him.

PART III.—PROOF OF SALES, COTTON NOT SOLD, AND APPLICATION FOR PAYMENT

SEC. 31. *Proof of Sales.*—A. Cotton sold in accordance with paragraphs A (1) through A (4) of section 22 by or for the producer thereof may be covered by an application for payment only if such cotton is evidenced by a buyer's sale receipt or a Cotton Sale Certificate (Form CAP–101) signed by the buyer or a person authorized by him. The buyer's sale receipt or the cotton sale certificate must show the date of sale, name and address of the producer, the total number of bales and the gross weight (including bagging and ties) thereof, or if seed cotton is sold the gross weight thereof (including seed) and the number of pounds of lint therein, or if lint cotton not baled is sold the net weight thereof. If more than one producer is entitled to share in the cotton or the proceeds of its sale or an undivided interest in the cotton is sold and a cotton sale certificate is issued, the interest of each producer in the cotton or undivided interest therein which is sold should be expressed in terms of pounds of lint and entered in section II of the certificate, which should be signed by the 1937 operator of the farm.

In case a buyer's sale receipt is submitted covering a sale of cotton in which more than one producer is entitled to share in the cotton or its proceeds, the producer submitting the receipt shall be required to file a statement signed by the 1937 operator of the farm showing the interest of each producer, expressed in pounds of lint, in the cotton sold and such statement shall be attached to the receipt to which it relates. Section II of Form CAP–101 may be used for this purpose.

If the 1937 operator has not executed section II of the cotton sale certificates) or separate statement(s) showing the interest of each producer in the cotton sold, the person designated by the County Committee to submit the application for payment, otherwise any person having an interest in such cotton other than the person selling it, may execute such section II or such statement.

B. Notwithstanding the provisions of subsection A where cotton produced on the farm in 1937 was sold on a plantation-pool basis (that is, the proceeds of the 1937 crop were divided among the producers on the farm according to their respective interests), the respective interest of each producer in the cotton sold prior to September 10, 1937, need not be shown in section II of cotton sale certificate(s) or in statements filed with buyer's sale receipt(s) covering the cotton so sold.

C. In case a producer sold cotton from his 1937 cotton crop prior to September 10, 1937, without procuring a buyer's cotton sale receipt or cotton sale certificate signed by the buyer and such buyer's identity or address is unknown to him or such producer is for any other reason unable to obtain the execution by the buyer or someone authorized by him of a buyer's sale receipt or cotton sale certificate covering the cotton so sold, he may file a cotton sale certificate without the signature of the buyer, upon his executing and filing a statement in duplicate, supported by gin tickets or certificates of public weighers covering the ginning or weighing of the cotton, or in the absence of gin tickets or weight certificates (because of destruction, loss, or nonissuance) a statement signed by the person ginning or weighing the cotton establishing the weight thereof. Any such statement of the producer must recite the date of sale and the amount of cotton sold (expressed in pounds of lint) and show that the cotton so sold is not otherwise covered on any application for payment. If the County Committee finds that it has no reason to disbelieve that the statement and accompanying receipts, tickets, or ginner's or weigher's statements establish the transaction, it shall cause to be endorsed upon the cotton sale certificate a statement to the following effect: "The County Committee finds that this cotton was sold as indicated by the entries contained herein", signed by a member of the County Committee on behalf of such committee, which statement, in order to be acceptable, must be approved by the Secretary of the County Association by affixing his signature and the date thereof. The cotton sale certificate so executed and endorsed, together with the producer's statement and supporting evidence, shall be deemed to establish such transaction. No person shall be eligible for any payment who fails to establish the exact dates of sale of all cotton from his 1937 crop which was sold by or for him prior to September 10, 1937.

D. Buyer's sale receipts and cotton sale certificates shall be filed in the office of the Secretary of the County Association of the county in which the 1937 farming headquarters (or in the absence of headquarters, the major part) of the farm on which the cotton was produced is located. Buyer's sale receipts and cotton sale certificates shall be considered strictly in the chronological order of sales for the purpose of recording sales on the application for payment.

SEC. 32. *Proof of total cotton production and cotton not sold prior to September 10, 1937.*—It shall be the duty of the County Committee to determine the total cotton production on the farm in 1937. In making such determination the County Committee shall take into consideration whatever proof is presented to it by the 1937 operator of the farm or any one or more persons by or for whom application for payment is made, the cotton sale certificates and buyer's sale receipts filed covering cotton of the 1937 cotton crop sold prior or subsequent to or on September 10, 1937, gin tickets, certificates of public weighers, and other facts within the knowledge of the committeemen, such as weather conditions, productivity of the soil, etc.

SEC. 33. *Application for payment.*—A. Only one application for a payment (Form CAP–103, Revised, hereinafter referred to as "application") should be submitted for a farm, except that where necessary an adjustment or a supplemental application may be submitted. Such application should be made on behalf of all cotton producers on the farm in 1937 by the 1937 operator of the farm, or, in case he is not available or fails to make such application, by a person designated by the County Committee. The application for payment shall state the name and the last-known mailing address of every cotton producer on the farm in 1937 and there shall be set forth thereon, for each producer, the essential data constituting the basis of payment and all necessary findings of fact and representations and, if found by the County Committee to be in order, it shall be signed by a member on behalf of the committee and in order to be acceptable shall also be approved by the Secretary of the County Agricultural Conservation Association or his duly authorized substitute. Nothing contained in these regulations shall be construed to prevent the execution and acceptance of individual applications by the respective producers in case there were two or more cotton producers on the farm in 1937, but where such individual applications are tendered they shall not be acted upon until the County Committee finds that all applications submitted respecting the farm account for all the cotton producers thereon in 1937 and all their 1937 cotton acreage and production.

B. The application shall be filed in the office of the Secretary of the County Association of the county in which the 1937 farming headquarters (or in the absence of headquarters, the major part) of the farm, as it was operated in 1937, is located.

C. Each cotton producer on the farm in 1937 may examine the data contained therein at any time before the application is submitted to the State office. If the application has been forwarded to the State office, he may examine the copy retained in the county office. If any cotton producer shown on the application disagrees with any of the data shown opposite his name he may make his objections known to the County Committee in writing or otherwise. If the application has been forwarded to the State office, the County Committee, if the facts warrant, shall request its return, but if the application cannot be returned (because it has been forwarded to the General Accounting Office or has been paid) the matters in controversy shall be adjusted in accordance with the established procedure prescribed by the Agricultural Adjustment Administration.

If the application has not been forwarded to the State office or has been returned, the County Committee shall forthwith give notice of any objections raised and of the time and place of a hearing thereon to the other producer(s) shown on the application who would be

affected by the objections if sustained. In the event the parties affected and the objecting producer should agree to a settlement of the matters in controversy, changes in the data on the application shall be made in accordance with such agreement, if consistent with these regulations, and the application shall be handled in all other respects in the regular manner. Should the parties fail so to agree, the County Committee, after hearing the matters in dispute, at the time and place notified, shall make its findings and determinations with regard to such matters and such changes as are necessary shall be made, and if no appeal from the decision of the committee has been taken within the time allowed for appeal the application shall be handled in the regular manner. If an appeal is taken from the decision of the County Committee, the application shall not be submitted for payment until final determination has been made respecting the matters in controversy.

PART IV.—SUCCESSORS IN INTEREST

SEC. 41. *Death, disappearance, incompetency, etc.*—A. Where prior to the time of completion of harvesting in 1937 a person died, disappeared, became incompetent, or voluntarily ceased to cultivate, abandoned, sold, or through his own fault or neglect lost control of his cotton crop, such producer shall not be entitled to any payment hereunder which might otherwise have been made to him, but whoever succeeded him, and as such successor became entitled to such crop or to share in it or its proceeds in his own right and completed the cultivating or harvesting of the crop, shall, for the purposes of the 1937 Cotton Price Adjustment Payment Plan, be deemed to be a cotton producer on the farm in 1937 and as such shall be entitled to the payment attributable to such cotton or to share upon the same terms and conditions as other producers. The term "successor" as used herein does not include any person who as a result of attachment, foreclosure, or other legal process came into possession of the cotton crop before, during, or after the harvesting of the crop, and in such case the person who so lost control shall nevertheless be deemed to be the cotton producer eligible for payment.

B. In cases covered by subsection A, where the successor who gained control of the crop or share therein which the outgoing producer had in 1937 was entitled to the crop or share not in his own right but in a representative or fiduciary capacity, such as administrator, executor, guardian, committee, receiver, etc., and completed the harvesting of the 1937 crop, such fiduciary shall be entitled to the payment attributable to such cotton or share upon the same terms and conditions as other producers.

C. Where prior to the time application is made the 1937 operator of the farm has died, become incompetent, or disappeared, or failed, or refused, to execute, within a reasonable time, an application for and on behalf of himself and the other producers on the farm, the County Committee, upon being notified or finding the fact of such death, incompetency, disappearance, failure, or refusal, shall forthwith designate a readily available and trustworthy person who is conversant with the 1937 operation of the farm as the person to make such application and shall immediately notify him in writing of such designation.

D. Where, subsequent to harvest of the 1937 cotton crop but before the application is made, any producer dies the payment which would otherwise be made to him shall be made only as follows:

(1) To the administrator or executor of his estate if one has been or will be appointed.

(2) If no administrator or executor has been or will be appointed, the payment shall be made in the following order to whomever survives:

a. the surviving spouse;

b. the sons and daughters in equal shares (for minor children, to their legal guardian, for their benefit; but if no legal guardian has been appointed, to their natural guardian, for their benefit; unless the minors' share of the payment is over $500, in which case payment will be made only to the legal guardian);

c. all his heirs.

E. Where, subsequent to harvest of the 1937 cotton crop but before the application is made, any producer becomes incompetent the payment which would otherwise be made to him shall be made to the guardian or committee appointed for him, but in case no such guardian or committee is appointed then to such person as may be authorized under State law to receive payment for him (see the standard procedure heretofore prescribed for the respective Region).

F. Payment shall not be delivered to any person otherwise entitled to payment pursuant to subsection D or E until he has agreed in writing to refund the payment forthwith upon demand in case it is subsequently found that he, as successor in interest or in his representative or fiduciary capacity, or the deceased or incompetent, has knowingly planted, or caused or permitted the planting of, cotton in 1938 on any farm, in which he, as such successor or representative or fiduciary, or the deceased or incompetent has or had an interest as a cotton producer in 1938, in excess of the cotton acreage allotment established for the farm in 1938.

PART V.—COMPLIANCE

SEC. 51. *Compliance.*—A. The County Committee shall determine with respect to each person by or for whom an application for payment has been made whether such person is engaged in cotton production in 1938 and, if so engaged, whether such producer knowingly planted, or caused or permitted the planting of, cotton in 1938, on any farm in which he has an interest as a cotton producer, on acreage in excess of the cotton acreage allotment established for such farm.

B. A person shall be deemed to have knowingly planted, or caused or permitted the planting of, cotton on any farm in which he has an interest as a cotton producer, on acreage in excess of such cotton acreage allotment if notice of the farm cotton acreage allotment for the farm is mailed to the operator of the farm prior to the completion of the planting (that is, the seeding) of cotton on the farm, unless he proves to the satisfaction of the County Committee that the fact is that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract or tracts planted to cotton. Notice of the farm cotton acreage allotment, if mailed to the operator of the farm, shall be deemed to be notice thereof to all persons entitled to share in the production of cotton thereon in 1938.

C. Instructions with respect to determining the acreage planted to cotton in 1938 on any farm issued or to be issued in connection with the 1938 Agricultural Conservation Program or in connection with marketing quotas under section 344 of the Agricultural Adjustment Act of 1938 are hereby made a part of these regulations.

D. No payment shall be made to the 1938 operator of the farm pursuant to the application covering such farm or to any producer shown on such application who the County Committee knows is the 1938 operator of any farm, unless either

(1) section I of the application was executed by such operator or producer, or

(2) a Form CAP–104, "1938 Operator's Certificate of Compliance," executed by such operator or producer is attached to the application.

No payment shall be made to any operator or producer who, the County Committee finds, has knowingly planted, or caused or permitted the planting of, cotton, or contributed to the planting of cotton, in 1938 on any farm in which he has an interest as a cotton producer in 1938, in excess of the cotton acreage allotment for the farm.

E. Payment shall not be delivered to any person by or for whom an application is made unless such person has certified that he has not knowingly planted, or caused or permitted the planting of, cotton, or contributed to the planting of cotton, in 1938 on any farm in which he has an interest as a cotton producer, in excess of the cotton acreage allotment for the farm, and agreed in such certificate to refund the payment forthwith upon demand in case it is subsequently found that he has failed to comply with the cotton acreage allotment for the farm. Such certificate shall be on a prescribed form or on the check issued in payment. It shall be the duty of every community and county committeeman, County Agent, and officer, member, or employee of the County Association to report promptly to the County Committee any case coming to his knowledge where there has been any such failure to comply which has not previously been reported to it. The County Committee shall report such cases immediately to the State Committee, and it shall be the duty of the State Committee to make the aforesaid demand in every case in which it finds that there has been such failure, and, if the refund is not made within thirty calendar days from the date of the demand, to report the case forthwith to the Regional Director.

PART VI.—MISCELLANEOUS

SEC. 61. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the County Committee with respect to any farm in which he has an interest may, within fifteen days after notice thereof is forwarded to or available to him, request the County Committee in writing to reconsider its recommendation or determination with respect to any of the following matters:

(a) eligibility to receive payment or

(b) any other matter affecting the right to or the amount of his payment with respect to the farm.

The procedure respecting appeals under this section shall be the same as under the appeals provisions in the 1938 Agricultural Conservation Program applicable in the Region in which the appeal arises.

SEC. 62. *Forms and instructions.*—The Agricultural Adjustment Administration shall prescribe such forms and issue such instructions as may be necessary to carry out the 1937 Cotton Price Adjustment Payment Plan in conformity with these regulations.

SEC. 63. *Signatures and authorizations.*—The provisions of ACP–16 (Instructions on Signatures and Authorizations in Connection with the Execution of Applications for Payment or Related Papers under the Agricultural Conservation Program) are hereby made a part of these regulations.

PART VII.—DEFINITIONS

As used herein and in all forms and documents relating to the 1937 Cotton Price Adjustment Payment Plan, unless the context or subject matter otherwise requires, the term—

Secretary of Agriculture means the Secretary of Agriculture of the United States.

1937 Program means the 1937 Agricultural Conservation Program formulated pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, and *1938 Program* means the 1938 Agricultural Conservation Program so formulated under said law.

Act means the item entitled "Price Adjustment Payment to Cotton Producers" contained in the Third Deficiency Appropriation Act, fiscal year 1937, approved August 25, 1937 (Public Law No. 354, 75th Congress, 50 Stat. 762), as affected by Section 381 (a) of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 52 Stat. 67), as amended by Section 12 of the Act of April 7, 1938 (Public Law No. 470, 75th Congress, 52 Stat. 202), and as affected by the next to the last proviso to the item entitled "Conservation and Use of Agricultural Land Resources, Department of Agriculture," contained in the Department of Agriculture Appropriation Act, 1939, approved June 16, 1938 (Public Law No. 644, 75th Congress).

Official Average Base Price or *Base Price* means the official average price of ⅞-inch middling cotton on the ten designated spot cotton markets (Norfolk, Augusta, Savannah, Montgomery, Memphis, New Orleans, Little Rock, Houston, Dallas, and Galveston) announced for the days the markets were open in the period January 1 to September 10, 1937, by the Bureau of Agricultural Economics of the United States Department of Agriculture.

County Agricultural Conservation Association or *County Association* means the association of producers in the county authorized by the Secretary of Agriculture to assist in the administration of the 1938 program.

State Agricultural Conservation Committee or *State Committee* means the group of persons designated to assist the Secretary of Agriculture in the administration of the 1938 program in the State in which such committee is selected to act.

County Agricultural Conservation Committee or *County Committee* means the group of persons elected to assist in the administration of the 1938 program in the county in which such committee is elected to act.

Community Agricultural Conservation Committee or *Community Committee* means the group of persons elected to assist in the administration of the 1938 program in the community within the county in which such committee is elected to act.

Person means an individual, firm, partnership, association, corporation, estate, or trust and wherever applicable a State, a political subdivision of a State, or any agency thereof.

Owner means a person who (1) owns land which is not rented to another for cash or a fixed commodity payment, or (2) rents land from another for cash or a fixed commodity payment, or (3) is purchasing land on installments of cash or one or more commodities.

Operator means a person who as owner is operating a farm and is entitled to receive all or a portion of the cotton crop produced thereon or of the proceeds thereof, or who as share-tenant is operating a whole farm and is entitled to receive a portion of the cotton crop produced thereon or of the proceeds thereof.

Standing-Rent Tenant or *Fixed-Rent Tenant* means a person who rents land from another for a fixed commodity payment.

Share-Tenant means a person other than an owner or sharecropper who is working a farm in whole or in part and who is entitled to receive a portion of the cotton crop produced thereon or of the proceeds thereof.

Sharecropper means a person who works a producer unit under the supervision of an operator and is entitled to receive for his labor a share of the cotton crop produced thereon or of the proceeds thereof.

Cotton producer means a person who is entitled to a share of the cotton crop, produced on the farm in 1937, or the proceeds thereof, as owner-operator, landlord of a share-tenant or sharecropper, cash tenant, standing-rent tenant, fixed-rent tenant, share-tenant, or sharecropper. The term also includes a wagehand (sometimes called a cropper) who as a laborer on a farm instead of receiving daily or other cash wages for his labor receives either all the cotton produced by him or another on an agreed or specified acreage or all the cotton produced on an agreed or specified portion of the acreage cultivated by him or another.

Cotton Acreage Allotment means the cotton acreage allotment established for the farm under the 1938 Agricultural Conservation Program formulated pursuant to the Soil Conservation and Domestic Allotment Act, as amended, or under section 344 of the Agricultural Adjustment Act of 1938, as amended, whichever is the lesser.

Payment means the payment made or which may be made under the 1937 Cotton Price Adjustment Payment Plan.

Farm means the land which was or could have been covered by a single work sheet under the 1937 program, except that in the East Central and Southern Regions, if an application for payment was submitted under the 1937 program, the land covered by such an application for payment may be considered to be a farm, and in the North Central and Western Regions the land included in a farming unit may be considered to be a farm.

Done at Washington, D. C., this 13th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2010; Filed, July 13, 1938; 12:40 p. m.]

FARM SECURITY ADMINISTRATION

[Administration Instruction 41
(Revision 3 [1])]

RULES AND REGULATIONS RELATING TO EMPLOYMENT, WAGES, AND HOURS AND CONDITIONS OF WORK FOR NON-APPOINTIVE WORKERS.

JULY 1, 1938.

I. *Purpose.*—This Instruction constitutes a guide to the employment regulations adopted by the FSA (Farm Security Administration), applying to non-appointive workers employed from funds made available by the ERA (Emergency Relief Appropriation) Act of 1938,[2] the Bankhead-Black Act of 1936,[3] regular funds of the U. S. Department of Agriculture, and from state RR (rural rehabilitation) corporation accounts (including funds transferred in trust and funds transferred for management only).

II. *General.*—A. Duly appointed community managers and resident engineers on FSA projects are hereby authorized to employ on their respective projects, subject to these regulations, non-appointive workers who are engaged for irregular or short periods of time *and* who are included in one of the following categories: (1) Manual laborers, (2) craftsmen, (3) maintenance and custodial employees, (4) field clerks, (5) foremen, (6) all workers whom, under the circumstances, it is most practicable to employ on an hourly wage basis.

B. The term "employing officer" means the duly appointed division director, regional director, community manager, resident engineer, or such other officer as may be specifically designated by the Administrator.

III. *Material superseded.*—This Instruction supersedes the following previous releases of Procedure Manual material:

AI 41 (Rev. 2)	11/4/37
AI 41 (Rev. 2) (Suppl. 1)	12/1/37
AI 41 (Rev. 2) (Suppl. 2)	1/26/38
AI 60	12/5/35
AI 60 (Suppl. 1)	5/12/36
AI 84 (Rev. 2)	10/13/36
AI 97	5/18/36
AI 104	6/25/36
AI 104 (Suppl. 1)	1/13/37
AI 104 (Suppl. 2)	9/13/37
AI 130	6/30/37
AO 66	10/1/35
AO 66 (Suppl. 1)	3/10/37
AO 66 (Suppl. 2)	4/12/37
AO 101	11/8/35
AO 192	8/15/36
AO 217	12/31/36
AO 217 (Suppl. 1)	10/20/37

IV. *Persons who may be employed.*—A. Preference in employment on FSA projects will be given to persons on relief rolls, persons in actual need although not on relief rolls, and farmers in need and who need employment to supplement their farm income but who are not on relief rolls; provided further, that the fact that a person is entitled to or has received either adjusted-service bonds or a Treasury check in payment of an adjusted-compensation certificate shall not be considered in determining actual need of such employment. Preference in employment on FSA projects, as above indicated, shall be given in the following order: (1) Veterans of the World War and the Spanish-American War and veterans of any campaign or expedition in which the United States has been engaged (as determined on the basis of the laws administered by the Veterans' Administration) who are in need and are American citizens; (2) other American citizens, Indians and other persons owing allegiance to the United States who are in need; and (3) those aliens in need whose declarations of intention to become American citizens were filed prior to June 21, 1938, and are valid and have not expired.

B. Community managers are authorized to certify *to employing officers of the FSA*, the conditions of need of homesteaders (occupants of FSA projects).

C. County RR supervisors are authorized to certify *to employing officers of the FSA*, farmers in need and who need employment to supplement their farm income. (This authorization is *not* limited to grant and loan clients of the FSA, but may apply to any persons engaged in agricultural employment.)

D. Certifications shall be valid for three months, and shall be made in the following form:

CERTIFICATION OF NEED

I hereby certify that the following persons are
(homesteaders in need)
(farmers in need and who need employment to supplement their farm income)
and are eligible for employment on
project of the FSA under the terms of the Emergency Relief Appropriation Act of 1938. This certification is valid for a period of not to exceed three months from this date.

Signed: ----------
Title: ----------
Date: ----------

Name	*Address*	*Sex*
Race	*Age*	*No. Dependents*

V. *Persons who will not be employed.*—A. No person under the age of 16 years, and no one whose age or physical conditionis such as to make his employment dangerous to his health or safety, or to the health or safety of others, may be employed on any FSA project. This paragraph will not be construed to operate against the employment of physically handicapped persons otherwise employable, where such persons may be safely assigned to work which they can ably perform.

B. No person currently serving sentence in a penal or correctional institution will be employed on any FSA project. This will not be interpreted to include persons on probation or parole.

C. Only one member of a family group may be employed on an FSA project, except that enrollment of a member of the family in the CCC (Civilian Conservation Corps) or in the NYA National Youth Administration) program shall not interfere with the employment of another member of such family on an FSA project.

D. The employing officer will not knowingly employ or permit the continuance in employment on FSA projects of any alien *illegally within the limits of the United States*, or any alien who had not, prior to June 21, 1938, filed a declaration of intention to become an American citizen which is valid and has not expired, and will make every reasonable effort to see that such aliens are not employed and that if employed and their status as such aliens disclosed, they will thereupon be discharged.

E. No person in need employed on an FSA project who refuses a bona fide offer of private employment which he is capable of performing, under reasonable working conditions, providing equivalent earnings opportunities, shall be retained in employment for the period such private employment shall be available. A person accepting such employment, however, shall be eligible for immediate reemployment, if he is still in need, and if he has lost such private employment through no fault of his own.

F. No person shall be employed in a supervisory or administrative position who is a candidate for any state, district, county, or municipal office (such office requiring the full time of such person and to which office a salary or per diem attaches), in any primary, general or special election, or who is serving as a campaign manager or assistant thereto for any such candidate.

VI. *Procedure for employing workers.*—A. *Homesteaders and farmers.*—1. When an employing officer wishes to employ workers who have been certified to him as eligible, an Employment Agreement, in the following form, shall be executed in triplicate:

EMPLOYMENT AGREEMENT

It is agreed that _____ will be employed
(name of worker)
on the _____ project of the FSA, as a _____ at a wage rate of $_____
(occupation)
per _____, for work performed, effective _____
(date)

Signed: _____
Employing Officer

Signed: _____
Worker

_____
(date)

Referred by: USES ____ RR Supvr. ____ Com. Mgr. ____
Relief status: Certified _____ Not certified _____

The original of this agreement will be forwarded to the appropriate FC (Finance and Control) pay roll section or unit, the duplicate will be retained in the project office, and the triplicate will be given to the worker.

2. When a change in occupation or wage rate is to be effected with regard to any such employee, a new employment agreement will be executed and copies distributed as indicated in paragraph VI A 1.

3. When the employee's services are to be terminated, the following Notice of Termination will be executed and copies distributed as indicated in paragraph VI A 1.

NOTICE OF TERMINATION

Effective _____, the services of _____
(date) (name of worker)
on _____ project, as a _____,
(occupation)
at a wage rate of $_____ per _____, are terminated for the following reason:

Date: _____
Signed: _____
Employing Officer

B. *Workers other than homesteaders and farmers.*—1. When an employing officer wishes to employ other workers, he will prepare and submit WPA Form 401, "Requisition for Workers," to the nearest office of the USES (United States Employment Service). If there are any special requirements in connection with any occupational classifications, such special requirements should be given. On the face of every such Form shall be written the statement, "It is requested that preference be given to persons in need, in accordance with the provisions of the ERA Act of 1938."

2. The employment office will refer workers to the project, in response to such requisitions, on USES Form 320. The employing officer will appropriately execute the return card of this Form and forward same to the employment office.

3. If a worker so referred is employed, an Employment Agreement shall be executed and distributed as indicated in paragraph VI A 1.

4. When a change in occupation or wage rate is to be effected, a new Employment Agreement will be executed and copies distributed as indicated in paragraph VI A 1.

5. When the employee's services are to be terminated, a Notice of such termination, as indicated in paragraph VI A 3 shall be executed in quadruplicate. Three copies shall be distributed as indicated in paragraph VI A 1, and the fourth copy shall be forwarded to the local employment office which referred the worker to the project.

6. It shall be the duty of the employing officer, upon execution of any Notice of Termination of the services of a worker who is eligible for employment on the works program of the WPA (Works Progress Administration) to advise such worker that he must inform the WPA district Division of Employment office of the termination of his employment before he can be eligible for further employment by the WPA.

C. Workers already on assignment to projects on July 1, 1938, whose services it is desired to continue, will not need to enter into new Employment Agreements unless a change in their occupational status is desired. Assignment forms at that time in effect (WPA Form 402, "Reassignment Slip", WPA Form 404, "Reclassification Slip", or USES Form 325, Assignment Slip) may be continued in effect until a change in the worker's status occurs.

D. Reclassifications shall be made effective only with the beginning of semimonthly pay roll periods, except that workers, upon their return to duty after a disability, may be reclassified at any time within the pay roll period. In such excepted cases, the names of workers may not be listed more than once on a pay roll voucher, nor should payment be made on two vouchers unless the second payment is supplemental and gives voucher information concerning the first payment.

E. All workers must be employed in occupational classifications for which wage rates have been established by the FSA in accordance with the procedure set forth in this Instruction.

F. Employment records for non-appointive workers will be maintained in each FC pay roll section or unit on Form FSA-Gen 121. Copies of the Employment Agreement specified in paragraph VI A 1 hereof, and of the Notice of Termination specified in paragraph VI A 3 hereof, when executed, will be stapled in the space provided on Form FSA-Gen 121 in place of USES Form 325 (Assignment Slip) or WPA Form 402 ("Reassignment Slip"); WPA Form 403 (Change in Work Status) and WPA Form 404 ("Reclassification Slip").

VII. *Procedure for securing owner-operators of equipment.*—Owner-operators of equipment MUST be secured by requisition upon, and assignment from, the Procurement Division of the Treasury Department.

A. Owner-operators will be secured through the Procurement Division of the Treasury Department by using Treasury Form A–6, "Requisition for Purchase", and will be assigned to the project on Treasury Form A–7–a, "Assignment Order". This Form must be issued at least fifteen days in advance of the beginning of the period for which the equipment is needed. The state Procurement officer will supply the employing officer with the names and addresses of owners and description of equipment which may be hired, and also the schedule of rental rates to be paid for such equipment. This information will be given to the employing officer on Treasury Form A–7–a, "Assignment Order". After the employing officer has received the list of names and addresses, he will communicate with such owner-operators listed, as he desires to employ, and the designated owner-operators of equipment will then enter into rental agreements with the Procurement Division. Owner-operators hired through the Procurement Division will be paid on WPA Form 506, "Pay Roll for Personal Services and Owner-operated Equipment—Work Project."

VIII. *Wage rates.*—A. Wage rates for persons employed on FSA projects will be determined by the Administrator of the FSA, upon the basis of advice and information furnished by the LR (Labor Relations) Division. Such rates of pay shall be *not less* than the prevailing rates of pay for work of a similar nature in the same locality as determined by the Works Progress Administration.

1. Notification of such wage rates determined by the Administrator of the FSA will be given on Form FSA–LR 10, "Notice of Wages Determined by the Farm Security Administration". No alteration whatever may be made in this Form as issued. Any change is a falsification of the record, and may lead to serious consequences. The distribution of Form FSA–LR 10 will be as follows:

(a) Fourteen copies of the Form will be prepared and distributed as follows: Ten copies to the FC pay roll section or unit having jurisdiction over the project; one copy to the regional director; one copy to the employing officer; one copy to the LR representative; and one copy to be filed in the office of the Director of the LR Division.

(b) The responsible FC pay roll section or unit will retain one of the allotted ten copies and forward the remaining nine copies to the U. S. Treasury Accounts office for the region responsible for the project's pay roll. The U. S. Treasury Accounts office for the region will keep four of these nine copies received from the FC pay roll section or unit and will forward the remaining five copies to the Commissioner of Accounts and Deposits who will retain two copies and forward three to the GAO (General Accounting Office), Washington, D. C.

B. *Wages will be paid only for time actually worked.*—Workers, including owner-operators, however, must be given not less than two hours' work in any day when, in accordance with instructions, they report to the project for work, except for the following: Employing officers may advise workers that they will not report for work even though they have been so instructed, in case of inclement weather which would make it improbable that work could be carried on. In case of such obviously inclement weather, no work need be furnished men who report.

C. Owner-operators of equipment employed through the Procurement Division of the Treasury Department will be paid such wages as are determined by the Procurement officers.

D. When rental contracts, which provide for the employment of operators of the equipment by the contractors, are made through the Procurement Division of the Treasury Department with owners of trucks or construction equipment, determination of minimum wage rates to be paid the operators of the equipment

[1] This Revision has been prepared to consolidate existing material on this subject, to include new material, and to conform with the ERA Act of 1938.

[2] Public Resolution No. 122, 75th Congress, approved June 21, 1938.

[3] 49 Stat. 2035.

will be made by the regional directors upon the advice of the LR representatives. The minimum wage rates so determined will be stated in the requisition sent to the Procurement Division as the minimum to be paid to the operator employees of contractors. Form FSA DM 165 will be attached to the requisition and shall be made a part of each such contract.

IX. *Assignment of wages.*—Wages of project workers will be paid to them in full, except where such workers are indebted to the Federal Government as the result of overpayment or charges for subsistence in work camps. Wages to be paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment will be null and void.

X. *Hours of work.*—A. The maximum hours of work for workers employed at hourly wage rates will be eight hours per day and 40 hours per week, except as indicated in paragraph X C below.

B. It is expected that work will be carried on normally on the basis of an eight-hour day from Monday through Friday. No construction work normally will be done on Saturday or Sunday.

C. When it becomes necessary to exceed the established hours of work either because of the existence of an emergency involving the public welfare or the protection of work already done on the project, or because of special and unusual circumstances, a full explanation of the reasons for such excess time, approved by the LR representative, must be attached to the pay roll on which excess hours are shown, for the information of the pay roll section or unit.

D. It is the policy of the FSA that, except in emergencies and in special and unusual circumstances, workers employed at monthly rates of wages will not work more than eight hours per day, 48 hours per week, or more than six days in every seven.

E. The minimum hours of work for workers employed on a monthly basis, shall be, when engaged principally in office, station or laboratory, seven hours per day and 39 hours per week; when engaged principally on outside work, eight hours per day and 44 hours per week.

F. In the case of workers employed on a monthly basis, one-thirtieth of the monthly wage must be deducted for each working day on which the employee is absent from duty.

XI. *Injuries and compensation.*—A. Claims of non-appointive employees will be reported by the employing officer, or his designated representative in accordance with procedure set forth in Field Instruction LR 3 (or latest revision or supplement thereto).

B. In all cases of injuries involving lost time or medical expense, the source of the funds from which the injured worker was being paid at the time of injury must be stated. There are four sources of funds from which workers may be paid: (1) Federal relief appropriations; (2) collections under the Bankhead-Black Act; (3) state RR corporation trust and state RR corporation managed accounts; (4) appropriations from regular funds. The statement as to the source of funds ordinarily should be typed on the face of U. S. Employees' Compensation Commission Form CA-2.

XII. *General conditions of employment.*—A. *Right to organize.*—1. Workers have the right to organize and select representatives of their own choice for the purpose of adjusting grievances with the FSA, and shall not be required to limit their choice of representatives to persons employed on the project.

2. Community managers, resident engineers, or other FSA officials shall not interfere with, restrain or coerce FSA employees in the exercise of their right to organize or to act collectively through representatives of their own choosing.

B. *Discrimination.*—Workers who are qualified by training and experience for assignment to FSA projects and who are eligible for employment shall not be discriminated against because of union membership, political affiliation, race, religion, or because of any other reason. Persons practicing such discrimination, are subject to prosecution in accordance with Section 19 of the ERA Act of 1938.

C. *Cause for discharge.*—1. It is expected that workers on FSA projects will discharge their duties with their available skill and diligence. When workers fail to apply themselves to their jobs in a reasonable manner the employing officer may discharge them after giving every worker adequate advice and warning and after allowing time to secure evidence that the workers involved are not discharging their duties to the best of their ability.

2. In each case of discharge, a full statement of the reason for termination must be made on the Notice of Termination referred to in paragraph VI A 3. No entry such as "agitator", or any other expression which may be construed to refer to organizational activity may be made on the Notice of Termination and no person shall be discharged for any such reason. In every case of discharge, the worker is entitled to, and must be given, an explanation of why he is discharged. The worker must further be given opportunity to present to the community manager, resident engineer or LR representative, reasons, if any, why he should be not discharged.

D. *Adjusting complaints and grievances.*—1. Workers may present complaints either individually or through their designated representatives. If satisfactory adjustment of a complaint cannot be secured through the foreman, community manager or resident engineer, the matter should be taken up with the LR representative.

2. In the event that the LR representative cannot secure a satisfactory adjustment of the complaint or grievance, either the workers or their designated representative, community manager, or resident engineer, or the LR representative may appeal to the Director of the LR Division.

E. *Strikes.*—1. If all or any portion of the workers on an FSA project go on strike because of a labor dispute, the employing officer will stop the work involved in the strike until the dispute is adjusted. New workers shall not be requisitioned to fill the jobs left vacant by the striking workers. If the entire project is affected by the strike or stoppage of work, the project shall be closed down until the dispute is adjusted. Work will not be continued on any FSA project if it is necessary to use police or any other protection involving force.

2. In case of a strike or stoppage of work on a project, the employing officer shall notify immediately the LR representative assigned to the project, who is responsible for conducting negotiations to settle the dispute.

F. *Posting notices on projects.*—1. Notices giving the wages, hours of work, and working conditions must be posted on every project in places easily accessible to all workers. Notices will be posted on the latest revision of Form FSA–LR 21, "Working Conditions", and Form FSA–LR 21a, "Schedule of Wage Rates." The name and address of the LR representative to whom workers may appeal complaints and grievances must be given on every notice posted.

2. Notices setting forth injury compensation benefits and instructions for injured workers shall be prominently displayed on every project. The poster "In Case of Injury", in revised form, will be used for this purpose.

G. All work shall be conducted in accordance with safe working conditions, and every effort shall be made for the prevention of accidents. In the maintenance of safe working conditions, employment officers will be governed by the provisions of Field Instruction LR 6 (or latest revision or supplement thereto).

[SEAL] C. B. BALDWIN,
Acting Administrator.

[F. R. Doc. 38–1997; Filed, July 12, 1938; 3:07 p. m.]

TITLE 10—ARMY

WAR DEPARTMENT

PART 1. THE ASSISTANT SECRETARY OF WAR

SEC. 1.15 INVITATIONS FOR BIDS

* * * * * *

(f) *Special conditions authorized or required to be included.*

* * * * * *

(6) *Options permitted by specifications.*— (i) *General.*— Many adopted specifications cover several grades or types and provide for several options in methods of inspection, etc. When such specifications are used in conformity with paragraph (*e*) above, the invitation will specifically state the grade, type, or method of inspection, etc., on which bids are to be based.

(ii) *Lumber.*—Due to the nature of lumber and the methods employed in its production, marketing and inspection, proper decisions as to the action in paragraph (*i*) above are especially demanded. Invitations for bids should ordinarily provide that the lumber to be delivered will be grade-marked, or furnished on a certificate of grade. In addition, the invitation will state that in case of equal bids, awards will be made for softwood lumber in the following order of preference: that which is grade-marked, that which is accompanied by a certificate of grade (inspection) furnished by one of the associations recognized in the specification, and that which is inspected by the purchasing agency; for hardwood lumber in the following order of preference: that which is furnished on a certificate of grade (inspection) furnished by one of the associations recognized in the specification, and that which is inspected by the purchasing agency. The option permitted in the specification providing for inspection by the purchasing agency will be used as such a basis only when the inspection facilities of that agency are adequate to make a competent inspection, less than a carload is needed, or because of great difference in cost, or the inability of the inspection associations recognized in the specifications to make timely inspections or other sufficient reasons, the needs of the Government will not permit purchase on the basis of other options.

(R. S. 3709; 41 U. S. C. 5; 31 Stat. 905; 32 Stat. 514; 10 U. S. C. 1201.)

[AR 5–140; Proc. Cir. No. 10, July 6, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38–2000; Filed, July 13, 1938; 9:51 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2838]

IN THE MATTER OF BOURJOIS, INC., A CORPORATION, AND BARBARA GOULD SALES CORPORATION, A CORPORATION

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony and other evidence taken before John W. Norwood, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Astor Hogg, counsel for the Commission, and Mark Eisner, counsel for the respondents, and a motion of respondents to modify the order to cease and desist previously issued herein, and a stipulation of facts approved by the Commission entered into between its Chief Counsel and counsel for the respondents, and the Commission having made its modified findings as to the facts and its conclusion that said respondents have violated the Federal Trade Commission Act, and the Commission now being desirous of modifying its said order to cease and desist in conformity with its said modified findings as to the facts, and conclusion, and being fully advised in the premises:

It is ordered, That the said order to cease and desist be and the same is hereby modified to provide as follows:

It is ordered, That the respondents, Bourjois, Inc., and Barbara Gould Sales Corporation, corporations, their respective officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of cosmetics and other toilet preparations in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing, directly or indirectly, that said products contain any beneficial elements of the natural rays of the sun, or that the use of said products will bring the beneficial effects of sunshine to the users thereof, or that said products emit or give off ultra-violet rays or any other rays which are beneficial in the treatment of the human skin;

2. Representing in any manner that their face creams when applied to the skin, release oxygen which is absorbed through the skin or that said creams are beneficial in the treatment of the human skin by reason thereof;

3. Representing, through the use of the words "skin foods" or any other word or words of similar import to describe or designate their products, or in any manner, that the product designated "Barbara Gould Irradiated Skin Food" or said product under any other designation or any other product containing similar ingredients and having substantially similar properties, possesses such properties as to be a food for the human skin or tissues;

4. Representing in any manner that any of their said products will reawaken or restore so-called "youth glands" or any other glands;

5. Representing in any manner that their products were developed or discovered after research or experimentation by one Barbara Gould, or that Barbara Gould collaborated with a scientist, or scientists, in developing or originating any of such products;

6. Using the words "Paris" or "France", or any other word or words indicating French origin, on the labels, cartons, or containers of, or in advertising talcum powder, perfumes, cosmetics, or toilet preparations made, compounded, bottled, packaged, or assembled in the United States, without clearly and conspicuously stating in immediate connection or conjunction therewith that such products are made, compounded, bottled, packaged, or assembled (as the case may be) in the United States; Provided that the prohibition in this paragraph of this order shall not apply to the trade name, "Evening in Paris", when and if used alone without the additional words "Paris" or "France", or any other word or words, symbol or symbols, picturization or picturizations indicating or suggesting French origin.

It is further ordered, That the respondents shall, within twenty (20) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–2002; Filed, July 13, 1938; 12:05 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2841]

IN THE MATTER OF GEORGE H. LEE COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before W. W. Sheppard, an Examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Gerard A. Rault, counsel for the Commission, and by Donald J. Burke, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent George H. Lee Company, its officers, representatives, agents and employees, di-

[1] 2 F. R. 542 (643 DI).

rectly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its Gizzard Capsules, or any other product containing substantially similar ingredients, whether sold under the same name or under any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

(1) That said product is a remedy or vermifuge for all three kinds of worms in poultry;

(2) That said product will remove pinworms from poultry;

(3) That said product will remove tapeworms from poultry unless it be represented with equal conspicuousness that this product merely shears off the strobolae or chain of segments of the tapeworm, leaving the head of the worm, capable of growing new segments, attached to the intestines of the fowl.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2007; Filed, July 13, 1938; 12:07 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2930]

IN THE MATTER OF THE HAMMOND CLOCK COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and evidence taken before John L. Hornor, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by William T. Chantland, attorney for the Commission, and by Lynn A. Williams of counsel for respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Hammond Clock Company, a corporation, its officers, representatives, agents and employees, either directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of electrical musical instruments now designated as "Hammond" organs in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

1. That respondent's said electrical musical instrument designated as a "Hammond Organ", as now constructed, motivated and operated,

(a) can produce or reproduce the entire range of tone coloring of a pipe organ, which is required or necessary for the proper or adequate rendition of the great works of classical organ literature;

(b) is capable of producing or reproducing a range in harmonics or partials equivalent to the range in harmonics of a pipe organ;

(c) is capable of producing or reproducing the entire range of musical tone colors or effects;

(d) has available to the organist an infinite variety of tones covering the diapason, string and reed families;

2. That, as to pipe organ tones, the tones produced by respondent's said instrument are an improvement over those of any modern organ of recognized merit;

3. That respondent's said instrument is comparable in the production of pipe organ music to the ordinary $10,000 pipe organ;

4. And from making any claims or representations of like or similar import.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2001; Filed, July 13, 1938; 12:05 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3009]

IN THE MATTER OF WAIN'S LABORATORY, INC., A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, and answer of respondent, testimony and other evidence taken before Charles P. Vicini and Robert S. Hall, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein by John Darsey, counsel for the Commission, and by Fred Horowitz, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Wain's Laboratory, Inc., its officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of the product now known as, and sold under the name, "Wain's Compound", or any product composed of substantially the same ingredients, or possessing similar properties, under whatever name sold, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing directly or indirectly:

(1) That said product is an effective remedy or treatment for asthma, hay fever, or related bronchial ailments;

(2) That said product is a harmless product containing no habit-forming or heart depressant drugs;

(3) That said product is a new and startling discovery.

It is further ordered, That the respondent shall within thirty (30) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2004; Filed, July 13, 1938; 12:06 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3156]

IN THE MATTER OF GOLDEN PEACOCK, INC.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the request of respondent to modify the order to cease and desist issued herein on February 16, 1938, and the Commission having duly considered said request and the record herein, and being now fully advised in the premises;

It is ordered, That the respondent, Golden Peacock, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of its toilet preparations, "Golden Peacock Bleach Cream" and "Miracream", or any other preparations composed of substantially the same ingredients as said preparations, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

1. That the use of said preparations, or any of them,

(a) will nourish, revitalize or rejuvenate the skin;

(b) will produce or cause a soft, flawless ivory skin;

(c) will bleach the skin white and keep it white;

(d) will remove liver spots, sallowness, deep-seated discolorations;

(e) will remove blotches, freckles, tan, pimples, and imperfections from the skin unless such representations are specifically restricted to such conditions when external in character and located in the outer layer of the skin and when not associated with any systemic disorder or cause.

2. That said preparations, or any of them

(a) contain refined ingredients which revitalize the skin and change its color and texture to a child-like whiteness and texture;

(b) are new discoveries, or that they or any of them were or are preparations developed after years of experimentation by eminent doctors or skin specialists;

(c) have been endorsed by leading medical authorities.

It is further ordered, That the respondent shall, within sixty (60) days after the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it shall have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2003; Filed, July 13, 1938; 12:06 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[1] 2 F. R. 239, 866 (287, 1034, DI).

[1] 2 F. R. 1367 (1629 DI).

[Docket No. 3222]

IN THE MATTER OF THE LUMINO COMPANY, INC., A CORPORATION.

ORDER TO CEASE AND DESIST

This proceeding having been heard upon the complaint of the Commission and the answer filed herein on September 22, 1937, and a stipulation as to the facts filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, The Lumino Company, Inc., its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of its product for structural waterproofing and dampness prevention known as "Lumino", or the same or a similar compound under whatever name sold, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing directly or by implication:

(1) That said product is a "waterproofing" or a dampness preventive material or compound or that it renders walls or structures made of concrete, cement, brick, or stone, impervious to water or dampness;

(2) That the water repellent and dampness resisting qualities of Lumino are permanent.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2005; Filed, July 13, 1938; 12:06 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3390]

IN THE MATTER OF TEOLINDA MAHLER, AN INDIVIDUAL, TRADING AS D. J. MAHLER COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that she waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon her findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Teolinda Mahler, an individual, whether trading as D. J. Mahler Company or under some other trade name, her representatives, agents, and employees, in connection with the offering for sale, sale and distribution of electrolysis machines for use in the removal of superfluous hair and other facial and body blemishes, sometimes referred to as the "Mahler Apparatus", whether sold under the name "Mahler Apparatus" or any other name, and in connection with the offering for sale, sale and distribution of the dental cream now known and described as "Phyllis Maybelle Dental Cream", or any other dental cream composed of substantially the same ingredients or possessing similar properties, under whatever name sold, in interstate commerce and in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

1. That said electrolysis machines can be used with safety by inexperienced operators for the removal of superfluous hair, dark freckles, or other blemishes of the skin;

2. That the use of said dental cream will prevent or cure pyorrhea or receding gums;

3. That the use of said dental cream will prevent the loss of teeth, unless said representation is limited to those cases not arising from or associated with systemic causes;

It is further ordered, That the respondent shall, within sixty (60) days after service upon her of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which she has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2006; Filed, July 13, 1938; 12:07 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF BIOLOGICAL SURVEY

RULES AND REGULATIONS FOR CARRYING OUT THE FEDERAL AID WILDLIFE RESTORATION ACT

By virtue of authority conferred upon the Secretary by the Act of September 2, 1937, 50 Stat. 917, entitled "An Act To provide that the United States shall aid

the States in wildlife restoration projects, and for other purposes," the following rules and regulations are made and prescribed for carrying out the provisions of said Act:

REGULATION 1.—DEFINITIONS

SECTION 1. For the purposes of these regulations, the following terms shall be construed, respectively, to mean:

Act.—The act of Congress approved September 2, 1937, entitled, "An Act to provide that the United States shall aid the States in wildlife restoration projects, and for other purposes" (50 Stat. 917), commonly referred to as the Pittman-Robertson Act.

Secretary.—The Secretary of Agriculture of the United States.

Biological Survey.—The Bureau of Biological Survey of the United States Department of Agriculture.

Authorized representatives of the Secretary.—The Chief of the Bureau of Biological Survey, or such other officials and employees thereof as he may designate from time to time.

State fish and game department.—Any department or division of the department of another name or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department.

Wildlife restoration project.—The selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including research into problems of wildlife management.

Ten-percent fund.—Items for engineering, inspection, and unforeseen contingencies not exceeding 10 per cent of the total estimated cost of any works to be constructed under the provisions of this act.

Preliminary and incidental costs.—Necessary expenses incurred in and about approved projects covered by project agreements, including salaries, subsistence and travel of personnel; preparation of plans, specifications, and estimates; surveys and conduct of examinations and negotiations for lands.

REGULATION 2.—INFORMATION FOR THE SECRETARY

SECTION 1. Before any agreement is made covering any project to be undertaken in a State, there shall be furnished to the Secretary upon his request, by or on behalf of the State, general information regarding the laws affecting wildlife conservation and the authority of the State and of local officials in reference to the establishment and maintenance of wildlife projects; the existing provisions of the State constitution or laws relative to revenues for the protection and restoration of wildlife; the funds that will be available to meet the State's share of the cost of work to be performed and the general source of such funds; and provisions made or to be made for maintaining wildlife-restoration projects upon which Federal Aid funds will be expended.

SEC. 2. The Secretary or his authorized representatives will, from time to time, request information from the State fish and game departments relative to the maintenance of wildlife-restoration projects initiated under the provisions of the Act.

SEC. 3. Data furnished by or on behalf of a State shall be supplemented by such reports of the Biological Survey as the Secretary may from time to time require.

REGULATION 3.—PROJECT STATEMENT

SECTION 1. A project statement shall be submitted for each project to be undertaken, which shall contain such fundamental information as the Secretary may require, to be submitted on a form supplied by the Biological Survey, to determine its suitability for wildlife-restoration purposes.

REGULATION 4.—SURVEYS, PLANS, SPECIFICATIONS, AND ESTIMATES

SECTION 1. The surveys, plans, specifications, and estimates shall show in convenient form and detail the work to be performed and its probable cost, in conformity with the standards governing form and arrangement prescribed by the Secretary.

SEC. 2. When any part of the cost of a project is to be furnished by a county or any other subdivision of a State, the surveys, plans, specifications, and estimates shall be accompanied by a certified copy of each resolution or order, if any, of the appropriate local officials, or such other showing as the Secretary may require respecting the funds that are made available, indicating the control of the money provided for paying such costs; clearly defining whether the State, the County, or other local subdivision will own the lands and/or improvements; and which agency will be responsible for administration and maintenance after the project's completion.

SEC. 3. No payment of any money apportioned under this act, including preliminary or incidental costs and expenses as may be incurred in and about such projects, shall be made on any project unless the statement of the project and plans, specifications, and estimates thereof have been submitted to and approved by the Secretary of Agriculture.

REGULATION 5.—PROJECT AGREEMENTS

SECTION 1. A project agreement between the State fish and game department and the Secretary shall be executed for each project approved by the Secretary.

REGULATION 6.—CONTRACTS

SECTION 1. All contracts, except for the purchase and leasing of lands, shall be based upon free and open competitive bids.

SEC. 2. If a contract be awarded to any other than the lowest responsible bidder, the Federal government shall not pay more than its pro rata share of the lowest responsible bid, unless it is satisfactorily shown that it was advantageous to the work to accept the higher bid.

SEC. 3. A copy of each contract as executed shall be promptly certified by the State fish and game department and furnished to the Secretary, and no alteration or modification which changes the character or extent of the work from that indicated in the plans, specifications, and estimates as approved by the Secretary or which increases the amounts to be paid from the lowest competitive bid, shall be subsequently made without the approval of the Secretary or his authorized representatives.

REGULATION 7.—PROSECUTION

SECTION 1. The State fish and game department shall carry all approved projects through with reasonable promptness.

SEC. 2. The supervision of each project by the State fish and game department shall include adequate and continuous inspection throughout.

SEC. 3. Written notice of commencement and completion of work on any project shall be given promptly by the State fish and game department to the Biological Survey.

SEC. 4. Progress reports showing force employed and work done, shall be furnished as requested by the Secretary or his authorized representatives.

SEC. 5. Suitable samples of materials to be used in construction work shall be submitted by or on behalf of the State fish and game department to the Biological Survey whenever requested, to be tested for suitability and conformity with standard specifications.

REGULATION 8.—RECORDS AND COST ACCOUNTING

SECTION 1. Such records of the cost of lands acquired, improvements made thereon, construction work, overhead costs, and of maintenance done by or on behalf of the State shall be kept separately for each project by or under the direction of the State fish and game department who shall report the amount and nature of the expenditure for these purposes, upon the request of the Secretary or his authorized representatives.

SEC. 2. The accounts and records, together with all supporting documents, shall be open at all times to the inspection of the Secretary or his authorized representatives, and copies thereof shall be furnished when requested.

REGULATION 9.—PAYMENTS

SECTION 1. No part of the Federal funds set aside on account of any project shall be paid until it has been shown to the satisfaction of the Secretary or his authorized representatives that adequate means, either advertising or other devices appropriate for the purpose, were employed to insure economy and efficiency in the expenditure of such money.

SEC. 2. Vouchers in the form provided by the Secretary and certified as therein prescribed, showing amounts expended on any project and the amount claimed to be due from the Federal Government on account thereof, shall be submitted by the State fish and game department to the Biological Survey, either after completion of the project, or, if the Secretary has determined to make payments as the work progresses, at intervals of not less than one month.

REGULATION 10.—SUBMISSION

SECTION 1. Papers and documents required by the act or these regulations to be submitted to the Secretary may be delivered to the Chief of the Bureau of Biological Survey or his authorized representatives, and from the date of such delivery shall be deemed submitted.

REGULATION 11.—PERSONNEL

SECTION 1. The State fish and game department shall maintain an adequate and competent force of employees to initiate and carry projects through to satisfactory completion.

SEC. 2. Personnel employed by the States from funds apportioned under this act shall be selected on the basis of competency for services to be performed and shall conduct their duties in a manner acceptable to the Secretary.

REGULATION 12.—DELEGATION OF AUTHORITY

SECTION 1. The chief, or acting chief, of the Bureau of Biological Survey is hereby designated as the representative of the Secretary, to execute, approve and/or accept in his behalf, preliminary project statements, project agreements, certificates of approval of plans, specifications and estimates, and all other documents which may be necessary or required in the administration of these regulations.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

JULY 12, 1938.

[F. R. Doc. 38-2014; Filed, July 13, 1938; 12:41 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

PUBLIC DEBT SERVICE

[1938—Department Circular No. 588]

RECONSTRUCTION FINANCE CORPORATION 7/8 PERCENT NOTES OF SERIES N, DUE JULY 20, 1941

FULLY AND UNCONDITIONALLY GUARANTEED BOTH AS TO INTEREST AND PRINCIPAL BY THE UNITED STATES, WHICH GUARANTY IS EXPRESSED ON THE FACE OF EACH NOTE

Exempt Both as to Principal and Interest From All Taxation (Except Surtaxes, Estate, Inheritance, and Gift Taxes) Now or Hereafter Imposed by the United States, by any Territory, Dependency, or Possession Thereof, or by any State, County, Municipality, or Local Taxing Authority

JULY 11, 1938.

I. OFFERING OF NOTES

1. The Secretary of the Treasury, on behalf of the Reconstruction Finance Corporation, invites subscriptions, at par and accrued interest, from the people of the United States for notes of the Reconstruction Finance Corporation, designated 7/8 percent notes of Series N. The amount of the offering is $200,000,000, or thereabouts.

II. DESCRIPTION OF NOTES

1. The notes will be dated July 20, 1938, and will bear interest from that date at the rate of 7/8 percent per annum, payable semiannually on January 20 and July 20 in each year until the principal amount becomes payable. They will mature July 20, 1941, and will not be subject to call for redemption prior to maturity.

2. The notes will be issued under authority of an act of Congress (known as "Reconstruction Finance Corporation Act") approved January 22, 1932, as amended and supplemented, which provides that the notes shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof; and that they shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. These notes shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United or any officer or officers thereof.

3. The authorizing act further provides that in the event the Reconstruction Finance Corporation shall be unable to pay upon demand, when due, the principal of or interest on notes issued by it, the Secretary of the Treasury shall pay the amount thereof, which is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amounts so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such notes.

4. The notes will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege.

5. Bearer notes with interest coupons attached will be issued in denominations of $1,000, $5,000, $10,000 and $100,000. The notes will not be issued in registered form.

III. SUBSCRIPTION AND ALLOTMENT

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Subscriptions from banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Subscriptions from all others must be accompanied by payment of 10 percent of the amount of notes applied for. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Allotment notices will be sent out promptly upon allotment, and the basis of the allotment will be publicly announced.

IV. PAYMENT

1. Payment at par and accrued interest, if any, for notes allotted hereunder must be made or completed on or before July 20, 1938, or on later allotment. In every case where payment is not so completed, the payment with application up to 10 percent of the amount of notes applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering,

which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38-1996; Filed, July 12, 1938; 4:07 p. m.]

TITLE 43—PUBLIC LANDS
BUREAU OF RECLAMATION
[No. 48]

SHOSHONE IRRIGATION PROJECT, WYOMING WILLWOOD DIVISION, PART SIX

ORDER OPENING PUBLIC LANDS TO ENTRY AND ANNOUNCING AVAILABILITY OF WATER FOR PUBLIC AND STATE LANDS

JUNE 22, 1938.

1. *Land for which water will be furnished.*—In pursuance of the Act of June 17, 1902 (32 Stat., 388) and acts amendatory thereof or supplementary thereto, announcement is hereby made that upon proper water rental application being made therefor, water will be furnished on a rental basis under the Willwood Division of the Shoshone Irrigation Project, Wyoming, in the irrigation season of 1938 and thereafter until further notice, for the irrigable lands shown on the supplemental farm unit plats of Townships 54 and 55 North, Ranges 97 and 98 West, 6th P. M., Wyoming, and beginning on July 15, 1938, entry may be made in accordance with this order for the following described public land farm units, to wit:

Public Lands.—

Township and range	Section	Farm unit	Irrigable area (acres)	Construction charge per acre	Construction charge per unit
T. 54 N., R. 97 W.	[1] 6	F	73.45	$107.00	$7,859.15
T. 55 N., R. 97 W.	19	A	59.55	112.00	6,703.20
Do.	[1] 30	C	76.25	112.00	8,540.00
Do.	[1] 30	D	80.15	107.00	8,576.05
Do.	[1] 30	E	86.55	112.00	9,693.60
Do.	[1] 31	F	88.15	112.00	9,872.80
Do.	[1] 31	G	91.25	107.00	9,763.75

[1] Part of farm unit is in adjoining section (see plats).

State lands.—The following described tracts are so-called school section lands. After the date hereof and following the sale of such lands by the State water will be available therefor and the construction charges allocated to them will be repaid under the same terms and conditions as announced for the other lands covered by this order upon water rental applications being properly executed and water rental payments made as required hereby:

Township and range	Land description	Irrigable area (acres)	Construction charge per acre	Construction charge per tract
T. 54 N., R. 97 W.	Lot 44-NW¼ NW¼	9.45	$117.00	$1,105.65
Do.	Lot 44-SW¼ NW¼	13.35	117.00	1,561.95
T. 55 N., R. 98 W.	Lot 37-A	2.10	89.00	186.90
Do.	Lot 37-B	22.90	107.00	2,450.30
Do.	Lot 37-C	17.15	96.00	1,646.40
Do.	Lot 37-D	12.60	112.00	1,411.20
Do.	Lot 37-E	25.90	117.00	3,030.30
Do.	Lot 37-F	27.80	112.00	3,113.60
Do.	Lot 37-G	35.80	117.00	4,188.60
Do.	Lot 37-H	32.15	112.00	3,600.80
Do.	Lot 37-I	37.15	117.00	4,346.55
Do.	Lot 37-J	27.65	117.00	3,235.05
Do.	Lot 37-K	9.65	102.00	984.30
Do.	Lot 37-L	6.15	112.00	688.80
Do.	Lot 37-N	2.95	112.00	330.40
Do.	Lot 37-O	2.05	107.00	219.35
Do.	Lot 37-P	20.15	112.00	2,256.80

The supplemental farm unit plats referred to above were approved on the date of this order and are on file in the office of the Superintendent, Bureau of Reclamation, Powell, Wyoming, and in the local land office at Cheyenne, Wyoming.

2. *Increase of irrigable area.*—The irrigable areas of the various farm units and tracts described in paragraph 1 above have been determined by soil and instrument survey. Nonirrigable areas therein were eliminated because of doubtful quality but in the future some of the areas tentatively determined as nonirrigable may prove susceptible of irrigation and reclamation. In such event the farm unit plats will be amended to include such additional irrigable lands and the total construction charges for any farm unit or tract affected will be increased accordingly. Each entryman or land owner shall agree in the water-rental application to pay additional construction charges at the same rate per acre applicable to his original irrigable area for any increase in the irrigable area of his farm unit or tract brought about by future reclamation.

3. *Limit of acreage for which entry may be made or water rental secured.*—For the farm units described above, the limit of area of public land per entry, representing the area which, in the opinion of the Secretary of the Interior, may be reasonably required for the support of a family upon such land, is fixed at the amounts shown upon the said farm unit plats for the respective farm units thereon. The maximum limit of area for which water rental application may be made for lands in private ownership shall be 160 acres of irrigable land for each landowner.

4. *Filing of water rental applications.*—Water rental applications for entered lands and lands in private ownership must be filed in the office of the Superintendent, Bureau of Reclamation, Powell, Wyo., and such applications may be made on or after the date of this order. For public land farm units the water rental applications must be made in accordance with the conditions hereinafter stated.

5. *Preference rights to ex-service men.*—Pursuant to the provisions of joint Public Resolution No. 85, 71st Congress, approved June 12, 1930 (46 Stat., 580), and until October 14, 1938 the farm units described above will be open to entry only by officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States in any war, military occupation, or military expedition, and have been honorably separated or discharged therefrom or placed in the regular Army or Naval Reserve. The same preference rights are applicable to those citizens of the United States who served with the allied armies during the World War and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies was similar to the service with the Army of the United States for which recognition is granted in the aforesaid Public Resolution No. 85; *Provided, however,* That they must be qualified to make entry under the homestead laws and also possess the qualifications as to industry, experience, character, and capital required of all applicants under this order.

6. *Applicants must be qualified.*—No entry shall be accepted by the local land office until the applicant therefor has satisfied the Examining Board appointed for the Shoshone Project to consider such matters, that he is possessed of such qualifications (in addition to the qualifications required under the homestead laws) as to industry, experience, character, and capital, as in the opinion of the board are necessary to give reasonable assurance of success by the prospective settler.

7. *Requirements as to industry, experience, character and capital.*—Each applicant must possess good health and have had at least two years' actual experience in farm work and farm practice. He must have at least $2,000 in money free of liability, or the equivalent thereof in livestock, farming equipment, or other assets deemed by the Examining Board to be as useful to the applicant as money.

8. *Examining Board.*—An Examining Board of three members has been appointed by the Secretary of the Interior, to consider the fitness of each applicant to undertake the development and operation of a farm on the Shoshone project. Each applicant, except those described in paragraph 14 (a) must appear in person before the Examining Board, and the project Superintendent, who is the member representing the United States, and who will act as Secretary of the board, will notify each applicant of the period of time set for his appearance and examination. The members of the board will be present at the project office when the opening is being held, and interested applicants, and particularly nonresidents, will be examined at such times as it is convenient for them to be present. There must be, of course, some limit of time covering this feature, and the board will fix this limit, and will also announce such other incidental rules as will necessitate one appearance only by each applicant. Careful investigation shall be made to verify the statements and representations made by applicants, to the end that no misunderstanding may prevail, either regarding the applicant's fitness or his appreciation of the problem before him.

9. *Determination of relative standing of applicants.*—The relative standing of the applicants will be based upon a percentage rating with the following weights given to the four prescribed qualifications:

	Percent
Character	15
Industry	20
Capital	30
Farm Experience	35

Applicants will be rated according to the following schedules and no applicants will be considered eligible who fall below the minimum named in any one of the headings of these schedules, or who do not, in the opinion of the board, possesses the health and vigor necessary for active farm work:

Character.	*Percent*
Fair	5
Good	6 to 10
Excellent	11 to 15
Industry.	
Fair	5
Good	6 to 10
Excellent	11 to 20
Capital.	*Percent*
$2,000 to $2,999	20
$3,000 to $3,999	22
$4,000 to $4,999	24
$5,000 to $5,999	25
$6,000 to $6,999	26
$7,000 to $7,999	27
$8,000 to $8,999	28
$9,000 to $9,999	29
$10,000 or above	30

Farm Experience.	*Percent*
2 years in farming other than irrigation	10
2 years in irrigation farming, any time	15
2 years' farming other than irrigation 10% plus 1½% for each additional year's experience up to a total of 12 years (including first two years), or a maximum of	25
2 years in irrigation farming, in last 4 years	20
2 years in irrigation farming, in last 2 years	25
3 years in irrigation farming, in last 4 years	30
3 years or more in responsible charge of irrigation farm in last 4 years	35

10. *When, and how to apply for a farm unit.*—Any person desiring to acquire any of the farm units described in paragraph 1 must, as a first step, secure from the Superintendent at Powell, Wyoming, or from the Commissioner, Bureau of Reclamation, Washington, D. C., a farm application blank. The blanks will be available on and after the date of this notice, and full answer must be made to each question propounded therein. The farm application must designate in the first paragraph the particular farm desired. If the applicant claims a preference right on account of military service, he shall attach to this application an affidavit setting forth such military service. The affidavit shall state the applicant's time of service, the unit of which he was a member, the date on which he was honorably discharged, or separated, or transferred to the regular Army or Naval Reserve, and that he did not refuse to wear the uniform of such service or to perform the duties thereof. If the applicant claims a preference right on account of military service with the allied armies during the World War, the affidavit should also state, if true, that the service with the allied armies was similar to the service with the Army of the United States for which recognition was granted in the said Public Resolution No. 85. There shall be attached to said affidavit a copy of such honorable discharge or separation from the service, or the order of transfer to the regular Army or Naval Reserve, as the case may be, which copy shall be certified by a notary public to be a true copy of the original.

11. *When and where to file the farm application.*—The farm application with the proof to be furnished by the ex-service man, must be filed with the Superintendent at Powell, Wyoming, in person, if convenient, or by mail, or otherwise, prior to July 15, 1938, if the applicant desires to qualify under paragraph 12 below. No advantage will accrue to an applicant presenting his application in person rather than by mail, and, if the applicant does not reside at Powell, his application should be mailed. Farm applications received on or after July 15, 1938, will be filed and noted in the order of their receipt.

12. *Simultaneous filing of farm applications.*—All applications received prior to July 15, 1938, the date of opening, will be held and treated as simultaneously filed.

13. *Preference rights for ex-service men not filing in accordance with Paragraph 12.*—In order that ex-service men may take advantage of the preference right as provided in Paragraph 5 of this order, in the event that they fail to file prior to July 15, 1938, as set forth in Paragraph 12 above, their applications together with the proof to be furnished by them, must be filed in the Office of the Superintendent, Powell, Wyoming, on or prior to October 14, 1938, the day before the date upon which the farm units herein described, except those units for which applications of ex-service men have been accepted, become open to entry by the general public. No advantage will accrue to an applicant presenting his application in person rather than by mail.

14. *Showing of applicants and selection thereof.*—(a) Where the applicant fails to make a *prima facie* case—that is, where the applicant does not possess good health or does not show at least two years' farm experience, and the assets required in Paragraph 7, the application shall be rejected and the applicant notified thereof by registered mail, and of his right to appeal to the Secretary of the Interior within 10 days from receipt of notice. Like action shall be taken where the evidence of military service is defective or not furnished. All appeals allowed under this order must be filed in the office of the project superintendent at Powell, Wyoming, and within 10 days from receipt of notice.

(b) Each applicant who makes a *prima facie* case and has not been previously examined by the board shall be notified by the board, by registered mail, of the time within which he must appear before it. After such personal examination, and after consideration of the showing made in the application, the board will rate the applicant in accordance with the scale set forth above, and place such rating in red ink, with the initials of each member of the board upon the face of the farm application blank. Should the applicant fail to appear for examination after due notice, his application will receive no further consideration by the board at that time. Should he later appear his application may be considered for any farm then remaining unassigned. The date of receipt of his application shall then be considered as being the day he actually appeared before the board. The rating necessary to establish qualification is the minimum named in Paragraph 9 of this order, and the applications of all who fail to attain this minimum shall be rejected and the applicants notified thereof by registered mail, and of the right of appeal to the Secretary within 10 days from the receipt of notice. After the expiration of the appeal period and in the absence of any pending appeals, the board shall select the 7 applicants (there being 7 farm units) with the highest rating, and notify each of the other applicants that since the number of qualified applicants exceeds the number of available farms it is necessary to reject all applications below the first 7 in qualification ratings. Each rejected applicant may appeal to the Secretary within ten days. In the event that the number

of qualified applicants is less than the number of available farm units, and also if in such case there are several applications for the same farm unit, the board shall assign a farm unit to each of such applicants. Whenever practicable, the board shall allow the applicants to exercise a choice of farms; and if it is found practicable to do so, the applicants will be given the right of selection, regardless of other applications, in the order of their ratings. The intent of the law is to select the best qualified applicants for the farms available, and the Government reserves the right to assign the farms regardless of individual preferences. Where two or more applicants have received identical ratings a drawing shall be made by the examining board to determine the order in which the available farms shall be awarded.

15. *Notification of applicant that he has been selected.*—After the expiration of the appeal periods in all of the contingencies named above, or any other that may arise, and in the absence of any pending appeals, the board shall notify each applicant selected for a farm, by registered mail, and enclose a water-rental application for the farm selected, which must be filled in by the applicant and returned to the Superintendent within 10 days from receipt of such notice with payment of the water-rental charges, as specified in Paragraph 19 hereof. Upon receipt by the project Superintendent of the water-rental application, executed by the applicant and accompanied by the required payment, the board shall make appropriate notation on a copy of said water-rental application, which will entitle the applicant to file homestead application at the local land office, and the board will return said copy by registered mail to the applicant for that purpose. Such homestead application shall be made within 15 days from the date of receipt of the approved water-rental application. Failure to make homestead entry within the period named will render the application subject to rejection.

16. *Failure of selected applicant to complete transaction.*—If the applicant fails to comply with any of the requirements named above the board will select the next highest in qualification rating, and when the list has been exhausted, and if there still remain lands unallotted, the board will consider applications filed thereafter in the order filed, and such applications will otherwise be handled by the board as prescribed in Paragraph 14.

17. *General entry.*—On and after October 15, 1938 any farm units described in paragraph 1 above which remain unentered, shall be subject to entry under this order by any person having the necessary qualifications. If, on October 15, 1938 prior to 2 p. m., the number of applications filed exceeds the number of available farm units, then the right to make entry for any such farm unit shall be determined in accordance with Paragraph 14 of this order, the provisions of which shall continue in effect in a similar manner in the future if the number of applications at any time exceeds the number of remaining available farm units.

18. *Warning against unlawful settlement.*—No person shall be permitted to gain or exercise any right under any settlement or occupation of any of the public lands covered by this order except under the terms and conditions prescribed by this order: *Provided, however,* That this shall not affect any valid existing right obtained by settlement or entry while the land was subject thereto.

19. *Water-rental charges.*—Water rental charges for all lands described in this order shall be the same as the charges announced or to be announced by the Secretary of the Interior in public notices for other lands of the Willwood division, and these lands shall be subject to all the terms and conditions of said public notices. If application is made in the year 1938 for water to be used on any of the lands covered by this order payment of the minimum charge of one dollar and twenty-five cents ($1.25) per irrigable acre for that year must be made at the time of filing water-rental application. This payment will be credited against any water used in 1938 at the rate of fifty cents ($0.50) per acre-foot up to 2½ acre-feet per irrigable acre, and any balance of the payment remaining will be credited on 1939 water-rental charges. If no water is used during 1938 the minimum payment will be applied against water-rental charges for the irrigation season of 1939. If application is made subsequent to the year 1938 for water to be used on any of such lands the minimum charge for the year in which water is applied for must be paid at the time of filing water-rental application and credits will be allowed in the same manner as specified above for applications filed during 1938.

20. *Construction cost.*—Subsection D of Section 4 of the act of December 5, 1924, (43 Stat. 702) authorizes the Secretary of the Interior to fix different construction charges against different classes of land and in pursuance thereof, the lands of the Willwood Division have been classified and different construction charges have been fixed against the different classes of land to the end that all such lands may, as far as practicable, bear the burden of the total construction cost according to their productive value. Paragraph 1 hereof contains a list of the farm units available for entry and of the lands which will become subject to water-rental application under this order, with the per acre construction charge as fixed against the irrigable area of each farm unit and other tract. These fixed charges were computed in 1927 prior to the opening to entry of any farm units. At that time the total estimated cost of the features charged to the Willwood Division was $1,372,197. The amount expended to December 31, 1937, amounted to $1,281,022. If, when the various features for the division are completed, it is found that the actual cost is different from the original estimate the per acre construction charge for all lands of the division will be changed to make the charges equal only the cost, it being understood that proper allowance may be made for any reduction in the irrigable area on account of the use of irrigable lands for drainage or canal rights of way or on account of the elimination of lands formerly considered a part of the irrigable area but later determined to be nonproductive. However, the expenditure of $1,372,197 will not be exceeded unless the water users agree to repay all sums in excess of this amount.

21. *Repayment of construction cost.*—The act of May 25, 1926 (44 Stat., 648), authorized the Secretary to fix a period of not more than 40 years for the repayment of construction costs, but provides also that before the 40-year plan may be made effective, a contract must be executed with a water users association or irrigation district whereby such water users association or irrigation district shall be required to pay the entire charge against all productive lands within the division without regard to default in the payment of charges against any individual tract of land. Since the Willwood Division, except for a few tracts, embraces mostly public land, it would not be possible to make such a contract until the lands are opened and entered. Under the circumstances, the division will be operated on a water-rental basis until sufficient settlers have been secured, in the judgment of the Secretary of the Interior, to permit the formation of an irrigation district, at which time a so-called joint liability contract will be required, and the construction charges announced herein will be payable over a period of forty years. Should the water users fail or refuse to proceed in the manner outlined above, it will become necessary to issue public notice in accordance with the provisions of the Extension Act of August 13, 1914, (38 Stat., 686), under which the construction charges must be paid within 20 years.

22. *Place and manner of payment of water charges.*—All water charges announced herein must be paid at the office of the Bureau of Reclamation at Powell, Wyoming, by cash or bank draft, cashier's check, certified check, or postal or express money order, payable to Bureau of Reclamation.

23. *Water right application.*—Each holder of a water-rental application covering lands described in this order shall, if required by the Secretary of the Interior and within three months of the issuance of notice by him to that effect, make a formal water right application covering his farm unit or tract. Upon any failure to meet this requirement the Secretary may, at his option, cancel the entry in question, or the water-rental application if the land is in private ownership, together with all rights acquired thereunder.

24. *All land to be included in irrigation district.*—Each water-rental application for land covered by this order shall be made on a form furnished by the Superintendent which form shall include the following clause:

"I agree to the inclusion of my land in an irrigation district and to petition for and participate in the organization of an irrigation district at the earliest practicable date."

25. *Reservation of rights of way for County Highways.*—Rights of way are reserved for county highways along all section lines, said rights of way being 30 feet in width on each side of said lines.

26. *Effect of relinquishment prior to one year's residence.*—In the event that any entry of public land shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, the lands so relinquished shall not be subject to entry for a period of 60 days after the filing and notation of the relinquishment in the local land office. During the 10-day period next succeeding the expiration of such 60-day period, any person having the necessary qualifications may file application for said public land. If, on the tenth day of said 10-day period, prior to 2 p. m., the number of applications filed exceeds the number of available farm units, then the right to make entry for such farm units shall be determined in accordance with the procedure described in Paragraph 14 of this order.

27. *Waiver of mineral rights.*—All homestead entries for any of the above described farm units will be subject to the laws of the United States governing mineral land and all homestead applicants under this order must waive the right to the mineral content of the land, if required to do so by the land office, otherwise the homestead application will be rejected or the homestead entry cancelled.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–1999; Filed, July 13, 1938; 9:44 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

POSTPONEMENT OF EFFECTIVE DATE OF SECOND PARAGRAPH OF RULE 27 OF TARIFF CIRCULAR 20

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the ninth day of July, A. D. 1938.

The Commission having under consideration the petition dated June 11, 1938, filed on behalf of all carriers by B. T. Jones, their duly authorized agent, requesting further postponement from July 20, 1938, of the effective date of the second paragraph of Rule 27 of Tariff Circular 20 in all tariffs containing routing in accordance with Plan (2) of Rule 4 (k) of Tariff Circular 20;

It is ordered, That the date shown in the second paragraph of Rule 27 of Tariff Circular 20 as heretofore extended to read July 20, 1938, is hereby further extended until July 20, 1939, provided, however, that such extension shall be effective only as to tariffs which publish routing in the manner provided in Plan (2) of Rule 4 (k) of Tariff Circular 20.

By the Commission, division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2008; Filed, July 13, 1938; 12:22 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

INDIANA

JULY 13, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Indiana State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made,[1] under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional counties:

Bartholomew, Benton, Clinton, Fountain, Hancock, and Posey.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2013; Filed, July 13, 1938; 12:41 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MICHIGAN

JULY 13, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Michigan State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made,[2] under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional counties:

Osceola, Tuscola, and Hilisdale.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2012; Filed, July 13, 1938; 12:40 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MISSISSIPPI

JULY 13, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Mississippi State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made,[2] under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional counties:

Alcorn, Amite, Benton, Bolivar, Calhoun, Choctaw, Claiborne, Clarke, Clay, Copiah, DeSoto, Greene, Harrison, Jasper, Jefferson Davis, Jones, Lafayette, Lamar, Lauderdale, Leake, Lincoln, Lowndes, Madison, Monroe, Newton, Pearl River, Pike, Quitman, Scott, Sharkey, Tallahatchie, Warren, Washington, Webster, Wilkinson, Winston, and Yazoo.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2011; Filed, July 13, 1938; 12:40 p. m.]

INTERSTATE COMMERCE COMMISSION.

RATE INVESTIGATION, ETC.

Ex Parte No. MC–23: Iowa-Illinois-Eastern Kansas-Missouri-Eastern Nebraska Motor Carrier Rates; No. MC C–14: Mid-Western Motor Freight Tariff Bureau, Inc., v. *Frank Eichholz, Doing Business as Riteway Motor Service, et al.; No. MC C–84: Mid-*

[1] 2 F. R. 2761 (3196 DI).

[1] 3 F. R. 109 DI.
[2] 2 F. R. 2683 (3112 DI).

Western Motor Freight Tariff Bureau, Inc., v. *W. J. Dunden, Agent, et al.*; *No. MC C–84 (Sub-No. 1): Mid-Western Motor Freight Tariff Bureau, Inc.*, v. *James E. Lockwood, Alternate Agent*; *No. MC C–84 (Sub-No. 2): Mid-Western Motor Freight Tariff Bureau, Inc.* v. *American & Transport Freight Lines, et al.*

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 2nd day of July, A. D. 1938

Upon further consideration of the record in No. MC C 14, of various petitions for modification of the outstanding order therein and replies to such petitions, and of the complaints filed in Nos. MC C–84, MC C–84 (Sub-No. 1), and MC C–84 (Sub-No. 2):

It is ordered, That an investigation be, and it is hereby, instituted by Division 5, on its own motion, into and concerning the lawfulness of the maximum, minimum, and precise basis of all rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property except household goods, livestock, automobiles, petroleum products in tank trucks, and articles of unusual size and value, in interstate or foreign commerce between all points in Illinois; Iowa; Kansas, on and east of U. S. Highway 81; Missouri; and Nebraska, on and east of U. S. Highway 81; except such of said rates as are under investigation in Ex Parte No. MC–21, Motor Carrier Rates in Central Territory, except those rates applying wholly within the St. Louis, Mo.-East St. Louis, Ill., commercial zone defined in *St. Louis, Mo.-East St. Louis, Ill., Commercial Zone*, 1 M. C. C. 656 and 2 M. C. C. 285, and except proportional rates applying on traffic moving to or from points beyond the above-described territory, with a view to determining whether the rates, charges, and classifications and the rules, regulations, and practices relating thereto, of the respondent common carriers, or any of them, applicable to such transportation, are in any respects in violation of the law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant.

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the Office of the Secretary of the Commission.

And it is further ordered, That the said investigation, No. MC C–14, and Nos. MC C–84, MC C–84 (Sub-No. 1), and MC C–84 (Sub-No. 2), be, and they are hereby, assigned for hearing on the 15th day of August, A. D. 1938, at 9:00 A. M. (Standard Time), at the Hotel Baltimore, Kansas City, Mo., before examiner Paul Coyle.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–2009; Filed, July 13, 1938; 12:22 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of July, A. D. 1938.

[File No. 37–27]

IN THE MATTER OF THE COMMONWEALTH AND SOUTHERN CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on July 29, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 24, 1938.

The matter concerned herewith is in regard to an application for approval as a mutual service company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2015; Filed, July 13, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of July 1938.

[File No. 2–2859]

IN THE MATTER OF AUSTIN SILVER MINING COMPANY

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of Austin Silver Mining Company, a Nevada corporation, and the proposed amendments filed June 9 and July 12, 1937, and April 16, 1938, to said registration statement, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Items 20, 25, 29, 30, 34, 35 and 36, and the prospectus, and it not appearing to the Commission that the aforesaid amendments, on their face, are not incomplete or inaccurate in any material respect, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises;

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, that the effectiveness of the registration statement filed by Austin Silver Mining Company be and the same hereby is suspended; and

It is ordered further, That the request of Austin Silver Mining Company that the proposed amendments filed by it on June 9 and July 12, 1937, and April 16, 1938, be declared effective be and the same hereby is denied.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2016; Filed, July 13, 1938; 12:44 p. m.]

JUL 18 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 137

Washington, Friday, July 15, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT
FARM CREDIT ADMINISTRATION

[FCA 96]

AUTHORITY, AND DESIGNATION OF ORDER OF PRECEDENCE

[Corrected Print]

JULY 8, 1938.

SEC. 3.1 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 3.1 *Authority, and designation of order of precedence, of Deputy Governors, General Counsel, and Assistant to the Governor to act as Governor in the absence of the latter.*—F. F. Hill, Deputy Governor, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor is unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Charles A. Stewart, Deputy Governor, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor and Deputy Governor Hill are both unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Peyton R. Evans, General Counsel, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor, Deputy Governor Hill, and Deputy Governor Stewart, are unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Arthur T. Esgate, Assistant to the Governor, is authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor, Deputy Governor Stewart, and Peyton R. Evans, General Counsel, are unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause. (E. O. 6084, March 27, 1933, 6 CFR 1.1 (12).) [FCA Order No. 228, July 8, 1938.]"

[SEAL] W. I. MYERS, *Governor.*

[F. R. Doc. 38–1998; Filed, July 13, 1938; 9:41 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION

[Administrative Order No. 271]

INTEREST ON LOANS

Pursuant to a determination contained in a letter dated July 6, 1938, signed by Wayne C. Taylor, Acting Secretary of the Treasury, directed to me, to the effect that the average rate of interest payable by the United States of America on its obligations, having a maturity ten years or more after the dates thereof, issued during the fiscal year ending June 30, 1938, is 2.73% per annum, I hereby direct that interest on all loans made pursuant to the Rural Electrification Act of 1936,[1] as amended, and the Rural Electrification Act of 1938,[2] during the fiscal year ending June 30, 1939, from funds made available for such loans during said fiscal year, shall be charged at the rate of 2.73% per annum.

JOHN M. CARMODY, *Administrator.*

Dated July 7, 1938.

[F. R. Doc. 38–2018; Filed, July 14, 1938; 9:44 a. m.]

[1] 49 Stat. 1363.
[2] Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 6—AGRICULTURAL CREDIT:	
Farm Credit Administration:	
Precedence, authority and designation of order of; corrected print	1721
Rural Electrification Administration:	
Interest on loans	1721
TITLE 7—AGRICULTURE:	
Federal Crop Insurance Corporation:	
Wheat crop insurance, regulations amended	1722
TITLE 10—ARMY:	
War Department:	
National Matches, 1938, rules, etc	1723
TITLE 41—PUBLIC CONTRACTS:	
Division of Public Contracts:	
Luggage and Saddlery Industries, prevailing minimum wage determination	1733
TITLE 45—SECURITIES AND EXCHANGES:	
Securities and Exchange Commission:	
Public Utility Holding Company Act of 1935, adoption of Form U–6B–2, certificate of notification	1734
TITLE 47—TELECOMMUNICATION:	
Federal Communications Commission:	
Emergency radio services, rules governing	1734

NOTICES

Department of Agriculture:	
Farm Security Administration:	
Texas, designation of counties for tenant purchase loans	1738
Federal Trade Commission:	
Silk Industry, opportunity to present views on proposed trade practice rules	1738

(Continued on next page)

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CONTENTS—Continued

	Page
Securities and Exchange Commission:	
Notice of and orders for hearings:	
Louisiana Public Service Corp.	1738
Minnesota Utilities Co.	1738

TITLE 7—AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Series 1, No. 1]

AMENDMENTS TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, approved February 16, 1938, as amended by Public Law No. 691, 75th Congress, approved June 22, 1938, the regulations relating to wheat crop insurance adopted by the Board of Directors of the Federal Crop Insurance Corporation on April 26, 1938, and approved by the Secretary of Agriculture on April 28, 1938,[1] as amended, are hereby further amended:

1. By inserting after Section 62 the following new sections:

SEC. 63. *Deposits of payments to be applied toward future premiums.*—(a) Any person whose application for a policy with respect to any farm has been approved by the Corporation for a current crop year may, subject to the approval of the Corporation, at the time he delivers the premium for such policy, tender for deposit payments, not in excess of the amount of the premium specified in the premium notice for such policy, to be applied toward the premium on a policy for the next succeeding crop year.

(b) Deposits may be made either in wheat or in cash. Deposits of wheat shall be made in accordance with the provisions of section 61 (a) of these regulations, relating to the payment of premiums in wheat. One warehouse receipt may be delivered to cover both the premium and the deposit.

(c) If, for any reason whatsoever, it appears at any time that the transfer of a warehouse receipt, evidencing a deposit of wheat, to the Corporation did not convey to it complete and unencumbered title to the receipt and the wheat represented thereby, except as is provided in subsection (b) of this section, or if at any time the Corporation's title to such receipt or wheat is drawn into question by any person, then, unless such question is immediately settled without cost to the Corporation, the depositor shall indemnify and save the Corporation harmless against all actions, proceedings, claims, demands, costs, damages, and expenses which may be brought or made against it or which it may pay, sustain, or incur in connection with such receipt or wheat. Without limitation of any other right or remedy of the Corporation, such charges may be set off against any indemnity which may be or become due under any policy issued to the depositor or in which he may have an interest.

(d) All deposits of cash will be credited to the depositor's account in terms of the wheat equivalent of such cash deposit. The equivalent in wheat of any cash deposit will be determined on the same basis as that used in fixing the cash equivalent specified in the premium notice in connection with which the deposit is made.

(e) The depositor shall have no title or interest in any wheat (including any wheat deposited) held by the Corporation. The Corporation shall be liable to the depositor only for the cash equivalent of the amount of wheat credited to the depositor's account, such cash equivalent to be determined in accordance with the provisions of section 90 of these regulations.

SEC. 64. *Deposits not advance premium payments.*—Deposits are accepted by the Corporation only as a convenience to applicants for crop insurance. The acceptance of any deposit shall not place the Corporation under any obligation to issue a policy to the depositor. Depositors will be required to make applications in the same manner and subject to the same regulations as are applicable to other applicants. A policy for any crop year will be issued only in accordance with provisions of the wheat crop insurance program in effect for such crop year.

SEC. 65. *Application of deposits toward premiums.*—A deposit, at the direction of the depositor, will be applied by the Corporation toward the payment of the premium on any policy for which the depositor's application has been approved. In such case, the depositor's account will be charged with an amount of wheat adjusted, as determined by the Corporation, to reflect differences, if any, between the freight and other usual charges in connection with the movement and handling of wheat, and the basic class and grade of wheat, applicable at the place where the deposit was made, and such charges and class and grade of wheat applicable to the policy applied for.

2. Amending Part 9 to read as follows:

Part 9. Refund of premiums and deposits.

SEC. 90. *Computation of refunds; claims for refunds.*—(a) Any refund of premiums or payments deposited for application toward the payment of future premiums and not so applied (whether made pursuant to the provisions of the contract or these regulations or required by law) shall be made only in the cash equivalent of the quantity of wheat to be refunded less an amount, fixed by the Corporation, of not exceeding one-twentieth of one cent per day per bushel to cover storage and handling expenses in storage. The period for which such deductions shall be computed shall commence with and include the day following the day on which the premium or deposit was delivered at the office of the county committee for the county in which the farm in connection with which the premium or deposit was delivered is located. Such period shall end with and include the day on which payment of the refund is approved by the Corporation.

(b) Claims for refunds shall be made on forms prescribed by the Corporation. Claims for refunds of premiums shall be submitted to the Corporation at the office of the county committee where the premium was delivered. Claims for refunds of deposits shall be submitted at the office of any county committee. No claim for refund of premium shall be acted upon by the Corporation until it has determined the acreage seeded to wheat on the farm covered by the policy. Except as may otherwise be provided by the Corporation, no claim for a refund of a deposit shall be considered prior to the final closing date fixed by the Corporation for the receipt of applications for the crop year for which the deposit was made in the county where the farm in connection with which the deposit was made is located. Nothing in this subsection shall be construed to restrict the Corporation's right to refund any deposit at such earlier time as it may determine.

(c) The cash equivalent of any refund shall be determined in accordance with the rules provided by these regulations for the conversion of indemnities into their cash equivalents, except that the basic market and the current basic market price to be applied under this subsection shall be those applicable for the day when payment of the refund is approved by the Corporation. No refund shall be made if the amount thereof is less than one dollar.

SEC. 91. *Refund of excess premium.*—In any case where the total insured production is adjusted in accordance with the provisions of section 41 of these regulations, the premium allocable to the acreage equal to the difference between the acreage used in adjusting such total insured production and the acreage specified in the policy as proposed to be seeded, shall be credited to the insured's account as a deposit to be applied toward the premium on a policy for the next succeeding crop year, unless the insured indicates on a form prescribed by the Corporation at the time he delivers the premium that he elects to have such excess premium refunded. Any amount credited to the insured's account pursuant to this subsection shall be deemed to have been deposited on the date of delivery of the premium.

SEC. 92. *Death, incompetency, or disappearance of person entitled to refund; change of fiduciaries.*—In any case where a person who is entitled to a refund of premium or deposit has died, become incompetent, has disappeared leaving his whereabouts unknown for a period of 150 days, or has ceased to act as a fiduciary, such refund will be made to his legal representative or successor. If no such legal representative or successor has been appointed or is otherwise legally qualified and the quantity of wheat to be refunded, before deduction of storage and handling expenses, is less than 500 bushels, such refund may be made to any one or more of the persons beneficially entitled to share in such refund on behalf of all the persons so entitled upon proof of the facts satisfactory to the Corporation. The determination of the Corporation as to the existence or non-existence of a circumstance in the event of which payment of a refund may be made to a person other than the person who paid the premium or made the deposit, as the case may be, shall be final and conclusive and payment in accordance with such determination shall constitute a complete discharge of the Corporation's obligation with respect to the refund.

SEC. 93. *Assignment of claims for refunds; creditors.*—(a) No claim for a refund, or any part or share thereof, or any interest therein, shall be transferable. Notwithstanding any assignment, power of attorney, order, or other authority for receiving payment of any refunds, such refund shall be paid only to the persons entitled thereto as provided in these regulations.

(b) The provisions of section 107 of these regulations shall be applicable to the payment of refunds.

Adopted by the Board of Directors on July 13, 1938.

[SEAL] M. L. WILSON,
Chairman.

Approved, July 13, 1938.

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2023; Filed, July 14, 1938; 12:34 p. m.]

[1] 3 F. R. 1013 DL

TITLE 10—ARMY

WAR DEPARTMENT

[Bulletin No. 3]

RULES AND REGULATIONS FOR THE NATIONAL MATCHES, 1938[1]

CONTENTS

Section	Paragraphs
I. Authorization, scope, and date of matches	1–3
II. Pay, allowances, travel, and subsistence of competitors	4–7
III. Officials of the National Matches and their duties	8
IV. Small Arms Firing School	9–12
V. National Rifle Association matches	13–14
VI. National Trophy matches	15–55
VII. General regulations applicable to all matches	56–82
VIII. Rules governing rifle matches	83–101
IX. Rules governing pistol matches	102–111
X. Description of arms and ammunition	112–118
XI. Scorers and their duties	119–148
XII. Pit personnel and their duties	149–160

JUNE 10, 1938.

SECTION I

Authorization, Scope, and Date of Matches

1. *General conditions.*—The rules and regulations for the national matches, except as provided for and published in this bulletin, will be found in the Official Program of the national matches, Basic Field Manual, Volume III, Part One, Chapters 1 and 1A (Rifle Marksmanship), Chapter 2 (Automatic Rifle Marksmanship), Chapter 3 (Automatic Pistol Marksmanship), AR 600–75, AR 740–10, and the Official Rules for Rifle and Pistol Shooting, National Rifle Association (latest revision).

2. *Date and place at which National Matches will be held.*—For the year 1938 the national matches will be held at Camp Perry, Ohio, for a period of 21 days beginning Sunday, August 21, 1938, and ending Saturday, September 10, 1938, both dates inclusive. They will include:

a. Small Arms Firing School.—The Small Arms Firing School will be held from Sunday, August 21, 1938, to Friday, August 26, 1938 (6 days), both dates inclusive. The period designated above will be devoted primarily to the school. The Small Arms Firing School will include the following:

(1) Caliber .30 rifle training, including musketry.

(2) Pistol training:

(*a*) Pistol school.

(*b*) Police school.

(3) Junior rifle school.

b. National Rifle Association matches.—The matches for which medals and trophies are awarded by the National Rifle Association will be held from Saturday, August 27, 1938, to Sunday, September 4, 1938 (9 days), both dates inclusive. The National Rifle Association matches will consist of—

(1) Caliber .30 rifle matches.

(2) Small-bore rifle matches.

(3) Pistol and revolver matches.

(4) Junior matches.

c. National Trophy matches.—The matches for which the national trophies, medals, and other badges are awarded by the National Board for the Promotion of Rifle Practice will be held from Monday, September 5, 1938, to Saturday, September 10, 1938 (6 days), both dates inclusive. The national trophy matches will consist of the following:

(1) Infantry Match.

(2) National Individual Rifle Match.

(3) Citizens' Military Championship Match.

(4) National Individual Pistol Match.

(5) National Pistol Team Match.

(6) National Rifle Team Match.

3. *Executive officer may change program.*—The foregoing dates and periods prescribed for the national matches will govern unless weather conditions interfere to such an extent as to make changes necessary. In that case the executive officer will make the required alterations in the program.

SECTION II

Pay, Allowances, Travel, and Subsistence of Competitors

4. *Authorized teams.*

a. Service teams.

(1) Regular Army, from the Infantry, Cavalry, and Corps of Engineers, 1 each.

(2) United States Navy, 1.

(3) United States Marine Corps, 1.

(4) United States Coast Guard, 1.

b. National Guard and Reserve teams.

(1) Federally recognized National Guard of the several States and Territories, including the District of Columbia, 1 each.

(2) Federally recognized Naval Militia, 1 team.

(3) Naval Reserve, 1 team as designated by the Navy Department.

(4) Marine Corps Reserve, not more than 2 teams as designated by the Navy Department.

(5) Organized Reserves, 1 team.

c. Civilian teams.

(1) One civilian team from each of the several States and Territories, including the District of Columbia, to be selected by competition.

(2) Reserve Officers' Training Corps, 1 from each corps area.

[1] Promulgated under the authority contained in Section 1, 45 Stat. 786; 32 U. S. C. 181a.

(3) Citizens' Military Training Camps, 1 from each corps area.

(4) American Legion, 3 teams.

5. *Strength of rifle teams.*—The strength of authorized rifle teams participating in the national rifle team match, 1938, is fixed as follows:

a. Service teams.—One team captain, 1 team coach, 10 principals, 2 alternates; total 14.

b. National Guard teams.—One team captain, 1 team coach, 10 principals, 2 alternates; total 14.

c. Organized Reserves teams.—One team captain, 1 team coach, 10 principals, 2 alternates; total 14.

d. Reserve Officers' Training Corps and Citizens' Military Training Camps teams.—One team captain, 10 principals, 2 alternates, 1 coach to be an officer of the Regular Army; total 14.

e. Civilian teams.—One team captain, 10 principals, 2 alternates; total 13. (See par. 49 (e) relating to coaches.)

6. *Pay, allowances, travel, and subsistence.*—*a. Members of rifle teams* as listed in paragraph 4*a* will be entitled to travel from points of tryout to Camp Perry, Ohio, and from Camp Perry to their home stations upon completion of the matches. Subsistence allowance for enlisted men while traveling will be at the rate of $1.50 per day. While participating in the national matches, enlisted members of these teams will be entitled to subsistence allowances at the rate of $1.20 per day for not to exceed 21 days from August 21 to September 10, 1938.

b. Members of authorized rifle teams as listed in paragraph 4*b* will receive pay, allowances, and travel for the period while attending the national matches. This period will include the time consumed in traveling the shortest usually traveled route from their homes to Camp Perry, Ohio, and return to their homes.

c. The enlisted members of the rifle teams listed in paragraph 4*b* will be entitled to a subsistence allowance of $1.50 per day while traveling from their homes to Camp Perry, Ohio, and return to their homes, and to $1.20 per day while at the national matches for not to exceed 21 days from August 21 to September 10, 1938.

d. The members of the rifle teams listed in paragraph 4*c* will be entitled to travel including subsistence at the rate of 5 cents per mile while en route from their homes to Camp Perry, Ohio, and return. While participating in the national matches, they will be entitled to a subsistence allowance of $1.20 per day for not to exceed 21 days from August 21 to September 10, 1938.

7. *Pay, allowances, travel, or subsistence* will not be furnished to any competitor except as listed in paragraph 6. The executive officer of the matches, however, will furnish tentage and bedding to not more than 1,200 unattached individuals at the 1938 national matches.

SECTION III

Officials of the National Matches and Their Duties

8. *The officials of the National Matches* and their assistants are charged with duties as follows:

a. The *executive officer* will have command of the camp and general charge of the national matches.

b. The *assistant executive officers* will perform such duties as the executive officer may direct.

c. The *adjutant* will discharge the duties of adjutant to the executive officer.

d. The *quartermaster* will have charge of rail and motor transportation, the operation of all necessary camp utilities, and the issue of stores and supplies of his own department to officials, troops, and competitors during the matches. He will discharge such other duties as may be assigned to him by the executive officer.

e. The *range director* will have general supervision of the supply, maintenance, and operation of all ranges prior to and during the national matches. He will have charge of all permanent and daily details of range personnel. Previous to the matches, he will establish and conduct such schools for range personnel as the executive officer may deem necessary. He will be assisted by chief range officers, one of whom will have charge of the operation of each of the several rifle, pistol, and small-bore ranges.

f. The *director of the Small Arms Firing School* will be charged with the establishment and operation of the various subdivisions of this school.

g. The *statistical officer* will keep the record of all match firing. He will keep the records of eligibility and assign the competitors to targets and to relays for firing. He will verify the additions of the scores as reported by the scorekeepers when necessary, grade the scores in order of excellence, prepare and publish in official bulletins the results of all matches, and announce the awards of trophies, medals, and other prizes.

h. The *mess officer* will establish and operate the competitors' mess and such other messes as the executive officer may direct.

i. The *surgeon* will have charge of the health and sanitary conditions of the camp and rifle range, conduct necessary physical examinations, and perform such other duties as pertain to his profession.

j. The *ordnance officer*, under the direction of the executive officer, national matches, will establish and maintain the ordnance depot, national matches, from which all issues and sales will be made under existing regulations. He will make timely requisitions for all supplies not previously requisitioned by the executive officer, National Board for the Promotion of Rifle Practice, and will maintain such records of transactions as will permit of rendering timely reports for use in settlement of accounts between the Ordnance Department and the National Board for the Promotion of Rifle Practice.

The ordnance officers assigned as technical advisers will perform such duties as are delegated or assigned by the executive officer, national matches.

k. The inspector will inspect the camp, the ranges, and all activities, agencies, and installations connected therewith for police and sanitation, as well as for the safety and comfort of all. In addition, he will perform the usual duties of a division and post inspector and will audit such funds as the executive officer may direct.

l. The *camp director* will prepare and execute plans for the reception and quartering of persons attending the national matches. He will have charge of the registration and billeting of all personnel; supervision of issue and turning in of quartermaster supplies to individuals and competitors; transportation, delivery, and collection of ordnance and quartermaster supplies and personal and team baggage to tent areas; operation of a camp information service; reception of distinguished visitors; administration of the Reserve Officer's Training Corps, Citizens' Military Training Camps, and unattached civilian areas; the striking of camp; and the storage of property. He will keep a directory of all persons in the camp.

m. The *signal officer* will have charge of the electrical equipment of the range and of the property of the Signal Corps and will perform the duties of signal officer for the camp and the range. He will provide adequate signal communications for the national matches.

n. The *provost marshal and police officer* will maintain good order and provide for the proper police of the camp. He will regulate traffic and post such signs as may be necessary.

o. The *finance officer* will have charge of all receipts, disbursements, and accounts, and render the necessary reports and returns, and perform such other duties as the executive officer may direct.

p. The *publicity officer* is charged with the dissemination of information pertaining to the national matches through the newspapers and radio.

q. The *commanding officer of troops* will have command of all Regular Army troops on duty at the national matches. Pursuant to directives from the executive officer, he will assign commissioned and enlisted personnel from his command to various fatigue duties and special duties pertaining to the conduct of the national matches.

r. The *recreation officer* will have charge of all recreational activities in the camp. As *fire marshal* he will have general supervision and control of all fire prevention measures and all available fire-fighting equipment at Camp Perry during the period allotted to the national matches.

SECTION IV

Small Arms Firing School

9. The *missions of the Small Arms Firing School* are to teach correct principles of marksmanship and to present a logical and uniform method of instruction with a view of improving individual and group shooting ability and developing competent instructors. A part of the instruction with the caliber .30 rifle will be devoted to musketry training.

10. *Each person satisfactorily completing the school course* will receive a certificate of proficiency. Those showing special ability will be recommended as instructors. For requirements as to attendance by members of teams participating in the national rifle team match, see paragraph 49*c*. The attendance of all other persons not in the Regular services, including those who have previously received certificates of proficiency, is invited but is not required.

11. *During the period of the Small Arms Firing School*, the executive officer may permit competitors who are excused from attending the school to practice on targets which he considers available and in excess of the number required for the school.

12. *During the period of the school* a musketry problem will be fired. The object of this problem will be to qualify the various military teams attending the school as demonstration units in this type of firing.

SECTION V

National Rifle Association Matches

13. The *matches of the National Rifle Association* will consist of the following parts:

a. Caliber .30 rifle matches.
b. Small-bore rifle matches.
c. Pistol and revolver matches.
d. Junior matches.

14. *Detailed information* concerning these matches will be found in the program of the national matches.

SECTION VI

National Trophy Matches

Infantry Match

15. *When fired:* September 5, 1938.

16. *Open to:* Teams consisting of a squad of 8 men, including 7 riflemen and one automatic rifleman, selected from the members of each national match team. One rifleman (designated corporal) will be the leader.

Entry of service, National Guard teams and Reserve teams is compulsory; entry of civilian teams and other teams of individual competitors as approved by the executive officer, optional.

The match will involve fire and movement. Details will be announced at Camp Perry. Team captains of teams entering the match will be given authority to draw one automatic rifle per team from the ordnance warehouse.

Individual Matches

17. *Open to:* The national individual rifle match and the national individual pistol match are open to any citizen of the United States 16 years of age or over on the date of the match.

18. *Entries.*—*a.* Each team captain in the national rifle team match will see that entries for all members of his team desiring to enter the national individual rifle match and the national individual pistol match are properly made out and delivered to the statistical officer at one time on the special entry form provided for this purpose.

b. Individual competitors not members of regularly accredited teams may make entry in person or by mail addressed to the statistical officer, national matches, Camp Perry, Ohio.

National Individual Rifle Match

19. *When fired:* September 6 and 7, 1938.

20. *Open to:* Any citizen of the United States 16 years of age or over on the date of the match.

21. *Elimination of competitors.*—The executive officer, at his discretion, at any time after the first stage of the match, may eliminate from further participation in the match any number of competitors of lower standing in excess of a remaining number of 500 competitors.

22. *Course of fire.*—The course of fire and rules in regard to arms and ammunition are the same as for the national rifle team match.

23. *Trophies and medals.*—The "Daniel Boone" trophy will be awarded to the winner, to be held until the next national matches. A miniature of the "Daniel Boone" trophy will also be awarded to the individual winning the original trophy, this miniature trophy to be the permanent property of the winner. Medal awards will be as follows:

a. To each of the 15 competitors, not distinguished marksmen, making the highest aggregate scores, a gold medal.

b. To each of the 25 competitors, not distinguished marksmen, making the next highest aggregate scores, a silver medal.

c. To each of the 100 competitors, not distinguished marksmen, making the next highest aggregate scores, a bronze medal.

d. Distinguished marksmen will be placed according to their respective scores among the above medal winners. Only one medal of each class will be awarded any medal winner, regardless of the year in which won. After one medal of any class (gold, silver, or bronze) has been issued, a medal winner in the same class thereafter will be issued an appropriate bar in lieu of a medal.

e. If the number of competitors starting in the national individual rifle match is less than 1,400, the total number of medals will be 1 for each 10 competitors, disregarding fractions, exclusive of distinguished marksmen; the gold, silver, and bronze medals to be in the ratio given above.

24. *Qualification badges.*—An appropriate badge representing qualification in the Regular Army course will be issued to all civilians who qualify as expert rifleman, sharpshooter, or marksman in the national individual rifle match. The qualifying scores will be expert rifleman, 255; sharpshooter, 230; marksman, 210. In case any competitors are eliminated from firing the 1,000-yard stage, the 1,000-yard stage will not be counted in the computation of qualifying scores for expert rifleman, sharpshooter, and marksman, and the qualifying scores will be expert rifleman, 170; sharpshooter, 154; marksman, 140.

All civilians, including members of the Reserve Officers' Training Corps and Citizens' Military Training Camps, will obtain their qualification badges from the Director of Civilian Marksmanship.

Citizens' Military Championship Match

25. *When fired:* This match is fired as a part of the national individual rifle match. Scores made in the national individual rifle match are counted for medals.

26. *Open to:* All citizens of the United States 16 years of age or over on the date of the match, except members of the Regular services.

27. *Course and conditions.*—Same as national individual rifle match.

28. *Entry not required.*—Entries made in the national individual rifle match count as entries in this match.

29. *Medals.*—To the 10 highest competitors, gold medals. To the next highest 15 competitors, silver medals.

National Individual Pistol Matches

30. *When fired:* September 5, 1938.

31. *Open to:* Any citizen of the United States 16 years of age or over on the date of the match who has demonstrated to the satisfaction of the executive officer, national matches, in match, practice, or other firing, proficiency in pistol markmanship equivalent to a score of 150 over the national pistol match course.

32. *Elimination of competitors.*—The executive officer may, in his discretion and by such standards as he may prescribe, eliminate competitors after each stage of the national individual pistol match.

33. *Course of fire.*—The course of fire and rules in regard to arms and ammunition are the same as for the national pistol team match.

34. *Trophies and medals.*—The "Custer" trophy will be awarded to the winner, to be held until the next national matches.

A miniature of the "Custer" trophy will also be awarded to the individual

winning the original trophy, this miniature trophy to be the permanent property of the winner. Medal awards will be as follows:

a. To each of the 12 competitors, not distinguished pistol shots, making the highest aggregate scores, a gold metal.

b. To each of the 24 competitors, not distinguished pistol shots, making the next highest aggregate scores, a silver medal.

c. To each of the 36 competitors, not distinguished pistol shots, making the next highest aggregate scores, a bronze medal.

d. Distinguished pistol shots will be placed according to their respective scores among the above medal winners. Only one medal of each class will be awarded any medal winner, regardless of the year in which won. After one medal of any class (gold, silver, or bronze) has been issued, a medal winner in the same class thereafter will be issue an appropriate bar in lieu of a medal.

35. *Qualification badges.*—An appropriate badge representing qualifications in the Regular Army course will be issued to all civilians and police who qualify as pistol expert, pistol sharpshooter, or pistol marksman in the national individual pistol match. Qualifying scores: Pistol expert, 240; pistol sharpshooter, 225; pistol marksman, 210. Police and civilians, including members of the Reserve Officers' Training Corps and Citizens' Military Training Camps, will obtain their qualification badges from the Director of Civilian Marksmanship.

National Pistol Team Match

36. *When fired:* September 7, 1938.

37. *Open to:* Teams consisting of a team captain, 5 principals, and 1 alternate from the following:

a. Service teams.

(1) Regular Army, from the several arms, 1 each.

(2) United States Navy, 1.

(3) United States Marine Corps, 1.

(4) United States Coast Guard, 1.

b. National Guard and Reserve teams.

(1) Federally recognized National Guard of the several States and Territories, including the District of Columbia, 1 each.

(2) Federally recognized Naval Militia, 1.

(3) The Naval Reserve, 1.

(4) The Marine Corps Reserve, not more than 2.

(5) Organized Reserves, 1.

c. Civilian and police teams.

(1) One civilian team from each of the several States and Territories, including the District of Columbia.

(2) Reserve Officers' Training Corps, 1 or more.

(3) Citizens' Military Training Camps, 1 or more.

(4) Any organization composed of veterans of any war or wars in which the United States has been engaged, 1 or more.

(5) Any organized police or constabulary force in the United States, 1.

38. *Eligibility requirements.*—*a.* At least 20 percent of the shooting members of each pistol team will be men who have never before fired as members of any national match pistol team.

b. No pistol team may have as a shooting member or alternate any man who has been a shooting member of any team in three of the five national pistol team matches immediately preceding. (The last five national matches were 1930, 1931, 1935, 1936, and 1937.)

c. No team will have as a team captain, or as a shooting member or alternate, anyone who was less than 16 years of age on his last birthday and who is not a male citizen of the United States.

d. For further eligibility requirements for pistol matches see paragraph 102.

39. *Course of fire.*

First stage.—Slow fire, 50 yards—Standard American 50-yard target, 2 scores (5 shots each); 1 minute per shot.

Second stage.—Timed fire, 25 yards—Standard American 50-yard target with only the 9 and 10 rings blacked, known as the "25-yard rapid-fire pistol target," 2 scores (5 shots each); 20 seconds per score.

Third stage.—Rapid fire, 25 yards—Standard American 50-yard target with only the 9 and 10 rings blacked, known as the "25-yard rapid-fire pistol target," 2 scores (5 shots each); 10 seconds per score.

40. *Positions.*—Standing without body or artificial rest; one hand only to be used.

41. *Trophies and medals.*—The Gold Cup trophy will be awarded to the winning team to be held until the next national matches. A medal will be awarded to each member of the highest one-third of the competing teams.

A miniature of the "gold cup" trophy will also be awarded to the team winning the original trophy, this miniature trophy to be the permanent property of the winning team.

42. *Allowances for members of pistol teams.*—Allowances or reimbursements for transportation and subsistence will not be paid to any member of a pistol team unless he is entitled thereto as a properly certified member of a national match rifle team. All other members of the several national match pistol teams must provide for their own expenses, except that the executive officer is authorized to furnish all such members with tentage and such other equipment as may be available. See paragraphs 6 and 7.

43. *Entries.*—Not later than 6 PM of Monday, September 5, 1938, each team captain will submit to the statistical officer at his office on blank score cards in duplicate, furnished for the purpose, a legible list of the members of his team certifying as to their eligibility, and showing the correct first name, middle initial, last name, grade, and organization of the team. (Team captain, 5 principals, and one alternate.) At the same time he will submit to the statistical officer the team eligibility list on the blank form furnished by the chief statistical officer. The alternate listed; and no other, may be substituted as a principal at any time previous to the beginning of the score of the last principal of the initial stage of the match. Thereafter, substitution may be made only on surgeon's certificate of disability approved by the executive officer. The team captain may serve as a shooting member provided he has been listed as a shooting member or alternate and is otherwise eligible.

National Rifle Team Match

44. *When fired:* Friday and Saturday, September 9 and 10, 1938.

45. *Open to:* Authorized teams listed in paragraph 4. All teams present at Federal expense are required to enter.

46. *Strength of rifle teams.*—As shown in paragraph 5.

47. *Course of fire.*

First stage.—Slow fire, 200 yards—target A. Ten shots standing. Time limit, 1 minute per shot. No sighting shots.

Second stage.—Rapid fire, 200 yards—target A. Ten shots. Kneeling or sitting, from standing. Time limit, 1 minute.

Third stage.—Rapid fire, 300 yards—target A. Ten shots. Prone from standing. Time limit, 1 minute, 10 seconds.

Fourth stage.—Slow fire, 600 yards—target B. Ten shots. Prone. No sighting shots. Time limit, 1 minute per shot.

Fifth stage.—Slow fire, 1,000 yards—target C. Twenty shots. Prone. No sighting shots. Time limit, 1½ minutes per shot.

48. *Team eligibility requirements.*—*a.* At least 50 percent of the shooting members of each team representing the several arms of the Army, Navy, Marine Corps, and Coast Guard will be men who have never before fired as members of any national match rifle team.

b. Teams other than those represent the several arms of the Army, Navy, Marine Corps, and Coast Guard will be subject to the following elimination rules:

(1) A team listed in class A after the last national matches in which such team competed will have at least 40 percent of its shooting members composed of men who have never before fired on any national match rifle team.

(2) A team listed in class B after the last national matches in which such team competed will have at least 30 percent of its shooting members composed of men who have never before fired on any national match rifle team.

(3) A team listed in class C after the last national matches in which such team competed will have at least 20 percent of its shooting members composed of men who have never before fired on any national match rifle team.

(4) A team listed as "unclassified" after the last national matches in which such team competed will have at least 10 percent of its shooting members composed of men who have never before fired on any national match rifle team.

c. Participation as a shooting member of a Reserve Officers' Training Corps or Citizens' Military Training Camps' team will not be considered as previous participation within the above eligibility requirements.

49. *Individual eligibility in national rifle team match.*—*a.* No team may have as a team captain, team coach, shooting member, or alternate, anyone who was less than 16 years of age on his last birthday, or who is not a male citizen of the United States.

b. No team may have as a shooting member or alternate any man who has been a shooting member of any team in three of the five national rifle team matches immediately preceding. (The last five national matches were 1930, 1931, 1935, 1936, and 1937.)

c. All team members in order to be eligible to shoot in the national rifle team match shall have been selected through competition before arrival at the national match camp and will be so certified to the executive officer of the national matches in proper credentials, and will attend the full course of the Small Arms Firing School unless they have received a certificate of proficiency from it or from a similar service school of the Regular Army, Navy, Marine Corps, or Coast Guard, or can furnish satisfactory evidence of completing such a course.

d. Upon arrival at Camp Perry, each team captain, exclusive of service teams, will present to the executive officer of the national matches an order in quadruplicate issued by the adjutant general of the State or other proper authority designating the team officials and other members of the team, giving their home addresses and certifying as to their eligibility under these rules and regulations. The list will contain the names of not to exceed 14 eligibles, from among whom the team, including the team captain and team coach, will be finally selected. This order will state by name the members who are graduates of the Small Arms Firing School. In the case of service teams listed under paragraph 4*a*, a list will be submitted to the executive officer by team captains not later than noon on the opening day of instruction of the Small Arms Firing School, properly certifying to the eligibility of the members of their teams.

e. Any person, regardless of his classification, is eligible to act as coach for civilian teams other than Reserve Officers' Training Corps and Citizens' Military Training Camps teams, which teams will be coached by Regular Army officers only. A civilian team reporting at the national matches without a coach may request the executive officer to assign a coach, and upon such request the executive officer will assign a coach from any officers, enlisted men, or civilians available. A coach selected after arrival at Camp Perry will not be entitled to any change in previous status as to pay and allowances from the United States, nor will he be eligible to fire as a member of any team unless he fulfills all other eligibility requirements.

f. Members of the Regular Army, Navy, Marine Corps, the National Guard and all Reserve components will shoot only as members of their respective components.

g. Former members of the Reserve Officers' Training Corps and of the Citizens' Military Training Camps who have joined any other component of the Army may compete as a member of a Reserve Officers' Training Corps team or Citizens' Military Training Camps team, provided that they were in attendance as trainees at and were selected from 1938 camps.

50. *Entries.*—Not later than 6 PM of Wednesday, September 7, 1938, each rifle team captain will submit to the statistical officer at his office, on blank score cards in duplicate, furnished for the purpose, a legible list of the members of his team, showing the correct first name, middle initial, last name, grade of members, and organization of the team. (Team captain, team coach, principals, and alternates.) Any or all of the alternates listed, and no others, may be substituted as shooting members at any time prior to the beginning of the score of the last pair of the initial stage of the match. Thereafter, substitution may be made only on surgeon's certificate of disability approved by the executive officer.

Each team captain will submit to the statistical officer with the score cards the team eligibility lists on the blank forms furnished by the chief statistical officer.

Either the team captain or the coach or both, if otherwise eligible under the rules, may serve as shooting members provided they have been listed as shooting members or alternates.

51. *Drawing targets.*—In the national rifle team match, targets will be drawn for each half day's firing, or whenever the firing has been interrupted and the pits unsealed. This drawing will take place at a point designated by the range director about one-half hour previous to the time set for firing to begin. The team captain or his authorized substitute will be present and draw for his team. A team representative will accompany each team captain to the place designated for the drawing and will report to the range director's assistant for duty in the pits. Thereafter, no person will enter the pits until firing is interrupted and the pits unsealed. Care will be taken that no information concerning the assignment of targets is conveyed by telephone or otherwise to the pits while they are scaled. The drawing of targets will not take place until all persons who are to enter the pits have passed out of sight behind the butts.

52. *Team representatives in the pits.*—In the national rifle team match, each team will furnish a team representative for duty in the pits from its team personnel or from personnel furnished by the executive officer of the matches upon request. The team representatives will assemble at the times and places ordered. They will be sent to the pits before the drawing for targets is made by team captains. (See par. 51.) They will be assigned to targets without regard to the assignments at the firing points. They will be subject to the orders of the pit officers on duty in the pits and will make with a pencil, before each shot is marked or pasted, a small circle around each shot hole. They will call any irregularity or question of doubt to the attention of a pit officer whose decision will be final.

53. *Classification.*—After the national rifle team match the teams will be classified in descending sequence as class A, class B, class C, and "unclassified." In each of the first three classes there will be listed in order of standing 10 teams exclusive of service teams. Service teams will be placed in class A, class B, class C, or "unclassified" according to their total score regardless of the number of teams then resulting in each class.

54. *Medals.*—A distinctive medal will be awarded each member of each classified team. Each team officer, principal, and alternate herein provided for will be awarded a medal. No individual will receive more than one medal by reason of having acted in a dual capacity.

55. *Award of trophies.*—One trophy will be awarded to the highest team representing the Regular services. One trophy will be awarded to the highest team from the National Guard or State troops of the several States and Territories. One trophy will be awarded to the highest team representing the Organized Reserves, the Naval Reserve, the Marine Corps Reserve, and the American Legion. One trophy will be awarded to the highest team representing the Reserve Officers' Training Corps and the Citizens' Military Training Camps. One trophy will be awarded to the highest civilian team.

Among the above-stated trophy teams, the "National Trophy" will be awarded to the highest team. The "Hilton Trophy" will be awarded to the highest team of National Guard or State troops. The "Soldier of Marathon Trophy" will be awarded to the highest civilian team, exclusive of Reserve Officers' Training Corps, Citizens' Military Training Camps, and American Legion teams. The "Minuteman Trophy" will be awarded to the highest team of the Reserve Officers' Training Corps and Citizens' Military Training Camps. The "Rattlesnake Trophy" will be awarded to the highest team from the Naval Reserve, the Marine Corps Reserve, the Organized Reserves, and the American Legion. In case a team wins two tro-

phies under the foregoing distribution, it will be entitled to the National Trophy only and the other trophy will be awarded to the highest team of the class not otherwise provided for.

To the highest individual competitor in the national rifle team match will be awarded the "Pershing Trophy," to be held until the next national match, and the Perishing Trophy gold medal, to be the permanent property of the winner.

A miniature of each of the above-named trophies will also be awarded in each case where the original trophy is awarded, such minature trophy to be the permanent property of the team or individual winning the original trophy.

SECTION VI

General Regulations Applicable to all Matches

56. *General.*—The executive officer may, in his discretion, in order to operate the range efficiently, change the order of firing the stages of any match.

57. *Firing areas.*—The firing areas on each range will be organized into a firing line, a ready line, and an assembly line.

58. *Duties of range officers.*—*a.* The chief range officer of each range will be responsible at all times to the range director for the proper equipment and operation of the range to which he is assigned.

b. All other officers assigned to duty as range officers will function directly under the chief range officer on the range to which they are assigned. As assistants on any range their duties will be—

(1) To insure that all competitors comply with range and match regulations.

(2) To supervise scoring.

(3) To verify the scores on the score card with the blackboard and to see that they agree; to verify the totals and certify their correctness.

(4) To make any necessary changes on score cards and to initial them.

(5) To require the competitor, or in case of team matches, the team captain, to sign the score card when firing is finished.

(6) To deliver the completed score cards to the chief scorer.

59. *Duties of pit officers.*—The chief pit officer on each range is an assistant to the chief range officer on that range. Other pit officers will function directly under the chief pit officer. During match firing, a pit officer will be assigned from 4 to 8 targets, and will be responsible for the proper operation and marking of all targets to which he is assigned. Only a pit officer will signal misses in slow fire.

60. *Status of competitors.*—*a. A competitor* can have but a single status, Regular service, National Guard, Reserve, police, or civilian, except as provided in paragraph 102.

b. Members of the Regular services may compete only in such status and in the arm or service to which they actually belong. Individuals of the Regular services holding Reserve appointments will be eligible to shoot in their Regular status only. Retired officers and retired enlisted men of the Regular services are classified as "service" individuals.

c. A civilian competitor is one who is without any Regular service, National Guard, or Reserve affiliation whatsoever. Members of the Reserve Officers' Training Corps and trainees of the Citizens' Military Training Camps teams are classified as civilians.

d. In pistol and revolver matches, a member of an organized constabulary or police force is not classified as a civilian.

e. Any competitor reporting or entering in any but his proper status, as provided herein, will be ineligible to compete, and a team will be disqualified in any match in which any of its members or alternates have entered in a false status.

61. *Coaching.*—Coaching will be permitted in team matches, but not in individual matches. In team matches, any member of the team (captain, coach, principal, or alternate) may function as coach. Officers or enlisted men of the Regular services may act as coaches for teams of their respective services, and for civilian, Reserve Officers' Training Corps, and Citizens' Military Training Camps teams. National Guard teams may be coached only by officers or enlisted men of the National Guard. Upon application of the team captain of a civilian team, the executive officer may assign as coach of that team any available person requested by the team captain. A coach once assigned will not be changed except for cogent reasons.

62. *Station of team captain.*—In team matches, the team captain and one assistant may be seated in front of the assembly line but not in advance of a line established three paces in rear of the line of scorers. They may not make any remark from this position loud enough to be heard at the firing point. A team captain may coach, but only if he removes his coach from the line and himself actually occupies the coaching position.

63. *Station of team coach.*—In team matches, a coach may take his place on the firing line and between the men of the pair firing. He cannot shift his position nor shift the position of the men of the pair firing for the purpose of forming a windshield for the firer. He must confine himself to the normal position of a coach and his activities to those normally expected of a coach. The coach will not assist the firer in any manner in loading his piece.

64. *Station of competitors.*—Each competitor will remain on or in rear of the assembly line in rear of the firing point until called by the range officer to take his position at the ready line or firing point.

65. *Station of noncompetitors.*—No one except the officials of the range, the competitors on the firing points, and scorers and others on duty will be permitted in front of the assembly line without special permission of the officer in charge of the range.

66. *Competitors present punctually.*—Competitors will be present at the firing points punctually at the time stated on their squadding tickets. In team matches, the first pair only need be present at the hour set for firing to begin. No application on the part of a competitor for an alteration of his squadding assignment will be entertained, except that in team matches team captains may change the sequence of firing of the members of their teams if they so desire.

67. *Mass-squadding.*—When any range is available for practice firing, competitors reporting to that range will be mass-squadded on the range by the chief range officer or an assistant.

Instructions to Competitors

68. *Competitors called in advance.*—In slow-fire stages of individual matches, the competitor next to fire may be called to the ready line when the competitor firing has five remaining shots to fire and called to the firing point when the competitor firing has completed his score. Any competitor will forfeit his right to fire if he appears at the proper target after the time shown on his score card for him to appear unless he presents satisfactory evidence that he is late through no fault of his own. If he does not appear when called, any competitor present and assigned to the target, taken in order, may be called to the firing point.

69. *Time limit.*—In individual slow fire, competitors may fire with the deliberation they deem necessary, provided the firing time at that particular range is not exceeded. Competitors will take their places promptly on the firing line. Time will begin when they are ready to fire. However, any time in excess of 3 minutes used for preparation will be deducted from firing time.

70. *Time allowance for teams.*—In team matches, a total team time is allotted for each stage. The time is determined by adding the total number of shots at each stage, multiplying by the time as indicated above, and adding three minutes for each change of relays. The time will be taken from the command to "commence firing" to the firing of the last shot required at each range; no time credit will be carried back from one range to another. When the firing of a stage is to be interrupted by an intermission, the executive officer will decide the number of pairs to fire before the intermission and assign the time proportionately.

71. *Extensions of time.*—If an accident to the target, difficulty in operating the same, or any other reason over which the competitor or team has no control causes delay, such time credit as the range officer may decide will be allowed and immediately entered on the scoreboard and score card, the effect of which will be to extend the time limit by that amount.

72. *Challenges.*—If a competitor desires to challenge his shot just fired for alleged incorrect marking, he will pay one dollar to the range officer.

a. On the rifle range the range officer will go to the telephone, call the pit officer on the target and say "Re-mark Target No. —, it is challenged." The pit officer will call the nearest available pit officer and both will carefully recheck the target and cause it to be re-marked. If the competitor's challenge is sustained and it is shown that the marking is incorrect, the money will be returned to him immediately; otherwise it is forfeited.

b. On the pistol range the target will be reexamined. If the competitor's challenge is sustained, the money will be refunded to him.

c. If for any reason the competitor's target is not re-marked when challenged, his money will be returned to him immediately, but he will not be allowed to fire over.

d. If a competitor desires to challenge the correctness of an official bulletin, he will pay one dollar to the chief statistical officer. If the challenge of the competitor is sustained and it is decided that the bulletin in question is incorrect, the money will be returned to him immediately; otherwise the money will be forfeited.

e. Repeated challenges of the same shot, target, or bulletin will not be permitted.

f. Each chief range officer will deliver the challenge money collected on his range to the range director at the end of each day's firing.

g. All challenge money of every nature will be delivered to the executive officer for use in the improvement of the recreational program of the camp.

73. *Competitors to sign score cards.*—Competitors will check and sign the score card in individual matches, and team captains will check and sign the score cards in team matches.

74. *Safety precautions.*—No arms will be loaded except at the firing point. During and after loading, the pistol will be kept at raised pistol until unloaded except when aimed at the target for firing. Pistols will have their magazines withdrawn and the slides pulled back except when the competitor is at the firing point in the act of firing or ready to fire. During and after loading, the muzzle of the rifle will be kept pointed in the direction of the target until unloaded. Rifles will be carried at all times with bolts open except when the competitor is at the firing point in the act of firing or ready to fire.

75. *Ammunition, unauthorized.*—Any competitor having any ammunition in his belt or about his person when he takes his place at the firing line, other than that authorized, will be immediately disqualified.

76. *Firing, unauthorized.*—No firing except at the targets in prescribed competition or practice will be allowed. Any violation of this rule will disqualify the offending competitor for the period of the matches.

77. *Piece, unserviceable.*—An unserviceable or disabled piece is a rifle or pistol which is pronounced by a range officer as unsuitable for match competition.

78. *Cartridge, defective.*—A defective rifle cartridge is one which bears the mark of the firing pin on the primer and which, when tried *once* under the direction of a range officer in the same rifle, still remains unfired. A defective pistol cartridge is one which clearly shows the imprint of the firing pin on the primer. No retest of a pistol cartridge will be made.

79. *Competitors may be required to score, mark targets, or act as range officers.*—Any competitor who is detailed to perform any of these duties and fails to do so in a manner satisfactory to the range director will forfeit his right to compete in that match and, in the discretion of the executive officer, may be disqualified during the remainder of the matches from further participation in any match or any practice. In team matches, teams may be required to furnish scorers for teams firing on adjacent targets. Members of a team may perform this duty in turn.

80. *Protests.*—Protests and appeals may not be submitted directly to the executive officer, but will be submitted to the range officer of the firing point concerned. In case a competitor considers the decision of the latter unwarranted by the facts presented, he may appeal orally to the range director through the chief range officer of that range and then to the executive officer in writing before 9 p. m. of the day of the occurrence. On questions of rules or conditions of National Rifle Association matches, the executive officer will accept the opinion of the executive committee of the National Rifle Association and base his decision thereon. Appeals from the decisions of the executive officer may be made in writing and forwarded through that officer to the appeals board, which will consist of those members of the National Board for the Promotion of Rifle Practice, not less than three in number, who are present at the national matches at the time of the protest. The decisions of this appeals board will be final.

81. *Penalties.*—*a.* Any person interfering with a competitor on the firing point or annoying him in any way will be warned to desist, and if he repeats the offense, he will be ordered off the range at once.

b. Any competitor—

(1) Who shall fire under a name other than that under which he entered, or who shall fire twice for the same prize, or

(2) Who shall be guilty of any conduct considered by the executive officer to be discreditabe, or

(3) Who shall be guilty of falsifying his score or being accessory thereto, or

(4) Who shall offer a bribe of any kind to any official or other person, or

(5) Who shall be detected in an evasion of the conditions prescribed for the conducting of any match, or

(6) Who shall refuse to obey any instructions of the executive officer or a range officer, or

(7) Who shall be guilty of disorderly conduct—

may, upon the offense being proved to the satisfaction of the executive officer, be disqualified from competing further in the matches and may be denied any prize won by him during the current matches. He may be barred from Camp Perry.

82. *Awards by the National Board for the Promotion of Rifle Practice.*—Distribution of medals and trophies won in the national trophy matches will be made at the office of the National Board for the Promotion of Rifle Practice at the national matches during the time such office is open at Camp Perry, Ohio, and thereafter at the office of that board in Washington, D. C. All correspondence concerning such medals and other badges will be conducted with the Washington office. Qualification insignia will be issued from the Washington office of the National Board after the close of the matches.

SECTION VIII

Rules Governing Rifle Matches

83. *Two competitors on the firing point.*—In team competitions, two competitors will occupy a firing point and fire alternately at the target, the competitor on the right firing first. A shot fired out of turn will be scored a miss. When in his opinion it is necessary, a range officer may require a left-handed firer to be on the left of a pair.

84. *Drawing targets.*—In all team matches, except the national rifle team match, targets will be assigned by lot in advance by the statistical officer. These assignments may be obtained from the statistical officer after 6 PM of the day before he match is scheduled.

85. *Changing arms.*—No two competitors will fire in the national trophy matches with the same rifle. In National Rifle Association matches in which more than one competitor is permitted to fire the same rifle, the program will definitely so state. No competitor will change his rifle during any competition unless his first piece has become unserviceable through accident. Such contingency will be verified by a range officer. Violation of this rule will be cause for disqualification.

86. *Competitors on firing point in individual competitions.*—In individual competitions, one competitor may be re-

quired to complete his score before the next competitor begins to fire, or two competitors may be required to occupy a single firing point and fire alternately, the competitor on the right firing first.

87. *Time allowance on firing point.*—In the absence of specific protest to the range officer by the competitor prior to the completion of his score, and in ample time to enable the range officer to check the time used by the competitor and by the target operator, it will be assumed that the target is being satisfactorily operated. If protest is made by the competitor, the range officer will check the time used by the competitor and by the target operator and make such adjustment as in his judgment is warranted. A competitor may appeal verbally from the decision of the range officer through the chief range officer to the range director, whose decision will be final, except on written appeal to the executive officer.

88. *Time allowance calculations.*—The time limit for slow-fire rifle competitions is one minute per shot at ranges up to and including 600 yards. At ranges over 600 yards the time limit is one and a half minutes per shot.

In rapid fire the time limit at 200 yards is one minute for ten shots, the competitor to be in a standing position when the target starts to appear.

At 300 yards the time limit is one minute ten seconds for ten shots, the competitor to be in a standing position when the target starts to appear.

89. *Shots fired after expiration of time scored misses.*—All shots fired after expiration of the time limit will be recorded as marked, but circles will be drawn around any such shots, and notation will be made on the score card of such shots as may be fired after the expiration of the time limit. Such shots will be considered as having been misses and will not be added to the score.

90. *Changing value of shot.*—The record value of any shot will not be changed after the following shot has been fired, unless some special message with reference to it is received from one of the pit officers.

91. *Competitors pay attention to score.*—Competitors will pay attention to the score as announced and recorded, so that any error may be promptly investigated.

92. *Field glasses and telescopes.*—Competitors may use field glasses or telescopes on the firing point. They may also use a watch, a micrometer, a rifle fork, small individual score book, blacking lamp, pencil, and shooting bag or box. During rapid fire stages in individual rifle matches, the use of telescopes by any individual on the ready line, on the assembly line, or in the vicinity thereof is forbidden.

93. *Wind flags.*—For purposes of instruction in practices and in the matches, two streamers will be put up over each target pit, except on range A. The executive officer of the matches is authorized to lower these flags during the Infantry match.

94. *Challenges.*—When the scoring of a shot is challenged, the range officer will receive the dollar, go to the telephone, call the pit officer on the target and say "Re-mark Target No. —, it is challenged."

The pit officer will call the nearest available pit officer and both will carefully recheck the target and cause it to be re-marked. If the competitor's challenge is sustained and it is shown that the original marking was incorrect, the money will be returned to him immediately; otherwise it is forfeited. Repeated challenges of the same shot are not permitted.

95. *Gun sling, pads, and gloves.*—*a.* The *gun sling* may be used at all ranges, except 200 yards standing, as an auxiliary to steady the piece in connection with one arm only. No knot will be tied in the sling and the sling itself will not be added to or modified except that an empty cartridge case or small article that does not mutilate the sling in any way may be used between the keepers for the purpose of adjustment. The use of a hook or roll on the sleeve of a shooting coat or shirt to keep the sling in place on the arm is prohibited.

b. Pads of moderate size and thickness may be worn on both elbows, on the right or left shoulder, and upper arm. Shoulder pads so designed as to aid materially in retaining the rifle butt in the firing position against the shoulder are prohibited. Pads of such size or thickness as to form artificial support are prohibited.

c. No gloves may be worn which in any way form an artificial support.

d. The *making or use of holes* on the firing points is prohibited.

96. *Authorized positions.*—The authorized positions are standing, kneeling, sitting, and prone, and are defined as follows:

a. Standing.—Erect on both feet. No other portion of the body receiving artificial support. The rifle will be supported by both hands and one shoulder only. The forward hand will be extended, so that the arm will be entirely free from touching or resting against the body. The gun sling may not be used and will be adjusted to what is known as the "parade" position. Including the sling within the grasp of the hand will be optional.

b. Kneeling.—Weight of the body supported on right knee and foot and left foot, or left knee and foot and right foot; no other part of the body to touch the ground. Sitting on the side of the foot instead of the heel will be permitted. The rifle will be supported by both hands and one shoulder only. The elbow supporting the piece will be approximately on or just inside the knee. The elbow of the trigger arm will be free from all support.

c. Sitting.—Weight of the body supported on buttocks and feet. No other portion of the body to touch the ground. Rifle to be supported by both hands and one shoulder only. The left hand (or in the case of a left-handed shooter, the right hand) must not rest on leg or knee. Elbows resting approximately on or just inside the knee. Legs to be apart or crossed at the option of the firer.

d. Prone.—Body extended on the ground, head toward the target, rifle supported by both hands and one shoulder only, both elbows on the ground. No portion of the arms below the elbow will rest on the ground or any artificial support. No part of the rifle will touch the ground.

e. The *method of assuming any position* will be optional with the firer.

97. *Ties in the National Individual Rifle Match.*—*a.* Ties will be decided—

(1) By the highest numerical score at 1,000 yards.

(2) By the highest numerical score at 600 yards.

(3) By the highest numerical score at 300 yards rapid fire.

(4) By the highest numerical score at 200 yards rapid fire.

(5) By the highest numerical score at 200 yards slow fire.

b. In the event the tie is not broken, the scores at each range in the above order will be ranked by—

(1) The fewest misses.

(2) The fewest hits of the lowest value.

(3) The fewest hits of the next lowest value, etc.

(4) In slow fire, by the inverse order of the hits, counted singly from the last to the first.

c. If still a tie the competitors concerned will fire single shots at the longest range until the tie is broken.

98. *Ties in the National Rifle Team Match.*—*a. Ties will be decided—*

(1) By the highest total numerical team score at 1,000 yards.

(2) By the highest total numerical team score at 600 yards.

(3) By the highest total numerical team score at 300 yards rapid fire.

(4) By the highest total numerical team score at 200 yards rapid fire.

(5) By the highest total numerical team score at 200 yards slow fire.

b. In the event the tie is not broken the score at each range in the above order will be ranked by—

(1) The fewest misses.

(2) The fewest hits of lowest value.

(3) The fewest hits of the next lowest value, etc.

99. *Ties in the Infantry Match* will be decided—

a. By the highest total numerical team score at the longest range.

b. By the highest total numerical team score at the next longest range, etc.

c. Thereafter, by the fewest hits of lowest value.

100. *Ties in National Rifle Association matches.*—Ties in all other rifle matches will be decided as provided for in Official Rules for Rifle and Pistol Shooting, National Rifle Association, latest revision.

101. *In small bore rifle matches,* the rules of the National Rifle Association will govern.

SECTION IX

Rules Governing Pistol Matches

102. *a. Members of the National Guard and Reserve* components attending the matches at other than Federal expense may fire as policemen in pistol matches either as individuals or as team members, provided they are bona fide members of organized police or constabulary forces or other law enforcing agencies and maintain but a single status throughout the pistol matches.

b. Except as provided in a above, members of organized police and constabulary forces may not fire in any other status, either in individual or team matches. A team composed both of civilians and policemen will not be permitted.

103. *Two or more competitors may use* the same pistol in any competition. However, the application of this rule will not be permitted to interfere with the routine squadding of pistol matches; and no squadding changes will be made to adjust conflicts caused by this practice.

104. *Pistol range procedure.*—The procedure for pistol and revolver firing will follow generally that laid down in Rules for Pistol and Revolver Matches published by the National Rifle Association, latest revision, and chapter 3, Part One, B. F. M., volume III. Such modification of these rules as may be necessary to provide for the special conditions existing at Camp Perry may be authorized by the executive officer.

105. *Too many hits on a target.*—If more than the required number of hits appears on the target, any shots which can be identified as having been fired by some competitor other than the competitor assigned to that target will be disregarded. If more than the required number of hits then remains on the target a complete new score will be fired and the original score will be disregarded, except that if all such hits are of equal value the score will be recorded as the required number of hits of that value.

106. *If a competitor fires less* than the prescribed number of shots through his own fault, and there should be more hits on the target than he fired shots, he will be scored the number of shots of highest value equal to the number he fired and given a miss for each unfired cartridge.

107. *Malfunction.*—If a competitor fails to complete his score due to a defective cartridge, or due to failure of his pistol to function properly, he will immediately assume and hold the position of "raise pistol" and call a range officer, whose duty it will be to draw back the slide and investigate the malfunction. The competitor will not clear the malfunction nor draw the slide to the rear.

108. *Misfires.*—The imprint of the firing pin on the primer of a pistol cartridge will clearly constitute a misfire without any further test.

109. *Ties in National Individual Pistol Match.*—*a.* Ties will be decided—

(1) By the highest numerical score at rapid fire.

(2) By the highest numerical score at timed fire.

(3) By the highest numerical score at slow fire.

b. In the event the tie is still unbroken, the scores at each stage in the above order will be ranked by—

(1) The fewest misses.

(2) The fewest hits of lowest value.

(3) The fewest hits of next lowest value, etc.

110. *Ties in the National Pistol Team Match.*—*a. Ties will be decided—*

(1) By the highest total numerical team score at rapid fire.

(2) By the highest total numerical team score at timed fire.

(3) By the highest total numerical team score at slow fire.

b. In the event the tie is still unbroken, the scores at each stage in the above order will be ranked by—

(1) The fewest misses.

(2) The fewest hits of lowest value.

(3) The fewest hits of next lowest value, etc.

111. *Ties in National Rifle Association matches.*—Ties in all other pistol matches will be decided as provided for in Official Rules for Rifle and Pistol Shooting, National Rifle Association, latest revision.

SECTION X

Description of Arms and Ammunition

112. *Rifle.*—*a. National Trophy matches.*—Rifle, United States, caliber .30, M1903, having not less than 3-pound trigger pull, equipped with either the old service model stock or the pistol grip, type C, modified stock, with the knurled head cocking piece with either regular or reversed safety lock. Modification of the rifle to permit the use of the telescopic sight or receiver sight is permitted.

b. National Rifle Association matches as prescribed in the conditions of the match.

c. The *headless cocking piece* will be permitted on service rifles only when used with telescopic sights. It will be permitted in rifles of a commercial manufacture when these rifles are designed for a headless cocking piece.

113. *Rifles available.*—National match type rifles, current model, furnished by the Ordnance Department, will be made available upon arrival of teams and individuals participating in the matches, under rules and regulations announced by the executive officer thereof. Such necessary orders and instructions regarding the issue of arms and equipment to, and return thereof by, all teams and individuals attending the national matches as are necessary to provide adequate protection to the United States will be published by the executive officer of the national matches.

114. *Rifle ammunition.*—Rifle ammunition furnished at the national matches will be issued by the range personnel to the competitors at the firing points for practice and for match firing. No rifle ammunition other than that issued will be used in the national trophy matches. In those rifle matches of the National Rifle Association in which any ammunition may be used, the program will definitely so state.

115. *Pistols and revolvers.*—*a. National Trophy matches.*—Pistol, United States, caliber .45, M1911 or M1911A1, having not less than 4-pound trigger pull, issued by the ordnance officer, national matches, or the same type and caliber of pistol as manufactured by Colt Patent Fire Arms Co., privately owned, which may be equipped with front and rear sights similar in design to the issue sights, though different in dimensions. The notch of the rear sight may be rectangular.

b. National Rifle Association matches.—As prescribed in the conditions of each match.

116. *Pistol ammunition.*—Pistol ammunition furnished at the national matches will be issued by the range personnel to competitors at the firing points for practice and for match firing. No pistol ammunition other than that issued will be used in the national trophy matches. In those revolver or pistol matches of the National Rifle Association in which any ammunition may be used, the program will definitely so state.

117. *Changing arms.*—No competitor will change his pistol during any competition unless his first piece has become unserviceable through accident. Such contingency will be verified by a range officer. Violation of this rule will be cause for disqualification.

118. *Marking of equipment.*—Marking of any equipment in a manner that will deface it is forbidden.

SECTION XI

Scorers and Their Duties

119. *Field glasses.*—Scorers at ranges greater than 200 yards will be supplied with field glasses.

120. *Scorers will confine their language strictly to their duties.*—They will not enter into disputes with competitors or others. If any question should arise, the scorer will promptly call: "Range officer, number —," stating the number of his target.

121. *In individual matches,* as soon as he receives the score cards, the scorer will enter on the scoreboard the names of all competitors in the order of the relays, placing the number of the relay before each name and leaving blank spaces on the scoreboard when there are vacancies in the relays.

122. *In team matches*, the scorer will enter on the scoreboard the names of the members of the team in the order in which the team captain desires that the competitors fire.

123. *If a competitor is not present* when it is his turn to fire, or when his name is called, or in case competitors arrive after their relays are due and have been called, the scorer will report the fact to the range officer.

124. *When a competitor is going to or leaving the firing point*, with the chamber of his rifle closed, the scorer will require him to open the bolt.

125. *If a scorer or a competitor desires a target disked, semaphored, redisked, or re-marked*, the scorer will call the range officer.

126. *When spotters are used without disking*, the scorer may tell a competitor the value and location of the shot if competitor is not equipped with a telescope or field glass.

127. *A scorer will not be permitted* to make any erasures, corrections, or changes on the score card. If a correction is necessary, it will be made and initialed by the range officer.

128. *Scores on the blackboard will not be erased* without orders from a range officer.

129. *When a target is marked, the scorer will announce the score* in a tone sufficiently loud to be heard by the firer. No alteration will be made in the recorded score after a succeeding shot has been fired except by the range officer on notification from the pit.

130. The *scorer will write upon the scoreboard* the value of each hit as soon as he shall have announced it, and then, unless the shot is challenged, he will enter it upon the score card.

131. *Care will be taken to enter the slow-fire scores* in exactly the order in which the shots are fired.

132. *In slow fire, if more than one hit is found* on a target after a competitor has just fired from the firing point of that target, that competitor will receive the highest value, and no record will be made of the other hits.

133. *In slow fire the score is announced thus:* "(Title, name); first (second, etc.) shot, a 5."

134. *In rapid fire the score will be announced*, for example, thus: "Target number—(title, name) 1 five, 2 fives, 3 fives, 4 fives, 5 fives; 1 four, 2 fours, 1 three, 1 two, 1 miss." The score will be recorded on the blackboard in the same manner as in slow fire.

135. *When the target is improperly operated*, or in case of a misfire, disabled piece, or any other unusual occurrence, the scorer will promptly report the facts to the range officer.

136. *All shots fired count.*—All shots fired by a competitor after he has taken his place at the firing point will be considered in his score, even if his piece is not directed toward the target or is accidentally discharged. Exceptions to this rule will not be made for any reason except as provided in paragraph 137. In team firing a shot fired out of turn will be scored a miss. A shot fired by a competitor after taking his place at the firing point and before the order "commence firing" will be scored a miss.

137. *Target withdrawn while firing.*—In slow fire, if the target is withdrawn from the firing position just as the shot is fired, the scorer at that firing point will at once report the fact to the range officer, who, if satisfied upon investigation that the case is as represented, will direct that the shot fired be not considered, that the competitor fire another shot, and that credit be given for time lost.

138. *Hits on the wrong target* will be scored as misses.

139. *In rapid fire, any unfired cartridges will count as misses*, except that in case of a defective cartridge or a disabled piece the hits will not be recorded and another score may be fired.

140. *In rapid fire, if a competitor should fire less than the prescribed number* of shots through his own fault, and there should be more hits marked on his target than the number of shots he fired, he will be scored the number of shots of highest value equal to the number he fired and a miss for each unfired cartridge.

141. *In rapid fire, if there are more than ten hits* on a target, the target will not be marked, the hits will not be recorded, and another score will be fired, except that if all the hits are of equal value the competitor assigned to that target will be scored with 10 hits.

142. *In an individual slow-fire match, when a competitor has made a possible score* at all stages, he will continue to fire at the longest range until he has made a hit of less than the highest value. Each extra shot will be scored on the board and on the face of the score card, beginning under the first shot at that range.

143. *Use of the telephone.—a. Messages on the telephone* will be brief and clear.

b. "Mark" a target will mean that the competitor at the firing point has fired and the target has not been pulled.

c. "Disk," "semaphore," or "redisk" a target will mean that the target must be disked, semaphored, or redisked without being pulled. It will not be necessary to call the pit officer of the target.

d. The use of the telephone will be confined strictly to necessary business. No other conversation or information of any kind whatsoever will be permitted.

144. *When a competitor has fired and the target has not been pulled*, the scorer will call to the telephone, "Mark number—", but must call the range officer when a message to disk, semaphore, redisk, re-mark, or any other message is to be telephoned.

145. *During matches, no communication will be transmitted to the pit* from anyone except range officers or other officers of the match, except that scorers may send messages to mark a target, but not to disk or redisk.

146. *Scorers will direct their attention to the competitor* on their target while he is aiming and firing and will be prepared to state at any time whether competitor has fired, and in rapid fire, how many shots he has fired. They will report all irregularities observed to the range officer.

147. *When a competitor has finished his string*, the scorer will place the total on the scoreboard and announce thus: "(Title, name); total score 92." He will then enter the total on the score card, sign it, and exhibit it to the competitor or team captain who will check and sign the card in the space provided.

148. *Upon the completion of the scores at any range*, score cards will be verified, signed, and collected by the range officers, and by them delivered to the chief scorer at the earliest practicable moment.

SECTION XII

Pit Personnel and Their Duties

149. *A shot hole, the leaded edge of which comes in contact* with the outside of bull's-eye or figure or the rings or lines of a target, will receive the higher value as if it had struck inside the line.

150. *Ricochets.*—A hole made by a ricochet bullet will be marked and scored as a miss. A bullet that "keyholes" is not necessarily a ricochet. If there is doubt as to whether a hole is caused by a ricochet bullet, the pit officer will be called to make a decision.

151. *A target is at "half-mast"* when the center of the bull's-eye or figure is opposite the top of the parapet. When targets are at half-mast the marker will remain at his station ready to serve the target immediately. The targets will be placed at half-mast until all firing at that range is completed.

152. *"Secure" a target* means that the target is no longer needed for service. It should be pulled down, the spotters removed, and all shot holes pasted.

153. *Use of spotters.*—The use of spotters in marking slow fire will be *mandatory*. In marking targets only 3-inch or 5-inch spotters will be used. Competitors may request that a larger or a smaller spotter (within the above limits) be substituted when the target is down for marking, but the target will not be pulled for the sole purpose of changing a spotter except that a spotter will be removed upon request of a competitor made before firing his first shot.

154. *Marker must watch the target attentively.*—In slow fire when the target is hit, the marker will pull it down and remove the spotter from the old shot hole and place one in the new shot hole. If the hit is a V–5 or three, a black and white cross spotter will be used. If the hit is in the bull's-eye outside of the V–5 circle, the white side of the spotter will be shown. If the hit is in the four or two space the black side of the spotter will be shown. The hole from which the spotter has been removed will be pasted and the target raised and disked by placing the center of the disk over the shot hole. In lieu of disks, semaphores may be used for marking.

155. *Disking may be dispensed with.*—The use of disks and semaphores in marking may be dispensed with in slow fire when, in the opinion of the executive officer, the use of spotters makes disking unnecessary.

156. *In slow fire, if more than one hit is found on a target*, spotters will be placed in each hole. The hit of the highest value will be signaled and the pit officer called. He will cause a report to be telephoned to the firing line.

157. *Before a miss is signaled*, the edge of the bull's eye, the rings, the outer boundary lines, and the numbers will be carefully examined by moving the fingers over them. If no hit is found, a pit officer will be called to inspect the target. He will repeat this operation. In slow fire, red flags for signaling misses will not be furnished to markers but to pit officers only, who will personally signal all misses.

158. *Misses in rapid fire* will be signaled by the marker as directed by the pit officer.

159. *No attempt will be made in marking misses* to indicate on which side of the target the miss was made, or whether the shot was high or low. To mark a miss the red flag will be moved once only across the center of the target from right to left and then withdrawn into the pit.

160. *Special instructions in rapid fire procedure.—a. For rapid fire*, all targets on a particular range (or subdivision) will be operated as a unit under control of the chief pit officer.

b. The chief pit officer will take his post at the center of his group near a telephone and the control key of the bell system.

c. On receiving a message from the firing line, "Ready on the firing line," the chief pit officer will signal "stand by" on the bell system. All target operators will stand by with their hands on their targets. The red flag in front of the center of the pit will be waved three times and then withdrawn.

d. Five seconds after the flag has disappeared below the parapet, the chief pit officer will signal "up" on the bell system. All targets will be run up together and will be fully exposed above the parapet for the prescribed time.

e. To expedite the location of all shot holes after the targets shall have been withdrawn, target operators will watch their respective targets during the firing and count the hits as they come on the target.

f. After the lapse of the specified time, the chief pit officer will signal "down" on the bell system. All targets will be pulled down together.

g. When exactly ten hits are found on the target, it will be run up promptly and the score disked. Five's will be marked first, then four's, then three's then two's. Misses will be signaled last. In disking rapid fire scores, the center of the disk will be placed over the shot holes. The scores will be disked slowly. When disking rapid fire scores, the disk will be brought on the target from the right to mark five's and four's and from the left to mark three's and two's. The disk will be withdrawn toward the bottom of the target and after marking the last shot of a group of a certain value. A brief time interval will be allowed between marking hits of different value. The red flag will be moved slowly from right to left once across the face of the target for each miss.

h. If more than ten hits are found on a target, the pit officer assigned to that target will be called to examine the target while it is still down. The pit officer will call the range officer on the firing line by telephone and inform him that there are more than ten hits on the target. The target will be marked only if all hits are of equal value.

i. If less than ten hits are found on a target, the pit officer will verify the misses before they are signaled.

j. Spotters will not be used in rapid fire.

k. After the targets are marked, they will remain up until the command "paste all targets" is received from the firing line and the signal to paste has been given by the chief pit officer. A target that has been challenged will not be pasted or run up except on message from the firing line. In pasting, a check will be made to insure that all shot holes are pasted, counting the five's, four's, three's, and two's as when disking.

l. Discovery of errors in the pit.—A target operator who discovers that he has made an error in marking will immediately call it to the attention of a pit officer. A pit officer who shall learn that an error has been made in marking will immediately call by telephone the range officer on the firing point in charge of the target and explain the error.

BY ORDER OF THE SECRETARY OF WAR:

[SEAL] MALIN CRAIG,
Chief of Staff.

[F. R. Doc. 38–2020; Filed, July 14, 1938; 10:14 a. m.]

TITLE 41—PUBLIC CONTRACTS

DIVISION OF PUBLIC CONTRACTS

IN THE MATTER OF DETERMINING THE PREVAILING MINIMUM WAGES IN THE LUGGAGE AND SADDLERY INDUSTRIES

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on April 13, 1938, in the above entitled matter.

Notice of this hearing was sent to all known members of the luggage and saddlery industries and to all known trade associations, trade publications and trade unions in the field. Invitation to attend the hearing was also extended through the national press to all other interested parties.

Testimony was given at the hearing by representatives of the National Luggage and Leather Goods Manufacturing Association of America, the Chicago Luggage and Leather Goods Manufacturers' Association, the International Ladies' Handbag, Pocket-Book and Novelty Workers Union, and by individual members of the industry. Letters received from 6 members of the saddlery industry and from 7 members of the luggage industry, containing information as to wages in the industry, were made a part of the record.

The Luggage Industry, for the purpose of this decision, is defined as that industry which is engaged primarily in the manufacture of trunks, suitcases, bags, brief cases, hat boxes and related products, regardless of the material from which they are made.

The evidence as presented at the hearing before the Board indicates that there are about 6,650 productive employees in the luggage industry. About 1,100 are employed in and around New York City; 800 in Newark; 750 in Philadelphia; 1,000 in Petersburg, Virginia and 2,000 in Chicago. Approximately 5,650, or roughly 83 per cent, of the productive employees in the industry are concentrated in the localities mentioned. The remaining employees are to be found at points of lesser but definite concentration.

The industry is highly unionized. In New York City and in Newark the industry has been organized for about 25 years. In these cities the organization is about 95 per cent complete; in Philadelphia about 90 per cent complete. At other points unionization is recent but at least 75 to 80 per cent of the employers in the industry as a whole have signed wage agreements.

The union scale for New York incorporated in wage agreements with 93 manufacturers employing 1100 workers provides for a minimum of 40 cents per hour. This minimum is limited to unskilled workers during the first three months of their employment. Identical wage scales are provided for in union agreements with manufacturers in Newark. The Philadelphia minimum union rate is 40 cents an hour for unskilled workers without any limitation as to time of employment. Evidence of record

shows a significant concentration of minimum wage employees in Petersburg, Virginia, in the interval between 30 and 35 cents. The minimum wages paid to employees on government work are substantially higher.

The union minimum wage for Chicago, where the employees are 100 per cent organized, or nearly so, is 37.5 cents. The minimum wage at two Wisconsin points within a relatively short distance of Chicago is 50 cents for men and 40 cents for women. The higher minimum in these plants is accounted for by the fact that they produce only the highest type goods. They do not produce in large quantities and are not potential bidders on government contracts. The St. Louis minimum wage is comparable with the Chicago minimum.

The West Coast is partially organized and the minimum wage is not less than the New York minimum.

The Board advises me that the evidence introduced at the hearing was totally inadequate to present a picture of the wage structure in the saddlery industry. The union representatives were not in a position to give wage data and excepting the letters referred to above the evidence was limited to the wage structure existing in a single plant. This plant is engaged extensively in the manufacture of mail satchels and has specialized in their manufacture for some years, and the minimum wage prevailing in the manufacture of these satchels is not less than 37.5 cents an hour. Because of the fact that leather mail pouches are similar in kind to suitcases and other leather bags, and because of the further fact that the minimum wage being paid in the production of these mail satchels is in excess of the minimum paid in the luggage industry, the purposes of the Act can best be furthered by the inclusion, for the purposes of this decision, of mail satchels in the products that are manufactured by the luggage industry.

In a report dated May 6, 1938, the Board made the recommendation that the minimum wage for the luggage industry be found to be 40 cents an hour in the Northeast and far West and 37.5 cents an hour in the Midwest and South. The Board recommends that the Northeast and far West sections of the country be held to be composed of the following States, and that the Midwest and South be comprised of the remaining States in the United States:

Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Delaware, Washington, Oregon, California, Idaho, Nevada, Arizona, Montana, Wyoming, Utah, Colorado and New Mexico.

Recommendations were served on all who attended the public hearing and on all who were originally given notice that a hearing was to be held in this matter. Fourteen days were allowed to all parties to file with the Administrator of Public Contracts such criticisms as they might have of the Board's recommendations. One letter was received in reply from a union official who made suggestions as to a higher wage in the Midwest area but who did not fortify his position with any evidence in addition to that recited above.

I have examined the findings and recommendations of the Board, and the record of the hearing, and I am of the opinion that such findings and recommendations, with such modifications as have been indicated above, are proper and I adopt them as my own.

Therefore, I hereby determine:

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036; U. S. C Sup. III 35) for the manufacture or supply of luggage, including mail satchels or pounches, shall be 40 cents an hour, or $16.00 per week of forty hours, arrived at either upon a time or piece work basis, for the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Delaware, Washington, Oregon, California, Idaho, Nevada, Arizona, Montana, Wyoming, Utah, Colorado, New Mexico; and 37.5 cents an hour, or $15.00 per week of forty hours, arrived at either upon a time or piece work basis, for the other 26 States and the District of Columbia.

This determination shall be effective and the minimum wage hereby established shall apply to all such contracts bids for which are solicited on or after July 27, 1938.

[SEAL] C. V. McLAUGHLIN,
Acting Secretary.

Dated: July 12, 1938.

[F. R. Doc. 38-2021; Filed, July 14, 1938; 11:40 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Form U-6B-2, Certificate of Notification, adopted June 29, 1938, effective July 1, 1938, pursuant to the provisions of the Public Utility Holding Company Act of 1935, was filed with the Division of the Federal Register, The National Archives, on July 13, 1938, at 12:44 p. m. (F. R. Doc. 38-2017). Requests for copies should be addressed to the Securities and Exchange Commission.

TITLE 47—TELECOMMUNICATIONS

FEDERAL COMMUNICATIONS COMMISSION

CHAP. X. RULES GOVERNING EMERGENCY RADIO SERVICES

TABLE OF CONTENTS

Part
110. Definitions
111. General Rules
112. Municipal Police Stations
113. State Police Stations
114. Interzone Police Stations
115. Zone Police Stations
116. Marine Fire Stations
117. Special Emergency Stations
118. Forestry Stations

PART 110. DEFINITIONS

Sec.
110.01 Emergency service
110.02 Municipal police station
110.03 State police station
110.04 Interzone police station
110.05 Zone police station
110.06 Marine fire station
110.07 Special emergency station
110.08 Forestry station

SEC. 110.01 *Emergency service.* The term "emergency service" means a radiocommunication service carried on for emergency purposes.[1]

SEC. 110.02 *Municipal police station.* The term "municipal police station" means a station used by a municipal or county police department for emergency radiotelephone service with mobile police units.

SEC. 110.03 *State police station.* The term "state police station" means a station used by a state police department for emergency radiotelephone service with mobile police units.

SEC. 110.04 *Interzone police station.* The term "interzone police station" means a station used by a police department for radiotelegraph communication (a) with similarly licensed stations in adjacent zones or with the nearest interzone police station, in case there is no similarly licensed station in the adjacent zone, (b) with stations within the zone, and (c) with mobile police units equipped for radiotelegraph reception.

SEC. 110.05 *Zone police station.* The term "zone police station" means a station used by police departments for radiotelegraph communications (a) with stations within the zone, (b) with mobile police units equipped for radiotelegraph reception, and (c) with stations in adjacent zones, provided, in each case, express permission of the interzone stations in control of communications is obtained in accordance with the operating procedure prescribed by the Commission.

[1] Sections 110.01 to 118.02, inclusive, issued under the authority contained in Sec. 4 (f) 48 Stat. 1066; 47 U. S. C. 154 (f).

Sections 110.01 to 118.02, inclusive, were adopted by the Federal Communications Commission on June 22, 1938, effective Oct. 13, 1938, provided, however, that applications may be granted in accordance with the terms of such rules beginning July 1, 1938.

SEC. 110.06 *Marine fire station.* The term "marine fire station" means a land station or a ship station used for intercommunication between municipal fire departments and fire boats.

SEC. 110.07 *Special emergency station.* The term "special emergency station" means a station used for communications in emergencies in lieu of normal means of communication.

SEC. 110.08 *Forestry station.* The term "forestry station" means a station used for communications necessary for the prevention and suppression of forest fires.

PART 111. GENERAL RULES

Eligibility for License

Sec.
111.01 Police stations
111.02 Marine fire stations
111.03 Special emergency stations
111.04 Forestry stations

APPLICATIONS

111.10 Individual and blanket applications

FREQUENCIES

111.20 State and municipal police stations
111.21 State and municipal additional; unlimited power
111.22 State additional; limited use
111.23 Zone and interzone
111.24 Marine fire stations
111.25 Special emergency stations
111.26 Forestry stations
111.27 Assigned frequencies non-exclusive

FREQUENCY TOLERANCE

111.30 Per cent of tolerance

FREQUENCY MEASUREMENT

111.31 Measurement procedure

TESTS

111.40 Equipment and service tests
111.41 Routine tests

LICENSES

111.50 Period
111.51 Posting fixed station licenses
111.52 Posting mobile or portable station licenses
111.53 Operator license

LOGS

111.60 Contents

INSPECTIONS

111.70 Inspection by Commission's representative

SEC. 111.01 *Police stations.* Authorizations for the various classes of police stations will be issued only to instrumentalities of government.

SEC. 111.02 *Marine fire stations.* Authorizations for marine fire stations will be issued only to municipalities.

SEC. 111.03 *Special emergency stations.* Authorizations for special emergency stations will be issued only to (a) organizations established for relief purposes in emergencies and which have a disaster communication plan; (b) to persons having establishments in remote locations which cannot be reached by other means of communication; (c) to public utilities.

SEC. 111.04 *Forestry stations.* Authorizations for forestry stations will be issued to municipal, state, or private organizations which are legally responsible for the protection of forest areas.

Applications

SEC. 111.10. *Individual and blanket applications.* Individual applications for instruments of authorization shall be submitted for each station in the emergency service to be located at a fixed location. Blanket applications for authorizations for identical portable mobile radio stations submitted by a single applicant to cover equipment to be used in a single coordinated communication system will be accepted.

Frequencies

SEC. 111.20 *State and municipal police stations.* The following frequencies are allocated for use by state and municipal police stations:

[1] 1610	1658	[1] 1706	[1] 2342	[1] 2390	2450
[1] 1626	1666	1712	[1] 2350	2406	2458
[1] 1634	1674	[1] 2310	[1] 2358	2414	2466
[1] 1642	1682	[1] 2318	[1] 2366	2422	2474
	[1] 1690	[1] 2326	[1] 2374	2430	2482
	[1] 1698	[1] 2334	2382	2442	2490

SEC. 111.21 *State and municipal additional; unlimited power.* (a) The following additional frequencies are allocated for use by fixed municipal and state police stations without limitations as to power:

GROUP A

30700 kc	31900 kc	33940 kc	37500 kc	38900 kc
31100 kc	33100 kc	35500 kc	39100 kc	

(b) The following additional frequencies are allocated for use by fixed municipal and state police stations operating with power not in excess of 250 watts.

GROUP B

31500 kc	33500 kc	35900 kc	37100 kc	39500 kc
			37900 kc	

(c) Notwithstanding the provisions of (a) and (b) of this Section, municipalities and states may be authorized to operate mobile and portable-mobile stations on the frequency, or frequencies, assigned to their fixed station(s).

(d) Municipalities and states desiring more than one fixed frequency shall, upon making application, show a proper technical need therefor.

(e) The number of frequencies which may be assigned to any one municipality or state for either fixed, portable, or mobile stations will be governed pursuant to announced policies of the Commission.

(f) Municipalities desiring different frequencies for use by portable-mobile or mobile stations from those which may be allocated under Section 111.21 (a) and (b) may be authorized to use the following frequencies:

GROUP C

30580 kc	31780 kc	33780 kc	35220 kc	37780 kc
30980 kc	33220 kc	35100 kc	37220 kc	39380 kc

[1] Available on condition that no interference is caused to Canadian stations.

(g) States desiring different frequencies for use by portable-mobile or mobile stations from those which may be allocated under Section 111.21 (a) and (b) may be authorized to use the following frequencies. These frequencies are also available to states for low power portable stations:

GROUP D

35780 kc	37380 kc	39180 kc	39780 kc	

SEC. 111.22 *State additional; limited use.* The frequency 190 kilocycles is allocated for use by state police stations for radio-telegraph communication for emergency use in the event of failure of police wire communication systems.

SEC. 111.23 *Zone and interzone.* The following frequencies are allocated for zone and interzone police stations: (a) for interzone communication (available to interzone stations and zone police stations designated as alternate interzone stations):

2808 working [2]	5135 day only working
2812 working	5140 day only [2] working
2804 calling [2]	5195 day only [2] calling

(b) For zone communication (available to interzone and zone police stations):

2040 working [2]	2044 working [2] calling [2]	2036

Calling frequencies herein allocated may be used for the transmission of operating signals and a single short radiotelegram provided no interference is caused to call signals.

SEC. 111.24 *Marine fire stations.* The following frequencies are allocated for use by marine fire stations:

1630 kc	35580 kc	37740 kc

SEC. 111.25 *Special emergency stations.* The following frequencies are allocated to special emergency stations:

(a) For portable-mobile stations:

31740 kc	33060 kc	33820 kc	35140 kc
37180 kc	37820 kc	39340 kc	

(b) For fixed and land stations without limitation as to power:

31420 kc	39660 kc	39860 kc

(c) For fixed and land stations with a maximum power of 1000 watts:

2726 kc (A-3 emission)	3190 kc (A-1 emission)

Notwithstanding the provisions of (b) and (c) of this Section, authorizations

[2] These frequencies are available on a secondary basis for zone communication (a) during periods when the frequencies regularly assigned for zone communication are unavailable due to the operation of experimental visual broadcast stations and (b) by zone stations separated from other zone stations by a distance greater than the communication range of the frequencies regularly assigned for zone communication. The term "day" as used herein means that period of time between two hours after local sunrise and two hours before local sunset.

[2] May be used subject to the condition that no interference is caused to the service of experimental visual broadcast stations.

may be issued covering the operation of mobile and portable-mobile stations on the frequency, or frequencies, assigned to licensees of fixed or land stations.

SEC. 111.26 *Forestry stations.* The following frequencies are allocated to forestry stations:

30940 kc	31340 kc	31590 kc	31940 kc
35740 kc	35940 kc	37460 kc	39420 kc
39740 kc	39940 kc		

SEC. 111.27 *Assigned frequencies non-exclusive.* No frequency available to a station in the emergency service will be assigned exclusively to any applicant. All stations in this service are required to coordinate operation so as to avoid interference and make the most effective use of the frequencies assigned.

Frequency Tolerance

SEC. 111.30 *Per cent of tolerance.* The frequency tolerance of stations in the emergency service shall be as follows:

	Equipment installed before 10/1/38	Equipment installed after 10/1/38
	Percent	*Percent*
Fixed stations on frequencies below 6,000 kc	0.03	0.01
Land stations on frequencies below 6,000 kc	.04	.02
Mobile stations on frequencies below 6,000 kc	.04	.02
Fixed and land stations on frequencies above 30,000 kc	.05	.02
Portable and mobile stations on frequencies above 30,000 kc	.05	.03
Portable and mobile stations of less than 1 watt power on frequencies above 30,000 kc	.1	.1

Frequency Measurement

SEC. 111.31 *Measurement procedure.* The licensee of each station shall provide for measurement of the station frequency and establish procedure for checking it regularly. These measurements of station frequency shall be made by means independent of the frequency control of the transmitter and shall be of such an accuracy that the limit of error is within the frequency tolerance allowed the station.

Tests

SEC. 111.40 *Equipment and service tests.* Equipment and service tests as authorized in Rules 217 and 218 (C. F. R. Sections 22.03 and 22.04) may be conducted provided that the necessary precautions are taken to avoid interference. The equipment tests authorized by Rule 217 (Section 22.03) may be conducted only during daylight hours on frequencies below 6000 kcs.

SEC. 111.41 *Routine tests.* The licensees of all classes of stations in the emergency service are authorized to make such routine tests as may be required for the proper maintenance of the station provided that precautions are taken to avoid interference with any station in the particular service involved.

Licenses

SEC. 111.50 *Period.* The license period for all stations in the emergency service shall be for one year unless otherwise stated in the instrument of authorization. The date of expiration of license for all classes of stations operating in the emergency service, unless otherwise specified, shall be the first day of May of each year.

SEC. 111.51 *Posting fixed station licenses.* The station licenses of stations in this service, operated at fixed locations, shall be conspicuously posted at the place where the control operator is located.

SEC. 111.52 *Posting mobile or portable station licenses.* The licenses of portable and portable-mobile stations, if separately issued, shall be readily available for inspection by authorized Government representatives. Either the original authorization or a photocopy of that document shall be available at the portable or portable-mobile station involved.

SEC. 111.53 *Operator license.* The original license of each station operator shall be conspicuously posted at the place he is on duty, or, in the case of portable or mobile units, be kept in his personal possession.

Logs

SEC. 111.60 *Contents.* Each licensee shall maintain adequate records of the operation of the station including (a) hours of operation; (b) nature and time of each transmission; (c) name of operator on duty at the transmitter. In the cases of groups of stations, either fixed or fixed and mobile, operating as a single coordinated communication system controlled from a single point, a single log may be maintained at a central location, provided that such log records the required information with respect to all stations in the network.

Inspections

SEC. 111.70 *Inspection by Commission's representative.* All classes of stations in the emergency service shall be made available for inspection upon request of a representative of the Commission. However, if such station is actually engaged in an emergency which should not be interrupted, the Commission's representative may suspend the inspection and require the station to be made available for inspection immediately after conclusion of the emergency.

PART 112. MUNICIPAL POLICE STATIONS

Sec.
112.01 Power
112.02 Additional power
112.03 Cooperative service
112.04 Modulation limits
112.05 Cooperative use of frequencies
112.06 Service which may be rendered

SEC. 112.01 *Power.* The maximum power to be assigned for the use of frequencies below 30000 kc by municipal police stations will be based on the latest official population figures of the Department of Commerce for the area to be served in accordance with the following table:

Population	*Power, Watts*
Under 100,000	50
100,000 to 200,000	100
200,000 to 300,000	150
300,000 to 400,000	200
400,000 to 500,000	250
500,000 to 600,000	300
600,000 to 700,000	400
Over 700,000	500

SEC. 112.02 *Additional power.* In the event that the amount of power allocated above is insufficient to afford reliable coverage over the desired service area, the Commission may authorize the use of additional stations of the same or less power, or upon proper showing being made, may authorize such additional power as may be necessary, but not to exceed 500 watts: *Provided, however,* That municipal police stations authorized to serve an entire county under the provisions of Section 112.03, may be licensed to employ a maximum power of 1000 watts between one hour after local sunrise and one hour before local sunset, on condition that the applicant files with the application an agreement, entered into with other licensees operating on the same frequency and in the same area to which the frequency is assigned, including a statement giving their consent to the use of such increased power.

SEC. 112.03 *Cooperative service.* An application for an authorization for a municipal police station to serve two or more municipalities shall be supported by sworn copies of agreements made between the proposed licensee and the contiguous muncipalities. Such agreements shall show that the applicant is required to furnish emergency police radio service to the contiguous muncipalities and that the contiguous municipalities agree to accept such service and not to request individual authority to operate municipal police radio transmitting stations.

SEC. 112.04 *Modulation limits.* The transmitters of municipal police stations shall be modulated not less than 85 per cent nor more than 100 per cent on peaks.

SEC. 112.05 *Cooperative use of frequencies.* The frequencies allocated to municipal police stations are assigned for use within specified geographical boundaries and all licenses within those boundaries shall cooperate in the use of the assigned frequency.

SEC. 112.06 *Service which may be rendered.* Municipal police stations, although licensed primarily for communication with mobile police units, may transmit emergency messages to other mobile units such as fire department vehicles, private ambulances and repair units of public utilities, in those cases which require cooperation or coordination with police activities. In addition, such stations may communicate among themselves provided (1) that no interference is caused to the mobile service, and (2) that communication is limited to places between which, by reason of their close proximity, the use of police radiotelegraph stations is impracticable. Municipal police stations shall not engage in point-to-point radiocommunication beyond the good service range of the transmitting station or transmit or handle communications requiring radiotelephone relay. Point-to-point communication between stations in the same local telephone exchange area is likewise prohibited unless the messages to be transmitted are of immediate importance to mobile units.

PART 113. STATE POLICE STATIONS

Sec.
113.01 Power
113.02 Modulation limits
113.03 Service which may be rendered

SEC. 113.01 *Power.* The maximum power to be assigned for the use of state police stations shall be 5000 watts during the period from sunrise to sunset and 1000 watts from sunset to sunrise.

SEC. 113.02 *Modulation limits.* The transmitters of state police stations shall be modulated not less than 85 per cent nor more than 100 per cent on peaks.

SEC. 113.03 *Service which may be rendered.* State police stations, although licensed primarily for communication with mobile police units, may transmit emergency messages to other mobile units such as fire department vehicles, private ambulances and repair units of public utilities, in those cases which require cooperation or coordination with police activities. In addition, such stations may communicate among themselves provided (1) that no interference is caused to the mobile service, and (2) that communication is limited to places between which, by reason of their close proximity, the use of police radiotelegraph stations is impracticable. State police stations shall not engage in point-to-point radiocommunication beyond the good service range of the transmitting station or transmit or handle communications requiring radiotelephone relay. Point-to-point communication between stations in the same local telephone exchange area is likewise prohibited unless the messages to be transmitted are of immediate importance to mobile units.

PART 114. INTERZONE POLICE STATIONS

Sec.
114.01 One station per zone
114.02 Eligibility for license
114.03 Equipment
114.04 Power
114.05 Service which may be rendered
114.06 Operator regulations

SEC. 114.01 *One station per zone.* Authorizations for interzone police stations will not be issued for more than one station within a zone.

SEC. 114.02 *Eligibility for license.* In general only the licensees of state and municipal police stations may be granted authorizations to operate interzone police stations.

SEC. 114.03 *Equipment.* Authorizations for interzone police stations may be granted specifying equipment authorized for use by municipal or state police stations provided that the radio-telegraph use of such equipment is on a secondary basis, and that the equipment is so designed that the frequency can be changed without delay.

SEC. 110.04 *Power.* The maximum power to be assigned for the use of interzone police stations shall be 500 watts.

SEC. 114.05 *Service which may be rendered.* Interzone police stations shall be operated only for the transmission of dispatches of an emergency nature relating to police business between police agencies, using the operating procedure prescribed by the Commission.

SEC. 114.06 *Operator regulations.* The records and method of operation of interzone police stations shall be maintained and conducted in accordance with the operating procedure prescribed by the Commission.

PART 115. ZONE POLICE STATIONS

Sec.
115.01 Eligibility for licensee
115.02 Equipment
115.03 Power
115.04 Service which may be rendered
115.05 Operator regulations
115.06 Alternate zone control stations

SEC. 115.01 *Eligibility for licenses.* In general only the licenses of state and municipal police stations may be granted authorizations to operate zone police stations.

SEC. 115.02 *Equipment.* Authorizations for zone police stations may be granted specifying equipment authorized for use by municipal or state police stations provided that the radiotelegraph use of such equipment is on a secondary basis, and that the equipment is so designed that the frequency can be changed without delay.

SEC. 115.03 *Power.* The maximum power to be assigned for the use of zone police stations shall be 500 watts.

SEC. 115.04 *Service which may be rendered.* Zone police stations shall be operated only for the transmission of dispatches of an emergency nature relating to police business between police agencies, using the operating procedure prescribed by the Commission.

SEC. 115.05 *Operator Regulations.* The records and method of operation of zone police stations shall be maintained and conducted in accordance with the operating procedure prescribed by the Commission.

SEC. 115.06 *Alternate zone control stations.* Zone police stations may be designated to act as alternate zone control stations for the interzone stations designated for the zone concerned; in which event, such zone police stations shall be eligible to be assigned all of the frequencies available for interzone police stations.

PART 116. MARINE FIRE STATIONS

Sec.
116.01 Power
116.02 Service which may be rendered

SEC. 116.01 *Power.* The maximum power to be assigned for the use of marine fire stations will be 500 watts.

SEC. 116.02 *Service which may be rendered.* Marine fire stations are licensed primarily for intercommunication between fire headquarters and fire boats. However, they may transmit emergency messages to police boats or other marine units in cases which require cooperation or coordination with police or fire department activities.

PART 117. SPECIAL EMERGENCY STATIONS

Sec.
117.01 Scope of service
117.02 Selective calling system
117.03 Tests
117.04 Avoidance of interference

SEC. 117.01 *Scope of service.* Special emergency stations may be used only during an emergency jeopardizing life, property, public safety, or for essential public service, or when such an emergency is imminent, for communications relating thereto and for other essential communications. They may be used (a) for transmission from one point to another between which normal communication facilities are not usable, or are temporarily inadequate, or (b) for transmission to or from mobile units.

SEC. 117.02 *Selective calling system.* Notwithstanding the provisions of Sec. 111.25 (c), types A–1 or A–2 emission may be used on 2726 kc for the sole purpose of establishing a selective calling system.

SEC. 117.03 *Tests.*—Special emergency stations may also conduct routine tests not exceeding two minutes in each half hour, or where more extended tests are required, they may not exceed a total of four hours per week.

SEC. 117.04 *Avoidance of interference.* Special emergency stations shall take all reasonable precautions, including listening tests, to avoid any possible interference to the service of another station.

PART 118. FORESTRY STATIONS

Sec.
118.01 Scope of service
118.02 Power; modulation

SEC. 118.01 *Scope of service.* Forestry stations, although licensed primarily for communication with mobile forest fire fighting units, may transmit emergency messages to other mobile units such as fire department vehicles, private ambulances and mobile police units in those cases which require cooperation or coordination with forestry service activities. In addition, such stations may communicate among themselves provided: (1) No interference is caused to mobile service and (2) Only those communications are transmitted which are necessary for the operation of forestry service.

SEC. 118.02 *Power; modulation.* The maximum power to be assigned for the use of forestry stations shall be 50 watts. The transmitters of forestry stations shall be modulated not less than 85 per cent, nor more than 100 per cent on peaks.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-2019; Filed, July 14, 1938; 9:44 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

TEXAS

JULY 13, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Texas State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Angelina, Atascosa, Bell, Cameron, Cass, Coleman, Cooke, Coryell, Ellis, El Paso, Fort Bend, Gonzales, Guadalupe, Harrison, Hill, Hopkins, Jim Wells, Kaufman, Liberty, Madison, Milan, Mitchell, Nacogdoches, Panola, Polk, Red River, Robertson, Smith, Tarrant, Taylor, Travis, Waller, Washington, Wilbarger, and Young.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2025; Filed, July 14, 1938; 12:34 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its offices in the City of Washington, D. C., on the 13th day of July A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-323]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE SILK INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), or other applicable provisions of law administered by the Commission;

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Silk Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of any such views should be filed with the Commission not later than August 2, 1938. Opportunity for oral hearing also will be afforded at 10 a. m., August 2, 1938, in Room 332, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to any such persons as may desire to appear and be heard. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2022; Filed, July 14, 1938; 11:43 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

[File No. 43-134]

IN THE MATTER OF LOUISIANA PUBLIC SERVICE CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 2, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 27, 1938.

The matter concerned herewith is in regard to the proposed issue and sale by declarant of its 6% promissory note due January 1, 1965, in the amount of $25,000, to be purchased by declarant's parent, American Utilities Service Corporation, a registered holding company. Declarant states that the proceeds of the note are to be used for additions and improvements, and to reimburse its treasury for funds previously spent for additions and improvements.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2026; Filed, July 14, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

[File No. 43-135]

IN THE MATTER OF MINNESOTA UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 2, 1938, at 10:15 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers

[1] 2 F. R. 2761, 2799 (3196, 3240 DI).

of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 27, 1938.

The matter concerned herewith is in regard to the proposed issuance and sale by declarant of 2000 shares of no par value common stock, to be purchased for an aggregate consideration of $56,000, by declarant's parent, American Utilities Service Corporation, a registered holding company. Declarant states that the proceeds of the issue are to be used for additions and improvements and to reimburse its treasury for funds previously spent for additions and improvements.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2027; Filed, July 14, 1938; 12:36 p. m.]

Reference

JUL 18 1938

Reference

JUL 18 1938

THE NATIONAL ARCHIVES

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VOLUME 3 NUMBER 138

Washington, Saturday, July 16, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROCLAMATION WITH REGARD TO BASE PERIOD TO BE USED FOR PURPOSE OF MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF GRAPES GROWN IN COUNTIES OF WASHINGTON, BENTON, AND MADISON IN STATE OF ARKANSAS

By virtue of the authority vested in the Secretary of Agriculture of the United States by the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the undersigned hereby finds and proclaims that, with regard to grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas, the purchasing power of such grapes during the pre-war base period, August 1909–July 1914, cannot be satisfactorily determined from available statistics of the United States Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such grapes, but the purchasing power of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas can be satisfactorily determined from available statistics of the United States Department of Agriculture for the post-war period of August 1, 1922–July 31, 1929, both dates inclusive. Acting pursuant to the provisions of the aforesaid Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the undersigned hereby declares and proclaims that the base period, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas, to be used in determining the purchasing power of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas, is the post-war period of August 1, 1922, to July 31, 1929, both dates inclusive.

In witness whereof, the Secretary of Agriculture of the United States has executed this proclamation in duplicate and has hereunto affixed his signature and caused the seal of the United States Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 15th day of July 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2030; Filed, July 15, 1938; 12:21 p. m.]

ORDER REGULATING HANDLING IN INTERSTATE OR FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF GRAPES GROWN IN COUNTIES OF WASHINGTON, BENTON, AND MADISON IN STATE OF ARKANSAS

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, (hereinafter referred to as the "act") it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of said act, issue orders regulating such handling of certain agricultural commodities, including grapes, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities; and

Whereas, the Secretary has found and proclaimed that the purchasing power of grapes grown in the counties of Washington, Benton and Madison during the period August 1909–July 1914 cannot be satisfactorily determined from the available statistics of the United States Department of Agriculture, but that the purchasing power of such commodity can be satisfactorily determined from available statistics of the United States Department of Agriculture for the period August 1, 1922, to July 31, 1929, both dates inclusive, and the period August 1, 1922, to July 31, 1929, both dates inclusive, is the base period to be used in connection with this order in determining the purchasing power of such commodity; and

Whereas, the Secretary having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas as would establish prices to the producers of grapes at a level that would give such grapes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such grapes in the base period,

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Arkansas, grapes grown in Washington, Benton and Madison Counties:
Page
Base period for purpose of marketing agreement, etc. 1741
Order regulating handling in interstate, etc., commerce 1741

NOTICES

Department of State:
Committee for Reciprocity Information, trade agreement negotiations with Venezuela 1748
Trade agreement negotiations with Venezuela, public notice 1747
Securities and Exchange Commission:
Adams Express Co., common stock, effective date of withdrawal order postponed 1748
Electric Advisers, Inc., hearing 1748

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August 1, 1922, to July 31, 1929, both dates inclusive, did, pursuant to the provisions of the act and the regulations thereunder, on the 12th day of February 1938, give notice of a hearing to be held at Fayetteville, Arkansas, on March 3, 1938, on a proposed order regulating the handling of grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas, at which time all interested parties in attendance at such hearing were afforded due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary finds upon the evidence introduced at the hearing and the record thereof:

(1) That customarily a substantial percentage of all shipments of grapes grown in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce;

(2) That, in order to give such grapes a purchasing power with respect to articles that farmers buy equivalent to the average purchasing power of such grapes during the base period, August 1, 1922, to July 31, 1929, both dates inclusive, the average price received by the grower of grapes should have been 16.6 cents per four-quart basket of grapes during the 1937 season;

(3) That the average price received by growers of such grapes for the 1937 season was 7 cents per four-quart basket of grapes;

(4) That the average price per four-quart basket of said grapes received by growers during the nine years from 1929 to 1937 was substantially less than the purchasing power of such grapes during the aforesaid base period;

(5) That, in the past, the lack of regulation of the shipment of grapes produced in the aforesaid counties of Washington, Benton, and Madison in the State of Arkansas was an important factor contributing toward unstable marketing conditions for such grapes and consequently depressed prices to growers;

(6) That the regulation of shipments of grapes by proration, as provided in this order, and the regulation of shipments by grades, subject to the terms and provisions contained in this order, will tend to prevent fluctuation of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stable market for said grapes, tending to restore prices to growers of said grapes to a level that will have a purchasing power with respect to articles that producers buy equivalent to the purchasing power of said grapes in the aforesaid base period;

(7) That the method of regulating shipments by proration among handlers, as provided in this order, and the method of regulation of shipments by grades, as prescribed in this order, are fair and equitable;

(8) That this order is limited in its application to the smallest regional production area and regional marketing area that is practicable;

(9) That the issuance of several orders applicable to any subdivision of the regional production and marketing areas covered by this order will not effectively carry out the declared policy of the act with respect to establishing and maintaining such marketing conditions for grapes as will reestablish prices to growers that will give such commodities a purchasing power with respect to articles that producers buy equivalent to the purchasing power of such commodity in the aforesaid base period;

(10) That there are no differences in the production and marketing of grapes in the production area covered by this order that make necessary different terms applicable to different parts of such area;

(11) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of grapes handled as provided in this order, is fair and equitable;

(12) That this order and all the terms and provisions thereof will tend to effectuate the declared policy of the act with respect to said grapes, grown in said area, by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give said grapes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such grapes in the aforesaid base period and by protecting the interest of the consumer by (a) approaching such level of prices, which it is declared in the act to be the policy of Congress to establish, by a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the aforesaid level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary further finds:

(1) That the marketing agreement regulating the handling of grapes grown in the counties of Washington, Benton, and Madison in the State of Arkansas executed by him on July 15, 1938, and upon which a public hearing was held on March 3, 1938,[1] was signed by handlers who handled more than 50 percent of such commodity produced during the year of 1937;

(2) That this order regulates the handling of said grapes in the same manner as the said marketing agreement does, and this order is applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement; and

Whereas, the Secretary finds and determines that the issuance of this order is favored by producers of grapes who, during the year of 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of such commodity for market within the production area specified in this order.

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that the handling of grapes, grown in the counties of Washington, Benton, and Madison in the State of Arkansas, in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such grapes, from and after the date hereinafter specified, shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I.—DEFINITIONS

SECTION 1. *Terms.*—As used in this order, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended.

3. "Person" means individual, partnership, corporation, association, or any other business unit.

4. "Grapes" means and includes all varieties of grapes grown in the area described in paragraph numbered 11 of this section.

[1] 3 F. R. 406 DI.

5. "Handler" or "shipper" means any person who ships, or is engaged in shipping, marketing, consigning, or dealing in grapes, either in person or as or through an agent, broker, representative or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce.

6. "To ship" or "to handle" means to convey in, or handle for shipment in, to ship in, or to cause to be conveyed or handled for shipment in, or in any other way to put grapes in, the channels of trade by conveying or causing grapes to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of grapes owned by another person), in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce.

7. "Control Committee" means the Control Committee provided for in, and created pursuant to, article II of this order.

8. "Grower" or "producer" means any individual, each member of a partnership, any corporation, association, or any other business unit engaged in growing grapes, in the counties of Washington, Benton, and Madison in the State of Arkansas, who or which has a financial interest in the crop.

9. "Season" means that portion of the calendar year during which grapes are being shipped from the area described in paragraph numbered 11 of this section.

10. "Term year" means the period of time beginning on February 15 and ending on the following February 14.

11. "Area" means and includes the counties of Washington, Benton and Madison in the State of Arkansas.

12. "Shipment" means the placing or loading of grapes into a car, truck, or other conveyance, for transportation in the current of interstate or foreign commerce.

13. "Basket" means the standard 4-quart Climax basket referred to and described in the U. S. Standard Container Act (39 U. S. Stats. at Large, p. 673) approved on August 31, 1916, as amended.

ARTICLE II.—ADMINISTRATIVE BODY

SECTION 1. *Control Committee membership.*—1. A Control Committee, consisting of ten (10) members, is hereby established to administer the terms and provisions of this order as herein specifically provided. There shall be an alternate for each of said ten (10) members of the Control Committee. The members and alternates shall be selected in accordance with the provisions of this article and shall serve for a term ending February 14, 1939; provided, however, said members and alternates shall serve until their respective successors have been selected and qualified. The members and alternates of said Control Committee selected subsequent to those selected for the aforesaid initial period ending February 14, 1939, shall serve for a term of one year, beginning on February 15; provided, however, said members and alternates, selected subsequent to those selected for the aforesaid initial period ending on February 14, 1939, shall serve until their respective successors have been selected and qualified. In event any member or alternate, selected subsequent to those selected for the aforesaid period ending February 14, 1939, is selected or qualified subsequent to February 15 of any year, the term of said member or alternate shall end on February 14, following his selection, except such member or alternate shall serve until his successor shall have been selected and qualified. Any person selected as a member or alternate of the Control Committee shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

2. Seven members of the Control Committee and their respective alternates shall represent all growers of grapes. Four of said seven members of the Control Committee and their respective alternates, representing growers of grapes, shall be selected by the Secretary from a group of eight nominees designated by growers of grapes at an election held at a general meeting in Washington County in which all growers of grapes in Washington County shall be entitled to participate, or the Secretary may select some or all of said members and alternates from other growers of grapes in Washington County. At any such election, designating the group of eight nominees aforesaid, each grower of grapes in Washington County shall cast only one vote, for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries and representatives. Two members of the Control Committee and their respective alternates, representing the growers of grapes, shall be selected by the Secretary from a group of four nominees designated by growers of grapes at an election held at a general meeting in Benton County in which all growers of grapes in Benton County shall be entitled to participate, or the Secretary may select some or all of the members and alternates from other growers of grapes in said Benton County. At any such election, designating the group of four nominees aforesaid, each grower of grapes in Benton County shall cast only one vote, for each nominee, on behalf of himself, his agent, partners, affiliates, subsidiaries, and representatives. One member of the Control Committee and his alternate, representing the growers of grapes, shall be selected by the Secretary from a group of two nominees, designated by growers of grapes at an election held at a general meeting in Madison County in which all growers of grapes in Madison County shall be entitled to participate, or the Secretary may select the member and alternate, or either, from other growers of grapes in said Madison County. At any such election, designating the two nominees of Madison County, each grower of grapes in Madison County shall cast only one vote, for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. In the respective elections designating nominees as aforesaid, no person who is not a grower of grapes in the county in which the general meeting and election is being held shall be entitled to participate in said meeting and election; and also, in event a person is a grower of grapes in more than one of the aforesaid counties, such person may exercise an option as to the county in which he shall participate in the election or designation of the group of nominees aforesaid, but such person can participate in the election in only one county.

3. Three members of the Control Committee and their respective alternates shall represent all handlers of grapes. The three members of the Control Committee and their respective alternates, representing handlers of grapes, shall be selected by the Secretary from a group of six nominees designated by handlers of grapes in the area included in this order, at an election held at a general meeting in which all handlers of grapes shall be entitled to participate, or the Secretary may select some or all of the members and alternates from other handlers of grapes in said area. At any such election, designating the group of six nominees aforesaid, each handler shall cast only one vote for each 10,000 baskets of grapes handled, in interstate or foreign commerce, by such handler during the season previous to the year in which the election is being held, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives; provided, however, if any such handler shipped in interstate or foreign commerce less than 10,000 baskets of grapes during said previous season, such handler shall be entitled to cast one vote in said election.

4. Nominees for members of the Control Committee and their respective alternates whose term of office shall expire on February 14, 1939, shall be selected by the above designated groups in the following manner: The Secretary, or such person as the Secretary may designate, shall cause to be held as soon as practicable after the effective date of this order a meeting of all handlers of grapes in the area included in this order. Such meeting shall select its chairman and secretary. In the selection of the six nominees, from whom the Secretary of Agriculture may select three members and three alternates to represent handlers, each handler shall be entitled to vote without regard to the number of counties from which he may ship grapes. The chairman and the secretary of the meeting shall forthwith transmit to the Secretary of Agriculture, or to such person as the Secretary of Agriculture may

designate, their certificate as to the number of votes so cast and the names of the nominees so designated. Also, the Secretary of Agriculture, or such person as the Secretary may designate, shall cause to be held, as soon as practicable after the effective date of this order, a meeting in each county, included in the area designated in this order, of all growers of grapes in the respective county. Each such meeting shall select its chairman and secretary. The chairman and the secretary of the meeting shall forthwith transmit to the Secretary of Agriculture, or to such person as the Secretary of Agriculture may designate, their certificate as to the number of votes so cast and the names of the nominees so designated. Nominees for the handler members and the grower members, and their respective alternates, selected subsequent to those selected for the aforesaid initial period ending February 14, 1939, shall be designated by the aforesaid respective groups each year not less than 20 days nor more than 40 days prior to February 14; and said nominees shall be designated at meetings and elections caused to be held by the Control Committee, and said meetings and elections shall be of the same character and specification, and the procedure shall be substantially the same, as specified herein above for the designation of nominees for the initial period ending February 14, 1939.

5. To fill any vacancy occasioned by the failure of any person selected as a member of the Control Committee or selected as an alternate to qualify, a nomination for his unexpired term shall be made at an election held at a meeting in the manner heretofore indicated for the selection of the original member or alternate who has thus failed to qualify. If a nomination for any such vacancy is not made within 20 days after the beginning of said vacancy, the Secretary may select such member without regard to his nomination; and also the Secretary may select the person to fill such vacancy from among persons not nominated at an election so held. In event of the death, removal, resignation, or disqualification of any member or his alternate, after having qualified as a member or alternate of said Control Committee, a successor for the unexpired term of such member or alternate shall be selected by the Secretary. Such selection may be made without resorting to the provision as to nomination of candidates for the office of member or alternate.

6. An alternate for a member of the Control Committee, selected pursuant to this order, shall, in the event of such member's absence, act in the place and stead of such member; and, in event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death, the alternate for said member shall, until a successor for the unexpired term of such member has been selected, act in the place and stead of such member.

7. The members of the Control Committee, and their respective alternates, shall serve without compensation; but said members and their respective alternates shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

SEC. 2. *Powers.*—The Control Committee shall have the following powers:

1. To administer, as herein specifically provided, the terms and provisions of this order.

2. To make administrative rules and regulations in accordance with, and to effectuate the terms and provisions of, this order.

3. To receive, investigate, and report to the Secretary complaints of violations of this order.

4. To recommend to the Secretary amendments to this order.

SEC. 3. *Duties.*—The duties of the Control Committee shall be as follows:

1. To act as intermediary between the Secretary and any producer or handler.

2. To keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee; and such minute books and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary.

3. To investigate, from time to time, and assemble data on, the growing, shipping and marketing conditions respecting grapes grown in the aforesaid area included in this order, and to furnish to the Secretary such available information as may be requested.

4. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, approved on August 24, 1935, as amended.

5. To cause the books of the Control Committee to be audited by one or more competent accountants at least once each year and at such other times as the Control Committee may deem necessary or as the Secretary may request; and file with the Secretary copies of any and all audit reports made.

6. To appoint such employees as it may deem necessary, and to determine the salaries of such employees. The duties of all employees shall be designated by the Control Committee in administering the terms and provisions of this order; and the Control Committee may adopt such rules for the conduct of the business as it may deem desirable.

7. To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee.

8. To select a chairman of the Control Committee and, from time to time, such other officers as it may deem advisable; and to adopt rules and regulations for the performance of its duties under this order.

SEC. 4. *Procedure.*—1. The Control Committee shall not perform any of its powers or duties herein prescribed while there are more than three (3) vacancies in its membership. A quorum shall consist of seven (7) members in attendance at the meeting, and all decisions shall be made by the concurring vote of at least six (6) of the members present; provided, however, that the Control Committee can recommend a proration period or period of regulation of shipments by grades, as provided for in article III and article IV hereof, only if at least seven (7) members, one of whom shall be a handler member, vote in favor of such recommendation for such regulation period.

2. The Control Committee may provide for voting by telephone, mail or telegraph, subject to disapproval by the Secretary; provided, however, that when any proposition is submitted by telephone, mail or telegraph, seven (7) affirmative votes, one of which shall be by a handler member, shall be necessary for its adoption or approval; and promptly after voting by telephone, the members thus voting shall confirm in writing the votes so cast by telephone.

3. The members of the Control Committee, including successors and alternates, and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 5. *Funds and other property.*—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal or expiration of the term of office of any member of the Control Committee or of any employee of the Control Committee all books, records, funds and other property in his possession shall be delivered to the Control Committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee, or vest in the successor of such member or employee, full title to all the books, records, funds and other property in the possession or under the control of such member or employee, pursuant to this order.

3. The Control Committee may maintain, with the approval of the Secretary, in its own name or in the names of its members, a suit against any shipper for the collection of such shipper's pro rata share of expenses.

ARTICLE III.—PERIOD PRORATION

SECTION 1. *Establishment of period proration.*—1. It shall be the duty of the Control Committee to investigate supply and demand conditions with respect to grapes. Whenever such conditions make it advisable to regulate, by means of a proration period or series of proration periods, the shipment of grapes, the Control Committee shall recommend to the Secretary the establishment of a proration period or series of proration periods during which the shipment of grapes, in interstate or foreign commerce, may be regulated pursuant to the provisions of this article. Such recommendation, as aforesaid, including the time of commencement and duration of the proration period or series of proration periods, shall be made at a meeting of the Control Committee held at least twenty-four hours prior to the commencement of such recommended proration period or series of proration periods. The Control Committee shall promptly notify, by giving notice in such manner as it shall deem adequate under the circumstances, all handlers and growers of any such recommendation.

2. Based upon such recommendation made pursuant to paragraph 1 of this section, or other information available to the Secretary, the Secretary may establish a proration period or series of proration periods, including the time of commencement and termination of any such period, if the Secretary deems that such regulation of the flow of shipment of grapes in the current of interstate or foreign commerce during the period or periods within the season would tend to effectuate the declared policy of the act.

SEC. 2. *Computation of quantity available for shipment.*—1. The Control Committee, prior to the beginning of each season as defined in article I hereof, shall compute the total quantity of grapes which will be available for shipment during the season. To assist in such determination each handler shall report to the Control Committee, in such form and estimated in such manner as the Control Committee may prescribe, the total quantity of grapes, to which he has legal title or for which he has legal authority from the owners or growers thereof to handle, which the respective handlers will have available for shipment; and, also such report shall include the name of each such owner or grower and the quantity of grapes which such handler is authorized to handle for each such owner or grower. Each grower having grapes which no handler has authority to handle may in like manner report to the Control Committee his total quantity of grapes which he will have available for shipment during the season. Such reports may be checked by the Control Committee. Investigation may be made by the Control Committee, or the employees duly designated by it, in such manner as may be necessary to arrive at a reasonably correct computation of the total quantity of grapes which will be available for shipment during such season; and, on the basis of such investigation or recalculation of the report submitted by each handler or grower, the Control Committee may revise any such report. The total quantity of grapes which will be available for shipment by each handler and by each grower shall be computed by the Control Committee in accordance with the provisions of this article. The Control Committee shall make such adjustment or recalculation, from time to time, of the aforesaid computations of the total quantity which is or will be available for shipment as may be necessary to determine, as correctly as reasonably possible, the total quantity of grapes available for shipment during the respective season or the remainder of said season. Such estimated total quantity of grapes available for shipment by each handler and by each grower shall be revised at the beginning of each proration period whenever such revision is substantiated by additional information available to the Control Committee or the Secretary. The Control Committee shall report to the Secretary all computations and recommendations of the Control Committee, pursuant to the provisions of this article, and the evidence on which such computations and recommendations were predicated.

2. The Control Committee shall advise each handler and each grower of the result of the original computation or any revised computation by such Control Committee with regard to the estimated total quantity of grapes available or which will be available for shipment by such grower or by such handler during the season or remainder of the season.

SEC. 3. *Determination of total advisable shipments.*—For each regulation period established pursuant to section 1 of this article, the Control Committee shall procure available evidence concerning the supply of and demand for grapes during the period for which proration is contemplated; and from such evidence the Control Committee shall make a computation of the quantity of grapes which it is deemed advisable by the Control Committee to be shipped, in the current of interstate or foreign commerce, during such proration period. The evidence procured pursuant to this section and the recommendation of the Control Committee as to the total advisable shipments, during such proration period, shall be transmitted to the Secretary.

SEC. 4. *Fixing of allotments by the Secretary.*—1. From the reports made pursuant to sections 2 and 3 of this article, and other available information, the Secretary shall determine: (a) the total quantity of grapes which will be available for shipment during the season or the remainder of the season; and (b) the total quantity of grapes advisable to be shipped during the regulation period. Thereupon the Secretary shall fix for such regulation period the allotment for each handler and each grower; and such allotment for each grower and each handler shall be calculated as follows: The total quantity of grapes available for shipment by the respective grower or handler, as aforesaid, shall be multiplied by the quotient (which is a percentage) obtained when the total quantity of grapes advisable for shipment, as aforesaid, is divided by the total quantity available for shipment by all growers and handlers during the season or remainder of the season. The result obtained by the foregoing calculation shall be the quantity allotted to the respective grower or handler. The Control Committee shall notify, by such methods as may be deemed adequate under the circumstances, each grower and handler with regard to the amount of his allotment.

2. Each handler shall apportion the quantity of grapes, represented by his allotment, equitably among the growers whose grapes he reported to the Control Committee pursuant to section 2 of this article.

SEC. 5. *Transfer of allotments.*—Subject to such procedural rules and regulations as may be adopted by the Control Committee and approved by the Secretary, shippers and growers to whom allotments have been made may transfer such allotments in whole or in part.

SEC. 6. *Overshipment.*—No shipper shall ship grapes in excess of his allotment for any regulation period except for additional allotments transferred to him by a grower or handler pursuant to the provisions of this article.

SEC. 7. *Modification or termination of regulation period.*—If the limitation of shipment during any regulation period established pursuant to this article is rendered unnecessary or improper by reason of unforeseen increased demands, reduction of the available supply, or other causes, the Secretary may modify or terminate such limitation or regulation period.

ARTICLE IV.—REGULATION OF SHIPMENTS BY GRADES

SECTION 1. *Recommendation.*—1. Whenever the Control Committee deems it advisable to regulate the shipment of any grade or grades of grapes for a specified period, it shall so recommend to the Secretary. In such event the Control Committee shall furnish to the Secretary all information and data upon which such recommendation is predicated, including, but not being limited to, information with respect to the factors affecting the supply of and demand for grapes by grade. Such recommendation, including the time of commencement and termination of the regulation period, shall be made at a meeting of

the Control Committee held at least twenty-four hours prior to the commencement of such regulation period. The Control Committee shall notify the shippers and growers of such recommendation by giving notice thereof in such manner at it may deem adequate under the circumstances.

2. Based upon the recommendations made pursuant to paragraph 1 of this section, or other information available to the Secretary, the Secretary may establish a regulation period, including the time of commencement and termination thereof, if the Secretary deems that such regulation of the flow of shipments of grapes in the current of interstate or foreign commerce, during such regulation period, will tend to effectuate the declared policy of the act. Such regulation of shipments by grades may be accomplished by (a) prohibiting the shipment of certain grades during such period, or (b) by prohibiting the shipment of a part of any grade of grapes. When the Secretary has determined to regulate shipments as provided in this article, he shall immediately notify the Control Committee of such determination; and the Control Committee shall immediately notify shippers and growers of such determination by giving notice in such manner as the Control Committee shall deem adequate under the circumstances.

SEC. 2. *Exemptions.*—1. In the event of a regulation period established pursuant to the provisions of this article, the Control Committee shall determine the percentage which the grades of the grapes permitted to be shipped is of the total quantity of grapes which would be shipped in the absence of regulation under this article. The Control Committee shall announce forthwith this percentage and the procedure by which exemption certificates will be issued to growers pursuant to this section.

2. If any grower shall present proof to the Control Committee that the regulation of shipments will allow him to ship during the period a percentage of his grapes less than the percentage found in accordance with paragraph 1 of this section, the Control Committee shall issue to him an exemption certificate allowing the shipment of such quantity of the limited grade as will make the percentage of his crop that may be shipped equal to the percentage found in accordance with paragraph 1 of this section. If any grower is dissatisfied with the determination by the Control Committee with respect to such exemption certificates, he may appeal to the Secretary; and the Secretary may modify or cancel the issuance of exemption certificates, or the Secretary may authorize the issuance of exemption certificates. The authority of the Secretary to supervise and control the issuance of exemption certificates is plenary and complete; and any determination made by the Secretary with respect to exemption certificates shall be final.

SEC. 3. *Grading and certification.*—1. During any regulation period established pursuant to the provisions of this article, all shipments of grapes, in interstate or foreign commerce, grown in the area specified in article I hereof shall be graded and certified on the basis of the grades now promulgated by the United States Department of Agriculture or as the same may be modified or changed hereafter, or as the same may be modified or supplemented by regulatory orders by the Secretary pursuant to this article.

2. Each handler, prior to making each shipment of grapes in interstate or foreign commerce during any such regulation period established pursuant to this article, shall have the grapes included in each such shipment inspected by a duly authorized representative of the Federal-State Inspection Service; and each such shipper shall submit promptly, or cause to be submitted promptly, to the Control Committee the Federal-State shipping point inspection certificates, issued by the Federal-State Inspection Service, stating the grade or grades of grapes in each such shipment.

ARTICLE V.—SHIPMENTS FOR SPECIFIED PURPOSES

SECTION 1. *Shipment of grapes for by-product use and charitable purposes.*—1. Subject to such rules and regulations as may be adopted by the Control Committee and approved by the Secretary, any person may ship, free from any restriction or obligation imposed by this order, grapes that will be used solely for purposes of conversion into by-products or for unemployment or relief purposes.

2. As used in this order, the term "by-product" or "by-products" means and includes all processed and manufactured products of grapes and all products in the manufacturing or processing of which grapes are used, including, but not being limited to, wine and juice.

ARTICLE VI.—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions under this order. The funds to cover such expenses shall be acquired by the levying of assessments are hereinafter provided.

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses which the Secretary finds will be necessarily incurred by the Control Committee for the maintenance and functioning of the Control Committee. Each handler's share of such expense shall be that proportion thereof which the total quantity of grapes shipped by such handler in the current of interstate or foreign commerce during the season is of the total quantity of grapes shipped by all handlers in the current of interstate or foreign commerce during said season. Said assessment may be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to cover any later finding by the Secretary of estimated expenses or the actual expenses of the Control Committee. The assessment of each handler for the season shall be due and payable at such time and shall be payable in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

3. At the end of each season, the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler above his pro rata share of the expenses, or debit such shipper with the difference between his pro rata share and the amount paid by such shipper. Any such debits shall become due and payable upon the demand of the Control Committee.

4. From the funds acquired pursuant to this article, the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

ARTICLE VII.—REPORTS

SECTION 1. *Reports.*—Upon the request of the Control Committee, made with the approval of the Secretary, each handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its powers and duties under this order.

ARTICLE VIII.—AMENDMENTS

SECTION 1. *Proposals.*—Amendments to this order may from time to time be proposed by the Control Committee, or by the Secretary.

ARTICLE IX.—AGENTS

SECTION 1. *Agents.*—The Secretary may, by a designation in writing, name any person, including any officer or employee of the Government or any Bureau or Division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE X.—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate this order.

2. The Secretary shall terminate this order whenever he finds that such termination is favored by a majority of the growers of grapes who, during the preceding season, have been engaged, in the area covered by this order, in the production of grapes for market; provided that such majority have, during such period, produced in the area covered by this order, for market, more than fifty (50) percent of the volume of grapes produced in the area covered by this order, for market; provided, however, such termination shall be and become effective on and after the 14th of February subsequent to the announcement thereof by the Secretary.

3. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Proceedings after termination.*—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary, (b) shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control Committee or the joint trustees pursuant to this order. Any funds collected for expenses pursuant to article VI of this order, and held by such joint trustees or such person, over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination of this order, be returned to the handlers pro rata in proportion to their contributions made thereto pursuant to this order or pursuant to such order.

2. Any person to whom funds, property or claims have been delivered by the Control Committee or its members upon direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to said funds, property or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.

ARTICLE XI.—DURATION OF IMMUNITIES

SECTION 1. *Duration of immunities.*—The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order; and benefits, privileges, and immunities conferred by this order upon any parties shall cease upon its termination as to such party except with respect to acts done under and during the existence of this order.

ARTICLE XII.—SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XIII.—DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, or in accordance with such powers, (2) to act in the premises whenever such action is deemed advisable.

In witness whereof, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the United States Department of Agriculture, in the city of Washington, District of Columbia, on this 15th day of July 1938, and declares this order to be effective on and after 12:01 a. m., eastern standard time, July 19, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2031; Filed, July 15, 1938; 12:21 p. m.]

Notices

DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH VENEZUELA

PUBLIC NOTICE

JULY 12, 1938.

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930," as extended by Public Resolution No. 10, approved March 1, 1937, and to Executive Order No. 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of Venezuela.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

[SEAL] CORDELL HULL,
Secretary of State.

List of Products Accompanying Notice of Intention to Negotiate a Trade Agreement With Venezuela

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930, or, as the case may be, to the appropriate sections of the Revenue Act of 1932, as amended. Only the articles covered by the descriptive phraseology of the list will come under consideration for the granting of concessions.

In the event that articles which are at present regarded as classifiable under the descriptions included in the above list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles.

United States Tariff Act of 1930, paragraph	Description of article	Present rate of duty
5 and 23.	Medicinal preparations not specially provided for, derived wholly or chiefly from phytoplankton, whether or not in any form or container specified in paragraph 23 of the Tariff Act of 1930.	25%.
35	Ground barbasco root, not containing alcohol.	10%.
92	Tonka beans	25c per lb.
204	Caustic calcined magnesite	15/16c per lb.
204	Dead burned and grain magnesite and periclase, not suitable for manufacture into oxychloride cements.	23/40c per lb.
754	Orchid plants	25%.
1653	Cocoa or cacao beans, and shells thereof.	Free.
1654	Coffee, except coffee imported into Puerto Rico and upon which a duty is imposed under the authority of section 319 (Tariff Act of 1930).	Do.
1670	Dyeing or tanning materials: Divi-divi, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, and not containing alcohol.	Do.
1685	Guano, basic slag (ground or unground), manures, and (notwithstanding any other provision of the Tariff Act of 1930), those grades of all other substances used chiefly for fertilizers, or chiefly as an ingredient in the manufacture of fertilizers.	Do.
1697	Gutta balata, crude	Do.
1722	Barbasco root, crude or unmanufactured, not specially provided for.	Do.
1733	Oils, mineral: Petroleum, crude, or fuel.	Do.
1765	Reptile skins, raw	Do.
1803	Boxwood in the log	Do.

Reference

Revenue Act of 1932, as amended, section	Description of article	Present rate of tax
601 (c) (4).	Crude petroleum and fuel oil derived from petroleum.	1/2¢ per gal.
601 (c) (4) and 630.	Crude petroleum and fuel oil derived from petroleum; any of the foregoing sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, or vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions.	Exempt from taxes imposed in sec. 601 (c) (4) of the Revenue Act of 1932, as amended.

[F. R. Doc. 38-2028; Filed, July 15, 1938; 11:52 a. m.]

Committee for Reciprocity Information.

TRADE AGREEMENT NEGOTIATIONS WITH VENEZUELA

PUBLIC NOTICE

Closing date for submission of briefs: August 6, 1938

Closing date for application to be heard: August 6, 1938

Public hearings open: August 15, 1938

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of Venezuela, notice of intention to negotiate which has been issued by the Secretary of State on this date, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, August 6, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, Eighth and E Streets NW., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on August 15, 1938, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Six copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 12th day of July, 1938.

JOHN P. GREGG,
Secretary.

JULY 12, 1938.

[F. R. Doc. 38-2029; Filed, July 15, 1938; 11:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

[File No. 37-25]

IN THE MATTER OF ELECTRIC ADVISERS, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 4, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

The matter concerned herewith is in regard to an application for approval as mutual service company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2032; Filed, July 15, 1938; 12:43 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of July 1938.

[File No. 1-2091]

IN THE MATTER OF ADAMS EXPRESS COMPANY COMMON STOCK, NO PAR VALUE

ORDER POSTPONING EFFECTIVE DATE

The Adams Express Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Boston Stock Exchange; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission, after due consideration of said application together with the evidence introduced at said hearing, having entered an order granting said application effective at the close of the trading session on July 15, 1938; and

The Boston Stock Exchange having made application to the Commission to extend unlisted trading privileges on said Exchange to the security above-named, and said Exchange having requested the Commission to postpone the effective date of the order herein pending the disposition by the Commission of the application to extend unlisted trading privileges;

It is ordered, That the effective date of said order be and the same is hereby postponed from July 15, 1938, until the close of the trading session on August 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2033; Filed, July 15, 1938; 12:43 p. m.]

[1] 3 F. R. 78 DI.

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 139

Washington, Tuesday, July 19, 1938

The President

EXECUTIVE ORDER

FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (U. S. C., title 22, sec. 132), and in conformity with the act of May 24, 1924 (43 Stat. 140), as amended by the act of February 23, 1931, 46 Stat. 1207, establishing the Foreign Service of the United States, it is ordered as follows:

1. The "Instructions to Diplomatic Officers of the United States," and the "Consular Regulations of the United States," as now prescribed by Executive orders, and all notes thereto by the Secretary of State, are hereby consolidated into one set of regulations which shall be known as the "Foreign Service Regulations of the United States."

2. The said Instructions to Diplomatic Officers of the United States and notes thereto shall constitute "Part I" of the Foreign Service Regulations of the United States, and the said Consular Regulations of the United States and notes thereto shall constitute "Part II" of the Foreign Service Regulations of the United States.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 14, 1938.

[No. 7927]

[F. R. Doc. 38-2044; Filed, July 16, 1938; 12:28 p. m.]

EXECUTIVE ORDER

DESIGNATING ST. PETERSBURG, FLORIDA, AS A CUSTOMS PORT OF ENTRY

By virtue of and pursuant to the authority vested in me by the act of August 1, 1914, 38 Stat. 609, 623 (U. S. C., title 19, sec. 2), it is ordered that the port of St. Petersburg, Florida, be, and it is hereby, designated as a customs port of entry in Customs Collection District No. 18 (Florida), with headquarters at Tampa, Florida.

This order shall become effective thirty days from the date hereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 14, 1938.

[No. 7928]

[F. R. Doc. 38-2043; Filed, July 16, 1938; 12:28 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[38 A. A. A.—2]

REGULATIONS COVERING (A) APPLICATIONS AND HEARINGS RELATIVE TO ADMINISTRATIVE REVIEW OF MARKETING QUOTAS FOR TOBACCO, CORN, WHEAT, COTTON, AND RICE AND (B) THE PUBLICATION AND NOTICE OF SUCH QUOTAS

[1] Sections 362, 363, Public No. 430, 75th Congress (52 Stat. 31), as amended.

(Review Regulations)

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act of 1938, I, Henry A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations, to be in force and effect from the date hereof until amended or superseded by regulations hereafter made by the Secretary of Agriculture under the authority of said act.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the City of Washington, this 13th day of July, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

CONTENTS

THE PRESIDENT

	Page
Executive Orders:	
Foreign Service Regulations of the United States	1749
St. Petersburg, Fla., designated customs port of entry	1749
RULES, REGULATIONS, ORDERS	
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Cotton pool participation trust certificates, Form C-5-I, retirement of	1754
Tobacco, corn, wheat, cotton and rice, administrative review of marketing quotas	1749
Wheat, national acreage allotment for 1939 crop	1754
Office of the Secretary:	
Land utilization projects, administration by Forest Service	1755
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:	
Bureau of Animal Industry:	
Modified tuberculosis-free accredited areas, names of counties	1755
TITLE 26—INTERNAL REVENUE:	
Bureau of Internal Revenue:	
Taxes on admissions, dues and initiation fees, Regulations 43 amended	1756
TITLE 27—INTOXICATING LIQUORS:	
Federal Alcohol Administration Division:	
Revision of caution notice on bottled in bond distilled spirits	1756
TITLE 31—MONEY AND FINANCE: TREASURY:	
Accounts and Deposits:	
Special Mexican Claims Commission awards, payments on account	1757

(Continued on next page)

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CONTENTS—Continued

	Page
TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:	
Veterans' Administration:	
Payment of death pension and compensation to dependents	1758
TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION:	
Civilian Conservation Corps:	
Enrollment, discharge, hospitalization, death and burial of enrolees	1759
TITLE 46—SHIPPING:	
United States Maritime Commission:	
Establishing the United States Maritime Service	1760
NOTICES	
Department of Agriculture:	
Farm Security Administration:	
Designation of counties for tenant purchase loans:	
Alabama	1761
Iowa	1760
Kansas	1761
Louisiana	1761
Maryland	1761
Nebraska	1761
Office of the Secretary:	
Transfer of land from Farm Security Administration to Forest Service for administration, etc.:	
Magazine Mountain Project, Ark	1761
Northeast Georgia Project, Ga	1762
Department of the Interior:	
Division of Territories and Island Possessions:	
Alaska Railroad, Supplement 4 to Joint Freight Tariff No. 5–E	1760

CONTENTS—Continued

	Page
Interstate Commerce Commission:	
California motor carrier rates, investigation, etc	1762
Iowa-Illinois-Eastern Kansas-Missouri-Eastern Nebraska motor carrier rates, income statements	1762
Securities and Exchange Commission:	
Curtiss Wright Corp., Class "A" Stock, unlisted trading privileges	1763
South Carolina Utilities Co., issue and sale of note authorized by State commission	1763

TABLE OF CONTENTS

	Article	Section
DEFINITIONS	I	100
PUBLICATION OF ACREAGE ALLOTMENTS AND MARKETING QUOTAS AND NOTICE OF QUOTAS	II	
Publication		200
List of Acreage Allotments		201
List of Marketing Quotas		202
Notice of Quotas		203
Other Regulations		204
APPLICATIONS FOR REVIEW OF QUOTAS	III	
Manner and Time of Filing Application		300
Contents of Application		301
Record of Applications		302
Insufficient and Untimely Applications		303
Clerk to Review Committee		304
Transmission of Information		305
THE REVIEW COMMITTEE	IV	
Eligibility		400
Establishment		401
Vacancies		402
Manner of Designation		403
Time of Designation		404
Period of Designation		405
Reservation of Powers of Secretary of Agriculture		406
Effect of Changes in Review Committee		407
Compensation		408
HEARINGS	V	
Place of Hearing		500
Notice of Hearing		501
Time and Place of Hearing		502
Conduct and Scope of Hearing		503
Representation		504
Withdrawal of Applications		505
Non-Appearance of Applicant		506
Evidence		507
Burden of Proof		508
Time Consumed by Hearing; Briefs		509
Consolidation of Hearings		510
Amendments		511
Reopening Hearing		512
Determination by Review Committee		513
Service of Determination		514
The Record		515
COURT PROCEEDINGS	VI	
Duty of Review Committee		600
FORMS AND CUSTODY AND INSPECTION OF RECORDS	VII	
Forms		700
Custody		701
Filing of Papers by Hearing Clerk		702
Inspection		703
CONSTRUCTION	VIII	800
PUBLIC NOTICE OF FOREGOING REGULATIONS	IX	900

ARTICLE I.—DEFINITIONS

SEC. 100. As used in these regulations:

(a) The term "act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) The term "Secretary of Agriculture" means the Secretary of Agriculture of the United States.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "Hearing Clerk" means the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

(e) The term "review committee" means the review committee whose appointment by the Secretary of Agriculture is provided for by section 363 of title III of the act.

(f) The term "committee", except when referring to review committee, means a committee utilized under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

(g) The term "quota" means a marketing quota established for a farm, in the case of tobacco, corn, wheat, and cotton, and for a producer, in the case of rice, under title III of the act.

(h) The term "acreage allotment" means an acreage allotment established for a farm, in the case of corn, wheat and cotton, and for a producer, in the case of rice, under title III of the act.

(i) The term "application" means an application for review of a marketing quota, the filing of which is provided for by section 363 of title III of the act.

ARTICLE II.—PUBLICATION OF ACREAGE ALLOTMENTS AND MARKETING QUOTAS AND NOTICE OF QUOTAS.

SEC. 200. *Publication.*—(a) Immediately upon the establishment of acreage allotments and of quotas for any commodity, the county committee shall prepare a list containing the information specified in sections 201 and 202 of this article.

(b) A copy of the list so prepared shall be permanently kept freely available for public inspection in the office of the county committee, and a copy of the list shall be posted for not less than thirty days in a conspicuous place in the county (or in the case of cotton in each local administrative area in the county if the county is divided into two or more local administrative areas for the purpose of the cotton marketing quota provisions of the act). Another copy of the list shall be furnished to the County Agricultural Extension Agent who shall keep the list permanently available for public inspection in his office.

SEC. 201. *List of acreage allotments.*—The list shall contain the following information relating to acreage allotments:

(a) the allotment for each farm or, in the case of rice, for each producer;

(b) the identification of the farm by giving the name of the owner or operator and the legal description of the farm, the location of the farm, or the name by which the farm is commonly known; in the case of rice, the name of the producer shall be given;

(c) the serial number for each farm or, in the case of rice, for each producer;

(d) the calendar year for which such acreage allotment is made.

SEC. 202. *List of marketing quotas.*—The list shall contain the following information relating to marketing quotas:

(a) the acreage allotment, if any, for each farm or, in the case of rice, for each producer;

(b) the marketing percentage of the acreage allotment in the case of corn and wheat;

(c) the normal yield per acre for each farm in the case of corn, wheat, and cotton;

(d) the storage amount for each farm in the case of corn;

(e) the marketing quota for each farm or, in the case of rice, for each producer, expressed insofar as practicable in applicable units, such as pounds, bales, barrels or bushels;

(f) the identification of the farm by giving the name of the owner or operator and the legal description of the farm, the location of the farm, or the name by which the farm is commonly known; in the case of rice, the name of the producer shall be given;

(g) the serial number for each farm, or, in the case of rice, for each producer;

(h) the marketing year or, in the case of corn, the crop, for which such marketing quota is effective.

SEC. 203. *Notice of quotas.*—(a) Immediately upon the establishment of quotas for any commodity, the county committee shall mail a written notice of the quota to the producer, in the case of rice, and to the operator of the farm, in the case of tobacco, corn, wheat, or cotton. A notice to the operator of the farm shall contain at or near the top thereof the following statement: "To all persons who as operator, landlord, tenant or sharecropper are interested in the farm for which this quota is established", and such notice shall constitute notice to all such persons. The notice shall contain the information required by section 202 of this article to be contained in the list of marketing quotas for publication. The notice shall contain also, on the face or back thereof, a brief reference to, or statement of, the procedure whereby application for review of the quota may be made.

(b) A copy of each notice, containing a notation thereon, of the date of mailing, shall be kept among the records of the county committee, and, upon request, a copy of such notice, certified by the secretary of the county committee as true and correct, shall be furnished without charge to any person interested in the farm in respect to which the quota is established.

SEC. 204. *Other regulations.*—The provisions of this article may be supplemented by regulations issued by the Secretary of Agriculture in respect to acreage allotments or marketing quotas for any specific commodity.

ARTICLE III.—APPLICATIONS FOR REVIEW OF QUOTAS

SEC. 300. *Manner and time of filing application.*—An application shall be in writing and addressed to, and filed with, the secretary of the county committee through which the quota sought to be reviewed was established. The application shall be filed within fifteen days after the date of mailing of the notice of such quota.

SEC. 301. *Contents of application.*—The application shall be accompanied by the original mailed notice of the quota sought to be reviewed, or by a copy of such notice certified as true and correct by the secretary of the county committee, and shall contain:

(a) the date of the application;

(b) the correct full name and full address of the applicant;

(c) a statement of the amount of quota which it is claimed should have been made;

(d) a brief statement of each ground upon which the application is based;

(e) the signature of the applicant.

SEC. 302. *Record of application.*—The secretary of the county committee shall make a notation on each application of the date of the receipt thereof by him and give such application an identification number.

SEC. 303. *Insufficient and untimely applications.*—If the secretary of the county committee finds that any application filed (a) is not in substantial compliance with the provisions of section 301 of this article, or (b) is not made within the period fixed for the filing of applications, he shall so notify the applicant in writing by depositing the writing, accompanied by a copy of these regulations, in the United States mails, registered and addressed to the applicant at his last known address. In the case of an insufficient application filed within the period fixed for the filing of applications, the applicant may, within fifteen days after the date of mailing of the notification aforesaid, file with such secretary an amended application containing the matter specified in section 301 of this article.

SEC. 304. *Clerk to review committee.*—The secretary of the county committee shall act as clerk to the review committee, unless and until some other person shall have been designated by the county committee as clerk to the review committee. The county committee may designate a person other than the secretary of the county committee to act as clerk to the review committee. If not already an employee, the person so designated shall thereby become an employee of such county committee. Immediately upon such designation, the county committee shall notify the State committee thereof. In the event of such designation, the secretary of the county committee shall transmit to the person so designated any and all applications received by him and all papers and information relating thereto.

SEC. 305. *Transmission of information.*—The clerk to the review committee shall furnish to the State committee such information pertaining to applications filed with him as the State committee may require.

ARTICLE IV. THE REVIEW COMMITTEE

SEC. 400. *Eligibility.*—Any farmer who now is, who may hereafter become, or who is eligible to become a member of any county or community committee shall be eligible to serve on review committees to hear applications for review of quotas established in counties or communities which are adjacent to or nearby the county or community, as the case may be, for which he is a committeeman or eligible to become a committeeman. The eligibility hereby declared shall be subject at all times to the provisions of the following sections of this article. No farmer who is a member of a county or community committee of, or whose legal residence is in, one State shall be eligible to serve on a review committee in any other State.

SEC. 401. *Establishment.*—Three eligible farmers shall be designated to serve on a review committee for a county, a group of counties, a community, or group of communities, and of the farmers so designated one shall be named chairman, and another vice-chairman, of such committee. The vice-chairman shall perform the duties, and exercise the powers, of the chairman in the absence of the chairman. No review committee shall include any member of the county or community committee through which was determined any matter relating to any quota for the review of which the review committee is established. Subject to the provisions of this section and of section 400 of this article, the same farmer may be designated to serve on more than one review committee. An eligible farmer may be designated as alternate member of the committee to serve in the event of the absence of any regular member thereof, or in case of a vacancy in the committee.

SEC. 402. *Vacancies.*—Subject to the requirements of eligibility set forth in sections 400 and 401 of this article, a farmer shall be designated to fill any vacancy occurring in any review committee. Where a single vacancy occurs after a hearing is begun and before the final determination, the remaining two members of the committee shall thenceforth constitute an entire committee for the purposes of such hearing. If more than one such vacancy occurs, or if the two remaining members of the committee cannot agree upon a determination, there shall be a new hearing, after the filling of the vacancy, by the entire committee of three members.

SEC. 403. *Manner of designation.*—The designations mentioned in sections 401 and 402 of this article with respect to a

review committee and the area for which the committee shall serve, shall be made in writing by the Secretary of Agriculture and notice of such designation shall be sent to (a) the farmer so designated, (b) the clerk to the review committee, and (c) the State committee.

SEC. 404. *Time of designation.*—Any designation may be made before, during, or after the period during which applications are required to be filed.

SEC. 405. *Period of designation.*—A review committee shall hear applications for review of any quota established in the area for which, and becoming effective during the calendar year in which, the committee is established.

SEC. 406. *Reservation of powers of secretary of Agriculture.*—Notwithstanding any of the foregoing provisions of this article, the Secretary of Agriculture shall have the continuing power to revoke or suspend any designation made pursuant to the provisions of this article, and, subject to the provisions of the act, to make such other designation as he may deem proper.

SEC. 407. *Effect of changes in review committee.*—Nothing contained in the foregoing provisions of this article relating to any vacancy or revocation or suspension of designation, and nothing done pursuant to such provisions, shall be construed as affecting the validity of any prior hearing conducted or determination made in accordance with these regulations, in which the member of the review committee, whose place has become vacant, participated, or as affecting in any way any court proceeding which may be instituted, pursuant to the provisions of the act, for the review of such determination.

SEC. 408. *Compensation.*—The members of a review committee designated in accordance with the provisions of this article shall receive the same compensation as that received by the members of the county committee through which were established the quotas sought to be reviewed. The payment of such compensation shall be governed by instructions issued by the Agricultural Adjustment Administration. The members of a review committee shall not be entitled to receive compensation for services as members of such committee for more than thirty days in any one year. Reimbursement for travel expenses shall be made at such rates and under such conditions as may be prescribed by the Agricultural Adjustment Administration.

ARTICLE V.—HEARINGS

SEC. 500. *Place of hearing.*—The place of hearing shall be in the office of the county committee through which the quota sought to be reviewed was established, or such other appropriate place in the county as may be designated by the review committee.

SEC. 501. *Notice of hearing.*—As soon as practicable after its establishment, the review committee shall arrange with the clerk to the committee for the appointment of the time and the designation of the place for hearing on applications. Notice of the hearing shall be given by such clerk. The notice shall be in writing and shall specify the time, place and purpose of the hearing. Such notice shall be given to the applicant by depositing the same, at least ten days prior to the time appointed for the hearing, in the United States mails, registered and addressed to the applicant at his last known address. The State committee shall also be notified in writing of such hearing. A copy of all such notices shall be kept and recorded by such clerk.

SEC. 502. *Time and place of hearing.*—Such hearing shall be held at the time and place set forth in the notice of hearing, or in any subsequent notice amending or superseding the prior notice, and also may, without notice other than an announcement at the hearing by the chairman of the review committee, in the exercise of the discretion of the committee, be continued from day to day, or adjourned to a different place in the county or to a later date, or to a date and place to be fixed in a subsequent notice to be issued in the manner provided in sections 500 and 501 of this article. In the temporary absence of any member of the committee, the member or members present shall postpone the hearing to a later date and place. In the absence of the entire committee, the postponement shall be made by the clerk.

SEC. 503. *Conduct and scope of hearing.*—Except as provided in section 402 of article IV of these regulations, every such hearing shall take place before the entire review committee and shall be presided over by the chairman thereof. The hearing shall be publicly conducted. The committee shall provide for the taking of such notes at the hearing as will enable it to make a written summary of the relevant evidence received at the hearing. A stenographic transcript of the testimony received shall be made if (a) the applicant requests such transcript and provides for the making thereof and for the payment of the expense therefor, or (b) the State committee requests that such transcript be made. Immediately upon the completion of any such transcript made at the request of the applicant, three legible copies thereof shall be furnished to the review committee without charge. The committee shall consider only such matters as, under the applicable provisions of the act and regulations of the Secretary of Agriculture thereunder, are required to be considered by the county committee in the establishment of the quota sought to be reviewed. The review committee shall not give consideration to any evidence which is irrelevant to the determination of the quota for the applicant. The hearing shall be conducted in a manner determined by the committee to be conducive to the proper dispatch of business and the attainment of justice.

SEC. 504. *Representation.*—The applicant and the Secretary of Agriculture may be represented at the hearing.

SEC. 505. *Withdrawal of applications.*—An application may be withdrawn upon the written request of the applicant. Any application so withdrawn shall be endorsed "Dismissed at the Request of the Applicant". This endorsement shall be made by the clerk to the review committee if the withdrawal takes place before the hearing and by the chairman of the committee if the withdrawal takes place after the hearing has begun.

SEC. 506. *Non-appearance of applicant.*—If at the time of such hearing, the applicant is absent and no appearance is made on his behalf, the review committee shall, after a lapse of such period of time as it may consider proper and reasonable, have the name of such absent applicant called in the hearing room. If, upon such call, there is no response, and no appearance on behalf of such applicant, the committee may thereupon close the hearing as to such applicant, and, without further proceedings in the case, make an order dismissing the application, or continue the hearing to a later date.

SEC. 507. *Evidence.*—(a) The review committee shall permit the applicant, members of the appropriate county and community committees, and appropriate officers and agents of the Department, and all persons appearing on behalf of such parties, respectively, to give and produce relevant testimony and evidence, to cross-examine witnesses and to present argument on the testimony and evidence adduced at the hearing. The facts relating to any quota under review shall be ascertained in a simple and direct manner, and rules of evidence prevailing in courts of law or equity shall not be controlling. The chairman of the review committee shall administer an oath or affirmation to each person so testifying.

(b) Subject to the right of any requested cross-examination of the affiant, affidavits of general economic facts relating to the commodity in question shall be received and made part of the record of the proceedings for the purpose only of any applicable court review.

SEC. 508. *Burden of proof.*—Upon all issues of fact raised by the application, the burden of proof shall be upon the applicant.

SEC. 509. *Time consumed by hearing; briefs.*—(a) Full opportunity to be heard upon the issues raised by the application shall be afforded the applicant, the county committee, and appropriate officers and agents of the Department. The hearing, however, shall be concluded within such reasonable time as shall be determined by the review committee.

(b) Written briefs in triplicate for the consideration of the review committee

may be filed with the clerk to the committee within such reasonable time after the conclusion of the hearing as shall be prescribed by the chairman of the committee.

SEC. 510. *Consolidation of hearings.*—Wherever practicable, two or more applications relating to the same commodity and the same farm shall be consolidated, and heard at the same time on the same record.

SEC. 511. *Amendments.*—Upon due application, and within the discretion of the review committee, the right of amendment of the application and of all procedural documents in connection with any hearing, shall be granted upon such reasonable terms as the committee may deem right and proper.

SEC. 512. *Reopening hearing.*—The review committee (a) on its own motion, or upon due application therefor, may, within fifteen days from the date of mailing to the applicant of a copy of the determination of the committee, reopen the hearing for the purpose of taking additional evidence or of adding any relevant matter or document, and (b) upon application by or on behalf of the Secretary of Agriculture made for any purpose within a period of thirty days from the date of mailing to the applicant of a copy of the determination of the committee, shall reopen the hearing.

SEC. 513. *Determination by review committee.*—(a) The committee shall make an order dismissing without further hearing any insufficient application or any application which was not filed within the period required for the filing of applications.

(b) As soon as practicable after hearing on any sufficient application filed within the period required for the filing of applications, the committee shall make a determination upon the application. If it is determined by the committee that the application should be denied, the committee shall make an order dismissing the application. If it is determined that the application should be granted in whole or in part, the committee shall establish the quota which it finds to be proper. Each determination made by the committee shall be in writing and shall contain specific findings of fact and conclusions, which shall be based solely upon the testimony and evidence adduced at or in connection with the hearing. The concurrence of the two members of the committee shall be sufficient to make a determination. The written determination shall contain such subscription by each member of the committee as will indicate his concurrence therein or his dissent therefrom.

SEC. 514. *Service of determination.*—A copy of such determination, or of any order dismissing the application, as provided in section 506 or 513 of this article, certified by the clerk to the review committee as a true and correct copy of the signed original, shall be served upon the applicant by depositing the same in the United States mails, registered and addressed to the applicant at his last known address. The copy of the determination or order shall contain at the top thereof the following statement: "To all persons who as operator, landlord, tenant or sharecropper are interested in the farm for which this quota is established", and such statement shall constitute notice to all such persons. The clerk shall make a notation on the original determination or order of the date and place of such mailing. The clerk forthwith shall forward a copy of such determination or order to the Hearing Clerk, to the chairman of the State committee, and to the chairman of the county committee.

SEC. 515. *The record.*—The record of the proceedings shall be prepared by the clerk to the review committee and shall consist of the following:

(a) All procedural documents in the case under review, including the application and written notice of hearing and any other written notice in connection with the application.

(b) Copies of such pertinent proclamations, announcements, general regulations, and apportionments, national, State, or county, issued by the Secretary of Agriculture in respect to acreage allotments and marketing quotas for the commodity in question, as may be presented at the hearing by or on behalf of the Secretary of Agriculture.

(c) Any stenographic transcript or written summary of the evidence made in accordance with these regulations, to which shall be annexed any documentary evidence received at the hearing. The review committee shall make such corrections in any stenographic transcript made as will make the text conform to the correct meaning. The corrections shall be made in such manner as will not obscure the original text of the transcript. In each case which is followed by the institution by the applicant of proceedings in court for a review of the determination of the review committee, (1) the committee, in the absence of any stenographic transcript of the testimony, shall prepare a written summary of the evidence, and (2) in addition to the items mentioned in (a) and (b) above, the record shall include a copy of the notice of the designation of the members of the review committee, and a copy of these regulations.

(d) The written determination of the review committee.

(e) A list of all papers included in the record, and a certificate by the clerk to the review committee, stating that such record is true, correct and complete.

ARTICLE VI.—COURT PROCEEDINGS

SEC. 600. *Duty of review committee.*—(a) The committee is required, by section 365 of title III of the act, upon the institution of any suit against the committee for the purpose of reviewing its determination upon any application for review of a quota, to certify and file in court a transcript of the record upon which the determination was made, together with the findings of fact made by the committee. Any suit for review is required to be instituted by the applicant within fifteen days after a notice of the committee's determination is mailed to him by registered mail. Such suit may be instituted in the United States District Court or in any court of record of the State having general jurisdiction, sitting in the county or the district in which the applicant's farm is located. A bill of complaint in such proceeding may be served by delivering a copy thereof to any member of the committee.

(b) Upon the institution of such suit, the clerk to the review committee shall immediately send a telegram addressed to the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C. The telegram shall state the name of the plaintiff, the name of the court in which the suit is instituted, and the time within which appearances must be made in such suit in behalf of the committee. Any member of the committee served with papers in such suit shall forward such papers to the clerk of the committee, who shall in turn forward them to the Hearing Clerk. No member of the committee shall appear or permit any appearance in his behalf or in behalf of the committee, or take any action in respect to the defense of such suit, except in accordance with the instructions from or on behalf of the Secretary of Agriculture.

ARTICLE VII.—FORMS AND CUSTODY AND INSPECTION OF RECORDS

SEC. 700. *Forms.*—The forms required in connection with the publication, notice and review of quotas shall be prescribed by the Secretary of Agriculture.

SEC. 701. *Custody.*—The clerk to the review committee shall carefully keep and preserve a record of all applications and of all proceedings relating to the review of such applications.

SEC. 702. *Filing of papers by Hearing Clerk.*—The Hearing Clerk shall maintain a file of all records, documents and papers specifically required by these regulations to be sent to such clerk.

SEC. 703. *Inspection.*—All records, documents, and papers filed with the clerk to the review committee or the Hearing Clerk shall be available for public inspection at the respective places of filing.

ARTICLE VIII.—CONSTRUCTION

SEC. 800. Nothing containd in these regulations shall be, or shall be construed to be, in derogation or modification of the rights of the Secretary of Agriculture or of the United States (a) to exercise any jurisdiction or powers granted by title III of the act or otherwise, or (b) to act in the premises in accordance with

such jurisdiction and powers whenever such action is deemed advisable.

ARTICLE IX.—PUBLIC NOTICE OF FOREGOING REGULATIONS

SEC. 900. Public notice of the issuance of the foregoing regulations shall be given by (a) publishing the regulations in the FEDERAL REGISTER; and (b) posting a copy of the regulations on the official bulletin board of the Department at Washington, D. C.

[F. R. Doc. 38-2024; Filed, July 14, 1938; 12:34 p. m.]

NATIONAL ACREAGE ALLOTMENT FOR 1939 CROP OF WHEAT

By the Secretary of Agriculture of the United States of America

A PROCLAMATION

Whereas, the Agricultural Adjustment Act of 1938, as amended, provides:

SEC. 332. Not later than July 15 of each marketing year—for wheat, the Secretary shall ascertain and proclaim the total supply and the normal supply of wheat for such marketing year, and the national acreage allotment for the next crop of wheat.

SEC. 333. The national acreage allotment for any crop of wheat shall be that acreage which the Secretary determines will, on the basis of the national average yield for wheat, produce an amount thereof adequate, together with the estimated carryover at the beginning of the marketing year for such crop, to make available a supply for such marketing year equal to a normal year's domestic consumption and exports plus 30 per centum thereof. The national acreage allotment for wheat for 1938 shall be sixty-two million five hundred thousand acres. The national acreage allotment for wheat for 1939 shall be not less than fifty-five million acres.

Whereas said act contains, in section 301 (b), the following definitions of terms here pertinent:

"Carry-over" of wheat, for any marketing year shall be the quantity of wheat on hand in the United States at the beginning of such marketing year, not including any wheat which was produced in the United States during the calendar year then current, and not including any wheat held by the Federal Crop Insurance Corporation under Title V.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

* * * * * * *

Wheat, July 1–June 30.

"Normal supply" in the case of * * * wheat shall be a normal year's domestic consumption and exports of the commodity, plus * * * 15 per centum in the case of wheat, of a normal year's domestic consumption and exports, as an allowance for a normal carry-over.

"Normal year's domestic consumption" in the case of * * * wheat shall be the yearly average quantity of the commodity, wherever produced, that was cosumed [consumed] in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports" in the case of * * * wheat shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years * * * immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

"Total supply" of * * * wheat for any marketing year shall be the carry-over of the commodity for such marketing year plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins.

Whereas said act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act.";

Now therefore, be it known that I, M. L. Wilson, Acting Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of the authority vested in me by the Agricultural Adjustment Act of 1938, as amended, upon the basis of latest available statistics of the Federal Government do hereby find, determine, and proclaim under sections 332 and 333 of said act:

(1) That the "total supply" of wheat for the marketing year commencing July 1, 1938, is 1147 million bushels;

(2) That the "normal supply" of wheat for the marketing year commencing July 1, 1938, is 866 million bushels;

(3) That the national acreage allotment for the 1939 crop of wheat, if the act did not specify a minimum national acreage allotment for such crop of 55,000,000 acres, would have been less than such amount; and

(4) That the national acreage allotment for the 1939 crop of wheat is 55,000,000 acres.

Done at Washington, D. C., this 15th day of July, 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2042; Filed, July 16, 1938; 12:06 p. m.]

REGULATIONS WITH RESPECT TO RETIREMENT OF COTTON POOL PARTICIPATION TRUST CERTIFICATES, FORM C-5-I

By virtue of the authority vested in the Secretary of Agriculture by Title IV, "Cotton Pool Participation Trust Certificates", of the Agricultural Adjustment Act of 1938, as amended, Public No. 430, 75th Congress, approved February 16, 1938, and the item entitled "Retirement of Cotton Pool Participation Trust Certificates" contained in Title I of the Department of Agriculture Appropriation Act, 1939, Public No. 644, 75th Congress, approved June 16, 1938, I hereby prescribe the following regulations with respect to the retirement of Cotton Pool Participation Trust Certificates, Form C-5-I:

SECTION I. Subsequent to December 31, 1938, no Participation Trust Certificate, Form C-5-I, shall be issued.

SEC. II. The calculation of the interest payment provided for in Section 401 of Title IV of the Agricultural Adjustment Act of 1938, shall be made from the date of purchase of the Participation Trust Certificate, Form C-5-I, to the date of approval for payment by the manager of the cotton pool.

SEC. III. In case the holder of record of a Participation Trust Certificate, Form C-5-I, has lost or misplaced the same, he may receive payment upon the execution of an affidavit on Form C-5-M, "Affidavit of Loss of Participation Trust Certificate, Form C-5-I," accompanied by Form C-5-L, "Offer of Sale of Participation Trust Certificate, Form C-5-I, by Original Holder, or by Holder to whom Transferred as shown by the Records of the Department of Agriculture on or before May 1, 1937." If application for payment is made by one not shown by the records of the Department of Agriculture to be a holder of record of a certificate which has been lost or misplaced, such application must be accompanied by affidavits on Form C-5-N, "Affidavit of Assignment by Holder of Record of Participation Trust Certificate, Form C-5-I," and Form C-5-O, "Affidavit by Assignee of Lost Participation Trust Certificate, Form C-5-I."

SEC. IV. The tender of Participation Trust Certificates, Form C-5-I, to the manager of the cotton pool must be postmarked not later than December 31, 1938.

SEC. V. In case any person who is entitled to payment on a Participation Trust Certificate, Form C-5-I, dies, becomes incompetent, or disappears before receiving such payment, or before offering such certificate for sale, where the amount due is $500 or more, payment may only be made to the duly appointed legal representative, and where the amount is less than $500 and there is no duly appointed legal representative, application for payment may be executed by and payment may be made to the spouse or next of kin of the holder of record of the certificate in the following order of precedence: (1) to the spouse; (2) to the children or their issue per stirpes; (3) to the father and mother jointly, provided the father has not abandoned the support of his family, in which case, to the mother, alone; (4) if either the father or mother be dead, then to the survivor; (5) to the brothers and sisters per stirpes: *Provided*, that where the application for payment is based upon the disappearance of a person who has not offered the certificate for sale, payment thereon shall not be made until subsequent to December 31, 1938, and shall be approved only in the event an offer of sale is not made on or before December 31, 1938, by the person who has disappeared; *Provided further*, that no payment may be made to creditors of the holder of record other than the United States.

(a) A person shall be deemed to be incompetent when proof is presented in the form of a certificate from the clerk of a court of competent jurisdiction of the State wherein the person resides, to the effect that the person has been adjudged incompetent by that court.

(b) A person shall be deemed to have disappeared when proof is presented in the form of an affidavit executed by the person making application for payment, to the effect that the holder of record has been missing for a period of more than three months and that diligent search has failed to reveal his whereabouts, substantiated by an affidavit of a disinterested person.

(c) For purposes of this section V the use of Form C-5-P, "Application for Payment of Amounts Due Cotton Pool Participation Trust Certificate (Form C-5-I) Holders who have Died, been declared Incompetent, or have Disappeared", will be adequate.

In witness whereof, I, Harry L. Brown, Acting Secretary of Agriculture, have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 18th day of July, 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2048; Filed, July 18, 1938; 11:42 a. m.]

OFFICE OF THE SECRETARY

[Administrative Order]

RULES AND REGULATIONS GOVERNING PROTECTION, OCCUPANCY, USE, AND ADMINISTRATION OF LAND UTILIZATION PROJECTS BY THE FOREST SERVICE

Whereas certain land utilization projects in the States of Colorado, New Mexico, Oregon and Washington were established by the Resettlement Administration and lands therein were vested in the ownership of the United States by purchase to withdraw them from submarginal farm use, and

Whereas administrative jurisdiction over said lands was vested in the Secretary of Agriculture by Executive Order No. 7530 of December 31, 1936, as amended by Executive Order No. 7557, of February 19, 1937 (2 F. R. 7, 343), and

Whereas by Executive Order No. 7908 of June 9, 1938,[1] said lands were made subject to the provisions of Title III of the Farm Tenant Act, approved July 22, 1937 (50 Stat. 526), and

Whereas the adjacency of said lands to existing national forests makes it desirable as a matter of economy and efficiency that they be administered by the Forest Service of the Department of Agriculture, to which they therefore have been assigned for administration by the Secretary of Agriculture, and

Whereas the Acts of March 4, 1907 (34 Stat. 1271), and of June 15, 1926 (44 Stat. 745), prohibit the creation or enlargement of national forests in said States except by or under authority of Act of Congress, and

Whereas it is necessary to prescribe rules and regualtions for the protection and administration of said lands, and the Secretary of Agriculture is empowered by section 32, paragraph (f) of said Act of July 22, 1937, to prescribe such rules and regulations as may be necessary to protect said lands and control their use and management, and

Whereas the requirements of protection, use and management of said lands are identical to those of the adjoining and related national forest lands.

Now, therefore, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby direct that until said lands shall have been added to and made parts of the related national forests by Acts of Congress, the rules and regulations providing for the protection, occupancy, use and administration of the national forests, as approved by the Acting Secretary of Agriculture August 12, 1936 (1 F. R. 1090), are herewith adopted and promulgated as rules and regulations for the protection, occupancy, use and administration of such land utilization projects administered by the Forest Service in so far as is practical and consistent with the Acts of Congress under which said lands were or are being acquired.

In testimony whereof I have hereunto set my hand and the official seal of the U. S. Department of Agriculture at the City of Washington, District of Columbia, this 15th day of July, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2047; Filed, July 18, 1938; 10:40 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 21 to Declaration No. 12]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

JULY 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936,[1] the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

California: Mariposa, July 1, 1941; Solano, July 1, 1941; Tuolumne, July 1, 1941.

South Dakota: Clay, July 1, 1941; Turner, July 1, 1941; Union, July 1, 1941.

Puerto Rico: Barceloneta, July 1, 1941; Ciales, July 1, 1941; Manati, July 1, 1941; Morovis, July 1, 1941; Vega Alta, July 1, 1941; Vega Baja, July 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Bullock, July 1, 1941; Hale, July 1, 1941; Lauderdale, July 1, 1941; Lee, July 1, 1941; Madison, July 1, 1941.

Arizona: Greenlee, July 1, 1941, Yuma, July 1, 1941.

Arkansas: Ashley, July 1, 1941; Bradley, July 1, 1941; Calhoun, July 1, 1941; Cleveland, July 1, 1941; Dallas, July 1, 1941; Drew, July 1, 1941; Little River, July 1, 1941; Ouachita, July 1, 1941; Union, July 1, 1941.

Colorado: Bent, July 1, 1941; Custer, July 1, 1941; Grand, July 1, 1941; Kit Carson, July 1, 1941; Larimer, July 1, 1941; Lincoln, July 1, 1941; Mineral, July 1, 1941; Prowers, July 1, 1941; Saguache, July 1, 1941; Teller, July 1, 1941; Washington, July 1, 1941.

Florida: Clay, July 1, 1941; Escambia, July 1, 1941; Holmes, July 1, 1941; Levy, July 1, 1941; Okaloosa, July 1, 1941; Santa Rosa, July 1, 1941; Walton, July 1, 1941.

Georgia: Barrow, July 1, 1941: Brantley, July 1, 1941; Butts, July 1, 1941; Charlton, July 1, 1941; Cook, July 1, 1941; Dodge, July 1, 1941; Habersham, July 1, 1941; Jasper, July 1, 1941; Monroe, July 1, 1941; Stewart, July 1, 1941; Sumter, July 1, 1941; Tattnall, July 1, 1941; Toombs, July 1, 1941; Towns, July 1, 1941; Union, July 1, 1941; White, July 1, 1941.

Idaho: Benewah, July 1, 1941; Oneida, July 1, 1941.

Illinois: Adams, July 1, 1941; LaSalle, July 1, 1941; Macon, July 1, 1941; Morgan, July 1, 1944; Sangamon, July 1, 1941; Shelby, July 1, 1941.

Indiana: Greene, July 1, 1941; Harrison, July 1, 1941.

Iowa: Des Moines, July 1, 1941; Lyon, July 1, 1941; Pottawattamie, July 1, 1941; Sioux, July 1, 1941.

Kansas: Greeley, July 1, 1941; Hodgeman, July 1, 1941; Jackson, July 1, 1941; Lane, July 1, 1941; Logan, July 1, 1941; Scott, July 1, 1941; Thomas, July 1, 1941; Trego, July 1, 1941; Wallace, July 1, 1941; Wichita, July 1, 1941.

Kentucky: Allen, July 1, 1941; Bourbon, July 1, 1941; Lawrence, July 1, 1941; Pulaski, July 1, 1941; Woodford, July 1, 1941.

Maine: York, July 1, 1941.

Minnesota: Carlton, July 1, 1941.

Mississippi: Panola, July 1, 1941.

Missouri: Camden, July 1, 1941; Clark, July 1, 1941; Pike, July 1, 1941; Pulaski, July 1, 1941; Scotland, July 1, 1941; Sullivan, July 1, 1941; Wright, July 1, 1941.

Montana: Dawson, July 1, 1941; Glacier, July 1, 1941; Petroleum, July 1,

[1] 3 F. R. 1389 DI.

[1] 1 F. R. 1338.

1941; Roosevelt, July 1, 1941; Silverbow, July 1, 1941; Teton, July 1, 1941; Valley, July 1, 1941.

New Jersey: Cape May, July 1, 1940; Ocean, July 1, 1940.

New Mexico: Catron, July 1, 1941; Chaves, July 1, 1941; Curry, July 1, 1941; Eddy, July 1, 1941; Grant, July 1, 1941; Hidalgo, July 1, 1941; Luna, July 1, 1941; Otero, July 1, 1941; Sandoval, July 1, 1941; San Juan, July 1, 1941; Socorro, July 1, 1941; Valencia, July 1, 1941.

North Carolina: Columbus, July 1, 1941; Orange, July 1, 1941; Vance, July 1, 1941.

North Dakota: Bowman, July 1, 1944; Sargent, July 1, 1944; Steele, July 1, 1944.

Ohio: Mahoning, July 1, 1941; Portage, July 1, 1941.

Oklahoma: Jefferson, July 1, 1941; Kingfisher, July 1, 1941; Pontotoc, July 1, 1941; Pottawatomie, July 1, 1941; Seminole, July 1, 1941; Stephens, July 1, 1941.

Pennsylvania: Clearfield, July 1, 1941; Delaware, July 1, 1941.

South Carolina: Newberry, July 1, 1941; Sumter, July 1, 1941.

Tennessee: Humphreys, July 1, 1941; Madison, July 1, 1941; Maury, July 1, 1941; McMinn, July 1, 1941; McNairy 4, July 1, 1941; Wilson, July 1, 1941.

Texas: Cottle, July 1, 1941; Hall, July 1, 1941; Moore, July 1, 1941; Washington, July 1, 1941.

Utah: Cache, July 1, 1941.

Virginia: Caroline, July 1, 1941; Elizabeth City, July 1, 1941; Nottoway, July 1, 1941; Shenandoah, July 1, 1941; Sussex, July 1, 1941.

Washington: Kitsap, July 1, 1941.

West Virginia: Boone, July 1, 1941; Wyoming, July 1, 1941.

Wyoming: Albany, July 1, 1941; Campbell, July 1, 1941; Converse, July 1, 1941; Hot Springs, July 1, 1941; Johnson, July 1, 1941.

Declaration No. 12, dated October 1, 1936,[1] as amended, is hereby further amended accordingly.

[SEAL] A. W. MILLER,
Acting-Chief of Bureau.

[F. R. Doc. 38-2041; Filed July 16, 1938; 12:06 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4827]

TAXES ON ADMISSION, DUES AND INITIATION FEES

REGULATIONS 43, ARTICLE 1, AMENDED

To Collectors of Internal Revenue and Others Concerned:

In conformity with the provisions of section 712 of the Revenue Act of 1938, Regulations 43, approved June 14, 1932, as amended by Treasury Decision 4379, approved August 9, 1933, are further amended as follows:

[1] 1 F. R. 2024.

Immediately after the quotation of section 500 (c) of the Revenue Act of 1926, as amended, which precedes article 1, as amended by Treasury Decision 4379, the following subtitle and quotation of section 712 of the Revenue Act of 1938 are inserted:

REVENUE ACT OF 1938

SEC. 712. *Tax on admissions to theaters.*—

(a) Section 500 (a) (1) of the Revenue Act of 1926, as amended, is amended by inserting before the period at the end of the second sentence the following: ", and except that in the case of tickets or cards of admission to any such spoken play sold at the ticket office of theaters at reduced rates the tax shall be based upon the price for which sold".

(b) The amendment made by subsection (a) shall apply with respect to sales made after June 30, 1938.

The first paragraph of article 1, as amended, is further amended to read as follows:

"Except as specifically amended by the Revenue Act of 1932, section 219 of the National Industrial Recovery Act and section 712 of the Revenue Act of 1938, the provisions of the Revenue Act of 1926, as amended by the Revenue Act of 1928, with respect to the tax on admissions are still in full force and effect. The amendment to section 500 (a) (1) made by section 711 (a) of the Revenue Act of 1932 was effective June 21, 1932, the amendment made by section 219 of the National Industrial Recovery Act was effective June 16, 1933, and the amendment made by section 712 of the Revenue Act of 1938 is effective July 1, 1938."

Article 1 is also amended by amending the seventh paragraph to read as follows:

"In the case of a person admitted free or at a reduced rate to any place at a time when and under circumstances under which an admission charge is made to other persons, the person so admitted free or at a reduced rate is liable to tax, except as otherwise provided in this paragraph, in an amount equivalent to the tax on the amount paid by such other persons for the same or similar accommodations. A bona fide employee of the management of the place, a municipal officer who is acting in his official capacity, or a child under twelve years of age, is not liable to tax if admitted free; and if admitted at a reduced rate is liable to tax on the reduced price, provided such price is 41 cents or more. No tax attaches to free admissions to a spoken play (not a mechanical reproduction) whether or not set to music or with musical parts or accompaniments, which is a consecutive narrative interpreted by a single set of characters, all necessary to the development of the plot, in two or more acts, the performance consuming more than 1 hour and 45 minutes of time. In case tickets or cards of admission to such spoken play are sold *at the ticket office of theaters at reduced rates* for more than 40 cents on and after July 1, 1938, the tax shall be based upon the price for which such tickets are sold. In any case where tickets or cards of admission are issued the tax due should be collected at the time of the issuance of such tickets or cards, while if no tickets or cards are used, tax should be collected when the persons are admitted."

This Treasury decision shall be effective as of July 1, 1938.

This Treasury decision is issued under authority prescribed in section 1101 of the Revenue Act of 1926.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 15, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2058; Filed, July 18, 1938; 1:00 p. m.]

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

REVISION OF CAUTION NOTICE ON BOTTLED IN BOND DISTILLED SPIRITS

JULY 18, 1938.

To All Bottlers of Distilled Spirits:

It is understood that under the terms of Regulations No. 6,[1] Relating to Bottling of Distilled Spirits in Bond, issued by the Bureau of Internal Revenue, effective July 1, 1938, every person bottling distilled spirits in bond, except for export, is required to attach to each bottle filled by him a revised caution notice, reading as follows:

"This bottle has been filled and stamped under the provisions of the Act of Congress entitled 'An Act to allow the bottling of distilled spirits in bond', approved March 3, 1897, as amended. Any person who shall reuse the stamp affixed to this bottle, or remove the contents of this bottle without so destroying the stamp affixed thereto as to prevent reuse, or who shall sell this bottle, or reuse it for distilled spirits, will be liable to the penalties prescribed by law."

This Administration has issued a number of certificates of approval for labels of domestically bottled distilled spirits covering sets of labels which include, on the back label, the old caution notice previously required by Regulations No. 6. In revising the caution notice it is not believed that bottlers should be required to secure new certificates of label approval. This circular letter, therefore, constitutes a certificate of label approval for all labels, covered by certificates of label approval heretofore issued, when so revised. It does not, however, authorize any change other than the revision of the caution notice to be made on such labels.

[SEAL] W. S. ALEXANDER,
Administrator.

[1] 3 F. R. 1348 DI.

[F. R. Doc. 38-2057; Filed, July 18, 1938; 1:00 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

ACCOUNTS AND DEPOSITS

[1938—Department Circular No. 589]

REGULATIONS GOVERNING PAYMENTS ON ACCOUNT OF AWARDS OF THE SPECIAL MEXICAN CLAIMS COMMISSION

JULY 14, 1938.

SEC. 1 GENERAL PROVISIONS

(a) *Authority for and scope of regulations.*—The following regulations governing payments in respect of the awards of the Special Mexican Claims Commission are issued under authority contained in section 161 of the Revised Statutes (U. S. C. title 5, sec. 22), the Act of April 10, 1935 (49 Stat. 149), hereinafter referred to as "the Act", and the Joint Resolution of August 25, 1937 (50 Stat. 783), hereinafter referred to as "the Joint Resolution."

(b) *Pro-rata payments.*—Pursuant to the provisions of the Convention between the United States and Mexico, signed on April 24, 1934, the amount agreed to be paid by the Government of Mexico to the Government of the United States is to be paid at the rate of $500,000.00 (five hundred thousand dollars) per annum, beginning January 1, 1935. Accordingly payments on awards, in accordance with the Act and the Joint Resolution, will be made in ratable proportions as payments are received from the Government of Mexico.

(c) *Expenditures of the Commission.*—Before payment on any awards, the amount of the expenditures of the Special Mexican Claims Commission will be deducted from the payments made by the Government of Mexico.

(d) *Forms to be used.*—Forms of vouchers, affidavits and certificates prescribed by the Secretary of the Treasury should be used in connection with payments of awards hereunder. Copies of such forms may be obtained from the Commissioner of Accounts and Deposits, Room 376, Treasury Department, Washington, D. C.

(e) *Authentication of documents.*—All copies of records and documents submitted in connection with the execution of vouchers must be properly authenticated.

SEC. 2. EXECUTION OF VOUCHERS

(a) *Necessity for signature of vouchers.*—No payment of any part of the amount due in respect of an award will be made unless a voucher therefor properly executed (preferably in ink or indelible pencil) is received by the Secretary of the Treasury. A single voucher for each part of an award as funds become available for payment must be signed by each person (including each member of a partnership or association whether or not dissolved) in whose favor the award was made. Each such person must sign the voucher and verify it by affidavit sworn to before any officer authorized by law to administer oaths or, if executed abroad, before a diplomatic or consular officer of the United States. In the case of a corporation, the voucher must be signed by the appropriate officer or officers thereof having authority to do so, which officer or officers shall verify the voucher by affidavit sworn to as above prescribed, and the voucher must also be accompanied by a duly executed certificate, under the seal of the corporation, certifying to the authority of such officer or officers to execute such voucher and affidavit on behalf of the corporation.

(b) *Method of signature.* — The voucher must be signed by each person exactly as his name appears as "payee" therein. If any difference occurs between the name of the "payee" in the voucher and the signature to the voucher, appropriate evidence explaining the discrepancy must be furnished. Affidavits of two other persons in position to know the facts, stating of their own knowledge that the person signing the voucher is the person designated therein as "payee", and indicating the reasons for the discrepancy, will ordinarily be sufficient.

A signature by mark (x) must be witnessed by two persons in addition to the officer before whom the affidavit is executed and the signature and address of each such witness should appear on the voucher and the affidavit.

SEC. 3. ADDITIONAL PROVISIONS CONCERNING EXECUTION OF VOUCHERS BY PERSONS OTHER THAN THOSE IN WHOSE FAVOR AWARDS HAVE BEEN MADE

(a) *Legal representative of deceased person or person under legal disability.*—Where a voucher is drawn to a deceased person or person under legal disability as payee the legal representative of such person shall execute such voucher. In lieu of the affidavit prescribed in section 2 (a) herein, the legal representative should verify the voucher by an appropriate affidavit. In addition there should be submitted with the voucher a copy of the order or letters of appointment of such legal representative and a certificate of the clerk of the appointing court, dated not more than six months prior to the date of execution of the voucher, to the effect that such legal representative has not been discharged.

(b) *Where legal representative of decedent has been discharged.*—Where the legal representative of a decedent has been discharged and the estate closed, there should be submitted with the voucher a copy of the order of distribution or any other pertinent orders in probate proceedings sufficient to prove the authority and interest of the person or persons executing the voucher, together with an appropriate affidavit verifying that the person executing the affidavit is the person who signed the voucher and is entitled under such order to receive the payment described in the voucher.

(c) *Where estate of decedent is not administered.*—If a voucher is drawn to the estate of a decedent as payee, or if the person designated in a voucher as payee is deceased, and an executor or administrator has not and will not be appointed and the total amount of the final award due the estate of the decedent is not in excess of $500, the voucher may be signed by the person or persons who under the laws of the domicile of the decedent would be entitled to receive payment on the award. Evidence should be submitted to establish that administration of the estate of the decedent is not required under the laws of the decedent's domicile, that the debts of the decedent and of his estate have been paid or provided for, and that the person or persons who signed the voucher are entitled to receive payment on the award. Such evidence will, in general, include affidavits of the person or persons claiming to be entitled to the award setting forth the facts in detail, supported by affidavits of at least two other persons having personal knowledge of such facts, and by the official certificate or other proof of the death of the decedent. Wherever possible such supporting affidavits should be executed by public officers of the United States, or executive officers of incorporated banks or trust companies, and where this is not possible the affidavits of the person or persons claiming to be entitled to payment should so state. Upon request there must also be submitted an affidavit or certificate from a practicing attorney or judicial officer of the state of the decedent's domicile, showing that administration of the estate of the decedent is not required under the laws of the decedent's domicile and that the person or persons signing the voucher are entitled to receive payment on the award, and referring specifically to any pertinent statutes and judicial decisions of the courts of such state.

(d) *Receivers and trustees.*—If a receiver or trustee for a person designated as payee in a voucher has been duly appointed by a court of competent jurisdiction, the voucher must be signed by such receiver or trustee, or by a person duly authorized by an order of such court and the voucher must be accompanied by an appropriate affidavit verifying that the person executing the affidavit is the person who signed the voucher and is entitled to receive the payment described in the voucher. In such cases, the voucher should be accompanied by a copy of the order of the court appoint-

ing such receiver or trustee and a certificate of the clerk of such court, dated not more than six months prior to the date of execution of the voucher, to the effect that such receiver or trustee has not been discharged. If a receiver or trustee has been appointed as aforesaid, but the voucher is signed by a person other than such receiver or trustee, there should be submitted, in addition to a copy of the order of the court appointing such receiver or trustee, all orders of court and documents necessary to prove the authority and interest of the person signing the voucher.

(e) *Corporations the existence of which has been terminated.*—In the case of a corporation the existence of which has been terminated, the voucher must be signed by the person or persons authorized by law to wind up the affairs thereof or by a trustee, duly appointed by a court of competent jurisdiction, having authority to sign such voucher and receive payment. The voucher should be accompanied by court orders and other documents sufficient to prove the authority and interest of the person signing the voucher and by an appropriate affidavit verifying that the person executing the affidavit is the person who signed the voucher and is entitled to receive the payment described in the voucher.

SEC. 4. PAYMENTS

(a) *Forwarding of vouchers.*—The voucher and all related papers should be transmitted to the Commissioner of Accounts and Deposits, Room 376, Treasury Department, Washington, D. C.

(b) *Manner of payment.*—Payment will be made by check drawn on the Treasurer of the United States. Checks will be mailed to the payee at the address indicated in the voucher unless subsequent to the execution of the voucher the Treasury Department receives a written request from the person entitled to receive payment to deliver the check to him at some other address. Where the award has been entered in favor of more than one person, only one check will be drawn in making payment, except that if the persons entitled to receive payment specify the share of each, and so request, separate checks will be drawn in accordance therewith.

(c) *Allowances for attorneys' fees.*—Vouchers for allowances made by the Special Mexican Claims Commission in favor of attorneys pursuant to section 8 of the Act must be executed as provided in sections 2 and 3 of these regulations and such allowances will be paid in the same manner as awards entered in favor of claimants.

SEC. 5. POWERS OF ATTORNEY AND ASSIGNMENTS

(a) *Powers of attorney.*—No power of attorney to sign a voucher will be recognized, but a power of attorney, executed subsequent to the submission of the report of the Special Mexican Claims Commission to the Secretary of State on May 31, 1938, to receive, endorse, and collect a check given in payment on an award, will be recognized. An appropriate form for such a power of attorney may be obtained from the Office of the Treasurer of the Unitetd States.

(b) *Assignments.*—Assignments by operation of law and assignments of awards executed subsequent to the submission of the report of the Special Mexican Claims Commission to the Secretary of State on May 31, 1938, will be recognized.

SEC. 6. ADDITIONAL EVIDENCE AND BONDS OF INDEMNITY

The Secretary of the Treasury may in any case require such additional information and evidence as may be deemed necessary and may also require a bond of indemnity with satisfactory sureties.

SEC. 7. RESERVATION OF POWER TO REVOKE OR AMEND

These regulations may be revoked or amended at any time.

[SEAL] H. MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38–2034; Filed, July 15, 1938; 1:33 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

PAYMENT OF DEATH PENSION AND COMPENSATION TO DEPENDENTS

PENSIONABLE AND COMPENSABLE SERVICE FOR DEATH PENSION AND COMPENSATION PURPOSES

Death of Veteran Due to Service: General Law

SEC. 2.2520. (A) For the purposes of Sections 4702 and 4707, Revised Statutes, as amended, the widow, child or children, or dependent mother or dependent father of any person embraced within Sections 4692 and 4693, Revised Statutes, or the remarried widow of any such person who served in the Civil War, or in an Indian War, who died of a disability contracted in the service in line of duty, regardless of the character of discharge, shall be entitled to receive pension at the monthly rates specified in Sec. 2.2620, except that in no event shall the rates provided in Sec. 2.2620 (C) be allowed for any period prior to July 1, 1938.

(B) For the purposes of Public No. 758, 75th Congress, (Act of June 28, 1938) persons entitled to pension under the provisions of the General Pension Law, (sections 4702 and 4707 R. S. as amended) for death resulting from service prior to April 21, 1898, shall be entitled to receive pension on and after July 1, 1938, at the monthly rates specified in Sec. 2.2620 (C) provided, that this regulation shall not be so construed as to reduce any pension under any act, public or private, nor shall it be so construed as to enlarge or abridge conditions of entitlement. (July 1, 1938.) Sec. 1, 48 Stat. 8; 38 U. S. C. 701.

EFFECTIVE DATES OF INCREASE OF DEATH PENSION OR COMPENSATION

General Law

SEC. 2.2581. Where a person was on the rolls July 1, 1938, under the provisions of the General Pension Law, for death resulting from service prior to April 21, 1898, pension at the rate provided in Sec. 2.2620 (C) (Public No. 758, 75th Congress, Act of June 28, 1938) shall be authorized effective July 1, 1938, in any case where such rate exceeds that being paid the beneficiary on June 30, 1938, provided entitlement thereto is otherwise established. (July 1, 1938.)

FORFEITURES

Forfeiture Bars Entitlement Under Public No. 484, 73d Congress, as Amended

SEC. 2.2607. A veteran, whose rights were forfeited under Section 504 of the World War Veterans Act (Act of June 7, 1924) or under section 15 of Public No. 2, 73d Congress, (Act of March 20, 1933) was not at death receiving or entitled to receive pension, compensation, or emergency officers retirement pay. His widow and children are therefore not entitled to compensation under provisions of Public No. 484, 73d Congress, as amended. (A. D. 416) (Sections 11 and 15, 48 Stat. 10 and 11 and 1281; 38 U. S. C. 503, 711 and 715) (July 15, 1938.)

RATES OF DEATH PENSION AND COMPENSATION FOR WIDOWS, REMARRIED WIDOWS, CHILDREN AND DEPENDENT PARENTS

General Law—Veteran's Death Due to Service

SEC. 2.2620. The following rates of pension are payable under the General Law, subject to the conditions and limitations set forth in Regulations. (R. S. 4695 as amended) (Public No. 758, 75th Congress, Act of June 28, 1938.)

(A) Widows of officers and enlisted men of the Army:

	Per month
Lieutenant colonel and all officers of higher rank	$30.00
Major, surgeon, and paymaster	[1] 25.00
Captain, provost marshal, and chaplain	20.00
First lieutenant, assistant surgeon, deputy provost marshal, and quartermaster	17.00
Second lieutenant and enrolling officer	15.00
All enlisted men	[2] 8.00
With $2 additional for each child	

(B) Widows of officers and enlisted men of the Navy and Marine Corps:

Captain and all officers of higher rank, commander, lieutenant commanding, and master commanding, surgeon, paymaster, and chief engineer ranking with commander by law, lieutenant colonel, and all of higher rank in Marine Corps	30.00
Lieutenant, passed assistant surgeon, surgeon, paymaster, and chief engineer ranking with lieutenant by law, and major in Marine Corps	[1] 25.00
Master (now lieutenant, junior grade), professor of mathematics, assistant surgeon, assistant paymaster, and chaplain, and captain in Marine Corps	20.00
First lieutenant in Marine Corps	17.00
First assistant engineer, ensign, and pilot and second lieutenant in Marine Corps	15.00
Cadet midshipmen, passed midshipmen, midshipmen, clerks of admirals, of paymasters, and of officers commanding vessels, second and third assistant engineers, master's mate, and warrant officers	[2] 10.00
All enlisted men except warrant officers	[2] 8.00
With $2 additional for each child	

(C) Rates on and after July 1, 1938, for persons entitled under the General Pension Law for death resulting from service prior to April 21, 1898:

Widow under 50 years of age	$22.00
Widow 50 years to 65 years of age	26.00
Widow over 65 years of age	30.00
Widow with one child, $7 additional for such child up to 10 years of age, increased to $11 from age 10 (with $6 for each additional child up to 10 years of age, increased to $9 from age 10)	
No widow but one child	$15.00
No widow but two children	[3] 24.00
No widow but three children	[3] 34.00
(with $6 for each additional child; total amount to be equally divided)	
Dependent mother or father	15.00
The total pension payable under this paragraph shall not exceed $56.	

(D) Remarried widows of Civil War veterans. The rates payable are the same as those provided in paragraphs (A) and (B) or (C) above.

(E) *Children of officers and enlisted men of the Army, Navy and Marine Corps.*—The rates for children, except as provided in paragraph (C) hereof, are the same as the widow's rates in paragraphs (A) and (B) hereof, plus $2.00 per month additional for each child, equally divided. Children are not entitled to the $25 rate awarded only to widows of veterans of the Civil War, War with Spain and Philippine Insurrection by the Act of October 6, 1917. (4703 R. S. and 40 Stat. 408)

(F) *Dependent mother or father of officer or enlisted man in the Army, Navy or Marine Corps.*—The rate for a dependent mother or father, except as provided in paragraph (C) hereof, is the same as for the widow as shown in paragraphs (A) and (B) hereof, except that the minimum rate was increased by the Act of September 1, 1922, to a dependent mother or father of a veteran who served during the War with Spain, Boxer Rebellion or Philippine Isurrection, to $20 per month. (4707 R. S. and 42 Stat. 834)

[1] The minimum rate to widows of veterans of the Civil War, War with Spain, and Philippine Insurrection was increased to $25 per month October 6, 1917, the minimum rate for a widow of a veteran of the Boxer Rebellion remaining at $12 per month. (40 Stat. 408)

[2] The minimum rate to widows, children and dependent parents, was increased to $12 per month commencing March 19, 1886, by Act of that date (24 Stat. 5)

[3] Equally divided.

(G) *Repeal and reinstatement of Spanish American War Pension Laws.*—All public laws granting pensions to veterans and dependents of veterans of the War with Spain, Boxer Rebellion and Philippine Insurrection were repealed March 20, 1933, by act of that date, but persons then on the rolls were continued thereon to include June 30, 1933. Seventy-five percent of the rates formerly being paid was restored by provisions of Section 30, Title III, Public No. 141, 73d Congress, (Act of March 28, 1934) from the date of the Act to August 13, 1935. On February 8, 1935, under Sec. 8.015, seventy-five per centum of the rates formerly payable was restored to widows and dependents of veterans who left the continental United States for service in Cuba, Puerto Rico or Guam, between August 13, 1898, and July 4, 1902, both dates inclusive. The full rates formerly payable were restored from August 13, 1935, by Act of that date. (July 1, 1938.) Sec. 1, 48 Stat. 8; 38 U. S. C. 701.

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38–2035; Filed, July 15, 1938; 3:00 p. m.]

TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION

CIVILIAN CONSERVATION CORPS

PART 3. REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS

SEC. 3.02. *Classes of enrollees.*

* * * * * *

(b) *Senior leaders, mess stewards, cooks, and project assistants.*—Not to exceed one leader, one mess steward, three cooks, and five project assistants per junior work company may be selected and enrolled without regard to age and marital status. In making reports to the War Department these men will be included in the junior classification except that veterans transferred to position of cook, mess steward, or project assistant in a junior company will be charged against the veterans quota.

* * * * * *

(50 Stat. 319) [C. C. C. Regs., W. D., Dec. 1, 1937; C 6, May 31, 1938.]

SEC. 3.04. *Eligibility for enrollment and reenrollment.*

* * * * * *

(c) *Reenrollment.*—To qualify for reenrollment a present member of the Civilian Conservation Corps must be physically qualified for ordinary labor and free from active disease, honorably discharged from the immediately preceding period of service, considered worthy of reenrollment, unmarried, if a junior, unless exempted as one of ten excepted men per company, under 24 years of age, if a junior (i. e., must not have passed his 24th birthday), unless exempted as one of ten excepted men per company, and with not more than 18 months previous enrolled service if a junior. Enrolled service prior to July 1, 1937, will not be computed in determining eligibility under this qualification.

An enrollee who in the opinion of both the company commander and the project superintendent is unworthy of the privilege of reenrollment, because of unsatisfactory performance of duties or other substantial reasons, will not be reenrolled. He will be informed by his company commander of that decision not less than 20 days prior to the prospective date of final departure from his camp.

An enrollee advised of the adverse decision of nonelligibility for reenrollment may appeal therefrom to the corps area commander. The appeal will be in writing and submitted or mailed to the company commander not later than 24 hours from the time of receipt of notice by him of the decision. It will be forwarded through the district commander to the corps area commander who will cause a thorough investigation to be made by a disinterested officer not belonging to the appellant's organization. The investigation will be in the form of a hearing. The record of the hearing, concluding with the investigating officer's finding and recommendation, will be in duplicate. Upon review, the action of the corps area commander will be noted thereon, one copy returned to the company commander for use in informing the appellant of the result of his appeal and for file. The decision of the corps area commander will be final.

The discharge certificate of an enrollee denied the privilege of reenrollment after having been found to be unworthy of that privilege, as provided above, will contain under "Remarks" the notation: "Not considered worthy of reenrollment". The notation will be immediately followed by the authenticating signatures of the company commander and the project superintendent. (50 Stat. 319) [C. C. C. Regs., W. D., Dec. 1, 1937; C 6, May 31, 1938.]

SEC. 3.07. *Enrollment.*—Certified selectees who pass the required physical examination upon subscribing to the oath on C. C. C. Form No. 1 will be enrolled, for periods of not less than 6 months, at place of acceptance, when the physical examination is given at that place and the corps area commander deems it expedient to direct such action, or at, reconditioning or work camps designated by the corps area commander.

An applicant rejected by reason of falsification of qualifications is not entitled to transportation in kind nor subsistence en route to place of selection or to his home.

Persons in any of the classifications listed in section 3.03, paragraph *a*, ante, if enrolled or reenrolled fraudulently, will be dishonorably discharged by the company commander for "fraudulent enrollment". Such persons who have been enrolled *without fraud* will be forthwith administratively discharged, except that members of the National Guard and civil law enforcement officers may, in such cases, be honorably discharged. It will be the duty of the company commander upon discovering that an enrollee has become a member of the Civilian Conservation Corps through falsification of qualifications for selection to report the facts to the appropriate State selecting agency whose field agents originally certified the individual for enrollment. Except as noted above, discharge from the Civilian Conservation Corps is not mandatory in cases of revealed falsification of qualification. Corps area commanders will determine the final disposition of each case, considering the recommendation received from the State selecting agency, and discharge under the provision of this subparagraph will be the exception rather than the rule. In all cases of discharge under the foregoing provisions due to deceit or error in establishing eligibility for selection and enrollment, the individual will be paid his full accumulated cash allowance to date of discharge and provided with the subsistence allowance and transportation as herein provided for all other discharged personnal. (50 Stat. 319) [C. C. C. Regs., W. D., Dec. 1, 1937; C 8, June 29, 1938.]

SEC. 3.12a. *Claims for amounts due deceased or insane enrollees.*—Company commanders will furnish claimants with Standard Form No. 1055 (Application for Payment of Amounts Due Deceased or Incompetent Civilian Employees, Officers and Enlisted Men in the Military Service, and Public Creditors of the United States) and assist such claimants in the preparation of this form in connection with claims for amounts due deceased or insane enrollees. Claims for amounts due deceased enrollees as stated on Standard Form No. 1055 will be forwarded directly to the General Accounting Office, Claims Division. If an enrollee is not mentally competent to sign commercial papers and no guardian has legally been appointed, Standard Form No. 1055 will be forwarded to the disbursing officer for his action. If an enrollee is mentally competent to sign commercial papers, or if a guardian has legally been appointed, no Standard Form No. 1055 is required. (50 Stat. 319) [C. C. C. Regs., W. D., Dec. 1, 1937; C 5, May 27, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-2036; Filed, July 16, 1938; 10:09 a. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 25]

ESTABLISHING THE UNITED STATES MARITIME SERVICE

At a regular session of the United States Maritime Commission held at its office in Washington, D. C., on the 14th day of July, 1938.

There is hereby established, pursuant to the authority vested in the Commission by section 216 of the Merchant Marine Act, 1936, as amended, a voluntary organization to be known as the United States Maritime Service which shall consist of such licensed and unlicensed personnel of the United States merchant marine as may be enrolled under the provisions of said section, this order, and such rules and regulations as may be prescribed by the Commission for the government of said Service.

The number of persons to be enrolled in said Service, the rates of pay of such persons, and the courses and periods of training shall be determined, fixed, and prescribed by the Commission in such manner and form as may appear to it to be necessary to maintain a trained and efficient merchant-marine personnel. The ranks, grades, and ratings for the personnel of the said Service shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard.

In the administration and conduct of the said Service the Commission shall, subject to the consent and approval of the Secretary of the Treasury, avail itself of the use of such information, services, facilities, officers, and employees of the Coast Guard and the Public Health Service as may be necessary for the operation of said Service, such use to be at the expense of the Commission.

Enrollment and training in the United States Maritime Service shall be voluntary and shall be open to all licensed and unlicensed personnel of the United States merchant marine who comply with the requirements prescribed by the Commission. In the selection of applicants for enrollment no discrimination shall be practiced because of the applicant's race or creed, or because of membership or nonmembership in any organization. Eligibility for enrollment shall be determined by the Commandant of the Coast Guard in accordance with rules and regulations prescribed by the Commission.

Nothing in this Order shall be construed to affect the cadet system established by the Commission's General Order No. 23, as amended.

This regulation shall become effective as of July 14, 1938.

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, JR.,
Secretary.

[F. R. Doc. 38-2054; Filed, July 18, 1938; 12:24 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[Supp. 4 to I. C. C. No. 128[1]]

THE ALASKA RAILROAD

In connection with Alaska Steamship Company (FX 5 No. 5), American Yukon Navigation Company (FX 2 No. 1), Puget Sound Freight Lines (FX 5 No. 16).

SUPPLEMENT NO. 4 TO JOINT FREIGHT TARIFF NO. 5-E

Supplement to joint freight tariff naming class and commodity rates between Seattle and Tacoma, Wash. and points on The Alaska Railroad and American Yukon Navigation Company in Alaska. Issued, June 7, 1938. Effective, July 15, 1938.

SECTION 2—COMMODITY RATES

If the charge accruing under Section 1 of this Tariff is lower than the charge accruing under this Section on the same shipment via the same route, the charge accruing under Section 1, will apply.

Commodities	Stations	Rates in cents per 100 lbs.
Item No. 545-B Cancels 545-A (reduction).—Vehicles, Motor, viz.: Automobiles or motor trucks, including automobile or motor truck chassis, set up, and automobile trailers, subject to a minimum weight of 2,500 lbs. each: Any Quantity.....	From Seattle, Tacoma, Wash., to—	
	Moose Pass, Alaska[1]	500
	Girdwood, Alaska[1]	500
	Anchorage, Alaska	500
	Matanuska, Alaska	544
	Palmer, Alaska	552
	Wasilla, Alaska	552
	Willow, Alaska[1]	584
	Nenana, Alaska	588
	Marshall, Alaska[1]	588
	Fairbanks, Alaska	588

NOTE.—Rates named in Item 195, providing for Heavy Freight will not apply.

[1] No Agent. Freight charges must be prepaid.

Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38-2037; Filed, July 16, 1938; 10:09 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

IOWA

JULY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Iowa State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Henry, Howard, Plymouth, Taylor, and Wright.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2040; Filed, July 16, 1938; 12:05 p. m.]

DESIGNATION OF PARISHES FOR TENANT PURCHASE LOANS

LOUISIANA

JULY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Farm Security Advisory Committee of Louisiana, the following parishes are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those parishes which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional parishes:

Acadia, Ascension, Claiborne, De Soto, East Feliciana, Franklin, Grant, Iberia, Livingston, Morehouse, Natchitoches, Ouachita, Red River, St. Landry, Tangipahoa, Tensas, and West Carroll.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2039; Filed, July 16, 1938; 12:05 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MARYLAND

JULY 14, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Maryland State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Charles, Frederick, and Worcester.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2038; Filed, July 16, 1938; 12:05 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

ALABAMA

JULY 16, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Alabama State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional counties:

Autauga, Bullock, Calhoun, Chambers, Cherokee, Choctaw, Clarke, Clay, Cleburne, Colbert, Covington, Crenshaw, Cullman, Dale, Escambia, Etowah, Fayette, Franklin, Henry, Houston, Lauderdale, Lamar, Limestone, Lowndes, Macon, Marshall, Perry, Randolph, Russell, Shelby, Sumter, and Tuscaloosa.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2050; Filed, July 18, 1938; 11:42 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

KANSAS

JULY 16, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Kansas State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939 (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[3] and (2) the following additional counties:

Franklin, Jefferson, Lyon, and Stafford.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2049; Filed, July 18, 1938; 11:42 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEBRASKA

JULY 16, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Nebraska State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Burt, Chase, Greeley, and Harlan.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2051; Filed, July 18, 1938; 11:43 a. m.]

Office of the Secretary.

[Administrative Order]

MAGAZINE MOUNTAIN PROJECT, ARKANSAS

LOGAN AND YELL COUNTIES, ARKANSAS

Transfer of Lands from the Farm Security Administration to the Forest Service for Administration, Protection and Management

By virtue of and pursuant to the authority vested in me by Executive Order No. 7908, dated June 9, 1938,[2] and Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525) the lands within the hereinafter described area that hitherto have been acquired or are in process of acquisition by the Department of Agriculture, its predecessors or successors, under the provisions of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act, approved April 8, 1935 (49 Stat. 115), are hereby transferred from the Farm Security Administration to the Forest Service for administration, protection, and management under the laws, rules and regulations applicable to national forest lands insofar as consistent with the powers and authority vested in the Secretary of Agriculture by the aforesaid Executive Order and Title III of the

[1] Supplements Nos. 3 and 4 contain all changes from the original tariff that are effective on the date hereof.

[1] 2 F. R. 2760 (3196 DI).
[2] 2 F. R. 2683 (3112 DI).

[1] 3 F. R. 576 DI.
[2] 2 F. R. 2547 (2965 DI).
[3] 2 F. R. 2683 (3112 DI).

[1] 2 F. R. 2684 (3112 DI).
[2] 3 F. R. 1389 DI.

Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525).

All lands within the Magazine Mountain Project designated (LA–AK–1) located in Logan and Yell Counties, Arkansas and adjacent to the Ouachita National Forest.

Such lands shall be administered as provided by this Order until such time as they are made a part of a national forest by Proclamation of the President.

[SEAL] M. L. WILSON,
Acting Secretary.

JULY 18, 1938.

[F. R. Doc. 38–2045; Filed, July 18, 1938; 10:38 a. m.]

[Administrative Order]

NORTHEAST GEORGIA PROJECT, GEORGIA

HABERSHAM, STEVENS AND BANKS COUNTIES, GEORGIA

Transfer of Lands from the Farm Security Administration to the Forest Service for Administration, Protection and Management.

By virtue of and pursuant to the authority vested in me by Executive Order No. 7908, dated June 9, 1938,[1] and Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525) the lands within the hereinafter described area that hitherto have been acquired or are in process of acquisition by the Department of Agriculture, its predecessors or successors, under the provisions of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act, approved April 8, 1935 (49 Stat. 115), are hereby transferred from the Farm Security Administration to the Forest Service for administration, protection, and management under the laws, rules and regulations applicable to national forest lands insofar as consistent with the powers and authority vested in the Secretary of Agriculture by the aforesaid Executive Order and Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525).

All lands within the Northeast Georgia Project designated (LA–GA–7) located in Habersham, Stevens and Banks Counties, Georgia and adjacent to the Chattahoochee National Forest.

Such lands shall be administered as provided by this Order until such time as they are made a part of a national forest by Proclamation of the President.

[SEAL] M. L. WILSON,
Acting Secretary.

JULY 18, 1938.

[F. R. Doc. 38–2046; Filed, July 18, 1938; 10:38 a. m.]

[1] 3 F. R. 1389 DI.

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC–24]

CALIFORNIA MOTOR CARRIER RATES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 2nd day of July, A. D. 1938.

Division 5 having under consideration the subject of the rates, charges, classifications, rules, regulations, and practices applicable to the transportation of property in interstate or foreign commerce by common carriers and contract carriers by motor vehicle within the State of California:

It is ordered, That an investigation be, and it is hereby, instituted by the Division, on its own motion, into and concerning the lawfulness of the maximum, minimum, and precise basis of all rates, charges, and classifications, and the rules, regulations, and practices relating thereto, applicable to the transportation by all common carriers by motor vehicle subject to the Motor Carrier Act, 1935, and into and concerning the minimum charges, and the rules, regulations, or practices affecting such charges and the value of the service thereunder, applicable to the transportation by all contract carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property, except household goods, livestock, automobiles, petroleum products in tank trucks, and articles of unusual size and value, in interstate or foreign commerce between all points within the State of California, with a view to determining whether the rates, charges, and classifications, and the rules, regulations, and practices relating thereto, of the respondent common carriers or any of them, and the minimum charges, and the rules, regulations, or practices affecting such charges and the value of the service thereunder, of the respondent contract carriers, or any of them, applicable to such transportation, are in any respects in violation of the law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant.

It is further ordered, That all common carriers and contract carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

And it is further ordered, That the said proceeding be, and it is hereby assigned for hearing on the 7th day of September, A. D. 1938, at 9:00 o'clock A. M. (Standard Time, at the Empire Hotel, San Francisco, Calif., before Commissioner Wm. E. Lee.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2053; Filed, July 18, 1938; 12:14 p. m.]

[Ex Parte No. MC 23]

IOWA - ILLINOIS - EASTERN KANSAS - MISSOURI-EASTERN NEBRASKA MOTOR CARRIER RATES

No. MC C–14, Mid-Western Motor Freight Tariff Bureau, Inc., v. Frank Eichholz, doing business as Riteway Motor Service et al.; No. MC C–84, Mid-Western Motor Freight Tariff Bureau, Inc., v. W. J. Dunden, Agent, et al.; No. MC C–84 (Sub-No. 1), Mid-Western Motor Freight Tariff Bureau Inc., v. James E. Lockwood, Alternate Agent; No. MC C–84 (Sub-No. 2), Mid-Western Motor Freight Tariff Bureau, Inc., v. American & Transport Freight Lines, et al.

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 15th day of July, A. D. 1938.

It appearing that income statements of Class I common carriers of property by motor vehicle (carriers which have gross revenues of $100,000.00 or over annually from both intrastate and interstate motor carrier operations), which are made respondents in this proceeding, are desirable to aid the Commission in the determination of the above-entitled matter:

It is ordered, That each Class I common carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before August 1, 1938, income statements for the year 1937 and for the four months ended April 30, 1938, or for the first four periods in 1938 instead of the four months ended April 30, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said income statements shall be submitted under oath on the form herewith enclosed which form is hereby made a part of this order;[1]

And it is further ordered, That any respondent in this proceeding receiving this order, which respondent is not a Class I carrier, as above defined, shall return the blank form of income statement to the Commission at its offices in Washington, D. C., on or before August 1, 1938, accompanied by a statement that this order is not applicable to its operations.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2052; Filed, July 18, 1938; 12:14 p. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

[File No. 32–81]

IN THE MATTER OF SOUTH CAROLINA UTILITIES COMPANY

SUPPLEMENTAL ORDER EXEMPTING ISSUE AND SALE OF NOTE AUTHORIZED BY STATE COMMISSION

South Carolina Utilities Company, a wholly owned subsidiary of Walnut Electric & Gas Corporation, a registered holding company, having duly filed a second amendment to its amended application, a part of the amended application has heretofore been considered by this Commission in its findings and order of April 26, 1938 (see Holding Company Act Release No. 1076)), pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of section 6 (a) of said Act, of the issue and sale of its 5% secured promissory note, in the principal amount of $150,000, to be dated as of the date of issue, to mature on May 1, 1942, to be issued to The South Carolina National Bank of Charleston, Charleston, South Carolina.

A hearing having been held on the second amendment to applicant's amended application after appropriate notice,[1] and the Commission having duly considered the record in this matter and having made and filed its findings herein:

It is ordered, That the issue and sale of the aforesaid note in accordance with the terms and conditions set forth in, and for the purposes represented by said second amendment to the amended application, be and the same hereby are exempted from the provisions of section 6 (a) of the Public Utility Holding Company Act of 1935; upon the condition however, that if the express authorization of the issue of said note by the Public Service Commission of the State of South Carolina shall be revoked or otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of said note the applicant shall file with this Commission a certificate of notification showing that the issue and sale have been effected in accordance with the terms and conditions and for the purposes represented by said second amendment to the amended application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2055; Filed, July 18, 1938; 12:34 p. m.]

[1] 3 F. R. 827 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of June 1938.

[File No. 7–108]

IN THE MATTER OF CURTISS WRIGHT CORPORATION, CLASS "A" STOCK, PAR VALUE $1

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The Los Angeles Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the Curtiss Wright Corporation, Class "A" Stock, Par Value, $1; and

A hearing having been held in this matter after appropriate notice,[1] and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the Los Angeles Stock Exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the Curtiss Wright Corporation, Class "A" Stock, Par Value $1, be and the same is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2056; Filed, July 18, 1938; 12:34 p. m.]

[1] 3 F. R. 828 DI.

FEDERAL REGISTER

VOLUME 3 NUMBER 140

Washington, Wednesday, July 20, 1938

The President

ENLARGING THE DINOSAUR NATIONAL MONUMENT—COLORADO AND UTAH

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain public lands contiguous to the Dinosaur National Monument, established by Proclamation of October 4, 1915, have situated thereon various objects of historic and scientific interest; and

WHEREAS it appears that it would be in the public interest to reserve such lands as an addition to the said Dinosaur National Monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by sec. 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in Colorado and Utah are hereby reserved from all forms of appropriation under the public-land laws and added to and made a part of the Dinosaur National Monument:

COLORADO

Sixth Principal Meridian

T. 6 N., R. 99 W.,
sec. 5, W½,
secs. 6 and 7,
sec. 8, W½,
sec. 17, W½,
secs. 18 and 19,
sec. 20, W½,
sec. 29, W½,
secs. 30, 31,
sec. 32, W½; (partly unsurveyed)
T. 6 N., R. 100 W., secs. 1 to 30 and 33 to 36, inclusive;
T. 6 N., R. 101 W., secs. 1 to 30, inclusive; (partly unsurveyed)
T. 7 N., R. 101 W., secs. 25 to 36, inclusive; (partly unsurveyed)
T. 6 N., R. 102 W., secs. 1 to 30, inclusive; (partly unsurveyed)
T. 7 N., R. 102 W., secs. 5 to 8, 17 to 20, and 25 to 36, inclusive; (partly unsurveyed)
T. 8 N., R. 102 W., secs. 5 to 8, 17 to 20, and 27 to 34, inclusive; (partly unsurveyed)
T. 9 N., R. 102 W., secs. 16 to 21, and 28 to 33, inclusive; (partly unsurveyed)
T. 6 N., R. 103 W.,
secs. 1 to 14, inclusive;
secs. 23 and 24;
T. 7 N., R. 103 W., all; (partly unsurveyed)
T. 8 N., R. 103 W.,
sec. 1,
sec. 2, E½,
sec. 11, E½,
secs. 12 to 15, 22 to 28, and 32 to 36, inclusive; (partly unsurveyed)
T. 9 N., R. 103 W., secs. 13, 24, 25 and 36;
T. 6 N., R. 104 W., secs. 1, 2, 11 and 12; (partly unsurveyed)
T. 7 N., R. 104 W., all;

UTAH

Salt Lake Meridian

T. 4 S., R. 23 E.,
secs. 9 to 16 and 21 to 25, inclusive;
sec. 26, N½, E½SE¼, SW¼SE¼, W½SW¼, SE¼SW¼
secs. 27, 28, and those parts of secs. 34 and 35 north of Green River; (partly unsurveyed)
T. 3 S., R. 24 E., secs. 25, 26, 35 and 36;
T. 4 S., R. 24 E., secs. 1 to 3, and 7 to 30; inclusive, (partly unsurveyed)
T. 3 S., R. 25 E.,
sec. 11, E½,
secs. 12 and 13,
sec. 14, E½,
secs. 20 to 36; inclusive, (partly unsurveyed)
T. 4 S., R. 25 E., secs. 1 to 12, inclusive, (partly unsurveyed)

aggregating 203,885 acres.

Warning is hereby expressly given to any unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The reservation made by this proclamation supersedes as to any of the above-described lands affected thereby, the temporary withdrawal for classification and for other purposes made by Executive Order No. 5684 of August 12, 1931, and the Executive order of April 17, 1926, and the Executive order of September 8, 1933, creating Water Reserves No. 107 and No. 152.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An act to establish

CONTENTS

THE PRESIDENT

Proclamation: Page
Dinosaur National Monument, Colo.-Utah, enlargement--- 1765
Fort Laramie National Monument, Wyo., creation------ 1768
Migratory bird regulations amended ---------- 1766
Ocala National Forest, Fla., land included in ---------- 1769

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Agricultural Economics:
Export Apple and Pear Act, rules amended ---------- 1769
Bureau of Entomology and Plant Quarantine:
Fumigation of onions by methyl bromide--------- 1769
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Excess-profits tax imposed by Revenue Act of 1938---- 1771
Income tax, extensions of time for payment of deficiencies ---------- 1771

NOTICES

Rural Electrification Administration:
Allocation of funds for loans--- 1774
Securities and Exchange Commission:
Hearings:
Copper District Power Co., Middle West Corp------- 1775
Indianapolis Power & Light Co---------- 1775
Midland United Co. (Morris and Shannahan, trustees) ---------- 1774
Midland Utilities Co. (Morris and Shannahan, trustees; and Millard B. Kennedy) - 1774

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Hearings—Continued.
Rainbow Luminous Products, Inc., common stock 1776
Unity Gold Corp., stop order ... 1776
United States Civil Service Commission:
Apportionment at close of business Friday, July 15, 1938 .. 1777

a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2) and acts supplementary thereto or amendatory thereof, except that this reservation shall not affect the operation of the Federal Water Power Act of June 10, 1920 (41 Stat. 1063), as amended, and the administration of the monument shall be subject to the Reclamation Withdrawal of October 17, 1904, for the Brown's Park Reservoir Site in connection with the Green River project.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 14'' day of July, in the year of
[SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
The Secretary of State.

[No. 2290]

[F. R. Doc. 38-2060; Filed, July 18, 1938; 3:18 p. m.]

AMENDMENT OF REGULATIONS RELATING TO MIGRATORY BIRDS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Secretary of Agriculture, pursuant to section 3 of the Migratory Bird Treaty Act, approved July 3, 1918 (40 Stat. 755), as amended by the act of June 20, 1936, 49 Stat. 1555, has adopted and submitted to me regulations amending certain of the regulations approved by Proclamation No. 2245 of July 30, 1937,[1] which he has determined to be suitable amendments of such regulations permitting and governing hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, exportation and importation of migratory birds and parts, nests, and eggs thereof, included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, which amendatory regulations are as follows:

AMENDMENTS OF MIGRATORY BIRD TREATY ACT REGULATIONS ADOPTED BY THE SECRETARY OF AGRICULTURE

Pursuant to the authority and direction contained in section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended by the Act of June 20, 1936 (49 Stat. 1555), I, H. A. Wallace Secretary of Agriculture, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits and times and lines of migratory flight of migratory birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August sixteenth, nineteen hundred and sixteen, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February seventh, nineteen hundred and thirty-six, have determined when, to what extent, and by what means it is compatible with the terms of said Conventions and Act to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, exportation and importation of such birds and parts thereof and their nests and eggs, and, in accordance with such determinations, do hereby adopt the following amendments of the Regulations relating to migratory birds and certain game mammals, approved and proclaimed July 30, 1937 (50 Stat. 1844), as suitable amendments of said regulations, permitting and governing hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, exportation and importation of said migratory birds and parts, nests, and eggs thereof:

The second paragraph of Regulation 3, "Means by Which Migratory Game Birds May be Taken", is amended by striking out the period at the end thereof and adding the words "and coot."

Regulation 4, "Open Seasons on and Possession of Certain Migratory Game Birds", is amended to read as follows:

Regulation 4.—Open Seasons on and Possession of Certain Migratory Game Birds

Waterfowl (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, Ross's goose, wood duck, and swans), and coot, may be taken each day from 7 a. m. to 4 p. m., and rails and gallinules (other than coot), Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, and band-tailed pigeons from 7 a. m. to sunset, each day during the open seasons prescribed therefor in this regulation, and they may be taken by the means and in the numbers permitted by regulations 3 and 5 of these regulations, respectively, and when so taken may be possessed in the numbers permitted by regulation 5 any day in any State or Territory, or in the District of Columbia during the period constituting the open season where taken and for an additional period of 10 days next succeeding said open season, but no such bird shall be possessed in a State or Territory, or in the District of Columbia at a time when such State, Territory, or District prohibits the possession thereof. Nothing herein shall be deemed to permit the taking of migratory birds on any reservation or sanctuary established under the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), nor on any area of the United States set aside under any other law, proclamation, or Executive order for use as a bird, game, or other wildlife reservation, breeding grounds, or refuge except insofar as may be permitted by the Secretary of Agriculture under existing law, nor on any area adjacent to any such refuge when such area is designated as a closed area under the Migratory Bird Treaty Act.

Waterfowl, Wilson's snipe or jacksnipe, and coot.—The open seasons for waterfowl (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, Ross's goose, wood duck, and swans), Wilson's snipe or jacksnipe, and coot, in the several States and Alaska, shall be as follows, both dates inclusive:

In Maine, Michigan, Minnesota, New Hampshire, North Dakota, South Dakota, Vermont, and Wisconsin, October 1 to November 14.

In California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, including Long Island, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Washington, West Virginia, and Wyoming, October 15 to November 28.

In Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, New Mexico, North Carolina, South Carolina, Tennessee, Texas, and Virginia, November 15 to December 29.

In Alaska north of the summit of the Alaska Range and Kuskokwin-Bristol Bay Divide, September 1 to October 15; south of the Alaska Range and Kuskokwin-Bristol Bay Divide and east of the Naknek River and Lake and Katmai National Monument to the 141st Meridian, September 16 to October 30; southeastern Alaska from the 141st Meridian south to Dixon Entrance, October 1 to November 14; and south and west of Naknek River and Lake and Katmai National Monument to the tip of the Alaskan Peninsula, including all adjacent islands in the Public Domain and Kodiak Island, November 1 to December 15; *Provided*, That scoters, locally known as sea coots, may be taken in open coastal waters only, beyond outer harbor lines, in Maine and New Hampshire from September 15 to September 30, and in Connecticut, Massachusetts, and Rhode Island, from September 15 to October 14, and thereafter from land or water during the open seasons for other waterfowl in said States.

Rails and gallinules (except coot).—The open season for rails and gallinules (except coot), shall be from September 1 to November 30, both dates inclusive, except as follows:

Alabama, November 20 to January 31.
Louisiana, November 1 to January 31.
New York including Long Island, October 15 to November 28.
Washington, and Massachusetts, October 1 to November 30.
Wisconsin, October 1 to November 14.
District of Columbia, no open season.

Woodcock.—The open seasons for woodcock shall be as follows, both dates inclusive:

That portion of New York lying north of the tracks of the main line of the New York Central Railroad extending from Buffalo to Albany and north of the tracks of the main line of the Boston and Albany Railroad extending from Albany to the Massachusetts State line, and in Michigan, Minnesota, New Hampshire, North Dakota, Pennsylvania, and Vermont, October 1 to October 31.

That portion of New York lying south of the line above described and in Delaware, Indiana, Iowa, New Jersey, Ohio, and West Vriginia, October 15 to November 14.

That portion of New York known as Long Island, November 1 to November 30.

Arkansas, Kentucky, Maryland, Oklahoma, and Virginia, November 15 to December 15.

Connecticut, and Rhode Island, October 21 to November 20.

Louisiana, January 1 to January 31.

Maine, October 10 to November 9.

Massachusetts, October 20 to November 19.

Missouri, November 10 to December 10.

Wisconsin, October 17 to October 31.

Mourning doves.—The open seasons for mourning doves shall be as follows, both dates inclusive:

Alabama, in the counties of Pickens, Tuscaloosa, Jefferson, Shelby, Talladega, Clay, Randolph, and all counties north thereof; *Georgia*, in the counties of Troup, Merriwether, Pike, Lamar, Monroe, Jones, Baldwin, Washington, Jefferson, Burke, and all counties north thereof; *Mississippi*, north of U. S. Highway 80; and *South Carolina*, in the counties of Aiken, Edgefield, McCormick, Greenwood, Abbeville, Anderson, Oconee, Pickens, Greenville, Laurens, Spartanburg, Cherokee, Union, Fairfield, Chester, and York, September 1 to September 30 and December 20 to January 31.

Alabama, Georgia, and South Carolina, in the counties other than those aforesaid, and Mississippi south of U. S. Highway 80, November 20 to January 31.

Arizona, Arkansas, California, Idaho, Kansas, Minnesota, Missouri, Nevada, New Mexico, Oklahoma, Tennessee, and Virginia, September 1 to November 15.

Delaware, and Maryland, September 1 to September 30 and November 15 to December 31.

Florida (except in Dade, Broward, and Monroe Counties), November 20 to January 31.

That portion of Florida comprising Dade, Broward, and Monroe Counties, October 1 to November 15.

Illinois, September 1 to September 30.

Kentucky, September 1 to October 31.

Louisiana, October 15 to December 31.

North Carolina, September 1 to September 30 and December 20 to January 31.

Texas, in the counties of Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Throckmorton, Young, Jack, Wise, Denton, Collin, and Hunt, and all counties north thereof, and in the counties of Parker, Tarrant, Dallas, Rockwall, Kaufman, Johnson, Hopkins, Delta, and Franklin, September 1 to October 31; in the remainder of the State, September 15 to November 15.

White-winged doves.—The open season for white-winged doves shall be as follows, both dates inclusive:

Arizona, August 1 to September 15.

Texas, in the counties of Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Throckmorton, Young, Jack, Wise, Denton, Collin, and Hunt, and all counties north thereof, and in the counties of Parker, Tarrant, Dallas, Rockwell, Kaufman, Johnson, Hopkins, Delta, and Franklin, September 1 to October 31; in the remainder of the State, September 15 to November 15.

Band-tailed pigeons.—The open seasons for band-tailed pigeons shall be as follows, both dates inclusive:

Arizona, and Oregon, October 16 to October 30.

California, December 1 to December 15.

New Mexico, October 1 to October 15.

Washington, September 16 to September 30.

Regulation 5, "Daily Bag and Possession Limits on Certain Migratory Game Birds", is amended to read as follows:

Regulation 5.—Daily Bag and Possession Limits on Certain Migratory Game Birds

A person may take in any one day during the open seasons prescribed therefor in regulation 4 of these regulations not to exceed the following numbers of migratory game birds, which numbers shall include all birds taken by any other person who for hire accompanies or assists him in taking such birds; and when so taken these may be possessed in the numbers specified as follows:

Ducks (except wood duck).—Ten in the aggregate of all kinds, of which not more than 3 of any one, or more than 3 in the aggregate, may be of the following species—canvasback, redhead, bufflehead, and ruddy; and any person at any one time may possess not more than 20 ducks in the aggregate of all kinds, of which not more than 6 of any one, or more than 6 in the aggregate, may be of the following species—canvasback, redhead, bufflehead, and ruddy.

Geese and brant (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, and Ross's goose).—Five in the aggregate of all kinds, and any person at any one time may possess not more than 10 in the aggregate of all kinds.

Rails and gallinules (except sora and coot).—Fifteen in the aggregate of all kinds, and any person at any one time may possess not more than 15 in the aggregate of all kinds.

Sora.—Fifteen, and any person at any one time may possess not more than 15.

Coot.—Twenty-five, and any person at any one time may possess not more than 25.

Wilson's snipe or jacksnipe.—Fifteen, and any person at any one time may possess not more than 15.

Woodcock.—Four, and any person at any one time may possess not more than 4.

Mourning doves and white-winged doves.—Fifteen in the aggregate of both kinds, and any person at any one time may possess not more than 15 in the aggregate of both kinds.

Band-tailed pigeons.—Ten, and any person at any one time may possess not more than 10.

The possession limits hereinabove prescribed shall apply as well to ducks, geese, brant, rails, including coot and gallinules, Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, and band-tailed pigeons taken in Canada, Mexico, or other foreign country and brought into the United States, as to those taken in the United States.

[1] 2 F. R. 1355 (1615 DI).

Regulation 6, "Shipment, Transportation, and Possession of Certain Migratory Game Birds", is amended to read as follows:

Regulation 6.—Shipment, Transportation, and Possession of Certain Migratory Game Birds

Migratory game birds of a species for which open seasons are prescribed by regulation 4 of these regulations, legally taken, and parts thereof, may be transported in or out of the State where taken during the respective open seasons in that State, and when legally taken in and exported from Canada or Mexico, and if from Mexico are accompanied by a Mexican export permit, may be transported into the United States during the open season in the Province, State, or District where killed, but not more than the number thereof permitted by regulation 5 of these regulations to be taken by one person in 1 day, or in 2 days in the case of ducks, geese, and brant, shall be transported by any one person in 1 calendar week out of the State where taken or from Canada or Mexico into the United States; any such birds or parts thereof in transit during the open season may continue in transit such additional time immediately succeeding such open season, not to exceed 5 days, necessary to deliver the same to their destination, and may be possessed in any State, Territory, or District during the period constituting the open season where taken, and for an additional period of 10 days next succeeding said open season; and any package in which such birds or parts thereof are transported shall have the name and address of the shipper and of the consignee and an accurate statement of the numbers and kinds of birds or parts thereof contained therein clearly and conspicuously marked on the outside thereof; but no such birds or parts thereof shall be transported from any State or Territory, or the District of Columbia to or through another State or Territory, or the District of Columbia, or to or through Canada or Mexico contrary to the laws of the State or Territory, or the District of Columbia in which they were taken or from which they are transported; nor shall any such birds or parts thereof be transported into any State or Territory, or the District of Columbia, from another State or Territory, or the District of Columbia, or from Canada or Mexico, or from any State or Territory, or the District of Columbia into any Province of the Dominion of Canada or into Mexico at a time when any such State, Territory, District, or Province, or Mexico, into which they are transported, prohibits the possession or transportation thereof.

Migratory game birds imported from countries other than Canada and Mexico.—Migratory game birds of a species for which open seasons are prescribed by regulation 4 of these regulations, legally taken in and exported from a foreign country (other than Canada and Mexico, for which provision is hereinbefore made) may be transported to any State or Territory during the open season prescribed by said regulation 4 for such State or Territory for that species, and to the District of Columbia during the open season so prescribed for Maryland, and may be possessed in such State, Territory, or District for an additional period of 10 days immediately succeeding such open season, in numbers by any one person in 1 calendar week not exceeding those permitted by regulation 5 of these regulations to be taken by one person in 1 day, or in 2 days in the case of ducks, geese, and brant, if transportation and possession of such birds is not prohibited by such State, Territory, or District and if transported in packages marked as hereinbefore provided in this regulation.

Paragraph numbered 2 of Regulation 8, "Permits to Propagate Waterfowl", is amended by striking out the word "retail" before the words "dealer in meat or game."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States Department of Agriculture to be affixed.

DONE at the City of Washington this 12th day of July, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

AND WHEREAS upon consideration it appears that approval of the foregoing amendatory regulations will effectuate the purposes of the aforesaid Migratory Bird Treaty Act:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby approve and proclaim the foregoing amendatory regulations.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 16" day of July, in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2291]

[F. R. Doc. 38-2066; Filed, July 19, 1938; 12:33 p. m.]

FORT LARAMIE NATIONAL MONUMENT—WYOMING

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS The Historical Landmark Commission of Wyoming has donated to the United States in trust certain lands with the structures thereon comprising the abandoned Fort Laramie, for the purpose of improving, preserving, and conducting such lands and structures as a public historical site; and

WHEREAS the lands and structures are of great historic interest and constitute a historic landmark; and

WHEREAS it appears that it would be in the public interest to reserve such lands and structures as a national monument, to be known as the Fort Laramie National Monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that the following-described lands in Wyoming are hereby reserved and set apart as the Fort Laramie National Monument:

Commencing at the corner common to Sections 20, 21, 28 and 29 in Township 26 North, Range 64 West of the Sixth Principal Meridian, Wyoming, thence due West 1320 feet, the POINT OF BEGINNING; thence due North 1320 feet to a point; thence due East 1725 feet to a point; thence due South parallel to section lines between Sections 20 and 21 and Sections 29 and 28, 3960 feet to a point; thence due West 3045 feet to a point; thence due North 1320 feet to a point; thence due East 355 feet to a point on the easterly right-of-way line of the county road; thence North 26 degrees 39 minutes east 685.4 feet to a point on the said easterly right-of-way line of the county road; thence North 28 degrees 55' East 808.1 feet to a point on the said easterly right-of-way line and on the section line common to Sections 20 and 29; thence due east 266.9 feet along said section line between sections 20 and 29 to the point of beginning excepting, however, the land occupied by the county road which traverses the northwest corner of the southwest quarter of the northeast quarter of said Section 29, containing in all 214.41 acres, more or less.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument, and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 16" day of July in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2292]

[F. R. Doc. 38-2067; Filed, July 19, 1938; 12:33 p. m.]

OCALA NATIONAL FOREST—FLORIDA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it appears that it would be in the public interest to include within and reserve as part of the Ocala National Forest, in the State of Florida, certain forest lands which have been or may be acquired under the authority of the act of Congress approved March 1, 1911, 36 Stat. 961 (U. S. C., title 16, sec. 516), as amended by the act of June 7, 1924, 43 Stat. 653 (U. S. C., title 16, sec. 515), and certain intermingled public lands:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1103 (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), and section 11 of the act of March 1, 1911, 36 Stat. 963 (U. S. C., title 16, sec. 521), do proclaim that there are hereby included in and reserved as part of the Ocala National Forest, in the State of Florida, all lands of the United States within the areas shown on the diagram attached hereto and made a part hereof,[1] and that all lands therein which may hereafter be acquired by the United States under the said act of March 1, 1911, as amended by the said act of June 7, 1924, shall upon their acquisition be reserved and administered as part of the said national forest.

The reservation made by this proclamation shall as to all lands which are at this date legally appropriated under the public-land laws or reserved for any public purpose other than for classification under Executive Order No. 6964 of February 5, 1935, as amended, be subject to, and shall not interfere with or defeat, legal rights under such appropriation, nor prevent the use for such public purpose of lands so reserved, so long as such appropriation is legally maintained or such reservation remains in force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 16" day of July in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL,
Secretary of State.

[No. 2293]

[F. R. Doc. 38-2068; Filed, July 19, 1938; 12:33 p. m.]

[1] See p. 1770.

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

[Amendment 1 to S. and R. Announcements 143, Rev.]

AMENDMENT TO RULES AND REGULATIONS FOR CARRYING OUT THE PROVISIONS OF THE EXPORT APPLE AND PEAR ACT

By virtue of the authority vested in the Secretary of Agriculture by "An Act To promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," approved June 10, 1933 (48 Stat. 123), known as the Export Apple and Pear Act, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby amend Regulation 13 (7 C. F. R., 33.17) of the rules and regulations issued under said Act on the 30th day of March, 1938,[1] to read as follows and to become effective on August 1, 1938:

REGULATION 13

Any shipment of apples and/or pears of less than 400 bushels in packages is hereby defined as a less-than-a carload quantity for the purposes of the act. Such shipments to Mexico, Cuba and the West Indies, Bahamas, Bermuda Islands, Newfoundland, or other islands adjacent to North America, or any country in Central America or South America except Argentina, or to any African port not on the Mediterranean Sea, or to any trans-Pacific port, need not comply with the requirements of the act: Provided, That shipments of less than 200 pounds gross weight to any foreign destination shall not be subject to the provisions of this act.

It is directed that notice of this amendment shall be published in at least two trade papers of the fruit industry within one week of its promulgation.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 19th day of July 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2064; Filed, July 19, 1938; 12:07 p. m.]

[1] 3 F. R. 788 DI.

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—475]

FUMIGATION OF ONIONS BY METHYL BROMIDE AS A CONDITION OF CERTIFICATION OF ONIONS MOVING BY REFRIGERATOR CAR FROM THE AREA LISTED IN REGULATION 5 OF QUARANTINE NO. 48

ADMINISTRATIVE INSTRUCTIONS

Regulation 5, Sec. B, paragraph (6) of the Japanese beetle quarantine (No. 48)[1] authorizes the issuance of certificates for the interstate movement of onions via refrigerator car from the area listed in that regulation to points outside the regulated areas between June 15 and October 15 when the onions have been fumigated in the car, when deemed necessary in the judgment of the inspector and when the doors and hatches of the car have been tightly closed or adequately screened under the supervision of an inspector.

Treatment Authorized

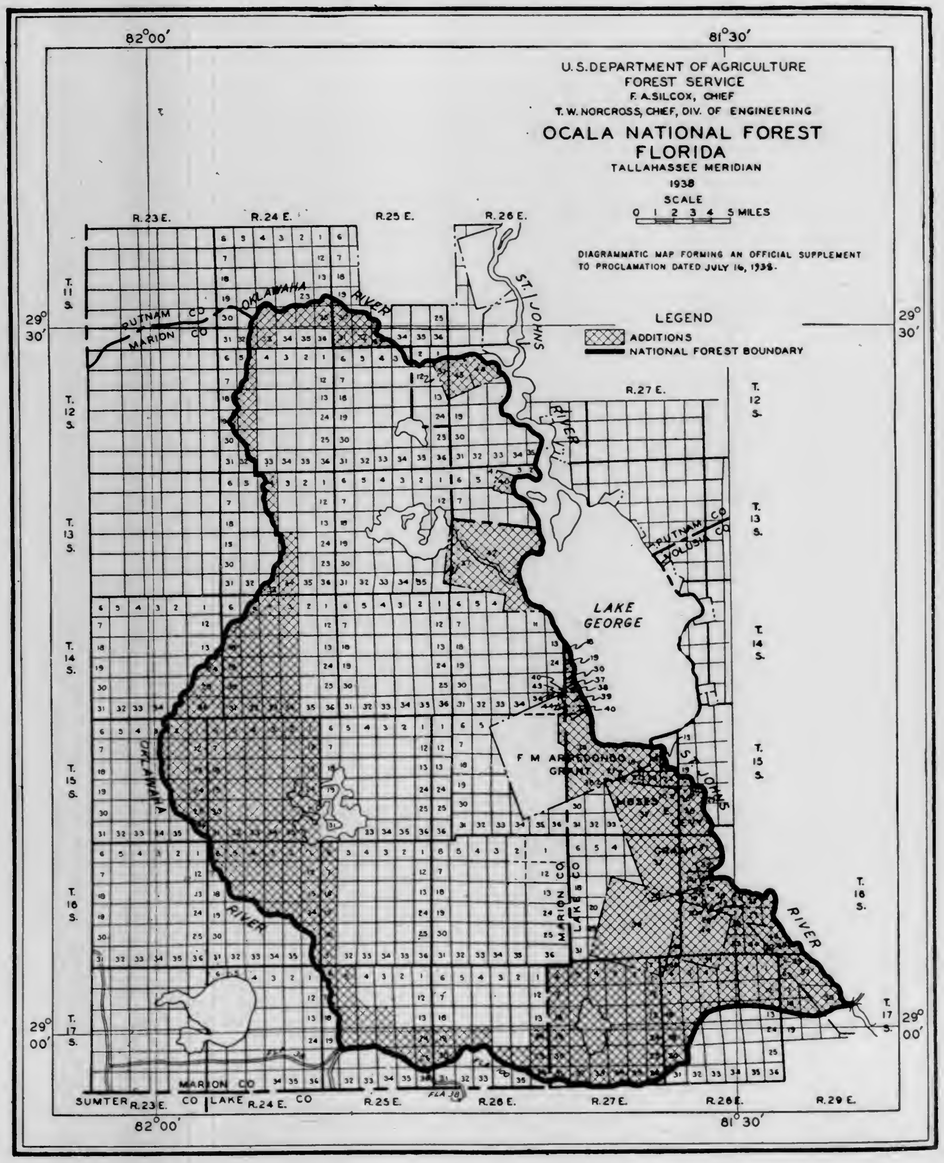
The treatment described herein has been found to be effective against the Japanese beetle and such treatment is authorized as a basis for certification of onions moving to points outside the regulated areas between June 15 and October 15 via refrigerator car when such treatment is carried out under the supervision of an inspector and in a manner satisfactory to him.

Treatment Method

Fumigation of onions in dry refrigerator cars with methyl bromide at a dosage of 2 pounds per 1,000 cubic feet of space, including the space occupied by the onions and bunkers of the cars, for a period of 2 hours, during which time the car shall remain tightly closed with the plugs in place in the ventilator hatches. The temperature within the car when fumigated shall be not less than 70° F. Provision shall be made for circulating the mixture of air and fumigant in the car for as long a time as is deemed necessary by the inspector. At the end of the fumigation period the hatches shall be opened, the plugs removed, screens placed in the hatch openings, and the car shipped under standard ventilation.

In authorizing the movement of onions fumigated according to the requirements stated above, it is to be understood that

[1] 1 F. R. 32.



no liability shall attach either to the United States Department of Agriculture or to any of its employees in the event of injury.

Caution.—Methyl bromide is a gas at ordinary temperatures. It is colorless and practically odorless in concentration used for the fumigation of onions. It is a poison, and the operator should use an approved gas mask when exposed to the gas at concentrations used in fumigation, and when opening the hatches for ventilating the cars. The car should not be entered until it is well aerated.

[SEAL] LEE A. STRONG,
Chief, Bureau of Entomology and Plant Quarantine.

[F. R. Doc. 38-2065; Filed, July 19, 1938; 12:07 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4828]

INCOME TAX

REGULATIONS 94, 86, 77, 74, 69, 65, AND 62 AMENDED TO ACCORD WITH SECTION 816 OF THE REVENUE ACT OF 1938, WITH RESPECT TO EXTENSIONS OF TIME FOR PAYMENT OF DEFICIENCIES IN INCOME TAX

To Collectors of Internal Revenue and Others Concerned:

1. In order to accord with section 816 of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), with respect to extensions of time for the payment of deficiencies in income tax under the Revenue Acts of 1936, 1934, 1932, 1928, 1926, 1924, and 1921, Regulations 94,[1] 86, 77, 74, 69, 65, and 62 are amended as follows:

(a) The following is inserted immediately preceding article 272–1 of Regulations 94[2] and 86, article 1171 of Regulations 77 and 74, article 1231 of Regulations 69 and 65, and article 1001 of Regulations 62:

"Section 816 of Title V of the Revenue Act of 1938 provides:

SEC. 816. *Extension of Time for Payment of Deficiencies Approved by Commissioner.*—The requirement of section 272 (j) of the Revenue Act of 1936, 1934, 1932, and 1928, section 274 (k) of the Revenue Act of 1926, as amended, section 274 (g) of the Revenue Act of 1924, section 250 (f) of the Revenue Act of 1921, section 513 (i) of the Revenue Act of 1932, and section 308 (i) of the Revenue Act of 1926, of approval by the Secretary of extension of time for payment of deficiency in income, estate, or gift tax shall not apply after thirty days after the date of the enactment of this Act, but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Article 272–3 of Regulations 94[3] and 86, article 1173 of Regulations 77 and 74, article 1234 of Regulations 69 and 65, and article 1014 of Regulations 62 are amended by inserting immediately following the heading of the first paragraph of each of those articles the following:

"(a) *Extensions granted prior to June 28, 1938.*—"

(c) The following is inserted after the last paragraph of each of the articles enumerated in paragraph 1 (b) of this Treasury Decision:

"(b) *Extensions granted on or after June 28, 1938.*—If it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date or dates prescribed for the payment thereof will result in undue hardship to the taxpayer, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period not in excess of 18 months, and in exceptional cases for a further period not in excess of 12 months. The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to the taxpayer. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the taxpayer from making payment of the deficiency at the due date. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in an undue hardship. The Act provides that no extension will be granted where the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade tax.

"An application for an extension of time for the payment of a deficiency should be made under oath on Form 1127 and must be accompanied or supported by evidence showing the undue hardship that would result to the taxpayer if the extension were refused. A sworn statement of assets and liabilities of the taxpayer and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the deficiency are required and should accompany the application. The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the taxpayer will be notified. The Commissioner will not consider an application for an extension of time for the payment of a deficiency unless request therefor is made to the collector on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector, or on or before the date or dates prescribed for payment in any prior extension granted.

"As a condition to the granting of such an extension, the Commissioner will usually require the taxpayer to furnish a bond on Form 1127B in an amount not exceeding double the amount of the deficiency or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date or dates prescribed for payment in the extension, so that the risk of loss to the Government will not be greater at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the taxpayer may file a bond secured by deposit of bonds or notes of the United States as provided in section 1126 of the Revenue Act of 1926, as amended by the Act entitled 'An Act to amend the second Liberty Bond Act, as amended, and for other purposes', approved February 4, 1935 (49 Stat. 20). The amount of the deficiency and additions thereto shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the deficiency and additions thereto before the expiration of the extension will not relieve the taxpayer from paying the entire amount of interest provided for in the extension."

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 15, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2062; Filed, July 19, 1938; 10:16 a. m.]

[1] 1 F. R. 1802.
[2] 1 F. R. 1935.
[3] 1 F. R. 1936.

[T. D. 4829]

EXCESS-PROFITS TAX

REGULATIONS RELATING TO THE EXCESS-PROFITS TAX IMPOSED BY SECTION 602 OF THE REVENUE ACT OF 1938

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 601 (Title III—Capital Stock and Excess-Profits Taxes) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), provides:

SEC. 601. *Capital Stock Tax.*—(a) For each year ending June 30, beginning with the year ending June 30, 1938, there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of $1 for each $1,000 of the adjusted declared value of its capital stock.

(b) For each year ending June 30, beginning with the year ending June 30, 1938,

there is hereby imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent to $1 for each $1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.

(c) The taxes imposed by this section shall not apply—

(1) to any corporation enumerated in section 101 of this Act;

(2) to any insurance company subject to the tax imposed by sections 201, 204, or 207 of this Act.

(d) Every corporation liable for tax under this section shall make a return under oath within one month after the close of the year with respect to which such tax is imposed to the collector for the district in which is located its principal place of business or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector before the expiration of the period for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this section, be applicable in respect of the taxes imposed by this section. The Commissioner may extend the time for making the returns and paying the taxes imposed by this section, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(f) (1) The adjusted declared value shall be determined with respect to three-year periods beginning with the year ending June 30, 1938, and each third year thereafter. The first year of each such three-year period, or, in case of a corporation not subject for such year to the tax imposed by this section, the first year of such three-year period for which the corporation is subject to the tax, shall constitute a 'declaration year'.

(2) For each declaration year the adjusted declared value shall be the value, as declared by the corporation in its return for such declaration year (which declaration of value cannot be amended), as of the close of its last income-tax taxable year ending with or prior to the close of such declaration year (or as of the date of organization in the case of a corporation having no income-tax taxable year ending with or prior to the close of such declaration year).

(3) For each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a domestic corporation shall be the value declared in the return for the declaration year plus—

(A) the cash, and the fair market value of property, paid in for stock or shares,

(B) paid-in surplus and contributions to capital,

(C) its net income,

(D) its income wholly exempt from Federal income tax, and

(E) the amount, if any, by which the deduction for depletion exceeds the amount which would be allowable if computed without regard to discovery value or to percentage depletion, under section 114 (b) (2), (3), or (4) of this Act or a corresponding section of a later Revenue Act;

and minus—

(I) the cash, and the fair market value of property, distributed to shareholders,

(II) the amount disallowed as a deduction by section 24 (a) (5) of this Act or a corresponding provision of a later Revenue Act, and

(III) the excess of the deductions allowable for income tax purposes over its gross income.

(4) The adjustments provided in paragraph (3) shall be made for each income-tax taxable year included in the three-year period from the date as of which the value was declared in the return for the declaration year to the close of the last income-tax taxable year ending with or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year.

(5) For each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a foreign corporation shall be the value declared in the return for the declaration year adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

(6) The capital-stock tax year beginning with or within an income-tax taxable year within which bankruptcy or receivership, due to insolvency, of a domestic corporation, is terminated shall constitute a declaration year. In such case the adjusted declared value for any subsequent year of the three-year period shall be determined on the basis of the value declared in the return for such declaration year.

(g) For the purpose of the tax imposed by this section there shall be allowed in the case of a corporation organized under the China Trade Act, 1922, as a credit against the adjusted declared value of its capital stock, an amount equal to the proportion of such adjusted declared value which the par value of the shares of stock of the corporation, owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date. For the purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested; and as used in this subsection the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

(h) The capital stock tax imposed by section 105 of the Revenue Act of 1935, as amended, shall not apply to any taxpayer with respect to any year after the year ending June 30, 1937.

PAR. B. Section 602 (Title III) of the Revenue Act of 1938 provides:

SEC. 602. *Excess-profits tax.*—(a) If any corporation is taxable under section 601 with respect to any year ending June 30, there is hereby imposed upon its net income for the income-tax taxable year ending after the close of such year, an excess-profits tax equal to the sum of the following:

6 per centum of such portion of its net income for such income-tax taxable year as is in excess of 10 per centum and not in excess of 15 per centum of the adjusted declared value;

12 per centum of such portion of its net income for such income-tax taxable year as is in excess of 15 per centum of the adjusted declared value.

(b) The adjusted declared value shall be determined as provided in section 601 as of the close of the preceding income-tax taxable year (or as of the date of organization if it had no preceding income-tax taxable year). If the income-tax taxable year in respect of which the tax under this section is imposed is a period of less than 12 months, such adjusted declared value shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to 12 months. For the purposes of this section the net income shall be the same as the net income for income-tax purposes for the year in respect of which the tax under this section is imposed, computed without the deduction of the tax imposed by this section, but with a credit against net income equal to the credit for dividends received provided in section 26 (b) of this Act.

(c) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.

(d) The excess-profits tax imposed by section 106 of the Revenue Act of 1935, as amended, shall not apply to any taxpayer with respect to any income-tax taxable year ending after June 30, 1938.

Par. C. Section 53 (Title I) of the Revenue Act of 1938 provides:

SEC. 53. *Time and place for filing returns.*—(a) *Time for filing.*—

(1) *General rule.*—Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

(2) *Extension of time.*—The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(b) *To whom return made.*—

(1) *Individuals.*—Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

(2) *Corporations.*—Returns of corporations shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

PAR. D. Section 145 (Title I) of the Revenue Act of 1938 provides:

SEC. 145. *Penalties.*—(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(d) For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 340.

PAR. E. Section 62 (Title I) of the Revenue Act of 1938 provides:

SEC. 62. *Rules and regulations.*—The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

Pursuant to the above-quoted provisions and other provisions of the internal revenue laws, the following regulations are hereby prescribed with respect to the excess-profits tax imposed by the Revenue Act of 1938:

ARTICLE 1. *Definitions.*—As used in these regulations, the term—

(*a*) *Adjusted declared value* means in the case of a domestic corporation the adjusted declared value of its capital stock as determined under section 601 of the Revenue Act of 1938, and the regulations issued respecting the capital stock tax imposed by that section and in the case of a foreign corporation the adjusted declared value of capital employed in the transaction of its business in the United States as determined under such section and the regulations issued in reference thereto.

(*b*) *Tax*, except as otherwise indicated, means the excess-profits tax imposed by section 602 of the Revenue Act of 1938.

(*c*) *Income-tax taxable year* means the calendar year, the fiscal year ending during such calendar year, or the fractional part of a year, upon the basis of which the corporation's net income is computed and for which its income tax returns are made for Federal income tax purposes.

(*d*) *Net income* means (1) "net income" within the contemplation of section 21 of the Revenue Act of 1936, or (2) in the case of an income-tax taxable year governed by the Revenue Act of 1938, "net income" within the contemplation of section 21 of the Revenue Act of 1938. Neither the amount of income tax imposed by the Revenue Act of 1936 or the Revenue Act of 1938, nor the amount of the excess-profits tax imposed by the Revenue Act of 1935, as amended, or the Revenue Act of 1938, shall be deducted from net income in computing the excess-profits tax and none of the credits allowed corporations against net income for income tax purposes are applicable in respect of the excess-profits tax except the credit against net income equal to the credit for dividends received provided in section 26 (b) of the Revenue Act of 1936 and in section 26 (b) of the Revenue Act of 1938.

ART. 2. *Scope of tax.*—The excess-profits tax, imposed by section 602 of the Revenue Act of 1938, is imposed upon the net income of every corporation for each income-tax taxable year ending after the close of any year ending June 30 in respect of which the corporation is subject to the capital stock tax imposed by section 601 of that Act.

ART. 3. *Measure and rate of tax.*—(*a*) *Domestic and foreign corporations.*—The tax is imposed in an amount equal to the sum of (1) 6 percent of such portion of the corporation's net income for the income-tax taxable year as is in excess of 10 percent and not in excess of 15 percent of the adjusted declared value plus (2) 12 percent of such portion of its net income for the income-tax taxable year as is in excess of 15 percent of the adjusted declared value, as of the close of the last preceding income-tax taxable year (or as of the date of organization if the corporation had no preceding income-tax taxable year).

(*b*) *Adjusted declared value.*—No variation is permitted between the adjusted declared value set forth in the corporation's capital stock tax return and the adjusted declared value set forth in its excess-profits tax return, except that in the case of an excess-profits tax return for an income-tax taxable year which is a period of less than twelve months the adjusted declared value set forth in its capital stock tax return shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to twelve months. The first return of a corporation covering the part of a year in which it was incorporated, or the final return of a corporation covering the part of the year in which it was dissolved, is a return for twelve months and not for a period of less than twelve months, for the purposes of this Treasury Decision.

ART. 4. *Method of computation, example.*—The application of the provisions of article 3 of these regulations may be illustrated generally by the following example:

Example.—The M Corporation, the income-tax taxable year of which is the calendar year, is subject to the capital stock tax imposed by section 601 of the Revenue Act of 1938 for the year ending June 30, 1938. The value declared in its capital stock tax return for the year ending June 30, 1938, of its capital stock as of the close of its preceding income-tax taxable year (the calendar year 1937) is $100,000. The net income of the corporation for the calendar year 1938, determined under the Revenue Act of 1938, is $25,000. (The net income for income-tax taxable years beginning after December 31, 1937, shall be determined under the Revenue Act of 1938.) During its taxable year the corporation received dividends from corporations subject to taxation under Title I of the Revenue Act of 1938, amounting to $5,000. The excess-profits tax for the calendar year 1938 is $990, computed as follows:

Net incomes for calendar year 1938	$25,000
Less:	
Credit for dividends received (85 percent of $5,000)	4,250
Balance of net income	20,750
Less:	
10 percent of the value declared in the capital stock tax return for the year ending June 30, 1938, of the capital stock as of December 31, 1937 (10 percent of $100,000)	10,000
Net income subject to excess-profits tax	10,750
Less:	
Amount taxable at 6 percent, portion of net income in excess of 10 percent and not in excess of 15 percent of the adjusted declared value of the capital stock as of December 31, 1937 ($15,000 minus $10,000)	5,000
Amount taxable at 12 percent	5,750
Excess-profits tax at 6 percent (6 percent of $5,000)	300
Excess-profits tax at 12 percent (12 percent of $5,750)	690
Total excess-profits tax ($300 plus $690)	990

ART. 5. *Returns.*—Every corporation which is subject to the capital stock tax imposed by section 601 of the Revenue Act of 1938, for any year shall make an excess-profits tax return for each income-tax taxable year which ends after the close of the year in respect of which it is subject to such capital stock tax. There is no provision in the Revenue Act of 1938 which authorizes the making of a consolidated return by an affiliated group of corporations for the purpose of the excess-profits tax imposed by section 602 of that Act. Accordingly, every corporation which is liable for the making of an excess-profits tax return under section 602 of the Revenue Act of 1938 (for any income-tax taxable year ending after June 30, 1938), whether or not such corporation is a member of an affiliated group of corporations, must make its excess-profits tax return and compute its net income separately, without regard to the provisions of section 141 of the Revenue Act of 1938.

The excess-profits tax return shall be made within the time prescribed for making the corporation's Federal income tax return for the income-tax taxable year, and shall be made to the collector of internal revenue to whom such income tax return is required to be made.

ART. 6. *Payment of tax.*—The excess-profits tax for any income-tax taxable year shall be paid within the time pre-

scribed for paying the Federal income tax for such taxable year.

ART. 7. *Credits against tax prohibited.*—Foreign income and profits taxes may not be credited against the excess-profits tax imposed by section 602 of the Revenue Act of 1938.

ART. 8. *Determination of tax, assessment, collection.*—The determination, assessment, and collection of the tax, and the examination of returns and claims in connection therewith, will be made under such procedure as may be prescribed from time to time by the Commissioner.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 15, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2063; Filed, July 19, 1938; 10:16 a. m.]

Notices

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 272]

ALLOCATION OF FUNDS FOR LOANS

JULY 14, 1938.

By virtue of the authority vested in me by the provisions of the Rural Electrification Act of 1936, I hereby allocate, out of unexpended sums made available for loans under said Act during the fiscal year ending June 30, 1939, funds for a loan pursuant to Section 4 of said Act for the project specified below in the amount indicated.

Project	*Amount*
North Carolina 9014B2 Pitt	$15,000
Virginia 9011D1 Rockingham	273,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2061; Filed, July 19, 1938; 9:37 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File Nos. 55-5, 55-6]

IN THE MATTER OF HUGH M. MORRIS AND JOHN N. SHANNAHAN, TRUSTEES OF THE ESTATE OF MIDLAND UNITED COMPANY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 11 (f) and 20 (a) and Rule 11-F-2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on August 5, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

The matter concerned herewith is in regard to applications filed by Hugh M. Morris and John N. Shannahan, Trustees of the Estate of Midland United Company, now in reorganization under Section 77B of the Bankruptcy Act, as amended, pending in the District Court of the United States for the District of Delaware (No. 1073), and Millard B. Kennedy as their general counsel, requesting approval by the Commission as to the maximum amount that may be reasonably paid to said Millard B. Kennedy as such counsel as an ad interim allowance on account of services rendered and for reimbursement for cash disbursements made by him as follows:

(a) Services rendered by Millard B. Kennedy during the period September 1, 1937 to June 1, 1938, $15,750.

(b) For expenditures made by Millard B. Kennedy during the months of March, April and May 1938, $829.14.

The applicants further request an exemption from the provisions of Rule U-11-F-2 with respect to the payment of compensation for services to be rendered by said Millard B. Kennedy as such general counsel, such exemption to be for the sum of $1,750 per month as an ad interim allowance on account of services rendered by him subsequent to May 31, 1938, plus reimbursement for actual cash disbursements made by him subsequent to May 31, 1938, on behalf of said Trustees in connection with his duties as such general counsel, and said Trustees represent that no such payments on account of compensation will be made unless authorized by the District Court of the United States for the District of Delaware which now has jurisdiction over the said proceedings for reorganization of Midland United Company, and that no such payments on account of expenditures will be made unless approved as to character and amount by said Trustees.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2072; Filed, July 19, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19 day of July, A. D. 1938.

[File Nos. 55-7, 55-8]

IN THE MATTER OF HUGH M. MORRIS AND JOHN N. SHANNAHAN, TRUSTEES OF THE ESTATE OF MIDLAND UTILITIES COMPANY, AND MILLARD B. KENNEDY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 11 (f) and 20 (a) and Rule U-11F-2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on August 5, 1938, at 2 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

The matter concerned herewith is in regard to applications filed by Hugh M. Morris and John N. Shannahan, Trustees represent that no such payments on account of compensation will be made unless authorized by the District Court of the United States for the District of Delaware which now has jurisdiction over the said proceedings for reorganization of Midland United Company, and that no such payments on account of expenditures will be made unless approved as to character and amount by said Trustees.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2072; Filed, July 19, 1938; 12:50 p. m.]

tees of the Estate of Midland Utilities Company (in reorganization under Section 77B of the Bankruptcy Act, as amended, pending in the District Court of the United States for the District of Delaware, No. 1073) and of Millard B. Kennedy as their general counsel requesting approval by the Commission as to the maximum amount that may reasonably be paid to Millard B. Kennedy as such counsel as an ad interim allowance on account of services rendered and for reimbursement for cash disbursements made by him as follows:

(a) For services rendered for the period September 1, 1937 to June 1, 1938, $11,250.

(b) For expenditures made during the months of March, April and May, 1938, $506.46.

The applicants further request an exemption from the provisions of Rule U-11F-2 with respect to the payment of compensation for services to be rendered by said Millard B. Kennedy as such general counsel, such exemption to be for the sum of $1,250 per month as an ad interim allowance on account of services rendered by him subsequent to May 31, 1938, plus reimbursement for actual cash disbursements made by him subsequent to May 31, 1938, on behalf of said Trustees in connection with his duties as such general counsel, and said Trustees represent that no such payments on account of compensation will be made unless authorized by the District Court of the United States for the District of Delaware, which now has jurisdiction over the said proceedings for reorganization of the Midland Utilities Company, Debtor, and that no such payments on account of expenditures will be made unless approved as to character and amount by said Trustees.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2069; Filed, July 19, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File Nos. 43-138, 46-104]

IN THE MATTERS OF COPPER DISTRICT POWER COMPANY, THE MIDDLE WEST CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration (File No. 43-138) pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Copper District Power Company, a subsidiary company of The Middle West Corporation, a registered holding company, regarding the issue and sale by it of six unsecured promissory notes aggregating $78,750, to be dated on the effective date of this declaration, to mature one year after the date thereof, each note to bear 4½ per cent interest. Three of the notes in the face amounts of $18,000, $15,750 and $5,625 aggregating $39,375 are to be issued to Copper Range Company, and three notes in the same face amounts aggregating $39,375 are to be issued to The Middle West Corporation;

An application having been duly filed by The Middle West Corporation, a registered holding company, pursuant to section 10 (a) (1) of the Act, for approval by the Commission of the acquisition by it of three unsecured promissory notes in the face amounts of $18,000, $15,750 and $5,625, as described above;

It appearing to the Commission that these related matters should be heard and considered together;

It is ordered, That a joint hearing on such matters be held on August 4, 1938, at 10:00 A. M. in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2070; Filed, July 19, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File No. 32-97]

IN THE MATTER OF INDIANAPOLIS POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered That a hearing on such matter be held on August 2, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

The matter concerned herewith is in regard to the application of Indianapolis Power & Light Company, a subsidiary of Utilities Power & Light Corporation, a registered holding company, for exemption, from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, of the issue and sale, at not less than 97% of the principal amount, of $32,000,000 principal amount of Applicant's new First Mortgage Bonds, dated August 1, 1938, such bonds to bear interest at not more than 3¾% per annum and to mature not more than thirty years after the date thereof, and of the issue and sale, at not less than 98% of the principal amount, of $5,500,000 principal amount of Applicant's unsecured Serial Notes, dated August 1, 1938, such notes to bear interest at not more than 4% per annum and to mature serially in not more than ten years after the date thereof, the net proceeds of the issue and sale of such bonds and notes to be used for the redemption of the outstanding $37,509,000 principal amount of

Applicant's First Mortgage Gold Bonds 5%, Series A, due January 1, 1957, at 104% of the principal amount thereof, plus accrued interest thereon to sixty days after the date of the notice of redemption.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2071; Filed, July 19, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of July, A. D. 1938

[File No. 1-1119]

IN THE MATTER OF RAINBOW LUMINOUS PRODUCTS, INC., COMMON STOCK, CLASS A AND B, NO PAR VALUE

ORDER FOR HEARING

I

It appearing to the Commission:

That Rainbow Luminous Products, Inc., a corporation, is the issuer of Common Stock, Class A, no par value, and Common Stock, Class B, no par value; and

That said Rainbow Luminous Products, Inc., registered such securities on the New York Curb Exchange, a national securities exchange, by filing on or about May 16, 1935, an application signed for the company by Mr. E. C. Bull, President, with the said exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

That pursuant to Sections 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 promulgated by the Commission thereunder, said Rainbow Luminous Products, Inc., filed on or about July 1, 1936, and on or about June 29, 1937, its annual reports on Form 10-K for the respective fiscal years ended December 31, 1935, and December 31, 1936, both being signed for the company by Mr. W. M. Martin, Treasurer; and

That Rule KA1 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule KA2 promulgated pursuant to Section 13 (b) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified and that no other form was or is specified for use by the said Rainbow Luminous Products, Inc.; and

II

The Commission having reason to believe:

That Rainbow Luminous Products, Inc., has failed to comply with said Sections 13 (a) and (b) and the Rules and Regulations promulgated thereunder in that it has failed to file the information and documents required by Rule KA1 adopted by the Commission pursuant to Section 13 (a), and has failed to file its annual report for the year ended December 31, 1937, on Form 10-K, as required by Rule KA2 adopted by the Commission pursuant to said Section 13 (b); and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Rainbow Luminous Products, Inc has so failed to comply with said provisions of said Sections 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of said sections, or of any rule or regulation promulgated by the Commission under said sections, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said Common Stock, Class A, no par value, and Common Stock, Class B, no par value, on said New York Curb Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 26th day of July, 1938, at 10:00 A. M. in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, Chas. S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2073; Filed, July 19, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File No. 2-3185]

IN THE MATTER OF UNITY GOLD CORPORATION

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of Unity Gold Corporation, a Montana corporation, and the proposed amendments filed June 14, July 17, July 22, July 23, and November 1, 1937, and February 17, 1938, to such registration statement, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, in Items 3, 11, 18, 20, 25, 27, 30, 31, 34, 36, 38, 46, 50, 54, and 55, Exhibit D (re-entitled Exhibit "H" by amendment of November 1, 1937), and the prospectus, as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and it not appearing to the Commission that the aforesaid amendments, on their face, are not incomplete or inaccurate in any material respect, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, that the effectiveness of the registration statement filed by Unity Gold Corporation, a Montana corporation, be and the same hereby is suspended; and

It is ordered further, That the amendments filed by Unity Gold Corporation, a Montana corporation, on June 14, July 17, July 22, July 23, and November 1, 1937, and February 17, 1938, not be declared effective.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc.38-2074; Filed, July 19, 1938; 12:51 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS FRIDAY, JULY 15, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	575	37
2. Hawaii	137	15
3. Alaska	22	7
4. California	2,114	747
5. Texas	2,169	864
6. Louisiana	782	365
7. Michigan	1,803	849
8. Arizona	162	79
9. New Jersey	1,505	769
10. South Carolina	647	369
11. Ohio	2,475	1,460
12. Oklahoma	892	533
13. Arkansas	690	422
14. Alabama	985	604
15. Mississippi	748	461
16. New Mexico	158	99
17. North Carolina	1,180	769
18. Georgia	1,083	728
19. Kentucky	974	665
20. Wisconsin	1,094	823
21. Illinois	2,841	2,170
22. Tennessee	974	749
23. Nevada	34	27
24. Connecticut	598	475
25. Delaware	89	80
26. Oregon	355	320
27. Indiana	1,206	1,090
28. Florida	547	500
29. New York	4,687	4,357
30. Pennsylvania	3,586	3,372
31. Utah	189	178
32. Idaho	166	157
33. Wyoming	84	80
34. New Hampshire	173	166
35. Washington	582	560
36. Colorado	386	382
QUOTA FILLED		
37. Maine	297	297
IN EXCESS		
38. Massachusetts	1,582	1,583
39. Rhode Island	256	257
40. West Virginia	644	649
41. North Dakota	253	256
42. Kansas	700	714
43. Vermont	134	140
44. Missouri	1,351	1,425
45. Minnesota	955	1,041
46. South Dakota	258	289
47. Montana	200	227
48. Iowa	920	1,080
49. Nebraska	513	623
50. Virginia	902	1,940
51. Maryland	607	1,848
52. D. C.	181	8,751

State	Net gain or loss since July 1, 1938
38. Massachusetts	+1
39. Rhode Island	0
40. West Virginia	+2
41. North Dakota	+7
42. Kansas	−6
43. Vermont	0
44. Missouri	+2
45. Minnesota	−7
46. South Dakota	+3
47. Montana	0
48. Iowa	+4
49. Nebraska	−3
50. Virginia	0
51. Maryland	+1
52. D. C.	−6

GAINS	
By appointment	162
By reinstatement	3
By transfer	37
By correction	1
Total	203
LOSSES	
By separation	172
By transfer	43
By correction	1
Total	216
Total appointments	46,448

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of August 25, 1934, 13860.

By direction of the Commission:

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38-2059; Filed, July 18, 1938; 1:17 p. m.]

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FEDERAL REGISTER

VOLUME 3 NUMBER 141

Washington, Thursday, July 21, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROCLAMATION WITH RESPECT TO BASE PERIOD TO BE USED FOR PURPOSE OF MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF FRESH PRUNES GROWN IN UMATILLA COUNTY IN STATE OF OREGON, AND WALLA WALLA AND COLUMBIA COUNTIES IN STATE OF WASHINGTON

By virtue of the authority vested in the Secretary of Agriculture by the terms and provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the Secretary of Agriculture hereby finds and proclaims that, in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, the purchasing power of such fresh prunes during the base period August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such fresh prunes can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war period August 1919–July 1929; and the period August 1919–July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of fresh prunes in that area.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 19th day of July, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2079; Filed, July 20, 1938; 9:32 a. m.]

ORDER REGULATING THE HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE OR FOREIGN COMMERCE OF FRESH PRUNES GROWN IN UMATILLA COUNTY IN STATE OF OREGON AND WALLA WALLA AND COLUMBIA COUNTIES IN STATE OF WASHINGTON

Whereas, it is provided in Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended (hereinafter called the act), as follows:

SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, as would establish prices to growers at a level that will give such fresh prunes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such fresh prunes in the base period, did,

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Fresh prunes grown in Umatilla County, Oreg., Walla Walla and Columbia Counties, Wash.:
Base period for marketing agreement and order 1779
Order regulating handling in interstate, etc., commerce 1779
Mainland cane sugar area farms, determination of normal yield of commercially recoverable sugar per acre, etc 1786
Sugarcane production, Puerto Rico, farming practices, crop year 1938–39 1786
Bureau of Agricultural Economics:
Land utilization program, delegation of authority 1786
TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Authority of contract brokers to incur charges and to make payment 1788
Bond of indemnity for lost checks 1787
Consolidated Manual, Section 703 revoked 1788
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Estate tax regulations amended 1792
Gift tax regulations amended 1788
TITLE 31—MONEY AND FINANCE: TREASURY:
Office of the Secretary:
Newly-mined domestic silver 1794
TITLE 43—PUBLIC LANDS:
Division of Grazing:
Arizona, establishment of Grazing District No. 3 1795

(Continued on next page)

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CONTENTS—Continued

TITLE 43—PUBLIC LANDS—Contd.

General Land Office: Page

Mineral leasing acts, disposition of filing fees accompanying applications for leases, etc. 1800

Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands, sale of timber 1795

Phosphate, leases or use permits for mining of 1795

NOTICES

Department of Agriculture:

Farm Security Administration:

Wisconsin, designation of counties for tenant purchase loans 1800

Department of Commerce:

Bureau of Marine Inspection and Navigation:

Meeting of Executive Committee, Board of Supervising Inspectors 1800

Federal Trade Commission:

Orders appointing examiners, etc.:

American Memorial Co 1801

Gimbel Brothers, Inc., and Morris Kaplan & Son, Inc 1801

Jones, Josiah L 1801

Monticello Drug Co 1802

Palazzolo, J 1800

Sales on Sound Corp 1801

Yancey, R. Frank, trading as Monarch China Co 1801

Interstate Commerce Commission:

California motor carrier rates 1802

CONTENTS—Continued

Securities and Exchange Commission: Page

Hearings:

Continental Securities Corp., 15-year 5% debentures, etc 1802

Federal Water Service Corp 1803

Utilities Power & Light Corp 1803

pursuant to the provisions of the act and regulations thereunder, on the fifteenth day of April, 1938, give notice of a hearing to be held in Milton, Oregon, on May 3, 1938,[1] on a proposed order regulating the handling of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, and did, upon said date and at said place, conduct a public hearing thereon, and did give opportunity to all interested parties to be heard concerning the said proposed order; and

Whereas, the Secretary has found and proclaimed that the purchasing power of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, during the period August 1909–July 1914, cannot be satisfactorily determined from the available statistics of the Department of Agriculture, but that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1919–July 1929, and the period August 1919–July 1929, is the base period to be used in connection with this order in determining the purchasing power of such commodity; and

Whereas, the Secretary further finds upon the basis of the evidence introduced at the hearing and the record thereof:

(1) That customarily more than 95 per cent of all shipments of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington is in the current of interstate or foreign commerce and directly burdens, obstructs or affects such commerce;

(2) That at the time of the hearing the prices received by the growers of such fresh prunes were at a level that gave such fresh prunes a purchasing power with respect to articles that such growers buy appreciably below the purchasing power of such fresh prunes during the base period;

(3) That in the past, lack of regulation of shipments of fresh prunes produced in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, was an important factor contributing to unstable marketing conditions for said fresh prunes and consequently depressed prices to growers;

(4) That the regulation of shipments of fresh prunes by grades and by other methods prescribed by this order will tend to prevent fluctuations of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stable market for said fresh prunes and tend to restore prices to growers of fresh prunes to a level that will have a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of fresh prunes in the base period;

(5) That the methods provided for the regulation of shipments are fair and equitable;

(6) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act; and

(7) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to fresh prunes grown in the said area by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give such fresh prunes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such fresh prunes in the base period and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared in the act to be the policy of Congress to establish; and

(8) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the quantity of fresh prunes shipped, as provided in this order, is fair and equitable; and

Whereas, the Secretary of Agriculture further finds:

(1) That the marketing agreement regulating the handling of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, executed by him on July 19, 1938 and upon which a public hearing was held on May 3, 1938, was signed by handlers

[1] 3 F. R. 899 DL

who handled more than fifty percent of such commodity produced during the period August 1, 1936–October 1, 1937; and

(2) That this order regulates the handling of said fresh prunes in the same manner as the said marketing agreement does, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement; and

Whereas, the Secretary of Agriculture finds and determines that the issuance of this order is favored by producers, who, during the marketing seasons of 1936 and 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such order;

Now, therefore, it is ordered by the Secretary of Agriculture, acting under the authority vested in him as aforesaid, that the handling of fresh prunes grown in Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce in such fresh prunes from and after the date herein specified shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I.—DEFINITIONS

SECTION 1. *Terms.*—As used in this order, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended.

3. "Person" means individual, partnership, corporation, association, or any other business unit.

4. "Prunes" means and includes all varieties of fresh prunes of the species Prunus domestica grown in the area described in paragraph numbered 11 in this section, and shipped in fresh form.

5. "Grower" or "producer" means any individual, each member of a partnership, any corporation, association, or any other business unit engaged in growing prunes, in the area covered by this order, who or which has a financial interest in the crop.

6. "Handler" or "shipper" means any person who ships, or is engaged in shipping, marketing, consigning, or dealing in prunes, either in person or as or through an agent, broker, representative or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce.

7. "To handle" means to ship, market, sell, consign or in any way deal in prunes, either in person or as or through an agent, broker, representative or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct or affect interstate or foreign commerce.

8. "To ship" means to convey in, to ship in, or to cause to be conveyed in, or in any other way to put prunes in, the channels of trade by conveying or causing prunes to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of prunes owned by another person), in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

9. "Control Committee" means the Control Committee provided for in, and created pursuant to, article II of this order.

10. "Fiscal year" means the period of twelve (12) months beginning May 1 and ending April 30, both inclusive, of each calendar year.

11. "Area" means Umatilla County in the State of Oregon, and Walla Walla and Columbia Counties in the State of Washington.

ARTICLE II.—ADMINISTRATIVE BODY

SECTION 1. *Control committee membership.*—1. A Control Committee, consisting of nine (9) members, is hereby established to administer the terms and provisions of this order as herein specifically provided. There shall be an alternate for each of said nine (9) members of the Control Committee. The initial members and alternates shall be selected in accordance with the provisions of this article and shall serve for a term ending April 30, 1939. The members and alternates of said Control Committee selected subsequent to those selected for the aforesaid initial period ending April 30, 1939, shall be selected in accordance with the provisions of this article and shall serve for a term of one year, beginning on May 1. In the event any members or alternates, selected subsequent to those selected for the aforesaid initial period ending April 30, 1939, are selected or have qualified subsequent to May 1 of any year, the term of said members or alternates shall end on April 30, following their selection. All members or alternates shall serve until their successors shall have been selected and shall have qualified. Any person selected as a member or alternate of the Control Committee shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

2. One member of the Control Committee and his alternate shall represent growers of prunes. Such member and his alternate shall be selected by the Secretary from two nominees designated by all growers of prunes at an election held at a general meeting in which all growers of prunes shall be entitled to participate, or from other growers of prunes in the area covered by this order. At any such election, designating the two nominees aforesaid, each grower shall cast only one vote for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. Each grower member and alternate so nominated shall be a grower, who produces prunes in the area covered by this order and who does not handle prunes in excess of twenty (20) percent of the quantity grown by him, nor shall such member or alternate be an employee or representative of a handler.

3. One member of the Control Committee and his alternate shall represent growers of prunes not members of the Blue Mountain Prune Growers Cooperative. Such member and his alternate shall be selected by the Secretary from two nominees designated by all growers of prunes not members of the Blue Mountain Prune Growers Cooperative at an election held at a general meeting, in which all such growers of prunes shall be entitled to participate, or from other growers of prunes not members of the Blue Mountain Prune Growers Cooperative in the area covered by this order. At any such election, designating the two nominees aforesaid, each grower shall cast only one vote for each nominee, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. Each grower member and alternate so nominated shall be a grower, who produces prunes in the area covered by this order and who does not handle prunes in excess of twenty (20) percent of the quantity grown by him, nor shall such member or alternate be an employee or representative of a handler.

4. Four members of the Control Committee shall represent all handlers of prunes. The four members of the Control Committee and their respective alternates, representing handlers of prunes, shall be selected by the Secretary from a group of eight nominees designated by handlers of prunes in the area included in this order, at an election held at a general meeting in which all handlers of prunes shall be entitled to participate, or from other handlers of prunes in said area. At any such election, designating the group of eight nominees aforesaid, each handler shall cast only one vote for each standard car or equivalent quantity of prunes handled, in interstate or foreign commerce, by such handler during the season next preceding the year in which the election is being held, on behalf of his agents, partners, affiliates, subsidiaries, and representatives; *Provided, however,* If any such handler shipped in interstate or foreign commerce less than one standard car or equivalent quantity of prunes during such season, such handler shall be entitled to cast one vote in said election.

5. Three members of the Control Committee and their respective alternates shall represent the Blue Mountain Prune Growers Cooperative. The three members of the Control Commit-

tee and their respective alternates, representing the Blue Mountain Prune Growers Cooperative, shall be selected by the Secretary from six nominees designated by and from the Board of Directors of said Cooperative, or from other members of the said Cooperative.

6. Nominees for members of the Control Committee to represent the handlers, growers and the Blue Mountain Prune Growers Cooperative and their respective alternates whose term of office shall expire on April 30, 1939, shall be selected at meetings of the handlers, growers and the Board of Directors of the Blue Mountain Prune Growers Cooperative called by the Secretary, or such person as the Secretary may designate, as soon as practicable after the effective date of this order.

Each of such meetings shall select its chairman and secretary. After the selection of the nominees to represent handlers, growers and the Blue Mountain Prune Growers Cooperative, from whom the Secretary may select the members and alternates to represent the handlers, growers and the Blue Mountain Prune Growers Cooperative, respectively, the chairman and the secretary of each of the meetings shall forthwith transmit to the Secretary, or to such person as the Secretary may designate, their certificate as to the number of votes cast for said nominees and the names of the nominees so designated.

Nominees for the handler members, the grower members, and the members representing the Blue Mountain Prune Growers Cooperative, and their respective alternates, selected subsequent to those selected for the aforesaid initial period ending April 30, 1939, shall be designated by the aforesaid respective groups each year not less than 20 days nor more than 40 days prior to April 30; and said nominees shall be designated at meetings and elections caused to be held by the Control Committee, and said meetings and elections shall be of the same character and specification, and the procedure shall be substantially the same, as specified hereinabove for the designation of nominees for the initial period ending April 30, 1939.

7. To fill any vacancy occasioned by the failure of any person, selected as a member of the Control Committee or selected as an alternate, to qualify, or the death, removal, resignation or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected at a meeting in the manner heretofore indicated. If a successor for any such vacancy is not selected within 20 days after such vacancy occurs, the Secretary may select such member or alternate without regard to his nomination, or may select a successor to fill such vacancy from persons not nominated at an election so held.

8. An alternate for a member of the Control Committee, selected pursuant to the provisions of this order, shall act in the place and stead of such member, in event of such member's absence, or until a successor for the unexpired term of such member has been selected, in the event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death.

9. The members of the Control Committee, and their respective alternates shall serve without compensation, but said members and their respective alternates shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

SEC. 2. *Powers.*—The Control Committee shall have the following powers:

1. To administer, as herein specifically provided, the terms and provisions of this order;

2. To make administrative rules and regulations in accordance with, and to effectuate the terms and provisions of, this order;

3. To receive, investigate, and report to the Secretary complaints of violations of this order; and

4. To recommend to the Secretary amendments to this order.

SEC. 3. *Duties.*—The duties of the Control Committee shall be as follows:

1. To act as intermediary between the Secretary and any producer or handler;

2. To keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee, and such minute books and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary;

3. To investigate, from time to time, and assemble data on, the growing, shipping and marketing conditions respecting prunes grown in the area covered by this order, and to furnish to the Secretary such available information as may be requested;

4. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, 74th Congress, approved August 24, 1935, as amended:

5. To cause the books of the Control Committee to be audited by one or more competent accountants at least once each fiscal year and at such other times as the Control Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;

6. To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

7. To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee; and

8. To select a chairman of the Control Committee and, from time to time, such other officers as it may deem advisable.

SEC. 4. *Procedure.*—1. The Control Committee shall not perform any of its powers or duties herein prescribed while there are more than two vacancies in its membership. A quorum shall consist of seven (7) members, or alternates then serving in the place and stead of any members, in attendance at the meeting, and all decisions of the Control Committee shall be made by not less than six (6) affirmative votes.

2. The Control Committee may provide for members voting by telephone, mail or telegraph upon due notice to all members, and promptly after voting by telephone, the members thus voting shall confirm in writing the votes so cast by telephone.

3. The members of the Control Committee, including successors and alternates, and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 5. *Funds and other property.*—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal or expiration of the term of office of any member of the Control Committee or of any employee of the Control Committee all books, records, funds and other property in his possession shall be delivered to the Control Committee or to his successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee or his successor full title to all the books, records, funds and other property in the possession or under the control of such member or employee pursuant to this order.

3. The Control Committee may, with the approval of the Secretary, maintain in its own name, or in the names of its members, a suit against any shipper for the collection of such shipper's pro rata share of expenses.

ARTICLE III.—REGULATION OF SHIPMENTS

SECTION 1. *Establishment of regulation period.*—1. It shall be the duty of the Control Committee to investigate supply and demand conditions with respect to prunes. Whenever such conditions make it advisable to regulate the shipment of prunes, the Control Committee shall recommend to the Secretary the establishment of a regulation

period or series of regulation periods during which the shipments of prunes may be regulated pursuant to the provisions of this article. Such recommendation of the Control Committee shall be made at a meeting of the Control Committee held at least 24 hours prior to the commencement of such recommended regulation period or series of regulation periods. The Control Committee shall promptly notify all growers and shippers of such recommendation by giving notice in such manner as it shall deem adequate under the circumstances.

2. Based upon such recommendations made pursuant to paragraph 1 of this section or other information available to the Secretary, the Secretary may establish a regulation period or series of regulation periods, if the Secretary shall find that to establish a regulation period or series of regulation periods for shipments of prunes in the current of interstate or foreign commerce during the particular period or periods within the season would tend to effectuate the declared policy of the act, and he shall notify the Control Committee of the establishment thereof, as well as of the time of commencement, duration and termination thereof.

SEC. 2. *Computation of quantity available for Shipment.*—1. The Control Committee, prior to the beginning of shipments in each season, shall compute the total quantity of prunes which will be available for shipment during the season. To assist in such determination, each shipper shall report to the Control Committee, in such form and substantiated in such manner as the Control Committee may prescribe, the total quantity of prunes available for shipment to which he has legal title or for which he has authority from the owners or growers thereof to handle, and also the name of each such owner or grower and the quantity of prunes which such shipper is authorized to handle for each such owner or grower. Each grower having prunes which no shipper has authority to handle may in like manner report to the Control Committee his total quantity of prunes available for shipment during the season. Such reports and the orchards represented by them may be checked by the Control Committee or the employees duly designated by it in such manner as may be necessary to arrive at a reasonably correct determination of the total quantity of prunes available for shipment during such season, and on the basis of such check or recalculation of the reports submitted by each shipper or grower, the Control Committee may revise any such report. The total quantity of prunes available for shipment by each grower and handler for the remainder of a season may be revised at the beginning of any regulation period whenever such revision is substantiated by additional information available to the Control Committee or the Secretary. The Control Committee shall report to the Secretary all determinations and recommendations of the Control Committee pursuant to the provisions of this section and the evidence on which such determinations and recommendations were predicated.

2. The Control Committee shall advise each shipper and each grower who has reported prunes available for shipment of the result of the original determination or any revised determination of the Control Committee with regard to the probable total quantity of prunes available for shipment by such shipper and grower during the season or remainder of the season.

SEC. 3. *Determination of total advisable shipments.*—For each regulation period established pursuant to section 1 of this article, the Control Committee shall procure available evidence concerning the supply of and demand for prunes during the period for which regulation of shipments is contemplated and from such evidence the Control Committee shall determine the total quantity of prunes which it deems advisable to be shipped during such regulation period or during each day within a regulation period. The evidence procured pursuant to this section and the recommendation of the Control Committee as to total or daily advisable shipments during any regulation period shall be transmitted to the Secretary.

SEC. 4. *Fixing of allotments by the Secretary.*—1. From the reports made pursuant to sections 2 and 3 of this article and other available information, the Secretary shall determine (a) the total quantity of prunes available for shipment by each and all shippers and growers during the season or the remainder of the season, and (b) the total quantity of prunes advisable to be shipped during the regulation period, or (c) the quantity advisable to be shipped each day during the regulation period. Thereupon the Secretary shall fix the allotment for each shipper and grower reporting prunes available for shipment by directing; (a) that the allotment for each shipper or grower for such regulation period shall be that percentage of the total quantity of prunes advisable for shipment during the regulation period which the total quantity of prunes available for shipment by each such grower and shipper during the season or the remainder of the season is of the total quantity of prunes available for shipment by all shippers and growers during the season or the remainder of the season; or (b) that the allotment for each shipper and grower for each day during such regulation period shall be that percentage of the total quantity of prunes advisable for shipment during each day of the regulation period which the total quantity of prunes available for shipment by each shipper or grower during the season or the remainder of the season is of the total quantity of prunes available for shipment by all shippers and growers during the season or the remainder of the season. The Control Committee shall notify, by such methods as may be deemed adequate, under the circumstances, each shipper and grower of the amount of his allotment.

2. Each shipper shall apportion the quantity of prunes represented by his allotment equitably among the growers whose prunes he reported to the Control Committee pursuant to section 2 of this article.

SEC. 5. *Lending and transfer of allotments.*—Subject to such procedural rules and regulations as the Control Committee, with the approval of the Secretary, may prescribe, shippers and growers to whom allotments have been made may transfer such allotments in whole or in part. The amount of such transfer shall be deducted from the allotment of the transferor and added to the allotment of the transferee. Shippers may also borrow allotments or portions of allotments from other shippers: *Provided*, That the shipper borrowing the allotment shall agree to return to the lender at a later period of time in the same shipping season an allotment or portion of an allotment of the same quantity. The lending of allotments shall be subject to such procedural rules and regulations as the Control Committee, with the approval of the Secretary, may prescribe.

SEC. 6. *Over and undershipments.*—No shipper shall ship prunes in excess of his allotment for any regulation period or any day within a regulation period, except for additional allotments transferred or borrowed from a shipper or grower pursuant to the provisions of this article; *Provided, however*, That in the event such shipper's daily allotment plus all allotments transferred to such shipper, shall give such shipper the right to ship a fractional part of a carload, such shipper may ship such fractional carload at such later date as will permit the accumulation of such fractional carloads into one whole carload. The Control Committee shall endeavor to secure such transfers among the shippers holding allotments for such fractional carloads as will cause the shipment of such accumulated fractional carloads to be evenly distributed over the regulation period.

SEC. 7. *Modification or termination of regulation period.*—If the limitation of shipments during any regulation period is rendered unnecessary by reason of unforeseen increased demand, reduction in the available supply or other causes, the Secretary may modify or terminate such regulation.

SEC. 8. *Shipments for charitable and relief purposes.*—Nothing contained in this order shall be construed to authorize any limitation of the right to ship prunes for consumption by charitable institutions or distribution by relief agencies.

ARTICLE IV.—REGULATION BY GRADE

SECTION 1. *Recommendation.*—1. Whenever the Control Committee deems

it advisable to regulate the shipment of any grade of prunes for a specified period, it shall so recommend to the Secretary. In such event the Control Committee shall furnish to the Secretary all information and data upon which such recommendation is based, including but not being limited to information with respect to the factors affecting the supply of and demand for prunes by grade. Such recommendation, including the time of commencement and termination of the regulation period, shall be made at a meeting of the Control Committee held at least twenty-four hours prior to the commencement of such regulation period. The Control Committee shall notify handlers and growers of such recommendation by giving notice thereof in such manner as it may deem adequate under the circumstances.

2. Based upon such recommendation made pursuant to paragraph 1 of this section, or other information available to the Secretary, the Secretary may establish a regulation period, if the Secretary shall find that to limit the shipment of a particular grade of prunes in the current of interstate or foreign commerce, during such regulation period, would tend to effectuate the declared policy of the act. Such regulation of shipments of prunes may be accomplished by (a) prohibiting the shipment of certain grades during such period, or (b) by prohibiting the shipment of a part of any grade. When the Secretary has determined to regulate shipments as provided in this article, he shall immediately notify the Control Committee of such determination, and the Control Committee shall immediately notify shippers and growers of such determination by giving notice in such manner as the Control Committee shall deem adequate under the circumstances.

SEC. 2. *Exemptions.*—1. In the event of a regulation period established pursuant to the provisions of this article, the Control Committee shall determine the percentage which the grades of the prunes permitted to be shipped is of the total crop which would be shipped in the absence of regulation under this article. The Control Committee shall announce forthwith this percentage and the procedure by which exemption certificates will be issued to growers pursuant to this section.

2. If any grower shall present proof to the Control Committee that the regulation of shipments will permit the shipment during the period of a percentage of his prunes less than the percentage found in accordance with paragraph 1 of this section, the Control Committee shall issue to him an exemption certificate allowing the shipment of such quantity of the limited grade as will make the percentage of his crop that may be shipped equal to the percentage found in accordance with paragraph 1 of this section. If any grower is dissatisfied with the determination by the Control Committee with respect to such exemption certificates, he may appeal to the Secretary, and the Secretary may modify or cancel the issuance of exemption certificates, or the Secretary may authorize the issuance of exemption certificates. The authority of the Secretary to supervise and control the issuance of exemption certificates is plenary and complete, and any determination made by the Secretary with respect to exemption certificates shall be final.

SEC. 3. *Grading and certification.*—1. During any grade regulation period or periods established pursuant to the provisions of this article, all shipments of prunes, in interstate or foreign commerce, grown in the area covered by this order shall be graded and certified on the basis of the grades now promulgated by the United States Department of Agriculture, or as the same may be modified or changed hereafter.

2. Each handler, prior to making each shipment of prunes in interstate or foreign commerce during any such regulation period established pursuant to this article, shall have the prunes included in each such shipment inspected by a duly authorized representative of the Federal-State Inspection Service, and each such shipper shall submit promptly, or cause to be submitted promptly, to the Control Committee shipping point inspection certificates issued by the Federal-State Inspection Service stating the grade of prunes in each such shipment.

ARTICLE V.—PRICE FILING AND POSTING

SECTION 1. *Recommendation.*—Whenever the Control Committee deems it advisable that prunes should be sold by handlers only at prices filed by such handlers, it may so recommend to the Secretary. Such recommendation, including the time of commencement and termination of the regulation period, shall be made at a meeting of the Control Committee held at least twenty-four hours prior to the commencement of such regulation period.

SEC. 2. *Establishment.*—Based upon such recommendation made pursuant to section 1 of this article, or other information available to the Secretary, the Secretary may establish a regulation period during which time handlers shall file, in the manner hereinafter prescribed, prices at which such handlers may quote, offer for sale or sell prunes, if the Secretary deems that such regulation of the flow of shipments of prunes during the regulation period would tend to effectuate the declared policy of the act.

SEC. 3. *Notice of regulation.*—Whenever the Secretary establishes a regulation period pursuant to the provisions of this article, he shall notify the Control Committee thereof. The Control Committee shall promptly notify shippers and growers of such regulation by giving notice in such manner as the Control Committee shall deem adequate under the circumstances, and the Control Committee shall give notice likewise of all regulations issued and forms prescribed as it may deem advisable to procure the dissemination of information to all interested persons.

SEC. 4. *Price filing and posting.*—Immediately after a price filing regulation period becomes effective, pursuant to the provisions of this article, each handler shall file with the Control Committee a complete schedule of prices at which he quotes, offers for sale or sells prunes; *Provided, however,* That such filed prices shall not apply to prunes sold at auction by such handlers. All such schedules and revisions thereof filed pursuant to this section of this article shall be posted in the office of the Control Committee. The Control Committee shall notify all handlers in the area covered by this agreement of all price schedules or revisions thereof by mail posted at or before the end of the same business day such schedule or revision thereof was filed. Such notice shall state the time at which such filed price schedules or revisions thereof shall become effective.

SEC. 5. *Revision of price schedules.*—In event any handler desires to quote, offer for sale or sell prunes at a price or prices different from the price or prices stated in the schedule filed by him with the Control Committee, such handler shall file with said Committee a revised schedule of his prices. Such revised schedule shall become effective at such time as may be established by the Control Committee, after it has been received by the Committee; *Provided, however,* That if such period of time is less than twenty-four (24) hours or more than forty-eight hours, it shall be approved by the Secretary. If any handler files a revised price schedule any other handler may file a revised price schedule which shall become effective at the same time as the schedule filed by the first handler; *Provided,* Such price schedule is not lower than that filed by the first handler.

SEC. 6. *Manner of filing prices.*—The Control Committee shall prescribe a standard form of price schedule on which each handler shall file his selling prices, discounts, all other terms and conditions of sale and such other information deemed necessary by the Control Committee for each grade and type of pack of prunes. Price schedules filed or revised by telephone shall be confirmed as soon as possible on standard forms signed by the handler. The Control Committee shall cause the exact time and date that any schedule is received to be written on forms prescribed therefor.

ARTICLE VI.—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions under this order. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses as the Secretary finds will be necessarily incurred by the Control Committee for the maintenance and functioning of the Control Committee during the fiscal year. Each handler's share of such expenses shall be that proportion thereof which the total quantity of prunes shipped by such handler in the current of interstate or foreign commerce during said fiscal year is of the total quantity of prunes shipped by all handlers in the current of interstate or foreign comerce during said fiscal year. Said assessment may be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to cover any later finding by the Secretary of estimated expenses or the actual expenses of the Control Committee during said fiscal year. The assessment of each handler for the fiscal year shall be due and payable at such time and shall be payable in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

3. At the end of each fiscal year the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler above his pro rata share of the expenses, or debit such handler with the difference between his pro rata share and the amount paid by such handler. Any such debits shall become due and payable upon the demand of the Control Committee.

4. From the funds acquired pursuant to this article the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

ARTICLE VII.—REPORTS

SECTION 1. *Reports.*—Upon the request of the Control Committee, made with the approval of the Secretary, each handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its powers and duties under this order.

ARTICLE VIII.—AMENDMENTS

SECTION 1. *Proposals.*—Amendments to this order may be proposed, from time to time, by the Control Committee, any party subject hereto, or by the Secretary.

ARTICLE IX.—AGENTS

SECTION 1. *Agents.*—The Secretary may name, by a designation in writing, any person, including any officer or employee of the Government or any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order, except paragraph 3, section 4, of article II.

ARTICLE X.—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways, hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate this order.

2. The Secretary shall terminate this order whenever he finds that such termination is favored by a majority of the growers of prunes who, during said shipping season, have been engaged, in the area covered by this order, in the production of prunes for market; *Provided,* That such majority have, during such period, produced for market, more than fifty (50) percent of the total volume of prunes produced for market in the area covered by this order, but such termination shall be effective only if announced on or before April 1 of the same fiscal year.

3. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Proceedings after termination.*—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct; and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control Committee or the joint trustees pursuant to this order. Any funds collected for expenses pursuant to article VI of this order and held by such joint trustees or such person over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination of this order, be returned to the handlers pro rata in proportion to their contributions made thereto pursuant to this order.

2. Any person to whom funds, property or claims have been delivered by the Control Committee or its members upon direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to said funds, property or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.

ARTICLE XI.—DURATION OF IMMUNITIES

SECTION 1. *Duration of immunities.*—The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order, and the benefits, privileges, and immunities conferred by this order upon any party, subject hereto shall cease, upon the termination of this order, as to such party except with respect to acts done under and during the existence of this order.

ARTICLE XII.—SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XIII.—DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

ARTICLE XIV.—LIABILITY OF CONTROL COMMITTEE MEMBERS

SECTION 1. *Liability.*—No member of the Control Committee nor any employee thereof shall be held liable individually in any way whatsoever to any party hereunder or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty.

In witness whereof, M. L. Wilson, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 19th day of July 1938, and declares this order to be effective on and after 12:01 a. m., p. s. t., July 23rd, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2080; Filed, July 20, 1938; 9:32 a. m.]

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE DURING THE CROP YEAR 1938–39 FOR PUERTO RICO

Pursuant to the authority vested in me by Section 301 (e) of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine:

I

That in order to meet the requirements of subsection (e) of section 301 of the said act, there shall be carried out during the calendar year 1938, in connection with the production of the 1938–39 crop of sugarcane in Puerto Rico, except in the Island of Vieques, the following farming practices:

1. For farms on which there are growing at any time during the calendar year 1938 more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer [1] per acre of such land fertilized, which contains an average quantity of available plant food [2] equal to not less than the greater of either: (i) 150 pounds, or (ii) 80% of the average quantity of such fertilizer which was applied on similar land in 1936 or 1937, whichever was smaller.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of available plant food per acre of such land fertilized equal to not less than 120 pounds.

2. For farms on which there are growing at any time during the calendar year 1938 more than 100, but not more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 400 pounds.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 320 pounds.

3. For farms on which there are growing at any time during the calendar year 1938 more than 10, but not more than 100 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 250 pounds.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 200 pounds.

4. For farms on which there are growing at any time during the calendar year 1938 not more than 10 acres of sugarcane: The application during the 1938 harvest season to the land from which sugarcane is harvested, of the tops and trash cut from such sugarcane; or the application of fertilizer in the amounts, and to the types of land, set forth in 3. above.

II

That in order to meet the requirements of said subsection (e) of section 301 of the said act, there shall be carried out during the calendar year 1938, in connection with the production of the 1938–39 crop of sugarcane in the Island of Vieques, the following farming practices:

1. For farms on which there are growing at any time during the calendar year 1938 more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized which contains an average quantity of available plant food equal to not less than the greater of either: (i) 75 pounds, or (ii) 80% of the average quantity of such fertilizer which was applied on similar land in 1936 or 1937, whichever was smaller.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of available plant food per acre of such land fertilized equal to not less than 60 pounds.

2. For farms on which there are growing at any time during the calendar year 1938 more than 100, but not more than 400 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938, of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 200 pounds.

(b) The application to land on which a ratoon crop of sugarcane is started at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 160 pounds.

3. For farms on which there are growing at any time during the calendar year 1938 more than 10, but not more than 100 acres of sugarcane:

(a) The application to land on which sugarcane is planted at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 125 pounds.

(b) The application to land on which a ratoon crop is started at any time during 1938 of an average amount of chemical fertilizer per acre of such land fertilized equal to not less than 100 pounds.

4. For farms on which there are growing at any time during the calendar year 1938 not more than 10 acres of sugarcane: The application during the 1938 harvest season to the land from which sugarcane was harvested, of the tops and trash cut from such sugarcane; or the application of fertilizer in the amounts, and to the types of land, set forth in 3. above.

III

That in every case in which the application of fertilizer is required as aforesaid, the number of acres on which fertilizer is to be applied in 1938 shall not be less than 100 percent of the number of acres on which sugarcane is planted in 1938, and not less than 90 percent of the number of acres on which a ratoon crop of sugarcane is started in 1938.

Done at Washington, D. C., this 20th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38–2096; Filed, July 20, 1938; 12:17 p. m.]

AMENDMENT TO DETERMINATION OF NORMAL YIELD OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE AND ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN THE MAINLAND CANE SUGAR AREA

Pursuant to the provisions of section 303 of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that paragraph 2 of the "Determination of (1) Normal Yield of Commercially Recoverable Sugar Per Acre and (2) Eligibility for Payment with Respect to Abandonment and Crop Deficiency for Farms in the Mainland Cane Sugar Area, Pursuant to Section 303 of the Sugar Act of 1937," issued April 15, 1938,[1] be and the same is hereby amended to include in district IV St. Bernard, Jefferson, and Plaquemines parishes.

Done at Washington, D. C., this 20th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38–2097; Filed, July 20, 1938; 12:33 p. m.]

BUREAU OF AGRICULTURAL ECONOMICS

DELEGATION OF AUTHORITY FOR THE LAND UTILIZATION PROGRAM

JUNE 16, 1938.

1. *Purpose.*—(a) The purpose of this instruction is to designate the various

[1] 3 F. R. 914 DI.

[1] "Chemical fertilizer" as used herein means commercial chemical fertilizer not less than 15 percent of the gross weight of which consists of plant food.

[2] "Plant food" as used herein means the aggregate amount of nitrogen, available phosphoric acid and water soluble potash.

Bureau officials who will exercise the functions delegated to the Chief or Acting Chief of Bureau by the Secretary in his Memorandum No. 75.[1]

2. *The assistant chief of bureau for land utilization will.*—(a) Execute easements, leases, licenses, and other forms of contracts permitting the construction and maintenance of telephone lines, pipe lines, roads, irrigation and drainage ditches, etc., (but not those power lines licenses for which are required by law to be granted by the Federal Power Commission), across project areas when such construction will not materially interfere with the purposes of the project.

3. *The business manager will.*—(a) Execute legal documents for the land utilization programs under authorities which have been or are in the future delegated to him.

4. *The leader of the division of project organization will.*—(a) Under policies established by the Secretary, or by the Chief of Bureau or by the Assistant Chief of Bureau for Land Utilization execute leases, licenses, permits, agreements and other forms of contracts permitting the use of lands acquired, when consistent with the purposes of the project, for cropping, grazing, building occupancy, recreational and incidental purposes, provided they do not extend for more than ten years.

(b) Execute life leases to the grantors or occupants of *land acquired*, provided:

I. Their occupancy and use will not interfere with the purposes of the project.

II. The lessees are 60 years of age or over.

III. The area to be used and occupied by the lessees does not consist of more than 15 acres.

IV. Life leases which do not conform to these requirements will be executed by the Assistant Chief of Bureau for Land Utilization.

5. *The leader of the division of land acquisition will.*—(a) Exercise options to purchase, and execute easements, leases, licenses, and other forms of contracts for the acquisition of real property or any interest therein, subject to any reservations or exceptions which will not interfere with the use of the property for the purposes of the project, as approved. Any land acquisition contract that exceeds the appraisal price by more than ten percent, or if less than ten percent by more than $1,000, or any such contract involving a purchase price of $50,000 or over even though it does not exceed the appraisal price, will be approved by the Assistant Chief of Bureau for Land Utilization prior to acceptance. The determination as to whether or not the reservations or exceptions will interfere with the purposes of the project will be made in cooperation with the Leader of the Division of Project Organization.

(b) Execute life leases to the grantors or occupants of lands being acquired *prior to or at the time the lands are acquired.* Such life leases will be executed with the concurrenc of the Leader of the Division of Project Organization and in conformity with the minimum requirements outlined in paragraph 4-b above for the execution of life leases after lands are acquired.

6. *Regional directors will.*—(a) File in the name of the United States, in accordance with the law of the state involved, applications for water rights covering waters to be impounded, impeded, or diverted in their flow by construction work contemplated in connection with the development of a project. No applications shall be filed which require the payment of filing fees or other charges by the Government until it has been definitely determined that funds are available for the payment of such charges. The authority hereby granted may be delegated in writing to project managers.

(b) Grant temporary use permits (one year or less) such as temporary cropping agreements, temporary grazing agreements, temporary building occupancy agreements, and temporary recreational and incidental use permits. This authority will be exercised in accordance with instructions issued from Washington and may be redelegated in writing to project managers. All forms used for granting such temporary uses for the new program shall be approved by the Leader of the Division of Project Organization.

(c) Determine whether public buildings, within the meaning of section 355 of the Revised Statutes, will or will not be constructed upon individual tracts of land under contract of purchase and execute statements to this effect which are necessary for expediting land acquisition and title clearance. This authority may be delegated in writing to project managers.

7. *Scope of Instruction.*—(a) The officials authorized by this instruction to execute various forms of contracts are also authorized to exercise all powers to revoke, terminate, or cancel (cancel land acquisition contracts by mutual agreement) the respective contracts which are exercisable either by the terms of the contracts themselves or by operation of law.

(b) The authorities are applicable to the land utilization program authorized by Title III and related sections of the Bankhead-Jones Farm Tenant Act (new program) and to the land utilization program initiated by the Farm Security Administration (old program).

(c) "Regional directors" means both the regional directors appointed by the Bureau for the land utilization program and the officials acting in charge of regions for that program.

(d) In the absence of any official authorized to take actions, the person acting for him in his absence may exercise the applicable authority.

(e) This instruction does *not* rescind the authority to accept options which the Chief of Bureau granted to officials in the Division of Land Acquisition by a memorandum dated March 15, 1938. However, such authority will, hereafter, be exercised in accordance with paragraph 5–a of this instruction.

(f) The authorities will be exercised in accordance with the restrictions contained in Secretary's Memorandum No. 756 and such additional restrictions as are contained herein.

(g) All forms for leases, licenses, easements, agreements, use permits, etc., shall be submitted to the office of the Solicitor for approval.

[SEAL] C. W. KITCHEN,
Acting Chief of Bureau.

[1] 3 F. R. 1174 DI.

[F. R. Doc. 38–2075; Filed, July 2, 1938; 12:44 p. m.]

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

BOND OF INDEMNITY FOR LOST CHECKS

AMENDING THE TREASURY CHAPTER OF THE MANUAL; REVOKING SEC. 702 AND AMENDING SEC. 701

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 701 of the Treasury Chapter of the Consolidated Manual is amended to read as follows, and Section 702 of the Treasury Chapter of the Consolidated Manual is hereby revoked:

SECTION 701. When it is desired to stop payment of any check drawn on the Treasurer of the United States because of failure of the payee to receive same, or for any other reason, the State, Division, District, or Territorial Manager, or Regional Treasurer shall promptly notify the Treasurer of the Corporation, describing the check, stating the name of the officer or agent of the Home Owners' Loan Corporation by whom the check was drawn, giving, if possible, its payee, date, number, symbol number, amount, reason for requesting that payment be stopped, whether the check was endorsed, and if so, a description of the endorsements.

Upon determination by the Treasurer that a check is outstanding, payment will be stopped and, in appropriate cases, a bond of indemnity and affidavit will be transmitted for execution by the claimant. Upon satisfactory execution of a bond of indemnity and affidavit, or, in appropriate cases, of an application and affidavit, and the approval of such bond of indemnity and

affidavit, or application and affidavit, by the General Counsel as to legal sufficiency and conformance with regulations governing the issuance of duplicate checks, the Treasurer is authorized to issue and sign duplicate checks upon any account of the Corporation now or hereafter established; provided that no duplicate check shall be issued until after the expiration of thirty (30) days from the date of the original check, except as hereinafter provided, or after the close of the fiscal year following the fiscal year in which the original check was issued. The signing of the duplicate check by the Treasurer shall constitute approval of the issuance of the duplicate check. The requirement of a bond of indemnity and affidavit may be waived, in the discretion of the Treasurer, in any of the following classes of cases:

(a) If the Treasurer is satisfied that the loss, theft, destruction, mutilation, or defacement, as the case may be, occurred without fault of the owner or holder and while the check was in the custody or control of the Home Owners' Loan Corporation (not including the Postal Service when acting solely in its capacity as the public carrier of the mails), or of a person thereunto duly authorized as lawful agent of the Home Owners' Loan Corporation;

(b) If substantially the entire check is presented and surrendered by the owner or holder and the Treasurer is satisfied as to the identity of the check presented, and that any missing portions are not sufficient to form the basis of a valid claim against the Home Owners' Loan Corporation or the United States;

(c) If the Treasurer is satisfied that the original check is not negotiable and cannot be made the basis of a valid claim against the Home Owners' Loan Corporation or the United States.

(d) If the amount of the check is less than $50 and the Treasurer is satisfied that the giving of a bond of indemnity would be an undue hardship to the owner or holder, it being ordinarily assumed that the giving of a bond of indemnity would constitute an undue hardship in those instances where the amount of the check is not over $20 and the original check has not been received by the payee; and

(e) If the owner or holder is a State or political subdivision thereof, a corporation the whole of whose capital is owned by the United States, a foreign government, or a Federal Reserve Bank.

The General Manager, in his discretion, may waive the requirement that no duplicate check be issued until the expiration of thirty (30) days, and may, in event the payee refuses to execute a bond of indemnity or affidavit and in his opinion it is to the best interests of the Corporation that a duplicate check be issued, waive the requirement of the bond of indemnity and affidavits.

Adopted by the Federal Home Loan Bank Board on July 18, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2085; Filed, July 20, 1938; 10:04 a. m.]

AMENDING THE TREASURY CHAPTER OF THE MANUAL

Revoking Section 7.03 (a) of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations

REVOKING SEC. 703 OF THE CONSOLIDATED MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 7.03 (a) of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Section 703 (a) of Chapter VII of the Consolidated Manual is hereby revoked effective June 30, 1938.

Adopted July 18, 1938, by the Federal Home Loan Bank Board.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2087; Filed, July 20, 1938; 10:04 a. m.]

AUTHORITY OF CONTRACT BROKERS TO INCUR CHARGES AND TO MAKE PAYMENT

MANUAL AMENDMENT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128-129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by Sub-sections a and k of Section 4 of said Act as amended, the fourth paragraph of Section 314 of Chapter III of the Consolidated Manual be amended to read as follows:

Contract Management Brokers and Contract Sales Brokers may incur charges in behalf of the Corporation in the performance of any of the functions or duties required or authorized by the regulations, provided that if the amount of such charges exceeds $25.00 on any particular property containing not more than one unit or $50.00 on any property containing more than one unit during any monthly accounting period, the approval of the State or District Manager shall first be obtained, except in any cases requiring emergency repairs for which the broker may incur charges not exceeding $100.00. The broker is authorized to pay such charges incurred out of the rental income of properties listed with him. If the funds in possession of the broker from any particular property are not of sufficient amount to pay the charges or bills incurred, then same may be paid by the broker out of the income from other properties assigned to him for management or may be paid by voucher through the regular procedure provided therefor. An accounting shall be made by such brokers for each and every item of expense incurred hereunder and payment therefor shall be supported by proper receipts and releases, except as provided elsewhere in the regulations. All expenditures authorized hereunder shall be made under such instructions and procedure as the Deputy General Manager in Charge of Property Management, subject to the approval of the General Manager and General Counsel, may prescribe.

Be it further resolved, That the provisions of this resolution shall be effective August 1, 1938.

Adopted by the Federal Home Loan Bank Board on July 19, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2086; Filed, July 20, 1938; 10:04 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4830]

GIFT TAX

REGULATIONS 79, AMENDED TO ACCORD WITH PROVISIONS OF REVENUE ACT OF 1938

To Collectors of Internal Revenue and Others Concerned:

To conform with the provisions, in so far as they relate to the gift tax, of Titles II and V of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), Regulations 79 (1936 Edition), approved February 26, 1936, are hereby amended as follows:

The following quotation of section 505 of the Revenue Act of 1938 is inserted immediately preceding article 9:

SEC. 505, Revenue Act of 1938. *Computation of net gifts.*—

(a) Section 504 (b) of the Revenue Act of 1932, relating to the computation of net gifts, is amended to read as follows:

"(b) *Gifts less than $4,000.*—In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year, the first $4,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year."

(b) The amendment made by subsection (a) of this section shall be applied in computing the tax for the calendar year 1939 and each calendar year thereafter (but not the tax for the calendar year 1938 or a previous calendar year), but such amendment shall not be applied in any computations in respect of the calendar year 1938 and previous calendar years for the purpose of computing the tax for the calendar year 1939 or any calendar year thereafter.

Article 10 is amended to read as follows:

"ART. 10. *Total amount of gifts.*—Except with respect to any gift in trust or of a future interest in property, the first $4,000 of gifts made to any one donee during the calendar year 1939 or during any calendar year thereafter shall be excluded in determining the total amount of gifts for such calendar year. Except with respect to any gift of a future interest in property, the first $5,000 of gifts made to any one donee during the calendar year 1938 or during any calendar year prior thereto shall be excluded in determining the total amount of gifts for such calendar year. The entire value of any gift made by a transfer in trust after December 31, 1938, and the entire value of any gift of a future interest in property, must be included in the total amount of gifts for the calendar year in which such a gift is made."

The first sentence of article 20, which reads—

"Any individual resident or citizen of the United States who within that portion of the calendar year 1932 subsequent to June 6, 1932, or within any calendar year thereafter, made a transfer by gift to any one donee which exceeded $5,000 in value (or regardless of value if the gift was of a future interest) must file a gift tax return on Form 709."

is amended to read as follows:

"Any individual resident or citizen of the United States who within the calendar year 1939, or within any calendar year thereafter, makes a transfer or transfers by gift to any one donee of a value or total value of more than $4,000 (or regardless of value in the case of a gift in trust or of a future interest in property), must file a gift tax return for such year on Form 709. In the case of a transfer or transfers by gift to any one donee of a value or total value of more than $5,000 (or regardless of value if the gift was of a future interest in property), made by any individual resident or citizen of the United States during the portion of the calendar year 1932 subsequent to June 6, 1932, or during any calendar year thereafter prior to the calendar year 1939, the filing of a gift tax return on Form 709 by the donor for such year is required."

The first sentence of article 21, which reads—

"All donees and trustees (except such organizations, etc., referred to in section 505 and article 13) receiving property transferred by gift in any one calendar year, shall file a notice on Form 710, unless the value of the gift, or the aggregate value of all the gifts, to the donee or to any one of the beneficiaries of the trust is $5,000, or less, and the subject of the gift is not a future interest in property."

is amended to read as follows:

"An information return or notice on Form 710 must be filed by every donee or trustee (except in the case of a gift for a public, charitable, etc. purpose as described in article 13) to whom is transferred in any one calendar year property by gift for which, as set forth in article 20, the donor is required to file a gift tax return."

The second sentence of article 23, which reads—

"The return must be filed in duplicate and under oath, and therein must be listed and set forth all gifts (other than future interests in property) made by the donor during the calendar year to any one person to the extent that the aggregate value thereof exceeds $5,000 and all gifts of future interests in property without regard to the value thereof."

is amended to read as follows:

"The return must be filed in duplicate and under oath. If the return is filed for the calendar year 1939, or for any calendar year thereafter, it must set forth every transfer by gift to any one donee during such calendar year which singly or in the aggregate exceeds $4,000 in value (or regardless of value in the case of a gift in trust or of a future interest in property). A return filed for the portion of the calendar year 1932 subsequent to June 6, 1932, or for any calendar year thereafter prior to the calendar year 1939, must set forth every transfer by gift to any one donee during such calendar year which singly or in the aggregate exceeds $5,000 in value (or regardless of value in the case of a gift of a future interest in property)."

The seventh, eighth, ninth and tenth sentences of the first paragraph of article 31, which read—

"A sworn statement of assets and liabilities of the donor is required and should accompany the application. An itemized statement showing all receipts and disbursements for each of the three months preceding the due date of the tax shall also be submitted. The application with the evidence must be filed with the collector, who will at once transmit it to the Commissioner with his recommendations as to the extension. The Commissioner will not consider an application for an extension of time unless such application is made on or before the due date of the tax for which the extension is desired."

are amended to read as follows:

"A sworn statement of assets and liabilities of the donor and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the tax are required and should accompany the application. The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the donor will be notified. The Commissioner will not consider an application for such an extension unless request therefor is made to the collector on or before the due date. If the executor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension."

The second and third paragraphs of article 31, which read—

"As a condition to the granting of such an extension, the Commissioner may require the donor to furnish a bond in an amount not exceeding double the amount of the tax. If a bond is required, it must be filed with the collector within 10 days after notification by the Commissioner that such bond is required. The bond, if required, shall be conditioned upon the payment of the tax and interest assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety upon Federal bonds and shall be subject to the approval of the Commissioner. In lieu of such surety, the bond may be secured by the deposit of Liberty bonds, other bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of H. R. 4304, Public, No. 3, Seventy-fourth Congress.)"

"If an extension of time for payment of the tax is granted, the amount, time for payment of which is so extended, shall be paid on or before the expiration of the period of extension, together with interest at the rate of 6 per cent per annum on such amount from the date when the payment should have been made if no extension had been granted until the expiration of the period of the extension. (See section 521 and article 54.)"

are amended to read as follows:

"As a condition to the granting of such an extension, the Commissioner will usually require the donor to furnish a bond in an amount not exceeding double the amount for which the extension is desired, or to furnish other security satisfactory to the Commissioner for the

payment of the liability on or before the date prescribed for the payment in the extension, so that the risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the amount for which the extension is granted, together with interest and additional amounts assessed in connection therewith, in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the donor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 20, U. S. C., 1934 edition, Sup. II, Title 6, section 15.)

"The amount for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the donor from paying the entire amount of interest provided for in the extension."

Immediately preceding article 41, there is inserted a partial quotation of section 816 of the Revenue Act of 1938, as follows:

SEC. 816, Revenue Act of 1938. *Extension of time for payment of deficiencies approved by Commissioner.*—
The requirement of • • • section 513 (i) of the Revenue Act of 1932 • • • of approval by the Secretary of extension of time for payment of deficiency in • • • gift tax shall not apply after thirty days after the date of the enactment of this Act, but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

Article 44 is amended to read as follows:

"ART. 44. *Extension of time for payment of deficiencies.*—If it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for payment thereof would result in undue hardship to the donor, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period of time not in excess of 18 months and in exceptional cases for a further period not in excess of 12 months. The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to the donor. It must appear that substantial fancial loss, for example, due to the sale of property at a sacrifice price, will result to the donor from making payment of the deficiency at the date prescribed for payment. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in undue hardship. The Act provides that no extension will be granted where the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade tax.

"An application for an extension of time for the payment of the deficiency should be made under oath and must be accompanied or supported by evidence showing the undue hardship that would result to the donor if the extension were refused. A sworn statement of assets and liabilities of the donor and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the deficiency are required and should accompany the application. The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendation as to the extension. When it is received by the Commissioner, it will be examined and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the donor will be notified. The Commissioner will not consider an application for an extension of time for the payment of a deficiency unless request therefor is made to the collector on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector. If the donor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension.

"As a condition to the granting of such an extension, the Commissioner will usually require the donor to furnish a bond in an amount not exceeding double the amount of the deficiency, or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date prescribed for the payment in the extension, so that the risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the donor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 20, U. S. C., 1934 edition, Sup. II, Title 6, section 15.)

"The amount for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the donor from paying the entire amount of interest provided for in the extension."

Immediately preceding article 45 there is inserted a partial quotation of section 819 of the Revenue Act of 1938, as follows:

SEC. 819, Revenue Act of 1938. *Abatement of jeopardy assessment.* • • •
(c) Section 514 (c) of the Revenue Act of 1932 is amended to read as follows:

"(c) *Amount assessable before decision of Board.*—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of section 513 (f) prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith." • • •
(e) • • • section 514 (f) of the Revenue Act of 1932 • • • [is] amended by inserting at the end thereof the following new sentence: "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced."
(f) The amendments made by this section shall be effective only with respect to jeopardy assessments made after the date of the enactment of this Act.

The second paragraph of article 45 is amended by adding the following sentence at the end thereof:

"If the jeopardy assessment is made after the date of the enactment of the Revenue Act of 1938, the Commissioner may, at any time before the decision of the Board is rendered, abate the assessment or any unpaid portion thereof, to the extent that he believes it to be excessive in amount."

The third paragraph of article 45 is amended by adding the following sentence at the end thereof:

"If the Commissioner believes that the amount of the jeopardy assessment is excessive and abates a portion thereof before the decision of the Board is rendered, the amount of the bond will be proportionately reduced at the request of the donor."

Immediately preceding article 57 there is inserted a quotation of section 821 of the Revenue Act of 1938, as follows:

SEC. 821. Revenue Act of 1938. *Interest accruing after October 24, 1933, and before August 30, 1935, on delinquent income, estate, and gift taxes.*
Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. Any such interest accruing during such period which has been collected prior to the date of the enactment of this Act in excess of such rate shall be credited or refunded to the taxpayer, if claim therefor is filed within six months after the date of the enactment of this Act. No interest shall be allowed or paid on any such credit or refund.

The date "August 31, 1935", appearing in the parenthetical exception at the end of each paragraph of article 57, is changed to "October 25, 1933."

Immediately preceding article 59 there is inserted a quotation of section 815 of the Revenue Act of 1938, as follows:

SEC. 815, Revenue Act of 1938. *Compromise before suit.*—
Section 3229 of the Revised Statutes is amended by striking out "with the advice and consent of the Secretary of the Treasury" and inserting in lieu thereof "with the approval of the Secretary of the Treasury, or of the Under Secretary of the Treasury, or of an Assistant Secretary of the Treasury."

Immediately preceding article 62 there are inserted quotations of section 809 (b) and section 821 of the Revenue Act of 1938, as follows:

SEC. 809, Revenue Act of 1938. *Overpayments found by Board of Tax Appeals.* • • •
(b) The last sentence of section 528 (d) of the Revenue Act of 1932, as amended, is amended to read as follows: "No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency; except that where the decision of the Board is rendered before the expiration of thirty days after the date of the enactment of the Revenue Act of 1938, the credit or refund may be made of any portion paid after the mailing of the notice of deficiency."
SEC. 821. Revenue Act of 1938. *Interest accruing after October 24, 1933, and before August 30, 1935, on delinquent income, estate, and gift taxes.*—
Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. Any such interest accruing during such period which has been collected prior to the date of the enactment of this Act in excess of such rate shall be credited or refunded to the taxpayer, if claim therefor is filed within six months after the date of the enactment of this Act. No interest shall be allowed or paid on any such credit or refund.

The caption and first paragraph of article 62, which read—

"ART. 62. *Authority for abatement, credit, and refund of tax.*—Authority for the credit and refund of any overpayment of the tax is contained in section 528."

are changed to read—

"ART. 62. *Authority for abatement, credit, or refund.*—Authority for the credit or refund of an overpayment is contained in section 528, as amended, and section 821 of the Revenue Act of 1938. As to the abatement of a jeopardy assessment by the Commissioner before the Board of Tax Appeals renders a decision, see article 45."

Article 63 is amended by adding at the end thereof the following sentence:

"No interest is allowable on any credit or refund, authorized by section 821 of the Revenue Act of 1938, of excess interest collected on delinquent tax."

The second paragraph of article 65 is amended by adding at the end thereof the following sentence:

"A claim for refund or credit of any interest in excess of 6 per cent per annum accruing after October 24, 1933, and before August 30, 1935, on delinquent gift taxes, which excess was collected prior to May 28, 1938, must be filed within six months after May 28, 1938, pursuant to the requirement of section 821 of the Revenue Act of 1938."

The first paragraph of article 68 is amended by changing the words "Except as provided in (b) of this article" to "Except as provided in (b) or (c) of this article."

Paragraph (1) of subdivision (b) of article 68, which reads—

"(1) If the Board finds that the donor has overpaid his tax for the year to which the notice of deficiency relates, and the decision of the Board as to the amount overpaid has become final (see section 1005 of the Revenue Act of 1926), and further determines as part of its decision that any portion of the overpayment was made within three years before the filing of the refund claim or the filing of the petition, whichever is earlier, the amount of such portion of the overpayment shall be credited or refunded. The portion of the overpayment made within such period will be credited or refunded, even though the Board has not determined as part of its decision that the overpayment was so made, where a hearing upon the petition was held by the Board prior to the expiration of 30 days after the date of the enactment of the Revenue Act of 1934."

is amended to read as follows:

"(1) If the Board finds that the tax has been overpaid for the year to which the notice of the deficiency relates, and the decision of the Board as to the amount overpaid has become final (see section 1005 of the Revenue Act of 1926), and the Board determines as a part of its decision that any portion of the overpayment was made within three years before the filing of the claim or the filing of the petition, whichever is earlier, the amount of such portion of the overpayment will be credited or refunded. Or if the Board determines as part of its decision that any portion of the overpayment was made after the mailing of the notice of the deficiency, such portion will be credited or refunded. The portion of the overpayment, if any, made after the mailing of the notice of the deficiency will be credited or refunded even though the Board has not determined as part of its decision that the overpayment was so made, if the decision of the Board is rendered before the expiration of 30 days after the date of the enactment of the Revenue Act of 1938."

Article 68 is further amended by adding the following paragraph at the end thereof:

"(c) A credit or refund of the excess of any interest over 6 per centum per annum accruing between October 24, 1933, and August 30, 1935, on delinquent tax, where such excess was collected prior to May 28, 1938, is prohibited unless claim therefor is filed within six months after May 28, 1938."

Immediately preceding article 71 there are inserted quotations of sections 801 and 802 of the Revenue Act of 1938, as follows:

SEC. 801, Revenue Act of 1938. *Closing agreements as to future tax liability.*—
Section 606 (a) of the Revenue Act of 1928 is amended by striking out the words "ending prior to the date of the agreement."
SEC. 802, Revenue Act of 1938. *Approval of closing agreements.*—
Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary, or the Under Secretary," and inserting in lieu thereof the following: "is approved by the Secretary, the Under Secretary, or an Assistant Secretary."

The first three sentences of article 71, which read—

"Closing agreements provided for in section 606 of the Revenue Act of 1928 may relate to any taxable period ending prior to the date of the agreement. Such an agreement may be executed even though under such agreement the donor is not liable for any tax for the period. The matter agreed upon may relate to the total tax liability of the donor or it may relate to one or more separate items affecting the tax liability of the donor."

are amended to read as follows:

"Closing agreements provided for in section 606 of the Revenue Act of 1928, as amended, may relate to the total tax liability of the donor, or to one or more separate items affecting such liability."

Immediately preceding article 73 there is inserted a quotation of section 806 of the Revenue Act of 1938, as follows:

SEC. 806, Revenue Act of 1938. *Administration of oaths or affirmations.*—
Any oath or affirmation required or authorized by any internal-revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States,

or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This section shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

This Treasury Decision is issued under authority prescribed by section 530 of the Revenue Act of 1932.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 18, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2076; Filed, July 19, 1938; 2:20 p. m.]

[T. D. 4831]

ESTATE TAX

REGULATIONS 80, AMENDED TO ACCORD WITH PROVISIONS OF REVENUE ACT OF 1938

To Collectors of Internal Revenue and Others Concerned:

To conform with the provisions, in so far as they relate to the estate tax, of Titles II and V of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), Regulations 80 (1937 edition),[1] approved October 26, 1937, are amended as follows:

Immediately preceding article 63 the following is inserted:

SEC. 501. *Revenue Act of 1938.*—
Section 304 (b) of the Revenue Act of 1926, as amended (relating to the amount of gross estate requiring the filing of a return), is amended by striking out "$100,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 303 (a) (4)."

SEC. 502. *Revenue Act of 1938.*—
Section 403 of the Revenue Act of 1932, as amended, relating to returns of the additional estate tax, is amended by striking out "$40,000" and inserting in lieu thereof "the amount of the specific exemption provided in section 401 (c)."

Immediately preceding articles 76 and 99 the following is inserted:

SEC. 801. *Revenue Act of 1938.*—
Section 606 (a) of the Revenue Act of 1928 is amended by striking out the words "ending prior to the date of the agreement."

SEC. 802. *Revenue Act of 1938.*—
Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary or the Under Secretary," and inserting in lieu thereof the following: "is approved by the Secretary, the Under Secretary, or an Assistant Secretary."

The fifth paragraph of article 76 is amended by inserting "or an Assistant Secretary," after the words "Under Secretary," and by inserting "as amended," after the comma following the year "1928."

Immediately preceding article 77, the following is inserted:

SEC. 503. *Revenue Act of 1938.*—
Section 305 (b) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed ten years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. • • •"

SEC. 819 (d). *Revenue Act of 1938.*—
Section 312 (c) of the Revenue Act of 1926 is amended to read as follows:

"(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the executor, despite the provisions of subdivision (f) of section 308 and whether or not the executor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith."

SEC. 819 (e). *Revenue Act of 1938.*—
Section • • • 312 (f) of the Revenue Act of 1926, • • • [is] amended by inserting at the end thereof the following new sentence: "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced."

SEC. 819 (f). *Revenue Act of 1938.*—
The amendments made by this section shall be effective only with respect to jeopardy assessments made after the date of the enactment of this Act.

The first paragraph of article 77 is amended by adding the following sentence at the end thereof:

"If the jeopardy assessment is made after the date of the enactment of the Revenue Act of 1938, the Commissioner may, at any time before the decision of the Board is rendered, abate the assessment or any unpaid portion thereof, to the extent that he believes it to be excessive in amount."

The first sentence of the third paragraph of article 77 is amended by adding the words "and not abated" after the word "assessment."

The last sentence of the fourth paragraph of article 77, which reads—

"If an extension of time for payment of the tax is granted in accordance with section 305 (b) or section 308 (i), as amended by section 808 of the Revenue Act of 1932, the period within which assessment is required to be made is extended by the time covered by such extension."

is amended to read—

"If an extension of time for payment of the tax is granted in accordance with section 305 (b), as amended by section 808 (a) of the Revenue Act of 1932 and section 503 of the Revenue Act of 1938, or in accordance with section 308 (i), as amended by section 808 (b) of the Revenue Act of 1932 and section 816 of the Revenue Act of 1938, the period within which assessment is required to be made is extended by the time covered by such extension."

Immediately preceding article 82, the following is inserted:

SEC. 503. *Revenue Act of 1938.*—
Section 305 (b) of the Revenue Act of 1926, as amended, is amended to read as follows:

"(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed ten years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may, if he deems it necessary, require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension."

SEC. 816. *Revenue Act of 1938.*—
The requirement of • • • section 308 (i) of the Revenue Act of 1926, of approval by the Secretary of extension of time for payment of deficiency in • • • estate • • • tax shall not apply after thirty days after the date of the enactment of this Act but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

Article 82 (a) is amended to read as follows:

"ART. 82. (a) *Extension of time for payment of tax shown on return.*—In any case in which the Commissioner finds that payment, on the due date, of any part of the tax shown on the return would impose undue hardship upon the estate, he may extend the time for payment thereof for a period or periods not to exceed in all ten years from the due date.

"The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to the estate. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the tax at the due date. If a market exists, a sale of property at the current market price is not ordinarily considered as resulting in an undue hardship.

"An application for such an extension must be in writing and must contain, or be supported by, information under oath showing the undue hardship that would result to the estate if the requested extension were refused. The application, with the supporting information, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. The Commissioner will not consider an application for such an extension unless request therefor is made to the collector on or before the due date. If the executor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension. No single extension for more than one year will be granted. The granting of an extension of time for paying the tax is discretionary with the Commissioner, and such authority will be exercised under such conditions as he may deem advisable.

"If an extension is granted, the Commissioner may, if he deems it necessary, require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension.

"The amount of the tax for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the executor from paying the entire amount of interest provided for in the extension.

"The granting of such an extension will not relieve the executor from the duty of filing the return on or before the date fixed by the regulations, nor will it operate to prevent the running of interest. (See article 84.) An extension of time to pay the tax may extend the period within which taxes allowed as a credit by section 301 (c) are required to be paid and the credit therefor claimed. (See article 9 (b).) The running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), is suspended for the period of the extension. (See articles 77 and 105.)"

Article 83 is amended to read as follows:

"ART. 83. *Extension of time for payment of deficiency tax.*—If it is shown to the satisfaction of the Commissioner that the payment of the deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period not to exceed in all four years from the date prescribed for the payment of the deficiency.

"The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to the estate. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the deficiency at the due date. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in an undue hardship. No extension will be granted where the deficiency is due to negligence or intentional disregard of the rules and regulations, or to fraud with intent to evade the tax.

"An application for such an extension must be in writing and must contain, or be supported by, information under oath showing the undue hardship that would result to the estate were the requested extension refused. The application, with the supporting information, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. The Commissioner will not consider an application for an extension of time for the payment of a deficiency unless request therefor is made to the collector on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector. If the executor desires to obtain an additional extension, the request therefor must be made to the collector on or before the date of the expiration of the previous extension. No single extension for more than one year will be granted. The granting of an extension of time for paying the deficiency is discretionary, and such authority will be exercised under such conditions as may be deemed advisable.

"As a condition to the granting of such an extension, the Commissioner will usually require the executor to furnish a bond in an amount not exceeding double the amount of the deficiency, or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date prescribed for payment in the extension, so that the risk of loss to the Government will not be more at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the executor may file a bond secured by the deposit of bonds or notes of the United States, any public debt obligations of the United States, or any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, equal in their total par value to the amount of such bond. (See section 1126 of the Revenue Act of 1926, as amended by section 7 of the Act of February 4, 1935, 49 Stat. 20, U. S. C., 1934 edition, Sup. II, Title 6, section 15.)

"The amount of the deficiency for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the amount for which the extension was granted and the additions thereto before the expiration of the extension will not relieve the executor from paying the entire amount of interest provided for in the extension.

"The granting of such an extension will not operate to prevent the running of interest. (See article 85.) An extension of time to pay the deficiency may extend the period within which taxes allowed as a credit by section 301 (c) are required to be paid and the credit therefor claimed. (See article 9 (b).) The running of the statute of limitations for assessment and collection, as provided in sections 310 (a) and 311 (b), is suspended for the period of the extension. (See articles 77 and 105.)"

Immediately preceding article 84, the following is inserted:

SEC. 504. *Revenue Act of 1938.*—
Section 305 (c) of the Revenue Act of 1926, as amended, is amended by inserting at the end thereof the following new sentence: "In the case of any such extension granted after March 31, 1938, the rate of interest shall be 4 per centum per annum.

SEC. 816. *Revenue Act of 1938.*—
The requirement of • • • section 308 (i) of the Revenue Act of 1926, of approval by the Secretary of extension of time for payment of deficiency in • • • estate • • • tax shall not apply after thirty days after the date of the enactment of this Act, but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 821. *Revenue Act of 1938.*—
Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. • • •

The first paragraph of article 84 (a) is amended by changing the date "August 31, 1935", appearing in the parenthetical exception at the end thereof, to "October 25, 1933".

The first sentence of the second paragraph of article 84 (a), which reads—

"If an extension of time has been granted for paying any portion of the tax shown on the executor's return, in accordance with article 82 (a), interest accrues thereon at the rate of 6 per cent per annum from the expiration of 18 months after the decedent's death to the expiration of the period of the extension."

is amended to read as follows:

"If the time for paying any portion of the tax shown on the executor's return was extended under the provisions

[1] 2 F. R. 2324 (2707 DI).

of article 82 (a) and such extension of time was granted prior to April 1, 1938, interest accrues on such portion of the tax at the rate of 6 per cent per annum from the expiration of 18 months after the decedent's death to the expiration of the period of the extension. If, however, the extension of time was granted after March 31, 1938, interest accrues at the rate of 4 per cent per annum. The lower rate of interest does not apply retroactively to any period of extension as may have been granted in the same case prior to April 1, 1938."

and such paragraph is further amended by changing the date "August 31, 1935", appearing in the parenthetical exception at the end thereof, to "October 25, 1933."

The third paragraph of article 84 (a) is amended by inserting "4 or" immediately after the word "at" in the first sentence.

The second, third and fifth paragraphs of article 85 are amended by changing the date "August 31, 1935", appearing in the parenthetical exceptions therein, to "October 25, 1933".

Immediately preceding article 95 the following is inserted:

SEC. 819 (e). *Revenue Act of 1938.*—Section * * * 312 (f) of the Revenue Act of 1926, * * * [is] amended by inserting at the end thereof the following new sentence: "If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced."

SEC. 819 (f). *Revenue Act of 1938.*—The amendments made by this section shall be effective only with respect to jeopardy assessments made after the date of the enactment of this Act.

Immediately preceding article 99 the following is inserted:

SEC. 809.—

* * * * * *

(e) The last sentence of section 319 (c) of the Revenue Act of 1926, as amended, is amended to read as follows: "No such refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within four years (or, in the case of a tax imposed by this title, within three years) before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency; except that where the decision of the Board is rendered before the expiration of thirty days after the date of the enactment of the Revenue Act of 1938, the credit or refund may be made of any portion paid after the mailing of the notice of deficiency.

SEC. 821. *Revenue Act of 1938.*—Interest accruing after October 24, 1933, and prior to August 30, 1935, on delinquent income, estate, and gift taxes shall be computed at the rate of 6 per centum per annum. Any such interest accruing during such period which has been collected prior to the date of the enactment of this Act in excess of such rate shall be credited or refunded to the taxpayer, if claim therefor is filed within six months after the date of the enactment of this Act. No interest shall be allowed or paid on any such credit or refund.

Article 99 is amended by inserting immediately after the third paragraph a new paragraph reading as follows:

"Claims made under the provisions of section 821 of the Revenue Act of 1938 for the refund of interest accruing after October 24, 1933, and before August 30, 1935, at a rate in excess of 6 per cent per annum upon delinquent estate taxes and paid prior to May 28, 1938 (the date of the enactment of the Revenue Act of 1938) must be filed within six months after the date of such enactment."

Article 99 is further amended by inserting immediately after the clause "whichever is earlier," appearing in the first sentence of the original fourth paragraph, an additional clause reading—

"or that such portion was paid after the mailing of the notice of deficiency,"

and by substituting for the last sentence reading—

"The portion of the overpayment made within such period will be refunded, even though the Board has not determined as part of its decision that the overpayment was so made, if a hearing upon the petition was held by the Board prior to the expiration of 30 days after the date of the enactment of the Revenue Act of 1934."

a new sentence reading as follows:

"The portion of the overpayment, if any, made after the mailing of the notice of deficiency will be refunded, even though the Board has not determined as part of its decision that the overpayment was so made, if the decision of the Board is rendered before the expiration of 30 days after the date of the enactment of the Revenue Act of 1938."

Article 100 is amended by adding the following new sentence at the end thereof:

"No interest shall be allowed in respect of any refund of excess interest claimed and allowed under the provisions of section 821 of the Revenue Act of 1938."

Immediately preceding article 101 the following is inserted:

SEC. 815. *Revenue Act of 1938.*—Section 3229 of the Revised Statutes is amended by striking out "with the advice and consent of the Secretary of the Treasury" and inserting in lieu thereof "with the approval of the Secretary of the Treasury, or of the Under Secretary of the Treasury, or of an Assistant Secretary of the Treasury".

Immediately preceding article 106 the following is inserted:

SEC. 806. *Revenue Act of 1938.*—Any oath or affirmation required or authorized by any internal-revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered. This section shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

This Treasury Decision is issued under authority prescribed in section 1101 of the Revenue Act of 1926 and section 403 of the Revenue Act of 1932, as amended.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 18, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2077; Filed, July 19, 1938; 2:20 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

OFFICE OF THE SECRETARY

NEWLY-MINED DOMESTIC SILVER

JULY 11, 1938.

Memorandum for the President:

The Newly-Mined Domestic Silver Proclamation of December 30, 1937,[1] modifying the Proclamation of December 21, 1933, as modified, provides that:

"* * * the said Proclamation of the twenty-first day of December, 1933, as heretofore and hereby modified shall remain in force and effect until the 31st day of December, 1938 unless repealed or further modified by Act of Congress or by subsequent Proclamation."

As you know, in the normal course a considerable period of time elapses between the date silver is mined and the date when the refining of the silver has been completed and the silver is delivered to a Mint. Accordingly, a question has arisen as to whether domestic silver mined prior to midnight, December 31, 1938, may be received by the mints after that date under said Proclamation, as modified.

I am advised by the General Counsel of the Treasury that in his opinion the mints may continue after December 31, 1938, to receive under said Proclamation, as modified, domestic silver mined prior to midnight, December 31, 1938, and otherwise complying with the Proclamation. I am in accord with such opinion. Accordingly, if you approve, the mints will be instructed that they may continue after December 31, 1938, to accept under said Proclamation, as modified, newly-mined domestic silver mined prior to midnight of December 31, 1938. This would be consistent with the action taken pursuant to your approval given under date of September 14, 1937 when the same problem was presented, the basic proclamation as then modified being due to expire on December 31, 1937.

If you approve of the foregoing, I should appreciate it if you would so indicate below.

[SEAL] H. MORGENTHAU, Jr.
Secretary of the Treasury.

Approved July 16, 1938.

FRANKLIN D ROOSEVELT,
The White House.

[F. R. Doc. 38-2099; Filed, July 20, 1938; 12:42 p. m.]

[1] 3 F. R. 29 DI.

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

ORDER ESTABLISHING GRAZING DISTRICT NO. 3 IN THE STATE OF ARIZONA

JULY 14, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, Arizona Grazing District No. 3 is hereby established, the exterior boundaries of which shall include the following-described lands:

ARIZONA

Gila and Salt River Meridian

T. 1 N., Rs. 5 to 7 W., inclusive, all;
Tps. 1 and 2 N., Rs. 8 and 9 W., all;
T. 3 N., R. 9 W., secs. 4 to 9 and secs. 16 to 36, inclusive;
T. 4 N., R. 9 W., secs. 19 to 21 and secs. 28 to 33, inclusive;
Tps. 1 to 3 N., inclusive, R. 10 W., all;
T. 4 N., R. 10 W., secs. 4 to 9 and secs. 16 to 36, inclusive;
Tps. 1 to 4 N., inclusive, R. 11 W., all;
T. 5 N., R. 11 W., S½;
Tps. 2 to 4 N., inclusive, R. 12 W., all;
T. 5 N., R. 12 W., secs. 20 to 29 and secs. 32 to 36, inclusive;
Tps. 2 to 4 N., inclusive, R. 13 W., all;
Tps. 2 and 3 N., R. 14 W., all;
T. 4 N., R. 14 W., that part lying south of U. S. Highway No. 60;
Tps. 1 to 3 N., inclusive, R. 15 W., all;
T. 4 N., R. 15 W., that part lying south of U. S. Highway No. 60;
Tps. 1 to 3 N., inclusive, R. 16 W., all;
T. 4 N., R. 16 W., that part lying south of U. S. Highway No. 60;
Tps. 1 to 3 N., inclusive, Rs. 17 to 19 W., inclusive, all;
Tps. 1 to 9 S., inclusive, R. 1 W., all;
T. 1 S., R. 2 W., that part lying south of the Gila River;
Tps. 2 to 9 S., inclusive, R. 2 W., all;
T. 1 S., R. 3 W., that part lying south of the Gila River;
Tps. 2 to 9 S., inclusive, R. 3 W., all;
Tps. 10 and 11 S., R. 3 W., all exclusive of the Papago Indian Reservation;
T. 1 S., R. 4 W., that part lying south of the Gila River;
Tps. 2 to 11 S., inclusive, R. 4 W., all;
T. 12 S., R. 4 W., all exclusive of the Papago Indian Reservation;
Tps. 1 to 4 S., inclusive, R. 5 W., all;
T. 5 S., R. 5 W., all exclusive of Gila Bend Indian Reservation;
Tps. 6 to 13 S., inclusive, R. 5 W., all;
T. 14 S., R. 5 W., secs. 1 to 18, inclusive;
Tps. 1 to 13 S., inclusive, R. 6 W., all;
T. 14 S., R. 6 W., secs. 1 to 18, inclusive;
Tps. 1 to 13 S., R. 7 W., all;
T. 14 S., R. 7 W., secs. 1 to 18, inclusive;
Tps. 1 to 13 S., R. 8 W., all;
T. 14 S., R. 8 W., N½;
Tps. 1 to 10 S., and 12 to 17 S., inclusive, R. 9 W.;
Tps. 1 to 3 S., 6 to 10 S., and 12 to 16 S., inclusive, R. 10 W.;
T. 2 S., R. 11 W., S½;
T. 3 S., R. 11 W., all;
T. 4 S., R. 11 W., N½;
Tps. 12 to 16 S., R. 11 W., all;
Tps. 12 to 15 S., inclusive, Rs. 12 to 14 W., inclusive, all;
Tps. 1 to 4 S., and 12 to 14 S., inclusive, Rs. 15 and 16 W., all;
Tps. 1 to 5 S., inclusive, R. 17 W., all;
Tps. 12 to 14 S., inclusive, R. 17 W., E½;
Tps. 1 to 5 S., inclusive, R. 18 W., all;
T. 2 S., R. 19 W., E½;
T. 3 S., R. 19 W., all;
Tps. 4 and 5 S., R. 19 W., E½;
T. 2 S., R. 1 E., secs. 19 to 36, inclusive;
Tps. 3 to 8 S., inclusive, R. 1 E., all;
T. 9 S., R. 1 E., secs. 1 to 18, inclusive;
T. 5 S., R. 2 E., secs. 5 to 9, 16 to 20, and 29 to 32, inclusive;
T. 6 S., R. 2 E., secs. 5 to 8, 17 to 21, 28 to 33, inclusive;
T. 7 S., R. 2 E., W½.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this district from and after the date of the publication of this order in the FEDERAL REGISTER.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-2082; Filed, July 20, 1938; 9:53 a. m.]

GENERAL LAND OFFICE

[Order No. 1294]

LEASES OR USE PERMITS FOR MINING OF PHOSPHATE

JULY 2, 1938.

In the interest of the public pending investigation by the Congress pursuant to the message of the President dated May 20, 1938, and Senate Joint Resolution 298, approved June 16, 1938, of the adequacy and use of the phosphate resources of the United States, it is hereby ordered that until further notice no action be taken in the matter of granting leases or use permits for the mining of phosphate under the act of February 25, 1920 (41 Stat. 437).

However, in any particularly meritorious case when, in the judgment of the Secretary of the Interior, the granting of a lease is in the public interest, the provisions of this order may be waived.

This order has no applicability to outstanding leases. Applications for phosphate leases may be filed while this suspension order is in effect but no rights of any kind are thereby acquired.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2083; Filed, July 20, 1938; 9:53 a. m.]

[Circular 1448]

REGULATIONS AND FOREST PRACTICE RULES FOR THE SALE OF TIMBER FROM THE REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS SITUATED IN THE STATE OF OREGON

I. THE ACT OF AUGUST 28, 1937 (50 STAT. 874)

Title I of the Act of August 28, 1937, entitled, "An Act Relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon", provides:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions in the Acts of June 9, 1916 (39 Stat. 218), and February 26, 1919 (40 Stat. 1179), as amended, such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and powersite lands valuable for timber, shall be managed, except as provided in section 3 hereof, for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream-flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities: *Provided*, That nothing herein shall be construed to interfere with the use and development of power sites as may be authorized by law.

The annual productive capacity for such lands shall be determined and declared as promptly as possible after the passage of this Act, but until such determination and declaration are made the average annual cut therefrom shall not exceed one-half billion feet board measure: *Provided*, That timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained yield capacity when the same has been determined and declared, shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market.

If the Secretary of the Interior determines that such action will facilitate sustained-yield management, he may subdivide such revested lands into sustained-yield forest units, the boundary lines of which shall be so established that a forest unit will provide, insofar as practicable, a permanent source of raw materials for the support of dependent communities and local industries of the region; but until such subdivision is made the land shall be treated as a single unit in applying the principle of sustained yield: *Provided*, That before the boundary lines of such forest units are established, the Department, after published notice thereof, shall hold a hearing thereon in the vicinity of such lands open to the attendance of State and local officers, representatives of dependent industries, residents, and other persons interested in the use of such lands. Due consideration shall be given to established lumbering operations in subdividing such lands when necessary to protect the economic stability of dependent communities. Timber sales from a forest unit shall be limited to the productive capacity of such unit and the Secretary is authorized, in his discretion, to reject any bids which may interfere with the sustained-yield management plan of any unit.

SEC. 2. The Secretary of the Interior is authorized, in his discretion, to make cooperative agreements with other Federal or State forest administrative agencies or with private forest owners or operators for the coordinated administration, with respect to time, rate, method of cutting, and sustained yield, of forest units comprising parts of revested or reconveyed lands, together with lands in private ownership or under the administration of other public agencies, when by such agreements he may be aided in accomplishing the purposes hereinbefore mentioned.

SEC. 3. The Secretary of the Interior is authorized to classify, either on application or otherwise, and restore to homestead entry, or purchase under the provisions of section 14 of the Act of June 28, 1934 (48 Stat. 1269), any of such revested or reconveyed land which, in his judgment, is more suitable for agricultural use than for afforestation, reforestation, stream-flow protection, recreation, or other public purposes.

Any of said lands heretofore classified as agricultural may be reclassified as timber lands, if found, upon examination, to be more suitable for the production of trees than agricultural use, such reclassified tim-

ber lands to be managed for permanent forest production as herein provided.

SEC. 4. The Secretary of the Interior is authorized, in his discretion, to lease for grazing any of said revested or reconveyed lands which may be so used without interfering with the production of timber or other purposes of this Act as stated in section 1: *Provided*, That all the moneys received on account of grazing leases shall be covered either into the "Oregon and California land-grant fund" or the "Coos Bay Wagon Road grant fund" in the Treasury as the location of the leased lands shall determine, and be subject to distribution as other moneys in such funds: *Provided, further*, That the Secretary is also authorized to formulate rules and regulations for the use, protection, improvement, and rehabilitation of such grazing lands.

SEC. 5. The Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this Act into full force and effect. The Secretary of the Interior is further authorized, in formulating forest-practice rules and regulations, to consult with the Oregon State Board of Forestry, representatives of timber owners and operators on or contiguous to said revested and reconveyed lands, and other persons or agencies interested in the use of such lands.

In formulating regulations for the protection of such timberlands against fire, the Secretary is authorized, in his discretion, to consult and advise with Federal, State, and county agencies engaged in forest-fire-protection work, and to make agreements with such agencies for the cooperative administration of fire regulations therein: *Provided*, That rules and regulations for the protection of the revested lands from fire shall conform with the requirements and practices of the State of Oregon insofar as the same are consistent with the interests of the United States."

II. POLICY STATEMENT

The Act of August 28, 1937 (50 Stat. 874), is a measure providing for the conservation of land, water, forest and forage on a permanent basis, the prudent utilization of these resources for the purposes to which they are best adapted, and the realization of the highest current income consistent with undiminished future returns. Title I of the Act seeks through application of the principles of sustained yield management to provide perpetual forests which will serve as a secure foundation for continuing industry and permanent communities. The Act also provides for the flow of a full measure of the benefits produced by a well managed forest to the people of the region in which the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands are situated.

Proceeding in accordance with the requirements of the Act, it will be the policy of the Department of the Interior to restrict the cutting of timber on the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands to a total volume of 500,000,000 feet B. M. per annum pending an intensive examination of the property, the determination of the productive capacity of the land, and the formulation of a detailed forest working plan. It will further be the policy of the Department to direct such cutting under rules of forest practice providing for partial or selective logging in its various forms of tree, group and area selection. Tree selection will be required in stands of Ponderosa Pine and other intolerant species, and group and area selections will be favored in Douglas Fir and the more tolerant species. There are many different ways in which selective cutting may be applied and a reasonable degree of discretion will be permitted field officers in the exercise of their judgment in prescribing the method or methods to be applied to a given sale unit. However, destructive methods which may tend to prevent an early restocking of the area under development are not authorized by the Act of August 28, 1937, and will not be permitted.

Prompt reforestation, following cutting of timber, so that the land may be kept continuously productive and to the end that the sustained yield of timber products may be maintained at a high level will be among the principal objectives of management.

Short term sales of restricted quantities of timber will be favored during the formulation of the detailed working plan, the division of the area into sustained yield forest units, and the development of cooperative agreements with operators, private timber owners and State and Federal agencies. During this period the quantities of timber offered for sale will be sufficient to supply the normal needs of industry and to keep labor employed. Consideration will be given to the requirements of established operations to avoid unnecessary interference with their normal plans of development. However, contracts extending over periods of more than three years will not ordinarily be approved prior to the placing of the area under a permanent plan of management.

The property as a whole will ultimately be subdivided into local sustained yield units, after making a careful study of the economic factors which must be weighed before the definite establishment of such units and after consultation with the local and State interests which are involved. The allocation of timber to particular units will be carried out as fairly and equitably as possible, giving full consideration to existing operations and the policy of stabilizing and perpetuating substantial dependent communities. Cutting will be encouraged in and directed toward mature and over-mature Douglas Fir stands and will be discouraged in young thrifty types that show a high current increment.

The Act refers to certain secondary benefits of the forest which are to be conserved by the new plan of management. It requires that the management practices employed shall provide agricultural opportunities, recreational facilities, water-shed protection, and stream-flow regulation.

In compliance with this mandate, all lands classified for continuous timber production shall be so managed as to maintain or restore on them the best obtainable forest cover, to the end that soil may be protected from erosion, rainfall stored and its run-off retarded, floods avoided and the landscape kept green and attractive. In furtherance of this policy and in order to furnish recreational facilities, scenic strips of merchantable timber may be reserved adjacent to public roads, along stream courses and surrounding lakes.

When reservations of this character are made they shall be of such form and extent as to minimize the danger of damage due to storms or other natural causes. They shall be so planned as to avoid unnecessary interference with the normal and proper conduct of logging operations on adjacent lands. Dead and dying and over-mature trees may be selectively cut and removed from the reserved stands where this can be accomplished economically and without serious damage to recreational values.

Land shall be classified for agricultural use only where conditions indicate the probability of a permanent agriculture of better than marginal economy.

Grazing under regulation is authorized where it will not interfere with the attainment of the principal goal of forest management, namely, a high sustained yield of commercial timber from all areas classified as permanent forest land.

III. REGULATIONS GOVERNING THE SALE OF TIMBER

1. *Applications for the purchase of timber.*—Applications for the purchase of timber from the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands under authority of the Act of August 28, 1937, should be made in writing to the Chief Forester, O. & C. Lands at Portland, Oregon, on forms provided therefor. Upon the receipt of applications for purchase the Chief Forester will conduct an investigation of the timber applied for and if the sale as proposed meets with the requirements of the Act of August 28, 1937, that officer will authorize the advertisement of the timber or recommend such advertisement to the Commissioner of the General Land Office or the Secretary of the Interior, as provided in these regulations. Offerings of timber for sale may also be made from time to time without the receipt of application when in the judgment of the department such action is necessary to effective management.

2. *Qualifications of purchasers: Limitations on sales.*—No sale will be made for less than the appraised price and the right to purchase at any sale will be limited, in accordance with law, to citizens of the United States, associations of such citizens, and corporations organized under the laws of the United States, or any State, Territory, or district thereof. Native born citizens will be required to file an affidavit to that effect in connection with the first purchase, and naturalized citizens will be required to furnish either the original certificate of naturalization or duly certified or attested copy thereof, which copy, if of a certificate of naturalization issued after September 26, 1906, must be on the form prescribed by the Bureau of Naturalization. Corporations will be required to furnish either the original certificate of incorporation, or a duly certified or attested copy thereof. A corporation organized outside of the State of Oregon must also show by a certificate by a proper State official that it has been authorized to do business within the State of Oregon.

3. *Examination and report.*—Before any timber is advertised or sold it shall be examined and appraised by the Chief Forester or his representative, and a complete report covering the sale area filed with the officer who is to approve the sale. The report should consist of a description of the area, an estimate of the volume to be removed, an appraisal of the value of the timber by species, the plan of development best adapted to the area, the cost of development, the investment required, and the market value of the products manufactured from the timber.

The report should also include details with respect to the silvicultural practice to be followed, plans for brush disposal, fire protection and any special considerations which should be incorporated in the contract in protection of the interest of the United States. The report should be accompanied by a copy of the form of advertisement to be used, a copy of the proposed contract and bond, and a map of the sale area.

4. *Advertisement of sales.*—All sales of timber of a stumpage value in excess of $100 shall be made only after due advertisement and under sealed bids, and each advertisement must be approved by the officer who will approve the contract. If the stumpage value of the timber offered does not exceed $2,000, the advertisement may be made in a newspaper or by posters and circular letters. If the stumpage value exceeds $2,000 the advertisement must be made in at least one newspaper of general circulation in the locality where the timber is situated. For sales in which the stumpage value of the timber does not exceed $10,000 the advertisement shall be for not less than two weeks; for sales exceeding $10,000 but not over $100,000 not less than four weeks, and for all sales exceeding $100,000 not less than eight weeks.

5. *Deposits with bids.*—Cash deposits shall be submitted with each proposal for the purchase of timber from the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands. Such deposits shall be at least 20 per cent of any estimated stumpage value which is less than $1,000; at least 10 per cent of any estimated stumpage value between $1,000 and $10,000; at least 5 per cent of any estimated stumpage value between $10,000 and $100,000; and at least 3 per cent of any estimated stumpage value exceeding $100,000. Every deposit must be made in cash or in the form of a duly certified check on a solvent national bank, drawn payable to the order of the Chief Forester of the O. & C. Lands. Deposits with bids are required as a guarantee of good faith, and when a bond is not executed the deposit of the successful bidder will be retained until the contract is completed. In the final settlement the deposit will be credited as a portion of the whole amount due for the timber purchased and any balance returned, provided the Purchaser has faithfully performed the terms of the contract. If a bond is furnished and accepted, the deposit will be credited as a first installment in the payment for the timber. Checks of unsuccessful bidders will be returned upon the award of the bid.

6. *Acceptance and rejection of bids.*—Under ordinary circumstances the high bid received in connection with any advertisement issued under authority of these regulations will be accepted. However, the officer authorized to approve the contract shall have the right to reject the high bid and re-advertise if he considers the high bidder to be unqualified to fulfill the contractual requirements of the advertisement. The right is also reserved to reject any bid which may interfere with the sustained yield management plan of any sustained yield unit.

7. *Financial position of purchasers.*—In all sales in excess of $5,000, and in smaller sales when necessary, the successful bidder will be required, prior to the award of the timber, to submit a complete financial statement of his ability to fulfill the terms of the contract. Additional information with respect to the ability of the bidder to perform the contract, inclusive of data covering plant and equipment, etc., may be required before the award of the bid, in the discretion of the officer approving the contract.

8. *Contracts.*—Every timber sale contract shall be a clear statement of the obligations of the purchaser and of the Government. As a matter of convenience a standard form of timber contract has been provided and all sales of timber having a stumpage value in excess of $100 will be consummated through the use of the standard form, unless a special form for a particular sale is approved by the Secretary of the Interior. The standard form provides for a reasonable degree of flexibility to meet variable conditions and no essential departure from the fundamental requirements thereof may be authorized, except with the approval of the Secretary. The Forest Practice Rules which have been incorporated in and made a part of these regulations shall be attached to and made a part of each timber sale contract.

All contracts should be executed in quadruplicate by the parties in interest. In connection with contracts approved by the Chief Forester, O. & C. Lands, that officer will sign as both party of the first part and as the approving officer. A copy of such contract, together with a complete report covering the essential facts in connection therewith, should be submitted to the Commissioner of the General Land Office for examination and filing. In contracts requiring the approval of the Commissioner of the General Land Office or the Secretary of the Interior, the Chief Forester, O. & C. Lands, will sign as the party of the first part, and all copies thereof, together with a report and a recommendation, will be submitted to the approving officer for final action.

9. *Bonds.*—In sales of timber in which the value of the stumpage does not exceed $5,000 the initial deposit may be retained as a cash bond until the contract is completed. In sales of timber in which the stumpage value exceeds $5,000 but is not over $10,000 a bond of approximately 20 per cent of the value of the timber will be required. In sales of timber in which the stumpage value exceeds $10,000 but is not over $100,000 a bond in an amount of approximately 10 per cent of the estimated value of the timber will be required and in sales in which the stumpage value exceeds $100,000 a bond will be required in an amount to be fixed by the Secretary of the Interior. Ordinarily corporate surety bonds will be required. However, if personal sureties are furnished in lieu thereof, such sureties will be accepted and the bond approved only upon a clear showing by the principals and the bondsmen that they are fully capable of carrying out the terms of the agreement.

10. *Approval of contracts and bonds.*—Contracts covering sales of timber having a stumpage value of $25,000 or less may be approved by the Chief Forester, O. & C. Lands. Contracts covering sales of timber having a stumpage value between $25,000 and $50,000 will be approved by the Commissioner of the General Land Office. Contracts covering sales in which the stumpage value exceeds $50,000 shall be made only with the express approval of the Secretary of the Interior. Bonds guaranteeing the faithful performance of contracts shall be approved by the officer approving the contracts.

11. *Payments for timber.*—Payments for timber shall be required in advance of cutting, either as a single payment or in the form of installments. In sales having a stumpage value of not more than $1,000 payment will ordinarily be required in full before cutting is started. In sales of timber having a stumpage value of $1,000 to $5,000 payment shall be made in installments of not less than $1,000 each; in sales of from $5,000 to $25,000 in installments of not less than $2,500 each; and in sales of from $25,000 to $100,000 in installments of not less than $5,000 each; provided that the last installment on any sale may be in an amount equal to the balance due and payable thereon. In sales in which the stumpage value is in excess of $100,000

the amount of the installments shall be determined at the time such sales are authorized; provided that the amount so fixed shall not be less than $5,000 for each installment.

12. *Time for cutting and removal of timber.*—The maximum periods which shall be allowed for the cutting and removal of timber after the date the contract has been approved shall be as follows: For sales having a stumpage value of from $1,000 to $5,000, two years; for sales of timber having a stumpage value of $5,000 to $10,000, three years; for sales over $10,000 but not exceeding $25,000, five years; and for sales exceeding $25,000 the number of years to be fixed by the Commissioner of the General Land Office or the Secretary of the Interior at the time such sales are authorized.

13. *Reappraisals.*—Timber sale contracts of more than five years' duration will provide for the redetermination of stumpage prices after reappraisal at stipulated intervals. Ordinarily reappraisals will be made and new rates established by the Secretary every three years subsequent to the year in which cutting operations are initiated. Special contract forms similar to the standard form but inclusive of a reappraisal clause will be formulated and approved by the Secretary for all sales of more than five years' duration.

14. *Timber cutting permits.*—All timber cutting which is not done under formal contract may be authorized on the standard permit form. The permit form has been devised as a convenience in meeting the requirements of homesteaders, ranchers and local persons for limited quantities of timber for domestic, agricultural and grazing purposes. It should not be used as a substitute for the regular contract form. The maximum value of the stumpage which may be cut under permit in one year by any individual shall not exceed $100. Permits for the cutting of dead and down timber or for stand improvement may be issued by O. & C. officers without charge. However, a reasonable charge should be made for such merchantable timber as may be authorized for cutting under permit.

15. *Measurement of products.*—All living timber cut under authority of the standard form of contract or permit provided for herein shall be marked or otherwise designated by an authorized forest officer of the General Land Office. Timber shall be paid for on the basis of the cruised volume which, in group and area selection, will be determined in the accepted commercial manner, and in tree selection, will be determined by individual tree scale.

In view of the scattered location of a large part of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands the determination of volume by cruising or tree measurement will be more or less generally applied.

On comparatively large timber sales when the regular method of log scaling is practicable of application this method may be used since it insures a higher degree of accuracy than does cruising or the tree measurement method. The Scribner Decimal C log rule shall be used on all sales where the logs are scaled after the timber is cut, and this rule shall be the basis of volume determination in cruising or tree measurement.

16. *Records and reports.*—A complete record of timber sale activities shall be maintained in the Office of the Chief Forester, O. & C. Lands at Portland, Oregon, and that officer shall make monthly and annual reports to the Commissioner of the General Land Office concerning all details of administration.

The field record of timber sales shall consist of scale books, scale reports and a register of scale reports showing the volume scaled or measured on each sale unit, the payments received therefor and the disposition of the moneys so received.

Progress reports of the timber scaled or measured in each unit under development should be mailed each month to the Commissioner of the General Land Office, together with a summary of all sales and an analysis of the cost of administration. At the close of the fiscal year a detailed annual report must be rendered to the Commissioner by the Chief Forester, O. & C. Lands. This report should include a summary of the business conducted during the year, an analysis of the cost of administration, a detailed budget set-up of administrative requirements and a complete statement of the progress achieved in connection with the formulation of a permanent forest working plan for the property.

17. *Acquisition of rights of way.*—The procedure governing the filing of applications and the granting of rights of way over public domain land under the various rights of way acts will be followed with respect to rights of way over the revested and reconveyed lands; provided, a sum sufficient to cover the estimated damage shall be deposited with the Chief Forester prior to construction, and provided further, that suitable stipulations will be required in connection with the granting of all rights of way for the protection of the various conservation measures contemplated by law.

IV. FOREST PRACTICE RULES AND GENERAL CONTRACT STIPULATIONS

The following forest practice rules and general contract stipulations are hereby prescribed for use in all contracts for the sale of timber from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon, except as special provision shall be made by the Secretary of the Interior with respect to particular sales.

18. *Definitions.*—The word "Chief Forester" as used in these forest practice rules and contract stipulations signifies the Chief Forester, O. & C. Lands. His office and principal place of business shall be in the City of Portland, Oregon.

The term "officer in charge" whenever used in these stipulations signifies the forest officer of highest rank assigned to the administration of timber sales within the District in which the sale is located, or such other officer as may be designated by the Chief Forester to supervise the sale.

Foresters, logging engineers, log scalers and other officers authorized to administer timber sales will be appointed by the Secretary of the Interior and receive their instructions from the Chief Forester or the officer in charge.

19. *Basis of sale.*—Timber shall be sold on the basis of cruise, tree scale or log scale, and no timber except that necessary for improvements or that which interferes with the economical conduct of a logging enterprise shall be cut unless it has been marked or designated in advance by the officer in charge. Where volumes are determined on the basis of a scale of the standing trees, such volumes shall be checked for accuracy by a periodic scaling of the logs on sample areas. The purchaser shall be permitted to witness such check scaling. Where the volume is determined by log measurement the Scribner Decimal C log rule will be used in scaling the logs.

20. *Deposits.*—Cash deposits in advance of cutting will be required as stipulated in the contract. The title to standing timber or forest products covered by the contract will not pass to the purchaser until such timber or products are paid for. If at any time the stumpage value of the timber cut and unpaid for shall approach or equal the total amount then on deposit, an additional advance deposit shall be required.

21. *Logging areas designated by.*—The priority of areas to be logged, when economically feasible, may be designated by the officer in charge if such action is necessary to prevent deterioration from fire, insects or disease, and to fully protect the interests of the United States.

22. *Selective logging.*—The logging of areas in such manner as to preserve a part of the merchantable timber, promote the growth of young trees, or preserve the forest cover, shall be practiced on all lands chiefly valuable for the production of timber. The general plan of selective logging to be followed may take any of the various forms of tree selection, group selection or area selection, or combinations thereof, which in the judgment of the Chief Forester will assure the successful conservation and protection of the resources under development.

23. *Reservations for public purposes.*—In the discretion of the officer in charge, a strip of suitable width on each side of lakes, streams, roads, and trails and in the vicinity of camping places and recreation grounds may be reserved, in which little or no cutting will be allowed. In carrying out the selective cutting in these areas all reasonable care shall be taken to avoid injury to the remaining standing timber. Within these reserved areas trees shall be felled in such manner as to leave the right of way, streams and lake shores free from slash deposits.

24. *Protection of young growth.*—The young growth shall be protected as fully as possible in every branch of the logging operations and its use in the construction of improvements may be restricted by the officer in charge.

25. *Fire code.*—Section 5 of the Act of August 28, 1937, provides in part, "That rules and regulations for the protection of the revested lands from fire shall conform with the requirements and practices of the State of Oregon insofar as the same are consistent with the interests of the United States", and proceeding in accordance therewith, contractors will be required to comply with applicable provisions of the State fire code, as well as the following:

(a) The slash resulting from logging operations shall be burned only under written permit from the Chief Forester acting in cooperation with the State Forester. In the Douglas fir type on areas logged in the group or area selection manner the burning of slash, where required, shall be carried out in accordance with the best and safest practices recognized in the "Forest Practice Handbook" of the Pacific Northwest Loggers and the West Coast Lumbermen's Associations. Adequate special protection shall be given to all reserved timber. Proper fire trails shall be constructed as required by the Chief Forester where necessary in advance of slash burning to protect green timber areas, islands of immature timber and previously logged areas that have been cleared of slash. Where the tree selection method of logging is used special methods economically possible shall be worked out by the Chief Forester in cooperation with the State Forester and the purchaser. In the Ponderosa pine type slash disposal shall be carried out in accordance with the Rules of Forest Practice (Oregon) of the Western Pine Association. Special provisions may be developed by the Chief Forester in cooperation with the State Forester and the purchaser.

(b) Smoking and lunch fires shall be restricted during periods of fire hazard and shall be permitted only in especially prepared places.

(c) The contractor shall be required to stop logging operations in especially hazardous fire weather upon request from the Chief Forester.

26. *Responsibility for damage.*—The contractor shall be held accountable for any damage to virgin timber, reserve stands or young growth, occurring as a result of slash burning or other fires originating on the sale area or adjacent lands and shall be required to pay for such damage on the basis of an appraisal to be conducted by the Chief Forester; provided the Purchaser, his subcontractors or employees are directly or indirectly responsible for the origin or spread of the fire.

27. *Sales—Rights of way.*—Other sales within a sale area may be made of products and kinds of timber not sold under a previous sale, provided such sales will not, in the judgment of the officer having authority to make such sale, interfere with the operations of the previous purchaser. The previous purchaser shall not be held liable for any damage by fire or other causes for which such additional purchasers are directly or indirectly responsible. Rights of way may be granted through portions of the sale area during the contract period, provided they do not interfere with the operations of the previous purchaser.

28. *Firewood—Improvements.*—As far as possible only unmerchantable timber other than young growth shall be used for firewood and improvements, and material so used will not be charged to the Purchaser. Wood and improvements taken from merchantable material will be scaled or measured, charged, and paid for at its appraised value.

29. *Stumps.*—Stumps will be cut low so as to avoid unnecessary waste.

30. *Waste.*—Unnecessary waste of merchantable timber not previously paid for in high stumps, butts, tops, breaks, skids, and partially sound logs and all trees designated for logging which are not logged and all trees which are left felled or lodged or badly damaged by the logging operations will be scaled for their merchantable contents and charged against the Purchaser.

31. *Carelessness — Breakage.* — Carelessness on the part of fellers or other employees of the Purchaser that results in unnecessary breaking of trees not previously cruised or scaled will be penalized by scaling such trees full as if they had not been broken.

32. *Sanitation.*—The vicinity of logging camps and stables will be kept in a clean and sanitary condition, and rubbish will be removed and properly burned or buried during the occupancy and upon the removal of the camps and stables.

33. *Pollution: Obstruction of Streams:* Streams shall not be obstructed by felled trees or otherwise, nor shall they be polluted by sawdust, manure, or any other refuse from a camp or mill.

34. *Utility Facilities:* Existing telephone lines, fences, roads, trails, and other improvements shall be protected as far as possible in the logging operations, and whenever they are broken or obstructed the Purchaser shall promptly repair the damage. If he fails to make the repairs promptly, the officer in charge may make the repairs and purchasers may be charged with double the expense thereof.

35. *Necessary Improvements:* Improvements necessary to execute his contracts, such as camps, sawmills, railroads, roads, telephone lines, chutes, bridges, sluices, and dams may be constructed and maintained by the Purchaser on and across the contracted area, subject to regulation by the Commissioner of the General Land Office.

36. *Existing Improvements:* Improvements already on the area which are necessary for logging purposes may be used by the Purchaser, subject to regulation by the Commissioner of the General Land Office.

37. *Time for removal of improvements.*—The time limit for the removal of the improvements and other property of the Purchaser is one year after the expiration of the contract. After that time the title to improvements, including camps, will attach to the land, and no personal property of the purchaser will thereafter be removed except with the written consent of the officer in charge: Provided, That improvements necessary for the logging of other O. & C. timber may be left for such time and on such terms as may be prescribed by the Commissioner of the General Land Office.

38. *Extension of time.*—Extension of time for the performance of any contract may be granted the Purchaser by the officer approving the contract, in his discretion and subject to such conditions as he may impose.

39. *Extension of time denied.*—If extension of time to cut and remove the timber is not granted by the officer approving a contract, the Purchaser shall not cut timber after the expiration of the contract, but he may remove the timber previously cut and paid for, within one year of the expiration of the contract. If not removed within the time allowed, the title will revert to the United States notwithstanding the Purchaser may have paid for the timber.

40. *Assignments by purchaser.*—Assignment of any contract in whole or in part by the Purchaser will not relieve him of his contract obligations unless the assignment is approved by the officer approving the contract and the bond is satisfactorily renewed.

41. *Records—Reports.*—The Purchaser shall furnish the Chief Forester annually on forms provided therefor, a report of the amount of lumber sold and the average grade prices received f. o. b. the mill during the preceding year; the amount of ties and timber sold, with average price per M; and the amount of by-products sold and the total receipts for the same, and such other information as may be requested. These reports will be regarded as confidential.

42. *Suspension of Operations — When.*—Suspension of the Purchaser's operations may be made by the Chief Forester after due notice if any requirements of the contract and of these stipulations are disregarded and until there is satisfactory compliance. Failure to comply with any one of the requirements of the contract after written notice addressed to the Purchaser by the

officer in charge will be ground for revocation by the officer approving the contract of all rights of the Purchaser under this and other contracts, and the forfeiture of his bond and of all moneys paid, and the Purchaser will be liable for all damage resulting from his breach of contract.

43. *Appeal.*—An appeal as provided by the Rules of Practice of the Department of the Interior may be taken to the Commissioner of the General Land Office and Secretary of the Interior from the final decision of the Chief Forester or his staff.

44. *Bond unsatisfactory.* — Whenever any bond furnished to guarantee obligations under a sale shall be unsatisfactory to the officer approving the sale he may require a new bond which shall be satisfactory to him.

45. *Default.*—Wilful failure of the purchaser to complete his contract or to log as promptly as economically possible an area damaged by fire, wind, insects, or other causes, or the commission by him of any act for which the officer approving his contract shall declare the contract forfeited, will render the Purchaser and his bondsmen liable for the depreciation in the value of the remaining timber on an estimate of value and quantity to be made under the direction of the officer approving this contract.

46. *Persons Excluded.*—No member of or delegate to Congress shall be admitted to any share, part, or interest in any contract, or to any benefit derived therefrom (see Secs. 114 and 116, Act of March 4, 1909, entitled "An Act to codify, revise and amend the penal laws of the United States," 35 Stats. L., 1088, 1109), and no person undergoing a sentence of imprisonment at hard labor shall be employed in carrying out any contract (see Executive Order of May 18, 1905).

47. *Forms.*—Forms for application, bid, contract, and bond heretofore approved by the Secretary of the Interior will be made available through the Commissioner of the General Land Office.

48. These regulations shall be effective and operative sixty days from the date of approval.

FRED W. JOHNSON,
Commissioner.

Approved, July 7, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-2081; Filed, July 20, 1938, 9:52 a. m.]

[Circular 1383a]

DISPOSITION OF FILING FEES ACCOMPANYING APPLICATIONS FOR LEASES, PERMITS AND OTHER RIGHTS UNDER THE MINERAL LEASING ACTS

1. *When filing fees will be applied as earned or returned to applicant.*—Fees paid with applications for leases, permits or other rights under the mineral leasing act of February 25, 1920 (41 Stat. 437), under the amendment thereof as to sodium dated December 11, 1928 (45 Stat. 1019), under the potash leasing act of February 7, 1927 (44 Stat. 1057), or under the sulphur leasing act of April 17, 1926 (44 Stat. 301), shall be applied as earned by the Register immediately upon receipt of notice from the General Land Office that the application has been adjudicated and the lands found subject to lease, permit or other right. Pending such notification, or notice of the final disposition of an application, the Register will hold the fee as "deposits, unearned proceeds, lands, etc."

Fees paid in connection with applications for coal leases, permits or licenses which are rejected will not be returned in any event unless and until authorized by the General Land Office upon receipt of a report from the Division of Investigations, or the applicant has furnished an affidavit stating that he has not mined any coal from the land embraced in the rejected application for which payment has not been made.

2. *Regulations superseded.* — These regulations supersede the regulations contained in Circular No. 1383,[1] approved April 14, 1936 (55 I. D. 483), effective August 1, 1938.

FRED W. JOHNSON,
Commissioner.

Approved, July 13, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-2084; Filed, July 20, 1938; 9:53 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

WISCONSIN

JULY 19, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Wisconsin State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional counties:

Burnett, Monroe, and Waushara.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2078; Filed, July 20, 1938; 9:32 a. m.]

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[1] 1 F. R. 224.
[2] 3 F. R. 110 DI.

DEPARTMENT OF COMMERCE.

Bureau of Marine Inspection and Navigation.

NOTICE OF MEETING OF EXECUTIVE COMMITTEE, BOARD OF SUPERVISING INSPECTORS

JULY 18, 1938.

Pursuant to authority conferred by Secttion 4405, R. S., I hereby call a meeting of the Executive Committee of the Board of Supervising Inspectors of the Bureau of Marine Inspection and Navigation, consisting of Commander R. S. Field, Director; Captain George Fried, Supervising Inspector, Second District; and Captain Chester W. Willett, Supervising Inspector, Sixth District; to take place in the office of the Director, Bureau of Marine Inspection and Navigation, Department of Commerce, Washington, D. C., beginning at 10: 00 A. M. Tuesday, July 26, 1938, for the purpose of considering amendments to the Rules and Regulations and for the transaction of such other business as may come before the meeting.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 38-2100; Filed, July 20, 1938; 12: 48 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3062]

IN THE MATTER OF J. PALAZZOLO

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, August 12, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 304, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2088; Filed, July 20, 1938; 10:13 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3364]

IN THE MATTER OF GIMBEL BROTHERS, INC., A CORPORATION, AND MORRIS KAPLAN & SON, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 1, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 304, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2089; Filed, July 20, 1938; 10: 13 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3367]

IN THE MATTER OF SALES ON SOUND CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 8, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 304, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2090; Filed, July 20, 1938; 10:13 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3369]

IN THE MATTER OF AMERICAN MEMORIAL COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, August 25, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 324, Old Post Office Building, Atlanta, Georgia.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2091; Filed, July 20, 1938; 10:13 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3410]

IN THE MATTER OF R. FRANK YANCEY, TRADING AS THE MONARCH CHINA COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, July 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in the Federal Building, Third Floor, Greensboro, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2092; Filed, July 20, 1938; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3450]

IN THE MATTER OF JOSIAH L. JONES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, August 2, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, Federal Building, Jacksonville, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2093; Filed, July 20, 1938; 10:14 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3455]

IN THE MATTER OF MONTICELLO DRUG COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 1, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, Federal Building, Jacksonville, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2094; Filed, July 20, 1938; 10:14 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 24]

CALIFORNIA MOTOR CARRIER RATES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 18th day of July, A. D. 1938.

It appearing that income statements of Class I common carriers of property by motor vehicle (carriers which have gross revenues of $100,000.00 or over annually from both intrastate and interstate motor carrier operations), which are made respondents in this proceeding,[1] are desirable to aid the Commission in the determination of the above-entitled matter;

It is ordered, That each Class I common carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before August 15, 1938, income statements for the year 1937 and for the six months ended June 30, 1938, or for the first six periods in 1938 instead of the six months ended June 30, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said income statements shall be submitted under oath on the form herewith enclosed which form is hereby made a part of this order;[2]

And it is further ordered, That any respondent in this proceeding receiving this order, which respondent is not a Class I carrier, as above defined, shall return the blank form of income statement to the Commission at its offices in Washington, D. C., on or before August 15, 1938, accompanied by a statement that this order is not applicable to its operations.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2095; Filed, July 20, 1938; 12:17 p. m.]

SECURITIES AND EXCHANGE COMMISSION

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 19th day of July, A. D. 1938.

[File No. 1-1999]

IN THE MATTER OF CONTINENTAL SECURITIES CORPORATION 15-YEAR 5% DEBENTURES, SERIES A, DUE MAY 1, 1942; $5 CUMULATIVE PREFERRED STOCK, $100 PAR VALUE; AND COMMON STOCK, $5 PAR VALUE

ORDER FOR HEARING

I

It appearing to the Commission:

That Continental Securities Corporation, a corporation, is the issuer of 15-Year 5% Debentures, Series A, due May 1, 1942; $5 Cumulative Preferred Stock, $100 par value; and Common Stock, $5 par value; and

That said Continental Securities Corporation registered such securities on the Boston Stock Exchange, a national securities exchange, by filing on or about August 6, 1935, an application signed for the company by Mr. W. Gengenbach, Assistant Vice President, with the said Exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

That pursuant to Sections 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2, promulgated by the Commission thereunder, said Continental Securities Corporation filed on or about April 29, 1936, and on or about April 26, 1937, its annual reports on Form 15-K for the respective fiscal years ended December 31, 1935, and December 31, 1936, both being signed by Mr. B. A. Cushman, Secretary; and

That Rule KA1, promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule KA2 promulgated pursuant to Section 13 (b) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 15-K as the annual report form to be used for the annual reports of corporations engaged either directly or through subsidiaries primarily in the business of investing and reinvesting or trading in securities for the purpose of revenue and for profit; and

II

The Commission having reason to believe:

That Continental Securities Corporation has failed to comply with Sections 13 (a) and (b) and the Rules and Regulations promulgated thereunder in that it has failed to file the information and documents required by Rule KA1, adopted by the Commission pursuant to Section 13 (a) and has failed to file its annual report for the year ended December 31, 1937, on Form 15-K, as required by Rule KA2 adopted by the Commission pursuant to said Section 13 (b); and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Continental Securities Corporation has so failed to comply with said provisions of said Sections 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of said sections, or of any rule or regulation promulgated by the Commission under said sections, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said 15-Year 5% Debentures, Series A, due May 1, 1942; $5 Cumulative Preferred Stock, $100 par value; and Common Stock, $5 par value on said Boston Stock Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 27th day of July, 1938, at 10:00 A. M. in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2103; Filed, July 20, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File Nos. 34-9; 43-88]

IN THE MATTER OF FEDERAL WATER SERVICE CORPORATION

NOTICE OF AND ORDER FOR RECONVENING HEARING

Federal Water Service Corporation, a registered holding company, desiring to propose to its stockholders a voluntary plan of reorganization, heretofore filed with this Commission, (a) an application and two amendments thereto pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935 for a report by the Commission upon such plan, (b) a declaration and two amendments thereto pursuant to the Commission's Rule 12E-5 with respect to the solicitation of assents to such plan, and (c) a declaration pursuant to Section 7 of said Act with respect to the issues and sales and changes in rights called for by such plan.

A hearing with respect to the foregoing was held and continued subject to call.[1]

Subsequently said corporation amended the application and declarations so as to cause the same to relate, in the event the Commission shall determine not to permit such Section 7 declaration, as previously filed and amended, to become effective, to a new and different plan. Such new and different plan provides for reducing, by a proceeding under Section 28 of the General Corporation Law of Delaware, said corporation's stated capital from $31,356,373.25 to $13,500,000. Such reduction of capital is to be effected by reducing the stated values of the several classes of stock, all of which are without par value.

It is ordered, That the before mentioned hearing in this matter be reconvened on August 5, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing evidence may be offered with respect to either or both of said plans of reorganization and with respect to said application and declarations as now or hereafter amended.

It is further ordered, That at such hearing cause be shown why the before-mentioned declarations shall become effective.

Notice of such reconvening of such hearing is hereby given to Federal Water Service Corporation and all others who have appeared in this proceeding and to any other person whose participation in this proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to this proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2102; Filed, July 20, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File No. 52-9]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Atlas Corporation, a Delaware corporation;

It is ordered, That a hearing on such matter be held on August 8, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 3, 1938.

The matter concerned herewith is in regard to a plan of reorganization of Utilities Power & Light Corporation which this application asks this Commission to approve prior to submission of such plan to the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings therein pending for the reorganization of said Utilities Power & Light Corporation under Section 77B of the Bankruptcy Act. Said plan is in amendment to and as a substitute for a certain Amended Plan of Reorganization of said Utilities Power & Light Corporation, dated October 23, 1937 for approval of which an application (File No. 52-5) was heretofore filed by said Atlas Corporation and Paul V. Shields, Joseph S. Maxwell and Charlton B. Hibbard as a Protective Committee for Preferred Stockholders of said Utilities Power & Light Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2101; Filed, July 20, 1938; 12:59 p. m.]

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[1] 3 F. R. 1762 DI.

[2] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[1] 2 F. R. 2464 (2864 DI).

JUL 25 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 142

Washington, Friday, July 22, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Commodity Loan Regulations No. 1]

REGULATIONS GOVERNING INSPECTION AND SEALING OF AGRICULTURAL COMMODITIES ON THE FARM TO BE USED AS COLLATERAL FOR LOANS, AND THE COMPLETION OF LOAN DOCUMENTS

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act of 1938, approved February 16, 1938, as amended, I, M. L. Wilson, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following rules and regulations, to be in force and effect until amended or superseded by rules and regulations hereafter made by the Secretary of Agriculture under said Act.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 20th day of July 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

ARTICLE I. ADMINISTRATION

SECTION 100. *National supervision.*—The Agricultural Adjustment Administration, United States Department of Agriculture, shall cooperate with the Commodity Credit Corporation in administering loan programs pursuant to the provisions of Section 302 of the Agricultural Adjustment Act of 1938, as amended.

SEC. 101. *Regional supervision.*—Representatives of the various divisions of the Agricultural Adjustment Administration administering the agricultural conservation program and the Agricultural Adjustment Act of 1938, as amended, shall confer with and instruct State agricultural conservation committees regarding the organization and supervision of the work of inspecting storage structures and the grain therein, the sealing of such structures, and the certification of loan agreements.

SEC. 102. *State committee.*—Each State committee shall, in accordance with instructions issued by the Agricultural Adjustment Administration, be responsible for the administration of the work of inspecting storage structures, the commodity, and the sealing of the storage structure, and shall provide adequate assistance to county committees through its field supervisors. Each State committee shall keep such records as shall be required by the Agricultural Adjustment Administration, and shall provide for testing and grading samples of agricultural commodities which are offered as collateral for loans, using the standards of quality and condition for grain, fixed and established by the Secretary under the United States Grain Standards Act, approved August 11, 1916, with such deviations or modifications thereof as the Secretary may deem necessary.

SEC. 103. *County committee.*—Each county committee shall be responsible for the administration of the work of county inspectors. The county committee shall determine the producer's eligibility for a loan in accordance with the regulations and instructions issued or to be issued relative thereto; and shall represent the Agricultural Adjustment Administration in the preparation of all loan documents, and shall certify approval of each loan. The county committee shall keep such records and make such reports as may be required by the Agricultural Adjustment Administration with reference to loans on agricultural commodities.

SEC. 104. *Treasurer.*—The treasurer of each county agricultural conservation association or his designate in counties where the treasurer is not a full time employee in the association office, shall collect the fees, as provided in these regulations, and the treasurer shall deposit such fees in the association treasury to be disbursed as the county committee may direct. Such funds shall be

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Inspection and sealing of agricultural commodities on farm as collateral for loans, etc ---- 1805
Wheat:
Farm acreage allotments, 1939 crop ---- 1807
State acreage allotments, 1939 ---- 1807
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Customs Regulations of 1937 amended to conform with Customs Administrative Act of 1938 ---- 1808
TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION:
Public Health Service:
Allotments and payments to States, fiscal year 1939, from funds appropriated under Act of July 9, 1918, as added by Act of May 24, 1938 ---- 1828

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Mainland cane sugar area wage rates, hearing ---- 1830
Department of the Interior:
National Bituminous Coal Commission:
Middle States Fuels, Inc., hearing, provisional approval as marketing agency ---- 1830
Federal Trade Commission:
Paint and Varnish Brush Manufacturing Industry, proposed trade practice rules ---- 1831
Securities and Exchange Commission:
Alexandria Gas Co., Washington Suburban Gas Co., Patuxent Gas Co., hearing ---- 1832

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission—Continued Page
Utilities Power & Light Corp., and Charles True Adams, trustee; hearing ---------- 1831

audited in the same manner as all other funds of the association.

ARTICLE II. INSPECTION AND SEALING

SEC. 200. *Inspectors.*—(a) Inspectors shall be appointed by the county committee for a term not exceeding one calendar year after date of appointment subject to the approval of the State committee. Persons appointed as inspectors shall be members of the County Agricultural Conservation Association unless specifically exempted by the State committee. The State committee or regional director shall have authority to terminate the appointment of any inspector upon recommendation of the county committee or upon written evidence that such inspector has not faithfully discharged his duties.

(b) The county committee shall establish the rate of pay per diem, and mileage, for inspectors, subject to the approval of the State committee. In no case shall the rate of pay per diem, or mileage, for inspectors be in excess of such rates for the county committeemen of the county in which he is an inspector (except in those States where county committeemen receive no mileage). Inspectors shall, under supervision of the county committee, inspect the commodity and the storage structure, select a representative sample of the stored commodity to be forwarded, as directed by the State committee, for testing and grading. Inspectors shall make periodic reinspection of storage structures and commodities stored therein, as required by the county committee.

SEC. 201. *Administrative instructions.*—County comitteemen and inspectors shall be instructed with reference to the inspection of storage structures, the commodity to be stored, the taking of samples, and the preparation of documents. Schools of instruction shall be conducted by the State committee and field supervisors. In the cases of wheat and corn, all storage structures shall meet the requirements specified in the applicable C. C. C. wheat and corn forms.

SEC. 202. *Right to enter premises.*—Upon application by an owner for a loan, any inspector, county committeeman, or any other person duly authorized by the State committee, shall have authority at all times to enter upon any premises for the purposes of inspecting or reinspecting storage structures and the commodity in storage therein and the sealing or resealing of such structures.

SEC. 203. *Fee for inspecting and sealing storage structures and commodities on the farm.*—Each applicant for a loan shall pay to the treasurer of the county agricultural conservation association or to his designate, as provided in these regulations, prior to inspection, a minimum fee of $3.00 which shall apply to only one farm and shall be forfeited by the applicant if the loan is not completed. Upon completion of the loan documents, the applicant shall pay to the treasurer or his designate, a sealing fee established by the county committee and approved by the State committee, less the advance payment referred to herein. In no case shall the sealing fee be less than $3.00. The maximum sealing fee for wheat shall be two cents per bushel; and for corn shall be one cent per bushel. A total maximum fee per farm may be established by the county committee subject to the approval of the State committee.

SEC. 204. *Fee for certification of loan documents pertaining to wheat stored in warehouses.*—In the event that wheat eligible for a loan under the provisions of the Act is stored in a warehouse approved by the Commodity Credit Corporation, the owner of such wheat shall pay to the treasurer of the county agricultural conservation association or to his designate, as provided in these regulations, a minimum fee of $1.50 prior to the completion of the loan documents.

SEC. 205. *Seal.*—Upon the approval of a storage structure and the commodity stored therein as acceptable collateral for a loan under the Act, the inspector shall attach a seal containing the following legend to such structure.

EVER-NORMAL GRANARY

SEALED UNDER AUTHORITY OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938, AS AMENDED

The United States Department of Agriculture certifies that this storage structure for grain has been officially inspected and is hereby sealed pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended.

Any person tampering with this seal, as affixed by the official inspector, or breaking or entering this structure, or who in any manner interferes with the grain stored herein, unless authorized to do so, shall be subject to the provisions of the United States Criminal Code.

[SEAL] ----------
Secretary of Agriculture of the United States.

Seal Number ------

SEC. 206. *Unlawful breaking of seals, locks or other fastenings.*—Any person unlawfully entering or breaking into any storage structure sealed under the provisions of these regulations, except when such entering or breaking shall be imperative to prevent damage, loss, or destruction of the commodity stored therein, shall be subject to the provisions of the United States Criminal Code. The seal or any lock or fastening which may be required by the State Committee, shall be affixed by the inspector in such manner that any breaking thereof shall constitute unlawful entry or breaking into the storage structure. Nothing contained herein shall be construed to prohibit or make unlawful the breaking of such seal or the entry by the owner for the purpose of ascertaining whether the stored commodity is damaged, impaired, or destroyed, or in danger of being damaged, impaired, or destroyed.

SEC. 207. *Duty of owner.*—Nothing in these regulations shall, in any manner, be interpreted or construed to relieve the owner of the commodity from exercising that degree of care in the safekeeping of the commodity in storage which a reasonable and prudent man would exercise with regard to similar property of his own. In the event that the seal has been tampered with, or the storage structure entered or broken into, or any of the commodity removed, impaired, damaged, lost, or destroyed, or in danger of being impaired, lost, damaged, or destroyed, the owner shall at once notify the county committee.

SEC. 208. *Fraudulent certification.*—Any owner, agent or servant of an owner, inspector, member, or employee of the county agricultural conservation committee, who fraudulently makes or aids in fraudulently making a false certification for any commodity, knowing that it contains any false statement, shall be subject to the provisions of the United States Criminal Code.

ARTICLE III. APPEALS

SEC. 300. *Right to appeal.*—Any owner aggrieved by any ruling or decision of the county committee may appeal in writing, within 15 days, to the State committee. The State committee shall render its decision within 30 days of the receipt of the appeal, and its decision shall be final.

SEC. 301. *Procedure in case of appeals.*—If any owner shall feel aggrieved by any action of the county committee, he may submit his appeal in writing to the State committee within 15 days after such action and no appeal shall be entertained thereafter. The State committee shall, as soon after the receipt of the appeal as possible, cause an investigation to be made at such place as shall be desirable and proper, having regard to the character of the controversy and the locality of the stored commodity and residence of the parties involved.

ARTICLE IV. DEFINITIONS

SEC. 400. As used in these regulations:

(a) The term "Act" means the Agricultural Adjustment Act of 1938, as amended.

(b) The term "Secretary" means the Secretary of Agriculture of the United States.

(c) The term "State committee" means the group of persons designated within any State to participate in the administration of the agricultural conservation program and the Act.

(d) The term "county committee" means the group of persons elected within any county to participate in the administration of the agricultural conservation program in such county.

(e) The term "inspector" means the person appointed by the county committee and approved by the State committee to inspect the storage structures and commodities therein, and to seal such storage structures.

(f) The term "commodity" means any agricultural commodity which, when properly stored on the farm, is acceptable as collateral for loans under the Act.

(g) The term "structure" means any crib, bin, granary, and any other building or structure in which any agricultural commodity eligible for loans under the Act is stored.

(h) The term "owner" means any person or persons, severally or jointly (whether individuals, copartnerships, or corporations), who shall either personally or as trustee have title to or the right to possession of any stored commodity under these regulations.

(i) The term "farm" means "farm" as defined in Section XVIII of the 1938 Agricultural Conservation Bulletin, as amended April 16, 1938 (ACP–1938–9) issued by the Secretary, or as thereafter amended or defined under subsequent Agricultural Conservation Programs.

ARTICLE V. CONSTRUCTION

SEC. 500. Nothing contained in these regulations shall be construed to be in derogation or modification of the right of the Secretary or of the United States to exercise any jurisdiction or power granted by the Act, or otherwise.

[F. R. Doc. 38–2107; Filed, July 21, 1938; 9:41 a. m.]

[AAA–38 Wheat 2]

1939 STATE WHEAT ACREAGE ALLOTMENTS

Pursuant to the authority vested in the Secretary of Agriculture under paragraph (a) of section 334 of Part III of subtitle B of Title III of the Agricultural Adjustment Act of 1938, as amended, the national acreage allotment for wheat for 1939, as established by the proclamation dated July 15, 1938,[1] is hereby apportioned among the several States as follows:

	Acres
Alabama	4,734
Arizona	30,554
Arkansas	65,115
California	626,306
Colorado	1,314,022
Connecticut	----------
Delaware	68,405
Florida	----------
Georgia	123,630
Idaho	895,549
Illinois	1,789,192
Indiana	1,481,810
Iowa	389,177
Kansas	11,067,349
Kentucky	337,534
Louisiana	----------
Maine	4,387
Maryland	350,926
Massachusetts	----------
Michigan	669,954
Minnesota	1,418,702
Mississippi	74
Missouri	1,705,277
Montana	3,414,642
Nebraska	3,049,982
Nevada	11,968
New Hampshire	----------
New Jersey	46,924
New Mexico	313,553
New York	218,158
North Carolina	363,117
North Dakota	8,300,488
Ohio	1,654,847
Oklahoma	3,783,954
Oregon	768,303
Pennsylvania	772,659
Rhode Island	----------
South Carolina	110,846
South Dakota	2,943,821
Tennessee	337,139
Texas	3,684,863
Utah	209,724
Vermont	104
Virginia	482,719
Washington	1,681,159
West Virginia	115,312
Wisconsin	90,203
Wyoming	302,818
Total	55,000,000

Done at Washington, D. C., this 20th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2108; Filed, July 21, 1938; 9:41 a. m.]

[1] 3 F. R. 1754 DI.

[AAA–38 Wheat 3]

REGULATIONS PERTAINING TO FARM ACREAGE ALLOTMENTS FOR THE 1939 CROP OF WHEAT

By virtue of the authority vested in the Secretary of Agriculture by Section 375 of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, I do make, prescribe, publish, and give public notice of the following regulations governing farm acreage allotments for the 1939 crop of wheat under Title III of said Act, to be in force and effect until rescinded, amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

SECTION 1. *Applicable provisions of the act.*—Section 334 (c) of the Act provides as follows:

The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of such county allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made.

The amount of the national acreage allotment is provided for by section 333 of the Act, the amount of the State acreage allotment by section 334 (a) of the Act, and the amount of the county acreage allotment by section 334 (b) of the Act.

SEC. 2. *Method of establishing farm acreage allotments.*—

A. *Farms upon which wheat was seeded for harvest in any one of the years 1936, 1937, and 1938.*

(1) *Tillable acres and crop-rotation practices.*—As the basis for apportionment for the first two factors (tillable acres and crop-rotation practices), specified in section 334 (c) of the Act, the county committee shall first determine for each farm a "usual" acreage of wheat. This acreage shall be the average annual acreage of wheat seeded for harvest, (plus the acreage determined by the county committee to have been diverted from the production of wheat under the agricultural adjustment and conservation programs) during the period 1936, 1937, and 1938, and including also one or more of the years 1930 to 1935 if the county committee determines, pursuant to instructions issued by the Administrator of the Agricultural Adjustment Administration, that the inclusion of such additional years is necessary in order to reflect the usual acreages of wheat on farms in the county. However, if, with respect to any farm, the county committee finds that the acreage seeded to wheat in any of the years in such period (a) was abnormally low due to extreme flood or drought, (b) is not typical of the farm for 1939 due to customary crop-rotation practices, a change in such practices, or a change in the acreage of cropland in the farm, or (c) was abnormally high due to failure of crops other than wheat, such year shall be eliminated in determining the usual acreage of wheat for such farm. If for any of such years no data are available, such year shall also be eliminated.

For any farm for which all the years in the applicable period are thus eliminated, the usual acreage of wheat shall be determined by applying to the acreage of cropland on such farm in 1938 the ratio of (a) the average annual

acreage seeded to wheat for harvest in 1936 and 1937 to (b) the 1938 cropland, such ratio being determined on the basis of such data for all farms on which wheat was seeded for harvest in 1936, 1937, or 1938 in the community in which such farm is located, or in the county if data for such ratio is not available for the community.

(2) *Type of soil and topography.*—For farms with respect to which the variation in the adaptation of the soil for the production of wheat and the topography of the cropland from the average for the county or the community is not reflected in the usual acreage of wheat for the farm, such usual acreage shall be adjusted by the county committee so as to reflect such variation in the type of soil and topography: *Provided,* That the adjustment in the usual acreage on the basis of the type of soil and topography shall not exceed 25 per cent.

(3) *Adjustment to county acreage allotment.* — The usual acreages of wheat determined under (1) and (2) of this subsection A, adjusted pro rata to equal 97 per cent of the county acreage allotment, shall be the farm acreage allotments for farms on which wheat was seeded for harvest in at least one of the three years 1936, 1937, and 1938. Such allotments shall be subject to further adjustments under subsection B of this section.

B. *Farms upon which wheat was not seeded for harvest in any one of the years 1936, 1937, and 1938.*—For farms upon which wheat was not seeded for harvest in any one of the years 1936, 1937, and 1938, but for which a wheat acreage allotment is requested for 1939 the county committee shall determine a wheat acreage allotment which is comparable to those determined under subsection A of this section 2 for farms which are similar with respect to tillable acreage, type of soil, and topography: *Provided,* That the wheat acreage allotment for any such farm shall not exceed the wheat acreage allotment requested for the farm, and *provided further,* That the sum of all such farm acreage allotments in the county shall not exceed 3 per centum of the county acreage allotment. If the sum of all such farm acreage allotments in the county is less than 3 per centum of the county acreage allotment, the remaining acreage shall be used as a reserve to correct any errors in the making of acreage allotments and in the event that such remaining acreage is not needed for this purpose, it shall be distributed pro rata among all farms in the county upon which wheat was planted for harvest in any one of the years 1936, 1937, and 1938.

SEC. 3. *Opportunity to furnish data.*—Each person owning or operating a farm in the county may submit to the county committee any information or data which is relevant to the factors to be taken into consideration by the county committee in establishing farm acreage allotments.

SEC. 4. *Instructions and forms.*—The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions and such forms as may be required to carry out these regulations.

SEC. 5. *Definitions.*—As used in these regulations and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires:

1. *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

2. *Secretary of Agriculture* means the Secretary of Agriculture of the United States.

3. *Administrator* means the Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

4. *State committee* means the group of persons designated within any State to assist in the administration of Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

5. *County Committee* means a committee utilized for the county under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

6. *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(a) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm.

(b) Any field-rented tract (whether operated by the same or another person), which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops:

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county or administrative areas, as the case may be, in which the major portion of the farm is located.

7. *Cropland* means farm land which is tilled annually or in a regular rotation.

Done at Washington, D. C., this 20th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2109; Filed, July 21, 1938; 9:41 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49658]

VARIOUS ARTICLES OF THE CUSTOMS REGULATIONS OF 1937 AMENDED SO AS TO CONFORM TO THE PROVISIONS OF THE CUSTOMS ADMINISTRATIVE ACT OF 1938, APPROVED JUNE 25, 1938

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 251 of the Revised Statutes (U. S. C. title 19, sec. 66), section 624 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1624), the Customs Administrative Act of 1938, and other statutes hereinafter cited, the Customs Regulations of 1937[1] are hereby amended as follows:

Article 1 (b) is amended by inserting "Wake Island, Midway Islands, Kingman Reef," before "and the island of Guam" in the third line.

Article 151 (e) (2) is amended by inserting "Wake Island, Midway Islands, Kingman Reef," before "and the island of Guam" in the eleventh line.

Article 212 (a) is amended to read as follows:

ART. 212. *Report — Manifest — Penalty.*—(a) Tariff Act of 1930, section 459, as amended by the Customs Administrative Act of 1938, section 10 (a):

The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicle shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection.

[1] 2 F. R. 1440–1560, 1562–1630, 1643–1760 (1729–1846, 1849–1919, 1935–2054 DI).

Article 212 (b) is amended to read as follows:

(b) Tariff Act of 1930, section 460, as amended by the Customs Administrative Act of 1938, section 10 (b):

The master of any vessel or the person in charge of any vehicle who fails to report arrival in the United States as required by the preceding section, or if so reporting proceeds further inland without a permit from the proper customs officer, shall be subject to a penalty of $100 for each offense. If any merchandise is imported or brought into the United States in any vessel or vehicle, or by any person otherwise than in a vessel or vehicle, from a contiguous country, which vessel, vehicle, or merchandise is not so reported to the proper customs officers; or if the master of such vessel or the person in charge of such vehicle fails to file a manifest for the merchandise carried therein, or discharges or lands such merchandise without a permit; such merchandise and the vessel or vehicle, if any, in which it was imported or brought into the United States shall be subject to forfeiture; and the master of such vessel or the person in charge of such vehicle, or the person importing or bringing in merchandise otherwise than in a vessel or vehicle, shall, in addition to any other penalty, be liable to a penalty equal to the value of the merchandise which was not reported, or not included in the manifest, or which was discharged or landed without a permit. If any vessel or vehicle not so reported carries any passenger; or if any passenger is discharged or landed from any such vessel or vehicle before it is so reported; or after such report but without a permit; the master of the vessel or the person in charge of the vehicle shall, in addition to any other penalty, be liable to a penalty of $500 for each passenger so carried, discharged, or landed.

Article 212 (c) is amended by deleting the last sentence and substituting therefor the following:

When such vessels have no merchandise or baggage on board, no report of arrival or permit to proceed inland is required. (See art. 220 (d).)

Article 220 is amended to read as follows:

ART. 220. *Imports from contiguous countries — Report — Manifests—Penalties and forfeitures.*—(a) Tariff Act of 1930, section 459, as amended by the Customs Administrative Act of 1938, section 10 (a):

The master of any vessel of less than five net tons carrying merchandise and the person in charge of any vehicle arriving in the United States from contiguous country, shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which such vessel or vehicle shall cross the boundary line or shall enter the territorial waters of the United States, and if such vessel or vehicle have on board any merchandise, shall produce to such customs officer a manifest as required by law, and no such vessel or vehicle shall proceed farther inland nor shall discharge or land any merchandise, passengers, or baggage without receiving a permit therefor from such customs officer. Any person importing or bringing merchandise into the United States from a contiguous country otherwise than in a vessel or vehicle shall immediately report his arrival to the customs officer at the port of entry or customhouse which shall be nearest to the place at which he shall cross the boundary line and shall present such merchandise to such customs officer for inspection.

(b) The manifest shall be in duplicate on customs Form 7533. Customs Form 7533–A may be used for baggage arriving in baggage cars in lieu of customs Form 7533. Customs Form 5119 may be used in lieu of customs Form 7533 or 7533–A when the value of the merchandise does not exceed $100. One copy of customs Form 7533, 7533–A, or 5119, as the case may be, shall be immediately forwarded to the comptroller. Merchandise imported by a person otherwise than in a vessel or vehicle need not be covered by a manifest, but the importer shall report his arrival, present such merchandise for inspection, and make entry therefor, if required, in accordance with the applicable laws and regulations.

(c) Tariff Act of 1930, section 460, as amended by the Customs Administrative Act of 1938, section 10 (b):

The master of any vessel or the person in charge of any vehicle who fails to report arrival in the United States as required by the preceding section, or if so reporting proceeds further inland without a permit from the proper customs officer, shall be subject to a penalty of $100 for each offense. If any merchandise is imported or brought into the United States in any vessel or vehicle, or by any person otherwise than in a vessel or vehicle, from a contiguous country, which vessel, vehicle, or merchandise is not so reported to the proper customs officers; or if the master of such vessel or the person in charge of such vehicle fails to file a manifest for the merchandise carried therein, or discharges or lands such merchandise without a permit; such merchandise and the vessel or vehicle, if any, in which it was imported or brought into the United States shall be subject to forfeiture; and the master of such vessel or the person in charge of such vehicle, or the person importing or bringing in merchandise otherwise than in a vessel or vehicle, shall, in addition to any other penalty, be liable to a penalty equal to the value of the merchandise which was not reported, or not included in the manifest, or which was discharged or landed without a permit. If any vessel or vehicle not so reported carries any passenger; or if any passenger is discharged or landed from any such vessel or vehicle before it is so reported; or after such report but without a permit; the master of the vessel or the person in charge of the vehicle shall, in addition to any other penalty, be liable to a penalty of $500 for each passenger so carried, discharged, or landed.

(d) The penalty of $100 for failure to report and the penalty of $100 for proceeding inland without a permit apply in every case where a vehicle is involved whether or not the vehicle is carrying merchandise, passengers, or baggage. With respect to vessels of less than five net tons, said penalties apply only when such vessels are carrying merchandise or baggage. (See art. 212 (c).)

Article 230 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 308 (6), as amended by the Customs Administrative Act of 1938, section 4:

The following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty, under bond for their exportation within six months from the date of importation, which period may, in the discretion of the Secretary of the Treasury (whether such articles are imported before or after this section becomes effective), be extended, upon application, for a further period not to exceed six months:

* * * * *

Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency;

* * * * *

Article 270 is amended by inserting a comma and "Wake Island, Midway Islands, Kingman Reef" after "Guam" in the caption.

Article 270 (a) is amended by inserting a comma and "Wake Island, Midway Islands, Kingman Reef" after "Guam" in the first line.

Article 270 (b) is amended by inserting a comma and "Wake Island, Midway Islands, Kingman Reef" after "Guam" in the first line.

Article 270 (c) is amended by inserting a comma and "Wake Island, Midway Islands, Kingman Reef" after "Guam" in the second line.

Article 270 (d) is amended to read as follows:

(d) Merchandise may be withdrawn from bonded warehouse under section 557, Tariff Act of 1930, for shipment to Wake Island, Midway Islands, Kingman Reef, Guam, and American Samoa without payment of duty, or with refund of duty if the duty has been paid thereon. No drawback is allowable under section 313 of the Tariff Act of 1930 on articles manufactured or produced in the United States with the use of imported merchandise or domestic tax-paid alcohol and shipped to Guam, Wake Island, Midway Islands, Kingman Reef, or American Samoa.

Article 287 is deleted.

Article 298 (d) is amended to read as follows:

(d) Tariff Act of 1930, section 484 (f), as amended by the Customs Administrative Act of 1938, section 12:

If any of the certificates or documents necessary to make entry of any part of merchandise arriving on one vessel or vehicle and consigned to one consignee have not arrived, such part may be entered subsequently, and notation of the packages or cases to be omitted from the original entry shall be made thereon. * * * All other merchandise arriving on one vessel or ve-

hicle and consigned to one consignee shall be included on one entry, unless the Secretary of the Treasury shall authorize the inclusion of portions of such merchandise in separate entries under such rules and regulations as he may prescribe.

The following new paragraphs are added to article 298:

(f) If the collector is satisfied that there will be no prejudice to the revenue or the efficient conduct of customs business, separate entries may be accepted for portions of all the merchandise arriving on one vessel or vehicle and consigned to one consignee as provided in article 290 (e) and also when—

(1) the consignee desires to enter such portions under different forms of entry for transportation to different ports of entry, or for warehousing in separate warehouses;

(2) appraisements are being withheld upon merchandise of the class or kind constituting a portion for which a separate entry is tendered, or

(3) appeal to reappraisement has been taken and advances are being made under section 503 (b), Tariff Act of 1930, on the class or kind of merchandise for which a separate entry is tendered (so-called "duress entries");

(4) the several portions for which separate entries are tendered are covered by separate bills of lading;

(5) the consignment consists of different classes of merchandise to be examined by different appraising officers;

(6) the consignment consists of merchandise subject to entry under bonds given to assure accounting for final disposition; and

(7) a special application is submitted to the Bureau of Customs with the recommendation of the collector concerned, and is approved by the Bureau.

(g) When separate entries are made under the preceding paragraphs, the entries must be presented simultaneously when practicable, a separate consignee's declaration must be filed for each entry, and except when a portion of the merchandise is entered under section 308, Tariff Act of 1930, each entry must cover whole packages or not less than one ton of merchandise in bulk.

(h) When separate entries are made under paragraph (f) for merchandise covered by a single bill of lading, compliance with article 290 (e) of these regulations shall be required, except that the endorsement required by article 290 (e) (2) shall read as follows:

As portions of the within-described merchandise will be covered by separate entries, the undersigned consignee expressly waives the right granted by section 484 (j), Tariff Act of 1930, to have this bill of lading returned.

Article 300 (c) (2) is amended to read as follows:

(2) Tariff Act of 1930, section 485 (f), as amended by the Customs Administrative Act of 1938, section 13:

Whenever such merchandise is consigned to a deceased person, or to an insolvent person who has assigned the same for the benefit of his creditors, the executor or administrator, or the assignee of such person or receiver or trustee in bankruptcy, shall be considered as the consignee; when consigned to a partnership the declaration of one of the partners only shall be required, and when consigned to a corporation such declaration may be made by any officer of such corporation. Whether the consignee is an individual, a partnership, or a corporation, the declaration may be made by any person who has knowledge of the facts and who is specifically authorized by such individual, a member of such partnership, or an officer of such corporation to make such declaration.

Article 300 (c) (3) is amended by deleting the last two sentences and substituting therefor the following:

If the agent is not in possession of the consignee's declaration on customs Form 3347–A at the time the agent makes entry, the bond required by section 485 (c) must be given on customs Form 7551 or other appropriate form and must be conditioned for the production of the consignee's declaration.

Article 308 is amended to read as follows:

ART. 308. *Reimportation.* — Dutiable merchandise imported and afterwards exported, although it may have paid duty on the first importation, is liable to duty on every subsequent importation into the United States; but this does not apply to—

(1) personal and household effects taken abroad by a resident of the United States and brought back on his return to this country;

(2) professional books, implements, instruments, and tools of trade, occupation or employment, taken abroad by any individual and brought back on his return to this country;

(3) automobiles and other vehicles taken abroad for noncommercial use;

(4) steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers exported from the United States empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise;

(5) articles exported from the United States for repairs or alterations, which may be returned upon the payment of a duty upon the value of the repairs or alterations at the rate or rates which would otherwise apply to the article itself in its repaired or altered condition;

(6) articles exported for exhibition under certain conditions;

(7) domestic animals taken abroad for temporary pasturage purposes and returned within eight months; nor

(8) any other reimported articles the free entry of which is specifically provided for.

Article 312 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 499, as amended by the Customs Administrative Act of 1938, section 16 (a):

• • • The collector shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise and shall order such packages or quantities to be sent to the public stores or other places for such purpose. Not less than one package of every invoice and not less than one package of every ten packages of merchandise, shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise, permit a less number of packages to be examined. All such special regulations or instructions shall be published in the weekly Treasury Decisions within fifteen days after issuance and before the liquidation of any entries affected thereby. The collector or the appraiser may require such additional packages or quantities as either of them may deem necessary. • • •

Paragraph (b) of article 312 is deleted and paragraphs (c) and (d) are redesignated (b) and (c), respectively.

Article 315 is amended by deleting "examined" from the caption thereof.

Article 315 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 499, as amended by the Customs Administrative Act of 1938, section 15:

Imported merchandise, required by law or regulations made in pursuance thereof to be inspected, examined, or appraised, shall not be delivered from customs custody, except under such bond or other security as may be prescribed by the Secretary of the Treasury to assure compliance with all applicable laws, regulations, and instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce, until it has been inspected, examined, or appraised and is reported by the appraiser to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United states. • • •

Article 315 is further amended by redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e), and (f), respectively, and by adding a new paragraph designated (b), reading as follows:

(b) Merchandise which has not been designated for examination for the purpose of appraisement or otherwise may be released from customs custody in accordance with the provisions of article 314.

Article 317 (a) is amended by deleting the colon in the second line and adding the following:

(a), as amended by the Customs Administrative Act of 1938, section 22 (a):

Article 318 is amended to read as follows:

ART. 318. *Liability of importers and sureties.*—(a) The importer of goods entered for warehousing is not only liable for the payment of increased duties as principal on the warehouse entry bond, but also by reason of his personal liability as consignee. Under the first condition of the warehouse entry bond the sureties on the bond are liable for the payment of duties and customs charges not paid by the principal on the bond, whether such duties and charges are finally ascertained when the merchandise is withdrawn from customs custody or thereafter.

(b) Original importers and their sureties are not relieved from any personal or bond liability to the Government by a transfer of the right to withdraw goods from a bonded warehouse, unless a bond is filed by the transferee on customs Form 7555, in which case the transferor and his sureties shall be relieved from the payment of duties, charges, and exactions on the merchandise the subject of the transfer, but shall remain bound by all other unsatisfied conditions of the bond. (See art. 332 (a).)

Article 319 is revoked (see arts. 298 (f) and (g), 918 (e), and 945).

Article 329 (a) is amended by deleting the colon in the second line and adding the following:

(a), as amended by the Customs Administrative Act of 1938, sections 22 (a) and 23 (a):

Article 329 (a) is further amended by deleting "(or ten months in the case of grain)" in the fourth line.

Article 332 is amended by redesignating paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d), respectively, and by adding new paragraphs designated (a), and (e), reading as follows:

(a) Tariff Act of 1930, section 557 (b), as amended by the Customs Administrative Act of 1938, section 22 (a):

The right to withdraw any merchandise entered in accordance with subsection (a) of this section for the purposes specified in such subsection may be transferred upon compliance with regulations prescribed by the Secretary of the Treasury. So long as any such transfer remains unrevoked the transferee shall have, with respect to the merchandise the subject of the transfer, all rights to file protests, and to the privileges provided for in this section and in sections 562 and 563 of this Act which would otherwise be possessed by the transferor. The transferee shall also have the right to receive all lawful refunds of moneys paid by him to the United States with respect to the merchandise and no revocation of any transfer shall deprive him of this right. Any such transfer may be made irrevocable by the filing of a bond of the transferee in such amount and with such conditions as the Secretary of the Treasury shall prescribe, including an obligation to pay all unpaid regular, increased, and additional duties, charges, and exactions on the merchandise the subject of the transfer. Upon the filing of such bond the transferor shall be relieved from liability for the payment of duties, charges, and exactions on the merchandise the subject of the transfer, but shall remain bound by all other unsatisfied conditions of his bond.

(e) If a bond is filed by the transferee on customs Form 7555, the right of the transferee to withdraw the merchandise may not thereafter be revoked by the person who made the warehouse entry.

Article 333 (b) is amended to read as follows:

(b) Any difference between the total estimated duties deposited and the total liquidated duties accruing on merchandise withdrawn for consumption before the liquidation or reliquidation of the warehouse entry, if less than $1, shall be disregarded and if $1 or more shall be collected or refunded as the case may be. An unnumbered statement shall be prepared by the collector in duplicate on customs Form 7505, showing the total number of withdrawals for consumption made before the liquidation or reliquidation of the warehouse entry, the total estimated duties deposited, the total liquidated duties accrued on the merchandise covered by such withdrawals, and any increased duties due or excess duties deposited. The collector shall promptly forward the duplicate statement to the comptroller.

Article 333 (c) is amended by deleting "the difference" in the first line and substituting therefor "a difference of $1 or more."

Article 334 (a) is amended by deleting the colon in the first line and adding the following:

(a), as amended by the Customs Administrative Act of 1938, sections 2, 22 (a), and 23 (a):

Article 334 (a) is further amended by deleting "(or 10 months in the case of grain)" in the seventh and fourteenth lines, and by inserting "Wake Island, Midway Islands, Kingman Reef," before "or the Island of Guam," in the tenth and eleventh lines.

Article 342 (c) is amended to read as follows:

(c) Tariff Act of 1930, section 558 (a) (2), as amended by the Customs Administrative Act of 1938, section 24:

No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

• • • • • •

When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe;

• • • • • •

Paragraph (d) of article 342 is redesignated paragraph (e) and a new paragraph designated (d) is added, reading as follows:

(d) Merchandise regularly entered in good faith and denied admission into the United States by any Government agency, if exported under customs supervision, may be treated as a nonimportation with refund of duty deposited and without the assessment of additional duty. (As to destruction of such merchandise, see art. 806 (e).)

Article 365 is amended to read as follows:

ART. 365. *Importations not exceeding $1 in value.*—(a) Tariff Act of 1930, section 321, as amended by the Customs Administrative Act of 1938, section 7:

Collectors of customs are hereby authorized under such regulations as the Secretary of the Treasury may prescribe, • • • to admit articles free of duty when the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, but the aggregate value of articles imported by one person on one day and exempted from the payment of duty under the authority of this section shall not exceed • • • $1 • • •. [See art. 423 (l).]

(b) Customs officers may pass free of duty, without issuing a mail entry therefor, parcels containing articles (except those subject to internal-revenue tax) the aggregate value of which is not more than $1, provided the merchandise is not imported for sale or forwarded in a manner designed to evade the payment of customs duty. Where such importations are subject to internal-revenue tax, both duty and tax shall be assessed. (See arts. 283 and 832.)

Article 392 is amended by deleting the first three sentences and substituting therefor the following:

The requirements of the customs laws and regulations relating to the marking of imported merchandise to indicate the country of origin shall be strictly enforced. When merchandise imported by mail, not meeting those requirements, is not to be delivered from the post office where it has been given a customs examination, the examining customs officer shall place in the envelope containing the mail entry a copy of customs Form 3475, containing instructions to the postmaster concerning the marking to be required before delivery.

Article 396 is amended to read as follows:

ART. 396. *Free entry authorized.*—Tariff Act of 1930, paragraph 1615 (free list), as amended by the Customs Administrative Act of 1938, section 35:

(a) Articles, the growth, produce, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means.

(b) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers of domestic or foreign manufacture, exported empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise, including shooks and staves produced in the United States when returned as boxes or barrels in use as the usual containers of merchandise.

(c) Photographic dry plates and films of the manufacture of the United States (except moving-picture films to be used for

commercial purposes), exposed abroad, whether developed or not.

(d) Photographic films light struck or otherwise damaged, or worn out, so as to be unsuitable for any other purposes than the recovery of the constituent materials, provided the basic films are of the manufacture of the United States.

* * * * *

(h) The allowance of total or partial exemption from duty under any provisions of this paragraph shall be subject to such regulations as to proof of identity and compliance with the conditions of this paragraph as the Secretary of the Treasury may prescribe.

Article 397 is amended by deleting paragraphs (c) and (d) and substituting therefor a new paragraph (c) reading as follows:

(c) In the case of moving-picture films exposed abroad, free entry shall not be allowed under paragraph 1615 (c) unless the requirements set forth above in this article are met and the collector is satisfied by an affidavit of the importer and such other evidence as the collector shall deem necessary that the films are not to be used for commercial purposes. Such moving-picture films, when imported in passengers' baggage, may be passed free of duty without compliance with the requirements of this article if the collector is satisfied that the films were manufactured in the United States and are not to be used for commercial purposes.

Article 398 (a) is amended by deleting the first sentence and substituting therefor the following:

(a) The collector may waive record evidence of exportation and declaration of the foreign shipper provided for in article 397 (a) if he is satisfied by the production of other evidence as to the existence of all the facts upon which the entry of the merchandise under paragraph 1615 is dependent.

Article 398 (b) is amended to read as follows:

(b) No evidence relative to the conditions of paragraph 1615 will be required in the case of articles of domestic manufacture in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty unless such articles would be dutiable, if not of domestic manufacture, under special provisions of the tariff act such as paragraphs 217, 328, and 408.

Article 399 is amended to read as follows:

ART. 399. *Drawback—Internal revenue tax—Articles excluded from paragraph 1615 (a), (b), (c), and (d).*—(a) Tariff Act of 1930, paragraph 1615 (free list), as amended by the Customs Administrative Act of 1938, section 35:

* * * * *

(e) The foregoing provisions of this paragraph shall not apply to—

(1) Any article upon which an allowance of drawback has been made under section 313 of this Act or a corresponding provision of a prior tariff act, unless such article is in use at the time of importation as the usual container or covering of merchandise not subject to an ad-valorem rate of duty;

(2) Any article of a kind with respect to the importation of which an internal-revenue tax is imposed at the time such article is entered for consumption or withdrawn from warehouse for consumption, unless such article was subject to an internal-revenue tax imposed upon production or importation at the time of its exportation from the United States and it shall be proved that such tax was paid before exportation and not refunded;

(3) Any article manufactured or produced in a customs bonded warehouse in the United States and exported under any provision of law; or

(4) Any article made dutiable under the provisions of paragraph 1606 (c) of this Act.

(f) Upon the entry for consumption or withdrawal from warehouse for consumption of any article previously exported, which is excepted from free entry under this paragraph by the foregoing subparagraph (e) and is not otherwise exempted from the payment of duty, there shall be levied, collected, and paid thereon, in lieu of any other duty or tax, a duty equal to the total duty and internal-revenue tax, if any, then imposed with respect to the importation of like articles not previously exported from the United States, but in no case in excess of the sum of customs draw-back, if any, proved to have been allowed upon the exportation of such article from the United States plus the amount of the internal-revenue tax, if any, imposed at the time such article is entered for consumption or withdrawn from warehouse for consumption upon the importation of like articles not previously exported from the United States. Manufactured tobacco subject to duty hereunder shall be retained in customs custody until internal-revenue stamps in payment of any part of the legal duties measured by a rate or amount of internal-revenue tax shall have been placed thereon.

(b) The following articles, if in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty, shall be admitted free of duty, even though exported with benefit of drawback:

(1) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers and coverings of domestic manufacture, exported empty or filled with products of the United States, including shooks and staves when returned as boxes or barrels; and

(2) Other usual coverings and containers of domestic manufacture, if not advanced in value or improved in condition by any process of manufacture or other means. Filling, sealing, and labeling are held to advance the value of the contents rather than that of the containers.

(c) Except as provided in paragraph (b), and if the merchandise is not otherwise exempted from duty, the entry shall not be liquidated free of duty unless the collector is satisfied from the certificate of exportation or other evidence or information that no drawback was allowed at the time of exportation and that the merchandise is not subject to a duty equal to the internal-revenue tax imposed on the importation of like articles not previously exported from the United States. In the absence of satisfactory evidence or information as to the allowance or nonallowance of drawback, the entry shall be liquidated with the assessment of duty equal to the total duty and internal-revenue tax, if any, imposed with respect to the importation of like articles not previously exported from the United States. If the amount of drawback allowed has been proved, the duty assessed shall be in the amount of the drawback plus the amount of any internal-revenue tax imposed with respect to the importation of like articles not previously exported from the United States, or in the amount of the duty and any internal-revenue tax imposed on the importation of like articles not previously exported from the United States, whichever is the lower.

(d) Articles manufactured or produced in a customs bonded warehouse and exported shall be subject on reimportation to a duty equal to the total duty and internal-revenue tax, if any, imposed at the time of entry for consumption or withdrawal from warehouse for consumption with respect to the importation of like articles not previously exported from the United States.

(e) Animals straying across the border or driven across the border for pasturage purposes or for feeding to improve them for the market and not returned within eight months are excluded from free entry as domestic products returned.

Article 402 (a) is amended to read as follows:

(a) Shooks and staves produced in the United States and reimported in the form of complete boxes or barrels in use as the usual containers of merchandise are exempt from any duties imposed by the tariff laws upon similar containers made of foreign shooks or staves, provided their identity is established under these regulations.

Article 405 is amended by deleting the caption and substituting therefor the following:

Drums—Quicksilver flasks—Outer containers.—

Article 405 (a) is amended to read as follows:

(a) Except as provided in article 398 (b), steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, and other substantial outer containers of domestic manufacture should be entered under the general regulations governing the free entry of domestic products exported and returned. If the record evidence of exportation cannot be produced, the collector may accept other satisfactory evidence of allowance or nonallowance of drawback. In the absence of satisfactory evidence as to the allowance of drawback, or as to the amount thereof paid, on metal drums of American manufacture, unless exempt from duty in accordance with article 399 (b), duty should be assessed in the amount of 24 cents per drum, the fair average amount of drawback paid on such articles.

Article 405 (b) is amended to read as follows:

(b) Steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums and other substantial outer containers of foreign manufacture, if actually exported from the United States empty and returned as usual containers or coverings of merchandise or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise, shall be exempt from duty if exported in accordance with the regulations contained in article 402 (d), (e), (f), except that the notice of intent shall be on customs Form 4481 and the certificate of exportation issued by the collector on Customs Form 4473, and if there are filed in connection with the entry an affidavit of the importer on customs Form 3289 and certificates of the foreign shipper and the American consul as prescribed in paragraphs (c) and (d) of this article. Prior to exportation from the United States such articles must be permanently and indelibly marked for identification.

Article 405 (c) is amended to read as follows:

(c) A foreign shipper desiring to return to the United States any articles described in the preceding paragraph should furnish the American consul at the place of shipment with a certificate in the following form:

I, ----------, of ----------, do hereby certify that to the best of my knowledge and belief the (steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums and other substantial outer containers) [1] mentioned in (the annexed invoice) (invoice No. ----, of ---------- 19--) [1] are of the manufacture of ---------- and were exported from the United States at the port of ---------- per SS ---------- on ---------- 19-- (empty --------) (filled with ----------),[1] and that the same are being returned to the United States (empty ----------) (filled with ----------).[1]

(Shipper)

Article 405 (e) is amended to read as follows:

(e) If claim for exemption from duty for foreign steel boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers is made at the time of entry, the certificates of the foreign shipper and American consul may be accepted if produced at any time prior to the liquidation of the entry.

Article 406 is amended by inserting "of domestic manufacture" in the first line before "exported" and by deleting the last sentence.

[1] Cross out inapplicable words.

The caption and paragraph (a) of article 408 are amended to read as follows:

ART. 408. *Articles exported for repairs or alterations.*—(a) Tariff Act of 1930, paragraph 1615 (free list), as amended by the Customs Administrative Act of 1938, section 35:

* * * * *

(g) Any article exported from the United States for repairs or alterations may be returned upon the payment of a duty upon the value of the repairs or alterations at the rate or rates which would apply to the article itself in its repaired or altered condition if not within the purview of this subparagraph.

(h) The allowance of total or partial exemption from duty under any provision of this paragraph shall be subject to such regulations as to proof of identity and compliance with the conditions of this paragraph as the Secretary of the Treasury may prescribe.

Paragraphs (g) to (l), inclusive, of article 408 are amended to read as follows:

(g) If at the time of reimportation the value of the articles, in their repaired or altered condition, exceeds $100, there shall be filed in connection with the entry an invoice showing separately the value of the articles in their repaired or altered condition and the cost or value of the repairs or alterations. This invoice shall be certified by the American consul when the merchandise is of a class requiring a consular invoice, and shall have attached thereto a certificate, certified by an American consul, made by the person in the foreign country who made the repairs or alterations. This certificate shall be in substantially the following form:

(Place and date)

I, ----------, do solemnly and truly declare, that the articles herein specified are, to the best of my knowledge and belief, the identical articles received by me (us) on ----------, 19--, from

----
(Date of receipt)

----------, U. S. A.;
(Name of owner in the United States)

that they were received by me (us) for the sole purpose of being repaired or altered; that the repairs or alterations described in detail below, and no other repairs or alterations have actually been made by me (us); that the cost or value of such repairs or alterations and the value of the articles after repair or alteration are correctly stated below; and that no substitution whatever has been made to replace any of the articles originally received by me (us) from the owners thereof mentioned above.

(Signature)

(Capacity)

Marks and numbers (quantity)	Description of articles and of repairs or alterations	Cost or value of repairs or alterations	Total value of articles after repairs or alterations

Certified by me this ---------- day of ----------, 19--.

Consul of the United States of America.

(h) There shall also be filed the certificate of registration (customs Form 4455) and a declaration made by the consignee, owner, or agent having knowledge of the facts, that the articles entered are the identical articles covered by the certificate of registration, and that the value or cost of repairs or alterations is correctly stated in the entry. In cases where an article exported and repaired or altered abroad is imported by a person not a regular importer, and the exportation was not made in accordance with these regulations, the collector, if satisfied as to the bona fides of the transaction and that the exporter was ignorant of the regulation requirements, may waive the production of the certificate of registration (customs Form 4455) and compliance with so much of these regulations as relates to the exportation under such certificate.

(i) When the value of the returned articles in their repaired or altered condition, is less than $100, a bill or statement showing separately the value of the articles in their repaired or altered condition and the cost or value of the repairs or alterations may be accepted in lieu of a certified consular invoice and the certificate of the person in the foreign country who made the repairs or alterations need not be filed.

(j) Collectors shall require at the time of entry a deposit of estimated duties, based upon the value of the repairs or alterations, and shall order all packages containing such articles to the appraiser's stores for identification of the articles and appraisement of the value of the repairs or alterations.

(k) Special investigations shall be made when there is suspicion that substitution has occurred, when there is question as to the amount and nature of the repairs or alterations, or in any other case when there is doubt as to the bona fides of a particular transaction.

(l) The term "repairs or alterations" is hereby defined to mean any restoration, change, addition, renovation, cleaning, or other treatment which does not destroy the identity of the article exported or create a new or different article.

Article 409 (b) is amended by inserting "or alterations" after "repairs" in the third line.

Article 419 (a) is amended to read as follows:

(a) Tariff Act of 1930, paragraph 1798 (free list), as amended by the Liquor Tax Administration Act, approved June 26, 1936, section 337, and by the Customs Administrative Act of 1938, section 36:

* * * in case of residents of the United States returning from abroad all wearing apparel, personal and household effects,

• • • taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established under appropriate rules and regulations to be prescribed by the Secretary of the Treasury: Provided further, That up to but not exceeding $100 in value of articles (including distilled spirits, wines, and malt liquors aggregating not more than one wine gallon and including not more than one hundred cigars) acquired abroad by such resident of the United States as an incident of the foreign journey for personal or household use or as souvenirs or curios, but not bought on commission or intended for sale, shall be free of duty: Provided further, That (a) in the case of articles acquired in any country other than a contiguous country which maintains a free zone or free port, the exemption authorized by the preceding proviso shall apply only to articles so acquired by a returning resident who has remained beyond the territorial limits of the United States for a period of not less than forty-eight hours and (b) in the case of articles acquired in a contiguous country which maintains a free zone or free port, the Secretary of the Treasury shall by special regulation or instruction, the application of which may be restricted to one or more individual ports of entry, provide that the exemption authorized by the preceding proviso shall be applied only to articles acquired abroad by a returning resident who has remained beyond the territorial limits of the United States for not less than such period (which period shall not exceed twenty-four hours) as the Secretary may deem necessary in the public interest or to facilitate enforcement at the specified port or ports of the requirement that the exemption shall apply only to articles acquired as an incident of the foreign journey: Provided further, That the exemption authorized by the second preceding proviso shall apply only to articles declared in accordance with regulations to be prescribed by the Secretary of the Treasury by a returning resident who has not taken advantage of the said exemption within the thirty-day period immediately preceding his return to the United States: Provided further, That no such special regulation or instruction shall take effect until the lapse of ninety days after the date of such special regulation or instruction: And provided further, That all articles exempted by this paragraph from the payment of duty shall also be exempt from the payment of any internal-revenue taxes.

Article 419 (c) is amended to read as follows:

(c) The $100 exemption shall not be granted a resident of the United States who has taken advantage of such exemption within the 30-day period immediately preceding his return to the United States. The date of the passenger's latest arrival in connection with which such an exemption was allowed shall be deemed the date he took advantage of the exemption, notwithstanding the articles admitted under the exemption arrived at a subsequent date. A passenger who has received a total exemption for the journey of less than $100 is not entitled to apply the remainder of that amount to articles acquired abroad on any subsequent journey. The exemption shall not be allowed in any case unless the articles claimed to be exempt were purchased or otherwise acquired merely as an incident of the foreign journey for personal or household use, but not bought on commission or intended for sale. Articles acquired on one journey and left in a foreign country are not subject to an exemption accruing upon a passenger's return from a subsequent journey.

Article 419 (d) is amended to read as follows:

(d) In the case of articles acquired otherwise than in a contiguous foreign country which maintains a free zone or free port no exemption shall be allowed unless the returning resident has remained beyond the territorial limits of the United States for a period of not less than 48 hours. With respect to articles acquired in a contiguous foreign country which maintains a free zone or free port, the exemption may be allowed without regard to the length of time the returning resident has remained beyond the territorial limits of the United States, unless the resident returns through a port with respect to which there is in effect a special regulation or instruction requiring that the returning resident, in order to obtain the benefit of the exemption on such articles, shall have remained beyond the territorial limits of the United States for such period, not to exceed 24 hours, as shall be specified in the special regulation or instruction.

Article 419 (e) is amended by changing the period at the end of the first sentence thereof to a comma and adding the following:

provided such articles in either case are listed on a written declaration presented to the customs officer at the time of the passenger's return to the United States.

Article 419 (h) is amended to read as follows:

(h) In the absence of the certified copy of baggage declaration provided for above or in article 422 (c) (4) and (5), the exemption shall not be allowed for articles not accompanying the passenger or shipped in bond to destination, unless it is otherwise shown to the satisfaction of the collector that the passenger presented a written declaration covering such articles at the time of his return to the United States.

Article 420 (b) is amended to read as follows:

(b) Cigarettes, tobacco, not more than 100 cigars, and not exceeding an aggregate of one wine-gallon of distilled spirits, wines, and malt liquors may be included within the $100 exemption accorded each returning resident. No internal-revenue tax is payable on any articles accorded free entry under the $100 exemption. Foodstuffs may be included in the $100 exemption.

Article 422 (a) (2) is amended by changing the period at the end of the first sentence to a comma and adding the following:

and are intended for such wear and use and are not intended for other persons or for sale.

Article 422 (j) is amended by deleting the last sentence thereof.

Article 423 (i) is amended to read as follows:

(i) Tariff Act of 1930, section 321, as amended by the Customs Administrative Act of 1938, section 7:

Collectors of customs are hereby authorized, under such regulations as the Secretary of the Treasury may prescribe, • • • to admit articles free of duty when the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, but the aggregate value of articles imported by one person on one day and exempted from the payment of duty under the authority of this section shall not exceed $5 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States, or $1 in any other case.

Paragraphs designated (j), (k), (l), and (m) of article 423, are redesignated paragraphs (k), (l), (m), and (n), respectively, and a new paragraph, designated (j), is inserted, reading as follows:

(j) The word "duty" as used in the preceding paragraph does not include internal-revenue tax. The remission of duty therein authorized shall not be applied to importations subject to an internal-revenue tax, and on such importations both duty and tax shall be collected. The remission of duty under the foregoing authority shall not be construed as an exemption within the meaning of the third, fourth, and fifth provisos of paragraph 1798 of the tariff act, as amended. (Sec. 528, Tariff Act 1930.)

Article 434 is amended by deleting the matter beginning with "Tariff Act" in the first line and ending with "exempt from duty" in the eighth line and substituting therefor the following:

(a) Tariff Act of 1930, paragraphs 1607, 1747, 1808, and 1809 (free list):

Article 434 is further amended by deleting "Traffic Act of 1930, section 308," in the fifth line, page 269, and all the matter following to the end of the article, and substituting therefor the following:

(b) Tariff Act of 1930, section 308, as amended by the Customs Administrative Act of 1938, section 4:

The following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty, under bond for their exportation within six months from the date of importation, which period may, in the discretion of the Secretary of the Treasury (whether such articles are imported before or after this section becomes effective), be extended, upon application, for a further period not to exceed six months:

(1) Articles to be repaired, altered, or otherwise changed in condition by processes which do not result in articles manufactured or produced in the United States;

(2) Models of women's wearing apparel imported by manufacturers for use solely as models in their own establishment, and not for sale;

(3) Samples solely for use in taking orders for merchandise, or for examination with a view to reproduction;

(4) Articles intended solely for experimental purposes, and upon satisfactory proof to the Secretary that any such article has been destroyed because of its use for experimental purposes such bond may be canceled without the payment of duty;

(5) Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and horses, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents (A) for the purpose of taking part in races or other specific contests, or (B) for the transportation of such nonresidents, their families and guests, and such incidental carriage of articles as may be necessary and appropriate to the purposes of the journey, but not to be used for the transportation of persons or articles for hire nor in any case primarily for the carriage of articles (but nothing in this Act shall be construed as altering the customary exceptions of vehicles and other instruments of international traffic from the application of the customs laws); and in the case of horses, vehicles, and craft entered under this subdivision collectors of customs may, under such regulations as the Secretary of the Treasury may prescribe, defer the exaction of a bond for not to exceed ninety days (or six months in the case of such horses, vehicles, and craft from a country which accords a similar privilege to horses, vehicles, and craft from the United States) after the date of importation, but unless such horse, vehicle, or craft is exported or the bond is given within the period of such deferment, such horse, vehicle, or craft shall be subject to forfeiture;

(6) Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency;

(7) Containers for compressed gases which comply with the laws and regulations for the transportation of such containers in the United States;

(8) Articles imported by illustrators and photographers for use solely as models in their own establishments, in the illustrating of catalogues, pamphlets, or advertising matter;

(9) Professional equipment, tools of trade, and camping equipment imported for their own use by nonresidents sojourning temporarily in the United States, and articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export.

Article 435 (a) is amended to read as follows:

(a) Entry of articles under any of the above provisions of law shall be made on customs Form 7501 (at New York on customs Form 7517–B), except that when the merchandise does not exceed $100 in value the forms provided for the informal entry of importations received through the mails, in passengers' baggage, and otherwise, may be used in proper cases. When the articles are admitted under the provisions of section 308 (5) without the requirement of security for exportation, the procedure provided for in article 477 shall be followed. There shall be set forth on the entry (1) the provision of law under which entry is claimed, (2) a description of the use to be made of the articles, in sufficient detail to enable the collector to determine whether they are entitled to entry under the provision of law claimed, and (3) a declaration that the articles are not to be put to any other use and that they are not imported for sale or sale on approval.

Article 435 (b) is amended by deleting the exception following "$100," in the last sentence and substituting therefor the following:

except in the case of articles entered under section 308 (5).

Article 435 (d) is amended by deleting "bond" in the eighth line, and substituting therefor "sureties."

Article 435 (e) is amended by deleting "or deposit of cash in lieu thereof" in the second line.

Article 436 (c) is amended by deleting "or cash deposit" in the first line.

Article 440 is amended by deleting "or the deposit of cash equal to one and one-quarter times the estimated duty in lieu thereof" in the sixth and seventh lines.

Article 443 (c) is amended to read as follows:

(c) When articles entered temporarily free of duty under bond are destroyed within the bonded period by death, accidental fire, or other casualty, application for relief from liability under the bond may be made to the Bureau of Customs. The application should be accompanied by an affidavit of the importer or other person having knowledge of the facts, setting forth the circumstances of the destruction of the articles.

Article 444 (a) is amended by deleting "a bond" in the second line and substituting "surety" therefor.

Article 464 (a) is amended to read as follows:

ART. 464. *Exemption from customs duties and internal-revenue tax.*—(a) Tariff Act of 1930, section 309 (a), (c), and (d), as amended by the Customs Administrative Act of 1938, section 5 (a):

(a) *Exemption from customs duties and internal-revenue tax.*—Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse free of duty or internal-revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or for supplies (not including equipment) of aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions, or for supplies (including equipment), maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

(c) *Articles removed in, or returned to, the United States.*—Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

(d) *Reciprocal privileges.*—The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign country.

Paragraphs (b) and (c) of article 464 are redesignated paragraphs (c) and (d), respectively, and a new paragraph (b) is added, reading as follows:

(b) Revenue Act of 1932, section 630, as amended by the Revenue Act of 1938, section 705 (a):

Under regulations prescribed by the Commissioner, with the approval of the Secretary, no tax under this title shall be imposed upon any article sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. Articles manufactured or produced with the use of articles upon the importation of which tax has been paid under this title, if laden for use as supplies on such vessels, shall be held to be exported for the purposes of section 601 (b). The term "vessels" as used in this section includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term "vessels of war of the United States or of any foreign nation" includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof. The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions. [Provisions relating to aircraft effective July 1, 1938.]

Redesignated paragraph (c) of article 464 is amended to read as follows:

(c) Articles 466 to 470, inclusive, in so far as applicable, shall apply with respect to aircraft registered in the United States and actually engaged in foreign trade or trade between the

United States and any of its possessions and aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

Article 466 is amended by adding a new paragraph, designated paragraph (f), reading as follows:

(f) When articles are exported from continuous customs custody elsewhere than in a bonded warehouse, the procedure provided for in article 910 shall be followed. There shall be such examination of the articles as may be necessary to satisfy the collector that they are subject to the privileges of section 309, Tariff Act of 1930, and that the value and quantity declared for them are correct.

Article 471 is amended by deleting the caption and substituting therefor the following:

Tobacco products—Supplies for aircraft.—

Article 471 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 317, as amended by the Customs Administrative Act of 1938, section 5 (b):

(a) The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section 3448 of the Revised Statutes, shall be deemed exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

(b) The shipment or delivery of any merchandise for use as supplies (including equipment) upon, or in the maintenance or repair of, aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted, shall be deemed an exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such merchandise without the payment of duty or internal-revenue tax.

Article 477 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 308 (5), as amended by the Customs Administrative Act of 1938, section 4:

The following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty, under bond for their exportation within six months from the date of importation, which period may, in the discretion of the Secretary of the Treasury (whether such articles are imported before or after this section becomes effective), be extended, upon application for a further period not to exceed six months:

(5) Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and horses, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents (A) for the purpose of taking part in races or other specific contests, or (B) for the transportation of such nonresidents, their families and guests, and such incidental carriage of articles as may be necessary and appropriate to the purposes of the journey, but not to be used for the transportation of persons or articles for hire nor in any case primarily for the carriage of articles (but nothing in this Act shall be construed as altering the customary exceptions of vehicles and other instruments of international traffic from the application of the customs laws); and in the case of horses, vehicles, and craft entered under this subdivision collectors of customs may, under such regulations as the Secretary of the Treasury may prescribe, defer the exaction of a bond for not to exceed ninety days (or six months in the case of such horses, vehicles, and craft from a country which accords a similar privilege to horses, vehicles, and craft from the United States) after the date of importation, but unless such horse, vehicle, or craft is exported or the bond is given within the period of such deferment, such horse, vehicle, or craft shall be subject to forfeiture;

Article 477 (b) is amended to read as follows:

(b) If the collector is satisfied of the importer's identity and good faith, an article may be admitted under the above provision of law for a stay of not to exceed 90 days (or six months in the case of horses, vehicles, and craft from a country which accords a similar privilege to horses, vehicles, and craft from the United States) without entry or security for exportation. In such cases, the collector shall issue to the importer a certificate on customs Form 4447, which shall be delivered with the horse, vehicle, or craft covered thereby to the customs officer at the port of exit at the time of departure. The customs officer to whom the certificate is surrendered shall examine the horse, vehicle, or craft, supervise its exportation if the examination satisfactorily establishes the identity of the article, and endorse the certificate to show the fact of exportation. The stub of the certificate, appropriately endorsed, shall be returned to the port where the certificate was issued. Certificates shall be issued to aircraft only when the craft are registered in a country with which the United States has a reciprocal agreement in regard to aircraft and piloting privileges, or when the person in charge produces proper evidence of permission from the Department of Commerce to operate in the United States. Lists of countries granting horses, vehicles, and craft from the United States the privilege of six months free entry without bond, and of countries with which the United States has reciprocal agreements concerning aircraft and piloting privileges, will be published from time to time in *Treasury Decisions*.

Article 477 (c) is amended by inserting after "90 days" in the third line the following:

(or six months in the case of horses, vehicles, and craft entitled to entry for six months without bond)

Article 477 (d) is amended to read as follows:

(d) When any horse, vehicle, or craft is admitted under the provisions of this article and the importer desires to prolong his stay beyond the time for which the horse, vehicle, or craft was admitted, an entry covering the horse, vehicle, or craft and security for its exportation may be accepted under the provisions of article 435 at any port where the article may be presented for examination. When the article was admitted for six months without bond, the entry shall be accompanied by an application of the importer to the Bureau of Customs for approval of the acceptance of the entry, and the acceptance of the entry shall be tentative pending such approval. The application and report of the collector thereon shall be in accordance with the provisions of article 441. Whenever an entry is substituted under the provisions of this paragraph for a certificate (customs Form 4447), the time during which the imported article may remain in the United States under the entry shall be computed from the date of original arrival in the United States and the article shall be appraised according to its value at the time of such arrival.

Article 477 (i) is amended by deleting the second sentence and substituting therefor the following:

If any horse, vehicle, or craft which has entered the United States for a temporary stay under the provisions of this article is not exported or entered under bond, or is determined to have been imported (except as provided for in paragraph (g)) for the transportation of persons or articles for hire, or primarily for the carriage of articles, such horse, vehicle, or craft is subject to forfeiture.

Article 503 (a) is amended to read as follows:

(a) Tariff Act of 930, paragraph 1797 (free list):

Disks of soft wax, commonly known as master records, or metal matrices obtained therefrom, for use in the manufacture of sound records for export purposes.

Articles 504 to 513, inclusive, are amended to read as follows:

ART. 504. *Entry or withdrawal under bond.*—(a) Tariff Act of 1930, paragraph 1101, as amended by the Customs Administrative Act of 1938, sec. 33 (a):

(a) Wools: Donskoi, Smyrna, Cordova, Valparaiso, Ecuadorean, Syrian, Aleppo, Georgian, Turkestan, Arabian, Bagdad, Persian, Sistan, East Indian, Thibetan, Chinese, Manchurian, Mongolian, Egyptian, Sudan, Cyprus, Sardinian, Pyrenean, Oporto, Iceland, Scotch Blackface, Black Spanish, Kerry, Haslock, and Welsh Mountain; similar wools without merino or English blood; all other wools of whatever blood or origin not finer than 40s; and hair of the camel; all of the foregoing, in the grease or washed, 24 cents per pound of clean content; scoured, 27 cents per pound of clean content; on the skin, 22 cents per pound of clean content; sorted, or matchings, if not scoured, 25 cents per pound of clean content: *Provided*, That a tolerance of not more than 10 per centum of wools not finer than 44s may be allowed in each bale or package of wools imported as not finer than 40s.

(b) Any of the foregoing may be entered or withdrawn from warehouse without the payment of duty by a manufacturer, processor, or dealer upon the filing of a bond to insure that any wool or hair entered or withdrawn thereunder shall be used only in the manufacture of press cloth, camel's hair belting, knit or felt boots, heavy fulled lumbermen's socks, rugs, carpets, or any other floor coverings. * * * The Secretary of the Treasury is authorized to prescribe such regulations and the form, conditions, and amounts of such bonds as may be necessary to carry into effect the provisions of this subparagraph.

(b) Customs Administrative Act of 1938, section 33 (b):

The provisions of paragraph 1101 of the Tariff Act of 1930, as amended by this Act, with respect to wool or hair entered under bond for use in the manufacture of articles enumerated in such paragraph, shall apply with respect to wool or hair under bond on the effective date of this Act, as well as with respect to wool or hair thereafter imported.

(c) For the purposes of articles 505 to 513, inclusive—

(1) Except with reference to entry or withdrawal, the term "wool or hair" means wool or hair in its imported or any other form, that is, wool or hair which has been entered or withdrawn under the provisions of paragraph 1101 (b), Tariff Act of 1930, and any product or substance composed wholly or in part of, and resulting from any processing of, such wool or hair under bond, but does not include articles made from such wool or hair and enumerated in such paragraph 1101 (b).

(2) Wool or hair is transferred under bond whenever it is transferred from the custody of one manufacturer, processor, or dealer to the custody of another manufacturer, processor, or dealer, whether the transferor or transferee is the owner of the merchandise or has received or is to receive such merchandise to be processed for the account of another.

ART. 505. *Entry or withdrawal.*—(a) Such wool or hair may be entered on customs Form 7501 (consumption entry) and be immediately released under bond, or may be entered for warehouse on customs Form 7502 and remain in bonded warehouse under the ordinary warehouse bond until appropriately withdrawn or otherwise disposed of in accordance with law.

(b) When entry is made on customs Form 7501, it shall have indorsed thereon the following notation: "Above merchandise entered under bond for use in the manufacture of ---------- (floor coverings, press cloth, camel's hair belting, knit or felt boots, or heavy fulled lumbermen's socks) under the provisions of paragraph 1101 (b), Tariff Act of 1930, as amended by section 33, Customs Administrative Act of 1938," which indorsement shall be signed by the obligor on the bond. When the merchandise is entered for warehouse, withdrawals for use in the manufacture of the articles enumerated shall be made on customs Form 7506 in the name of the obligor on the bond.

(c) Such wool or hair which has been released from customs custody may not be restored to a customs status from which it could thereafter be entered or withdrawn under the provisions of paragraph 1101 (b), Tariff Act of 1930.

ART. 506. *Bond - form - penalty.*—(a) At the time of making entry for consumption or withdrawal from warehouse of the wool or hair there shall be filed a single entry bond on customs Form 7547, unless the transaction is charged against a term bond on customs Form 7549 or other appropriate form. The penalty of the single entry bond shall be in an amount equal to the value of the wool or hair plus double the estimated duties. The penalty of the term bond shall be $10,000 or such larger amount as the collector of customs deems necessary to the protection of the revenue.

(b) A single entry or term bond shall be filed by each manufacturer, processor, or dealer entering or withdrawing the wool or hair under bond or receiving it by transfer under bond in its imported or other form.

(c) Only one term bond shall be required from each manufacturer, processor, or dealer. If wool or hair is entered or withdrawn at any port other than that at which the original term bond is filed, a certified copy of such bond shall be filed at such other port. The collector at the port of entry or withdrawal shall forward to the collector at the port where the original bond is filed a certificate, customs Form 7531, showing the particulars of importation of the wool or hair entered or withdrawn, so that it may be charged against the original bond.

ART. 507. *Records of receipt of wool or hair.*—(a) Each manufacturer, processor, or dealer who enters or withdraws wool or hair under bond or who receives wool or hair by transfer under bond shall keep records which will show:

(1) In the case of entry or withdrawal, the quantity, entered clean content, identity, and description of the wool or hair entered or withdrawn under bond; and

(2) In the case of receipt by transfer, the quantity, description, and date of transfer certificate (see art. 509) of the wool or hair received by transfer under bond, and the name and address of the transferor from whom received.

(b) Every lot of wool or hair entered or withdrawn under bond, or received by transfer under bond, shall be marked or stored, until put into process, in such manner as to insure the identification of the lot with the entry, withdrawal, or transfer certificate.

(c) Each manufacturer or processor shall keep records showing when each lot of bonded wool or hair was put into process by him.

ART. 508. *Records of manufacture—abstracts.*—(a) Each manufacturer or processor shall keep the records specified in this article with respect to products and substances resulting wholly or in part from wool or hair. Such records may be kept by manufacturing lot or by period of manufacture of not to exceed six months, and shall show:

(1) The date or inclusive dates of the processing of each manufacturing lot or the inclusive dates of each period of manufacture;

(2) The quantity, identity, and description of the wool or hair, not previously processed by the reporting manufacturer or processor, put into process in the lot or during the period;

(3) The quantity and description of all intermediate products, stocks in process, and wastes (including noils), not described in the preceding paragraph, which are put into process in the lot or during the period. (This applies only to materials carried over from a previous lot or period and does not require the keeping of records of materials which are put back into process in the same lot or period in which they resulted);

(4) The quantity and description of the final products resulting from the processing by the manufacturer or processor; the quantity by weight of the wool or hair contained therein; and

(5) The quantity of any wastes (including noils) incurred which remain on hand upon completion of the manufacturing lot or period of manufacture. Such wastes shall be accounted for under the following designations:

Noils.

Soft (including all wastes, except noils, burr wastes, card strippings, and sweepings, produced after the scouring of the wool or hair and before the spinning operation).

Hard (including all wastes, except sweepings, produced in and after the spinning operation but before completion of the weaving operation or, in the case of the manufacture of articles enumerated in paragraph 1101 (b), Tariff Act of 1930, which are not woven, before the completion of the enumerated article).

Fly (including all wastes other than noils and hard and soft wastes as above specified).

White soft wastes and white threads shall be accounted for separately.

(6) The records of each manufacturer or processor shall contain a detailed inventory of all wool and hair on hand at the close of each abstract period or at the completion of each manufacturing lot.

(b) When the manufacturer or any enumerated article spins the yarns used in the manufacture thereof, he shall also keep records showing the quantity and description of all the yarns so spun.

(c) When a bonded manufacturer or processor has not manufactured or processed any bonded wool or hair for a period of six months since his last report, he shall promptly so advise the collector of customs.

(d) Within three months after the completion of each lot or period of manufacture, the manufacturer or processor shall submit to the collector of customs where his original bond is on file an abstract of his records of manufacture showing the data provided for heretofore in this article.

(e) Each such abstract shall bear the following affidavit of an authorized officer or member of the firm:

I, _____, do hereby solemnly swear (affirm) that this document is a true and correct abstract of our records of manufacture; that such records have been kept in the manner prescribed by article 508 of the Customs Regulations of 1937, as amended.

All wastes reported herein as resulting from operations in our plant resulted in the usual course of manufacture of articles enumerated in paragraph 1101 (b), Tariff Act of 1930, as amended, except as follows:

_____
_____
_____

All wool or hair delivered from our plant during the period covered by this abstract, under a transfer certificate or otherwise, has been listed herein.

_____
_____
(Title).

Subscribed and sworn to before me this _____ day of _____, 19____.

_____,
Notary Public or Deputy Collector of Customs.

ART. 509. *Records and reports of enumerated articles or wool or hair delivered—Transfer certificates.*—(a) Each manufacturer, processor, or dealer shall keep records showing the quantity, description, and wool or hair content of all wool or hair (including samples) and enumerated articles delivered from his premises pursuant to transfer under bond, purchase, consignment, or otherwise. Such records shall also show the date of delivery from the premises, and the name and address of the transferee, purchaser, consignee, or other person to whom delivery is made. The records shall show also the exact designation under which any wool or hair was transferred, sold, consigned, or otherwise delivered and (except as to transfers under bond) the price paid or agreed to be paid, or, if there has been no sale or contract of sale, the price that the manufacturer, processor, or dealer would have received or was willing to receive for the wool or hair if sold in the ordinary course of trade. Every delivery within the purview of this paragraph, except of enumerated articles, shall be shown on the abstract prescribed in article 508 (d).

(b) Within 30 days after the delivery of wool or hair from the premises, otherwise than under a transfer certificate provided for in paragraph (e) of this article, the manufacturer, processor, or dealer making such delivery shall file an affidavit with the collector of customs in whose district his original bond is filed, showing the quantity and description of merchandise delivered, the date of delivery, and the name and address of the person to whom delivered. The affidavit shall show the particulars as to price specified in paragraph (a) of this article, whether representative samples have been retained, whether the merchandise resulted in the usual course of manufacture of enumerated articles, and whether such merchandise could have been used (with or without further preparation) in the manufacture of enumerated articles.

(c) The manufacturer, processor, or dealer shall retain for customs inspection a representative sample of not less than one pound of each kind of merchandise for which a report is required by article 510 (b) or (c). Such sample shall be properly identified in his records with the report covering such merchandise and for a period of three months after the delivery such sample shall at all reasonable times be available for inspection by proper officers of the Government.

(d) Tariff Act of 1930, paragraph 1101 (b), as amended by the Customs Administrative Act of 1938, section 33 (a):

> • • • A manufacturer, processor, or dealer may be relieved of liability under his bond with respect to any wool or hair so entered or withdrawn which is transferred in its imported or any other form to another manufacturer, processor, or dealer who has filed a bond to insure that the merchandise so transferred shall be used only in the manufacture of the above-enumerated articles. • • •

(e) Wool or hair transferred by one bonded manufacturer, processor, or dealer to another bonded manufacturer, processor, or dealer shall be covered by a transfer certificate, customs Form 7531–a, which shall be filed within 30 days after the transfer. When the original bonds of both the transferor and transferee are on file in the office of one collector of customs, the transfer certificate shall be filed with that officer in duplicate. When the original bond of the transferee is on file in another customs district, the transfer certificate shall be filed in triplicate, one copy to be retained by the collector at the place of filing and two copies to be forwarded to the collector where the original bond of the transferee is on file, who shall acknowledge receipt thereof. The transferor shall not be relieved from liability under his bond until the transferred wool or hair has been charged against the bond of the transferee.

ART. 510. *Reports of use or transfer for use in violation of bond.*—(a) Tariff Act of 1930, paragraph 1101 (b), as amended by the Customs Administrative Act of 1938, section 33 (a):

> • • • Every manufacturer, processor, or dealer who has given a bond pursuant to the provisions of this sub-paragraph shall report any use or transfer of merchandise in violation of the terms of his bond, within thirty days after such use or transfer, to the collector of customs in whose district the bond is filed; and for failure to so report, such manufacturer, processor, or dealer shall be liable to a penalty equal to the value of the merchandise so used or transferred at the time and place of such use or transfer. Such penalty shall be in addition to the duties above provided for. • • •

(b) When a bonded manufacturer or processor uses any bonded wool or hair otherwise than in the manufacture of the enumerated articles, or in preparation for such manufacture, he shall within 30 days after such use make a report thereof to the collector of customs in whose district his original bond is filed, showing the quantity and description of the wool or hair so used, the use to which it has been put, the date of such use, whether such wool or hair resulted in the usual course of manufacture of the enumerated articles, and whether it could have been used in the usual course of manufacture of such articles.

(c) Manufacturers, processors, or dealers shall likewise report to such collector of customs within 30 days any transfer of bonded wool or hair for use otherwise than in the manufacture of the enumerated articles. The report shall show the quantity and description of the wool or hair, the date of transfer, the name and address of the transferee, and, if known, the specific use to which the wool or hair is to be put. Such reports of manufacturers or processors shall state whether the wool or hair resulted in the usual course of manufacture of the enumerated articles and whether it could have been used in the manufacture of such articles.

(d) Whether merchandise has resulted in the usual course of manufacture shall be determined with respect to the normal operations of the plant at which such merchandise resulted. Whether merchandise resulting in the usual course of manufacture of such enumerated articles can be used, with or without further preparation, in the usual course of manufacture of any enumerated articles, shall be determined with respect to the normal operations of the industries producing such articles in the United States.

ART. 511. *Duties—Exportation or destruction.*—(a) Tariff Act of 1930, paragraph 1101 (b), as amended by the Customs Administrative Act of 1938, section 33 (a):

> • • • If any wool or hair so entered, withdrawn, or transferred under bond is used or transferred for use in its imported or any other form in any manner otherwise than in the manufacture of the articles enumerated above, there shall be levied, collected, and paid on the merchandise so used or transferred in violation of the bond the regular duties which would apply to such merchandise if imported in its condition at the time of such use or transfer. Such duties shall be paid by the manufacturer, processor, or dealer whose bond is charged with the wool or hair at the time of such use or transfer; but such duties shall not be levied or collected on any merchandise (except white soft wastes, white threads and noils, which shall be dutiable at seven-eighths of such regular duties when used or transferred for use otherwise than in the manufacture of the enumerated articles) resulting in the usual course of manufacture of such enumerated manufactured articles which cannot be used (with or without further preparation) in the usual course of the manufacture of such enumerated articles, or which is exported or destroyed. • • •

(b) All wool or hair in its imported form used or transferred for use otherwise than in the manufacture of the enumerated articles shall be assessed with duty in accordance with the above provision. As to merchandise resulting from the use of the imported wool or hair in the usual course of manufacture of the enumerated articles, which is used or transferred for use otherwise than in the manufacture of the enumerated articles, no duty shall be assessed unless such merchandise can be used (with or without further preparation) in ordinary commercial practice in the usual course of manufacture of such enumerated articles, except in the case of white soft wastes, white threads and noils which shall be dutiable at seven-eighths of the regular duties when they are used or transferred for use otherwise than in the manufacture of the enumerated articles irrespective of whether they can be used (with or without further preparation) in the manufacture of such enumerated articles. Wastes and other merchandise which have not resulted in the usual course of manufacture of the enumerated articles are dutiable when used or transferred for use otherwise than in the manufacture of the enumerated articles irrespective of whether they could have been used with or without further preparation.

(c) Wool or hair, except wool or hair in its imported form, will be credited against the covering bond if exported or destroyed under customs supervision.

ART. 512. *Presumption that wool or hair used in violation of the bond is composed wholly of bonded wool or hair.*—(a) Tariff Act of 1930, paragraph 1101 (b), as amended by the Customs Administrative Act of 1938, section 33 (a):

> • • • When any wool or hair which has been entered or withdrawn under bond as provided for in this subparagraph is used or transferred for use, in its imported or any other form, otherwise than in the manufacture of the above-enumerated articles and prior to such use or transfer there shall have been combined or mixed with such wool or hair any other merchandise, the whole or the combination or mixture shall be presumed to be composed of wool or hair entered or withdrawn under bond, as provided for in this subparagraph, unless the manufacturer, processor, or dealer liable for the payment of the duties shall establish the quantity of bonded wool or hair in such combination or mixture. • • •

ART. 513. *Verifications of abstracts and reports.*—(a) If deemed necessary, collectors of customs will refer abstracts, reports, and certificates of transfer required by articles 509 and 510 to the appropriate supervising customs agent for verification. The originals of all books and records kept by bonded manufacturers, processors, and dealers and relating to bonded wool or hair, and the establishments of such manufacturers, processors, and dealers shall be available at all reasonable times for inspection by proper officers of the Government.

Article 528 is amended to read as follows:

ART. 528. *Marking of articles and packages to indicate country of origin.*—(a) Tariff Act of 1930, section 304 (a), as amended by the Customs Administrative Act of 1938, section 3:

> Except as hereinafter provided, every article of foreign origin (or its container, as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. The Secretary of the Treasury may by regulations—
>
> (1) Determine the character of words and phrases or abbreviations thereof which shall be acceptable as indicating the country of origin and prescribe any reasonable method of marking, whether by printing, stenciling, stamping, branding, labeling, or by any other reasonable method, and a conspicuous place on the article (or container) where the marking shall appear; • • •

(b) The term "country," as used in section 304, Tariff Act of 1930, is held to mean the political entity known as a nation. Colonies, possessions, or protectorates outside the boundaries of a mother country shall be considered separate countries. The marking required by such section 304 shall include the name of the country of origin, in English, unless other marking to indicate the English name of the country of origin is specifically authorized by the Department. The adjectival form of the name of a country is acceptable as a proper indication of the origin of imported merchandise, provided the word does not appear with other words so as to refer to a kind or species of product, such terms as "English walnuts," "Brazil nuts," etc., being unacceptable. Standard abbreviations of the names of countries approved by the United States Board on Geographical Names are acceptable. Variant spellings which clearly indicate the English name of the country of origin, such as Brasil for Brazil and Italie for Italy, are acceptable. Notices of acceptable markings other than the English name of the country of origin will be published from time to time in *Treasury Decisions*.

(c) The country of origin means the country of manufacture or production. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within the meaning of this article. (T. D. 48623.)

(d) The method of marking must be one which is suitable to produce marking on the particular article (or container) which is as legible, conspicuous, indelible, and permanent as the nature of the article (or container) will reasonably permit. Stenciling should be used upon such articles as bagging; branding or stenciling may be used upon such material as wood; stamping with a rubber stamp may be used upon such material as paper or cloth, but not upon metal; die-stamping or cast-in-the-mold lettering should be used on metal unless such marking of the article at the time of manufacture would result in injury to the article or would be economically prohibitive, in which cases some other permanent method of marking may be used, such as etching, engraving, or marking by means of metal plates which bear the required marking and which are securely attached to the article by screws or rivets. Glassware should be marked in the mold or by etching or engraving unless such marking at the time of manufacture would disfigure or otherwise injure the article for its intended use, in which case the marking may be by means of labels securely affixed. Marking by means of labels or tags securely attached to the article or container to be marked shall be acceptable only when no other means of marking is practicable by reason of injury or undue expense; but articles (or containers) customarily marked by labels or tags which remain on the articles (or containers) until they reach the ultimate purchaser, such as the usual labels securely affixed to bottles and tinned goods, or varnish-coated decalcomania transfer labels attached to articles, shall be regarded as acceptable methods of marking. No marking should be accepted which would be obliterated, destroyed, or permanently concealed by a processing to which the articles are ordinarily subjected in the United States if there is a reasonable method of marking the goods in a more permanently conspicuous and indelible manner. (T. D. 49065.)

(e) Articles (or containers) shall be marked in a place where the mark can be easily read upon a casual examination of the article (or container). Articles (or containers) subject to marking to indicate the country of origin should be marked on an integral part in a reasonably conspicuous place where the marking is not likely to be defaced, destroyed, removed, altered, covered, obscured, or obliterated by the treatment or use made of the article (or container) before it reaches the ultimate purchaser.

(f) Products of the United States exported and returned, and products of possessions of the United States are not required by section 304 of the tariff act to be marked to indicate their origin. Articles of foreign manufacture or production imported into the Philippine or Virgin Islands and reshipped to the United States are subject to all marking requirements applicable to merchandise imported from a foreign country.

(g) Tariff Act of 1930, section 304 (a) (2), as amended by the Customs Administrative Act of 1938, section 3:

The Secretary of the Treasury may by regulations—

(2) Require the addition of any other words or symbols which may be appropriate to prevent deception or mistake as to the origin of the article or as to the origin of any other article with which such imported article is usually combined subsequent to importation but before delivery to an ultimate purchaser;

(h) When an imported article is of a kind which is usually combined with another article subsequent to importation but before delivery to an ultimate purchaser, the marking to indicate the country of origin shall include words or symbols which will clearly show that the origin indicated is that of the imported article only and not that of any other article with which the imported article may be combined subsequent to importation. For example, bottles or drums imported empty to be filled in the United States shall be marked with some such words as "bottle (or drum) made in (*name of country*)." This regulation shall not apply to articles of a kind which are ordinarily so substantially changed in this country that the articles themselves become products of the United States.

(i) Tariff Act of 1930, section 304 (b), as amended by the Customs Administrative Act of 1938, section 3:

Whenever an article is excepted under subdivision (3) of subsection (a) of this section from the requirements of marking, the immediate container, if any, of such article, or such other container or containers of such article as may be prescribed by the Secretary of the Treasury, shall be marked in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of such article, subject to all provisions of this section, including the same exceptions as are applicable to articles under subdivision (3) of subsection (a). If articles are excepted from marking requirements under clause (F), (G), or (H) of subdivision (3) of subsection (a) of this section, their usual containers shall not be subject to the marking requirements of this section. Usual containers in use as such at the time of importation shall in no case be required to be marked to show the country of their own origin (See art. 532 for exceptions).

(j) The containers of imported articles are not required to be marked except as specified in such section 304 (b). The container which shall be required to be marked shall be the outermost container in which the article ordinarily reaches the ultimate purchaser.

(k) If an article is excepted under article 532 from marking requirements, its container must be marked to indicate the country of origin of the contained article, unless the container is exempt from marking by reason of the second sentence of section 304 (b) of the tariff act or because the container itself is within an exception prescribed in article 532. This rule applies even though the excepted article is itself actually marked to indicate the country of its origin.

(l) Unusual containers of imported articles within the meaning of section 504, Tariff Act of 1930, shall be marked so as clearly to indicate the country of their own origin in addition to any marking which may be required to show the country of origin of their contents.

(m) Tariff Act of 1930, section 304 (c), as amended by the Customs Administrative Act of 1938, section 3:

If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody), there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. The compensation and expenses of customs officers and employees assigned to supervise the exportation, destruction, or marking to exempt articles from the application of the duty provided for in this subsection shall be reimbursed to the Government by the importer. (T. Ds. 42487, 43772, 44355.)

(n) The duty of 10 per centum provided for in subsection (c) of section 304, Tariff Act of 1930, shall be assessed upon the value as defined in section 503, Tariff Act of 1930. The 10 per centum additional duty is assessable for failure to mark the article (or container) either to indicate the English name of the country of origin of the article to an ultimate purchaser or to include words or symbols required to prevent deception or mistake. When marking on an article (or container) is required in order to comply with such section 304 and the regulations thereunder, marking other than that so required will not serve to relieve the merchandise from the additional marking duty. When an article is to be exported or destroyed, or the article (or its container) is to be marked under customs supervision, under subsection (c) of such section 304, the identity of the imported article must be established to the satisfaction of the collector.

(o) Tariff Act of 1930, section 304 (d), as amended by the Customs Administrative Act of 1938, section 3:

No imported article held in customs custody for inspection, examination, or appraisement shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (c) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

(p) Tariff Act of 1930, section 558 (b), as amended by the Customs Administrative Act of 1938, section 24:

When articles are exported or destroyed under customs supervision after once having been released from customs custody, as provided for in subsection (c) of section 304 of this Act, such exportation or destruction shall not exempt such articles from the payment of duties other than the marking duty provided for in such subsection (c).

(q) No article which has been repacked under article 936 of these regulations or which has been manipulated under section 562, Tariff Act of 1930, shall be withdrawn for consumption unless such article (or its container) is marked in accordance with the provisions of section 304, Tariff Act of 1930, at the time of withdrawal.

Delete marginal reference to Tariff Act of 1930, sec. 304 (c), opposite article 530.

Article 530 (b) is amended by deleting the second sentence and substituting therefor the following:

If any article required to be marked under such paragraph 367 or 368 is found not to be marked to indicate the country of origin (manufacture), the 10 percent marking duty prescribed by section 304 (c), Tariff Act of 1930, shall be assessed, unless marking is accomplished, or the merchandise is exported, in accordance with section 304 (d), Tariff Act of 1930.

Article 532 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 304 (a) (3), as amended by the Customs Administrative Act of 1938, section 3:

The Secretary of the Treasury may by regulations—

(3) Authorize the exception of any article from the requirements of marking if—

(A) Such article is incapable of being marked;

(B) Such article cannot be marked prior to shipment to the United States without injury;

(C) Such article cannot be marked prior to shipment to the United States, except at an expense economically prohibitive of its importation;

(D) The marking of a container of such article will reasonably indicate the origin of such article;

(E) Such article is a crude substance;

(F) Such article is imported for use by the importer and not intended for sale in its imported or any other form;

(G) Such article is to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such article and in such manner that any mark contemplated by this section would necessarily be obliterated, destroyed, or permanently concealed;

(H) An ultimate purchaser, by reason of the character of such article or by reason of the circumstances of its importation, must necessarily know the country of origin of such article even though it is not marked to indicate its origin;

(I) Such article was produced more than twenty years prior to its importation into the United States; or

(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: Provided, That this subdivision (J) shall not apply after September 1, 1938, to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of the Act of June 12, 1934 (U. S. C., 1934 edition, title 19, secs. 1351–1354), as extended.

Article 532 (b) is amended to read as follows:

(b) Articles coming within the classes of merchandise specified above are hereby exempted from the requirement of marking. The marking of the container of an article will reasonably indicate the origin of such article within the meaning of section 304 (a) (3) (D), Tariff Act of 1930, if the container is sealed and the article is usually sold to the ultimate purchaser without the container being opened to make the article readily available for inspection. No article should be excepted from marking under subdivision (G) if there is a reasonable method of marking which could be used and which would not be obliterated, destroyed, or permanently concealed by the processing to which the goods are to be subjected in the United States.

Article 532 (c) is amended to read as follows:

(c) The following articles and their containers are not subject to the marking requirements of section 304 or paragraph 354, 355, 357, 358, 359, 360, 361, 367, 368, or 1553, Tariff Act of 1930:

(1) Articles entered for immediate exportation or for transportation and exportation;

(2) Products of the American fisheries which are free of duty;

(3) Products of possessions of the United States (see art. 528 (f)).

(4) Articles exempt from duty under article 365 or 832 of these regulations.

Article 533 (a) is amended by deleting the first sentence and substituting therefor the following:

The appraiser will report to the collector all articles (or containers) found by him not to be legally marked.

Paragraphs (c), (d), and (e) of article 533 are redesignated paragraphs (d), (e), and (f), respectively, and a new paragraph (c) is added, reading as follows:

(c) Tariff Act of 1930, section 304 (d), as amended by the Customs Administrative Act of 1938, section 3:

No imported article held in customs custody for inspection, examination, or appraisement shall be delivered until such article and every other article of the importation (or their containers), whether or not released from customs custody, shall have been marked in accordance with the requirements of this section or until the amount of duty estimated to be payable under subsection (c) of this section has been deposited. Nothing in this section shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

New paragraph (d) of article 533 is amended by deleting "properly marked by the importer within a period of 30 days from the date of notification by the collector of the marking requirements" in the sixth, seventh, and eighth lines and substituting therefor "exported, destroyed or properly marked by the importer prior to the liquidation of the entry,".

New paragraph (f) of article 533 is amended by inserting before "the matter" in the sixth line, "or an application for relief from payment of the full penalty of the bond filed for transmittal to the Bureau," and adding at the end of the paragraph the following:

Relief from the payment of liquidated damages will be contingent upon the showing made concerning the diligence and good faith shown by the importer in attempting to secure compliance with the marking requirements.

Article 534 is amended to read as follows:

ART. 534. *Penalty for fraudulent violation.*—(a) Tariff Act of 1930, section 304 (e), as amended by the Customs Administrative Act of 1938, section 3:

If any person shall, with intent to conceal the information given thereby or contained therein, deface, destroy, remove, alter, cover, obscure, or obliterate any mark required under the provisions of this Act, he shall, upon conviction, be fined not more than $5,000 or imprisoned not more than one year, or both.

(b) This provision of law is administered by the Department of Justice and suspected violations should be reported directly to the United States Attorney.

Add the following as a marginal reference opposite article 557 (b):

Tariff Act 1930, sec. 558. Cus. Adm. Act 1938, sec. 24.

Article 766 (e) is deleted.

Article 769 (b) is amended to read as follows:

(b) Tariff Act of 1930, section 499, as amended by the Customs Administrative Act of 1938, section 16 (a):

* * * The collector shall designate the packages or quantities covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise and shall order such packages or quantities to be sent to the public stores or other places for such purpose. Not less than one package of every invoice and not less than one package of every ten packages of merchandise, shall be so designated unless the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that the examination of a less proportion of packages will amply protect the revenue and by special regulation or instruction, the application of which may be restricted to one or more individual ports or to one or more importations or one or more classes of merchandise, permit a less number of packages to be examined. All such special regulations or instructions shall be published in the weekly Treasury Decisions within fifteen days after issuance and before the liquidation of any entries affected thereby. The collector or the appraiser may require such additional packages or quantities as either of them may deem necessary. * * *

Article 774 is amended by changing the colon in the first line to a comma and adding the following:

as amended by the Customs Administrative Act of 1938, sec. 8:

Article 774 is further amended by inserting "for home consumption" after "sale," in the fourth line of the quotation of section 402 (c); by inserting "for domestic consumption" after "sale" in the third line of the quotation of section 402 (e); and by inserting "for domestic consumption" after "sale" in the sixth line and after "sold" in the tenth line of the quotation of section 402 (g).

Article 800 (a) is amended by changing the colon in the second line to a comma, and adding the following:

as amended by the Customs Administrative Act of 1938, section 23 (a):

Article 800 (a) is further amended by deleting "(or ten months in the case of grain)" in the twenty-second line.

Article 806 (b) is amended by deleting the colon in the first line and adding the following:

(c), as amended by the Customs Administrative Act of 1938, section 22 (a):

Article 806 (c) is amended by changing the colon in the first line to a comma, and adding the following:

as amended by the Customs Administrative Act of 1938, section 23 (a):

Article 806 (c) is further amended by deleting "(or 10 months in the case of grain)" in the fourth and fifth lines.

Article 806 is further amended by redesignating paragraph (c) as paragraph (d) and by adding new paragraphs designated (c) and (c) reading as follows:

(c) Tariff Act of 1930, section 558 (a) (2), as amended by the Customs Administrative Act of 1938, section 24:

No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

* * * * * *

(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe;

(e) Merchandise regularly entered in good faith and denied admission into the United States by any Government agency after its release from customs custody, may be destroyed under customs supervision, in which case any duty

which shall have accrued thereon or which shall have been collected shall be remitted or refunded, as the case may be. (As to merchandise exported see art. 342 (c).)

Article 808 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and by adding a new paragraph designated (b), reading as follows:

(b) Any person who has acquired the right to withdraw merchandise in bonded warehouse by transfer made in accordance with the provisions of article 332 of these regulations is entitled to the same rights and privileges as the consignee in respect of abandonment of such merchandise to the Government, so long as the transfer remains unrevoked.

Article 814 is amended by changing the colon in the second line to a comma and adding the following:

as amended by the Customs Administrative Act of 1938, section 32:

Article 814 is further amended by deleting "5" in the seventh line and substituting therefor "fifteen."

Article 818 is amended by redesignating paragraphs (e), (f), (g), (h), and (i) as paragraphs (f), (g), (h), (i), and (j), respectively, and by adding a new paragraph designated (e), reading as follows:

(e) Tariff Act of 1930, section 321, as amended by Customs Administrative Act of 1938, section 7:

Collectors of customs are hereby authorized, under such regulations as the Secretary of the Treasury may prescribe, to disregard a difference of less than $1 between the total estimated duties or taxes deposited, or the total duties or taxes tentatively assessed, with respect to any entry of merchandise and the total amount of duties or taxes actually accruing thereon, • • •.

Article 821 (d) is amended by changing the caption to read *"Merchandise manipulated in customs custody,"* and by changing the colon in the second line to a comma and adding the following:

as amended by the Customs Administrative Act of 1938, section 25:

Article 821 (d) is further amended by inserting after the word "consumption" in the fourth line "[after manipulation in a bonded warehouse or elsewhere as authorized by section 562]."

Article 823 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 315, as amended by the Customs Administrative Act of 1938, section 6:

• • • In so far as duties are based upon the quantity of any merchandise, such duties shall, except as provided in paragraph 813 and section 562 of this Act (relating respectively to certain beverages and to manipulating warehouses), be levied and collected upon the quantity of such merchandise at the time of its importation. • • •

Article 823 (b) is deleted, and paragraphs (c), (d), (e), (f), (g), and (h) of article 823 are redesignated paragraphs (b), (c), (d), (e), (f), and (g), respectively.

Article 828 is amended by deleting paragraph (i); by redesignating paragraphs (d), (e), (f), (g), and (h) as paragraphs (e), (f), (g), (h), and (i), respectively; by amending paragraphs (a), (b), and (c), and inserting a new paragraph designated (d), to read as follows:

(a) Tariff Act of 1930, section 315, as amended by the Customs Administrative Act of 1938, section 6:

• • • No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the weekly Treasury Decisions of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties.

(b) When a collector or appraiser is of the opinion that the classification of any merchandise should be advanced to a higher or reduced to a lower rate than has been assessed thereon under an established practice, he shall so report to the Bureau.

(c) If there is an established and uniform practice at the various ports, a change in classification resulting in a higher rate of duty, except as the result of a court decision, will be made only upon the Bureau's instructions and will be applicable only to merchandise entered for consumption after the expiration of thirty days after the date of the publication of the Bureau's instructions in *Treasury Decisions*. In the case of merchandise entered for warehouse, such change will apply to goods withdrawn for consumption after the expiration of such thirty-day period, provided the warehouse entry is unliquidated or may be reliquidated within 60 days after the date of liquidation.

(d) If there is not an established and uniform practice at the various ports, a change in classification resulting in a higher rate of duty will be applicable immediately to all merchandise covered by unliquidated entries, whether for consumption or warehouse, and also to merchandise covered by liquidated warehouse entries if the merchandise has remained in warehouse after the date the change in classification is established, provided reliquidation can be completed within sixty days after the date of liquidation.

Article 828 (1) is amended to read as follows:

(1) Tariff Act of 1930, section 491, as amended by the Customs Administrative Act of 1938, section 14 (b):

• • • Merchandise subject to sale hereunder or under section 559 of this Act may be entered or withdrawn for consumption at any time prior to such sale upon payment of all duties, storage, and other charges, and expenses that may have accrued thereon, but such merchandise after becoming subject to sale may not be exported prior to sale without the payment of such duties, charges, and expenses nor may it be entered for warehouse. The computation of duties for the purposes of this section and sections 493 and 559 of this Act shall be at the rate or rates applicable at the time the merchandise becomes subject to sale. [See arts. 1003 and 1010].

Article 828 (m) is deleted.

Article 832 is amended to read as follows:

ART. 832. *Importations not exceeding $1 in value.*—(a) Tariff Act of 1930, section 321, as amended by the Customs Administrative Act of 1938, section 7:

Collectors of customs are hereby authorized, under such regulations as the Secretary of the Treasury may prescribe • • • to admit articles free of duty when the expense and inconvenience of collecting the duty accruing thereon would be disproportionate to the amount of such duty, but the aggregate value of articles imported by one person on one day and exempted from the payment of duty under the authority of this section shall not exceed $5 in the case of articles accompanying, and for the personal or household use of, persons arriving in the United States, or $1 in any other case.

(b) Collectors may in their discretion pass free of duty and without the preparation of an entry any importations not covered by article 423 (i) and (j) of these regulations (except those subject to internal-revenue tax) having a value not exceeding $1. The word "duty" as used in the preceding paragraph does not include internal-revenue tax. (See art. 834½.) Entry will be required for such importations which are subject to internal-revenue tax, and both duty and tax shall be assessed.

A new article, designated article 833½, is inserted after article 833, reading as follows:

ART. 833½. *No remission or refund after release of merchandise—Exceptions.*—(a) Tariff Act of 1930, section 558 (a), as amended by the Customs Administrative Act of 1938, section 24:

No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases:

(1) When articles are exported with respect to which a drawback of duties is expressly provided for by law;

(2) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to a law of the United States and under such regulations as the Secretary of the Treasury may prescribe; and

(3) When articles entered under bond, under any provision of law, are destroyed within the bonded period as provided for in section 557 of this Act, or are destroyed within the bonded period by death, accidental fire, or other casualty, and proof of such destruction is furnished which shall be satisfactory to the Secretary of the Treasury, in which case any accrued duties shall be remitted or refunded and any condition in the bond that the articles shall be exported shall be deemed to have been satisfied.

Article 834 is amended to read as follows:

ART. 834. *Limitation upon reliquidation.*—(a) In the absence of a protest, no entry shall be reliquidated after the expiration of the protest period (see art. 848), except as provided in section 520 (c) or 521, Tariff Act of 1930, as follows:

Tariff Act of 1930, section 520 (c), as amended by the Customs Administrative Act of 1938, section 18:

Notwithstanding a valid protest was not filed, the Secretary of the Treasury may authorize a collector to reliquidate an entry to correct—

(1) A clerical error in any entry or liquidation discovered within one year after the date of entry, or within sixty days after liquidation when liquidation is made more than ten months after the date of entry; or

(2) Any assessment of duty on household or personal effects which by law were not subject to duty and in respect of which an application for refund has been filed with the collector within one year after the date of entry.

Tariff Act of 1930, section 521:

If the collector finds probable cause to believe there is fraud in the case, he may reliquidate an entry within two years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation.

(b) An error in the liquidation of an entry covering household or personal effects may, without reference to the Bureau, be corrected by collectors of customs notwithstanding a timely protest was not filed, if an application for refund is filed with the collector within one year after the date of entry. If any such application for refund may be allowed only if there is a waiver of compliance with applicable regulations and the collector is not authorized to make such waiver, the matter should be referred to the Bureau for instructions.

A new article, designated article 834½, is inserted after article 834, reading as follows:

ART. 834½. *Taxes not to be construed as duties.*—(a) Tariff Act of 1930, section 528, as amended by the Customs Administrative Act of 1938, section 20:

No tax or other charge imposed by or pursuant to any law of the United States shall be construed to be a customs duty for the purpose of any statute relating to the customs revenue, unless the law imposing such tax or charge designates it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws. • • •

(b) Import taxes imposed by section 601 (c), Revenue Act of 1932, as amended, and section 403, Sugar Act of 1937, shall be construed to be customs duties, subject to the limitations specified in those acts.

(c) Provisions of law (including preferences and exemptions) relating only to customs duties shall not be applied to taxes or other charges which are not construed to be customs duties, notwithstanding such taxes or charges may be collected on imported merchandise in customs custody by collectors of customs.

Article 837 is amended to read as follows:

ART. 837. *Additional duty on articles not legally marked.*—(a) Tariff Act of 1930, section 304 (c), as amended by the Customs Administrative Act of 1938, section 3:

If at the time of importation any article (or its container, as provided in subsection (b) hereof) is not marked in accordance with the requirements of this section, and if such article is not exported or destroyed or the article (or its container, as provided in subsection (b) hereof) marked after importation in accordance with the requirements of this section (such exportation, destruction, or marking to be accomplished under customs supervision prior to the liquidation of the entry covering the article, and to be allowed whether or not the article has remained in continuous customs custody,) there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties. • • •

(b) The marking duty shall be assessed upon the value as defined in section 503 of the Tariff Act of 1930.

(c) The liquidation of entries should not be suspended merely because the merchandise covered thereby is reported to be not legally marked but upon specific application the liquidation may be deferred for a reasonable time to permit the marking, destruction, or exportation of the merchandise.

Article 848 (b) is amended to read as follows:

(b) The circumstances under which the expiration of the protest period without a protest having been filed does not bar reliquidation are set forth in article 834 of these regulations.

Article 862 (a) is amended by deleting the colon in the second line and adding the following:

(a), as amended by the Customs Administrative Act of 1938, section 16 (b):

Article 863 (a) is amended by deleting the colon in the second line and adding the following:

(a), as amended by the Customs Administrative Act of 1938, section 16 (b):

Article 864 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 501 (a), as amended by the Customs Administrative Act of 1938, section 16 (b):

• • • Every such appeal shall be transmitted with the entry and the accompanying papers by the collector, to the United States Customs Court and shall be assigned to one of the judges, who shall in every case, notwithstanding that the original appraisement may for any reason be held invalid or void and that the merchandise or samples thereof be not available for examination, after affording the parties an opportunity to be heard on the merits, determine the value of the merchandise from the evidence in the entry record and that adduced at the hearing. • • •

Paragraphs (b) to (i), inclusive, of article 864 are redesignated paragraphs (c) to (j), respectively, and a new paragraph (b) is added, reading as follows:

(b) Tariff Act of 1930, section 499, as amended by the Customs Administrative Act of 1938, section 16 (a):

• • • No appraisement made after the effective date of the Customs Administrative Act of 1938 shall be held invalid on the ground that the required number of packages or the required quantity of the merchandise was not designated for examination or, if designated, was not actually examined, unless the party claiming such invalidity shall establish that merchandise in the packages or quantities not designated for examination, or not actually examined, was different from that actually examined and that the difference was such as to establish the incorrectness of the appraiser's return of value; and then only as to the merchandise for which the value returned by the appraiser is shown to be incorrect.

Article 867 (a) is amended by deleting the colon in the second line and adding the following:

(b), as amended by the Customs Administrative Act of 1938, section 16 (b):

Article 870 (a) is amended by changing the colon in the first line to a comma and adding the following:

as amended by the Customs Administrative Act of 1938, section 17 (a):

Article 870 (a) is further amended by deleting the quotation of subsection (b) of section 516 of the Tariff Act of 1930 and substituting therefor the following:

(b) *Classification.*—The Secretary of the Treasury shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification of, and the rate of duty, if any, imposed upon, designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the proper rate of duty is not being assessed, he may file a complaint with the Secretary, setting forth a description of the merchandise, the classification, and the rate or rates of duty he believes proper, and the reasons for his belief. If the Secretary decides that the classification of, or rates of duty assessed upon, the merchandise is not correct, he shall notify the collectors as to the proper classification and rate of duty and shall so inform the complainant, and such rate of duty shall be assessed upon all such merchandise entered for consumption or withdrawn from warehouse for consumption after thirty days after the date such notice to the collectors is published in the weekly Treasury Decisions. If the Secretary decides that the classification and rate of duty are correct, he shall so inform the complainant. If dissatisfied with the decision of the Secretary, the complainant may file with the Secretary, not later than thirty days after the date of such decision, notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise. Upon receipt of such notice from the complainant, the Secretary shall cause publication to be made of his decision as to the proper classification and rate of duty and of the complainant's desire to protest, and shall thereafter furnish the complainant

with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at the port of entry designated by the complainant in his notice of desire to protest, as will enable the complainant to protest the classification of, or rate of duty imposed upon, such merchandise in the liquidation of such an entry at such port. The Secretary shall direct the collector at such port to notify such complainant immediately when the first of such entries is liquidated. Within thirty days after the date of mailing to the complainant of notice of such liquidation, the complainant may file with the collector at such port a protest in writing setting forth a description of the merchandise and the classification and rate of duty he believes proper. Notwithstanding such protest is filed, merchandise of the character covered by the published decision of the Secretary, when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, rendered under the provisions of subsection (c) of this section, not in harmony with the published decision of the Secretary, shall be classified and the entries liquidated in accordance with such decision of the Secretary, and, except as otherwise provided in this Act, the liquidations of such entries shall be final and conclusive upon all parties. If the protest of the complainant is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of such court decision, shall be subject to classification and assessment of duty in accordance with the final judicial decision on the complainant's protest, and the liquidation of entries covering such merchandise so entered or withdrawn shall be suspended until final disposition is made of such protest, whereupon such entries shall be liquidated, or if necessary, reliquidated in accordance with such final decision. • • •

Customs Administrative Act of 1938, sections 17 (b) and (c):

(b) The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as amended by this Act, shall apply only in the case of complaints filed after the effective date of this Act [approved June 25, 1938]. The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as in force prior to the effective date of this Act, shall continue in force with respect to any proceedings commenced by the filing of a complaint thereunder, except that upon the expiration of thirty days after the effective date of this Act, or upon the expiration of thirty days after the date of a decision of the Secretary adverse to the complaint, whichever is the later, any such proceedings in which a protest has not been duly filed shall be deemed to have been terminated unless the complainant shall have filed with the Secretary after the effective date of this Act a notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise.

(c) The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as amended by this Act, shall not apply with respect to any article of a class or kind which is named or described in any obligation undertaken by the United States in a foreign trade agreement entered into under section 350 of the Tariff Act of 1930 (U. S. C., 1934 edition, title 19, sec. 1351).

Article 870 (d) is deleted and paragraphs designated (e), (f), (g), (h), and (i), of article 870 are redesignated paragraphs (d), (e), (f), (g), and (h), respectively.

Redesignated article 870 (d) is amended to read as follows:

(d) Upon the publication by the Commissioner of his decision as to the proper classification and rate of duty and of the complainant's desire to protest, the collector, in order to facilitate the presentation of the issue to the United States Customs Court in the event a protest is so filed, shall secure accurate and complete information as to the character and description, together with samples, if practicable, of merchandise of the character covered by the complaint, entered after publication of the Commissioner's decision. All information so secured by the collector shall be made available to the complainant upon application by him to the collector.

Add the following as a marginal reference opposite article 882 (j):

Tariff Act 1930, sec. 558, Cust. Adm. Act 1938, sec. 24.

Article 902 is amended by changing the colon in the first line to a comma and adding the following:

as amended by the Customs Administrative Act of 1938, section 21:

Article 902 is further amended by adding the following sentence at the end of the sixteenth line:

In places where no bonded common-carrier facilities are reasonably available, such merchandise may be so transported otherwise than by a bonded common carrier under such regulations as the Secretary of the Treasury shall prescribe.

Article 903 is amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) reading as follows:

(b) In places where no bonded common-carrier facilities are reasonably available and merchandise is permitted to be transported otherwise than by a bonded common carrier, the collector may permit entry in accordance with the procedure outlined in paragraph (a) of this article, provided he shall be satisfied that the revenue will not be endangered thereby. The entries in such cases shall be under a separate series of numbers. A bond on customs Form 7557, in an amount equal to double the estimated duty, shall be required when the collector deems such action necessary for the protection of the revenue. (See art. 1266 for cancellation of export bonds.) The merchandise shall be carefully inspected both at the port of arrival and at the port of exportation.

Article 909 is amended to read as follows:

ART. 909. *Limitation of time for exportation.*—Tariff Act of 1930, section 491, as amended by the Customs Administrative Act of 1938, section 14 (a):

• • • Any entered or uncentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year from the date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government • • •.

Article 918 (b) is amended by deleting the colon in the first line and adding the following:

(a), as amended by the Customs Administrative Act of 1938, sections 2, 22 (a), and 23 (a):

Article 918 (b) is further amended by deleting "(or 10 months in the case of grain)" in the seventh and eighteenth lines; by inserting "Wake Island, Midway Islands, Kingman Reef," before "or the island of Guam" in the thirteenth and fourteenth lines; and by inserting "or elsewhere, or for transfer to another bonded warehouse at the same port," before the colon in the fifteenth line.

Article 937 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively, and by adding a new paragraph designated (a), reading as follows:

(a) Tariff Act of 1930, section 557 (a), as amended by the Customs Administrative Act of 1938, section 22 (a):

• • • merchandise may be withdrawn, at any time within three years from the date of importation, • • • for transfer to another bonded warehouse at the same port: • • •.

The heading preceding article 941 is amended to read "MANIPULATION IN BONDED WAREHOUSES AND ELSEWHERE."

Article 941 is amended by deleting "in bond" in the caption and by changing the colon in the second line to a comma and adding the following:

as amended by the Customs Administrative Act of 1938, sections 2 and 25:

Article 941 is further amended by adding "Wake Island, Midway Islands, Kingman Reef" before "or the island of Guam" in the tenth line, and by adding the following new sentence after the period at the end of the article:

Under such regulations as the Secretary of the Treasury shall prescribe, imported merchandise which has been entered and which has remained in continuous customs custody may be manipulated in accordance with the provisions of this section under customs supervision and at the risk and expense of the consignee, but elsewhere than in a bonded warehouse, in cases where neither the protection of the revenue nor the proper conduct of customs business requires that such manipulation be done in a bonded warehouse.

Article 942 is amended by deleting the period in the fourth line and adding "and to designated places of manipulation other than bonded warehouses."

Article 944 (a), as amended by T. D. 49295, is further amended by adding "or other designated place of manipulation" after "warehouse" in the second line.

Article 944 (c) is amended by inserting "or other officer designated to supervise the manipulation" after "storekeeper" in the first line.

Article 944 (e) is amended to read as follows:

(e) The regulations governing the marking of manipulated merchandise to indicate the country of its origin are set forth in article 528 (q). The officer supervising the manipulation shall report on the back of the permit, customs Form 3499, whether the merchandise is properly marked when the manipulation has been completed.

Article 944 is further amended by adding at the end thereof a new paragraph designated (f), reading as follows:

(f) No merchandise shall be manipulated elsewhere than in a bonded warehouse unless such merchandise has been regularly entered for consumption or warehouse and is of a class entitled to the warehousing privilege under section 557, Tariff Act of 1930. Each application for permission to manipulate merchandise elsewhere than in a bonded warehouse shall be submitted for approval to the Bureau of Customs and shall be accompanied by a report of the collector of customs stating specifically his views as to whether the proposed manipulation can be accomplished at the place specified in the application without prejudice to the revenue or the proper conduct of customs business.

Article 950 (i) is amended to read as follows:

(i) *Marking.*—Foreign articles brought into customs territory from a zone are subject to the provisions of section 304, Tariff Act of 1930, (marking to indicate the country of origin) as though such articles were imported into customs territory directly from a foreign country.

Article 1008 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 491, as amended by the Customs Administrative Act of 1938, section 14 (a):

Any entered or uncentered merchandise (except merchandise entered under section 557 of this Act, but including merchandise entered for transportation in bond or for exportation) which shall remain in customs custody for one year from the date of importation thereof, without all estimated duties and storage or other charges thereon having been paid, shall be considered unclaimed and abandoned to the Government and shall be appraised by the appraiser of merchandise and sold by the collector at public auction, under such regulations as the Secretary of the Treasury shall prescribed. • • •

Article 1010 (a) is amended by changing the colon in the second line to a comma, and adding the following:

as amended by the Customs Administrative Act of 1938, sec. 23 (a):

Article 1010 (a) is further amended by deleting "(or 10 months in the case of grain)" in the fourth and fifth lines.

Article 1010 (b) is amended to read as follows:

(b) Tariff Act of 1930, section 491, as amended by the Customs Administrative Act of 1938, section 14 (b):

• • • Merchandise subject to sale hereunder or under section 559 of this Act may be entered or withdrawn for consumption at any time prior to such sale upon payment of all duties, storage, and other charges, and expenses that may have accrued thereon, but such merchandise after becoming subject to sale may not be exported prior to sale without the payment of such duties, charges, and expenses nor may it be entered for warehouse. The computation of duties for the purposes of this section and sections 493 and 559 of this Act shall be at the rate or rates applicable at the time the merchandise becomes subject to sale.

Article 1011 (a) is amended to read as follows:

(a) If storage or other charges have not been paid on merchandise remaining in customs custody after the expiration of the bonded period in the case of merchandise entered for warehouse, or after the expiration of one year from the date of importation in any other case, even though any duties due have been paid, such merchandise shall be sold as provided for in article 1013 or 1014, unless withdrawn for consumption in accordance with article 1010 (b).

Article 1011 (b) is amended by changing the colon in the first line to a comma, and adding the following:

as amended by the Customs Administrative Act of 1930, section 23 (a):

Article 1011 (b) is further amended by deleting "(or 10 months in the case of grain)" in the third and fourth lines.

Article 1013 (a) is amended by deleting the first sentence and inserting in lieu thereof the following:

Regular sales of all unclaimed and abandoned merchandise on hand and subject to sale shall be made once in every year, or oftener at the discretion of the collector.

Article 1023 (c) is amended by deleting "(or 10 months in the case of grain)" in the second line.

Article 1024 (a) is amended by deleting "(or 10 months in the case of grain)" in the second and third lines.

Article 1039 (c) is amended to read as follows:

(c) There is no authority of law for the payment of drawback of customs duty on articles manufactured or produced in the United States and shipped to Alaska, Puerto Rico, Hawaii, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or the island of Guam.

Article 1065, as amended by T. D. 49456, is further amended to read as follows:

ART. 1065. *Supplies for certain vessels and aircraft.*—(a) Tariff Act of 1930, section 309, as amended by the Customs Administrative Act of 1938, section 5 (a):

(a) *Exemption from customs duties and internal-revenue tax.*—Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse free of duty or internal-revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or for supplies (not including equipment) of aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possesions, or for supplies (including equipment), maintenance, or repair of aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted.

(b) *Drawback.*—Articles withdrawn from bonded warehouses, bonded manufacturing warehouses, or continuous customs custody elsewhere than in a bonded warehouse and articles of domestic manufacture or production, laden as supplies upon any such foreign vessel or any such vessel or aircraft of the United States or laden as supplies (including equipment) upon, or used in the maintenance or repair of, any such foreign aircraft, shall be considered to be exported within the meaning of the drawback provisions of this Act.

(c) *Articles removed in, or returned to, the United States.*—Any article exempted from duty or tax, or in respect of which drawback has been allowed, under this section or section 317 of this Act and thereafter removed in the United States from any vessel or aircraft, or otherwise returned to the United States, shall be treated as an importation from a foreign country.

(d) *Reciprocal privileges.*—The privileges granted by this section and section 317 of this Act in respect of aircraft registered in a foreign country shall be allowed only if the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of Commerce shall advise the Secretary of the Treasury that he has found that a foreign country has discontinued, or will discontinue, the allowance of such privileges, the privileges granted by this section and such section 317 shall not apply thereafter in respect of aircraft registered in that foreign fountry.

(b) Revenue Act of 1932, section 630, as amended by the Revenue Act of 1938, section 705 (a):

Under the regulations prescribed by the Commissioner, with the approval of the Secretary, no tax under this title shall be imposed upon any article sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. Articles manufactured or produced with the use of articles upon the importation of which tax has been paid under this title, if laden for use as supplies on such vessels, shall be held to be exported for the purposes of section 601 (b). The term "vessels" as used in this section includes civil aircraft employed in foreign trade or trade between the United States

and any of its possessions, and the term "vessels of war of the United States or of any foreign nation" includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof. The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions. [Provisions relating to aircraft effective July 1, 1938.]

(c) The allowance of drawback of import taxes on articles manufactured or produced from imported materials taxpaid under section 601 (c) (4), (5), (6), (7) or (8), Revenue Act of 1932, as amended, which are laden as supplies on vessels or aircraft enumerated in section 630, Revenue Act of 1932, as amended, is permitted.

(d) When drawback is to be claimed under the provisions of this article, the inspector in making his return of lading will report whether the articles described in the notice of intent appear on the records of the exporting vessel or aircraft as supplies or as cargo. In the case of articles subject to the allowance of drawback which are claimed to have been installed as equipment or repairs or consumed in the maintenance or repair of aircraft, the collector shall require such affidavits or other evidence as will satisfy him concerning the facts.

(e) The procedure outlined in the drawback regulations as to the filing of applications for a rate of drawback, notices of intent, and other required documents shall be followed, so far as applicable, in filing claims for drawback under the provisions of this article.

(f) A receipt for the merchandise, showing marks, numbers, and quantity, signed by the master or an authorized officer of the vessel or aircraft or steamship or aircraft company, will be accepted in lieu of a bill of lading.

(g) Drawback will not be paid until proof has been presented in the form of an affidavit of the master or other officer of the vessel or aircraft on which the articles were laden as supplies (or used in the equipment, maintenance, or repair of foreign aircraft specified in this article), having knowledge of the facts, showing that the supplies (including equipment or articles for the maintenance or repair of such foreign aircraft) have been used as such by the vessel or aircraft and that no portion of the articles has been landed in the United States or in any of its possessions, except that in cases where the drawback on a single lading is less than $25 (or $100 in the case of fuel oil or lubricating oil) an affidavit of such master or other officer will be accepted, showing that the articles have been laden on board the particular vessel or aircraft as supplies (or used in the equipment, maintenance or repair of such foreign aircraft) and that they will be used for no other purpose. In the case of vessels of war the affidavit will not be required.

(h) Drawback entries shall be filed on customs Form 7573 or 7575, as applicable, modified to read "lade" (or "use"), "laden" (or "used"), or "lading" (or "using") instead of "export," "exported," or "exporting," and the "Declaration of exportation" shall be amended to read as follows:

DECLARATION OF LADING OR USE

I, _____ (member of firm, officer representing corporation, agent, or attorney), of _____, do solemnly and truly declare that, according to the best of my knowledge and belief, the particulars of lading (or use) stated in this entry, the notices of intent, and receipts are correct, and that such merchandise is not to be relanded in the United States, or any of its possessions, but is to be (has been) used for _____ (state specifically, such as supplies, equipment, maintenance or repair) as specified in section 309, of the Tariff Act of 1930, as amended, or section 630, Revenue Act of 1932, as amended, on the vessels (or aircraft) named herein.

_____
Exporter or Agent

Declared to before me this _____ day of _____, 19--.

_____
Notary Public or Acting Deputy Collector.

Article 1072 (d) is amended to read as follows:

(d) There is no authority of law for the payment of drawback of internal-revenue tax on articles manufactured or produced in the United States and shipped to Alaska, Hawaii, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or the island of Guam.

Article 1077 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 557 (a), as amended by the Customs Administrative Act of 1938, sections 2, 22 (a), and 23 (a):

• • • Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody and under the control of customs officers, may be entered or withdrawn at any time within three years after the date of importation for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or the island of Guam, under such regulations as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, and exportation or shipment, the duties thereon shall be refunded.

Article 1079 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 558 (a), as amended by the Customs Administrative Act of 1938, section 24:

No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed because of the exportation or destruction of any merchandise after its release from the custody of the Government, except in the following cases: [See art. 833½.]

Article 1079 (b) is amended to read as follows:

(b) Duties (except additional duties for undervaluation) may be remitted or refunded upon the exportation of imported articles which have remained continuously in customs custody from the time of importation to the time of exportation, unless such articles have become subject to sale as unclaimed or abandoned merchandise.

Article 1092 is amended to read as follows:

ART. 1092. *Duties subject to drawback.*—(a) The duties subject to drawback include all ordinary customs duties, including import taxes assessed under section 601 (c) (4), (5), (6), (7), or (8), Revenue Act of 1932, as amended; dumping duties assessed under the Antidumping Act, 1921; countervailing duties assessed under section 303, Tariff Act of 1930; and marking duties assessed under section 304 (c), Tariff Act of 1930, as amended.

(b) Additional duties for undervaluation assessed under section 489, Tariff Act of 1930, are not subject to drawback.

Article 1102 is amended by inserting in the quotation of section 1709 (a) "Wake Island, Midway Islands, Kingman Reef," before "and the island of Guam" in the fifth line.

Article 1115 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 598, as amended by the Customs Administrative Act of 1938, section 26:

If any unauthorized person affixes, attaches, or in any way willfully assists or encourages the affixing or attaching of a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package; or if any unauthorized person willfully or maliciously removes, breaks, injures, or defaces any customs seal or other fastening placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody, or willfully aids, abets, or encourages any other person to remove, break, injure, or deface such seal, fastening, or mark; or if any person maliciously enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise with intent unlawfully to remove or cause to be removed therefrom any merchandise or baggage therein, or unlawfully removes or causes to be removed any merchandise or baggage in such vessel, vehicle, or bonded warehouse or otherwise in customs custody or control, or aids or assists therein; or if any person receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle, or warehouse, knowing the same to have been unlawfully removed, he shall be guilty of a felony and liable to the same penalties as are imposed by section 593 of this Act. [See art. 1100.]

Article 1119 is amended by changing the caption to read as follows:

Boarding of vessels or vehicles and inspection, examination, and search of persons, baggage, and merchandise discharged from vessels.—

Article 1119 is further amended by adding two new paragraphs, designated (f) and (g), reading as follows:

(f) Tariff Act of 1930, section 467, as amended by the Customs Administrative Act of 1938, section 11:

Whenever a vessel from a foreign port or place or from a port or place in any Territory or possession of the United States arrives at a port or place in the United States or the Virgin Islands, whether directly or via another port or place in the United States or the Virgin Islands, the collector of customs for such port or place of arrival may, under such regulations as the Secretary of the Treasury may prescribe and for the purpose of assuring compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, cause inspection, examination, and search to be made of the persons, baggage, and merchandise discharged or unladen from such vessel, whether or not any or all such persons, baggage, or merchandise has previously been inspected, examined, or searched by officers of the customs.

(g) Collectors of customs are hereby authorized to cause inspection, examination, and search to be made under section 467 of the tariff act of persons, baggage, or merchandise even though such persons, baggage, or goods were inspected, examined, searched or taken on board the vessel at another port in the United States or the Virgin Islands, if such action is deemed necessary or appropriate to prevent the introduction of contraband into the United States by means of transfer to or commingling with merchandise or effects not usually subject to customs treatment.

Article 1131 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 607, as amended by the Customs Administrative Act of 1938, section 28 (a):

If such value of such vessel, vehicle, merchandise, or baggage returned by the appraiser, does not exceed $1,000, the collector shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. For the purposes of this section and sections 610 and 612 of this Act, merchandise the importation of which is prohibited shall be held not to exceed $1,000 in value. [See art. 1130.]

Article 1133 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 609, as amended by the Customs Administrative Act of 1938, section 28 (b):

If no such claim is filed or bond given within the twenty days hereinbefore specified, the collector shall declare the vessel, vehicle, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise disposed of the same according to law, and shall deposit the proceeds of sale, after deducting the actual expenses of seizure, publication, and sale, in the Treasury of the United States.

Article 1136 (a) is amended by changing the colon in the second line to a comma and adding the following:

as amended by the Customs Administrative Act of 1938, section 29:

Article 1136 (a) is further amended by inserting "and" after the semicolon at the end of subdivision (2), by deleting subdivision (3), and by redesignating subdivision (4) as subdivision (3).

Article 1141 (a) is amended to read as follows:

(a) Tariff Act of 1930, section 603, as amended by the Customs Administrative Act of 1938, section 27:

Whenever a seizure of merchandise for violation of the customs laws is made, or a violation of the customs laws is discovered, and legal proceedings by the United States attorney in connection with such seizure or discovery are required, it shall be the duty of the collector or the principal local officer of the Customs Agency Service to report such seizure or violation to the United States attorney for the district in which such violation has occurred, or in which such seizure was made, and to include in such report a statement of all the facts and circumstances of the case within his knowledge, with the names of the witnesses and a citation to the statute or statutes believed to have been violated, and on which reliance may be had for forfeiture or conviction.

Article 1177 (b) is amended to read as follows:

(b) The compensation and necessary travel and subsistence expenses of customs officers and employees performing services in connection with the measurement or certification of tonnage of vessels at the request of the owners thereof at a place other than a port of entry or a customs station, shall be paid by such owners to the collector of customs for deposit as a repayment to the appropriation from which paid. (See art. 1356 (a).) (U. S. C. title 46, sec. 331; Cust. Adm. Act 1938, sec. 19 (a).)

Article 1184 (m) is amended to read as follows:

(m) All moneys collected on account of reimbursable charges or expenses, including reimbursable compensation and disallowed disbursements, shall be deposited by collectors of customs as a refund to the appropriation from which paid. (Tariff Act 1930, sec. 524; Cust. Adm. Act 1938, sec. 19 (b).)

Article 1184 (p) is amended to read as follows:

(p) When the proceeds of sale of seized merchandise or monies paid under section 614, Tariff Act of 1930, are transferred from special deposit to the regular account, the customs appropriation shall be reimbursed for all expenses paid therefrom in connection with the seizure and disposition of such merchandise, as provided in article 1136 (b), and the residue, if any, shall be deposited in the Treasury. Such amounts shall be shown on the certificate of deposit and accounted for as miscellaneous receipts under the classification of forfeiture.

Article 1201 is amended by redesignating paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, and inserting a new paragraph designated (a), reading as follows:

(a) Tariff Act of 1930, section 520 (a) and (b), as amended by Permanent Appriation Repeal Act, 1934, section 2, and Customs Administrative Act of 1938, section 18:

(a) The Secretary of the Treasury is hereby authorized to refund duties or other receipts in the following cases:

(1) *Excess deposits.*—Whenever it is ascertained on liquidation or reliquidation of an entry that more money has been deposited or paid as duties than was required by law to be so deposited or paid;

(2) *Fees, charges, and exactions.*—Whenever it is determined in the manner required by law that any fees, charges, or exactions, other than duties and taxes, have been erroneously or excessively collected; and

(3) *Fines, penalties, and forfeitures.* — Whenever money has been deposited in the Treasury on account of a fine, penalty, or forfeiture which did not accrue, or which is finally determined to have accrued in an amount less than that so deposited, or which is mitigated to an amount less than that so deposited or is remitted.

(b) The necessary moneys to make such refunds are hereby authorized to be appropriated annually from the general fund of the Treasury.

Article 1242 (a) is amended to read as follows:

(a) Customs officers and employees performing services at night, or on a Sunday or holiday, in connection with the lading or unlading of cargo, or the lading of cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo on or from the wharf, or in connection with the unlading, receiving, or examination of passengers' baggage, provided a special license therefor has been granted, or performing any other services at night or on a Sunday or holiday which may lawfully be performed by them during regular hours of business, provided a request therefore has been made, shall receive extra compensation for overtime services, which extra compensation shall be reimbursed to the government by the person to whom the special license was granted or by whom the overtime services were requested.

Article 1242 (g) is amended to read as follows:

(g) Extra compensation is not authorized for any service performed by a customs officer or employee pursuant to

his assignment to a regular tour of duty at night or on a Sunday or holiday.

Article 1250 is amended to read as follows:

ART. 1250. *Bonds.*—Tariff Act of 1930, section 623, as amended by the Customs Administrative Act of 1938, section 30:

(a) In any case in which bond or other security is not specifically required by law, the Secretary of the Treasury may by regulation or specific instruction require, or authorize collectors of customs to require, such bonds or other security as he, or they, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary of the Treasury or the Customs Service may be authorized to enforce.

(b) Whenever a bond is required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, the Secretary of the Treasury may—

(1) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum: Provided, That when a consolidated bond authorized by paragraph 4 of this subsection is taken, the Secretary of the Treasury may fix the penalty of such bond without regard to any other provision of law, regulation, or instruction.

(2) Provide for the approval of the sureties on such bond, without regard to any general provision of law.

(3) Authorize the execution of a term bond the conditions of which shall extend to and cover similar cases of importations over such period of time, not to exceed one year, or such longer period as he may fix when in his opinion special circumstances existing in a particular instance require such longer period.

(4) Authorize, to the extent that he may deem necessary, the taking of a consolidated bond (single entry or term), in lieu of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions which the Secretary of the Treasury or the Customs Service is authorized to enforce. A consolidated bond taken pursuant to the authority contained in this subsection shall have the same force and effect in respect of every provision of law, regulation, or instruction for the purposes for which it is required as though separate bonds had been taken to assure compliance with each such provision.

(c) The Secretary of the Treasury may authorize the cancellation of any bond provided for in this section, or of any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount or penalty or upon such other terms and conditions as he may deem sufficient.

(d) No condition in any bond taken to assure compliance with any law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce shall be held invalid on the ground that such condition is not specified in the law, regulation, or instruction authorizing or requiring the taking of such bond.

* * * * *

Article 1254 (a) (6) is amended to read as follows:

(6) Special single entry carpet wool and camel's hair bond, customs Form 7547, in an amount equal to double the estimated duties plus the value of the wool or hair involved.

Article 1254 (a) (7) is amended to read as follows:

(7) Special term carpet wool and camel's hair bond, customs Form 7549, in an amount of $10,000, or such larger amount as the collector may deem necessary to afford ample security to the revenue.

Delete "T. D. 37246" as a marginal reference opposite article 1254 (a) (8), (9), (12), (13), (14), (15), (17), and (18) and 1254 (d) and substitute "T. D. 45474" therefor.

Article 1265 is amended to read as follows:

ART. 1265. *Acceptance of cash deposits or obligations of the United States in lieu of sureties.*—(a) Tariff Act of 1930, section 623 (e), as amended by the Customs Administrative Act of 1938, section 30:

The Secretary of the Treasury is authorized to permit the deposit of money or obligations of the United States, in such amount and upon such conditions as he may by regulation prescribe, in lieu of sureties on any bond required or authorized by a law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce.

(b) In lieu of sureties on any bond required or authorized by law, regulation, or instruction which the Secretary of the Treasury or the Customs Service is authorized to enforce, collectors of customs are authorized to accept United States money, United States bonds, certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the penalty of the bond. At the time of the deposit of any obligations of the United States, other than United States money, with the collector the obligor shall deliver to such collector a duly executed power of attorney and agreement, in favor of the collector, in a form similar to that prescribed in Department Circular 154, dated February 6, 1935, authorizing such officer in case of any default in the performance of any of the conditions or stipulations of the bond to sell such obligations so deposited and to apply the proceeds of such sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. If cash is deposited in lieu of sureties on the bond, the collector is authorized to apply such cash in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of a default under the bond.

Article 1266 (a) is amended by changing "supplies" to "articles" in the eighteenth line, and by adding "or aircraft" after "vessels" in the nineteenth line.

Article 1351 (b) is amended by deleting the fifth line thereof and substituting therefor the following:

(See arts. 223, 416 to 423, inclusive, and 1119 (f) and (g).)

Add the following as a marginal reference opposite article 1351 (b):

Tariff Act 1930, sec. 467, Cust. Adm. Act 1938, sec. 11.

Except as otherwise indicated, the foregoing amendments shall be effective on and after July 25, 1938.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, July 18, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2098; Filed, July 20, 1938; 12:42 p. m.]

TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION

PUBLIC HEALTH SERVICE

REGULATIONS GOVERNING ALLOTMENTS AND PAYMENTS TO STATES FOR FISCAL YEAR 1939 FROM FUNDS APPROPRIATED UNDER PROVISIONS OF SECTION 4A OF CHAPTER XV OF ACT OF JULY 9, 1918, AS ADDED BY ACT OF MAY 24, 1938

Pursuant to the authority contained in Section 4d of Chap. XV of the Act of July 9, 1918, as added by the Act of May 24, 1938 (Public, No. 540, 75th Congress) the following regulations are hereby prescribed:

I. *Compliance with law and regulations.*—In order that funds allotted to the States may be of maximum use in assisting States, municipalities, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate measures for the control of the venereal diseases, payments made to a State under authority of the Act will be certified by the Surgeon General only after such State has complied with the provisions of the Act and the Regulations authorized thereunder.

II. *Allotments.*—The Surgeon General, pursuant to the authority contained in Section 4b of the Act, has determined that 80 percent of the total amount appropriated for the fiscal year 1939 (viz $2,400,000) shall be allotted to the several States, including the District of Columbia, Alaska, Puerto Rico, the Virgin Islands, and Hawaii, on the basis of (1) the population, (2) the extent of the venereal disease problem, and (3) the financial needs of the respective States, "in establishing and maintaining adequate measures for the prevention, treatment and control of the venereal diseases," in accordance with the following percentage distribution:

1. *Population.*—Allotments amounting to 24 percent of the available appropriations will be made to the several States in the ratio which the population of each State bears to the population of the United States as shown by the Census Bureau 1937 mid-year population estimates.

2. *Extent of the venereal disease problem.*—Allotments amounting to 32 percent of the available appropriations will be made to the several States on the basis of the extent of the venereal disease problem determined as follows: Because of the more accurate morbidity data for syphilis, the prevalence of this disease as shown by surveys of the United States Public Health Service will be used. Allotments will be based upon the varying composite geographical and racial prevalence rate of syphilis and the per capita cost of government in the respective States.

3. *Financial needs.* — Allotments amounting to 24 percent of the available appropriations will be made to the several States on the basis of the financial needs of such States as determined by the ability of the State to raise revenue expressed indirectly in terms of per capita income.

III. *Balances from allotments.*—Unpaid balances from allotments at the end of the fiscal year shall not be paid but shall remain in the appropriation for reallotment to the States in the succeeding fiscal year in accordance with the provisions of the Act.

IV. *Balances from payments.*—Unexpended balances remaining from quarterly payments made to the States in accordance with the provisions of the Act may be retained by the States and utilized for carrying out the purposes for which such funds were allotted and paid, subject to the following conditions:

1. Balances required under these regulations to be matched with State or local funds must be so matched before they are expended.

2. Itemized budgets for the expenditure of such balances must be submitted and approved prior to such expenditure.

3. In those instances where unexpended balances have accumulated the Surgeon General may, in his discretion, make deductions from payments due in a subsequent quarter in the amount of such unexpended balances. Funds so deducted from the payment to a State may be paid to a State in the discretion of the Surgeon General in any subsequent quarter upon the submission and approval of budgets.

V. *Submission of plans.*—To be eligible to receive payments from allotments, each State shall submit to the Surgeon General:

1. A comprehensive statement of the present State venereal disease control organization, program and budget including amounts expended from State and local funds for venereal disease control during the fiscal year 1936 and the fiscal year 1937.

2. A proposed plan for extending and improving the service of the State venereal disease control unit.

3. A proposed plan for extending and improving local (city, district, county) venereal disease control services to be carried out with the assistance of funds available under the provisions of the Act of May 24, 1938.

VI. *Submission and approval of budgets.*—Before payments will be made to any State, the State Health Officer shall:

1. Submit to the Surgeon General and secure approval of a proposed budget for each project on forms supplied by the Public Health Service. The budget shall show the sources, proposed uses, and amounts of all funds, the amounts requested from the Public Health Service for the fiscal year, together with such other information relating to such proposed project as the Surgeon General may require. The application for quarterly payment to a State shall include only those funds required for financing budgets actually in force, or which definitely will become operative, in the quarter for which payment is requested.

2. Certify that State and local expenditures have not been replaced or curtailed through the use of federal funds.

VII. *New and revised budgets.*—Budgets for new projects and revised budgets for existing projects may be submitted in any quarter after the beginning of the fiscal year, but such budgets will not be made effective prior to the beginning of the next succeeding quarter; provided that exceptions to this rule may be made by the Surgeon General, when necessary, to meet emergencies.

VIII. *Existing appropriations not to be replaced.*—No funds paid to a State pursuant to this Act shall be used to replace State or local funds in such a way as to effect a conservation or reduction of appropriations for venereal disease control work by State and local governmental agencies.

IX. *Matching requirements.* — Allotments to the several States will be available for payment when matched by State or local public funds appropriated and expended for venereal disease control work as follows:

1. For the fiscal year beginning July 1, 1938, the allotment to each State on the basis of population (Regulation II, Sub. 1) shall be matched.

2. For the fiscal year beginning July 1, 1939, and thereafter the allotment to each State on the bases of the population and the extent of the venereal disease problem shall be matched.

3. Funds employed for matching purposes may be derived either from new or old appropriations, State or local, and from donations by private individuals or non-governmental agencies when such non-public funds are certified as being available and will be expended for the control of the venereal diseases under the direction of the official health authority.

X. *Training of personnel.*—In order to meet the needs for properly qualified professional and technical personnel with which to conduct effectively State and local venereal disease control work, health departments may budget for the training of personnel such sums as may be deemed necessary for this purpose; provided, that the sums used for the training of personnel and the scientific personnel nominated for training be first approved by the Surgeon General.

Funds budgeted by a State for the training of personnel may be used to pay living stipends, tuition, and traveling expenses of full-time or part-time personnel employed or to be employed in the State and local health services, such training period not to exceed one year for any individual.

The Surgeon General will also specify to the States the maximum allowances for stipends, traveling and other permissible items of expense for the training of personnel.

These funds may also be used to aid training centers in the equipment and maintenance of training courses.

XI. *Method of payments to States and custody of funds.*—Subject to approval by the Secretary of the Treasury, payments will be made in quarterly installments to the Treasurer of the State or other State official authorized by law to receive such funds.

All such payments shall be held by the State official to whom made, in a separate fund distinct from other State funds, and shall be disbursed by him solely for the purposes specified in budgets approved by the State health officer and the Surgeon General and filed with such official.

XII. *Financial reports.* — The State health officer shall submit and certify to the Surgeon General on forms provided for that purpose financial reports as follows:

1. A quarterly project financial report for each budget in force which shall show actual amount of expenditure of Public Health Service, of State, and of local funds budgeted, and such other information as the Surgeon General may from time to time require.

2. A consolidated quarterly report summarizing all budget expenditures of Public Health Service, of State and of local funds, and such other information as the Surgeon General may from time to time require.

3. An annual report of all State expenditures for the control of the venereal diseases showing by appropriations all such State expenditures for the latest State fiscal year ending on or before December 31, 1938. This report must be certified also by the Treasurer or other State official charged with the responsibility for disbursing the health department funds.

XIII. *Progress reports of activities.*—Narrative and statistical reports of activities will be required by the Public Health Service from each State Health Department and necessary forms for this purpose will be provided.

XIV. *Reports of activities from other agencies not required.*—No detailed reports of activities will be required for personnel paid from funds supplied by other agencies.

XV. *Purpose of the act.*—On and after January 1, 1940, generally accepted minimal services for the control of the venereal diseases shall be made available in each State, Territory, municipality, county, health district, or other political sub-division receiving funds under this Act substantially in accordance with the following standards:

1. The State laboratory, and any local serological laboratory receiving funds under this Act shall demonstrate by a suitable method that the tests for syphilis performed therein have a satisfactory sensitivity and specificity rating. Such rating shall be determined in the case of the State laboratory by the Public Health Service.

2. The State laboratory and any local laboratory receiving funds under this Act shall provide laboratory services for the venereal diseases on the same basis as such service is provided for other communicable diseases.

3. Free diagnostic and treatment facilities shall be provided by all health departments or clinics receiving funds under this Act for (a) the diagnosis and emergency treatment of any patient who applies; (b) any patient referred by a private physician either for continued treatment or for consultative advice and opinion; and (c) any patient unable to afford private medical care. The determination of the ability of patients to pay for private medical care shall be the responsibility of the State or local health department.

4. Free distribution of antisyphilitic drugs shall be made on the request of any physician for the treatment of his patients, providing that where health departments have established the policy of furnishing drugs to the physician conditional upon receiving a morbidity report on the case of syphilis to be treated, that such policy will not in any way be altered by this regulation.

5. To receive funds under this Act, diagnostic and treatment services shall be as freely available to infected nonresident people as to people who reside in the governmental unit providing the services. Clinics shall be so located as to be easy of access and of maximum convenience to the population, and shall be held in well lighted and well ventilated rooms. The number of clinic sessions shall be adequate to meet local needs, and shall be held at such time as to avoid economic loss to employed patients; the physical arrangements shall be such as to insure privacy for the patients when receiving medical attention; and the minimum equipment shall consist of a sphygmomanometer, vaginal speculum, and the necessary apparatus and reagents for examination of the urine. Such equipment will also include apparatus for darkfield examination, ophthalmologic examinations, and for lumbar punctures, unless there is immediate access to such examinations by some other means. The minimal data included on morbidity, clinical and epidemiologic records shall be those presented in the reprint of the U. S. Public Health Service on "A Mechanical System for Reporting Morbidity, Treatment-Progress, and Control of Venereal Diseases", or such minimum data as may be later approved by the members of the Conference of State and Territorial Health Officers. Efficient case-finding and case-holding work shall be conducted in all clinics by qualified personnel.

6. The services of a properly qualified full-time venereal disease control officer shall be provided in each State, and in any municipality receiving funds under this Act, if the population of either exceeds 500,000 on the basis of the 1930 census, provided further, that the State health officer, after consultation and agreement with the Surgeon General, may require that the above regulation will apply in cities of populations of less than 500,000, on the basis of the 1930 census.

7. In allocating funds under this Act for local venereal disease control services, the State health officer shall give due consideration to the relatively higher prevalence of syphilis in urban areas.

[SEAL] THOMAS PARRAN,
Surgeon General.

Approved, July 14, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2106; Filed, July 21, 1938; 9:33 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 361-FD]

IN THE MATTER OF THE APPLICATION OF MIDDLE STATES FUELS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE AND ORDER FOR HEARING

The applicant above named, having on the 9th day of July, 1938, filed its application for provisional approval as a marketing agency, NOTICE IS HEREBY GIVEN that the above entitled matter is assigned for hearing before an Examiner of the Commission, on the first day of August, 1938, at ten o'clock A. M., at the hearing room of the Commission, 15th and Eye Streets, Northwest, Washington, D. C., at which time and place interested parties will be afforded an opportunity to be heard.

The Secretary of the Commission is forthwith directed to mail a copy of this Notice of Hearing to the applicant above named, to the Secretary of each District Board, and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER.

A copy of the aforesaid application is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

By order of the Commission.

Dated this 19th day of July, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2104; Filed, July 20, 1938; 1:06 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

MAINLAND CANE SUGAR AREA WAGE RATES

NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Section 301 (b) of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that public hearings will be held as follows:

At Baton Rouge, Louisiana, in the Agricultural Auditorium, Louisiana State University and A. & M. College, on August 1, 1938, at 9:30 a. m.

At New Iberia, Louisiana, in the Court Room, Parish Court House, on August 3, 1938, at 9:30 a. m.

At Thibodaux, Louisiana, in the Agricultural Building, on August 4, 1938, at 9:30 a. m.

At New Orleans, Louisiana, in Room 300, Association of Commerce Building, on August 5, 1938, at 9:30 a. m.

At Moore Haven, Florida, in the Court Room, County Court House, on August 9, 1938, at 9 a. m.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the mainland cane sugar area in the harvesting of sugarcane during the period from September 1, 1938, to June 30, 1939, and the planting and cultivating of sugarcane during the calendar year 1939, on farms with respect to which application for payment under the said act is made.

Robert H. Shields, Robert B. Tyler, G. LaGuardia, and Olaf Wakefield are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C. this 21st day of July 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2111; Filed, July 21, 1938; 12:12 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 20th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-332]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE PAINT AND VARNISH BRUSH MANUFACTURING INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), or other applicable provisions of law administered by the Commission;

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Paint and Varnish Brush Manufacturing Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of any such views should be filed with the Commission not later than August 9, 1938. Opportunity for oral hearing also will be afforded at 10 a. m., August 9, 1938, in Room 332, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to any such persons as may desire to appear and be heard. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2110; Filed, July 21, 1938; 9:49. a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of July, A. D. 1938.

[File No. 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

NOTICE OF AND ORDER FOR HEARING

Notice is hereby given of a hearing pursuant to the Public Utility Holding Company Act of 1935, to determine the manner and extent to which the properties and businesses of Utilities Power & Light Corporation holding company system shall be confined to those necessary or appropriate to the operation of an integrated public utility system, and to determine the action which Utilities Power & Light Corporation, said trustee, and their successors, and each subsidiary company thereof, shall be required to take by order of the Commission to limit the operations of Utilities Power & Light Corporation holding company system to a single integrated public utility system, and to such other businesses as are reasonably incidental or economically necessary or appropriate to the operation of such integrated public utility system; and to determine whether said Utilities Power & Light Corporation, said trustee, and their successors may continue to control one or more additional integrated public utility systems if it shall be established that such additional integrated public utility systems meet the conditions specified in clauses (A), (B), and (C) of section 11 (b) (1) of said Act; at such hearing the Commission will consider whether or not Utilities Power & Light Corporation, said trustee, and their successors should be required to divest themselves of any interest in any or all of the following companies:

Utilities Power & Light Corporation, Limited
Maritime Coal, Railway and Power Company, Limited
Southampton (Fawley) Investment Corporation, Limited
Interstate Power Company
East Dubuque Electric Company
Eastern Iowa Electric Company
Interstate Power Company of Nebraska
Interstate Power Company of North Dakota
Interstate Power Company of Wisconsin
Central States Utilities Corporation
Central States Production Corporation
Central States Power & Light Corporation
Canada Electric Company Limited
Central Light & Power Company
Central States Power & Light Corporation of Oklahoma
The Eastern Electric and Development Company, Limited
Missouri Electric Power Company
Moncton Electricity and Gas Company, Limited
Utilities Production Corporation
Utilities Oil Production Corporation
Indianapolis Power & Light Company
Electric Building Company, Inc
Morrisville Public Service Company
Derby Gas & Electric Corporation
The Derby Gas and Electric Company
The Wallingford Gas Light Company
The Laclede Gas Light Company
Phoenix Light, Heat and Power Company
Laclede Power & Light Company
Missouri Natural Gas Company
Newport Electric Corporation
Newport Water Corporation
Utilities Power & Light Operating Corporation
Casco Securities Corporation
Utilities Power & Light Securities Company
City Theatres Company
Bemidji Wood Products Company
Electric Building Corporation
Illinois and Missouri Pipe Line Company
Litchfield and Madison Railway Company
Mt. Olive & Staunton Coal Company
United Collieries, Incorporated
Northland Fuels, Incorporated
Quality Coal Company, Inc.
Utilities Elkhorn Coal Company

It is ordered, That a hearing on such matter be held on August 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Edward C. Johnson or any other officers or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to said Utilities Power & Light Corporation, said trustee, and the above named subsidiary companies, and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 3, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2105; Filed, July 20, 1938; 3:08 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

[File No. 31-219]

IN THE MATTER OF ALEXANDRIA GAS COMPANY, WASHINGTON SUBURBAN GAS COMPANY, AND PATUXENT GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on August 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 3, 1938.

The matter concerned herewith is in regard to the application of Alexandria Gas Company, Washington Suburban Gas Company and Patuxent Gas Company for an order declaring them not to be subsidiaries of Washington and Suburban Companies.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2112; Filed, July 21, 1938; 12:44 p. m.]

Referred

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THE NATIONAL ARCHIVES
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FEDERAL REGISTER
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VOLUME 3 NUMBER 143

Washington, Saturday, July 23, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 28]

REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE 1938–1939 MARKETING YEAR

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended I. M. L. Wilson, Acting Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations pertaining to flue-cured tobacco marketing quotas for the 1938–1939 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 22nd day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

CONTENTS

Article I.—General

Sec.
101. Definitions.
102. Instructions and forms.
103. Gender and plural meaning of terms.

Article II.—Farm Marketing Quotas

Sec.
201. Establishment of farm marketing quota.
202. Publication, notice, review.
203. Rights of producers in quota.
204. Successors in interest.
205. Marketing card for every quota.
206. Marketings charged against quota.

Article III.—Marketing of Tobacco and Penalties

Sec.
301. A memorandum of sale to be obtained for every marketing.
302. Effect of memorandum of sale.
303. Marketings free of penalty.
304. Marketings subject to penalty.
305. Amount of penalty.
306. Persons to pay penalty and deduction from purchase price.
307. Payment of penalties.
308. Refund of penalties.

Article IV.—Marketing Cards

Sec.
401. Form of card.
402. Persons to issue card.
403. Receipt for card.
404. Entries on card.
405. Rights of producers in card.
406. Invalid cards.
407. Invalid cards suspended.
408. Duplicate card to replace card which is lost, stolen, destroyed, or becomes illegible.
409. Amount of quota for duplicate cards.
410. Replacement of old card.

Article V.—Transfer of Quotas

Sec.
501. Transfer authorized.
502. Amount transferrable.
503. Place and person to make transfer.
504. Transfer direct between operators or through warehouseman.
505. How transfer made.
506. A. A. A. record of transfer.
507. Consideration for transfer.
508. Producer's rights in transferred quota.
509. Distribution of consideration.
510. Conditions of warehouseman's agency.
511. Warehouseman's charge for services.
512. Warehouseman's record of transfers.
513. Order of transfer.
514. Termination of agency.
515. Effect of voluntary termination.
516. Effect of involuntary termination as to warehouseman.

Article VI.—Records and Reports

Sec.
601. Warehouseman's record of marketing.
602. Warehouseman's record of transfers.
603. Report from warehouseman.
604. Records of dealers.
605. Reports from dealers.
606. Exception for certain dealers.
607. Records and reports of redryers, etc.
608. Separate records and reports from persons acting in more than one capacity.
609. Failure to keep record or make report.
610. Records open to inspection.
611. Information confidential.

ARTICLE I—GENERAL

SECTION 101. *Definitions.*—As used in these regulations and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires:

Act means the Agricultural Adjustment Act of 1938 and any amendments thereto.

Administrator means the Administrator of the Agricultural Adjustment Ad-

CONTENTS

RULES, REGULATIONS, ORDERS

Page

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Flue-cured tobacco farm marketing quotas for 1938, instructions for determination supplemented---- 1839
Flue-cured tobacco marketing quotas for 1938–1939, adjustment of national quota---------- 1839
Regulations---------- 1833

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Splenetic, southern, or Texas fever in cattle---------- 1840

TITLE 15—COMMERCE:
Bureau of Fisheries:
Alaska fishery regulations, amendment---------- 1840
National Bituminous Coal Commission:
Rules of practice and procedure before the Commission---------- 1840

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
United Fence Manufacturers Association, et al, cease and desist order-------- 1845

TITLE 21—FOOD AND DRUGS:
Food and Drug Administration:
Federal Food, Drug, and Cosmetic Act, regulations under Sections 201, 505, and 702 ---------- 1846

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, gain or loss upon installment obligations when property sold is repossessed---------- 1847

TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION:
Civilian Conservation Corps:
Enrollment, etc., regulations amended; procurement of supplies---------- 1849

(Continued on next page)

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CONTENTS—Continued

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration: Page
New York Metropolitan Marketing Area, filing of written arguments concerning handling of milk 1849
Farm Security Administration:
Designation of counties for tenant purchase loans:
Minnesota 1854
New Mexico 1854
Securities and Exchange Commission:
Hearings:
Northeastern Water and Electric Corp 1855
Toledo Edison Co 1854
Union Producing Co 1855
Utilities Power & Light Corp 1855

ministration of the United Sates Department of Agriculture.

County Committee means the county committee utilized under the Act.

County Office means those persons or committees in the county who, under authorization by the Secretary of Agriculture, are responsible for the local administration of the Act.

Dealer means a person who engages, to any extent, in the business of acquiring tobacco from producers; but no warehouseman shall be considered a dealer because of any purchase of tobacco made by him on his own warehouse floor if the identical tobacco is subsequently resold by him on his own warehouse floor.

Farm means the farm for which the marketing quota was established.

Farm Marketing Quota or Quota means a flue-cured tobacco marketing quota established for a farm under Section 313 of the Act.

Field Assistant means a field assistant of the Agricultural Adjustment Administration, United States Department of Agriculture.

Flue-Cured Tobacco means tobacco classified in Service and Regulatory Announcement numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as types 11, 12, 13 and 14, and collectively known as flue-cured tobacco.

Marketing means the first bona fide disposition by sale, barter, or exchange. "Market" and "Marketed" shall have corresponding meanings to the term "marketing."

Marketing Card or Card means a marketing card (Form 38–Tobacco 14) issued for a farm pursuant to the regulations.

The 1938–39 Marketing Year means the period beginning with the 1st day of July 1938, and ending with the 30th day of June 1939.

Memorandum of Sale means a Form 38–Tobacco 17 in the case of warehouse sales and a Form 38–Tobacco 18 in the case of non-warehouse sales.

Non-Warehouse Sale means a marketing other than a warehouse sale.

Operator means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

Person means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

Pound means that amount of tobacco which, if weighed in its unstemmed form and in the condition with respect to its moisture content in which it is usually delivered by a grower, would equal one pound standard weight.

Producer means a person who, as owner, landlord, tenant, sharecropper, or laborer, is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of the tobacco.

Regulations means these Regulations Pertaining to Flue-cured Tobacco Marketing Quotas for the 1938–39 Marketing Year.

Share of Tobacco means that part of the tobacco available for marketing, or of the proceeds of the marketing thereof, which a producer is entitled to receive or retain under his agreement relating to the production of the tobacco. Such share shall be computed without regard to the time of passage of title under State law, and without deduction on account of any claim of any creditor.

Tobacco means flue-cured tobacco.

Tobacco Available for Marketing from a Farm means all tobacco produced on the farm, which was not marketed (or otherwise disposed of) prior to the beginning of the 1938–39 marketing year; but shall not include any such tobacco which was destroyed before its marketing.

Tobacco Section means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

Warehouse means a building or other place at which sales of tobacco, at public auction, are regularly held by a warehouseman during the tobacco marketing season.

Warehouseman means a person regularly engaged in the business of holding sales of tobacco, at public auction, at a warehouse, and during the tobacco marketing season.

A Warehouse Sale means a marketing by sale at public auction on a warehouse floor.

SEC. 102. *Instructions and forms.*—The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions and such forms as may be required to carry out these regulations.

SEC. 103. *Gender and plural meaning of terms.*—Any term used in the masculine or in the singular shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

ARTICLE II.—FARM MARKETING QUOTAS

SECTION 201. *Establishment of Farm Marketing Quota.*—The quota for a farm shall be determined and established in accordance with the "Instructions for Determination of Flue-Cured Tobacco Farm Marketing Quotas for 1938" (Form 38–Tobacco 11) issued by the Secretary of Agriculture June 16, 1938, as amended[1] [Act, Sec. 313.]

SEC. 202. *Publication, notice, review.*—The publication, notice and review of quotas as established shall be in accordance with the "Regulations Governing (A) Applications and Hearings under Section 363 of Title III of the Agricultural Adjustment Act of 1938 Relating to Administrative Review of Marketing Quotas for Tobacco, Corn, Wheat, Cotton and Rice Established under said Title and (B) the Publication and Notice of such Quotas under Section 362 of said Act" (designated 38–AAA–2), issued by the Secretary of Agriculture.[2]

SEC. 203. *Rights of producers in quota.*—Each producer having a share in the tobacco available for marketing from the farm shall be entitled to market, or to have marketed for him, under the quota his share of such tobacco; provided that if the quota is less than the total amount of such tobacco, each producer shall be entitled to market, or to have marketed for him, under the quota only that proportion of his share of such

[1] 3 F. R. 1438, 1547 DI.
[2] 3 F. R. 1749 DI.

tobacco which the quota is of the total quantity of such tobacco. [Act, Sec. 375.]

SEC. 204. *Successors in interest.*—Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to extent of such succession, have the same rights as the producer in the quota. [Act, Sec. 375.]

SEC. 205. *Marketing card for every quota.*—There shall be issued for each farm to which a quota is allotted a marketing card (Form 38–Tobacco 14) as evidence of the number of pounds allotted to the farm as its quota; provided that the quota may be divided among such number of cards as the operator may request. Marketing cards shall be issued as provided in Article IV. [Act, Sec. 373 and 375.]

SEC. 206. *Marketing charged against quota.*—Marketings of tobacco shall be charged against the quota for the farm on which such tobacco was produced in the order in which the memoranda of sale (Forms 38–Tobacco 17 or 18) covering such marketings are issued: provided that a marketing shall not be charged against the quota to the extent that (as shown by the memorandum of sale or a Form 38–Tobacco 25) such marketing consists of tobacco (a) marketed subject to penalty, or (b) marketed solely for nicotine or other by-product uses, or (c) grown for experimental purposes only by a publicly owned experiment station. [Act, Sec. 314, 372 and 375.]

ARTICLE III.—MARKETING OF TOBACCO AND PENALTIES

SECTION 301. *A Memorandum of sale to be obtained for every marketing.*—Whenever any tobacco is marketed (whether the marketing is within the quota or not) the marketing card for the farm on which such tobacco was produced, together with the warehouse bill or other record of the marketing, shall be presented to the field assistant who is located most conveniently to the place of marketing for the purpose of obtaining a memorandum of sale (Form 38–Tobacco 17 in the case of warehouse sales and Form 38–Tobacco 18 in the case of non-warehouse sales) covering the tobacco marketed. A memorandum of sale shall then be issued by the field assistant; provided that, in the case of a non-warehouse sale which is subject to penalty, the memorandum shall not be issued unless the certificate on Form 38–Tobacco 18 as to the facts of the marketing is signed by the buyer and the producer (or by the producer alone if the marketing is made directly to a person outside of the United States). [Act, Sec. 373 and 375.]

SEC. 302. *Effect of memorandum of sale.*—A memorandum of sale shall identify the tobacco covered by the memorandum as tobacco the marketing of which is subject to penalty, or tobacco the marketing of which is free of penalty, as the memorandum, on its face, may show, and, if the marketing is subject to penalty, shall state the amount of the penalty upon the marketing.

It shall be the responsibility of the person liable for the payment of the penalty upon a marketing to check carefully the entries in the memorandum of sale issued to cover the marketing and the records upon which such memorandum was based. Any errors should be brought immediately to the attention of the field assistant for correction. The failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries. [Act, Sec. 314 and 375.]

SEC. 303. *Marketing free of penalty.*—Any marketing of tobacco shall be free of penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that

(a) Such tobacco is marketed within the quota for the farm on which such tobacco was produced, as shown by a valid marketing card presented to obtain the memorandum of sale to cover such marketing; provided that if the producer and the person liable for the payment of the penalty shall (on Form 38–Tobacco 27) designate any tobacco as tobacco marketed subject to penalty, then such tobacco shall be deemed to be marketed in excess of the quota, and the memorandum of sale shall not identify such tobacco as marketed free of penalty; or

(b) Such tobacco is marketed solely for nicotine or other by-product uses and is so identified by a certificate made on Form 38–Tobacco 25 by the by-product manufacturer and the producer; or

(c) Such tobacco was grown for experimental purposes only by a publicly owned agricultural experiment station and is so identified by a certificate made on Form 38–Tobacco 25 by an authorized representative of the experiment station and the producer. [Act, Sec. 314, 372 and 375.]

SEC. 304. *Marketings subject to penalty.*—(a) Any marketing of tobacco shall be subject to penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that the tobacco marketed cannot, as of the date of the issuance of the memorandum of sale, be identified pursuant to section 303 of these regulations as tobacco the marketing of which was free of penalty.

(b) If a memorandum of sale has not been issued to cover a marketing of tobacco such marketing shall be deemed to be a marketing which was subject to penalty. [Act, Sec. 314, 372 and 375.]

SEC. 305. *Amount of penalty.*—The penalty upon any marketing of tobacco subject to penalty shall be 50 per centum of the market price of such tobacco on the date of marketing or 3 cents per pound, whichever is higher. The sale price of any tobacco will be considered as evidence of the market price on the date of marketing where accompanied by a warehouse bill in the case of warehouse sales, or in the case of non-warehouse sales where verified by the certificate (on Form 38–Tobacco 18) of the buyer and the producer. [Act, Sec. 314.]

SEC. 306. *Persons to pay penalty and deduction from purchase price.*—(a) If the tobacco is marketed by the producer through a warehouseman (or other agent who performs services comparable to the services performed by a warehouseman) the penalty shall be paid by the warehouseman (or such other agent); but the warehouseman (or such other agent) may deduct an amount equivalent to the penalty from the purchase price paid to the producer.

(b) If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(c) If the tobacco is marketed by the producer in a manner other than as described in subsections (a) and (b) of this section, the penalty shall be paid by the person who acquires the tobacco from the producer; but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale. [Act, Sec. 314.]

SEC. 307. *Payment of penalties.*—Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.), not later than the end of the calendar week next following the week in which the penalties became due. The remittance shall be accompanied,

(a) in the case of a warehouseman, by his report on Form 38–Tobacco 19, or

(b) in the case of a dealer, by his report on Form 38–Tobacco 22, or

(c) in the case of a producer, by his statement showing the number of pounds sold, the market price thereof and the person outside the United States to whom sold.

The remittance may be made by draft, money order or check, payable to the order of the Secretary of Agriculture, but any such draft, money order, or check shall be received subject to payment at par. [Act, Sec. 314 and 372.]

SEC. 308. *Refund of penalties.*—Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of any penalty collected from any person pursuant to the Act, the Secretary of Agriculture finds that such penalty was erroneously, illegally, or wrongfully collected, the Secretary of Agriculture shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of such pen-

alty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations to be prescribed by him. [Act, Sec. 372.]

ARTICLE IV.—MARKETING CARDS

SECTION 401. *Form of card.*—The marketing card (Form 38–Tobacco 14) shall contain the signature, in ink or indelible pencil, of both the person authorized to issue the marketing card and the operator, and a statement of the following:

(a) The State and county code and serial number of the farm for which the marketing card is issued;

(b) The number of the marketing card;

(c) The name and address of the operator;

(d) The amount of the marketing quota, or, if more than one marketing card is issued for the farm, the number of pounds for which the marketing card is issued, expressed in words on the face of the marketing card, and expressed in figures on the inside of the marketing card in column 1 opposite the word "Quota"; and

(e) The date on which the marketing card was issued. [Act, Sec. 373 and 375.]

SEC. 402. *Persons to issue card.*—The county committee shall designate one of its members or the Secretary of the County Agricultural Conservation Association as the person authorized to issue marketing cards for farms in the county. Only one person shall be designated by the committee for this purpose, and, in the absence of a specific designation, the Secretary of the County Agricultural Conservation Association shall be deemed to be the person designated. [Act, Sec. 375.]

SEC. 403. *Receipt for card.*—After the marketing card or cards have been duly prepared, they shall be delivered to the operator upon his receipt therefor. There shall be listed in the operator's receipt (Form 38–Tobacco 13), in the appropriate spaces thereon, (a) each marketing card issued for the farm and received by him and the number of pounds for which each such marketing card was issued, and (b) the names of all producers having a share in the tobacco available for marketing from the farm, and (c) the operator's estimate of the number of pounds of tobacco which will be available for marketing from the farm. The receipt shall be retained in the county office and shall be available to any producer having a share in the tobacco available for marketing from the farm, whether such person be listed on the receipt or not, either for inspection or for evidence as to any matter to which the receipt relates. [Act, Sec. 375.]

SEC. 404. *Entries on card.*—No person other than a field assistant, or a person designated by the Chief of the Tobacco Section, or by the county committee, shall make any entry (except for the writing by the operator of his signature) on the marketing card; but every entry on the marketing card should be carefully checked by each interested person, and any error should be immediately reported for correction to a person authorized to make entries on the marketing card. [Act, Sec. 375.]

SEC. 405. *Rights of producers in card.*—Each producer who has a share in the tobacco available for marketing from the farm shall have the right to market, or to have marketed for him, under the marketing card issued for the farm the quantity of such tobacco which he is entitled to market, or to have marketed, under the quota for the farm, as provided in section 203 of these regulations. [Act, Sec. 375.]

SEC. 406. *Invalid cards.*—(a) A marketing card shall be invalid if the marketing card was not issued or delivered in the form and manner required in this Article; but such invalid marketing card shall become valid when returned to the county office and reissued and delivered in the required form and manner.

(b) A marketing card shall be invalid if the entries on the marketing card with respect to the amount, portion or balance of quota are incorrect, or if, because of the omission of any entry which should have been made on the marketing card, the balance of unused quota is incorrect; but if, subsequent to the time of invalidation, no marketings have been made and entered on the marketing card which would have been subjected to penalty if the correct entries had been shown on the marketing card, then such invalid marketing card shall become valid when the error has been corrected by a person authorized to make entries on the marketing card, or, in any other case, when the marketing card has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(c) A marketing card shall be invalid if the marketing card is credited with an amount of quota, any part of which has been transferred in violation of the provisions of Article V; but such invalid marketing card shall become valid when the marketing card has been forwarded to the Tobacco Section and the necessary corrections have been made under its direction.

(d) A marketing card shall be invalid if any entry is made on the marketing card by a person not authorized to make such entry; but such invalid marketing card when returned to the county office shall be replaced by a new marketing card issued for an amount of quota determined as provided in section 400 of these regulations.

(e) The marketing card shall be invalid if it is presented and used to obtain a memorandum of sale covering the marketing of tobacco which was grown on a farm other than the farm for which the marketing card was issued; but such invalid marketing card shall become valid when returned to the Tobacco Section, and the necessary corrections have been made under its direction.

(f) The marketing card shall be invalid if it is lost or stolen; but if no entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which the marketing card was issued, then such invalid marketing card shall become valid when it has been returned to the operator; or if any entry has been made on the marketing card between the time of its loss or theft and its return to the operator, then such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction; provided that if such lost or stolen marketing card is not found or returned to the operator prior to the issuance of a duplicate marketing card as provided in section 408 of these regulations, then such lost or stolen marketing card shall be permanently invalid.

(g) The marketing card shall be invalid if it is destroyed or becomes illegible; but a new marketing card shall be issued to replace such destroyed or illegible marketing card as provided in section 408 of these regulations and such destroyed or illegible marketing card shall be permanently invalid. [Act, Sec. 375.]

SEC. 407. *Invalid cards suspended.*—(a) If any field assistant or the county office shall learn of or ascertain the invalidity of any marketing card, such person shall immediately notify the Tobacco Section of the code and serial number, and the name of the operator of the farm for which the marketing card was issued, and of the facts causing the invalidity of the marketing card; unless the marketing card is then in the possession of such person, in which case he shall retain and make disposition of the marketing card in accordance with the provisions of section 406 of these regulations. Upon receipt of such notice the Tobacco Section shall notify all field assistants, the operator of the farm, and the county committee of the county where the farm is located, that the marketing card has been suspended for invalidity.

(b) If any such marketing card shall thereafter come into the possession of any field assistant or the county office, such person shall retain and make disposition of the marketing card in accordance with the provisions of section 406 of these regulations. [Act, Sec. 375.]

SEC. 408. *Duplicate card to replace card which is lost, stolen, destroyed, or becomes illegible.*—Whenever any marketing card is lost, stolen, destroyed or becomes illegible, the county office shall be notified of the code and serial number, and the name of the operator of the farm for which the marketing card was issued, the number of the marketing card, and, if known, the amount of the unused quota evidenced by the marketing card. Such notice shall be in writing, subscribed by the operator of the farm for which the marketing card was issued. If, in the case of a lost or stolen marketing card, the producer is at or near a warehouse where he believes the loss or theft occurred, he shall also notify the field assistant at the warehouse.

When such notice has been given to the county office and a period of two weeks has elapsed from the time of its receipt of such notice, a duplicate marketing card may be issued by the county office for an amount of quota determined as provided in section 409 of these regulations.

Such marketing card shall bear the same number as the number of the marketing card which was lost, stolen, destroyed or became illegible, and shall have written under the marketing number, in large letters, the word "duplicate." The person issuing the marketing card, shall sign the card in the space provided for his signature and shall also sign below the word "duplicate." [Act, Sec. 375.]

SEC. 409. *Amount of quota for duplicate cards.*—Whenever the county office issues a duplicate marketing card for any marketing card which has become invalid the amount of quota for which such card shall be issued shall equal whichever of the following amounts is the smaller:

(a) The unused quota as stated by the operator; or

(b) The unused quota as determined by subtracting from the quota for the farm the total marketings from the farm (as shown by memoranda of sale) and the amount of unused quota shown on all other marketing cards issued for the farm; provided that, if no amount is stated by the operator, the amount for which the card shall be issued shall equal the amount determined under (b) above. [Act, Sec. 375.]

SEC. 410. *Replacement of old card.*—Whenever, on any card, the space for recording marketings becomes inadequate, such marketing card shall be surrendered to the county office, and a new marketing card shall be issued for the amount of the quota remaining unused on the marketing card so surrendered. An appropriate entry shall be made on the surrendered marketing card showing that a new marketing card has been so issued. [Act, Sec. 375.]

ARTICLE V.—TRANSFER OF QUOTAS

[Act, Sec. 313 (d)]

SECTION 501. *Transfer authorized.*—A transfer of quota may be made to another farm only to the extent and in the manner provided in this Article.

SEC. 502. *Amount transferable.*—The quota for a farm may be transferred only to the extent and in the event that such quota exceeds the sum of (a) the number of pounds of tobacco available for marketing from the farm which have not been marketed (or otherwise disposed of) at the time of the proposed transfer, (b) the number of pounds of tobacco marketed from the farm solely for nicotine or other byproduct uses, and (c) the number of pounds of tobacco marketed from the farm which were grown for experimental purposes only by a publicly owned agricultural experiment station.

SEC. 503. *Place and person to make transfer.*—Transfers may be made at a warehouse by a field assistant or at the county office by a person authorized to make transfers.

SEC. 504. *Transfer direct between operators or through warehouseman.*—Transfers of quota may be made as a result of direct negotiation between the operators of the farms concerned in the transfer; or, subject to the provisions of this Article, an operator may authorize a warehouseman to act as his agent to arrange a transfer of quota.

If the operator of a farm desires to have a warehouseman act for him in arranging a transfer of quota from the farm, the operator shall deliver to the warehouseman his authorization (Form 38–Tobacco 23) and the marketing card for the farm from which the transfer is to be made. Such warehouseman shall then enter in his transfer record book (Form 38–Tobacco 24) the number of pounds of quota to be transferred, and shall present the marketing card and the authorization to a field assistant who shall charge the marketing card with the number of pounds to be transferred by making appropriate entries on the card. The marketing card shall then be returned to the warehouseman, and shall be retained by him until an examination of his transfer records has been made by an authorized representative of the Agricultural Adjustment Administration.

SEC. 505. *How transfer made.*—(a) If the transfer is to be made as a result of direct negotiation between the operators of the farms concerned in the transfer, the marketing cards for the respective farms, together with the authorization (Form 38–Tobacco 23) of the operator of the farm from which the transfer is to be made, shall be presented to a representative of the Agricultural Adjustment Administration authorized to make the transfer. Such representative shall then charge the marketing card for the farm from which the transfer is to be made, and credit the marketing card for the farm to which the transfer is to be made, with the number of pounds of quota transferred, by making appropriate entries on the respective marketing cards.

(b) If the transfer is to be made through a warehouseman, the warehouseman shall charge on his transfer record book the number of pounds of quota to be transferred, and shall then present his book to the field assistant in lieu of the presentation of an authorization and marketing card for the farm from which the transfer is to be made. The field assistant shall then credit the marketing card for the farm to which the transfer is made with the number of pounds transferred by making appropriate entries on such card.

SEC. 506. *AAA record of transfer.*—A representative of the Agricultural Adjustment Administration who makes any transfer entries on a marketing card shall make a record thereof on Form 38–Tobacco 15.

SEC. 507. *Consideration for transfer.*—(a) If a transfer is made as a result of direct negotiation between the operators of the farms concerned in the transfer, the consideration for the transfer shall be whatever consideration is agreed upon by the operators of the respective farms; provided that no such transfer shall be made for a consideration which is less than 5 cents per pound for each pound of quota transferred unless all the producers on the farm from which the quota is to be transferred have consented thereto.

(b) If a warehouseman acts as agent in connection with a transfer, the consideration for the transfer shall be a sum computed at the rate of, and at no other rate than, 5 cents per pound for each pound of quota transferred, and shall be paid by the warehouseman to the operator of the farm from which the transfer was made not later than the day next following the making of the transfer.

SEC. 508. *Producers' rights in transferred quota.*—Each producer having a share in the tobacco available for marketing from the farm which has not been marketed at the time of the transfer shall be entitled to market, or to have marketed for him, under the transferred quota that proportion of his share of such tobacco which his contribution to the consideration for such transfer is of the total consideration for the transfer.

SEC. 509. *Distribution of consideration.*—The consideration received by the operator for the transfer of any portion of the quota shall be divided by him among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm, unless all such producers agree among themselves to a different division of the consideration; provided that, if the quota transferred is quota which was not allotted to the farm but was acquired by transfer, then the consideration shall be divided by the operator among such producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer, unless such producers agree among themselves to a different division of the consideration.

SEC. 510. *Conditions of warehouseman's agency.*—No warehouseman shall act as agent for the purpose of arranging transfers of quota; unless—

(a) He has executed an agreement on Form 38–Tobacco 26, and such agreement has been approved by the Chief of the Tobacco Section;

(b) With respect to each transfer, he has been authorized in writing to ar-

range the transfer (Form 38–Tobacco 23) by the operator of the farm from which the transfer is to be made; and

(c) His right to act as agent has not been terminated under the provisions of this Article.

SEC. 511. *Warehouseman's charge for services.*—A warehouseman acting as agent may charge the operator of the farm to which he arranges a transfer of quota a sum of not exceeding $1 for his services in connection with each transfer to the farm; provided that all quota transferred to a farm at the same time, whether transferred from one or more farms, shall be considered as one transfer. No other charge shall be made by a warehouseman for his services in connection with a transfer.

SEC. 512. *Warehouseman's record of transfers.*—Every warehouseman who acts as agent in connection with the transfer of marketing quotas shall keep complete and accurate record relative thereto on a transfer record book (Form 38–Tobacco 24). The transfer record book shall be and remain the property of the Secretary of Agriculture, and shall be available at all times for inspection by a representative of the Agricultural Adjustment Administration authorized to make such inspection by the Chief of the Tobacco Section, and upon request by the Chief of the Tobacco Section shall be immediately surrendered to the Secretary of Agriculture by forwarding it to the Tobacco Section, or by delivering it to a representative of the Agricultural Adjustment Administration authorized by the Chief of the Tobacco Section to receive such transfer record book.

SEC. 513. *Order of transfer.*—A warehouseman who acts as agent shall arrange for the transfer of quotas to farms in the order in which requests for such transfers together with the marketing cards upon which the transfers are to be entered are received by him from producers; provided that he may require requests to be accompanied by a deposit of the consideration (i. e., 5 cents per pound of each pound of quota requested). For the purpose of fixing the order of priority, the warehouseman shall enter in his transfer record book (Form 38–Tobacco 24) in the order in which requests for quota are received by him, the name of the operator and the county code and farm serial number of the farm to which the transfer is requested, the amount of the requested transfer, the amount of the deposit, if any, received.

SEC. 514. *Termination of agency.*—The warehouseman's right to act as agent shall be terminated by

(a) Voluntary surrender of the right, or

(b) Violation of any provision of this Article.

SEC. 515. *Effect of voluntary termination.*—If the termination is voluntary on the part of the warehouseman, he shall immediately notify the Chief of the Tobacco Section that he no longer desires to act as agent; and such warehouseman shall proceed as expeditiously as possible to settle all matters relating to the agency.

SEC. 516. *Effect of involuntary termination as to warehouseman.*—If the termination is made by his violation of any of the provisions of this Article, the warehouseman shall immediately forward his transfer record book (Form 38–Tobacco 25) to the Tobacco Section and any interest which the warehouseman may have in any cards then on hand in connection with transfers shall be forfeited and such cards and any authorizations for transfer (Form 38–Tobacco 23) relating thereto shall be turned over forthwith to the field assistant to be forwarded to the Tobacco Section. The Tobacco Section shall cause such publication of the fact of termination as appears necessary to protect the interests of producers.

ARTICLE VI.—RECORDS AND REPORTS

[Act, Sec. 373]

SECTION 601. *Warehouseman's record of marketing.* — Every warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made on his warehouse: The name of the seller, the name of the purchaser, the date of sale, the number of pounds sold, the sale price, and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco sold was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

SEC. 602. *Warehouseman's record of transfers.*—Every warehouseman who acts as agent in connection with transfers of quota, shall, as required in Section 512 of these regulations, keep complete and accurate records relative thereto on Form 38–Tobacco 24.

SEC. 603. *Reports from warehouseman.*—Every warehouseman shall report daily on Form 38–Tobacco 19, on Form 38–Tobacco 20, and on Form 38–Tobacco 21, those transactions made in his warehouse which are required to be shown on such forms. The report on Form 38–Tobacco 20 shall be delivered to the field assistant at the warehouse at the end of the day for which the report is made. The reports on Form 38–Tobacco 19 and Form 38–Tobacco 21 shall be sent to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the day next following the day for which the report is made; provided that, if he so elects, the warehouseman may accumulate the reports on Form 38–Tobacco 19 for one calendar week and make his return thereof on or before the end of the calendar week next following the week for which the reports were made.

Every warehouseman shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 604. *Records of dealers.*—Every dealer shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each purchase (or other acquisition) of tobacco and each sale (or other disposition) of tobacco made by him: The date when and the place where made, the number of pounds of tobacco involved, the price (or other consideration) paid or received, the name and address of the person from which acquired or to whom the disposition was made (or if acquired or disposed of by sale at auction on a warehouse floor, the name of such warehouse), and in case the tobacco is acquired from a producer, the name of the operator of the farm on which the tobacco marketed was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

SEC. 605. *Reports from dealers.*—Except as otherwise provided in Section 606 of these regulations, every dealer shall make a daily report on Form 38–Tobacco 22, of all purchases and sales of tobacco made by him on the day for which the report is made. The reports shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week next following the week for which such daily reports are made.

Every dealer shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 606. *Exception for certain dealers.*—Any dealer, who does not purchase or otherwise acquire tobacco except at warehouse sale and who does not resell, prior to the redrying thereof, more than 15 percent of the tobacco purchased by him, shall not be subject to the provisions of section 605 of these regulations; but every such dealer shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 607. *Records and reports of redryers, etc.*—Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, the name and address of the person from whom the tobacco was received (and, if received from a producer, the name and address of the operator, and the code and serial number, of the farm on which the tobacco was grown), the amount of any advance made by him on the tobacco, and the disposition of the tobacco.

Every such person shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 608. *Separate records and reports from persons acting in more than one capacity.*—Any person, who is required to keep any record or make any report as (a) warehouseman, (b) dealer, or (c) processor, or as (d) a person engaged in the business of redrying, prizing or stemming of tobacco for producers, and who engages in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent as to each such business as if he were engaged in no other business.

SEC. 609. *Failure to keep record or make report.*—Any warehouseman, processor or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing or stemming tobacco for producers, who fails to make any report or keep any record as required under this Article or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.

SEC. 610. *Records open to inspection.*—For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary of Agriculture is authorized by the Act to examine such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of any warehouseman, dealer, processor, common carrier, or person engaged in the business of redrying, prizing, or stemming tobacco for producers.

SEC. 611. *Information confidential.*—All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of this Article shall be kept confidential by all officers and employees of the Department of Agriculture and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act.

[F. R. Doc. 38–2124; Filed, July 22, 1938; 12:13 p. m.]

DETERMINATION OF THE APPORTIONMENT AND ADJUSTMENT OF THE NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO FOR THE 1938–39 MARKETING YEAR

Pursuant to section 313 of the Agricultural Adjustment Act of 1938 (approved February 16, 1938), as amended, I M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that the national marketing quota for flue-cured tobacco for the 1938–39 marketing year, as proclaimed by the Secretary of Agriculture on February 18, 1938,[1] be apportioned and adjusted in accordance with the following table:

States and new farms (i. e., farms on which tobacco is produced for the first time in 5 years)	Apportionment of national quota proclaimed February 18, 1938	Adjustment pursuant to section 313 (a) to bring State up to 75 percent of 1937 production	Adjustment pursuant to section 313 (c) 4 percent increase all States	Adjustment pursuant to section 313 (e) to bring State up to minimum State poundage	Totals as apportioned and adjusted
	1,000 pounds	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*
Virginia	62,940	0	2,518	0	65,458
N. Carolina	466,998	0	18,680	0	485,678
S. Carolina	77,126	3,934	3,242	0	84,302
Georgia	68,320	0	2,733	0	71,053
Florida	8,393	2,191	423	0	11,007
Alabama	73	15	4	328	420
New Farms	21,150	0	0	0	21,150
Total U. S.	705,000	6,140	27,600	328	739,068

Done at Washington, D. C., this 22nd day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2122; Filed, July 22, 1938; 12:12 p. m.]

[Form 38–Tobacco–11–Supplement 2]

SUPPLEMENT TO INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938[2]

Form 38–Tobacco 11, "Instructions for Determination of Flue-Cured Tobacco Farm Marketing Quotas for 1938",[3] is amended as follows:

"Paragraph C of Section I, Part 1, is amended by striking out the sentence therein reading:

"'The normal marketings for new farms will be 100 percent of the marketings indicated by the land, labor, and equipment available for the production of tobacco on the farm'

and inserting in lieu thereof the following:

"'The normal marketings for new farms will be 50 percent of the marketings indicated by the land, labor, and equipment available for the production of tobacco on the farm'."

"The second paragraph of Section II, Part 1, is amended by striking out the sentence therein reading:

"'The normal marketings for each new farm will be the marketings indicated by the land, labor and equipment available for the production of tobacco on the farm.

and inserting in lieu thereof the following:

"'The normal marketings for each new farm will be 50 percent of the marketings indicated by the land, labor and equipment available for the production of tobacco on the farm.'"

Section III is amended by adding at the end thereof the following:

"E. *Marketings for new farms in relation to equipment and 1938 acreage of tobacco.*—The normal marketings for any new farm shall not be less than the smaller of (a) 1,000 pounds for the farm plus an additional 1,000 pounds for each tobacco curing barn on the farm in condition for use in 1938, or (b) 150 percent of the acreage of tobacco to be harvested on the farm in 1938 times the farm yield."

Section IV is amended by striking out paragraph C and by inserting in lieu thereof the following:

"C. *Four percent addition to the State quota.*—A number of pounds equal to four percent of the farm quotas established (pursuant to A above) for all old farms in each State will be apportioned among such farms. The apportionment to each such farm shall be made in proportion to the amount by which the farm marketing quota is less than 70 percent of whichever of the following amounts is the smaller:

(1) the adjusted past marketing for the farm, or

(2) 150 percent of the 1938 acreage of tobacco to be harvested on the farm times the farm yield."

"D. *Preliminary farm marketing quota.*—A preliminary quota not to exceed that number of pounds obtained by multiplying the number of acres of tobacco to be harvested on the farm in 1938 by 400 pounds may be assigned to a farm, if, within two days of the opening of the tobacco markets on which the operator of the farm states that he desires to market the tobacco produced on the farm, the farm marketing quota has not yet been allotted to the farm; provided that in the case of a new farm the preliminary quota shall not exceed the smaller of (1) the sum of 300 pounds for the farm plus 300 pounds for each tobacco curing barn on the farm in condition for use in 1938, or (2) the number of pounds obtained by multiplying the number of acres of tobacco to be harvested on the farm in 1938 by 300 pounds.

Done at Washington, D. C., this 22nd day of July 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2123; Filed, July 22, 1938; 12:12 p. m.]

[1] 3 F. R. 507 DI.
[2] Issued pursuant to the Agricultural Adjustment Act of 1938, as amended.
[3] F. R. 1348, 1547 DI.

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER I.—BUREAU OF ANIMAL INDUSTRY

[Amendment 2 to B. A. I. Order 363, 9 CFR 3.055]

PART 3.—REGULATIONS RELATING TO THE CONTROL OF THE INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY TO PREVENT THE SPREAD OF CONTAGIOUS OR INFECTIOUS DISEASES

REGULATION TO PREVENT THE SPREAD OF SPLENETIC, SOUTHERN, OR TEXAS FEVER IN CATTLE

Description of area quarantined in Texas.—The fact has been determined by the Secretary of Agriculture and notice is hereby given that the contagious and infectious disease known as splenetic or tick fever no longer exists in cattle in that part of Nacogdoches County, Texas, now under quarantine.

Now, therefore I, M. L. Wilson, Acting Secretary of Agriculture, under authority conferred by law, do hereby revoke the quarantine heretofore established in Nacogdoches County, in the State of Texas, by B. A. I. Order 363, issued on November 16, 1937, and effective December 1, 1937, 9 CFR 3.055, said revocation to take effect on August 10, 1938, and said B. A. I. Order 363 and 9 CFR 3.055 are hereby amended accordingly.

The effect of this amendment is to release from quarantine all of that part of Nacogdoches County, in the State of Texas, now quarantined by B. A. I. Order 363, 9 CFR 3.055.

This amendment, for purposes of identification, is designated as Amendment 2 to B. A. I. Order 363, 9 CFR 3.055. (Sec. 6, 23 Stat. 32, Sec. 1, 44 Stat. 774; 21 U. S. C. 115) [B. A. I. Order 363, November 16, 1937, as amended by Amendment 2, July 22, 1938.]

Done in the City of Washington this 22nd day of July, 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2118; Filed, July 22, 1938; 11:40 a. m.]

TITLE 15—COMMERCE

BUREAU OF FISHERIES

[No. 251-24-3]

AMENDMENT OF ALASKA FISHERY REGULATIONS

JULY 21, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[1] are hereby amended by the following regulation:

Bristol Bay Area

Salmon fishery.—Regulation No. 13 is amended to read as follows: Commercial fishing for salmon in the Ugashik district with nets less than 8½ inches stretched measure between knots is prohibited except in the period from 6 o'clock antemeridian June 30 to 6 o'clock antemeridian August 1.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 38-2125; Filed, July 22, 1938; 12:37 p. m.]

NATIONAL BITUMINOUS COAL COMMISSION

PART 466.—RULES OF PRACTICE AND PROCEDURE BEFORE THE COMMISSION

By virtue of the authority vested in it by the Bituminous Coal Act of 1937, (50 Stat. 72; 15 U. S. C., Sup. III, 828), hereinafter referred to as the Act, the National Bituminous Coal Commission, hereinafter referred to as the Commission, has adopted and hereby issues the following Rules of Practice and Procedure Before the Commission as amended (Sec. 466.01–466.27) which it deems reasonable and necessary for carrying out the provisions of the Act: * #

TABLE OF CONTENTS

Sec.
466.01 Office and address of the Commission; office hours.
466.02 Public sessions and hearings; notice.
466.03 Appearances.
466.04 Admission to practice.
466.05 Parties.
466.06 Complaints.
466.07 Applications for exemption; subscription and verification.
466.08 Petitions.
466.09 Answers.
466.10 Protests.
466.11 Amendments.
466.12 Specifications as to complaints, applications, petitions, answers, protests, briefs, etc.
466.13 Service, number of copies.
466.14 Hearings.
466.15 Depositions.
466.16 Documentary evidence.
466.17 Stipulations.
466.18 Further evidence and closing of record.
466.19 Continuances.
466.20 Witnesses and subpenas.
466.21 Transcript of testimony.
466.22 Briefs and oral arguments.
466.23 Petitions for further hearings, rehearings, reargruments, reconsideration or modification of orders.
466.24 Procedure relative to proposed report of presiding Commissioner, Examiner, or other representative of the Commission.
466.25 Petition for review.
466.26 Computation of time.
466.27 Change in and waiver of rules.

SEC. 466.01 *Office and Address of the Commission; Office Hours.*—All communications to the Commission must be addressed to the Secretary of the Commission, Washington, D. C., unless otherwise specifically directed. Pleadings and other papers required to be filed with the Commission may be transmitted by mail or express or otherwise delivered, but must be received for filing at its office within the time limit, if any, for such filing.

The office is open from 8:00 A. M. until 3:30 P. M. of each business day except Saturday upon which day it is open from 8:00 A. M. to 12:00 M., from April through September, unless otherwise ordered by the Commission, and during the remainder of the year from 9:00 A. M. until 4:30 P. M. of each business day except Saturday upon which day it is open from 9:00 A. M. to 1:00 P. M., unless otherwise ordered by the Commission.* #

SEC. 466.02 *Public Sessions and Hearings; Notice.*—Public sessions of the Commission or divisions thereof for hearing evidence or oral arguments or for public conferences, investigations and hearings before any Commissioners, examiners, or other representatives of the Commission, will be held as set upon notice by the Commission, subject to change upon such notice as may be practicable. All matters requiring formal hearing will be given a place upon the Commission's calendar in their regular order of filing unless the Commission shall otherwise expressly order.* #

SEC. 466.03 *Appearances.*—Any individual or a member of a partnership which is a party to any proceeding may appear for himself or such partnership upon adequate identification. Any corporation or association may be represented by a duly designated officer thereof. Any person or party to any proceeding may appear and be represented by an attorney or other practitioner who is qualified and admitted to practice before the Commission. Any agency of the Federal government or of any State or political subdivision thereof, and any district board created under the Act may appear through a duly accredited representative.* #

SEC. 466.04 *Admission to practice.*—(a) *Registration of Practitioners.*—The Commission will maintain a register in which will be entered the names of all persons entitled to represent parties and to practice before the Commission.

(b) *Class of Persons Who May be Admitted to Practice Before the Commission.*—The following classes of persons whom the Commission finds upon their applications to be of good moral character and to possess the requisite qualifications to represent others may be admitted to practice before the Commission:

(1) *Attorneys at Law and Persons not Attorneys, Possessing Legal or Technical Qualifications.*—Attorneys at law who are admitted to practice before the Supreme Court of the United States or the highest court of any State or Territory or the District of Columbia. Any person not an attorney at law who is a citizen of the United States and who shall file proof to the satisfaction of the Commission that he is possessed of the necessary legal and technical qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission.

(2) *Applications for Admission; Certificates as to Qualifications.*—An application under oath for admission to practice shall be addressed to the Secretary of the Commission, Washington, D. C., and must state the name, residence address, and business address of the applicant, and the time and place of his admission to the bar, and the nature of his qualifications. Such application of attorneys shall also state whether the applicant has ever been suspended or disbarred as an attorney in any court, or his right to practice suspended or revoked in any jurisdiction. Such application shall be accompanied by a certificate of the clerk of the court in which the applicant is admitted to practice to the effect that he has been so admitted and is in good standing. In the case of applications from persons not attorneys, the application should contain recommendations to the effect that the applicant possesses the necessary legal or technical qualifications under this rule.

(3) *Eligibility of Former Commissioners, Officers or Employees of the Commission.*—No former Commissioner, officer or employee of the National Bituminous Coal Commission shall act as attorney or practitioner, or as an employee of an attorney or practitioner, within one year after termination of such employment with the Commission, in any proceeding pending in the Commission during the period of that employment, unless he first shall obtain the consent of the Commission; nor shall any former Commissioner, officer or employee of the National Bituminous Coal Commission appear before the Commission in any proceeding, or assist others appearing before the Commission in any proceeding, concerning which the Commission has confidential data or information to which the former Commissioner, officer or employee had access during his said employment, unless he shall first obtain the consent of the Commission.

The consent of the Commission shall be given only upon application therefore in the form hereinafter prescribed:

Applicant must state, under oath, in his application:

(A) his former connection with the National Bituminous Coal Commission;

(B) the period of his employment with the Commission;

(C) the proceeding in which applicant desires to appear or assist;

(D) that during his employment with the Commission, applicant had no personal knowledge of the confidential data in the proceeding;

(E) whether applicant gave personal consideration to such proceeding during his employment;

(F) that he did not either have or use access to any confidential data or information, pertinent to the proceeding in which he desires to appear, which would make his appearance or aid prejudicial to the proper conduct of the proceeding.

Nor shall any enrolled practitioner knowingly (1) assist a person who has been employed by a client to represent him before this Commission in connection with any matter to which such former employee gave personal consideration, or as to the facts of which such person gained personal knowledge while in the employ of the Commission, where this includes consideration or knowledge of confidential data which would be adverse to Commission's interest or prejudicial to the proper conduct of the proceedings; (2) or accept assistance from any such person in connection with any such matter, or (3) share fees or other compensation with any such person in connection with any such proceeding.

This application above set forth, shall be in addition to that required in section 466.04 (b) (2) herein, if the persons affected by this section have not previously been admitted to practice before the Commission.

(c) *Oath.*—Upon being admitted, each applicant shall subscribe to an oath or affirmation that he will demean himself, as a practitioner before this Commission, uprightly, and according to law; and that he will support the Constitution of the United States.

(d) *Denial of Admission; Suspension; or Disbarment.*—The Commission may, in its discretion, deny admission, suspend or disbar any member who it finds does not possess the legal qualifications to represent others, or is lacking in proper professional conduct. Any person who has been admitted to practice may be disbarred only after he is afforded an opportunity to be heard.* #

SEC. 466.05 (a) *Parties.*—Any person, partnership, corporation, public officer, labor organization or association or other entity entitled under the Act to invoke the exercise by the Commission of any of its powers may do so by instituting a proceeding as provided herein and not otherwise.

(b) *Classification of Parties.*—The parties to proceedings before the Commission are classified as complainants, applicants, consumers' counsel, petitioners, defendants, interveners, protestants, and respondents, according to the nature of the proceedings and their relation thereto.

(c) *Complainants.* — Persons entitled by the Act or Code (Sec. 454.1–454.2) so to do, who complain to the Commission of anything done or omitted to be done in violation of the provisions of the Act or Code by any person subject to the Act are styled "complainants," except that the consumers' counsel in any proceeding shall appear as the consumers' counsel of the National Bituminous Coal Commission in accordance with the Act.

(d) *Applicants.*—Producers seeking exemption in accordance with the second paragraph of Section 4–A of the Act are styled "applicants".

(e) *Petitioners.* — Persons seeking relief, not otherwise designated herein, are styled "petitioners".

(f) *Defendants.* — Persons subject to the Act against whom any complaint is filed are styled "defendants".

(g) *Interveners.*—Persons permitted to intervene as hereinafter provided are styled "interveners".

(h) *Protestants.*—Persons other than the consumers' counsel objecting on the ground of personal or public interest to any action which the Commission is authorized to take under proceedings pending before it are styled "protestants". (See Sec. 466.10.)

(i) *Respondents.*—Persons subject to the Act, to whom an order or notice is issued by the Commission in a proceeding or investigation instituted by it or others as enumerated in first paragraph of Section 4–A of said Act, are styled "respondents". * #

SEC. 466.06 *Complaints* — (a) *Classes.*—Complaints may be informal or formal and shall be submitted to the Commission at its office in Washington, D. C., addressed to the Secretary.

(b) *Informal Complaints.* — Informal complaints may be made by letter or other writing and will be filed as received. Matters informally presented will, if their nature so warrants, be taken up by correspondence or conference with the persons complained of in an endeavor to bring about satisfaction of the complaint without formal hearing.

(c) *Substance of Informal Complaints.*—No form of informal complaint is prescribed, but in substance the letter or other writing must contain the essential elements of the complaint, including name and address of complainant, the name of the party against whom the complaint is made and his place of doing business, a statement of the specific provisions of the Act violated, a brief statement of the facts claimed to constitute such violation, and the specific relief sought. While the filing of an informal complaint is without prejudice to complainant's right to file formal complaint, only formal complaints submitted and prosecuted in the manner hereinafter prescribed will entitle any person, natural or artificial, to initiate formal proceedings or to become a party to any

[1] 3 F. R. 451, 1019, 1383 DI.

* Sections 466.01 to 466.27 issued under authority contained in Section 2 (a), 50 Stat. 72; 15 U. S. C., Sup. III, 827.

In Sections 466.01 to 466.27 the numbers to the right of the decimal point are keyed to the numbers of the "Rules of Practice and Procedure Before the Commission" as promulgated June 23, 1937, and as amended November 5, 1937, May 7, 1938, and June 6, 1938.

proceedings already initiated, and only formal complaints will be admitted to the record of formal proceedings. It is desirable that the informal complaint be accompanied by sufficient copies to enable the Commission to transmit one to each party complained of and retain twelve (12) for its own use. The informal complaint may be accompanied by supporting papers.

(*d*) *Formal Complaints; Form and Style; Number of Copies.*—Formal complaints must conform to the requirements of sections 466.12 and 466.13. The names of all parties complainant and defendant must be stated in full without abbreviations and the address of the complainant with the name and address of his attorney or other authorized agent, if any, must appear. The complaint must set out the name and place of doing business and the person, corporation, or organization against whom complaint is made. Each formal complaint must be accompanied by twelve (12) copies for the use of the Commission and the Consumers' Counsel, and in addition thereto, a sufficient number to enable the Commission to serve one upon each defendant complained of.

(*e*) *Joinder of Complaints or Complainants.*—Two or more grounds of complaint involving the same purpose, subject, or state of facts may be included in one complaint. Each ground should be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants and involves substantially the same purpose, subject, and a like state of facts.

(*f*) *Substance of Formal Complaints.*—Formal complaints should be so drawn as to fully and completely advise the parties defendant and the Commission wherein the provisions of the Act or of the Code or of any order of the Commission have been or are violated by acts or omissions complained of, or will be violated by future acts or omissions intended by the defendant or defendants or by a continuance thereof, and should set forth briefly and in plain language the facts claimed to constitute such violations, wherein the complainant is or will be injured thereby and the relief sought. In case violation of two or more sections or parts thereof of the Act or Code, or a general order is alleged, the facts claimed to constitute violations of each should be stated separately.

(*g*) *Subscription and Verification.*—Every formal complaint must be personally subscribed and verified under oath either (1) by the complainant, or by each of the complainants if there be more than one; or (2) by a duly designated officer, if it be a corporation, an association or other organization; or (3) for the complainant by its or their attorney or registered practitioner. If subscription and verification be by other than the complainant, the power of attorney or authority authorizing such affiant to prosecute the complaint or make the verification must be filed with the complaint.

(*h*) *Supplemental Complaints.*—Supplemental complaints may be submitted for filing by the parties complainant against the parties defendant in the original complaint, setting forth any causes of action alleged to have accrued in favor of the complainants and against the defendants since the filing of the original complaint. Upon leave granted in the discretion of the Commission such supplemental complaint will be filed and heard, considered and disposed of therewith in the same proceedings if practicable.

(*i*) *Amended Complaints.* — Formal complaints may be amended in the discretion of the Commission upon good cause shown.* #

SEC. 466.07 *Applications for Exemption; Subscription and Verification.*—Applicants seeking exemption in accordance with the second paragraph of Section 4–A of the Act must file with the Commission an application setting forth the facts upon which claim is based. This application should be so drawn as to fully and completely advise the Commission of the Facts upon which such claim is based. The form of such application should be in the same order as a formal complaint and should contain the facts for each ground for relief in a separate paragraph. Such application shall be subscribed and verified by oath or affirmation in the same manner as provided for formal complaints in section 466.06 (g).* #[1]

SEC. 466.08 (*a*) *Petitions.*—Petitions seeking relief (other than application for exemption under Section 4–A) within the powers of the Commission should state clearly and concisely the interest of the petitioner and the subject matter of the petition and the relief sought, and cite by appropriate references, provisions of the Act, Code or orders relied upon for relief, and must conform to the requirements of sections 466.12 and 466.13.

(*b*) *Intervening Petitions.* — Anyone entitled under the Act to complain to the Commission and having an interest in any pending procedure may petition to intervene therein, prior to or at the time it is called for hearing, and such petition may be granted in the discretion of the Commission. If such petition to intervene is submitted to the Commission after the time said proceeding has been called for hearing, permission to intervene will not be granted except for good cause shown. Petitions for intervention must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding and, if affirmative relief is sought, must conform to the requirements of a formal complaint and must be subscribed and verified in the same manner as a formal complaint. If leave is granted, the petitioner thereby becomes an intervener and a party to the proceeding.* #

SEC. 466.09 *Answers*—(*a*) *Answers to Formal Complaints.*—Answers to formal complaints must be filed with the Commission within twenty (20) days after the date on which such complaint was served. The period so fixed may be shortened or extended by the Commission when it deems advisable. Any defendant failing to file answer within such period will be deemed in default, and issue as to such defendant will be thereby joined. All answers should be so drawn as to fully and completely advise the parties and the Commission of the nature of the defence, and should admit or deny, specifically and in detail, each material allegation of the pleading answered and must conform to the requirements of sections 466.12 and 466.13. Answers shall conform to the requirements of section 466.06 (g) as to subscription and verification.

(*b*) *Answers to Petitions in Intervention, and Amended Complainants.*—Answers to petition in intervention may be filed and served upon leave granted. Answers to amended complaints may be filed and served if the defendants so elect. If amended answers are not filed all new matter set forth in the amended complaint shall be deemed denied by the defendant or defendants.

(*c*) *Satisfaction of Complaints.*—If the defendant satisfies a formal complaint either before or after answering, a statement to that effect, signed by the opposing parties, must be filed, setting forth when and how the complaint has been satisfied. The Commission may notwithstanding such statement retain jurisdiction of the complaint and make such order thereon as it deems appropriate.* #

SEC. 466.10 *Protests*—(*a*) *Contents.*—Protests must set forth the position and interest of the protestant in the proceeding and must be so drawn as to fully and completely advise the parties and the Commission of the acts or omissions complained of and should in other respects conform to the requirements of complaints.

(*b*) *Form and Style; Service.*—Protests must conform to the requirements of sections 466.12 and 466.13.* #

SEC. 466.11 *Amendments*—(*a*) *Allowance or Refusal Discretionary.*—Amendments to any pleading will be allowed or refused by the Commission in its discretion.

(*b*) *Subscription and Verification.*—Whenever by these rules a principal pleading is required to be subscribed and verified, an amendment thereto must be similarly subscribed and verified, in conformity with section 466.06 (g).

(*c*) *Directed Amendments.*—The Commission may direct a party to state by way of amendment his case with greater particularity.* #

SEC. 466.12 *Specifications as to Complaints, Applications, Petitions, Answers,*

[1] For substantive requirements, see Part 462.

Protests, Briefs, etc.—(*a*) *Typewritten or Printed Only.*—All papers filed under these rules must be typewritten or printed.

(*b*) *Size and Legibility.*—Except as to informal complaints, if typewritten, they must, unless otherwise specifically provided, be on paper not more than 8½ inches wide by 11 inches long, weighing not less than 16 pounds to the ream, with left hand margin not less than 1½ inches wide. The impression must be on only one side of the paper and must be double spaced, except that long quotations should be single spaced and indented. Mimeographed, multigraphed, planographed or photographed or carbon copies will be accepted as typewritten, but hectographed copies or white line blue prints or copies prepared by similar processes will not be accepted. All copies must be clearly legible.

(*c*) *Sizes of Printed Papers.*—If printed, they must be not less than 10 point type on good unglazed paper 5⅞ inches wide by 9 inches long, with inside margin not less than one inch wide and with double leaded text and single leaded citations.

(*d*) *Signature.* — Applications, complaints, answers, petitions, protests and notices must be signed in ink by the party in interest, by a duly designated officer thereof or by his or its duly authorized attorney and must show the office and post office address of the same.* #

SEC. 466.13 (*a*) *Service, Number of Copies.*—Formal complaints, petitions in intervention, supplemental complaints, amended complaints, protests, answers, briefs, notices and all other papers in proceedings must show and prove service upon all other parties to the proceeding. Such service in all cases other than formal complaints filed pursuant to Section 5 (b) of the Act (50 Stat. 84; 15 U. S. C., Sup. III 835), shall be made by delivering in person or by mailing, properly addressed with postage prepaid, one copy to each party. Proof shall be by affidavit of the person making service. In the case of formal complaints filed pursuant to Section 5 (b) of the Act, service must be made by delivery in person to the party against whom complaint is made, and the affidavit of service shall be made by the person making such service.

(*b*) *Service Upon Attorneys or Practitioners Other Than Attorneys.*—Whenever any party has appeared in a proceeding by attorney or practitioner, service upon such attorney or practitioner will be deemed service upon the party.

(*c*) *Number of Copies.*—Except as to informal complaints, twelve (12) copies of all papers shall be filed with the Commission.* #

SEC. 466.14 *Hearings*—(*a*) *How Ordered.*—Hearings may be ordered by the Commission either upon its own motion or upon the motion of any party to the proceeding. Hearings may be held by and before the Commission, or a division of the Commission consisting of not less than three of its members, or may by order of the Commission be assigned or referred for hearing to an individual Commissioner, a board composed of employees of the Commission or to an examiner.

(*b*) *Notice of Hearings.*—Appropriate notice of hearing shall be given. The notice shall state the nature of the matters to be heard, the time and place of the hearing, and, if designated, the name of the Commissioner, examiner, or other representative before whom the testimony is to be taken or the evidence adduced. Such notice in the case of the institution of an action pursuant to Section 5 (b) of the Act against individuals, partnerships, associations, or corporations shall be by personal service. All other notices will be served by mail or otherwise, as prescribed by the Commission. Notice shall be served upon all the parties to the proceeding, including the consumers' counsel, state or other governmental authorities having official interest in the proceedings, and such other persons as may be deemed to have a substantial interest therein. Where reasonable public notice of a hearing is required by the Act, such notice of hearing shall be given by publication in the Federal Register and may also be given in such manner as the Commission may determine.

(*c*) *Appearances.*—The presiding Commissioner, examiner, or other representative of the Commission before whom the hearing is held shall cause to be entered upon the record all appearances with a notation in whose behalf the appearance is made.

(*d*) *Order of Procedure.*—At hearings on formal complaints the complainant or complainants shall open and close; at hearings on petitions the petitioner shall open and close; interveners shall follow the parties in whose behalf the intervention is made, and in all cases where the intervention is not in support of either original party, the presiding Commissioner, examiner, or other representative of the Commission shall designate at what stage of the proceeding such intervener shall be heard. At hearings in all other cases the presiding Commissioner, examiner or other representative shall direct who shall open and close.* #

SEC. 466.15 *Depositions*—(*a*) *When Permissible.*—The testimony of any witness may be taken by deposition, at the instance of a party to any proceeding pending before the Commission, at any time before the hearing is closed, upon approval by the Commission in compliance with these rules but not otherwise.

(*b*) *Officer Before Whom Taken.*—Such depositions may be taken before a Commissioner, examiner, or other authorized representative of the Commission; any judge, Commissioner or clerk of any Court of the United States; any chancellor, judge or justice of a State Court; mayor or chief magistrate of a city; or any notary public not being of counsel or attorney to either of the parties, or interested in the proceeding or investigation, according to such designation as the Commission may make in its order in the premises. Where such deposition is taken in a foreign country, it may be taken before an officer or person designated by the Commission or agreed upon by the parties by stipulation in writing to be filed with the Commission. The magistrate, person, or officer so designated in this rule will be referred to as the officer.

(*c*) *Notice of Application; Service; Order for Taking.*—Reasonable notice of not less than 10 days, and when the deposition is to be taken in a foreign country, of not less than 20 days, must first be given in writing by the party or his attorney proposing to take such deposition to the opposing party or his attorney of record and to the Commission. In such notice, there should be stated the name and post-office address of the witness; the subject matter concerning which the witness is expected to testify; the time and place of taking the deposition and the name and post-office address of the officer before whom it is desired that the deposition be taken. The opposing party may within the time stated above make any appropriate response to such notice. Thereupon, if the application so warrants, the Commission will make and serve upon the parties or their attorneys an order wherein the Commission will name the witness whose deposition is to be taken and specify the time, place, and the officer before whom the witness is to testify, but such time and place and the officer before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as those named in said notice to the Commission.

(*d*) *Oath; Reduction to Writing.*—Every person whose deposition is so taken shall be sworn (or affirmed if he so requests) to testify the whole truth and nothing but the truth concerning the matter about which he shall testify and shall be carefully examined. His testimony shall be reduced to typewriting by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so subscribed and certified it shall, together with two copies thereof made by such officer or under his direction, be forwarded by such officer, under seal, in an envelope addressed to the Secretary of the Commission at its office in Washington, D. C. Upon receipt of the deposition and copies, the Commission will file the deposition in the record in said proceeding and forward one copy to the party at whose instance the deposition has been taken or his attorney, and the other copy to the opposing party or his attorney. When the deposition is taken at the instance of more than one party or there is more than one opposing party, the

copies will be forwarded by the Commission to the parties or their attorneys designated for that purpose in advance.

(e) *Fees of Officers and Witnesses.*—Witnesses whose depositions are taken and the officers taking same shall be entitled to the same fees as are paid for like services in the courts of the United States, which fees shall be paid by the party at whose instance the depositions are taken.* #

SEC. 466.16 *Documentary evidence.*—(a) *Designation.*—When relevant and material matter offered in evidence by any party is embraced in a book, paper or document containing other matter not material or relevant, the party offering the same must plainly designate the matter so offered. If other matter is in such volume as would necessarily cumber the record, such book or document will not be received in evidence but may be marked for identification, and, if properly authenticated, the relevant or material matter may be read into the record, or, if the presiding Commissioner, examiner, or other representative so directs, a true copy of such matter, in proper form, shall be received as an exhibit, and like copies delivered by the party offering the same to opposing parties or their attorneys appearing at the hearing who shall be afforded an opportunity to examine the book, paper, or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

(b) *Commission's Files.*—In case any matter contained in a report or other document on file with the Commission is offered in evidence, such report or other document need not be produced or marked for identification, but in other respects the provisions of the foregoing section 466.16 (a) will apply.

(c) *Records in Other Proceedings.*—In case any portion of the record in any proceeding other than the one on hearing is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(1) The party offering the same agrees to supply such copies later at his own expense, if and when required by the Commission; and

(2) The portion is specified with particularity in such manner as to be readily identified; and

(3) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any portion offered by any other party may be incorporated by like reference subject to (1) and (2); and

(4) The presiding Commissioner, examiner or other representative directs such incorporation.

(d) *Objections.*—Any documentary evidence offered, whether in the form of exhibit or by reference, shall be subject to appropriate objection.

(e) *Copies to Opposing Counsel.*—When exhibits of a documentary character are offered in evidence, copies must be furnished to opposing counsel unless the presiding Commissioner, examiner, or other representative otherwise directs.

(f) *Size; Form.*—Whenever practicable, all exhibits of a documentary character received in evidence must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed or typewritten; if typewritten, they must conform to the requirements of section 466.12.

(g) *Copies for the Commission.*—Unless the presiding Commissioner, examiner, or other representative of the Commission shall otherwise direct, three copies of each exhibit of a document must be furnished for the use of the Commission, in addition to the copies provided for under paragraph (e) hereof.* #

SEC. 466.17 *Stipulations*—(a) *How Evidenced.*—The parties may by stipulation in writing filed with the Commission or presented at the hearing, agree upon any facts involved in the proceeding; but such stipulation between the parties shall not bind the Commission as to such facts unless expressly approved by the Commission.

(b) *Form and Style; Service.*—Stipulations must conform to the requirements of sections 466.12 and 466.13.* #

SEC. 466.18 *Further Evidence and Closing of Record.*—In any case, at or after the close of testimony or at any stage of the hearing, the presiding Commissioner, examiner or other such representative of the Commission may call for further evidence upon any issue and may reopen the case for the purpose of receiving further evidence, but shall cause to be given due and reasonable notice to all parties in interest appearing at the hearing of the time and place fixed for the further taking of testimony. No further evidence shall be taken after the report is filed with the Commission, except where the cause is reopened by order of the Commission.* #

SEC. 466.19 *Continuances.*—Applications for continuances or for the extension of time in which to file any pleadings or briefs shall be made in writing, stating the facts on which the request is based, and filed with the Commission. Continuances and extensions of time will be granted or denied by the Commission in its discretion.* #

SEC. 466.20 *Witnesses and Subpenas.*—(a) *Subpenas; Who May Issue.*—Subpenas requiring the attendance of witnesses from any place in the United States at any designated place of hearing may be issued by the Commission or any member thereof or any officer designated by it.

(b) *Subpenas Duces Tecum.*—Subpenas for the production of books, papers, or documents unless directed by the Commission upon its own motion will issue only upon application in writing. Applications to compel witnesses to produce documentary evidence must be verified and must specify, as nearly as may be, the books, papers or documents desired and the facts to be proved by them.

(c) *Fees of Witnesses.*—Witnesses who are summoned are entitled to the same fees as are paid for like services in the Courts of the United States, such fees to be paid by the party at whose instance the testimony is taken, and the Commission before issuing subpena may require a deposit of an amount adequate to cover the fees and mileage involved.

(d) *Subpenas; Service; Return.*—If service of subpena is made by a United States Marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other persons, such person shall make affidavit thereof, describing the manner in which service is made and return such affidavit on or with the original subpena. In case of failure to make service, the reason for the failure shall be stated on the original subpena. In making service, the original subpena shall be exhibited and read to the person served and a copy thereof shall be left with him. Original subpena, bearing or accompanied by the required return, affidavit, or statement, shall be returned forthwith to the Secretary of the Commission, or, if so directed on the subpena, to the presiding Commissioner, examiner, or other representative of the Commission before whom the person named in the subpena is required to appear.* #

SEC. 466.21 *Transcript of Testimony.*—The Commission will make provisions for a stenographic record of the proceeding and for such copies of the transcript as it requires for its own purposes. The Commission assumes no obligation to furnish copies gratuitously to parties of record or other interested persons.* #

SEC. 466.22 *Briefs and Oral Arguments.*—(a) *Oral Arguments.*—If oral argument before the presiding Commissioner, examiner, or other representatives of the Commission is desired, he should be so notified before or at the hearing and he may arrange to hear the argument at the close of the testimony. He may impose such limits of time on the argument as he may determine, having regard for other assignments for hearing before him. Such argument will be transcribed and bound with the transcript of testimony and will be available to the Commission for consideration in deciding the case.

(b) *Forms and Style of Briefs.*—Briefs must comply with the requirements of section 466.12. The date of each brief must appear on the front cover or title page. Each brief should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects with reference to the pages of the record or exhibit where the evidence appears. It should include requests for such specific findings as the party thinks the Commission should make.

(c) *Arrangements of Contents.*—The brief should contain a concise statement of the case which should precede the abstract of evidence. The abstract of evidence should precede the argument. Exhibits should not be reproduced in the brief, but if desired may be reproduced in an appendix of the brief. Analysis of such exhibits should be included in the abstract of evidence under the subjects to which they pertain. Every brief of more than twenty pages should contain on its front leaves a subject index with page references, and a list of all cases cited alphabetically and arranged with reference to the pages where the citations appear.

(d) *Filing; Service; Number of Copies.*—At the close of the testimony in each case, the presiding Commissioner, examiner, or other representative of the Commission, will fix, at his discretion, depending upon the magnitude of the issues involved, the time for filing and service of the respective briefs. All briefs should be filed simultaneously. Only one brief shall be filed by each party. All briefs must be accompanied by notice showing service upon all parties or their attorneys who appeared at the hearing or on brief, and 15 copies of each brief shall be furnished for the use of the Commission.

(e) *Reply Briefs.*—The presiding Commissioner, examiner, or other representative of the Commission shall fix for all parties the same time within which to file their reply briefs. Parties who fail to file an opening or initial brief as required by this rule will not be permitted, except upon leave granted, to file reply to the brief of an opposing party.* #

SEC. 466.23 *Petitions for Further Hearings, Rehearings, Reargument, Reconsideration or Modification of Orders*—(a) *Petition; Filing; Service.*—An application for further hearing in a proceding before final submission, for reopening a proceeding after final submission, or for rehearing, reargument, or reconsideration after decision must be made by petition stating specifically the grounds relied upon, filed with the Commission and served by the petitioner upon all parties to the proceeding or their attorneys. (See Sec. 466.13.)

(b) *Statement as to New Evidence.*—If the petition be for further hearing before final submission or for reopening the proceeding to take further evidence, the nature and purpose of the evidence to be adduced must be briefly stated and it must appear not to be merely cumulative.

(c) *Specification of Errors.*—If the petition be for rehearing, reargument, or reconsideration, the matters claimed to have been erroneously decided must be specified and the alleged errors briefly stated. If the order of the Commisison is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing or of consequences which would result from compliance therewith, the matters relied upon by the petitioner must be set forth in the petition.

(d) *Time of Filing.*—A petition for rehearing, reargument, reconsideration, or modification of an order must be filed within 30 days after service of the order therein.

(e) *Form and Style; Service.*—Petitions under section 466.23 must conform to the requirements of sections 466.12 and 466.13.* #

SEC. 466.24 *Procedure Relative to Proposed Report of Presiding Commissioner, Examiner, or Other Representative of the Commission*—(a) *Service.*—After the expiration of time set for the filing of briefs, the presiding Commissioner, examiner, or other Commission representative, will prepare and file with the Commission his proposed report containing the statements of the issues and facts and the findings and conclusions which he thinks should be made. This proposed report will be served by mailing copies to the party or parties who appear in the hearing or upon brief, except that in general investigation copies may also be mailed at the Commission's discretion to other parties whose appearances are noted of record.

(b) *Exceptions to Proposed Report; Briefs; Requests for Oral Argument.*—Within 15 days after service of the proposed report any party may file with the Commission and serve in the manner prescribed in section 466.22 exceptions and brief to the proposed report of the presiding Commissioner, examiner, or other Commission representative. Exceptions and brief should be one document. Within 15 days after expiration of the time so fixed briefs in reply may be filed and served, but will not be received later except on leave granted upon application therefor. Application for oral argument before the Commission may be made by any party filing exceptions or reply to exceptions, and must accompany the exceptions or reply. The Commission will set a time and place for oral argument and give notice thereof by mail to all parties of interest appearing in the case. Reasonable time limit for argument will be imposed by the Commission, with due regard to the magnitude of the issues involved.

(c) *Exceptions to be Specified with References to Record.*—Exceptions to the presiding Commissioner, examiner, or other Commission representative's proposed report either as to statements of fact or matters of law must be specific. If exception is taken to matters of law and conclusions, the points relied upon must be stated separately and clearly. If exception is taken to any statement of fact reference must be made to the page or pages of the record relied upon and a proposed corrected statement incorporated in the exception brief.* #

SEC. 466.25 *Petitions for Review.*—If a hearing has been conducted by a division of the Commission, such division, consisting of three members of the full Commission, shall exercise all of the powers and authority of the Commission in the premises, provided, however, that upon written petition filed by an interested party a review may be secured by the full Commission of the report, finding, or order of such division of the Commission. Such petition must be filed within 15 days of the date of filing of the report, finding, or order of the division.* #

SEC. 466.26 *Computation of Time.*—When the time prescribed by these rules for doing any act expires on a Sunday or legal holiday, such time shall extend to and include the next succeeding day that is not a Sunday or a legal holiday.* #

SEC. 466.27 *Change in and Waiver of Rules.*—(a) *Change.*—The rules of procedure adopted by the Commission are subject to be changed by order of the Commission without notice to any person. The Secretary shall publish the rules of practice and procedure from time to time as they shall then exist and shall furnish a reasonable number of copies thereof to any interested person upon application to him without charge therefor.

(b) *Waiver.*—The Commission may waive conformance with these rules or any of them by any person in its discretion either upon its own motion or upon petition by such person.* #

By order of the Commission.

Promulgated June 23, 1937, amended November 5, 1937, May 7, 1938, and June 6, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2115; Filed, July 22, 1938; 9:53 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3305]

IN THE MATTER OF UNITED FENCE MANUFACTURERS ASSOCIATION, AN UNINCORPORATED BODY; MATTSON WIRE AND MANUFACTURING CO., A CORPORATION; NEBRASKA BRIDGE SUPPLY AND LUMBER CO., A CORPORATION; ROWE MANUFACTURING CO., A CORPORATION; GLENN A. LINDABURY, MARTIN LINDABURY, AND EDGAR LINDABURY, AS CO-PARTNERS DOING BUSINESS UNDER THE STYLE OF NEW JERSEY FENCE CO., AND H. R. LIN-

DABURY AND SONS; AND GLENN A. LINDABURY, AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; J. M. DENNING AND J. WAYNE DENNING, AS CO-PARTNERS DOING BUSINESS UNDER THE STYLE OF ILLINOIS WIRE AND MANUFACTURING CO.; AND J. M. DENNING, AS TRUSTEE AND VICE-CHAIRMAN OF SAID ASSOCIATION; MARGARET C. LARSEN, DOING BUSINESS UNDER THE STYLE OF BUFFALO INDUSTRIAL CO.; LEON L. HUTCHINSON, AS PRODUCER-MEMBER, TRADING AS L. L. HUTCHINSON, AND AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; STEWART W. ADAMS, AS PRODUCER-MEMBER TRADING AS S. W. ADAMS AND AS TRUSTEE OF SAID RESPONDENT ASSOCIATION; HARRY I. MATTSON, AS CHAIRMAN AND MEMBER OF THE BOARD OF TRUSTEES OF SAID ASSOCIATION; LLOYD DEKATER, AS TRUSTEE OF SAID ASSOCIATION; ALVIN V. ROWE, AS TRUSTEE OF SAID ASSOCIATION; CARL F. LARSEN, AS TRUSTEE OF SAID ASSOCIATION; AND S. PAGE SCHOLEY, AS EXECUTIVE SECRETARY OF SAID ASSOCIATION

ORDER TO CEASE AND DESIST

This proceeding having been considered by the Federal Trade Commission upon the complaint of the Commission [1] and the substituted answer of the respondents, and the Commission having made its findings as to the facts and its conclusions that respondent, United Fence Manufacturers Association, an unincorporated association, and other respondents above-named have violated Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, and that respondents have also violated Section 2 of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended by an Act of Congress approved June 19, 1936;

It is now ordered, That respondent United Fence Manufacturers Association and its respondent members, corporations, partnerships, and individuals, and its respondent officers and trustees and its other agents, shall cease and desist from continuing, making, carrying into effect, maintaining or renewing any agreement, understanding, or conspiracy to use, in interstate commerce, any system or practice of quoting and selling at delivered prices which are identical either at the same destinations or throughout a given zone or area.

It is further ordered, That said respondents shall cease and desist from promoting or facilitating discrimination in prices realized f. o. b. point of shipment through any agreement, understanding, or conspiracy among any two or more of them which results in respondents variously located quoting and selling in interstate commerce at delivered prices that are identical at any given destination.

It is further ordered, That respondent members shall cease and desist from any agreement, understanding, or conspiracy whereby in the course of such commerce they discriminate in prices realized from their respective customers f. o. b. point of shipment where the effect of such discrimination by members variously located is to make delivered prices identical at any given destination and to substantially lessen competition among respondent members or tend to create a monopoly in snow fence products in their favor.

It is further ordered, That respondents shall cease and desist from continuing, making, carrying into effect, maintaining or renewing any agreement, understanding, or conspiracy, to use any methods for the substantial lessening or suppression of price competition in snow fence products, in interstate commerce, including the following methods, to-wit:

(a) The filing with respondents' executive secretary, or any other agent, of the respective delivered price lists, discounts, or terms of sale of respective respondents with the understanding that the same are to be maintained, for all sales of snow fence products made by each said respondent so filing, either indefinitely or for a given period, or until a new filing shall be made;

(b) The refraining from making direct or indirect concessions in prices, discounts, or terms and conditions of sale to any buyer, private or public;

(c) The abstaining from making shipments upon consignment;

(d) The bringing of instances of price cutting to the knowledge of respondent officers; and the undertaking of negotiations looking toward the elimination of price competition or price concessions by any respondent or respondents;

(e) The having, maintaining, continuing, or exercising of any agreement or understanding that respondents, or any of them, will submit to an investigation or examination, under oath or otherwise, conducted by any other respondent or respondents, or their agents, with respect to any prices or concessions which any respondent member may have made in the quotation or sale of snow fence products;

(f) The making of identical distributors' or dealers' discounts or both;

(g) The defining of which traders shall be recognized as belonging to the class of distributors, or of which traders shall be recognized as belonging to the class of dealers;

(h) The issuing, acceptance or using of a list of such distributors as shall be deemed to be exclusively entitled to distributors' discounts;

(i) The taking of steps to maintain resale prices at respective list prices, less respective discounts, or to maintain the discounts therefrom;

(j) The securing from distributors or dealers, or both, of reports of instances of price cutting in the distribution of snow fence products;

(k) The cutting off, or threatening to cut off, supplies of snow fence products from such distributors or dealers as make lower or better resale prices, terms or conditions of sale than those authorized, prescribed, or suggested by respondents; and

(l) The bidding of a price, or the refraining from bidding, in response to any offer to buy, with an understanding that the business shall be apportioned among two or more respondents after the contract to buy shall have been made.

Provided, however: (1) That any understanding, agreement or conspiracy as to any matter or thing, from which respondents are collectively prohibited by the above provisions of this order, shall, if undertaken on the part of any number of respondents, more than one and less than all, be as fully within the prohibitions hereof as though all respondents participated therein; and

(2) That any matter or thing from which respondents are collectively prohibited by the above provisions of this order shall not be deemed to be within the prohibitions hereof if done by any respondent individually and wholly apart from any understanding, agreement, or conspiracy with others; but nothing herein contained shall be deemed to have sanctioned any discrimination in price practiced by any respondent individually.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2114; Filed, July 22, 1938; 9:32 a. m.]

[1] 3 F. R. 265 DI.

TITLE 21—FOOD AND DRUGS

FOOD AND DRUG ADMINISTRATION

[Service and Regulatory Announcements]

REGULATIONS UNDER SECTIONS 201, 505 AND 702 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Under the authority of sections 701 (a) and 505 (i) of the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (Public No. 717, 75th Congress, 3rd Session) the following regulations under sections 201 (p), 505, and 702 (b) of the Act are hereby promulgated for the enforcement of the Act, and shall be effective on and after this date.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

JULY 22, 1938.

TABLE OF CONTENTS

PART I.—*New Drugs. Regulations under Secs. 201 (p) and 505 of the Federal Food, Drug, and Cosmetic Act*

Section
1.01 New drugs defined.
1.02 New drugs not subject to the Act.
1.03 Validity and filing date of applications.
1.04 Procedure when order denying an application will not issue.
1.05 Exemption of new drugs for investigational use.

PART II.—*General Administrative provisions; examinations and investigations. Regulations under Sec. 702 of the Federal Food, Drug, and Cosmetic Act*

Section
2.01 (a) Official sample defined; analysis defined.
(b) Size of official samples.
(c) Provision of part of official sample to person named on label or to owner.
(d) Provision of part of official sample to persons other than those having rights under (c).

TITLE 21.—CHAPTER I

Part I.—Regulations Under Sections 201 (p) and 505—New Drugs

SEC. 1.01. A drug may be a new drug by reason of—

(1) the newness for drug use of any substance which composes the drug, in whole or in part, whether it be an active substance or a menstruum, excipient, carrier, coating, or other component;

(2) the newness for drug use of a combination of two or more substances, none of which is a new drug;

(3) the newness for drug use of the proportions of the substances in a combination, even though the substances in certain other proportions do not constitute a new drug; or

(4) The newness of the dosage, or methods or duration of administration or application, or other conditions of use of the drug prescribed, recommended, or suggested in the labeling thereof, even though the drug is not a new drug when used in certain different dosage, or in different methods or duration of administration or application, or in conditions that are otherwise different.

SEC. 1.02. A new drug shall not be deemed to be subject to section 505 of the Act if it is subject to the Virus, Serum, and Toxin Act of July 1, 1902 (U. S. C., 1934 ed., title 42, ch. 4), or the Virus, Serum, Toxins, Antitoxins and Analogous Products Act of March 4, 1913 (U. S. C., 1934 ed., title 21, ch. 5), and complies with such Act.

SEC. 1.03. To be valid an application must contain as a part thereof all the matter required by section 505 (b) of the Act; the Secretary shall not permit the filing of an application which is incomplete. The Food and Drug Administration shall notify the applicant of the date on which his application is filed.

SEC. 1.04. If the Secretary finds, before the date prescribed by section 505 (c) of the Act for an application to become effective, that he has no cause to issue an order under section 505 (d) of the Act refusing to permit the application to become effective, the Food and Drug Administration shall so notify the applicant in writing, and the application shall become effective on the date of the notification.

SEC. 1.05. A new drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs, shall be exempt from the operation of section 505 of the Act if—

(1) its labeling bears the statement "For investigational use only.";

(2) it is delivered only to such experts and is used by them solely for investigation;

(3) each expert has adequate facilities for the investigation to be conducted by him; and

(4) the person who introduced the drug in interstate commerce, or delivered it for such introduction, holds a signed statement from each expert to the effect that he will not use the drug otherwise than in the investigation to be conducted by him unless and until an application under section 505 (b) of the Act becomes effective with respect to such drug.

Part II.—Regulations Under Section 702—General Administrative Provisions: Examinations and Investigations

SEC. 2.01. (a) An official sample is a sample collected by an officer or employee of the Department from a shipment or other lot of an article within the jurisdiction of the Act, with records or other evidence showing such jurisdiction. Analysis includes examinations and tests.

(b) An official sample of a food, drug, or cosmetic collected for analysis under the Act shall be at least twice the quantity estimated by the officer or employee to be sufficient therefor, unless—

(1) the amount of the article available and reasonably accessible for sampling is less than twice the quantity so estimated;

(2) the cost of twice the quantity so estimated exceeds $10;

(3) the article is perishable;

(4) the sample is collected from a shipment which is being imported or offered for import into the United States, or from a person named on the label of the article, or his agent, and such person is also the owner of the article; or

(5) the analysis consists principally of rapid analytical procedures, organoleptic examination, or other field inspection examinations or tests, made at the place where the sample is collected or in a mobile or temporary laboratory.

In addition to the quantity of sample prescribed above the officer or employee shall, if practicable, collect as part of the sample such further amount of the article as he estimates to be sufficient for use as exhibits in the trial of any case under the Act based on the sample.

(c) After the Food and Drug Administration has completed such analysis of an official sample of a food, drug, or cosmetic as it determines, in the course of analysis and interpretation of analytical results, to be adequate to establish the respects, if any, in which the article is in violation of the Act, and has reserved an amount of the article it estimates to be adequate for use as exhibits in the trial of any case under the Act based on the sample, a part of the sample, if any remains available, shall be provided for analysis, upon written request, by any person named on the label of the article, or the owner thereof, or the attorney or agent of such person or owner, except when—

(1) the sample, after collection, has become decomposed or otherwise unfit for analysis, or

(2) the request is not made within a reasonable time before the trial of any case under the Act based on the sample.

The person, owner, attorney, or agent who requests the part of sample shall specify the amount desired and make advance payment of the cost thereof. A request from an owner shall be accompanied by a showing of ownership, and a request from an attorney or agent by a showing of authority from such person or owner to receive the part of sample. When two or more requests for parts of the same sample are received the requests will be complied with in the order in which they were received so long as any part of the sample remains available therefor.

(d) When an official sample of a food, drug, or cosmetic is the basis of a notice of hearing under section 305 of the Act, or of a case under the Act, and the person who received the notice or who is a party to the case has no right under paragraph (c) to a part of the sample, such person or his attorney or agent may obtain a part of the sample upon request accompanied by a statement from each person named on the label of the article, and owner thereof, who has not exercised his right under paragraph (c), waiving such right. The operation of this paragraph shall be subject to the exceptions, terms, and conditions prescribed in paragraph (c).

[F. R. Doc. 38-2117; Filed, July 22, 1938; 11:38 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4832]

INCOME TAX

AMENDMENT OF REGULATIONS 74, 77, 86 AND 94, RELATING TO GAIN OR LOSS UPON INSTALLMENT OBLIGATIONS WHEN PROPERTY SOLD IS REPOSSESSED

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Article 351 of Regulations 74 and article 351 of Regulations

77 are amended by eliminating the last three paragraphs of each article and by inserting in each article (in lieu of the three paragraphs so eliminated) the following:

"If for any reason the purchaser defaults in any of his payments, and the vendor returning income on the installment basis repossesses the property sold, whether title thereto had been retained by the vendor or transferred to the purchaser, gain or loss for the year in which the repossession occurs is to be computed upon any installment obligations of the purchaser which are satisfied or discharged upon the repossession or are applied by the vendor to the purchase or bid price of the property. Such gain or loss is to be measured by the difference between the fair market value of the property repossessed and the basis in the hands of the vendor of the obligations of the purchaser which are so satisfied, discharged, or applied, with proper adjustment for any other amounts realized or costs incurred in connection with the repossession. See also article 355. The basis in the hands of the vendor of the obligations of the purchaser satisfied, discharged, or applied upon the repossession of the property shall be the excess of the face value of such obligations over an amount equal to the income which would be returnable were the obligations paid in full. No deduction for a bad debt shall in any case be taken on account of any portion of the obligations of the purchaser which are treated by the vendor as not having been satisfied, discharged, or applied upon the repossession, unless it is clearly shown that after the property was repossessed the purchaser remained liable for such portion; and in no event shall the amount of the deduction exceed the basis in the hands of the vendor of the portion of the obligations with respect to which the purchaser remained liable after the repossession. See also article 191. If the property repossessed is bid in by the vendor at a lawful public auction or judicial sale, the fair market value of the property shall be presumed to be the purchase or bid price thereof in the absence of clear and convincing proof to the contrary. The property repossessed shall be carried on the books of the vendor at its fair market value at the time of repossession.

"If the vendor chooses as a matter of consistent practice to return the income from installment sales on the straight accrual or cash receipts and disbursements basis, such a course is permissible."

PAR. B. Article 44–1 of Regulations 86 and article 44–1 of Regulations 94[1] are amended by eliminating the last three paragraphs of each article and by inserting in each article (in lieu of the three paragraphs so eliminated) the following:

"If for any reason the purchaser defaults in any of his payments, and the vendor returning income on the installment basis repossesses the property sold, whether title thereto had been retained by the vendor or transferred to the purchaser, gain or loss for the year in which the repossession occurs is to be computed upon any installment obligations of the purchaser which are satisfied or discharged upon the repossession or are applied by the vendor to the purchase or bid price of the property. Such gain or loss is to be measured by the difference between the fair market value of the property repossessed and the basis in the hands of the vendor of the obligations of the purchaser which are so satisfied, discharged, or applied, with proper adjustment for any other amounts realized or costs incurred in connection with the repossession. See also article 44–5. The basis in the hands of the vendor of the obligations of the purchaser satisfied, discharged, or applied upon the repossession of the property shall be the excess of the face value of such obligations over an amount equal to the income which would be returnable were the obligations paid in full. No deduction for a bad debt shall in any case be taken on account of any portion of the obligations of the purchaser which are treated by the vendor as not having been satisfied, discharged, or applied upon the repossession, unless it is clearly shown that after the property was repossessed the purchaser remained liable for such portion; and in no event shall the amount of the deduction exceed the basis in the hands of the vendor of the portion of the obligations with respect to which the purchaser remained liable after the repossession. See also article 23 (k)–1. If the property repossessed is bid in by the vendor at a lawful public auction or judicial sale, the fair market value of the property shall be presumed to be the purchase or bid price thereof in the absence of clear and convincing proof to the contrary. The property repossessed shall be carried on the books of the vendor at its fair market value at the time of repossession.

"If the vendor chooses as a matter of consistent practice to return the income from installment sales on the straight accrual or cash receipts and disbursements basis, such a course is permissible."

PAR. C. Article 353 of Regulations 74, as amended by Treasury Decision 4360, approved December 23, 1932, and article 353 of Regulations 77 are amended by eliminating the second paragraph of each article and by inserting in each article (in lieu of the paragraph so eliminated) the following:

"If the purchaser defaults in any of his payments, and the vendor returning income on the installment basis reacquires the property sold, whether title thereto had been retained by the vendor or transferred to the purchaser, gain or loss for the year in which the reacquisition occurs is to be computed upon any installment obligations of the purchaser which are satisfied or discharged upon the reacquisition or are applied by the vendor to the purchase or bid price of the property. Such gain or loss is to be measured by the difference between the fair market value of the property reacquired (including the fair market value of any fixed improvements placed on the property by the purchaser) and the basis in the hands of the vendor of the obligations of the purchaser which are so satisfied, discharged, or applied, with proper adjustment for any other amounts realized or costs incurred in connection with the reacquisition. See also article 355. The basis in the hands of the vendor of the obligations of the purchaser satisfied, discharged, or applied upon the reacquisition of the property will be the excess of the face value of such obligations over an amount equal to the income which would be returnable were the obligations paid in full. No deduction for a bad debt shall in any case be taken on account of any portion of the obligations of the purchaser which are treated by the vendor as not having been satisfied, discharged, or applied upon the reacquisition of the property, unless it is clearly shown that after the property was reacquired the purchaser remained liable for such portion; and in no event shall the amount of the deduction exceed the basis in the hands of the vendor of the portion of the obligations with respect to which the purchaser remained liable after the reacquisition. See article 191. If the property reacquired is bid in by the vendor at a foreclosure sale, the fair market value of the property shall be presumed to be the purchase or bid price thereof in the absence of clear and convincing proof to the contrary. If the property reacquired is subsequently sold, the basis for determining gain or loss is the fair market value of the property at the date of reacquisition (including the fair market value of any fixed improvements placed on the property by the purchaser)."

PAR. D. Article 44–3 of Regulations 86 and article 44–3 of Regulations 94 are amended by eliminating the second paragraph of each article and by inserting in each article (in lieu of the paragraph so eliminated) the following:

"If the purchaser defaults in any of his payments, and the vendor returning income on the installment basis reacquires the property sold, whether title thereto had been retained by the vendor or transferred to the purchaser, gain or loss for the year in which the reacquisition occurs is to be computed upon any installment obligations of the purchaser which are satisfied or discharged upon the reacquisition or are applied by the vendor to the purchase or bid price of the property. Such gain or loss is to be measured by the difference between the fair market value of the property reacquired (including the fair market value of any fixed improvements placed on the property by the purchaser) and the basis in the hands of the vendor of the obligations of the purchaser which are so satisfied, discharged, or applied, with proper adjustment for any other amounts realized or costs incurred in connection with the reacquisition. See also article 44–5. The basis in the hands of the vendor of the obligations of the purchaser satisfied, discharged, or applied upon the reacquisition of the property will be the excess of the face value of such obligations over an amount equal to the income which would be returnable were the obligations paid in full. No deduction for a bad debt shall in any case be taken on account of any portion of the obligations of the purchaser which are treated by the vendor as not having been satisfied, discharged, or applied upon the reacquisition of the property, unless it is clearly shown that after the property was reacquired the purchaser remained liable for such portion; and in no event shall the amount of the deduction exceed the basis in the hands of the vendor of the portion of the obligations with respect to which the purchaser remained liable after the reacquisition. See article 23 (k)–1. If the property reacquired is bid in by the vendor at a foreclosure sale, the fair market value of the property shall be presumed to be the purchase or bid price thereof in the absence of clear and convincing proof to the contrary. If the property reacquired is subsequently sold, the basis for determining gain or loss is the fair market value of the property at the date of reacquisition (including the fair market value of any fixed improvements placed on the property by the purchaser)."

This Treasury Decision is prescribed pursuant to the provisions of section 62 of the Revenue Acts of 1928, 1932, 1934 and 1936.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 19, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2113; Filed, July 21, 1938; 2:39 p. m.]

TITLE 42—PUBLIC HEALTH, WELFARE, AND EDUCATION

CIVILIAN CONSERVATION CORPS

PART 3. REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH, AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS

SEC. 3.14. *Procurement of supplies.*—

* * * * * * *

(d) *Contracts, formal and informal.*—The provisions of AR 5–200 (see Title 10, Sections 1.19 to 1.25) apply to the Civilian Conservation Corps except that in the numbering of contracts, effective July 1, 1937, the letters "CIV" will be inserted just before the serial number of the contract, the serial number of the contract beginning with number 1, e. g., W–2101–QM–CIV–1. In addition, the letters "CCC" will be stamped at the top of all contracts and copies thereof. If buildings are erected by contract, Standard Form No. 23, Contract (Construction), as modified for the Civilian Conservation Corps and approved by the Director, Civilian Conservation Corps, June 7, 1938, will be used. Corps area commanders will obtain from The Quartermaster General and furnish all concerned with the required forms.

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(50 Stat. 319.) [C. C. C. Regs., W. D., Dec. 1, 1937; C 9, July 18, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38–2116; Filed, July 22, 1938; 10:00 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

NOTICE OF OPPORTUNITY TO FILE WRITTEN ARGUMENTS IN SUPPORT OF OR OPPOSITION TO AN ORDER REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA

Whereas, after due notice,[1] public hearings were conducted by representatives of the Department of Agriculture at Albany, New York, May 16, 1938; Malone, New York, May 17, 1938; Syracuse, New York, May 18, 1938; Elmira, New York, May 19, 1938; New York City, May 20, 24, 25 and 26, 1938; and Albany, New York, June 3, 4, and 7, 1938, on a proposed marketing agreement and a proposed order regulating the handling of milk in the New York Metropolitan Marketing Area; and

Whereas, prior to the issuance of an order regulating the handling of milk in the New York Metropolitan Marketing Area, the Secretary desires that an opportunity be given to interested parties to file written arguments in support of or in opposition to the issuance of such order;

Now, therefore, notice is hereby given that any interested party may file written arguments in support of or in opposition to the findings and provisions, or any of them, of the order attached hereto. Seven copies of such written arguments must be delivered to the Hearing Clerk, Room 1318 South Building, United States Department of Agriculture, Washington, D. C., not later than the 2nd day of August 1938, or must be deposited in the United States mail, addressed to the Hearing Clerk, and postmarked not later than midnight of the 1st day of August 1938.

In witness whereof, I, M. L. Wilson, Secretary of Agriculture of the United States, have executed this notice in duplicate and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 22nd day of July 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

FINDINGS

1. That approximately one-third of the milk produced for sale in the marketing area is produced in States other than the State of New York; that approximately one-third of the milk produced in the State of New York for sale in the marketing area passes through other States on its way to be sold in the marketing area; and that milk produced in the State of New York for sale in the marketing area which does not pass through other States on its way to be sold in the marketing area is physically and inextricably intermingled with that milk which is produced outside the State of New York for sale in the marketing area or which is produced in the State of New York for sale in the marketing area but which passes through other States on its way to be sold in the marketing area; and that all milk which is produced for sale in the marketing area is handled in the current of interstate commerce or so as directly to burden, obstruct, or affect interstate commerce in milk and its products, except as such milk is regulated by an order of the Commissioner of Agriculture and Markets of the State of New York, to which this order is complementary;

2. That the prices calculated to give milk handled in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8c of the act are not reasonable in view of the price of feeds and other economic conditions which affect the supply and demand for such milk, and that the minimum prices fixed in accordance with the method set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

3. That this order regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement upon which hearings have been held;

4. That a pro rata assessment on handlers at a rate not to exceed 2 cents per hundredweight of Class I, II–A, and II–B milk handled will provide funds necessary for the proper administration of this order; and

[1] 1 F. R. 1802.

[1] 3 F. R. 1000 DI.

5. That orderly marketing conditions for milk flowing into the New York metropolitan marketing area are so disrupted as to result in impairment of the purchasing power of such milk, and that the issuance of this order and all of its terms and conditions will tend to effectuate the declared policy of the act.

PROVISIONS

Article I.—Definitions

SECTION 1. *Definitions.*—The following terms shall have the following meanings:

1. "Act" means the Agricultural Marketing Agreement Act of 1937 which reenacts and further amends certain provisions of Public No. 10, 73d Congress, as amended.

2. "Secretary" means the Secretary of Agriculture of the United States.

3. "New York metropolitan milk marketing area" means the city of New York, and the counties of Nassau, Suffolk, and Westchester, all in the State of New York, and is hereinafter called the "marketing area."

4. "Person" means any individual, partnership, corporation, association, or any other business unit.

5. "Producer" means any person who produces milk which is delivered to a handler at a plant which is approved by any health authority for the receiving of milk to be sold in the marketing area.

6. "Handler" means any person who engages in the handling of milk, or cream therefrom, which was received at a plant approved by any health authority for the receiving of milk to be sold in the marketing area, which handling is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce. This definition shall be deemed to include a cooperative association of producers with respect to any milk received from producers at any plant operated by such association or with respect to any milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association collects payment. This definition shall not be deemed to include any person who neither receives milk from producers nor handles milk which is sold as milk or cream in the marketing area.

7. "Market administrator" means the agency, which is described in article II, for the administration of this order.

Article II.—Market Administrator

SECTION 1. *Selection, removal and bond.*—The agency for the administration of this order shall be a market administrator who shall be a person selected and subject to removal by the Secretary. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

SEC. 2. *Compensation.* — The market administrator shall be entitled to such reasonable compensation as shall be determined by the Secretary.

SEC. 3. *Powers.*—The market administrator shall have power:

1. To administer the terms and provisions hereof;

2. To receive, investigate and report to the Secretary complaints of violations of this order.

SEC. 4. *Duties.*—The market administrator, in addition to the duties hereinafter described, shall:

1. Keep such books and records as will clearly reflect the transactions provided for herein;

2. Submit his books and records to examination by the Secretary at any and all times;

3. Furnish such information and such verified reports as the Secretary may request;

4. Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the market administrator;

5. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not

(a) Made reports pursuant to section 3 of article V or

(b) Made payments required by section 6 of article VII;

6. Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

7. Pay out of the funds received pursuant to article VIII.

(a) The cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, (b) his own compensation, and (c) all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties;

8. Maintain a main office, and such branch offices as may be necessary.

SEC. 5. *Announcement of prices.*—The market administrator shall publicly announce prices as follows:

1. Not later than the 25th day of each month, the Class I and Class II–A prices to be in effect for the following month, pursuant to section 1 of article IV.

2. Not later than the 5th day of each month, the prices effective for the preceding month for Classes II–B, III–A, III–B, III–C, III–D, IV–A and IV–B, pursuant to section 1 of article IV.

3. Not later than the 14th day of each month, the uniform price computed pursuant to section 3 of article VI.

Article III.—Classification of Milk

SECTION 1. *Basis of classification.*—All milk received in bulk from producers by handlers shall be classified in the classes set forth in section 2 of this article in accordance with its utilization at, or movement from, the plant where received from producers, including members of any cooperative association; *Provided*, That if milk is moved as milk, cream, plain condensed milk, or homogenized mixtures from any plant outside the marketing area where received from producers to a second plant outside the marketing area, classification of such milk at the first plant may be in accordance with its utilization at such second plant.

Any utilization of milk claimed by a handler shall be subject to verification by the market administrator. Any claim by a handler of utilization of milk at the plant of any other person shall be accompanied by a complete statement of such utilization and written consent by such person for the market administrator to verify such statement by an audit of such person's records.

SEC. 2. *Classes of utilization.*—The classes of utilization of milk shall be as follows:

1. Class I milk shall be all milk which leaves a plant as milk, chocolate milk, or any whole milk drink, and all milk the utilization of which is not established for classification in some other class named in this section, except that loss or waste of milk in the plant where received from producers, not to exceed 2 percent of the total quantity of milk received from producers, may be prorated to each class in the proportion which the milk in such class is of the total quantity of milk classified.

2. Class II–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream, except as set forth in paragraphs 5 and 7 of this section.

3. Class II–B milk shall be all milk the butterfat from which leaves, or is on hand at, a plant in the form of plain condensed milk or homogenized mixtures.

4. Class III–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of evaporated milk in hermetically-sealed cans, sweetened condensed milk, milk chocolate, milk powder, malted milk powder, or any cheese other than cream and American Cheddar cheese.

5. Class III–B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream held in a licensed cold storage warehouse for more than seven days at a temperature below zero degrees Fahrenheit.

6. Class III–C milk shall be all milk the butterfat from which leaves a plant in the form of frozen desserts which were sold outside of New York City.

7. Class III–D milk shall be all milk the butterfat from which is delivered as cream to a purchaser, not a handler, outside the State of New York and outside any county in other States in which there is a plant which is approved by any health authority for the receiving of milk to be sold in the marketing area, also milk the butterfat from which leaves or is on hand at a plant in the form of cream cheese.

8. Class IV–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of butter.

9. Class IV–B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of American Cheddar cheese.

Article IV.—Minimum Prices

SECTION 1. *Class prices.*—For milk containing 3.5 percent of butterfat received, during each month from producers or cooperative associations of producers at plants in the 201–210 mile zone, each handler shall pay per hundredweight not less than the prices set forth in this section. For milk containing more or less than 3.5 percent of butterfat or received from producers or cooperative associations of producers at plants in other zones, each handler shall pay per hundredweight not less than the prices set forth in this section plus or minus the differentials set forth in sections 2 and 3 of this article. The minimum prices for milk in Class I shall apply to such milk which was sold in the marketing area or which passed through a plant in the marketing area. The minimum prices for milk in Classes III–A, III–B, III–C, III–D, IV–A, and IV–B shall apply to the percent of any handler's milk in each such class, if any, which is equal to the percent of his total Class I milk to which the price is applicable.

Payment of the minimum prices for milk received direct from producers shall be in accordance with article VII. Any handler who purchases or receives milk from a cooperative association of producers which is also a handler shall pay such cooperative association in full for such milk not less than the minimum prices applicable pursuant to this article.

1. For Class I milk the price during each month shall be as shown in the schedule below in this paragraph for the butter-price range in which falls the average, as determined by the market administrator, of the prices reported daily during the 60 days preceding the 25th day of the preceding month, by the United States Department of Agriculture, for 92-score butter at wholesale in the New York market.

Butter-price range (cents per pound)	Class I price	
	April through July	August through March
	Dollars per cwt.	*Dollars per cwt.*
Under 20	1.80	2.05
20–24.9	2.00	2.25
25–29.9	2.20	2.45
30–34.9	2.20	2.65
35–39.9	2.40	2.65
40–44.9	2.60	2.85
45–49.9	2.80	3.05
Over 49.9	3.00	3.25

2. For Class II–A milk the price during each month shall be as shown in the schedule below in this paragraph for the butter-price range in which falls the average, as determined by the market administrator, of the prices reported daily during the 30 days preceding the 25th day of the preceding month, by the United States Department of Agriculture, for 92-score butter at wholesale in the New York market.

Butter-price range (cents per pound)	Class II–A price		
	March through July	August through October	November through February
	Dollars per cwt.	*Dollars per cwt.*	*Dollars per cwt.*
Under 20	1.30	1.35	1.50
20–24.9	1.50	1.55	1.70
25–29.9	1.70	1.75	1.90
30–34.9	1.85	1.90	2.05
35–39.9	2.00	2.05	2.20
40–44.9	2.15	2.20	2.35
45–49.9	2.30	2.35	2.50
Over 49.9	2.45	2.50	2.65

3. For Class II–B milk the price during each month shall be 10 cents higher than the Class III–A price.

4. For Class III–A milk the price during each month shall be 10 cents higher than the average, computed by the market administrator, of prices, as reported to the United States Department of Agriculture, paid during such month to farmers by each of the evaporated milk plants which are located at places listed in this paragraph and for which prices are reported; *Provided*, That in no event shall the Class III–A price be less than a price computed by the market administrator as follows: To the average price of 92-score butter at wholesale in the Chicago market for such month, as reported by the United States Department of Agriculture, add 30 percent, multiply by 3.5, and add 7 cents.

Locations of Evaporated Milk Plants

Mt. Pleasant, Mich.
Sparta, Mich.
Hudson, Mich.
Wayland, Mich.
Coopersville, Mich.
Greenville, Wis.
Jefferson, Wis.
New Glarus, Wis.
Belleville, Wis.
Black Creek, Wis.
Orfordville, Wis.
Chilton, Wis.
Berlin, Wis.
Richland Center, Wis.
Oconomowoc, Wis.
New London, Wis.
Coldwater, Ohio.
Delta, Ohio.

5. For Class III–B milk the price during each month shall be 20 cents higher than the Class IV–A price.

6. For Class III–C milk the price during each month shall be 10 cents higher than the Class IV–A price.

7. For Class III–D milk the price during each month shall be 7½ cents higher than the Class IV–A price.

8. For Class IV–A milk the price during each month shall be a price computed by the market administrator as follows: From the average of the highest prices reported daily during such month by the United States Department of Agriculture for 92-score butter at wholesale in the New York market, deduct 4 cents, add 20 percent, and multiply by 3.5.

9. For class IV–B milk the price during each month shall be a price computed by the market administrator as follows: Take the average of the weekly quotations, with differentials as indicated, from such of these markets as may issue quotations during such month: Single Daisies at Wisconsin Cheese Exchange, Plymouth, Wisconsin, plus one cent per pound; Twins at Gouverneur Cheese Board, Gouverneur, New York; Flats at Cuba Board of Trade, Cuba, New York; deduct 3 cents, and multiply by 9.45. In the absence of any such quotation the price for the preceding month shall be effective.

SEC. 2. *Butterfat differentials.*—The minimum prices for Classes I, II–A, II–B, III–B, III–C, and III–D milk set forth in section 1 of this article shall be subject to payment of butterfat differentials pursuant to section 3 of article VII. The minimum prices for Classes III–A and IV–A milk containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of one percent butterfat, an amount equal to the respective prices set forth in paragraphs 4 and 8 of section 1 of this article, divided by 35. The minimum price for Class IV–B milk containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of one percent butterfat, an amount equal to the price set forth in paragraph 9 of section 1 of this article divided by 9.45 and multiplied by 0.23.

SEC. 3. *Transportation differentials.*—The market administrator shall from time to time publicly announce for each plant operated by each handler the freight zone set forth in the schedule below in this section according to the railway mileage distance from New York City of its nearest railway shipping point, or its highway mileage distance from New York City, if the latter is less than the former by more than 15 miles. Any such mileage distance shall be that recognized for rate-making purposes by the Interstate Commerce Commission. The minimum prices set forth in section 1 of this article shall be plus or minus the amounts set forth in the following schedule:

A	B	C	D
Freight (zone miles)	Class I	Classes II–A, II–B, III–B and III–C	Class III–A
	Cents per cwt.	*Cents per cwt.*	*Cents per cwt.*
1–10	+15	+8	+4
11–20	+14	+8	+4
21–25	+13	+8	+4
26–30	+13	+7	+4
31–40	+13	+7	+4
41–50	+10.5	+7	+4
51–60	+10.5	+6	+3
61–70	+9.5	+6	+3
71–75	+8	+6	+3

A	B	C	D
Freight (zone miles)	Class 1	Classes II-A, II-B, III-B and III-C	Class III-A
	Cents per cwt.	*Cents per cwt.*	*Cents per cwt.*
76–80	+8	+5	+3
81–90	+8	+5	+3
91–100	+7	+5	+3
101–110	+7	+4	+2
111–120	+6	+4	+2
121–125	+5	+4	+2
126–130	+5	+3	+2
131–140	+5	+3	+2
141–150	+3.5	+3	+2
151–160	+2.5	+2	+1
161–170	+2.5	+2	+1
171–175	+1.5	+2	+1
176–180	+1.5	+1	+1
181–190	+1.5	+1	+1
191–200	0.0	+1	+1
201–210	0.0	0	0
211–220	−1	0	0
221–225	−1	0	0
226–230	−1	−1	0
231–240	−2	−1	0
241–250	−2	−1	−1
251–260	−3.5	−2	−1
261–270	−3.5	−2	−1
271–275	−3.5	−2	−1
276–280	−3.5	−3	−1
281–290	−4.5	−3	−1
291–300	−5.5	−3	−1
301–310	−5.5	−4	−2
311–320	−5.5	−4	−2
321–325	−7	−4	−2
326–330	−7	−5	−2
331–340	−7	−5	−2
341–350	−8	−5	−3
351–360	−8	−6	−3
361–370	−8	−6	−3
371–375	−9	−6	−3
376–380	−9	−7	−3
381–390	−9	−7	−3
391–400	−9	−7	−3
401–410	−10.5	−8	−4
411–420	−10.5	−8	−4
421–425	−10.5	−8	−4
426–430	−10.5	−9	−4
431–440	−11.5	−9	−4
441–450	−11.5	−9	−4
451–460	−11.5	−10	−5
461–470	−12.5	−10	−5
471–475	−12.5	−10	−5
476–480	−12.5	−11	−5
481–490	−14	−11	−5
491–500	−14	−11	−5

Article V.—Reports of Handlers

SECTION 1. *Preliminary monthly reports.*—On or before the 23rd day of each month each handler shall, when requested by the market administrator, report to the market administrator in the manner and form prescribed by him: (a) The total quantity of milk received during the first twenty days of such month from producers, and (b) the utilization of such milk in the several classes set forth in article III.

SEC. 2. *Reports of deliveries per day per producer.*—Each handler shall, upon request of the market administrator given not less than two weeks in advance, report the average deliveries of milk per day per producer during a specified period of time.

SEC. 3. *Final monthly reports.*—On or before the 10th day of each month each handler shall report to the market administrator, in the manner and on forms prescribed by the market administrator, with respect to milk received at each plant during the preceding month:

1. The total quantity of milk, with the average butterfat content thereof, received from producers, from other plants, from such handler's own farm, and from other handlers;

2. The total quantity of milk and of each product of milk moved out of such plant during such month or on hand at such plant at the end of such month, the butterfat content of each product; and the destination of any milk which moved out of such plant;

3. If classification of any milk is claimed by such handler on the basis of utilization at some other plant, the utilization of such milk, together with written consent for verification by audit thereof signed by the operator, if not a handler, of the other plant, and

4. The computation, pursuant to section 1 of article VI of such handler's net pool obligation.

SEC. 4. *Verification of reports and payments.*—The market administrator shall promptly verify all reports and payments of each handler by audit of such handler's records. Each handler shall, during the usual hours of business, make available to the market administrator or his representative such of his records and facilities as will enable the market administrator to:

1. Verify the receipts and utilization of all milk required to be reported, pursuant to this article, and, in case of errors or omissions, ascertain the correct figures;

2. Weigh, sample, and test for butterfat content the milk received from producers and any product of milk upon which classification depends; and

3. Verify the payments to producers prescribed in article VII.

Article VI.—Determination of Uniform Price

SECTION 1. *Net pool obligation of handlers.*—The net pool obligation of any handler for milk received from producers during each month shall be a sum of money computed for such month as follows:

1. Determine the total quantity of milk in each class at each plant;

2. Subtract from the quantity of milk in each class the quantity of such milk received from other plants, or from other handlers;

3. Subtract pro rata out of each class the quantity of milk received in bulk from the handler's own farm;

4. Subtract from the remaining quantity of milk in each class, the quantity of each to which the prices in section 1 of article IV do not apply, which result shall be known as the "net pooled milk" in each class;

5. Multiply the total quantity of net pooled milk in each class, at all plants of the handler combined, by the respective class prices set forth in section 1 of article IV, and add together the resulting sums;

6. Deduct, in the case of each plant where the average butterfat content of all milk received from producers is in excess of 3.5 percent and add in the case of each plant where the average butterfat content of all milk received from producers is less than 3.5 percent, an amount equal to the difference between the total value of the butterfat differentials on net pooled milk in Classes III-A, IV-A, and IV-B at the rates set forth in section 2 of article IV for such milk and the total value of the butterfat differentials on such milk as set forth in section 3 of article VII:

7. Deduct, in the case of each plant nearer New York City than the 201–210 mile zone and add in the case of each plant farther from New York City than the 201–210 mile zone, an amount equal to the difference between the total value of the transportation differentials on all net pooled milk in Classes II-A, II-B, III-A, III-B, and III-C, at the rates set forth in section 3 of article IV, and the total value of the transportation differentials on net pooled milk in Classes II-A, II-B, III-A, III-B, III-C, IV-A, and IV-B at the rates set forth in column B of the schedule in section 3 of article IV; and

8. Deduct 20 cents per hundredweight for all net pooled milk received from producers at plants in the counties listed below in this section. The result thus obtained shall be known as the "handler's net pool obligation."

Counties

New York.—Columbia, Dutchess, Nassau, Orange, Putnam, Suffolk, Ulster, and Westchester.

New Jersey.—Hunterdon, Somerset, Essex, Union, Morris, Warren, Sussex, and Passaic.

Connecticut.—Litchfield.

Massachusetts.—Berkshire.

SEC. 2. *Computation of the uniform price.*—The market administrator shall, on or before the 14th day of each month, audit for mathematical correctness and obvious errors the final report submitted for the preceding month by each handler and, on the 14th day of such month, compute from all of such corrected reports the uniform price in the following manner:

1. Combine into one total the net pool obligations of all handlers;

2. Subtract the total of payments required to be made for such month by section 3 of article VII and claimed pursuant to section 6 of article VII;

3. Add the amount of cash in the producer settlement fund;

4. Divide the result by the total quantity of milk represented in the sum obtained pursuant to paragraph 1 of this section; and

5. Subtract not less than 4 cents nor more than 5 cents to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers. This result shall be known as the uniform price for such month for milk containing 3.6 percent butterfat received from producers at plants in the 201–210 mile zone.

Article VII.—Payments to Producers

SECTION 1. *Time of payment.*—On or before the 25th day of each month each handler which is not a cooperative association of producers shall make payment to each producer for all milk delivered by such producer at any plant during the preceding month at not less than the uniform price, subject to differentials set forth in sections 2 and 3 of this article. If, however, the net pooled milk in all classes at all plants of such handler is less than the total milk he received from producers and he does not pay the uniform price for all milk received from producers, such handler shall pay each producer the uniform price on such producer's pro rata share of the net pooled milk at all of his plants. Each handler shall give each producer a clear statement of the percentage of such producer's milk which was paid for at the uniform price and furnish a copy of such statement to the market administrator at the time payment is made.

SEC. 2. *Transportation and location differentials.*—The uniform price shall be plus or minus the differential shown in column B of the schedule contained in section 3 of article IV for the zone of the plant as established for the purposes of section 3 of article IV, plus 25 cents in the case of plants located in the counties listed in paragraph 8 of section 1 of article VI.

SEC. 3. *Butterfat differential.*—The uniform price shall be plus or minus, as the case may be, 4 cents per hundredweight for each one-tenth of one percent above or below 3.5 percent of average butterfat content of milk delivered by any producer during any month.

SEC. 4. *Grade A premium.*—In addition to the uniform price and all other payments required pursuant to this article, each handler shall pay for milk which is qualified under the New York City Department of Health requirements for sale as Grade A milk and which is delivered to a plant similarly qualified, an amount per hundredweight equivalent to the following differentials on that Class I milk which such handler sold in the marketing area as Grade A milk:

Butterfat content (percent)	Bacteria colonies per cc		
	10,000 or less	10,000 to 25,000	Over 25,000
	Cents per cwt.	*Cents per cwt.*	*Cents per cwt.*
3.7	60	42	5
3.8	66	48	7.5
3.9	72	54	10
4.0 and above	78	60	12

SEC. 5. *Payments to cooperative associations.*—Any cooperative association of producers may apply to the Secretary for a determination of its qualifications to receive payments pursuant to this section by reason of its having and exercising full authority in the sale of the milk of its members, using its best efforts to supply in times of short supply Class I milk to the marketing area, and to secure utilization of milk, in times of long supply, in a manner to assure the greatest possible returns to all producers, and having its entire activities under the control of its members. After such determination the cooperative association of producers shall be entitled to continue to receive such payment until it has been disqualified by the Secretary, after hearing for failure to exercise the authority and to perform the functions upon which such determination was based.

The market administrator shall make the payments authorized by this section, or issue credit therefor, out of the producer settlement fund on or before the 25th day of each month, subject to verification of the reports upon which such payment is based. Such payments shall be made to each cooperative association of producers under the following conditions and at the following rates:

1. One cent per hundredweight of net pooled milk at any handler's plant which was caused to be delivered from its members by such association and on which such handler has made the reports and payments required by this order.

2. Except as set forth in paragraph 3 of this section, 2½ cents per hundredweight of net pooled milk at plants of other handlers which was reported and collected for by such association.

3. Five cents per hundredweight of net pooled milk at plants operated by such association and, if, in addition to the other qualifications, such association has been determined by the Secretary to have sufficient plant capacity to receive all the milk of its members and to be willing and able to receive milk from producers not members, 5 cents per hundredweight of any net pooled milk which was caused by it to be delivered to any other handler and which is reported and collected for by such association.

SEC. 6. *Market service payment.*—The market administrator shall pay out of the producer settlement fund to any handler immediately after audit of claim for such payment made on forms supplied by the market administrator:

1. With respect to milk received from producers at a plant operated by such handler equipped only for the receiving and shipping of milk to the marketing area, which was during any month except November or December, moved to a plant where it was utilized in Classes II-A, II-B, III-A, III-B, III-C, III-D, or, during the month of October, IV-A, 23 cents per hundredweight of milk so moved, plus 4 cents per hundredweight for the first five miles or fraction thereof, plus ¼ cent per hundredweight per mile for the next 20 miles, and plus ⅒th of 1 cent per hundredweight per additional mile, of the shortest highway distance between the two plants; and

2. Thirty cents per hundredweight of Class I milk sold in the marketing area, during the months of November and December received from producers at a plant which is equipped for condensing or drying milk and from which, during the months of May and June preceding, in terms of equivalent of milk received at such plant, no milk in excess of 10 percent and no cream in excess of 50 percent was shipped to the marketing area.

SEC. 7. *Producer settlement fund.*—The market administrator shall establish and maintain a separate fund known as "the producer settlement fund" into which he shall deposit all payments made by handlers pursuant to sections 8 and 10 of this article and out of which he shall make all payments to handlers pursuant to sections 6, 9, and 10, of this article, and to cooperative associations of producers, pursuant to section 5 of this article.

SEC. 8. *Payments to the producer settlement fund.*—Each handler shall on or before the 18th day of each month pay to the market administrator for payment to producers through the producer settlement fund the amount by which his net pool obligation for the preceding month is greater than the amount obtained by multiplying the net pooled milk of such handler by the uniform price.

SEC. 9. *Payments out of producer settlement fund.*—On or before the 20th day of each month the market administrator shall remit to each handler for payment to producers the amount, if any, by which such handler's net pool obligation is less than the amount obtained by multiplying the net pooled milk of such handler by the uniform price. If at such time the balance in the producer settlement fund is insufficient to make all payments due to such handler, the market administrator shall reduce uniformly the payments made to each handler and shall complete such payments as soon as the necessary funds are available. No handler who on the 25th day of the month has not received the balance of such reduced payment from the market administrator shall be deemed to be in violation of section 1 of this article if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer settlement fund.

SEC. 10. *Adjustments of errors in payments.*—Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer settlement fund, the market administrator shall promptly bill such handler for any unpaid amount, and such handler shall, within five days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler the market administrator shall, within five days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of less than is required by this article, the handler shall make up such payment to the producer not later than

the time of making payment next following such disclosure.

Article VIII.—Expense of Administration

SECTION 1. *Payment by handlers.*—As his pro rata share of the expense of administration hereof, each handler shall, on or before the 20th day of each month, pay to the market administrator a sum not exceeding 2 cents per hundredweight on the total quantity of milk which was received from producers at plants operated by such handler, directly or at the instance of a cooperative association of producers, and which was utilized in Classes I, II–A, and II–B, the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler under any order issued by the Commissioner of Agriculture and Markets of the State of New York to which this order is complementary.

Article IX.—Suspension, Termination and Liquidation

SECTION 1. *Continuing obligation of handlers.*—Unless otherwise provided by the Secretary in any notice of amendment, termination or suspension of any or all of the provisions hereof, such amendment, termination or suspension shall not (a) affect, waive, or terminate any right, duty, obligation, or liability which shall have arisen or may thereafter arise in connection with any provision of this order; (b) release or waive any violation of this order occurring prior to the effective date of such amendment, termination or suspension; or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

SEC. 2. *Continuing power and duty.*—If, upon the termination or suspension of this order, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, or by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such termination or suspension.

The market administrator shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary shall direct; and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator pursuant to this order.

SEC. 3. *Liquidation.*—Upon the termination or suspension of this order, the market administrator shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such termination or suspension.

Any funds collected for expenses, pursuant to the provisions of this order, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator in liquidating the business of the market administrator's office shall be distributed by the market administrator to handlers in an equitable manner.

Article X.—Effective Time

SECTION 1. *Effective time.*—This order shall become effective after the issuance by the Commissioner of Agriculture and Markets of the State of New York of an order containing provisions similar to the provisions of this order and to which this order shall be complementary and on the first day of the month following, by more than three days, publication in the FEDERAL REGISTER by the Secretary of (a) his finding that the order is approved by more than two-thirds of the producers voting in a referendum, (b) a marketing agreement containing provisions similar to this order approved by him and signed by handlers of more than 50 percent of the milk sold in the marketing area, or, his determination approved by the President that the failure or refusal of handlers to sign tends to prevent the effectuation of the declared policy of the act and that the issuance of the order is the only practical means of advancing the interests of producers pursuant to such declared policy of the act.

[F. R. Doc. 38–2121; Filed, July 22, 1938; 11:41 a. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MINNESOTA

JULY 22, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Minnesota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [1] and (2) the following additional counties:

Clay, Goodhue, Lac Qui Parle, Murray, Polk, Todd.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2120; Filed, July 22, 1938; 11:40 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEW MEXICO

JULY 22, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New Mexico State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) the county which was designated for the making of loans for the fiscal year ending June 30, 1938; [2] and (2) the following additional county:

Eddy.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2119; Filed, July 22, 1938; 11:40 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of July, A. D. 1938.

[File No. 32–98]

IN THE MATTER OF THE TOLEDO EDISON COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party, a subsidiary of a registered holding company;

It is ordered, That a hearing on such matter be held on August 5, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to

[1] 3 F. R. 109 DI.
[2] 2 F. R. 2965 (3424 DI).

the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 1, 1938.

The matter concerned herewith is in regard to the issue and sale by the applicant to a group of underwriters of a principal amount of $30,000,000 of First Mortgage Bonds, 3½% Series due 1968 and a principal amount of $6,500,000 of 4% Sinking Fund Debentures due 1948, such issue and sale being stated in said application to be solely for the purpose of financing the business of the applicant and to have been expressly authorized by the Public Utilities Commission of Ohio in which State the applicant is organized and doing business.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2128; Filed, July 22, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

[File Nos. 46–96, 43–115]

IN THE MATTER OF NORTHEASTERN WATER AND ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR REOPENED HEARING

Northeastern Water and Electric Corporation, a registered holding company, having heretofore filed an application, file number 46–96, pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 concerning the acquisition by said corporation of 9,600 shares of the common stock of Hazelton Water Company for $500,000 and having heretofore filed an application, file number 43–115, pursuant to Section 7 of the Public Utility Holding Company Act of 1935 concerning the issuance by said corporation of a $500,000 promissory note to Chemical Bank & Trust Company, and a joint hearing on said application and said declaration as amended, have been held pursuant to order of this Commission on the 25th day of April 1938 [1] at the Securities & Exchange Building, Washington, D. C. and said hearing having been closed upon said date following the introduction of documentary evidence on behalf of the Commission and oral and documentary evidence on behalf of the Northeastern Water and Electric Corporation; and

Northeastern Water and Electric Corporation subsequent to said hearing having filed additional amendments to the application contained in the file number 46–96, and it appearing that such amendments contain new information relevant to a final determination by this Commission on said application and it being the opinion of the Commission that a hearing should be held concerning said application and declaration in the light of the new amendments.

It is ordered, That said hearing be reopened and that such reopened hearing be held on July 22, 1938, at 2:00 of the afternoon of that day at the Securities & Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the Hearing Room Clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2129; Filed, July 22, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22d day of July, A. D. 1938.

[File No. 47–23–1]

IN THE MATTER OF UNION PRODUCING COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on Wednesday, Aug. 10, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 5, 1938.

The matter concerned herewith is in regard to acquisition by applicant of certain oil, gas and mineral leases covering lands situated in Webster Parish, Louisiana, and interests in certain gas wells situated on said lands.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2126; Filed, July 22, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of July, A. D. 1938.

[File No. 52–10]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) and Rule U–11F–1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Associated Investing Corporation, and Associated Utilities Corporation.

It is ordered, That a hearing on such matter be held on August 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown

[1] 3 F. R. 890, 901 DI.

JUL 27 1938

why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 3, 1938.

The matter concerned herewith is in regard to a plan of reorganization of Utilities Power & Light Corporation which this application asks this Commission to approve prior to submission of such plan to the District Court of the United States for the Northern District of Illinois, Eastern Division, in proceedings therein pending for the reorganization of said Utilities Power & Light Corporation under Section 77B of the Bankruptcy Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2127; Filed, July 22, 1938; 12:48 p. m.]

JUL 27 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES 1934

VOLUME 3 NUMBER 144

Washington, Tuesday, July 26, 1938

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

PART 15.—REGULATIONS GOVERNING THE PREPARATION, SALE, BARTER, EXCHANGE, SHIPMENT, AND IMPORTATION OF VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS INTENDED FOR USE IN THE TREATMENT OF DOMESTIC ANIMALS

PRODUCTION, TESTING, ETC.

SEC. 15.336 *Fowl pox vaccine and infectious laryngotracheitis vaccine.*—Circular Letter No. 1825 dated June 7, 1934, is hereby revoked and the following requirements are prescribed: The Bureau's acceptance of all outlines in conflict with these requirements is hereby withdrawn and revised outlines shall be submitted by each establishment to the Bureau promptly for its consideration. Licensed establishments shall test each batch of fowl-pox vaccine and infectious laryngotracheitis vaccine as herein provided to determine whether they are free from the causative agents of extraneous diseases.

(a) *Fowl pox vaccine.*—For testing each batch of 200 grams or less of dried fowl-pox virus, 12 healthy cockerels, or other suitable young chickens, of the same source shall all be made available at the same time. This group of 12 birds shall have been immunized for at least 21 days with fowl-pox vaccine which previously has been tested and found satisfactory.

(1) Three of the test birds selected shall be injected subcutaneously with ten times the field dose of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field. (This group should serve to indicate whether the product is free from viruses of septicemic diseases.)

(2) Three of the test birds selected shall be injected intratracheally with ten times the field dose of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field. (This group should serve to indicate whether the product is free from the virus of infectious laryngotracheitis and similar diseases.)

(3) Three of the test birds selected shall be injected intranasally with 0.2 cc. of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field. (This group should serve to indicate whether the product is free from the virus of coryza and similar diseases.)

(4) The three remaining birds selected shall be isolated and held as controls under observation for 15 days, or longer when conditions warrant.

(5) All of the treated birds shall be observed daily for 15 days, provided that should Newcastle disease appear in the United States these birds shall be held under observation for 30 days. All of the test birds that succumb shall be subjected to a careful post mortem examination by a competent veterinarian. The product shall be withheld from the market until it and the test birds are shown to be free of the causative agents of any extraneous disease.

(b) *Infectious laryngotracheitis vaccine.*—For testing each batch of 50 grams or less of dried infectious laryngotracheitis virus, 12 healthy cockerels, or other suitable young chickens, of the same source shall all be made available at the same time. This group of 12 birds shall have been immunized for at least 14 days with laryngotracheitis vaccine which previously has been tested and found satisfactory.

(1) Three of the test birds selected shall be injected subcutaneously with ten times the field dose of the vaccine to be tested. The vaccine as tested shall be prepared exactly as the product is to be used in the field.

(2) Three of the test birds selected shall be treated by applying at least ten times the field dose of the vaccine to be tested to a scarified area of at least one square centimeter on the comb of each bird.

(3) Three of the test birds selected shall be injected intranasally with 0.2

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry: Page
Viruses, etc., production, testing, etc. 1857
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
American Lawn Mower Co., trading as Richmond School Furniture Co. 1858
Elbee Chocolate Co., Inc. 1858
Engel, Jane, Inc., and Kallman & Morris, Inc. 1859
Scadron, Irwin, trading as Metropolitan Distributing Co. 1859
TITLE 25—INDIANS:
Flathead, etc., reservations, leasing of allotted and tribal lands for agricultural, etc., purposes 1860
Fort Berthold Reservation, N. Dak., restoration order 1860
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Taxes on gasoline, lubricating oil, brewer's wort and malt products, grape products, and matches; Regulations 44 amended 1860
TITLE 43—PUBLIC LANDS:
General Land Office:
Air navigation site withdrawals:
Colorado and Wyoming, No. 122 1862
Utah, No. 123 1862

NOTICES

Department of Agriculture:
Farm Security Administration:
Designation of counties for tenant purchase loans:
Georgia 1862
Illinois 1863
South Dakota 1862
Tennessee 1863
Rural Electrification Administration:
Project designations amended 1863

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission:	Page
Ernstrom & Co., registration revoked	1863
Lawrence Gas and Electric Co., exempting issue and sale of bonds	1863
Massachusetts Utilities Associates, effectiveness of declaration	1864
Standard Gas and Electric Co., applications granted relative to:	
6% convertible gold notes	1864
20-year 6% gold notes	1864
Utilities Power & Light Corp., and Charles True Adams, trustee, hearing	1864

c. c. of the vaccine to be tested. The vaccine as tested shall be prepared exactly as it is to be used in the field.

(4) The three remaining birds selected shall be isolated and held as controls under observation for 15 days, or longer when conditions warrant.

(5) All of the treated birds shall be observed daily for 15 days, provided that should Newcastle disease appear in the United States these birds shall be held under observation for 30 days. All of the test birds that succumb shall be subjected to a careful post mortem examination by a competent veterinarian. The product shall be withheld from the market until it and the test birds are shown to be free of the causative agents of any extraneous disease.

No bird shall be used more than once in making tests, and only healthy birds shall be removed from the premises.

Effective July 1, 1938.

(Issued under the provisions of Regulation 14 of B. A. I. Order 276 and Circular Letter No. 1681 dated October 6, 1930.) [Circular Letter No. 2108, B. A. I., June 2, 1938.]

[SEAL] J. R. MOHLER, *Chief of Bureau.*

[F. R. Doc. 38-2150; Filed, July 25, 1938; 12:53 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 1864]

IN THE MATTER OF ELBEE CHOCOLATE COMPANY, INC., A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended and supplemental complaint of the Commission and the answer of respondent, testimony and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, brief of counsel for the Commission filed herein (respondent having filed no brief and introduced no testimony or other evidence in opposition to the complaint, and oral argument not having been requested), and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is now ordered, That the respondent, Elbee Chocolate Company, Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of candy in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing to dealers candy so packed and assembled that sales of such candy to the general public are to be made or may be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of dealers assortments of candy which are used or which may be used, without alteration or rearrangement of the contents of such assortments, to conduct a lottery, gaming device or gift enterprise in the sale and distribution of candy contained in said assortments to the public;

(3) Packing or assembling in the same package or assortment of candy for sale to the public at retail, pieces of candy of uniform size and shape with different colored centers, together with larger pieces or boxes of candy, or any other merchandise, which said larger pieces or boxes of candy or other merchandise are to be given as prizes to the purchasers procuring pieces of candy with centers of a particular color.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2132; Filed, July 23, 1938; 9:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2785]

IN THE MATTER OF AMERICAN LAWN MOWER COMPANY, A CORPORATION, TRADING AND DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF RICHMOND SCHOOL FURNITURE COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken in part before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it, and in part before Miles J. Furnas, an examiner of the Commission, duly designated as substitute examiner therein, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Harry D. Michael, counsel for the Commission, and by Myron H. Gray of Bracken, Gray and DeFur, counsel for respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, American Lawn Mower Company, doing business under its own name or under the name of Richmond School Furniture Company or under any other trade name or otherwise, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of blackboards having a composition writing surface upon a backing board of pulp wood, fibre board, gypsum board, Masonite or other fabricated wooden or fibre material in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing the same as "Better Than Slate" or superior to blackboards made from natural slate.

(2) Representing the same or the writing surface thereof as "unbreakable."

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2133; Filed, July 23, 1938; 9:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3219]

IN THE MATTER OF IRWIN SCADRON, INDIVIDUALLY AND TRADING AS METROPOLITAN DISTRIBUTING COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, and the substitute answer of respondent admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Irwin Scadron, individually and trading as Metropolitan Distributing Company, his agents, representatives and employees in connection with the offering for sale, sale and distribution of clocks or other articles of merchandise in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others pushcards or other lottery devices for the purpose of enabling such persons to dispose of or sell such articles of merchandise by the use thereof.

(2) Mailing, shipping or transporting to his agents or to distributors or to members of the public pushcards or other lottery devices so prepared or printed as to enable said persons to sell or distribute such articles of merchandise by the use thereof.

(3) Selling or otherwise disposing of such articles of merchandise by the use of pushcards or any other lottery devices.

(4) Representing directly or indirectly that he is the manufacturer or the representative or the distributor for the manufacturer of the articles of merchandise which he sells when such is not the fact.

(5) Representing directly or indirectly that the articles of merchandise which he sells or offers for sale have a retail value greatly in excess of the usual or normal retail value thereof.

It is further ordered, That said respondent shall, within sixty (60) days from the date of the service of this order upon him, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied therewith.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2131; Filed, July 23, 1938; 9:53 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3281]

IN THE MATTER OF JANE ENGEL, INC., AND KALLMAN & MORRIS, INC., A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, Jane Engel, Inc., in which answer respondent admits all the material allegations of the complaint to be true, and states that it waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon it findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the answer of respondent, Kallman & Morris, Inc., and a stipulation as to the facts executed by William T. Kelley, Chief Counsel for the Federal Trade Commission, and Daru, Hellman & Winter, counsel for respondent, Kallman & Morris, Inc. (the filing of briefs having been waived), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent, Jane Engel, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of dresses, and other like garments and merchandise, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Using the word or words "Silk" or "Silk Jersey," or any other word or words of similar import or meaning, to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silk worm, unless in the case of a fabric or product composed in part of silk and in part of rayon, or material or materials other than silk, there is used in immediate connection and conjunction therewith, in letters of at least equal size or conspicuousness, a word or words accurately naming or describing the fiber, material, or materials from which said fabric or product is made; and provided that the fiber or material content of such fabric or product be accurately disclosed by designating each constituent fiber or material thereof, in the order of its predominance by weight, beginning with the largest single constituent.

It is further ordered, That the respondents, Jane Engel, Inc., and Kallman & Morris, Inc., their officers, representatives, agents, servants and employees, in connection with the offering for sale, sale and distribution of dresses, and other like garments and merchandise, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Using the word "Celanese," or any other word or term descriptive of a particular process by which rayon fabrics are made, to designate or describe rayon, or fabrics or products made or composed of rayon, unless there is used in immediate conjunction therewith the word "Rayon," with at least equal prominence, conspicuousness, and emphasis.

(2) Using the words "Satin," "Crepe," or "Taffeta," or any other words of similar import or meaning, to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silk worm, unless there is used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, a word or words accurately naming or describing the fiber, material or materials from which said fabric or product is actually made; and provided, that such disclosure of the fiber or material content thereof shall be made by actually designating each fiber or material thereof, in the order of its predominance by weight, beginning with the largest single constituent.

It is further ordered, That the respondent shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form

in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2134; Filed, July 23, 1938; 9:54 a. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

LEASING OF ALLOTTED AND TRIBAL LANDS FOR AGRICULTURAL, ETC., PURPOSES

FLATHEAD, FORT HALL, KIOWA, OMAHA, UMATILLA, AND WINNEBAGO RESERVATIONS

MAY 27, 1938.

The Honorable, The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: In connection with codifying the regulations governing leasing of allotted and tribal lands for agricultural, grazing and business purposes, approved May 9, 1929, as amended from time to time, it was found that section 33 thereof could not be codified as it appears in the existing regulations inasmuch as the special regulations referred to have nowhere been stated therein.

Section 33 of the above mentioned regulations is the following:

"Special regulations to meet variant conditions on the Flathead, Fort Hall, Kiowa, Omaha, Umatilla, and Winnebago Reservations heretofore prescribed will remain in force until further notice."

Apparently, over the period of years the need for the exceptions in each case referred to by section 33 has disappeared, and as a general proposition the general rules and regulations, now in force and sent to all superintendents, have been followed on the five reservations in question.

It is accordingly recommended that section 33 be eliminated from the regulations, which will place these five reservations in the category of the general regulations. If it is later found that any special provisions not covered by these regulations are necessary, appropriate readjustment will be made at that time.

In view of the necessity to complete immediately the codification of these regulations, it is recommended that this request receive early consideration.

Sincerely yours,

S. M. DODD,
Acting Commissioner.

Approved, May 31, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2130; Filed, July 23, 1938; 9:53 a. m.]

FORT BERTHOLD INDIAN RESERVATION, NORTH DAKOTA

ORDER OF RESTORATION

JUNE 13, 1938.

Whereas, pursuant to the authority found in the Act of June 1, 1910 (36 Stat. L., 455), all non-mineral, unallotted and unreserved lands within that portion of the Fort Berthold Indian Reservation, North Dakota, lying and being east and north of the Missouri River, were opened to settlement and entry, by Presidential proclamation of June 29, 1911 (37 Stat. L., 1693), to be disposed of under the general provisions of the homestead laws of the United States and the said act of Congress, and

Whereas, there is now remaining undisposed of within the opened portion of the Fort Berthold Indian Reservation, in townships one hundred and fifty north, of ranges ninety, ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred and forty-nine north of ranges ninety, ninety-one and ninety-two west; townships one hundred and forty-eight north, of ranges eighty-eight, eighty-nine, ninety, and ninety-one west; and townships one hundred and forty-seven north, of ranges eighty-seven, eighty-eight, eighty-nine, ninety, and ninety-one west, an area of approximately 3,920 acres which upon investigation has been found to be valuable to the Indians of the said reservation, and

Whereas, by relinquishment and cancellation of homestead entries a small additional area of similar land may be included within the class of undisposed of opened land, and

Whereas, the Tribal Council, the Superintendent of the Fort Berthold Indian Agency, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of such undisposed of lands within the said reservation in the townships specifically described,

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the Act of June 18, 1934 (48 Stat. L., 984), I hereby find that restoration to tribal ownership of all lands which are now or may hereafter be classified as undisposed of opened lands of the Fort Berthold Indian Reservation, North Dakota, in townships one hundred and fifty north, of ranges ninety, ninety-one, ninety-two, ninety-three, and ninety-four west; townships one hundred and forty-nine north of ranges ninety, ninety-one, and ninety-two west; townships one hundred and forty-eight north, of ranges eighty-eight, eighty-nine, ninety, and ninety-one west; and townships one hundred and forty-seven north, of ranges eighty-seven, eighty-eight, eighty-nine, ninety, and ninety-one west, will be in the public interest, and the said lands are hereby restored to tribal ownership for the use and benefit of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, and are added to and made a part of the existing reservation, subject to any existing valid rights.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2142; Filed, July 25, 1938; 10:00 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

(T. D. 4833)

TAXES ON GASOLINE, LUBRICATING OIL, BREWER'S WORT AND MALT PRODUCTS, GRAPE PRODUCTS, AND MATCHES

REGULATIONS 44, CHAPTERS I, II, V, VII AND VIII, AMENDED

To Collectors of Internal Revenue and Others Concerned:

In conformity with the provisions of sections 701 (1), 705, and 707 of the Revenue Act of 1938, Regulations 44, approved September 11, 1934, as amended, are further amended as follows:

Chapter I is amended by amending article 2, as amended by Treasury Decision 4754, approved July 21, 1937,[1] to read as follows:

"ART. 2. *Effective period.*—The tax is imposed upon any sale or use, on or after June 21, 1932, and before July 1, 1939, of gasoline, lubricating oil, or matches by the manufacturer or other person liable for tax under the provisions of section 623 (see article 5), irrespective of when the article was manufactured, produced, or imported. In the case of grape products, the tax applies to any sale or use, made during the period June 21, 1932, to June 26, 1936 (both dates inclusive), and with respect to malt products, the tax applies to any sale or use made during the period June 21, 1932, to June 30, 1938 (both dates inclusive)."

Chapter II, as amended by Treasury Decision 4604, approved November 12, 1935, is further amended as follows:

(1) Immediately after the quotation of section 630 of the Revenue Act of 1932, as added by the Act of June 16, 1933 (48 Stat. 254), which precedes article 28, as amended by Treasury Decision 4604, the following subtitle and quotation of section 705 of the Revenue Act of 1938 are inserted:

REVENUE ACT OF 1938

SEC. 705. *Exemption From Excise Tax of Supplies for Certain Aircraft.*—(a) Section 630 of the Revenue Act of 1932, as amended, is amended by inserting at the end thereof the following: "The term 'vessels' as used in this section includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term 'vessels of war of the United States or of any foreign nation' includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof. The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions."

(b) The amendment made by subsection (a) shall be effective July 1, 1938.

(2) The seventh paragraph of article 28, as amended, is amended to read as follows:

"The term 'vessel' includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water. For the period prior to July 1, 1938, it does not include any type of aircraft. On and after July 1, 1938, such term also includes (a) civil aircraft registered in the United States and employed in foreign trade or in trade between the United States and any of its possessions, and (b) civil aircraft registered in a foreign country and employed in foreign trade or in trade between the United States and any of its possessions."

(3) Immediately after the seventh paragraph of article 28, as amended, the following new paragraph is inserted:

"The term 'vessels of war of the United States or of any foreign nation' includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water and constituting a part of the armed forces of the United States or of a foreign nation. For the period prior to July 1, 1938, it does not include any type of aircraft. On and after July 1, 1938, such term also includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof."

(4) Immediately after the ninth paragraph of article 28, as amended, the following new paragraph is inserted:

"The exemption with respect to civil aircraft is more limited than the exemption with respect to other vessels in that it extends only to civil aircraft employed exclusively in foreign trade, or in trade between the United States and any of its possessions. Moreover, although section 630 of the Revenue Act of 1932, as added by section 5 of the Act of June 16, 1933 (48 Stat. 254), exempts sales of articles for use as fuel supplies, etc., on watercraft engaged in trade between the Atlantic and the Pacific ports of the United States, the amendment provided in section 705 of the Revenue Act of 1938 does not exempt sales of articles for use as fuel supplies, etc., on civil aircraft engaged in trade between such ports. In the case of civil aircraft registered in a foreign country, the exemption is further limited in that the privilege of exemption may be granted only so long as the foreign country of registry allows a substantially reciprocal exemption with respect to civil aircraft registered in the United States. If a foreign country discontinues the allowance of such substantially reciprocal exemption, the exemption allowed by the United States will not apply after the Secretary of the Treasury is notified by the Secretary of Commerce of the discontinuance of the exemption allowed by the foreign country."

(5) The eleventh paragraph of article 28, as amended, is amended by adding the following sentence at the end thereof:

"If articles are sold tax free for use on civil aircraft employed in foreign trade or in trade between the United States and any of its possessions, the exemption certificate must show the name of the country in which the aircraft is registered."

(6) The form of the exemption certificate set forth in the fourteenth paragraph of article 28 is amended to read as follows:

EXEMPTION CERTIFICATE

(For use by purchasers of articles for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on certain vessels. Section 630 of the Revenue Act of 1932, as added by section 5 of the Act of June 16, 1933 (48 Stat. 254), and as amended by section 705 of the Revenue Act of 1938.)

_____, 193__.
(Date)

The undersigned purchaser hereby certifies that he is _____
(Owner, officer, charterer or an authorized agent) of _____ (Name of company and that the article or articles and vessel) specified in the accompanying order, or as specified below or on the reverse side hereof, will be used only for fuel supplies, ships' stores, sea stores, or legitimate equipment on a vessel belonging to one of the following classes enumerated in section 630 of the Revenue Act of 1932, as amended:

[Check class to which vessel belongs]

____(1) Vessels engaged in foreign trade.
____(2) Vessels engaged in trade between the Atlantic and Pacific ports of the United States.
____(3) Vessels engaged in trade between the United States and any of its possessions.
____(4) Vessels employed in the fisheries or whaling business.
____(5) Vessels of war of the United States or a foreign nation.

If the articles are purchased for use on civil aircraft engaged in trade as specified in (1) or (3) above, state the name of the country in which the aircraft is registered. _____

The undersigned understands that if the article is used for any purpose other than as stated in this certificate, or is resold or otherwise disposed of, he must report such fact to the manufacturer. It is understood that this certificate may not be used in purchasing articles tax free for use as fuel supplies, etc., on pleasure vessels, or on any type of aircraft except (a) civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and (b) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a penalty equivalent to the amount of tax due on the sale of the article and upon conviction to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution. The undersigned also understands that he must be prepared to establish by satisfactory evidence the purpose for which the article was used.

_____
(Name)
_____
(Address)

Chapter V is amended as follows:

(1) Immediately after the quotation of the Act of June 18, 1934 (Public No. 396—73d Congress), which precedes article 50, the following subtitle and quotation of section 701 (i) of the Revenue Act of 1938 are inserted:

Section 701 (i) of the Revenue Act of 1938.

(i) *Brewer's Wort, Malt Syrup, etc.*—The tax imposed by section 601 (c) (2), as amended, of the Revenue Act of 1932 shall not apply to articles sold or imported after June 30, 1938.

(2) Article 50 is amended by adding the following new paragraph at the end thereof:

"By virtue of the provisions of section 701 (i) of the Revenue Act of 1938, the tax does not apply to sales or uses, by manufacturers, of malt products on and after July 1, 1938. Accordingly, the provisions in these regulations with respect to such tax do not apply to sales or uses occurring after June 30, 1938. However, such provisions remain in full force and effect with respect to sales or uses occurring before July 1, 1938."

Chapter VII is amended as follows:

(1) Immediately after the quotation of section 611 of the Revenue Act of 1934 which precedes article 70, the following subtitle and quotation of section 707 of the Revenue Act of 1938 are inserted:

REVENUE ACT OF 1938

SEC. 707. Tax on Matches.—(a) Section 612 of the Revenue Act of 1932, as amended, is amended to read as follows:

"SEC. 612. Tax on Matches.—There is hereby imposed on fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, sold by the manufacturer, producer, or importer, a tax of 5 cents per one thousand matches."

(b) The amendment made by subsection (a) shall be effective with respect to matches sold after June 30, 1938.

(2) Article 70 is amended to read as follows:

"ART. 70. *Scope of tax.*—During the period from June 21, 1932, to June 30, 1938, inclusive, the tax is imposed upon the sale by the manufacturer of all types of matches, including wax matches, parlor matches, safety matches, book matches, vestas, etc.

"On and after July 1, 1938, the tax is imposed only with respect to the sale by

[1] 2 F. R. 1285 (1537 DI).

the manufacturer of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk."

(3) Article 72 is amended to read as follows:

"ART. 72. *Rate of tax.*—The tax is payable by the manufacturer at the rate of—

"(a) One-half of 1 cent per thousand paper matches in books sold during the period from June 21, 1932, to June 30, 1938, inclusive,

"(b) 2 cents per thousand for all matches sold during the period from June 21, 1932, to June 30, 1938, inclusive, *other than* (1) paper matches in books, and (2) fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk and sold on or after May 11, 1934, and

"(c) 5 cents per thousand fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk sold on and after May 11, 1934."

Chapter VIII is amended by inserting immediately after the fifth paragraph of article 84, as amended by Treasury Decision 4604, the following new paragraph:

"No credit or refund is allowable with respect to tax paid on articles sold by the manufacturer prior to July 1, 1938, for use as fuel supplies, ships' stores, sea stores, or legitimate equipment, on civil aircraft employed in foreign trade or trade between the United States and any of its possessions even though such articles are used for such purposes on or after July 1, 1938. The provisions of section 705 of the Revenue Act of 1938 apply only to sales by manufacturers direct to the owners or operators of aircraft, and no credit or refund is allowable, either under section 705 of the Revenue Act of 1938 or under section 621 (a) (3) (A) (ii) of the Revenue Act of 1932, as amended by section 401 of the Revenue Act of 1935, with respect to tax paid on articles sold by the manufacturer for resale for use on aircraft, regardless of the date the sale or resale occurred, and even though it is known at the time of the manufacturer's sale that the article will be so resold."

This Treasury decision shall be effective as of July 1, 1938.

This Treasury decision is issued under authority prescribed in section 628 of the Revenue Act of 1932.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 21, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2139; Filed, July 25, 1938; 9:38 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

AIR NAVIGATION SITE WITHDRAWAL NO. 122

COLORADO AND WYOMING

JULY 12, 1938.

It appearing that the following-described public lands in Colorado and Wyoming are necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section four of the act of May 24, 1928, 45 Stat. 728, that such lands be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for use by the Department of Commerce in the maintenance of air navigation facilities:

SIXTH PRINCIPAL MERIDIAN

Colorado

T. 29 S., R. 63 W.,
sec. 11, NE¼SE¼;

Wyoming

T. 36 N., R. 79 W.,
sec. 5, N½ of lot 2;
T. 38 N., R. 79 W.,
sec. 19, NE¼NE¼,
sec. 20, N½NW¼NW¼;
aggregating 117.94 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2140; Filed, July 25, 1938; 10:00 a. m.]

AIR NAVIGATION SITE WITHDRAWAL NO. 123

UTAH

JULY 13, 1938.

It is ordered under and pursuant to the provisions of section 4 of the act of May 24, 1928, 45 Stat. 728, that the following-described public land in Utah be, and it is hereby, withdrawn from all forms of appropriation under the public-land laws, subject to valid existing rights, for the use of the Department of Commerce in the maintenance of air navigation facilities:

SALT LAKE MERIDIAN

T. 19 S., R. 7 W., sec. 9, SW¼SE¼, 40 acres.

And departmental order of April 8, 1935, creating Utah Grazing District No. 3, is hereby modified and made subject to the withdrawal made by this order in so far as it affects the herein-described land.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2141; Filed, July 25, 1938; 10:00 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

SOUTH DAKOTA

JULY 22, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the South Dakota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [1] and (2) the following additional counties:

Day, Lyman, Union.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2136; Filed, July 23, 1938; 12:00 m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

GEORGIA

JULY 25, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Georgia State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [2] and (2) the following additional counties:

Appling, Bacon, Baker, Barrow, Butts, Candler, Carroll, Colquitt, Crisp, Douglas, Early, Elbert, Fayette, Franklin, Grady, Houston, Jefferson, Johnson, Lamar, Laurens, Lee, Lowndes, Macon, Madison, Oconee, Oglethorpe, Paulding, Polk, Randolph, Stewart, Taylor, Tift, Toombs, Troup, Turner, Union, Walker, Warren, White, and Wilcox.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2147; Filed, July 25, 1938; 12:53 p. m.]

[1] 3 F. R. 3 DI.
[2] 2 F. R. 2683 (3112 DI).

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

ILLINOIS

JULY 25, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder and upon the basis of the recommendations of the Illinois State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [1] and (2) the following additional counties:

Crawford, Greene, Hancock, Iroquois, and Jackson.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2149; Filed, July 25, 1938; 12:53 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

TENNESSEE

JULY 25, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Tennessee State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [2] and (2) the following additional counties:

Anderson, Bedford, Carroll, Chester, Clay, Dyer, Franklin, Gibson, Giles, Hardeman, Jefferson, Lauderdale, Robertson, Warren, Washington, and Williamson.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2148; Filed, July 25, 1938; 12:53 p. m.]

[1] 2 F. R. 2760 (3196 DI).
[2] 2 F. R. 2554 (2973 DI).

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 273]

PROJECT DESIGNATIONS AMENDED

JULY 19, 1938.

I hereby amend Administrative Order No. 267 [1] by changing the project designations for the allocations therein contained to read as follows:

Indiana 9018A3 Rush to Indiana 9018B1 Rush.
Indiana 9021A2 Bartholomew to Indiana 9021B1 Bartholomew.
Indiana 9029A2 Fulton to Indiana 9029B1 Fulton.
Indiana 9080A3 Noble to Indiana 9080B1 Noble.
Iowa 9036A3 Wright to Iowa 9036B1 Wright.
Iowa 9041A2 Hancock to Iowa 9041B1 Hancock.
Iowa 9043A3 Greene to Iowa 9043B1 Greene.
Iowa 9049A3 Hardin to Iowa 9049B1 Hardin.
Minnesota 9055A3 Watonwan to Minnesota 9055B1 Watonwan.
Minnesota 9057A2 Otter Tail to Minnesota 9057B1 Otter Tail.
Minnesota 9071A2 Blue Earth to Minnesota 9071B1 Blue Earth.
Nebraska 9025A2 Saline to Nebraska 9025B1 Saline.
Nebraska 9054A2 Cuming to Nebraska 9054B1 Cuming.
Pennsylvania 9004A4 Crawford to Pennsylvania 9004B1 Crawford.
Texas 9030A2 Upshur to Texas 9030B1 Upshur.
Wisconsin 9031B2 Columbia to Wisconsin 9031C1 Columbia.

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2135; Filed, July 23, 1938; 9:54 a. m.]

[1] 3 F. R. 1694 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 20th day of July 1938.

IN THE MATTER OF ERNSTROM & CO., INC.
41 BROAD STREET, NEW YORK, NEW YORK

ORDER REVOKING REGISTRATION

Ernstrom & Co., Inc., a corporation, hereinafter called the registrant, having filed with the Commission on January 14, 1936, an application for registration on Form 1-M pursuant to Rule MA2 of the rules then governing the over-the-counter markets; and the said registration having become effective February 13, 1936, in accordance with the Commission's rules and regulations; and the said registrant having become registered under Section 15 (b) of the Securities Exchange Act of 1934, as amended, by virtue of the provisions of Section 10 of the Act of Congress approved May 27, 1936, providing for the registration of over-the-counter brokers and dealers; and

The Commission having reasonable grounds to believe that the said registrant is permanently enjoined by decree of the United States District Court for the Southern District of New York, entered with its consent on the 27th day of June, 1938, from engaging in and continuing certain conduct and practices in connection with the purchase and sale of securities; and that the said registrant has willfully violated the provisions of Section 17 of the Securities Act of 1933, as amended, and Section 8 (b) of the Securities Exchange Act of 1934, as amended; and that it is in the public interest to revoke the said registration; and

The said registrant, through its President and Secretary, having consented in writing to the revocation of said registration and having waived notice and opportunity for hearing in connection therewith, and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Erastrom & Co., Inc., as a broker and dealer transacting business on the over-the-counter markets, be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2138; Filed, July 23, 1938; 12:14 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of July, A. D. 1938.

[File No. 32-95]

IN THE MATTER OF LAWRENCE GAS AND ELECTRIC COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS

Lawrence Gas and Electric Company, a subsidiary of Massachusetts Power & Light Associates, in turn a subsidiary of New England Power Association, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act regarding the issue and sale of $1,500,000 principal amount of First Mortgage Bonds, Series A, 3⅛%, Due July 1, 1968;

Hearings on such matter having been held after appropriate notice; [1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

[1] 3 F. R. 1458 DI.

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition however, that if the express authorization of the issue and sale of such securities by the Department of Public Utilities of the Commonwealth of Massachusetts shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of the proposed bonds, the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2137; Filed, July 23, 1938; 12:14 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23rd day of July, A. D. 1938.

[File No. 43-127]

IN THE MATTER OF MASSACHUSETTS UTILITIES ASSOCIATES

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Massachusetts Utilities Associates, a subsidiary of New England Power Association, a registered holding company, having duly filed with this Commission a declaration, and an amendment thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by said declarant of an unsecured note to be dated August 8, 1938, and made payable to The First National Bank of Boston or order two years after date for the face amount of $4,000,000, said note to bear interest at the rate of 2½% per annum, payable monthly.

A hearing on said declaration, as amended, having been duly held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, That said declaration, as amended, be and become effective forthwith, subject to the terms and conditions set forth in, and for the purposes represented by, said amended declaration.

It is further ordered, That the accounting treatment, as set forth in said declaration, relating to the note (except as hereinafter provided) be and the same hereby is approved: *Provided, however*, That the Commission reserves jurisdiction over said accounting treatment until such future time as other financing by the declarant relating to repayment or refunding of the note is presented to the Commission and reserves the right to reconsider the question at that time.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2143; Filed, July 25, 1938; 12:48 p. m.]

[1] 3 F. R. 1398 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of July 1938.

[File No. 7-246]

IN THE MATTER OF STANDARD GAS AND ELECTRIC COMPANY 6% CONVERTIBLE GOLD NOTES, DUE OCTOBER 1, 1935, STAMPED TO INDICATE EXTENSION OF MATURITY DATE TO MAY 1, 1948, ISSUED PURSUANT TO PLAN OF REORGANIZATION (MODIFIED), DATED NOVEMBER 1, 1937

ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the New York Curb Exchange in Standard Gas and Electric Company 6% Convertible Gold Notes, due October 1, 1935, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby made.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2144; Filed, July 25, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of July 1938.

[File No. 7-247]

IN THE MATTER OF STANDARD GAS AND ELECTRIC COMPANY TWENTY YEAR 6% GOLD NOTES, DUE OCTOBER 1, 1935 STAMPED TO INDICATE EXTENSION OF MATURITY DATE TO MAY 1, 1948, ISSUED PURSUANT TO PLAN OF REORGANIZATION (MODIFIED), DATED NOVEMBER 1, 1937

ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the New York Curb Exchange in Standard Gas and Electric Company Twenty Year 6% Gold Notes, due October 1, 1935, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby made.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2145; Filed, July 25, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23rd day of July, A. D. 1938.

[File No. 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

SUPPLEMENTAL NOTICE OF AND ORDER FOR HEARING

The Securities and Exchange Commission having by notice and order issued in the above entitled matter on July 20, 1938,[1] ordered that a hearing be held on August 8, 1938, to determine the manner and extent to which the properties and businesses of Utilities Power & Light Corporation holding company system shall be confined to those necessary or appropriate to the operation of an integrated public utility system, and to determine the action which Utilities Power & Light Corporation, said trustee, and their successors, and each subsidiary company thereof, shall be required to take by order of the Commission to limit the operations of Utilities Power & Light Corporation holding company system to a single integrated public utility system, and to such other businesses as are reasonably incidental or economically necessary or appropriate to the operation of such integrated public utility system; and to determine whether said Utilities Power & Light Corporation, said trustee, and their successors may continue to control one or more additional integrated public utility systems if it shall be established that such additional integrated public utility systems meet the conditions specified in clauses (A), (B), and (C) of section 11 (b) (1) of said Act; and, it appearing that the Universal Gear Corporation, a subsidiary of Utilities Power & Light Corporation, was omitted from the list of subsidiary companies specified in said notice and order,

[1] 3 F. R. 1831 DI.

It is ordered, That said notice and order of the Commission, dated July 20, 1938, be amended by including the Universal Gear Corporation in the list of subsidiary companies of the Utilities Power & Light Corporation in the same manner as if originally named therein.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2146; Filed, July 25, 1938; 12:49 p. m.]

Reference

JUL 28 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 145

Washington, Wednesday, July 27, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

DELEGATION OF AUTHORITY FOR THE LAND UTILIZATION PROGRAM

Corrections

F. R. Doc. 38–2075, filed July 2, 1938 at 12:44 p. m., and appearing on Pages 1786 and 1787 of the issue for Thursday, July 21, 1938, should contain the following corrections:

First paragraph: "Memorandum No. 75" should read "Memorandum No. 756".

Second paragraph: "casements" should read "easements".

AMENDMENT TO RULES AND REGULATIONS FOR THE INSPECTION AND CERTIFICATION OF HAY AND STRAW

By virtue of the authority vested in the Secretary of Agriculture by the provisions in the Act of Congress entitled, "An Act Making appropriations for the Department of Agriculture * * * for the fiscal year ending June 30, 1939, and for other purposes", approved June 16, 1938 (Public No. 644, 75th Congress), authorizing the inspection and certification of farm products, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby prescribe and promulgate the following amendment to the Rules and Regulations of the Secretary of Agriculture Governing the Inspection and Certification of Hay and Straw, approved December 13, 1935, to be effective immediately:

Amend Regulation 7, Section 1, Paragraph 2 (7 C. F. R., 57.33 (b)) to read: "*Salaried employees of the U. S. Department of Agriculture.* Fees and charges for inspections by salaried employees of the Department of Agriculture shall be fixed in accordance with a schedule of fees and charges approved from time to time by the chief of the bureau."

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 25th day of July, 1938.

[SEAL] M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38–2158; Filed, July 26, 1938; 12:41 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

PORT GAMBLE BAND OF CLALLAM INDIANS RESERVATION PROCLAMATION

JUNE 16, 1938.

By virtue of authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. L., 984), the lands described below, acquired by purchase under the provisions of Section 5 of that Act, for the use and benefit of the Port Gamble Band of Clallam Indians, are hereby proclaimed to be an Indian reservation for the benefit and use of such Indians:

Lots 3 and 4, S½NW¼, N½SW½ and SW¼SW¼ of Sec. 4;

Lots 2, 3, 4 and 5, E½NE¼ and E½SE¼ (excepting 2 acres, more or less, described as follows: Commencing at the southwest corner of the SE¼ of SE¼ of Section 5, Township 27 North, Range 2 East, W. M., thence east along the section line for a distance of 295 feet, thence north 295 feet, thence west 295 feet, thence south 295 feet, to point of beginning, containing 2 acres, more or less.) of Section 5;

Lots 3, 4, 5, 6, and E½NE¼ of Section 8;

S½SE¼, NE¼SE¼, and W½ of Section 9, Township 27 North, Range 2 East, of the W. M., in Washington.

Also, all of the second class tide lands adjacent to and bordering on that part of the lands described above, identified as Lots 2, 3 and 4 of Section 5; Lots 3, 4, 5 and 6 of Section 8 of said Township 27

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Agricultural Economics: Page
Hay and straw, inspection and certification rules amended 1867
Land utilization program, delegation of authority; corrections 1867
TITLE 25—INDIANS:
Port Gamble Band of Clallam Indians, reservation proclaimed 1867
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Firearms or ammunition, issuance of licenses to manufacturers and dealers 1868
TITLE 43—PUBLIC LANDS:
Bureau of Reclamation:
Rio Grande Project, N. Mex., first form reclamation withdrawals 1869
Division of Grazing:
Colorado Grazing Districts Nos. 1 and 6, and Utah Grazing District No. 8, modification 1870

NOTICES

Department of Agriculture:
Farm Security Administration:
Arkansas, designation of counties for tenant purchase loans 1870
Securities and Exchange Commission:
Applications granted:
Allegheny Ludlum Steel Corp., preferred stock 1871
Chicago, Indianapolis and Louisville Railway Co., preferred stock 1871
Market Street Railway Co., preferred and common stock 1870
Reis, Robert, & Co., common stock 1870

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Walling, William English, II, executor of estate of Willoughby G. Walling, former trustee of Utilities Power & Light Corp---------- 1871

North, Range 2 East, of the W. M., in Washington.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38–2156; Filed, July 26, 1938; 9:38 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4834]

REGULATIONS RELATING TO THE ISSUANCE OF LICENSES TO MANUFACTURERS AND DEALERS IN FIREARMS OR AMMUNITION WHO ARE SUBJECT TO THE PROVISIONS OF THE FEDERAL FIREARMS ACT

To Collectors of Internal Revenue and Others Concerned:

The Federal Firearms Act (Public, No. 785, 75th Congress, approved June 30, 1938, and effective on and after July 30, 1938), provides as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act—

(1) The term "person" includes an individual, partnership, association, or corporation.

(2) The term "interstate or foreign commerce" means commerce between any State, Territory, or possession (including the Philippine Islands but not including the Canal Zone), or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession (including the Philippine Islands but not including the Canal Zone), or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia.

(3) The term "firearm" means any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive and a firearm muffler or firearm silencer, or any part or parts of such weapon.

(4) The term "manufacturer" means any person engaged in the manufacture or importation of firearms, or ammunition or cartridge cases, primers, bullets, or propellent powder for purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this Act.

(5) The term "dealer" means any person engaged in the business of selling firearms or ammunition or cartridge cases, primers, bullets or propellent powder, at wholesale or retail, or any person engaged in the business of repairing such firearms or of manufacturing or fitting special barrels, stocks, trigger mechanisms, or breach mechanisms to firearms, and the term "licensed dealer" means any such person licensed under the provisions of this Act.

(6) The term "crime of violence" means murder, manslaughter, rape, mayhem, kidnaping, burglary, housebreaking; assault with intent to kill, commit rape, or rob; assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.

(7) The term "fugitive from justice" mean any person who has fled from any State, Territory, the District of Columbia, or possession of the United States to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

(8) The term "ammunition" shall include all pistol or revolver ammunition except .22-caliber rim-fire ammunition.

SEC. 2. (a) It shall be unlawful for any manufacturer or dealer, except a manufacturer or dealer having a license issued under the provisions of this Act, to transport, ship, or receive any firearm or ammunition in interstate or foreign commerce.

(b) It shall be unlawful for any person to receive any firearm or ammunition transported or shipped in interstate or foreign commerce in violation of subdivision (a) of this section, knowing or having reasonable cause to believe such firearms or ammunition to have been transported or shipped in violation of subdivision (a) of this section.

(c) It shall be unlawful for any licensed manufacturer or dealer to transport or ship any firearm in interstate or foreign commerce to any person other than a licensed manufacturer or dealer in any State the laws of which require that a license be obtained for the purchase of such firearm, unless such license is exhibited to such manufacturer or dealer by the prospective purchaser.

(d) It shall be unlawful for any person to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm or ammunition to any person knowing or having reasonable cause to believe that such person is under indictment or has been convicted in any court of the United States, the several States, Territories, possessions (including the Philippine Islands), or the District of Columbia of a crime of violence or is a fugutive[1] from justice.

(e) It shall be unlawful for any person who is under indictment or who has been convicted of a crime of violence or who is a fugutive[1] from justice to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm or ammunition.

(f) It shall be unlawful for any person who has been convicted of a crime of violence or is a fugutive[1] from justice to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, and the possession of a firearm or ammunition by any such person shall be presumptive evidence that such firearm or ammunition was shipped or transported or received, as the case may be, by such person in violation of this Act.

(g) It shall be unlawful for any person to transport or ship or cause to be transported or shipped in interstate or foreign commerce any stolen firearm or ammunition, knowing, or having reasonable cause to believe, same to have been stolen.

(h) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any firearm or ammunition or to pledge or accept as security for a loan any firearm or ammunition moving in or which is a part of interstate or foreign commerce, and which while so moving or constituting such part has been stolen, knowing, or having reasonable cause to believe the same to have been stolen.

(i) It shall be unlawful for any person to transport, ship, or knowingly receive in interstate or foreign commerce any firearm from which the manufacturer's serial number has been removed, obliterated, or altered, and the possession of any such firearm shall be presumptive evidence that such firearm was transported, shipped, or received, as the case may be, by the possessor in violation of this Act.

SEC. 3. (a) Any manufacturer or dealer desiring a license to transport, ship, or receive firearms or ammunition in interstate or foreign commerce shall make application to the Secretary of the Treasury, who shall prescribe by rules and regulations the information to be contained in such application. The applicant shall, if a manufacturer, pay a fee of $25 per annum and, if a dealer, shall pay a fee of $1 per annum.

(b) Upon payment of the prescribed fee, the Secretary of the Treasury shall issue to such applicant a license which shall entitle the licensee to transport, ship, and receive firearms and ammunition in interstate and foreign commerce unless and until the license is suspended or revoked in accordance with the provisions of this Act: *Provided*, That no license shall be issued to any applicant within two years after the revocation of a previous license.

(c) Whenever any licensee is convicted of a violation of any of the provisions of this Act, it shall be the duty of the clerk of the court to notify the Secretary of the Treasury within forty-eight hours after such conviction and said Secretary shall revoke such license: *Provided*, That in the case of appeal from such conviction the licensee may furnish a bond in the amount of $1,000, and upon receipt of such bond acceptable to the Secretary of the Treasury he may permit the licensee to continue business during the period of the appeal, or should the licensee refuse or neglect to furnish such bond, the Secretary of the Treasury shall suspend such license until he is notified by the clerk of the court of last appeal as to the final disposition of the case.

(d) Licensed dealers shall maintain such permanent records of importation, shipment, and other disposal of firearms and ammunition as the Secretary of the Treasury shall prescribe.

SEC. 4. The provisions of this Act shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm, or ammunition, sold or shipped to, or issued for the use of, (1) the United States or any department, independent establishment, or agency thereof; (2) any State, Territory, or possession, or the District of Columbia, or any department, independent establishment, agency, or any political subdivision thereof; (3) any duly commissioned officer or agent of the United States, a State, Territory, or possession, or the District of Columbia, or any political subdivision thereof; (4) or to any bank, public carrier, express, or armored-truck company organized and operating in good faith for the transportation of money and valuables; (5) or to any research laboratory designated by the Secretary of the Treasury; *Provided*, That such bank, public carriers, express, and armored-truck companies are granted exemption by the Secretary of the Treasury; nor to the transportation, shipment, or receipt of any antique or unserviceable firearms, or ammunition, possessed and held as curios or museum pieces: *Provided*, That nothing herein contained shall be construed to prevent shipments of firearms and ammunition to institutions, organizations, or persons to whom such firearms and ammunition may be lawfully delivered by the Secretary of War, nor to prevent the transportation of such firearms and ammunition so delivered by their lawful possessors while they are engaged in military training or in competitions.

SEC. 5. Any person violating any of the provisions of this Act or any rules and regulations promulgated hereunder, or who makes any statement in applying for the license or exemption provided for in this Act, knowing such statement to be false, shall, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than five years, or both.

SEC. 6. This Act shall take effect thirty days after its enactment.

SEC. 7. The Secretary of the Treasury may prescribe such rules and regulations as he deems necessary to carry out the provisions of this Act.

SEC. 8. Should any section or subsection of this Act be declared unconstitutional, the remaining portion of the Act shall remain in full force and effect.

SEC. 9. This Act may be cited as the Federal Firearms Act.

The Secretary of the Treasury has charged the Bureau of Internal Revenue, under the direction of the Commissioner of Internal Revenue, and subject to rules and regulations prescribed by the Secretary of the Treasury, with the administration of the Federal Firearms Act. The following regulations are hereby prescribed under the Act.

1. An application for a license by a manufacturer or a dealer desiring to transport, ship, or receive firearms or ammunition in interstate or foreign commerce shall be made to the collector of internal revenue for the district in which the applicant's principal place of business is located.

2. The application shall show the name and principal place of business of the applicant, the trade name, if one is used, and whether the business of the applicant is that of a manufacturer or of a dealer within the meaning of those terms as defined in the Act.

3. Upon receipt of an application showing the information prescribed in paragraph 2, and the prescribed fee, the collector of internal revenue shall issue to the applicant a license which shall be in letter form until printed forms are made available. The license shall entitle the licensee to transport, ship, and receive firearms and ammunition in interstate and foreign commerce under the Federal Firearms Act, for a period of one year from the date upon which the license is issued, subject to revocation at any time upon conviction of a violation of the Act. The license letter shall show the collection district and a serial number. The serial numbers in each district shall begin with "1" and run consecutively, for example "5 N. J. No. 1."

4. The license letter shall be in the following form:

District _____ Number _____
Date _____
(Name of Licensee)
(Address)

In accordance with the provisions of the Federal Firearms Act, you are hereby licensed as a _____
(indicate whether dealer or manufacturer)
_____ to transport, ship, and receive firearms and ammunition in interstate and foreign commerce for a period of one year beginning _____, 1938, and ending _____, 1939.

This license is subject to revocation at any time in the event the licensee is convicted of a violation of the Act.

By direction of the Secretary of the Treasury.

_____,
Collector of Internal Revenue.

5. Each collector of internal revenue shall maintain an alphabetical file of all the licenses issued in his district under the Federal Firearms Act, and shall furnish a copy of each such license to the Commissioner of Internal Revenue (attention MT:ST) immediately upon issuance.

6. Fees collected under the Federal Firearms Act shall be scheduled on standard Form 1044 to the Regional Disbursing Officer for deposit to miscellaneous receipts, symbol and title "3291 Fees, Federal Firearms Act."

This Treasury decision is issued pursuant to authority contained in section 7 of the Federal Firearms Act.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 25, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2152; Filed, July 25, 1938; 4:01 p. m.]

TITLE 43—PUBLIC LANDS

BUREAU OF RECLAMATION

RIO GRANDE PROJECT, NEW MEXICO

FIRST FORM RECLAMATION WITHDRAWAL

JUNE 14, 1938.

THE SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976), it is recommended that Departmental order of April 8, 1935, establishing Grazing District No. 4, New Mexico, under and pursuant to the provisions of the Act of June 28, 1934 (48 Stat., 1269), be revoked in so far as the following described land may be affected, and the said land be withdrawn from public entry under the first form withdrawal, as provided in Sec. 3, Act of June 17, 1902 (32 Stat., 388):

RIO GRANDE PROJECT, NEW MEXICO

New Mexico Principal Meridian

T. 14 S., R. 4 W., Sec. 32, SE¼.

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur, July 7, 1938.

JULIAN TERRETT,
Acting Director, Division of Grazing.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary.

JULY 14, 1938.

[F. R. Doc. 38–2154; Filed, July 26, 1938; 9:38 a. m.]

RIO GRANDE PROJECT, NEW MEXICO

FIRST FORM RECLAMATION WITHDRAWAL

JUNE 14, 1938.

THE SECRETARY OF THE INTERIOR.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat., 1976), it is recommended that Departmental order of July 11, 1935, establishing Grazing District No. 3, New Mexico, under and pursuant to the provisions of the Act of June 28, 1934 (48 Stat., 1269), be revoked in so far as the following described land may be affected, and the said land be withdrawn from public entry under the first form withdrawal as provided in Sec. 3, Act of June 17, 1902 (32 Stat., 388).

RIO GRANDE PROJECT, NEW MEXICO

New Mexico Principal Meridian

T. 15 S., R. 5 W., Sec. 36, SW¼.

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur, July 7, 1938.

JULIAN TERRETT,
Acting Director, Division of Grazing.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary.

JULY 14, 1938.

[F. R. Doc. 38–2153; Filed, July 26, 1938; 9:38 a. m.]

[1] So in original.

DIVISION OF GRAZING

COLORADO GRAZING DISTRICTS NOS. 1 AND 6 AND UTAH GRAZING DISTRICT NO. 8

MODIFICATION

APRIL 13, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental orders of July 9, 1935, July 11, 1935, and June 22, 1935, establishing Colorado Grazing Districts Nos. 1 and 6 and Utah Grazing District No. 8, respectively, are hereby revoked as far as they affect the following-described lands, such revocation to be effective upon the reservation of the lands for the Dinosaur National Monument:

COLORADO

Sixth Principal Meridian

T. 6 N., R. 99 W.,
sec. 5, W½;
secs. 6 and 7;
sec. 8, W½;
sec. 17, W½;
secs. 18 and 19;
sec. 20, W½;
sec. 29, W½;
secs. 30 and 31;
sec. 32, W½;
(partly unsurveyed)
T. 6 N., R. 100 W.,
secs. 1 to 30 and 33 to 36, inclusive;
T. 6 N., R. 101 W.,
secs. 1 to 30, inclusive;
(partly unsurveyed)
T. 7 N., R. 101 W.,
secs. 25 to 36, inclusive;
(partly unsurveyed)
T. 6 N., R. 102 W.,
secs. 1 to 30 inclusive; (partly unsurveyed)
T. 7 N., R. 102 W.,
secs. 5 to 8, 17 to 20, and 25 to 36, inclusive; (partly unsurveyed)
T. 8 N., R. 102 W.,
secs. 5 to 8, 17 to 20, and 27 to 34, inclusive; (partly unsurveyed)
T. 9 N., R. 102 W.,
secs. 16 to 21, and 28 to 33, inclusive;
(partly unsurveyed)
T. 6 N., R. 103 W.,
secs. 1 to 14, inclusive;
secs. 23 and 24;
T. 7 N., R. 103 W.,
all; (partly unsurveyed)
T. 8 N., R. 103 W.,
sec. 1;
sec. 2, E½;
sec. 11, E½;
secs. 12 to 15, 22 to 28, and 32 to 36, inclusive; (partly unsurveyed)
T. 9 N., R. 103 W.,
secs. 13, 24, 25, and 36;
T. 6 N., R. 104 W.,
secs. 1, 2, 11, and 12; (partly unsurveyed)
T. 7 N., R. 104 W.,
all;

UTAH

Salt Lake Meridian

T. 4 S., R. 23 E.,
secs. 9 to 16 and 21 to 28, inclusive, and those parts of secs. 34 to 35 north of Green River; (partly unsurveyed)
T. 3 S., R. 24 E.,
secs. 25, 26, 35, and 36;
T. 4 S., R. 24 E.,
secs. 1 to 3, and 7 to 30; inclusive. (partly unsurveyed)
T. 3 S., R. 25 E.,
sec. 11, E½;
secs. 12 and 13;
sec. 14, E½;
secs. 20 to 36; inclusive, (partly unsurveyed)
T. 4 S., R. 25 E.,
secs. 1 to 12, inclusive, (partly unsurveyed).

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38–2155; Filed, July 26, 1938; 9:38 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

ARKANSAS

JULY 25, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Arkansas State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [1] and (2) the following additional counties:

Arkansas, Baxter, Benton, Bradley, Calhoun, Clark, Clay, Conway, Craighead, Desha, Drew, Franklin, Grant, Greene, Independence, Izard, Lee, Lincoln, Logan, Monroe, Nevada, Ouachita, Pike, St. Francis, Scott, Sevier, Washington, and Yell.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2151; Filed, July 25, 1938; 3:26 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of July 1938.

[File No. 1–957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY 6% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE, 6% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE, AND COMMON STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 6% Cumulative Preferred Stock, $100 Par Value, 6% Non-Cumulative Second Preferred Stock, $100 Par Value, and Common Stock, $100 Par Value, of Market Street Railway Company; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on August 4, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2161; Filed, July 26, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of July 1938.

[File No. 1–1419]

IN THE MATTER OF ROBERT REIS & CO. COMMON STOCK, NO PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, No Par Value, of Robert Reis & Co.; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on August 4, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2163; Filed, July 26, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 25th day of July 1938.

[1] 2 F. R. 2553 (2973 DI).

[1] 3 F. R. 1435 DI.

[File No. 1–2066]

IN THE MATTER OF CHICAGO, INDIANAPOLIS AND LOUISVILLE RAILWAY COMPANY 4% NON-CUMULATIVE PREFERRED STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 4% Non-Cumulative Preferred Stock, $100 Par Value, of Chicago, Indianapolis and Louisville Railway Company; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on August 4, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2162; Filed, July 26, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of July 1938.

[File No. 7–242]

IN THE MATTER OF ALLEGHENY LUDLUM STEEL CORPORATION 7% CUMULATIVE PREFERRED STOCK, PAR VALUE $100

ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the New York Curb Exchange in Allegheny Steel Company, 7% Cumulative Preferred Stock, Par Value $100, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby made, effective upon the merger between Allegheny Steel Company and Ludlum Steel Company becoming operative.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2160; Filed, July 26, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of July, A. D. 1938.

[File No. 55–9]

IN THE MATTER OF WILLIAM ENGLISH WALLING, II, AS EXECUTOR OF THE ESTATE OF WILLOUGHBY G. WALLING, FORMER TRUSTEE OF UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) and Rule U–11F–2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 12, 1938, at 9:30 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 6, 1938.

The matter concerned herewith is in regard to an application filed by William English Walling, II, as executor of the will of Willoughby G. Walling, deceased, pursuant to Rule U–11F–2 promulgated under Section 11 (f) of the Public Utility Holding Company Act of 1935, for final compensation for his services from October 28, 1937 until February 23, 1938 in the maximum amount of $25,000 of which $14,000 has heretofore been allowed by the court and paid (prior to the effective date of Rule U–11F–2) for the services of said Willoughby G. Walling as trustee of Utilities Power & Light Corporation now undergoing reorganization under Section 77B of the Bankruptcy Act, as amended.

By the Commission,

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2159; Filed, July 26, 1938; 12:46 p. m.]

[1] 3 F. R. 1435 DI.

Reference

Reference

JUL 29 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 146

Washington, Thursday, July 28, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

COMMODITY EXCHANGE ADMINISTRATION

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED

Pursuant to the authority vested in the Secretary of Agriculture by the Commodity Exchange Act (7 U. S. C. and Sup. III, secs. 1–17a), as amended by the act of Congress, approved April 7, 1938 (Public, No. 471, 75th Cong.), I, Harry L. Brown, Acting Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following rules and regulations, which shall become effective on the respective dates hereinafter set forth and continue in force and effect until amended or superseded by rules and regulations hereafter made by the Secretary of Agriculture under said act, and shall be in addition to and shall not supersede rules and regulations heretofore made and promulgated under said act. Sections 800 to 803, inclusive, of the following rules and regulations shall become effective on the first day of August 1938. Sections 804 to 815, inclusive, and sections 820 to 823, inclusive, shall become effective on the fifteenth day of September 1938.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 27th day of July 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

ARTICLE VIII.—SPECIAL PROVISIONS APPLICABLE TO WOOL TOPS[1]

Reporting Requirements

SECTION 800. [201.800][2] *Definitions; "cash wool tops;" "spot wool tops."*—The terms "cash wool tops" and "spot wool tops" shall have the same meaning and shall refer to transactions in actual wool tops as distinguished from wool top futures. (Sec. 10, 49 Stat. 1500; 7 U. S. C., Sup. III, 12a (5); Public, No. 471, 75th Cong.)

FORM 800

SEC. 801. [201.801] *Daily reports on form 800 by clearing members; information shown.*—Each clearing member of each board of trade (exchange) designated as a contract market for wool tops shall report to the Commodity Exchange Administration each business day on form 800 applicable to such contract market. Such report shall be prepared in accordance with the instructions appearing on form 800, to be obtained from the Commodity Exchange Administration, and shall show accurately and fully the information called for with respect to all contracts of sale of wool tops for future delivery to which such clearing member is a party either as buyer or seller, made on or subject to the rules of the contract market covered by the report. Persons who are clearing members of more than one contract market for wool tops shall report separately with respect to each such market. Such report shall show separately for each future:

(1) the total of all open accounts "long" and the total of all open accounts "short" carried by such clearing member, at the beginning and at the end of the period covered by the report, including his own accounts as well as the accounts of other persons;

(2) the net position of such clearing member in respect to all accounts and contracts open on his books at the end of the period covered by the report;

(3) the quantity of wool tops bought and the quantity of wool tops sold on such contracts during the period covered by the report;

(4) the quantity of wool tops delivered and the quantity of wool tops received on such contracts during the period covered by the report; and

(5) the quantity of wool tops represented by delivery notices issued, stopped, and passed, respectively, during the period covered by the report.

(Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Public, No. 471, 75th Cong.)

SEC. 802. [201.802] *Time and place of filing reports on form 800.*—Unless otherwise authorized in writing by the Commodity Exchange Administration upon good cause shown, reports required to be made on form 800 shall be filed in the office of the Commodity Exchange Ad-

[1] Title 7, Code of Federal Regulations, Part 201, Subpart.—Special Provisions Applicable to Wool Tops.

[2] Bracketed numbers refer to sections of title 7, Code of Federal Regulations.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Commodity Exchange Administration: Page
Commodity Exchange Act regulations; provisions applicable to wool tops 1873
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Motor carrier employees, maximum hours of service 1875

NOTICES

Department of Agriculture:
Farm Security Administration:
Designation of counties for tenant purchase loans:
North Carolina 1877
North Dakota 1877
Region XII exclusive of New Mexico 1876
South Carolina 1877
Securities and Exchange Commission:
Community Power and Light Co., and Southwestern Electric Co., hearing 1878
National Pumps Corp., common stock listing and registration 1877
Oklahoma Power and Water Co., hearing 1878
Steiner, Joseph M., doing business as J. Morton Steiner Co., registration denied 1877

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ministration in the city where the contract market covered by the report is located, as soon as possible after the close of the market on each business day and not later than 30 minutes before the official opening of the market on the next following business day. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Public, No. 471, 75th Cong.)

SEC. 803. [201.803] *Errors or omissions in reports on form 800.*—Reports on form 800 shall be prepared with care, and if any error or omission is discovered in any report a memorandum thereof shall be furnished as soon as possible. Minor corrections may be shown in the next succeeding report. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Public, No. 471, 75th Cong.)

FORMS 801 AND 802

SEC. 804. [201.804] *"Special accounts" reported on form 801.*—(a) *By whom reported.* Each *futures commission merchant* and each *member* of a contract market, who shall carry for another person any account in any wool top future, resulting from any transactions made on or subject to the rules of a contract market, which shall show open contracts in any one future equal to or in excess of the amount specified in section 820 [201.820] hereof, shall report such account daily to the Commodity Exchange Administration on form 801 applicable to such contract market. "House accounts" carried by a member of a contract market or by a futures commission merchant shall likewise be reported on form 801.

(b) *Accounts belonging to or controlled by the same person.*—For the purpose of reporting on form 801, all accounts which belong to or are controlled by the same person shall be considered one account. All accounts required to be reported on form 801 shall be known as "special accounts" and the report thereon shall show the net position, as of the close of the market on the day covered by the report, of each such account in each future in which there are open contracts equal to or in excess of such specified amount. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No. 471, 75th Cong.)

SEC. 805. [201.805] *Net position of account prior and subsequent to special account status.*—The report for the first day that a "special account" shows open contracts in any one future equal to or in excess of the amount specified in section 820 [201.820] hereof shall show also the net position of such account in such future as of the close of the market on the last preceding business day. Such account shall also be reported on the first day that the net position thereof in such future falls below such specified amount after having been reported as a "special account." (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No. 471, 75th Cong.)

SEC. 806. [201.806] *Time of filing reports on form 801.*—Unless otherwise authorized in writing by the Commodity Exchange Administration upon good cause shown, reports required to be made on form 801 shall be filed with the Commodity Exchange Administration not later than 30 minutes before the official opening of the market on the next following business day: *Provided*, That futures commission merchants and members of contract markets that are not located in a city where the Commodity Exchange Administration has an office, may transmit such reports by mail, in accordance with instructions furnished by the Commodity Exchange Administration. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No. 471, 75th Cong.)

SEC. 807. [201.807] *Accounts reported on form 801 shown by account number or code; identification on form 802.*—Reports on form 801 shall be prepared in accordance with the instructions appearing thereon. Each account reported shall be designated by account number or code and when such account number or code appears for the first time on form 801 it shall be identified on form 802, and such identification (transmitted in a separate sealed envelope marked "Confidential") shall accompany the report on form 801. An account number or code once identified on form 802 shall not thereafter be changed or assigned to any other account without the prior approval of the Commodity Exchange Administration. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No 471, 75th Cong.)

SEC. 808. [201.808] *Persons controlling or having participating financial interest in accounts shown on form 802.*—If more than one person shall have control over or be known to have a participating financial interest in any account reported on form 801, the names and addresses of all such persons shall be shown on form 802. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No. 471, 75th Cong.)

SEC. 809. [201.809] *Character of accounts shown on form 802.*—In identifying accounts on form 802 the person reporting shall indicate the character of such accounts, i. e., whether hedging, straddling, speculative, or commission house. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No. 471, 75th Cong.)

FORM 803

SEC. 810. [201.810] *Persons holding or controlling open contracts of specified size; reports on form 803.*—Every *person* who holds or controls open contracts in any *one* wool top future on any *one* contract market which equal or exceed the amount fixed by the Secretary of Agriculture (in section 821 [201.821] hereof) for reporting purposes under section 4i (2) of the Commodity Exchange Act shall report to the Commodity Exchange Administration on form 803. Such reports shall be made *daily: Provided*, That if on any day such person has no trades or transactions in any wool top future previously reported and there has been no change in the open contracts of such person in any wool top future, the last detailed report of such person shall be considered as his report on open contracts in wool top futures on all intervening days. Such person shall also make a report on form 803 covering the day on which the amount of his open contracts in such future falls below the amount fixed in section 821 [201.821] hereof. (Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6i; Public, No. 471, 75th Cong.)

SEC. 811. [201.811] *Information shown in reports on form 803.*—(a) *Arranged by markets and futures.*—Reports made by any person on form 803 shall show for the day covered thereby, by markets and by futures:

(1) the amount of open contracts held or controlled by such person in any and all wool top futures on all boards of trade (exchanges) in the United States and elsewhere;

(2) the character of the open contracts held or controlled, i. e., whether hedging, straddling, or speculative;

(3) the amount of wool tops bought and the amount sold by such persons for future delivery on all boards of trade (exchanges) in the United States and elsewhere; and

(4) the amount of wool tops delivered by or to such person in settlement of futures contracts.

(b) *"Hedging," meaning of.*—For the purpose of subparagraph (2) of paragraph (a) of this section the term "hedging" shall have the same meaning as the term "bona fide hedging transactions", appearing in paragraph (3) of section 4a of the Commodity Exchange Act. (Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6i; Public, No. 471, 75th Cong.)

SEC. 812. [201.812] *Time of filing reports on form 803.*—Unless otherwise authorized in writing by the Commodity Exchange Administration upon good cause shown, reports required on form 803 shall be filed with the Commodity Exchange Administration as soon as possible after the close of business on the day covered by the report and in any event not later than 9 o'clock a. m. on the next following business day: *Provided*, That reports may be transmitted by mail, in accordance with instructions furnished by the Commodity Exchange Administration. Reports received by mail will be considered duly filed if postmarked not later than midnight of the day covered by the report. (Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6i; Public, No. 471, 75th Cong.)

SEC. 813. [201.813] *Assignment of code number.*—Upon receipt of the first report from any person on form 803, or upon application in advance, the Commodity Exchange Administration will assign to such person a code number. In all reports on form 803 filed thereafter, such code number shall be used instead of the name of such person. (Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6i; Public, No. 471, 75th Cong.)

SEC. 814. [201.814] *Books and records kept, information furnished, by persons holding or controlling open contracts of specified size.*—Persons having or controlling open contracts in any wool top future on any contract market equal to or in excess of the amount fixed in section 821 [201.821] hereof shall keep books and records showing the details concerning such contracts and all related transactions, and upon request shall furnish the Commodity Exchange Administration with the names and addresses of all futures commission merchants and board of trade members with whom or through whom such contracts are held and of all persons having a participating financial interest in such contracts, together with such other pertinent information as may be called for. (Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6i; Public, No. 471, 75th Cong.)

SEC. 815. [201.815] *Information required upon call.*—Each person required to report on form 803 shall,

(1) if a partnership, furnish upon call the name and address of each partner;

(2) if a corporation, furnish upon call the name and address of each stockholder who owns or controls 20 percent or more of the capital stock of such corporation; and

(3) if an association or trust, furnish upon call the name and address of each person participating in the management or having any financial or beneficial interest in the trading operations of such association or trust.

Such information shall be furnished to the Commodity Exchange Administration upon call in accordance with instructions contained in the call. (Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6i; Public, No. 471, 75th Cong.)

AMOUNTS FIXED FOR REPORTING ON FORMS 801 AND 803

SEC. 820.[1] [201.820] *Amount fixed for reporting on form 801.*—For the purpose of sections 804 and 805 [201.804 and 201.805] of article VIII of these rules and regulations, the amount specified for reporting accounts on form 801 is 125,000 pounds, but such specified amount shall not apply to special calls issued under authority of section 822 [201.822] hereof. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No. 471, 75th Cong.)

SEC. 821. [201.821] *Amount fixed for reporting on form 803.*—For the purpose of sections 810 and 814 [201.810 and 201.814] of article VIII of these rules and regulations, the amount fixed by the Secretary of Agriculture, under authority of section 4i (2) of the Commodity Exchange Act, for reporting on form 803 is 125,000 pounds. (Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6i; Public, No. 471, 75th Cong.)

SPECIAL CALLS

SEC. 822. [201.822] *Special calls; reports on form 801.*—Whenever in the judgment of the Chief or Acting Chief of the Commodity Exchange Administration there is danger of congestion in any delivery month, each member of a contract market and each futures commission merchant shall, upon call, report all accounts carried by him which show open contracts in any designated wool top future equal to or in excess of the amount specified in the call. Such report shall be made to the Commodity Exchange Administration on form 801, and shall be prepared and filed in accordance with instructions contained in the call. As to such calls, the amount specified for general reporting purposes in section 820 [201.820] hereof shall have no application. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Sec. 5, 49 Stat. 1496; 7 U. S. C., Sup. III, 6g; Public, No. 471, 75th Cong.)

SEC. 823. [201.823] *Special calls; reports on form 803.*—Whenever in the judgment of the Chief or Acting Chief of the Commodity Exchange Administration there is danger of congestion in any delivery month, each member of a contract market who holds or controls open contracts in any wool top future shall, upon call, report all open contracts in wool top futures held or controlled by him if the amount thereof be equal to or in excess of the amount specified in the call. Such reports shall be made to the Commodity Exchange Administration on form 803 and shall be prepared and filed in accordance with the instructions contained in the call. As to such calls the amount fixed for general reporting purposes in section 821 [201.821] hereof shall have no application. (Sec. 5, 42 Stat. 1000; 7 U. S. C., 7 (b); Public, No. 471, 75th Cong.)

[F. R. Doc. 38-2168; Filed, July 27, 1938; 12:06 p. m.]

[1] Section numbers 816, 817, 818, and 819 [201.816, 201.817, 201.818, and 201.819] reserved for future use.

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-2]

ORDER IN THE MATTER OF MAXIMUM HOURS OF SERVICE OF MOTOR CARRIER EMPLOYEES

At a general session of the Interstate Commerce Commission held at its office in Washington, D. C., on the 12th day of July, A. D. 1938.

It appearing, That by order dated July 30, 1936,[1] the Commission, by division 5, entered upon an investigation into and concerning the above-entitled matter, and that on December 29, 1937,[2] the said division made and filed its report and entered its order;

It further appearing, That by order entered April 4, 1938, the Commission reopened the said proceeding for reargument, which has been had;

And it further appearing, That a full investigation of the matters and things involved has been had and that the Commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof: [3]

It is ordered, That the said order of December 29, 1937, be, and it is hereby, vacated and set aside.

It is further ordered, That the rules and regulations printed as the appendix to the report and made a part hereof be, and they are hereby, approved, adopted and prescribed, effective October 1, 1938, and shall be observed by common and contract carriers subject to the Motor Carrier Act, 1935.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[1] 1 F. R. 1015.
[2] 3 F. R. 9 DI.
[3] The report, forms, and instructions were a part of the original document filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

APPENDIX

MOTOR CARRIER SAFETY REGULATIONS

Part V.—Hours of Service of Drivers

Regulations prescribed under authority of section 204 (a), (1) and (2) of the Motor Carrier Act, 1935,[1] with respect to maximum hours of service of drivers of motor vehicles operated in interstate or foreign commerce by common and contract carriers, including motor vehicles engaged in operations specified in section 203 (b) of said act, except paragraph (4a).

Regulations Effective October 1, 1938

RULE 1. As used in these regulations:

(*a*) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Commission, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(*b*) The term "driver" means any individual who drives in transportation in interstate or foreign commerce any motor vehicle as defined in paragraph (a) above.

(*c*) A driver is on duty from the time he begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. Time spent by a driver resting or sleeping in a berth as defined in paragraph (g) of this rule shall not be included in computing time on duty.

(*d*) The term "drive or operate" includes all time spent on a moving vehicle and any interval not in excess of 20 minutes in which a driver is on duty but not on a moving vehicle. It does not include time spent resting or sleeping in a berth as defined in paragraph (g) of this rule.

(*e*) The term "week" means any period of 168 consecutive hours beginning at the time the driver reports for duty, as defined in paragraph (c) of this rule.

(*f*) The term "24 consecutive hours" means any such period starting at the time the driver reports for duty, as defined in paragraph (c) of this rule.

(*g*) The term "berth" means a berth or bunk on the motor vehicle which is properly equipped for the purpose of sleeping, including springs and a mattress, or an inner-spring mattress, pillow, adequate bed clothing, adequate ventilation, and ready means of entering and leaving the berth.

(*h*) Where any other terms used in these regulations are defined in section 203 (a) of the Motor Carrier Act, 1935, such definitions shall be controlling. Where terms are used in the regulations which are neither defined herein nor in said section 203 (a), they shall have the ordinary practical meaning of such terms.

RULE 2. Every motor carrier and his or its officers, agents, employees, and representatives shall comply with the following regulations, and every such motor carrier shall require that his or its officers, agents, employees, and representatives shall be conversant with these regulations.

RULE 3. (*a*) No carrier subject to these regulations shall permit or require any driver in his employ to remain on duty, as defined in paragraph (c) of rule 1, for a total of more than 60 hours in any week, as defined in paragraph (e) of rule 1; provided, however, that carriers operating vehicles on every day of the week may permit drivers in their employ to remain on duty for a total of not more than 70 hours in any period of 192 consecutive hours.

(*b*) No carrier subject to these regulations shall permit or require a driver in his employ to drive or operate a motor vehicle for more than 10 hours in the aggregate in any period of 24 consecutive hours, unless such driver be off duty for 8 consecutive hours during or immediately following the 10 hours aggregate driving and within said period of 24 consecutive hours; provided, however, that two periods of resting or sleeping in a berth, as defined in paragraph (g) of rule 1, may be cumulated to give the aforesaid total of 8 hours off duty.

RULE 4. No carrier subject to these regulations if himself a driver shall remain on duty or drive or operate for longer periods than those prescribed in rule 3 hereof for employed drivers.

RULE 5. Each carrier subject to these regulations, except carriers engaged in mass transportation and operating on frequent and regular schedules, shall require that a driver's log in duplicate shall be kept by every driver in his employ who operates a motor vehicle engaged in transportation in interstate or foreign commerce, and, if himself an owner-driver, shall keep such a log. Entries in said driver's log shall be made by the driver, and shall show the place of origin and destination of the trip, the times of reporting for duty and of going off duty, the periods of driving or operating and other work, and any other information found desirable.

Each carrier shall make monthly reports to the Bureau of Motor Carriers, Interstate Commerce Commission, Washington, D. C., prior to the fifteenth day of each succeeding month, of every instance where a driver has been required or permitted to be on duty or to drive or operate for hours in excess of those prescribed by these regulations, and shall fully explain the reasons for and circumstances surrounding such violations. Such reports shall be in writing and sworn to.

RULE 6. In case of flood, storm, accident, or similar emergency, a driver may complete his run without being in violation of the provisions of these regulations, if such run would reasonably have been completed without violation except for the delay caused by such emergency.

RULE 7. These regulations shall not apply to any carrier subject thereto when transporting passengers or property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitation or disaster.

ORDER

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 15th day of July, A. D. 1938.

It appearing, That by order dated July 12, 1938, in the above-entitled matter, rules and regulations were prescribed for common and contract carriers by motor vehicle engaged in the transportation of passengers or property in interstate or foreign commerce;

It further appearing, That by rule 5 of such rules and regulations each carrier subject thereto shall require that a driver's log in duplicate shall be kept by every driver in his employ who operates a motor vehicle engaged in transportation in interstate or foreign commerce, or the carrier himself, if an owner-driver, shall keep such log; and that each such carrier shall make monthly reports of every instance where a driver has been required or permitted to be on duty or to drive or operate for hours in excess of those prescribed by the rules and regulations;

And it further appearing, That it is desirable to prescribe the form of such driver's log and monthly report:

It is ordered, That each carrier subject to said rules and regulations be, and it is hereby, notified and required to keep the driver's log and make the monthly report required by said rule 5 in accordance with the respective forms 1, 2, and 3 and instructions attached hereto and made a part hereof.[1] By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2157; Filed, July 26, 1938; 12:18 p. m.]

[1] 49 Stat. 543.

[1] See footnote 3 on preceding page.

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

REGION XII EXCLUSIVE OF NEW MEXICO

JULY 26, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Farm Security Advisory Committee for the States in Region XII other than New Mexico, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Colorado, Prowers; Kansas, Mead; Texas, Hall and Hansford.

[SEAL] HARRY L BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2165; Filed, July 26, 1938; 3:52 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NORTH DAKOTA

JULY 26, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the North Dakota State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional counties:

Burleigh, Ward, and Williams.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2164; Filed, July 26, 1938; 3:52 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

SOUTH CAROLINA

JULY 26, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the South Carolina State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[3] and (2) the following additional counties:

[1] 2 F. R. 2761 (3196 DI).
[2] 2 F. R. 2799 (3240 DI).
[3] 2 F. R. 2554 (2973 DI).

Abbeville, Bamberg, Barnwell, Calhoun, Charleston, Cherokee, Chester, Darlington, Dillon, Edgefield, Fairfield, Greenwood, Hampton, Horry, Lee, Marion, Marlboro, Newberry, Pickens, Richland, Saluda.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2166; Filed, July 26, 1938; 3:52 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NORTH CAROLINA

JULY 27, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the North Carolina State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938:[1] and (2) the following additional counties:

Alexander, Anson, Bertie, Cabarrus, Cherokee, Columbus, Craven, Currituck, Duplin, Durham, Gates, Granville, Greene, Haywood, Hoke, Jackson, Jones, Lee, Lenoir, Macon, Martin, Mecklenburg, Nash, Northampton, Person, Polk, Rockingham, Rutherford, Stokes, Vance, Wake, Warren, and Yancey.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2167; Filed, July 27, 1938; 12:06 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23d day of July 1938.

IN THE MATTER OF JOSEPH M. STEINER, DOING BUSINESS AS J. MORTON STEINER COMPANY, 1593 PROSPECT AVENUE, BROOKLYN, NEW YORK

ORDER DENYING REGISTRATION

Joseph M. Steiner, doing business as J. Morton Steiner Company, hereinafter called the applicant, having filed with the Commission on June 10, 1938, an application for registration on Form 3-M; and

The Commission having on July 9, 1938, ordered proceedings on the question of refusal and/or postponement of registration and having postponed registration to July 25, 1938, pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended; and

The Commission having reasonable grounds to believe that the applicant willfully made in the aforesaid application certain statements which were, at the time and in the light of the circumstances under which they were made, false and misleading with respect to material facts; and the applicant having on July 12, 1938, consented in writing to the entry of an order denying the application for registration, and having waived opportunity for hearing; and

The Commission having duly considered the matter and being fully advised in the premises;

It is hereby ordered, That the registration of Joseph M. Steiner, doing business as J. Morton Steiner Company, pursuant to Section 15 (b) of the Securities Exchange Act of 1934 as amended, be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2172; Filed, July 27, 1938; 12:50 p. m.]

[1] 2 F. R. 2554 (2973 DI).

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 25th day of July, 1938.

[File No. 1-2215]

IN THE MATTER OF NATIONAL PUMPS CORPORATION COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The National Pumps Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, August 23, 1938, in Room 630, Securities and Exchange Commission, Bankers Building, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

Reference AUG 1 1938

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2171; Filed, July 27, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of July, A. D. 1938.

[File No. 56-6]

IN THE MATTER OF COMMUNITY POWER AND LIGHT COMPANY AND SOUTHWESTERN ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 12 (d) and Rule U-12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on August 6, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 2, 1938.

The matter concerned herewith is in regard to an application by Southwestern Electric Company, and its parent, Community Power and Light Company, a registered holding company, for approval of the sale by Southwestern Electric Company of $300,000 face amount of General Mortgage 5% Bonds, originally issued by New Mexico Utilities Company and assumed by Texas-New Mexico Utilities Company (the successor of New Mexico Utilities Company and a subsidiary of Community Light and Power Company) at a price of 92½, and accrued interest, or a total of $277,500 plus accrued interest, to William Rosenblatt, 27 William Street, New York, New York.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2169; Filed, July 27, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of July, A. D. 1938.

[File No. 43-139]

IN THE MATTER OF OKLAHOMA POWER AND WATER CO.

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 31, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 25, 1938.

The matter concerned herewith is in regard to a declaration filed by Oklahoma Power and Water Co., a subsidiary of The Middle West Corporation, a registered holding company, regarding the issue and sale of sixty-nine 5% unsecured promissory notes aggregating $748,000 and maturing on various dates and in various amounts between September 15, 1938 and July 15, 1943.

The notes are to be issued and delivered to Sand Springs Home of Sand Springs, Oklahoma, in exchange for and to refund and discharge an equal principal amount of 5% notes which the declarant states were inadvertently issued by declarant without filing a declaration with respect thereto.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2170; Filed, July 27, 1938; 12:50 p. m.]

Reference AUG 1 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 147

Washington, Friday, July 29, 1938

Rules, Regulations, Orders

TITLE 10—ARMY

WAR DEPARTMENT

PART 1. THE ASSISTANT SECRETARY OF WAR

The provisions of section 1.15, paragraph (f) (14) (Special purchasing procedure for Portland cement and construction or other work in which cement is to be used), having become obsolete, that paragraph is rescinded. [Proc. Cir. No. 11, July 20, 1938.]

SEC. 1.20 *Forms of agreement.*

* * * * * * *

(b) *Informal contracts.*—(1) Transactions falling in the categories below need not be evidenced by a formal contract, but a complete written agreement, comprising a bid, or, if authorized by Army Regulations, a written informal quotation, signed by the contractor and an acceptance signed by the contracting officer, is required: when the amount involved exceeds $500, does not exceed $25,000, and delivery or performance time does not exceed 60 days, when the amount involved does not exceed $500 and more than one payment is involved.

(2) *Oral or written quotation and written acceptance.*—Open-market purchases authorized and made in accordance with Army Regulations, which do not exceed $500, which are based on an oral quotation, and which involve only one payment, do not require a written agreement, but a written acceptance signed by the purchasing officer is required. Where such purchases are based on a written quotation, the form of the agreement will be as prescribed in paragraph (1) above. See MS. Comp. Gen. A-14836, A-28906, April 28, 1938. (R. S. 3744; sec. 1, 40 Stat. 198; 41 U. S. C. 16; 45 Stat. 985; 46 Stat. 796; 5 U. S. C. 219) [AR 5-200, Oct. 27, 1937; Proc. Cir. 11, July 20, 1938.]

SEC. 1.24 *Default in performance.*

* * * * * * *

(d) *Completion by Government.*—Where the contractor defaults and the surety has been given an opportunity to complete the contract but does not elect to do so, the Government may take such further action as is provided for in the contract. In the case of construction, if the work is to be completed by contract, such contract will be made after advertising in strict accordance with the original plans and specifications. (See 6 Comp. Gen. 24, 32.) In other cases the Government may purchase the supplies after advertising, if that action will best protect the interests of the Government and the defaulting contractor, or in the open market as provided in section 1.38, paragraph (e), in strict accordance with the original specifications.

* * * * * * *

(R. S. 161, 5 U. S. C. 22.) [AR 5-200, Oct. 27, 1937; Proc. Cir. No. 11, July 20, 1938.]

[SEAL] E. S. ADAMS, *Major General, The Adjutant General.*

[F. R. Doc. 38-2173; Filed, July 28, 1938; 9:41 a. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Order No. 243]

AN ORDER REQUIRING SUBMISSION OF REGULATIONS PROVIDING FOR ASSESSMENTS BY DISTRICT BOARDS

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That each District Board shall on or before August 10, 1938, submit for the approval of the Commission, regulations providing for assessments by District Boards as provided by Section 4, Part I (b) of the Bituminous Coal Act of 1937.

2. That subsequent to September 1, 1938, no District Board shall levy or require any code member to pay an assessment unless or until the Regulations Providing for Assessments by such District Board have been approved by the Commission, or the levy of an assessment specifically authorized.

3. The Secretary of the Commission shall forthwith mail copies of this order and Suggested Regulations Providing for Assessments by District Boards to the Secretary of each Bituminous Coal Producers Board and shall cause copies of this order and suggested Regulations Providing for Assessments by District Boards to be made available for inspection by all interested parties at the office of the Secretary of the Commission and all Statistical Bureaus of the Commis-

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 10—ARMY:	
War Department:	
Contracts, miscellaneous amendments	1879
TITLE 15—COMMERCE:	
National Bituminous Coal Commission:	
Submission of regulations providing for assessments by district boards	1879
TITLE 24—HOUSING CREDIT:	
Home Owners' Loan Corporation:	
Waiving of rights of Corporation to insurance loss drafts under $100	1880
NOTICES	
Securities and Exchange Commission:	
Bradford Electric Co., effectiveness of declaration	1880
La Salle-Wacker Corp., mortgage bonds and debentures; listing and registration	1880
New York State Electric & Gas Corp., exempting issue and sale of notes	1882
Notice of and orders for hearings:	
Eastern Utilities Associates	1882
Gas Advisers, Inc	1882
Lone Star Gas Corp., et al	1881

FEDERAL REGISTER

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sion, and shall cause a copy of this order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 27th day of July, 1938.

[SEAL] EDGAR C. FARIS, JR.,
Acting Secretary.

[F. R. Doc. 38-2175; Filed, July 28, 1938; 11:35 a. m.]

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

WAIVING OF RIGHTS OF CORPORATION TO INSURANCE LOSS DRAFTS UNDER $100

AMENDING THE INSURANCE CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 126, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, the second paragraph of section 9.03 of Part 9 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Section 903 of Chapter IX of the Manual relative to Insurance be amended to read as follows:

As directed by the General Manager, the Corporation need not be made a payee or one of the payees on drafts covering losses on property mortgaged to, or sold under installment contract by, the Corporation where the amount of the individual loss totals $100 or less and he may instruct the insurer to deliver such drafts direct to the mortgagors or vendees, except in those cases where the insurer denies liability to the insured or notice of foreclosure proceedings has been given to the insurer.

Where the Corporation receives drafts in such cases made payable to it, employees authorized to sign or countersign checks drawn on an account of the Corporation maintained in the United States Treasury are designated and directed to endorse for the Corporation, without recourse, such insurance loss drafts and shall transmit the drafts to the mortgagors or vendees.

Be it further resolved, That the provisions of this resolution shall be effective August 15, 1938.

Adopted by the Federal Home Loan Bank Board on July 26, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2174; Filed, July 28, 1938; 10:33 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of July, A. D. 1938.

[File No. 43-130]

IN THE MATTER OF BRADFORD ELECTRIC COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Bradford Electric Company, a direct subsidiary of NY PA NJ Utilities Company and an indirect subsidiary of Associated Gas and Electric Corporation and Associated Gas and Electric Company, both registered holding companies, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by it to The Chase National Bank of the City of New York of its $450,000 3% unsecured promissory note to be dated on or before August 2, 1938, and to mature eleven months from the date of issue, partial liquidation of the principal amount thereof to be made periodically by the payment of $5,000 on September 2, 1938, and by equivalent monthly payments thereafter to and including June 2, 1939, with the balance of the principal amount thereof, together with all interest accrued and unpaid thereon, to be paid at maturity;

A hearing on such declaration, as amended, having been held after appropriate notice;[1] the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration be and become effective forthwith, on condition, however, that the issue and sale of the aforesaid promissory note shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration and, on the further condition, that, within ten days after the issue and sale of the said note, the declarant shall file with this Commission its Certificate of Notification showing that such issue and sale have been effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2181; Filed, July 28, 1938; 12:54 p. m.]

[1] 3 F. R. 1589 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of July 1938.

[File No. 1-2585]

IN THE MATTER OF LA SALLE-WACKER CORPORATION MORTGAGE BONDS AND DEBENTURES

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The La Salle-Wacker Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its First (Closed) Mortgage Bonds (5% Income) due August 1, 1957, Debentures (5% Income) due August 1, 1962, and First (Closed) Mortgage Bonds (5% Fixed Interest Bearing) due August 1, 1957, from listing and registration on The Board of Trade of The City of Chicago; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, August 25, 1938, in Room 630, Securities and Exchange Commission, Bankers Building, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2179; Filed, July 28, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 27th day of July, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF LONE STAR GAS CORPORATION, LONE STAR GAS COMPANY, TEXAS CITIES GAS COMPANY, COUNCIL BLUFFS GAS COMPANY, THE DALLAS GAS COMPANY, COUNTY GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

A joint and combined declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by plication pursuant to Section 10 (a) (1) all of the above named parties; an application of said Act having been duly filed by Lone Star Gas Corporation; and an application pursuant to Rule 12D-1 under said Act having been filed by Lone Star Gas Corporation and a joint and combined application pursuant to Rule 12C-1 under said Act having been filed by Texas Cities Gas Company, Council Bluffs Gas Company and The Dallas Gas Company;

It is ordered, That a hearing on such matter be held on August 17, 1938 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N.W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 13, 1938.

A joint and combined declaration pursuant to Section 7 of the Act filed by Lone Star Gas Corporation, a registered holding company and by Lone Star Gas Company, Texas Cities Gas Company, Council Bluffs Gas Company, The Dallas Gas Company, and County Gas Company, all subsidiaries of said holding company is in regard to:

1. The proposed issue and sale by Lone Star Gas Corporation of $20,000,000 principal amount of 15 Year, 3½% (rate stated to be tentative and subject to change) Sinking Fund debentures, due September 1, 1953 (carrying the privilege to convert (to the extent of $10,000,000 principal amount) into common stock at an undetermined sum per share for the first $5,000,000 offered for conversion and at an undetermined sum per share for the next $5,000,000 offered for conversion); and the proposed issue and sale by said party of bank loan notes bearing interest at the rate of 2⅞% (rate stated to be tentative and subject to change) such notes to mature in instalments from 6 months after date of issue to 7 years after date of issue in the principal amount of $11,300,000.

2. The proposed issue and sale by Lone Star Gas Company of Income Demand Notes in the principal amount of $5,100,000 bearing interest at the rate of 4½% per annum payable to Lone Star Gas Corporation.

3. The proposed issue and sale by Texas Cities Gas Company of Income Demand Notes in the principal amount of $5,438,380 bearing interest at the rate of 4½% per annum payable to Lone Star Gas Corporation.

4. The proposed issue and sale by Council Bluffs Gas Company of Income Demand Notes in the principal amount of $1,209,725 bearing interest at the rate of 4½% per annum payable to Lone Star Gas Corporation.

5. The proposed issue and sale by The Dallas Gas Company of Income Demand Notes in the principal amount of $1,942,850 bearing interest at the rate of 4½% per annum payable to Lone Star Gas Corporation.

6. The proposed issue and sale by County Gas Company of Income Demand Notes in the principal amount of $1,680,000 bearing interest at the rate of 4½% per annum payable to Lone Star Gas Corporation.

The 4½% interest rate on the Income Demand Notes hereinbefore referred to in subparagraphs 2, 3, 4, 5 and 6 represents an interest requirement to be charged and paid from income available for that purpose by the company for the calendar year then involved. Interest is not cumulative.

The proceeds of the debentures and bank loan notes proposed to be issued and sold by Lone Star Gas Corporation according to the declaration will be applied as follows:

$8,775,250 to the redemption of outstanding 6½% cumulative preferred stock of said corporation, $8,400,000 for the payment of outstanding bank loans of said corporation and $13,575,955 to the subsidiary companies hereinbefore named as a portion of the consideration for the purchase of the Income Demand Notes of said subsidiary companies; the balance of the consideration for said notes to consist of bonds of such subsidiary companies aggregating $1,795,000 principal amount, such bonds to be returned to the issuing companies.

The proceeds of the Income Demand Notes proposed to be issued by Lone Star Gas Company, according to the declaration will be applied to the retirement of all outstanding bank loans of said company.

The proceeds of the Income Demand Notes proposed to be issued by The Dallas Gas Company according to the declaration will be applied as follows:

$118,690 to the redemption of outstanding 7% preferred stock of said company, and $1,818,660 to the retirement of all bonded indebtedness of said company in the hands of the public.

The proceeds of the Income Demand Notes proposed to be issued by Council Bluffs Gas Company according to the declaration will be applied to the retirement of all bonded indebtedness of said company in the hands of the public.

The proceeds of the Income Demand Notes proposed to be issued by County Gas Company according to the declaration will be applied to the retirement of all bonded indebtedness of said company in the hands of the public.

The proceeds of the Income Demand Notes proposed to be issued by Texas Cities Gas Company according to the declaration will be applied to the retirement of all bonded indebtedness of said company in the hands of the public.

The application filed by Lone Star Gas Corporation pursuant to Section 10 (a) (1) of the Act is in regard to the acquisition of the Income Demand Notes to be issued to said corporation by its subsidiary companies as hereinbefore referred to.

The application filed by Lone Star Gas Corporation pursuant to Rule 12D-1 of the Act is in regard to a proposed sale by said applicant of Texas Cities Gas Company First Mortgage 5% Gold Bonds Series of 1928 in the aggregate principal amount of $1,562,000 to that company and a proposed sale by said applicant of Council Bluffs Gas Company First Mortgage 5% Gold Bonds Series of 1928 in the aggregate principal amount of $227,500 to that company. Said proposed sale of the bonds represents that portion of the consideration to be paid by Lone Star Gas Corporation to the above named subsidiary companies, above cash to be advanced to said subsidiary companies as hereinbefore stated.

The joint and combined application filed by Texas Cities Gas Company, Council Bluffs Gas Company and The Dallas Gas Company pursuant to Rule

12C–1 of said Act is in regard to a proposed acquisition by Texas Cities Gas Company of its First Mortgage 5% Gold Bonds Series of 1928 held by Lone Star Gas Corporation in the aggregate principal amount of $1,562,000, such bonds to be acquired at par; a proposed acquisition by Council Bluffs Gas Company of its First Mortgage 5% Gold Bonds Series of 1928 held by Lone Star Gas Corporation in the aggregate amount of $227,500, such bonds to be acquired at par; and to a proposed acquisition by The Dallas Gas Company of its First Mortgage 6% Gold Bonds, Second Series, held by Lone Star Gas Corporation in the aggregate principal amount of $5,500, such bonds to be acquired at par.

The proposed acquisition referred to in connection with the application pursuant to Rule 12C–1 of the Act constitutes a portion of the entire contemplated transaction as hereinbefore described.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2177; Filed, July 28, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of July 1938.

[File No. 32–84]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER EXEMPTING ISSUE AND SALE OF NOTES PREVIOUSLY AUTHORIZED BY STATE COMMISSION

New York State Electric & Gas Corporation, a subsidiary company of NY PA NJ Utilities Company Associated Gas and Electric Corporation, and Associated Gas and Electric Company, registered holding companies, having duly filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of said Act of the issue and sale, by the applicant, solely to residents of the State of New York, of $2,903,200 principal amount of 10-year 5% notes due March 1, 1948; a hearing on said application, as amended, having been duly held after appropriate notice,[1] the record in this matter having been examined; and the Commission having made and filed its findings and opinion herein;

It is ordered, That the issue and sale of such notes be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; subject, however, to the following conditions:

[1] 3 F. R. 896 DI.

(1) That such issue and sale of such notes shall be in compliance with the terms and conditions of, and for the purposes represented by, said application, as amended, and in compliance with the terms and conditions imposed by the existing orders of the Public Service Commission of New York.

(2) That such exemption shall immediately terminate without further order of this Commission if at any time the authorization of such issue and sale by the Public Service Commission of New York shall be revoked or shall otherwise terminate.

(3) That, if the Public Service Commission of New York shall extend the period within which the notes must be sold beyond September 30, 1938, this Commission may terminate or further condition the exemption hereby granted, after affording applicant an opportunity to be heard, if it deems it necessary or appropriate in the public interest or for the protection of investors or consumers.

(4) That within ten days after the initial issue and sale of such notes, and monthly thereafter, the applicant shall file with this Commission a certificate of notification stating the aggregate amount of notes issued and sold to date and showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended, and shall file with this Commission three copies of the prospectus hereinafter mentioned.

(5) That applicant, prior to or contemporaneously with the first solicitation, shall deliver to all persons solicited a prospectus containing a balance sheet as of a date not earlier than May 31, 1938 of the same form and content as would be filed with the Public Service Commission of New York, and making no reference to any appraised value of the fixed capital of the Corporation, and shall, in its advertising, selling literature and verbal solicitations, make no representations as to its fixed capital account at variance with such prospectus.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2180; Filed, July 28, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of July, A. D. 1938.

[File No. 43–141]

IN THE MATTER OF EASTERN UTILITIES ASSOCIATES

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 15, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 10, 1938.

The matter concerned herewith is in regard to a proposed issue by declarant of an unsecured 3% promissory note in the amount of $1,625,000, due August 1, 1941 to The First National Bank of Boston, for the purpose of refunding an outstanding note of the same principal amount held by said bank and maturing August 1, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2176; Filed, July 28, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of July, A. D. 1938.

[File No. 37–36]

IN THE MATTER OF THE APPLICATION OF GAS ADVISERS, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 16, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 10, 1938.

The matter concerned herewith is in regard to an application for approval as a mutual service company pursuant to Section 13 of the Public Utility Holding Company Act of 1935 and Rule U–13–22 of the Rules and Regulations of the Securities and Exchange Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2178; Filed, July 28, 1938; 12:53 p. m.]

AUG 1 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 148

Washington, Saturday, July 30, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[38 AAA GR, Series 1]

REGULATIONS GOVERNING SELECTION AND EXERCISE OF FUNCTIONS OF COMMITTEES OF FARMERS UNDER SECTION 8 (B) OF SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AS AMENDED, AND UTILIZATION OF SUCH COMMITTEES

By virtue of the authority vested in the Secretary of Agriculture by Section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended, Section 388 of the Agricultural Adjustment Act of 1938, as amended, Section 305 of the Sugar Act of 1937, and Section 507 of the Federal Crop Insurance Act, I, Harry L. Brown, Acting Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations, to be in force and effect from the date hereof until amended, revoked, or superseded by regulations hereafter made by the Secretary of Agriculture under the authority of said acts.

ARTICLE I. SELECTION AND FUNCTIONS OF COMMITTEES

SECTION 1. Community and county committees shall be elected and shall perform their duties and functions in accordance with Articles of Association, Form ACP-71, prescribed by the Secretary of Agriculture and approved by or on behalf of the Secretary of Agriculture for each County Agricultural Conservation Association organized in any county or parish in the continental United States in which any program formulated pursuant to Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the Agricultural Adjustment Act of 1938, as amended, the Sugar Act of 1937, the Federal Crop Insurance Act, and such other acts of Congress as the Secretary of Agriculture may designate, is being carried out with the aid of said County Agricultural Conservation Associations and said committees. Nothing herein contained shall necessitate the reorganization of any community or county committee elected and constituted for the year 1938 prior to February 1, 1938, nor require the change of any procedure established for the filling of vacancies in such committees, except in counties where community boundaries are changed by the Secretary of Agriculture during 1938.

ARTICLE II. PUBLIC NOTICE OF FOREGOING REGULATIONS

SECTION 21. Public notice of the issuance of these regulations and of amendments thereto shall be given by (a) forwarding a copy thereof for publication in the FEDERAL REGISTER; (b) posting a copy thereof for at least five days after issuance on the official bulletin board of the United States Department of Agriculture at Washington, D. C.; and (c) issuing a press release containing a description thereof and making available for the press in the office of the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, copies of such regulations and amendments.

Done at Washington, D. C., this 28th day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2187; Filed, July 29, 1938; 11:50 a. m.]

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

[Regulation 5—Amendment 9]

LABELING AND ADVERTISING OF DISTILLED SPIRITS

CHANGING THE EFFECTIVE DATE OF ARTICLE III, SECTION 34 (F)

Pursuant to the provisions of section 5 (e) of the Federal Alcohol Administration Act, as amended, Amendment No. 6 to Regulations No. 5,[1] Relating to labeling

[1] 3 F. R. 1394 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Soil Conservation and Domestic Allotment Act, selection and exercise of functions of committees of farmers	1885
TITLE 27—INTOXICATING LIQUORS:	
Federal Alcohol Administration Division:	
Labeling and advertising of distilled spirits, effective date of Article III, Section 34 (f)	1885
TITLE 46—SHIPPING:	
United States Maritime Commission:	
Federal Ship Mortgage Insurance, information and application form relating to	1886

NOTICES

Federal Trade Commission:	
Mississippi Sales Co., Inc., et al., complaint and notice	1888
Interstate Commerce Commission:	
Municipality of Boston and commercial zone, extent and area of	1892
Wool transportation by motor vehicle in and about Boston	1891
Rural Electrification Administration:	
Allocation of funds for loans	1892
Treasury Department:	
Bureau of Customs:	
Lumber, Revenue Act of 1938; conflict with any international agreement	1888

FEDERAL REGISTER

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and Advertising of Distilled Spirits, as amended, is amended as follows:

Item 4 of said amendment is amended by striking out the date July 1, 1938, where it appears therein, and inserting in lieu thereof the date August 15, 1938.

[SEAL] W. S. ALEXANDER,
Administrator,
Federal Alcohol Administration.

Approved this 26 day of July 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2184; Filed, July 28, 1938; 4:12 p. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 26]

INFORMATION AND APPLICATION FORM RELATING TO FEDERAL SHIP MORTGAGE INSURANCE

JULY 28, 1938.

The United States Maritime Commission, pursuant to authority conferred upon it by Title XI of the Merchant Marine Act, 1936, as amended, hereby issues information concerning Federal Ship Mortgage Insurance and adopts as necessary and appropriate thereunder the attached form of application for commitment to insure a preferred ship mortgage under said Title XI of the Merchant Marine Act, 1936 as amended.

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, JR.,
Secretary.

INFORMATION CONCERNING FEDERAL SHIP MORTGAGE INSURANCE—TITLE XI OF THE MERCHANT MARINE ACT, 1936, AS AMENDED

Under Title XI of the Merchant Marine Act, 1936, as amended, effective June 23, 1938, the Commission is authorized, subject to the provisions of this Title, to insure preferred ship mortgages which secure new loans or advances made to aid in financing the construction, reconstruction, or reconditioning, subsequent to June 23, 1938, of all types of passenger, cargo, and combination passenger cargo carrying vessels, tugs, towboats, barges and dredges, documented under the laws of the United States, and fishing vessels, owned by citizens of the United States, and designed principally for commercial use (a) in the coastwise or intercoastal trade; (b) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States; or (c) in foreign trade between the United States and foreign countries in continental North America, and between the United States and all islands lying between the continent of South America and the United States in the Gulf of Mexico, the Caribbean Sea, or the Atlantic Ocean.

FILING APPLICATION

Forms of application may be obtained from the office of the Commission in Washington, D. C. Applications should be prepared on the appropriate form and in strict compliance with the instructions applicable thereto. Applications will be received *only* from the prospective lender (referred to as the Mortgagee). The application must establish compliance with the technical, financial and legal requirements prescribed by Title XI and imposed by the Commission thereunder. It may—and in many cases probably will—prove impossible to comply with such requirements unless approval of the Commission is obtained prior to the making of the loan and the commencement of the work to be financed thereby. Accordingly, if insurance is desired, the filing of an application for a commitment to insure and obtaining Commission approval *prior* to the commencement of work is strongly urged.

No application will be approved unless the Commission is satisfied (a) that all professional and other fees paid or to be paid in connection with the obtaining of the loan or the insurance are fair and reasonable, and (b) that no payment has been or is to be made for solicitation or for attempting to influence the Commission's action.

ELIGIBILITY FOR INSURANCE

To obtain Federal Ship Mortgage Insurance, the following requirements of eligibility must be established in accordance with the provisions of Title XI:

1. *The Mortgagee.*—The Mortgagee must be approved by the Commission as responsible and able to service the mortgage properly, and in addition, must be a citizen of the United States (the words "citizen of the United States" include a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended; in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum). Generally speaking, the mortgagee should be a recognized active lending institution such as a bank, trust company, insurance company, or other institution which lends its own funds for the purpose of earning an interest return.

2. *The Mortgagor.*—The Mortgagor must be approved by the Commission as possessing the ability, experience, financial resources and other qualifications necessary to the adequate operation and maintenance of the mortgaged property. The Mortgagor must also be a citizen of the United States.

3. *The mortgaged vessel.*—The vessel, in order to be the subject of a preferred mortgage, which may be insured under Title XI, must be a type of vessel on which a preferred mortgage can be given. A preferred mortgage may be given on a vessel of the United States, i. e., a vessel that is registered, enrolled, or licensed under the laws of the United States (except that no towboat, barge, scow, lighter, car float, canal boat, or tank vessel of less than 200 tons gross may be the subject of a preferred mortgage). The vessel should be built to classification requirements of the American Bureau of Shipping for the service in which it is to be operated. The Commission must be satisfied as to the suitability of the vessel to the commercial use for which it is designed. Consideration will be given to the possible utility of the vessel for national defense in the event of a national emergency. Compliance with approved standards of safety will be required, and the vessel must be insured against such hazards and in such amounts as the Commission shall require.

4. *Purpose of loan secured by the mortgage.*—Compliance with the requirements of Section 1104 (a) (8) must be established and satisfactory assurance given of continued compliance with respect to the use of the vessel. If application is made for insuring a mortgage to refinance in part any existing indebtedness, a substantial portion of the total amount to be secured by the new mortgage shall be applied to new construction, reconditioning or reconstruction of the mortgaged vessel, as required by Section 1106.

5. *Economic soundness.*—No mortgage shall be accepted for insurance unless the Commission finds that the property and project with respect to which the mortgage is executed is economically sound. In determining compliance with this requirement the Commission shall consider the competitive conditions in the trade in which it is proposed to operate the vessel to be financed, and may hold public hearings where the nature of proposed competition with existing services warrants.

6. *Terms of loan secured by the mortgage.*—The loan or advance must have been made to finance construction, reconstruction or reconditioning undertaken after June 23, 1938 (except as provided in Section 1106) and its terms must comply with the following requirements in addition to others which may be prescribed by the Commission:

(a) Interest shall be at a rate not to exceed 5 per cent unless the Commission finds that in certain areas or under certain circumstances the market demands a higher rate, in which case not in excess of 6 per cent per annum may be allowed;

(b) The secured obligation shall be for a period not in excess of 20 years, or such lesser period as the Commission may require;

(c) The mortgage must contain covenants and conditions prescribed by the Commission, including provisions referred to in Section 1104 (a) (7); and

(d) The amount of the secured obligations shall not exceed 75 per cent of the cost (as estimated by the Commission) of the construction, reconstruction, or reconditioning financed by the loan or advance but in no event more than 75 per cent of the amount which the Commission estimates will be the value of the property when the construction, reconstruction or reconditioning is completed.

COMMITMENT TO INSURE

The Commission will not insure any mortgage prior to the completion of the construction, reconstruction or reconditioning financed by the loan or advance secured thereby. The Commission may, however, if it approves an application therefor, execute and deliver to the Applicant an agreement that, upon satisfactory completion of the work financed by the loan or advance and the execution and delivery of a first preferred mortgage, it will insure such mortgage in accordance with the provisions of Title XI. The commitment to insure will have annexed to it the form of insurance contract to be executed.

In the event of extraordinary changes occurring between the date of the commitment and the date of the insurance contract which affect either the estimated cost of the work being financed by the mortgage to be insured, or the estimated value of the completed vessel, revised estimates may be made by the Commission either upon its own initiative or at the request of the Applicant, and the amount of the mortgage to be insured shall be correspondingly adjusted if necessary to bring it within the limitation imposed by Section 1104 (a) (2).

CONTRACT OF INSURANCE

Contracts of insurance may be issued pursuant to commitment to insure or upon original application. (But see comments above under heading "Piling Application.") Each contract of insurance shall include provisions with respect to the following matters:

1. *Validity and priority of the mortgage.*—The Mortgagee shall covenant that the mortgage to be insured is a first preferred mortgage as defined in the Ship Mortgage Act, 1920, as amended, and that the priority of lien will be preserved.

2. *Mortgage covenants.*—The mortgage shall comply with the requirements of Title XI, and shall be substantially in the form prescribed by the Commission at the time of execution of the commitment to insure (or at the time of executing the insurance contract, if there is no prior commitment).

3. *The property or project.*—The contract of insurance shall contain such provisions as the Commission may deem advisable to assure the continuation of the use of the mortgaged vessel in the trade or project approved by the Commission, and the continued economic soundness of such property or project.

4. *Servicing by mortgagee.*—The Mortgagee shall, at the expense of the Mortgagor, prepare and submit to the Commission not less frequently than annually a report of the condition of the mortgaged property and the status of the trade or project in which such property is then being used. The Mortgagee shall also advise the Commission promptly of any adverse change in the business of the Mortgagor or in the condition of the mortgaged property which may come to its attention at any time during the period of the contract of insurance. The Commission shall reserve the right to require from the Mortgagor such additional reports and to make such surveys and inspections from time to time as it may deem necessary.

5. *Foreclosure.*—In the event that the Mortgagee shall have foreclosed and acquired title and possession of the mortgaged property, in accordance with regulations established by the Commission, or shall, with the consent of the Commission, have otherwise acquired such property from the Mortgagor after default, the Mortgagee shall be entitled to receive the benefits of the insurance upon (a) the prompt conveyance to the Commission of title to the property in a form and manner which meets the requirements of rules and regulations of the Commission in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations, and (b) the assignment to the Commission of all claims of the Mortgagee against the Mortgagor or others arising out of the mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Commission. Upon such conveyance and assignment, the obligation of the Mortgagee to pay the premium charges for insurance shall cease and the Commission shall issue to the Mortgagee debentures having a total face value equal to the balance of the principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure, in accordance with the provisions of Section 1105 (a). In the event that the Mortgagee acquires the property other than by purchase at foreclosure sale after foreclosure proceedings have been instituted, debentures having a total face value equal to the balance of the principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings shall be issued to the Mortgagee.

PREMIUMS

The Mortgagee shall pay to the Commission annually in advance as a mortgage insurance premium a sum equal to 1 per cent of the average principal amount of the insured indebtedness to be outstanding during the succeeding twelve months in acordance with the amortization provisions of the mortgage, as amended to the date of such payment, without allowance or adjustment for any delinquencies or prepayments.

DEBENTURES

The Commission's obligation under its contract of insurance, upon acquisition of the property by the Mortgagee after default and conveyance to the Commission, will be paid in debentures issued pursuant to the provisions of Title XI. As provided in said Title XI, the form, denominations, and redemption provisions of the debentures will be prescribed by the Commission, with the approval of the Secretary of the Treasury. They will bear interest at a rate determined by the Commission, with the approval of the Secretary of the Treasury, at the time the mortgage is offered for insurance, but not to exceed 3 per cent per annum, will be unconditionally guaranteed by the United States, and will be tax exempt, both as to principal and interest, as provided in Section 1105 (c).

FEES AND CHARGES

The fees and charges (other than insurance premiums) which may be assessed in connection with applications for the insurance of mortgages are as follows:

1. *Charges imposed by the Commission.*—(a) Applications should be accompanied by a fee in the amount of $50 (except for applications for less than $10,000, in which cases the fee should be ½ of 1%, to cover preliminary investigation.

(b) After preliminary investigation of the application, an additional fee in such amount as may be determined by the Commission, may be assessed for the further study of the application, both in Washington and in the field, investigation by the Commission's own staff, and other services required in connection with consideration of the application.

(c) A fee may be imposed in such amount as may be determined by the Commission for the issuance of a commitment, the inspection by the Commission's staff of properties during the construction, reconstruction or reconditioning, and the review by the Commission's staff of the legal proceedings attendant to the documentation of the vessel and the final closing and recordation of the preferred mortgage and the issuance of the formal contract of insurance.

2. *Fees, etc., collected by mortgagee.*—The Mortgagee may collect, from time to time, from the Mortgagor all fees and charges which the Mortgagee is required to pay the Commission in connection with the application for or the servicing of the mortgage insurance. The Mortgagee, however, shall not receive or accept any further consideration for the making of the mortgage or the obtaining of insurance thereon or for any service rendered in connection therewith, except amounts approved by the Commission as fair and reasonable.

3. *Payments to other persons by mortgagee or mortgagor.*—No commission, fee, bonus or other remuneration may be paid directly or indirectly to any person for obtaining a commitment to insure, or a contract of insurance, or for services rendered in connection therewith, except amounts approved by the Commission as fair and reasonable for services of accountants, attorneys, architects, engineers, appraisers, or other experts performing services deemed by the Commission to be essential in connection with the preparation and presentation of the application. Bona-fide brokerage commissions for services rendered in negotiating a loan between a borrower and lender may be paid provided that full and complete disclosure thereof is made in the application and the amount appears reasonable to the Commission.

The aggregate of all charges which may be imposed by the Commission shall not exceed ½ of 1% of the amount of the mortgage to be insured.

APPLICABLE LAWS

A copy of each of the following is annexed hereto:

(a) Title XI, Public No. 705, 75th Congress: "Federal Ship Mortgage Insurance".

(b) U. S. C. Title 46, Sec. 911, 41 Stat. 1000 (Public No. 168, 74th Congress): "Ship Mortgage Act, 1920, as amended".

(c) U. S. C. Title 46, Secs. 802 and 803 (Sec. 2, Shipping Act, 1916, as amended): "Definition of Citizenship".

(d) Sec. 905 (c), Merchant Marine Act, 1936, as amended (Public No. 705, 75th Congress, 3rd Sess.), approved June 23, 1938.

[*Here follows, in the original document, the applicable laws listed above, together with the Form of Application and instructions as to its preparation.*]

[F. R. Doc. 38-2185; Filed, July 29, 1938; 10:16 a. m.]

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

(T. D. 49662)

LUMBER, REVENUE ACT OF 1938

CONFLICT WITH ANY INTERNATIONAL AGREEMENT OF THE UNITED STATES

To Collectors of Customs and Others Concerned:

Attention is invited to subsections (a) and (b) of section 704 of the Revenue Act of 1938 (Public, No. 554, 75th Congress) which read as follows:

(a) Section 601 (c) (6) of the Revenue Act of 1932 is further amended by adding at the end thereof the following: "In determining board measure for the purposes of this paragraph no deduction shall be made on account of planing, tonguing, and grooving. As used in this paragraph, the term 'lumber' includes sawed timber".

(b) Each sentence of the amendment made by subsection (a) shall become effective (1) on the sixtieth day after the date of the enactment of this Act unless in conflict with any international obligation of the United States or (2) if so in conflict, then on the termination of such obligation otherwise than in connection with the undertaking by the United States of a new obligation which continues such conflict.

After careful consideration of pertinent material, including the trade agreements entered into between the United States and Cuba (1938–T. D. 47232) and between the United States and Canada (1938–T. D. 48033), the Bureau has concluded that the first sentence of the amendment made by subsection (a), *supra*, is not in conflict with any international obligation of the United States. Collectors of customs are, therefore, directed to apply this sentence of the amendment to importations of lumber, including sawed timber, entered for consumption or withdrawn from warehouse for consumption on or after July 27, 1938.

In *Laurence Phillips Lumber Co. v. United States*, (1938) T. D. 49624, the United States Customs Court held that section 601 (c) (6) of the Revenue Act of 1932, as amended (U. S. Code, title 26, note following sec. 1481), does not apply to sawed timber. If the rule of this case becomes final and the Treasury Department acquiesces therein, the reduction in duty made pursuant to item 401 of Schedule II of the Canadian Trade Agreement will not apply to sawed timber described in paragraph 401 of the Tariff Act of 1930 in view of the second proviso to item 601 (c) (6) of such Schedule II. In this contingency, the application of the import tax provided for in section 601 (c) (6) of the Revenue Act of 1932, as amended, would result in the imposition of total import charges on sawed timber of fir, spruce, pine, hemlock, or larch in excess of $2 per thousand feet, board measure, in contravention of the last clause of the second proviso to item 601 (c) (6) of Schedule II of the Canadian Trade Agreement. Moreover if sawed timber of the character provided for in item 1803 of schedule II of the Canadian Trade Agreement was not legally subject to the import tax on the day the signature of the Canadian Trade Agreement, the assessment of the import tax on such timber would, in the opinion of the Bureau, be in violation of article IV of such agreement which provides that articles the growth, produce, or manufacture of Canada enumerated and described in schedule II annexed to the agreement shall on their importation into the United States of America be exempt from ordinary customs duties in excess of those set forth and provided for in the said schedule. Therefore, if the ruling in T. D. 49624 is to be followed, the second sentence of the amendment made to section 601 (c) (6) of the Revenue Act of 1932 by section 704 (a) of the Revenue Act of 1938 would not become effective until such obligations were terminated otherwise than in connection with the undertaking by the United States of new obligations of like effect.

In the circumstances no ruling can be made at this time as to the effective date of the second sentence of the amendment made to section 601 (c) (6) of the Revenue Act of 1932 by section 704 (a) of the Revenue Act of 1938. Pending the promulgation of a ruling, collectors of customs are directed to continue the present practice in collecting estimated duties and import taxes on sawed timber and to suspend the liquidation of all unliquidated entries covering such merchandise, including entries filed before July 27, 1938.

[SEAL] FRANK DAW,
Acting Commissioner of Customs.

Approved, July 27, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2190; Filed, July 29, 1938; 12:24 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3511]

IN THE MATTER OF MISSISSIPPI SALES COMPANY, INC., A CORPORATION; JOBBERS PRODUCE COMPANY, INC., A CORPORATION; S. O. SCOTT, INDIVIDUALLY AND AS PRESIDENT, DIRECTOR AND MAJORITY STOCKHOLDER OF JOBBERS PRODUCE COMPANY, INC., AND MISSISSIPPI SALES COMPANY, INC.; THE PENNY STORES, INC., A CORPORATION; BUCKLEY-YOUNG COMPANY, A CORPORATION; AMERICAN FRUIT GROWERS, INC., A CORPORATION; PACIFIC FRUIT AND PRODUCE COMPANY, A CORPORATION; DOW FRUIT COMPANY, A CORPORATION; E. O. MUIR COMPANY, A CORPORATION; WILLIAM HENDERSON, HUNT HENDERSON, CHRIST GAMBLE, AND FRED GAMBLE, INDIVIDUALS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF WILLIAM HENDERSON SUGAR REFINERY; RESPONDENTS

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of section 2 (c) of the Act of Congress entitled "AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, (the Clayton Act), as amended by the Act of Congress entitled "AN ACT To amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936, (the Robinson-Patman Act), hereby issued this its complaint against said parties respondent and states its charges with respect thereto as follows, to-wit:

PARAGRAPH 1.—Respondent, Mississippi Sales Company, Inc., is a corporation organized and existing by virtue of the laws of the State of Mississippi, having an office and principal place of business located at 2500 A Street, in the City of Meridian, Mississippi. It also maintains branch offices in the Cities of Columbus, Mississippi, Greenwood, Mississippi, and Jackson, Mississippi. The officers of said respondent, Mississippi Sales Company, Inc., are as follows:

S. O. Scott, President,
M. C. Fridge, Vice President,
T. J. Roth, Secretary-Treasurer.

The majority of the outstanding stock of said respondent, Mississippi Sales Company, Inc., is owned by respondent S. O. Scott, the President of said respondent corporation.

The business of the said respondent, Mississippi Sales Company, Inc., is that of a general merchandise broker, and as such it acts as intermediary in transactions of sale and purchase of commodities, principally foodstuffs, between numerous sellers, among whom are the "seller respondents" hereafter named and divers buyers, among whom are the "buyer respondents" hereinafter designated.

PAR. 2.—Respondent, Jobbers Produce Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Mississippi, having an office and principal place of business located at 2500 A Street in the City of Meridian, Mississippi. It also maintains branch offices in the Cities of Columbus, Mississippi, Greenwood, Mississippi, and Jackson, Mississippi. The officers of said respondent, Jobbers Produce Company, Inc., are as follows:

S. O. Scott, President,
M. C. Fridge, Vice President,
T. J. Roth, Secretary-Treasurer.

The majority of the outstanding stock of respondent, Jobbers Produce Company, Inc., is owned by respondent S. O. Scott, the President of said respondent corporation.

The business of the said respondent, Jobbers Produce Company, Inc., is that of a produce jobber. In the conduct of its said business produce is purchased by it from sellers residing in states other than the State of Mississippi, among whom are the "seller respondents" hereinafter named, pursuant to which purchases produce is shipped by such sellers from the respective states in which such sellers are located into and through various states of the United States to the respondents, Jobbers Produce Company, Inc., and the produce so purchased is re-sold by said respondent, Jobbers Produce Company, Inc., to jobbers and wholesalers located in the various states of the United States, pursuant to which sales such produce is shipped and transported by said respondent, Jobbers Produce Company, Inc., into and through various states of the United States to its wholesaler and jobber customers.

PAR. 3.—Respondent, S. O. Scott, is an individual residing in the City of Meridian, Mississippi, and having an office and place of business located at 2500 A Street, in said city and state.

PAR. 4.—Respondent, The Penny Stores, Inc., is a corporation organized and existing by virtue of the laws of the State of Mississippi, having an office and principal place of business located in the City of Meridian, Mississippi.

The majority of outstanding stock of said respondent, The Penny Stores, Inc., is owned by R. M. Snowden, who is President of said respondent corporation, and S. O. Scott.

Respondent, The Penny Stores, Inc., is engaged in the business of operating a chain of cash and carry grocery stores. In the conduct of such business commodities, particularly food products, are purchased by it from sellers residing in states other than the State of Mississippi, among whom are the "seller respondents" hereinafter named, pursuant to which purchases products are shipped by such sellers from the respective states in which such sellers are located into and through various states of the United States to the respondent, The Penny Stores, Inc.

PAR. 5.—Respondent, Buckley-Young Company, is a corporation organized and existing under and by virtue of the laws of the State of Alabama, having an office and principal place of business located in the City of York, Alabama.

The majority of the outstanding stock of said respondent, Buckley-Young Company, is owned by R. M. Snowden, who is Vice President of said respondent corporation, and S. O. Scott.

Respondent, Buckley-Young Company, is engaged in selling groceries and allied products at wholesale. In the conduct of such business commodities, particularly food products, are purchased by it from sellers residing in states other than the State of Alabama, among whom are the "seller respondents" hereinafter named, pursuant to which purchases products are shipped by such sellers from the respective states in which such sellers are located into and through various states of the United States to the respondent, Buckley-Young Company.

PAR. 6.—Respondent, American Fruit Growers, Inc., is a corporation organized and existing by virtue of the laws of the State of Delaware, having an office and principal place of business located at 2100 Penn Avenue in the City of Pittsburgh, Pennsylvania.

Respondent, Pacific Fruit and Produce Company, is a corporation organized and existing by virtue of the laws of the State of Delaware, having an office and principal place of business located at Occidental and King Streets, in the City of Seattle, Washington.

Respondent, Dow Fruit Company, is a corporation organized and existing by virtue of the laws of the State of Washington, having an office and principal place of business located in the City of Wenatchee, Washington.

Respondent, E. O. Muir Company, is a corporation organized and existing by virtue of the laws of the State of Utah, having an office and principal place of business located at 158 Pacific Avenue, in the City of Salt Lake City, Utah.

Respondents, William Henderson, Hunt Henderson, Christ Gamble, and Fred Gamble, are individuals doing business under the firm name and style of William Henderson Sugar Refinery, having an office and principal place of business located at 749 South Peters Street in the City of New Orleans, Louisiana.

The respondents named in this paragraph will be hereinafter referred to as "seller respondents."

Each of the "seller respondents" named in this paragraph is engaged in the sale of commodities to customers residing in states other than the respective states in which said "seller respondents" are located, pursuant to which sales commodities are shipped and transported by each of said "seller respondents" into and through various states of the United States to their respective customers. Said "seller respondents" are fairly typical and representative members of a large group or class of manufacturers, processors and producers, engaged in the common practice of selling some of their commodities, in interstate commerce as aforesaid, through respondent, Mississippi Sales Company, Inc., to the respondents, Jobbers Produce Company, Inc., The Penny Stores, Inc., and Buckley-Young Company. Said group or class of said sellers comprise a large number of such manufacturers, processors, and producers, too numerous to be separately named herein or to be brought before the Commission in this proceed-

ing without manifest inconvenience and delay.

PAR. 7.—Respondent, Jobbers Produce Company, Inc., places orders for a substantial portion, (probably 85 per cent), of the products by it required in the ordinary course and conduct of its business with, and purchases the same from, the "seller respondents", and others, through the agency of the respondent, Mississippi Sales Company, Inc., and upon receipt of such orders each of said "seller respondents", and others, ships the products so ordered from the respective states in which said sellers are located into and through various other states of the United States to the respondent, Jobbers Produce Company, Inc.

In the course of the buying and selling transactions hereinabove referred to, resulting in the delivery of products from the "seller respondents", and others, to the respondent, Jobbers Produce Company, Inc., said "seller respondents" and others, since June 19, 1936, have transmitted, paid and delivered, and do transmit, pay and deliver to the respondents, Mississippi Sales Company, Inc., Jobbers Produce Company, Inc., and S. O. Scott, so-called brokerage fees or commissions, the same being certain percentages of the quoted sales prices agreed upon by said "seller respondents", and others, and the respondents, Mississippi Sales Company, Inc., Jobbers Produce Company, Inc., and S. O. Scott, and the respondents, Mississippi Sales Company, Inc., Jobbers Produce Company, Inc., and S. O. Scott, since June 19, 1936, have received and accepted and are receiving and accepting such so-called brokerage fees or commissions while the ownership, management and control of respondent, Mississippi Sales Company, Inc., is identified and affiliated with the ownership, management and control of the respondent, Jobbers Produce Company, Inc., through the person and active management of respondent S. O. Scott, who is President, Director and majority stockholder of both said respondent corporations, Mississippi Sales Company, Inc., and Jobbers Produce Company, Inc., and also through other mutual officers, directors and employees.

In all of the buying and selling transactions hereinabove referred to, the so-called brokerage fees or commissions are paid and transmitted by said "seller respondents," and others, and accepted and received by said respondents, Mississippi Sales Company, Inc., Jobbers Produce Company, Inc., and S. O. Scott, while the respondent, Mississippi Sales Company, Inc., is acting in fact for and in behalf, and subject to the control, of respondent, Jobbers Produce Company, Inc., for which said so-called brokerage fees or commissions no services whatsoever in connection with such purchases have been rendered or are now being rendered to, for or on behalf of the said "seller respondents," and others, by the respondents, Mississippi Sales Company, Inc., Jobbers Produce Company, Inc., or S. O. Scott.

PAR. 8.—Respondent, The Penny Stores, Inc., places orders for a substantial portion of the products by it required in the ordinary conduct of its business with, and purchases the same from, one or more of the "seller respondents," and others, through the agency of the respondent, Mississippi Sales Company, Inc., and upon receipt of such orders each of such sellers, ships the products so ordered from the respective states in which such sellers are located into and through various other states of the United States to the respondent, The Penny Stores, Inc.

In the course of the buying and selling transactions hereinabove referred to, resulting in the delivery of products from said sellers to the respondent, The Penny Stores, Inc., said sellers, since June 19, 1936, have transmitted, paid and delivered, and do transmit, pay and deliver to the respondent, Mississippi Sales Company, Inc., so-called brokerage fees or commissions, the same being certain percentages of the quoted sales prices agreed upon by said sellers and the respondents, Mississippi Sales Company, Inc., and The Penny Stores, Inc., and the respondent, Mississippi Sales Company, Inc., since June 19, 1936, has received and accepted, and is receiving and accepting, such so-called brokerage fees or commissions while the ownership, management and control of said respondent, Mississippi Sales Company, Inc., is identified and affiliated with the ownership, management and control of respondent, The Penny Stores, Inc., through respondent, S. O. Scott, who is President, Director and majority stockholder of respondent, Mississippi Sales Company, Inc., and who is also a stockholder in respondent, The Penny Stores, Inc., and also through the mutual stockholder interests of R. M. Snowden, who is President of respondent, The Penny Stores, Inc., and respondent, S. O. Scott, who together own the majority stock of respondent, The Penny Stores, Inc., and who also together own the majority stock of respondent, Buckley-Young Company, and other corporations not named herein.

In all of the said buying and selling transactions hereinabove referred to, the so-called brokerage fees or commissions are paid and transmitted by the said sellers to, and accepted and received by, the respondent, Mississippi Sales Company, Inc., while the said respondent, Mississippi Sales Company, Inc., is acting in fact for and in behalf, and subject to the control of respondent, The Penny Stores, Inc., for which said so-called brokerage fees or commissions no services whatsoever in connection with such purchases have been rendered or are now being rendered to, for or on behalf of the said sellers by the respondent, Mississippi Sales Company, Inc.

PAR. 9. Respondent, Buckley-Young Company, places orders for a substantial portion of the products by it required in the ordinary conduct of its business with, and purchases the same from, one or more of the "seller respondents", and others, through the agency of the respondent, Mississippi Sales Company, Inc., and upon receipt of such orders each of such sellers, ships the products so ordered from the respective states in which they are located into and through various other states of the United States to the respondent, Buckley-Young Company.

In the course of the buying and selling transactions hereinabove referred to, resulting in the delivery of products from said sellers to the respondent, Buckley-Young Company, said sellers, since June 19, 1936, have transmitted, paid and delivered, and do transmit, pay and deliver to the respondent, Mississippi Sales Company, Inc., so-called brokerage fees or commissions, the same being certain percentages of the quoted sales prices agreed upon by the said sellers and the respondents, Mississippi Sales Company, Inc., and Buckley-Young Company, and the respondent, Mississippi Sales Company, Inc., since June 19, 1936, has received and accepted, and is receiving and accepting, such so-called brokerage fees or commissions while the ownership, management and control of said respondent, Mississippi Sales Company, Inc., is identified and affiliated with the ownership, management and control of respondent, Buckley-Young Company, through respondent, S. O. Scott, who is President, Director and majority stockholder of respondent, Mississippi Sales Company, Inc., and who is also a stockholder in respondent, Buckley-Young Company, and also through the mutual stockholder interests of R. M. Snowden, who is Vice President of respondent, Buckley-Young Company, and respondent, S. O. Scott, who together own the majority stock of respondent, Buckley-Young Company, and who also together own the majority stock of respondent, The Penny Stores, Inc., and other corporations not named herein.

In all of the buying and selling transactions hereinabove referred to, the so-called brokerage fees or commissions are paid and transmitted by the said sellers to, and accepted and received by, the respondent, Mississippi Sales Company, Inc., while the said respondent, Mississippi Sales Company, Inc., is acting in fact for and in behalf, and subject to the control of respondent, Buckley-Young Company, for which said so-called brokerage fees or commissions no services whatsoever in connection with such purchases have been rendered or are now being rendered to, for or on behalf of the said sellers by the respondent, Mississippi Sales Company, Inc.

PAR. 10. The transmission and payment of said so-called brokerage fees or commissions by the "seller respondents",

and others, to, and the receipt and acceptance thereof by, the respondents, Mississippi Sales Company, Inc., Jobbers Produce Company, Inc., and S. O. Scott, upon the purchases of the respondent, Jobbers Produce Company, Inc., and the transmission and payment of said so-called brokerage fees or commissions by the "seller respondents", and others, to, and the receipt and acceptance thereof by, the respondent, Mississippi Sales Company, Inc., upon the purchases of the respondents, The Penny Stores, Inc., and Buckley-Young Company, in the manner and under the circumstances hereinabove set forth, is in violation of the provisions of section 2 (c) of the above mentioned Act of Congress entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, (the Clayton Act), as amended by the Act of Congress entitled "An act to amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936, (the Robinson-Patman Act).

Wherefore, the premises considered, the Federal Trade Commission on this 27th day of July, A. D., 1938, now issues this its complaint against the said respondents, stating its charges as hereinabove set out.

NOTICE

Notice is hereby given you, Mississippi Sales Company, Inc., a corporation; Jobbers Produce Company, Inc., a corporation; S. O. Scott, individually and as president, Director and Majority Stockholder of Jobbers Produce Company, Inc., and Mississippi Sales Company, Inc.; The Penny Stores, Inc., a corporation; Buckley-Young Company, a corporation; American Fruit Growers, Inc., a corporation; Pacific Fruit and Produce Company, a corporation; Dow Fruit Company, a corporation; E. O. Muir Company, a corporation; William Henderson, Hunt Henderson, Christ Gamble, and Fred Gamble, individuals doing business under the firm name and style of William Henderson Sugar Refinery; respondents herein, that the 2nd day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violation of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitutes the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * *

Failure of the respondent to file answer within the time above provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve upon respondent:

(a) In cases arising under section 5 of the Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), or under section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 27th day of July, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2186; Filed, July 29, 1938; 11:11 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 25]

WOOL TRANSPORTATION BY MOTOR VEHICLE IN AND ABOUT BOSTON

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 27th day of July, A. D. 1938.

Division 5 having under consideration petition of the New England Motor Rate Bureau, Inc., for an investigation of the practices and charges of motor carriers in respect to the transportation of wool to certain points within the municipal area of Boston, Mass.; and good cause therefor appearing:

It is ordered, That, in order that the Commission may take such action and make such findings, determinations, and orders in the premises as the facts and circumstances may appear to warrant, an investigation and inquiry be, and it is hereby, instituted by the said Division into and concerning the question whether, and the extent to which, the transportation by motor vehicle for hire of wool from the docks of the water carriers at Boston, Mass., to warehouses within the Boston switching limits, as described in Agent Van Ummersen's New England Freight Association, Switching and Terminal Tariff, I. C. C. No. 335, and supplements thereto and reissues thereof, is in interstate or foreign commerce and subject to the jurisdiction of the Commission under the Motor Carrier Act, 1935; whether, and the extent to which, said transportation, if subject to the jurisdiction of the Commission under said Act, is within the terms of the partial exemption provided in section 203 (b) (8); and whether, if said transportation is, in whole or in part subject to the jurisdiction of the Commission under said Act and without said partial exemption, any motor carrier or water carrier, with respect to or in connection with such transportation, and in its rates, charges, rules, regulations or practices applicable thereto or in connection therewith, violates any provision of said Act or any requirement established pursuant thereto.

It is further ordered, That all carriers by water engaged in the transportation for hire in interstate or foreign commerce of said wool to Boston and all motor carriers engaged in the transportation of said wool from the said docks

to the warehouses within the said limits, be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of this Commission at Washington, D. C.

And it is further ordered, That said proceeding be, and it is hereby, assigned for hearing before Examiner P. R. Naefe, on the 30th day of August, A. D. 1938, at 9 o'clock a. m. (standard time) at the Hotel Manger, Boston, Mass.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-2188; Filed, July 29, 1938; 12:12 p. m.]

[Ex Parte No. MC 26]

EXTENT AND AREA OF MUNICIPALITY OF BOSTON AND COMMERCIAL ZONE

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 27th day of July, A. D. 1938.

It appearing, That it is necessary for the proper administration, execution, and enforcement of the Motor Carrier Act, 1935, that a determination be made of the extent and area of the municipality of Boston, Mass., and of any and all municipalities contiguous thereto, and of the zone adjacent to and commercially a part of said municipality or municipalities and whether said municipalities are contiguous, within the meaning of section 203 (b) (8) of the said Act, and that a hearing or hearings should be had for the purpose of taking testimony and investigating and determining said matters:

It is ordered, That an investigation and inquiry be, and it is hereby, instituted by the Commission, on its own motion, in order to determine and define the area and extent of the municipality of Boston, Mass., and of any municipality or municipalities contiguous thereto and of the zone adjacent to and commercially a part of such municipality or municipalities, and to take such other action and make such other findings, determinations, and orders in the premises as the facts and circumstances may appear to warrant.

It is further ordered, That all common and contract carriers by motor vehicle engaged in the transportation of persons or property in interstate or foreign commerce within the general territory affected by this order, so far as they are known to this Commission, all common carriers by rail or water and express companies, whose lines extend to or within said general territory, and such other interested parties as are known to the Commission, be notified of this proceeding by mailing copies of this order to each thereof; and that notice of this proceeding be given to the general public by depositing a copy of this order and posting the same in the office of the Secretary of this Commission at Washington, D. C.

And it is further ordered, That this proceeding be, and it is hereby assigned for hearing at 9 o'clock a. m. (standard time) on the 30th day of August, A. D. 1938, at the Hotel Manger, Boston, Mass., before Examiner P. R. Naefe.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-2189; Filed, July 29, 1938; 12:12 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 274]

ALLOCATION OF FUNDS FOR LOANS

JULY 25, 1938.

By virtue of the authority vested in me by the provisions of the Rural Electrification Act of 1936, I hereby allocate, out of unexpended sums made available for loans under said Act during the fiscal year ending June 30, 1939, funds for a loan pursuant to Section 4 of said Act for the project specified below in the amount indicated.

Project	*Amount*
Florida 9014B1 Clay	$89,000
Georgia 9051B1 Newton	90,000
Georgia 9073A1 Dodge	163,000
Georgia 9083A1 Jackson	157,000
Illinois 9002B1 Wayne	222,000
Illinois 9008A1 Coles	355,000
Illinois 9027A1 Edgar	280,000
Illinois 9030A1 Adams	400,000
Indiana 9037B1 Jay	189,000
Iowa 9033C1 Calhoun	220,000
Kentucky 9037B1 Owen	218,000
Kentucky 9052A1 Fleming	220,000
Maryland 9004C1 St. Marys	80,500
Michigan 9026B1 Ingham	1,070,000
Michigan 9040B1 Allegan	1,000,000
Minnesota 9001B1 Kanabec	272,000
Minnesota 9072A1 Renville	200,000
Montana 9001B1 Ravalli	43,700
Montana 9015A1 Fergus	88,000
New Jersey 9006C1 Sussex	34,800
North Dakota 9013G1 Foster	30,000
Ohio 9001B1 Miami	104,000
Ohio 9032B1 Belmont	166,000
Pennsylvania 9012B1 Sullivan	34,200
Tennessee 9001B1 Meigs	64,100
Vermont 9007A1 Orleans	66,000
Virginia 9030A1 Bath	161,000
Wisconsin 9027B1 Buffalo	148,000
Wisconsin 9037B1 Trempeleau	204,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-2182; Filed, July 28, 1938; 3:04 p. m.]

[Administrative Order No. 275]

ALLOCATION OF FUNDS FOR LOANS

JULY 25, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Kentucky 9026W1 Todd	$5,000
Michigan 9039W2 Van Buren	10,000
Virginia 9031W1 Mecklenburg	15,000
Minnesota 9018W3 Douglas	5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-2183; Filed, July 28, 1938; 3:04 p. m.]

Reference

THE NATIONAL ARCHIVES 1934 OF THE UNITED STATES

AUG 4 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 149

Washington, Tuesday, August 2, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PROCLAMATION CONCERNING BASE PERIOD TO BE USED IN CONNECTION WITH EXECUTION OF A MARKETING AGREEMENT AND ISSUANCE OF AN ORDER REGULATING HANDLING OF MILK IN THE TOLEDO, OHIO, MARKETING AREA

By virtue of the authority vested in the Secretary of Agriculture by the terms and provisions of Public No. 10, 73rd Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture hereby finds and proclaims that, in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of milk in the Toledo, Ohio, Marketing Area, the purchasing power of such milk during the base period August 1909 to July 1914 cannot be satisfactorily determined from available statistics in the Department of Agriculture, but that the purchasing power of such milk can be satisfactorily determined from available statistics in the Department of Agriculture for the period August 1919 to July 1929; and the period August 1919 to July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Toledo, Ohio, Marketing Area, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of milk in that area.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 30th day of July 1938.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-2213; Filed, August 1, 1938; 11:57 a. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[General Docket No. 15]

ORDER IN THE MATTER OF ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

DETERMINATION OF WEIGHTED AVERAGE OF TOTAL COSTS OF TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9 AND 10

At a special session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 30th day of July, 1938.

The Commission, by its Order No. 240, dated April 19, 1938,[1] having directed each District Board to determine the weighted average of the total costs of the ascertainable tonnage produced within its respective district in the calendar year 1936; and to adjust the average cost so determined as may be necessary to give effect to any changes substantially affecting costs, exclusive of seasonal changes, which may have been established since January 1, 1936; and directing that such determinations be submitted to the Commission together with the computations upon which they are based; and

District Boards Nos. 16, 17 and 18 within Minimum Price Area 6, District Boards Nos. 19 and 20 within Minimum Price Area 7, District Board No. 22 within Minimum Price Area 9 and District Board No. 23 within Minimum Price Area 10, having made such determinations and having submitted them together with the data upon which they were computed, to the Commission, pursuant to said Order No. 240, and

The Commission, on the 25th day of May, 1938, having instituted the above entitled proceedings, for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937, and having thereafter, upon the 26th day of May, 1938,[2] directed that a hear-

[1] 3 F. R. 935 DI.
[2] 3 F. R. 1200, 1226 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Toledo, Ohio, Marketing Area, base period for marketing agreement and order regulating handling of milk 1893
TITLE 15—COMMERCE:
National Bituminous Coal Commission:
Minimum Price Areas 6, 7, 9 and 10:
Minimum prices for kinds, qualities and sizes of coal 1895
Sale and distribution of coal by code members 1894
Weighted average of total costs of tonnage produced within 1893
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
California Lumbermen's Council, et al 1897
Davis, Roy B., trading as Great Lakes Novelty Co., etc 1899
Granada Vineyards, Inc 1896
Harper, A. K., trading as Harper Manufacturing Co., etc 1900
Midwest Publishing Co., and Walter H. Gorham 1896
Pergande, G. F. and M. F., trading as Pergande Institute, etc 1898
Sarasin, Celia, trading as Universal Advertisers Service 1899
Tucker, Benjamin, trading as Ben Tucker's and Hudson Bay Fur Co 1898
Willys-Overland Motors, Inc 1900

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 24—HOUSING CREDIT:
United States Housing Authority: Page
Low rent housing projects, use of domestic and foreign materials 1900

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Firearms and machine guns, taxes on certain 1900

TITLE 27—INTOXICATING LIQUORS:
Federal Alcohol Administration Division:
Labelling and advertising of distilled spirits, effective date of Article III, Section 34 (f); correction 1902

TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Common and contract carriers by motor vehicle, qualifications of employees and safety of operation and equipment 1902

NOTICES

Department of Agriculture:
Farm Security Administration:
Designation of counties for tenant purchase loans:
Florida 1903
Kentucky 1903
Missouri 1903
New York 1903
Pennsylvania 1903

Securities and Exchange Commission:
Dominion Stores, Ltd., common stock, listing and registration 1904

CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Northeastern Water and Electric Corp., designation of new trial examiner 1904
Treasury Department:
Bureau of Customs:
Buffalo, N. Y., and Sault Ste. Marie, Mich., airports of entry redesignated 1902
Federal Alcohol Administration Division:
Domestic brandy, designation as Cognac or Cognac brandy 1903

ing be held commencing on the 13th day of June, 1938 at 10:00 A. M. in the Hearing Room of the Commission at the Shirley-Savoy Hotel, Denver, Colorado, for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts Nos: 16, 17, 18, 19, 20, 22 and 23, and evidence relating to any change or changes in wage rates, hours of employment, or other factors, exclusive of seasonal changes, substantially affecting costs, which may have been established since January 1, 1936 in each of said districts, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Areas 6 (Districts Nos. 16, 17 and 18), 7 (Districts 19 and 20), 9 (District 22), and 10 (District No. 23) as adjusted, within the meaning of Section 4, Part II, of the Act, and due public notice of said hearing having been given, and

This matter having been heard before the Commission at the time and place aforesaid, and all interested parties having been afforded an opportunity to be heard, and

The Commission being fully advised in the premises, and having made "Findings of Fact and Conclusions", which are filed herewith,

Now, therefore, Pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other Purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission *Hereby Determines*, in conformity with the "Findings of Fact and Conclusions" made and filed herein, that the weighted average of the total costs of the tonnage for each Minimum Price Area, as hereinafter set forth, in the calendar year 1936, adjusted so as to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, reflecting as accurately as possible any change or changes which have been established since January 1, 1936, is as follows:

Per net ton.

Minimum Price Area 6 (Districts 16, 17 and 18)	$2.758
Minimum Price Area 7 (Districts 17 and 20)	2.239
Minimum Price Area 9 (Districts 22)	1.590
Minimum Price Area 10 (District 23)	3.266

It is therefore ordered, That the weighted average of the total costs, as herein determined, shall be taken as the basis, to be effective until changed by the Commission, for the proposal and establishment of minimum prices in accordance with further order of the Commission.

It is further ordered, That the Secretary of the Commission be and he is hereby directed to cause forthwith a copy of this order to be mailed to the Secretary of each District Board and to the Consumers' Counsel, and to cause a copy hereof to be published in the Federal Register; and the Secretary of the Commission is further directed forthwith to cause to be made available to the public the weighted average figures of total costs determined as aforesaid, and to place for public inspection in each of the Statistical Bureaus within the aforesaid Minimum Price Areas and at the office of the Secretary of the Commission at Washington, D. C., three (3) copies of this order and the "Findings of Fact and Conclusions", upon which the order is based, and one (1) copy of the official transcript of the evidence upon which said "Findings of Fact and Conclusions" are predicated.

By Order of the Commission.

Dated this 30th day of July, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2208; Filed, August 1, 1938; 11:20 a.m.]

[Order No. 244]

ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREAS 6, 7, 9 AND 10 TO PROPOSE REASONABLE RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS OF THE RESPECTIVE DISTRICTS, IN ACCORDANCE WITH SUBSECTION (A) SECTION 4, PART II OF THE BITUMINOUS COAL ACT OF 1937

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the Areas defined in said Act as Minimum Price Areas 6, 7, 9 and 10, shall forthwith proceed to consider and shall propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coal by the code members of the respective districts.

Such proposed rules and regulations shall not be inconsistent with the requirements of Section 4 of the Act and shall conform to the standards of fair competition therein established.

2. Such proposed rules and regulations, together with a statement of the reasons therefor, shall be submitted to the Commission by each of the aforesaid district boards on or before the 24th day of August, 1938, in order that the Commission, after hearing, may approve, disapprove, or modify the same, for the purpose of coordination.

3. Each district board shall transmit such proposed rules and regulations to each code member in its respective district at least fifteen days before said district board files such proposed rules and regulations with the Commission, and during the interim between the transmittal of such proposed rules and regulations to the code members and the filing of same with the Commission, each district board may make such changes in said proposals as in its judgment it may deem proper, and to this end, each district board may arrange to receive protests of its code members, conduct such investigations, conferences or hearings as in its judgment will assist it in proposing such reasonable rules and regulations as will best serve to carry out the purposes of the Act. Protests of code members shall be filed with the district board within seven days from the date of the transmittal to the code members.

4. Any changes made by a district board in its proposed rules and regulations, after the time of such transmittal to the code members, shall be forwarded to each code member in the district not later than the date of the submission thereof to the Commission.

5. Each district board shall file with the Commission, at the time set forth in paragraph two hereof, one hundred (100) copies of its proposed rules and regulations, and, at the same time, the district board shall transmit to each of the other district boards five copies of its proposals.

6. The Secretary of the Commission is directed to publish forthwith a copy of this order in the FEDERAL REGISTER and to mail a copy of this order to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the minimum price areas named herein.

By order of the Commission.

Dated this 30th day of July, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2209; Filed, August 1, 1938; 11:20 a. m.]

[Order No. 245]

AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREAS 6, 7, 9 AND 10 TO PROPOSE MINIMUM PRICES FOR THE KINDS, QUALITIES AND SIZES OF COAL PRODUCED IN SAID DISTRICTS; AND PROMULGATING AND APPROVING RULES AND REGULATIONS GOVERNING THE PROCEDURE THEREFOR

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the areas defined in said Act as Minimum Price Areas 6, 7, 9 and 10 shall forthwith proceed to consider and shall propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced in said district by code members, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as may be deemed proper and within the authority conferred by said Act.

A schedule of such proposed minimum prices, together with the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship, shall be submitted to the Commission by each district board within Minimum Price Areas 6, 7, 9 and 10 on or before the 24th day of August, 1938, and after hearing the Commission may approve, disapprove or modify such proposed minimum prices to conform with the requirements of subsection (a) of Part II, Section 4 of the Act. The minimum prices as approved or modified by the Commission shall serve as the basis for the coordination provided for in subsection (b) of Part II, Section 4 of the Act.

2. That the procedure for the proposal of minimum prices herein ordered and directed shall be in accordance with the following rules and regulations, which are hereby adopted and approved by the Commission therefor:

RULES AND REGULATIONS FOR THE PROPOSAL OF MINIMUM PRICES

I. Each district board, within 25 days following the issuance of this order directing the district boards to propose minimum prices authorized by subsection (a) of Part II, Section 4 of the Act, shall propose minimum prices by submitting to the Commission within said time a schedule of such proposed minimum prices, together with all the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship.

II. All minimum prices proposed hereunder shall be f. o. b. transportation facilities at the mine, for the kinds, qualities and sizes of coal for which prices are proposed.

III. Each district board shall transmit its schedule of proposed minimum prices to each code member in the district at least fifteen (15) days before the the district board files such schedule with the Commission pursuant to Rule I of these Rules and Regulations.

IV. During the interim between transmitting its schedule of proposed minimum prices to each code member in the district and the filing thereof with the Commission, each district board may make such changes or corrections in such schedule as in its judgment it deems proper.

To this end, each district board may arrange to receive protests of code members within the district, conduct such investigations and hold conferences or hearings, as in the judgment of the district board will assist it in formulating the schedule of proposed minimum prices in conformity with the requirements of subsection (a) of Part II, Section 4 of the Act. Any protests of code members shall be filed with the district board within seven (7) days from the date of transmission of its schedule of proposed minimum prices to code members.

V. Any changes or corrections made by a district board in its schedule pursuant to the rules and regulations herein shall be transmitted to each code member in the district not later than the date of submission of the schedule of proposed minimum prices to the Commission pursuant to Rule I hereof.

VI. Each district board submitting its schedule of proposed minimum prices to the Commission pursuant to the requirements of Rule I hereof shall, at the time of making such submission, file with the Commission one hundred (100) full and complete copies of such schedule, as changed or corrected, for such use as the Commission may deem proper.

VII. Each district board shall transmit to each other district board five (5) copies of its schedule of proposed minimum prices at the time of filing with the Commission pursuant to Rule I hereof.

VIII. The minimum prices proposed by any district board shall conform to the following standards therefor set out in subsection (a) of Part II, Section 4 of the Act:

a. They shall yield a return for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which the district is included, as such weighted average of the total costs shall theretofore have been determined by the Commission pursuant to the provision of subsection (a) of Part II, Section 4 of the Act.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of the coal to which they are applicable.

c. They shall be just and equitable as between producers within the district.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

IX. Each price schedule submitted in conformity with Rule I hereof shall contain an alphabetical list of code members. Opposite each code member's name shall be shown the name of the mine, the sub-district in which it is located, the seam or kind of coal produced and the price classification (represented by an alphabetical letter), in each size group (which size group shall be represented by a number), for all sizes applicable to such group that the mine is equipped to produce. As an example:

Alphabetical list of code members showing price classifications by sizes for all uses, except as separately shown

Company	Mine	Subdistrict	Size groups					
			Seam	1	2	3	4	Etc.
Adams Coal Company	Black	Coal	#8	A	B	C	D	E
Jones Coal Company	White	Coke	#6	B	C	B	A	B
Smith Coal Company	Red	Iron	B	E	D	C	E	A
Williams Coal Company	Green	Glass	E	G	G	G	G	G

A—Represents the highest quality coal produced in the District for the use indicated.
B—Represents the next highest quality coal.
C—Etc.

In addition thereto the district board may include a similar listing subdivided according to producing subdistricts or according to any other subdivision desired. Prices applicable to such classification shall be listed in a table similar to the following:

Size groups

Classification	1	2	3	4	5 etc.
A	2.75	2.65	2.55	2.45	2.35
B	2.65	2.55	2.45	2.35	2.25
C	2.55	2.45	2.35	2.25	2.15

Each schedule of proposed prices shall include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

The Secretary of the Commission is directed forthwith to publish a copy of this order and the rules and regulations contained therein in the FEDERAL REGISTER and to mail a copy of this order and the rules and regulations contained therein to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the Minimum Price Areas named herein.

By order of the Commission.

Dated this 30th day of July, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2210; Filed, August 1, 1938; 11:20 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2720]

IN THE MATTER OF GRANADA VINEYARDS, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before William C. Reeves and Charles P. Vicini, Examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral argument by James M. Hammond, Esq., Counsel for the Commission, and by Lee M. Friedman, Esq., and Frank L. Kozol, Esq., Counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Granada Vineyards, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of its wines, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing through the use of the word "vineyards" in its corporate name, on its stationary or advertising literature, or in any other way, by word or words of like import, that it owns or controls vineyards unless and until respondent shall own, operate or control a vineyard or vineyards where are grown and produced the fruits from which its said wines are manufactured;

(2) Representing in any manner whatsoever that it is an "importer" of wine unless and until, in the usual course and conduct of its business it receives in this country, through customs, shipments of wine from a foreign port;

(3) Representing in any manner whatsoever that it is a "producer" of wine unless and until it makes not less than 75 per cent of such wine by crushing the grapes or other materials, fermenting the must, and clarifying the resulting wine;

(4) Representing in any manner whatsoever that it has offices at Santa Rosa or St. Helena, California, or any other place or places, unless and until it actually maintains a permanent and bona fide office at the place so designated;

(5) Representing in any manner whatsoever that its main or principal office or plant is merely the office or plant of its "Eastern Division", or using any other representation or collection of representations calculated to or tending to create the impression that its main office, plant or factory is located at a point other than its actual situs, or that it owns, controls or operates properties, offices or plants which are not so owned, controlled or operated by it.

It is further ordered, That the respondent herein, Granada Vineyards, Inc., shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2199; Filed, August 1, 1938; 9:18 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2893]

IN THE MATTER OF MIDWEST PUBLISHING COMPANY, A CORPORATION, AND WALTER H. GORHAM, INDIVIDUALLY, AND AS PRESIDENT OF MIDWEST PUBLISHING COMPANY, A CORPORATION

MODIFIED ORDER TO CEASE AND DESIST

This matter having been heard by the Federal Trade Commission upon the motion of W. T. Kelley, Chief Counsel for the Commission, to modify the order to cease and desist issued in this proceeding on March 18, 1938, and the Commission having considered said motion and the record, and being now fully advised in the premises:

It is ordered, That the order to cease and desist issued herein on March 18, 1938, be modified so as to read as follows:

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, (no answer having been filed by respondents), testimony and other evidence taken before John W. Norwood, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and brief by counsel for the Commission, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes:"

It is ordered, That the respondents, Midwest Publishing Company, a corporation, and its officers, and Walter H. Gorham, individually, and their respective representatives, agents and employees, in connection with the offering for sale, sale and distribution of books, now known as, and sold under the name, "Modern American Encyclopedia" and the extension service sold in connection therewith, and of other books, in interstate commerce or in the District of Columbia, do cease and desist from representing, directly or indirectly, or through any corporate or other device:

1. Through the use of the word "Modern" or any other word or words of similar import and meaning, in the title of said books, or in the corporate or trade name used in connection with the sale thereof, or in any other manner, that said books are a new, modern, up-to-date encyclopedia or reference work, or that they have been, and are, kept up-to-date, when such are not the facts.

2. That any person or persons, especially those prominent in particular fields of learning, have contributed substantially or at all to any revision of said so-called "Modern American Encyclopedia", when such is not the fact.

3. That respondents furnish any extension service of a kind or character that will keep said "Modern American Encyclopedia" up-to-date, unless and until they furnish such service.

4. That the regular price for which respondents will furnish to the purchaser of said "Modern American Encyclopedia" an annual extension service is greater than the price at which said extension service is actually and usually sold.

5. That respondents furnish any specified character of extension service for any specified term of years, when such is not the fact.

6. That the regular prices at which said so-called "Modern American Encyclopedia" and services are habitually and generally offered are special prices or reduced prices offered only to a selected list of persons, for special reasons.

7. That other allegedly valuable books offered in connection with said "Modern American Encyclopedia" are given free or as a gratuity when in fact the price named includes payment at a profit for all of the books so offered and delivered.

8. That any price that a purchaser will be required to pay for the books and services offered and sold, is different from the total price which respondents actually collect or attempt to collect.

9. That any prospect has been recommended to receive a set of said so-called "Modern American Encyclopedia" or other books and services in connection therewith at a special price, or as a free gift, or in return for a testimonial letter, when any of said representations are untrue.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2205; Filed, August 1, 1938; 9:20 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2898]

IN THE MATTER OF CALIFORNIA LUMBERMEN'S COUNCIL, COAST COUNTIES LUMBERMEN'S CLUB, CENTRAL VALLEY LUMBERMEN'S CLUB, NORTHERN COUNTIES LUMBERMEN'S CLUB, PENINSULA LUMBERMEN'S CLUB, SAN JOAQUIN LUMBERMEN'S CLUB, AND THE OFFICERS, COUNCILMEN, AND MEMBERS OF SAID ORGANIZATIONS AND ASSOCIATIONS

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and evidence taken before Charles F. Diggs, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, California Lumbermen's Council, its officers, councilmen, and respondent affiliated units, to-wit: (1) Coast Counties Lumbermen's Club; (2) Central Valley Lumbermen's Club; (3) Northern Counties Lumbermen's Club; (4) Peninsula Lumbermen's Club; (5) San Joaquin Lumbermen's Club; their officers, directors, and members, and the agents, representatives, and employees of said members, in connection with the purchase and the offering for sale, sale, and distribution of lumber and building materials, in interstate commerce, do forthwith cease and desist from combining or conspiring among themselves, or with others, to engage in, directly or indirectly, any of the following acts, practices, and policies:

(1) Preparing and publishing rosters or lists containing the names of respondent dealer members of respondent organizations and distributing the same among manufacturers, producers and wholesalers, or their representatives, of lumber and building materials, for the purpose, or with the effect of, indicating that the specified persons or concerns are entitled to buy direct from said manufacturers, producers, and wholesalers, or that other persons or concerns, not included therein, are not so entitled.

(2) Soliciting, accepting, or acting upon, information as to sales, proposed sales, or contracts of sale, by manufacturers, producers, and wholesalers, of lumber and building materials, to non-dealer members of respondent organizations or other purchasers, for the purpose of preventing further dealing between such buyers and the said manufacturers, producers, and wholesalers.

(3) Using boycott, threats of boycott, either with or without other coercive methods, to persuade, induce, or compel manufacturers, producers, and wholesalers to refrain from selling lumber and building materials to non-member dealers of respondent organizations or other purchasers, or to refrain from so selling, except on unfair, discriminatory, or prohibitive terms and conditions fixed by respondents.

(4) Representing, directly or indirectly, to manufacturers, producers, and wholesalers that the members of the respondent organizations would withhold or withdraw their patronage if said manufacturers, producers, and wholesalers sold to competing dealers in lumber and building materials, or to others whose names were not listed on the respondents' rosters.

(5) Fixing or establishing uniform prices at which members of respondent organizations should sell lumber or

[1] 1 F. R. 221.

[1] 2 F. R. 670 (791 DI).

building materials in particular trade areas.

(6) Fixing or determining the quotas of business in the sale and distribution of lumber and building materials which manufacturers, producers, wholesalers, and dealer members may do in particular trade areas which, thereby, unlawfully restricts or hinders the sale and distribution of lumber and building materials in interstate commerce.

(7) Demanding or exacting penalties or commissions from manufacturers, producers, and wholesalers on sales of lumber and building materials made by said manufacturers, producers, and wholesalers to purchasers other than the members of respondent organizations.

(8) Demanding or exacting penalties or commissions from dealer members, or other dealers, on sales of lumber and building materials, made by said dealer members or other dealers, in trade areas where other dealer members have their places of business which, thereby, unlawfully restricts or hinders the sale of lumber and building materials in interstate commerce.

(9) Holding meetings to devise means for making effective the aforesaid programs and policies, or similar programs and policies.

(10) Employing other cooperative or coercive acts and methods in promoting and carrying out the aforesaid programs and policies, or similar programs and policies.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2201; Filed, August 1, 1938; 9:18 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2911]

IN THE MATTER OF G. F. PERGANDE AND M. F. PERGANDE, CO-PARTNERS, DOING BUSINESS UNDER THE NAMES AND STYLES OF PERGANDE INSTITUTE, PERGANDE CIVIL SERVICE INSTITUTE, PERGANDE PUBLISHING COMPANY, CIVIL SERVICE INSTITUTE AND PERGANDE CIVIL SERVICE PUBLISHING COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of G. F. Pergande, one of the respondents herein, and Pergande Institute, Inc., a corporation, testimony and other evidence taken in part before John L. Hornor, an examiner of the Commission theretofore duly designated by it, and in part before W. W. Sheppard, an examiner of the Commission, duly designated as substitute examiner therein, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Harry D. Michael, counsel for the Commission, and by John C. Spear, counsel for respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, doing business as a co-partnership under their own names or under any trade name, or trading individually or through or by means of a corporate or other legal entity or otherwise, their representatives, agents and employees, in connection with the offering for sale, sale and distribution of courses of study and instruction intended for preparing students thereof for examinations for Civil Service positions under the United States Government or under other governmental subdivisions in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing by use of the term "Civil Service" in the name under which said business is conducted or by use of a picture or pictures of the United States Capitol or the dome thereof, or otherwise, directly or indirectly, or by implication, that the school conducted by them, or either of them, as aforesaid, is connected with or is an agency of, or is authorized or approved by the United States Government or the United States Civil Service Commission.

(2) Representing that the instruction material used in such courses is approved, authorized, recommended or endorsed by the United States Civil Service Commission as means of preparing applicants for examinations for classified Civil Service positions under the United States Government by the use of general, unqualified and unrestricted statements of sales of material or books to the United States Government, or otherwise.

(3) Representing endorsement or use of their instruction material by schools, business colleges or other educational institutions unless such institutions names or included by number in such representation have in fact endorsed the same or made use of the same for classroom instruction purposes.

(4) Representing endorsement or use of their instruction material by schools, business colleges or other educational institutions by means of general statements giving the names or numbers of such institutions that may have paid for material sent on approval with privilege of return or that may have ordered small quantities of material, in cases where there is no other basis for the representation of endorsement or use.

(5) Representing by general statements of use of their instruction material by Civil Service Commissions, that it is used by the United States Civil Service Commission when such use referred to only includes use by subordinate divisions of government or unless such statement is directly accompanied by a statement in equally conspicuous letters that the material is not used by the United States Civil Service Commission.

(6) Representing that Civil Service Commissions endorse or use their material unless such representations are based on actual endorsements or actual use in the preparation of examination questions.

(7) Representing endorsement or use of their material by Civil Service Commissions by giving any such Commissions by name or number when such representations are based only on material sent on approval without previous order and later paid for or on other purchases of material in cases where respondents have no other indication or knowledge of endorsement or use.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2206; Filed, August 1, 1938; 9:20 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

Commissioners, Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3036]

IN THE MATTER OF BENJAMIN TUCKER, TRADING AS BEN TUCKER'S AND HUDSON BAY FUR CO.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by counsel for the Commission and counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Benjamin Tucker, trading as Ben Tucker's and as Hudson Bay Fur Co., his representatives, agents, and employees, in connection with the advertising, offering for sale and selling of furs and fur garments in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Describing furs or fur garments in any other way than by the use of the correct name of the fur as the last word of the description or designation thereof.

2. Describing furs or fur garments wherein the fur has been dyed or processed to simulate another fur without using the correct name of the fur as the last word of the description or designation thereof, immediately preceded by the word "Dyed" or "Processed" compounded with the name of the simulated fur.

3. Using the words "Seal," "Black Seal," "Hudson Seal," "Beaver," "Beaverette," "American Broadtail," "Mink Marmot," "Persian Swagger," and "Grey Krimmer," as descriptive of furs and fur garments made from muskrat, coney (rabbit), marmot, or lamb, alone or in connection, combination, or conjunction with any other word or words unless and until the word "Seal," or the words "Black Seal," "Hudson Seal," "Beaver," "Beaverette," "Mink Marmot," "American Broadtail," "Persian Swagger," "Grey Krimmer" are compounded with the word "Dyed" or "Processed," and such words so compounded are immediately followed by the true name of the fur, as "Hudson Seal—Dyed Muskrat," "Seal—Dyed Coney," "American Broadtail—Processed Lamb," "Mink—Dyed Marmot," "Grey Krimmer—Dyed Lamb."

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2204; Filed, August 1, 1938; 9:20 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 21st day of July A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[1] 2 F. R. 459 (534 DI).

[1] 2 F. R. 534 (623 DI).

[Docket No. 3323]

IN THE MATTER OF ROY B. DAVIS, INDIVIDUALLY AND TRADING AS GREAT LAKES NOVELTY COMPANY AND GREAT LAKES RADIO AND NOVELTY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Roy H. Davis (erroneously named in the complaint as Roy B. Davis), individually and trading as Great Lakes Novelty Company and Great Lakes Radio and Novelty Company, his agents, representatives and employes, in connection with the offering for sale, sale and distribution of radios, washing machines, electric razors and other articles of merchandise in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others push cards or other lottery devices for the purpose of enabling such persons to dispose of or sell such articles of merchandise by the use thereof.

(2) Mailing, shipping, or transporting to his agents or to distributors or to members of the public, push cards or other lottery devices so prepared or printed as to enable said persons to sell or distribute such articles of merchandise by the use thereof.

(3) Selling or otherwise disposing of such articles of merchandise by the use of push cards or any other lottery device.

It is further ordered, That said respondent shall, within sixty (60) days from the date of service of this order upon him, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied therewith.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2202; Filed, August 1, 1938; 9:19 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, Held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3335]

IN THE MATTER OF CELIA SARASIN, INDIVIDUALLY AND TRADING AS UNIVERSAL ADVERTISERS SERVICE

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent admitting all of the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered That the respondent, Celia Sarasin, individually and trading as Universal Advertisers Service, or trading under any other name, her agents, representatives and employees, in connection with the offering for sale, sale and distribution of electric razors, pen and pencil sets, or any other articles of merchandise, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others push or pull cards, punchboards, or other lottery devices, for the purpose of enabling such persons to dispose of or sell such or similar products by use thereof;

(2) Mailing, shipping, or transporting to her agents, or to distributors or to members of the public, push or pull cards, punchboards, or other lottery devices so prepared or printed as to enable said persons to sell or distribute such or similar products by the use thereof;

(3) Selling or otherwise disposing of such or similar products by the use of push or pull cards, punchboards, or any other lottery devices.

It is further ordered, That within sixty (60) days from the date of the service of this order upon said respondent, she shall file with the Commission a report in writing setting forth in detail the manner and form in which she has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2200; Filed, August 1, 1938; 9:18 a. m.]

[1] 3 F. R. 991 (DI).

[1] 3 F. R. 991 DI.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket Number 3368]

IN THE MATTER OF WILLYS-OVERLAND MOTORS, INC., A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein on the 31st day of March, 1938, by respondent admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Willys-Overland Motors, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of passenger automobiles in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly, through the picturization or description of a passenger automobile, in connection or conjunction with a stated price; or through any other means or device or in any other manner:

(1) that said automobile may be purchased for $395, or any other designated price, unless the designated price is, in fact, the price of, and does refer to, the automobile so pictured or described;

(2) that the retail purchaser of said automobile, except for the payment of state and local taxes, assessments and sales taxes of any kind, can obtain legal title to and possession of same at the point of delivery for $395, or any other designated price, unless such is the fact;

(3) that the designated price of said automobile includes all accessories pictorially represented or referred to in said advertisement, and all other charges of whatever kind or character, except freight or transportation charges where the price is advertised "f. o. b." or "listed factory", and state and local taxes, assessments and sales taxes of any kind incident to the sale of said automobile unless such is the fact; provided, however, that if said designated price does not include the cost of said accessories, pictorially or otherwise represented or referred to, and any other charges except those covering freight, taxes or assessments, said designated price shall be accompanied by suitable words or phraseology printed in plain, prominent and easily readable type, clearly indicating this fact.

It is further ordered, That the respondent shall, within sixty (60) days of service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2207; Filed, August 1, 1938; 9:20 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 21st day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3374]

IN THE MATTER OF A. K. HARPER, TRADING AS HARPER MANUFACTURING COMPANY AND HARPER BRUSH WORKS

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, and a stipulation as to the facts in lieu of testimony and other evidence, whereby respondent waives hearing on the charges set forth in said complaint, and states that, without further evidence or other intervening procedure, the Commission may issue and serve upon him findings as to the facts and conclusion, and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent A. K. Harper trading as Harper Manufacturing Company and Harper Brush Works, his representatives, agents, and employees, in connection with the offering for sale, sale and distribution of his brushes in interstate commerce or in the District of Columbia, do forthwith cease and desist, in any manner, directly or indirectly, from representing:

1. That his salesmen make up to $12 per day net, or any sum as an average wage which is in excess of the net average wage of his salesmen.

2. That promotions are rapid, when in fact no provisions nor any adequate provisions are made as to promotions.

3. That any articles are given "free", when in fact they are not so given, but are dependent in whole or in part on other considerations.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2203; Filed, August 1, 1938; 9:19 a. m.]

TITLE 24—HOUSING CREDIT

UNITED STATES HOUSING AUTHORITY

FINDINGS AND DIRECTIONS WITH RESPECT TO THE USE OF DOMESTIC AND FOREIGN MATERIALS IN LOW RENT HOUSING PROJECTS

JULY 13, 1938.

1. The following items are not mined or produced in the United States:

Cork; jute; rubber; carnauba wax; antimony; tin; nickel; natural Nickel alloys.

2. The following items are produced in the United States but may involve but one producer or may not be reasonably adequate in quantities to meet government demand at a particular time:

Sisal; hemp; mica; flax; asbestos; tungsten; chromium; manganese ore (35% and over); titanium.

I, therefore, direct that the above items be exempted from the provisions of the laws applicable to the use of domestic and foreign materials (U. S. Code, Title 41, Section 10–b), and I direct that said exception be noted in the specifications for any low rent housing project, the construction of which is financed in whole or in part from funds of the United States Housing Authority pursuant to the terms of the United States Housing Act of 1937, as amended (Public, No. 412—75th Congress, approved September 1, 1937), as to the particular article, material or supply so used and a public record made of the findings which justified the exception.

[SEAL] NATHAN STRAUS, *Administrator.*

[F. R. Doc. 38-2193; Filed, July 30, 1938; 9:52 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4835]

TAXES ON CERTAIN FIREARMS AND MACHINE GUNS

REGULATIONS 88, CHAPTERS III, IV AND VII, AMENDED

To Collectors of Internal Revenue and others concerned:

In conformity with the provisions of the Act approved June 16, 1938 (Public, No. 651, Seventy-fifth Congress), Regulations 88, approved August 17, 1934, as amended, are further amended as follows:

Chapter III is amended as follows:

(1) Immediately after the quotation of section 17, which precedes article 30, the following subtitle and partial quotation of the Act approved June 16, 1938 (Public, No. 651, Seventy-fifth Congress), are inserted:

ACT OF JUNE 16, 1938, PUBLIC, NO. 651, SEVENTY-FIFTH CONGRESS

That the first sentence of section 2 (a) of the National Firearms Act is amended by striking out the period at the end thereof and inserting a colon and the following: "*Provided*, That manufacturers and dealers in guns with two attached barrels from which only a single discharge can be made from either barrel without manual reloading shall pay the following taxes: Manufacturers, $25 per year; dealers, $1 per year."

* * * * *

(2) Article 30 is amended to read as follows:

"ART. 30. *Effective dates.*—The original Act is effective July 26, 1934. All persons engaged in taxable occupations on and after that date are subject to special tax. The amendment of section 1 by the Act approved April 10, 1936 (Public, No. 490, Seventy-fourth Congress, 49 Stat., 1192) is effective April 10, 1936. This amendment excludes from the definition of 'firearms' rifles of the caliber of .22 or smaller with barrels sixteen inches or more in length. See article 20 (a). The amendment of sections 2 (a) and 3 (a) by the Act approved June 16, 1938 (Public, No. 651, Seventy-fifth Congress), is effective June 16, 1938. This amendment relates to certain double-barrelled guns.

"The general effect of the several statutes as of the dates indicated is as follows: Prior to April 10, 1936, the same tax rates were applicable with respect to all articles within the statutory definition of 'firearms' which included guns of all calibers with barrels less than eighteen inches long. On and after April 10, 1936, rifles of .22 or smaller caliber with barrels sixteen inches or more in length were eliminated from the definition of 'firearms' and thus removed from the scope of the Act. On and after June 16, 1938, special tax rates were reduced with respect to guns (the term 'guns' including, of course, .22 caliber rifles having barrels less than sixteen inches long), which have two attached barrels from which only a single discharge can be made from either barrel without manual reloading. See article 32 (a). The transfer tax rate was also reduced with respect to such guns with barrels twelve inches or more in length."

(3) The first paragraph of article 32 (a) is amended to read as follows:

"The special taxes are as follows:

"Class 1. Importers or manufacturers of 'firearms' as defined in the Act (see articles 20 (a) and 30), except manufacturers in Class 2, $500 a year.

"Class 2. Persons who manufacture only guns within the statutory definition of 'firearms' (see articles 20 (a) and 30), from which only a single discharge can be made from either barrel without manual reloading: prior to June 16, 1938, $500 a year; on and after June 16, 1938, $25 a year.

"Class 3. Pawnbrokers, except those in Class 5, $300 a year.

"Class 4. Dealers, other than pawnbrokers, except those in Class 5, $200 a year.

"Class 5. Dealers (including pawnbrokers) dealing only in guns within the statutory definition of 'firearms' (see articles 20 (a) and 30), from which only a single discharge can be made from either barrel without manual reloading: prior to June 16, 1938, $300 a year in the case of pawnbrokers and $200 a year in the case of other dealers; on and after June 16, 1938, in either case, $1 a year."

Chapter IV is amended as follows:

(1) Immediately after the quotation of section 3 (a), which precedes article 61, the following subtitle and quotation of section 2 of the Act approved June 16, 1938 (Public, No. 651, Seventy-fifth Congress), are inserted:

SECTION 2 OF THE ACT OF JUNE 16, 1938, PUBLIC, NO. 651, SEVENTY-FIFTH CONGRESS

SEC. 2. The first sentence of section 3 (a) of such Act is amended by striking out the period at the end thereof and inserting a colon and the following: "*Provided*, That the transfer tax on any gun with two attached barrels, twelve inches or more in length, from which only a single discharge can be made from either barrel without manual reloading, shall be at the rate of $1."

(2) Article 62 is amended to read as follows:

"ART. 62. *Rate of tax.*—The transfer tax to be levied, collected, and paid upon all articles within the term 'firearm' as defined in the Act (see articles 20 (a) and 30) transferred in the continental United States shall be at the rate of $200 for each firearm, except that on and after June 16, 1938, the tax shall be at the rate of $1 upon the transfer of any gun with two attached barrels, twelve inches or more but less than eighteen (sixteen in the case of rifles of .22 caliber or less) inches in length, from which only a single discharge can be made from either barrel without manual reloading. In every case the tax shall be paid by the transferor."

(3) The fourth paragraph of article 65 is amended to read as follows:

"The application for transfer (order Form 4 (Firearms)) must be forwarded, in duplicate, by the transferor direct to the Commissioner of Internal Revenue, Washington, D. C. A 'Firearms Act' stamp of the proper denomination (see article 62) must be affixed to the original order form and properly canceled (see article 66) prior to forwarding. The Commissioner, if satisfied that the forms have been correctly prepared, and that the original bears the required stamp, properly canceled, will return the original to the transferor for delivery to the applicant, and will retain the duplicate. No order forms will be approved where the fingerprints are smudged. Upon receipt of the approved order form, the transferor may deliver the firearm to the applicant, together with the original order form with the 'Firearms Act' stamp attached thereto."

Chapter VII is amended as follows:

(1) The subtitle at the head of the partial quotation of section 3173, United States Revised Statutes, as amended, which precedes article 102, is amended to read as follows:

SECTION 3173, UNITED STATES REVISED STATUTES, AS AMENDED, AND REENACTED IN SECTION 1115, REVENUE ACT OF 1926 (44 STAT., 118)

(2) Immediately after the quotation of section 3184, United States Revised Statutes, which precedes article 108, the following subtitle and quotation of section 805 of the Revenue Act of 1938 are inserted:

SECTION 805 OF THE REVENUE ACT OF 1938

SEC. 805. *Interest on unpaid assessments.*

(a) Section 3184 of the Revised Statutes is amended by striking out at the end thereof the words "and interest at the rate of 1 per centum a month" and inserting in lieu thereof the following: "and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment".

(b) The amendment made by subsection (a) shall apply only where notice is served or sent after the date of the enactment of this Act.

(3) Article 108 is amended to read as follows:

"ART. 108. *Notice and demand for tax: Penalty and interest.*—The collector or his deputy shall within 10 days after receiving an assessment list from the Commissioner, give notice to each person liable to pay the tax stated therein, showing the amount of such tax and demanding payment thereof. If such assessment is not paid within 10 days after the service or the sending by mail of the notice, the collector or his deputy shall collect the tax and penalty assessed, with a penalty of 5 percent additional upon the total amount assessed and interest at the rate of 6 per cent per annum from the date of such notice to the date of payment."

(4) The subtitle at the head of the partial quotation of section 3450, United States Revised Statutes, which appears under the title "Violations, Fines, Penalties, Searches, Seizures, and Forfeitures" is changed to read as follows:

SECTION 3450, UNITED STATES REVISED STATUTES, AS AMENDED AND REENACTED BY SECTION 325, ACT OF JUNE 26, 1936 (49 STAT., 1935)

(5) The last paragraph of the partial quotation of section 3450, United States Revised Statutes, which immediately follows the above-mentioned subtitle, is amended to read as follows:

> And every person who removes, deposits, or conceals, or is concerned in removing, depositing, or concealing any goods or commodities for or in respect whereof any tax is or shall be imposed, with intent to defraud the United States of such tax or any part thereof, shall be liable to a fine of not more than $5,000 or be imprisoned for not more than three years, or both. * * *

This Treasury decision shall be effective as of June 16, 1938.

This Treasury decision is issued under authority prescribed in section 12 of the National Firearms Act, approved June 26, 1934.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 28, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2191; Filed, July 30, 1938; 9:33 a. m.]

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

[Regulation 5—Amendment 9]

LABELING AND ADVERTISING OF DISTILLED SPIRITS

CHANGING THE EFFECTIVE DATE OF ARTICLE III, SECTION 34 (F)

Correction

The date appearing in the last line of the last paragraph of F. R. Doc. 38-2184 (filed, July 28, 1938; 4:12 p. m.), appearing on Page 1886 of the issue for Saturday, July 30, 1938, should read "September 1, 1938" instead of "August 15, 1938."

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-4]

ORDER IN THE MATTER OF QUALIFICATIONS OF EMPLOYEES AND SAFETY OF OPERATION AND EQUIPMENT OF COMMON AND CONTRACT CARRIERS BY MOTOR VEHICLE

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 9th day of July, A. D. 1938

It appearing, That by order dated October 26, 1937,[1] the Commission, by division 5, reopened the above-entitled proceeding for a further hearing as to the reasonableness of the rules set forth in paragraph 4, section C (1), and in paragraph 5, section C (1) of part III of the Motor Carrier Safety Regulations prescribed by report and order of the Commission dated December 23, 1936,[2] 1 M. C. C. 1;

It further appearing, That said further hearing and full investigation of the matters and things involved has been had and that the Commission, by division 5, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report and the report and order of December 23, 1936, are hereby referred to and made a part hereof;[3]

It is ordered, That on and after the effective date of this order, the rule contained in part III, paragraph 4, section C (1), of the aforesaid regulations, applicable to motor vehicles operated in interstate or foreign commerce by common and contract carriers, except motor vehicles engaged in operations specified in section 203 (b) of the Motor Carrier Act, 1935, be, and the same is, hereby amended to read as follows:

SECTION C.—SAFETY GLASS

(1) Whenever glass is replaced in the windshield and in the window next to the driver, in a bus, truck, or truck tractor; or in the doors and rear windows of a bus; or in the rear window of the driving compartment of a truck or truck tractor, the replacement shall be made with safety glass, which shall conform to the requirements contained in the "American Tentative Standard, Safety Code for Safety Glass for Glazing Motor Vehicles Operating on Land Highways, Z 26.1—1935," approved December 30, 1935, by the American Standards Association.

(2) Case-hardened glass shall not be used for replacement purposes in any windshield, door or window opening of any motor vehicle.

It is further ordered, That, on and after the effective date of this order, the rule contained in part III, paragraph 5 section C (1), of the aforesaid regulations, applicable to motor vehicles operated in interstate or foreign commerce by common and contract carriers, except motor vehicles engaged in operations specified in section 203 (b) of the Motor Carrier Act, 1935, be, and the same is, hereby amended to read as follows:

SECTION C.—SAFETY GLASS

(1) Whenever glass is used in the windshield and in the window next to the driver in a bus, truck or truck tractor; or in the doors and rear windows of a bus; or in the rear window of the driving compartment of a truck or truck tractor, it shall be safety glass which shall conform to the requirements contained in the "American Tentative Standard, Safety Code for Safety Glass for Glazing Motor Vehicles Operating on Land Highways, Z 26.1—1935," approved December 30, 1935, by the American Standards Association.

(2) Case-hardened glass shall not be used in any windshield, door or window opening of any motor vehicle.

It is further ordered, That this order be, and it is hereby, made effective September 1, 1938.

And it is further ordered, That, except as hereby modified, the said report and order of December 23, 1936, shall remain in full force and effect until the further order of the Commission.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2194; Filed, July 30, 1938; 10:00 a. m.]

[1] 2 F. R. 2406 (2793 DI).
[2] 2 F. R. 113 (144 DI).
[3] Filed as a part of the original document with the Division of the Federal Register. The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

Notices

TREASURY DEPARTMENT.

Bureau of Customs

[T. D. 49663]

CERTAIN AIRPORTS REDESIGNATED AS AIRPORTS OF ENTRY FOR A PERIOD OF ONE YEAR

BUFFALO, NEW YORK, AND SALT STE. MARIE, MICHIGAN

July 28, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the following-named airports are hereby redesignated as airports of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from the dates shown opposite their names:

Buffalo Marine Airport, Buffalo, N. Y.	July 29, 1938
Sault Ste. Marie Airport, Sault Ste. Marie, Mich.	August 4, 1938

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2214; Filed, August 1, 1938; 12:19 p. m.]

Federal Alcohol Administration Division.

DESIGNATION OF DOMESTIC BRANDY AS "COGNAC" OR "COGNAC BRANDY"

To Importers and Bottlers of Distilled Spirits:

On November 15, 1937, the Administration conducted a public hearing[1] in Washington upon a proposal to amend Article II, Section 21, of Regulations 5,[2] relating to the labeling and advertising of distilled spirits, in such manner as to permit brandies produced in the United States which have the taste, aroma and general characteristics of Cognac, as produced in the Cognac region of France, to be designated as "Cognac" if, in direct conjunction with such designation, there appears conspicuously the name of the state or other locality in the United States in which the brandy was produced.

After due consideration, the Secretary of the Treasury has disapproved the proposal so to amend the regulations.

Certain certificates of label approval have heretofore been issued to bottlers of brandy that possesses the taste, aroma and characteristics generally attributed to brandy as produced in the Cognac region of France, allowing such brandy to be designated as "Cognac" or "Cognac Brandy." These certificates of label approval will be cancelled and the holders thereof are hereby requested to mail the same to the Administration for cancellation.

[SEAL] W. S. ALEXANDER,
Administrator.

[F. R. Doc. 38-2192; Filed, July 30, 1938; 9:33 a. m.]

[1] 2 F. R. 2080, 2164, 2243 (2427, 2520, 2607 DI).
[2] 1 F. R. 92.

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MISSOURI

JULY 29, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Missouri State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional counties:

Audrain, Crawford, Daviess, Howell, Johnson, Linn, Miller, Monroe, Nodaway, Polk, Stoddard.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2197; Filed, July 30, 1938; 12:31 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

PENNSYLVANIA

JULY 29, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration issued thereunder, and upon the basis of the recommendations of the Pennsylvania State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Erie, Somerset, Chester, Fayette.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2198; Filed, July 30, 1938; 12:31 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

FLORIDA

AUGUST 1, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Florida State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional counties:

Escambia, Columbia, Palm Beach.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2212; Filed, August 1, 1938; 11:57 a. m.]

[1] 3 F. R. 109, 791 DI.
[2] 2 F. R. 2554 (2973 DI).

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEW YORK

AUGUST 1, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New York State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

St. Lawrence, Washington, Cattaraugus, Chenango.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2211; Filed, August 1, 1938; 11:57 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

KENTUCKY

AUGUST 1, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Kentucky State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Bath, Graves, Jessamine, Morgan, Owen, Union, Warren, Wayne, Taylor, Hardin.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2215; Filed, August 1, 1938; 12:43 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its

[1] 2 F. R. 2761 (3196 DI).
[2] 2 F. R. 2960 (3416 DI).

AUG 4

office in the City of Washington, D. C., on the 28th day of July, 1938.

[File No. 1-450]

IN THE MATTER OF DOMINION STORES LIMITED COMMON STOCK, WITHOUT PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Dominion Stores Limited, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock Without Par Value, from listing and registration on the New York Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, September 13, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2196; Filed, July 30, 1938; 11:41 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1938.

[File Nos. 46-96 and 43-115]

IN THE MATTER OF NORTHEASTERN WATER AND ELECTRIC CORPORATION

ORDER DESIGNATING NEW TRIAL EXAMINER

Northeastern Water and Electric Corporation having duly filed with this Commission a declaration pursuant to Section 7 and an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935, a hearing having been held pursuant to the order of the Commission and having been closed, and the Commission by an order dated July 21, 1938,[1] having ordered said hearing reopened, and having designated Edward C. Johnson to preside at said reopened hearing on the twenty-second day of July 1938, at the Securities and Exchange Building, Washington, D. C., and said reopened hearing having been continued subject to call by said Trial Examiner, and said hearing having been subsequently called for the twenty-ninth day of July 1938, at ten o'clock in said Securities and Exchange Building, Washington, D. C., and it now appearing that the Trial Examiner designated to preside at said hearing is now engaged in another matter and unable to preside at said hearing.

It is ordered, That Daniel J. Dempsey, an officer of the Commission, be and hereby is designated to preside at such continued hearing in the place and stead of and with the same powers and duties as the Trial Examiner heretofore designated to preside at such hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2195; Filed, July 30, 1938; 11:41 a. m.]

[1] 3 F. R. 1855 DI.

AUG 4 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 150

Washington, Wednesday, August 3, 1938

Rules, Regulations, Orders

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[General Docket No. 15]

AMENDED AND SUPPLEMENTAL ORDER IN THE MATTER OF ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9 AND 10

At a special session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 1st day of August, 1938.

The Order of the Commission entered herein on the 30th day of July 1938,[1] determining the weighted average of the total costs of the tonnage produced in Minimum Price Areas 6, 7, 9 and 10, in the calendar year 1936, adjusted as prescribed by the Act, having shown the determination of the weighted average of the total costs of the tonnage produced in Minimum Price Area 7 to be $2.239 per net ton, whereas the determination for said Minimum Price Area 7, as made by the Commission, and as disclosed by the "Findings of Fact and Conclusions," entered herein on the 30th day of July 1938, is the sum of $2.235 per net ton, said Original Order should be corrected and amended by striking therefrom the figure "$2.239," purporting to be the weighted average of the total costs of the tonnage produced in Minimum Price Area 7 (Districts Nos. 19 and 20), and by inserting in lieu thereof the figure "$2.235," per net ton.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders:

1. That the Original Order entered herein on the 30th day of July 1938 be, and the same is hereby amended by striking therefrom the figure of "$2.239", cited therein to be the weighted average of the total costs of the tonnage for Minimum Price Area 7 (Districts Nos. 19 and 20), and by inserting in lieu thereof the figure "$2.235", which figure of "$2.235" per net ton is *Hereby Determined* to be the weighted average of the total costs of the tonnage produced in Minimum Price Area 7 (Districts Nos. 19 and 20), in the calendar year 1936, adjusted so as to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, reflecting as accurately as possible any change or changes which have been established since January 1, 1936.

2. That the weighted average of the total costs of the tonnage for Minimum Price Area 7, as herein determined, shall be taken as the basis to be effective until changed by the Commission for the proposal and establishment of minimum prices in accordance with further order of the Commission.

3. That said Original Order, dated July 30, 1938, except as herein amended and supplemented, shall remain in full force and effect.

It is further ordered, That the Secretary of the Commission be and he is hereby directed to cause forthwith a copy of this Order to be mailed to the Secretary of each District Board and to the Consumers' Counsel, and to cause a copy hereof to be published in the Federal Register; and to place for public inspection in each of the Statistical Bureaus within Minimum Price Areas 6, 7, 9 and 10 and at the office of the Secretary of the Commission at Washington, D. C., three (3) copies of this order.

By order of the Commission.

Dated this 1st day of August, 1938.

[SEAL] EDGAR C. FARIS, *Acting Secretary.*

[F. R. Doc. 38-2223; Filed, August 2, 1938; 10:36 a. m.]

[1] 3 F. R. 1893 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 15—COMMERCE:	
National Bituminous Coal Commission:	
Minimum Price Areas 6, 7, 9, and 10, weighted average of total costs of tonnage produced within	1905
TITLE 16—COMPETITIVE PRACTICES:	
Federal Trade Commission:	
Petrie, John, trading as Purity Products Co., etc., cease and desist order	1906
TITLE 24—HOUSING CREDIT:	
Home Owners' Loan Corporation:	
Manual amendments:	
Extension of time for making payments	1906
Miscellaneous credits	1907
Satisfaction of judgments in favor of the Corporation	1907
Special cases of extension	1908
United States Housing Authority:	
Construction contracts	1908
TITLE 26—INTERNAL REVENUE:	
Bureau of Internal Revenue:	
Brewers' bonds	1911
Collection and destruction or removal for denaturation of certain distillates separated in course of distillation	1912
Liquor dealers, special taxes	1911
TITLE 45—SECURITIES AND EXCHANGES:	
Securities and Exchange Commission:	
Securities Exchange Act of 1934, postponing effectiveness of Rule X-GB4	1912
TITLE 50—UNEMPLOYMENT AND OLD AGE BENEFITS:	
Works Progress Administration:	
Hourly rates of pay, hours of work, payment for services and conditions of employment	1916
Monthly earnings	1912

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 50—UNEMPLOYMENT AND OLD AGE BENEFITS—Continued.

Works Progress Administration—Con.

National Youth Administration: Page

Part-time employment of out-of-school youths on projects of 1914

Student aid program 1913

Supply fund operation for procurement, etc., of materials, supplies and equipment 1918

NOTICES

Department of Agriculture:

Farm Security Administration:

Virginia, designation of counties for tenant purchase loans 1920

Department of the Interior:

Division of Territories and Island Possessions:

Alaska Railroad:

Joint Freight Tariff No. 36–E 1919

Joint Freight Tariff No. 39 1919

Federal Trade Commission:

United Educators, Inc., et al, order appointing examiner, etc 1920

Securities and Exchange Commission:

Alexandria Gas Co., Washington Suburban Gas Co., and Patuxent Gas Co., withdrawal of application; hearing cancelled 1922

Houston Natural Gas Corp., exemption denied 1921

Midland Utilities Co., hearing 1921

United Telephone and Electric Co., reorganization plan approved 1920

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayers, Robert E. Freer.

[Docket No. 3123]

IN THE MATTER OF JOHN PETRIE, AN INDIVIDUAL, TRADING UNDER THE TRADE NAMES PURITY PRODUCTS COMPANY, B–X LABORATORIES, AND UNDER OTHER NAMES

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, and the answer of respondent, testimony and other evidence taken before Robert S. Hall and John L. Hornor, examiners of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, and briefs in support of the complaint and in opposition thereto, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent John Petrie, an individual, trading under the trade names Purity Products Company, B–X Laboratories, and under other names, his representatives, agents, and employees, in connection with the offering for sale, sale and distribution of the products now known as "Menstrua," or "Minex," "B–X Monthly Relief Compound," or "B–X Monthly Tablets," or "Hygeen Tablets," respectively, or any other products composed of substantially the same ingredients or possessing similar properties, under whatever name sold, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing directly or by implication:

(1) That said products "Menstrua," or "Minex," "B–X Monthly Relief Compound," or "B–X Monthly Tablets," form safe, competent, or reliable remedies or treatments for delayed, painful, or suppressed menstruation, or for menstrual disorders generally; or that said products form a general preventive for ill health; or that said products are effective to tone up the generative organs, or the whole system; or that said products are abortifacients; or that said products are harmless or produce no bad after effects.

(2) That said product "Hygeen" is an effective, potent or powerful germicide under the conditions of use for feminine hygiene; or that it is effective in the prevention of venereal diseases; or that it can be used safely or without fear of harmful results so far as the prevention of infection is concerned; or that it is a positive or dependable contraceptive under all conditions or in all cases; or that it is effective as a deodorant for use after menstruation; or that it is harmless.

It is further ordered, That the respondent, John Petrie, an individual, trading under the trade names Purity Products Company, B–X Laboratories, and under other names, shall, within ten (10) days after service upon him of this order, file with the Commisson an interim report in writing stating whether he intends to comply with this order, and, if so, setting forth in detail the manner and form in which he intends to comply; and that, within sixty (60) days after service upon him of this order, said respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–2218; Filed, August 1, 1938; 3:43 p. m.]

[1] 2 F. R. 1101 (1316 DI).

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

EXTENSION OF TIME FOR MAKING PAYMENTS

MANUAL AMENDMENT

Be it resolved, That Section 2.13 of Part 2 of Chapter IV of Title 24 of the Code of Federal Regulations and the corresponding Section 213 of Chapter II of the Manual are hereby amended to read as follows:

SECTION 2.13 (Manual Section 213) Where the circumstances of the home owner, condition of the security, and the best interests of the Corporation justify it, the General Manager with the advice of the General Counsel may grant extensions of time for the payment of any delinquent amount, including principal, interest and advances, or the entire unpaid balance of the account, or change the payment plan contained in the loan or sale instruments whether the account is delinquent or not and in connection with any such transactions may (a) accept an extension or other agreement or new obligation and security instrument, and execute any such instruments, or cause the same to be executed by a duly authorized officer of the Corporation, and (b) make advances for the payment of taxes; assessments, ground rents or other levies or charges which are due and payable.

Except as provided in subsection (6) herein such authority may be exercised by the Regional Manager with the advice of the Regional Counsel in the following cases and under procedure and limitations prescribed by the General Manager with the approval of the General Counsel:

(1) Where analysis of the home owner's circumstances indicates that the following conditions exist:

(a) That the arrearages in the home Owner's account resulted from adverse economic conditions or emergencies;

(b) That the home owner's present circumstances and the record of his payments during the past six months indicate his apparent ability to pay the outstanding balance within a period not exceeding the remaining term of the loan;

(c) That the home owner is able to keep his account in good standing by paying the installments provided in the extension to be granted as they mature; and

(d) That the home owner is able to make prompt payment of insurance premiums, taxes, assessments, ground rents, or other levies or charges as they mature.

Provided that in no event shall the period of repayment extend beyond fifteen years from the date of the loan or sale instrument.

(2) Where a delinquent home owner desires to sell to a purchaser who is able and willing to assume his obligations to the Corporation but who is unable to presently pay the entire amount of indebtedness already matured provided that except in unusual cases, the period of repayment shall not exceed fifteen years from the date of the loan or sale instrument. In unusual cases where the transfer cannot be effected without extension over a longer term and foreclosure is otherwise unavoidable, the term of extension shall not exceed fifteen years from the date of the extension agreement and provided further that all such unusual cases shall be approved by the General Manager.

(3) Where the loan was made for a term of less than fifteen years and it is necessary to enable the home owner to liquidate his indebtedness, provided that in no case shall the period of repayment exceed fifteen years from the date of the loan or sale instrument.

(4) Where it is necessary that the plan of payment in the loan or sale instrument be changed to any other payment plan authorized by Section 4 (d) of the Home Owners' Loan Act as amended, to enable the home owner to liquidate his indebtedness, provided that in no case shall the period for repayment exceed fifteen years from the date of the original obligation.

(5) Where a home owner is shown to be delinquent (a) as a result of not having been billed according to the loan instruments, or (b) as a result of errors of accounting or billing arising in connection with extension or supplemental agreements, forbearances or indulgences granted, or other arrangements made, or (c) where such delinquency results from the correction of any such accounting or billing errors, or (d) regardless of whether the account is delinquent or not where the term of the obligation has been reduced by miscellaneous credits or other curtailments; provided, however, that in no case shall the period for repayment exceed fifteen years from the date of the loan or sale instrument.

(6) Where an application for extension is not eligible under any of the foregoing subsections but where an analysis of the home owner's circumstances indicates that special treatment is necessary to enable the home owner, not otherwise able to do so, to place his account in good standing, provided that the terms specified in the extension agreement shall be in accordance with the policy of the Corporation as established by the Board. This class of extensions may be granted by the Regional Manager with the advice of the Regional Counsel under instructions, general or special, by the General Manager with approval of the General Counsel.

Be it further resolved, That this resolution shall be effective on September 1, 1938.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1938 (48 Stat. 643–647) and particularly by subSections a and k of Section 4 of said Act as amended.)

Adopted by the Federal Home Loan Bank Board on July 28, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38–2231; Filed, August 2, 1938; 11:10 a. m.]

MISCELLANEOUS CREDITS

MANUAL AMENDMENT

Be it resolved, That Section 2.15 of Part 2 of Chapter IV of Title 24 of the Code of Federal Regulatons and the corresponding Section 215 of Chapter II of the Manual are hereby amended to read as follows:

SECTION 2.15 (Manual Section 215) Upon the written request of the home owner, where necessary, the General Manager, with the advice of the General Counsel, may permit the payment of taxes, assessments, other governmental levies and charges, ground rents, attorneys' fees, cost of reconditioning, and such other items as they may deem proper, out of funds received by the home owner, or by the Corporation as mortgagee or assignee, in connection with transactions involving partial releases, grants of easements and flowage rights, insurance losses, mineral deeds, oil, gas or mineral interests, sales of timber, condemnation awards under decree or judgment of a court or by agreement, substitution of security, additional security, other transactions which otherwise reduce or diminish the security held by the Corporation or the property sold by it, and from funds received as other credits to home owners' accounts, except repayments, before directing that the net amount received by the Corporation be applied to the appropriate account, as provided in Section 800 (1) of Chapter VIII of the Consolidated Manual. (Board Resolution of 4–11–38.)

The authority vested in the General Manager by this Section may be exercised also by the Regional Manager, with the advice of the Regional Counsel, under procedure and limitations prescribed by the General Manager with the approval of the General Counsel. (Board Resolution of 3–23–37.)

Be it further resolved, That this resolution shall become effective on September 1, 1938.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1938 (48 Stat. 643–647) and particularly by subSections a and k of Section 4 of said Act as amended.)

Adopted by the Federal Home Loan Bank Board on July 28, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38–2230; Filed, August 2, 1938; 11:10 a. m.]

SATISFACTION OF JUDGMENTS IN FAVOR OF THE CORPORATION

MANUAL AMENDMENT

Be it resolved, That Section 6.03 of Part 6 of Chapter IV of Title 24 of the Code of Federal Regulations is amended by the addition of a new sub-Section to be designated as 6.03 (e) which shall read as provided below and the corresponding Section 603 of Chapter VI of the Manual is hereby amended by the addition of a new sub-Section to be designated as 603 (e) which shall read as follows:

"(e) The General Manager is authorized to determine when any judgment in favor of the Corporation shall be enforced and what property of the judgment debtor shall be proceeded against in order to obtain satisfaction in whole or in part of any such judgment, and to determine the amount which shall be bid or paid for any such property; and in such connection may, with the advice of the General Counsel, expend Corporation funds to purchase, remove or carry prior rights or liens in any property on which a levy may be made or which may otherwise be subject to the Corporation's judgment lien or for other purposes connected with such transactions, and to approve the amount and payment of such expenditures, provided, however, that any legal expense in connection with such enforcement shall be incurred, approved and paid as provided in this Chapter. The General Manager is further authorized, with the advice of the General Counsel to govern the manage-

ment and disposition of all property so acquired, whether real or personal.

"The authority herein conferred upon the General Manager may be exercised also by Regional, State, Division, Territorial or District Managers (with the advice of Regional, State, Division, Territorial or District Counsel, where required as to expenditures) under procedure and limitations prescribed by the General Manager, with the approval of the General Counsel.

"The authority herein granted shall be construed as additional authority, and not as superseding, modifying or restricting other provisions of the Manual:" and

Be it further resolved, That subsection (e) of Section 6.05 of Part 6 of Chapter IV of Title 24 of the Code of Federal Regulations and the corresponding sub-Section (e) of Section 605 of Chapter VI of the Manual are hereby amended to read as follows:

"(e) Deficiency judgments or judgments arising out of deficiency claims shall be enforced as provided by the Legal Chapter for the enforcement of judgments generally."

Be it further resolved, That the provisions of this resolution shall be effective September 1, 1938.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1938 (48 Stat. 43–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended.)

Adopted by the Federal Home Loan Bank Board on July 28, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2229; Filed, August 2, 1938; 11:10 a. m.]

SPECIAL CASES OF EXTENSION

MANUAL AMENDMENT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by Subsections a and k of Section 4 of said Act as amended, Subsection (6) of Section 2.13 of Part 2 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Subsection (6) of Section 213 of Chapter II of the Consolidated Manual, is hereby amended to read as follows:

(8) In any case in which an extension is not authorized under the provisions of this section, but in the opinion of the Regional Manager the circumstances of the home owner and the condition of the security justifies special treatment, the Regional Manager, with the approval of the General Manager, is authorized to grant the extension.

Be it further resolved, That this resolution shall become effective on July 28, 1938.

Adopted by the Federal Home Loan Bank Board on July 28, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2232; Filed, August 2, 1938; 11:10 a. m.]

UNITED STATES HOUSING AUTHORITY

CONSTRUCTION CONTRACTS

PART 770.—CONSTRUCTION CONTRACTS—GENERAL.* ≠

Sec. 770.1 Purpose.
Sec. 770.2 Construction Adviser.
Sec. 770.3 Scope of Authority.
Sec. 770.4 Other USHA Field Forces.
Sec. 770.5 Land Acquisition.
Sec. 770.6 Plans and Specifications.
Sec. 770.7 Responsibility for Project.
Sec. 770.8 Type of Contract.
Sec. 770.9 Award of Contract.
Sec. 770.10 Representative of the Local Authority.
Sec. 770.11 Local Authority's Inspection.
Sec. 770.12 Submittals to Construction Adviser.

SEC. 770.1 *Purpose.*—This Bulletin has been prepared to aid local authorities in drafting, awarding, and administering contracts for the construction of low-rent housing projects in accordance with applicable provisions of the United States Housing Act of 1937[1] and of the Loan Contracts between the respective local authorities and the USHA. *[p. 1#]

SEC. 770.2 *Construction adviser.*—Prior to the time the local authority invites bids for the construction of a project or any part thereof, the Administrator will designate a representative of the USHA at the site of the project, who will be known as the Construction Adviser. After the final plans and specifications for the project have been approved by the USHA, all matters in connection with the project which involve construction work will be taken up with or through the Construction Adviser. The Construction Adviser shall render advice and suggestions to the local authority, but shall not give orders to the Contractor. *[p. 1#]

SEC. 770.3 *Scope of authority.*—In all matters relating to construction, the Construction Adviser shall be the representative of the Administrator on the site. The scope of authority of the Construction Adviser shall be so defined by the Administrator as to permit as many decisions and approvals as feasible on the site. In connection with the powers of the Construction Adviser, he will be instructed by the Administrator as to such matters as must be first submitted to the Administrator or to such other representatives of the USHA as he may designate, for consideration and approval before action thereon can be taken by the Construction Adviser. *[p. 1#]

SEC. 770.4 *Other USHA field forces.*—In addition to the Construction Adviser, there will be such additional field force of the USHA, either permanently or periodically at the site, as the USHA may consider necessary to observe and review the construction of the project for compliance with the provisions of the Loan Contract between the USHA and the local authority. The local authority will be advised by the Construction Adviser as to the scope of the duties of such additional personnel. *[p. 2#]

SEC. 770.5 *Land acquisition.*[2]—Before the USHA will authorize the local authority to advertise for bids for construction work, the local authority shall have acquired the site or assured the USHA that the site will be acquired within sufficient time to enable the local authority to execute a contract based upon any bids received. Authorization to accept any proposal or to enter into any contract for construction work will not be given by the USHA unless good title to the project site has been obtained by the local authority. *[p. 2#]

SEC. 770.6 *Plans and specifications.*—Plans and specifications for the construction of the project or any part thereof, together with the other contract documents, should be submitted to and approved by the USHA before the local authority invites bids for such work. The contract documents, as proposed for advertising, should be in the hands of the USHA at least 15 days before the proposed date of advertisement. *[p. 2#]

SEC. 770.7 *Responsibility for project.*—While the USHA will review the plans and specifications and all other documents submitted to it and furnish technical assistance, the responsibility for design and specifications and the observance of all the requirements of the Loan Contract rests with the local authority. *[p. 2#]

SEC. 770.8 *Type of contract.*—All work should be performed on a "Fixed Price Contract" basis. It is recommended that the local authority give consideration to dividing the project into several sections, so that separate bids can be requested for the work included in each such section as well as for the entire work. This would enable smaller contractors who cannot undertake the entire project to bid on part of the work and would thereby encourage competition, particularly where a large project is involved. If the project is divided into several sections, all trades within each such section should, so far as possible, be included in one contract. It is not recommended, unless required by State or local law, that the work be divided in accordance with the several trades (plumbing, heating, masonry, etc.) or a contract awarded on such a basis. If the work is thus divided into sections, the sections should be so laid out that the different contractors may proceed with their work independently of each other. Care should also be taken to define exactly the work to be performed in each section so there will be no conflict. If such a division is made, bids for the work in the several sections, as well as for the entire work, should be advertised and opened at the same time so that a determination can be made of the cost of the entire work. *[p. 3#]

SEC. 770.9 *Award of contract.*—The local authority should not award any contract until (1) after it has submitted to the Construction Adviser a written statement of all bids received, the name of the Contractor to whom the local authority proposes to make the award, and the alternates, if any, it proposes to accept, and (2) the local authority has been advised by the Construction Adviser that there is no objection on the part of USHA to the proposed award. *[p. 3#]

SEC. 770.10 *Representative of the local authority.*—The local authority should, through appropriate action of its governing body, designate the person who will represent it in the administration of the construction contract and should define the scope of his authority. Such representative should be empowered to perform the functions of the local authority as required by the General Conditions,[3] with such limitations as the local authority may desire. As delays in arriving at decisions and ordering changes when they become necessary often interfere with construction work and may result in claims for damages by the Contractor against the local authority, it is essential that the person designated as the representative of the local authority be readily available to the Contractor at all times. *[p. 3#]

SEC. 770.11 *Local authority's inspection.*—During the development of the project, the local authority shall provide and maintain competent and adequate architectural and engineering supervision and inspection of the project. Adequate supervision will necessitate a sufficient force of capable architects, engineers, and construction men to enable the local authority to supply to the Contractor promptly any additional or changed designs that may be needed, and to enforce compliance by the Contractor with the provisions of the contract. While the USHA will have representatives at the site of the project and will cooperate with the local authority in calling to its attention any matters that it may not consider in conformity with the contract, the USHA does not undertake the responsibility for the performance of any of the duties required under the Loan Contract to be performed by the local authority. The General Conditions[4] contemplate that the Architect will supervise the work to be performed under the construction contract. If the Architect is not to provide such supervision, the local authority should designate a supervising engineer and staff to perform this function, and in this event, the General Conditions should be modified accordingly. *[p. 4#]

SEC. 770.12 *Submittals to construction adviser.*—(a) After entering into a construction contract, the local authority should submit to the USHA, before final decision is made thereon by the local authority:

(1) All matters required by the Terms and Conditions[5] to be submitted to the USHA before a decision is made thereon by the local authority, including any change order involving more than $1,000. (See Terms and Conditions, Part III, Paragraph I, and Section 2 of the General Conditions[5]).

(2) All proposed interpretations and decisions of the local authority or the Architect as to whether items of work are required under the contract, the omission of which might affect the cost of the project in an amount exceeding $1,000.

(3) All samples required to be submitted by the Contractor.

(4) All proposed decisions of the local authority which might impair the rights of the USHA under the Loan Contract. (See Terms and Conditions, Part III).

In submitting any of the matters set forth in (a) (1), (2), (3) and (4) above, there should also be submitted all data in connection therewith such as estimates, drawings, and correspondence between the local authority, the Architect, and the Contractor.

(b) In addition to the foregoing, there should also be submitted by the local authority (though not necessarily prior to the action of the local authority thereon):

(1) Copies of change orders, interpretations, and decisions (other than those mentioned in (a) (1) and (2) of this section which are required to be submitted prior to the decision thereon by the local authority).

(2) Copies of shop drawings after approval by the Architect; and copies of approved-as-built and change-order drawings showing clearly all deviations of work as actually installed from contract drawings.

(3) Copies of all pertinent correspondence relating to the contract between the local authority, the Architect, and the Contractor.

(4) Copies of all complaints to the local authority by employees of the Contractor.

(c) Construction reports. Reports to the U. S. Department of Labor, project data and records, and pay rolls and affidavits relating to the Kick-Back Statute[6] should be submitted as required by the Terms and Conditions. (See Terms and Conditions, Part III, Paragraphs 17, 18, 19 and Part IV[7]). *[p. 5#]

PART 771.—CONSTRUCTION CONTRACT DOCUMENTS.[8] * ≠

Sec. 771.1 General.
Sec. 771.2 Advertisement.
Sec. 771.3 Bid.
Sec. 771.4 Affidavit as to Collusive Practices.
Sec. 771.5 Bidders' Qualifications and Bid Bond.
Sec. 771.6 Instructions to Bidders.
Sec. 771.7 Time for Completion.
Sec. 771.8 Liquidated Damages.
Sec. 771.9 Estimates of Cost of Dwelling Facilities.
Sec. 771.10 Discrimination.
Sec. 771.11 Taxes.
Sec. 771.12 Contract.
Sec. 771.13 Performance Bond.
Sec. 771.14 General Conditions.

SEC. 771.1 *General.*—The forms of contract documents now to be discussed were not prepared with any particular project or State in mind, and hence must be revised or amended so that every contract as advertised and entered into will conform with applicable State and local laws. It is requested, however, for the sake of uniformity and in order to expedite the checking of documents by the USHA, that the general form thereof be maintained so far as possible and the order of the particular divisions of the documents followed. *[p. 5#]

SEC. 771.2 *Advertisement.*—The form and method of advertising should comply with State or local laws and should indicate the type of work, and clearly designate the place where and the time when bids are to be received and opened, and the address at which contract documents can be obtained. The period of advertising should be sufficient to allow prospective bidders ample time to visit the site and to examine the contract documents for the purposes of preparing their estimates. *[p. 6#]

SEC. 771.3 *Bid.*—The bid form sets forth in general the matters which should be covered by the bidder in making his proposal. In order to secure the necessary information to allow a determination as to whether the cost of dwelling facilities per unit and per room will exceed the cost limitations placed thereon by the United States Housing Act of 1937[9], the bidder should be required to state in his bid, in addition to the lump sum price for all work included in the Specification,

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* Sections 770.1 to 770.12 issued under Authority contained in Section 8, 50 Stat. 891; 42 U. S. C., Sup. III. 1408.

≠ The source of sections 770.1 to 770.12 is USHA Bulletin No. 9, June 28, 1938.

[1] 50 Stat. 888; 42 U. S. C., Sup. III, 1401.

[2] Part 769 of this Title (USHA Bulletin No. 8).

[3] Sec. 771.14 of this Title.

[4] Parts 750, 751, 752 and 753 of this Title.

[5] Sec. 771.14 of this Title.

* Sections 771.1 to 771.14 issued under authority contained in Section 8, 50 Stat. 891; 42 U. S. C., Sup. III, 1408.

≠ The source of sections 771.1 to 771.14 is USHA Bulletin No. 9, June 28, 1938.

[6] 48 Stat. 948; 40 U. S. C. 276b.

[7] Sec. 752.17, 752.18, 752.19 and Part 753 of this Title.

[8] All document forms discussed herein together with instructitons as to their use may be obtained from the United States Housing Authority, Washington, D. C.

[9] 50 Stat. 888; 42 U. S. C., Sup. III, 1401.

such amount as he has included therein for the Cost of Site Improvement as defined in Section 19 of the Instructions to Bidders and as distinguished from the Cost of Structures. Space should be left in the bid form for the insertion of this amount. (See Sections 19 and 20 of the Instructions to Bidders for information as to the Cost of Site Improvement and the determination of the cost of dwelling facilities). *[p. 6#]

SEC. 771.4 *Affidavit as to collusive practises.*—In order to effect the intent of Section 24 of the United States Housing Act [10], each bidder should be required to sign an affidavit in the form prepared by the USHA. In addition, subcontractors and materialmen for the electrical, heating, and plumbing work will be required to furnish the affidavits and information as set forth in Section 17 of Instructions to Bidders. *[p. 6#]

SEC. 771.5 *Bidders' qualifications and bid bond.*—The forms include a form of statement of bidders' qualifications, which should be completed in order to show the responsibility of the bidder. The forms also include a suggested form of bid bond. An investigation of the State law governing the local authority should be made to determine whether any particular form of bid guaranty or bid bond is required. The bid guaranty should be in a sufficient sum to insure the bidder's financial responsibility and to protect the local authority against damage occasioned by the failure or refusal of the successful bidder to enter into a contract. In general, where bids are anticipated to be in excess of one million dollars ($1,000,000), two and a half per cent (2½%) of the bid price is usually considered sufficient. Where the bid price is anticipated to be less than one million dollars ($1,000,000), the percentage of the bid price required as security should be increased. *[p. 7#]

SEC. 771.6 *Instructions to bidders.*—The "Instructions to Bidders" should advise bidders as to any special conditions that might exist in connection with the work and set forth the time for completion and the amount of liquidated damages to be charged in the event the work is not completed within the specified time. It should also inform bidders as to the general requirements in regard to the preparation and submittal of bids, and should cover the issuance of any addenda that might be required for revisions in the plans and specifications. *[p. 7#]

SEC. 771.7 *Time for completion.*—The local authority should give consideration to permitting the bidder to specify, within a restricted range, the number of days that will be required by him to complete the job. No bonus should be provided for completing ahead of time. If the bidder is asked to specify the number of days required to complete, provision should be made in the contract documents for the method of evaluating such bids. Section 14 of the Instructions to Bidders sets forth a suggested method for bidding in this manner. For the purpose of evaluating bids, it is suggested that the amount per day inserted in Section 14 be the same as that inserted in Section 15, so that the same amount be deducted for each day saved as is required by the contract to be paid for liquidated damages for delay in completion. *[p. 7#]

SEC. 771.8 *Liquidated damages.*—The local authority should set the amount of liquidated damages to be paid by the Contractor in such sum as will be in reasonable proportion to the actual loss that might be sustained by the local authority through the failure of the Contractor to complete on time. In this connection, consideration should be given to the loss that the local authority will sustain by virtue of a corresponding delay in receiving Federal annual contributions. The amount of liquidated damages, however, should not be fixed so high as to discourage the submittal of bids by responsible bidders. *[p. 7#]

SEC. 771.9 *Estimates of cost of dwelling facilities.*—In addition to the breakdown required to be given by the bidder in his bid between the Cost of Site Improvements and the Cost of Structures, provision should be made in the Instructions to Bidders requiring the successful bidder to cooperate with the Owner and the Architect for the further breaking down, after the opening of bids, of the construction cost of the project, particularly the division of costs between dwelling facilities and nondwelling facilities in structures which may contain both types. The USHA Manual of Instructions of Accounting Procedure for Local Housing Authorities, Part I, sets forth the ultimate breakdown of these costs that will be required of the Local Authority for the purpose of determining whether the costs of dwelling facilities come within the limitations prescribed by the United States Housing Act of 1937." *[p. 8#]

SEC. 771.10 *Discrimination.*—Paragraph 6, Part III, of the Terms and Conditions [12] and Section 43 of the suggested General Conditions [13] provide that there shall be no discrimination because of race, creed, color or political affiliations in the employment of persons for work on the project. Section 18 of the Instructions to Bidders sets forth a suggested method by which the local authority may give effect to these provisions with respect to Negro labor. The local authority should examine the State or local law (including laws with respect to competitive bidding) to ascertain whether or not Section 18 of the proposed Instructions to Bidders is in violation thereof. *[p. 8#]

SEC. 771.11 *Taxes.*—The local authority should ascertain whether or not State or local sales or business privilege taxes are applicable to the work to be performed by the contractor. If the applicability of the law is not clear, every effort should be made by the local authority to obtain a ruling from the appropriate officer of the State or locality, i. e., the Attorney General of the State, the Collector of Taxes, the State Tax Commission, etc. If it appears clear to the local authority that any such sales or public privilege taxes are not applicable to the work to be performed by the contractor, an appropriate clause should be inserted in the Instructions to Bidders informing them of this fact and instructing them not to include in their bids any amounts to pay such sales or business privilege taxes. If, however, contractors on work of this kind, are required to pay such sales or business privilege taxes, no reference to such taxes should be made in the Instructions to Bidders or in any other part of the Specification. *[p. 8#]

SEC. 771.12 *Contract.*—The contract form should contain a description and location of the work and the Specification and Drawings should be identified by number, name and date of issuance. The adjusted contract price (that is, the amount determined by adding to or subtracting from the base bid the amount of any alternates accepted) should be set forth in the contract. In many instances, it is customary to accept a bid by a letter of acceptance to be conditioned upon the execution of the formal contract and the submitting of the required bonds by the contractor. However, such procedure is not required of the local authority, and the procedure of accepting the bid and entering into the contract may be adjusted to conform to the procedure prevailing in the particular locality where the work is to be performed. Care should be taken to have the proposal accepted and the contract signed by a duly authorized agent or officer of the local authority. *[p. 9#]

SEC. 771.13 *Performance bond.*—The performance and payment bond or bonds should conform to State Law. If the amount of such bond or bonds is not prescribed by State Law, the amount of such bond or bonds should be not less than 50% of the contract amount. Most of the States have laws prescribing the conditions of such bond or bonds and a complete investigation of the law applicable to each project should be made. If there is no applicable statute, such bond or bonds should be used as have been passed on by the State courts as valid. The Bond or bonds in addition to affording protection to the local authority should require payment by the contractor to all persons furnishing labor and material incorporated in the project. The USHA will, upon request, assist the local authority in the preparation of proper forms of performance and payment bonds. The local authority should exercise care in the administration of its contracts which are secured by performance bonds (particularly in ordering changes) to avoid any act which might release the surety. In any doubtful case the consent of the surety to any complicated action should be obtained in advance. *[p. 9#]

SEC. 771.14 *General conditions.*—The suggested General Conditions, together with instructions relative thereto, for inclusion in construction contracts awarded by local authorities may be obtained from the United States Housing Authority, Washington, D. C. *[pp. 9–14 and Appendix #]

[10] 50 Stat. 899; 42 U. S. C., Sup. III, 1424.

[11] 50 Stat. 888; 42 U. S. C., Sup. III, 1401.
[12] Sec. 752.6 of this Title.
[13] Sec. 771.14 of this Title.

[F. R. Doc. 38–2220; Filed, August 2, 1938; 10:12 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4836]

BREWERS' BONDS

To District Supervisors, and Others Concerned:

The act of June 15, 1938 (Public—No. 620—75th Congress) amending Section 3336, Revised Statutes, as amended, pertaining to brewers' bonds, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 3336 of the Revised Statutes, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1334 (b)), is further amended to read as follows:

"SEC. 3336. Every brewer, on filing notice as provided by law of his intention to commence or continue business, shall execute a bond to the United States in a penal sum equal to the amount of the tax on fermented malt liquor which, in the opinion of the Commissioner of Internal Revenue, said brewer will be liable to pay during any one month: Provided, That the penal sum of any such bond shall not exceed $100,000 nor be less than $1,000. The bond shall be conditioned that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, lager beer, ale, porter, and other fermented liquors made by or for him, before the same is sold or removed for consumption or sale, except as hereinafter provided; and that he shall keep, or cause to be kept, in the manner required by law, a book which shall be open to inspection by the proper officers, as by law required; and that he shall in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the manufacture and sale of any malt liquors aforesaid. Once in every four years, or whenever required so to do by the Commissioner of Internal Revenue, or such officer as may be designated by the Commissioner of Internal Revenue, the brewer shall execute a new bond in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond shall be in lieu of any former bond or bonds of such brewer in respect to all liabilities accruing after its approval."

Pursuant to the act of June 15, 1938, Section 3447, Revised Statutes (U. S. C., title 26, sec. 1691 (a) (2)) and Section 5 of the Liquor Enforcement Act of 1936 (U. S. C., Supp. III, title 27, sec. 225), the following regulations are prescribed relative to brewers' bonds:

1. Any brewer who engages in the manufacture for sale of fermented malt liquors must, for each place at which such manufacturing in carried on, execute a separate bond in a penal sum calculated at the rate provided by law with corporate surety, individual sureties, or supported by bonds or notes of the United States or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, as collateral security in a sum equal at their par value to the amount of the penal bond required to be furnished.

2. The penal sum of a brewer's bond to cover the manufacture of fermented malt liquors, must be equal to the amount of the tax (i. e., $5.00 per barrel of 31 gallons) which, in the opinion of the District Supervisor of the district in which the brewery is located, the brewer will be liable to pay during any one month; that is to say, the maximum quantity of fermented liquors that, in his opinion, will actually be tax paid at said brewery during any one month: Provided, That the penal sum of any such bond shall not exceed $100,000 nor be less than $1,000.

3. Bond, Form 1566, prescribed for brewers by Treasury Decision 4609, approved November 26, 1935, amending Regulations 18, Relating to the Manufacture and Tax-Payment of Fermented Malt Liquors, approved October 25, 1934, will be continued in use.

4. New bonds, Form 1566, must be filed by all brewers, except that new bonds need not be filed where bond in a penal sum of not less than $100,000 is necessary, and the brewer has on file an approved bond, or bonds, on Form 1566, in the maximum penal sum of $100,000 with surety or security. New bonds must bear date as of the day on which actually executed, but, if desired, June 15, 1938, may be made the effective date.

5. Except as modified by this Treasury Decision, the provisions of prior regulations respecting brewers' bonds shall remain in force and effect.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2233; Filed, August 2, 1938; 12: 24 p. m.]

[T. D. 4837]

LIQUOR DEALERS—SPECIAL TAXES

To District Supervisors, Collectors of Internal Revenue, and others concerned:

Section 5 of the Act of June 15, 1938 (Public—No. 635—75th Congress), provides as follows:

SEC. 5. Subdivision (g) of paragraph "Fifth" of section 3244 of the Revised Statutes, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1394 (e) (3)), is amended to read as follows:

"(g) Nothwithstanding the foregoing provisions of this section, each person making sales of fermented malt liquor or wine to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization making sales of fermented malt liquor or wine on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, if such person or organization is not otherwise engaged in business as a wholesale or retail liquor dealer or as a wholesale or retail malt liquor dealer, shall pay, before any such sales are made and in lieu of the special taxes imposed by subdivision (a) of this paragraph and subdivision (a) of paragraph 'Fourth' of this section (U. S. C., 1934 edition, Supp. III, title 26, sec. 1934 (b) (1)) a special tax of $2 as a retail dealer in malt liquors, if fermented malt liquor only is sold, or a special tax of $2 as a retail dealer in liquors if wine only, or wine and fermented malt liquor only, are sold for each calendar month in which any such sales are made."

Pursuant to the above-quoted provision of law Paragraph 7 of T. D. 4681 [1] is amended to provide as follows:

"7. (a) Except as provided in Subparagraph (c), each person desiring to sell fermented malt liquor or wine or both at retail to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization desiring to sell fermented malt liquor or wine or both on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it may obtain from the Collector of Internal Revenue for each calendar month for which any such sales are to be made (1) a retail dealer in malt liquor limited special-tax stamp, if fermented malt liquor only is to be sold, or (2) a retail liquor dealer limited special-tax stamp, if wine only, or wine and fermented malt liquor only, are to be sold.

"(b) Application on Form 11 and payment of the special tax of $2 shall be made to the Collector before any such sales are made.

"(c) No person or organization otherwise engaged in business as a wholesale or retail liquor dealer or as a wholesale or retail malt liquor dealer will be permitted to procure a limited special-tax stamp as a retail liquor dealer or a retail dealer in malt liquor."

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2234; Filed, August 2, 1938; 12:24 p. m.]

[1] 1 F. R. 1216.

[T. D. 4838]

COLLECTION AND DESTRUCTION OR REMOVAL FOR DENATURATION OF CERTAIN DISTILLATES SEPARATED IN COURSE OF DISTILLATION

To District Supervisors and Others Concerned:

Section 410 of the Act of June 26, 1936 (U. S. C., 1934 ed., Supp. III, title 26, sec. 1320 (a)) as amended by Section 2 of the Act of June 15, 1938 (Public—No. 635—75th Congress), provides as follows:

SEC. 410. Under rules and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, distillers may collect, in locked tanks, distillates containing one-half of 1 per centum or more of aldehydes or 1 per centum or more of fusel oil (heads and tails) removed in the course of distillation. The distillates so collected may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be removed from such distillery for denaturation or be destroyed in the manner prescribed by the Commissioner, under the supervision of an internal-revenue officer to be designated by the Commissioner, and when so denaturad or destroyed shall not be subject to the tax imposed by law upon distilled spirits. Such distillates so collected in fruit brandy distilleries may, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, be drawn into approved casks, barrels, or other containers and stored in the brandy deposit room of the fruit brandy distillery where produced pending removal for denaturation or destruction.

Pursuant to the above-quoted provision of law the following regulations are prescribed:

1. *Prior regulations continued.*—Except as hereinafter provided, the collection of distillates containing one-half of one per centum or more of aldehydes or one per centum or more of fusel oil separated in the course of distillation, the determination of the character and quantity, the destruction, the removal for denaturation, and the accounting for such distillates shall be in accordance with the provisions of T. D. 4683.[1]

2. *Modification respecting fusel oil content.*—The phrase "more than 1 per centum of fusel oil", wherever it appears in T. D. 4683, is hereby amended to read "1 per centum or more of fusel oil."

3. *Storage of distillate by brandy distillers.*—A fruit brandy distiller may draw into casks, barrels, metal drums, or similar containers, such distillates collected in locked heads and tails tanks and may store such packages of distillates in the brandy deposit room of the distillery temporarily pending removal thereof for denaturation or destruction.

4. *Distiller's application.*—Where a fruit brandy distiller desires to draw such distillates into packages for storage in the brandy deposit room pending removal for denaturation or destruction, his application on Part 1 of the respective Form 1578 or 1577 shall be properly modified to cover such packaging and storing of the distillate. Upon approval of such application the district supervisor's order to the storekeeper-gauger on Part 2 will be correspondingly modified.

5. *Gauging, marking, and branding of packages.*—The packages of distillates to be stored in the brandy deposit room will be gauged, marked, and branded in accordance with the provisions of T. D. 4683 at the time of filling, except that where the distillate is to be destroyed the words "For Destruction" will be substituted for the words "For Denaturation" in marking the packages.

6. *Period of storage in brandy deposit room.*—Such distillates stored in the brandy deposit room must be removed therefrom and shipped to a denaturing plant for denaturation or destroyed within 30 days after the suspension of distilling operations for the season or for an indefinite period.

7. *Removal for denaturation or destruction.*—Upon removal of the distillate from the brandy deposit room for shipment to a denaturing plant for denaturation, or upon destruction thereof, the storekeeper-gauger will execute his report on Part 3 of the respective Form 1578 or 1577, properly modified to conform to the facts, and will dispose of the copies of such forms and of the reports of gauge, Form 1520, in accordance with the provisions of T. D. 4683.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2235; Filed, August 2, 1938; 12:24 p. m.]

[1] 1 F. R. 1223.

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

POSTPONING EFFECTIVENESS OF RULE X-GB4 [1]

The Securities and Exchange Commission deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 10 (b) and 23 (a) thereof (ch. 404, sec. 10, 48 Stat. 891; 15 U. S. C. 78j; ch. 404, sec. 23, 48 Stat. 901; ch. 462, sec. 8, 49 Stat. 1379; 15 U. S. C. 78w and Sup. III), hereby amends its Rule X-GB4 [2] (Sec. 10 X-GB4) by striking out in Paragraph (c) thereof "August 1, 1938" and inserting in lieu thereof "November 1, 1938."

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2217; Filed, August 1, 1938; 1:11 p. m.]

[1] July 29, 1938.
[2] 3 F. R. 1002, 1059, 1621 DI.

TITLE 50—UNEMPLOYMENT AND OLD AGE BENEFITS

WORKS PROGRESS ADMINISTRATION

[Administrative Order No. 62]

REGULATIONS RELATING TO MONTHLY EARNINGS

By virtue of and pursuant to the authority vested in the Works Progress Administration by the Emergency Relief Appropriation Act of 1938 approved June 21, 1938, I hereby prescribe the following rules and regulations.

PART I.—DEFINITIONS

SECTION 1. The term "project" as used herein shall mean projects or portions of projects financed in whole or in part from funds appropriated to the Works Progress Administration by the Emergency Relief Appropriation Act of 1938, except projects financed in whole or in part from funds appropriated to the Works Progress Administration for the National Youth Administration.

SEC. 2. The term "persons engaged upon projects and paid from project funds" as used herein shall mean all persons engaged upon projects and paid by means of a pay roll payment from funds authorized for the operation of such projects, except owner-operators of teams, trucks, and equipment, to whom the rules and regulations set forth in this order shall not be applicable.

PART II.—MONTHLY EARNINGS

SECTION 3. The schedule of monthly earnings, as hereinafter established with adjustments heretofore effected as set forth in section 4 of this order, shall be applicable to at least 95% of the persons engaged upon a project and paid from project funds, except:

(a) Such projects, portions of projects or activities as the Federal Works Progress Administrator or his authorized representative may hereafter exempt, including adjustments to the schedule of monthly earnings on the basis of contiguity of counties, redefinitions of regions, and adjustments within the range of ten per cent (10%).

(b) Such projects or portions of projects as the State Works Progress Administrators may hereafter exempt, provided that the number of persons covered by such exemption, including project supervisory and administrative employees shall not exceed ten per cent (10%) of the

employees on a project and that at least ninety-five per cent (95%) of the persons employed upon all projects within a state shall be persons who are paid in accordance with the schedule of monthly earnings as hereinafter provided.

Schedule of Monthly Earnings

The schedule of monthly earnings applicable to any county shall be based upon the 1930 population of the largest municipality within the county in accordance with the following schedule:

Region [1]	Over 100,000	50,000-100,000	25,000-50,000	5,000-25,000	Under 5,000
UNSKILLED WORK					
Region I	55	52	48	44	40
Region II	45	42	40	35	32
Region III	40	38	36	30	26
INTERMEDIATE WORK					
Region I	65	60	55	50	45
Region II	58	54	50	44	38
Region III	52	48	43	36	30
SKILLED WORK					
Region I	85	75	70	63	55
Region II	72	66	60	52	44
Region III	68	62	56	48	38
PROFESSIONAL AND TECHNICAL WORK					
Region I	94	83	77	69	61
Region II	79	73	66	57	48
Region III	75	68	62	53	42

[1] Regions include the following states:
REGION I. Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.
REGION II. Delaware, District of Columbia, Kansas, Kentucky, Maryland, Missouri, Oklahoma, West Virginia.
REGION III. Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

SEC. 4. The several State Works Progress Administrators are hereby authorized to continue in full force and effect adjustments to the schedule of monthly earnings heretofore authorized by the Federal Works Progress Administrator or by the several State Works Progress Administrators on the basis of contiguity of counties, redefinition of regions, or adjustments within the range of ten per cent (10%), except in the case of:

(a) Previous adjustments to the monthly earnings within the range of 10% in those states redefined by the provisions of this order and included in Wage Region II shall be cancelled;

(b) Previous adjustments to the monthly earnings within the range of 10% which applied to the unskilled wage class in those states which by the provisions of this order are defined in Wage Region III shall be cancelled; and

(c) Previous adjustments to the monthly earnings within the range of 10% which applied to the professional and technical wage class in those areas in Wage Region I where the population of the largest city within the county or sub-division thereof is 100,000 or over shall be cancelled.

PART III.—EFFECTIVE DATE

SEC. 5. These rules and regulations and the schedule of monthly earnings prescribed thereby shall become effective at the beginning of pay roll periods on July 1, 1938, or as soon thereafter as possible but in no case later than July 15, 1938. Pending revision thereto, rules and regulations heretofore issued shall continue in effect insofar as applicable and except as modified by the provisions of this order.

[SEAL] HARRY L. HOPKINS,
Administrator.

JUNE 27, 1938.

[F. R. Doc. 38-2224; Filed, August 2, 1938; 11:00 a. m.]

[Administrative Order No. 63]

REGULATIONS RELATING TO THE STUDENT AID PROGRAM OF THE NATIONAL YOUTH ADMINISTRATION

By virtue of and pursuant to the authority vested in the Works Progress Administration by the Emergency Relief Appropriation Act of 1938 approved June 21, 1938, the following rules and regulations are prescribed.

PART I.—DEFINITIONS

SECTION 1. The term "project" as used herein shall mean projects or portions of projects for the part-time employment of needy students which are financed in whole or in part from funds appropriated to the Works Progress Administration for the National Youth Administration by the Emergency Relief Appropriation Act of 1938.

SEC. 2. The Student Aid Program as used herein refers to the part-time employment of needy students, who are in regular attendance at schools, colleges and universities, in order to allow them to continue their scholastic work. Under the Student Aid Program, there are two divisions, namely "School Aid" and "College and Graduate Aid."

SEC. 3. The School Aid Program as used herein refers to the part-time employment of needy students who are in regular attendance at approved institutions (institutions which are non-profit making, tax exempt, and bona fide educational and which are so certified by the State Commissioner of Education) not requiring high school graduation or the equivalent for entrance.

SEC. 4. The College and Graduate Aid Program as used herein refers to the part-time employment of needy students who are in regular attendance at approved institutions (institutions which are non-profit making, tax exempt, and bona fide educational and which are so certified by the State Commissioner of Education) requiring, as a minimum, high school graduation or the equivalent for entrance. Aid given to undergraduate students or professional students who have not obtained their bachelor's degree is referred to in this Order as "College Aid". Aid given to students who have obtained their bachelor's degree and are pursuing graduate work is referred to in this Order as "Graduate Aid."

PART II.—RATES OF PAY AND MONTHLY EARNINGS

SEC. 5. No student participating in the School Aid Program may earn an amount exceeding six dollars ($6) per month.

SEC. 6. The payment to all students in an institution receiving College and Graduate Aid shall not exceed an average of fifteen dollars ($15) per month for the academic year. In any one month this average may be exceeded if there are sufficient accumulated funds from previous months' fund quotas. The maximum which may be paid in any one month to a student receiving College Aid shall be twenty dollars ($20). A student receiving Graduate Aid may be paid a maximum of forty dollars ($40) in any one month, provided the average for graduate students as a group shall not exceed thirty dollars ($30) computed over the academic year.

SEC. 7. The hourly wage rates for students participating in the Student Aid Program shall be the same as those usually prevailing in the institution or locality for the same type of work.

SEC. 8. The designated officials of the participating institutions shall be responsible for determining monthly earnings and rates of pay in accordance with the provisions of sections 5, 6, and 7.

PART III.—HOURS OF WORK

SEC. 9. The hours of work for each student shall be determined by the institution based upon the prevailing wage rates established as provided in section 7 and the monthly earnings for individual students as provided in sections 5 and 6.

SEC. 10. The maximum hours of work for students under the School Aid Program shall be seven hours per day on non-school days, three hours per day on school days and twenty hours per week.

SEC. 11. The maximum hours of work for students under the College and Graduate Aid Program shall be eight hours per day and thirty hours per week. During vacation periods occurring within the academic year the maximum hours of work shall be eight hours per day and forty hours per week.

PART IV.—CONDITIONS OF EMPLOYMENT

SEC. 12. Employment on the Student Aid Program is limited to students between the ages of 16 and 24 inclusive. Students shall have reached their 16th birthday before they can be assigned to

Student Aid. Students who have reached their 25th birthday are ineligible.

SEC. 13. Each student must be able to qualify on the basis of need for such assistance as he may receive. It shall be determined by officials of the institution that the student is in need of such assistance in order to enter and/or remain in school. Consultation with outside agencies to determine this need is recommended. The institution shall exercise every precaution to make certain that no portion of the funds are made available to any student who does not produce satisfactory evidence, verified as to authenticity, that he could not enter and/or remain in school without aid through employment on the Student Aid Program.

SEC. 14. No alien illegally within the limits of the United States or alien who has not prior to June 21, 1938 filed declaration of intention which is valid and has not expired, to become an American citizen shall knowingly be employed or continued in employment on any project.

SEC. 15. Preference in employment on projects shall be given in the following order:

(a) American citizens, Indians, and other persons owing allegiance to the United States who are in need; and

(b) Those aliens in need who, prior to June 21, 1938, shall have declared their intentions, which are valid and have not expired, to become American citizens.

SEC. 16. Students receiving aid shall be of good character and shall possess such ability that they can give assurance of performing good scholastic work while receiving aid. Aid to high school or elementary school students who fail to maintain satisfactory standing in at least three-fourths of their scholastic work shall be discontinued.

SEC. 17. Students participating in the Student Aid Program shall be regular students carrying at least three-fourths of the normal schedule.

SEC. 18. Student aid projects shall be conducted in accordance with safe working conditions.

SEC. 19. Wages to be paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment shall be null and void.

SEC. 20. Students engaged on projects and paid from project funds, if injured in the performance of duty and unable to work as a result thereof, shall be entitled to receive payment of compensation under the provisions of the Act of February 15, 1935 (48 Stat. 351) as amended.

PART V.—ASSIGNMENT OF WORK

SEC. 21. Officials of the participating institutions shall be responsible for assigning students to suitable work and for supervising work done by students.

[SEAL] AUBREY WILLIAMS,
Executive Director.

Authorized by:

HARRY L. HOPKINS,
Federal Administrator.

JULY 9, 1938.

[F. R. Doc. 38-2225; Filed, August 2, 1938; 11:00 a. m.]

[Administrative Order No. 64]

REGULATIONS RELATING TO THE PART-TIME EMPLOYMENT OF OUT OF SCHOOL YOUTHS ON PROJECTS OF THE NATIONAL YOUTH ADMINISTRATION

By virtue of and pursuant to the authority vested in the Works Progress Administration by the Emergency Relief Appropriation Act of 1938 approved June 21, 1938, the following rules and regulations are prescribed.

PART I.—DEFINITIONS

SECTION 1. The term "project" as used herein shall mean projects or portions of projects for the part-time employment of out of school youths which are financed in whole or in part from funds appropriated to the Works Progress Administration for the National Youth Administration by the Emergency Relief Appropriation Act of 1938.

SEC. 2. The term "project employees" as used herein shall mean all persons engaged upon projects and paid by means of a pay roll payment from funds authorized for the operation of such projects, except owner-operators of teams, trucks and equipment to whom the rules and regulations set forth in this order shall not be applicable.

(a) The term "youth employee paid on an hourly basis" as used herein shall mean persons between the age of 18 and 24 years inclusive who are engaged upon a part-time basis upon projects and who are paid on an hourly basis by means of pay roll payments from funds authorized for the operation of such projects.

(b) The term "project supervisory and administrative employees" as used herein shall mean persons in supervisory and administrative positions engaged upon projects who are paid on a monthly basis by means of pay roll payments from funds authorized for the operation of such projects.

PART II.—RATES OF PAY

SEC. 3. The rates of pay for "youth employees paid on an hourly basis" shall be not less than the prevailing rates of pay for youth on work of a similar nature in the same locality.

SEC. 4. The several State Youth Directors are authorized and directed to establish rates of pay according to occupational titles for "youth employees paid on an hourly basis." It shall be the responsibility of each State Youth Director to issue State Youth Director's Orders which prescribe the schedule of appropriate rates of pay, hours to be worked and maximum monthly earnings by occupational titles for each county in the state in which projects are being operated. Where necessary, supplemental schedules shall be issued under the State Youth Director's Orders where special determinations are made for individual projects within a county or for subdivisions within a county.

PART III.—HOURS OF WORK

SEC. 5. The normal hours of work for "youth employees paid on an hourly basis" shall be that number of hours required to earn the authorized monthly wage at the established rate of pay. The maximum hours of work for "youth employees paid on an hourly basis," however, shall not exceed 8 hours per day, 40 hours per week and 70 hours per month, provided that the maximum hours of work per month may be exceeded in the case of:

(a) Such projects or portions of projects as the Executive Director or his authorized representative may hereafter exempt;

(b) An emergency involving the public welfare or to protect work already done on a project; and

(c) Making up time lost due to conditions which in the judgment of the State Youth Director warrants his authorizing "youth employees paid on an hourly basis" to make up lost time.

PART IV.—MONTHLY EARNINGS

SEC. 6. The Several State Youth Directors are authorized and directed to establish monthly salaries for "project supervisory and administrative employees" in accordance with the monthly wages customarily paid for work of a similar nature in the same locality.

SEC. 7. The schedule of monthly earnings as hereinafter provided is applicable to "youth employees paid on an hourly basis", except in the case of:

(a) Such projects or portions of projects as the Executive Director or his authorized representative may hereafter exempt; and

(b) Making up time lost or in the case of an emergency as provided in Part III of this Order.

Schedule of Monthly Earnings For Part Time Work

The schedule of monthly earnings applicable to any county shall be based upon the 1930 population of the largest municipality within the county in accordance with the following schedule:

Regions [1]	Over 25,000	Under 25,000
UNSKILLED		
I	18	14
II	16	14
III	14	12
INTERMEDIATE		
I	21	17
II	18	15
III	16	13
SKILLED		
I	25	20
II	23	18
III	21	16
PROFESSIONAL AND TECHNICAL		
I	25	23
II	24	21
III	24	19

[1] Regions include the following States:
Region I. Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.
Region II. Delaware, District of Columbia, Kansas, Kentucky, Maryland, Missouri, North Carolina, Oklahoma, Virginia, West Virginia.
Region III. Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, Texas.

PART V.—CONDITIONS OF EMPLOYMENT

SEC. 8. No person under the age of 18 years, or whose age is 25 years or more, except "project supervisory and administrative employees," and no one whose physical condition is such as to make his employment dangerous to his health or safety, or to the health or safety of others, may be employed on a work project. This paragraph shall not be construed to operate against the employment of physically handicapped persons otherwise employable, where such persons may be safely assigned to work which they can ably perform.

SEC. 9. No person currently serving sentence to a penal or correctional institution shall be employed on any work project. This shall not be interpreted to include persons on probation or parole.

SEC. 10. Subject to approval of plans by the Regional Social Worker, the State Youth Director shall be responsible for making satisfactory arrangements with public relief agencies for the certification of youth who are eligible for employment on work projects of the National Youth Administration. Preference in employment of workers on projects shall be given to youth certified as in need by a public relief agency approved by the State Youth Director and the Regional Social Worker of the Works Progress Administration, and, except with the specific authorization of the Executive Director or his authorized representative, at least ninety per cent of the workers on a project shall be such persons. The following classes of youth are eligible for certification:

(a) A youth member of a family certified as in need at time of application, regardless of whether the primary wage earner is employed on the Works Program.

(b) A youth member of a family which is in need at time of application regardless of whether the primary wage earner has been certified.

(c) A youth member of a family eligible for any form of public assistance, including youth members of families which receive subsistence grants from the Farm Security Administration.

(d) A youth without family connections who is in need at the time of application.

SEC. 11. Workers who are qualified for assignment on work projects and who are eligible as specifically provided by law and by these regulations shall not be discriminated against on any grounds whatever, such as race, religion or political affiliation.

SEC. 12. All work projects shall be conducted in accordance with safe working conditions, and every effort shall be made for the prevention of accident.

SEC. 13. Wages to be paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment shall be null and void.

SEC. 14. No alien illegally within the limits of the United States or alien who has not prior to June 21, 1938, filed declaration of intention, which is valid and has not expired, to become an American citizen shall knowingly be given employment or continued in employment on any project.

SEC. 15. Preference in employment on projects shall be given in the following order:

(a) Veterans of the World War and the Spanish War and veterans of any campaign or expedition in which the United States has engaged who are in need, and are American citizens;

(b) Other American citizens, Indians, and other persons owing allegiance to the United States who are in need, and

(c) Those aliens in need whose declaration of intention to become American citizens were filed prior to June 21, 1938, and which are valid and have not expired.

SEC. 16. No person certified as in need shall be eligible for employment on any project of the National Youth Administration who has refused to accept employment on any other Federal or non-Federal project at an hourly rate comparable with or higher than the hourly wage rate established for similar work on projects of the National Youth Administration. However, any certified person who has been engaged on a project of another Federal agency and whose service has been regularly terminated through no fault of his own, shall not lose his eligibility for reemployment on any project of the National Youth Administration or any other Federal or non-Federal project on account of such previous employment.

SEC. 17. A person certified as in need who is employed upon a project shall be expected to accept a bona fide offer of private employment provided:

(a) That the temporary or permanent work pays as much or more in compensation for the same length of service as such person received from the National Youth Administration;

(b) That the wage of such work shall be at the prevailing rate;

(c) That such work shall not be in conflict with established union relationships; and

(d) That adequate health and sanitary facilities are provided and the work is conducted in accordance with safe working conditions.

No person certified as in need and employed upon a project who refuses a bona fide offer of private employment under the conditions provided in this section shall be retained in employment for the period such private employment would be available. However, a worker shall be entitled to immediate resumption of his previous employment status if he is still in need and if he has lost his private employment through no fault of his own.

SEC. 18. Youth employees paid on an hourly basis if injured in the performance of duty and unable to work as a result thereof shall be entitled to receive payment of compensation under the provisions of the Act of February 15, 1934 (48 Stat. 351), as amended.

PART VI.—ASSIGNMENT, REASSIGNMENT AND SEPARATION

SEC. 19. The Works Progress Administration shall be responsible for the assignment, classification and reclassification of persons to work projects operated by the National Youth Administration. Non-certified persons to be assigned to such projects shall be referred by the employment offices designated by the United States Employment Service. Reassignment of workers between NYA work projects, which do not involve reclassification, shall be the responsibility of the State Youth Director.

SEC. 20. All separations from projects shall be the responsibility of the State Youth Director. It shall be the responsibility of the WPA Division of Employment to notify the State Youth Director of separations from projects of the Works Progress Administration due to cancellation of eligibility for employment when such separations affect the eligibility of youth employed on NYA work projects.

SEC. 21. Youth employees paid on an hourly basis shall be registered with employment offices designated by the United States Employment Service.

PART VII.—EFFECTIVE DATE

SEC. 22. These rules and regulations shall become effective at the beginning

of pay roll periods on and after August 1, 1938, and shall supersede Administrative Order No. 60, dated January 12, 1938, which shall be rescinded on that date. Pending revision thereto, rules and regulations heretofore issued relating to the part-time employment of out of school youth on projects of the National Youth Administration shall continue in effect insofar as applicable and except as modified by the provisions of this order.

[SEAL] AUBREY WILLIAMS,
Executive Director.

Authorized by:

HARRY L. HOPKINS,
Federal Administrator.

JULY 9, 1938.

[F. R. Doc, 38-2226; Filed, August 2, 1938; 11: 00 a. m.]

[Administrative Order No. 65]

REGULATIONS RELATING TO HOURLY RATES OF PAY, HOURS OF WORK, PAYMENT FOR SERVICES AND CONDITIONS OF EMPLOYMENT

By virtue of and pursuant to the authority vested in the Works Progress Administration by the Emergency Relief Appropriation Act of 1938 approved June 21, 1938, I hereby prescribe the following rules and regulations.

PART I.—DEFINITIONS

SECTION 1. The term "project" as used herein shall mean projects or portions of projects financed in whole or in part from funds appropriated to the Works Progress Administration by the Emergency Relief Appropriation Act of 1938, except projects financed in whole or in part from funds appropriated to the Works Progress Administration for the National Youth Administration.

SECTION 2. The term "project employees" as used herein shall mean all employees engaged upon a project and paid by means of a pay roll payment from funds authorized for the operation of the project except owner-operators of teams, trucks and equipment to whom the rules and regulations set forth in this order shall not be applicable.

(a) The term "project employees paid on an hourly basis" as used herein shall mean persons, including supervisory employees engaged upon a project, who are paid on an hourly basis by means of pay roll payments from funds authorized for the operation of such project.

(b) The term "project supervisory employees" as used herein shall mean persons in supervisory positions engaged upon a project who are paid on a monthly basis by means of pay roll payments from funds authorized for the operation of such project.

PART II.—RATES OF PAY

SEC. 3. The rates of pay for "project employees paid on an hourly basis" shall be not less than the prevailing rates of pay for work of a similar nature in the same locality; provided that if minimum rates of pay for persons employed by private employers in any occupation are established by or pursuant to the authority conferred by any Labor Standards Act enacted at the Third Session of the Seventy-Fifth Congress, not less than the minimum rates of pay so established, shall be paid to persons in similar occupations in the same locality employed on projects; provided further that no rates of pay shall be established in accordance with the preceding provision relating to the Fair Labor Standards Act without prior approval of the Federal Works Progress Administrator.

SEC. 4. Rates of pay heretofore established by the several State Works Progress Administrators shall continue in effect and shall be applicable to "project employees paid on an hourly basis." When, in the judgment of the State Administrator, it is necessary to revise hourly rates heretofore established or to determine new hourly rates, such rates of pay shall be subject to the approval of the Federal Works Progress Administrator or his authorized representative prior to their being placed in effect.

SEC. 5. In accordance with the provisions of administrative authorities granted to him it shall be the responsibility of the State Works Progress Administrator to issue State Administrator's Orders which prescribe the schedule of appropriate rates of pay, hours to be worked and monthly earnings by occupational titles for each county in the state in which projects are being operated. Where necessary supplemental schedules shall be issued as State Administrator's Orders covering special determinations for particular projects within the county or for sub-divisions of the county. Where new or revised hourly rates of pay are determined in accordance with the provisions of section 4 above, the State Administrator's Order shall be subject to the approval of the Federal Works Progress Administrator or his authorized representative.

PART III.—HOURS OF WORK

SEC. 6. The normal hours of work for "project employees paid on an hourly basis" shall be that number of hours required to earn the authorized monthly wage at the established rate of pay. The maximum hours of work, however, shall not exceed 8 hours per day, 40 hours per week and 140 hours per month, except when, in the judgment of the State Works Progress Administrator or his authorized representative, the above limitations are not practical in the following cases:

(a) An emergency involving the public welfare or to protect work already done on the project.

(b) Making up time lost due to weather conditions, temporary interruptions in the operation of projects beyond the control of workers, injuries sustained in the performance of duty, illness, military service, or other circumstances which warrant authorizing workers to make up lost time. When making up lost time the maximum hours of work shall be 8 hours per day and 48 hours per week.

SEC. 7. For "project supervisory employees," the minimum hours of work required shall be not less than 120 hours per pay roll month. The hours of work for "project supervisory employees" shall be established by the State Administrator or his authorized representative; provided the hours of work required of such employees shall be equal for each pay period within a pay roll month.

PART IV.—PAYMENTS FOR SERVICES

SEC. 8. The several State Works Progress Administrators are authorized and directed to establish monthly salaries for "project supervisory employees" in accordance with the monthly wages customarily paid for work of a similar nature in the same locality. Deductions for absence for "project supervisory employees" shall be made in the ratio of the number of hours absent to the hours of work required, as prescribed in section 7 of this Order.

SEC. 9. "Project employees paid on an hourly basis" shall be compensated only for time actually worked. Project employees who are paid in accordance with the schedule of monthly earnings shall be allowed every reasonable opportunity consistent with efficient project operations to make up time lost as provided in section 6. Such time lost may be made up during the current or succeeding pay roll months, and payments in excess of the schedule of monthly earnings are permitted for this purpose as prescribed by Administrative Order No. 62.

SEC. 10. "Project employees" if injured in the performance of duty and unable to work as a result thereof shall be entitled to receive payment of compensation under the provisions of the Act of February 15, 1934 (49 Stat. 351) as amended.

SEC. 11. Where "project employees" are quartered in camps, the several State Work Progress Administrators are authorized to fix an appropriate charge for lodging, food, proper sanitation, water and bathing facilities, and medical and dental care, and to make such deductions at the end of each pay roll period from the earnings of "project employees" quartered in such camps.

PART V.—CONDITIONS OF EMPLOYMENT

SEC. 12. It shall be the responsibility of the State Works Progress Administration to assure the maintenance of standards of eligibility for certification. Need and employability shall be the only requirements in determining eligibility provided persons are otherwise eligible as prescribed by law and by these regulations. For the purpose of certification, need shall be said to exist when the resources of the family or of the unattached individual are insufficient to provide a reasonable subsistence compatible with decency and health. At least ninety-five per cent (95%) of the employees on a project shall be persons who have been certified as in need by a public relief agency approved by the Works Progress Administration or in lieu thereof by the Works Progress Administration, except:

(a) Persons on such projects or portions of projects as the Federal Works Progress Administrator or his authorized representative may hereafter exempt, and

(b) Such projects or portions of projects as the State Works Progress Administrator may hereafter exempt, provided that the number of persons covered by such exemptions, including project supervisory employees shall not exceed 10% of the employees on a project and that at least 95% of the persons employed on all projects within the State shall be persons certified as in need.

SEC. 13. Persons in need whose names have not heretofore been placed upon relief rolls shall be eligible for employment and shall be certified as in need in the same manner as persons whose names have heretofore appeared on relief rolls.

SEC. 14. Farmers in rural areas who are in need and who need employment to supplement their farm income shall be eligible for certification and for employment.

SEC. 15. No person under the age of 18 years, and no person whose age or physical condition is such as to make his employment dangerous to his health or safety, or to the health or safety of others may be employed on a project. This section shall not be construed to operate against the employment of physically handicapped persons otherwise employable, where such persons may be safely assigned to work which they can perform.

SEC. 16. Only one member of a family group may be employed on projects as defined herein. This provision shall not be construed to interfere with the part-time employment of a youth member of the family by the National Youth Administration or the enrollment of a member of the family in the Civilian Conservation Corps.

SEC. 17. The fact that a person is entitled to or has received either adjusted service bonds or a Treasury check in payment of an adjusted compensation certificate shall not be considered in determining actual need of such employment.

SEC. 18. No alien illegally within the limits of the United States or alien who has not, prior to June 21, 1938, filed a declaration of intention to become an American citizen which is valid and has not expired, shall knowingly be given employment or continued in employment on any project.

SEC. 19. Preference in employment on projects shall be given in the following order:

(a) Veterans of the World War and the Spanish War and veterans of any campaign or expedition in which the United States has engaged who are in need and are American citizens.

(b) Other American citizens, Indians and other persons owing allegiance to the United States who are in need, and

(c) Those aliens in need whose declaration of intention to become American citizens were filed prior to June 21, 1938 and which are valid and have not expired.

SEC. 20. No person certified as in need shall be eligible for employment on any project financed from funds appropriated to the Works Progress Administration who has refused to accept employment on any other Federal or non-Federal project at an hourly wage rate comparable to or higher than the hourly wage rate established for similar work on projects financed from funds appropriated to the Works Progress Administration. However, any certified person who has been engaged on any Federal or non-Federal project and whose service has been regularly terminated through no fault of his own, shall not lose his eligibility for reemployment on any project financed from funds appropriated to the Works Progress Administration or on any other Federal or non-Federal project on account of such previous employment.

SEC. 21. Project employees and unassigned certified persons shall be expected to accept bona fide offers of private employment, whether of a permanent or temporary nature, provided that:

(a) The project employee is capable of performing such work.

(b) The rate of pay for such employment is not less than the standard prevailing rate of pay and the weekly or monthly earnings provide a reasonable subsistence.

(c) Such employment is not in conflict with established union relationships.

A certified person who takes such private employment shall at the expiration thereof be entitled to reemployment on a project if he is still in need and if he has lost the private employment through no fault of his own. However, project employees and certified persons awaiting assignment who refuse to accept such private employment shall be ineligible for employment on any project for the period such private employment would be available.

SEC. 22. As a condition to their continued employment on projects "project employees paid on an hourly basis" who are certified as in need shall be required to file quarterly a statement as to the amount of their earnings from outside employment while they were assigned on such projects. The quarterly statements of outside earnings shall be taken into consideration in continuing such certified persons in employment on projects.

SEC. 23. Persons certified as in need, including "project supervisory employees," who are authorized to work on projects at monthly earnings which are in excess of one hundred dollars ($100) per month shall have their certification of need cancelled and shall be considered as non-certified persons, provided that this requirement shall not be construed as prohibiting certified workers from receiving monthly earnings in excess of one hundred dollars ($100) per month when making up lost time or in an emergency as provided in section 6.

SEC. 24. Persons who are qualified for assignment to projects and who are eligible as specifically provided by law and by these regulations shall not be discriminated against on any grounds whatsoever, such as race, religion, membership in a labor organization or political affiliation.

SEC. 25. All projects shall be conducted in accordance with safe working conditions, and every effort shall be made for the prevention of accidents.

SEC. 26. Wages to be paid by the Federal Government may not be pledged or assigned, and any purported pledge or assignment shall be null and void.

SEC. 27. "Project employees on an hourly basis" shall be required to show evidence of registration and occupational classification by a designated office of the United States Employment Service before assignment to work on projects.

PART VI.—ASSIGNMENT, CLASSIFICATION AND EMPLOYMENT RECORDS

SEC. 28. The assignment and reassignment of "project employees' and the classification and reclassification by occupational title of "project employees paid on an hourly basis" shall be the responsibility of the State Works Progress Administration. The several State Work Progress Administrators are hereby authorized and directed to continue:

(a) To analyze occupational work experience and training of persons certified for project employment for the purpose of classifying them according to occupational characteristics;

(b) To make every reasonable effort, consistent with prompt employment to assign such persons to work on projects at their usual or related occupations; and

(c) To maintain individual occupational classification records showing work experience, qualifications, primary and secondary occupational classifications, and other related information.

PART VII.—EFFECTIVE DATE

SEC. 29. These rules and regulations shall become effective at the beginning of pay roll periods on and after August 1, 1938 and shall supersede Administrative Orders 2, 3, 6, 9, 15, 16, 26, 39, 42, 47, 53, 54, 55, 56, 57, and 58 of the Works Progress Administration which are here-

by rescinded. Pending revision thereto, rules and regulations heretofore issued in the Handbook of Procedures and related Operating Procedures shall continue in effect insofar as applicable and except as modified by the provisions of this Order.

[SEAL] HARRY L. HOPKINS,
Administrator.

JULY 11, 1938.

[F. R. Doc. 38-2227; Filed, August 2, 1938; 11:01 a. m.]

[Administrative Order No. 66]

REGULATIONS GOVERNING THE OPERATION OF THE SUPPLY FUND FOR THE PROCUREMENT, DISTRIBUTION, AND USE OF MATERIALS, SUPPLIES AND EQUIPMENT

By virtue of the provisions of the Emergency Relief Appropriation Act of 1938, and pursuant to Regulations issued by the Secretary of the Treasury, as provided in Section 17 of said Act, there has been established, for servicing non-Federal and Federal projects of the Works Progress Administration, a Supply Fund, in the nature of a revolving fund, for the purchase, repair, maintenance and distribution of materials, supplies, tools and equipment, and the rental of equipment, including the maintenance and operation of shops, warehouses, tool depots, and other depositiories for the handling of such properties. To accomplish the purposes of this Fund, I hereby prescribe the following administrative regulations.

PART I.—DEFINITIONS

SECTION 1. The term "project" as used herein shall mean projects or portions of projects of the Works Progress Administration which are financed in whole or in part from funds appropriated by the Emergency Relief Appropriation Act of 1938.

SEC. 2. The term "Nation-wide Supply Fund" as used herein shall mean the "Emergency Relief, Works Progress Administration, Supply Fund, 1938 and 1939", authorized by Section 17 of the Emergency Relief Appropriation Act of 1938, from which funds will be authorized to the State Works Progress Administrations for purchase, repair, maintenance, and distribution of materials, supplies, tools and equipment, and the rental of equipment.

SEC. 3. The term "State Supply Fund" as used herein shall mean the portion of the Nation-wide Supply Fund authorized to a State Works Progress Administration for the purchase, repair, maintenance, and distribution of materials, supplies, tools and equipment, and the rental of equipment.

SEC. 4. The terms "warehouse" and "storehouse" as used herein shall mean a building, shed, storage yard or other depository where materials, supplies, tools and equipment are stored, pending withdrawal for use on projects.

PART II.—THE NATION-WIDE SUPPLY FUND

SEC. 5. The Supply Fund shall be available to the Federal Works Progress Administrator for the purpose of establishing State Supply Funds through the issuance of advices of project authorizations, in accordance with Treasury Department Circular No. 543.

PART III.—THE STATE SUPPLY FUND

SEC. 6. The State Supply Fund may, at the option of the State Administrator, be operated either as an official project on a state-wide basis, or may be subdivided into local Supply Funds to be identified by work project numbers. The State Supply Fund, or any subdivision thereof, shall be available for the purchase, repair, maintenance, and distribution of materials, supplies, tools and equipment, and the rental of equipment, including the maintenance and operation of shops, warehouses, tool depots and other depositories for handling such properties. The operation of the Supply Fund shall be consistent with the principles of Section II (A) of Executive Order No. 7034; with the Regulations Relating to the Establishment of a Supply Fund, issued by the Secretary of the Treasury, pursuant to the provisions of Section 17 of the Emergency Relief Appropriation Act of 1938; with Regulations No. 1 (Treasury Department Circular No. 543), and with Treasury Department Accounting Procedure Memorandum No. 127, and supplements thereto.

PART IV.—ACQUISITION AND TRANSFER OF PROPERTY

SEC. 7. Property may be procured through the State Supply Fund by means of established procurement procedure, and such property subsequently may be transferred or rented to projects at values determined by the State Works Progress Administrator or his authorized representative as sufficient to equal the cost of the property to the Supply Fund.

SEC. 8. Property may be transferred to storehouses of the Supply Fund from project storehouses.

SEC. 9. Property produced or salvaged upon projects, when such property is intended for use on other projects, may be transferred to receiving projects or to the Supply Fund after being evaluated by the State Administrator or his authorized representative.

SEC. 10. Wherever possible, materials, supplies, tools and equipment required by projects shall be supplied from the inventory of the State Supply Fund.

SEC. 11. Property belonging to, or coming into the possession of, the Works Progress Administration under the following circumstances shall be evaluated by the State Works Progress Administrator or his authorized representative, and the Supply Fund shall be charged with the value thereof:

(a) Property transferred to the storehouse of the Supply Fund, which was surplus to the needs of Works Progress Administration projects completed or discontinued prior to July 1, 1938;

(b) Property declared surplus to the needs of other Federal agencies secured by the Works Progress Administration through the Procurement Division of the Treasury Department;

(c) Property donated to the Works Progress Administration by Federal or State relief agencies under appropriate written agreement; and

(d) Property donated, under appropriate written agreement, to the Works Progress Administration by sponsors, for which no future claim is to be made for recognition as sponsor's contribution, and which the sponsor does not intend to use on future projects sponsored by him.

In such instances, the corresponding credit shall be applied to an account entitled "Donated Property Received" (which account is a part of the Supply Fund), except that in the case of property described in item (a) above, the State Administrator or his authorized representative may direct that the transferring project and appropriation be credited. Upon reissue, requisitioning projects shall be charged and the Supply Fund shall be credited.

PART V.—CONTROL OF TRANSACTIONS BETWEEN PROJECTS AND THE STATE SUPPLY FUND

SEC. 12. A portion of the limitation of each project served by the State Supply Fund shall be reserved, in an amount estimated as sufficient to cover (a) the net value of property and services to be withdrawn from the State Supply Fund during any one month, and (b) the estimated monthly prorated share of the operating costs of the Supply Fund. The net charges made against a project resulting from transactions with the State Supply Fund shall not exceed, during any one month, the amount of the project limitation reserved for this purpose. Documents reflecting charges and credits to the Supply Fund shall be furnished promptly upon issuance to the appropriate U. S. Treasury Accounts Office, in accordance with Regulations No. 1 (Treasury Department Circular No. 543).

PART VI.—TRANSFER OF FUNDS BETWEEN PROJECTS AND THE STATE SUPPLY FUND

SEC. 13. A statement shall be prepared at least once each month by the State Works Progress Administrator, exhibiting the adjustments to be made in the accounts of the Supply Fund and the participating projects. The net total of all charges and credits for each project shall be computed, and the total net charge or credit due the Supply Fund for its transactions with all projects shall be determined. Adjustments shall be requested through the Treasury State Accounts Officer by executing the prescribed voucher.

SEC. 14. The operating cost of maintaining warehouses, and other expenses incidental to the operation of the Supply Fund, shall be computed and distributed monthly to projects upon a pro rata basis. A transfer of funds shall be effected by means of charges against the projects with a corresponding credit to the Supply Fund.

PART VII.—MAINTENANCE OF RECORDS FOR THE STATE SUPPLY FUND

SEC. 15. The State Works Progress Administrator shall be responsible for the maintenance of adequate records to reflect transactions between projects and the State Supply Fund; such records also shall show the amounts of the inventory charged to the State Supply Fund, classified according to major categories of materials, supplies, tools and equipment.

SEC. 16. This Administrative Order supersedes Administrative Order No. 61, dated April 19, 1938, which is hereby rescinded.

[SEAL] HARRY L. HOPKINS,
Administrator.

JULY 25, 1938.

[F. R. Doc. 38-2228; Filed, August 2, 1938; 11:01 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[I. C. C. No. 135]

THE ALASKA RAILROAD IN CONNECTION WITH ALASKA STEAMSHIP COMPANY (FX5–No. 5), PUGET SOUND FREIGHT LINES (FX5–No. 16)

JOINT FREIGHT TARIFF NO. 39[1] NAMING COMMODITY RATES FROM SEATTLE AND TACOMA, WASHINGTON, TO FAIRBANKS, ALASKA

Governed, except as otherwise provided herein, by The Western Classification No. 67 (as published in Consolidated Freight Classification No. 12), R. C. Fyfe's I. C. C. No. 25, supplements thereto or successive reissues thereof. Issued, July 1, 1938. Effective, July 3, 1938. Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

Application of Rates

ITEM No. 5. The commodity rates named herein apply only on shipments moving from Tacoma or Seattle, Washington, and destined to Fairbanks, Alaska, and will not apply to intermediate points.

[1] No supplement to this tariff will be issued, except for the purpose of cancelling the tariff, unless otherwise specifically authorized by the Commission.

ITEM No. 10. Rates named herein do not include charges for storage, wharfage, handling (trucking between wharf and ship's tackle), transfer, loading to or unloading from cars, lighterage or other terminal charges except that rates named herein include wharfage, handling and loading to cars at Seward, Alaska.

ITEM No. 15. The joint rates published herein include all charges for switching, drayage, wharfage, handling, loading or other transfer service at intermediate interchange points on shipments handled through and not stopped for special service at such intermediate interchange points.

ITEM No. 20. The rates herein apply only via the Alaska Steamship Company, Puget Sound Freight Lines, Tacoma, Washington to Seattle, Washington; the Alaska Steamship Company, Seattle, Washington to Seward, Alaska; The Alaska Railroad, Seward, Alaska to Fairbanks, Alaska.

ITEM No. 25. *Conditions of bill of lading.*—All property to be transported shall, unless otherwise agreed to in writing, be received, held, carried and delivered, subject to the conditions of the carrier's regular current bill of lading. All freight and other charges payable in United States gold coin or its equivalent.

Explanation of Abbreviations

ITEM No. 30.

C. I.	Carloads.
I. C. C.	Interstate Commerce Commission.
K. D.	Knocked Down.
Lbs.	Pounds.
No.	Number.
N. O. S.	Not otherwise specified.
Viz.	Namely.

Rules and Regulations

ITEM No. 35. *Terminal and other charges, privileges and allowances.*—Except as otherwise provided herein, shipments transported under this tariff are entitled to such privileges and subject to such charges as are published by individual lines, parties to this Tariff providing for Allowances, Arbitraries, Car Mileage, Demurrage, Diversions, Reconsignment, Rental of Special Equipment, Storage, Switching, Transfer and other Terminal Service, lawfully on file with the Interstate Commerce Commission.

ITEM No. 40. *Western classification—application of, when not in conflict with provisions of this tariff.*—The ratings, rules and regulations, estimated and minimum weights, shipping and packing requirements, allowances and privileges, or other provisions and conditions, shown in this Tariff, abrogate and supersede those in Western Classification named on title page in conflict.

When the ratings in this Tariff are silent as to rules and regulations, estimated and minimum weights, shipping and packing requirements, allowances and privileges or other provisions or conditions, the ratings which are prescribed in such commodity items shall be subject to the terms (including estimated and minimum weights, shippings and packing requirement, or other provisions or conditions) prescribed therefor in connection with the ratings in Western Classification referred to above on the same commodity.

ITEM No. 45. *Marine Insurance.*—Rates named herein do not include Marine Insurance. All risk of loss and damage incident to transportation of freight by water must be assumed by shippers, owners or consignee, who may protect themselves against such loss by covering their shipments with marine insurance.

[*Here follows, in the original document, a "Description of Commodities" and table of commodity rates; requests for copies should be addressed to the Division of Territories and Island Possessions, Department of the Interior.*]

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38-2222; Filed, August 2, 1938; 10:12 a. m.]

[I. C. C. No. 136 (Cancels 133)]

THE ALASKA RAILROAD IN CONNECTION WITH ALASKA STEAMSHIP COMPANY (FX5–No. 5), PUGET SOUND FREIGHT LINES (FX5–No. 16)

JOINT FREIGHT TARIFF NO. 36–E[1] NAMING COMMODITY RATES FROM SEATTLE AND TACOMA, WASHINGTON, TO ANCHORAGE, ALASKA

Governed, except as otherwise provided herein, by The Western Classification No. 67 (as published in Consolidated Freight Classification No. 12), R. C. Fyfe's I. C. C. No. 25, supplements thereto or successive reissues thereof. Issued, July 1, 1938. Effective, July 3, 1938. Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

Application of Rates

ITEM No. 5. The commodity rates named herein apply only on shipments moving from Tacoma or Seattle, Washington, and destined to Anchorage, Alaska, and will not apply to intermediate points.

ITEM No. 10. Rates named herein do not include charges for storage, wharfage, handling (trucking between wharf and ship's tackle), transfer, loading to or unloading from cars, lighterage or other terminal charges except that rates named herein include wharfage, handling and loading to cars at Seward, Alaska.

ITEM No. 15. The joint rates published herein include all charges for switching, drayage, wharfage, handling, loading or other transfer service at intermediate interchange points on shipments handled

[1] Cancels Joint Freight Tariff No. 36–D (3 F. R. 841 DI). No supplement to this tariff will be issued except for the purpose of cancelling the tariff, unless otherwise specifically authorized by the Commission.

through and not stopped for special service at such intermediate interchange points.

ITEM No. 20. The rates herein apply only via the Alaska Steamship Company, Puget Sound Freight Lines, Tacoma, Washigton to Seattle, Washington; the Alaska Steamship Company, Seattle, Washington to Seward, Alaska; The Alaska Railroad, Seward, Alaska to Anchorage, Alaska.

ITEM No. 25. *Conditions of bill of lading.*—All property to be transported shall, unless otherwise agreed to in writing, be received, held, carried and delivered, subject to the conditions of the carrier's regular current bill of lading. All freight and other charges payable in United States gold coin or its equivalent.

Explanation of Abbreviations

ITEM No. 30.

C. L.	Carloads.
I. C. C.	Interstate Commerce Commission.
K. D.	Knocked Down.
Lbs.	Pounds.
No.	Number.
N. O. S.	Not otherwise specified.
Viz.	Namely.

Rules and Regulations

ITEM No. 35. *Terminal and other charges, privileges and allowances.*—Except as otherwise provided herein, shipments transported under this tariff are entitled to such privileges and subject to such charges as are published by individual lines, parties to this Tariff providing for Allowances, Arbitraries, Car Mileage, Demurrage, Diversions, Re-consignment, Rental of Special Equipment, Storage, Switching, Transfer and other Terminal Service, lawfully on file with the Interstate Commerce Commission.

ITEM No. 40. *Western classification—Application of, when not in conflict with provisions of this tariff.*—The ratings, rules and regulations, estimated and minimum weights, shipping and packing requirements, allowances and privileges, or other provisions and conditions, shown in this Tariff, abrogate and supersede those in Western Classification named on title page in conflict.

When the ratings in this Tariff are silent as to rules and regulations, estimated and minimum weights, shipping and packing requirements, allowances and privileges or other provisions or conditions, the ratings which are prescribed in such commodity items shall be subject to the terms (including estimated and minimum weights, shippings and packing requirement, or other provisions or conditions) prescribed therefor in connection with the ratings in Western Classification referred to above on the same commodity.

ITEM No. 45. *Marine insurance.*—Rates named herein do not include Marine Insurance. All risk of loss and damage incident to transportation of freight by water must be assumed by shippers, owners or consignee, who may protect themselves against such loss by covering their shipments with marine insurance.

[*Here follows, in the original document, a "Description of Commodities" and table of commodity rates; requests for copies should be addressed to the Division of Territories and Island Possessions, Department of the Interior.*]

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38-2221; Filed, August 2, 1938; 10:12 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

VIRGINIA

AUGUST 1, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Virginia State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Amherst, Augusta, Brunswick, Campbell, Charlotte, Dickenson, Giles, Greensville, Isle of Wight, Lee, Lunenburg, Nansemond, Northampton, Patrick, Pittsylvania, and Washington.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2239; Filed, August 2, 1938; 12:46 p. m.]

[1] 2 F. R. 2965 (3424 DI).

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3428]

IN THE MATTER OF UNITED EDUCATORS, INC.; GENERAL RESEARCH FOUNDATION, INC.; PUBLISHERS FINANCE COMPANY, INC.; WARREN T. DAVIS; JOSEPH J. RINK, AND ELMER C. WOLFORD

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, August 5, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 332, Federal Trade Commission Building, 6th and Constitution Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2219; Filed, August 2, 1938; 10:11 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in Washington, D. C., on the 28th day of July, A. D. 1938.

[File No. 52-6]

IN THE MATTER OF LOUIS R. GATES, R. W. SAMUELSON, IRA C. SNYDER, DONALD L. PETTIS, AND A. Z. PATTERSON, AS REORGANIZATION MANAGERS OF THE UNITED TELEPHONE AND ELECTRIC COMPANY

ORDER APPROVING REORGANIZATION PLAN

Louis R. Gates, R. W. Samuelson, Ira C. Snyder, Donald L. Pettis, and A. Z. Patterson (hereinafter referred to as the applicants) having submitted for approval under Section 11 (f) of the Public Utility Holding Company Act of 1935 a plan of reorganization with reference to The United Telephone and Electric Company, a registered holding company, and having filed an application in connection therewith under Rule U-11F-1; and

The applicants having incorporated in said plan and application under Section 11 (f) various declarations and applications pursuant to Sections 7, 10, and 11 (g) of the said Act, and the rules and regulations promulgated thereunder; and

Joint hearings having been held on the said applications and declarations after appropriate notice;[1] the Commission having heard argument and having considered the record in these matters, and having made and filed its findings herein;

[1] 2 F. R. 2402 (2787 DI).

It is ordered, That the said plan of reorganization be and the same hereby is approved; that the said declarations be and become effective forthwith; and that the said applications be and the same hereby are granted, subject, however, to the following terms and conditions:

(1) That pursuant to Rule U-11F-1 (c) the Commission reserves jurisdiction to consider any amendments modifying the plan or any other amendments filed subsequent to the approval herein granted;

(2) That the proposed voting trust agreement be modified in such manner that on or before January 1, 1942, every holder of a voting trust certificate be given a reasonable time within which to withdraw his portion of the common stock, and that such modification be reflected in an amendment filed within 10 days after the entry of this order; and

(3) That the consummation of the plan be effected in susbtantial compliance with the terms and conditions and for the purposes represented by said filings, declarations, and applications, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2216; Filed, August 1, 1938; 1:11 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of August, A. D. 1938.

[File No. 31-116]

IN THE MATTER OF THE APPLICATION OF HOUSTON NATURAL GAS CORPORATION

ORDER DENYING EXEMPTION FROM PROVISIONS OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Houston Natural Gas Corporation having made application for exemption from the provisions of the Public Utility Holding Company Act of 1935; notice and opportunity for hearing on said application having been duly given; a hearing having been held on said application;[1] oral argument having been held before the Commission in connection with said application; the record in this matter having been duly considered, and the Commission having made appropriate findings of fact as fully set forth in the Commission's Findings of Fact and Opinion this day issued;

It is ordered, That the application for exemption is hereby denied.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2238; Filed, August 2, 1938; 12:44 p. m.]

[1] 3 F. R. 1176 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of August, A. D. 1938.

[File No 34-7]

IN THE MATTER OF MIDLAND UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 11 (f) and 11 (g) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Melvin L. Emerich, Robert P. Minton and Leo J. Sheridan as a Committee for the holders of Debentures of Midland Utilities Company,

It is ordered, That a hearing on such matter be held on August 19, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 15, 1938.

The matter concerned herewith is in regard to an approval of and a report by this Commission on a proposed plan of reorganization of Midland Utilities Company, as amended on July 26, 1938 and on July 30, 1938. Said plan of reorganization as amended provides for the formation of a new corporation (hereinafter referred to as the "New Company") having an authorized capitalization of 3,000,000 shares of common stock, par value $1 per share, the acquisition by the New Company of all of the assets of Midland Utilities Company and the issuance by the New Company of 1,999,757 shares of such common stock in respect of the claims and interest of creditors and stockholders of said Midland Utilities Company as hereinafter set forth.

The following is a statement of the treatment of claims and interests under the plan and under the plan as amended:

A:

Description of claims and interests	Claim or interest allowed under plan	Claim or interest allowed under plan as amended	New common stock to be distributed under plan	New common stock to be distributed under plan as amended
1. Secured notes:				
Continental Illinois National Bank and Trust Company of Chicago, $2,360,000 and interest	$2,360,000	$2,364,750	*Shares* 370,520	*Shares* 349,983
Midland United Company, $3,920,000	3,920,000	3,920,000	615,440	580,160
The Peoples Gas Light and Coke Company service annuity trust, $1,091,120	1,050,000	1,013,500	164,850	149,998
2. Debentures	6,000,000	6,000,000	642,000	600,000
3. Unsecured debt to Midland United Co., $7,627,213.17 plus interest and sundry items aggregating $50,757.17	4,250,000	4,250,000	144,500	209,844
	Shares	*Shares*		
4. Prior lien stock	210,635	210,635	42,127	84,254
5. Preferred stock	178,624	178,624	17,863	25,518

B. Midland Utilities Company will sell, assign and transfer to Northern Indiana Public Service Company all of the common stock of Gary Electric and Gas Company now owned by Midland Utilities Company (constituting 75 per cent of the outstanding stock of Gary Electric and Gas Company) in consideration of the following:

(1) Full payment, release and satisfaction of the claims of Northern Indiana Public Service Company against Midland Utilities Company as follows:

Unsecured demand note claim allowed in the amount of	$799,904.51
Unliquidated Claim for alleged contractual damages	2,320,000.00

(2) The Assumption by Northern Indiana Public Service Company of the allowed claims of Gary Electric and Gas Company, Berrien Gas and Electric Company, and Shore Line Shops, Incorporated, as follows:

Gary Electric and Gas Company	$380,688.00
Berrien Gas and Electric Company	1,805.22
Shore Line Shops, Incorporated	7,848.75

(3) The release and satisfaction of said claims against Midland Utilities Company by Gary Electric and Gas Company, Berrien Gas and Electric Company, and Shore Line Shops, Incorporated.

AUG 6 1938

C. All other allowed claims are to be adjusted in cash or on such other basis as may be approved by the Court.

D. The following claims are to be withdrawn or disallowed in their entirety:

(1) Claims of Commonwealth Subsidiary Corporation, Peoples Gas Subsidiary Corporation, and Public Service Subsidiary Corporation, as pledgees of secured notes given to Midland United Company, in the amounts of $1,851,860.00, $1,411,060.00, and $657,080.00, respectively, and aggregating $3,920,000.00.

(2) Claims of the Trustees of Midland United Company for $3,726,348.68 and of Continental Illinois National Bank and Trust Company of Chicago for $2,116,598.43, which are based on contingent liabilities of Midland Utilities Company on or for endorsements.

(3) Claim of the Trustees of Midland United Company in the amount of $1,502,552.07 for the book value of securities lent by Midland United Company to Midland Utilities Company and pledged by it, without prejudice, however, to the right of the Trustees of Midland United Company to receive back from Midland Utilities Company or the New Company the securities so borrowed and pledged when such securities have been repossessed by Midland Utilities Company or the New Company upon consummation of the plan.

(4) Claims of Trustees of Midland Utilities Company against Midland United Company in the aggregate amount of $2,126,038 or all other creditors' claims filed on behalf of or belonging to Midland Utilities Company against Midland United Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2237; Filed, August 2, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of August A. D. 1938.

[File No. 31-219]

IN THE MATTER OF ALEXANDRIA GAS COMPANY, WASHINGTON SUBURBAN GAS COMPANY, AND PATUXENT GAS COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION PURSUANT TO REQUEST OF APPLICANT, AND CANCELLING HEARING

An application pursuant to Section 2 (a) (8) of the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above-named parties for orders declaring each of said parties not to be a subsidiary of Washington and Suburban Companies, a registered holding company; and

The Commission having entered an order herein directing that a public hearing be held on such matter on August 8, 1938; [1] and

The above-named parties having withdrawn their applications and requested the consent of the Commission to such withdrawal;

The Commission having due regard to the public interest and the interest of investors and consumers, consents to the withdrawal of the applications, and directs that the public hearing set for August 8, 1938, be and the same hereby is cancelled, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2236; Filed, August 2, 1938; 12:44 p. m.]

[1] 3 F. R. 1832 DI.

AUG 6 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 151

Washington, Thursday, August 4, 1938

Rules, Regulations, Orders

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3162]

IN THE MATTER OF NATIONAL SILVER COMPANY, A CORPORATION, AND SAMUEL E. BERNSTEIN, PHILIP J. BERNSTEIN, MORTON BERNSTEIN, MILTON BERNSTEIN, BERNARD BERNSTEIN, HARRY S. BERK AND STELLA BERK, INDIVIDUALLY, AND AS OFFICERS AND DIRECTORS

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, briefs and oral arguments having been waived, and the Commission having made its findings as to the facts and its conclusion that the said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondents National Silver Company, a corporation, its officers and directors, Samuel E. Bernstein, Philip J. Bernstein, Morton Bernstein, Milton Bernstein, Bernard Bernstein and Harry S. Berk, and their successors, and its representatives, agents and employees, in connection with the offering for sale, sale and distribution of silverplated ware in interstate commerce or in the District of Columbia, do forthwith, directly or indirectly, cease and desist from:

1. Representing that any price at which silverplated ware is offered for sale or sold is a special or reduced price, or a price that is lower than the price ordinarily and usually received therefor, when such is not the fact;

2. Aiding, abetting or assisting retail dealers in silverplated ware in representing that any price at which silverplated ware is offered for sale or sold is a special or reduced price, or a price that is lower than the price ordinarily and usually received therefor, when such is not the fact;

3. Representing that said silverplated ware is of a certain, specified quality or standard, when such is not the fact;

4. Aiding, abetting or assisting retail dealers in silverplated ware in representing that said silverplated ware is of a certain, specified quality or standard, when such is not the fact;

5. Representing, or authorizing others to represent, that the respondent corporation is a manufacturer of silverplated ware, when such is not the fact;

6. Representing, or authorizing others to represent, that respondent corporation was established in 1890.

It is further ordered, That this proceeding be, and the same hereby is, dismissed as to the respondent Stella Berk.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2253; Filed, August 3, 1938; 11:18 a. m.]

[1] 3 F. R. 648 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 16 — COMPETITIVE PRACTICES:
Federal Trade Commission: Page
National Silver Co., et al, cease and desist order --- 1923
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Abatement or refund of fortification tax on certain brandy --- 1926
Blending of pure fruit brandies --- 1925
Fruit wines --- 1929
Losses of brandy and fruit spirits intended for fortification of wine --- 1925
Losses in the fortifying room of a bonded winery or in transit thereto, etc --- 1929
Manufacture of brandy --- 1926
Removal of wines for transfer in bond or for use as distilling material --- 1928
Transfer by pipe line of brandy and fruit spirits for fortification of wine --- 1930
Vermouth, manufacture on bonded winery premises --- 1927
Withdrawal of samples of brandy or fruit spirits --- 1924

NOTICES

Federal Power Commission:
New Jersey Power & Light Co., and Jersey Central Power & Light Co., hearing postponed --- 1932
Federal Trade Commission:
Gravitonic Light Ray Corp., Inc., and Fred W. Reed, order appointing examiner, etc --- 1932

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission:
Listing and registration hearings: Page
International Cinema, Inc., common stock ---------- 1932
Kinner Airplane & Motor Corp., Ltd., common stock ---------- 1932
Treasury Department:
Bureau of Customs:
Identification of court decisions published in *Treasury Decisions* ---------- 1931

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4839]

WITHDRAWAL OF SAMPLES OF BRANDY OR FRUIT SPIRITS

To District Supervisors and Others Concerned:

Section 618 (a) of the Revenue Act of 1918 (U. S. C., 1934 ed., title 26, sec. 1303) as amended by the Act of June 15, 1938 (Public—No. 635—75th Congress), provides in part as follows:

• • • That suitable samples of brandy or fruit spirits may be withdrawn under rules and regulations to be prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, which samples shall be tax-free if for laboratory analysis and tax-paid if for any other use • • •.

Pursuant to the above-quoted provision of law the following regulations are prescribed:

TAX-FREE SAMPLES FOR LABORATORY ANALYSIS

1. *Unfinished spirits in distillery.*—The distiller may take samples of unfinished brandy or fruit spirits in the course of distillation for laboratory analysis. Each sample may not exceed one-half pint and the total number of samples must be restricted to the minimum necessary to accomplish the purpose of the laboratory analysis.

2. *Finished spirits in receiving cistern.*—The distiller may take from the receiving cistern of the distillery samples of brandy or fruit spirits for laboratory analysis. Such samples may not exceed one pint for each distillation of each kind of brandy or fruit spirits produced daily.

3. *Spirits in warehouse.*—The warehouseman may remove samples of brandy or fruit spirits from designated packages in the warehouse for laboratory analysis. Such samples must be taken from packages designated as "Sample Packages". Such samples may not exceed one-half pint from any package and the number of packages from which samples are taken must be restricted to the minimum necessary to accomplish the purpose of the laboratory analysis. As a rule, not more than one or two samples should be required at any one time from a given lot of spirits of the same distillation, kind of cooperage, etc. When the warehouseman desires to procure samples from a given lot of spirits in warehouse, he will limit the number of packages from which it is desired to take samples to the minimum necessary to procure representative samples of such spirits. Thereafter, if it is desired to procure additional samples from the same lot of spirits, the samples should be taken from the same packages.

4. *Disposition of samples.*—Tax-free samples must be used solely for laboratory analysis. Such samples may not be furnished to salesmen and dealers for advertising or soliciting purposes. Remnants or residues of tax-free samples taken from the distillery, cistern room, or warehouse, remaining after analysis and which are not desired to be retained as laboratory specimens or for further analysis, should be returned to vessels in the distilling system containing similar spirits, unless the condition of the remnants or residues is such as to render them unsuitable for such disposition. If such remnants or residues of samples are unsuitable for return to the distilling system, they should be destroyed.

TAX-PAID SAMPLES FOR OTHER THAN LABORATORY ANALYSIS

5. *Spirits in distillery.*—The distiller may take samples of brandy or fruit spirits in the distillery, either in the course of distillation or from the receiving cisterns, for other than laboratory analysis, subject to payment of tax on the quantity so removed. Such samples must be used strictly for sample purposes, and the number and size of the samples must be restricted to that necessary for bona fide sample purposes.

6. *Spirits in the warehouse.*—The warehouseman may remove samples of brandy or fruit spirits from designated packages in the warehouse for other than laboratory analysis, subject to payment of tax on the quantity so removed. Such samples must be taken from packages designated as "Sample Packages", must be used strictly for sample purposes, and the number and size of the samples must be restricted to that necessary for bona fide sample purposes. The number of packages from which such samples are taken must be restricted to the minimum necessary to accomplish the desired purpose. As a rule, it should not be necessary to take samples from more than one or two packages of a given lot of spirits of the same distillation, kind of cooperage, etc. When the warehouseman desires to procure samples from a given lot of spirits in warehouse, he will limit the number of packages from which it is desired to take samples to the minimum necessary to procure representative samples of such spirits. Thereafter, if it is desired to procure additional samples from the same lot of spirits, the samples should be taken from the same packages.

GENERAL PROVISIONS

7. *Application.*—When the distiller or warehouseman desires to procure samples of brandy or fruit spirits he shall make application in triplicate to the district supervisor. The application should specify whether the samples are desired for laboratory analysis tax-free or for other purposes subject to payment of tax, the reasons why the samples are desired, the number and size of the samples to be taken, and the place or places of removal. If the samples are to be taken from packages in warehouse, the serial numbers of the packages must be specified. Where it is desired to take samples from the distillery daily for laboratory purposes, the application may be made for such to be done regularly. No samples may be taken until the application is approved.

8. *Approval of application.*—The district supervisor must satisfy himself as to the need for the number of samples desired and the legitimacy of the purpose for which they are to be used, before approving the application. If the supervisor approves the application, he will return one copy to the applicant, send one copy to the storekeeper-gauger at the distillery or warehouse, and retain the other copy in his office.

9. *Removal under supervision.*—All samples must be taken under the immediate supervision of the storekeeper-gauger.

10. *Label.*—Each bottle containing a sample of brandy or fruit spirits must have affixed thereto by the distiller or warehouseman a label showing the name of the producing distiller, the kind of spirits, the word "Sample", and the purpose for which it is intended. The label may contain such other identifying data as the distiller or warehouseman desires to place thereon. Samples of spirits taken subject to payment of tax must have appropriate red strip stamps affixed to the bottles, and, where the quantity is one-half pint or more, the distiller or warehouseman should use his indicia bottles.

11. *Office record.*—The storekeeper-gauger will keep an office record of all samples taken, giving the date, number, quantity in wine and proof gallons, the proof, and, when removed from packages in warehouse, the name of the distiller, the registered number of the distillery, and the serial numbers of the packages. Taxable samples will be recorded separately from tax-free samples. The record will be so kept that all taxable samples removed from the same package will be entered together in chronological order and that all tax-free samples from the same package will be entered in a similar manner.

12. *Marking entry, Form 1520.*—When the first sample is taken from any package the storekeeper-gauger will note the letters "S. P.," indicating sample package, in red ink on the entry Form 1520 opposite the serial number of the package.

13. *Marking package.*—When the first sample is taken from any package the warehouseman will, under the supervision of the storekeeper-gauger, stencil upon the Government head of such package the letters "S. P."

14. *Credit upon withdrawal of package.*—Upon the withdrawal of a package of brandy or fruit spirits from which samples have been removed, the storekeeper-gauger will enter on the withdrawal Form 1520 in red ink in Column 14 the total quantity of the taxable samples and, separately, the total quantity of tax-free samples removed from the package, followed by the words "Samples Tax-Paid" and "Samples Tax-Free," respectively. The total quantity of all samples taken from the package will be included with the allowable loss in calculating (1) the taxable gallons if the package is withdrawn upon payment of tax, or (2) the taxable loss, if any, if the package is withdrawn without payment of tax. The quantity withdrawn as samples will also be entered by the storekeeper-gauger on Form 1513 as withdrawn tax-paid or tax-free, as the case may be. Should the package be transferred in bond to another warehouse the storekeeper-gauger will make like entries in red ink on the transfer Form 236 or 1520 in order that similar adjustment may be made when the package is withdrawn from the receiving warehouse.

15. *Report of taxable samples.*—At the end of each month the storekeeper-gauger will prepare a report on Form 1615, in quadruplicate, of all taxable samples of brandy or fruit spirits withdrawn during the month from the distillery or warehouse, or the distillery and warehouse where both are operated by the same person under the supervision of the same storekeeper-gauger in charge. All of the information called for by the form will be furnished. The storekeeper-gauger will retain one copy of the form and will deliver the remaining three copies to the distiller or warehouseman, who will forward the three copies to the collector with remittance for the tax due. The collector will execute his certificate of tax payment on each copy of the form, retain one copy, and return the remaining two copies to the distiller or warehouseman, who will retain one copy and deliver the other copy to the storekeeper-gauger. The storekeeper-gauger will note the tax-payment on his retained copy and will forward the other copy to the district supervisor.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2240; Filed, August 2, 1938; 4:02 p. m.]

[T. D. 4840]

BLENDING OF PURE FRUIT BRANDIES

To District Supervisors and Others Concerned:

Section 6 of the Act of June 15, 1938 (Public—No. 635—75th Congress) provides as follows:

SEC. 6. The fourth paragraph of section 605 of the Revenue Act of 1918, approved February 24, 1919 (U. S. C., 1934 edition, title 26, sec. 1151 (b)), is amended to read as follows:

"The taxes imposed by the first paragraph of this section shall not attach to cordials or liqueurs on which a tax is imposed and paid under sections 611 or 613 of this Act, as amended, nor to the mixing and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards, nor to blends made exclusively of two or more pure straight whiskies aged in wood for a period not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof; nor to blends made exclusively of two or more pure fruit brandies distilled from the same kind of fruit, aged in wood for a period not less than two years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof: Provided, That such blended whiskies and blended fruit brandies shall be exempt from tax under the first paragraph of this section only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Commissioner, with the approval of the Secretary, may prescribe."

1. Pursuant to the above-quoted amendment of Section 605 of the Act of February 24, 1919, the provisions of Paragraphs 114 to 123, inclusive, of Regulations 15, approved July 30, 1934, relative to the blending of straight whiskies, are hereby extended to govern the blending of pure fruit brandies distilled from the same kind of fruit, aged in wood for a period of not less than two years, and without the addition of coloring or flavoring matter or any other substance, except pure water in a quantity which will not result in reducing the spirits below 90 degrees of proof.

2. The prohibition against the addition of coloring or flavoring matter shall not be construed to prevent the blending under the provisions of these regulations of pure fruit brandies otherwise eligible to which a small amount of burnt sugar has been added in accordance with the provisions of Article CVII, Part Three of Regulations 7, approved March 6, 1930.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2241; Filed, August 2, 1938; 4:02 p. m.]

[T. D. 4841]

LOSSES OF BRANDY AND FRUIT SPIRITS INTENDED FOR FORTIFICATION OF WINE

To District Supervisors and Others Concerned:

Section 3 of the Act of June 15, 1938 (Public—No. 635—75th Congress) provides as follows:

SEC. 3. The Commissioner of Internal Revenue, under rules and regulations to be by him prescribed with the approval of the Secretary of the Treasury, upon the presentation of proof to his satisfaction of the loss by leakage, evaporation, theft, or otherwise of brandy or fruit spirits, intended for the fortification of wine, from storage tanks in bonded warehouses or from steel drums filled therefrom while such drums are in such warehouse, and in the fortification room of a bonded winery, not occurring as the result of any negligence, connivance, collusion, or fraud on the part of the winemaker or his agents, is hereby authorized to remit or refund the taxes assessed or paid upon such lost brandy or fruit spirits: Provided, however, That such remission or refund shall be allowed only to the extent that the distiller or winemaker is not indemnified or recompensed for such loss.

Pursuant to the above-quoted provision of law, Part Three of Regulations 7, approved March 6, 1930, is hereby amended by modifying Paragraphs 457 and 460 and by the addition of three new paragraphs designated 459a, 459b, and 459c, as follows:

"PAR. 457. No allowance can be made for losses of brandy or fruit spirits by leakage or evaporation from receiving tanks in the distillery or from storage tanks in the brandy deposit room, or, except as provided in Section 3 of the Act of June 15, 1938, from storage tanks in the bonded warehouse or from packages filled from such warehouse storage tanks, and the tax must be paid on all such losses: Provided, however, That where there is a deficiency of not over one-half of one per cent on such tanks

the same will be ascribed to variation in gauge, in the absence of evidence to the contrary, and no tax will be collected thereon."

"PAR. 459a. The quantity of brandy or fruit spirits intended for use in the fortification of wine which is lost by leakage or evaporation from storage tanks in a bonded warehouse shall be determined and reported monthly. The extent of the loss for each month shall be established by comparison of the quantity shown by actual inventory with the quantity carried in the warehouse accounts as remaining in storage tanks at the end of the month.

"PAR. 459b. Where the loss of brandy or fruit spirits intended for the fortification of wine, by leakage or evaporation from warehouse storage tanks during any calendar month does not exceed one per cent of the actual quantity withdrawn from such tanks for shipment or transfer to bonded wineries for the fortification of wine, application for allowance of the loss will not be required, provided there are no circumstances indicating that the brandy or fruit spirits, or any part thereof, were destroyed, unlawfully used, or unlawfully removed from the warehouse, with the knowledge, consent, connivance, or collusion of the distiller or warehouseman. The allowance of not to exceed one per cent during any one month for losses by leakage or evaporation of such brandy or fruit spirits from warehouse storage tanks shall not be cumulative. Such allowance of one per cent shall apply to the losses for each month, which must be determined separately.

"PAR. 459c. The quantity of brandy or fruit spirits intended for the fortification of wine which is lost by leakage or evaporation from steel drums filled from warehouse storage tanks shall be determined by regauge thereof upon withdrawal for shipment or transfer to a bonded winery for the fortification of wine. The quantity found to be so lost will be entered by the storekeeper-gauger in Column 14 of Form 1520. Application for allowance of the loss will not be required, provided there are no circumstances indicating that the brandy or fruit spirits, or any part thereof, were destroyed, or unlawfully used, or unlawfully removed from the warehouse, with the knowledge, consent, connivance, or collusion of the distiller or warehouseman. Where the regauge indicates that the package has been tampered with, as where a material deficiency is found and there is no evidence of loss by leakage or casualty, or where deterioration in proof not accountable for by variation in gauge is disclosed, the officer will immediately notify the District Supervisor of all the facts in the case and will not permit the package to be removed pending the receipt of instructions from the District Supervisor.

"PAR. 460. Allowance for losses of brandy or fruit spirits intended for the fortification of wine, by leakage or evaporation from warehouse storage tanks, in excess of one per cent per month, calculated in accordance with the provisions of Paragraph 459b, or by theft or other cause than leakage or evaporation from warehouse storage tanks or steel drums filled from such storage tanks, or for losses of brandy or fruit spirits, regardless of intended use, by theft or casualty in the warehouse or in transit while in possession of a common carrier, or by casualty while in the distillery, will be made pursuant to claim filed by the distiller or warehouseman, as the case may be, under oath, for remission of tax on the brandy or fruit spirits lost, except that in the case of loss in transit to a bonded winery the claim will be filed by the winemaker. Losses other than those due to leakage or evaporation must be reported to the Supervisor of the district in which the distillery or warehouse is located, immediately after they are discovered. Claims for remission of tax on brandy or fruit spirits lost must be filed with the District Supervisor within 30 days after the loss is discovered, except that claims for the allowance of losses of brandy or fruit spirits intended for the fortification of wine, by leakage or evaporation from warehouse storage tanks must be filed within 10 days after the end of the month during which the losses occurred. The claims must set out all the material facts and circumstances relating to the loss, and particularly the nature, cause, and extent of the loss. The claim must state whether the distiller, warehouseman, or winemaker, as the case may be, is indemnified against or recompensed for the loss of the brandy or fruit spirits, and specifically whether the brandy or fruit spirits were insured."

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2242; Filed, August 2, 1938; 4:02 p. m.]

[T. D. 4842]

MANUFACTURE OF BRANDY

To District Supervisors and Others Concerned:

Subsection (e) of Section 8 of the Act of June 15, 1938 (Public—No. 635—75th Congress) provides as follows:

(e) The first proviso of section 3255 of the Revised Statutes, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1176), is amended by inserting after the words "apricot wine", wherever they appear, a comma and the following: "prune wine, plum wine, pear wine"; and by inserting after the words "apricot brandy" a comma and the following: "prune brandy, plum brandy, pear brandy".

Pursuant to the authority conferred by Section 3255, R. S., as amended, the first subparagraph of Par. 317, Part Three of Regulations 7, approved March 6, 1930, as amended by T. D. 4793, is hereby further amended to provide as follows:

"PAR. 317. Section 3255, R. S., as amended, authorizes the Commissioner, with the approval of the Secretary, to exempt distillers of brandy made exclusively from apples, peaches, grapes, oranges, pears, pineapples, apricots, berries, plums, pawpaws, persimmons, prunes, figs, cherries, dates, or citrus-fruits (except lemons and limes), or from wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, in the manufacture of which artificial sweetening has been used, or from the fruit pomace residuum of such wine, or from grape cheese where not more than 500 gallons of a sugar solution made from cane, beet, starch, or corn sugar, 95 per centum pure, and having a saccharine strength of not to exceed 10 per centum, is added to not less than 500 gallons (10 barrels) of such cheese, from any provision of the internal revenue laws relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so. By virtue of this authority distillers producing brandy from such materials are hereby exempted from the following provisions of law:".

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2243; Filed, August 2, 1938; 4:03 p. m.]

[T. D. 4843]

ABATEMENT OR REFUND OF FORTIFICATION TAX ON BRANDY CONTAINED IN WINE EXPORTED OR REMOVED FOR MANUFACTURE OF VINEGAR OR DEALCOHOLIZED WINE OR WHICH BECOMES UNFIT FOR USE AS WINE AND IS USED AS DISTILLING MATERIAL

To District Supervisors and Others Concerned:

Section 618 (a) of the Revenue Act of 1918 (U. S. C., 1934 ed., title 26, sec. 1303), as amended by Section 1 of the Act of June 15, 1938 (Public—No. 635—75th Congress), provides in part as follows:

• • • That the Commissioner of Internal Revenue under rules and regulations to be by him prescribed subject to the approval of the Secretary of the Treasury, shall remit or refund all fortification taxes assessed or paid upon the quantity of fortifying spirits contained in wines exported, or which have become unfit for use as wine and are used as distilling material.

Pursuant to the foregoing provision of law, Article LXIII of Regulations 7, Relative to the Production, Fortification, Tax Payment, Etc., of Wine, approved October 6, 1937,[1] is hereby amended as follows:

"ARTICLE LXIII.—ABATEMENT OR REFUND OF FORTIFICATION TAX ON BRANDY CONTAINED IN WINE EXPORTED OR REMOVED FOR MANUFACTURE OF VINEGAR OR DEALCOHOLIZED WINE OR WHICH BECOMES UNFIT FOR USE AS WINE AND IS USED AS DISTILLING MATERIAL

"PAR. 314. *Claim for abatement or refund of fortification tax.*—Where fortified wine is exported or removed for the manufacture of vinegar or the production of dealcoholized wine containing less than one-half of 1 per cent of alcohol by volume, or becomes unfit for use as wine and is used as distilling material, the fortifying tax on the brandy contained in the wine will be abated or refunded upon the filing of proper claim by the producer of the wine, supported by evidence clearly establishing the quantity, in proof gallons, of fortifying brandy contained in the wine and its exportation, removal for manufacture of vinegar or dealcoholized wine, or its spoilage and use as distilling material, as the case may be.

"PAR. 315. *Alcoholic content shown by the records.*—The winery records, including Forms 275 and 702, pertaining to the fortification, storage, and removal of fortified wine exported or removed for the manufacture of vinegar or dealcoholized wine, or which becomes unfit for use as wine and is used as distilling material, must clearly show the alcoholic content of the wine both before and after fortification, and the quantity in proof gallons of brandy added to the wine in fortification. Such wine must be stored in separate tanks, packages, or other containers, kept completely separated from other wines, and a label containing this information must be attached to the containers of the wine.

"PAR. 315a. *Unfitness for use as wine and use as distilling material.*—When fortified wine becomes unfit for use as wine and is to be used as distilling material the proprietor will, before removal of the wine, request the district supervisor to detail a Government officer to inspect the wine and witness the removal thereof. The officer will carefully inspect the wine, obtain from each package or bulk container a pint sample of the contents, and will witness removal of the wine. The officer will make a report of his findings and action to the district supervisor, and will submit the samples to the nearest Bureau branch laboratory for analysis. The chemist will test the samples of wine submitted by the officer for both alcohol and acids and examine the same for other cause of spoilage, and will state in his report whether the wine is unfit for use as such. Where the analysis indicates that the wine has been tampered with the chemist will so state in his report. If the wine removed is not unfit for use as wine, or if it has been tampered with, as by the removal of original contents and the substitution of water or other liquid therefor, the fortifying tax assessed or paid on the brandy used in fortifying the wine will not be abated or refunded. When received at the distillery, the wine must be used for distilling material under supervision of a Government officer."

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2244; Filed, August 2, 1938; 4:03 p. m.]

[1] 2 F. R. 2111 (2467 DI).

[T. D. 4844]

MANUFACTURE OF VERMOUTH ON BONDED WINERY PREMISES

To District Supervisors and Others Concerned:

Section 7 of the Act of June 15, 1938 (Public—No. 635—75th Congress) provides as follows:

SEC. 7. The second paragraph added to section 605 of the Revenue Act of 1918, as amended by section 319 (b) of the Liquor Tax Administration Act (U. S. C., 1934 edition, Supp. III, title 26, sec. 1151 (f)) is amended to read as follows:

"The manufacture of vermouth with fortified sweet wine on bonded winery premises shall not be deemed to be rectification with the meaning of paragraph 'Third' of section 3244 of the Revised Statutes, if distilled spirits other than necessary in the production of approved essences, used in the manufacture of vermouth, whether or not such essences are produced on the bonded winery premises, are not added to the fortified sweet wine used in the manufacture thereof or to such vermouth during or after its manufacture. Such vermouth may be manufactured on bonded winery premises, but only in a separate department thereof having no interior communication with any other department or part of such premises, under such supervision and in accordance with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe."

Pursuant to the above-quoted provision of law Regulations No. 7, Relative to the Production, Fortification, Tax Payment, Etc., of Wine, approved October 6, 1937,[1] is hereby amended by the modification of Paragraphs 86 and 87, and by the addition of a new paragraph designated Paragraph 86a, as follows:

"PAR. 86. *Separate department.*—Vermouth may be manufactured only in a separate department of the winery premises, provided as prescribed in paragraph 15. No wine other than fortified sweet wine may be used in the manufacture of vermouth on bonded winery premises. No distilled spirits other than the quantity necessary in the production of approved essences used in the manufacture of vermouth, as provided in paragraph 86a, may be added to the fortified sweet wine used in the manufacture of vermouth on such premises, or to the vermouth during or after its manufacture.

"PAR. 86a. *Approved essences.*—Approved essences containing distilled spirits may be used in the manufacture of vermouth on bonded winery premises. Such essences shall contain no greater quantity of distilled spirits than is necessary to extract and hold in solution the flavoring materials. The quantity of such essences used shall be such as will not increase the volume of the wine more than 10 per cent or its alcoholic content more than four per cent by volume or the alcoholic content of the finished product to more than 24 per cent by volume. Such essences may be produced in the vermouth department of the winery or procured elsewhere. The distilled spirits used in manufacturing such essences must be tax-paid. Brandy or fruit spirits withdrawn for use in the fortification of wine may not be used in the manufacture of such essences.

"PAR. 87. *Formulae and processes.*—Every winemaker desiring to manufacture vermouth on his winery premises shall file with the district supervisor a statement in detail of each process by which he intends to manufacture the product, including the formulae. The formulae must show all the ingredients to be used, but the quantity or percentage of each ingredient used need not be given. It will not be necessary to submit a new formula where the quantity or percentage of any ingredient is varied. Where the ingredients composing a formula are changed, however, a new formula must be submitted. Where an approved essence is to be used the formula must show the alcoholic content of the wine, the alcoholic content of the essence, and the quantity of such essence to be used with a given quantity of wine. Each formula will show the percentage of absolute alcohol by volume in the finished product according to the taxable grade, as not more than 14 per cent, more than 14 per cent and not exceeding 21 per cent, more than 21 per cent and not exceeding 24 per cent. Formulae will be numbered serially and prepared in triplicate. The winemaker will retain one copy of each statement of process and formula accessible for inspection by Government officers, and forward two copies to the district supervisor. The district supervisor will retain one copy and forward the other to the Commissioner. No winemaker may manufacture any vermouth not covered by a formula filed by him with the district supervisor."

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2245; Filed, August 2, 1938; 4:03 p. m.]

[1] 2 F. R. 2111 (2467 DI).

[T. D. 4845]

REMOVAL OF WINES FOR TRANSFER IN BOND OR FOR USE AS DISTILLING MATERIAL

To District Supervisors and Others Concerned:

Section 618 (a), Act of February 24, 1919 (U. S. C., 1934 ed., title 26, sec. 1303), as amended by Section 1, Act of June 15, 1938 (Public—No. 635—75th Congress), provides in part as follows:

Sec. 618. (a) That under such regulations and upon the execution of such notices, entries, bonds, and other security as the Commissioner, with the approval of the Secretary, may prescribe, domestic wines subject to the taxes imposed by sections 611 or 613 as amended, may be removed from the winery where produced, free of tax, for storage on other bonded winery or bonded storeroom premises, or from such premises to other such bonded premises or for exportation from the United States or for use as distilling material at any regularly registered distillery or industrial alcohol plant: Provided, however, That the distiller using any such wine as distilling material shall, subject to the provisions of section 3309 of the Revised Statutes, as amended, be held to pay the tax on the product of such wines as will include both the alcoholic strength therein produced by fermentation and that obtained from the brandy or wine spirits added to such wines at the time of fortification * * *.

Pursuant to the foregoing provisions of law, Regulations No. 7, Relative to the Production, Fortification, Tax Payment, Etc., of Wine, approved October 6, 1937,[1] are amended by modifying the titles of Articles XXV and XXVI and the provisions of Paragraphs 115, 116, 118 to 128, inclusive, and 202, and by the addition of a new paragraph designated 127a, as follows:

"ARTICLE XXV.—SHIPMENT OF WINES IN BOND TO OTHER BONDED PREMISES

"PAR. 115. *Removals free of tax.*—Wines and vermouth may be removed for transfer in bond free of tax from a bonded winery or bonded storeroom to another bonded winery or bonded storeroom, as provided in these regulations.

"PAR. 116. *Shipments in bond.*—Where wine or vermouth is shipped in bond to other bonded premises the bill of lading covering the shipment must show the proprietor of the premises from which such wine or vermouth is shipped, as the consignor, and the proprietor of the premises to which the wine is shipped, as the consignee; the serial numbers of the packages; the quantity of wine or vermouth and its alcoholic content. Each package or case so shipped must bear the following data, either stenciled thereon in whole or in part, or by label, in whole or in part, securely attached with a good adhesive: that the wine or vermouth is shipped in bond, the date of shipment, the name, registry number, and location (city or town and State) of the premises from which shipped and the premises to which shipped. This information shall be in addition to the markings prescribed in paragraph 102. Where the wine or vermouth is shipped in tanks, tank trucks, or railroad tank cars, the label must be securely attached with a good adhesive to some place on the tank, tank truck, or railroad tank car where it may readily be examined by Government officers. Where such label is attached to a wooden surface, tacks must be used in addition to the adhesive. The label will be in substantially the following form:

Shipped in bond by
CALIFORNIA WINE CO.
B. W. No. 54, St. Helena, Calif., 14th Dist.
to
NEW YORK WINE CO.
B. W. No. 72, New York, N. Y., 2nd Dist.
Shipped _____
(Date)

"PAR. 118. *Shipments in same district.*—If the wines or vermouth are shipped to premises within the same district, the district supervisor will retain both copies of Form 703 until the monthly reports, Form 702, 702–A, or 702–B, of the consignor and consignee are received, when they will be checked with both Forms 702, 702–A, or 702–B and any loss in transit noted thereon. The date of checking and the initials of the checker will also be entered on each copy of Form 703 in the proper spaces. The district supervisor will then file both copies of Form 703.

"PAR. 119. *Shipments to other districts.*—If the wines or vermouth are shipped to another district, the district supervisor will immediately forward the blue Form 703 to the district supervisor of the district to which the wines or vermouth are shipped. The district supervisor of the district to which the wines or vermouth are shipped will check the blue Form 703 with the monthly report on Form 702, 702–A, or 702–B of the proprietor to whom the wines or vermouth are shipped, and will note thereon any loss in transit. The date of checking and the initials of the checker will also be entered on Form 703 in the proper space. The district supervisor will then return the form to the district supervisor of the district from which the wines or vermouth were shipped. When the form is received by the district supervisor of the shipping district, it will be checked with the consignor's report, Form 702, 702–A, or 702–B, and the date of checking and initials of the checker will be entered on the Form 703.

"PAR. 120. *Wines measured when received.*—When received at the premises to which they are shipped, the proprietor of such premises will measure the wine or vermouth and enter on his monthly report, Form 702, 702–A, or 702–B, the quantity actually received.

"PAR. 121. *Losses in transit.*—If there has been a loss in transit from any package or other container in excess of 1 per cent, or 2 per cent in the case of transcontinental shipments, of the quantity shipped in such container, the proprietor of the receiving premises will attach to his monthly report, Form 702, 702–A, or 702–B, a statement under oath setting out all the material facts relating to the entire loss, and stating particularly the nature and cause thereof, i. e., whether by leakage, evaporation, casualty, theft, etc., and the extent of the loss. If there has been a loss from more than one package, the quantity lost from each package, the cause thereof, and the condition of the package must be given. The statement must also set forth whether the proprietor has been reimbursed or is indemnified for the tax on the wine or vermouth. If statements relative to the loss can be procured from the carrier, copies thereof will also be attached to Form 702, 702–A, or 702–B, as the case may be. The proprietor shall immediately forward copies of these statements to the proprietor of the winery or storeroom from which the wines or vermouth were shipped.

"PAR. 122. *Losses less than 1 per cent.*—If the loss is less than 1 per cent, or 2 per cent in the case of transcontinental shipments, of the quantity shipped in any package or other container, notation of such loss will be made by the proprietor of the receiving premises on his monthly report, Form 702, 702–A, or 702–B, but no detailed statement of the loss need be made unless so required by the district supervisor or Commissioner.

"PAR. 123. *Shipper liable for tax.*—The proprietor of the premises from which the wine or vermouth is shipped in bond will remain liable for the tax thereon until received at the premises to which shipped. Application for remission of tax on losses in transit will be filed by the consignor in accordance with Article XXXIV.

"PAR 124. *Transfers to and from bonded field warehouse.*—Where wine or vermouth are transferred to or from a bonded field warehouse and the winery contiguous or adjacent thereto, it shall not be necessary to make report on Form 703. When wines or vermouth are so transferred the proprietor of each premises shall immediately enter the transaction in his monthly record, Form 702, 702–A, or 702–B.

"ARTICLE XXVI.—REMOVAL OF WINE AS DISTILLING MATERIAL

"PAR. 125.—*Wine removed free of tax.*—Wine or vermouth may be removed in bond free of tax to a fruit distillery or an industrial alcohol plant for use as distilling material in the manufacture of brandy and alcohol.

"PAR. 126. *Pipe line to fruit distillery.*—Where a bonded winery and a fruit distillery are operated on contiguous premises by the same person, wine or vermouth for use as distilling material may be transferred from tanks in the winery to measuring tanks in the distillery, or, where the distillery measuring tanks are authorized to be installed on the winery premises, from such measuring tanks directly to the chargers of the stills, by fixed pipe line. The pipe line must traverse only bonded premises and be equipped with a valve which may be locked with a Government lock. The valve will be locked whenever operations at the distillery or winery are suspended.

"PAR. 127. *Pipe line to industrial alcohol plant.*—Where a bonded winery and an industrial alcohol plant are operated on contiguous premises by the same person, wine or vermouth for use as distilling material may be transferred from tanks in the winery to storage tanks in the alcohol plant, by means of a securely connected pipe line of a fixed and permanent character. The tanks in the winery must be suitably equipped for determining the quantity of wine or vermouth so transferred, and the pipe line outlet of each such tank must be equipped with a valve so constructed that it may be locked at all times, except when necessary to be open for the transfer of wine or vermouth. The keys will be in the custody of the Government officer assigned to the alcohol plant, and the wine or vermouth will be transferred under his supervision.

"PAR. 127a. *Permission required for removal of sparkling or artificially carbonated wine.*—When the proprietor wishes to remove champagne, sparkling wine, or artificially carbonated wine for use as distilling material he shall make application to the district supervisor for permission so to do, stating the name and address of the distillery or industrial alcohol plant to which it is desired to transfer the wine, the number and size of the bottles, and the condition of the wine. If the district supervisor is satisfied that the application is made in good faith he will authorize the applicant in writing to remove the wine, provided the district supervisor may, where in his judgment the quantity or the attendant circumstances render it advisable, detail an officer to inspect the wine and supervise its removal from the premises.

"PAR. 128. *Report on Form 702, 702–A, or 702–B.*—All wine or vermouth removed from a bonded winery or bonded storeroom for shipment or transfer to a fruit distillery or industrial alcohol plant must be reported by the proprietor on monthly record, Form 702, 702–A, or 702–B. When wines or vermouth are removed as distilling material, the exact alcoholic content of the wine or vermouth, as 18 per cent, 20 per cent, etc., must be entered on Form 702, 702–A, or 702–B. Where champagne, sparkling wine, artificially carbonated wine, or vermouth is so removed, report will be made in Part 4 or Part 5 of Form 702–A, or Part 6 of Form 702–B, as the case may be, with appropriate modification of the heading of the part and entry in the summary of the form.

"PAR. 202. *Unaccounted for items.*—Wine or vermouth shipped to other bonded premises will be carried as unaccounted for until Form 702, 702–A, 702–B, or 703 is received showing that the wine or vermouth has been received at the premises to which shipped. Wine or vermouth shipped for export will likewise be carried as unaccounted for until Form 711 and bill of lading are received showing exportation of the wine or vermouth. Losses in transit will be carried as not allowed until the same are allowed by the Commissioner or the tax is paid thereon."

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2249; Filed, August 3, 1938; 10:28 a. m.]

[1] 2 F. R. 2111 (2467 DI).

(T. D. 4846)

FRUIT WINES

To District Supervisors and Others Concerned:

Section 8 of the Act of June 15, 1938 (Public—No. 635—75th Congress) provides as follows:

SEC. 8. (a) The last paragraph of section 610 of the Revenue Act of 1918, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1310 (a)), is amended by inserting after the words "apricot wines" a comma and the following: "prune wines, plum wines, pear wines"; and by striking out "or (6)" and inserting in lieu thereof the following:"(6) prunes, (7) plums, (8) pears, (9)."

(b) Section 612 of the Revenue Act of 1918, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1301 (a), (b), (c), and (d), is amended by inserting after the words "apricot wines," wherever they appear, a comma and the following: "prune wines, plum wines, pear wines"; and by inserting after the words "apricot brandy," wherever they appear, a comma and the following: "prune brandy, plum brandy, pear brandy."

(c) Section 613 of the Revenue Act of 1918, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1300 (a) (2)), is amended by inserting after the words "apricot wine," wherever they appear, a comma and the following: "prune wine, plum wine, pear wine"; and by inserting after the words "apricot brandy," wherever they appear, a comma and the following: "prune brandy, plum brandy, pear brandy."

(d) The last paragraph of section 42 of the Act entitled "An Act to reduce the revenue and equalize duties on imports, and for other purposes", approved October 1, 1890, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1301 (e)), is amended by inserting after the words "apricot brandy", where they first appear in such paragraph, a comma and the following: "prune brandy, plum brandy, pear brandy"; by inserting after the words "apricot wines" a comma and the following: "prune wines, plum wines, pear wines"; and by striking out "and (5)" and inserting in lieu thereof the following: "(5) no brandy other than prune brandy may be used in the fortification of prune wine and prune brandy may not be used for the fortification of any wine other than prune wine, (6) no brandy other than pear brandy may be used in the fortification of pear wine and pear brandy may not be used for the fortification of any wine other than pear wine, and (7) no brandy other than plum brandy may be used in the fortification of plum wine and plum brandy may not be used for the fortification of any wine other than plum wine and (8)".

(e) The first proviso of section 3255 of the Revised Statutes, as amended (U. S. C., 1934 edition, Supp. III, title 26, sec. 1176), is amended by inserting after the words "apricot wine", wherever they appear, a comma and the following: "prume wine, plum wine, pear wine"; and by inserting after the words "apricot brandy" a comma and the following: "prune brandy, plum brandy, pear brandy".

(f) Section 618 (b) of the Revenue Act of 1918, as amended (U. S. C., 1934 edition, Supp. III, sec. 1304), is amended by inserting after the words "apricot wines" a comma and the following: "prune wines, plum wines, pear wines".

1. Pursuant to the above-quoted amendments of law, the provisions of Regulations No. 7, relative to the production, fortification, tax payment, etc., of wine, approved October 6, 1937,[1] are amended by inserting after the words "apricot wines," "apricots," "apricot brandy," and "apricot juice," wherever such words appear in the said regulations, a comma (unless already present) and the words "prune wines, plum wines, pear wines," "prunes, plums, pears," "prune brandy, plum brandy, pear brandy," and "prune juice, plum juice, pear juice," respectively.

2. The said regulations are further amended by modifying Par. 245 thereof to provide as follows:

"PAR. 245. *Brandy eligible for use in fortification.*—The brandies authorized to be used for fortification, as enumerated in paragraph 227, are those made exclusively from grapes, citrus fruits (except lemons and limes), peaches, cherries, berries, apricots, prunes, plums, pears, or apples, or from the products or the residues of such fruits and berries, or from grape wine, citrus fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, in the manufacture of which artificial sweetening may have been used under the limitations prescribed by Article XVI of these regulations, or the fruit pomace residuum of such wine. No brandy or wine spirits produced otherwise than as specified herein may be used for fortification. Brandy produced from grape cheese and a sugar solution may not be used for the fortification of wine."

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2250; Filed, August 3, 1938; 10:28 a. m.]

[T. D. 4847]

LOSSES OF BRANDY AND FRUIT SPIRITS IN THE FORTIFYING ROOM OF A BONDED WINERY OR IN TRANSIT THERETO, ETC.

To District Supervisors, Collectors of Internal Revenue, and Others Concerned:

Section 3 of the Act of June 15, 1938 (Public—No. 635—75th Congress), provides as follows:

The Commissioner of Internal Revenue, under rules and regulations to be by him

[1] 2 F. R. 2111 (2467 DI).

prescribed with the approval of the Secretary of the Treasury, upon the presentation of proof to his satisfaction of the loss by leakage, evaporation, theft, or otherwise of brandy or fruit spirits, intended for the fortification of wine, from storage tanks in bonded warehouses or from steel drums filled therefrom while such drums are in such warehouse, and in the fortification room of a bonded winery, not occurring as the result of any negligence, connivance, collusion, or fraud on the part of the winemaker or his agents, is hereby authorized to remit or refund the taxes assessed or paid upon such lost brandy or fruit spirits: Provided, however, That such remission or refund shall be allowed only to the extent that the distiller or winemaker is not indemnified or recompensed for such loss.

Pursuant to the above-quoted provision of law, Regulations No. 7, Relative to the Production, Fortification, Tax Payment, Etc., of Wine, approved October 6, 1937,[1] is hereby amended by modifying Paragraphs 279, 291, 293, 296, 297, and 313, revoking Paragraph 294, and adding two new paragraphs designated 296a and 296b, as follows:

"PAR. 279. *Tax on excess losses.*—Where the regauge of packages (other than steel drums filled from storage tanks in bonded warehouse) discloses excess losses, the proprietor of the warehouse will forward all copies of Form 257, with Form 1520 attached, to the collector of internal revenue with his remittance to cover the tax due on such excess losses. The collector will certify to the payment of the tax on all copies of the form, retain one copy, and return the other copies to the proprietor of the warehouse, who will deliver them to the Government officer.

"PAR. 291. *Losses.*—Each day wines are fortified the officer will also enter on Form 276 the information called for on that form, as indicated by the headings of the various columns and lines and the instructions printed on the form. Where losses have been sustained the officer will attach a statement to each copy of the form, giving the serial numbers of the packages involved, the quantity lost from each package, and the apparent reason for the loss. Losses from storage tanks will be determined at the end of the month during which wines are fortified or upon completion of fortification for the month, as provided in paragraph 296a. The losses from storage tanks will also be reported on the statement accompanying Form 276. Where the loss is due to theft or casualty in transit, or to leakage, evaporation, theft, or other cause while in the fortification room of the winery, the officer will enter in Part 5 of the form, in lieu of the amount of tax on such loss, the words 'Casualty in transit', or 'Theft in transit', or 'Loss in fortifying room by _____', as the
(Cause of loss)
case may be. At the close of the month, or upon completion of fortification for the month, the officer will complete the form, retain one copy at the winery as a permanent record, and forward one copy to the collector of internal revenue of the district and the other two copies to the district supervisor, who will transmit one copy to the Commissioner with his brandy account, Form 290.

"PAR. 293. *Losses indicating tampering.*—Where the officer's gauge indicates that a package may have been tampered with, as where a material deficiency is found and there is no evidence of loss by leakage or casualty, or where deterioration in proof not accountable for by variation in gauge is disclosed, the officer will immediately notify the district supervisor of all the facts in the case and will not permit the package to be used until he is instructed to do so by the district supervisor.

"PAR. 296. *Losses in fortifying room.*—The tax may be remitted on brandy and fruit spirits which are lost by leakage, evaporation, theft, or otherwise while in in the fortification room of a bonded winery, without negligence, connivance, collusion, or fraud on the part of the winemaker or his agents, to the extent that the winemaker is not indemnified against or recompensed for the tax on the brandy or fruit spirits lost.

"PAR. 296a. *Losses by leakage or evaporation from storage tanks.*—The quantity of brandy or fruit spirits which is lost by leakage or evaporation from storage tanks in the fortifying room of a bonded winery shall be determined and reported at the end of the month during which wines are fortified or upon completion of fortification for the month. The extent of the loss shall be established by comparison of the quantity shown by actual inventory with the quantity shown by the records of the winery as remaining in storage tanks at the end of the month, or upon completion of fortification for the month, as the case may be. Losses occurring at any time when an officer is not present shall be reported immediately upon discovery to the district supervisor.

"PAR. 296b. *Losses allowable without claim.*—Where the loss of brandy or fruit spirits in the fortification room of a bonded winery since the date of the last previous determination of such a loss does not exceed one per cent of the quantity used for the fortification of wine during the subsequent month in which wines are fortified or up to the time of completion of fortification for such month, claim for allowance of the loss will not be required, provided there are no circumstances indicating that such loss of brandy or fruit spirits occurred as a result of any negligence, connivance, collusion, or fraud on the part of the winemaker or his agents. The allowance of not to exceed 1 per cent of the quantity used as above provided shall not be cumulative. Such allowance of 1 per cent shall apply to the losses ascertained at the end of the month or upon completion of the fortification for the month, as the case may be.

"PAR. 297. *Claims for losses.*—Allowance for losses of brandy or fruit spirits by theft or casualty in transit while in possession of a common carrier, and for losses while in fortifying room of a bonded winery in excess of the quantity specified in paragraph 296b will be made pursuant to claim filed by the winemaker, under oath, for remission of the tax on the brandy lost. Losses must be reported to the supervisor of the district in which the winery is located immediately after they are discovered. Claims for remission of tax on brandy or fruit spirits lost should be filed with the district supervisor within 30 days after the loss is discovered, except that claims for the allowance of loss by leakage or evaporation in the fortifying room must be filed within 10 days after the end of the month during which the loss is discovered. The claims must set out all the material facts and circumstances relating to the loss and particularly the nature, cause, and extent of the loss. The claims must show whether the loss occurred as the result of any negligence, connivance, collusion or fraud on the part of the winemaker or his agents, and whether the winemaker is indemnified against or recompensed for the tax on the brandy or fruit spirits lost.

"PAR. 313. *Assessment of tax on deficiencies.*—Collectors will also enter on their list for assessment any tax due on deficiencies shown on Form 276. Where the form indicates that the deficiency is due to theft or casualty in transit, or to leakage, evaporation, theft, or other cause in the fortifying room of the winery, the collector will not enter on his report the tax on such losses. If, after consideration of the winemaker's claim for remission of tax in the case of those losses where the submission of such claim is required, the tax is found to be due, it will be entered on the assessment list by the Commissioner. (See also Articles LVIII and LIX relative to tax on losses of brandy or fruit spirits.)"

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2251; Filed, August 3, 1938; — 10:29 a. m.]

[1] 2 F. R. 2111 (2467 DI).

[T. D. 4848]

TRANSFER BY PIPE LINE OF BRANDY AND FRUIT SPIRITS FOR THE FORTIFICATION OF WINE

To District Supervisors and Others Concerned:

Section 4 of the Act of June 15, 1938 (Public—No. 635—75th Congress) provides as follows:

The first paragraph of section 602 of the Revenue Act of 1918, as amended (U. S. C., 1934 edition, Supp. III, title 27, sec. 74b), is amended by inserting in lieu of the period at the end thereof a colon and the following: "Provided, That under the provisions of this section insofar as applicable, the Commissioner of Internal Revenue may, under rules and regulations to be by him prescribed, subject to the approval of the Secretary of the Treasury, permit the transfer of fortifying spirits containing more than one hundred and fifty-nine degrees proof up to and including one hundred and ninety-two degrees proof by pipe line from registered fruit distilleries and receiving cisterns in such distilleries to storage tanks in the internal-revenue bonded warehouse located on the distillery premises to be warehoused in such storage tanks and transferred by pipe line to the fortification rooms of contiguous wineries when required."

Pursuant to the above-quoted provision of law the following regulations are prescribed:

1. Brandy containing more than 159 degrees of proof and fruit spirits containing more than 159 and up to and including 192 degrees of proof for the fortification of wine may be transferred by pipe line from receiving and storage tanks in fruit distilleries to storage tanks in an internal revenue bonded warehouse on the distillery premises and may be warehoused in such storage tanks and transferred therefrom by pipe line to the fortification rooms of contiguous wineries for use in fortifying wine.

2. Except as hereinafter provided, the transfer of such brandy and fruit spirits by pipe line from receiving and storage tanks in the distillery to storage tanks in an internal revenue bonded warehouse on the distillery premises, the construction and equipment of the pipe line and warehouse storage and weighing tanks, the warehousing of such brandy and fruit spirits in storage tanks, and the accounting for such brandy and fruit spirits so warehoused shall be in accordance with provisions of T. D. 4651, as amended by T. D. 4764.[1]

3. Pipe lines for the conveyance of such brandy and fruit spirits from warehouse storage tanks to fortifying tanks or brandy storage tanks in the fortifying rooms of contiguous wineries shall be constructed, arranged, and secured in accordance with the provisions of T. D. 4651 governing the construction, arrangement, and security of pipe lines for the conveyance of other spirits from warehouse storage tanks. Such pipe lines shall be permanently connected in a secure manner with fortifying tanks or brandy storage tanks in the fortifying room, except that where the winery is operated by the person operating the distillery and the warehouse the brandy or fruit spirits may be weighed in the fortifying room of the winery, in which event the pipe line shall be permanently connected in a secure manner with the warehouse storage tanks, and, when spirits are being transferred, it shall be connected by appropriate and secure connections with the weighing tank in the fortifying room.

4. Whenever spirits are to be transferred into or out of tanks in an internal revenue bonded warehouse the storekeeper-gauger assigned to the warehouse shall open and close the locks, but it shall be the duty of the proprietor to manipulate the valves controlling the flow of the spirits into or out of the tanks.

5. Where brandy or fruit spirits for the fortification of wine are deposited in warehouse storage tanks the warehouseman shall plainly and legibly stencil on such tanks the words "For fortification of wine", in addition to the other marks required by T. D. 4651.

6. Brandy or fruit spirits produced by two or more distillers shall not be mingled in a storage tank; nor shall brandy or fruit spirits produced from one kind of fruit or berry be so mingled with brandy or fruit spirits produced from another kind of fruit or berry; nor shall brandy distilled from the same kind of fruit or berry at proofs differing more than 10 degrees, or brandy and fruit spirits distilled from the same kind of fruit or berry, be so mingled.

7. Brandy or fruit spirits warehoused in storage tanks will be transferred therefrom by pipe line to weighing tanks or fortifying tanks or brandy storage tanks in the fortification rooms of contiguous wineries pursuant to application on Form 257 and in accordance with the procedure prescribed in Regulations No. 7, Relative to the Production, Fortification, Tax Payment, Etc., of Wine, approved October 6, 1937.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, July 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2252; Filed, August 3, 1938; 10:29 a. m.]

[1] 1 F. R. 696; 2 F. R. 1963 (2299 DI).

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49667]

IDENTIFICATION OF COURT DECISIONS PUBLISHED IN "TREASURY DECISIONS"

AUGUST 1, 1938.

To Collectors of Customs and Others Concerned:

With reference to T. D. 49649 of July 8, 1938,[1] you are advised that decisions of the United States Customs Court published in full in the weekly *Treasury Decisions* on and after July 7, 1938, will be identified by serial numbers prefixed by the letters C. D. (Customs Decision). The customs decisions of the United States Court of Customs and Patent Appeals published in the weekly *Treasury Decisions* on and after July 7, 1938, will also be identified by serial numbers in a separate series prefixed by the letters C. A. D. (Customs Appeals Decision).

In conformity with this plan the following assignment of serial numbers has been made to the published decisions listed below:

C. A. D. 1, *United States* v. *European Trading Co.* Decided May 2, 1938.

C. A. D. 2, *United States* v. *Monteverde & Parodi, Inc., Parodi Erminio & Co.* Decided May 2, 1938.

C. A. D. 3, *American Import Co.* v. *United States.* Decided May 31, 1938.

C. A. D. 4. *Hiram Walker & Sons, Inc.,* v. *United States.* Decided May 31, 1938.

C. A. D. 5. *Page & Jones* v. *United States.* Decided June 6, 1938.

C. A. D. 6. *United States* v. *Shell Eastern Petroleum Products, Inc.* Decided April 25, 1938.

C. A. D. 7. *George G. Wislar* v. *United States.* Decided June 6, 1938.

C. A. D. 8. *United States* v. *Geo. S. Bush & Co., Inc., Et Al.* Decided May 31, 1938.

C. A. D. 9. *Lord & Taylor* v. *United States.* Decided June 27, 1938.

C. D. 1. *United American Bosch Corp.* v. *United States.* Decided June 28, 1938.

C. D. 2. *Abercrombie & Fitch Co.* v. *United States.* Decided June 28, 1938.

C. D. 3. *B. M. Reeves Co., Inc.* v. *United States.* Decided June 30, 1938.

C. D. 4. *Swift & Co.* v. *United States.* Decided June 30, 1938.

C. D. 5. *J. P. Navailles* v. *United States.* Decided June 30, 1938.

C. D. 6. *Cribari & Sons* v. *United States.* Decided July 1, 1938.

C. D. 7. *Blefeld-Goodfriend, Inc.* v. *United States.* Decided July 5, 1938.

C. D. 8. *Kloeckner Steel Corporation* v. *United States.* Decided July 6, 1938.

C. D. 9. *A. J. Nelbach* v. *United States.* Decided July 6, 1938.

C. D. 10. *Joseph O. Saurette* v. *United States.* Decided July 6, 1938.

C. D. 11. *Newark Radio Laboratories* v. *United States.* Decided July 11, 1938.

C. D. 12. *National Machinery Co.* v. *United States.* Decided July 13, 1938.

C. D. 13. *Mrs. G. P. Snow, Hearst Magazines, Inc.* v. *United States.* Decided July 14, 1938.

C. D. 14. *Wm. Goodacre & Sons, Ltd.,* v. *United States.* Decided July 15, 1938.

C. D. 15. *Columbia Import and Export Co., Inc.* v. *United States.* Decided July 18, 1938.

C. D. 16. *Selsi Co., Inc.* v. *United States.* Decided July 20, 1938.

C. D. 17. *Jordan Hardware Corp.* v. *United States.* Decided July 20, 1938.

C. D. 18. *Smith & Nichols, Inc.* v. *United States.* Decided July 22, 1938.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2248; Filed, August 3, 1938; 10:28 a. m.]

[1] 3 F. R. 1699 DI.

FEDERAL POWER COMMISSION.

[Docket No. IT-5518]

IN THE MATTER OF NEW JERSEY POWER & LIGHT COMPANY AND JERSEY CENTRAL POWER & LIGHT COMPANY

ORDER POSTPONING HEARING

JULY 29, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly. John W. Scott not participating.

It appearing to the Commission that:

Counsel for Jersey Central Power & Light Company has requested a two weeks' postponement of the public hearing in this cause now assigned to be held on August 29, 1938, in accordance with the order of the Commission adopted on July 5, 1938; [1]

The Commission *orders* that:

For good cause shown, the public hearing in the above cause now set for August 29, 1938, be and the same is hereby postponed to September 13, 1938, at the same time and place.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-2246; Filed, August 3, 1938; 9:50 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3451]

IN THE MATTER OF GRAVITONIC LIFE RAY CORPORATION, INC., AND FRED W. REED, PRESIDENT

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 8, 1938, at ten o'clock in the forenoon of that day (central standard time) Office of Custodian, Federal Building, Galveston, Texas.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2247; Filed, August 3, 1938; 10:15 a. m.]

[1] 3 F. R. 1654 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of August 1938.

[File No. 1-2367]

IN THE MATTER OF INTERNATIONAL CINEMA, INC. $1.00 PAR VALUE COMMON STOCK

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Los Angeles Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the $1.00 Par Value Common Stock of International Cinema, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard; and

It is ordered, That the matter be set down for hearing at 2:00 P. M. on Tuesday, August 30, 1938, in Room 426, Securities and Exchange Commission, Bank of America Building, 650 South Spring Street, Los Angeles, California, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard Judy and Charles R. Burr, officers of the Commission, or either of them, be and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2254; Filed, August 3, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of August 1938.

[File No. 1-2410]

IN THE MATTER OF KINNER AIRPLANE & MOTOR CORPORATION, LIMITED $1.00 PAR VALUE COMMON STOCK

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Los Angeles Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the $1.00 Par Value Common Stock of Kinner Airplane & Motor Corporation, Limited; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, August 30, 1938, in Room 426, Securities and Exchange Commission, Bank of America Building, 650 South Spring Street, Los Angeles, California, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard Judy and Charles R. Burr, officers of the Commission, or either of them, be and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2255; Filed, August 3, 1938; 12:45 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 152

Washington, Friday, August 5, 1938

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

GREENEVILLE LIVESTOCK CO., INC., SUBJECT TO PROVISIONS OF PACKERS AND STOCKYARDS ACT [1]

AUGUST 4, 1938.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Greeneville Livestock Company, at Greeneville, State of Tennessee, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-2266; Filed, August 4, 1938; 11:54 a. m.]

[1] Modifies list posted stockyards 9 CFR 13.034.

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49664]

TEMPORARY FREE IMPORTATIONS OF AUTOMOBILES, BOATS AND AIRCRAFT

ADMISSION FOR SIX MONTHS UNDER PERMIT WITHOUT BOND AUTHORIZED FOR AUTOMOBILES, BOATS, AND AIRCRAFT FROM CERTAIN COUNTRIES

To Collectors of Customs and Others Concerned:

Pursuant to section 308 (5) of the Tariff Act of 1930, as amended by section 4 of the Customs Administrative Act of 1938 (Pub. No. 721—75th Congress), and article 477 (b) of the Customs Regulations of 1937,[1] as amended by (1938) T. D. 49658,[2] collectors of customs are authorized to defer for a period not to exceed six months the requirement of a bond to secure the exportation of automobiles and similar vehicles imported under such section 308 (5) solely for touring purposes from the following countries which grant a similar privilege to such automobiles and similar vehicles from the United States:

Canada.
Cuba
Mexico.
Newfoundland.

Such requirement may be deferred for a like period in the case of boats imported from Canada solely for touring purposes, and in the case of aircraft imported from Mexico for any use within the purview of section 308 (5), as amended, since these countries extend similar privileges to boats and aircraft, respectively, from the United States.

On the basis of information presently available, the requirement of a bond may not be deferred for more than ninety days except in the cases above specified. Any claim the exaction of the bond should be deferred for six months on a basis of reciprocity should be referred promptly to the Bureau for verification.

[SEAL] FRANK DOW, *Acting Commissioner of Customs.*

Approved, July 28. 1938.

STEPHEN B. GIBBONS, *Acting Secretary of the Treasury.*

[F. R. Doc. 38-2256; Filed, August 3, 1938; 2:28 p. m.]

[1] 2 F. R. 1553 (1838 DI).
[2] 3 F. R. 1808 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry: Page
Greeneville Livestock Co., Inc., subject to provisions of Packers and Stockyards Act ---- 1933
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Automobiles, boats and aircraft, temporary free importations ---- 1933
TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Claims by deceased or incompetent persons against Home Owners' Loan Corporation ---- 1934
TITLE 46—SHIPPING:
Bureau of Marine Inspection and Navigation:
Subdivision of river passenger vessels; approval of miscellaneous items of equipment ---- 1934

NOTICES

Department of Agriculture:
Farm Security Administration:
Designation of counties for tenant purchase loans:
Connecticut ---- 1935
Delaware ---- 1935
Massachusetts ---- 1935
New Hampshire ---- 1935
New Jersey ---- 1936
Rhode Island ---- 1935
Vermont ---- 1935
West Virginia ---- 1935
Securities and Exchange Commission:
Beverly Gas and Electric Co., et al., hearing ---- 1936
Genesee Valley Gas Co., Inc., exemption; status of applicant ---- 1936
United States Civil Service Commission:
Apportionment at close of business, Saturday, July 30, 1938 ---- 1937

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

War Department: Page
Medical Administrative Corps, Regular Army, examination for appointment in------- 1935

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

CLAIMS BY DECEASED OR INCOMPETENT PERSONS AGAINST HOME OWNERS' LOAN CORPORATION

MANUAL AMENDMENT

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, the following shall be numbered Section 7.08 of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations, the same to be Section 708 of Chapter VII of the Consolidated Manual:

SECTION 708. Claims Against Home Owners' Loan Corporation. Whenever a claim is made against the Home Owners' Loan Corporation for an amount due a deceased or incompetent employee or a deceased or incompetent creditor of the Corporation, whether same be represented by a check already issued or by an amount for which disbursement has not been effected, U. S. Government Standard Form 1055 shall be executed by the claimant. Execution of this form shall be obtained by the office having immediate jurisdiction and shall be forwarded with any attachments (including the check, if issued,) to the Treasurer in Washington. If disbursement had not been effected prior to receipt of the claim, no check shall be issued until authorized by the Treasurer in Washington.

Adopted by the Federal Home Loan Bank Board on the 2nd day of August, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2271; Filed, August 4, 1938; 12:56 p. m.]

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

SUBDIVISION OF RIVER PASSENGER VESSELS; APPROVAL OF MISCELLANEOUS ITEMS OF FIRE EQUIPMENT

Pursuant to call under authority of Section 4405 of the Revised Statutes by the Hon. J. M. Johnson, Acting Secretary of Commerce, a special meeting of an Executive Committee of the Board of Supervising Inspectors, consisting of R. S. Field, Director; George Fried, Supervising Inspector of the Second District; and C. W. Willet, Supervising Inspector of the Sixth District, met in the office of the Director, Bureau of Marine Inspection and Navigation, Department of Commerce, Washington, D. C., on July 26, 1938. The following resolutions were unanimously adopted.

[Resolution No. 4262]

IN RE: SUBDIVISION OF RIVER PASSENGER VESSELS

Resolved, That under authority of Sections 4405, 4417 and 4426, R. S., Rule III, Rivers, General Rules and Regulations, be and hereby is amended by adding the following new section to be known as section 50:

Every new mechanically propelled vessel of more than 75 gross tons carrying passengers for hire shall have a sufficient number of transverse watertight bulkheads so that the vessel will remain afloat and have positive stability in the event any one main compartment is flooded.

A forepeak or collision bulkhead shall be fitted and located not less than 5 per cent of the length of the ship, and not more than 10 feet plus 5 percent of the length of the ship from the bow at the load water line.

In vessels where the propelling machinery is below the main deck one bulkhead shall be fitted at the forward end of the machinery space (which includes boiler space) and one bulkhead shall be fitted at the aft end of the machinery space. Other transverse bulkheads shall be so located as to meet the above requirements of subdivision and stability.

Main transverse bulkheads shall not be stepped, but may be recessed. No recess shall be fitted nearer the vessel's side than one-fifth of the vessel's beam amidships measured at right angles to the center line at the level of the water line on which the subdivision is based.

Bulkheads shall extend to a deck whose distance above the load waterline is sufficient to enable the subdivision and stability requirements to be met with a fair margin of safety.

If the distance between two adjacent main transverse watertight bulkheads is less than 10 feet plus 2 per cent of the vessel's length, measured between perpendiculars at the extremities of the vessel's load water line, only one of these bulkheads shall be regarded as forming a boundary of a main compartment.

Existing vessels shall comply with the above rules unless it can be shown by the owners that their application is impracticable and unreasonable.

(Effective as to new vessels immediately, as to existing vessels April 15, 1939.)

[Resolution No. 1511–94]

IN RE: APPROVAL OF MISCELLANEOUS ITEMS OF EQUIPMENT

Resolved, That under authority of Sections 4405 and 4491, R. S., the following equipment be and hereby is approved for use on vessels subject to inspection:

Fire Extinguishers

2847. TM–12 gallon foam fire extinguisher, manufactured by the American-La France and Foamite Industries, Inc., Elmira, New York.

2523. Vangarde 1 quart carbon tetrachloride fire extinguisher, manufactured by the Pyrene Manufacturing Company, Newark, N. J.

2523. Vangarde 1½ quart carbon tetrachloride fire extinguisher, manufactured by the Pyrene Manufacturing Company, Newark, N. J.

2523. Vanguard 2½ gallon foam fire extinguisher, manufactured by the Pyrene Manufacturing Company, Newark, N. J.

Spray Nozzles

4266. 1½-inch fixed type spray nozzle, manufactured by Joseph L. Day, 671 Delavan Avenue, Buffalo, N. Y.

Life Buoys

4201. Winter hydrocyl-coated balsa wood ring buoy, manufactured by the Winter Manufacturing Company, Inc., 623 Prospect Street, Trenton, New Jersey.

Hose Mask

340.11. Bullard Hose Mask No. 1903, manufactured by the E. D. Bullard Company, San Francisco, California.

Life Preservers

3226–III. Adult's kapok life preserver, submitted by the American Pad and Textile Company of Greenfield, Ohio.

[SEAL] R. S. FIELD, *Director.*
GEO. FRIED,
Supervising Inspector, Second District.
CHESTER W. WILLETT,
Supervising Inspector, Sixth District.

Approved.

J. M. JOHNSON,
Acting Secretary of Commerce.

[F. R. Doc. 38–2264; Filed, August 4, 1938; 10:25 a. m.]

Notices

WAR DEPARTMENT.

EXAMINATION FOR APPOINTMENT IN THE MEDICAL ADMINISTRATIVE CORPS, REGULAR ARMY

1. An examination of applicants for appointment in the Medical Administrative Corps, Regular Army, under the provisions of AR 605–25, will be held within the continental limits of the United States from November 14 to November 18, 1938, inclusive.

2. To be eligible to take the examination for appointment, the applicant must be a male citizen of the United States, a graduate of a 4-year course of instruction at an acceptable school or college of pharmacy, legally authorized to confer the baccalaureate degree in pharmacy, and of such age as would permit appointment to be made between the ages of 21 and 32 years.

3. Examination for appointment includes physical examination, a written examination in Practice of Pharmacy, Pharmaceutical Chemistry, Pharmacognosy, Pharmacology and Bacteriology, Hygiene and Sanitation, and an estimate of the candidate's adaptability for military service.

4. Applications and requests for information concerning this examination should be addressed to The Adjutant General. Applications received after October 29, 1938, will not be considered. (Sec. 24, 41 Stat. 774; 10 U. S. C. 151.) [W. D. Cir. 40, August 1, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38–2263; Filed, August 4, 1938; 10:03 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

CONNECTICUT

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Connecticut State Farm Security Advisory Committee, the following county is hereby redesignated [1] as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Windham.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2259; Filed, August 3, 1938; 3:40 p. m.]

[1] 3 F. R. 664 DI.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MASSACHUSETTS

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Massachusetts State Farm Security Advisory Committee, the following county is hereby redesignated [1] as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Worcester.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2261; Filed, August 3, 1938; 3:41 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEW HAMPSHIRE

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New Hampshire State Farm Security Advisory Committee, the following county is hereby redesignated [1] as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Rockingham.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2258; Filed, August 3, 1938; 3:40 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

RHODE ISLAND

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Rhode Island State Farm Security Advisory Committee, the following county is hereby redesignated [2] as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Providence.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2262; Filed, August 3, 1938; 3:41 p. m.]

[1] 3 F. R. 529 DI.
[2] 3 F. R. 664 DI.
[3] 3 F. R. 611 DI.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

VERMONT

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Vermont State Farm Security Advisory Committee, the following county is hereby redesignated [1] as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Addison.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2260; Filed, August 3, 1938; 3:41 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

WEST VIRGINIA

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the West Virginia State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [2] and (2) the following additional counties:

Jefferson, Monroe, and Harrison.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2257; Filed, August 3, 1938; 3:40 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

DELAWARE

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Delaware State Farm Security Advisory Committee, the county listed below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

[1] 3 F. R. 664 DI.
[2] 2 F. R. 2684 (3112 DI).

(1) that county which was designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional county:

Sussex.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2267; Filed, August 4, 1938; 11:54 a. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEW JERSEY

AUGUST 3, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the New Jersey State Farm Security Advisory Committee, the county listed below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional county:

Sussex.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2268; Filed, August 4, 1938; 11:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of August, A. D. 1938.

[File No. 31-441]

IN THE MATTER OF GENESEE VALLEY GAS COMPANY, INC.

ORDER GRANTING EXEMPTION AND DECLARING STATUS OF APPLICANT AS SUBSIDIARY OF SPECIFIED HOLDING COMPANIES

Genesee Valley Gas Company, Inc., having made application for exemption, pursuant to Section 3 (a) (1) of the Public Utility Holding Company Act of 1935, and for an order, pursuant to Section 2 (a) (8) of the Act, declaring it not to be a subsidiary of any holding company; a hearing on said application having been duly held after appropriate notice;[1] and the Commission having made and filed its findings herein;

It is ordered, That said Genesee Valley Gas Company, Inc., be, and it hereby is, exempted from all those provisions of the Public Utility Holding Company Act of 1935 which would require it to register under said Act because of its directly or indirectly owning, controlling or holding with power to vote ten per centum or more of the outstanding voting securities of Pavilion Natural Gas Company, Churchville Oil & Natural Gas Company and Valley Gas Corporation; and

It is further ordered, That said Genesee Valley Gas Company, Inc., be, and it hereby is, declared not to be a subsidiary company, within the meaning and for the purposes of the Public Utility Holding Company Act of 1935, of Citizens Public Service Company and Eastern Utilities Service Company; provided, however, that said Genesee Valley Gas Company, Inc. shall, on the first day of each month, commencing September 1, 1938 and ending at such time as said Genesee Valley Gas Company, Inc. shall have consummated the proceedings for its reorganization now pending, file with this Commission a report setting forth the name of every person or company holding of record, or known to applicant as holding, any of the voting securities of said Genesee Valley Gas Company, Inc., and the amounts of such voting securities held by each such person or company; and provided further that said Genesee Valley Gas Company, Inc., shall, within ten days after any plan for its reorganization shall have been accepted by the requisite number of security holders of each class affected thereby, file with this Commission a complete schedule showing, by name, the persons or companies known to applicant as entitled to receive any new securities of said Genesee Valley Gas Company, Inc., as reorganized, and the amount of such securities to be received by each such person or company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2270; Filed, August 4, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of August, A. D. 1938.

[File Nos. 43-143—43-148]

IN THE MATTERS OF BEVERLY GAS AND ELECTRIC COMPANY, GLOUCESTER ELECTRIC COMPANY, HAVERHILL ELECTRIC COMPANY, MALDEN ELECTRIC COMPANY, SALEM GAS LIGHT COMPANY, AND SUBURBAN GAS AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by each of the above-mentioned companies, all of which companies are subsidiaries of North Boston Lighting Properties, a Massachusetts voluntary association, which is a subsidiary of New England Power Association, a registered holding company, regarding the issue and sale of unsecured promissory notes or note, bearing 3% interest, payable ten months after date and in aggregate principal amounts as follows:

Beverly Gas and Electric Company	$650,000
Gloucester Electric Company	235,000
Haverhill Electric Company	1,014,375
Malden Electric Company	200,000
Salem Gas Light Company	425,000
Suburban Gas and Electric Company	785,000

All of the notes are to be issued to North Boston Lighting Properties for the purpose of "refunding * * * or discharging an outstanding security" of the declarants.

It appearing to the Commission that these related matters should be heard and considered together;

It is ordered, That a joint hearing on such matters be held on August 22, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarants and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 16, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2269; Filed, August 4, 1938; 12:42 p. m.]

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[1] 3 F. R. 611 DI.
[1] 3 F. R. 263, 712 DI.
[1] 3 F. R. 1275 DI.

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS SATURDAY, JULY 30, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	576	37
2. Hawaii	137	15
3. Alaska	22	7
4. California	2,119	753
5. Texas	2,174	870
6. Louisiana	785	368
7. Michigan	1,808	851
8. Arizona	163	81
9. New Jersey	1,509	772
10. South Carolina	649	371
11. Ohio	2,481	1,465
12. Oklahoma	894	536
13. Arkansas	692	422
14. Alabama	988	608
15. Mississippi	740	462
16. New Mexico	158	99
17. North Carolina	1,183	776
18. Georgia	1,686	726
19. Kentucky	976	668
20. Wisconsin	1,067	828
21. Tennessee	977	745
22. Illinois	2,849	2,176
23. Connecticut	600	474
24. Nevada	34	27
25. Oregon	356	317
26. Delaware	89	80
27. Indiana	1,209	1,093
28. Florida	548	502
29. New York	4,699	4,376
30. Utah	190	178
31. Wyoming	84	79
32. Pennsylvania	3,595	3,390
33. Idaho	166	158
34. New Hampshire	174	167
35. Washington	584	567
36. Colorado	387	381
37. Maine	298	297
QUOTA FILLED		
38. Rhode Island	257	257
IN EXCESS		
39. West Virginia	645	646	−2
40. Massachusetts	1,586	1,592	+6
41. Kansas	702	713	−9
42. North Dakota	254	263	+13
43. Vermont	134	140	0
44. Missouri	1,355	1,424	−3
45. Minnesota	957	1,038	−12
46. South Dakota	259	291	+4
47. Montana	201	229	+1
48. Iowa	922	1,089	+11
49. Nebraska	514	630	+3
50. Virginia	904	1,941	−1
51. Maryland	609	1,847	−2
52. Dist. of Col.	182	8,747	−11

GAINS	
By appointment	160
By reinstatement	2
By transfer	58
By correction	1
Total	221
LOSSES	
By separation	52
By transfer	47
By correction	1
Total	100
Total appointments	46,369

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of August 25, 1934, 13,948.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38-2265; Filed, August 4, 1938; 11:18 a. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 153

Washington, Saturday, August 6, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP–1938–13]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 11

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938,[1] and as amended by Supplements Nos. 3 to 10, inclusive,[2] is hereby further amended as follows:

(1) Item 3 of subsection A of Section V is hereby amended to read as follows:

"3. *Tobacco, potatoes, and peanuts.*—(a) 5 times the payment rate specified in Section IV for the normal yield for the farm on the acreages by which the fire-cured and dark air-cured tobacco acreages exceed the acreage allotment for such types of tobacco.

"(b) 6 times the payment rate specified in Section IV for the normal yield for the farm on the acreage by which the acreage of peanuts for market exceeds the peanut acreage allotment.

"(c) 10 times the payment rate specified in Section IV for the normal yield for the farm on the acreages by which the acreages of flue-cured tobacco, Burley tobacco, cigar filler and binder tobacco, Georgia-Florida Type 62 tobacco, and potatoes exceed the respective acreage allotments established for such crops and on farms for which potato acreage allotments are not established in designated commercial areas on each acre by which the acreage of potatoes for market exceeds three acres."

[1] 3 F. R. 563 DI.
[2] 3 F. R. 719, 741, 865, 886, 915, 984, 1191, 1697 DI.

(2) The first paragraph of subsection A of Section VI is hereby amended to read as follows:

"The net payment or net deduction computed for any farm with respect to the corn, cotton, rice, wheat, tobacco, peanut, or potato acreage allotment, or general soil-depleting crops shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the corn, cotton, rice, wheat, tobacco, peanuts, potatoes, or general crops, respectively, grown on the farm in 1938."

(3) Subsection F of Section XI is hereby amended to read as follows:

"F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farm unless on such farm in 1938 an acreage of cropland or restoration land, not devoted to soil-depleting crops, is withheld from the production of soil-conserving crops for market, equal to the acreage by which the normal acreage of soil-depleting crops on such farm exceeds the larger of (1) the total soil-depleting acreage allotment for the farm or (2) the acreage devoted to soil-depleting crops on the farm in 1938: *Provided*, That payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

"Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable are used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions un-

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program bulletin, 1938, Supplement No. 11 ---------- 1939

TITLE 20—FISH AND GAME:
Bureau of Fisheries:
Alaska fishery regulations, amendment ---------- 1940

NOTICES

Interstate Commerce Commission:
California motor carrier rates, submission of income statements ---------- 1940
Securities and Exchange Commission:
Boston Stock Exchange, unlisted trading privileges in:
Adams Express Co., no par common stock ---------- 1941
American Steel Foundries, common stock, no par value, etc ---------- 1941
Cincinnati Gas & Electric Co., hearing ---------- 1942
Dayton Power and Light Co., and Columbia Gas & Electric Corp., hearing ---------- 1941
United Telephone and Electric Co., adoption of report of reorganization managers --- 1940

FEDERAL REGISTER

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less: (1) the number of cows kept for the production of milk in the county exceeds by more than five percent the normal number of such cows: (2) the acres retired from soil-depleting crops in the county exceed five percent of the normal acreage of such crops and exceed 1,000 acres; and (3) the average number of cows kept for the production of milk exceeds two cows per farm and exceeds two cows per 160 acres of farm land.

"The normal acreage of soil-depleting crops and the number of cows kept for the production of milk or the products thereof for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department, and shall announce, the counties not deemed to be in substantial compliance.

"As used in this subsection F, the term 'for market' means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this subsection F, the term 'soil-conserving crops' means grasses and legumes grown on cropland except those classified as soil-depleting under Section XIII thereof."

Done at Washington, D. C., this 5th day of August, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2273; Filed, August 5, 1938; 12:09 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-4]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 4, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[1] are hereby amended by the following regulation:

PRINCE WILLIAM SOUND AREA

Salmon fishery.—Regulation No. 10[2] is amended to read as follows: Commercial fishing for salmon is prohibited during the remainder of each calendar year after 6 o'clock postmeridian August 9: *Provided*, That this prohibition shall not apply (a) to trolling and gill netting through August 22 in the waters along the western coast from the outer point on the north shore of Granite Bay (known as Granite Bay Point) to the light on the south shore of the entrance to Port Nellie Juan, and (b) to trolling in the period from 6 o'clock antemeridian August 9 to 6 o'clock postmeridian September 20 in the waters of Prince William Sound east of 147 degrees west longitude, exclusive of all waters of Valdez Arm north of Point Freemantle. All trap leads from shore to entrance of hearts must be removed prior to 6 o'clock antemeridian August 13.

[SEAL] SOUTH TRIMBLE, Jr.,
Acting Secretary of Commerce.

[F. R. Doc. 38-2272; Filed, August 5, 1938; 11:29 a. m.]

Notices

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 24]

CALIFORNIA MOTOR CARRIER RATES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of August, A. D. 1938.

[1] 3 F. R. 451, 512, 1019, 1382 DI.
[2] 3 F. R. 461 DI.

It appearing, That income statements of Class I contract carriers of property by motor vehicle (carriers which have gross revenues of $100,000.00 or over annually from both intrastate and interstate motor carrier operations), which are made respondents in this proceeding,[1] are desirable to aid the Commission in the determination of the above-entitled matter:

It is ordered, That each Class I contract carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before August 31, 1938, income statements for the year 1937 and for the six months ended June 30, 1938, or for the first six periods in 1938 instead of the six months ended June 30, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said income statements shall be submitted under oath on the form herewith enclosed, which form is hereby made a part of this order;[2]

And it is further ordered, That any respondent in this proceeding receiving this order, which respondent is not a Class I carrier, as above defined, shall return the blank form of income statement to the Commission at its offices in Washington, D. C., on or before August 31, accompanied by a statement that this order is not applicable to its operations.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2274; Filed, August 5, 1938; 12:25 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in Washington, D. C., on the 3rd day of August, A. D. 1938.

[File No. 52-6]

IN THE MATTER OF LOUIS R. GATES, R. W. SAMUELSON, IRA C. SNYDER, DONALD L. PETTIS, AND A. Z. PATTERSON, AS REORGANIZATION MANAGERS OF THE UNITED TELEPHONE AND ELECTRIC COMPANY

ORDER ADOPTING REPORT OF THE COMMISSION

Louis R. Gates, R. W. Samuelson, Ira C. Snyder, Donald L. Pettis, and A. Z. Patterson (hereinafter referred to as the applicants) having submitted for approval under Section 11 (f) of the Public Utility Holding Company Act of 1935 a plan of reorganization with reference to

[1] 3 F. R. 1762 DI.
[2] Filed as a part of the original document with the Division of the Federal Register. The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

The United Telephone and Electric Company, a registered holding company, and having filed, in connection therewith, under Rule U-12D-4, an application for a report of the Commission on said plan pursuant to Section 11 (g) of said Act; and

Hearings having been held on the said plan and application after appropriate notice;[1] the Commission having considered the record in these matters, and having made and filed herein its report on said plan, said report being in the form of the copy thereof attached to this order;

It is ordered, That the said report on said plan of reorganization be and the same hereby is approved and adopted as the report made by the Commission on said plan of reorganization, and as the form of copy of said report to be used by the applicants in solicitations in respect of said plan pursuant to the provisions of said Section 11 (g) and in substantial compliance with the terms and conditions of and for the purposes represented by said plan and application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2279; Filed, August 5, 1938; 12:59 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of August 1938.

[Files No. 7-218—7-233]

IN THE MATTER OF APPLICATIONS BY THE BOSTON STOCK EXCHANGE FOR UNLISTED TRADING PRIVILEGES

American Steel Foundries Common Stock, No Par Value; Baldwin Locomotive Works Voting Trust Certificates for Common Stock, Par Value $13; Boeing Airplane Company Common Stock, Par Value $5; Consolidated Aircraft Corporation Common Stock, Par Value $1; Electric Boat Company Common Stock, Par Value $3; Homestake Mining Company Capital Stock, Par Value $12.50; Inspiration Consolidated Copper Company Common Stock, Par Value $20; International Hydro-Electric System $2 Cumulative Participating Class A Stock, Par Value $25; International Paper & Power Company Common Stock, Par Value $15, 5% Cumulative Convertible Preferred Stock, Par Value $100; National Lead Company Common Stock, Par Value $10; Niagara Hudson Power Corporation Common Stock, Par Value $10; Paramount Pictures, Inc. Common Stock, Par Value $1; Philip Morris & Company, Ltd., Inc. Common Stock, Par Value $10; Radio Corporation of America $3.50 Cumulative Convertible First Preferred Stock, No Par Value; The United Corporation $3 Cumulative Preference Stock, No Par Value

ORDER DISPOSING OF APPLICATIONS TO EXTEND UNLISTED TRADING PRIVILEGES TO CERTAIN SECURITIES

The Boston Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, to extend unlisted trading privileges to the above-mentioned securities; and

A hearing having been held in this matter after appropriate notice,[1] and the Commission having this day made and filed its findings and opinion herein;

It is ordered, That the applications of the Boston Stock Exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to American Steel Foundries, Common Stock, No Par Value, Boeing Airplane Company, Common Stock, Par Value $5, Consolidated Aircraft Corporation, Common Stock, Par Value $1, Electric Boat Company, Common Stock, Par Value $3, Inspiration Consolidated Copper Company, Common Stock, Par Value $20, International Hydro-Electric System, $2 Cumulative Participating Class A Stock, Par Value $25, International Paper & Power Company, Common Stock, Par Value $15, 5% Cumulative Convertible Preferred Stock, Par Value $100, National Lead Company, Common Stock, Par Value $10, Niagara Hudson Power Corporation, Common Stock, Par Value $10, Paramount Pictures, Inc., Common Stock, Par Value $1, Philip Morris & Company, Ltd., Inc., Common Stock, Par Value $10, Radio Corporation of America, $3.50 Cumulative Convertible First Preferred Stock, No Par Value, and The United Corporation, $3 Cumulative Preference Stock, No Par Value, be and the same are hereby granted on the condition that the applicant make effective its proposed rules and such modifications thereof as we may request or approve from time to time, and that decisions on the applications of such exchange to extend unlisted trading privileges to Baldwin Locomotive Works, Voting Trust Certificates for Common Stock, Par Value $13, and Homestake Mining Company, Capital Stock, Par Value $12.50, be and the same are hereby reserved, all as is more fully set forth in the findings and opinion of the Commission issued herein this day.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2278; Filed, August 5, 1938; 12:54 p. m.]

[1] 2 F. R. 2402 (2787 DI).
[1] 3 F. R. 680-685 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of August 1938.

[File No. 7-236]

IN THE MATTER OF APPLICATION BY THE BOSTON STOCK EXCHANGE FOR UNLISTED TRADING PRIVILEGES IN ADAMS EXPRESS COMPANY NO PAR COMMON STOCK

ORDER GRANTING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The Boston Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the Adams Express Company, No Par Common Stock; and

A hearing having been held in this matter after appropriate notice,[1] and the Commission having this day made and filed its findings and opinion herein;

It is ordered, That the application of the Boston Stock Exchange, pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the Adams Express Company, No Par Common Stock be and the same is hereby granted on the condition that the applicant make effective its proposed rules and such modifications thereof as we may request or approve from time to time as is more fully set forth in the findings and opinion of the Commission issued herein this day.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2277; Filed, August 5, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of August, A. D. 1938.

[File Nos. 32-99, 46-106]

IN THE MATTER OF THE DAYTON POWER AND LIGHT COMPANY, COLUMBIA GAS & ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to section 6 (b) and 10 of the Public Utility Holding Company Act of 1935, having been duly filed with the Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on August 29, 1938, at 10 o'clock in the forenoon of that day, at the

[1] 3 F. R. 1207 DI.

Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 24, 1938.

The matter concerned herewith is in regard to (1) An application by The Dayton Power and Light Company, a subsidiary company of Columbia Gas & Electric Corporation, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale to said Columbia Gas & Electric Corporation of 42,500 shares of said applicant's common stock (without par value) for a cash consideration of $60 per share, or an aggregate consideration of $2,550,000. It is stated that $1,973,043.75 of the proceeds of such sale will be used by the applicant to repay a like principal amount of 3% notes of the applicant, payable on demand, which are held by Columbia Gas & Electric Corporation, and that the balance of such proceeds will be added to the general funds of the applicant for the purpose of financing its business. It is further stated that The Public Utilities Commission of Ohio, the state commission of the state in which applicant is organized and does business, has expressly authorized the issue and sale of such shares of common stock. (2) The application of Columbia Gas & Electric Corporation, a registered holding company, for approval of the acquisition of the above mentioned shares of The Dayton Power and Light Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2276; Filed, August 5, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of August, A. D. 1938.

[File No. 43-150]

IN THE MATTER OF THE CINCINNATI GAS & ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 29, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearings will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desired to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 24, 1938.

The matter concerned herewith is in regard to a declaration filed by The Cincinnati Gas & Electric Company, a subsidiary company of Columbia Gas & Electric Corporation, a registered holding company, regarding the reduction of its common capital account, represented by 750,000 shares, from $30,000,000 to $7,500,000. It is stated that the surplus thus created will be segregated as a separate account and designated as Special Capital Surplus; and that all charges to surplus which arise out of transactions prior to January 1, 1938, shall be made to Surplus prior to January 1, 1938, or to Special Capital Surplus, such charges, if of an income nature, to be made to Earned Surplus prior to January 1, 1938, to the extent available, then to Capital Surplus prior to January 1, 1938, to the extent available, and then to Special Capital Surplus, and such charges, if of a capital nature, to be made to Capital Surplus prior to January 1, 1938, to the extent available, and then to Special Capital Surplus, to the extent available, and then to Earned Surplus prior to January 1, 1938.

Columbia Gas & Electric Corporation owns all of the common stock of the declarant. It has outstanding 400,000 shares of Cumulative 5% Preferred Stock, Series A, par value $100 a share, which is publicly held.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2275; Filed, August 5, 1938; 12:53 p. m.]

Reference

AUG 10 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 154

Washington, Tuesday, August 9, 1938

The President

EXECUTIVE ORDER

INSPECTION OF INCOME, EXCESS-PROFITS, AND CAPITAL STOCK TAX RETURNS BY THE SPECIAL COMMITTEE ON UN-AMERICAN ACTIVITIES, HOUSE OF REPRESENTATIVES

By virtue of the authority vested in me by section 257 (a) of the Revenue Act of 1926 (44 Stat. 9, 51); section 55 of the Revenue Act of 1932 (47 Stat. 169, 189) as amended by section 218 (h) of the National Industrial Recovery Act (48 Stat. 195, 209); sections 215 (e) and 216 (b) of the National Industrial Recovery Act (48 Stat. 195, 208); sections 55 (a), 701 (e), and 702 (b) of the Revenue Act of 1934 (48 Stat. 680, 698, 770); sections 105 (e) and 106 (c) of the Revenue Act of 1935 (49 Stat. 1014, 1018, 1019); and sections 55 (a), 351 (c), and 503 (a) of the Revenue Act of 1936 (49 Stat. 1648, 1671, 1733, 1738), it is hereby ordered that income, excess-profits, and capital stock tax returns made under the Revenue Act of 1932, the Revenue Act of 1932, as amended by the National Industrial Recovery Act, the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1935, as amended by the Revenue Act of 1936, the Revenue Act of 1936, and the Revenue Act of 1936, as amended by the Revenue Act of 1937, for the calendar year 1932 and all subsequent taxable years to and including the fiscal year ending November 30, 1938, shall be open to inspection by the Special Committee on Un-American Activities, House of Representatives, or any duly authorized subcommittee thereof, for the purpose of carrying out the provisions of House Resolution 282, passed May 26, 1938 (Seventy-fifth Congress, third session); such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the Treasury Decision relating to the inspection of returns by that committee, approved by me this date.[1]

This order shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
July 14, 1938.

[No. 7933-A]

[F. R. Doc. 38-2799; Filed, August 8, 1938; 10:05 a. m.]

EXECUTIVE ORDER

ESTABLISHING WEST SISTER ISLAND MIGRATORY BIRD REFUGE

OHIO

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all that part of West Sister Island, in Lake Erie, Lucas County, Ohio, lying east of a line bearing north and south through a point which is east 200 feet distant from the center of the West Sister Island Lighthouse tower (the geographic position of which lighthouse is latitude 40°44′ 13″ N., and longitude 88°06′38″ W. from (Greenwich), and containing 82.00 acres, more or less, be, and it is hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, That nothing herein contained shall restrict the Bureau of Lighthouses from the right of ingress and egress over all parts of the island, together with the right to use any landing wharf for the purpose of tending and maintaining aids to navigation.

The Executive order of February 16, 1938, reserving West Sister Island for lighthouse purposes, is hereby revoked in so far as it effects the lands reserved by this order.

[1] See Page 1953.

CONTENTS

THE PRESIDENT

Executive Orders: Page
Alaska, correcting description of land reserved for lighthouse purposes 1944
Arizona, transferring certain lands within Coronado National Forest to control, etc., of Treasury Department 1944
Holding of State or local offices by Federal officers and employees (appointment of Division of Grazing employees as deputy fire wardens, etc.) 1945
Inspection of income, etc., tax returns by Special Committee on Un-American Activities, House of Representatives 1943
National Economic Committee, employment of examiners and experts in Justice, Treasury, Labor, and Commerce Departments, Securities and Exchange Commission, and Federal Trade Commission 1945
New York, establishing Fort Tyler Migratory Bird Refuge 1945
Ohio, establishing West Sister Island Migratory Bird Refuge 1943
Wyoming, partial revocation of land withdrawal 1944

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
New York Metropolitan Marketing Area, handling of milk 1945
TITLE 8—ALIENS AND CITIZENSHIP:
Immigration and Naturalization Service:
Border crossing cards, issuance and description of 1951

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Page

International Airport, Tampa, Fla., discontinued as port of entry for aliens arriving by aircraft ---------- 1951

TITLE 15—COMMERCE:
National Bituminous Coal Commission:
Ruling relating to 30-day contract limitation ------ 1951

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Madison Milling Co-------- 1952
Zimmer, H. R.---------- 1952

TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Authorization to sign checks on Regional Working Fund (manual amendment) ---------- 1953

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Inspection of income, etc., tax returns by Special Committee on Un-American Activities, House of Representatives---------- 1953

TITLE 35—PARKS AND FORESTS:
Forest Service:
Lands conveyed to the United States:
Exercise of water rights reserved by grantor---- 1953
Grantor's right to occupy and use conveyed lands ---------- 1953
Rights-of-way reserved by grantor ---------- 1954

NOTICES

DEPARTMENT OF AGRICULTURE:
Agricultural Adjustment Administration:
New York Metropolitan marketing Area, base period for agreement and order regulating handling of milk ---------- 1957
Farm Security Administration:
Designation of counties for tenant purchase loans:
Colorado ---------- 1957
Montana ---------- 1957
Department of the Interior:
Division of Territories and Island Possessions:
Alaska Railroad, Tanana Valley Fair excursion rates-- 1954
National Bituminous Coal Commission:
Bituminous Coal Producers Board, District No. 12, petitions to intervene in certain applications for exemption---------- 1956
Chesterfield Coal Co., et al, petition and motion of--- 1955
Investigation, rules and regulations effecting Sub-section 4 II (g) of Bituminous Coal Act of 1937--- 1955
Mahaska Coal Co., Inc., application for exemption---- 1956
Southern Illinois Coals, Inc., hearing ---------- 1956
Interstate Commerce Commission:
Central territory contract carrier rates, investigation, etc. 1958
Securities and Exchange Commission:
Breeze Corporations, Inc., stop order ---------- 1958
Fairchild Engine and Airplane Corp., $1.00 par common stock, listing and registration---------- 1958
Gulf States Utilities Co., hearing---------- 1959
Southern Colorado Power Co., hearing ---------- 1959

This reservation shall be known as the West Sister Island Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7937]

[F. R. Doc. 38-2293; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

CORRECTING DESCRIPTION OF LAND RESERVED BY EXECUTIVE ORDER No. 3406 OF FEBRUARY 13, 1921, FOR LIGHTHOUSE PURPOSES

ALASKA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered that, subject to valid existing rights, the description contained in paragraph numbered 72 of Executive Order No. 3406 of February 13, 1921, withdrawing public land for the Warm Springs Bay Lighthouse Reserve, be, and it is hereby, corrected to conform to Alaska Survey No. 1649, as shown on the plat approved March 8, 1937.

The land involved consists of 9.97 acres and is situated in latitude 57°04'45" N., longitude 134°46'57" W.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7938]

[F. R. Doc. 38-2294; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER No. 5886 OF JULY 12, 1932, WITHDRAWING PUBLIC LANDS

WYOMING

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 5886 of July 12, 1932, withdrawing public lands in Wyoming, pending a resurvey, is hereby revoked as to the following-described townships:

SIXTH PRINCIPAL MERIDIAN

Tps. 26, 27, and 28 N., R. 117 W.
Tps. 27 and 28 N., R. 118 W.

This order shall become effective upon the date of the official filing of the plats of the resurvey of the above-described townships.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 2, 1938.

[No. 7939]

[F. R. Doc. 38-2295; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

TRANSFERRING CERTAIN LANDS WITHIN THE CORONADO NATIONAL FOREST TO THE CONTROL AND JURISDICTION OF THE TREASURY DEPARTMENT

ARIZONA

By virtue of and pursuant to the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 34, 36, and as President of the United States, it is ordered that, subject to valid existing rights, the following-described lands comprising a part of the Coronado (formerly Huachuca) National Forest, created by proclamation of the President of November 6, 1906, 34 Stat. 3255, be, and they are hereby, transferred to the control and jurisdiction of the Secretary of the Treasury for use as a site for a customs-immigration inspection station:

GILA AND SALT RIVER MERIDIAN

T. 24 S., R. 17 E., sec. 20, NW¼NE¼, lots 1 and 2, 85.41 acres.

Upon cessation of the use of the above-described lands for the purpose herein specified they shall revert to their previous status as a part of the Coronado National Forest.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7940]

[F. R. Doc. 38-2296; Filed, August 8, 1938; 10:04 a. m.]

EXECUTIVE ORDER

ESTABLISHING THE FORT TYLER MIGRATORY BIRD REFUGE

NEW YORK

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described area, on Gardiners Island, Suffolk County, New York, be, and it is hereby, reserved and set apart for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

The property known as the Fort Tyler Military reservation bounding on Gardiners Bay, and more definitely described as follows:

All that part of the north point of Gardiners Island lying northwest of a line described and running as follows: Starting from a stake on a sand ridge and running thence north 56 degrees east, and south 56 degrees west, to the waters on each side of said point, or beach, respectively, and bounded north, east, and west by the waters of Gardiners Bay, and southeasterly by the beach at the aforesaid line, containing about 14 acres, more or less.

The above-described property has been declared by the War Department to be surplus to its needs, and the reservation made by this order is subject to the right of the Director of Procurement to dispose of such property in accordance with the provisions of the act of August 27, 1935, c. 774, 49 Stat. 885.

This reservation shall be known as the Fort Tyler Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7941]

[F. R. Doc. 38-2297; Filed, August 8, 1938; 10:04 a. m.]

EXECUTIVE ORDER

AUTHORIZING THE EMPLOYMENT OF CERTAIN EXAMINERS AND OTHER EXPERTS PAID FROM FUNDS AUTHORIZED BY PUBLIC RESOLUTION NO. 113, 75TH CONGRESS, WITHOUT COMPLIANCE WITH THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Eighth of subdivision SECOND of section 2 of the Civil Service Act of January 16, 1883 (22 Stat. 403, 404), it is hereby ordered that the positions of such examiners and other experts in the Department of Justice, the Department of the Treasury, the Department of Labor, the Department of Commerce, the Securities and Exchange Commission, and the Federal Trade Commission, as are necessary to enable the said Departments and Commissions to carry out their functions under Public Resolution No. 113, 75th Congress, approved June 16, 1938, establishing the temporary National Economic Committee, and the compensation of which is paid from funds allocated to the said Departments and Commissions by the President from the appropriation made by the Second Deficiency Appropriation Act, fiscal year 1938, Public No. 723, 75th Congress, approved June 25, 1938, for carrying out the provisions of the said Public Resolution No. 113, may be filled by the said Departments and Commissions without compliance with the requirements of the Civil Service Rules.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938.

[No. 7942]

[F. R. Doc. 38-2298; Filed, August 8, 1938; 10:04 a. m.]

EXECUTIVE ORDER

AMENDMENT OF THE EXECUTIVE ORDER OF JANUARY 17, 1873, RELATING TO THE HOLDING OF STATE OR LOCAL OFFICES BY FEDERAL OFFICERS AND EMPLOYEES

By virtue of and pursuant to the authority vested in me by section 1753 of the Revised Statutes of the United States (5 U. S. C., sec. 631), and as President of the United States, the Executive Order of January 17, 1873, as amended, prohibiting, with certain exceptions, Federal officers and employees from holding State, municipal, or other local offices, is hereby further amended so as to permit employees of the Division of Grazing, Department of the Interior, with the approval of the Secretary of the Interior, to accept appointments as deputy fire wardens and deputy fish and game wardens under the laws of the States in which such employees may be on duty: *Provided*, that their services as such deputy fire wardens and deputy fish and game wardens shall be without compensation and shall not in any manner interfere or conflict with the performance of their duties as employees of the Division of Grazing.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 4, 1938.

[No. 7944]

[F. R. Doc. 38-2292; Filed, August 8, 1938; 10:02 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Order No. 27]

ORDER REGULATING SUCH HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA AS IS IN INTERSTATE COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE COMMERCE

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary of Agriculture, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the New York metropolitan marketing area, would tend to effectuate the declared policy of said act, gave, on the 29th day of April 1938, notice of public hearings[1] to be held on a proposed marketing agreement and a proposed order, said hearings being held jointly with the Commission of Agriculture and Markets of the State of New York at Albany, New York, May 16, 1938; Malone, New York, May 17, 1938; Syracuse, New York, May 18, 1938; Elmira, New York, May 19, 1938; New York City, May 20, 24, 25, and 26, 1938; and Albany, New York, June 3, 4, and 7, 1938, and at said times and places all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, the Secretary of Agriculture has found and proclaimed[2] the period

[1] 3 F. R. 1000 DI.
[2] See Page 1957.

August 1921–July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk produced for sale in the New York metropolitan marketing area; and

Whereas, the Secretary of Agriculture finds that a pro rata assessment on handlers at a rate not to exceed 2 cents per hundredweight of Class I, II–A, and II–B milk handled will provide funds necessary for the proper administration of this order; and

Whereas, the Secretary of Agriculture finds, upon the evidence introduced at the said public hearings;

1. That approximately one-third of the milk produced for sale in the marketing area is produced in States other than the State of New York; that approximately one-third of the milk produced in the State of New York for sale in the marketing area passes through other States on its way to be sold in the marketing area; and that milk produced in the State of New York for sale in the marketing area which does not pass through other States on its way to be sold in the marketing area is physically and inextricably intermingled with that milk which is produced outside the State of New York for sale in the marketing area or which is produced in the State of New York for sale in the marketing area but which passes through other States on its way to be sold in the marketing area; and that all milk which is produced for sale in the marketing area is handled in the current of interstate commerce or so as directly to burden, obstruct, or affect interstate commerce in milk and its products, except as such milk is regulated by an order of the Commissioner of Agriculture and Markets of the State of New York, to which this order is complementary;

2. That the prices calculated to give milk handled in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of the act are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply and demand for such milk, and that the minimum prices fixed in accordance with the method set forth in this order are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

3. That this order regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement upon which hearings have been held;

4. That orderly marketing conditions for milk flowing into the New York metropolitan marketing area are so disrupted as to result in impairment of the purchasing power of such milk, and that the issuance of this order and all of its terms and conditions will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by said act, hereby orders that such handling of milk produced for sale in the New York metropolitan marketing area as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof according to article X, be in conformity to and in compliance with the terms and conditions hereinafter set forth.

ARTICLE I.—DEFINITIONS

SECTION 1. *Definitions.*—The following terms shall have the following meanings:

1. "Act" means the Agricultural Marketing Agreement Act of 1937 which reenacts and further amends certain provisions of Public No. 10, 73rd Congress, as amended.

2. "Secretary" means the Secretary of Agriculture of the United States.

3. "New York metropolitan milk marketing area" means the city of New York, and the counties of Nassau, Suffolk, and Westchester, all in the State of New York, and is hereinafter called the "marketing area."

4. "Person" means any individual, partnership, corporation, association, or any other business unit.

5. "Producer" means any person who produces milk which is delivered to a handler at a plant which is approved by any health authority for the receiving of milk to be sold in the marketing area.

6. "Handler" means any person who engages in the handling of milk, or cream therefrom, which was received at a plant approved by any health authority for the receiving of milk to be sold in the marketing area, which handling is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce. This definition shall be deemed to include a cooperative association of producers with respect to any milk received from producers at any plant operated by such association or with respect to any milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association collects payment. This definition shall not be deemed to include any person who neither receives milk from producers nor handles milk which is sold as milk or cream in the marketing area.

7. "Market administrator" means the agency, which is described in article II, for the administration of this order.

ARTICLE II.—MARKET ADMINISTRATOR

SECTION 1. *Selection, removal and bond.*—The agency for the administration of this order shall be a market administrator who shall be a person selected and subject to removal by the Secretary. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

SEC. 2. *Compensation.*—The market administrator shall be entitled to such reasonable compensation as shall be determined by the Secretary.

SEC. 3. *Powers.*—The market administrator shall have power:

1. To administer the terms and provisions hereof;

2. To receive, investigate and report to the Secretary complaints of violations of this order.

SEC. 4. *Duties.*—The market administrator, in addition to the duties hereinafter described shall:

1. Keep such books and records as will clearly reflect the transactions provided for herein;

2. Submit his books and records to examination by the Secretary at any and all times;

3. Furnish such information and such verified reports as the Secretary may request;

4. Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the market administrator;

5. Publicly discloses to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not—

(a) Made reports pursuant to section 3 of article V or

(b) Made payments required by sections 1 and 8 of article VII;

6. Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

7. Pay out of the funds received pursuant to article VIII—

(a) The cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator,

(b) His own compensation, and

(c) All other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties;

8. Maintain a main office and such branch offices as may be necessary.

SEC. 5. *Announcement of Prices.*—The market administrator shall publicly announce prices as follows:

1. Not later than the 25th day of each month, the Class I and Class II–A prices to be in effect for the following month, pursuant to section 1 of article IV.

2. Not later than the 5th day of each month, the prices effective for the preceding month for Classes II–B, III–A, III–B, III–C, III–D, IV–A, and IV–B, pursuant to section 1 of article IV.

3. Not later than the 14th day of each month, the uniform price computed pursuant to section 2 of article VI.

ARTICLE III.—CLASSIFICATION OF MILK

SECTION 1. *Basis of classification.*—All milk received from producers by handlers shall be classified in the classes set forth in section 2 of this article in accordance with its utilization at, or movement from, the plant where received from producers, including members of any cooperative association; *Provided*, That if milk is moved as milk from any plant outside the marketing area where received from producers to a second plant outside the marketing area, classification of such milk at the first plant may be in accordance with its utilization at such second plant; and provided further that if milk is moved as cream, plain condensed milk or homogenized mixtures from any plant outside the marketing area to any second plant classification of such milk at the first plant may be in accordance with its utilization at such second plant.

Any utilization of milk claimed by a handler shall be subject to verification by the market administrator. Any claim by a handler of utilization of milk at the plant of any other person shall be accompanied by a complete statement of such utilization and written consent by such person for the market administrator to verify such statement by an audit of such person's records.

Any milk or cream which is on hand at any plant at the end of any month shall be classified in accordance with the form in which it leaves, or is utilized at, such plant not later than the 8th day of the following month.

SEC. 2. *Classes of utilization.*—The classes of utilization of milk shall be as follows:

1. Class I milk shall be all milk which leaves a plant as milk, chocolate milk, or any whole milk drink, and all milk the utilization of which is not established for classification in some other class named in this section, except that loss or waste of milk in the plant where received from producers, not to exceed 2 percent of the total quantity of milk received from producers, may be prorated to each class in the proportion which the milk in such class is of the total quantity of milk classified.

2. Class II–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream, except as set forth in paragraphs 5 and 7 of this section.

3 Class II–B milk shall be all milk the butterfat from which leaves, or is on hand at, a plant in the form of plain condensed milk, except as set forth in paragraph 6 of this section, frozen desserts, or homogenized mixtures.

4. Class III–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of evaporated milk in hermetically-sealed cans, sweetened condensed milk, milk chocolate, milk powder, malted milk powder, or any cheese other than American Cheddar and cream cheese.

5. Class III–B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is subsequently held in a licensed cold storage warehouse for more than seven days at a temperature below zero degrees Fahrenheit.

6. Class III–C milk shall be all milk the butterfat from which leaves a plant in the form of frozen desserts or homogenized mixtures which were sold outside of New York City.

7. Class III–D milk shall be all milk the butterfat from which is delivered as cream to a purchaser, not a handler, outside the State of New York and outside any county in other States in which there is a plant which is approved by any health authority for the receiving of milk to be sold in the marketing area, also milk the butterfat from which leaves or is on hand at a plant in the form of cream cheese.

8. Class IV–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of butter.

9. Class IV–B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the from of American Cheddar cheese.

ARTICLE IV.—MINIMUM PRICES

SECTION 1. *Class prices.*—For milk containing 3.5 percent of butterfat received, during each month from producers or cooperative associations of producers at plants in the 201–210 mile zone, each handler shall pay per hundredweight net less than the prices set forth in this section. For milk containing more or less than 3.5 percent of butterfat or received from producers or cooperative associations of producers at plants in other zones, each handler shall pay per hundredweight not less than the prices set forth in this section plus or minus the differentials set forth in sections 2 and 3 of this article.

The minimum prices for Class I and Class II–A milk shall apply to all Class I and Class II–A milk which is sold in the marketing area or which passes through a plant in the marketing area. The minimum prices for milk in Classes II–B, III–A, III–B, III–C, III–D, IV–A, and IV–B shall apply to all milk of any handler in these classes unless such handler has milk in Class I to which the minimum price is not applicable, in which event the minimum III–A, III–B, III–C, III–D, IV–A, and IV–B prices shall not apply to the percent of his milk, if any, in each of the said classes which is equal to the percent of his total milk received from producers to which the Class I price is not applicable.

Payment of the minimum prices for milk received direct from producers shall be in accordance with article VII. Any handler who purchases or receives milk from a cooperative association of producers which is also a handler shall pay such cooperative association in full for such milk at not less than the minimum prices applicable pursuant to this article.

1. For Class I milk the price during each month shall be as shown in the schedule below in this paragraph for the butter-price range in which falls the average, as determined by the market administrator, of the prices reported daily during the 60 days preceding the 25th day of the preceding month, by the United States Department of Agriculture, for 92-score butter at wholesale in the New York market.

Butter-price range (cents per pound)	Class I price	
	April through July	August through March
	Dollars per cwt.	*Dollars per cwt.*
Under 20	1.80	2.05
20–24.9	2.00	2.25
25–29.9	2.20	2.45
30–34.9	2.20	2.65
35–39.9	2.40	2.65
40–44.9	2.60	2.85
45–49.9	2.80	3.05
Over 49.9	3.00	3.25

2. For Class II–A milk the price during each month shall be as shown in the schedule below in this paragraph for the butter-price range in which falls the average, as determined by the market administrator, of the prices reported daily during the 30 days preceding the 25th day of the preceding month, by the United States Department of Agriculture for 92-score butter at wholesale in the New York market.

Butter-price range (cents per pound)	Class II–A price		
	March through July	August through October	November through February
	Dollars per cwt.	*Dollars per cwt.*	*Dollars per cwt.*
Under 20	1.30	1.35	1.50
20–24.9	1.50	1.55	1.70
25–29.9	1.70	1.75	1.90
30–34.9	1.85	1.90	2.05
35–39.9	2.00	2.05	2.20
40–44.9	2.15	2.20	2.35
45–49.9	2.30	2.35	2.50
Over 49.9	2.45	2.50	2.65

3. For Class II–B milk the price during each month shall be 10 cents higher than the Class III–A price.

4. For Class III–A milk the price during each month shall be 10 cents higher than the average, computed by the market administrator, of prices, as reported to the United States Department of Agriculture, paid during such month to farmers by each of the evaporated milk plants which are located at places listed in this paragraph and for which prices are reported; *Provided*, That in no event shall the Class III–A price be less than a price computed by the market administrator as follows: To the average price of 92-score butter at wholesale in the Chicago market for such month, as reported by the United States Department

of Agriculture, add 30 percent, multiply by 3.5, and add 7 cents.

LOCATIONS OF EVAPORATED MILK PLANTS

Mt. Pleasant, Mich.
Sparta, Mich.
Hudson, Mich.
Wayland, Mich.
Coopersville, Mich.
Greenville, Wis.
Black Creek, Wis.
Orfordville, Wis.
Chilton, Wis.
Berlin, Wis.
Richland Center, Wis.
Oconomowoc, Wis.
Jefferson, Wis.
New Clarus, Wis.
Belleville, Wis.
New London, Wis.
Coldwater, Ohio
Delta, Ohio.

5. For Class III–B milk the price during each month shall be 20 cents higher than the Class IV–A price.

6. For Class III–C milk the price during each month shall be 10 cents higher than the Class IV–A price.

7. For Class III–D milk the price during each month shall be 7½ cents higher than the Class IV–A price.

8. For Class IV–A milk the price during each month shall be a price computed by the market administrator as follows: From the average of the highest prices reported daily during such month by the United States Department of Agriculture for 92-score butter at wholesale in the New York market, deduct 4 cents, add 20 percent, and multiply by 3.5.

9. For Class IV–B milk the price during each month shall be a price computed by the market administrator as follows: Take the average of the weekly quotations, with differentials as indicated, from such of these markets as may issue quotations during such month: Single Daisies at Wisconsin Cheese Exchange, Plymouth, Wisconsin, plus one cent per pound; Twins at Gouverneur Cheese Board, Gouverneur, New York; Flats at Cuba Board of Trade, Cuba, New York; deduct 3 cents, and multiply by 9.45. In the absence of any such quotation the price for the preceding month shall be effective.

SEC. 2. *Butterfat differentials.*—The minimum prices for Classes I, II–A, II–B, III–B, III–C, and III–D milk set forth in section 1 of this article shall be subject to payment of butterfat differentials pursuant to section 3 of article VII. The minimum prices for Classes III–A and IV–A milk containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of one percent butterfat, an amount equal to the respective prices set forth in paragraphs 4 and 8 of section 1 of this article, divided by 35. The minimum prices for Class IV–B milk containing more or less than 3.5 percent butterfat shall be plus or minus, for each one-tenth of one percent butterfat, an amount equal to the price set forth in paragraph 9 of section 1 of this article divided by 9.45 and multiplied by 0.23.

SEC. 3. *Transportation differentials.*—The market administrator shall from time to time publicly announce for each plant operated by each handler the freight zone set forth in the schedule below in this section according to the railway mileage distance from New York City of its nearest railway shipping point, or its highway mileage distance from New York City, if the latter is less than the former by more than 15 miles. Any such mileage distance shall be that recognized for rate-making purposes by the Interstate Commerce Commission. The minimum prices set forth in section 1 of this article shall be plus or minus the amounts as set forth in the following schedule:

A Freight (zone-miles)	B Class I	C Classes II–A, II–B, III–B, and III–C	D Class III–A
	Cents per cwt.	*Cents per cwt.*	*Cents per cwt.*
1–10	+15	+8	+4
11–20	+14	+8	+4
21–25	+13	+8	+4
26–30	+13	+7	+4
31–40	+13	+7	+4
41–50	+10.5	+7	+4
51–60	+10.5	+6	+3
61–70	+9.5	+6	+3
71–75	+8	+6	+3
76–80	+8	+5	+3
81–90	+8	+5	+3
91–100	+7	+5	+3
101–110	+7	+4	+2
111–120	+6	+4	+2
121–125	+5	+4	+2
126–130	+5	+3	+2
131–140	+5	+3	+2
141–150	+3.5	+3	+2
151–160	+2.5	+2	+1
161–170	+2.5	+2	+1
171–175	+1.5	+2	+1
176–180	+1.5	+1	+1
181–190	+1 5	+1	+1
191–200	0 0	+1	0
201–210	0 0	0	0
211–220	−1	0	0
221–225	−1	0	0
226–230	−1	−1	0
231–240	−2	−1	0
241–250	−2	−1	0
251–260	−3.5	−2	−1
261–270	−3.5	−2	−1
271–275	−3.5	−2	−1
276–280	−3.5	−3	−1
281–290	−4.5	−3	−1
291–300	−5.5	−3	−1
301–310	−5 5	−4	−2
311–320	−5.5	−4	−2
321–325	−7	−4	−2
326–330	−7	−5	−2
331–340	−7	−5	−2
341–350	−8	−5	−2
351–360	−8	−6	−3
361–370	−8	−6	−3
371–375	−9	−6	−3
376–380	−9	−7	−3
381–390	−9	−7	−3
391–400	−9	−7	−3
401–410	−10.5	−8	−4
411–420	−10.5	−8	−4
421–425	−10.5	−8	−4
426–430	−10.5	−9	−4
431–440	−11.5	−9	−4
441–450	−11.5	−9	−4
451–460	−11.5	−10	−5
461–470	−12.5	−10	−5
471–475	−12.5	−10	−5
476–480	−12.5	−11	−5
481–490	−14	−11	−5
491–500	−14	−11	−5

ARTICLE V.—REPORTS OF HANDLERS

SECTION 1. *Preliminary monthly reports.*—On or before the 23rd day of each month each handler shall, when requested by the market administrator, report to the market administrator in the manner and form prescribed by him: (a) The total quantity of milk received during the first twenty days of such month from producers, and (b) the utilization of such milk in the several classes set forth in article III.

SEC. 2. *Reports of deliveries per day per producer.*—Each handler shall, upon request of the market administrator given not less than two weeks in advance, report the average deliveries of milk per day per producer during a specified period of time.

SEC. 3. *Final monthly reports.*—On or before the 10th day of each month each handler shall report to the market administrator, in the manner and on forms prescribed by the market administrator, with respect to milk received at each plant during the preceding month:

1. The total quantity of milk, with the average butterfat content thereof, received from producers, from other plants, from such handler's own farm, and from other handlers;

2. The total quantity of milk and of each product of milk moved out of such plant during such month or on hand at such plant at the end of such month, the butterfat content of each product; and the destination of any milk which moved out of such plant;

3. If classification of any milk is claimed by such handler on the basis of utilization at some other plant, the utilization of such milk, together with written consent for verification by audit thereof signed by the operator, if not a handler, of the other plant, and

4. The computation, pursuant to section 1 of article VI of such handler's net pool obligation.

SEC. 4. *Verification of reports and payments.*—The market administrator shall promptly verify all reports and payments of each handler by audit of such handler's records. Each handler shall, during the usual hours of business, make available to the market administrator or his representative such of his records and facilities as will enable the market administrator to:

1. Verify the receipts and utilization of all milk required to be reported pursuant to this article, and, in case of errors or omissions, ascertain the correct figures;

2. Weigh, sample, and test for butterfat content the milk received from producers and any product of milk upon which classification depends; and

3. Verify the payments to producers prescribed in article VII.

ARTICLE VI.—DETERMINATION OF UNIFORM PRICE

SECTION 1. *Net pool obligation of handlers.*—The net pool obligation of any handler for milk received from producers during each month shall be a sum of money computed for such month as follows:

1. Determine the total quantity of milk in each class at each plant;

2. Subtract from the quantity of milk in each class the quantity of such milk received from other plants or from other handlers;

3. Subtract pro rata out of each class the quantity of milk received from the handler's own farm;

4. Subtract from the remaining quantity of milk in each class, the quantity of each to which the prices in section 1 of article IV do not apply, which result shall be known as the "net pooled milk" in each class;

5. Multiply the total quantity of net pooled milk in each class, at all plants of the handler combined, by the respective class prices set forth in section 1 of article IV and add together the resulting sums;

6. Deduct, in the case of each plant where the average butterfat content of all milk received from producers is in excess of 3.5 percent and add in the case of each plant where the average butterfat content of all milk received from producers is less than 3.5 percent, an amount equal to the difference between the total value of the butterfat differentials on net pooled milk in Classes III–A, IV–A, and IV–B at the rates set forth in section 2 of article IV for such milk and the total value of the butterfat differentials on such milk as set forth in section 3 of article VII;

7. Deduct, in the case of each plant nearer New York City than the 201–210 mile zone, and add, in the case of each plant farther from New York City than the 201–210 mile zone, an amount equal to the difference between the sum of the respective transportation differentials, as set forth in section 3 of article IV, on all net pooled milk in Classes II–A, II–B, III–A, III–B, and III–C and the sum obtained by applying the appropriate zone differential set forth in column B of the schedule in section 3 of article IV to the total net pooled milk at each plant in Classes II–A, II–B, III–A, III–B, III–C, III–D, IV–A, and IV–B.

8. Deduct 20 cents per hundredweight for all net pooled milk received from producers at plants in the counties or portions of counties listed below in this section. The result thus obtained shall be known as the "handler's net pool obligation."

Counties:
New Jersey:
Hunterdon.
Somerset.
Essex.
Union.
Morris.
Warren.
Sussex.
Passaic.
New York:
Columbia.
Dutchess.
Nassau.
Orange.
New York—Continued.
Putnam.
Suffolk.
Westchester.
Connecticut:
Litchfield.
Massachusetts:
Berkshire.
Towns in Ulster County, New York:
Marbletown.
Hurley.
Kingston.
Ulster.
Rosendale.
Esopus.
New Paltz.
Lloyd.
Gardiner.
Plattekill.
Marlborough.
Shawangunk.

SEC. 2. *Computation of the uniform price.*—The market administrator shall, on or before the 14th day of each month, audit for mathematical correctness and obvious errors the final report submitted for the preceding month by each handler and, on the 14th day of such month, compute from all of such corrected reports the uniform price in the following manner:

1. Combine into one total the net pool obligations of all handlers;

2. Subtract the total of payments required to be made for such month by section 5 of article VII and the total of payments claimed pursuant to section 6 of article VII;

3. Add the amount of cash in the producer settlement fund;

4. Divide the result by the total quantity of milk represented in the sum obtained pursuant to paragraph 1 of this section; and

5. Subtract not less than 4 cents nor more than 5 cents to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers. This result shall be known as the uniform price for such month for milk containing 3.5 percent butterfat received from producers at plants in the 201–210-mile zone.

ARTICLE VII.—PAYMENTS TO PRODUCERS

SECTION 1. *Time of payment.*—On or before the 25th day of each month each handler which is not a cooperative association of producers shall make payment to each producer for all milk delivered by such producer at any plant during the preceding month at not less than the uniform price, subject to differentials set forth in sections 2 and 3 of this article. If, however, the net pooled milk in all classes at all plants of such handler is less than the total milk he received from producers and he does not pay the uniform price for all milk received from producers, such handler shall pay each producer the uniform price on such producer's pro rate share of the net pooled milk at all of his plants. Each handler shall give each producer a clear statement of the percentage of such producer's milk which was paid for at the uniform price and furnish a copy of such statement to the market administrator at the time payment is made.

SEC. 2. *Transportation and location differentials.*—The uniform price shall be plus or minus the differential shown in column B of the schedule contained in section 3 of article IV for the zone of the plant as established for the purposes of section 3 of article IV, plus 25 cents in the case of plants located in the counties listed in paragraph 8 of section 1 of article VI.

SEC. 3. *Butterfat differential.*—The uniform price shall be plus or minus, as the case may be, 4 cents per hundredweight for each one-tenth of one percent above or below 3.5 percent of average butterfat content of milk delivered by any producer during any month.

SEC. 4. *Grade A premiums.*—In addition to the uniform price and all other payments required pursuant to this article, each handler shall pay for milk which is qualified under the New York City Department of Health requirements for sale as Grade A milk and which is delivered to a plant similarly qualified, an amount per hundredweight equivalent to the following differentials on that Class I milk which such handler sold in the marketing area as Grade A milk;

Butterfat content (percent)	Bacteria colonies per c. c.		
	10,000 or less	10,000 to 25,000	Over 25,000
	Cents per cwt.	*Cents per cwt.*	*Cents per cwt.*
3.7	60	42	5
3.8	66	48	7.5
3.9	72	54	10
4.0 and above	78	60	12

SEC. 5. *Payments to cooperative associations.*—Any cooperative association of producers may apply to the Secretary for a determination of its qualifications to receive payments pursuant to this section by reason of its having and exercising full authority in the sale of the milk of its members, using its best efforts to supply, in times of short supply, Class I milk to the marketing area and to secure utilization of milk, in times of long supply, in a manner to assure the greatest possible returns to all producers, and having its entire activities under the control of its members. After such determination, the cooperative association of producers shall be entitled to continue to receive such payment until it has been disqualified by the Secretary, after hearing, for failure to exercise the authority and to perform the functions upon which such determination was based.

The market administrator shall make the payments authorized by this section, or issue credit therefor, out of the producer settlement fund on or before the 25th day of each month, subject to verification of the reports upon which such payment is based. Such payments

shall be made to each cooperative association of producers under the following conditions and at the following rates:

1. One cent per hundredweight of net pooled milk at any handler's plant which was caused to be delivered from its members by such association and on which such handler has made the reports and payments required by this order.

2. Except as set forth in paragraph 3 of this section, 2½ cents per hundredweight of net pooled milk at plants of other handlers which was reported and collected for by such association.

3. Five cents per hundredweight of net pooled milk at plants operated by such association and, if, in addition to the other qualifications, such association has been determined by the Secretary to have sufficient plant capacity to receive all the milk of producers who are members and to be willing and able to receive milk from producers not members, 5 cents per hundredweight of any net pooled milk which was caused by it to be delivered to any other handler and which is reported and collected for by such association.

SEC. 6. *Market service payment.*—The market administrator shall pay out of the producer settlement fund to any handler immediately after audit of claim for such payment made on forms supplied by the market administrator;

1. With respect to milk received from producers at a plant operated by such handler equipped only for the receiving and shipping of milk to the marketing area, which was, during any month except November or December, moved to a plant where it was utilized in Classes II–A, II–B, III–A, III–B, III–C, III–D, or, during the month of October, IV–A, and from which, if operated by such handler, no Class I milk was shipped to the marketing area during such month, 23 cents per hundredweight of milk so moved, plus 4 cents per hundredweight for the first five miles or fraction thereof, plus ¼ cent per hundredweight per mile for the next 20 miles, and plus $\frac{1}{10}$th of 1 cent per hundredweight per additional mile, of the shortest highway distance between the two plants; and

2. Thirty cents per hundredweight of Class I milk sold during the months of November and December in the marketing area which was received from producers at a plant which is equipped for condensing or drying milk and from which, during the months of May and June preceding, in terms of equivalent of milk received at such plant, no milk in excess of 10 percent and no cream in excess of 50 percent was shipped to the marketing area.

SEC. 7. *Producer settlement fund.*—The market administrator shall establish and maintain a separate fund known as "the producer settlement fund" into which he shall deposit all payments made by handlers pursuant to sections 8 and 10 of this article and out of which he shall make all payments to handlers pursuant to sections 6, 9, and 10 of this article, and to cooperative association of producers pursuant to section 5 of this article.

SEC. 8. *Payments to the producer settlement fund.*—Each handler shall on or before the 18th day of each month pay to the market administrator for payment to producers through the producer settlement fund the amount by which his net pool obligation for the preceding month is greater than the amount obtained by multiplying the net pooled milk of such handler by the uniform price.

SEC. 9. *Payments out of producer settlement fund.*—On or before the 20th day of each month the market administrator shall remit to each handler for payment to producers the amount, if any, by which such handler's net pool obligation is less than the amount obtained by multiplying the net pooled milk of such handler by the uniform price. If at such time the balance in the producer settlement fund is insufficient to make all payments due to such handler, the market administrator shall reduce uniformly the payments made to each handler and shall complete such payments as soon as the necessary funds are available. No handler who, on the 25th day of the month, has not received the balance of such reduced payment from the market administrator shall be deemed to be in violation of section 1 of this article if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer settlement fund.

SEC 10. *Adjustments of errors in payments.*—Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer settlement fund, the market administrator shall promptly bill such handler for any unpaid amount, and such handler shall, within five days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler the market administrator shall, within five days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of less than is required by this article, the handler shall make up such payment to the producer not later than the time of making payment next following such disclosure.

ARTICLE VIII.—EXPENSE OF ADMINISTRATION

SECTION 1. *Payment by handlers.*—As his pro rata share of the expense of administration hereof, each handler shall, on or before the 20th day of each month, pay to the market administrator a sum not exceeding 2 cents per hundredweight on the total quantity of milk which was received from producers at plants operated by such handler, directly or at the instance of a cooperative association of producers, and which was utilized in Classes I, II–A, and II–B, the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler under any order issued by the Commissioner of Agriculture and Markets of the State of New York to which this order is complementary.

ARTICLE IX.—SUSPENSION, TERMINATION AND LIQUIDATION

SECTION 1. *Continuing obligation of handlers.*—Unless otherwise provided by the Secretary in any notice of amendment, termination or suspension of any or all of the provisions hereof, such amendment, termination or suspension shall not (a) affect, waive, or terminate any right, duty, obligation, or liability which shall have arisen or may thereafter arise in connection with any provision of this order; (b) release or waive any violation of this order occurring prior to the effective date of such amendment, termination or suspension; or (c) affect or impair any right or remedies of the Secretary or of any other person with respect to any such violations.

SEC. 2. *Continuing power and duty.*—If, upon the termination or suspension of this order, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, or by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such termination or suspension.

The market administrator shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary shall direct; and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator pursuant to this order.

SEC. 3. *Liquidation.*—Upon the termination or suspension of this order, the market administrator shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such termination or suspension.

Any funds collected for expenses, pursuant to the provisions of this order, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator in liquidating the business of the market administrator's office shall be distributed by the market administrator to handlers in an equitable manner.

ARTICLE X.—EFFECTIVE TIME

SECTION 1. *Effective time.*—This order shall become effective after the issuance by the Commissioner of Agriculture and Markets of the State of New York of an order containing provisions similar to the provisions of this order and to which this order shall be complementary and on the first day of the month following, by more than three days, publication in the Federal Register by the Secretary of (a) his finding that the order is approved by more than two-thirds of the producers voting in a referendum, (b) a marketing agreement containing provisions similar to this order approved by him and signed by handlers of more than 50 percent of the milk sold in the marketing area, or, his determination approved by the President that the failure or refusal of handlers to sign tends to prevent the effectuation of the declared policy of the act and that the issuance of the order is the only practical means of advancing the interests of producers pursuant to such declared policy of the act.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture of the United States, have executed in duplicate and issued this order to become effective in accordance with article X hereof, and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 5th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2280; Filed, August 5, 1938; 3:29 p. m.]

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[Second Supplement to General Order No. C–2[1]]

PORTS OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

INTERNATIONAL AIRPORT, TAMPA, FLA.

AUGUST 5, 1938.

Pursuant to the authority contained in subsection (d) of Section 7 of the Air Commerce Act of 1926 (Act of May 20, 1926, 44 Stat. 572; 49 U. S. C. 177 (d)), the designation of International Airport, Tampa, Florida as a temporary port for the entry into the United States of aliens arriving by aircraft is hereby discontinued.

Sec. 11.33, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 3 (b) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by striking Tampa, Florida, International Airport, in the list of temporary ports of entry for aliens arriving by aircraft.

[SEAL] FRANCES PERKINS,
Secretary.

Approval Recommended:

JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 38–2282; Filed, August 6, 1938; 10:54 a. m.]

[General Order No. C–4]

ISSUANCE AND DESCRIPTION OF BORDER CROSSING CARDS

AUGUST 5, 1938.

Pursuant to the authority contained in Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Sec. 11.83, Title 8, Code of Federal Regulations (Rule 3, Subdivision Q, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended to read as follows:

SEC. 11.83. *Border crossing card; issuance and description of.*—An alien or citizen residing upon either side of an international boundary line who has occasion frequently to cross and recross such boundary line for limited visits, upon application, may be issued an identification card which shall correctly set forth his status. The application shall be accompanied by two unmounted photographs of the applicant (2 by 2 inches, the distance from the top of head to point of chin to be approximately 1½ inches) for attachment to the identification card, together with the data necessary for completion of the card. Such data shall be inserted in the appropriate blank spaces by typewriter or with ink. The applicant shall sign his name in ink except where, in the judgment of the issuing inspector, the signature may be made with an indelible pencil.*

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:
FRANCES PERKINS,
Secretary.

[F. R. Doc. 38–2283; Filed, August 6, 1938; 10:54 a. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

RULING RELATING TO THIRTY DAY CONTRACT LIMITATION

The Commission having entered its ruling relating to thirty (30) day contract limitation on March 30, 1938, and having modified said ruling on April 6, 1938,[1] and this day having amended paragraph numbered (2) of the modification dated April 6, 1938 to read as follows:

"(2) To enter into a contract for the sale of coal for periods not exceeding one year in any case where a State or political subdivision thereof or any other governmental agency opens bids to purchase coal for periods in excess of thirty (30) days, but such contract must provide for a reasonable price to continue until minimum prices are made effective by the Commission and that thereafter no coal will be delivered thereunder below the minimum prices.",

Said ruling as amended is hereby published in consolidated form:

Inquiry having been made to the Commission as to whether or not a thirty (30) day limitation on contracts for the sale of coal is in effect by virtue of the provisions of the third paragraph of Section 4 (e) of the Act, or by virtue of Commission's Order No. 44,[2] and as to the power of the Commission to impose such thirty (30) day limitation under the authority vesting in the Commission to prescribe reasonable rules and regulations to carry out the provisions of the Act, in response thereto and in conformity with what it deems to be the intent of Congress, and in order to carry out the provisions of the Act:

The Commisison construes the third paragraph of Section 4 (e) of the Act, which limits contracts for the sale of coal from and after the date of the approval of the Act, *"until prices shall have been established,"* to a period not longer than thirty (30) days from the date of the contract, as meaning that the thirty (30) day limitation on contracts shall be effective *"while"* or *"as long as" prices are not established*, the word "until" referring to the entire time of the duration of a condition, rather than the mere point of inception of such condition, and;

The Commission declares that until minimum prices of coals of code members have been re-established by the National Bituminous Coal Commission, pursuant to subsections (a) and (b) of Part II, Section 4 of the Act, no code member shall sell or enter into any agreement to sell coal calling for delivery thereof for a period beyond thirty (30) days from the date of such sale or agreement of sale, provided however, that it will not be deemed a violation of the Code:

(1) To enter into a contract for the sale of coal with agencies of the Federal Government containing a provision permitting the Federal Government to renew the contract after the effective date of minimum prices, either for the remainder of the fiscal year or for such part thereof as the Government may

[1] 3 F. R. 1657, 1698 DI.

[2] 3 F. R. 807, 843 DI.
[1] 2 F. R. 1849 (2168 DI).

desire, but such contract must provide that no coal will be delivered thereunder below the minimum prices, when the same are established by the Commission, or:

(2) To enter into a contract for the sale of coal for periods not exceeding one year in any case where a State or political subdivision thereof or any other governmental agency opens bids to purchase coal for periods in excess of thirty (30) days, but such contract must provide for a reasonable price to continue until minimum prices are made effective by the Commission and that thereafter no coal will be delivered thereunder below the minimum prices.

By the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. W. McCULLOUGH,
Secretary.

[F. R. Doc. 38-2306; Filed, August 8, 1938; 11:56 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2862]

IN THE MATTER OF H. R. ZIMMER

SEC. 3.6. (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that "radium emanator", or any like device, has any curative value, or is in any way beneficial in treatment of specified human ailments, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b [Cease and desist order, H. R. Zimmer, Docket 2862, July 29, 1938].

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that "radium emanator", or any like device, will improve health, prolong life, or destroy all injurious bacteria in water, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b [Cease and desist order, H. R. Zimmer, Docket 2862, July 29, 1938].

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2862]

IN THE MATTER OF H. R. ZIMMER

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before Charles P. Vicini, John W. Addison, and Robert S. Hall, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint (no proof having been offered by respondent in opposition to the allegations of said complaint), brief filed herein by Clark Nichols, counsel for the Commission (no brief having been filed and no request having been made by respondent for oral argument), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, H. R. Zimmer, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of his Zimmer Radium Emanator or any other like or similar device, whether sold under the name Zimmer Radium Emanator or under any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing that said produce has any curative, remedial, or therapeutic value or is in any way beneficial in the treatment of anemia, asthma, stiff joints, hardening of arteries and high blood pressure, arthritis, apoplexy, bronchitis, inflammation of bladder, diabetes, eczema, condition of weakness after sickness, inflammation of stomach and bowels, inflammation of sinus, gout, laryngitis, lumbago, inflammation of uterus, inflammation of spinal cord, sick headaches, inflammation of heart muscles, Bright's disease, neuralgia and neuritis, nervous prostration, peritonitis, polyarthritis, pyorrhea, skin diseases, rheumatism, hay fever, sciatica, synovitis, locomar ataxia, and old age symptoms of disease, or any other disease or diseases.

(2) Representing that said product will improve health, prolong life, or destroy all injurious bacteria in water.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2302; Filed, August 8, 1938; 11:52 a. m.]

[Docket No. 3439]

IN THE MATTER OF MADISON MILLING COMPANY

SEC. 3.99. (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., in connection with sale of flour, lottery cards or devices to enable recipients to dispose thereby of such flour, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b). [Cease and desist order, Madison Milling Company, Docket 3439, July 29, 1938.]

SEC. 3.99. (b) *Using or selling lottery devices—In merchandising.*—Selling or otherwise disposing of flour by use of lottery cards or devices, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b). [Cease and desist order, Madison Milling Company, Docket 3439, July 29, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3439]

IN THE MATTER OF MADISON MILLING COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent admitting all the material allegations of fact set forth in the complaint issued herein, and waiving all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Madison Milling Company, a corporation, its officers, agents, representatives and employees, in connection with the offering for sale, sale and distribution of flour in interstate commerce, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others lottery cards or other lottery devices or paraphernalia for the purpose of enabling such persons to dispose of such merchandise by the use thereof;

(2) Mailing, shipping or transporting to dealers or agents lottery cards or other lottery devices or paraphernalia so prepared or printed as to enable said persons to sell or distribute such merchandise by the use thereof;

(3) Selling or otherwise disposing of such merchandise by the use of lottery cards or any other lottery devices or paraphernalia.

It is further ordered, That the said respondent shall, within sixty (60) days from the date of the service of this order upon it, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied therewith.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2303; Filed, August 8, 1938; 11:53 a. m.]

[1] 1 F. R. 1265.

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

AUTHORIZATION TO SIGN CHECKS ON REGIONAL WORKING FUND

MANUAL AMENDMENT

Be it resolved, That Section 7.15 of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations and the corresponding Section 715 of Chapter VII of the Manual are hereby amended to read as follows effective as of September 1, 1938:

SECTION 7.15. (Manual Section 715) The Regional Treasurer, and the Assistant Regional Treasurer in each Regional Office, are authorized, individually, to sign checks drawn on the Regional Working Fund maintained with the Treasurer of the United States for their respective Region. All checks in excess of $1,000.00 drawn on such accounts, shall be countersigned by the Regional Manager or an Assistant Regional Manager. All checks in an amount of $10,000.00 or more, drawn on such accounts, shall also be countersigned by the Chairman, Vice-Chairman, or any Member of the Board.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1938 (48 Stat. 643-647) and particularly by subSections a and k of Section 4 of said Act as amended).

Adopted by the Federal Home Loan Bank Board on August 4, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2301; Filed, August 8, 1938; 10:10 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4849]

REGULATIONS GOVERNING THE INSPECTION OF INCOME, EXCESS-PROFITS, AND CAPITAL STOCK TAX RETURNS BY THE SPECIAL COMMITTEE ON UN-AMERICAN ACTIVITIES, HOUSE OF REPRESENTATIVES

JULY 1, 1938.—

Collectors of Internal Revenue and Others Concerned:

Pursuant to the provisions of section 257 (a) of the Revenue Act of 1926; section 55 of the Revenue Act of 1932, as amended by section 218 (h) of the National Industrial Recovery Act; sections 215 (e) and 216 (b) of the National Industrial Recovery Act; sections 55 (a), 701 (e), and 702 (b) of the Revenue Act of 1934; sections 105 (e) and 106 (c) of the Revenue Act of 1935; and sections 55 (a), 351 (c) and 503 (a) of the Revenue Act of 1936, income tax returns made under the Revenue Act of 1932, the Revenue Act of 1932, as amended by the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1936, and the Revenue Act of 1936, as amended by the Revenue Act of 1937, and capital stock and excess-profits tax returns made under the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1935, as amended by the Revenue Act of 1936 and the Revenue Act of 1936, for the calendar year 1932 and all subsequent taxable years to and including the fiscal year ending November 30, 1938, shall be open to inspection by the Special Committee on Un-American Activities, House of Representatives, or any duly authorized subcommittee thereof, for the purpose of carrying out the provisions of House Resolution 282 (Seventy-fifth Congress, third session), passed May 26, 1938. The inspection of returns herein authorized may be by the committee or a duly authorized subcommittee thereof, acting directly as a committee or a subcommittee, or by or through such examiners or agents as the committee or subcommittee may designate or appoint. Upon written notice by the chairman of the committee or of the authorized subcommittee to the Secretary of the Treasury, giving the names and addresses of the taxpayers whose returns it is necessary to inspect and the taxable periods covered by the returns, the Secretary and any officer or employee of the Treasury Department shall furnish such committee or subcommittee with any data relating to or contained in any such return, or shall make such return available for inspection by the committee or subcommittee or by such examiners or agents as the committee or subcommittee may designate or appoint, in the office of the Commissioner of Internal Revenue. Any inforation thus obtained by the committee or the subcommittee thereof, which is relevant or pertinent to the purpose of the investigation, may be submitted by the committee or the subcommittee to the House.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Approved:

FRANKLIN D ROOSEVELT,
The White House.

[F. R. Doc. 38-2300; Filed, August 8, 1938; 10:05 a. m.]

TITLE 35—PARKS AND FORESTS

FOREST SERVICE

RULES AND REGULATIONS GOVERNING EXERCISE OF WATER RIGHTS RESERVED BY THE GRANTOR OF LANDS CONVEYED TO THE UNITED STATES

In conformity with the provisions of the Act of March 1, 1911 (36 Stat. 961; 16 U. S. C., Sec. 518), I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following rules and regulations to govern the exercise of water and related rights reserved by the grantor of lands conveyed to the United States under the provisions of said Act of March 1, 1911.

(1) All reasonable precautions shall be taken by the grantor and all persons acting for or claiming under him to prevent and suppress forest fires upon or threatening the premises or other adjacent lands of the United States, and any person failing to comply with this requirement shall be responsible for any damages sustained by the United States by reason thereof.

(2) All slash and debris resulting from the cutting and removal of timber shall be disposed of as directed by the Forest Officer in charge.

(3) Flowage and reservoir areas shall be cleared of timber and debris, in a manner satisfactory to the Forest Supervisor, or in accordance with a special agreement approved by him. Timber cut and destroyed in the exercise of the reserved rights shall be paid for at rates to be prescribed by the Forest Officer in charge, which rates shall be the usual stumpage price charged in the locality.

(4) The water surface created shall be open to the Forest Service and its permittees when such use does not interfere with the original purpose of the development.

(5) The water surface shall be open to fishing by the public in accordance with State laws when such use does not interfere with the original purpose of the development.

(6) Plans for dams and supplemental structures, impounding or controlling more than 10 acre feet of water or with a head in excess of 6 feet, shall be approved by the Regional Engineer of the Forest Service before construction shall begin.

In testimony thereof, I have hereunto set my hand and official seal at the City of Washington, this 5th day of August, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2288; Filed, August 6, 1938; 12:39 p. m.]

RULES AND REGULATIONS GOVERNING THE GRANTOR'S RIGHT TO OCCUPY AND USE LANDS CONVEYED TO THE UNITED STATES

In conformity with the provisions of the Act of March 1, 1911, (36 Stat. 961; 16 U. S. C. Sec. 518), I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following rules and regulations to govern the exercise of the right reserved by the grantor to occupy and use for the purposes of residence, agriculture, industry or commerce lands conveyed to the United States for National Forest purposes under authority of said act as amended.

1. The reservation so created shall not be assigned, used or occupied by anyone other than the grantor without the consent of the United States.

2. All reasonable precautions shall be taken by the grantor and all persons acting for or claiming under him to prevent and suppress forest fires upon or threatening the premises or other adjacent lands of the United States, and any person failing to comply with this requirement shall be responsible for any damages sustained by the United States by reason thereof.

3. The premises shall not be used or permitted to be used, without the written consent of the United States, for any purpose or purposes other than those specified in the instrument creating the reservation.

4. The grantor and all persons acting for or claiming under him shall maintain the premises and all buildings and structures thereon in proper repair and sanitation and shall comply with the National Forest laws and regulations and the laws and lawful orders of the State in which the premises are located.

5. The reservation shall terminate (a) upon the expiration of the period named in the deed; (b) upon failure for a period of more than one calendar year to use and occupy the premises for the purposes named in the deed; (c) by use and occupancy for unlawful purposes or for purposes other than those specified in the deed, and (d) by voluntary written relinquishment by the owner.

6. Upon the termination of reservation the owners of personal property remaining on the premises shall remove same within a period of three months.

7. The said reservation shall be subject to rights-of-way for the use of the United States or its permittees, upon, across, or through the said land, as may hereafter be required for the erection, construction, maintenance and operation of public utility systems over all or parts thereof, or for the construction and maintenance of any improvements necessary for the good administration and protection of the national forests, and shall be subject to the right of officials or employees of the Forest Service to inspect the premises, or any part thereof, at all reasonable times and as often as deemed necessary in the performance of official duties in respect to the premises.

In testimony thereof, I have hereunto set my hand and official seal of the Department of Agriculture, in the City of Washington, this 5th day of August, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2289; Filed, August 6, 1938; 12:39 p. m.]

RULES AND REGULATIONS GOVERNING RIGHTS-OF-WAY RESERVED BY THE GRANTOR ON LANDS CONVEYED TO THE UNITED STATES

In conformity with the provisions of the Act of March 1, 1911 (36 Stat. 961, 16 U. S. C. Sec. 518), I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following rules and regulations to govern the use, occupancy, and operation of rights-of-way reserved by a grantor of lands to the United States.

1. Brush and refuse resulting from the exercise of the right-of-way reservation shall be disposed of to the satisfaction of the Forest Officer in charge.

2. Timber cut and destroyed in the exercise of the right-of-way reservation shall be paid for at rates to be prescribed by the Forest Officer in charge, which rates shall be the usual stumpage prices charged in the locality in sales of national forest timber of the same kind or species; for injury to timber, second growth, and reproduction, the amount of actual damage shall be ascertained by the Forest Supervisor according to the rules applicable in such cases.

3. All improvements built or maintained upon the right-of-way shall be kept in an orderly, safe and sanitary condition. Failure to maintain such conditions shall be cause for the termination of the reservation after 30 days' notice in writing to the occupant or user that unsatisfactory conditions exist and that the Department intends to terminate all rights under the reservation unless such conditions are forthwith corrected to the satisfaction of the Regional Forester.

4. Upon the abandonment of a reserved right-of-way, either by formal release, by termination, or by non-use for a period of one calendar year, all improvements thereon not the property of the United States shall be removed therefrom within three months from the date of the abandonment, otherwise such improvements shall vest in and become the property of the United States.

5. All reasonable precautions to prevent and suppress forest fires shall be taken by the grantor and all persons acting for or claiming under him; suitable crossings shall be constructed by grantor and/or said persons where the reserved right-of-way intersects existing roads and trails; borrow pits shall not be opened outside of the immediate graded section except under a special use permit from the Forest Supervisor.

6. Officers of the Forest Service shall have free ingress and egress on and over the reserved rights-of-way for all purposes necessary and incidental to the protection and administration of the national forest.

In testimony thereof, I have hereunto set my hand and official seal at the City of Washington, this 5th day of August, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2290; Filed, August 6, 1938; 12:40 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

EXCURSION RATES ON THE ALASKA RAILROAD

[I. C. C. No. 244]

THE ALASKA RAILROAD

LOCAL PASSENGER TARIFF NO. 183-C[1]

Naming Round Trip Excursion Fares from Stations on the Alaska Railroad in Alaska to Fairbanks, Alaska, Account Tanana Valley Fair, August 25, 26, 27, 1938.

Issued, July 15, 1938. Effective, August 19, 1938. Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

GENERAL RULES AND REGULATIONS

1. *Stations from and to which this tariff applies.*—This tariff applies from all Rail Line stations. This tariff applies only to Fairbanks, Alaska. Conductor picking up passenger at non-agency station will handle passenger to first agency station where ticket must be secured from originating station to final destination.

2. *Dates of sale.*—August 19, 20, 21, 22, 23, and 24, 1938.

3. *Final return limit.*—Return trip to be completed prior midnight of final limit. Tickets sold from stations College, Alaska to Curry, Alaska, inclusive will be limited to August 31, 1938. Tickets sold from stations Lane, Alaska to Seward, Alaska, inclusive, and Palmer, Alaska to Sutton, Alaska, inclusive will be limited to September 1, 1938.

4. *Stopovers.*—Stopovers will be permitted at all points within final return limit on both going and return trip. Stopover will be granted on application to Conductor who will endorse on reverse side of ticket "Off at -------- Station, Date ------ Train No. --------". This endorsement will be signed by Conductor and transportation returned to passenger.

5. *Tickets.*—Use Form L-14 Round Trip Excursion Tickets.

6. *Children.*—Tickets may be sold at one-half the fares named herein for children five years of age and under twelves years of age, sufficient to be added to make fare end in "0" or "5" Children under five years of age will be carried free when accompanied by parent or guardian.

7. *Baggage.*—For baggage rules including free allowance, excess charge, etc., see Local Baggage Tariff No. 2, I. C. C. No. 22 (Alaskan Engineering Commission Series), supplements thereto and reissues thereof. Excess baggage charges will be made on basis of the one way fares shown in Local Passenger Tariff No. 42-B, I. C. C. No. 177, supplements thereto and reissues thereof.

8. *Tickets non-transferable.*—All tickets sold at fares named herein are non-transferable and will be valid only for transportation of passenger for whom originally purchased.

9. *Fares.*—One first class fare and a third for the round trip. First class fares are shown in Local Passenger Tariff No. 42-B, I. C. C. No. 177, supplements thereto and reissues thereof. Agents in selling round trip tickets under this tariff will add sufficient to make fare end in "0" or "5" for the round trip.

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38-2291; Filed, August 8, 1938; 9:54 a. m.]

[1] No supplement will be issued to this tariff except for the purpose of cancelling the tariff.

National Bituminous Coal Commission.

[Order No. 246]

AN ORDER INSTITUTING AN INVESTIGATION TO BE CONDUCTED BY THE COMMISSION FOR THE PURPOSE OF ACQUIRING SUCH INFORMATION AND DATA AS WILL ENABLE IT, AFTER HEARING, AND UPON NOTICE TO INTERESTED PARTIES, TO MAKE AND ISSUE RULES AND REGULATIONS TO MAKE SUB-SECTION 4 II (G) OF THE ACT EFFECTIVE

PROVIDING FOR THE COLLABORATION OF THE DISTRICT BOARDS WITH THE COMMISSION IN THE COLLECTING AND ASSEMBLING OF THE NECESSARY DATA AND INFORMATION, AND REQUESTING THE AID OF THE DISTRICT BOARDS BY THE SUBMISSION OF PROPOSED RULES AND REGULATIONS DESIGNED TO MAKE SAID SUB-SECTION EFFECTIVE

Whereas Sub-section (g) of Part II of Section 4 of the Bituminous Coal Act of 1937 provides:

> The price provisions of this Act shall not be evaded or violated by or through the use of docks or other storage facilities or transportation facilities, or by or through the use of subsidiaries, affiliated sales or transportation companies or through intermediaries or instrumentalities, or by or through the absorption, directly or indirectly, of any transportation or incidental charge of whatsoever kind or character or any part thereof. The Commission is hereby authorized, after investigation and hearing, and upon notice to the interested parties, to make and issue rules and regulations to make such subsection effective,

and

Whereas, it is desirable that the Commission be informed as to the practices heretofore and now employed or which are capable of being employed in the future, by producers or distributors of coal, by the use of the aforesaid instrumentalities or devices and their effect upon the actual price return to the producer or distributor for the coal sold by him, and

Whereas, the several District Boards are possessed of, or are capable of acquiring, information and data relating to such methods and uses, which will materially aid the Commission in making proper rules and regulations,

Now, Therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That there be, and there is hereby, instituted an investigation to be conducted by the Commission for the purpose of acquiring such information and data as will enable it to make and issue rules and regulations designed to prevent the evasion or violation of the provisions of the Act by or through the use of docks or other storage facilities or transportation facilities, or by or through the use of subsidiaries, affiliated sales or transportation companies or other intermediaries or instrumentalities, or by or through the absorption, directly or indirectly, of any transportation or incidental charge of whatsoever kind or character, or any part thereof.

2. That the Marketing Division of the Commission be and it is hereby directed to proceed forthwith, in the name of and in behalf of the Commission, to make such inquiries and to seek such information, from whatever source available, as will, in its judgment, appear to be necessary to properly effectuate the purposes of Section 4-II (g) of the Act.

3. And to this end, the said Marketing Division is directed to seek the collaboration of the several District Boards, and to request the said several District Boards, in the name of the Commission, to consider, and propose to the Commission such rules and regulations, as in their respective judgments, would serve to prevent the evasion or violation of the price provisions of the Act by the means set forth in Section 4-II (g) of the Act.

4. That the Marketing Division of the Commission be and it is hereby directed to report the results of said investigation, and submit to the Commission the said proposals of the District Boards, not later than the 26th day of August, 1938, at which time the Commission will, by further order, provide for a hearing, and notice thereof, at which all interested parties will be afforded an opportunity to be heard, for the purpose of receiving evidence to enable the Commission to make and issue the rules and regulations authorized by Section 4-II (g) of the Act.

5. That the Secretary of the Commission be and he is hereby directed to mail a copy of this Order to the Secretaries of each District Board, the Consumers' Counsel and to all code members, together with a request to each of said parties to submit to the Marketing Division of the Commission any information or data, or any suggestion which they consider pertinent; and the Secretary is further directed to cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2307; Filed, August 8, 1938; 11:56 a. m.]

[Docket No. 16]

ORDER IN THE MATTER OF THE PETITION AND MOTION OF CHESTERFIELD COAL COMPANY, HI-HEAT COAL COMPANY, INDEPENDENT COAL & COKE COMPANY, LIBERTY FUEL COMPANY, MACLEAN COAL COMPANY, NATIONAL COAL COMPANY, PEERLESS SALES COMPANY, ROYAL COAL COMPANY, SPRING CANYON COAL COMPANY, STANDARD COAL COMPANY, SWEET COAL COMPANY, UTAH FUEL COMPANY, UNITED STATES FUEL COMPANY

At a special session of the National Bituminous Coal Commission held at its Offices in Washington, D. C., on the 5th day of August, 1938.

The petitioners above named, having on the 31st day of May, 1938, petitioned the Commission to vacate its Ruling dated March 30, 1938, and to revoke its construction therein of Section 10 (a) of the Bituminous Coal Act of 1937 permitting the introduction in evidence at a hearing before the Commission of data with respect to 1936 costs of production of individual producers; and

The matter having come on to be heard, pursuant to due public notice, before the Commission in its Hearing Room in the Shirley-Savoy Hotel, Denver, Colorado, on the 15th day of June, 1938, at 10:00 A. M., upon the petition aforesaid, and a "Stipulation of Evidence," constituting the entire evidence, having been filed and received, and

The cause having been submitted, and the Commission being fully advised in the premises, it is found, upon due consideration, that the issues herein involved are identical with the issues in "The Matter of the Petition of the Mallory Coal Company, et al," Docket No. 13, and in "The Matter of the Petition of the Rochester and Pittsburgh Coal Company, et al," Docket No. 14, and that the petition and motion herein should be dismissed upon the same grounds and for the same reasons as set forth in the Opinion of the Commission, entered in the aforesaid Dockets Nos. 13 and 14,[1] on the 1st day of June, 1938;

Now, Therefore, It is ordered:

1. That the aforesaid petition and motion of Chesterfield Coal Company, et al, filed herein on the 31st day of May, 1938, be and the same is hereby denied and dismissed.

[1] 3 F. R. 1277 DI

2. That the Secretary be and he is hereby directed to mail a copy of this order to each of the above named petitioners and to the Consumers' Counsel.

By the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2308; Filed, August 8, 1938; 11:57 a. m.]

[Docket No. 362-FD]

IN THE MATTER OF THE APPLICATION OF SOUTHERN ILLINOIS COALS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE AND ORDER FOR HEARING

The applicant above named, having on the 8th day of July, 1938, filed its application for provisional approval as a marketing agency, *Notice Is Hereby Given* that the above entitled matter is assigned for hearing before an Examiner of the Commission, on the *Twenty-ninth day of August, 1938*, at ten o'clock, A. M. at the hearing room of the Commission, 15th and Eye Streets, Northwest, Washington, D. C., at which time and place interested parties will be afforded an opportunity to be heard.

The Secretary of the Commission is forthwith directed to mail a copy of this Notice of Hearing to the applicant above named, to the Secretary of each District Board, and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER.

A copy of the aforesaid application is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2309; Filed, August 8, 1938; 11:57 a. m.]

[Dockets No. 363-FD—411-FD]

ORDER IN THE MATTER OF THE PETITIONS OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 12 TO INTERVENE IN THE FOLLOWING APPLICATIONS FOR EXEMPTION FILED UNDER THE SECOND PARAGRAPH OF SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937:

O & L Coal Company, Attica, Iowa (Marion County); Beck Coal & Mining Company, 510 Crocker Building, Des Moines, Iowa (Polk County); Sumpter Coal Company, 510 Crocker Building, Des Moines, Iowa (Polk County); Stub Coal Company, Bussey, Iowa (Marion County); Cedar Bluff Coal Company, Hamilton, Iowa (Marion County); Liter Coal Company, Attica, Iowa (Marion County); Confidence High Test Coal Company, Promise City Iowa (Wayne County); Yocum & Son Coal Company, Corydon, Iowa (Wayne County); Duer & Head, Corydon, Iowa (Wayne County); Crozier Coal Company, Promise City, Iowa (Wayne County); Lauren Hegwood Coal Company, Dallas, Iowa (Marion County); H. W. Sargent Coal Company, Oskaloosa, Iowa (Mahaska County); Quality Coal Company, Givin, Iowa (Mahaska County); Agan & Gillespie Coal Company, Columbia, Iowa (Marion County); Rowley Coal Company, Knoxville, Iowa (Marion County); William Davis Coal Company, Beacon, Iowa (Mahaska County); Ault Coal Company, Eldon, Iowa (Wapello County); Villont Coal Company, Bussey, Iowa (Marion County); Erin Coal Company, Ottumwa, Iowa (Wapello County); Carbon Hill Coal Company, Oskaloosa, Iowa (Mahaska County); Diamond Block Coal Company, Pella, Iowa (Marion County); Flagler Coal Company, Knoxville, Iowa (Marion County); Mid-West Coal Company, Des Moines, Iowa (Polk County); Melcher Coal Company, Attica, Iowa (Marion County); Valley Forge Coal Company, Hamilton, Iowa (Marion County); Spavin Coal Company, Knoxville, Iowa (Marion County); Indian Hollow Coal Company, Des Moines, Iowa (Polk County); Houghton Coal Company, Attica, Iowa (Marion County); Conner & Smith Coal Company, Columbia, Iowa (Marion County); Anderson-Robinson Coal Company, Melcher, Iowa (Marion County); Big Six Coal Company, Hamilton, Iowa (Marion County); Ramsey-Dooms Coal Company, Knoxville, Iowa (Marion County); Pike Coal Company, Des Moines, Iowa (Polk County); C. A. Riggen Coal Company, Des Moines, Iowa (Polk County); Standard Coal Company, Dallas, Iowa (Marion County); Oakdale Coal Company, Indianola, Iowa (Warren County); Vancenbrock Coal Company, Knoxville, Iowa (Marion County); Hidden Hollow Coal Company, Hamilton, Iowa (Marion County); Bradley Bros. Coal Company, Knoxville, Iowa (Marion County); Walnut Valley Coal Company, Prairie City, Iowa (Jasper County); Wallace Coal Company, Marysville, Iowa (Marion County); Liberty Coal Company, Marysville, Iowa (Marion County); Hunt Coal & Mining Company, Marysville, Iowa (Marion County); Lae-Z Coal Company, Marysville, Iowa (Marion County); Levey Coal Company, Carlisle, Iowa (Warren County); Arkoal Coal Company, Marysville, Iowa (Marion County); National Coal Company, Marysville, Iowa (Marion County); Mulgrew and Sons Company, Dubuque, Iowa (Dubuque County); Ed M. Ankeny, New Market, Iowa (Taylor County).

At a special session of the National Bituminous Coal Commission held in its offices in Washington, D. C. on the 5th day of August, 1938.

The Petitions of Bituminous Coal Producers Board for District No. 12 for Permission to Intervene in the above cases having been considered and having been found not to state any facts from which the Commission may determine whether petitioner has such an interest in the proceedings as to justify its interventions:

Now, therefore, It is hereby ordered:

1. That the Petitions of Bituminous Coal Producers Board for District No. 12 for Permission to Intervene in the above cases be and hereby are dismissed without prejudice to the right of Bituminous Coal Producers Board for District No. 12 to file proper petitions in accordance with Rule VIII (b) of the Rules of Practice and Procedure before the Commission, promulgated June 23, 1937, and amended November 5, 1937, May 7, 1938, and June 6, 1938;[1]

2. That the Secretary of the Commission is directed forthwith to mail a copy of this order to the petitioners, to each of the parties above named, to the Consumers' Counsel, to the Secretary of each District Board, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission, and shall cause a copy of the same to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2305; Filed, August 8, 1938; 11:55 a. m.]

[Docket No. 412-FD]

IN THE MATTER OF THE APPLICATION OF MAHASKA COAL COMPANY, INC. FOR EXEMPTION

OPINION AND ORDER OF THE COMMISSION

On December 16, 1937, this Commission entered an order effective January 3, 1938, in the matter entitled "Investigation of the Nature and Extent of Transactions in Intrastate Commerce in Bituminous Coal in the State of Iowa and the Effect of such Transactions on Interstate Commerce in such Coal," Docket No. 19-FD.[2] This was a hearing held pursuant to the provisions of the first paragraph of Section 4-A of the Bituminous Coal Act of 1937.

The second paragraph of Section 4-A states:

> Any producer believing that any commerce in coal is not subject to the provisions of Section 4 or to the provisions of the first paragraph of this section may file with the Commission an application * * * for exemption.

This Section further provides that:

> Within a reasonable time after the receipt of any application for exemption the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of such application.

This Commission has not yet set for hearing nor issued notice thereof, the applications for exemption which have been received from Iowa.

On July 26, 1938, Bituminous Coal Producers Board for District No. 12, by its counsel, filed a petition for permission to intervene in the matter of the application for exemption filed on behalf of Mahaska Coal Company, Inc.

The petition of the District Board states that "if the application for exemption heretofore filed herein is granted, this Board will be adversely affected for the following reasons:

"(a) It will be deprived of the revenue that it would receive from the applicant, as a Code member, by way of collection of assessments.

"(b) It would be seriously hadicapped and hindered in the performances of its duties under said statute if this application is allowed.

"(c) The Code members of which this petitioner is the representative would be seriously damaged and affected in the operation of their respective coal mines."

On July 28, 1938, applicant, Mahaska Coal Company, Inc., by its Secretary, submitted a motion to strike the petition for permission to intervene, filed by Bituminous Coal Producers Board for District No. 12.

Applicant states: (1) that the allegation of the District Board that "it will be deprived of the revenue that it would receive from the applicant, as a Code member, by way of collection of assessments," is not material in the matter of application for exemption for the reason that the Bituminous Coal Act of 1937 does not apply to applicant unless it is engaged in interstate commerce, and among other reasons, applicant further states that "the right, privilege or authority of the Bituminous Coal Producers Board for District No. 12 to collect revenue from the said Mahaska Coal Company, is not in issue under the application of the Mahaska Coal Company;" (2) applicant further states that the allegation by the Producers Board that the performance of its duties under the statute would be seriously handicapped and hindered if the application is allowed, is frivolous, incompetent, irrelevant, immaterial and not an issue in this proceeding; (3) applicant states that the allegation that the code members represented by the District Board would be seriously damaged and affected if the application for exemption is granted, is not a statement of fact, and no facts from which such a conclusion can be drawn have been stated in the petition of the District Board, and the statement is merely a conclusion of the pleader; (4) finally, applicant states that the Petition for Permission to Intervene does not state any facts upon which the Commission can pass, but states only conclusions of the pleader and no facts from which conclusions may be drawn.

We do not pass upon the allegations set forth by applicant, Mahaska Coal Company, Inc., as to the materiality of District Board assessments, or upon the statement of applicant that the sole issue is whether applicant is engaged in interstate commerce, nor do we need determine at this time, whether District Board No. 12 has such an interest in the proceedings as to justify its intervention.

We grant the motion of Mahaska Coal Company, Inc., solely on the ground that the Petition for Permission to Intervene does not state any facts from which the Commission may determine whether petitioner has such an interest in the proceeding as to justify its intervention.

Now, Therefore, It is hereby ordered:

1. That in accordance with this opinion, that the Petition of District Board No. 12 for Permission to Intervene be and hereby is dismissed without prejudice to the right of District Board No. 12 to file a proper petition in accordance with Rule VIII (b) of the Rules of Practice and Procedure before the Commission, promulgated June 23, 1937, and amended November 5, 1937, May 7, 1938 and June 6, 1938.

2. That the Secretary of the Commission is directed forthwith to mail a copy of this order to the Mahaska Coal Company, Inc., to Bituminous Coal Producers Board for District No. 12, or their Attorneys of record; to the Secretary of each District Board, and shall cause a copy to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 5th day of August, 1938.

[SEAL] F. W. MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2304; Filed, August 8, 1938; 11:55 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

PROCLAMATION CONCERNING BASE PERIOD TO BE USED IN CONNECTION WITH EXECUTION OF MARKETING AGREEMENT AND ISSUANCE OF ORDER REGULATING HANDLING OF MILK IN NEW YORK METROPOLITAN MARKETING AREA

By virtue of the authority vested in the Secretary of Agriculture by the terms and provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and further amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture hereby finds and proclaims that in connection with the execution of a marketing agreement and the issuance of an order regulating the handling of milk in the New York Metropolitan Marketing Area, the purchasing power of such milk during the base period August 1909 to July 1914 cannot be satisfactorily determined from available statistics in the Department of Agriculture, but that the purchasing power of such milk can be satisfactorily determined from available statistics in the Department of Agriculture for the period August 1921 to July 1929; and the period August 1921 to July 1929 is hereby found and proclaimed to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the New York Metropolitan Marketing Area, for the purpose of the execution of a marketing agreement and the issuance of an order[1] regulating the handling of said milk in that area.

In testimony whereof, the Secretary of Agriculture has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 5th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2281; Filed, August 5, 1938; 3:29 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

COLORADO

AUGUST 6, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II-3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Colorado State Farm Security Advisory Committee, the county listed below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938;[2] and (2) the following additional county:

La Plata.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2287; Filed, August 6, 1938; 12:39 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

MONTANA

AUGUST 6, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II3 of Administration

[1] 3 F. R. 1841 DI.
[2] 2 F. R. 2872 (3323 DI).

[1] See Page 1945.
[2] 3 F. R. 599 DI.

Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Denver State Farm Security Advisory Committee, the county listed below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) those counties which were designated for the making of loans for the fiscal year ending June 30, 1938; [1] and (2) the following additional county:

Pondera.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2286; Filed, August 6, 1938; 12:39 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC-27]

CENTRAL TERRITORY CONTRACT CARRIER RATES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of August, A. D. 1938.

Division 5 having under consideration the subject of the minimum charges of contract carriers applicable to the transportation of property in interstate or foreign commerce within the territory herein below described, and the rules, regulations, or practices affecting such charges and the value of the service thereunder:

It is ordered, That an investigation be, and it is hereby, instituted by the Division, on its own motion, into and concerning the minimum charges, and the rules, regulations, or practices affecting such charges and the value of the service thereunder, applicable to the transportation by all contract carriers by motor vehicle subject to the Motor Carrier Act, 1935, of all property, except household goods, livestock, automobiles, petroleum products in tank trucks, and articles of unusual size or value, in interstate or foreign commerce, between all points in the States of Illinois, Indiana, Michigan, Ohio, and Wisconsin, and all points in the States of Iowa, Kentucky, Missouri, New York, Pennsylvania, and West Virginia which are shown in Agent H. M. Slater's tariff MF-ICC No. 1, as amended, with a view to determining whether the said minimum charges, and the rules, regulations, or practices affecting such charges and the value of the service thereunder, of the respondent contract carriers, or any of them, applicable to such transportation, are in any respects in violation of the law, and of making such findings and entering such order or orders in the premises, and of taking such other and further action, as the facts and circumstances may appear to warrant.

It is further ordered, That all contract carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission in Washington, D. C.

And it is further ordered, That the said proceeding be, and it is hereby, assigned for hearing on the 4th day of October, A. D. 1938, at 10 o'clock a. m. (standard time), at the Hotel Sherman, Chicago, Ill., before Examiner A. S. Parker.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2310; Filed, August 8, 1938; 12:08 p. m.]

[1] 3 F. R. 611 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of August 1938.

[File No. 1-2933]

IN THE MATTER OF FAIRCHILD ENGINE AND AIRPLANE CORPORATION $1.00 PAR COMMON STOCK

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGULATION

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to strike from listing and registration the $1.00 Par Common Stock of Fairchild Engine and Airplane Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, August 31, 1938, in Room 630, Securities and Exchange Commission, Bankers Building, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2284; Filed, August 6, 1938; 12:23 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of August A. D. 1938.

IN THE MATTER OF BREEZE CORPORATIONS, INC.

STOP ORDER

This matter coming on to be heard before the Commission on the registration statement of Breeze Corporations, Inc., a New Jersey corporation, which became effective as of January 13, 1937, after confirmed telegraphic notice to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading in Items 46 and 54 and in the prospectus, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant; and

The registrant having moved orally at said hearing for a dismissal of these proceedings, and having on June 8, 1938, requested leave to argue before the Commission, the case and exceptions filed on that date, and having also filed June 8, 1938, a motion for an order dismissing these proceedings, or, in the alternative, reopening the hearing for further testimony and evidence, and fixing a date for oral argument on said motion; and

The registrant having requested leave to withdraw its proposed amendments dated September 2, 1937, January 27, 1938, and April 30, 1938, and that its proposed amendment dated June 22, 1938, be declared effective as of January 13, 1937; and

The Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Item 54 and the prospectus, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued; and

The Commission having duly considered the aforesaid motions and requests, all as more fully set forth in the aforesaid findings of fact and opinion; and

The Commission now being fully advised in the premises,

It is ordered, That the aforesaid motions to dismiss this proceeding be and the same hereby are denied;

That the aforesaid motion to reopen the hearing for further testimony and evidence be and the same hereby is denied;

That the aforesaid request and motions for oral argument be and the same hereby are denied;

That pursuant to Section 8 (d) of the Securities Act of 1933 the effectiveness of the registration statement filed by Breeze Corporations, Inc., a New Jersey Corporation, be and the same hereby is suspended;

That registrant's request to withdraw its proposed amendments dated September 2, 1937, January 27, 1938, and April 30, 1938, be and the same hereby is granted; and

That registrant's request that the amendment filed on June 22, 1938, be declared effective as of January 13, 1937, be and the same hereby is denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2285; Filed, August 6, 1938; 12:23 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of August, A. D. 1938.

[File No. 43-140]

IN THE MATTER OF SOUTHERN COLORADO POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section seven of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 25, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 20, 1938.

The matter concerned herewith is in regard to an application pursuant to Section 7 of the Public Utility Holding Company Act of 1935, for authority to effect certain transfers in the accounts of applicant. Applicant has outstanding 42,516 shares of seven per cent cumulative preferred stock, par value $100.00 per share; 110,000 shares of Class A Common Stock, par value $25.00 per share; and 75,000 shares of Class B Common Stock without par value.

Authority is sought for the transfer of $4,590,000.00 from "Capital Reserve" to "Class B Capital Stock"; a reduction in the amount of capital represented by the Class B Stock, creating thereby a Capital Surplus in the amount of $3,840,000.00; and the disposition of said Capital Surplus.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2311; Filed, August 8, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of August, A. D. 1938.

[File No. 43-151]

IN THE MATTER OF GULF STATES UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 25, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 20, 1938.

The matter concerned herewith is in regard to a declaration of Gulf States Utilities Company, a subsidiary company of Engineers Public Service Company, a registered holding company, regarding the issue and sale by declarant, at public sale through underwriters, of $10,000,000 principal amount of its First Mortgage and Refunding Bonds, Series D, 4%, the maturity date, price and commission to be paid the underwriters to be determined hereafter;

It is stated that the proceeds of the sale of the new bonds will be used for the following purposes:

To redeem the outstanding Baton Rouge First Mortgage Bonds—$3,101,700;

To pay notes of Louisiana Steam to Engineers—$2,680,000;

To pay short-term notes and open-account indebtedness of Baton Rouge to Engineers—$380,000;

To pay short-term notes of Company to The Chase National Bank of the City of New York—$425,000;

The balance will be used to finance the construction program of the Company and for the general corporate purposes of the Company as an operating public utility company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2312; Filed, August 8, 1938; 12:55 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 155

Washington, Wednesday, August 10, 1938

The President

CHATTAHOOCHEE NATIONAL FOREST—GEORGIA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain lands adjacent to the Chattahoochee National Forest, in the State of Georgia, have been acquired or are in process of acquisition by the United States through the Farm Security Administration or its predecessors under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that said lands are primarily suitable for national forest purposes and that it would be in the public interest to reserve them as part of the said Chattahoochee National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, ch. 561, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, ch. 2, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), the said National Industrial Recovery Act, and the said Emergency Relief Appropriation Act of 1935, do proclaim (1) that all lands within the hereinafter described boundaries which have been acquired by the United States through the Farm Security Administration or its predecessors under the authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935 are hereby added to and made a part of the said Chattahoochee National Forest, and (2) that all lands within the said boundaries which are in process of acquisition by the United States through the Farm Security Administration under the authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935 shall upon the acquisition of title thereto be added to and made a part of said forest:

Beginning at the junction of Chattooga River and Tullulah River with Tugaloo River and identical with a point in the Chattahoochee National Forest boundary at Tugaloo Lake, thence down the west bank of Tugaloo River to the Southern R. R.; thence with said Southern R. R. southwesterly to the city limits of Toccoa, Georgia; thence northerly, westerly and southerly with said city limits to its intersection with U. S. Highway No. 53; thence southwesterly with said U. S. Highway No. 53 to Boydville; thence southerly with the road past the old Mize Post Office site to the Stephens-Franklin County line near the Sunshine M. E. Church; thence westerly and southwesterly with said county line to its junction with Banks County (known as the Hickory Corner) at Tate Creek Church; thence with the Line Bridge Road to Andersons Store; thence westerly with a road to U. S. Highway No. 55 at Hollingsworth; thence northerly with said U. S. Highway No. 55 to the city limits of Baldwin; thence easterly and northerly with said city limits of Baldwin to U. S. Highway No. 53, thence northerly with said highway to the city limits of Cornelia; thence easterly and northerly with the city limits of Cornelia to U. S. Highway No. 53; thence northeasterly with said U. S. Highway No. 53, through the town of Mount Airy to the line between land Lots 11 and 14 in the 12th Land District; thence northwesterly with the west line of land Lots 14 and 15 to the northwest corner of land Lot 15; thence northeasterly with the north line of Lots 15, 34, 46, 65, 80 and 99 to State Highway No. 115; thence northwesterly with State Highway No. 115 to its intersection with the line between land Lots No. 49 and 50 in the 12th Land District; thence southwesterly with said line between Lots 49 and 50, 30 and 31 to the south corner of Lot 30; thence northwesterly with the line between Lots 19 and 30, 20 and 29, 21 and 28 to the intersection with the Tallulah Falls R. R.; thence northeasterly with said Tallulah Falls R. R. to the southwest line of Lot No. 176 in the 12th Land District; thence northwesterly with said southwest line of Lot No. 176 and continuing with the southwest line of Lots 120, 121, 122 and 123 in the 13th Land District to the boundary of the Chattahoochee National Forest; thence easterly with the Chattahoochee National Forest boundary as now located to the point of beginning.

The boundaries of the Chattahoochee National Forest addition described herein are graphically shown on the diagram attached hereto and made a part hereof.[1]

[1] See page 1962.

CONTENTS

THE PRESIDENT

Proclamation: Page
Chattahoochee National Forest, Ga., lands added to 1961

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Farm Credit Administration:
Federal Land Bank of Columbia, partial release of security fees 1962

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Flue-cured tobacco farm marketing quotas for 1938, supplement to instructions for determination of 1963

TITLE 35—PARKS AND FORESTS:
National Park Service:
Swift Creek Recreational Demonstration Area, local subsidiary regulations 1963

NOTICES

Securities and Exchange Commission:
Utilities Power & Light Corp., notice of and orders for hearings 1963
United States Tariff Commission:
Investigations discontinued and dismissed:
Fluorspar 1964
Women's and misses' cemented shoes of leather 1964

FEDERAL REGISTER

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Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 2nd day of August, in the year [SEAL] of our Lord Nineteen hundred and thirty-eight and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2294]

[F. R. Doc. 38-2316; Filed, August 9, 1938; 11:03 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA97]

THE FEDERAL LAND BANK OF COLUMBIA

PARTIAL RELEASE OF SECURITY FEES

Section 23.4 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 23.4. *Partial release of security fees.*—The following fees shall be charged in connection with applications for partial release of security:

Type of loan:	*Fee*
Land Bank Commissioner loan	$10.00
Direct Federal land bank loan	12.50
Land bank loan through national farm loan association	17.50

If an application for partial release is submitted simultaneously with an application for a new loan on the same security, or on the same and additional security, only the loan application fee will be charged, except when the security to be released is covered by a loan made through a national farm loan association, when an additional fee of $5 will be charged.

However, a fee of $3 only will be charged in connection with applications for partial release of security on bank and Commissioner loans where the acreage desired to be released is five acres, or less; provided, that in cases where, in the opinion of the bank, such release is not considered inconsequential, an additional fee, which when added to the $3 fee will equal the regular fee prescribed in connection with applications for partial release of security, shall be charged.

The following additional fees shall be charged in connection with applications for timber releases:

Sale price of timber:	*Fee*
Up to and including $2,000	$15.00
$2,001 to and including $3,000	20.00
$3,001 to and including $4,000	25.00
$4,001 to and including $5,000	30.00
$5,001 and up	35.00

These fees are not collected in advance, but are paid from the proceeds of the sale of the timber. (Sec. 13 "Ninth," 39 Stat. 372, 12 U. S. C. 781 "Ninth;" Sec. 32, 48 Stat. 48, as amended, 12 U. S. C. 1016; Sec. 1, 48 Stat. 344, 12 U. S. C. 1020; Sec. 2, 48 Stat. 345, 12 U. S. C. 1020a.) [Res. Ex. Com., July 29, 1938.]

[SEAL] THE FEDERAL LAND BANK OF COLUMBIA,
By RUFUS R. CLARKE,
Vice-President and Secretary.

[F. R. Doc. 38-2317; Filed, August 9, 1938; 11:35 a. m.]

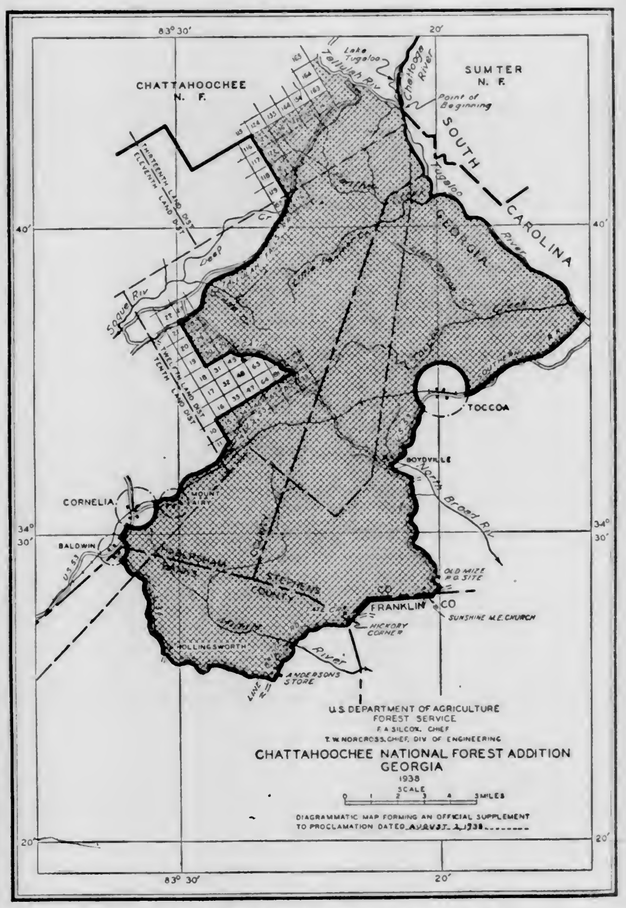


Diagram Accompanying Proclamation No. 2294.

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 11 Supplement 3]

SUPPLEMENT TO INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

ISSUED PURSUANT TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938, AS AMENDED

Form 38—Tobacco 11, "Instructions for Determination of Flue-Cured Tobacco Farm Marketing Quotas for 1938",[1] is amended as follows:

Section IV[2] is amended by striking out paragraph C and inserting in lieu thereof the following:

"C. *Four percent addition to State quota.*—A number of pounds equal to 4 percent of the quotas established pursuant to A above for all old farms in a State will be apportioned among such farms as follows:

"(1) A 'State percent' will be computed for each State by increasing by 10 that percent which the quotas established for all farms in the State pursuant to A above is of the normal marketing for all such farms.

"(2) There will be computed for each farm in the State the amount by which the farm marketing quota established pursuant to A above is less than the number of pounds obtained by taking the 'State percent' of whichever of the following amounts is the smaller:

"(a) the adjusted past marketings for the farm, or

"(b) 150 percent of the 1938 acreage of tobacco to be harvested on the farm in 1938 multiplied by the farm yield.

"(3) The amounts computed under item (2) above for all farms in the State reduced by a uniform percentage (viz, that percentage which will reduce the total for all farms to an amount equal to 4 percent of the farm marketing quotas established for such farms pursuant to A above) will constitute the apportionments to such farms."

Done at Washington, D. C., this 9th day of August 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2318; Filed, August 9, 1938; 11:55 a. m.]

[1] 3 F. R. 1438, 1547, 1839 DI.
[2] 3 F. R. 1440 DI.

TITLE 35—PARKS AND FORESTS

NATIONAL PARK SERVICE

SWIFT CREEK RECREATIONAL DEMONSTRATION AREA

LOCAL SUBSIDIARY REGULATION

The following subsidiary regulation, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior April 19, 1937, 2 F. R. 754 (893 DI), has been recommended by the project manager and approved by the Director of the National Park Service, and is in force and effect within the boundaries of Swift Creek Recreational Demonstration Area:

Speed.—Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 25 miles per hour on all area roads.

Approved, August 2, 1938.

[SEAL] HILLORY A. TOLSON,
Acting Director, National Park Service.

[F. R. Doc. 38-2315; Filed, August, 9, 1938; 9:42 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of August, A. D. 1938.

[File Nos. 34-8, 52-3]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) and 11 (g) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the Trustees of Public Utilities Securities Corporation and the Trustee of Webster Securities Corporation:

It is ordered, That a hearing on such matter be held on August 29, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 23, 1938.

The matter concerned herewith is in regard to an application to this Commission for approval of Plan for the Reorganization of Utilities Power & Light Corporation dated as of July 6, 1937, filed by Irwin T. Gilruth, Charles A. McDonald, and Harry N. Gottlieb, as Trustees of Public Utilities Securities Corporation, and by Melvin M. Hawley, as Trustee of Webster Securities Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2319; Filed, August 9, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of August, A. D. 1938.

[File No. 52-5]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 11 (f) and 11 (g) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Atlas Corporation and the Preferred Stockholders' Committee:

It is ordered, That a hearing on such matter be held on August 29, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any

other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 23, 1938.

The matter concerned herewith is in regard to an application to this Commission for approval of and a report on Amended Plan of Reorganization of Utilities Power & Light Corporation dated as of October 23, 1937, filed by Atlas Corporation on behalf of itself and its associated interests and by Paul V. Shields, Joseph S. Maxwell, and Charlton B. Hibbard, constituting a Protective Committee for Preferred Stockholders of Utilities Power & Light Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2320; Filed, August 9, 1938; 12:41 p. m.]

UNITED STATES TARIFF COMMISSION.

[Investigation No. 67]

PUBLIC NOTICE — INVESTIGATION DISCONTINUED AND DISMISSED

FLUORSPAR

It is hereby ordered by the United States Tariff Commission on this 3d day of August 1938 that the investigation heretofore, on the 16th day of January 1932 instituted, for the purposes of Section 336 of Title III of the Tariff Act of 1930, with respect to the differences in costs of production of, and of all other facts and conditions enumerated in said section with respect to, the following article described in paragraph 207 of Title I of said tariff act, namely,

Fluorspar

being wholly or in part the growth or product of the United States, and of and with respect to like or similar articles wholly or in part the growth or product of competing foreign countries, be, and the same is hereby, *discontinued and dismissed.*

By order of the United States Tariff Commission this 3d day of August, 1938.

[SEAL] SIDNEY MORGAN,
Secretary.

[F. R. Doc. 38-2313; Filed, August 8, 1938; 3:28 p. m.]

[Investigation No. 114]

PUBLIC NOTICE — INVESTIGATION DISCONTINUED AND DISMISSED

WOMEN'S AND MISSES' CEMENTED SHOES OF LEATHER

It is hereby ordered by the United States Tariff Commission on this 3d day of August 1938 that the investigation heretofore, on the 28th day of August 1937 instituted, for the purposes of Section 336 of Title III of the Tariff Act of 1930, with respect to the differences in costs of production of, and of all other facts and conditions enumerated in said section with respect to, the following articles described in paragraph 1530 (e) of Title I of said tariff act, namely,

> Women's and misses' shoes, wholly or in chief value of leather, not specially provided for, made by the cement process

being wholly or in part the growth or product of the United States, and of and with respect to like or similar articles wholly or in part the growth or product of competing foreign countries, be, and the same is hereby, *discontinued and dismissed.* Shoes made by the cement process are covered by the trade agreement between the United States and Czechoslovakia, and the Trade Agreements Act prohibits further action under said Section 336.

By order of the United States Tariff Commission this 3d day of August, 1938.

[SEAL] SIDNEY MORGAN,
Secretary.

[F. R. Doc. 38-2314; Filed, August 8, 1938; 3:28 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 156

Washington, Thursday, August 11, 1938

The President

EXECUTIVE ORDER

LIMITING THE IMPORTATION OF RED CEDAR SHINGLES FROM CANADA DURING THE LAST SIX MONTHS OF 1938

WHEREAS Executive Order No. 7575 of March 13, 1937,[1] issued under and pursuant to section 811 of the Revenue Act of 1936 (49 Stat. 1746), limited the quantity of red cedar shingles imported from Canada which might be admitted to entry during the first six months of the calendar year 1937 to 1,048,262 squares, the equivalent of 25 percentum of the combined total of the shipments of red cedar shingles by producers in the United States and the imports of such shingles from Canada for the last six months of the calendar year 1936; and

WHEREAS the said section 811 of the Revenue Act of 1936 requires that the President shall issue a new order for each succeeding half-calendar year during the life of the reciprocal trade agreement entered into with the Dominion of Canada under date of November 15, 1935, limiting the imports of red cedar shingles from Canada for such half-calendar year to 25 percentum of the combined total of such shipments and imports of red cedar shingles for the preceding half-calendar year; and

WHEREAS I find from available statistics that the combined total of such shipments and imports of red cedar shingles during the first half of the calendar year 1938 is 3,459,523 squares:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by the aforesaid section 811 of the Revenue Act of 1936 it is hereby ordered that the quantity of red cedar shingles imported from Canada which may be admitted to entry during the last six months of the calendar year 1938 shall be limited to 864,881 squares.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 9, 1938.

[No. 7946]

[F. R. Doc. 38-2328; Filed, August 10, 1938; 11:45 a. m.]

EXECUTIVE ORDER

DESIGNATING DEL BONITA, MONTANA, AS A CUSTOMS PORT OF ENTRY

By virtue of and pursuant to the authority vested in me by the act of August 1, 1914, 38 Stat. 609, 623 (U. S. C., title 19, sec. 2), it is ordered that Del Bonita, Montana, be, and it is hereby, designated as a customs port of entry in Customs Collection District No. 33 (Montana and Idaho), with headquarters at Great Falls, Montana.

This order shall become effective thirty days from the date hereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 9, 1938.

[No. 7947]

[F. R. Doc. 38-2329; Filed, August 10, 1938; 11:45 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

[S. R. A. No. 153—Agricultural Economics]

AMENDMENT NO. 1 OF THE REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE U. S. COTTON STANDARDS ACT

Pursuant to authority vested in the Secretary of Agriculture by the United

[1] 2 F. R. 531 (619 DI).

CONTENTS

THE PRESIDENT

Executive Orders: Page
Del Bonita, Mont., designated customs port of entry 1965
Red cedar shingles, limiting importation from Canada during last six months of 1938 1965

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Agricultural Economics:
Cotton Standards Act, amendment of regulations under 1965
Cotton standards for length of staple, amendment of public notice establishing 1966
Sea Island cotton, standards for grade of 1966
Farm Security Administration:
Authority to designate acting regional directors 1967
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
American Field Seed Co., et al 1968
Askin's Retail Stores, Inc 1969
National Silver Co 1967
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Customs officers and employees, overtime compensation 1969
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Refund of taxes paid under Bankhead Cotton Act of 1934 as amended, Kerr Tobacco Act as amended, and Potato Act of 1935 1969

(Continued on next page)

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CONTENTS—Continued

TITLE 45—SECURITIES AND EXCHANGES:

Securities and Exchange Commission: Page
Public Utility Holding Company Act of 1935, adoption of Rule U-3D-13---- 1971

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Wage rates and prices, 1939 crop of sugar beets; hearing---------- 1971
Federal Trade Commission:
Card Clothing Manufacturers' Association, et al, order appointing examiner, etc----- 1972
Interstate Commerce Commission:
Central territory contract carrier rates, submission of income statements ---------- 1972
Securities and Exchange Commission:
Indianapolis Power & Light Co., exemption of issue and sale of securities---------- 1972
Public Service Co., of Oklahoma, hearing---------- 1973
Toledo Edison Co., exemption of issue and sale of bonds and debentures---------- 1973
Utilities Power & Light Corp., hearings postponed-------- 1972

States Cotton Standards Act of March 4, 1923 (U. S. C., Title 7, Secs. 51–65), I, H. A. Wallace, Secretary of Agriculture, do hereby promulgate and give public notice of the following amendment to the regulations of the Secretary of Agriculture under said Act:

Strike out paragraphs 1 and 3 of section 13, regulation 14, and substitute therefor the following:

"PARAGRAPH 1. The cost of any of the practical forms of the universal cotton standards of the United States for grade and color enumerated in section 1, regulation 13, and of any of the practical forms of the official cotton standards of the United States for the grade of Sea Island cotton shall be at the rate of $5.00 each, f. o. b. Washington, D. C., for shipments within the continental United States, and $6.25 each delivered to destination, for shipments outside the continental United States.

"PAR. 3. The cost of any of the practical forms of the official cotton standards of the United States for length of staple enumerated in section 1, regulation 13, and of those for the length of staple of Sea Island cotton of the lengths 1½, 1$^{9}/_{16}$, 1⅝, and 1¾ inches shall be at the rate of $1.00 each, f. o. b. Washington, D. C., for shipments within the continental United States, and $1.25 each delivered to destination, for shipments outside the continental United States."

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 10th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2332; Filed, August 10, 1938; 11:53 a. m.]

[Amendment No. 7]

AMENDMENT OF PUBLIC NOTICE ESTABLISHING OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR LENGTH OF STAPLE

Pursuant to the authority vested in the Secretary of Agriculture by the United States Cotton Futures Act of August 11, 1916, as amended March 4, 1919; May 31, 1920; and February 26, 1927 (U. S. C., Title 26, Secs. 1090–1106); and by section 6 of the United States Cotton Standards Act of March 4, 1923 (U. S. C., Title 7, Secs. 51–65), I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish and give public notice of the following amendment to the public notice establishing official cotton standards of the United States for length of staple, which said notice was issued by the Secretary of Agriculture on October 25, 1918, and subsequently amended by official orders dated August 4, 1921, September 18, 1924, July 31, 1925, March 5, 1928, November 16, 1928, and July 30, 1932:

Effective August 10, 1939, amend section 3 of said public notice to read as follows:

"SEC. 3. The lengths of staple designated as ¾, ⅞, 1$^{5}/_{16}$, 1, 1$^{1}/_{32}$, 1$^{1}/_{16}$, 1$^{3}/_{32}$, 1¼, 1$^{5}/_{32}$, 1$^{3}/_{16}$, 1$^{7}/_{32}$, 1¼, 1$^{9}/_{32}$, 1$^{5}/_{16}$, 1$^{11}/_{32}$, 1⅜, and 1½ inches, respectively, are each represented by a quantity of American upland cotton suitably contained and marked "Original representation of official cotton standards of the United States (American Upland) Length of Staple", followed in each instance by the appropriate designation of staple length and the effective date, August 1, 1929; each of the lengths of staple designated as 1$^{3}/_{16}$, 2$^{9}/_{32}$, and 3$^{1}/_{32}$ inches by a quantity of American Upland cotton similarly marked and followed in each instance by the appropriate designation of staple length and the effective date, August 1, 1933; and each of the lengths of staple designated as 1½, 1$^{9}/_{16}$, 1⅝, and 1¾ inches by a quantity of American Egyptian cotton suitably contained and marked "Original representation of official cotton standards of the United States (American Egyptian) Length of Staple", followed in each instance by the appropriate designation of staple length and the effective date, August 1, 1929; and by a quantity of Sea Island cotton suitably contained and marked "Original representation of official cotton standards of the United States (Sea Island) Length of Staple", followed in each instance by the appropriate designation of staple length and the effective date, August 10, 1939. Said quantities of cotton are to be kept in the custody of the United States Department of Agriculture.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 10th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2331; Filed, August 10, 1938; 11:53 a. m.]

PUBLIC NOTICE ESTABLISHING OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF SEA ISLAND COTTON

EFFECTIVE AUGUST 10, 1939

Pursuant to authority vested in the Secretary of Agriculture by the United States Cotton Standards Act of March 4, 1923 (U. S. C., Title 7, secs. 51–65), I, H. A. Wallace Secretary of Agriculture, do hereby establish, promulgate, and give public notice of standards for grades of Sea Island cotton, effective August 10, 1939, as follows:

For the purposes of these standards:

Grade No. 1 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original official cotton standards of the United States, Sea Island, Grade No. 1, effective August 10, 1939."

Grade No. 2 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original official cotton standards of the United States, Sea Island, Grade No. 2, effective August 10, 1939."

Grade No. 3 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original official cotton standards of the United States, Sea Island, Grade No. 3, effective August 10, 1939."

Grade No. 4 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original official cotton standards of the United States, Sea Island, Grade No. 4, effective August 10, 1939."

Grade No. 5 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original official cotton standards of the United States, Sea Island, Grade No. 5, effective August 10, 1939."

Grade No. 6 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original official cotton standards of the United States, Sea Island, Grade No. 6, effective August 10, 1939."

Intermediate grades: Sea Island cotton which in grade is between any two adjoining grades shall be designated by the word "Grade" and the grade number of the higher of such two grades, followed by the fraction "½."

Below Grade No. 6: Sea Island cotton which in grade is inferior to Grade No. 6 shall be designated "Below Grade No. 6."

Extraneous matter: The grade assigned to Sea Island cotton which contains appreciable quantities of seed, seed kernels, or sand shall be that which most nearly approximates its grade value in terms of the respective grades herein defined. Until their effective date, August 10, 1939, the foregoing standards may be used as permissive standards in the purchase and sale of Sea Island cotton.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 10th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2333; Filed, August 10, 1938; 11:54 a. m.]

FARM SECURITY ADMINISTRATION

[Administrative Order 152—Revision 1]

AUTHORITY TO REGIONAL DIRECTORS TO DESIGNATE ACTING REGIONAL DIRECTORS

AUGUST 9, 1938.

I. Effective August 9, 1938, each regional director is hereby authorized to designate a member of his staff to act for him during his temporary absence from the regional office. The regional director may delegate to such designee any or all rights, privileges, and powers, including the authority to execute documents concerned therewith, already vested in the regional director, with the exception of the authority to issue travel orders and approve purchase requisitions which will be exercised by the regional office manager or such other person as has already been designated to act as an alternate for authorities which require the filing of specimen signature cards, Treasury Form No. A–11, approved by the Secretary of Agriculture.

II. Designations as provided above should be made preferably to an assistant regional director; may cover any temporary absence of the regional director during a specified period or cover only a single absence; may cover all rights, privileges, and powers of the regional director or may be limited; must be made in writing, indicating the designee by name and title and specifying the period during which the designation will be effective; and may be revoked, in writing, by the regional director at any time. The following is a suggested form of general designation. If the delegation is to be limited, the regional director will substitute the description of the functions to which the delegation is limited for the phrase "all rights, privileges, and powers (including the authority to execute all instruments in connection therewith) vested in me" in this form.

Pursuant to the authority vested in me as Regional Director of the Farm Security Administration for Region ------, by Administration Order 152 (Rev. 1), dated August 9, 1938, I hereby designate----------
(Name)
---------- to act as Regional Director
(Title)
during my absence from the regional office and I do hereby delegate to him all rights, privileges and powers (including the authority to execute all instruments in connection therewith) vested in me. This designation and delegation shall be effective as of ----------, 19--, and shall continue in effect until and including ----------, 19--.

(Signed) ----------
Regional Director.
Region ------

III. The above-described form of designation and any revocation thereof will be prepared in at least an original and four copies for distribution; original to the designee, one copy to the regional FC manager, two copies to the Administrator, Washington, D. C., and one copy retained in the regional director's office. An additional copy will be prepared and transmitted to the U. S. Treasury State Accounts office for the region when, after checking with the regional FC manager, such action is deemed appropriate.

IV. The designee will sign all documents under such an authorization with his own signature over his temporary title "Acting Regional Director."

V. Authority to sign documents which require the filing of specimen signature cards approved by the Secretary of Agriculture may not be redelegated but must be handled as an original authorization.

[SEAL] C. B. BALDWIN,
Acting Administrator.

Approved:
H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2324; Filed, August 9, 1938; 1:04 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket 2111]

IN THE MATTER OF NATIONAL SILVER COMPANY

SEC. 3.96 (a) (1) *Using misleading name — Goods — Composition:* SEC. 3.66 (a) *Misbranding or mislabeling—Composition:* SEC. 3.6 (c) *Advertising falsely or misleadingly—Composition.*—Using word "Stainless" as a trade name, brand, stamp, or label to designate or describe knives and flatware cutlery or to so advertise or represent the same, unless such products are made from an alloy as in the order specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Modified cease and desist order, National Silver Company, Docket 2111, July 29, 1938.]

SEC. 3.66 (h) *Misbranding or mislabeling—Qualities or properties of product:* SEC. 3.6 (t) *Advertising falsely or misleadingly — Qualities or properties of product.*—Marketing, branding, stamping, designating or advertising carbon steel chromium-plated knives and flatware cutlery as "Stainproof," or with similar words, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Modified cease and desist order, National Silver Company, Docket 2111, July 29, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the motion of Brill, Bergenfeld & Brill, coun-

sel for the respondent, to modify and amend Paragraph Two of the findings as to the facts and Paragraphs 1 and 2 of the order to cease and desist as issued in this proceeding on February 17, 1937, and the Commission having considered said motion and the record herein, and being now fully advised in the premises:

It is ordered, That the motion to modify and amend Paragraph Two of the findings as to the facts and Paragraph 2 of the order to cease and desist issued herein on February 17, 1937, be, and the same hereby is, granted as prayed;

It is further ordered, That the motion to amend Paragraph 1 of said order be, and the same hereby is, denied, but that Paragraph 1 of said order be, and the same hereby is, amended to read as hereinafter set forth;

It is further ordered, That the order to cease and desist issued herein on February 17, 1937, be, and the same hereby is, modified so as to read as follows:

This proceeding having been heard by the Federal Trade Commission upon the original and amended and supplemental complaints of the Commission, the answers of respondent thereto, testimony and other evidence in support of the allegations of said complaints and in opposition thereto, taken before Edward M. Averill, an examiner of the Commission theretofore duly designated by it, briefs filed herein, and oral arguments by Marshall Morgan, counsel for the Commission, and by Abraham Brill, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent National Silver Company, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of knives, cutlery and tableware in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Using the word "Stainless" as a trade name, brand, stamp, label or part thereof, or in any other way, upon or to designate or describe knives and flatware cutlery, or to advertise or represent the same, unless such knives and flatware cutlery are made from an alloy commonly known in the trade as stainless steel, produced from iron, chromium and carbon or other alloying elements, said alloy having the ability to resist corrosion, high temperatures, erosion and abrasion; and being either wholly or substantially immune to the action of most corrosive agents, including alkaline materials, fruit acids, nitric acids, dampness and water, salt air and salt water, and having the further ability to withstand exposure to the weather, including rain or snow, without corroding; and when hardened, or hardened and tempered, ground and polished, being practically untarnishable to the action of the before-mentioned corrosive agents.

(2) Marking, branding, stamping, designating or advertising carbon steel chromium plated knives and flatware cutlery with the word "Stainproof", or with a similar word or words indicating that such products are, in fact, stainproof.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2326; Filed, August 10, 1938; 11:00 a. m.]

[Docket 2872]

IN THE MATTER OF AMERICAN FIELD SEED COMPANY ET AL.

SEC. 3.6 (a) 10.1 *Advertising falsely or misleadingly — Business status, advantages or connections of advertiser—History:* SEC. 3.69 (a) 7.1 *Misrepresenting oneself and goods—Business status, advantages or connections—History.*—Representing time in business, as exceeding fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, American Field Seed Company et al., Docket 2872, July 29, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* — Misrepresenting agricultural seeds *re* freedom from weed seed, etc., cold resisting qualities, productivity, germination and purity percentage, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, American Field Seed Company et al., Docket 2872, July 29, 1938.]

SEC. 3.6 (d) .1 *Advertising falsely or misleadingly—Conditions of manufacture—In general.*—Falsely representing that all sellers' agricultural seed is cleaned with own cleaning equipment, and analyzed and tested by them in own testing laboratory, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, American Field Seed Company et al., Docket 2872, July 29, 1938.]

SEC. 3.6 (d) .2 *Advertising falsely or misleadingly—Conditions of manufacture—Law compliance.*—Falsely representing that all sellers' agricultural seed tagged and labeled in accordance with laws of State into which shipped, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, American Field Seed Company et al., Docket 2872, July 29, 1938.]

SEC. 3.6 (cc) (4) *Advertising falsely or misleadingly—Source or origin—Place.*—Falsely representing that sellers' agricultural seed originated in certain areas or certain States, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, American Field Seed Company et al., Docket 2872, July 29, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF AMERICAN FIELD SEED COMPANY, A CORPORATION, ALSO DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF SUN-FIELD SEED SERVICE (UNINCORPORATED) AND STANDARD SEED COMPANY (UNINCORPORATED) AND ERNEST E. ELDER, AS PRESIDENT OF AMERICAN FIELD SEED COMPANY, AND INDIVIDUALLY, AND J. F. SINN, AS VICE-PRESIDENT AND TREASURER OF AMERICAN FIELD SEED COMPANY, AND INDIVIDUALLY

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer thereto, testimony and other evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, briefs filed herein, and oral arguments before the Commission, and the Commission having made its findings as to the facts and its conclusions that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents, American Field Seed Company, a corporation, also doing business under the firm name and style of Sun-Field Seed Service, and Standard Seed Company, its officers, representatives, agents and employees, and Ernest E. Elder, as President of American Field Seed Company and individually, and J. F. Sinn, as Vice-President and Treasurer of American Field Seed Company and individually, in connection with offering for sale, sale and distribution of agricultural seed, in interstate commerce, do forthwith cease and desist from representing, directly or by implication—

1. That respondent, American Field Seed Company was founded or engaged in business prior to the year it was incorporated under the laws of the State of Illinois;

2. (a) That respondents' seed is free from weed seed and other foreign matter; (b) That all of the seed is cleaned by respondents with their own seed cleaning equipment; (c) that all of the seed is analyzed and tested by respondents in their own seed testing laboratory; (d) That all of the seed is tagged and labeled in accordance with the laws of the state into which the seed is shipped; (e) That seed is cold-resisting or will survive cold temperatures; (f) That seed will produce abundant or luxuriant growth of crops; (g) That seed originated in certain areas or certain states; when such are not the facts.

3. That seed has a higher percentage of germination and purity than the actual germination and purity of the seed, under recognized tests and within recognized tolerances or allowances.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a reply in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2325; Filed, August 10, 1938; 11:00 a. m.]

[1] 1 F. R. 2136.

[Docket 3225]

IN THE MATTER OF ASKIN'S RETAIL STORES, INC.

SEC. 3.6 (i) *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e) *Offering deceptive inducements to purchase—Free goods.*—Representing, in connection with sale of coats, suits, dresses, hats and other merchandise, that articles included with other merchandise being sold, are "free" or "gratis", when prices of other merchandise are greater than those at which it is ordinarily and usually sold by seller in regular course of trade, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Askin's Retail Stores, Inc., Docket 3225, July 29, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony, stipulation, exhibits, and other evidence taken before Edward E. Reardon, an examiner for the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief filed herein by Carrel F. Rhodes, counsel for the Commission, and by Morton D. Grossman, of Heller and Grossman, counsel for the respondent, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent corporation, Askin's Retail Stores, Inc., its officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of coats, suits, dresses, hats, and other merchandise in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing in any manner:

That articles of merchandise included with other merchandise being sold are "free" or "gratis" when the prices for such other merchandise are greater than the prices at which such other merchandise is usually and ordinarily sold by respondent in the regular course of trade.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2327; Filed, August 10, 1938; 11:01 a. m.]

[1] 2 F. R. 2468 (2869 DI).

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

(T. D. 49669)

RATE OF EXTRA COMPENSATION FOR OVERTIME SERVICES OF CUSTOMS OFFICERS AND EMPLOYEES

CUSTOMS REGULATIONS OF 1937 AMENDED

To Collectors of Customs and Others Concerned:

The act of February 13, 1911, as amended (U. S. C., title 19, sec. 267), provides that "The Secretary of the Treasury shall fix a reasonable rate of extra compensation for overtime services of inspectors, storekeepers, weighters, and other customs officers and employees * * *. The said extra compensation shall be paid by the master, owner, agent or consignee of such vessel or other conveyance * * * to the collector of customs, who shall pay the same to the several customs officers and employees entitled thereto according to the rates fixed by the Secretary of the Treasury. * * *."

In accordance therewith, and pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C., title 5, sec. 22), article 1244 of the Customs Regulations of 1937 [1] is hereby amended as follows:

A new paragraph, designated (a), reading as follows, is added:

(a) The daily rate of extra compensation for overtime services of customs officers and employees is fixed at the gross daily rate of regular compensation payable by the customs service to a customs officer or employee except when such gross daily rate of regular compensation is less than $5.00 or more than $8.00, then the daily rate of extra compensation is fixed at a minimum of $5.00 or a maximum of $8.00, as the case may be.

The present paragraphs (a), (b), (c), (d) and (e) are redesignated (b), (c), (d), (e) and (f), respectively.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, August 4, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2321; Filed August 9, 1938; 3:25 p. m.]

[1] 2 F. R. 1719 (2013 DI).

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4850]

REFUND OF TAXES PAID UNDER THE BANKHEAD COTTON ACT OF 1934, AS AMENDED, THE KERR TOBACCO ACT, AS AMENDED, AND THE POTATO ACT OF 1935

AUTHORIZED BY THE SECOND DEFICIENCY APPROPRIATION ACT, FISCAL YEAR 1938

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. The Second Deficiency Appropriation Act, fiscal year 1938, approved June 25, 1938, provides in part:

For the refunding, which is hereby authorized, in accordance with rules and regulations to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, of all amounts collected by any collector of internal revenue as tax (including penalties and interest) under the Bankhead Cotton Act of 1934 (48 Stat. 598), as amended, the Kerr Tobacco Act (48 Stat. 1275), as amended, and the Potato Act of 1935 (49 Stat. 750), fiscal year 1939, so much of the appropriation in the immediately preceding paragraph as may be requisite is hereby made available for the purposes of and in accordance with the provisions of this paragraph: *Provided*, That no refund shall be made or allowed of any amount paid by or collected from any person as tax under such Acts, unless, after the date of the enactment of this Act, and prior to July 1, 1939, a claim for refund has been filed by such person: *Provided further*, That no refund shall be denied upon the ground that a proceeding to recover had become barred by the limitation provisions of such Acts, or by the provisions of section 3226, as amended, of the Revised Statutes, or by the provisions of section 608 of the Revenue Act of 1928: *Provided further*, That in the absence of fraud all findings of fact and conclusions of law of the Commissioner of Internal Revenue upon the merits of any such claim for refund, and the mathematical calculations made in connection therewith, shall not be subject to review by any court or by any other officer, employee, or agent of the United States: *Provided further*, That no refund of any tax shall be made under this paragraph unless liability for the payment of such tax was satisfied by the payment of money: *Provided further*, That no interest shall be allowed in connection with any refund made under the authority of this paragraph: *Provided further*,

That in the case of amounts paid as tax under the Bankhead Cotton Act of 1934 with respect to the ginning of cotton (a) refund shall be allowed to the ginner of the cotton only to the extent that the ginner has not shifted the burden of the tax by including it in any charge or fee for ginning, or by collecting it from the owner or owners of the cotton ginned, or in any manner whatsoever, and (b) refund shall be allowed to the owner or owners of the cotton at the time of ginning, to the extent that the amount of tax was shifted to such owner or owners by the cotton ginner and was not shifted by such owner or owners to other persons, and in such cases, but only for the purposes of this paragraph, the tax shall be considered to have been paid by the ginner to the United States for the account of such owner or owners. No part of the amount of any refund made under this paragraph in excess of 10 per centum of the amount of such refund shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such refund, and the same shall be unlawful, any contract to the contrary notwithstanding; and any person violating the provisions of this sentence shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Pursuant to the above-quoted provision of law, the following regulations are hereby prescribed:

ARTICLE 1. *General.*—(a) Refund under the above-quoted provision of law will be allowed, to the person entitled thereto, of all amounts collected as tax, penalty or interest by any internal revenue collector under the provisions of the Bankhead Cotton Act of 1934, as amended, the Kerr Tobacco Act, as amended, and the Potato Act of 1935. Refund will be allowed only to the extent that the tax, penalty or interest was paid in money. Satisfaction of tax liability by the surrender or use of tax exemption certificates, tax payment warrants or tax exemption stamps is not considered payment of tax in money.

(b) No refund will be denied upon the ground that a proceeding to recover had become barred by the limitation provisions of the Bankhead Cotton Act of 1934, as amended, the Kerr Tobacco Act, as amended, or the Potato Act of 1935, or by the provisions of section 3226, as amended, of the Revised Statutes, or by the provisions of section 608 of the Revenue Act of 1928, provided the person entitled to such refund files a claim in accordance with the provision of law quoted above and these regulations and within the period of limitations prescribed.

ART. 2. (a) *Claim forms prescribed—Where to file.*—Claims for refund of amounts paid as tax, penalty or interest under the Bankhead Cotton Act of 1934, as amended, shall be filed on G. T. Form 111. Claims for refund of amounts paid as tax, penalty or interest under the Kerr Tobacco Act, as amended, shall be filed on T. A. Form 116. Claims for refund of amounts paid as tax, penalty or interest under the Potato Act of 1935 shall be filed on Form 843. Such claims shall be prepared in accordance with the instructions contained on the forms and in accordance with the provisions of these regulations. Claims shall be filed with the collector of internal revenue for the district in which the tax was paid. Where the tax was paid by means of stamps, the collection district in which the tax was paid shall be the district in which the sale of the tobacco or potatoes took place and in which a report of the sale was filed with the collector of internal revenue.

(b) *Certificate as to agent's or attorney's fees—Where to file.*—The claimant shall file with the collector of internal revenue for the district in which his claim of refund is filed a certificate as to attorney's or agent's fees on Form No. 971. This certificate shall be made in accordance with the instructions on the reverse side thereof. Form No. 971 reads as follows:

FORM NO. 971

Certificate as to Attorney's or Agent's Fees

----------, 193--

The Second Deficiency Appropriation Act, fiscal year 1938, approved June 25, 1938, provides in part:

"For the refunding * * * in accordance with rules and regulations to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, of * * * amounts collected * * * under the Bankhead Cotton Act of 1934 * * *, the Kerr Tobacco Act * * *, and the Potato Act of 1935 * * *: Provided, * * *. *No part of the amount of any refund made under this paragraph in excess of 10 per centum of the amount of such refund shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such refund, and the same shall be unlawful, any contract to the contrary notwithstanding; and any person violating the provisions of this sentence shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.*"

In filing the claim for refund of $----------, under the paragraph of the Second Deficiency Appropriation Act, fiscal year 1938, partly quoted above, the undersigned hereby certifies that all the following statements are true, to the best of his/its knowledge, intention, and belief:

(1) The undersigned has read the portion of the statute quoted above.

(2) The undersigned has not directly or indirectly paid or delivered and will not directly or indirectly pay or deliver to any attorney or agent on account of services rendered or to be rendered in connection with such refund more than 10 per centum (one-tenth) of the amount of such refund.

(3) It is understood by the undersigned that the statute makes it unlawful for more than 10 per centum (one-tenth) of the amount of such refund to be paid or delivered to or received by such agent or attorney for such services even if he has a contract with the undersigned providing for a larger fee than 10 per centum, and that any person convicted of violating this provision is subject to a fine not exceeding $1,000.

[CORPORATE SEAL] ----------
(Name of Claimant)

(Address of Claimant)

(See reverse side for instructions)

The instructions on the reverse side of Form No. 971 read as follows:

INSTRUCTIONS

1. This certificate must be read and signed in duplicate by the claimant, and the original delivered to the Collector when the claim for refund is filed, the copy being retained by the claimant.

2. If the claim for refund was filed after June 25, 1938, and prior to the time this certificate was required to be filed or the form for it was made available to claimants, the Collector will mail this form to such claimant in duplicate, and within thirty days of the date of such mailing the claimant shall sign and deliver the original to the Collector and sign and retain the copy.

3. If the claimant is an individual or a partnership, the individual or one of the partners must personally sign the certificate unless the Collector is satisfied that this is impossible, in which event it may be signed by a duly authorized agent, and the Collector will then send a copy of the signed certificate to the claimant by registered mail.

4. If the claimant is a corporation, the certificate must be signed with the corporate name, followed by the signature and title of at least one of its responsible officers having authority to sign, or by its receiver or trustee in bankruptcy if the corporation's property or business is operated by such receiver or trustee, and the seal of the corporation must be attached.

5. If the claimant is an executor, administrator, guardian, trustee, receiver, or other fiduciary, such fiduciary shall sign the certificate, and shall attach satisfactory evidence of his authority to act.

Collectors should note that under the circumstances mentioned in paragraphs 2 and 3 of the instructions, it is necessary to mail copies of the form to claimant.

ART. 3. *Period during which claims must be filed.*—No refund shall be made or allowed of any amount paid by or collected from any person as tax under the Bankhead Cotton Act of 1934, as amended, the Kerr Tobacco Act, as amended, or the Potato Act of 1935, unless, subsequent to June 25, 1938, and prior to July 1, 1939, a claim for refund is filed by the person entitled thereto, or his duly authorized agent or representative. In accordance with the requirements of the above-quoted provision of law claims filed on or before June 25, 1938, may not receive favorable consideration by the Commissioner. A person who has filed, on or before June 25, 1938, a claim for refund of any such tax, penalty or interest, must, nevertheless, to secure refund, file a new claim on the prescribed form subsequent to June 25, 1938, and prior to July 1, 1939.

ART. 4. *Interest.*—No interest shall be allowed with respect to any refund of tax, penalty or interest made or allowed under the above-quoted provision of law.

ART. 5. *Refund of tax paid under the Bankhead Cotton Act of 1934.*—(a) Refund of amounts paid as tax, penalty or interest under the Bankhead Cotton Act of 1934, as amended, will be allowed to the ginner of the cotton who paid the tax to the collector of internal revenue, but only to the extent that such ginner has not shifted the burden of the tax by including it in any charge or fee for ginning, by collecting it from the owner or owners of the cotton ginned or in any manner whatsoever.

(b) If the amount of tax, penalty or interest was shifted by the ginner of the cotton to the owner or owners of the cotton at the time of ginning, then to the extent that such tax, penalty or interest was shifted to such owner or owners, and was not shifted by them to other persons, refund will be allowed to such owner or owners. In such case the tax will be considered to have been paid by the ginner to the United States for the account of such owner or owners.

ART. 6. *Certification of tax payment by collector.*—The collector of internal revenue will fill in the certificate of tax payment on the claim in cases where such certification is necessary. In the case of each claim filed on T. A. Form 116 the collector will attach to the claim the tax returns filed by the taxpayer on T. A. Form 113 and the memorandums of sale on T. A. Form 112 which are applicable to the tax payments with respect to which the claim is filed. For this purpose T. A. Form 112 may be detached from the returns on T. A. Form 111 of which they were a part. (See Articles 3, 4 and 5 of T. D. 4452, approved July 23, 1934.) The Collector will then forward the claim to the Commissioner for appropriate action.

ART. 7. *Affidavit of person authorized to receive check.*—The check in payment of the amount of the refund allowed will be drawn only in the name of the claimant. If the claimant, in connection with any such claim for refund, files, or causes to be filed, a power of attorney specifically authorizing another person to receive the check in payment of the refund, the power of attorney should be accompanied by an affidavit of such other person that, for services rendered or to be rendered in connection with the refund, he has not received and will not receive or accept, directly or indirectly, as compensation for such services, more than 10 per centum of the amount of the refund allowed.

This Treasury Decision is prescribed under the authority contained in the above-quoted provision of the Second Deficiency Appropriation Act, fiscal year 1938.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 8, 1938.
ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2322; Filed, August 9, 1938; 3:25 p. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U-3D-13

Acting pursuant to the Public Utility Holding Company Act of 1935, particularly Section 3 (d) thereof, the Securities and Exchange Commission, finding it necessary and appropriate in the public interest and for the protection of investors and consumers and not contrary to the purposes of the Act, hereby adopts Rule U-3D-13 to read as follows:

SEC. 15. U-3D-13 (*Rule U-3D-13*). *Exemption of public utility subsidiaries from Section 9 (a) (1)[1] with respect to limited acquisition of utility assets.*—Any public utility subsidiary company of a registered holding company shall be exempt from every obligation, duty and liability imposed upon such company as a subsidiary company by the provisions of Section 9 (a) (1)[1] of the Act with respect to an acquisition of utility assets provided that the following conditions are met:

(a) In the event that the acquiring company is an electric utility company, the utility assets to be acquired are, or are to be, physically interconnected with utility assets already owned and operated by the acquiring company.

(b) In the event that the acquiring company is a gas utility company, the utility assets to be acquired are located in or adjacent to the same service area as that in which utility assets already owned and operated by the acquiring company are located.

(c) The total consideration paid for such utility assets and for all other utility assets acquired by such company during the same fiscal year and pursuant to the exemption granted by this rule does not exceed $100,000 or 5% of the gross annual revenues of the acquiring company derived from its operations as a public utility company during the preceding fiscal year, whichever is the lesser.

(d) No fees or commissions are to be paid to any person or company in connection with the acquisition of such utility assets except to a person or company subject to the rules of the Commission adopted under Section 13[2] of the Act or to a person or company not affiliated with the acquiring company.

(e) Within ten days after an acquisition made pursuant to this rule without approval by order of the Commission, the acquiring company shall file with the Commission a Notification of Acquisition on Form U-3D-13 [Sec. 17. U-3D-13][3] containing the information specified therein. (C. 687, sec. 3, 49 Stat. 810; 15 U. S. C. Sup. III, 79c) [Rules and Regs., Rule U-3D-13, effective August 15, 1938].

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2337; Filed, August 10, 1938; 12:37 p. m.]

[1] C. 687, sec. 9, 49 Stat. 817; 15 U. S. C., Sup. III, 79i.
[2] C. 687, sec. 13, 49 Stat. 825; 15 U. S. C., Sup. III, 79m.
[3] C. 687, sec. 3, 49 Stat. 810; 15 U. S. C., Sup. III, 79c. [Form U-3D-13, adopted August 10, 1938.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

WAGE RATES AND PRICES—1939 CROP OF SUGAR BEETS

NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public, No. 414, 75th Congress),

Notice is hereby given, That public hearings will be held as follows:

For northern California, at Sacramento, California, in the Auditorium of the Chamber of Commerce Building, 917 Seventh Street, on August 22, 1938, at 9:30 a. m.

For southern California, at Los Angeles, California, in the Assembly Room of the California State Building, on August 25, 1938, at 9:30 a. m.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1939 crop of sugar beets on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1939 crop of sugar beets to be paid, under either purchase or toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugar beets.

Either of such hearings, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

John C. Bagwell, William T. Ham, and Charles M. Nicholson are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 10th day of August 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2330; Filed, August 10, 1938; 11:53 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3019]

IN THE MATTER OF CARD CLOTHING MANUFACTURERS' ASSOCIATION, ET AL.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 15, 1938, in Room 500, 45 Broadway, New York, New York, at nine o'clock in the forenoon of that day (eastern standard time).

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2323; Filed, August 9, 1938; 3:29 p. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 27]

CENTRAL TERRITORY CONTRACT CARRIER RATES

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of August, A. D. 1938.

It appearing, That income statements of Class I contract carriers of property by motor vehicle (carriers which have gross revenues of $100,000.00 or over annually from both intrastate and interstate motor carrier operations), which are made respondents in this proceeding,[1] are desirable to aid the Commission in the determination of the above-entitled matter:

It is ordered, That each Class I contract carrier of property by motor vehicle which is a respondent in this proceeding submit to the Commission at its offices in Washington, D. C., on or before September 19, 1938, income statements for the year 1937 and for the six months ended June 30, 1938, or for the first six periods in 1938 instead of the six months ended June 30, 1938, in the case of those carriers which keep their accounts on a four-week period basis;

It is further ordered, That said income statements shall be submitted under oath on the form herewith enclosed, which form is hereby made a part of this order;[2]

And it is further ordered, That any respondent in this proceeding receiving this order, which respondent is not a Class I carrier, as above defined, shall return the blank form of income statement to the Commission at its offices in Washington, D. C., on or before September 19, 1938, accompanied by a statement that this order is not applicable to its operations.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-2334; Filed, August 10, 1938; 12:20 p. m.]

[1] 3 F. R. 1958 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C., on the 4th day of August, A. D. 1938.

[File No. 32-97]

IN THE MATTER OF INDIANAPOLIS POWER & LIGHT COMPANY

ORDER EXEMPTING ISSUE AND SALE OF SECURITIES

Indianapolis Power & Light Company, a subsidiary of Utilities Power & Light Corporation, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act regarding the issue and sale of $32,000,000 principal amount of First Mortgage Bonds, 3¾% Series due 1968, maturing August 1, 1968, and the issue and sale of $5,500,000 principal amount of Serial Notes all dated August 1, 1938 with annual serial maturities from August 1, 1939 to August 1, 1948, inclusive;

Hearings on such matter having been held after appropriate notice;[1] the record in this matter having been examined; the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of such securities by the Public Service Commission of the State of Indiana shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of the proposed bonds, the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2336; Filed, August 10, 1938; 12:37 p. m.]

[1] Filed as a part of the original document with the Division of the Federal Register. The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[2] 3 F. R. 1775 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the fifth day of August, A. D. 1938.

[File No. 52-9]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION

ORDER POSTPONING HEARING

An order dated July 19, 1938,[1] having been entered by this Commission directing that a hearing be held on August 8, 1938, on the application filed by Atlas Corporation pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935 for approval of a plan of reorganization of Utilities Power & Light Corporation proposed as an amendment of and as a substitute for an amended plan of reorganization dated October 23, 1937, previously proposed; and

It appearing to the Commission that such hearing should be postponed;

It is ordered, That such hearing be postponed to August 29, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the Hearing Room Clerk in Room 1102 will advise as to the room where such hearing will be held.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2339; Filed, August 10, 1938; 12:38 p. m.]

[1] 3 F. R. 1803 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the fifth day of August, A. D. 1938.

[File No. 52-10]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION

ORDER POSTPONING HEARING

An order dated July 22, 1938,[1] having been entered by this Commission directing that a hearing be held on August 8, 1938, on the application filed by Associated Investing Corporation and Associated Utilities Corporation pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935 and Rule U-11F-1 for approval of a plan of reorganization of Utilities Power & Light Corporation; and

It appearing to the Commission that such hearing should be postponed;

It is ordered, That such hearing be postponed to August 29, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the Hearing Room Clerk in Room 1102 will advise as to the room where such hearing will be held.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2340; Filed, August 10, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the fifth day of August, A. D. 1938.

[File No. 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

ORDER POSTPONING HEARING

An order dated July 20, 1938,[2] having been entered by this Commission directing that a hearing be held on August 8, 1938, to determine the manner and extent to which the properties and businesses of Utilities Power & Light Corporation holding company system shall be confined to those necessary or appropriate to the operation of an integrated public utility system, and to determine the action which Utilities Power & Light Corporation, Charles True Adams, Trustee, and their successors, and each subsidiary company thereof, shall be required to take by order of the Commission to limit the operations of said Utilities Power & Light Corporation holding company system to a single integrated public utility system, and to such other businesses as are reasonably incidental or economically necessary or appropriate to the operation of such integrated public utility system; and to determine whether Utilities Power & Light Corporation, Debtor, said Trustee, and their successors may continue to control one or more additional integrated public utility systems if it shall be established that such additional integrated public utility systems meet the conditions specified in clauses (A), (B), and (C) of section 11 (b) (1) of the Public Utility Holding Company Act of 1935; and

It appearing to the Commission that such hearing should be postponed;

It is ordered, That such hearing be postponed to August 29, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the Hearing Room Clerk in Room 1102 will advise as to the room where such hearing will be held.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2341; Filed, August 10, 1938; 12:38 p. m.]

[1] 3 F. R. 1855 DI.

[2] 3 F. R. 1831 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 9th day of August, A. D. 1938.

[File No. 32-98]

IN THE MATTER OF THE TOLEDO EDISON COMPANY

ORDER EXEMPTING THE ISSUE AND SALE OF BONDS AND DEBENTURES

The Toledo Edison Company, a subsidiary of Toledo Light and Power Company, which is in turn a subsidiary of Cities Service Light & Power Company, a registered holding company, having duly filed an application and amendments thereto with this Commission, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act regarding the issue and sale of the principal amount of $30,000,000 of First Mortgage Bonds, 3½% Series due in 1968, and the principal amount of $6,500,000 of 4% Sinking Fund Debentures due 1948, such issue and sale having been expressly authorized by the Public Utilities Commission of Ohio;

Hearings on such matter having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, That the issue and sale of the aforesaid bonds and debentures in accordance with the terms and conditions set forth in, and for the purposes represented by said application, as amended, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions: (a) that, so long as any of such bonds or debentures shall be outstanding, no charges shall be made to the depreciation reserve at any time other than in connection with the retirement of the applicant's property except as may otherwise be authorized by rule, regulation or order of any regulatory authority having jurisdiction of the applicant and of such matters; (b) that if the express authorization of the issue and sale of such securities by the Public Utilities Commission of the State of Ohio shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission, and (c) that within ten days after the issue and sale of such securities the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2338; Filed August 10, 1938; 12:37 p. m.]

[1] 3 F. R. 1854 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of August, A. D. 1938.

[File No. 43-149]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF OKLAHOMA

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on August 26, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing

is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission or on before August 20, 1938.

The matter concerned herewith is in regard to a proposed issue by declarant of 5,000 shares of Common Stock, par value $100 per share, as a stock dividend to the holders of declarant's outstanding Common Stock of the same class. Declarant states that said issue is for the purpose of capitalizing $500,000 of undistributed earnings in order to finance a portion of the cost of additional generating capacity now being installed.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2335; Filed, August 10, 1938; 12:37 p. m.]

Reference

AUG 15 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 157

Washington, Friday, August 12, 1938

Rules, Regulations, Orders

TITLE 10—ARMY

WAR DEPARTMENT

PART 1.—THE ASSISTANT SECRETARY OF WAR

SEC. 1.08 *Federal, State, county, and municipal taxes.*

* * * * * *

(c) *Federal taxes.*—(1) *Items on which imposed.*—Items on which Federal taxes are imposed will be published from time to time in War Department procurement circulars. The rates of tax on those items may be found in Regulations 44 and 46 or later similar publications of the Commissioner of Internal Revenue. These publications will be obtained from the chief of the supply arm, service, or bureau, concerned.

The items on which Federal taxes are imposed are as follows:

Tires and inner tubes.

Toilet preparations.—Perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous, toilet powders, and any similar substance, article, or preparation, by whatsoever name known or distinguished; any of the above which are used or applied or intended to be used or applied for toilet purposes.

Jewelry, etc.—All articles commonly or commercially known as jewelry whether real or imitation; pearls, precious and semiprecious stones, and imitations, thereof; articles made of, or ornamented, mounted, or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments or silver plated ware, or frames or mountings for spectacles or eyeglasses); watches; clocks; parts for watches or clocks; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars.

Automobile trucks, tractors, motorcycles.—Automobile truck chassis, automobile truck bodies, tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer (including in each of the above cases parts or accessories thereof sold on or in connection therewith or with the sale thereof). Other automobile chassis and bodies and motorcycles (including in each case parts or accessories therefore sold on or in connection therewith or with the sale thereof), except tractors. A sale of an automobile truck shall, for the purposes of this paragraph, be considered to be a sale of the chassis and of the body.

Radio receiving sets.—Chassis, cabinets, tubes, reproducing units, power packs, and phonograph mechanisms, suitable for use in connection with or as a part of radio receiving sets or combination radio and phonograph sets (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof).

Mechanical refrigerators.—Household type refrigerators (for single or multiple cabinet installations) operated with electricity, gas, kerosene, or other means (including parts or accessories therefor sold on or in connection therewith or with the sale thereof). Cabinets, compressors, condensers, expansion units, absorbers, and controls (hereinafter referred to as "refrigerator components") for, or suitable for use as part of or with, any of the articles enumerated in the preceding sentence (including in each case parts or accessories for such refrigerator components sold on or in connection therewith or with the sale thereof) except when sold as component parts of complete refrigerators or refrigerating or cooling apparatus.

Gasoline.—All products commonly or commercially known or sold as gasoline (but not including casing head and natural gasoline), benzol, benzene, or naphtha, regardless of their classifications or uses; and any other liquid of a kind prepared, advertised, offered for sale or sold for use as, or used as, a fuel for the propulsion of motor vehicles, motor boats, or airplanes; except that it does not include any of the foregoing (other than products commonly or commercially known or sold as gasoline) sold for use otherwise than as a fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the manufacture or production of such fuel, and does not include kerosene, gas oil, or fuel oil.

Lubricating oil.

Grape concentrate, etc.—Grape concentrate, evaporated grape juice, and grape syrup (other than finished or fountain syrup), if containing more than 35 per centum of sugars by weight.

Firearms, shells, and cartridges.

Matches.—Matches, fancy wooden, and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk.

* * * * * *

(Sec. 5, 41 Stat. 764, 765; 10 U. S. C. 1193) [AR 5-100, July 20, 1937; Proc. Cir. No. 12, Aug. 1, 1938.]

SEC. 1.15 *Invitations for bids.*—(a) *How prepared.*—(1) Every invitation for bids will contain the following: (i) A number consisting of the station number of the office issuing it if one has been assigned, followed in the order named;

CONTENTS

RULES, REGULATION, ORDERS

	Page
TITLE 10—ARMY:	
War Department:	
Sec. 1.08 Federal, State, county and municipal taxes	1975
Sec. 1.15 Invitations for bids	1975
TITLE 45—SECURITIES AND EXCHANGES:	
Securities and Exchange Commission:	
Notification of acquisition of utility assets filed by acquiring company pursuant to Rule U-3D-13 (Form U-3D-13)	1977

NOTICES

Securities and Exchange Commission:	
Consolidated Textile Corp., capital stock, no par value; listing and registration	1977
Union Producing Co., withdrawal of application	1977

FEDERAL REGISTER

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by a dash, the last two numerals of the fiscal year in which the invitation is issued, a dash, and the serial number of the invitation. Only one series will be used under any one station number for any arm, service, or bureau for each fiscal year, and the first invitation issued in each fiscal year will bear 1 as its serial number. A serial number once assigned to an invitation which has been distributed will not be used in the same fiscal year for any other invitation. Other numbers or letters may be prefixed to this number if such action is desired by the chief of an arm, service, or bureau.

(ii) The date of issue.

(iii) The name and address of the office to which bids will be sent. This will be exactly what should appear in the address on the envelopes containing the bids.

(iv) The number of copies of bids which must be submitted. Usually bids in triplicate should be required.

(v) The hour and date on which bids will be opened.

(vi) An itemized schedule showing item numbers; the kind, quality, and quantity of the articles, or the nature and extent of the services required. (See paragraph (e) below); the place, time, and rate of delivery of articles, or the place where the services are to be performed and the time allowed for their performance. (If it is not desired to limit bidders in these respects, this may be omitted, see paragraph (4) below); except in the purchase of highly specialized equipment for which a special procedure has been directed, the factors that will be considered in determining the award and an evaluation thereof in terms of money or percentages of bid prices sufficiently definite for a bidder to apply them to his bid (see paragraph (f) (1) (ii) below, for an example); kind of packing required; conditions of inspection; and a statement of the alternates, if any, which will be considered in making awards.

(vii) A statement as to where and how the specifications used may be obtained.

(viii) A statement as to the certificates which the successful bidders will be required to execute in submitting their claims for payment. See AR 35–1040 as to the various certificates.

(2) If Condition 1 on the reverse side of the Standard Form No. 33 (Standard Government Short Form Contract (supplies)) used has not already been changed as indicated below, and if such change is desirable, this condition may be changed to read:

The Government reserves the right to reject any or all bids, to waive any informality in bids and, unless otherwise specified by the Government or by the bidder, to accept any item in the bid. In case of error in the extension of prices in the bid, the unit prices will govern.

* * * * *

(f) *Special conditions authorized or required to be included.*

* * * * *

(14) *Special procedures under the Bituminous Coal Act of 1937.*—Invitations for bids for bituminous coal will include the following provisions (see paragraph (a) (9) above):

(i) In accordance with the provisions of subsection (b) of Section 9 of the Bituminous Coal Act of 1937 (50 Stat. 72) approved April 26, 1937, the coal to be furnished to the United States under the contract shall have been produced at a mine or mines where—

The employees of the producer have the right to organize and to bargain collectively with respect to their hours of labor, wages, and working conditions through representatives of their own choosing, without restraint, coercion, or interference on the part of the producer of coal at said mine or mines.

The producer shall not interfere with, restrain, or coerce employees in the exercise of their said rights, nor discharge or discriminate against any employee for the exercise of such rights.

No employee of the producer and no one seeking employment with him or it shall be required as a condition of employment to join any association of employees for collective bargaining in the management of which the producer has any share of direction or control.

(ii) The provisions of subsection (c) of section 9 of the Bituminous Coal Act of 1937, reading as follows, are conditions of the contract:

On the complaint of any employee of a producer of coal, or other interested party, the Commission may hold a hearing to determine whether any producer supplying coal for the use of the United States or any agency thereof, is complying with the provisions of subsection (a) of this section. If the Commission shall find that such producer is not complying with such provisions, it shall certify its findings to the department or agency concerned. Such department or agency shall thereupon declare the contract for the supply of the coal of such producer to be canceled and terminated.

(iii) The contractor certifies that the coal to be furnished under the contract shall have been produced by the producer(s) and at the mine(s) indicated in the contractor's bid.

(iv) In accordance with the provisions of subsection (e) of section 3 of the Bituminous Coal Act of 1937, the bidder certifies that the bid price does not, and in event of award that the contract price shall not, include the excise tax of one cent per ton of two thousand pounds imposed by subsection (a) of said section.

Certificate.—Invoice or voucher covering each delivery will be furnished in triplicate and will bear the following certificate:

I certify that the above bill is correct and just; that payment therefor has not been received; that, except as otherwise noted, all of the articles, materials and supplies furnished under Purchase Order No. ------, Contract No. ------, if unmanufactured articles, materials and supplies, have been mined or produced in the United States, and if manufactured articles, materials and supplies, have been manufactured in the United States substantially all from articles, materials or supplies mined, produced, or manufactured, as the case may be, in the United States; and that State or local sales taxes are not included in the amounts billed; that the United States received the benefit of reduction, if any, in the wage rate, in accordance with stipulations under the contract; that the stipulations required by law with respect to wages, rights and hours of work of employees have been complied with; that the United States received the benefit of decrease, if any, in freight rates, in accordance with the stipulations under the contract.

Firm ----------
Signature ----------
Title ----------

(NOTE.—The above certificate should be printed, stamped, typed or written on the invoice or voucher and must be signed in the original only by the duly authorized representative of the concern billing. Where it is impossible to include the certificate on the face of the invoice or voucher, the certificate will be placed on the reverse thereof. Additional separate sheet for the certificate only will not be accepted.)

Renewal of contract.—Until minimum prices are effective for the mine or mines named in the contract, the Government reserves the right to renew the contract for successive periods not exceeding thirty days each. No renewal shall be made, however, beyond the fiscal year in which the contract was executed.

Termination of contract.—Any contract resulting from this invitation for bids will automatically terminate when minimum prices become effective for the mine or mines named in the contract.

(R. S. 3709; 41 U. S. C. 5; 31 Stat. 905; 32 Stat. 514; 10 U. S. C. 1201.) [Proc. Cir. No. 12, W. D., Aug. 1, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38–2342; Filed, August 11, 1938; 9:43 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

[Form U–3D–13]

NOTIFICATION OF ACQUISITION OF UTILITY ASSETS FILED BY ACQUIRING COMPANY PURSUANT TO RULE U–3D–13 (SEC. 15. U–3D–13)

SEC. 17. U–3D–13 *Form U–3D–13 for notification of acquisition of utility assets filed by acquiring company pursuant to Rule U–3D–13.*[1]

1. Name and address of acquiring company (hereinafter referred to as "the Company").

2. Name of the registered holding company of which the Company is a subsidiary.

3. Name of company or persons selling the utility assets.

4. Date upon which the acquisition was made.

5. State the location of the Utility assets acquired and briefly describe such utility assets and their geographic relation to the utility assets previously owned by the Company.

6. In the event that the utility assets acquired are electric utility assets give briefly such facts as will indicate that the utility assets acquired are, or are to be, physically interconnected with utility assets already owned and operated by the Company.

7. In the event that the utility assets acquired are gas utility assets give briefly such facts as will indicate that the utility assets acquired are located in or adjacent to the same service area as that in which utility assets already owned and operated by the Company are located.

8. State the total consideration paid for the utility assets acquired and, if the consideration consists in whole or in part of securities, describe briefly such securities and their amounts.

9. State all terms and conditions governing the payment of such consideration.

10. State the amount of fees and commissions paid or to be paid by the Company in connection with the acquisition of utility assets herein described and indicate the name and address of the person or company to whom paid and indicate whether such person or company is subject to the Commission's rules adopted under Section 13[1] of the Act or is not affiliated with the acquiring company.

11. In the event that the Company has acquired other utility assets during the fiscal year in which this acquisition was made and pursuant to the exemption granted by this rule identify in answer to this item every such acquisition and, for each such acquisition, state the total consideration paid for the assets so acquired. If no such other acquisition has been made during such fiscal year, so state.

12. Attach as Exhibit A to this statement an earnings statement of the Company for the fiscal year preceding that in which the acquisition was made.

13. From figures given in answer to items 8, 11, and 12 give calculations to show that the total consideration paid for all utility assets acquired by the Company during the fiscal year in which the utility assets subject to this report were acquired does not exceed $100,000 or 5 per cent of the gross annual revenues of the Company derived from operations as a public utility company during the preceding fiscal year, whichever is *the lesser.*

Date ----------

(Name of company)

By ----------
(Name) (Title)

(C. 687, sec. 3, 49 Stat. 810; 15 U. S. C. Sup. III, 79c) [Form U–3D–13 adopted August 10, 1938]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2345; Filed, August 11, 1938; 12:45 p. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of August 1938.

[File No. 1–1284]

IN THE MATTER OF CONSOLIDATED TEXTILE CORPORATION CAPITAL STOCK, NO PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, No Par Value, of Consolidated Textile Corporation; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on August 20, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2343; Filed, August 11, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of August, A. D., 1938.

[File No. 47–23]

IN THE MATTER OF UNION PRODUCING COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION PURSUANT TO REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant, consents to the withdrawal of the application filed pursuant to Sections 10 (a) (2) and 10 (a) (3) for an order permitting the acquisition of certain oil, gas and mineral leases covering lands situated in Webster Parish, Louisiana, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2344; Filed, August 11, 1938; 12:45 p. m.]

[1] 3 F. R. 1971 DI.

[1] C. 687, sec. 13, 49 Stat. 825; 15 U. S. C., Sup. III, 79m.

[1] 3 F. R. 1665 DI.

Reference

AUG 15 1938

THE NATIONAL ARCHIVES

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VOLUME 3 — NUMBER 158

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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER REGULATING HANDLING IN INTERSTATE OR FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF HOPS GROWN IN STATES OF OREGON, CALIFORNIA, AND WASHINGTON

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, (hereinafter referred to as the "act") it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of said act, issue orders regulating such handling of certain agricultural commodities, including hops, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities; and

Whereas, the Secretary having reason to believe that the issuance of an order would tend to establish and maintain such marketing conditions for hops grown in the States of Oregon, California, and Washington as would establish prices to the producers of such hops at a level that would give such hops a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such hops in the base period, August 1909–July, 1914, did, pursuant to the provisions of the act and the regulations thereunder, on the 27th day of May, 1938, give notice of a hearing [1] to be held at Santa Rosa, California, on June 14, 1938, and in Salem, Oregon, on June 17, 1938, and in Yakima, Washington, on June 20, 1938, on a proposed marketing agreement and a proposed order regulating the handling of hops grown in the States of Oregon, California, and Washington, at which times all interested persons in attendance at such hearing were afforded due opportuity to be heard concerning the proposed marketing agreement and the proposed order; and

Whereas, the Secretary finds upon the evidence introduced at the hearing and the record thereof;

(1) That, in order to give such hops a purchasing power with respect to articles that farmers buy equivalent to the average purchasing power of such hops during the aforesaid base period, the average price received by the grower of such hops should have been approximately 31.4 cents per pound of hops during the 1937–38 marketing season;

(2) That the average price received by growers of such hops for the 1937–38 marketing season was 16.7 cents per pound of hops;

(3) That the average price per pound of said hops received by growers during the period from 1928 to 1937 was substantially less than the purchasing power of such hops during the aforesaid base period;

(4) That, in the past, the lack of regulation of the shipment of hops produced in the aforesaid States of Oregon, California, and Washington was an important factor contributing toward unstable marketing conditions for such hops and consequently depressed prices to growers;

(5) That the regulation of shipments of hops by proration, as provided in article IV of this order, subject to the terms and provisions contained in this order, will tend to prevent fluctuation of prices to growers, and thereby establish and maintain a more stable market for said hops, tending to restore prices to growers of said hops to a level that will have a purchasing power with respect to articles that producers buy equivalent to the purchasing power of said hops in the aforesaid base period;

(6) That the method of regulating shipments by proration among handlers, as provided in this order, is fair and equitable;

(7) That the method of issuing in the name of each grower an allotment cer-

[1] 3 F. R. 1226 (DI).

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Hops grown in Oregon, California, and Washington; order regulating handling of	1979
Federal Crop Insurance Corporation:	
Wheat crop insurance, regulations amended	1987
TITLE 11—AVIATION:	
Bureau of Air Commerce:	
National Airport Corp., revocation of order governing use of Military Road (Va.)	1987
TITLE 15—COMMERCE:	
National Bituminous Coal Commission:	
Minimum Price Area 1:	
Minimum prices for kinds, qualities and sizes of coal produced in the several districts of	1988
Sale and distribution of coal by code members of respective districts of	1989
Weighted average of total costs of tonnage produced within	1987
TITLE 24—HOUSING CREDIT:	
Federal Home Loan Bank Board:	
Bank Presidents' Council, name changed to Bank Presidents' Conference	1989
Home Owners' Loan Corporation:	
Analysis and Review Section; remittance by mortgagors and vendees	1990
Assistant Treasurer to act as well as Treasurer	1990
Prepayments and curtailments; funds received for credit to loan accounts	1990
TITLE 39—POSTAL SERVICE:	
Post Office Department:	
Air Mail service under supervision of First Assistant Postmaster General	1991

(Continued on next page)

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CONTENTS—Continued

TITLE 45—SECURITIES AND EXCHANGES: Page

Securities and Exchange Commission:
Proxy rules amended 1991

NOTICES

Interstate Commerce Commission:
Applicants for admission to practice before Commission 1992
Securities and Exchange Commission:
Greene, Chester and Patton Trust, withdrawal of application for exemption 1993
Gulf States Utilities Co., order adopting report 1993
Market Street Railway Co., extension of unlisted trading privileges denied 1993
West Ohio Gas Co., hearing 1993

tificate or certificates, as evidence of the respective grower's salable allotment for the respective year, as provided in this order, is fair and equitable;

(8) That, as provided in this order, it is fair and equitable for the Control Board, on receipt of satisfactory proof, to issue in the name of any grower, who by reason of a written contract executed prior to June 14, 1938, is legally obligated to deliver, at a definite and stated price, a definite and stated quantity of hops grown by the respective grower during 1938 to any other person, an additional allotment certificate covering or relating to the excess quantity, if any, of the quantity of hops specified in such contract over and above the quantity represented by such grower's salable allotment;

(9) That, as provided in this order, it is fair and equitable to require that, subsequent to thirty days after the effective date of this order, hops produced prior to the year 1938 may be handled, pursuant to the provisions of such order, only in event there shall have been issued pursuant to the provisions of section 5 of article IV of such order a certificate or certificates covering such hops;

(10) That this order is limited in its application to the smallest regional production area and regional marketing area that is practicable;

(11) That the issuance of several orders applicable to any subdivision of the regional production and marketing areas covered by this order will not effectively carry out the declared policy of the act with respect to establishing and maintaining such marketing conditions for hops as will reestablish prices to growers that will give such commodities a purchasing power with respect to articles that producers buy equivalent to the purchasing power of such commodity in the aforesaid base period;

(12) That there are no differences in the production and marketing of hops in the production area covered by this order that make necessary different terms applicable to different parts of such area;

(13) That the pro rata contribution of handlers to the expenses of administrative agencies created by such order, based upon the quantity of hops handled as provided in this order, is fair and equitable;

(14) That this order and all of the terms and provisions thereof are fair and equitable and will tend to effectuate the declared policy of the act, with respect to said hops grown in said area, by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give said hops a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such hops in the aforesaid base period and by protecting the interest of the consumer by (a) approaching such level of prices, which it is declared in the act to be the policy of Congress to establish, by a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the aforesaid level which it is declared in the Act to be the policy of Congress to establish; and

Whereas, the Secretary further finds:

(1) That the marketing agreement regulating the handling of hops grown in the States of Oregon, California, and Washington executed by him on August 11th, 1938, and upon which a public hearing was held as aforesaid, was signed by handlers who handled more than fifty percent of such commodity produced during the year of 1937;

(2) That this order regulates the handling of said hops in the same manner as the said marketing agreement does, and this order is applicable only to persons in the respective classes of industrial and commercial activities specified in the aforesaid marketing agreement; and

Whereas, the Secretary finds and determines that the issuance of this order is favored by producers of hops who, during the year of 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of such commodity for market within the production area specified in this order;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that the handling of hops grown in the States of Oregon, California, and Washington, in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such hops, from and after the date hereinafter specified, shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I.—DEFINITIONS

SECTION 1. *Terms.*—As used in this order:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937, as amended as of the effective date of this order.

3. "Person" means individual, partnership, corporation, association, or any other business unit.

4. "Hops" means hops grown in the State of Oregon, California, or Washington.

5. "1938 hops" means hops grown in the year 1938.

6. "1939 hops" means hops grown in the year 1939.

7. "Grower" means any individual (each member of a partnership), corporation, association, or any other business unit, engaged in growing hops in the State of California, Oregon, or Washington, and includes any (a) grower operating his or its own land, (b) any cash tenant, (c) any landlord with any crop share renter or share cropper, and (d) any share renter or share cropper.

8. "Dealer" means any handler other than a grower or brewer.

9. "Grower-dealer" means any handler (other than a brewer) who is also a grower of hops.

10. "Brewer" means any person who uses hops, or any product thereof, in the process of manufacturing any malt beverage.

11. "Handler" means any person who, as or through a principal, agent, broker, representative or otherwise, (a) markets or transports to market hops in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, or (b) purchases, takes consignment of, accepts delivery of in connection with a purchase or sale (except as a common carrier of hops owned by another person), or otherwise acquires, within Oregon, California or Washington, hops from a grower or any other person, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

12. "To handle" or "handling" means (a) to market or transport to market hops in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, or (b) to purchase, take consignment of, accept delivery of in connection with a purchase or sale (except as a common carrier of hops owned by another person), or otherwise acquire, within Oregon, California or Washington, hops from a grower or any other person, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

13. "Control Board" means the Control Board provided for in and created pursuant to article II of this order.

14. "Managing Agent" means the Managing Agent selected pursuant to article II of this order.

15. "Advisory Committee" means a committee established pursuant to article III of this order.

16. "1938 fiscal year" means the period of time beginning on the effective date of this order and continuing until July 31, 1939; and the "1939 fiscal year" means the period of time beginning on August 1, 1939 and continuing thereafter until this order terminates or is terminated.

17. "Growers Allocation Committee" means the Growers Allocation Committee provided for in and created pursuant to article II of this order.

ARTICLE II.—ADMINISTRATIVE BODIES

SECTION 1. *Control board.*—1. A Control Board consisting of sixteen (16) members is hereby established to administer the terms and provisions of this order as herein specifically provided. The original members and their respective alternates shall be as follows:

Grower Members

(1) A. S. Gibbens, Sacramento, California, and his alternate is Paul Foster, Hopland, California;

(2) R. E. Oehlmann, Sebastopol, California, and his alternate is I. D. Wood, Santa Rosa, California;

(3) W. H. Anderson, Eugene, Oregon, and his alternate is Fred Kaser, Silverton, Oregon;

(4) Romeo Gouley, Brooks, Oregon, and his alternate is D. J. Collins, Independence, Oregon;

(5) B. D. McKelheer, Yakima, Washington, and his alternate is E. J. Dupree, Moxee City, Washington;

(6) J. R. Rutherford, Yakima, Washington, and his alternate is J. J. Coplan, Orting, Washington;

(7) Warren Brown, Ukiah, California, and his alternate is F. H. Spears, Guardian Building, Salem, Oregon;

(8) Wilfred Rivard, Moxee City, Washington, and his alternate is William S. Walton, Ladd and Bush Bank, Salem, Oregon;

Grower-Dealer Members

(9) Louis Lochmund, Salem, Oregon, and his alternate is Leonard Richardson, San Francisco, California;

(10) John I. Haas, Metropolitan Bank Building, Washington, D. C., and his alternate is Fred J. Haas, Metropolitan Bank Building, Washington, D. C.;

Brewer Members

(11) G. L. Becker, Ogden, Utah, and his alternate is Charles Lick, Los Angeles, California;

(12) Arnold Blitz, Portland, Oregon, and his alternate is Peter Schmidt, Olympia, Washington;

(13) Paul Esselborn, Cincinnati, Ohio, and his alternate is Karl Schusler, San Francisco, California;

(14) G. O. Goerl, Oakland, California, and his alternate is Irving Solomon, Chicago, Illinois;

Dealer Members

(15) Ludwig S. Lyon, 535 5th Avenue, New York City, New York, and his alternate is Franz Bing, 150 Nassau Street, New York City, New York;

(16) Robert Oppenheim, 33 Water Street, New York City, New York, and his alternate is Al Seidenberg, 17 Battery Place, New York City, New York.

The aforesaid members shall serve for a term ending on April 1, 1939; *Provided, however*, said members shall serve until their respective successors have been selected and qualified. The members of said Control Board selected subsequent to those selected for the aforesaid initial period ending April 1, 1938, shall be selected in accordance with the provisions of this article and shall serve thereafter so long as this order remains effective. Any person selected as a member of a Control Board, including but not being limited to those designated herein as the original members, shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

2. Six (6) members of the Control Board, selected subsequent to those designated as the initial members, shall be growers who are not grower-dealers; and of said group of six members two (2) members shall be growers of hops in and residents of the State of Oregon, and two (2) members shall be growers of hops in and residents of the State of California, and two (2) members shall be growers of hops in and residents of the State of Washington. The grower members from each of said States shall be selected by the Secretary from a group of two (2) nominees designated by the Advisory Committee for the respective State, or the Secretary may select some or all of said grower members from among other growers of hops in the respective States.

3. Two (2) members of the Control Board shall be selected by the Secretary from a group of two (2) nominees designated by the six grower members of the Control Board, provided for in paragraph 2 of this section, or the Secretary may select some or all of said two members, provided for in this paragraph of section 1, from among other persons.

4. One member of the Control Board, selected subsequent to those designated as the initial members, shall be designated as a grower-dealer member and shall reside in California, Oregon, or Washington and shall be selected by the Secretary; the aforesaid member may be the person nominated by means of an election, as provided for hereinafter, in which all and only such grower-dealers shall be entitled to participate, or the Secretary may select said member from among other grower-dealers, or officers, or employees thereof, residing in the aforesaid States.

5. Three (3) members of the Control Board, selected subsequent to those designated as the initial members, shall be selected by the Secretary from a group of three (3) nominees designated by means of an election, as provided for hereinafter, in which all and only grower-dealers, residing outside of Oregon, California, and Washington, and all dealers shall be entitled to participate, or the Secretary may select any or all of said members from among other such grower-dealers and dealers, or officers or employees thereof: *Provided, however*, That one of the three members selected by the Secretary shall be a grower-dealer, or officer or employee thereof.

6. Four (4) members of the Control Board, selected subsequent to those designated as the initial members, shall be designated as brewer members, and shall be selected by the Secretary from a group of four (4) nominees designated by means of an election, as provided for hereinafter, in which all and only brewers shall be entitled to participate, or the Secretary may select some or all of the said four members of the Control Board from among other brewers, or officers or employees thereof.

7. Nominees for the members of the Control Board (other than grower members referred to in paragraphs numbered 2 and 3 of this section), selected subsequent to those designated as the initial members, shall be selected by the above-designated groups in the following manner: The Control Board, established and functioning pursuant to the provisions of this order, shall sub-

mit to the Secretary, not later than February 1, 1939, regulations prescribing the method or methods for the selection of groups of nominees, as in this article provided, from which the Secretary may select the succeeding members and alternates of the Control Board; and, upon the approval of regulations prescribing the method or methods for selecting said groups of nominees, which regulations shall assure to all persons eligible to participate in each such election adequate opportunity to suggest condidates and indicate preferences for such nominees and vote in accordance with the aforesaid regulations, the Control Board shall supervise and conduct said elections in accordance with the regulations thus approved by the Secretary.

8. In the event that any of the groups entitled hereunder to submit nominees, as aforesaid, shall fail to make such nomination for any successor member or alternate within twenty (20) days after the time fixed therefor by the Control Board as hereinbefore provided, the Secretary may select each such member or alternate without previous nomination.

SEC. 2. *Alternates.*—1. There shall be an alternate for each member of the Control Board. Each alternate shall be of the same qualifications, be nominated and selected in the same manner, and hold office for the same term, as the member for whom he is alternate. An alternate for a member of the Control Board shall, in the event of such member's absence, act in the place and stead of such member; and, in the event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place and stead of said member.

2. In the event any member of the Control Board and his alternate are both unable or fail to attend a meeting of the Control Board, any alternate for any other member nominated by the same group that nominated the absent member may serve in the place and stead of the absent member and his alternate; or in the event such other alternate cannot attend, or there is no such other alternate, then the absent member, or, in the event of his disability or a vacancy, his alternate, may designate, subject to the approval of the Secretary, a temporary substitute to attend such meeting with the power to act in the place and stead of that member.

SEC. 3. *Vacancies.*—To fill any vacancy, which occurs prior to April 1, 1939, occasioned by the failure of any person, selected as a member of the Control Board or as an alternate, to qualify, or the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary; and to fill any vacancy which occurs subsequent to April 1, 1939, occasioned by the failure of any person, selected as a member of the Control Board or as an alternate, to qualify, or the death, removal, resignation or disqualification of any qualified member or alternate, a successor for his unexpired term shall be nominated and selected in the manner in this order specified for the nomination and selection of the member or alternate thus to be succeeded. If such nomination for any such vacancy is not made within twenty (20) days after the beginning of such vacancy, the Secretary may select a member or alternate to fill such vacancy without waiting for a nomination to be made.

SEC. 4. *Compensation.*—The member of the Control Board, and their respective alternates, shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

SEC. 5. *Powers.*—The Control Board shall have the following powers:

1. To administer, as herein specifically provided, the terms and provisions of this order.

2. To make administrative rules and regulations in accordance with, and to effectuate the terms and provisions of, this order.

3. To receive, investigate, and report to the Secretary complaints of violations of this order.

4. To recommend to the Secretary amendments to this order.

SEC. 6. *Duties.*—The duties of the Control Board shall be as follows:

1. To act as intermediary between the Secretary and any handler.

2. To keep minute books and records which will clearly reflect all of its acts and transactions, and which shall be subject at any time to examination by the Secretary or his designated representative.

3. To assemble data on the growing, handling, shipping, and marketing conditions relative to hops; and to furnish to the Secretary at his request such information as may be available to the Control Board.

4. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved August 24, 1935, as amended.

5. To submit to the Secretary from time to time, for his approval, a budget of its expenses, including but not being limited to the expenses of the Growers Allocation Committee and of the Advisory Committees.

6. To cause the books of the Control Board to be audited by one or more competent accountants at least once each fiscal year and at such other times as the Control Board may deem necessary, or as the Secretary may request, and to file with the Secretary a copy of each audit report made.

7. To employ a Managing Agent who, during his employment as such, shall not be a grower, dealer, grower-dealer, or brewer, nor in the employment thereof, and who shall serve as the secretary of the Growers Allocation Committee, and shall have such other duties as are specified for him in this order or by the Control Board; and to employ such other employees as the Control Board may deem necessary, and to determine the salaries and define the duties thereof.

8. To give to the Secretary, or his designated representative, the same notice of meetings of the Control Board as is given to the members of the Control Board.

9. To defend all legal proceedings against any member, alternate, officer, or employee of the Control Board arising out of an act or omission made in good faith pursuant to the provisions of this order.

SEC. 7. *Procedure.*—1. The Control Board shall adopt rules and regulations governing its procedure and the performance of its duties under this order, and shall select a chairman and such other officers as it may deem advisable.

2. The Control Board shall not perform any of its powers or duties under this order while there are more than six (6) vacancies in its membership, not inclusive of alternates. A quorum shall consist of eleven (11) members, or alternates or substitutes then serving in the place and stead of any members, in attendance at the meeting, and all decisions of the Control Board shall be made by not less than nine (9) affirmative votes.

3. The Control Board may provide for voting by telephone, mail, or telegraph upon due notice to all members; and any member voting by telephone shall promptly thereafter confirm in writing his vote so cast.

4. The members of the Control Board, including successors and alternates, and any agent or employee appointed or employed by the Control Board, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Control Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to public announcement of such disapproval by the Secretary.

SEC. 8. *Funds and other property.*—1. All funds received by the Control Board pursuant to this order shall be used solely for the purposes herein specified, and the Secretary may require the Control Board and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal, or expiration of term of any member or employee of the Control Board, all books, records, funds, and other property in his possession belonging to the Control Board, or to which the Control Board is entitled to possession, shall be delivered to the Control Board, or to that member's successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Board, or in the successor of such member or employee, full title to all such books, records, funds, and other property.

3. The Control Board, with the approval of the Secretary, may maintain in its own name, or in the names of its members, legal action against any handler for the collection of that handler's pro rata share of expenses which may be due under this order.

SEC. 9. *Growers allocation committee.*—1. The initial members of the Control Board designated as grower members and those designated as grower-dealer members shall constitute the "Growers Allocation Committee." The Committee shall have such duties and functions as are expressly specified in this order for said Committee and such other duties and functions as may be incident thereto. The Growers Allocation Committee may incur only such expenses as are authorized by the Control Board. The members of the Control Board selected, subsequent to the initial members, in accordance with the provisions of paragraphs numbered 2, 3, and 4 of section 1, article II hereof, and the grower-dealer member selected in accordance with the provisions of paragraph numbered 5 of section 1, article II hereof, shall constitute the Growers Allocation Committee from and after April 1, 1939.

2. The Growers Allocation Committee shall select one of its members as its chairman and the Managing Agent shall serve as its secretary. It shall keep proper records of all of its proceedings and shall adopt regulations governing its procedure. Each regulation, decision, determination, or other act of the Growers Allocation Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to public announcement of such disapproval by the Secretary.

3. The alternate of each grower member or grower-dealer member of the Control Board shall also serve as the alternate of that member as a member of the Growers Allocation Committee, and shall have the same functions with regard to the Growers Allocation Committee as such alternate has with regard to the Control Board under the provisions of section 2 of this article.

ARTICLE III.—ADVISORY COMMITTEE

SECTION 1. *Membership.*—1. An Advisory Committee for each of the States of Oregon, California, and Washington is hereby established, each of which committee shall consist of twelve (12) members who shall be growers or grower-dealers engaged in growing hops in and shall be residents of the State for which the respective Committee shall function.

2. The initial members of each of said Advisory Committees, to serve until April 1, 1939, and until their respective successors are selected and qualified, shall be as follows:

(*a*) Oregon Advisory Committee:

Name	*Address*
Ben Hilton	Route 2, Grants Pass, Oregon.
L. S. Christoffer	Box 366, Eugene, Oregon.
Wm. Krebs	Route 1, Jefferson, Oregon.
Romeo Gouley	Route 1, Brooks, Oregon.
Edw. Novvak	Route 1, Aurora, Oregon.
John Gooding	St. Paul, Oregon.
D. J. Collins	Independence, Oregon.
P. H. Hughes	Dallas, Oregon.
Fred Hartwick	Banks, Oregon.
Fred Kaser	Route 3, Silverton, Oregon.
Urban Butsch	Route 1, Mt. Angel, Oregon.
Hobart Mitchell	633 S. E. Morrison Street, Portland, Oregon.

(*b*) California Advisory Committee:

Name	*Address*
A. A. Casselman	Route 3, Box 2630, Sacramento, California.
Geo. D. Beltzel	Route 2, Elk Grove, California.
Geo. E. Miller	Box 1024, Sacramento, California.
A. S. Gibbens	Route 5, Sacramento, California.
I. D. Wood	Route 1, Santa Rosa, California.
E. H. Peterson	Route 2, Santa Rosa, California.
Everett Ballard	Route 1, Healdsburg, California.
R. E. Oehlmann	RFD, Sebastopol, California.
Paul Foster	Hopland, California.
Warren Brown	RFD, Ukiah, California.
F. E. Crawford	RFD, Ukiah, California.
J. C. Johnson	Ukiah, California.

(*c*) Washington Advisory Committee:

Name	*Address*
W. H. Hill	Route 5, Yakima, Washington.
J. R. Rutherford.	Route 5, Yakima, Washington.
Dan McDonald	Route 2, Wapato, Washington.
Albert Gamache.	Route 1, Toppenish, Washington.
Dave Champoux.	Route 1, Moxee City, Washington.
Everett Schott	Yakima, Washington.
Edward Mieras	Route 1, Yakima, Washington.
Elzard Rable	Route 1, Moxee City, Washington.
E. J. Dupree	Route 1, Moxee City, Washington.
B. D. McKelheer.	Route 1, Yakima, Washington.
Julius Coplan	Orting, Washington.
P. N. Campbell	Route 1, Wapato, Washington.

3. The successors to the initial members of each Advisory Committee shall be selected on or before March 31, 1939, and shall serve thereafter as long as this order is effective, at elections held by the growers and grower-dealers in each state under the supervision of the Managing Agent or his designated representative, in which each grower and each grower-dealer in that state shall have opportunity to participate. No delay in the selection of any member shall invalidate such selection. Such elections shall be conducted by districts, as follows:

(*a*) The Advisory Committee for the State of Oregon shall, subject to disapproval by the Secretary, delimit that state fairly and equitably into twelve (12) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district one (1) member of the Advisory Committee.

(*b*) The Advisory Committee for the State of California shall, subject to disapproval by the Secretary, delimit that state fairly and equitably into three (3) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district four (4) members to the Advisory Committee.

(*c*) The Advisory Committee for the State of Washington shall, subject to disapproval by the Secretary, delimit that state fairly and equitably into four (4) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district three (3) members of the Advisory Committee.

4. At any such election each grower or grower-dealer shall, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, cast only one (1) vote for each nominee for membership on the aforesaid Advisory Committee. No grower or grower-dealer shall vote in more than one district in any one state, and, in the event he produces hops in more than one district, he shall vote in that district in which he harvested the largest tonnage of hops during the preceding crop year. The Control Board shall prescribe and submit to the Secretary rules and regulations governing elections of Advisory Committee members, which shall become effective if not disapproved by the Secretary within twenty (20) days after submitted to him.

5. Each member of an Advisory Committee may designate in writing addressed to the Managing Agent a grower or grower-dealer to act as his alternate at any meeting of the Advisory Committee at which that member is not present; such alternate must be a resident of the state and district thereof in which the member resides.

6. Any vacancy in the membership of an Advisory Committee shall be filled, for the balance of the term of the member whose place is vacant, by a grower or grower-dealer, residing in the same district as that represented by the former

member, selected by majority vote of the remaining members of that Committee.

7. Advisory Committee members may be reimbursed by the Control Board for all travel and other expenses necessarily incurred in the performance of their duties.

SEC. 2. *Functions.*—1. Each Advisory Committee shall promptly nominate to the Secretary a successor to any grower from that State whose term on the Control Board as a member or alternate shall expire or whose place on the Control Board for any reason may become vacant. Grower members of an Advisory Committee, as well as other growers, shall be eligible for nomination by that Advisory Committee to serve on the Control Board.

2. Each Advisory Committee shall select from its membership a chairman and a secretary, and shall keep proper records of all of its proceedings. It shall hold meetings upon the call of four (4) members, or upon the call of its chairman, or the Control Board, or the Managing Agent. Each Advisory Committee shall serve the Control Board in an advisory capacity, concerning the administration of this order in its State, and in general shall perform such functions as the Control Board from time to time may specify. Each Advisory Committee may incur only such expenses as are authorized by the Control Board.

ARTICLE IV.—REGULATION OF DISTRIBUTION

SECTION 1. *Limitation of total quantity to be handled.*—1. In order to effectuate the declared policy of the act, and in consideration of the estimated consumptive demand for hops, the estimated carryover of hops, and the estimated quantity of hops which will be produced during the year 1938, the maximum quantity of hops produced in the year 1938 which may, during the effective period of this order, be marketed in or transported to any and all markets in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such hops, shall be 28,500,000 pounds; provided, however, nothing contained in this paragraph shall prevent the handling of hops pursuant to certificates issued in accordance with paragraph 1, section 4 of this article, and section 7 of this article. The aforesaid quantity of 28,500,000 pounds shall be known, and is referred to hereinafter, as the "salable quantity of 1938 hops".

2. As soon after July 1, 1939, as may be feasible, the Control Board shall estimate the quantity of hops which will be produced during the year 1939, shall ascertain or estimate the total carryover of hops produced prior to 1938 and the carryover, if any, of the salable quantity of 1938 hops, and shall estimate the total consumptive demand for hops. The Control Board thereafter shall transmit to the Secretary its said estimates and findings together with its recommendation of the maximum quantity of hops produced in the year 1939 which should, during the effective period of this order, in order to effectuate the declared policy of the act, be marketed or transported to market in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce. For the purpose of obtaining additional information pertinent to the determination of a salable quantity of 1939 hops, the Secretary shall hold a meeting or meetings, within the production area covered by this order, subsequent to such notice as the Secretary may deem proper. Thereafter, from the aforesaid estimates, data and recommendation of the Control Board and such other information as the Secretary may have, the Secretary shall determine, fix, and announce, such maximum quantity of hops produced in the year 1939 which may, during the effective period of this order, be marketed in or transported to any and all markets in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such hops, as he may deem to be proper in order to effectuate the declared policy of the act; provided, however, hops may be handled pursuant to certificates issued in accordance with paragraph 1, section 4 of this article, and section 7 of this article. The aforesaid quantity shall be known, and is referred to hereinafter, as the "salable quantity of 1939 hops".

SEC. 2. *Determination of quantity available for sale by growers.*—1. The Growers Allocation Committee shall estimate, or cause to be estimated under its supervision, as soon after the effective date of this order in the year 1938 and as soon after July 1, 1939, as the said Committee shall determine that the hop vines have reached such a stage of development that it is feasible to estimate the quantity of hops which will be produced during the respective year, the quantity of hops which will be produced by each grower of hops during the respective year (which quantity shall be deemed to constitute the quantity which will be available for sale by the respective grower) and shall then compute the total quantity of hops which will be produced by all growers during the respective year (which quantity shall be deemed to constitute the quantity which will be available for sale by all growers). The aforesaid estimated production shall be based upon the producing acreage of hops during the respective year and the estimated yield per acre thereon. In estimating the yield per acre, due consideration shall be given to the age and condition of the hop vines, the yield during recent years, and other factors pertinent to the current yield of said hop vines. The Growers Allocation Committee shall cause to be mailed to each grower notice of the aforesaid estimate of the quantity of hops which will be produced by the respective grower during that year and, also, the aforesaid computation by the Growers Allocation Committee of the total quantity of hops which will be produced by all growers during the respective year; and the Growers Allocation Committee shall publicly announce the aforesaid computation of the total quantity of hops which will be produced by all growers during the respective year.

2. The Growers Allocation Committee shall prescribe regulations, subject to modification and approval by the Secretary, which provide a reasonable means whereby any grower who may be dissatisfied with such estimate of his production of hops may protest to that committee or its representative concerning that estimate, and in the event of such protest such estimate shall be reconsidered by the Growers Allocation Committee and revised to any such extent as the committee may find to be proper. Such regulations shall further provide a reasonable means whereby such grower may appeal to the Secretary from the Growers Allocation Committee's final decision on said protest, and the Secretary's determination on such appeal shall be conclusive.

3. Upon expiration of such time for protest as the Growers Allocation Committee may establish pursuant to the preceding paragraph, and after completion of action by said Committee upon all protests as in said paragraph provided, the Growers Allocation Committee shall report to the Secretary all estimates and computations made for or by the Growers Allocation Committee pursuant to this section, together with the data on which the same were predicated. On the basis of such estimates, computations and data and any other pertinent information which the Secretary may have, the Secretary shall determine and notify the Growers Allocation Committee of (a) the estimated total quantity of hops which will be produced during that year by each grower, and (b) the estimated total quantity of hops which will be produced during that year by all growers. Thereupon, the Growers Allocation Committee shall publicly announce the aforesaid determination of estimated total quantity of hops which will be produced during that year by all growers.

SEC. 3. *Allocation of Salable Quantity Among Growers.*—1. The "salable percentage" of the aforesaid estimated total quantity of hops which will be produced during the respective year by all growers shall be computed by dividing the salable quantity, fixed in or pursuant to section 1 of this article for the hops produced in the respective year, by the aforesaid estimated total quantity of hops which will be produced by all growers during that year. Each grower's allotment of said salable quantity shall be that same salable percentage applied to that grower's estimated production of hops during that year as determined pursuant to section 2 of this article. Such allotment shall be known as the grower's "salable allotment."

2. The Growers Allocation Committee shall notify each grower of his salable allotment computed by that committee as hereinbefore provided. Within ten (10) days after the mailing to a grower, as hereinbefore provided, of his notice of salable allotment, that grower may elect, in writing delivered to the Growers Allocation Committee, to have his salable allotment determined on the basis of the quantity of hops actually harvested by him during that year. In that event, that grower's salable allotment of the salable quantity applicable to hops produced during that year shall be computed by applying the salable percentage to the hops which the Growers Allocation Committee shall determine actually are produced and harvested by that grower during that year.

SEC. 4. *Allotment certificates.*—1. The Control Board shall issue in the name of each grower certificates as evidence of his salable allotment; and, also, the Control Board shall, on receipt of satisfactory proof, issue in the name of any grower, who by reason of a written contract executed prior to June 14, 1938, is legally obligated to deliver, at a definite and stated price, a definite and stated quantity of hops grown by the respective grower during 1938 to any other person, an additional allotment certificate covering or relating to the excess quantity, if any, of the quantity of hops specified in such contract over and above the quantity represented by such grower's salable allotment. Each such certificate shall be known as an "allotment certificate." Each such certificate shall indicate the year of production and the quantity of hops covered thereby and shall be in such form as the Control Board shall prescribe, subject to approval by the Secretary. The Control Board shall maintain adequate and complete record of each such certificate issued and all pertinent facts relative thereto.

2. Each allotment certificate issued pursuant to this article may be delivered to the grower of the hops to which the certificate is applicable. No such certificate shall be accepted, used, disposed of or transferred by any handler except in connection with the hops to which the same shall relate and pursuant to such regulations as may be prescribed by the Control Board, and approved by the Secretary, relative to the acceptance, use and disposal thereof; and each handler acquiring, accepting, using, disposing of or transferring any such certificate shall render to the Control Board such report relative thereto, except as to terms of sale, as may be required by such regulations.

3. On satisfactory proof that any certificate issued pursuant to this article has been lost or destroyed, the Control Board shall issue a new certificate in lieu thereof in which event the lost certificate shall become null and void, except as to a bona fide purchaser of the hops covered by such certificate, and any handler, except as a bona fide purchaser of the hops covered by such certificate, who may obtain possession of such null and void certificate shall immediately surrender the same to the Control Board.

SEC. 5. *Certificates for old hops.*—1. The Control Board shall issue to any person who may apply therefor in writing to the Control Board within thirty (30) days after the effective date of this order, or within such other time as the Control Board may specify by and with the approval of the Secretary, certificates covering hops, in Oregon, California, or Washington, owned or in the possession of such person and produced prior to the year 1938. Each such certificate shall be so designated as to be distinguishable from allotment certificates issued for hops grown in the year 1938 or the year 1939, and shall specify the year of production and the quantity of hops produced prior to the year 1938 which are covered by such certificate, and shall be in such form as the Control Board shall prescribe by and with the approval of the Secretary. The Control Board shall maintain an adequate and complete record of each such certificate issued and all pertinent facts relative thereto.

2. No certificate issued pursuant to the provisions of this section shall be accepted, used, disposed of, or transferred by any handler except in connection with the hops to which such certificate shall relate and pursuant to such regulations as may be prescribed by the Control Board, and approved by the Secretary, relative to the acceptance, use, and disposal thereof; and each handler acquiring, accepting, using, disposing of or transferring any such certificate shall render to the Control Board such report relative thereto, except as to the terms of sale, as may be required by such regulations.

SEC. 6. *Limitation of handling to certificated hops.*—No person, as principal, agent, broker, or otherwise, shall handle hops for which certificates are required to be issued pursuant to this article unless there shall have been issued pursuant to this article an allotment certificate or allotment certificates covering or applicable to all of those hops, or, if the hops were produced prior to the year 1938, a certificate or certificates issued pursuant to section 5 of this article, except that hops produced prior to 1938 may be handled without respect to certification during the thirty (30) days immediately following the effective date hereof, and, furthermore, unless each bale of said hops shall have been marked or tagged in such manner as the Control Board, by regulations approved by the Secretary, may have prescribed for the purpose of identifying such hops with the certificate applicable thereto, and unless that handler shall comply with any such regulations of the Control Board, as may have been approved by the Secretary, relative to the certificates covering said hops; provided, however, that the foregoing shall not apply to any grower's uncertificated hops being purchased or otherwise acquired from the grower thereof by another grower who has failed to produce and harvest his full salable allotment of hops and is purchasing or acquiring said hops for the sole purpose of making up that deficiency.

SEC. 7. *Emergency certificates.*—In the event the Control Board at any time shall find that no production estimate has been made, or salable allotment determined, or allotment certificate issued, for or to a grower entitled thereto by virtue of the provisions of this order, the Control Board shall immediately cause to be issued, and may be delivered, to said grower the appropriate allotment certificate to which the Control Board shall find that such grower is entitled according to the provisions of article IV of this order. If any grower is dissatisfied with the determination by the Control Board with respect to such emergency certificate, or the application for an emergency certificate, such grower may appeal to the Secretary; provided, however, that such appeal must be taken promptly after the determination by the Control Board. Upon an appeal as aforesaid to the Secretary, the Secretary may modify or cancel the issuance of an emergency certificate or may authorize the issuance of an emergency certificate. The authority of the Secretary to supervise and control the issuance of emergency certificates is plenary and complete; and any determination made by the Secretary with respect to an emergency certificate, or application for an emergency certificate, shall be final.

ARTICLE V.—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Board is authorized to incur such expenses as the Secretary shall find may be necessary to perform the functions of the Control Board, Growers Allocation Committee, and Advisory Committees under this order. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each handler of 1938 or 1939 hops, who is the first handler thereof, shall pay to the Control Board, upon its demand, the assessment rate provided hereinafter in respect to such hops as are handled by such handler as the first handler thereof; provided, however, that any grower who markets or transports to market hops, produced by the respective grower, within the State of production shall not be deemed to be the first handler of such hops insofar as the provisions of this article may be concerned. Beginning with the effective date hereof, the assessment rate shall be one fourth (¼) of one cent per pound, and such rate shall continue in effect until changed by the Control Board with the approval of the Secretary; provided,

however, that the Secretary shall not approve an assessment rate which exceeds two-fifths (⅖) of one cent per pound unless he shall have held, prior thereto and subsequent to such notice as he may deem proper, a meeting or meetings within the production area covered by this order for the specific purpose of obtaining information in respect to such assessment rate. Any change in the assessment rate shall not apply retroactively. A grower who, having failed to produce his full salable allotment of hops, purchases or otherwise acquires uncertificated hops from the grower thereof for the sole purpose of making up that deficiency shall not be deemed to be the first handler of those hops within the provisions of this article.

3. Upon the termination of this order the net assets of the Control Board shall be liquidated and disbursed pursuant to the provisions of section 3 of article IX hereof.

4. From the funds acquired pursuant to this article, the Control Board shall pay the salaries of its employees and the expenses necessarily incurred in the performance of the functions of the Control Board, Growers Allocation Committee and Advisory Committees.

ARTICLE VI.—REPORTS, BOOKS AND RECORDS

SECTION 1. *Books and records.*—Each handler and each subsidiary or affiliate thereof shall keep adequate books and records which will clearly show the details of its handling of hops.

SEC. 2. *Reports to managing agent.*—To enable the Control Board, the Growers Allocation Committee, or any Advisory Committee to perform its functions hereunder, each handler shall furnish to the Managing Agent, in such form and at such times and substantiated in such manner as shall be prescribed by the Control Board, complete information relating to (a) the volume of hops handled by the respective handler, (b) names and addresses of the growers and other persons from whom hops were purchased or acquired, (c) quantities of hops grown by that handler, and (d) the total quantity of hops owned by the respective handler. Such information furnished to the Managing Agent shall be confidential and shall not be disclosed to any person (including members of the Control Board as well as other persons) except to the Secretary at his request, and except that the Managing Agent may compile such information in such form as will not reveal the identity of individual informants and may make such compilations available to the Control Board, Growers Allocation Committee or any Advisory Committee or to the public. Disclosures by the Managing Agent of any information acquired under this section, except as herein expressly authorized, shall be cause for his removal from office by the Secretary.

ARTICLE VII.—AMENDMENTS

SECTION 1. *Proposal.*—Amendment of this order may from time to time be proposed by the Control Board or by the Secretary.

ARTICLE VIII.—AGENTS

SECTION 1. *Agents.*—The Secretary may, by a designation in writing, name any person, including but not being limited to any officer or employee of the Government or any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE IX.—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective Time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force so long as the provisions of the act authorizing it are in effect, unless this order is terminated in one of the ways hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate this order.

2. The Secretary shall terminate this order whenever he finds that such termination is favored by the majority of the growers of hops who, during the preceding crop year, have been engaged in the States of Oregon, California, and Washington in the production of hops for market, provided that such majority have, during such period, produced for market more than fifty percentum (50%) of the total volume of hops produced for market in said States during that period; but such termination shall become and be effective on and after the first day of July subsequent to the announcement thereof by the Secretary.

3. This order shall terminate in any event whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Proceedings after termination.*—1. Upon the termination of this order, the members of the Control Board then functioning shall continue as joint trustees, for the purpose of liquidating this order, of all funds and property then in the possession or under the control of the Control Board, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary, and (b) shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Board and the joint trustees, to such person as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control Board or the joint trustees pursuant to this order. Any funds collected for expenses pursuant to article V of this order and held by such joint trustees or such persons over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination of this order, be disbursed among those handlers who have paid their assessments in full, pursuant to this order, pro rata in proportion to their contributions pursuant to this order.

2. Any person to whom funds, property or claims have been delivered by the Control Board or its members upon direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to said funds, property or claims as are hereinabove imposed upon the members of said Board or upon said joint trustees.

ARTICLE X.—DURATION OF IMMUNITIES

SECTION 1. *Duration of immunities.*—The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order.

ARTICLE XI.—SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XII.—DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

ARTICLE XIII.—LIABILITY OF CONTROL BOARD MEMBERS

SECTION 1. *Liability.*—No member of the Control Board, Growers Allocation Committee, or any Advisory Committee, nor any employee thereof, shall be held liable individually in any way whatsoever to any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty.

In witness whereof, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this Order under his hand and the official seal of the United States Department of Agriculture, in the City of Washington, District of Columbia, on the 11th day of August, 1938, and declares this Order to be effective on and after 12: 01 a. m., eastern standard time, August 15th, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2356; Filed, August 12, 1938; 12:46 p. m.]

FEDERAL CROP INSURANCE CORPORATION

[F. C. I. R.—Series 1, No. 1]

AMENDMENT TO REGULATIONS RELATING TO WHEAT CROP INSURANCE

Part 5 of the "Regulations Relating To Wheat Crop Insurance" adopted by the Board of Directors on April 26, 1938, and approved by the Secretary of Agriculture on April 28, 1938,[1] is hereby amended by inserting between Sections 53 and 54 the following new section:

"SECTION 53A. Notwithstanding the provisions of Sections 52 and 53, for any county where the data regarding yields of wheat for the period 1930–35 compiled in connection with wheat adjustment programs are not available for a representative sample of the farms in the county, the loss cost adjustment figure and the adjusted average loss cost per acre will be determined so as to result in premium rates for farms in such county which the Corporation determines will be fair and just."

Adopted by the Board of Directors on July 25, 1938.

[SEAL] M. L. WILSON,
Chairman.

Approved, August 11, 1938.

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2346; Filed, August 11, 1938; 1:11 p. m.]

TITLE 11—AVIATION

BUREAU OF AIR COMMERCE

REVOCATION OF ORDER GOVERNING THE USE OF MILITARY ROAD FOR RUNWAY PURPOSES BY THE NATIONAL AIRPORT CORPORATION

Whereas, pursuant to the provisions contained in the Act approved April 13, 1938 (Public No. 481, 75th Congress), the Secretary of War, on May 16, 1938, conveyed by quit-claim deed to the National Airport Corporation all of the right, title and interest of the United States in and to the land forming a part of Military Road, Fort Myer Military Reservation, Arlington County, Virginia, and further leased the remainder of said Military Road to the said National Airport Corporation for a period of fifty years, and,

Whereas, it now appears that the Order issued April 30, 1936,[1] pursuant to the provisions contained in the Act of March 2, 1936, governing the use of Military Road for runway purposes, should be revoked.

Now, therefore, pursuant to the authority contained in the Air Commerce Act of 1926 (44 Stat. 568), as amended by the Act of February 28, 1929 (45 Stat. 1404), the Act of June 19, 1934 (48 Stat. 1113), the Act of June 19, 1934 (44 Stat. 1116) and Sections 11 and 12 of the Act of June 12, 1934 (48 Stat. 933, 937), I hereby declare said Order of April 30, 1936, to be revoked and henceforth to be of no force and effect.

Approved, August 12, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2355; Filed, August 12, 1938; 12:34 p. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[General Docket No. 15]

ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS: IN RE DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREA 1

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 10th day of August 1938.

The Commission, by its Order No. 240, dated April 19, 1938,[2] having directed each District Board to determine the weighted average of the total costs of the ascertainable tonnage produced within its respective district in the calendar year 1936; and to adjust the average cost so determined as may be necessary to give effect to any changes substantially affecting costs, exclusive of seasonal changes, which may have been established since January 1, 1936; and directing that such determinations be submitted to the Commission together with the computations upon which they are based; and

District Boards Nos. 1, 2, 3, 4, 5, 6, 7, and 8 within Minimum Price Area 1, having made such determinations and having submitted them together with the data upon which they were computed, to the Commission, pursuant to said Order No. 240, and

The Commission, on the 25th day of May, 1938, having instituted the above entitled proceedings, for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937, and having thereafter, upon the 16th day of June, 1938, directed that a hearing be held commencing on the 6th day of July, 1938,[1] at 10:00 A. M. in the Hearing Room of the Commission at 15th and Eye Streets, N.W., Washington, D. C., for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts Nos. 1, 2, 3, 4, 5, 6, 7, 8, and so much of District No. 13 as is in Minimum Price Area 1, and evidence relating to any change or changes in wage rates, hours of employment, or other factors, exclusive of seasonal changes, substantially affecting costs, which may have been established since January 1, 1936 in each of said districts, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Area 1 as adjusted, within the meaning of Section 4, Part II, of the Act, and due public notice of said hearing having been given, and

This matter having been heard before the Commission at the time and place aforesaid, and all interested parties having been afforded an opportunity to be heard, and

The Commission being fully advised in the premises, and having made "Findings of Fact and Conclusions", which are filed herewith,

Now, therefore, Pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other Purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission *Hereby Determines* in conformity with the "Findings of Fact and Conclusions" made and filed herein, that the weighted average of the total costs of the tonnage for Minimum Price Area 1, in the calendar year 1936, adjusted so as to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, reflecting as accurately as possible any change or changes which have been established since January 1, 1936, is as follows:

Minimum Price Area 1 (Districts Nos. 1, 2, 3, 4, 5, 6, 7 and 8), $2.157 per net ton.

It is therefore ordered, That the weighted average of the total costs, as herein determined, shall be taken as the basis, to be effective until changed by the Commission, for the proposal and establishment of minimum prices in accordance with further order of the Commission.

[1] 3 F. R. 1013 DI.

[1] 1 F. R. 404.

[2] 3 F. R. 935 DI.

[1] 3 F. R. 1457 DI.

It is further ordered, That the Secretary of the Commission be and he is hereby directed to cause forthwith a copy of this order to be mailed to the Secretary of each District Board and to the Consumers' Counsel, and to cause a copy hereof to be published in the FEDERAL REGISTER; and the Secretary of the Commission is further directed forthwith to cause to be made available to the public the weighted average figures of total costs determined as aforesaid, and to place for public inspection in each of the Statistical Bureaus within the aforesaid Minimum Price Area 1 and at the office of the Secretary of the Commission at Washington, D. C., three (3) copies of this order and the "Findings of Fact and Conclusions" upon which the order is based, and one (1) copy of the official transcript of the evidence upon which said "Findings of Fact and Conclusions" are predicated.

By order of the Commission.

Dated this 10th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2348; Filed, August 12, 1938; 10:24 a. m.]

[Order No. 247]

AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREA 1 TO PROPOSE MINIMUM PRICES FOR THE KINDS, QUALITIES AND SIZES OF COAL PRODUCED IN SAID DISTRICTS

PROMULGATING AND APPROVING RULES AND REGULATIONS GOVERNING THE PROCEDURE THEREFOR

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the area defined in said Act as Minimum Price Area 1 (District Nos. 1, 2, 3, 4, 5, 6, 7 and 8) shall forthwith proceed to consider and shall propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced in said district by code members, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as may be deemed proper and within the Authority conferred by said Act.

A schedule of such proposed minimum prices, together with the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship, shall be submitted to the Commission by each district board within Minimum Price Area 1 (District Nos. 1, 2, 3, 4, 5, 6, 7 and 8) on or before the 6th day of September 1938, and after hearing the Commission may approve, disapprove or modify such proposed minimum prices to conform with the requirements of subsection (a) of Part II, Section 4 of the Act. The Minimum prices as approved or modified by the Commission shall serve as the basis for the coordination provided for in subsection (b) of Part II, Section 4 of the Act.

2. That the procedure for the proposal of minimum prices herein ordered and directed shall be in accordance with the following rules and regulations, which are hereby adopted and approved by the Commission therefor:

Rules and Regulations for the Proposal of Minimum Prices

I. Each district board, within 26 days following the issuance of this order directing the district boards to propose minimum prices authorized by subsection (a) of Part II, Section 4 of the Act, shall propose minimum prices by submitting to the Commission within said time a schedule of such proposed minimum prices together with all the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship.

II. All minimum prices proposed hereunder shall be f. o. b. transportation facilities at the mine, for the kinds, qualities and sizes of coal for which prices are proposed.

III. Each district board shall transmit its schedule of proposed minimum prices to each code member in the district at least fifteen (15) days before the district board files such schedule with the Commission pursuant to Rule I of these Rules and Regulations.

IV. During the interim between transmitting its schedule of proposed minimum prices to each code member in the district and the filing thereof with the Commission, each district board may make such changes or corrections in such schedule as in its judgment it deems proper.

To this end, each district board may arrange to receive protests of code members within the district, conduct such investigations and hold conferences or hearings, as in the judgment of the district board will assist it in formulating the schedule of proposed minimum prices in conformity with the requirements of subsection (a) of Part II, Section 4 of the Act. Any protests of code members shall be filed with the district board within seven (7) days from the date of transmission of its schedule of proposed minimum prices to code members.

V. Any changes or corrections made by a district board in its schedule pursuant to the rules and regulations herein shall be transmitted to each code member in the district not later than the date of submission of the schedule of proposed minimum prices to the Commission pursuant to Rule I hereof.

VI. Each district board submitting its schedule of proposed minimum prices to the Commission pursuant to the requirements of Rule I hereof shall, at the time of making such submission, file with the Commission one hundred (100) full and complete copies of such schedule, as changed or corrected, for such use as the Commission may deem proper.

VII. Each district board shall transmit to each other district board five (5) copies of its schedule of proposed minimum prices at the time of filing with the Commission pursuant to Rule I hereof.

VIII. The minimum prices proposed by any district board shall conform to the following standards therefor set out in subsection (a) of Part II, Section 4 of the Act:

a. They shall yield a return for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which the district is included, as such weighted average of the total costs shall theretofore have been determined by the Commission pursuant to the provision of subsection (a) of Part II, Section 4 of the Act.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of the coal to which they are applicable.

c. They shall be just and equitable as between producers within the district.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

IX. Each price schedule submitted in conformity with Rule I hereof shall contain an alphabetical list of code members. Opposite each code member's name shall be shown the name of the mine, the subdistrict in which it is located, the seam or kind of coal produced and the price classification (represented by an alphabetical letter), in each size group (which size group shall be represented by a number), for all sizes applicable to such group that the mine is equipped to produce. As an example:

Alphabetical list of code members showing price classifications by sizes for all uses except as separately shown

Company	Mine	Sub-district	Size groups					
			Seam	1	2	3	4	Etc.
Adams Coal Company	Black	Coal	#8	A	B	C	D	E
Jones Coal Company	White	Coke	#6	B	C	B	A	B
Smith Coal Company	Red	Iron	B	E	D	C	E	A
Williams Coal Company	Green	Glass	E	G	G	G	G	G

A—Represents the highest quality coal produced in the district for the use indicated.
B—Represents the next highest quality coal.
C—Etc.

In addition thereto the district board may include a similar listing subdivided according to producing sub-districts or according to any other subdivision desired.

Prices applicable to such classification shall be listed in a table similar to the following:

Size groups

Classification	1	2	3	4	5	Etc.
A	2.75	2.65	2.55	2.45	2.35	
B	2.65	2.55	2.45	2.35	2.25	
C	2.55	2.45	2.35	2.25	2.15	

Each schedule of proposed prices shall include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

The Secretary of the Commission is directed forthwith to publish a copy of this order and the rules and regulations contained herein in the FEDERAL REGISTER and to mail a copy of this order and the rules and regulations contained herein to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the Minimum Price Area named herein.

By order of the Commission.

Dated this 11th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2349; Filed, August 12, 1938; 10:24 a. m.]

[Order No. 248]

AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREA 1 TO PROPOSE REASONABLE RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY THE CODE MEMBERS OF THE RESPECTIVE DISTRICTS, IN ACCORDANCE WITH SUBSECTION (A) SECTION 4, PART II OF THE BITUMINOUS COAL ACT OF 1937

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the Area defined in said Act as Minimum Price Area 1 (Districts Nos. 1, 2, 3, 4, 5, 6, 7 and 8) shall forthwith proceed to consider and shall propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coal by the code members of the respective districts.

Such proposed rules and regulations shall not be inconsistent with the requirements of Section 4 of the Act and shall conform to the standards of fair competition therein established.

2. Such proposed rules and regulations, together with a statement of the reasons therefor, shall be submitted to the Commission by each of the aforesaid district boards on or before the 6th day of September 1938, in order that the Commission, after hearing, may approve, disapprove, or modify the same for the purpose of coordination.

3. Each district board shall transmit such proposed rules and regulations to each code member in its respective district at least fifteen days before said district board files such proposed rules and regulations with the Commission, and during the interim between the transmittal of such proposed rules and regulations to the code members and the filing of same with the Commission, each district board may make such changes in said proposals as in its judgment it may deem proper, and to this end, each district board may arrange to receive protests of its code members, conduct such investigations, conferences or hearings as in its judgment will assist it in proposing such reasonable rules and regulations as will best serve to carry out the purposes of the Act. Protests of code members shall be filed with the district board within seven days from the date of the transmittal to the code members.

4. Any changes made by a district board in its proposed rules and regulations, after the time of such transmittal to the code members, shall be forwarded to each code member in the district not later than the date of the submission thereof to the Commission.

5. Each district board shall file with the Commission, at the time set forth in paragraph two hereof, one hundred (100) copies of its proposed rules and regulations, and, at the same time, the district board shall transmit to each of the other district boards five copies of its proposals.

6. The Secretary of the Commission is directed to publish forthwith a copy of this order in the FEDERAL REGISTER and to mail a copy of this order to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the minimum price area named herein.

By order of the Commission.

Dated this 11th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2350; Filed, August 12, 1938; 10:24 a. m.]

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

AMENDMENT TO RULES AND REGULATIONS FOR THE FEDERAL HOME LOAN BANK SYSTEM

CHANGING THE NAME OF THE BANK PRESIDENT'S COUNCIL TO BANK PRESIDENT'S CONFERENCE

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by Section 17 of the Federal Home Loan Bank Act, as amended, (12 U. S. C. 1437):

(1) The second sentence of paragraph a of Section 4.002 of the Rules and Regulations for the Federal Home Loan Bank System is hereby amended to read as follows:

"When in the opinion of the Board it is desirable to issue consolidated debentures, the Board may direct the Governor to submit, after such communication with the several Banks as may be practicable, recommendations as to the particulars of such issue, or may direct the Governor to convene the Bank Presidents' Conference or submit such question to the Federal Savings and Loan Advisory Council for the purpose of making such recommendations."

(2) Section 8.002 of the Rules and Regulations for the Federal Home Loan Bank System is hereby amended to read as follows:

"SECTION 8.002. *Bank presidents' conference.*—There shall be a Bank Presidents' Conference which shall be composed of the Presidents of the twelve banks. In the event the President of a bank is unable to attend a meeting of the Conference he may designate an officer of that bank to represent him. The Bank Presidents' Conference shall meet the second Monday in each April and October or at such other time or times as determined by the Governor, at the office of the Governor, Federal Home Loan Bank Board Building, Washington, D. C. Said Conference may elect its own Chairman and Secretary and may make recommendations to the Governor. Each bank is authorized to pay the expenses of its representative to meetings of the Bank Presidents' Conference."

Adopted by the Federal Home Loan Bank Board on August 9, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2354; Filed, August 12, 1938; 12:26 p. m.]

HOME OWNERS' LOAN CORPORATION

ASSISTANT TREASURER TO ACT AS WELL AS TREASURER

AMENDING TREASURY CHAPTER OF THE MANUAL

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended, Section 7.01 of Part 7 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Section 701 of Chapter VII of the Manual relative to the Treasury Division be amended as follows:

The words "or Assistant Treasurer" shall be inserted immediately following the word "Treasurer" wherever it appears in this section except in the first paragraph.

Adopted by the Federal Home Loan Bank Board on August 9, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2351; Filed, August 12, 1938; 12:25 p. m.]

PREPAYMENTS AND CURTAILMENTS; FUNDS RECEIVED FOR CREDIT TO LOAN ACCOUNTS

MANUAL AMENDMENT

Be it resolved, That Sub-Sections 8.00 (h) and (1) of Part 8 of Chapter IV of Title 24 of the Code of Federal Regulations, the same being Sub-Sections 800 (h) and (1) of Chapter VIII of the Manual, are hereby amended to read as follows:

SECTION 800 (h). Prepayments and curtailments shall be applied to the account of a borrower or vendee in the manner provided in the note or bond, mortgage, deed of trust, or contract held by the Home Owners' Loan Corporation, or in such other manner as the borrower or vendee directs under procedure prescribed and approved, as provided in Section 800 (a).

SECTION 800 (1). Funds received by the Corporation for credit to its loan accounts or to accounts owing to it by reason of sales of acquired real property, from partial releases, grants of easements and flowage rights, insurance losses, mineral deeds, transactions affecting oil, gas or mineral interests, sales of timber, condemnation awards under decree or judgment of a court or by agreement, substitution of security, additional security, other transactions which otherwise reduce or diminish the security held by the Corporation or the property sold by it and any other credits to borrowers' or vendees' accounts other than repayments, are defined as "miscellaneous credits", and the net amount thereof shall be applied to the appropriate account (principal, interest, advances or other sums owing to the Corporation) in such manner consistent with law and the provisions of the loan or sales instrument as the General Manager, with the advice of the General Counsel, shall direct.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended).

Adopted by the Federal Home Loan Bank Board on August 9, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2353; Filed, August 12, 1938; 12:26 p. m.]

ANALYSIS AND REVIEW SECTION; REMITTANCE BY MORTGAGORS AND VENDEES

MANUAL AMENDMENT—HOUSING AND CREDIT CHAPTER

Be it resolved, That Section 2.03 (d) and 2.08 of Part 2 of Chapter IV of Title 24 of the Code of Federal Regulations and the corresponding Sections 203 (d) and 208 of Chapter II of the Manual, are hereby amended to read as provided below, and

SEC. 2.03 (d) (Manual 203 (d)). The Analysis and Review Section shall be responsible for the consideration of cases beyond the authority of Control Supervisors, including cases of serious tax delinquency not being liquidated and the making of recommendations as to the action to be taken.

This Section shall review all cases where contemplated advances would affect the future servicing of the account, except those where advances may be made by the State Manager without prior authorization from the Regional Manager, any matters concerning the Extension of Payments and all offers of additional security.

At any time prior to the acquisition of complete title by the Corporation, the General Manager, with the advice of the General Counsel, may, on such terms and conditions as he may determine to be for the best interest of the Corporation, including the cancellation of the old indebtedness and the taking of new loan or sales instruments where necessary, provided no loss to the Corporation is involved in the transaction, direct that foreclosure proceedings or negotiations for a deed in lieu of foreclosure be suspended or withdrawn, and with like advice may arrange and determine the terms and conditions for a reinstatement of the loan or sale or a reacquisition of title by the home owner. The authority herein vested in the General Manager may be exercised also by the Regional Manager with the advice of the Regional Counsel or by the State Manager with the advice of the State Counsel under procedure and limitations prescribed by the General Manager with the approval of the General Counsel.

In cases where the home owner or other obligor has died, except in jurisdictions where it is legally necessary to file a claim to protect the interests of the Corporation, the General Manager shall determine whether a claim shall be filed against the estate of the decedent. Ordinarily probate claims will not be filed where it appears that any of the following circumstances obtain:

(a) That the account will be maintained in good standing or satisfactory payment made.

(b) That the assets of the estate are insufficient or of such nature that they cannot be reached by a claim.

(c) That the satisfaction of a claim from assets other than the security of the Corporation will deprive the family of its only means of livelihood or otherwise result in extreme hardship.

The General Manager shall refer the cases where he determines a claim should be filed to the Legal Department, and unless there are legal reasons which would make it inadvisable to file the claim, the Legal Department shall proceed to file the same.

The authority herein vested in the General Manager may be exercised also by Regional, State or District Managers under procedure and limitations prescribed by the General Manager with the approval of the General Counsel.

SEC. 2.08 (Manual 208). It is the policy of the Corporation to endeavor to have its mortgagors and vendees regularly remit their payments by mail to the Regional Offices, but the General Manager is authorized to establish or close collection facilities in any office as he may deem necessary. Instructions and procedure for such offices are included in Chapter VII of this Manual.

Be it further resolved, That this resolution shall become effective on September 1, 1938.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1938 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended).

Adopted by the Federal Home Loan Bank Board on August 10, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2352; Filed, August 12, 1938; 12:25 p. m.]

TITLE 39—POSTAL SERVICE

POST OFFICE DEPARTMENT

[Order No. 11979]

AIR MAIL SERVICE UNDER SUPERVISION OF THE FIRST ASSISTANT POSTMASTER GENERAL

AUGUST 8, 1938.

It is hereby ordered, That effective August 8th 1938 the First Assistant Postmaster General will be charged with the administration and supervision of the Air Mail Service, Domestic and Foreign.

Effective August 8th 1938 the Division of Air Mail Service is transferred from the Bureau of the Second Assistant Postmaster General to the Bureau of the First Assistant Postmaster General and such other personnel of the Department as may be required to facilitate the carrying out of this order shall also be transferred to the Bureau of the First Assistant Postmaster General.

Order No. 4866 dated January 23rd 1934 is hereby revoked.

Sections 11 and 12 and all other relevant sections of the Postal Laws and Regulations of 1932 are hereby amended in conformity with the foregoing transfer.

[SEAL] W. W. HOWES,
Acting Postmaster General.

[F. R. Doc. 38–2362; Filed, August 12, 1938; 12:56 p. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

AMENDED PROXY RULES

The Securities and Exchange Commission, deeming it necessary and appropriate in the public interest and for the protection of investors and necessary for the execution of the functions vested in it so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 14 (a) and 23 (a) thereof, hereby takes the following action:

1. Rules LA1 to LA7 inclusive, as heretofore in effect, are hereby rescinded.

2. The following rules and schedule, designated "Regulation X–14," are hereby adopted:

*Regulation X–14.—Rules Relating to Solicitation of Proxies, Consents and Authorizations, Including Schedule 14A**

SEC. 10.X–14A–1 (*Rule X–14A–1*). *Proxy statement.*—No solicitation subject to Section 14 (a) of the Act[1] shall be made unless a written "proxy statement" is concurrently furnished or has previously been furnished to each person solicited. Such proxy statement shall contain the information specified in such of the items of Schedule 14A as may be applicable in the particular case: *Provided, however,* That—

(a) Except as to item 1 (a) of Schedule 14A, no statement need be made in the proxy statement in response to any item or sub-item of Schedule 14A which is inapplicable, or the answer to which is in the negative. None of the items need be restated in the proxy statement, and the order of the items and sub-items in the schedule need not be followed. Information required by more than one applicable item need not be repeated in the proxy statement.

(b) Any information required to be included in the proxy statement which is not known and not reasonably available to the persons making the solicitation may be omitted, if a brief statement of the circumstances rendering such information unavailable is made in the proxy statement. Likewise, information as to matters to occur or to be determined in the future need be given only in terms of present intention, but in such case there shall be set forth, to the extent practicable, the maximum and minimum limits of the authority to be conferred concerning each such matter.

(c) There may be omitted from the proxy statement any information contained in any document which has been furnished within a reasonable time in advance of the solicitation to each person solicited, if a clear reference is made to the place where such information appears. Any statement made in the proxy statement may be qualified by clear reference to any such document, or to any document which is on file with the Commission and with each exchange on which the securities are listed.

(d) In all cases in which past occurrences are to be consented to or acted upon pursuant to the proxy, the applicable items of Schedule 14A shall be read in the past tense, if appropriate.

(e) Unless the context clearly shows otherwise, whenever any fixed period of time in the past is indicated, such period shall be computed from the date of filing the proxy statement.*

SEC. 10.X–14A–2 (*Rule X–14A–2*). *Duty to provide means by which desired action can be specified.*—No solicitation subject to Section 14 (a) of the Act[1] shall be made unless (a) means shall have been provided whereby the person solicited is afforded an opportunity to specify, in a space provided in the form of proxy or otherwise, the action which such person desires to be taken pursuant to the proxy on each matter, or each group of related matters as a whole, described in the proxy statement as intended to be acted upon, other than the election of directors or other officials, and (b) the authority conferred as to each such matter or group of matters is limited by the specification so made. Nothing in Regulation X–14 shall prevent the solicitation of a proxy conferring discretionary authority with respect to matters as to which the person solicited does not make the specification provided for above, or with respect to matters not known or determined at the time of the solicitation, or with respect to elections of directors or other officials.*

SEC. 10.X–14A–3 (*Rule X–14A–3*). *Legibility of soliciting material.*—Every printed proxy statement and form of proxy, and all related printed material furnished to the persons solicited in connection with any solicitation subject to Section 14 (a) of the Act,[1] other than documents not prepared in connection with the solicitation, shall be set in type not smaller than 10-point roman, at least 2-point leaded; except that financial statements may be set in type not smaller than 8-point roman, if necessary for convenient presentation.*

SEC. 10.X–14A–4 (*Rule X–14A–4*). *Duty to file material with Commission and exchange.*—(a) Three copies of each of the following documents shall be filed with the Commission at its office in Washington, D. C., and one copy with each exchange on which is listed the security with respect to which any solicitation subject to Section 14 (a) of the Act[1] is made:

(1) The proxy statement, form of proxy, and any additional material intended to be furnished to security holders along with the proxy statement;

(2) Any additional material relating to the same subject matter or meeting furnished to any substantial number of security holders after the first solicitation; and

(3) Any document to which reference is made in the proxy statement in accordance with Rule X–14A–1 (c) [Sec. 10.X–14A–1], unless such document shall have been previously filed with the Commission and the exchange.

(b) The material described in paragraphs (a) (1) and (a) (3) above shall be filed not later than the time when the first solicitation is made. The material described in paragraph (a) (2) above shall be filed not later than the time when such material is first sent or given to any security holders.

(c) If any document filed pursuant to paragraph (a) of this rule is amended after the filing thereof, a copy of the amendment or amended document shall be filed with each exchange on which the security is listed and three copies with the Commission not later than the time when such amended document is first sent or given to any security holders.*

SEC. 10.X–14A–5 (*Rule X–14A–5*). *False or misleading statements.*—No solicitation subject to Section 14 (a) of the Act[1] shall be made by means of any form of proxy, notice of meeting, or other communication containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or omits to state any material fact necessary in order to make the statements therein not false or misleading.*

SEC. 10.X–14A–6 (*Rule X–14A–6*). *Duty of issuer to furnish information and mail proxies at request of security holder.*—No solicitation subject to Section 14 (a) of the Act[1] shall be made by or on behalf of the issuer or its management, directly or indirectly, unless the issuer performs or has performed such of the following acts as may be duly requested by any record owner of any security of the issuer (hereinafter called "the applicant") with respect to the same subject matter or meeting:

(a) At the written request of the applicant, the issuer shall furnish the following information:

(1) A statement of the approximate number of the holders of record of any specified class of securities of which any of the holders have been or are to be solicited by or on behalf of the issuer or its management (as of any date selected in connection with such solicitation, or if none has been selected, approximately as of the date designated by the applicant), and the approximate number of any other holders of the specified class of securities who have been or are to be solicited by or on behalf of the issuer or its management; and

(2) An estimate of the cost of mailing a specified form of proxy or other communication to such holders. Any information requested pursuant to this paragraph shall be mailed or otherwise furnished on or before the third business day after receipt of the written request.

(b) At the written request of the applicant, copies of any form of proxy or other communication furnished by the applicant shall be mailed by the issuer to holders of record (as of the date selected under (a)) of any specified class of securities of which any of the holders have been or are to be solicited by or on behalf of the issuer or its management, and to any other holders of the specified class of securities who have been or are to be solicited by or on behalf of the issuer or its management. Such material shall be mailed with reasonable promptness after receipt by the issuer of a tender of the material to be mailed, of envelopes or other containers therefor, of postage or payment for postage and of reasonable reimbursement to the issuer of all expenses incurred in connection with such mailing or of a surety company bond satisfactory to the issuer in an amount sufficient to cover such expenses; except that such material need not be mailed prior to the first day on which the solicitation is made by or on behalf of the issuer or its management.*

SEC. 10.X–14A–7 (*Rule X–14A–7*). *Solicitations to which rules are not applicable.*—Notwithstanding any other provision in this regulation, the rules contained therein shall not apply to:

(a) Any solicitation made otherwise than by the use of the mails or by any means or instrumentality of interstate commerce or of any facility of any national securities exchange;

(b) Any solicitation of a proxy by any person in respect of securities carried in his name or in the name of his nominee, or held in his custody, if (1) such person receives no commission or remuneration for such solicitation, directly or indirectly, other than reimbursement of reasonable out-of-pocket expenses and clerical expenses, and (2) such person furnishes to the person solicited a copy of all soliciting material which the persons on whose behalf the solicitation is made are sending to other persons: Provided, however, that this exemption shall not be applicable to any solicitation by a voting trustee in respect of securities of which he is trustee;

(c) Any solicitation of a proxy by any person in respect of securities of which he is the beneficial owner;

(d) Any solicitation of a proxy evidenced by a certificate of deposit or other security which is registered under the Securities Act of 1933;

(e) Any solicitation of an acceptance, conditional or unconditional, of a plan of reorganization under Chapter X of the Bankruptcy Act, as amended, or of an authority, conditional or unconditional, to accept any such plan, if such solicitation is made after the entry of an order approving such plan pursuant to Section 174 of said Act and after, or concurrently with, the transmittal of information concerning such plan as required by Section 175 of said Act; or

(f) Any solicitation made in connection with a reorganization of a registered holding company or any subsidiary company thereof, if such solicitation is made in compliance with paragraph (a) and with paragraph (b), (d) or (e) of Rule U–12E–3 [Sec. 15.U–12E–3] under the Public Utility Holding Company Act of 1935.*

SEC. 10.X–14A–8 (*Rule X–14A–8*). *Effect of violation.*—Failure to comply with the rules contained in this regulation shall not invalidate any proxy pursuant to which action has been taken: Provided, however, that this rule shall not be construed to prevent the granting of injunctions in any proper proceedings, or to exempt any person from any penalty or prohibition provided by the Act in respect of violations of the Act or any rules or regulations thereunder.*

SEC. 10.X–14A–9 (*Rule X–14A–9*). *Definitions.*—For the purposes of Regulation X–14, unless the context otherwise requires:

(a) The term "proxy" includes every proxy, consent, or authorization within the meaning of Section 14 (a) of the Act[1];

(b) The term "solicitation" includes any request for a proxy, whether or not such request is accompanied by or included in a written form of proxy; but the term does not include the performance by the issuer or its agents of acts required by Rule X–14A–6 [Sec. 10.X–14A–6], or the performance by any person of ministerial acts on behalf of a person soliciting a proxy;

(c) The term "proxy statement" means the statement required by Rule X–14A–1 [Sec. 10.X–14A–1], whether or not contained in a single document;

(d) The term "issuer" means the issuer of the security in respect of which the proxy is solicited;

(e) The term "associate", used to indicate a relationship with any person, means (1) any corporation or organization (other than the issuer) of which such person owns of record or beneficially 10% or more of any class of voting securities, (2) any firm of which such person is a partner, and (3) any relative or spouse of such person having the same home as such person;

(f) The term "affiliate", used to indicate a relationship with any person, means a person controlling, controlled by, or under common control with, such person.*

[*Here follows, in the original document, "Schedule 14A—Items of information in proxy statement under Rule X–14A–1.*]

NOTES:
*C. 404, sec. 14, 48 Stat. 895; 15 U. S. C. 78n; c. 404, sec. 23, 48 Stat. 901; c. 462, sec. 8, 49 Stat. 1379; 15 U. S. C. 78w and Sup. III.
[1] C. 404, sec. 14, 48 Stat. 895; 15 U. S. C. 78n.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2357; Filed, August 12, 1938; 12:51 p. m.]

Notices

INTERSTATE COMMERCE COMMISSION.

APPLICANTS FOR ADMISSION TO PRACTICE BEFORE COMMISSION

AUGUST 11, 1938.

Notice to the Public:

The Commission has determined that all applicants for admission to practice before the Commission, who are not attorneys at law admitted to practice before the Supreme Court of the United States or of the highest court of any State or Territory or the District of Columbia, shall be admitted only upon written examination, in order that the applicant may show that he is "possessed of the necessary legal and technical qualifications to enable him to render valuable service before the Commission and is otherwise competent to advise and assist in the presentation of matters before the Commission." (Rules of Practice, I–B, 2 (b).)

All applications received up to August 2, 1938, will be passed upon according to the preexisting practice. Applicants who are not members of the bar, who file their applications on and after August 2, 1938, are advised that (a) they should make return to the questionnaire sent them at the time the blank form of application for admission is given them; and that an inquiry will be made of the sponsors and those to whom the applicant has referred, as to the general standing of the applicant. An inquiry will also be made by the Committee of the Association of Practitioners before the Interstate Commerce Commission. If the applicant's standing is found to be good, then (b) applicant will be expected to appear for an examination as to his legal and technical qualifications, at the next succeeding general date on which examinations are held which is more than thirty days distant.

Examinations will be conducted three times a year—the first Tuesday in January, May and September of each year. In view of the shortness of time and the limited number of applications pending, the examination scheduled for September, 1938, will be omitted.

The applicants will be expected to appear for examination, after they have been notified to do so, at the office of the Commission in Washington, or, upon timely request being made, at a district office of the Bureau of Motor Carriers, in cities where such offices are maintained, or in other cities, at the office of the Commission's Bureau of Accounts or Service Agent of the Commission.

The examinations to be given will test the applicant's knowledge of (1) structure and history of the Interstate Commerce Act, as amended, and related acts, (2) the Commission's rules of practice, (3) the general rules of evidence, (4) the leading cases involving the Commerce Clause of the Constitution and the Interstate Commerce Act, and their significance, and (5) the principles of legal ethics. The decision as to admission or non-admission of candidates will be made upon the basis of the applications, the returns of sponsors and those to whom applicants have referred, and the examination papers.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 38–2347; Filed, August 12, 1938; 10:22 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 10th day of August A. D. 1938.

[File No. 31–113]

IN THE MATTER OF THE APPLICATION OF GREENE, CHESTER AND PATTON TRUST

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION

The Commission, having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant, consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2360; Filed, August 12, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 10th day of August, A. D. 1938.

[File No. 43–104]

IN THE MATTER OF GULF STATES UTILITIES COMPANY

ORDER ADOPTING REPORT

Gulf States Utilities Company, a subsidiary company of Engineers Public Service Company, a registered holding company, having made application pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935 for a report of the Commission on a certain plan involving an offer to exchange a new issue of 6209 shares of $6 preferred stock of said applicant for the outstanding 6209 shares of $6 preferred stock of Baton Rouge Electric Company;

Hearings having been held on the said plan and application after appropriate notice; the Commission having considered the record in this matter and having made and filed its report on said plan, said report being in the form of the copy thereof attached to this order:

It is ordered, That the said report on said plan be and the same hereby is approved and adopted as the report made by the Commission on said plan, and as the form of copy of said report to be used by the applicant in solicitations in respect of said plan pursuant to the provisions of said Section 11 (g).

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2358; Filed, August 12, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of August 1938.

[File No. 7–235]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, $100 PAR VALUE, 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE, 6% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE, AND 6% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE

ORDER DENYING APPLICATION FOR PERMISSION TO EXTEND UNLISTED TRADING PRIVILEGES

The San Francisco Stock Exchange having made application to the Commission, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, and Rule JF1, for permission to extend unlisted trading privileges to the Market Street Railway Company Common Stock, $100 Par Value, Prior Preference Stock, $100 Par Value, Preferred Stock, $100 Par Value, and Second Preferred Stock, $100 Par Value; and

A hearing having been held in this matter after appropriate notice,[1] and the Commission having this day made and filed its findings herein;

It is ordered, That the application of the San Francisco Stock Exchange, pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the Market Street Railway Company Common Stock, $100 Par Value, Prior Preference Stock, $100 Par Value, Preferred Stock, $100 Par Value, and Second Preferred Stock, $100 Par Value, be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2361; Filed, August 12, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of August, A. D. 1938.

[File No. 52–4]

IN THE MATTER OF WEST OHIO GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An amended application and declaration having been duly filed with this Commission on August 3, 1938 by David C. Patterson, M. J. Mauermann, and David Copland, as a committee for the holders of First and Refunding Mortgage 6% Bonds of West Ohio Gas Company, a subsidiary of the Trustees of Midland Utilities Company, a registered holding company, pursuant to Sections 11 (f) and 11 (g) of the Public Utility Holding Company Act of 1935, and the rules adopted by the Commission under said Sections and Section 12 (e) of said Act;

It is ordered, That a further hearing on such matter be held on August 29, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in

[1] 3 F. R. 1108 DI.

Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Richard Townsend, designated by order entered herein on November 19, 1937 to preside at hearings herein or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter, and shall exercise all the powers granted to such officer by said order.

Notice of such hearing is hereby given to such applicants and to any other person whose participation in such proceedings may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before August 23, 1938.

Said application, as amended, asks that the Commission approve and make a report upon the amended plan of reorganization of West Ohio Gas Company attached to said amended application, which said amended plan of reorganization provides (1) that the holders of said company's First and Refunding Mortgage 6% Bonds outstanding in the principal amount of $1,300,000 are to receive $500 in principal amount of new 5% First Mortgage Bonds, $30 in cash and 160 shares of new common stock of the par value of $2 per share for each $1,000 of outstanding Bonds; (2) that the holders of the 6% First Mortgage Bonds of Delphos Gas Company outstanding in the principal amount of $53,000 shall receive $500 principal amount of new 5% First Mortgage Bonds and 160 shares of common stock of the par value of $2 per share for each $1,000 of outstanding bonds of Delphos Gas Company, or in lieu thereof the property securing such bonds free from liens; (3) that Midland Utilities Company as the holder of demand notes of West Ohio Gas Company in the principal amount of $65,633 and accrued and unpaid interest thereon shall receive 16,324 shares of new common stock of the par value of $2 per share; (4) that holders of the preferred stock of West Ohio Gas Company shall receive for each share of such stock and all accumulated and unpaid dividends thereon one share of new common stock of the par value of $2 per share; (5) that no participation be given to the existing common stock, all of which is owned by Midland Utilities Company, and (6) that general claims be paid in cash or asumed by the new company as allowed by the Court.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2359; Filed, August 12, 1938; 12:52 p. m.]

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FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 159

Washington, Tuesday, August 16, 1938

The President

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR LOOKOUT STATION

ARKANSAS

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. Executive Order No. 6964 of February 5, 1935, as amended, temporarily withdrawing certain lands for classification and other purposes, is hereby revoked as to the following-described tract of public land in Arkansas:

FIFTH PRINCIPAL MERIDIAN

T. 6 N., R. 14 W., sec. 27, W½NW¼SW¼. 20 acres.

SECTION 2. Subject to valid existing rights, the tract of land described in section 1 of this order is hereby temporarily withdrawn from settlement, location, sale or entry and reserved for use by the State of Arkansas as a site for a forest-fire lookout tower.

SECTION 3. Section 2 of this order shall continue in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 12, 1938.

[No. 7951]

[F. R. Doc. 38-2371; Filed, August 13, 1938; 12:08 p. m.]

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 5341 OF MAY 2, 1930, WITHDRAWING PUBLIC LANDS

ARIZONA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 5341, of May 2, 1930, withdrawing public lands in Arizona pending a resurvey, and heretofore partially revoked, is hereby revoked as to the remainder of the lands affected thereby.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the lands involved.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 12, 1938

[No. 7952]

[F. R. Doc. 38-2372; Filed, August 13, 1938; 12:08 p. m.]

EXECUTIVE ORDER

ESTABLISHING LAKE ISOM MIGRATORY WATERFOWL REFUGE

TENNESSEE

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands and waters acquired or to be acquired by the United States in the following-described areas in Lake and Obion Counties, Tennessee, be, and they are hereby, reserved and set apart, subject to existing valid rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, That any private lands within the area described shall become part of the refuge hereby established upon acquisition of title thereto or control thereof by the United States:

First parcel:

Beginning at a point in the center of the Free Bridges Drainage District ditch, the line between Lake and Obion Counties, from which point a U. S. Geological Survey Primary Traverse Station marked 7W 1921 bears N. 83°45′ W., 52.28 chains distant, also from said point a 1¼ x 48″ galvanized iron pipe set for a witness

CONTENTS

THE PRESIDENT

Executive Orders: Page
Arizona, land withdrawal revocation 1995
Arkansas, land withdrawal for lookout station 1995
Tennessee, establishment of Lake Isom Migratory Waterfowl Refuge 1995

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Commodity Credit Corporation:
Wheat loans, instructions concerning 1997
Farm Credit Administration:
Joint stock land banks, approval of acts of receivers 2001
Authorization to hold title to real estate for more than five years 2001

TITLE 7—AGRICULTURE:
Bureau of Plant Industry:
Federal Seed Act, regulations amended 2002

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Modified tuberculosis-free accredited areas, names of counties placed in 2002

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Deran Confectionery Co 2003
Glade Candy Co 2005
Ostler Candy Co 2005
Shupe-Williams Candy Co 2004
Startup Candy Co 2003

TITLE 25—INDIANS:
Office of Indian Affairs:
Flathead Indian Irrigation Project, Mont., assessments on land in non-Indian ownership 2009
Operation and maintenance rules modified 2011

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 25—INDIANS—Continued.
San Carlos Federal Irrigation Project, definition of Joint, District and Indian Works of—— Page 2006

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Weights for testing scales—— 2011

TITLE 35—PARKS AND FORESTS:
National Park Service:
Hot Springs National Park, local subsidiary regulation—— 2012

TITLE 45—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Public Utility Holding Company Act of 1935, adoption of Form U-12 (I)-A and Form U-12 (I)-B—— 2012

NOTICES

Securities and Exchange Commission:
Atwater, L. P., doing business as L. P. Atwater & Co., registration denied—— 2013
Continental Royalties Corp., registration denied—— 2013
Copper District Power Co., and Middle West Corp., effectiveness of declaration—— 2012
Elk Horn Coal Corp., first preferred stock, etc., application denied—— 2013
Huff and Haskins, Inc., registration cancelled—— 2014
Market Street Railway Co., common stock, etc., listing and registration—— 2013

CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Standard Gas and Electric Co., application granted—— 2014
West Penn Power Co., effectiveness of declaration—— 2013

Treasury Department:
Bureau of Customs:
Suspension of liquidation of entries covering certain coal from Russia—— 2012

corner bears N. 79°53′ W., 0.60 chain distant.

Thence from said initial point, in Lake County,
N. 79°53′ W., 5.75 chains;
N. 5°42′ E., 51.54 chains;
N. 88°30′ W., 10.33 chains, to a point in the center of a gravel road;
N. 12°55′ W., 30.77 chains;
N. 81°55′ W., 28.91 chains;
N. 4°05′ E., 35.22 chains;
N. 51°36′ E., 54.12 chains;
N. 2°29′ W., 22.32 chains;
N. 18°31′ E., 8.30 chains;
S. 83°31′ E., 20.08 chains;
N. 32°49′ E., 23.45 chains;
N. 83°27′ W., 32.73 chains;
N. 6°51′ E., 33.35 chains, to a point at intersection of gravel roads;
N. 6°28′ E., 14.35 chains, to a point in the center of a gravel road;
S. 89°49′ E., 46.01 chains;
N. 23°55′ E., 13.46 chains;
N. 6°28′ E., 7.45 chains;
N. 6°03′ E., 21.05 chains;
N. 1°56′ E., 9.23 chains;
N. 31°32′ E., 10.55 chains;
S. 89°05′ E., 9.35 chains;
N. 0°54′ W., 0.82 chain, to a point in center of the Free Bridges Road;
S. 87°54′ E., 6.02 chains, to a point in the center of said road;
N. 87°34′ E., 7.61 chains, to a point at the intersection of said road and a slough;

Thence down the center of slough with the meanders thereof,
S. 9°46′ W., 3.75 chains;
S. 7°42′ W., 7.51 chains;
S. 18°52′ E., 5.49 chains;
S. 18°46′ E., 1.54 chains;
S. 49°21′ E., 1.44 chains;
S. 20°48′ E., 7.44 chains;
S. 9°21′ E., 3.22 chains;
S. 5°59′ W., 5.44 chains;
S. 14°21′ W., 8.63 chains;

Thence leaving slough,
S. 87°13′ E., 4.05 chains, to a point in the center of the Free Bridges Drainage District ditch, and in the line between Lake and Obion Counties;

Thence with the center line of Free Bridges Drainage District ditch, the line between Lake and Obion Counties,
S. 2°53′ W., 0.92 chain;
S. 25°00′ W., 28.04 chains;
S. 3°50′ W., 5.94 chains;

Thence leaving said line,
N. 88°14′ W., 8.18 chains;
S. 4°47′ W., 6.14 chains;
S. 84°07′ E., 3.75 chains;
S. 4°45′ W., 30.06 chains, to a point in the center of the Free Bridges Drainage District ditch, and in the line between Lake and Obion Counties;

Thence in Obion County,
S. 4°45′ W., 50.73 chains;
N. 86°07′ W., 3.75 chains;
N. 84°51′ W., 14.07 chains, to a point in the center of the Free Bridges Drainage District ditch, and in the line between Lake and Obion Counties;

Thence with the center line of Free Bridges Drainage district ditch the line between Lake and Obion Counties,
S. 24°59′ W., 40.63 chains;

Thence in Lake County,
N. 85°33′ W., 6.71 chains;
S. 43°44′ W., 34.43 chains, to a point in center of a slough;

Thence down the center of slough with the meanders thereof,
S. 4°46′ W., 1.80 chains;
S. 14°06′ E., 2.80 chains;
S. 9°39′ E., 2.20 chains;
S. 17°02′ E., 7.61 chains;
S. 82°57′ E., 1.30 chains;
S. 50°29′ E., 1.43 chains;
S. 31°34′ E., 2.80 chains;
S. 10°00′ E., 4.20 chains;
S. 3°08′ E., 6.00 chains;
S. 6°14′ W., 2.30 chains;
S. 21°03′ E., 1.70 chains;
S. 3°55′ W., 1.90 chains;
S. 29°34′ W., 3.72 chains;
S. 1°38′ W., 1.64 chains;
S. 18°13′ W., 3.50 chains;
S. 0°41′ E., 4.61 chains;
S. 34°57′ W., 2.16 chains;
S. 24°16′ E., 4.89 chains, to a point in the center line of Free Bridges Drainage District ditch, and in the line between Lake and Obion Counties;

Thence with the center line of Free Bridges Drainage District ditch, the line between Lake and Obion Counties,
S. 14°36′ W., 16.84 chains;
S. 18°59′ W., 24.89 chains, to the place of beginning, containing 1,501.31 acres, more or less.

Second parcel:

Beginning at a point in the center of the Samburg-Dyersburg Road about six miles northeasterly of Ridgely, from which point a 1¼″ x 36″ galvanized iron pipe set for a witness corner bears S. 85°14′ E., 0.38 chain distant.

Thence along the center of the Samburg-Dyersburg Road with the meanders thereof,
N. 42°51′ E., 2.05 chains to a point in center of bridge;
N. 45°05′ E., 3.80 chains;
N. 36°23′ E., 4.10 chains;
N. 38°49′ E., 4.80 chains;
N. 32°32′ E., 4.96 chains;

Thence leaving said road,
S. 85°14′ E., 7.45 chains;
S. 5°46′ W., 16.43 chains;
N. 85°14′ W., 18.04 chains, to the place of beginning, containing 20.16 acres, more or less.

All bearings in the above description are referred to the true meridian as determined by solar observations during the course of surveys by the Bureau of Biological Survey, in 1935.

This refuge shall be known as the Lake Isom Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 12, 1938.

[F. R. Doc. 38-2373; Filed, August 13, 1938; 12:08 p. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

[C. C. C. Wheat Form 1—Instructions—1938]

INSTRUCTIONS CONCERNING WHEAT LOANS

Commodity Credit Corporation has authorized the making of loans and the purchase of eligible paper secured by wheat stored on farms or in approved public grain warehouses. These instructions state the requirements of Commodity Credit Corporation with reference to making such loans on wheat and the purchase of notes secured by wheat.

1. *Definitions.*—For the purpose of these instructions and the notes and loan agreements or mortgages relating thereto, words used in the singular form shall be deemed to import the plural and vice versa, as the case may be, and unless the context clearly requires otherwise, the following terms shall be construed, respectively, to mean:

(a) *Eligible producer.*—Any person, partnership, association, or corporation, producing wheat as landowner, landlord, or tenant, provided that the acreage of total soil-depleting crops for 1938 on the farm producing such wheat has not exceeded 105 percent of the total soil-depleting acreage allotment as determined in accordance with the provisions of 1938 Agricultural Conservation Bulletin, issued April 16, 1938, as amended.[1]

(b) *Eligible wheat.*—Wheat of acceptable quality as defined below, which was produced in 1938, the beneficial title to which is and always has been in the eligible producer. The quality of such eligible wheat must be as follows:

(b–1) Wheat stored in approved public grain warehouses shall be of a grade No. 1 heavy; No. 1, No. 2, or No. 3 of the class Hard Red Spring; or of grade No. 1, No. 2, or No. 3 of the classes Durum, Red Durum, Hard Red Winter, Soft Red Winter or White, as defined in the Official Grain Standards of the United States, effective October 1, 1937, provided that wheat of the classes Hard Red Spring or Durum shall contain not more than 14½ percent moisture, and wheat of other eligible classes shall contain not more than 14 percent moisture.

(b–2) Wheat stored on the farm shall be of grade No. 1 heavy; No. 1 or No. 2 of class Hard Red Spring; or of grade No. 1, No. 2, or No. 3 of the classes Durum, Red Durum, Hard Red Winter, Soft Red Winter or White, as defined in the Official Grain Standards of the United States, effective October 1, 1937, provided that wheat of the classes Hard Red Spring or Durum shall contain not more than 13½ percent moisture and wheat of other eligible classes shall contain not more than 13 percent moisture.

(c) *Eligible storage* shall include public grain warehouses and farm storage meeting the following respective requirements:

(c–1) *Public grain warehouses* must be licensed under the provisions of the U. S. Warehouse Act or otherwise meet the requirements of Commodity Credit Corporation, and must have executed warehouse agreements with Commodity Credit Corporation. Such warehouses may be situated either at terminal or country points. The term "terminal warehouse", as used herein, shall include elevators and warehouses operating at concentration points which normally receive from producers, cooperative associations, grain dealers, and others, carlots or larger quantities of wheat for storage and reshipment, and shall include elevators and warehouses normally considered as subterminal, which, in addition to the above, also receive wheat directly from producers or others by wagon or truck. The term "country warehouse", as used herein, shall include elevators and warehouses which receive wheat exclusively delivered in wagons or trucks by producers or others at primary shipping points.

(c–2) *Farm storage* shall consist of farm bins and granaries which are of such substantial and permanent construction as to afford safe storage of the wheat for a period of 2 years and permit effective fumigation for the destruction of insects and afford protection against rodents, other animals, thieves, and weather, as determined by the County Agricultural Conservation Committees.

(d) *Lending agency.*—Any bank, cooperative marketing association, or other corporation, partnership, or person making loans in accordance with these instructions upon 1938 CCC Wheat Form B, which has executed the Contract to Purchase on 1938 CCC Wheat Form E. (A Loan Agency of the Reconstruction Finance Corporation is not included within this definition.)

(e) *Eligible paper.*—For the purpose of the Contract to Purchase (1938 CCC Wheat Form E), eligible paper shall consist of notes of producers with loan agreements upon 1938 CCC Wheat Form B, secured by warehouse receipts representing wheat in existence and undamaged from the perils of fire, lightning, explosion, cyclone, tornado, windstorm, and flood, dated subsequent to July 15, 1938, and prior to January 1, 1939, and executed in accordance with these instructions with State documentary revenue stamps affixed thereto where required by law. (Notes executed by an administrator, executor, or trustee will be acceptable only where valid in law, and all such notes must be submitted for direct loans in accordance with sec. 16 hereof.)

2. *Areas in which loans will be made.*—Loans shall be made on eligible wheat *stored in approved public grain warehouses only* at New Orleans, La., and in the following States:

Arizona, Arkansas, California, Colorado, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Loans will be made on eligible wheat stored on farms only in the following counties:

All counties in Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming; and in the following counties of the following States:

Oklahoma.—Alfalfa, Beaver, Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Craig, Creek, Custer, Dewey, Ellis, Garfield, Grady, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, McClain, Major, Mayes, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pottawatomie, Rogers, Roger Mills, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods, and Woodward.

Texas.—Archer, Armstrong, Bailey, Baylor, Briscoe, Carson, Castro, Childress, Clay, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Foard, Garza, Gray, Hale, Hall, Hansford, Hartley, Hardeman, Haskell, Hemphill, Hockley, Hutchinson, Kent, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher, Terry, Throckmorton, Wheeler, Wichita, Wilbarger, Yoakum, and Young.

3. *Amount of loans.*—(a) *Terminal markets.*—Basic loan values on wheat of the designated grades and subclasses stored in approved public grain warehouses at the following terminal markets shall be as follows:

[1] 3 F. R. 918 DI.

Market	Grade and subclass	Loan value per bushel
Kansas City, Mo., and Kansas City, Kans.[1]	No. 2 Hard Winter	$0.72
	No. 2 Red Winter	.70
Omaha, Nebr., and Council Bluffs, Iowa	No. 2 Hard Winter	.71
Chicago, Ill.[2]	No. 2 Hard Winter	.77
	No. 2 Red Winter	.75
	No. 1 Northern Spring	.79
St. Louis, Mo., and East St. Louis, Ill.	No. 2 Hard Winter	.75
	No. 2 Red Winter	.73
	No. 1 Dark Northern Spring	.81
Minneapolis, St. Paul, Duluth, Minn., and Superior, Wis.	No. 1 Northern Spring	.79
	No. 2 Hard Winter	.75
	No. 2 Amber Durum	.72
	No. 2 Red Durum	.55
Portland, Oreg., and Seattle, Wash.	No. 1 Soft White, White Club, Western White, Hard Winter, or Western Red.	.67
San Francisco and Los Angeles, Calif.	No. 1 Soft White, White Club, Western White, Hard Winter, or Western Red.	.71
Galveston and Houston, Tex., and New Orleans, La.	No. 2 Hard Winter	.77
	No. 2 Red Winter	.75

[1] The loan value of wheat stored at St. Joseph, Mo., shall be the same as at Kansas City.
[2] The loan value of wheat stored at Milwaukee, Wis., shall be the same as at Chicago.

The foregoing schedule of loan values applies to wheat delivered to any designated terminal market in carload lots which has been shipped by rail from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges. Otherwise, a deduction of 4 cents per bushel shall be made to cover approximately the difference between the outbound local and proportional rates from the designated terminal market.

(b) *Country points in western and central United States.*—Except for the States and counties hereinafter set forth, Commodity Credit Corporation will determine the loan value on wheat in storage on the farm or in country or subterminal warehouses by deducting from the designated terminal market value an amount equal to the all-rail interstate freight rate (in effect on June 1, 1938) from the country or subterminal warehouse point, or the shipping point designated by the producer, to such terminal market plus 4 cents per bushel. Each approved warehouse will be advised as to the loan values applicable to wheat stored in such warehouse. Producers may obtain from the county committees the loan values applicable to wheat stored on each farm and in public grain warehouses.

(c) *States and counties.*—The loan values on wheat of the designated grades and subclasses, in storage on farms (where permitted) and at all storage points in the counties named below, shall be as follows:

State	Counties	Grade and subclass	Loan value per bushel
Idaho	All counties south of Idaho County	No. 1 Soft or Western White	$0.50
		No. 2 Hard Winter	.50
Utah	All counties	No. 1 Soft or Western White	.50
		No. 2 Hard Winter	.50
Indiana	All counties, except Lake, Newton, Benton, Porter, Jasper, White, La Porte, Pulaski, St. Joseph, Marshall, Fulton, Elkhart, Kosciusko, and Starke.	No. 2 Red Winter	.67
Michigan	All counties	No. 2 Red Winter	.68
		No. 2 Soft White	.68
Ohio	All counties	No. 2 Red Winter	.70
Kentucky	All counties (no farm storage)	No. 2 Red Winter	.76
Tennessee	All counties (no farm storage)	No. 2 Red Winter	.81
West Virginia	All counties (no farm storage)	No. 2 Red Winter	.78
Virginia	All counties (no farm storage)	No. 2 Red Winter	.78
Maryland	All counties (no farm storage)	No. 2 Red Winter	.70
Delaware	All counties (no farm storage)	No. 2 Red Winter	.70
Pennsylvania	All counties (no farm storage)	No. 2 Red Winter	.72
New York	All counties (no farm storage)	No. 2 Red Winter	.73
		No. 2 Soft White	.73

(d) *Freight.*—No freight will be paid by Commodity Credit Corporation unless it ships the wheat. If and when any of the pledged wheat is shipped by Commodity Credit Corporation from other than the designated terminal markets, an allowance will be made for the reshipping value of any paid freight bills duly registered for transit privileges which are made available for use by Commodity Credit Corporation.

4. *Variations for other grades.*—Loan values for eligible grades and subclasses other than designated above shall be at the following schedule of premiums and discounts:

(a) The loan value on No. 1 Wheat shall be 1 cent more than the loan value on No. 2.

(b) The loan value on No. 3 Wheat shall be 3 cents less than the loan value on No. 2.

(c) The loan value on No. 1 Heavy Dark Northern Spring shall be 1 cent over the loan value for No. 1 Dark Northern Spring, and the loan value on No. 1 Heavy Northern Spring shall be 1 cent over the loan value for No. 1 Northern Spring, and the loan value on No. 1 Red Spring shall be 2 cents less than the loan value on No. 1 Northern Spring.

(d) Where the loan value is based upon No. 1 Wheat the loan value on No. 2 shall be at a discount of 2 cents under No. 1, and the loan value on No. 3 Wheat shall be 5 cents under No. 1.

(e) The loan value on Dark Hard Winter shall be at 1 cent more than the loan value on Hard Winter, and the loan value on Yellow Hard Winter shall be 2 cents less than the loan value on Hard Winter.

(f) The loan value on Hard White shall be 1 cent more than the loan value on Soft White.

(g) The loan value on Durum Wheat shall be 7 cents less than the loan value on Amber Durum Wheat.

(h) The discount for smut determined on a percentage basis shall be as follows:

	Cents per bushel
½ % to 1%, inclusive	1.05
1½ % to 3%, inclusive	1.35
3½ % to 7%, inclusive	1.95
7½ % to 15%, inclusive	2.55

The discounts for smut and garlic determined on a degree basis shall be as follows:

	Cents per bushel
Light smutty	3
Smutty	18
Light garlicky	3
Garlicky	18

5. *Determination of dockage, smut, and garlic.*—The percentage of dockage shall be determined in accordance with the Official Grain Standards of the United States and the weight of said dockage shall be deducted from the gross weight of the wheat in determining the net quantity available for loan. The smut condition of wheat shall be determined on a percentage basis in accordance with the Official Grain Standards of the United States in Idaho, Oregon, Utah, Washington, and the following counties in Montana: Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, Deer Lodge, Silver Bow, Jefferson, and Beaverhead. In the foregoing area the quantity of smut shall be stated in percentage in accordance with the method described in paragraph (a) under "Smutty Wheat" of the Official Grain Standards of the United States and shall be stated in terms of half percent, full percent, or whole and half percent, as the case may be, and the quantity of smut so determined in pounds shall be deducted from the weight of clean wheat after deduction of other dockage. Elsewhere the smut condition of wheat shall be determined on a degree basis in accordance with the Official Grain Standards of the United States, provided that in the case of wheat which has an unmistakable odor of smut, or which contains balls, portions of balls, or spores of smut in excess of a quantity equal to 14 balls but not in excess of a quantity equal to 30 balls of average size in 250 grams of wheat, there shall be added to and made a part of the grade designation, the words "Light smutty"; provided further, that in the case of wheat which contains balls, portions of balls, or spores of smut, in excess of a quantity equal to 30 balls of average size in 250 grams of wheat, there shall be added to and made a part of the grade designation, the word "Smutty." The garlic condition of wheat shall be determined in accordance with the Official Grain Standards of the United States, and such condition shall be made a part of the grade designation by adding the words "Light garlicky" or the word "Garlicky," as determined under such standards.

6. *Determination of quantity of wheat.*—Loans shall be made at values expressed in cents per bushel, a bushel being determined to be 60 pounds of clean wheat free of dockage, when determined by weight, or 1.25 cubic feet of wheat testing 60 pounds per bushel when determined by measurement. In determining the quantity of wheat in farm storage by measurement, fractional pounds of the bushel test weight for wheat testing less than 60 pounds per bushel will be disregarded, and the quantity determined as above will be the following percentages of the quantity determined for 60-pound wheat:

	Percent
For wheat testing 59 lb. or over, but less than 60 lb	98
For wheat testing 58 lb. or over, but less than 59 lb	97
For wheat testing 57 lb. or over, but less than 58 lb	95
For wheat testing 56 lb. or over, but less than 57 lb	93
For wheat testing 55 lb. or over, but less than 56 lb	92

7. *Maturity and interest rate.*—Loans on 1938 CCC Wheat Form A will mature May 31, 1939. Loans on 1938 CCC Wheat Form B will mature 7 months from the respective dates thereof. All loans will bear interest at the rate of 4 percent per annum.

8. *Public warehouses.* — Commodity Credit Corporation will accept only negotiable, insured warehouse receipts or receipts in form required by statute covering wheat pledged as collateral to notes on 1938 CCC Wheat Form B issued by any public grain warehouse approved by the Loan Agency of the Reconstruction Finance Corporation serving the district in which such warehouse is located. Warehousemen are advised to communicate with such Loan Agency of the Reconstruction Finance Corporation concerning approval. Each approved warehouse must enter into an agreement with the Commodity Credit Corporation which may be obtained from the Loan Agency. This agreement will limit the warehouseman's lien and impose additional obligations to Commodity Credit Corporation. All wheat pledged as security for a note must be in the same warehouse, and each producer must arrange for the storage of wheat in an approved warehouse either at a country or terminal point. Producers should arrange for cleaning wheat placed in storage containing in excess of 2% dockage in order to avoid excessive charges for transportation, conditioning, and storage. Wheat containing smut or garlic should not be commingled by the warehouseman with wheat free from such smut or garlic. A list of the approved warehouses and their locations will be available at any Loan Agency of the Reconstruction Finance Corporation listed in section 18 hereof:

9. *Warehouse receipts.*—Commodity Credit Corporation will accept only negotiable, insured warehouse receipts, or receipts in form required by statute, dated on or prior to the date of the related note and properly assigned by an endorsement in blank so as to vest title in the holder, or issued to bearer, executed by warehousemen who are not owners of the wheat. Commodity Credit Corporation will not accept warehouse receipts indicating any lien for charges prior to unloading in or delivery to the warehouse issuing such receipts. Lien for storage charges will be recognized by Commodity Credit Corporation only from July 1, 1938, or the dates of the warehouse receipts, whichever is later. Such receipts must set out in their written or printed terms the gross weight or bushels, grade, subclass, moisture content, degree of smut or garlic and dockage of the wheat represented thereby, and all other facts and statements required to be stated in the written or printed terms of a negotiable warehouse receipt under the provisions of Section 2 of the Uniform Warehouse Receipts Act; provided, warehouse receipts in statutory form must be accompanied by a certificate of the warehouseman identified to the warehouse receipt, setting forth the information required above which may not be included in such statutory receipts, including, if desired, the undertaking of the warehouseman covering insurance and freight bills; provided further, the smut or garlic content of wheat stored in the area set forth in section 5 hereof shall be expressed in percentages. Unless the warehouse receipts are stamped or printed "Insured" there must be attached, or included in, the certificate of the warehouseman the statement that the wheat is insured for not less than market value against the hazards of fire, lightning, explosion, and windstorm, cyclone and tornado. In the case of warehouse receipts issued by any terminal warehouse, each warehouse receipt must either show the protein content, as determined by a recognized protein-testing laboratory approved by the terminal market, or be accompanied by an original or duplicate certificate issued by such laboratory showing the protein content and properly identified as to the wheat covered thereby either by the respective warehouse receipt number, or the bin number and warehouse description, or by car number. Each such terminal warehouse receipt must also be accompanied by an original or duplicate official weight and inspection certificate properly identified to the wheat covered thereby. Such inspection certificate must be issued by an inspector licensed under the U. S. Grain Standards Act. In the case of wheat delivered by rail to any terminal market designated in section 3 (a) hereof, the warehouse receipts shall also be accompanied by the original paid freight bills duly registered for transit privileges, provided, that Commodity Credit Corporation will accept in lieu of such bills, warehouse receipts on which a legend, signed by the warehouseman, has been stamped or typewritten substantially in the following form or certificate of such warehouseman containing such an undertaking:

> The wheat represented hereby was received by rail freight as evidenced by original paid freight bill which has been officially registered for transit and will be held and kept alive, within statutory limitations, for the benefit of the holder hereof.
>
> ---
>
> *Warehouseman.*

10. *Farm storage.*—Wheat stored on the farm must have been stored in the granary at least 30 days prior to its inspection for measurement, sampling, and sealing. In accordance with regulations issued by the Secretary of Agriculture, the County Agricultural Conservation Committees will inspect and approve storage facilities and will arrange for measuring, sampling, grading, and sealing the wheat collateral in approved structures. Chattel mortgages covering farm-stored wheat must be executed and filed in accordance with the applicable State law. Producers may obtain information and assistance from the County Agricultural Conservation Committees in regard to the execution and filing of such chattel mortgages. Where the borrower is a tenant farmer, and the wheat collateral is stored on the farm, the expiration date of the lease shall be given in section 3 (c) of the chattel mortgage (1938 CCC Wheat Form A). If the expiration date of the lease is prior to August 1, 1939, the landlord shall execute the Consent for Storage, section 11 of 1938 CCC Wheat Form A. The consent agreement shall also be signed by any other party or parties entitled to possession. Each producer must designate in section 5 of the Mortgage (1938 CCC Wheat Form A) a shipping point reasonably convenient for the delivery of the wheat as determined by the county committee. Notes and mortgages will not be acceptable which provide a shipping point other than the normal shipping point customarily used by the producers in the locality in which the wheat was produced. A separate note and chattel mortgage must be submitted for wheat stored on each quarter section of land. All loans on farm-stored wheat will be made directly by Commodity Credit Corporation through the Loan Agency of Reconstruction Finance Corporation serving the district in which the mortgaged wheat is stored. Commodity Credit Corporation will pay 7 cents per bushel for storing the wheat

for the period ending May 31, 1939, or the date of the delivery of such wheat to Commodity Credit Corporation, whichever is later; provided such payment will be conditioned upon the delivery of the mortgaged wheat of the quantity, grade and subclass described in the chattel mortgage.

11. *Liens.*—The Wheat collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in 1938 CCC Wheat Form A or B. The names of the holders of all existing liens on the pledged or mortgaged wheat, such as landlord, laborers, threshers, or mortgagees, must be listed in the space provided therefor in the mortgage or loan agreement. The waiver and consent to the pledge or mortgage of the wheat and the payment of the proceeds of the loan and the proceeds of the sale of the wheat solely to the producer as contained in the mortgage or loan agreement must be signed personally by all lienholders listed or by their agents, whose duly executed authority must be attached firmly; or, if corporations, by the designated officer thereof customarily authorized to execute such instruments, in which case the duly executed authority need not be attached. The producer may direct in the Letter of Transmittal (1938 CCC Wheat Form C) that the proceeds check for a direct loan from Commodity Credit Corporation be made payable to him and/or such other person or concern as he may direct thereon. Producers should read carefully all real-estate or other mortgages previously given by them in order to be sure that crops are not covered thereby. Any fraudulent misrepresentation of fact made in the execution of the note and mortgage or loan agreement and related forms shall render the producer personally liable for the amount of the loan and subject to the provisions of the United States Criminal Code.

12. *Insurance.*—(a) *Wheat stored on farms.*—All producers shall provide insurance on wheat stored on the farm for not less than the amount of the loan with accrued interest to maturity. Such insurance shall be evidenced by a certificate in the form printed at the end hereof, issued by a company or association licensed to do business in the State in which the wheat is stored. The insurance coverage may be obtained through the customary channels and the form of certificate required shall be furnished by the agent writing same.

(b) *Wheat stored in approved warehouses.*—With respect to wheat stored in approved public grain warehouses the warehousman shall provide insurance against the perils of fire, lightning, explosion, and windstorm, cyclone, and tornado for the full market value thereof so long as receipts are outstanding.

(c) *Insurance carried by Commodity Credit Corporation.*—In addition to the foregoing, Commodity Credit Corporation has obtained a blanket insurance policy which protects it in the event of any loss by or in consequence of damage to or destruction of the pledged or mortgaged wheat arising from fire and lightning; cyclone, tornado, windstorm and hail; theft and wrongful conversion; flood and explosion. This policy is in the nature of errors and omissions, and excess insurance, and the cost is nine-tenths of 1 cent per $100 per month on the daily average balance of loans outstanding.

Banks and other lending agencies desirous of insurance coverage in addition to the primary insurance provided by the warehouse receipts securing notes on 1938 CCC Wheat Form B shall obtain such coverage at their own expense.

Banks and other lending agencies desiring coverage under the Corporation's blanket policy should write to Commodity Credit Corporation, Washington, D. C., and appropriate instructions will be issued, together with the necessary forms for reporting thereunder.

13. *County agricultural conservation committees.*—The forms 1938 CCC Wheat Forms A and B contain a certificate which must be signed in each instance by a member of a county agricultural conservation committee of the county in which the wheat was produced.

14. *Forms.*—(a) *Wheat stored on farms.*—The following documents must be submitted:

(I) Wheat Producer's Note and Chattel Mortgage (1938 CCC Wheat Form A);

(II) Producer's Letter of Transmittal (1938 CCC Wheat Form C)

(III) Certificate of Insurance

(b) *Wheat stored in approved warehouses.*—The following documents must be submitted:

(I) Wheat Producer's Note and Loan Agreement. (1938 CCC Wheat Form B);

(II) Producer's Letter of Transmittal (1938 CCC Wheat Form C) or Lending Agency's Letter of Transmittal (1938 CCC Wheat Form D);

(III) Warehouse receipts issued by an approved warehouse and accompanying documents as provided in section 9 hereof.

(c) *Lending agencies.*—Banks or others acting as lending agencies must also obtain and use the following forms:

(I) Contract to Purchase (1938 CCC Wheat Form E);

(II) Schedule of Repayments (1938 CCC Wheat Form F).

15. *Source and preparation of documents.*—Forms will be obtainable from any county agricultural conservation committee in the areas designated in section 2 hereof and any Loan Agency of the Reconstruction Finance Corporation listed in section 18 hereof. All blanks in 1938 CCC Wheat Forms A and B must be filled in with ink, typewriter, or indelible pencil, and no documents containing additions, alterations, or erasures shall be accepted by Commodity Credit Corporation.

16. *Direct loans.*—Loans upon the security of wheat stored on the farm will only be made directly by Commodity Credit Corporation and such loans must be submitted to the Loan Agency of Reconstruction Finance Corporation serving the district in which the wheat is stored. It is contemplated that loans secured by wheat stored in an approved public grain warehouse will ordinarily be obtained from banks and other local lending agencies which, in turn, may sell the paper evidencing such loans to Commodity Credit Corporation. Producers may also obtain loans directly from Commodity Credit Corporation secured by wheat in such public warehouses. Such notes shall be made payable to Commodity Credit Corporation and shall be delivered to a Loan Agency of the Reconstruction Finance Corporation serving the district in which the wheat is stored. Paper for direct loans tendered by mail, in person, or otherwise should be accompanied by a Producer's Letter of Transmittal on 1938 CCC Wheat Form C, in duplicate, and must be delivered or postmarked prior to January 1, 1939. The triplicate copy of this letter shall be retained by the producer as a memorandum. Upon delivery of all necessary documents properly executed and upon approval of the loan by the manager of the Loan Agency, payment shall be made pursuant to the Letter of Transmittal.

17. *Purchase of loans.*—Commodity Credit Corporation shall purchase eligible paper, as defined above, only from Lending Agencies which have executed and delivered to the Loan Agency to which notes are submitted Contract to Purchase 1938 CCC Wheat Form E, obtainable only from Loan Agencies of the Reconstruction Finance Corporation. Under the terms of this contract, lending agencies are required to report monthly on 1938 CCC Wheat Form F all payments or collections on producer's notes held by them, and to remit promptly to Commodity Credit Corporation, Washington, D. C., an amount equivalent to one and one-half percent (1½%) interest per annum on the principal amount collected from the date of the note to the date of payment. Such payments should be accompanied by the respective loan agreements which shall be detached from the notes for this purpose. Such eligible paper must be tendered to the Loan Agency of Reconstruction Finance Corporation serving the district in which the pledged wheat is stored 30 days prior to the respective maturities of such paper.

18. *Reconstruction Finance Corporation Loan Agencies.*—The locations of the Loan Agencies of the Reconstruction Finance Corporation previously referred to herein and the districts served by them under these instructions are shown below:

Loan Agency	*District served*
Chicago	Area in 7th Federal Reserve District attached to Chicago.
Cleveland	Area included in 4th Federal Reserve District.
Dallas	Area in 11th Federal Reserve District attached to Dallas and El Paso.
Denver	Area in 10th Federal Reserve District attached to Denver.
Detroit	Area in 7th Federal Reserve District attached to Chicago.
Houston	Area in 11th Federal Reserve District attached to Houston.
Kansas City	Area in 10th Federal Reserve District attached to Kansas City.
Little Rock	Area in 8th Federal Reserve District attached to Little Rock and Memphis.
Los Angeles	Area in 12th Federal Reserve District attached to Los Angeles.
Louisville	Area in 8th Federal Reserve District attached to Louisville.
Minneapolis	Area included in 9th Federal Reserve District.
Nashville	Area in 6th Federal Reserve District attached to Nashville.
New Orleans	Area in 6th Federal Reserve District attached to New Orleans.
New York	Area included in 2d Federal Reserve District.
Oklahoma City	Area in 10th Federal Reserve District attached to Oklahoma City.
Omaha	Area in 10th Federal Reserve District attached to Omaha.
Philadelphia	Area in 3d Federal Reserve District attached to Philadelphia.
Portland	Area in 12th Federal Reserve District attached to Portland.
Richmond	Area included in 5th Federal Reserve District.
St. Louis	Area in 8th Federal Reserve District attached to St. Louis.
San Antonio	Area in 11th Federal Reserve District attached to San Antonio.
San Francisco	Area in 12th Federal Reserve District attached to Salt Lake City and San Francisco.
Spokane	Area in 12th Federal Reserve District attached to Seattle and Spokane.

19. *Release of collateral held by Commodity Credit Corporation.*—A producer may obtain the return of notes secured by wheat upon his request in writing and payment of the principal amount due thereon with accrued interest and proper charges. The producer's note and mortgage or loan agreement, with the warehouse receipt(s) (if any) securing same, will be transmitted to an approved bank with instructions to deliver such documents to the producer, or his agent, upon the payment of the full amount due thereon with accrued interest and proper charges. Where such paper is sent to an approved bank for collection, instructions shall be given to return such paper to the sender if payment and release are not effected within 15 days. All charges and expenses of the collecting bank shall be paid by the producer. If the note is secured by farm-stored wheat, county agricultural conservation committees will be requested to release the mortgage of record after payment in full either by the filing of an instrument of release or by a margin release on the county records. Partial releases of collateral will not be permitted.

If the producer's note is made payable directly to Commodity Credit Corporation and he desires to obtain the release of collateral upon payment, as aforesaid, he should notify the Federal Reserve Bank or branch thereof serving the district in which the wheat is stored as above provided. If his note was made payable to a payee other than Commodity Credit Corporation the producer should notify the payee named therein.

CERTIFICATE OF INSURANCE WHEAT IN FARM STORAGE

Certificate No. ------

Amount, $----------
Premium, $----------

Term ----------

Agency at ----------

1. This Certifies that in consideration of ---------- dollars premium (subject to all the terms and conditions of Open Policy No. ----, issued by this Company or Association) ---------- does insure
(Company or Association)
against all direct loss or damage by fire, lightning, inherent explosion, windstorm, cyclone, tornado, and hail* in the sum of ---------- dollars on ---------- bushels of wheat stored and sealed in the possession of the assured in structure(s) situated on the ---------- quarter of section ----------, township ----------, range ----------, County of ----------, State of ----------, for the term of one (1) year from the ---------- day of ----------, 19--, at 12 o'clock noon, to the ---------- day of ----------, 19--, at 12 o'clock noon, said structure(s) having been inspected and sealed in accordance with regulations issued by the Secretary of Agriculture pursuant to the Agricultural Adjustment Act of 1938.

2. Any loss which may be ascertained and proven to be due the insured under this contract shall be payable to the insured and/or Commodity Credit Corporation as their respective interests may appear.

SPECIAL (WHEAT) ENDORSEMENT PROVIDING THE BASIS OF ADJUSTMENT IN CASE OF LOSS ON WHEAT MORTGAGED TO COMMODITY CREDIT CORPORATION

3. All or any part of the wheat described in this policy and/or certificate having been mortgaged to Commodity Credit Corporation as security for a loan by said Commodity Credit Corporation, it is a condition of this insurance that in event of loss or damage to any of such mortgaged wheat the basis of adjustment shall be the actual cash value at the time and place of the loss, as set out elsewhere in the printed conditions of this policy or certificate, except that if such actual cash market value is less than the loan value per bushel, plus accrued interest at four percent (4%) per annum, then such actual cash value shall be disregarded and the value of any wheat so mortgaged shall be deemed to be the loan value per bushel plus interest thereon.

4. The provisions of this endorsement shall apply and cover until the note has been paid and/or released and/or the wheat sold.

5. This special adjustment clause does not apply to any wheat not mortgaged in the manner hereinbefore described.

*Optional.

6. In witness whereof, this Company has executed and attested these presents, but this certificate shall not be valid until countersigned by a duly authorized agent of this company or association.

President.

Secretary.
Countersigned ---------- this ---------- day of ----------, 19--
----
Agent.

[SEAL] M. R. BUCK,
Assistant Secretary.

[F. R. Doc. 38-2366; Filed, August 13, 1938; 9:40 a. m.]

FARM CREDIT ADMINISTRATION

[FCA 98]

AUTHORIZATION FOR JOINT STOCK LAND BANKS TO HOLD TITLE TO REAL ESTATE FOR A LONGER PERIOD THAN FIVE YEARS

AUGUST 12, 1938.

Sec. 3.10 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 3.10 *Authorization for joint stock land banks to hold title to real estate for a longer period than five years.*—Authorization is given, severally and not jointly, to W. E. Rhea, Deputy Land Bank Commissioner, and John D. Lawson, Assistant to Chief, Joint Stock Land Bank Section, to authorize (on such terms as either of them shall direct) joint stock land banks to hold title and possession of real estate for a period longer than five years pursuant to paragraph Fourth (b) of section 13 of the Federal Farm Loan Act (39 Stat. 372, 12 U. S. C. 781 "Fourth"), as amended. (E. O. 6084, March 27, 1933, 6 CFR 1.1 (12).) [FCA Order No. 231, August 12, 1938.]"

[SEAL] W. I. MYERS,
Governor.

[F. R. Doc. 38-2382; Filed, August 15, 1938; 11:17 a. m.]

[FCA 99]

APPROVAL BY ASSISTANT TO CHIEF, JOINT STOCK LAND BANK SECTION, OF ACTS OF RECEIVERS OF JOINT STOCK LAND BANKS

AUGUST 12, 1938.

Sec. 3.8 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 3.8 *Approval by Assistant to Chief, Joint Stock Land Bank Section, of acts of receivers of joint stock land banks.*—John D. Lawson, Assistant to Chief, Joint Stock Land Bank Section, is hereby authorized to approve, on such terms as he shall direct, the acts pursuant to section 29 of the Federal Farm Loan Act (39 Stat. 381, 12 U. S. C. 961–967) of any receiver of any joint stock land bank appointed under the provisions of said section 29 in the event that

Deputy Commissioner W. E. Rhea is absent or unable, for any reason, to exercise the authority vested in him. (E. O. 6084, March 27, 1933, 6 CFR 1.1 (12).) [FCA Order No. 232, August 12, 1938.]"

[SEAL] W. I. MYERS,
Governor.

[F. R. Doc. 38-2383; Filed, August 15, 1938; 11:17 a. m.]

TITLE 7—AGRICULTURE

BUREAU OF PLANT INDUSTRY

AMENDMENTS TO REGULATIONS ISSUED JOINTLY, NOVEMBER 19, 1930, BY THE ACTING SECRETARY OF AGRICULTURE AND THE SECRETARY OF THE TREASURY, PURSUANT TO THE FEDERAL SEED ACT OF AUGUST 24, 1912, AS AMENDED

EFFECTIVE ON AND AFTER AUGUST 15, 1938

The Secretary of the Treasury and the Secretary of Agriculture have determined that Regulation 8 of the regulations jointly issued November 19, 1930, under the provisions of the Federal Seed Act of August 24, 1912, as amended August 11, 1916, and April 26, 1926, should be amended and the same is hereby amended by revising sub-paragraphs (a), (b), (c), and (d) thereof and adding thereto a new sub-paragraph (e), so that said regulation 8 shall read as follows:

Regulation 8.—Kinds and Proportions of Seeds To Be Colored

(a) Except as provided in sub-paragraphs (c) and (d) of this regulation, the importation into the United States of seeds of alfalfa or red clover, or any mixture of seeds containing 10 per cent or more of the seeds of alfalfa or red clover, is prohibited, unless 5 per cent of the seeds in each container are stained with the color specified in sub-paragraph (b) of this regulation: Provided, That seeds of Canadian origin shall be stained one per cent.

(b) Seed of Canadian origin shall be stained iridescent violet. Except as provided in (d) or by notices issued by the Secretary of Agriculture, under Sec. 5 of the act, seed originating in any foreign country other than Canada shall be stained green.

(c) Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination and, on and after the expiration of 90 days after the date of such publication and until such determination is revoked, the importation into the United States of any such seeds or of any mixture of seeds containing 10 per cent or more of such seeds of alfalfa or red clover is prohibited, unless at least 10 per cent of the seeds in each container is stained a red color.

(d) The importation into the United States of seed of alfalfa or red clover or any mixture of seeds containing 10 per cent or more of the seed of alfalfa or red clover is prohibited unless at least 10 per cent of the seed in each container is stained red: (1) when the origin of such alfalfa or red clover seed is not established; (2) when such alfalfa or red clover seed is of two or more origins not subject to the same color designation; (3) when such alfalfa or red clover seed consists of seed grown in a foreign country commingled with seed of the same kind grown in the United States; or (4) when such alfalfa or red clover seed has been colored, prior to being offered for entry, with a color different from that required under this regulation.

(e) The live, pure seed requirements of the act shall apply to mixtures of seed, as a whole, and to each kind or variety of seed therein which is specifically subject to the act and a principal component part of the mixture.

Done at the City of Washington, this 12th day of August, 1938. Witness our hands and the seals of our respective Departments.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2370; Filed, August 13, 1938; 11:45 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 22 to Declaration No. 12 [1]]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

AUGUST 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936,[2] the following named counties in the States named having completed the necessary retests for re-accreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Baldwin, August 1, 1941; Escambia, August 1, 1941; Perry, August 1, 1941.

Arkansas: Chicot, August 1, 1941; Jackson, August 1, 1941; Jefferson, August 1, 1941; Woodruff, August 1, 1941.

Colorado: Cheyenne, August 1, 1941; Lake, August 1, 1941.

Georgia: Bartow, August 1, 1941; Brooks, August 1, 1941; Bryan, August 1, 1941; Camden, August 1, 1941; Cherokee, August 1, 1941; Clinch, August 1, 1941; Coffee, August 1, 1941; Glynn, August 1, 1941; Gordon, August 1, 1941; Liberty, August 1, 1941; Muscogee, August 1, 1941; Pickens, August 1, 1941; Randolph, August 1, 1941.

Idaho: Bannoch, August 1, 1941; Boundary, August 1, 1941; Madison, August 1, 1941.

Illinois: DeWitt, August 1, 1941; Putnam, August 1, 1941; Saline, August 1, 1944; Union, August 1, 1944.

Indiana: Howard, August 1, 1941;

Kansas: Finney, August 1, 1941.

Kentucky: Christian, August 1, 1941; Lewis, August 1, 1941; Simpson, August 1, 1941.

Massachusetts: Barnstable, August 1, 1941.

Michigan: Keweenaw, August 1, 1941.

Minnesota: Redwood, August 1, 1941.

Missouri: Jackson, August 1, 1941; Marion, August 1, 1941.

Montana: Treasure, August 1, 1941.

Nebraska: Dixon, August 1, 1941; Dodge, August 1, 1941.

Nevada: Churchill, August 1, 1941; Pershing, August 1, 1941.

New Jersey: Burlington, August 1, 1940; Passaic, August 1, 1940.

New Mexico: Dona Ana, August 1, 1941; Lincoln, August 1, 1941; Sierra, August 1, 1941.

North Carolina: Brunswick, August 1, 1941; New Hanover, August 1, 1941; Onslow, August 1, 1941; Pender, August 1, 1941.

North Dakota: Barnes, August 1, 1944; Griggs, August 1, 1944; Wells, August 1, 1944.

Ohio: Adams, August 1, 1941; Ashtabula, August 1, 1941; Stark, August 1, 1941.

Oklahoma: Jackson, August 1, 1941; Tillman, August 1, 1941.

Pennsylvania: Clarion, August 1, 1941; Juniata, August 1, 1941; Monroe, August 1, 1941.

Tennessee: Chester, August 1, 1941; Houston, August 1, 1941.

Texas: Armstrong, August 1, 1941; Bell, August 1, 1941; Cass, August 1, 1941; Childress, August 1, 1941; Delta, August 1, 1941; Ellis, August 1, 1941; Fort Bend, August 1, 1941; Gonzales, August 1, 1941; Jim Wells, August 1, 1941; Potter, August 1, 1941; San Patricio, August 1, 1941; Shackelford, August 1, 1941.

Vermont: Washington, August 1, 1941.

West Virginia: Barbour, August 1, 1941.

Wisconsin: Marathon, August 1, 1944; Pierce, August 1, 1944; Rock, August 1, 1941.

Wyoming: Crook, August 1, 1941; Fremont, August 1, 1941; Park, August 1, 1941; Washakie, August 1, 1941.

Declaration No. 12, dated October 1, 1936,[3] as amended, is hereby further amended accordingly.

[SEAL] A. W. MILLER,
Acting Chief of Bureau.

[F. R. Doc. 38-2364; Filed, August 12, 1938, 3:39 p. m.]

[1] Supplements footnote to 9 CFR 3.303.
[2] 1 F. R. 1388.
[3] 1 F. R. 2024.

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3111]

IN THE MATTER OF DERAN CONFECTIONERY COMPANY

SEC 3.99 (b) *Using or selling lottery devices — In merchandising.* — Selling, etc., to dealers candies so packed, etc., that sales thereof to general public are to be, or are designed to be, made through a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, Deran Confectionery Company, Docket 3111, August 3, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers assortments of candy to be, or designed to be, used, without alteration, etc., to conduct lottery, etc., in sale of such candy to public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, Deran Confectionery Company, Docket 3111, August 3, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Packing, etc., for sale to public at retail, assortments of uniform, individually wrapped pieces of candy, with boxes of candy or other merchandise as prizes for purchasers procuring pieces with certain colored centers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, Deran Confectionery Company, Docket 3111, August 3, 1938.]

SEC. 3.6 (c) *Advertising falsely or misleadingly Composition.* — Representing candies as composed of malted milk, when not in substantial part made therefrom, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, Deran Confectionery Company, Docket 3111, August 3, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the motion of Mark Wainer, counsel for the respondent, to vacate and to modify the order to cease and desist as issued in this proceeding on June 3, 1938,[1] and the Commission having considered the said motion and the record herein and being now fully advised in the premises:

It is ordered, That the motion to modify and amend the order to cease and desist issued herein on June 3, 1938, be, and the same hereby is, granted; and

It is further ordered, That the order to cease and desist issued herein on June 3, 1938, be, and the same hereby is, modified so as to read as follows:

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, testimony and other evidence in support of the allegations of the complaint and in opposition thereto, briefs filed herein and oral arguments by Henry C. Lank, counsel for the Commission, and by Mark Wainer, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered That the respondent, Deran Confectionery Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of candy in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing to dealers, candies so packed and assembled that sales of such candy to the general public are to be made, or are designed to be made, by means of a lottery, gaming device or gift enterprise.

(2) Supplying to or placing in the hands of dealers assortments of candy which are used, or which are designed to be used, without alteration or rearrangement of the contents of such packages or assortments to conduct a lottery, gaming device or gift enterprise in the sale and distribution of candy contained in said assortments to the public.

(3) Packing or assembling in the same package or assortment of candy for sale to the public at retail individually wrapped pieces of candy of uniform size and shape with different colored centers, together with packages or boxes of candy or any other merchandise, which said packages or boxes of candy or other merchandise are to be given as prizes to the purchasers procuring pieces of candy with centers of a particular color.

(4) Representing in any manner that certain of its products are composed of malted milk, when in fact, such products are not in substantial part manufactured from, or made of, malted milk.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2363; Filed, August 12, 1938; 3:04 p. m.]

[1] 3 F. R. 1391 DI.

[Docket No. 2705]

IN THE MATTER OF STARTUP CANDY COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to jobbers, etc., or to retail dealers direct, candy so packed, etc., that sales thereof to the general public are to be, or may be, made by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b. [Cease and desist order, Startup Candy Company, Docket 2705, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* — Supplying, etc., to wholesalers, etc., assortments of candy which are to be, or may be used, without alteration, etc., to conduct a lottery, etc., in the sale thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Startup Candy Company, Docket 2705, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* — Packing, etc., for sale to public at retail, assortments of uniform pieces of candy with larger pieces or small packages of candy as prizes for purchasers procuring uniform pieces with certain colored centers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV., sec. 45b.) [Cease and desist order, Startup Candy Company, Docket 2705, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to wholesalers, etc., assortments of candy with "push cards" for use or which may be used in distributing, etc. said candy to public, prohibted. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Startup Candy Company, Docket 2705, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to retail dealers, etc. "push cards", with candy assortments or separately, informing public candy is being sold to public by lot or chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Startup Candy Company, Docket 2705, August 4, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles P. Vicini and Henry M. White, examiners of the Commission theretofore duly designated by it, in support of the allegations of

said complaint and in opposition thereto, and briefs filed herein; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Startup Candy Company a corporation, its officers, directors, agents, representatives and employees, in the offering for sale, sale and distribution in interstate commerce of candy, do cease and desist from:

(1) Selling and distributing to jobbers and wholesale dealers for resale to retail dealers or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made or may be made by means of a lottery, gaming device or gift enterprise.

(2) Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers, assortments of candy which are used or which may be used without alteration or rearrangement of the contents of such assortments to conduct a lottery, gaming device or gift enterprise in the sale and distribution of the candy contained in said assortments to the public.

(3) Packing or assembling in the same assortment of candy for sale to the public at retail, pieces of candy of uniform size and shape having centers of a different color, together with larger pieces of candy or small packages of candy, which larger pieces of candy or small packages of candy are to be given as prizes to the purchasers procuring pieces of candy with a center of a particular color.

(4) Supplying to, or placing in the hands of wholesale dealers and jobbers, or retail dealers assortments of candy, together with a device commonly called a "push card" for use or which may be used in distributing or selling said candy to the public at retail.

(5) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "push card", either with assortments of candy or separately bearing a legend or legends, or statements informing the purchasing public that the candy is being sold to the public by lot or chance, or in accordance with a sales plan which constitutes a lottery, gaming device or gift enterprise.

It is further ordered, That the respondent, Startup Candy Company, a corporation, shall, within 60 days after the service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2384; Filed, August 15, 1938; 11:50 a. m.]

[Docket No. 2708]

IN THE MATTER OF SHUPE-WILLIAMS CANDY COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to wholesalers, etc., or to retail dealers direct, candy so packed, etc., that sales thereof to the general public are to be, or may be, made by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Shupe-Williams Candy Company, Docket 2708, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to retailers, wholesalers, etc., assortments of candy which are to be, or may be used, without alteration, etc., to conduct a lottery, etc., in the sale thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Shupe-Williams Candy Company, Docket 2708, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices — In merchandising.* — Packing, etc., for sale to public at retail, assortments of uniform pieces of candy with larger pieces and a small package of candy as prizes for purchasers procuring uniform pieces with certain colored centers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Shupe-Williams Candy Company, Docket 2708, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to retailers, wholesalers, etc., assortments of candy with "push cards" for use or which may be used in distributing, etc., said candy to public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Shupe-Williams Candy Company, Docket 2708, August 4, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to retail dealers, etc. "push cards", with candy assortments or separately, informing public candy is being sold to public by lot or chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Shupe-Williams Candy Company, Docket 2708, August 4, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles P. Vicini and Henry M. White, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Shupe-Williams Candy Company, a corporation, its officers, agents, representatives, and employees, in the offering for sale, sale and distribution in interstate commerce of candy, do cease and desist from:

(1) Selling and distributing to wholesale dealers and jobbers, for resale to retail dealers and to retail dealers direct, candy so packed and assembled that sales of said candy to the general public are to be made, or may be made, by means of a lottery, gaming device, or gift enterprise.

(2) Supplying to or placing in the hands of retail and wholesale dealers and jobbers assortments of candy which are used, or may be used, without alteration or rearrangement of the contents of such assortments, to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public.

(3) Packing or assembling in the same assortment of candy for sale to the public at retail pieces of candy of uniform size and shape having centers of a different color, together with larger pieces of candy and a small package of candy, which said larger pieces of candy and small package of candy are to be given as prizes to the purchaser procuring a piece of candy with a center of a particular color.

(4) Supplying to or placing in the hands of retail and wholesale dealers and jobbers assortments of candy, together with a device commonly called a "pushcard", for use, or which may be used, in distributing or selling said candy to the public at retail.

(5) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "pushcard", either with assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance, or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That the respondent, Shupe-Williams Candy Company, a corporation, shall, within sixty days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2385; Filed, August 15, 1938; 11:50 a. m.]

[Docket No. 2837]

IN THE MATTER OF OSTLER CANDY COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to jobbers, etc., or to retail dealers direct, candy so packed, etc., that sales thereof to the general public are to be, or may be, made by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Ostler Candy Company, Docket 2837, August 4, 1938].

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to wholesalers, etc., packages, etc., of candy which are to be, or may be used, without alteration, etc., to conduct a lottery, etc., in the sale thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Ostler Candy Company, Docket 2837, August 4, 1938].

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* — Packing, etc., bars of candy for sale to public at retail, with "push cards" for use or which may be or are designed to be used in distributing, etc., said candy to public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Ostler Candy Company, Docket 2837, August 4, 1938].

SEC. 3.99 (b) *Using or selling lottery devices — In merchandising.* — Packing, etc., for sale to public at retail, packages, etc., of uniform pieces of candy, with larger pieces or other articles of merchandise as prizes for purchasers procuring uniform pieces with certain color or center, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Ostler Candy Company, Docket 2837, August 4, 1938].

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to retail dealers, etc., "push cards", with candy or separately, informing public candy is being sold to public by lot or chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Ostler Candy Company, Docket 2837, August 4, 1938].

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles P. Vicini and Henry M. White, examiners of the Commission, theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is now ordered, That the respondent, Ostler Candy Company, a corporation, its officers, agents, representatives and employees, in the offering for sale, sale and distribution in interstate commerce of candy, do cease and desist from:

(1) Selling and distributing to jobbers and wholesale dealers for resale to retail dealers, or to retail dealers direct, candy so packed and assembled that sales of such candy to the general public are to be made, or may be made by means of a lottery, gaming device, or gift enterprise.

(2) Supplying to or placing in the hands of wholesale dealers and jobbers or retail dealers packages or assortments of candy which are used, or which may be used, without alteration or rearrangement of the contents of such packages or assortments, to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said packages or assortments to the public.

(3) Packing or assembling in the same package or assortment of candy for sale to the public at retail bars of candy, together with a device commonly called a "pushcard", which pushcard is for use, or which may be or is designed to be used, in distributing or selling said candy to the public at retail.

(4) Packing or assembling in the same package or assortment of candy for sale to the public at retail pieces of candy of uniform size and shape of different colors or having centers of a different color, together with larger pieces of candy or other articles of merchandise, which said larger pieces of candy or other articles of merchandise are to be given as prices to the purchaser procuring a piece of candy of a particular color or having a center of a particular color.

(5) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "pushcard", either with packages or assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance, or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That respondent, Ostler Candy Company, a corporation, within thirty days after service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2386; Filed, August 15, 1938; 11:50 a. m.]

[Docket No. 2848]

IN THE MATTER OF GLADE CANDY COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to wholesalers, etc., for resale to retail dealers direct, candy so packed, etc., that sales thereof to the general public are to be, or may be, made by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Glade Candy Company, Docket 2848, August 4, 1938].

SEC. 3.99 (b) *Using or selling lottery devices — In merchandising.* — Supplying, etc., to retailers, wholesalers, etc., packages, etc. of candy which are to be, or may be, used, without alteration, etc., to conduct a lottery, etc., in the sale, etc., thereof to public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Glade Candy Company, Docket 2848, August 4, 1938].

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to retailers, wholesalers, etc., assortments of candy, with "pushcards" or "punchboards" for use or which may be used in distributing, etc., said candy to public at retail, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Glade Candy Company, Docket 2848, August 4, 1938].

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to retail dealers, etc. "pushcards" or "punchboards", with candy or separately, informing purchasing public candy is being sold to public by lot or chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Glade Candy Company, Docket 2848, August 4, 1938].

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles P. Vicini and Henry M. White, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Glade Candy Company, a corporation, its officers, directors, agents, representatives and employees, in the offering for sale, sale and distribution in interstate commerce of candy, do cease and desist from:

(1) Selling and distributing to wholesale dealers and jobbers, for resale to retail dealers direct, candy so packed and assembled that sales of said candy to the general public are to be made, or may be made, by means of a lottery, gaming device, or gift enterprise.

(2) Supplying to or placing in the hands of retail and wholesale dealers and jobbers packages or assortments of candy which are used, or may be used, without alteration or rearrangement of the contents of such packages or assortments, to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the candy contained in said assortments to the public.

(3) Supplying to or placing in the hands of retail and wholesale dealers and jobbers assortments of candy, together with a device commonly called a "push-card", or a device commonly called a "punchboard", for use, or which may be used, in distributing or selling said candy to the public at retail.

(4) Furnishing to retail and wholesale dealers and jobbers a device commonly called a "pushcard" or a device commonly called a "punchboard," either with packages or assortments of candy or separately, bearing a legend or legends or statements informing the purchasing public that the candy is being sold to the public by lot or chance, or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That the respondent, Glade Candy Company, a corporation, shall, within sixty days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2387; Filed, August 15, 1938; 11:51 a. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

ORDER DEFINING JOINT, DISTRICT AND INDIAN WORKS OF THE SAN CARLOS FEDERAL IRRIGATION PROJECT

TURNING OVER OPERATION AND MAINTENANCE OF DISTRICT WORKS TO THE SAN CARLOS IRRIGATION AND DRAINAGE DISTRICT

The Repayment Contract of June 8, 1931, between the United States of America and the San Carlos Irrigation and Drainage District, made pursuant to the San Carlos Act (Act of June 7, 1924, 43 Stat., 475-476) provided that the Secretary of the Interior of the United States could in his discretion permit the District to operate and maintain certain of the works of the San Carlos Federal Irrigation Project designated in the said Repayment Contract as "Works of the District."

The District has for several years been operating the works serving District lands exclusively. The District is desirous of maintaining said works as well as operating them and has formally requested the said Secretary to give his consent to its so doing. which said request was embodied in a Resolution of its duly qualified Board of Directors adopted May 3, 1938.

Responsive to that request and in order to have the operation and maintenance of the works serving District lands carried out by the same organization, and to ascertain the advantages, if any, of having the District operate and maintain the works serving District lands, the consent of the Secretary of the Interior of the United States is hereby given to the operation and maintenance of said District works on the conditions hereinafter set forth.

The Secretary retains the right to withdraw the consent hereby given at any time when in his judgment it would be for the best interests of the Government or the Project as a whole.

In accordance with law, and the Repayment Contract and on the foregoing premises, and in order to make effective the aforesaid purposes,

It is hereby ordered that:

Joint Works

The Joint Works of the San Carlos Federal Irrigation Project are hereby defined and declared to be as follows:

1. Coolidge Dam and San Carlos Reservoir.
2. Electrical power generating, transmission and distribution system.
3. Ashurst-Hayden Diversion Dam.
4. Florence-Casa Grande Canal to and including turnout to the Picacho Reservoir.
5. Picacho Reservoir, Feeder Canal and Outlet Structure, Provided however, that at any time in the future when the Picacho Reservoir is not or can not be used for Project storage or regulatory purposes, it and the outlet structure and feeder canal upon further order of the Secretary may be designated as part of the District Works.
6. North Side Canal from the Florence-Casa Grande Canal to the boundary of the Pima Indian Reservation.
7. Pima Lateral to the boundary of the Pima Indian Reservation.
8. Sub-laterals of the Pima Lateral outside of the Reservation which serve in whole or in part Indian lands.
9. Drainage and irrigation pumping works including wells and structures regardless of whether located within the District or the Reservation.
10. All structures on any and all of the above works, together with measuring devices such as measuring flumes or gauging stations used for the division of water as between Indian lands and District lands, even though some of such structures may be located in laterals and canals themselves designated as District or Indian Works.
11. Telephone lines and appurtenances belonging thereto.
12. All Project buildings paid for on joint account including the office building at Coolidge, the Project garage and shops, including the shops at Olberg, and all machines and other equipment necessary for the operation and maintenance of the Joint Works heretofore selected for that purpose by the Project engineer and the officials of the San Carlos Irrigation and Drainage District. Provided, however, that in the event the Project Joint Works organization does not need all the office and warehouse space to carry on the activities of the Project Joint Works, the District and the Indian Unit, or either, shall have the right to use such space for official purposes on the following conditions, to-wit:

A. The Project engineer shall have the right to determine the amount if any of such available space.

B. The Project engineer has determined that for the present Joint Works will need approximately one-third of the available office space at Coolidge. The District shall therefore be permitted to use one-third of said office space, and the Indian Unit one-third until such time as the Project engineer finds that the requirements of Joint Works for such office space increase or decrease. The occupancy of the building shall be by mutual agreement of the Project engineer, the District engineer and the person in charge of the Indian Unit, should that Unit at any time be under the supervision of anyone other than the Project engineer. It has been agreed that until the requirements of Joint Works increase the District shall occupy the approximate east one-third of the office building. That arrangement is hereby confirmed, subject to the right of the Project engineer to determine the manner in which the building shall be divided so as to best effect the arrangement agreed upon, and the further condition that the right of Joint Works to the use of said building shall at all times be paramount, and the judgment of the Project engineer as to the requirements of Joint Works shall be final until otherwise determined by the Secretary. The basement space in the building shall be divided among the aforesaid units in approximately the same ratio as the office space and subject to the same terms and conditions set forth herein. There shall be no charge made to the District or Indian Units for the space thus occupied. The cost of operating and maintaining the building shall be carried by Joint Works. The warehouse and garage and other facilities at Coolidge have been and are in general necessary for Joint Works, but in the event the Project engineer finds it feasible to assign some of said space or facilities to the District or Indian Units without sacrificing the efficiency of Joint Works he may do so, provided, however, that neither the District nor the Indian Unit shall be entitled to preference or favoritism in that regard.

C. The District and the Indian Unit shall have the right at all times to the services of the Project shops for official work on the following conditions:

(1) The shops shall be maintained for the purpose principally of doing work for the Joint Works part of the Project.

(2) The shops shall be operated at all times under the supervision and management of the Project engineer who shall make such rules and regulations in regard to their operation as he may from time to time think necessary to promote efficiency and economy, including the time and method of payment for work done for the District or Indian Units.

(3) All shop work done for the District and the Indian Units shall be done by the Project shop organization on a cost basis, and shall be done only at such times as may not interfere with Joint Works requirements. All such work shall be done as between the Indian Unit and the District on the basis of "First come, first served," except that the Project engineer may do emergency work for either at any time, when in his judgment it is necessary.

13. All lands upon which any of the foregoing buildings or structures are located and the rights of way therefor, including the right of way for the San Carlos and Picacho Reservoir sites.

A. If at any time it shall be found that the Project Joint Works does not require the use of some of said land, and any of it can be used advantageously by the District or the Indian Unit, the Project engineer may assign such area to either of said Units for use without cost to be used by the Unit to which assigned until needed by the Project. The availability of such land for assignment as aforesaid, and the purposes for which it may be used by the party to which it may be assigned, and the manner in which it shall be used and cared for shall be determined by the Project engineer, whose judgment shall be final in case of disagreement in such matters.

B. In the event the Project engineer determines it is necessary for Joint Works to have and use any or all of the Project buildings or premises in this Order, or hereafter, assigned to the District, he shall give the District six (6) months notice in advance of the date when the District shall vacate any such buildings or premises occupied or used by it.

District Works

All Project Works not hereinabove reserved as Joint Works and which are used for the serving of District lands are hereby defined and declared to be District Works.

The District Works as herein defined are hereby turned over to the District beginning July first, 1938, to be operated and maintained by the District and at its expense under management satisfactory to the Secretary of the Interior of the United States, until further order.

The operation and maintenance of the District Works by the District as provided for herein shall be at all times done both as to quality and quantity in a manner satisfactory to the said Secretary. The District shall at all times keep the works hereby entrusted to its care for operation and maintenance in a satisfactory operating condition; it being understood in that regard that if at any time either the management or the operation and maintenance of the District Works by the District shall prove unsatisfactory to the United States the Secretary of the Interior or his duly authorized representative, the Project Engineer, shall, in writing, call such matters to the attention of the District; and in the event such unsatisfactory matters are not corrected by the District within a reasonable time, the Secretary retains the right to withdraw from the District the privilege of operating and maintaining said works. What constitutes "a reasonable time" within the meaning of this paragraph shall be determined and definitely set forth in any letter or notice calling any such unsatisfactory conditions to the attention of the District. Provided, however, that in the event any such notice shall be given by the duly authorized representative of the Secretary, his fixing of a reasonable time for remedying the unsatisfactory conditions called to the attention of the District in any such notice may be appealed to the Secretary whose decision in that regard shall be final.

Indian Works

All Project works serving Indian lands not reserved herein as Joint Works as above defined shall be considered and are hereby declared to be Indian Works.

All Indian Works as herein defined shall be operated and maintained by the United States and at its or the Indians' expense.

Operation and Maintenance Charges

Joint Works

The Joint Works as herein defined will be operated and maintained by the United States and the cost thereof, including the administration of the Gila decree, (such costs for the fiscal year beginning July 1, 1938, are estimated to be $60,000) exclusive of the cost of operating and maintaining electric power generating plants at the Coolidge Dam and the Diesel plant at Coolidge and the power transmission and distribution system, as well as all the appurtenances belonging to the Project electrical system, which is payable from power revenues, and for the payment of which such revenues are now expected to be sufficient, shall be paid by the Project landowners as provided for in the Landowners' Agreement and the Repayment Contract.

Since the Project consists of 50,000 acres of Indian lands and 50,000 acres of public and private lands, said cost of maintaining and operating the Joint Works shall be paid equally on account of the Indian lands and the public and private lands at a per acre rate to be established by order of the Secretary annually hereafter, which said rate shall produce such a sum of money as shall be determined by the Secretary to be the amount necessary to meet, on the aforesaid basis, the proportionate share of the expense required by the Project to maintain and operate the Joint Works.

That part of the charges for operation and maintenance of the Joint Works to be borne by the District when so determined shall be paid on a fiscal year basis to the United States annually in advance, not later than the first day of March of each year, beginning the first of March, 1939, all as provided in the Repayment Contract as amended, which said first payment shall be for the fiscal year 1940, and the United States or the Indians will make available the same amount of money each fiscal year for the operation and maintenance of the Joint Works for and on account of the Indian lands.

Since the District has made payments to the Project covering its share of the cost of Joint Works for the calendar year 1938, and its estimated share of the cost of the Project maintenance to July 1, 1938, also the money collected by it for excess water deliveries during the year 1937; and since in any event there will be unadjusted credits due the District or payments due from it to the Project on account of its share of said costs and its share of Joint Works maintenance and operation costs for the last half of the fiscal year 1939, it is hereby provided that any unadjusted credits or payments on account of said items existing on July 1, 1938, shall be adjusted at the first opportunity after the actual figures are determined by the Project engineer, in any event within thirty (30) days after the Project engineer furnishes the District with a statement of its account with the Project as of July 1, 1938, for and on account of the aforesaid items. The Project engineer in determining what amount if any the District owes the Project on July 1st on account of said items shall allow the District credit for fifty per centum (50%) of the total Project revenues derived from excess water deliveries for the calendar year 1937, to the extent such revenues have been collected and are available for Project uses, but no credit can be allowed the District on account of such revenues due for deliveries to Indian lands during 1937 until made available by Congress; credit for such un-

collected amounts shall be allowed on future payments by the District.

Delivery of Water and Operation and Maintenance Charges for District Lands and Works

The District, in accordance with the Repayment Contract, shall make an annual charge against lands of the District, herein designated as the basic charge, for operation and maintenance of District Works and for the District's share of operation and maintenance of Joint Works which charge when collected will, together with its proper share of revenue from the anticpated excess water charges hereinafter provided for, cover the cost of operating and maintaining said District Works and pay the District's share of operating and maintaining the Joint Works.

The District, in accordance with the Repayment Contract, shall deliver two (2) acre feet of water or such part thereof as may be legally and physically available, to each irrigated acre in the District on payment of its said basic charge and any other charges due the District or the United States under the provisions of the Landowners' Agreement and the Repayment Contract, Provided that all sums due the United States provided for herein shall have been paid by the District in accordance with the provisions of this order and the terms of the Repayment Contract; all additional water, except free water, as provided for in the Repayment Contract shall be paid for by the landowners and collected by the District, at the rate of Fifty Cents (50¢) per acre foot for the third acre foot per acre and at the rate of One Dollar ($1.00) per acre foot for all additional water delivered, but the Secretary retains the right to change at any time the charge for excess water.

In order to protect the interests of the United States and facilitate the collection of the construction charges due from the landowners within the District owing to the United States, it is further provided that the District shall maintain an organization which will not entail an overhead expense disproportionate to the services which it renders the landowners in the operation and maintenance of said District Works.

It is further provided that if at any time the Secretary determines that the charges made by the District for operation and maintenance of the District Works are excessive, the District shall proceed immediately upon written notice from the Secretary of the Interior to reduce said cost, to a maximum to be fixed in such notice by the Secretary of the Interior and if within a reasonable time the District finds itself unable to meet the demands of the Secretary in that regard the Secretary may withdraw the operation and maintenance of the District Works from the District. The Secretary retains full power to determine what constitutes a reasonable time within the meaning of this paragraph.

Delivery of Water and Operation and Maintenance Charges for and on Account of the Indian Lands and Works

As hereinbefore provided, the United States will make available for operating and maintaining the Joint Works the aforesaid share thereof due on account of the 50,000 acres of Indian lands in said Project. In addition thereto the United States or the Indians shall provide an amount of money which will be sufficient to meet the per acre cost of maintaining and operating the Indian Works, which said per acre cost shall be termed the basic charge for Indian lands and shall be paid or provided for at the time and in the manner provided from time to time by the Secretary of the Interior in accordance with law and the Repayment Contract. It is further provided that when the basic charge for Indian lands plus the Indians' per acre share of the cost of Joint Works has been determined and the payment thereof made by the Indians in advance or provided for by the United States then there shall be delivered to each irrigated acre of Indian land two acre feet of water or such part thereof as may be legally and physically available annually; and all additional water, except free water as provided for in the Repayment Contract, delivered to Indian lands shall be upon such terms as may be prescribed by the Secretary from time to time as provided for in Article 11 of the Repayment Contract, but until further order in that regard it shall be paid for in advance by the Indians or provided for by the United States in advance of delivery at the rate of Fifty Cents (50¢) per acre foot for the third acre foot per acre and at the rate of One Dollar ($1.00) per acre foot for all additional water delivered.

Application of Funds From Excess Water Deliveries and Sales to Towns, Villages, Municipalities, State Institutions, Indian Agency Grounds and Gardens and the Agricultural Experiment Station at Sacaton

The revenue from charges for excess water deliveries shall be used and paid as provided in the Repayment Contract, and its provisions shall be considered as having been complied with as long as the District operates and maintains District Works, if the said collections shall be made and applied as follows:

Both the District and the Indian Unit or the United States for the Indians shall be entitled to use fifty per centum (50%) of the total of such charges due or collected hereafter from both Indian and District lands in any one year to meet, to the extent it will, their respective basic sum charges. Where deliveries to District lands exceed those to Indian lands or vice versa, any balance due to or owing from either by reason of such differences shall be adjusted at the end of each calendar year by proper payments from the District or credits to it. Such payments or credits to be made on or before March 1st of the succeeding year as provided in the Repayment Contract.

In harmony with the Act of March 7, 1928 (45 Stat. 200 at 210), and Article 12 of the Repayment Contract, it has been the practice since the San Carlos Project has been in operation to furnish water when available to the State Prison near Florence, and to the cities and towns in the Project as well as to the Agency grounds and gardens and the Experimental Farm at Sacaton, and it is believed that so long as that can be done it will be to the best interests of the Project to continue such uses of water. It is contemplated that contracts and such proper orders as may be required will be made in the near future to carry that policy into effect on a well-defined and permanent basis. When that shall have been done all such services as may be required from the District or the Indian Unit to deliver water to said agencies shall be paid for as shall from time to time be provided by the Secretary of the Interior.

All money received from the sale or leasing of water to any or all of the aforesaid public institutions for public enterprises, and beautification, where such service shall be rendered by the District or the Indian Unit, shall after due compensation as aforesaid for such service, be used and paid in the same manner provided herein with reference to money received from excess water deliveries. In the event, however, that the Project Joint Works can and does render the service to any or all of said public institutions without using District or Indian Unit Works, it shall make the collections and the revenue shall go into the Joint Works operation and maintenance fund and be used to reduce the amount due for that purpose from the District and the Indian Unit each year.

Florence-Casa Grande Project Lands

There are certain lands of the Florence-Casa Grande Project which have water rights, but have not been merged as yet with the San Carlos Project. It is necessary that said lands be served in part through Project canals the amount of water to which, under the law and the Florence-Casa Grande Agreement, they are entitled. It is contemplated that contracts and proper orders shall be made with the Florence-Casa Grande landowners, which shall provide among other things for payment by them of construction costs and operation and maintenance charges of the Florence-Casa Grande Project. The operation and maintenance charges collected from said lands shall be paid into the San Carlos Project operation and maintenance fund and be used to reduce the assessments for Joint Works against Indian and District lands each year. The District shall be allowed due compensation however for any service which it may be required to and renders said lands or to the State lands or cities and towns. The extent of service and compensation shall be agreed upon hereafter, but in the event an agreement can not be reached in that regard mutually satisfactory to the Project engineer, the District and the Indian Unit, the Secretary retains the right to determine such matters.

It is further provided that until such permanent arrangements have been consummated for the State lands, the cities, towns and villages, the Florence-Casa Grande lands and the non-project Federal Agency lands at Sacaton, that the District will continue as in the past to deliver to the Florence-Casa Grande Project lands, such water as they are entitled to in accordance with law and the Florence-Casa Grande Agreement and shall collect from said landowners such operation and maintenance charges as shall be determined upon and fixed by the Secretary of the Interior from year to year, and it will also deliver to the State Prison lands and the cities and towns such water as may be allotted to them upon the same terms as has heretofore been done. The Indian Unit will make deliveries to the Federal Agencies for which it shall also be allowed compensation to be hereafter fixed on a per acre basis; Provided the Project shall be allowed a credit of One Dollar and Eighty Cents ($1.80) per acre for service it performs on account of said agencies for the year 1937. All net revenue from collections made on said temporary basis shall be paid to the San Carlos Project Joint Works.

United States and District to Keep and Exchange Records

The District and the Indian Unit or the United States for it will keep records of the amounts and rates of delivery of water to farm units of the District, and the amount and rate of delivery of water to the Indian lands, according to methods approved by the Secretary of the Interior. They will furnish to each other a summary of such amounts and rates of supply for their information. These records are to be kept open for inspection by the Indian Unit, the United States and the District. Such records of the deliveries to District lands served through Government operated canals will be furnished the District in detail for assessment purposes.

District Compliance With Gila Decree

It is further provided that the District in the operation and maintenance of said District Works and the delivery of water to the Project lands within the District and the delivery of water to Florence-Casa Grande Project lands shall use every legal means at its command to see that the terms of the Gila decree are not violated and to cooperate with the Project engineer and the Federal Court Water Commissioner in the enforcement of its terms and provisions.

Division of Project Equipment

Equipment belonging to the San Carlos Project shall be divided as between Joint Works, the District, and the Indian Unit of the Project, according to the needs of each unit. All equipment used or needed for the operation and maintenance of Joint Works shall first be selected from available Project equipment by the Project engineer and shall be designated as belonging to the Project for Joint Works. A division of the remaining equipment shall be made by the District and the Project engineer on such equitable basis as will most nearly equalize the benefits to both the District and Indian Units in the use of said equipment in the operation and maintenance of their respective units of the Project. In the event that an agreement cannot be reached as to this division the matter or disagreement shall be promptly referred to the Secretary of the Interior, together with a statement of the requirements of each as to such equipment, and his decision in the matter shall be final.

The value of such equipment as may be taken over by the District or the Indian Unit of the Project shall be paid for by the party receiving it. The payment therefor shall be made to the Project disbursing agent or other properly designated Project employee. The amount to be paid by each of said parties for the equipment turned over to them, respectively, shall be the current, approved value of said equipment as shown on the Project inventory and equipment accounts. Said equipment shall be paid for by the party receiving same at the time said property is turned over; Provided, however, that the District may use any unadjusted credit due it from the Project on January 1, 1938, in payment for any such equipment taken over by it, and the Indian Unit may pay for such equipment as it takes over on such terms as may be agreed to by the Project engineer, but in the event the said Indian Unit takes over any such equipment on terms other than by payment at the time of delivery, it shall in any event pay the full value thereof as of the date when so taken over, even though the equipment be worn out or destroyed before it shall have been paid for.

When, in the judgment of the Project engineer, emergencies exist, or at such other times as in his judgment economies may be effected in the operation and maintenance work on any part of the Project he may, at the request of the District or the Indian Unit, use Joint Works equipment together with its operating crews to do the emergency work or effect economies, if it can be done without sacrificing Joint Works activities. In the event Joint Works equipment shall have been used as aforesaid, Joint Works shall be fully compensated by the unit for which the work shall have been performed, on an actual per diem or shift basis, according to the procedure established by the Project in accounting for the cost chargeable to the particular piece or pieces of equipment so used at the time such work may be done as aforesaid for the District or Indian Unit.

Certain Features Contingent on Appropriations

It should be remembered that the provisions of this order, to the extent that funds are required to be made available by the United States beyond the fiscal year 1939, are dependent upon appropriations being made by Congress for such purposes. The United States, however, through its Secretary of the Interior, will use every legal effort at its command to see that the assessments which may become due for Joint and Indian Works as provided for herein are made available to the Project or other proper Indian Service official, to the end that the Project Joint Works and the Indian Works may be maintained and operated in the best possible manner so as to promote efficiency and economy in the use of water and conserve the Project water supply.

Supervisory Control Retained

This order is not intended to be and shall not be construed as an amendment or modification of either the Landowners' Agreement or the Repayment Contract, but as an administrative operating order made pursuant to the provisions of the Repayment Contract for the purpose of defining the conditions upon which certain of the objectives provided for in said Contract may be achieved. The Secretary reserves the right to exercise at any time any and all rights, powers and privileges given him by law and the aforesaid Contracts with reference to the San Carlos Federal Irrigation Project, whether specifically mentioned herein or not, including the right to supervise, through his duly authorized representatives, to the extent he may deem necessary, the doing of the maintenance and operation work herein conditionally delegated to the District. The Secretary also retains the right to modify this order and impose new or modified conditions on the District from time to time and to permit the Indian Unit to be operated in whole or in part by the Indians if deemed advisable; also to revoke in whole or in part, at any time, this or any amended or modified order.

Done at Washington, D. C. this 15th day of June, A. D. 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2367; Filed, August 13, 1938; 9:42 a. m.]

LETTER OF INSTRUCTIONS AUTHORIZING ASSESSMENTS ON LAND IN NON-INDIAN OWNERSHIP DESIGNATED UNDER THE FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA, FOR REPAYMENT OF THE CONSTRUCTION COSTS OF THAT PROJECT

JULY 11, 1938.

MR. W. S. HANNA,
Supervising Engineer.

DEAR MR. HANNA: Receipt is acknowledged of your letter of June 21, relating

to the matter of assessments against the lands of the Flathead irrigation project for the repayment of construction costs.

Your attention is invited in this connection to the public notice fixing the construction charges for the Flathead irrigation project issued by the Assistant Secretary of the Interior on November 1, 1930. That public notice, as you are aware, sets out the construction costs chargeable to the lands of the different divisions of the project up to that date and also designates the rates of annual assessments against the lands of the various divisions.

The Act of Congress of July 1, 1932 (47 Stat., 564–65) known as the Leavitt Act released all Indian lands from assessments for construction costs so long as such lands remain in Indian ownership.

In accordance with the public notice the construction costs up to November 1, 1930, as designated therein against the lands of the Flathead irrigation project, not included in any irrigation district, were to be repaid within 20 years from that date. The public notice provides that there should be an initial installment of 5 per cent of such construction costs due and payable on December 1, 1930, after which there were to be no further payments until December 1, 1935. Beginning with December 1, 1935, there were to be annual installments paid on that date of each year over a period of 15 years, 5 per cent of the construction costs annually for the first five years and 7 per cent annually for the next ten years.

There has been no modification of this portion of the public notice, in so far as it applies to lands in non-Indian ownership, except the moratorium provisions contained in the Act of Congress of June 13, 1935 (49 Stat., 337) for the season of 1935 and the Act of April 14, 1936 (49 Stat., 1206) for the season of 1936. The provisions of the public notice covering the assessments for construction costs against lands in non-Indian ownership, not included in any irrigation district, have been and still are in effect.

The original public notice contemplated that the full amount of the construction costs, up to November 1, 1930 charged against lands which were then included in an irrigation district, or should subsequently be so included, were to be repaid at the rate of 2½ per cent annually. The arrangement as set out in the original public notice was for the first 2½ per cent assessment to be made for the season of 1931 with the privilege of making the payments semiannually on February 1 and August 1 of the year 1932 with similar assessments and semi-annual payments of each year thereafter until the construction costs were paid in full.

The public notice was modified by the Act of Congress of February 14, 1931 (46 Stat., 1127) which contains the following provision:

• • • in any district in this project, which has or may hereafter execute a repayment contract in pursuance of existing law, the first payment of construction charges may in the discretion of the Secretary of the Interior be required in the calendar year 1935, but in any event the total repayment of such construction charges shall be required in not more than forty years from the date of public notice heretofore given: • • •

On March 28, 1931, the Office addressed a letter to you which was approved by the Department on April 20, 1931, wherein the provisions of the act above cited were discussed and the public notice of November 1, 1930, was amended in accordance therewith. It was explained in that letter that in pursuance of the provisions of the act mentioned above the assessments against lands included within the irrigation districts shall be due and payable in the calendar year 1935 instead of the date fixed in said public notice, provided the annual per acre rate fixed on page 2 of the public notice shall be increased so as to distribute the amount that otherwise would have accrued pursuant to said public notice up to November 1, 1935, over the remainder of the 40-year period, that increased rate to be determined by dividing the total area of each division into the cost fixed by the public notice for such division and dividing that sum by 35 which is the number of years over which the said amount is to be paid beginning with the year 1935.

The letter cited above also points out that all lands not falling within these classes shall be subject to the construction assessments as provided in the public notice.

The letter above cited further modifies the public notice by deleting several lines on page 5 thereof as follows:

proper additions being made thereto on account of individual assessments for operation and maintenance charges for the irrigation seasons of 1928 and 1930 to be covered into construction costs in accordance with the provisions of Acts of Congress approved March 7, 1928 (45 Stat., 213) and May 14, 1930 (46 Stat., 291), and

The Act of May 9, 1935 (49 Stat., 187) further defers the date on which payments should begin on construction costs against lands of the irrigation districts, and contains the following provision:

• • • *Provided*, That (with the consent of the irrigation districts of the Flathead irrigation project which have executed repayment contracts with the United States as required by law) the Secretary of the Interior may modify the terms of such contracts by requiring the operation and maintenance charges (not heretofore carried into construction costs and which were dealt with in the Act of March 7, 1928 (45 Stat., pp. 212–213)), and those accruing subsequent to March 7, 1928, which were due and unpaid at the time of execution of repayment contract, to be paid over the same period of years and in like manner as the construction costs are to be paid under the terms of the public notice issued by such Secretary on November 1, 1930, as amended April 20, 1931: *Provided*, That no interest rate shall be charged from and after the date of the passage of this Act: *Provided further*, That the first installment of such operation and maintenance charges shall be due and payable on the same date as the first installment of construction charges is due or may be due and payable, where modifications of the contracts are made pursuant hereto: *Provided further*, That the first installment of construction costs shall be due and payable in December 1938 instead of the date now fixed: *Provided further*, That the operation and maintenance cost assessable against the Jocko Valley irrigation district for the calendar year of 1935 shall be carried into the construction costs and shall be payable as other construction costs. • • •

Pursuant to the provisions of the law quoted above supplemental contracts have been entered into with each of the three Irrigation Districts on the Flathead irrigation project with a view to carrying out the provisions of the act for covering the unpaid operation and maintenance charges into the construction costs and deferring the collection of the construction costs until December 1938.

The supplemental contract with the Flathead Irrigation District bears date of August 21, 1936 and was approved by the Department on August 26 of that year. Section 8 of that supplemental contract modifies the public notice of November 1, 1930, as follows:

8. The United States will levy an assessment against the Flathead Irrigation District for the repayment to the United States of the costs of constructing the irrigation system serving the assessable land included in said District at the rate of $1.28 per acre per annum, beginning with the assessment of the year 1938 until thirty-five (35) such annual assessments shall have been made. Thereafter, the annual assessment for the repayment of such cost accruing subsequent to the issuance of the public notice shall be at the rate of $1.12 per acre against assessable land included in said District until the total expenditure by the United States for the construction of said irrigation system shall have been paid. The said annual assessments shall be paid in semi-annual installments, the first of which shall be due and payable on December 31st of the year for which the assessment is made and the second of which shall be due and payable on June 30th of the succeeding year. The District will annually levy against each assessable acre of land included therein and pay to the United States a sum equal to the assessment of the United States based on the above rates.

The supplemental contract with the Mission Irrigation District bears date of August 21, 1936 and was approved by the Department on August 26 of that year. Section 8 of that supplemental contract modifies the public notice of November 1, 1930, as follows:

8. The United States will levy an assessment against the Mission Irrigation District for the repayment to the United States of the cost of constructing the irrigation system serving the assessable land legally included in said District at the rate of $1.28 per acre per annum, beginning with the assessment of the year 1938 until thirty-five (35) such annual assessments shall have been made. Thereafter, the annual assessment for the repayment of such cost accruing subsequent to the issuance of said public notice shall be at the rate of $1.12 per acre against assessable land included in said District until the total expenditure by the United States for the construction of said irrigation system shall have been paid. The said annual assessments shall be paid in semi-annual installments, the first of which shall be due and payable on December 31st of the year for which the assessment is made and the second of which shall be due and payable on June 30th of the succeeding year. The District will annually levy against each assessable acre of land included therein and pay to the United States a sum equal to the assessment of the United States based on the above rates.

The supplemental contract with the Jocko Valley Irrigation District bears date of September 29, 1936 and was approved by the Department on October 5 of that year. Section 8 of that supplemental contract modifies the public notice of November 1, 1930, as follows:

8. The United States will levy an assessment against the Jocko Valley Irrigation District for the repayment to the United States of the cost of constructing the irrigation system serving the assessable land legally included in said District at the rate of $0.57 per acre per annum, beginning with the assessment of the year 1938 until thirty-five (35) such annual assessments shall have been made. Thereafter, the annual assessment for the repayment of such cost accruing subsequent to the issuance of said public notice shall be at the rate of $0.50 per acre against assessable land included in said District until the total expenditure by the United States for the construction of said irrigation system shall have been paid. The said annual assessments shall be paid in semi-annual installments, the first of which shall be due and payable on December 31st of the year for which the assessment is made and the second of which shall be due and payable on June 30th of the succeeding year. The District will annually levy against each assessable acre of land included therein and pay to the United States a sum equal to the assessment of the United States based on the above rates.

There has been no legislation enacted providing a moratorium for construction costs for the season of 1938 and there is no authority of law by which we may further delay these assessments after December 1938. It will, therefore, be necessary for you to make preparation for these assessments in accordance with the provisions of the public notice of November 1, 1930, as amended by the letter approved by the Department on April 20, 1931, and also as modified by the provisions of the acts of Congress as incorporated in the supplemental contracts with the three irrigation districts herein cited. The assessments against the lands of the irrigation districts for the season of 1938 are to become due and payable one-half on December 31, 1938, and one-half on June 30, 1939.

The assessments for construction charges against all lands of the Flathead irrigation project will be carefully studied by the Committee on Economic Survey at such time in the future as that committee visits the Flathead Indian Reservation. It is hoped that this study may be made during next year.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

Approved, July 16, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–2368; Filed, August 13, 1938; 9:42 a. m.]

MODIFICATION OF RULES AND REGULATIONS FOR OPERATION AND MAINTENANCE OF FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

AUGUST 3, 1937.

MR. W. S. HANNA,
Supervising Engineer.

DEAR MR. HANNA: Reference is made to your letter of January 26 transmitting a resolution passed by the Board of Commissioners of the Flathead Irrigation District requesting a change in the practice which has been followed in the delivery of water to landowners who are farming more than one original farm unit or allotment.

Consideration has been given the rules and regulations governing the operation and maintenance of the Flathead Indian irrigation project approved by the Department on August 3, 1932. Section 4 of said rules and regulations provides as follows:

4. *Farm units.*—For the purpose of these rules and regulations and the delivery of water, a farm unit is defined as a tract in single contiguous ownership or allotment containing not less than one 40-acre subdivision of the Public Survey. In the case of leases a farm unit will be considered a tract in a single lease comprising one or more contiguous tracts.

There appears to be nothing in Section 4 as quoted above that makes it mandatory to consider each orignal farm unit as a single unit for the purpose of apportioning water but there is some question as to whether under that provision it would not be mandatory to consider each allotment containing not less than one 40-acre tract as a separate unit. With a view to clearing this uncertainty the rules and regulations approved on August 3, 1932 are hereby modified and the following language is substituted in lieu of the former Section 4:

4. *Farm units.*—For the purpose of these rules and regulations and for the delivery of water, a farm unit is defined as a contiguous area of land in single ownership containing not less than one 40-acre subdivision of the Public Survey regardless of its original status as a farm unit or allotment. In the case of leases a farm unit is defined as the contiguous area under a single lease.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

Approved, August 6, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–2369; Filed, August 13, 1938; 9:42 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4851]

WEIGHTS FOR TESTING SCALES

To District Supervisors and Others Concerned:

Paragraph 1 of Treasury Decision 4780, approved December 3, 1937,[1] is hereby amended to read as follows:

Proprietors of distilleries; fruit distilleries; internal revenue bonded warehouses: industrial alcohol plants; alcohol bonded warehouses; denaturing plants; rectifying plants which taxpay rectified products by weight; and bonded wineries which fortify wines or taxpay wines by weight, will provide, at their own expense, a set of ten 50-pound cast iron test weights, which shall be certified by the National Bureau of Standards or State Departments of Weights and Measures as conforming with Class "C" requirements of the National Bureau of Standards; Provided, however, test weights need not be provided at wineries that (1) receive brandy or spirits-fruit exclusively by pipeline from a contiguous fruit distillery or internal revenue bonded warehouse where the spirits are gauged in a weighing tank immediately before transfer to the winery and are run directly into the fortifying tank containing the wine to be fortified, as provided in Paragraphs 260, 261 and 262 of Regulations No. 7;[2] or (2) taxpay wine by weight and have the scales used to weigh the wine checked and their accuracy certified to by State, County, or City Departments of Weights and Measures at intervals of not less than six

[1] 2 F. R. 2686 (3116 DI).
[2] 2 F. R. 2140 (2496 DI).

months. If the proprietor operates one or more of the enumerated establishments on the same or contiguous premises, only one set of test weights need be provided.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 11, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2374; Filed, August 13, 1938; 12:10 p. m.]

TITLE 35—PARKS AND FORESTS

NATIONAL PARK SERVICE

HOT SPRINGS NATIONAL PARK

LOCAL SUBSIDIARY REGULATION

The following subsidiary regulation, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), has been recommended by the superintendent and approved by the Director of the National Park Service, and is in force and effect within the boundaries of Hot Springs National Park.

Speed.—Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 15 miles per hour on all roads in the campground area.

Approved, August 5, 1938.

[SEAL] HILLORY A. TOLSON,
Acting Director.

[F. R. Doc. 38-2365; Filed, August 13, 1938; 9:40 a. m.]

TITLE 45—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Form U-12 (I)-A, Statement Pursuant to Section 12 (i) of Public Utility Holding Company Act of 1935 by a Person Employed or Retained by a Registered Holding Company or a Subsidiary Thereof, adopted June 30, 1938, was filed with the Division of the Federal Register, The National Archives, on August 15, 1938, at 12:41 p. m. (F. R. Doc. 38-2391). Requests for copies should be addressed to the Securities and Exchange Commission.

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Form U-12 (I)-B (Annual Statement), Statement pursuant to Section 12 (i) of Public Utility Holding Company Act of 1935 by a Person Regularly Employed or Retained by a Registered Holding Company or a Subsidiary Thereof, adopted June 30, 1938, was filed with the Division of the Federal Register, The National Archives, on August 15, 1938, at 12:41 p. m. (F. R. Doc. 38-2392). Requests for copies should be addressed to the Securities and Exchange Commission.

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49674]

PROTEST FILED AGAINST LIQUIDATION OF AN ENTRY COVERING CERTAIN COAL FROM RUSSIA

COLLECTORS OF CUSTOMS INSTRUCTED TO SUSPEND LIQUIDATION OF THE ENTRIES INVOLVED

To Collectors of Customs and Others Concerned:

Reference is made to Treasury Decision 49510, approved April 15, 1938, published in the weekly Treasury Decisions, Volume 73, No. 16, of April 21, 1938, proclaiming the classification of and rate of duty imposed upon coal of the kind described in said treasury decision.

Publication of the above-mentioned decision was occasioned by a complaint with respect to the classification of and rate of duty imposed upon the merchandise described in Treasury Decision 49510, filed under section 516 (b) of the Tariff Act of 1930 (U. S. C. title 19, sec. 1516 (b)) by the Philadelphia and Reading Coal and Iron Co., et al., American manufacturers, producers and wholesalers of such merchandise.

Notice of a desire to protest having been filed with the Secretary of the Treasury and a protest having been filed with the collector of customs, Boston, Mass. (No. 1010), against the liquidation on July 1, 1938, of consumption entry no. 08116 of May 26, 1938, in form and substance as in the statute provided, pending the decision of the United States Customs Court on the protest in question collectors of customs will suspend liquidation of all unliquidated entries covering coal of the kind described in Treasury Decision 49510, imported or withdrawn from warehouse after the expiration of 30 days after the publication of Treasury Decision 49510, and will comply in all respects, in connection with the liquidation or reliquidation of entries of such merchandise, with the provisions of section 516 (b) of the Tariff Act of 1930.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved, August 10, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2388; Filed, August 15, 1938; 12:14 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 11th day of August, A. D. 1938.

[File Nos. 43-138, 46-104]

IN THE MATTERS OF COPPER DISTRICT POWER COMPANY AND THE MIDDLE WEST CORPORATION

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE REGARDING THE ISSUE AND SALE OF NOTES AND APPROVING ACQUISITION OF NOTES

Copper District Power Company, a subsidiary of The Middle West Corporation, a registered holding company, having filed a declaration and one amendment, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of six unsecured promissory notes aggregating $78,750, to be dated on the effective date of this declaration, to mature one year after the date thereof, each note to bear 4½% interest; and

The Middle West Corporation, a registered holding company, having filed an application, pursuant to Section 10 (a) (1) of the Act, for approval of the acquisition by it, of three of the aforementioned unsecured promissory notes aggregating $39,375 and in the principal amounts of $18,000, $15,750 and $5,625;

A joint hearing on said amended declaration and said application having been held[1] after appropriate notice; the record in these matters having been examined; and the Commission having made and filed its findings herein;

It is ordered, That said declaration as amended be and become effective on condition that the issue and sale of said notes be effected by declarant in substantial compliance with the terms and conditions and for the purposes represented by said amended declaration.

It is further ordered, That within ten days after the issue and sale of any of the said notes, the declarant shall file with this Commission a certificate of notification, showing that such issue and sale have been effected in accordance with the terms and conditions and for the purposes represented by said amended declaration.

It is further ordered, That the acquisition of such securities by the applicant, The Middle West Corporation, in the manner and subject to the terms set forth in said application be and the same is hereby approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2378; Filed, August 13, 1938; 12:36 p. m.]

[1] 3 F. R. 1775 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of August 1938.

[File No. 1-957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, $100 PAR VALUE, 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE, 6% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE, AND 6% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE

ORDER RELATIVE TO LISTING AND REGISTRATION

The Market Street Railway Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $100 Par Value, 6% Cumulative Prior Preference Stock, $100 Par Value, 6% Cumulative Preferred Stock, $100 Par Value, and 6% Non-Cumulative Second Preferred Stock, $100 Par Value, from listing and registration on the San Francisco Stock Exchange; and

After appropriate notice, a hearing having been held[1] in this matter; and

The Commission, after due consideration of said application together with the evidence introduced at said hearing, having entered an order granting[2] said application effective at the close of the trading session on June 12, 1938 and having postponed the effective date of said order to August 12, 1938; and

The San Francisco Stock Exchange having made application to the Commission to extend unlisted trading privileges on said Exchange to the securities before named, which application was denied August 11, 1938 and said Exchange having represented to the Commission that it desires to file an application for a rehearing on the Commission's order of August 11, 1938 denying unlisted trading privileges to the 6% Cumulative Prior Preference Stock, $100 Par Value;

It is ordered, That the effective date of the order of the Commission granting the application of the Market Street Railway Company to withdraw its 6% Cumulative Prior Preference Stock, $100 Par Value from listing and registration on the San Francisco Stock Exchange be and the same is postponed from August 12, 1938 until the close of the trading session on October 11, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2376; Filed, August 13, 1938; 12:36 p. m.]

[1] 3 F. R. 1434 DI.
[2] 3 F. R. 1870 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of August 1938.

[File No. 7-248]

IN THE MATTER OF ELK HORN COAL CORPORATION FIRST PREFERRED STOCK, $100 PAR VALUE, SECOND PREFERRED STOCK, $100 PAR VALUE, AND COMMON STOCK, NO PAR VALUE

ORDER DENYING APPLICATION

Continuance of unlisted trading privileges on the Baltimore Stock Exchange in Elk Horn Coal Corporation, $50 Par 6% Non-Cumulative Preferred Stock and Common Stock, No Par Value, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2377; Filed, August 13, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1938.

[File No. 43-136]

IN THE MATTER OF WEST PENN POWER COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

West Penn Power Company, a subsidiary company of American Water Works and Electric Company, Incorporated, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale of $17,000,000 aggregate principal amount of its First Mortgage Bonds, Series J, 3¼% (due August 1, 1968); public hearings, having been held on said declaration after appropriate notice, and the Commission having considered the record in this matter and having made its findings herein:

It is ordered, That said declaration be and become effective forthwith subject to the terms and for the purposes represented thereby, except that the Commission reserves jurisdiction to determine, at a later date, whether certain fees to be paid to W. C. Langley & Co. are or are not reasonable; and

It is further ordered, That no fees be paid to W. C. Langley & Co. pending further order of this Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2379; Filed, August 13, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1938.

IN THE MATTER OF L. P. ATWATER, DOING BUSINESS AS L. P. ATWATER & COMPANY, 926 MCBIRNEY BUILDING, TULSA, OKLAHOMA

ORDER DENYING REGISTRATION

L. P. Atwater, doing business as L. P. Atwater & Company, a sole proprietorship, hereinafter called the applicant, having filed with the Commission on January 3, 1938, an application for registration on Form 3-M pursuant to Rule MB1 of the Commission's rules; and registration having been postponed pending final determination as to whether registration should be denied or postponed; and

The Commission, on January 28, 1938, having instituted proceedings on the question on denial and/or postponement of registration pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended; and the said matter, after the applicant's waiver of the requirement of service of notice, having come on for hearing on February 3, 1938, at Tulsa, Oklahoma; and

The Commission finding that denial of said registration is in the public interest, and that applicant in its application for registration has wilfully made or caused to be made a statement which was at the time and in the light of the circumstances under which it was made, false and misleading with respect to a material fact; and that applicant has wilfully violated the provisions of Section 15 (a) of the Securities Exchange Act of 1934, as amended, all as more fully set forth in the Commission's Findings of Fact and Opinion, this day issued; and the Commission having duly considered the mat-

ter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the application of L. P. Atwater, doing business as L. P. Atwater & Company, as broker or dealer transacting business on over-the-counter markets be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2380; Filed, August 13, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1938.

IN THE MATTER OF CONTINENTAL ROYALTIES CORPORATION, 926 McBIRNEY BUILDING, TULSA, OKLAHOMA

ORDER DENYING REGISTRATION

Continental Royalties Corporation, hereinafter called the applicant, having filed with the Commission on January 3, 1938, an application for registration on Form 3-M pursuant to Rule MB1 of the Commission's rules; and registration having been postponed pending final determination as to whether registration should be denied or postponed; and

The Commission, on January 28, 1938, having instituted proceedings on the question of denial and/or postponement of registration pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended; and the said matter, after the applicant's waiver of the requirement of service of notice, having come on for hearing on February 3, 1938, at Tulsa, Oklahoma; and the Commission having duly considered the matter; and the Commission finding that denial of said registration is in the public interest and that applicant in its application has wilfully made a statement which was at the time and in the light of the circumstances under which it was made, false, or misleading with respect to a material fact, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued; and the Commission being duly advised in the premises;

It is ordered, pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the application of Continental Royalties Corporation, as broker or dealer transacting business on over-the-counter markets be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2375; Filed, August 13, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of August 1938.

[File No. 7-249]

IN THE MATTER OF STANDARD GAS AND ELECTRIC COMPANY 6% GOLD DEBENTURES, DUE FEBRUARY 1, 1957

ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the New York Curb Exchange in Standard Power and Light Corporation 6% Gold Debentures, due 1957, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby made, effective upon the exchange in accordance with the Plan of Reorganization dated November 1, 1937.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2390; Filed, August 15, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of August 1938.

IN THE MATTER OF HUFF AND HASKINS, INC., 701-707 BRISBANE BUILDING, BUFFALO, NEW YORK

ORDER CANCELLING REGISTRATION

Huff and Haskins, Inc., hereinafter called the registrant, having filed with the Commission on June 14, 1935 an application for registration on Form 1-M pursuant to Rule MA2 of the Commission's rules then governing over-the-counter markets; and the said registration having become effective January 1, 1936 in accordance with said rules, and thereafter having become a registration under Section 15 (b) of the Securities Exchange Act of 1934, as amended, by virtue of Section 10 of the amending statutes; and

The Commission finding, on due notification, that the registrant has ceased doing business as a broker or dealer;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Huff and Haskins, Inc., as a broker and dealer transacting business on the over-the-counter markets, be and the same is hereby cancelled.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2389; Filed, August 15, 1938; 12:41 p. m.]

Reference

AUG 18 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET

FEDERAL REGISTER

OF THE UNITED STATES 1934

VOLUME 3 NUMBER 160

Washington, Wednesday, August 17, 1938

The President

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER No. 6928 OF DECEMBER 24, 1934

By virtue of and pursuant to the authority vested in me by the act of March 26, 1934, 48 Stat. 466, as amended (5 U. S. C. 118 c), section 4 of Executive Order No. 6928 of December 24, 1934, prescribing regulations for payment of losses sustained by officers, enlisted men, and employees of the United States in foreign countries on account of appreciation of foreign currencies in their relation to the American dollar, is hereby amended by deleting Austria and the schilling at 13.36 cents from the list of countries, monetary units, and basic rates.

This order shall become effective September 1, 1938, and beginning on that date the computation of losses sustained by employees in service in the former state of Austria will be upon the basic rate for the German reichsmark.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 13, 1938.

[No. 7955]

[F. R. Doc. 38-2395; Filed, August 15, 1938; 2:29 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER AMENDING ORDER REGULATING HANDLING IN INTERSTATE COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE, OF MILK IN THE LA PORTE COUNTY, INDIANA, MARKETING AREA

Whereas, pursuant to Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereinafter called the "act," the Secretary of Agriculture, hereinafter called the "Secretary," on September 24, 1937, tentatively approved a marketing agreement[1] regulating the handling in interstate commerce, and such handling as directly burdens, obstructs, or affects interstate commerce, of milk in La Porte County, Indiana, Marketing Area; and

Whereas, on November 9, 1937, the Secretary issued Order No. 20,[2] which regulates the handling of milk in the La Porte County, Indiana, Marketing Area in the same manner as the aforesaid tentatively approved marketing agreement, said order being effective November 13, 1937; and

Whereas, the Secretary, having reason to believe that an amendment should be made to said tentatively approved marketing agreement and to said order, gave, on the 27th day of May 1938, notice of a hearing[3] to be held on the 3rd day of June 1938, at La Porte, Indiana, on a proposed amendment to said tentatively approved marketing agreement and said order, and at said time conducted a public hearing at which all interested parties were afforded an opportunity to be heard; and

Whereas, after such hearing, and after the tentative approval by the Secretary on July 15, 1938, of an amendment to said tentatively approved marketing agreement, handlers of more than 50 percent of the volume of milk, covered by said order as hereby amended, which is marketed within the La Porte County, Indiana, Marketing Area, refused or failed to sign such tentatively approved marketing agreement, as amended, and

Whereas, the Secretary determined on the 9th day of August 1938, said determination being approved by the President of the United States on the 12th day of August 1938,[4] that said refusal or failure to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of said act and that the issuance of this amendment to said order is

[1] 2 F. R. 1943 (2275 DI).
[2] 2 F. R. 2443 (2841 DI).
[3] 3 F. R. 1227 DI.
[4] See Page 2018.

CONTENTS

THE PRESIDENT

Executive Order: Page
Amendment of order concerning payment of losses sustained by officers, etc., in foreign countries due to appreciation of foreign currencies 2015

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
La Porte County, Ind., Marketing Area, amended order regulating handling of milk 2015

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Appraisement of and compensation for tuberculous, etc., cattle condemned and destroyed 2018

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Coal, coke, and briquets from Soviet Union, extension of commercial agreement 2018

TITLE 20—FISH AND GAME:
Bureau of Fisheries:
Alaska fishery regulations amended 2018

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
La Porte County, Ind., Marketing Area, determination respecting proposed order regulating handling of milk 2018

Interstate Commerce Commission:
Rates for commodities, Atlantic ports to North Carolina 2019

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission: Page
Community Power and Light Co., and Southwestern Electric Co., application approved ---------- 2019
Dakota Power Co., effectiveness of declaration ---------- 2019
General Public Utilities, Inc., application approved ------ 2019

the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area and is approved or favored by more than two-thirds (⅔) of the producers who participated in a referendum thereon conducted by the Secretary on July 23, 1938, and who, during the month of May 1938 (said month being determined by the Secretary to be a representative period) were engaged in the production of milk for sale in the La Porte County, Indiana, Marketing Area; and

Whereas, this order, as hereby amended, regulates the handling of such milk in the same manner as the aforesaid tentatively approved marketing agreement, as amended, and is applicable only to handlers defined in such tentatively approved marketing agreement, as amended; and

Whereas, the Secretary finds upon the evidence introduced at the hearing upon such proposed amendment, said findings being in addition to the findings made upon the evidence introduced at the hearing on said order, said original findings being herewith ratified and affirmed save only as such findings are in conflict with the findings hereinafter set forth:

1. That the prices, ascertained in accordance with sections 2 and 8e of the aforesaid act, which will give milk sold in the marketing area a purchasing power equivalent to the purchasing power of milk during the base period, August 1919–July 1929, are not reasonable in view of the price of feeds, the available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, but that the minimum prices established herein do reflect such factors, will insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

2. That this order, as hereby amended, and all the terms and conditions thereof will tend to effectuate the declared policy of the aforesaid act.

Now, therefore, the Secretary, pursuant to the authority vested in him by said act, hereby orders that Order No. 20 regulating the handling in interstate commerce, and such handling as directly burdens, obstructs, or affects interstate commerce, of milk in the La Porte County, Indiana, Marketing Area, issued November 9, 1937, be and it is hereby amended as follows:

1. Delete paragraph 3 of section 1 of article I and substitute therefor the following:

"3. 'La Porte County, Indiana, Marketing Area,' hereinafter called the 'Marketing Area', means the townships of Scipio, Pleasant, Kankakee, Center, Cool Spring, Michigan, Springfield, Galena, and Hudson, all in La Porte County, Indiana."

2. Delete paragraph 5 of section 1 of article I and substitute therefor the following:

"5. 'Producer' means any person, irrespective of whether such person is also a handler, who produces milk which is delivered to a plant from which milk is sold in the Marketing Area."

3. Delete paragraph 6 of section 1 of article I and substitute therefor the following:

"6. 'Handler' means any person, irrespective of whether such person is also a producer, who purchases or receives milk from producers, associations of producers or other handlers, all or a portion of which milk is sold as milk in the Marketing Area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce."

4. Delete section 1 of article III and substitute therefor the following:

"SECTION 1. *Sales and use classification.*—Milk received by each handler, including milk produced by him, if any, shall be classified by the Market Administrator as follows:

"1. Class I milk shall be all milk sold or given away in the form of milk, all milk used to produce cream for consumption as cream, and all milk not specifically accounted for as Class II milk.

"2. Class II milk shall be all milk specifically accounted for (a) as being sold, distributed or disposed of other than as milk or cream and (b) as actual plant shrinkage within reasonable limits."

5. Add the following sections to article III:

"SEC. 3. *Computation of butterfat in each class.*—For each delivery period, the Market Administrator shall compute for each handler the butterfat in each class, as set forth in section 1, as follows:

"1. Determine the total pounds of butterfat received as follows: (a) multiply the weight of the milk received from producers by the average butterfat test; (b) multiply the weight of the milk produced by him, if any, by the average butterfat test; (c) multiply the weight of the milk received from handlers, if any, by the average butterfat test; and (d) add together the resulting amounts.

"2. Determine the total pounds of butterfat in Class I milk as follows: (a) convert to quarts the quantity of milk sold or given away in the form of milk, and multiply by 2.15; (b) multiply the result by the average butterfat test of such milk; (c) multiply the actual weight of cream used for consumption as cream by its average butterfat test; (d) add together the amounts computed pursuant to (b) and (c) of this paragraph; and (e) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk computed pursuant to paragraph 3 of this section is less than the total pounds of butterfat received, computed in accordance with paragraph 1, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (d) of this paragraph.

"3. Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of the several products of Class II milk by the average butterfat test; (b) multiply the weight of a quantity of milk equal to the plant shrinkage (which shall be within reasonable limits) by the average butterfat test of milk received from producers; and (c) add together the resulting amounts.

"4. Determine the classification of the butterfat received from producers as follows:

"(a) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.

"(b) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.

"SEC. 4. *Computation of milk in each class.*—For each delivered period, the Market Administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and to which the prices set forth in article IV apply, as follows:

"1. Divide the total pounds of butterfat computed for each class in accordance with paragraph 4 of section 3 of this article by the average test of all milk received from producers by such handler."

6. Delete sections 1, 2, and 3, of article IV and substitute therefor the following:

"SECTION 1. *Class Prices.*—Each handler shall pay producers, at the time and in the manner set forth in article VIII, not less than the following prices for milk delivered at the handler's plant:

"*Class I milk.*—$2.42 per hundredweight.

"*Class II milk.*—The price per hundredweight which shall be calculated by the Market Administrator as follows: Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture, for the delivery period during which such milk is delivered, and add 30 percent thereof: *Provided*, That for a quantity of Class II milk not to exceed 10 percent of the Class I milk sold by the handler, the handler shall pay the price which shall be calculated by the Market Administrator as follows: Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture, for the delivery period during which such milk is delivered, and add 10 percent thereof."

7. Delete paragraph 1 of section 1 of article VI and substitute therefor the following:

"1. The Market Administrator shall, subject to the condition set forth in paragraph 2 of this section, exclude from the computations made pursuant to section 1 of article VII, the quantity of milk produced by a handler which is sold, used or distributed by such handler: *Provided*, That where any such handler has purchased milk from other producers the value of the milk so purchased shall be computed under section 1 of article VII as follows: The quantity of such milk shall be ratably apportioned among such handler's total Class I and Class II sales (after excluding purchases, if any, from other handlers) and multiplied by the Class I and Class II prices, respectively."

8. Delete paragraph 3 of section 1 of article VI and substitute therefor the following:

"3. The Market Administrator shall consider as Class II milk any milk or cream sold in bulk by any such handler, who has not exercised the option set forth in paragraph 2 of this section, to another handler operating a bottling or processing plant. If such buying handler uses or sells such milk or cream other than in Class II the Market Administrator shall, with respect to the total value computed for such buying handler pursuant to section 1 of article VII, add the difference between (1) the value of such milk or cream at the Class II price and (2) the value at the Class I price."

9. Delete sections 2 and 3 of article VII and substitute therefor the following:

"SEC. 2. *Computation and Announcement of Uniform Prices.*—1. The Market Administrator shall compute for each handler and announce the uniform prices per hundredweight of milk delivered to such handler during each delivery period, except the delivery periods of June, July, August, and September, as follows:

"(a) From the total value of milk computed for such handler pursuant to section 1 of this article, subtract the sum obtained from multiplying by the Class II price the total quantity of milk, if any, received from producers who did not regularly sell milk for consumption in the Marketing Area during a period of 30 days next preceding November 13, 1937;

"(b) If the Class I milk of such handler is greater than the base milk received by him from producers, subtract a sum equal to the base milk times the Class I price;

"(c) If the Class I milk of such handler is less than the base milk received by him from producers, subtract a sum equal to the excess milk times the Class II price;

"(d) Divide the remaining sum of money by the excess milk if (b) of this paragraph be true, or by the base milk if (c) of this paragraph be true, to secure the blended price for excess milk or for base milk, as the case may be.

"2. The Market Administrator shall compute for each handler the uniform price per hundredweight of milk received by such handler during each June, July, August, and September delivery period as follows:

"(a) From the total value of milk computed for such handler pursuant to section 1 of this article, subtract the sum obtained from multiplying by the Class II price the total quantity of milk, if any, received from producers who did not regularly sell milk for consumption in the Marketing Area during a period of 30 days next preceding November 13, 1937:

"(b) Divide by the total quantity of milk received from producers other than the milk represented by the amount subtracted under (a) of this paragraph.

"3. On or before the 10th day after the end of each delivery period notify such handler and make public announcement of the uniform prices computed for him pursuant to this section and of the Class II price.

"SEC. 3. *Base rating.*—During each delivery period, except the delivery periods of June, July, August, and September, the base of each producer shall be a quantity of milk to be calculated by the Market Administrator in the following manner: Multiply the rating, if any, effective pursuant to section 4 of this article, by the number of days on which milk was received from such producer during such delivery period. Milk received from a producer not in excess of his base shall be designated as 'base milk' and that received in excess of his base shall be designated as 'excess milk.'"

10. Delete section 1 of article VIII and substitute therefor the following:

"SECTION 1. *Time and Method of Payment.*—1. On or before the 15th day after the end of each delivery period, other than the delivery periods of June, July, August, and September, each handler shall, with respect to milk purchased outside the State of Indiana or received at the handler's plant outside the State of Indiana during such delivery period, make payment to producers from whom such milk was received, subject to the butterfat differential set forth in section 3 of this article, as follows:

"(a) To any such producer who did not regularly sell milk during a period of 30 days next preceding November 13, 1937, to a handler or to persons within the Marketing Area, at the Class II price for all the milk received from such producer during the period beginning with the first regular delivery of milk from such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month; and

"(b) To all other such producers, at the uniform prices per hundredweight for base milk and for excess milk computed for such handler pursuant to paragraph 1 of section 2 of article VII.

"2. On or before the 15th day after the end of each June, July, August, and September delivery period, each handler shall, with respect to milk purchased outside the State of Indiana or received at the handler's plant outside the State of Indiana during such delivery period, make payment to producers from whom such milk was received, subject to the butterfat differential set forth in section 3 of this article, as follows:

"(a) To any such producer who did not regularly sell milk during a period of 30 days next preceding November 13, 1937, to a handler or to persons within the Marketing Area, at the Class II price for all the milk received from such producer during the period beginning with the first regular delivery of milk from such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month; and

"(b) To all other such producers, at the uniform price per hundredweight computed for such handler pursuant to paragraph 2 of section 2 of article VII."

11. Delete the phrase "4 percent" from section 3 of article VIII and substitute therefor the phrase "3.8 percent."

In witness whereof, H. A. Wallace, Secretary of Agriculture, does hereby

execute in duplicate under the official seal of the Department of Agriculture, and issue this amendment to the said order in the city of Washington, District of Columbia, on the 15th day of August, 1938, and declares this amendment to be effective on and after 12:01 a. m., central standard time, August 20, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2394; Filed, August 15, 1938; 1:35 p. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 1 to B. A. I. Order 367]

AMENDMENT TO REGULATIONS GOVERNING THE APPRAISEMENT OF AND COMPENSATION FOR TUBERCULOUS, PARATUBERCULOUS, AND BANG'S DISEASE REACTING CATTLE CONDEMNED AND DESTROYED

Under the authority conferred by law upon the Secretary of Agriculture, the regulations governing the appraisement of and compensation for tuberculous, paratuberculous, and Bang's disease reacting cattle condemned and destroyed in the control and eradication of tuberculosis, paratuberculosis, and Bang's disease of animals, issued under date of June 25, 1938,[1] and effective July 1, 1938, are hereby amended in the following particulars:

Section 2, regulation 2, is amended to read as follows:

REGULATION 2, SECTION 2. For cattle condemned and destroyed on account of tuberculosis or paratuberculosis, or, after May 1, 1939, on account of Bang's disease, no payment shall exceed the amount paid or to be paid by the State, Territory, county, and municipality where the animal is condemned.

Section 6, regulation 4, is amended to read as follows:

REGULATION 4, SECTION 6. No payment will be made for any cattle condemned and destroyed on account of tuberculosis or paratuberculosis, or, after May 1, 1939, on account of Bang's disease, except in cooperation with the State, Territory, county, or municipality where the animal is condemned; and no such payment shall exceed the amount paid or to be paid by such cooperating State, Territory, county, and municipality.

This amendment, which for the purpose of identification is designated as Amendment 1 to B. A. I. Order 367, shall be effective on and after August 17, 1938.

Done at Washington this 16th day of August, 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2398; Filed, August 16, 1938; 11:59 a. m.]

[1] 3 F. R. 1527 DI.

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49677]

COAL, COKE, AND BRIQUETS FROM THE SOVIET UNION

EXTENSION OF COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND THE UNION OF SOVIET SOCIALIST REPUBLICS UNTIL AUGUST 6, 1939

AUGUST 13, 1938.

To Collectors of Customs and Others Concerned:

The President has proclaimed, effective August 6, 1938, the extension until August 6, 1939 of the commercial agreement between the United States and the Union of Soviet Socialist Republics proclaimed August 6, 1937 (T. D. 49118).[1]

In view of the foregoing, coal, coke made from coal, and coal or coke briquets produced in the Union of Soviet Socialist Republics, imported directly or indirectly therefrom, and entered for consumption or withdrawn from warehouse for consumption during the period from January 1 to December 31, 1938, inclusive, should be released as unconditionally free merchandise without any deposit on account of the tax provided for in section 601 (c) (5) of the Revenue Act of 1932, as amended, by virtue of section 601 (a) of said Act. T. D. 49444[2] is amended accordingly.

In this connection, attention is invited to T. D. 49674.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

[F. R. Doc. 38-2396; Filed, August 15, 1938; 3:37 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-5]

ALASKA FISHERY REGULATIONS

AUGUST 15, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[3] are hereby amended by the following regulation:

SOUTHEASTERN ALASKA AREA

Eastern and Western Districts

Salmon fishery.—Alaska general regulation No. 1[4] is hereby amended so as to permit the holding of salmon in traps in the Eastern and Western districts of the Southeastern Alaska area 72 hours after the termination of the fishing season.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2397; Filed, August 16, 1938; 11:55 a. m.]

[1] 2 F. R. 1386 (1658 DI).
[2] 3 F. R. 655 DI.
[3] 3 F. R. 451, 512, 1019, 1382, 1940 DI.
[4] 3 F. R. 451 DI.

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION WITH RESPECT TO PROPOSED ORDER, AS AMENDED, REGULATING HANDLING OF MILK IN THE LA PORTE COUNTY, INDIANA, MARKETING AREA

Whereas, the Secretary of Agriculture, hereinafter called the "Secretary", pursuant to the powers and functions vested in him by the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereinafter called the "act", having reason to believe that the issuance of an amendment to a tentatively approved marketing agreement and to the order theretofore issued with respect to the handling of milk in the La Porte County, Indiana, Marketing Area would tend to effectuate the declared policy of the act, gave, on the 27th day of May 1938, notice of a hearing[1] to be held on the 3rd day of June 1938, at La Porte, Indiana, on a proposed amendment to said tentatively approved marketing agreement and to said order, at which time and place all interested parties were afforded an opportunity to be heard on the proposed amendment; and

Whereas, after such hearing and after the tentative approval by the Secretary of an amendment to said tentatively approved marketing agreement, handlers of more than 50 percentum of the volume of milk covered by such order, as amended, which is produced or marketed within the La Porte County, Indiana, Marketing Area, refused or failed to sign such marketing agreement, as amended, relating to milk;

Now, therefore, the Secretary, by virtue of the authority vested in him by the above-mentioned act, hereby determines:

1. That the refusal or failure of said handlers to sign said marketing agreement, as amended, tends to prevent the effectuation of the declared policy of said act;

2. That the issuance of an amendment to said order[2] is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area; and

3. That the issuance of the amendment to said order is approved or favored by over two-thirds of the producers who, during the month of May 1938, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area, and who participated in a referendum conducted by the Secretary on July 23, 1938.

In witness whereof, H. A. Wallace, Secretary of Agriculture, does hereby execute and issue in duplicate this determination under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, this 9th day of August, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT
The President of the United States.

Dated: Aug 12 1938.

[F. R. Doc. 38-2393; Filed, August 15, 1938; 1:35 p. m.]

[1] 3 F. R. 1227 DI.
[2] See Page 2015.

INTERSTATE COMMERCE COMMISSION.

[No. MC C-90]

RATES FOR COMMODITIES, ATLANTIC PORTS TO NORTH CAROLINA

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 13th day of May, A. D. 1938.

The said Division having under consideration the subject of the rates, charges, rules, regulations, and practices applicable to the transportation of certain commodities, by common carriers by motor vehicle from and to points as hereinafter described:

It is ordered, That an investigation be, and it is hereby, instituted by the said Division, on its own motion, into and concerning the reasonableness and lawfulness otherwise of rates and charges, and the rules, regulations and practices relating thereto, applicable to the transportation of canned goods, dried beans or peas, dried or evaporated fruits, rice and salt, from Wilmington, N. C., Norfolk, Portsmouth and Richmond, Va., to points in North Carolina on traffic originating at points on the Pacific Coast, Gulf and North Atlantic ports, and moving into Wilmington, Norfolk, Portsmouth and Richmond, via water, with a view to making such findings in the premises and prescribing such just, reasonable, and otherwise lawful rates, rules, regulations and practices, if any, as the facts and circumstances shall appear to warrant:

It is further ordered, That all common carriers of property by motor vehicle subject to the Motor Carrier Act, 1935, operating between the points and participating in the transportation described in the next preceding paragraph hereof, be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission.

It is further ordered, That the said proceeding be, and it is hereby, referred to Examiner W. W. McCaslin for hearing on the 20th day of September, A. D. 1938, at 9 o'clock a. m. (standard time), at the Monticello Hotel, Norfolk, Virginia.

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within ten days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2399; Filed, August 16, 1938; 12:33 p. m.]

[1] 3 F. R. 1668 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1938.

[File No. 43-132]

IN THE MATTER OF THE DAKOTA POWER COMPANY

ORDER CONCERNING EFFECTIVENESS OF DECLARATION

The Dakota Power Company, subsidiary of General Public Utilities, Inc., a registered holding company, having filed a declaration, as amended, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of $250,000 principal amount of General Mortgage 7% Gold Bonds, authorization of September 1, 1923 (and to change the name of such bonds and the bonds now outstanding under the General Mortgage to "First Mortgage Bonds"), $337,000 principal amount of 4% promissory notes due April 1, 1956, and 13,222.91 shares of common stock of $10 par value to General Public Utilities, Inc.;

A hearing on this declaration having been held after appropriate notice;[1] the Commission having examined the record in such matter:

It is ordered, That such declaration be and become effective forthwith on the condition however that the issue and sale of the aforesaid securities shall be effected in compliance with the terms and conditions set forth in and for the purposes represented by such declaration as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2402; Filed, August 16, 1938; 12:54 p. m.]

[1] 3 F. R. 1667 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1938.

[File No. 46-103]

IN THE MATTER OF GENERAL PUBLIC UTILITIES, INC.

ORDER APPROVING APPLICATION

General Public Utilities, Inc., a registered holding company, having filed an application, as amended, pursuant to Section 10 of the Public Utility Holding Company Act of 1935 to secure the approval of the acquisition by it of $250,000 principal amount of General Mortgage 7% Gold Bonds, authorization of September 1, 1923 (the name of which is to be changed to First Mortgage 7% Bonds), $337,000 principal amount of 4% promissory notes due April 1, 1956, and 13,222.91 shares of common stock of $10 par value to be issued by its subsidiary, The Dakota Power Company;

A hearing on such application having been held after appropriate notice;[1] the Commission having examined the record in this matter:

It is ordered, That such application, as amended, be and hereby is approved provided that the applicant file with the Commission within ten days after making such acquisition a certificate stating that such acquisiton was effected in compliance with the terms and conditions set forth in and for the purposes represented by such application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2401; Filed, August 16, 1938; 12:53 p. m.]

[1] 3 F. R. 1667 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1938.

[File No. 56-6]

IN THE MATTER OF COMMUNITY POWER AND LIGHT COMPANY AND SOUTHWESTERN ELECTRIC COMPANY

ORDER APPROVING APPLICATION

Community Power and Light Company, a registered holding company and its wholly owned non-utility subsidiary,

Southwestern Electric Company, having filed a joint application, pursuant to Rule U–12D–1,[1] for the approval of the sale of $300,000 principal amount of New Mexico Utilities Company 5% General Mortgage Bonds, due November 1, 1955, to William Rosenblatt, 27 William Street, New York, New York, at 92½ net, together with accrued interest;

[1] 3 F. R. 927, 1540 DI.

A hearing on such application having been held after appropriate notice;[2] and the Commission having considered the record in this matter:

It is ordered, That the above application be and the same hereby is approved provided that the applicants file with the Commission, within ten days following the sale of the aforesaid securities, a certificate stating that such sale was effected in compliance with the terms and conditions and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2400; Filed, August 16, 1938; 12:53 p. m.]

[2] 3 F. R. 1878 DI.

Reference

AUG 19 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 161

Washington, Thursday, August 18, 1938

Rules, Regulations, Orders

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[Second Supplement to General Order No. C–1[1]]

PORT OF ENTRY FOR ALIENS

MAIDA, NORTH DAKOTA

AUGUST 13, 1938.

Pursuant to the authority contained in Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Maida, North Dakota, is hereby designated as a port for the entry of aliens into the United States.

Sec. 11.31, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by inserting Maida, North Dakota, between Hannah, North Dakota, and Neche, North Dakota, in the list of ports of entry for aliens in District #13.

[SEAL] EDW. J. SHAUGHNESSY,
Deputy Commissioner Immigration and Naturalization.

Approved:

FRANCES PERKINS
Secretary.

[F. R. Doc. 38–2403; Filed, August 16, 1938; 2:22 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF STATISTICAL REPORTS OF CLASS I MOTOR CARRIERS OF PASSENGERS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 1st day of August, A. D. 1938.

[1] 3 F. R. 1657 DI.

The subject of statistical reports of Class I motor carriers of passengers being under consideration:

It is ordered, That each and every Class I common or contract motor carrier of passengers subject to the provisions of Section 220 of the Motor Carrier Act, 1935, shall and it is hereby required to make under oath a report every three months of revenues, expenses, and other statistics in accordance with attached quarterly form which is made a part of this order, each of said quarterly reports to be filed in duplicate in the office of the Secretary of the Interstate Commerce Commission within 30 days after the close of the period to which it relates and the first report to be for the three months ending September 30, 1938.

And it is further ordered, That each and every said Class I motor carrier of passengers shall and it is hereby required to make a report each month of total passenger revenue and number of passengers carried, in accordance with attached monthly form which is made a part of this order,[1] each said monthly report to be filed in duplicate in the office of the Secretary of the Interstate Commerce Commission within 30 days after the close of the month to which it relates and the first report to be for the month of August, 1938.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2406; Filed, August 17, 1938; 11:49 a. m.]

ORDER IN THE MATTER OF STATISTICAL REPORTS OF CLASS I MOTOR CARRIERS OF PROPERTY

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 1st day of August, A. D. 1938.

The subject of statistical reports of Class I motor carriers of property being under consideration:

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

CONTENTS

RULES, REGULATIONS, ORDERS

Page

TITLE 8—ALIENS AND CITIZENSHIP:
Immigration and Naturalization Service:
Maida, N. Dak., designated port of entry for aliens--- 2021

TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Statistical reports, submission by:
Class I motor carriers of passengers---------- 2021
Class I motor carriers of property---------- 2021

NOTICES

Interstate Commerce Commission:
Canned goods and dried fruit in far west, rates, etc., on----- 2022
Notices to:
Motor carriers of passengers. 2022
Motor carriers of property--- 2022
Securities and Exchange Commission:
Midland Utilities Co., hearing adjourned---------- 2023
United States Civil Service Commission:
Condition of apportionment, August 15, 1938---------- 2023

It is ordered, That each and every Class I common or contract motor carrier of property subject to the provisions of Section 220 of the Motor Carrier Act, 1935, shall and it is hereby required to make under oath a report every three months of revenues, expenses, and other statistics in accordance with attached quarterly form which is made a part of this order,[1] each of said quarterly reports to be filed in duplicate in the office of the Secretary of the Interstate Commerce

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

FEDERAL REGISTER

Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

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Commission within 30 days after the close of the period to which is relates and the first report to be for the three months ending September 30, 1938.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–2408; Filed, August 17, 1938; 11:50 a. m.]

Notices

INTERSTATE COMMERCE COMMISSION.

[No. MC C 91]

RATES, ETC., ON CANNED GOODS AND DRIED FRUIT IN FAR WEST

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 25th day of July, A. D. 1938.

The said Division having under consideration the subject of the rates, charges, rules, regulations, and practices applicable to the transportation of certain commodities, by common carriers by motor vehicle from and to points as hereinafter described:

It is ordered, That an investigation be, and it is hereby, instituted by the said Division upon its own motion, into and concerning the reasonableness and lawfulness otherwise, of rules, regulations and commodity rates on canned goods, dried fruit and related commodities published in Item No. 480 on page 31 and Item No. 910 on page 36 of Western States Motor Freight Tariff Bureau joint tariff No. 4, Agents F. C. Paist's MF–I. C. C. No. 6 and D. C. Stone's MF–I. C. C. No. 10; also Item No. 3510–C on 2nd revised page 128–A in so far as it applies from or to Denver, Colo., or Cheyenne, Wyo., and Item No. 3661 on 3rd revised page 135 of Intermountain-Coast Motor Freight Tariff Bureau tariff No. 1, Agent A. L. Greenawalt, Jr's MF–I. C. C. No. 1, with a view to making such findings in the premises and preseribing such just, reasonable and otherwise lawful rates, rules, regulations and practices, if any, as the facts and circumstances shall appear to require;

It is further ordered, That all common carriers by motor vehicles participating in the rates hereinabove referred to be, and they are hereby, made respondents to this proceeding, that this order be served upon said respondents, and that notice to the public be given by posting a copy of this order in the office of the Secretary of the Commission;

And it is further ordered, That the above-entitled matter be, and it is hereby, referred to Examiner Michael T. Corcoran for hearing on the 25th day of October, A. D. 1938, at the Colorado Public Utilities Commission, Denver, Colo., at 10 o'clock a. m. (Standard Time);

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within ten days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–2409; Filed, August 17, 1938; 11:50 a. m.]

NOTICE TO MOTOR CARRIERS OF PASSENGERS

AUGUST 12, 1938.

There is attached hereto a copy of the Commission's order of August 1, 1938,[1] prescribing a quarterly and a monthly report to be submitted by each Class I Motor Carrier of Passengers subject to the provisions of Section 220 of the Motor Carrier Act, 1935.

Class I carriers are required to submit a report in duplicate showing the revenues and number of passengers carried beginning with the month of August, 1938, and monthly thereafter. Three copies of the form of report are enclosed, two of which should be completed for the month of August, 1938, and forwarded to the Commission not later than September 30, 1938, the third copy being for your files.

[1] See p. 2021.

Beginning with the quarter ending September 30, 1938, and quarterly thereafter, Class I carriers are also required to submit a report in duplicate of their revenues, expenses and statistics. Carriers which keep their accounts on a four-week instead of a calendar month basis may report three such four-week periods in each of the returns for the first three quarters and the four remaining periods in the last quarter. Three copies of the form to be used for this purpose are attached. This form also provides for reporting the cumulative figures for the year 1938, and certain quarterly and cumulative figures for the year 1937. The cumulative figures for each year must include the results of operations from January 1st of each year to and including the last day of the quarter for which the report is rendered. Attention is directed to the fact that for 1937 information is not required for items 3 to 8, inclusive, and items 10 to 20, inclusive, but the totals must include the amounts which would normally be reported under those items.

Additional supplies of the forms will be furnished each Class I carrier for rendering subsequent reports.

Class I motor carriers, as defined in the Uniform System of Accounts for Common and Contract Motor Carriers of Passengers, are those carriers whose average gross revenues from *intrastate and interstate motor carrier operations* combined are $100,000 or more per annum. It is further provided in the accounting regulations, effective January 1, 1938, that Class I carriers shall be determined upon the basis of the average gross revenues from intrastate and interstate motor carrier operations for the three years preceding January 1, 1938. If, however, a carrier, whose annual revenues have been less than $100,000, under this definition, acquires additional operating authority through purchase or otherwise and the annual revenues of the combined operations are $100,000 or more, such carrier shall be included in the Class I group of carriers effective as of January 1st of the year following that in which the new operations began.

Any carrier receiving this order which is not a Class I carrier, as defined above, shall promptly notify the Commission to that effect, supporting such statement with the amount of its gross revenues for each of the years 1935, 1936, and 1937.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–2405; Filed, August 17, 1938. 11:49 a. m.]

NOTICE TO MOTOR CARRIERS OF PROPERTY

AUGUST 12, 1938.

There is attached hereto a copy of the Commission's order of August 1, 1938,[1] prescribing a quarterly report to be submitted by each Class I Motor Carrier of Property subject to the provisions of Section 220 of the Motor Carrier Act, 1935.

Beginning with the quarter ending September 30, 1938, and quarterly thereafter, Class I carriers are required to submit a report in duplicate of their revenues, expenses and statistics. Carriers which keep their accounts on a four-week instead of a calendar month basis may report three such four-week periods in each of the returns for the first three quarters and the four remaining periods in the last quarter. Three copies of the form to be used for this purpose are attached, one of which is for your files. This form also provides for reporting the cumulative figures for the year 1938, and certain quarterly and cumulative figures for the year 1937. The cumulative figures for each year must include the results of operations from January 1st of each year to and including the last day of the quarter for which the report is rendered. Attention is directed to the fact that for 1937 information is not required for items 3 and 4, and items 6 to 16, inclusive, but the totals must include the amounts which would normally be reported under those items. Attention is also directed to the fact that for 1937, items 1 and 2, 19 and 20, and 22 and 23 should be combined.

Additional supplies of the form will be furnished each Class I carrier for rendering subsequent reports.

Class I motor carriers, as defined in the Uniform System of Accounts for Common and Contract Motor Carriers of Property, are those carriers whose average gross revenues from *intrastate and interstate motor carrier operations combined* are $100,000 or more per annum. It is further provided in the accounting regulations, effective January 1, 1938, that Class I carriers shall be determined upon the basis of the average gross revenues from intrastate and interstate motor carrier operations for the three years preceding January 1, 1938. If, however, a carrier, whose annual revenues have been less than $100,000 under this definition, acquires operating authority through purchase or otherwise and the annual revenues of the combined operations are $100,000 or more, such carrier shall be included in the Class I group of carriers effective as of January 1st of the year following that in which the new operations began.

Any carrier receiving this order which is not a Class I carrier, as defined above, shall promptly notify the Commission to that effect, supporting such statement with the amount of its gross revenues for each of the years 1935, 1936, and 1937.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–2407; Filed, August 17, 1938; 11:50 a. m.]

[1] See p. 2021.

[1] 3 F. R. 1931 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of August, A. D. 1938.

[File No. 34–7]

IN THE MATTER OF MIDLAND UTILITIES COMPANY

ORDER ADJOURNING HEARING

The Commission having on August 2, 1938, issued its notice of and order for hearing[1] on August 19, 1938, at 10:00 A. M., in Room 1102 at 1778 Pennsylvania Avenue, N. W., Washington, D. C., on the application of Melvin L. Emerich, Robert P. Minton and Leo J. Sheridan as a Committee for the holders of debentures of Midland Utilities Company, pursuant to Sections 11 (f) (1) and 11 (g) of the Public Utility Holding Company Act of 1935, for approval of and report on a Plan of Reorganization of Midland Utilities Company dated December 30, 1936 and amended on July 26 and July 30, 1938; and

The Commission having been advised of the recent death of John M. Shannahan, one of the Trustees of the estate of Midland Utilities Company appointed by order made July 7, 1934 by the District Court of the United States for the District of Delaware in the Matter of Midland United Company, Debtor, No. 1073, and of arrangements for his funeral on August 19, 1938; and

The Commission having by reason thereof been requested by said Committee to adjourn said hearing;

It is hereby ordered, That said hearing on said Plan of Reorganization as amended of Midland Utilities Company be and the same hereby is adjourned to August 23, 1938, at the same time and place.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2410; Filed, August 17, 1938; 12:49 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS MONDAY, AUGUST 15, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupied, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	578	37
2. Hawaii	138	15
3. California	2,124	757
4. Texas	2,179	876
5. Alaska	22	9
6. Louisiana	786	370
7. Michigan	1,811	854
8. Arizona	163	81
9. New Jersey	1,512	776
10. South Carolina	650	371
11. Ohio	2,486	1,466
12. Oklahoma	896	538
13. Arkansas	694	424
14. Alabama	990	610
15. Mississippi	752	461
16. New Mexico	158	102
17. North Carolina	1,186	779
18. Georgia	1,088	732
19. Kentucky	978	670
20. Wisconsin	1,099	835
21. Tennessee	979	747
22. Illinois	2,854	2,178
23. Connecticut	601	476
24. Nevada	34	27
25. Delaware	89	80
26. Oregon	357	321
27. Indiana	1,211	1,091
28. Florida	549	504
29. New York	4,709	4,388
30. Utah	190	178
31. Wyoming	84	79
32. Pennsylvania	3,603	3,405
33. Idaho	166	159
34. New Hampshire	174	168
35. Washington	585	568
36. Colorado	387	381
37. Rhode Island	257	256

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
QUOTA FILLED			
38. Maine	298	298	−2
IN EXCESS			
39. West Virginia	647	648	−2
40. Massachusetts	1,580	1,588	+8
41. Kansas	704	712	−12
42. Vermont	135	140	−1
43. North Dakota	255	266	+15
44. Missouri	1,358	1,420	−10
45. Minnesota	959	1,038	−14
46. South Dakota	259	294	+7
47. Montana	201	230	+2
48. Iowa	924	1,091	+11
49. Nebraska	515	629	+1
50. Virginia	906	1,542	−2
51. Maryland	610	1,847	−3
52. District of Columbia	182	8,740	−18

GAINS	
By appointment	136
By reinstatement	4
By transfer	56
Total	196
LOSSES	
By separation	64
By transfer	36
Total	100
Total appointments	46,665

Note.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of August 25, 1934, 14,013.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38-2404; Filed, August 17, 1938; 10:50 a. m.]

Reference

AUG 20 1938

THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES

VOLUME 3 NUMBER 162

Washington, Friday, August 19, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

[1938 Wheat Circular Letter No. 1]

SUPPLEMENTAL INSTRUCTIONS FOR 1938 WHEAT LOAN PROGRAM

AUGUST 10, 1938.

The Instructions (1938 CCC Wheat Form 1) issued by Commodity Credit Corporation for the 1938 wheat loan program [1] are hereby amended and supplemented.

The definition of eligible wheat, as set forth in Subsection (b) of Section 1 is hereby supplemented as follows:

"Eligible wheat stored in approved public grain warehouses of the classes listed in the Instructions shall include wheat graded No. 4, solely on the factor of test weight per bushel, which wheat otherwise meets the requirements of grade No. 3 for damaged kernels, foreign material and wheats of other classes.

Eligible wheat stored on farms of the classes listed in the Instructions shall include wheat of the class Hard Red Spring graded No. 3 and wheat of other classes listed graded No. 4, solely on the factor of test weight per bushel, which wheat otherwise meets the requirements of the next higher grade for damaged kernels, foreign material and wheats of other classes.

The maximum moisture content stated in said Section 1 of said Instructions shall continue unchanged and shall apply to all eligible grades of wheat, including the foregoing grades."

Subsection (a) of Section 3 of said Instructions is hereby supplemented by adding the following basic loan values for wheat of the added grades and subclasses at the terminal market indicated:

Market	Grade and subclass	Loan value per bushel
Kansas City, Missouri, and Kansas City, Kansas.	No. 1 Dark Northern Spring.	$0.75
	No. 1 Northern Spring.	.73
Omaha, Nebraska, and Council Bluffs, Iowa.	No. 1 Dark Northern Spring.	.74
	No. 1 Northern Spring.	.72
Portland, Oregon, and Seattle, Washington.	No. 1 Northern Spring.	.67

Subsection (b) of Section 3 is hereby amended by adding the following:

"In determining the loan value of wheat stored in subterminal warehouses, Commodity Credit Corporation will deduct only the all-rail interstate freight rate from the subterminal warehouse point to a designated terminal market provided the warehouseman certified such wheat was shipped to such subterminal warehouse by rail. For this purpose only, Commodity Credit Corporation will consider as subterminal warehouses, all warehouses situated at other than the designated terminal markets which have executed the Terminal Warehouse Agreement. If the warehouse receipts representing wheat stored in such subterminal warehouse are accompanied by original freight bills, duly registered for transit privileges, evidencing freight paid in full to the appropriate designated terminal market, or certificates of the warehouseman to that effect, which otherwise meet the requirements of Subsection (b) hereof, Commodity Credit Corporation will advance the full loan value for wheat at such terminal market."

The discounts for "smutty" and "garlicky" wheat, as set forth in Section 4 of said Instructions, should each read "8¢ per bushel" in lieu of "18¢ per bushel." There are further added to said Section 4 the following discounts:

"(i) Where the loan value is based on No. 1 wheat the loan value on wheat grading No. 4 shall be 10¢ less than the loan value of No. 1 wheat.

[1] 3 F. R. 1997 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Commodity Credit Corporation: Page
Wheat loan program, 1938, supplemental instructions 2025

TITLE 7—AGRICULTURE:
Bureau of Agricultural Economics:
Bankhead-Jones Farm Tenant Act, protection of land acquired under, etc. 2026

TITLE 10—ARMY:
War Department:
Sec. 1.42 Bids and awards 2027

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
American College, et al 2030
Burd Knitting Mills Co 2031
John Hancock Pen Co 2028
Letellier-Phillips Paper Co., Inc 2032
Lock Joint Pipe Co., et al 2027
Louisville Pottery Co 2029
Novelcrafts Co., et al 2031
Reliable Specialty Corp 2029
Stock's Nu-Tone Tonic 2032

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
American fisheries, redefinition to include certain shore stations 2033
Invoices of articles composed in chief value of manufactured sugar 2033

TITLE 20—FISH AND GAME:
Bureau of Biological Survey:
Tamarac Migratory Waterfowl Refuge, Minn., fishing restrictions 2034

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Conduct of business of distilling and rectifying 2034
Excise taxes on sales by manufacturer 2034

(Continued on next page)

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CONTENTS—Continued

	Page
TITLE 35—PARKS AND FORESTS:	
National Park Service:	
Hopewell Village National Historic Site, Pa., designation	2039
Natchez Trace Parkway, regulations applicable to	2040
TITLE 43—PUBLIC LANDS:	
Bureau of Reclamation:	
First form reclamation withdrawals:	
Columbia Basin Project, Wash	2040
Kings River Project, Calif	2040
NOTICES	
Department of Agriculture:	
Farm Security Administration:	
Oregon, designation of counties for tenant purchase loans	2041
Federal Trade Commission:	
Diamond Cap Co. (Louis Goldberg, et al), order appointing examiner, etc	2041
Securities and Exchange Commission:	
Advance-Rumely Corp., common stock, listing and registration	2041

(j) Where the loan value is based on No. 2 wheat, the loan value on wheat grading No. 4 shall be 8¢ less than the loan value of No. 2 wheat."

Section 6 of said Instructions is hereby amended by adding the following:

	Percent
For wheat testing 54 lbs. or over but less than 55 lbs.	90
For wheat testing 53 lbs. or over but less than 54 lbs.	88

The official inspection certificates accompanying warehouse receipts issued by any terminal warehouse (including subterminals) must contain such information as will enable Commodity Credit Corporation to determine that any wheat graded as No. 4 meets the requirements of No. 3 grade with the exception of test weight. Each warehouse receipt issued by a country warehouse which represents wheat graded No. 4 must be accompanied by a certificate issued by an inspector licensed under the United States Grain Standards Act, which provides information from which it can be determined that such wheat meets the requirements of No. 3 grade with the exception of test weight.

[SEAL] JAMES A. COLE,
Special Assistant.

[F. R. Doc. 38-2420; Filed, August 18, 1938; 9:32 a. m.]

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

RULES AND REGULATIONS FOR THE PROTECTION OF LANDS ACQUIRED UNDER, OR TRANSFERRED FOR ADMINISTRATION UNDER TITLE III OF THE BANKHEAD-JONES FARM TENANT ACT

Pursuant to the provisions of Section 32 (f), Title III, of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 526), I, H. A. Wallace, Secretary of Agriculture, do hereby establish the following rules and regulations for the protection of lands acquired under or transferred for administration under Title III of the said Bankhead-Jones Farm Tenant Act.

SEC. 71.20 *Chief of Bureau of Agricultural Economics to issue instructions.*—The Chief of the Bureau of Agricultural Economics and his designees are hereby authorized and directed to issue such instructions to the officers and employees of the Bureau of Agricultural Economics, or other employees of the Department of Agriculture who may have duties with respect to such lands, as may be necessary to enforce these rules and regulations.

SEC. 71.21 *Prohibited acts on lands acquired under or transferred to Title III.*—The following acts are prohibited on lands acquired under or transferred for administration under Title III of the Bankhead-Jones Farm Tenant Act:

(1) To graze or drive any livestock upon or across such lands without an agreement or permit.

(2) To graze or drive any livestock upon or across such lands in violation of the terms of an agreement or permit.

(3) To allow livestock to drift and graze upon such lands without an agreement or permit.

(4) To graze livestock in an area closed to grazing or to graze a particular class of livestock in an area closed to that class.

(5) To fail, refuse, or neglect to remove livestock grazed under an agreement or permit, upon receipt of notice from an authorized official of the Department of Agriculture that such livestock are to be removed because such lands are being injured by improper handling of such livestock.

(6) To tear, remove, or deface, wilfully, any notice which the Department of Agriculture has placed on such lands.

(7) To destroy, molest, disburb, injure, or remove, or to go upon such lands with intent to destroy, molest, disturb, injure, or remove, Government property or appurtenances thereto located on such lands.

(8) To mutilate, deface, or destroy, to attempt to mutilate, deface, or destroy, or to go upon such lands with intent to mutilate, deface, or destroy, any objects of natural beauty or of scenic value located thereon.

(9) To occupy or in any way make use of such lands or appurtenances thereto or property located thereon without an agreement or a permit when such an agreement or permit is required.

(10) To occupy or use such lands or appurtenances thereto or property located thereon in a manner which violates the terms of an agreement or permit.

(11) To construct or maintain any kind of works, structures, fences, or enclosures, or to conduct any kind of business enterprise or carry on any kind of work, on such lands, without a permit.

(12) To have or leave camp refuse or debris of any description upon such lands in an exposed or unsanitary condition, or to deposit in or near any stream, lake, reservoir, or other waters on such lands, substances which pollute or are likely to pollute the said stream, lake, reservoir, or waters.

(13) To set on fire or cause to be set on fire, wilfully, recklessly, or negligently, any timber, brush, or grass on such lands, or leave a camp fire on such lands without completely extinguishing it. However, this regulation shall not be construed to prohibit the kindling of such fires as may be authorized by the official of the Department of Agriculture in charge of a project, or his duly authorized representative.

(14) To cut, kill, destroy, girdle, chip, box, or otherwise damage, or to remove any timber, posts, or other forest products, except as authorized by permit.

(15) To camp without a special permit on areas which are specifically excepted from such use.

(16) To occupy public camp grounds, cabins, lodges, and other recreational facilities established upon such lands, without an agreement or permit when such an agreement or permit is required.

(17) To discharge firearms in, over, or in the vicinity of public camp grounds, group camps, recreational grounds and areas, or over lakes or other bodies of water adjacent to or within such areas, or to expose any person or livestock anywhere on such lands to injury by the discharge of firearms.

(18) To intimidate, threaten, assault, or otherwise interfere with any person on such lands while such person is engaged in the protection, improvement, or administration thereof.

(19) To go or be upon such lands or in or on the waters thereof with intent to hunt, catch, trap, disturb, or kill any kind of game or non-game animal, game or non-game bird or fish, or to take the eggs of any such bird, in violation of the laws of the United States or any regulation made in pursuance thereof, or of the laws of the respective States in which such lands or waters are situated.

The following acts are prohibited on such lands acquired under or transferred for administration under Title III of the Bankhead-Jones Farm Tenant Act as are or may be embraced within the boundaries of a national game or bird refuge, preserve, sanctuary, or reservation, established by or under authority of an Act of Congress; or embraced within the boundaries of any inviolate State game or bird refuge, preserve, sanctuary or reservation; or embraced within the boundaries of any established controlled hunting or trapping area:

(20) To carry or have possession of firearms without permit.

(21) To hunt, trap, catch, disturb, or kill any kind of game or non-game animal, game or non-game bird, or to take on such lands the eggs of any such bird except when authorized by permit.

SEC. 71.22 *Penalty.*—Under the terms of Section 32 (f), Title III, of the Bankhead-Jones Farm Tenant Act, any violation of the foregoing rules and regulations is punishable as prescribed in Section 5388 of the Revised Statutes, as amended (U. S. C., 1934 ed., Title 18, Sec. 104).

In testimony whereof, I have hereunto set my hand and official seal this 17th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2433; Filed, August 18, 1938; 12:18 p. m.]

TITLE 10—ARMY

WAR DEPARTMENT

PART 1. THE ASSISTANT SECRETARY OF WAR

SEC. 1.42 *Bids and awards*—(a) *Responsibility of purchasing officer.*

* * * * *

(d) *Awards.*—After determination of the source of the supplies as indicated above and consideration of the bids, awards will be made in accordance with the instructions below:

(1) *General procedure.*—In all cases, except those covered by paragraphs (2), (3) and (4) below and section 1.39, paragraph (a), the total amount of the lowest acceptable net foreign bid, hereafter called the foreign bid, and the total amount of the lowest acceptable net domestic bid, hereafter called the domestic bid, will be determined. If the domestic bid is less than the foreign bid, the award will be made to the former without further computation. If the domestic bid is greater than the foreign bid, the difference will be computed and this difference reduced to a percentage of the foreign bid as follows: Difference divided by the foreign bid multiplied by 100. The tabulations below indicate the prescribed awards depending upon the location in which the purchase is made, the foreign bid, and the percentage difference which has been computed.

(i) *Purchases made within the continental limits of the United States, except Alaska*

Foreign bid	Percentage difference	Prescribed award
$0.01 to $100.00, inclusive	0% to 100%, inclusive	Domestic.
$0.01 to $100.00, inclusive	Greater than 100%	Foreign.
$100.00 to $4,999.99, inclusive	0% to 25%, inclusive	Domestic.
$100.00 to $4,999.99, inclusive	Greater than 25%	Foreign.
$5,000.00 or greater	See (4) below	

(ii) *Purchases made outside continental limits of the United States, including Alaska*

Foreign bid	Percentage difference	Prescribed award
$0.01 to $49.99, inclusive	0% to 100%, inclusive	Domestic.
$0.01 to $49.99, inclusive	Greater than 100%	Foreign.
$50.00 to $99.99, inclusive	0% to 75%, inclusive	Domestic.
$50.00 to $99.99, inclusive	Greater than 75%	Foreign.
$100.00 to $499.99, inclusive	0% to 50%, inclusive	Domestic.
$100.00 to $499.99, inclusive	Greater than 50%	Foreign.
$500.00 to $999.99, inclusive	0% to 40%, inclusive	Domestic.
$500.00 to $999.99, inclusive	Greater than 40%	Foreign.
$1,000.00 to $4,999.99, inclusive	0% to 30%, inclusive	Domestic.
$1,000.00 to $4,999.99, inclusive	Greater than 30%	Foreign.
$5,000.00 or greater	See (4) below	

(2) *Subsistence.*—Within the continental limits of the United States domestic bids only will be considered on all subsistence supplies, except tea, coffee, cocoa, chocolate, spices, bananas, plain and stuffed green olives, citron, orange and lemon peel, Brazil nuts, tapioca, and extract of vanilla. The procedure in paragraph (1) above or (4) below will be followed within the continental limits of the United States in making awards for the above excepted items and outside the continental limits of the United States in making awards for all items of subsistence.

(3) *Construction, alteration, or repair of public works.*—No award will be made for the construction, alteration, or repair of any public building or public work if any foreign materials other than those listed in section 1.41, paragraph (b) are to be used therein, except upon the approval of The Assistant Secretary of War. See paragraph (4) below.

(4) In cases where the foreign bid is $5,000.00 or greater or those where the purchasing officer is of the opinion that an award made as indicated above would be inconsistent with the public interest, the case will be forwarded with his recommendations through channels for action by The Assistant Secretary of War before award is made. (Sec. 2, 47 Stat. 1520; 41 U. S. C. 10). [AR 5-340, Aug. 10, 1936; Proc. Cir. No. 13, Aug. 13, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-2422; Filed, August 18, 1938; 9:32 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3127]

IN THE MATTER OF LOCK JOINT PIPE COMPANY ET AL.

SEC. 3.27 (b) (1) *Combining or conspiring—To eliminate competition—In conspirators' goods.*—Refusing, etc., concertedly, to submit independent competitive bids to supply concrete pipe, etc., to prospective customers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lock Joint Pipe Company et al.; Docket 3127, August 5, 1938.]

SEC. 3.27 (b) (1) *Combining or conspiring—To eliminate competition—In conspirators' goods.*—Selling, or submitting bids, concertedly, to supply, in name of any jointly owned organization, concrete pipe, etc., to prospective customers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lock Joint Pipe Company et al., Docket 3127, August 5, 1938.]

SEC. 3.27 (h) *Combining or conspiring—To restrain and monopolize trade:* SEC. 3.84 *Selling below cost.*—Selling, or submitting bids, concertedly, to supply, in name of jointly owned organization or

in name of any of respondents, concrete pipe, etc., to prospective customers below production cost, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lock Joint Pipe Company et al., Docket 3127, August 5, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF LOCK JOINT PIPE COMPANY, A CORPORATION; F. B. GRAY, A CO-PARTNERSHIP TRADING AS, THE GRAY CONCRETE PIPE COMPANY; MID-ATLANTIC CONCRETE PIPE AND PRODUCTS COMPANY, A CORPORATION; CONCRETE PIPE AND PRODUCTS COMPANY, A CORPORATION; ARLINGTON CONCRETE PIPE CORPORATION, A CORPORATION; AND JACK M. PARRISH, H. W. EASTERLY, AND J. SCOTT PARRISH, INDIVIDUALS

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony and other evidence taken before John W. Addison, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein (oral argument not having been requested) by Floyd O. Collins, counsel for the Commission and by P. J. J. Nicolaides, Robert T. Barton, Jr., C. Wallace Vail and Chas. E. Jenkins, counsels for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

Now, therefore, it is hereby ordered, That the respondent corporations, Lock Joint Pipe Company, Mid-Atlantic Concrete Pipe and Products Company, Concrete Pipe and Products Company, Arlington Concrete Pipe and Products Company, the respondent co-partners, F. B. Gray and J. H. Gray, trading as The Gray Concrete Pipe Company, their successors, officers, agents and employees, and the respondent individuals, Jack M. Parrish, H. W. Easterly and J. Scott Parrish cease and desist, in connection with the business of manufacturing and selling or offering for sale in interstate commerce of concrete pipe and other concrete products, from doing and performing by agreement, combination or conspiracy between or among any two or more of said respondents, the following acts and things:

(1) refusing and failing to submit independent competitive bids to supply concrete pipe and other concrete products to prospective customers; or

(2) selling or submitting bids to supply, either in the name of the Arlington Concrete Pipe Corporation or any other jointly owned corporation or organization, concrete pipe or other concrete products to prospective customers; or

(3) selling or submitting bids to supply, either in the name of the Arlington Concrete Pipe Corporation or any of the respondents, concrete pipe and other concrete products to prospective customers below production cost.

It is further ordered, That the respondents, and each of them, shall, within sixty (60) days after service upon them of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2411; Filed, August 17, 1938; 1:37 p. m.]

[Docket No. 3244]

IN THE MATTER OF JOHN HANCOCK PEN COMPANY

SEC. 3.6 (r) (7) *Advertising falsely or misleadingly — Prices — Usual as reduced.*—Falsely representing usual retail value or price of fountain pens as greatly in excess of advertised price, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, John Hancock Pen Company, Docket 3244, August 4, 1938.]

SEC. 3.6 (dd) *Advertising falsely or misleadingly—Special offers:* SEC. 3.72 (n) *Offering deceptive inducements to purchase—Special offers.*—Falsely representing fountain pens obtainable at certain advertised price for only a limited time, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, John Hancock Pen Company, Docket 3244, August 4, 1938.]

SEC. 3.6 (gg) *Advertising falsely or misleadingly—Value.*—Falsely representing fountain pens as superior to pens of comparable price and as equal in value to pens costing from $5 upwards, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, John Hancock Pen Company, Docket 3244, August 4, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Falsely representing fountain pens as holding 200% more ink, etc. than any ordinary pen on market, or as having unbreakable barrel, and nib of "Duragold", unbreakable, guaranteed for lasting smoothness, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, John Hancock Pen Company, Docket 3244, August 4, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF HARRY A. RIPPNER AND LOUIS G. RIPPNER, INDIVIDUALLY, AND DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF JOHN HANCOCK PEN COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents and a stipulation as to the facts in lieu of testimony, the filing of briefs having been waived and oral arguments not having been requested, and the Commission having made its findings as to the facts and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondents, Harry A. Rippner and Louis G. Rippner, individually, and doing business under the trade name and style of John Hancock Pen Company or under any other name or through any corporate or other device, their servants, agents, employees, and representatives, in connection with the offering for sale, sale and distribution of fountain pens in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

(1) That the customary and usual retail value or price of their fountain pens are greatly in excess of the advertised price, when such is not the fact;

(2) That their products are obtainable at a certain advertised price for only a limited time, when in truth and in fact said products can be obtained at the advertised price at all times;

(3) That their fountain pens are of a character and quality different from and superior to pens of comparable price, and that their pens are equal in value to pens costing from $5 upwards;

(4) That their fountain pens hold 200%, or any other stated amount or percent, more ink than any ordinary fountain pen on the market, unless and until such be the fact;

(5) That their fountain pens have an unbreakable barrel, or that the nib thereof is of "Duragold," unbreakable and guaranteed for lasting smoothness in writing, unless and until said barrels are unbreakable and said nibs are of 14 karat gold fineness.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2412; Filed, August 17, 1938; 1:38 p. m.]

[Docket No. 3296]

IN THE MATTER OF LOUISVILLE POTTERY COMPANY

SEC. 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product:* SEC. 3.66 (d) *Misbranding or mislabeling—Nature.*—Representing that its pottery products are Indian products, or that Indians are connected with manufacture thereof, or that they are Cherokee pottery or Cherokee hand pottery, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Louisville Pottery Company, Docket 3296, August 6, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 6th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent and the stipulation as to the facts entered into between W. T. Kelley, Chief Counsel for the Federal Trade Commission and Keith P. Snyder, President of the respondent, Louisville Pottery Company, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent corporation, Louisville Pottery Company, its officers, representatives, agents and employees in connection with the offering for sale, sale and distribution of pottery products in interstate commerce or in the District of Columbia do forthwith cease and desist from representing in any manner

(1) That the pottery products manufactured, sold and distributed by it are Indian products;

(2) That Indians are, in any way, connected with the manufacture of the pottery products sold and distributed by the respondent;

(3) That the pottery products sold and distributed by the respondent are Cherokee pottery or Cherokee hand pottery.

It is further ordered, That the respondent shall within sixty (60) days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2413; Filed, August 17, 1938; 1:38 p. m.]

[Docket No. 2876]

IN THE MATTER OF RELIABLE SPECIALTY CORPORATION

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing as cures or proper treatments respondent's "Corn and Callous Remedy," "Reliable Hair Food" or "Scalpolene," "Dr. King's Ointment," "Reliable Herb Tablets," "Beat-Sall Iron Compound," "Anti-Stout Tablets," "Rheumatic Remedy," "Cold Tablets," "Romola Antiseptic Powder," "Asthma Remedies" and "Herb Tea" for various ailments and conditions set forth by it, or otherwise holding out for its aforesaid various preparations or any other like products, various claims, as specified in order, as to the benefits and properties thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Reliable Specialty Corporation, Docket 2876, August 3, 1938.]

SEC. 3.6 (n) (2) *Advertising falsely or misleadingly — Nature — Product:* SEC. 3.96 (a) (4) *Using misleading name—Goods—Nature.*—Respectively representing respondent's "Positive Corn Cure," "Corn and Callous Remedy" and "Reliable Hair Food," through use of words "Positive Corn Cure," "Corn Cure," etc., or word "Food," as part of the respective trade names of such products, as, respectively, cure or remedy for corns or callouses, or anything more than treatment for relief thereof, or as food, in any sense, for the hair or hair roots, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, 45b.) [Cease and desist order, Reliable Specialty Corporation, Docket 2876, August 3, 1938.]

SEC. 3.6 (j) (4) *Advertising falsely or misleadingly—Government approval—Tests:* SEC. 3.6 (z) *Advertising falsely or misleadingly—Scientific tests.*—Representing that respondent's "Great Christopher Corn and Callous Remedy" has been tested by any department or agency of the United States Government, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Reliable Specialty Corporation, Docket 2876, August 3, 1938.]

SEC. 3.6 (x) *Advertising falsely or misleadingly — Results.* — Representing, through pretended "before and after using" portraits, purporting to show same individual before and after using respondent's "Reliable Hair Food" or "Scalpolene," and so treated as to represent falsely such person as bald or nearly so in the former, and with head of hair in the latter, that respondent's said preparation will grow hair on a bald or nearly bald head, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Reliable Specialty Corporation, Docket 2876, August 3, 1938.]

SEC. 3.6 (y) *Advertising falsely or misleadingly—Safety.*—Representing "Reliable Herb Tablets" and "Herb Tea" as harmless, or not dangerous, when self-administered, and "Reliable Anti-Stout Tablets" and "Rheumatic Remedy," as harmless, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Reliable Specialty Corporation, Docket 2876, August 3, 1938.]

SEC. 3.6 (cc) (1) *Advertising falsely or misleadingly—Source or origin—Doctor's supervision of manufacture or preparation:* SEC. 3.96 (a) (9) (1) *Using misleading name—Goods—Source or origin—Doctor's supervision.*—Falsely representing through use of word "Doctor" or "Dr." in connection with name, word or words as trade name, brand, etc., of or for product that same was made in accordance with prescription or under supervision of particular physician referred to, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Reliable Specialty Corporation, Docket 2876, August 3, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of August A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it in support and in opposition to the allegations of said complaint, and brief in support of the complaint, respondent having filed no brief and not having requested oral argument, and the Commission having made its findings as to

[1] 2 F. R. 1290 (1542 DI).

[1] 3 F. R. 1108 DI.

[1] 3 F. R. 1127 DI.

[1] 3 F. R. 1612 DI.

the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Reliable Specialty Corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of its products now designated as "Great Christopher Positive Corn Cure" or "Great Christopher Corn and Callous Remedy," "Reliable Hair Food" or "Scalpolene," "Dr. King's Ointment," "Reliable Herb Tablets," "Beat-Sall Iron Compound Tonic Tablets," "Reliable Anti-Stout Tablets," "Reliable Cold Tablets," "Romola Antiseptic Powder," "Reliable Herb Tea," "Reliable Asthma Remedy," "Egyptian Asthma Remedy," "Reliable Rheumatic Remedy," or any other products composed of like or similar ingredients or possessing like or similar properties, whether sold under these names or any other names, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing directly or indirectly:

(1) Through the use of the words "Positive Corn Cure," "Corn Cure," "Corn Remedy," or "Corn and Callous Remedy," as a part of its trade name, or in any other manner that its product called "Great Christopher Positive Corn Cure" or "Great Christopher Corn and Callous Remedy" is a cure or remedy for corns or callouses or is anything more than a treatment for the relief of corns or callouses:

(2) That "Great Christopher Positive Corn Cure" or "Great Christopher Corn and Callous Remedy" is a proper treatment for moles; that it has been tested by any department or agency of the United States Government;

(3) Through the use of the word "Food" as a part of its trade name, or in any other manner, that its product called "Reliable Hair Food" is in any sense a "food" for the hair or hair roots;

(4) That "Reliable Hair Food" or "Scalpolene" will reduce the damage done by uric acid; that it will restore hair roots to their normal condition; that it will nourish the roots of the hair, or supply starving roots with new life or vigor;

(5) That "Reliable Hair Food" or "Scalpolene" will prevent baldness or will grow hair on bald heads;

(6) Through the use, in advertisements or advertising matter of any nature of description, of portraits purporting to represent the same individual before and after using "Reliable Hair Food" or "Scalpolene," which portraits are so treated as to falsely represent such individual as bald or nearly so in the "before using" photograph and as having a head of hair in the "after using" photograph, that said "Reliable Hair Food" or "Scalpolene" will grow hair on a bald or nearly bald head;

(7) Through the use of the word "Doctor" or the abbreviation "Dr." in connection or conjunction with a name, word or words as a trade name, brand or description for any product or preparation, that said product or preparation was made in accordance with a prescription or under the supervision of the particular physician referred to in said trade name, brand or designation, unless same be the fact;

(8) That the product now known as "Dr. King's Ointment" will do more than allay superficial inflammations; that it will act as a healing agent for eczema; that it is a proper treatment for piles; that it is a proper treatment for burns; that it is a competent treatment for boils, or for sore, tender, burning, itching, perspiring, or odorous feet; that it is a positive destroyer of all germs of blood poisoning;

(9) That "Reliable Herb Tablets" is more than a mild laxative; that it is a remedy for stomach, liver, or kidney trouble, or for diseases arising from an impure condition of the blood; that it is a harmless remedy when self-administered;

(10) That "Beat-Sall Iron Compound Tonic Tablets" is anything more than a simple iron tonic compound; that it is an energy-producing drug, or that it is a remedy for weak, nervous, pale, or thin people;

(11) That "Reliable Anti-Stout Tablets" has any other therapeutic value than that of a mild laxative; that it will prevent one from growing stouter; that it will dissolve excessive or unnatural fat; that it is an effective preparation for the treatment of indigestion, gas on the stomach, gall stones, liver and kidney trouble; that it will build up the system from fatty weakness to muscular strength and energy; or that it is harmless;

(12) That "Reliable Rheumatic Remedy" is a competent treatment for any, or all, types of rheumatism or lumbago; or that it is harmless;

(13) That "Reliable Cold Tablets" has any therapeutic value beyond that of a laxative or mild analgesic; or that it is a cure or preventive for colds, grippe, or influenza;

(14) That "Ramola Antiseptic Powder" has any properties other, or greater, than those of an astringent solution; that it is a competent treatment for vaginitis, leucorrhea, gonorrhea, or for eczema, or for ailments of the nose or throat;

(15) That "Reliable Asthma Remedy" is a proper treatment for asthma, cold in the head, or chest, or congestion of the lungs;

(16) That "Egyptian Asthma Remedy" is a competent treatment for asthma, cold in the chest, or congestion of the lungs;

(17) That "Reliable Herb Tea" is beneficial for those suffering with weak hearts; that it will help one to overcome a nervous condition; that it will stop palpitation or fluttering of the heart; that it is in any sense a competent remedy for such ailments or conditions; or that it is not dangerous when self-administered.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2423; Filed, August 18, 1938; 9:42 a. m.]

[Docket No. 2648]

IN THE MATTER OF AMERICAN COLLEGE ET AL.

SEC. 3.6 (a) (14) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Individual or private business as educational institution:* SEC. 3.96 (b) (3) *Using misleading name—Vendor — Individual or private business being educational institution.*—Representing, in the sale of their courses of instruction or text books, through use of words "College" or "University" in their corporate names, or otherwise, that respondents American College, or American University, conduct a college, university, or institution of higher learning, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, American College et al., Docket 2648, August 5, 1938].

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 5th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF AMERICAN COLLEGE, A CORPORATION, AMERICAN UNIVERSITY, A CORPORATION, AND DENTON N. HIGBE, AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, testimony and other evidence taken before J. J. Keenan, an examiner of the Commission, theretofore duly designated by it, in support of the allegations of said complaint, and in opposition thereto, and briefs filed therein (no request for oral argument having been made), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, American College, a corporation, its officers and directors, and Denton N. Higbe, an individual, their agents, representatives, and employees, in connection with the offering for sale, sale and distribution between and among the various states of the United States, and in the District of Columbia, of courses of instruction or textbooks, cease and desist from:

(1) representing directly or indirectly through the use of the word "College" in the corporate name of the respondent, American College, or in any other manner, that said respondent, American College, conducts a college or institution of higher learning.

It is ordered, That the respondents, American University, a corporation, its officers and directors, and Denton M. Higbe, an individual, their agents, representatives, and employees, in connection with the offering for sale, sale and distribution between and among the various states of the United States, and in the District of Columbia, of courses of instruction or textbooks, cease and desist from:

(1) representing directly or indirectly through the use of the word "University" in the corporate name of the respondent, American University, or in any other manner, that said respondent, American University, conducts a university or institution of higher learning.

It is further ordered, That the respondents, and each of them, shall, within sixty (60) days after the date of the service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have, and each of them has, complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38—2426; Filed, August 18, 1938; 10:48 a. m.]

[Docket No. 3015]

IN THE MATTER OF BURD KNITTING MILLS COMPANY

SEC. 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Manufacturer:* SEC. 3.96 (b) (5) *Using misleading name—Vendor—Producer or laboratory status of dealer.*—Falsely representing, through words "Knitting Mills" or "Mills" as part of their trade name, and through words "Hosiery Manufacturers" or "Manufacturers," or otherwise, that respondents are manufacturers of products sold by them or that they are mill owners or operators, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Burd Knitting Mills Company, Docket 3015, August 10, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF LOUIS A. BURD AND ABRAM BURD, DOING BUSINESS AS BURD KNITTING MILLS COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of the complaint to be true and state that they waive hearing on the charges set forth in said complaint, and that, without further evidence or other intervening procedure, the case might proceed to final hearing upon the record, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Louis A. Burd and Abram Burd, doing business as Burd Knitting Mills Company, or under any other trade name, their representatives, agents and employees, in connection with the offering for sale, sale and distribution of hosiery in interstate commerce and in the District of Columbia, do forthwith cease and desist from:

Representing, directly or indirectly, through the use of the words "Knitting Mills" or "Mills," as part of their trade name or otherwise, or through the use of the words "Hosiery Manufacturers" or "Manufacturers," either alone or in conjunction with any other word or words, or through any other means or device, or in any manner whatever, that they are the manufacturers or makers of the products which they sell or that they are mill owners or operators, until and unless they actually own and operate, or directly and absolutely control, a plant or mill wherein said products are manufactured or made by them.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2427; Filed, August 18, 1938; 10:48 a. m.]

[Docket No. 3216]

IN THE MATTER OF THE NOVELCRAFTS COMPANY ET AL.

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to dealers, candy, etc., so packed, etc., that sales thereof to the general public are to be, or may be, made by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Novelcrafts Company et al., Docket 3216, August 8, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers, assortments, etc., of candy, etc., which are, or may be, used, without alteration, etc., to conduct a lottery, etc., in the sale, etc., thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Novelcrafts Company et al., Docket 3216, August 8, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Packing, etc., in same assortment, for sale to public at retail, uniform pieces of candy, with other articles of merchandise as prizes for purchasers procuring pieces with certain colored centers, prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Novelcrafts Company et al., Docket 3216, August 8, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on 8th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF J. W. PINCUS AND J. DAN SILVER, INDIVIDUALLY, AND AS COPARTNERS TRADING AS THE NOVELCRAFTS COMPANY, AND LOU ROTH, AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, testimony and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, a brief in support of the complaint (no brief having been submitted and oral argument not having been requested by attorney for respondents), and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, J. W. Pincus and J. Dan Silver, individually and as copartners trading as The Novelcrafts Company, or trading under any other name, and Lou Roth, an individual, their representatives, agents, and employees, in connection with the offering for sale, sale and dis-

[1] 2 F. R. 1959 (2294 DI).

tribution of candy or other confections, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing to dealers candy or other confections so packed and assembled that sales of such candy or other confections to the general public are to be made or may be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of dealers assortments of candy or other confections which are used or which may be used without alteration or rearrangement of the contents of such packages or assortments to conduct a lottery, game of chance or gift enterprise in the sale and distribution of candy or other confections contained in said assortments to the public;

(3) Packing or assembling in the same assortment of candy for sale to the public at retail, pieces of candy of uniform size and shape with different colored centers, together with other articles of merchandise, which said articles of merchandise are to be given as prizes to the purchasers procuring pieces of candy with centers of particular colors.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2428; Filed, August 18, 1938; 10: 49 a. m.]

[Docket No. 3434]

IN THE MATTER OF LETELLIER-PHILLIPS PAPER CO., INC.

SEC. 3.24 (a) 1.1 *Coercing and intimidating—Competitors—By threatening boycott:* SEC. 3.30 (e) *Cutting off competitors' access to customers or market—Threatening and boycotting competitors.*—Threatening, intimidating or boycotting competitors or attempting to intimidate, etc., such competitors, because they purchase from, or sell to, certain other competitors of respondent in the buying and selling of waste materials, with intent, tendency or effect of maintaining in respondent a monopoly in its trade territory, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Letellier-Phillips Paper Co., Inc., Docket 3434, August 8, 1938.]

SEC. 3.24 (c) (3) *Coercing and intimidating—Customers of competitors—By threatening withdrawal of patronage:* SEC. 3.24 (e) *Coercing and intimidating—Suppliers of competitors:* SEC. 3.30 (f) *Cutting off competitors' access to customers or market—Threatening withdrawal of patronage from competitors' customers:* SEC. 3.33 (e) *Cutting off competitors' supplies—Threatening withdrawal of patronage.*—Threatening to discontinue or discontinuing business relations with waste material dealers because they purchase from, or sell to, certain competitors of respondent in the buying and selling of waste materials, with intent, tendency or effect of maintaining in respondent a monopoly in its trade territory, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Letellier-Phillips Paper Co., Inc., Docket 3434, August 8, 1938.]

SEC. 3.24 (c) (3) *Coercing and intimidating—Customers of competitors—By threatening withdrawal of patronage:* SEC. 3.30 (f) *Cutting off competitors' access to customers or market—Threatening withdrawal of patronage from competitors' customers.*—Threatening to discontinue, or discontinuing, business relations with mills and other large consumers of waste materials, because they purchase such materials from certain of respondent's competitors in the buying and selling of waste materials, with intent, tendency or effect of maintaining in respondent a monopoly in its trade territory, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Letellier-Phillips Paper Co., Inc., Docket 3434, August 8, 1938.]

SEC. 3.24 (a) 2.1 *Coercing and intimidating—Competitors—By threatening potential outside competitors with invasion:* SEC. 3.30 (e) *Cutting off competitors' access to customers or market—Threatening potential outside competitors with invasion.*—Threatening that respondent will go into the trade territory of other dealers in waste materials located in various states, with whom it is not in direct competition, if they purchase from or sell to certain of its competitors, with intent, tendency or effect of maintaining in respodent a monopoly in its trade territory, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Letellier-Phillips Paper Co., Inc., Docket 3434, August 8, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and waives all intervening procedure and further hearings as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent is violating the provisions of the Federal Trade Commission Act;

It is ordered, That respondent, Letellier-Phillips Paper Co., Inc., its officers, representatives, agents, and employees, directly, or through any corporate or other device, in connection with its business of buying and selling waste materials in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Threatening, intimidating, or boycotting competitors, or attempting to intimidate or boycott competitors, because such competitors purchase from, or sell to, certain other competitors of the respondents;

(2) Threatening to discontinue, or discontinuing, business relations with waste material dealers because such dealers purchase from, or sell to, certain competitors of respondent;

(3) Threatening to discontinue, or discontinuing, business relations with mills and other large consumers of waste materials, because said mills and other large consumers purchase such materials from certain of respondent's competitors;

(4) Threatening that respondent will go into the trade territory of other dealers in waste materials located in various states of the United States, with whom it is not in direct competition, if such other dealers purchase from, or sell to, certain of the respondent's competitors; for the purpose, and with the tendency or effect, of creating and maintaining in the respondent a monopoly in the trade territory in which it operates.

It is further ordered, That the respondent shall, within sixty (60) days after the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2429; Filed, August 18, 1938; 10:50 a. m.]

[Docket No. 3448]

IN THE MATTER OF STOCK'S NU-TONE TONIC

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing "Stock's Nu-Tone Tonic" or any substantially similar preparation as a tonic, aiding, as specified, digestion, and promoting healthful sleep, etc., or as remedy for underweight, preventive of common colds, and restorer of vigorous health, etc., prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Stock's Nu-Tone Tonic, Docket 3448, August 9, 1938.]

SEC. 3.6 (x) *Advertising falsely or misleadingly—Results.*—Representing that thousands have been helped to health by use of "Stock's Nu-Tone Tonic", prohibited. (Sec. 5b, 52 Stat. 112, 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Stock's Nu-Tone Tonic, Docket 3448, August 9, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF FRED A. STOCK, AN INDIVIDUAL, TRADING AS STOCK'S NU-TONE TONIC

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that he waives hearing on the charges set forth in said complaint, and that, without further evidence or other intervening procedure, the Commission may issue and serve upon him findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Fred A. Stock, an individual, trading as Stock's Nu-Tone Tonic, or under any other trade name, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of the medicinal preparation designated "Stock's Nu-Tone Tonic", or any other preparation containing substantially similar ingredients or possessing substantially similar properties, either sold under this name or any other name in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or by implication:

(a) That said preparation is a tonic or that it tones up the digestive organs and promotes healthful sleep and a hearty appetite.

(b) That said preparation is a remedy or treatment for underweight, that tired feeling, or for a weak or rundown condition.

(c) That the use of said preparation will bring back the color to one's cheeks, or make one feel strong, healthy, or more vigorous.

(d) That thousands have been helped to health by the use of this preparation.

(e) That said preparation is a competent remedy in the treatment or prevention of common colds.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2430: Filed, August 18, 1938; 10:50 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49682]

CUSTOMS REGULATIONS OF 1937 AMENDED TO REDEFINE AMERICAN FISHERIES SO AS TO INCLUDE SHORE STATIONS OPERATED IN CONJUNCTION WITH VESSELS OF THE UNITED STATES AND FOR OTHER PURPOSES

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 251 of the Revised Statutes (U. S. C. title 19, sec. 66) and section 624 of the tariff act (U. S. C. title 19, sec. 1624), paragraphs (b), (c), (d) and (f) of article 489[1] are hereby amended to read as follows:

(b) No entry is required for fish or other marine products taken on the high seas by vessels of the United States or by residents of the United States in undocumented vessels owned in the United States, when such fish or other products are brought into port by the taking vessel.

(c) An American fishery, within the meaning of paragraph 1739 (a), is defined as a fishing enterprise conducted under the American flag by vessels of the United States on the high seas or in foreign waters in which such vessels have the right, by treaty or otherwise, to take fish or other marine products and may include a shore station operated in conjunction with such vessels by the owner or master thereof.

(d) The employment of citizens of a foreign country by an American fishery is permissible but the purchase by an American fishery of fish or other marine products taken by citizens of a foreign country on the high seas or in foreign waters, will subject such fish or other marine products to treatment as foreign merchandise.

(f) Products of an American fishery will be entitled to free entry although prepared, preserved or otherwise changed in condition provided the work is done at sea by the master or crew of the fishery or by persons employed by and under the supervision of the master or owner of the fishery. Fish (except cod, haddock, hake, pollock, cusk, mackerel, and sword fish) the product of an American fishery, landed in a foreign country, and there not further advanced than beheaded, eviscerated, packed in ice, frozen and with fins removed, will be entitled to free entry, whether or not such processing is done by the American fishery. Products of an American fishery prepared or preserved on the treaty coasts of Newfoundland, Magdalen Islands, or Labrador, as such coasts are defined in the Convention of 1818 between the United States and Great Britain, will be entitled to free entry only if the preparation or preservation is done by an American fishery.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved, August 12, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2424; Filed, August 18, 1938; 9:47 a. m.]

[T. D. 49684]

NOTICE OF ADDITIONAL DATA TO BE INCLUDED ON CUSTOMS INVOICES OF ARTICLES COMPOSED IN CHIEF VALUE OF MANUFACTURED SUGAR

AUGUST 10, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 481 (a) (10), Tariff Act of 1930 (U. S. C. title 19, sec. 1481 (a) (10)), and with reference to article 274 (e) (2), Customs Regulations of 1937,[1] as amended by T. D. 49426, customs invoices of articles composed in chief value of manufactured sugar, upon which an import compensating tax is imposed under section 403 (a) (3), Sugar Act of 1937 (U. S. C., Sup. III, title 7, sec. 1153), are required to be accompanied by a statement in the following form, containing the data indicated therein, in accordance with the appended instructions:

U. S. CUSTOMS SERVICE

Information for use of U. S. Customs authorities as to commodities composed in substantial part of manufactured sugar, under section 403 (a) (3) of the Sugar Act of 1937.

Name of manufacturer_____

Address _____

1. Kind and brand of product shipped to United States_____
2. Quantity produced in one manufacturing lot or batch (A)_____
3. Sugar used in producing one lot or batch:

Kind of manufactured sugar	Quantity (A)	First cost (B)	Additional costs (C)	Total cost (D)

[1] 3 F. R. 1447 DI.

[1] 2 F. R. 1555 (1841 DI).

[1] 2 F. R. 1511 (1797 DI).

4. Other materials used in producing one lot or batch:

Kind	Quantity (A)	First cost (B)	Additional costs (C)	Total cost (D)

I certify that the above information is correct.

Signature _____

Date _____

Title or position _____

INSTRUCTIONS FOR COMPILING DATA TO BE SHOWN ON FORM

1. Describe the product in the terms usually used on consular invoices, giving name, brand, quality, number, etc. Use a separate form for each kind.

2. Show quantity produced in one typical batch or lot, recently manufactured, as to which cost records have been maintained.

3. Manufactured sugar is defined in the Sugar Act of 1937 as follows:

SEC. 401. For the purpose of this title—

* * * * *

(b) The term "manufactured sugar" means any sugar derived from sugar beets or sugarcane which is not to be, and which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added) equal to more than 6 per centum of the total soluble solids, and except also sirup of cane juice produced from sugarcane grown in continental United States.

The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures.

4. It is preferable to show each kind of material used in addition to manufactured sugar. Several materials of relatively insignificant value may be grouped together as "Flavoring materials", "Coloring materials", "Seasoning materials", or "All other."

A. Show unit in pounds, as well as total quantity.

B. "First cost" is the full cost of the material laid down at the manufacturing plant, at current domestic prices, without any deduction for any drawback or refund of import duties which may have been allowed or may be allowable. The amounts of any drawback or refund of import duties which have been allowed or which are allowable by reason of exportation should be stated separately.

C. "Additional costs" include all costs of storing, examining, handling, and preparing, up to the point where the materials are ready to be combined in the manufacturing process. Manufacturing costs and general expenses, occurring thereafter, should not be included, nor should profit.

D. "Total cost" is the *total* of "First cost" ex factory, and "Additional costs."

E. In the event that it is conceded that manufactured sugar is the component material of chief value, it will be sufficient to so state on the invoice and give the percentage of total sugars in the finished product.

The foregoing requirements shall be effective as to articles composed in chief value of manufactured sugar entered on and after the expiration of sixty days from the date of the publication of this decision in the weekly Treasury Decisions.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

[F. R. Doc. 38-2425; Filed, August 18, 1938; 9:47 a. m.]

TITLE 20—FISH AND GAME

BUREAU OF BIOLOGICAL SURVEY

AMENDMENT TO THE ORDER PERMITTING FISHING ON THE TAMARAC MIGRATORY WATERFOWL REFUGE, MINNESOTA

AUGUST 17, 1938.

Section 5, entitled Special Fishing Restrictions, of the Order of the Secretary of Agriculture, H. A. Wallace, dated July 8, 1938,[1] permitting fishing on the Tamarac Migratory Waterfowl Refuge, Minnesota, is hereby amended to read as follows:

5. *Special fishing restrictions.*—No seine, trap, or net shall be employed to take minnows, frogs, crawfish, or other aquatic animals for bait and neither shall live minnows be used for bait in any of the waters of the Refuge.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2432; Filed, August 18, 1938; 12:18 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4852]

DELEGATION OF AUTHORITY TO COMMISSIONER TO AUTHORIZE THE CONDUCT OF THE BUSINESS OF DISTILLING AND RECTIFYING AT A DISTANCE LESS THAN 600 FEET APART, AND FENCES OR WALLS AROUND DISTILLERY PREMISES OF A HEIGHT GREATER THAN FIVE FEET

To District Supervisors and Others Concerned:

Pursuant to the provisions of Section 161, Revised Statutes, (U. S. C., title 5, section 22), and Section 5, Liquor Enforcement Act of 1936, (U. S. C., supp. III, title 27, section 225), the following regulations are prescribed:

1. The authority of the Secretary of the Treasury under the provisions of Sections 1 and 4, of the Act of June 18, 1934, amendatory of Section 3266, Revised Statutes, (U. S. C., title 26, section 1170), and Section 3275, Revised Statutes, (U. S. C., title 26, section 1177), to permit the carrying on of the business of distilling spirits at a distance less than 600 feet in a direct line from a rectifying plant when he is of the opinion that the revenue will not be endangered thereby, and to authorize the construction and maintenance of a fence or wall of a height greater than five feet around a distillery, in any case in which, in his opinion, such higher fence or wall is necessary to give adequate protection from trespassers, is hereby delegated to the Commissioner of Internal Revenue.

2. The Commissioner is authorized to prescribe such rules and regulations and the use of such forms and to require the submission of such documents as he may deem necessary, in order to determine whether the granting of the permission herein authorized will endanger the revenue.

[SEAL] ROSWELL MAGILL,
Acting Secretary of the Treasury.

Approved, August 15, 1938.

[F. R. Doc. 38-2415; Filed, August 17, 1938; 3:08 p. m.]

[T. D. 4853]

[Regulations 46—Amendments]

EXCISE TAXES ON SALES BY THE MANUFACTURER

To Collectors of Internal Revenue and Others Concerned:

In conformity with the provisions of sections 701, 705, and 709 of the Revenue Act of 1938, Regulations 46, approved June 18, 1932, as amended, are further amended as follows:

Chapter III is amended as follows:

(1) Immediately after the quotation of section 603 of the Revenue Act of 1932 which precedes article 22, the following subtitle and quotation of section 701 (a) of the Revenue Act of 1938 are inserted:

SECTION 701 (A) OF THE REVENUE ACT OF 1938

(a) *Certain toilet preparations.*—The tax imposed by section 603 of the Revenue Act of 1932 shall not apply to tooth and mouth washes, dentrifices, tooth pastes, or toilet soaps, sold after June 30, 1938.

(2) Article 22 is amended to read as follows:

"ART. 22. *Scope of tax.*—The tax attaches to the sale by the manufacturer of the articles enumerated in section 603 and similar articles commonly or commercially known as toilet articles, which are used or applied, or intended to be used or applied, for toilet purposes. No tax applies, however, to the sale of tooth and mouth washes, dentifrices, tooth pastes, or toilet soaps after June 30, 1938. Any article advertised or held out to be suitable for toilet purposes, or for any purposes for which the articles enumerated in the Act are customarily used, will be subject to the tax, regardless of the name by which it may be known or distinguished. The tax attaches to the sale by the manufacturer of all preparations which are used or applied or intended to be used or applied for toilet purposes or used in connection with the bath or care of the body, or applied to the clothing as a perfume or to the body as a toilet article. The fact that any particular product, preparation, or substance coming within the scope of the Act may have, or be held out to have, a medicinal, stimulating, remedial, or curative value does not exempt it from the tax, if it is used as an adjunct to the toilet or for toilet purposes.

"The tax will not attach to an article which is not a finished product or is not susceptible of use for toilet purposes but is only suitable for use in the manufacture of articles subject to tax.

"Toilet soap is taxable with respect to sales made during the period from June 21, 1932, to June 30, 1938, inclusive, whether the soap is in the form of a liquid, semiliquid, paste, flake, powder, or cake. Soaps and soap powders advertised or held out as suitable for toilet purposes or for application to the body, or parts of the body, as cleansing agents are taxable. Toilet soap advertised or held out as having medicinal properties, medicated toilet soaps, shaving soaps, creams, and powders, and shampoo soaps and soap powders are taxable. A soap used chiefly for removing grease and stains from the hands, though capable of incidental use for cleaning kitchen utensils, is taxable as a toilet soap. Soaps which are made, advertised, held out, and sold primarily for general cleaning or laundry purposes, but which may have an incidental and trivial use as a toilet soap, are not taxable unless advertised or held out as suitable for toilet purposes. Shampoo oils and liquids not containing saponaceous matter are taxable as toilet preparations."

Chapter IV, as amended by Treasury Decision 4669,[1] approved July 22, 1936, is further amended as follows:

(1) Immediately after the quotation of section 810 of the Revenue Act of 1936 which precedes article 24, the following subtitle and quotation of section 701 (b) of the Revenue Act of 1938 are inserted:

SECTION 701 (B) OF THE REVENUE ACT OF 1938

(b) *Furs.*—The tax imposed by section 604, as amended, of the Revenue Act of 1932 shall not apply to articles sold after June 30, 1938.

(2) The first paragraph of article 24 is amended to read as follows:

"The tax is effective only with respect to the period from June 21, 1932, to June 30, 1938 (both dates inclusive), and is imposed upon the sale by the manufacturer of (1) articles made of fur on the hide or pelt and (2) articles of which fur on the hide or pelt is the component material of chief value."

(3) The phrase "on or after June 23, 1936," appearing in the second and in the last paragraphs of article 24 is amended to read "from June 23, 1936, to June 30, 1938 (both dates inclusive),".

(4) The phrase "on or after June 23, 1936," appearing in the fourth sentence of article 25 is amended to read "from June 23, 1936, to June 30, 1938 (both dates inclusive),".

(5) Article 27 is amended to read as follows:

"ART. 27. *Rate of tax.*—The tax is payable by the manufacturer at the rate of 10 per cent of the sale price during the period June 21, 1932, to June 22, 1936 (both dates inclusive), and 3 per cent of the sale price during the period June 23, 1936, to June 30, 1938 (both dates inclusive), as outlined in articles 8 to 15, inclusive, and in article 24."

Chapter VI is amended as follows:

(1) Immediately after the quotation of section 606 (a) and (b) of the Revenue Act of 1932 which precedes article 36, the following subtitle and quotation of section 709 of the Revenue Act of 1938 are inserted:

SECTION 709 OF THE REVENUE ACT OF 1938

(a) Section 606 (a) of the Revenue Act of 1932 is amended to read as follows:

"(a) Automobile truck chassis, automobile truck bodies, tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer (including in each of the above cases parts or accessories therefor sold on or in connection therewith or with the sale thereof), 2 per centum. A sale of an automobile truck shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body."

(b) The amendment made by subsection (a) shall be effective with respect to sales made after June 30, 1938.

(2) Article 36 is amended to read as follows:

"ART. 36. *Scope of tax.*—The tax applies to sales by the manufacturer of automobile truck chassis and bodies primarily designed or adapted for the transportation of property along highways and roads, although persons may be incidentally transported at the same time, and to sales of other chassis and bodies. During the period from June 21, 1932, to June 30, 1938, inclusive, the tax does not apply to sales of tractors. For the purposes of such exception, the term 'tractors' includes automotive vehicles designed for pulling or drawing a load, as distingushed from those designed for carrying a load, and also includes so-called automobile chassis of the short wheel base type *which are specially designed for pulling trailers and are not capable of being equipped with an automobile body, regardless of whether equipped with a fifth wheel.* Such term, however, does not include a truck chassis, regardless of style, if so designed that it may be equipped with a body, or if its specifications are included among truck chassis specifications in trade publications current during the period from June 21, 1932, to June 30, 1938, without regard to whether it is equipped with a fifth wheel and whether it is sold for use only for pulling or as the tractive function of a trailer. After June 30, 1938, the distinction between tractors used on the highways and automobile trucks is immaterial, since both classes are taxable after such date. On and after July 1, 1938, the tax attaches to the sale by the manufacturer of all tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

"Motor-driven machines designed and adapted for use in pulling or drawing vehicles around factories and railway stations, and small trucks for handling baggage and trucks at railway stations, as distinguished from automotive vehicles used on highways and roads, are not subject to tax.

"The sale of an automobile truck or other automobile shall be treated, for the purpose of computing the tax, as the sale of a chassis and a body. If the purchaser of a tax-paid chassis attaches thereto a body manufactured by him and sells the completed vehicle, he is liable for tax on the sale price of the body. However, if the completed vehicle is sold for a lump sum, the tax attaches to such lump sum, unless the sale price of the body is stated as a separate item on the invoice to the customer, or unless such sale price can be established by adequate records to the satisfaction of the Commissioner. The same rule applies where the manufacturer of a chassis installs thereon a tax-paid body and sells the completed vehicle.

"The tax does not apply with respect to sales of bodies by the manufacturer thereof to manufacturers of automobile trucks or other automobiles when sold as provided in article 39. A chassis manufacturer who purchases a body tax free under certificate, as provided in article 39, is required to pay tax on his sale of the completed vehicle as the manufacturer of both chassis and body.

"The tax applies to the sale of all motorcycles. Side cars are considered parts of motorcycles.

"Any parts or accessories for automobile truck chassis, automobile truck bodies, tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer, or other automobile chassis or bodies or motorcycles, sold on or in connection therewith, or with the sale thereof, are taxable at the rate applicable to the sale price of the complete articles. A manufacturer cannot lessen his sale price of chassis, body or taxable tractor, or motorcycle by billing separately parts and accessories which are considered equipment for the article in question. If, for example, a manufacturer sells to any person a chassis and a set of bumpers, or a taxable tractor and a fifth wheel and attachments, he must pay tax on the parts or accessories at the same rate as on the chassis or tractor regardless of the method of billing."

(3) Article 37 is amended to read as follows:

"ART. 37. *Rate of tax.*—The tax is payable by the manufacturer at the rate of 2 per cent of the sale price of auto-

[1] 3 F. R. 1663 DI.

[1] 1 F. R. 873.

mobile truck chassis, bodies, or tractors, and at 3 per cent of the sale price of other automobile chassis or bodies or motorcycles, the sale price to be determined as outlined in articles 8 to 15, inclusive."

(4) Article 40 is amended to read as follows:

"ART. 40. *Credit for taxes on tires and inner tubes.*—Under the specific provisions of the Act, tires and inner tubes may not be purchased tax free for use as material in the manufacture of, or as a component part of, taxable articles manufactured by the purchaser.

"Where a manufacturer sells tax-paid tires and inner tubes on or in connection with or with the sale of automobiles, taxable tractors, or motorcycles, he may take credit against the tax due on the sale of such automobiles, taxable tractors, or motorcycles in an amount determined by applying to the purchase price of the tires or tubes the percentage rate of tax applicable to the automobiles, taxable tractors, or motorcycles, but the part of the purchase price of tires attributable to any metal rims or rim bases shall be excluded. For example, if the sale price of the automobile is $1,000, the tax payable thereon $30, and the cost to the manufacturer of the tires sold on or in connection therewith $40; the manufacturer will be permitted to take a credit by deducting from the tax payable on the selling price of the automobile an amount equal to 3 per cent of $40, namely, $1.20.

"In the event that the manufacturer of an automobile also manufactures or imports tires and tubes and sells the automobile and the tires and tubes in a single transaction, he will be liable for tax on the sale price of the automobile (including the tires and tubes) at the rate of 3 per cent, and he will also be liable for tax on the tires and tubes at the rates of 2¼ cents and 4 cents per pound, respectively. He will, however, be permitted to take a credit against the tax on the automobile on the same basis as if he had purchased the tires and tubes so sold. The same rule applies in the case of motorcycles and, except for the difference in the rate of tax, in the case of automobile truck chassis and taxable tractors."

(5) Article 41 is amended to read as follows:

"ART. 41. *Definition of parts or accessories.*—The term 'parts or accessories' for an automobile truck or other automobile chassis or body, taxable tractor, or motorcycle, includes (a) any article the primary use of which is to improve, repair, replace, or serve as a component part of such vehicle or article, (b) any article designed to be attached to or used in connection with such vehicle or article to add to its utility or ornamentation, or (c) any article the primary use of which is in connection with such vehicle or article whether or not essential to its operation or use.

"The term 'parts and accessories' shall be understood to embrace all such parts and accessories as have reached such a stage of manufacture that they constitute articles commonly or commercially known as parts and accessories regardless of the fact that fitting operations may be required in connection with installation. The term shall not be understood to embrace raw materials used in the manufacture of such articles.

"Spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, automobile truck or other automobile chassis, taxable tractors, or motorcycles, are considered parts or accessories for such articles whether or not primarily designed or adapted for such use."

(6) Article 42 is amended by amending the first paragraph to read as follows:

"No tax will be imposed upon parts or accessories sold to a manufacturer of automobile truck or other automobile chassis, bodies, taxable tractors, or motorcycles, provided the vendor obtains from the purchaser, and retains in his possession, a certificate of the purchaser establishing that the purchaser is a manufacturer of such articles."

Chapter VII is amended as follows:

(1) Immediately after the quotation of section 607 of the Revenue Act of 1932, which precedes article 44, the following subtitle and quotation of section 701 (c) of the Revenue Act of 1938 are inserted:

SECTION 701 (C) OF THE REVENUE ACT OF 1938

(c) *Phonograph records.*—The tax imposed by section 607 of the Revenue Act of 1932 upon records for phonographs shall not apply to such records sold after June 30, 1938.

(2) Article 44 is amended by amending the first paragraph to read as follows:

"The tax imposed under section 607 attaches to the sale by the manufacturer of (1) articles specified in such section suitable for use in connection with or as part of a radio receiving set or a combination radio and phonograph set (regardless of actual use), including parts and accessories for any of such articles when sold on or in connection therewith, or with the sale thereof, and (2) with respect to the period from June 21, 1932, to June 30, 1938 (both dates inclusive), records for phonographs."

Chapter IX is amended as follows:

(1) Immediately after the quotation of section 609 of the Revenue Act of 1932 which precedes article 53, the following subtitle and quotation of section 701 (d) of the Revenue Act of 1938 are inserted:

SECTION 701 (D) OF THE REVENUE ACT OF 1938

(d) *Sporting goods.*—The tax imposed by section 609 of the Revenue Act of 1932 shall not apply to articles sold after June 30, 1938.

(2) Article 53 is amended by amending the first paragraph to read as follows:

"The tax is effective only with respect to the period from June 21, 1932, to June 30, 1938 (both dates inclusive), and is imposed upon the sale by the manufacturer of the articles enumerated in section 609 and all similar articles commonly or commercially known as sporting goods, games, and parts of games (except playing cards and children's toys and games)."

Chapter XI is amended as follows:

(1) Immediately after the quotation of section 611 of the Revenue Act of 1932 which precedes article 61, the following subtitle and quotation of section 701 (e) of the Revenue Act of 1938 are inserted:

SECTION 701 (E) OF THE REVENUE ACT OF 1938

(e) *Cameras.*—The tax imposed by section 611 of the Revenue Act of 1932 shall not apply to articles sold after June 30, 1938.

(2) Article 61 is amended by amending the first paragraph to read as follows:

"Section 611 imposes a tax on sales by the manufacturer of (a) cameras (except aerial cameras) weighing not more than 100 pounds and (b) lenses for such cameras. The tax is effective only with respect to the period from June 21, 1932, to June 30, 1938 (both dates inclusive)."

Chapter XIII is amended as follows:

(1) Immediately after the quotation of section 614 of the Revenue Act of 1932 which precedes article 65, the following subtitle and quotation of section 701 (f) of the Revenue Act of 1938 are inserted:

SECTION 701 (F) OF THE REVENUE ACT OF 1938

(f) *Chewing gum.*—The tax imposed by section 614 of the Revenue Act of 1932 shall not apply to articles sold after June 30, 1938.

(2) Article 65 is amended by amending the first paragraph to read as follows:

"The tax imposed by section 614 is effective only with respect to the period from June 21, 1932, to June 30, 1938 (both dates inclusive). The term 'chewing gum' includes any preparation of chicle, gum, resin, or other plastic insoluble substance, such as is usually sweetened, flavored, and intended for use as a masticatory. Preparations of this character covered or combined with other substances, such as candy, are taxable as chewing gum. The fact that a chewing gum may be advertised or held out as having medicinal or remedial properties will not relieve it from the tax."

Chapter XIV, as amended by Treasury Decision 4387, approved September 2, 1933, and Treasury Decision 4605, approved November 12, 1935, is further amended as follows:

(1) Article 71, as amended, is amended to read as follows:

"ART. 71. *Credits and refunds.*—A credit against tax due on the sale of any of the articles covered by these regulations, or a refund, may be allowed to a manufacturer in the amount of any tax which has been paid under Title IV of the Revenue Act of 1932, as amended, by any person with respect to the sale of any article (other than a tire or inner tube) purchased and used by such manufacturer as material in the manufacture or production, or as a component part, of any such articles with respect to which tax has been paid, or which has been sold free of tax in accordance with the provisions of article 7, as amended. A claim for refund must be supported by evidence showing (1) that name and address of the person who paid to the United States the tax of which refund is claimed, (2) the date of payment, (3) the amount of the tax, and (4) that the article was so used. A claim for credit must be supported by evidence of the same character. If it is impossible to furnish such evidence at the time when credit is taken, a statement to that effect must be submitted with the return on which the credit is taken, and the evidence supporting such credit filed with the collector within 30 days after the date on which the return is filed. If the required evidence is not so filed, the credit will be disallowed and assessment of the tax resulting from the disallowance made on the current assessment list.

"In the case of a readjustment of price by reason of the return or repossession of an article or a covering or container, or by a bona fide discount, rebate, or allowance, the manufacturer who paid the tax based upon the original price may file a claim for refund or take credit against the tax due upon any subsequent monthly return in the amount of that part of the tax proportionate to the part of the sale price which is refunded or credited to the purchaser. In no case shall such a refund or credit be allowed to the taxpayer in connection with an article or a covering or container sold prior to June 21, 1932. The refund or credit of the tax shall be allowed only if a sworn statement is furnished showing that the readjustment of price has actually been made. (See Art. 13.)

"If any person overpays the tax shown to be due on a monthly return, he may either file a claim for refund on Form 843 or take credit for the overpayment against the tax shown to be due on any subsequent monthly return. In all cases where a person overpays tax, no credit or refund shall be allowed (except as provided in the preceding paragraphs), whether in pursuance of a court decision or otherwise, unless the taxpayer files a sworn statement explaining satisfactorily the reason for claiming the credit or refund and establishing (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has either repaid the amount of tax to the ultimate purchaser of the article or has secured the written consent of such ultimate purchaser to the allowance of the credit or refund. In the latter case the written consent of the ultimate purchaser must accompany the sworn statement filed with the credit or refund claim. For the purpose of the tax the 'ultimate purchaser' is a person who purchases an article (1) for consumption, or (2) for use in the manufacture of other articles and not for resale in the form in which purchased. The statement supporting the credit or refund claim must also show whether any previous claim for credit or refund covering the amount involved, or any part thereof, has been filed with the collector or Commissioner.

"A complete and detailed record of each overpayment must be kept by the taxpayer for a period of at least four years from the date any credit is taken or refund is claimed.

"Where articles covered by these regulations are sold by the manufacturer tax paid to a dealer who resells and delivers such articles direct to a State or political subdivision thereof during the period from July 1, 1933, to September 30, 1935 (both dates inclusive), for use in the exercise of an essential governmental function, the manufacturer may be allowed a refund or may take credit in the amount of tax paid against the tax shown to be due upon any subsequent monthly return, provided the manufacturer has in his possession evidence establishing that (A) such article has during such period been delivered by the dealer *direct* to a State or political subdivision thereof for use in the exercise of an essential governmental function and (B) the manufacturer has repaid or agreed to repay the amount of such tax to the dealer or has obtained the consent of the dealer to the allowance of the credit or refund. The claim for refund or credit must be supported by an affidavit of the manufacturer showing (1) the name and address of each dealer; (2) the amount of tax allowable to each dealer; (3) the date the tax was paid to the United States in each case; and (4) whether the manufacturer has repaid or agreed to repay the amount of such tax to the dealer, or in the absence of such repayment or agreement, whether the dealer consents to the allowance of the refund to the manufacturer. The affidavit of the manufacturer must also show that he has in his possession, subject to examination by internal-revenue officers, a sworn statement from each dealer involved (or if the amount of the tax involved in any dealer's credit or refund is $10 or less, his statement may be signed or acknowledged before two witnesses instead of under oath) stating (a) whether the articles on which the tax was paid have been resold and delivered during the period from July 1, 1933, to September 30, 1935 (both dates inclusive), by him *direct* to a State or a political subdivision thereof for use in the exercise of an essential governmental function; (b) the State or political subdivision thereof to which such sales were made; (c) the nature of the governmental function, i. e., the kind of activities for which the articles were purchased; and (d) that the tax has been repaid to the dealer, or the manufacturer has agreed to repay the tax to the dealer, or in the absence of such repayment or agreement, that the dealer consents to the allowance of the credit or refund to the manufacturer.

"The credit or refund provisions of the preceding paragraph apply only where there is not more than one intermediate sale between the manufacturer liable for the tax and the State or political subdivision thereof. Where a taxable article is sold by a manufacturer to a distributor for resale to a dealer for resale by him during the period from July 1, 1933, to September 30, 1935 (both dates inclusive), to a State or political subdivision thereof, the credit or refund provisions provided above do not apply.

"A credit or refund of tax paid on any article which is sold during the period from July 1, 1933, to September 30, 1935 (both dates inclusive), for use on vessels of the types enumerated in article 76½ may not be allowed unless it is established that the article sold by the manufacturer was actually for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on such vessels.

"No credit or refund is allowable with respect to tax paid on articles sold by the manufacturer prior to July 1, 1938, for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on civil aircraft employed in foreign trade or trade between the United States and any of its possessions, even though such articles are used for such purposes on or after July 1, 1938. The provisions of section 705 of the Revenue Act of 1938 apply only to sales made by manufacturers *direct* to the owners or operators of aircraft, and no credit or refund is allowable, either under section 705 of the Revenue Act of 1938, or under section 621 (a) (3) (A) (ii) of the Revenue Act of 1932, as amended by section 401 of the Revenue Act of 1935, with respect to tax paid on articles sold by the manufacturer for resale for use on aircraft, regardless of the date the sale or resale occurred, and even though it is known at the time of the manufacturer's sale that the article will be so resold.

"In the case of a sale of a taxable article by a manufacturer to a dealer,

where title passes through one or more persons in a chain of sales from the manufacturer to a consumer, and such article is, on and after October 1, 1935, used, or resold for a purpose or use specified in section 621 (a) (3) (A)—the manufacturer who paid the tax to the United States may be allowed a refund, or may take credit against the tax shown to be due upon any subsequent monthly return, in the amount of tax paid by him with respect to the sale of such article, provided he can establish by satisfactory evidence (1) that such article has been used, or resold, for one of the uses specified in such section, (2) the name and address of the ultimate vendor, (3) the name and address of the consumer, and the use made or to be made of such article, (4) the date the tax on his sale of such article was paid to the United States, and (5) that he has repaid or agreed to repay the amount of such tax to the ultimate vendor, or has obtained the consent of the ultimate vendor to the allowance of the credit or refund.

"The evidence required in (1), (2), and (3) of the preceding paragraph may be established by the manufacturer securing from the ultimate vendor (a) the original exemption certificate obtained by such ultimate vendor from the consumer, or (b) a sworn statement by the ultimate vendor that he has obtained from the consumer and has in his possession such an exemption certificate. The consent of the ultimate vendor required by (5) of the preceding paragraph may be indorsed on the certificate or made a part of the sworn statement.

"Where a sworn statement is furnished by the ultimate vendor in lieu of the original exemption certificate, the ultimate vendor must incorporate therein a statement to the effect that the certificate and supporting data (1) are retained by him, (2) will be preserved for a period of four years, and (3) will, upon request, be forwarded to the manufacturer at any time within the period for use in establishing to the satisfaction of internal-revenue officers that a refund or credit is justly due.

"The exemption certificates required by this article shall be in a form substantially the same as those required in the case of sales by the manufacturers direct to users.

"Where tax-paid articles are used by a consumer on and after October 1, 1935, for one or more of the purposes specified above, the ultimate vendor may secure from such consumer, in lieu of the exemption certificate, a sworn statement containing full and complete information as to the date of purchase of the article, from whom purchased, the quantity and nature of the articles, the purpose for which used, the amount of tax involved, and that the consumer has not theretofore executed any other affidavit of use concerning such article. The sworn statement referred to may be furnished to the manufacturer by the ultimate vendor as evidence to support the manufacturer's claim for credit or refund, or the information appearing therein may be incorporated in the affidavit which the ultimate vendor files with the manufacturer who paid the tax to the Government on the sale of the articles.

"The affidavit of the ultimate vendor shall be in substantially the following form:

AFFIDAVIT OF ULTIMATE VENDOR

----------, being
(Name of individual)

duly sworn, deposes and says: that he is the ---------- of the ----------
(Title) (Name of company)

or is himself the ultimate vendor of the articles specified below or on the reverse side hereof;

That the articles specified below were purchased by him tax paid and resold for use by his vendee for the nontaxable purposes indicated and not for resale.

That he has in his possession, all of the exemption certificates, properly executed, required by the law and regulations, to cover the sale of the articles specified herein.

That the certificates and supporting data (1) are retained by him, (2) will be preserved for a period of four years, and (3) will, upon request, be forwarded to the manufacturer any time within the period for use in establishing to the satisfaction of internal-revenue officers that a refund or credit is justly due.

That he hereby consents to the allowance of a credit or refund to the ----------

----
(Name and address of manufacturer)

in the amount of the tax paid by such manufacturer with respect to the sale of such article and that he has not heretofore given his consent to the allowance of a credit or refund to any other manufacturer and has not made application for a refund or credit of such Federal tax from any other source.

The undersigned understands that the fraudulent use of this affidavit to secure credit or refund will subject him and all guilty parties to a fine of not more than $10,000, or to imprisonment for not more than 10 years, or both, under section 35 of the Criminal Code of the United States, as amended by Act of Congress approved June 18, 1934 (Public, No. 394, Seventy-third Congress).

(Name)

(Address)

Subscribed and sworn to before me this ---------- day of ----------, 19--.

Vendor's invoice	Articles	Date of resale	Quantity	Purpose or use	Tax claimed

Where the amount of tax involved in any transaction is $10 or less, any statement herein required may be signed before two witnesses instead of under oath.

(2) Immediately after the quotation of section 630 of the Revenue Act of 1932, as added by the Act of June 16, 1933 (48 Stat. 254), which precedes article 76½, as added by Treasury Decision 4387 and amended by Treasury Decision 4605, the following subtitle and quotation of section 705 of the Revenue Act of 1938 are inserted:

SECTION 705 OF THE REVENUE ACT OF 1938

(a) Section 630 of the Revenue Act of 1932, as amended, is amended by inserting at the end thereof the following: "The term 'vessels' as used in this section includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term 'vessels of war of the United States or of any foreign nation' includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof. The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions."

(b) The amendment made by subsection (a) shall be effective July 1, 1938.

(3) The seventh paragraph of article 76½, as amended, is amended to read as follows:

"The term 'vessel' includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water. Prior to July 1, 1938, it does not include any type of aircraft. On and after July 1, 1938, such term also includes (a) civil aircraft registered in the United States and employed in foreign trade or in trade between the United States and any of its possessions, and (b) civil aircraft registered in a foreign country and employed in foreign trade or in trade between the United States and any of its possessions."

(4) Immediately after the seventh paragraph of article 76½, as amended, the following new paragraph is inserted:

"The term 'vessels of war of the United States or of any foreign nation' includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water and constituting a part of the armed forces of the United States or of such foreign nation. For the period prior to July 1, 1938, it does not include any type of aircraft. On and after July 1, 1938, such term also includes aircraft owned by the United States or by any foreign nation constituting a part of the armed forces thereof."

(5) Immediately after the ninth paragraph of article 76½, as amended, the following new paragraph is inserted:

"The exemption with respect to civil aircraft is more limited than the exemption with respect to other vessels in that it extends only to civil aircraft employed exclusively in foreign trade, or in trade between the United States and any of its possessions. Moreover, although section 630 of the Revenue Act of 1932, as added by section 5 of the Act of June 16, 1933 (48 Stat. 254), exempts sales of articles for use as fuel supplies, etc., on watercraft engaged in trade between the Atlantic and the Pacific ports of the United States, the amendment provided in section 705 of the Revenue Act of 1938 does not exempt sales of articles for use as fuel supplies, etc., on civil aircraft engaged in trade between such ports. In the case of civil aircraft registered in a foreign country, the exemption is further limited in that the privilege of exemption may be granted only so long as the foreign country allows a substantially reciprocal exemption with respect to civil aircraft registered in the United States. If a foreign country discontinues the allowance of such substantially reciprocal exemption, the exemption allowed by the United States will not apply after the Secretary of the Treasury is notified by the Secretary of Commerce of the discontinuance of the exemption allowed by the foreign country."

(6) The following sentence is added at the end of the eleventh paragraph of article 76½, as amended:

"If articles are sold tax free for use on civil aircraft employed in foreign trade or in trade between the United States and any of its possessions, the exemption certificate must show the name of the country in which the aircraft is registered."

(7) The form of the exemption certificate set forth in the fourteenth paragraph of article 76½, as amended, is amended to read as follows:

EXEMPTION CERTIFICATE

(For use by purchasers of articles for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on certain vessels. Section 630 of the Revenue Act of 1932, as added by section 5 of the Act of June 16, 1933 (48 Stat. 254), and as amended by section 705 of the Revenue Act of 1938.)

----------, 193--.
(Date)

The undersigned purchaser hereby certifies that he is the----------
(Owner, officer, charterer, or an

----
authorized agent)

of ----------
(Name of company and vessel)

and that the article or articles specified in the accompanying order, or as specified below or on the reverse side hereof, will be used only for fuel supplies, ships' stores, sea stores, or legitimate equipment on a vessel belonging to one of the following classes enumerated in section 630 of the Revenue Act of 1932, as amended.

(Check class to which vessel belongs)

------(1) Vessels engaged in foreign trade.
------(2) Vessels engaged in trade between the Atlantic and Pacific ports of the United States.
------(3) Vessels engaged in trade between the United States and any of its possessions.
------(4) Vessels employed in the fisheries or whaling business.
------(5) Vessels of war of the United States or a foreign nation.

If the articles are purchased for use on civil aircraft engaged in trade as specified in (1) or (3) above, state the name of the country in which the aircraft is registered.

The undersigned understands that if the article is used for any purpose other than as stated in this certificate, or is resold or otherwise disposed of, he must report such fact to the manufacturer. It is understood that this certificate may not be used in purchasing articles tax free for use as fuel supplies, etc., on pleasure vessels, or on any type of aircraft except (a) civil aircraft employed exclusively in foreign trade or trade between the United States and any of its possessions, and otherwise entitled to exemption, and (b) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof. It is also understood that the fraudulent use of this certificate to secure exemption will subject the undersigned and all guilty parties to a penalty equivalent to the amount of tax due on the sale of the article and upon conviction to a fine of not more than $10,000, or to imprisonment for not more than five years, or both, together with costs of prosecution. The undersigned also understands that he must be prepared to establish by satisfactory evidence the purpose for which the article was used.

(Name)

(Address)

This Treasury decision shall be effective as of July 1, 1938.

This Treasury decision is issued under authority prescribed in section 628 of the Revenue Act of 1932.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 16, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2416; Filed, August 17, 1938; 3:08 p. m.]

TITLE 35—PARKS AND FORESTS

NATIONAL PARK SERVICE

ORDER DESIGNATING THE HOPEWELL VILLAGE NATIONAL HISTORIC SITE, PENNSYLVANIA

Whereas the Congress of the United States has declared it to be a national policy to preserve for the public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States, and

Whereas certain lands and structures in Hopewell Village, Pennsylvania, including the old furnace, mansion house, blacksmith shop, etc., by reason of their relationship to the colonial history of the United States, have been declared by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments to be a historic site of national significance, and

Whereas the United States has acquired the above-mentioned lands and structures:

Now, therefore, I, E. K. Burlew, Acting Secretary of the Interior, under and by virtue of the authority conferred upon the Secretary of the Interior by Section 2 of the Act of Congress approved August 21, 1935 (49 Stat. 666), do hereby designate the following-described lands, with the structures standing thereon, to be a national historic site, having the name "Hopewell Village National Historic Site":

TRACT NUMBER 1

Begin at a concrete monument with bronze cap located 20' west of the center of the present Birdsboro-Warwick highway and 400' north of the bridge over French Creek, thence run

S. 55°33'30" W., 289.32 feet
S. 80°44'30" W., 418.80 feet
S. 71°01'30" W., 304.45 feet

to the point of beginning of the Historical Boundary, said point being located N. 21°30' E., 190.0 feet from the center of the spillway of Hopewell Lake; thence

N. 27°31'24" W., 539.45 feet
N. 0°05'20" E., 515.02 feet
N. 78°07'30" E., 373.43 feet
N. 56°59'00" E., 291.88 feet
N. 64°58'00" E., 362.00 feet

to a point 15' east of the center line of the present Birdsboro-Warwick highway; thence following the said highway and keeping 15' from the center line,

N. 26°50'00" E., 129.00 feet
N. 35°01'40" E., 147.58 feet
N. 33°00'00" E., 223.00 feet
N. 27°20'00" E., 162.00 feet
N. 22°05'30" E., 162.21 feet
N. 7°00'00" E., 136.00 feet
N. 7°00'00" W., 130.00 feet
N. 24°20'00" W., 134.00 feet
N. 32°54'10" W., 231.23 feet
N. 19°20'00" W., 110.00 feet
N. 2°40'00" W., 260.00 feet
N. 6°40'00" W., 188.00 feet
N. 14°40'00" W., 108.50 feet

to a point 15' from the center line of the present Birdsboro-Warwick highway and in the western right-of-way line of the new highway now known as the By-Pass road, said right-of-way line being 25' from the center line of the road; thence with the said western right-of-way line the following courses and distances:

S. 39°50'00" E., 239.00 feet
S. 55°20'00" E., 287.00 feet
S. 62°24'00" E., 770.00 feet
S. 56°30'00" E., 352.00 feet
S. 49°00'00" E., 352.00 feet
S. 39°40'00" E., 352.00 feet
S. 26°44'23" E., 354.66 feet
S. 13°06'30" E., 295.22 feet

to a point in the western right-of-way line and about 50' north of the place where the eastern Head Race of Old Hopewell Furnace crosses this road; thence continuing with the western right-of-way line and crossing the Head Race.

S. 5°35'16" E., 99.40 feet
S. 0°20'10" W., 207.19 feet
S. 3°43'10" W., 455.92 feet
S. 10°30'30" W., 329.82 feet
S. 23°44'00" W., 318.95 feet
S. 34°02'15" W., 287.38 feet

S. 41°57'44" W., 412.26 feet
S. 49°34'20" W., 263.61 feet
S. 53°32'48" W., 233.46 feet
S. 45°33'18" W., 320.23 feet
S. 30°23'29" W., 254.22 feet
S. 17°41'00" W., 228.00 feet
S. 11°54'16" W., 431.11 feet

to a point in the western right-of-way line of the By-Pass Road and about 100' north of the junction with the present Birdsboro-Warwick highway; thence leaving the right-of-way line and crossing the Birdsboro-Warwick highway

S. 71°03'58" W., 158.68 feet
N. 8°33'12" W., 796.24 feet
N. 79°10'46" W., 689.03 feet
N.31°13'03" W., 582.35 feet to a point across the Joanna Road and 79' therefrom; thence
N. 6°58'19" W., 183.62 feet
N. 43°00'38" E., 106.26 feet
N. 21°32'26" W., 397.98 feet to the point of beginning; containing 204.938 acres and lying partly in Berks and partly in Chester Counties of Pennsylvania.

TRACT NUMBER 2

Beginning at a point in the eastern right-of-way line of the new Birdsboro-Warwick highway, said point being about 50' north of the place where the Race crosses this highway and 535' north of the point where the St. Peters road crosses the said highway, thence following the meanders of the Old Furnace Race, and keeping about 50' therefrom on the north side, the following courses and distances:

N. 68°24'00" E., 255.10 feet
S. 79°41'30" E., 245.57 feet
S. 88°17'30" E., 273.88 feet
N. 71°27'30" E., 210.49 feet
N. 43°20'30" E., 117.08 feet
N. 25°11'30" E., 111.16 feet
N. 15°00'30" E., 429.12 feet
S. 62°22'57" E., 438.46 feet
S. 60°56'00" E., 310.19 feet
S. 63°32'00" E., 126.25 feet
S. 77°00'30" E., 158.20 feet
S. 29°37'25" E., 145.00 feet
N. 80°48'00" E., 292.00 feet

to a point about 163' northeast of the junction of the Old Furnace Race with Baptismal Creek; thence crossing Baptismal Creek S. 17°01'00", 255.00' to a point on the south side of said Creek; thence S. 89°20'00" W., 208.64' to a point about 60' southeast of the Creek; thence crossing Baptismal Creek and following the meanders of the Old Furnace Race, keeping about 50' therefrom on the south side, the following courses and distances:

N. 60°22'03" W., 261.51 feet
N. 32°48'59" W., 137.77 feet
N. 79°55'24" W., 114.09 feet
N. 63°23'20" W., 135.27 feet
N. 58°56'15" W., 298.91 feet
N. 86°05'10" W., 196.05 feet
S. 47°51'15" W., 239.83 feet
S. 25°16'37" W., 132.41 feet
S. 42°32'42" W., 168.21 feet
S. 70°46'46" W., 251.24 feet
N. 88°40'09" W., 297.44 feet
N. 79°10'05" W., 233.85 feet
S. 68°24'00" W., 251.95 feet

to a point in the eastern right-of-way line of the new Birdsboro-Warwick highway, 25' from the center line of the highway and about 50' south of the Old Furnace Race; thence with the right-of-way line N. 5°51'01" W., 99.27' to the point of beginning; containing 8.758 acres and lying in Berks and Chester Counties, Pennsylvania, all bearings being true meridian, containing in all 213.696 acres.

The administration, protection, and development of this national historic site shall be exercised by the National Park Service in accordance with the provisions of the Act of August 21, 1935, supra.

Warning is expressly given to all unauthorized persons not to appropriate, injure, destroy, deface or remove any feature of this historic site.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of the Interior to be affixed, in the City of Washington, this 3rd day of August 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2417; Filed, August 18, 1938; 9:31 a. m.]

EXTENSION OF RULES AND REGULATIONS TO THE NATCHEZ TRACE PARKWAY

Pursuant to the authority granted to the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535), as amended, and by section 1 of the Act of May 18, 1938 (52 Stat. 407), the National Park Service Rules and Regulations approved June 18, 1936 (1 F. R. 672), are hereby extended and made applicable to the Natchez Trace Parkway, effective immediately.

Approved, August 6, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2421; Filed, August 18, 1938; 9:32 a. m.]

TITLE 43—PUBLIC LANDS

BUREAU OF RECLAMATION

KINGS RIVER PROJECT, CALIFORNIA

FIRST FORM RECLAMATION WITHDRAWAL

MAY 5, 1938.

THE SECRETARY OF THE INTERIOR.

SIR: It is recommended that the following described lands be withdrawn from public entry, under the first form of withdrawal, as provided in Section 3, Act of June 17, 1902 (32 Stat., 388):

KINGS RIVER PROJECT, CALIFORNIA

TEHIPITE RESERVOIR SITE

Mount Diablo Meridian, California

T. 12 S., R. 29 E.,
Sec. 1, SE¼NE¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 2, SE¼SW¼ and S½SE¼;
Sec. 11, NE¼, E½NW¼, SW¼, and W½SE¼;
Sec. 12, N½NW¼, and SW¼NW¼;
Sec. 14, NW¼NE¼, and N½NW¼;
T. 12 S., R. 30 E.,
Sec. 6, Lot 5.

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur:

M. L. WILSON,
Acting Secretary of Agriculture.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

E. K. BURLEW,
First Assistant Secretary.

MAY 16, 1938.

[F. R. Doc. 38-2418; Filed, August 18, 1938; 9:31 a. m.]

COLUMBIA BASIN PROJECT, WASHINGTON.

FIRST FORM RECLAMATION WITHDRAWAL

JUNE 7, 1938.

THE SECRETARY OF THE INTERIOR.

SIR: It is recommended that the following described lands be withdrawn from public entry, under the first form of withdrawal, as provided in Section 3, Act of June 17, 1902 (32 Stat., 388).

COLUMBIA BASIN PROJECT, WASHINGTON

WILLAMETTE MERIDIAN

T. 23 N., R. 16 E.,
Sec. 8, all;
Sec. 10, all;
T. 23 N., R. 17 E.,
Sec. 8, all;
Sec. 16, NW¼;
Sec. 18, all;
Sec. 20, all;

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur:

M. L. WILSON,
Acting Secretary of Agriculture.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary.

JULY 22, 1938.

[F. R. Doc. 38-2419; Filed, August 18, 1938; 9:31 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

OREGON

AUGUST 17, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Oregon State Farm Security Advisory Committee, the counties listed below are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Jackson and Lane.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2431, Filed, August 18, 1938; 12:18 p. m.]

[1] 3 F. R. 109 DI.

No. 162——3

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3230]

IN THE MATTER OF LOUIS GOLDBERG, MORRIS ZIPPER AND HARRY FAERMAN, TRADING AS DIAMOND CAP COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John W. Addison, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, August 22, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 108, New Customs House, Second and Chestnut Streets, Philadelphia, Pennsylvania.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2414; Filed, August 17, 1938; 1:39 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of August 1938.

[File No. 1-551]

IN THE MATTER OF APPLICATION BY THE NEW YORK STOCK EXCHANGE CONCERNING COMMON STOCK, NO PAR VALUE, OF ADVANCE-RUMELY CORPORATION

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, No Par Value, of Advance-Rumely Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, September 20, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2434; Filed, August 18, 1938; 12:51 p. m.]

Reference

AUG 20 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 163

Washington, Saturday, August 20, 1938

Rules, Regulations, Orders

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-6]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 18, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[1] are hereby amended by the following regulations:

SOUTHEASTERN ALASKA AREA

Eastern District

Salmon fishery.—Regulation No. 7[2] is amended so as to permit commercial fishing for salmon north of 57 degrees north latitude until 6 o'clock postmeridian August 20.

Southern District

Salmon fishery.—Regulations No. 6[3] and No. 7 are amended so as to permit commercial fishing for salmon until 6 o'clock postmeridian August 20.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2437; Filed, August 19, 1938; 9:19 a. m.]

[1] 3 F. R. 451, 512, 1019, 1382, 1940, 2018 DI.
[2] 3 F. R. 458 DI.
[3] 3 F. R. 456 DI.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4854]

DRAWBACK OF DISTILLED SPIRITS BOTTLED ESPECIALLY FOR EXPORT

To District Supervisors, and Others Concerned:

Pursuant to Section 5 (a) of the Customs Administrative Act of 1938, amending Section 309 of the Tariff Act of 1930 (U. S. C., 1934 ed., title 19, sec. 1309), Paragraphs 1 (b), 29 (b), 36, 41, 43 (b), 46 (b), 50, and 52 (b) of Treasury Decision 4758[1] are hereby amended to read as follows:

PAR. 1. (b) The law provides that articles of domestic manufacture or production laden as supplies upon the following vessels or aircraft shall be considered to be exported within the meaning of the drawback provisions of the Tariff Act of 1930, but no such articles shall be landed at any port or place in the United States or in any of its possessions: vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports; vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions; aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions; and aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign aircraft is permitted, and where the Secretary of the Treasury shall have

[1] 2 F. R. 1818 (2129 DI).

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 20—FISH AND GAME:
Bureau of Fisheries: Page
Alaska fishery regulations amended ---------- 2043
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Drawback of distilled spirits bottled especially for export ---------- 2043

NOTICES

Department of the Interior:
Division of Territories and Island Possessions:
Alaska Railroad:
Local Passenger Tariff No. 174-C ---------- 2044
Supplement 1 to Local Passenger Tariff No. 173-C ---------- 2045
Department of Agriculture:
Agricultural Adjustment Administration:
Fresh pears grown in Oregon, Washington and California, hearing on handling of certain varieties ---------- 2045
Bureau of Entomology and Plant Quarantine:
White-fringed beetle quarantine hearing (Alabama, Florida, Louisiana, Mississippi) ---------- 2045
Securities and Exchange Commission:
Market Street Railway Co., 6% cumulative prior preference stock, rehearing ---------- 2046
Utilities Elkhorn Coal Co. (Protective Committee for holders of 6% 1st mortgage gold bonds), effectiveness of declaration ---------- 2046

FEDERAL REGISTER

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been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States.

PAR. 29. (b) If the spirits on which drawback is claimed are for use as ship's supplies or as supplies for aircraft, notation to that effect will be made by the claimant in Part 2 of Form 1582. The exporter's affidavit in Form 1582 will also be modified by striking out the words "exported to the port" and substituting therefor the words "laden for use as ship's supplies on the vessel" or "laden for use as supplies on the aircraft," as the case may be.

PAR. 36. The exporter shall, either before or at the time of the execution of his first entry for drawback on Form 1582, file with the District Supervisor a drawback bond on Form 1581, in triplicate, to insure the bona fide exportation of spirits on which drawback is claimed, and the procurement and submission of the required evidence of the landing of such spirits at the designated foreign port, or the use thereof as supplies on vessels or aircraft in accordance with Paragraph 1 (b), or the loss of such spirits after shipment outside the jurisdiction of the United States, without fault or negligence on the part of the exporter. The bond must be furnished with acceptable corporate surety or individual sureties, or secured by the deposit of proper collateral.

PAR. 41. The District Supervisor will keep an account with each drawback bond, in which the principal will be charged with the full amount for which each drawback claim is approved and will be given credit for the amount of drawback represented by the distilled spirits concerning which satisfactory evidence of foreign landing, or of use as supplies on vessels or aircraft as required in Paragraph 52 (b), or of loss outside the jurisdiction of the United States without negligence on the part of the exporter, as hereinafter provided, has been received.

PAR. 43. (b) If the spirits on which drawback is claimed are for use as ship's supplies or supplies for aircraft, a receipt covering the spirits showing marks, numbers, and quantity, signed by the master, or an authorized officer of the vessel or steamship company, in the case of ship's supplies, or by an authorized officer of the aircraft or air line company, in the case of supplies for aircraft, will be filed in lieu of an export bill of lading.

PAR. 46. (b) If the spirits are for use as ship's supplies or supplies for aircraft, the inspector of customs will also so note that fact on Part 6 of Form 1582.

PAR. 50. Where the spirits were not inspected by a customs officer at the port of export, and loaded on the exporting vessel, aircraft, railroad car, motor truck, or other conveyance under his supervision, the claim for drawback may, nevertheless, be allowed provided that the law and regulations were complied with in other respects and the exportation without customs inspection and supervision of lading was not the fault of the exporter or carrier or the agent of either.

PAR. 52. (b) If the spirits were laden on board a vessel or aircraft for use as ship's supplies or supplies for aircraft, there must be submitted to the District Supervisor with whom the claim is filed, an affidavit of the master or other officer of the vessel or aircraft on which the articles were laden, having knowledge of the facts, showing that the spirits have been used on board the vessel or aircraft and that no portion thereof has been landed in the United States or any of its possessions. In the case of vessels of war, such affidavit will not be required.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 17, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2436; Filed, August 18, 1938; 3:52 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[I. C. C. No. 245—Cancels I. C. C. No. 220]

THE ALASKA RAILROAD

LOCAL PASSENGER TARIFF NO. 174–C [1]

Naming Round Trip Excursion Fares Between Stations on The Alaska Railroad in Alaska as shown herein

Issued under authority of Rule 52 Interstate Commerce Commission Tariff Circular No. 18–A. Issued, August 1, 1938. Effective August 10, 1938. Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

General Rules and Regulations

1. *Stations from and to which this tariff applies.*—Between stations on rail line of The Alaska Railroad.

2. *Dates of sale and limits.*—Tickets will be sold daily. Going trip must commence on date of sale stamped on back of ticket. The round trip must be completed to original starting point prior to midnight of date of expiration of ticket. Final return limits of tickets sold under this tariff are as follows:

Stations from which rates apply	*Final return limit in addition to date of sale*
All Stations --------	R seven (7) days

3. *Stopovers.*—Stopovers will be allowed within limit of tickets at any point enroute in either direction. Stopovers will not extend final return limit of tickets.

4. *Tickets.*—Form L–2 Round Trip Card Tickets; Form L–14 Round Trip Excursion Tickets; Form L–19 Conductors Round Trip Tickets.

5. *Round trip fares for children.*—Fares for children five (5) years of age and under twelve (12) years of age will be one-half the adult fares, adding sufficient when necessary to make fare end in naught (0) or five (5). Children under five (5) years of age when accompanied by parent or guardian, will be carried free. Tickets issued for children should be reduced to one-half (1/2) by punch or endorsement.

6. *Baggage.*—For baggage rules, including free allowance, excess baggage charges, etc., see Local Baggage Tariff No. 2, I. C. C. No. 22 (Alaska Engineering Commission Series), supplements thereto or new issues thereof. Excess baggage charges will be made on the basis of the one-way fares shown in Local Passenger Tariff No. 42–B, I. C. C. No. 177, supplements thereto or new issues thereof.

[1] Cancels Local Passenger Tariff No. 174–B. No supplement will be issued to this tariff except for the purpose of canceling the tariff.

7. *Routes.*—Fares will apply via route of one-way fare over which round trip fare is based.

8. *Tickets nontransferable.*—Tickets issued under this tariff will be nontransferable. Purchaser will sign in ink on back of return portion of ticket.

9. *Round trip excursion fares.*—One and one-third times the one way first class fare from starting point to destination, between stations on rail line of The Alaska Railroad, adding sufficient when necessary to make round trip fare end in naught (0) or five (5). Minimum round trip fare for adults fifty cents.[1]

10. *Tariff to be used in determining fares.*—For one way fares to be used in the construction of round trip fares use Local Passenger Tariff No. 42–B, I. C. C. No. 177, supplements thereto or reissues thereof.

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38–2438; Filed, August 19, 1938; 9:46 a. m.]

[Supplement No. 1 to I. C. C. No. 221]

THE ALASKA RAILROAD

SUPPLEMENT NO. 1 TO LOCAL PASSENGER TARIFF NO. 173–C [1]

Naming Round Trip Excursion Fares Between Stations on The Alaska Railroad in Alaska as Shown Herein

Cancellation Notice

Local Passenger Tariff No. 173–C, I. C. C. No. 221 is hereby cancelled. After date of cancellation the fares named in Local Passenger Tariff No. 174–C, I. C. C. No. 245, and successive issues thereof will apply. Issued, August 1, 1938. Effective, August 10, 1938. Authority: Act, March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38–2439; Filed, August 19, 1938; 9:46 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A–79 O–79]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING IN INTERSTATE AND FOREIGN COMMERCE AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE AND FOREIGN COMMERCE OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE AND BEURRE HARDY VARIETIES OF FRESH PEARS GROWN IN OREGON, WASHINGTON AND CALIFORNIA

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended,[1] of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice and Beurre Hardy varieties of fresh pears grown in the States of Oregon, Washington and California;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on the aforesaid proposed marketing agreement and the aforesaid proposed order regulating such handling of pears in Room A, Civic Auditorium, San Jose, California, on August 26, 1938, at 9:30 a. m.; in the American Legion Hall, Placerville, California, on August 27, 1938, at 9:30 a. m.; in the Auditorium, Jackson County Court House, Medford, Oregon, on August 29, 1938, at 9:30 a. m.; in the Pythian Hall, Hood River, Oregon, on August 31, 1938, at 9:30 a. m.; in the Auditorium, Chamber of Commerce Building, Yakima, Washington, on September 1, 1938, at 9:30 a. m.; and in the Auditorium, Chamber of Commerce Building, Wenatchee, Washington, on September 2, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice and Beurre Hardy varieties of fresh pears grown in the States of Oregon, Washington and California. Among other things, the proposed marketing agreement and proposed order provide for: (a) the establishment of a Control Committee, (b) regulation of shipment by grade and size, (c) expenses of administration, and other matters relating to the handling of such pears.

It is hereby declared that an emergency exists in the handling of such pears in the aforesaid area which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement and the proposed order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated August 19, 1938.

[F. R. Doc. 38–2440; Filed August 19, 1938; 12:43 p. m.]

Bureau of Entomology and Plant Quarantine.

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADVISABILITY OF QUARANTINING THE STATES OF ALABAMA, FLORIDA, LOUISIANA, AND MISSISSIPPI ON ACCOUNT OF THE WHITE-FRINGED BEETLE

The Secretary of Agriculture has information that the white-fringed beetle, *Naupactus leucoloma* Boh., an insect pest dangerous to agriculture, and not heretofore widely prevalent or distributed within and throughout the United States, exists in the States of Alabama, Florida, Louisiana, and Mississippi, and that a closely related species of *Naupactus* exists in the State of Mississippi.

It appears necessary, therefore, to consider the advisability of quarantining the States of Alabama, Florida, Louisiana, and Mississippi, and of restricting or prohibiting the movement from these States, or regulated portions thereof, of the following articles:

(1) Soil as such or in connection with nursery stock, plants, or other products, articles, or things; and (2) farm products and such other articles as may be deemed necessary to prevent the dissemination of these insects in any stage of development.

Notice is, therefore, hereby given that, in accordance with the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the Act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), a public hearing will be held before the Bureau of Entomology and Plant Quarantine in Court Room No. 206 of the Post Office, New Orleans, La., at 10 A. M. September 15, 1938, in order that any persons interested in the pro-

[1] Reduction.
[1] 1 F. R. 685.

[1] 1 F. R. 155.

Reference

posed quarantine may appear and be heard, either in person or by attorney.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2435; Filed, August 18, 1938; 2:07 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of August, A. D. 1938.

[File No. 34-13]

IN THE MATTER OF JOHN A. DAWSON, CLAYTON J. HOWEL, AND GEORGE F. MANZELMAN, ACTING AS PROTECTIVE COMMITTEE FOR THE HOLDERS OF 6% FIRST MORTGAGE GOLD BONDS OF UTILITIES ELKHORN COAL COMPANY

ORDER CONCERNING EFFECTIVENESS OF DECLARATION

A declaration having been filed with the Commission by John A. Dawson, Clayton J. Howel and George F. Manzelman, under Rule 12E-3 (e), issued pursuant to Sections 12 (e) and 11 (g) of the Public Utility Holding Company Act of 1935, for permission to solicit the deposit of Utilities Elkhorn Coal Company 6% Twenty Year First Mortgage Sinking Fund Gold Bonds, and to solicit authority to act as a Protective Committee in connection with the reorganization of Utilities Elkhorn Coal Company;

A public hearing having been held on this declaration after appropriate public notice; [1] the Commission having considered the record in this matter and having made and filed its opinion and findings herein;

It is ordered, that this declaration shall not become effective.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2442; Filed, August 19, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 18th day of August 1938.

[File No. 7-235]

IN THE MATTER OF APPLICATION BY THE SAN FRANCISCO STOCK EXCHANGE RELATIVE TO 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE, OF MARKET STREET RAILWAY COMPANY

ORDER SETTING DATE FOR REHEARING

The San Francisco Stock Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule JF1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the 6% Cumulative Prior Preference Stock, $100 Par Value, of Market Street Railway Company; and

[1] 3 F. R. 670 DI.

A hearing having been held after appropriate notice,[1] and the Commission having denied such application on August 11, 1938,[2] and the San Francisco Stock Exchange having thereafter made application to the Commission for a rehearing; and

The Commission deeming it necessary in the public interest and for the protection of investors that a rehearing be held in connection with this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for rehearing at 10 A. M. on Wednesday, September 7, 1938, in Room 1301, Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Howard A. Judy, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2441; Filed August 19, 1938; 12:45 p. m.]

[1] 3 F. R. 1108 DI.
[2] 3 F. R. 1993 DI.

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 164

Washington, Tuesday, August 23, 1938

The President

EXECUTIVE ORDER

ESTABLISHING WEST SISTER ISLAND MIGRATORY BIRD REFUGE

OHIO

[*Corrected Print*]

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all that part of West Sister Island, in Lake Erie, Lucas County, Ohio, lying east of a line bearing north and south through a point which is east 200 feet distant from the center of the West Sister Island Lighthouse tower (the geographic position of which lighthouse is latitude 40°44'13" N., and longitude 88°06'38" W. from Greenwich), and containing 82.00 acres, more or less, be, and it is hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, That nothing herein contained shall restrict the Bureau of Lighthouses from the right of ingress and egress over all parts of the island, together with the right to use any landing wharf for the purpose of tending and maintaining aids to navigation.

The Executive order of February 16, 1838, reserving West Sister Island for lighthouse purposes, is hereby revoked in so far as it effects the lands reserved by this order.

This reservation shall be known as the West Sister Island Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938

[No. 7937]

[F. R. Doc. 38-2293; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

AUTHORIZING THE EMPLOYMENT UNTIL FEBRUARY 1, 1939 OF PERSONNEL WITH FUNDS ALLOTTED UNDER THE PUBLIC WORKS ADMINISTRATION APPROPRIATION ACT OF 1938 WITHOUT COMPLIANCE WITH THE REQUIREMENTS OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Eighth of subdivision SECOND of section 2 of the Civil Service Act of January 16, 1883 (22 Stat. 403, 404), and as President of the United States, it is hereby ordered that until February 1, 1939 (the effective date of Executive Order No. 7916 [1] extending the classified civil service), appointments to all positions in the several departments, independent establishments, and agencies of the Government, the compensation of which is paid from funds allotted by the Federal Emergency Administrator of Public Works under the Public Works Administration Appropriation Act of 1938 (Title II of the act of June 21, 1938, Pub. Res. 122), or from prior appropriations still available for similar allotments, may be made by the said departments, independent establishments, and agencies of the Government without compliance with the requirements of the Civil Service Rules.

This order is issued at the request of the Federal Emergency Administrator of Public Works.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 19, 1938.

[No. 7956]

[F. R. Doc. 38-2465; Filed, August 22, 1938; 9:57 a. m.]

EXECUTIVE ORDER

ESTABLISHING CAPE MEARES MIGRATORY BIRD REFUGE

OREGON

By virtue of and pursuant to the authority vested in me as President of the

[1] 3 F. R. 1526 DI.

CONTENTS

THE PRESIDENT

Executive Orders: Page
Cape Meares Migratory Bird Refuge, Oreg., establishment 2047
Public Works Administration Appropriation Act of 1938, employment until February 1, 1939 of personnel allotted under 2047
West Sister Island Migratory Bird Refuge, Ohio, establishment (corrected print) 2047

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Entomology and Plant Quarantine:
Fumigation of tomatoes by methyl bromide 2048
TITLE 11—AVIATION:
Civil Aeronautics Authority:
Air carriers and foreign air carriers (effective date of Sections 403 and 412 of Civil Aeronautics Act) 2049
Air Mail Act of 1934, as amended, postponing repeal of certain provisions of 2056
Airmen, specified classes of; exemption of certain foreign aircraft and airmen 2056
Certificates of convenience and necessity, applications for 2049
Civil Air Regulations of May 31, 1938, adopted with certain alterations or amendments 2051
TITLE 15—COMMERCE:
National Bituminous Coal Commission:
District No. 13, minimum prices in certain counties of Tennessee 2058
Minimum Price Areas 2, 3, 4, and 5:
Minimum prices for coal produced in districts within 2057

(Continued on next page)

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CONTENTS—Continued

	Page
Rules and regulations incidental to sale, etc., of coal	2058
Weighted average of total costs of tonnage produced within	2061
Rules of Practice, Section 466.071 (exemptions) amended	2059
TITLE 16—COMPETITIVE PRACTICES:	
Federal Trade Commission:	
Cease and desist orders:	
Cooperative Library Co	2062
Jacobson, Irving Roy, et al	2061
TITLE 19—CUSTOMS DUTIES:	
Bureau of Customs:	
Seeds, imported, kinds and proportions to be colored	2063
Wool hooked rugs, protest overruled on classification of and rate of duty imposed on	2063
TITLE 20—FISH AND GAME:	
Bureau of Fisheries:	
Alaska fishery regulations amended	2063
TITLE 21—FOOD AND DRUGS:	
Food and Drug Administration:	
Federal Food, Drug, and Cosmetic Act, regulations under Section 801	2064
TITLE 26—INTERNAL REVENUE:	
Bureau of Internal Revenue:	
Closing agreements as to future tax liability	2064
TITLE 31—MONEY AND FINANCE: TREASURY:	
Office of the Secretary:	
Official information, disclosure of	2065

CONTENTS—Continued

	Page
TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION:	
Civilian Conservation Corps:	
Enrollees, eligibility for selection and reselection	2065
TITLE 43—PUBLIC LANDS:	
General Land Office:	
Alaska, free use of timber upon public lands by churches, hospitals, etc	2066
NOTICES	
Civil Aeronautics Authority:	
Exemptions under Civil Aeronautics Act of certain services of:	
Pennsylvania-Central Airlines Corp	2066
United Air Lines Transport Corp	2067
Western Air Express Corp	2068
Rural Electrification Administration:	
Allocation of funds for loans	2069
Securities and Exchange Commission:	
Consolidated Textile Corp., capital stock, listing and registration	2069
Page Power Co., issue and sale of securities exempted	2070
Utilities Elkhorn Coal Co. Bondholders Committee (Henry A. Gardner, et al.), hearing	2070

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q. 480]

FUMIGATION OF TOMATOES BY METHYL BROMIDE AS A CONDITION OF CERTIFICATION OF TOMATOES MOVING BY REFRIGERATOR CAR FROM THE AREA LISTED IN REGULATION 5 OF QUARANTINE No. 48

ADMINISTRATIVE INSTRUCTIONS

[Approved August 18, 1938; effective August 22, 1938]

Regulation 5, Sec. B, paragraph (2) of the Japanese beetle quarantine (No. 48)[1] authorizes the issuance of certificates for the interstate movement of fruits and vegetables via refrigerator car from the area listed in that regulation to points outside the regulated areas between June 15 and October 15 when they have been handled or treated under the supervision of an inspector in manner and by method to free them from any infestation.

TREATMENT AUTHORIZED

The treatment described herein has been found to be effective against the Japanese beetle and such treatment is authorized as a basis for certification of tomatoes moving to points outside the regulated areas between June 15 and October 15 via refrigerator car when such treatment is carried out under the supervision of an inspector and in a manner satisfactory to him.

TREATMENT METHOD

Fumigation of tomatoes in dry refrigerator cars with methyl bromide at a dosage of 2 pounds per 1,000 cubic feet of space, including the space occupied by the tomatoes and bunkers of the cars, for a period of 2 hours, during which time the car shall remain tightly closed with the plugs in place in the ventilator hatches. The temperature within the car when fumigated shall be not less than 70° F. Provision shall be made for circulating the mixture of air and fumigant in the car for as long a time as is deemed necessary by the inspector. At the end of the fumigation period the hatches shall be opened, the plugs removed, screens placed in the hatch openings, and the car shipped under standard ventilation.

In authorizing the movement of tomatoes fumigated according to the requirements stated above, it is to be understood that no liability shall attach either to the United States Department of Agriculture or to any of its employees in the event of injury.

Caution.—Methyl bromide is a gas at ordinary temperatures. It is colorless and practically odorless in concentration used for the fumigation of tomatoes. It is a poison, and the operator should use an approved gas mask when exposed to the gas at concentrations used in fumigation, and when opening the hatches for ventilating the cars. The car should not be entered until it is well aerated.

[SEAL] AVERY S. HOYT,
Acting Chief, Bureau of Entomology and Plant Quarantine.

[F. R. Doc. 38-2474; Filed, August 22, 1938; 12:24 p. m.]

[1] 3 F. R. 846 DI.

United States, and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described lands, comprising 138.51 acres, more or less, in Tillamook County, Oregon, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

WILLAMETTE MERIDIAN

T. 1 S., R. 10 W.,
sec. 18, lots 1 and 2;
T. 1 S., R. 11 W.,
sec. 12, lot 1;
sec. 13, lots 1 and 4.

The above-described lands having been declared by the Department of Commerce to be surplus to its needs, the Executive Order of May 28, 1889, reserving certain public lands as the Cape Meares Lighthouse Reservation, is hereby revoked in so far as it affects the said above-described lands.

This reservation shall be known as the Cape Meares Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 19, 1938.

[No. 7957]

[F. R. Doc. 38-2466; Filed, August 22, 1938; 9:57 a. m.]

TITLE 11—AVIATION

CIVIL AERONAUTICS AUTHORITY

[General Orders 403-1 and 412-1]

POSTPONING THE EFFECTIVE DATE OF SECTIONS 403 AND 412 OF THE CIVIL AERONAUTICS ACT OF 1938 AS TO CERTAIN CLASSES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 17th day of August 1938.

Section 403 of the Civil Aeronautics Act of 1938, requires, among other things, that every air carrier and every foreign air carrier shall file tariffs with the Authority showing all rates, fares and charges for air transportation. Section 412 of said Act provides that every air carrier shall file with the Authority a copy or a memorandum of specified types of contracts affecting air transportation which are in force on the effective date of that section. Section 1110 of said Act authorizes the Authority to postpone the effective date of the provisions of the aforesaid sections if it finds such action to be necessary or desirable in the public interest.

Responsible representatives of the aeronautics industry have stated to the Authority that it is desirable that the effective date of section 403 shall be postponed in order to allow further time for an interchange of views between the representatives of the Authority and the industry with respect to the nature of the regulations to be adopted by the Authority relating to the manner in which tariffs shall be prepared and filed, and to permit the completion by the air carriers of tariff schedules which will comply with such regulations. The air carriers have also stated that they may have a large number of agreements which should be filed on the effective date of section 412 and that it will greatly assist them in the performance of that obligation if the effective date of said action is postponed.

The Civil Aeronautics Authority, having duly considered such representations, and being of the opinion that no interest of the public will be adversely affected by the postponement of the provisions of the Act which is to be effected by this order, and finding that its action in such respect is desirable in the public interest, and acting pursuant to the authority vested in it by Section 1110 of the Civil Aeronautics Act of 1938 (52 Stat. 973, 1030) hereby makes and promulgates the following general orders, applicable to the respective classes of air carriers therein described, as follows:

GENERAL ORDER 403-1.—POSTPONEMENT OF EFFECTIVE DATE OF SECTION 403

As to all air carriers and all foreign air carriers, of every class and description, the effective date of all the provisions of section 403 of the Civil Aeronautics Act of 1938 is hereby postponed to the extent that such provisions shall not be effective as to such air carriers until 12:01 A. M. on October 3, 1938.

As to all classes of air carriers and all foreign air carriers, except those hereinafter in this paragraph more fully described, the aforesaid section is further postponed to and including the 180th day after June 23, 1938. The classes of carriers as to which such further postponement is not applicable are as follows:

(a) any air carrier, or foreign air carrier, who on or after August 22, 1938, shall maintain one or more regular schedules of operation; and

(b) any air carrier, or foreign air carrier, not directly engaged in air transportation.

GENERAL ORDER 412-1.—POSTPONEMENT OF EFFECTIVE DATE OF SECTION 412

As to all air carriers, and all foreign air carriers, of every class and description, the effective date of all the provisions of section 412 of the Civil Aeronautics Act of 1938 is hereby postponed to the extent that such provisions shall not be effective as to such air carriers until 12:01 A. M. on October 3, 1938.

As to all classes of air carriers and foreign air carriers, except those hereinafter in this paragraph more fully described, the aforesaid section is further postponed to and including the 180th day after June 23, 1938. The classes of carriers as to which such further postponement is not applicable are as follows:

(a) any air carrier, or foreign air carrier, who on or after August 22, 1938 shall maintain one or more regular schedules of operation; and

(b) any air carrier, or foreign air carrier, not directly engaged in air transportation.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2451; Filed, August 20, 1938; 2:59 p. m.]

[Regulation 401-B-1]

APPLICATIONS FOR CERTIFICATES OF CONVENIENCE AND NECESSITY

At a session of the Civil Aeronautics Authority held in the city of Washington, D. C., on the 20th day of August 1938.

Having duly considered the appropriate provisions for regulations, with respect to the form and contents of applications for certificates of convenience and necessity that may be made to it pursuant to the provisions of section 401 of the Civil Aeronautics Act of 1938, and having found that the regulations hereinafter set forth are consistent with the provisions of said Act and necessary and appropriate to carry out the provisions thereof, the Civil Aeronautics Authority, exercising the powers and duties vested in it by sub-section (b) of section 401 and section 205 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 987 and 984), hereby makes and promulgates the following regulation:

REGULATION 401-B-1, APPLICATIONS FOR CERTIFICATES OF CONVENIENCE AND NECESSITY

(a) *Number of copies.*—Three copies of each application for a certificate pursuant to section 401 of the Act shall be filed with the Authority: *Provided, however,* That if such application asks a certificate authorizing an air carrier to engage in overseas or foreign transportation or air transportation between places in the same territory or possession, six copies shall be filed. Only one of such copies need be actually executed on behalf of the applicant. The names and titles of all signing officers shall be clearly typed or printed beneath their signatures. All unexecuted copies filed with the Authority shall contain typed, printed or facsimile signatures. Each copy must be clear and legible in all respects.

(b) *Verification.*—The signed copy of each application shall be verified by the applicant. If the applicant is a partnership, such verification shall be made by two or more of the partners. If it is a corporation, business trust or other similar organization, the application shall be verified by three of its officers who shall be respectively the chief executive, the chief financial and the chief operating officer. In the event of the unavailability of any such officer, the acting officer charged with responsibility for his duties, may execute such verification in his stead. Every such verification shall set forth that the persons verifying the same have read and are familiar with the contents of the application and the attached exhibits; that they intend and desire that in granting or denying the rights and privileges applied for, the Authority shall place full and complete reliance on the accuracy of each and every statement therein contained; that they are familiar with the facts therein set forth; that to the best of their information and belief, every statement contained in the application is true and no such statement is misleading; and that, in their opinion, the application does not omit to state any facts known to them which would be deemed by the Authority to be of importance to it in reaching its determinations in connection therewith.

Every such verification shall be subscribed and sworn to before a Notary Public or other officer authorized to administer oaths in the jurisdiction in which such application is executed.

(c) *Amendments to application.*—If, after receipt of any application, the Authority shall request the applicant to supply it with additional information, such information shall be furnished in the form of an amendment to the original application. Each such amendment shall be consecutively numbered and shall comply with the requirements of this regulation as to form, number of copies, manner of execution, verification, and in all other essential respects.

(d) *Formal requirements.*—Every application for a certificate shall be made on paper approximately 8½" x 13" in size except that exhibits or other documents attached thereto may be folded to those dimensions. Every such application shall be typewritten, printed or reproduced by some other process which will produce a clear and durable result on firm, tough paper. A margin of at least one inch in width shall be left on the left hand side of all pages and all applications must be bound on that side. All pages of an application shall be consecutively numbered and the application shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(e) *Time of filing.*—An application shall be deemed to have been filed only when it is actually received by the Civil Aeronautics Authority at its office in Washington, D. C.

(f) *Temporary certificates.*—An applicant who desires a certificate to engage in temporary air transportation may omit any information otherwise required, if he deems that such information is not necessary in order to enable the Authority to pass upon the merits of such a temporary operation. In this, as in all other cases, the Authority reserves the right to call upon the applicant to furnish it with additional information by suitable amendment.

(g) *Applications for non-scheduled operations.*—All applications for certificates for non-scheduled operations shall conform to all general provisions of this regulation, but the applicant may omit any of the information required by paragraphs (j), (k), or (l) which it considers to be inappropriate or unnecessary to an application for the particular type of service covered by such application.

(h) *Separate applications for "Grandfather" certificates.*—Applications for certificates under the "grandfather" clause (section 401 (e) (1)) shall not include applications for any extensions of the routes covered thereby or for any new or additional routes other than those concerning which the applicant claims the right to a certificate pursuant to the provisions of that sub-section. In general it is desirable that a single carrier shall file only one application under the "grandfather" clause and that such application shall cover all the routes claimed by that carrier pursuant to the provisions of that clause. Under special circumstances separate applications may be desirable. Thus in some instances it may clarify the applicant's situation to separate an application for routes including mail service from an application covering solely passenger or property service.

(h) (1) *Incorporation by reference.*—In general it is desirable that incorporation by reference shall be avoided. However, where two or more applications are filed by a single carrier, lengthy exhibits or other documents attached to one may be "incorporated" in the others "by reference" if that procedure will substantially reduce the cost to the applicant. Any such "incorporation" shall specify with exactness the item or exhibit incorporated and the precise place where the same may be found.

(i) *Cover page.*—A space of approximately 2½" by 4" shall be left blank on the upper right hand corner of the cover page of each application. This space will be used by the Authority for filing purposes. The cover page of each application shall give the name of the applicant, the sub-section of section 401 under which the application is made, and shall show whether the application is for a temporary or permanent certificate. The cover page shall also indicate briefly the routes covered by such application, the services (mail, passengers and property) to be rendered on the respective routes, and whether such operations are to be scheduled or non-scheduled. At the bottom of the cover page shall be given the name, title, and address of the person to whom communications from the Authority with respect to the application are to be sent.

(j) *General provisions concerning contents.*—The statements contained in an application shall be restricted to significant and relevant facts. They shall be free from argumentation or from expressions of opinion, except such as may be required by this regulation. Opportunity for argument will be given in the subsequent proceedings.

Each application shall give full and adequate information with respect to each of the items set forth in this paragraph (j) of this regulation, together with the additional information required by paragraph (k) or (l) for the respective types of certificates covered thereby. In addition, the application may contain such other information and data as the applicant shall deem necessary or appropriate in order to acquaint the Authority fully with the particular circumstances of its case. Among other things, every such application shall give the following information:

1. The full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.) and the name of the state under the laws of which it is organized.

2. A statement that the applicant is a citizen of the United States, as defined by section 1 (13) of the Act. It is not required that the application shall contain all the evidence which the applicant is prepared to present at the hearing or otherwise in support of such statement, but the application shall at least indicate the nature and result of its investigations in that matter and the character of the evidence it will be prepared to present in support of citizenship.

3. An adequate identification of each route for which a certificate is desired, specifying the type or types of service (mail, passengers and property) to be rendered on each such route, and whether or not such services are to be rendered in scheduled operations. The identification of each route shall name every terminal and intermediate point to be included in the certificate for which application is made.

4. A map (which may be attached as an exhibit) drawn approximately to scale showing all terminal and intermediate points to be served, giving the approximate mileages between all adjacent points, and the principal over-all distances. This map should also indicate all of such points which are now served by air carriers, indicating by arrows the directions flown by such interconnecting carriers and stating their principal terminals, for example "to Dallas" or "to Chicago."

5. State whether the applicant has any reasonable grounds for believing that any other person intends to apply for a certificate covering any part of the routes included in the application. If so, give briefly the applicant's information with respect to such intended applications and the types of services they are expected to include.

(k) *Special information to be included in "Grandfather" applications.*—An application for a certificate under section 401 (e) (1) (the "grandfather" clause) shall contain all the information required by paragraph (j) of this regulation. In addition thereto every such application shall describe the operations of the applicant and any of its predecessors in interest from May 14, 1938 until August 22, 1938 in such a way as to show full compliance with the requirements of paragraph (e) (1) of section 401. The applicant shall also set forth such further facts as are necessary to enable the Authority to determine that such services were not inadequate and inefficient.

(l) *Special information to be included in applications for extensions or new routes.*—An application for a certificate with respect to an extension of an existing route or for a new route shall contain all the information required by paragraph (j) of this regulation. In addition thereto, every such application shall give the following information, except that if an application covers only one or more of the routes specified in subsection (e) (2) of section 401 the applicant may omit replies to items 1 and 8 hereof:

1. A map (in addition to the one required by item (4) of paragraph (j)) which shall indicate with reasonable accuracy all air transportation operations serving any of the points covered by such application. If any air carrier is engaged in operations between points not covered by the application but which would normally be considered as being on or near such points, the map shall show the routes served by such carrier. If the applicant has reason to believe that applications have been made or are about to be made for additional routes of the kinds described above, or that other operations of such character are about to be started, the map should indicate the approximate routes. Operations which are not already in existence should be shown by dotted lines or be clearly indicated by other appropriate symbol. In so far as practicable, the map should indicate the types of service rendered by existing and prospective carriers.

2. Describe generally all landing areas (as defined in section 1 (22) of the Act) along the routes covered by the application and give a statement of their adequacy for all types of aircraft which the applicant proposes to use in its operations.

3. Describe generally all existing air navigation facilities along such routes and any such facilities the applicant proposes to install at its own expense.

4. Describe fully any operations which the applicant has already conducted over any part of the routes covered by such application and its plans for making experimental flights or doing other pioneering work along each route.

5. State whether the applicant proposes to engage in day or night visual contact or instrument or over-the-top operations. Briefly describe the kind of terrain and any unusual metereological or other conditions prevalent in that region that might be expected to interfere with the safety or regularity of the proposed operations.

6. Except in a case where the application is for a relatively minor extension of an existing route, describe each aircraft which the applicant proposes to use in the new service, indicating the general nature of the appliances with which each is to be equipped. The statement shall show whether such aircraft is new or second-hand and its present value, if owned, or the price the applicant, expects to pay for it, complete with all instruments and other appliances. This item shall also include a statement of applicant's plans for reserve aircraft, aircraft engines, propellers, appliances and all other materials.

7. State the schedules (including times of departure and arrival) which the applicant proposes to fly at the beginning of operations and the schedules it plans to fly at the end of the first year of operation.

8. Except in a case where the application is for a relatively minor extension of an existing route, give careful estimates as to the population served by each route included in the application. For each of the first 5 years, give estimates of, (A) the amount of traffic the applicant will receive in each class of service to be rendered; (B) its gross revenues in dollars from each such class of traffic; and (C) the net profit from all operations after depreciation and taxes, but before interest. State the principles with respect to reserves for depreciation and obsolescence of equipment that have been used in making the above estimates. All estimates required by this paragraph should be supported by suitable data to verify their reasonableness.

9. Unless the applicant or its predecessors in interest have operated as air carriers for a period of at least 3 years immediately prior to the filing of the application, the application shall contain a statement of its present financial condition, a careful estimate of the additional money which it will be required to expend if the application is granted and shall disclose its plans and expectations for securing any additional funds that may be necessary to carry out its proposed operations. If additional financing will be needed, the applicant shall give detailed information as to its negotiations in that respect, specifying the types of securities it proposes to issue and such other facts as will enable the Authority to appraise the probability that the applicant will be able to raise the necessary funds and at a reasonable cost.

10. State generally the experience of the applicant and of its principal officers and employees in connection with aeronautical enterprises and the degree of financial success which has attended the enterprises with which they have been connected.

11. State fully all facts not elsewhere disclosed in the application which are known to the applicant and to the persons verifying the application which tend to show a probability, (A) that the proposed operations could not or would not be conducted with a high degree of safety to the travelling public, or (B) that the cost to the government for the transporting of the mail, in order to enable the proposed operation to be financially successful, would be excessive, or (C) that the granting of such certificate would deprive other air carriers of substantial parts of their revenues. Any such statement may point out any offsetting advantages, or the increased value of the services that the applicant would render to the public.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2453; Filed, August 20, 1938; 3:00 p. m.]

[Regulation 601-A-1]

ADOPTING THE CIVIL AIR REGULATIONS MADE, PRESCRIBED AND ISSUED BY THE SECRETARY OF COMMERCE UNDER DATE OF MAY 31, 1938, WITH CERTAIN ALTERATIONS OR AMENDMENTS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August, 1938.

The matter of the Civil Air Regulations, made, prescribed and issued by the Secretary of Commerce, pursuant to the provisions of the Air Commerce Act of 1926 (44 Stat. 568), as amended by the Act of February 28, 1929 (45 Stat. 404), the Act of June 19, 1934 (48 Stat. 1113), the Act of June 19, 1934 (48 Stat. 1116), and sections 11 and 12 of the Act of June 12, 1934, (48 Stat. 933, 937), being under consideration by the Authority, upon its own motion and investigation, pursuant to the authority contained in section 205 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984), and being fully advised in the premises, the Authority is of the opinion and finds:

(1) The Secretary of Commerce, pursuant to the authority vested in him under the Air Commerce Act of 1926 and its amendments, made, prescribed and issued certain civil air regulations to provide for the registration of aircraft, the rating of aircraft as to airworthiness, and the examination and rating of airmen and air navigation facilities; to provide for the issuance, suspension and revocation of registration, aircraft, airline and airmen certificates and such other certificates as the Secretary of Commerce deemed necessary in administering the functions vested in him under the Air Commerce Act of 1926, and its amendments; to establish air traffic rules for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between vehicles and aircraft.

(2) That pursuant to the provisions of section 501 (d) of the Civil Aeronautics Act of 1938, application for certificates of registration shall be in such form, be filed in such manner and contain such information as the Authority may require; that pursuant to the provisions of Title VI of said Act, the Authority is empowered, and it is its duty, to promote safety of flight in air commerce by prescribing and revising from time to time such minimum safety standards, rules and

regulations as the Authority may find necessary to provide adequately for safety in air commerce and to establish air traffic rules governing the flight of and for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between aircraft and between aircraft and land or water vehicles; to issue airman, aircraft, airworthiness, air carrier operating, air navigation facility rating and air agency rating certificates, and to prescribe the rules and regulations for and the form and manner of filing applications therefor.

(3) That the currently effective Civil Air Regulations, as issued by the Secretary of Commerce, as of date of May 31, 1938, prescribe the rules and regulations for and the form and manner of filing applications for registration certificates, set forth minimum standards, rules and regulations for the promotion of safety of flight in air commerce, and establish air traffic rules governing the flight of and for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between aircraft and land or water vehicles, and rules and regulations for the application for the issuance and terms and conditions of registration, airman, aircraft, airworthiness, airline competency, air navigation facility rating, and air agency rating, and the rules and regulations for the amendment, suspension and revocation thereof.

(4) That the currently effective Civil Air Regulations are the result of much study, research and analysis by officials of the Bureau of Air Commerce, Department of Commerce, and consulting experts; that the time between the enactment of the Civil Aeronautics Act of 1938 and the effective date of Title VI is such as to make impracticable the immediate analysis of the problems involved or careful preparation of revised regulations covering the matters described in Finding (2).

(5) That it is essential to the public interest and for the promotion of safety of flight in air commerce that there be minimum standards, rules and regulations governing the matters aforesaid.

(6) That, pursuant to the authority contained in section 205 (a) of the Civil Aeronautics Act of 1938, the Authority is empowered to make such rules and regulations pursuant to and consistent with the provisions of the Act as it shall deem necessary to carry out such provisions and to exercise and perform its powers and duties under said Act.

The Civil Aeronautics Authority, therefore, acting pursuant to the provisions of Section 205 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984), hereby makes and promulgates the following regulation:

REGULATION 601-A-1. SAFETY RULES

The Civil Air Regulations heretofore issued by the Secretary of Commerce on May 31, 1938, are hereby adopted by the Civil Aeronautics Authority and by it issued as its regulations under and pursuant to the Civil Aeronautics Act of 1938, subject, however, to the following substitutions, modifications and amendments:

1. The words "Civil Aeronautics Act", "Civil Aeronautics Authority", "Authority", "Administrator", "Air Safety Board", "air carrier", "air carrier operating certificate", "property", and such other words as are necessary, are substituted for "Air Commerce Act", "Secretary of Commerce", "Secretary", "Department of Commerce", "Director of Air Commerce", "Director", "Bureau of Air Commerce", "Bureau", "airline" (except where used in connection with "airline pilot"), "airline competency certificate", "airline certificate", "goods", and such other words as are necessary, as the provisions of the Civil Aeronautics Act of 1938 and the context of the Civil Air Regulations each require in order to make both of the same effective, all as is more specifically set forth in Exhibit "A" attached hereto and made a part hereof.

2. The abbreviations "C. A. A. A.", "C. A. A. T. C.", "C. A. A. M.", "CAA", "CAAM", and such other abbreviations as are necessary, are substituted for "A. C. A.", "A. C. T. C.", "A. C. M.", "AC", "ACM", and such other abbreviations as are necessary, as the provisions of the Civil Aeronautics Act of 1938 and the context of the Civil Air Regulations each require in order to make both of the same effective, all as is more specifically set forth in Exhibit "A" attached hereto and made a part hereof.

3. Strike all of sections 00.0, 01.0, 02.0, 03.0, 04.00, 13.00, 14.00, 15.00, 18.0, 20.0, 21.0, 23.0, 24.0, 25.0, 26.0, 27.0, 40.0, 40.60, 40.61, 50.0, 52.0, 60.0 and 61.0, in their entirety, inserting in lieu thereof the following sections, respectively, excepting only that section 26.00 shall be a new section.

"00.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, requiring the Civil Aeronautics Authority to provide for the granting of registration to aircraft eligible therefor, a registration certificate will be issued by the Authority for purposes of identifying the aircraft and determining its nationality, upon request of the owner and approval of application made and proofs submitted, for any aircraft duly shown to be eligible for such registration as an aircraft of the United States. A record of such registration will be maintained by the Authority.

"01.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue aircraft certificates and requiring the Civil Aeronautic Authority to prescribe such reasonable rules and regulations as it may find necessary to provide adequately for safety in air commerce, the following regulations are prescribed to provide for the rating of aircraft as to airworthiness, and the Authority will issue aircraft certificates in accordance therewith.

"02.0 *Provision for issuance.* Pursuant to the provisions of the Air Commerce Act of 1926, as amended, declaring that the United States of America is hereby declared to possess and exercise complete and exclusive national sovereignty in the air space above the United States, including the air space above all inland waters and the air space above those portions of the adjacent marginal high seas, bays, and lakes, over which by international law or treaty or convention the United States exercises national jurisdiction, and the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to promote safety of flight in air commerce by prescribing air traffic rules governing the flight of, and for the navigation, protection and identification of aircraft, the following regulations are prescribed for the assignment, approval, issuance and display of identification marks.

"03.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe rules for the identification of aircraft, the granting of registration to aircraft eligible therefor, and the rating of aircraft as to airworthiness, and to prescribe such reasonable rules and regulations as the Authority may find necessary to provide adequately for safety in air commerce, the following regulations are made to provide for the situations arising from the transfer of title to aircraft.

"04.00 *Scope.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards governing the design, materials, workmanship, construction and performance of aircraft as may be required in the interest of safety, and to provide for the rating of aircraft as to airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating for aircraft.

"13.00 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards governing the design, materials, workmanship, construction and performance of aircraft engines as may be required in the interest of safety, and to provide for the rating of aircraft as to airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating for aircraft engines for use in certificated aircraft.

"14.00 *Provisions for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards governing the design, materials, workmanship, construction and performance of propellers as may be required in the interest of safety, and to provide for the rating of aircraft as to airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating for propellers for use in certificated aircraft.

"15.00 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards governing appliances, including instruments, equipment, apparatus, parts, appurtenances or accessories of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and communication equipment and any other mechanism installed in or attached to aircraft during flight), as may be required in the interest of safety, and to provide for the rating of aircraft and such appliances as to their airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating of aircraft appliances for use in certificated aircraft.

"18.0 *Provision for re-rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe reasonable rules and regulations and minimum standards governing, in the interest of safety, the inspection, servicing and overhaul of aircraft, aircraft engines, propellers and appliances, and such other practices, methods and procedure as the Authority may find necessary to provide adequately for safety in air commerce, a certificated aircraft, aircraft engine, propeller or appliance which has been altered or repaired may be re-rated as to airworthiness in accordance with such of the following provisions as may be applicable.

"20.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, pilots will be rated in accordance with the following provisions.

"21.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, mechanics will be rated in accordance with the provisions of the following regulations.

"23.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce and to provide for the examination and rating of civilian schools giving instruction in flying, or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers or appliances, ground instructors will be rated as to their competency for such service in accordance with the provisions of the following regulations.

"24.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, mechanics will be rated in accordance with the provisions of the following regulations.

"25.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations concerning practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, parachute riggers will be rated in accordance with the provisions of the following regulations.

"26.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, air traffic control-tower operators will be rated in accordance with the provisions of the following regulations.

"26.0 The ratings will be as follows:

"(a) Junior air traffic control tower operator rating.

"(b) Associate air traffic control tower operator rating.

"(c) Senior air traffic control tower operator rating.

"27.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, air carrier dispatchers will be certificated in accordance with the provisions of the following regulations.

"40.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom any such certificate is issued, the following regulations are prescribed for such certification of scheduled air carriers engaged in interstate and intra-territorial air transportation, as to their competency.

"40.60 *Provision for issuance.* An air carrier operating certificate will be issued by the Authority to an applicant after approval of application made and proof submitted in connection therewith, and if, upon inspection and examination, said applicant is found by the Authority to meet the general requirements prescribed in § 40.1 and the appropriate particular minimum requirements prescribed in §§ 40.2, 40.3, 40.4 and 40.5 and is, therefore, rated as competent to engage in interstate or intraterritorial air transportation, or both, for the carriage of mail, property or passengers in schedule operation as specified in the certificate or appended competency letters (provided in § 40.7). Air carriers which were conducting authorized operations on August 20, 1938, and which were possessed of a valid and effective Scheduled Airline Competency Certificate and appended competency letters issued by the Secretary of Commerce, shall have until the 31st day of March, 1939, to apply for an air carrier operating certificate as provided in § 40.61. In the interim, operations shall be conducted according to the terms, conditions, specifications and limitations of the Scheduled Airline Competency Certificate and appended competency letters issued by the Secretary of Commerce.

"40.61 *Application.* Application for an air carrier operating certificate shall be made to the Authority and subscribed under oath by the applicant, in the manner outlined in Form CAA 40-1.

"50.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aero-

nautics Authority to provide for the examination and rating of civilian schools giving instruction in flying, or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment and the competency of the instructors, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, flying schools will be rated in accordance with the provisions of the following regulations and their rating will be as follows:

"52.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to provide for the examination and rating of repair stations or shops for the repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers or appliances, as to the adequacy and suitability of the equipment, facilities and materials for, and methods of repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances, and the competency of those engaged in the work or giving any instruction therein, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, aircraft repair stations will be rated as to their competence in various classifications of repair activity in accordance with the following provisions.

"60.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue certificates for airmen, aircraft, air carriers, air navigation facilities, and air agencies, and requiring the Authority to prescribe air traffic rules governing the flight of, and for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between aircraft and between aircraft and land or water vehicles, and prohibiting the operation or navigation of aircraft in violation thereof, the following air traffic rules relating thereto, in addition to those prescribed elsewhere in the Civil Air Regulations, are hereby prescribed.

"61.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue air carrier operating certificates and to establish minimum safety standards for the operation of air carriers to whom such certificates are issued, and for prohibiting the operation or navigation of aircraft of such air carriers in violation thereof, the following rules and regulations for the operation of scheduled air carriers engaged in interstate air transportation, in addition to those prescribed elsewhere in the Civil Air Regulations, are hereby prescribed."

(4) All provisions for and in connection with the registration of alien or alien-owned aircraft and those for and in connection with identified aircraft, as distinguished from registered aircraft, are hereby stricken and held void, since no provision is made for the same in the Civil Aeronautics Act of 1938, and, in this connection, the following specific amendments are made with respect to the Civil Air Regulations, heretofore issued by the Secretary of Commerce, and by this order adopted and issued:

(a) Strike all of sections 00.31, 02.200 and 02.510.

(b) Strike the words "or by the alien owner of any aircraft not registered in a foreign country," from Section 01.20.

(c) Strike that portion of Section 02.10, beginning with the words "except that the symbol cross, etc." and continuing to the end of the section, and insert in lieu thereof the phrase "of aircraft of the United States".

(d) Strike the words and figures "or symbol cross +", appearing in section 02.11.

(e) Strike the word "or", appearing between "NR" and "NX" in section 02.20, and insert in lieu thereof a comma, and after the letters "NX" insert the words and figures "or N —".

(f) Strike the words "including the Canal Zone", appearing in section 02.50, and insert in lieu thereof the words "and the several territories and possessions of the United States, including the territorial waters", and at the end of said section 02.50 add this sentence: "The aircraft of the national defense forces of the United States may possess and display identification marks, assigned and issued by the agency having jurisdiction over them, in a manner satisfactory to the Authority."

(5) The following additional specific amendments are made to the currently effective Civil Air Regulations:

(a) Parts 90 and 94 are stricken and set aside.

(b) Wherever the words "airline pilot" appear, change the same by inserting the word "transport" between the word "airline" and the word "pilot", so that the same will read "airline transport pilot".

(c) Wherever the phrase "airport control tower operator" appears, strike the same and insert in lieu thereof the phrase "air-traffic control-tower operator".

(d) Whenever the phrase "interstate or foreign air commerce" or the phrase "interstate and foreign air commerce" appears, change the same by inserting the word "overseas" between the word "interstate" and the word "or" or the word "and", as the case may be, so that the phrase will read "interstate, overseas or foreign air commerce" or "interstate, overseas and foreign air commerce", as the case may be, excepting only in section 21.40, in which section strike the phrase "interstate or foreign air commerce" and insert in lieu thereof the phrase "interstate, overseas or foreign air transportation".

(e) Strike the phrase "scheduled interstate or foreign passenger airline carrier", appearing in section 01.721, and insert in lieu thereof the phrase "scheduled interstate, overseas or foreign passenger air carrier".

(f) Strike the words "interstate air commerce", appearing in sections 40.2, 40.291 and 40.3, and insert in lieu thereof the words "interstate air transportation".

(g) After the words "navigable airspace", appearing in the first line of section 60.100, insert the words "of the United States".

(h) After the words "A control airport is an airport", appearing in the first line of section 60.102, insert the words "within the United States".

(i) Strike the words "Approved to take effect March 31, 1938, Daniel C. Roper, Secretary of Commerce (SEAL)", appearing at the conclusion of Part 60.

(j) Strike the phrase "of any provision of the Air Commerce Act or any rule or regulation issued thereunder", appearing in sections 01.2704, 01.3703, 01.4706, 01.5707, 20.37110, 20.463, 21.27110, 23.274, 25.277, 26.270, 27.277, 40.673, 40.674, and 60.884, and insert in lieu thereof the phrase "of any provision of the Civil Aeronautics Act of 1938, or any rule, regulation or order duly issued thereunder".

(k) Add the words "and orders" to the end of section 60.8900, as it is now written.

(l) Strike the number of the airway traffic control area designation appearing in each of sections 60.24200 to 60.24210, inclusive, and insert in lieu thereof a number two figures less, so that the said airway traffic control area designations will read, respectively, as follows:

Section 60.24200—Red civil airway No. 12
Section 60.24201—Red civil airway No. 14
Section 60.24202—Red civil airway No. 15
Section 60.24203—Red civil airway No. 16
Section 60.24204—Red civil airway No. 17
Section 60.24205—Red civil airway No. 19
Section 60.24206—Red civil airway No. 20
Section 60.24207—Red civil airway No. 21
Section 60.24208—Red civil airway No. 22
Section 60.24209—Red civil airway No. 23
Section 60.24210—Red civil airway No. 26

(6) The eligibility requirements for registration of aircraft in section 00.1 of Civil Air Regulations being the same as those of section 501 (b) of the Civil Aeronautics Act of 1938, registration of any aircraft (except alien or alien-owned aircraft) under the Civil Air Regulations prior to the date of this order shall be deemed to meet the requirements of section 501 (a) of the Civil Aeronautics Act of 1938, and registration certificates heretofore issued pursuant to said Civil Air Regulations (except any that may have been issued to alien or alien-owned aircraft) shall continue in full force and effect in the manner hereinafter provided. Amend section 00.6 of the currently effective Civil Air Regulations by striking the period at the end of subsection 00.6 (d), inserting in lieu thereof a comma and adding after the comma the word "or", and then by adding a subsection thereto to read as follows:

"(e) August 20, 1939 or until the expiration date of the aircraft certificate of such aircraft, whichever is the shorter period, if such registration certificate was issued pursuant to the Civil Air Regulations issued by the Secretary of Commerce, on or prior to August 20, 1938."

These regulations of the Civil Aeronautics Authority shall become effective 12:01 A. M. August 22, 1938.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

EXHIBIT "A"

Specifications of Amendments

1. Wherever the phrase "Department of Commerce" appears, strike the same and insert in lieu thereof the words "Civil Aeronautics Authority", excepting only in sections 14.203, 15.208, 15.216 and 61.3503.

(a) Strike the phrase "Department of Commerce identification mark", appearing in section 14.203, and insert in lieu thereof the phrase "Identification mark issued by the Civil Aeronautics Authority."

(b) Strike the phrase "Department of Commerce laboratory," appearing in sections 15.208 and 15.216, and insert in lieu thereof the phrase "laboratory of the Civil Aeronautics Authority."

(c) Strike the phrase "Department of Commerce requirements," appearing in section 61.3503, and insert in lieu thereof the phrase "minimum standards prescribed by the Civil Aeronautics Authority."

2. Wherever the phrase "Secretary of Commerce" appears, strike the same and insert in lieu thereof the words "Civil Aeronautics Authority", excepting only in sections 60.100, 60.102 and 60.106, in which three sections the word "Administrator" is to be inserted in lieu of the phrase "Secretary of Commerce."

(a) Wherever the word "Secretary" appears, strike the same and insert in lieu thereof the word "Authority."

(b) Strike the word "his," referring to the Secretary, and appearing in section 40.711, and insert in lieu thereof the word "its," referring to the Authority.

3. Wherever the phrase "Bureau of Air Commerce" appears, except as hereinafter specified, strike the same and insert in lieu thereof the word "Authority."

(a) Strike the phrase "Bureau of Air Commerce Approved (or A. C. A.)" appearing in sections 15.0411 and 15.042, and insert in lieu thereof the phrase "Civil Aeronautics Authority Approved (or C. A. A. A.)."

(b) Strike the phrase "Bureau of Air Commerce Type Certificate (or A. C. T. C.)," appearing in section 15.042, and insert in lieu thereof the phrase "Civil Aeronautics Authority Type Certificate (or C. A. A. T. C.)."

(c) Strike the phrase "Bureau of Air Commerce Manual (ACM 18)," appearing in section 18.20, and insert in lieu thereof the phrase "Civil Aeronautics Authority Manual (C. A. A. M. 18)."

4. Wherever the word "Bureau" appears, except as hereinafter provided, strike the same and insert in lieu thereof the word "Authority."

(a) Wherever the words "Bureau inspector" appear, strike the same and insert in lieu thereof the phrase "inspector of the Authority."

(b) Strike the words "Bureau medical examiner," appearing in section 20.149, and insert in lieu thereof the phrase "medical examiner of the Authority."

(c) Strike the words "Bureau test," appearing in sections 21.140 and 26.1040, and insert in lieu thereof the phrase "test prescribed by the Authority."

(d) Strike the words "Bureau representative" appearing in section 26.1170, and insert in lieu thereof the phrase "representative of the Authority."

(e) Strike the words "local Bureau airline inspector," appearing at end of section 27.220, and insert in lieu thereof the phrase "local air carrier inspector of the Authority."

(f) Strike the words "Bureau airway traffic control station," appearing in section 60.134, and insert in lieu thereof the phrase "airway traffic control station of the Authority."

(g) Strike the words "Bureau communications facilities," appearing in the Note to section 60.43, and insert in lieu thereof the phrase "communications facilities of the Authority."

(h) Strike the words "Bureau radio voice communication station," appearing in section 60.571, and insert in lieu thereof the phrase "radio voice communication station of the Authority."

(i) Strike the words "Bureau supervising aeronautical inspectors," appearing in sections 60.83 and 60.84, and insert in lieu thereof the phrase "supervising aeronautical inspector of the Authority."

5. Wherever the words "Air Commerce Act" appear, strike the same and insert in lieu thereof the words "Civil Aeronautics Act of 1938," excepting only in sections 02.51 and 60.100.

6. Wherever the abbreviation "AC" appears, strike the same and insert in lieu thereof the abbreviation "CAA."

7. Wherever the abbreviation "ACM" appears, strike the same and insert in lieu thereof the abbreviation "CAAM."

8. Wherever the word "airline" appears, except as hereinafter provided, strike the same and insert in lieu thereof the words "air carrier.".

(a) Strike the caption to Part 40, and substitute in lieu thereof the caption "Air Carrier Operating Certification (Interstate)."

(b) Wherever the words "airline competency certificate" or "airline certificate" appear, strike the same and insert in lieu thereof the words "air carrier operating certificate."

(c) Wherever the words "temporary permit" appear, strike the same and insert in lieu thereof the words "temporary air carrier operating certificate."

(d) Wherever the words "airline service", appear, strike the same and insert in lieu thereof the words "air transportation service."

(e) Wherever the phrase "airline maintenance inspector of the Bureau of Air Commerce" appears, strike the same and insert in lieu thereof the phrase "air carrier maintenance inspector of the Authority."

(f) Wherever the words "airline operator" appear, strike the same and insert in lieu thereof the words "air carrier."

(g) Wherever the words "airline carrier" appear, strike the same and insert in lieu thereof the words "air carrier", excepting only in sections 04.51, 04.52, 04.53, 04.71, 04.723, 04.73, 04.734 and 04.740.

(1) Strike the words "Non-airline carrier (NAC) airplanes", appearing in section 04.51, and insert in lieu thereof the words "Non-air carrier (NAC) airplanes."

(2) Strike the words "non-airline carrier airplanes," appearing in section 04.740, and insert in lieu thereof the words "non-air-carrier airplanes."

(3) Strike the words "airline carriers", appearing in sections 04.52, 04.53, 04.71, 04.723, 04.73 and 04.734, and insert in lieu thereof the words "air carrier airplanes."

(h) Strike the words "airline passenger carriers", appearing in section 04.53, and

insert in lieu thereof the phrase "by an air carrier in passenger service."

(i) Strike the words "Each airline forward light", appearing in section 15.2041, and insert in lieu thereof the phrase "Each forward light of an air carrier airplane."

(j) Strike the word "airline," appearing at the end of section 40.14, and insert in lieu thereof the words "air carrier operations."

(k) Strike the word "airline," appearing in section 61.3512, and insert in lieu thereof the words "air carrier's route."

(l) Wherever the words "operator" appear, in Part 40, strike the same and insert in lieu thereof the words "air carrier."

[F. R. Doc. 38-2454; Filed, August 20, 1938; 3:00 p. m.]

[General Order 610-A-1]

POSTPONING THE EFFECTIVE DATE OF SUBSECTION (A) OF SECTION 610 OF THE CIVIL AERONAUTICS ACT OF 1938, WITH RESPECT TO CERTAIN SPECIFIED CLASSES OF AIRMEN

EXEMPTING CERTAIN FOREIGN AIRCRAFT AND AIRMEN FROM THE PROVISIONS OF SUBSECTION (B) OF SECTION 610 OF SAID ACT

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C. on the 20th day of August, 1938.

Pursuant to the provisions of the Air Commerce Act of 1926, as amended, the Secretary of Commerce has heretofore issued certificates of competency to various classes of airmen described in section 9 (k) of that Act. Section 1 (6) of the Civil Aeronautics Act of 1938 enlarges the definition of the word "airman" in such manner that various classes of persons are made subject to the requirements of the new Act, notably all individuals who are directly in charge of the maintenance of aircraft and those in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers or appliances (as the latter word is defined in section 1 (11) of said Act), and all individuals who serve in the capacity of aircraft dispatchers or air-traffic control-tower operators. The provisions of clause 2, of section 610 (a), make it unlawful after the effective date of that section for any person to serve in any capacity as an airman, in connection with any civil aircraft used in air commerce, without an airman certificate authorizing him to serve in such capacity. The provisions of clause 3 of said section make is unlawful for any person to employ for service, in connection with any civil aircraft used in air commerce, an airman who does not have an airman certificate authorizing him to serve in the capacity for which he is employed.

Section 1110 of the Civil Aeronautics Act of 1938 authorizes the Authority to postpone the effective date of the aforesaid provisions of said Act, if it finds such action necessary or desirable in the public interest. Subsection (b) of said section 610 further authorizes the Authority to exempt foreign aircraft and airmen, serving in connection therewith, from the provisions of sub-section (a) of said section, to the extent and upon such terms and conditions as may be prescribed by the Authority as being in the interest of the public.

The examination of all persons who apply for airman certificates is a matter of great importance to safety in air navigation, and it is highly desirable that the provisions of clauses 2 and 3 of section 610 (a) of the Act shall not become effective until the Authority has had adequate opportunity to provide for careful and painstaking examination of all classes of airmen who have not heretofore been required to secure certificates of competency issued by the Secretary of Commerce. It therefore finds it desirable in the public interest that the aforesaid clauses of said section shall be postponed as to all classes of airmen who have not heretofore been required to secure certificates of competency to the extent and in the manner provided in this order.

The Authority is advised that all aircraft, operated by foreign air carriers, and the airmen serving in connection therewith, now engaged in scheduled air transportation within the United States or its possessions, are certificated as required by international convention or agreement, to which the United States is a party. While such circumstances continue in effect, it is undesirable that the provisions of section 610 (a) shall be made applicable to such foreign air carriers insofar as the provisions of said section impose new or larger obligations upon such foreign aircraft or the airmen serving in connection therewith.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 1110 and 610 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 1030 and 1012) hereby makes and promulgates this general order as follows:

General Order 610-A-1.—Postponement of effective date of certain provisions of section 610 as to certain airmen and carriers and exempting foreign air carriers from certain provisions of said section.

1. The effective date of the provisions of clause 2 of sub-section (a) of section 610 of the Civil Aeronautics Act of 1938, insofar as the same make it unlawful for any person to serve as an airman, as defined in said Act, who would not have been required on or prior to August 21, 1938, to procure a Certificate of Competency to perform similar functions, and the effective date of clause 3 of said section insofar as its provisions are applicable to the employment of any such airman, are hereby postponed to and including the 180th day after June 23, 1938.

2. Until further order of the Authority, any and all foreign aircraft and airmen serving in connection therewith, shall be exempt from any and all requirements of sub-section (a) of section 610, insofar, but only insofar, as the provisions of said section would impose new or larger obligations and duties upon such foreign aircraft or airmen serving in connection therewith than those to which they were subject on August 21, 1938: *Provided, however*, That this order shall not exempt any such persons from any provisions of the air traffic rules applicable to aeronautical operations within the United States.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2455; Filed, August 20, 1938; 3:01 p. m.]

[General Order 1107-K-1]

POSTPONING REPEAL OF CERTAIN PROVISIONS OF THE AIR MAIL ACT OF 1934, AS AMENDED

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 20th day of August, 1938.

Section 1107 (k) of the Civil Aeronautics Act of 1938 repeals the provisions of section 3 of the Air Mail Act of 1934, as amended. Section 1110 of the Civil Aeronautics Act authorizes the Authority to postpone the effective date of the aforesaid provisions of the said Act if it finds such action necessary or desirable in the public interest.

Section 405 (a) of the Civil Aeronautics Act of 1938 provides that each contract between the United States and any person for the carriage of mail, entered into or continued under the provisions of the Air Mail Act of 1934, as amended, shall be continued in effect until canceled in accordance with the provisions of such sub-section, to-wit, the issuance to the holder of such contract of a Certificate of Convenience and Necessity.

Representatives of the Post Office Department and of the air mail contractors, after conference, have agreed that, pending the establishment of a new basis of compensation for the transportation of air mail by the present air mail contractors, after the issuance to them of Certificates of Convenience and Necessity, the past practices of that Department and of the air carriers with regard to "pay trips" and "credit trips" shall continue, and have recommended that the effective date of section 1107 (k) of the Civil Aeronautics Act of 1938 be postponed for 150 days after June 23, 1938, insofar as such sub-section repeals the portion of section 3 (f) of the Air Mail Act of 1934, as amended, hereinafter referred to.

The Civil Aeronautics Authority, having duly considered the matter and being of the opinion that no interest of the public will be adversely affected by the postponement of the provisions of this Act which is to be effected by this order, and finding that its action in such respects is desirable in the public interest, and acting pursuant to the authority vested in it by the provisions of section 1110 of the Civil Aeronautics Act of 1938 (52 Stat. 973, 1035), hereby makes and promulgates the following general order:

General Order 1107-K-1.—Postponing repeal of certain provisions of the Air Mail Act.

The effective date of section 1107 (k) of the Civil Aeronautics Act of 1938 is hereby postponed until the 150th day after June 23, 1938, insofar as such subsection repeals the following portion of section 3 (f) of the Air Mail Act of 1934, as amended:

"The Postmaster General may, upon application by an air-mail contractor, authorize said contractor for his own convenience to transport air mail on any nonmail schedule or plane, with the understanding that the weights of mail so transported will be credited to regular mail schedules and no mileage compensation will be claimed therefor."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2456; Filed, August 20, 1938; 3:02 p. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Order No. 249]

AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREAS 2, 3, 4 AND 5 TO PROPOSE MINIMUM PRICES FOR THE KINDS, QUALITIES AND SIZES OF COAL PRODUCED IN SAID DISTRICTS; AND PROMULGATING AND APPROVING RULES AND REGULATIONS GOVERNING THE PROCEDURE THEREFOR

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, and National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the areas defined in said Act as Minimum Price Areas 2 (Districts Nos. 9, 10, 11 and 12), 3 (District No. 13, except Van Buren, Warren and McMinn Counties in Tennessee), 4 (District No. 14) and 5 (District No. 15) shall forthwith proceed to consider and shall propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced in said district by code members, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as may be deemed proper and within the authority conferred by said Act.

A schedule of such proposed minimum prices, together with the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship, shall be submitted to the Commission by each district board within Minimum Price Areas 2 (Districts Nos. 9, 10, 11 and 12), 3 (District No. 13, except Van Buren, Warren and McMinn Counties in Tennessee), 4 (District No. 14), and 5 (District No. 15) on or before the 14th day of September 1938, and after hearing the Commission may approve, disapprove or modify such proposed minimum prices to conform with the requirements of subsection (a) of Part II, Section 4 of the Act. The minimum prices as approved or modified by the Commission shall serve as the basis for the coordination provided for in subsection (b) of Part II, Section 4 of the Act.

2. That the procedure for the proposal of minimum prices herein ordered and directed shall be in accordance with the following rules and regulations, which are hereby adapted and approved by the Commission therefor:

RULES AND REGULATIONS FOR THE PROPOSAL OF MINIMUM PRICES

I. Each district board, within 25 days following the issuance of this order directing the district boards to propose minimum prices authorized by subsection (a) of Part II, Section 4 of the Act, shall propose minimum prices by submitting to the Commission within said time a schedule of such proposed minimum prices together with all the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship.

II. All minimum prices proposed hereunder shall be f. o. b. transportation facilities at the mine, for the kinds, qualities and sizes of coal for which prices are proposed.

III. Each district board shall transmit its schedule of proposed minimum prices to each code member in the district at least fifteen (15) days before the district board files such schedule with the Commission pursuant to Rule I of the Rules and Regulations.

IV. During the interim between transmitting its schedule of proposed minimum prices to each code member in the district and the filing thereof with the Commission, each district board may make such changes or corrections in such schedule as in its judgment it deems proper.

To this end, each district board may arrange to receive protests of code members within the district, conduct such investigations and hold conferences or hearings, as in the judgment of the district board will assist it in formulating the schedule of proposed minimum prices in conformity with the requirements of subsection (a) of Part II, Section 4 of the Act. Any protests of code members shall be filed with the district board within seven (7) days from the date of transmission of its schedule of proposed minimum prices to code members.

V. Any changes or corrections made by a district board in its schedule pursuant to the rules and regulations herein shall be transmitted to each code member in the district not later than the date of submission of the schedule of proposed minimum prices to the Commission pursuant to Rule I hereof.

VI. Each district board submitting its schedule of proposed minimum prices to the Commission pursuant to the requirements of Rule I hereof shall, at the time of making such submission, file with the Commission one hundred (100) full and complete copies of such schedule, as changed or corrected, for such use as the Commission may deem proper.

VII. Each district board shall transmit to each other district board five (5) copies of its schedule of proposed minimum prices at the time of filing with the Commission pursuant to Rule I hereof.

VIII. The minimum prices proposed by any district board shall conform to the following standards therefor set out in subsection (a) of Part II, Section 4 of the Act:

a. They shall yield a return for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which the district is included, as such weighted average of the total costs shall theretofore have been determined by the Commission pursuant to the provision of subsection (a) of Part II, Section 4 of the Act.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of the coal to which they are applicable.

c. They shall be just and equitable as between producers within the district.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

IX. Each price schedule submitted in conformity with Rule I hereof shall contain an alphabetical list of code members. Opposite each code member's name shall be shown the name of the mine, the subdistrict in which it is located, the seam or kind of coal produced and the price classification (represented by an alphabetical letter), in each size group (which size group shall be represented by a number), for all sizes applicable to such group that the mine is equipped to produce. As an example:

Alphabetical List of Code Members Showing Price Classifications by Sizes for All Uses Except as Separately Shown

Company	Mine	Sub-district	Size groups					
			Seam	1	2	3	4	Etc.
Adams Coal Company	Black	Coal	#8	A	B	C	D	E
Jones Coal Company	White	Coke	#6	B	C	B	A	B
Smith Coal Company	Red	Iron	B	E	D	C	E	A
Williams Coal Company	Green	Glass	E	G	G	G	G	G

A—Represents the highest quality coal produced in the district for the use in dicated.
B—Represents the next highest quality coal.
C—Etc.
In addition thereto the district board may include a similar listing subdivided according to producing sub-districts or according to any other subdivision desired.

Prices applicable to such classification shall be listed in a table similar to the following:

SIZE GROUPS

Classification	1	2	3	4	5, etc.
A	2.75	2.65	2.55	2.45	2.35
B	2.65	2.55	2.45	2.35	2.25
C	2.55	2.45	2.35	2.25	2.15

Each schedule of proposed prices shall include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

The Secretary of the Commission is directed forthwith to publish a copy of this order and the rules and regulations contained therein in the FEDERAL REGISTER and to mail a copy of this order and the rules and regulations contained therein to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the Minimum Price Area named herein.

By order of the Commission.
Dated this 20th day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2469: Filed, August 22, 1938; 12:12 p. m.]

[Order No. 250]

AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREAS 2, 3, 4 AND 5 TO PROPOSE REASONABLE RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY THE CODE MEMBERS OF THE RESPECTIVE DISTRICTS, IN ACCORDANCE WITH SUBSECTION (A) SECTION 4, PART II OF THE BITUMINOUS COAL ACT OF 1937

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the Areas defined in said Act as Minimum Price Areas 2 (Districts 9, 10, 11 and 12), 3 (District No. 13, except Van Buren, Warren, and McMinn Counties in Tennessee), 4 (District No. 14), and 5 (District No. 15) shall forthwith proceed to consider and shall propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coal by the code members of the respective districts.

Such proposed rules and regulations shall not be inconsistent with the requirements of Section 4 of the Act and shall conform to the standards of fair competition therein established.

2. Such proposed rules and regulations, together with a statement of the reasons therefor, shall be submitted to the Commission by each of the aforesaid district boards on or before the 14th day of September 1938, in order that the Commission, after hearing, may approve, disapprove, or modify the same for the purpose of coordination.

3. Each district board shall transmit such proposed rules and regulations to each code member in its respective district at least fifteen days before said district board files such proposed rules and regulations with the Commission, and during the interim between the transmittal of such proposed rules and regulations to the code members and the filing of same with the Commission, each district board may make such changes in said proposals as in its judgment it may deem proper, and to this end, each district board may arrange to receive protests of its code members, conduct such investigations, conferences or hearings as in its judgment will assist it in proposing such reasonable rules and regulations as will best serve to carry out the purposes of the Act. Protests of code members shall be filed with the district Board within seven days from the date of the transmittal to the code members.

4. Any changes made by a district board in its proposed rules and regulations, after the time of such transmittal to the code members, shall be forwarded to each code member in the district not later than the date of the submission thereof to the Commission.

5. Each district board shall file with the Commission, at the time set forth in paragraph two hereof, one hundred (100) copies of its proposed rules and regulations, and, at the same time, the district board shall transmit to each of the other district boards five copies of its proposals.

6. The Secretary of the Commission is directed to publish forthwith a copy of this order in the FEDERAL REGISTER and to mail a copy of this order to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the minimum price area named herein.

By order of the Commission.
Dated this 20th day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2470; Filed, August 22, 1938; 12:12 p. m.]

[Order No. 251]

AN ORDER DIRECTING DISTRICT NO. 13 TO PROPOSE MINIMUM PRICES, FOR THE KINDS, QUALITIES, AND SIZES OF COAL PRODUCED BY CODE MEMBERS IN VAN BUREN, WARREN, AND MCMINN COUNTIES IN TENNESSEE: AND PROMULGATING AND APPROVING RULES AND REGULATIONS GOVERNING THE PROCEDURE THEREFOR

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That District Board No. 13 within the area defined as Minimum Price Area 1 (Van Buren, Warren, and McMinn Counties, in Tennessee) shall forthwith proceed to consider and shall propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities, and sizes of coal produced in said counties by code members, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as may be deemed proper and within the authority conferred by said Act.

A schedule of such proposed minimum prices shall be submitted to the Commission by District Board for District No. 13 on or before the 6th day of September, 1938, and after hearing the Commission may approve, disapprove, or modify such proposed minimum prices to conform with the requirements of subsection (a) of Part II, Section 4 of the Act. The minimum prices as approved or modified by the Commission shall serve as the basis for the co-ordination provided for in subsection (b) of Part II, Section 4 of the Act.

2. That the procedure for the proposal of minimum prices herein ordered and directed shall be in accordance with the following rules and regulations, which are hereby adopted and approved by the Commission therefor:

RULES AND REGULATIONS FOR THE PROPOSAL OF MINIMUM PRICES

1. District Board for District No. 13, within 17 days following the issuance of this order directing said District Board to propose minimum prices authorized by subsection (a) of Part II, Section 4 of the Act, shall propose minimum prices by submitting to the Commission within said time a schedule of such proposed minimum prices together with all the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship.

II. All minimum prices proposed hereunder shall be f. o. b. transportation facilities at the mine, for the kinds, qualities and sizes of coal for which prices are proposed.

III. Said District Board shall transmit its schedule of proposed minimum prices to each Code member in said counties at least seven (7) days before the District Board files such schedules with the Commission pursuant to Rule I of these Rules and Regulations.

IV. During the interim between transmitting its schedule of proposed minimum prices to each Code member in said counties and the filing thereof with the Commission, said District Board may make such changes or corrections in such schedule as in its judgment it deems proper.

To this end, said district board may arrange to receive protests of code members within said counties, conduct such investigations and hold conferences or hearings, as in the judgment of the district board will assist it in formulating the schedule of proposed minimum prices in conformity with the requirements of subsection (a) of Part II, Section 4 of the Act. Any protest of code member shall be filed with the district board within seven (7) days from the date of transmission of its schedule of proposed minimum prices to code members.

V. Any changes or corrections made by said district board in its schedule pursuant to the rules and regulations herein shall be transmitted to each code member in said counties not later than the date of submission of the schedule of proposed minimum prices to the Commission pursuant to Rule I hereof.

VI. Each said district board in submitting its schedule of proposed minimum prices to the Commission pursuant to the requirements of Rule I hereof shall, at the time of making such admission, file with the Commission one hundred (100) full and complete copies of such schedule, as changed or corrected, for such use as the Commission may deem proper.

VII. Said district board shall transmit to each other district board within Minimum Price Area 1 (Districts Nos. 1 to 8, inclusive) five (5) copies of its schedule of proposed minimum prices at the time of filing with the Commission pursuant to Rule I hereof.

VIII. The minimum prices proposed by said district board shall conform to the following standards therefor set out in subsection (a) of Part II, Section 4 of the Act:

a. They shall yield a return for the tonnage of the code members within said counties equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area 1, within which said counties are included, as such weighted average of the total costs shall theretofore have been determined by the Commission pursuant to the provision of subsection (a) of Part II, Section 4 of the Act.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of the coal to which they are applicable.

c. They shall be just and equitable as between producers within the said counties.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the said counties, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

IX. Each price schedule submitted in conformity with Rule I hereof shall contain an alphabetical list of code members. Opposite each code member's name shall be shown the name of the mine, the sub-district in which it is located, the seam or kind of coal produced and the price classification (represented by an alphabetical letter), in each size group (which size group shall be represented by a number), for all sizes applicable to such group that the mine is equipped to produce. As an example:

Alphabetical List of Code Members Showing Price Classifications by Sizes for all Uses Except as Separately Shown

Company	Mine	Subdistrict	Size groups					
			Seam	1	2	3	4	Etc.
Adams Coal Company	Black	Coal	#8	A	B	C	D	E
Jones Coal Company	White	Coke	#6	B	C	B	A	B
Smith Coal Company	Red	Iron	B	E	D	C	E	A
Williams Coal Company	Green	Glass	E	G	G	G	G	G

A—Represents the highest quality coal produced in Van Buren, Warren, and McMinn Counties, in Tennessee for the use indicated.
B—Represents the next highest quality coal.
C—Etc.
In addition thereto the district board may include a similar listing subdivided according to producing sub-districts or according to any other subdivision desired.

Prices applicable to such classification shall be listed in a table similar to the following:

SIZE GROUPS

Classification	1	2	3	4	5, etc.
A	2.75	2.65	2.55	2.45	2.35
B	2.65	2.55	2.45	2.35	2.25
C	2.55	2.45	2.35	2.25	2.15

Each schedule of proposed prices shall include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within the counties of Van Buren, Warren, and McMinn, in Tennessee, into consuming markets of said code members. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

The Secretary of the Commission is directed forthwith to publish a copy of this order and the rules and regulations contained therein in the FEDERAL REGISTER and to mail a copy of this order and the rules and regulations contained therein to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within Minimum Price Area 1.

By order of the Commission.
Dated this 20th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2471; Filed, August 22, 1938; 12:12 p. m.]

AMENDMENT TO RULE VII OF THE RULES OF PRACTICE AND PROCEDURE BEFORE THE COMMISSION AS AMENDED

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 19th day of August 1938.

By virtue of the authority vested in it by the Bituminous Coal Act of 1937, (50 Stat. 72; 15 U. S. C., Sup. III, 828) The National Bituminous Coal Commission hereby adopts the following amendment to Sec. 466.07[1] of the Rules of Practice and Procedure before the Commission as promulgated June 23, 1937,[2] and as amended November 5, 1937, May 7, 1938 and June 6, 1938, (Sec. 466.01–466.27).

Section 466.07 shall be and hereby is amended to read as follows:

SECTION 466.071*—SECTION 4–A EXEMPTIONS

a. *Applications*—Applicants seeking a determination of the status of their coal, in accordance with the second paragraph of section 4–2 of the Act, shall file an application setting forth the facts upon which the claim is based. This application shall be known as an "Application for Determination of Status."

1. The application shall be made to conform to all pertinent rules of practice and procedure of the Commission. Any application failing to comply fully therewith shall not be considered by the Com-

[1] 3 F. R. 1842 DI.
[2] 2 F. R. 1121 (1340 DI).
*Sec. 466.071 issued under authority contained in Sec. 2 (a), 50 Stat. 72; 15 U. S. C. Sup. III, 827.

mission, but shall be returned to the applicant by the Secretary of the Commission with a brief statement of the respect in which the application is defective.

2. Upon receipt of an application for determination of status under Section 4–A, the Commission will send notice of the filing of the application to each District Board and to any other persons or parties who, in the opinion of the Commission, have a proper interest therein. Copies of the application may be obtained from the Secretary of the Commission.

b. *Intrastate allegations.*—Applications for a determination of status, which are predicated on the claim that applicant's coal is not subject to an order of the Commission issued after a hearing pursuant to the first paragraph of Section 4–A will be considered defective and returned to applicant, unless they contain or set forth as fully as possible statements of the following matters:

1. The full name and address of the applicant, the legal status of the applicant (i. e., individual, partnership, unincorporated association; if a corporation, recite the state of incorporation), and applicant's interest in the mine or mines which produce the coal covered by the application.

2. The name and exact location, by city or town and county, of the mine (or mines) involved and the District in which the mine is located.

3. The name of the seam mined, the grades and sizes of coal produced, and the tonnage of each size produced for one year immediately preceding the date of application for determination of status. (If no exact figures are available, applicant shall state the approximate tonnage.)

4. Transactions in coal claimed to be exempt shall be specifically described and the tonnage stated as accurately as possible.

5. A concise statement of the facts relied upon by applicant to show that the sale and distribution of the coal in question does not come within the class covered by the order of the Commission issued pursuant to the first paragraph of Section 4–A.

6. An appendix, showing for the period of one year immediately preceding the filing of the application:

(a) As to *interstate commerce* in coal:

(1) The tonnage by sizes shipped to each state, showing the means of transportation, whether by rail, truck or water;

(2) The use or uses for which each such tonnage was sold, and the tonnage of each such use.

(b) As to *intrastate commerce* in coal:

(1) The tonnage by sizes shipped to each destination, showing the means of transportation, whether by rail, truck, or water;

(2) The use or uses for which each such tonnage was sold, and the tonnage of each such use;

(3) The aggregate tonnage by sizes sold and delivered to each of the following classes of purchasers at each destination (as shown under (b) (1)); retailers, wholesalers, sales agents, truckers, railroads, cooperatives, and ultimate consumers.

c. *Producer-consumer allegations.*—Applications for a determination of status which are predicated on the claim that applicant's coal is of the class described in Section 4–II (1) of the Act will be considered defective and returned to the applicant, unless they contain or set forth, as fully as possible, statements of the following matters:

1. The full name and address of the applicant, and the legal status of the applicant, (i. e., individual, partnership, unincorporated association; if a corporation, recite the state of incorporation); also statement of principal business of the applicant and applicant's interest in the mine (or mines) producing the coal for which exemption is claimed.

2. The name and exact location by city or town, and county, of the mine (or mines) involved and the District in which the mine is located.

3. Statement of annual production for each of the three years immediately preceding the date of filing of application.

4. Statement showing tonnage, destinations, and uses of coal produced and consumed by applicant for the twelve months preceding the application.

In the event the Commission enters an order granting an application, the applicant will be required to apply annually thereafter, and at such other times as the Commission may require, for renewal of the order, and to file such accompanying reports as will enable the Commission to determine whether the facts as found in the order continue to exist.

d. *Filing of application.*—An original and twenty (20) conformed copies, typewritten as provided in Rule XII, shall be filed with the Commission.

e. *Filing date.*—An application shall be deemed to have been filed when it is received by the Commission, if it conforms to the requirements of Section A–1 of this Rule.

f. *Subscription and verification.*—Every application shall be subscribed and verified under oath in accordance with the provisions of Rule VI g.

g. *Withdrawals.*—The withdrawal of an application for exemption shall constitute a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application except upon a showing of a material change of facts.

h. *Granting application without hearing.*—When any application is determined by the Commission without a hearing pursuant to Section 4–A of the Act, such determination shall become effective fifteen (15) days from the date thereof, unless any interested party protests the determination and requests a hearing.

If such protest and request for hearing is made, the Commission shall hold a hearing on the application and protest as provided in Rule VII j.

1. *Protest.*—Protests and request for hearing, on any Application for Determination of Status, shall be subscribed and verified by the protestant and in addition to complying with the other pertinent provisions of these Rules, shall contain:

(a) A statement of protestant's interest in the matter;

(b) A terse yet complete statement of facts which protestant expects to prove at the hearing.

2. *Service of Protest.*—A copy of the protest shall be served on the applicant, and proof of service thereof shall be filed with the Commission.

i. *Parties in interest.*—The District Board for the District in which applicant's mine (or mines) are located, the District Boards for Districts in which coal is produced, for sale and consumption in the same markets as those of applicant's coal, and any other person or party who would be directly affected by the granting of the application by the Commission, may be made parties in interest, in the discretion of the Commission.

j. *Designation of application for hearing.*—When the Commission grants a hearing pursuant to the second paragraph of Section 4–A of the Act, the following procedure will govern:

1. Within fifteen (15) days from the date of the issuance of notice of the hearing, the applicant or other interested parties shall file with the Commission a concise statement in writing of the facts expected to be proved at the hearing. Other interested parties shall also file a written intervention in compliance with Rule VIII. The statement of facts shall be considered as a pleading and not as evidence of the facts therein stated. The affirmative evidence adduced by the parties at the hearing shall be limited to the said statement of facts.

2. If no written statement of the facts expected to be proved at the hearing is filed by the applicant within the fifteen (15) day period, in the absence of extenuating circumstances, the application shall be deemed to have been withdrawn on the expiration of said period, in accordance with the provisions of Section VII g.

3. If the applicant does not appear and offer evidence in support of his statement of facts, in the absence of extenuating circumstances, the application shall be deemed to have been withdrawn, in accordance with the provisions of Section VII g.

4. The burden of proof in all cases shall be on the applicant.

By Order of the Commission.
Dated this 19th day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2472; Filed, August 22, 1938; 12:13 p. m.]

[General Docket No. 15]

ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS—DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 2, 3, 4, AND 5

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 19th day of August, 1938.

The Commission, by its Order No. 240, dated April 19, 1938,[1] having directed each District Board to determine the weighted average of the total costs of the ascertainable tonnage produced within its respective district in the calendar year 1936; and to adjust the average cost so determined as may be necessary to give effect to any changes substantially affecting costs, exclusive of seasonal changes, which may have been established since January 1, 1936; and directing that such determinations be submitted to the Commission together with the computations upon which they are based; and

District Boards Nos. 9, 10, 11, and 12 within Minimum Price Area 2, District Board No. 13 within Minimum Price Area 3, District Board No. 14 within Minimum Price Area 4, and District Board No. 15 within Minimum Price Area 5, having made such determinations and having submitted them together with the data upon which they were computed, to the Commission, pursuant to said Order No. 240, and

The Commission on the 25th day of May, 1938, having instituted the above entitled proceedings, for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937, and having thereafter, upon the 27th day of June, 1938, directed[2] that a hearing be held commencing on the 13th day of July, 1938 at 10:00 A. M., in the Hearing Room of the Commission at 15th and Eye Streets, N.W., Washington, D. C. for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts Nos. 9, 10, 11, 12, 14, 15, and so much of District No. 13 as is within Minimum Price Area 3, and evidence relating to any change or changes in wage rates, hours of employment, or other factors, exclusive of seasonal changes, substantially affecting costs, which may have been established since January 1, 1936 in each of said Districts, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Areas 2, 3, 4, and 5, as adjusted, within the meaning of Section 4, Part II, of the Act, and due public notice of said hearing having been given, and

This matter having been heard before the Commission at the time and place aforesaid, and all interested parties having been afforded an opportunity to be heard, and

The Commission being fully advised in the premises, and having made "Findings of Fact and Conclusions", which are filed herewith,

Now, therefore, Pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other Purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission *Hereby Determines,* in conformity with the "Findings of Fact and Conclusions" made and filed herein, that the weighted average of the total costs of the tonnage for each Minimum Price Area, as hereinafter set forth, in the calendar year 1936, adjusted so as to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, reflecting as accurately as possible any change or changes which have been established since January 1, 1936 as follows:

Minimum Price Area 2 (Districts Nos. 9, 10, 11, and 12)—$1.772 per net ton.
Minimum Price Area 3 (District No. 13)—$2.474 per net ton.
Minimum Price Area 4 (District No. 14)—$3.617 per net ton.
Minimum Price Area 5 (District No. 15)—$2.049 per net ton.

It is therefore ordered, That the weighted average of the total costs, as herein determined, shall be taken as the basis, to be effective until changed by the Commission, for the proposal and establishment of minimum prices in accordance with further order of the Commission.

It is further ordered, That the Secretary of the Commission be and he is hereby directed to cause forthwith a copy of this order to be mailed to the Secretary of each District Board and to the Consumers' Counsel, and to cause a copy hereof to be published in the FEDERAL REGISTER; and the Secretary of the Commission is further directed forthwith to cause to be made available to the public the weighted average figures of total costs determined as aforesaid, and to place for public inspection in each of the Statistical Bureaus within the aforesaid Minimum Price Areas 2, 3, 4, and 5 and at the office of the Secretary of the Commission at Washington, D. C., three (3) copies of this order and the "Findings of Fact and Conclusions" upon which the order is based, and one (1) copy of the official transcript of the evidence upon which said "Findings of Fact and Conclusions" are predicated.

By order of the Commission.
Dated this 19th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2473; Filed, August 22, 1938; 12:13 p. m.]

[1] 3 F. R. 935 DI.
[2] 3 F. R. 1457 DI.

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2132]

IN THE MATTER OF IRVING ROY JACOBSEN ET AL.

SEC. 3.6 (i). *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e). *Offering deceptive inducements to purchase—Free goods.*—Falsely representing that any books offered and sold by respondent will be given free of cost to purchasers or that a certain number thereof have been reserved to be given free to selected persons for advertising or other purpose, or that purchasers are paying only for a loose-leaf extension service to keep the books up to date, prohibited. Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV; sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

SEC. 3.6 (r) (7). *Advertising falsely or misleadingly—Prices—Usual as reduced:* SEC. 3.69 (c) (5). *Misrepresenting oneself and goods—Prices—Usual as reduced.* Falsely representing usual retail price at which respondent's publications are sold as higher than price at which they are offered in advertisements or otherwise, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

SEC. 3.6 (l). *Advertising falsely or misleadingly — Indorsements and testimonials:* SEC. 3.18. *Claiming indorsements or testimonials falsely.*—Falsely representing that any person has given testimonials or recommendations for respondent's books, or publishing, as thus made, any such testimonials, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

SEC. 3.6 (ee). *Advertising falsely or misleadingly — Terms and conditions:* SEC. 3.72 (n) (1). *Offering deceptive inducements to purchase—Terms and conditions.*—Representing that purchasers

of respondent's books have ten years, or any other period of time, to pay therefore, when such is not the fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 10th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF IRVING ROY JACOBSON AND PROGRESSIVE EDUCATION SOCIETY, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the second amended and supplemental complaint of the Commission and the answer filed herein on the 29th day of June, A. D. 1938, admitting all the material allegations of the said complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Irving Roy Jacobson and Progressive Education Society, Inc., and its officers, and their respective representatives, agents and employees, in connection with the offering for sale, sale and distribution of any books, set of books or publications in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Advertising or representing in any manner to purchasers or prospective purchasers that any books or set of books offered for sale and sold by them will be given free of cost to said purchasers or prospective purchasers, when such is not the fact

2. Advertising or representing in any manner that a certain number of sets or any set of books offered for sale and sold by them has been reserved to be given away free of cost to selected persons as a means of advertising, or for any other purpose, when such is not the fact..

3. Advertising or representing in any manner that purchasers or prospective purchasers of respondents' books or publications are only buying or paying for a Loose Leaf Extension Service intended to keep the set of books up to date for a period of ten years, or any other period, when such is not the fact.

4. Advertising or representing in any manner that the usual retail price at which respondents' publications are sold is higher than the price at which they are offered in such advertisements or by such representations, when such is not the fact.

5. Advertising or representing that any person has given testimonials or recommendations for and concerning respondents' books or publications, when such is not the fact.

6. Publishing or causing to be published and circulated testimonials or recommendations of and concerning the respondents' books or publications alleged to have been made by any person, when such testimonials or recommendations have not been made by such person.

7. Advertising or representing in any manner to purchasers or prospective purchasers of any book or set of books that they have ten years, or any other period of time, to pay for the same, when such is not the fact.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2467; Filed, August 22, 1938; 11:55 a. m.]

[Docket No. 3349]

IN THE MATTER OF COOPERATIVE LIBRARY COMPANY

SEC. 3.6 (i). *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e). *Offering deceptive inducements to purchase—Free goods.*—Representing that respondent's reference books are given away free, provided purchaser subscribes at same time to loose-leaf extension service for period of years, or that subscribed will receive additional book or copy each year for succeeding period to accommodate such loose-leaf service, when such is not the case, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (f) (7). *Advertising falsely or misleadingly—Prices—Usual as reduced:* SEC. 3.69 (c) (3). *Misrepresenting oneself and goods—Prices—Usual as reduced.*—Representing that selling price of respondent's reference books is $9.50, or any other sum less than usual price, provided purchaser subscribes at same time for loose-leaf extension service for period of years, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (ee). *Advertising falsely or misleadingly—Terms and conditions:* SEC. 3.72 (n) (1). *Offering deceptive inducements to purchase—Terms and conditions.*—Representing that subscriber will be credited with $5.00, or any other sum, for each set of respondent's books sold in community where subscriber resides, or that said books will be sent out for approval, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company Docket 3349, August 10, 1938.]

SEC. 3.6 (l). *Advertising falsely or misleadingly—Indorsements and testimonials:* SEC. 3.18 *Claiming indorsements or testimonials falsely.*—Representing that respondent's reference books have been recommended by local county school superintendent, or American Library Association, or subscriber's immediate superior, or any other individual, when such is not the case, prohibited. Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (n) (2). *Advertising falsely or misleadingly—Nature—Product:* SEC. 3.69 (b) (8). *Misrepresenting oneself and goods — Goods — Nature.* — Representing that respondent's books are modern and up-to-date, or are prepared especially for high school teachers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (a) (18). *Advertising falsely or misleadingly—Business status, advantages or connections—Non-profit character:* SEC. 3.96 (b) (4). *Using misleading name—Vendor—Non-profit character.*—Representing, through use of trade name, Cooperative Library Company, or other name of similar import and effect, or otherwise, that respondent's business is cooperative library enterprise, or other than private, for-profit business, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF MELVIN HINER, AS INDIVIDUAL, TRADING AS COOPERATIVE LIBRARY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that he waives hearing on the charges set forth in the complaint, and that without further evidence or other intervening procedure the case may proceed to final hearing upon the record, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Melvin Hiner, an individual trading as Cooperative Library Company, or trading under any other name, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of reference books now designated "American Educator Encyclopedia in Ten Volumes", or of the same or like books, whether sold under that name or any other name or title, in interstate commerce and in the District of Columbia, do forthwith cease and desist from representing, directly or otherwise:

1. That said reference books are given away free of charge, or that the selling price thereof is $9.50 or any other sum less than the usual and customary price thereof provided the purchaser subscribes at the same time for a loose-leaf extension service for a period of years;

2. That the subscriber will be credited with $5.00 or any other sum for each set of reference books sold in the community wherein the subscriber resides;

3. That said reference books have been recommended by the local county school superintendent or by the American Library Association or by the immediate superior of the subscriber, or by any other individual, when such is not the case;

4. That said books will be sent out for approval;

5. That the subscriber will receive an additional book or copy each year for a succeeding period of years to accommodate the loose-leaf extension service, when such is not the case.

6. That said books are modern and up-to-date;

7. That said books are prepared especially for high school teachers.

8. Through use of the trade name "Cooperative Library Company", or through any other name of similar import and effect, or through any means or device, or in any manner, that the business conducted by him is a cooperative library enterprise or is anything other than a private business conducted for profit.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2468; Filed, August 22, 1938; 11:56 a. m.]

[1] 3 F. R. 1370 DI.

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49683]

CUSTOMS REGULATIONS OF 1937 AMENDED RELATIVE TO THE KINDS AND PROPORTIONS OF IMPORTED SEEDS TO BE COLORED

AUGUST 17, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C. title 5, sec. 22), and section 5 (c) of the Federal Seed Act, as amended by the Act approved April 26, 1926 (U. S. C. title 7, sec. 115 (c)), article 592 of the Customs Regulations of 1937[1] is amended, effective August 15, 1938, to read as follows:

ART. 592. *Kinds and proportions of seeds to be colored.*—(a) Except as provided in sub-paragraphs (c) and (d) of this regulation, the importation into the United States of seeds of alfalfa or red clover, or any mixture of seeds containing 10 per cent or more of the seeds of alfalfa or red clover, is prohibited, unless 5 per cent of the seeds in each container are stained with the color specified in sub-paragraph (b) of this regulation: *Provided*, That seeds of Canadian origin shall be stained 1 per cent.

(b) Seed of Canadian origin shall be stained iridescent violet. Except as provided in (d) or by notices issued by the Secretary of Agriculture, under section 5 of the act, seed originating in any foreign country other than Canada shall be stained green.

(c) Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination and, on and after the expiration of 90 days after the date of such publication and until such determination is revoked, the importation into the United States of any such seeds or of any mixture of seeds containing 10 per cent or more of such seeds of alfalfa or red clover is prohibited, unless at least 10 per cent of the seeds in each container is stained a red color.

(d) The importation into the United States of seed of alfalfa or red clover or any mixture of seeds containing 10 per cent or more of the seed of alfalfa or red clover is prohibited unless at least 10 per cent of the seed in each container is stained red: (1) when the origin of such alfalfa or red clover seed is not established; (2) when such alfalfa or red clover seed is of two or more origins not subject to the same color designation; (3) when such alfalfa or red clover seed consists of seed grown in a foreign country commingled with seed of the same kind grown in the United States; or (4) when such alfalfa or red clover seed has been colored, prior to being offered for entry, with a color different from that required under this regulation.

(e) The live, pure seed requirements of the act shall apply to mixtures of seed, as a whole, and to each kind or variety of seed therein which is specifically subject to the act and a principal component part of the mixture.

H. A. WALLACE,
Secretary of Agriculture.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2463; Filed, August 22, 1938; 9:48 a. m.]

[T. D. 49685]

DOMESTIC MANUFACTURER'S PROTEST ON CLASSIFICATION OF AND RATE OF DUTY IMPOSED ON WOOL HOOKED RUGS OVERRULED

To Collectors of Customs and Others Concerned:

In view of the decision of the United States Court of Customs and Patent Appeals, rendered April 25, 1938 (Treasury Decision 49577), in the case of the New England Guild *v.* United States (International Clearing House of New York, Inc., appearing as party in interest), affirming the judgment of the Customs Court in overruling the protest filed under authority of section 516 (b), Tariff Act of 1930 (U. S. C. title 19, sec. 1516 (b)), by the New England Guild against the classification of and rate of duty imposed on wool hooked rugs of the kind described in Treasury Decision 47924 dated October 14, 1935, Treasury Decision 48278 dated April 28, 1936, is revoked, and collectors of customs are authorized to proceed with the liquidation of entries, the liquidation of which was suspended by the latter treasury decision.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved, August 13, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2464; Filed, August 22, 1938; 9:48 a. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-7]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 19, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6,

[1] 2 F. R. 1581 (1869 DI).

1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[1] are hereby amended by the following regulation:

SOUTHEASTERN ALASKA AREA

Western District

Salmon fishery.—Regulations No. 8 and No. 9[2] are amended so as to permit commercial fishing for salmon south of 58 degrees north latitude from 6 o'clock postmeridian August 19 to 6 o'clock postmeridian August 20.

[SEAL] SOUTH TRIMBLE, JR.,
Acting Secretary of Commerce.

[F. R. Doc. 38-2445; Filed, August 19, 1938; 4:22 p. m.]

TITLE 21—FOOD AND DRUGS

FOOD AND DRUG ADMINISTRATION

[Service and Regulatory Announcements]

REGULATIONS UNDER SECTION 801 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Under the authority of sections 701 (b) and 801 (b) of the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (Public No. 717—75th Congress; Chapter 675—3rd Session) the regulations under section 11 of the Federal Food and Drugs Act of June 30, 1906 (U. S. C., 1934 ed., title 21, ch. 1) are hereby prescribed for the enforcement of the provisions of section 801 of the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (Public No. 717—75th Congress; Chapter 675—3rd Session).

WAYNE C. TAYLOR,
Acting Secretary of Treasury.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

AUGUST 15, 1938.

[F. R. Doc. 38-2447; Filed, August 20, 1938; 12:12 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4855]

CLOSING AGREEMENTS AS TO FUTURE TAX LIABILITY

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 801 (Title V—Miscellaneous Provisions) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), provides:

SEC. 801. CLOSING AGREEMENTS AS TO FUTURE TAX LIABILITY.

Section 606 (a) of the Revenue Act of 1928 is amended by striking out the words "ending prior to the date of the agreement."

PAR. B. Section 802 of Title V of the Revenue Act of 1938 provides:

SEC. 802. APPROVAL OF CLOSING AGREEMENTS.

Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary, or the Under Secretary", and inserting in lieu thereof the following: "is approved by the Secretary, the Under Secretary, or an Assistant Secretary".

PAR. C. Section 606 (a) of the Revenue Act of 1928, as amended by section 801 of the Revenue Act of 1938, provides:

SEC. 606. CLOSING AGREEMENTS.

(a) *Authorization.*—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period.

PAR. D. Section 606 (b) of the Revenue Act of 1928, as amended by section 802 of the Revenue Act of 1938, provides:

SEC. 606. CLOSING AGREEMENTS.

* * * * * *

(b) *Finality of agreements.*—If such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

PAR. E. Section 616 of the Revenue Act of 1928 provides:

SEC. 616. COMPROMISES—CONCEALMENT OF ASSETS.

Any person who, in connection with any compromise under section 3229 of the Revised Statutes, as amended, or offer of such compromise, or in connection with any closing agreement under section 606 of this Act, or offer to enter into any such agreement, willfully (1) conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or (2) receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

PAR. F. Section 3447 of the United States Revised Statutes provides:

The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

Pursuant to the above-quoted provisions of law, the following regulations are hereby prescribed with respect to closing agreements under section 606 of the Revenue Act of 1928 as amended:

ARTICLE 1. *Closing agreements relating to tax liability in respect of internal-revenue taxes.*—Closing agreements provided for in section 606 of the Revenue Act of 1928, as amended, may relate to any taxable period ending prior or subsequent to the date of the agreement. With respect to taxable periods ending prior to the date of the agreement, the matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer, as for example, the amount of gross income, deductions for losses, depreciation or depletion, or the year for which an item of income is to be included in gross income or the year for which an item of loss is to be deducted, or the value of property on a specified date. A closing agreement may also be entered into in order to provide a "determination under the income tax laws" as defined in section 820 (a) (1) (A) of the Revenue Act of 1938. With respect to taxable periods ending subsequent to the date of the agreement, the matter agreed upon may relate only to one or more separate items affecting the tax liability of the taxpayer. The following, among others, are examples of the latter type of closing agreement: (1) A taxpayer may sell a portion of his holdings in a particular stock. A closing agreement may be entered into fixing the cost or other legal factor determining the basis for computing gain or loss on such sale, and, at the same time fixing the cost or other legal factor determining the basis (unless or until the statute is changed to require the use of some other factor to determine basis) of the remaining portion of the stock still held by the taxpayer upon which gain or loss will be computed when the taxpayer sells such stock in a later year; (2) if the taxpayer is undecided whether to sell property or hold it, or as to the price at which to sell it, a closing agreement may be entered into determining the market value of the property as of March 1, 1913, for future taxable periods, prior to the consummation of the sale by the taxpayer. A closing agreement with respect to any taxable period ending subsequent to the date of the agreement is subject to any change in or modification of the law enacted subsequent to the date of the agreement and applicable to such taxable period, and each closing agreement shall so recite. Closing agreements may be executed even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of agreements relating to the tax liability for a single period. Any tax or deficiency in tax determined pursuant to a closing agreement shall be assessed and collected, and any overpayment determined pursuant thereto shall be credited or refunded in accordance with the applicable provisions of law.

The procedure in the Bureau of Internal Revenue with respect to applications for entering into closing agreements in accordance with these regulations will be under such rules as may be prescribed from time to time by the Commissioner.

These regulations apply to any closing agreement entered into on and after May 28, 1938, the date of the enactment of the Revenue Act of 1938. Article 1301 of Regulations 74 is hereby superseded.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 18, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2443; Filed, August 19, 1938; 3:56 p. m.]

[1] 3 F. R. 451, 512, 1019, 1382, 1940, 2018, 2043 DI.
[2] 3 F. R. 460 DI.

TITLE 31—MONEY AND FINANCE: TREASURY

OFFICE OF THE SECRETARY

[Department Circular No. 591]

REGULATIONS GOVERNING THE DISCLOSURE OF OFFICIAL INFORMATION

AUGUST 15, 1938.

To Heads of Bureaus, Offices, and Divisions, Treasury Department:

Pursuant to authority conferred by Section 161, Revised Statutes (U. S. C., 1934 ed., title 5, sec. 22), the following regulations are hereby prescribed and shall govern the disclosure of official information of the Treasury Department:

1. No record, claim, account, document, or other official instrument in writing, or any exhibit attached, or pertaining thereto, shall be withdrawn from the files of the Department by, or furnished to, any person not an officer or employee of the Department.

2. No copy of, or information relative to, any such instrument or exhibit, or to any other official business of the Department, which appears to be of a confidential nature, shall be given to any person unless (a) such person obtains a court order therefor, entered in pending litigation, or makes application therefor in the manner hereinafter prescribed in this paragraph, and (b) it appears to the Secretary, the Under Secretary, an Assistant Secretary, the Administrative Assistant to the Secretary, or the head of the Bureau, Office, or Division of the Department having charge of the subject matter to which such copy or information relates, that the furnishing thereof would not be inimical to the public interest. The application mentioned above shall be addressed to the Secretary and must set forth under oath the interest of the applicant in the subject matter and the purpose for which such copy or information is desired. Applications made hereunder by duly accredited officials of any State need not be under oath.

3. Treasury Department officers and employees are prohibited from testifying in court or otherwise with respect to information obtained as a result of their official capacities without the prior approval of the Secretary, the Under Secretary, an Assistant Secretary, the Administrative Assistant to the Secretary, or the head of the Bureau, Office, or Division of the Department in which such officer or employee is employed. An affidavit, by the litigant or his attorney, setting forth the interest of the litigant and the information with respect to which the testimony of such officer or employee is desired must be submitted before permission to testify will be granted. Permission to testify will, in all cases, be limited to the information set forth in the affidavit, or to such portions thereof as may be deemed proper.

4. A reasonable fee may, in the discretion of the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary, be charged for furnishing copies of such instruments or exhibits, or information.

5. These regulations shall not be applicable to official requests of other governmental agencies or officers thereof acting in their official capacities, unless it appears that compliance therewith would be in violation of law, or inimical to the public interest. Cases of doubt should be referred for decision to the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary.

6. The provisions of these regulations may be waived in proper cases by the Secretary, the Under Secretary, or an Assistant Secretary.

7. These regulations shall supersede Department Rule IX. All other Department orders, rules, regulations, circulars, etc., to the extent that they are in conflict herewith, are hereby revoked; provided, however, that Customs Regulations of 1937, Article 1465 (e) (3);[1] Regulations 4 of the Bureau of Narcotics, Chapter II, Articles 8 to 11, inclusive;[2] Regulations of the Public Health Service, 1931, paragraphs 469 and 470; Coast Guard Regulations, Article 1778 and Coast Guard Personnel Instructions, Article 5045 (2); regulations, rules, and orders governing the inspection of tax returns and the disclosure of information contained therein; and, Article 80 of Regulations 12, as amended by Treasury Decision 4640,[3] approved April 29, 1936, shall remain in full force and effect.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2444; Filed, August 19, 1938; 3:56 p. m.]

[1] 2 F. R. 1754 (2049 DI).
[2] 3 F. R. 1231 DI.
[3] 1 F. R. 309.

TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION

CIVILIAN CONSERVATION CORPS

PART 3.—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH, AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS

SEC. 3.03 *Eligibility for selection and reselection.*

* * * * * *

(b) *Reselection.*—An honorably discharged junior is ineligible for reselection for a period of 6 months following the date of his discharge. If then otherwise qualified he becomes eligible for reselection if his previous service subsequent to July 1, 1937, does not exceed 18 months: *Provided, however,* That a junior who was discharged because of the limitations imposed by section 8 of the act approved June 28, 1937, with regard to age and total length of service, is eligible for reselection at any subsequent enrollment period as one of the ten enrollees exempted from such limitations: *And provided further,* That a junior who was honorably discharged as a result of physical disability not the result of his own misconduct, and who has since overcome such disability, is eligible for reselection at any subsequent enrollment period if his previous service does not exceed 18 months.

An honorably discharged veteran will be ineligible for reselection for a period of 6 months following the date of his discharge. He will then become eligible for reselection regardless of his age, marital status, or the length of his former service in the Civilian Conservation Corps: *Provided, however,* That a veteran who was honorably discharged as a result of physical disability not the result of his own misconduct, and who has since overcome such disability, has been physically examined by the War Department, and has been certified by the War Department to the proper Regional Manager, Veterans' Administration, as physically eligible for reselection, may be reselected at any subsequent enrollment period.

A member administratively or dishonorably discharged from the Civilian Conservation Corps is thereafter ineligible for reselection: *Provided, however,* That a former enrollee, the type of whose discharge is changed by the corps area commander from administrative or dishonorable to honorable, is eligible for reselection at any enrollment period, if he be otherwise legally qualified. Such a man may have been offered reinstatement by the corps area commander, but his refusal to accept reinstatement when offered will not act as a bar to the reselection when contemplated.

A junior who has been discharged from the Civilian Conservation Corps because of marriage will not be eligible for reselection thereafter except as provided in section 3.02, paragraph (b). (50 Stat.

319) [C. C. C. Regs., W. D., Dec. 1, 1937; C 11, Aug. 16, 1938].

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-2446; Filed, August 20, 1938; 10:14 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1449]

FREE USE OF TIMBER UPON PUBLIC LANDS IN ALASKA BY CHURCHES, HOSPITALS AND CHARITABLE INSTITUTIONS

1. *Free use privilege extended to churches, hospitals and charitable institutions.*—The act of June 15, 1938 (Public No. 633, 75th Congress), amends Section 11 of the act of May 14, 1898 (30 Stat. 414), so as to extend the free use timber cutting privilege on the unreserved public lands in Alaska to churches, hospitals, and charitable institutions.

2. *Governing regulations.*—The cutting of timber on such lands by churches, hospitals and charitable institutions will be governed by the regulations contained in Circular No. 1394, dated June 20, 1936,[1] as herein amended.

3. *Regulations amended.*—The introductory paragraph and paragraphs 1 and 6 of Circular No. 1394 have been carried into the Code of Federal Regulations as Sections 79.1, 79.2, and 79.7, respectively, which regulations and sections are hereby amended to read as follows:

79.1 *Statutory authority.* Section 11 of the act of May 14, 1898 (30 Stat. 414; 48 U. S. C. 423), empowers the Secretary of the Interior to permit the use of timber found upon the public lands in Alaska by actual settlers, residents, individual miners and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting and for domestic purposes as may actually be needed by such persons for such purposes. This section was amended by the act of June 15, 1938 (Public No. 633), so as to permit the use of such timber by churches, hospitals and charitable institutions for firewood, fencing, buildings, and for domestic purposes.*

79.2 *Free use privilege; cutting by agent.* The only timber which may be cut under these regulations for free use in Alaska is timber on vacant public lands in the territory not reserved for national forest or other purposes. The timber so cut may not be sold or bartered. The free use privilege does not extend to associations or corporations, except churches, hospitals and charitable institutions. Any applicant entitled to the free use of timber may procure it by agent, if desired, but no part of the timber may be used in payment for services in obtaining it or in manufacturing it into lumber. Timber may not be cut by an applicant hereunder after the land has been included in a valid homestead settlement or entry or other claim, except that any applicant for the free use of timber who has given notice of intention to take it as hereinafter provided, will have the right to cut it while the notice remains in force as against a subsequent applicant who may wish to obtain the same timber by purchase.*

79.7 *Amount of timber which may be cut.* During each calendar year each applicant entitled to the benefits of the act may take a total of 100,000 feet board measure or 200 cords in saw logs, piling, cordwood or other timber. This amount may be taken in whole in any one of such classes of timber or in part of one kind and in part of another kind or other kinds. Where a cord is the unit of measure, it shall be estimated in relation with saw timber in the ratio of 500 feet board measure to the cord. Permits to take timber in excess of the amount stated may be granted to churches, hospitals and charitable institutions upon a showing of special necessity therefor, and with the approval of the Commissioner of the General Land Office. The restrictions as to quantity do not apply to timber cut for Government purposes under Section 79.3 (Par. 2, Cir. 1394).*

FRED W. JOHNSON,
Commissioner.

Approved, August 13, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-2462; Filed, August 22, 1938; 9:35 a. m.]

[1] 1 F. R. 688.

*Issued under authority of Sec. 11, 30 Stat. 414; 48 U. S. C. 423.

Notices

CIVIL AERONAUTICS AUTHORITY.

[Special Order 401-A-1]

EXEMPTING PENNSYLVANIA-CENTRAL AIRLINES CORPORATION FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938 INSOFAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE RENDERED BY SAID AIR CARRIER BETWEEN DETROIT, MICHIGAN, AND SAULT SAINTE MARIE, MICHIGAN, VIA INTERMEDIATE CITIES

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August 1938.

The matter of the exemption of Pennsylvania-Central Airlines Corporation from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, being under consideration by the Authority upon its own motion and investigation pursuant to the authority contained in sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, (52 Stat. 973, 984 and 1005), and, being fully advised in the premises, the Authority is of the opinion and finds:

(1) That Pennsylvania-Central Airlines Corporation is an air carrier engaged in the rendition of an air transportation service between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, and as such is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) That said air carrier, prior to the enactment of the Civil Aeronautics Act of 1938, was engaged in the rendition of a scheduled air transportation service over the following routes: Between Norfolk, Virginia, and Detroit, Michigan; between Baltimore, Maryland, and Pittsburgh, Pennsylvania; between Detroit, Michigan, and Milwaukee, Wisconsin; between Grand Rapids, Michigan, and Chicago, Illinois; between Washington, D. C., and Buffalo, New York; and between Buffalo, New York, and Pittsburgh, Pennsylvania; and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor issued by the Secretary of Commerce.

(3) That said Scheduled Airline Competency Certificate of said air carrier was amended on or about the 28th day of July, 1938, to permit the inauguration of a scheduled air transportation service over the route set forth in Finding (1) and said air carrier was ready, able and willing to inaugurate said service prior to said date, excepting, however, that the landing areas necessary for the operation of said service were not in proper condition to permit safe operations.

(4) That said air carrier is the holder of a contract with the Post Office Department for the carriage of mail over the route set forth in Finding (1); that said route was provided for by the Act of Congress, making appropriations for the Treasury Department and Post Office Department, approved March 28, 1938; and that said route is specifically set forth in section 401 (e) (2) of the Civil Aeronautics Act of 1938.

(5) That said air carrier has expended considerable sums of money in advertising the route set forth in Finding (1) and in the development of air traffic and in the training of its personnel for the operation of an air transportation service over said route.

(6) That the present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would be an undue burden on such air carrier by reason of the limited extent of and the unusual circumstances affecting the operations of such air carrier with respect to said air transportation service, and such enforcement would not be in the public interest.

(7) That failure to exempt said air carrier from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would necessitate termination of said air transportation service as of August 22, 1938, and that such termination would disrupt the carrying of mail between the cities served on said route and such other transportation service as is being rendered between said cities by said air carrier, all of which would be contrary to the public interest.

(8) That said air carrier should be exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service of said air carrier over the route set forth in Finding (1), for the period from June 23, 1938, to and including 120 days thereafter, and that said air carrier should be permitted to continue its operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

(9) That, if said air carrier files with the Civil Aeronautics Authority within the period set forth in Finding (8) application for a Certificate of Convenience and Necessity for an air transportation service over the route set forth in Finding (1), said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service from the date of the filing of such application to the effective date of the order of the Authority with respect to such application.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005) hereby makes and promulgates the following special order:

Special order 401-A-1.—Exempting Pennsylvania-Central Airlines Corporation from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 987) insofar as the same are applicable to the air transportation service rendered by said air carrier between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities.

Pennsylvania-Central Airlines Corporation is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier over the route between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, during the period from June 23, 1938, to and including 120 days thereafter, and said air carrier is hereby permitted to continue operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

Said air carrier is hereby further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, for a further period from the date on which said air carrier files application for a Certificate of Convenience and Necessity for said air transportation service to the effective date of the order of the the Civil Aeronautics Authority with respect to such application, provided, that said application for such Certificate of Convenience and Necessity is filed with the Authority within the period from June 23, 1938, to and including 120 days thereafter.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2457; Filed, August 20, 1938; 3:03 p. m.]

[Special Order 401-A-2]

EXEMPTING UNITED AIR LINES TRANSPORT CORPORATION FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938. INSOFAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE RENDERED BY SAID AIR CARRIER TO MONTEREY, CALIFORNIA

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August 1938.

The matter of the exemption of United Air Lines Transport Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, being under consideration by the Authority, upon its own motion and investigation, pursuant to the authority contained in sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), and being fully advised in the premises, the Authority is of the opinion and finds:

(1) That United Air Lines Transport Corporation is an air carrier engaged in the rendition of an air transportation service between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, and as such is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) That said air carrier, prior to the enactment of the Civil Aeronautics Act of 1938, and prior to and since May 14, 1938, was and has been engaged in the rendition of a scheduled airline transportation service between Newark, New Jersey, and Chicago, Illinois; between Newark, New Jersey, and Cleveland, Ohio; between Chicago, Illinois, and Glenview, Illinois; between Chicago, Illinois, and Cheyenne, Wyoming; between Chicago, Illinois, and Denver, Colorado; between Denver, Colorado, and Cheyenne, Wyoming; between Denver, Colorado, and Salt Lake City, Utah; between Cheyenne, Wyoming, and Salt Lake City, Utah; between Salt Lake City, Utah, and Oakland, California; between Salt Lake City, Utah, and Portland, Oregon; between Portland, Oregon, and Spokane, Washington; between Vancouver, British Columbia, Canada, and Seattle, Washington; between Seattle, Washington, and Oakland, California; between Oakland, California, and Burbank, California, and between Burbank, California, and San Diego, California, and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor issued by the Secretary of Commerce.

(3) That said Scheduled Airline Competency Certificate of said air carrier was amended on or about the 20th day of July, 1938, to permit the inauguration of a scheduled air transportation service over the route set forth in Finding (1), and said air carrier was ready, able and willing to inaugurate said service prior to said date, except, however, that the landing area necessary for the operation of said service into and away from Monterey, California, was not in a proper condition to permit safe operations.

(4) That said air carrier, for some years last past, has conducted, and is now conducting, regularly scheduled airline transportation services over various routes between Oakland, California, and Burbank, California, and in connection with the rendition of such service was, prior to May 14, 1938, and is now, making regularly scheduled stops at San Francisco and Santa Barbara.

(5) That one of the regular routes flown by said air carrier, prior to the inauguration of said service into and away from Monterey, California, was a direct air route from San Francisco, California, to Burbank, California; that the City of Monterey is approximately 15 miles to the west of said direct route; that the sole change in operations or schedules effected by the amendment of July 20, 1938, to the Scheduled Airline Competency Certificate and appended competency letters held by said air carrier on said date was the addi-

tion of the City of Monterey, California, as a scheduled intermediate stop.

(6) That said air carrier has expended considerable sums of money in advertising the route set forth in Finding (1) and in the development of air traffic and in the training of its personnel for the operation of an air transportation service over said route.

(7) That the present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier over the route set forth in Finding (1) would be an undue burden on such air carrier by reason of the limited extent of and the unusual circumstances affecting the operations of such air carrier with respect to said air transportation service, and such enforcement would not be in the public interest.

(8) That failure to exempt said air carrier from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would necessitate termination of said air transportation service as of August 22, 1938, and that such termination would disrupt the carrying of mail between the cities served on said route and such other transportation service as is being rendered between said cities by said air carrier, all of which would be contrary to the public interest.

(9) That said air carrier should be exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service of said air carrier over the route set forth in Finding (1), and particularly the scheduled intermediate stop at Monterey, California, for the period from June 23, 1938, to and including 120 days thereafter, and that said air carrier should be permitted to continue to make a regularly scheduled stop at Monterey, California, and to continue its operations over the route set forth in Finding (1), and to render such service thereon during said period for such charges and rates as are established pursuant to law.

(10) That if said air carrier files with the Civil Aeronautics Authority, within the period set forth in Finding (9), application for a Certificate of Convenience and Necessity for an air transportation service over the route set forth in Finding (1), said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service, from the date of filing of such application to the effective date of the order of the Authority with respect to such application.

The Civil Aeronautics Authority, therefore, pursuant to the Authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), hereby makes and promulgates the following special order:

Special order 401–A–2.—Exempting United Air Lines Transport Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 987), insofar as the same are applicable to the air transportation service rendered by said air carrier to Monterey, California.

United Air Lines Transport Corporation is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier over the route between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, during the period from June 23, 1938, to and including 120 days thereafter, and said air carrier is hereby permitted to continue operations over said route and render such service thereon during said period, for such charges and rates as are established pursuant to law.

Said air carrier is hereby further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, for a further period from the date on which said air carrier files application for a Certificate of Convenience and Necessity for said air transportation service to the effective date of the order of the Civil Aeronautics Authority with respect to such application, provided that said application for such Certificate of Convenience and Necessity is filed with the Authority within the period from June 23, 1938, to and including 120 days thereafter.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–2452; Filed, August 20, 1938; 2:59 p. m.]

Special Order 401–A–3]

EXEMPTING WESTERN AIR EXPRESS CORPORATION FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, INSOFAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE RENDERED BY SAID AIR CARRIER OVER A ROUTE BETWEEN GREAT FALLS, MONTANA, AND GLACIER NATIONAL PARK (BROWNING, MONTANA)

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August, 1938.

The matter of the exemption of Western Air Express Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier between Great Falls, Montana, and Glacier National Park (Browning, Montana), being under consideration by the Authority upon its own motion and investigation pursuant to the authority contained in sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), and being fully advised in the premises, the Authority is of the opinion and finds:

(1) That Western Air Express Corporation is an air carrier engaged in the rendition of an air transportation service between Great Falls, Montana, and Glacier National Park (Browning, Montana), and as such is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) That said air carrier, prior to the enactment of the Civil Aeronautics Act of 1938, and prior to and since May 14, 1938, was and has been engaged in the rendition of a scheduled air transportation service from San Diego, California, to Salt Lake City, Utah, to Great Falls, Montana, via intermediate points, and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor issued by the Secretary of Commerce.

(3) That said Scheduled Airline Competency Certificate of said air carrier was amended on or about the 25th day of June, 1938, to permit the inauguration of a scheduled air transportation service over the route set forth in Finding (1) for the period from June 15 to September 30 of each year; that the application for such amendment was filed on or about the 26th day of May, 1938, with the Senior Airline Inspector of the Bureau of Air Commerce, Department of Commerce, at Burbank, California, pursuant to the Civil Air Regulations; that said application for amendment was approved, but by reason of the press of business pending before the Bureau of Air Commerce the applicant air carrier was not rated as competent to inaugurate said air transportation service until June 25, 1938; and that, therefore, said air carrier took every reasonable step within its power to inaugurate said air transportation service prior to June 23, 1938, the date of enactment of the Civil Aeronautics Act of 1938.

(4) That said air carrier has expended considerable sums of money in advertising the route set forth in Finding (1) and in the development of air traffic and the training of its personnel for the operation of an air transportation service over said route.

(5) That the present enforcement of the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would be an undue burden on such air carrier by reason of the limited extent of and the unusual circumstances affecting the operations of such air carrier with respect to said air transportation service, and enforcement would not be in the public interest.

(6) That failure to exempt said air carrier from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service rendered during the current year by said air carrier over the route set forth in Finding (1), would necessitate termination of said air transportation service as of August 22, 1938, contrary to the public interest.

(7) That there are no competing air carriers operating between the terminals of the route set forth in Finding (1); that there are no such air carriers operating along a route parallel to said route set forth in Finding (1); and that no objections were made by any competing or other air carrier to the inauguration of said air transportation service over the route set forth in Finding (1).

(8) That Western Air Express Corporation should be exempted from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered during the current year by said air carrier over the route set forth in Finding (1), for the period from August 21, 1938, to and including September 30, 1938, and that said air carrier should be permitted to continue its operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), hereby makes and promulgates the following special order:

Special order 401–A–3.—Exempting Western Air Express Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act (52 Stat. 973, 987), insofar as the same are applicable to the air transportation service rendered by said air carrier over a route between Great Falls, Montana, and Glacier National Park (Browning, Montana).

Western Air Express Corporation is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier over the route between Great Falls, Montana, and Glacier National Park (Browning, Montana), during the period from August 21, 1938, to and including September 30, 1938, and said air carrier is hereby permitted to continue operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–2458; Filed, August 20, 1938; 3:02 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 276]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 9, 1938.

By virtue of the authority vested in me by the provisions of Sections 3 (e) and 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums made available during the fiscal year ending June 30, 1938 and not loaned or obligated during the said fiscal year, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Colorado 8020A1 Delta	$200,000
Idaho 8010B1 Nez Perce	300,000
Indiana 8041A2 LaGrange	48,000
Minnesota 8010B1 Carlton	250,000
Minnesota 8010G1 Carlton	60,000
Montana 8005B1 Richland	29,600
North Carolina 8025C1 Rutherford	112,000
Washington 8008B1 Benton	54,500
Wyoming 8011C1 Lincoln	177,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2459; Filed, August 22, 1938; 9:34 a. m.]

[Administrative Order No. 277]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 9, 1938.

By virtue of the authority vested in me by the provisions of Sections 3 (e) and 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums made available during the fiscal year ending June 30, 1938 and not loaned or obligated during the said fiscal year, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Wisconsin 8029W1 Clark	$40,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2460; Filed, August 22, 1938; 9:34 a. m.]

[Administrative Order No. 278]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 9, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Michigan 9043A1 Chippewa	$427,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2461; Filed, August 22, 1938; 9:34 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 18th day of August 1938

[File No. 1–1284]

IN THE MATTER OF APPLICATION BY THE BALTIMORE STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE CAPITAL STOCK, NO PAR VALUE, OF CONSOLIDATED TEXTILE CORPORATION

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Baltimore Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, No Par Value, of Consolidated Textile Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 22, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2448; Filed, August 20, 1938; 12:22 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of August, A. D. 1938.

[File No. 32-92]

IN THE MATTER OF PAGE POWER COMPANY

ORDER EXEMPTING ISSUE AND SALE OF SECURITIES AUTHORIZED BY STATE COMMISSION

Page Power Company, a subsidiary of Republic Service Corporation, a registered holding company, has filed an application and one amendment thereto, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act, of the issue and sale of 1,400 shares of its no-par value common capital stock at a price of $50 per share or an aggregate cash consideration of $70,000;

A hearing having been held upon such application as amended, after appropriate notice,[1] the record in this matter having been duly considered and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in and for the purpose represented by said application as amended, be and the same hereby are exempted from the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of said securities by the State Corporation Commission of the Commonwealth of Virginia shall be revoked, or shall otherwise terminate, or if the provisions of the stipulation of Republic Service Corporation (applicant's parent) dated August 3, 1938, which is filed as an exhibit to and made a part of the record in this matter, are disregarded or violated, this exemption shall immediately terminate without further order of this Commission as of the date hereof; and upon the further condition that within ten days after the issue and sale of said securities the applicant shall file with this Commission a certificate of notification showing that the issue and sale of these securities have been effected in accordance with the terms and conditions and for the purpose represented by said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2449; Filed, August 20, 1938; 12:22 p. m.]

[1] 3 F. R. 1388 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of August, A. D. 1938.

[File No. 34-22]

IN THE MATTER OF HENRY A. GARDNER, ET AL., ACTING AS UTILITIES ELKHORN COAL COMPANY BONDHOLDERS COMMITTEE

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to Sections 11 (g) and 12 (e) of the Public Utility Holding Company Act of 1935 and to Rule U-12E-3 (e) and an application pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935 and Rule U-11F-2, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 19, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 14, 1938.

The matter concerned herewith is in regard to a declaration pursuant to Rule U-12E-3 (e) and U-12E-5 with respect to the solicitation by Henry A. Gardner, Chairman, John A. Dawson, and Robert W. Hotchkiss, as Utilities Elkhorn Coal Company Bondholders Committee, of limited authorizations accompanied by a deposit of the First Mortgage Bonds of Utilities Elkhorn Coal Company, a subsidiary of Utilities Power & Light Corporation, both of which are now in the process of reorganization under Section 77B of the Bankruptcy Act, as amended, in the Federal District Court of the Northern District of Illinois, Eastern Division, which case is entitled "In the Matter of Utilities Power & Light Corporation, a corporation Debtor, Utilities Elkhorn Coal Company, subsidiary Debtor, No. 64605";

And in regard to an application pursuant to Rule U-11F-2 with respect to an exemption from such rule for interim expenditures for expenses to be made by the Utilities Elkhorn Coal Company Bondholders Committee in the maximum amount of $10,000, every item of such expenditure to be subject to the further approval of the Federal District Court of the Northern District of Illinois, Eastern Division, such expenses to be paid either out of the funds of Utilities Power & Light Corporation or Utilities Elkhorn Coal Company, as may be directed by the Federal District Court of the Northern District of Illinois, Eastern Division, which now has jurisdiction of the reorganization proceedings of such companies under Section 77B of the Bankruptcy Act, as amended, Case No. 64605.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2450; Filed, August 20, 1938; 12:22 p. m.]

Reference

AUG 25 1938

THE NATIONAL ARCHIVES
UTTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 165

Washington, Wednesday, August 24, 1938

The President

EXECUTIVE ORDER

TRANSFERRING CERTAIN PERSONNEL, PROPERTY, AND APPROPRIATIONS FROM THE DEPARTMENT OF COMMERCE AND THE INTERSTATE COMMERCE COMMISSION TO THE CIVIL AERONAUTICS AUTHORITY

By virtue of and pursuant to the authority vested in me by subsections (a) and (b) of section 203 of the Civil Aeronautics Act of 1938, approved June 23, 1938 (Public No. 706, 75th Cong., 3d Sess.), and in order to effectuate the purposes of said Act, it is hereby ordered as follows:

1. All officers and employees of the Bureau of Air Commerce of the Department of Commerce and the Bureau of Air Mail of the Interstate Commerce Commission who, at the close of business on August 21, 1938, are (a) in a pay status and whose names appear on the pay roll of their respective bureaus, (b) in a furlough status, and (c) in a when-actually-employed status, are hereby found and determined to have been employed by the Secretary of Commerce and the Interstate Commerce Commission in the exercise and performance of the powers and duties described in subsection (a) of section 203 of the Civil Aeronautics Act of 1938; and all such officers and employees as aforesaid shall be transferred to the Civil Aeronautics Authority as of the beginning of business on August 22, 1938. The Department of Commerce and the Interstate Commerce Commission shall furnish to the Civil Service Commission and to the Civil Aeronautics Authority, upon the appropriate civil service forms, a record of the officers and employees so transferred.

2. All of the unexpended balances of appropriations for use by the Secretary of Commerce in the exercise and performance of the powers and duties vested in and imposed upon him by the Air Commerce Act of 1926, as amended (44 Stat. 568; U. S. C., 1934 ed., title 49, sec. 171 et seq.), including the unexpended balances of portions of general administrative appropriations which have been allotted by the Secretary of Commerce to the Bureau of Air Commerce, and by the Secretary of Commerce and the Interstate Commerce Commission in the exercise and performance of the powers and duties vested in and imposed upon them by the Airmail Act of 1934, approved June 12, 1934, as amended (48 Stat. 933; U. S. C., 1934 ed., Supp. II, title 39, sec. 469 et seq.), are hereby found and determined to be necessary for the exercise and performance of the powers and duties of the Civil Aeronautic Authority, the Administrator, and the Air Safety Board under the Civil Aeronautics Act of 1938, and shall be transferred, effective August 22, 1938, to the Civil Aeronautics Authority. The Civil Aeronautics Authority shall assume the encumbrances and obligations outstanding against the funds so transferred and shall liquidate the same from applicable funds as settlements are required.

3. All real and personal property under the control and jurisdiction of the Department of Commerce (including, but not limited to, lands, buildings, air navigation facilities, depots, equipment, materials, supplies, office equipment, and all official records) which the records of that Department show to have been employed by the Secretary of Commerce in the exercise and performance of the powers and duties vested in and imposed upon him by the Air Commerce Act of 1926, as amended, and all property (including, but not limited to, office equipment and official records) under the control and jurisdiction of the Department of Commerce and the Interstate Commerce Commission which the respective records of the Department of Commerce and the Interstate Commerce Commission show to have been employed by the Secretary of Commerce and the Interstate Commerce Commission in the exercise and performance of the powers and duties vested in and imposed upon them by the Airmail Act of 1934, approved

CONTENTS

THE PRESIDENT

Executive Orders: Page
Alaska, partial revocation of public land withdrawal---- 2072
Civil Aeronautics Authority, transferring certain personnel, etc., from Department of Commerce and Interstate Commerce Commission to-- 2071
Reservoir-Site Reserve No. 20, Tongue River, Mont------- 2072

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
County normal cotton yields for 1938---------- 2072
Bureau of Agricultural Economics:
South Hill, Va., designated tobacco market---------- 2074
TITLE 20—FISH AND GAME:
Bureau of Biological Survey:
Big Lake Reservation, Ark., fishing permitted; regulations ---------- 2075
TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Bonds of indemnity--------- 2079
Loan service chapter, revision- 2075

NOTICES

Department of Agriculture:
Farm Security Administration:
Wyoming, designation of county for tenant purchase loans---------- 2079
Rural Electrification Administration:
Allocation of funds for loans--- 2079

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June 12, 1934, as amended, are hereby found and determined to have been so employed; and all such property as aforesaid shall be transferred to the Civil Aeronautics Authority as of the beginning of business on August 22, 1938.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 22, 1938.

[No. 7959]

[F. R. Doc. 38-2483; Filed, August 23, 1938; 11:20 a. m.]

EXECUTIVE ORDER

RESERVOIR-SITE RESERVE NO. 20

TONGUE RIVER, MONTANA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, it is hereby ordered as follows:

1. Executive Order No. 6910 of November 26, 1934, as amended, temporarily withdrawing all public lands in certain states for classification and other purposes, is hereby revoked in so far as it affects the following-described tracts of land in Montana:

PRINCIPAL MERIDIAN

T. 8 S., R. 40 E.,
sec. 24, NW¼ SW¼, and NE¼ SE¼;
sec. 34, SE¼ SW¼.
T. 9 S., R. 40 E.,
sec. 3, NW¼ SE¼;
aggregating 160 acres.

2. Subject to the conditions expressed in the above-mentioned acts and to all valid existing rights, the lands described in section 1 of this order are hereby withdrawn from settlement, location, sale, or entry and reserved for reservoir sites.

3. The reservation made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
August 22, 1938.

[No. 7960]

[F. R. Doc. 38-2481; Filed, August 23, 1938; 11:19 a. m.]

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 1919½ OF APRIL 21, 1914, AS AMENDED, WITHDRAWING PUBLIC LANDS

ALASKA

By virtue of and pursuant to the authority vested in me by the act of March 12, 1914, ch. 37, 38 Stat. 305, it is ordered as follows:

1. Executive Order No. 1919½ of April 21, 1914, as amended by Executive Order No. 3672 of May 8, 1922, withdrawing and reserving lands in Alaska for townsite purposes is hereby revoked in so far as it affects the following-described land:

SEWARD MERIDIAN

T. 13 N., R. 3 W., sec. 6, lots 2 and 3, NE¼SE¼, 129.66 acres.

2. Subject to valid existing rights and pursuant to Public Resolution No. 85, approved June 12, 1930, ch. 471, 46 Stat. 580, the vacant, unreserved public lands in the areas released from such withdrawal shall be open to entry, under the homestead laws applicable to Alaska, by qualified ex-service men under the terms and conditions of said resolution and the regulations issued pursuant thereto, for a period of ninety-one (91) days beginning with the sixty-third day from and after the date hereof; and thereafter the lands shall be subject to appropriation by the general public under any public land law applicable thereto. Subsequent to the date hereof and prior to the date of restoration for general disposition as herein provided, no right may be acquired to such lands by settlement in advance of entry or otherwise, except strictly in accordance with the provisions of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 22, 1938.

[No. 7961]

[F. R. Doc. 38-2482; Filed, August 23, 1938; 11:19 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Cotton 225]

COUNTY NORMAL COTTON YIELDS FOR 1938

Pursuant to the authority vested in the Secretary of Agriculture under the Agricultural Adjustment Act of 1938 as amended, I hereby establish the following county normal yields of lint cotton in accordance with the provisions of section 301, subsection (b), paragraphs (13) (B) and (C), of said Act, for the purposes of the cotton marketing quota provisions (Part IV, Subtitle B, Title III) of said Act applicable with respect to the marketing year beginning August 1, 1938:

ALABAMA

County—Normal yield of lint cotton per acre

Autauga, 221; Baldwin, 247; Barbour, 190; Bibb, 240; Blount, 267; Bullock, 173; Butler, 230; Calhoun, 229; Chambers, 207; Cherokee, 273; Chilton, 253; Choctaw, 202; Clarke, 209; Clay, 211; Cleburne, 224; Coffee, 233; Colbert, 232; Conecuh, 227; Coosa, 214; Covington, 224; Crenshaw, 222; Cullman, 317; Dale, 213; Dallas, 183; DeKalb, 318; Elmore, 241; Escambia, 236; Etowah, 266; Fayette, 242; Franklin, 269; Geneva, 250; Greene, 171; Hale, 230; Henry, 242; Houston, 267; Jackson, 259; Jefferson, 224; Lamar, 246; Lauderdale, 230; Lawrence, 258; Lee, 192; Limestone, 245; Lowndes, 176; Macon, 209; Madison, 254; Marengo, 200; Marion, 263; Marshall, 316; Mobile, 252; Monroe, 245; Montgomery, 171; Morgan, 278; Perry, 181; Pickens, 234; Pike, 215; Randolph, 233; Russell, 176; St. Clair, 223; Shelby, 215; Sumter, 176; Talladega, 206; Tallapoosa, 193; Tuscaloosa, 229; Walker, 222; Washington, 237; Wilcox, 190; Winston, 270.

ARIZONA

Cochise, 356; Gila, 356; Graham, 601; Greenlee, 365; Maricopa, 462; Mohave, 333; Pima, 622; Pinal, 461; Santa Cruz, 339; Yuma, 443.

ARKANSAS

Arkansas, 170; Ashley, 219; Baxter, 139; Boone, 146; Bradley, 151; Calhoun, 146; Carroll, 164; Chicot, 284; Clark, 183; Clay, 243; Cleburne, 151; Cleveland, 147; Columbia, 142; Conway, 160; Craighead, 282; Crawford, 207; Crittenden, 304; Cross, 263; Dallas, 153; Desha, 276; Drew, 168; Faulkner, 164; Franklin, 126; Fulton, 157; Garland, 143; Grant, 148; Greene, 258; Hempstead, 165; Hot Spring, 168; Howard, 163; Independence, 167; Izard, 152; Jackson, 190; Jefferson, 223; Johnson, 144; Lafayette, 197; Lawrence, 207; Lee, 233; Lincoln, 207; Little River, 160; Logan, 140; Lonoke, 192; Marion, 155; Miller, 187; Mississippi, 389; Monroe, 189; Montgomery, 118; Nevada, 153; Newton, 132; Ouachita, 139; Perry, 158; Phillips, 245; Pike, 148; Poinsett, 336; Polk, 128; Pope, 139; Prairie, 164; Pulaski, 232; Randolph, 195; St. Francis, 262; Saline, 149; Scott, 120; Searcy, 147; Sabastian, 146; Sevier, 142; Sharp, 159; Stone, 134; Union, 157; Van Buren, 137; Washington, 186; White, 159; Woodruff, 205; Yell, 165.

CALIFORNIA

Fresno, 535; Imperial, 270; Kern, 628; Kings, 594; Madera, 527; Marced, 450; Riverside, 327; San Benito, 100; San Bernardino, 455; San Diego, 188; San Joaquin, 379; Stanislaus, 270; Tulare, 578.

FLORIDA

Alachua, 131; Baker, 148; Bay, 196; Bradford, 112; Calhoun, 145; Columbia, 129; Dixie, 124; Escambia, 197; Gadsden, 138; Gilchrist, 130; Hamilton, 125; Holmes, 199; Jackson, 169; Jefferson, 117; Lafayette, 128; Leon, 121; Levy, 153; Madison, 129; Marion, 90; Okalocsa, 170; Santa Rosa, 185; Sumter, 175; Suwannee, 120; Taylor, 133; Union, 128; Wakulla, 132; Walton, 166; Washington, 166.

GEORGIA

Appling, 230; Atkinson, 196; Bacon, 242; Baker, 180; Baldwin, 228; Banks, 208; Barrow, 271; Bartow, 257; Ben Hill, 231; Berrien, 215; Bibb, 212; Bleckley, 238; Brantley, 210; Brooks, 239; Bryan, 195; Bulloch, 254; Burke, 255; Butts, 243; Calhoun, 241; Camden, 233; Candler, 255; Carroll, 280; Catoosa, 248; Charlton, 206; Chatham, 223; Chattahoochee, 163; Chattooga, 270; Cherokee, 240; Clarke, 221; Clay, 235; Clayton, 218; Clinch, 195; Cobb, 254; Coffee, 226; Colquitt, 280; Columbia, 234; Cook, 245; Coweta, 249; Crawford, 191; Crisp, 247; Dade, 296; Dawson, 200; Decatur, 173; De Kalb, 221; Dodge, 225; Dooly, 231; Dougherty, 186; Douglas, 248; Early, 237; Echols, 188; Effingham, 222; Elbert, 200; Emanuel, 236; Evans, 230; Fayette, 244; Floyd, 271; Forsyth, 256; Franklin, 225; Fulton, 253; Gilmer, 180; Glascock, 249; Glynn, 226; Gordon, 308; Grady, 215; Greene, 213; Gwinnett, 256; Habersham, 231; Hall, 233; Hancock, 245; Haralson, 270; Harris, 177; Hart, 246; Heard, 216; Henry, 249; Houston, 200; Irvin, 243; Jackson, 207; Jasper, 233; Jeff Davis, 205; Jefferson, 252; Jenkins, 260; Johnson, 247; Jones, 197; Lamar, 220; Lanier, 206; Laurens, 248; Lee, 205; Liberty, 184; Lincoln, 202; Long, 217; Lowndes, 227; Lumpkin, 207; McDuffie, 244; McIntosh, 188; Macon, 240; Madison, 239; Marion, 185; Meriwether, 208; Miller, 214; Mitchell, 242; Monroe, 191; Montgomery, 233; Morgan, 254; Murray, 264; Muscogee, 160; Newton, 272; Oconee, 231; Oglethorpe, 216; Paulding, 274; Peach, 265; Pickens, 224; Pierce, 224; Pike, 246; Polk, 288; Screven, 253; Pulaski, 224; Putnam, 220; Quitman, 173; Rabun, 0; Randolph, 232; Richmond, 244; Rockdale, 261; Schley, 205; Seminole, 212; Spalding, 251; Stephens, 216; Stewart, 188; Sumter, 230; Talbot, 173; Taliaferro, 203; Tattnall, 235; Taylor, 244; Telfair, 225; Terrell, 280; Thomas, 223; Tift, 250; Toombs, 228; Trautlen, 204; Troup, 177; Turner, 222; Twiggs, 182; Upson, 197; Walker, 293; Walton, 262; Ware, 211; Warren, 272; Washington, 232; Wayne, 256; Webster, 174; Wheeler, 244; White, 232; Whitfield, 274; Wilcox, 231; Wilkes, 210; Wilkinson, 214; Worth, 236.

ILLINOIS

Alexander, 323; Pulaski, 252; Williamson, 222.

KANSAS

Chautauqua, 132; Cowley, 100; Montgomery, 132; Wilson, 100.

KENTUCKY

Ballard, 228; Barren, 301; Calloway, 254; Carlisle, 260; Fulton, 342; Graves, 257; Hickman, 309; Logan, 301; McCracken, 255; Marshall, 260; Trigg, 267.

LOUISIANA

Acadia, 249; Allen, 211; Ascension, 208; Assumption, 194; Avoyelles, 289; Beauregard, 188; Bienville, 157; Bossier, 264; Caddo, 254; Calcasieu, 215; Caldwell, 256; Cameron, 213; Catahoula, 291; Claiborne, 148; Concordia, 345; De Soto, 144; East Baton Rouge, 191; East Carroll, 403; East Feliciana, 202; Evangeline, 232; Franklin, 266; Grant, 226; Iberia, 194; Iberville, 203; Jackson, 168; Jefferson, 211; Jefferson Davis, 257; Lafayette, 251; Lafourche, 199; La Salle, 215; Lincoln, 164; Livingston, 288; Madison, 336; Morehouse, 263; Natchitoches, 232; Orleans, 193; Ouachita, 263; Pointe Coupee, 299; Rapides, 319; Red River, 221; Richland, 250; Sabine, 150; St. Charles, 119; St. Helena, 164; St. James, 196; St. John The Baptist, 176; St. Landry, 265; St. Martin, 228; St. Mary, 207; St. Tammany, 182; Tangipahoa, 208; Tensas, 357; Terribonne, 162; Union, 155; Vermilion, 217; Vernon, 154; Washington, 241; Webster, 149; West Baton Rouge, 218; West Carroll, 291; West Feliciana, 166; Winn, 166.

MISSISSIPPI

Adams, 249; Alcorn, 235; Amite, 199; Attala, 209; Benton, 216; Bolivar, 308; Calhoun, 225; Carroll, 211; Chickasaw, 199; Choctaw, 197; Claiborne, 228; Clarke, 232; Clay, 186; Coahoma, 312; Copiah, 221; Covington, 255; DeSoto, 250; Forrest, 227; Franklin, 226; George, 229; Greene, 211; Grenada, 205; Hancock, 212; Harrison, 237; Hinds, 213; Holmes, 259; Humphreys, 317; Issaquena, 324; Itawamba, 227; Jackson, 223; Jasper, 241; Jefferson, 233; Jeff Davis, 244; Jones, 264; Kemper, 200; Lafayette, 201; Lamar, 240; Lauderdale, 218; Lawrence, 239; Leake, 208; Lee, 239; Leflore, 299; Lincoln, 227; Lowndes, 200; Madison, 212; Marion, 225; Marshall, 201; Monroe, 214; Montgomery, 213; Neshoba, 224; Newton, 228; Noxubee, 204; Oktibbeha, 191; Panola, 232; Pearl River, 210; Perry, 225; Pike, 215; Pontotoc, 236; Prentiss, 223; Quitman, 304; Rankin, 232; Scott, 239; Sharkey, 360; Simpson, 241; Smith, 262; Stone, 225; Sunflower, 300; Tallahatchie, 277; Tate, 262; Tippah, 223; Tishomingo, 218; Tunica, 307; Union, 228; Walthall, 254; Warren, 252; Washington, 356; Wayne, 218; Webster, 240; Wilkinson, 203; Winston, 213; Yalobusha, 201; Yazoo, 281.

MISSOURI

Butler, 259; Dunklin, 296; Howell, 148; Mississippi, 388; New Madrid, 357; Oregon, 161; Ozark, 150; Pemiscot, 381; Ripley, 188; Scott, 258; Stoddard, 306; Taney, 164.

NEW MEXICO

Chaves, 459; Curry, 128; De Baca, 127; Dona Anna, 594; Eddy, 454; Grant, 247; Harding, 113; Hidalgo, 417; Lea, 124; Luna, 391; Otero, 348; Quay, 100; Roosevelt, 152; Sierra, 451; Socorro, 120.

NORTH CAROLINA

Alamance, 261; Alexander, 258; Anson, 288; Beaufort, 312; Bertie, 307; Bladen, 300; Brunswick, 272; Burke, 270; Cabarrus, 266; Caldwell, 283; Camden, 331; Carteret, 290; Caswell, 243; Catawba, 286; Chatham, 260; Chowan, 331; Cleveland, 348; Columbus, 317; Craven, 285; Cumberland, 315; Currituck, 332; Davidson, 268; Davie, 257; Duplin, 311; Durham, 253; Edgecombe, 309; Forsyth, 254; Franklin, 288; Gaston, 282; Gates, 308; Granville, 258; Greene, 288; Guilford, 261; Halifax, 309; Harnett, 332; Hertford, 318; Hoke, 355; Hyde 297; Iredell, 284; Johnston, 313; Jones, 287; Lee, 299; Lenoir, 296; Lincoln, 309; McDowell, 288; Martin, 319; Mecklenburg, 250; Montgomery, 282; Moore, 255; Nash, 321; New Hanover, 295; Northampton, 343; Onslow, 282; Orange, 256; Pamlico, 313; Pasquotank, 296; Pender, 287; Perquimans, 322; Person, 300; Pitt, 299; Polk, 289; Randolph, 244; Richmond, 274; Robeson, 336; Rockingham, 199; Rowan, 297; Rutherford, 309; Sampson, 330; Scotland, 337; Stanley, 290; Tyrrell, 283; Union, 285; Vance, 288; Wake, 282; Warren, 289; Washington, 301; Wayne, 313; Wilkes, 277; Wilson, 299; Yadkin, 274.

OKLAHOMA

Adair, 127; Alfalfa, 145; Atoka, 118; Beckham, 171; Blaine, 159; Bryan, 116; Caddo, 152; Canadian, 149; Carter, 120; Cherokee, 124; Choctaw, 125; Cleveland, 146; Coal, 117; Comanche, 126; Cotton, 126; Craig, 135; Creek, 136; Custer, 145; Delaware, 158; Dewey, 152; Ellis, 153; Garfield, 156; Garvin, 151; Grady, 150; Grant, 170; Greer, 143; Harmon, 132; Harper, 119; Haskell, 122; Hughes, 139; Jackson, 138; Jefferson, 133; Johnson, 126; Kay, 148; Kingfisher, 140; Kiowa, 131; Latimer, 109; Leflore, 125; Lincoln,

124; Logan, 131; Love, 135; McClain, 149; McCurtain, 145; McIntosh, 136; Major, 143; Marshall, 131; Mayes, 148; Murray, 144; Muskogee, 133; Noble, 149; Nowata, 155; Okfuskee, 131; Oklahoma, 141; Okmulgee, 144; Osage, 152; Ottawa, 124; Pawnee, 151; Payne, 140; Pittsburg, 134; Pontotoc, 125; Pottawatomie, 141; Pushmataha, 123; Roger Mills, 146; Rogers, 127; Seminole, 130; Sequoyah, 146; Stephens, 131; Tillman, 161; Tulsa, 161; Wagoner, 136; Washington, 164; Washita, 170; Woods, 99; Woodward, 145.

SOUTH CAROLINA

Abbeville, 199; Aiken, 280; Allendale, 235; Anderson, 257; Bamberg, 240; Barnwell, 253; Beaufort, 154; Berkeley, 186; Calhoun, 317; Charleston, 146; Cherokee, 275; Chester, 226; Chesterfield, 261; Clarendon, 264; Colleton, 235; Darlington, 290; Dillon, 354; Dorchester, 251; Edgefield, 276; Fairfield, 192; Florence, 291; Georgetown, 199; Greenville, 286; Greenwood, 185; Hampton, 244; Horry, 243; Jasper, 171; Kershaw, 232; Lancaster, 254; Laurens, 260; Lee, 313; Lexington, 257; McCormick, 179; Marion, 310; Marlboro, 313; Newberry, 230; Oconee, 247; Orangeburg, 237; Pickens, 321; Richland, 202; Saluda, 245; Spartanburg, 273; Sumter, 300; Union, 224; Williamsburg, 285; York, 259.

TENNESSEE

Bedford, 211; Benton, 207; Bradley, 218; Cannon, 261; Carroll, 237; Chester, 228; Coffee, 235; Crockett, 296; Davidson, 231; Decatur, 183; DeKalb, 238; Dickson, 227; Dyer, 320; Fayette, 214; Franklin, 241; Gibson, 283; Giles, 218; Grundy, 257; Hamilton, 217; Hardeman, 214; Hardin, 194; Haywood, 267; Henderson, 251; Henry, 227; Hickman, 279; Humphreys, 242; Knox, 242; Lake, 343; Lauderdale, 314; Lawrence, 262; Lewis, 249; Lincoln, 246; Loudon, 227; McMinn, 224; McNairy, 233; Madison, 228; Marion, 205; Marshall, 255; Maury, 248; Meigs, 217; Monroe, 182; Moore, 200; Obion, 266; Overton, 167; Perry, 209; Polk, 250; Rhea, 157; Roane, 195; Rutherford, 220; Sequatchie, 163; Shelby, 222; Stewart, 243; Tipton, 318; Van Buren, 200; Warren, 204; Wayne, 215; Weakley, 245; White, 240; Williamson, 243; Wilson, 247.

TEXAS

Anderson, 146; Andrews, 100; Angelina 190; Aransas, 154; Archer, 128; Armstrong, 143; Atascosa, 111; Austin, 201; Bailey, 164; Bandera, 81; Bastrop, 114; Baylor, 121; Bee, 119; Bell, 150; Bexar, 122; Blanco, 103; Borden, 114; Bosque, 122; Bowie, 155; Brazoria, 210; Brazos, 181; Brewster, 225; Briscoe, 135; Brooks, 94; Brown, 110; Burleson, 173; Burnet, 113; Caldwell, 155; Calhoun, 159; Callahan, 104; Cameron, 225; Camp, 126; Carson, 94; Cass, 138; Castro, 146; Chambers, 204; Cherokee, 142; Childress, 141; Clay, 130; Cochran, 145; Coke, 101; Coleman, 121; Collin, 198; Collingsworth, 152; Colorado, 174; Comal, 124; Comanche, 88; Concho, 137; Cooke, 135; Coryell, 118; Cottle, 124; Crockett, 83; Crosby, 175; Culberson, 156; Dallam, 0; Dallas, 170; Dawson, 157; Deaf Smith, 141; Delta, 193; Denton, 155; De Witt, 126; Dickens, 155; Dimmit, 98; Donley, 164; Duval, 87; Eastland, 86; Ector, 109; Ellis, 183; El Paso, 600; Erath, 80; Falls, 158; Fannin, 191; Fayette, 150; Fisher, 143; Floyd, 144; Foard, 135; Fort Bend, 208; Franklin, 128; Freestone, 135; Frio, 54; Gaines, 137; Galveston, 153; Garza, 188; Gillespie, 110; Glasscock, 125; Goliad, 110; Gonzales, 132; Gray, 159; Grayson, 170; Gregg, 130; Grimes, 160; Guadalupe, 144; Hale, 151; Hall, 151; Hamilton, 123; Hansford, 101; Hardeman, 135; Hardin, 164; Harris, 185; Harrison, 133; Hartley, 0; Haskell, 161; Hays, 132; Hemphill, 149; Henderson, 135; Hidalgo, 178; Hill, 164; Hockley, 152; Hood, 81; Hopkins, 129; Houston, 156; Howard, 134; Hudspeth, 404; Hunt, 171; Hutchinson, 72; Irion, 111; Jack, 105; Jackson, 162; Jasper, 150; Jeff Davis, 462; Jefferson, 166; Jim Hogg, 119; Jim Wells, 117; Johnson, 152; Jones, 143; Karnes, 118; Kaufman, 156; Kendall, 92; Kenedy, 98; Kent, 122; Kerr, 112; Kimble, 101; King, 141; Kinney, 56; Kleberg, 128; Knox, 164; Lamar, 172; Lamb, 213; Lampasas, 116; La Salle, 55; Lavaca, 146; Lee, 108; Leon, 136; Liberty, 216; Limestone, 146; Lipscomb, 75; Live Oak, 119; Llano, 78; Loving, 0; Lubbock, 181; Lynn, 195; McCulloch, 126; McLennan, 151; McMullin, 134; Madison, 145; Marion, 119; Martin, 117; Mason, 83; Matagorda, 219; Maverick, 241; Medina, 88; Menard, 120; Midland, 114; Milam, 160; Mills, 97; Mitchell, 129; Montague, 113; Montgomery, 157; Moore, 68; Morris, 137; Motley, 146; Nacogdoches, 173; Navarro, 168; Newton, 138; Nolan, 148; Nueces, 214; Ochiltree, 74; Oldham, 0; Orange, 191; Palo Pinto, 97; Panola, 148; Parker, 102; Parmer, 163; Pecos, 187; Polk, 217; Potter, 0; Presidio, 322; Rains, 116; Randall, 144; Reagan, 77; Real, 76; Red River, 165; Reeves, 295; Refugio, 179; Roberts, 122; Robertson, 155; Rockwall, 193; Runnels, 147; Rusk, 141; Sabine, 147; San Augustine, 155; San Jacinto, 206; San Patricio, 215; San Saba, 115; Schleicher, 165; Scurry, 124; Shackelford, 102; Shelby, 154; Sherman, 0; Smith, 141; Somervell, 105; Starr, 92; Stephens, 84; Sterling, 136; Stonewall, 145; Sutton, 126; Swisher, 142; Tarrant, 150; Taylor, 131; Terrell, 230; Terry, 155; Throckmorton, 115; Titus, 139; Tom Green, 139; Travis, 149; Trinity, 199; Tyler, 195; Upshur, 126; Upton, 0; Uvalde, 70; Val Verde, 0; Van Zandt, 131; Victoria, 180; Walker, 155; Waller, 170; Ward, 187; Washington, 170; Webb, 80; Wharton, 218; Wheeler, 178; Wichita, 161; Wilbarger, 173; Willacy, 246; Williamson, 164; Wilson, 113; Winkler, 0; Wise, 131; Wood, 147; Yoakum, 124; Young, 114; Zapata, 70; Zavala, 76.

VIRGINIA

Amelia, 270; Brunswick, 254; Charlotte, 256; Chesterfield, 259; Dinwiddie, 266; Fluvanna, 244; Greensville, 302; Halifax, 269; Isle of Wight, 289; Lunenburg, 274; Mecklenburg, 265; Nansemond, 327; New Kent, 288; Norfolk, 312; Northampton, 217; Nottoway, 275; Pittsylvania, 242; Prince Edward, 238; Prince George, 254; Princess Anne, 318; Southampton, 313; Surry, 282; Sussex, 265.

Done at Washington, D. C., this 19th day of August, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2475; Filed, August 22, 1938; 12:49 p. m.]

BUREAU OF AGRICULTURAL ECONOMICS

ORDER OF DESIGNATION OF TOBACCO MARKETS

SOUTH HILL, VIRGINIA

Whereas, the Act of Congress approved August 23, 1935 (49 Stat., 731; 7 U. S. C., Sup. 1, Chap. 21A) entitled "The Tobacco Inspection Act" contains the following provisions:

SEC. 2. That transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

SEC. 5. That the Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this Act, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: Provided, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this Act shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

and

Whereas, pursuant to said Act a referendum has been held among the growers of flue-cured tobacco who sold tobacco at auction on the South Hill, Virginia market during the last marketing season, in which referendum said growers were given an opportunity to vote for or against the designation as provided in Section 5 of said Act; and

Whereas, more than two-thirds of the growers voting in said referendum and who sold tobacco at auction on said market during the last marketing season voted in favor of said designation,

SEC. 29.301 (i) *Designation of Tobacco Market*

Now, therefore, by virtue of the authority conferred upon me by Section 5 of The Tobacco Inspection Act and the affirmative results of the referendum conducted thereunder, the tobacco market at South Hill, Virginia is designated as a market where tobacco bought and sold thereon at auction, or the products manufactured therefrom, moves in commerce.

It is hereby ordered that, effective 30 days from this date no tobacco shall be offered for sale at auction on the abovenamed market until it shall have been inspected and certified by an authorized representative of the United States Department of Agriculture according to standards established under the Act; provided, however, that the requirement of inspection and certification may be suspended at such times as it is found impracticable to provide inspection or when the quantity of tobacco available for inspection is insufficient to justify the cost of such service. No fee or charge shall be imposed or collected for the inspection and certification of tobacco sold or offered for sale at auction on the market designated herein. (49 Stat. 731; 7 U. S. C. Sup. I, Chap. 21A.)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 23rd day of August, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2485; Filed, August 23, 1938; 11:58 a.m.]

TITLE 20—FISH AND GAME

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING AND REGULATING FISHING WITHIN BIG LAKE RESERVATION, ARKANSAS

Pursuant to regulations 2 and 3 of the regulations of the Secretary of Agriculture, effective November 24, 1937, for the administration of National wildlife refuges,[1] it is hereby ordered until further notice that fish may be taken for commercial purposes under permit issued by the resident officer in charge, and with pole and line for sport or for family use without such permit, when and as permitted by the laws and regulations of Arkansas, except during the Federal open season on migratory waterfowl, from waters within Big Lake Reservation, Arkansas, subject to the following conditions, restrictions, and requirements:

1. *Licenses.*—Prior to the issuance of the above required Federal permit to fish on the Refuge, the applicant for the privilege shall be in possession of and exhibit to the resident officer in charge a valid State commercial fishing license, if such license is required, and any person to whom has been issued a Federal permit shall carry such permit on his person when exercising the privileges thereunder and, upon demand, shall exhibit his permit and license to any Federal or State officer authorized to enforce Federal and State fishing laws and regulations: Provided, that all fishing within the Refuge shall be done in such manner as will not interfere with the objects for which the Refuge was established.

2. *Nets and tackle.*—All nets and other set tackle, except limb lines, used for fishing on Big Lake Reservation in the State of Arkansas, shall be tagged with metal tags in accordance with the fishing laws of Arkansas. All persons are warned that untagged nets and other set tackle except limb lines will be subject to seizure.

3. *Routes of travel.*—Persons entering the Refuge for the purpose of reaching waters thereof for fishing shall follow such routes of travel as shall from time to time be designated by the officer in charge.

4. *Suspension of fishing privileges.*—Whenever it shall appear, during the open season herein provided, that because of intensive fishing or other causes the supply of fish in any area or areas of the waters open to fishing is becoming excessively reduced, the Chief, Bureau of Biological Survey, may, in his discretion, within three days after giving notice to that effect, terminate fishing in such area or areas as may in his judgment be so affected; and all outstanding permits or authority hereunder for fishing in such area or areas shall thereupon become null and void.

5. *Reports.*—Each permittee authorized to take fish on the Refuge for commercial purposes shall within 10 days after the expiration or termination of his permit submit to the officer in charge, or his representative, a report correctly stating the kinds of fish and the quantity of each kind taken.

6. *Revocation of permits.*—Any permit issued under this order may be revoked by the issuing officer for noncompliance with the terms thereof, for nonuse, or for violation of any law or regulation applicable to the Refuge or of any State of Federal law or regulation protecting fish or other wildlife, or the nests or eggs of birds; and it is subject at all times to discretionary revocation by the Secretary of Agriculture.

Order of the Secretary of Agriculture issued August 19, 1936, (F. R. 1806) Permitting and Regulating Fishing Within Big Lake Reservation, Arkansas, is hereby revoked.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington, this 23rd day of August, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2484; Filed, August 23, 1938; 11:58 a. m.]

[1] 2 F. R. 2537 (2951 DI); 3 F. R. 1087 DI.

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

[Administrative Order]

PART 2.—LOAN SERVICE

REVISION OF LOAN SERVICE CHAPTER

It is hereby ordered, That Sections 2.03-21.1, 2.03-21.4, 2.03-29, 2.03-29.2, 2.03-33, 203-36, 2.03-37, 2.03-39, 2.03-41, 2.03-43, 2.03-44, 2.03-48, 2.05-14, 2.05-19, 2.05-22.1, 2.05-23, 2.06-7, 2.11-1, 2.11-2, 2.12-1, 2.13-1, 2.13-2, 2.13-4, 2.13-5, 2.14-1, 2.14-2.1, 2.15-1, 2.15-2 of Part 2 of Chapter IV of Title 24 of the Code of Federal Regulations and all the Articles of Chapter II of the Manual are hereby revoked and the following procedure is hereby promulgated to be effective as of September 1, 1938, and to be numbered as follows:

SEC. 2.03-19 (Manual Article 203-19). If it appears to the Regional Manager, after consideration of the recommendation of the Analysis and Review Section and the evidence in the case, that foreclosure or the acceptance of a deed in lieu of foreclosure is necessary, he is authorized to so direct the Regional

Counsel, by appropriate notice to foreclose, provided it can be legally accomplished. The Regional Manager shall also simultaneously send "Notice of Foreclosure" to all other interested departments, divisions, and sections.

Except in rare and unusual cases where in the opinion of the Regional Manager the circumstances of the case and the best interests of the Corporation warrant it, or where a home owner has offered a voluntary proposal for the adjustment of his account, no effort shall be made by the Loan Service Division to service any account or to instigate the sale of the real estate for the home owner after "Notice of Foreclosure" has been issued.

SEC. 2.03–20.1 (Manual Article 203–20.1). Before temporary or other suspension is directed, the home owner should ordinarily be required to remit a sum at least equivalent to the costs and expenses which have been incurred, but cases will arise in which such remittance cannot be made immediately by the home owner, and in such cases the Regional Manager or the State Manager should determine whether the required sum will be paid in full within a short time and whether temporary or other suspension without the immediate payment of such sum will be in the best interests of the Corporation.

Where foreclosure has not progressed to final judgment or sale under power, the Regional Manager, with the advice of the Regional Counsel, should generally require a payment at least equivalent to all costs and expenses and a demonstration of the home owner's ability to maintain a satisfactory schedule of payments before directing withdrawal, but may in his discretion order "withdrawal" in any case where, in his opinion, such action is in the best interest of the Corporation. It is not desirable to keep the case in suspense longer than is necessary for this purpose.

Where foreclosure proceedings have progressed to final judgment or sale under power, but not to acquisition of complete title by the Corporation, the Regional Manager, with the advice of the Regional Counsel, should generally require a payment equivalent to the total of all costs and expenses, all delinquency existing when foreclosure was commenced, the amount which would have matured up to the date of withdrawal had foreclosure not been commenced, and all costs of reinstatement before directing withdrawal. However, cases will arise in which by reason of the legal factors involved or the circumstances of the case it appears in the best interests of the Corporation to withdraw such proceedings without requiring the present payment of a sum equivalent to the total of such items. In these cases the Regional Manager may, if he considers it to be in the best interest of the Corporation, direct withdrawal without the present payment of such sum.

The Regional Manager should forward to the Regional Counsel with the "Notice of Withdrawal" a statement of the outstanding indebtedness and the terms upon which it is to be repaid. The Regional Manager should generally prescribe the plan of payment and maturity of indebtedness which would have existed had foreclosure not been commenced. Where the Regional Manager makes an exception to this general rule, he shall not fix more liberal terms of payment than he is now or may hereafter be authorized to grant in the case of an extension if no foreclosure were involved.

Regional Managers are directed to use extreme care in authorizing a withdrawal or suspension of foreclosure, giving particular attention to the ability of the home owner to continue in a current status with the terms of his obligation. The danger of third parties taking advantage of both the home owner and of the Corporation should be fully considered in each case.

No proposal of the home owner should be accepted unless in the opinion of the Regional Counsel the Corporation will maintain or secure a lien or rights equal to that held before withdrawal. Other persons liable for the payment of the indebtedness should not be released except upon the approval of the Regional Manager. The right of the Corporation to resume or recommence foreclosure upon failure of the home owner to carry out his proposal shall be preserved during all suspensions.

SEC. 2.03–27 (Manual Article 203–27). Application for partial release or for execution of any instrument affecting the lien, the value of the security, or any right arising under any covenant in the security instrument (except discharges based upon payment in full) shall be made by the home owner on the approved form in duplicate. The information required on this form shall be fully and clearly set forth and, where necessary, the consents of all co-makers, endorsers, or other persons personally liable for the payment of the indebtedness to the Corporation shall be obtained.

Unless it is shown that the execution of any such instrument will be decidedly to the best interests of the Corporation, the State or Regional Manager shall decline the request. Any land or interest therein received by the home owner in, or any enhancement in value resulting therefrom, a transaction in connection with which any such instrument is to be executed shall inure to the benefit of the Corporation, and any funds received by the home owner or by the Corporation as mortgagee or assignee shall be credited or disbursed in accordance with Section 215 and the Articles thereunder and Chapter VIII.

SEC. 2.03–28 (Manual Article 203–28). When application is for the partial release, sufficient information regarding identification and description of the entire property covered by the Corporation's lien instrument and the portion to be released, including the location of any and all improvements thereon, in the form of a plat or survey or such other form as may be acceptable to the Regional Manager and Regional Counsel, shall be furnished by the applicant and made part of the original application.

Where the Corporation is requested to release a portion of the property covered by its lien description, because of error in including more property than was owned by the home owner, the State Manager shall ascertain the party responsible for such error and require such party or parties, if still in the employ of the Corporation, to pay the expenses incident to the release. If the party responsible for the error is not in the employ of the Corporation, such steps as the State Manager deems advisable shall be taken to obtain from such party reimbursement for the expense incident to the correction. However, the collection of the expenses as provided herein shall not be considered as a condition precedent to the granting of the release. If, in the opinion of the State Counsel and Regional Counsel, the Corporation has acquired any substantial interest in the property, by virtue of advances made, or otherwise, for which it has a right of recovery, either in law or equity, the release shall not be executed unless in the opinion of the State Counsel, State Manager, Regional Counsel, and Regional Manager, the release would be for the best interests of the Corporation.

If the value of the portion to be released is nominal, an inspection and report by a Service Representative preferably one who has qualified as a Field Appraiser may be substituted for an appraisal.

Deposits for expenses of the transaction shall not be accepted with the application. Any costs or expenses incurred in connection with the transaction shall be deducted from the proceeds or charged to the home owner's account in accordance with the provisions of the application form.

SEC. 2.03–36 (Manual Article 203–36). No substitution of security involving the removal of the improvements to, or the rebuilding of such improvements on, substituted security shall be entered into without the consent of junior lienors. The requirements of similar consents from co-makers, endorsers, or other sureties shall be within the discretion of the Regional Manager and Regional Counsel.

SEC. 2.03–37 (Manual Article 203–37). Cases involving the substitution of security shall be processed through the channels provided for the handling of partial releases and prepared and submitted to the Regional Manager and Regional Counsel, with such adaptation as may be necessary, on such approved form as may be provided for this purpose. There shall be attached to said form in addition to the appraisals therein provided for, an appraisal of the entire property to be held as security by the Corporation, after the substitution is consummated, and an agreement by the home owner that, in case of rejection of his request, all expenses incurred by the Corporation (normal overhead expenses excepted) shall be charged to his account and secured by or included in the principal of his loan or sales instrument to the Corporation.

SEC. 2.03–39 (Manual Article 203–39). In cases involving a full release of the original security or in which the Regional Manager and Regional Counsel deem it advisable to take a new mortgage covering both the new security and the portion of the old security to be retained, releasing the old mortgage in full, a new note or bond and a new mortgage shall be taken bearing the date of the transaction. The new note or bond shall represent the amount of the unpaid balance of principal and interest of the original loan and also the unpaid balance of any advances, including advances made in connection with the substitution. It shall be in the discretion of the Regional Manager and Regional Counsel whether amounts that are delinquent at the time may be included in the principal of the note or bond and amortized with that portion of the indebtedness not due, or whether the note or bond shall be in terms payable as the original note or bond, leaving any amounts previously delinquent as payable on demand. Said note or bond or the unmatured portion thereof shall be amortized over a period not to exceed 15 years from the date of the original loan. However, in the event the foregoing procedure can not be followed under the laws and practices in any particular state, such procedure may be followed as will be in conformity with such laws and practices.

SEC. 2.03–41 (Manual Article 203–41). A bond approved by the Regional Manager and Regional Counsel unconditionally guaranteeing the performance and completion of the contract to remove and relocate improvements free and clear of all mechanics' and materialmen's liens shall be required, unless other forms of protection are authorized by the General Counsel or an Associate General Counsel. Workmen's Compensation and Public Liability Insurance, a bond against levies upon or attachment of the improvements by creditors, junior lienholders or other claimants, or such other protection as will in the opinion of the Regional Manager and Regional Counsel adequately provide against risks involved in the removal and relocation of the improvements, shall be required in each case.

SEC. 2.03–43 (Manual Article 203–43). All disbursements made for expenses incurred by the Corporation in cases subsequently rejected shall be charged to the account of the home owner.

SEC. 2.03–44 (Manual Article 203–44). The Regional Manager, with the advice of the Regional Counsel, may direct the division of security the allocation of indebtedness to each parcel, and the execution of instruments evidencing and securing the separate debts for the purpose of permitting a sale of a parcel, or parcels, of the property and the assumption of the indebtedness allocated thereto by a financially responsible purchaser, thereby placing the home owner in a better position to retain his home and to keep his account current subject to the procedure herein set forth.

SEC. 2.03–48 (Manual Article 203–48). The Regional Manager with the advice of the Regional Counsel shall decide whether the present mortgage shall be released in full and two or more new mortgages taken in lieu thereof or whether the present mortgage shall be released in part and a new mortgage taken for the part released. Whether released in whole or in part, any new mortgage must be executed by the present home owner and the new mortgage on the property purchased must be assumed by the purchaser in the conveyance or otherwise. When the foregoing procedure pertaining to instruments to be taken cannot be followed under the laws and practices in any particular state, such procedure may be followed as shall be in conformity with such laws and practices. The total indebtedness secured by said mortgages shall equal the balance due the Corporation less any credits to the loan arising from the transaction. The Regional Manager, with the advice of the Regional Counsel, shall fix the amortization rate on any new mortgages and the terms of any supplemental agreement with the home owner providing for revised amortization of the indebtedness not assumed by the purchaser, in conformity with Section 213, Subsection 5 (d). No instrument shall be executed the effect of which will be to release or modify the rights of the Corporation against sureties or other parties secondarily liable without the express approval of the Regional Manager with the advice of Regional Counsel. When the transaction is consummated, the indebtedness to the Corporation shall be secured by liens valid in the opinion of the State Counsel, who shall make a certificate to that effect.

When the division proposed involves properties upon which the Corporation holds a sales instrument, the transaction shall be completed upon such instruments as the Regional Counsel shall approve.

SEC. 2.05–10 (Manual Article 205–10). It should be recognized that the home owner, without other source of income, may realize sufficient income from the rental of his property to carry his obligation, or may salvage his equity by the sale thereof. Such possible solutions to his problem should be carefully considered by him as a means of protecting his own interests, but neither shall be considered as a requirement of the Corporation. If he indicates a desire to follow such a course, he should appoint his own agent and should enter into such a contract with him as best suits his own purposes and provide the Corporation with copies thereof for its information.

When a home owner indicates his intention to offer his property for sale Form 528 shall be executed and Form 153 may be furnished the home owner if he does not have available a form agreeable to himself and his agent. When a home owner indicates his desire to appoint an agent to collect rents he may use any agreement suitable to himself and his agent or may execute Form 152. In either event the case shall be processed in conformity with Article 205–13.

SEC. 2.05–15 (Manual Article 205–15). When home owners are contacted at their home the condition of the property and necessity of repairs should be indicated on Form 525. When inspection of property reveals the necessity of repairs for the preservation of the Corporation's security or where property is found to be unoccupied, vacant or abandoned, Property Inspection Report Form 529 should be executed as indicated in Forms Manual. Necessary Repairs are confined to repairs necessary to protect the interests of the Corporation and shall provide only for those defects which if neglected would impair the Corporation's security.

The home owner's attention should be directed to the necessary repairs, and his intentions regarding them reported.

SEC. 2.05–17 (Manual Article 205–17). The Service Representative shall be responsible for the execution of Transfer of Property by Borrower Form 530 and Report on Deceased Borrower Form 531 in accordance with instructions in the Forms Manual in all such cases coming to their attention or referred to them by the Regional Office.

All requests for the written consent of the Corporation to the transfer of property on which it holds a security instrument or instalment contract or to the assignment of an instalment contract shall be referred to the Regional Control Supervisor.

Where such written consent is not requested, but information is received from any source relative to a proposed transfer, reasonable effort shall be made to have the grantee assume the obligation in the instrument of conveyance or by separate instrument concurrently executed as the Regional or State Counsel may approve.

All cases of transfers of property on which the Corporation holds a loan or sales instrument and which comes to the attention of the field, either before or after the transfer has been consummated, shall be reported to the Regional Office on Form 530.

SEC. 2.05–18 (Manual Article 205–18). When an officer or employee of the Corporation desires to enter into a contract with a home owner to purchase any property on which the Corporation holds

a loan or sales instrument, such officer or employee shall submit to the nearest State Office a statement of the proposed sale contract, with a statement by the home owner or other satisfactory evidence that said home owner has been informed of the purchaser's relationship to the Corporation and that the proposed sale agreement is voluntarily entered into. All statements and other information relating to the transaction shall be forwarded through the Partial Release and Property Transfer Section of the Regional Office to the Regional Manager. If the Regional Manager recommends approval of the transaction, he shall forward all information with respect to the proposed sale, together with the loan docket and his recommendations to the Property Committee in Washington. The Property Committee shall report the matter with its recommendations to the General Manager for final action.

SEC. 2.06–7 (Manual Article 206–7). The Tax Section will provide the Loan Service Division with lists of home owners accounts in cases where they are preparing to pay taxes, assessments, or other levies or charges or ground rents, to protect the Corporation's security, or to avoid excessive penalties or otherwise as the General Counsel may direct. These lists will be prepared at the time the Tax Section requests bills from the tax collectors and will show loan number, surname of account, and the taxes which they are planning to pay. Ordinarily, such lists will be received by the Loan Service Division thirty days or more before payment is ordered. Upon receipt of such lists the Analysis and Review Section will review the account and recommend, on Form 532, to the Regional Manager the plan of repayment in connection with such advances. If time permits and there is not sufficient information available, the case may be referred to the field for contact with the home owner. The plan of repayment will follow the policy stated in Article 609–6. In these cases Form 532 must carry an appropriate notation for the guidance of the Regional Accountant that the plan of repayment is in connection with an advance to be made by the Tax Section as stated herein.

SEC. 2.11–1 (Manual Article 211–1). Additional security may be a factor in the solution of some delinquent cases. It is not desirable to take physical possession of personal property nor an absolute conveyance of real property because of the difficulties and expense of custody and servicing of such property. Therefore, additional security must be in the form of a mortgage or other lien on personal or real property which property will be converted into cash by the home owner or his agent at some reasonably certain future date.

SEC. 2.11–2 (Manual Article 211–2). A memorandum shall be prepared by the field describing the additional security available under these provisions, the arrangements for its liquidation, the date when cash will be available, and any other pertinent information, and forwarded with the regular service reports through the usual channels to the Analysis and Review Section. If the Analysis and Review Section does not consider the proposal acceptable, it shall so notify the field through the Control Supervisor. If considered acceptable, the Analysis and Review Section shall submit the file with its recommendation to the Regional Manager for approval. If approved, the Regional Manager shall forward the file to the Regional Counsel for consideration of the legal phase of the case, the preparation of an agreement and such lien instruments as may be required to consummate the transaction, and specific instructions as to the manner of execution, recordation and other similar details. When such papers and instructions have been prepared and such papers executed where necessary on behalf of the Corporation, they shall be forwarded to the field for execution by the home owner and recordation if necessary. Except as provided in Section 212, if recordation is required, the home owner shall be required to deposit the cost of recordation before being permitted to execute any agreement or lien instrument. If, in the opinion of the Regional Counsel, the additional security offered should not be accepted, the file, together with his legal opinion in writing, will be returned to the Regional Manager.

SEC. 2.12–1 (Manual Article 212–1). Any Regional Manager with the advice or approval of the Regional Counsel where required, may exercise the authority granted to the General Manager in Section 212. Pending further order, such authority shall not be exercised by any State or District Manager except as may otherwise be provided in this Manual, but State and District Managers shall make such recommendation to the Regional Manager as they may see fit in connection with their reports and other recommendations in any given case.

SEC. 2.13–1 (Manual Article 213–1). Extensions of time for the making of payments may be effected as authorized in the above and foregoing section, through the use of a new obligation and security instrument, an extension agreement, or such other agreement as will adequately serve and protect the interests of the Corporation, provided that forms employed shall have been approved as required, and provided further that the execution thereof and other necessary steps touching the Corporation's legal position shall be carried out in strict compliance with the instructions of the Legal Department.

It should be noted that Form 193 is adapted to use in all classes of extensions irrespective of the payment plan contemplated. In cases involving payment other than equal monthly payments over the remaining period of the original obligation, care should be used in setting out the terms of the agreement.

In all cases falling within the purview of subsections 1 to 5 inclusive, payments other than the initial payment must be in equal amounts and must fall due at regular intervals. In cases falling within the purview of subsection 6 the above rule does not apply. Consideration should always be given to the question of costs involved in completing the transaction.

SEC. 2.13–2 (Manual Article 213–2). Any such extension may, and ordinarily should, embrace and cover all delinquencies, whether principal or interest, and all advances previously made, or made in connection therewith, for the benefit of the home owner and charged to his account, whether due or not; all such sums to bear interest at the rate applicable to the original obligation. Advances to cover taxes, assessments, or other levies or charges, and ground rents should not be made in connection with any such extension without thorough consideration of the facts of the case. When such advances are authorized by the Regional Manager payment shall be approved by the Regional Counsel. Advances may be made for repairs, reconditioning, or insurance premiums should be handled as separate transactions and not as a part of the extension. Such transactions shall be completed before the extension is granted or handled subsequently as a separate transaction. Legal or appraisal, and other expenses incidental to the closing of the extensions, shall either be collected at the time of closing or advanced and charged to the loan or vendee account after the extension transaction is completed. All legal fees and expenses shall be incurred, approved and paid as provided in Chapter VI.

SEC. 2.13–4 (Manual Article 213–4). All applications for extension of time for the making of payments shall be made by the home owner on the approved form, which contains the agreement of the applicant that any expenses incurred in connection therewith may be charged to the applicant's account.

SEC. 2.13–5 (Manual Article 213–5). The signatures of co-makers, endorsers and other persons liable with the maker of the obligation, though ordinarily required, may be dispensed with if the Regional Counsel has advised that they will not be released from liability or the Regional Manager has determined that their release from liability will not seriously impair the Corporation's position.

SEC. 2.14–1 (Manual Article 214–1). Whenever a home owner indicates a desire to execute a special deposits agreement to accumulate sufficient funds to provide for the payment of taxes now due or to become due, insurance premiums, or other items, he shall be referred to the Loan Service Division which shall investigate the circumstances and if it appears to be in the best interest of the Corporation have Form 168 Revised, or other approved form, executed in quintuplicate by the home owner.

SEC. 2.15–1 (Manual Article 215–1). The Regional Manager, with the advice of Regional Counsel, may permit the payment of taxes, assessments, other governmental levies and charges and ground rents, Attorneys' fees, surveys, appraisal fees, cost of reconditioning and charges or expenses necessary in connection with the consummation of the particular transaction before directing the application of any part of the funds referred to in the foregoing Section to the home owner's account. Where the consideration (whether land, interests therein, enhancement in the value thereof, or funds) exceeds the amount by which the value of the Corporation's security is reduced or diminished by a sufficient amount for the purpose, the Regional Manager, with the advice of the Regional Counsel, may permit the payment of such other items as he may deem proper to the extent of such excess from any funds involved in such consideration. Where such excess does not exist or where it is insufficient for the payment of such other items, they may not be paid except upon the direction of the General Manager with the advice of the General Counsel.

SEC. 2.15–3 (Manual Article 215–3). Application of all miscellaneous credits except those developing out of the closing of loans, sales or resulting from advances previously charged to home owners' accounts, or from excesses of less than $25.00 in insurance loss cases after restoration of the property shall be referred to the Partial Release and Property Transfer Section of the Regional Office on Form 194 or by the Regional Insurance Supervisor on Form 125–A. Cases involving the application of miscellaneous credits which cannot be reported on these forms shall be referred to the Partial Release and Property Transfer Section in any manner acceptable to the Regional Manager and Regional Counsel. The Supervisor of Partial Release and Property Transfer Section shall consider each case so referred and recommend to the Regional Manager and Regional Counsel the action to be taken, as well as the application of miscellaneous credits resulting from such action. When the home owner's written direction for the application of funds to taxes or other items is required and has not already been given, such written direction shall be obtained. When miscellaneous credits are to be used for the payment of taxes, the Tax Section shall prepare the vouchers and certify the amount of such payment.

(Above procedure promulgated by General Manager and General Counsel

pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643–647) and particularly by sub-Sections a and k of Section 4 of said Act as amended.)

Promulgated by the General Manager and the General Counsel on August 17, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2480; Filed, August 23, 1938; 10:15 a. m.]

PART 6.—LEGAL

BONDS OF INDEMNITY

Be it resolved, That sub-Section 6.04 (c) of Part 6 of Chapter IV of Title 24 of the Code of Federal Regulations and the corresponding sub-section 604 (c) of Chapter VI of the Manual are hereby amended to read as follows:

SECTION 6.04 (c) (Manual Section 604 (c)).

"The General Manager with the approval of the General Counsel is authorized to approve and accept bonds of indemnity offered to the Corporation for the purpose of protecting it against loss, and, with like approval, may effect their cancellation. Such authority may be exercised also by the Regional Manager with the approval of the Regional Counsel under procedure and limitations prescribed by the General Manager with the approval of the General Counsel."

Adopted by the Federal Home Loan Bank Board on August 18, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2479; Filed, August 23, 1938; 10:15 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTY FOR TENANT PURCHASE LOANS

WYOMING

AUGUST 23, 1938.

Purchase to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Wyoming State Farm Security Advisory Committee, the following county is hereby redesignated [1] as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Goshen.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2486; Filed, August 23, 1938; 12:40 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 279]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 18, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Arkansas R9014B1 Pope	$100,000
Colorado R9007B1 Mesa	48,000
Colorado R9014B1 Alamosa	166,000
Colorado R9017B1 Prowers	303,000
Georgia R9008B1 Wilkes	217,000
Georgia R9017B1 Burke	160,000
Georgia R9039B1 Hart	226,000
Georgia R9066C1 Taylor	419,000
Georgia R9088A1 Telfair	234,400
Georgia R90090A1 Candler	290,000
Illinois R9023C1 Sangamon	110,000
Indiana R9009A3 Marshall	40,000
Indiana R9053A1 Steuben	278,000
Indiana R9059B1 Wayne	209,000
Iowa R9046A1 Pottowatamie	150,000
Kentucky R9023A1 Taylor	179,000
Kentucky R9034A1 Barren	191,300
Kentucky R9035A1 Warren	137,000
Louisiana R9008A1 Terrebonne	110,600
Michigan R9029B1 Ontonagon	249,000
Michigan R9028C1 Presque Isle	179,000
Michigan R9039B1 Van Buren	269,000
Michigan R9038B1 Cass	688,000
Minnesota R9032B1 Fillmore	573,000
Minnesota R9034B1 Stearns	490,000
Minnesota R9058A1 Kandiyohi	97,000
Minnesota R9061B1 Freeborn	286,000
Minnesota R9062B1 Wright	215,000
Mississippi R9040A1 Smith	593,000
Missouri R9024B1 Callaway	59,200
Missouri R9032A1 Atchison	217,000
Montana R9013B1 Flathead	91,000
New Jersey R9004B1 Monmouth	128,000
New Mexico R9009B1 Curry	106,000
Ohio R9024B1 Delaware	53,000
Ohio R9050B1 Union	61,100
Ohio R9055C1 Coshocton	294,030
Ohio R9059B1 Morrow	61,000
Pennsylvania R9006D1 Indiana	225,000
South Carolina R9013C1 Greenwood	93,000
Tennessee R9020C1 Gibson	192,500
Texas R9050B1 Grayson	173,000
Texas R9055A1 Floyd	189,000
Texas R9059A1 Lamb	161,000
Virginia R9031B1 Mecklenburg	215,000
Wisconsin R9043B1 Grant	257,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2476; Filed, August 23, 1938; 9:40 a. m.]

[1] 3 F. R. 599 DI.

[Administrative Order No. 280]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 18, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Georgia 9067B1 Bacon	$165,000
Iowa 9027B1 Buena Vista	389,000
Kentucky 9045A1 Anderson	190,800
Kentucky 9046A1 Harrison	201,500
Michigan 9020B1 Delta	260,000
Michigan 9041A1 Oceana	262,000
Minnesota 9066C1 Nobles	356,000
Missouri 9034A1 Macon	343,500
Texas 9044B1 Hunt	61,700
Texas 9063B1 Navarro	168,500

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2477; Filed, August 23, 1938; 9:40 a. m.]

[Administrative Order No. 281]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 18, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule.

Project designation	*Amount*
Georgia R9070W2 Mitchell	$6,000
Indiana R9018W1 Rush	12,000
Iowa R9049W1 Hardin	5,000
Ohio R9032W1 Belmont	3,000
Ohio R9041W1 Licking	5,000
Ohio R9050W1 Union	2,400

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2478; Filed, August 23, 1938; 9:40 a. m.]

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AUG 26 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 166

Washington, Thursday, August 25, 1938

Rules, Regulations, Orders

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3207]

IN THE MATTER OF MERCO SALES COMPANY

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.*—Supplying, etc., to others, in connection with sale of bedspreads, tablecloths, silverware, hosiery, etc., pushcards or other lottery devices to enable recipients to dispose thereby of such merchandise, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Merco Sales Company, Docket 3207, August 12, 1938.]

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.* — Mailing, etc., to agents, etc., or to members of the public, in connection with sale of bedspreads, tablecloths, silverware, hosiery, etc., pushcards or other lottery devices so prepared or printed as to enable persons to sell, etc., such merchandise by the use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Merco Sales Company, Docket 3207, August 12, 1938.]

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.* — Selling or otherwise disposing of bedspreads, tablecloths, silverware, hosiery, etc., by use of pushcards or other lottery devices, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Merco Sales Company, Docket 3207, August 12, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF JOHN C. MERRITT, INDIVIDUALLY AND TRADING AS MERCO SALES COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondent admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, John C. Merritt, individually and trading as Merco Sales Company, or under any other name, his agents, representatives and employees, in connection with the offering for sale, sale and distribution of bedspreads, bed sheets, tablecloths and napkins, silverware, men's shirts, ladies' lingerie and hosiery, and other articles of merchandise in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others pushcards or other lottery devices for the purpose of enabling such persons to dispose of or sell such articles of merchandise by the use thereof.

(2) Mailing, shipping or transporting to his agents or to distributors or to members of the public pushcards or other lottery devices so prepared or printed as to enable said persons to sell or distribute such articles of merchandise by the use thereof.

(3) Selling or otherwise disposing of such articles of merchandise by the use of pushcards or any other lottery devices.

It is further ordered, That said respondent shall, within sixty (60) days from the date of the service of this order upon him, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied therewith.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2490; Filed, August 23, 1938; 3:22 p. m.]

[1] 3 F. R. 1020 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission: Page
Merco Sales Co., cease and desist order 2081
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Bobwhite Quail from Mexico, revocation of regulations governing importation 2081
Marking of articles to indicate country of origin 2082
TITLE 20—FISH AND GAME:
Bureau of Fisheries:
Alaska fishery regulations amended 2082
TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:
Veterans' Administration:
Application for increase based upon changed physical condition 2082
Occupational therapy 2083
Rates of death pension and compensation for widows, etc 2083

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

IMPORTATION OF BOBWHITE QUAIL FROM MEXICO

REVOCATION OF REGULATIONS OF NOVEMBER 21, 1927

Effective September 1, 1938, the joint regulations of the Secretary of the

FEDERAL REGISTER

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Treasury and the Secretary of Agriculture, dated November 21, 1927, entitled "Regulations Governing Importation of Bobwhite Quail from Mexico" ((1932) T. D. 45437; S. R. A.-B. S. 69) and all amendments thereof are hereby revoked, but the importation into the United States of such quail from Mexico will continue to be subject to the requirement of a special permit from the Secretary of Agriculture as prescribed by Section 241 of the Act of March 4, 1909, entitled "An Act To codify, revise, and amend the penal laws of the United States" (35 Stat. 1088; U. S. C., title 18, sec. 391). Applications for such permits must be made to the Secretary of Agriculture, Washington, D. C.

Bobwhite quail from Mexico will not be admitted at any port of entry unless the importer produces to the Collector of Customs, in addition to the permit mentioned in the preceding paragraph, a permit from the Department of Forestry, Game, and Fish of Mexico authorizing export of the quail, nor will they be admitted at any time of the year other than during the export season prescribed by the laws or regulations of Mexico.

Notice is hereby given that upon discovery of any quail disease in any consignment of quail from Mexico such consignment will be refused entry and further admission of quail from Mexico may be suspended pending investigation and further order.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

AUGUST 19, 1938.

[F. R. Doc. 38-2493; Filed, August 24, 1938; 12:47 p. m.]

[T. D. 49690]

MARKING—EXCEPTIONS

ARTICLES EXEMPT FROM MARKING TO INDICATE THE COUNTRY OF ORIGIN BY REASON OF HAVING BEEN IMPORTED IN SUBSTANTIAL QUANTITIES DURING THE FIVE-YEAR PERIOD PRIOR TO JANUARY 1, 1937, WITHOUT BEING REQUIRED TO BE MARKED

AUGUST 22, 1938.

To Collectors of Customs and Others Concerned:

Section 304 (a) (3) (J) of the Tariff Act of 1930, as amended by section 3 of the Customs Administrative Act of 1938 (Public, No. 721, 75th Congress), provides that the Secretary of the Treasury may by regulations authorize the exception of any imported article from the requirement of section 304 that it be marked to indicate the country of its origin if—

(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: PROVIDED, That this subdivision (J) shall not apply after September 1, 1938, to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of the Act of June 12, 1934 (U. S. C., 1934 edition, title 19, secs. 1351–1354), as extended.

Article 532 (b) of the Customs Regulations of 1937, as amended by T. D. 49658,[1] exempts articles within the purview of the said section 304 (a) (3) (J) from the requirement of marking.

Pursuant to the provisions of the said section 304 (a) (3) (J), notice is hereby given that the following articles were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate the country of their origin:

Bagging, waste
Bodies, harvest hat
Briarwood in blocks
Burlap
Eggs
Firewood
Hides, raw
Hooks, fish
Laths
Livestock
*Lumber, sawed
Paper, newsprint
Poles, bamboo
*Poles, (wood) electric-light
*Poles, (wood) telegraph
*Poles, (wood) telephone
*Poles, (wood) trolley
Pulpwood
*Shingles, (wood) bundles of
Skins, raw fur
*Timbers, sawed
Trees, Christmas

Subject to further notice, articles in the above list indicated by an asterisk shall be required to be marked to indicate the country of their origin if entered for consumption or withdrawn from warehouse for consumption after September 1, 1938. In the case of any article described in the above list which is imported in a container, the outermost container in which the article ordinarily reaches the ultimate purchaser is required to be marked to indicate the origin of its contents.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2492; Filed, August 24, 1938; 12:47 p. m.]

*Subject to the proviso to subdivision (J).
[1] 3 F. R. 1821 DI.

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-8]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 23, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251,[1] twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[2] are hereby amended by the following regulation:

SOUTHEASTERN ALASKA AREA

Clarence Strait District

Salmon fishery.—Regulations No. 8 and No. 9 are amended so as to permit commercial fishing for salmon south of a line extending from Approach Point to Caamano Point from 6 o'clock postmeridian August 23 to 6 o'clock postmeridian August 25.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2491; Filed, August 23, 1938; 4:21 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

APPLICATION FOR INCREASE BASED UPON CHANGED PHYSICAL CONDITION

SEC. 2.1216 *Application for increase based upon changed physical condition.*—A formal application for increased disability compensation or pension will not be required and an informal application or request when accompanied by evidence of a changed physical condition will suffice.

(A) *Increase based upon report of physical examination.* Where an increase in disability is shown by an official report of physical examination made by a full-time, part-time or designated physician of the Veterans' Administration in connection with compensation, pension, or treatment pursuant to proper authority, the report of physical examination will be accepted as a claim and payment of the increase may be made effective as of the date of examination. This principle likewise is for application, effective April 7, 1938, to claims under Section 8.013. (August 24, 1938.)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-2489; Filed, August 23, 1938; 3:19 p. m.]

[1] 3 F. R. 451 DI.
[2] 3 F. R. 2063 DI.

RATES OF DEATH PENSION AND COMPENSATION FOR WIDOWS, REMARRIED WIDOWS, CHILDREN AND DEPENDENT PARENTS

SEC. 2.2626 *Rates under Section 31, Title III, Public No. 141, 73d Congress (Act of March 28, 1934).*—The rates of death pension or compensation payable are those authorized in Section 8.011 as carried forward into Section 2.2622 (a) and/or (b), when the veteran served in a war, or those authorized in Section 8.012, as carried forward into Section 2.2622 (c) and/or (d), when the veteran served during peace time. [The rates authorized by section 3 of Public No. 304, 75th Congress (Act of August 16, 1937) may not be awarded in a claim where death compensation is being paid under authority of section 31, Public No. 141, 73d Congress (Act of March 28, 1934).] Nothing contained herein shall prevent the payment of a higher rate under a service or other pension act where authorized. (August 24, 1938.)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-2488; Filed, August 23, 1938; 3:19 p. m.]

OCCUPATIONAL THERAPY

SEC. 6.6087 *Boards of appraisers.*—In Veterans' Administration facilities the board of appraisers will consist of a medical officer especially designated to supervise occupational therapy activities, the supply officer or his designate and the ranking aide. In central office, the board of appraisers will consist of three members designated by the Administrator, or the assistant administrator duly authorized to make these designations. The boards at the facilities will meet on or about the fifteenth and last day of each month, or at more frequent intervals (if in the opinion of the manager circumstances may require), (a) to confirm or to amend the decisions made by the aide in charge of occupational therapy since the last meeting of the board; and (b) to fix prices of articles, repairs, and services which come under the jurisdiction of the board. (August 24, 1938.) (Sec. 6, 7; 48 Stat. 9; 38 U. S. C. 706, 707.)

SEC. 6.6088 *Considerations in fixing prices.*—The values of articles and repairs mentioned in the following will be fixed by the chief aide or the aide in charge of occupational therapy without reference specifically to the board of appraisers for appraisal: (a) In cases where a patient makes an article and desires to purchase it for his own or his immediate family's use and not for resale, in accordance with the provisions of Section 6.6083, the value of the article will be based upon the cost of the material used in its fabrication; (b) the prices of shoe repairs which are completed for patients will be based upon the cost of material used, plus an additional 20% for handling charges; and (c) the value of articles fabricated for Government use and the value of repairs made to Government-owned property will be based upon the cost of material used, plus an additional 20% for handling charges. In estimating the cost of material, consideration should be given not only to the value of the material actually used, but also to the reduced value of material, if any, remaining. A record of the items stated above will be made on the official appraisers list (Form 2589) in duplicate, using one serial number for all items of one project, and a summarized statement showing the individual items of each project should be prepared on the last day of every month. Serial numbers in the regular series of numbers used for appraised items will be assigned to each article for identification purposes. The proceeds from the sale of these articles will be handled immediately without reference to any action by the board of appraisers. The values of occupational therapy articles, projects, repairs and services, other than those overed by the preceding items, will be determined by the board of appraisers. In fixing prices of these fabricated articles, consideration will be given by the board of appraisers to the type of article, the skill evidenced in workmanship and design, and the comparative prices at which similar articles are sold commercially. In fixing the prices of other projects completed, services rendered and repairs made (except repairs to Government-owned property and shoe repairs for patients), consideration will be given to the comparative prices at which similar activities could be accomplished, if it would not be possible to fabricate them as occupational therapy projects. (August 24, 1938.) (Sec. 6, 7, 48 Stat. 9; 38 U. S. C. 706, 707.)

SEC. 6.6091 canceled.

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-2487; Filed, August 23, 1938; 3:19 p. m.]

SEP 7 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 167

Washington, Friday, August 26, 1938

Rules, Regulations, Orders

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

BOUNDARIES OF WIND RIVER MOUNTAIN ROADLESS AREA

AUGUST 9, 1938.

MR. FORREST R. STONE,
Supt., Wind River Agency.

DEAR MR. STONE: Reference is made to your communications of May 17, June 13 and July 7 recommending a revision of the description of the Wind River Mountain Roadless Area established by Departmental Order No. 486, dated October 25, 1937.[1]

You state that the description of the area as set forth in the order and shown on the map does not conform to the boundaries as established in the field by Mr. Robert Marshall, former Director of Forestry, Mr. George M. Nyce, Regional Forester, and yourself. You also direct attention to the fact that the boundaries as now defined include accessible timber resources required by the Indians for fuel and timber products; and embrace a ranger station, existing roads and other improvements.

An examination of the record indicates that the description as set forth in the order was not definite with respect to the north boundary of the area; and that as a result thereof a straight line was projected on the map between the most northerly points on the east and west boundaries, instead of passing through Bold Mountain as intended.

Accordingly the description of the boundaries of the Wind River Mountain Roadless Area is hereby amended to read as follows:

Starting at the south ¼ corner of Section 22, T. 2 S., R. 3 W., on the south boundary of the diminished Wind River Reservation; thence northerly approximately ½ mile to Hobbs Peak; thence in a northerly direction along the divide between Moccasin Creek and Sand Creek to the ¼ corner between Sections 28 and 33, T. 1 S., R. 3 W.; thence north 1 mile to the ¼ corner between Sections 21 and 28; thence west 2½ miles to the southwest corner of Section 19, T. 1 S., R. 3 W.; thence north along range line to the Wind River base line; thence west along base line 1 mile to the southwest corner of Section 36, T. 1 N., R. 4 W.; thence north 10½ miles to the ¼ corner of Sections 11 and 12, T. 2 N., R. 4 W.; thence west 6½ miles to the center of Section 11, T. 2 N., R. 5 W.; thence on a straight line in a northwesterly direction to the top of Bold Mountain; thence on a straight line in northwesterly direction to the point where the north line of Section 15, T. 4 N., R. 6 W., intersects the western boundary of the reservation; thence south, southeasterly and east along the reservation boundary to point of beginning.

Reference to the description of the boundaries as amended and the map which is attached hereto[2] will disclose the fact that the change recommended by your office in the east boundary of the area in Townships 1 and 2 South, Range 3 West, has also been authorized and that it now follows the well defined ridge which passes through Sections 22, 15, 9 and 4, T. 2 S., R. 3 W.; and Sections 33 and 28, T. 1 S., R. 3 W.

Sincerely yours,

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner.

Approved, August 13, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2495; Filed, August 24, 1938; 3:23 p. m.]

[1] 3 F. R. 708 DI.

[2] Filed as a part of the original document with the Division of the Federal Register, The National Archives.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 25—INDIANS:
Office of Indian Affairs: Page
Wind River Mountain Roadless Area, boundaries of.. 2085
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, mitigation of effect of limitation and other provisions in cases concerning ---------- 2085
TITLE 27—INTOXICATING LIQUORS:
Federal Alcohol Administration Division:
Wine, standards of identity, etc---------- 2093

NOTICES

Securities and Exchange Commission:
Lone Star Gas Corp.:
Acquisition of securities approved ---------- 2097
Sale of securities approved--- 2097
Lone Star Gas Corp., et al., effectiveness of declarations_ 2097
Pantepec Oil Co. of Venezuela certificates of deposit for capital stock; application denied---------- 2096
Texas Cities Gas Co., et al., acquisition of securities approved ---------- 2097

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4856]

INCOME TAX

REGULATIONS RELATING TO THE MITIGATION OF THE EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES

To Collectors of Internal Revenue and Others Concerned:

Pursuant to section 820 of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), section 3447

FEDERAL REGISTER

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of the United States Revised Statutes, and other provisions of the internal revenue laws, the following regulations, with respect to the mitigation of the effect of limitation and other provisions in income tax cases, are hereby prescribed, various sections or subsections of the internal revenue laws applicable thereto being quoted in, and made a part of, such regulations:

ART. 820–1. *Purpose and scope of section 820.*—Section 820 provides for correction of the effect of certain types of errors specified in section 820 (b) and articles 820 (b)–1 to 820 (b)–5, when one or more provisions of the internal revenue laws, such as the statute of limitations, would otherwise prevent such correction. Corrections are authorized under section 820 only when the Commissioner, if the correction would result in an allowance of a refund or credit for the year with respect to which the error was made, or the taxpayer, if the correction would result in an additional assessment for such year, has maintained a position inconsistent with the error. No correction is permissible unless the inconsistent position is adopted by a determination made on or after August 27, 1938. (See section 820 (a) and articles 820 (a)–1 to 820 (a)–3, inclusive, for definition of the term "determination.")

SECTION 820 (A) (1) (A) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(a) *Definitions.*—For the purpose of this section—

(1) Determination.—The term "determination under the income tax laws" means—

(A) A closing agreement made under section 606 of the Revenue Act of 1928, as amended;

* * * * *

Such term shall not include any such agreement made * * * prior to ninety days after the date of the enactment of this Act.

SECTION 901 OF THE REVENUE ACT OF 1938, IN PART

SEC. 901. *Definitions.*—(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(3) The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

* * * * * *

(6) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

* * * * * *

(11) The term "Secretary" means the Secretary of the Treasury.

(12) The term "Commissioner" means the Commissioner of Internal Revenue.

* * * * * *

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

SECTION 606 (A) AND (B) OF THE REVENUE ACT OF 1928, AS AMENDED BY SECTIONS 801 AND 802 OF THE REVENUE ACT OF 1938

SEC. 606. *Closing agreements.*—(a) *Authorization.*—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period.

(b) *Finality of agreements.*—If such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

ART. 820 (a)–1. *Closing agreement as a determination.*—For the purposes of section 820, a determination may take the form of a closing agreement authorized by section 606 of the Revenue Act of 1928, as amended. Such an agreement may relate to the total tax liability of the taxpayer for a particular taxable year or years or to one or more separate items affecting such liability. If it becomes necessary or desirable to effect a determination in order to obtain or accelerate an adjustment authorized by section 820, a closing agreement may be used for such purpose whenever a taxpayer and the Government have concurred in the disposition of an item or items. A closing agreement becomes final within the meaning of section 820 on the date of its approval by the Secretary, the Under Secretary, or an Assistant Secretary.

SECTION 820 (A) (1) (B) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(a) *Definitions.*—For the purpose of this section—

(1) *Determination.*—The term "determination under the income tax laws" means—

(B) A decision by the Board of Tax Appeals or a judgment, decree, or other order by any court of competent jurisdiction, which has become final; * * *

* * *

Such term shall not include any * * * decision, judgment, decree, or order which has become final * * * prior to ninety days after the date of the enactment of this Act.

ART. 820 (a)–2. *Decision by Board or Court as a determination.*—A determination may take the form of a decision by the Board of Tax Appeals or a judgment, decree, or other order by any court of competent jurisdiction, which has become final.

The date upon which a decision by the Board of Tax Appeals becomes final is prescribed in section 1005 of the Revenue Act of 1926, as amended.

The date upon which a judgment of a court becomes final must be determined upon the basis of the facts in the particular case. Ordinarily, a judgment of a United States District Court becomes final upon the expiration of the time allowed for taking an appeal, if no such appeal is duly taken within such time; and a judgment of the United States Court of Claims becomes final upon the expiration of the time allowed for filing a petition for certiorari if no such petition is duly filed within such time.

SECTION 820 (A) (1) (C) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(a) *Definitions.*—For the purpose of this section—

(1) *Determination.*—The term "determination under the income tax laws" means—

(C) A final disposition by the Commissioner of a claim for refund. For the purposes of this section a claim for refund shall be deemed finally disposed of by the Commissioner—

(i) as to items with respect to which the claim was allowed, upon the date of allowance of refund or credit or upon the date of mailing notice of disallowance (by reason of offsetting items) of the claim for refund, and

(ii) as to items with respect to which the claim was disallowed, in whole or in part, or as to items applied by the Commissioner in reduction of the refund or credit, upon expiration of the time for instituting suit with respect thereto (unless suit is instituted prior to the expiration of such time).

Such term shall not include any * * * claim for refund finally disposed of, prior to ninety days after the date of the enactment of this Act.

ART. 820 (a)–3. *Final disposition of claim for refund as a determination.*—A determination may take the form of a final disposition of a claim for refund. Such disposition may result in a determination with respect to two classes of items, i. e., items included by the taxpayer in a claim for refund and items applied by the Commissioner to offset the alleged overpayment. The time at which a disposition in respect of a particular item becomes final may depend not only upon what action is taken with respect to that item but also upon whether the claim for refund is allowed or disallowed.

(a) *Items with respect to which the taxpayer's claim is allowed.*

(1) The disposition with respect to an item as to which the taxpayer's contention in the claim for refund is sustained becomes final on the date of allowance of the refund or credit if—

(i) The taxpayer's claim for refund is unqualifiedly allowed; or

(ii) The taxpayer's contention with respect to an item is sustained and with respect to other items is denied, so that the net result is an allowance of refund or credit; or

(iii) The taxpayer's contention with respect to an item is sustained, but the Commissioner applies other items to offset the amount of the alleged overpayment and the items so applied do not completely offset such amount but merely reduce it so that the net result is an allowance of refund or credit.

(2) If the taxpayer's contention in the claim for refund with respect to an item is sustained but the Commissioner applies other items to offset the amount of the alleged overpayment so that the net result is a disallowance of the claim for refund, the date of mailing, by registered mail, of the notice of disallowance (see section 3226 of the Revised Statutes, as amended) is the date of the final disposition as to the item with respect to which the taxpayer's contention is sustained.

(b) *Items with respect to which the taxpayer's claim is disallowed.*—The disposition with respect to an item as to which the taxpayer's contention in the claim for refund is denied becomes final upon the expiration of the time allowed by section 3226 of the Revised Statutes, as amended, for instituting suit on the claim for refund, unless suit is instituted prior to the expiration of such period, if—

(i) The taxpayer's claim for refund is unqualifiedly disallowed; or

(ii) The taxpayer's contention with respect to an item is denied and with respect to other items is sustained so that the net result is an allowance of refund or credit; or

(iii) The taxpayer's contention with respect to an item is sustained in part and denied in part. For example, if the taxpayer claims a deductible loss of $10,000 and a consequent overpayment of $2,500 and the Commissioner concedes that a deductible loss was sustained but in the amount of $5,000 only, or that a deductible loss of $10,000 was sustained, but under the Commissioner's computation the consequent overpayment is only $2,000, the disposition of the claim for refund with respect to both the allowance of the $5,000 and the disallowance of the remaining $5,000, or the allowance of the $2,000 overpayment and the denial of the $500, becomes final upon the expiration of the time for instituting suit on the claim for refund unless suit is instituted prior to the expiration of such period.

(c) *Items applied by the Commissioner in reduction of the refund or credit.*—If the Commissioner applies an item in reduction of the overpayment alleged in the claim for refund, and the net result is an allowance of refund or credit, the disposition with respect to the item so applied by the Commissioner becomes final upon the expiration of the time allowed by section 3226 of the Revised Statutes, as amended, for instituting suit on the claim for refund, unless suit is instituted prior to the expiration of such period. If such application of the item results in the assertion of a deficiency, such action does not constitute a final disposition by the Commissioner of a claim for refund within the meaning of section 820 (a) (1) (C) (ii) of the Act, but subsequent action taken with respect to such deficiency may result in a determination under section 820 (a) (1) (A) or (B) of the Act.

The necessity of waiting for the expiration of the two-year period of limitations provided in section 3226 of the Revised Statutes, as amended, may be avoided in such cases as are described under (b) or (c) of this article by the use of a closing agreement to effect a determination.

SECTION 820 (A) (2) AND (3) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(a) *Definitions.*—For the purpose of this section—

(2) *Taxpayer.*—Notwithstanding the provisions of section 901, the term "taxpayer" means any person subject to a tax under the applicable Revenue Act.

(3) *Related taxpayer.*—The term "related taxpayer" means a taxpayer who, with the taxpayer with respect to whom a determination specified in subsection (b) (1), (2), (3), or (4) is made, stood, in the taxable year with respect to which the erroneous inclusion, exclusion, omission, allowance, or disallowance therein referred to was made, in one of the following relationships: (A) husband and wife; (B) grantor and fiduciary; (C) grantor and beneficiary; (D) fiduciary and beneficiary, legatee, or heir; (E) decedent and decedent's estate; or (F) partner.

ART. 820 (a)–4. *Related taxpayer.*—An adjustment in the case of the taxpayer with respect to whom the error was made may be authorized under section 820 although the determination is made with respect to a different taxpayer, provided that such taxpayers stand in one of the relationships specified in section 820 (a) (3). The concept of "related taxpayer" has application only to section 820 (b) (1), (2), (3), or (4) and does not apply to section 820 (b) (5). If such relationship exists, it is not essential that the error be with respect to a transaction possible only by reason of the existence of the relationship. For example, if the error with respect to which an adjustment is sought under section 820 grew out of an assignment of rents between taxpayer A and taxpayer B, who are partners, and the determination is with respect to taxpayer A, an adjustment with respect to taxpayer B may be permissible despite the fact that the assignment had nothing to do with the business of the partnership. The relationship need not exist throughout the entire taxable year with respect to which the error was made, but only at some time during that taxable year. For example, if a taxpayer on February 15 assigns to his fiancee the net rents of a building which the taxpayer owns, and the two are married before the end of the taxable year, an adjustment may be permissible if the determination relates to such rents despite the fact that they were not husband and wife at the time of the assignment. See article 820 (b)–8 for the requirement in certain cases that the relationship exist at the time an inconsistent position is first maintained.

SECTION 820 (B) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(b) *Circumstances of Adjustment.*—When a determination under the income tax laws—

(1) Requires the inclusion in gross income of an item which was erroneously included in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; or

(2) Allow a deduction or credit which was erroneously allowed to the taxpayer for another taxable year or to a related taxpayer; or

(3) Require the exclusion from gross income of an item with respect to which tax was paid and which was erroneously excluded or omitted from the gross income of the taxpayer for another taxable year or from the gross income of a related taxpayer; or

(4) Allows or disallows any of the additional deductions allowable in computing the net income of estates or trusts, or requires or denies any of the inclusions in the computation of net income of beneficiaries, heirs, or legatees, specified in section 162 (b) and (c) of this Act, and corresponding sections of prior revenue Acts, and the correlative inclusion or deduction, as the case may be, has been erroneously excluded, omitted, or included, or disallowed, omitted, or allowed, as the case may be, in respect of the related taxpayer; or

(5) Determines the basis of property for depletion, exhaustion, wear and tear, or obsolescence, or for gain or loss on a sale or exchange, and in respect of any transaction upon which such basis depends there was an erroneous inclusion in or omission from the gross income of, or an erroneous recognition or nonrecognition of gain or loss to, the taxpayer or any person who acquired title to such property in such transaction and from whom mediately or immediately the taxpayer derived title subsequent to such transaction—

and, on the date the determination becomes final, correction of the effect of the error is prevented by the operation (whether before,

on, or after the date of enactment of this Act) of any provision of the internal-revenue laws other than this section and other than section 3229 of the Revised Statutes, as amended (relating to compromises), then the effect of the error shall be corrected by an adjustment made under this section. Such adjustment shall be made only if there is adopted in the determination a position maintained by the Commissioner (in case the amount of the adjustment would be refunded or credited in the same manner as an overpayment under subsection (c)) or by the taxpayer with respect to whom the determination is made (in case the amount of the adjustment would be assessed and collected in the same manner as a deficiency under subsection (c)), which position is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be. In case the amount of the adjustment would be assessed and collected in the same manner as a deficiency, the adjustment shall not be made with respect to a related taxpayer unless he stands in such relationship to the taxpayer at the time the latter first maintains the inconsistent position in a return, claim for refund, or petition (or amended petition) to the Board of Tax Appeals for the taxable year with respect to which the determination is made, or if such position is not so maintained, then at the time of the determination.

SECTION 162 (B) AND (C) OF THE REVENUE ACT OF 1938

SEC. 162. *Net income.*—The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

* * * * *

(b) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under subsection (c) of this section in the same or any succeeding taxable year;

(c) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

ART. 820 (b)–0. *Circumstances of adjustment.*—Section 820 may be applied to correct the effect of an error if, on the date of the determination, correction of the effect of the error is prevented by the operation, whether before, on, or after the date of enactment of section 820, of any provision of the internal revenue laws other than section 820 and other than section 3229 of the Revised Statutes, as amended (relating to compromises). Examples of such provisions are: Sections 275, 311 (b) and (c), and 322 (b) and (d) of the Revenue Act of 1938 and the corresponding provisions of prior Revenue Acts, section 3226 of the Revised Statutes, as amended, section 610 of the Revenue Act of 1928, and section 906 (e) of the Revenue Act of 1924, as amended by section 601 of the Revenue Act of 1928 (periods of limitations); sections 272 (f) and 322 (c) of the Revenue Act of 1938 and corresponding provisions of prior Revenue Acts (effect of petition to Board of Tax Appeals on further deficiency letters and on credits or refunds); section 606 of the Revenue Act of 1928, as amended by sections 801 and 802 of the Revenue Act of 1938 (closing agreements); and sections 607, 608, and 609 of the Revenue Act of 1928 (payments, refunds or credits after period of limitation has expired).

If the tax liability for the year with respect to which the error was made has been compromised under section 3229 of the Revised Statutes, as amended, no adjustment may be made under section 820 with respect to that year.

Section 820 is not applicable if, on the date of the determination, correction of the effect of the error is permissible without recourse to such section.

The determination may be with respect to the tax imposed by Title I, Title IA, or section 602 of Title III, of the Revenue Act of 1938, and by the corresponding provisions of any prior Revenue Acts, by Title III of the Revenue Act of 1936, or by more than one of such provisions. Section 820 may be applied to correct the effect of the error only as to the tax or taxes for the year with respect to which the error was made which corresponds to the tax or taxes with respect to which the determination relates. Thus, if the determination relates to the tax imposed by Title I of the Revenue Act of 1938, the adjustment may be only with respect to the tax imposed by Title I of the Revenue Act applicable to the year with respect to which the error was made; if the determination relates to section 602 of Title III of the Revenue Act of 1938, the adjustment may be only with respect to the tax imposed by the corresponding provisions of the Revenue Act applicable to the year with respect to which the error was made.

ART. 820 (b)–1. *Double inclusion of item of gross income.*—Section 820 (b) (1) applies if the determination requires the inclusion, in a taxpayer's gross income, of an item which was erroneously included in the gross income of the same taxpayer for another taxable year or of a related taxpayer for the same or another taxable year.

Example (1).—A taxpayer who keeps his books on the cash basis, erroneously included in his return for 1933 an item of accrued rent. In 1938, after the period of limitations on refunds for 1933 has expired, the Commissioner discovers that the taxpayer received this rent in 1934 and asserts a deficiency for the year 1934, which is sustained by the Board of Tax Appeals in 1941. An adjustment is authorized with respect to the year 1933. If the taxpayer had returned the rent for both 1933 and 1934 and by a determination was denied a refund claimed for 1934 on account of the rent item, a similar adjustment is authorized.

Example (2).—A husband assigned to his wife salary to be earned by him in the year 1936. The wife included such salary in her separate return for that year and the husband omitted it. The Commissioner asserted a deficiency against the wife for 1936 with respect to a different item and she contested that deficiency before the Board of Tax Appeals. The wife would therefore be barred by section 322 (c) of the Revenue Act of 1936 from filing a claim for refund for 1936. Thereafter, the Commissioner asserts a deficiency against the husband on account of the omission of such salary from his return for 1936. The husband unsuccessfully contests the deficiency before the Board of Tax Appeals. An adjustment is authorized with respect to the wife's tax for 1936.

ART. 820 (b)–2. *Double allowance of a deduction or credit.*—Section 820 (b) (2) applies if the determination allows the taxpayer a deduction or credit which was erroneously allowed the same taxpayer for another taxable year or a related taxpayer for the same or another taxable year.

Example (1).—A taxpayer in his return for 1935 claimed and was allowed a deduction for destruction of timber by a forest fire. Subsequently it was discovered that the forest fire occurred in 1936 rather than in 1935. After the expiration of the period of limitations for the assessment of a deficiency for 1935, the taxpayer files a claim for refund for 1936 based upon a deduction for the fire loss in that year. The Commissioner allows the claim for refund. An adjustment is authorized with respect to the year 1935.

Example (2).—The beneficiary of a testamentary trust in his return for 1933 claimed, and was allowed, a deduction for depreciation of the trust property. The Commissioner asserted a deficiency against the beneficiary for 1933 with respect to a different item and final decision of the Board of Tax Appeals was rendered in 1935, so that the Commissioner was thereafter barred by section 272 (f) of the Revenue Act of 1932 from asserting a further deficiency against the beneficiary for 1933. The trustees thereafter filed a timely refund claim contending that under the terms of the will the trust, and not the beneficiary, was entitled to the allowance for depreciation. The court in 1939 sustains the refund claim. An adjustment is authorized with respect to the beneficiary's tax for 1933.

ART. 820 (b)–3. *Erroneous exclusion of item of gross income with respect to which tax was paid.*—Section 820 (b) (3) applies if the determination requires the exclusion, from a taxpayer's gross income, of an item with respect to which tax was paid and which was erroneously excluded or omitted from the gross income of the same taxpayer for another taxable year or of a related taxpayer for the same or another taxable year.

Example (1).—A taxpayer received payments in 1936 under a contract for the performance of services and included the payments in his return for that year. A closing agreement was thereafter made with respect to the tax liability of the taxpayer for 1935. The taxpayer subsequently filed a claim for refund for the year 1936, asserting that he kept his books on the accrual basis and that, as the payments had accrued in 1935, they were properly taxable in that year. The claim for refund is allowed in 1939. An adjustment is authorized with respect to the year 1935. If the taxpayer had not included the payments in any return and the Commissioner had asserted a deficiency for 1936 with respect to the payments, and the deficiency is not sustained by the Board of Tax Appeals in its final decision in 1940, no adjustment is authorized with respect to the year 1935. Although the determination requires the exclusion of the item from gross income, no tax had been paid with respect thereto. If the taxpayer, however, had paid the deficiency and thereafter successfully contested it before the Board or successfully sued for refund in court, an adjustment is authorized.

Example (2).—A father and son conducted a partnership business, each being entitled to one-half of the net profits. The father included the entire net income of the partnership in his return for 1933 and the son included no portion of this income in his return for that year. Shortly before the expiration of the period of limitations with respect to deficiency assessments and refund claims for both father and son for 1933, the father filed a claim for refund of that portion of his 1933 tax attributable to the half of the partnership income which should have been included in the son's return. The court sustains the claim for refund in 1940. An adjustment is authorized with respect to the son's tax for 1933.

ART. 820 (b)–4. *Correlative deductions and inclusions specified in section 162 (b) and (c), Revenue Act of 1938, and corresponding provisions of prior Revenue Acts.*—(a) Section 820 (b) (4) applies if the determination relates to the additional deduction specified in section 162 (b) and (c) of the Revenue Act of 1938, or the corresponding provisions of a prior Revenue Act, for amounts distributable to the beneficiaries, heirs, or legatees of an estate or trust, and such determination requires:

(1) The allowance to the estate or trust of such additional deduction when such amounts have been erroneously omitted or excluded from the income of the beneficiaries, heirs or legatees;

(2) The inclusion of such amounts in the income of the beneficiaries, heirs, or legatees when such additional deduction has been erroneously disallowed to or omitted by the estate or trust;

(3) The disallowance to an estate or trust of such additional deduction when such amounts have been erroneously included in the income of the beneficiaries, heirs, or legatees; or

(4) The exclusion of such amounts from the income of the beneficiaries, heirs, or legatees when such additional deduction has been erroneously allowed to the estate or trust.

The provisions of (a) (1) of this article may be illustrated as follows:

Example.—For the taxable year 1935, a trustee, directed by the trust instrument to accumulate the trust income, made no distribution to the beneficiary and returned the entire net income as taxable to the trust. Accordingly, the beneficiary did not include the trust income in his return for the year 1935. In 1937 a State court held invalid the clause directing accumulation. In 1939 the trustee, relying upon the court decision, files a claim for refund of the tax paid on behalf of the trust for the year 1935. The claim is sustained by the court in 1941, after the expiration of the period of limitations upon deficiency assessments against the beneficiary for the year 1935. An adjustment is authorized with respect to the beneficiary's tax for the year 1935.

The provisions of (a) (2) of this article may be illustrated as follows:

Example.—Assume the same facts as in the example under (a) (1) except that, instead of the trustee's filing a refund claim, the Commissioner, relying upon the decision of the State court, asserts a deficiency against the beneficiary for 1935. The deficiency is sustained by final decision of the Board of Tax Appeals in 1941, after the expiration of the period for filing claim for refund on behalf of the trust for 1935. An adjustment is authorized with respect to the trust for the year 1935.

The provisions of (a) (3) of this article may be illustrated as follows:

Example.—A trustee claimed in the return for 1935 a deduction for income distributed to the beneficiary. The income was included by the beneficiary in his return for 1935. In 1939 the Commissioner asserts a deficiency against the trust on the ground that the amount distributed to the beneficiary represented a charge against the corpus of the trust and did not constitute a distribution of income. The deficiency is sustained by final decision of the Board of Tax Appeals in 1941, after the expiration of the period for filing claims for refund by the beneficiary for 1935. An adjustment is authorized with respect to the beneficiary's tax for the year 1935.

The provisions of (a) (4) of this article may be illustrated as follows:

Example.—Assume the same facts as in the example under (a) (3), except that, instead of the Commissioner's asserting a deficiency, the beneficiary files a refund claim for 1935 on the same ground. The claim is sustained by the court in 1941, after the expiration of the period of limitations upon deficiency assessments against the trust for 1935. An adjustment is authorized with respect to the trust for the year 1935.

ART. 820 (b)–5. *Determination of basis of property in case of erroneous treatment of transaction relating to acquisition thereof.*—Section 820 (b) (5) applies if the determination establishes the basis of property for income tax purposes and in respect of the transaction upon which such basis depends there was an erroneous inclusion in or omission from gross income or an erroneous recognition or nonrecognition of gain or loss with respect to (1) the taxpayer with respect to whom the determination is made, or (2) any person who acquired title to such property in such transaction and the taxpayer with respect to whom the determination is made mediately or immediately derived title from such person subsequent to such transaction. Subsection 820 (b) (5) applies with respect to the person who acquired the property and any subsequent transferees or donees who have a substituted basis ascertained by reference to the basis in the hands of such person. No adjustment is authorized with respect to the transferor of the property in the transaction upon which the basis of the property depends, when the determination is with respect to (1) the original transferee, or (2) a subsequent transferee of such original transferee.

Example (1).—In 1933 taxpayer A transferred property which had cost him $5,000 to the X Corporation in exchange for an original issue of shares of its stock having a fair market value of $10,000. In his return for 1933 taxpayer A treated the exchange as one in which gain or loss was not recognizable:

(a) In 1938 the X Corporation claims that gain should have been recognized on the exchange in 1933 and therefore the property it received had a $10,000 basis for depreciation. Its contention is confirmed by a closing agreement. No adjustment is authorized with respect to the tax of the X Corporation for 1933, as there was no "erroneous inclusion in or omission from the gross income of, or an erroneous recognition or nonrecognition of gain or loss to" the X Corporation with respect to the exchange in 1933. Moreover no adjustment is authorized with respect to taxpayer A, as he is not the taxpayer with respect to whom the determination is made, nor does the determination relate to the property which taxpayer A acquired in the exchange in 1933, but, rather, to the property which he transferred in such exchange.

(b) In 1939 the X Corporation transfers the property to the Y Corporation in a tax-free exchange. In 1940 the Y Corporation sells the property and com-

putes its profit on the basis of $10,000, which basis is sustained by the Board of Tax Appeals. No adjustment is authorized with respect to the Y Corporation or with respect to taxpayer A, for the reason stated in (a).

(c) In 1941 taxpayer A sells the stock which he had received in 1933 and claims that, as gain should have been recognized on the exchange in 1933, the basis for computing the profit on the sale is $10,000. His contention is confirmed in a closing agreement. An adjustment is authorized with respect to his tax for the year 1933, as the basis for computing gain on the sale depends upon the transaction in 1933 and in respect of that transaction there was an erroneous nonrecognition of gain to taxpayer A, "the taxpayer" with respect to whom the determination is made.

(d) Taxpayer A does not sell the stock but makes a gift of it to taxpayer B, who later sells the stock and claims the $10,000 basis, which contention is confirmed in a closing agreement. An adjustment is authorized with respect to the tax of taxpayer A for 1933, as the basis for computing gain on the sale by taxpayer B depends upon the transaction in 1933 and in respect of that transaction there was erroneous nonrecognition of gain to taxpayer A, the "person who acquired title to such property in such transaction and from whom * * * immediately" taxpayer B, with respect to whom the determination is made, "derived title subsequent to such transaction".

Example (2).—In 1934 taxpayer A sold property acquired at a cost of $5,000 to taxpayer B for $10,000. In his return for 1934 taxpayer A failed to include the profit on such sale. In 1939 taxpayer B sells the property for $12,000 and in his return for 1939 reports a gain of $2,000 upon the sale, which is confirmed in a closing agreement. No adjustment is authorized with respect to the tax of taxpayer A for 1934, as taxpayer A is not the taxpayer with respect to whom the determination is made; nor does the determination relate to property which taxpayer A acquired in the transaction in 1934, but rather to property which he transferred in such transaction.

Example (3).—In 1933 a taxpayer received as additional compensation shares of stock in a corporation but did not include any amount in his return for that year on account of the receipt of such stock. In 1938, after the expiration of the period of limitations on deficiency assessments for 1933, he sells the stock for $15,000 and reports $5,000 in his return for 1938 as profit on the sale. A deficiency is asserted by the Commissioner on the theory that the basis is zero and the recognized gain is $15,000. The Board of Tax Appeals sustains the taxpayer's contention that the transaction was erroneously treated in 1933 in that the property then had a fair market value of $10,000. An adjustment is authorized with respect to the year 1933.

Example (4).—In 1933 a taxpayer received 100 shares of stock of the X Corporation having a fair market value of $5,000, in exchange for shares of stock in the Y Corporation which he had acquired at a cost of $12,000. In his return for 1933 the taxpayer treated the exchange as one in which gain or loss was not recognizable. The taxpayer sold 50 shares of the X Corporation stock in 1934 and in his return for that year treated such shares as having a $6,000 basis. In 1938 the taxpayer sells the remaining 50 shares of stock of the X Corporation for $7,500 and reports $1,500 gain in his return for 1938. After the expiration of the period of limitations on deficiency assessments and on refund claims for 1933 and 1934, the Commissioner asserts a deficiency for 1938 on the ground that the loss realized on the exchange in 1933 was erroneously treated as nonrecognizable, and that the basis for computing gain upon the sale in 1938 is $2,500, resulting in a gain of $5,000. The deficiency is sustained by the Board of Tax Appeals in 1943. An adjustment is authorized with respect to the year 1933 as to the entire $7,000 loss realized on the exchange. No adjustment is authorized with respect to the year 1934 as the basis for computing gain upon the sale of the 50 shares in 1938 does not depend upon the transaction in 1934.

ART. 820 (b)-6. *Law applicable in determination of error.*—The question whether there was an erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition is determined under the provisions of the internal revenue laws applicable with respect to the year as to which the inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, was made. The fact that the inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, was in pursuance of an interpretation, either judicial or administrative, accorded such provisions of the internal revenue laws at the time of such action is not necessarily determinative of this question. For example, if a later judicial decision authoritatively alters such interpretation so that such action was contrary to such provisions of the internal revenue laws as later interpreted, the inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, is erroneous within the meaning of section 820.

ART. 820 (b)-7. *Operation dependent upon maintenance of inconsistent position—(a) Adjustments resulting in additional assessments.*—An adjustment which would result in an additional assessment is authorized only if (1) *the taxpayer*, with respect to whom the determination is made, has, in connection therewith, maintained a position which is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, and (2) such inconsistent position is adopted in the determination.

Example.—A taxpayer in his return for 1935 claimed and was allowed a deduction for a loss arising from a casualty. After the taxpayer had filed his return for 1936 and after the period of limitations upon the assessment of a deficiency for 1935 had expired, it was discovered that the loss actually occurred in 1936. The taxpayer, therefore, filed a claim for refund for the year 1936 based upon the allowance of a deduction for the loss in that year, and the claim was allowed by the Commissioner. The taxpayer thus has maintained a position inconsistent with the allowance of the deduction for 1935 by filing a claim for refund for 1936 based upon the same deduction. As the determination—the allowance by the Commissioner of the claim for refund—adopts such inconsistent position, an adjustment is authorized for the year 1935.

An adjustment which would result in an additional assessment is not authorized if the Commissioner, and not the taxpayer, has maintained such inconsistent position.

Example.—In the first example under this article, assume that the taxpayer did not file a claim for refund for 1936 but the Commissioner issued a notice of deficiency for 1936 based upon other items. The taxpayer filed a petition with the Board of Tax Appeals and the Commissioner in his answer voluntarily proposed the allowance of a deduction for the loss previously allowed for 1935. The Board took the deduction into account in its redetermination of the tax for the year 1936. In such case no adjustment would be authorized for the year 1935 as the Commissioner, and not the taxpayer, has maintained a position inconsistent with the allowance of a deduction for the loss in that year.

(b) *Adjustments resulting in refund or credit.*—An adjustment which would result in the allowance of a refund or credit is authorized only if (1) *the Commissioner*, in connection with a determination, has maintained a position which is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be, and (2) such inconsistent position is adopted in the determination.

Example.—A taxpayer who keeps his books on the cash basis erroneously included in his return for 1936 an item of accrued interest. After the period of limitations on refunds for 1936 had expired, the Commissioner asserted a deficiency for the year 1937 on the ground that the item of interest was received in 1937, and, therefore, was properly includible in gross income for that year. The taxpayer appealed to the Board of Tax Appeals, which sustained the deficiency. By asserting a deficiency for 1937 based upon the inclusion of the interest item in that year, the Commissioner has maintained a position inconsistent with the inclusion of the interest item in 1936. As the determination—the decison of the Board of Tax Appeals sustaining the deficiency—adopted such inconsistent position, an adjustment is authorized for the year 1936.

An adjustment which would result in the allowance of a refund or credit is not authorized if the taxpayer with respect to whom the determination is made, and not the Commissioner, has maintained such inconsistent position.

Example.—In the first example under (b) of this article assume that the Commissioner asserted a deficiency for 1937 based upon other items for that year, but in computing the net income upon which such deficiency was based did not include the item of interest. The taxpayer appealed to the Board of Tax Appeals and in his petition asserted that the interest item should be included in gross income for 1937. The Board included the item of interest in its redetermination of the tax for the year 1937. In such case no adjustment would be authorized for 1936 as the taxpayer, and not the Commissioner, has maintained a position inconsistent with the erroneous inclusion of the item of interest in the gross income of the taxpayer for that year.

ART. 820 (b)-8. *Existence of status of related taxpayer at time of the first maintenance of an inconsistent position.*—No adjustment by way of a deficiency assessment shall be made with respect to a related taxpayer unless the relationship existed both in the taxable year with respect to which the error was made and at the time the taxpayer with respect to whom the determination is made first maintained, in the manner described in this article, the inconsistent position with respect to the taxable year to which the determination relates.

If the inconsistent position is maintained in a return, claim for refund, or petition (or amended petition) to the Board of Tax Appeals, for the taxable year in respect of which the determination is made, the requisite relationship must exist on the date of filing such document. If the inconsistent position is maintained in more than one of such documents, the requisite date is the date of filing of the document in which it was first maintained. If the inconsistent position was not thus maintained then the relationship must exist on the date of the determination, as, for example, where at the instance of the taxpayer a deduction is allowed, the right to which was not asserted in a return, claim for refund, or petition to the Board, and a determination is effected by means of a closing agreement.

SECTION 820 (c) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases*—(c) *Method of Adjustment.*—The adjustment authorized in subsection (b) shall be made by assessing and collecting, or refunding or crediting, the amount thereof, to be ascertained as provided in subsection (d), in the same manner as if it were a deficiency determined by the Commissioner with respect to the taxpayer as to whom the error was made or an overpayment claimed by such taxpayer, as the case may be, for the taxable year with respect to which the error was made, and as if on the date of the determination specified in subsection (b) one year remained before the expiration of the periods of limitation upon assessment or filing claim for refund for such taxable year.

ART. 820 (c)-1. *Method of adjustment.*—If the amount of the adjustment ascertained pursuant to section 820 (d) represents an increase in tax it is to be treated as if it were a deficiency determined by the Commissioner with respect to the taxpayer as to whom the error was made and for the taxable year with respect to which the error was made. The amount of the adjustment is thus to be assessed and collected under the law and regulations applicable to the assessment and collection of deficiencies, subject, however, to the limitations imposed by section 820 (e). Notice of deficiency, unless waived, must be issued with respect to such amount and the taxpayer may contest the deficiency before the Board of Tax Appeals or, if he chooses, may pay the deficiency and later file claim for refund. If the amount of the adjustment ascertained pursuant to section 820 (d) represents a decrease in tax, it is to be treated as if it were an overpayment claimed by the taxpayer with respect to whom the error was made for the taxable year with respect to which the error was made. Such amount may be recovered under the law and regulations applicable to overpayments of tax, subject, however, to the limitations imposed by section 820 (e). The taxpayer must file a claim for refund thereof, unless the overpayment is refunded without such claim, and if the claim is denied or not acted upon by the Commissioner within the prescribed time, the taxpayer may then file suit for refund. The amount of the adjustment treated as if it were a deficiency or an overpayment, as the case may be, will bear interest and be subject to additions to the tax to the extent provided by the internal revenue laws applicable to deficiencies and overpayments for the taxable year with respect to which the error was made.

For the purpose of the adjustment authorized by section 820, the period of limitation upon the making of an assessment or upon refund or credit for the taxable year with respect to which the error was made, as the case may be, shall be considered as if, on the date of the determination, one year remained before expiration of such period, regardless of whether or not such period had expired prior to the date of the determination. The Commissioner thus has one year from the date of the determination within which to mail a notice of deficiency in respect of the amount of the adjustment where such amount is treated as if it were a deficiency. The issuance of such notice of deficiency, in accordance with the law and regulations applicable to the assessment of deficiencies, will suspend the running of the one-year period of limitations provided by section 820 (c). In accordance with the applicable law and regulations governing the collection of deficiencies (see section 276 (c) of this Act and the corresponding provisions of prior Revenue Acts), the period of limitation for collection of the amount of the adjustment will commence to run from the date of assessment of such amount. Similarly, the taxpayer has a period of one year from the date of the determination within which to file a claim for refund in respect of the amount of the adjustment where such adjustment is treated as if it were an overpayment. Where the amount of the adjustment is treated as if it were a deficiency and the taxpayer chooses to pay such deficiency and contest it by way of claim for refund, the period of limitation upon filing claim for refund will commence to run from the date of such payment (see section 322 (b) of the Revenue Act of 1938 and the corresponding provisions of prior Revenue Acts).

SECTION 820 (D) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(d) *Ascertainment of Amount of Adjustment.*—In computing the amount of an adjustment under this section there shall first be ascertained the tax previously determined for the taxable year with respect to which the error was made. The amount of the tax previously determined shall be (1) the tax shown by the taxpayer, with respect to whom the error was made, upon his return for such taxable year, increased by the amounts previously assessed (or collected without assessment) as deficiencies, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or (2) if no amount was shown as the tax by such taxpayer upon his return, or if no return was made by such taxpayer, then the amounts previously assessed (or collected without assessment) as deficiencies, but such amounts previously assessed, or collected without assessment, shall be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax. There shall then be ascertained the increase or decrease in the tax previously determined which results solely from the correct exclusion, inclusion, allowance, disallowance, recognition, or nonrecognition, of the item, inclusion, deduction, credit, gain, or loss, which was the subject of the error. The amount so ascertained (together with any amounts wrongfully collected, as additions to the tax or interest, as a result of such error) shall be the amount of the adjustment under this section.

ART. 820 (d)-1. *Ascertainment of amount of adjustment.*—The amount of the adjustment shall be ascertained as follows:

(1) The tax previously determined for the taxpayer as to whom the error was made, for the taxable year with respect

to which the error was made, must first be ascertained. This may be the amount of tax shown on the taxpayer's return, but if any changes in that amount have been made they must be taken into account. In such cases the tax previously determined will be the tax shown on the return, increased by any amounts previously assessed (or collected without assessment) as deficiencies, and decreased by any amounts previously abated, credited, refunded or otherwise repaid in respect of such tax. If no amount was shown as the tax upon the return, or if no return was made, the tax previously determined will be the sum of the amounts previously assessed, or collected without assessment, as deficiencies, decreased by any amounts previously abated, credited, or otherwise repaid in respect of such tax.

The tax previously determined may consist of tax for any taxable year beginning after December 31, 1931, imposed by Title I, Title IA, section 602 of Title III, of the Revenue Act of 1938, by the corresponding provisions of prior Revenue Acts, by Title III of the Revenue Act of 1936, or by any one or more of such provisions.

(2) After the tax previously determined has been ascertained a recomputation must then be made to ascertain the increase or decrease in tax, if any, resulting from the correction of the error. The difference between the tax previously determined and the tax as recomputed after correction of the error will be the amount of the adjustment.

With the exception of the items upon which the tax previously determined was based and the item or items with respect to which the error was made, no other item shall be considered in computing the amount of the adjustment. If the treatment of any item upon which the tax previously determined was based, or if the application of any provisions of the internal revenue laws with respect to such tax, depends upon the amount of income (e. g., charitable contributions, foreign tax credit, earned income credit), readjustment in these particulars will be necessary as part of the recomputation in conformity with the change in the amount of the income which results from the correct treatment of the item or items in respect of which the error was made.

Any interest or additions to the tax collected as a result of the error shall be taken into account in determining the amount of the adjustment.

Example.—For the taxable year 1936 a married man with no dependents, who kept his books on the cash receipts and disbursements basis, filed a return disclosing gross income of $42,000, deductions amounting to $12,000, and a net income of $30,000. Included among other items in the gross income were salary in the amount of $15,000 and rents accrued but not yet paid in the amount of $5,000. During the taxable year he donated $10,000 to the American Red Cross and in his return claimed a deduction of $5,294.12 on account thereof, representing the maximum deduction allowable under the 15 percent limitation imposed by section 23 (o), Revenue Act of 1936. In computing his net income he omitted interest income amounting to $6,000 and neglected to take a deduction for interest paid in the amount of $4,500. The return disclosed a tax liability of $3,565, which was assessed and paid. After the expiration of the period of limitations upon the assessment of a deficiency or the allowance of a refund for 1936, the Commissioner included the item of rental income amounting to $5,000 in the taxpayer's gross income for the year 1937 and asserted a deficiency for that year. As a result of a final decision of the Board of Tax Appeals sustaining the deficiency for 1937, an adjustment is authorized for the year 1936. The amount of the adjustment is computed as follows:

Tax previously determined for 1936	$3,565.00
Net income for 1936 upon which tax previously determined was based	30,000.00
Less: Rents erroneously included	5,000.00
Balance	25,000.00
Adjustment for contributions (Add 15 percent of $5,000)	750.00
Net income as adjusted	25,750.00
Tax as recomputed	2,646.50
Tax previously determined	3,565.00
Difference	918.50
Amount of adjustment to be refunded or credited	918.50

In accordance with the provisions of section 820 (d), the recomputation to determine the amount of the adjustment does not take into consideration the item of $6,000 representing interest received, which was omitted from gross income, or the item of $4,500 representing interest paid, for which no deduction was allowed.

SECTION 820 (E) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(e) *Adjustment unaffected by other items, etc.*—The amount to be assessed and collected in the same manner as a deficiency, or to be refunded or credited in the same manner as an overpayment, under this section, shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error. Such amount, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error.

ART. 820 (e)-1. *Effect of other items on amount of adjustment.*—The amount of the adjustment ascertained under section 820 (d) shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, or gain or loss with respect to the year as to which the error was made.

Example (1).—In the example set forth in article 820 (d), if, after the amount of the adjustment has been ascertained, the taxpayer filed a refund claim for the amount thereof, the Commissioner could not diminish the amount of that claim by offsetting against it the amount of tax which should have been paid with respect to the $6,000 interest item omitted from gross income for the year 1936; nor could the court, if suit were brought on such claim for refund, offset against the amount of the adjustment the amount of tax which should have been paid with respect to such interest.

Example (2).—Assume that a taxpayer included in his gross income for the year 1936 an item which should have been included in gross income for the year 1935. After expiration of the period of limitations upon the assessment of a deficiency or the allowance of a refund for 1935, the taxpayer filed a claim for refund for the year 1936 on the ground that such item was not properly includible in gross income for that year. The claim for refund was allowed by the Commissioner, and as a result of such determination an adjustment was authorized under section 820 with respect to the tax for 1935. If, in such case, the Commissioner issued a notice of deficiency for the amount of the adjustment and the taxpayer contested the deficiency before the Board of Tax Appeals, the taxpayer could not in such proceeding claim an offset based upon his failure to take an allowable deduction for the year 1935; nor could the Board of Tax Appeals in its decision offset against the amount of the adjustment any overpayment for the year 1935 resulting from the failure to take such deduction.

If the Commissioner has refunded the amount of an adjustment under section 820, the amount so refunded may not subsequently be recovered by the Commissioner in a suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss (other than the one which was the subject of the error) with respect to the year as to which the error was made.

Example (3).—In the example set forth in article 820 (d), if the Commissioner had refunded the amount of the adjustment, no part of the amount so refunded could subsequently be recovered by the Commissioner by a suit for erroneous refund based on the ground that there was no overpayment for 1936, as the taxpayer had failed to include in gross income the $6,000 item of interest received in that year.

If the Commissioner has assessed and collected the amount of an adjustment, no part thereof may be recovered by the taxpayer in any suit for refund based upon any item, inclusion, deduction, credit, exemption, gain or loss (other than the one which was the subject of the error) with respect to the year as to which the error was made.

Example (4).—In example (2) in this article, if the taxpayer had paid the amount of the adjustment, he could not subsequently recover any part of such payment in a suit for refund based upon his failure to take an allowable deduction for the year 1935.

If the amount of the adjustment is considered as an overpayment, it may be credited, under the applicable law and regulations thereunder, against any income or excess-profits tax, or installment thereof, due from the taxpayer. Likewise, if the amount of the adjustment is considered as a deficiency, any overpayment by the taxpayer of income or excess-profits tax may be credited against the amount of such adjustment in accordance with the applicable law and regulations thereunder. (See section 322 of the Revenue Act of 1938 and corresponding provisions of prior Revenue Acts.) Accordingly, it may be possible in one transaction between the Commissioner and the taxpayer to settle the taxpayer's tax liability for the year with respect to which the determination is made and to make the adjustment under section 820 for the year with respect to which the error was made.

SECTION 820 (F) OF THE REVENUE ACT OF 1938

SEC. 820. *Mitigation of effect of limitation and other provisions in income tax cases.*—(f) *No adjustment for years prior to 1932.*—No adjustment shall be made under this section in respect of any taxable year beginning prior to January 1, 1932.

ART. 820 (f)-1. *No adjustment for years prior to 1932.*—Where the year with respect to which the error was made is a taxable year beginning prior to January 1, 1932, no adjustment is authorized under section 820.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 23, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2494; Filed, August 24, 1938; 3:22 p. m.]

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

[Regulations No. 4, Amendment No. 2]

AMENDING CERTAIN PROVISIONS OF THE WINE LABELING AND ADVERTISING REGULATIONS RELATIVE TO STANDARDS OF IDENTITY AND OTHER MATTERS

Pursuant to the provisions of Section 5 of the Federal Alcohol Administration Act, as amended, Regulations No. 4,[1] Relating to Labeling and Advertising of Wine, as amended, are further amended as follows:

1. Amend Article I, paragraphs (f), (g) and (h), of said regulations to read:

(f) The term "pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° (Balling), the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 per cent of actual sugar calculated on a dry basis.

(g) The term "fortifying spirits" means spirits distilled exclusively from (1) grapes, citrus fruit, or fruit, or their products or residues, or (2) grape wine, citrus wine, or fruit wine, or (3) the fruit pomace residuum of such wines. The term "alcohol" means ethyl alcohol distilled at or about 190° proof.

(h) The term "vintage wine" means a wine made wholly from grapes gathered in the same calendar year and grown and fermented in the same viticultural area, and conforming to the standards prescribed in classes 1 and 2 of article II hereof.

2. Amend Article II of said regulations to read:

ARTICLE II. STANDARDS OF IDENTITY FOR WINE

SEC. 20. *Application of standards.*—The standards of identity for the several classes and types of wine set forth herein shall be applicable to all regulations and permits issued under the act. Whenever any term for which a standard of identity has been established herein is used in any such regulation or permit, such term shall have the meaning assigned to it by such standard of identity.

SEC. 21. *The standards of identity.*—Standards of identity for the several classes and types of wine set forth herein shall be as follows:

CLASS 1. *Grape wine.*—(a) "Grape wine" is wine produced by the normal alcoholic fermentation of the juice of sound, ripe grapes (including restored or unrestored pure condensed grape must), with or without the addition, after fermentation, of pure condensed grape must, and with or without added fortifying grape spirits or alcohol, but without other addition or abstraction except as may occur in cellar treatment, *Provided*, That the product may be ameliorated before, during, or after fermentation by either of the following methods:

(1) By adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 per cent; but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 per cent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or an unfermented residual sugar content, derived from added sugar, of more than 11 per cent by weight.

(2) By adding, separately or in combination, not more than 11 per cent by weight of dry sugar, or not more than 10 per cent by weight of water.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural red wine, more than 0.14 gram, and for other grape wine, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(b) "Red wine" is grape wine which contains the red coloring matter of the skins, juice or pulp of grapes.

(c) "White wine" is grape wine which does not contain the red coloring matter of the skins, juice or pulp of grapes.

(d) "Light wine" (including "light grape wine", "light red wine" and "light white wine") is grape wine having an alcoholic content not in excess of 14 per cent by volume.

(e) "Natural grape wine" (including "natural red wine" and "natural white wine") is grape wine containing no fortifying grape spirits or added alcohol.

(f) "Angelica", "madeira", "muscatel" and "port" are types of grape wine containing fortifying grape spirits or added alcohol, having the taste, aroma, and characteristics generally attributed to these products, and an alcoholic content of not less than 18 per cent by volume.

(g) "Sherry" is a type of grape wine containing fortifying grape spirits or added alcohol, having the taste, aroma, and characteristics generally attributed to this product, and an alcoholic content of not less than 17 per cent by volume.

(h) "Light port" and "light sherry" are types of grape wine containing fortifying grape spirits or added alcohol, having the taste, aroma, and characteristics generally attributed to "port" and "sherry", respectively, and an alcoholic content of more than 14 per cent by volume.

CLASS 2. *Sparkling grape wine.*—(a) "Sparkling grape wine" (including "sparkling wine", "sparkling red wine" and "sparkling white wine") is grape wine made effervescent with carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank or bottle.

(b) "Champagne" is a type of sparkling light white wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the champagne district of France.

(c) A sparkling light white wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for "champagne" may, in addition

[1] 1 F. R. 83.

to but not in lieu of the class designation "sparkling wine", be further designated as "champagne style" or "champagne type" or "American (or New York State, California, etc.) champagne—bulk process"; all the words in any such further designation shall be equally conspicuous and shall appear in direct conjunction with and in lettering approximately one-half the size of the words "sparkling wine".

CLASS 3. *Carbonated grape wine.*—(a) "Carbonated grape wine" (including "carbonated wine", "carbonated red wine", and "carbonated white wine") is grape wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank or bottle.

CLASS 4. *Citrus wine.*—(a) "Citrus wine" or "citrus fruit wine" is wine produced by the normal alcoholic fermentation of the juice of sound, ripe citrus fruit (including restored or unrestored pure condensed citrus must), with or without the addition, after fermentation, of pure condensed citrus must, and with or without added fortifying citrus spirits or alcohol, but without other addition or abstraction except as may occur in cellar treatment, *Provided*, That the product may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 per cent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 per cent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or an unfermented residual sugar content, derived from added sugar, of more than 11 per cent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural citrus wine, more than 0.14 gram, and for other citrus wine, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(b) "Light citrus wine" or "light citrus fruit wine" is citrus wine having an alcoholic content not in excess of 14 per cent by volume.

(c) "Natural citrus wine" or "natural citrus fruit wine" is citrus wine containing no fortifying citrus spirits or added alcohol.

(d) Citrus wine derived wholly (except for sugar, water or added alcohol) from one kind of citrus fruit, shall be designated by the word "wine" qualified by the name of such citrus fruit, e. g., "orange wine", "grapefruit wine". Citrus wine not derived wholly from one kind of citrus fruit shall be designated as "citrus wine" or "citrus fruit wine" qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Citrus wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank or bottle, shall be further designated as "sparkling"; and citrus wine rendered effervescent by carbon dioxide otherwise derived, shall be further designated as "carbonated".

CLASS 5. *Fruit wine.*—(a) "Fruit wine" is wine (other than grape wine or citrus wine) produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (including restored or unrestored pure condensed fruit must), with or without the addition, after fermentation, of pure condensed fruit must, and with or without added fortifying fruit spirits or alcohol, but without other addition or abstraction except as may occur in cellar treatment, *Provided*, That the product may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 per cent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 per cent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or an unfermented residual sugar content, derived from added sugar, of more than 11 per cent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(b) "Berry wine" is fruit wine produced from berries.

(c) "Light fruit wine" is fruit wine having an alcoholic content not in excess of 14 per cent by volume.

(d) "Natural fruit wine" is fruit wine containing no fortifying fruit spirits or added alcohol.

(e) Fruit wine derived wholly (except for sugar, water or added alcohol) from one kind of fruit shall be designated by the word "wine" qualified by the name of such fruit, e. g., "peach wine", "blackberry wine". Fruit wine not derived wholly from one kind of fruit shall be designated as "fruit wine" or "berry wine", as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines which are derived wholly (except for sugar, water or added alcohol) from apples or pears may be designated "cider" and "perry", respectively, and shall be so designated if lacking in vinous taste, aroma and characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank or bottle, shall be further designated as "sparkling"; and fruit wine rendered effervescent by carbon dioxide otherwise derived, shall be further designated as "carbonated".

CLASS 6. *Wine from other agricultural products.*—(a) Wine of this class is wine (other than grape wine, citrus wine or fruit wine) made by the normal alcoholic fermentation of sound fermentable agricultural products, either fresh or dried, or of the restored or unrestored pure condensed must thereof, with the addition before or during fermentation of a volume of water not greater than the minimum necessary to correct natural moisture deficiencies in such products, with or without the addition, after fermentation, of pure condensed must, and with or without added alcohol or such other fortifying spirits as will not alter the character of the product, but without other addition or abstraction except as may occur in cellar treatment, *Provided*, That the product may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of sugar and water solution as will not increase the volume of the resulting product more than 35 per cent, but in no event shall any product so ameliorated have an alcoholic content, derived by fermentation, of more than 13 per cent by volume, or a natural acid content, if water has been added, of less than 5 parts per thousand, or an unfermented residual sugar content, derived from added sugar, of more than 11 per cent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for natural wine of this class, more than 0.14 gram, and for other wine of this class, more than 0.12 gram, per 100 cubic centimeters (20° C.).

(b) "Light" wine of this class is wine having an alcoholic content not in excess of 14 per cent by volume.

(c) "Natural" wine of this class is wine containing no fortifying spirits or added alcohol.

(d) "Raisin wine" is wine of this class made from dried grapes.

(e) "Sake" is wine of this class produced from rice in accordance with the commonly accepted method of manufacture of such product.

(f) Wine of this class derived wholly (except for sugar, water or added alcohol) from one kind of agricultural product shall, except in the case of "sake", be designated by the word "wine" qualified by the name of such agricultural product, e. g., "honey wine", "raisin wine", "dried blackberry wine". Wine of this class not derived wholly from one kind of agricultural product shall be designated as "wine" qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Wine of this class rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of wine within a closed container, tank or bottle, shall be further designated as "sparkling"; and wine of this class rendered effervescent by carbon dioxide otherwise derived shall be further designated as "carbonated".

CLASS 7. *Vermouth.*—(a) "Vermouth" is a compound having an alcoholic content of not less than 15 per cent by volume, made by the mixture of extracts from macerated aromatic flavoring materials with grape wine containing fortifying grape spirits or added alcohol, and manufactured in such a manner that the product possesses the taste, aroma, and characteristics generally attributed to vermouth.

CLASS. 8. *Imitation, concentrate and substandard wine.*—(a) "Imitation wine" shall bear as a part of its designation the word "imitation", and shall include:

(1) Any wine containing synthetic materials.

(2) Any wine made from a mixture of water with residue remaining after thorough pressing of grapes, fruit or other agricultural products.

(3) Any class or type of wine the taste, aroma, color or other characteristics of which have been acquired, in whole or in part, by treatment with methods or materials of any kind, if the taste, aroma, color or other characteristics of normal wines of such class or type are acquired without such treatment.

(b) "Concentrate wine" shall bear as a part of its designation the word "concentrate", and shall include any wine made from must concentrated at any time to more than 80° (Balling).

(c) "Substandard wine" shall bear as a part of its designation the word "substandard", and shall include:

(1) Any wine having a volatile acidity in excess of the maximum prescribed therefor in this article.

(2) Any wine for which no maximum volatile acidity is prescribed in this article, having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20° C.).

(3) Any wine for which a standard of identity is prescribed in this article, which, through disease, decomposition or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard.

SEC. 22. *Blends, cellar treatment, alteration of class or type.*—(a) If the class or type of any wine shall be altered, and if the product as so altered does not fall within any other class or type either specified in this article or known to the trade, then such wine shall, unless otherwise specified in this section, be designated with a truthful and adequate statement of composition in accordance with section 34, Article III, of these regulations.

(b) Alteration of class or type shall be deemed to result from any of the following occuring before, during, or after production.

(1) Treatment of any class or type of wine with substances foreign to such wine which remain therein, *Provided*, That the presence in finished wine of not more than 350 parts per million (not more than 70 of such parts being in a free state) of total sulphur dioxide, or sulphites expressed as sulphur dioxide, shall not be precluded under this paragraph.

(2) Treatment of any class or type of wine with substances not foreign to such wine but which remain therein in larger quantities than are naturally and normally present in other wines of the same class or type not so treated.

(3) Treatment of any class or type of wine with methods or materials of any kind to such an extent or in such manner as to affect the basic composition of the wine so treated by altering any of its characteristic elements.

(4) Blending of wine of one class with wine of another class or the blending of wines of different types within the same class.

(5) Treatment of any class or type of wine for which a standard of identity is prescribed in this article with sugar or water in excess of the quantities specifically authorized by such standard, *Provided*, That where such wine is derived exclusively from fruit or other agricultural products the normal acidity of which is 20 parts or more per thousand, and such wine has been manufactured in accordance with the standard of identity therefor in all respects except that the volume of the product has been increased more than 35 per cent, but not more than 60 per cent, by the addition of sugar and water solution for the sole purpose of correcting natural deficiencies due to such acidity, the class or type shall not be deemed to be altered but there shall be stated, as a part of the class or type designation, the phrase "made with over 35 per cent sugar solution".

(c) Nothing in this section shall preclude the treatment of wine of any class or type in the manner hereinafter specified, provided such treatment does not result in the alteration of the class or type of the wine under the provisions of paragraph (b) of this section.

(1) Treatment with filtering equipment, and with fining or sterilizing agents.

(2) Treatment with pasteurization at the minimum temperature and for the minimum period necessary to accomplish practical stabilization, but not for the purpose of shortening the normal maturation period.

(3) Treatment with refrigeration at the maximum temperature and for the minimum period necessary to accomplish practical stabilization, but not for the purpose of shortening the normal maturation period.

(4) Treatment with methods and materials to the minimum extent necessary to correct cloudiness, precipitation, or abnormal color, odor, or flavor developing in wine.

(5) Treatment with constituents naturally present in the kind of fruit or other agricultural product from which the wine is produced for the purpose of correcting deficiencies of these constituents, but only to the extent that such constituents would be present in normal wines of the same class or type not so treated.

SEC. 23. *Grape type designations.*—(a) A name indicative of a variety of grape may be employed as the type designation of a grape wine if the wine derives its predominant taste, aroma, and characteristics, and at least 51 per cent of its volume, from that variety of grape. If such type designation is not known to the consumer as the name of a grape variety, there shall appear in direct conjunction therewith an explanatory statement as to the significance thereof.

SEC. 24. *Generic, semi-generic, and non-generic designations of geographic significance.*—(a) A name of geographic significance which is also the designation of a class or type of wine, shall be deemed to have become generic only if so found by the Administrator.

Examples of generic names, originally having geographic significance, which are designations for a class or type of wine are: Vermouth, Sake.

(b) A name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Administrator. Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine.

Examples of semi-generic names which are also designations for types of grape wine are: Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine (syn. Rock), Sauterne, Haut Sauterne, Sherry, Tokay.

(c) A name of geographic significance, which has not been found by the Administrator to be generic or semi-generic, may be used only to designate wines of the origin indicated by such name, but such name shall not be deemed to be the distinctive designation of a wine unless the Administrator finds that it is known to the consumer and to the trade as the designation of a specific wine of a particular place or region, distinguishable from all other wines.

Examples of non-generic names which are not distinctive designations of specific wines are: American, California, Lake Erie Islands, Napa Valley, New York State, French, Spanish.

Examples of non-generic names which are also distinctive designations of specific grape wines are: Bordeaux Blanc, Bordeaux Rouge, Graves, Medoc, St. Julien, Chateau Yquem, Chateau Margaux, Chateau Lafite, Pommard, Chambertin, Montrachet, Rhone, Liebfraumilch, Rudesheimer, Forster Deidesheimer, Schloss Johannisberger, Lagrima, Lacryma Christi.

SEC. 25. *Appellations of origin.*—(a) A wine shall be entitled to an appellation of origin if (1) at least 75 per cent of its volume is derived from fruit or other agricultural products both grown and fermented in the place or region indicated by such appellation, (2) it has been fully manufactured and finished within such place or region, and (3) it conforms to the requirements of the laws and regulations of such place or region governing the composition, method of manufacture and designation of wines for home consumption.

(b) Wines subjected to cellar treatment outside the place or region of origin under the provisions of section 22 (c) of this article, and blends of wines of the same origin blended together outside the place or region of origin (if all the wines in the blend have a common class, type or other designation which is employed as the designation of the blend), shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment or blending took place within the place or region of origin.

3. Amend Article III, Section 33 (b), of said regulations to read:

(b) *Brand names of geographic significance.*—The word "brand" shall be stated in direct conjunction with, and in lettering at least one-half as large as, any geographic brand name which, either alone or by reason of any statement, design, or device appearing upon the label, tends to create the impression that the wine originated in a particular place or region, unless such wine is in fact of the origin indicated.

4. Amend Article III, Section 34, of said regulations to read:

SEC. 34. *Class and type.*—(a) The class of the wine shall be stated, and such statement shall be in conformity with article II of these regulations if the wine is defined therein, except that red, white, light and natural wines need not be designated as such. In the case of still grape wine there may appear, in lieu of the class designation, any grape-type designation, semi-generic geographic type designation, or geographic distinctive designation to which the wine may be entitled. In the case of champagne, the type designation "champagne" may appear in lieu of the class designation "sparkling wine". If the class of the wine is not defined in article II of these regulations, a truthful and adequate statement of composition shall appear upon the brand label of the product in lieu of a class designation. In addition to the mandatory designation for the wine, there may be stated a distinctive or fanciful name, or a designation in accordance with trade understanding. All parts of the designation of the wine, whether mandatory or optional, shall be in direct conjunction and in lettering substantially of the same size and kind.

(b) An appellation of origin such as "American", "California", "Chilean", "New York State" or "Spanish", disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation, (1) if a grape variety name having geographic significance is employed as the type designation of the wine pursuant to section 23, (2) if a semi-generic type designation of geographic significance is employed as the type designation of the wine pursuant to section 24 (b), or (3) if the label bears any statement, design, device, or representation which indicates or infers origin.

5. Amend Article III, Section 39 (a), of said regulations by adding at the end thereof a new sub-paragraph to read:

(7) Any statement, design, device, or representation (other than a statement of alcoholic content in conformity with section 36) which tends to create the impression that the wine has been "fortified", or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as the designation of a product not defined in article II of these regulations, may include a reference to the type of distilled spirits employed therein.

6. Amend Article III, Section 39, of said regulations by striking out paragraph "(j)" thereof, and by relettering paragraph "(k)" thereof to read "(j)".

7. Amend Article VI, Section 64 (a), of said regulations by adding at the end thereof a new sub-paragraph to read:

(8) Any statement, design, device, or representation (other than a statement of alcoholic content in conformity with section 62 C.) which tends to create the impression that the wine has been "fortified", or contains distilled spirits, or has intoxicating qualities, except that a statement of composition, if required to appear as the designation of a product not defined in article II of these regulations, may include a reference to the type of distilled spirits employed therein.

8. Amend Article VI, Section 64 (h), of said regulations to read:

(h) *Statements indicative of origin.*—No statement, design, device, or representation which tends to create the impression that the wine originated in a particular place or region, shall appear in any advertisement unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement in direct conjunction with the class and type designation.

The provisions of Class 8, Section 21, Article II, of this amendment shall become effective one month after the date of filing with the Division of the Federal Register. All other provisions of this amendment shall become effective six months after the date of filing with the Division of the Federal Register.

[SEAL] W. S. ALEXANDER,
Administrator, Federal Alcohol Administration.

Approved, this 22nd day of August, 1938.

[SEAL] ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2496; Filed, August 25, 1938; 10:46 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of August 1938.

[File No. 7-250]

IN THE MATTER OF APPLICATION BY THE SAN FRANCISCO STOCK EXCHANGE FOR CONTINUANCE OF UNLISTED TRADING PRIVILEGES IN PANTEPEC OIL COMPANY OF VENEZUELA, C. A., (A VENEZUELAN CORPORATION), CERTIFICATES OF DEPOSIT FOR CAPITAL STOCK, PAR VALUE ONE BOLIVAR

ORDER DENYING APPLICATION

Unlisted trading privileges on the San Francisco Stock Exchange in Pantepec Oil Company of Venezuela (Delaware), Capital Stock, $1.00 Par Value, having been continued pursuant to Rule JF7 of the Commission; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2501; Filed, August 25, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF LONE STAR GAS CORPORATION

ORDER CONCERNING ACQUISITION OF SECURITIES

Lone Star Gas Corporation, a registered holding company, having filed with this Commission an application and amendments thereto pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 for the approval of the acquisition by it of non-interest bearing stock notes from Texas Cities Gas Company and Council Bluffs Gas Company and the acquisition of 4½% notes due August 1, 1953 from Lone Star Gas Company, The Dallas Gas Company, County Gas Company, Texas Cities Gas Company and Council Bluffs Gas Company, all subsidiaries of said Lone Star Gas Corporation;

A hearing having been held on said application, as amended, after appropriate notice;[1] the record in the matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the acquisition of the aforesaid securities in the manner set forth in the application, as amended, be and the same is hereby approved subject to the terms and conditions set forth in and for the purposes represented by said amended application;

It is further ordered, That within ten days after the acquisition of the securities above referred to, the applicant shall file with this Commission a Certificate of Notification showing that such acquisition was effected in accordance with the terms and conditions of and for the purposes represented by said amended application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2498; Filed, August 25, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 24th day of August, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF LONE STAR GAS CORPORATION

ORDER CONCERNING SALE OF SECURITIES

Lone Star Gas Corporation, a registered holding company, having filed an application and amendments thereto pursuant to Rule U-12D-1, promulgated under the Public Utility Holding Company Act of 1935, regarding the sale to the issuing subsidiary company of bonds now held by the applicant but issued by Texas Cities Gas Company, Council Bluffs Gas Company and The Dallas Gas Company all subsidiary companies of the applicant;

A public hearing having been held on said applications, as amended, after appropriate notice;[1] the Commission having considered the record in this matter and having made and filed its findings herein;

It is ordered, That the sale of such securities in the manner and subject to the terms set forth in such amended application be and the same is hereby approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2499; Filed, August 25, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF LONE STAR GAS CORPORATION, LONE STAR GAS COMPANY, TEXAS CITIES GAS COMPANY, COUNCIL BLUFFS GAS COMPANY, THE DALLAS GAS COMPANY, AND COUNTY GAS COMPANY

ORDER CONCERNING EFFECTIVENESS OF DECLARATIONS

Lone Star Gas Corporation, a registered holding company, Lone Star Gas Company, Texas Cities Gas Company, Council Bluffs Gas Company, The Dallas Gas Company and County Gas Company, all subsidiaries of said holding company, having filed joint and combined declarations pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by each of said declarants of the following described securities:

Lone Star Gas Corporation

15 year 3½% Sinking Fund Debentures (due August 1, 1953) in the principal amount of $20,000,000;

1,460,000 shares of Common Stock without par value including Scrip Certificates in respect of fractional interests in shares, such stock to be issued solely upon conversion of the debentures by the holders thereof;

Bank Loan Notes aggregating $11,300,000.

Lone Star Gas Company

4½% Note due August 1, 1953 in the principal amount of $5,100,000;

Texas Cities Gas Company

Non-interest bearing stock note in the principal amount of $3,000,000;

4½% Note due August 1, 1953 in the principal amount of $2,438,270;

Council Bluffs Gas Company

Non-interest bearing stock note in the principal amount of $1,200,000;

4½% Note due August 1, 1953 in the principal amount of $42,375;

The Dallas Gas Company

4½% Note due August 1, 1953 in the principal amount of $3,653,360.

County Gas Company

4½% Note due August 1, 1953 in the principal amount of $1,680,000.

A joint hearing on these declarations, as amended, having been held after appropriate notice;[1] the Commission having duly considered the record in such matters and having filed its findings herein:

It is ordered, That such declarations be and become effective forthwith upon the condition, however, that the issue and sale of the aforesaid securities shall be effected in compliance with the terms and conditions set forth in and for the purposes represented by such declarations, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2500; Filed, August 25, 1938; 12:36 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of August, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF TEXAS CITIES GAS COMPANY, COUNCIL BLUFFS GAS COMPANY, THE DALLAS GAS COMPANY

ORDER CONCERNING ACQUISITION OF SECURITIES

Texas Cities Gas Company, Council Bluffs Gas Company and The Dallas Gas Company, subsidiary companies of Lone Star Gas Corporation, a registered holding company, having filed joint and combined applications and amendments thereto pursuant to Rule U-12C-1, promulgated under the Public Utility Holding Company Act of 1935, regarding the acquisition from Lone Star Gas Corporation, and the retirement thereafter by each of said applicants, of certain bonds

[1] 3 F. R. 1881 DI.

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issued by such applicants and now held by said parent company;

A public hearing having been held on said applications, as amended, after appropriate notice; [1] the Commission having considered the record in this matter and having made and filed its findings herein;

It is ordered, That the acquisition by applicants of such securities in the manner and subject to the terms set forth in such amended applications be and the same is hereby approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2497; Filed, August 25, 1938; 12:36 p. m.]

[1] 3 F. R. 1881 DI.

SEP 7 1938

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Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 100]

RETIREMENT OF STOCK UPON REPAYMENT OF LOAN

AUGUST 26, 1938.

Section 11.2148 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 11.2148 *Disposition of stock proceeds where association is in class 3 or 4.*—Where the association is in class 3 or 4, the bank shall retain the full amount of the proceeds of such retired stock and apply the same as a credit on the debts due by such association to the bank; provided, however, that where the association is in class 3 the bank may pay to the association from the proceeds of such retired stock an amount sufficient to permit the association to make settlements under section 29 of the Federal Farm Loan Act as amended by section 25 (d) of the Farm Credit Act of 1937, in which case any balance of such proceeds shall be retained by the bank and applied as a credit on the indebtedness of the association to it. (Sec. 6, 47 Stat. 14, 12 U. S. C. 665; sec. 7, 39 Stat. 365, 12 U. S. C. 721; sec. 8, 39 Stat. 367, 12 U. S. C. 733.) [Revision No. 27, Manual for Federal Land Banks, August 26, 1938.]"

Title 6, Code of Federal Regulations, is amended by adding the following new section:

"SEC. 11.2168.72 *Participation certificates.*—If any shareholder or former shareholder does not desire to settle on the basis of a fair book value of the stock of the association as determined in conservatorship proceedings pursuant to section 29 of the Federal Farm Loan Act, as amended by section 25 (d) of the Farm Credit Act of 1937, he may, in lieu thereof, be given a participation certificate which will entitle him to share pro rata on the basis of the number of shares of stock which he owned in the association in the distribution of any assets of the association which is made after all its indebtedness to creditors has been satisfied but not to exceed the par value of such shares. The holder of a participation certificate may at any time, by surrendering the certificate to the secretary-treasurer of the association, receive the amount which is being paid to retiring shareholders at the date of such surrender as the fair book value of the stock of the association, but in no event more than the amount of the fair book value of the association stock as of the date when he became entitled to receive the certificate. Settlements with holders of participation certificates in accordance with the preceding sentence should be made only on condition that they accept the settlement as payment in full. Unless the holder surrenders his participation certificate as herein provided, he shall receive no cash payments in connection with such certificate, except as follows:

(1) If the association is liquidated by receivership or otherwise, he shall be entitled to share pro rata with other persons having similar rights in the distribution of any assets of the association which is made after all of its indebtedness to creditors has been satisfied.

(2) If, prior to liquidation as provided in (1) above, the fair book value of the stock of the association reaches par, he shall be entitled to receive par for such certificate.

(3) If, prior to liquidation as provided in (1) above, all indebtedness of the association is paid but the fair book value of the stock is not par, he may share pro rata with other persons having similar rights in the distribution of any assets of the association which may be made from time to time.

(Sec. 6, 47 Stat. 14, 12 U. S. C. 665; sec. 25 (d), 50 Stat. 713, 12 U. S. C. 967.) [Revision No. 27, Manual for Federal Land Banks, August 26, 1938.]"

[SEAL] W. J. MCANELLY, *Acting Land Bank Commissioner.*

[F. R. Doc. 38-2507; Filed, August 26, 1938; 12:52 p. m.]

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 6—AGRICULTURAL CREDIT:	
Farm Credit Administration:	
Retirement of stock upon repayment of loan	2099
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
New York Metropolitan Marketing Area, Class I and Class II-A prices to be paid pursuant to order regulating handling of milk	2100
TITLE 20—FISH AND GAME:	
Bureau of Fisheries:	
Alaska fishery regulations, amendment	2100
TITLE 43—PUBLIC LANDS:	
Division of Grazing:	
Federal Range Code, amendments	2100

NOTICES

Civil Aeronautics Authority:	
Pan American Airways, Inc., exemption under Civil Aeronautics Act of certain services of	2103
Department of Agriculture:	
Agricultural Adjustment Administration:	
New York Metropolitan Marketing Area, determination on proposed order regulating handling of milk	2102
Department of the Interior:	
Division of Territories and Island Possessions:	
Alaska Railroad, Supplement 5 to Joint Freight Tariff No. 5-E (suspension of rail and water service)	2102
Securities and Exchange Commission:	
Eastern Utilities Associates, effectiveness of declaration on issue and sale of note by registered holding company	2103

FEDERAL REGISTER

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TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER AND ANNOUNCEMENT OF THE SECRETARY OF AGRICULTURE ANNOUNCING THE EFFECTIVE TIME OF, AND THE CLASS I AND CLASS II–A PRICES TO BE PAID PURSUANT TO ORDER NO. 27 REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA

Whereas, H. A. Wallace, Secretary of Agriculture, issued on August 5, 1938, Order No. 27 [1] regulating the handling of milk in the New York Metropolitan Marketing Area, which order provided that it should become effective in accordance with article X thereof, said article X reading as follows:

"ARTICLE X—EFFECTIVE TIME

"SECTION 1. *Effective time.*—This order shall become effective after the issuance by the Commissioner of Agriculture and Markets of the State of New York of an order containing provisions similar to the provisions of this order and to which this order shall be complementary and on the first day of the month following, by more than three days, publication in the Federal Register by the Secretary of (a) his finding that the order is approved by more than two-thirds of the producers voting in a referendum, (b) a marketing agreement containing provisions similar to this order approved by him and signed by handlers of more than 50 percent of the milk sold in the marketing area, or, his determination approved by the President that the failure or refusal of handlers to sign tends to prevent the effectuation of the declared policy of the act and that the issuance of the order is the only practical means of advancing the interests of producers pursuant to such declared policy of the act.";

and

[1] 3 F. R. 1945 DI.

Whereas, the Commissioner of Agriculture and Markets of the State of New York has issued an order containing provisions similar to the provisions of the above-mentioned order and to which said order is complementary; and

Whereas, the Secretary of Agriculture has (a) found that the issuance of the above-mentioned order is approved or favored by over two-thirds of the producers who, during the month of May 1938, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area and who participated in a referendum conducted by the Secretary, and (b) determined, such determination being approved by the President of the United States, that the failure or refusal of handlers of more than fifty percentum of the volume of milk covered by said order which is produced for sale in the New York Metropolitan Marketing Area to sign a marketing agreement containing provisions similar to the above-mentioned order tends to prevent the effectuation of the declared policy of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, and that the issuance of said order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area, both the above-mentioned finding and determination being published in the FEDERAL REGISTER:

Now, therefore, H. A. Wallace, Secretary of Agriculture of the United States, pursuant to the terms ond provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, and of Order No. 27 regulating the handling of milk in the New York Metropolitan Marketing Area, issued August 5, 1938, hereby declares that said Order No. 27 shall be effective on and after 12:01 a. m., e. s. t., September 1, 1938, and hereby orders that from said date such handling of milk produced for sale in the New York Metropolitan Marketing Area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce shall be in conformity to and in compliance with the terms and conditions set forth in said Order No. 27.

In addition the Secretary of Agriculture hereby announces that the average of the prices reported daily during the sixty days preceding the 25th day of August, by the United States Department of Agriculture, for 92-score butter at wholesale in the New York market was 26.18 cents, and that the average of the prices reported daily during the thirty days preceding the 25th day of August, by the United States Department of Agriculture, for 92-score butter at wholesale in the New York market was 26.25 cents; and hereby orders that the Class I price, pursuant to article IV of said order, for the month of September, shall be $2.45 per cwt., and that the Class II–A price, pursuant to article IV of said order, for the month of September, shall be $1.75 per cwt.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture of the United States, have executed in duplicate and issued this order and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 26th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2505; Filed, August 26, 1938; 12:44 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251–24–9]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 25, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251,[1] twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[2] are hereby amended by the following regulation:

SOUTHEASTERN ALASKA AREA

Clarence Strait District

Salmon fishery.—Regulation No. 7 is amended so as to permit commercial fishing for salmon between a line extending from Narrow Point to Ernest Point and a line extending from Approach Point to Caamano Point, from 6 o'clock postmeridian August 25 to 6 o'clock postmeridian August 27.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–2502; Filed, August 25, 1938; 2:58 p. m.]

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

AMENDMENTS TO THE FEDERAL RANGE CODE

RULES FOR THE ADMINISTRATION OF GRAZING DISTRICTS UNDER THE ACT OF JUNE 28, 1934, AS AMENDED BY THE ACT OF JUNE 26, 1936, COMMONLY KNOWN AS THE TAYLOR GRAZING ACT [3]

The Federal Range Code, approved on March 16 and June 22, 1938,[4] is hereby

[1] 3 F. R. 451 DI.
[2] 3 F. R. 2082 DI.
[3] 48 Stat. 1269; 49 Stat. 1976.
[4] 3 F. R. 705, 1535 DI.

amended in the following particulars:

Sec. 2 (p) is amended to read as follows:

"(p) *Free-use applicant* means an applicant who resides in the immediate neighborhood of Federal range and who owns livestock kept for domestic purposes. 'Livestock kept for domestic purposes' means livestock whose products are consumed or whose work is used directly and exclusively by the family of the applicant."

Sec. 6, Par. *a* is amended to read as follows:

"PAR. *a. Free-use licenses and permits.*—Free-use licenses or permits first will be issued to free-use applicants for not to exceed the number of livestock kept for domestic purposes. Such livestock shall be grazed on Federal range in the immediate neighborhood of the residence of the licensee or permittee."

Sec. 4, Par. *a* is amended to read as follows:

"PAR. *a. Base properties; classes; carrying capacity of land; service value of water.*—For the purpose of determining the proper use of the base properties of all applicants and their relative dependence upon the Federal range, water conditions and other factors affecting livestock operations in the area will be considered. Base properties will be classified as land or water and further in the following manner:

CLASS 1. Forage land dependent by both location and use, and full-time prior water.

CLASS 2. Forage land dependent by use only, and full-time water.

CLASS 3. Forage land dependent by location only, and full-time water which otherwise would be in class 2 but which was developed later than other water servicing a part or all of the same area. Base property which is forage land will be rated for its carrying capacity. Water will be rated for its service value by deducting therefrom one half of the carrying capacity of any area serviced jointly by competing water of the same class, the carrying capacity of all nonfederal range within the service area of the water, and the carrying capacity of any Federal range within such area the use of which is essential for purposes other than the granting of grazing privileges. In computing the service value of water in class 3, there will also be deducted therefrom the carrying capacity of any portion of its service area which is serviceable from any other full-time water antedating it in development."

SEC. 6, PAR. *b* is amended by deleting the words "*Reductions; Allotments*" in the heading, by substituting a period for the semicolon after the word "*Livestock*" therein, and by inserting the following at the end of Par. *b:*

"After licenses or permits have been issued on the basis of the foregoing method of computation, any licensee or permittee may, within the discretion of the regional grazier, and on written order by him, be allowed to use the amount of Federal range feed represented by his license or permit over any period of time within the season or seasons for which the Federal range is classified as proper for use, provided that:

(1) Such period does not exceeed the maximum period of time for which any licensee or permittee is allowed to use the Federal range during any one year;

(2) The number of animal-unit months of Federal range feed to be consumed is not thereby increased;

(3) Such use will not be detrimental to the Federal range; and

(4) Such use will not adversely affect other licensees or permittees."

Sec. 6 is further amended by relettering Par. c as Par. *d* and by inserting the following new paragraph as Par. *c:*

"PAR. *c. Nonuse licenses and permits.*—A nonuse license or permit, which will not entitle the holder thereof to put livestock on the Federal range, will be issued in whole or in part to the extent of the number of livestock for which the applicant might have an effective regular license or permit for the period involved, provided that:

(1) A regular license or permit for the number of livestock to be covered by the nonuse license or permit has not become effective, by the payment of fees, for the period involved;

(2) None of the livestock to be covered by the nonuse license or permit has been placed on the Federal range during the period involved;

(3) Regular licenses or permits will be issued to other applicants to the extent of the carrying capacity of Federal range which may be unused because of the issuance of a nonuse license or permit, unless the nonuse licensee or permittee lawfully maintains improvements which render such a procedure impracticable;

(4) Subject to proviso (3) above, a nonuse licensee or permittee may at any time during the period of the nonuse license or permit apply for and upon the payment of the proper fees obtain a regular license or permit for the remainder of the period for any part of the number of livestock covered by the nonuse license or permit; and

(5) No nonuse license or permit will be issued either to any one applicant or on the basis of any one property for more than four consecutive installment periods, or portions thereof, for which fees are collected from regular licenses or permittees.

Sec. 8 of that part of the Federal Range Code approved on March 16, 1938, is renumbered as sec. 15 of the Federal Range Code.

Sec. 8, Par. *e* of the Federal Range Code approved June 22, 1938, is amended to read as follows:

"PAR. *e. Payment of fees.*—All fees for crossing permits, and all fees for regular licenses or permits which total $10 or less or which are for a period of three months or less, shall be paid in full at the time of issuance of the license or permit. Fees for other regular licenses or permits may be paid in two equal installments, each of which must be paid before the license or permit will be effective for the portion of the grazing period covered by the particular installment. No license or permit shall be issued or renewed until payment of any amounts due as grazing fees has been made. Upon application by a transferee of any property or part thereof on the basis of which a license or permit has been issued, a new form of license representing that part of the grazing privileges to which he may thereby become entitled will be issued to him upon payment of his proportionate part of any unpaid installment of fees then due."

Sec. 9, Par. *a* of the Federal Range Code approved June 22, 1938, is amended to read as follows:

"PAR. *a. Consideration of application; recommendation; service of notice.*—An application for a grazing license or permit will, upon reference by the regional grazier, be considered by the advisory board of the district in which it is sought. The advisory board will make its recommendation to the Division of Grazing. If such recommendation is favorable, the Division will so notify the applicant by ordinary mail. If the recommendation is to any extent adverse, notice thereof will be served on the applicant personally either by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. Such notice will name a place and a date, not less than ten days thereafter, when protests against the recommendation of the advisory board will be heard."

Sec. 9, Par. *c* of the Federal Range Code approved June 22, 1938, is amended to read as follows:

"PAR. *c. Allowance or rejection of application by the regional grazier; modification; service of notice; appeal to examiner; intervention.*—The regional grazier is vested with authority, in the light of all facts and circumstances, either with or without first having submitted an application to the district advisors, to issue or refuse to issue a grazing license or permit. If a grazing license or permit is refused or if the action of the regional grazier is to any extent adverse to the applicant, a notice including a recital of the specific reasons for the action taken will be served on the applicant either personally by the regional grazier or such person as may have been designated by him, or by registered letter sent to the address given by the applicant in his application. If the action taken by the regional grazier on any application is sub-

stantially different from that recommended by the advisory board, a notice including a recital of the specific reasons for the action taken will be served on any other applicant or applicants affected by such action, either personally by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. The notice given the particular applicant will advise him of his privilege to file an appeal to an examiner of the Division of Grazing. The appeal must be filed in the local office of the Division of Grazing within fifteen days following the receipt of the notice. The appeal shall be accompanied by specifications of error setting forth in a clear and concise manner the matters upon which it is based. Any party or parties who would be directly affected by the decision in the appeal may file a request for permission to be heard in the appeal and shall serve the appellant with a copy of such request. Such a party shall be known and designated as an intervenor. Where separate appeals are filed and the issue or issues involved are common to both appeals, the appeals may be heard at the same hearing."

F. R. CARPENTER,
Director of Grazing.

Approved August 19, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2504; Filed, August 26, 1938; 9:31 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[Supplement No. 5 to I. C. C. No. 128 [1]]

THE ALASKA RAILROAD IN CONNECTION WITH ALASKA STEAMSHIP COMPANY (FX 5 No. 5), AMERICAN YUKON NAVIGATION COMPANY (FX 2 No. 1), AND PUGET SOUND FREIGHT LINES (FX 5 No. 16)

SUPPLEMENT NO. 5 TO JOINT FREIGHT TARIFF NO. 5-E

Naming Class and Commodity Rates Between Seattle and Tacoma, Washington, and Points on The Alaska Railroad, American Yukon Navigation Company in Alaska

Suspension of Rail and Water Service

Account closing of navigation season 1938 on the Tanana and Yukon Rivers in Alaska, transportation service via The Alaska Railroad, and American Yukon Navigation Company and connections, is hereby discontinued until April 15, 1939. For rules governing acceptance of shipments under this tariff, on and after that date, see Item 250 of tariff. Issued under authority of Rule 12 of Interstate Commerce Commission Tariff Circular No. 22. Issued, August 2nd, 1938. Effective, August 27, 1938 (Except as noted in individual items). Authority, Act of March 12, 1914, and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

Dates on which service will be suspended

	Date service suspended on traffic from Seattle, Wash., Tacoma, Wash.	Date service suspended on traffic to Seattle, Wash., Tacoma, Wash.
Minto Alaska	August 27, 1938	September 24, 1938.
Campbells Alaska	August 27, 1938	September 23, 1938.
Tolovana Alaska	August 27, 1938	September 23, 1938.
Duggan Alaska	August 27, 1938	September 23, 1938.
Baker Alaska	August 27, 1938	September 23, 1938.
Hot Springs Landing Alaska	August 27, 1938	September 22, 1938.
Tanana Alaska	August 27, 1938	September 21, 1938.
Birches Alaska	August 27, 1938	September 21, 1938.
Novikaket Alaska	August 27, 1938	September 21, 1938.
Kokrines Alaska	August 27, 1938	September 21, 1938.
Ruby Alaska	August 27, 1938	September 21, 1938.
Mokoti Alaska	August 27, 1938	September 20, 1938.
Louden Alaska	August 27, 1938	September 20, 1938.
Galena Alaska	August 27, 1938	September 20, 1938.
Koyukuk Alaska	August 27, 1938	September 20, 1938.
Nulato Alaska	August 27, 1938	September 20, 1938.
Kaltag Alaska	August 27, 1938	September 19, 1938.
Blackburn Alaska	August 27, 1938	September 19, 1938.
Thompson Alaska	August 27, 1938	September 19, 1938.
Anvik Alaska	August 27, 1938	September 18, 1938.
Holy Cross Alaska	August 27, 1938	September 18, 1938.
Palmiut Alaska	August 27, 1938	September 18, 1938.
Russian Mission Alaska	August 27, 1938	September 18, 1938.
Okagamute Alaska	August 27, 1938	September 18, 1938.
Marshall Alaska	August 27, 1938	September 2, 1938.
Rampart Alaska	August 27, 1938	September 2, 1938.
Stevens Village Alaska	August 27, 1938	September 2, 1938.
Beaver Alaska	August 27, 1938	September 2, 1938.
Fort Yukon Alaska	August 27, 1938	September 2, 1938.
Circle Alaska	August 27, 1938	September 2, 1938.
Eagle Alaska	August 27, 1938	September 2, 1938.

The above is hereby confirmed.

RUTH HAMPTON,
Acting Director.

[F. R. Doc. 38-2503; Filed, August 26, 1938; 9:31 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF THE SECRETARY OF AGRICULTURE APPROVED BY THE PRESIDENT OF THE UNITED STATES WITH RESPECT TO A PROPOSED ORDER REGULATING THE HANDLING OF MILK IN THE NEW YORK METROPOLITAN MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the terms and provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the New York Metropolitan Marketing Area would tend to effectuate the declared policy of said act, gave, on the 29th day of April 1938, notice of public hearings [1] to be held on a proposed marketing agreement and a proposed order, said hearings being held jointly with the Commissioner of Agriculture and Markets of the State of New York at Albany, New York, May 16, 1938; Malone, New York, May 17, 1938; Syracuse, New York, May 18, 1938; Elmira, New York, May 19, 1938; New York City, May 20, 24, 25, and 26, 1938; and Albany, New York, June 3, 4, and 7, 1938, and at said times and places all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, after said hearings and after the tentative approval of a marketing agreement by the Secretary on August 5, 1938, handlers of more than fifty (50) percentum of the volume of milk covered by such proposed order, which is produced for sale in the New York Metropolitan Marketing Area, refused or failed to sign such tentatively approved marketing agreement:

Now, therefore, the Secretary of Agriculture, pursuant to the power and authority vested in him by said act, hereby determines:

(1) That the refusal or failure of said handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area; and

(3) That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the month of May 1938, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area, and who participated in a referendum conducted by the Secretary.

In witness whereof, H. A. Wallace, Secretary of Agriculture, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto, in the city of Washington, District of Columbia, this 24th day of August 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved.

FRANKLIN D ROOSEVELT
The President of the United States.

Dated: Aug 25 1938

[F. R. Doc. 38-2506; Filed, August 26, 1938; 12:45 p. m.]

CIVIL AERONAUTICS AUTHORITY

[Special Order 401-A-4]

TEMPORARILY EXEMPTING PAN AMERICAN AIRWAYS, INC., WITH REFERENCE TO THE AIR TRANSPORTATION SERVICE RENDERED BY SAID AIR CARRIER BETWEEN SEATTLE, WASHINGTON, AND JUNEAU, ALASKA, VIA KETCHIKAN, ALASKA

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 25th day of August, 1938.

Upon consideration of the application of Pan American Airways, Inc., for exemption from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the overseas air transportation service rendered by said air carrier between Seattle, Washington, and Juneau, Alaska, with scheduled intermediate stop at Ketchikan, Alaska; and

It appearing that:

(1) The applicant was, prior to May 14, 1938, and is now an air carrier engaged in the rendition of scheduled overseas and foreign air transportation service between points in the United States and various points in the territorial possessions of the United States, Latin America and the Orient.

(2) On August 19, 1938, after application made and proof submitted in connection therewith, the Secretary of Commerce rated said air carrier competent to inaugurate a proving period for the purpose of qualifying for the conduct of an overseas air transportation over the route from Seattle to Juneau, and during said proving period to carry property and mail for compensation on a schedule of one round-trip per week. A specific condition to the authorization given was that no passengers other than company personnel or authorized government inspectors should be carried on any such proving flights. At least ten of such round-trip proving flights are required to be completed on or before January 1, 1939. The air carrier inaugurated and completed the first of such proving flights on August 20, 1938.

(3) The air carrier has no contract for carriage of mail over said route.

(4) Said carrier has transferrer aircraft and other equipment, and personnel, from Miami, Florida, to Seattle, Washington, for the conduct of the above-described operation, and has expended considerable sums of money in preparation for and the inauguration of the aforesaid air transportation service.

(5) The Post Office Department and the citizens of the Pacific Northwest and of Alaska have long been desirous of establishing an air transportation service for all classes of traffic between continental United States and Alaska, and the establishment of such air transportation service would be in the public interest.

The Authority finds that:

(1) The present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier between Seattle and Juneau would be an undue burden on such air carrier by reason of the unusual circumstances affecting the operations of such air carrier with respect to said air transportation service, and such enforcement would not be in the public interest.

Now, therefore, the Authority, pursuant to the powers granted it by sections 205 (a) and 416 (b) of the Act, issues the following special order:

Special order 401-A-4.—Temporarily exempting Pan American Airways, Inc., from the provisions of section 401 (a) with respect to a specified service.

Pan American Airways, Inc., is hereby exempted from the provisions of section 401 (a) of the Act for the period to and including December 31, 1938, insofar as the provisions of that section would otherwise be applicable to the overseas air transportation service between Seattle, Washington, and Juneau, Alaska, with a scheduled intermediate stop at Ketchikan, Alaska, heretofore authorized by the Secretary of Commerce by authorization dated August 19, 1938, and to transport property thereon during said period for such charges and rates as may be established pursuant to law, subject, however, to the condition that said Pan American Airways, Inc., shall at all times comply in all respects with the terms and conditions set forth in said authorization for a proving period for such service dated August 19, 1938.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2508; Filed, August 26, 1938; 12:54 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23rd day of August, A. D. 1938.

[File No. 43-141]

IN THE MATTER OF EASTERN UTILITIES ASSOCIATES

ORDER ALLOWING DECLARATION TO BECOME EFFECTIVE REGARDING ISSUE AND SALE OF NOTE BY REGISTERED HOLDING COMPANY

Eastern Utilities Associates, a registered holding company, having filed with this Commission a declaration and amendment thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by declarant of an unsecured 3% promissory note in the amount of $1,625,000 dated August 1, 1938 and due August 1, 1941, to the First National Bank of Boston.

A hearing thereon having been [1] held after appropriate notice, the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration be and become effective forthwith, on condition, however, that the issue and sale of the aforesaid promissory note shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration, and, on the further condition, that, within ten days after the issue and sale of the said note, the declarant shall file with this Commission its certificate of notification showing that such issue and sale have been effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2509; Filed, August 26, 1938; 12:55 p. m.]

[1] Supplement Nos. 3, 4 and 5 contains all changes from the original tariff that are effective on that date hereof.

[1] 3 F. R. 1000 DI.

[1] 3 F. R. 1882 DI.

SEP 8 '38

FEDERAL REGISTER

VOLUME 3 NUMBER 169

Washington, Tuesday, August 30, 1938

The President

EXECUTIVE ORDER

AUTHORIZING INITIAL APPOINTMENTS TO CERTAIN EXECUTIVE POSITIONS IN THE WAGE AND HOUR DIVISION IN THE DEPARTMENT OF LABOR WITHOUT COMPLIANCE WITH THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph EIGHTH of subdivision SECOND of Section 2 of the Civil Service Act (22 Stat. 403, 404), it is hereby ordered that, subject to the establishment before the Civil Service Commission of the requisite qualifications in each case, initial appointments to the positions of General Counsel, Deputy Administrator, Assistant Administrator in Charge of Compliance, Assistant Administrator in Charge of Wage and Hour Standards, and Assistant Administrator in Charge of Public Relations, of the Wage and Hour Division in the Department of Labor may be effected by the Administrator of said Wage and Hour Division without compliance with the competitive requirements of the Civil Service Rules: *Provided*, that persons so appointed shall not thereby acquire a competitive classified civil-service status.

This order is recommended by the Administrator of the Wage and Hour Division in the Department of Labor.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 29, 1938.

[No. 7963]

[F. R. Doc. 38-2525; Filed, August 29, 1938; 10:03 a. m.]

EXECUTIVE ORDER

INSTRUCTION OF CITIZENS OF THE AMERICAN REPUBLICS AT EDUCATIONAL INSTITUTIONS AND SCHOOLS MAINTAINED AND ADMINISTERED BY THE GOVERNMENT OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by the act of June 24, 1938, entitled "An act to authorize the President to permit citizens of the American republics to receive instruction at professional educational institutions and schools maintained and administered by the Government of the United States or by departments or agencies thereof" (52 Stat. 1034), it is ordered as follows:

1. Subject to the provisions and requirements of this Order, appropriate administrative regulations shall be drafted by each executive department or agency of the Government which maintains and administers educational institutions and schools coming within the scope of the legislation. Such regulations shall carefully observe the limitations imposed by the said act of June 24, 1938, and shall in each case include:

(a) A list of the institutions and courses in the department or agency concerned in which instruction is available under the terms of the legislation.

(b) A statement of the maximum number of students of the other American republics who may be accommodated in each such institution or course at any one time.

(c) A statement of the qualifications to be required of students of the other American republics for admission, including examinations, if any, to be passed.

(d) Provisions to safeguard information that may be vital to the national defense or other interests of the United States.

2. Applications for citizens of the other American republics to receive the instruction contemplated by the said act of June 24, 1938, shall be made formally through diplomatic channels to the Secretary of State by the foreign governments concerned.

3. The Secretary of State shall refer the applications to the proper department or agency of the Government for advice as to what reply should be made to the application.

4. In order to enable the Secretary of State to reply to inquiries received from the governments of the other American republics, the Department of State shall be promptly supplied with copies of the regulations drafted by the other depart-

CONTENTS

THE PRESIDENT

Executive Orders: Page

Authorizing initial appointments in Wage and Hour division without compliance with Civil Service Rules 2105

Regulations to give effect to Articles 1 and 2 of the Convention re stolen motor vehicles, etc., between U. S. and Mexico 2106

Instruction of citizens of the American republics at educational institutions and schools maintained and administered by the government of the United States 2105

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:

Bureau of Animal Industry:

Order to prevent introduction into U. S. of rinderpest and foot-and-mouth disease 2107

TITLE 10—ARMY:

War Department:

Finance Department, vouchers pertaining to money accounts 2107

Reserve officers' training corps, supply and equipment 2109

Texas and Pacific Railway Company, regulations to govern operation of bridge 2116

TITLE 20—FISH AND GAME:

Bureau of Fisheries:

Alaska fishery regulations, amendment 2116

TITLE 24—HOUSING CREDIT:

Federal Home Loan Bank Board:

Federal Savings and Loan System, amendment to rules and regulations regarding field examinations and appraisals of applicants for conversion 2116

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 24—HOUSING CREDIT—Contd. Page
Federal Savings and Loan Insurance Corporation:
Insurance of accounts, amendment to rules and regulations ---------- 2116

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Notice of hearing respecting proposed marketing agreement on peaches grown in Georgia ------- 2116
Farm Security Administration:
Designation of counties for tenant purchase loans:
Hawaii ---------- 2117
Idaho ---------- 2117
Washington ---------- 2117
Federal Trade Commission:
Complaints and Notices:
Architectural Tiling Co., Inc., Matawan Tile Co, and Pardee Matawan Tile Co. (C. Pardee Works) ---------- 2124
Mosaic Tile Co ---------- 2120
National Tile Co., Inc ---------- 2119
Superior Ceramic Corp ---------- 2125
Trent Tile Co., Inc ---------- 2117
Wenczel Tile Co ---------- 2118
Wheeling Tile Co ---------- 2122
Securities and Exchange Commission:
Beverly Gas and Electric Co., et al., order permitting amended declarations ---------- 2126
Joliet Heating Corp., 6% cumulative convertible preferred stock, hearing on application to strike from listing ---------- 2126
Missouri Service Co., order making stipulation part of record ---------- 2126

ments and agencies of the Government and of subsequent amendments thereto.

5. Upon receipt of a reply from another department or agency of the Government, as contemplated by paragraph No. 3 of this Order, in which it is recommended that an application be granted, the Secretary of State shall notify the government of the American republic concerned, through diplomatic channels, that permission to receive the instruction requested in the application is granted, provided the applicant complies with the terms of this Order and with the terms of the administrative regulations of the department or agency concerned.

6. In granting permission to citizens of the other American republics to receive instruction under the provisions of the said act of June 24, 1938, the Secretary of State shall limit the number of such permissions so that not more than one citizen of any one American republic shall receive instruction at the same time in the United States Military Academy and not more than one in the United States Naval Academy; and he shall not grant any such permission to a citizen of any of the American republics to receive instruction in any institution or school if the issuance of such permission will curtail the admission of citizens of the United States eligible to receive instruction therein.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 29, 1938.

[No. 7964]

[F. R. Doc. 38-2526; Filed, August 29, 1938; 10:03 a. m.]

EXECUTIVE ORDER

REGULATIONS TO GIVE EFFECT TO ARTICLES I AND II OF THE CONVENTION PROVIDING FOR THE RECOVERY AND RETURN OF STOLEN OR EMBEZZLED MOTOR VEHICLES, TRAILERS, AIRPLANES OR COMPONENT PARTS OF ANY OF THEM, CONCLUDED ON OCTOBER 6, 1936, BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

WHEREAS the Convention for the recovery and return of stolen or embezzled motor vehicles, trailers, airplanes, or the component parts of any of them, between the United States of America and the United Mexican States, concluded on October 6, 1936, and proclaimed by the President of the United States of America, on June 24, 1937, reads as follows:

ARTICLE I.

Whenever the Government of the United Mexican States through its Embassy in Washington shall so request the Department of State of the United States of America, that Department will use every proper means to bring about the detention of alleged stolen or embezzled motor vehicles, trailers, airplanes or the component parts of any of them.

The request of the Embassy shall be accompanied by documents legally valid in the United Mexican States supporting the claim of the person or persons interested to the property the return of which is requested.

After the property shall have been detained, and in the absence of evidence conclusively controverting the proof just before mentioned, it will be delivered to the person or persons designated for such purpose by the Embassy in Washington of the United Mexican States.

ARTICLE II.

Whenever the Government of the United States of America through its Embassy in Mexico City shall so request the Department of Foreign Relations of the United Mexican States, that Department will use every proper means to bring about the detention of alleged stolen or embezzled motor vehicles, trailers, airplanes or the component parts of any of them.

The request of the Embassy shall be accompanied by documents legally valid in the United States of America supporting the claim of the person or persons interested to the property the return of which is requested.

After the property shall have been detained, and in the absence of evidence conclusively controverting the proof just before mentioned, it will be delivered to the person or persons designated for such purpose by the Embassy in Mexico City of the United States of America.

ARTICLE III.

When the stolen or embezzled property is held as evidence in a criminal case, in the country where recovered, such detention shall not exceed twenty days from the date of the presentation to the Department of State or the Department of Foreign Relations, as the case may be, of the official request for the return of the property.

ARTICLE IV.

The High Contracting Parties will extend all necessary customs and other facilities in order that the person or persons on whose behalf the return has been made shall receive the stolen property and return with it to the territory of the country from which the request emanated.

ARTICLE V.

The High Contracting Parties will not assess any duties, fines or other monetary penalties upon the property detained and returned under the terms and provisions of this Convention. All expenses incident to the return and delivery of the property to the requesting country shall be borne by the person or persons receiving the vehicles or their component parts and such person or persons shall have no claim for compensation against the detaining authorities for damages to the property in connection with its seizure, detention and storage.

ARTICLE VI.

The High Contracting Parties will ratify this Convention in accordance with the provisions of their respective Constitutions and the exchange of ratifications shall take place in the City of Mexico as soon as possible.

This Convention shall remain in force for one year from the date of exchange of ratifications. If upon the expiration of one year notice is not given by either High Contracting Party of the desire to terminate the same, it shall continue in force until thirty days after either party shall have given notice to the other of the desire to terminate it.

In witness whereof, the respective Plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate, in English and Spanish, at Mexico City, this sixth day of the month of October one thousand nine hundred and thirty six.

JOSEPHUS DANIELS [SEAL]
EDUARDO HAYS [SEAL]

WHEREAS it is desirable that uniform regulations should be established by the Government of the United States of America and the United Mexican States to give effect to the provisions of Articles I and II of the Convention; and

WHEREAS the following regulations have been agreed upon by representatives of the two Governments and have been submitted to me for approval on the part of the United States of America:

ARTICLE I.

Whenever, in accordance with the provisions of Article I of the Convention, the United Mexican States shall request the detention in the United States of America of alleged stolen or embezzled motor vehicles, trailers, airplanes, or the component parts of any of them, the request shall be accompanied by documents legally valid in the United Mexican States. The said documents shall be as follows: (1) the original or a certified copy of the sales or conditional sales contract and where registration of title is required by law the certificate of such registration of title; (2) the original or a certified copy of the official registration card; (3) not more than three affidavits identifying the claimant as the owner of the legal or equitable title, or both, to the property alleged to have been stolen or embezzled; (4) the original or a certified copy of any assignment of the property by the insured to the insurer pursuant to a contract of insurance in force at the time the theft or embezzlement was committed.

ARTICLE II.

Whenever, in accordance with the provisions of Article II of the Convention, the United States of America shall request the detention in the United Mexican States of alleged stolen or embezzled motor vehicles, trailers, airplanes, or the component parts of any of them, the request shall be accompanied by documents legally valid in the United States of America. The said documents shall be as follows: (1) the original or a certified copy of the official registration card; (2) not more than three affidavits identifying the claimant as the owner of the legal or equitable title, or both, to the property alleged to have been stolen or embezzled; (3) not more than three affidavits identifying the claimant as the owner of the legal or equitable title, or both, to the property alleged to have been stolen or embezzled; (4) the original or a certified copy of any assignment of the property by the insured to the insurer pursuant to a contract of insurance in force at the time the theft or embezzlement was committed.

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, considering it expedient and necessary for the enforcement of the provisions of the said Convention of October 6, 1936, that uniform regulations for that purpose be adopted by the two Governments, do hereby approve the foregoing regulations.

This Order shall become effective on September 1, 1938.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 29, 1938.

[No. 7965]

[F. R. Doc. 38-2527; Filed, August 29, 1938; 10:04 a. m.]

CONTENTS—Continued

Page
Missouri Service Co., order to allow declaration to become effective regarding change of interest provisions in bonds of subsidiary of holding company ---------- 2127
Northern States Power Co., et al., hearing ---------- 2127

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 1 to B. A. I. Order 366]

AMENDMENT 1 TO B. A. I. ORDER 366.—ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

EFFECTIVE SEPTEMBER 3, 1938

AUGUST 27, 1938.

Under authority conferred upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 590, 689), the order to prevent the introduction into the United States of rinderpest or foot-and-mouth disease (B. A. I. Order 366), dated May 27, 1938, and effective June 1, 1938, is hereby amended by striking out the name "Sweden" from said order, inasmuch as I have determined that neither foot-and-mouth disease nor rinderpest now exists in said foreign country of Sweden, and I have so officially notified the Secretary of the Treasury.

This amendment, which for the purpose of identification is designated Amendment 1 to B. A. I. Order 366,[1] shall be effective September 3, 1938.

Done at Washington this 27th day of August, 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2533; Filed, August 29, 1938; 12:49 p. m.]

TITLE 10—ARMY

WAR DEPARTMENT

PART 4.—FINANCE DEPARTMENT

VOUCHERS PERTAINING TO MONEY ACCOUNTS

SEC. 4.09 *Certification, general*—(a) *By creditor.*—A voucher for funds disbursed will be made out in full before being certified by a public creditor. The original voucher must be signed and certified to in the space provided in the voucher form by the creditor or by his duly authorized agent, except that if a payee submits for payment an invoice or bill on which is shown the required certificate or certificates duly signed (see paragraph (b) below), such invoice or bill may be accepted if it constitutes a valid claim against the Government, and will be fastened securely to the voucher in lieu of stating the invoice or bill in detail on the voucher form and securing the payee's certificate thereon.

(b) *Vendor's certificates*—(1) *General.*—Under general contracts or agreements where the nature of the contract or agreement does not require additional certificate or certificates, the following certificate will be furnished:

I certify that the above bill is correct and just; that payment therefor has not been received; that except as otherwise noted all of the articles, materials, and supplies furnished under purchase order No. ------, if unmanufactured articles, materials, and supplies, have been mined or produced in the United States, and if manufactured articles, materials, and supplies, they have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States; and that State or local sales taxes are not included in the amount billed.

(2) *Reduction in wage rates.*—Under contracts or agreements which provide that the Government is to receive the benefit of any reduction in wage rates, in addition to the general certificate ((1) above) the following certificate will be furnished:

[1] 3 F. R. 1228 (DI).

I certify that the United States received the benefit of reduction, if any, in the wage rate in accordance with the stipulations under the contract.

(3) *Wages, rights, and hours of work.*—Under contracts which contain certain stipulations required by law with respect to wages, rights, and hours of work of employees, in addition to the general certificate ((1) above) the following certificate will be furnished:

I certify that the stipulations required by law and/or under contract, etc., with respect to wages, rights, and hours of work of employees have been complied with.

Examples: The labor stipulations in the acts of July 5, 1935 (49 Stat. 449); June 30, 1936 (49 Stat. 2036); and April 26, 1937 (50 Stat. 87).

(4) *Decline in market price.*—Under contracts or agreements which provide that the Government is to receive the benefit of any decline in market price, in addition to the general certificate ((1) above) the following certificate will be furnished:

I certify that the United States received the benefit of decline, if any, in the market price in accordance with the stipulations under the contract.

(5) *Decline in freight rates.*—Under contracts or agreements which provide that the Government is to receive the benefit of any decrease in freight rates, in addition to the general certificate ((1) above) the following certificate will be furnished:

I certify that the United States received the benefit of decrease, if any, in freight rates in accordance with the stipulations under the contract.

(6) *Tank wagon, barge, or service station deliveries.*—Under contracts or agreements covering the purchase of gasoline, kerosene, fuel oil, etc., based on tank wagon, barge, or service station price, in addition to the general certificate ((1) above) the following certificate will be furnished:

I certify that tank wagon (or barge, service station, etc.) price, at date and point of delivery, is as stated herein.

(7) *Temperature adjustments.*—While no special form of certificate is prescribed for commodities such as oils, petroleum products, etc., contracted for on a temperature adjustment basis, the vouchers or invoices covering such procurements should contain information as to the temperatures or moisture content involved in the adjustments of the quantities for which the vouchers or invoices are submitted.

(8) *Telephone, telegraph, and metered services.*—Unless special forms are prescribed for telephone, telegraph, or metered services, such services will be billed on the company's invoices, the original of which must bear the following signed certificate (general certificate prescribed in (1) above is *not* required in such cases):

I certify that the above bill is correct and just; that payment therefor has not been received; that the rates charged were in effect at the time the services were rendered; and that such rates are not in excess of those charged the general public for similar services.

(c) *Form in which payee's certificates will be furnished.*—The prescribed certificate or certificates should be printed, stamped, typed, or written on the voucher or invoice and must be signed (in original only) by the duly authorized representative of the concern billing. (See MS. Comp. Gen. A–51607, August 26, 1937.) In cases where it is physically impossible to include the additional certificate or certificates on the face of the voucher or invoice, the certificate or certificates will be placed on the reverse of the voucher or invoice. Additional (separate) sheets for, duplicates, or copies of certifications only will not be accepted by the General Accounting Office. (See MS. Comp. Gen. A–51607, A–49009, April 2, 1938.) Under no conditions should the certificates on Government vouchers or on invoice forms to be attached to such vouchers be signed in blank or at any time prior to submission of the voucher or invoice but after delivery or performance by the claimant. To do so may result in the submission of a false claim against the Government for which the person signing the certificate may be held liable under the law. See MS. Comp. Gen. A–51607, A–49009, April 2, 1938, June 2, 1938.

(d) *Zones to be stated on vouchers covering payments for gasoline under TPS contracts.*—The zone in which delivery was made will be stated on vouchers covering payments for gasoline under TPS contracts, where such zone deliveries are specified in such contracts and noted on purchase orders or other procuring instruments. (R. S. 161, 5 U. S. C. 22.) [AR 35–1040, Aug. 1, 1938.]

SEC. 4.10 *Certification when payment made by check.*—If payment is made by check to the order of any company (incorporated or unincorporated) or firm or individual by name, and the fact that the check has been so drawn is stated on the voucher, giving its number, date, amount, and United States depositary on which drawn, the certificate to the voucher may be signed by an officer, attorney, or agent of the company, or by an attorney or agent of the firm or individual, stating the capacity in which he signs, without filing with the voucher evidence of his authority to sign. In all such cases the disbursing officer will deliver the check to such person only who, to his satisfaction and by positive identification, is authorized by the principal to certify to the voucher and receive the check. *See 2 Comp. Dec. 295.* (R. S. 161, 5 U. S. C. 22.) [AR 35–1040, Aug. 1, 1938.]

SEC. 4.11 *Certification and receipt when payment made in currency.*—(a) *General.*—Payment in currency will not be made to the holder of a power of attorney or to a holder of an instrument operating as a transfer or an assignment.

(b) *Payments to companies.*—(1) *General.*—If payment in currency is made to an incorporated or unincorporated company, the money will be delivered to and the voucher certified to and receipted by a duly authorized officer or agent of the company, the certificate and receipt to be signed with the company name, followed by the autograph signature of the officer, with his title, or of the agent to whom the money was delivered, and except as prescribed in (2) below the receipted voucher will be accompanied by evidence showing his authority. This evidence will consist of extracts from the articles of incorporation or association, the by-laws, or the minutes of the board of directors duly certified by the custodian of such records (under the company seal, if there is one), showing that the signer is properly vested with authority to receive and receipt for money due the company.

(2) *Payments of small sums to corporations.*—Receipts for small sums paid in currency to a corporation, such as a railroad, telegraph, turnpike, transfer, express, steamboat, hotel, newspaper, or ice company, for an occasional service rendered may be signed and the vouchers certified by the local agent in charge of the business of the company at the place where the service is rendered or where it begins or terminates. The certificate of the officer who made the payment that the person to whom payment was thus made was then the local agent of the company in charge of its business at the place designated will be sufficient evidence of the agent's authority to certify to the vouchers and to receipt for the money paid.

(c) *Payments to individuals or copartnerships doing business under company titles.*—If payment in currency is made to an individual or to a copartnership doing business under a company title, the certificate and receipt will be signed with the company name, followed by the autograph signature of the individual proprietor or of one of the members of the firm with the words "proprietor" or "one of the proprietors" affixed thereto.

(d) *Payments to copartnerships doing business as such.*—If payment in currency is made to a copartnership doing business as such, the certificate and receipt will be signed with the firm's usual signature by one of the members of the firm, who will be required to affix his own signature as "one of the firm."

(e) *Payments to individuals.*—If payment in currency is made to an individual creditor, the certificate and receipt will be signed by him in person. (R. S. 161, 5 U. S. C. 22.) [AR 35–1040, Aug. 1, 1938.]

SEC. 4.12 *Signatures.*—(a) *General.*—The form of the signature to the certificate, and to the receipt when required, and the name of the person or business firm as entered at the head of an account must be literally alike.

(b) *When signed by "X".*—When a signature is not written by the hand of the party, due to inability to write, and such signature is signed by mark "X", it must be witnessed by a disinterested party with his address. Such witness will be a commissioned officer when practicable.

(c) *In case of physical disability of person signing.*—Where there is a mere physical inability to write on the part of a claimant and he causes his amanuensis to sign his name in his presence, such signature is regarded as a signing by the claimant. (See vol. 2, Dig. 2d Comp., 1109, July 18, 1883.) A physician's certificate as to the affliction should be filed with the first voucher. The signature of the amanuensis must be certified to by two witnesses.

(d) If a claimant is afflicted with a mental disability that disqualifies him from signing his name, the law requires the appointment of a committee or guardian. *See vol. 2, Dig. 2d Comp., 1109, July 18, 1883.*

(e) Certified copies of court papers appointing a guardian should be filed with the first voucher, and in future payments reference to such voucher, by number, should be made. If the payee is in an asylum, the superintendent's certificate that the payee was alive at the time payment was due should be filed with each voucher. The guardian should sign the name of the payee, followed by his own signature as guardian. (R. S. 161, 5 U. S. C. 22) [AR 35–1040, Aug. 1, 1938.]

[SEAL] FRANK C. BURNETT,
Brigadier General,
Acting The Adjutant General.

[F. R. Doc. 38–2511; Filed, August 27, 1938; 9:42 a. m.]

PART 10.—RESERVE OFFICERS' TRAINING CORPS

SUPPLY AND EQUIPMENT

SEC. 10.35 *Military property custodian.*—Military property custodians are appointed by institutional authorities in the manner indicated in the application shown in section 10.33, and are the legal agents of the institutions to requisition, receive, store, issue, account for, and otherwise attend to administrative matters pertaining to property issued by the Government to the institution. Suitable provisions should be made by the institutional authorities for the clerical and other labor necessary to carry out the above-mentioned duties pertaining to the Government property so issued.

During the temporary absence of the military property custodian an authorized official of the institution may be designated to act for him, signing all property papers, etc., in the following manner:

_____ University
By Richard Roe,
For and in the absence of John Doe, Military Property Custodian

(Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.36 *Requisitions.*—Requisitions for articles authorized in Reserve Officers' Training Corps equipment tables herein should be prepared on W. D., Q. M. C. Form No. 400 (Requisition), and the original copy under heading, "Requisitioned by" will be signed with the name of the institution followed by the word "by" and the name and title of the military property custodian, in the following form:

_____ University
By John Doe,
Military Property Custodian.

Requisitions will be prepared in triplicate; the triplicate copy retained by the requisitioning officer as a follow-up, and the original and duplicate copy forwarded by the institution direct to the corps area commander for approval and transmission to the supplying agency. Chiefs of supply arms or services may in their discretion require additional copies to be made and distributed in order to provide additional records by them in connection with the issue of property under their control. Separate requisitions will be prepared for supplies stored and issued by the different supply arms and services (ordnance, quartermaster, etc.). Requisitions will be numbered serially by the originating office in one consecutive series for each fiscal year, starting with No. 1 for the first requisition submitted on or after July 1 of each year. Requisitions will be submitted at least 30 days in advance of the time when the supplies will be needed. Requisitions for uniforms and clothing should be submitted when practicable at least 60 days in advance of time required. This applies particularly to colleges and schools west of the Mississippi River since the point of supply is the Philadelphia Quartermaster Depot, Philadelphia, Pa.

Equipment and supplies will be issued with or without reimbursement from appropriations for the Reserve Officers' Training Corps in accordance with instructions furnished from time to time by the chiefs of supply arms and services. Such flat rate percent as measures the actual cost of issue is authorized to be charged, in connection with issues to the Reserve Officers' Training Corps, under the appropriation for quartermaster supplies, etc., Reserve Officers' Training Corps. See 2 Comp. Gen. 304.

All requisitions for clothing will contain the following certificate:

I hereby certify that the articles called for herein are not in excess of Tables of Allowances published in AR 145–20, or elsewhere, and that these students are not on a commutation basis.

_____
(Signature of Professor of Military Science and Tactics)

(Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.37 *Acting quartermasters and disbursing officers.*—The issuance of bills of lading and transportation requests and the handling of finance matters for institutions will ordinarily be the responsibility, respectively, of quartermasters and finance officers at corps area headquarters. Acting quartermasters and disbursing officers may, when necessary, be appointed at institutions by the corps area commander concerned. Whenever acting quartermasters are appointed, the corps area commander will furnish two copies of the appointment order to The Quartermaster General. The duties of acting quartermasters or disbursing officers at institutions may include assistance to the military property custodian of the institutions in the preparation of requisitions, reports, returns, and other documents as required by the War Department. These duties will be in addition to those of instructor, which are considered to be of paramount importance. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.38 *Bonds.*—(a) All property and equipment issued to an educational institution, except clothing and expendable articles and articles specifically exempted, must be covered by bond. The organization of a unit having been authorized and an officer having been detailed, the institution will submit a requisition for the property which it is authorized to receive. Such requisition will be submitted on the proper form to the corps area commander. With this initial requisition will be forwarded the following papers:

(1) A copy of the resolution or bylaw indicating the authority of the president or other designated officer to execute the bond on behalf of the corporation and designating the officer who will act as military property custodian, and authenticated as a true copy by the signature of the secretary and by the corporate seal.

(2) A copy of the charter or articles of incorporation, authenticated by the secretary of state or other officer required by law to keep a record of such corporations, or a reference to the statute, if incorporated by direct legislative act.

(b) Upon receipt of properly authenticated initial requisition, the corps area commander will forward a blank bond to the institution. This bond should be properly executed by the person indicated in the bylaws or resolution as vested with such authority, and should cover completely the value of the property to be issued. Should this bond become insufficient by reason of subsequent issues, adequate additional bond or bonds will be required.

(c) The surety on the bond may be either any corporation authorized by the Secretary of the Treasury to act as surety, or two responsible individuals who shall be citizens of the United States, or by United States bonds or notes.

(d) For exceptions to the requiring of surety, see paragraph (m) below.

(e) Individual sureties will justify in sums aggregating not less than double the penalty of the bond, and no individual should be accepted as surety who does not justify in a sum equal at least to 50 percent of the penal sum of the bond. Each individual surety will justify, under oath, before a United States commissioner, a clerk of a United States court, or a notary public, or some other officer having authority to administer oaths generally, and his affidavit of justification will be in the following form:

AFFIDAVIT BY INDIVIDUAL SURETY

STATE OF ----------
County of ----------, *ss:*

I, ----------, being duly sworn, depose and say that I am one of the sureties to the foregoing bond; that I am a citizen of the United States, and of full age and legally competent; that I reside at ---------- and that I am worth in real estate and personal property the sum of ------ dollars, over and above (1) all my debts and liabilities, owing and incurred; (2) any property exempt from execution; (3) any pecuniary interest I have in the business of the principal on said bond; that I own, unincumbered, real estate, the fee of which is in my name, worth ------ dollars, located in ----------; that said property is not exempt from seizure and sale under any homestead law, community, or marriage law, or upon any attachment, execution, or judicial process; and that I am not surety on any other bonds, except as follows:

(Surety's signature)

Subscribed and sworn to before me this -------- day of ---------- 19--.

[OFFICIAL SEAL]

(Title of official administering oath)

(f) The affidavits of individual surety will be followed by a "certificate of sufficiency" as to each individual surety, signed by a judge or clerk of a court of record, a United States district attorney or commissioner, or the president or cashier of a bank or trust company, in the following form:

CERTIFICATE OF SUFFICIENCY

I, ----------, do hereby certify that ---------- one of the sureties named above, is personally known to me, and that, to the best of my knowledge and belief, the facts stated by such surety in the foregoing affidavit are true.

(Address)

(g) A firm, as such, will not be accepted as a surety, nor a partner for copartners or for a firm of which he is a member. Stockholders or a corporate principal may be accepted as sureties provided their qualifications as such are independent of their stock holdings therein.

(h) The name (first name, middle name, and last name) and resident of each individual party to the bond will be inserted in the body thereof, and each such party will sign the bond with his usual signature on the line opposite the scroll seal, and if signed in Maine or New Hampshire, an adhesive seal will be affixed opposite the signature.

(i) If the principals are partners, the names of the individual partners will appear in the body of the bond, with the recital that they are partners composing a firm operating as the (name of the educational institution), and all the partners will execute the bond as individuals.

(j) If the principal is an individual, the bond will be executed by him in his proper person and signed with his usual signature.

(k) The signature of a witness will appear in the appropriate place, attesting the signature of each individual party to the bond.

(l) If principal or surety is a corporation, the name of the State in which incorporated will be inserted in the appropriate place in the body of the bond, and said instrument will be executed and attested under the corporate seal as indicated in the form. If the corporation has no corporate seal the fact will be stated, in which case a scroll or adhesive seal will appear following the corporate name.

(m) Corps area commanders may legally authorize the acceptance of bonds to cover property issued to an institution of the three classes mentioned below without requiring a surety or sureties thereto when, upon a satisfactory showing of its financial responsibility, the bond of the principal without surety is deemed ample to provide for the care and safekeeping of the property and for its return when required:

(1) State universities operating under State charter.

(2) Institutions directly under the control of municipalities.

(3) Institutions which are corporations.

(n) The bond must be accompanied by a true copy, authenticated by the signature of the secretary and the corporate seal, of so much of the record of the proceedings of the board of regents, or other governing body of the principal, as will give the resolution or bylaw authorizing the president or other person to execute the bond, and as will show that it was adopted.

(o) The bond will be accompanied by a certificate of the corporate principal's secretary in the following form:

I, ----------, certify that I am the ---------- secretary of the corporation named as principal in the within bond, that ----------, who signed the said bond on behalf of the principal was then ---------- of said corporation; that I know his signature, and his signature is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

[CORPORATION SEAL]

(p) The bond, when duly executed, will be returned to the corps area commander, in whose custody it will be retained and who will assure himself as to the sufficiency of the sureties thereon before acceptance. No bond will be accepted until it shall have been examined and approved by the corps area judge advocate as to legal sufficiency, form, and correctness of execution. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.39 *Fire insurance.*—An institution is not required to carry fire insurance. Whether or not the institution carries insurance on its Government property will not modify its pecuniary obligations for losses by fire which may result from neglect or loss through fault of the institution. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.40 *Execution of bills of lading and receipt of property.*—(a) As soon as requisitions are received and a bond covering full value thereof has been approved, the requisitions will be approved and forwarded to the proper depot for supply. Shipments will be made on Government bills of lading and will be consigned and billed to the "Military Property Custodian (insert name of institution)" in the manner prescribed in AR 30–950. Upon receipt of a shipment the military property custodian will accomplish the original bill of lading, in the name of and in behalf of the institution, and surrender it to the agent of the carrier, and in so doing will comply with the detailed instructions in paragraphs 24 to 34, inclusive, AR 30–950. In no case will the transportation charges on such shipments be paid by the institution.

(b) When a shipment of property is received it will be checked against the shipping tickets and the shipping tickets distributed as directed by these regulations. Should any discrepancies be found, the words "except as noted" will be inserted in the receiving officer's receipt, and W. D., Q. M. C. Form No. 445 (Over, Short, and Damaged Report) will be initialed.

(c) When property is returned to the Government, six copies of W. D., Q. M. C. Form No. 434 (Shipping Ticket (posts, camps, and stations)) will be prepared and routed as follows:

(1) Two to the receiving officer. (One copy will be signed and returned by the receiving officer as a receipt, and will be used by the institution as a voucher for dropping property from its records.)

(2) Two to the finance officer of the corps area in which the receiving officer is located.

(3) One to the corps area Reserve Officers' Training Corps officer.

(4) One filed with property records as a follow-up. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C., 389.) [AR 145–20, July 1, 1938.]

SEC. 10.41 *Drayage*—(a) *Facilities for.*—When notice has been received that Government property has been shipped to an institution, arrangements should be made by the military property custodian for the necessary drayage, in the manner prescribed by paragraph 12, AR 30–905, and paragraph 5c and d, AR 30–950. When delivery services of the carriers are not available, or if available and practicable and the military property custodian exercises the option of performing his own hauling, the drayage facilities of the institution should be used, but if the latter are not available, the military property custodian should formally request the professor of military science and tactics to effect the hauling by Government drayage facilities if available.

(b) *No facilities for.*—If, under the provisions of paragraph (a) above, no delivery services of the carriers are available, or no institutional or Government drayage facilities are available in case where the military property custodian exercises the option of performing his own hauling, he should request bids from local firms for performing the necessary drayage. The lowest responsible bid should be accepted, and the drayage services procured by means of an agreement, or a Purchase Order (W. D., Q. M. C. Form No. 308). When such services have been completed, the drayage firm should be advised to state its bill in triplicate on Standard Form Nos. 1034 and 1034a (Public Voucher for Purchases and Services Other than Personal), supported by the original agreement or purchase order. A certificate should be made by the military property custodian and attached to that form certifying that the services were performed, the necessity for the services, the weight of the property hauled, the distance hauled, the period of time required, the bill of lading reference, and that the lowest responsible bid was accepted. The executed voucher in duplicate and supporting papers should be submitted promptly to the professor of military science and tactics for approval and transmittal to the corps area commander for action toward payment. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.42 *Payments of commutation of subsistence to members of units, senior division.*—(a) All members of the senior division of the Reserve Officers' Training Corps duly enrolled in the advanced course are entitled to the commutation of subsistence authorized by section 47c, National Defense Act (41 Stat. 778), as amended by the act approved May 12, 1928 (45 Stat. 501), subject to the conditions prescribed by law and these regulations.

(b) The rate of commutation of subsistence for advanced-course students will be fixed from time to time by the Secretary of War, at a figure not exceeding the cost of the garrison ration prescribed for the Army.

(c) Allowance of commutation will begin in each instance with the date on which the student actually enters upon the work of the advanced course, which date should be the effective date of the advanced-course contract, and will continue until completion or termination of the contract, except as hereinafter provided. Commutation will not be allowed for any period in excess of two calendar years nor for any period in excess of two academic years plus one intervening summer vacation between such years, less the period of prescribed camp training during such vacation. Payment of commutation for the authorized portion of a summer vacation period will not be made until after the student has entered upon the second year of the advanced course. In computing the amount of such payment there will be deducted that portion of a summer vacation period which was devoted to advanced camps for members of the student's arm or service and during which subsistence was furnished, whether the student actually attended camp or not. In the event that the academic class of which the student is a member is continued beyond the date of opening of the camp, he will continue to be allowed commutation during the period he is so held. The summer vacation for which commutation will be allowed will in every case be that next following the school year during which the student entered upon the work of the first year of the advanced course at the institution. For each unauthorized absence from an hour of instruction as defined in paragraph (k), section 10.22, the sum of 50 cents will be deducted from the student's next payment of commutation. Commutation will not be allowed for any period during which the student is not pursuing the course, except the authorized portion of one summer vacation period above defined. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.43 *Care of uniforms and equipment*—(a) *Clothing issued to remain property of the United States.*—Articles of issued clothing will remain the property of the United States. When articles of clothing become unfit for use at regular drills and ceremonies, the professor of military science and tactics will furnish a certificate to that effect and a new article will be furnished the institution. No more than one outfit of uniform clothing per member of the Reserve Officers' Training Corps unit will be furnished to any educational institution in one year. No more than two of any article of clothing per member of the Reserve Officers' Training Corps unit will be in possession of any institution at one time, except cotton shirts, and as provided in paragraph (e) below. It is not intended that one complete outfit of new clothing will be issued for each Reserve Officers' Training Corps student per year, but that articles of clothing will be replaced only when worn out and unfit for use at regular drills and ceremonies. Articles of clothing worn out, but fit for rough wear, and for the replacement of which new uniforms have been received, may be retained at the institution, but not more than two of any article of clothing per member of the Reserve Officers' Training Corps unit will be in the possession of any institution at one time. No new uniforms will be issued until all used uniforms have been issued insofar as sizes permit. Clothing will not be turned in to salvage unless it is unserviceable and unfit for renovation and reissue.

(b) *Cleaning and renovation allowance for uniform.*—Cleaning and renovation of uniform clothing issued by the Government will be accomplished under contract at the lowest possible rate. Cleaning and renovation of uniforms purchased from commutation of uniform funds will not be done at Government expense.

(c) *Equipment to be turned in at close of school year.*—At the close of each school year each member of the Reserve Officers' Training Corps will return to the storerooms indicated by the military property custodian of the institution all property which has been loaned to him for use in connection with the Reserve Officers' Training Corps. Rifles will be carefully cleaned and well oiled with heavy cosmic oil so that all metal parts are thoroughly protected. Canvas equipment will be thoroughly cleaned with stiff brushes and otherwise placed in proper condition before being turned in. All articles of uniform of those who expect to return the next year will be thoroughly brushed and carefully tagged for ready identification. These uniforms should then be carefully packed with preservatives against moths and stored in such dry and well-selected place as to prevent their destruction. Uniforms of the students who do not expect to return to the institution will be carefully brushed and packed separately without being tagged.

(d) *Preservatives furnished upon requisition.*—Necessary preservatives will be furnished to institutions upon requisition in such quantities as are approved by the corps area commander but which will not exceed similar issues to the Regular Army.

(e) A surplus of uniforms not to exceed 10 percent of the number of basic students enrolled may be kept on hand. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.44 *Care and safekeeping of arms, ammunition, and equipment.*—The authorities of institutions are responsible for the care and safekeeping of arms, ammunition, and equipment which have been issued to them and are charged with seeing that proper precautions are taken to prevent arms, ammunition, and equipment from being improperly used and from falling into the hands of irresponsible persons. Corps area commanders are charged with supervision of the execution of War Department regulations and orders affecting such property. Professors of military science and tactics will advise the school authorities regarding all such regulations and orders and in case of noncompliance therewith will report all facts to the corps area commander. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat.

777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.45 *Property accounting*—(a) *Assistance in the preparation of requisitions, etc.*—In accordance with section 10.37, an officer of the Regular Army may assist the authorities of the institution in the preparation of requisitions, reports, and returns required by the War Department. In order that they may assist and instruct the military property custodians in the care of property and the proper methods of accounting therefor, all officers of the Regular Army on duty at schools and colleges will familiarize themselves with the regulations relative to accounting for Government property issued to those institutions.

(b) *Institutions to keep necessary property accounts.*—It will be necessary for the institutions to which public property is issued to keep the necessary property accounts as required by Army Regulations. It is therefore desired that the military property custodian immediately inaugurate such an account, in accordance with existing regulations, and call upon the professor of military science and tactics, or other officer designated by him, for such advice as may be desired in the initial preparation and subsequent keeping of the account.

(c) *Property records.*—A record of all Government property issued to institutions will be kept as provided in Army Regulations.

(d) *Debit and credit vouchers.*—All debit and credit vouchers should be promptly posted to the stock record account and the account kept up to date. When certificates of audit showing discrepancies found by a property auditor in the property accounts of the institution are received, adjustment of the discrepancies should be made as soon as practicable.

(e) The professor of military science and tactics will keep in touch with the methods employed by the military property custodian of the institution who is accountable for the Government property thereat, and will take appropriate measures, when necessary, to bring these methods into conformity with the regulations. This will include accounts covering commutation of uniforms.

(f) *Inventories.*—(1) *By whom and when made.*—Inventories of all Government property at each institution will be made at least once each year by the military property custodian. These inventories will be made during the period between the close of the spring term of one academic year and the opening of the fall term of the following academic year. Personnel of the Regular Army on duty at the institution will assist in making this inventory. The result of such inventory and also the balances appearing on the stock record account will be entered, segregated according to supply arms or services, on the form prescribed in paragraph (2) below (in duplicate), the original of which will be certified as correct and forwarded to the corps area commander. The duplicate copy will be retained by the institution authorities.

(2) *Form.*—The report of inventory and stock record balances will be prepared by the military property custodian in the following form:

_____
(Place and date)

Subject: Certified report of inventory and balances on stock record of public property at _____
(Designation of institution)

To Commanding General _____ Corps Area.

Articles	Stock record balances	Inventory balances	Overages	Shortages

I certify that the above report is correct:

_____
(Signature)

_____
(Military property custodian)

(g) *Overages to be taken on stock record account.*—Any overages disclosed by the inventory will be taken up on the stock record account of the institution on W. D., Q. M. C. Form No. 445 as "Found at school." Report of survey will be initialed to cover all shortages disclosed by the inventory unless the authorities of the institution acknowledge liability for the loss and make payment therefor as contemplated in section 10.46, paragraph (e). (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.46 *Unserviceable and lost property surveys, etc.*—(a) Government property worn out or damaged by fair wear and tear incident to the use of the property in military instruction prescribed or authorized by the Secretary of War will be replaced at the expense of the United States. Such property may be dropped from the institution's accountability records on an approved survey report or inventory and inspection report. In event the survey report or inventory and inspection report designates the unserviceable property to be shipped to a depot or arsenal for salvage or repair, such property will be dropped only on the receipted shipping ticket on which it is shipped to the depot or arsenal. The survey report or inventory and inspection report authorizing its shipment will be attached to the receipted shipping ticket.

(b) Property lost, destroyed, or damaged by fire, flood, theft, tornado, or other similar causes, without fault or neglect on the part of the institution, its servants or employees, or any members of its Reserve Officers' Training Corps, will be replaced at the expense of the United States. To determine whether such loss, destruction, or damage was without fault or neglect on the part of the institution, its servants or employees, or members of its Reserve Officers' Training Corps, a survey will be made. The surveying officer will be appointed by the corps area commander.

(c) The professor of military science and tactics will report to the proper authorities of the institution in writing any facts, circumstances, or conditions which he believes to be prejudicial to the proper protection of Government property against loss through fire, flood, theft, tornado, or other similar causes. In the event that proper attention is not paid to such communication, report will be made to the corps area commander. Access to all such reports will be afforded to surveying officers appointed under provisions of paragraph (b) above.

(d) Inspectors visiting Reserve Officers' Training Corps units will include within the purview of their inspections the precautions taken by institutions, their servants and employees, to protect Government property from loss, destruction, or damage by fire, flood, theft, tornado, or other similar causes. In the case of each such inspection the inspector will submit a report to the corps area commander stating whether or not every reasonable precaution is being observed. In case an unfavorable report is submitted, the defects will be stated in detail and a copy will be furnished to the head of the institution concerned. Access to all reports made hereunder will be given to surveying officers appointed under the provisions of paragraph (b) above.

(e) All other losses or damages of Government property for which the institution is accountable will be replaced by the institution or reimbursement will be made to the United States in the full value of the property lost or damaged. In such cases if the authorities of the institution acknowledge liability for the loss or damage a survey will not be necessary and the account may be cleared by forwarding through corps area headquarters to the Chief of Finance, Washington, D. C., a check for the full value of the property shortage or damage, with an itemized list in duplicate of the articles grouped by classes for which payment is being made. The duplicate copy of the list will be retained at corps area headquarters and placed in the property auditor's file. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389). [AR 145–20, July 1, 1938.]

SEC. 10.47 *Waste material and salvage property*—(a) *Property in general.*—The military property custodian will prepare shipping tickets and ship waste material and salvage property to himself as "acting salvage officer," thereby enabling him to have the necessary shipping tickets to support his property account.

(b) *Classification of waste material.*—Waste material will be classified as directed in AR 30–2145. Separating unserviceable property in accordance with the standard classification greatly increases its market value and assists buyers unable to make physical inspection to form a better estimate of the value of the property on which they are invited to bid.

(c) *Unserviceable articles.*—Unserviceable articles, not to be reclaimed, will be turned in to salvage as directed in Army Regulations.

(d) *Record of waste materials received for salvage.*—A record of all property and waste materials received for salvage will be maintained in such a manner that any inspecting officer may be able to trace salvage from the date it is received to the date of sale or other disposition thereof. The record will show the source from which received, namely, expendable list, survey, inventory and inspection report, or statement of charges. When articles are disposed of by utilization, by issue to organizations, depots, or other services, or by sale, proper notation of disposition will be made.

(1) Professors of military science and tactics will personally supervise the matter of classification, the record of receipt, and the disposition of salvage materials.

(2) A considerable quantity of material arrives in salvage which has never been accounted for, such as brass shells from target practice, empty barrels, etc. These articles are very valuable. Professors of military science and tactics will cause them to be turned over to the acting salvage officer, who will take them up on the record herein prescribed.

(e) *Disposition of waste material and salvage property other than sale*—(1) *Transfer to depots, etc.*—If for any reason disposition by sale is deemed inadvisable, property may be transferred to a depot or local quartermaster designated by the corps area quartermaster, provided transfer can be made by Government truck or at the expense of the institution involved.

(2) *Shipment on Government bill of lading.*—Shipment on Government bill of lading will not be made without express authority therefor.

(f) *Disposition of waste material and salvage property by sale*—(1) *Authorized methods of sale.*—See section 3.56.

(2) *Circular advertisements and proposals.*—Copies of W. D., Q. M. C. Form No. 328 (Circular Proposal—Sale of Waste Material) will be furnished all professors of military science and tactics from the office of the corps area quartermaster upon requisition on W. D., Q. M. C. Form No. 400.

(3) *Distribution of circular advertisements.*—Six copies of each circular advertisement and proposal covering the sale of waste materials and salvage property will be furnished The Quartermaster General at time distribution thereof is made to prospective purchasers and bidders from stations within the continental limits of the United States except Alaska, and two copies from stations in the three departments beyond the continental limits of the United States, Alaska and Puerto Rico.

(4) *Sealed bids.*—(i) Sale will be made to the highest bidder on sealed proposals, on due public notice, and in such market as the public interest may require.

(ii) Bids will be abstracted on War Department Forms Nos. 14 (Abstract of Bids) or 29 (Abstract of Bids (long form)) and forwarded, in triplicate, directly to the corps area quartermaster. Upon notice of award from that office the successful bidder will be informed and after the purchase price has been paid, delivery will be made "As is, Where is," without expense to the Government for handling or for transportation.

(5) *Payments.*—When payments are made by check, only certified checks will be accepted. Receipts from sales will be forwarded to the corps area quartermaster.

(i) *Deposits of unsuccessful bidders.*—Deposits of unsuccessful bidders will be returned when the award is made.

(ii) *Sale by negotiation.*—Sales by negotiation will not be resorted to unless the property involved has a sale value of less than $500, and then only after it has been offered at least twice, either on sealed proposals, or at public auction, or both, except as below for sale of rags. Where, in the opinion of the quartermaster, salvage property having a sale value of, or in excess of, $500 should be sold by negotiation owing to the fact that neither of the two prescribed methods had yielded satisfactory prices, the matter will be referred to The Quartermaster General for instructions before final action is taken.

Sales of rags may be made to any vocational training activity of the Government as required for use in the manufacturing of rag rugs as a part of such training, at the prices shown on the latest issue of the Quarterly Current Price List Bulletin, issued by The Quartermaster General, plus cost involved for packing, handling, and transportation. Before the material is delivered or shipped to the buyer, payment will be made to the shipping quartermaster who will transmit the proceeds to the finance officer for deposit to the credit of miscellaneous receipts.

When approved by The Surgeon General, public animals suffering from periodic ophthalmia may be sold by negotiation to recognized medical educational institutions for purposes of observation and treatment to relieve suffering and to determine the cause of and cure for this disease. All costs accruing from transportation and delivery to purchaser of any animal thus disposed of will be paid by the purchaser. Before animals are delivered or shipped to the buyer, payment will be made to the shipping quartermaster who will transmit the proceeds to the finance officer for deposit to the credit of miscellaneous receipts.

(iii) *Sales to officers, enlisted men, and civilian employees.*—Sales to officers, enlisted men, and civilian employees will not be made.

(iv) *Reports.*—Report of each sale will be made by the acting salvage officer on War Department Form No. 325 (Account of Sales of Public Property at Public Auction or on Sealed Proposals) in quintuplicate (one copy of Form No. 325 will be attached to the abstract of bids, marked "For The Quartermaster General") and, together with the proceeds of the sale, will be forwarded to the corps area quartermaster by the professor of military science and tactics.

The copy of War Department Form No. 325 marked "For The Quartermaster General," attached to the copy of the abstract of bids, constitutes the report of the sale to be made to The Quartermaster General, and will be forwarded to him by the corps area quartermaster. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.48 *Commutation in lieu of uniforms*—(a) *General.*—(1) Institutions having senior divisions of the Reserve Officers' Training Corps units may be paid commutation for such units in lieu of the issue of Government uniforms in kind, if they so elect, under the conditions hereinafter prescribed; but no institution will be permitted to draw commutation for some units or individuals and uniforms for others; except that institutions maintaining senior units may be authorized to draw commutation for students in the advanced course and for basic course members of a duly constituted band, and uniforms for the other basic course members.

(2) Institutions which elect to draw commutation will not be entitled to draw any articles of uniform from the Government for students for whom commutation is drawn. Institutions which elect to draw uniforms in kind for students in a course will not be permitted to draw commutation for such students during that school year.

(3) Commutation cannot be drawn for the purpose of purchasing from the Government articles of uniform which are authorized for issue to the Reserve Officers' Training Corps.

(4) Commutation is payable only if it is used to provide a suitable uniform. If an olive-drab uniform is adopted, basic students will be required to wear the distinctive lapel of sky blue as prescribed in tables of allowances.

(b) *Annual allowance.*—The rate of annual commutation allowed for Reserve Officers' Training Corps students for each year will be prescribed from time to time by the Secretary of War. A rate so prescribed for a training year will apply for the nine months' school calendar ending with the close of the term, semester, or other major subdivision of the school calendar which ends nearest to June 30. The expression "training year" or "school year" as used in this paragraph will be so construed.

(c) *Payment.*—(1) Should an institution desire commutation of uniforms at the rate and under the conditions herein

prescribed for its Reserve Officers' Training Corps students, the head of the institution or the duly authorized representative thereof will request authority from the corps area commander not later than the end of the academic year preceding the one in which they desire to receive such commutation. The application will state the total probable number of students in a course for which commutation is desired. This request, if approved by the corps area commander, will be promptly forwarded to The Adjutant General for final action.

(2) Institutions authorized to draw commutation will provide the uniforms for the students at a cost not less than the amount of commutation, and when they have been delivered to the students, Standard Form No. 1034 (Public Voucher for Purchases and Services Other Than Personal), will be duly accomplished as follows:

The United States, Dr., to_____
(Name of institution)

Address_____

For commutation of uniforms at (institution) for students of the Reserve Officers' Training Corps in attendance during the school year (_____) under the provisions of section 47, National Defense Act, as amended.

Due institution on this voucher for _____ students, viz, first year basic, _____; second year basic, _____; first year advanced, _____; second year advanced, _____; enrolled in R. O. T. C., $_____.

I certify that the above commutation has been expended for the purchase, repair, or replacement of uniforms for Reserve Officers' Training Corps students, in accordance with the regulations prescribed by the Secretary of War, and that such uniforms have been delivered to the students for the use for which intended by said regulations.

RICHARD ROE,
Captain, 1st Infantry,
Acting Quartermaster.

(*On duty at the above-named institution.*)

I certify that the above bill is correct and just and that payment therefor has not been received.

Per_____,
Title_____

Payee_____
(Name of institution)

Approved for $_____

_____,
Title_____

In irregular cases of individual students who enroll, withdraw, and subsequently reenroll, a statement under the following captions over the signature of the institutional authorities will be submitted as a supporting inclosure to Standard Form No. 1034:

Name of student	Course, basic or advanced	Date of enrollment	Date of withdrawal	Date of re-enrollment	Amount claimed on this voucher	Remarks

Certified correct.

Approved for $_____

_____
(P. M. S. & T.)

_____
(Title) Registrar

(3) Institutions once authorized to receive commutation need not repeat the request for subsequent years, but each year will furnish a statement of the total number of students in a course for which commutation is desired.

(4) At the close of each training year final settlement will be made on the commutation basis prescribed for that training year for students not completing a full training year. For the purpose of such final settlement it will be assumed that the training year covers a period of nine months, and a student must use a uniform nine months in the Reserve Officers' Training Corps at the institution to entitle the institution to retain a year's commutation for his uniform.

(5) If a student attending an institution which is on a commutation basis withdraws before he has used his uniform the prescribed nine months of the Reserve Officers' Training Corps training year, the institution will be required to reimburse the Government in an amount determined by dividing the number of months the student was not a member of the Reserve Officers' Training Corps by the total number of months in the training year and multiplying the quotient by the authorized commutation allowance for that year. In case the student returns to the Reserve Officers' Training Corps unit in the same or a later year, commutation will be paid at the prescribed rate for the school year in which he returns only for the period he is in training in that school year. Uniforms in use on or before the last day of the calendar month following that in which the students enroll will be considered as in use two months. Uniforms purchased for use on or before the last day of the calendar month following that in which the students enroll will be considered as in use two months, provided such uniforms are, when delivered, actually used. Thereafter any period of 15 days or less will be ignored and any period of 16 days or more up to 30 will be computed as one month.

(6) Normally commutation of uniforms will be paid only on account of those students who enroll in the Reserve Officers' Training Corps on or prior to the end of the first month of a semester or other major subdivision of the scheduled school year. In exceptional cases, with the approval of the corps area commander, commutation of uniforms may be paid on account of students who enroll in the Reserve Officers' Training Corps after the termination of the first month of a semester or other major subdivision. In case a student enrolls in the Reserve Officers' Training Corps after the beginning of the training year and after the time specified above, commutation of uniform will be paid at the prescribed rate for that school year only for the period he is in training in that school year. Payment will be made as soon as practicable after the end of the first month of the school year for students then enrolled. Payment of the pro rata amount due for students enrolling thereafter will be made in connection with the final settlement at the close of the school year.

(7) Institutions will keep a record, by name, of all students for whom commutation of uniforms is drawn, and a record of disbursements made. Such records must be available for inspection by the professor of military science and tactics or other War Department representative.

(8) When a student has fully completed the training, the financial obligation of the institution as respects such student is satisfied. All allowances will be expended so as to enhance the quality and quantity of the uniforms and so as not to constitute a source of profit to anyone. Under no circumstances will institutions derive profit from payment of commutation of uniforms or use such funds for other purposes than those for which intended.

(d) *Responsibility for uniforms.*—The commutation of uniforms will be paid to the military property custodian or other official appointed by the institution to receive the funds who becomes responsible that the general regulations pertaining to this method of supplying uniforms are observed, that the uniforms are purchased to the best advantage, and that the individual students are properly uniformed and observe their obligations with reference thereto. No money paid to an institution as commutation will be used for the benefit of any student not in the Reserve Officers' Training Corps. (Ses. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.49 *Purchase of equipment, etc.*—Any institution maintaing a unit of the Reserve Officers' Training Corps may purchase from the Government any articles of authorized equipment and general office supplies that they may require for the operation of the Reserve Officers' Training Corps unit by making requisition therefor on W. D., Q. M. C. Form No. 400, certified by the professor of military science and tactics to the corps area commander. Overhead charges will be applied to such purchases as in the case of issues. This authority does not authorize the purchase of subsistence stores by educational institutions. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.50. *Shoeing of animals issued to units.*—The Government animals issued to units will be shod by the enlisted detachment on duty therewith unless the institution provides for this

work to be done by its agencies without expense to the Government. Animals will not be shod by contract at the expense of the Government without the specific authority, secured in advance, of The Adjutant General. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

NOTE.—Tables of allowances for clothing and equipment are published in AR 145–20.

SEC. 10.51 *Annual allowances of stationery and duplicating supplies.*—An annual monetary allowance of stationery and duplicating supplies for the Reserve Officers' Training Corps of $30 for senior units and $15 for junior units is authorized. If necessary, corps area commanders may increase this allowance to meet actual needs. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.52 *Expendable motor-vehicle supplies authorized for units equipped with motor vehicles.*—Requisitions for expendable motor-vehicle supplies, including spare parts for use by Reserve Officers' Training Corps units equipped with motor vehicles, will be submitted quarterly to the corps area commanders. Such requisitions will be accompanied by a brief statement of the anticipated training projects or other necessities upon which the requisition is based. In acting upon such requisitions, corps area commanders will be governed by general instructions from the War Department relative to availability of funds, supplies, etc. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.53 *Colors and standards.*—(a) Educational institutions at which units of the Reserve Officers Training Corps are established are authorized to provide, without expense to the Government, colors or standards for use of such units, provided that the proposed designs of such colors or standards are submitted to the War Department for approval before adoption.

(b) The seal or device of the institution should be used in lieu of the eagle and regimental coat of arms as prescribed for regiments of the Army. Army Regulations governing the description and use of flags, colors, standards, and guidons for the Army will, whenever applicable, govern the use of these colors and standards. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.54 *Issue of textbooks and reference books.*—(a) *Reference library.*—(1) The department of military science and tactics at each educational institution maintaining one or more units of the Reserve Officers' Training Corps will establish and build up by such means as may be available a military reference library containing copies of such books, documents, etc., as are required for study and reference in connection with the prescribed Reserve Officers' Training Corps courses of instruction, together with such other books, documents, and maps as would increase the military value of such a library.

(2) The following publications will be issued without charge by the War Department:

(i) To each educational institution maintaining one or more units of the Reserve Officers' Training Corps for the official file of the professor of military science and tactics—

One set of all Army Regulations.
One set of all training publications listed in TR 1–10.
One Field Service Regulations.
One Manual for Courts-Martial.

(ii) For the reference library of each educational institution maintaining one or more units of the Reserve Officers' Training Corps for each unit in the institution—

One set of all training publications listed in TR 1–10 pertaining to the unit.
One Field Service Regulations.
One Manual for Courts-Martial.

(3) If funds are available, upon requisition submitted to The Adjutant General through the corps area commander, who will state the procurement authority applicable, one set of all training publications prescribed in TR 1–10 for noncommissioned officers of the arm or service concerned will be furnished for every ten students of that arm or service regularly enrolled at the institution. Other War Department documents and additional copies of those listed in paragraph (2) above will also be furnished for the reference library and for the use of the professor of military science and tactics. Textbooks will not be furnished to each student from ROTC funds.

(4) Additional copies of textbooks, manuals, documents, maps, etc., can be bought by the institution from the Superintendent of Documents, Government Printing Office, Washington, D. C., and from the general and special service schools. Price lists will be furnished by these agencies upon request.

(b) *Accountability for publications.*—(1) Publications issued under the provisions of paragraph (a) (2) above will be accounted for as follows:

(i) Each institution will be held accountable to the War Department for the official publications issued to it. Any shortage of such publications, other than that resulting from "fair wear and tear," must be made good by replacing them through purchase from the Superintendent of Documents, Government Printing Office, Washington, D. C. Such publications as are thought to be unserviceable through "fair wear and tear" should be submitted to the representative of the corps area commander when making an inspection of the military department of the institution. His action on the publication will be final and disposition will be made as he directs. He will furnish the institution with a certificate indicating by title and quantities the disposal of the publications, which certificates will be filed by the institution as a voucher to W. D., A. G. O. Form No. 0182 (Inventory of Books).

(ii) When publications become obsolete the War Department will so inform the institutions and will direct the disposition to be made of such publications.

(iii) An inventory of publications will be rendered to The Adjutant General in duplicate on W. D., A. G. O. Form No. 0182 upon the relief of a professor of military science and tactics.

(2) Publications furnished under the provisions of paragraph (a) (3) above will be accounted for as required by section 10.45. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

SEC. 10.55 *Tabards.*—(a) A tabard is a banner of silk or other suitable material hanging from the crook of the trumpet, to which it will be attached by two silk cords with an acorn at each end. The length of the cords will be 36 inches. The tabard will be 14 inches in height by 9½ inches in width.

(b) Designs of tabards may be made in either of the following ways, but both designs will not be used in the same band:

(1) The tabard base will be of the color of the facings of the arm or service and on it will be embroidered the institution's seal or device. No lettering will appear on the tabard except that which may be part of the seal or device. The color of the cord and acorns will be that of the facings of the arm or service, except when the facings are of two colors, in which case the acorns will be of the piping color.

(2) An alternative design will be in the colors of the college; two colors will be arranged so that the parting line will be in the horizontal center; three colors will be arranged so that the parting lines will divide the tabard into thirds horizontally, etc., and the seal or device will be embroidered as in paragraph (1) above. The color of the cord and acorns will be that of the college, two colors will be intermixed, etc.

(c) Tabards will be alike on both sides, but reversed with respect to the observer as prescribed for flags, colors, standards, and guidons; a diagonal band from the upper left to the lower right corner will appear to an observer on the opposite side to extend from the upper right to the lower left corner.

(d) If tabards are desired, the expense must be borne by the institutions as public funds are not available for this purpose.

(e) A blue print of the method of manufacturing tabards may be secured by applying to the office of The Quartermaster General. (Sec. 47, 39 Stat. 192; sec. 34, 41 Stat. 777; 10 U. S. C. 389.) [AR 145–20, July 1, 1938.]

[SEAL] FRANK C. BURNETT,
Brigadier General,
Acting The Adjutant General.

[F. R. Doc. 38–2524; Filed, August 29, 1938; 9:53 a. m.]

SPECIAL REGULATIONS TO GOVERN THE OPERATION OF THE TEXAS AND PACIFIC RAILWAY COMPANY BRIDGE ACROSS BAYOU LAFOURCHE, AT A POINT 91.6 MILES ABOVE ITS MOUTH, NEAR NAPOLEONVILLE, LOUISIANA

Supplemental to rules and regulations to govern the operation of drawbridges crossing all navigable waters of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries.

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

Here follows in the original document the text of section 5 River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 1056 (DI).

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of the drawbridge of the Texas and Pacific Railway Company across Bayou Lafourche, at a point 91.6 miles above its mouth, near Napoleonville, Louisiana.

1. The owner of, or agency controlling, the bridge will not be required to keep a draw tender in constant attendance at the above named bridge.

2. Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given, by telephone or otherwise, to the agent of The Texas and Pacific Railway Company Ltd., at Napoleonville, La., or to a designated representative.

3. Upon receipt of such notice, the authorized representative specified herein, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owner of, or agency controlling, the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge in a manner that it can easily be read at any time a copy of these regulations together with a notice stating exactly how the representative specified in paragraph two may be reached.

5. The operating machinery of the draw shall be maintained in a serviceable condition, and the draw opened and closed at least once every four months to make certain that the machinery is in proper order for satisfactory operation.

6. These special regulations shall take effect and be in force on and after August 15, 1938.

Approved, August 4th, 1938.

[SEAL] LOUIS JOHNSON,
Acting Secretary of War.

[F. R. Doc. 38–2523; Filed, August 29, 1938; 9:52 a. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251–24–10]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 27, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251,[1] twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[2] are hereby amended by the following regulation:

SOUTHEASTERN ALASKA AREA

Clarence Strait District

Salmon fishery.—Regulation No. 7, as amended by supplementary regulation No. 251–24–9, is hereby further amended so as to permit commercial fishing for salmon between a line extending from Narrow Point to Ernest Point and a line extending from Approach Point to Camano Point, from 6 o'clock antemeridian August 29 to 6 o'clock postmeridian August 30.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–2520; Filed, August 27, 1938; 12 m.]

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

AMENDMENT TO RULES AND REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

REPEALING APPROVAL REQUIREMENT REGARDING REQUESTS FOR FIELD EXAMINATIONS AND APPRAISALS OF APPLICANTS FOR CONVERSION

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (i) of Section 5 of the Home Owners' Loan Act of 1933, as amended (12 U. S. C. 1484 (i)), the third sentence of Section 102.020 of the Rules and Regulations for the Federal Savings and Loan System which reads as follows, is hereby repealed:

After consideration by an executive officer of the Federal home loan bank of the district in which the applicant is located, by the district examiner, and by the chief examiner, any member of the Board may approve such request, and, if approved, a field examination or appraisal, or both, will then be made by the Board.

and

Be it further resolved, That such amendment, being deemed to be of a minor and procedural character, shall become effective upon filing for publication in the FEDERAL REGISTER as provided in Section 101.002 of the Rules and Regulations for the Federal Savings and Loan System.

Adopted by the Federal Home Loan Bank Board on August 24, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2529; Filed, August 29, 1938; 11:57 a. m.]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

AMENDMENT TO RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

REPEALING APPROVAL REQUIREMENT REGARDING FIELD EXAMINATIONS AND APPRAISALS OF APPLICANTS FOR INSURANCE OF ACCOUNTS

Be it resolved, That pursuant to authority vested in the Board of Trustees of the Federal Savings and Loan Insurance Corporation by subsection (a) of Section 402 and subsection (b) of Section 403 of the National Housing Act, as amended (12 U. S. C. 1725 (a), 1726 (b)), the third sentence of subparagraph (4) of Paragraph d of Section 201.002 of the Rules and Regulations for Insurance of Accounts, which reads as follows, is hereby repealed:

A member of the Board shall approve or disapprove such request, and, if approved, a field examination and appraisal will then be made by the Examining Division.

and

Be it further resolved, That such amendment, being deemed to be of a minor and procedural character, shall become effective upon filing for publication in the Federal Register as provided in Section 201.022 of the Rules and Regulations for Insurance of Accounts.

Adopted by the Board of Trustees of the Federal Savings and Loan Insurance Corporation on August 24, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38–2528; Filed, August 29, 1938; 11:57 a. m.]

[1] 3 F. R. 451 DI.
[2] 3 F. R. 2100 DI.

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A–80 O–80]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING IN INTERSTATE AND FOREIGN COMMERCE AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS OR AFFECTS INTERSTATE OR FOREIGN COMMERCE OF PEACHES GROWN IN THE STATE OF GEORGIA

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs or affects interstate or foreign commerce, of peaches grown in the State of Georgia;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on the aforesaid proposed marketing agreement and the aforesaid proposed order regulating such handling of peaches in the Dempsey Hotel, Macon, Georgia, on September 15, 1938, at 9:30 a. m.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of peaches grown in the State of Georgia. Among other things, the proposed marketing agreement and proposed order provide for: (a) the establishment of a Control Committee, (b) regulation of shipment by grade and size, (c) establishment of maturity standards for shipment, (d) inspection of each shipment, (e) expenses of administration, and other matters relating to the handling of such peaches.

Copies of the proposed marketing agreement and the proposed order may be obtained from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

WASHINGTON, D. C.
August 29, 1938.

[F. R. Doc. 38–2536; Filed, August 29, 1938; 12:49 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

IDAHO

AUGUST 26, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Idaho State Farm Security Advisory Committee, the counties shown below are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional counties:

Bingham and Canyon.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2510; Filed, August 26, 1938; 4:12 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

WASHINGTON

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Washington[2] State Farm Security Advisory Committee, the counties shown below are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional counties:

Clark and Stevens.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2534; Filed, August 29, 1938; 12:49 p. m.]

DESIGNATION OF COUNTY FOR TENANT PURCHASE LOANS

HAWAII

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Hawaii[3] Territorial Farm Security Advisory Committee, the county shown below is hereby designated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional county

Honolulu.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2535; Filed, Aug. 29, 1938; 12:49 p. m.]

[1] 3 F. R. 109 DI.
[2] 3 F. R. 263 (DI).
[3] 3 F. R. 736 (DI).

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3546]

IN THE MATTER OF SUPERIOR CERAMIC CORPORATION

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", (the Clayton Act) as amended by an Act approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes", (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that Superior Ceramic Corporation, a corporation, is violating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Superior Ceramic Corporation, is a corporation organized and existing under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at Anderson, Indiana.

PAR. 2. Respondent corporation is now and has been since June 19, 1936, engaged in the business of manufacturing, offering for sale, selling and distributing tile. Respondent sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sales causes said tile to be shipped and transported from the place of origin of the shipment to purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such tile. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now, and during the time herein mentioned has been in substantial competition with other corporations, individuals,

partnerships and firms engaged in the business of manufacturing, selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, since June 19, 1936 respondent has been and is now discriminating in price between different purchasers buying said tile of like grades and qualities sold by the respondent in interstate commerce for use, consumption and resale, by giving and allowing some of its said purchasers of said tile lower prices than given or allowed other of its said purchasers competitively engaged, one with the other, in the resale of said tile within the United States. Said discrimination in price is brought about by the following practice and policy pursued by the respondent, to wit:

Respondent in the sale of its tile allows discounts varying at times from 5% to 15% to certain of its customers designated as wholesalers, which discounts are denied to certain other of its customers designated as contractors and commission dealers. The said designated wholesalers are in fact retailers, in that they resell said tile directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors and commission dealers.

PAR. 5. The general effect of said discriminations in price so made by respondent, as above set forth, has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondent and its competitors in the sale and distribution of tile, and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of such tile between some of the favored purchasers of said tile and some of the competitive customers dealing in said tile not receiving such favorable prices. The effect of said discriminations in price also has been, or may be, to tend to create a monopoly in respondent in said line of commerce, and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of subsection 2 (a) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 20th day of August, A. D. 1938, issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Superior Ceramic Corporation, respondent herein, that the 23rd day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the city of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 20th day of August, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2512; Filed, August 27, 1938; 11:36 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3547]

IN THE MATTER OF TRENT TILE COMPANY, INC.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", (the Clayton Act) as amended by an act approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes", (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that Trent Tile Company, Inc., a corporation, is violating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Trent Tile Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Trenton, New Jersey.

PAR. 2. Respondent corporation is now, and has been since October 1, 1936, engaged in the business of manufacturing, offering for sale, selling and distributing tile. Respondent sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sales causes said tile to be shipped and transported from the place of origin of the shipment to purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such tile. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now, and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, since October 1, 1936, respondent has been and is now discriminating in price between different purchasers buying said tile of like grades and qualities sold by the respondent in interstate commerce for use, consumption and resale, by giving and allowing some of its said purchasers of said tile lower prices than given or allowed other of its said purchasers competitively engaged, one with the other, in the resale of said tile within the United States. Said discrimination in price is brought about by the following practice and policy pursued by the respondent, to wit:

Respondent in the sale of its tile allows varying discounts to certain of its customers designated as wholesalers, which discounts are denied to certain of its other customers designated as contractors. Said designated wholesalers are in fact retailers, in that they resell said tile directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors.

Said respondent also allows to certain of its customers designated as contractors varying discounts, which discounts are denied to other of its customers designated as contractors.

PAR. 5. The general effect of said discriminations in price so made by respondent, as above set forth, has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondent and its competitors in the sale and distribution of tile, and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of such tile between some of the favored purchasers of said tile and some of the competitive customers dealing in said tile not receiving such favorable prices. The effect of said discriminations in price also has been, or may be, to tend to create a monopoly in respondent in said line of commerce, and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of subsection 2 (a) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 22nd day of August, A. D., 1938, issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Trent Tile Company, Inc., respondent herein, that the 30th day of September, A. D., 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, filed with the commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 22nd day of August, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2513; Filed, August 27, 1938; 11:36 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3548]

IN THE MATTER OF MOSAIC TILE COMPANY

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (The Clayton Act) as amended by an act approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that Mosaic Tile Company, a corporation, is violating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Mosaic Tile Company, is a corporation organized and existing under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at Zanesville, Ohio.

PAR. 2. Respondent corporation is now and has been since June 19, 1936 engaged in the business of manufacturing, offering for sale, selling and distributing tile. Respondent sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sales causes said tile to be shipped and transported from the place of origin of the shipment

to purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such tile. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now, and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, since June 19, 1936 respondent has been and is now discriminating in price between different purchasers buying said title of like grades and qualities sold by the respondent in interstate commerce for use, consumption and resale, by giving and allowing some of its said purchasers of said title lower prices than given or allowed other of its said purchasers competitively engaged, one with the other, in the resale of said title within the United States. Said discrimination in price is brought about by the following practice and policy pursued by the respondent, to wit:

Respondent in the sale of its title allows a discount of 15% to certain of its customers designated as wholesalers, which discounts are denied to certain other of its customers designated as contractors. The said designated wholesalers are in fact retailers, in that they resell said tile directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors.

PAR. 5. The general effect of said discriminations in price so made by respondent, as above set forth, has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondent and its competitors in the sale and distribution of tile, and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of such tile between some of the favored purchasers of said tile and some of the competitive customers dealing in said tile not receiving such favorable prices. The effect of said discriminations in price also has been, or may be, to tend to create a monopoly in respondent in said line of commerce, and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of subsection 2 (a) of section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 22nd day of August, A. D. 1938, issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Mosaic Tile Company, respondent herein, that the 30th day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 22nd day of August, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2514; Filed, August 27, 1938; 11:38 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3549]

IN THE MATTER OF C. PARDEE WORKS, MATAWAN TILE COMPANY, AND PARDEE MATAWAN TILE COMPANY

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (the Clayton Act) as amended by an act approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that C. Pardee Works, Matawan Title Company, and Pardee Matawan Title Company, corporations, are violating and have been violating the provisions of the said Clayton Act as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, C. Pardee Works, is a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Perth Amboy, New Jersey.

PAR. 2. Respondent, Matawan Tile Company, is a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Matawan, New Jersey.

PAR. 3. Respondent, Pardee Matawan Tile Company, is a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Perth Amboy, New Jersey. Said respondent corporation is wholly owned and controlled and its activities directed jointly by the respondents named in Paragraph One and Two hereof.

PAR. 4. Respondent corporations, C. Pardee Works and Matawan Tile Company, are now, and have been since June 19, 1936 engaged in the business of manufacturing tile, and respondent, Pardee Matawan Tile Company, as distributor for the aforementioned respondent corporations, is now and has been since June 19, 1936, engaged in the business of offering for sale, selling and distributing tile manufactured by the aforementioned respondent corporations, to wit: C. Pardee Works and Matawan Tile Company. Respondent, Pardee Matawan Tile Company, sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sales causes said tile to be shipped and transported from the place of origin of the shipment to purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such tile. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 5. In the course and conduct of its business as aforesaid, respondents, C. Pardee Works and Matawan Tile Company, are now and during the time herein mentioned have been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing tile in commerce between and among the various states of the United States and the District of Columbia. Said respondent corporations through their wholly owned and directed subsidiary corporation, Pardee Matawan Tile Company, are now, and during the time herein mentioned have been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 6. In the course and conduct of their business as aforesaid, since June 19, 1936 respondents have been and are now discriminating in price between different purchasers buying said tile of like grades and qualities sold by the respondents in interstate commerce for use, consumption and resale, by giving and allowing some of their said purchasers of said tile lower prices than given or allowed other of their said purchasers competitively engaged, one with the other, in the resale of said tile within the United States. Said discrimination in price is brought about by the following practice and policy pursued by the respondents, to wit:

Respondents in the sale of their tile allow a discount of 15% to certain of their customers designated as wholesalers, which discount is denied to certain other of their customers designated as contractors. The said designated wholesalers are in fact retailers, in that they resell said tile directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors.

PAR. 7. The general effect of said discrimination in price so made by respondents, as above set forth, has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondents and their competitors in the sale and distribution of tile, and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of such tile between some of the favored purchasers of said tile and some of the competitive customers dealing in said tile not receiving such favorable prices. The effect of said discriminations in price also has been, or may be, to tend to create a monopoly in respondents in said line of commerce, and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 8. The foregoing alleged acts and practices of said respondents are violations of subsection 2 (a) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 22nd day of August, A. D., 1938, issues this its complaint against said respondents, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, C. Pardee Works, Matawan Tile Company, and Pardee Matawan Tile Company, respondents herein, that the 30th day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 22nd day of August, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2515; Filed, August 27, 1938; 11:38 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3550]

IN THE MATTER OF WENCZEL TILE COMPANY

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (the Clayton Act), as amended by an Act approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that the Wenczel Tile Company, a corporation, is violating and has been violating the provisions of the said Clayton Act, as amended, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Wenczel Tile Company, is a corporation, organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Trenton, New Jersey.

PAR. 2. Respondent corporation is now and has been since prior to June 19, 1936, engaged in the business of manufacturing, offering for sale, and selling tile. Respondent sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sale, causes said tile to be shipped and transported from the places of origin of shipment to the purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned, a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such commodities. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business, as aforesaid, respondent is now, and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as afore-said since June 19, 1936, respondent has been, and is now, discriminating in price between different purchasers buying such tile of like grades and qualities, so sold by the respondent in interstate commerce for use, consumption and resale, by giving and allowing some of its said purchasers of said tile lower prices than given or allowed other of its said purchasers competitively engaged one with the other in the resale of said tile within the United States. Said discrimination in price is brought about by the following practice and policy pursued by the respondent, to wit:

Respondent in the sale of its tile allows a discount of 15% to certain of its customers designated as wholesalers, which discount is denied to other of its said customers designated as contractors. The said designated wholesalers, are in fact retailers, in that they resell said tile either directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors.

PAR. 5. The general effect of said discrimination in price so made by the respondent as above set forth has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondent and its competitors, in the sale and distribution of tile, and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of said tile between some of the favored purchasers of said tile and some of the competitive customers, dealing in said tile, not receiving such favorable prices. The effect of said discrimination in price also has been, or may be, to tend to create a monopoly in respondent in said line of commerce and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said tile in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of subsection 2 (a) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies,' and for other purposes," approved October 15, 1914, as amended (U. S. C. Title 15, Section 13), and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 23rd day of August, A. D., 1938, hereby issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Wenczel Tile Company, respondent herein, that the 30th day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 23rd day of August, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2516; Filed, August 27, 1938; 11:39 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3551]

IN THE MATTER OF WHEELING TILE COMPANY

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (the Clayton Act) as amended by an Act approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that the Wheeling Title Company, a corporation, is violating and has been violating the provisions of said Clayton Act, as amended, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Wheeling Tile Company, is a corporation organized and existing under and by virtue of the laws of the State of West Virginia, with its principal office and place of business located at 31st and Eoff Streets, Wheeling, West Virginia.

PAR. 2. Respondent corporation is now, and has been since prior to June 19, 1936, engaged in the business of manufacturing, offering for sale and selling tile. Respondent sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and preliminary to or as a result of such sale, causes said tile to be shipped and transported from the places of origin of shipment to the purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned, a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such commodities. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid respondent is now, and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid since June 19, 1936, respondent has been, and is now, discriminating in price between different purchasers buying such tile of like grades and qualities, so sold by the respondent in interstate commerce for use, consumption, and resale, by giving and allowing some of its said purchasers lower prices than given or allowed other of its said purchasers competitively engaged one with the other in the resale of said tile within the United States. Said discrimination is brought about by the following practice and policy pursued by the the respondent, to wit:

Respondent in the sale of its tile allows a discount varying at times from 5% to 15% to certain of its customers designated as wholesalers, which discount is denied to others of its said customers designated as contractors. The said designated wholesalers, are in fact retailers, in that, they resell said tile either directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors.

PAR. 5. The general effect of said discrimination in price so made by the respondent as above set forth has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between respondent and its competitors, in the sale and distribution of tile and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of said tile between some of the favored purchasers of said tile and some of the competitive customers, dealing in said tile, not receiving such favorable prices. The effect of said discrimination in price has been, or may be, to tend to create a monopoly in respondent in said line of commerce and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said tile in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of subsection 2 (a) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended, (U. S. C. Title 15, Section 13), and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 23rd day of August, A. D. 1938, hereby issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Wheeling Tile Company, a corporation, respondent herein, that the 30th day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respond-

ent in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 23rd day of August, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2517; Filed, August 27, 1938; 11:39 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3552]

IN THE MATTER OF ARCHITECTURAL TILING CO., INC.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (the Clayton Act) as amended by an Act approved June 19, 1936, entitled "An Act to amend section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that Architectural Tiling Co., Inc., a corporation, is violating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Architectural Tiling Co., Inc., is a corporation organized and existing under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Keyport, New Jersey.

PAR. 2. Respondent corporation is now and has been since June 19, 1936 engaged in the business of manufacturing, offering for sale, selling and distributing tile. Respondent sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sales causes said tile to be shipped and transported from the place of origin of the shipment to purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such tile. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now, and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, since June 19, 1936 respondent has been and is now discriminating in price between different purchasers buying said tile of like grades and qualities sold by the respondent in interstate commerce for use, consumption and resale, by giving and allowing some of its said purchasers of said tile lower prices than given or allowed other of its said purchasers competitively engaged, one with the other, in the resale of said tile within the United States. Said discrimination in price is brought about by the following practice and policy pursued by the respondent, to wit:

Respondent in the sale of its tile allows discounts of 15% to certain of its customers designated as wholesalers, which discounts are denied to certain other of its customers designated as contractors. The said designated wholesalers are in fact retailers, in that they resell said tile directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors.

Said respondent also allows to certain of its customers designated as contractors discounts of 15%, which discounts are denied to other of its customers designated as contractors.

Said respondent also allows, in addition to the 15% discount hereinbefore referred to, discounts varying at times from 5% to 7½% to certain of its customers designated as wholesalers, which additional discounts are denied to other of its customers designated as wholesalers.

PAR. 5. The general effect of said discriminations in price so made by respondent, as above set forth, has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondent and its competitors in the sale and distribution of tile, and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of such tile between some of the favored purchasers of said tile and some of the competitive customers dealing in said tile not receiving such favorable prices. The effect of said discriminations in price also has been, or may be, to tend to create a monopoly in respondent in said line of commerce, and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of subsection 2 (a) of section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 24th day of August, A. D. 1938, issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, Architectural Tiling Co., Inc., respondent herein, that the 30th day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 24th day of August, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2518; Filed, August 27, 1938; 11:40 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3553]

IN THE MATTER OF NATIONAL TILE COMPANY, INC.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," (the Clayton Act) as amended by an Act approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes," (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that National Tile Company, Inc., a corporation, is violating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, National Tile Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 26th and Lynn Streets, Anderson, Indiana.

PAR. 2. Respondent corporation is now and has been since June 19, 1936, engaged in the business of manufacturing, offering for sale, selling and distributing tile. Respondent sells and distributes said tile in commerce between and among the various states of the United States and the District of Columbia, and, preliminary to or as a result of such sales causes said tile to be shipped and transported from the place of origin of the shipment to purchasers thereof who are located in states of the United States other than the state of origin of the shipment, and there is, and has been at all times herein mentioned a continuous current of trade and commerce in said tile across state lines between respondent's factories and the purchasers of such tile. Said tile is sold and distributed for use, consumption and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now, and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing tile in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, since June 19, 1936 respondent has been and is now discriminating in price between different purchasers buying said tile of like grades and qualities sold by the respondent in interstate commerce for use, consumption and resale, by giving and allowing some of its said purchasers of said tile lower prices than given or allowed other of its said purchasers competitively engaged, one with the other, in the resale of said tile within the United States. Said discrimination in price is brought about by the following practice and policy pursued by the respondent, to wit:

Respondent in the sale of its tile allows discounts varying at times from 12% to 15% to certain of its customers designated as wholesalers, which discounts are denied to certain other of its customers designated as contractors. The said designated wholesalers are in fact retailers, in that they resell said tile directly or indirectly to the ultimate consumer and are thereby in direct competition in the sale of tile with the contractors.

Said respondent also allows to certain of its customers designated as contractors discounts varying from 5% to 15%, which discounts are denied to other of its customers designated as contractors.

PAR. 5. The general effect of said discriminations in price so made by respondent, as above set forth, has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition between the respondent and its competitors in the sale and distribution of tile, and also has been, or may be, substantially to lessen competition and to injure, destroy and prevent competition in the resale of such tile between some of the favored purchasers of said tile and some of the competitive customers dealing in said tile not receiving such favorable prices. The effect of said discriminations in price also has been, or may be, to tend to create a monopoly in respondent in said line of commerce, and to tend to create a monopoly in the said favored purchasers receiving such discriminatory prices in the resale of said products in the various localities or trade territories in the United States in which such purchasers respectively are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of subsection 2 (a) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended (U. S. C. title 15, section 13) and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 24th day of August, A. D. 1938, issues this its complaint against said respondent, stating its charges in that respect as hereinabove set out.

NOTICE

Notice is hereby given you, National Tile Company, Inc., respondent herein, that the 30th day of September, A. D. 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the

facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 24th day of August, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2519; Filed, August 27, 1938; 11:40 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of August A. D. 1938.

[File Nos. 43-143, 43-144, 43-145, 43-146, 43-147, and 43-148]

IN THE MATTERS OF BEVERLY GAS AND ELECTRIC COMPANY, GLOUCESTER ELECTRIC COMPANY, HAVERHILL ELECTRIC COMPANY, MALDEN ELECTRIC COMPANY, SALEM GAS LIGHT COMPANY, AND SUBURBAN GAS AND ELECTRIC COMPANY

ORDER PERMITTING AMENDED DECLARATIONS

A declaration, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by each of the above-named companies, all of which companies are subsidiaries of North Boston Lighting Properties, which in turn is a subsidiary of Massachusetts Power and Light Associates, which in turn is a subsidiary of New England Power Association, a registered holding company, regarding the issue and sale of unsecured promissory notes or note, bearing 3% interest, to be dated September 1, 1938, to mature on July 1, 1939, and in aggregate principal amounts as follows:

Beverly Gas and Electric Company	$650,000
Gloucester Electric Company	235,000
Haverhill Electric Company	1,014,375
Malden Electric Company	200,000
Salem Gas Light Company	425,000
Suburban Gas and Electric Company	785,000

A joint hearing on such declarations, as amended, having been held[1] after appriate notice; the record in these matters having been examined; and the Commission having made and filed its findings herein;

It is ordered, That each of said declarations, as amended, be and become effective forthwith on the condition however that the issue and sale of said notes shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by said declarations, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2522; Filed, August 27, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of August 1938.

[File No. 1-2701]

IN THE MATTER OF APPLICATION BY THE BOARD OF TRADE OF THE CITY OF CHICAGO TO STRIKE FROM LISTING AND REGISTRATION THE 6% CUMULATIVE CONVERTIBLE PREFERRED STOCK, OF JOLIET HEATING CORPORATION

ORDER SETTING HEARING

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 6% Cumulative Convertible Preferred Stock, of Joliet Heating Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 15, 1938, in Room 630, Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2521; Filed, August 27, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of August, A. D. 1938.

[File 43-125]

IN THE MATTER OF MISSOURI SERVICE COMPANY

ORDER MAKING STIPULATION PART OF RECORD

A declaration under Section 7 of the Public Utility Holding Company Act of 1935 having been filed by the above named party, a subsidiary of The Western Public Service Company, a registered holding company; and

A hearing on said matter having been held[1] before Charles S. Moore, examiner, pursuant to the Commission's order dated June 23, 1938, and said hearing having been closed by said examiner on July 18, 1938; and

Counsel for the Commission having requested an order making effective the declaration filed in this proceeding by Missouri Service Company only on condition that upon execution of the proposed changes in declarant's bonds said bonds shall not in any manner be sold or pledged by The Western Public Service Company without that Company first obtaining the Commission's approval; and

Missouri Service Company and The Western Public Service Company having entered into a stipulation on August 23, 1938 agreeing to such a condition and consenting to the incorporation of such stipulation in the record of this proceeding, without further notice thereof:

It is ordered, That the record in this proceeding be and hereby is opened and that said stipulation be and hereby is made a part of such record.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2530; Filed, August 29, 1938; 12:46 p. m.]

[1] 3 F. R. 1396 (DI).

[1] 3 F. R. 1517 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of August A. D. 1938.

[File No. 43-125]

IN THE MATTER OF MISSOURI SERVICE COMPANY

ORDER ALLOWING DECLARATION TO BECOME EFFECTIVE REGARDING CHANGE OF INTEREST PROVISIONS IN BONDS OF SUBSIDIARY OF HOLDING COMPANY

Missouri Service Company, a subsidiary of The Western Public Service Company, a registered holding company, having filed with this Commission a declaration and amendment thereto, pursuant to section 7 of the Public Utility Holding Company Act of 1935, regarding a change in the interest provisions of its $635,000 principal amount of First Mortgage Gold Bonds 6%, Series A, due July 1, 1953;

A hearing thereon having been held after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration, as amended, be and become effective forthwith, on the condition, however,

(1) that the change in the aforesaid bonds shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration as amended; and

(2) that upon the execution of the proposed change the said bonds shall not in any manner be sold or pledged by The Western Public Service Company without that company first obtaining the approval of this Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2531; Filed, August 29, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of August, A. D. 1938.

[File Nos. 46-102, 56-4, and 32-94]

IN THE MATTER OF NORTHERN STATES POWER COMPANY (MINN.), NORTHERN STATES POWER COMPANY (DEL.), NORTHERN STATES POWER COMPANY (WIS.)

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 10 (a), 12 (d) and 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on September 12, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 5, 1938.

The matter concerned herewith is in regard to—

1. An application by Northern States Power Company (Wisconsin) pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act of the issuance and sale of 80,000 shares of the common stock of the applicant, of a par value of $100 per share to Northern States Power Company (Minnesota) in consideration of the cancellation of certain advances on open account, said issuance and sale having been approved by the Public Service Commission of Wisconsin by its order 2SB 97, dated May 6, 1938;

2. Applications by Northern States Power Company (Delaware) and Northern States Power Company (Minnesota), pursuant to Sections 12 (d) and 10 (a) of the Public Utility Holding Company Act of 1935, for the sale by Northern States Power Company (Delaware) to Northern States Power Company (Minnesota) of certain bonds and stocks of Northern States Power Company (Wisconsin) and associate companies, in consideration for the surrender of a note in the amount of $11,108,810.66 of Northern States Power Company (Delaware) held by Northern States Power Company (Minnesota), $64,736.25 in cash, and payment of accrued interest on the bonds; and for the acquisition by Northern States Power Company (Minnesota) of 80,000 shares of the common stock of Northern States Power Company (Wisconsin) as set forth in the preceding paragraph, numbered (1).

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2532; Filed, August 29, 1938; 12:47 p. m.]

SEP 9 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 170

Washington, Wednesday, August 31, 1938

The President

MODIFYING THE WHITE SANDS NATIONAL MONUMENT—NEW MEXICO

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it appears that certain sections of the right-of-way for United States Highway Route 70 are included within the White Sands National Monument in the State of New Mexico, established by Proclamation No. 2025 of January 18, 1933, and enlarged by Proclamation No. 2108 of November 28, 1934; and

WHEREAS it appears that it would be in the public interest to exclude from the said monument such sections of the said right-of-way:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that the White Sands National Monument in the State of New Mexico is hereby modified by eliminating therefrom all sections now included therein of the right-of-way for United States Highway Route 70.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 29 day of August in the year of [SEAL] our Lord one thousand nine hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

The President:

CORDELL HULL
The Secretary of State.

[No. 2295]

[F. R. Doc. 38-2537; Filed, August 29, 1938; 3:20 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

FARM SECURITY ADMINISTRATION

[Administration Order 41 (Rev. 1) (Suppl. 10)]

LOANS TO INDIVIDUALS FOR RURAL REHABILITATION

AUGUST 19, 1938.

1. *Purpose.*—This Supplement[1] establishes the policies and procedure for accomplishing the improvement of farm tenure arrangements of RR clients who are tenant farmers, and of other low-income tenant farmers who are potential applicants for RR loans.

2. *Basis for activity.*—(*a*) Farm and Home Management Plans for rehabilitation are usually developed on the assumption that the client will remain upon the farm for the period of the rehabilitation loan. Insecure or unsatisfactory farm tenure arrangements may require the clients to move or may prevent successful rehabilitation in accordance with the plans developed.

(*b*) Unsatisfactory and insecure tenure has contributed to the distress and need for emergency aid on the part of many rehabilitation clients; has retarded and may prevent their successful rehabilitation; or, even after successful rehabilitation, may cause recurring distress which will necessitate additional loans and grants at different intervals.

(*c*) For the above reasons, the FSA has a proper interest in the farm tenure arrangements of existing or potential RR clients and is justified in requiring that such arrangements are equitable and satisfactory and provide reasonable security of tenure for tenant farmers to whom it makes rehabilitation loans. Such tenure arrangements will usually be of mutal advantage to both tenants and landlords.

3. *Policy.*—(*a*) *Approval of tenure agreements for RR clients.*—I. The FSA

[1] Supplements pars. 2a & 4a of AO 41 (Rev. 1); AO 40 (Rev. 2); par. 2 of AO 118 (Rev. 1); par. 21 of AO 130 (Rev. 2); AO 166 (Rev. 1); AO 199 (Rev. 1); & AI 35 (Rev. 1)

CONTENTS

THE PRESIDENT

Proclamation: Page
White Sands National Monument, New Mexico, modification 2129

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Farm Security Administration:
Loans to individuals for rural rehabilitation 2129
TITLE 11—AVIATION:
Bureau of Air Commerce:
Entry and clearance of aircraft 2130
TITLE 20—FISH AND GAME:
Bureau of Fisheries:
Alaska fishery regulations, amendment 2131
TITLE 43—PUBLIC LANDS:
General Land Office:
Permits and leases under the Mineral Leasing Acts in National Forests 2131
Oregon, stock driveway withdrawal reduced 2131
TITLE 46—SHIPPING:
Bureau of Marine Inspection and Navigation:
Rules and regulations for the carrying out of sections 4197 and 4200, as amended 2131

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Marketing agreement regarding the regulation and handling of walnuts grown in California, Oregon and Washington:
Docket No. A-81 O-81 2133
Docket No. A-82 O-82 2133
Department of the Interior:
Federal Advisers, Inc., hearing 2135
mission:
Minimum prices and marketing rules for Districts Nos. 16-23 2132

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Federal Trade Commission:	
Order appointing examiner and fixing time and place for taking testimony:	
Benton Announcements, Inc.	2134
Grand National Films, Inc.	2134
John F. Jelke Co., Inc.	2134
K & K Supply Co., Inc.	2134
Mathieson Alkali Works, Inc., et al.	2134
Securities and Exchange Commission:	
Federal Advisers, Inc., hearing	2135
Lone Star Gas Corp., et al., order making document part of record	2135

will conduct a systematic program designed to provide more equitable and secure tenure arrangements for the mutual benefit of both tenants and landlords. This activity will apply to RR clients (FSA and state RR corporation) and to applicants or potential applicants for RR loans. County RR supervisors will make approved FSA lease forms available to standard RR clients and applicants and, upon request, to other low-income tenant farmers who are potential applicants, and to the landlords of such tenant farmers.

II. County RR supervisors will inquire into the tenure arrangements of all loan applicants who are tenant farmers, as part of the procedure in the preparation and recommendation of loan applications. The regional office will not approve such a loan to a prospective new RR client unless the loan application is accompanied by a lease (on an approved FSA lease form or, in special cases, on another form acceptable to the regional director or his delegatee) which provides equitable tenure arrangements and gives the tenant reasonable security of tenure at least for the period of the loan.

III. FSA employees will use every reasonable and practicable means to promote improved tenure and leasing arrangements for existing RR clients. However, additional loans or other aid to existing RR clients, except loans for permanent improvements, will not be withheld solely because of the client's inability to procure written leases, if satisfactory conditions and reasonable security of tenure can be provided otherwise.

(b) *Loans for permanent improvements.*—An RR loan for making permanent improvements on a leased farm will not be made to the tenant farmer unless he has a written lease which provides definite security of tenure until he has received full benefit of the improvements, or which provides that he will be equitably compensated for such improvements if the lease is terminated or expires before full benefit of the improvements is realized, or unless there is a definite agreement between the tenant and the landlord by which the tenant will be compensated or credited on rent for expenditures in making such improvements.

(c) *Community and cooperative loans.*—Applications for community or cooperative loans to individuals should conform insofar as possible to the same general policy of security of tenure for the period of the loans as is required for standard RR loans. Leases should be consistent with the period of the loans whenever necessary to insure borrowers and participants continued benefit of the services. As a general rule, approval of community and cooperative loans will not be withheld solely because of the client's inability to secure acceptable tenure arrangements. However, efforts will be made to obtain the most favorable tenure arrangements possible.

(d) *Tenure improvement for low-income farmers who are not RR clients.*—Upon request, other low-income tenant farmers who are potential applicants for RR loans, and their landlords, may be furnished approved lease forms and given assistance through the tenure improvement program in working out satisfactory tenure arrangements.

(e) *Lease forms.*—Approved FSA lease forms which differ in accordance with the requirements of the various states, are available and may be obtained upon requisition to the BM Division, Washington, D. C. The requisitions must specify the states in which the forms are to be used.

[SEAL] C. B. BALDWIN,
Acting Administrator.

Approved, August 30, 1938.

M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2549; Filed, August 30, 1938; 12:02 p. m.]

TITLE 11—AVIATION

BUREAU OF AIR COMMERCE

PART 609. ENTRY AND CLEARANCE OF AIRCRAFT

Pursuant to the authority contained in section 7 (c) of the Air Commerce Act of 1926 (44 Stat. 572; 49 U. S. C. 177) and section 644 of the Tariff Act of 1930 (46 Stat. 761; 19 U. S. C. 1644), the following regulations are hereby issued by the Secretary of Commerce governing the entry and clearance of aircraft.

609.1 *Definitions.*—(a) The term "United States", when used in a geographical sense, means the territory comprising the several States, Territories (including Alaska and Hawaii), and possessions (including Puerto Rico) of the United States (except the Philippine Islands, the Virgin Islands, the Islands of Guam, Midway, American Samoa, Wake, and other insular possessions), and the District of Columbia, including the territorial waters thereof and the overlying air space;

(b) The term "foreign port or place" means any port or place outside the United States;

(c) The term "aircraft" means any aircraft not used exclusively in the governmental service of the United States or a foreign country;

(d) The term "airport of entry" means a place designated by the Secretary of the Treasury as a port of entry for civil aircraft, so long as such designation remains in force.

609.2 *Entry.*—Except in the case of forced landings, aircraft arriving in the United States from any foreign port or place shall make the first landing at an airport of entry, unless permission to land elsewhere than at an airport of entry is first obtained from the Commissioner of Customs.

609.3 *Clearance.*—(a) The person having charge or command of any aircraft of United States registry transporting passengers for hire or merchandise, and all aircraft of foreign registry, bound to a foreign port, shall clear at the customs port of entry nearest to the place of departure, or at the airport of departure if such airport has been designated as an airport of entry. Aircraft of United States registry not transporting passengers for hire or merchandise are not required to clear on departing from the United States;

(b) Clearance shall consist of the filing of a manifest, together with export declarations on Commerce Form 7525 for all cargo on board, and a correct list of passengers, if any, received on board, giving their names and addresses and, in the case of an aircraft of foreign registry, departing from a port of entry other than that at which it first arrived, the surrender of the permit to proceed inland issued at the first port;

(c) The manifest shall specify the kinds and quantities of the articles contained on board and the value and total quantity of each kind of article. The manifest shall also contain a statement by the person in charge or command of the aircraft that the said manifest contains a full, just, and true account of all articles laden on board such aircraft by the owners, shippers, consignors, or carrier, respectively, and that the values of such articles are truly stated according to their actual cost or the values which they truly bear at the port and time of exportation; and shall show the foreign port or country in which such articles are truly intended to be landed. Such statement shall be under oath unless the total value of the merchandise is less than $25 or it is to be shipped to or through Mexico or Canada;

(d) If export declarations are not at hand covering any or all of the cargo about to be transported by the aircraft, Collectors of Customs are authorized to grant clearance on commerce Form 1378 B, upon the execution of the bond on this form with security approved by the Collector of Customs in the penal sum of $1,000;

(e) A clearance certificate, commerce Form 1378, may be issued when requested by the person in charge of the aircraft.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

AUGUST 29, 1938.

[F. R. Doc. 38-2540; Filed, August 29, 1938; 4:17 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-11]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 29, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251,[1] twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[2] are hereby amended by the following regulation:

SOUTHEASTERN ALASKA AREA

Clarence Strait District

Salmon fishery.—Regulation No. 6 is hereby amended so as to permit commercial fishing for salmon north of a line extending from Narrow Point to Ernest Point from 6 o'clock postmeridian August 29 to 6 o'clock postmeridian August 31.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2538; Filed, August 29, 1938; 4:16 p. m.]

[1] 3 F. R. 451 DI.
[2] 3 F. R. 2116 DI.

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STIPULATION REQUIRED IN CONNECTION WITH PERMITS AND LEASES UNDER THE MINERAL LEASING ACTS, FOR LANDS IN NATIONAL FORESTS

[CIRCULAR NO. 1450]

The following regulation is promulgated, pursuant to departmental instructions of March 30, 1938:

SEC. 191.4 *Stipulation required of applicants for permits and leases for lands in national forests.*—All applicants on and after March 30, 1938, for permits and leases under the mineral leasing act of February 25, 1920 (41 Stat. 437), as amended, for lands in the national forests, will be required to file a stipulation prior to issuance of permit or lease substantially as follows:

If permittee or lessee shall construct any camp on the land, such camp shall be located at a place approved by the forest supervisor, and such forest supervisor shall have authority to require that such camp be kept in a neat and sanitary condition. This requirement is subject to the permittee's or lessee's right of appeal to the Secretary of the Interior in case he disagrees with the forest supervisor.[1]

FRED W. JOHNSON,
Commissioner.

Approved, August 12, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2541; Filed, August 30, 1938; 10:10 a. m.]

STOCK DRIVEWAY WITHDRAWAL NO. 209, OREGON NO. 26, REDUCED

AUGUST 25, 1938.

Departmental orders of January 19,[2] April 5,[3] and October 1, 1937,[4] withdrawing certain lands in Oregon for stock driveway purposes under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, are hereby revoked in so far as they affect the following-described lands:

WILLAMETTE MERIDIAN

T. 11 S., R. 26 E.,
sec. 33, SE¼ SE¼.
T. 12 S., R. 26 E.,
sec. 4, lots 1, 2, 3 and 4;
aggregating 190.14 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2542; Filed, August 30, 1938; 10:11 a. m.]

[1] Issued under authority of Sec. 32, 41 Stat. 450; 30 U. S. C. 189.
[2] 2 F. R. 226 (269 DI).
[3] 2 F. R. 717 (847 DI).
[4] 2 F. R. 2167 (2523 DI).

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

RULES AND REGULATIONS FOR THE CARRYING OUT OF THE PROVISIONS OF SECTIONS 4197 AND 4200 OF THE REVISED STATUTES, AS AMENDED

AUGUST 27, 1938.

By virtue of the authority of Section 4197 of the Revised Statutes, as amended by the Act of August 5, 1935, the Act of June 16, 1938, and Public Resolution 130, approved June 29, 1938 (U. S. C. Title 46, Section 91); and Section 4200 of the Revised Statutes, as amended by the Act of June 16, 1938, and Public Resolution 130, approved June 29, 1938 (U. S. C. Title 46, Section 92); and the Act of April 29, 1902, as amended by the Act of May 17, 1932 (U. S. C. Title 46 Section 95), the following rules and regulations are prescribed for the carrying out of the provisions of the aforesaid sections, as amended, relative to the filing of manifests and shippers' export declarations; the taking of bond insuring the filing of completed manifests and all shippers' export declarations; and the form of bond to be taken, as well as the action to be taken when penalties are incurred and the condition of the bond has not been fulfilled:

1. Any vessel taking on cargo for a foreign port, or a port in non-contiguous territory belonging to the United States, and a complete cargo manifest has not been filed, may, by application to the collector of customs on Commerce Form 1378B and the execution of the bond thereon by the owner of the vessel, or by an attorney in fact, with security approved by the collector of customs as provided in Section 4197, R. S., as amended, be granted clearance.

2. The condition of the bond which is given to cover the furnishing of a completed manifest shall be that a completed outward manifest of all cargo laden on the vessel shall be filed in accordance with the provisions of Section 4197, R. S., as amended.

3. The bond which is given to cover the furnishing of a completed manifest shall be in the penal sum of $1,000.00.

4. The master or person having charge or command of a vessel may execute the bond required under Section 4197, R. S., as amended, on behalf of the owner, as attorney in fact.

5. Any vessel taking on cargo for a foreign port, or a port in non-contiguous territory, and all shippers' export declarations covering cargo laden on board have not been filed, may, by application to the collector of customs on Commerce Form 1378B and the execution of the bond thereon, with security approved by the collector of customs as provided in Section 4200, R. S. as amended, be granted clearance.

6. The condition of the bond which is given to cover the furnishing of shippers' export declarations covering all cargo laden on the vessel shall be that shippers'

export declarations covering all cargo laden on the vessel shall be filed in accordance with the provisions of Section 4200, R. S. as amended.

7. The bond which is given to cover the furnishing of shippers' export declarations covering all cargo laden on the vessel shall be in the penal sum of $1,000.00.

8. The owner, shipper or consignor of the cargo; the owner or the master of the vessel; or the attorney in fact of any of these parties may execute the bond required under Section 4200, R. S. as amended.

9. Any vessel taking on cargo for a foreign port, or a port in non-contiguous territory, and a complete cargo manifest and shippers' export declaration covering all cargo laden on board have not been filed, may, by application to the collector of customs on Commerce Form 1378B and the execution of the bond thereon, with security approved by the collector of customs as provided under Sections 4197 and 4200, R. S., as amended, be granted clearance.

10. The condition of the bond which is given to cover the furnishing of a completed manifest and shippers' export declarations covering all cargo laden on the vessel shall be that a completed outward manifest and shippers' export declarations covering all cargo laden on the vessel shall be filed in accordance with the provisions of Section 4197, R. S., as amended and Section 4200, R. S., as amended.

11. The bond which is given to cover the furnishing of a completed manifest and shippers' export declarations of all cargo laden on the vessel shall be in the penal sum of $2,000.00.

12. The owner of a vessel or a fleet of vessels may desire to execute a term bond conditioned that thereafter there will be full compliance with Sections 4197 and 4200, R. S. as amended, and if so, may file with the collector of customs at the principal port of entry, for transmission to the Secretary of Commerce, an application for permission to file such term bond. The application shall be accompanied by the recommendation of the collector as to the amount of the bond and the financial ability of the surety or sureties proposed, together with a statement showing the ports in the United States at which it is intended that the vessel or vessels shall trade. Upon receipt of notification from the Secretary of Commerce of the approval of the application for permission to file a term bond, the collector may thereupon permit the owner of the vessel or fleet of vessels to file a duly executed term bond on Commerce Form 1380. In all cases where a duly executed term bond has been filed with the collector of customs, the execution of the bond on Commerce Form 1378B may be waived. Upon the filing of the term bond, the collector of customs accepting the same shall immediately convey this information to the collectors of customs of the other ports covered by the term bond.

13. Sureties on the bond required, their qualifications and the execution of the bond shall be in conformity with the instructions contained in Commerce Forms 1378B and 1380.

14. In the event a complete cargo manifest and/or all shippers' export declarations are not filed within the four days allowed under Section 4197, R. S. as amended, and Section 4200, R. S. as amended, the principal and surety or sureties will be responsible under the bond given by them for every day's delay in filing same after the statutory four-day period; and the collector of customs shall mail a notice to the principal and surety or sureties informing them of any delinquency that has occurred, and make demand upon them for the payment of the penalty thereby incurred. In the event the principal or surety or sureties fail to make settlement within fifteen days after date of such notice the collector of customs will make report thereof to the Department of Commerce, transmitting therewith a certified copy of the bond and a statement showing the amount of the accrued penalty to be exacted in accordance with the terms of the bond.

15. The statutory four-day period of grace begins to run from the date on which final clearance of the vessel is accomplished.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2539; Filed, August 29, 1938; 4:17 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF AND ORDER FOR HEARING

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That notice be and the same hereby is given to all interested parties that a hearing in the above entitled matter shall be held before the Commission, commencing on the 14th day of September, 1938, at 10:00 o'clock A. M., in the Hearing Room of the Commission at the Albany Hotel, Denver, Colorado, for the purpose of receiving evidence relating to the proposals of the minimum prices and marketing rules and regulations submitted by District Boards Nos. 16, 17, 18, 19, 20, 22 and 23, to the Commission, pursuant to Orders Nos. 244 and 245,[1] dated July 30, 1938, to enable the Commission to approve such proposed minimum prices and marketing rules and regulations, or to enable the Commission to modify such proposed minimum prices so as to conform them to the requirements of Section 4–II (a) of the Act, or to enable the Commission to modify the proposed marketing rules and regulations as provided in said Section 4–II (a) of the Act, in order that such proposed minimum prices and marketing rules and regulations, as approved, or modified, as the case may be, may serve as the basis for the coordination as provided by Section 4–II (b) of the Act, at which time all interested parties will be afforded an opportunity to be heard.

2. That at said hearing the Commission will receive evidence relating to the kinds, qualities, and sizes of coal produced in each of the aforesaid districts, and evidence relating to the classification of such coal, price variations as to mines, consuming market areas, values as to uses and seasonal demand, and evidence as to whether or not such proposed minimum prices conform, or in what respect they should be modified so as to conform, to the following requirements of subsection (a) of Part II, Section 4 of the Act:

a. The proposed minimum prices for each of the aforesaid districts shall yield a return, per net ton, for such districts, equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which such district is located, as said weighted average heretofore has been determined by Orders of the Commission dated July 30, 1938 and August 1, 1938, in this proceeding.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal to which they are applicable.

c. They shall be just and equitable as between producers within the district.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

At said hearing the Commission will also receive evidence as to whether or not such proposed marketing rules and regulations are consistent with the requirements of Section 4–II (a) of the Act, and conform to the standards of fair competition established by the Act, or in what respect they should be modified to be made consistent with the requirements of Section 4–II (a) of the Act, and to conform to the standards of fair competition established by said Act.

3. That the Secretary is hereby directed to cause copies of the aforesaid proposals to be made available forthwith for inspection by interested parties at the office of the Secretary of the Commission at Washington, D. C., and at the office of each Statistical Bureau of the Commission within each of Districts Nos. 16, 17, 18, 19, 20, 22 and 23.

4. That the Secretary of the Commission shall cause a copy of this Notice of and Order for Hearing to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of the aforesaid districts, and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel, and to the Secretary of each District Board, and to be made available for inspection in each of the Statistical Bureaus of the Commission.

By Order of the Commission.
Dated this 29th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2543; Filed, August 30, 1938; 10:38 a. m.]

[1] 3 F. R. 1894, 1895 DI.

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-81 O-81]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED AMENDMENT TO THE MARKETING AGREEMENT REGULATING THE HANDLING OF WALNUTS

CALIFORNIA, OREGON AND WASHINGTON

AUGUST 30, 1938.

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, (hereinafter referred to as the "act"), notice of hearing is required in connection with a proposed marketing agreement, a proposed order, or proposed amendments thereto, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture executed a marketing agreement and issued an order regulating the handling of walnuts grown in California, Oregon and Washington on October 11, 1935, and executed amendments thereto on September 23, 1936 [1] and on September 23, 1937;[2] and

Whereas, the Secretary of Agriculture has reason to believe that the execution of an amendment to the marketing agreement and the issuance of an amendment to the order will tend to effectuate the declared policy of said act with respect to the handling of walnuts grown in California, Oregon and Washington;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed amendment to the marketing agreement and proposed amendment to the order regulating the handling of walnuts grown in California, Oregon and Washington in the Palace Hotel, San Francisco, California, on September 6, 1938 at 9:30 a. m., pacific standard time.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate an amendment to the said marketing agreement and order to effectuate the declared policy of the act and as to the specific provisions which the proposed amendment to the marketing agreement and proposed amendment to the order should contain.

The proposed amendment to the marketing agreement and the proposed amendment to the order provide, in similar terms, that: (a) the salable percentage for the crop year September 1, 1938 to August 31, 1939, shall be 75 per cent, and (b) the surplus percentage for said crop year shall be 25 per cent.

Copies of the proposed amendment to the marketing agreement and proposed amendment to the order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2551; Filed, August 30, 1938; 12:03 p. m.]

[1] 1 F. R. 1455.
[2] 2 F. R. 1953 (2288 DI).

[Docket No. A-82 O-82]

NOTICE OF HEARING WITH RESPECT TO A PROPOSED AMENDMENT TO THE MARKETING AGREEMENT AND THE ORDER REGULATING THE HANDLING OF WALNUTS

CALIFORNIA, OREGON AND WASHINGTON

AUGUST 30, 1938.

Whereas, under Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), notice of hearing is required in connection with a proposed marketing agreement, a proposed order, or proposed amendments thereto, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture executed a marketing agreement and issued an order regulating the handling of walnuts grown in California, Oregon and Washington on October 11, 1933, and executed amendments thereto on September 23, 1936 [1] and on September 23, 1937; [2] and

Whereas, the Secretary of Agriculture has reason to believe that the execution of an amendment to the marketing agreement and the issuance of an amendment to the order will tend to effectuate the declared policy of said act with respect to the handling of walnuts grown in California, Oregon and Washington;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed amendment to the marketing agreement and proposed amendment to the order regulating the handling of walnuts grown in California, Oregon and Washington in the Palace Hotel, San Francisco, California, on September 6, 1938, at 2:00 p. m., pacific standard time.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate an amendment of the said marketing agreement and order to effectuate the declared policy of the act and as to the specific provisions which the proposed amendment to the marketing agreement and proposed amendment to the order should contain.

The proposed amendment to the marketing agreement and the proposed amendment to the order provide, in similar terms, among other things: (a) that the salable percentage for the crop year September 1, 1938 to August 31, 1939 shall be 75 per cent, (b) that the surplus percentage for said crop year shall be 25 per cent, (c) that in event of an increase of the salable percentage, as provided in Section 2 of Article V, each contributing packer shall be entitled to the return of walnuts or payments of cash to the extent, and in the order and manner, specified in said proposed amendment, and (d) for method of payment of administrative expenses by packers in event salable percentage is fixed at 100 per cent or is not established for the respective crop year.

Copies of the proposed amendment to the marketing agreement and proposed amendment to the order may be procured from the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2550; Filed, August 30, 1938; 12:02 p. m.]

[1] 1 F. R. 1455.
[2] 2 F. R. 1953 (2288DI).

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3317]

IN THE MATTER OF MATHIESON ALKALI WORKS, INC., THE ELECTRO BLEACHING GAS COMPANY, SOLVAY SALES CORPORATION, THE HOOKER ELECTROCHEMICAL COMPANY, THE DIAMOND ALKALI COMPANY, THE BELLE ALKALI COMPANY, THE MONSANTO CHEMICAL COMPANY, PENNSYLVANIA SALT MANUFACTURING COMPANY, AND THE COLUMBIA ALKALI CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, October 4, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2544; Filed, August 30, 1938; 11:44 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3347]

IN THE MATTER OF JOHN F. JELKE COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, September 15, 1938, at eleven o'clock in the forenoon of that day (eastern standard time) in Room 332, Federal Trade Commission Building, 6th and Constitution Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2545; Filed, August 30, 1938; 11:44 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3370]

IN THE MATTER OF GRAND NATIONAL FILMS, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, September 22, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and receive evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2546; Filed, August 30, 1938; 11:45 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3425]

IN THE MATTER OF BENTON ANNOUNCEMENTS, INCORPORATED A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, September 19, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2547; Filed, August 30, 1938; 11:45 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3454]

IN THE MATTER OF K & K SUPPLY COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on

Thursday, September 15, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2548; Filed, August 30, 1938; 11:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of August, A. D. 1938.

[File No. 43-142]

IN THE MATTERS OF LONE STAR GAS CORPORATION, ET AL.

ORDER MAKING DOCUMENTS PART OF RECORD

The joint hearings[1] on the matters referred to hereinabove having been ordered closed on the 24th day of August, 1938; and

Subsequent to that date an agreement by Lone Star Gas Corporation, relating to the price at which certain bonds are to be sold to the issuing subsidiary companies, having been transmitted to this Commission in a letter dated August 26, 1938 and signed by D. A. Hulcy, Executive Vice-President of Lone Star Gas Corporation; and

By telegram dated August 27, 1938 Marshall Newcomb, acting as attorney on behalf of the declarants and applicants in these matters, having stipulated that said letter may be made a part of the record in these proceedings; and

It now appearing that said agreement and stipulation are material to the issues in said matters and pertinent to the findings therein;

It is ordered, That said letter and telegram be and the same hereby are made a part of the record in the matters contained in Commission's File No. 43-142.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2552; Filed, August 30, 1938; 12:51 p. m.]

[1] 3 F. R. 1881 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of August, A. D. 1938.

[File No. 37-26]

IN THE MATTER OF FEDERAL ADVISERS, INC.

NOTICE OF AND ORDER FOR HEARING

A Declaration pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 15, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 10, 1938.

The matter concerned herewith is in regard to a Declaration with respect to the organization and conduct of the business of a subsidiary service company pursuant to Rule U-13-22.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2553; Filed, August 30, 1938; 12:51 p. m.]

SEP 6 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 171

Washington, Thursday, September 1, 1938

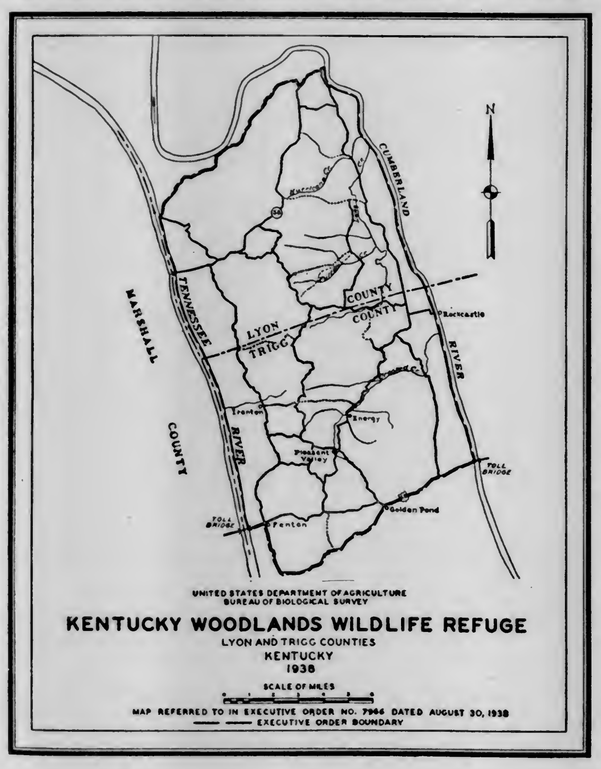
The President

EXECUTIVE ORDER

ESTABLISHING THE KENTUCKY WOODLANDS WILDLIFE REFUGE

KENTUCKY

By virtue of and pursuant to the authority vested in me as President of the United States, it is ordered that the lands acquired or to be acquired by the United States within the area delineated on the diagram attached hereto and made a part hereof, in Lyon and Trigg Counties, Kentucky, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as a refuge and breeding ground for birds



CONTENTS

THE PRESIDENT

Executive Orders: Page

Establishing Kentucky Woodlands Wildlife Refuge, Kentucky 2137

Enlarging Moosehorn Migratory Bird Refuge, Maine 2138

RULES, REGULATIONS, ORDERS

TITLE 10—ARMY:

War Department:

Regulations to govern the operation of the sanitary district controlling works and the use, administration and navigation of the lock constructed therewith at the mouth of the Chicago River, Chicago Harbor 2139

Special regulations to govern opening of drawbridge across Frankford Creek at Bridge Street, Phila., Pa. 2138

TITLE 26—INTERNAL REVENUE:

Bureau of Internal Revenue:

Income tax, articles 22 (b) (2)–2 of regulations 94 and 86, relating to annuities, amended 2140

Stamp taxes, subdivisions (m) and (n) of article 35, amended 2141

NOTICES

Securities and Exchange Commission:

Advance-Rumely Corp., application by New York Stock Exchange to strike from listing and registration 2142

Gulf States Utilities Co., order permitting declaration to become effective 2142

National Pumps Corp., order granting application to withdraw from listing and registration on the Board of Trade of the City of Chicago 2142

War Department:

Examination for appointment in medical corps 2141

FEDERAL REGISTER

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and other wildlife: *Provided*, That any private lands within such area shall become part of the refuge upon acquisition of title thereto or control thereof by the United States.

It is unlawful for any person to hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of this refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

This reservation shall be known as the Kentucky Woodlands Wildlife Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug 30, 1938.

[No. 7966]

[F. R. Doc. 38-2554; Filed, August 31, 1938; 9:59 a. m.]

EXECUTIVE ORDER

ENLARGING THE MOOSEHORN MIGRATORY BIRD REFUGE

MAINE

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands acquired or to be acquired by the United States within the area delineated on the diagram attached hereto and made a part hereof, in the town of Edmunds, Washington County, Maine, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as an addition to the Moosehorn Migratory Bird Refuge, established by Executive Order No. 7650 [1] of July 1, 1937: *Provided*, That any private lands within such area shall become part of the refuge upon acquisition of title thereto or control thereof by the United States.

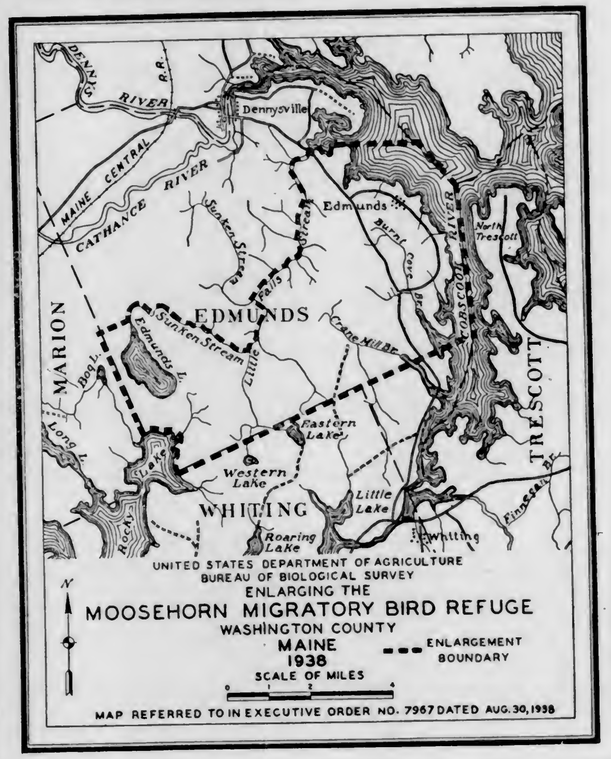
It is unlawful for any person to hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of this refuge, or to enter thereon, except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug 30, 1938.

[No. 7967]

[F. R. Doc. 38-2555; Filed, August 31, 1938; 9:59 a. m.]



[1] 2 F. R. 1150 (1377 DI).

Rules, Regulations, Orders

TITLE 10—ARMY

WAR DEPARTMENT

SPECIAL REGULATIONS TO GOVERN THE OPENING OF THE DRAWBRIDGE ACROSS FRANKFORD CREEK AT BRIDGE STREET, PHILADELPHIA, PA.

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 1056 DI.*]

THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the opening of the drawbridge across Frankford Creek at Bridge Street, Philadelphia, Pa.

1. The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance at the above-named bridge.

2. Whenever a vessel unable to pass under the closed bridge desires to pass through the draw, at least 12 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner or agency controlling the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can be easily read at any time, a copy of these regulations, together with a notice stating exactly how the representative specified in paragraph 2 may be reached.

5. These special regulations shall be in force on and after the date of approval hereof.

Approved, August 5, 1938.

[SEAL] LOUIS JOHNSON,
Acting Secretary of War.

[F. R. Doc. 38-2558; Filed, August 31, 1938; 10:08 a. m.]

REGULATIONS TO GOVERN THE OPERATION OF THE SANITARY DISTRICT CONTROLLING WORKS AND THE USE, ADMINISTRATION, AND NAVIGATION OF THE LOCK CONSTRUCTED IN CONNECTION THEREWITH AT THE MOUTH OF THE CHICAGO RIVER, CHICAGO HARBOR

AUTHORITY

A permit executed by the Acting Chief of Engineers and the Assistant Secretary of War under dates of March 11 and 12, 1936, respectively, under the authority of Section 10 of an Act of Congress approved March 3, 1899, authorized The Sanitary District of Chicago to construct controlling works at the mouth of the Chicago River, Illinois, subject to the condition, among others, "That the controlling works shall be maintained and operated by and at the expense of The Sanitary District of Chicago and its successors or assigns under the general supervision of the District Engineer in charge of the locality and subject to such rules and regulations as to operation as may be prescribed by the Secretary of War."

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

[*Here follows, in the original document, an excerpt from Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266), which may be found at 3 F. R. 1111 DI.*]

THE REGULATIONS

In pursuance of the authority above quoted, the following regulations are hereby prescribed to govern the operation of the controlling works and the use, administration and navigation of the lock at the mouth of the Chicago River owned and operated by The Sanitary District of Chicago, 910 South Michigan Avenue, Chicago, Illinois.

CONTROLLING WORKS

The controlling works shall be so operated that the water level in the Chicago River will be maintained at a level lower than that of the lake, except in times of excessive storm run-off into the river or when the level of the lake is below minus 2 feet, Chicago City Datum.

The elevation to be maintained in the Chicago River at the west end of the lock will be determined from time to time by the U. S. District Engineer, Chicago, Illinois. It shall at no time be higher than minus 0.5 foot, Chicago City Datum, and at no time lower than minus 2.0 feet, Chicago City Datum, except as noted in the preceding paragraph.

LOCK

1. *Operation.*—The operation of the lock shall be under the general supervision of the U. S. District Engineer, Chicago, Illinois. The lock gates shall be kept in a closed position at all times except for the passage of navigation.

2. *Description of lock.*—

	Feet
Clear length	600
Clear width	80
Depth over sills	[1] 24.4

[1] This depth is below Chicago City Datum which is the zero of the gages mounted on the lock. The clear depth below Low Water Datum for Lake Michigan, which is the plane of reference for U. S. Lake Survey Charts, is 23.0 feet.

The east end of the northeast guide wall shall be marked by an intermittent red light, and by a traffic light showing a fixed red or fixed green light. The west end of the northwest gate block shall be marked by a traffic light showing a fixed red or fixed green light. The east end of the southeast guide wall and the west end of the southwest guide wall shall be marked by an intermittent white light.

3. *Definition and authority of lockmaster.*—The term "lockmaster" as used herein shall mean the lockmaster, or his representative having authority to issue orders to vessels and operating personnel. The mooring, position, and movement of all vessels and floating craft of every description, while in the lock or its approaches, shall be subject to the direction of the lockmaster whose orders must be obeyed. This order does not relieve the master of the responsibility for the safety of his vessel.

4. *Signals.*—a. Signals from vessels for lockage shall be by whistle or by telephone message from one of the adjacent bridges or terminals. Signals from the lockmaster shall be by the traffic light and/or horn. In case of emergency the lockmaster may signal the vessel by voice or by waive of hand or lantern, and the signals thus given shall have the same weight as though given by visual or sound devices at the lock. Vessels must approach the lock with caution and shall not enter or leave the lock until signaled to do so by the lockmaster. The following lockage signals, and duration of sound signals, are prescribed:

A *long blast* shall be of 4 seconds duration.

A *short blast* shall be of 1 second duration.

VESSEL SIGNALS

Inbound vessels at a distance not more than 4,000 feet from the lock and outbound vessels at a distance not more than 2,000 feet from the lock shall signal for lockage by *2 long* and *2 short* blasts of a whistle, or telephone from one of the adjacent bridges or terminals.

LOCK SIGNALS

When the lock is ready for entrance, the traffic light will show *green*, and vessels under 500 gross tons shall come ahead under caution and enter the lock; vessels of 500 gross tons or more shall come to a stop along the guide wall, as prescribed in paragraph 5. Should the traffic light be out of order or be invisible due to thick weather, vessels shall upon *1 long blast* of the lock horn approach and moor to the south guide wall or continue into the lock if so directed by the lockmaster.

When the lock is not ready for entrance, the traffic light will show *red*, and vessels shall not pass beyond the end of the south guide wall, provided, however, that vessels may approach and moor to said wall if authorized by *1 long blast* of the lock horn.

Permission to leave the lock shall be indicated by *1 short blast* of the lock horn.

Caution or danger will be indicated by *four or more flashes* of the red traffic light or *four or more short blasts* of the lock horn delivered in rapid succession.

b. When in the lock, vessels shall not blow whistle signals for tugs, bridges, landings, etc., without the lockmaster's permission.

c. The master and chief engineer of each vessel of 500 gross tons or more shall be on duty at their respective stations when passing through the lock.

5. *Stop before entering.*—All vessels or tows of 500 gross tons or more shall come to a full stop at the point indicated by the sign reading "Stop" on the south guide wall and shall not proceed into the lock until so directed by the lockmaster.

6. *Maximum draft.*—Vessels drawing within 6 inches of the depth over the sills shall not be permitted lockage except under special permission from the lockmaster.

7. *Precedence of lockage.*—Vessels shall ordinarily be locked through in order of their arrival, but priority shall be given to vessels belonging to the United States, fire boats, passenger vessels, and freight vessels, in the order named. When two or more vessels of the same class arrive from the same direction at practically the same time, the vessel along the south approach wall shall be locked through first. Inbound

vessels shall generally have precedence over outbound vessels. The lockmaster at his discretion may change this order depending upon how the lock is set, the seal conditions in the outer harbor, or other reasons which may justify a change in the regular procedure, and his decision shall be final. Power vessels shall accompany their tows through the lock in such manner as the lockmaster may direct.

8. *Lockage of pleasure boats.*—Pleasure boats, yachts, house boats, and other light-draft craft will be given lockage as soon as practicable but will not be permitted to interfere with or delay the lockage of commercial craft. Whenever a lockage is made for a commercial boat, other craft may likewise pass through, if there is room for them in the lock. Small passenger-carrying speed boats shall not be construed as commercial craft within the meaning of these regulations. The lockmaster shall have the final decision as to whether craft presenting itself for lockage is a commercial or pleasure boat.

9. *Speed of approach and departure.*—Vessels of 500 gross tons or more when approaching the lock shall navigate at a speed not exceeding 2 miles per hour, and when leaving the lock shall navigate at a speed not exceeding 6 miles per hour. While entering or leaving the lock, the propellers of vessels of 500 gross tons or more shall be operated at slow speed so as not to undermine or injure the concrete paving on the bottom of the lock chamber. Tugs assisting vessels in lockage, and Coast Guard and fire vessels, may navigate at a higher speed when authorized by the lockmaster. Vessels of less than 500 gross tons shall operate at reasonable speed.

10. *Mooring.*—Vessels shall be moored in the lock or along its approach walls in such manner as may be directed by the lockmaster. Tying to lock ladders, lamp standards, or railings is strictly prohibited. Commercial vessels and tows of 500 gross tons or more shall in general have at least one line out when entering the lock and shall be moored in the lock with two bow and two stern lines, which shall lead forward and aft at each end of the vessel or tow. When the gates are closed, commercial vessels shall not be permitted to work their wheels. Said vessels shall have two seamen at each end of the vessel while they are in the lock; one to operate the deck engine and the other to relay the signals from the lock linesman to the deck engine operator. Lines shall not be released or the slack taken in except by signal from the linesman.

Mooring lines shall not be cast off until after the lock gates have been opened fully into their recesses, and the signal given to leave the lock. The lines leading aft shall be released first. The lines leading forward shall not be released until the vessel has started to move forward, so as to prevent the vessel from drifting back into the lock gates.

11. *Assistance.*—Lock employees will handle lines on the approach and lock walls. However, vessel crews shall furnish such assistance as the lockmaster may require.

12. *Unnecessary delay at lock.*—Masters and pilots must use every precaution to prevent unnecessary delay in entering or leaving the lock. Vessels failing to enter lock with reasonable promptness, when signaled to do so, shall lose their turn. Vessels arriving at the lock with their tows in such shape so as to impede lockage, shall lose their turn.

13. *Depositing refuse prohibited.*—The depositing of ashes or refuse matter of any kind in the lock; the passing of coal from barges or flats while in the lock; and the emission of dense smoke from any vessel while passing through the lock, is forbidden.

14. *Vessels denied lockage.*—The lockmaster may deny the privilege of passage through the lock to any vessel with sharp or rough projecting surfaces of any kind, or overhanging rigging, or any vessel which is badly leaking or in a sinking condition.

15. *Fenders.*—All barges and oil tankers must be provided with suitable nonmetallic fenders so as to eliminate damage to the lock or approach walls and reduce fire hazard. Said fenders shall be used as may be directed by the lockmaster.

16. *Operating machinery.*—Lock employees only shall be permitted to operate the lock gates, valves, signals or other appliances. Tampering or meddling with machinery or other parts of the lock is strictly forbidden.

17. *Commercial statistics.*—Upon each passage through the lock, the master or clerk of each vessel shall furnish the lockmaster, in duplicate, upon prescribed forms, such statistical information as may be required. The forms may be obtained without charge from the lockmaster; The Sanitary District of Chicago, 910 South Michigan Avenue, Chicago, Illinois; or the District Engineer, U. S. Engineer Office, 932 U. S. Post Office Building, Chicago, Illinois.

18. *Vessels to carry regulations.*—A copy of these regulations shall be kept at all times on board each vessel regularly engaged in navigating this lock. Copies may be obtained without charge from the lockmaster; The Sanitary District of Chicago, 910 South Michigan Avenue, Chicago, Illinois; or from the District Engineer, U. S. Engineer Office, 932 U. S. Post Office Building, Chicago, Illinois.

19. *Failure to comply with regulations.*—Any vessel failing to comply with these regulations or any orders given in pursuance thereof, may in the discretion of the lockmaster be denied the privilege of passage through or other use of the lock or appurtenant structures.

20. *Effective date.*—These regulations shall take effect and be in force on and after the opening of this lock to navigation.

Approved, August 17, 1938.

[SEAL] MALIN CRAIG,
Act'g. Secretary of War.

[F. R. Doc. 38-2557; Filed, August 31, 1938; 10:07 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4857]

INCOME TAX

ARTICLES 22 (B) (2)–2 OF REGULATIONS 94 AND 86, RELATING TO ANNUITIES, AMENDED

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Article 22 (b) (2)–2 of Regulations 94[1] and article 22 (b) (2)–2 of Regulations 86 are amended by substituting for the second and third sentences thereof, reading as follows:

If an annuity is payable in annual installments, there shall be included in gross income only such portion of the amounts received in any taxable year as is equal to 3 percent of the aggregate premiums or consideration paid for such annuity, whether or not paid during such year. If an annuity is payable in two or more installments over each 12-month period, such portion of each installment shall be taxable as is equal to 3 percent of the aggregate premiums or consideration paid for such annuity, whether or not paid during the taxable year, divided by the number of installments payable during such year.

the following sentences:

"Such portion of each installment payment of an annuity shall be included in gross income as is not in excess of 3 percent of the aggregate premiums or consideration paid for such annuity, whether or not paid during the taxable year, divided by 12 and multiplied by the number of months in respect of which the installment is paid."

PAR. B. Article 22 (b) (2)–2 of Regulations 94[1] is further amended as follows:

1. *Example* (2) is amended to read as follows:

"*Example* (2).—A bought an annuity on October 1, 1936, paying $100,000 as consideration therefor. The annuity amounts to $7,824 a year, payable in semiannual installments of $3,912, and on December 1, 1936, A received $1,304, the first payment under the contract being for a 2-month period. A shall include in his gross income for the calendar year 1936 the sum of $500, being 3 percent of $100,000 (the consideration paid) divided by 12 and multiplied by 2 (the number of months in respect of which the installment was paid)."

[1] 1 F. R. 1818.

2. The following additional example is added at the end of the article:

"*Example* (3).—A bought an increasing annuity on August 1, 1936, paying $40,000 as consideration therefor. The annuity amounts to $1,000 a year for the first year, $2,000 a year for the second year, and $3,000 a year thereafter, payable in quarterly installments. A received the first quarterly installment on November 1, 1936, amounting to $250. A shall include in his gross income for the calendar year 1936 the sum of $250, being such portion of the installment as is not in excess of 3 percent of $40,000 (the consideration paid) divided by 12 and multiplied by 3 (the number of months in respect of which the installment was paid)."

PAR. C. Article 22 (b) (2)–2 of Regulations 86 is further amended as follows:

1. *Example* (2) is amended to read as follows:

"*Example* (2).—A bought an annuity on October 1, 1934, paying $100,000 as consideration therefor. The annuity amounts to $7,824 a year, payable in semiannual installments of $3,912, and on December 1, 1934, A received $1,304, the first payment under the contract being for a 2-month period. A shall include in his gross income for the calendar year 1934 the sum of $500, being 3 percent of $100,000 (the consideration paid) divided by 12 and multiplied by 2 (the number of months in respect of which the installment was paid)."

2. The following additional example is added at the end of the article:

"*Example* (3).—A bought an increasing annuity on August 1, 1934, paying $40,000 as consideration therefor. The annuity amounts to $1,000 a year for the first year, $2,000 a year for the second year, and $3,000 a year thereafter, payable in quarterly installments. A received the first quarterly installment on November 1, 1934, amounting to $250. A shall include in his gross income for the calendar year 1934 the sum of $250, being such portion of the installment as is not in excess of 3 percent of $40,000 (the consideration paid) divided by 12 and multiplied by 3 (the number of months in respect of which the installment was paid)."

This Treasury Decision is prescribed pursuant to the provisions of sections 62 of the Revenue Acts of 1936 and 1934.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2559; Filed, August 31, 1938; 12:22 p. m.]

[T. D. 4858]

STAMP TAXES

SUBDIVISION (M) AND (N) OF ARTICLE 35, AMENDED

To Collectors of Internal Revenue and Others Concerned:

Regulations 71, approved July 16, 1932, as amended, are further amended as follows:

Subdivisions (m) and (n) of article 35, as amended by Treasury Decision 4701,[1] approved October 16, 1936, are amended to read respectively as follows:

(m) The mere delivery of a certificate of stock by or on behalf of a customer to his broker solely for the purpose of enabling such broker to make a sale of the stock for the customer, where the broker has no ownership or interest therein, is not subject to the stamp tax and does not require an exemption certificate. The transfer of stock from the name of the owner thereof to the name of his broker, or (on or after June 29, 1936) to the name of the registered nominee of the broker, solely for the purpose of enabling such broker to make a sale thereof for the owner, where the broker has no ownership or interest therein, is not subject to stamp tax provided the broker shall, in every case, at the time of such transfer to him or to his registered nominee, furnish a certificate stating that the transfer to him or to his registered nominee was made solely to enable the broker to sell the stock for the owner. See subdivision (o).

The exemption applicable with respect to brokers does not apply in the case of a bank acting as agent for a customer in the sale of stock, whether the sale is made by the bank direct or through a broker for the account of the bank, since a bank is not a broker within the meaning of the law. However, in such case, the mere delivery of a certificate of stock by the owner to the bank for sale of the stock is not subject to the stamp tax, provided the bank has no legal title to or other proprietary interest in the stock. A transfer of stock by the owner to the name of a bank solely for purposes of sale is in every case subject to the stamp tax. But see subdivision (v) as added by Treasury Decision 4824. The provisions of this paragraph are likewise applicable to other persons, not including brokers, acting as agents in similar transactions.

(n) The mere delivery of a certificate of stock from a broker to a customer for whom the broker has purchased the stock, where the tax has been paid upon the delivery of the certificate to the broker and where such broker has no ownership or interest therein, is not subject to the stamp tax and does not require an exemption certificate. The transfer of stock from the name of a broker, or (on or after June 29, 1936) from the name of his registered nominee, to the name of the customer for whom and upon whose order the broker has purchased such stock, or (on or after June 29, 1936) the transfer from a purchasing broker to his registered nominee of stock purchased for a customer, if such stock is to be held by the registered nominee for the same purpose as if held by the broker, and the tax has been paid upon the transfer of the stock to the broker, is not subject to stamp tax, provided the broker shall, in every case, at the time of each such exempt transfer, furnish a certificate in whichever of the forms given in subdivision (o) of this article is applicable.

The exemption applicable with respect to brokers does not apply in the case of a bank acting as agent for a customer in the purchase of stock, whether the stock is purchased by the bank direct or through a broker for the account of the bank, since a bank is not a broker within the meaning of the law. However, in such case, the mere delivery of a certificate of stock by the bank to the customer for whom the stock was purchased is not subject to the stamp tax, provided the bank has no legal title to or other proprietary interest in the stock. But see subdivision (v) as added by Treasury Decision 4824. If the stock is transferred directly by the purchasing broker to the customer, there is no taxable transfer of a right to receive on the part of the bank unless the bank has a legal title to or other proprietary interest in the stock. In every case, if, in effecting the purchase of stock, the stock is transferred to the name of the bank, the subsequent transfer of the stock by the bank to its customer is subject to the stamp tax. The provisions of this paragraph are likewise applicable to other persons, not including brokers, acting as agents in similar transactions.

This Treasury decision is issued under the authority prescribed in section 1101 of the Revenue Act of 1926.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 29, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2560; Filed, August 31, 1938; 12:22 p. m.]

[1] 1 F. R. 1642.

Notices

WAR DEPARTMENT.

EXAMINATION FOR APPOINTMENT IN THE MEDICAL CORPS, REGULAR ARMY

1. An examination of applicants for appointment as first lieutenants, Medical Corps, Regular Army, under the provisions of AR 605–10, will be held within the continental limits of the United States from December 5 to December 9, 1938, inclusive.

2. Applications and requests for information concerning this examination should be addressed to The Adjutant General.

3. Applications received after November 19, 1938, will not be considered. (Sec. 24, 41 Stat. 774; Sec. 4, 35 Stat. 67; 10 U. S. C. 92, 93) [AR 605–10, June 15, 1927; W. D. Cir. 45, August 24, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-2556; Filed, August 31, 1938; 10:07 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of August, 1938.

[File No. 1-551]

IN THE MATTER OF APPLICATION BY THE NEW YORK STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE COMMON STOCK, NO PAR VALUE, OF ADVANCE-RUMELY CORPORATION

ORDER CHANGING PLACE OF HEARING AND DESIGNATION OF OFFICER

The Commission having heretofore, on August 17, 1938, designated Charles S. Moore, an officer of the Commission to take evidence at a hearing to be held[1] in this matter, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, at the office of the Commission at Washington, D. C. on September 20, 1938; and

The Commission deeming it convenient to the parties hereto that this hearing be held in the city of Chicago, Illinois;

It is ordered, That the foregoing order of August 17, 1938 be and the same hereby is rescinded; and

It is further ordered, That the hearing in this matter be convened on Tuesday, September 20, 1938, at 10 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inqury, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-2563; Filed, August 31, 1938; 12:44 p. m.]

[1] 3 F. R. 2041 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of August, 1938.

[File No. 1-2215]

IN THE MATTER OF APPLICATION BY NATIONAL PUMPS CORPORATION TO WITHDRAW ITS COMMON STOCK, NO PAR VALUE, FROM LISTING AND REGISTRATION ON THE BOARD OF TRADE OF THE CITY OF CHICAGO

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The National Pumps Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its Common Stock, No Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

After appropriate notice, a hearing having been held[1] in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on September 8, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-2562; Filed, August 31, 1938; 12:44 p. m.]

[1] 3 F. R. 1877 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of August, A. D. 1938.

[File No. 43-151]

IN THE MATTER OF GULF STATES UTILITIES COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Gulf States Utilities Company, a subsidiary company of Engineers Public Service Company, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale by it of $10,000,000 aggregate principal amount of its First Mortgage and Refunding Bonds, Series C 4%, due October 1, 1966; public hearings having been held[1] upon said declaration after appropriate notice; the Commission having considered the record in this matter and having made its findings herein:

It is ordered, That said declaration be and become effective forthwith subject to the terms and for the purposes represented thereby.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-2561; Filed, August 31, 1938; 12:44 p. m.]

[1] 3 F. R. 1959 DI.

SEP 7 1938

THE NATIONAL ARCHIVES

FEDERAL REGISTER

VOLUME 3 NUMBER 172

Washington, Friday, September 2, 1938

Rules, Regulations, Orders

TITLE 11—AVIATION

CIVIL AERONAUTICS AUTHORITY

[General Order 404-B-1]

TEMPORARY AND PARTIAL POSTPONEMENT OF SECTION 404 (B)

AUGUST 25, 1938.

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 17th day of August 1938.

Inquiries having been made on behalf of certain air carriers as to whether the continuance of their present practice of issuing air travel cards (sometimes called "scrip"), entitling the holders thereof to a fifteen (15) percent discount on one-way fares and the charges made for excess baggage, would constitute a violation of sections 403 and 404 of the Civil Aeronautics Act of 1938, and, if so, whether the air carriers could continue to honor such air travel cards as they have outstanding on the date when those sections become effective; and

It appearing that until tariffs have been filed pursuant to the provisions of section 403 (a) (the provisions of which will not become effective until October 3, 1938), it cannot be known whether the air carriers will continue such practice;

Now, therefore, the Civil Aeronautics Authority, acting pursuant to the provisions of section 1110 of the Civil Aeronautics Act of 1938, and finding that its action in such matter is desirable in the public interest, hereby makes and issues the following general order:

GENERAL ORDER 404-B-1.—POSTPONING THE EFFECTIVE DATE OF SECTION 404 (B)

The effective date of sub-section (b) of section 404 of the Civil Aeronautics Act of 1938 is hereby postponed until 12:01 A. M. the third day of October, 1938, insofar, but only insofar as the provisions of said sub-section might otherwise be applicable to the issuance by air carriers of air travel cards (sometimes called "scrip") entitling the holders thereof to procure passenger and excess baggage air transportation at a discount of not exceeding fifteen (15) percent from the one-way passenger fares and excess baggage rates regularly charged to persons not holding such air travel cards.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary*.

[F. R. Doc. 38-2565; Filed, September 1, 1938; 9:01 a. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-12]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 30, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251,[1] twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[2] are hereby amended by the following regulations:

SOUTHEASTERN ALASKA AREA

South Prince of Wales Island District

Salmon fishery.—1. Regulations No. 6 and No. 7 are hereby amended so as to permit commercial fishing for salmon from 6 o'clock antemeridian August 31 to 6 o'clock postmeridian September 2.

2. Alaska general regulation No. 1 is hereby amended so as to permit the holding of salmon in traps in the South Prince of Wales Island district 72 hours after the termination of the fishing season.

[SEAL] DANIEL C. ROPER, *Secretary of Commerce*.

[F. R. Doc. 38-2564; Filed, August 31, 1938; 4:17 p. m.]

[1] 3 F. R. 451 DI.
[2] 3 F. R. 2131 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 11—AVIATION:	
Civil Aeronautics Authority:	
General order 404-B-1, postponing the effective date of section 404 (b)	2143
TITLE 20—FISH AND GAME:	
Bureau of Fisheries:	
Alaska fishery regulations, amendment	2143
TITLE 46—SHIPPING:	
United States Maritime Commission:	
Practices to be observed in method of terminating voyages and determining lay-up periods for subsidized vessels, general order no. 27	2144

NOTICES

Treasury Department:	
Procurement Division:	
Lincoln Gardens project, New Brunswick, N. J., notice of adoption of release forms	2144
Securities and Exchange Commission:	
Hearing:	
Haines, J. Albert	2144
Lucas, Herman	2145
Wisconsin Public Service Corp., order exempting issue and sale of bonds	2145
United States Maritime Commission:	
General order no. 15, notice of filing of supplements to	2145

FEDERAL REGISTER

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Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 27]

PRACTICES TO BE OBSERVED IN THE METHOD OF TERMINATING VOYAGES AND DETERMINING LAY-UP PERIODS FOR SUBSIDIZED VESSELS

At a regular session of the United States Maritime Commission held at its office in Washington, D. C., on the 25th day of August 1938.

In order to establish uniformity in the method of terminating voyages and determining lay-up periods under Operating-Differential Subsidy Agreements, the following practices shall be observed by each operator, effective at once:

VOYAGE TERMINATIONS

All voyages shall be terminated at midnight of the day on which the crew is paid off from foreign articles or the final discharge of cargo or ballast at the last inward port of discharge is completed, whichever is the later, except in instances where a vessel sails on a new voyage on that day, in which event the old voyage shall be terminated at midnight of the preceding day. If in the opinion of the Operator termination of the voyage at the home or terminal port rather than at the last inward port of discharge is more desirable, application may be made to the Commission to do so.

LAY-UP PERIODS

A separate accounting period shall be created to cover any period of ten (10) days or more beyond the termination of the preceding voyage during which a vessel is idle in a continental United States port.

No lay-up period shall be created to cover lay time of less than ten (10) days, and if a vessel which has been idle is placed in active status or on loading berth prior to expiration of the ten (10) days minimum lay-up period, the commencement of the new voyage shall be ante-dated to coincide with the termination of the preceding voyage. Whenever a vessel is delayed for an unusual period of time or in other than a continental United States port, full information shall be submitted to the Commission for determination of its accounting status.

GENERAL

Vessel movement bulletins furnished by operators shall reflect the dates on which (1) the crew is paid off from foreign articles, (2) the final discharge of cargo or ballast at the last inward port of discharge is completed, and (3) repairs are completed and also the beginning and ending dates of each voyage and lay-up period as it occurs.

To insure uniformity in accounting, the operator shall submit all questions of doubtful interpretation of the foregoing to the Commission for consideration and decision.

By order of the United States Maritime Commission.

[SEAL] W. C. PEET, Jr.,
Secretary.

[F. R. Doc. 38-2566; Filed, September 1, 1938; 11:19 a. m.]

Notices

TREASURY DEPARTMENT.
Procurement Division.

NEW BRUNSWICK, NEW JERSEY—LINCOLN GARDENS PROJECT

NOTICE OF ADOPTION OF RELEASE FORMS

AUGUST 9, 1938.

To the holders of "existing contracts" for properties in the above project:

By resolution of August 1, 1938, the Board of Directors of this Corporation, with the approval of the Director of Procurement, Treasury Department, approved and adopted a form of circular letter and release form for use in inviting the submission of releases under the Act of June 25, 1938, Public No. 735, 75th Congress, authorizing the Corporation "to accept from any person holding an existing contract for the property in the Lincoln Gardens project, New Brunswick, New Jersey, a full release of any right or interest any such person may have acquired by reason of any such contract."

Said resolution further directed that a notice of the adoption of these forms,[1] with copies appended thereto, be filed for publication in the FEDERAL REGISTER.

[SEAL] THOS. W. O'BRIEN,
Secretary.

[F. R. Doc. 38-2381; Filed, August 15, 1938; 11:17 a. m.]

[1] The form of release and a form letter (PB—SC—NSHC) were filed with the original document. Requests for copies may be addressed to the Treasury Department, Procurement Division.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C., on the 29th day of August 1938.

IN THE MATTER OF J. ALBERT HAINES, 150 BROADWAY, NEW YORK, NEW YORK

ORDER AND NOTICE OF REHEARING

The Commission having reasonable grounds to believe that J. Albert Haines, registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, hereinafter called the registrant, has willfully violated the provisions of Rule MB2 adopted by the Commission under Sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934, as amended, by reason of the said registrant having willfully failed to report and correct the inaccuracy of the information furnished under Item 2 of the aforesaid application by means of a supplemental report disclosing the fact that the said registrant has removed his office from 150 Broadway, New York, New York; and having further reasonable grounds to believe that it is in the public interest to suspend or revoke said registration; and

The Commission on May 9, 1938, having ordered proceedings to determine whether the registration of the said registrant should be revoked or suspended pursuant to the provisions of Section 15 (b) of the said Act; and a hearing having been held on June 2, 1938, before a trial examiner who has duly filed his report; and

It further appearing necessary and appropriate in the public interest and for the protection of investors that a further hearing be held to determine whether the said registrant has willfully violated the provisions of Rule MB2 as hereinbefore alleged and whether it is in the public interest to suspend or revoke registration;

It is ordered, That the record of the aforesaid proceedings be reopened and that a further hearing be held for the purpose of taking evidence relative to the matter hereinabove set forth, and for the further purpose of determining whether or not the registration of J. Albert Haines shall be revoked or suspended pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended, said hearing to begin at 10:30 A. M. on September 21, 1938, at the Commission's offices at 120 Broadway, New York, New York, and to be adjourned from time to time and from place to place at the discretion of the officer conducting said hearing.

It is further ordered, That for the purposes of said hearing Adrian C. Humphreys be and is hereby designated to conduct such hearing, administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda, and to perform any and all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on J. Albert Haines, personally, or by registered mail, not less than seven days prior to the date of said hearing, or by publication in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter the officer conducting said hearing is directed to conclude said hearing and make a report to the Commission and transmit same with a record of the hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2587; Filed, September 1, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C., on the 29th day of August 1938.

IN THE MATTER OF HERMAN LUCAS, 38 PARK ROW, ROOM 1110, NEW YORK, NEW YORK

ORDER AND NOTICE OF REHEARING

The Commission having reasonable grounds to believe that Herman Lucas, registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, hereinafter called the registrant, has willfully violated the provisions of Rule MB 2 adopted by the Commission under Sections 15 (b), 17 (a), and 23 (a) of the Securities Exchange Act of 1934, as amended, by reason of the said registrant having willfully failed to report and correct the inaccuracy of the information furnished under Item 2 of the aforesaid application by means of a supplemental report disclosing the fact that the said registrant has removed his office from 38 Park Row, New York, New York; and having further reasonable grounds to believe that it is in the public interest to suspend or revoke said registration; and

The Commission on May 9, 1938, having ordered proceedings to determine whether the registration of the said registrant should be revoked or suspended pursuant to the provisions of Section 15 (b) of the said Act; and a hearing having been held on June 3, 1938, before a trial examiner who has duly filed his report; and

It further appearing necessary and appropriate in the public interest and for the protection of investors that a further hearing be held to determine whether the said registrant has willfully violated the provisions of Rule MB2 as hereinbefore alleged and whether it is in the public interest to suspend or revoke registration;

It is ordered, That the record of the aforesaid proceedings be reopened and that a further hearing be held for the purpose of taking evidence relative to the matter hereinabove set forth, and for the further purpose of determining whether or not the registration of Herman Lucas shall be revoked or suspended pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended, said hearing to begin at 10:30 A. M. on September 22, 1938, at the Commission's offices at 120 Broadway, New York, New York, and to be adjourned from time to time and from place to place at the discretion of the officer conducting said hearing.

It is further ordered, That for the purposes of said hearing Adrian C. Humphreys be and is hereby designated to conduct such hearing, administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda, and to perform any and all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on Herman Lucas, personally, or by registered mail, not less than seven days prior to the date of said hearing, or by publication in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter the officer conducting said hearing is directed to conclude said hearing and make a report to the Commission and transmit same with a record of the hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2588; Filed, September 1, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of August, A. D. 1938.

[File No. 32-96]

IN THE MATTER OF WISCONSIN PUBLIC SERVICE CORPORATION

ORDER EXEMPTING ISSUE AND SALE OF BONDS

Wisconsin Public Service Corporation, a subsidiary of Standard Gas and Electric Company, a registered holding company, having filed an application and amendments thereto pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of $2,500,000 of its First Mortgage Bonds, 4% Series, due 1963;

A hearing on such matter having been held[1] after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of such securities by the Public Service Commission of Wisconsin shall be revoked or otherwise terminated this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of the proposed bonds, the Applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2586; Filed, September 1, 1938; 12:52 p. m.]

UNITED STATES MARITIME COMMISSION.

NOTICE

The United States Maritime Commission on September 1, 1938, filed the following numbered supplements[2] to General Order No. 15[3] with the Division of the Federal Register, The National Archives, which have been made available for public inspection by the Division:

Supplement No. 2a.—Minimum Manning Scales for the S. S. *Manhattan* and S. S. *Washington*, Subsidized Vessels of the United States Lines Company.

Supplement No. 2b.—Minimum Manning Scales for the S. S. *President Roosevelt* and S. S. *President Harding*, Subsidized Vessels of the United States Lines Company.

Supplement No. 2c.—Minimum Manning Scales for the S. S. *American Banker*, S. S. *American Shipper*, S. S. *American Trader*, S. S. *American Farmer* and S. S. *American Merchant*, Subsidized Vessels of the United States Lines Company.

Supplement No. 2d.—Minimum Manning Scales for the S. S. *American Importer* and S. S. *American Traveler*, Sub-

[1] 3 F. R. 1667 DI.

[2] Requests for copies may be addressed to the United States Maritime Commission.

[3] 2 F. R. 2257 (2626 DI).

sidized Vessels of the United States Lines Company.

Supplement No. 3a.—Minimum Manning Scales for the S. S. *Scanstates*, S. S. *Scanyork*, S. S. *Scanpenn*, and S. S. *Scanmail*, Subsidized Vessels of the American Scantic Line, Inc.

Supplement No. 3b.—Minimum Manning Scales for the S. S. *Mormactide*, S. S. *Mormacsun*, and S. S. *Mormacsea*, Subsidized Vessels of the American Scantic Line, Inc.

Supplement No. 4a.—Minimum Manning Scale for the S. S. *City of New York*, Subsidized Vessel of the American South African Line, Inc.

Supplement No. 4b.—Minimum Manning Scale for the S. S. *Challenger*, Subsidized Vessel of the American South African Line, Inc.

Supplement No. 4c.—Minimum Manning Scales for the S. S. *West Isleta* and S. S. *West Cawthon*, Subsidized Vessels of the American South African Line, Inc.

Supplement No. 5a.—Minimum Manning Scale for the S. S. *Santa Clara*, Subsidized Vessel of the Grace Line Steamship Company, Inc.

Supplement No. 5b.—Minimum Manning Scale for the S. S. *Santa Lucia*, Subsidized Vessel of the Grace Line Steamship Company, Inc.

Supplement No. 5c.—Minimum Manning Scales for the S. S. *Santa Maria*, and S. S. *Santa Barbara*, Subsidized Vessels of the Grace Line Steamship Company, Inc.

Supplement No. 5d.—Minimum Manning Scales for the S. S. *Santa Rita*, and S. S. *Santa Inez*, Subsidized Vessels of the Grace Line Steamship Company, Inc.

Supplement No. 6a.—Minimum Manning Scale for the S. S. *Oriente*, Subsidized Vessel of the New York and Cuba Mail Steamship Co., Inc.

Supplement No. 6b.—Minimum Manning Scales for the S. S. *Siboney*, and S. S. *Orizaba*, Subsidized Vessels of the New York and Cuba Mail Steamship Co., Inc.

Supplement No. 6c.—Minimum Manning Scales for the S. S. *Agwistar*, and S. S. *Panuco*, Subsidized Vessels of the New York and Cuba Mail Steamship Co., Inc.

Supplement No. 8a.—Minimum Manning Scales for the S. S. *Express*, S. S. *Exchester*, S. S. *Exchange*, S. S. *Exmoor*, S. S. *Excello*, S. S. *Examiner*, S. S. *Exermont*, S. S. *Exministe*[illegible] and S. S. *Exirta*, Subsidized Vessels of the American Export Lines, Inc.

Supplement No. 8b.—Minimum Manning Scales for the S. S. *Examelia*, S. S. *Extavia*, S. S. *Exmouth*, S. S. *Exhibitor*, and S. S. *Executive*, Subsidized Vessels of the American Export Lines, Inc.

Supplement No. 8c.—Minimum Manning Scales for the S. S. *Exeter*, S. S. *Exochorda*, S. S. *Excambion*, and S. S. *Excalibur*, Subsidized Vessels of the American Export Lines, Inc.

Reference

SEP 7 1938

THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES

VOLUME 3 — 1934 — NUMBER 173

Washington, Saturday, September 3, 1938

The President

GENERAL PULASKI MEMORIAL DAY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it is entirely fitting and proper that we should, from time to time, recall with gratitude the invaluable succor accorded this nation in its infancy by lovers of freedom who, though born beyond the seas, flocked to the standard of Washington and contributed substantially to the triumph of the American cause, each according to his abilities; and

WHEREAS we are proud to number General Casimir Pulaski, a valiant son of Poland, in the ranks of those whose deeds are part of the imperishable record of American independence; and

WHEREAS the Seventy-fifth Congress, by Public Resolution 102, approved on June 1, 1938, provided:

"That the President of the United States is authorized to issue a proclamation calling upon officials of the Government to display the flag of the United States on all governmental buildings on October 11, 1938, and inviting the people of the United States to observe the day in schools and churches, or other suitable places, with appropriate ceremonies in commemoration of the death of General Casimir Pulaski."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do direct that the flag be displayed upon all Government buildings on October 11, 1938, as a mark of respect to the memory of General Casimir Pulaski, and do hereby invite the people of the United States to observe that day as General Pulaski Memorial Day and to participate with appropriate ceremonies in schools and churches or other suitable places in the solemn commemoration of General Pulaski's death on October 11, one hundred and fifty-nine years ago.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 31st day of August, in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2297]

[F. R. Doc. 38-2606; Filed, September 2, 1938; 12:16 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Supplement No. 13]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SEPTEMBER 1, 1938.

Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938,[1] and as amended by Supplements Nos. 3 to 12,[2] inclusive, is hereby further amended as follows:

(1) The first paragraph of Section V is hereby amended to read as follows:

"Payments computed for any farm under the provisions of Section IV shall be subject to all of the following deductions which are applicable to the farm, *Provided*, That in any case where, through error in a county or State office, the producer was officially notified in writing, prior to completion of planting, of an acreage allotment larger than the finally

[1] 3 F. R. 563 DI.

[2] Supplements 3 to 11 appear at 3 F. R. 741, 719, 865, 886, 915, 984, 1191, 1697, 1939 DI.

CONTENTS

THE PRESIDENT

Proclamation: Page
General Pulaski Memorial Day 2147

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
1938 Agricultural Conservation Program bulletin, supplement No. 13, amendment 2147
Flue-cured tobacco farm marketing quotas for 1938 2148
Apportionment and adjustment of the National Marketing quota for tobacco-year 1938–39 2149
Order regulating handling of honey bees etc 2149
Order terminating marketing agreement and license of shippers of packaged bees etc 2153
TITLE 15—COMMERCE:
National Bituminous Coal Commission:
Sunshine Anthracite Coal Co., petition for exemption 2154
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Day-Lite Illuminating Corp., cease and desist order 2154
Tomato paste manufacturing industry, trade practice rules 2155
TITLE 43—PUBLIC LANDS:
Division of Grazing:
Colorado grazing district No. 1, special rule No. 1 2157
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Interstate Commerce, operation of motor carrier in, rules and regulations 2157

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Proclamation, corn statistics 2153

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Department of Agriculture—Con.	
Agricultural Adjustment Administration—Continued.	
Proclamation regarding base period for purposes of a marketing agreement regulating the handling of package honey bees etc	2163
Department of the Interior:	
National Bituminous Coal Commission:	
Application for exemption from the provisions of section 4:	
Inland Steel Co	2161
Norfolk and Western Railway Co	2159
Pennsylvania Electric Co	2160
Pittsburgh Steel Co	2159
Ross Clay Products Co	2161
C. A. Riggen Coal Co. et al., applications for exemption under section 4–A	2161
Establishment of minimum prices and marketing rules and regulations, hearings:	
Areas 1, 2, 3, 4 and 5	2162
Areas 6, 7, 9 and 10	2162
Treasury Department:	
Bureau of Customs:	
Warroad Seaplane Base, Warroad, Minn., redesignated as airport of entry	2158
Securities and Exchange Commission:	
Hearings:	
American Light & Traction Co., et al	2164
Ralph C. Kent & Co. (Ralph C. Kent)	2165

approved acreage allotment and was not notified of the finally approved acreage allotment until after planting was completed, and the county committee finds that the producer, acting solely upon information contained in the erroneous notice, planted an acreage of soil-depleting crops in excess of the finally approved acreage allotment, such deduction for excess acreage of soil-depleting crops will be made only with respect to the acreage in excess of the allotment erroneously issued."

(2) The second paragraph of subsection A of Section VI is hereby amended to read as follows:

"The net payment or net deduction computed with respect to the restoration land goal for any farm, which is owned by one person and operated by one person, shall be divided in the same proportion that any payment with respect to the wheat acreage allotment for such farm is divided among landlords, tenants, and sharecroppers, provided that if no payment is computed with respect to a wheat acreage allotment for such farm, the net payment or net deduction with respect to the restoration land goal shall be divided in the same proportion that any payment in connection with general soil-depleting crops for such farm is, or would be, divided among landlords, tenants, and sharecroppers. The net payment or net deduction computed with respect to the restoration land goal for any farm which comprises field-rented or separately-owned tracts shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons contribute to the restoration land on such farm. Each person shall be deemed to have contributed to the acreage of restoration land on a field-rented or separately-owned tract in the proportion that the principal crop normally grown on such tract is divided. In the event that restoration land is designated for a farm which is not operated by a tenant in 1938, the net payment or net deduction, if any, with respect to such restoration land goal shall be attributed to the owner of such farm."

Done at Washington, D. C., this 1st day of September, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2589; Filed, September 1, 1938; 3:56 p. m.]

[Form 38—Tobacco 11—Supplement 5 [1]]

INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

AUGUST 13, 1938.

(Issued pursuant to the Agricultural Adjustment Act of 1938 as amended)

Form 38—Tobacco 11, "Instructions for Determination of Flue-Cured Tobacco Farm Marketing Quotas for 1938", is amended as follows:

Paragraph D of Section I is amended by striking out the whole of the said paragraph and inserting in lieu thereof the following:

"D. *Establishment of farm marketing quotas on the basis of normal marketings*—1. *Old farms.*—The total of the normal marketings of all old farms in each State will be brought within the State marketing quota (or the balance of such quota remaining after deduction therefrom of the amount, if any, reserved for adjustments as provided in Section IV (D)) by adjusting the normal marketings of each old farm by a uniform percentage. The normal marketings for old farms, after being thus adjusted, will be subject to such further adjustment as is necessary in order to provide each such farm with a 'minimum quota' and at the same time keep the total of the quotas for all such farms equal to the State marketing quota after deduction therefrom of the amount, if any, reserved pursuant to section IV (D). The farm marketing quota will be the normal marketings adjusted as indicated above, plus such additions as may be made thereto from the 4 percent addition to the State quota (Sec. IV (C)), and from the amount reserved from the State quota (Sec. IV (D)).

"2. *New farms.*—The total of the normal marketings of all new farms in the United States will be brought within the amount represented by three percent of the national quota of 705,000,000 pounds by adjusting the normal marketings of each new farm by a uniform percentage. The normal marketings for new farms, after being thus adjusted, will be subject to such further adjustment as is necessary in order to provide each new farm with a "minimum quota" and at the same time keep the total of the quotas for all new farms within the amount reserved from the national quota for new farms. Normal marketings for a new farm, as finally adjusted, will constitute the farm marketing quota (Sec. IV, B)."

Paragraph A of Section IV is amended as follows:

By striking out the period at the end of subparagraph (1) and adding in lieu thereof the following:

"after deduction therefrom of the amount, if any, reserved pursuant to paragraph D below."

By striking out the period at the end of subparagraph (4) and adding in lieu thereof a comma and the following:

"and the amount, if any, reserved from the State marketing quota pursuant to paragraph D below."

By striking out the period at the end of subparagraph (5) and adding in lieu thereof a comma and the following:

"and plus such additions as may be made thereto pursuant to paragraphs C and D below."

Section IV is amended by adding at the end thereof the following:

"D. *Reserve for adjustment by county committees.*—An amount not in excess of 5 percent of the State marketing quota may be reserved therefrom for the purpose of making adjustments as in this paragraph provided. The amount so reserved shall be allocated by the State committee among the counties of the State upon the basis of (1) the relationship of the total 'excess' (computed pursuant to paragraph A (3) above) for old farms in the county to the total 'excess' for old farms in all counties in the State and (2) the relative needs of the counties for adjustments of the quotas determined for old farms thereon. The amount so allocated to a county shall be allotted by the county committee among those old farms in the county whose marketing quotas, as compared with the marketing quotas for other similar farms in the county, are determined by the county committee to require adjustment in order to take into adequate account past marketings of tobacco, making due allowance for abnormal weather conditions, plant-bed and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco."

Done at Washington, D. C., this 13th day of August, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2614; Filed, September 2, 1938; 12:55 p. m.]

[1] 3 F. R. 1438 DI.

CONTENTS—Continued

	Page
Securities and Exchange Commission—Continued.	
Hearings—Continued.	
Northeastern Water & Electric Service Corp	2166
Peoples Light Co., Inc	2166
Northeastern Water and Electric Corp., order approving on condition acquisition of securities	2165
United States Civil Service Commission:	
Apportionment at close of business, Wednesday, August 31, 1938	2166

REVISED DETERMINATION OF THE APPORTIONMENT AND ADJUSTMENT OF THE NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO FOR THE 1938–39 MARKETING YEAR

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY

It having been determined to be necessary to revise the determination of the apportionment and adjustment of the national marketing quota for flue-cured tobacco for the 1938–39 marketing year,[1] made by the Secretary of Agriculture on the 22d day of July, 1938, I, M. L. Wilson, Acting Secretary of Agriculture, in revision of the aforesaid determination, and pursuant to Section 313 of the Agricultural Adjustment Act of 1938, as amended, do hereby determine that the national marketing quota for flue-cured tobacco for the 1938–39 marketing year, as proclaimed by the Secretary of Agriculture on February 18, 1938, be apportioned and adjusted in accordance with the following table:

States and new farms (i. e., farms on which tobacco is produced for the first time in 5 years)	Apportionment of national quota proclaimed February 18, 1938	Adjustment pursuant to Section 313(a) to bring State up to 75% of 1937 production	Adjustment pursuant to Section 313 (e) 4% increase all States	Adjustment pursuant to Section 313 (e) to bring State up to minimum State poundage	Totals as apportioned and adjusted
	1,000 pounds	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*
Virginia	66,215	0	2,649	0	68,864
North Carolina	469,071	0	18,763	0	487,834
South Carolina	69,212	11,848	3,242	0	84,302
Georgia	71,637	0	2,865	0	74,502
Florida	7,645	2,939	423	0	11,007
Alabama	70	18	4	328	420
New farms	21,150	0	0	0	21,150
Total, United States	705,000	14,805	27,946	328	748,079

Done at Washington, D. C., this 13th day of August 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2615; Filed, September 2, 1938; 12:55 p. m.]

ORDER OF THE SECRETARY OF AGRICULTURE ISSUED PURSUANT TO PUBLIC ACT NO. 10, 73RD CONGRESS, AS AMENDED, AND AS RE-ENACTED AND AMENDED BY THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937, AS AMENDED, REGULATING SUCH HANDLING OF PACKAGE HONEY BEES AND QUEEN BEES PRODUCED IN THE UNITED STATES AS IS IN INTERSTATE OR FOREIGN COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE

Whereas, it is provided in Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended (hereinafter called the "act"), as follows:

SEC. 8c (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers". Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof, and

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order will tend to effectuate the declared policy of the act to establish and maintain such marketing conditions for package honey bees and queen bees produced in the United States as would reestablish prices to farmers at a level that would give such package honey bees and queen bees a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such package honey bees and queen bees in the base period, did, pursuant to the provisions of the act and the regulations thereunder, on the 19th day of November, 1937, give notice of a hearing [2] to be held at the Hotel Montelone, in New Orleans, Louisiana, on December 6, 1937, at 9:30 o'clock a. m., on a proposed order regulating the handling of package honey bees and queen bees and, did, at the same time and place, conduct a public hearing thereon and give due opportunity to all interested parties to be heard concerning the said proposed order; and

Whereas, the Secretary of Agriculture has found and determined that the purchasing power during the pre-war period, August 1909–July 1914, of package honey bees and queen bees produced in the United States cannot be satisfactorily determined from the available statistics of the United States Department of Agriculture, but that the purchasing power of said package honey bees and queen bees can be satisfactorily deter-

[1] 3 F. R. 1839 DI.
[2] 2 F. R. 2521 (2931 DI).

mined from the available statistics of the United States Department of Agriculture for the post-war period, August 1919–July 1929, which period of August 1919–July 1929 is the base period to be used in connection with this order in determining the purchasing power of said package honey bees and queen bees; and

Whereas, the Secretary of Agriculture finds upon the evidence introduced at said hearing and the record thereof:

(1) That a substantial proportion of the total shipments of package honey bees and queen bees produced in the United States enters into the current of interstate and foreign commerce and directly burdens, obstructs, and affects such commerce;

(2) That, at the time of the hearing aforesaid, the prices received by the producers of such package honey bees and queen bees were at a level that gave such package honey bees and queen bees a purchasing power with respect to articles that such producers buy appreciably below the purchasing power of such package honey bees and queen bees during the base period;

(3) That the lack of regulation of handling of such package honey bees and queen bees, together with widely fluctuating prices, unfair trade practices and unfair methods of competition, have been important factors in contributing toward uncertain and unstable market conditions for such package honey bees and queen bees and consequent depressed prices to the producers thereof;

(4) That the regulation of handling of such package honey bees and queen bees by regulations requiring the filing of prices at which handlers offer to sell or sell such package honey bees and queen bees, together with regulations prohibiting unfair trade practices and unfair methods of competition on the part of handlers, will tend to prevent fluctuations of prices to the producers of package honey bees and queen bees, particularly prices which are so low as to represent losses to such producers, and will thereby establish and maintain a more stable market for such package honey bees and queen bees;

(5) That this order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act;

(6) That the issuance of several orders applicable to any subdivisions of such regional production and marketing areas covered by this order would not effectively carry out the declared policy of the act with respect to establishing and maintaining such marketing conditions for package honey bees and queen bees as will establish and maintain prices to the producers thereof with respect to articles that such producers buy equivalent to the purchasing power of such package honey bees and queen bees in the base period;

(7) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, based upon the total quantity of combs, honey bees and queen bees shipped, as provided in this order, is fair and equitable; and

(8) That this order, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to package honey bees and queen bees produced in the United States by establishing and maintaining such marketing conditions as will reestablish prices to producers thereof at a level that will give such package honey bees and queen bees a purchasing power with respect to articles that such producers buy, equivalent to the purchasing power of such package honey bees and queen bees in the base period, at the same time protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary of Agriculture finds:

(1) That the marketing agreement regulating the handling of package honey bees and queen bees produced in the United States, executed by him on the day of 1938, upon which a hearing was held on December 6, 1937, was signed by handlers who handled during the year 1937 more than fifty percent of the volume of such package honey bees and queen bees produced in the United States during such year;

(2) That this order regulates the handling of such package honey bees and queen bees in the same manner as the said marketing agreement, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in the said marketing agreement; and

Whereas, the Secretary of Agriculture finds and determines that the issuance of this order is favored by producers who, during the year 1937, which is hereby determined to be a representative period, produced for market at least two-thirds (⅔) of the volume of package honey bees and queen bees produced in the United States for market:

Now, therefore, it is ordered by the Secretary of Agriculture, acting pursuant to the authority vested in him as aforesaid, that, from and after the date herein specified, the handling in the current of interstate or foreign commerce, or such handling as directly burdens, obstructs or affects interstate or foreign commerce, of package honey bees and queen bees produced in the United States shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. *Terms.*—As used in this order:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended.

3. "Person" means an individual, partnership, corporation, association, or any other business unit.

4. "Package bees" means honey bees in a shipping container with or without a queen.

5. "Comb" means a fully drawn honey comb in a frame containing honey and honey bee brood.

6. "Comb package" means a package containing one or more combs, two or more pounds of honey bees and a queen.

7. "Queen" means an untested or a tested fertile queen bee in a mailing package with attendant worker bees.

8. "Handler" means any person engaged wholly or in part in the business, either in person, or as or through an agent, broker, representative or otherwise, of selling package bees, comb package or queens produced in the United States, in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce.

9. "Control Committee" means the agency selected in accordance with the provisions of Article II of this order.

ARTICLE II—CONTROL COMMITTEE

SECTION 1. *Membership.*—A Control Committee is hereby established, consisting of six (6) members. The initial members and their respective alternates shall be as follows:

1. To represent handlers whose apiaries are located in the State of Alabama:

W. E. Harrel, Hayneville, Alabama, as member;

H. C. Short, Fitzpatrick, Alabama, as alternate.

2. To represent handlers whose apiaries are located in the State of California:

J. E. Wing, Cottonwood, California, as member;

Willis Lynch, Tehama, California, as alternate.

3. To represent handlers whose apiaries are located in the State of Louisiana.

J. W. Newton, Baton Rouge, Louisiana, as member;

E. C. Bessonet, Donaldsonville, Louisiana, as alternate.

4. To represent handlers whose apiaries are located in the State of Mississippi:

M. S. Fortune, Mayhew, Mississippi, as member;

Glenn Hummer, Prairie Point, Mississippi, as alternate.

5. To represent handlers whose apiaries are located in the State of Texas:

T. W. Burleson, Waxahachie, Texas, as member;

Roy Weaver, Navasota, Texas, as alternate.

6. To represent handlers whose apiaries are located in all other States:

H. F. York, Jessup, Georgia, as member;

G. G. Puett, Hahira, Georgia, as alternate.

The members and their alternates named in this paragraph shall hold office for a term ending December 31, 1938, and until their respective successors are selected by the Secretary and shall have qualified.

SEC. 2. *Acceptance.*—Any person selected as a member or as an alternate shall qualify by filing a written acceptance of his selection with the Secretary.

SEC. 3. *Term of office.*—Members of the Control Committee and their respective alternates, subsequent to the members and alternates named in section 1, shall be selected annually for a term of one (1) year, beginning the first day of January, and shall serve until their respective successors shall be selected and shall qualify.

SEC. 4. *Organization.*—The members of the Control Committee shall select a chairman from their membership and shall select such other officers and adopt such rules for the conduct of their business as they may deem advisable.

SEC. 5. *Inability of members to serve.*—An alternate for a member of the Control Committee shall act in the place and stead of such member in his absence or in the event of his removal, resignation, disqualification or death and until a successor for his unexpired term has been selected.

SEC. 6. *Expense of members.*—Members of the Control Committee shall serve without compensation but shall be entitled to expenses necessarily incurred in the performance of their duties as such members.

SEC. 7. *Powers.*—The Control Committee shall have the power:

1. To administer, as hereinafter specifically provided, the terms and provisions of this order;

2. To make, in accordance with the provisions herein contained, administrative rules and regulations;

3. To receive, investigate and report to the Secretary complaints of violations of this order; and

4. To recommend to the Secretary amendments to this order.

SEC. 8. *Duties.*—It shall be the duty of the Control Committee:

1. To act as intermediary between the Secretary and any handler;

2. To keep minute books and records which will clearly reflect all of its activities and transactions, and such minute books and records shall, at any time, be subject to examination by the Secretary;

3. To furnish to the Secretary such available information as he may request;

4. To appoint a managing director and such other employees as it may deem necessary and to determine the salaries and define the duties of such employees;

5. To cause the books of the Control Committee to be audited at least once during each year and at such other times as the Control Committee may deem necessary, or as the Secretary may request, and to file with the Secretary copies of such audit reports.

SEC. 9. *Procedure.*—1. For any decision of the Control Committee to be valid four (4) concurring votes shall be necessary.

2. Four (4) members of the Control Committee shall be necessary to constitute a quorum.

3. The Control Committee may provide for voting by mail, telegraph or radiogram upon due notice to all members eligible to vote.

4. The Control Committee shall give the Secretary or his designated agent, the same notice of meetings of the Control Committee as is given to its members.

5. Each act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same, at any time, and, upon his disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith.

SEC. 10. *Funds and other property.*—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(a) The Secretary may, at any time, require the Control Committee and its members to account for all receipts and disbursements.

(b) Upon the resignation, removal or expiration of the term of office of any member of the Control Committee, such member shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office, or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or such designated person full title to all of the property, funds or claims vested in such member pursuant to this order.

(c) Upon termination of this order, the funds and property of the Control Committee shall be accounted for in the manner provided in Article XIII, section 3, hereof.

2. The Control Committee may maintain, with the approval of the Secretary, in its own name, or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses pursuant to this order.

ARTICLE III—EXPENSES AND ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Committee is authorized to incur such expenses during each calendar year as the Secretary finds may be necessary to carry out its functions under this order. The funds to cover such expenses shall be secured by the levying of assessments on each handler for each pound of honey bees, each comb and each queen sold by him in the current of interstate or foreign commerce; *Provided*, That the assessment shall be paid only by the handler who makes the first sale of honey bees, combs or queens for shipment in the current of interstate or foreign commerce. Each such handler shall pay to the Control Committee, upon demand, such handler's pro rata share, as determined by the Secretary, of such expenses as the Secretary finds will be necessarily incurred by the said committee for its maintenance and functioning during each calendar year.

2. Each such handler's pro rata share of the expenses of the said committee for any calendar year shall be that proportion thereof which the total quantity of honey bees, combs and queens sold by him, as provided in paragraph 1 of this section, during such calendar year is of the total quantity of honey bees, combs and queens sold by all such handlers during such calendar year.

3. In order to provide funds to carry out the functions of the said committee, handlers may make advance payments of assessments, which advance payments shall be credited to such handlers.

4. At the end of each calendar year, the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler over his pro rata share of the expenses, or debit such handler with the difference between his pro rata share and the amount paid by him. Any such debits shall become due and payable upon the demand of the Control Committee.

ARTICLE IV—FILING OF PRICES

SECTION 1. *Open price filing.*—No handler shall offer to sell or sell package bees, comb packages or queens in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce, except as follows:

1. Each handler shall file with the Control Committee, in accordance with such rules, regulations and forms prescribed by the said committee, a schedule of his selling prices, discounts, rebates, allowances, and all other terms and conditions of sale which relate to his prices, hereinafter in this article referred to as "price terms," for package bees, comb packages and queens. Such schedule shall state specific prices at which such handler will sell and not merely maximum and minimum prices.

2. Initial price terms shall become effective immediately upon being filed with the Control Committee and shall remain in effect until changed as hereinafter provided.

3. Any handler may, at any time, revise his price terms for package bees, comb packages or queens by filing a revised or an amended schedule thereof with the Control Committee. Such revised price terms shall, except as provided in paragraph 4 hereof, become effective ten (10) days after the date upon which they were filed.

4. Any handler may offer to sell or sell at the price terms, or any revisions thereof, filed by any other handler by giving written or telegraphic notice thereof to the Control Committee. Such notice received by the Control Committee shall constitute a revision of the notifying handler's price terms and such revised price terms shall be effective as of the date such other handler's price terms are effective, or, if such other handler's price terms are in effect upon the date such notice is received by the Control Committee, upon receipt of such notification by the Control Committee.

5. No handler shall sell or offer to sell package bees, comb packages or queens in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce, except in accordance with his effective price terms.

SEC. 2. *Publication.*—1. At the close of each business day, the Control Committee shall, with respect to each handler who has on file a schedule of price terms, notify each such handler, by mail, of any price terms or revisions thereof filed with the Control Committee during such day. Upon the request of any handler who assumes the cost thereof, the Control Committee shall furnish this information to such handler by telephone or telegraph.

2. The Control Committee shall maintain a permanent file of all price terms filed with it which shall be made available to the public during the usual hours of business.

ARTICLE V—RECORDS AND REPORTS

SECTION 1. *Invoicing.*—1. Each handler shall forward to the buyer an invoice covering each shipment of package bees, comb packages or queens made by him, showing the date of sale, date of shipment, the name and address of the person to whom shipped and the quality and price of the commodity shipped by him.

2. Each handler shall keep a true copy of all such invoices on file at his usual place of business for a period of one (1) year after the date of shipment. Any such invoice shall be made available for inspection by the Secretary, or his duly authorized agent, during the usual hours of business.

SEC. 2. *Reports.*—Each handler shall furnish to the Control Committee, in such manner as it prescribes, a report of his sales and shipments of package bees, comb packages and queens. Such reports are to be prepared and mailed to the Control Committee on or before the fifth day of each month and shall cover the volume of business for the preceding calendar month.

ARTICLE VI—UNFAIR METHODS OF COMPETITION AND UNFAIR TRADE PRACTICES

SECTION 1. *Prohibitions.*—The following unfair methods of competition and unfair trade practices are prohibited, and no handler shall:

1. Make secret payment or an allowance of rebates, refunds, commissions or unearned discounts, whether in the form of money or otherwise, or secretly extend to certain purchasers special services or privileges not extended to all purchasers under like terms and conditions, with the intent and with the effect of injuring another handler and where the effect may be to lessen competition substantially or tend to create a monopoly or to restrain trade unreasonably.

2. Defame a handler by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by any other false representation, or the false disparagement of the grade or quality of his package bees, comb packages or queens, with the tendency and the capacity to mislead purchasers or prospective purchasers of package bees, comb packages or queens.

3. Sell honey bees or queens which come from an apiary infected with American foul brood.

4. Sell or offer for sale any package bees, comb packages or queens by any false means or device which has the tendency and capacity to mislead or deceive customers or prospective customers as to the quantity, quality or grade of such package bees, comb packages or queens.

5. Withhold from or insert in an invoice covering the shipment of package bees, comb packages or queens any statement which makes the invoice a false record, wholly or in part, of the transaction represented on the face thereof.

6. Make or cause to be made or published any false, untrue, misleading or deceptive statement relating to the business of handling package bees, comb packages or queens, by himself or any other handler.

ARTICLE VII—LIABILITY

SECTION 1. *Liability.*—No member of the Control Committee nor any employee thereof shall be held responsible individually in any way whatsoever to any handler or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty. The obligations of the handlers hereunder are several and not joint, and no handler shall be liable for the default of any other handler.

ARTICLE VIII—SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this order, or the applicability thereof to any other person, circumstance or thing, shall not be affected thereby.

ARTICLE IX—DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, or (2) in accordance with such powers to act in the premises whenever such action is deemed advisable.

ARTICLE X—AMENDMENTS

SECTION 1. *Proposals.*—Amendments to this order may, from time to time, be proposed by any party subject hereto or by the Control Committee.

ARTICLE XI—DURATION OF IMMUNITIES

SECTION 1. *Duration of Immunities.*—The benefits, privileges and immunities conferred by virtue of this order shall cease upon its termination, except with respect to acts done under and during the existence of this order; and the benefits, privileges and immunities conferred by this order upon any person shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this order.

ARTICLE XII—AGENTS

SECTION 1. *Agents.*—The Secretary may, by a designation in writing, name any person not subject to this order, including any officer or employee of the Government, or name any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE XIII—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective Time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto and shall continue in force until terminated in one of the ways hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate this order as to all handlers by giving at least one (1) day's notice by means of a press release or by any other means which he may determine.

2. The Secretary shall terminate this order at the end of any marketing year whenever he finds that such termination is favored by a majority of the producers of package honey bees and queen bees, who, during the preceding marketing year, have been engaged in the production for market of such package honey bees and queen bees in the area covered by this order: *Provided, however,* That such majority have, during such preceding marketing year, produced for market more than fifty (50) percent of the volume of such package honey bees and queen bees produced within the area: *Provided further,* Such termination shall be effective only if announced on or before September 1 prior to the end of the then current marketing year.

3. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Proceedings after termination.*—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees, for the purposes of this order, of all funds and property then in the possession of or under the control of said committee, including claims for any funds unpaid or property not delivered at the time of such termination.

2. The said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall account, from time to time, for all receipts and disbursements and deliver all funds and property on hand, together with all books and records of the Control Committee and of the joint trustees, to such person as the Secretary shall direct; and (c) shall execute, upon the request of the Secretary, such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds or claims vested in the Control Committee or the joint trustees pursuant to this order. Any funds collected pursuant to Article III, and held by such joint trustees or such person, over and above the amount necessary to meet outstanding obligations and expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall be returned as soon as practicable after the termination of this order to the handlers, pro rata, in proportion to their contributions made pursuant to this order.

3. Any and all persons to whom funds or claims have been delivered by the Control Committee or its members, pursuant to this section, shall be subject to the same obligations and duties with respect to said funds as are hereinabove imposed upon the members of said committee.

In witness whereof, M. L. Wilson, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 2d day of September 1938, and declares this order to be effective on and after 12:01 a. m., e. s. t., September 6, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2616; Filed, September 2, 1938; 12:56 p. m.]

ORDER OF THE SECRETARY TERMINATING THE MARKETING AGREEMENT AND LICENSE FOR SHIPPERS OF PACKAGE BEES AND QUEENS PRODUCED IN THE UNITED STATES

Whereas, on the 2nd day of May, 1934, acting under the provisions of Public Act No. 10, 73rd Congress, approved May 10, 1933, as amended, the Secretary of Agriculture of the United States executed under his hand and the official seal of the Department of Agriculture a marketing agreement with shippers of package bees and queens produced in the United States and issued, of even date therewith, a license pursuant thereto, which agreement and license became effective on the 6th day of May, 1934; and

Whereas, the Secretary of Agriculture has determined to terminate said marketing agreement and license:

Now, therefore, the undersigned, acting under the authority vested in the Secretary of Agriculture under the terms and provisions of the said act, as amended, and of the said marketing agreement, and pursuant to the applicable general regulations issued under said act, does hereby terminate the said marketing agreement and license, subject to the following conditions:

1. Such termination shall not

(a) affect, waive, or terminate any obligation which has been created, or which may hereafter be created, in connection with, by virtue of, or pursuant to said marketing agreement or license;

(b) release or forgive any violation of said marketing agreement or license which may have occurred prior to the effective date of this termination;

2. The several members of the Control Committee established under the marketing agreement executed of even date herewith, and the order issued pursuant thereto, by the Secretary of Agriculture acting under the authority vested in him by the provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended, are hereby constituted trustees for the purpose of liquidating, subject to the supervision of the Secretary of Agriculture, all matters in connection with the marketing agreement and license executed and issued by the Secretary of Agriculture on May 2, 1934, until such time as said trustees may be discharged by the undersigned;

3. All monies, choses in action, and other tangible and intangible property, together with all books and records in the possession or under the control of the members of the Control Board established under the marketing agreement and license executed and issued on May 2, 1934, shall be assigned, transferred, and delivered by the members of said Control Board to the said Control Committee, as trustees, to be handled, disposed of, distributed, and accounted for in accordance with the provisions, conditions, and obligations of this order;

4. Said trustees are hereby authorized and empowered to collect, receive, or compromise, or to cause to be collected, received, or compromised, all delinquent assessments or other monies due under the terms of the aforesaid marketing agreement and license, or otherwise, and any monies due or to become due pursuant to any action that may be taken by the said trustees in their capacity as such and in connection with liquidation proceedings;

5. Said trustees are further authorized and empowered to defray all expenses necessarily incurred in connection with the liquidation of all matters arising in connection with the said marketing agreement and license out of the funds in their possession or that may come into their possession as such trustees;

6. After all expenses and charges incurred in connection with said liquidation have been paid and discharged, the remainder of the funds and of the proceeds of the sale of any property delivered to or acquired by said trustees as such and in accordance with the provisions of this order shall be distributed by said trustees pro rata among all persons properly entitled thereto under the marketing agreement and license of May 2, 1934;

7. Said trustees are further authorized and empowered to maintain a bank account, and are directed to maintain books and records revealing their transactions as such trustees, which books and records are to be open to examination at any time by the Secretary or by agents designated by him;

8. Each and every order, determination, decision, or other act of said trustees shall be by two-thirds vote; and

9. Upon order of the undersigned, any or all of said trustees, or any employee of such trustees, shall give bond in such amount and containing such terms and conditions as the undersigned may direct.

In witness whereof, M. L. Wilson, Acting Secretary of Agriculture of the United States, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of

Washington, District of Columbia, on this 2d day of September, 1938, and declares this order to be effective at 12:01 a. m., e. s. t., September 6, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2618; Filed, September 2, 1938; 12:56 p. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Docket No. 68-FD]

INVESTIGATION TO DETERMINE WHETHER OR NOT CERTAIN COALS IN THE STATE OF ARKANSAS ARE SUBJECT TO THE PROVISIONS OF THE BITUMINOUS COAL ACT OF 1937, AND FOR THE FURTHER PURPOSE OF HEARING PETITIONS FOR EXEMPTION

IN THE MATTER OF THE PETITION OF SUNSHINE ANTHRACITE COAL COMPANY EXEMPTION UNDER SUB-SECTION (B) OF SECTION 17 OF THE BITUMINOUS COAL ACT OF 1937, ET AL.

At a Regular Session of the National Bituminous Coal Commission Held at its Offices in Washington, D. C., on the 31st day of August 1938.

It appearing, That on the 24th day of September 1937, the National Bituminous Coal Commission entered its Order No. 53[1] providing for a public hearing to be held at the Goldman Hotel, Fort Smith, Arkansas, on the 4th day of October, 1937, for the purpose of receiving evidence to enable the Commission to determine whether certain coals in the State of Arkansas are subject to the provisions of the Bituminous Coal Act of 1937, and for the further purpose of hearing petitions for certificates for exemption as provided for by Order No. 28,[2] and for the further purpose of hearing evidence upon the petition of the Sunshine Anthracite Coal Company filed pursuant to said Order No. 28. The Commission assigned the cause to an examiner of the Commission for a hearing at the time and place designated by said Order No. 53; and

It further appearing, That due and proper notice of said hearing was given to all interested parties and the cause came on to be heard pursuant to Order No. 53 and that a hearing was held, with opportunity for all interested parties to be heard and to present evidence. At said hearing, the Diamond Anthracite Coal Company and the D. A. McKinney Coal Company, each of Clarksville, Arkansas, intervened, participated in the hearing and subsequently filed formal petitions for certificates of exemption. The evidence being heard and submitted to the examiner, the examiner filed his report in the above entitled matter with the Secretary of the Commission on December 3, 1937, copies of which were thereafter served upon interested parties in conformance with Rule XXIII of the Rules of Practice and Procedure of the Commission.

Thereafter, on January 21, 1938, the Sunshine Anthracite Coal Company moved to dismiss the petition and for leave to withdraw all papers filed therewith. This motion was denied by the Commission on February 3, 1938. On February 14, 1938, the Diamond Anthracite Coal Company and the D. A. McKinney Coal Company each filed exceptions to the Report of the Examiner.

Subsequently, on the 28th day of April, 1938, the Commission filed the Proposed Report[1] of the Commission containing findings of fact and conclusions. A true copy of said Proposed Report of the Commission was served upon the interested parties on May 7, 1938, together with notice that exceptions thereto could be filed within thirty days and that any of said parties might apply for oral argument within said time limit. The Sunshine Anthracite Coal Company, the D. A. McKinney Coal Company and the Diamond Anthracite Coal Company duly filed separate exceptions to the Proposed Report of the Commission. The Sunshine Anthracite Coal Company filed a request to be heard upon oral argument, and the same being granted, oral argument upon behalf of said company was presented to the Commission on the 7th day of July, 1938. Whereupon, the record and evidence was again considered by the Commission; and

The Commission being fully advised of the evidence adduced at the hearing as the same is contained in the official transcript of the testimony herein, and after argument finds that the findings of fact and conclusions submitted by the examiner are, in all respects true and correct, and that the findings of fact and conclusions contained in the Proposed Report of the Commission as filed herein are true and correct and are hereby adopted as the findings of fact and conclusions of the Commission; and the Commission further finds, for reasons stated in the separate opinion filed herein, that the exceptions filed to the Proposed Report of the Commission should be overruled.

Now, therefore, it is by order determined:

1. That the underlying coal in the counties of Washington, Crawford, Sebastian, Scott, Madison, Franklin, Logan, Johnson, Pope, Yell, and Conway, in the State of Arkansas is bituminous coal within the meaning of the Bituminous Coal Act of 1937, and is therefore subject to the provisions of said Act.

2. That the exceptions of the Diamond Anthracite Coal Company and the D. A. McKinney Coal Company to the Proposed Report of the examiner are each and severally overruled.

3. That the separate and respective exceptions of the Diamond Anthracite Coal Company, the D. A. McKinney Company and the Sunshine Anthracite Coal Company to the Proposed Report of the Commission are hereby each and severally overruled.

4. That each of the separate petitions for certificates of exemption from the provisions of the Bituminous Coal Act of 1937 filed by the Diamond Anthracite Coal Company, the D. A. McKinney Coal Company and the Sunshine Anthracite Coal Company are hereby denied.

By order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2594; Filed, September 2, 1938; 10:00 a. m.]

[1] 2 F. R. 1950 (2285 DI).
[2] 2 F. R. 1325 (1581 DI).

[1] Filed as part of original document. Requests for copies may be addressed to the National Bituminous Coal Commission.

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2663]

IN THE MATTER OF DAY-LITE ILLUMINATING CORPORATION

SEC. 3.6 (t) *Advertising falsely or misleadingly — Qualities or properties of product.*—Representing that lenses in respondent's electric light fixtures magnify rays of light from electric bulb and thus increase illumination therefrom, or that said fixtures produce more light than competitors', both using bulbs of identical electromotive force and power, without qualification *re* area of focus of lens used, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Day-Lite Illuminating Corporation, Docket 2663, August 23, 1938.]

SEC. 3.69 (b) 12) *Misrepresenting oneself and goods—Goods—Qualities or properties.*—Representing increased brilliancy produced by inserting in respondent's electric light fixture bulb of voltage lower than that of current in socket of fixture, as due to use of such fixture, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Day-Lite Illuminating Corporation, Docket 2663, August 23, 1938.]

SEC. 3.6 (p) 1) *Advertising falsely or misleadingly — Patent rights — In general.* — Falsely representing lenses and glass used in respondent's electric light fixtures as patented, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Day-Lite Illuminating Corporation, Docket 2663, August 23, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF DAY-LITE ILLUMINATING CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Day-Lite Illuminating Corporation, its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of its electric light fixtures in interstate commerce and in the District of Columbia, do forthwith cease and desist from representing:

1. That the lenses in its fixtures magnify the rays of light from the incandescent electric bulb, thereby increasing the amount of light or illumination coming from the incandescent electric bulb;

2. That the increased brilliancy produced by inserting in its fixture an incandescent electric light bulb of a lower voltage than the voltage of the electric current present in the socket of said fixture is created by the use of its said fixture;

3. That the lenses and glass used in the construction of its light fixtures are patented, when such is not a fact.

4. That its fixtures produce more light than competitors' fixtures, both using electric bulbs of identical electromotive force and power, without a qualifying statement that the increase of light is only in the area of the focus of the lens used in the fixture.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has compiled with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2591; Filed, September 2, 1938; 9:31 a. m.]

[1] 3 F. R. 747 DI.

United States of America Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 1st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-334]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE TOMATO PASTE MANUFACTURING INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been had[1] under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I which have been approved by the Commission in this proceeding, and the rules in Group II which have been received by the Commission as expressions of the industry, be promulgated September 3, 1938.

Trade Practice Rules for Tomato Paste Manufacturing Industry

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

Unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

RULE 1. *Misrepresentation of industry products.*—The practice of selling, packing, advertising, or representing tomato paste or related products, or any simulation or imitation thereof, in a manner which is calculated to mislead or deceive or has the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public with respect to the character, nature, content, grade, quality, quantity, origin, substance, material, preparation, or manufacture of such products, or in any other material respect, is an unfair trade practice.

RULE 2. *Specifications—Tomato paste—For the purpose of and as used in these rules.*—(a) Tomato Paste (Salsa di Pomodoro, "Salsa") is understood to be the product resulting from the concentration of the screened or strained fleshy and liquid portions of ripe tomatoes, except those portions from skin and core trimmings; with or without the addition of salt, and with or without the addition of basil leaf. The finished product shall contain not less than 22% of tomato solids.

(b) Should such minimum of 22% tomato solids hereafter be raised to a higher percentage or proportion by applicable provisions of law or by rules or regulations in pursuance thereof, then such higher percentage so fixed shall be considered the minimum under these rules, in lieu of such 22% specified in paragraph (a) of this rule.

(c) Heavy Tomato Paste ("Concentráto") is understood to be tomato paste containing not less than 33% of tomato solids.

(d) It is an unfair trade practice for any member of the industry or other seller to cause the concentration or content of his tomato paste to be misrepresented, or by any other means to represent, directly or indirectly, that the product is of a certain concentration of 22% or more tomato solids when such is not true in fact.

RULE 3. *Misrepresentation as to tomato paste.*—It is an unfair trade practice to sell, offer for sale, advertise, describe, or otherwise represent directly or indirectly, any product as being tomato paste (Salsa di Pomodoro, "Salsa"), heavy tomato paste ("Concentrato"), or other similar tomato paste product, when such product does not conform to the specifications hereinabove set forth in Rule 2.

RULE 4. *Misrepresentation as to artificial color.*—It is an unfair trade practice to sell, offer for sale, advertise, or otherwise represent, directly or indirectly, any product of the industry containing added artificial color without then and there making full and nondeceptive disclosure of the presence of such added artificial color.

The use of any coloring matter whatsoever shall not be permitted when the same is introduced for the purpose or with the effect of concealing or masking damage or inferiority, or of adulterating the product or rendering the same deleterious.

RULE 5. *Misrepresentation as to tomato content of product.*—It is an unfair trade practice to sell, offer for sale, advertise, describe, or otherwise represent, directly or indirectly, any product of the industry as containing a higher tomato solids content than is actually the case.

RULE 6. *Deceptive depictions.*—The use of photographs, cuts, engravings, illus-

[1] 3 F. R. 1425 DI.

trations, or pictorial or other depictions, or devices, of industry products, in catalogues, sales literature, advertisements, or other representations, in such manner as to have a capacity and tendency or effect of misleading or deceiving the purchasing or consuming public as to the origin, manufacture, grade, quality, quantity, size, composition, material, coloring, or content of any products of the industry, or ingredient thereof, or in any other material respect, is an unfair trade practice.

RULE 7. *Defamation of competitors and disparagement of their products.*—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

RULE 8. *Substituting inferior products for those ordered.*—The practice of using or substituting any product of the industry inferior in grade or quality to that specified by the purchaser, without the consent of said purchaser to such use or substitution, or with the tendency, capacity, or effect of otherwise misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 9. *Commercial bribery.*—Directly or indirectly to give, or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, is an unfair trade practice.

RULE 10. *Inducing breach of contract.*—Knowingly inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or knowingly interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 11. *Enticing away employees of competitors.*—Wilfully enticing away the employees of competitors with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 12. *Selling below cost.*—The practice of selling industry products below the seller's cost with the intent and with the effect of injuring a competitor and where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably restrain trade is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 13. (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc.,*[1] *which effect unlawful price discrimination.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential,[1] where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[2] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[2] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[2] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce[2], in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

RULE 14. *Misrepresentation as to basil, etc.*—It is an unfair trade practice to cause any tomato paste or related product to be represented, directly or indirectly, as containing basil leaf or any other ingredient when such is not true in fact; or when such basil leaf or other specified ingredient has been omitted in packing from various or sundry cans of the product so represented.

[1] Paragraph (a) of Rule 13 shall not be construed as embracing practices prohibited by paragraphs (b), (c), and (d) of this rule.

[2] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States; Provided, That this shall not apply to the Philippine Islands.

Group II

The trade practices embraced in these Group II rules are considered to be conducive to sound business methods and are to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. However, the failure to observe them under certain circumstances may result in an unfair method of competition contrary to law. In such event, a corrective proceeding may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. *Disclosure of solids content.*—The practice, by each member of the industry, of making clear and nondeceptive disclosure to the purchasing public of the percentage or proportion of tomato solids present in his product, thereby disclosing whether his tomato paste contains only the minimum percentage of tomato solids or some higher percentage, is recommended as a proper and desirable practice to follow in the interest of affording consumers and other purchasers correct information as to the concentration of the product, and of avoiding confusion, deception and misrepresentation in respect thereto.

RULE B. *Repudiation of contracts.*—Lawful contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

RULE C. *Fake or fictitious bids.*—The industry condemns fake or fictitious bids made for the purpose of deceiving competitors and securing undue advantage. If plans and specifications are changed and new bids called for after the original bids have been submitted and opened, the same fairness should obtain as with the original bid.

RULE D. *Truthful disclosure of quality of products.*—In the interest of consumer protection, the industry records itself as favoring, and recommends, the practice of members making fair and truthful disclosure, in their advertising, labeling, sales literature, and other selling representations, of the quality and content of their products.

RULE E. *Dissemination of credit information.*—The industry records its approval of distributing information covering delinquent and slow accounts insofar as it may be lawfully done.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2592; Filed, September 2, 1938; 9:31 a. m.]

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

[Special Rule No. 1]

COLORADO GRAZING DISTRICT NO. 6

Under the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), commonly known as the Taylor Grazing Act, and section 6, paragraph *d*, and section 15 of the Federal Range Code as amended on August 19, 1938.[1]

If reductions in numbers are made at any time on class 1 properties in order to reach the carrying capacity of the Federal range area involved, no license or permit issued or to be issued will be reduced below 30 head of cattle or horses or 150 head of sheep or goats provided the available Federal range in the area involved is sufficient to support such numbers of livestock.

JULIAN TERRETT,
Acting Director of Grazing.

Approved, August 29, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38-2593, Filed, September 2, 1938; 9:55 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

RULES AND REGULATIONS GOVERNING TRANSFERS OF RIGHTS TO OPERATE AS A MOTOR CARRIER IN INTERSTATE OR FOREIGN COMMERCE

Effective September 1, 1938

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of July, A. D. 1938.

The matter of transfers, under sections 206, 209, and 212 (b) of the Motor Carrier Act, 1935, of rights to operate as a motor carrier, in interstate or foreign commerce, being under consideration; and the matter of the preservation of adequate service and continuous operation in the public interest, under motor carrier operating rights by persons temporarily succeeding to such rights, being also under consideration; and good cause appearing therefor:

It is ordered, That the following rules and regulations be, and they are hereby, approved and prescribed, and that from and after the 1st day of September, A. D. 1938, said rules and regulations shall be observed by motor carriers subject to the Motor Carrier Act, 1935; and by all other persons who are parties to transfer proceedings arising thereunder.

RULE 1. *General.*—(*a*) As used herein, the term "transfer" shall include all transactions, not included within sections 210a (b) and 213 of said act, whether by purchase and sale, lease, contract to operate, or otherwise, whereby a right to operate as a motor carrier in interstate or foreign commerce arising out of the Motor Carrier Act, 1935, is transferred from one person to another. No transfer by means of an attempted pledge of any such rights or by any action purporting to foreclose a pledge upon or lien against any such rights, or by any attempt to levy execution against any such rights in satisfaction of any judgment or other claim against the holder thereof, shall be effective without compliance with these rules and regulations and the prior approval of the Commission as herein provided.

(*b*) The term "operating rights" as used herein includes the right to operate as a motor carrier in interstate or foreign commerce over a route or routes or within a specified territory, as authorized by the whole or any part of a certificate of public convenience and necessity or a permit issued by this Commission under the provisions of the Motor Carrier Act, 1935, or as authorized by those provisions of said act under which a motor carrier may continue operations pending consideration of its application to the Commission for a certificate or permit, or as recognized in the second proviso of section 206 (a) by reason of the holding of an intrastate certificate of public convenience and necessity. On operating right so recognized in the second proviso of section 206 (a) is hereinafter, for convenience, termed a "State operating right."

(*c*) For the purposes of transfer, operating rights may be divided as to routes or territories, if such routes or territories are clearly severable and if the division thereof does not permit the creation of duplicate motor carrier operating rights. No division of operating rights based upon the class or classes of property authorized to be transported will be approved, unless it appears to the satisfaction of the Commission that the part of the operating rights sought to be transferred is, because of a difference in the nature or type of the service rendered, clearly distinguishable and severable from the remaining operating rights.

(*d*) No attempted transfer of any operating right shall be effective except upon full compliance with these rules and regulations and until after the Interstate Commerce Commission has approved such transfer as herein provided (except as provided in rule 7 (a)).

RULE 2. *Applications to transfer, and notifications.*—(*a*) Applications to transfer operating rights, and the notifications provided in rule 7 (a), shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information as the Commission shall prescribe.

(*b*) A verified original copy of any such application or notification and two additional copies thereof shall be filed with the Commission, and one copy

[1] 3 F. R. 2100 DI.

thereof shall be delivered, in person or by mail, to the District Director or District Directors of the district or districts of the Bureau of Motor Carriers in which headquarters of each of the parties signing such application or notification is located, and one copy thereof to the Board, Commission, or official, (or to the Governor where there is no Board, Commission, or official), having authority to regulate the business of transportation by motor vehicle, of each State in which each of said parties operates. Proof of service of copies of the application or notification upon each of such persons shall be made in connection with and as a part of the original verified application or notification filed with the Commission.

(c) The transfer described in any such application shall be approved if it appears from the application or from any hearing held thereon or from any investigation thereof that the proposed transaction is one which is not subject to the provisions of section 213 of the Motor Carrier Act, 1935, and that the proposed transferee is fit, willing and able properly to perform the service authorized by the operating rights sought to be transferred, and to conform to the provisions of the Motor Carrier Act, 1935, and the requirements, rules and regulations of the Commission thereunder. Otherwise the application shall be denied.

RULE 3. *Transfers to fiduciaries.*—(*a*) The temporary continuance of motor carrier operations without prior compliance with the provisions of rule 2 hereof will be recognized as justified by the public interest in cases in which administrators or executors of deceased carriers, guardians of incapacitated carriers, a surviving partner or the surviving partners collectively of dissolved partnerships, or trustees, receivers, conservators, assignees or other such persons who are authorized by law to collect and preserve property of financially disabled carriers, desire to continue the operations of the carriers whom they succeed in interest.

(*b*) Immediately upon any such succession, and in any event not more than 10 days thereafter, the successor shall give notice of the succession by a letter, properly enclosed in a stamped envelope, addressed to the Secretary of the Interstate Commerce Commission, Washington, D. C., stating the names of the motor carrier and of the successor, the date of the succession, the circumstances causing the succession, whether there has been any discontinuance of operations and, if so, for what period, and, if the representative capacity of the successor involves appointment by a judicial proceeding, a certified copy of such appointment.

(c) Successors under this rule may exercise the operating rights of the motor carrier whom they succeed so long as they act in a temporary and representative capacity or until the Commission shall otherwise order. All transfers by such successors to other persons shall be subject to all of the provisions of rule 2 of these rules and regulations.

(*d*) Successors as described by this rule shall operate in the name of the prior holder of the certificate, permit, or other operating right, followed also by the name of the successor and a designation of his capacity.[2] The use of such name on all papers filed in accordance with the Motor Carrier Act, 1935, or the rules and regulations prescribed thereunder, shall be sufficient compliance with any requirement, rule, or regulation that such papers be filed in the name of a holder of a certificate or permit.

RULE 4. *Leases and contracts to operate.*—In addition to the showing required under rule 2 hereof, applicants who seek approval of a transfer of operating rights for a limited period, whether by lease, operating contract, or otherwise, shall show in their application and establish by proof in support thereof the specific period for which such transfer is sought, the consideration for such transfer and the time and method of payment thereof, and that the applicants have agreed in writing that all operating rights involved in the transaction shall revert to the transferor at the expiration of said term, or upon discontinuance of operations thereunder by the transferee at any time prior to the expiration of said term. In any such case of reversion, the transferor shall give immediate notice of that fact to the Commission.

RULE 5. *Orders of court.*—If any transfer presented to the Commission for approval shall also require the authority or approval of any court, applicants shall file with the Commission a certified copy of the order of the court authorizing the transfer of the operating rights involved, at the time of the filing of the application, or a certified copy of the order of court approving such transfer within 30 days after such transfer has been approved by the Commission.

RULE 6. *Abandoned or inactive operating rights.*—The transfer of any operating right under which operations are not being conducted at the time of the proposed transfer will be approved only upon a showing that the cessation of operations was caused by circumstances over which the holder of such operating rights had no control, or that the motor carrier operations authorized under the operating rights sought to be transferred are required in the public interest.

RULE 7. *Transfers of rights under intrastate certificates.*—(*a*) A State operating right, as defined in rule 1 (b), shall not be transferred apart from the intrastate certificate upon which it is based, but may be transferred together with such intrastate certificate without application to and prior approval of the Interstate Commerce Commission under these rules and regulations, if the transfer of the latter shall have been approved by the State Commission, Board, or official having jurisdiction, and notification of such approval, accompanied by certified copy thereof, shall have been filed within 30 days of such approval with the Interstate Commerce Commission; and provided further, that after such transfer the operating rights of the transferee will be solely between places within a single State.

(*b*) If, after a transfer from or to the holder of a State operating right, the operating rights of the transferee will not be solely between places within a single State, the transfer shall not be effective until the transferee has applied for and obtained the Commission's approval of the transfer under these rules and regulations.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–2604; Filed, September 2, 1938; 10:40 a. m.]

[2] For example, if John Jones were a prior holder of a certificate or permit and if Richard Smith be the successor, the name used in the operation should be as follows:

John Jones, Richard Smith, Administrator; John Jones, Richard Smith, Executor; Jones & Smith, Richard Smith, Surviving partner; John Jones, Richard Smith, Guardian; John Jones, Richard Smith, Trustee; John Jones, Richard Smith, Receiver; John Jones, Richard Smith, Conservator; and John Jones, Richard Smith, Assignee.

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49695]

WARROAD SEAPLANE BASE, WARROAD, MINNESOTA, REDESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

AIRPORT OF ENTRY

AUGUST 29, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Warroad Seaplane Base, Warroad, Minnesota, is hereby redesignated as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from September 2, 1938.

WAYNE C. TAYLOR, *Acting Secretary of the Treasury.*

[F. R. Doc. 38–2605; Filed, September 2, 1938; 11:21 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

At a Regular Session of the National Bituminous Coal Commission Held in the Offices in Washington, D. C., on the 31st day of August 1938.

[Docket No. 486–FD]

IN THE MATTER OF THE APPLICATION OF NORFOLK AND WESTERN RAILWAY COMPANY, FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4–A OF THE ACT

ORDER

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Norfolk and Western Railway Company, on the 10th day of July, 1937, filed with the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 in so far as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in its operation as a common carrier by railroad, which application was filed by virtue of the provisions contained in the second paragraph of Section 4–A of the Act; and

It further appearing, after considering the allegations made in the verified application of the Norfolk and Western Railway Company, that applicant is the owner and producer of bituminous coal from mines known as "Howard Collieries" and "Vulcan Collieries", located in Mingo County, West Virginia, and "Pond Creek Collieries", located in Pike County, Kentucky, and that substantially all the bituminous coal produced at such mines is consumed by applicant in its operation as a common carrier by railroad;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II, (1) of the Bituminous Coal Act of 1937 do apply to the bituminous coal produced by Norfolk and Western Railway Company at its mines known as "Howard Collieries" and "Vulcan Collieries", located in Mingo County, West Virginia, and "Pond Creek Collieries", located in Pike County, Kentucky, which is consumed by Norfolk and Western Railway Company in its operation as a common carrier by railroad, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 31st day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–2595; Filed, September 2, 1938; 10:01 a. m.]

At a Regular Session of the National Bituminous Coal Commission Held in its Offices in Washington, D. C., on the 31st day of August 1938.

[Docket 21–FD]

IN THE MATTER OF THE APPLICATION OF THE PITTSBURGH STEEL COMPANY FOR EXCEPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4–A OF THE ACT

ORDER

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong. 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Pittsburgh Steel Company, on the 10th day of June 1937, forwarded to the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 insofar as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in its business of producing pig iron and steel, which application was filed by virtue of the provisions contained in the second paragraph of Section 4–A of the Act; and

It further appearing, That the Commission by its orders referred and assigned the cause to Charles S. Mitchell, an Examiner, for hearing at Washington, D. C., on the 16th day of August, 1937; that due and proper notice of said hearing was given to all interested parties; that the cause came on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission being fully advised of the evidence as the same is contained in the official transcript of the testimony and documentary evidence filed therein, adopts as its Findings of Fact that the applicant is a corporation organized and existing as such under and by virtue of the laws of the State of Pennsylvania; that the applicant is a member of the Bituminous Coal Code; that the applicant is a producer of bituminous coal at its mine designated as the "Monessen Mine" in Greene County, Pennsylvania, and that applicant, in its business of producing pig iron and steel, is a consumer of all the bituminous coal produced in the "Monessen Mine";

It further appearing, That at its "Alicia Mine No. 2" in Westmoreland County, Pennsylvania, applicant produces only a small quantity of coal for the purpose of maintaining the mine in condition for future operation;

Now, therefore, it is hereby ordered:

That the provisions of Section 4 II (1) of the Bituminous Coal Act of 1937, do apply to the bituminous coal produced by the Pittsburgh Steel Company, at its "Monessen Mine", in Greene County, Pennsylvania, which is consumed by the Pittsburgh Steel Company, in its business of producing pig iron and steel, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

That in so far as the application of Pittsburgh Steel Company relates to the "Alicia Mine No. 2", it is hereby dismissed for the reason that at that mine the applicant is not engaged in the business of producing coal.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwth to mail a copy of this Order to the applicant, to be Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Sta-

tistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2596; Filed, September 2, 1938; 10:01 a. m.]

At a Regular Session of the National Bituminous Coal Commission Held in its Offices in Washington, D. C., on the 31st day of August 1938.

[Docket 29-FD]

IN THE MATTER OF THE APPLICATION OF THE PITTSBURGH STEEL COMPANY FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER THE PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4-A OF THE ACT

ORDER

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong. 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Pittsburgh Steel Company, on the 10th day of June 1937, forwarded to the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 insofar as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of coke, which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, That the Commission by its orders referred and assigned the cause to Charles S. Mitchell, an Examiner, for hearing at Washington, D. C., on the 16th day of August, 1937; that due and proper notice of said hearing was given to all interested parties; that the cause came on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission being fully advised of the evidence as the same is contained in the official transcript of the testimony and documentary evidence filed therein, finds that the proposed Findings of Fact by the Examiner, are in all respects true and correct and the same are hereby adopted as the Findings of Fact of the Commission;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937, do apply to the bituminous coal produced by the Pittsburgh Steel Company at its "Thompson No. 1, Thompson No. 2" and "Tower Hill No. 2" mines in Fayette County, Pennsylvania, which is consumed by the Pittsburgh Steel Company, in the manufacture of coke, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2597; Filed, September 2, 1938; 10:02 a. m.]

At a Regular Session of the National Bituminous Coal Commission Held in its Offices in Washington, D. C., on the 31st day of August 1938.

[Docket No. 34-FD]

IN THE MATTER OF THE APPLICATION OF THE PENNSYLVANIA ELECTRIC COMPANY FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4-A OF THE ACT

ORDER

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong. 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Pennsylvania Electric Company, on the 14th day of June, 1937, forwarded to the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 insofar as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in its business of producing electrical energy and heat for sale and distribution to the public, which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, That the Commission by its orders referred and assigned the cause to Charles S. Mitchell, an Examiner, for hearing at Washington, D. C., on the 18th day of August, 1937; that due and proper notice of said hearing was given to all interested parties; that the cause came on to be heard pursuant to said orders of reference and assignment; that the Examiner filed his report in the above entitled matter with the Secretary of the Commission, copies of which were thereafter served upon interested parties in conformance with Rule XXIV of the Rules of Practice and Procedure before the Commission, and more than fifteen days having elapsed since that service, and no exceptions to said report having been filed with the Commission; and

The Commission being fully advised of the evidence as the same is contained in the official transcript of the testimony and documentary evidence filed therein, finds that the proposed Findings of Fact by the Examiner are in all respects true and correct and the same are hereby adopted as the Findings of Fact of the Commission;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937, do apply to the bituminous coal produced by the Pennsylvania Electric Company, at its "Mine No. 2" in Clearfield County, Pennsylvania, "Mine No. 3" in Somerset County, Pennsylvania, "Mine No. 4" in Centre County, Pennsylvania, and "Mine No. 5" in Indiana County, Pennsylvania, which is consumed by the Pennsylvania Electric Company, in its business of producing electrical energy and heat for sale and distribution to the public, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2598; Filed, September 2, 1938; 10:02 a. m.]

At a Regular Session of the National Bituminous Coal Commission held in its Offices in Washington, D. C., on the 31st day of August 1938.

[Docket 494-FD]

IN THE MATTER OF THE APPLICATION OF THE ROSS CLAY PRODUCTS COMPANY, FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4-A OF THE ACT

ORDER

It appearing, that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, The Ross Clay Products Company, on the 5th day of August, 1938, filed with the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 in so far as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of clay products at its factories located near Uhrichsville and Seventeen, Ohio, which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, after considering the allegations made in the verified application of The Ross Clay Products Company, that applicant is a corporation duly organized and existing under and by virtue of the laws of the State of Ohio; that applicant is the owner and producer of bituminous coal from mines located near Uhrichsville and Seventeen in Tuscarawas County, Ohio; and that all the bituminous coal produced at such mines is consumed by applicant in the manufacture of clay products at its factories located near Uhrichsville and Seventeen, Ohio;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 do apply to the bituminous coal produced by The Ross Clay Company at its mines located near Uhrichsville and Seventeen in Tuscarawas County, Ohio, which is consumed by The Ross Clay Products Company, in the manufacture of clay products, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 31st day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2599; Filed, September 2, 1938; 10:03 a. m.]

At a regular Session of the National Bituminous Coal Commission Held in its Offices in Washington, D. C., on the 31st day of August 1938.

[Docket No. 485-FD]

IN THE MATTER OF THE APPLICATION OF INLAND STEEL COMPANY, FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4-A OF THE ACT

ORDER

It appearing, That pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Inland Steel Company, on the 12th day of April, 1938, filed with the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 in so far as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of steel at its plant in Indiana Harbor, Indiana, which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, after considering the allegations made in the verified application of Inland Steel Company, that applicant is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware; that applicant is a member of the Bituminous Coal Code; that applicant is the owner and producer of bituminous coal from certain mines located at Wheelwright, Kentucky; that a part of the bituminous coal produced at such mines is consumed by applicant in the general manufacture of steel at its plant located in Indiana Harbor, Indiana;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 do apply to the bituminous coal produced by Inland Steel Company at its mines located at Wheelwright, Kentucky, which is consumed by Inland Steel Company in the general manufacture of steel at Indiana Harbor, Indiana, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By Order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2600; Filed, September 2, 1938; 10:03 a. m.]

[Docket Nos. 396, 301, 364, 368, 412, and 383 FD]

IN THE MATTER OF THE APPLICATION FOR EXEMPTION UNDER THE SECOND PARAGRAPH OF SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937, C. A. RIGGEN COAL COMPANY, HARVEY, IOWA, BRADLEY BROTHERS COAL COMPANY, KNOXVILLE, IOWA, BECK COAL AND MINING COMPANY, DES MOINES, IOWA, LITER COAL COMPANY, CARLISLE, IOWA, MAHASKA COAL COMPANY, OSKALOOSA, IOWA, DIAMOND BLOCK COAL COMPANY, PELLA, IOWA

ORDER FOR AND NOTICE OF HEARINGS

The Commission, pursuant to the first paragraph of Section 4-A of the Bituminous Coal Act of 1937, having on the 16th day of December, 1937, by order, in Commission's Docket No. 19-FD, declared that on and after the 3rd day of January, 1938, all bituminous coal sold, delivered, or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Iowa, shall be subject to the provisions of Sec-

tion 4 of the Bituminous Coal Act of 1937; to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937, and to all relevant orders of the Commission in effect on the date of such order, as well as all further orders which might thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Iowa; and

The above entitled applicants, believing that their commerce in coal is not subject to the provisions of Section 4 or to the provisions of the first paragraph of Section 4–A, and having filed with this Commission applications for exemption pursuant to the second paragraph of Section 4–A;

Now, therefore, it is hereby ordered:

1. That, beginning on the 26th day of September, 1938, at ten o'clock, A. M., at the Hearing Room of the Commission in the Kirkwood Hotel, Des Moines, Iowa, hearings on the said applications be held before an Examiner of this Commission designated and appointed to take testimony and receive evidence in these proceedings and to perform all other duties authorized by law.

2. That said Examiner is hereby authorized and directed to designate, at the opening session of the hearings herein noticed, the order in which the above entitled applications will be heard, and to adjourn said hearings from time to time as the convenience of the parties and necessities of the situation may require.

3. That in accordance with Rule VII j 1, of the Rules of Practice and Procedure Before the Commission, promulgated June 23, 1937, amended November 5, 1937, May 7, 1938, June 6, 1938, and August 19, 1938, the applicant or other interested parties shall file with the Commission, at its offices in the Walker Building, Washington, D. C., a concise statement in writing of the facts expected to be proved at the hearing, within fifteen (15) days from the date of this Order for and Notice of Hearings.

4. That, pursuant to Rule VII i, of the Rules of Practice and Procedure, District Board No. 12 is hereby made a party in interest in each of the above entitled proceedings.

5. A copy of each application shall be placed on file and made available for inspection by interested parties at the office of the Secretary of the Commission, at the Statistical Bureau of the Commission for District No. 12 and at the office of the District Board for District No. 12.

6. The Secretary of the Commission is directed forthwith to mail a copy of this notice to each of the applicants above named or to their attorneys of record, to the Consumers' Counsel; to the Secretary of each District Board, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published for two consecutive days in two newspapers of general circulation in the State of Iowa; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2601; Filed, September 2, 1938; 10:04 a. m.]

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS: IN RE DETERMINATIONS OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 1, 2, 3, 4, AND 5

ORDER FOR REOPENING OF HEARING IN THE MATTER OF THE DETERMINATIONS OF THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED IN MINIMUM PRICE AREAS 1, 2, 3, 4, AND 5; AND PROVIDING FOR THE AVAILABILITY OF INDIVIDUAL COST REPORTS FOR INSPECTION BY INTERESTED PARTIES

Whereas, hearings[1] within the above-entitled proceedings were held in the City of Washington, D. C., from the 6th day to the 23rd day of July, 1938, both dates inclusive, in the matter of the determinations of the weighted average of the total costs of the tonnage produced in each of Minimum Price Areas 1, 2, 3, 4, and 5, at which certain composite reports, based upon the verified cost reports of individual producers, were received in evidence and considered by the Commission in arriving at its determinations of the weighted average of the total costs of the tonnage produced in each of the aforesaid Minimum Price Areas, by orders entered on August 10, 1938 for Minimum Price Area No. 1 and on August 19, 1938, for Minimum Price Areas Nos. 2, 3, 4 and 5, which orders are made a part hereof by reference, and

Whereas, interested parties were advised at said hearings that further testimony would be received and cross-examination would be permitted, at a later date, when said cost reports would be available for inspection and introduction in evidence.

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the Secretary of the Commission be and he is hereby directed to cause the verified cost reports of the individual producers within each of Minimum Price Areas 1, 2, 3, 4 and 5 submitted to the Commission pursuant to Orders Nos. 15 and 29, to be made available for inspection during business hours on and after September 15, 1938, at the offices of the Commission, Washington, D. C., by those interested parties who have filed appearances in this proceeding. Notices of appearance may be filed with the Commission at the Secretary's Office, Washington, D. C.

2. The hearings in the matter of the determinations of the weighted average of the total costs per net ton of the tonnage produced in Minimum Price Areas 1, 2, 3, 4 and 5 are hereby reopened and interested parties will be afforded further opportunity to introduce affirmative evidence and to cross-examine witnesses as to the correctness of said composite reports heretofore introduced in evidence at the aforesaid hearings within this proceeding, upon proper notice, at a time and place to be later designated by the Commission.

3. That the Secretary be, and he is hereby directed, to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of Districts Nos. 1 to 15, both inclusive, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspectiton by interested parties at each of the Statistical Bureaus of the Commission.

By Order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2602; Filed, September 2, 1938; 10:04 a. m.]

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS: IN RE DETERMINATIONS OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9, AND 10

ORDER FOR AND NOTICE OF REOPENING OF HEARING IN THE MATTER OF THE DETERMINATIONS OF THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED IN MINIMUM PRICE AREAS 6, 7, 9, AND 10; AND PROVIDING FOR THE AVAILABILITY OF INDIVIDUAL COST REPORTS FOR INSPECTION BY INTERESTED PARTIES

Whereas, a hearing[1] within the above-entitled proceedings was held in the City

[1] 3 F. R. 1467 DI.

[1] 3 F. R. 1277 DI.

Denver, Colorado from the 13th day to the 16th day of June, 1938, both dates inclusive, in the matter of the determinations of the weighted average of the total costs of the tonnage produced in each of Minimum Price Areas 6, 7, 9, and 10, at which certain composite reports, based upon the verified cost reports of individual producers, were received in evidence and considered by the Commission in arriving at its determinations of the weighted average of the total costs of the tonnage produced in each of the aforesaid Minimum Price Areas, by orders entered herein on July 30, 1938 and August 1, 1938, which orders are made a part hereof by reference, and

Whereas, interested parties were advised at said hearing that further testimony would be received and cross-examination would be permitted, at a later date, when said cost reports would be available for inspection and introduction in evidence.

Now, therefore, Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes." (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the Secretary of the Commission be and he is hereby directed to cause the verified cost reports of the individual producers within each of Minimum Price Areas 6, 7, 9, and 10 submitted to the Commission pursuant to Orders Nos. 15 and 29, to be made available for inspection during business hours on and after September 10th, 1938, at the offices of the Commission, Central Savings Bank Building, Denver, Colorado, by those interested parties who have filed appearances in this proceeding. Notices of appearance may be filed with the Commission at the Secretary's Office, Washington, D. C. or at the Offices of the Commission, Central Savings Bank Building, Denver, Colorado.

2. The hearing in the matter of the determinations of the weighted average of the total costs per net ton of the tonnage produced in Minimum Price Areas 6, 7, 9, and 10 is hereby reopened and notice is hereby given that the Commission, will on the 20th day of September, 1938, at 10:00 A. M. in its hearing room in the Albany Hotel, Denver, Colorado, afford all interested parties further opportunity to introduce affirmative evidence and to cross-examine witnesses as to the correctness of said composite reports heretofore introduced in evidence in this proceeding.

3. That any interested party desiring to avail himself of the opportunity to cross-examine any witness shall, not later than the day preceding the date of the reopening of said hearing, file with the Commission, at its office in the Central Savings Bank Building, Denver, Colorado, a written statement setting forth the names of the witnesses to be cross-examined.

4. That the Secretary be, and he is hereby directed, to cause a copy of this Order and Notice to be published forthwith in the Federal Register and in two consecutive issues of a newspaper of general circulation in each of Districts Nos. 16, 17, 18, 19, 20, 22 and 23, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.
Dated this 31st day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2603; Filed, September 2, 1938; 10:04 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[AAA Corn 1938–2]

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas the Agricultural Adjustment Act of 1938, as amended, provides in Section 327 that—

Not later than September 1, the Secretary [of Agriculture] shall ascertain and proclaim the total supply, the normal supply, and the reserve supply level [of corn] for such marketing year • • •;

Whereas said Act contains, in Section 301, the following definitions of terms here pertinent:

The term "corn" means field corn.

• • • • • •

"Carry-over", in the case of corn • • •, for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current.

• • • • • •

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, October 1—September 30; • • •

• • • • • •

"Normal supply" in the case of corn • • • shall be a normal year's domestic consumption and exports of the commodity, plus 7 per centum • • • of a normal year's domestic consumption and exports, as an allowance for a normal carry-over.

• • • • • •

"Normal year's domestic consumption" in the case of corn • • • shall be the yearly average quantity of the commodity, wherever produced, that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

• • • • • •

"Normal year's exports" in the case of corn • • • shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years • • • immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

• • • • • •

"Reserve supply level," in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and exports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

• • • • • •

"Total supply" of corn • • • for any marketing year shall be the carry-over of the commodity for such marketing year plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins.

Whereas said Act provides in Section 301 (c) that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act";

Now, therefore, be it known that I, M. L. Wilson, Acting Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, as amended, upon the basis of the latest available applicable statistics of the Federal Government, do hereby find, determine, and proclaim under Section 327 of said Act:

1. That the total supply of corn for the marketing year commencing October 1, 1938, is 2,886,221,000 bushels;

2. That the normal supply of corn for the marketing year commencing October 1, 1938, is 2,642,900,000 bushels; and

3. That the reserve supply level of corn for the marketing year commencing October 1, 1938, is 2,717,000,000 bushels.

Done at Washington, D. C., this 31st day of August 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2590; Filed, September 1, 1938; 3:56 p. m.]

PROCLAMATION OF THE SECRETARY OF AGRICULTURE OF THE UNITED STATES WITH REGARD TO THE BASE PERIOD TO BE USED FOR THE PURPOSE OF A MARKETING AGREEMENT AND ORDER REGULATING THE HANDLING OF PACKAGE HONEY BEES AND QUEEN BEES PRODUCED IN THE UNITED STATES

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY

By virtue of the authority vested in the Secretary of Agriculture of the

United States by the provisions of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, as amended, the Secretary of Agriculture hereby finds and proclaims that the purchasing power during the pre-war period, August 1909–July 1914, of package honey bees and queen bees produced in the United States cannot be satisfactorily determined from the available statistics of the United States Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such package honey bees and queen bees, but that the purchasing power of such package honey bees and queen bees can be satisfactorily determined from the available statistics of the United States Department of Agriculture for the post-war period, August 1919–July 1929, and the base period to be used in determining the purchasing power of such package honey bees and queen bees for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of package honey bees and queen bees produced in the United States is hereby declared to be the post-war period, August 1919–July 1929.

In witness whereof, the Secretary of Agriculture of the United States has executed this proclamation in duplicate and has caused the official seal of the United States Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 2d day of September 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2617; Filed, September 2, 1938; 12:56 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of September, A. D. 1938.

[File No. 44-15]

IN THE MATTERS OF AMERICAN LIGHT & TRACTION COMPANY FILE NOS. 56-9 AND 46-110, MICHIGAN CONSOLIDATED GAS COMPANY FILE NOS. 46-111, 47-26, 32-102 AND 43-153, GRAND RAPIDS GAS LIGHT COMPANY, WASHTENAW GAS COMPANY, MUSKEGON GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

The following applications and declaration having been filed with this Commission, pursuant to provisions of the Public Utility Holding Company Act of 1935 and Rules adopted by this Commission thereunder, by American Light & Traction Company, a registered holding company, and Michigan Consolidated Gas Company (formerly Detroit City Gas Company), Grand Rapids Gas Light Company, Muskegon Gas Company, and Washtenaw Gas Company, subsidiary companies of said American Light & Traction Company, regarding transactions incident to the union of the ownership and operation of the properties and business of said subsidiary companies into one of said subsidiaries, Michigan Consolidated Gas Company, and incident to the liquidation of Grand Rapids Gas Light Company, Muskegon Gas Company, and Washtenaw Gas Company, and regarding the issue and sale by Michigan Consolidated Gas Company of $34,000,000 principal amount of its First Mortgage Bonds, 4% Series due 1963, and $8,000,000 principal amount of its 4% Serial Notes (due August 1, 1939 to 1948); the specific applications and declaration being as follows:

1. An application (File No. 56-9) by American Light & Traction Company for approval, pursuant to Rule U-12D-1, of the sale by it to Michigan Consolidated Gas Company of the following securities: 46,000 shares of common stock of Grand Rapids Gas Light Company, 350 shares of preferred stock and 6,000 shares of common stock of Muskegon Gas Company, and 60,000 shares of common stock of Washtenaw Gas Company, said shares being all the outstanding shares of the capital stocks of said Companies, in consideration of the issue to said applicant of 96,103 shares of common stock of Michigan Consolidated Gas Company of the par value of $100 each, and an application (File No. 46-110) by said applicant for approval, pursuant to Section 10 of said Act, of the acquisition by said applicant of said securities to be issued by Michigan Consolidated Gas Company.

2. An application (File No. 46-111) by Michigan Consolidated Gas Company for approval of said applicant's acquisition from American Light & Traction Company of all the outstanding shares of the capital stocks of Grand Rapids Gas Light Company, Muskegon Gas Company and Washtenaw Gas Company above referred to, in consideration of said applicant's issue to American Light & Traction Company of 96,103 shares of said applicant's common stock of the par value of $100 each.

3. An application (File No. 47-26) by Michigan Consolidated Gas Company for approval of the acquisition by said applicant of the assets of Grand Rapids Gas Light Company, Muskegon Gas Company and Washtenaw Gas Company, such assets to be transferred as liquidating dividends to said applicant as the sole stockholder of said Companies upon their liquidation and the assumption by said applicant of their outstanding indebtedness.

4. Applications by Grand Rapids Gas Light Company (File No. 44-15), Muskegon Gas Company (File No. 44-15), and Washtenaw Gas Company (File No. 44-15), for approval, pursuant to Rule U-12C-1, of the acquisitions by said applicants, respectively, of first mortgage bonds, notes and other obligations issued by said applicants in the following aggregate amounts: $2,073,340.03; $2,130,000; and $665,000, said bonds, notes and obligations to be donated by American Light & Traction Company to said applicants as paid-in surplus in each case, respectively, prior to the sale of securities by American Light & Traction Company to Michigan Consolidated Gas Company referred to in paragraph (1) hereof; and for approval, pursuant to Rule U-12C-2, of the transfer by said applicants of their respective assets as liquidating dividends to Michigan Consolidated Gas Company as the sole stockholder of each of said applicants.

5. An application of Michigan Consolidated Gas Company (File No. 32-102) for exemption, pursuant to the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935, from the provisions of Section 6 (a) of said Act of

(a) the issue and sale by said applicant of 96,103 shares of its common stock of the par value of $100 each to be issued for the purposes stated in paragraphs (1) and (2) hereof;

(b) the assumption by said applicant of an aggregate principal amount of $2,223,000 of First Mortgage Bonds due August 1, 1939, of Grand Rapids Gas Light Company, in connection with the applicant's acquisition of the assets of said Company;

(c) the assumption by said applicant of an aggregate principal amount of $555,000 of First Mortgage Bonds, due January 1, 1953, of Washtenaw Gas Company, in connection with the applicant's acquisition of the assets of said Company;

(d) the issue and sale by said applicant through underwriters of an aggregate principal amount of $34,000,000 of First Mortgage Bonds, 4% Series due 1963, to be issued under a mortgage to City Bank Farmers Trust Company and Ralph E. Morton, as Trustees, and an aggregate principal amount of $8,000,000 of 4% Serial Notes due August 1, 1939 to August 1, 1948, to be issued under an indenture between said applicant and Chemical Bank & Trust Company, as Trustee, the proceeds of said securities to be used for the purpose of refunding and discharging outstanding securities of said applicant and for other of its corporate purposes;

it being stated in said application that application has been made to the Public Utilities Commission of the State of Michigan, in which State said applicant and Grand Rapids Gas Light Company and Washtenaw Gas Company are organized and doing business, for authorization of the issue and sale and assumption of such securities; and, in the alternative to said application pursuant to Section 6 (b), a declaration (File No. 43-153) pursuant to Section 7 of said Act regarding the issue and sale and assumption of securities by Michigan Consolidated Gas Company as heretofore stated in this paragraph 5.

It is ordered, That a hearing on such matters be held on September 19, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant and applicants and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 14, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2609; Filed, September 2, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C., on the 31st day of August, 1938.

IN THE MATTER OF RALPH C. KENT, DOING BUSINESS AS RALPH C. KENT & CO. 7 SOUTH DEARBORN STREET, CHICAGO, ILLINOIS

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCATION AND/OR SUSPENSION OF REGISTRATION

The Commission having reasonable grounds to believe that Ralph C. Kent, hereinafter called the registrant, doing business as Ralph C. Kent & Co., a sole proprietorship registered as a broker or dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended was convicted on or about April 20, 1937, of a felony involving the purchase or sale of a security or arising out of the conduct of the business of broker and dealer; and that said registrant has willfully violated Rule MB2 adopted by the Commission pursuant to Section 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934, as amended, by reason of the said registrant having failed to report and correct the inaccuracy of the information furnished:

(a) Under Item 17 of the aforesaid application, by means of a supplemental statement, disclosing the fact that on April 28, 1937 registrant's license to sell securities in the State of Illinois was cancelled; and

(b) Under Item 20 of the aforesaid application, by means of a supplemental statement, disclosing the fact that on or about April 20, 1937 the said registrant was convicted of a felony involving the purchase or sale of a security or arising out of the conduct of the business of broker or dealer; and

(c) Under Item 2 of the aforesaid application, by means of a supplemental statement, disclosing the fact that on or about May 27, 1937 registrant removed his office from 7 South Dearborn Street, Chicago, Illinois; and

The Commission having reasonable grounds to believe that it is in the public interest to suspend or revoke said registration; and

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

It is ordered, That proceedings be held to determine whether the registration of Ralph C. Kent, doing business as Ralph C. Kent & Co., a sole proprietorship, should be suspended or revoked pursuant to the provisions of Section 15 (b) of said Act.

It is further ordered, That a hearing for the purpose of taking evidence be held at 10:00 A. M. on September 26, 1938, at the Chicago Regional Office, Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and that the said hearing be continued at such other time or place as the Commission or the officer conducting said hearing may determine; that for the purpose of said hearing Henry Fitts be and he is hereby designated as the officer of the Commission to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing and to perform all other duties in connection therewith as authorized by law;

It is further ordered, That this notice and order be served on the said registrant personally or by registered mail, not less than seven (7) days prior to the time of the hearing, or by publication in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission, and transmit same with a record of this hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2610; Filed, September 2, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of August 1938.

[File No. 46-96]

IN THE MATTER OF NORTHEASTERN WATER AND ELECTRIC CORPORATION

ORDER APPROVING ON CONDITION ACQUISITION OF SECURITIES

Northeastern Water and Electric Corporation, a subsidiary of Associated Gas and Electric Company, Associated Gas and Electric Corporation, and of Northeastern Water Companies, Inc., registered holding companies, having filed an application with this Commission, pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935, for the acquisition of 9,600 shares of common stock of Hazleton Water Company; hearings thereon having been held[1] after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings therein;

It is ordered, That the acquisition by applicant of such securities for $500,000 to be paid in cash to the vendor and the payment of $25,000 to W. C. Langley & Co., as a commission in connection therewith be, and the same hereby is disapproved; however

It is ordered, That the acquisition by applicant of such securities for $500,000 to be paid in cash and in accordance with the terms and conditions and for the purposes represented by said application as amended, be, and the same hereby is, approved: Provided that no fees, commissions, or other remuneration to W. C. Langley, W. C. Langley & Co., or to Schroder, Rockefeller & Co., Inc., be paid by the applicant directly or indirectly in connection with this matter other than the fees or commissions to be paid indirectly in accordance with the agreement of July 11, 1938; except that the Commission reserves jurisdiction over the accounting treatment of the $7,500 paid by the applicant to Chemical Bank & Trust Company as a

[1] 3 F. R. 1904 DI.

stand-by charge for a contemplated loan which was never consummated.

It is further ordered, That, within ten days after recording upon its books the cost of such acquisition, including all fees, commissions, or other remuneration, to whomsoever paid, directly or indirectly, in connection with such acquisition, applicant submit a statement showing the accounting entries to record the transaction and the costs incident thereto.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2611; Filed, September 2, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of September, A. D. 1938.

[File No. 47–24]

IN THE MATTER OF PEOPLES LIGHT COMPANY, AN IOWA CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 30, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 24, 1938.

The matter concerned herewith is in regard to the acquisition by the above named applicant (a wholly owned subsidiary of United Light & Power Company, a registered holding company) of all of the physical property of Clinton, Davenport & Muscatine Railway Company, an Iowa corporation (also a wholly owned subsidiary of United Light & Power Company) used and useful in the transmission and distribution of electric energy. The consideration to be paid Clinton, Davenport & Muscatine Railway Company for the properties is stated by the applicant to be the sum of $346,700.10. This figure is an approximate one only, the figure being subject to certain adjustments as set forth in the application. The purchase price is payable in cash upon the delivery by the vendor of appropriate instruments of conveyance.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2612; Filed, September 2, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of September, A. D. 1938.

[File No. 37–29]

IN THE MATTER OF THE NORTHEASTERN WATER & ELECTRIC SERVICE CORPORATION

NOTICE OF AND ORDER FOR HEARING

A Declaration pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 21, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 16, 1938.

The matter concerned herewith is in regard to a Declaration with respect to organization and conduct of business of subsidiary service company pursuant to Rule 13–22.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2613; Filed, September 2, 1938; 12:48 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS WEDNESDAY, AUGUST 31, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	579	38
2. Hawaii	138	15
3. California	2,130	759
4. Texas	2,185	577
5. Alaska	22	9
6. Louisiana	758	370
7. Michigan	1,817	892
8. Arizona	163	81
9. New Jersey	1,516	781
10. South Carolina	652	372
11. Ohio	2,464	1,475
12. Oklahoma	890	541
13. Arkansas	696	426
14. Alabama	968	611
15. Mississippi	754	464
16. New Mexico	159	102
17. North Carolina	1,180	781
18. Georgia	1,091	722
19. Kentucky	981	670
20. Wisconsin	1,103	808
21. Illinois	2,893	2,195
22. Tennessee	962	731
23. Nevada	34	37
24. Connecticut	603	480
25. Delaware	88	80
26. Indiana	1,215	1,068
27. Oregon	358	323
28. Florida	551	507
29. Utah	190	178
30. New York	4,723	4,410
31. Wyoming	85	80
32. Pennsylvania	3,613	3,421
33. Idaho	167	159
34. New Hampshire	175	169
35. Washington	567	574
36. Colorado	389	385
37. Rhode Island	258	256
38. Maine	256	268
39. West Virginia	649	645

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
QUOTA FILLED			
IN EXCESS			
40. Kansas	706	711	−15
41. Massachusetts	1,594	1,612	+18
42. Missouri	1,362	1,420	−14
43. Vermont	135	141	0
44. North Dakota	255	269	+18
45. Minnesota	962	1,035	−20
46. Montana	202	230	+1
47. South Dakota	260	298	+10
48. Iowa	927	1,096	+13
IN EXCESS—Continued			
49. Nebraska	517	633	+3
50. Virginia	909	1,942	−5
51. Maryland	612	1,848	−4
52. District of Columbia	183	8,741	−18

GAINS	
By appointment	164
By reinstatement	1
By transfer	14
By correction	1
Total	180

LOSSES	
By separation	26
By transfer	17
Total	43
Total Appointments	46,802

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of August 25, 1934, 14,046.

By direction of the Commission.

[SEAL] L. A. MOYER, *Executive Director and Chief Examiner.*

[F. R. Doc. 38–2608; Filed, September 2, 1938; 12:21 p. m.]

SEP 9 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 174

Washington, Wednesday, September 7, 1938

The President

OUACHITA NATIONAL FOREST—ARKANSAS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain lands in the State of Arkansas which have been acquired or are in process of acquisition by the United States through the Farm Security Administration under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), together with certain adjoining public lands, are adjacent to the Ouachita National Forest; and

WHEREAS it appears that such lands are suitable for national-forest purposes and that it would be in the public interest to reserve and include them as part of the said Ouachita National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), the said National Industrial Recovery Act, the said Emergency Relief Appropriation Act of 1935, and section 32 (c) of the act of July 22, 1937, 50 Stat. 526, do proclaim (1) that all lands of the United States within the areas shown as additions on the diagram[1] attached hereto and made a part hereof are hereby included in and reserved as a part of the Ouachita National Forest, and (2) that all lands within such areas which are in process of acquisition by the United States through the Farm Security Administration under the authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935 shall upon the acquisition of title thereto be reserved and administered as part of the said Forest.

[1] For drawing see p. 2171.

The reservation made by this proclamation shall as to all lands which are at this date legally appropriated under the public-land laws or reserve for any public purpose other than for classification under Executive Order No. 6964 of February 5, 1935, as amended, be subect to, and shall not interfere with or defeat, legal rights under such appropriation, nor prevent the use for such public purpose of lands so reserved, so long as such appropriation is legally maintained or such reservation remains in force.

Executive Order No. 7662 of July 17, 1937, withdrawing certain public lands in Arkansas for the use of the Department of Agriculture, is hereby revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 30th day of August in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL,
Secretary of State.

[No. 2296]

[F. R. Doc. 38-2607; Filed, September 2, 1938; 12:16 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER OF THE SECRETARY OF AGRICULTURE, ISSUED PURSUANT TO PUBLIC ACT No. 10, 73D CONGRESS, AS AMENDED AND AS REENACTED AND AMENDED BY THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937, REGULATING THE HANDLING IN INTERSTATE COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE, OF MILK IN THE TOLEDO, OHIO, MARKETING AREA

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress,

CONTENTS

THE PRESIDENT

Proclamation: Page
Ouachita National Forest, Ark., lands included in--------- 2169

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Handling of milk in Toledo, Ohio marketing area---- 2169
TITLE 10—ARMY:
War Department:
Enlisted men, sections 13.01 to 13.08, amended --------- 2174
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Goodyear Associates (Leopold Spieldock and Samuel Fineberg)----- 2176
Mall Tool Co---------- 2176
TITLE 22—FOREIGN RELATIONS:
Department of State:
Registration of agents of foreign principals---------- 2177
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Tax returns under carriers taxing Act of 1937, article 501 (a) of Regulations 100, amended---------- 2179
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Orders:
Substitution of prospective purchasers or to transfer certificates, permits, or certain State operating rights, form BMC-41---------- 2179
Applications to contract to operate or lease operating rights, certificates, permits, form BMC-42---------- 2180

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 49—TRANSPORTATION AND RAILROADS—Continued.
Interstate Commerce Commission—Continued.
Orders—Continued. Page
Notification of transfer of operating rights, governing transfers of rights to operate as a motor carrier in interstate or foreign commerce, form BMC–43 2180

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Proposed order regulating handling of milk in Toledo, Ohio, marketing area 2180
Bureau of Animal Industry:
Notice under Packers and Stockyards Act:
Garber Livestock Commission Co. (H. M. Garber) 2181
Moore & McCord Commission Co. (Mrs. R. L. Moore and Mr. Ed McCord) 2181
Northwestern Live Stock Commission Co. (George I. Myers) 2181
South Greeley Sales Yards (C. D. McFetridge) 2182
Rural Electrification Administration:
Allocation of funds for loans:
Georgia et al, order No. 282 2182
Alabama et al, order No. 283 2182
Florida et al, order No. 284 2182

CONTENTS—Continued

Securities and Exchange Commission:
Utilities Employees Securities Co., and New England Capital Corp: Page
Hearings 2182–2183
Order for consolidation of hearings 2183

as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing,[1] to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Toledo, Ohio, marketing area, would tend to effectuate the declared policy of said act gave notice on the 28th day of April 1938 of a hearing to be held on the 10th day of May 1938 at Toledo, Ohio, on a proposed marketing agreement and a proposed order, said hearing being reopened at Toledo, Ohio, on the first and 15th days of June 1938 for the purpose of receiving additional evidence, and at said times and places conducted public hearings at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, the Secretary has found and proclaimed[2] the period August 1919–July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Toledo, Ohio, marketing area; and

Whereas, after said hearings and after the tentative approval of a marketing agreement by the Secretary on July 30, 1938, handlers of more than 50 percent of the volume of milk covered by this order, which is marketed within the Toledo, Ohio, marketing area, refused or failed to sign such tentatively approved marketing agreement; and

Whereas, the Secretary determined on the 2d day of Sept. 1938, said determination being approved by the President of the United States on the 2d day of Sept. 1938, that said refusal or failure to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of said act and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area and is approved or favored by more than two-thirds (⅔) of the producers who participated in a referendum thereon conducted by the Secretary, on August 6, 1938, and who during the month of May 1938 (said month having been determined by the Secretary to be a representative period) were engaged in the production of milk for sale in the Toledo, Ohio, marketing area; and

Whereas, the provision of the order providing for the payment to all producers delivering milk to the same handler of uniform prices for all milk delivered by them is approved or favored by at least three-fourths of the producers who, during the month of May 1938 (said month having been determined by the Secretary to be a representative period) were engaged in the production for market of milk covered in such order, said approval being separate and apart from the approval of producers as set forth above; and

Whereas, the Secretary finds that the expenses which the market administrator will necessarily incur during any twelve-month period of time for the maintenance and functioning of such agency for the administration of this order will be approximately $18,000 and that the payment by each handler of 2 cents per hundredweight on all milk received from producers is a proper maximum pro rata share of such expenses; and

Whereas, the Secretary finds, upon the evidence introduced at said hearings:

1. That approximately 26 percent of the producers engaged in the production of milk for sale in the Toledo, Ohio, marketing area produce, outside the State of Ohio, milk which is delivered to handlers who distribute milk in said marketing area; and

2. That the milk originating in States other than Ohio enters the current of interstate commerce; that the milk originating in the State of Ohio is inextricably intermingled with that milk which is in the current of interstate commerce and in such amount that it is impossible to regulate that milk originating in States other than Ohio without regulating that milk which originates in the State of Ohio; and that the handling of milk in the Toledo, Ohio, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce; and

3. That orderly marketing conditions for milk flowing into the Toledo, Ohio, marketing area are threatened with disruption which will result in an impairment of the purchasing power of milk handled in said marketing area, and that the issuance of this order and all its terms and conditions will tend to effectuate the declared policy of said act; and

4. That the prices calculated to give milk handled in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8e of said act, are not reasonable in view of the price of feeds, the available supplies of feed, and other economic conditions which affect the supply and demand for such milk, and that the minimum prices set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

5. That this order regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement upon which hearings have been held.

NOW, THEREFORE, the Secretary of Agriculture, pursuant to the authority vested in him by said act, hereby orders that such handling of milk in the Toledo, Ohio, marketing area as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, be in conformity to and in compliance with the following terms and conditions.

ARTICLE I.—DEFINITIONS

SECTION 1. *Terms.*—The following terms shall have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Toledo, Ohio, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the city of Toledo, and the towns and villages of Ottawa Hills, Maumee, Sylvania, Harbor View, Rossford, and Trilby, in Lucas County, and the township of Perrysburg in Wood County, all in the State of Ohio, and the village of Lakeside in Monroe County, Michigan.

3. "Person" means any individual, partnership, corporation, association, and any other business unit.

4. "Producer" means any person who produces milk which is delivered to the plant of a handler from which milk is sold in the marketing area: *Provided*, That if such producer has not regularly distributed milk in the marketing area or has not sold milk to a handler for a period of 30 days prior to the effective date hereof but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk and including the first two full calendar months following the date of such first delivery to a handler, after which he shall be known as a producer.

5. "Handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all or a portion of which milk is sold as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.

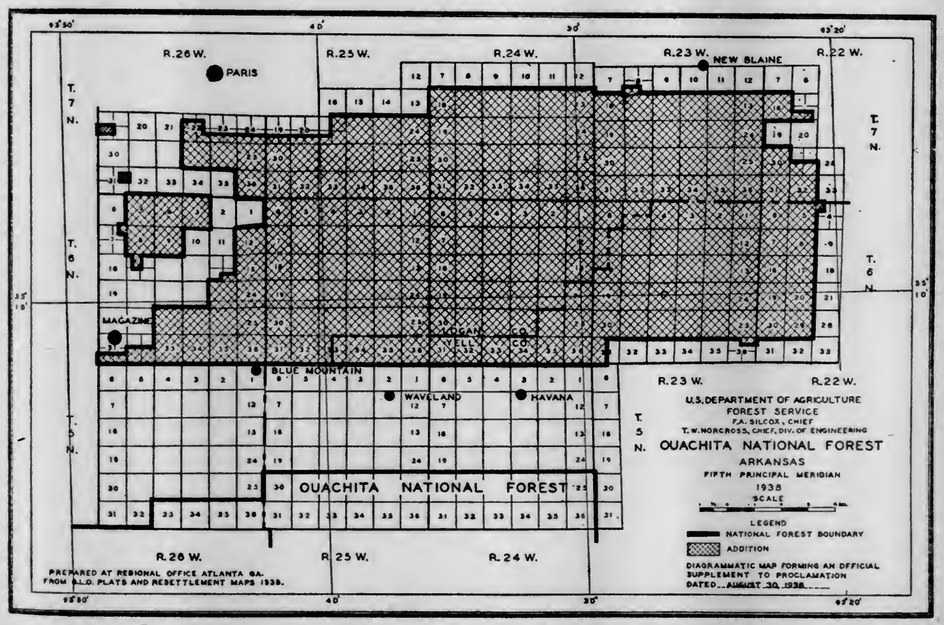
6. "Delivery period" means the current marketing period from the first to, and including, the 15th day of each month, and from the 16th to, and including, the last day of each month.

ARTICLE II.—MARKET ADMINISTRATOR

SECTION 1. *Destination.*—The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

SEC. 2. *Powers.*—The market administrator shall:

1. Administer the terms and provisions hereof;



[1] 3 F. R. 984 DI.
[2] 3 F. R. 1893 DI.

2. Report to the Secretary complaints of violation of the provisions hereof.

SEC. 3. *Duties.*—The market administrator shall:

1. Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

2. Pay, out of the funds provided by article VIII, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

3. Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate;

4. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within two days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to article III or (b) made payments pursuant to article VII; and

5. Promptly verify the information contained in the reports submitted by handlers.

ARTICLE III.—REPORTS OF HANDLERS

SECTION 1. *Submission of reports.*—Each handler shall report to the market administrator, in the detail and form prescribed by the market administrator, as follows:

1. On or before the 5th day after the end of each delivery period (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.

2. Within 10 days after the market administrator's request with respect to any producer and new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made.

3. On or before the 20th day after the end of each delivery period, his producer pay roll, which shall show for each producer and new producer (a) the total delivery of milk with the average butterfat test thereof, (b) the net amount of the payment to such producer and new producer made pursuant to article VII, and (c) the deductions and charges made by the handler.

4. On or before the 5th day after the end of each delivery period, the sale or disposition of Class I or Class II milk outside the marketing area, pursuant to section 2 of article V, as follows: (a) the amount and the utilization of such milk, (b) the butterfat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk is shipped, (f) the price per hundredweight to be paid to producers for such milk, and (g) such other information with respect thereto as the market administrator may require.

5. On or before the 5th day after the effective date hereof a schedule which will show transportation rates which are charged and paid for the transportation of milk from the farm of each producer and new producer to such handler's plant.

6. On or before the 5th day after any changes are made in the schedule filed in accordance with paragraph 5, a copy of the revised schedule with the effective dates of such changes as may appear in the revised schedule.

SEC. 2. *Verification of reports.*—Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this article, and (2) those facilities necessary for the checking of the weighing and sampling of milk and for determining the utilization of milk being made by the handler.

ARTICLE IV.—CLASSIFICATION OF MILK

SECTION 1. *Class Definitions.*—Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator as follows:

1. Class I milk shall be all milk sold or given away in the form of milk, whether plain or flavored, and all milk not accounted for as Class II milk or Class III milk;

2. Class II milk shall be all milk used to produce cream which is sold or given away in the form of cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese;

3. Class III milk shall be all milk used to produce a milk product other than one of those specified in Class II, and all milk accounted for as actual plant shrinkage but not to exceed 3 percent of the total receipts of milk.

SEC. 2. *Interhandler and nonhandler sales.*—Milk sold or delivered by a handler to another handler, and milk sold by a handler to a person who is not a handler but who distributes milk or manufactures milk products, shall be classified as Class I milk: *Provided*, That if the selling handler on or before the 5th day after the end of the delivery period furnishes to the market administrator a statement which is signed by the buyer and seller, that such milk was disposed of as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

SEC. 3. *Computation of butterfat in each class.*—For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as set forth in section 1, as follows:

1. Determine the total pounds of butterfat received as follows: (a) multiply the weight of the milk received from producers and new producers by the average butterfat test, (b) multiply the weight of the milk produced by him, if any, by the average butterfat test, (c) multiply the weight of the milk received from handlers, if any, by the average butterfat test, and (d) add together the resulting amounts.

2. Determine the total pounds of butterfat in Class I milk as follows: (a) convert to quarts the quantity of milk, whether plain or flavored, sold or given away in the form of milk, and multiply by 2.15, (b) multiply the result by the average butterfat test of such milk, and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk, computed pursuant to paragraphs 3 and 4 of this section, is less than the total pounds of butterfat received, computed in accordance with paragraph 1, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this paragraph.

3. Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of the several products of Class II milk by the average butterfat test thereof and (b) add together the resulting amounts.

4. Determine the total pounds of butterfat in Class III milk as follows: (a) multiply the actual weight of the several products of Class III milk by the average butterfat test thereof, (b) multiply the weight of a quantity of milk equal to the plant shrinkage, which shall not exceed 3 percent of the total receipts of milk by the handler, by the average butterfat test of milk received from producers and new producers, and (c) add together the resulting amounts.

5. Determine the classification of the butterfat received from producers and new producers, as follows:

(a) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.

(b) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.

SEC. 4. *Computation of Milk in Each Class.*—For each delivery period, the market administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and new producers, as follows:

1. Divide the total pounds of butterfat computed for each class in accordance with paragraph 5 of section 3 of this article by the average test of all milk received from producers and new producers by such handler.

ARTICLE V.—MINIMUM PRICES

SECTION 1. *Class prices.*—Except as set forth in section 2 of this article, each handler shall pay, at the time and in the manner set forth in article VII, not less than the following prices for milk received at such handler's plant:

Class I milk—$2.35 per hundredweight.

Class II milk—$1.65 per hundredweight.

Class III milk—The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture, for the delivery period during which such milk is delivered, and add 15 percent thereof.

SEC. 2. *Sales outside the marketing area.*—The respective prices for Class I milk and Class II milk set forth in section 1 of this article shall not apply to milk sold or disposed of in such classes outside the marketing area. However, the market administrator, in computing the uniform price for each handler pursuant to section 1 of article VI, shall determine the value of such milk by applying the prices per hundredweight which the handler has reported, pursuant to paragraph 4 of section 1 of article III.

ARTICLE VI.—DETERMINATION AND ANNOUNCEMENT OF UNIFORM PRICES TO PRODUCERS

SECTION 1. *Computation of Uniform Price for Each Handler.*—For each delivery period, the market administrator shall compute for each handler the uniform price per hundredweight of milk received at such handler's plant as follows:

1. (a) Multiply the hundredweight of Class I milk and of Class II milk sold or disposed of in the marketing area by the respective class price, (b) multiply the hundredweight of Class III milk by the Class III price, (c) add together the resulting amounts, and (d) add to the sum obtained in (c) of this paragraph an amount equal to the total value of milk determined in accordance with section 2 of article V.

2. Subtract the total amount to be paid pursuant to paragraph 2 of section 1 of article VII;

3. If, in the verification of the reports of such handler, the market administrator discovers error in such reports, or errors in payments to producers or new producers, there shall be added or subtracted, as the case may be, the amount of money necessary to correct such errors;

4. Divide by the hundredweight of milk received from producers other than the milk represented by the amount subtracted in paragraph 2; and

5. Adjust the resulting price to the nearest cent.

SEC. 2. *Announcement of prices.*—On or before the 12th day after the end of each delivery period the market administrator shall notify each handler of the uniform price computed for him and of the price for milk received from new producers and shall make public announcement of such prices. On or before the 12th day after the end of each delivery period the market administrator shall also announce the prices which each handler reports, pursuant to paragraph 4 of section 1 of article III.

ARTICLE VII.—PAYMENT FOR MILK

SECTION 1. *Time and Method of Payment.*—On or before the 15th day after the end of each delivery period, each handler shall make payment, subject to the butterfat differential set forth in section 2, to producers from whom milk was received during such delivery period as follows:

1. To producers, except as set forth in paragraph 2 of this section, at not less than the uniform price per hundredweight computed for such handler pursuant to section 1 of article VI; and

2. To each new producer, as defined in paragraph 4 of section 1 of article I, at not less than the Class III price.

SEC. 2. *Butterfat differential.*—If a handler has received from a producer or a new producer, during any delivery period, milk having an average butterfat content other than 3.5 percent, such handler, in making payments pursuant to section 1 of this article, shall add to the price to be paid each producer or new producer, for each one-tenth of one percent of average butterfat content above 3.5 percent, or shall deduct from such price, for each one-tenth of one percent of average butterfat content below 3.5 percent, an amount per hundredweight as follows:

Three (3) cents, if the average butter price used in section 1 of article V is 30 cents or less; or

Four (4) cents, if the average butter price used in section 1 of article V is more than 30 cents.

SEC. 3. *Additional payments.*—Any handler may make payments for milk in addition to the payments to be made pursuant to section 1: *Provided*, That such additional payments shall be made on a uniform basis for all milk of like grade and quality received by him.

ARTICLE VIII.—EXPENSE OF ADMINISTRATION

SECTION 1. *Payment of handlers.*—As his pro rata share of the expense of administration hereof, each handler, with respect to all milk received from producers, an association of producers, new producers, or produced by him during the delivery period, shall pay to the market administrator on or before the 10th day after the end of the delivery period that amount per hundredweight, subject to review by the Secretary and not to exceed 2 cents per hundredweight, which is announced on or before the 8th day after the end of such delivery period by the market administrator.

ARTICLE IX.—MARKETING SERVICES

SECTION 1. *Deductions for marketing services.*—Each handler shall deduct an amount not exceeding 2 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made direct to producers and new producers pursuant to article VII, with respect to all milk received by such handler during the delivery period from producers and new producers, and shall pay such deductions to the market administrator on or before the 10th day after the end of such delivery period. Except as set forth in section 2 of this article, such moneys shall be expended by the market administrator only for market information to, and for verification of weights, samples, and tests of milk received from, said producers and new producers.

SEC. 2. *Payment to an association.*—In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing (as determined by the market administrator, subject to review by the Secretary) the services set forth in section 1 of this article, the market administrator shall pay to such association, with respect to the deliveries of milk of producers and new producers who are members of or who are marketing their milk through such association, an amount per hundredweight equal to the per hundredweight deduction made from all producers and new producers pursuant to section 1 of this article.

ARTICLE X.—AMENDMENT, SUSPENSION, AND TERMINATION

SECTION 1. *Effect of amendment, suspension, or termination.*—The amendment, suspension, or termination of any or all of the provisions of this order shall not affect, waive, or terminate any right, duty, obligation, violation, or liability which shall have arisen, or may thereafter arise, in connection with any of the provisions herein.

SEC. 2. *Power of the market administrator to liquidate.*—Upon the suspension or termination of this order, the powers and duties of the market administrator shall be continued for the purpose of permitting the market administrator then functioning, or such other person as the Secretary may designate, to: (1) reduce all assets to cash, (2) pay all costs of liquidation, (3) distribute all remaining cash on hand to the parties entitled to receive the same,

and (4) ship all books and records to the Secretary for filing.

ARTICLE XI.—LIABILITY

SECTION 1. *Handlers.*—The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

Now, therefore, M. L. Wilson, Acting Secretary of Agriculture, acting under the provisions of the Agricultural Marketing Agreement Act of 1937, which reenacts and amends certain provisions of Public No. 10, 73d Congress, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 3d day of Sept., 1938, and declares this order to be effective on and after September 16, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2634; Filed, September 6, 1938; 11:50 a. m.]

TITLE 10—ARMY

WAR DEPARTMENT

PART 13—ENLISTED MEN

FLYING CADETS

Sections 13.01 to 13.08, inclusive, are amended to read as follows:

SEC. 13.01 *Eligibility.*—(a) *General.*—Civilians are eligible for appointment as flying cadets. Candidates must be at time of application unmarried male citizens of the United States; between the ages of 20 and 26 years, inclusive; individuals who have satisfactorily completed at least one-half the credits required for a degree at a recognized college or university, or who can pass an examination covering such work; of excellent character; and of sound physique and in excellent health. No candidates will be appointed as flying cadets after they have reached their 27th birthday.

(b) *Candidates must agree to serve.*—Each applicant for appointment as a flying cadet will sign an agreement, with the consent of his parents or guardian, if a minor, by which he will agree—

(1) To enlist for 3 years as a flying cadet of the Air Corps, with the understanding that upon completion of the course of instructions at the Air Corps Training Center, which normally requires 1 year, he will be discharged as a flying cadet.

(2) To remain unmarried during the period of training as a flying cadet.

(3) To serve 3 years as a second lieutenant, Air Corps Reserve, on active duty, unless sooner relieved by competent authority.

(c) *Applicants who have previously received flying training at a service school.*—An applicant who has been eliminated from a service flying school due to failure in flying, or who has completed the course of instruction in a service flying school will not be appointed a flying cadet.

(d) *Marriage.*—Any flying cadet who marries will be subject to immediate discharge from the service. (41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

SEC. 13.02 *Applications.* — (a) *Who may submit.*—Any person fulfilling the general requirements prescribed in section 13.01 may apply for appointment as a flying cadet. The necessary blank forms may be obtained from any corps area commander, the commanding officer of any Air Corps station, or from The Adjutant General.

(b) *Manner of submitting.*—An application will be in the form prescribed in paragraph (a), section 13.08. It will be accompanied by—

(1) An affidavit in the form prescribed in paragraph (b), section 13.08. Applications and accompanying affidavits will be in triplicate.

(2) Three letters of recommendation, signed by persons of recognized standing in the community in which the residence of the applicant is located.

(3) A certificate from the registrar of the college attended, certifying to the subjects pursued and credits received by the applicant.

(4) A letter of recommendation from the professor of military science and tactics in the case of applicants from colleges maintaining Reserve Officers' Training Corps units.

(c) *To whom and how forwarded.*—Civilian applicants will forward their applications to the commanding general of the corps area in which they reside.

(d) *Action upon.*—In the case of an approved application of a civilian applicant, the corps area commander will authorize the applicant to correspond directly with the president of the examining board nearest the residence of the applicant for the purpose of making arrangements for his examination. All approved applications will be transmitted by the corps area commander to the presidents of the examining boards before which the applicants are to be examined. In order that civilian candidates may not be put to unnecessary expense, corps area commanders will arrange for the examination of flying cadet candidates by the examining board nearest the home or place of residence of the candidate, regardless of the corps area in which the board is located. Upon completion of the examination, the papers in such cases will be returned by the examining board to the commanding general of the corps area in which the application originated.

(e) *Miscellaneous.*—(1) *Change of address of applicants.*—Any civilian who has submitted an application for appointment as flying cadet will inform the corps area commander to whom his application has been sent of any change of station or address. Failure to do this is sufficient cause for removal of his name from the list of applicants.

(2) *Expenses of applicants.*—Applicants will be required to bear all expense incident to their appearance before a board for examination, and no claim for reimbursement for expenses incurred by them before their enlistment as flying cadets will be considered.

(3) *Notification of ineligibility.*—Applicants found ineligible will be so notified by the authority authorized to act upon applications as soon as their ineligibility shall have been determined. (41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

SEC. 13.03 *Examination.*—(a) *Examining boards.*—(1) *Appointment.*—When directed by The Adjutant General, upon recommendation of the Chief of the Air Corps, examining boards will be convened, upon orders issued by commanding officers authorized to appoint such boards, for the examination of applicants for appointment as flying cadets.

(2) *Composition.*—Examining boards will consist of three experienced officers of the Regular Army, including at least one Air Corps officer and as many others as practicable; and one medical officer (flight surgeon).

(3) *Where convened.*—Examining boards are convened regularly for the examination of applicants for appointment as flying cadets in the following places:

Boston Airport, East Boston, Mass.
Mitchel Field, N. Y.
Bolling Field, D. C.
Langley Field, Va.
Barksdale Field, La.
Fort Bragg, N. C.
Maxwell Field, Ala.
Hq. Fourth Corps Area, Atlanta, Ga.
Schoen Field, Fort Benjamin Harrison, Ind.
Wright Field, Dayton, Ohio.
Chanute Field, Ill.
Selfridge Field, Mich.
Scott Field, Ill.
Hq. Sixth Corps Area, Chicago, Ill.
Fort Leavenworth, Kans.
Fort Snelling, Minn.
Air Corps Technical School, Denver Branch, Denver, Colo.
William Beaumont General Hospital, El Paso, Tex.
Randolph Field, Tex.
Fort Sill, Okla.
Hamilton Field, Calif.
Fort Lewis, Wash.
March Field, Calif.
Moffett Field, Calif.
Hawaiian Dept., Honolulu, T. H.
Panama Canal Dept., Quarry Hts., C. Z.
Philippine Dept., Manila, P. I.

In addition to the places listed above, special examining boards may be convened at other places as conditions warrant.

(b) *Physical examination.*—(1) Each applicant appearing before the board will

first be subjected to the physical examination prescribed in Army Regulations.

(2) Should the applicant possess defects that clearly disqualify him physically and which cannot be corrected by simple treatment or by a minor operation, he will not be permitted to take the educational examination.

(3) If the disqualifying defects are such that they may be removed by simple treatment or by a minor operation, the applicant will be permitted to proceed with his educational examination, with the understanding that, should he qualify in the latter, he will not be eligible for appointment as a flying cadet unless and until the board shall find, upon subsequent report of physical examination by a qualified examiner (not necessarily a member of the board), that he is physically qualified for flying duty.

(c) *Moral character and general fitness.*—After the physical examination of the applicant has been completed, the board will proceed with an examination into and determination of his moral qualifications, adaptability, etc. These will be determined by means of oral questioning of the applicant, consideration of the letters of recommendation submitted by him, and by such further investigation as the board may consider necessary or desirable.

In this phase of the examination the candidate will be required to measure up to the standard prescribed for cadets of the United States Military Academy.

(d) *Educational examination.*—The board will next proceed with the educational examination of the applicant. This may be omitted if the applicant presents a certified document from the office of the registrar of a recognized college or university showing that he has satisfactorily completed one-half or more of the necessary credits leading to a degree which normally requires 4 years' work. The board will be the sole judge as to the sufficiency of the documentary evidence submitted. The scope of the educational examination will be prescribed by the Chief of the Air Corps, who will forward the necessary examination questions to the examining board prior to the date on which the examination is to be held. Educational examination papers will be graded by an agency designated by The Adjutant General on the recommendation of the Chief of the Air Corps. (41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

SEC. 13.04 *Appointment*—(a) *Precedence.*—In case there are more qualified candidates than vacancies, appointments will be made from eligibles in accordance with a precedence established by the Chief of the Air Corps and approved by the War Department. This precedence will be published by the War Department from time to time.

(b) *Civilians.*—When, as a result of an examination as prescribed above, civilian applicants have been found qualified for enlistment as flying cadets and vacancies in that grade exist, the names and addresses of the qualified candidates will be transmitted by the Chief of the Air Corps to The Adjutant General, who will authorize their enlistment as flying cadets and the issuance of orders directing travel of the flying cadets from place of enlistment to the school recommended by the Chief of the Air Corps for flying training. (41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

SEC. 13.05 *Training.*—(a) The scope of training will be as prescribed in the approved program of instruction for the flying schools. The course covers a period of 1 year.

(b) Insofar as practicable, flying cadets will be segregated from other enlisted men in all activities, including housing, messing, and hospitalization. (41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

SEC. 13.06 *Appointment as second lieutenant, Air Corps Reserve.*—Upon approval by the Secretary of War of a report recommending that a flying cadet be appointed a second lieutenant in the Air Corps Reserve, The Adjutant General will issue a letter of appointment, appointing him a second lieutenant in the Air Corps Reserve, and will transmit the letter with commission and form for oath of office to the commandant of the Air Corps Advanced Flying School. (41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

SEC. 13.07 *Appointment as Reserve officer to be accepted promptly.*—The commandant of the Air Corps Advanced Flying School will caution flying cadets, upon successful completion of their instruction, that their acceptance of appointment as Reserve officers should be made promptly, for the reason that undue delay may result in cancellation of the appointment. (41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

SEC. 13.08 *Forms.*—(a) *Application for appointment as flying cadet.*—Applications for appointment as flying cadet will be in the following form:

_____
(Place)

_____
(Date)

To: Commanding General, _____ Corps Area,

_____

1. Request is hereby made that I be considered for appointment as a flying cadet in the Army Air Corps for heavier-than-air flying training. This application is submitted with a view to pursuing, as a flying cadet, the standard course of instruction prescribed by the War Department and, upon successful completion thereof, to being appointed a second lieutenant, Air Corps Reserve.

2. Three letters of recommendation are inclosed and affidavit executed on reverse side of this sheet. I understand that unless I can furnish documentary evidence of having satisfactorily completed at least one-half of the credits required for a degree at a recognized college or university it will be necessary for me to take the prescribed educational examination.

3. My mail and telegraph address is_____

_____
(Signature of applicant)

_____ inclosures.

(b) *Affidavit to accompany application for appointment as flying cadet.*—(1) Affidavit in the following form will accompany application for appointment as flying cadet:

STATE OF _____,
County of _____

Personally appeared before me, the undersigned authority for administering oaths, one _____, who deposes and says as follows:

1. I am a citizen of the United States, and am a member of the _____ race.

2. My legal residence is _____

3. I was born at _____, on the _____ day of _____, 19__.

4. I am in good health, am _____ feet _____ inches in height, and weigh _____ pounds.

5. I am not married and agree to remain unmarried during the period of training as a flying cadet, which normally requires 1 year. I have _____ persons entirely dependent upon me for support and _____ persons partially dependent upon me for support.

6. My education has been as follows: _____.

7. My service has been as follows: _____.

8. My business (or professional) experience has been as follows: _____

_____

9. If I successfully complete the course of instruction as a flying cadet, I will accept a commission as second lieutenant, Air Corps Reserve, if such a commission is tendered me, and I agree to serve for 3 years on active duty as such unless sooner relieved by competent authority.

_____, parents or guardian of
(I) or (We)
_____ consent to this
(Name of applicant)
application.

_____
(Signature)

_____
(Signature)

10. If, at the time I become eligible for appointment as a flying cadet and available for assignment to a school for flying training, I shall have less than 2 years to serve in my then current enlistment, I will accept discharge therefrom and will immediately enlist in the Army for a period of 3 years, upon official notification that I am about to be appointed a flying cadet.

_____
(Signature of applicant)

Subscribed and sworn to in my presence this _____ day of _____, 19__.

_____
(Signature of official administering oath)

_____
(Official capacity in which oath administered as "Notary Public," "Summary Court," etc.)

(2) In preparing an affidavit in the foregoing form—

(i) In items 1, 2, 3, 4, and 5 insert necessary data.

(ii) In item 6 name, in chronological order of attendance, institutions of learning attended, with dates of attendance and dates of graduation from each, stating which of these offered courses of military instruction, what such courses were, and which, if any, of such courses were pursued.

(iii) In item 7 give essential data concerning all military service in the Army, Navy, Marine Corps, Coast Guard, National Guard, and Officers' Reserve Corps, or in the military service of a foreign country, including dates of enlistment, dates of discharge, character given on discharge, noncommissioned grades held, dates, grades, etc.,

of commission, and dates of resignation or discharge, with reasons for resignation or discharge.

(iv) In item 8 state, in chronological order of events, business or professional experience, with names of employers and places of employment.

(v) In item 9 signature of parents or guardian necessary only in case of applicant under 21 years of age.

(vi) In the case of candidates from civil life, item 10 will be stricken out.

(vii) Candidates will sign both application and affidavit.

(41 Stat. 109; sec. 1, 44 Stat. 780; 10 U. S. C. 297.) [AR 615–160, July 20, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38–2619; Filed, September 3, 1938; 9:45 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3376]

IN THE MATTER OF MALL TOOL COMPANY

SEC. 3.6 (t). *Advertising falsely or misleadingly—Qualities or properties of product:* SEC. 3.66 (h) *Misbranding or mislabeling—Qualities or properties.*—Representing engines or motors, installed as part of respondent's concrete vibrators and made by others, as having different horsepower than rating given by makers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Mall Tool Company, Docket 3376, August 25, 1938.]

SEC. 3.6 (a) (22). *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Manufacturer:* SEC. 3.66 (g) *Misbranding or mislabeling—Producer status of dealer.*—Representing engines or motors purchased from others, and installed as part of respondent's concrete vibrators, as made by it, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Mall Tool Company, Docket 3376, August 25, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF MALL TOOL COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, and a stipulation as to the facts duly approved by the Commission and made a part of the record in this case, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Mall Tool Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of its concrete vibrators or engines and motors for same in interstate commerce or in the District of Columbia, do cease and desist, either directly or by any corporate or other device, from representing or implying:

1. That engines or motors made by others than respondent have a different horsepower than the rating given such engines or motors by the makers thereof;

2. That engines or motors purchased from others are made or manufactured by the respondent.

It is further ordered, That the respondent shall, within sixty days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–2620; Filed, September 3, 1938; 10:09 a. m.]

[Docket No. 3475]

IN THE MATTER OF GOODYEAR ASSOCIATES

SEC. 3.99 (b). *Using or selling lottery devices — In merchandising.*— Offering, etc. to purchasers, storm jackets and numerous other articles of merchandise, with lottery sales plan, etc., as specified, by which said merchandise is to be, or may be, resold to purchasing public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Goodyear Associates, Docket 3475, August 25, 1938.]

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.*—Advertising in any way sale of storm jackets and numerous other articles of merchandise under any lottery plan, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Goodyear Associates, Docket 3475, August 25, 1938.]

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.*—Aiding and inducing purchsers of storm jackets and numerous other articles of merchandise to dispose of same by means of any lottery scheme, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Goodyear Associates, Docket 3475, August 25, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF LEOPOLD SPIELDOCK AND SAMUEL FINEBERG, INDIVIDUALLY, AND TRADING AS GOODYEAR ASSOCIATES

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Leopold Spieldock and Samuel Fineberg, individually, and trading as Goodyear Associates, or trading under any other name, their agents, representatives and employees, in connection with the offering for sale, sale and distribution of storm jackets, zipper jackets, bed comforters, blankets, bed spreads, steamer rugs, table covers, sheets, pillow cases, umbrellas, overnight cases, electric irons, coffee makers, carving sets, electric toasters, cutlery sets, men's shirts, electric waffle irons, linen dinner sets, and electric clocks or any other articles of merchandise in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Offering for sale and selling said merchandise to purchasers together with a sales plan or method involving the use of a lottery scheme, gift enterprise or game of chance, by which said merchandise or other articles of merchandise are to be, or may be, resold to the purchasing public.

(2) Advertising by means of printed cards, circulars, letters, or by any other means, the sale of such merchandise under any plan involving the use of a lottery scheme, gift enterprise, or game of chance.

(3) Aiding and inducing the purchasers of such merchandise to dispose of same by means of any lottery scheme, gift enterprise or game of chance.

It is further ordered, That the respondents, and each of them, shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–2621; Filed, September 3, 1938; 10:10 a. m.]

TITLE 22—FOREIGN RELATIONS

DEPARTMENT OF STATE

RULES AND REGULATIONS GOVERNING THE REGISTRATION OF AGENTS OF FOREIGN PRINCIPALS UNDER THE ACT OF CONGRESS APPROVED JUNE 8, 1938 (PUBLIC NO. 583—75TH CONGRESS)

Pursuant to the Act approved June 8, 1938 (Public No. 583—75th Congress, Third Session), entitled "An Act To require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes" which reads as follows:

[In the original document here follows the text of the above mentioned Act.]

the Secretary of State hereby prescribes the following rules, regulations, and forms, subject to rescission, modification or amendment as the Secretary of State may from time to time hereafter prescribe:

I

DEFINITIONS

As used in these rules, regulations and forms, unless the context otherwise requires—

(1) The term *person* means an individual, partnership, association, or corporation.

(2) The term *Secretary* means the Secretary of State of the United States.

(3) The term *Act* means the Act approved June 8, 1938 (Public No. 583—75th Congress, Third Session), entitled "AN ACT To require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes."

(4) The term *section* means a section of the Act.

(5) The term *rules and regulations* means all rules, regulations, and forms prescribed by the Secretary.

(6) The term *government of a foreign country* means any group of persons exercising sovereign political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of such group and any group or agency to which authority or functions are directly or indirectly delegated or permitted. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority, whether such faction or body of insurgents has or has not been recognized by the United States.

(7) The term *political party of a foreign country* means any group of persons in a country other than the United States, having for an aim the establishment or the administration of a government or of a governmental system.

(8) The term *person domiciled abroad* means a person who has outside the United States a permanent home or principal establishment.

(9) The term *foreign business* means any entity organized or set up under a jurisdiction of a country other than the United States and having its principal place of business outside the United States, for the purpose of livelihood or profit.

(10) The term *foreign partnership* means an association of two or more persons formed outside the United States to engage jointly in any occupation or undertaking.

(11) The term *foreign association* means an unincorporated entity or group of persons formed outside the United States and acting for a common purpose.

(12) The term *foreign corporation* means a legal entity created by or under the laws of a country other than the United States.

(13) The term *foreign political organization* means a group of persons organized and existing outside the United States which is engaged in political activity.

(14) The term *public relations counsel* means any person who directly or indirectly informs, advises, or in any other way represents a principal in any matters pertaining to public relations, public policy or political interests.

(15) The term *publicity agent* means any person who is directly or indirectly engaged in the placing or disseminating within the United States of oral, written, or pictorial information or matter of any kind for publication in any manner, including publication through advertising, books, periodicals, newspapers, lectures, broadcasts, moving picture showings, or otherwise: *Provided, however,* That this term shall not be held to apply to any person by reason of his being engaged in the dissemination of material, information, or ideas in furtherance of bona fide religious, scholastic, academic, or scientific activities or of the fine arts.

(16) The term *duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State of the United States* shall include any representative of a foreign government who functions as a diplomatic or consular officer in the United States and whose diplomatic or consular status is of record in the Department of State of the United States.

(17) The term *private activities in furtherance of bona fide trade or commerce* means activities ordinarily and customarily performed by persons for private livelihood or profit, as distinguished from activities of a political or other character, whether or not in the guise of trade or commerce.

(18) The term *non-political activities in furtherance of bona fide trade or commerce* means such activities as are religious, educational, professional, scientific, or related to the fine arts, which do not in any essential respect relate to the conduct of a government.

(19) The term *financial activities in furtherance of bona fide trade or commerce* means activities in which exchange of money or its equivalent is involved through the normal channels of finance, and includes the normal incidents of such transactions.

(20) The term *mercantile activities in furtherance of bona fide trade or commerce* means activities directly concerned with the business of procuring, buying, selling, merchandising, warehousing, forwarding, transporting or processing goods, products or property of any kind.

(21) The term *other activities in furtherance of bona fide trade or commerce* as used in sub-section (d) of the first section of the Act, means services rendered in connection with private activities, non-political activities, financial activities or mercantile activities as herein defined.

(22) The term *furtherance of bona fide trade or commerce* means engaging in good faith in the lawful exchange of goods, products, services or property of any kind, or in any business, occupation or employment. Such term shall not include any political activities.

(23) The term *registration statement* means the statement submitted to the Secretary for filing pursuant to the terms of the Act, and includes all documents and papers supplementary thereto.

(24) The term *registrant* means the person named in the registration statement and in whose behalf the registration statement is submitted to the Secretary for filing.

II

The Act requires the registration of any person who *acts* or *engages to act* or *agrees to act* as:

public relations counsel,
publicity agent,
agent,
servant,
representative, or
attorney

for:

the government of a foreign country,
a political party of a foreign country,
a person domiciled abroad,
a foreign business,
a foreign partnership,
a foreign association,
a foreign corporation,
a foreign political organization, or
any domestic organization subsidized directly or indirectly in

whole or in part by any of the above.

The *only* persons within these categories excepted from the requirement to register are persons *other than a public relations counsel or publicity agent*, performing:

private activities in furtherance of bona fide trade or commerce,
non-political activities in furtherance of bona fide trade or commerce,
financial activities in furtherance of bona fide trade or commerce,
mercantile activities in furtherance of bona fide trade or commerce, or
other activities in furtherance of bona fide trade or commerce,

or persons who function in the United States as diplomatic or consular officers and whose diplomatic or consular status is of record in the Department of State.

III

REGULATIONS UNDER SECTION 2 OF THE ACT

1. Every person required to register under the terms of Section 2 of the Act and under the rules and regulations issued pursuant to the Act, shall submit to the Secretary a registration statement on a form similar to that printed below. Registration statements must be signed and sworn to before a notary public or other person authorized by law to administer oaths for general purposes before they are transmitted to the Secretary of State. Blank forms will be furnished by the Secretary upon request.

Registration No. ____
Date of Registration: ____
(Not to be filled in by registrant)

UNITED STATES OF AMERICA

DEPARTMENT OF STATE

REGISTRATION STATEMENT

For persons required to register with the Secretary of State pursuant to Section 2 of the Act, Public No. 583–75th Congress, Third Session, approved on June 8, 1938.

(Note: All spaces must be filled in)

(1) Name of registrant: _____

(2) Status of registrant (individual, partnership, association or corporation): _____

(3) Principal business address: _____

(4) Other places of business in the United States or elsewhere: _____

(5) Residence address, or addresses, if more than one: _____

(6) If registrant is a partnership, names and addresses of partners; if a corporation or association, names and addresses of officers thereof: _____

(7) Name of foreign principal, or principals, if more than one, for which registrant is acting as agent: _____

(8) Address, or addresses, if more than one, of foreign principal: _____

(9) Nationality of foreign principal, or principals, if more than one: _____

(10) Comprehensive statement of nature of business of registrant: _____

(11) Nature of business of foreign principal, or principals: _____

(12) Identification of all contracts of employment or other documents submitted herewith to indicate in complete detail the nature of the employment of registrant, and the terms and conditions thereof: _____

(13) (a) Dates of contracts under which registrant is employed: _____

(b) Dates of commencement of activity thereunder: _____

(c) Periods of duration of contracts of employment. (If not known definitely, approximations may be made): _____

(14) Compensation to be paid registrant, and form and time of payment, under contracts or terms of employment: _____

(15) Names of all foreign principals, or other persons or organizations which have contributed, or promised to contribute, to compensation referred to in paragraph (14) above: _____

(16) If registrant is a partnership, association, or corporation, identify documents and instruments, whether charter, articles of incorporation, copartnership, or association; constitution; bylaws; or other documents or instruments relating to registrant's organization, powers, and purposes, submitted herewith in compliance with the Act: _____

(17) (a) Nationality of registrant: _____
(b) If American born, date and place of birth: _____

(c) If naturalized, date and place of naturalization: _____

(d) If alien, indicate type of travel document and nature of entry into the United States (whether for business or pleasure, temporary or permanent, etc.), including date, port of entry, type and date of visa, country of origin, country from which entry was made, etc.: _____

(18) Official designation of registrant: _____

(19) Date of execution of Registration Statement: _____

The undersigned swears (affirms) that he has read the Act, Public No. 583—75th Congress, Third Session, approved on June 8, 1938, and the rules and regulations issued pursuant thereto; that he is familiar with the contents of this Registration Statement submitted pursuant to such Act, rules and regulations, and with the contents of the documents supplementary thereto which are incorporated therein and constitute a part thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

_____
(Signature of registrant)
(If registrant is a partnership, association or corporation, the signature shall be that of its duly authorized representative.)

_____
(Type or print name beneath)
Signed and sealed in my presence this _____ day of _____, 19__.

_____
(Title)
My commission expires: _____

2. Registration statements should be in English. If in a foreign language, they must be accompanied by an English translation, certified under oath by the translator, before a notary public or other person authorized by law to administer oaths for general purposes, as a true and accurate translation. The statements, with the exception of signature, should be typewritten, but will be accepted if written legibly in ink.

3. All spaces in the registration statement form must be properly filled in. Registration statements found not to be in proper form, or lacking in essential details, will not be accepted by the Secretary for filing, and such registration statements shall not be deemed to have been filed in compliance with the Act.

4. Where space in the registration statement form does not permit full answers to questions, the information required may be set forth in supplementary papers incorporated by reference in the registration statement and submitted therewith. Supplementary documents and papers must be referred to in the principal statement in chronological or other appropriate order and be described in such manner that they can be easily identified.

5. Acceptance by the Secretary of a registration statement submitted for filing shall not necessarily signify a full compliance with the Act on the part of the registrant, and such acceptance shall not preclude prosecution as provided for in the Act for a false statement of a material fact, or the willful omission of a material fact required to be stated therein.

6. The date on which a registration statement is accepted by the Secretary for filing shall be considered the date of the filing of such registration statement pursuant to the Act.

7. Papers and documents already filed with the Secretary pursuant to the Act may be incorporated by reference in any registration statement subsequently submitted to the Secretary for filing, provided such papers and documents are adequately identified in the registration statement in which they are incorporated by reference.

8. The filing of a registration statement by a partnership, association or corporation shall not preclude the necessity of the filing of a similar registration statement as required under the Act, by such individual members, employees, associates and affiliates of such registrant, as are required to register under the Act.

9. Every registration statement executed and submitted to the Secretary by or on behalf of a partnership, association, or corporation, shall contain or be accompanied by a concise statement of the applicable provisions of the partnership agreement, articles of incorporation, bylaws or similar documents, indicating the right of the person who signs and submits the registration statement for filing to take such action on behalf of the partnership, association, or corporation, and a statement under oath that all such requirements have been complied with and that the person signing and submitting the registration statement is fully authorized to do so.

10. A separate registration statement, under the Act, must be filed with the Secretary by each person required to register.

11. The Secretary should be notified promptly upon the cessation of the agency or activity by virtue of which a registrant has been required to file a registration statement pursuant to the Act.

IV

REGULATIONS UNDER SECTION 3 OF THE ACT

1. Every person required to submit statements to the Secretary for filing in compliance with the terms of Section 3 of the Act and under the rules and regulations issued pursuant to the Act shall submit such statements under oath on a form similar to that printed below. Blank forms will be furnished by the Secretary upon request.

2. The rules and regulations set forth under III hereof, with respect to registration statements submitted to the Secretary under Section 2 of the Act, shall apply with equal force and effect to statements required to be submitted to the Secretary for filing under Section 3 of the Act.

Registration No. ____
Date of Registration: ____
(Not to be filled in by registrant)

UNITED STATES OF AMERICA

DEPARTMENT OF STATE

SUPPLEMENTAL REGISTRATION STATEMENT

For persons required to submit statements to the Secretary of State for filing in compliance with Section 3 of the Act, Public No. 583—75th Congress, Third Session, approved on June 8, 1938.

(Note.—Except in paragraph (1), if answers would be exactly the same as answers made to similar questions in a previous statement filed with the Secretary under the Act of June 8, 1938, the word *same* may be written in the appropriate spaces below with an indication of the number and date of the previous statement filed. All spaces must be filled in.)

(1) Name of registrant: _____

(2) Status of registrant (individual, partnership, association or corporation): _____

(3) Principal business address: _____

(4) Other places of business in the United States or elsewhere: _____

(5) Residence address, or addresses, if more than one: _____

(6) If registrant is a partnership, names and addresses of partners; if a corporation or association, names and addresses of officers thereof: _____

(7) Name of foreign principal, or principals, if more than one, for which registrant is acting as agent: _____

(8) Address, or addresses, if more than one, of foreign principal: _____

(9) Nationality of foreign principal, or principals, if more than one: _____

(10) Comprehensive statement of nature of business of registrant: _____

(11) Nature of business of foreign principal, or principals: _____

(12) Identification of all contracts of employment or other documents submitted herewith to indicate in complete detail the nature of the employment of registrant, and the terms and conditions thereof: _____

(13) (a) Dates of contracts under which registrant is employed: _____

(b) Dates of commencement of activity thereunder: _____

(c) Periods of duration of contracts of employment. (If not known definitely, approximations may be made): _____

(14) Compensation to be paid registrant, and form and time of payment, under contracts or terms of employment: _____

(15) Amount and form of compensation received by registrant during period of six months immediately succeeding last statement filed with the Secretary pursuant to the Act: _____

(16) If registrant is a partnership, association, or corporation, identify documents and instruments, whether charter, articles of incorporation, copartnership, or association; constitution; bylaws; or other documents or instruments relating to registrant's organization, powers, and purposes, submitted herewith in compliance with the Act: _____

(17) (a) Nationality of registrant: _____
(b) If American born, date and place of birth: _____

(c) If naturalized, date and place of naturalization: _____

(d) If alien, indicate type of travel document and nature of entry into the United States (whether for business or pleasure, temporary or permanent, etc.), including date, port of entry, type and date of visa, country of origin, country from which entry was made, etc.: _____

(18) Official designation of registrant: _____

(19) Date of execution of Registration Statement: _____

The undersigned swears (affirms) that he has read the Act, Public No. 583—75th Congress, Third Session, approved on June 8, 1938, and the rules and regulations issued pursuant thereto; that he is familiar with the contents of this Supplemental Registration Statement submitted pursuant to such Act, rules and regulations, and with the contents of the documents supplementary thereto which are incorporated therein and constitute a part thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

_____
(Signature of registrant)
(If registrant is a partnership, association or corporation, the signature shall be that of its duly authorized representative.)

_____
(Type or print name beneath)
Signed and sealed in my presence this _____ day of _____, 19__.

_____
(Title)
My commission expires: _____

V

INSPECTION OF REGISTRATION STATEMENTS

1. Registration statements filed with the Secretary pursuant to the Act will be available for public inspection in the Department of State, Washington, D. C., during all business hours, i. e. from 9 a. m. to 4:30 p. m. on each business day excepting Saturday, and from 9 a. m. to 1 p. m. on Saturdays.

[SEAL] CORDELL HULL,
Secretary of State.

[F. R. Doc. 38–2639; Filed, September 6, 1938; 12:23 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4859]

TAX RETURNS UNDER CARRIERS TAXING ACT OF 1937

To Collectors of Internal Revenue and Others Concerned:

Article 501 (a) of Regulations 100,[1] approved October 12, 1937, relating to the employers' tax, employees' tax and employee representatives' tax under the Carriers Taxing Act of 1937, is amended to read as follows:

Initial and quarterly returns of tax.—(a) *General.*—For the period beginning January 1, 1937, and ending September 30, 1937, and for each subsequent period of three calendar months ending December 31, March 31, June 30, and September 30, each employer shall prepare a return of tax, in triplicate, on Form CT–1 and each employee representative shall prepare a return of tax, in triplicate, on Form CT–2. Each employer and employee representative is required to file his own return. Consolidated returns of parent and subsidiary corporations are not permitted.

This Treasury Decision is prescribed pursuant to the provisions of section 1102 (a) of the Revenue Act of 1926 and section 12 of the Carriers Taxing Act of 1937.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, September 1, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2623; Filed, September 3, 1938; 11:15 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Form BMC–41]

ORDER IN THE MATTER OF APPLICATIONS UNDER MOTOR CARRIER ACT, 1935, OTHER THAN UNDER SECTIONS 210 A (B) AND 213 THEREOF, FOR SUBSTITUTION OF PROSPECTIVE PURCHASERS OR TO TRANSFER CERTIFICATES, PERMITS, OR CERTAIN STATE OPERATING RIGHTS

At a session of the Interstate Commerce Commission, Division 5, held at its

[1] 2 F. R. 2204 (2563 DI).

office in Washington, D. C., on the 1st day of July A. D. 1938.

The matter of applications under sections 206, 209, or 212 (b), Motor Carrier Act, 1935, for substitution of prospective purchasers in lieu of applicants or to transfer certificates of public convenience and necessity, or permits, being under consideration and good cause appearing:

It is ordered, That applications under sections 206, 209, or 212 (b), Motor Carrier Act, 1935, for substitution of prospective purchasers in lieu of applicants or to transfer certificates of public convenience and necessity, or permits, shall be in the form of and contain the information called for in the form of application designated Form [1] BMC–41, attached hereto and made a part hereof.

It is further ordered, That orders of April 28, 1936, relating to Forms BMC–26 and 27, be, and they are hereby, vacated and set aside.

It is further ordered, That verified original applications and two copies thereof shall be filed with this Commission, and that one copy each shall be delivered, in person or by registered mail, to the Director or Directors of the District or Districts of the Bureau of Motor Carriers in which headquarters of each of the applicants is located, and to the Board, Commission, or official having authority to regulate the business of transportation by motor vehicle in each State in which each of the applicants operates (or to the Governor where there is no Board, Commission, or official).

And it is further ordered, That this order shall become effective on the 1st day of September, A. D. 1938.

By the Commission, Division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2629; Filed, September 3, 1938; 12:26 p. m]

[Form BMC–42]

ORDER IN THE MATTER OF APPLICATIONS UNDER MOTOR CARRIER ACT, 1935, OTHER THAN UNDER SECTIONS 210 A (B) AND 213 THEREOF, TO CONTRACT TO OPERATE OR TO LEASE OPERATING RIGHTS, CERTIFICATES, OR PERMITS

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of July, A. D. 1938.

The matter of applications under sections 206, 209, and 212 (b), Motor Carrier Act, 1935, to contract to operate or to lease operating rights, certificates of public convenience and necessity, or permits, being under consideration and good cause appearing:

It is ordered, That applications under sections 206, 209, and 212 (b), Motor Carrier Act, 1935, to contract to operate or to lease operating rights, certificates of public convenience and necessity, or permits, shall be in the form of and contain the information called for in the form of application designated Form [1] BMC–42, attached hereto and made a part hereof.

It is further ordered, That verified original applications and two copies thereof shall be filed with this Commission, and that one copy each shall be delivered, in person or by registered mail, to the Director or Directors of the District or Districts of the Bureau of Motor Carriers in which headquarters of each of the applicants is located, and to the Board, Commission, or official having authority to regulate the business of transportation by motor vehicle in each State in which each of the applicants operates (or to the Governor where there is no Board, Commission, or official).

And it is further ordered, That this order shall become effective on the 1st day of September, A. D. 1938.

By the Commission, Division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2627; Filed, September 3, 1938; 12:25 p. m.]

[Form BMC–43]

ORDER IN THE MATTER OF NOTIFICATION OF TRANSFER OF OPERATING RIGHTS PURSUANT TO RULE 7 (A) OF RULES AND REGULATIONS [1] UNDER MOTOR CARRIER ACT, 1935, OTHER THAN SECTIONS 210A (B) AND 213 THEREOF, GOVERNING TRANSFERS OF RIGHTS TO OPERATE AS A MOTOR CARRIER IN INTERSTATE OR FOREIGN COMMERCE

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 1st day of July A. D. 1938.

The matter of notification of transfer of operating rights pursuant to rule 7 (a) of the Rules and Regulations Under Motor Carrier Act, 1935, other than sections 210a (b) and 213 thereof, governing transfers of rights to operate as a motor carrier in interstate or foreign commerce, in connection with section 206, Motor Carrier Act, 1935, being under consideration and good cause appearing:

It is ordered, That notification under said rule 7 (a) shall be in the form of and contain the information called for in the form of notification designated Form [1] BMC–43, attached hereto and made a part hereof.

It is further ordered, That verified original notification and two copies thereof shall be filed with this Commission, and that one copy each shall be delivered, in person or by registered mail, to the Director or Directors of the District or Districts of the Bureau of Motor Carriers in which headquarters of each of the affiants is located, and to the Board, Commission, or official having authority to regulate the business of transportation by motor vehicle in the State in which affiants operate (or to the Governor where there is no Board, Commission, or official).

And it is further ordered, That this order shall become effective on the 1st day of September A. D. 1938.

By the Commission, Division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2628; Filed, September 3, 1938; 12:25 p. m.]

[1] The rules and regulations and forms were a part of the original document filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF THE SECRETARY OF AGRICULTURE APPROVED BY THE PRESIDENT OF THE UNITED STATES WITH RESPECT TO A PROPOSED ORDER REGULATING THE HANDLING OF MILK IN THE TOLEDO, OHIO, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the terms and provisions of Public Act, No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Toledo, Ohio, marketing area would tend to effectuate the declared policy of said act, gave, on the 28th day of April, 1938, notice of a hearing [1] to be held on the 10th day of May, 1938, at Toledo, Ohio, on a proposed marketing agreement and a proposed order, said hearing being reopened at Toledo, Ohio, on the 1st and 15th days of June 1938, for the purpose of receiving additional evidence, and at said times and places conducted public hearings at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, after said hearings and after the tentative approval of a marketing agreement by the Secretary on July 30, 1938, handlers of more than fifty (50) percentum of the volume of milk covered by such proposed order, which is marketed within the Toledo, Ohio, marketing area, refused or failed to sign such tentatively approved marketing agreement:

Now, therefore, the Secretary of Agriculture, pursuant to the power and authority vested in him by said Act, hereby determines:

(1) That the refusal or failure of said handlers to sign said tentatively approved marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is marketed in said area; and

(3) That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the month of May, 1938, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area, and who participated in a referendum conducted by the Secretary on August 6, 1938.

In witness whereof, Secretary of Agriculture, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto, in the city of Washington, District of Columbia, this 2nd day of September, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT
President of the United States

Date Sept. 2, 1938.

[F. R. Doc. 38–2633; Filed, September 6, 1938; 11:50 a. m.]

[1] 3 F. R. 984 DI.

Bureau of Animal Industry.

[Form PS 1–a (Revised)]

NOTICE UNDER PACKERS AND STOCKYARDS ACT

SEPTEMBER 3, 1938.

To Mrs. R. L. Moore and Mr. Ed McCord, doing business as Moore & McCord Commission Company, stockyard owner, at Tupelo, State of Mississippi.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Moore & McCord Stockyards,[1] at Tupelo, State of Mississippi, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2638; Filed, September 6, 1938; 11:52 a. m.]

[1] (Modifies list posted stockyards 9 CFR 13.034.)

[Form PS–1–e]

NOTICE UNDER PACKERS AND STOCKYARDS ACT

SEPTEMBER 3, 1938.

To George I. Myers, doing business as Northwestern Live Stock Commission Company, Stockyard owner, at York, State of Nebraska.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And, whereas the Northwestern Live Stock Commission Company Stockyards,[1] at York, Nebraska, was posted on the 18th day of March, 1932, as coming within the foregoing definition;

And, whereas after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the area now operated as a public stockyard by the Northwestern Live Stock Commission Company is less than the minimum specified in the Packers and Stockyards Act and is, therefore, no longer required to be designated and posted under said Act:

Now, therefore, notice is hereby given that the Northwestern Live Stock Commission Company Stockyards, York, Nebraska, no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2635; Filed, September 6, 1938; 11:51 a. m.]

[Form PS–1–e]

NOTICE UNDER PACKERS AND STOCKYARDS ACT

SEPTEMBER 3, 1938.

To H. M. Garber, doing business as Garber Livestock Commission Company, Stockyard owner, at Julesburg, State of Colorado.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And, whereas the Julesburg Livestock Auction Company [1] at Julesburg, Colorado, was posted on the 12th day of August, 1937, as coming within the foregoing definition;

And, whereas after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the area formerly operated by H. M. Garber, doing business as Julesburg Livestock Auction Company, now operated as a public stockyard by the Garber Livestock Commission Company, is less than the minimum specified in the Packers and Stockyards Act and is, therefore, no longer required to be designated and posted under said Act:

Now, therefore, notice is hereby given that the Julesburg Livestock Auction Company no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2636; Filed, September 6, 1938; 11:51 a. m.]

[Form PS–1–e]

NOTICE UNDER PACKERS AND STOCKYARDS ACT

SEPTEMBER 3, 1938.

To C. D. McFetridge, doing business as South Greeley Sales Yards, Stockyard owner, at Greeley, State of Colorado.

Whereas, Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the Stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition:

And, whereas the South Greeley Sales Yards, at Greeley, Colorado, was posted [1] on the 5th day of November, 1937, as coming within the foregoing definition;

And, whereas after an inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the area now operated as a public stockyard by the South Greeley Sales Yards is less than the minimum specified in the Packers and Stockyards Act and is, therefore, no longer required to be designated and posted under said Act:

Now, therefore, notice is hereby given that the South Greeley Sales Yards, Greeley, Colorado, no longer comes within the foregoing definition and the provisions of Title III of said Act.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2637; Filed, September 6, 1938; 11:51 a. m.]

[1] (Modifies list posted stockyards 9 CFR 13.034.)

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 282]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 1, 1938.

By virtue of the authority vested in me by the provisions of Section 3 (e) and 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums made available during the fiscal year ending June 30, 1938 and not loaned or obligated during the said fiscal year, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Georgia 8065B1 Irwin	$107,000
Iowa 8015A2 Harrison	45,000
Kansas 8013C1 Brown	143,000
Ohio 8042B1 Darke	239,000
Oregon 8002B1 Lane	10,000
Tennessee 8022B1 Gibson	25,000
Washington 8009B1 San Juan	15,000
Washington 8018C1 Spokane	310,000
Wisconsin 8051A1 St. Croix	186,000
Wyoming 8006C1 Goshen	25,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2630; Filed, September 6, 1938; 9:58 a. m.]

[Administrative Order No. 283]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 1, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Alabama 9025A1 Bullock	$337,000
Kansas 9015C1 Dickinson	386,000
Minnesota 9003A3 Meeker	35,000
Texas 9074A2 Baylor	6,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2631; Filed, September 6, 1938; 9:59 a. m.]

[Administrative Order No. 284]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 1, 1938.

By virtue of the authority vested in me by the provisions of Sections 3 (e) and 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums made available during the fiscal year ending June 30, 1938 and not loaned or obligated during the said fiscal year, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation	*Amount*
Florida 8016W1 Sumter	$3,000
Louisiana 8007W1 Grant	20,000
Nevada 8004W1 Clark	5,000
Oklahoma 8006W2 Caddo	7,000
Wisconsin 8047W1 Jackson	10,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2632; Filed, September 6, 1938, 9:59 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 2nd day of September, A. D. 1938.

[File No. 60–1]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY, AND NEW ENGLAND CAPITAL CORPORATION

NOTICE OF AND ORDER FOR HEARING

The Commission having reasonable cause to believe that Utilities Employees Securities Company, whose address is 26 Journal Square, Jersey City, New Jersey, and New England Capital Corporation, whose address is 719 Massachusetts Avenue, Cambridge, Massachusetts, and each of such companies, stand in such relation to

Associated Gas and Electric Company, Associated Gas and Electric Corporation, Associated Utilities Corporation, New England Gas & Electric Association, General Gas & Electric Corporation, and Transfer and Paying Agency.

And each of such companies that there is liable to be such an absence of arm's length bargaining in transactions between them as to make it necessary or appropriate in the public interest and for the protection of investors and consumers that Utilities Employees Securities Company and New England Capital Corporation be subject to the obligations, duties, and liabilities imposed upon affiliates of a company by the Public Utility Holding Company Act of 1935.

It is ordered, Pursuant to section 2 (a) (11) (D) of said Act that a hearing be held to determine whether such relation exists, and if such relation is found to exist, to declare Utilities Employees Securities Company and New England Capital Corporation to be affiliates of the other above-named companies and each of them.

It is further ordered, That such hearing be held on September 15, 1938 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to Utilities Employees Securities Company and New England Capital Corporation and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2624; Filed, September 3, 1938; 11:52 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of September, A. D. 1938.

[File No. 31–419]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY AND NEW ENGLAND CAPITAL CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on September 15, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1938.

The matter concerned herewith is in regard to an application by Utilities Employees Securities Company and by New England Capital Corporation for an order under section 2 (a) (8) of the Public Utility Holding Company Act of 1935 declaring said companies not to be subsidiary companies of the following companies:

Associated Gas and Electric Company, 126 South Cayuga Street, Ithaca, New York.

Associated Gas and Electric Corporation, 26 Journal Square, Jersey City, New Jersey.

New England Gas and Electric Association, 719 Massachusetts Avenue, Cambridge, Massachusetts.

Associated Utilities Corporation, 26 Journal Square, Jersey City, New Jersey.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2625; Filed, September 3, 1938; 11:52 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 2nd day of September, A. D. 1938.

[File No. 31–419]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY AND NEW ENGLAND CAPITAL CORPORATION

[File No. 60–1]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY AND NEW ENGLAND CAPITAL CORPORATION

ORDER FOR CONSOLIDATION OF HEARINGS

The Commission now having pending before it the following related matters:

(1) *File No. 31–419.*—Application of Utilities Employees Securities Company and New England Capital Corporation pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935 to be declared not to be subsidiary companies of certain specified companies.

(2) *File No. 60–1.*—Proceeding pursuant to section 2 (a) (11) (D) of said Act to determine whether such companies are affiliates of such specified companies and of other companies.

It appearing that such proceedings involve common questions of law and fact and that evidence offered in respect to each matter may have a bearing on the other; that the parties in the respective matters are substantially the same; and that substantial saving in time, effort and expense will result if the hearings on said matters are consolidated so that they may be heard as one matter and so that the evidence adduced in each matter may stand as evidence in the other for all purposes.

It is ordered, That the matters referred to in (1) and (2) thereof, Commission's File Nos. 31–419 and 60–1, be and they hereby are consolidated for the purpose of hearings thereon. The Commission reserves the right, if at any time it may appear conducive to an orderly and economic disposition of either of such matters, to order a separate hearing with respect to the same or any part thereof, or to close the record with respect thereto and/or to take action thereon prior to closing the record on said other matter.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2626; Filed, September 3, 1938; 11:52 a. m.]

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 175

Washington, Thursday, September 8, 1938

The President

EXECUTIVE ORDER

AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (22 U. S. C. § 132), it is ordered that the Foreign Service Regulations of the United States be, and they are hereby, amended by prescribing the following as Chapter V thereof:

CHAPTER V. FOREIGN SERVICE ACCOUNTS

Accounting Procedure

V–1. *Accounts and records.*—Diplomatic, consular, and all other disbursing officers in the Foreign Service of the United States shall keep separate general accounts of all moneys of the United States or other moneys coming into their possession, in their official capacities, from any source and for any purpose whatever, and shall render accounts of the same in such manner, on such forms, and at such times as may be prescribed by the Secretary of State. These officers shall keep a general cash book and such other account books as may be required, according to the needs of their offices, to show all details of receipts and expenditures, to insure accuracy, and to enable the principal officers to exercise complete control over the funds of their offices.

V–2. *Accounts rendered monthly.*—(a) All accounts, except an account for a period of less than a full month when an officer has surrendered charge temporarily or is submitting a final account at an office, must be rendered at the end of each calendar month and these accounts are to be designated according to the following form:

"Month ending _____ (Last day of month)" or

"Partial month _____ (Date) to _____ (Date) inclusive."

(31 U. S. C. §§ 496, 497.)

(b) Except as otherwise provided by law, all monthly accounts shall be mailed or otherwise sent to the proper officer at Washington within 10 days after the end of the month to which they relate. (31 U. S. C. § 78.) (Accounts must be sent to the Department of State in Washington as soon as possible within the prescribed period.

(c) Should there be any delay in the transmission of an account the officer shall forward an explanation stating the reason therefor for the information and action of the Department of State and the Secretary of the Treasury. A continuance of such delinquencies will not be countenanced and officers are enjoined consistently to observe the provisions of the law in the matter of rendering accounts.

V–3. *Report of no transactions.*—At the close of any accounting period (month or fractional part thereof) officers of whatever title who have qualified to collect or disburse, or both, moneys on account of the United States and during such period have had no advances of funds, made no collections or disbursements, and have no balance to be accounted for, shall fill out a report of no transactions, Standard Form 1063, execute the certificate thereon, and transmit it to the Department of State within the time prescribed for transmitting their accounts. The administrative officer's certificate must be left blank as it is required that it be executed by an officer of the Department designated to perform that duty.

V–4. *Accounts at embassies, legations, and combined offices.*—At embassies and legations, including combined offices, except where special disbursing officers are assigned, the highest ranking Foreign Service officer on the staff of the mission shall be the accounting officer. The chief of mission may, if he considers it necessary to the efficient operation of the mission, propose to the Department of State the designation for this duty of a Foreign Service officer on the staff of the mission other than the highest ranking officer, but such nomination must be accompanied by a statement of the reasons for it and shall not be effective unless approved by the Department of State. The accounting officer shall render accounts and returns covering all receipts and expenditures of the mission or combined office as required by pertinent regulations and instructions, including accounts and returns covering the salaries and allowances of all officers and employees. In the performance of their fiscal duties, the accounting officers of missions are directly responsible under their bonds to the Government and to the departments for which they make disbursements.

CONTENTS

THE PRESIDENT

Executive Order: Page
Foreign service regulations of the United States, amended.. 2185

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Southern Region bulletin 101, amendment 19.. 2193
Cotton pool participation trust certificates, form C–5–I.. 2194
TITLE 12—BANKING AND CREDIT:
Federal Reserve System:
Clayton Act, interlocking bank directorates under.. 2194
TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Rules governing:
Information, contracts, reports, etc.. 2202
Radio services, emergency.. 2202
Records, destruction of.. 2194

NOTICES

Securities and Exchange Commission:
Public Service Company of Oklahoma, order consenting to withdrawal of declaration.. 2202

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V–5. *Officers temporarily in charge.*—(a) Where a principal officer is absent temporarily for one or more brief intervals during an accounting period and the officer temporarily in charge during such absence draws no drafts and makes no disbursements, the principal officer may submit the account for the full accounting period and it will be a sufficient accounting by the relief officer if he (1) complies with the provisions relating to fee stamps, (2) executes the certificate for a vice consul or other officer in charge, on the reverse of the principal officer's account current, and (3) submits with such certificate a schedule of collections on the form prescribed and a sworn record of fees collected by him supported by the receipt of the principal officer for the amount of such collections turned over to him.

(b) If an officer temporarily in charge makes any disbursements or draws any draft he shall make a complete accounting for all funds coming into his possession and for all disbursements made during the period.

(c) Except where provision is expressly made therefor, no officer should take over vouchers paid by another officer, charge himself with drafts drawn by another officer, or include such items in his accounts.

V–6. *Final accounts.*—Officers of the Foreign Service will not draw any drafts against final accounts, but will submit such accounts to the Department of State for administrative examination and submission to the General Accounting Office for settlement as claims. (See sec. V–56.)

V–7. *Consular court accounts.*—All fees and fines imposed and collected by consular courts shall, as far as is necessary, be used to defray the expenses of such courts, and detailed accounts of receipts and expenditures shall be rendered to the Secretary of State on June 30 of each year by the officer in charge of the post. (22 U. S. C. § 159.)

V–8. *Special accounts.*—Officers instructed to draw a separate draft and render a separate account therefor, for any purpose whatever, shall prepare and forward the special account to the Department as instructed. Under no circumstances shall the amount of the draft or expenditures therefrom be included in the regular accounts of the office.

V–9. *Exchange of funds restricted.*—No exchange of funds shall be made by any disbursing officer or agent of the Government, of any grade or denomination whatsoever, or connected with any branch of the public service, other than an exchange for gold, silver, United States notes, and national-bank notes; and every such disbursing officer, when the means for his disbursements are furnished to him in gold, silver, United States notes, or national-bank notes, shall make his payments in the moneys so furnished; or when they are furnished to him in drafts, shall cause those drafts to be presented at their place of payment, and properly paid according to law, and shall make his payments in the money so received for the drafts furnished, unless, in either case, he can exchange the means in his hands for gold and silver at par. (18 U. S. C. § 175; 31 U. S. C. § 543.) (See section V–57 prescribing special accounting in connection with the acceptance and transmission of gold coins and gold certificates.)

V–10. *Appropriations not interchangeable.*—Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the Foreign Service shall be applied solely to the objects for which they are respectively made, and for no others. (31 U. S. C. § 628.)

V–11. *Deposit of public money.*—(a) No Foreign Service officer or employee shall deposit public funds in a bank in a foreign country except where such banks have been designated as United States Government depositories by the Secretary of the Treasury under the provisions of the act of June 19, 1922. (31 U. S. C. § 473.)

(b) Officers of the Foreign Service of the United States may when necessary, in their discretion and at their own risk, make temporary deposits of funds on hand and maintain accounts with banking institutions which they may select for the purpose, except where Government depositories have been designated. Nothing in this authorization may be construed to relieve them of complete responsibility to account for official funds coming into their possession.

(c) When official funds are deposited temporarily in a bank, the deposit should be made in the name of and to the credit of the office rather than the officer wherever the banking facilities at a given post permit such practice. Official and personal bank accounts must be kept separate and distinct in all cases.

(d) All officers of the Foreign Service, before depositing funds in a bank of the United States, should ascertain whether such bank has been designated as a depositary of public moneys received by such officers.

V–12. *Inspection by General Accounting Office.*—When an inspection of accounts is being made by a properly identified representative of the General Accounting Office, officers should give all possible assistance to facilitate his work.

Collections

V–13. *Collections.*—Collections shall be scheduled in the manner and on the form prescribed by the Secretary of State to show all miscellaneous receipts and appropriation moneys actually collected on behalf of the Government during the period of the account including:

(a) All fees collected by diplomatic and consular officers and amounts received for services performed for foreign governments.

(b) Interest accruing on public moneys. Such interest belongs to the Government and must be accounted for as an official receipt. (133 U. S. 273, 286.)

(c) Proceeds of sales of discarded or surplus materials or supplies, or other public property, including waste or salvage material, after the expenses connected directly with the sale have been deducted. (31 U. S. C. §§ 487, 489.)

(d) *Rents.*—(1) Amounts received as rent for Government-owned buildings from private individuals or another Government department or agency are miscellaneous receipts and should be credited as such.

(2) Amounts received as rent for Government-leased buildings from private individuals or another Government department or agency should be credited to the appropriation from which the rent was paid.

(e) *Stcor telegrams.*—The amount should be credited to the contingent expense appropriation which was charged when the cost of the message was paid.

(f) Refunds of suspended items, or other collections on overpayment of vouchers not yet suspended. These amounts should be credited to the appropriations from which originally paid.

(g) Other collections received and not specifically named.

V–14. *Regulation of fees by President.*—All officers and persons connected with the several embassies, legations, and consulates shall collect for official services such and only such fees as may be prescribed by the President. (22 U. S. C. § 127.)

V–15. *Tariff of United States Foreign Service Fees.*—(a) The following Tariff of United States Foreign Service Fees, prescribed by the President under authority of section 1745, Revised Statutes, as amended (22 U. S. C. § 127), shall be charged by diplomatic and consular officers and all persons connected with embassies, legations, or consulates for official services. All charges for such services must be in strict accordance with this tariff, and be collected in the coin of the United States or at its representative value in exchange. (22 U. S. C. § 128.) For each and every fee where the representative value in exchange is collected instead of the coin of the United States, there shall be collected a sufficient amount of foreign currency to enable the officer to purchase as of the date of collection a sight draft in the amount of the fee as prescribed by this tariff payable at par to the Treasurer of the United States. No fee or compensation will be collected for any service not covered by this tariff.

(b) No fees prescribed in this tariff shall be charged or collected by officers for official services to American vessels or seamen. (22 U. S. C. § 89.) Undocumented vessels owned by American citizens and vessels documented under the laws of the Philippine Islands are not exempt from the payment of the fees prescribed herein. Consular agents will make the fees prescribed in this tariff for services to vessels and seamen a basis of collection from the Treasury for those services.

(c) All fees must be paid in advance and before the fee stamps are canceled, except in case of attendance out of office or of commissions where the amount cannot be determined until the service is performed. In the latter cases the amount of the fees shall be carefully estimated, and in these cases only, the estimated cost of the service shall be deposited with the officer before the service is performed, subject to refundment of any balance remaining.

(d) A copy of this tariff shall be posted in a conspicuous place in diplomatic and consular offices. (22 U. S. C. § 101.)

Tariff of United States Foreign Service Fees

Item No.	Nature of service	Fee
	MISCELLANEOUS SERVICES	
1	Certification of invoice in such number of copies as will meet the requirements of the regulations and instructions and provide the shipper with one copy (in addition to original) for his own use, including any additional declaration or certificate not otherwise provided for which is required by law or regulations for use in connection with the entry of the wares or the forwarding of the same in bond (see item no. 37)	$2.50
2	Invoice of returned American goods	1.00
3	Certificates and declarations as above described, when issued for a shipment not covered by a consular invoice, including declaration of foreign shipper of articles exported for exhibition and returned (Form 204) and immigrant's oath regarding teams and vehicles, and in connection with quarantine regulations, but excluding certificate for food and drug products or insecticides (Forms 197 and 217)	1.00
4	Certificate to extra copies of invoices, each	1.00
5	Certificate of disinfection in such number of copies as will meet the requirements of the regulations and instructions and provide the shipper with one copy for his own use	$2.50
6	Discontinued.	
7	Discontinued.	
8	Executing application for passport (no exceptions)	1.00
	Examination of passport application executed before a foreign official	1.00
	Examination of passport application accompanied by a certificate signed by the applicant and two witnesses	1.00
	Issue of passport	9.00
	Exceptions—	
	(a) Officers or employees of the United States traveling on official business, or members of their immediate families	No fee
	(b) Seamen	No fee
	(c) Widows, children, parents, brothers, and sisters of American soldiers, sailors, or marines buried abroad, whose journey is for the purpose of visiting graves of such soldiers, sailors, or marines	No fee
	Amendment or verification of an American passport	No fee
	Renewal of an American passport	5.00
	Exceptions—	
	Same as respects issue of passports if bearer of passport has status held by him at time of issue of passport.	
	The taking of an application for, and issuance of, a travel certificate for use in China	1.00
	Execution of application for registration	No fee
	Issue of certificate of identity and registration	1.00
	Execution of affidavit in regard to American birth in connection with application for registration or for passport	No fee
	For a certified copy of executed form for repatriation of native-born American women under act of June 25, 1936	1.00
9	Visa services for aliens:	
	Immigration visa:	
	Furnishing and verifying application for immigration visa	1.00
	Issue of immigration visa	9.00
	Passport visa (the term "passport visa" refers to the visa of a passport or other travel document including a Chinese certificate):	
	Preparation of application for passport visa and administering oath, except where the fee has been reciprocally reduced or abolished under the authority of the act of February 25, 1925 (43 Stat. 976)	1.00
	Granting of passport visa, except where the fee has been reciprocally reduced or abolished under the authority of the act of February 25, 1925 (43 Stat. 976)	9.00
	(NOTE.—Under the provisions of section 2 of the act of June 4, 1920 (41 Stat. 750–751), no fee for the application or for the visa of the passport shall be collected from any officer of any foreign government, or members of his immediate family, its armed forces, or of any State, district, or municipality thereof.)	
	Transit certificate:	
	Preparation of application and administering of oath	No fee
	Granting of transit certificate	No fee
	Visa of alien crew list	2.00
	Supplement visa of alien crew list	No fee
10	Vissing affidavit of identity	9.00
11	Marriage certificate, in duplicate, form No. 87	1.00
12	For taking into possession the personal estate of any citizen who shall die within the limits of a consulate, inventorying, selling, and finally settling and preparing or transmitting, according to law, the balance due thereon, $2 for each $100 of market value or fraction thereof, except that no fee shall be charged on securities not negotiable by the consular officer, and evidences of debt not due and payable in the country where the decedent died. No charge will be made for placing the official seal upon the personal property or effects of such deceased citizen, or for breaking or removing the seals.	
13	For each certificate of protection, semsar, or certificate of employment issued at Tangier	2.00
14	Bill of health, in duplicate (or in triplicate, if necessary)	$5.00
	(Foreign government-owned or chartered vessels engaged exclusively in official duties are exempt from payment of fees for bills of health.)	
15	Discontinued.	
16	For receiving and delivering ship's register and papers, $1 for each 100 tons or fraction thereof, registered measurement (net), of the vessel for which the service is performed, if under 1,000 tons; but for American vessels running regularly by weekly or monthly trips, or otherwise, to or between foreign ports, this tonnage fee will not be charged for more than four trips in a year; and tonnage fees shall not be exacted for any vessel touching at or near ports in Canada on her regular voyage from one port to another within the United States, unless some official service required by law shall be performed.	
17	And for every additional 100 tons net or fraction thereof	.50
18	Shipping or discharging seamen, including the certificates thereof attached to crew list and shipping articles and given to seamen	2.00
19	Authentication of copies of protests or other necessary documents for vessels or seamen not otherwise provided for	2.00
20	Preparation and acknowledgment for vessels or seamen of any oath or declaration for which a form is given in the Foreign Service Regulations, or a similar necessary service not otherwise provided for. See fee no. 9 for visa of alien crew lists	2.00
21	Preparation and execution for vessels or seamen of any certificate for which a form is given in the Foreign Service Regulations, or similar necessary service not otherwise provided for	2.00
22	Orders or letters for vessels or seamen for which forms are given in the Foreign Service Regulations, or other similar necessary service not otherwise provided for	2.00
23	Recording, when necessary, for vessels or seamen any document covered by the provisions of the Foreign Service Regulations, for every 100 words or fraction thereof	.50
24	Noting marine protest	2.00
25	Extending marine protest	3.00
	If it exceeds 200 words, for every additional 100 words	.50
26	Protest of master against charterers or freighters	2.00
27	Clearance when issued by the consul, as at free ports	2.00
28	Attending an appraisement of vessel's goods or effects, for each day's attendance	5.00
29	Attending sale of vessel's goods, for each day's attendance during which the sale continues	5.00
30	Attendance at a shipwreck, or for the purpose of assisting a ship in distress, or of saving wrecked goods or property, over and above traveling expenses, whenever the consul's interposition is required by the parties interested, for each day	5.00
	NOTARIAL AND OTHER SERVICES	
31	Administering an oath and certificate thereof	2.00
	Exceptions—	
	No fee is chargeable for recording the intention to become a resident and remain a citizen of the United States, or for administering the oath of allegiance to a child born abroad of American parents as provided for in section 6 of the act of March 2, 1907.	
	No fee is chargeable for administering the oath of allegiance under the act of May 9, 1918, amending the act of June 29, 1906, to a person who lost his citizenship as an incident to entering military service of a country then at war with a country with which the United States was at war on May 9, 1918.	
	No fee is chargeable for administering the oath of allegiance under the act of June 25, 1936, to a native-born American woman who lost her citizenship by marriage to an	

Tariff of United States Foreign Service Fees—Continued

Item No.	Nature of service	Fee
	alien and whose marriage is terminated.	
32	Discontinued.	
33	Acknowledgment of a deed or power of attorney, or similar service, including one or more signatures, with certificate thereof, for each copy	$2.00
34	Administering any and all oaths required to be made by pensioners and their witnesses in the execution of their pension vouchers, or by persons presenting claims for pensions or increase of pensions, or claims for insurance or insurance allowances, or allotments, or certifying to the competency of a local official before whom said papers were executed, or for other services in relation thereto	No fee
35	Acknowledgments and authentications connected with the assignment and transfer of United States bonds or other United States Government financial obligations or of powers of attorney therefor or to collect interest thereon	No fee
36	Administering oaths or taking acknowledgments of officials or employees of the United States Government, or of any corporation in which the United States or its representatives shall own the entire outstanding capital stock, in connection with their official business or accounts	No fee
37	For rendering notarial services to officials of foreign governments who render gratuitously reciprocal courtesies to American diplomatic and consular officers, or for certification of invoices of shipments of official supplies and equipment from foreign governments to their diplomatic and consular officers and of shipments of personal effects to such officers in the United States when such foreign government renders gratuitously reciprocal services to the United States Government	No fee
38	Certifying to official character of a foreign notary or other official	2.00
	Exception—	
	Authentications under authority of the United States Quarantine Regulations, in the form prescribed by the Department of State, certifying to official character of officials signing foreign deratization certificates and deratization exemption certificates	No fee
39	For taking depositions, executing commissions or letters rogatory, where the record of testimony including caption and certificate does not exceed 500 words	10.00
	For each additional 100 words or fraction thereof	.50
	The foregoing fee shall cover the administration of the oath and all services of the consul as commissioner, but shall not include services of clerk, stenographer, or typewriter, which shall be additional at the rate prescribed herein for copying.	
40	Copies (carbon copies to be charged for at the same rate as originals, and including the typing of official forms where requested and where such service is not included in any other item of this tariff):	
	For the first 100 words or fraction thereof	.50
	For every additional 100 words or less	.25
41	For certifying to the correctness of a copy of, or extract from, any document, official or private	2.00
	Each copy certified is to be considered an original, and a fee charged for the certification.	
42	Additional fee for all services contemplated by fees numbered 31, 33, 38, 39, 40, and 41 when rendered elsewhere than at the consular office at the request of the interested parties, for each hour or fraction thereof	1.00
	In connection with any service rendered outside of the consular office at the request of private individuals, the exact amount of the expenses actually and necessarily incurred by the person rendering the service shall be collected from the persons for whom the service is performed in addition to the fee or fees prescribed therefor, but no amount in excess of the fee or fees prescribed and such actual and necessary expenses shall be charged or accepted.	
43	Recording unofficial documents in consulate upon request:	
	For the first 100 words or fraction	$.50
	For every additional 100 words or less	.25
44	Any and all services indicated in the tariff of fees and performed upon written orders of the Department of State for the official use of the Government of the United States	No fee
45	Any and all services in connection with the execution of tax returns, federal, state, territorial, municipal, and insular	No fee
46	License for the practice of pharmacy and the sale of poisons in the consular districts of the United States in China	2.00
47	For certifying to the correctness of copies of certificates of American origin, manufacture, or inspection, where such services are performed upon written orders of the Secretary of State for the purpose of advancing the export trade of the United States	No fee
48	Presenting a bill of exchange or other negotiable instrument for acceptance, payment, or protest, for each hour or fraction thereof outside of the consular office	1.00
49	Noting and certifying to protest of a bill of exchange or other negotiable instrument and giving notice thereof to drawer and indorsers when requested to do so	2.00
50	Administering oaths or taking acknowledgments, or authenticating the signatures of foreign officials, in connection with kinsmen's petitions for wages and effects of deceased seamen of the American merchant marine	No fee
51	Any and all services performed for American citizens while outside the United States in preparation of ballots to be used in any primary, general, or other public elections in the United States, its territories, or possessions, whether federal, state, territorial, county, town, or municipal	No fee
52	Translating or interpreting, for every 100 words of translation or fraction thereof, or for interpreter per hour or fraction thereof	1.00
	The foregoing fee shall be collected only when it is necessary that a member of a consular staff be detailed as translator or interpreter in the execution of a commission to take testimony.	
	Exception—	
	This item is not applicable to criminal cases under the act of June 20, 1936, 49 Stat. 1561, 1564. (Sec. 489S. Part II.)	

V–16. *Other services for which no fee is charged.*—In addition to the no-fee requirements contained in the tariff, the following services are to be performed without fee:

(a) Any services which officers may be called upon to perform under items 12, 31, 33, 38, 39, 40, 42, and 43 of the tariff when performed in connection with the settlement of the estate of any employee of the United States dying abroad while on official duty.

(b) Any service which officers may be called upon to perform under items 31, 33, 38, 39, 40, 42, and 43 of the tariff for the use of any person in the collection of claims from the United States, or in connection with any claim or application for service from the United States Veterans' Administration, or from any State or from the Veterans' Administration for compensation, pensions, back pay, bounty, bonus, or for property loss in the service of the United States.

(c) Any service performed for the purpose of establishing the right to and obtaining the return of property held by the Alien Property Bureau, Department of Justice.

V–17. *Receipts.*—(a) A receipt must be given when demanded for any fee which an officer collects, describing the service for which it is received and giving the serial number of the fee, the amount in dollars, and the equivalent in the money in which collected.

(b) Receipts must be furnished by all officers to owners, agents, consignees, masters, or commanders of vessels from whom fees, charges, extra wages, or arrears of wages of seamen are collected.

V–18. *Refund of fees.*—(a) Unless authorized by law no refund shall be made of any fee collected except under circumstances showing conclusively that the officer was entirely at fault. (1 Comp. Gen. 267.)

(b) *Prior authorization required.*—No refund of fees shall be made in any case by an officer of the Foreign Service until a request in writing therefor has been referred to the Secretary of State for administrative consideration of the circumstances involved and specific authorization for the refund has been received.

V–19. *Record of and accounting for fees.*—(a) Every diplomatic or consular officer shall register in a book to be kept by him for that purpose all fees so received by him, in the order in which they are received, specifying each item of service and the amount received therefor, from whom, and the dates when received, and if for any service connected with any vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts, respectively, so that the receipts and register shall correspond with each other; and he shall, in such register, specify the name of the person for whom, and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service in the entry of the receipt of the fees therefor, and also number each act so receipted for with the number of such receipt, and as shown by such register. (22 U. S. C. §§ 13, 96.)

(b) All fees, official or unofficial, received by any diplomatic or consular officer for services rendered in connection with the duties of his office, including fees for notarial services, and fees for taking depositions, executing commissions or letters rogatory, settling estates, receiving or paying out moneys, caring for or disposing of property, shall be accounted for and paid into the Treasury of the United States, and the sole and only compensation of such officers shall be by salaries fixed by law; but this shall not apply to consular agents (sec. V–22). (22 U. S. C. §§ 13, 99.)

(c) Every diplomatic or consular officer, in rendering his account of fees received, shall furnish a full transcript of the register which he is required to keep, and make oath that, to the best of his knowledge, the same is true, and contains a full and accurate statement of all fees received by him, or for his use, for his official services as such officer, during the period for which it purports to be rendered. Such oath may be taken before any person having authority to administer oaths at the port or place where the officer is located.

V–20. *Fee stamps.*—(a) Every officer in charge of an office will upon requisition therefor, be supplied by the Department of State with adhesive official fee stamps on which shall be printed the equivalent money value of denominations and in amounts to be determined by the Department of State, and he shall account monthly (31 U. S. C. § 496) to the Department of State for the use of such stamps and for such of them as shall remain in his hands.

(b) Whenever an officer is required or finds it necessary to perform any official or notarial act he shall prepare and deliver to the party or parties at whose instance such act is performed a suitable and appropriate document as prescribed in the regulations and affix thereto and duly cancel an adhesive stamp or stamps of the denomination or denominations equivalent to the fee prescribed for such official or notarial act, and no such act shall be legally valid within the jurisdiction of the Government of the United States unless such stamp or stamps is or are affixed and canceled. (22 U. S. C. §§ 13, 100.)

(c) Fee stamps shall be used for no other purpose than to evidence the payment of such fees as may be prescribed by law or by the President for acts or services performed by diplomatic or consular officers. Inasmuch as expenses which are to be collected under certain circumstances in addition to the fees prescribed are not regarded as fees but as reimbursement for outlays made by the officer, stamps for the amount of such expenses collected will not be affixed.

V–21. *Fees for services for foreign governments.*—When an office of the United States has been authorized to undertake representation of the interests of a foreign government in accordance with the provisions of sections 174 and 453 of Part II of the Foreign Service Regulations, any officer of the United States who discharges consular duties for that foreign government is not a consular officer of the foreign government but is an agent of it only insofar as the discharge of duties and responsibility for his official acts are concerned. The tariff of fees of the foreign government should be followed, if available, but if not, the United States tariff of Foreign Service fees is applicable. To the extent to which the laws or instructions of the foreign government permit the consular officer to retain fees collected in its name, these fees are the fees of the consular office and must be paid over and accounted for to the Government of the United States. Fees collected by a diplomatic or consular officer for these services, which the officer is not authorized to retain, shall be disposed of and accounted for in accordance with the instructions of the Secretary of State.

V–22. *Fees of consular agents.*—(a) Consular agents shall be entitled to retain as compensation one-half of the fees received in their offices provided that in no case shall such compensation exceed $1,000 per annum. The balance of all fees received shall be accounted for and paid into the Treasury of the United States. (22 U. S. C. § 99.)

(b) For official services to American vessels consular agents who are compensated by fees must furnish the master of every such vessel with an itemized statement of the services performed on account of said vessel showing the fee prescribed by the tariff of fees for each service. If the amount received or due consular agents from regular fees collected by them is not equivalent to compensation at the rate of $1,000 per annum, they will be allowed from the appropriation therefor such additional compensation as they would have received, and would have been entitled to retain but for the exemption of these vessels from the payment of such fees to a maximum total compensation of $1,000. (22 U. S. C. § 89; 31 U. S. C. 725a (5).) Such services will not be compensated unless they are necessarily rendered. (22 U. S. C. § 89.)

(c) Consular agents shall account for fees collected and furnish reports of services to American vessels and seamen, including the fees prescribed therefor, and shall be compensated for such services in accordance with the provisions of these regulations and the instructions of the Secretary of State. (See sec. 183, Part II.)

Disposition of Fees and Official Moneys

V–23. *Disposition of fees and other official moneys.*—(a) Pursuant to the authority contained in section 231, title 22, United States Code, the Secretary of State is authorized, except as to United States gold coins and gold certificates (see sec. V–57), to require in the manner and form prescribed by him:

(1) That official collections be applied, insofar as necessary, to disbursements, the balance, if any, to be remitted for deposit in the Treasury;

(2) That the entire amount of official collections be remitted to the Department of State for deposit in the Treasury, and the remittances may include or be made by either official checks drawn by disbursing officers for funds or official drafts drawn by officers of the Foreign Service for salaries and expenses, which may be cashed from official collections for the purpose of making remittances and obtaining funds for disbursement;

(3) That official collections be remitted or applied to disbursements in such manner as he shall deem necessary to meet unusual or unforeseen circumstances or conditions.

(b) All receipts from consular fees and all other official receipts of any Foreign Service post within the jurisdiction of a district accounting and disbursing office will be included in accounts of the responsible diplomatic, consular, or Foreign Service officers to the district office at the same intervals and in a manner similar to that prescribed in this article for the submission of such accounts and return directly to the Department of State by all officers not within a fiscal district. (22 U. S. C. § 23k.)

Disbursements

V–24. *Schedule of disbursements.*—All vouchers, except as otherwise provided in these regulations or by instruction of the Secretary of State, shall be scheduled on the prescribed forms consecutively as paid. (See sec. V–28.)

V–25. *Miscellaneous objects of expenditure.*—When an appropriation act making appropriations for the Department of State contains under the caption "Contingent Expenses, Foreign Service" authority for the payment of "such other miscellaneous expenses as the President may deem necessary", expenditures for the following purposes may be incurred by the various embassies, legations, and consular offices when authorized by the Secretary of State:

Burglar-alarm, fire-alarm, and clock regulation service.

Cleaning and toilet supplies.

Commercial reference and clipping and statistical services.

Consular corps, expense of.

Consular-court expenses when fees insufficient.

Customs charges.

Disinfecting and other sanitation services.

Electric bells, buzzers, fans, lamps, wiring; purchase, installation, repair, upkeep, removal.

Engraving.

Express and cartage charges.

Fees, experts', for drawing leases.

Fees, contractual, percentage or specific architectural, structural, or related work.

Flag staffs, purchase, repair, upkeep.

Floral offerings and wreaths.

Framing of pictures, photographs, tariff of fees, etc.

Garage and equipment.

Garden and lawn tools and supplies, including hose and reels.

Gratuities, customary local.

Guaranties or deposits with public-utility companies.

Installation expenses.

Laundry and towel service for offices.

Library stock.

Local transportation.

Mail, handling and delivery.

Mail bags and pouches.

Mechanical supplies and equipment.

Money orders, express and postal.

Moving expenses.
Magazines and pamphlets.
Office machines and equipment: Typewriters, duplicators, adding machines, calculating machines, protectographs, telephones and telephone switchboards, and other appliances and miscellaneous equipment; purchase, repair, upkeep, and rental.
Office supplies, miscellaneous.
Packing cases.
Photographs and photostats and photographic and photostatic supplies.
Post office boxes, rent.
Power.
Seamen, destitute and shipwrecked American; board, lodging, clothing, medical attention, medicines, transportation.
Senior consulate contribution.
Special services, such as ash, garbage, rubbish, and snow removal; cleaning, window washing, chimney sweeping, etc.
Storage of goods, not incidental to transportation.
Taxes and rates, including stamp taxes.
Translations, purchase of.
Uniforms, repair, alteration, cleaning.
Water coolers and filters, purchase, repair, upkeep.
Water rent.
Items which may be required under the laws or customs of, or because of climate or unhealthful conditions in, the country where offices are situated.
Such other miscellaneous items as may from time to time become necessary, except where expenditures for any such items are specifically prohibited by law.

V–26. *Contracts and leases.*—(a) Except as otherwise provided by law all purchases and contracts for supplies or services, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold, or such services engaged, between individuals. (41 U. S. C. § 5.) Contracts shall be awarded to the lowest responsible bidder meeting specifications and the terms and conditions of the contract shall be set forth in a written agreement. (3 Comp. Dec. 137.)

(b) All rental agreements or leases should be in writing and should be executed in accordance with section 66 of Part II of the Foreign Service Regulations and instructions of the Secretary of State and forwarded to the Department of State for consideration and transmittal to the General Accounting Office.

V–27. *Telegraph and telephone service.*—(a) Discretion should be exercised in the use of telegraph or cable service or the telephone at Government expense, and ordinarily such use should be restricted to cases of urgency where delay would result in injury or be prejudicial to the public or legitimate private interests, or where the purpose can not be accomplished by the use of ordinary or air mail services.

(b) When an application for leave of absence is made by a diplomatic or consular officer or any employee by telegraph or telephone, the cost thereof shall be borne by him personally, and if a reply to such an application is forwarded by telegraph or telephone the cost thereof shall also be charged to him, provided, however, that the Secretary of State may in either case determine that the messages relate to official business.

(c) Whenever possible official telegrams should be sent in code for the purpose of economy even if the non-confidential character of the message does not otherwise require it, except in rare instances when plain messages may be transmitted at less cost than code messages, bearing in mind the nature of the subject matter. The regulations governing the use of Departmental codes set forth in the introduction to each code shall be strictly observed and followed by all officers and employees.

(d) Whenever the Secretary of State, in his discretion, procures information on behalf of corporations, firms, and individuals, the expense of cablegrams and telephone service involved may be charged against the respective appropriations for the service utilized, and reimbursement therefor shall be required from those for whom the information was procured, and, when made, be credited to the appropriation under which the expenditure was charged. (5 U. S. C. § 169.) Such expenses should be incurred only upon prepayment of all charges or satisfactory assurance of payment.

(e) *Contracts for telephone service required.*—Officers in charge must forward to the Department in accordance with section V–26, original contracts or agreements for telephone service at their offices, if such contracts have been made or are obtainable. If it is not possible to obtain a written contract or agreement, the facts should be fully explained. A list of toll rates should be forwarded with the contract and a revised list should be forwarded for filing with that contract whenever changes in rates are made.

V–28. *Vouchers for purchases and services.*—A proper and satisfactory voucher must be furnished for every disbursement in the form prescribed by the Secretary of State. Each voucher must be in the English language or accompanied by a translation.

Salaries and Allowances

V–29. *Ministers resident, commissioners, and chargés d'affaires.*—Unless otherwise provided by law, ministers resident and commissioners shall be entitled to compensation at the rate of 75 per centum, and chargés d'affaires ad interim at the rate of 50 per centum, of the amounts allowed to ambassadors extraordinary and plenipotentiary and envoys extraordinary and ministers plenipotentiary to the respective countries. (22 U. S. C. §§ 19, 20, 32.)

V–30. *Foreign Service officers.*—Foreign Service officers, whose salaries are fixed by law, are entitled to compensation at the rate prescribed within their respective classes.

(a) *Appointment or promotion during recess of Senate.*—Foreign Service officers appointed or promoted during a recess of the Senate shall be paid the compensation of the position to which appointed or promoted from the date of such appointment or promotion until the end of the next session of the Senate if they have not theretofore been confirmed by the Senate, or until their rejection by the Senate before the end of its next session. If the Senate should reject or fail to confirm the promotion of a Foreign Service officer during the session following the date of such promotion, the Foreign Service officer shall automatically be reinstated in the position from which he was promoted, such reinstatement to be effective, in the event of rejection of the nomination, from the date of rejection; and in the event of failure of the Senate to act on the nomination during the session following a promotion, from the termination of that session. (22 U. S. C. Supp. III, § 4.)

(b) *Compensation when performing diplomatic duties.*—Within the discretion of the President, any Foreign Service officer may be assigned to act as commissioner, chargé d'affaires, minister resident, or diplomatic agent for such period as the public interest may require without loss of grade, class, or salary, provided that no such officer shall receive more than one salary. (22 U. S. C. § 19.)

V–31. *Vice consuls not of career.*—(a) Vice consuls not of career are entitled to compensation as clerks from the current appropriation and the allotment granted to the office where their service is performed. They are not entitled to receive compensation as vice consuls.

(b) Vice consuls not of career, receiving compensation as clerks, are entitled to compensation when traveling to and from their posts, or elsewhere, under orders of the Secretary of State, or while on leave of absence, subject to the law and regulations governing leaves of absence.

V–32. *Clerks.*—Clerks at embassies, legations, and consular offices are entitled to receive compensation at the rates fixed in accordance with the provisions of section 24 of Part II.

V–33. *Miscellaneous employees.*—Miscellaneous employees of the Foreign Service receive compensation at the rates fixed by the Department of State in accordance with the provisions of the current appropriation act.

V–34. *Consular agents.*—(For compensation of consular agents see section V–22 and notes.)

V–35. *Vice consuls not of career receiving no compensation as clerks.*—Vice consuls not of career, receiving no compensation as clerks, are entitled to compensation only while actually in charge at the rate of one half the salary of the last principal consular officer in charge. (43 Stat. 1016.) (See sec. V–37.)

V–36. *Salaries and allowances of deceased or incompetent officers and employees.*—(a) When officers or employees die or become incompetent and there is any unpaid salary, allowance, or other amount due them, claim must be made therefor on forms specially prescribed for that purpose.

(b) Amounts due the deceased person are a part of the estate of the decedent, and officers will not make any payment therefrom.

(c) When an officer or employee dies his salary or compensation ceases at the close of business on the date of death.

V–37. *Allowance for assuming charge of office.*—(a) For such time as any Foreign Service officer is lawfully authorized to act as chargé d'affaires ad interim or to assume charge of a consulate general or consulate during the absence of the principal officer at the post to which he shall have been assigned, he shall, if his salary is less than one half that of such principal officer, receive in addition to his salary as Foreign Service officer, compensation equal to the difference between such salary and one half of the salary provided by law for the ambassador, minister, or principal consular officer, as the case may be. (22 U. S. C. § 20.)

(b) Vice consuls while in charge of a consulate general or consulate during the absence of the principal officer are entitled to additional compensation in the same manner and under the same conditions as Foreign Service officers. (43 Stat. 1016.)

V–38. *Allowance to widow or heirs of deceased officer.*—Whenever any diplomatic or consular officer of the United States dies in a foreign country in the discharge of his duty, there shall be paid to his widow, or, if no widow survive him, then to his heirs at law, a sum of money equal to the allowance made to such officer for the time necessarily occupied in making the transit from his post of duty to his residence in the United States. (22 U. S. C. § 130.)

V–39. *Allowance for living quarters, heat, fuel, and light.*—Subject to the provisions of the Regulations Governing the Occupation and Maintenance of Certain Foreign Service Quarters prescribed by Executive Order No. 5624 of May 15, 1931, as amended, and the Standardized Regulations to Govern Allowances for Living Quarters, Heat, Fuel, and Light for Civilian Officers and Employees of the Government Stationed in Foreign Countries, issued by the Director of the Bureau of the Budget, and regulations issued thereunder by the Secretary of State, there may be furnished without cost to officers and employees in the Foreign Service living quarters, including heat, fuel, light, and household equipment in Government-owned or rented buildings, at places where, in the judgment of the Secretary of State, it is in the public interest to do so, and where such quarters are not available officers and employees who are citizens of the United States may be granted an allowance for living quarters including heat, fuel, and light. Such rented quarters or allowances in lieu thereof may be furnished only within the limits of the appropriations made therefor. (5 U. S. C. § 118 a; 22 U. S. C. § 291.)

V–40. *Representation and cost of living (post) allowances.*—Within the limitations of such appropriations as may be made therefor, ambassadors, ministers, diplomatic, consular, and Foreign Service officers may be granted allowances for representation, and also post allowances wherever the cost of living may be proportionately so high that in the opinion of the Secretary of State such allowances are necessary to enable such diplomatic, consular, and Foreign Service officers to carry on their work efficiently. All such allowances shall be accounted for to the Secretary of State in such manner and under such rules and regulations as the President may prescribe; and the authorization and approval of such expenditures by the Secretary of State, as complying with such rules and regulations, shall be binding upon all officers of the Government. (22 U. S. C. § 12.)

V–41. *Losses due to appreciation of foreign currency.*—Pursuant to authority granted by section 118c, title 5, United States Code, and in accordance with regulations issued thereunder, payments may be made from appropriations to meet losses sustained on and after July 1, 1933, by officers, enlisted men, and employees of the United States while in service in any foreign countries due to appreciation of foreign currencies in their relation to the American dollar.

Payment of Salaries and Allowances

V–42. *Limitations regarding payment.*—In the payment of compensation the following directions are to be observed.

(a) *Absence from post.*—(1) No officer or employee of the Foreign Service shall receive salary for the time during which he is absent from his post, by leave or otherwise, in excess of periods of absence which are authorized by law to be taken with pay. (See secs. 465–474 Part II.) (22 U. S. C. §§ 17, 17a, 124.)

(b) *Recall for malfeasance.*—(1) No officer of the Foreign Service shall be entitled to compensation in case he is recalled for malfeasance except to the date of the delivery of the notification of recall at the office to which he was last attached or, in the event of his absence therefrom, its delivery at his last known address; or if the officer resigns in anticipation of such recall, he is entitled to compensation only to the date of the acceptance of such resignation. In neither case will compensation be allowed for the time occupied in the transit to the United States. (22 U. S. C. §§ 1, 121; 9 Op. Att. Gen. 89, 92.)

(2) No money shall be paid to any person for his compensation who is in arrears to the United States, until he has accounted for and paid into the Treasury all sums for which he may be liable. (5 U. S. C. § 82.)

(3) There shall be no withholding or confiscation of the earned pay, salary, or emolument of any civil employee of the United States removed for cause: *Provided*, That if at the time of such removal any such employee is indebted to the United States, any salary, pay, or emolument accruing to such employee coming within the provisions of this section shall be applied in whole or in part to the satisfaction of any claim or indebtedness due to the United States. (5 U. S. C. § 46a.)

(c) *Excess travel time.*—No Foreign Service officer or employee traveling under orders or on leave with permission to visit the United States is entitled to salary in transit for any time in excess of that actually and necessarily occupied in proceeding by direct route and generally adopted method of transport from his post to his place of residence or destination in the United States, or *vice versa*, and such time as may be necessarily occupied in awaiting sailing, except when complying with specific orders issued by the Department of State (sec. 467 Part II.) (22 U. S. C. § 17a.)

(d) *Resignation in the United States.*—The right to compensation of an officer or employee of the Foreign Service who resigns while in the United States on leave of absence terminates with the effective date of the acceptance of the resignation, or the lapse of his statutory leave, whichever occurs first.

(e) *Extra compensation prohibited.*—Except as otherwise provided by statute the compensation allowed by law to the various diplomatic and consular officers shall be in full for all the services rendered and personal expenses incurred by the persons respectively for whom such compensation is provided, of whatever kind such services or personal expenses may be, or by whatever treaty, law, or instructions they are required; and no allowance, other than such as is so provided, shall be made in any case for the outfit or return home of any such officer or person. (22 U. S. C. § 125.)

(f) *Allotment of pay by civilian personnel stationed abroad.*—As provided by the act approved May 14, 1937, 50 Stat. 166, and in accordance with the provisions of regulations issued by the Secretary of State, civilian officers and employees who are assigned for duty outside the continental limits of the United States may make allotments, in whole or in

part, from their pay for the support of their families or relatives, for their own savings, or for other similar purposes.

V–43. *Preparation of 'pay roll.*—(a) Vouchers shall be prepared showing the Christian name in full, initial, if any, and surname, on the forms prescribed. The detailed information required by the forms and otherwise, shall be inserted before certification for payment.

(b) The officer who renders the accounts of the office is required to pay the salaries and allowances of all officers and employees of the Foreign Service of the Department of State assigned or detailed to the office.

V–44. *Expenses allowable for transportation, per diem, and shipment of effects.*—Officers and employees of the Foreign Service and other properly authorized persons traveling at Government expense, upon receipt of travel orders shall be allowed expenses in accordance with the Standardized Government Travel Regulations and regulations prescribed by the Secretary of State, as follows:

(a) Their actual and necessary transportation expenses and per diem.

(b) Transportation expenses and per diem of their families.

(c) Expenses of packing and transportation of their effects.

(d) Expenses for the preparation and transportation of the remains of officers and employees of the Foreign Service who have died or may die abroad or in transit while in the discharge of their official duties.

Emergency travel.—Whenever travel has been performed and expense incurred on account of an emergency, or without prior authority, the travel voucher must be approved by the head of the Department or independent establishment, or by an official designated by him for this purpose, and such approval shall constitute the authority for the travel. All vouchers submitted on account of such travel must contain a satisfactory statement of the facts constituting the necessity therefor. (Standardized Government Travel Regulations, approved January 30, 1934, and December 10, 1935, paragraph 7.)

V–45. *Expenditures for other departments.*—In case an account is opened by request of any department or establishment of the Government under instructions of the Secretary of State, that account will be rendered in accordance with the instructions received and unless otherwise instructed the amounts so received or disbursed shall be included in the regular accounts of the office.

Preparation and Rendition of Accounts

V–46. *Accounts stated in the currency of the United States.*—All accounts (except those covering special deposits in foreign currencies) must be stated in the currency of the United States.

Satisfactory evidence must accompany the accounts as to the correct rates for conversion into the currency of the United States of all foreign currencies involved in transactions set forth in the accounts. Such evidence may consist of a certificate of a responsible banker or of a diplomatic or consular officer himself based on authentic quotations.

Accounts Rendered Direct to Department of State

V–47. *Account current required for every account.*—All transactions of officers, without regard to where they may be located, or for whatever period, for which an accounting is required to be made direct to the Department of State, shall be stated on an account current form in accordance with the instructions issued by the Secretary of State. (See sec. V–50.)

V–48. *Cash accounts.*—Every account shall be supported by evidence of proper accounting for all receipts and payments in United States currency and in the various foreign currencies in the manner and on the forms prescribed for that purpose by the Secretary of State.

Accounts From Offices Within Fiscal Districts

V–49. *Establishment of fiscal districts and creation of district accounting and disbursing offices to exercise control over the accounting and disbursing work of the Foreign Service posts located therein.*—The Secretary of State is hereby authorized, whenever the necessity for such offices with a view to effecting economies in accounting procedure is apparent, to prescribe certain fiscal districts or areas and to establish within each such district as a part of the Department of State service, a district accounting and disbursing office to exercise control over the accounts of all diplomatic missions and consular offices within the district in such manner as the Secretary of State may direct. To each such office may be assigned the administrative accounting responsibility for receipts and expenditures of the diplomatic missions and consular offices within the district. Each district office shall be in charge of an accountable officer, to whom all fees, and other official moneys, received by any diplomatic, consular, or Foreign Service officer may be accounted for, under such rules and regulations as may be prescribed by the Secretary of State, all such fees and moneys, or the residue thereof after the payment of salaries, allowances, and current expenses of the diplomatic missions and consular offices within the district, to be paid by the district accounting and disbursing officer into the Treasury of the United States. Such district accounting and disbursing officer accountable for public moneys may entrust moneys to other bonded officers for the purpose of having them make disbursements as his agent; and the officer to whom the moneys are entrusted, as well as the officer who entrusts the moneys to him, shall be held pecuniarily responsible therefor to the United States. All diplomatic, consular, or Foreign Service officers on duty within the area covered by such district offices may be required to render accounts of their disbursements to the officer in charge of such district office to be included in his accounts. Said district accounting and disbursing officers and their agents shall be bonded respectively to the United States for the faithful performance of their duties in such penal amounts as the Secretary of State may require. (22 U. S. C. § 23k.)

V–50. *General accounts required within the jurisdiction of a district accounting and disbursing office.*—Diplomatic, consular, or Foreign Service officers on duty within the area covered by a district accounting and disbursing office will forward to such district office, rather than to the Department of State, such accounts as the Secretary of State may prescribe. No accounts will be required of such diplomatic, consular, or Foreign Service officers with respect to such of their fiscal transactions as the Secretary of State may from time to time establish, by appropriate instructions, as exclusive or primary functions of such district offices.

V–51. *Payments and disbursements made by district accounting and disbursing offices.*—District accounting and disbursing offices shall pay, by checks for American currency drawn on the Treasurer of the United States, and in accordance with instructions issued by the Secretary of State, the salaries and allowances for personal services due to all diplomatic, consular, or Foreign Service officers and employees stationed at the Foreign Service posts within the jurisdiction of the respective district offices, except employees paid in foreign currency; and any other official expenses of Foreign Service posts may be paid in the same manner when so directed by the Secretary of State.

V–52. *Accounting regulations — when applicable.*—(a) All regulations and instructions pertaining to the accounts of officers of the Foreign Service will be binding upon officers stationed within the district of any Foreign Service district accounting and disbursing office except as modified by these regulations or by instructions issued with respect thereto by the Secretary of State.

(b) Regulations and instructions regarding fiscal districts shall not be applicable to officers located outside such fiscal districts.

Special Disbursing Officers

V–53. *Special Disbursing Officers.*—Special disbursing officers shall render accounts for the periods required by these regulations in the manner and on such forms as the Secretary of State shall prescribe. All regulations and instructions pertaining to accounts rendered by officers who are not stationed within a fiscal district shall apply to all accounts rendered by special disbursing officers except as modified by these regulations or by instructions issued by the Secretary of State.

Drafts and Treasury Checks

V–54. *Drafts.*—(a) Ambassadors, ministers, Foreign Service officers, vice consuls not of career, or special disbursing officers if specifically authorized and no others may draw drafts:

1. When the post to which the officer is assigned is not within a fiscal district.

2. When such an officer is specifically directed by the Secretary of State to draw separate drafts and render separate accounts therefor. Strict compliance with such instructions is enjoined.

3. When stationed within fiscal districts, for salaries and expenses in accordance with these regulations or as modified by pertinent instructions, only in cases of emergency, or under the provisions set forth in paragraph 2 above, except that an officer who draws and negotiates drafts on account of traveling expenses or for transporting his effects prior to arrival at his post within such fiscal district, may draw for the balance due on such account, and he must render an account therefor to the Department of State in the required manner.

(b) When a vice consul not of career assumes charge of a consulate, he should promptly notify the Secretary of State in order that any drafts drawn by him may be duly paid. No drafts of the vice consul will be paid unless the prescribed bond has been filed with and approved by the Secretary of the Treasury.

(c) The Secretary of State when he deems it necessary may authorize the payment of salaries and allowances by separate drafts drawn on the Secretary of State to the order of employees. Drafts for other expenses will be drawn in such manner as the Secretary of State may direct consistent with law.

(d) *How drawn.*—Drafts shall be drawn in the currency of the United States on the Secretary of State, at five days sight, unless instructed otherwise by the Secretary of State, acceptance waived and endorsements by procuration excepted. They should be made on the prescribed form in the handwriting of the officer, and should bear on the margin the appropriations and fiscal years to which the amounts are chargeable. One draft should ordinarily cover all funds necessary at the time and the amount should not exceed contemplated requirements for disbursements during the accounting period. Drafts drawn at posts should bear the impression seal of the office. No draft shall be post dated.

(e) *Issuance of two copies.*—Two copies of drafts may be issued in all cases where it is requested by the individual or institution cashing the original. This should be done by striking out, on the official forms, the wording "Sole of Exchange" and inserting, with pen or typewriter on one copy "First of Exchange" and on the other copy, "Second of Exchange." Such drafts should not be marked "Original" and "Duplicate."

(f) *Numbering drafts.*—Each officer should number his drafts in a separate series, beginning with number one on the first draft drawn by him and by continuing the series of numbers during his period of service, without reference to post or position. Each officer should begin a series of numbers at once unless he has an established series.

(g) *Negotiating drafts.*—In negotiating drafts it is the duty of the officer to dispose of them at the most favorable rates obtainable, and to support the sale of the draft with an exchange voucher (form no. 92) regardless of the kind of currency received therefor.

(h) The payment of drafts of officers in the Foreign Service will be considered an advance of public money to them for which they will be held accountable to the Government under their official bonds, and otherwise, until the sums drawn have been properly accounted for as required by law.

V–55. *Suspensions and disallowances.*—(a) Whenever upon the statement of the account of any disbursing officer of the United States in the General Accounting Office credit shall have been disallowed for any payment to any person in the executive branch of the Government otherwise entitled to compensation from the United States or from any agency or instrumentality thereof, such compensation of the payee may be withheld until full reimbursement has been accomplished under such regulations as may be prescribed by the head of the department, branch, or independent establishment (including corporations) under which such payee is entitled to receive compensation. Nothing herein shall be construed to repeal or in any way modify existing laws relating to the collection of the indebtedness of accountable or disbursing officers. (5 U. S. C. § 46b.)

(b) Officers shall give prompt attention to suspended items in their accounts. Additional information or evidence required should be obtained and forwarded as soon as possible and prompt refund should be effected when it is established that the charge is not allowable. The action taken on suspended items should be in accordance with regulations prescribed by the Secretary of State.

V–56. *Claims.*—All claims must be signed by the claimant and must state his post-office address. They should be forwarded to the Department of State for administrative examination and transmission to the General Accounting Office for settlement.

V–57. *Acquisition and disposition of and accounting for United States gold coins and gold certificates.*—United States gold coin and gold certificates received by officers of the Foreign Service in the course of their official duties shall be received only on the basis of the face amount thereof, and shall be forwarded to the Department of State for transmission to the Treasurer of the United States. Any United States gold coin and gold certificates received by such officers shall be accounted for specially. The special accounting procedure for such receipts shall be prescribed by the Secretary of State.

SECTIONS OF REGULATIONS CANCELED

The following provisions of the Foreign Service Regulations of the United States are hereby canceled:

Sections XIII–9 to XIII–17, inclusive, Part I.
Chapter XX, Part I.
Articles XXV, XXVI, XXVII, Part II.
Section XXIV–461, Part II.

EXECUTIVE ORDERS SUPERSEDED

This order supersedes the following Executive Orders: No. 3973 of March 19, 1924; No. 4401 of March 24, 1926; No. 4465 of June 28, 1926; No. 4487 of July 31, 1926; No. 4552 of December 11, 1926; No. 5110 of May 13, 1929; No. 5648 of June 11, 1931; No. 5737 of October 22, 1931; No. 5812 of February 29, 1932; No. 5837 of April 13, 1932; No. 5848 of May 16, 1932; No. 5910 of August 23, 1932; No. 6167 of June 9, 1933; No. 6262 of August 29, 1933; No. 6657–A of March 27, 1934; No. 6780 of June 30, 1934; No. 6810 of August 4, 1934; No. 6850 of September 18, 1934; No. 6880 of October 22, 1934; No. 7012 of April 15, 1935; No. 7379 of May 26, 1936; [1] and No. 7600 of April 7, 1937.[2]

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Sept. 3, 1938.

[No. 7968]

[F. R. Doc. 38–2640; Filed, September 6, 1938; 2:15 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[SRB–101 Amendment 19]

1937 AGRICULTURAL CONSERVATION PROGRAM

SOUTHERN REGION BULLETIN 101

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Southern Region Bulletin 101,[3] as Amended, is hereby further amended by adding the following at the end of subparagraph (2), section (h), of section 18 thereof:

"If (1) no acreage was devoted to the crop(s) in one or more soil-depleting base(s) in 1937, (2) only one producer is entitled to share in that portion of the

[1] 1 F. R. 492.
[2] 2 F. R. 673.
[3] 2 F. R. 8 (10) DI.

class I payment with respect to such base(s), and (3) only one producer is entitled to receive payment for furnishing the land, workstock, and equipment, that portion of the class I payment to be made to any producer with respect to the soil-depleting base(s) in connection with which there is no acreage devoted to the crop(s) in 1937 shall be determined in accordance with the provisions of either paragraph (1) or (2) of this subsection (h) and that portion of the class I payment to be made to any producer with respect to the soil-depleting base(s) in connection with which there is acreage devoted to crop(s) in 1937 shall be divided among the producers entitled to share in the soil-depleting crop(s) in such base(s) in accordance with the provisions of either paragraph (1) or (2) of this subsection (h) or in the proportion that the acreage share of each such producer bears to the total acreage on the farm devoted in 1937 to such crop(s)."

The provisions of this Amendment 19 shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances,[1] Deductions, and Rates of Payment Under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern, and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.

Done at Washington, D. C., this 3d day of Sept. 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON.
Acting Secretary of Agriculture.

[F. R. Doc. 38-2643; Filed, September 6, 1938; 4:11 p. m.]

[Supplement No. 1]

REGULATIONS OF THE SECRETARY OF AGRICULTURE WITH RESPECT TO THE RETIREMENT OF COTTON POOL PARTICIPATION TRUST CERTIFICATES,[2] FORM C-5-I

By virtue of the authority vested in the Secretary of Agriculture by Title VI, "Cotton Pool Participation Trust Certificates", of the Agricultural Adjustment Act of 1938, as amended, Public No. 430, 75th Congress, Approved February 16, 1938, and the item entitled "Retirement of Cotton Pool Participation Trust Certificates" contained in Title I of the Department of Agriculture Appropriation Act, 1939, Public No. 644, 75th Congress, approved June 16, 1938, I hereby prescribe the following supplemental regulation designated as Section VI of the Regulations of the Secretary of Agriculture with respect to the retirement of Cotton Pool Participation Trust Certificates, form C-5-I:

SEC. VI. A purchaser of the form C-5-I Cotton Pool Participation Trust Certificate who has sent the transferred Certificate to the Pool Manager's office for transfer shall be deemed to be the lawful holder and owner thereof on May 1, 1937, provided the letter of transmission is post marked, or is stamped received by the Pool Manager's office, on or before that date, if the transfer of the Certificate is otherwise regular.

In witness whereof, I, M. L. Wilson, Acting Secretary of Agriculture, have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 30th day of August, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2642, Filed, September 6, 1938; 4:11 p. m.]

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[1] 2 F. R. 2214 (2547 DI).
[2] 3 F. R. 1754 DI.

TITLE 12—BANKING AND CREDIT

FEDERAL RESERVE SYSTEM

INTERLOCKING BANK DIRECTORATES UNDER THE CLAYTON ACT

On August 31, 1938, the Board of Governors of the Federal Reserve System adopted the following resolution:

Resolved, That effective February 1, 1939, Section 3 (a) of Regulation L (12 CFR 212.3 (a)) be amended to read as follows:

"(a) Any private banker or any director, officer, or employee of a member bank of the Federal Reserve System may be at the same time a director, officer, or employee of not more than one cooperative bank, credit union or other similar institution;"

(Sec. 8, 38 Stat. 732; Sec. 329, 49 Stat. 717; Sec. 11, 38 Stat. 734; Sec. 602 (d), 48 Stat. 1102; 15 U. S. C. 19 and Sup. III; 15 U. S. C. 21.)

[Reg. L, Bd. Govs. F. R. S. Revised effective Jan. 4, 1936, as amended effective Feb. 1, 1939.]

[SEAL] S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 38-2641, Filed, September 6, 1938; 3:00 p. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER XVIII. RULES GOVERNING THE DESTRUCTION OF RECORDS OF TELECOMMUNICATION CARRIERS * #

TABLE OF CONTENTS

Part
240. Destruction Authorized.
241. Supervision of Destruction.
242. Written Authority for Officer Having Supervision Over Destruction.
243. Certificates of Destruction.
244. Applicability.
245. Administrative Regulations.
246. List of Accounts, Records, and Memoranda, and Periods of Retention.

PART 240. DESTRUCTION AUTHORIZED

Sec.
240.01 Accounts, records, etc., named in Sec. 246.01

SEC. 240.01 *Accounts, records, etc., named in Sec. 246.01.* Carriers may destroy the accounts, records, and memoranda named in Sec. 246.01 (other than those marked "permanently") at their option after having preserved them for the specified periods of time and upon complying with the requirements of this chapter.

PART 241. SUPERVISION OF DESTRUCTION

Sec.
241.01 Supervision assigned to officer; authority which may be conferred.
241.02 Officer to be designated by receiver or trustee.
241.03 Officer designated by head of firm, partnership, etc.
241.04 Officer to be designated by title.
241.05 Committee for destruction of certain records.

SEC. 241.01 *Supervision assigned to officer; authority which may be conferred.* Supervision of the destruction of accounts, records, and memoranda shall be assigned to an officer appointed by the board of directors or, if the carrier's organization shall require it, to two officers so appointed. Such officer or officers may be given (a) general supervision of the destruction of all accounts, records, and memoranda the destruction of which is permitted by this chapter, or (b) authority over the destruction of such of these accounts, records, and memoranda as may be specified by the board of directors. A copy of the resolution of appointment shall be filed with the Commission before the destruction of any of the accounts, records, or memoranda involved. Pending action by the board of directors, an appointment by an executive committee, or by a similarly authorized committee of the board of directors, shall have the same effect as if made by the board of directors.

SEC. 241.02 *Officer to be designated by receiver or trustee.* If the property of a carrier is in the hands of a receiver or operating trustee, the officer or officers to have supervision of the destruction of accounts, records, and memoranda shall be designated by the receiver or trustee. A copy of the order of the receiver or trustee designating such officer or officers shall be filed with the Commission before the destruction of any of the accounts, records, or memoranda involved.

SEC. 241.03 *Officer designated by head of firm, partnership, etc.* If the property is operated by an individual, firm, copartnership, or association, the head of the concern shall designate the person to have charge of the destruction of records, and if it is desired, may so designate himself. A copy of the order designating such person shall be filed with the Commission before the destruction of any of the accounts, records, or memoranda involved.

SEC. 241.04 *Officer to be designated by title.* In designating an officer to have general supervision of the destruction of accounts, records, and memoranda it would be preferable to designate by title only, rather than by name and title, and thus obviate the necessity of filing a new resolution each time a successor in the office is appointed.

SEC. 241.05 *Committee for destruction of certain records.* At the option of the carrier the board of directors may from time to time name a committee to destroy canceled stock certificates, bonds, or other records covered by item 16 of Sec. 246.01 in lieu of delegating the authority for the destruction to an officer, as provided in Sec. 241.01. A copy of the resolution of the board of directors naming such committee shall be filed with the Commission before the destruction of any of the records involved.

PART 242. WRITTEN AUTHORITY FOR OFFICER HAVING SUPERVISION OVER DESTRUCTION

Sec.
242.01 Written authority to be issued for destruction of records; exceptions.
242.02 Contents of authority.
242.03 Authority for destruction; a permanent record.

SEC. 242.01 *Written authority to be issued for destruction of records; exceptions.* When any accounts, records, or memoranda are to be destroyed, an officer having supervision of the destruction of accounts, records, and memoranda (as designated in compliance with Sections 241.01, 241.02, and 241.03 shall issue a written authority designating by name and title or by title or occupation the person or persons by whom the accounts, records, or memoranda are to be destroyed (except as provided for in Sec. 245.03).

SEC. 242.02 *Contents of authority.* The written authority

(a) may be confined to certain accounts, records, and memoranda which have been retained for the periods of time specified in this chapter and which the carrier then desires to destroy, in which case it shall indicate—

First. The accounts, records, or memoranda to be destroyed, expressed either in form numbers or by descriptive titles; and,

Second. The period or periods covered by the accounts, records, or memoranda the destruction of which is authorized, or—

(b) may be of continuing effect, applying to any or all the accounts, records, and memoranda named herein as the periods of retention of such accounts, records, or memoranda attain the limits specified herein.

SEC. 242.03 *Authority for destruction; a permanent record.* Such written authority, or a certified copy thereof, shall be filed in the office of the issuing officer as a permanent part of the carrier's records. It is not required at present that copies of the written authorities be filed with the Commission.

PART 243. CERTIFICATES OF DESTRUCTION

Sec.
243.01 Persons having direct supervision to certify as to accounts, etc. destroyed.
243.02 Description of accounts destroyed; separate or cumulative certificates.
243.03 Certificates of destruction of certain records to be kept permanently.
243.04 Certificates of destruction to be forwarded to the supervising officer.
243.05 Certificates not necessary in certain cases.

SEC. 243.01 *Person having direct supervision to certify as to accounts, etc. destroyed.* The person or persons upon whom devolves the duty of the direct supervision of the destruction of the accounts, records, or memoranda under the authority referred to in Sec. 242.02 (a) shall make certificate (except as provided for in Sec. 243.05 and 245.03) setting forth that the accounts, records, or memoranda listed in the said authority have been destroyed and that no other accounts, records, or memoranda than those so listed have been destroyed therewith.

SEC. 243.02 *Description of accounts destroyed; separate or cumulative certificates.* If an authority as referred to in Sec. 242.02 (b) is given, a certificate of destruction shall be made by the person or persons upon whom devolves the duty of direct supervision of destruction (except as provided for in Sections 243.05 and 245.03) listing either by form numbers or descriptive titles the accounts, records, and memoranda destroyed, naming the period or periods covered by the accounts, records, and memoranda and stating that no other accounts, records, or memoranda than those so listed have been destroyed therewith. Either (a) separate certificates shall be made each time any accounts, records, or memoranda are destroyed, or (b) cumulative certificates shall be made with entries each time any accounts, records, or memoranda are destroyed.

SEC. 243.03 *Certificates of destruction of certain records to be kept permanently.* When any records covered by item 16 of Sec. 246.01 are destroyed, a certificate of destruction giving full descriptive reference to the documents destroyed shall be made by the person or persons authorized to perform such destruction and shall be retained permanently by the carrier. When documents represent debt secured by mortgage, the certificates of destruction shall also be authenticated by representatives of the trustees acting in conjunction with the person or persons destroying the documents or shall have the trustees' acceptance thereon.

SEC. 243.04 *Certificates of destruction to be forwarded to the supervising officer.* Certificates of destruction shall be forwarded promptly to the officer having supervision of the destruction of accounts, records, and memoranda, who issued the written authority, and shall be retained in his office as a permanent part of the carrier's records. In case cumulative certificates are made they shall be forwarded to such officer periodically, but at least once every six months. It is not required at present that copies of the certificates of destruction be filed with the Commission.

SEC. 243.05 *Certificates not necessary in certain cases.* Certificates of destruction need not be made for accounts, records, and memoranda, with the exception of retired securities referred to in Sec. 243.03, the destruction of which, in the list in Sec. 246.01 hereof, is made optional with the carrier, but a written authority, either for specific records or of continuing effect (except as provided for in Sec. 245.03) shall be issued by the officer having supervision of the destruction of such accounts, records, and memoranda.

PART 244. APPLICABILITY

Sec.
244.01 Joint agencies.
244.02 Non-operating companies.

SEC. 244.01 *Joint agencies.* These rules apply also to the destruction of accounts, records, and memoranda of traffic associations and other joint bureaus and agencies maintained by or on behalf of telecommunication carriers. The manager, chairman, or other officer in charge of the association, bureau, etc., may be delegated by the designated officer of each of the carriers forming the association to have supervision of the destruction of accounts, records, and memoranda of the association, etc., and in that event he shall isssue all authorities for such destruction, and certificates of destruction shall be filed with him. Otherwise, a written authority for the destruction of accounts, records, and memoranda shall be secured from the proper officer of the member carriers concerned and a certificate of destruction shall be filed with each such officer.

NOTE.—Records of interline business conducted over the lines of two or more companies should not be confused with the records of so-called joint agencies. A joint agency as referred to in the above paragraph contemplates a separate organization or association, with officers or employees distinct from those of the operating company and not agencies or offices maintained jointly by two or more separate companies for operating efficiency.

SEC. 244.02 *Non-operating companies.* A company owning or controlling telephone, telegraph, or cable plants, whether wire or wireless, which it does not operate but which it leases to others for operating purposes shall observe these rules in case it desires to destroy any of its corporate or financial accounts, records, or memoranda.

PART 245. ADMINISTRATIVE RULES

Sec.
245.01 Method of destruction.
245.02 Accidental destruction.
245.03 Duplicate accounts, records, and memoranda.

SEC. 245.01 *Method of destruction.* The precise method of the destruction of accounts, records, or memoranda is not prescribed. The Commission is not concerned with the method of destruc-

* Sections 240.01 to 246.01 issued under the authority contained in Sec. 220, 48 Stat. 1078; 47 U. S. C. 220.

Promulgated by F. C. C. on September 6, 1938.

tion, whether by fire, sale, or otherwise, so long as the destruction is authorized and a certificate of destruction is filed as required by this chapter. If the accounts, records, or memoranda are not actually destroyed by the carrier but are disposed of by sale or otherwise, the certificate of destruction shall so state.

SEC. 245.02 *Accidental destruction.* If any accounts, records, or memoranda are destroyed accidentally by fire, flood, or other calamity, a statement shall be prepared listing, as far as may be possible, the records destroyed, and detailing the circumstances in connection with the fire or other calamity. This statement shall be authenticated by an officer or some responsible employee of the company and shall be filed with the officer having supervision of the destruction of accounts, records, and memoranda. A copy of the statement shall be filed promptly with the Commission.

SEC. 245.03 *Duplicate accounts, records, and memoranda.* Provision is made in item 127 of Sec. 246.01 for the optional destruction of duplicate copies of accounts, records, and memoranda when such copies are not specifically provided for elsewhere in this chapter and when they contain no information not shown on the originals. In destroying such copies carriers may dispense with the written authorities and the certificates of destruction. The originals (or one true copy) shall be retained for the respective periods named for such records in Sec. 246.01.

PART 246. LIST OF ACCOUNTS, RECORDS, AND MEMORANDA, AND PERIODS OF RETENTION

Sec.

246.01 Accounts described; applicability; permanent records.

246.02 Special provision relating to telephone companies.

SEC. 246.01 *Records described; applicability; permanent records.* The following is the list of accounts, records, and memoranda of telecommunication carriers specifically referred to by the rules embodied in Sec. 240.01. The classification of accounts, records, and memoranda enumerated below under the various general headings is merely for convenient reference and is more or less arbitrary. The rules are intended to apply to the items as named or described, regardless of the classification and regardless of where filed. Of the accounts, records, and memoranda which are to be retained permanently only the more important are indicated in the list, such specific mention being made so that they may not be confused with any accounts, records, or memoranda which the carrier is hereby given permission to destroy.

Description of Records and Period to be Retained

General and Financial

1. *Ledgers.*—(a) General and auxiliary ledgers' and indexes thereto, except subscribers, and other ledgers provided for in items below.—Permanently.

(b) Balance sheets of general ledgers.—Permanently.

(c) Trial balance sheets of general and auxiliary ledgers.—Permanently.

(d) Subscribers' and pay station ledgers and other records used in lieu thereof.—3 years.

(e) Customers' ledgers at local telegraph offices, local cable offices, local wireless offices, and other agencies.—3 years.

(f) Trial balance sheets of ledgers covered by items (d) and (e) above.—3 years.

2. *Records of securities owned.*—Records of securities owned, in treasury, or with custodians.—Permanently.

3. *Journals.*—General and auxiliary journals.—Permanently.

4. *Cash books.*—(a) Treasurers' and auditors' general cash books and auxiliary cash books subsidiary to the general cash books.—Permanently.

(b) Other auxiliary cash books.—3 years.

(c) Cash books at telephone exchanges, telegraph and cable and wireless offices, and other agencies.—3 years.

NOTE.—If any receipts or payments are entered in the aggregate in cash books and are detailed only on loose sheets, such loose sheets constitute an auxiliary cash book when no other permanent record of the items thereon is made.

5. *Capital stock records.*—(a) Capital stock ledgers.—Permanently.

(b) Records or stubs of capital stock certificates.—Permanently.

(c) Stock transfer registers.—Permanently.

(d) Memoranda and bills of sale or of transfer of capital stock.—3 years.

(e) Capital stock subscription notices and requests for allotment.—1 year.

(f) Canceled capital stock certificates.—See item 16.

6. *Bond records.*—(a) Registered bond ledgers.—Permanently.

(b) Records or stubs of bonds.—Permanently.

(c) Memoranda and bills of sale or of transfer of registered bonds.—3 years.

(d) Funded debt subscription notices and requests for allotment.—1 year.

(e) Records of interest coupons, paid and unpaid.—7 years.

(f) Canceled bonds and paid interest coupons.—See item 16.

7. Copies of applications to and authority from regulating bodies for the issuance of stocks, bonds, and other securities. (See item 110 (e).)—Permanently.

8. *Proxies and voting lists.*—(a) Proxies of holders of voting securities.—2 years.

(b) Lists of holders of voting securities presented at meetings.—6 years.

9. *Journal entries.*—(a) Journal entries and interdepartmental bills and supporting papers.—Permanently.

(b) Slips or statements giving advance postings of miscellaneous receipts and payments of funds.—1 year after current year.

(c) Records of prepaid expenses and of accrued liabilities not due, used for monthly apportionment of such items, but not constituting supporting papers covered by item (a) above.—1 year after current year.

10. *Accounts receivable records.*—(a) Record or register of accounts receivable bills except as covered in items 1 (d) and (e) and indexes thereto, and summaries of distribution of credits through bills for entry in general books.—Permanently.

(b) Accounting department copies of bills issued and supporting papers which do not accompany the original bills, except bills for service covered by item 41 (b) and (c), if recorded in records covered by item (a) above. (See item 20.)—6 years.

(c) Authorizations for accounts receivable bills, other than supporting papers, with notations of dates of issue.—3 years.

(d) Record or index of bills to be issued with notations of dates of issue.—Optional.

(e) Periodical statements of unsettled accounts, except trial balance sheets.—Optional.

11. *Minute books.*—Minute books of stockholders', directors', and directors' executive committee and other meetings.—Permanently.

12. *Codes.*—(a) General codes (official copies). — Permanently. (b) Money transfer service, and similar codes (official copies).—6 years after cancellation.

13. *Titles and franchises.*—Deeds and other title papers and franchises.—Permanently.

14. *Contracts and agreements.*—(a) Contracts, leases, and agreements, except those provided for in items 18, 20, 71, and 80.—6 years after expiration or cancellation.

(b) Contracts and agreements with employees for the purchase of securities; and reports and memoranda pertaining thereto.—6 years after expiration or cancellation.

(c) Card or book records of contracts, leases, and agreements made and of expirations and renewals.—6 years after expiration or cancellation.

(d) Summaries and abstracts of contracts, leases, and agreements covered by items (a) and (b) above.—Optional.

15. *Permits.*—(a) Permits and granted applications for the use of facilities of others.—3 years after expiration or cancellation.

(b) Copies of permits and applications granted others for the use of the carrier's facilities.—3 years after expiration or cancellation.

(c) Applications for the use of facilities not granted and copies of such application.—Optional.

(d) Permits of a temporary nature, from municipal or other bodies to perform specific work, such as permits to open streets and place poles and copies of petitions for such permits.—Optional.

16. *Retired securities.*—Canceled stock certificates, bonds, notes, interest coupons, receiver's certificates, and temporary certificates.—May be destroyed at option of carriers compliying with requirements of Sec. 243.03.

17. *Fidelity bonds.*—Records and files of fidelity bonds of employees.—3 years after expiration.

18. *Insurance records.*—(a) Schedules of fire and other insurance, also records relating to premiums and amounts recovered and papers substantiating claims against insurance companies.—6 years.

(b) Fire, liability, automobile, and other insurance policies.—Optional.

(c) Record of policies in force and notices of changes in and cancellation of such policies.—3 years after expiration.

(d) Inspectors' reports and records of condition of property.—3 years.

(e) Letter, telegraphic or wireless reports of fire damages.—Optional.

(f) Reports of minor losses by fire not covered by insurance or less than minimum amount collectible.—Optional.

(g) Watchmen's reports and other minor reports and memoranda pertaining to insurance and damage.—Optional.

(h) Records and statements relating to insurance requirements.—Optional.

19. *Tax records.*—Copies of schedules and returns to taxing authorities for tax purposes and records of appeals.—6 years.

20. *Plant and equipment (fixed capital) records.*—(a) Records and memoranda of the cost and of the inventory value of plant and equipment.—Permanently.

(b) Records and memoranda pertaining to depreciation, retirement, and replacements of plant and equipment.—Permanently.

(c) Contracts and other agreements relating to the construction, acquisition, or sale of plant and equipment.—Permanently.

(d) Records, reports, summary sheets, statements, distribution sheets, and similar records and papers directly supporting debits and credits to plant and equipment accounts.—Permanently.

(e) Records, reports, and papers pertaining to the detail of debits and credits to plant and equipment accounts such as time tickets, time check rolls, workmen's reports, work orders, material disbursement and recovery tickets, and other preliminary and underlying records if the details of such debits and credits have been summarized to records covered by items (a) to (d) above in such a manner as will preserve a complete record of the transaction.—3 years.

(f) Book or card records, showing measurements, description, location, quantities, etc. of physical plant and equipment owned.—Permanently.

NOTE.—All accounts, records, and memoranda requisite for making a complete analysis of cost of plant and equipment shall be retained permanently. If any of the accounts, records, and memoranda, elsewhere provided for in this chapter, are of this character, they shall be retained permanently regardless of any lesser period of retention assigned to them.

21. *Authorities for expenditures.*—(a) Estimates, completion reports, and authorities for expenditures, and registers and records thereof, for construction, extensions, additions, and betterments made.—Permanently.

(b) Detail records and memoranda used in preparation of estimates and minor reports and statements pertaining thereto, if summarized in records covered by item (a) above.—3 years.

(c) Estimates, detail records, and memoranda and reports pertaining thereto, when the expenditures were not authorized, except as covered by item 22.—Optional.

(d) Records, reports, and statements showing comparison between authorized estimates and actual expenditures.—Permanently.

(e) Notices of the approval of estimates.—Optional.

(f) Records and reports pertaining to the progress of construction work, the order in which jobs are to be completed, orders to expedite specific work, reports and statements of completed and uncompleted work orders, and similar records which do not form a basis of charges or credits to the accounts.—Optional.

22. *Engineering records.*—(a) Maps, profiles, plans, specifications, estimates of work, records of engineering studies, unit costs, and similar records pertaining to projects which have been put into execution, whether in whole or in part.—Permanently.

(b) Maps, profiles, plans, specifications, estimates of work, records of engineering studies, and similar records pertaining to projects which have been abandoned.—6 years.

23. *Traveling accountants' and auditors' reports.*—(a) Reports of examinations and audits by special accountants and traveling auditors.—3 years.

(b) Reports and records of incidental and miscellaneous audits.—Optional.

24. *Division auditors' reports.*—Reports and statements from division auditors of revenues, expenses, receipts, disbursements operations, and similar items.—For the period prescribed for the records to which they pertain.

Treasury

30. *Statement of funds and deposits.*—(a) Statements and summaries of balances on hand and with depositaries.—3 years.

(b) Authorities for and statements of transfer of funds from one depositary to another.—3 years.

(c) Periodical statements of working cash balances.—3 years.

(d) Requisitions and receipts for funds furnished managers, agents, and others.—May be destroyed at option of carrier after funds have been returned or accounted for.

(e) Reports and estimates of working funds required.—Optional.

(f) Statements of managers' and agents' deposits, grouped by depositaries.—3 years.

31. *Records of deposits with banks and others.*—(a) Statements from depositaries regarding funds received, disbursed, and transferred.—3 years.

(b) Bank reconcilement papers. — 3 years.

(c) Statements from banks of interest due on average daily balances.—3 years.

(d) Bank deposit books and stubs, ledgers, or records of checks.—6 years.

(e) Copies of bank deposit slips.—3 years.

(f) Advice of deposits made when information contained thereon is shown on other records which are retained.—Optional.

(g) Correspondence and memoranda relating to the stopping of payment of bank checks and to the issuance of duplicates.—6 years.

32. *Records of receipts and disbursements.*—(a) Daily or other periodical statements of the receipt and disbursement of funds. (See note (5), item 4.)—3 years.

(b) Records or periodical statements of outstanding vouchers, checks, drafts, etc., issued and not presented.—6 years.

(c) Cash remittance slips or reports of managers and agents and general office summaries thereof.—3 years.

(d) Voucher lists, showing mailing dates and to whom sent.—Optional.

33. Managers' and agents' balances.—Records of managers' and agents' accounts showing working fund debits and credits from various sources.—3 years.

34. Field cashiers' balances.—Reports of working fund balances in hands of field cashiers.—3 years.

35. Records pertaining to verifications of treasurers' cash or securities.—3 years.

Revenues

40. Revenue summaries.—(a) Records and summaries of revenues (by classes) for entry in general books.—6 years.

(b) Reports from managers, agents, and others showing debits and credits to revenue from all sources, and summaries of such reports.—3 years.

(c) Statements and summaries of telephone or of wireless message toll charge tickets and telegram or cable charge tickets, if summarized into records covered by item (a) or (b) above.—1 year.

41. *Collection reports and records.*—(a) Itemized lists and summaries of collections of operating revenues by agents, collectors, and branch offices.—3 years.

(b) Bill stubs, copies of bills, collection tickets, collection books, and other forms of reporting collections covered by item (a) above.—1 year.

(c) Bill stubs, copies of bills, and statements of collections of operating revenues not used for reporting collections covered by item (a) above.—Optional.

(d) Statements and reports of amounts collected or due from employees for seals furnished.—Optional.

(e) Records of coin box collection books, coin box combinations, seals applied and removed from coin boxes, and similar records, and reports relative to the collection of operating revenues.—Optional.

(f) Records of ratings, credit classification and investigations of patrons and prospective subscribers.—1 year.

(g) Reports relating to the status of subscribers' and customers' accounts.—Optional.

42. *Remittances and deposits.*—Local office records of remittances and deposits.—3 years.

43. *Adjustments with agents.*—Detail records and reports of adjustments with managers, agents, and other employees on account of revenue, disbursements, or other items.—3 years.

44. *Subscribers' and customers' account adjustments.*—Detail records of adjustments of accounts of subscribers and other customers for overcharges, undercharges, and other errors, results of which have been transcribed to records covered by item 40.—3 years.

45. *Settlements with telecommunication carriers.*—(a) Records pertaining to settlement of revenues and other charges with telecommunication carriers by officers, managers, and agents.—6 years.

(b) Statements, summaries, and memoranda pertaining to the monthly record of intercompany business if summarized in records covered by item (a) above.—6 months.

46. *Settlements with transportation companies.*—(a) Monthly, annual, or other periodical settlements with transportation companies made in accordance with contracts or agreements.—6 years.

(b) Reports of receipts and expenditures at offices on lines of transportation companies.—6 years.

47. *Check and error records of messages.*—Check records, check reports, error notices, error statements, and other records of telephone, telegraph, cable, and wireless messages pertaining to the checking of messages between offices.—Optional.

48. *Uncollectible accounts.*—Records and reports pertaining to uncollectible accounts, including authorities for writing off the amounts of such accounts.—6 years.

49. *Allowances for service irregularities.*—Summaries by accounting classification of allowances to subscribers and agents on account of service interruption, stoppage, and other irregularities of service.—6 years.

50. *Subscribers' ledger sources.*—Accounting department copies of contract or line orders, transfer memoranda, subscribers' and agents' account charge advices, authorities for charges to subscribers under contracts, and other records from which telephone subscribers' ledgers are built up or corrected.—3 years.

Expenditures

60. *Vouchers.*—(a) Register of audited vouchers and indexes thereto and summaries of distribution of charges through vouchers for entry in general books.—Permanently.

(b) Paid drafts, paid checks, and receipts for cash paid out. (See note under item 20.)—6 years.

(c) Paid and canceled vouchers, audit office copies of vouchers, analysis sheets showing detail distribution of charges on individual vouchers, and other supporting papers.—Permanently.

(d) Authorities for the payment of specific vouchers.—3 years.

(e) Records or index of vouchers to be made with notations of dates of issue.—Optional.

(f) Lists of unaudited bills (accounts payable), lists of vouchers transmitted, and memoranda regarding changes in unaudited vouchers.—Optional.

61. *Distribution of labor expenditures.*—Journals, ledgers, or other records showing the detailed distribution of labor expenditures, including memoranda and memorandum recapitulation sheets. (See item 20.)—6 years.

62. *Labor records.*—Time books, time sheets, time tickets, time cards, work orders, overtime tickets, job tickets, check rolls, workmen's reports, and other similar papers pertaining to services of officers and employees. (See item 20.)—3 years.

63. *Pay roll records.*—(a) Pay rolls and summaries. (See item 20.)—6 years.

(b) Applications and authorities for changes in pay rolls; lists, summaries and reports of changes in pay rolls and records of authorized positions.—6 years.

(c) Applications for pay roll changes not authorized.—Optional.

(d) Records and memoranda pertaining to deductions from pay rolls.—Optional.

(e) Receipted pay checks, receipted time tickets, certificates issued for wages, discharge tickets, and other evidences of payments for services rendered by employees.—6 years.

(f) Comparative or analytical statements of pay rolls.—3 years.

(g) Receipts for pay rolls and pay checks, also records thereof.—Optional.

64. *Distribution of expenditures for material and supplies.*—(a) Journals, ledgers, and other records showing the detailed distribution of expenditures for material and supplies including memoranda and memorandum recapitulation sheets. (See item 20.)—6 years.

(b) Work orders, job tickets, workmen's reports, material disbursements tickets, and other papers covering the application of material and supplies, if transcribed in detail to records covered in item (a) above. (See item 20.)—3 years.

65. *Assignments, attachments, and garnishments.*—(a) Record of assignments, attachments, and garnishments of employees' salaries.—3 years.

(b) Files containing assignments, attachments, garnishments, notices of suits, notices of release, and correspondence relating thereto.—3 years.

(c) Miners' salary releases.—Optional.

66. *Authorized expenses.*—(a) Records, statements and advices of authorized expenses by divisions, districts, departments, offices, and otherwise, which form the basis of charges to accounts.—Permanently.

(b) Requests and authorities for expenditures for incidental expenses, repairs, etc., not covered by estimates provided for in item 21, and not used for making charges to accounts.—Optional.

67. *Claims.*—(a) Claims registers, card or book indexes, and other records in connection with the recording of overcharge, damage, personal injury, and other claims presented against carriers, except as provided for in item 44.—Permanently.

(b) All papers substantiating claims, whether such papers are attached to vouchers or filed separately (see item 60c), except as provided for in item 44.—6 years after settlement or rejection.

NOTE.—It is not intended that documents comprising claims, substantiating their validity, or accumulated in the progress of investigation shall be retained permanently.

68. *Records of accidents, damages, and injuries.*—(a) Reports and statements regarding accidents, when not necessary to support claims or vouchers. (See item 123.)—Optional.

(b) Records of damages to company property or property of others, also reports and statements of employees and witnesses regarding damages to company property or property of others, when not necessary to support claims or vouchers.—Optional.

(c) Reports and statements regarding personal injuries, when not necessary to support claims or vouchers.—Optional.

Purchases and Stores

70. *Material ledgers.*—(a) Records of material and supplies on hand.—Permanently.

(b) Balance sheets of material and supplies received, issued, and on hand at branch supply departments.—3 years.

71. *Purchases and sales.*—(a) Copies of orders for the purchase of material and supplies.—3 years.

(b) Invoices for material and supplies purchased, and records or reports of such invoices.—Permanently.

(c) Authorities for the sale of scrap and material and supplies.—3 years.

(d) Price records of purchases (file copies).—Permanently.

(e) Advices from individuals and companies acknowledging receipt of orders for material and supplies, notices of shipment, packing slips, and copies of bills of lading.—Optional.

(f) Bids and offers for the sale or purchase of material and supplies.—3 years.

(g) Contracts for the purchase or sale of material and supplies.—Permanently.

(h) Advices or requisitions from storekeepers and others for the purchase of material and supplies.—3 years.

(i) Lists or records of invoices transmitted to or from storekeepers.—Optional.

(j) Receipts or delivery tickets issued for material and supplies received in installments and subsequently surrendered with and in support of invoices or bills showing full information.—Optional.

(k) Freight bills covering charges on material and supplies.—Permanently.

NOTE.—The furnishing of freight bills in support of claims on transportation companies is not considered a destruction of records, provided copies of such bills are retained in lieu thereof.

(l) Copies of notices to supply houses of material and supplies returned for credit or repair.—Optional.

(m) Copies of shipping instructions and acknowledgment thereof.—Optional.

(n) Summaries and distribution sheets and credit memoranda of material and supplies sold or returned to supply houses for credit.—Permanently.

(o) Records and reports used for checking and tracing material and supplies covered by invoices provided for in item (b) above.—Optional.

72. *Material and supplies received and issued.*—(a) Records and reports of materials and supplies received.—Permanently.

(b) Records and reports of materials and supplies issued.—Permanently.

(c) Records and reports of materials and supplies transferred from one department, storeroom, or division to another.—3 years.

(d) Requisitions and receipts for materials and supplies issued and receipts for materials and supplies returned, if summarized into records covered by items (a) and (b) above, except as provided for in item 20.—1 year.

(e) Price records of materials and supplies issued (file copies).—Permanently.

(f) Records and reports of materials recovered and returned to stock, if transcribed in detail to records covered in item (a) above.—3 years.

(g) Records of inspecting and testing materials and supplies.—3 years.

(h) Minor records and reports pertaining to materials and supplies, not involving costs or disposition, such as reports of unfilled requisitions, authorities for additions to stock, storeroom records of requisitions, estimates of future requirements, articles required by field forces, records of material disbursement and recovery tickets used and on hand, and similar records.—Optional.

(i) Records and reports of materials and supplies issued to individuals or gangs of employees to be accounted for when the materials and supplies are applied or returned to stock.—Optional after being accounted for.

73. *Inventories of materials and supplies.*—(a) General inventories of materials and supplies on hand, with record of adjustments between accounts. (See item 20.)—6 years.

(b) Stock cards, inventory cards, and other detail records pertaining to the taking of inventories, if abstracted into records covered by (a) above.—1 year.

(c) Minor inventories of materials and supplies on hand, and reports and memoranda relating thereto, if not used for adjustments.—1 year.

(d) Records, reports, statements, and summaries of overstock items.—Optional.

Operations

80. *Contracts with subscribers and customers.*—(a) Contracts and records thereof with subscribers, employees, and others, for telephone service and applications used in lieu of such contracts.—3 years after cancelation.

(b) Applications for telephone service for which contracts have been executed.—Optional.

(c) Contracts for private wires, time service, stock and other market reports, and similar matters; also applications and records pertaining to such contracts.—3 years after cancelation.

(d) Diagrams pertaining to contracts covered by item (c) above.—Optional.

(e) Contracts with subscribers and others for advertising space in directories and other publications issued by the carrier.—1 year after cancelation.

(f) Contracts between wireless companies and shipowners for wireless equipment and wireless service.—6 years after cancelation.

(g) Applications for telephone service for which no contracts have been executed.—1 year.

(h) Contracts for lease of instruments including receipts for instruments furnished under the terms of such contracts.—3 years after cancelation.

81. *Records of subscribers.*—Address lists and card records of subscribers by addresses, names, or telephone numbers, and similar lists and records of former subscribers.—Optional.

82. *Records of instruments.*—Records and reports of instruments and equipment furnished to subscribers and patrons and of instruments and equipment on vacant premises, not used to build up or correct ledger accounts.—Optional.

83. *Telegrams and cablegrams.*—(a) Original filed telegraph and cable messages transmitted at public tariff rates, including day and night messages, day and night letters, money-transfer messages, stock and commercial news messages, deferred half-rate cablegrams, cable letters, and week-end cable letters; also press messages and Government messages. This item also covers the original transcript of messages received over telephones for transmission.—1 year.

NOTE.—The furnishing of original filed messages to the United States Government in support of bills is not considered a destruction of records.

(b) Tissue or carbon copies made at destination offices, of messages covered by item (a) above.—1 year.

(c) Original filed messages transmitted for transportation companies in compliance with terms of contracts; also tissue or carbon copies of such messages made at destination offices.—1 year.

NOTE.—The furnishing of original filed messages to transportation companies in support of settlements under contracts is not considered a destruction of records.

(d) Service messages relating to commercial messages, including tissue or carbon copies of such messages made at destination offices.—Optional.

(e) Original filed messages transmitted free or at reduced rates for employees and others; also tissue or carbon copies of such messages made at destination offices.—3 years.

(f) Relay messages, not including those made at junction offices for transfer to other companies.—Optional.

(g) Message tape and similar devices for transmitting messages.—Optional.

(h) Stubs of, or carbon copies of, messages received over telephone.—Optional.

84. *Radiograms.*—(a) original filed wireless telegraph messages, transmitted at public tariff rates; also tissue or carbon copies of such messages made at coast and ship destination stations.—15 months.

(b) Service messages relating to commercial messages; also tissue or carbon copies of such messages made at coast and ship destination stations. — 15 months.

(c) Original filed messages transmitted for ship owners in compliance with terms of contracts (masters' service messages); also tissue or carbon copies of such messages made at coast and ship destination stations.—15 months.

(d) Original filed messages transmitted free or at reduced rates other than those covered by item (c) above; also tissue or carbon copies of such messages made at coast and ship destination stations.—3 years.

NOTE.—The furnishing of original filed messages to the United States Government in support of bills is not considered a destruction of records.

85. *Telephone local and toll tickets.*—(a) Telephone toll tickets, and statements forming basis of charges to subscribers and others.—6 months.

(b) Uncompleted tickets, last call tickets, switching tickets, messenger-service tickets, appointment tickets, and tickets for emergency calls, official calls, and test calls.—Optional.

(c) Records of receipt of local and toll tickets, toll statement stubs, toll ticket memoranda, guide cards, and reports and memoranda relative to investigations and correction of tickets.—Optional.

(d) Statements and summaries of measured service tickets and register readings.—1 year.

(e) Measured service tickets, local message tickets, and register reading tickets or statements if summarized in records covered by item (d) above.—Optional.

(f) Tickets and statements for check error purposes.—Optional.

86. *Tariffs and other rate authorities.*—(a) Tariffs, rate sheets, division sheets, and circulars in which the company is interested relative to the transmission of messages and furnishing of facilities, in the general files of the department in which the complete official file is maintained.—6 years after expiration or cancelation.

(b) Tariffs, rate sheets, division sheets, and circulars in other departments and at exchanges, branch offices, and agencies, if copies of the same issues of such tariffs, etc., are preserved in the general tariff files referred to in item (a) above.—May be destroyed at option of carrier after expiration or cancelation.

(c) Requests and receipts from managers and others for tariffs, rate sheets, division sheets, and circulars.—Optional.

(d) Copies of concurrences filed with the Interstate Commerce Commission.—6 years after cancelation.

(e) Statements, summaries, and memoranda pertaining to the establishment of a basis for prorating joint toll revenue.—6 years after cancelation or expiration of basis.

(f) Correspondence and working papers in connection with the making of rates and compilation of tariffs, rate sheets, division sheets, and circulars affecting the transmission of messages and furnishing of facilities.—6 years after cancelation of tariff, etc.

87. *Franks and message passes and reduced rate coupons.*—(a) Copies of orders on printing houses for printed forms of franks, etc.—6 years.

(b) Records of blank forms of franks, etc., received, distributed, and destroyed.—6 years.

(c) Requests, and copies of requests, for franks, etc.—6 years.

(d) Records of franks, etc., issued.—6 years.

(e) Records of franks received from other companies.—6 years.

(f) Identification slips for franks, etc.—3 years.

(g) Used franks, message passes, and coupons, if complete record of issue is maintained as provided in item (d) above.—6 months.

(h) Unexpired, surrendered, or partially used franks, etc.—1 year after current year.

(i) Void, unused, and unissued franks, etc.—1 year after current year.

(j) Reports and records of franks, etc. collected or honored, and of free messages handled.—3 years.

(k) Reports of reduced-rate messages sent or received.—3 years.

88. *Telegraph, cable, and wireless identification cards.*—(a) Records of identification cards issued.—3 years.

(b) Returned and withdrawn identification cards.—1 year.

(c) Unused and unissued identification cards.—1 year after current year.

89. *Transportation company passes.*—(a) Requests, and copies for passes.—3 years.

(b) Record of passes received from carriers.—3 years.

(c) Record of pass identification forms issued.—3 years.

(d) Record of use made of passes.—3 years.

90. *Receiving and delivering telegrams and cablegrams.*—(a) Receivers' record of messages filed.—1 year.

(b) Message delivery records.—1 year.

(c) Messengers' delivery sheets.—1 year.

(d) Operators' number sheets.—Optional.

91. *Telegraph and cable office reports.*—(a) Monthly balance sheets and supporting papers.—6 years.

(b) Weekly and daily balance sheets when figures are combined on monthly or weekly balance sheets, respectively.—1 year.

(c) Weekly and daily balance sheets and supporting papers, when figures are not combined on monthly or weekly balance sheets, respectively.—6 years.

(d) Daily, weekly, or monthly statements of receipts and disbursements.—3 years.

(e) Statements of ledger balances.—3 years.

(f) Reports of guaranteed and uncollected messages.—3 years.

(g) Reports of refunded messages.—6 years.

92. *Wireless station reports.* — (a) Coast and ship station abstracts of commercial messages accepted.—6 years.

(b) Coast and ship station abstracts of commercial messages delivered.—6 years.

(c) Coast and ship station abstracts of free messages accepted.—6 years.

(d) Coast and ship station abstracts of free messages delivered.—6 years.

(e) Coast station accounts current and supporting papers.—6 years.

(f) Ship station cash accounts and supporting papers.—6 years.

93. *Messenger department records.*—Records and reports pertaining to messenger service, including records of location and use of call boxes, except records covered by item 40.—3 years.

94. *Stock and commercial news records.*—(a) Records and reports pertaining to stock and other market reports, sporting news, election returns, and similar items, other than records covered by item 40.—3 years.

(b) Bulletins, containing information relative to election returns and sporting news.—Optional.

95. *Money transfer records.*—Records and reports pertaining to the transfer of money by telegraph, cable, or wireless, except records covered by item 40.—3 years.

96. *Advertising and canvassing records.*—(a) Prospect lists, notices, reports, memoranda, and records pertaining to advertising and canvassing for service.—Optional.

(b) Records and reports pertaining to soliciting of advertisements in directories and other publications of the carrier.—Optional.

(c) Records and reports pertaining to advertisements of the carrier in newspapers, magazines, and other publications, including "copies" of such advertisements.—Optional.

(d) Records and reports pertaining to studies of methods of obtaining new business, recovery of lost business, and similar matters.—Optional.

97. *Service and efficiency records.*—(a) Circuit assignments, log books, and reports of circuits working, interrupted, etc.—1 year.

NOTE.—Radio stations in the aviation service are required to retain their log books for a period of three months only, provided however, that all records, including log books, pertaining to accidents shall be retained permanently.

(b) Trouble, inspection, and testing records and reports.—1 year.

(c) Performance records, such as records and reports of traffic loads, lost and delayed calls, peg counts, test calls, and service observation.—1 year.

(d) Central office records of switchboard capacity, such as panel and jack records, and lists and records of available numbers.—Optional.

(e) Chief operators' records of switchboard markings.—Optional.

(f) Reports of stations ready for service.—Optional.

(g) Records and reports of complaints of service not involving claims for damages or refunds of charges. (See item 67b.)—1 year.

(h) Records and reports pertaining to studies in connection with operations, such as battery loads, trunking requirements, spare facilities, peg counts, and similar records which do not affect the accounts of the company.—Optional.

98. *Records of telegraph, cable, and wireless messages handled.*—(a) Monthly or periodical reports of number of messages handled.—6 years.

(b) Reports of unit cost of handling messages.—3 years.

(c) Message delay reports.—1 year.

99. *Inspection records.*—Reports and records of condition of pay station signs and booths, central office quarters, buildings, elevators, meters, machinery, etc., except as provided for in items 18 and 97.—Optional.

100. *Detective and police service.*—Reports and records in connection with policing the company's property, detective service, stolen property, investigations of robberies, and attempts to defraud the company.—Optional.

101. *Miscellaneous records of telephone exchanges and branch offices.*—All records at telephone exchanges and branch offices not elsewhere provided for herein.—6 years.

102. *Miscellaneous records of local telegraph and cable offices.*—All records at local telegraph and cable offices not elsewhere provided for herein.—6 years.

103. *Miscellaneous records of wireless stations.*—All records of wireless stations (ship and coast) not elsewhere provided for herein.—6 years.

Statistics

NOTE.—The supporting papers referred to in items 110, 111, 112 and 113 are the separate detailed reports and statements, not elsewhere provided for herein, which are essential to a verification and analysis of the reports, etc., referred to in those items.

110. *Reports to Federal Communications Commission and other governmental authorities.*—(a) Annual financial, operating, and statistical reports, file copies of, and supporting papers.—Permanently.

(b) Monthly reports of operating revenues and expenses, file copies of, and supporting papers.—1 year after current year.

(c) Monthly or periodical reports regarding accidents, file copies of, and supporting papers.—3 years.

(d) Monthly or periodical reports regarding employees and salaries, file copies of, and supporting papers.—3 years.

(e) Reports regarding expenditures of proceeds from sale of authorized securities, file copies of, and supporting papers.—Permanently.

(f) Other reports, file copies of, and supporting papers.—6 years.

(g) Reports of property units added and retired, completion of property changes and statements of charges and credits to the investment account, file copies of, and supporting papers.—Permanently.

111. *Reports to stockholders.*—(a) Annual reports or statements to stockholders, file copies of, and supporting papers.—Permanently.

(b) Written requests for copies of, and acknowledgments of receipt of, reports to stockholders.—Optional.

112. Monthly, annual, or other periodical financial reports or statements, comparative or otherwise, and supporting papers.—6 years.

113. Working papers (i. e., preliminary drafts, memoranda, etc.) prepared in connection with the compilation of reports and statements covered by items 110, 111, and 112, but which are not necessary to directly support such reports and statements.—Optional.

114. Miscellaneous statistical reports, statements, and summaries (not otherwise provided for herein) used by officials and department heads for administrative purposes only and not entering the accounts of the company.—Optional.

115. *Tabulating cards.*—Tabulating cards used in the compilation of statistics and other data when the results are transcribed to other records covered by this chapter.—1 year.

Miscellaneous

120. *Telephone directories.*—(a) File copies of telephone directories of the company's issue, in the general file of the company.—3 years.

(b) Surplus and other copies of telephone directories, if copies of the same issues are preserved in the general file referred to in item (a) above.—Optional.

(c) Summaries, data, and miscellaneous records incident to the preparation and issuance of directories.—Optional.

121. Instructions to employees and others.—(a) Books and circulars of instruction to employees and others, in the general file of the department in which the complete official file is maintained, except as provided for in item 124.—6 years after expiration or cancellation.

(b) Circulars and notices of instructions to employees on matters of discipline, deportment, and similar subjects.—Optional.

122. *Records of auxiliary and other operations.*—Records summarizing the results of operations other than telephone, telegraph, cable, and wireless operations.—6 years.

NOTE.—Ledgers, journals, abstracts, reports, vouchers, etc., shall be retained for the same periods as are provided for similar documents elsewhere in this chapter.

123. *Benefit, hospital, and insurance departments.*—Records of employees' benefit, hospital, and insurance departments, other than records supporting the receipt and disbursement of funds and records provided for in item 68.—1 year.

NOTE.—The records supporting the receipt and disbursement of funds shall be retained for the same periods as are provided for similar records elsewhere in this chapter.

124. *Data on destruction of records.*—(a) Written authorities, cancelation of authorities, certificates of destruction; reports of destruction, records of appointment of executive officers and committees having supervision of the destruction of records, bulletins, circulars, instructions and lists or schedules of forms and records pertaining to the destruction of the carrier's records, in the general file of the department in which the complete official file is maintained.—Permanently.

(b) Records and memoranda relating to the preparation and issuance of bulletins, circulars, etc., covered by item (a) above; also minor records and memoranda pertaining to the compliance with the requirements of such bulletins and circulars.—Optional.

125. *Records of employees.*—(a) Employees service records and rosters, showing positions filled, attendance, length of service, and other relative data.—1 year.

(b) Applications for employment, schedules of working hours, efficiency records, photographs and other identification records, and all other miscellaneous records pertaining to employees.—Optional.

126. *Other miscellaneous records.*—(a) Records, reports, and statements pertaining to construction or maintenance work performed by the carrier for others.—For the periods prescribed for similar records pertaining to operating expenses.

(b) Records and reports pertaining to motor and other vehicles and their equipment, such as tires, oil, gasoline, and batteries, when such records and reports are not used in determining charges or credits to the accounts of the company.—Optional.

(c) Receipts for records and papers temporarily removed from file, when records and papers have been returned.—Optional.

(d) Receipts and records pertaining to delivery of articles to employees such as badges, keys, and material receipt books.—Optional.

(e) Receipts for registered mail, express packages, etc.—Optional.

(f) Passes to buildings or property of the company, surrendered upon or after use.—Optional.

(g) Records of building space occupied.—Optional.

(h) Lunch tickets redeemed, after summary into accounting classification.—Optional.

(i) Records of lunch tickets on hand and receipts for tickets issued.—Optional.

(j) Unissued lunch tickets.—Optional.

(k) Records of mileage and other transportation used.—Optional.

(l) Adding machine lists and memoranda of compilations by mechanical devices if not used as summaries to support entries to the accounts.—Optional.

(m) Organization diagrams, charts, records, and mailing lists.—Optional.

(n) Records of forms used by the company.—Optional.

(o) Records and reports of fire drills.—Optional.

(p) Records of postage stamps received in payment of subscribers' bills and records of stamps purchased, when

not necessary to support vouchers.—Optional.

(q) Transmittal lists or forms used for indicating papers and records forwarded from one department to another, provided such lists or forms do not contain data affecting the accounts of the company.—Optional.

127. *Duplicate accounts, records, and memoranda.*—Duplicate copies of accounts, records, and memoranda listed in these regulations, if all information on such duplicates is contained on the originals or other copies retained, and if such duplicates are not specifically provided for in Sec. 245.03.—Optional.

128. *Correspondence.*—(a) Correspondence and records thereof relating to subjects listed in items 1 to 127, inclusive.—For the period prescribed for the item to which it relates.

(b) Stenographers' notebook and phonograph and other mechanical device records.—Optional.

(c) Extra copies of letters, etc., used for tracing or following up correspondence, or for other purposes, if original or other copies are retained as provided for in item (a) above.—Optional.

(d) Operators' copies of telegrams, including relay copies, if the original or other copies of such messages are retained, as provided for in (a) above.—Optional.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-2644; Filed, September 6, 1938; 4:57 p. m.]

[Chapter XXII]

RULES GOVERNING THE FILING OF INFORMATION, CONTRACTS, PERIODIC REPORTS, ETC.

PART 343.—SPECIAL REPORTS

Telephone Franks #*

SEC. 343.10 *Records to reflect information as to free and reduced rate services.* Each telephone carrier subject to the Communications Act of 1934 having average anual operating revenues exceeding $100,000 shall keep their records in such a manner as will enable them to file with the Commission a verified report for any month or months subsequent to July, 1938, as may be requested by the Commission, showing the following information:

1. All services rendered free of charge to any person.

2. All services rendered to any person at other than published tariff rates.

3. All services rendered to any person in exchange for, or in payment of, other services rendered by such person except when such exchange of services is between common carriers.

4. Details as to the character of the services referred to in 1, 2, and 3, above, together with the name and address of each recipient.

5. Whether restrictions, if any, are placed on the recipients respecting the use by them of free or reduced-rate interstate telephone communication service made available to them indicating the nature of such restriction and to whom applicable.

6. The reason for the omission of any required information, including facts as to when, by whom, and under what authority any records containing data necessary to furnish complete information for the period called for may have been destroyed.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-2645; Filed, September 6, 1938; 4:56 p. m.]

[Chapter X]

RULES GOVERNING EMERGENCY RADIO SERVICES

PART 111.—GENERAL RULES

On September 6, 1938 the Commission added the following paragraph to Sec. 111.10:[1]

A blanket application may be submitted by a single applicant for a license or modification of license, covering both the fixed transmitter and mobile or portable mobile transmitters used in a single coordinated communication system.* #

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-2647; Filed, September 7, 1938; 12:51 p. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of September, A. D. 1938.

[File No. 43-149]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF OKLAHOMA

ORDER CONSENTING TO WITHDRAWAL OF DECLARATION

The above named party having filed with this Commission on August 3, 1938, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, a declaration in regard to a proposed issue by declarant of 5,000 shares of Common Stock, par value $100 per share, as a stock dividend to the holders of declarant's outstanding common stock of the same class; and

The declarant having thereafter filed on August 29, 1938, a motion to withdraw said declaration:

The Commission, having due regard to the public interest and the interest of investors and consumers, hereby consents to the withdrawal of said declaration and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2646; Filed, September 7, 1938; 12:40 p. m.]

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* Sec. 343.10 issued under the authority contained in Sec. 219, 48 Stat. 1077; 47 U. S. C. 219.

\# Sec. 343.10 promulgated by the Federal Communications Commission on September 6, 1938.

[1] 3 F. R. 1735 DI.

*This paragraph enacted under the authority contained in Sec. 4 (1) 48 Stat. 1066; 47 U. S. C. 154 (1).

\# This paragraph approved by the Federal Communications Commission on September 6, 1938.

Reference

SEP 12 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 176

Washington, Friday, September 9, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38-Tobacco 11 Supplement 4]

SUPPLEMENT TO INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

ISSUED PURSUANT TO THE AGRICULTURAL ADJUSTMENT ACT OF 1938, AS AMENDED

JULY 25, 1938.

Form 38-Tobacco 11, "Instructions for Determination of Flue-Cured Tobacco Farm Marketing Quotas for 1938",[1] is amended as follows:

Section IV, paragraph A "Old Farms" is amended by striking out the paragraph numbered (2) and inserting in lieu lieu thereof the following:

"There will be allocated to each such farm a minimum quota equal to the three-year average (1935-37) for the form of marketings and diversion, but not more than 3,200 pounds, and not less than a number of pounds obtained by multiplying a yield 200 pounds below the farm yield by the smaller of (a) the 1938 acreage of tobacco to be harvested on the farm, or (b) 2.5 acres. The sum of such 'minimum quotas' for all farms in each State will be deducted from the State quota."

Section IV is amended by striking out paragraph B "New Farms" and inserting in lieu thereof the following:

"B. *NEW FARMS.*—

"(1) The normal marketings for all new farms will be adjusted by a uniform percentage (determined by the Agricultural Adjustment Administration) so as to equal 3 percent of the national marketing quota of 705,000,000 pounds.

"(2) There will be allocated to each new farm a 'minimum quota' of that number of pounds obtained by multiplying a yield 200 pounds below the farm yield by the smaller of (a) the acreage of tobacco to be harvested on the farm in 1938, or (b) 1.3 acres. The sum of such 'minimum quotas' for all farms will be deducted from the amount equal to 3 percent of the national marketing quota of 705,000,000 pounds.

"(3) There will be subtracted from the normal marketings for each new farm as adjusted under item (1) above, the 'minimum quota' for the farm. The resulting figure will be the 'excess' for the farm.

"(4) The 'excess' for all new farms will be reduced by a uniform percentage so as to equal that portion of 3 percent of the national marketing quota of 705,000,000 pounds remaining after subtraction therefrom of the total (computed under item (3) above) 'minimum quotas' for all new farms.

"(5) The marketing quota for each new farm will be the 'minimum quota' for the farm plus the 'excess' (if any) for the farm as adjusted under item (4) above."

Done at Washington, D. C., this 25th day of July 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-2648; Filed, September 7, 1938; 3:16 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3436]

IN THE MATTER OF SPRINGFIELD MILLING CORPORATION

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Shipping, etc., in connection with sale of flour, lottery cards to enable recipients thereby to dispose, etc., of such flour, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Springfield Milling Corporation, Docket 3436, August 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling or otherwise disposing of flour by use of lottery cards, or chance sales plan or method, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Springfield Milling Corporation, Docket 3436, August 27, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[1] 3 F. R. 1438 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Flue-cured tobacco farm marketing quotas for 1938, supplement to instructions for determination 2203
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Springfield Milling Corp., cease and desist order 2203
TITLE 31—MONEY AND FINANCE: TREASURY:
Public Debt Service:
Treasury offerings:
Bonds, 2½% of 1950-52 2204
Notes, 1⅛% of series A-1943 2205

NOTICES

Department of the Interior:
National Bituminous Coal Commission:
Hearings:
Fairmont Coals, incorporated 2206
Western Pennsylvania Coal Corp 2206

FEDERAL REGISTER

Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

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ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent admitting all of the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Springfield Milling Corporation, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of flour in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Shipping to or placing in the hands of dealers lottery cards for the purpose of enabling such dealers by the use thereof to dispose of or sell flour;

(2) Mailing, shipping or transporting to dealers lottery cards so prepared or printed as to enable said dealers by use thereof to sell or distribute flour;

(3) Selling or otherwise disposing of flour by the use of lottery cards;

(4) Selling or otherwise disposing of flour by any sales plan or method depending on lot or chance.

It is further ordered, That within sixty (60) days from the date of the service of this order upon said respondent it shall file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2622; Filed, September 8, 1938; 10:29 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

PUBLIC DEBT SERVICE

[1938—Department Circular No. 593]

2½ PERCENT TREASURY BONDS OF 1950–52 REDEEMABLE AT THE OPTION OF THE UNITED STATES AT PAR AND ACCRUED INTEREST ON AND AFTER SEPTEMBER 15, 1950

SEPTEMBER 8, 1938.

I. Offering of Bonds

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for 2½ percent bonds of the United States, designated Treasury Bonds of 1950–52. The amount of the offering is $400,000,000, or thereabouts, with the right reserved to the Secretary of the Treasury to increase the offering by an amount sufficient to accept all subscriptions for which Treasury Notes of Series E–1938, maturing December 15, 1938, are tendered in payment and accepted.

II. Description of Bonds

1. The bonds will be dated September 15, 1938, and will bear interest from that date at the rate of 2½ percent per annum, payable semiannually on March 15 and September 15 in each year until the principal amount becomes payable. They will mature September 15, 1952, but may be redeemed at the option of the United States on and after September 15, 1950, in whole or in part, at par and accrued interest, on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The bonds shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, or gift taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of bonds authorized by the Second Liberty Bond Act, approved September 24, 1917, as amended, the principal of which does not exceed in the aggregate $5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in clause (b) above.

3. The bonds will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege and will not be entitled to any privilege of conversion.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $50, $100, $500, $1,000, $5,000, $10,000 and $100,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. Subscription and Allotment

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Cash subscriptions from banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Cash subscriptions from all others must be accompanied by payment of 10 percent of the amount of bonds applied for. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, subscriptions in payment of which Treasury Notes of Series E–1938 are tendered will be allotted in full. Allotment notices will be sent out promptly upon allotment, and the basis of the allotment will be publicly announced.

IV. Payment

1. Payment at par and accrued interest, if any, for bonds allotted on cash subscriptions must be made or completed on or before September 15, 1938, or on later allotment. In every case where payment is not so completed, the payment with application up to 10 percent of the amount of bonds applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit for bonds allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve bank of its district. Treasury Notes of Series E–1938, maturing December 15, 1938, with coupon dated December 15, 1938, attached, will be accepted at par in payment for any bonds subscribed for and allotted, and should accompany the subscription. Accrued interest from June 15, 1938, to September 15, 1938, on the maturing notes ($3.142076 per $1,000) will be paid following acceptance of the notes.

V. General Provisions

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, Jr., *Secretary of the Treasury.*

[F. R. Doc. 38-2651; Filed, September 8, 1938; 11:54 a. m.]

[1938—Department Circular No. 594]

1⅛ PERCENT TREASURY NOTES OF SERIES A–1943

ADDITIONAL ISSUE

SEPTEMBER 8, 1938.

I. Offering of Notes

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for 1⅛ percent notes of the United States, designated Treasury Notes of Series A–1943. The amount of the offering is $300,000,000, or thereabouts, with the right reserved to the Secretary of the Treasury to increase the offering by an amount sufficient to accept all subscriptions for which Treasury Notes of Series E–1938, maturing December 15, 1938, are tendered in payment and accepted.

II. Description of Notes

1. The notes now offered will be an addition to and will form a part of the series of 1⅛ percent Treasury Notes of Series A–1943 issued pursuant to Department Circular No. 585,[1] dated June 6, 1938, will be freely interchangeable therewith, are identical in all respects therewith, and are described in the following quotation from Department Circular No. 585:[1]

"1. The notes will be dated June 15, 1938, and will bear interest from that date at the rate of 1⅛ percent per annum, payable semiannually on December 15, 1938, and thereafter on June 15 and December 15 in each year until the principal amount becomes payable. They will mature June 15, 1943, and will not be subject to call for redemption prior to maturity.

"2. The notes shall be exempt, both as to principal and interest, from all taxation (except estate or inheritance taxes, or gift taxes) now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority.

"3. The notes will be accepted at par during such time and under such rules and regulations as shall be prescribed or approved by the Secretary of the Treasury in payment of income and profits taxes payable at the maturity of the notes.

"4. The notes will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege.

"5. Bearer notes with interest coupons attached will be issued in denominations of $100, $500, $1,000, $5,000, $10,000 and $100,000. The notes will not be issued in registered form."

III. Subscription and Allotment

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Cash subscriptions from banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Cash subscriptions from all others must be accompanied by payment of 10 percent of the amount of notes applied for. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, subscriptions in payment of which Treasury Notes of Series E–1938 are tendered will be allotted in full. Allotment notices will be sent out promptly upon allotment, and the basis of the allotment will be publicly announced.

IV. Payment

1. Payment at par and accrued interest from June 15, 1938, for notes allotted on cash subscriptions must be made or completed on or before September 15, 1938, or on later allotment. In every case where payment is not so completed, the payment with application up to 10 percent of the amount of notes applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit for notes allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve bank of its district. Treasury Notes of Series E–1938, maturing December 15, 1938, with coupon dated December 15, 1938, attached, will be accepted at par in payment for any notes subscribed for and allotted, and should accompany the subscription. Accrued interest from June 15, 1938, to September 15, 1938, on the maturing notes will be credited to subscribers, and interest for the same period on the new notes, which will be delivered with coupon dated December 15, 1938, attached, will be charged to subscribers. The difference ($0.314208 per $1,000) will be paid following acceptance of the notes.

V. General Provisions

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, Jr., *Secretary of the Treasury.*

[F. R. Doc. 38-2652; Filed, September 8, 1938; 11:54 a. m.]

[1] 3 F. R. 1334 DI.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 497–FD]

IN THE MATTER OF THE APPLICATION OF FAIRMONT COALS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE AND ORDER FOR HEARING

The applicant above-named, having on the 9th day of August, 1938, filed its application for provisional approval as a marketing agency, *Notice is Hereby Given* that the above entitled matter is assigned for hearing before an Examiner of the Commission, on the 21st day of September, 1938, at ten o'clock a. m., at the hearing room of the Commission, 15th and Eye Streets, Northwest, Washington, D. C., at which time and place interested parties will be afforded an opportunity to be heard.

The Secretary of the Commission is forthwith directed to mail a copy of this Notice of Hearing to the applicant above named, to the Secretary of each District Board, and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER.

A copy of the aforesaid application is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

By order of the Commission.

Dated this 7th day of September, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2649; Filed, September 8, 1938; 11:49 a. m.]

[Docket No. 498–FD]

IN THE MATTER OF THE APPLICATION OF WESTERN PENNSYLVANIA COAL CORPORATION, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE AND ORDER FOR HEARING

The applicant above-named, having on the 11th day of August, 1938, filed its application for provisional approval as a marketing agency, *Notice Is Hereby Given* that the above-entitled matter is assigned for hearing before an Examiner of the Commission, on the 19th day of September, 1938, at ten o'clock a. m., at the hearing room of the Commission, 15th and Eye Streets, Northwest, Washington, D. C., at which time and place interested parties will be afforded an opportunity to be heard.

The Secretary of the Commission is forthwith directed to mail a copy of this Notice of Hearing to the applicant above-named, to the Secretary of each District Board, and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER.

A copy of the aforesaid application is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

By order of the Commission.

Dated this 7th day of September, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2650; Filed, September 8, 1938; 11:49 a. m.]

Reference SEP 29 1938

THE NATIONAL ARCHIVES

FEDERAL REGISTER

VOLUME 3 NUMBER 177

Washington, Saturday, September 10, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[G. S. Q. R. Series 5, No. 4]

GENERAL SUGAR QUOTA REGULATIONS, SERIES 5, NO. 1, REVISION 1, SUPPLEMENT 1

REVISION OF PRORATIONS OF THE QUOTA FOR FOREIGN COUNTRIES OTHER THAN CUBA

SEPT. 8, 1938.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937 (hereinafter referred to as the "act"), I, Harry L. Brown, Acting Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give public notice of these regulations (constituting a supplement to General Sugar Quota Regulations, Series 5, No. 1, Revision 1,[1] issued June 9, 1938, as amended by General Sugar Quota Regulations, Series 5, No. 3,[2] issued June 9, 1938), which shall have the force and effect of law and shall remain in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

There is hereby prorated, pursuant to section 204 (b) of the said act, an amount of sugar equal to the prorations of the quota for foreign countries other than Cuba in effect on July 1, 1938, unfilled on the first day of September 1938, among other foreign countries other than Cuba, as follows:

Country	*Additional Prorations in terms of Pounds, raw value*
Belgium	2,061,750
Czechoslovakia	1,844,537
Dutch East Indies	1,480,834
Haiti	6,456,292
Peru	77,858,902
United Kingdom	2,456,571
Total	92,158,886

[1] 3 F. R. 1389 DI.
[2] 3 F. R. 1391 DI.

II

For the calendar year 1938, all persons are hereby forbidden, pursuant to sections 204 (b) and 209 of the said act, from bringing or importing sugar or liquid sugar into the continental United States from any foreign country, other than Cuba and those listed in paragraph I above.

In testimony whereof, I, Harry L. Brown, Acting Secretary of Agriculture, have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 8th day of September 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2653; Filed, September 8, 1938; 1:18 p. m.]

[Bulletin NSCP–201, Supplement No. 1]

1938 NAVAL STORES CONSERVATION PROGRAM

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, Bulletin NSCP–201, setting forth the terms and conditions of the 1938 Naval Stores Conservation Program, approved by the Secretary of Agriculture on October 16, 1937,[1] is hereby amended by adding the following new paragraphs at the end thereof:

ASSIGNMENTS

In order to carry out the provisions of section 8 (g) of the Soil Conservation and Domestic Allotment Act as modified by the last proviso to the item entitled "Conservation and Use of Agricultural Land Resources, Department of Agriculture" contained in the Department of Agriculture Appropriation Act, 1939:

Any producer who may be entitled to any payment in connection with the 1938 Naval Stores Conservation Program may assign his interest in such payment as

[1] 2 F. R. 2231 (2593 DI).

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Sugar regulations, revision of quota for foreign countries other than Cuba 2207
Naval stores conservation program, 1938 2207
Bureau of Agricultural Economics:
Owensboro, Kentucky, designation of tobacco markets 2208
Perishable Agricultural Commodities Act, 1930, amendment 2208
TITLE 11—AVIATION:
Civil Aeronautics Authority:
Free travel for postal employees, regulation 405–M–1 2209

NOTICES

Federal Power Commission:
New Jersey Power & Light Co. and Jersey Central Power & Light Co., hearing postponed 2209
Interstate Commerce Commission:
Orders concerning:
Freight rate increases, ex parte No. 115 2209
Public Stockyard companies, ex parte No. 127 2209
Securities and Exchange Commission:
Hearings:
Dow Chemical Co 2212
Kentucky Utilities Co., Lexington Utilities Co 2211
Public Service Co. of Oklahoma 2210
Simplicity Pattern Co., Inc 2211

FEDERAL REGISTER

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security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless the assignment is made in writing on Form ACP-69, witnessed by a district supervisor or an inspector of the Forest Service, and filed in the Regional Office of the Forest Service, Atlanta, Georgia, or in the office of the appropriate district supervisor of the Forest Service, located in Jacksonville, Florida, Savannah, Georgia, or Pensacola, Florida.

The foregoing provision shall not be construed to give an assignee a right to any payment other than that to which the producer is entitled nor shall the Secretary of Agriculture or any disbursing agent be subject to any suit or liability if the payment is made to the farmer without regard to the existence of any assignment.

Done at Washington, D. C., this 9th day of Sept., 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2658; Filed, September 9, 1938; 12:12 p. m.]

BUREAU OF AGRICULTURAL ECONOMICS

[Chapter I: Part 29—The Tobacco Inspection Act]

ORDER OF DESIGNATION OF TOBACCO MARKETS (OWENSBORO, KENTUCKY)

Whereas, The Act of Congress approved August 23, 1935 (49 Stat., 731: 7 U. S. C., Sup. I, Chap. 21A) entitled "The Tobacco Inspection Act" contains the following provisions:

[In the original document here follows the text of sections 2 and 5 of the Act cited above.]

and

Whereas, pursuant to said Act a referendum has been held among the growers of Green River and One-sucker tobacco who sold tobacco at auction on the Owensboro, Kentucky market during the last marketing season, in which referendum said growers were given an opportunity to vote for or against the designation as provided in Section 5 of said Act; and

Whereas, more than two-thirds of the growers voting in said referendum and who sold tobacco at auction on said market during the last marketing season voted in favor of said designation,

SEC. 29.301 (j) *Designation of Tobacco Market.*

Now, therefore, by virtue of the authority conferred upon me by Section 5 of The Tobacco Inspection Act and the affirmative results of the referendum conducted thereunder, the Green River and One-sucker tobacco market at Owensboro, Kentucky is designated as a market where tobacco bought and sold thereon at auction, or the products manufactured therefrom, moves in commerce.

It is hereby ordered, That, effective 30 days from this date no tobacco shall be offered for sale at auction on the above-named market until it shall have been inspected and certified by an authorized representative of the United States Department of Agriculture according to standards established under the Act; *provided, however,* that the requirement of inspection and certification may be suspended at such times as it is found impracticable to provide inspection or when the quantity of tobacco available for inspection is insufficient to justify the cost of such service. No fee or charge shall be imposed or collected for the inspection and certification of tobacco sold or offered for sale at auction on the market designated herein. (49 Stat., 731: U. S. C., Sup. I, Chap. 21A.)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 9th day of Sept., 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2659; Filed, September 9, 1938; 12:13 p. m.]

[Chapter I: Part 31—Perishable Agricultural Commodities Act, 1930]

AMENDMENT TO REVISED RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR CARRYING OUT THE PROVISIONS OF THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930 (46 STAT. 531), AS AMENDED APRIL 13, 1934 (48 STAT. 584), JUNE 19, 1936 (49 STAT. 1533), AUGUST 20, 1937 (50 STAT. 725), AND JUNE 23, 1938 (PUBLIC 704—75TH CONG.)

By virtue of the authority vested in the Secretary of Agriculture by "An Act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce", approved June 10, 1930 (46 Stat. 531), as amended April 13, 1934 (48 Stat. 584), June 19, 1936 (49 Stat. 1533), August 20, 1937 (50 Stat. 725), and June 23, 1938 (Pub. 704—75th Cong.), I, Harry L. Brown, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of the amendments as herein set forth to the general revised rules and regulations[1] of the Secretary of Agriculture which were issued and effective under said act on the 1st day of March, 1938, which amendments shall become effective immediately:

Amend Regulation 3, Section 3 [31.07][2] to read as follows:

Each application shall be accompanied by the license fee of ten dollars ($10) in the form of a money order, bank draft, cashier's check, or certified check, made payable to the Treasurer of the United States, and the application and fee shall be forwarded to the Chief of Bureau of Agricultural Economics, U. S. Department of Agriculture, Washington, D. C. Thereafter the annual fee of ten dollars ($10) required by the act shall be remitted in the same manner. (Sec. 15, 46 Stat. 537; 7 U. S. C. 499 (o).)

Amend Regulation 3, Section 8 [31.12] to read as follows:

Each License shall bear a serial number, the signature of the Secretary, the seal of the United States Department of Agriculture, and be countersigned by the Chief of the Bureau. The licensee may place upon his stationery, trucks or business sign, an inscription that he is licensed under the act, but such inscription must not be of such form or arrangement as to be deceptive or misleading to the public, nor shall any such inscription be shown unless the person using the same has a license valid at the time. The following inscriptions, for use with or without the license number, meet the foregoing requirements and are indorsed for use by the Department: "Licensed by the U. S. Department of Agriculture under the Perishable Agricultural Commodities Act" or "Licensed under the PACA." (Sec. 15, 46 Stat. 537; 7 U. S. C. 499 (o).)

Amend Regulation 5, Section 2, Paragraph 9 [31.19 (i)] to read as follows:

Any information developed as a result of an investigation, either in person or by correspondence, under the authority of the Chief of Bureau shall be considered by the Secretary as part of the evidence: Provided, that a copy of the investigator's report and of evidence secured shall have been submitted to both parties. Any rebuttal evidence submitted by either party shall be (1) by verified statement of facts, if within the

[1] 3 F. R. 585 DI.
[2] Bracketed numbers refer to sections of Title 7, Code of Federal Regulations.

knowledge of the party to the proceeding who submits the statement, or (2) by deposition, if within the knowledge of some one else, all of which shall also be considered by the Secretary. (Sec. 15, 46 Stat. 537; 7 U. S. C. 499 (o).)

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington this 9th day of September, 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2660; Filed, September 9, 1938; 12:12 p. m.]

TITLE 11—AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation 405-M-1]

FREE TRAVEL FOR POSTAL EMPLOYEES

At a session of the Civil Aeronautics Authority at its office in Washington, D. C., on the 2nd day of September 1938.

Acting pursuant to the authority conferred upon it by sections 408 (m) and 205 (a) of the Civil Aeronautics Act of 1938 and finding that such action is pursuant to and consistent with the provisions of said Act and necessary to carry out its provisions and to exercise and perform its powers and duties thereunder, the Civil Aeronautics Authority prescribes and adopts the following regulation:

(a) Every air carrier carrying the mail shall carry, on any plane that it operates, without charge therefor such duly accredited agents and officers of the Post Office Department and such post office inspectors as are prescribed by this regulation, *Provided,* That this regulation shall be applicable only when such agents, officers, and inspectors are traveling on official business relating to the transportation of mail by aircraft.

(b) The provisions of paragraph (a) of this regulation shall be applicable to the following general officers of the Post Office Department:

1. The Postmaster General;
2. The Executive Assistant to the Postmaster General;
3. The Assistant Postmaster General who at the time has jurisdiction over all of the air mail service, and his Deputy Assistant Postmaster General;
4. The Director of the International Postal Service;
5. The Superintendent, Air Mail Service, and his six Assistant Superintendents respectively located at Washington, D. C., New York, N. Y., Chicago, Ill., San Francisco, Calif., Atlanta, Ga., and Fort Worth, Tex.

Each such officer as aforesaid shall be duly accredited by a certificate executed by the Postmaster General certifying that such person is one of the above-described officers. Each such certificate shall contain a signature of the officer to whom it is issued, and shall state that the person therein described is entitled to free transportation in accordance with this regulation when traveling on official business relating to the transportation of mail by aircraft. Such a certificate by the Postmaster General shall constitute a sufficient credential for any such officer, and every air carrier subject to this regulation shall provide every such officer with free transportation upon the exhibition of such a credential.

(c) The provisions of paragraph (a) of this regulation shall also apply to any inspector employed by the Post Office Department who shall apply to any such air carrier for free transportation in accordance with the provisions of this paragraph of this regulation. Upon applying for such transportation, every such inspector shall exhibit to the appropriate agents of the air carrier proper credentials evidencing that he is such an inspector. He shall also sign and deliver to the carrier in triplicate a "Request for Free Transportation in form prescribed by the Civil Aeronautics Authority" (preferably, but not necessarily, on forms supplied by the Post Office Department) stating:

1. That he is an inspector of the Post Office Department;
2. The points from and to which he is to be furnished free transportation and the amount that would be charged a private passenger therefor; and,
3. That such travel is on official business relating to the transportation of mail by aircraft, and describing briefly but definitely the nature of such business.

The carrier shall retain one copy of each such statement. On or before the tenth day of each month each air carrier shall forward one copy of all statements received by it during the prior calendar month to the Secretary of the Civil Aeronautics Authority, Washington, D. C., and one copy to the Superintendent, Air Mail Service, Post Office Department, Washington, D. C.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2654; Filed, September 9, 1938; 9:10 a. m.]

Notices

FEDERAL POWER COMMISSION.

[Docket No. IT-5518]

IN THE MATTER OF NEW JERSEY POWER & LIGHT COMPANY AND JERSEY CENTRAL POWER & LIGHT COMPANY

ORDER POSTPONING HEARING

SEPTEMBER 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

By order of the Commission, adopted July 29, 1938, a public hearing in the above cause was set[1] for September 13, 1938;

The Commission on its own motion *orders* that:

The public hearing in the above cause now set for September 13, 1938, be and the same is hereby postponed to September 27, 1938, at the same time and place.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 38-2655; Filed, September 9, 1938; 9: 28 a. m.]

INTERSTATE COMMERCE COMMISSION.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of September, A. D. 1938.

[Ex Parte No. 115]

ORDER CONCERNING INCREASES IN FREIGHT RATES AND CHARGES

GENERAL COMMODITY RATE INCREASES, 1937

Upon consideration of the petition of the applicant class I railroad carriers in the above-entitled proceeding, dated August 19, 1938, praying for modification of the findings in the report and order of October 19, 1937, in said proceeding, 223 I. C. C. 657, to permit the continuance in effect of the increased rates on bituminous coal approved in said report without expiration date and of the replies to said petition:

It is ordered, That this proceeding be, and it is hereby, set for hearing with respect to the matters and things involved in said petition at the office of the Interstate Commerce Commission, Washington, D. C., October 17, 1938, ten o'clock a. m., standard time, before Commissioner Aitchison, and for oral argument before the Commission at the same place October 24, 1938, ten o'clock a. m., standard time, or, if the further hearing shall not then be concluded, as soon thereafter as counsel can be heard.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2657; Filed, September 9, 1938; 12:09 p. m.]

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 11th day of July, A. D. 1938.

[Ex Parte 127]

ORDER CONCERNING STATUS OF PUBLIC STOCKYARD COMPANIES

The Commission having under consideration the subject of the status of

[1] 3 F. R. 1932 DI.

public stockyard companies, in respect of the transportation services performed at the stockyards of said companies, in connection with the unloading and loading of carload shipments of livestock transported by railroad in interstate commerce to and from the public yards of said stockyard companies; and the relations between said stockyard companies and common carriers by railroad, and between said stockyard companies and persons or corporations receiving at or shipping from said public stockyards livestock transported by railroad in interstate commerce to and from said stockyards:

It is ordered, That the commission, upon its own motion, enter upon an investigation into and concerning the status of said stockyard companies as common carriers by railroad subject to the Interstate Commerce Act, in respect of the transportation services performed at said stockyards in connection with the unloading and loading of carload shipments of livestock transported by railroad in interstate commerce to and from the public yards of said stockyard companies, said investigation to include a full inquiry into—

1. The relation, direct or indirect, between any of said stockyard companies or their officials and (a) common carriers by railroad, and (b) any person, firm or corporation receiving at or shipping from said stockyards livestock transported by railroad in interstate commerce to and from said stockyards.

2. The management or operation of said stockyard companies by common carriers by railroad, or by officials, employees or subsidiary or affiliated companies of common carriers by railroad, and the management or operation of common carriers by railroad by said stockyard companies, or by officials, employees, or subsidiary or affiliated companies of said stockyard companies.

3. Operating practices in connection with the transportation services performed by said stockyard companies.

4. Whether said stockyard companies are common carriers by railroad subject to the provisions of the Interstate Commerce Act in respect of the transportation services performed by them, or are violating any provisions of the Interstate Commerce Act.

It is further ordered, That this order be served upon the following stockyard companies which operate public stockyards at the points named:

Brighton Stock Yards Company, Boston, Mass.

Buffalo Stockyards (New York Central Railroad Company owner or operator), Buffalo, N. Y.

Cincinnati Union Stock Yard Company, Cincinnati, Ohio.

Cleveland Union Stock Yards Company, Cleveland, Ohio.

Denver Union Stock Yard Company, Denver, Colo.

Detroit Stock Yards (Michigan Central Railroad Company, owner or operator), Detroit, Mich.

Fort Worth Stock Yards Company, Fort Worth, Tex.

Kansas City Stock Yards Company, Kansas City, Mo.

Los Angeles Union Stock Yards Company, Los Angeles, Cal.

Bourbon Stock Yards Company, Louisville, Ky.

St. Louis National Stock Yards, National Stock Yards, Ill.

Union Stock Yards & Market Company, Inc., New York, N. Y.

Portland Union Stock Yards Company, No. Portland, Oreg.

Union Stock Yards Company of Omaha, Ltd., Omaha, Nebr.

West Philadelphia Stock Yards Company, Philadelphia, Pa.

Pittsburgh Joint Stock Yards Company, Pittsburgh, Pa.

Union Stock Yards Company of Seattle, Seattle, Wash.

Sioux City Stock Yards Company, Sioux City, Iowa.

So. San Francisco Union Stockyards Company, So. San Francisco, Cal., and Stockton, Cal.

St. Paul Union Stockyards Company, So. St. Paul, Minn.

All Class I common carriers by railroad in the United States subject to the Interstate Commerce Act, and upon the following companies:

East St. Louis Junction Railroad Company.

The Kansas City Connecting Railroad Company.

South Omaha Terminal Railway Company.

Sioux City Terminal Railway Company.

And it is further ordered, That this proceeding be assigned for hearing at such times and places as the Commission may hereafter direct.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-2656; Filed, September 9, 1938; 12:09 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of September, A. D. 1938.

[File Nos. 43-152 and 46-108]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF OKLAHOMA

NOTICE OF AND ORDER FOR HEARING

A declaration and application pursuant to sections 7 and 10, respectively, of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party; and it appearing that they relate to the same subject matter;

It is ordered, That a hearing on such matters be held on September 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 22, 1938.

The matters concerned herewith are in regard to a proposed issue by declarant of a maximum of 40,519 shares of its Six Per Cent Prior Lien Stock, par value $100 per share, to be exchanged for securities of Southwestern Light and Power Company, a subsidiary. Declarant states that not more than 40,210 shares of the stock to be issued will be offered in exchange, share for share, for a like number of shares of $6 Preferred Stock without par value of Southwestern Light and Power Company, and that not more than 309 shares will be offered in exchange for 618 shares of Class A Common Stock, par value $100 per share, of Southwestern Light and Power Company, on the basis of one share for each two shares of said Class A stock. In lieu of issuing a fractional share to any holder of an odd number of shares of the Class A stock who accepts the exchange offer, declarant proposes to pay $50 a share in cash for such odd share of the Class A stock. The exchange offer will be made to stockholders of record July 25, 1938, other than the declarant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2662; Filed, September 9, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of September 1938.

[File No. 7-253]

IN THE MATTER OF APPLICATION OF DETROIT STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO SIMPLICITY PATTERN COMPANY, INC., COMMON STOCK, $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Detroit Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value, of Simplicity Pattern Company, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 29, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2663; Filed, September 9, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

[Files Nos. 32-100, 46-109, and 34-26]

IN THE MATTER OF KENTUCKY UTILITIES COMPANY, LEXINGTON UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

Joint applications and declarations pursuant to sections 6 (b), 10, 11 (g) and 12 (e), and rule U-12E promulgated thereunder, of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties:

It is ordered, That a hearing on such matters be held on September 27, 1938 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to said declarants or applicants and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 22, 1938.

The matter concerned herewith is in regard to a proposed statutory consolidation, under the laws of Kentucky, of Kentucky Utilities Company and Lexington Utilities Company, both subsidiary companies of The Middle West Corporation, a registered holding company, into a consolidated corporation to be known as Kentucky Utilities Company. In connection with such proposed consolidation said Kentucky Utilities Company and said Lexington Utilities Company have filed the following applications and declarations:

(1) A joint application (File No. 32-100) pursuant to section 6 (b) of said Act for exemption from the provisions of section 6 (a) of said Act of the issue and/or assumption of the securities of the two companies. The securities presently outstanding and to be issued or assumed are as follows:

Titles of issues	Amounts of securities of applicants now outstanding (exclusive of Treasury securities)	Amounts of securities to be outstanding after consolidation. Not to exceed—
Kentucky Utilities Company:		
Preferred Stock ($100 par value, 6%, cumulative)	76,011 shs.	99,946 shs.
Junior Preferred Stock ($50 par value, 7%, cumulative)	108,196 shs.	108,196 shs.
Common Stock (no par value; stated value $35 per share)	102,946 shs.	102,946 shs.
First Mortgage Lien Gold Bonds (now First Mortgage Gold Bonds):		
Series D, 6½%, due 9-1-48	$4,062,100	$4,062,100
Series F, 5½%, due 10-1-55	1,922,500	1,922,500
Series G, 5%, due 2-1-61	3,823,000	3,823,000
First Mortgage Gold Bonds:		
Series H, 5%, due 2-1-61	5,992,500	5,992,500
Series I, 5%, due 2-1-69	9,914,000	9,914,000
Series J, 7%, due 2-1-57	1,055,300	1,055,300
Series K, 6%, due 3-1-57	849,500	849,500
Lexington Utilities Company:		
$6.50 Cumulative Preferred Stock ($6.50 per share per year; $25 par value)	[1] 23,935 shs.	None
Common Stock ($1.00 par value)	102,375 shs.	None
First and Refunding Mortgage 5% Gold Bonds, due 2-1-52	$4,203,500	$4,203,500
Liability in respect of First Mortgage 5% Gold Bonds of Lexington Railway Company, due 6-1-49	379,584.40	$79,584.40

[1] Exclusive of 821 shares owned by applicants.

(2) A joint application (File No. 46-109) by said Kentucky Utilities Company and said Lexington Utilities Company pursuant to section 10 of said Act for approval of the acquisition by the consolidated corporation of the securities, utility assets and interests in other businesses conducted by said applicants as a result of said consolidation;

(3) A joint application (File No. 34-26) pursuant to section 11 (g) of said Act and rule U-12E under said Act for a report by the Securities and Exchange Commission on the proposed consolidation or reorganization and a declaration as to solicitation of consents with respect of such consolidation or reorganization.

According to applicants and declarants the terms of the consolidation or reorganization are as follows:

(a) The outstanding shares of preferred stock, junior preferred stock and common stock, respectively, of Kentucky Utilities Company, shall, upon this agreement of consolidation becoming effective, become shares of preferred stock, junior preferred stock and common stock of the consolidated corporation.

(b) To the holders of each outstanding share of $6.50 preferred stock of Lexington Utilities Company the consolidated corporation shall issue and shall deliver and exchange for and upon surrender for cancellation of said share one share of $6 preferred stock of the consolidated corporation and $8.33⅓ in cash. No rights shall attach to the preferred stock of Lexington Utilities Company, except the right to make such exchange, or to any share of stock of Kentucky Utilities Company except the

rights that attach to said stock as stock of the consolidated corporation, except, in each case, such right as may be conferred upon the holders of such stock by the statutes and laws of the Commonwealth of Kentucky in case of consolidation. Common stock of Lexington Utilities Company, all owned by Kentucky Utilities Company, will be cancelled.

(c) All assets of the applicants and declarants shall become vested in the consolidated corporation and all liabilities of the consolidating companies will be assumed by the consolidated corporation.

It is stated that consent of two-thirds of the holders of the capital stock of each of the consolidating companies is required; that if any stockholder in either consolidating corporation objects in writing and, within twenty days after the agreement of consolidation has been recorded, makes demand in writing, the consolidated corporation shall, within three months thereafter, pay to him the market value of stock at the date of consolidation. It is further stated that the articles of incorporation of Lexington Utilities Company, as amended, provide that in such case the market value of its shares of preferred stock shall conclusively be deemed to be $107.50 per share plus any accrued and unpaid dividends. It is further stated that the resolutions of the boards of directors of the respective applicants approving and directing the submission of the agreement of the consolidation to the stockholders provide that the notice and form of consent shall contain a provision that the consolidation may not be effective if the amount of stock held by objecting stockholders is such as to make such consolidation inadvisable in in the opinion of such boards.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2664; Filed, September 9, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 6th day of September 1938.

[File No. 7-252]

IN THE MATTER OF APPLICATION OF DETROIT STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO DOW CHEMICAL COMPANY COMMON CAPITAL STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Detroit Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Capital Stock, No Par Value, of Dow Chemical Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 29, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2661; Filed, September 9, 1938; 12:49 p. m.]

Reference

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 178

Washington, Tuesday, September 13, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

AMENDED ORDER OF THE SECRETARY OF AGRICULTURE REGULATING SUCH HANDLING OF GRAPEFRUIT AND ORANGES GROWN IN CAMERON, HIDALGO AND WILLACY COUNTIES IN THE STATE OF TEXAS AS IS IN INTERSTATE OR FOREIGN COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (hereinafter called the "act"), the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary"), on July 9, 1937, issued an order[1] regulating the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of grapefruit and oranges grown in Cameron, Hidalgo and Willacy Counties in the State of Texas, the said order being effective July 13, 1937; and

Whereas, at the request of the Growers Industry Committee established under the said order, the Secretary, having reason to believe that an amendment should be made to the said order, gave notice of a public hearing[2] to be held at Weslaco, Texas, on June 27, 1938, in accordance with the applicable provisions of the act and the general regulations of the Agricultural Adjustment Administration, Department of Agriculture, on a proposed amendment to the said order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard; and

Whereas, the Secretary finds:

1. That the said order, as hereby amended (the order and this amended order are hereinafter referred to as the "order"), regulates the handling of the said fruit in the same manner as, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in, a marketing agreement, upon which a hearing was held on February 13, 1937, as amended by the Secretary on September 10, 1938, after public hearing on the said amendment at Weslaco, Texas, on June 27, 1938;

2. That handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the said commodity or product thereof) of not less than fifty percent (50%) of the volume of the said commodity, covered by this order, which is produced within the production area defined herein, have signed an amended marketing agreement, entered into pursuant to section 8b of the act, which amended marketing agreement regulates the handling of the said commodity in the same manner as this order;

3. That the issuance of this order is approved or favored by producers who, during the period from August 1, 1937 to July 31, 1938 (which the Secretary has determined to be a representative period), have produced for market, within the production area specified in the aforesaid amended marketing agreement, and in this order, at least two-thirds (⅔) of the volume of such commodity produced for market within such production area; and

Whereas, the Secretary finds upon the evidence introduced at the aforesaid hearing on the amendment to the order issued July 9, 1937, the said findings being in addition to the findings made upon the evidence introduced at the hearing on such order, said original findings being herewith ratified and affirmed by the Secretary, save only as such findings are in conflict with the findings hereinafter set forth;

1. That the two-year period for the computation of allotment bases on the basis of the past performance of handlers, as provided in article IV, section 4,

[1] 2 F. R. 1188 1426 DI).
[2] 3 F. R. 1456 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Oranges and grapefruit grown in Cameron, Hidalgo and Willacy Counties, Tex.: Amended order regulating handling of, in interstate and foreign commerce, etc ---------- 2213
Amended proclamation with respect to base period to be used for purpose of marketing agreement and order regulating handling of ---------- 2222

TITLE 11—AVIATION:
Civil Aeronautics Authority:
Air carriers and foreign air carriers, postponements of effective date of parts of section 403 ---------- 2222

TITLE 20—FISH AND GAME:
Bureau of Fisheries:
Alaska fishery regulations amended ---------- 2222

TITLE 25—INDIANS:
Office of Indian Affairs:
Grand Portage Reservation, Minnesota, restoring lands to Chippewa Indians of Minnesota instead of Grand Portage Band of Chippewa Indians of Grand Portage Reservation ---------- 2223
Wapato Indian Irrigation Project, Wash., assessments on land in non-Indian ownership ---------- 2223

TITLE 46—SHIPPING:
United States Maritime Commission:
Regulations for the Government of the United States Maritime Service ---------- 2224

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Department of the Interior:
National Bituminous Coal Commission: Page
Establishment of minimum prices and marketing rules and regulations in areas 6, 7, 9 and 10 2227
Federal Trade Commission:
Hearings:
Crane Chocolate Co 2226
Goldblatt Bros., Inc 2227
Metzler McKean Corp (Lady Frances Laboratories, and Lady Frances) 2228
Parker-McCrory Manufacturing Co., Inc 2228
Thomas, Chester L. (Thomas Quilt Factories) 2227
Rural Electrification Administration:
Allocation of funds for loans 2228
Securities and Exchange Commission:
Hearings:
Divco-Twin Truck Co 2230
International Radio Corp 2230
Parks, John Thomas (John T. Parks, Investment Broker) 2229
United Telephone and Electric Co., supplemental order (File No. 52-6) 2230
Virginia City Gold Mining Co., hearing 2230

of this order, is a representative period and is equitable as to all handlers;

2. That the period November 1925–March 1929, and the period October 1926–March 1929, for grapefruit and oranges, respectively, has been determined by the Secretary to be the base periods to be used in connection with this order in determining the purchasing power of grapefruit and oranges;

3. That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to such commodity by establishing and maintaining such orderly marketing conditions therefor as will reestablish prices to producers thereof at a level that will give such grapefruit and oranges a purchasing power with respect to articles that such producers buy, equivalent to the purchasing power of such grapefruit and oranges in the base period, and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to such producers above the level which it is declared in the act to be the policy of Congress to establish;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that the handling of grapefruit and oranges grown in Cameron, Hidalgo and Willacy Counties, Texas, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such grapefruit and oranges, from and after the date herein specified, shall be in conformity to, and in compliance with, the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. As used in this order, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States of America.

2. "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved on June 3, 1937.

3. "Person" means individual, partnership, corporation, association, and any other business unit.

4. "Citrus fruit" or "fruit" means grapefruit and oranges of any or all of the varieties enumerated in subsection 5 of this section grown in Cameron, Hidalgo, and Willacy Counties in the State of Texas.

5. "Variety" or "varieties" as used herein means classification or groups, in the case of oranges as follows: (a) early season oranges, and (b) Valencias, including all varieties of Valencias and Leu Gim Gongs; and in the case of grapefruit as follows: (a) Marsh and other seedless varieties except pinks, (b) Duncan and other seeded varieties except pinks, (c) pinks of the seeded type, and (d) pinks of the seedless type.

6. "Type of fruit" means each or any of the following: (a) early season oranges; (b) Valencia oranges, including all varieties of Valencia and Leu Gim Gongs; and (c) grapefruit of all varieties.

7. "Handler" or "shipper" means any person who ships fruit, or causes fruit to be shipped, in the current of interstate or foreign commerce, or so as directly to burden, obstruct or affect interstate or foreign commerce.

8. "Producer" means any person engaged in the production of citrus fruit in Cameron, Hildago and Willacy Counties in Texas for commercial purposes, or who is a substantial stockholder in a corporation engaged in the production of citrus fruit in Cameron, Hidalgo and Willacy Counties in Texas for commercial purposes.

9. "Foreign Commerce" means transactions involving the sale or transportation for sale of fruit from Texas to Canada, and does not include sale or transportation of fruit for sale to any foreign country or territory other than Canada.

10. "Ship" means to convey fresh fruit, or cause fresh fruit to be conveyed, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, by rail, truck, boat, or any other means whatsoever (except by express or parcel post), whether as owner, agent, or otherwise, but not as a common carrier of fruit owned by another person.

11. "Shipment" shall be deemed to commence (a) on the date when the bill of lading, relating to fruit transported in the current of interstate or foreign commerce by rail or boat, is issued by the common carrier or its duly authorized agent transporting such fruit, and (b) in the case of transportation of fruit by motor truck, when such fruit is loaded into a motor truck for transportation in the current of interstate or foreign commerce.

12. "Standard packed box" means a unit of measure equivalent to one and three-fifths (1⅗) U. S. bushels of fruit.

13. "District" means any of the following areas:

Mission District: South boundary, Rio Grande River; West boundary, Hidalgo County line; North boundary, Hidalgo County line; East boundary, Missouri Pacific railroad from Monte Christo to Mission extended south to the Rio Grande River and extended north to Hidalgo County line.

Sharyland District: West boundary, East boundary of Mission district; North boundary, Hidalgo County line; South boundary, Rio Grande River; East boundary, Weir Road extended north to Hidalgo County line and extended south to Rio Grande River.

McAllen District: West boundary, East boundary of Sharyland district; South boundary, Rio Grande River; East boundary, State Highway No. 12 extended south to Rio Grande River and extended north to Edinburg, thence west along West Edinburg Highway to Mile 15½ West, thence north along Mile 15½ West to Hidalgo County line; North boundary, Hidalgo County line.

Pharr-San Juan-Alamo District: West boundary, State Highway No. 12 from Edinburg south extended south to the Rio Grande River; North boundary, East Edinburg Highway from Edinburg to Tower Road or Mile 7½ West; East boundary, Mile 7½ West to Tower Road extended south to Rio Grande River.

Edinburg District: North boundary, Hidalgo County line; West boundary, Mile 15½ West extended north to Hidalgo County line; South boundary, West Edinburg Highway from Mile 15½ West to Edinburg, thence along East Edinburg Highway to Edcouch; East boundary, Missouri Pacific track from Edcouch to Hidalgo County line, thence north to northern boundary of Hidalgo County.

Donna-Weslaco District: West boundary, Tower Road or Mile 7½ West; North boundary, Mile 16½ North; East boundary, Missouri Pacific railroad from Edcouch to Weslaco, thence south along Mile 4½ West extended south to Rio Grande River.

Mercedes District: West boundary, East boundaries of Edinburg and Donna-Weslaco Districts; North boundary, Hidalgo County line; East boundary, Cameron County line; South boundary, Rio Grande River.

La Feria District: West boundary, Hidalgo County line; South boundary, Rio Grande River; North boundary, Cameron County line; East boundary, Adams Road extended north to State Highway No. 96, thence to Cameron County line, and extended south to Rio Grande River.

Harlingen District: West boundary, East boundary of La Feria district; North boundary, Cameron County line; East boundary, Arroyo Colorado from Willacy County line to point of intersection with main line of Missouri Pacific Railroad, thence south along line of Missouri Pacific Railroad to San Benito, thence along branch of Missouri Pacific Railroad to Los Indios, thence south to Rio Grande River.

Raymondville District: All of Willacy County shall constitute the Raymondville district.

San Benito District: West boundary, Eastern boundary of Harlingen District; Eastern boundary, Gulf of Mexico; Southern boundary, State Highway No. 100 Port Isabel to Barreda, thence south along State Highway No. 4 to Resaca Pancho, thence along Resaca Pancho to Rio Grande River.

Brownsville District: North and West boundary, Southern boundary of San Benito District; East boundary, Gulf of Mexico; South boundary, Rio Grande River.

ARTICLE II—ADMINISTRATIVE BODIES

Section 1. *Membership and Organization.*—1. A Growers Industry Committee and a Shippers Marketing Committee are hereby established which shall administer the terms and provisions of this order as hereinafter specifically provided, and the membership of which shall be selected in accordance with the provisions of this article.

2. The Growers Industry Committee shall consist of twelve (12) members whose principal business is the production of citrus fruit. The initial members and alternates shall hold office for a term beginning on the date designated by the Secretary and ending the first Monday in August 1938, and until their successors are selected and qualified. After the first Monday of August 1938, the term of office of members and alternates shall be one year expiring on the first day of August of each year. The members, their alternates, and their respective successors, shall be selected by the Secretary from the respective nominees of the groups of producers hereinafter designated to make nominations. If nominations are not made for any one or more of such members or alternates as herein provided, the Secretary may select any such member or alternate for whose office a nomination has not been made without regard to nominations.

3. Nominations of at least four (4) persons for a member and his alternate shall be made by each of the following groups:

(1) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Mission District;

(2) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Sharyland District;

(3) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the McAllen District;

(4) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Pharr-San Juan-Alamo District;

(5) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Edinburg District;

(6) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Donna-Weslaco District;

(7) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Mercedes District;

(8) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the La-Feria District;

(9) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Harlingen District;

(10) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Raymondville District;

(11) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the San Benito District; and

(12) Producers of citrus fruit who during the year in which nominations are being made produced fruit in the Brownsville District.

All nominations shall be submitted to the Secretary on or before the 20th day of July of the year in which members of the Growers Industry Committee are to be selected.

4. Nominees for members of the Growers Industry Committee and their alternates shall be selected by the above-designated groups in the following manner: The Secretary, or such person as the Secretary may designate, shall cause to be held, not less than twenty (20) days prior to the expiration of the term of office of the members of the Growers Industry Committee and their alternates, a meeting of the producers in each district who produced citrus fruit during the year in such district. Each such meeting shall select its chairman and secretary. In the selection of nominees each producer shall be entitled to cast but one (1) vote regardless of the number of districts in which he may be producing fruit. The chairman of the meeting shall publicly announce at such meeting the total number of votes cast and the names of the persons selected as nominees, and the chairman and the secretary shall forthwith transmit to the Secretary, or to such person as the Secretary may designate, their certificate as to the number of votes so cast, and the names of the nominees selected.

5. The Shippers Marketing Committee shall consist of seven (7) members who shall be handlers of citrus fruit and who shall hold office for a term of one year, expiring on the first day of August of each year. The Secretary, or such person as the Secretary may designate, shall give notice to persons who have handled fruit during the year in which nominations are being made, not less than twenty (20) days prior to the expiration of the term of office of the members of the Shippers Marketing Committee and their alternates, of the right of such person to participate in making nominations for members of the Shippers Marketing Committee and their alternates. Such notice may be given by mail to persons known to the Secretary to have handled fruit during the year in which nominations are being made or by public notice in at least one newspaper of general circulation and shall specify the dates of meetings of handlers to make nominations. Nominations for members of the Shippers Marketing Committee and their alternates shall be made as hereinafter provided.

(1) Nominations of at least nine (9) persons for three (3) members and their alternates shall be made by handlers comprising growers' marketing groups who, during the year in which nominations are being made, shipped fruit from points within the State of Texas; and

(2) Nominations of at least twelve (12) persons for four (4) members and their alternates shall be made by handlers other than handlers comprising growers' marketing groups who, during the year in which nominations are being made, shipped fruit from points within the State of Texas.

The selection of the nominees for the members and their alternates of the Shippers Marketing Committee shall be made at a meeting of each of the aforesaid groups of handlers at which each handler shall be entitled to cast but one (1) vote on behalf of himself, agents, partners, affiliates, subsidiaries and representatives which shall be weighted according to the volume of fruit shipped by such handlers during the preceding shipping season. The chairman and secretary of each meeting shall forthwith transmit to the Secretary, or to such person as the Secretary may designate, their certificate as to the number of votes so cast and the names of the nominees selected.

6. Any person selected by the Secretary as a member or alternate of the Growers Industry Committee or the Shippers Marketing Committee shall qualify by filing a written acceptance of this appointment with the Secretary or his designated representative.

7. An alternate for a member of the Growers Industry Committee or the Shippers Marketing Committee shall act in the place and stead of such member (1) in his absence or (2) in the event of his removal, resignation, disqualification, or death until a successor for his unexpired term has been selected.

8. In the event of the death, removal, resignation or disqualification of any member or his alternate of either committee, a successor for the unexpired term of such member or alternate shall be selected by the Secretary. Such selection may be made without resorting to the provision as to nominations of candidates for the office of member or alternate.

SEC. 2. *Powers.*—The Growers Industry Committee shall, in addition to the power to administer the terms and provisions of this order, as herein specifically provided, have power (a) to make, only to the extent specifically permitted by the provisions hereinafter contained, administrative rules and regulations; (b) to receive, investigate and report to the Secretary complaints of violations of this order; and (c) to recommend to the Secretary amendments to this order.

SEC. 3. *Duties.*—1. It shall be the duty of the Growers Industry Committee and the Shippers Marketing Committee to keep minutes, books and records which will clearly reflect all of their acts and transactions, and such minutes, books and records shall at all times be subject to the examination of the Secretary.

2. It shall be the duty of the Growers Industry Committee:

(a) to act as intermediary between the Secretary and the producers and handlers;

(b) to furnish the Secretary such available information as he may request;

(c) to appoint such employees as it may deem necessary and to determine the salaries and define the duties of any such employees;

(d) to cause the books of the Growers Industry Committee to be audited by one or more certified public accountants at least once for each crop year and at such other times as the Growers Industry Committee deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports made;

(e) to make such estimates of the total crop of fruit including the grade and size distribution thereof as may be deemed necessary by said committee in connection with the administration of articles IV and V hereof, or as may be prescribed by the Secretary; and

(f) to perform such duties in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, approved by the President on August 24, 1935, as amended, as may from time to time be assigned to it by the Secretary.

SEC. 4. *Procedure.*—1. For any decision of the Growers Industry Committee to be valid seven (7) concurring votes shall be necessary, and for any decision of the Shippers Marketing Committee to be valid five (5) concurring votes shall be necessary. Each member, or alternate then serving in the place and stead of any member of either committee, must vote in person.

2. Eight (8) members of the Growers Industry Committee or five (5) members of the Shippers Marketing Committee shall be necessary to constitute a quorum.

3. In the event the Shippers Marketing Committee fails to make a decision by five (5) concurring votes in the performance of any of its powers or duties under this order, the Growers Industry Committee shall perform such duties or exercise such power.

4. The members, and alternates when acting in the place and stead of a member as provided by this order, of the committees functioning under the provisions of this order shall be reimbursed for expenses necessarily incurred by them in the performance of their duties, and each of the members of the Growers Industry Committee and of the Shippers Marketing Committee, and their alternates, when acting in their place and stead, shall receive compensation at a rate to be determined by the Growers Industry Committee but not to exceed five dollars ($5.00) for each meeting actually attended by a member or the alternate when acting in the place and stead of the member.

5. The Growers Industry Committee shall give to the Secretary, his designated agents and representatives, the same notice of meetings of the committees as is given to the members of the committees.

6. The members of each committee shall select a chairman from their membership, and all communications from the Secretary to the committees may be addressed to the chairman at such addresses as may, from time to time, be filed with the Secretary. The committees shall select such other officers and adopt such rules for the conduct of their business as may be deemed advisable by them.

7. The members of the committees (including successors and alternates), and any agent or employee appointed or employed by the committees, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of both committees shall be subject to the continuing right of the Secretary to disapprove of the same at any time and upon his disapproval shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith.

SEC. 5. *Funds.*—All funds received by the Growers Industry Committee pursuant to any provision of this order shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the Growers Industry Committee and its members to account for all receipts and disbursements.

(2) Upon the removal or expiration of the term of office of any member of the Growers Industry Committee, such member shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds and claims vested in such member pursuant to this order.

ARTICLE III—EXPENSES AND ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Growers Industry Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of both committees under this order during a designated fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as hereinafter provided.

2. Each handler shall pay to the Growers Industry Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses as the Secretary finds will be necessarily incurred by the Growers Industry Committee and the Shippers Marketing Committee for the maintenance and functioning of said committees during each fiscal period. Each handler's share of such expenses shall be that proportion thereof which the total quantity of oranges and grapefruit shipped by such handler in the current of interstate or foreign commerce during said fiscal period is of the total quantity of oranges and grapefruit shipped by all handlers in the current of interstate or foreign commerce during said fiscal period. The Secretary shall fix the rate of assessment per standard packed box of oranges and grapefruit. Each handler shall pay to the Growers Industry Committee a sum of money equivalent to the product of the rate per standard packed box fixed by the Secretary and the total quantity of standard packed boxes of oranges and grapefruit shipped by the handler: *Provided*, That if the shipment of any of the fruit mentioned, i. e., oranges or grapefruit, is not regulated during the designated fiscal period, the Growers Industry Committee shall refund to the handlers who shipped the fruit not regulated a sum of money paid by such handlers on account of such fruit: *Provided, further*, That in the event the shipment of none of the fruit is regulated, a sufficient sum of money shall be retained to pay the expenses incurred in administering this order.

3. The Growers Industry Committee may require that each handler pay his assessment in advance of actual shipments on the basis of the quantity of fruit shipped by him during the last shipping season. The assessment levied pursuant to this section by the Growers Industry Committee shall be due and payable at such time or times, and in such installments, if any, as may be set by the Growers Industry Committee. In the event assessments are levied in advance of actual shipment, such assessments shall be adjusted at the end of the fiscal period so that the assessment shall be based on the actual quantity of fruit shipped by the handler during the fiscal period.

4. If at the end of the fiscal period it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period, unless he demands payment of the sum due him, in which case such sum shall be paid to him.

5. At any time during or after the fiscal period, the Secretary shall have the power to increase the rate of assessment so that the sum of money collected pursuant to the provisions of this article shall be adequate to cover the expenses. Such increase shall be applied retroactively as well as to future shipments.

6. The Growers Industry Committee may, with the approval of the Secretary, maintain in its own name or in the name of its members a suit against any handler subject hereto for the collection of such handler's pro rata share of expenses.

ARTICLE IV—REGULATION OF SHIPMENTS

SECTION 1. *Determination of regulation periods and weekly shipments.*—1. It shall be the duty of the Shippers Marketing Committee and the Growers Industry Committee to investigate supply and demand conditions of fruit. Whenever such conditions make it advisable to regulate the shipment of fruit, the Shippers Marketing Committee shall recommend the establishment of a weekly regulation period or series of weekly regulation periods as well as the commencement, duration and termination thereof. The Shippers Marketing Committee shall promptly report its findings, determinations, and recommendations so made, with supporting information in regard thereto, to the Growers Industry Committee, which committee shall submit the same to the Secretary, together with its own recommendations and supporting information. Such recommendations to the Secretary shall be accompanied by a report on the marketing policy for the season or remaining portion thereof deemed advisable by the Shippers Marketing Committee and the Growers Industry Committee, in view of the demand and supply conditions of fruit. Such reports shall be submitted to the Secretary, from time to time, in the event it is deemed advisable to adopt new marketing policies pursuant to the provisions of this article in view of changed demand and supply conditions of fruit. The Growers Industry Committee shall give notice of the intention of the Shippers Marketing Committee or of the Growers Industry Committee to meet to consider such recommendations by publishing a legal notice in one or more daily newspapers of general circulation in the producing area selected by the Growers Industry Committee.

2. If, from such recommendations and accompanying reports or other information available to the Secretary, the Secretary finds that to establish a particular weekly regulation period or series of weekly regulation periods for any one or more types of fruit would tend to effectuate the declared policy of the act, he shall establish such weekly regulation period or series of weekly regulation periods, and he shall notify the Growers Industry Committee of the establishment thereof, as well as of the time of commencement, duration and termination thereof.

3. For each weekly regulation period the Shippers Marketing Committee shall find and determine the quantity of such type or types of fruit deemed by it advisable to be shipped and to be prorated in view of the prospective demand therefor. In making such determination, the committee shall give due consideration to the following factors: (1) market prices, (2) fruit on hand in the market areas, as evidenced by supplies in storage, enroute to or on track, at the principal markets, (3) available supply, maturity and condition of fruit in the production area, (4) supplies from competitive areas producing citrus fruit and other competitive fruit, and (5) trend in consumer income. The Shippers Marketing Committee shall promptly report the findings and determinations so made with supporting information to the Growers Industry Committee, which committee shall in turn submit the same to the Secretary together with its own recommendations, and supporting information respecting the factors hereinabove enumerated, and shall promptly advise all handlers of such findings and determinations. Notice of each meeting of the Shippers Marketing Committee and the Growers Industry Committee held for the purpose of determining the weekly quantity to be shipped shall be published not less than twenty-four (24) hours prior to the time set for such meeting in a newspaper or newspapers of general circulation selected by the Growers Industry Committee.

4. If, from such recommendations and reports or other information available to the Secretary, the Secretary shall find that to fix a total quantity of any one or more types of fruit to be shipped during any week by all handlers would tend to effectuate the declared policy of the act, he shall fix such a quantity for each such type of fruit, and he shall so notify the Growers Industry Committee of the establishment thereof, and in turn said committee shall promptly advise each applicant handler of such total quantity for each fruit so fixed by the Secretary.

SEC. 2. *Application for allotment base and allotments.*—1. Every handler intending to ship fruit in the current of interstate and foreign commerce shall submit to the Growers Industry Committee in the manner and at such time or times as shall be designated by said committee, upon forms to be supplied by said committee, written application for an allotment base and allotments for each type of fruit, substantiated in the manner prescribed in such application forms.

2. The written application of each handler for an allotment base and allotments with respect to each such fruit for which such application is made shall contain the following information regarding each type of fruit, the marketing of which he controls for the entire current shipping season by (a) a bona fide written contract which gives him unconditioned authority to market the fruit for that season, or (b) having legal title and possession thereof, or (c) having purchased or agreed to purchase said fruit as evidenced by a bona fide bill of sale or written agreement: (1) name and address of the owner and duly-authorized agent, if any, of each grove, (2) location and legal description of each such grove, including number of acres, number of trees, and their age distribution, and (3) an estimate of the amount of each type of fruit controlled as aforesaid on each such grove in terms of pounds or standard packed boxes. Each such application shall also include information

specifying the quantities of each type of fruit shipped from Texas in interstate and foreign commerce by the applicant during each of the two years immediately preceding September 1st of the then current shipping season.

3. When fruit is controlled in accordance with (a) or (c) of subsection 2 of this section, each such application shall have attached thereto an exact copy of the type of contract, bill of sale and agreement entered into by the handler and the owners of the fruit or such owners' duly-authorized agent. It shall be the duty of the Growers Industry Committee to cause such instruments to be examined. Each such handler shall maintain a file of the originals of all such instruments entered into as aforesaid, subject to examination by the Growers Industry Committee or its duly-authorized representative. Only those instruments determined to conform to the type or types of control set forth in (a) and (c) of subsection 2 of this section shall be deemed to be a part of the handler's application for an allotment base and allotments.

SEC. 3. *Allotment base either on past performance or current control basis.*—Allotment bases shall be computed either on a past performance basis, as provided by section 4 of this article, or on the basis of current control of fruit, as provided by section 5 of this article. Unless the applicant advises the Growers Industry Committee at the time of filing his application that he desires that his allotment base be computed on the basis of his current control of each type of fruit, the Growers Industry Committee shall compute his allotment base on the basis of past performance; except, however, if the applicant has no past performance, the Growers Industry Committee shall compute such applicant's allotment base on the basis of such applicant's current control of fruit.

SEC. 4. *Computation of allotment base on past performance.*—1. For the purpose of arriving at an allotment base computed on a past performance basis, the Growers Industry Committee shall compute, from the application filed by the applicant, or other information available to said committee, the two-year average quantity of each type of fruit shipped by the applicant during the two years preceding September 1st of the then current shipping season. The two-year average quantity so computed, as the same may be revised pursuant to the provisions of section 6 of this article, shall be the allotment base for such applicant.

2. If an applicant for an allotment base, computed on a past performance basis, shipped fruit during only one of the two years immediately preceding September 1st of the then current shipping season, the Growers Industry Committee shall, from the application filed by the applicant, or other information available to said committee, compute the quantity which the applicant did ship. The quantity so computed, as the same may be revised pursuant to the provisions of section 6 of this article, shall be the allotment base for such applicant.

SEC. 5. *Computation of allotment base on current control.*—For the purpose of arriving at an applicant's allotment base computed on a current control basis, the Growers Industry Committee shall, from the application and subsequent reports filed by the applicant at the request of the Growers Industry Committee, or other information available to said committee, compute the quantity of each type of fruit which is controlled by the applicant for the remainder of the then current shipping season and which the applicant intends to ship to fresh fruit markets. To ascertain the intention of an applicant to ship to fresh fruit markets, the Growers Industry Committee shall give due regard to the past performance of the applicant and to other information available to said committee. The quantity so computed, as the same may be revised pursuant to the provisions of section 6 of this article, shall be the allotment base of such applicant.

SEC. 6. *Revisions of allotment bases.*—1. The Growers Industry Committee shall check the accuracy of the information set forth in the applications for allotment bases and of all other information filed by applicants for the purpose of obtaining allotments and allotment bases, and shall check the computations made pursuant to the provisions of this article. The Growers Industry Committee shall adjust allotment bases in such a manner as to eliminate the effect of any errors, omissions, inaccuracies and misstatements upon the total amount of shipments allotted each applicant for the entire shipping season with respect to each type of fruit. Subject to the opportunity for applicants to be heard, under such rules as the Growers Industry Committee shall establish, the said committee shall correct any omissions or inaccuracies found therein, by revising the same to conform to the check.

2. Promptly after allotment bases shall have been computed as provided in subsection 1 of this section and again when fixed by the Secretary, as provided in section 9 of this article, each applicant shall be notified in writing by the Growers Industry Committee of the allotment base fixed for him for each type of fruit.

3. Any applicant may, at any time, apply, in writing, to the Growers Industry Committee for the revision of any allotment base computed for him, and may present evidence that such allotment base is inaccurate or inequitable. In such case, the said committee shall, under such rules as it shall establish, afford such applicant a reasonable opportunity to be heard, and if the evidence reveals that such allotment base is inaccurate or inequitable, it shall revise such base. The said committee, upon its own initiative, subject to the opportunity of the person affected to be heard, may revise any allotment base if the evidence reveals such allotment base is inaccurate or inequitable. The revision, however, by the Growers Industry Committee of any allotment base which has been fixed by the Secretary in accordance with section 9 of this article, shall be subject to the prior approval of the Secretary.

SEC. 7. *Reports by the growers industry committee to Secretary.*—The Growers Industry Committee shall make written reports to the Secretary of its findings and determinations with regard to the allotment bases established pursuant to this article, or any changes or revisions thereof.

SEC. 8. *Computation of group allotments.*—The Growers Industry Committee shall compute for each week the portion of the total quantity of each type of fruit found and determined pursuant to the provisions of subsection 3 of section 1 of this article, which shall be allotted for such week to all applicants desiring allotments based on their past performance and to all applicants desiring allotments based on their current control in the following manner:

1. That portion of such total quantity of each type of fruit to be allotted during each week to all applicants desiring allotments based on their current control shall be that portion which, in terms of percent, shall be equal to the percentage that the aggregate of the allotment bases with respect to each type of fruit of all such applicants is of the total quantity of such type of fruit then remaining available to be shipped, which said total quantity shall be determined by the Growers Industry Committee in the same manner as it determines the estimates of the quantity of such type of fruit controlled for shipment in interstate and foreign commerce by applicants desiring an allotment base and allotments on the basis of current control.

2. That portion of such total quantity of each type of fruit to be allotted each week to all applicants desiring an allotment on a current control basis shall be deducted from the total quantity of such type fruit for the same week found and determined pursuant to the provisions of subsection 3 of section 1 of this article, and the remaining quantity shall be the aggregate quantity of such type of fruit allotted for such week to all applicants receiving allotments based on their past performance.

3. The Growers Industry Committee shall promptly report to the Secretary the computations made by it with regard to the portions of the total quantity of each type of fruit determined pursuant to the provisions of this section.

SEC. 9. *Fixing of allotment bases and allotments by Secretary.*—1. From the reports received by the Secretary, made by the Growers Industry Committee as required by sections 7 and 8 of this article, or other information available to the Secretary, he shall, for each type of fruit, fix (a) the allotment base for each applicant desiring allotments on the basis of past performance and the portion of the total quantity fixed by him pursuant to subsection 4, section 1 of this article to be allotted to all such applicants, and (b) the current control allotment base for each applicant desiring allotments on such a basis and the portion of the said total quantity to be allotted to all such applicants.

2. Thereupon the Secretary shall for such regulation period fix for each type of fruit the allotment for each applicant who has applied for allotments, pursuant to section 2 of this article and for whom an allotment base has been fixed, by signing a direction that (a) such allotment for each applicant desiring allotments on a past performance basis shall be that portion of the total quantity allotted to all such applicants, which, expressed in terms of percent, shall be equal to the percentage that each such applicant's allotment base is of the aggregate of the allotment bases of all such applicants, (b) such allotment for each applicant desiring allotments on a current control basis shall be that portion of the total quantity allotted to all such applicants, which, expressed in terms of percent, shall be equal to the percentage that each such applicant's allotment base is of the aggregate of the allotment bases of all such applicants.

3. Whenever the Secretary has fixed a weekly allotment for each applicant handler, as above provided, the Growers Industry Committee shall calculate the amount thereof, in accordance with the provisions of subsection 2 of this section, in terms of standard packed boxes. A certificate shall then be issued by the Growers Industry Committee to each such applicant which shall show the allotment base and the current allotment fixed for the applicant by the Secretary and shall set forth (1) that such allotment is subject to adjustment with respect to (a) over and undershipment as permitted by section 10 of this article, (b) duly recorded allotment loan agreements pursuant to section 11 of this article, and (c) interchange of allotments as permitted by section 17 of this article; and (2) that such allotment so adjusted represents the net quantity which may be shipped by such handler during the weekly regulation period. Such certificate shall be mailed or otherwise sent to handlers for whom allotment bases and allotments have been fixed, and the delivery of such certificate to such handler or the depositing thereof in the United States mail shall constitute notice of the fixing of the allotment base and allotments by the Secretary.

4. The Growers Industry Committee shall, from time to time, during the shipping season find and determine if any or all handlers for whom allotment bases have been fixed by the Secretary and allotments issued to such handlers in accordance therewith do not require allotments for the purpose of completing their shipping season, or to repay allotments borrowed. The Growers Industry Committee shall report such findings to the Secretary and recommend to him the discontinuance of the allotment bases of such handlers who do not so require such allotments.

SEC. 10. *Over and undershipments.*—1. During any week in which the Secretary fixes allotments as hereinbefore provided, every handler, for the purpose of providing flexibility in the preparation of fruit for market, may ship, during any regulation period when not required to reduce shipments as provided in the following sentence, in addition to his allotment, an amount not to exceed ten (10) percent of his allotment or, if his allotment is less than one hundred standard packed boxes, a quantity equivalent to the difference between one hundred standard packed boxes and such allotment. The quantity of fruit shipped in excess of the allotment, and not exceeding the quantity permitted by the foregoing sentence, shall be offset by a reduction of an equal amount from his allotment for the next week in which regulation is in effect, and if such weekly allotment be less than such permitted excess shipment, then such permitted excess shipment shall be deducted from the succeeding weekly allotments until such excess shipment has been entirely offset. If a handler ships a quantity of fruit less than his allotment during any week, such handler may ship, during the next week only in which such handler is given an allotment, in addition to such allotment and after shipping such allotment, a quantity equal to the undershipment: *Provided*, That such additional quantity shall not exceed twenty (20) percent of the total allotment of such handler for the weekly regulation period during which the undershipment occurred. No handler shall be permitted to loan any part of such additional quantity.

SEC. 11. *Allotment loan transactions.*—1. Handlers for whom an allotment base has been fixed by the Secretary may borrow allotments from one another: *Provided*, That (a) a handler borrowing an allotment agrees in writing with the lender, on forms provided by the Growers Industry Committee, to return to the lender an allotment in the same quantity and covering the same type of fruit and specifies in such agreement the week in which said allotment is to be returned, which week shall not be later than the third week after the week in which the allotment was loaned; (b) handlers party to an allotment loan agreement shall notify the Growers Industry Committee of such loan by supplying said committee with a copy of said written agreement within two days after the allotment loan agreement is executed; and (c) the loan of an allotment is made during the week for which the allotment is issued. The filing of a written loan agreement with the Growers Industry Committee shall serve as an automatic return of the borrowed allotment during the week stated in said agreement for the return of such allotment and the Growers Industry Committee shall accordingly debit and credit the allotment of the lending handler and borrowing handler respectively. The allotment may be returned prior to the date specified: *Provided*, That the parties to the loan agreement notify the Growers Industry Committee of such prior return within two days thereafter, upon forms supplied by said committee. A handler borrowing an allotment may ship the quantity of fruit represented by such an allotment only during the week for which such allotment is issued, and shall not loan any part thereof to another handler. A handler who returns an allotment borrowed from another handler shall deduct the quantity of fruit represented by the allotment returned from the allotment fixed for such handler by the Secretary for the week during which the borrowed allotment is returned. A handler receiving the return of an allotment loaned may ship a quantity of fruit equal to such returned allotment or may loan such allotment only during the week the return of such an allotment is received. No handler who has an allotment to loan shall loan such allotment to another handler when such handler who has the allotment to loan does not need the return of such allotment to complete his shipping season of such type of fruit.

2. During any week in which a handler has (1) an additional quantity from the previous week as permitted by section 10 of this article, (2) receives the return of an allotment loaned pursuant to section 11 of this article, (3) borrows an allotment from another handler pursuant to section 11 of this article, or (4) obtains an allotment pursuant to section 17 of this article, and ships less than the total of his allotment, or such portion thereof that has not been disposed of pursuant to sections 11 and 17 of this article, plus the quantities enumerated in (1), (2), (3) and (4) above, such shipment shall first be applied to his current weekly allotment fixed by the Secretary if the same has not been disposed of, or upon such portion thereof as has not been disposed of (pursuant to sections 10, 11 and 17 of this article), and the remainder of such shipments shall be applied to the quantities enumerated in (1), (2), (3) and (4) above.

3. The Growers Industry Committee shall maintain its books and records so as to accurately reflect all transactions between handlers made pursuant to sections 10, 11 and 17 of this article.

SEC. 12. *Issuance of certificates.*—The Growers Industry Committee may, subject to the approval of the Secretary, provide for the issuance of certificates by applicants holding allotments to persons who have no allotments and who purchase fruit from the applicants.

SEC. 13. *Changing from past performance to current control basis.*—At any time during a current shipping season an applicant whose allotment base is computed on a past performance basis may

make written application to the Growers Industry Committee to have his allotment base for the balance of such shipping season computed on a current control basis. Such application shall be submitted in accordance with the provisions of section 2 of this article. After complying with the provisions of section 3 of this article respecting such application, the Growers Industry Committee shall compute an allotment base on the basis of current control for such applicant. No handler who receives allotments on the basis of current control shall be permitted to change to a past performance basis at any time during a current shipping season.

SEC. 14. *Shipment of fruit for by-product use and export and charitable purposes.*—1. Subject to such rules and regulations as the Growers Industry Committee may establish in order to enable it to determine that such fruit will not enter fresh fruit trade channels in interstate or foreign commerce, any person may ship, free from any restriction or obligation imposed by this order, fruit that will be used solely for purposes of conversion into by-products, or for unemployment relief or for charitable purposes, or for export to foreign countries other than Canada.

2. As used in this order, the term "by-product" means and includes all processed and manufactured products of fruit and all products in the manufacturing or processing of which fruit is used, including canned or bottled fruits and juices; except that fruit shipped for conversion into juices without further processing or treatment to render the same bona fide manufactured or processed product, as above described, shall be deemed fresh fruit subject to all regulations of such fruit herein contained and shall not be deemed fruit shipped for conversion.

SEC. 15. *Equitable treatment of producers.*—Each handled shall, insofar as practical operations permit, divide his total allotments for each variety of fruit equitably among the producers for whom he ships such fruit.

SEC. 16. *Obligation as to shipment by persons.*—During any week for which the Secretary fixes allotments for shipment of any type of fruit, no person shall ship any such fruit without an allotment covering same, nor any quantity in excess of the allotment fixed for him, as such quantity may be increased or decreased pursuant to the provisions of sections 10, 11, and 17 of this article.

SEC. 17. *Interchange of Interstate for Intrastate Allotments.*—An exchange between handlers of allotments or any part thereof, under the provisions hereof, for an equivalent quantity of the same type of fruit under an allotment for the same weekly period fixed pursuant to a corresponding order, license or other regulation of the duly constituted authorities pursuant to the provisions of the Texas Citrus Marketing Act is hereby authorized, subject to such administrative rules and regulations as the Growers Industry Committee may make, with the approval of the Secretary, to govern the procedure to be followed in connection with such exchanges.

ARTICLE V—REGULATION OF GRADES AND SIZES

SECTION 1. *Recommendations of Committees.*—It shall be the duty of the Shippers Marketing Committee and the Growers Industry Committee to investigate supply-and-demand conditions for grades and sizes of fruit. Whenever such conditions make it advisable to regulate the shipment of a particular grade or grades, size or sizes of any variety or varieties of fruit during a specified period or periods, the Shippers Marketing Committee shall so find and determine, and shall promptly report such findings and determinations to the Growers Industry Committee, which committeee shall submit the same to the Secretary together with its own recommendations. The first recommendation submitted to the Secretary pursuant to section 2 of this article, during the shipping season, shall be accompanied by a report setting forth the marketing policy, with respect to the regulations permitted by this article, deemed advisable for the current shipping season by the said committees. Such reports shall be submitted, from time to time, in the event it is deemed advisable to adopt new marketing policies in view of changed demand and supply conditions with respect to fruit.

SEC. 2. *Determination of Committees.*—For each such recommended regulation period, the Shippers Marketing Committee shall find and determine the grades and sizes of each variety of fruit deemed by it advisable to be shipped in view of the prospective demand therefor. In making such determination, the committee shall give due consideration to the following factors: (1) market price, including market prices by grades and sizes of the fruit for which regulation is recommended, (2) fruit on hand in the market areas, as evidenced by supplies on track at the principal markets, (3) available supply, maturity and condition of fruit in the producing area, including the grade and size distribution of fruit remaining in the producing area, (4) supplies from competitive areas producing citrus fruit and other competitive fruit, and (5) trend in consumer income. The Shippers Marketing Committee shall promptly report the finding and determination so made with supporting information to the Growers Industry Committee, which committee shall in turn submit the same to the Secretary together with its own recommendations and supporting information respecting the factors hereinabove enumerated.

SEC. 3. *Limitation of Grade and Size Shipments.*—Whenever the Secretary shall find from the recommendations of the Growers Industry Committee and of the Shippers Marketing Committee, submitted to him by the Growers Industry Committee in accordance with section 2 of this article, or from other available information, that to limit the shipment of a particular grade or grades, size or sizes, or any combination of grades and sizes of any variety or varieties of fruit would tend to effectuate the declared policy of title I of the act, he shall so limit the shipment of such varieties of fruit during a specified period or periods. The Growers Industry Committee shall be informed of any such determination by the Secretary, and shall, in turn, notify all persons desiring to ship fruit in the current of interstate or foreign commerce by publication in a newspaper or newspapers of general circulation selected by the said committee.

SEC. 4. *Notice of meeting.*—The Growers Industry Committee shall give at least twenty-four (24) hours' notice of any meeting to consider the recommendation of regulations limiting the shipment of particular grades and sizes of fruit in the current of interstate and foreign commerce during any specified period or periods by publication in a newspaper or newspapers of general circulation selected by said committee, and no regulation pursuant to this article shall become effective sooner than twenty-four (24) hours after it has been issued by the Secretary.

SEC. 5. *Obligation as to shipment by persons.*—Except as provided in section 14 of article IV and in section 7 of this article, no handler shall, during any regulation period established pursuant to the provisions of this article, ship fruit other than of those grades and sizes or that portion of such grades and sizes which are permitted to be shipped in the current of interstate and foreign commerce by the Secretary pursuant to section 3 of this article.

SEC. 6. *Grading and certification.*—1. Each handler, prior to making each shipment of fruit in interstate or foreign commerce during any regulation period established pursuant to this article, shall have the fruit included in each such shipment graded and certified on the basis of the grades now promulgated by the United States Department of Agriculture or as the same may be modified or changed hereafter, or as the same may be modified or supplemented by regulatory orders by the Secretary pursuant to this article, by a duly-authorized representative of the Federal-State Inspection Service; and each such handler shall submit promptly, or cause to be submitted promptly, to the Growers Industry Committee the Federal-State shipping point inspection certificate, issued by the Federal-State Inspection Service, stating the variety or varieties, grade or grades, and size or sizes of the fruit in each such shipment.

SEC. 7. *Exemptions.*—1. In the event that shipments of any type of fruit are regulated pursuant to this article, the Growers Industry Committee shall adopt and announce the procedural rules by

which exemption certificates will be issued to growers, and shall grant an exemption certificate to any grower who furnishes proof that he will be prevented from having shipped as large a percentage of his crop of such type of fruit as the average of all growers. Such exemption certificate shall permit such grower to have shipped such a quantity of such regulated grades and sizes of the particular type of fruit as will enable such grower to have shipped as large a portion of his crop of such type of fruit as the average for all growers. Shipments made in accordance with this provision shall be in compliance with the provisions of article IV hereof.

2. The Secretary shall have the power to modify, change or alter (a) any such procedural rules, and (b) any exemption granted under subsection 1 of this section.

ARTICLE VI—REPORTS AND RECORDS

SECTION 1. *Handler's weekly report.*—On or before Tuesday of each week throughout the shipping season, each handler shall report to the Growers Industry Committee, on forms supplied by said committee, the following information regarding such handler's operations during the immediately preceding calendar week for each type of fruit, the marketing of which is controlled by him within the meaning of subsection 2, section 2, article IV: (a) quantity shipped interstate and to Canada, exclusive of the quantities designated by items (b), (c) and (d) hereunder, (b) quantity shipped by express and parcel post, (c) quantity shipped for unemployment relief, including donations for charitable purposes, (d) quantity exported to countries other than Canada, (e) quantity sold or transported for intrastate consumption, (f) quantity sold or otherwise disposed of for canning and manufacture of by-products, (g) quantity eliminated, and (h) quantity harvested from individual groves including the name and address of the owners, or such owners' duly-authorized agent, and legal description of each such grove.

SEC. 2. *Shipping manifest report.*—The Growers Industry Committee may request information from each handler regarding the variety, grade and size of each standard packed box of fruit or its equivalent contained in each individual shipment of fruit by a handler and require such information to be delivered to said committee or its duly-authorized representative, in a manner or by such method as the said committee may prescribe, upon such form or forms as may be supplied by said committee for such purpose, within twenty-four (24) hours after such shipment is made.

SEC. 3. *Records.*—The Growers Industry Committee shall maintain such books and records as are necessary to the proper administration of the provisions of this order and to determine the performance of handlers with respect thereto or as may be prescribed by the Secretary.

SEC. 4. Upon request of the Growers Industry Committee, made with the approval of the Secretary, every handler shall furnish such committee in such manner and at such times as it prescribes such other information as will enable it to perform its powers and duties hereunder.

ARTICLE VII—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time and termination.*—The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force, subject to termination as follows:

1. The Secretary may at any time terminate this order by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.

2. The Secretary shall terminate this order at the end of any current crop year whenever he finds that such termination is favored by a majority of the producers of citrus fruit who, during the preceding crop year, have been engaged in the production for market of fruit: *Provided*, That such majority have, during such period, produced for market more than fifty (50) percent of the volume of such fruit produced for market, but such termination shall be effective only if announced on or before May 1 of the then current crop year.

3. This order shall in any event terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 2. *Proceedings after termination.*—1. Upon the termination of the provisions hereof the members of the Growers Industry Committee then functioning shall continue to function for the purpose of liquidating the affairs of the Growers Industry Committee and shall keep the funds and property then in their possession as members of such Growers Industry Committee including claims for any funds unpaid or property undelivered at the time of such termination. Said members (a) shall continue to function until discharged by the Secretary, (b) shall, from time to time, account for all receipts and disbursements or deliver all property on hand, together with all books and records of the Growers Industry Committee to such person or persons (who at the time of termination was or were a member or members of the Growers Industry Committee) as the Secretary may direct, and (c) shall, upon the request of the Secretary, execute such assignment or other instruments as may be necessary or appropriate to vest in such person or persons full title to all of the funds, property and claims vested in the Growers Industry Committee. Any funds collected pursuant to article III of this order, over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred during the operation hereof and during the liquidation period, shall, as soon as practicable after the termination hereof, be returned to the handlers. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

2. Any person to whom funds, property or claims have been transferred or delivered by the members of the Growers Industry Committee upon direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to the said funds, property or claims as were hereinabove imposed upon the members of said committee.

ARTICLE VIII—DURATION OF IMMUNITIES

The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination, except with respect to acts done under and during the existence hereof.

ARTICLE IX—AGENTS

The Secretary may, by designation in writing, name any person or persons, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

ARTICLE X—DEROGATION

Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any power granted by the act or otherwise, and (2) in accordance with such power to act in the premises whenever such action is deemed advisable.

ARTICLE XI—PERSONAL LIABILITY

No member of the Growers Industry Committee, nor any employee or agent thereof, nor any member nor employee of any other committee that may be appointed or created hereunder, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person or persons for errors in judgment, mistakes, or other acts of commission or omission as such member or employee, except for acts of dishonesty.

ARTICLE XII—SEPARABILITY

If any provision hereof is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE XIII—EFFECT OF AMENDMENT

Nothing contained in this amended order shall be deemed to affect, waive, or terminate any right, duty, obligation, or liability which has arisen or which may

hereafter arise in connection with, by virtue of, or pursuant to any provision of the order regulating the handling of citrus fruit issued by the Secretary on July 9, 1937, effective July 13, 1937, or affect or impair any right or remedy of the Secretary in connection therewith except as herein indicated, expressly or by necessary implication.

In witness whereof, Harry L. Brown, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this amended order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 10th day of September 1938, and declares this amended order to be effective on and after 12:01 a. m., c. s. t., September 15, 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2680; Filed, September 12, 1938; 12:31 p. m.]

AMENDED PROCLAMATION OF THE SECRETARY OF AGRICULTURE MADE WITH RESPECT TO THE BASE PERIOD TO BE USED FOR THE PURPOSE OF THE AMENDED MARKETING AGREEMENT AND THE AMENDED ORDER REGULATING THE HANDLING OF ORANGES AND GRAPEFRUIT GROWN IN CAMERON, HIDALGO AND WILLACY COUNTIES, TEXAS

Whereas, on July 9, 1937, the Secretary of Agriculture, by virtue of the authority vested in him by Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, found and proclaimed[1] that, with respect to oranges and grapefruit grown in Cameron, Hidalgo and Willacy Counties, Texas, the purchasing power of oranges and grapefruit during the base period, August 1909–July 1914, could not be satisfactorily determined from the available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such fruit; and

Whereas, it was found and determined that the purchasing power of such fruit could be satisfactorily determined from available statistics of the Department of Agriculture for the period September 1924–May 1929, which statistics relate only to the weighted average season prices received by the producers of such fruit, and such period was determined to be the base period to be used in determining the purchasing power of such fruit for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such fruit; and

Whereas, there are now on file in the Department of Agriculture additional and more detailed statistics with respect to the prices received by producers of such fruit, which data relate to the "on-tree" prices for grapefruit received by producers during the period November 1925–March 1929, and to the "on-tree" prices for oranges received by producers during the period October 1926–March 1929, and thus more satisfactorily reflect prices received by producers of said fruit;

Now, therefore, it is hereby found and proclaimed that the period November 1925–March 1929, and the period October 1926–March 1929, for grapefruit and oranges, respectively, shall be the base periods to be used in determining the purchasing power of oranges and grapefruit grown in Cameron, Hidalgo and Willacy Counties, Texas, for the purpose of the execution of an amended marketing agreement and the issuance of an amended order regulating the handling of such fruit.

In witness whereof, I, Harry L. Brown, Acting Secretary of Agriculture of the United States, have executed this proclamation in duplicate and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 10th day of September 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2679; Filed, September 12, 1938, 12:30 p. m.]

TITLE 11—AVIATION

CIVIL AERONAUTICS AUTHORITY

[Amendment of General Order 403-1]

POSTPONEMENTS OF EFFECTIVE DATE OF PARTS OF SECTION 403

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 9th day of September, 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 1110 thereof (52 Stat. 973, 984, 1030), and finding that such action is desirable in the public interest and necessary to carry out the provisions of and to exercise and perform its powers and duties under such Act, the Civil Aeronautics Authority hereby amends General Order 403-1,[1] such amended order to be effective as of the date when this order shall first be published in the Federal Register, so that thereafter such order shall read as follows:

(a) The provisions of this order shall not effect any postponement of the effective date of the second sentence of subsection (b) of section 403 of the Civil Aeronautics Act of 1938, which reads as follows:

"Nothing in this Act shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Authority may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees and their immediate families; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Authority may by regulations prescribe."

(b) Until such time as the Authority shall prescribe terms and conditions for the issuance or exchange of tickets or passes by air carriers or foreign air carriers for free or reduced-rate transportation to the persons or classes of persons specifically included in the above-quoted provision of subsection (b) of section 403, the said air carriers or foreign air carriers are authorized to exercise such rights in such manner as shall, in their discretion, be considered as proper.

(c) Except as provided in paragraph (a) of this order, the effective date of all the provisions of section 403 of the said Act is hereby postponed as to all air carriers and all foreign air carriers, of every class and description, until 12: 01 A. M. on October 3, 1938.

(d) Except as provided in paragraph (a) of this order, the effective date of the provisions of said section 403 of the Act are hereby further postponed to and including December 20, 1938 as to all classes of air carriers or foreign air carriers except those who have maintained or shall maintain one or more regular schedules of operation on or after August 22, 1938, and except those who are not directly engaged in air transportation.

By the authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2665; Filed, September 9, 1938; 1:44 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-13]

AMENDMENT OF ALASKA FISHERY REGULATIONS

SEPTEMBER 8, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251,[1] twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations, are hereby amended by the following regulations:

SOUTHEASTERN ALASKA AREA

Sumner Strait District

Salmon fishery.—Regulation No. 6 is amended so as to permit commercial fishing for salmon by means of gill nets and beach seines in Wrangell Narrows, exclusive of all waters within one statute mile of the mouth of Petersburg Creek, from 6 o'clock antemeridian September 12 to 6 o'clock postmeridian September 30.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2669; Filed, September 10, 1938; 10:30 a. m.]

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[1] 2 F. R. 1188 (1426 DI).

[1] 3 F. R. 2049 DI.

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

MODIFYING DEPARTMENTAL ORDER[2] BY RESTORING UNDISPOSED-OF OPENED LANDS OF GRAND PORTAGE RESERVATION, MINNESOTA, TO CHIPPEWA INDIANS OF MINNESOTA

APRIL 6, 1938.

The Honorable, The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: On November 29, 1935, the First Assistant Secretary of the Interior, under authority contained in section 3 of the Indian Reorganization Act of June 18, 1934 (48 Stat. L., 984), upon the recommendation of this Office, restored the undisposed-of opened lands of the Grand Portage Indian Reservation, Minnesota, consisting of 9,277.59 acres, to tribal ownership.

In the recommendation of this Office it was asked that restoration be made in favor of the Grand Portage Band of Chippewa Indians of the Grand Portage Reservation. This position was taken because at that time it had not been definitely determined whether restorations of this kind should be made to individual bands of Chippewa Indians of Minnesota or to the Chippewa Indians of Minnesota generally. The Departmental indorsement making the restoration reads as follows:

"The lands described on the attached list are hereby restored to tribal ownership as recommended and the matter referred to the Commissioner of the General Land Office for appropriate notation on the records of that Office; also any lands inadvertently omitted from said list and any that may be released subsequently thereto."

In an opinion rendered February 19, 1938, by the Solicitor for the Interior Department, approved by the Assistant Secretary of the Interior on the same date, relating to the restoration of undisposed-of lands ceded by the Red Lake Band of Chippewa Indians under section 3 of the Indian Reorganization Act, in which it was held that the lands should be restored to the "Chippewa Indians of Minnesota" and not to the Red Lake Band alone, the following appears:

"In reaching this conclusion I have not overlooked the fact that certain lands within the Grand Portage Reservation have already been restored under section 3 of the Reorganization Act to the Grand Portage Indians. This action, taken without complete consideration of the general problem of land restoration in the Chippewa area and without due regard for the interest in those lands possessed by the other Chippewa Indians of Minnesota, should be modified to conform with this opinion.

"In summary of the foregoing conclusions, it is my opinion that the remaining undisposed-of lands ceded by the Red Lake Band under the act of 1889 should be restored under section 3 of the Reorganization Act to the 'Chippewa Indians of Minnesota', and that, if this opinion is approved, the remaining lands ceded by the other bands of Chippewa Indians under the 1889 act should be restored to the same beneficiary, and the previous restoration of lands to the Grand Portage Band should be corrected."

In order to comply with the instructions referred to, it is respectfully recommended that the restoration order of November 29, 1935, mentioned in the opening paragraph of this letter, be modified so as to make the beneficiary the Chippewa Indians of Minnesota instead of the Grand Portage Band of Chippewa Indians of the Grand Portage Reservation.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

GENERAL LAND OFFICE.
April 9, 1938.

There are no reasons appearing in the records of this Office why the foregoing recommendation should not be approved.

D. K. PARROTT,
Acting Assistant Commissioner.

OFFICE OF THE SECRETARY.
June 3, 1938.

For the reason mentioned in the foregoing recommendation, Departmental order of November 29, 1935, restoring the undisposed-of opened lands of the Grand Portage Indian Reservation, Minnesota, to tribunal ownership, is hereby modified to the extent of making the beneficiary the Chippewa Indians of Minnesota instead of the Grand Portage Band of Chippewa Indians of the Grand Portage Reservation.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2666; Filed, September 9, 1938; 2:56 p. m.]

[1] 3 F. R. 451 DI.

[2] November 29, 1935.

[Irrigation 9228-36-G]

LETTER OF INSTRUCTIONS AUTHORIZING ASSESSMENTS ON LAND IN NON-INDIAN OWNERSHIP UNDER THE WAPATO INDIAN IRRIGATION PROJECT, WASHINGTON, FOR REPAYMENT OF THE CONSTRUCTION COSTS OF THAT PROJECT

JULY 25, 1938.

The Honorable The SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: Reference is made to the matter of assessments for repayment to the Government of the construction costs incurred in the construction of the Wapato Indian irrigation project on the Yakima Indian Reservation, Washington.

The Act of Congress of February 14, 1920 (41 Stat., 431) provided for the use of the sum of $250,000 for continuing the construction and enlargement of the Wapato irrigation and drainage system and among other things provided as follows:

• • • That the Secretary of the Interior is hereby authorized and directed to collect on or before December 31 of each calendar year hereafter including 1920, from the white landowners under the said system the sum of $5 per acre for each acre of land to which water for irrigation purposes can be delivered from the said system, which sum shall be credited on a per acre basis in favor of the land in behalf of which it shall have been paid and be deducted from the total per acre charge assessable against said land when the amount of such total charge can be determined, • • •

It will be observed from the above quotation that no determination had been made at that time of the total construction cost that will finally be charged against each acre of land of that project but provision is made that any collections shall be credited against such total charge when the amount thereof can be determined. No such determination has as yet been made, and all rates of assessment heretofore fixed, as well as the rate now fixed, provide for only partial reimbursement of the construction costs.

On December 16, 1920, the Indian Office addressed a letter of instructions to the Supervising Engineer in charge of the Wapato project, which letter received departmental approval on December 20, 1920 (Indian Office file 51656-20-341 Part 1). The purpose of that letter was to direct the Supervising Engineer in the application of the provisions of the act of Congress above cited.

Subsequently the Act of Congress of May 25, 1922 (42 Stat., 595) modified Section 22 of the Act of February 14, 1920, supra, so as to read as follows:

That the Secretary of the Interior is hereby authorized and directed to collect on or before December 31 of each calendar year hereafter, including 1922, from landowners other than Indians under the said system the sum of $2.50 per acre for each acre of land to which water for irrigation purposes can be delivered from the said system, which sum shall be credited on a per acre basis in favor of the land in behalf of which it shall have been paid and be deducted from the total per acre charge assessable against said land when the amount of such total charge can be determined, • • •

Under date of June 12, 1922 (Indian Office file 51656–20–341 Part 1) the Office addressed another letter to the Supervising Engineer which received departmental approval on the same date. That letter contains appropriate instructions for applying the provisions of the legislation quoted above and to that extent modified and superseded the letter of instructions approved on December 20, 1920.

The correspondence on file (Indian Office file 9001–36–0–c) shows that the non-Indian landowners of the Wapato project have availed themselves of the benefits afforded by the various relief acts of Congress as follows: the Act of January 26, 1933 (47 Stat., 776) authorized the deferment of all construction assessments for the season of 1931 and one-half of the assessments for the season of 1932. The Act of March 7, 1933 (47 Stat., 1427) authorized the deferment of the remaining one-half of the assessments for 1932 and all assessments for 1933. The Act of June 13, 1935 (49 Stat., 337) authorized the deferment of all assessments for the years 1934 and 1935. The Act of April 14, 1936 (49 Stat., 1206) authorized the deferment of one-half of the assessments for the season of 1936. The repayment commission authorized by the Act of August 21, 1937 (50 Stat., 737) recommended the deferment of one-half of the construction assessments on the Wapato project for the season of 1937, which recommendation was approved by the Department on April 18, 1938 (Indian Office file 9228–36–G).

The deferred assessments discussed in the preceding paragraph are in each instance to become due as an annual installment one year after the date on which the last preceding installment becomes due under the existing laws and regulations.

The Act of Congress of July 1, 1932 (47 Stat., 564–565), known as the Leavitt Act, releases all Indian lands from further assessments for construction costs so long as such lands remain in Indian ownership.

The recent Act of Congress of February 24, 1938 (Public 433—75th Cong.) further modifies the Acts of February 14, 1920, supra, and May 25, 1922, supra as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the Act approved February 14, 1920 (41 Stat., 431), as amended by the Act approved May 25, 1922 (42 Stat. L. 595 and 596), as fixes the annual rate of payment of irrigation construction costs or assessments on the Wapato Indian irrigation project on the Yakima Reservation in the State of Washington, be, and it is hereby, amended so as to fix the per-acre per-annum assessment rate at $1.25 against those lands classed as A or B which are subject to construction assessments pursuant to existing law. Such rate is to take effect immediately upon approval of this Act and shall continue until the total cost assessable under existing law against such of the A and B lands shall have been repaid.

SEC. 2. The Secretary of the Interior is hereby authorized and directed to modify the annual repayment schedule set forth in the memorandum agreement of March 9, 1921, approved March 31, 1921, as amended, wherein provision is made among other things for payment of the actual cost of the two hundred and fifty thousand acre-feet of water for certain of the lands under the Wapato Indian irrigation project so as to extend *payment of the balance* of the cost of such water over a twenty-four-year period commencing with the payment due December 31, 1937.

Further legislation is contemplated at the next session of Congress (1st session of 76th Cong.) with a view to carrying out the provisions of Section 2 of the act quoted above (Indian Office file 9228–36–R & X).

Pursuant to the recent legislation herein cited it is recommended that all prior instructions issued for the assessment of construction costs against the lands of the Wapato project be modified in so far as they may conflict with the legislation and the instructions contained herein, and it is also recommended that the Project Engineer be instructed to make the necessary preparations for the assessment of all lands in non-Indian ownership, which are properly subject to assessment under the existing laws and regulations, at the rate of $1.25 per acre for the season of 1938 and for each succeeding year until further modified, such assessments to become due and payable on December 31 of each year.

Sincerely yours,

JOHN HERRICK,
Acting Commissioner.

Approved, August 3, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38–2668; Filed, September 10, 1938; 9:59 a. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

REGULATIONS FOR THE GOVERNMENT OF THE UNITED STATES MARITIME SERVICE

By virtue of the authority vested in the United States Maritime Commission by section 216 of the Act entitled, "An Act to further the development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense, to repeal certain former legislation, and for other purposes", (49 Stat. 1985, ch. 858, approved June 29, 1936, as amended by Public No. 705, 75th Cong., 3d sess., approved June 23, 1938), and in order to provide for the government of the United States Maritime Service authorized by said section, the following regulations are hereby prescribed:

ARTICLE I—AUTHORITY

SECTION 1. *The statute.*—The government of the United States Maritime Service shall be in conformity with the statutory authority for its creation, as contained in section 216 of the Merchant Marine Act, 1936, as amended, which reads as follows:

SEC. 216 (a) The Commission is hereby authorized and directed, after consultation with all interests concerned, to prepare and report to the Congress on or before January 20, 1939, a comprehensive system for the training of citizens of the United States to serve as licensed and unlicensed personnel on American merchant vessels, and may employ as instructors, on a contract or fee basis, such qualified licensed and unlicensed personnel of the merchant marine as the Commission may deem necessary to effectuate the purposes of this section.

(b) The Commission is hereby authorized and directed, under such rules and regulations as it may prescribe, to establish the United States Maritime Service to be a voluntary organization and which shall consist of such licensed and unlicensed personnel of the United States merchant marine as may be enrolled under the provisions of this section. The ranks, grades, and ratings for the personnel of the said Service, shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard. The Commission is authorized and directed to determine the number of persons to be enrolled in the said Service, to fix the rates of pay of such persons, and to prescribe such courses and periods of training as, in its discretion, is necessary to maintain a trained and efficient merchant-marine personnel.

(c) The Commission, with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section.

SEC. 2. *General Order No. 25.*—The government and administration of the United States Maritime Service shall be in conformity with the Commission's General Order No. 25, establishing the Service, adopted on July 14, 1938. General Order No. 25 reads as follows:

There is hereby established, pursuant to the authority vested in the Commission by section 216 of the Merchant Marine Act, 1936, as amended, a voluntary oranization to be known as the United States Maritime Service which shall consist of such licensed and unlicensed personnel of the United States merchant marine as may be enrolled under the provisions of said section, this order, and such rules and regulations as may be prescribed by the Commission for the government of said Service.

The number of persons to be enrolled in said Service, the rates of pay of such persons, and the courses and periods of training shall be determined, fixed, and prescribed by the Commission in such manner and form as may appear to it to be necessary to maintain a trained and efficient merchant-marine personnel. The ranks, grades, and ratings for the personnel of the said Service shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard.

In the administration and conduct of the said Service the Commission shall, subject to the consent and approval of the Secretary of the Treasury, avail itself of the use of such information, services, facilities, officers, and employees of the Coast Guard and the Public Health Service as may be necessary for the operation of said Service, such use to be at the expense of the Commission.

Enrollment and training in the United States Maritime Service shall be voluntary and shall be open to all licensed and unlicensed personnel of the United States merchant marine who comply with the requirements prescribed by the Commission. In the selection of applicants for enrollment no discrimination shall be practiced because of the applicant's race or creed, or because of membership or non-membership in any organization. Eligibility for enrollment shall be determined by the Commandant of the Coast Guard in accordance with rules and regulations prescribed by the Commission.

Nothing in this Order shall be construed to affect the cadet system established by the Commission's General Order No. 23, as amended.

This regulation shall become effective as of July 14, 1938.

ARTICLE II—ORGANIZATION AND ADMINISTRATION

SECTION 1. *Definitions.*—When used in these regulations—

(a) "Commission", or "Maritime Commission" means the United States Maritime Commission.

(b) "Service" or "Maritime Service" means the United States Maritime Service.

(c) "Commandant" means Commandant of the Coast Guard.

(d) "Coast Guard personnel" includes commissioned, warrant, or enlisted personnel of the Coast Guard and other employees thereof.

(e) "Maritime Service personnel" includes all persons employed in the Maritime Service.

(f) "Enrollees" means persons enrolled in the Maritime Service.

(g) "Merchant vessels of the United States" means ocean-going or Great Lakes vessels of 500 gross tons or over documented under the laws of the United States and engaged in the foreign or domestic commerce of the United States.

SEC. 2. *Maintenance of the service.*—The Maritime Service shall be maintained at the expense of the Maritime Commission, which shall exercise such supervision over it, through the Commandant, as may be necessary to comply with law and the rules and regulations prescribed by the Commission.

SEC. 3. *Administration.*—The Maritime Service shall be administered by the Commandant of the Coast Guard, who shall have full control over the administration of the functions delegated to him by the rules and regulations prescribed by the Commission. All policies affecting the Maritime Service shall be determined by the Commission, after consultation with the Commandant.

SEC. 4. *Ranks, grades, and ratings.*—The ranks, grades, and ratings for the personnel of the Maritime Service shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard.

SEC. 5. *Forms.*—The Commandant shall prescribe, subject to the approval of the Commission, forms for application for enrollment, enrollment, disenrollment (voluntary and involuntary), release from active duty, assignments of ranks, grades, and ratings, pay and supply of personnel, maintenance and supply of stations and vessels, requests and authorizations for travel, fiscal management and accounts, and all other necessary forms for the administration of the Maritime Service.

SEC. 6. *Authority of commandant.*—Subject to the regulations prescribed by the Commission, the Commandant is authorized:

(a) To direct and control the employees and enrollees of the Maritime Service.

(b) To employ, for the Maritime Service, on the account of the Maritime Commission, such civil employees as may be necessary for the conduct and maintenance of the Service.

(c) To enroll, disenroll, assign to active or inactive duty, and release from active duty the enrollees of the Service.

(d) To regulate the ranks, grades, and ratings of enrollees of the Service.

(e) To direct and conduct the prescribed courses of training.

(f) To provide for the maintenance of discipline and order.

(g) To conduct the fiscal management and keep the accounts of the Service.

(h) To direct the use and preservation of training stations, training ships, clothing, equipment, and supplies of the Service.

(i) To authorize the procurement of provisions, clothing, materials, equipment, and services for the operation of the Service.

(j) To dispose, by survey, for the account of the Commission, of such materials, clothing, equipment, and supplies as shall be found to be no longer serviceable. Such disposal shall be in accordance with existing Coast Guard regulations.

(k) To authorize and direct necessary travel in behalf of and on the account of the Maritime Service.

(l) To delegate such authority as is necessary to subordinate personnel of the Coast Guard or of the Maritime Service.

SEC. 7. *Instructions of commandant.*—The Commandant is authorized to issue directions, instructions, and memoranda, consistent with the regulations prescribed by the Commission, for the proper administration of the Maritime Service.

SEC. 8. *Allotments and expenditures.*—(a) Expenditures and obligations for the Maritime Service shall be limited to the allotment of funds by the Commission to the Service.

(b) Expenditure of funds may be authorized by the Commandant as required for the proper administration of the Maritime Service, including pay of personnel, purchases of equipment, provisions, and supplies, expenses of medical examination, medical treatment and hospitalization, communication and travel expense, and such other expenses of an administrative or ministerial nature as may be necessary for the efficient maintenance of the Service.

(c) The Commandant shall report to the Commission concerning all accounts and other financial matters of the Service in such manner and form as the Commission shall prescribe.

(d) The pay and allowances of the Chief Warrant and Warrant Officers and enlisted men of the Coast Guard detailed to duty with the Maritime Service shall be charged to the allotment of funds for the Maritime Service, and all travel expense including transportation of dependents and personal effects of all personnel of the Coast Guard detailed to such duty shall be charged to such fund, provided that expense in connection with relief and detail to Coast Guard duty of such personnel shall be borne by the Coast Guard.

SEC. 9. *Investigations.*—(a) The Commandant is authorized to convene boards consisting of Coast Guard, Maritime Service, and Public Health Service personnel to investigate accidents to Maritime Service personnel, damage to Maritime Service property, and any other matters or incidents which in his opinion require investigation.

(b) The Commandant is authorized to promulgate instructions, consistent with law, for the confinement of Maritime Service personnel where such confinement is necessary for safe keeping.

(c) Enrollees charged with violating criminal statutes shall be delivered to the appropriate civil (Federal, state, or municipal) authorities.

SEC. 10. *Medical treatment.*—Medical treatment, including all necessary examinations, of the Maritime Service personnel shall be obtained from the Public Health Service in so far as possible. When the Public Health Service facilities are not available, hospitalization and treatment of Maritime Service personnel in civilian hospitals or by civilian physicians are authorized and shall be provided at the expense of the Commission.

ARTICLE III—ENROLLMENT AND DUTY

SECTION 1. *Voluntary enrollment: Numbers.*—(a) Enrollment in the Maritime Service shall be voluntary, and shall be open to applicants among the licensed and unlicensed personnel of the

merchant marine in such numbers as the Maritime Commission shall from time to time prescribe.

(b) The Commission shall designate the number of persons to be enrolled from the several classifications of ship personnel, including deck, engineers, and steward's departments.

SEC. 2. *Qualifications.*—No applicant shall be acepted for enrollment in the Maritime Service unless he is a citizen of the United States, not less than 21 years of age. Such applicant shall have had sea service of 24 months or more on merchant vessels of the United States, and shall not have any physical or moral defect rendering him unfit for further sea service.

SEC. 3. *Enrollment: Original and regular.*—(a) All original enrollments shall be deemed probationary for a period not to exceed three months.

(b) The original enrollment of licensed personnel shall be in a rank not above ensign.

(c) The original enrollment of unlicensed personnel shall be in a rating not above seaman, second class.

(d) Any enrollee may be advanced in rank or rating during his probationary enrollment, and such advancement may be made effective as of such date as may be determined.

(e) Regular enrollees may be advanced in rank or rating at any time.

(f) After the probationary period of enrollment an enrollee whose conduct and qualifications are deemed satisfactory shall be eligible for regular enrollment.

(g) Every enrollee shall, upon enrollment, take an appropriate oath or affirmation.

SEC. 4. *Duty: Active and inactive.*—(a) Duty status in the Maritime Service may be active or inactive.

(b) Every original enrollee shall be deemed to be on active duty immediately upon enrollment, and shall remain on active duty until released therefrom by proper authority.

(c) Regular enrollees may be assigned to inactive duty status subject to voluntary return to active duty at such intervals and for such periods as may be prescribed.

(d) Regular enrollees may be maintained on voluntary active duty for such periods as may be necessary for the proper administration of the Service.

(e) Enrollees on active duty may be assigned as instructors or as under instruction, or to perform administrative or other duties.

SEC. 5. *Disenrollment: Voluntary and involuntary.*—(a) Any enrollee in the Maritime Service shall be disenrolled upon request, the disenrollment to be effective on the date of action on such request.

(b) Any enrollee may be disenrolled from the Service for cause, as follows:

(1) During the probationary period of original enrollment, for conduct or qualifications deemed unsatisfactory to the Service.

(2) For failure to serve 16 months in any period of 24 consecutive months on merchant vessels of the United States, provided that an enrollee shall be disenrolled for failure to serve ten months in any such period of 24 months on merchant vessels of the United States.

(3) For failure in such period of 24 consecutive months to serve the required period or periods on active duty in the Service.

(4) For physical or mental disability.

(5) For conduct such as to bring discredit upon the Service.

(c) Any person disenrolled for cause may, upon removal of the disability or upon other correction of the cause of disenrollment, be re-enrolled in the Service.

ARTICLE IV—PAY AND SUPPLY

SECTION 1. *Rates of pay.*—Licensed and unlicensed personnel of the Maritime Service shall receive the following monthly rates of pay while on active duty:

Captain	$333.33
Commander	291.67
Lieutenant Commander	250.00
Lieutenant	200.00
Lieutenant (J. G.)	166.67
Ensign	125.00
Cadet	65.00
Chief Warrant Officer	200.00
Warrant Officer	153.00
1st Pay Grade	126.00
1st Pay Grade Acting Appointment	99.00
2nd Pay Grade	84.00
3rd Pay Grade	72.00
4th Pay Grade	60.00
5th Pay Grade	54.00
6th Pay Grade	36.00

SEC. 2. *Computation of pay.*—Pay shall be computed on the basis of 30 days per month. An enrollee shall be credited in the computation of his pay, or allowances, for each day, or fraction thereof, on which active duty is performed.

SEC. 3. *Allowances and increases.*—In addition to the rates of pay prescribed for them, enrollees of the fifth or sixth pay grade, not in steward's branch, shall, when detailed as messmen, be entitled to additional pay at the rate of $6 per month.

SEC. 4. *Active duty.*—The term "active duty" shall include all service while training or performing duty under authorization of the Maritime Service, but shall not include any full calendar day spent in a hospital or while absent from duty on leave, without leave, or under arrest.

SEC. 5. *Pay periods.*—(a) Enrollees shall be entitled to the pay of their respective ranks or ratings while on active duty exclusive of time absent from duty as provided in the preceding section.

(b) Each regular enrollee who has served a minimum of eight months within any 12 month period (or 16 months in any period of 24 months, or 24 months in any period of 36 months) of his regular enrollment on merchant vessels of the United States and whose service on active duty in the Maritime Service complies with prescribed standards shall be entitled to one month's pay of his rank or rating in the Maritime Service for each such 12 month period, such retainer pay to be in addition to his pay for active duty, and to become payable only upon the submission to the Commandant of satisfactory proof of the minimum service hereinabove required.

SEC. 6. *Transportation and travel.*—(a) Except as otherwise provided, enrollees and employees of the Maritime Service shall, when performing travel under competent authority, be entitled to the travel allowances prescribed for civilian employees by the Standardized Government Travel Regulations.

(b) Enrollees upon original enrollment shall, in lieu of any other travel allowance, be entitled to transportation, including sleeping car or stateroom accommodations from place of enrollment to a training station or training vessel.

(c) Upon disenrollment or release from active duty, a probationary enrollee shall be entitled to a travel allowance of 5 cents per mile in lieu of any other travel expense, from place of disenrollment or release from active duty to place of enrollment.

(d) Upon release from active duty a regular enrollee shall be entitled, in lieu of any other travel expense, to a travel allowance of 5 cents per mile from place of release from active duty to place of latest acceptance for active duty.

(e) A regular enrollee disenrolled after release from active duty, but prior to recall to active duty, shall not upon disenrollment be entitled to any travel allowance.

SEC. 7. *Clothing and equipment.*—Enrollees of the Maritime Service shall be supplied, without charge, with such clothing and equipment as may be necessary for the training course prescribed, and other government property may be loaned to such personnel. Enrollees on active duty may be permitted to purchase articles of uniform clothing, the cost thereof to be deducted from their pay.

SEC. 8. *Subsistence.*—(a) Subsistence at government expense shall be supplied to all members of the Maritime Service while on active duty. General messes shall be established at training stations and on board training vessels as may be necessary. Such general messes shall be conducted in the same manner as provided in Coast Guard Pay and Supply Instructions for general messes of Coast Guard.

(b) In lieu of subsistence in kind, an allowance of $1 per day is authorized for each enrollee not in travel status for whom government messes facilities are not available.

(c) An allowance to be prescribed by the Commandant, not to exceed $2 per day, is authorized for an enrollee not in travel status for whom government quarters are not provided.

SEC. 9. *Loss or damage.*—There may be deducted from the pay of any member of the Maritime Service sums sufficient to cover the value of any Government property lost or wilfully damaged by such person.

SEC. 10. *Death of enrollees.*—The Commandant is authorized to incur expense in connection with the transportation and burial of the remains of enrollees who die while on active duty.

ARTICLE V—TRAINING STATIONS AND SHIPS

SECTION 1. *Assignments.*—Enrollees in the Maritime Service on active duty may be assigned to a vessel or station maintained by the Service or to a vessel or station of the Coast Guard.

SEC. 2. *Stations and ships.*—Only such training stations and training ships shall be maintained by and for the Maritime Service as are authorized by the Commission.

SECTION 3. *Training station.*—A training station for the use of the Maritime Service shall be established and maintained at Hoffman and Swinburne Islands in New York.

SEC. 4. *Training ships.*—The SS EDGEMOOR shall be outfitted and equipped as a training ship, to be maintained and used as such.

SEC. 5. *Maintenance and supply.*—The maintenance and supply of authorized training stations and training ships shall be in accordance with existing Coast Guard Regulations.

SEC. 6. *Canteens.*—Canteens for the sale of tobacco, candy, toilet articles and similar merchandise may be established and maintained at training stations and on training ships.

ARTICLE VI—PERIODS AND COURSES OF TRAINING

SECTION 1. *Original enrollment.*—Each original enrollment shall be for a period of three months on active duty.

SEC. 2. *Regular enrollment.*—Every regular enrollee shall, within 24 months after his release from active duty under his original enrollment, return to active duty for a period of two months or for two periods of one month each, and shall likewise return for two months' active duty during each period of 24 months thereafter.

SEC. 3. *Courses of training.*—The courses of training at stations and on ships shall be appropriate to the duties performed aboard merchant vessels by enrollees under their licenses or certificates and shall include the following subjects: lifeboat instruction, including rowing; emergency drills, including fire and abandon ship; maritime law pertaining to seamen; hygiene and first aid; navigation; seamanship; signals; marine engineering; engine room and fire room routine; shop work and overhaul of machinery; care of staterooms, quarters and supplies; procurement, handling, and cooking of food; serving of food and care of tableware (mess gear); and instruction in special ratings, such as radio operators, electricians, and clerical workers.

These regulations shall become effective as of September 1, 1938.

By order of the United States Maritime Commission.

SEPT. 9, 1938.

[SEAL] W. C. PEET, JR.,
Secretary.

[F. R. Doc. 38-2681; Filed, September 12, 1938; 12:14 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF POSTPONEMENT AND REOPENED HEARING IN RE DETERMINATIONS OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 6, 7, 9, AND 10

Notice is hereby given that the individual cost reports of producers within Minimum Price Areas 6, 7, 9 and 10, as directed to be made available for inspection by interested parties by the Commission's order dated 31st of August, 1938, has been postponed [1] from September 10, 1938, to September 15, 1938, and the reopened hearing has been continued from September 20, 1938, to September 26, 1938, at the same hour and place as announced in the original order and notice.

Notice is further given that the procedure relating to the inspection of said individual cost reports and the reopened hearing will be, in all respects, the same as directed by the Commission's order and notice entered herein on the 31st day of August, 1938, with the exception of the change of dates, as herein provided.

That the Secretary be, and he is hereby directed, to cause a copy of this Notice to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of Districts Nos. 16, 17, 18, 19, 20, 22 and 23, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 9th day of September 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2675; Filed, September 10, 1938; 11:47 a. m.]

[1] 3 F. R. 2162 DI.

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3301]

IN THE MATTER OF GOLDBLATT BROS., INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 10, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2670; Filed, September 10, 1938; 11:43 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3375]

IN THE MATTER OF CHESTER L. THOMAS, INDIVIDUALLY, AND TRADING AS THOMAS QUILT FACTORIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner for this Commission, be

and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, September 26, 1938, at ten o'clock in the forenoon of that day (mountain standard time) in Room 314, Post Office Building, Denver, Colorado.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2671; Filed, September 10, 1938; 11:43 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3399]

IN THE MATTER OF METZLER MCKEAN CORPORATION, A CORPORATION, ALSO DOING BUSINESS UNDER THE TRADE NAMES OF LADY FRANCES LABORATORIES, AND LADY FRANCES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 5, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 504, Irving-Pitt Building, Kansas City, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2674; Filed, September 10, 1938; 11:44 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3446]

IN THE MATTER OF PARKER-MCCRORY MANUFACTURING COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 3, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 504 Irving-Pitt Building, 816 Locust Street, Kansas City, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2673; Filed September 10, 1938; 11:44 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3482]

IN THE MATTER OF CRANE CHOCOLATE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, October 6, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 504 Irving-Pitt Building, 816 Locust Street, Kansas City, Missouri.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2672; Filed, September 10, 1938; 11:44 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 285]

ALLOCATION OF FUNDS FOR LOANS AMENDED

SEPTEMBER 8, 1938.

I hereby amend Administrative Order No. 274 [1] dated July 25, 1938 which allocated $80,500 to the project Maryland 9004C1 St. Marys to read $7,500 for Maryland 9004G3 St. Marys and $73,000 for Maryland 9004C1 St. Marys.

I hereby amend Administrative Order No. 274 [1] dated July 25, 1938 which allocated $1,070,000 to the project Michigan 9026B1 Ingham to read $200,000 for Michigan 9026G2 Ingham and $870,000 for Michigan 9026B1 Ingham.

I hereby amend Administrative Order No. 274 [1] dated July 25, 1938 which allocated $1,000,000 to the project Michigan 9040B1 Allegan to read $975,000 for Michigan 9040B1 Allegan and $25,000 for Michigan 9040G2 Allegan.

I hereby amend Administrative Order No. 276 [2] dated August 9, 1938 which allocated $177,000 to the project Wyoming 8011C1 Lincoln to read $131,000 for Wyoming 8011C1 Lincoln, $16,000 for Wyoming 8011G3 Lincoln, and $30,000 for Wyoming 8011G4 Lincoln.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-2667; Filed, September 10, 1938; 9:59 a. m.]

[1] 3 F. R. 1892 DI.
[2] 3 F. R. 2069 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C., on the 1st day of September 1938.

IN THE MATTER OF JOHN THOMAS PARKS DOING BUSINESS AS JOHN T. PARKS, INVESTMENT BROKER, P. O. BOX 363, YAKIMA, WASHINGTON

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

The Commission having reasonable grounds to believe that John Thomas Parks, hereinafter called the registrant, doing business as John T. Parks, Investment Broker, a sole proprietorship registered as a broker and dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended,

(1) has wilfully violated Section 7 (c) (2) of said Act and Section 3 (c) of Regulation T adopted by the Federal Reserve Board pursuant to Section 7 of said Act, in that said registrant as a broker and dealer transacting a business in securities through the medium of a member of a national securities exchange during the period from January 1, 1938 to May 28, 1938, extended and maintained credit on certain securities other than exempted securities and/or securities registered upon a national securities exchange, including among others the stock of Clayton Silver Mines and Azurite Gold Co.;

(2) has wilfully violated Section 8 (b) of said act in that said registrant as a broker and dealer transacting a business in securities through a member of a national securities exchange, permitted in the ordinary course of business as a broker prior to May 28, 1938, his aggregate indebtedness to all other persons, including customers' credit balances but excluding indebtedness secured by exempted securities, to exceed 2,000 per cent of the net capital, exclusive of fixed assets, employed in the business;

(3) has wilfully violated Section 17 (a) (1) and 17 (a) (3) of the Securities Act of 1933 in that registrant, in the sale of securities by the use of means of transportation and communication in interstate commerce and by the use of the mails, has employed a device, scheme or artifice to defraud, and has engaged in transactions, practices and courses of business which would operate and have operated as a fraud or deceit upon the purchasers, in the following particulars, to wit:

(a) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept for safekeeping securities belonging to such customers for which such customers had paid in full and, without the knowledge of such customers, convert such securities to his own use and benefit;

(b) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept monies to be held for such customers as free credit balances and without the knowledge of such customers convert such monies to his own use and benefit;

(c) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept securities as collateral for balances due from such customers on margin accounts and without the knowledge of such customers sell said securities for more than the balance due from such customers and convert the proceeds thereof to his own use and benefit.

(4) has wilfully violated Section 15 (c) (1) of the Securities Exchange Act of 1934, as amended, and Rule X-15C1-2 thereunder, in that registrant has made use of the mails and of means and instrumentalities of interstate commerce to effect transactions in, or induce the purchase or sale of, securities, otherwise than on a national securities exchange, by means of acts, practices, or courses of business which would operate and have operated as a fraud or deceit upon any person, in the following particulars; to wit:

(a) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept for safekeeping securities belonging to such customers for which such customers had paid in full and, without the knowledge of such customers, convert such securities to his own use and benefit;

(b) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept monies to be held for such customers as free credit balances and without the knowledge of such customers convert such monies to his own use and benefit;

(c) registrant solicited and accepted orders for the sale of securities to his customers as principal and offers to buy securities for his customers as agent and in connection therewith intended to and did receive and accept securities as collateral for balances due from such customers on margin accounts and without the knowledge of such customers sell said securities for more than the balances due from such customers and convert the proceeds thereof to his own use and benefit.

(5) has wilfully violated Rule MB2 adopted by the Commission pursuant to Section 15(b), 17(a), and 23(a) of the Securities Exchange Act of 1934, as amended, by reason of the said registrant having failed to report and correct the inaccuracy of the information furnished:

(a) Under Items 17(a) and 18 of the aforesaid application, by means of a supplemental statement, disclosing the fact that, on May 28, 1938 registrant's license to sell securities in the State of Washington was revoked; and

(b) Under Item 10 of the aforesaid application, by means of a supplemental statement, disclosing the fact that registrant had employed two salesmen; and

The Commission having reasonable grounds to believe that it is in the public interest to suspend or revoke said registration; and

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

It is ordered, That proceedings be held to determine whether the registration of John Thomas Parks, doing business as John T. Parks, Investment Broker, a sole proprietorship, should be suspended or revoked pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended.

It is further ordered, That a hearing for the purpose of taking evidence be held at 10:00 A. M. on October 20, 1938 at the Seattle Regional Office, Securities and Exchange Commission, 821 Second Avenue, Seattle, Washington, and that the said hearing be continued at such other time or place as the Commission or the officer conducting such hearing may determine; that for the purpose of said hearing John G. Clarkson be and he is hereby designated as the officer of the Commission to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing and to perform all other duties in connection therewith as authorized by law;

It is further ordered, That this notice and order be served on the said registrant personally or by registered mail, not less than seven (7) days prior to the time of the hearing, or by publication in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission, and transmit same with

a record of this hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2676; Filed, September 10, 1938; 11:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 9th day of September 1938.

[File No. 7-254]

IN THE MATTER OF APPLICATION OF DETROIT STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO DIVCO-TWIN TRUCK COMPANY COMMON STOCK, $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Detroit Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value, of Divco-Twin Truck Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 29, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2677; Filed, September 10, 1938; 11:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of September 1938.

[File No. 7-255]

IN THE MATTER OF APPLICATION OF DETROIT STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO INTERNATIONAL RADIO CORP. COMMON STOCK, $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Detroit Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value, of International Radio Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 29, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2678; Filed, September 10, 1938; 11:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 12th day of September 1938.

[File No. 1-206]

IN THE MATTER OF APPLICATION OF VIRGINIA CITY GOLD MINING COMPANY TO WITHDRAW ITS COMMON STOCK, 10¢ PAR VALUE, FROM LISTING AND REGISTRATION ON THE STANDARD STOCK EXCHANGE OF SPOKANE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Virginia City Gold Mining Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, 10¢ par value, from listing and registration on the Standard Stock Exchange of Spokane; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, October 18, 1938, at the office of the Securities and Exchange Commission, Exchange Building, Seattle, Washington, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That John G. Clarkson, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2682; Filed, September 12, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 10th day of September A. D. 1938.

[File No. 52-6]

IN THE MATTER OF LOUIS R. GATES, R. W. SAMUELSON, IRA C. SNYDER, DONALD L. PETTIS, AND A. Z. PATTERSON, AS REORGANIZATION MANAGERS OF THE UNITED TELEPHONE AND ELECTRIC COMPANY

(Public Utility Holding Company Act of 1935)

SUPPLEMENTAL ORDER

Louis R. Gates, R. W. Samuelson, Ira C. Snyder, Donald L. Pettis, and A. Z. Patterson (hereinafter referred to as the declarants) having filed a post-amendment to the declaration heretofore filed herein pursuant to Rule U-12E-5 with respect to the solicitation of assents to the plan of reorganization of The United Telephone and Electric Company, said

plan of reorganization having been approved and said declaration having become effective pursuant to the order[1] of this Commission entered herein on July 28, 1938; and

The Commission having considered said post-amendment and the declarants having shown sufficient cause why such post-amendment should become effective prior to the expiration of the period of fifteen days after the date of the filing of said post-amendment in accordance with the requirements of Rule U-12E-5, the Commission not desiring to make a report on said declaration as amended by said post-amendment;

It is ordered, That said post-amendment to said declaration be and become effective forthwith, subject to the same terms and conditions upon which said declaration became effective as set forth in said order of the Commission entered herein on July 28, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2683; Filed, September 12, 1938; 12:51 p. m.]

[1] 3 F. R. 1920 DI.

Reference

SEP 16 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 179

Washington, Wednesday, September 14, 1938

The President

EXECUTIVE ORDER

[Power Site Restoration No. 490]

PARTIAL REVOCATION OF EXECUTIVE ORDER OF FEBRUARY 19, 1920, CREATING POWER SITE RESERVE NO. 730

OREGON

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, the Executive order of February 19, 1920, creating Power Site Reserve No. 730, is hereby revoked as to the following-described lands:

WILLAMETTE MERIDIAN

T. 4 S., R. 5 E., sec. 19, lot 1.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 10, 1938.

[No. 7969]

[F. R. Doc. 38-2690; Filed, September 13, 1938; 10:13 a. m.]

Rules, Regulations, Orders

TITLE 31—MONEY AND FINANCE: TREASURY

PUBLIC DEBT SERVICE

[1938 Department Circular No. 530, Revised; Second Amendment]

AMENDMENT OF REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS

SEPTEMBER 10, 1938.

To Owners of United States Savings Bonds, and Others Concerned:

1. Section VI, 3. (a) (1) of Department Circular No. 530, Revised,[1] dated December 16, 1936, as amended [2] April 23, 1937, is hereby further amended to read as follows:

"(1) At any United States post office of the first class (main office), the assistant postmaster, superintendent of mails, the postal cashier, superintendent of money orders, money order cashier, assistant cashier, bookkeeper, foreman, or clerk temporarily in charge of the office."

2. The Secretary of the Treasury reserves the right to withdraw or amend this amendment at any time.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2684; Filed, September 12, 1938; 3:08 p. m.]

[1] 1 F. R. 2212.
[2] 2 F. R. 804 (957 DI).

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 498-FD]

IN THE MATTER OF THE APPLICATION OF WESTERN PENNSYLVANIA COAL CORPORATION, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE OF CONTINUANCE OF HEARING

The above entitled matter, having been previously noticed for hearing [1] for September 19, 1938, at 10 o'clock, a. m., at the Hearing Room of the Commission, 15th and Eye Streets, N. W., Washington, D. C., and having been assigned to Examiner D. C. McCurtain to conduct said hearing, and the above named applicant having requested a continuance until the 3rd day of October 1938, and having made proper showing therefor:

Notice is hereby given that the Hearing in the above entitled matter is continued to the 3rd day of October 1938, at the same hour and place as provided in original notice.

A copy of this notice of continuance shall forthwith be mailed to the applicant above named, and to the secretary of each district board, and to the Consumers' Counsel, and a copy hereof shall be published in the Federal Register.

By order of the Commission.

Dated this 12th day of September 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[1] 3 F. R. 2206 DI.

[F. R. Doc. 38-2686; Filed, September 13, 1938; 10:44 a. m.]

CONTENTS

THE PRESIDENT

Executive Order: Page
Oregon, power site restoration No. 490 2233

RULES, REGULATIONS, ORDERS

TITLE 31—MONEY AND FINANCE:
TREASURY:
Public Debt Service:
United States Savings Bonds, amendment of regulations governing 2233

NOTICES

Civil Aeronautics Authority:
North Carolina, air traffic rule governing navigation and operation of aircraft within or over certain areas during period of Joint Anti-Aircraft Air Corps Exercises 2234
Department of the Interior:
National Bituminous Coal Commission:
Western Pennsylvania Coal Corp., application for provisional approval as marketing agency 2233

FEDERAL REGISTER

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CIVIL AERONAUTICS AUTHORITY.

[Special Air Traffic Rule 601–A–1]

NAVIGATION AND OPERATION OF AIRCRAFT WITHIN OR OVER CERTAIN AREAS IN THE STATE OF NORTH CAROLINA DURING THE PERIOD OF THE JOINT ANTI-AIRCRAFT-AIR CORPS EXERCISES TO BE CONDUCTED BY THE WAR DEPARTMENT SEPTEMBER 14 TO OCTOBER 22, 1938, INCLUSIVE

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 12th day of September 1938.

Regulation 601–A–1[1] promulgated by the Civil Aeronautics Authority on August 20, 1938, adopted the Civil Air Regulations made, prescribed and issued by the Secretary of Commerce under date of May 31, 1938, with certain substitutions, modifications and amendments.

The records pertaining to a request of the War Department for a Special Air Traffic Rule governing aircraft operation in the central and eastern portion of North Carolina during the period of the Joint Anti-Aircraft-Air Corps Exercises to be conducted September 14 to October 22, 1938, inclusive, were transferred to the Authority with the files of the Bureau of Air Commerce pursuant to an Executive Order dated August 22, 1938. Upon consideration of the matter by the Civil Aeronautics Authority, it was found that a conference was held at the request of the War Department on August 9, 1938, at the offices of the Bureau of Air Commerce between representatives of the Bureau of Air Commerce, commercial operators and the War Department to discuss this matter, and that it was determined by such representatives that it was essential to the public interest and necessary for the promotion of safety of flight in air commerce that a Special Air Traffic Rule be made and promulgated governing the matters aforesaid.

The Civil Aeronautics Authority, therefore, acting pursuant to the provisions of Section 601 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 1008), being fully advised in the premises and deeming it necessary for the promotion of safety of flight in air commerce, hereby makes and promulgates the following Special Air Traffic Rule:

SPECIAL AIR TRAFFIC RULE 601–A–1

No civil aircraft shall be navigated or operated, except as hereinafter specified, within or above the following described areas:

AREA A.—That area in North Carolina described as follows, except the area hereinafter described as Area B:

Beginning at the intersection of the north line of the State of North Carolina and the shore line of the Atlantic Ocean; thence southerly along the shore line of the Atlantic Ocean to a point due east of the Post Office Building in the City of Wilmington; thence due west to said Post Office Building in the City of Wilmington; thence westerly in a straight line to the Seaboard Air Line Railroad Station in the City of Lumberton; thence westerly on a straight line to the Seaboard Air Line Railroad Station in the City of Rockingham; thence northerly along a straight line to the Atlantic and Yadkin Railroad Station in Siler City; thence easterly along a straight line to the Post Office Building in the City of Raleigh; thence easterly along a straight line to the Atlantic Coast Line Railroad Station in the City of Wilson; thence easterly along a straight line to the point of beginning.

AREA B.—That area in North Carolina in the vicinity of Fort Bragg described as follows:

Beginning at the Aberdeen & Rockfish Railroad Station in the City of Aberdeen; thence southeasterly along the Aberdeen & Rockfish Railroad right of way to the Railroad Station in Dundarrach; thence northeasterly along the Aberdeen & Rockfish Railroad right of way to the junction of said Railroad right of way with the Cape Fear Railroad right of way at Skibo; thence northerly along the Cape Fear Railroad right of way to the junction of the Cape Fear Railroad with the Atlantic Coast Line Railroad at Fort Bragg; thence northwesterly along the Atlantic Coast Line Railroad right of way to the junction of the Atlantic Coast Line Railroad and the Seaboard Air Line Railroad near Sanford; thence southwesterly along the Seaboard Air Line Railroad right of way to the point of beginning.

Effective Period

PHASE 1.—September 14 to October 2, 1938, inclusive.

(a) No civil aircraft shall be navigated or operated within or above Area B unless special permission for such flights first be granted by the local inspector of the Authority temporarily stationed at Ft. Bragg.

(b) No civil aircraft shall be operated or navigated within or above Area A or Area B at an altitude in excess of 11,000 feet above sea level unless special permission for such flights first be granted by the local inspector of the Authority temporarily stationed at Ft. Bragg.

PHASE 2.—October 3 to October 22, 1938, inclusive.

(a) No civil aircraft shall be navigated or operated within or above Area B unless special permission for such flights first be granted by the local inspector of the Authority temporarily stationed at Ft. Bragg.

(b) No civil aircraft shall be operated or navigated within or above Area A under instrument flying conditions or in or above the clouds during the hours of daylight unless special permission for such flights first be granted by the local inspector of the Authority temporarily stationed at Fort Bragg.

(c) No civil aircraft shall be operated or navigated within or above Area A during the hours of darkness unless special permission for such flights first be granted by the local inspector of the Authority temporarily stationed at Fort Bragg.

(d) No civil aircraft shall be operated or navigated within or above Area A or Area B at an altitude in excess of 11,000 feet above sea level unless special permission for such flights first be granted by the local inspector of the Authority temporarily stationed at Fort Bragg.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–2685; Filed, September 13, 1938; 9:36 a. m.]

[1] 3 F. R. 2051 DI.

SEP 16 1938

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 180

Washington, Thursday, September 15, 1938

The President

EXECUTIVE ORDER

REGULATIONS GOVERNING THE GRADES AND RATINGS OF ENLISTED MEN OF THE REGULAR ARMY FOR THE FISCAL YEAR 1939

By virtue of and pursuant to the authority vested in me by the act of June 20, 1936, 49 Stat. 1554, it is ordered that during the fiscal year 1939 the grades and ratings of the enlisted men of the Regular Army shall be as set forth herein, and that the number of enlisted men in the several grades and ratings shall not exceed the number specified herein.

1. The several grades and the maximum number of enlisted men therein shall be as follows:

	Number
1st Grade—Master Sergeants	1,170
2d Grade—First Sergeants and Technical Sergeants	3,133
3d Grade—Staff Sergeants	5,055
4th Grade—Sergeants	14,836
5th Grade—Corporals	14,285
6th Grade—Privates, 1st Class	44,488
7th Grade—Privates, the number of whom will be such that when added to the number of enlisted men above Grade Seven and to the authorized number of flying cadets the total will not exceed the enlisted pay strength of the Army appropriated for by the "Military Appropriation Act, 1939", approved June 11, 1938.	

2. Specialists ratings and the maximum number of enlisted men therein shall be as follows:

	Number
1st Class	909
2d Class	1,549
3d Class	2,437
4th Class	6,797
5th Class	7,170
6th Class	19,472

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Sept 12 1938.

[No. 7970]

[F. R. Doc. 38–2688; Filed, September 13, 1938; 2:21 p. m.]

EXECUTIVE ORDER

ESTABLISHING MONTEZUMA MIGRATORY BIRD REFUGE

NEW YORK

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands acquired or to be acquired in the following-described area, comprising approximately 7,500 acres in Seneca County, New York, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, That any private lands within the area described shall become part of the refuge hereby established upon acquisition of title thereto or control thereof by the United States:

Beginning at a point in the line between Seneca and Wayne Counties and approximately in the center line of county road, from which point a U. S. Biological Survey standard concrete post set for a witness corner bears S. 59°02′ E., 1.00 chain distant, and a 4″x4″ concrete canal boundary marker bears S. 59°02′ E., 0.61 chain distant.

Thence with the line between Seneca and Wayne Counties,

Easterly to the east bank of the Old Erie Canal;

Thence with the said east bank of the Old Erie Canal,

Southeasterly to the west right-of-way boundary of State Highway No. 414;

Thence with the said west right-of-way boundary,

Southerly to the edge of the water on the south bank of the New York State Barge Canal;

CONTENTS

THE PRESIDENT

Executive Orders: Page
Army, regulations governing grades and ratings of enlisted men for fiscal year 1939 2235
New York, establishing Montezuma migratory bird refuge 2235

RULES, REGULATIONS, ORDERS

Title 16—Competitive Practices:
Federal Trade Commission:
Cease and desist orders:
Acme Merchandise Co., etc. 2238
Craddick, William F. (N-URG-IZR) 2237
Perfect Manufacturing Co., Inc. (Kar-Nu Company) 2238
Sales on Sound Corp 2237
Title 24—Housing Credit:
Federal Home Loan Bank Board:
Bank membership, rules and regulations amended 2239
Title 43—Public Lands:
Division of Grazing:
New Mexico Grazing District No. 2, modification 2239

NOTICES

Department of Agriculture:
Farm Security Administration:
California, designation of counties for loans 2239
Securities and Exchange Commission:
Republic Electric Power Co. of Del. et al., hearing 2240
Southern Colorado Power Co., order approving declaration 2240

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Thence along the edge of the water on said south bank of the New York State Barge Canal,

Easterly to its eastern confluence with the Cayuga and Seneca Canal;

Thence along the edge of the water on the west bank of said Cayuga and Seneca Canal,

Southerly to the entrance to Cayuga Lake;

Thence crossing said Cayuga and Seneca Canal,

Southeasterly to the east shore of Cayuga Lake;

Thence with the east shore meanders of Cayuga Lake,

Southerly to the northerly right-of-way boundary of the New York Central and Hudson River Railroad;

Thence with said northerly right-of-way boundary,

Northwesterly to the east right-of-way boundary of State Highway No. 89;

Thence with said east right-of-way boundary,

Northerly to a point in said right-of-way boundary;

Thence passing within State Highway No. 89 right of way,

Westerly to the west edge of the old highway location;

Thence with the west edge of the old highway location,

N. 3°29' W., 10.99 chains to the intersection with the east boundary of the new highway location;

Thence leaving said highway,

N. 0°05' E., 14.11 chains;
S. 89°55' E., 2.40 chains;
N. 62°20' E., 1.20 chains;
N. 6°21' W., 4.60 chains.
N. 0°33' W., 1.35 chains;
S. 86°27' W., 0.775 chain;
N. 11°23' W., 14.71 chains;
N. 14°12' W., 40.743 chains;
N. 14°38' W., 10.76 chains;
S. 87°22' W., 1.025 chains;
N. 23°05' W., 10.62 chains;
N. 13°59' W., 28.23 chains;
N. 19°35' W., 21.45 chains;
N. 58°18' W., 5.91 chains;
N. 6°48' W., 3.17 chains;
N. 27°38' W., 1.977 chains;
N. 35°37' W., 1.652 chains;
N. 37°02' W., 1.164 chains;
N. 21°04' W., 1.903 chains;
N. 21°11' W., 0.863 chain to a point in the east right-of-way boundary of State Highway No. 414;

N. 28°25' E., 0.877 chain to a point in said east right-of-way boundary;

S. 88°15' W., 0.409 chain to a point within said highway right of way;

N. 1°45' W., 0.282 chain to a point in the center line of a county road and within the right of way of State Highway No. 414;

Thence with the center line of county road,

S. 88°26' W., 4.26 chains;
S. 87°26' W., 8.59 chains;
S. 83°22' W., 1.12 chains;
S. 63°37' W., 0.961 chain;
S. 74°49' W., 3.99 chains;
S. 77°56' W., 5.39 chains;
S. 86°37' W., 11.58 chains to a point at the intersection of county roads;
N. 19°04' W., 10.76 chains;
N. 31°33' W., 2.18 chains;
N. 41°53' W., 2.71 chains;
N. 50°31' W., 4.06 chains;
N. 39°16' W., 2.09 chains;
N. 21°42' W., 2.29 chains;
Northwesterly, approximately 21.00 chains to the property line extending easterly;

Thence with said property line,

Easterly to the west boundary of a 50-acre parcel laid out in a square in the northeast corner of Lot 48;

Thence with said west boundary,

Northerly to the line between Lots 36 and 48;

Thence with the west boundary of a 50-acre parcel laid out in a square in the southeast corner of Lot 36,

Northerly to a point marked by standard U. S. Biological Survey concrete post #107;

Thence leaving said west line,

N. 24°00' W., 13.85 chains;
N. 45°22' W., 5.85 chains;
N. 15°41' W., 11.41 chains;
N. 21°21' W., 12.39 chains;
N. 16°06' W., 6.51 chains;
S. 87°36' W., 10.53 chains to a point at the intersection of the west right-of-way boundary of a wagon road with center line of a wagon road;
S. 87°25' W., 17.81 chains;
N. 2°31' W., 1.00 chain;
S. 87°25' W., 6.94 chains;
N. 2°31' W., 14.69 chains;
N. 2°15' W., 20.85 chains;
S. 88°36' W., 20.12 chains;
N. 6°52' W., 7.43 chains;
N. 2°28' E., 10.90 chains;
N. 14°54' W., 10.02 chains;
N. 19°33' W., 10.70 chains;
S. 86°43' W., 3.26 chains;
N. 42°10' W., 8.67 chains;
S. 86°38' W., 11.67 chains to a point in center line of a county road;

Thence with said center line,

N. 11°57' W., 8.07 chains;
N. 10°01' W., 2.03 chains;
N. 6°46' W., 1.883 chains;
N. 9°37' W., 5.47 chains;

Thence leaving said road,

N. 86°38' E., 3.46 chains;
N. 2°30' W., 2.95 chains;
N. 89°12' E., 3.56 chains;
N. 84°50' E., 2.791 chains;
N. 8°20' W., 13.72 chains;
N. 5°50' W., 17.73 chains;
N. 88°32' E., 2.772 chains;
S. 14°54' W., 10.81 chains;
S. 19°32' E., 4.28 chains;
N. 87°26' E., 3.80 chains;
N. 1°33' W., 6.25 chains;
N. 5°17' W., 35.31 chains to a point in the south right-of-way boundary of county road;
N. 87°19' E., 2.368 chains to a point at the intersection of said south right-of-way boundary with the westerly bank of the Clyde River;
N. 19°15' W., 0.523 chain to a point on the west bank of the Clyde River and within said county road right of way;
N. 81°15' W., 1.182 chains to a point within said county road right of way;
S. 86°00' W., 1.06 chains to a point within said county road right of way;
N. 5°17' W., 0.178 chain to a point in the line between Seneca and Wayne Counties and in center line of said county road;

Thence with the line between Seneca and Wayne Counties,

N. 87°10' E., 26.07 chains to the place of beginning.

The bearings in the above description are referred to the true meridian as determined by solar observations in surveys made by the Bureau of Biological Survey in 1937–38.

This reservation shall be known as the Montezuma Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Sept 12 1938.

[No. 7971]

[F. R. Doc. 38–2687; Filed, September 13, 1938; 2:21 p. m.]

Rules, Regulations, Orders

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3333]

IN THE MATTER OF WILLIAM F. CRADDICK (N-URG-IZR)

SEC. 3.6 (ja) *Advertising falsely or misleadingly—History of product:* SEC. 3.6 (n) 2) *Advertising falsely or misleadingly — Nature — Product.*— Representing electrical, blanket-like appliance as made for practical application of biological, chemical, and other scientific discoveries and theories of well known scientists and as result of painstaking and long experience and tests, and as an amazing discovery, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, William F. Craddick, Docket 3333, August 31, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that electrical, blanket-like appliance sets up a radio-magnetic energy which is transmitted to person, increases activity, revitalizes organs, etc., eliminates more poisons, etc. than other methods, and, through its functioning cures any ailment from which person may be suffering, is wonderful for nerves, etc., or that it has any effect on the body other than that produced by heat generated, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, William F. Craddick, Docket 3333, August 31, 1938.]

SEC. 3.6 (l) *Advertising falsely or misleadingly—Indorsements and testimonials:* SEC. 3.6 (z) *Advertising falsely or misleadingly—Scientific tests:* SEC. 3.18 *Claiming indorsements or testimonials falsely.*—Representing electrical, blanket-like appliance as used, endorsed and recommended by prominent physicians, scientists, hospitals, educators, etc., and as tested and endorsed by such persons and by institutions for medical and scientific research, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, William F. Craddick, Docket 3333, August 31, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF WILLIAM F. CRADDICK, INDIVIDUALLY, AND TRADING AS N-URG-IZR, VIT-O-NET, AND ELECTRONET

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before Arthur F. Thomas, an Examiner of the Commission, theretofore designated by it, in support of the allegations of said complaint, and the substitute answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, William F. Craddick, an individual, trading as N-URG-IZR, VIT-O-NET, and ELECTRONET, or trading under any other name, his representatives, salesmen, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of an electrical appliance or product described or designated as a blanket, which the respondent calls N-URG-IZR, VIT-O-NET, and ELECTRONET, and other names, or any other product of similar design and for substantially the same uses and purposes, whether sold under these names or any other names in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, either directly or by inference:

(1) That said product is created and manufactured for the practical application of the biological, chemical, and other scientific discoveries and theories of well known scientists and is the result of painstaking and long experience and tests;

(2) That said product sets up a radio-magnetic energy which is transmitted to the person within or under its protection, thus causing an increased activity and revitalizing of the organs and cells of the body, a charging of the blood stream with electro-magnetic energy, an elimination of many times more poisons and waste matters than is possible by any other method, and a magnetic stimulation of the various cells of the human body with a resulting cure of any disease or ailment of which the person using the product may be suffering;

(3) That said product is used, endorsed, and recommended by prominent and well known physicians, scientists, hospitals, educators, and other prominent and well known persons, and has been tested and endorsed by such persons and by institutions for medical and scientific research, when such are not the facts;

(4) That said product is an amazing discovery, aids nature to eliminate wastes and poisons responsible for rheumatism, arthritis, high blood pressure, kidney troubles, nervousness, has therapeutic value in all diseases known to man and creates new energy, new vitality, and is wonderful for, and soothing to, the nerves;

(5) That said product produces radio-magnetic or electro-magnetic energy which is transmitted to, and has any effect on, the human body, or that it causes any results on the human body other than those which would be produced by, and as a consequence and because of, the heat generated in said product.

It is further ordered, That the respondent shall, within thirty (30) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–2692; Filed, September 14, 1938; 9:43 a. m.]

[1] 3 F. R. 1543 DI.

[Docket No. 3367]

IN THE MATTER OF SALES ON SOUND CORPORATION

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Falsely representing that respondent's motion picture theater sound screens are flameproof, "top quality", "newly manufactured" or "brand new", prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Sales on Sound Corporation, Docket 3367, August 31, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 31st day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission, upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Sales on Sound Corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of motion picture theater sound screens in commerce, as defined in the Federal Trade Commission Act, do forthwith cease and desist from representing:

1. That said motion picture theater sound screens are flameproof;

2. That said sound screens are "top quality" or "newly manufactured" or "brand new", when such is not the case.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2693; Filed, September 14, 1938; 9:44 a. m.]

[Docket No. 3440]

IN THE MATTER OF THE PERFECT MANUFACTURING COMPANY, INC. (KAR-NU COMPANY)

SEC. 3.6 (ja) *Advertising falsely or misleadingly—History of product:* SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that respondent's "Kar-Nu" is a miracle discovery, with nothing in the world just like it, and that it will finish autos like new, give result equal in beauty to repaint job costing from $25 to $75, and cause sun-fade to disappear instantly, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Perfect Manufacturing Company, Inc., Docket 3440, August 31, 1938.]

SEC. 3.6 (ja) *Advertising falsely or misleadingly—History of product:* SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that respondent's "No-Flatz" is an amazing, new discovery, which renders tires absolutely puncture-proof, fixes punctures instantly and permanently without patching, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec 45b.) [Cease and desist order, The Perfect Manufacturing Company, Inc., Docket 3440, August 31, 1938.]

SEC. 3.6 (z) *Advertising falsely or misleadingly—Scientific tests:* SEC. 3.18 *Claiming indorsements or testimonials falsely.*—Representing that respondent's, "Kar-Nu" and "No-Flatz", automobile refinisher and tire tube preparation, have been tested and approved by the Automotive Test Laboratory of America or any other purported testing laboratory, unless in fact scientifically tested, in properly equipped laboratory, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Perfect Manufacturing Company, Inc., Docket 3440, August 31, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF THE PERFECT MANUFACTURING COMPANY, INC., TRADING UNDER THE FIRM NAME AND STYLE KAR-NU COMPANY AND NO-FLATZ COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission, upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent findings as to the facts and conclusion based thereon, and an order disposing of the proceedings; and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, The Perfect Manufacturing Company, Inc., a corporation, trading under the firm name and style Kar-Nu Company and No-Flatz Company, or any other name, its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of its preparations now known as and sold under the names Kar-Nu and No-Flatz, whether sold under these names or any other names, in interstate commerce, and in the District of Columbia, do forthwith cease and desist from representing:

1. That an application of Kar-Nu will finish autos like new.
2. That an application of Kar-Nu will give a result equal in beauty to a repaint job costing from $25 to $75.
3. That there is nothing in the world just like Kar-Nu.
4. That Kar-Nu is a "miracle" discovery and an application thereof to the finish of an automobile will cause discoloration and sun-fade to disappear instantly.
5. That No-Flatz is an amazing, new discovery.
6. That No-Flatz renders tires absolutely puncture-proof, ending flat tires forever.
7. That the use of No-Flatz in an inner tube fixes punctures instantly and permanently without patching.
8. That when No-Flatz is used in an inner tube, a hole, resulting from puncture of said inner tube by a nail or other sharp object, will remain completely and permanently sealed.
9. That said preparations have been tested and approved by the Automotive Test Laboratory of America or any other purported testing laboratory, unless such preparations have in fact been scientifically tested in a properly equipped laboratory, under the direction and supervision of qualified technicians, and such approval is based on the result of such actual tests.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2694; Filed, September 14, 1938; 9:44 a. m.]

[Docket No. 3442]

IN THE MATTER OF ACME MERCHANDISE COMPANY, ETC.

SEC. 3.6 (a) 3.1 *Advertising falsely or misleadingly—Business status, advantages or connections—Business methods.*—Falsely representing, in connection with sale of clothing, that respondent fills orders promptly and ships kind of merchandise described in his catalogue, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Acme Merchandise Company, Docket 3442, August 31, 1938.]

SEC. 3.6 (a) 30) *Advertising falsely or misleadingly—Business status, advantages or connections—Stock.*—Representing, in connection with sale of clothing, that single garments may be obtained from respondent in all sizes, colors and styles, when such is not the fact, or that respondent leads all other merchants in values and that his customers get the best merchandise on the market and are assured of satisfaction, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Acme Merchandise Company, Docket 3442, August 31, 1938.]

SEC. 3.6 (n) 2) *Advertising falsely or misleadingly—Nature—Product.*—Falsely representing, in connection with sale of clothing, that respondent's new merchandise is of the latest style and that his slightly used merchandise is always cleaned, pressed and repaired before shipment, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Acme Merchandise Company, Docket 3442, August 31, 1938.]

SEC. 3.6 (h) *Advertising falsely or misleadingly—Fictitious guarantees.*—Falsely representing that respondent will replace any clothing that is not satisfactory, and representing that his customers are assured of satisfaction, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Acme Merchandise Company, Docket 3442, August 31, 1938.]

SEC. 3.6 (a) 20) *Advertising falsely or misleadingly—Business status, advantages or connections—Personnel:* SEC. 3.6 (u) *Advertising falsely or misleadingly—Quality.*—Falsely representing, in connection with sale of clothing, that respondent's experts carefully select assorted quality clothing, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Acme Merchandise Company, Docket 3442, August 31, 1938.]

SEC. 3.6 (a) 15) *Advertising falsely or misleadingly—Business status, advantages or connections—Large purchases and stock turn-over.*—Falsely representing, in connection with sale of clothing, that respondent is able to purchase large bankrupt stocks, close-out stocks, auction stocks and manufacturers' samples direct from source of supply and thus sell at a low price, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Acme Merchandise Company, Docket 3442, August 31, 1938.]

SEC. 3.6 (g) *Advertising falsely or misleadingly—Earnings.*—Representing that salesmen of respondent's clothing can make any profit in excess of usual profits earned by other salesmen of his merchandise under normal conditions and in due course of business, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Acme Merchandise Company, Docket 3442, August 31, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF HYMAN KADETSKY, AN INDIVIDUAL TRADING UNDER THE NAMES OF ACME MERCHANDISE COMPANY, AND LIQUIDATION MERCHANDISE COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been [1] heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure, and further hearings as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Hyman Kadetsky, trading under the names of Acme Merchandise Company, and Liquidation Merchandise Company, or trading under any other name, his representatives, agents and employees, directly or indirectly, in connection with the offering for sale, sale and distribution of his merchandise in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

(1) That he fills orders promptly and that he ships the kind of merchandise described in his catalogue, when such is not the fact;

(2) That single garments may be obtained from him in all sizes, colors and styles, when such is not the fact;

(3) That his new merchandise is of the latest style, when such is not the fact;

(4) That his slightly used merchandise is always cleaned, pressed and repaired before shipment, when such is not the fact;

(5) That he will replace any merchandise that is not satisfactory, when such is not the fact;

(6) That his experts carefully select assorted quality merchandise and that he is able to purchase large bankrupt stocks, close-out stocks, auction stocks and manufacturers' samples direct from the source of supply and thus sell at a low price, when such is not the fact;

(7) That salesmen of respondent's merchandise can make any profit in excess of the usual and customary profits earned by other salesmen of his merchandise under normal conditions and in the due course of business;

(8) That he leads all other merchants in values and that his customers get the best merchandise on the market and are assured of satisfaction.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2695; Filed, September 14, 1938; 9:46 a. m.]

[1] 3 F. R. 1545 DI.

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

AMENDMENT TO RULES AND REGULATIONS FOR THE FEDERAL HOME LOAN BANK SYSTEM

PROVIDING FOR THE EFFECTIVE DATE OF BANK MEMBERSHIP

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by Section 17 of the Federal Home Loan Bank Act (12 U. S. C. 1437), paragraph d of Section 3.002 of the Rules and Regulations for the Federal Home Loan Bank System is hereby amended by adding the following sentence at the end thereof:

"The effective date of the membership of an applicant, if the application is approved, shall be the date set forth in the resolution of the Board approving the membership, or, in the event the resolution contains no effective date, the membership shall become effective upon the date the resolution approving the membership is adopted by the Board."

Adopted by the Federal Home Loan Bank Board on September 13, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-2689; Filed, September 13, 1938; 3:09 p. m.]

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

MODIFICATION OF NEW MEXICO GRAZING DISTRICT NO. 2

SEPTEMBER 8, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of March 27, 1936, establishing New Mexico Grazing District No. 2, is hereby revoked so far as it affects the following-described land:

NEW MEXICO PRINCIPAL MERIDIAN

T. 12 N., R. 12 W., secs. 1 to 18, inclusive;
T. 9 S., R. 6 W., sec. 31;
T. 8 S., R. 7 W., S½SW¼, SW¼SE¼, W½SE¼SE¼, sec. 30, secs. 31, 32, and 33;
T. 9 S., R. 7 W., secs. 3 to 10, 14 to 23, and 25 to 36, inclusive.

E. K. BURLEW, *Acting Secretary of the Interior.*

[F. R. Doc. 38-2696; Filed, September 14, 1938; 10:21 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

CALIFORNIA

SEPTEMBER 10, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the California State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made, under the provisions of said Order, for the fiscal year ending June 30, 1939: (1) those counties which were designated [1] for the making of loans for the fiscal year ending June 30, 1938; and (2) the following additional counties:

Merced and Tulare.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-2697; Filed, September 14, 1938; 12:04 p. m.]

[1] 3 F. R. 388 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of September, A. D. 1938.

[File No. 43–103; 47–19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CO. OF DEL., SOUTHERN OREGON GAS CORP. OF CALIF., CALIFORNIA UTILITIES CORP. OF CALIF., NEEDLES GAS AND ELECTRIC CO. OF CALIF., WEAVERVILLE ELECTRIC CO. OF CALIF., APACHE GAS COMPANY OF NEVADA, GAS TRANSPORT COMPANY OF NEVADA, REPUBLIC MUTUAL SERVICE CO. OF CALIF.

NOTICE OF AND ORDER FOR HEARING

A declaration and application pursuant to sections 7 and 10 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on September 23, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 20, 1938.

The matter concerned herewith is in regard to the proposed reorganization and recapitalization of the Republic Electric Power Company of Delaware holding company system. The plan provides for the divestment by the Republic Electric Power Company of securities and other assets of its subsidiaries, for territorial integration, for the simplification of the corporate structure, and the eventual dissolution of the Republic Electric Power Company of Delaware and the Republic Mutual Service Company of California, with the object of meeting the requirements of Section 11 (b) of the Holding Company Act. California Utilities Corporation, Needles Gas and Electric Company, and Weaverville Electric Company will be merged into the Southern Oregon Gas Corporation, which will continue to operate as the surviving corporation under the name California-Pacific Utilities Company. It is proposed that the surviving corporation will acquire all the assets and assume all liabilities of the three corporations which it will absorb. The new corporation will issue a total of $475,000 of bonds, $425,000 of which will be issued to the Republic Electric Power Company and $50,000 to be issued to the Niagara Share Corporation of Maryland in consideration for the cancellation of a like amount of indebtedness due the respective companies by the corporations merged into the surviving corporation.

It is further proposed that the Republic Electric Power Company will execute to the Niagara Share Corporation a non-negotiable 5% demand note the sum of $200,000, secured by demand notes of Apache Gas Company and Gas Transport Company, and all the issued and outstanding stock of the latter companies. The Niagara Company will look to the collateral for collection of the note, and agrees not to transfer or assign the note without first obtaining the approval of the Securities and Exchange Commission.

This declaration and application is filed as an amendment and supplements the original declaration and application on which the Commission has already held a public hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2691; Filed, September 13, 1938; 4:19 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of September, A. D. 1938.

[File No. 43–140]

IN THE MATTER OF SOUTHERN COLORADO POWER COMPANY

ORDER APPROVING DECLARATION ON CONDITION

Southern Colorado Power Company, a subsidiary of Standard Gas and Electric Company, a registered holding company, having filed a declaration with this Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the reduction of the amount of capital represented by its Class B common stock from $4,590,000 to $750,000 and the effecting of certain transfers in the accounts of the declarant;

A hearing on such declaration having been held [1] after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That such declaration be approved on condition that such corporate action and all matters connected therewith or related thereto shall be performed in all respects as set forth in and for the purposes represented by, said amended declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2698; Filed, September 14, 1938; 12:47 p. m.]

[1] 3 F. R. 1959 DI.

FEDERAL REGISTER

VOLUME 3 NUMBER 181

Washington, Friday, September 16, 1938

The President

GOLD STAR MOTHER'S DAY

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the preamble to Public Resolution 123, 74th Congress, approved June 23, 1936, recites:

"Whereas the service rendered the United States by the American mother is the greatest source of the country's strength and inspiration; and

"Whereas we honor ourselves and the mothers of America when we revere and give emphasis to the home as the fountainhead of the state; and

"Whereas the American mother is doing so much for the home and for the moral and spiritual uplift of the people of the United States and hence so much for good government and humanity; and

"Whereas the American Gold Star Mothers suffered the supreme sacrifice of motherhood in the loss of their sons and daughters in the World War;"

AND WHEREAS the said Public Resolution 123 provides:

"That the President of the United States is hereby authorized and requested to issue a proclamation calling upon the Government officials to display the United States flag on all Government buildings, and the people of the United States to display the flag and to hold appropriate meetings at their homes, churches, or other suitable places, on the last Sunday in September, as a public expression of the love, sorrow, and reverence of the people of the United States for the American Gold Star Mothers.

"SEC. 2. That the last Sunday in September shall hereafter be designated and known as 'Gold Star Mother's Day', and it shall be the duty of the President to request its observance as provided for in this resolution."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid public resolution, do by this proclamation designate Sunday, September 25, 1938, as Gold Star Mother's Day and direct Government officials to display the United States flag on all Government buildings, and do call upon the people of the United States to display the flag and to hold appropriate meetings at their homes, churches, or other suitable places on that day as a public expression of the affection and reverence of the people of the United States for the American Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this tenth day of September, in [SEAL] the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2298]

[F. R. Doc. 38–2703; Filed, September 15, 1938; 10:27 a. m.]

Rules, Regulations, Orders

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2894]

IN THE MATTER OF PRO-KER LABORATORIES, INC.

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* — Representing respondent's "Pro-Ker" hair product as competent treatment for falling hair, baldness, etc., or one which will grow hair or replace fallen with new hair, gets at the cause of and corrects any hair trouble, and enables user to have abundant healthy hair, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Pro-Ker Laboratories, Inc., Docket 2894, August 31, 1938.]

CONTENTS

THE PRESIDENT

Proclamation: Page
Gold Star Mother's Day 2241

RULES, REGULATIONS, ORDERS

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Gum, Inc. 2242
Pro-Ker Laboratories, Inc. .. 2241
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax regulations amended (test as to sufficiency of grantor's retained interest in trust income) 2242
TITLE 43—PUBLIC LANDS:
Division of Grazing:
Utah Grazing District No. 4, modification 2243

NOTICES

Department of the Interior:
National Bituminous Coal Commission:
Weighted average of total costs of tonnage produced within Minimum Price Areas 1–7, 9, 10; inspection of cost reports of producers 2243
Interstate Commerce Commission:
Effective date of order relative to *A. Johnston, of the Brotherhood of Locomotive Engineers, et al, v. The Atchison, Topeka & Santa Fe Railway Co., et al* 2244
Rural Electrification Administration:
Allocation of funds for loans ... 2244

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United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on 31st day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer thereto, testimony, and other evidence taken before John W. Addison, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, PRO-KER Laboratories, Inc., a corporation, its officers, representatives, agents, and employees, in connection with offering for sale, sale and distribution of a hair preparation and treatment designated "PRO-KER" and "Charles Nessler's Pro-Ker Hair Milk" or any product containing the same, or substantially the same ingredients sold under that name or any name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing that said product:

1. Is a competent treatment for falling hair, baldness, or any other hair trouble.

2. Will grow hair or replace fallen hair with new hair.

3. Will prevent hair from falling and will cause the user to retain hair.

4. Gets at the cause or to the root of all hair trouble, and will "correct," "rid," "end," or "cure" any hair trouble or scalp disorder.

5. Will force nature to replace fallen hairs and produce a new growth of hair.

6. Produces a vital, healthy, and strong scalp and creates the perfect hair growing condition, enabling the user to have abundant healthy hair.

It is further ordered that the respondent shall, within thirty (30) days after service upon it of this order, file with the Commission a reply in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2706; Filed, September 15, 1938; 12:27 p. m.]

[Docket No. 3467]

IN THE MATTER OF GUM, INCORPORATED

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., chewing gum, so packed, etc., that sales thereof to general public are to be, or may be made, by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gum, Incorporated, Docket 3467, August 31, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers, assortments of chewing gum which are, or may be used, without alteration, etc., to conduct a lottery, etc., in the sale thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gum, Incorporated, Docket 3467, August 31, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers assortments of chewing gum with a push card or other lottery device for use or which may be used in distributing, etc., such chewing gum to public at retail, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gum, Incorporated, Docket 3467, August 31, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Gum, Incorporated, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of chewing gum in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing chewing gum so packed or assembled that sales of such chewing gum to the general public are to be made or may be made, by means of a lottery, gaming device or gift enterprise.

(2) Supplying to or placing in the hands of dealers, assortments of chewing gum which are used, or which may be used, without alteration or rearrangement of the contents of such assortments, to conduct a lottery, gaming device or gift enterprise in the sale or distribution of chewing gum contained in said assortments to the public.

(3) Supplying to or placing in the hands of dealers, assortments of chewing gum together with a push card or other lottery device for use or which may be used in distributing or selling such chewing gum to the public at retail.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2705; Filed, September 15, 1938; 12:27 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4860]

INCOME TAX

ARTICLES 167-1 OF REGULATIONS 86 AND 94, AS AMENDED, FURTHER AMENDED

To Collectors of Internal Revenue and Others Concerned:

Subdivisions (b) of articles 167-1 of Regulations 86 and 94,[1] as amended by Treasury Decision 4759,[2] approved September 7, 1937, are further amended to reads as follows:

"(b) *Test of taxability to the grantor.*—The test prescribed by the Act as to the sufficiency of the grantor's retained interest in the trust income, resulting in the taxation of such income to the grantor, is whether he has failed to divest himself, both permanently and definitively, of every right which might, by any possibility, enable him to have such income, at some time, distributed to him, either actually or constructively. Such a distribution to the grantor occurs within the meaning of section 167 if the income is paid to him or to another in obedience to his direction or if the income is applied in payment of premiums upon policies of insurance on the grantor's life.

"For the purposes of this article, the sufficiency of the grantor's retained interest in the income is not affected by the fact that the grantor has provided that the right to so effect or direct the distribution of income is, or may at some future time be, vested in any person (either alone or in conjunction with the grantor) not having a substantial interest in the income adverse to the grantor.

"If the grantor has retained any such interest in the income, such income is taxable to the grantor regardless of—

"(1) whether it may be distributed currently or accumulated for future distribution;

"(2) whether such distribution, either current or subject to accumulation, is fixed by the trust instrument or is dependent on an exercise of discretion;

"(3) whether, if such distribution is in any way effected by or dependent on an exercise of discretion, the person exercising the discretion is the grantor or a person not having a substantial interest in the income adverse to the grantor, or both. A bare legal interest, such as that of a trustee, is never substantial and never adverse;

"(4) the time or times of such distribution, whether within or without the taxable period, whether conditioned on the precedent giving of notice, or on the elapsing of an interval of time, or on the happening of a specified event, or otherwise;

"(5) when the trust was created.

"Thus the inclusion of any trust within the scope of section 167 is based on the fact that the grantor has retained an interest in the income therefrom by which he is, or may be enabled at some time, to receive its benefits. But the provisions of section 167 are not to be regarded as excluding from taxation to the grantor the income of other trusts, not specified therein, in which the grantor is, for the purposes of the Act, similarly regarded as remaining in substance the owner of the trust income. If, for example, trust income is applied in satisfaction of the grantor's legal obligation whether to pay a debt, to support dependents, to pay alimony, to furnish maintenance and support, or otherwise, such income is in all cases taxable to the grantor.

"If the grantor strips himself permanently and definitively of every such interest retained by him, the income of the trust realized after such divesting takes effect is not taxable to the grantor but is taxable as provided in sections 161 and 162.

"A person may have an interest that is both substantial and adverse to the grantor in the disposition of only part of the income. There is to be excluded in computing the net income of the grantor only that part of the trust income in the disposition of which such person has a substantial interest adverse to the grantor."

This Treasury Decision is prescribed pursuant to the provisions of section 62 of the Revenue Act of 1934 and of section 62 of the Revenue Act of 1936.

[SEAL] GUY T. HELVERING, *Commissioner of Internal Revenue.*

Approved, September 12, 1938.

JOHN W. HANES, *Acting Secretary of the Treasury.*

[F. R. Doc. 38-2699; Filed, September 14, 1938; 3:03 p. m.]

TITLE 43—PUBLIC LANDS

DIVISION OF GRAZING

UTAH GRAZING DISTRICT NO. 4

MODIFICATION

SEPTEMBER 10, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Utah Grazing District No. 4, is hereby revoked as far as it affects the following-described land:

SALT LAKE MERIDIAN

T. 36 S., R. 4½ W., sec. 4, SW¼.

E. K. BURLEW, *Acting Secretary of the Interior.*

[F. R. Doc. 38-2702; Filed, September 15, 1938; 10:00 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS: DETERMINATIONS OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 1, 2, 3, 4, 5, 6, 7, 9, AND 10

ORDER RESCINDING ORDERS PERMITTING INSPECTION BY INTERESTED PARTIES OF VERIFIED COST REPORTS OF PRODUCERS

Whereas, the Commission by Orders issued August 31, 1938, and September 9, 1938,[1] within the above entitled proceedings, directed the Secretary of the Commission to cause the verified cost reports of the individual producers within each of Minimum Price Areas 1, 2, 3, 4, 5, 6, 9 and 10 to be made available for inspection during business hours on and after September 15, 1938 at the offices of the Commission, Central Savings Bank Building, Denver, Colorado, and Washington, D. C., by those interested parties who had filed appearances in this proceeding; and

Whereas, certain producers have secured a temporary stay from the Court of Appeals of the District of Columbia restraining the Commission from disclosing their individual cost reports pending their appeal from an Order of the U. S. District Court, of the District of Columbia, dismissing their bill for a restraining order; and

Whereas, the Commission is of the belief that the disclosure at this time of the verified cost reports of those producers who are not parties to the restraining order might cause possible discrimination and hardship:

Now, therefore, Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes," (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the Commission's Orders dated August 31, 1938, and Order dated September 9, 1938, directing the Secretary to cause the verified cost reports of the individual producers within each of the Minimum Price Areas named herein to be made available for inspection on September 15, 1938, and noticing a hearing for September 26, 1938, to be held at Denver, Colorado, for the purpose of receiving evidence relating to the determinations of the weighted average of the total costs of the tonnage produced in Minimum Price Areas 6, 7, 9, and 10, be and hereby are rescinded.

2. That the Secretary be and he is hereby directed to cause a copy of this Order to be mailed to each Code Member, to the Consumers' Counsel, to the Secretary of each District Board, and to all other parties who have entered appearances in this proceeding and shall

[1] 2 F. R. 533 (622 DI).

[1] 1 F. R. 1918.

[2] 2 F. R. 1823 (2135 DI).

[1] 3 F. R. 2162, 2227 DI.

cause this Order to be published forthwith in the FEDERAL REGISTER.

By Order of the Commission.

Dated this 14th day of September 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2707: Filed, September 15, 1938; 12:43 p. m.]

INTERSTATE COMMERCE COMMISSION.

[No. 24049]

ORDER RELATIVE TO A. JOHNSTON, GRAND CHIEF ENGINEER OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, ET AL. *v.* THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, ET AL.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 13th day of September, A. D. 1938.

Upon further consideration of the record in the above-entitled proceeding, and to comply with the terms of the stipulation heretofore entered into by all parties to the court proceeding relating to the order therein dated December 27, 1937,[1] now pending in the United States District Court for the Northern District of Ohio, and to afford opportunity for the proper consideration of said case by the court;

It is ordered, That the effective date of the said order be, and it is hereby, further postponed from October 1 to November 15, 1938.

It is further ordered, That the said order shall in all other respects remain in full force and effect.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-2704; Filed, September 15, 1938; 11:50 a. m.]

[1] 2 F. R. 2984 (3450 DI).

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 288]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 12, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Kansas 9018W1 Sedgewick	$5,000
Minnesota 9063W1 Scott	9,000
Nebraska 9024W2 Lancaster	5,000
Texas 9064W1 San Augustine	15,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2701; Filed, September 15, 1938; 10:00 a. m.]

[Administrative Order No. 289]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 12, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Alabama 9021C1 Cherokee	$75,000
Georgia 9022C1 Colquitt	126,000
Georgia 9037C1 Douglas	176,000
Georgia 9042D1 Toombs	177,000
Georgia 9058C1 Lamar	303,000
Georgia 9068B1 Grady	120,000
Idaho 9015A1 Idaho	191,000
Illinois 9031A1 Monroe	175,000
Indiana 9027A1 Decatur	290,000
Indiana 9044A1 Allen	240,000
Iowa 9009E1 Scott	390,000
Iowa 9011B1 Webster	30,500
Iowa 9039C1 Benton	154,000
Kentucky 9033D1 Daviess	100,000
Michigan 9044A1 Grand Traverse	372,000
Minnesota 9009B1 Goodhue	81,000
Minnesota 9015C1 Faribault	75,000
Minnesota 9018D1 Douglas	85,000
Mississippi 9036A1 Marion	187,000
Missouri 9033A1 Butler	269,000
Montana 9016A1 Park	119,000
North Carolina 9027A2 Hyde	6,000
Ohio 9087A2 Wood	181,000
Pennsylvania 9015C1 Bradford	265,500
Tennessee 9024A1 Montgomery	245,000
Texas 9041B1 Panola	53,000
Virginia 9034A1 Lee	300,000
Wisconsin 9048A1 Waupaca	151,000
Wisconsin 9052A1 Crawford	139,000
Wisconsin 9053A1 Eau Claire	290,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2700; Filed, September 15, 1938; 10:00 a. m.]

SEP 19 . 3

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 182

Washington, Saturday, September 17, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[SRB-101—Amendment 20]

1937 AGRICULTURAL CONSERVATION PROGRAM

SOUTHERN REGION BULLETIN 101

Amendment 20

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Part VII, Southern Region Bulletin 101,[1] as Amended, is hereby further amended as follows:

Section 73 is amended by the addition of the following new subsection (f):

(f) Notwithstanding the provisions of the above subsections of this section 73, the payment to producers furnishing water for the production of rice for a share of the rice, or the proceeds thereof, shall be computed at the same rates and under the same conditions outlined above, except:

1. The maximum payment shall be computed on the basis of such producer's share of the rice grown on all farms on which he shares in the production of rice, but not in excess of his rice base acreage, and

2. A deduction from the producer's maximum payment shall be made at the rate of 4 percent for each one percent of his rice base acreage by which his share of the 1937 rice acreage on all farms to which he has allocated rice acreage exceeds his rice base acreage, and

3. A deduction from the producer's maximum payment shall be made at the rate of one percent for each percent of his rice base acreage by which his share of the 1937 rice acreage on all farms on which he shares in the production of rice is in excess of the larger of the following:

(1) His rice base acreage.

(2) His share of the planted rice acreage on all farms to which he allocated rice acreage.

The provisions of this Amendment 20 shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances, Deductions, and Rates of Payment Under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern, and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.[1]

Done at Washington, D. C., this 15th day of September, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2708; Filed, September 15, 1938; 3:42 p. m.]

DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN DOMESTIC BEET SUGAR AREA FOR 1938 CROP

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937,[2] I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the proportionate share for the 1938 crop for each farm in the domestic beet sugar area shall be the number of acres of sugar beets planted thereon for the production of sugar beets marketed (or processed by the producer) for the extraction of sugar or liquid sugar during the 1938 season.

Done at Washington, D. C., this 15th day of Sept., 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-2710; Filed, September 16, 1938; 12:03 p. m.]

[1] 2 F. R. 8 (10 DI).

[1] 2 F. R. 2214 (2547 DI).

[2] 50 Stat. 903.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:

Agricultural Adjustment Administration: Page

Agricultural conservation program, 1937, Southern Region Bulletin 101, Amendment 20 2245

Domestic beet sugar area for 1938 crop, determination of proportionate shares for farms in 2245

TITLE 43—PUBLIC LANDS:

Bureau of Reclamation:

Colorado River Storage Project, first form reclamation withdrawal 2245

NOTICES

Securities and Exchange Commission:

Financial Distributors Inc., revocation and/or suspension of registration 2246

Indiana General Service Co., hearing 2247

Middle West Corp., hearing 2247

Missouri Pacific Railroad Co., stock, order denying motion that requests for findings of fact be made part of record 2246

TITLE 43—PUBLIC LANDS

BUREAU OF RECLAMATION

COLORADO RIVER STORAGE PROJECT

FIRST FORM RECLAMATION WITHDRAWAL

JULY 25, 1938.

THE SECRETARY OF THE INTERIOR.

SIR: By Departmental Order of March 14, 1929, all townships 8 and 9 South,

FEDERAL REGISTER

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Ranges 11 and 12 West, Gila and Salt River Meridian, Arizona, were embraced in a first form withdrawal under the provisions of Section 3, Act of June 17, 1902 (32 Stat., 388), in connection with the Colorado River Storage Project.

Recent surveys under Group 200, Arizona, aproved July 6, 1937, and accepted by the Assistant Commissioner of the General Land Office on February 21, 1938, established fractional townships 8 and 9 South, Range 11½ West, Gila and Salt River Meridian, Arizona.

Since it was the intention of Departmental Order of March 14, 1929, to include the lands now designated as fractional townships 8 and 9 South, Range 11½ West, Gila and Salt River Base and Meridian, Arizona, it is recommended that Departmental Order of March 14, 1929, be adjusted to the extent of embracing townships 8 and 9 South, Range 11½ West, Gila and Salt River Base and Meridian, Arizona.

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur:

FRED W. JOHNSON,
Commissioner, General Land Office.

SEPTEMBER 2, 1938.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2709; Filed, September 16, 1938; 10:03 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in city of Washington, D. C., on the 14th day of September 1938.

IN THE MATTER OF FINANCIAL DISTRIBUTORS, INC., 204 FOSHAY TOWER, MINNEAPOLIS, MINNESOTA

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCATION AND/OR SUSPENSION OF REGISTRATION

The Commission having reasonable grounds to believe that Financial Distributors, Inc., a corporation registered as a broker and dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended, and hereinafter called the registrant, has wilfully violated the provisions of Section 5 (a) of the Securities Act of 1933, as amended, in that during the period from January 1, 1938, to September 13, 1938, the said registrant carried and caused to be carried through the mails and in interstate commerce by means and instruments of transportation a security designated as a Joint Fund Agreement for the purpose of sale and delivery after sale without a registration statement being in effect as to the said security; and

The Commission having reasonable grounds to believe that it is in the public interest to suspend or revoke said registration; and

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

It is ordered, That proceedings be held to determine whether the registration of Financial Distributors, Inc., a corporation, should be suspended or revoked pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended.

It is further ordered, That a hearing for the purpose of taking testimony begin on October 12, 1938, at 10:00 A. M. at the Chicago Regional Office, Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and that the said hearing be continued at such other time and place as the Commission or the officer conducting such hearing may determine; that for the purpose of said hearing Henry Fitts be and he is hereby designated as the officer of the Commission to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on Financial Distributors, Inc., personally or by registered mail not less than seven (7) days prior to the time of said hearing, or in the event of failure to serve registrant personally or by registered mail, that this order and notice be published in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon completion of taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission, and transmit same with a record of this hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2712; Filed, September 16, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

[File No. 1-2139]

IN THE MATTER OF MISSOURI PACIFIC RAILROAD COMPANY FIVE PER CENT CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE, AND COMMON STOCK, $100 PAR VALUE

PROCEEDING UNDER SECTION 19 (A) (2) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, TO DETERMINE WHETHER THE REGISTRATION SHOULD BE SUSPENDED OR WITHDRAWN

Order Denying Motion That All Requests for Findings of Facts Be Made Part of the Record

The Commission having by order dated February 14, 1938,[1] authorized a hearing in the above entitled matter, a hearing having been held before a trial examiner designated by the Commission, a report having been filed by the trial examiner as a basis for exceptions and argument, exceptions having been taken to such report, and briefs having been filed, and

The respondent and the interveners having made motions that all requests for findings of facts filed in this proceeding either with the trial examiner or with the Commission be made a part of the record and be served upon counsel for all parties, except to the extent that the same have heretofore been made part of the record herein and served upon counsel, and having filed briefs in support of such motions, and

[1] 3 F. R. 477 DI.

The Commission having duly considered the record in this proceeding, and having made appropriate findings of facts as fully set forth in the Commission's Findings of Fact and Opinion this day issued;

It is ordered, That the motions be and they are hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2711; Filed, September 16, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15 day of September, A. D. 1938.

[File No. 32-103]

IN THE MATTER OF INDIANA GENERAL SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 28, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 23, 1938.

The matter concerned herewith is in regard to a proposed issuance and sale by Applicant, Indiana General Service Company, a subsidiary of American Gas & Electric Company, a registered holding company, of $6,500,000 principal amount of First Mortgage Bonds, 3¼%, Series due August 1, 1968, such issue and sale to be private to a limited number of purchasers. It is stated that the price will be approximately 101½ of the principal amount, plus accrued interest from August 1, 1938 to the date of delivery. The proceeds of the securities proposed to be issued and sold are to be expended or otherwise used for the following purposes, namely:

(a) To redeem on or before January 1, 1939, at 105% of their principal amount, $3,745,900 principal amount First Mortgage Thirty Year 5% Gold Bonds of Applicant due January 1, 1948, being all the bonds of Applicant now outstanding;

(b) To discharge the outstanding unsecured indebtedness of Applicant to American Gas & Electric Company in the amount of $1,450,000; and

(c) To reimburse Applicant's treasury insofar as may be for the funds provided therefrom and used for the retirement of $1,383,100 principal amount of funded indebtedness of Applicant, and for improvements to its properties made prior to June 30, 1938 amounting to $3,901,627.97.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2714; Filed, September 16, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of September, A. D. 1938.

[File Nos. 46-113 and 56-10]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 10 and 12 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party; and it appearing that they relate to the same subject matter;

It is ordered, That a hearing on such matters be held on September 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 24, 1938.

The matters concerned herewith are in regard to a proposed acquisition by applicant of a maximum of 10,657 shares of Public Service Company of Oklahoma Six Per Cent Prior Lien Stock, par value $100 per share, which are to be issued by said Company in exchange for an equal number of shares of Southwestern Light and Power Company $6 Preferred Stock, without par value, now owned by applicant. Said two companies are indirect subsidiaries of the applicant. The exchange is to be made pursuant to an offer which said Public Service Company of Oklahoma proposes to make to all holders (other than Public Service Company of Oklahoma itself) of Southwestern Light and Power Company $6 Preferred Stock to exchange their shares for shares of said offering company's Six Per Cent Prior Lien Stock, on the basis of one share of said $6 Preferred Stock for each share of Six Per Cent Prior Lien Stock. Such exchange offer is now before the Commission in files nos. 43-152 and 46-108.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2713; Filed, September 16, 1938; 12:46 p. m.]

Reference

SEP 21 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 183

Washington, Tuesday, September 20, 1938

The President

EXECUTIVE ORDER

PRESCRIBING REGULATIONS GOVERNING PAYMENT OF LOSSES SUSTAINED BY OFFICERS, ENLISTED MEN, AND EMPLOYEES OF THE UNITED STATES WHILE IN SERVICE IN FOREIGN COUNTRIES ON ACCOUNT OF APPRECIATION OF FOREIGN CURRENCIES IN THEIR RELATION TO THE AMERICAN DOLLAR

By virtue of and pursuant to the authority vested in me by the act of March 26, 1934, ch. 87, 48 Stat. 466, as amended by the act of August 14, 1937, ch. 627, 50 Stat. 641, I hereby prescribe the following regulations governing payment of losses sustained by officers, enlisted men, and employees of the United States while in service in foreign countries on account of appreciation of foreign currencies in their relation to the American dollar:

DEFINITION

1. (a) The words in the act, "while in service in foreign countries," for the purpose of these regulations shall be understood to mean: (1) while employed in or on assignment or detail to a post of duty in a foreign country, (2) while en route through a foreign country or to and from such post, (3) while during such assignment or detail abroad on leave of absence with pay in a foreign country, or, in connection with allowances for living quarters maintained abroad during leave of absence or while under orders in the United States, (4) while traveling in foreign countries under official orders, or (5) while attached to and serving on board United States vessels, when such vessels are stationed "in foreign waters." A vessel is to be considered "stationed in foreign waters" from the date of first arrival in foreign port or jurisdiction, providing she remains 60 or more consecutive days in foreign waters.

1. (b) As used in these regulations:

The term "net salary" means the base salary, less any deductions for contribution to the retirement or other fund or on account of percentage deductions in compensation or allotment of pay. The term "net allowances" means allowances paid to the employee, including mileage allowance and per diem allowances for dependent members of the employee's family in travel status as well as for the employee himself. The term "net pay and allowances" means the employees full pay, including extra or additional pay, and all allowances (other than those furnished in kind) less deductions therefrom on account of allotments, fines and forfeitures, clothing, hospital, Civil Service Retirement fund, percentage deductions in compensation, and other sundry checkages. The term "country of assignment" means the regular, permanent duty station, as opposed to a temporary duty station or a station of new assignment for which the employee has not departed. Except as otherwise provided in this order, the term "salary and allowances accruing" means the amount being earned and payable at the expiration of regular pay periods, that is, on the fifteenth and last day of each month. The term "salary or allowances earned" means the amounts earned on a daily basis for the actual period involved as distinguished from an accrual of salary and allowances and payment at the expiration of regular pay periods. The term "substantial period of time" means any time over and above that necessary for mere transit through a country, allowing for necessary delays in making transportation connections. The term "allowable transit period" shall be considered to include periods awaiting sailing outside the United States and the time which would ordinarily be consumed in direct transit by the usually traveled route unless indirect travel be authorized for official reasons. The term "assigned to temporary headquarters in a foreign country" refers to employees in a travel status performing special duty at a specific station or stations abroad. The term "detailed for temporary duty to another station" refers to employees having a permanent duty station or headquarters abroad who may be detailed to travel or perform other official duties elsewhere than at such permanent duty station or headquarters. Fractional

CONTENTS

THE PRESIDENT

Executive Orders: Page
New Mexico, transfer of jurisdiction over certain lands from Secretary of Agriculture to Secretary of the Interior ---------- 2252
Payment of losses sustained by United States officers, etc., in foreign countries due to appreciation of foreign currencies in relation to American dollar ---------- 2249

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Modified tuberculosis-free accredited areas, names of counties placed in ---------- 2253
TITLE 15—COMMERCE:
National Bituminous Coal Commission:
Colorado, investigation of nature and extent of transactions in intrastate commerce in bituminous coal, etc ---------- 2253
Office of the Secretary of Commerce:
Amendment to regulation designating and defining a line dividing high seas from rivers, harbors, and inland waters ---------- 2254
TITLE 17—CONSERVATION AND POWER:
Federal Power Commission:
Annual financial and statistical reports for:
Class C electric utilities and licensees ---------- 2254
Class D electric utilities and licensees ---------- 2255
TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Standard broadcast stations, rules governing; equipment ---------- 2255

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc., in the matter of: Page
Consolidated Pinnacle Coal Co., and Ellis Morrell---- 2257
Hunter, Eugene H. and Rae Lamarr, trading as Floracube Co., Inc---- 2257
Magnecoil Co., Inc---- 2257
Politis, Harry, trading as Politis Laboratory---- 2257
Foreign-Trade Zones Board:
Foreign-trade zone grantees, uniform system of accounts, records, and reports for use by---- 2257
Securities and Exchange Commission:
Cincinnati Gas & Electric Co., effectiveness of declaration- 2258
Lange, C. E., Drilling Block, permanent suspension order-- 2258
Permian Oil & Gas Co., et al., withdrawal of application-- 2259
Platoro Gold Mines, Inc., stop order---- 2259
Sandar Corp., hearing---- 2259
Utilities Power & Light Corp., and Charles True Adams, Trustee, order allowing petition to intervene---- 2258
Treasury Department:
Federal Alcohol Administration Division:
Concessions at World's Fairs- 2256
United States Civil Service Commission:
Condition of apportionment at close of business Thursday, September 15, 1938---- 2259
United States Maritime Commission:
Isthmian Steamship Co., and Dollar Steamship Line, hearing on operating-differential subsidy contract---- 2260

days shall be counted as full days and an employee's status at the end of a day shall determine his status for the entire day.

METHOD OF COMPUTATION OF PAYMENT OF LOSSES

2. (a) The loss above referred to is that calculated on the basis of a computation of conversion into foreign currency of the employee's net salary and net allowances, except as provided in the following paragraphs.

2. (b) In case of employees serving under the War and Navy Departments (with the exception of military and naval attachés and other employees attached to their offices, who shall be governed by paragraph (a) of this section), the loss is that calculated on the basis of conversion into foreign currency of the employee's net pay and allowances.

2. (c) In case of employees assigned to temporary headquarters in a foreign country, or traveling in foreign countries under official orders but not employed in or on assignment or detail to a post of duty in a foreign country, all of the employee's net salary and allowances earned outside of the United States shall be included in computing the loss referred to for the purpose of these regulations. Reimbursement in case of employees assigned to temporary headquarters in a foreign country, including reimbursement for losses during allowable transit periods, shall be made only on the basis of the applicable basic rate prescribed for and the rate of exchange obtaining on accrual dates in the country wherein the temporary headquarters are located. In the case of employees traveling and not assigned to temporary headquarters, computation of reimbursable loss shall be made on the basis of the applicable basic rate prescribed and the rate of exchange obtaining on the first day of travel within the country wherein duty is first performed for salary and allowances earned during the transit periods, and on the basis of the rate of exchange obtaining on the first subsequent accrual date for the net salary and allowances earned between date of arrival and the accrual date, subsequent calculations to be computed on accrual dates and payment so made during continuous travel status within the same country. Upon departure for each subsequent duty station abroad the basic rate applicable for computation of reimbursable losses shall be that of the station from which transferred for salary and allowances earned prior to departure therefrom, the date of departure being considered the accrual date, and the basic rate prescribed for the new duty station shall apply to the transit period and period of duty at each new station or country in which duty is performed as hereinabove provided. Upon termination of duty for return to the United States the basic rate for the country in which duty was last performed and the rate prevailing on the date of departure shall apply in determining the reimbursable losses during such allowable transit. Exchange rates obtaining in countries through which the employees perform official travel but no other duty shall uniformly be disregarded.

2. (d) In case of a foreign country in which the loss cannot be calculated on the basis of conversion into the currency of that country but, in consequence of local law or regulations, is required to be calculated on the basis of the appreciation in relation to the dollar of a noncirculating monetary unit in which prices of commodities and services are quoted but not payable—the dollar itself being used in payment therefor—the loss is authorized to be computed on that basis. In case the currency in circulation in a particular province or distinct portion of a foreign country is different from the currency in circulation elsewhere in that country, for which a basic rate is herein prescribed, the exchange losses for such portion of the country may nevertheless be computed upon the basic rate prescribed for the country as a whole.

2. (e) In case of employees employed in or on assignment or detail to posts in countries having local laws and regulations preventing or limiting subsequent to April 1, 1934, conversion of local currency into foreign currency the reimbursable loss on their net salary and net allowances while they are at their post of duty in such country may be computed in the currency of a country other than that in which they are stationed, and the losses so sustained and computed since April 1, 1934, or hereafter sustained and computed in such manner shall be reimbursed, but in no case in an amount greater than would have been reimbursed had their net salary and their net allowances been computed at the rates applicable at the post of duty: PROVIDED, That if in any country having such laws and regulations the rate at which foreign currency may be exchanged into the local currency is fixed on the basis of the currency of a third country, the computation of reimbursable losses is to be based on the applicable basic rate and the rate of exchange prevailing in the third country, the currency of which is used as the basis for the exchange rate of the country of assignment.

2. (f) In case of employees who sustained losses arising from the conversion of salaries or allowances (including those paid from fees either in foreign or American currency) during the period from July 1, 1933, to March 31, 1934, the losses shall be calculated as heretofore. Claims for reimbursement for such losses shall be accompanied by the best evidence available to the employee, of the rate at which conversion was made.

MISCELLANEOUS ADVISORY

3. (a) In cases of employees having a regular station in a foreign coutry, the basic rate for that country shall apply in determining reimbursable losses including those on shipboard during periods of leave and irrespective of the country within which authorized leave is taken outside the United States. Leave outside the United States taken en route to a new post shall be considered as taken while on duty at the new post.

3. (b) Payment of currency-appreciation losses may be made either in foreign currency or in United States currency, considering only the basic rate as fixed by this order and the rate prevailing when the right to payment accrues, and when the amount in American dollars has been so ascertained and paid or when payment is made in foreign currency by a disbursing officer after correct computation at the basic rate of exchange properly applicable, such payment shall constitute payment of such salary and allowances and currency-appreciation loss thereon; and no further computation shall be required.

3. (c) The accrual date for payments such as salary and allowances accruing at regular intervals shall ordinarily be the last day of the month, or in the case of semimonthly payments the fifteenth, PROVIDED, That when for administrative or other reasons it becomes desirable to make payments for fractional periods or at other than the regular date, the last day of the fractional period shall be regarded as the accrual date.

3. (d) In countries where restrictive conditions are applicable to certain legal media of exchange, the use of such currency shall not be insisted upon, but where computation of conversion is made into the currency upon which restricted conditions are imposed the exchange loss shall be computed upon the rates applicable to such currency regardless of whether the employee be regularly assigned or be temporarily traveling in such foreign countries.

3. (e) No losses shall be payable on salary or allowances earned or accrued while an employee is in the United States, except on rent allowances, on which allowance losses are in all cases for computation on the basis of the rate prescribed for application for the countries in which the quarters are being maintained, and this rate shall apply throughout the period such allowances are authorized and payable.

3. (f) In case of the transfer from one duty post to another, losses on salary and allowances accruing to an employee are for reimbursement on the basis of the rate applicable to the new duty station, except that loss on salary and allowances earned up to and including the date of departure and on rent allowances throughout the period authorized and payable at the old post shall be computed at the rate applicable and obtaining to that station on the date of departure: PROVIDED, That should temporary duty be ordered en route to the new regular duty station the rate applicable to the temporary duty station shall govern and computation of losses on salary and allowances earned thereat shall be made considering such temporary station for this purpose as the new duty station including losses computed on salary and allowances earned or accruing en route from the last permanent duty post.

3. (g) In case of employees having regular duty stations abroad who are detailed for temporary duty to another station or are required to travel in performance of official duties in places and countries other than those in which they are stationed, losses on per diem and other allowances accruing by reason of duty at the temporary station are for computation on the basis of the rates applicable to the temporary duty station or the rates applicable to the particular country where the travel and duty are performed, and losses on salary and other allowances with the exception of allowances for living quarters, accruing at their regular duty station during such detail may be computed on the basis of the rates applicable either to the temporary duty station or to the regular duty station as shall be determined and stated in the travel order, except that all losses of an employee such as a courier who is required to perform official travel through other countries and return to his permanent station without stop-over for any substantial period of time are for computation at the rate applicable to his regular duty station.

BASIC EXCHANGE RATES FOR COMPUTATION OF LOSSES

4. For the basis of computation of losses as referred to in the aforesaid acts, the following rates are prescribed as the basic rates for foreign currencies, and hereafter it shall be the duty of the Secretary of State annually to review the basic rates established by this order and amendments thereto and to submit to the President for approval such changes in the basic rates as may be required to give appropriate weight to fluctuations in the appreciation of foreign currencies in their relation to the American dollar.

Country	Monetary unit	Basic rate
Albania	Franc	19.28
Argentina	Peso	34.37
Belgian Congo	Belga	13.92
Belgium	Belga	13.92
Bolivia	Boliviano	31.31
Brazil	Milreis	9.51
Bulgaria	Lev	.72
Canada	Dollar	95.93
Chile	Peso	9.46
China	Yuan	31.18
Colombia	Peso	96.22
Costa Rica	Colon	24.56
Cuba	Peso	99.95
Czechoslovakia	Koruna	2.96
Danzig	Gulden	19.44
Denmark	Krone	24.27
Dominican Republic	Dollar	100.00
Ecuador	Sucre	19.37
Egypt	Pound	456.53
El Salvador	Colon	40.52
Estonia	Kroon	26.65
Ethiopia	Lira	5.20
Finland	Markka	2.25
France	Franc	3.92
France (Possessions)		
Algiers	Franc	3.92
Martinique	Franc	3.92
Saigon	Franc	3.92
Tahiti	Franc	3.92
Tunis	Franc	3.92
Germany	Reichsmark	23.77
Great Britain	Pound	445.17
Great Britain (Possessions)		
Aden	Rupee	32.88
Australia	Pound	403.19
Barbados	Dollar	93.02
Belize	Dollar	100.00
Colombo	Rupee	33.14
Gibraltar	Pound	445.30
Hamilton, Bermuda	Pound	436.42
Hong Kong	Dollar	14.38
India	Rupee	33.21
Kingston, Jamaica	Pound	440.68
Lagos	Pound	440.36
Malta	Pound	443.05
Nairobi	Pound	445.20
Nassau	Pound	441.25
Newfoundland	Dollar	95.93
New Zealand	Pound	424.04
Penang	Dollar	51.36
Singapore	Dollar	51.36
Trinidad	Dollar	91.38
Greece	Drachma	1.17
Guatemala	Quetzal	100.00
Haiti	Gourde	20.00
Honduras	Lempira	50.00
Hungary	Pengo	16.31
Iran	Rial	6.28
Iraq	Pound	432.35
Ireland	Pound	442.79
Italy	Lira	5.20
Japan	Yen	42.47
Latvia	Lat	19.29
Liberia	Pound	436.82
Lithuania	Litas	10.00
Luxemburg	Franc	2.70
Mexico	Peso	41.70
Morocco	Franc	3.91
Netherlands	Florin	40.22
Netherlands (Possessions)		
Batavia	Florin	40.22
Curaçao	Florin	40.22
Medan	Florin	40.22
Surabaya	Florin	40.22
Nicaragua	Cordoba	100.00
Norway	Krone	24.18
Palestine	Pound	427.92
Panama	Balboa	100.00
Paraguay	Peso	1.80
Peru	Sol	33.52
Poland	Zloty	11.19
Portugal	Escudo	4.10
Portugal (Possessions)		
Lourenco Marques	Mozambique Escudo	4.25
Rumania	Leu	.59
Siam	Baht	42.04
Spain	Peseta	11.67
Sweden	Krona	24.40
Switzerland	Franc	19.35
Syria	Syrian Pound	78.62
Turkey	Lira	48.01
Union of South Africa	Pound	474.50
U. S. S. R.	Ruble	5.75
Uruguay	Peso	75.15
Venezuela	Bolivar	17.70
Yugoslavia	Dinar	1.72
Yunnanfu	Piaster	38.00

METHOD OF PAYMENT TO EMPLOYEES

5. From and after the effective date of this order each employee shall be entitled to receive in foreign currency such amount as he would have received by converting into such foreign currency at the basic rates specified in section 4, his net salary and net allowances or his net pay and allowances as herein provided, except that nothing herein contained shall be construed so as to negative allowance of credit for payments made and reimbursement of losses sustained under prior orders relating to exchange relief.

EFFECTIVE DATE

6. This order shall take effect, except as otherwise provided herein, on the first day of the second month following the month in which this order is approved, and the heads of the executive departments are hereby authorized to issue such instructions to carry out the provisions of this order in their respective

departments as may be necessary to conform to the accounting procedure of such departments.

PRIOR ORDER SUPERSEDED

7. This order shall, when effective, supersede Executive Order No. 6928 of December 24, 1934, as amended by Executive Orders No. 7312 of March 9, 1936, No. 7403 of June 26, 1936, No. 7547 of February 1, 1937, No. 7766 of December 10, 1937, No. 7785 of January 8, 1938, and No. 7955 of August 13, 1938.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 15, 1938.

[No. 7972]

[F. R. Doc. 38—2715; Filed, September 16, 1938; 1:31 p. m.]

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

NEW MEXICO

WHEREAS certain lands, together with the improvements thereon, largely contiguous or in close proximity to existing Indian reservations, in the State of New Mexico, have been, or are in process of being, acquired in connection with the projects hereinafter designated, under authority of Title II of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act, approved April 8, 1935 (49 Stat. 115), and section 55 of Title I of the act of August 24, 1935, 49 Stat. 750, 781; and

WHEREAS by Executive Order No. 7908, dated June 9, 1938,[1] all the right, title, and interest of the United States in such lands, acquired, or in process of acquisition, were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), and the related provisions of Title IV thereof; and immediately upon acquisition of legal title to those lands now in process of acquisition, said order, under the terms thereof, will become applicable to all the additional right, title, and interest thereby acquired by the United States; and

WHEREAS it appears that the transfer of jurisdiction over such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 32 (c), Title III, of the said Bankhead-Jones Farm Tenant Act, and upon recommendation of the Secretary of Agriculture, it is hereby ordered that jurisdiction over the hereinafter-described lands, together with the improvements thereon, acquired, or in the process of acquisition, by the United States in connection with the hereinafter-designated projects, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior: *Provided, however,* that the Secretary of Agriculture shall retain such jurisdiction over the lands now in process of acquisition by the United States as may be necessary to enable him to complete their acquisition; and the Secretary of the Interior is hereby authorized to administer such lands, through the Commissioner of Indian Affairs, for the benefit of such Indians as he may designate, under such conditions of use and administration as will best carry out the purposes of the land-conservation and land-utilization program for which such lands were acquired:

ZUNI PROJECT, LI–NM 13

MCKINLEY AND VALENCIA COUNTIES, NEW MEXICO

New Mexico Principal Meridian

T. 8 N., R. 16 W.,
sec. 4, SW¼;
secs. 7, 9, 17, 19, and 21, all;
sec. 28, NE¼, SW¼, and SE¼;
secs. 29, 31, and 33, all;
T. 9 N., R. 16 W.,
secs. 31 and 34;
T. 8 N., R. 17 W.,
secs 1, 11, 23, 25, 27, 29, 31, 33, and 35;
T. 9 N., R. 17 W.,
secs. 25 and 35;
T. 8 N., R. 18 W.,
secs. 19, 21, 23, 25, 27, 29, 31, 33, and 35;
T. 8 N., R. 19 W.,
secs. 19, 25, 27, 29, 31, 33, and 35;
T. 10 N., R. 19 W.,
sec. 1, lots 1 to 6, inclusive;
sec. 3, lot 1, NE¼, NW¼, SW¼, N½SE¼, and SW¼SE¼;
secs. 5 and 7, all;
sec. 9, lots 1 to 5, inclusive, N½NE¼, SW¼NE¼, NW¼, and NW¼SW¼;
sec. 17, lots 1 to 3, inclusive, and NW¼NW¼;
T. 11 N., R. 19 W.,
secs. 1, 9, 11, and 13, all;
sec. 14, NE¼, NE¼NW¼, S½NW¼, and SW¼;
secs. 15, 17, and 19, all;
sec. 20, NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and SE¼;
secs. 21 to 23, inclusive, 25, and 27, all;
sec. 28, NW¼, SW¼, and SE¼, and NE¼;
secs. 29 to 31, inclusive, 33, and 35, all;
T. 8 N., R. 20 W.,
sec. 13, lots 4 to 6, inclusive, and SE¼SE¼;
sec. 23, lots 5 to 8, inclusive, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
sec. 25, all;
sec. 27, lot 2, NE¼, NE¼NW¼, S½NW¼, SW¼, and SE¼;
sec. 29, lots 6 to 8, inclusive, and SE¼SE¼;
sec. 31, lots 8 to 15, inclusive, SE¼NE¼, NE¼SW¼, and N½SE¼;
secs. 33 and 35, all;
T. 10 N., R. 20 W.,
sec. 1, all;
sec. 3, NE¼, NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
sec. 4, NW¼ and SW¼;
secs. 5 to 9, inclusive, all;
sec. 10, W½NW¼ and W½SW¼;
sec. 11, all;
sec. 13, lots 1 and 2, NE¼, NW¼, SW¼, and N½SE¼;
sec. 14, NW¼, and SW¼;
secs. 15 and 17 to 21, inclusive, all;
sec. 22, lots 1 and 2, NE¼, NW¼, SW¼, and N½SE¼;
sec. 23, lots 1 to 6, inclusive, N½NE¼, and NW¼;
sec. 27, lots 1 to 4, inclusive;
sec. 28, lots 1 to 4, inclusive, N½NE¼, and NW¼;
sec. 29, lots 1 and 2, NE¼, NW¼, SW¼, and N½SE¼;
sec. 30, all;
sec. 31, lots 1 to 8, inclusive, NW¼NE¼, and NE¼NW¼;
T. 11 N., R. 20 W., secs. 25 and 35, all;
T. 9 N., R. 21 W.,
sec. 1, lots 1 and 2;
sec. 3, lots 1 to 6, inclusive, NE¼, and NW¼SE¼;
T. 10 N., R. 21 W.,
sec. 1, all;
sec. 3, lots 1 to 6, inclusive, S½NE¼, and SE¼;
sec. 10, lots 1 to 4, inclusive, NE¼, and SE¼;
secs. 11 to 14, inclusive, all;
sec. 15, lots 1 to 4, inclusive, NE¼, and SE¼;
sec. 22, lots 1 to 4, inclusive, NE¼, and SE¼;
secs. 23 to 26, inclusive, all;
sec. 27, lots 1 to 4, inclusive, NE¼, and SE¼;
sec. 34, lots 1 to 4, inclusive, NE¼, and SE¼;
sec. 35, all.

GALLUP-TWO WELLS PROJECT, LI–NM 18

MCKINLEY COUNTY, NEW MEXICO

New Mexico Principal Meridian

T. 13 N., R. 17 W.,
sec. 7, lots 1 to 4, inclusive, NE¼, E½NW¼, and E½SW¼;
sec. 16, NE¼ and SE¼;
sec. 18, lots 3 and 4, and E½SW¼;
sec. 20, SW¼;
sec. 21, NE¼ and SE¼;
sec. 22, S½SW¼NE¼, S½SW¼NW¼, SW¼, N½SE¼, NW¼SE¼SE¼, N½SW¼SE¼, and SW¼SW¼SE¼;
sec. 23, SE¼;
sec. 25, all;
sec. 27, S½NE¼, S½NW¼, and SE¼;
sec. 28, NE¼, E½NW¼, and N½SE¼;
sec. 30, lots 1 and 2, SE¼NE¼, SE¼SW¼, and SE¼;
sec. 32, NE¼SW¼, NW¼SE¼, and S½SE¼;
sec. 33, NE¼, E½NW¼, E½SW¼, and SE¼;
sec. 35, all;
T. 12 N., R. 18 W.,
sec. 2, all;
sec. 3, lots 3 and 4, S½NW¼, and SW¼;
sec. 4, lots 1 to 4, inclusive, S½NE¼, and S½NW¼;
sec. 5, all;
sec. 6, lots 1 and 2, and S½NE¼;
sec. 7, all;
sec. 8, NE¼, NW¼, S½SW¼, and W½SE¼;
sec. 9, all;
sec. 10, NE¼, NW¼, and SW¼;
sec. 18, lot 4 and SE¼SW¼;
sec. 19, lots 1 and 2, NE¼, and E½NW¼;
sec. 20, W½NE¼;
sec. 28, SE¼;
secs. 30 to 33, inclusive, all;
T. 13 N., R. 18 W.,
secs. 1, 3, and 5, all;
sec. 6, lots 1 and 2, S½NE¼, and SE¼;
secs. 7 and 9 to 11, inclusive, all;
sec. 12, SW¼;
secs. 13, 15, 17, and 18, all;
sec. 19, lots 3 and 4, and E½SW¼;
secs. 20 to 25, inclusive, all;
sec. 26, N½NW¼, SW¼NW¼, and NW¼SW¼;
sec. 27, all;
sec. 28, NE¼ and SE¼;
sec. 29, 31, and 33, all;
sec. 34, SW¼ and SE¼;
sec. 35, NW¼, SW¼, and SE¼;
T. 14 N., R. 18 W.,
sec. 8, NE¼ and NW¼;
T. 12 N., R. 19 W.,
sec. 1, lots 1 to 4, inclusive, S½NE¼, and S½NW¼;
secs. 3 and 4, all;
sec. 5, lots 1 and 2, S½NE¼, SW¼, and SE¼;
sec. 7, lots 1, 3, and 4, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
secs. 9 and 11, all;
sec. 13, NE¼, NW¼, N½SW¼, and E½SE¼;
sec. 16, E½NE¼, SW¼, and SE¼;
sec. 17, NW¼, SW¼, and SE¼;
sec. 19, all;
sec. 21, NW¼ and SW¼;
secs. 22, 23, 25, and 27, all;
sec. 28, NE¼ and SE¼;
secs. 29, 31, and 33, all;
sec. 35, N½NE¼, SW¼NE¼, NW¼, NW¼SW¼, S½SW¼, and S½SE¼;
sec. 36, all;
T. 13 N., R. 19 W.,
sec. 1, lots 1 and 2, S½NE¼, SW¼, and SE¼;
secs. 3, 5, and 7, all;
sec. 9, W½NE¼, NW¼, SW¼, and W½SE¼;
secs. 11, 13, and 15, all;
sec. 19, lots 1 and 2, NE¼, and E½NW¼;
secs. 21 and 23, all;
sec. 24, NE¼ and SE¼;
secs. 25 and 26, all;
sec. 27, NW¼ and SW¼;
secs. 28 and 29, all;
sec. 30, lots 3 and 4, E½SW¼, and SE¼;
sec. 31, lots 1 to 4, inclusive, N½NE¼, SW¼NE¼, E½NW¼, E½SW¼, and NW¼SE¼;
sec. 32, NE¼, NW¼, NE¼SW¼, and SE¼;
sec. 33, NE¼, NW¼, and SW¼;
sec. 34, all;
sec. 35, NE¼, NW¼, and SE¼;
sec. 36, all;
T. 14 N., R. 19 W.,
sec. 14, NW¼;
sec. 26, NE¼;
T. 12 N., R. 20 W.,
secs. 1 and 3, all;
sec. 4, SW¼ and SE¼;
sec. 5, all;
sec. 6, lots 6 and 7, E½SW¼, and SE¼;
secs. 9 to 11, inclusive, all; sec. 7, all;
sec. 13, N½NE¼, SW¼NE¼, NW¼, and SE¼SE¼;
sec. 15, N½NE¼, NW¼, SW¼, and S½SE¼;
secs. 17, 19, and 21, all;
sec. 23, NW¼NE¼, N½NW¼, SW¼NW¼, SW¼, and SE¼;
sec. 25, SW¼ and SE¼;
secs. 27 and 35, all;
T. 13 N., R. 20 W.,
sec. 31, NE¼ and SE¼;
sec. 33, all;
sec. 34, NE¼, NW¼, and SE¼;
sec. 35, all;
T. 12 N., R. 21 W., sec. 12.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 16, 1938.

[No. 7975]

[F. R. Doc. 38–2721; Filed, September 17, 1938; 11:43 a. m.]

[1] 3 F. R. 1389 DI.

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 23 to Declaration No. 12[1]]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

SEPTEMBER 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936,[2] the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

California: Ventura, September 1, 1941.

Puerto Rico: Guayama, September 1, 1941; Guaynabo, September 1, 1941; Santa Isabel, September 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for reaccreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Greene, September 1, 1941; Sumter, September 1, 1941.

Arkansas: Faulkner, September 1, 1941; Poinsett, September 1, 1941.

Georgia: Appling, September 1, 1941; Baker, September 1, 1941; Irwin, September 1, 1941; Lee, September 1, 1941; Miller, September 1, 1941; Mitchell, September 1, 1941; Pierce, September 1, 1941; Terrell, September 1, 1941; Tift, September 1, 1941.

Idaho: Bingham, September 1, 1941; Jefferson, September 1, 1941; Owyhee, September 1, 1941.

Indiana: Marion, September 1, 1941; Owen, September 1, 1941; St. Joseph, September 1, 1941; Washington, September 1, 1941.

Kansas: Hamilton, September 1, 1941; Kearney, September 1, 1941; Stanton, September 1, 1941.

Kentucky: Elliott, September 1, 1941; Franklin, September 1, 1941; Jessamine, September 1, 1941; McLean, September 1, 1941; Trimble, September 1, 1941; Wolfe, September 1, 1941.

Louisiana: Caldwell, September 1, 1941; East Baton Rouge, September 1, 1941; Lafourche, September 1, 1941; Lincoln, September 1, 1941; Livingston, September 1, 1941; Ouachita, September 1, 1941; Pointe Coupee, September 1, 1941; St. Bernard, September 1, 1941; St. Helena, September 1, 1941; St. Tammany, September 1, 1941; Washington, September 1, 1941; Webster, September 1, 1941; West Feliciana, September 1, 1941.

Michigan: Baraga, September 1, 1941; Gogebic, September 1, 1941; Ingham, September 1, 1941; Shiawassee, September 1, 1941.

Minnesota: Blue Earth, September 1, 1941; Faribault, September 1, 1941; Washington, September 1, 1941.

Mississippi: DeSoto, September 1, 1941; Walthall, September 1, 1941.

Missouri: Caldwell, September 1, 1941; Holt, September 1, 1941; Howard, September 1, 1941.

Montana: Garfield, September 1, 1941; Rosebud, September 1, 1941.

Nebraska: Otoe, September 1, 1941; Webster, September 1, 1941.

North Carolina: Beaufort, September 1, 1941; Carteret, September 1, 1941; Craven, September 1, 1941; Pamlico, September 1, 1941.

North Dakota: Cavalier, September 1, 1944.

Ohio: Brown, September 1, 1941.

Oklahoma: Comanche, September 1, 1941; Harmon, September 1, 1941; Kiowa, September 1, 1941; Roger Mills, September 1, 1941.

Pennsylvania: Lancaster, September 1, 1941.

South Carolina: Greenwood, September 1, 1941; McCormick, September 1, 1941.

Tennessee: Cheatham, September 1, 1941; Fayette, September 1, 1941; Hardeman, September 1, 1941; Haywood, September 1, 1941; Trousdale, September 1, 1941.

Texas: Callahan, September 1, 1941; Hays, September 1, 1941; Hopkins, September 1, 1941; LaSalle, September 1, 1941; Limestone, September 1, 1941; Medina, September 1, 1941; Navarro, September 1, 1941; Ochiltree, September 1, 1941; Oldham, September 1, 1941; Rusk, September 1, 1941.

Vermont: Caledonia, September 1, 1941; Grand Isle, September 1, 1941.

West Virginia: Logan, September 1, 1941; Mingo, September 1, 1941; Morgan, September 1, 1941.

Wisconsin: Barron, September 1, 1944; Lincoln, September 1, 1944; Oneida, September 1, 1944.

Wyoming: Natrona, September 1, 1941; Weston, September 1, 1941.

Declaration No. 12, dated October 1, 1936,[3] as amended, is hereby further amended accordingly.

[SEAL] A. W. MILLER,
Acting Chief of Bureau.

[F. R. Doc. 38–2720; Filed, September 17, 1938; 11:14 a. m.]

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Docket No. 140–FD]

ORDER FOR INVESTIGATION OF NATURE AND EXTENT OF TRANSACTIONS IN INTRASTATE COMMERCE IN BITUMINOUS COAL IN STATE OF COLORADO AND EFFECT OF SUCH TRANSACTIONS ON INTERSTATE COMMERCE IN SUCH COAL

At a special session of the National Bituminous Coal Commission held at its offices in Denver, Colorado, on the 16th day of September 1938.

It appearing, that by Order No. 162,[4] the Commission, upon its own motion entered into and conducted an investigation under the provisions of Section 4–A of the Bituminous Coal Act of 1937, for the purpose of determining the nature and extent of transactions in intrastate commerce in bituminous coal in

[1] Supplements footnote to 9 C F R 3.303.

[2] 1 F. R. 1338.

[3] 1 F. R. 2024.

[4] 2 F. R. 2983 (3440 DI).

the State of Colorado and the effect of such transactions upon interstate commerce in such coal; and

It further appearing, that reasonable public notice of a hearing was provided [1] and that at said hearing interested parties were afforded an opportunity to be heard; that the presiding examiner duly designated by the Commission having filed his report and recommendation and the Commission having given due consideration to said report and recommendations and to the record of the evidence in this proceeding; and the Commission having on the 16th day of September, 1938, made its own report, findings, and conclusions, which are hereby referred to and made a part hereof;

Now, therefore, it is by order declared:

That substantially all transactions in bituminous coal in intrastate commerce in the State of Colorado directly affect interstate commerce in such coal; and

That there will be an undue or unreasonable advantage, preference, or prejudice as between localities in Colorado in such intrastate commerce on the one hand and interstate commerce in bituminous coal on the other hand and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Therefore, it is further ordered:

1. That on and after the 1st day of November, 1938, all bituminous coal sold, delivered or offered for sale in transactions in intrastate commerce in such coal in all localities within the State of Colorado, shall be subject to the provisions of Section 4 of the Bituminous Coal Act of 1937, to the Bituminous Coal Code, as promulgated by the Commission and made effective on the 21st day of June, 1937,[2] and to all relevant orders of the Commission in effect on the date of this order, as well as all further orders which may thereafter be issued by the Commission under Section 4 of said Act, so as to apply to such intrastate commerce in coal within the State of Colorado.

2. That any producer of bituminous coal in intrastate commerce within the State of Colorado, who may believe that his or its particular transactions in intrastate commerce in bituminous coal should be exempted from this order and/or from the provisions of Section 4 and 4–A of said Bituminous Coal Act of 1937, may file application at any time hereafter for exemption pursuant to the second paragraph of Section 4–A of said Act, and be entitled to a hearing and appropriate orders thereon.

3. That the Secretary of the Commission shall give notice to each known producer of bituminous coal within the State of Colorado, who is not upon the date of this order a member of the Bituminous Coal Code, by mailing, within five (5) days from this date, a copy of this order, together with three (3) copies of the form of code acceptance and rules prescribed by the Commission for filing acceptances, and a copy of the Bituminous Coal Code as promulgated under date of June 21, 1937.

The Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER and shall also publish a copy thereof in a newspaper of general circulation in each county within the State of Colorado known to produce bituminous coal, publication thereof to be made three (3) times within fifteen (15) days from the date of this order.

By order of the Commission.

Dated this 16th day of September, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2729; Filed, September 19, 1938; 11:34 a. m.]

[1] 2 F. R. 2983 (3440 DI).
[2] 2 F. R. 1059 (1267 DI).

OFFICE OF THE SECRETARY OF COMMERCE

AMENDMENT TO REGULATION DESIGNATING AND DEFINING A LINE DIVIDING THE HIGH SEAS FROM RIVERS, HARBORS, AND INLAND WATERS

Pursuant to the authority granted to the Secretary of Commerce under section 2 of the Act of February 19, 1895 (33 U. S. C. 151), the line dividing the high seas from rivers, harbors, and inland waters in Juan de Fuca Strait, Washington and Puget Sounds, as published in "Pilot Rules for Certain Inland Waters of the Atlantic and Pacific Coasts and of the Coast of the Gulf of Mexico", edition of March 16, 1938, is hereby altered and a new line is designated and defined. Waters inshore of the line here laid down are "inland waters" and upon them the inland rules and pilot rules made in pursuance thereof apply. Upon the high seas, viz, waters outside of the line here laid down, the international rules apply.

Juan de Fuca Strait, Washington and Puget Sounds.—A line drawn from Angeles Point International Boundary Reference Mark, Washington, to Hein Bank Lighted Bell Buoy; thence to Lime Kiln Light; thence to Kellett Bluff Light; thence to Turn Point Light on Stuart Island; thence to westernmost extremity of Skipjack Island; thence to Patos Island Light; thence to Point Roberts Light.

Approved, September 17, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–2722; Filed, September 17, 1938; 11:49 a. m.]

TITLE 17—CONSERVATION AND POWER

FEDERAL POWER COMMISSION

[Order No. 55]

ORDER PRESCRIBING FORM OF ANNUAL FINANCIAL AND STATISTICAL REPORT FOR CLASS C ELECTRIC UTILITIES AND LICENSEES, AND FIXING DATE FOR FILING SAME

SEPTEMBER 7, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

The Federal Power Commission, acting pursuant to authority granted by the Federal Power Act, particularly Sections 309 and 311 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act,

(1) Hereby adopts for use of Class C electric utilities and licensees (as defined in the Uniform System of Accounts heretofore adopted by the Commission) the accompanying form of Annual Financial and Statistical Report, designated as F. P. C. Form No. 96 [1] and comprising

General Instructions.
Excerpts from the Law.
SECTION 1. Identity, with subdivisions numbered 100, 101, 102, 104, 109;
SECTION 2. Balance Sheet and Supporting Schedules with subdivisions numbered 200, 200M, 201, 208, 210M, 229, 230M, 238, 253, 253M, 263, 264, 265, 265M, 270, 271M, 278, 285, 286, 287, 288, 293, 297, 297M;
SECTION 3. Income and Earned Surplus Account and Supporting Schedules with subdivisions numbered 300, 308, 311, 312, 323, 325, 326, 327, 328, 330, 332, 334, 337;
SECTION 5. Electric Plant, Operating, and Statistical Data, and subdivisions numbered 500, 501, 504, 506, 511, 514, 525, 528M, 530, 533, 537, 550, 551, 552, 555, 557, 565, 575, 577, 579, 583, 584, 585, 586, 588, 594;
SECTION 6. Rate and Sales Section with instructions and subdivisions numbered 600, 601, 602, 603, 604;
SECTION 7. Licensed Project Section with instructions and subdivisions numbered 700, 701, 702, 703, 704, 705, 708, 709, 710, 711, 714, 715, 716, 720; and
Verification; and

(2) Hereby orders that each Class C private, municipal, and public corporation engaged in the generation, transmission and distribution of electricity throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, shall file with the Commission annually for each fiscal year beginning January 1, 1938, or next thereafter (if the established fiscal year is other than a calendar year) three executed copies of such Financial and Statistical Report on the form aforesaid; said reports to be filed on or before the last day of the third month following the close of each fiscal year.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Federal Power Commission.

[F. R. Doc. 38–2718; Filed, September 17, 1938; 10:31 a. m.]

[Order No. 56]

ORDER PRESCRIBING FORM OF ANNUAL FINANCIAL AND STATISTICAL REPORT FOR CLASS D ELECTRIC UTILITIES AND LICENSEES, AND FIXING DATE FOR FILING SAME

SEPTEMBER 7, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

The Federal Power Commission, acting pursuant to authority granted by the Federal Power Act, particularly Sections 309 and 311 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act,

(1) Hereby adopts for use of Class D electric utilities and licensees (as defined in the Uniform System of Accounts heretofore adopted by the Commission) the accompanying form of Annual Financial and Statistical Report, designated as F. P. C. Form No. 97 [1] and comprising

General Instructions.
Excerpts from the Law.
SECTION 1. Identity, with subdivisions numbered 100, 101, 104, 109;
SECTION 2. Balance Sheet and Supporting Schedules, with subdivisions numbered 200, 200M, 208, 210M, 230M, 253M, 263, 264, 265M, 270, 271M, 285, 287, 297;
SECTION 3. Income and Earned Surplus Account and Supporting Schedules, with subdivisions numbered 300, 326, 327, 328, 330, 334, 337;
SECTION 5. Electric Plant, Operating, and Statistical Data, with subdivisions numbered 500, 501, 506, 511, 514, 525, 528M, 530, 550, 551, 565, 575, 579, 583;
SECTION 6. Rate and Sales Section with instructions and subdivisions numbered 600, 601, 602, 603, 604;
SECTION 7. Licensed Project Section with instructions and subdivisions numbered 700, 701, 702, 703, 704, 705, 708, 709, 710, 711, 714, 715, 716, 720; and
Verification; and

(2) Hereby orders that each Class D private, municipal, and public corporation engaged in the generation, transmission or distribution of electricity throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, shall file with the Commission annually for each fiscal year beginning January 1, 1938, or next thereafter (if the established fiscal year is other than a calendar year) three executed copies of such Financial and Statistical Report on the form aforesaid; said reports to be filed on or before the last day of the third month following the close of each fiscal year.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Federal Power Commission.

[F. R. Doc. 38–2719; Filed, September 17, 1938; 10:31 a. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER III. RULES GOVERNING STANDARD BROADCAST STATIONS

PART 32. EQUIPMENT

SEC. 32.03 *Approved power ratings.*—The approved power ratings of vacuum tubes for operation in the last radio stage of broadcast transmitters are fixed as set out in the following tables: * #

TABLE A.[1]—*Power rating of vacuum tubes for high-level modulation or plate modulation in the last radio stage*

Power rating (watts)	Amperex	Collins	De Forest	Eitel McCullough	Federal Telegraph	Heintz & Kaufman	Hygrade Sylvania	RCA Mfg. Co.	United Electronics	Western Electric	Taylor Tubes, Inc.
50						HK 54		806		211D	
										211E	T55
				50T						248A	841A
										276A	
										242A	203A
75	HF-100	C-203A	503–A		F-303–A	154	203–A	203A	303–A	242B	211
	203–A	C–211	511		F–311–A		211	311		242C	211C
	211		552		F–352–A		852	838	361–A	260A	
	838		560				860	850	938	261A	
	852							852	952	284A	
	860							860		295A	
100				100TH							
				100TL	F–102–A	254					
					F–108–A						
125	HF-200										
	203–H	C–200			F–123–A						T–155
	211–C	C–201									HD–203A
	211–D	C–211–D		150–T				803	905		
	211–H							805			
	805										
250	204–A	C–204–A	504–A		F–204–A	354	204–A	204A	304–A	212–D	T200
	HF-300	C–300	561		F–212–E	HK"A	212–D	806	312–E	212–E	204A
	212–E		571		F–331–A	HK"C	831	831			814
						HK"D	861	861			822
						HK"E					
						HK"F					
350	270–A			250TH	F–100–A						
	849		549	250TL	F–849		849	849	949	270–A	
				300T							
500				450TL		255		833			
	251–A			450TH		654				251A	
750	279–A										
	849–A										
	849–H										
	851	C–849–A			F–121–A	2054–A					
		C–849–H	551	500T	F–351–A		851	851	951	279A	
1000				750TL							
	846			750TH	F–340–A	1554	846	846			
2500			520–B		F–328–A	3054	820–B	520B		228A	
	228A		520–M		F–328–B			1652			
	1652				F–3652–A						
5000	207				F–126–A			207			
	220C		507		F–307–A		207	848		220B	
	848		548		F–320–A		848	863		220C	
	863		563		F–320–B		863	891		343A	
	891				F–348–A			892			
	892				F–363–A			892B			
					F–892						

* These tables approved by the Chief Engineer under the authority contained in Par. 2 (n) of Commission Order No. 28, promulgated Nov. 29, 1937 under the authority contained in Sec. 5 (e), 48 Stat. 1068; 47 U. S. C. 155 (e)—Sec. 409, 48 Stat. 1096; 47 U. S. C. 409.

These tables approved by the Chief Engineer of the F. C. C., Sept. 7, 1938.

[1] These tables apply only to tube ratings for use in the last radio stage of broadcast transmitters and may not be applicable to any other service.

TABLE A.[1]—*Power rating of vacuum tubes for high-level modulation or plate modulation in the last radio stage*—Continued

Power rating (watts)	Amperex	Collins	De Forest	Eitel McCullough	Federal Telegraph	Heintz & Kaufman	Hygrade Sylvania	RCA Mfg. Co.	United Electronics	Western Electric	Taylor Tubes, Inc.
10,000	232-B				F-101-B F-110-A F-110-X						
					F-116-A F-332-A F-332-B F-332-C F-358-A			858		232A 232B 342A	
25,000					F-117-B F-124-A						
40,000								862 898		298-A	
100,000										320-A	

TABLE B.[1]—*Power rating of vacuum tubes for low-level modulation or last radio stage operating as linear power amplifier*

25						154		203A			203A 211 211C 841A
50	HF-200			100TH	F-123-A	354					HD203-A
	203-H 211-H 242-C			100TL 150-T		HK" A HK" C HK" D HK" E HK" F		803		242B 242C	
75	HF-300 212-E 204-A		504-A		F-204-A F-212-E		204-A 212-D	204A	304-A 312-E	212D 212E	T200 204A 814 822
125	270-A 849		549	250TH 250TL 300-T 450TL 450TH	F-100-A F-849	654	849	849 833	949	270A	
250	251-A 849-A 849-H 851	C-849-A C-849-H	551	500-T	F-121-A F-351-A	255 1554	851	851	951	251A	
350				750TL 750TH							
500	279-A 846				F-346-A	2054-A 3054	846	846		279A	
1000	228-A 1652		520-B 520-M		F-328-A F-328-B F-3652-A		820-B	520B 1652		228A	
2500	207 220-C 863 892		507 569		F-126-A F-307-A F-320-A F-320-B F-363-A F-892		207 863	207 863 892		220-B 220-C 343-A	
5000					F-358-A			858			
8500	232-B				F-101-B F-110-A F-110-X F-116-A F-332-A F-332-B F-332-C					232-A 232-B 342-A	
12,500					F-117-B F-124-A						
25,000								862-898		298-A	
75,000										320-A	

TABLE C.[1]—*Power rating of vacuum tubes for grid bias modulation in the last radio stage*

50	212-E 241-H 270-A			250TH 250TL	F-212-E	354 HK-354 A&C				212-E 270-A	
100				300T		654					
125				450TL 500T 750TL		255					
250	849-A 849-H					1554					
500						3054					
1000					F-328-A					228-A	
2500					F-307-A						

[1] These tables apply only to tube ratings for use in the last radio stage of broadcast transmitters and may not be applicable to any other service.

If in an application to the Commission a vacuum tube of a type number and power rating not given in the foregoing tables is specified for operation in the last radio stage, it may be acepted provided there is also submitted to and approved by the Commission the manufacturer's rating of the vacuum tube for the system of modulation or class of service contemplated. These data must be supplied by the manufacturer.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-2727; Filed, September 19, 1938; 9:57 a. m.]

Notices

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

CONCESSIONS AT WORLD'S FAIRS

SEPTEMBER 17, 1938.

To all industry members:

Reports have recently reached the Administration, indicating that members of the liquor industry are being importuned to subsidize, through various means, the liquor-selling enterprises to be conducted by concessionaires at the two World's Fairs to be held in New York and San Francisco in 1939. According to the reports mentioned, industry members, particularly distillers, have been promised that their products will be used exclusively or given preference by such concessionaires in return for substantial financial assistance. In order that industry members may avoid violations of the Federal Alcohol Administration Act in connection with these solicitations, the Administration takes this occasion to call attention to the provisions of Section 5 (b) of the Act.

It is unlawful, within the limitations imposed by Section 5 (b), for any industry member, directly or indirectly, to induce a retailer to purchase his products to the exclusion in whole or in part of other products sold or offered for sale in interstate or foreign commerce, by furnishing to the retailer money, services, or other things of value. Concessionaires at the coming expositions in New York and San Francisco, who engage in the sale of alcoholic beverages at retail, are retailers within the meaning of the Federal Alcohol Administration Act. Consequently, industry members should avoid giving money or other things of value, directly or indirectly, to such retailers in consideration of a promise to promote the sale of their particular brands of distilled spirits, wines or malt beverages.

[SEAL] W. S. ALEXANDER,
Administrator.

[F. R. Doc. 38-2726; Filed, September 17, 1938; 12:02 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 1846]

IN THE MATTER OF MAGNECOIL COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, September 19, 1938, at ten o'clock in the forenoon of that day (mountain standard time) in Room 231, Federal Building, 350 South Main Street, Salt Lake City, Utah.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38—2734; Filed, September 19, 1938; 1:00 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3227]

IN THE MATTER OF HARRY POLITIS, AN INDIVIDUAL TRADING AS POLITIS LABORATORY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Henry M. White, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 10, 1938, at ten o'clock in the forenoon of that day (pacific standard time) in Room 526, New Court House Building, Portland, Oregon.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2735; Filed, September 19, 1938; 1:00 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3234]

IN THE MATTER OF CONSOLIDATED PINNACLE COAL COMPANY, A CORPORATION, AND ELLIS MORRELL, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Miles J. Furnas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, September 28, 1938, at ten o'clock in the forenoon of that day (mountain standard time) in Room 314 Post Office Building, Denver, Colorado.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2736; Filed, September 19, 1938; 1:00 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3284]

IN THE MATTER OF EUGENE H. HUNTER AND RAE LAMARR HUNTER, INDIVIDUALS, TRADING AS THE FLORACUBE COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING THE TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, October 27, 1938, at ten o'clock in the forenoon of that day (pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2737; Filed, September 19, 1938; 1:01 p. m.]

FOREIGN-TRADE ZONES BOARD.

NOTICE OF INTENTION TO ISSUE A UNIFORM SYSTEM OF ACCOUNTS, RECORDS, AND REPORTS FOR USE BY FOREIGN-TRADE ZONE GRANTEES

SEPTEMBER 12, 1938.

Pursuant to the provisions of section 16 (a), (b), and (c) of the Act of June 18, 1934 (U. S. C., title 19, sec. 81p (a), (b), and (c)), and paragraph 1002 of article X of the Regulations Governing the Establishment, Operation, Maintenance, and Administration in the United States of Foreign-Trade Zones, approved June 29, 1935, the Foreign-Trade Zones Board hereby gives notice, for the information of all concerned, of its intention to issue a "Uniform System of Accounts, Records, and Reports" for use by the Grantees and/or Operators of all Foreign-Trade Zones now authorized and

established, or which may later be authorized and established, under the provisions of the Act and of the Regulations.

Pending the adoption and promulgation by the Board, copies of the tentative forms and other requirements included therewith and pertaining thereto may be seen and/or examined by all interested parties at the office of the Executive Secretary of the Foreign-Trade Zones Board, Room 3054, Commerce Building, Washington, D. C.

[SEAL] THOS. E. LYONS,
Executive Secretary.

[F. R. Doc. 38-2723; Filed, September 17, 1938; 11:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

[File No. 43-150]

IN THE MATTER OF THE CINCINNATI GAS & ELECTRIC COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

The Cincinnati Gas & Electric Company, a subsidiary company of Columbia Gas & Electric Corporation, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the reduction of the capital represented by its common stock ($750,000 shares without par value) from $30,000,000 to $7,500,000, it being proposed that the difference of $22,500,000, resulting in such reduction of the common capital account, be credited to a special surplus account to be designated "Special Capital Surplus";

A public hearing having been held on the declaration pursuant to appropriate notice;[1] the declarant having, prior to the entry of the findings, opinion and order of the Commission, waived a trial examiner's report, submission of proposed findings of fact to the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission, and oral argument before the Commission; the Commission having considered the record in this matter and having made its findings herein:

It is ordered, That said declaration be and become effective forthwith subject to the following terms and conditions:

(1) No charges shall be made either to "Special Capital Surplus" or to "Surplus at December 31, 1937" unless thirty days' prior notice of the making of each such charge be given to this Commission in which event the Commission reserves jurisdiction to approve or disapprove such charge after notice and opportunity for hearing to the declarant.

(2) With respect to any of such "Special Capital Surplus" or "Surplus at December 31, 1937" which is not used for the purposes outlined by the declarant, jurisdiction is reserved by this Commission with respect to the ultimate disposition of such balances.

(3) The Commission likewise reserves jurisdiction of this matter for the purpose of enforcing the provisions of Section 12 (c), and of any rule, regulation or order thereunder.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2724; Filed, September 17, 1938; 12 m.]

[1] 3 F. R. 1942 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of September, A. D. 1938.

[File Nos. 34-8, 52-3, 52-5, 52-9, 52-10 and 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

ORDER ALLOWING PETITIONER TO INTERVENE

Harry Reid, Max McGraw, and B. B. Robinson, constituting a General Protective Committee for Security Holders of Utilities Power & Light Corporation, by counsel, Clarence H. Ross, having filed on August 29, 1938, a petition to intervene in the above entitled proceedings;

It is hereby ordered, That the petition of said Harry Reid, Max McGraw, and B. B. Robinson, constituting a General Protective Committee for Security Holders of Utilities Power & Light Corporation, to be made parties to said proceedings be granted, subject to all proceedings heretofore taken therein: *Provided*, That said Committee shall restrict its activities in said proceedings to the purposes in respect of which it is authorized to act for the security holders whom it represents: *And provided further*, That said Committee shall not take any action or seek to maintain any position inconsistent with its representations to security holders or the terms of its authorizations: *And provided further*, That a copy of the Commission's Memorandum Opinion in respect of this Petition to Intervene shall accompany any letters or circulars transmitted to security holders after the date hereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2725; Filed, September 17, 1938; 12 m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of September, A. D. 1938.

[File No. 20-609A1-1]

IN THE MATTER OF AN OFFERING SHEET FILED BY C. E. LANGE AND A. S. MIMS, RESPONDENTS, COVERING NON-PRODUCING OIL OR GAS LEASES IN THE C. E. LANGE DRILLING BLOCK

PERMANENT SUSPENSION ORDER

The Securities and Exchange Commission having initiated this proceeding pursuant to the provisions of Rule 340 (a) of the General Rules and Regulations promulgated by the Commission under the Securities Act of 1933, as amended, by the entry of an order temporarily suspending the effectiveness of the filing of an offering sheet relating to non-producing leasehold interests in the C. E. Lange Drilling Block, located in Washington County, Illinois, which offering sheet was filed with the Commission on July 5, 1938, by C. E. Lange and A. S. Mims, the respondents herein; and

Respondents having been given due notice of said temporary suspension order, and pursuant to Rule 340 (a) having requested a hearing thereon at Chicago, Illinois, and the Commission having duly ordered that the matter be set for hearing at the Chicago Regional Office of the Securities and Exchange Commission, and due notice thereof having been given respondents; and

The matter having come on regularly for hearing before a trial examiner at Chicago, Illinois, on July 19, 1938, and respondents having failed to appear, and documentary evidence having been introduced, and the hearing having been closed, and the Commission finding upon the evidence that the exemption from the registration provisions of the Securities Act of 1933 provided by Regulation B adopted pursuant to Section 3 (b) of said Act, is not available to the interests described in said offering sheet, and it appearing appropriate in the public interest to do so;

It is ordered, pursuant to Rule 340 (b) of the Commission's General Rules and Regulations promulgated under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be and the same hereby is permanently suspended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2733; Filed, September 19, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of September, A. D. 1938.

[File No. 30-23]

IN THE MATTER OF SANDAR CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 4, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 30, 1938.

The matter concerned herewith is in regard to the application under Section 5 (d) for an order declaring that Sandar Corporation has ceased to be a holding company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2730; Filed, September 19, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of September, A. D. 1938.

[File No. 2-3613]

IN THE MATTER OF PLATORO GOLD MINES, INC.

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant Platoro Gold Mines, Inc., a Colorado corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in the facing page; Items 2, 3, 5, 6, 7, 8, 9, 11, 12, 13, 14, 23, 24, 25, 26, 27, 28, 30, 31, 32, 34, 34A, 34B, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 57, 61; Exhibits B, E-F, G, I, K, and M; the accountant's certificate, in the failure to file one of the required consents; and in the prospectus; all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued; and the Commission being now fully advised in the premises;

It is ordered, pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Platoro Gold Mines, Inc., a Colorado corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2731; Filed, September 19, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of September, A. D. 1938.

[File No. 31-112]

IN THE MATTER OF THE PERMIAN OIL & GAS COMPANY, THE HOME UTILITIES COMPANY, INTERSTATE UTILITIES COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION PURSUANT TO REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the interest of investors and consumers, upon the request of the applicants, consents to the withdrawal of the application of the above-named applicants, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2732; Filed, September 19, 1938; 12:49 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS THURSDAY, SEPTEMBER 15, 1938

IMPORTANT.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	580	38
2. Hawaii	138	15
3. California	2,134	764
4. Texas	2,189	879
5. Alaska	22	9
6. Louisiana	790	370
7. Michigan	1,829	865
8. Arizona	164	83
9. New Jersey	1,519	784
10. South Carolina	653	373
11. Ohio	2,498	1,479
12. Oklahoma	901	543
13. Arkansas	697	427
14. Alabama	995	611
15. Mississippi	755	466
16. New Mexico	159	101
17. North Carolina	1,191	779
18. Georgia	1,093	731
19. Kentucky	983	671
20. Wisconsin	1,105	839
21. Illinois	2,868	2,197
22. Tennessee	983	755
23. Nevada	34	27
24. Connecticut	604	481
25. Delaware	90	80
26. Indiana	1,217	1,095
27. Oregon	358	325
28. Florida	552	506
29. New York	4,731	4,429
30. Utah	191	179
31. Wyoming	85	80
32. Idaho	167	158
33. Pennsylvania	3,620	3,429
34. New Hampshire	175	171
35. Washington	588	580
36. Colorado	389	385
37. Rhode Island	258	256
38. West Virginia	650	647
39. Maine	300	299

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
QUOTA FILLED			
40. Kansas	707	707	−20

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
IN EXCESS			
41. Massachusetts	1,597	1,621	+24
42. Missouri	1,364	1,421	−15
43. Vermont	135	142	+1
44. North Dakota	256	273	+21
45. Minnesota	964	1,033	−24
46. Montana	202	228	−1
47. South Dakota	260	298	+10
48. Iowa	929	1,096	+11
49. Nebraska	518	633	+2
50. Virginia	910	1,941	−7
51. Maryland	613	1,848	−5
52. Dist. of Col	183	8,737	−22
GAINS			
By appointment			138
By reinstatement			0
By transfer			9
Total			147
LOSSES			
By separation			40
By transfer			25
Total			65
Total Appointments			46,884

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,186.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38-2717; Filed, September 16, 1938; 3:23 p. m.]

UNITED STATES MARITIME COMMISSION.

ISTHMIAN STEAMSHIP COMPANY AND DOLLAR STEAMSHIP LINE

HEARING ON OPERATING-DIFFERENTIAL SUBSIDY CONTRACT

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 16th day of September, A. D. 1938.

It appearing, That the Isthmian Steamship Company, an American citizen within the definition of the Merchant Marine Act, 1936, and operating vessels of United States registry, has filed an application for an operating-differential subsidy contract covering services on a route between North Atlantic ports of the United States via California ports of the United States to China, Philippine Islands, Netherlands East Indies, Straits Settlements, and returning therefrom to North Atlantic ports via Suez Canal, with permission to load at Colombo, Ceylon and Red Sea ports for North Atlantic ports, and with permission to carry eastbound intercoastal cargo from Atlantic Coast ports to California ports of the United States.

It further appearing, That the range of the route covered by the said application may be somewhat broader than that now served by said Isthmian Steamship Company, and that the range is already covered by a citizen of the United States with vessels of United States registry.

It further appearing, That the award of an operating-differential subsidy contract covering the services on the route above mentioned may give an undue advantage or be unduly prejudicial as between said citizens in the operation of vessels in the competitive service above mentioned.

It is ordered, That a public hearing be held, before such member or members of the Commission or such examiner as the Commission may designate, in Washington, D. C., in Conference Room "B", Government Auditorium, on Friday, September 30, 1938, at 10:00 A. M., in accordance with the provisions of Section 605 (c) of the Merchant Marine Act, 1936, as amended, and for the purposes therein stated.

It is further ordered, That a copy of this order be served forthwith upon the Isthmian Steamship Company and the Dollar Steamship Line and that notice of said public hearing be published in the FEDERAL REGISTER immediately.

It is further ordered, That the rules of procedure now in force with respect to the Division of Regulation shall be the rules in effect for this hearing in respect to the procedure, intervention of parties and the taking of evidence.

By the Commission.

[SEAL] W. C. PEET, JR.,
Secretary.

[F. R. Doc. 38-2728; Filed, September 19, 1938; 11:04 a. m.]

SEP 22 1938

Reference

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — OF THE UNITED STATES — 1934

FEDERAL REGISTER

VOLUME 3 NUMBER 184

Washington, Wednesday, September 21, 1938

The President

FIRE PREVENTION WEEK—1938

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the many preventable fires which occur each year in the United States cause loss of life or serious injury to thousands of persons; and

WHEREAS hundreds of millions of dollars' worth of property is destroyed annually by fires in this country; and

WHEREAS the great number of fires occurring in homes in the United States emphasizes the urgent need for impressing upon every citizen the fullest realization of individual responsibility for bringing about the curtailment of losses of life and property resulting from fires;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby proclaim and designate the week beginning October 9, 1938, as Fire Prevention Week, and I urge upon all the people of the nation that they cooperate in the movement to emphasize the disastrous consequences of preventable fires to the end that more effective precautionary measures may be taken to eliminate fire hazards, and thus to safeguard human life and prevent the needless waste of property.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 19th day of September, in the [SEAL] year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2299]

[F. R. Doc. 38-2758; Filed, September 20, 1938; 12:40 p. m.]

EXECUTIVE ORDER

ESTABLISHING THE UNION SLOUGH MIGRATORY WATERFOWL REFUGE

IOWA

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described lands, containing 1,334.61 acres, more or less, acquired or to be acquired by the United States, in Kossuth County, Iowa, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the area shall become part of the refuge hereby established upon acquisition of title thereto or lease thereof by the United States:

FIFTH PRINCIPAL MERIDIAN

T. 97 N., R. 28 W.,
sec. 3, fractional N½NE¼, NW¼SW¼NE¼, the east 0.28 chain SE¼NE¼, fractional E½N½NW¼, diagonal SE¼ of fractional W½N½NW¼, S½NW¼, NW¼NE¼SW¼, and W½SW¼;
sec. 4, SE¼SW¼NE¼, NE¼SE¼NE¼, S½SE¼NE¼, NE¼SE¼, E½NW¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼, and SE¼SE¼;
sec. 9, W½NE¼NE¼, W½NE¼, SE¼NE¼NW¼, SE¼NW¼, E½SW¼, NE¼SW¼SW¼, SE¼NE¼SE¼, NW¼SE¼, and S½SE¼;
sec. 10, SW¼NW¼SW¼, S½SW¼, and S½SE¼;

T. 98 N., R. 28 W.,
sec. 34, diagonal SE¼S½SE¼SW¼ and SE¼;
sec. 35, SW¼.

This reservation shall be known as the Union Slough Migratory Waterfowl Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 19, 1938.

[No. 7976]

[F. R. Doc. 38-2754; Filed, September 20, 1938; 10:49 a. m.]

CONTENTS

THE PRESIDENT

Executive Orders: Page
Florida, enlarging the St. Marks Migratory Bird Refuge 2262
Iowa, establishing the Union Slough Migratory Waterfowl Refuge 2261
Proclamation:
Fire Prevention Week, 1938 2261

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Sugar beets, determination of wage rates, 1938 crop 2263
Sugarcane, amendment to determination of farming practices, crop year 1938 2263
Bureau of Entomology and Plant Quarantine:
Japanese beetle quarantine, termination date advanced on fruit and vegetable restrictions 2264
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department:
Saugatuck River, Westport, Conn., revocation of bridge regulations 2264

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Allen, H. F., trading as Technical Laboratories, etc 2266
Christopher Candy Co 2265
DeKama, Inc 2267
Endura Corp 2265
Hitt Fireworks Co 2264
Hoffman, E. A., Candy Co 2266
Lewis, Rosemarie, trading as Certane Co., etc 2267
Millar, Adele, trading as Mme. Adele and Chez Adele 2264
Pacific China Co. (Marcus A. and Belle Weinberg and Ray Y. Cliffe) 2265
Patch Premek Corp 2266

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Federal Trade Commission: Page
Orders appointing examiners, etc., in the matter of—Con.
Peters, Karl W., trading as National Institute for Physical Advancement 2266

CONTENTS—Continued

Federal Trade Commission: Page
Orders appointing examiners, etc., in the matter of—Con.
Waco Drug Co. 2266
Watkins, Warren, trading as Square Deal Candy Co. 2265
Securities and Exchange Commission:
General American Transportation Corp., listing and registration of common stock 2269
Midland United Co., and Midland Utilities Co. (Morris and Shannahan, Trustees), and Millard B. Kennedy, order 2267
Republic Electric Power Corp. of Del., et al., hearing 2268
Utilities Employees Securities Co., and New England Capital Corp., denial of separate hearings 2269
Virginia Electric and Power Co., hearing 2269

EXECUTIVE ORDER

ENLARGING THE ST. MARKS MIGRATORY BIRD REFUGE

FLORIDA

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the lands and waters, together with all accretions thereto, acquired or to be acquired by the United States within the area delineated on the diagram attached hereto and made a part hereof,[1] comprising approximately 22,000 acres, in Wakulla County, Florida, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as an addition to the St. Marks Migratory Bird Refuge, established by Executive Order No. 5740 of October 31, 1931: *Provided*, that any private lands within the area shall become a part of the refuge upon the acquisition of title thereto or lease thereof by the United States.

It is unlawful for any person to hunt, trap, capture, wilfully disturb, or kill any bird or wild animal of any kind whatsoever within the limits of this refuge, or to enter thereon except under such rules and regulations as may be prescribed by the Secretary of Agriculture.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 19, 1938.

[No. 7977]

[F. R. Doc. 38-2755; Filed, September 20, 1938; 10:49 a. m.]

[1] See illustration herewith.

This map accompanies Executive Order No. 7977

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

AMENDMENT TO DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT IN CONNECTION WITH THE PRODUCTION OF SUGARCANE IN THE MAINLAND CANE SUGAR AREA DURING THE CROP YEAR 1938

Pursuant to the provisions of Section 301 (e) of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that the "Determination of Farming Practices to be Carried Out in Connection with the Production of Sugarcane in the Mainland Cane Sugar Area during the Crop Year 1938, Pursuant to Subsection (e) of Section 301 of the Sugar Act of 1937," issued April 25, 1938,[1] be and the same is hereby amended by adding before the final paragraph on page 2 the following provision:

D. Each one and one-half acres of land the top soil of which is combustible (determined as such by the State Agricultural Conservation Committee) on which there are carried out the practices specified in paragraphs B, C, D and E of Amendment 3 to Southern Region Bulletin 101, issued June 11, 1937,[2] for protecting the soil against fire, assuring adequate drainage, and preventing soil oxidation and subsidence, shall be counted as one acre of soil-building practices: Provided, however, That there shall be carried out on such land on the farm such other practices as are recommended for the farm by the County Agricultural Conservation Committee, and approved by the State Agricultural Conservation Committee, for protecting the soil against fire, assuring adequate drainage, preventing soil oxidation and subsidence, and otherwise preserving and improving the fertility of the soil and preventing soil erosion, such practices to be consistent with reasonable standards of the farming community in which the land is located.

Done at Washington, D. C., this 19th day of September, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38-2756; Filed, September 20, 1938; 12:29 p. m.]

[1] 3 F. R. 949 DI.
[2] 2 F. R. 1003 (1197 DI).

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION OR HARVESTING OF THE 1938 CROP OF SUGAR BEETS

[Revised]

Whereas, Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however*, That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas, the Secretary of Agriculture, pursuant to a notice of hearing, dated January 14, 1938,[1] held public hearings for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1938 crop of sugar beets.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1938 crop of sugar beets as follows:

A. For farms from which sugar beets were contracted to be delivered to factories located in the following districts:

District I.—Ohio, Michigan, Indiana, and Wisconsin:
Blocking, thinning, and hoeing, $11.00 per acre.
Pulling and topping, $7.00 for 7 tons or less per acre plus $1.00 for each ton per acre in excess of 7 tons per acre.

District II.—Minnesota and Iowa:
Blocking, thinning, and hoeing:
"Old method" or "hill drop" fields, $12.50 per acre.
"Blocked" fields, $10.50 per acre.
Cross cultivated fields, $9.50 per acre.
Pulling and topping, $6.30 for 7 tons or less per acre, and 90 cents for each ton per acre in excess of 7 tons per acre.

District III.—Kansas:
Blocking and thinning, $7.50 per acre.
1st hoeing, $2.00 per acre.
2nd hoeing or weeding, $1.00 per acre.
Pulling and topping, 90 cents per ton up to and including yields of 12 tons per acre; for yields in excess of 12 tons, 80 cents per ton.

District IV. — Nebraska, Colorado, Southern Wyoming, South Dakota:
Blocking and thinning, $8.00 per acre.
1st hoeing, $2.50 per acre.
2nd hoeing or weeding, $1.50 per acre.
Pulling and topping, 90 cents per ton up to and including yields of 12 tons per acre; for yields in excess of 12 tons, 80 cents per ton. Where loading is performed by the same laborers doing the topping, 10 cents per ton shall be added to the topping rates.

District V.—Montana, Northern Wyoming:
Blocking and thinning, $9.50 per acre.
1st hoeing, $2.50 per acre.
2nd hoeing or weeding, $1.50 per acre.
Pulling and topping, 90 cents per ton up to and including yields of 12 tons per acre; for yields in excess of 12 tons, 80 cents per ton. Where loading is performed by the same laborers doing the topping, 10 cents per ton shall be added to the topping rate.

District VI.—Utah, Idaho, Oregon:
Blocking and thinning, $8.00 per acre.
1st hoeing, $2.50 per acre.
2nd hoeing or weeding, $1.50 per acre.

Topping and loading

Net tons per acre:	*Rate per ton*
Below 8	$1.15
8	1.12
9	1.09
10	1.06
11	1.03
12	1.00
13	.97
14	.95
15	.93
16	.92
17	.91
18 or more	.90

District VII.—Washington:
Blocking and thinning, $7.50 per acre or 40 cents per hour.
1st hoeing, $2.00 per acre or 35 cents per hour.
2nd hoeing or weeding, $1.50 per acre or 35 cents per hour.
Topping, 70 cents per ton.
Loading, 30 cents per ton.

B. For farms located in the following districts:

District I.—Klamath County, Oregon, Pershing County, Nevada, and Northern California: [2]
Blocking and thinning, $7.50 per acre or 40 cents per hour.
1st hoeing, $2.00 per acre or 35 cents per hour.
2nd hoeing or weeding, $1.50 per acre or 35 cents per hour.

Pulling, topping, and loading

Net tons per acre:	*Rate per ton*
Up to 4	$2.23
4 to 5	1.98
5 to 6	1.73
6 to 7	1.48
7 to 8	1.33
8 to 9	1.23
9 to 10	1.18
10 to 11	1.13
11 to 12	1.08
12 to 13	1.04
13 to 14	1.00
14 to 15	.97
15 to 16	.94
16 to 17	.91
17 to 18	.89
18 to 19	.87
19 to 20	.85
20 or more	.83

[1] 3 F. R. 108 DI.

[2] Including all California counties not listed in footnote 3.

Topping, 50 cents per hour.
Loading, 45 cents per hour.
District II.—Southern California: [1]
Blocking and thinning, $6.00 per acre or 35 cents per hour.
1st hoeing, $1.75 per acre or 30 cents per hour.
2nd hoeing or weeding, $1.25 per acre or 30 cents per hour.

Pulling, topping, and loading

Net tons per acre:	*Rate per ton*
Up to 6	$1.50
6 to 7	1.35
7 to 8	1.24
8 to 9	1.16
9 to 10	1.09
10 to 11	1.01
11 to 12	.95
12 to 13	.90
13 to 14	.85
14 to 15	.81
15 to 16	.77
16 to 17	.74
17 or more	.69

Topping, 45 cents per hour.
Loading, 40 cents per hour.

Provided, however, That in addition to the foregoing, the producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as, a house, garden plot, and similar incidentals: *And Provided further,* That the foregoing shall not be construed to mean that a producer may qualify for payment who has not paid in full the amount agreed upon between the producer and the laborer: *And Provided further,* That the producer shall not through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above.

This determination supersedes the "Determination of Fair and Reasonable Wage Rates for Persons Employed in the Production, Cultivation or Harvesting of the 1938 Crop of Sugar Beets, Pursuant to the Sugar Act of 1937", issued April 4, 1938.[1]

Done at Washington, D. C., this 19th day of September, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2757; Filed, September 20, 1938; 12:29 p. m.]

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[Quarantine No. 48]

TERMINATION DATE ON FRUIT AND VEGETABLE RESTRICTIONS UNDER JAPANESE BEETLE QUARANTINE ADVANCED TO SEPTEMBER 20 FOR THE YEAR 1938

It has been determined that the active period of the Japanese beetle in its relation to fruits and vegetables has already ceased for the present season and that it is, therefore, safe to permit the unrestricted movement of the fruits and vegetables listed in regulation 5 of the rules and regulations (16th revision) supplemental to Notice of Quarantine No. 48 [1] from the entire regulated area as defined in regulation 3 of said rules and regulations; therefore it is ordered that all restrictions on the interstate movement of the articles referred to above are hereby removed on and after September 20, 1938. This order advances the termination of the restrictions as to fruits and vegetables provided for in regulation 5 from October 16 to September 20, 1938, and applies to this season only.

Done at the city of Washington this 19th day of September 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2738; Filed, September 19, 1938; 4:03 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

REGULATIONS GOVERNING THE OPENING OF THE HIGHWAY BRIDGE ACROSS SAUGATUCK RIVER AT WESTPORT, CONN.

REVOCATION OF SECTION 3.028

AUGUST 25, 1938.

To: The Secretary of War.

On July 12, 1930 the Secretary of War approved regulations to govern the opening of the drawbridge across the Saugatuck River at Westport, Connecticut. Request was made by the Connecticut State Highway Commissioner for approval of plans for the reconstruction of this drawbridge so as to convert it into a fixed structure. It was found that the needs of navigation at this locality no longer required a drawbridge, and the plans for a fixed bridge were approved by the Secretary of War under date of August 19, 1938. It is therefore recommended that the existing regulations requiring opening of this bridge be revoked.

M. C. TYLER,
Brigadier General,
Acting Chief of Engineers.

Recommendation approved August 27th, 1938.

[SEAL] LOUIS JOHNSON,
Acting Secretary of War.

[F. R. Doc. 38-2753; Filed, September 20, 1938; 10:03 a. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3346]

IN THE MATTER OF ADELE MILLAR, AN INDIVIDUAL, DOING BUSINESS UNDER THE TRADE NAMES—MME. ADELE AND CHEZ ADELE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 19, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 548, Federal Building, San Francisco, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2752; Filed, September 20, 1938; 10:03 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3382]

IN THE MATTER OF HITT FIREWORKS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Henry M. White, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, September 29, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 801, Federal Building, Seattle, Washington.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2750; Filed, September 20, 1938; 10:02 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayers, Robert E. Freer.

[Docket No. 3385]

IN THE MATTER OF MARCUS A. WEINBERG AND BELLE WEINBERG, INDIVIDUALS, AND TRADING AS PACIFIC CHINA COMPANY, AND RAY Y. CLIFFE, AN INDIVIDUAL, AND TRADING AS PACIFIC CHINA COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, November 4, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2751; Filed, September 20, 1938; 10:02 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3394]

IN THE MATTER OF CHRISTOPHER CANDY COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 9, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2740; Filed, September 20, 1938; 9:59 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3405]

IN THE MATTER OF WARREN WATKINS, INDIVIDUALLY AND TRADING AS SQUARE DEAL CANDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 9, 1938, at two o'clock in the afternoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2741; Filed, September 20, 1938; 9:59 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3419]

IN THE MATTER OF THE ENDURA CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 24, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2742; Filed, September 20, 1938; 9:59 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1938.

[1] Including the following counties: Imperial, San Diego, Orange, Riverside, San Bernardino, Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Kern, Kings, Tulare, Fresno.

[1] 3 F. R. 831 DI.

[1] 3 F. R. 845 DI.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3435]

IN THE MATTER OF H. F. ALLEN, AN INDIVIDUAL, TRADING AS TECHNICAL LABORATORIES AND AS TECHNICAL PRODUCTS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 17, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 548, Federal Building, San Francisco, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2743; Filed, September 20, 1938; 10:00 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3443]

IN THE MATTER OF E. A. HOFFMAN CANDY COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding, and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 10, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2744; Filed, September 20, 1938; 10:00 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3460]

IN THE MATTER OF KARL W. PETERS, TRADING AS NATIONAL INSTITUTE FOR PHYSICAL ADVANCEMENT

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding, and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2745; Filed, September 20, 1938; 10:00 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3468]

IN THE MATTER OF WACO DRUG COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Henry M. White, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 5, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 526, New Court House Building, Portland, Oregon.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2746; Filed, September 20, 1938; 10:01 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3469]

IN THE MATTER OF PATCH PREMEK CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 1, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2747; Filed, September 20, 1938; 10:01 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3480]

IN THE MATTER OF DEKAMA, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 14, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2748; Filed, September 20, 1938; 10:01 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3486]

IN THE MATTER OF ROSEMARIE LEWIS, INDIVIDUALLY AND TRADING AS CERTANE COMPANY, AND CERTANE COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, November 18, 1938, at ten o'clock in the forenoon of that day (Pacific standard time) in Room 1021, Hotel Clark, Los Angeles, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2749; Filed, September 20, 1938; 10:02 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of September, A. D. 1938.

[File Nos. 55-5—55-8, inclusive]

HUGH M. MORRIS AND JOHN N. SHANNAHAN, TRUSTEES OF MIDLAND UNITED COMPANY AND MIDLAND UTILITIES COMPANY, AND MILLARD B. KENNEDY

ORDER

Hugh M. Morris and John N. Shannahan, Trustees of Midland United Company, Debtor, and Trustees of Midland Utilities Company, Debtor, and Millard B. Kennedy, general counsel to said Trustees of Midland United Company and of Midland Utilities Company having filed applications pursuant to Rule 11F-2, promulgated under Section 11 (f) of the Public Utility Holding Company Act of 1935; a public hearing having been held on these several applications pursuant to appropriate notice;[1] said applicants having waived a Trial Examiner's report, submission to them of proposed findings of fact by the Commission, and the right to file briefs and make oral argument before the Commission, prior to the entry of the Commission's findings and order herein; and the Commission having considered the record in these matters and having on the date hereof made and filed its findings and opinion herein;

It is ordered,

1. That the amount of $11,250 be, and it is hereby fixed, for the time being, and without prejudice to the subsequent fixing of final maximum limits therefor upon further application, as the maximum amount that may be paid to Millard B. Kennedy as compensation for services rendered as general counsel to the Trustees of Midland United Company during the period from September 1, 1937 to May 31, 1938; and that the sum of $566.64 be, and it is hereby fixed as the final maximum amount that may be paid to said Millard B. Kennedy for expenses incurred by him in the performance of his duties as such general counsel during the months of March, April and May 1938; the foregoing sums to cover any office or other overhead expenses which should be provided for in connection with such services.

2. That the amount of $7,500 be, and it is hereby fixed, for the time being, and without prejudice to the subsequent fixing of final maximum limits therefor upon further application, as the maximum amount that may be paid to Millard B. Kennedy as compensation for services rendered as general counsel to the Trustees of Midland Utilities Company during the period from September 1, 1937 to May 31, 1938; and that the sum of $243.96 be, and it is hereby fixed as the final maximum amount that may be paid to said Millard B. Kennedy for expenses incurred by him in the performance of his duties as such general counsel during the months of March, April and May 1938; the foregoing sums to cover any office or other overhead expenses which should be provided for in connection with such services.

3. That Millard B. Kennedy shall pay to the estate of Midland United and to the estate of Midland Utilities Company, respectively, the amount by which the payment he has heretofore received from each such estate for expenses incurred during the months of March and April, 1938, exceeds the final maximum amount allowed in paragraphs 1 and 2 hereof for expenses incurred on behalf of each such estate during the months of March, April and May, 1938.

4. That until further order of the Commission Millard B. Kennedy and the Trustee or Trustees of Midland United Company and of Midland Utilities Company be, and they are hereby exempted from the necessity of making subsequent applications pursuant to Rule 11F-2 for approval of maximum ad interim allowances to said Millard B. Kennedy for fees, expenses, and remuneration on account of services and expenses rendered or incurred, or to be rendered or incurred, subsequent to May 31, 1938, without prejudice to the subsequent fix-

[1] 3 F. R. 1774 DI.

ing of the final maximum limits therefor upon further application, subject, however, to the following conditions:

(a) Any such ad interim allowances to Kennedy for services as general counsel to the Trustee or Trustees of Midland United Company shall not exceed $1,250 per month, and shall cover any office or other overhead expenses for which allowance should be made;

(b) any such ad interim allowances to Kennedy for services as general counsel to the Trustee or Trustees of Midland Utilities Company shall not exceed $833.33 per month, and shall cover any office or other overhead expenses for which allowance should be made; and

(c) any such ad interim allowances to Kennedy for expenses incurred in the performance of his duties as general counsel to the Trustee or Trustees of Midland United Company and of Midland Utilities Company shall be limited to reimbursement for actual cash disbursements, shall not exceed $400 per month in the aggregate, and shall be divided between and charged to the two estates as accurately as possible on the basis of expenses actually incurred on behalf of each.

5. That the exemptions set forth in paragraph 4 hereof are subject to the following additional conditions:

(a) Three copies of any application by or on behalf of Kennedy for fees, expenses or remuneration covering any period subsequent to May 31, 1938, which may be filed with the court shall be filed simultaneously with this Commission;

(b) three copies of any bill for or statement of Kennedy's services or expenses covering any period subsequent to May 31, 1938, which may be submitted to the Trustee or Trustees of Midland United Company or of Midland Utilities Company, or both, shall be submitted simultaneously to this Commission;

(c) if no such application is filed with the court, or if no such bill for or statement of services and expenses is submitted to the Trustee or Trustees there shall be filed with this Commission at least 10 days prior to any payment for or in account of same, three copies of a statement showing the services rendered and the expenses incurred by Kennedy; and

(d) this Commission retains jurisdiction to terminate the exemptions, or any of them, at any time upon notice to Kennedy and to the Trustee or Trustees of Midland United Company or of Midland Utilities Company, or both.

6. In the event Millard B. Kennedy resigns as general counsel to the Trustee or Trustees of Midland Utilities Company, no payment shall be made to said Millard B. Kennedy pursuant to paragraph 4 (b) of this order for any period after the effective date of his resignation; and from and after said date the exemption referred to in paragraph 4 (c) of this order shall not exceed $300 per month, and shall be charged to and paid out of the estate of Midland United Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR.
Secretary.

[F. R. Doc. 38-2739; Filed, September 19, 1938; 4:04 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13 day of September, A. D. 1938.

[File No. 43-103; '47-19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORP., OF DEL., SOUTHERN OREGON GAS CORP. OF CALIF., CALIFORNIA UTILITIES CO. OF CALIF., NEEDLES GAS AND ELECTRIC CO. OF CALIF., WEAVERVILLE ELECTRIC CO. OF CALIF., APACHE GAS COMPANY OF NEVADA, GAS TRANSPORT COMPANY OF NEVADA, AND REPUBLIC MUTUAL SERVICE CO. OF CALIF.

NOTICE OF AND ORDER FOR HEARING (CORRECTION)[1]

A declaration and application, pursuant to sections 7 and 10 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on September 23, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such manner. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 20, 1938.

The matter concerned herewith is in regard to the proposed reorganization and recapitalization of the Republic Electric Power Corporation of Delaware holding company system. The plan provides for the divestment by the Republic Electric Power Corporation of securities and other assets of its subsidiaries, for territorial integration, for the simplification of the corporate structure, and the eventual dissolution of the Republic Electric Power Corporation of Delaware and the Republic Mutual Service Company of California, with the object of meeting the requirements of Section 11 (b) of the Holding Company Act. California Utilities Company, Needles Gas and Electric Company, and Weaverville Electric Company will be merged into the Southern Oregon Gas Corporation, which will continue to operate as the surviving corporation under the name California-Pacific Utilities Company. It is proposed that the surviving corporation will acquire all the assets and assume all liabilities of the three corporations which it will absorb. The new corporation will issue a total of $475,000 of bonds, $425,000 of which will be issued to the Republic Electric Power Corporation and $50,000 to be issued to the Niagara Share Corporation of Maryland in consideration for the cancellation of a like amount of indebtedness due the respective companies by the corporations merged into the surviving corporation.

It is further proposed that the Republic Electric Power Corporation will execute to the Niagara Share Corporation a non-negotiable 5% demand note the sum of $200,000, secured by demand notes of Apache Gas Company and Gas Transport Company, and all the issued and outstanding stock of the latter companies. The Niagara Company will look to the collateral for collection of the note, and agrees not to transfer or assign the note without first obtaining the approval of the Securities and Exchange Commission.

This declaration and application is filed as an amendment and supplements the original declaration and application on which the Commission has already held a public hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2759; Filed, September 20, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

[1] 3 F. R. 2240 DI.

[File Nos. 31-419, 60-1]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY AND NEW ENGLAND CAPITAL CORPORATION

ORDER DENYING MOTION TO SEPARATE HEARINGS AND TO VACATE ORDER TO CONSOLIDATE HEARINGS

Utilities Employees Securities Company having filed an application with this Commission pursuant to Section 2 (a) (8) of the Public Utility Holding Company Act of 1935 for an order declaring said company and its subsidiary company, New England Capital Corporation, not to be subsidiary companies of certain named companies, and the matter having been set down for hearing to be held on September 15, 1938 at Washington, D. C., and

The Commission having ordered a hearing[1] to be held pursuant to Section 2 (a) (11) (D) of the Public Utility Holding Company Act of 1935 to determine whether Utilities Employees Securities Company and New England Capital Corporation bear such a relationship to certain specified companies as to constitute affiliates under the provisions of said section of the Act, and the matter having been set down for hearing to be held September 15, 1938 at Washington, D. C., and

The Commission on September 2, 1938[2] having ordered that the said two matters be consolidated for the purpose of hearings thereon but reserving for the Commission the right, if at any time it may appear conducive to an orderly and economic disposition of either of such matters, to order separate hearings with respect to the same or any part thereof or to close the order with respect thereto or to take action thereon prior to closing the record on said other matter, and

Utilities Employees Securities Company on its own behalf and on behalf of New England Capital Corporation having on September 15, 1938 filed with the Commission a written motion to vacate the Commission's order of September 2, 1938 or in the alternative that an order should be made to separate the hearings on said two matters, and

Oral argument on said motion having been heard by the Commission and the motion having been duly considered on its merits, it is the opinion of the Commission:

1. That the primary parties of interest in both the proceedings are Utilities Employees Securities Company and New England Capital Corporation.

2. That the specified parties from whom exemption as a subsidiary company is sought in the application pursuant to Section 2 (a) (8) are four of the six specified companies referred to in the proceedings pursuant to Section 2 (a) (11) (D).

3. That while the ultimate findings of fact and conclusions of law must be separately applied to the determination of each of said proceedings, nevertheless, the proceedings involve common questions of law and fact, and evidence offered with respect to each matter may have a bearing upon the other.

4. That it does not appear that the consolidated hearings will prejudice any rights of the moving parties to a judicial review of an order which may issue in either matter nor obstruct the right of the moving parties to file separate briefs or make separate arguments in support of separate findings in connection with each of said proceedings to this Commission.

5. That by the consolidation of the said matters substantial savings in time and expense, both to the applicants and to the Commission's staff, will result, and the probable need of repetition of similar or identical proof if the matters were separated will be prevented; that a consolidation of matters where such savings may reasonably be anticipated is, in the opinion of the Commission, highly desirable and in conformity with the practice of both courts of law and of equity.

6. That if at any time during the course of the consolidated hearings it may appear conducive to an orderly and economic disposition of either of such matters to separate such hearings with respect to the same, then the Commission, under the reservation contained in the order for consolidation, may so provide.

It is, therefore, ordered, That the motion to vacate the Commission's order of September 2, 1938 or in the alternative that an order be made by this Commission with respect to said two proceedings be, and the same hereby is, denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2762; Filed, September 20, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of September 1938.

[File No. 1-2328]

IN THE MATTER OF APPLICATION OF GENERAL AMERICAN TRANSPORTATION CORPORATION TO WITHDRAW ITS COMMON STOCK, $5 PAR VALUE, FROM LISTING AND REGISTRATION ON THE BOARD OF TRADE OF THE CITY OF CHICAGO

ORDER SETTING HEARING

The General American Transportation Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $5 Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, October 6, 1938, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2761: Filed, September 20, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of September, A. D. 1938.

[File No. 32-104]

IN THE MATTER OF VIRGINIA ELECTRIC AND POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

Application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 3, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for

[2] 3 F. R. 2182, 2183 DI.
[3] 3 F. R. 2183 DI.

that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 28, 1938.

The matter concerned herewith is in regard to a proposed issuance and sale by applicant, Virginia Electric and Power Company, a subsidiary of Engineers Public Service Company, a registered holding company, of $37,500,000 principal amount of First and Refunding Mortgage Bonds, Series B, 3½%, due September 1, 1968, such issue and sale to be by public offering through underwriters; and $4,000,000 principal amount of notes to be issued to banks in series, to be dated October 10, 1938 to October 1, 1939, to mature serially from May 1, 1940 to November 1, 1946, and to bear interest at the rate of 3%. The proceeds of the securities proposed to be issued and sold are to be expended or otherwise used for the following purposes:

(1) The redemption of $37,488,000 principal amount of First and Refunding Mortgage Bonds, Series A, 4%, of the applicant, due November 1, 1955, being all of said bonds outstanding, at 105;

(2) The payment of $800,000 principal amount of notes payable to banks; and

(3) Capital additions and improvements increasing the applicant's electric generating capacity in its Twelfth Street Station at Richmond, Virginia.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2760; Filed, September 20, 1938; 12:50 p. m.]

Reference

SEP 23

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES 1934

VOLUME 3 NUMBER 185

Washington, Thursday, September 22, 1938

The President

EXECUTIVE ORDER

DESIGNATION OF INDEPENDENT ESTABLISHMENTS AND AGENCIES UNDER SECTION 6 OF EXECUTIVE ORDER NO. 7916 OF JUNE 24, 1938

By virtue of and pursuant to the authority vested in me by the Constitution, section 1753 of the Revised Statutes (U. S. C., title 5, sec. 631), and the Civil Service Act (22 Stat. 403), and as President of the United States, I hereby designate the following-named independent establishments and agencies as organizations which are required to comply with the provisions of section 6 of Executive Order No. 7916, dated June 24, 1938,[1] relating to the establishment of Divisions of Personnel Supervision and Management:

Civil Aeronautics Authority
Civil Service Commission
Farm Credit Administration
General Accounting Office
Government Printing Office
Interstate Commerce Commission
The Panama Canal
Railroad Retirement Board
Securities and Exchange Commission
Social Security Board
United States Housing Authority
United States Maritime Commission
Veterans' Administration

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 16, 1938.

[No. 7975–A]

[F. R. Doc. 38-2766; Filed, September 20, 1938; 2:30 p. m.]

[1] 3 F. R. 1526 DI.

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 2 to B. A. I. Order 366 [1]]

AMENDMENT OF ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

SEPTEMBER 21, 1938.

Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930 (46 Stat. 689), the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 366), dated May 27, 1938, and effective June 1, 1938, as amended, is hereby further amended by restoring the name "Sweden" to the list of countries in said order, as I have determined that foot-and-mouth disease again exists in said country of Sweden and I have so officially notified the Secretary of the Treasury.

The effect of this amendment is to render commodities specified in B. A. I. Order 366, originating in Sweden, subject to the provisions of said B. A. I. Order 366, from which they were released by Amendment 1 thereto.

Amendment 1 to B. A. I. Order 366, effective September 3, 1938,[2] is hereby revoked.

This amendment, which for purpose of identification is designated Amendment 2 to B. A. I. Order 366, shall be effective on and after September 21, 1938. (Sec. 306, 46 Stat. 689, Sec. 2, 32 Stat. 792, 45 Stat. 59; 19 U. S. C. 1306 (a), (b), and (c), 21 U. S. C. 111.) [B. A. I. Order 366, unnumbered paragraph 1, as amended

[1] Amending 9 CFR 8.001.
[2] 3 F. R. 2107 DI.

CONTENTS

THE PRESIDENT

Executive Order: Page
Divisions of Personnel Supervision and Management, designation of agencies relative to establishment of---- 2271

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Rinderpest and foot-and-mouth disease, amendment to order to prevent introduction of---------- 2271

TITLE 11—AVIATION:
Civil Aeronautics Authority:
Certificates of convenience and necessity, application for---------- 2272
Filing, posting and publishing of tariffs by air carriers and foreign air carriers---------- 2274
Foreign air carrier permits, application for---------- 2272
Postponement of effective date of parts of Section 403 of Civil Aeronautics Act---------- 2274

TITLE 31—MONEY AND FINANCE: TREASERY:
Office of the Secretary:
Government Losses in Shipment Act, amendment of exemption order pursuant to Section 4 of---------- 2281
Navy contracts, excess profits on---------- 2279

(Continued on next page)

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CONTENTS—Continued

NOTICES

Department of the Interior:
National Bituminous Coal Commission: Page
District Boards for Districts Nos. 1–8 and 13, hearing on proposal of minimum prices and marketing rules submitted by------- 2281
Fairmont Coals, Inc., continuance of hearing on provisional approval as marketing agency---------- 2282
Riggen, C. A., Coal Co., et al, applications for exemption by: hearings rescinded---------- 2282
Rural Electrification Administration:
Allocation of funds for loans--- 2282
Securities and Exchange Commission:
American Light & Traction Co., et al, order relative to applications by---------- 2283
Utilities Power & Light Corp., order amending memorandum opinion---------- 2284

by Amendment 1, August 27, 1938, and by Amendment 2, September 21, 1938.]

Done at Washington this 21st day of September 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2777; Filed, September 21, 1938; 12:59 p. m.]

TITLE 11—AVIATION

CIVIL AERONAUTICS AUTHORITY

[Amendment No. 1 of Regulation 401–B–1]

APPLICATION FOR CERTIFICATES OF CONVENIENCE AND NECESSITY

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 16th day of September 1938.

Acting pursuant to the Authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 401 (b) thereof, and finding that such action is desirable in the public interest and is necessary to carry out the provisions of and to exercise and perform its powers and duties under such Act, the Civil Aeronautics Authority hereby amends Regulation 401–B–1[1] as follows:

(1) By amending paragraph (c) thereof to read as follows:

"(c) *Amendments to application.*—If after receipt of any application, the Authority shall request the applicant to supply it with additional information, such information shall be furnished in the form of an amendment to the original application. All amendments to applications shall be consecutively numbered and shall comply with the requirements of this regulation as to form, number of copies, manner of execution, verification and in all other essential respects. In the event that any application shall be amended so as to alter the route or routes, the terminal or intermediate points, or the classes of traffic covered by such application, the amendment shall contain a statement that notice of such amendment has been served on each such air carrier in the form and manner, and containing the information, required by clause (6) of paragraph (j) of this regulation for the service of notice of intention to file an original application. A copy of such notice shall be attached to the amendment as an exhibit."

(2) By inserting at the end of paragraph (j) thereof a new clause (6) which shall read as follows:

"(6) State that the applicant has caused a notice of its intention to file such application with the Authority to be served upon each scheduled air carrier shown on a list of such air carriers issued by the Authority, such list to have been so issued not more than sixty (60) days prior to the time of filing such application with the Authority: *Provided*, That no application filed on, or prior to, September 26, 1938, need contain the information required by this clause (6) but, if it does not contain such information, the same shall be supplied, on or before October 17, 1938, by amendment to the application. Each such notice shall state the name and address of the applicant, the route or routes over which, and the terminal and intermediate points between which, the applicant proposes to operate, and the classes of traffic to be embraced within the certificate for which application is made. The application shall state that service of such notice has been made either by delivering a copy thereof personally to each such air carrier or by the mailing thereof by registered mail, postpaid, giving the date of such delivery or mailing. A copy of such notice shall be attached to the application as an exhibit. The application need not be accompanied by any further proof of service but upon setting any application down for public hearing, the Authority will cause notice of such hearing to be given to such interested parties as it deems appropriate in the particular case."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–2763; Filed, September 20, 1938; 1:01 p. m.]

[1] 3 F. R. 2049 DI.

[Regulation 402–D–1]

APPLICATION FOR FOREIGN AIR CARRIER PERMITS (GRANDFATHER CLAUSE)

At a session of the Civil Aeronautics Authority held at its office in the City of Washington, D. C., on the 16th day of September, 1938.

The Civil Aeronautics Authority, exercising the powers and duties vested in it by sub-section (d) of section 402 and by sub-section (a) of section 205 of the Civil Aeronautics Act of 1938, and finding that its action is consistent with the provisions of said Act and necessary and appropriate to carry out the provisions thereof, hereby makes and promulgates the following regulation:

REGULATION 402–D–1. APPLICATION FOR FOREIGN AIR CARRIER PERMITS (GRANDFATHER CLAUSE)

(a) *Scope of regulation.*—The application of any foreign air carrier who holds a permit issued by the Secretary of Commerce under section 6 of the Air Commerce Act of 1926, as amended, which was in effect on May 14, 1938, and which permit authorizes such air carrier to operate between any foreign country and the United States, requesting the issuance to it of a permit under the terms of section 402 (c) of the Act, shall be filed with the Civil Aeronautics Authority at its office in Washington, D. C., and shall comply with the provisions of this regulation. Regulations for applications for foreign air carrier permits by others than those entitled thereto under the terms of section 402 (c) of the Act will hereafter be prescribed by the Authority.

(b) *Number of copies.*—Ten copies of each such application shall be filed with the Authority. Only two of such copies need be actually executed on behalf of the applicant. The names and titles of all signing officers shall be clearly typed or printed beneath their signatures. All unexecuted copies filed with the Authority shall contain typed, printed or facsimile signatures. Each copy must be clear and legible in all respects.

(c) *Verification.*—The signed copies of each application shall be verified by three of applicant's officers who shall be respectively the chief executive, the chief financial and the chief operating officer. In the event of the unavailability of any such officer, the acting officer charged with responsibility for his duties may execute such verification in his stead. Every such verification shall set forth that the persons verifying the same have read and are familiar with the contents of the application and the attached exhibits; that they intend and desire that in granting or denying the rights and privileges applied for, the Authority shall place full and complete reliance on the accuracy of each and every statement therein set forth; that to the best of their information and belief, every statement contained in the application is true and no such statement is misleading; and that, in their opinion, the application does not omit to state any facts known to them which would be deemed by the Authority to be of importance to it in reaching its determinations in connection therewith. Every such verification shall be subscribed and sworn to before a Notary Public or other officer (including any United States consular officer) authorized to administer oaths in the jurisdiction in which such application is executed. Notwithstanding the laws of the country of applicant's citizenship, an application verified before a United States consular officer will be deemed to have met the requirements of this paragraph.

(d) *Service of notice.*—State that the applicant has caused a notice of its intention to file such application with the Authority to be served upon each scheduled air carrier and foreign air carrier shown on a list or lists of such air carriers or foreign air carriers, or both, issued by the Authority after September 15, 1938. Each such notice shall state the name and address of the applicant, the route or routes over which, and the terminal and intermediate points between which, the applicant conducts or proposes to conduct operations, and the classes of traffic to be embraced within the permit for which application is made. The application shall state that service of such notice has been made either by delivery of a copy thereof personally to each such air carrier and foreign air carrier or by the mailing thereof by registered mail post-paid, giving the date of such delivery or mailing. A copy of such notice shall be attached to the application as an exhibit. The application need not be accompanied by any further proof of service but upon setting any application down for public hearing, the Authority will cause notice of such hearing to be given to such interested parties as it deems appropriate in the particular case.

(e) *Amendments to application.*—If, after receipt of any application, the Authority shall request the applicant to supply it with additional information, such information shall be furnished in the form of an amendment to the original application. All such amendments shall be consecutively numbered and shall comply with the requirements of this regulation as to form, number of copies, manner of execution, verification, and in all other essential respects. In the event that an application shall be amended so as to alter the route or routes, the terminal or intermediate points, or the classes of traffic, covered by such application, the amendment shall contain a statement that notice of such amendment has been served on each such air carrier and foreign air carrier in the form and manner, and containing the information, required by paragraph (d) for the service of notice of intention to file an original application. A copy of each such notice shall be attached to the amendment as an exhibit.

(f) *Formal requirements.*—Every application for a foreign air carrier permit shall be made on paper approximately 8½ x 13 inches in size, except that exhibits or other documents attached thereto may be folded to those dimensions. Every such application shall be typewritten, printed or reproduced by some other process which will produce a clear and durable result on firm, tough paper. A margin of at least one inch in width shall be left on the left hand side of all pages and all applications must be bound on that side. All pages of an application shall be consecutively numbered and the application shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(g) *Time of filing.*—An application shall be deemed to have been filed only when it is actually received by the Civil Aeronautics Authority at its office in Washington, D. C.

(h) *Cover page.*—A space of approximately 2½ by 4 inches shall be left blank on the upper right hand corner of the cover page of each application. This space will be used by the Authority for filing purposes. The cover page of each application shall clearly indicate that the application is made by a foreign air carrier pursuant to Regulation 402–D–1; shall give the name of the applicant, and also shall indicate briefly the routes covered by such application, the services (passenger, mail and property) to be rendered on the respective routes, and whether such operations are to be scheduled or non-scheduled. At the bottom of the cover page shall be given the name, title and address of the person to whom communications from the Authority with respect to the application are to be sent.

(i) *Contents of application.*—The statements contained in an application shall be restricted to significant and relevant facts. They shall be free from argumentation, and, except as may be required by this regulation, any expression of opinion. Opportunity for argument will be given in the subsequent proceedings.

Each application shall give full and adequate information with respect to each of the items set forth in this paragraph of this regulation. In addition, the application may contain such other information and data as the applicant shall deem necessary or appropriate in order to acquaint the Authority fully with the particular circumstances of its case. Among other things, every such application shall give the following information:

1. The full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.) and, if other than an individual, the name of the country under the laws of which it is organized, and the statutory citation of such laws, if any. If the applicant is governmentally-owned, that fact should be shown, or if jointly owned by governmental and private interests the percentage owned by each.

2. The name, title, address and citizenship of the principal officers and members of applicant's managing board, and if a partnership, of the members of the applicant.

3. The name and official address of the competent air authority of applicant's country of citizenship having regulatory jurisdiction over applicant.

4. If applicant's country of citizenship, or of organization, or of the country or countries from which applicant proposes to conduct an air transportation service to the United States, requires applicant to obtain authorization from it to engage in such air transportation service, a statement or statements that such authorizations or consents have been obtained, briefly setting forth the nature and conditions thereof.

5. A statement as to whether applicant's country of citizenship or of organization, or the country or countries from which applicant proposes to conduct an air transportation service to the United States;

(A) has entered into a reciprocal agreement with the United States providing for the routes and services to be covered by the permit for which application is made;

(B) has entered into a reciprocal air navigation arrangement with the United States, or is the signatory to an international convention covering the subjects of such reciprocal air navigation arrangements to which the United States is a party.

6. A statement as to whether all airmen employed in the proposed service

are required to and at all times will be possessed of appropriate airman certificates or licenses qualifying them to engage in the type of operation for which a permit is sought.

7. A statement setting forth the methods to be employed by applicant which will provide that the crews or some members thereof, or the ground personnel stationed in the United States shall be possessed of such linguistic ability as to insure effective voice communication between the aircraft and the ground station located at the port of entry of the United States.

8. A statement as to whether all aircraft employed in the proposed service are required to be and at all times will be possessed of certificates of airworthiness issed by the competent air authority having regulatory jurisdiction over such aircraft. The statement should also include the name of the country issuing such certificates. List all aircraft employed in the service, indicating ownership, make, model and type, license or certificate number, and international markings, number, make and type of engines, number of crew and passenger capacity. Briefly describe the aircraft employed in the service to be covered by the permit for which application is made and indicate generally the nature of appliances with which the aircraft is or will be equipped. State particularly whether all such aircraft are or will be equipped with:

(a) one or two-way radio,
(b) radio range beacon receiver, and
(c) a two-way radio telephone communication system.

9. Identify route or routes to be covered by the permit for which application is made, specifying the type or types of service (mail, passengers and property) to be rendered on each such route, and whether or not such services are to be rendered in scheduled operations. If the applicant carries mail under contract with the United States Government state briefly the terms of such contract. The identification of each route shall name every terminal and intermediate point to be served by applicant in connection with the service for which a permit is sought.

10. A map (to be attached as an exhibit) drawn approximately to scale, showing all terminal and intermediate points, both in the United States and in all foreign countries to be served by applicant in connection with the service for which this permit is sought, giving the approximate air mileages between all adjacent points, and principal over-all distances. This map should indicate all of such points which are now served by other foreign or by domestic air carriers, indicating by arrows the directions flown by such interconnecting carriers and indicating their principal terminals. This map should also show the routes flown and points served by any other air carrier which might reasonably be considered to offer a service competing with that which is the subject of the application.

11. A brief description (including a statement of the frequency of schedules) of the operations of the applicant and of any of its predecessors in interest since May 14, 1938. The application shall state that a permit for the service applied for was issued by the Secretary of Commerce under section 6 of the Air Commerce Act of 1926, as amended, giving the date thereof, and that such permit was in effect on May 14, 1938.

12. State whether the applicant filed with the Authority a designation in writing of an agent for the purposes specified in, and as required by, section 1005 (b) of the Act.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2764; Filed, September 20, 1938; 1: 01 p. m.]

[Amendment No. 2 of General Order 403-1]

POSTPONEMENTS OF EFFECTIVE DATE OF PARTS OF SECTION 403 OF THE CIVIL AERONAUTICS ACT OF 1938

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 16th day of September, 1938.

Acting pursuant to the Authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 1110 thereof (52 Stat. 973, 984, 1030), and finding that such action is desirable in the public interest and necessary to carry out the provisions of and to exercise and perform its powers and duties under such Act, the Civil Aeronautics Authority hereby amends General Order 403-1, as heretofore amended, so that hereafter such order shall read as follows:

GENERAL ORDER 403-1. (AS AMENDED SEPTEMBER 9, 1938,[1] AND SEPTEMBER 16, 1938) POSTPONEMENTS OF EFFECTIVE DATE OF PARTS OF SECTION 403

(a) The provisions of this order shall not effect any postponement of the effective date of the second sentence of subsection (b) of section 403 of the Civil Aeronautics Act of 1938, which reads as follows:

"Nothing in this Act shall prohibit such air carriers or foreign air carriers, under such terms and conditions as the Authority may prescribe, from issuing or interchanging tickets or passes for free or reduced-rate transportation to their directors, officers, and employees and their immediate families; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and, in the case of overseas or foreign air transportation, to such other persons and under such other circumstances as the Authority may by regulations prescribe."

(b) Except as provided in paragraph (a) of this order, the effective date of all the provisions of section 403 of said Act is hereby postponed as to all air carriers and all foreign air carriers, of every class and description, to the extent that such provisions shall not be effective as to such air carriers or foreign air carriers on or before October 17, 1938; and as to any such air carrier or foreign air carrier which is engaged exclusively in overseas or foreign air transportation, or both, the effective date of said provisions are further postponed to the extent that such provisions shall not be effective as to such air carrier or foreign air carrier on or before November 1, 1938.

(c) Except as provided in paragraph (a) of this order, the effective date of the provisions of said section 403 of the Act are hereby further postponed to and including December 20, 1938, as to all classes of air carriers or foreign air carriers except those who have maintained or shall maintain one or more regular schedules of operation on or after August 22, 1938, and except those who are not directly engaged in air transportation.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2765; Filed, September 20, 1938; 1:01 p. m.]

[Regulation 403-A-1]

FILING, POSTING AND PUBLISHING OF TARIFFS BY AIR CARRIERS AND FOREIGN AIR CARRIERS

At a session of the Civil Aeronautics Authority held in the City of Washington, D. C., on the 16th day of September 1938.

Acting pursuant to the Authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 403 (a), 403 (c) and 205 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Authority hereby makes and promulgates the following regulation:

REGULATION 403-A-1. FILING, POSTING AND PUBLISHING OF TARIFFS BY AIR CARRIERS AND FOREIGN AIR CARRIERS

TABLE OF CONTENTS

1. Filing, posting and publishing of tariffs.
(a) Who may file.
(b) Designation of agent.
(c) Method of filing.
(d) Method of posting and publishing.
(e) Effect of filing.

[1] 3 F. R. 2222 DI.

2. Form of tariff.
(a) Size and binding.
(b) Paper and preparation.
(c) Numbering of pages.
3. Contents of tariff.
(a) In general.
(b) Separation of passenger and property rates.
(c) Cover or title page.
(d) Contents of inside pages.
(e) Loose-leaf tariffs.
4. Changes in tariffs.
(a) Methods of making.
(b) Status of supplements.
(c) Cancelation of tariff.
(d) Designation of changes.
(e) Volume of supplemental matter.
5. Effecting filing of joint tariffs.
(a) Concurrence in joint tariffs.
(b) Contents and disposition of concurrences.
(c) Posting and publishing of concurrences unnecessary.
(d) Effect of giving concurrence.
(e) Copies of tariffs to participating carriers.
(f) Revocation.
(g) Designation of junction points.
6. Application of rates.
(a) Methods of stating rates.
(b) Combination rates.
7. Effect of suspension by authority.
(a) Suspension supplement.
(b) Changes during suspension.
(c) Vacation of suspension.
(d) Expiration of suspension period before order of Authority.
8. Rates prescribed by the authority.
9. Changes in air carriers.
10. Exemptions from filing, posting and publishing requirements.
Appendix A—Illustrative form of corporate power of attorney.
Appendix B—Illustrative form of letter transmitting tariffs.
Appendix C—Illustrative form of cover or title page for local tariff or supplements.
Appendix D—Illustrative form of cover or title page for joint tariffs, or local and joint tariffs, or supplements.
Appendix E—Illustrative form of concurrence for publication of joint rates.
Appendix F—Illustrative form of notice of revocation of concurrence.

All tariffs filed on or after August 22, 1938, must conform to this regulation unless otherwise authorized by special permission of the Authority. The provisions of this regulation are not applicable to the transportation of mail.

1. Filing, Posting and Publishing of Tariffs

(a) *Who may file.*—A tariff specifying single-sum rates[1] for service by one air carrier[2] shall be known as a "local tariff". A tariff specifying single-sum rates for service partly by one air carrier and partly by one or more other air carriers shall be known as a "joint tariff". A local tariff or a joint tariff may be filed with the Authority by an air carrier, or through any duly authorized agent.

(b) *Designation of Agent.*—An air carrier may designate any one or more agents (who may be, but are not required to be, officers and employees of such carrier) to file tariffs or concurrences on its behalf with the Authority by giving such agent or agents a power of attorney and by filing such power of attorney with the Authority. Such agent or agents are sometimes referred to in this regulation as the "designated agent" or the "designated agents". There shall be enclosed with each such power of attorney the signature and the initials of each designated agent therein named, certified by the secretary (or person authorized to perform similar functions) of such air carrier as being the signature and the initials of such designated agent. If more than one agent be designated by any air carrier in any such power of attorney so filed, such power of attorney must contain provisions authorizing each such agent to act alone, or requiring two or more of such agents to act jointly, in filing any tariff with the Authority. Each such power of attorney so filed with the Authority by an air carrier shall be binding until notice of revocation thereof is filed with the Authority by such air carrier. An illustrative form of such a power of attorney is set forth in Appendix A hereto.

(c) *Method of filing.*—Each air carrier shall transmit to the Authority at its office in Washington, D. C., three (3) copies of each tariff, such copies to be included in one package and under one letter of transmittal. An illustrative form of letter of transmittal is set forth in Appendix B hereto. The word "Tariffs" must appear on the outside of the package. No tariff will be received by the Authority unless it is free from all charges, including claims for postage. The copies of each tariff filed must bear on the cover or title page the signature of the air carrier or of its designated agent or agents, and the copies of each revised page of a loose-leaf tariff filed must bear, at some place other than in the left-hand margin, the signature or the initials of the air carrier or its designated agent or agents.

(d) *Method of posting and publishing.*—A copy of the tariff issued by each air carrier shall be posted and published by the air carrier in a conspicuous place in each of its general offices, and in each office maintained by it, individually or jointly with others, for the sale of passenger tickets, or for the receipt or delivery of property for transit, at each point named in the tariff. The copies so posted and published shall be readily accessible for public examination.

(e) *Effect of filing.*—The filing of a tariff with the Authority in no way relieves an air carrier from liability for any violation of the Act or of regulations issued thereunder.

2. Form of Tariff

(a) *Size and binding.*—Tariff pages shall be eight and one-half by eleven inches in size. In the case of tariffs covering express only, pages may be nine and one-half by eleven and one-half inches in size. Tariffs shall be in book, pamphlet, or loose-leaf form and bound or securely fastened along the left-hand side. A margin of at least one inch in width must be left blank along the left-hand side of all pages included in the tariff.

(b) *Paper and preparation.*—Tariffs in book or pamphlet form must appear on firm, tough paper of durable quality, and must be clear, legible and in such form as may easily be read and understood. Pages of loose-leaf tariffs may consist of thin paper of strong texture, blank on one side. Cover pages may consist of cover stock of durable quality. All pages other than the cover page shall be plainly printed in not less than 8-point bold or full face type, except that reference marks, footnotes, and explanations relating to the tables or text on any page, may be printed in not less than 6-point bold or full face type, and except further that stereotype, mimeograph, planograph, or other similar durable process may be used if each copy filed, posted and published is clear and legible in all respects. Reproductions by hectograph, or other similar process, typewritten sheets, or proof sheets may not be filed or posted. Copies of tariffs posted and which the air carrier shall keep open to public inspection as required by this regulation shall be replaced as often as may be necessary with fresh copies in order that such copies shall be complete and legible. No alterations in writing or erasures shall be made in any tariff after such tariff shall have been filed with the Authority.

(c) *Numbering of pages.*—All pages of each tariff, other than the cover or title page, must be consecutively numbered "1", "2", etc., except that page numbering in the case of a loose-leaf tariff containing a check sheet shall be as provided in Rules 3 (e) and 4 (a) of this regulation.

3. Contents of Tariff

(a) *In general.*—No tariff may contain any advertising except the trade marks, insignia, maps, or slogans of the issuing and concurring air carriers. Statements of rates, classifications, rules, regulations, practices and services, and explanations of reference marks, shall be as clear and simple as possible. No air carrier may issue or concur in a tariff if such tariff would when effective conflict with another effective tariff issued by it or in which it has concurred.

(b) *Separation of passenger and property rates.*—If the same tariff shall contain both rates for the transportation of passengers and for the transportation of property, other than the property of passengers carried as baggage, such rates shall be separated into distinct passenger and property sections.

(c) *Cover or title page.*—Either the cover or title page of each tariff must contain sufficient information to identify and describe clearly the tariffs contained therein and their application. Illustrations of cover or title pages are set forth in Appendices C and D hereto. The cover or title page of a loose-leaf tariff should contain only such information as will

[1] The word "rates" as used in this regulation includes "fares" and "charges" unless the context otherwise requires.

[2] The words "air carrier" as used in this regulation include "foreign air carrier".

remain constant even though particular rates may be changed from time to time. Tariffs must be given consecutive numbers by the air carrier with the prefix "CAA" in the upper right hand corner of the cover or title page; but the air carrier's own tariff number may be shown elsewhere.

(d) *Contents of inside pages.*—Each tariff must contain:

Table of contents.—A full and complete statement of the exact location where information respecting each subject of the tariff will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that its cover or title page or its arrangement plainly discloses its contents, the table of contents may be omitted.

Names of carriers.—The exact names, alphabetically arranged, of all air carriers over whose lines the tariff is applicable, together with an identification of any concurrences under which such tariff is issued, unless such information is fully shown on the cover or title page.

Description of commodities.—A full and complete statement or description of the commodities (including a definition of baggage) within the scope of the tariff.

Index of stations.—Separate alphabetical indexes of all points of origin and all destinations named in the tariff, except that one index will suffice when the tariff is applicable in both directions, and except further that if the points of origin and the destinations are shown throughout the tariff in continuous alphabetical order, the index may be omitted.

Explanation of reference marks, etc.—Separate and clear explanations of symbols, reference marks and abbreviations of terms used throughout the tariff, except that explanation of a symbol, reference mark or abbreviation used only on one page of the tariff may be shown on that page.

Rules governing tariffs.—A statement of such classifications, rules, regulations, practices, and services in connection with air transportation, and explanatory statements, separately stated by subjects, regarding the contents of the tariffs (including explanatory statements governing canceled or interrupted trips and charges for excess baggage and a statement that, except as otherwise indicated in the tariff, rates do not include any charge for ground transportation from airports to any town or city) as may be necessary to make clear beyond doubt the proper application and effect of such tariffs.

Statement of rates.—Following the foregoing, the tariff shall set forth, in a simple and systematic manner, a statement of all rates for air transportation of passengers and property (separated as required by this regulation). All places to and from which, or between which, such rates apply (completely identified by reference to the States or other governmental units in which such places are located) must be stated. In addition to rates required by the Act to be included in the tariff, rates between points in the same or different foreign countries may be included for information.

Free or reduced rate transportation.—Rules and rates relating to free and reduced rate transportation need not be included in the tariff unless specifically required by the Authority.

(e) *Loose-leaf tariffs.*—In addition to the matter required by paragraph (d) of this Rule 3, a loose-leaf tariff shall contain a sheet or sheets, to be known as "check sheets," by which all currently effective pages of the tariff may be identified. Each page of such a tariff must show, at the top, the name of the issuing air carrier, the word "Original" or the revision number and the number of the tariff preceded by the prefix "C. A. A." and, at the bottom, the date of issue and the effective date.

4. Changes in Tariffs

(a) *Methods of making.*—Any changes in a tariff must be made by supplements thereto or by a reissue thereof except that any changes in loose-leaf tariffs must be made by substituting pages on which changes are made (the substituted page to bear the notation "Substitute for Original Page —"), or new pages may be inserted bearing the same number, if any, as the pages which they are to follow, with a letter added, as "4-a", or bearing new numbers if such new pages follow the last numbered page of the tariff. All new pages (as distinguished from substitute pages) of a loose-leaf tariff must be designated "Original" when first filed. Notice of every such change and of the date when the same is to become effective, together with copies of such substituted or new pages as aforesaid, shall be filed with the Authority within such time prior to the effective date thereof as is prescribed by section 403 (c) of the Act. Similar notice and copies shall also be posted and published in the same manner and at the same places as required for the original posting and publishing of a tariff. Any notice of such a proposed change filed too late to give the Authority the notice required by the Act is subject to rejection and return. No consideration will be given to telegraphic or other advice of the dispatch of notice of any such proposed change to the Authority, or to the time during which such change may be in transit to the Authority.

(b) *Status of supplements.*—Supplements to a tariff, and substitute, or new, pages of a loose-leaf tariff, are subject to this regulaton in the same manner and to the same extent as original tariffs, except that substitute pages of loose-leaf tariffs must be designated as "1st Revision", "2d Revision," etc., and except further that supplements to the same tariff shall be consecutively numbered, and the cover or title page of each supplement shall show the number thereof above the CAA number of the tariff, as:

SUPPLEMENT NO. 4
(Cancels Supplements Nos. 1 and 3)
to
Tariff CAA No. —

(Supplements Nos. 2 and 4 contain all changes from the original tariff which will be effective on the effective date hereof.)

(c) *Cancelation of tariff.*—Cancelation of a tariff in its entirety must be by supplement, filed, posted and published, as herein provided, solely for that purpose, which must show where any rates substituted for the rates named in the canceled tariff will be found after such cancelation becomes effective, or that no rates will thereafter be in effect, together with the reason therefor. Such cancelation of a tariff also cancels all supplements thereto in effect at the time such cancelation becomes effective. Cancelation of a portion of a tariff or supplement must be specific. The filing, posting and publishing, as herein provided, of a revised page of a loose-leaf tariff automatically cancels the original or immediately preceding revision of the page as of the effective date of such revised page. Rates may not be restored by cancelation of a cancelation supplement but must be filed, posted and published as if the same were new rates.

(d) *Designation of changes.*—Changes made in tariffs and supplements on file with the Authority must be uniformly indicated by the use of the following symbols:

↓ to denote reductions in rates.
◆ to denote increases in rates.
▲ to denote changes in wording which result in neither increases nor reductions in rates.
● to denote no change.

These symbols must be shown and explained in the tariff or supplement in which used and must not be used for any other purpose. Use of the symbols may be reduced by appropriate notation conspicuously and distinctively shown on the tariff, supplement, or individual page thereof, as "All rates in this supplement are increases, unless otherwise indicated." "All matter in this tariff is reissued without change, unless otherwise indicated, from CAA No. —, effective December —, 1938, except as noted in individual items."

(e) *Volume of supplemental matter.*—The aggregate volume of supplemental matter currently in effect should not exceed approximately one-third of the volume of the principal tariff. The Authority may direct the reissue of any tariffs at any time.

5. Effecting Filing of Joint Tariffs

(a) *Concurrence in joint tariffs.*—No air carrier may file a tariff naming rates for service partly by it and partly by another air carrier or other air carriers without the concurrences of the latter.

(b) *Contents and disposition of concurrences.*—Three signed copies of each concurrence must be issued. One original counterpart thereof must be filed with the Authority with the first joint tariff issued thereunder; another original counterpart thereof must be retained by the air carrier or agent to whom such concurrence is issued; and a third original counterpart thereof must be retained by the concurring air carrier. An illustrative form of concurrence is set forth in Appendix E hereto.

(c) *Posting and publishing of concurrences unnecessary.*—Concurrences specified in this Rule need not be posted or published in the tariffs issued thereunder.

(d) *Effect of giving concurrence.*—The granting of authority to issue tariffs under concurrences does not relieve the air carrier granting such authority from the necessity of complying with the law in respect of the posting and publishing of all joint tariffs to which it is a party at all points at which it is required to post and publish its own local tariffs; nor does it confer upon the air carrier, to whom a concurrence is granted, authority to cancel any tariffs other than joint ones. Cancelation of such other tariffs must be made by the air carrier issuing them either for itself or through its designated agent or agents.

(e) *Copies of tariffs to participating carriers.*—Copies of each tariff issued under concurrences specified in this regulation must be sent by the air carrier issuing the tariff to each air carrier that is named as concurring therein at the same time such tariffs are delivered or transmitted to the Authority.

(f) *Revocation.*—Any air carrier which has concurred in a joint tariff may revoke its concurrence therein by filing with the Authority not less than 45 days before the effective date of such revocation a notice of revocation substantially in the form set forth in Appendix F hereto. A copy of such notice must be sent at the same time to the air carrier to whom such concurrence was given. The notice must definitely identify the concurrence revoked and must specify the date such revocation is to become effective.

(g) *Designation of junction points.*—Unless otherwise specifically provided in the tariff, joint tariffs will apply via any junction point between points of origin and destination which is served by the air carriers making the rates available. Restriction of rates to designated junctions must be clear and definite and must be shown in as simple and systematic manner as possible.

6. Application of Rates

(a) *Methods of stating rates.*—Rates for transportation by aircraft from airport to airport must be stated separately from any charge made by the air carrier for ground transportation to or from airports or for pick-up and delivery service. The tariff must definitely show any separate charge that is to be made by the air carrier or any subsidiary thereof for ground transportation or for pick-up and delivery service. Charges of others for such ground transportation or pick-up and delivery service may be specified in the tariff and shall not be deemed to constitute a part thereof; *Provided*, That they are accompanied by conspicuous notation to the effect that they are published for information only and are not guaranteed by the air carrier.

(b) *Combination rates.*—The rates named in a tariff will apply only for service between the points specified therefor in the tariff, except that such rates may be made applicable for through service beyond such points by providing an appropriate rule in the tariff to the effect that such rates may be used in combination with rates of other air carriers for through service beyond the points named in the tariff.

7. Effect of Suspension by Authority

(a) *Suspension supplement.* — Upon entry by the Authority of an order suspending the operation of any tariff, in whole or in part, and upon service thereof upon the air carrier who issued such tariff, such air carrier must immediately file with the Authority a "suspension supplement", which must also be posted and published in the manner prescribed in this regulation. Such supplement must quote the pertinent portions of the order of suspension which describe the matter suspended, and must state that such matter is under suspension and may not be used until such specified date as the suspension order may name and that the rates theretofore in effect (which must be clearly identified) and sought to be changed by the matter suspended will remain in effect until lawfully changed. The CAA numbers of the tariffs or supplements where such rates so continued in effect may be found must be shown. A suspension supplement must not bear an effective date.

(b) *Changes during suspension.*—During the period of suspension, a suspended rate may not be changed or withdrawn, nor may any change be made in the rate continued in effect as a result of such suspension, except under order or special permission of the Authority. Notation to this effect must be included in the suspension supplement.

(c) *Vacation of suspension.*—When an order of suspension is vacated or otherwise ceases to be effective as of a date earlier than the date to which the operation of the tariff, or portion thereof, was suspended, the air carrier issuing such tariff, or portion thereof, may file and post on not less than one day's notice, unless otherwise provided by the vacating order, a supplement stating the date upon which, in accordance with the terms of the vacating order, such tariff, or portion thereof, will become effective; otherwise such tariff, or portion thereof, will become effective at the expiration of the suspension period. No further supplement need be filed and posted if the order of suspension is vacated as of the expiration of the suspension period.

(d) *Expiration of suspension period before order of Authority.*—If the suspension period expires before the Authority has entered an order vacating its order of suspension or directing cancelation of the suspended tariff, or portion thereof, such suspended matter will become effective as of the expiration of the suspension period without further action by the air carrier or agent. The Authority may later direct the cancelation of matter thus becoming effective. Cancelation ordered by the Authority, whether prior or subsequent to the expiration of the suspension period, must be made effective by filing, posting and publishing an appropriate reissue of the tariff, a supplement thereto, or (if the tariff is in loose-leaf form) a revised page thereof.

8. Rates Prescribed by the Authority

Rates prescribed by order of the Authority shall be filed, posted and published by the air carriers subject to such order in accordance with the terms of such order and this regulation; and separate notice must be sent to the Secretary of the Authority for filing in the docket in which such order was entered to the effect that "the order of the Authority in Docket No. — has been complied with in Item No. —, page No. — of —— (identifying description of tariff)". Such notice must be sent at the same time the tariff is tendered for filing, but must not accompany such tariff.

9. Changes in Air Carriers

The successor to the property or operating control of an air carrier, whether by change of name, consolidation, merger, operating contract, or in any other legal manner, may (subject to the provisions of any order or regulation which may be issued by the Authority under section 408 of the Act) adopt the tariffs to which the air carrier is a party by filing, posting and publishing therewith on not less than one day's notice an "adoption supplement," in the form required for supplements by these regulations, which, after clearly identifying such tariffs, must contain the following provision:

---------- (legal name of successor) hereby adopts, ratifies, and makes its own, in every respect as if the same had been filed, posted and published by it, the tariff specified above, filed with the Civil Aeronautics Authority by ---------- (corporate name of air carrier succeeded).

No further supplement to tariffs so adopted may be filed, and such tariffs must be replaced by a tariff filed, posted

and published by the successor to be effective not more than 60 days from the effective date of the adoption supplement.

10. Exemptions From Filing, Posting and Publishing Requirements

An air carrier seeking to file, post and publish rates on less notice than that required by the Act (except as specifically authorized in this regulation), or seeking exemptions from any of the requirements of this regulation, shall file with the Authority an application, in triplicate, stating fully the nature of the relief sought and the reasons for seeking such relief. Such applications shall be entitled "Application for Special Tariff Permission No. —" and shall be consecutively numbered. Each subject should usually be covered by a separate application. The filing of such application will not stay the requirements of the Act or of this regulation; specific action by the Authority on the application is essential to effect any such stay.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

APPENDIX A

ILLUSTRATIVE FORM OF CORPORATE POWER OF ATTORNEY

(Corporate name of issuing air carrier in full)

(Post-office address)
---, 19--.

Power of Attorney No. ------
TO THE CIVIL AERONAUTICS AUTHORITY,
Washington, D. C.

The undersigned hereby designates (name of agent) its agent, to file with the Civil Aeronautics Authority under the Civil Aeronautics Act of 1938, and to post and publish, for it alone (or for it jointly with other named air carriers) tariffs pursuant to section 403 of said Act and to the applicable regulations of said Authority issued under said Act (or to concur in any such tariff filed under said Act by any other air carrier or carriers). The present address of such agent is as follows: ------
The agent so designated has written his name and also his initials in the following blank space: ------

And the undersigned hereby grants to its said agent full power and authority to perform every act and thing above specified as fully as if the same were performed by it, hereby ratifying and confirming all that its said agent may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its agent hereunder. This power shall continue in effect until the Civil Aeronautics Authority shall be notified in writing of its revocation.

In witness whereof, (corporate name of air carrier) has caused these presents to be signed in its name by (insert title of officer duly authorized by the Board of directors to execute this power of attorney) and to be attested under its corporate seal by its (insert title of officer authorized to attest such seal) at ------, in the State of ------, on this ------ day of ------, in the year A. D. 19--.

[CORPORATE SEAL]

(Corporate name of air carrier)
By ---
(Type name under signature and give title)

Attest:

(Type name under signature and give title).

NOTE.—For powers of attorney to be given by air carriers doing business other than in corporate form, appropriate changes may be made in the foregoing suggested form. If the air carrier desires to have two or more agents file any tariff, appropriate provisions to that effect may be inserted.

If it is desired to limit the authority conferred by the power of attorney to the filing of a particular tariff, or to concurring in a particular tariff, provision may be made to that effect provided that identification of such tariff is clear and complete.

APPENDIX B

ILLUSTRATIVE FORM OF LETTER TRANSMITTING TARIFFS

(Exact name of issuing air carrier)

(Post-office address)
---, 19--.

Tariff Transmittal No. ------
CIVIL AERONAUTICS AUTHORITY,
Washington, D. C.

The accompanying tariff (or supplement, or revised page) is sent you for filing in compliance with the requirements of the Civil Aeronautics Act of 1938. This tariff (or supplement, or revised page) is identified as CAA No. ------ (or Supplement No. ------, or revised page No. ------, to CAA No. ------), effective ---, 19 --.

(Exact name of issuing air carrier)
By ---
(Type name under signature and give title)

NOTE.—Each power of attorney authorizing an agent or agents of an air carrier to file the tariff must be identified in this letter and the original thereof must be filed with the Authority at or before the time when the first tariff of such air carrier is filed with the Authority; if it be a joint tariff, the concurrences given to the issuing air carrier by the other participating air carriers must be filed at the time of or before the filing of the tariff.

If a receipt for the tariff, supplement, or revised page so submitted is desired, the letter of transmittal must be sent in duplicate. The duplicate, showing the date of receipt by the Authority, will be returned to the sender.

APPENDIX C

ILLUSTRATIVE FORM OF COVER OR TITLE PAGE FOR LOCAL TARIFF OR SUPPLEMENTS

[CAA No. 12 (Cancels CAA No. 11)]

The ---------- Company.

Stamp Here Date Received

Passenger Tariff No. 20.
(Reissue of Passenger Tariff No. 19.)
(Or: Passenger and Property Tariff No. 16.)
(Or: Supplement No. 1 to Passenger Tariff No. 20.)
One-way (and Round-trip) *fares.*
(Or: *Also basis for constructing round-trip fares.*)
(and other types of fares included in tariff.)
(See footnote 1.)
Issued ---, 19---. Effective ---, 19---. (Except as provided in individual items.)
(See footnote 2.)
Issued by:

(Name of air carrier.)
By ---
(Type name under signature and give title.)

[1] If the tariff names fares only between certain points served by the carrier, a brief statement serving to describe those points should be incorporated here, as: "Between ---------- and ---------- and intermediate points along the airways over which ---------- Company operates between those termini." To make the fares available for application to through transportation beyond the points named in the tariff, there should be incorporated here a notation like the following: "Fares named herein may be used, to the extent indicated, and as provided, herein, in making combination fares for air transportation to or from points beyond the points named herein."

[2] Here should be shown in separate paragraphs, appropriate notations of compliance with the orders of the Authority or of special permissions of the Authority for departures from requirements respecting tariff publication, such as: "The fares published herein are in compliance with Order of Civil Aeronautics Authority in Docket No. ——." "This tariff contains fares effective on less than 30 days' notice as provided in individual items. Such departure from the requirements of section 403 of the Civil Aeronautics Act of 1938 is authorized by Special Permission No. ------ dated ---------- of the Civil Aeronautics Authority." "Departures from the requirements of (identify the individual regulation or describe the departure) Tariff Regulation 403–A–1 of the Civil Aeronautics Authority is authorized by Special Permission No. ------ dated ---------- of the Civil Aeronautics Authority." In the case of loose-leaf tariffs such notations may be made on the appropriate tariff pages.

APPENDIX D

ILLUSTRATIVE FORM OF COVER OR TITLE PAGE FOR JOINT TARIFFS, OR LOCAL AND JOINT TARIFFS, OR SUPPLEMENTS

[C. A. A. No. 12 (Cancels C. A. A. No. 11)]

The ---------- Company
Local and Joint Passenger Tariff No. 20.
(Reissue of Local and Joint Passenger Tariff No. 19.)
(Or: Local and Joint Passenger and Property Tariff No. 16.)
(Or: Joint Passenger Tariff No. 18.)
One-way (and Round-Trip) *Fares.*
(Or: *Also basis for constructing round-trip fares.*)
(and other types of fares included in tariff)
(See footnote 1.)
Issued ---, 19---. Effective ---, 19---.
(See footnote 2.)
Concurring Air Carriers. (See page —.)
(See footnote 3.)
Issued by:

(Name of air carrier)
By ---
(Type name under signature and give title)

(Address)

[1] Here should be shown a brief description of the points between which fares are published in the tariff.

[2] Here should be shown in separate paragraphs appropriate notations of compliance with the orders of the Authority or of special permissions of the Authority for departures from requirements respecting tariff publications, such as: "The fares published herein are in compliance with an Order of Civil Aeronautics Authority (identify order)." "This tariff contains fares effective on less than 30 days' notice as provided in individual items. Such departure from the requirements of section 403 of the Civil Aeronautics Act of 1938 is authorized by Special Permission No. ------ dated ----------, of the Civil Aeronautics Authority." "Departures from the requirements of (identify the individual regulation or describe the departure) of Tariff Regulation 403–A–1 of the Civil Aeronautics Authority is authorized by Special Permission No. ------ dated ---------- of the Civil Aeronautics Authority." In the case of loose-leaf tariffs such notations may be made on the appropriate tariff pages.

[3] Where possible, the list of concurring air carriers may be shown on the cover or title page, but wherever shown must be preceded by the following note: "This tariff is published and filed with the Civil Aeronautics Authority by ----------, with the concurrence of the following air carriers on file with the Authority."

APPENDIX E

ILLUSTRATIVE FORM OF CONCURRENCE FOR PUBLICATION OF JOINT RATES

(Exact name of issuing air carrier)

(Post-office address)
---, 19--.

Concurrence No. ------
CIVIL AERONAUTICS AUTHORITY,
Washington, D. C.

This is to certify that the (exact name of air carrier giving concurrence) consents to, and concurs in, the filing, posting and publishing of any tariff or tariffs described below, together with notice of changes therein and supplements thereto, or revised pages thereof, by (exact name of air carrier to whom concurrence is given) and hereby makes itself a party thereto and bound thereby until this authority is revoked by formal and official notice of revocation filed with the Civil Aeronautics Authority and sent to (exact name of air carrier to which concurrence is given) pursuant to the applicable Rules and Regulations of said Authority:

(Here give a description, as clear as possible, of the tariff or tariffs to be covered by the concurrence.)

(Exact name of air carrier)
By ---
(Type name under signature and give title)

APPENDIX F

ILLUSTRATIVE FORM OF NOTICE OF REVOCATION OF CONCURRENCE

(Exact name of issuing air carrier)

(Post-office address)
---, 19--.

Revocation Notice No. ------
CIVIL AERONAUTICS AUTHORITY,
Washington, D. C.

Concurrence No. ------ issued by (exact name of air carrier) in favor of (exact name of air carrier to which concurrence was given) for filing, posting and publishing of (here describe the tariff or tariffs involved, fully and exactly), and supplements thereto or revisions thereof, is hereby canceled and revoked.

A duplicate of this notice of revocation is being sent on this date to (exact name and post-office address of the air carrier) and said air carrier is hereby directed to cancel this air carrier's participation in said tariff, effective as of (insert date).

(Exact name of air carrier)
By ---
(Type name under signature and give title)

[F. R. Doc. 38–2773; Filed, September 21, 1938; 12:36 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY.

OFFICE OF THE SECETARY

[T. D. 4861]

EXCESS PROFITS ON NAVY CONTRACTS

GUARANTEE EXPENSES, BIDDING AND GENERAL SELLING EXPENSES, EXCESS FACILITIES, BONUSES TO EMPLOYEES, ALLOCATION OF INDIRECT COSTS, TIME FOR FILING ANNUAL REPORTS

To Officers and Employees of the Treasury Department, the Navy Department, and Others Concerned:

PARAGRAPH A. Article 8 (b) of Treasury Decision 4723,[1] approved December 31, 1936, by the Acting Secretary of the Treasury and approved January 6, 1937, by the Acting Secretary of the Navy (C. B. 1937–1, 519), relating to elements of cost, is amended to read as follows:

"(b) *Elements of cost.*—No definitions of the elements of cost may be stated which are of invariable application to all contractors and subcontractors. In general, the elements of cost may be defined for purposes of the Act as follows:

"(1) Manufacturing cost, which is the sum of factory cost (see paragraph (c) of this article) and other manuacturing cost (see paragraph (d) of this article);

"(2) Cost of installation and construction (see paragraph (e) of this article);

"(3) General expenses, which are the sum of indirect engineering expenses, usually termed 'engineering overhead' (see paragraph (f) of this article) and expenses of distribution, servicing and administration (see paragraph (g) of this article); and

"(4) Guarantee expenses (see paragraph (h) of this article)."

PAR. B. Article 8 (g) of Treasury Decision 4723, as amended by Treasury Decision 4741,[2] approved June 1, 1937, by the Acting Secretary of the Treasury and approved June 3, 1937, by the Secretary of the Navy (C. B. 1937–1, 531), relating to expenses of administration, is amended to read as follows:

"(g) *Expenses of distribution, servicing and administration.*—Expenses of distribution, servicing and administration, which are treated in this article as a part of general expenses in determining the cost of performing a contract or subcontract (see pargraph (b) of this article), comprehend the expenses incident to and necessary for the performance of the contract or subcontract, which are incurred in connection with the distribution and general servicing of the contracting party's products and the general administration of the business, such as—

"(1) *Compensation for personal services of employees.*—The salaries of the corporate and general executive officers and the salaries and wages of administrative clerical employees and of the office services employees (telephone operators, janitors, cleaners, watchmen and office equipment repairmen).

"(2) *Bidding and general selling expenses.*—Bidding and general selling expenses which by reference to all the pertinent facts and circumstances reasonably constitute a part of the cost of performing a contract or subcontract. The treatment of bidding and general selling expenses as a part of general expenses in accordance with this paragraph is in lieu of any direct charges which otherwise might be made for such expenses. The term 'bidding expenses' as used in this article includes all expenses in connection with preparing and submitting bids.

"(3) *General servicing expenses.*—Expenses which by reference to all the pertinent facts and circumstances reasonably constitute a part of the cost of performing a contract or subcontract and which are incident to delivered or installed articles and are due to ordinary adjustments or minor defects; but including no items which are treated as a part of guarantee expenses (see paragraph (h) of this article) or as a part of direct costs, such as direct materials, direct labor, and other direct expense.

"(4) *Other expenses.*—Miscellaneous office and administrative expenses, such as stationery and office supplies; postage; repair and depreciation of office equipment; employees' welfare expenses; premiums and dues on compensation insurance; employers' payments to unemployment, old age and social security Federal and State funds not including payments deducted from or chargeable to employees or officers; pensions and retirement payments to administrative office employees and accident compensation to office employees (as to self-insurance, see the following subparagraph); but including no items which are not incidental to activities necessary for the performance of the contract or subcontract.

"Subject to the exception stated in this subparagraph, in cases where a contracting party assumes its own insurable risks (usually termed 'self-insurance'), losses and payments will be allowed in the cost of performing a contract or subcontract only to the extent of the actual losses suffered or payments incurred during, and in the course of, the performance of the contract or subcontract and properly chargeable to such contract or subcontract. If a contracting party assumes its own insurable risks (a) for compensation paid to employees for injuries received in the performance of their duties, or

[1] 2 F. R. 43 (51 DI).
[2] 2 F. R. 977 (1163 DI).

(b) for unemployment risks in States where insurance is required, there may be allowed as a part of the cost of performing a contract or subcontract a reasonable portion of the charges set up for purposes of self-insurance under a system of accounting regularly employed by the contracting party, as determined by the Commissioner of Internal Revenue, at rates not exceeding the lawful or approved rates of insurance companies for such insurance, reduced by amounts representing the acquisition cost in such companies, providing the contracting party adopts and consistently follows this method with respect to self-insurance in connection with all contracts and subcontracts subsequently performed by him.

"Allowances for interest on invested capital are not allowable as costs of performing a contract or subcontract.

"Among the items which shall not be included as a part of the cost of performing a contract or subcontract or considered in determining such cost, are the following: Entertainment expenses; dues and memberships other than of regular trade associations; donations; losses on other contracts; profits or losses from sales or exchanges of capital assets; extraordinary expenses due to strikes or lockouts; fines and penalties; amortization of unrealized appreciation of values of assets; expenses, maintenance and depreciation of excess facilities (including idle land and buildings, idle parts of a building, and excess machinery and equipment) vacated or abandoned, or not adaptable for future use in performing contracts or subcontracts; increases in reserve accounts for contingencies, repairs, compensation insurance (except as above provided with respect to self-insurance) and guarantee work; Federal and State income and excess-profits taxes and surtaxes; cash discount earned up to one percent of the amount of the purchase, except that all discounts on subcontracts subject to the Act will be considered; interest incurred or earned; bond discount or finance charges; income from royalties; premiums for life insurance on the lives of officers; legal and accounting fees in connection with reorganizations, security issues, capital stock issues and the prosecution of claims against the United States (including income tax matters); taxes and expenses on issues and transfers of capital stock; losses on investments; bad debts; and expenses of collection and exchange.

"In order that the cost of performing a contract or subcontract may be accounted for clearly, the amount of any excess profits repayable to the United States pursuant to the Act should not be charged to or included in such cost."

PAR. C. Article 8 of Treasury Decision 4723 is amended by eliminating paragraph (h) of such article and by inserting in such article (in lieu of the paragraph so eliminated) the following new paragraphs (h), (i), and (j):

"(h) *Guarantee expenses.*—Guarantee expenses include the various items of factory cost, other manufacturing cost, cost of installation and construction, indirect engineering expenses and other general expenses (see paragraphs (c) to (g), inclusive, of this article) which are incurred after delivery or installation of the article manufactured or constructed pursuant to the particular contract or subcontract and which are incident to the correction of defects or deficiencies which the contracting party is required to make under the guarantee provisions of the particular contract or subcontract. If the total amount of such guarantee expenses is not ascertainable at the time of filing the report required to be filed with the collector of internal revenue (see articles 15 and 16) and the contracting party includes any estimated amount of such expenses as part of the claimed total cost of performing the contract or subcontract, such estimated amount shall be separately shown on the report and the reasons for claiming such estimated amount shall accompany the report; but only the amount of guarantee expenses actually incurred will be allowed. If the amount of guarantee expenses actually incurred is greater than the amount (if any) claimed on the report and the contracting party has made an overpayment of excess profit, a refund of the overpayment shall be made in accordance with the provisions of article 19. If the amount of guarantee expenses actually incurred is less than the amount claimed on the report and an additional amount of excess profit is determined to be due, the additional amount of excess profit shall be assessed and paid in accordance with the provisions of article 19.

"(i) *Unreasonable compensation.*—The salaries and compensation for services which are treated as a part of the cost of performing a contract or subcontract include reasonable payments for salaries, bonuses, or other compensation for services. As a general rule, bonuses paid to employees (and not to officers) in pursuance of a regularly established incentive bonus system may be allowed as a part of the cost of performing a contract or subcontract.

"The test of allowability is whether the aggregate compensation paid to each individual is for services actually rendered incident to, and necessary for, the performance of the contract or subcontract, and is reasonable. Excessive or unreasonable payments whether in cash, stock or other property ostensibly as compensation for services shall not be included in the cost of performing a contract or subcontract.

"(j) *Allocation of indirect costs.*—No general rule applicable to all cases may be stated for ascertaining the proper proportion of the indirect costs to be allocated to the cost of performing a particular contract or subcontract. Such proper proportion depends upon all the facts and circumstances relating to the performance of the particular contract or subcontract. Subject to a requirement that all items which have no relation to the performance of the contract or subcontract shall be eliminated from the amount to be allocated, the following methods of allocation are outlined as acceptable in a majority of cases:

"(1) *Factory indirect expenses.*—The allowable indirect factory expenses (see paragraph (c) (5) of this article) shall ordinarily be allocated or 'distributed' to the cost of the contract or subcontract on the basis of the proportion which the direct productive labor (see paragraph (c) (2) of this article) attributable to the contract or subcontract bears to the total direct productive labor of the production department or particular section thereof during the period within which the contract or subcontract is performed, except that if the indirect factory expenses are incurred in different amounts and in different proportions by the various producing departments consideration shall be given to such circumstances to the extent necessary to make a fair and reasonable determination of the true profit and excess profit.

"(2) *Engineering indirect expenses.*—The allowable indirect engineering expenses (see paragraph (f) of this article) shall ordinarily be allocated or 'distributed' to the cost of the contract or subcontract on the basis of the proportion which the direct engineering labor attributable to the contract or subcontract (see paragraph (c) (3) of this article) bears to the total direct engineering labor of the engineering department or particular section thereof during the period within which the contract or subcontract is performed. If the expenses of the engineering department are not sufficient in amount to require the maintenance of separate accounts, the engineering indirect costs may be included in the indirect factory expenses (see paragraph (c) (5) of this article) and allocated or distributed to the cost of performing the contract or subcontract as a part of such expenses, provided the proportion so allocated or distributed is proper under the facts and circumstances relating to the performance of the particular contract or subcontract.

"(3) *Administrative expenses* (or *'overhead'*).—The allowable expenses of administration (see paragraph (g) of this article) or other general expenses except indirect engineering expenses, bidding and general selling expenses, and general servicing expenses shall ordinarily be allocated or distributed to the cost of performing a contract or subcontract on the basis of the proportion which the sum of the manufacturing cost (see paragraph (b) of this article) and the cost of installation and construction (see paragraph (e) of this article) attributable to the particular contract or subcontract bears to the sum of the total manufacturing cost and the total cost of installation and construction during the period within which the contract or subcontract is performed.

"(4) *Bidding, general selling, and general servicing expenses.*—The allowable bidding and general selling expenses and general servicing expenses (see paragraph (g) (2) and (3) of this article) shall ordinarily be allocated or distributed to the cost of performing a contract or subcontract on the basis of—

(i) The proportion which the contract price of the particular contract or subcontract bears to the total sales made (including contracts or subcontracts completed) during the period within which the particular contract or subcontract is performed, or

(ii) The proportion which the sum of the manufacturing cost (see paragraph (b) of this article) and the cost of installation and construction (see paragraph (e) of this article) attributable to the particular contract or subcontract bears to the sum of the total manufacturing cost and the total cost of installation and construction during the period within which the contract or subcontract is performed,

except that special consideration shall be given to the relation which certain classes of such expenses bear to the various classes of articles produced by the contracting party in each case in which such consideration is necessary in order to make a fair and reasonable determination of the true profit and excess profit. See article 13."

PAR. D. Article 16 (b) of Treasury Decision 4723, relating to time for filing annual reports, is amended to read as follows:

"(b) *Time for filing annual reports.*—Annual reports of contracts and subcontracts completed by a contracting party within an income-taxable year beginning after December 31, 1935 must be filed on or before the 15th day of the ninth month following the close of the contracting party's income-taxable year. It is important that the contracting party render on or before the due date an annual report as nearly complete and final as it is possible for the contracting party to prepare. An extension of time granted the contracting party for filing its Federal income tax return does not serve to extend the time for filing the annual report required by this article. Authority consistent with authorizations for granting extensions of time for filing Federal income tax returns is hereby delegated to the various collectors of internal revenue for granting extensions of time for filing the reports required by this article. Application for extensions of time for filing such reports should be addressed to the collector of internal revenue for the district in which the contracting party files its Federal income tax returns and must contain a full recital of the causes for the delay."

This Treasury Decision is prescribed pursuant to the provisions of section 3 of the Act of March 27, 1934, 48 Stat. 505 (U. S. C. title 34, sec. 496), as amended by the Act of June 25, 1936, 49 Stat. 1926 (U. S. C. Sup. II, title 34, sec. 496).

[SEAL] GUY T. HELVERING,
Commisisoner of Internal Revenue.

Approved: September 16, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

Approved: September 19, 1938.

CHARLES EDISON,
Acting Secretary of the Navy.

[F. R. Doc. 38-2767; Filed, September 20, 1938; 4:20 p. m.]

AMENDMENT OF EXEMPTION ORDER PURSUANT TO SECTION 4 OF THE GOVERNMENT LOSSES IN SHIPMENT ACT

The Order of the Acting Secretary of the Treasury of August 12, 1937,[1] with regard to shipments of gold and silver coin or bullion to, from, between, or within foreign countries, is hereby amended to read as follows:

"Whereas section 4 of the Government Losses in Shipment Act (Public No. 192, 75th Congress, approved July 8, 1937) provides in part as follows:

"'On and after the effective date of the regulations prescribed under section 1, no executive department, * * * officer, or employee shall expend any money, or incur any obligation, for insurance, or for the payment of premiums on insurance, against loss, destruction, or damage in the shipment of valuables except as specifically authorized by the Secretary of the Treasury. The Secretary of the Treasury may give such authorization if he shall find that the risk of loss, destruction, or damage in such shipment cannot be adequately guarded against by the facilities of the United States or that the circumstances are such that adequate replacement cannot be provided under this Act.';

"and

"Whereas I find that the risk of loss, destruction, or damage in shipments of gold and silver coin or bullion to, from, between, or within foreign countries under the provisions of the Gold Reserve Act of 1934, as amended, and the Silver Purchase Act of 1934 cannot be adequately guarded against by the facilities of the United States:

"It is hereby ordered that any such shipment is excepted from the prohibitions contained in the first sentence of section 4 of the Government Losses in Shipment Act if, and to the extent that, adequate insurance at satisfactory rates can, in the opinion of the Secretary of the Treasury, be obtained to cover such shipment.

"The Secretary of the Treasury may at any time supplement, amend, or revoke this Order."

[SEAL] H. MORGENTHAU, JR.,
Secretary of the Treasury.

SEPTEMBER 20, 1938.

[F. R. Doc. 38-2768; Filed, September 20, 1938; 4:20 p. m.]

[1] 2 F. R. 1396 (1672 DI).

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF AND ORDER FOR HEARING IN MATTER OF PROPOSAL OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS SUBMITTED BY DISTRICT BOARDS FOR DISTRICTS NOS. 1, 2, 3, 4, 5, 6, 7, AND 8 AND BY DISTRICT BOARD NO. 13 FOR SO MUCH OF DISTRICT NO. 13 AS IS IN MINIMUM PRICE AREA NO. 1

Pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for Other Purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That notice be and the same hereby is given to all interested parties that a hearing in the above entitled matter shall be held before the Commission, commencing on the 10th day of October, 1938, at 10:00 o'clock A. M., in the Hearing Room of the Commission at 15th and Eye Streets, N. W., Washington, D. C., for the purpose of receiving evidence relating to the proposals of the minimum prices and marketing rules and regulations submitted by District Boards Nos. 1, 2, 3, 4, 5, 6, 7, 8 and by District Board No. 13 (for so much of the district as is in Minimum Price Area No. 1), to the Commission, pursuant to Orders Nos. 247, 248 and 251,[1] dated August 11, 1938, and August 20, 1938, to enable the Commission to approve or disapprove such proposed minimum prices and marketing rules and regulations or to enable the Commission to modify such proposed minimum prices in conformity with the requirements of Section 4–II (a) of the Act, or to enable the Commission to modify the proposed marketing rules and regulations, as provided in said Section 4–II (a) of the Act, in order that such proposed minimum prices and marketing rules and regulations, as approved, or modified, as the case may be, may serve as the basis for the coordination as provided by Section

[1] 3 F. R. 1988, 1989, 2058 DI.

4–II (b) of the Act, at which time all interested parties will be afforded an opportunity to be heard.

2. That at said hearing the Commission will receive evidence relating to the kinds, qualities, and sizes of coal produced in each of the aforesaid districts, and evidence relating to the classification of such coal, price variations as to mines, consuming market areas, values as to uses and seasonal demand, and evidence as to whether or not such proposed minimum prices conform, or in what respect they should be modified so as to conform, to the following requirements of Subsection (a) of Part II, Section 4 of the Act:

A. The proposed minimum prices for each of the aforesaid districts shall yield a return, per net ton, for such districts, equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which such district is located, as said weighted average heretofore has been determined by order of the Commission dated August 10, 1938,[1] in this proceeding.

B. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal to which they are applicable.

C. They shall be just and equitable as between producers within the district.

D. They shall have due regard to the interests of the consuming public.

E. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

F. They shall not permit dumping.

At said hearing the Commission will also receive evidence as to whether or not such proposed marketing rules and regulations are consistent with the requirements of Section 4–II (a) of the Act, and conform to the standards of fair competition established by the Act, or in what respect they should be modified to be made consistent with the requirements of Section 4–II (a) of the Act, and to conform to the standards of fair competition established by said Act.

3. That the Secretary is hereby directed to cause copies of the aforesaid proposals to be made available forthwith for inspection by interested parties at the Office of the Secretary of the Commission at Washington, D. C., and at the office of each Statistical Bureau of the Commission within each of District Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 13.

4. That the Secretary of the Commission shall cause a copy of this Notice of and Order for Hearing to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of the aforesaid districts, and shall cause copies hereof to be mailed to each Code member, the Consumers' Counsel, and to the Secretary of each District Board, and to be made available for inspection in each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 19th day of September, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2769; Filed, September 21, 1938; 10:19 a. m.]

[Docket No. 497–FD]

IN THE MATTER OF APPLICATION OF FAIRMONT COALS, INC., FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE OF CONTINUANCE OF HEARING

The above entitled matter, having been previously noticed[1] for hearing for September 21, 1938, at 10 o'clock a. m., at the Hearing Room of the Commission, 15th and Eye Streets NW., Washington, D. C., and having been assigned to Examiner Hill McAlister to conduct said hearing, and the above named applicant having requested a continuance until the 26th day of September 1938, and having made proper showing therefor:

Notice is hereby given that the Hearing in the above entitled matter is continued to the 26th day of September 1938, at the same hour and place as provided in original notice.

A copy of this notice of continuance shall forthwith be mailed to the applicant above named, and to the secretary of each district board, and to the Consumers' Counsel, and a copy hereof shall be published in the FEDERAL REGISTER.

Dated this 19th day of September 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2770; Filed, September 21, 1938; 10:19 a. m.]

[Docket Nos. 396–FD, 401–FD, 364–FD, 368–FD, 412–FD, and 383–FD]

IN THE MATTER OF THE APPLICATIONS FOR EXEMPTION BY C. A. RIGGEN COAL CO., HARVEY, IOWA; BRADLEY BROTHERS COAL CO., KNOXVILLE, IOWA; BECK COAL AND MINING CO., DES MOINES, IOWA; LITER COAL CO., CARLISLE, IOWA; MAHASKA COAL CO., OSKALOOSA, IOWA; AND DIAMOND BLOCK COAL CO., PELLA, IOWA

ORDER RESCINDING ORDER FOR AND NOTICE OF HEARINGS

The above named applicants, having filed with the Commission, pursuant to the second paragraph of Section 4–A, their respective applications for exemption from the provisions of Section 4 and the first paragraph of Section 4–A, of the Bituminous Coal Act of 1937; and

The Commission, having by its order for and notice of hearing, issued on the 31st day of August,[1] 1938, ordered and noticed a hearing on said applications for exemption to be held at the hearing room of the Commission in the Kirkwood Hotel, Des Moines, Iowa, on the 26th day of September, 1938; and

The above named applicants, with the exception of the Mahaska Coal Company, having filed with the Commission withdrawals, without prejudice, of their applications for exemption; and, the Commission, by its order dated the 19th day of September, 1938, having granted said withdrawals, without prejudice; and

The Commission, by its order dated the 19th day of September, 1938, having, on its own motion, dismissed without prejudice the application for exemption filed by the Mahaska Coal Company,

Now, therefore, it is hereby ordered:

1. That said order for and notice of hearings, dated the 31st day of August, 1938, providing for hearings to be held on the applications for exemption from the provisions of Section 4 and the first paragraph of Section 4–A, filed by the above named applicants be and the same hereby is, rescinded.

2. The Secretary of the Commission is directed forthwith to mail a copy of this order to each of the applicants above named or to their attorneys of record, to the Consumers' Counsel; to the Secretary of each District Board, to the Commissioner of Internal Revenue, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published for two consecutive days in two newspapers of general circulation in the State of Iowa; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 19th day of September, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–2776; Filed, September 21, 1938; 12:57 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 290]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 16, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation.	*Amount*
Georgia R9069B1 Washington	$218,000
Georgia R9077A1 Forsyth	159,000
Georgia R9078A1 Habersham	183,000
Georgia R9083B1 Jackson	284,000
Georgia R9086A1 Seminole	300,000
Idaho R9011B1 Kootenai	45,000
Illinois R9021D1 Menard	299,000
Indiana R9008B1 Wabash	118,000
Indiana R9035A1 Jasper	241,000
Indiana R9047A1 Orange	128,000
Iowa R9053A1 Linn	228,000
Iowa R9056A1 Poweshiek	148,000
Kentucky R9021C1 Nelson	127,000
Michigan R9033B1 Charlevoix	440,000
Michigan R9033G1 Charlevoix	12,000
Michigan R9042A1 Mason	334,000
Minnesota R9037B1 Jackson	225,000
Minnesota R9073A1 Pipestone	131,000
Mississippi R9029B1 Oktibbeha	193,000
Missouri R9036A1 Audrian	246,000
Montana R9010B1 Madison	118,000
Oklahoma R9008D1 Oklahoma	111,500
Oregon R9017A1 Douglas	132,000
South Dakota R9003B1 Clay	50,000
Tennessee R9020D1 Gibson	40,060
Texas R9038B1 Hill	147,000
Texas R9048B1 Hidalgo	236,000
Texas R9056B1 Lubbock	140,000
Texas R9068A1 Cooke	178,000
Utah R9006A1 Garfield	137,000
Utah R9006G1 Garfield	40,000
Utah R9008A1 Duchesne	74,000
Wisconsin R9040C1 Barron	61,000
Wisconsin R9046B1 Lafayette	94,000
Wisconsin R9049C1 Dunn	188,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2771; Filed, September 21, 1938; 10:24 a. m.]

[Administrative Order No. 291]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 16, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Michigan R9039W3 Van Buren	$10,000
Minnesota R9055W2 Watonwan	30,000
Nebraska R9053W1 Buffalo	7,000
Ohio R9084W1 Carroll	5,000
Wisconsin R9037W2 Trempealeau	5,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38–2772; Filed, September 21, 1938; 10:24 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of September, A. D. 1938.

[File Nos. 56–9 and 46–110; 46–111, 47–26, 32–102 and 43–153; 44–15]

IN THE MATTERS OF AMERICAN LIGHT & TRACTION COMPANY, MICHIGAN CONSOLIDATED GAS COMPANY, GRAND RAPIDS GAS LIGHT COMPANY, WASHTENAW GAS COMPANY, AND MUSKEGON GAS COMPANY

ORDER

American Light & Traction Company, a registered holding company, and Michigan Consolidated Gas Company (formerly Detroit City Gas Company), Grand Rapids Gas Light Company, Muskegon Gas Company, and Washtenaw Gas Company, subsidiary companies of American Light & Traction Company, having filed the following applications and declaration and amendments thereto, pursuant to Section 10, Section 6 (b) and Section 7 of the Public Utility Holding Company Act of 1935 and to Rules U–12C–1, U–12C–2 and U–12D–1 adopted by this Commission under that Act:

1. An application (File No. 56–9) by American Light & Traction Company for approval, pursuant to Rule U–12D–1, of its sale to Michigan Consolidated Gas Company of all the shares of capital stock of Grand Rapids Gas Light Company, Muskegon Gas Company, and Washtenaw Gas Company, in consideration of the issue to the applicant of 96,103 shares of common stock of Michigan Consolidated Gas Company of the par value of $100 each, and an application (File No. 46–110) for approval of the acquisition by the applicant of said securities to be issued by Michigan Consolidated Gas Company;

2. An application (File No. 46–111) by Michigan Consolidated Gas Company for approval, pursuant to Section 10, of its acquisition of the capital stocks to be sold to it by American Light & Traction Company as above stated;

3. An application (File No. 47–26) by Michigan Consolidated Gas Company for approval, pursuant to Section 10, of its acquisition of the assets of Grand Rapids Gas Light Company, Muskegon Gas Company and Washtenaw Gas Company;

4. Applications by Grand Rapids Gas Light Company (File No. 44–15), Muskegon Gas Company (File No. 44–15), and Washtenaw Gas Company (File No. 44–15), for approval, pursuant to Rule U–12C–1, of their acquisition of first mortgage bonds, notes and other obligations issued by them, respectively, which are to be donated to them by American Light & Traction Company as paid-in surplus, and for approval, pursuant to Rule U–12C–2, of the transfer by said applicants of their respective assets as liquidating dividends to Michigan Consolidated Gas Company as the sole stockholder of each of said applicants.

5. An application by Michigan Consolidated Gas Company (File No. 32–102) for exemption, pursuant to Section 6 (b), from the provisions of Section 6 (a) of said Act of—

(a) the issue and sale of 96,103 shares of its common stock of the par value of $100 each to be issued for the purposes stated in paragraph (1) above;

(b) the assumption of the principal amount of $2,223,000 of First Mortgage Bonds of the Grand Rapids Gas Light Company;

(c) the assumption of the principal amount of $555,000 of First Mortgage Bonds of the Washtenaw Gas Company; and

(d) the issue and sale, through underwriters, of the principal amount of $34,000,000 of First Mortgage Bonds, 4% Series due 1963, and the principal amount of $8,000,000 of 4% Serial Notes due August 1, 1939 to August 1, 1948;

the issue and sale and assumption of such securities as aforesaid having been expressly authorized by the Michigan Public Utilities Commission;

6. Public hearing on said matters having been held after appropriate notice,[1] and the Commission having considered the record in these matters and having made and filed its findings and opinion herein except as to the application of Michigan Consolidated Gas Company (File No. 32–102) referred to in paragraph 5 (d) hereof, the hearing in said matter not having been completed and the record therein not having been fully made;

It is ordered, That said applications, as amended, with the exception of the application of Michigan Consolidated Gas Company (File No. 32–102) referred to in paragraph 5 (d) hereof and filed pursuant to Section 6 (b) of said Act, be granted, all subject, however, to the following terms and conditions:

(a) That American Light & Traction Company shall enter upon its books of account the 96,103 shares of common stock of Michigan Consolidated Gas Company heretofore referred to at the aggregate par value thereof, to wit, $9,610,300 and that it charge to its earned surplus account $3,159,603.61, said amount being the difference between $12,769,903.61 which is the net amount at which the above-mentioned securities of Grand Rapids Gas Light Company, Muskegon Gas Company and Washtenaw Gas Company are carried on the books of American Light & Traction Company and the aggregate par value of $9,610,300 of said shares of common stock of Michigan Consolidated Gas Company, such entries being hereby approved pursuant to Instruction 8C of the Uniform System of Accounts for Public Utility Holding Companies under the Public Utility Holding Company Act of 1935; and

(b) That all matters connected with said applications, as amended, shall be performed in all respects as set forth in, and for the purposes represented by, said applications, as amended.

It is further ordered, That jurisdiction of the Commission be and is hereby

[1] 3 F. R. 1987 (DI).

[1] 3 F. R. 2206 DI.

[1] 3 F. R. 2161 DI.

[1] 3 F. R. 2164 DI.

reserved with the respect to the matter of the application referred to in paragraph 5 (d) hereof of Michigan Consolidated Gas Company for exemption of the issue and sale of First Mortgage Bonds and Serial Notes from the provisions of Section 6 (a) of said Act, and to make such order or orders therein as the Commission deems appropriate upon the conclusion of the hearing in respect of said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2774; Filed, September 21, 1938; 12:41 p. m.]

United States of America—Before the Securities and Exchange Commisson

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of September, A. D. 1938.

[File Nos. 34-8, 52-3, 52-5, 52-9, 52-10, and 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

ORDER

Harry Reid, Max McGraw, and B. B. Robinson, representing themselves as the "General Protective Committee for Security Holders of Utilities Power & Light Corporation" having heretofore filed a petition to intervene in the above entitled proceedings; and

The Commission having on September 16, 1938 entered an Order[1] granting such petition subject to certain conditions contained in said Order, and having on the same day entered its Memorandum Opinion in this matter; and

Counsel to said Committee having on September 19, 1938 moved that the Commission grant a rehearing with respect to said Memorandum Opinion; and

A rehearing on said matter having been granted and held on September 19, 1938:

It is ordered, That said Memorandum Opinion be amended in the following respects:

1. There shall be stricken from the fourth paragraph of said Memorandum Opinion the sentence reading as follows: "It is clear from the record that the Committee was organized by Howard C. Hopson, on behalf of Associated Gas and Electric Company system, and that every member of the Committee and its secretary and counsel are in some fashion linked with the Associated interests"; and there shall be substituted in lieu thereof the following: "It is clear from the record that the Committee was organized by Howard C. Hopson, and that every member of the Committee and its secretary and counsel are in some fashion linked with the Associated interests, and it is our conclusion that it was so organized on behalf of Associated Gas and Electric Company system."

2. There shall be stricken from the fifth paragraph of said Memorandum Opinion the sentence reading as follows: "Associated owns some securities of each class which the Committee claims to represent—which includes every class of security which the debtor has outstanding"; and there shall be substituted in lieu thereof the following: "Associated owns some debentures and A, B, and common stocks of the debtor, all of which are also represented by the Committee which also purports to represent preferred stock";

It is further ordered, That the aforesaid Order and Memorandum Opinion of the Commission stand as the Order and Opinion of the Commission in this matter, with the changes to said Memorandum Opinion noted above.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2775; Filed, September 21, 1938; 12: 41 p. m.]

[1] 3 F. R. 2258 DI.

SEP 27 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 186

Washington, Friday, September 23, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 101]

AUTHORITY, AND DESIGNATION OF ORDER OF PRECEDENCE, OF DEPUTY GOVERNORS, GENERAL COUNSEL, AND ASSISTANT TO THE GOVERNOR TO ACT AS GOVERNOR IN THE ABSENCE OF THE LATTER

SEPTEMBER 21, 1938.

Sec. 3.1 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 3.1 *Authority, and designation of order of precedence, of Deputy Governors, General Counsel, and Assistant to the Governor to act as Governor in the absence of the latter.*—Charles A. Stewart, Deputy Governor, is hereby authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor is unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"E. A. Stokdyk, Deputy Governor, is hereby authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor and Deputy Governor Stewart are both unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Peyton R. Evans, General Counsel, is hereby authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor, Deputy Governor Stewart, and Deputy Governor Stokdyk, are unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause.

"Arthur T. Esgate, Assistant to the Governor, is hereby authorized to execute and perform all functions, powers, authority, and duties pertaining to the office of Governor of the Farm Credit Administration, in the event that the Governor, Deputy Governor Stewart, Deputy Governor Stokdyk, and Peyton R. Evans, General Counsel, are unavailable to act, by reason of absence from the Washington office of the Farm Credit Administration, or for any other cause. (E. O. 6084, March 27, 1933, 6 CFR 1.1 (12).) [FCA Order No. 233, September 21, 1938.]"

[SEAL] F. F. HILL, *Governor.*

[F. R. Doc. 38-2786; Filed, September 22, 1938; 11:45 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

WESTERN NORTH DAKOTA STOCKMEN'S ASSOCIATION AUTHORIZED TO CONDUCT BRAND INSPECTION.[1]

By virtue of the authority vested in the Secretary of Agriculture by an Act of Congress approved June 16, 1938, (Public 644, 75th Congress) entitled "An Act making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1939, and for other purposes," and upon a written request made to and filed with the Secretary of Agriculture by the Western North Dakota Stockmen's Association, a livestock association duly organized under the laws of the State of North Dakota, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby authorize, with respect to livestock originating in or shipped to market from that part of North Dakota:

Lying west of the eastern boundary of Bottineau, McHenry, Sheridan, Kidder, Logan, and McIntosh Counties,

the charging and collection of a reasonable fee, to be paid by the owners of the livestock inspected, for the inspection of brands appearing upon livestock sold or

[1] Amends 9 C F R Sec. 13.028.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 6—AGRICULTURAL CREDIT:	
Farm Credit Administration:	
Deputy Governors, General Counsel, etc., authority and designation of order of precedence	2285
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:	
Bureau of Animal Industry:	
Western North Dakota Stockmen's Association authorized to conduct brand inspection	2285
TITLE 16—COMPETITIVE PRACTICES:	
Federal Trade Commission:	
Cease and desist orders:	
Bunte Brothers, Inc	2286
Gotham Sales Co., Inc., et al	2286
TITLE 38—PENSIONS, BONUSES AND VETERANS' RELIEF:	
Veterans' Administration:	
Computation of service; awards, amendments and discontinuances	2288
Disposition of veteran's personal effects and funds on station upon death, etc	2289
Entitlement to pension, service connection; determinations	2287
Insurance applied for by persons entering active military or naval service, effective date	2289

NOTICES

Department of Agriculture:	
Bureau of Animal Industry:	
Farmers' Livestock Sales Co. (Hugh L. Anderson), notice	2293
Federal Trade Commission:	
Baby Chick Industry, presentation of views, etc., on proposed trade practice rules	2293
Securities and Exchange Commission:	
Aluminum Co. of America, et al., hearing	2295

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Securities and Exchange Commission—Continued.	
American Credit Corp., findings and order	2294
General American Transportation Corp., order substituting application	2294
Illinois Iowa Power Co., hearing	2294
Middle West Corp., hearing	2295
Union Electric Co. of Missouri, hearing	2295
Washington Railway and Electric Co., hearing	2294
Treasury Department:	
Bureau of Customs:	
Chalks Flying Service Airport, Miami, Fla., redesignated airport of entry	2293

offered for sale at those markets at which said Association may register as a market agency, such inspection to be made to determine the ownership of the livestock. Such inspection and charging and collection of fees shall be subject to the provisions of the Packers and Stockyards Act and such reasonable regulations as the Secretary may from time to time prescribe. (Pub. 644, 75th Congress, Approved June 16, 1938.) [Authorization, September 22, 1938.]

In witness whereof, the Secretary of Agriculture has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 22nd day of September, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2788; Filed, September 22, 938; 11:54 a. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2695]

IN THE MATTER OF BUNTE BROTHERS, INC.

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.*—Selling, etc., to dealers candy, etc., so packed, etc., that sales thereof to general public are to be, or may be, made by means of a lottery, etc., as specified, in connection with offer, sale and distribution of candy in Illinois, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Bunte Brothers, Inc., Docket 2695, September 7, 1938.]

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers assortments of candy, etc., which are, or may be, used, without alteration, etc., to conduct a lottery, etc., in the sale, etc., thereof, in connection with offer, sale and distribution of candy in Illinois, prohibited. (Sec. 5b. 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Bunte Brothers, Inc., Docket 2695, September 7, 1938.]

SEC. 3.99 (b). *Using or selling lottery devices—In merchandising.* — Packing, etc., for sale to public at retail, assortments of uniform pieces of candy, with larger pieces as prizes for purchasers procuring uniform pieces with certain colored centers, in connection with offer, sale and distribution of candy in Illinois, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Bunte Brothers, Inc., Docket 2695, September 7, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 7th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, testimony and other evidence taken before an examiner of the Commission theretofore duly designated by it in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by P. C. Kolinski, Counsel for the Commission, and by L. R. Krein, Counsel for the respondent, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Bunte Brothers, Inc., a corporation, its officers, directors, agents, representatives and employees, in the offering for sale, sale and distribution of candy, in the State of Illinois, do cease and desist from:

(1) Selling and distributing to dealers candy or other confections so packed and assembled that sales of such candy or other confections to the general public are to be made or may be made by means of a lottery, gaming device or gift enterprise;

(2) Supplying to or placing in the hands of dealers assortments of candy or other confections which are used or which may be used without alteration or rearrangement of the contents of such packages or assortments to conduct a lottery, game of chance or gift enterprise in the sale and distribution of candy or other confections contained in said assortments;

(3) Packing or assembling in the same assortment of candy for sale to the public at retail, pieces of candy of uniform size and shape with different colored centers, together with larger pieces of candy, which said larger pieces of candy are to be given as prizes to the purchasers procuring pieces of candy with centers of particular colors.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2784; Filed, September 21, 1938; 3:42 p. m.]

[Docket No. 3120]

IN THE MATTER OF GOTHAM SALES COMPANY, INC., ET AL.

SEC. 3.6 (r) (3). *Advertising falsely or misleadingly—Prices—Fictitious marking.*—Representing, as the customary retail prices for respondents' cosmetics, flavoring extracts and drug sundries, prices which are fictitious and greatly in excess of regular, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gotham Sales Company, Inc., et. al., Docket 3120, September 3, 1938.]

SEC. 3.6 (a) (22). *Advertising falsely or misleadingly—Business status, advantages or connections—Producer status of dealer—Laboratory:* Sec. 3.6 (a) (22). *Advertising falsely or misleadingly—Business status, advantages or connections—Producer status of dealer—Manufacturer:* Sec. 3.96 (b) (5). *Using misleading name—Vendor—Producer or laboratory status of dealer.*—Falsely representing, in connection with sale of cosmetics, flavoring extracts and drug sundries, through use of words "laboratories", "manufacturing" and "manufacturers" in their corporate or trade names, etc., that respondents manufacture the products sold by them, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gotham Sales Company, Inc., et al., Docket 3120, September 3, 1938.]

SEC. 3.6 (cc) (4). *Advertising falsely or misleadingly—Source or origin—Place.*—Representing, through use of terms "Odeurs de Paris", "Parfums de Paris", "Perfumes of France", or words "Paris" and "France", etc., that perfumes made, compounded and bottled in United States are made, etc., in France, or other foreign country, or imported, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gotham Sales Company, Inc., et al., Docket 3120, September 3, 1938.]

SEC. 3.6 (i). *Advertising falsely or misleadingly—Free goods or service.*—Representing, in connection with sale of cosmetics, flavoring extracts and drug sundries, that merchandise is given "Free" or as "gift" in consideration of, etc., purchase of other products, when cost thereof included in purchase price charged for another product or combination, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gotham Sales Company, Inc., et al., Docket 3120, September 3, 1938.]

SEC. 3.6 (v) (2). *Advertising falsely or misleadingly — Quantity — Offered.* — Falsely representing, through use of term "giant size," etc., that respondents' dental and shaving creams are offered and sold in larger packages than the usual and customary, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gotham Sales Company, Inc., et al., Docket 3120, September 3, 1938.]

SEC. 3.6 (d) (1) *Advertising falsely or misleadingly — Conditions of manufacture—In general:* Sec. 3.6 (cc) 1) *Advertising falsely or misleadingly—Source or origin—Doctor's supervision of manufacture or preparation.*—Falsely representing dental creams as designed by or compounded under supervision of doctor or one possessing special knowledge of dental hygiene and pharmacology, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gotham Sales Company, Inc., et al., Docket 3120, September 3, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF GOTHAM SALES COMPANY, INC., A CORPORATION, ALSO TRADING AS UNIVERSAL MERCHANDISE COMPANY, TIP TOP LABORATORIES, SCIENTIFIC FOOD PRODUCTS COMPANY, PRIZE MEDAL LABORATORIES, SCIENTIFIC BEAUTY INSTITUTE, RX MANUFACTURING COMPANY, SCIENTIFIC LABORATORIES, LADY FAIR LABORATORIES, AND AS OFFICERS OF GOTHAM SALES COMPANY, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence in support of the allegations of said complaint and in opposition thereto, taken before John W. Addison, W. C. Reeves and Edward E. Reardon, examiners of the Commission theretofore duly designated by it, on a stipulation of facts entered into between Samuel J. Ernstoff, attorney for respondents, and W. T. Kelley, the Commission's Chief Counsel, which said stipulation has been accepted and approved by the Commission and upon brief filed herein by counsel for the Commission (oral arguments not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Gotham Sales Company, Inc., a corporation, trading under its own name and also as Universal Merchandise Company; Harry J. Gottsegen, Alfred Gottsegen, Max Gottsegen, Martin Gottsegen, and Alexander Gottsegen, individually and as officers of said corporation, and as copartners, trading as Universal Merchandise Company, or under any other name, and Martin Gottsegen, also trading as Tip Top Laboratories, Scientific Food Products Company, Prize Medal Laboratories, Scientific Beauty Institute, RX Manufacturing Company, Scientific Laboratories, and Lady Fair Laboratories, or under any other name, and their respective agents, representatives or employees, individual or corporate, in connection with the offering for sale, sale and distribution of cosmetics, perfumes, toilet articles, spices, extracts, and other drug and household sundries and novelties, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing, as the customary or regular retail prices for such products, prices which are in fact fictitious and greatly in excess of the prices at which said products are regularly and customarily offered for sale and sold at retail;

(2) Representing, through the use of the words "laboratories," "manufacturing" and "manufacturers" in their corporate or trade names, or through the use of any words or terms of similar import and meaning, or through any other means or device or in any manner, that said respondents or any of them are the manufacturers of the products sold by them, unless and until such respondents actually own and operate, or directly and absolutely control, a manufacturing plant wherein said products are manufactured by them;

(3) Representing, through the use of the terms "Odeurs de Paris," "Parfums de Paris," "Perfumes of France," or the words "Paris" and "France," or any other terms or words of similar import and meaning as descriptive of their products, or through any other means or device or in any other manner, that perfumes made, compounded and bottled in the United States are made, compounded or bottled in France, or any other foreign country, or are imported;

(4) Representing that merchandise is given "Free" or as a "gift," in consideration of or in connection with the purchase of other products, when the cost of such merchandise is included as a part of the purchase price charged for another product or combination of products.

(5) Representing, through the use of the term "giant size," or any other term of similar import and meaning as descriptive of their products, or through any other means or device or in any manner, that respondents' products are offered for sale and sold in larger packages than the usual and customary size package, when such is not the fact.

(6) Representing that any of the said products are designed by or are compounded under the supervision of a doctor or one possessing special knowledge of dental hygiene and pharmacology, when such is not the case.

It is further ordered, That respondents shall, within sixty (60) days from the date of the service upon them of this order, file with the Commission a report in writing, setting forth the manner and form in which they have complied with the order herein set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2785; Filed, September 21, 1938; 3:43 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

DETERMINATIONS AS TO ENTITLEMENT TO PENSION AND OF SERVICE CONNECTION

DETERMINATIONS AS TO BASIC ENTITLEMENT

SEC. 2.1065 *Misconduct.*—(a) A disabling condition will be considered to be the result of misconduct for the purpose

[1] 2 F. R. 591 (681 DI).

[1] 2 F. R. 1045 (1249) DI).

of all adjudications under Public No. 2, 73d Congress and all regulations issued thereunder, when it is shown to have been incurred under conditions or in a manner set forth by Section 8.10, paragraph IX, without regard to any prior determinations respecting the manner of its incurrence. A finding in any case that a disabling condition is of misconduct nature, as defined by Section 8.10, paragraph IX, will bar any right to pension or compensation under Public No. 2, 73d Congress and all regulations issued thereunder.

(b) 1. The words "willful misconduct" are used in Section 27 of Public No. 141, 73d Congress, and in all cases arising under this Section of that Law, the term "willful misconduct" as defined by precedents under the World War Veterans Act, 1924, as amended, will be applied.

2. For the purpose of adjudications under Section 28, Public No. 141, 73d Congress, the definition established by precedents under Section 200, World War Veterans Act, 1924, as amended, for willful misconduct will be applied, instead of the definition of misconduct set forth in Section 8.10, paragraph IX.

3. For the purpose of adjudications under Section 31, Title III, Public No. 141, 73d Congress, the definition established by precedents under Section 213, World War Veterans Act, 1924, as amended, for misconduct will be applied.

(c) Gross negligence or gross carelessness, as referred to in Section 8.10, paragraph IX, is defined as the want of slight care. (A. D. 191–B and 296.)

(d) On or after June 16, 1938, the date of approval of Public No. 648, 75th Congress, amending paragraphs VIII and IX of Section 8.10, the limitation "other than through the sexual relation" in paragraph IX of Section 8.10, with respect to venereal disease affirmatively shown to have been in fact innocently acquired, will not be applied in determining misconduct for the purposes of Public No. 2, 73d Congress and all regulations issued thereunder. (September 21, 1938.)

SEC. 2.1066 *"Line of Duty" under Sections 8.011 and 8.012.*—Sections 8.011 and 8.012 require that a disabling condition for which pension or compensation is claimed, shall have been incurred *in line of duty*, except in cases where a right to pension or compensation is preserved by Sec. 8.04. The records of Service Departments will be accepted in determining "line of duty" status of diseases and injuries unless considerations set forth in Section 8.10, paragraph VIII, may warrant a different finding. Any evidence which is properly admissible or acceptable according to the practice of the Veterans' Administration, and which is of a nature competent to demonstrate that the incurrence of disability was or was not in line of duty, according to conditions specified in Section 8.10, paragraph VIII, may be used as a basis for adjudications, despite any official military or naval record with respect to manner of incurrence. For the purpose of ascertaining "line of duty" status for periods of time prior to June 16, 1938, continuous periods of leave will be considered as one extended leave in determining whether a leave of absence is of such duration as to interfere materially with the routine performance of duty. The provisions of Section 8.10, paragraph VIII will be observed carefully in effecting all adjudication where a question of incurrence of disease or injury in line of duty is pertinent: *Provided*, That on or after June 16, 1938, the date of approval of Public, No. 648, 75th Congress, the fact that the injury was suffered or the disease was contracted while the person on whose account benefits are claimed was on authorized leave (irrespective of the duration of such leave) will not of itself bar a finding that the disability or death resulting therefrom was incurred in line of duty. If the injury was suffered or the disease was contracted while the person who served was away from camp or his post of duty, the burden is upon the claimant to establish line of duty. If, however, the injury was suffered or the disease was contracted while the person who served was at camp or his post of duty, even though in a leave status, the burden is upon the Government to show that the disability or death resulting therefrom was not in line of duty. (September 21, 1938.)

DETERMINATION OF SERVICE CONNECTION

SEC. 2.1100 *Natural progress under Sec. 8.011 and Sec. 8.012.*—For the purposes of Sec. 8.011, paragraph I (d), and Sec. 8.012, paragraph I (a), a preexisting injury or disease will be considered to have been aggravated by active military or naval service where there is an increase in disability during active service unless there is a specific finding that the increase in disability is due to the natural progress of the disease. A specific finding that the increase in disability is due to the natural progress of a disease will be met by a finding of a constituted rating agency of the Veterans' Administration based upon available evidence of a nature generally acceptable as competent to show that an increase in severity of a disease or injury, or of the disabling effects thereof, or the acceleration in progress of a disease was that normally to be expected by reason of the inherent character of the condition, aside from any extraneous or contributing cause or influence peculiar to military service. (September 3, 1938.)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38–2781; Filed, September 21, 1938; 3:26 p. m.]

COMPUTATION OF SERVICE; AWARDS, AMENDMENTS AND DISCONTINUANCES

COMPUTATION OF SERVICE

SEC. 2.2020 *Public No. 541, 75th Congress (Act of May 24, 1938).*—Service is to be computed only from the date of enlistment or the beginning of the war period, whichever is the later date. All leaves of absence and furloughs under General Orders numbered 130, August 29, 1898, War Department, shall be included in determining the period of pensionable service. However, service in the Moro Province after July 4, 1902 and prior to July 15, 1903 may not be used as a basis for pension under this Act nor will other than honorable separation from an enlistment beginning after July 4, 1902 deprive the veteran of pension. (September 21, 1938.)

Line of Duty

SEC. 2.2046 (A) "Line of duty" is a technical phrase which is defined in paragraph VIII, Sec. 8.10, as amended by Public No. 648, 75th Congress, approved June 16, 1938.

(B) Findings of the service departments relative to the line of duty status of diseases and injuries will not be binding on the Veterans' Administration. (September 21, 1938.)

AWARDS, AMENDMENTS AND DISCONTINUANCES

SEC. 2.2107 *Public No. 269, 74th Congress.*—(A) Commencement shall be from August 13, 1935, or the date of claim, whichever is the latter, when entitlement is otherwise shown, as to claims filed on or after March 20, 1933, and not finally adjudicated. Any claim filed subsequent to March 19, 1933, under Public No. 2 or Public No. 141, 73d Congress, disallowed or abandoned may, upon written notice from the claimant or his representative, be revived at any time prior to August 13, 1936, and when entitlement is otherwise shown, payments under the provisions of the Act of August 13, 1935, may commence from the date of the Act.

(B) *Public No. 541, 75th Congress.*—Form 526, revised March 1938, is prescribed as the form on which claims under this act will be filed. However, where there is already on file a formal application for service pension and benefits are being paid, any writing signed by the veteran or in his behalf, claiming increased pension, will constitute a valid application under this Act. Pension on account of attainment of age of sixty-five years will be effective from the date of receipt of a claim filed on or after the attainment of the beneficial age and on or after May 24, 1938. The rate for regular aid and attendance will be payable from the date of receipt of a claim, executed on or after May 24, 1938 and after the requisite condition is shown to exist. (September 21, 1938.)

SEC. 2.2108 Service pension is payable at rates as follows:

Disability	Act June 5, 1920, 90 days service	Act May 1, 1926, 90 days service or disability discharge	Act June 2, 1930, 90 days service or disability discharge	Act June 2, 1930, 70 days service	Act May 24, 1938, 90 days service or disability discharge
⅙	$12.00	$20.00	$20.00	$12.00	
¼	15.00	25.00	25.00	15.00	
½	18.00	30.00	35.00	18.00	
¾	24.00	40.00	50.00	24.00	
Total	30.00	50.00	60.00	30.00	
Aid and attendance		72.00	72.00	50.00	$100.00
AGE					
62	12.00	20.00	30.00	12.00	60.00
65	18.00	30.00	40.00	18.00	
68	24.00	40.00	50.00	24.00	
75	30.00	50.00	60.00	30.00	

While the veteran is in a State Soldiers' Home, the U. S. Soldiers' Home or the U. S. Naval Home, pension may not be paid in an amount in excess of $50.00 per month. (See Secs. 2.1256 and 2.2181.) This restriction is applicable to Public No. 541, 75th Congress, only while the Government of the United States contributes toward defraying the expense incurred in providing such inmate with domiciliary care. Where a veteran is furnished hospital treatment, institutional or domiciliary care by the United States or a political subdivision thereof and is furnished with nursing or attendant's service, the award of pension will be the amount authorized by the rating decision or the attainment of beneficial age, exclusive of any additional amount on account of the need of regular aid and attendance. This rate of pension in such instances will be effective as of the beginning of the maintenance of the disabled veteran in an institution by the United States or a political subdivision thereof. (September 21, 1938.)

SEC. 2.2186 *Public No. 269, 74th Congress and Public No. 541, 75th Congress.*—Reduction under Sec. 8.06 of pension payable under Public No. 269, 74th Congress, Public No. 541, 75th Congress, and on account of service prior to the Spanish-American War, shall be effected only in cases in which the disabled person is being furnished hospital treatment, institutional or domiciliary care by the Veterans Administration, provided, however, that the amount payable while the veteran, without dependents, is in the institution shall be $15.00 per month in all cases in which pension is based upon service prior to the Spanish-American War. (September 21, 1938.)

Sec. 2.2199 canceled September 21, 1938.

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38–2780; Filed, September 21, 1938; 3:26 p. m.]

EFFECTIVE DATE OF INSURANCE APPLIED FOR BY PERSONS ENTERING ACTIVE MILITARY OR NAVAL SERVICE

SEC. 3.3005 The effective date of United States Government life insurance applied for by persons entering the active military or naval service under the War Department, Navy Department, or Coast Guard Service will be established as of the date on which valid application and tender of premium are made and forwarded to the Veterans' Administration; but not later than 120 days from the date of the applicant's enlistment, entrance into, or employment in the active service and while on active duty. If the first premium is to be paid by allotment of pay as in the Navy, Marine Corps, and Coast Guard, or by deduction from pay, as in the Army, the effective date of the insurance will be the first day of the month following the month in which said allotment or authorization for deduction is executed, but not later than the first day of the month following the expiration of the period of 120 days from date of the applicant's enlistment, entrance into or employment in the active service and while on active duty: *Provided*, the amount of premium is deducted from the applicant's service pay in accordance with the allotment or authorization.

(A) The effective date of a United States Government life insurance policy granted to a person entering the active military or naval service under the War Department, Navy Department, or Coast Guard Service may be established upon written request by the applicant as of any day of a month prior to the month in which the application and tender of premiums are made to the Veterans' Administration, as set out above: *Provided*, That such date is not prior to the date of entrance into the active service, and that there be paid (a) an amount equal to the full reserve on the insurance at the end of the month prior to the month in which the application is made, and (b) the full premium on the amount and plan of insurance for the month in which application is made. (September 30, 1938.)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38–2779; Filed, September 21, 1938; 3:26 p. m.]

DISPOSITION OF VETERAN'S PERSONAL EFFECTS AND FUNDS ON STATION UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF EFFECTS AND FUNDS FOUND ON STATION

SEC. 4.4800 (A) As used in respect to the disposition of property of veterans dying in Veterans' Administration facilities, or who are discharged or who elope, or are absent without leave therefrom, and in respect to property found thereat, the term "funds" means all types of United States Currency and Coin. The term "funds" *does not* include deposits to the credit of the veteran in the account "Personal Funds of Patients", and each competent veteran will be so advised. The term "effects" means and embraces all other property of every description, including all checks drawn on other than the Treasurer of the United States, negotiated checks drawn on the Treasurer of the United States, if payee be dead, and non-negotiated checks so drawn, if payee be alive, insurance policies, certificates of stock, bonds and notes the obligation of the United States or of others, and all other papers of every character except non-negotiated checks drawn on the Treasurer of the United States in favor of a decedent, as well as clothing, jewelry and other forms of property, or evidences of interest therein. Non-negotiated checks drawn on the Treasurer of the United States in favor of a decedent will be forwarded to central office for disposition.

(B) "Facility" as used in Sec. 4.4801 to Sec. 4.4814 includes facilities, and supply depots over which the Veterans' Administration has direct and exclusive administrative jurisdiction, and excludes State, county, city, private and contract hospitals and hospitals or other institutions operated by the United States through agencies other than the Veterans' Administration. Existing practices with respect to disposition of funds or effects as defined in Sec. 4.4800 (A) at institutions other than facilities as herein defined will continue unless and until modified. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4801 (A) Each competent veteran now being cared for or who is hereafter admitted to receive care as such in a Veterans' Administration Facility, unless detrimental to his health, will be requested and encouraged to designate on the prescribed Form 1170 in duplicate, the person to whom he desires the Veterans' Administration to deliver his funds and effects at death. He may also designate an alternate to whom delivery will be made if the first designate fails or refuses to accept delivery, and he may change the designate or alternate at any time during his lifetime by signing a new form. It should be clearly understood that the delivery of such funds or effects will constitute a delivery of possession thereof only, and such delivery is not intended to affect in any manner the title to such funds or effects or determine the person ultimately entitled to receive same from the person to whom delivery is made (hereinafter in these regulations termed the "designate"). The person designated may not be an employee of the Veterans' Administration unless such employee be the wife (or husband), child, grandchild, mother, father, grandmother, grandfather, brother or sister of the veteran. The veteran, or if he becomes incompe-

tent his guardian, may in writing change or revoke such designation at any time. The information which said Form 1170 is intended to elicit with respect to living relatives of the veteran will be obtained in every case, and at that time the veteran's attention will be called to his agreement therein contained with respect to disposition of his property.

(B) Veterans will be encouraged to place in the custody of their relatives articles of little or no utility value to them during their period of care at a Veterans' Administration facility, and to retain in their possession only such funds and effects as are actually required and necessary for their immediate convenience. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4802 (A) An incompetent veteran will not be informed concerning the designation of a person to receive funds or effects; but if he has a guardian the guardian will be requested to make such designation of himself or another person to receive possession of the funds and effects upon the incompetent's death. The guardian will execute the same form of designation as a competent veteran but will sign same with the veteran's name "By _____, Guardian of his Estate."

(B) No effort will be made to obtain a designation by or on behalf of an incompetent veteran who has no guardian. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4803 (A) Immediately upon the death or the absence without leave of any veteran in a facility as defined in Sec. 4.4800 (B), a survey and inventory of the funds and effects of such veteran will be taken in the following manner:

(1) If the death or absence without leave occurred during hospitalization, the manager will direct the ward physician concerned and the supply officer to make a complete, careful survey and inventory (Medical Form 2687, Inventory of Personally Owned Effects of Beneficiary) of the effects, personally owned (including all funds found and moneys on deposit in "Personal Funds of Patients," jewelry being worn by the deceased person, or jewelry and other effects in pockets of clothing he may have been wearing).

(2) If the death or absence without leave occurred while the beneficiary was in barracks, the manager will direct a like survey and inventory to be made by the domiciliary officer and the supply officer.

(3) The inventory report will be executed in triplicate, original and two copies. All will be signed by each employee making the inventory, and disposed of as hereinafter provided.

(4) Personally owned clothing or other effects (such as toothbrushes, false teeth not containing gold, etc.) which are unserviceable by reason of wear or tear or insanitary condition, and clothing that had been supplied by the Government, will not be included in this inventory; instead, the board, as constituted above, will list the unserviceable personally owned articles on a separate list, describing briefly their condition, and will recommend their disposition in a separate report to the manager on Form 2687a, "Inventory of Unserviceable Personally Owned Effects of Beneficiary". The manager, if approving this recommendation, will order destruction or utilization in occupational therapy, or as wipe rags, etc., of such unserviceable articles and, when they are so destroyed or utilized, will have entered on the papers the date and nature of the disposition. The completed papers will then be placed in the correspondence file of the beneficiary. Clothing that had been supplied by the Government will be reconditioned if possible and returned to stock for issue to other eligible beneficiaries. When Government owned clothing cannot be reconditioned it will be disposed of as provided in currently effective procedure.

(5) When the nearest relative requests that the deceased beneficiary be clad for burial in clothing he personally owned, instead of burial clothing to be supplied under the undertaker's contract, such request will be honored. A receipt in such cases will be obtained from the undertaker, specifying the articles of clothing so used. This receipt will accompany the inventory that is forwarded to central office. Adjustment of the undertaker's bill in the case will correspondingly be made.

(6) In accomplishing such inventories, detailed description will be given of items of material value or importance, for example:

Watch.—Yellow metal (make, movement and case number if available without damage to watch).

Ring.—Yellow metal (probably gold plated or stamped 14 K, setting, if any).

Discharge Certificate.

Adjusted Service Certificate.—(Number.)

Bonds or Stocks.—(Name of company, registered or non-registered identifying number, recited par value, if any.)

Bank Books or other evidences of indebtednesses.—(Name of bank or other obligor, apparent value, identifying numbers, etc.).

Clothing.—(Brief description and statement of condition.)

Etc.

(B) Upon completion of the survey and inventory the effects will be turned over to the supply officer for safekeeping. Any funds found which apparently were the property of the deceased will be turned over to the manager, or his specially designated representative, who shall receipt therefor in duplicate. The original of the receipt will be transmitted to central office with copy of the inventory, Form 2687, and the duplicate thereof will be safely kept among the effects turned over to the supply officer. Funds in excess of $100.00 shall be delivered immediately to the agent cashier who shall forthwith deposit same to the credit of the deceased veteran in the account "Personal Funds of Patients." The remaining funds and effects will be safely kept pending disposition as elsewhere provided by regulations. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4804 (A) Upon authorization by the manager such funds (not in excess of $100.00) and effects will be delivered or sent to the person designated by the deceased veteran if request therefor be made after death and within 90 days following the mailing of notice to such designate unless—(See Sec. 4.4809 (A).)

(1) The executor or administrator of the deceased veteran shall have notified the manager of his desire and readiness to receive such funds or effects, in which event the manager will deliver all funds and effects to such executor or administrator, upon receipt of appropriate documentary evidence of his qualifications and in exchange for appropriate receipts, or

(2) Subsequent to the designation the veteran became incompetent and his guardian revoked such designation, in which event the manager will deliver all funds and effects to his guardian in exchange for appropriate receipts subject to the limitations contained in Sec. 4.4804 (F), or

(3) The person designated was the wife (or husband) of the veteran at the time of designation and information at the disposal of the facility indicates that she was thereafter divorced and the veteran was incompetent at or subsequent to the time of divorce, or

(4) Notwithstanding there is a designate, it is probable that *title* would pass to the United States under the Act of June 25, 1910 (24 U. S. Code, Section 136), or the Act of July 1, 1902 (24 U. S. Code, Section 139), or would escheat to the United States under the Act of August 12, 1935 (38 U. S. Code 450), or

(5) The manager determines that there is reasonable ground to believe that the transfer of such possessions to the designate probably would be contrary to the interests of the lawfully entitled legatee or distributee, or there are any other special circumstances raising a serious doubt as to the propriety of such delivery to the designate.

In any case in which the manager declines to deliver, pursuant to the provisions of paragraphs 3, 4 and 5 above, he will request instructions from central office.

(B) If the designate or the alternate request delivery of the funds (not in excess of $100.00) within 7 full days after the date of death, such delivery can be made to designate or alternate in person by the manager or his representative and an appropriate receipt obtained therefor, subject to the exceptions stated in Sec. 4.4804 (A); if it is necessary to send these funds through the mail, the manager shall deliver such funds to the agent cashier who shall deposit same to the credit of the account "Special Deposit" and authorize the preparation and submission of a voucher for the payment thereof to the designate or to the alternate.

(C) If the manager has not delivered or transmitted said funds to the designate within 7 full days after the day of death of the veteran, he shall deliver such funds to the agent cashier who shall forthwith deposit same to the credit of the account "Special Deposit." The agent cashier will furnish the manager with a receipt for such funds. If such funds be requested after such deposit, the manager may, subject to the provisions of Sec. 4.4804 (A), authorize the preparation and submission of a voucher for the payment thereof to the designate or the alternate. If, however, these funds are not disposed of within 90 days as provided for in Sec. 4.4805, transfer of such funds shall be made to "Personal Funds of Patients."

(D) The supply officer, when authorized by the manager, will deliver or ship the effects. If shipped at Government expense, the shipment shall be made in the most economical manner but in no case to exceed the sum of $10.00. If such expenses will exceed $10.00, the amount thereof in excess of $10.00 shall be paid by the consignee, either to the manager in advance, or to the carrier if it accepts the shipment without full prepayment of charges. There will be no obligation of the Government, initially or otherwise, to pay such expenses in excess of $10.00.

(E) When possession of funds or effects is transferred to an individual designated for such purpose by the veteran, the attention of the designate will again be directed to the fact that possession only has been transferred to him and that such transfer does not of itself affect title thereto and that such designate will be accountable to the owner of said funds and effects under applicable laws.

(F) Upon receipt from the chief attorney of an appropriate certification that the guardianship was in full force and effect at the time of the veteran's death and that the guardian's bond is adequate, funds and effects of an incompetent veteran may be immediately delivered or sent to such guardian, inasmuch as the guardian had a right to possession and he will be accountable therefor to the party entitled to receive the decedent's estate. If, however, it appears probable that decedent died without a valid will and left no person surviving entitled to inherit, the funds will not be paid to the former guardian, but will be forthwith deposited to the account "Personal Funds of Patients" and transmitted to central office. The effects will be safely kept and reported to central office with recommendation for sale or other disposition thereof. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4805 If there exists no designate or alternate at the time of death in a facility of a veteran admitted as competent; or the designate fails or refuses to claim the funds and effects of such decedent which are found at the facility within 90 days following the mailing of notice to such designate, this fact shall be reported to central office where appropriate action shall be taken to dispose of these funds and effects in accordance with existing law. Central office shall authorize the delivery of the funds and effects of such decedent which are found at the facility to the executor or administrator, or if no notice of appointment thereof has been received, to the decedent's widow, child, grandchild, mother, father, grandmother, grandfather, brother or sister in the order named; subject to the applicable provisions of Secs. 4.4803, 4.4804, such delivery may be made at any time before the sale contemplated by Sec. 4.4809, to the designate or alternate or other person entitled under the facts of the case (subject to Sec. 4.4804 (A)). But delivery shall be made only to the person entitled to priority unless each of those entitled to priority as to the claimant, waives in writing his or her prior right to possession. The guardian of a minor or incompetent may waive his ward's prior right to possession. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4806 Except as provided in Sec. 4.4808, the funds and effects of veterans absent without leave or who have been discharged or have eloped (and who are not to be returned to the facility) will be disposed of as follows:

(1) To the owner if competent, or if deceased to his administrator or executor or as directed in writing by such owner, or his executor or administrator.

(2) To the guardian of the owner if the latter be incompetent, or if deceased to his administrator or executor, or as directed in writing by such guardian, executor or administrator.

(3) To the incompetent owner if he has no guardian; but delivery to him may be withheld and may be made to the person who is caring for such incompetent if in the judgment of the manager such delivery is to the incompetent owner's best interest. NOTE.—*The Government will not pay the expense of transportation of effects of competent or incompetent veterans discharged, absent without leave, or who have eloped.* (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4807 The provisions of Sec. 4.4800 to Sec. 4.4806, inclusive, shall be inapplicable to property known to be that of any person dying in or discharged or absent without leave from a Veterans' Administration facility other than a veteran admitted as such to such facility. Such property of members of the Civilian Conservation Corps and of others admitted under various laws of the United States will be dealt with in accordance with the several laws respectively applicable to such other persons. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4808 (A) In the case of any property heretofore or hereafter left at a Veterans' Administration facility, the veteran owner of which is deceased or is discharged or absent without leave, or who has eloped and is not to be returned to the care of a Veterans' Administration facility; or in case the whereabouts or identity of any owner of any property thereat be unknown, such property shall be sold, used, or destroyed or otherwise disposed of in accordance with instructions from central office. The manager will furnish appropriate information with respect thereto, and recommendation concerning its sale, use, or destruction. Any sale of such property shall be conditioned upon the ninety day notice provided in Section 6 of Public 734, 75th Congress.

(B) If the circumstances are such that retention of any property as is mentioned in (A) of this section, or of any property of unknown ownership found on the premises would endanger the health or life of patients or others on the premises, (by reason of contagion, infection, or otherwise) any such property shall be forthwith destroyed on order of the manager without prior report to central office, but proper record of the action taken will be retained.

(C) If there be no known claimant of any such property and if it may be used at the facility for the benefit of the members or patients for such purposes as the Post Fund is intended to serve and if the sale value is small, the manager may recommend that any such property be retained at the facility for such use and upon approval by central office it may be so used (and not sold).

(D) Any such property which is not destroyed or used as provided in (B) and (C) of this section shall be sold in the manner provided in Sec. 4.4809 and Sec. 4.4810, after notice as therein provided unless prior to sale, claim be made for any such property by one or more of the persons legally entitled thereto. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4809 (A) Upon death of a veteran admitted as such to a facility the manager will cause notice (Parts I and V of Form 1171) to be sent to the person designated by such decedent to receive possession of his property at death; provided however, that if the manager has information that the designate's death occurred before notice is sent to the designate, notice shall be sent to the alternate and all the provisions of these regulations respecting the designate will be deemed to apply to the alternate. However, if the designate dies subsequent to mailing the notice and prior to de-

livery of funds or effects to him, report shall be made to central office and the procedure outlined in Sec. 4.4809, (D), (E) and (F), shall be followed. Such notice shall fully identify the decedent, state the fact that he designated the addressee to receive possession of such property; that the right to receive possession thereof does not affect the ownership but the designate will be responsible for the ultimate disposition thereof to those who, under appropriate law, are entitled to the decedent's property and will request prompt advice as to whether the designate will accept such property and if he will that he furnish such shipping instructions, whereupon the property will be shipped at the expense of the Government. However, prior to dispatching such letter it will be definitely determined that the shipping expense will not exceed $10.00. If such expense will exceed $10.00 the excess cost will be ascertained and such notice will include a statement of the amount of such excess shipping cost with the request that such amount be remitted at the time shipping instructions are furnished. In estimating the shipping expense it will be assumed that shipment will be to the address of the designate to which the notice is sent. Each notice, however, shall contain a statement that in no event will the Government pay shipping expense in excess of $10.00. The notice will include a copy of the inventory of the property which it is proposed to deliver to the designate.

(B) Upon receipt of appropriate shipping instructions the property will be shipped, transportation charges prepaid, by mail, express, or freight as may be appropriate under the circumstances and most economical to the Government. The expense of such shipment, in no case to exceed $10.00, is payable from the appropriation "Salaries and Expenses, Veterans' Administration."

(C) The living owner of any property left or found at a facility will be promptly notified thereof. In no case will transportation charges be paid by the Government on property shipped to a living veteran who is absent without leave, or who was discharged, or who eloped and is not to be returned, or on found property. In such cases shipment shall be made as requested by the owner of the property (or his guardian) upon receipt of necessary transportation charges which will be prepaid, unless the owner requests shipment with charges collect and the carrier will accept such shipment without liability for such charges, contingent or otherwise, upon the Government.

(D) If the designate in any case advises that he declines to accept possession of the property of the decedent, or if ninety days has elapsed after notice to the designate and he has failed to request shipment, or ninety days has elapsed after any property is found and the owner (known or unknown) has failed to request same, report will be made to central office with recommendation of the manager as to destruction, use or sale of such property remaining on hand.

(E) Upon receipt of such recommendation central office will, if appropriate, authorize destruction, use or sale of such property in accordance with law; and will also furnish the manager with the names and addresses, if known, of the owner, or if deceased, the decedent's executor or administrator, widow, child, grandchild, mother, father, grandmother, grandfather, brother or sister.

(F) Upon receipt from central office of authorization for the sale of such property the manager will cause proper notice of sale to be mailed (Form 1171). Such notice in all cases shall disclose the identity, if known, of the decedent whose property is to be sold and contain a copy of the inventory of such property and the other language as shown in said prescribed form. A copy of such notice (Form 1171) after completing Parts I, IV, V thereof, shall be mailed to the owner, if known, or if deceased, to the alternate designate, to the decedent's executor or administrator, if known, and also to his widow (or widower), child, grandchild, mother, father, grandmother, grandfather, brother and sister, if known. If more than one relative of the degree named is known, copy will be mailed to each. If the owner is living, Parts IV and V only of Form 1171 will be completed.

(G) Copy of such notice (Form 1171, Parts IV and V) will also be posted by a responsible employee more than twenty-one years of age at—

(1) The facility where the death occurred or property shall have been found (if such facility be known and in existence).

(2) The place where such property is situated at the time such notice is posted, and

(3) The place where probate notices are posted in the county wherein the sale is to be had.

(H) In addition to the name of the owner, if known, (alive or deceased) and the inventory of the property to be sold, such notice shall state the hour and day when and the precise place where the sale will occur and that the same will be at public auction for cash upon delivery without warranty, express or implied, as to quality and that such sale is pursuant to Public Law No. 734 of the 75th Congress, approved June 25, 1938, and shall also state that any person legally entitled to said property may claim the same at any time prior to sale thereof and in the event of such claim by a proper person the property will not be sold but will be delivered to the person lawfully entitled thereto. Said notice shall also contain a statement substantially to the effect that if sold the net proceeds of sale may be claimed by the person who is legally entitled to the property at any time within five years after the date of notice, or in case of property of unknown ownership within five years after its finding; otherwise such proceeds will be retained in and disbursed for the purposes of the General Post Fund.

(I) The person or persons posting said notice of sale (Form 1171) shall make appropriate affidavit on a copy thereof as to his action in that respect and the manager will also certify on a copy as to the persons to whom a copy of such notice was mailed and the date when mailed. Such copy and the affidavit and certificate as to service of the notice will be retained in the station file pertaining to the disposition of such property and a copy thereof forwarded to central office with the report of sale, when held, or with report of delivery of such property if the same be claimed prior to sale. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4810 After proper notice as prescribed, sale of any such property which it is proper to sell, will be made by public auction by the manager (or an employee designated by him) at the time and place stated in the notice of sale. The property will be sold to the highest bidder (no employee of the Veterans' Administration shall purchase any of his property) and forthwith delivered and the amount of the bid collected and deposited in the Treasury of the United States to the credit of "General Post Fund, Veterans' Administration." Report of sale will be made to central office. Care will be taken to segregate the property of each owner and separate account rendered as to the proceeds of sale thereof. If property is not disposed of by public auction, the case shall be referred to central office for instructions. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4811 If any claim for any such property or for its proceeds is received subsequent to sale thereof, the matter will be referred to central office with appropriate explanation of the facts and such claims will be handled and determined by central office. The claimant will be advised of the reference and to conduct future correspondence on the subject with central office. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4812 If it is shown that some person other than the veteran has title to property in a veteran's possession at the time of death, nothing contained in Sec. 4.4800 to Sec. 4.4812 shall be construed as prohibiting delivery of such property to the owner. A life insurance policy may be delivered to the beneficiary therein named if the insured is deceased, notwithstanding the veteran has designated a person to whom possession of his property at the facility is to be transferred. In no case will funds or effects be delivered to a minor; or to an incompetent person other than as provided in Sec. 4.4809 (C), but where any such person is entitled to title or possession delivery may be made to his guardian. (October 1, 1938.) (52 Stat. 1189–1193.)

SEC. 4.4813 In order that all persons who bring property on the premises of Veterans' Administration facilities may be advised of the existence of Public Law No. 734, 75th Congress, and that it effects such property, notice thereof shall be permanently posted in at least one prominent place on the premises of each facility where persons are likely to see such notice (Form 1182). (October 1, 1933.) (52 Stat. 1189–1193.)

SEC. 4.4814 (A) When funds and effects of a deceased patient are delivered to the designate in person, distribution of Forms 2687, 2687a, and 1170 and 1171 will be as follows:

(2687)—Original—Receipted by the designate, to the station file attached to Form P–10.

Carbon copy—Receipted by the designate, forwarded to central office, attention: accounting division, finance service.

Carbon copy—To the supply officer for his file indicating the disposition of the effects.

(2687A)—Original only prepared. This is to be filed with original copy of 2687.

(1170)—Original to be filed with Form P–10 and original of 2687 and 2687A.

Copy—to be attached to copy of Form 2687 and forwarded to central office, attention: accounting division, finance service.

(1171)—Original containing completed affidavit of service, sale or delivery certificate by manager and signed receipt by agent cashier, to central office, attention: accounting division, finance service.

Carbon copy—to be retained in station file with Form 2687.

(B) In cases of absence without leave or where the effects of a deceased patient or member are not delivered personally, distribution of Forms 2687, 2687A, 1170 and 1171 will be made as follows:

(2687)

(2687A)—Original—To the supply officer to be held pending disposition instructions and later filed with Form P–10, together with express receipt or letter form receipt in shipment cases.

(2687)—Carbon copies—Two copies to central office, attention: accounting division, finance service, when correspondence has been completed as heretofore provided and the case is referred to central office for disposition.

(1170)—Original—To be filed with original of Form 2687 and Form P–10 in station file.

Copy—Attached to copy of Form 2687 and forwarded to central office, attention: accounting division, finance service.

(1171)—Original containing completed affidavit of service, sale or delivery certificate by manager and signed receipt by agent cashier, to central office, attention: accounting division, finance service.

Carbon copy—To be retained in station file with Form 2687. (October 1, 1938.) (52 Stat. 1189–1193.)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38–2782; Filed, September 21, 1938; 3:27 p. m.]

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49706]

CHALKS FLYING SERVICE AIRPORT, MIAMI, FLORIDA, REDESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

SEPTEMBER 17, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Chalks Flying Service Airport, Miami, Florida, is hereby redesignated as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from September 17, 1938.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

(192–18.32)

[F. R. Doc. 38–2778; Filed, September 21, 1938; 2:34 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE

SEPTEMBER 22, 1938.

To HUGH L. ANDERSON,
Doing business as Farmers' Livestock Sales Company, Benkelman, Nebr.

Notice is hereby[1] given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Farmers' Livestock Sales Company, at Benkelman, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7. U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2787; Filed, September 22, 1938; 11:54 a. m.]

[1] Modifies list posted stockyards 9 CFR 13.034.

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 20th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21–335]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE BABY CHICK INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), or other applicable provisions of law administered by the Commission;

Opportunity is hereby extended by the Federal Trade Commission to any and all persons affected by or having an interest in the proposed trade practice rules for the Baby Chick Industry to present to the Commission their views upon the same, including suggestions or objections, if any. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of any such views should be filed with the Commission not later than October 11, 1938. Opportunity for oral hearing also will be afforded at 10 a. m., October 11, 1938, in Room 332, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to any such persons as may desire to appear and be heard. After giving due consideration to such views, suggestions or objections as may be received concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–2783; Filed, September 21, 1938; 3:42 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of September, 1938.

[File No. 1-2328]

IN THE MATTER OF APPLICATION OF GENERAL AMERICAN TRANSPORTATION CORPORATION TO WITHDRAW ITS COMMON STOCK, $5 PAR VALUE, FROM LISTING AND REGISTRATION ON THE BOARD OF TRADE OF THE CITY OF CHICAGO

ORDER SUBSTITUTING APPLICATION

The General American Transportation Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having filed an application dated September 12, 1938 to withdraw its Common Stock, $5 Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

The Commission having set the matter down for hearing at 10 A. M. on Thursday, October 6, 1938, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois; and

Said Corporation having forwarded to the Commission an amended application dated September 19, 1938 with the request that the same be substituted for said original application dated September 12, 1938;

It is ordered, That said amended application be and the same is hereby substituted for said original application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2794; Filed, September 22, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

[File No. 2-1337]

IN THE MATTER OF AMERICAN CREDIT CORPORATION

FINDINGS AND ORDER

This matter coming on to be heard before the Commission on the registration statement of American Credit Corporation, a Nevada corporation, after confirmed telegraphic notice to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading; and

Counsel for the Commission having moved to amend the Statement of Matters to be Considered so as to give notice that the registration statement appears to include further untrue statements of material facts and omissions to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading; and

The registrant having by stipulation admitted the existence and materiality of the deficiencies charged, with certain exceptions, and having consented to the issuance of this order; and

The registrant having on May 31, 1938, filed a proposed amendment to said registration statement and having requested, in substance, that said amendment be declared effective and that this proceeding be dismissed; and

The Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in Items 3, 5, 11, 13, 14, 19, 20, 26, 27, 28, 29, 35, 38, 39, 44, 45, 46, 47, 50, 53, 54 and 55, the Accountant's Certificates, Exhibits F and I, and in the prospectus, and that required consents of experts were not furnished; and

It appearing to the Commission that the proposed amendment, on its face, is incomplete and inaccurate in material respects; and

The Commission now being fully advised in the premises,

It is ordered, That the aforesaid motion to amend the Statement of Matters to be Considered be and the same hereby is granted;

That the request that the proposed amendment filed on May 31, 1938, be declared effective be and the same hereby is denied;

That the request that this proceeding be dismissed be and the same hereby is denied; and

That pursuant to Section 8 (d) of the Securities Act of 1933 the effectiveness of the registration statement filed by American Credit Corporation, a Nevada corporation, be and the same hereby is suspended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2795; Filed, September 22, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1938.

[File No. 31-115]

IN THE MATTER OF WASHINGTON RAILWAY AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 5, 1938.

The matter concerned herewith is in regard to the application of Washington Railway and Electric Company filed pursuant to Section 3 (a) (1) of the Act for an order declaring it not to be a holding company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2790; Filed, September 22, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1938.

[File No. 31-154]

IN THE MATTER OF ILLINOIS IOWA POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (2) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 18, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 13, 1938.

The matter concerned herewith is in regard to the application of Illinois Iowa Power Company filed pursuant to Section 3 (a) (2) of the Act for an order declaring it not to be a holding company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2791; Filed, September 22, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1938.

[File No. 31-435]

IN THE MATTER OF ALUMINUM COMPANY OF AMERICA, ALUMINUM ORE COMPANY, AND MASSENA SECURITIES CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) (A) and (B) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on October 24, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 19, 1938.

The matter concerned herewith is in regard to the joint application of Aluminum Company of America, Aluminum Ore Company, and Massena Securities Corporation filed pursuant to Section 3 (a) (3) (A) and (B) of the Act for an order declaring them not to be holding companies.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2789; Filed, September 22, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1938.

[File No. 31-389]

IN THE MATTER OF UNION ELECTRIC COMPANY OF MISSOURI

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (2) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 14, 1938.

The matter concerned herewith is in regard to the application of Union Electric Company of Missouri for an order declaring it not to be a holding company filed pursuant to Section 3 (a) (2) of the Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2792; Filed, September 22, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1938.

[File No. 56-11]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 12 (d) and Rule U-12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted

to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 5, 1938.

The matter concerned herewith is in regard to the application of The Middle West Corporation, a registered holding company, for approval of the sale of certain public-utility securities of Arkansas-Missouri Power Corporation, a subsidiary of applicant, more particularly described as follows:

Title of each issue	*Maximum amount to be sold*
Arkansas-Missouri Power Corporation:	
First Mortgage 5% Bonds, Series A, dated as of January 1, 1937—due January 1, 1957 (Special bond coupons payable on or before January 1, 1940, are attached; coupon amounting to $20 for each $1,000 par value of bonds)	$540,660.00
Arkansas-Missouri Power Corporation—Continued.	
Preferred Stock 6% Cumulative, par value $50 per share	3,604.40 Shs.
Common Stock, par value $1.00 per share	32,531.28 Shs.

said sale to be made, through brokers, on the over-the-counter market to the general public at various times and at varying prices.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2793; Filed, September 22, 1938; 12:56 p. m.]

SEP 27 1938

FEDERAL REGISTER

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Washington, Saturday, September 24, 1938

Rules, Regulations, Orders

TITLE 22—FOREIGN RELATIONS

INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND MEXICO

[Minute No. 165]

RULES AND REGULATIONS FOR THE MAINTENANCE AND PRESERVATION OF THE RIO GRANDE RECTIFICATION PROJECT IN THE EL PASO-JUAREZ VALLEY

CIUDAD JUÁREZ, CHIHUAHUA,
August 13, 1938.

The Commission met at the offices of the Mexican Section in Ciudad Juárez, Chihuahua, at 10:00 A. M., August 13, 1938, for the purpose of formulating regulations to make effective the maintenance and preservation of the rectified channel of the Rio Grande in the El Paso-Juarez Valley, in accordance with the Convention of February 1, 1933, and its annexes.

The Commission reviewed the Convention of February 1, 1933, as well as the maps and reports relating to the construction of the Rio Grande Rectification Project, and now finds and determines:

A. That the rectified channel has been completed throughout its length, in accordance with the provisions of the Convention of February 1, 1933.

B. That the rectified channel occupies a strip of land about 225 meters in width, within which there have been constructed a pilot channel for the normal flow of the river and a floodway formed by the building of levees to either side to carry the flood flows. The levees are generally 180 meters apart, and the remaining strips of land on both sides are partly occupied by the levees and other works and partly unoccupied. The structures built within the rectified channel right of way consist of bridges, grade controls and gaging stations extending across the floodway, and culverts through the levees. Additional structures of similar types may be built in the future.

C. That the required maintenance and preservation of the rectified channel will include the following items:

1. An annual clearing of the entire right of way to insure a continued maximum flood-flow capacity;
2. The replacement of material in levees and groins which may be eroded by the action of rains or floods;
3. The placing of earthwork in the building of new groins;
4. The placing of revetments along levees where material is unstable or flow conditions so require;
5. The performance of earthwork within or along the sides of the pilot channel where sand bars or islands may form or hard material be encountered or side erosion occur;
6. The placing of revetments along the sides of the pilot channel to prevent erosion;
7. The smoothing of the floodway floor wherever floods may so deposit material as to form obstruction to uniform flow;
8. And as to the structures, their enlargement if needed, the painting of wood and metal work and the replacement of worn or broken parts.

D. That inasmuch as Article XI of the Convention provides that the International Boundary Commission is charged with the maintenance and preservation of the rectified channel, and requires that to this end the Commission shall submit, for the approval of both governments, the regulations that should be issued to make effective such maintenance, there are hereby submitted for adoption the following:

RULES AND REGULATIONS

I. The International Boundary Commission shall keep the floodway clear of vegetation. The United States Section shall be responsible for and perform the labor required on the portion comprised between the pilot channel and the left or northerly levee, and the Mexican Section shall be responsible for and perform the labor required on the portion comprised between the pilot channel and the right or southerly levee. The ex-

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 22—FOREIGN RELATIONS:
International Boundary Commission, United States and Mexico: Page
Rio Grande Rectification Project in El Paso-Juarez Valley, maintenance and preservation of 2297
TITLE 24—HOUSING CREDIT:
Federal Housing Administration:
Mutual mortgage insurance fund and housing insurance fund debentures, transactions and operations in 2298
TITLE 25—INDIANS:
Office of Indian Affairs:
Loans to Indians from reimbursable funds 2299
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Abolishment of information returns for employees who attain age 65 or die 2303
TITLE 35—PARKS AND FORESTS:
National Park Service:
Morristown National Historical Park, local subsidiary regulation 2303
TITLE 46—SHIPPING:
Bureau of Marine Inspection and Navigation:
Numbering and recording undocumented vessels, regulations amended 2303

NOTICES

Securities and Exchange Commission:
Utilities Elkhorn Coal Co., and James G. Culbertson, order pursuant to Rule U-11F-2 2303

FEDERAL REGISTER

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penses of clearing shall be borne respectively by each Section.

II. The International Boundary Commission shall maintain the pilot channel reasonably parallel to the rectification levees, preventing the formation of sharp curves. Each Section of the International Boundary Commission shall bear half the cost of these works.

III. The United States Section of the International Boundary Commission shall maintain at its cost the left or northerly rectification levee to the established grade, but shall have the right to increase the levee section on the land side. The Mexican Section of the International Boundary Commission shall maintain at its cost the right or southerly rectification levee to the established grade, but shall have the right to increase the levee section on the land side.

IV. The structures located in, on or across the floodway shall be maintained in good condition by work performed jointly by the International Boundary Commission, and half the cost thereof shall be borne by each Section.

V. The structures located in the levees shall be maintained in good serviceable condition. The United States Section of the International Boundary Commission shall carry out at its cost the work relating to the structures located in the left or northerly levee, and the Mexican Section of the International Boundary Commission shall carry out at its cost the work relating to the structures located in the right or southerly levee.

VI. No structure of any kind shall be constructed nor shall any works be performed within the floodway between the two levees that may interfere with the proper functioning of the floodway.

VII. The United States Section of the International Boundary Commission shall be the sole agency which may issue permits for any and all structures or works which may be constructed within that part of the right of way located north of the middle of the deepest channel of the river, and the Mexican Section of the International Boundary Commission shall be the sole agency which may issue permits for any and all structures or works which may be constructed within that part of the right of way located south of the middle of the deepest channel of the river, in accordance with Article VIII of the Convention of 1933.

VIII. Inasmuch as the joint work to be performed may require the accomplishment by one Section of the International Boundary Commission of maintenance and repairs within the national territory of the other Section, it is hereby provided that when one of the two Sections performs work within the national territory of the other, such work will be carried on by the performing Section's own personnel in the same manner and under the same regulations as though the works were being performed within the national territory of the Section doing the work. The crossing of duly authorized and identified personnel of each Section, for the accomplishment of maintenance and repair work, shall be facilitated by informal arrangements with the respective authorities of the two countries.

IX. In order to afford greater flexibility and economy in the work of maintenance and repairs, the performance of a part of the work herein allocated to one Section of the International Boundary Commission may be exchanged for the performance of an equal amount of the work allocated to the other Section, by means of informal agreements of the Commissioners.

X. Periodical inspection of the works, at least semiannually, shall be made by the Consulting Engineers of the two Sections, who shall submit joint reports to the Commission on the condition of the constructed works and the routine work being accomplished, including recommendations as to any other work that should be performed.

XI. Lists of all materials, implements, equipment, and supplies intended for the rectification works, and which as provided in the Convention are exempt from import duties when passing from one country to the other, shall be prepared in each case. Such lists shall be approved by the Commissioners before the goods may be transported across the boundary.

E. That the International Boundary Commission shall submit, for the approval of both governments, such further regulations as may in the future be found to be required for the effective carrying out of the maintenance and preservation of the Rio Grande Rectification Project.

F. That the rules and regulations herein set forth shall become of effect immediately upon the approval of both governments being communicated to this Commission, or effective one month from the time of execution of this Minute in the event neither government shall have within such period disapproved this Minute.

The Commission then adjourned.

L. M. LAWSON,
Commissioner of the United States.
J. PEDRERO CORDOVA,
Commissioner of Mexico.
M. B. MOORE,
Secretary of the United States Section.
J. HERNANDEZ OJEDA,
Secretary of the Mexican Section.

[Here follows, in the document as filed with the Division of the Federal Register, The National Archives, the Spanish text of the rules and regulations.]

[F. R. Doc. 38-2799; Filed, September 23, 1938; 10:05 a. m.]

TITLE 24—HOUSING CREDIT

FEDERAL HOUSING ADMINISTRATION

REGULATIONS GOVERNING TRANSACTIONS AND OPERATIONS IN FEDERAL HOUSING ADMINISTRATION MUTUAL MORTGAGE INSURANCE FUND AND HOUSING INSURANCE FUND DEBENTURES

Pursuant to the authority conferred upon the Federal Housing Administrator (hereinafter referred to as the Administrator) by the National Housing Act, approved June 27, 1934 (48 Stat. 1246 U. S. C. Title 12 Sec. 1702 et seq.), as amended, the following regulations governing the issuance of Federal Housing Administration Mutual Mortgage Insurance Fund and Housing Insurance Fund Debentures, guaranteed as to principal and interest by the United States (hereinafter referred to as debentures), including interim certificates issued in lieu thereof, issued by the Administrator to insured mortgagees in exchange for mortgages and property transferred to the Administrator in accordance with the terms of the Act, as amended, and the regulations prescribed thereunder; the payment of interest thereon; the granting of relief on account of the loss, theft, destruction, mutilation of defacement of the debentures; and other transactions and operations therein, are hereby promulgated.

1. *Form of debentures.*—The debentures shall be issued in series of each of the four classes required under the provisions of Title II of the National Housing Act, as amended, in registered form only and in denominations of $50, $100, $500, $1,000, $5,000 and $10,000, subject to such changes as the Administrator may determine. Amounts less than $50 will be adjusted and paid in cash. The debentures shall be issued in the name of the Mutual Mortgage Insurance Fund, or the Housing Insurance Fund, as the case may be, signed by the Federal Housing Administrator by facsimile signature, and the seal of the Federal Housing Administration shall be affixed. The principal and interest shall be payable, when due, at the Treasury Department, Washington, D. C., or at any government agency or agencies in the United States which the Secretary of the Treasury may from time to time designate for that purpose. The principal and interest shall be payable to the registered owner, whose name will be inscribed thereon, or registered assigns. Definitive debentures will be fully transferable, and those of the same class and series and having the same maturity date will be freely interchangeable as between the various authorized denominations. Interim certificates now outstanding are fully transferable and except for those in amounts less than $50 (which will be purchased for cash) may be exchanged for debentures of a like face amount in the same series, in any authorized denomination or denominations. No denominational exchanges will be permitted as between interim certificates. Unless otherwise provided by specific reference or plain context, the term "debentures" as herein used will be deemed to include interim certificates.

2. *Transactions and operations.*—The United States Treasury Department will act as agent for the Administrator in connection with the transactions and operations hereunder. The general regulations of the United States Treasury Department now or hereafter in force governing transactions and operations in United States registered bonds, and the payment of interest thereon, are hereby adopted, so far as applicable, as the regulations of the Administrator for similar transactions and operations in debentures, and the payment of interest thereon.

3. *Relief on account of lost, stolen, destroyed, mutilated or defaced debentures.*—The statutes of the United States and the regulations of the Treasury Department now or hereafter in force, governing relief on account of the loss, theft, destruction, mutilation or defacement of United States securities, so far as applicable and as necessarily modified to relate to debentures, are hereby adopted as the regulations of the Administrator for the issuance of substitute debentures or the payment of lost, stolen, destroyed, mutilated or defaced debentures.

4. *Redemption prior to maturity.*—Debentures of any series, if so provided in the text thereof, may be redeemed at the option of the Federal Housing Administrator, with the approval of the Secretary of the Treasury, in whole or in part, at par and accrued interest, on any interest day or days on three months' notice of redemption given in such manner as the Administrator shall prescribe. In case of partial redemption, the debentures to be redeemed will be determined by such method as may be prescribed by the Administrator.

5. *Administration.*—The Secretary of the Treasury or the Acting Secretary of the Treasury is hereby authorized and empowered, on behalf of the Administrator, to administer the regulations governing any transactions and operations in debentures, to do all things necessary to conduct such transactions and operations, and to delegate such authority at his discretion to other officers, employees, and agents of the United States Treasury Department. The Secretary, the Under Secretary, or any Assistant Secretary of the Treasury acting by direction of the Secretary, is hereby authorized to waive any such regulation on behalf of the Administrator at his discretion in any particular case where a similar regulation of the Treasury Department with respect to United States bonds or interest thereon would be waived.

6. *Amendments.*—The Administrator reserves the right at any time or from time to time, with the approval of the Secretary of the Treasury, to revoke or amend these regulations or to prescribe and issue supplemental or amendatory rules and regulations governing debentures or interest thereon.

STEWART MCDONALD,
Federal Housing Administrator.

Approved, September 20, 1938.

H. MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38-2801; Filed, September 23, 1938; 12:28 p. m.]

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

REGULATIONS GOVERNING LOANS TO INDIANS FROM REIMBURSABLE FUNDS UNDER THE ACT OF MAY 9, 1938

Sections 16.321 to 16.350 of these regulations are issued under the general authority contained in the act of May 9, 1938 (52 Stat. 302). These regulations shall supersede the reimbursable regulations approved June 29, 1927, as modified and shall also be applicable to loans from reimbursable appropriations for the same purposes for which regulations have not heretofore been issued, or for which exemption is not provided for in section 16.322 hereof. These regulations shall be effective from the date of their approval.

TABLE OF CONTENTS

Sec.
16.321 Definitions.
16.322 Use of industrial assistance funds by incorporated tribes.
16.323 Applicability of the remaining sections of the regulations to loans to individuals, cooperative associations, and unincorporated tribes.
16.324 Major objective and general loan policies.
16.325 Eligibility of borrowers.
16.326 Purposes.
16.327 Applications and plans for loans.
16.328 Size of loan.
16.329 Maturity.
16.330 Interest.
16.331 Security.
16.332 Transfer of title to borrowers.
16.333 Application of trust funds and property in case of default.
16.334 General authority to apply funds and property on indebtedness.
16.335 Repossessed or seized property taken up on agency records.
16.336 Disposition of repossessed or seized trust property.
16.337 Receipts from the sale of nontrust property.
16.338 Transfer of property under loan agreements.
16.339 Reports of repossessions, seizures, dispositions, and transfers of property.
16.340 Property of deceased borrowers.
16.341 Reports from borrowers.
16.342 Restrictions on assignments, discounting, and borrowing.
16.343 Insurance.
16.344 Deposit of funds advanced under loan agreements.
16.345 Procedure for handling loans.
16.346 Accounts and records.
16.347 Reports.
16.348 Allotment, advance, and expenditure of funds.
16.349 Collections.
16.350 Forms.

SEC. 16.321 *Definitions.*—Except as otherwise indicated "Secretary" refers to the Secretary of the Interior; "Commissioner" to the Commissioner of Indian Affairs; "superintendent" to the superintendent or other administrative officer in charge of the jurisdiction where the borrower resides, or under whom he has been placed for administrative purposes; "tribe" to any band, pueblo, or group of Indians residing on one reservation, having a form of organization recognized by the Commissioner; "cooperative association" to a group of Indians, determined by the superintendent to be individually eligible for loans, organized under written articles of association and bylaws approved by the Commissioner; "productive" to that which is deemed capable of producing an income sufficient to cover operating expenses and to repay the loan within the terms of the loan agreement; "nonrecoverable goods" to those which are consumed by the enterprise, such as seed, feed, and machinery and building repairs; "recoverable goods" to those which are not used up in the enterprise and which may be looked to as continuing security for the loan; "loan agreement" collectively to all papers, including securing instruments, notes, or modifications, and all other papers which affect the contract; "commercial enterprises" to nonagricultural productive enterprises; "industry among Indians funds" to appropriations made by Congress out of public funds in the United States Treasury; "tribal industrial assistance funds" to appropriations made by Congress out of tribal funds in the United States Treasury (52 Stat. 302).

SEC. 16.322 *Use of industrial assistance funds by incorporated tribes.*—Tribal industrial assistance funds and all accruals thereto belonging to a tribe incorporated under the act of June 18, 1934, may be used only for advances to the tribal corporation, for use under regulations governing loans to Indian chartered corporations approved by the Secretary March 11, 1936, and modifications and amendments thereto (See Part

16.1 to 16.49, inclusive, this Title). The sections of these regulations following hereafter, therefore, are not applicable to the use of tribal industrial assistance funds of incorporated tribes. All advances of these funds shall be deposited immediately upon receipt thereof in depositories designated in the applications, if approved by the Commissioner, or such other depositories as shall be designated by the said Commissioner. No carrying charge shall be made to the Government on such funds (52 Stat. 302).

SEC. 16.323 *Applicability of the remaining sections of the regulations to loans to individuals, cooperative associations, and unincorporated tribes.*—All the remaining sections of these regulations shall apply to individual, cooperative associations, and tribal loans unless the provisions therein apply specifically to an individual, cooperative association, or tribal loan (52 Stat. 302).

SEC. 16.324 *Major objective and general loan policies.*—The major objective in the use of these funds is to assist Indians to become permanently self-supporting. Preference, therefore, shall be given loan applications for productive enterprises. Recommendations and decisions on loans shall be based on sound credit principles. Nonproductive loans shall be made only when the urgency of the need and the security offered fully justify such action (52 Stat. 302).

SEC. 16.325 *Eligibility of borrowers.*—Eligibility of borrowers shall be governed by the following:

(a) *Eligibility of individuals.*—

(1) To be eligible for a loan from industry among Indians funds, an individual must be (i) an Indian whose name appears on the official tribal rolls, (ii) an Indian of one-fourth or more Indian blood who has been continuously residing on the reservation, or (iii) an Indian of one-half or more Indian blood who offers acceptable evidence of the degree of blood and who has not been continuously residing on the reservation but has resumed residence with the intention of making that his permanent home.

(2) To be eligible for a loan from tribal industrial assistance funds an individual must be a member of the tribe. Tribes may prescribe additional requirements regarding eligibility for loans from such tribal funds.

(3) Regular employees of the Government may not obtain loans.

(4) Without specific authority from the Commissioner, a loan shall not be made to an Indian who is (i) not residing within the boundaries of the reservation or on trust allotted or tribal land in convenient proximity to the reservation, (ii) a minor, (iii) an Indian who is employed intermittently by the Government, (iv) married to and living with a person already a borrower, unless their loans are consolidated, (v) married to a white man, (vi) addicted to the use of liquor, (vii) able to finance his plans from his own funds, (viii) so situated that he should be able to obtain the necessary credit from other sources.

(b) *Eligibility of cooperative associations.*—To be eligible for a loan a cooperative association must have a form of organization, financial structure, and plan of operation and management acceptable to the Commissioner.

(c) *Eligibility of tribes.*—To be eligible for a loan from industry among Indians funds or an advance from tribal industrial assistance funds, a tribe must have a form of organization and plan of operation and management of the enterprise for which the loan is requested acceptable to the Commissioner (52 Stat. 302).

SEC. 16.326 *Purposes.*—The purposes for which loans may be made are as follows:

(a) *From industry among Indians funds.*—

(1) Loans may be granted individual Indians, tribes, and cooperative associations for the purchase of seeds, animals, machinery, tools, implements, and other equipment necessary for encouraging industry and self-support.

(2) Loans may be granted Indians having irrigable trust allotments for the development and cultivation thereof, with approval of the Commissioner.

(3) Loans for support may be granted old, indigent, or disabled Indian allottees having trust lands, with the approval of the Commissioner. Such loans shall remain a charge and lien against the lands until paid. The amount advanced in any one fiscal year shall not exceed $300.

(4) Loans to old and disabled Indians may also be made for recoverable goods which will effect a reduction in the need for relief or further loans for support, provided income may reasonably be expected to accrue to such Indian accounts from their lands in an amount sufficient to liquidate the loan within five years and such income is assigned for this purpose.

(5) Loans may be made to worthy Indian youths in accordance with regulations approved July 14, 1936 (See Part 22.60 to 22.79, inclusive, this Title), to enable them to take educational courses, including courses in nursing, home economics, forestry, agriculture, animal husbandry, and other industrial subjects in colleges, universities, or other institutions.

(6) Loans may be made to cooperative associations for the establishment and operation of productive enterprises, if approved by the Commissioner.

(7) Loans may be made from industry among Indians funds to unincorporated tribes for the establishment and operation of tribal enterprises, if approved by the Commissioner.

(b) *From tribal industrial assistance funds.*—

(1) Loans may be granted individual Indians and cooperative associations for the purchase of seeds, animals, machinery, tools, implements, building materials, and other equipment and supplies necessary for encouraging industry and self-support among Indians.

(2) With approval of the Commissioner, loans may be granted Indians having irrigable trust allotments for the development and cultivation thereof.

(3) With approval of the Commissioner, loans for support may be granted old, disabled, and indigent Indians for their support, provided they have trust land against which such loans shall remain a charge and lien until paid. The amount advanced in one fiscal year shall not exceed $300.

(4) Loans to old and disabled Indians may also be made for recoverable goods which will effect a reduction in the need for relief or further loans for support, provided that income may reasonably be expected to accrue to the accounts of such Indians from their land or other sources in an amount sufficient to liquidate the loan within five years and such income is assigned for this purpose.

(5) Advances may be made for burial expenses on agreements signed by a majority of the apparent heirs of the decedent, provided income will accrue to the estate within five years from which repayment will be made.

(6) Loans may be made to worthy Indian youths in accordance with regulations approved July 14, 1936 (See Part 22.60 to 22.79, inclusive, this Title), to enable them to take educational courses, including courses in nursing, home economics, forestry, agriculture, animal husbandry, and other industrial subjects in colleges, universities, or other institutions.

(7) Tribal industrial assistance funds or other applicable tribal funds may be used for the establishment and operation of tribal productive enterprises when proposed by Indian tribes and approved by the Secretary, provided revenues therefrom, to the extent of the amount advanced, are covered into the Treasury to the credit of the respective tribal industrial assistance fund.

(8) Loans may be made for the construction of permanent improvements if applied for in connection with productive enterprises which are capable of producing sufficient income for repayment. In such cases the loans shall be considered as productive loans. If requests for loans for the construction of permanent improvements are not applied for in connection with productive enterprises they shall be considered as nonproductive and shall meet the repayment and security requirements prescribed for nonproductive loans.

(9) Loans may be made to cooperative associations for the establishment and operation of productive enterprises, if approved by the Commissioner (52 Stat. 302).

SEC. 16.327 *Applications and plans for loans.*—Applications for loans and plans for the use of the funds shall be presented in accordance with instructions or on forms prescribed by the Commissioner (52 Stat. 302).

SEC. 16.328 *Size of loan.*—No loan shall be granted for less than $25. Without approval of the Commissioner, loans not otherwise requiring his approval may not be made to any individual, family, or cooperative association, whose aggregate indebtedness to the United States will exceed $1,000; provided, that loans for nonproductive purposes shall not exceed 50 percent of the value of the applicant's trust land, plus 20 percent of the value of the improvements thereon (52 Stat. 302).

SEC. 16.329 *Maturity.*—Loans to individual Indians, unincorporated tribes, and cooperative associations shall be made for the shortest period consistent with the purpose thereof and the ability of the borrower to repay. Repayment terms of loans shall be as follows:

(a) *Loans for productive purposes.*—Repayment terms of loans for productive purposes shall provide that advances for recoverable goods shall be repaid within five years and advances for nonrecoverable goods within one year.

(b) *Loans for nonproductive purposes.*—Repayment terms of loans for nonproductive purposes shall provide that advances for burial purposes, construction of permanent improvements, and recoverable goods be repaid within five years. When nonproductive loans include advances for support, the repayment terms for such advances shall be provided for at the time income is expected to accrue. The borrowers shall agree that any income accruing to their credit in excess of subsistence needs shall be applied on the indebtedness. In any case, the indebtedness shall remain a charge and lien against their land until paid.

(c) *Loans for the improvement of irrigable allotments.*—Repayment terms of loans for the development of irrigable allotments shall provide that advances for nonrecoverable goods shall be repaid within one year, advances for recoverable goods within five years, and advances for leveling and subjugating the land and for the construction of permanent improvements within 20 years.

(d) *Limitation on extension of repayment terms.*—When an account for other than support is not paid in full within the prescribed period, no formal extension can be granted and the account must be liquidated as soon as practicable (52 Stat. 302).

SEC. 16.330 *Interest.*—The interest rate charged borrowers on all loans except those for support of old, disabled, or indigent Indians and for burial expenses, shall be 3 percent per annum, payable annually. Interest may be charged on loans from tribal industrial assistance funds for support and burial expenses if such action is requested by the authorized governing body of the tribe having such funds. No interest shall be charged a tribe for advances from tribal industrial assistance funds for the development and operation of tribal enterprises (52 Stat. 302).

SEC. 16.331 *Security.*—Security for loans shall be as follows:

(a) *Provisions which apply to all loans.*—

(1) Agreements with borrowers shall provide that the debt shall be a charge and lien against the income from trust land, if there be any, and any other trust income of the borrower until paid.

(2) Title to recoverable goods purchased with loan funds and any issue therefrom shall be taken in and shall remain in the name of the United States until full payment is made therefor, except as otherwise provided for in these regulations.

(3) Permanent improvements shall not be considered a part of the realty until the loan with which they were constructed has been paid in full.

(4) Inspection of property offered as security, search of records, bills of sales, filing of securing instruments, and releases and satisfactions of mortgages, shall be made in accordance with instructions of the Commissioner.

(5) All livestock and issue therefrom, and other purchases with borrowed funds of recoverable goods in excess of $25, and trust property given as security for loans, shall be branded or marked with the letters "I D" to make identification permanently possible. In addition, livestock shall be marked or branded with the mark or brand of the borrower.

(b) *Amount of security for productive loans.*—

(1) All possible security up to an adequate amount shall be required.

(2) Full security shall be required on loans for enterprises not located within or adjacent to the reservation.

(3) Partially secured or unsecured loans may be granted for productive purposes if the integrity and ability of the borrower as shown by past performance, and the feasibility of the enterprise give assurance that the undertaking will be successful and the loan repaid, provided, in addition, that at least 80 percent of the borrowed funds are invested in recoverable goods.

(c) *Kind of additional security for productive loans.*—

(1) Other security for productive loans may consist of (i) mortgages on personal property, trust or nontrust, owned wholly or in part by the borrower or co-signer; (ii) crop liens, and agreements to execute new crop liens, so as to have a valid crop lien as prescribed by the State law in effect during the period of the loan; (iii) assignment of lease rentals or other income with authority to lease land; (iv) assignment of wages; (v) or other suitable collateral.

(2) Mortgages on nontrust and unrestricted real estate may be taken as security for any productive loan.

(d) *Additional provisions which apply only to loans to individuals.*—

(1) The amount and kind of security for nonproductive loans to individuals shall be determined by the following: (i) Loans to old, disabled, or indigent Indians must be secured by trust land and may not exceed 50 percent of the value of such land, plus 20 percent of the value of the permanent improvements thereon; such loans shall remain a charge and lien against the land until paid. If available, additional security should be taken. Such security might consist of any of that described in (c) of this section. (ii) Loans from tribal industrial assistance funds for burial expenses shall be secured by income accruing to the credit of the estate of the deceased. The loans shall not exceed the amount of income which will accrue for repayment within five years.

(2) In the case of a loan to a married person, if his or her spouse is an Indian, the application must be made jointly by both parties. If the spouse is not an Indian, or in case of loans from tribal industrial assistance funds, if the spouse is not a member of the tribe, he or she should not sign the application, but shall be required to endorse securing documents, if they are living together and share in the enterprise.

(3) If the recognized governing body of the tribe so requests, loan agreements involving tribal industrial assistance funds shall provide for an agreement on the part of the borrowers that, in case of default, the title of such trust or restricted land as shall be set forth in the agreements shall be transferred to the United States in trust for the tribe with approval of the Secretary (52 Stat. 302).

SEC. 16.332 *Transfer of title to borrowers.*—Upon satisfaction of their indebtedness to the United States, borrowers shall receive from the superintendent title to the recoverable goods acquired by them under their loan agreements. In any case where it would appear to be to the detriment of a borrower to receive unrestricted title to the property, the superintendent shall submit the case with his recommendations to the Commissioner for action (52 Stat. 302).

SEC. 16.333 *Application of trust funds and property in case of default.*—Each borrower shall be required to agree that if he fails to make repayments when due, to use borrowed funds in keeping with the loan agreement as originally approved, or amended, to make every honest effort to continue operations in a businesslike manner, or to take proper care of the property purchased with the borrowed funds or given as security for the loan, the superintendent may:

(a) Declare, after notice in writing of five days to the borrower, the entire amount advanced immediately due and payable;

(b) Discontinue any further advances of funds contemplated by the loan agreement;

(c) Apply as a set off against his indebtedness any trust funds to his credit, or any moneys due him from the United States from any source.

(d) Take possession of any and all trust property purchased with the loan funds or given as security and dispose of it in accordance with these regulations and apply the proceeds on his indebtedness;

(e) Proceed under State laws to seize and dispose of any nontrust property given as security (52 Stat. 302).

SEC. 16.334 *General authority to apply funds and property on indebtedness.*—General authority is granted disbursing agents to make payment of delinquent indebtedness from individual funds by drawing an official check for the proper amount against the account of, and payable to, the debtor, who should be required to endorse the check back to the disbursing agent so that it can be applied on the indebtedness as is provided for in the loan agreement. If the payee refuses to do this the disbursing agent should retain the check and report the facts to the Indian Office for instructions (52 Stat. 302).

SEC. 16.335 *Repossessed or seized property taken up on agency records.*—Trust property purchased from loan funds or given as security, repossessed or seized from a borrower, shall be taken up on the property records of the agency at its appraised value and dropped upon completion of the sale thereof (52 Stat. 302).

SEC. 16.336 *Disposition of repossessed or seized trust property.*—Repossessed or seized property may be disposed of as follows:

(a) *By sale to Indians.*—When property purchased with loan funds or given as security is repossessed or seized, the superintendent shall appoint three persons, one a Government employee, one selected by the debtor, if he so desires, and the third, entirely disinterested, to appraise the property, which appraisal shall be the price charged against the Indian to whom it is subsequently sold, unless authority to sell at a lower price is authorized by the Commissioner or in accordance with instructions which may be issued by him. The Indian from whom the property was repossessed shall be given retaken credit on his account for the amount of the appraisal; if any balance remains unpaid the superintendent shall take all possible steps to collect the balance due on the agreement. The resale may be either for cash or under a new loan agreement which shall be handled as any other loan.

(b) *By sale to other than Indians.*—When repossessed or seized trust property cannot be sold to an Indian as provided above it shall be sold by public auction or under sealed bids in accordance with instructions of the Commissioner. Receipts from the sale of such property shall be taken up on an official receipt and so much thereof as may be necessary indicated for credit to the appropriate receipt account or tribal appropriation account and as a credit on the particular agreement. The balance, if any, may be credited to the individual Indian money account of the debtor (52 Stat. 302).

SEC. 16.337 *Receipts from the sale of nontrust property.*—Receipts from the sale of nontrust property shall be taken up on an official receipt and so much thereof as may be necessary indicated for credit to the appropriate receipt account or tribal appropriation account, and as a credit on the particular agreement. The balance, if any, shall be credited to the individual Indian money account of the borrower (52 Stat. 302).

SEC. 16.338 *Transfer of property under loan agreements.*—Upon mutual agreement of the superintendent, borrower, and prospective borrower, the superintendent may sell property purchased with loan funds or given as security, to the prospective borrower, by taking up the property on the agency property records, crediting the borrower for the appraised value of the property so taken up and preparing a new loan agreement with the new borrower (52 Stat. 302).

SEC. 16.339 *Reports of repossessions, seizures, dispositions and transfers of property.*—Reports of repossessions, seizures, dispositions and transfers of property shall be immediately reported in accordance with instructions of the Commissioner (52 Stat. 302).

SEC. 16.340 *Property of deceased borrowers.*—The superintendent shall take all possible steps to safeguard and protect the property of deceased borrowers who are indebted to the United States until the obligations are liquidated or acceptable arrangements made with the heirs of the decedents for liquidation of the debts in accordance with the terms prescribed in the regulations. Preference shall be given to the kind of settlement which will provide the most rapid ultimate liquidation of deceased borrowers' accounts (52 Stat. 302).

SEC. 16.341 *Reports from borrowers.*—Borrowers shall agree to submit reports required by the Commissioner (52 Stat. 302).

SEC 16.342 *Restrictions on assignments, discounting and borrowing.*—Borrowers shall agree not to rediscount, assign, pledge, or otherwise encumber any of their property in which the Government has an interest without the Commissioner's approval or that of his authorized representative (52 Stat. 302).

SEC. 16.343 *Insurance.* — Borrowers shall agree to insure any property purchased with loan funds or given as security against loss by fire or any other cause as shall be prescribed by the superintendent. Funds for the payment of the premiums during the period of the loan may be included in the amount of the loans (52 Stat. 302).

SEC. 16.344 *Deposit of funds advanced under loan agreements.*—Individual borrowers, cooperative associations, and unincorporated tribes shall agree that the funds advanced under any loan agreement shall be deposited to their credit in their individual Indian money accounts for use only under the terms of their loan agreements (52 Stat. 302).

SEC. 16.345 *Procedure for handling loans.*—Where not otherwise provided for in these regulations, action on applications, completion of loan agreements, modifications and extensions of loan agreements, and other procedures in connection with handling loans shall be in accordance with instructions of the Commissioner; provided that requests from tribes for advances from tribal industrial assistance funds for the establishment and operation of tribal enterprises shall be approved by the Secretary (52 Stat. 302).

SEC. 16.346 *Accounts and records.*—Accounts and records shall be maintained in accordance with instructions of the Commissioner (52 Stat. 302).

SEC. 16.347 *Reports.*—Annual reports or such special reports as may be required by the Commissioner shall be submitted in accordance with his instructions (52 Stat. 302).

SEC. 16.348 *Allotment, advance, and expenditure of funds.*—Procedures for making allotment, advance, and expenditure of funds not covered by existing applicable regulations shall be handled in accordance with instructions of the Commissioner, provided allotments from tribal industrial assistance funds are requested by the tribe or its recognized officials (52 Stat. 302).

SEC. 16.349 *Collections.*—When a collection is made the superintendent shall issue an official receipt and take the amount into his accounts in the usual manner for deposit later to the credit of the United States as a repayment for credit to the appropriate receipt account or as a repayment to the tribal appropriation account. Collections on loans shall be credited first to interest, which must be shown as a separate item on the receipt. Sufficient information shall be given to show clearly the loan and fund to which each collection applies (52 Stat. 302).

SEC. 16.350 *Forms.*—Forms for making loans under these regulations shall be prescribed by the Commissioner (52 Stat. 302).

WILLIAM ZIMMERMAN, JR.,
Commissioner.

Approved, August 22, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-2797; Filed, September 23, 1938; 10:04 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4862]

ABOLISHMENT, AS OF SEPTEMBER 30, 1938, OF INFORMATION RETURNS ON FORM SS-3 UNDER TITLE VIII OF SOCIAL SECURITY ACT FOR EMPLOYEES WHO ATTAIN AGE 65 OR DIE

To Collectors of Internal Revenue and Others Concerned:

Article 403 of Regualtions 91, approved November 9, 1936, relating to information returns under Title VIII of the Social Security Act for employees who attain age 65 or die, as amended by T. D. 4769, approved October 15, 1937, and T. D. 4778, approved November 23, 1937,[1] is further amended by changing the next to last sentence thereof to read as follows:

No return is required under this article for any employee whose sixty-fifth anniversary of birth occurs on or before January 2, 1937, or for any employee who dies after September 30, 1938, or whose sixty-fifth anniversary of birth occurs on or after October 2, 1938.

This Treasury Decision is prescribed under the authority contained in section 808 of the Social Security Act.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, September 21, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2800; Filed, September 23, 1938; 11:53 a. m.]

TITLE 35—PARKS AND FORESTS

NATIONAL PARK SERVICE

MORRISTOWN NATIONAL HISTORICAL PARK

LOCAL SUBSIDIARY REGULATION

The following subsidiary regulation, issued under the authority of the Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), has been recommended by the superintendent and approved by the Acting Director of the National Park Service, and is effective immediately on all roads within the boundaries of Morristown National Historical Park:

Speed.—Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 30 miles per hour on straight stretches, and to 15 miles per hour on curves.

Approved, September 13, 1938.

[SEAL] A. E. DEMARAY,
Acting Director, National Park Service.

[F. R. Doc. 38-2798; Filed, September 23, 1938; 10:04 a. m.]

[1] 2 F. R. 2242, 2548 (2605, 2967 DI).

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

AMENDMENTS TO REGULATIONS FOR NUMBERING AND RECORDING UNDOCUMENTED VESSELS

Pursuant to the authority contained in section 5 of the Act of June 7, 1918 (40 Stat. 602), as amended by section 210 of the Act of August 5, 1935 (49 Stat. 526), the regulations for numbering and recording undocumented vessels, appearing in Department of Commerce Circular No. 278, Fourth Edition, dated August 24, 1935, are hereby amended to read as follows:

(1) Application for number will be made by the owner or master to the collector of customs of the district in which the owner resides. The owner will then receive full instructions as to the number awarded, how it is to be placed on the vessel, etc.

(2) This law does not amend section 14 of the Act of March 4, 1915, requiring the marking of life boats.

(3) All undocumented vessels coming within the purview of the act, that are equipped with permanently fixed engines, must be numbered whether over or under sixteen feet in length.

(4) The exemption from section 1 of the act in favor of "vessels not exceeding sixteen feet in length measured from end to end over the deck excluding sheer, temporarily equipped with detachable motors," is held to apply to such boats as rowboats and canoes, designed and intended for the use of oars or paddles as the ordinary means of propulsion; sailboats and boats designed and used solely for the purpose of racing or operation incident to preparation for racing. Other boats which are designed for the use of detachable motors as the ordinary means of propulsion are held to be subject to the act even if under sixteen feet in length.

Approved, September 22, 1938.

[SEAL] SOUTH TRIMBLE, JR.,
Acting Secretary of Commerce.

[F. R. Doc. 38-2796; Filed, September 22, 1938; 4:25 p. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1938.

[File No. 55-4]

IN THE MATTER OF UTILITIES ELKHORN COAL COMPANY AND JAMES G. CULBERTSON

ORDER PURSUANT TO RULE U-11F-2

Utilities Elkhorn Coal Company, a subsidiary company of Utilities Power & Light Corporation, a registered holding company, having filed application pursuant to Rule U-11F-2, promulgated under Section 11(f) of the Public Utility Holding Company Act of 1935, concerning certain payments to be made to Central Service Corporation and to James G. Culbertson in connection with the reorganization of said Utilities Elkhorn Coal Company, now pending in the District Court of the United States for the Northern District of Illinois, Eastern Division; James G. Culbertson having filed a supplemental application pursuant to said rule; Associated Investing Corporation having filed a petition for leave to intervene herein; a public hearing having been held on said applications after appropriate notice;[1] the applicants and the petitioner having waived a trial examiner's report, submission of proposed findings of fact to the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission and oral argument before the Commission, prior to the entry of Commission's findings, opinion and order herein; and Commission having considered the record in these matters and having made and filed its findings and opinion herein:

It is ordered:

(1) That the petition for leave to intervene of said Associated Investing Corporation is hereby granted insofar as the present applications are concerned.

(2) That the maximum interim allowance of fees, expenses, and remuneration which applicant Utilities Elkhorn Coal Company shall pay to applicant James G. Culbertson for services as attorney to Utilities Elkhorn Coal Company from February 8, 1938 through and including May 31, 1938, shall be $2000, on account, together with remuneration for cash disbursements in the amount of $222.92; and that thereafter until further order of this Commission his interim fees, expenses and remuneration are exempted from Rule U-11F-2 provided that (a) any such interim allowances to said Culbertson for services as attorney to Utilities Elkhorn Coal Company are not to exceed $400 per month and (b) any such interim remuneration for cash disbursements is not to exceed $100 per month, such maximum remuneration for cash disbursements to be on a cumulative basis; and that the application of Utilities Elkhorn Coal Company with respect to payments to be made to Central Service Corporation is hereby dismissed for want of jurisdiction.

(3) That the exemption from U-11F-2 with respect to payments to be made to applicant Culbertson is subject to the following additional conditions:

(a) There shall be filed with the Commission by James G. Culbertson any application for fees, expenses, or remuneration filed with the court, or of any bill for or statement of services

[1] 3 F. R. 1509 DI.

which shall be submitted to the debtor, or if no such application or bill for, or statement of, services is filed or submitted, of a statement showing the services rendered by said Culbertson and the disbursements for which remuneration is claimed.

(b) The Commission retains jurisdiction at any time to terminate the exemption hereby granted with respect to James G. Culbertson, upon notice. If the exemption is terminated, he shall thereupon be subject to all the obligations and requirements of Rule U–11F–2 with respect to filing an application for and obtaining approval of the maximum amount of fees, expenses, and remuneration which may be allowed. Neither the interim allowances hereby approved as to the maximum amount thereof, nor the exemptions hereby granted, shall prejudice the right of James G. Culbertson to apply for, or the jurisdiction of the Commission over the maximum amount of any final claims for fees, expenses, or remuneration in connection with this reorganization.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2802; Filed, September 23, 1938; 12:35 p. m.]

SEP 28 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 188

Washington, Tuesday, September 27, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM SECURITY ADMINISTRATION

[FSA Instruction 601.2]

REDELEGATIONS OF AUTHORITY BY THE ADMINISTRATOR

I. *Authorizations to regional directors.*—In carrying out the provisions of Title I and the related provisions of Title IV of the Bankhead-Jones Farm Tenant Act within the United States, the authorities listed below are delegated (3–25–38) by the Administrator to regional directors, and other regional personnel as specified, to be exercised in accordance with the terms given herein. All such redelegations of authority, as are authorized herein, must be in writing, designating by name, title and address the delegatee and specifying the authority delegated. A copy of the delegation of authority shall be made available to the regional FC manager.

A. The following authority may not be redelegated by the regional directors:

1. *Wage rates.*—To prescribe wage rates to be paid for construction work by contract carried on with TP loan funds.

2. *Release of security.*—To authorize the sale of a part of the land for right-of-way for a road, building sites for public purposes, public utility easements or other purposes, provided that such sales are either necessary or desirable to make the farm a more satisfactory family-size unit, and to execute the instruments for such sales when such instruments are approved by the regional attorney and when the proceeds from the sales are used to protect the security of the Government.

3. *Utilization of resettlement lands.*—(1) To execute deeds in the sale of these lands to applicants for TP loans after these lands have been approved by the Administrator for such sales. (2) To determine the selling price of the resettlement lands in accordance with the established standards provided, however, that no land can be so utilized unless the county committee certifies with respect thereto as under regular procedure.

B. The following authority may be redelegated by regional directors to state RR directors:

1. *State committee meetings.*—To call meetings of state Farm Security Advisory committees within their states.

C. The following authorities may be redelegated by the regional directors to assistant regional directors in charge of RR (or assistant regional directors in charge of RP where there is no assistant regional director in charge of RR) and chiefs and assistant chiefs of regional TP sections:

1. *Approval of loans.*—To approve TP loans and supplementary TP loans by executing the necessary documents and by approving the vouchers.

2. *Approval of titles.*—To determine whether or not easements, leases and other outstanding reservations and exceptions to, and minor defects in, the title to lands to be acquired through TP loans will interfere with the purpose for which the land is to be acquired.

3. *Variable payments.*—To sign agreements with the borrowers for the method of making variable payments on their loans, and determining annually, thereafter, the amount of payment each borrower is to make.

D. The following authorities may be redelegated by the regional directors to assistant regional directors in charge of RR (or assistant regional directors in charge of RP where there is no assistant regional director in charge of RR) and chiefs of regional TP sections.

1. *Releases.*—To give the consent of the Government to releasing from the terms of the TP mortgage, timber and naval stores for commercial harvesting, stone, gravel, coal and other minerals for commercial disposal, and land for oil leasing, provided that: (1) The timber and naval stores are harvested in accordance with the approved farm management practices. (2) The quarrying

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 6—AGRICULTURAL CREDIT:	
Farm Security Administration:	
Redelegations of authority by the Administrator	2305
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Louisiana sugarcane, determination of prices for 1938 crop	2306
TITLE 11—AVIATION:	
Civil Aeronautics Authority:	
Civil Aeronautics Act, temporary and partial postponement of Section 404 (b)	2307
TITLE 19—CUSTOMS DUTIES:	
Bureau of Customs:	
Customs Regulations of 1937 amended respecting accounting, regauging of wine, foreign investigations, etc	2307
TITLE 20—FISH AND GAME:	
Bureau of Biological Survey:	
Upper Mississippi River Wild Life and Fish Refuge, hunting permitted	2309
TITLE 29—LABOR:	
Wage and Hour Division:	
Industry Committees, rules and regulations applicable to	2312
Industry Committee No. 1 (textile industry), appointment of	2313
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:	
War Department:	
Kalamazoo River beween Douglas and Saugatuck, Mich., revocation of bridge regulations	2314

NOTICES

Department of Agriculture:	
Bureau of Animal Industry:	
Owens & Son, C. V., Auction Sales Commission Co., notice	2314

(Continued on next page)

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CONTENTS—Continued

	Page
Department of Agriculture—Con.	
Office of the Secretary:	
Standing Stone Experimental Forest, Pa., administration, etc	2314
Department of Labor:	
Wage and Hour Division:	
Textile Industry Committee, convening of	2315
Federal Trade Commission:	
Orders appointing examiners, etc., in the matter of:	
American Optical Co., et al	2315
B & T Floor Co	2317
Cherry, Albert T., trading as A. T. Cherry Co., and Atco Soap Co	2316
Eucozone Laboratories, Inc	2316
Fairbanks Tailoring Co	2317
Knapp, Charles E., trading as Modern American Co., et al	2317
Manning, Paul B., trading as International University of Commerce	2318
Mitchell, Stafford T., etc., trading as Arvil Co	2316
Perma Maid Co., Inc	2316
Plate, Robert Theodore, trading as Plate Manufacturing Co	2317
Sherman, Jacob, trading as Chicago Mattress Co	2316
Securities and Exchange Commission:	
Byllesby, H. M., and Co., orders postponing hearings	2318
Milwaukee Electric Railway and Light Co., and North American Edison Co., hearing	2318
West Park Apartments Corp., stop order	2319

of stone, removing of gravel, mining of coal and other minerals, and the leasing of land for oil does not interfere with the agricultural use and value of the farm or, if the agricultural use or value is impaired, compensating payments will be made to the Government for such losses. (3) The proceeds of sales from any of these transactions are divided equitably between the Government and the borrower, such payment being in addition to the annual amortization payment due on the farm.

2. *Contracts and plans.*—To approve plans and construction contracts for major repairs and new construction.

E. The following authorities may be redelegated by the regional directors to assistant regional directors in charge of RR (or assistant regional directors in charge of RP where there is no assistant regional director in charge of RR), state directors, chiefs and assistant chiefs of regional TP sections, and county RR supervisors:

1. *Physical examination.*—To make all necessary arrangements with physicians to give health examinations to tentatively approved TP applicants.

2. *Construction performed with TP loan funds.*—(1) To specify the methods by which construction work is to be done where the borrower does the work. (2) To authorize payments when the work is completed on a contract basis, provided that the final inspection report indicates that the work is satisfactory.

F. The following authority may be redelegated by the regional directors to any designee:

1. *Approval of depositories:* To approve the bank or other depository (which must be insured under the Federal Deposit Insurance Corporation) in which the proceeds of TP loans shall be deposited by the borrower.

G. The following authority shall be delegated to county RR supervisors by the regional directors:

1. *Countersignatures.* — To countersign all withdrawals of TP loan proceeds from the bank or other depository by the borrower and to perform all of the functions ascribed to countersigning officers.

II. *Authorization to regional directors, State RR directors, State TP specialists, and district or county RR supervisors:*

A. *County committee meetings.*—To call meetings of county committees for the purpose of considering applications for TP loans and performing related work.

III. *Authorization to regional directors and regional office managers, the business manager or assistant business manager:*

A. *Letters of authorization.*—To issue a Letter of Authorization to each county RR supervisor authorizing him to direct travel of county committeemen within and outside of the county for the purpose of attending meetings called by the persons mentioned in par. II.

IV. *Authorizations to directors of extension service in Puerto Rico and the Territory of Hawaii:*

A. The Secretary of Agriculture has authorized the Administrator of the FSA to delegate to the Director of Extension Service for the Territory of Hawaii and to the Director of Extension Service for Puerto Rico, such powers (to be exercised within the territories) as have been previously, or may hereafter be, delegated to regional directors of the FSA and which may be necessary for the following purposes:

1. To make, service, collect, and liquidate loans pursuant to Title I of the Bankhead-Jones Farm Tenant Act.

2. To make, service, collect and liquidate rural rehabilitation loans to those individuals who receive loans pursuant to Title I of the Bankhead-Jones Farm Tenant Act, provided, however, that no such delegation shall include any authority to make loans to individuals to enable them to engage in joint enterprises or cooperative activities.

3. In cases where the regional director has power to redelegate his functions to his subordinates, the Director of Extension Service may redelegate those powers to the TP specialist in charge of the TP program, within such limitations as are prescribed for regional directors.

4. In carrying out the powers which may be vested in him, the Director of Extension Service shall be subject to the general administrative supervision of the Administrator.

B. All such redelegations shall be in writing, addressed to the TP specialist and shall be signed in duplicate. The original of each such redelegation of authority shall be delivered to the TP specialist, and the signed copy shall be forwarded to the Administrator, Farm Security Administration, Washington, D. C., Refer to: Finance and Control Division.

[SEAL] C. B. BALDWIN,
Acting Administrator.

SEPTEMBER 26, 1938.

[F. R. Doc. 38-2819; Filed, September 26, 1938; 12:44 p. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1938 CROP OF LOUISIANA SUGARCANE

Whereas, Section 301 (d) of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

"(d) That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing"

and

Whereas, the Secretary of Agriculture, on May 17, 1938, held a public hearing[1] in Baton Rouge, Louisiana, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1938 crop of Louisiana sugarcane.

Now, therefore, I, M. L. Wilson, Acting Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine fair and reasonable prices for the 1938 crop of Louisiana sugarcane to be paid by processors who, as producers, apply for payments under the said act, as follows:

Not less than $1.00 per ton of standard sugarcane for each 1 cent of the price of 1 pound of 96° raw sugar, duty paid basis, based on the simple average of the weekly quotations of 96° raw sugar, duty paid basis, on the Louisiana Sugar and Rice Exchange and the Cane Products Trade Association exchange (or upon such quotations as the Secretary may elect to use for the purpose) for the weeks from October 13, 1938, to February 23, 1939, when the price of 96° raw sugar, duty paid basis, is 3.50 cents per pound:

Provided, however,

(1) That for each decline of ¼ cent in the prices of 1 pound of 96° raw sugar, duty paid basis, determined as above, below 3.50 cents per pound, the price for Louisiana standard sugarcane shall be reduced by not more than 3 per centum, with intervening prices in proportion, unless the price of sugar falls below 2.75 cents, in which case no further reduction shall be made; and

(2) That for an advance of ¼ cent in the price per pound of 96° raw sugar, duty paid basis, determined as above, over 3.50 cents, the price of Louisiana standard sugarcane shall be increased by not less than 3 per centum, with intervening prices in proportion, unless the price of raw sugar exceeds 3.75 cents per pound, in which case settlement shall be made on the basis of $1.03 for each 1 cent of such prices; and

(3) That, if the processor and producer mutually so agree, final settlement for sugarcane may be made within the season, as outlined in this determination, by substituting for the season average price of 96° raw sugar, duty paid basis, the simple average of the weekly quotations of 96° raw sugar, duty paid basis, on the Louisiana Sugar and Rice Exchange and the Cane Products Trade Association exchange for the week in which such sugarcane is delivered:

And provided, further,

(1) That standard sugarcane for the purpose of this determination shall be defined to be sugarcane containing no more sucrose in the normal juice than was defined as par sugarcane by the processor in his sugarcane purchase contract, or contracts, verbal or written, used in the year 1937; and

(2) That the premiums paid for sugarcane containing more sucrose in the normal juice than that defined as par sugarcane in the contract, or contracts, under the terms of which the processor purchased sugarcane in the 1937 crop shall not be less than those paid by such processor during the 1937 crop, but in no case shall the premium be less than 1 per centum for each full 1/10 per centum by which the per centum sucrose in the normal juice of such sugarcane exceeds 12½ per centum; and

(3) That the discounts applicable to sugarcane containing less sucrose in the normal juice than that defined as par sugarcane in the purchase contract, or contracts, used in 1937 shall be identical with those applied in connection with the 1937 crop; and

(4) That deductions based upon decreased boiling house efficiency may be made for frozen sugarcane accepted by the processor (it being understood that cane shall not be considered as frozen even after being subjected to freezing temperature unless and until there is evidence of damage having taken place because of the freeze) at a rate not in excess of 3.775 per centum of the payment computed as aforesaid for each .25 cc. of acidity above 2.25 cc. but not in excess of 4.50 cc. (analyzed in accordance with the established methods of the area with intervening fractions computed to the nearest multiple of .05 cc.); and

(5) That the processor shall not, through modification of any provisions of the cane purchase contract or through any subterfuge or device whatsoever, reduce the returns from the 1937 crop of Louisiana sugarcane to the grower below those determined above.

Done at Washington, D. C. this 23rd day of September 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary.

[F. R. Doc. 38-2815; Filed, September 23, 1938; 4:07 p. m.]

TITLE 11—AVIATION

CIVIL AERONAUTICS AUTHORITY

[Amendment No. 1 of General Order 404-B-1]

TEMPORARY AND PARTIAL POSTPONEMENT OF SECTION 404 (B) OF CIVIL AERONAUTICS ACT

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 16th day of September 1938.

The Civil Aeronautics Authority, exercising the powers and duties vested in it by section 1110 (and by sub-section (a) of section 205) of the Civil Aeronautics Act of 1938, and finding that its action is consistent with the provisions of said Act and necessary and desirable in the public interest, hereby amends General Order 404-B-1[2] so that hereafter such order shall read as follows:

GENERAL ORDER 404-B-1.— (AS AMENDED SEPTEMBER 16, 1938) TEMPORARY AND PARTIAL POSTPONEMENT OF SECTION 404 (B)

The effective date of sub-section (b) of section 404 of the Civil Aeronautics Act of 1938 is hereby postponed to the extent that the provisions of said subsection shall not become effective on or before October 17, 1938, insofar, but only insofar, as the provisions of said subsection might otherwise be applicable to the issuance by air carriers of air travel cards (sometimes called "scrip") entitling the holders thereof to procure passenger and excess baggage air transportation at a discount of not exceeding fifteen (15) per cent from the one-way passenger fares and excess baggage rates regularly charged to persons not holding such air travel cards; and as to any such air carrier which is engaged exclusively in overseas or foreign air transportation, or both, the effective date of said subsection (b) of section 404 of the Act is hereby further postponed to the extent that the provisions of said sub-section shall not become effective on or before November 1, 1938, insofar, but only insofar, as the provisions of said sub-section might otherwise be applicable to the issuance by such air carrier of such air travel cards.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2817; Filed, September 24, 1938; 9:53 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49707]

VARIOUS ARTICLES OF THE CUSTOMS REGULATIONS OF 1937 RESPECTING ACCOUNTING, REGAUGING OF WINE, FOREIGN INVESTIGATIONS, PERSONNEL, ETC., AMENDED

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C., title 5, sec. 22), section 251 of the Revised Statutes and sections 502 (a), 556, and 624 of the Tariff Act of 1930 (U. S. C., title 19, secs. 66, 1502 (a), 1556, and 1624), and section 304 of the Tariff Act of 1930 (U. S. C., title 19, sec.

[1] 3 F. R. 406 DI.

[2] 3 F. R. 2143 DI.

1304), as amended by section 3 of the Customs Administrative Act of 1938 (Pub. No. 721—75th Congress), the Customs Regulations of 1937[1] are hereby amended as follows:

The last sentence of article 128 (c) is amended to read as follows:

The entries shall be numbered in a separate series prefixed by "V" and scheduled separately on customs Form 5151–A.

The second sentence of the "Note" to article 356 is amended to read as follows:

The Joint Regulations also appear in section 2230 of the Postal Laws and Regulations of 1932.

Article 423 (1), as redesignated by T. D. 49658, is amended to read as follows:

(1) When duties are collected on articles in passengers' baggage, the coupon receipt attached to customs Form 6059, 6063, or 6067 shall be given to the passenger.

Article 528 (b), as amended by T. D. 49658,[2] is further amended by deleting "Standard abbreviations of the names of countries approved by the United States Board on Geographical Names are acceptable."

Article 621 (c) is amended by substituting "49676" for "48601" in the third line.

Article 790 (j) is amended by deleting the third sentence thereof.

Article 823 (e), as redesignated by T. D. 49658, is amended by inserting the following new sentence before the last sentence:

Where request for regauge of imported wine of not over 24 per centum of alcohol by volume is made in accordance with the foregoing sentence, an affidavit from the person making the entry or withdrawal as to the actual number of wine gallons and fractional parts thereof entered or withdrawn for consumption may be accepted in lieu of actual regauge, provided the affidavit is filed within five days after the date of entry or withdrawal and an abnormal outage is not disclosed.

The third sentence of article 865 (b) is amended to read as follows:

In the case of so-called "duress" entries, when the initial advance cited by the importer was made at his port, the appraiser shall note on the advance report (customs Form 6445) that the importer's citation is correct, or, if not, state the correct one.

Article 1169 is amended by adding the following new paragraph:

(e) Customs Form 5101, with separate coupons for use as indicated on each coupon, will be filed with each entry of the following types: consumption, warehouse, rewarehouse, combined rewarehouse and withdrawal for consumption, temporary free importation, appraisement, equipment and repairs to vessels, and permanent exhibition.

Article 1171 is amended to read as follows:

ART. 1171. *Dutiable entries.*—Estimated duties collected on dutiable consumption entries will be recorded on customs Form 5151–A. The record of liquidation will be posted on such form opposite the entry number to which the data belong.

Article 1173 is amended by inserting a period after "5151–F" in the second line thereof and by deleting "at comptroller ports and 5151–D at subcomptroller ports."

Article 1174 (a) is amended by deleting the last sentence thereof.

Article 1175 (b) is amended by deleting the comma after "5151–A" and "5151–B, 5151–D," in the fifth line and by substituting "5151–F" for "5151–E" in the sixth line.

Article 1184 (g) is amended to read as follows:

(g) Moneys, representing sums paid into court by way of compromise or in satisfaction of principal and costs in customs cases, shall, upon their receipt from clerks of courts, be deposited by collectors of customs as customs duties, fines and penalties, forfeitures, or other customs funds, as the case may be. The deposits shall be made to the credit of the Treasurer of the United States with personal credit to the collector of customs concerned. Such moneys shall be entered on the regular customs account current as collections and deposits. When the money is in satisfaction of a judgment, the amounts representing principal and costs shall be separately itemized in the detailed collection record.

Article 1184 is further amended by deleting paragraphs (h) and (i) and by redesignating paragraphs (j), (k), (l), (m), (n), (o), (p), (q), and (r) as paragraphs (h), (i), (j), (k), (l), (m), (n), (o), and (p).

Article 1235 (b) is amended by adding ", as amended" after "48105" in the fourth line and by inserting in the margin a reference to "T. D. 49687."

Article 1268 (a) is amended by deleting the comma after "5101" in line 4, by deleting "at comptrollers' ports, or on customs Form 3513 at other ports," in the fourth and fifth lines, and by deleting T. D. 40107 from the marginal reference.

Article 1342 is amended to read as follows:

ART. 1342. *Samples.*—Discharging inspectors will send all packages of bona fide commercial samples of little or no commercial value to the appraiser's stores as soon as practicable, except that unpermitted packages addressed to other ports will be held on the dock until the expiration of the general-order period and then sent to the appraiser's stores. Cargo samples shall be sent to the appraiser's stores as soon as possible after the order for examination is received by the examiner or sampler.

Article 1400 (a) is amended to read as follows:

(a) Customs officers desiring investigations in foreign countries shall submit requests therefor to the Customs Information Exchange, 201 Varick Street, New York, N. Y. If the desired information is available in New York, the Customs Information Exchange shall promptly forward such information to the officer submitting the request. If the information is not available, the Customs Information Exchange will formulate an appropriate request for investigation.

Article 1400 (b) is amended by inserting "west of the 85th meridian" after "Canada" in the first line.

Article 1400 (c) is amended to read as follows:

(c) Investigations in Canada west of the 85th meridian, Cuba, and the British West Indies shall be conducted by the supervising customs agent in charge of the district nearest the territory in which the investigation is to be made.

New paragraphs designated (d), (e), (f), and (g) are added to article 1400 reading as follows:

(d) Investigations in Canada east of the 85th meridian, shall be conducted under the direction of the Treasury attache at Montreal, Quebec, Canada. That Treasury attache may in his discretion refer such investigations to investigative officers in the United States for handling.

(e) Investigations in Mexico shall be conducted under the direction of the supervising customs agent of the Tenth Customs Agency District. That supervising agent may in his discretion refer such investigations to investigative officers in other districts in the United States for handling.

(f) The investigative officer will forward to the Customs Information Exchange the original and three signed copies of each report made by him, and one of such copies will be forwarded by the Customs Information Exchange to the requesting officer. One signed copy will be forwarded direc'ly by the investigative officer to the Commissioner of Customs (Investigative Unit). Documentary exhibits (originals) will accompany the original report to the Customs Information Exchange, and copies thereof will be attached to the copy of the report sent to the requesting officer. All samples will be forwarded to the Customs Information Exchange. When only one set of samples is available, such samples will be sent by the Customs Information Exchange to the requesting officer. If a second set is secured, it will be retained by the Customs Information Exchange.

(g) Requesting officers will advise the Customs Information Exchange as to the sufficiency of each foreign report, and the basis of the appraisement of the merchandise under the provisions of section 402 of the Tariff Act of 1930, if the report relates to the dutiable value of the merchandise. One copy of such advice will be forwarded to the investigative officer by the Customs Information Exchange.

Article 1402 is deleted.

A new article, designated at 1456½ and reading as follows, is added:

ART. 1456½. *Outside employment.*—No employee of the customs service shall accept any outside employment without first obtaining the approval of the Secretary of the Treasury. Requests for such approval shall be submitted by employees to their superior officers and transmitted through official channels with specific recommendation as to the action to be taken.

A new article, designated 1460½ and reading as follows, is added:

ART. 1460½. *Interest in tobacco or liquor production.*—(a) United States Code, title 26, section 1828 (b):

(b) Any internal revenue officer or internal revenue agent interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and every officer or agent so interested in any such manufacture or production, rectification, or redistillation, or in the production of fermented liquors, shall be fined not less than $500 nor more than $5,000. The provisions of this paragraph shall apply to internal revenue agents as fully as to internal revenue officers.

(b) *Applicability of provisions of paragraph (a) to customs personnel.*—United States Code, title 19, section 64:

All Acts and parts of Acts imposing fines, penalties, or other punishment for offenses committed by an internal revenue officer or other officer of the Department of the Treasury of the United States, or under any bureau thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any customs law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or deputies, or persons having the custody or disposition of any public money.

The memorandum of entry, customs Form 3357, and the application to make entry prior to production of missing documents, customs Form 3513, are hereby abolished. The appropriate coupon parts of customs Form 5101 will be used in lieu of these abolished forms.

The record of dutiable consumption entries, liquidations, and payments, and of refunds on consumption entries now used at noncomptroller ports, customs Form 5151–B, and the record of free entries now used at noncomptroller ports, customs Form 5151–D, are hereby abolished. Customs Forms 5151–A and 5151–F will be used in lieu of these abolished forms.

The next reprint of the form for declaration and entry of personal, household, immigrant, and theatrical effects, books, tools of trade, effects of professional lecturers, etc., customs Form 6059, will have a coupon receipt attached similar to the receipt attached to customs Forms 6063 and 6067. Customs Form 5103 is hereby abolished, but the present stock of customs Form 5103 will be used until the revised customs Form 6059 is available.

A new customs record form will be provided on which a record will be maintained at each headquarters port for all formal entries in each series of numbers, showing when each entry filed at another port is received at the headquarters port for liquidation, when each entry filed in the district is forwarded to the comptroller for verification of the tentative liquidation, when each verified entry is received from the comptroller, and when each entry filed at another port is returned thereto after liquidation. Customs Forms 5151–E and 5151–G, now used in connection with customs Forms 5151–A and 5151–F, respectively, are hereby abolished, but the present stock of customs Forms 5151–E and 5151–G may be used as heretofore until the new record form is available.

In order that adequate time may be available for revising and reprinting certain accounting forms involved in the above amendments of articles 128 (c), 423 (1), 1169, 1171, 1173, 1174 (a), 1175 (b), and 1268 (a), such amendments shall not be effective until January 1, 1939.

[SEAL] H. A. BENNER,
Acting Commissioner of Customs.

Approved, September 21, 1938.

STEPHEN B. GIBBONS
Acting Secretary of the Treasury.

[F. R. Doc. 38–2821; Filed, September 26, 1938; 12:47 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING HUNTING ON THE UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

Pursuant to Section (a) of regulation 1–A of the Regulations for the administration of the Upper Mississippi River Wild Life and Fish Refuge, public hunting of waterfowl (except Ross's Goose, wood duck, and swans) and of coot and Wilson's snipe or jacksnipe is hereby permitted within said Refuge during the period of October 1 to November 14, 1938, both dates inclusive, in the States of Minnesota and Wisconsin, and October 15 to November 28, 1938, both dates inclusive, in the States of Illinois and Iowa, except on the areas specifically scheduled below, but only in conformity with the Migratory Bird Treaty Act regulations,[1] the Migratory Bird Hunting Stamp Act,[2] the regulations governing said Refuge, and laws of the respective States not inconsistent therewith.

WISCONSIN

Buffalo County

Area Number 1.—All of the lands and waters lying and being in Sections 6, 7, 16, 17, 18, 19, 20, 21, T. 22 N., R. 13 W., 4th P. M., Sections 1, 2, 3, 4, 10, 11, 12, 13, T. 22 N., R. 14 W., 4th P. M., and Sections 33, 34, 35, 36, T. 23 N., R. 14 W., 4th P. M., which are enclosed by the following definite boundaries: Beginning at the point of intersection of the Old Wabasha-Nelson Ferry Road with the tracks of the Chicago, Burlington & Quincy Railroad in the NW¼ Section 6, T. 22 N., R. 13 W.; thence southwesterly along the said ferry road to the slough known as Beef Slough in the NW¼ Section 12, T. 22 N., R. 14 W.; thence southeasterly along the main channel of the said Beef Slough to the Mississippi River in Section 21, T. 22 N., R. 13 W.; thence northwesterly along the Mississippi River to the Chippewa River; thence northerly along the Chippewa River to the C. B. & Q. Railway tracks in the SE¼ Section 33, T. 23 N., R. 14 W.; thence southeasterly along the said railroad tracks to the point of beginning; excepting therefrom the following described lands: S½NE¼, W½SE¼ Section 1; SW¼NW¼, N½SW¼ Section 2, T. 22 N., R. 14 W., 4th P. M., NW¼SW¼ Section 34, T. 23 N., R. 14 W.

MINNESOTA

Wabasha County

Area Number 2.—All of the lands and waters lying and being in Sections 20, 21, 22, 27, 28, 29, 32, 33 and 34 in T. 109 N., R. 9 W., 5th P. M., which are enclosed by the following definite boundaries: Beginning at the point where the north line of Section 21, T. 109 N., R. 9 W., intersects the Mississippi River; thence west approximately 97 chains to the center line of Section 20, T. 109 N., R. 9 W., thence south 110 chains; thence east 10 chains; thence south 20 chains; thence east 20 chains; thence south approximately 30 chains to the south line of Section 29; thence south approximately 887 feet to the 660 foot contour line as established by War Department survey in March, 1932, thence southeasterly along the said contour line to the Whitewater River where it forms

[1] 2 F. R. 1440–1560, 1562–1630, 1643–1760 (1729–1846, 1849–1919, 1935–2054 DI).
[2] 3 F. R. 1808 DI.

[1] 2 F. R. 1355 (1615 DI).
[2] 48 Stat. 451.

the southern boundary of Lot 3, Section 34, thence along the said Whitewater River to the Mississippi River, thence northerly and northwesterly along the west bank of the said Mississippi River to the place of beginning.

WISCONSIN

Buffalo County

Area Number 3.—All of the lands and waters lying and being in T. 20 N., R. 12 W., 4th P. M., described as follows: Lots 9, 10, 11 and 12 in Section 7; Lots 5, 6, 7, 8, 10, 11, 12, 13, and E½SW¼ Section 18; Lots 2, 3, 4, and 5 Section 19; Lots 8, 9 and 10 Section 20; and Lot 2 Section 29, and all of the lands and waters lying and being in T. 20 N., R. 13 W., 4th P. M., described as follows: Lots 12, 13 and 14 Section 1; all fractional Sections 12, 13 and 24, the said lands and waters comprise the island known as Lost Island.

WISCONSIN

La Crosse County

Area Number 4.—All of the lands and waters lying and being in Section 12, T. 17 N., R. 9 W., 4th P. M., and Sections 7, 8, 9, 16, 17 and 18 in T. 17 N. R. 8 W., 4th P. M., which are enclosed by the following definite boundaries: Beginning at the point where the east line of Section 8 intersects the southern boundary of the Chicago, Burlington and Quincy Railroad right of way; thence northwesterly along the said right of way approximately 14 chains to the south line of the NE¼NE¼ Section 8; thence west through Sections 8 and 7, and fractional Section 12 to the Mississippi River; thence southeasterly along the east bank of the said Mississippi River to the south line of the NE¼SE¼ Section 18, thence east through Sections 18, 17, and 16 to Broken Gun Slough, thence northerly along the west bank of Broken Gun Slough to Black River, thence northwesterly and northeasterly along the said Black River to the southern boundary of the Chicago, Burlington and Quincy Railroad right of way, thence northwesterly along the said right of way to the east line of the NW¼SW¼ of Section 9, thence south along the said east line to the southeast corner of the said tract, thence west along the south line of the said tract to the east line of Section 8, thence north along the said east line of Section 8 to the place of beginning.

MINNESOTA

Houston County

Area Number 5.—All of the lands and waters lying and being in Sections 13, 14, 23, 24, 25 and 26 in T. 104 N., R. 4 W., 5th P. M., and fractional Section 30, T. 104 N., R. 3 W., 5th P. M., which are enclosed by the following definite boundaries: Beginning at the point where the north line of Section 13, T. 104 N., R. 4 W., intersects West Channel, thence west along the said line to the northeast corner of Section 14, T. 104 N., R. 4 W., thence west along the north line of the said Section 14 to the northwest corner of the NE¼NE¼, Section 14, thence south approximately 325 feet; thence west approximately 20 chains to the center line of the said Section 14; thence north along the said center line to the north line of the said Section 14; thence west along the said north line to the northwest corner of the said Section 14; thence south along the west line of said Section 14 to the southwest corner of the NW¼SW¼ of said Section 14; thence east along the south line of said NW¼SW¼ to the southeast corner thereof; thence south through Sections 14, 25 and 26 to the southwest corner of the NE¼NW¼ Section 26, T. 104 N., R. 4 W., thence east through the said Section 26 and Section 25 to Broken Arrow Slough, thence southeasterly along the eastern bank of the said Slough to the Mississippi River; thence northwesterly and northerly along the west bank of the said Mississippi River to West Channel; thence northerly along the west bank of West Channel to the place of beginning; excepting the tract of land in the SE¼SE¼ of Section 14, T. 104 N., R. 4 W., described as follows: Beginning at the southeast corner of Section 14, thence north along the east line of the said Section 14 approximately 100 feet; thence west approximately 20 chains to the west line of the E½SE¼ Section 14; thence south to the south line of the said Section 14; thence east along the said south line to the place of beginning.

WISCONSIN

Vernon County

Area Number 6.—All of the lands and waters lying and being in Sections 5, 6, 7, 8, 17, 18, 19 and 20, T. 14 N., R. 7 W., 4th P. M., which are enclosed by the following definite boundaries: Beginning at the northwest corner of Section 5; thence south along the west line of said Section 5 to the southwest corner of the NW¼NW¼, Section 5; thence west to the Mississippi River; thence southerly along the east bank of the said Mississippi River to Crosby Slough; thence southerly along the east bank of said Slough to the south line of the N½NE¼ Section 7; thence west to the Mississippi River; thence southerly along the east bank of the said Mississippi River where it forms the west boundaries of Sections 7, 18 and 19, to the south line of the N½SW¼ Section 19; thence east to the southwest corner of the NE¼SE¼ Section 19; thence north along the west line of the said tract to the northwest corner thereof; thence east to the northeast corner of the said tract; thence south to the southwest corner of Section 20; thence east along the south line of said Section 20 to Crosby Slough; thence in a general northerly and northwesterly course along the west bank of the said Slough to the south line of Lot 6, Section 7; thence east to the southeast corner of the NW¼SW¼, Section 8; thence north approximately 60 chains to the north line of Section 8 at a point 20 chains east from the northwest corner of the said Section 8; thence east 20 chains; thence north 20 chains; thence east 20 chains; thence north 20 chains; thence west 20 chains; thence north 20 chains; thence east approximately 25 chains to Running Slough; thence northwesterly along the west bank of the said slough to the north line of Section 5; thence west along the north line of the said Section 5 to the place of beginning; excepting a tract of 19.70 acres in the NE¼, Section 20, described as follows: Beginning at the northwest corner of the NE¼NE¼, Section 20; thence south 1716 feet; thence east to Crosby Slough; thence northeasterly along said Slough approximately 500 feet; thence north 1250 feet to the north line of Section 20, thence west 507.54 feet to the place of beginning.

MINNESOTA

Houston County

IOWA

Allamakee County

Area Number 7.—All of the lands and waters lying and being in Sections 25, 26 and 36, T. 101 N., R. 4 W., 5th P. M., Sections 29, 30, 31 and 32, T. 101 N., R. 3 W., 5th P. M., Sections 7, 8, 17, 18 and 19, T. 100 N., R. 3 W., 5th P. M., and fractional Section 24, T. 100 N., R. 4 W., 5th P. M., which are enclosed by the following definite boundaries: Beginning at the point where the north line of Section 30, T. 101 N., R. 3 W., intersects the Mississippi River, thence west along the north line of said Section 30 to Mud Lake in the NW¼, Section 30, thence northerly, westerly and southwesterly along the meander line of said lake to the said north line of Section 30; thence west through the northwest corner of Section 30 and west along the north line of Section 25, T. 101 N., R. 4 W., through the northwest corner of said Section 25 and west from the said corner approximately 16 chains along the north line of Section 26 to where said line intersects a bay bearing north from Minnesota Slough; thence southward along the east bank of said bay where it forms the west boundary of Lots 2, 3 and 4 of said Section 26 to Minnesota Slough; thence southeasterly along the east bank of said Minnesota Slough where it forms the boundary of Lot 3, Section 25, Lots 1, 2, 3 and 7, Section 36, T. 101 N., R. 4 W.; and Lot 2, Section 31, T. 101 N., R. 3 W.; thence southward and southeasterly along the east bank of said Minnesota Slough through Section 7 and the northerly part of Section 18, T. 100 N., R. 3 W., to the south line of Lot 2, Section 18; thence east along the south line of said Lot 2 to the southeast corner thereof; thence south to and across Ferry Slough; thence southwesterly along the south bank of the said Ferry Slough to the Old Iowa River; thence southerly and southwesterly along the east bank of said Old Iowa River where it forms the boundary of Lots 8 and 11, Section 18, NE¼ NW¼ and Lot 4, Section 19, Lot 1, Section 24, T. 100 N., R. 4. W.; Lots 11, 10, 9 and 8, Section 19, T. 100 N., R. 3 W., to the Mississippi River; thence northerly to Lost Channel; thence northerly along the west bank of Lost Channel where it forms the boundary of Lots 7 and 1, Section 19, and Lots 13, 12, 7 and 6, Section 18 to and across Ferry Slough to the east line of Section 7; thence southeasterly and northeasterly along the southern boundary of Lot 5, Section 8 to and across Lost Channel; thence southeasterly along the northern bank of Ferry Slough to the Mississippi River; thence northerly along the west bank of the said Mississippi River where it forms the eastern boundary of Lots 6 and 1, Section 17 and Section 8, T. 100 N., R. 3 W., and Lots 6, 5 and 4, Section 32, T. 101 N., R. 3 W. to the north line of Lost Channel; thence northerly and north line of said Lot 4 to and across Lost Channel; thence northerly and northwesterly to the Mississippi River; thence northwesterly along the west bank of the said Mississippi River to the place of beginning.

WISCONSIN

Crawford County

Area Number 8.—All of the lands and waters lying and being in Section 35, T. 11 N., R. 7 W., 4th P. M., and Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15 and 24, T. 10 N., R. 7 W., 4th P. M., which are enclosed by the following definite boundaries: Beginning at the point where the southern boundary of the Iowa-Wisconsin Bridge Company right of way intersects the Mississippi River in the SW¼, Section 4; thence southeasterly along the east bank of the said Mississippi River where it forms the southwestern boundary of Sections 4, 9, 15, 14, 13 and 24 to the Range line between Ranges 6 W. and 7 W.; thence north along said Range line to the southern boundary of the Chicago, Burlington and Quincy Railroad right of way; thence northwesterly along said right of way to the north line of Lot 2, Section 1; thence west along the north line of Lots 2 and 1, Section 1 to the west line of said Section 1; thence north along the said west line to the southern boundary of the Chicago, Burlington and Quincy Railroad right of way; thence northwesterly along said right of way to the north line of Section 2; thence west along said line to and across Winneshiek Slough; thence northerly along the west bank of said Slough to the north line of Lot 8, Section 35, T. 11 N., R. 7 W.; thence west along said line to the southern boundary of the Iowa-Wisconsin Bridge Company right of way; thence southwesterly along said right of way to the west line of Section 35; thence south along said line to the southwest corner of said Section 35; thence west along the south line of Section 34 to the southern boundary of the Iowa-Wisconsin Bridge Company right of way; thence southwesterly along said right of way to the place of beginning.

IOWA

Allamakee County

Area Number 9.—All of the lands and waters lying and being in Sections 21, 28, 32, 33 and 34, T. 98 N., R. 2 W., 5th P. M., and Sections 3, 4, 5, 7, 8, 9, 17 and 18, T. 97 N., R. 2 W., 5th P. M., which are enclosed by the following definite boundaries: Beginning at the point where Harpers Slough intersects the Mississippi River in the SW¼, Section 21, T. 98 N., R. 2 W.; thence southerly along the east bank of said Slough where it forms the western boundary of Lots 1 and 2, Section 21; Lots 5, 4, 3 and 2, Section 28; Lots 4, 6 and 7, Section 33; and that portion of Section 32 lying east of said Harpers Slough, T. 93 N., R. 2 W.; thense south across Harpers Slough to the north line of Section 4, T. 97 N., R. 2 W.; thence west to the northwest corner of Section 4; thence north approximately 248.26 feet; thence west 40 chains; thence south to the north line of Section 5; thence west along said line approximately 475 feet; thence south to the north line of Lot 3, Section 5; thence west along said line to the eastern boundary of the Chicago, Milwaukee, St. Paul and Pacific Railroad right of way; thence southwesterly along said right of way to the west line of said Section 5; thence southeasterly across Harpers Slough to the western boundary of Lot 5, Section 5; thence southerly and southwesterly along the east bank of Harpers Slough where it forms the boundary of Lot 5, Section 5, Lot 11, Section 8, Lots 2 and 1, Section 7, and Lot 1, Section 18 to the northern side of U. S. Dam No. 9; thence southeasterly along said Dam to the Mississippi River; thence northeasterly along said Mississippi River to St. Paul Slough; thence northerly along the west bank of said slough to an iron pipe at the water's edge 250 feet south from the north line of Lot 3, Section 17; thence west 412.5 feet; thence north 4° 20' east, 1,485 feet; thence east 412.5 feet to St. Paul Slough; thence easterly across said Slough to the southern end of Lot 1, Section 17; thence northeasterly along the eastern boundaries of Lot 1, Section 17, Lot 4, Section 8, Lot 5; Section 9 to the east line of said Lot 5, thence north along the east line of Lot 5, Section 9 to and across the slough which forms the northern boundary of said Lot 5; thence northeasterly along the western bank of said slough where it forms the boundary of Lot 6, Section 9, and Lot 4, Section 3, to the Mississippi River; thence northeasterly and northerly along the west bank of the said Mississippi River to the north line of Lot 4, Section 34, T. 98 N., R. 2 W., thence west along said line to the northwest corner of said Lot 4; thence north along the west line of Lot 3, Section 34 to Pan Handle Slough; thence across the said Pan Handle Slough to the east tip of Lot 1, Section 34; thence northeasterly to the Crooked Slough; thence in a general northwesterly direction along the west bank of said Crooked Slough to the Mississippi River; thence northwesterly along the west bank of the said Mississippi River to the place of beginning.

WISCONSIN

Crawford County

Area Number 10.—All of the lands and waters lying and being in Sections 14 and 25, T. 7 N., R. 7 W., 4th P. M., which are enclosed by the following definite boundaries: Beginning at the northernmost point in Lot 6, Section 14; thence southerly along the Mississippi River where it forms the western boundary of Section 14 and Lots 8, 9, 10, 5 and 4, Section 25 and to the south line of said Section 25; thence east along said line to Sunfish Slough; thence northerly and northwesterly along the west bank of the said Sunfish Slough to the place of beginning.

WISCONSIN

Crawford County

Area Number 11.—All of the lands and waters lying and being in Sections 26, 35 and 36, T. 7 N., R. 7 W., 4th P. M., and Sections 1 and 2, T. 6 N., R. 7 W., 4th P. M., which are enclosed by the following definite boundaries: Beginning at the point where the north line of Lot 7, Section 26 intersects the West Channel of the Mississippi River; thence southerly along the east bank of said West Channel where it forms the western boundary of Sections 26 and 35, T. 7 N., R. 7 W., and the western boundary of Lot 1, Section 2, T. 6 N., R. 7 W., to where it intersects East Channel of the Mississippi River; thence easterly, northeasterly, northerly, and northwesterly along the west bank of the said East Channel where it forms the southeastern boundary of Lots 1 and 3, Section 2, Lot 2, Section 1, T. 6 N., R. 7 W., and the eastern boundary of Lots 3 and 4, Section 36, Lot 9, Section 35, Lot 4, Section 26, T. 7 N., R. 7 W., to the north line of Lot 3, Section 26; thence west along said line to and along the north line of Lot 7, Section 26 to the place of beginning; excepting therefrom those lands included in the right of way of the Marquette-Prairie du Chien Bridge Company through the S½, Section 26.

IOWA

Clayton County

Area Number 12.—All of the lands and waters lying and being in Sections 11, 14, 23, 24, 25, 26, 35 and 36, T. 94 N., R. 3 W., 5th P. M., which are enclosed by the following definite boundaries: Beginning at the northernmost point of Lot 5, Section 11, at the junction of

Sny Magill Slough and the Mississippi River; thence southwesterly along the east bank of the said Sny Magill Slough where it forms the western boundary of Lots 5, 6 and 7, Section 11, Lots 3 and 4, Section 14, Lots 14, 7, 8 and 13, Section 23 and Lots 4, 5 and 6, Section 26 and Lots 5 and 6, Section 35, to where said Sny Magill Slough intersects the Mississippi River; thence northeasterly and northerly along the west bank of the Mississippi River where it forms the east boundary of Sections 36, 25, 24, 23, 14 and 11, to the place of beginning; excepting therefrom the western part of Lot 5 and the northwest part of Lot 6 in Section 23 and the northwestern part of Lot 5, Section 35.

IOWA

Jackson County

Area Number 13.—All of the lands and waters in T. 85 N., R. 5 E., 5th P. M., which are described as follows: That part of the E½NW¼ of Section 10 and that part of the E½ of Section 10 which lie northerly and easterly of the right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad as it is at present maintained and operated; the N½ of Section 11 and the N½SW¼ of Section 11; and the W½NW¼, SE¼ NW¼, NW¼SE¼, and Lots 1 and 2 of Section 12.

IOWA

Jackson County

Area Number 14.—All of the lands and waters lying in T. 85 N., R. 6 E., 5th P. M., locally known as Railroad Island, and described as follows: Lots 1 and 2, Section 15; Lots 1, 2, and 3 and NE¼NE¼, Section 22; Lots 1, 2, 3, 4 and 5, SW¼NW¼, NW¼SW¼, E½ SW¼, and W½SE¼, Section 23; fractional Section 24, Lots 1 and 2, Section 25; Lots 1, 2, and 3, Section 26.

Hunting on private lands within the exterior boundaries of the said Refuge is not affected by this Order but is subject to such provisions of the State laws and the Migratory Bird Treaty Act and the regulations thereunder as may apply.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 23rd day of September 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2814; Filed, September 23, 1938; 4:06 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

[Series One]

RULES AND REGULATIONS APPLICABLE TO INDUSTRY COMMITTEES

By virtue of the authority vested in me by the Fair Labor Standards Act of 1938, I hereby issue the following Rules and Regulations—Series One—(Rules and Regulations Applicable to Industry Committees). Said Rules and Regulations—Series One—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER. The Rules and Regulations—Series One—shall be in force and effect until amended or rescinded by rules and regulations hereafter made and published by me.

Signed at Washington, D. C. this 22nd day of September, 1938.

ELMER F. ANDREWS,
Administrator.

PART I

ORGANIZATION

SECTION 1. The members of an industry committee are appointed, and the chairman of the industry committee designated, by the Administrator.

SEC. 2. The chairman of the industry committee may appoint authorized subcommittees of one or more persons from among the membership of the committee; provided, however, that the industry committee may, by a vote of not less than a majority of all its members, adopt a different procedure for the appointment of authorized subcommittees.

SEC. 3. An industry committee may be convened by the Administrator from time to time for the purpose of recommending the minimum rate or rates of wages to be paid employees in the industry. Orders by the Administrator convening an industry committee shall be published in the FEDERAL REGISTER and otherwise made public in a general press release.

SEC. 4. The industry committee shall meet at the call of the chairman or the Administrator. A subcommittee shall meet at the call of the chairman of the industry committee or the chairman of the subcommittee.

SEC. 5. The industry committee and authorized committees shall meet in Washington, D. C., unless the Administrator, or the chairman of the industry committee, or the chairman of the particular subcommittee, designates another place of meeting.

SEC. 6. Two-thirds of the members of the industry committee shall constitute a quorum and the decision of the industry committee shall require a vote of not less than a majority of all its members.

SEC. 7. The chairman of the industry committee may request the Administrator to furnish specified legal, stenographic, clerical and other assistance to the industry committee and to subcommittees.

SEC. 8. Each member of the industry committee will be allowed a per diem of $15.00 for each day actually spent in the work of the committee, and will in addition be reimbursed for necessary transportation and other expenses incident to travelling, in accordance with Standardized Government Travel Regulations, as amended, dated January 30, 1934 and December 10, 1935. All travel expenses will be paid on travel vouchers certified by the chairman of the committee. Any other necessary expenses which are incidental to the work of the committee will, after approval by the Administrator, or his authorized representative, be paid upon the certification of the chairman of the committee.

PART II

PROCEDURE

SEC. 9. Upon being convened by the Administrator, the industry committee shall proceed as expeditiously as possible to investigate conditions in the industry for which it is appointed for the purpose of recommending the minimum rate or rates of wages to be paid employees in the industry.

SEC. 10. The industry committee shall consider such data as is submitted to it by the Administrator and by interested persons. The chairman of the committee may call upon the Administrator to furnish additional information to aid the committee in its deliberation. Any interested person may submit in writing pertinent data to the committee either through the Administrator or through the chairman of the committee.

SEC. 11. The industry committee, or an authorized subcommittee, may hear witnesses who may be summoned by the chairman of the industry committee or may be brought before it by the Administrator. If an industry committee or an authorized subcommittee elects to hold a public hearing in the course of its investigations, the chairman of the committee or of the subcommittee shall cause to be inserted in the FEDERAL REGISTER and to be made public by a general press release a notice of the time, place and scope of such hearing, at least five days before the date of such hearing.

SEC. 12. The industry committee shall keep a journal recording the time and place of all its meetings, the members present, the votes and other formal proceedings, including the appointment of subcommittees; but shall not be required to keep a stenographic transcript of any testimony that may be given before it or of its discussions. Subcommittees shall keep a similar journal.

SEC. 13. For the purpose of performing its duties and functions, an industry committee may exercise the powers conferred by the provisions of Section 9 and 10 (relating to the attendance of witnesses and the production of books, papers and documents) of the Federal Trade Commission Act of September 26, 1914, as amended (U. S. C., 1934 edition, title 15, sections 49 and 50). These sections are set forth in full in the appendix to these regulations. Subpoenas and orders for the taking of testimony by deposition shall be issued only by the chairman of the industry committee or of a subcommittee upon forms to be furnished by the Administrator, and oaths shall be administered only by the chairman of the industry committee or of a subcommittee. Applications to a court for the enforcement of a subpoena shall be made only by the Administrator or his authorized deputy.

SEC. 14. No member of an industry committee shall make public any information obtained by the committee or a subcommittee thereof without the approval of the Administrator.

SEC. 15. Witnesses summoned before a committee shall be paid the same fees and mileage that are paid witnesses in the Courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the Courts of the United States.

SEC. 16. When called upon by the Administrator, an industry committee shall furnish him with such reports relating to its activities and such other information as he may request.

SEC. 17. An industry committee may, at any time, recommend to the Administrator that the scope of the industry as defined in the order appointing the committee be enlarged, modified or restricted.

SEC. 18. To reach the objective of a universal minimum wage of 40¢ an hour as rapidly as is economically feasible, the committee, in accordance with the declared policy of the Act to eliminate labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency and general well-being of workers, shall recommend the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry. The industry committee shall recommend such reasonable classifications as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of 40¢ an hour) which (1) will not substantially curtail employment in such classifications, and (2) will not give competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classifications. In determining whether such classifications should be made in the industry, in making such classifications, and in determining the minimum wage rate for such classification, no classification shall be made and no minimum wage rate shall be fixed solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) Competitive conditions as affected by transportation, living and production costs;

(2) The wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) The wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classifications shall be made on the basis of age or sex.

SEC. 19. Upon the completion of its investigation the industry committee shall submit to the Administrator a report containing its recommendations together with a statement of the reasons supporting such recommendations. No recommendations shall be made by the committee unless concurred in by a vote of not less than the majority of all its members. The report shall be signed by all the members of the committee who approve it. Members dissenting therefrom shall note their dissent and append a signed statement in explanation thereof.

SEC. 20. After a report is submitted, the committee shall deposit with the Administrator all of its records and documents.

SEC. 21. If an industry committee is unable to arrive at a recommendation or refuses to make a recommendation, or unreasonably delays its work, it may be dissolved by the Administrator.

SEC. 22. When a committee has submitted a report as provided in Section 19 hereof, it shall cease to perform any further functions until reconvened by the Administrator; provided, however, that the Administrator may dissolve the committee after it has submitted its report.

[F. R. Doc. 38-2826; Filed, September 26. 1938; 1:13 p. m.]

[Administrative Order No. 1]

APPOINTMENT OF INDUSTRY COMMITTEE No. 1

1. By virtue of and pursuant to the authority vested in me by the "Fair Labor Standards Act of 1938", I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, do hereby appoint for the textile industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

For the Public:

Donald Nelson, Chairman, Chicago, Ill.;
Grace Abbott, Grand Island, Nebr.;
P. O. Davis, Auburn, Ala.;
E. L. Foshee, Sherman, Texas;
Louis Kirstein, Boston, Mass.;
George Fort Milton, Chattanooga, Tenn.;
George W. Taylor, Philadelphia, Pa.

For the Employees:

Paul Christopher, Charlotte, N. C.;
Francis P. Fenton, Boston, Mass.;
Sidney Hillman, New York City, N. Y.;
R. R. Lawrence, Atlanta, Ga.;
Elizabeth Nord, Manchester, Conn.;
Emil Rieve, Philadelphia, Pa.;
H. A. Schrader, Washington, D. C.

For the Employers:

G. Edward Buxton, Providence, R. I.;
Charles A. Cannon, Kannapolis, N. C.;
Robert Chapman, Spartanburg, S. C.;
John R. Cheatham, Griffin, Ga.;
John Nickerson, New York City, N. Y.;
Seabury Stanton, New Bedford, Mass.;
R. R. West, Danville, Va.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. As used in this order, the term "textile industry" means

(a) The manufacturing or processing of yarn or thread and all processes preparatory thereto, and the manufacturing, bleaching, dyeing, printing and other finishing of woven fabrics (other than carpets and rugs) from cotton, silk, flax, jute or any synthetic fibre, or from mixtures of these fibres; except the chemical manufacturing of synthetic fibre and such related processing of yarn as is conducted in establishments manufacturing synthetic fibre;

(b) The manufacturing of batting, wadding or filling and the processing of waste from the fibres enumerated in clause (a);

(c) The manufacturing, bleaching, dyeing, or other finishing of pile fabrics (except carpets and rugs) from any fibre or yarn;

(d) The manufacturing, bleaching, dyeing, or printing of knitted fabrics (other than hosiery or wool and wool mixed overcoatings and suitings) from any fibre or yarn;

(e) The manufacturing or finishing of braid, net or lace from any fibre or yarn;

(f) The manufacturing of cordage, rope or twine from any fibre.

* * * The industry committee herein created, in accordance with the provisions of the "Fair Labor Standards Act of 1938" and rules and regulations promulgated thereunder, shall investigate conditions in the textile industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce", excepting employees exempted by virtue of

the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

ELMER F. ANDREWS,
Administrator.
SEPTEMBER 13, 1938.

Mr. DONALD M. NELSON,
Chairman, Industry Committee No. 1, Wage and Hour Division, Department of Labor, Washington, D. C.

DEAR MR. NELSON: I am considering the advisability of adding to the jurisdiction of Industry Committee No. 1 established in Administrative Order No. 1 (Wage and Hour Division, Department of Labor) by amending the definition of "textile industry" to include:

(a) The manufacture and finishing of such yarn and woven goods with such percentage of wool fibre, as is so closely related to the operations listed in Order No. 1 as to require similar and simultaneous treatment to avoid conferring competitive advantage and to secure, insofar as practicable, reasonably related minimum wages within the establishment; and

(b) Such further processing of woven or knitted fabrics enumerated in the Order of September 13 as is substantially conducted in establishments which are also engaged in the weaving or knitting of fabrics, excepting knitted outerwear such as dresses, suits, overcoats and sweaters, and as may be included with the least disturbance of competitive relationships.

Because of the difficulty of drawing a definition that will achieve these objectives, I desire advice and recommendations from the Committee as to the form this definition should take. A memorandum setting forth the problems which should be considered by the Committee in connection with this definition will be submitted to you.

Sincerely,

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-2827; Filed, September 26, 1938; 1:13 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

REGULATIONS GOVERNING THE OPENING OF THE HIGHWAY BRIDGE ACROSS KALAMAZOO RIVER BETWEEN DOUGLAS AND SAUGATUCK, MICHIGAN

SEPTEMBER 14, 1938.

To the SECRETARY OF WAR.

1. On August 25, 1908, the Secretary of War approved regulations to govern the opening of the draw of the highway bridge across Kalamazoo River between Douglas and Saugatuck, Michigan. This drawbridge was replaced by a fixed bridge under plans approved December 19, 1935, by the Secretary of War.

2. There being no longer any necessity for these regulations, I recommend that they be revoked.[1]

M. C. TYLER,
Brigadier General,
Acting Chief of Engineers.

Recommendation approved September 15, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-2816; Filed, September 24, 1938; 9:48 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE RELATIVE TO C. V. OWENS AND SON AUCTION SALES COMMISSION COMPANY[2]

SEPTEMBER 26, 1938.

Whereas, in accordance with the provisions of Section 301 of title III and Section 302 (a) and (b) of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921, the Secretary of Agriculture posted the stockyard known as the C. V. Owens & Son Auction Sales Commission Company at Fort Morgan, Colorado, as being subject to the provisions of said Act; and

Whereas, it now appears that, since the date of posting, there has been a change in the ownership of the stockyard posted as the C. V. Owens & Son Auction Sales Commission Company at Fort Morgan, Colorado, and that it is now being operated by Mr. A. L. Shaffer and is known as the Consignors Auction, Fort Morgan, Colorado;

Therefore, it is ordered, That the notice[3] of the posting of the C. V. Owens & Son Auction Sales Commission Company at Fort Morgan, Colorado, be and hereby is amended to show that the correct name of said stockyard is Consignors Auction, Fort Morgan, Colorado.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2820; Filed, September 26, 1938; 12:44 p. m.]

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[1] Revocation of Section 3.136.
[2] Modifies list posted stockyards 9CFR 13.034.
[3] 2 F. R. 2553 (2972 DI).

Office of the Secretary.

[Administrative Order]

STANDING STONE EXPERIMENTAL FOREST, HUNTINGDON COUNTY, PENNSYLVANIA

TRANSFER OF LANDS IN THE STATE OF PENNSYLVANIA FROM THE FARM SECURITY ADMINISTRATION AND THE BUREAU OF AGRICULTURAL ECONOMICS TO THE FOREST SERVICE FOR ADMINISTRATION, PROTECTION AND MANAGEMENT

By virtue of and pursuant to the authority vested in me by Executive Order No. 7908, dated June 9, 1938,[1] and Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), the lands within the hereinafter described boundaries that have been acquired or are in process of acquisition by the Farm Security Administration under the provisions of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), or which have been or may be acquired by the Bureau of Agricultural Economics under Title III of the said Bankhead-Jones Farm Tenant Act, are hereby transferred from the Farm Security Administration and the Bureau of Agricultural Economics to the Forest Service for administration, protection, and management as an experimental forest, under the laws applicable to said lands, and such rules and regulations as have been or hereafter may be promulgated consistent with the powers and authority vested in the Secretary of Agriculture by the aforesaid Executive Order, and the aforesaid Title III of the Bankhead-Jones Farm Tenant Act, to wit:

All lands of the United States within the boundaries shown on the attached diagram[2] and more particularly described as follows:

Beginning at the intersection of State Route 305 with the northeast boundary of Barree Township at a point about 1.5 miles southwest of Ennisville, Huntingdon County, Pennsylvania.

Thence from said initial point

Southeastwardly with township line approximately 0.6 mile to the junction with the southeast boundary of Barree Township.

Southwestardly with the township line approximately 1.8 miles to the intersection with Wesley Chapel-Saulsburg Road.

Northwestwardly with the center line of the road approximately 0.6 mile to the junction with State Route 305 at Saulsburg.

Westwardly with the center line of the road approximately 0.5 mile to the east boundary of the Wesley Myton tract #57B.

[1] 3 F. R. 1389 DI.
[2] The diagram was a part of the original document filed with the Division of the Federal Register, the National Archives.

Thence around the south and west boundaries of the Wesley Myton tract #57B as follows:

S. 41°19′ W., 3473.60 feet
N. 35°53′ W., 1621.20 feet
N. 41°12′ E., 1221.00 feet.
N. 23°37′ E., approximately 150 feet to the junction with State Route 305.

Westwardly with the center line of the road approximately 0.5 mile to the junction with State Route #496 at Manor Hill.

Northerly with the center line of the road approximately 0.6 mile to the west boundary of the Cora Lightner tract #59.

Thence around the west boundaries of the Cora Lightner tract #59 as follows:

N. 46°52′ W., approximately 500 feet to the west corner of the tract.
N. 33°33′ E., 1161.80 feet
N. 84°53′ E., approximately 75 feet to the junction with State Route #496.

Northerly with the center line of the road approximately 0.5 mile to the junction with the State Route 576.

Northeasterly with the center line of the road (Route 576) approximately 1.8 miles to the junction with State Route 527.

Southeasterly with the center line of the route (Route 527) approximately 1.0 mile to intersection with northeast boundary of the Henry Guyer tract #33.

Thence around the east boundaries of the Henry Guyer tract #33 as follows:

S. 28°47′ W., 74.00 feet
S. 67°53′ E., 660.00 feet
N. 27°49′ E., 198.00 feet
S. 70°55′ E., 251.80 feet
S. 66°39′ E., 259.48 feet
S. 56°06′ E., 112.40 feet
N. 51°58′ E., 545.60 feet
S. 19°38′ E., 737.55 feet
S. 67°04′ W., 257.73 feet
S. 23°37′ E., 2013.00 feet to southeast corner Henry Guyer tract #33.

Thence S. 23°37′ E., approximately 0.18 mile to a junction with State Route 305.

Southwesterly with the center line of the highway (Route 305) approximately 0.5 mile to the place of beginning.

[SEAL] H. A. WALLACE,
Secretary.

AUGUST 9, 1938.

[F. R. Doc. 38-2803; Filed, August 9, 1938; 1:04 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

[Administrative Order No. 2]

CONVENING OF TEXTILE INDUSTRY COMMITTEE

Whereas, by Administrative Order No. 1 dated September 13, 1938, I have heretofore appointed for the textile industry (as defined in said Order), an industry committee composed of the following representatives:

For the Public:

Donald Nelson, Chairman, Chicago, Illinois.
Grace Abbott, Grand Island, Nebraska.
P. O. Davis, Auburn, Alabama.
E. L. Foshee, Sherman, Texas.
Louis Kirstein, Boston, Massachusetts.
George Fort Milton, Chattanooga, Tennessee.
George W. Taylor, Philadelphia, Pennsylvania.

For the Employees:

Paul Christopher, Charlotte, North Carolina.
Francis P. Fenton, Boston, Massachusetts.
Sidney Hillman, New York City, New York.
R. R. Lawrence, Atlanta, Georgia.
Elizabeth Nord, Manchester, Connecticut.
Emil Rieve, Philadelphia, Pennsylvania.
H. A. Schrader, Washington, D. C.

For the Employers:

G. Edward Buxton, Providence, Rhode Island.
Charles A. Cannon, Kannapolis, North Carolina.
Robert Chapman, Spartanburg, South Carolina.
John R. Cheatham, Griffin, Georgia.
John Nickerson, New York City, New York.
Seabury Stanton, New Bedford, Massachusetts.
R. R. West, Danville, Virginia.

Now, therefore, I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, by virtue of authority vested in me by Section 8 (a) of the Fair Labor Standards Act of 1938, do hereby convene the said textile industry committee, to meet in Conference Room No. 3135, Department of Labor Building, Washington, D. C., on October 11, 1938 at 11:00 A. M.

The said committee will proceed forthwith, in accordance with the provisions of the Fair Labor Standards Act of 1938 and Rules and Regulations, Series 1, dated September 22, 1938, to investigate conditions in the textile industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce" excepting employees exempted by the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

ELMER F. ANDREWS,
Administrator.

SEPTEMBER 26, 1938.

[F. R. Doc. 38-2828; Filed, September, 26 1938; 1:13 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 20th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3232]

IN THE MATTER OF AMERICAN OPTICAL COMPANY (AN ASSOCIATION), GEORGE B. WELLS, INDIVIDUALLY AND AS PRESIDENT; IRA MOSHER, INDIVIDUALLY AND AS VICE PRESIDENT AND GENERAL MANAGER; CHARLES O. COZZENS, INDIVIDUALLY AND AS VICE PRESIDENT AND IN CHARGE OF SALES; JOHN M. WELLS, INDIVIDUALLY AND AS VICE PRESIDENT IN CHARGE OF RESEARCH LABORATORY; EDWARD E. WILLIAMS, INDIVIDUALLY AND AS TREASURER; A. TURNER WELLS, INDIVIDUALLY AND AS SECRETARY; ALBERT B. WELLS, INDIVIDUALLY AND AS CHAIRMAN AND REPRESENTATIVE OF BOARD OF DIRECTORS; AMERICAN OPTICAL COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U. S. C. A., Section 41; and 49 Stat. 1526, U. S. C. A., Section 13, as amended)

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 5, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Civil Service Room, Post Office Building, Southbridge, Massachusetts.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2804; Filed, September 23, 1988; 2:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in

the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3268]

IN THE MATTER OF PERMA MAID COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 3, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 207 New Federal Building, Ontario & Spielbusch Avenue, Toledo, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2805; Filed, September 23, 1938; 2:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3324]

IN THE MATTER OF JACOB SHERMAN, AN INDIVIDUAL TRADING UNDER THE NAME AND STYLE OF CHICAGO MATTRESS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 2, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2806; Filed, September 23, 1938; 2:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3416]

IN THE MATTER OF ALBERT T. CHERRY, AN INDIVIDUAL DOING BUSINESS AS A. T. CHERRY COMPANY, AND AS ATCO SOAP COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, October 4, 1938, at ten o'clock in the forenoon of that day (eastern standard time), Office of Custodian, Federal Building, Dayton, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2818; Filed, September 24, 1938; 12:01 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3472]

IN THE MATTER OF STAFFORD T. MITCHELL, JANET L. MITCHELL, AND OTIS S. MITCHELL, TRADING AS THE ARVIL COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 31, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2807; Filed September 23, 1938; 2:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3478]

IN THE MATTER OF EUCOZONE LABORATORIES, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 921, Federal Building, Detroit, Michigan.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2808; Filed, September 23, 1938; 2:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3503]

IN THE MATTER OF CHARLES E. KNAPP, AN INDIVIDUAL, TRADING AS AND IN THE NAME OF MODERN AMERICAN COMPANY, CHARLES E. KNAPP, INC., A CORPORATION; MODERN AMERICAN CORPORATION, A CORPORATION; BLANCHE WYNNE, AN INDIVIDUAL, TRADING AS AND IN THE NAME OF MODERN AMERICAN COMPANY: AND A. J. RIVENBARK, JR., CLEO SAMDAHL AND A. B. LANDRUM, RESPONDENTS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 17, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 301, New Federal Building, Columbus, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2809; Filed, September 23, 1938; 2:53 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3515]

IN THE MATTER OF ROBERT THEODORE PLATE, TRADING AS PLATE MANUFACTURING CO.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, October 22, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 1123, Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2810; Filed, September 23, 1938; 2:53 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3525]

IN THE MATTER OF FAIRBANKS TAILORING COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, November 4, 1938, at ten o'clock, in the forenoon of that day (central standard time) in Room 1123, Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2811; Filed, September 23, 1938; 2:53 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3541]

IN THE MATTER OF B & T FLOOR COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, October 14, 1938, at ten o'clock in the forenoon of that day, in room 301, New Federal Building, Columbus, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By direction of the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2812; Filed, September 23, 1938; 2:53 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3543]

IN THE MATTER OF PAUL V. MANNING, INDIVIDUALLY AND TRADING AS INTERNATIONAL UNIVERSITY OF COMMERCE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, October 27, 1938, at ten O'clock in the forenoon of that day (central standard time) in Room 1123, Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2813; Filed, September 23, 1938; 2:53 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of September, A. D. 1938.

[File No. 31-379]

IN THE MATTER OF H. M. BYLLESBY AND COMPANY

ORDER POSTPONING HEARING

An order having been issued by the Commission setting October 4, 1938, as the date at which a hearing shall be held on the application of H. M. Byllesby and Company pursuant to Section 2 (a) (7) of the Public Utility Holding Company Act of 1935, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C.

It is ordered, That such hearing be postponed until 10:00 A. M. in the forenoon of October 5, 1938, at the same place.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2824; Filed, September 26, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of September, A. D 1938.

[File No. 31-420]

IN THE MATTER OF THE BYLLESBY CORPORATION

ORDER POSTPONING HEARING

An order having been issued by the Commission setting October 4, 1938 as the date at which a hearing shall be held on the application of The Byllesby Corporation pursuant to Section 2 (a) (7) of the Public Utility Holding Company Act of 1935, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C.

It is ordered, That such hearing be postponed until 10:00 A. M. in the forenoon of October 5, 1938, at the same place.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2825; Filed, September 26, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of September, A. D. 1938.

[File Nos. 32-106, 46-114, 46-115]

IN THE MATTERS OF THE MILWAUKEE ELECTRIC RAILWAY AND LIGHT COMPANY AND NORTH AMERICAN EDISON COMPANY

NOTICE OF AND ORDER FOR HEARING

There having been duly filed with this Commission by The Milwaukee Electric Railway and Light Company applications, pursuant to Sections 6 (b) and 10 of the Public Utility Holding Company Act of 1935, and a declaration, pursuant to Section 7 of said Act, and by North American Edison Company an application pursuant to Sections 10 and 12 (d) of said Act; The Milwaukee Electric Railway and Light Company being a subsidiary of North American Edison Company, a registered holding company, which is a subsidiary of The North American Company, also a registered holding company; and it appearing that the subject matters of said applications and declaration are related;

It is ordered, That a hearing on such matters be held on October 13, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to the above-named parties and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 7, 1938.

The matters concerned herewith are in regard to (a) the merger of Wisconsin Electric Power Company, a subsidiary of North American Edison Company, into The Milwaukee Electric Railway and Light Company, (b) the segregation, in a new company, by The Milwaukee Electric Railway and Light Company of its transportation properties, and (c) the issue and sale by The Milwaukee Electric Railway and Light Company of $55,000,000 of First Mortgage Bonds and $14,500,000 of Serial Notes.

The matters referred to are proposed to be effected by the following transactions which are set forth in said applications and declaration:

1. The Milwaukee Electric Railway and Light Company is to acquire from North American Edison Company all the outstanding capital stock of Wisconsin Electric Power Company, consisting of 400,000 shares of the par value of $20 per share, in exchange for the following shares of The Milwaukee Electric Railway and Light Company: (a) 13,494 shares of Six Per Cent Preferred Capital Stock, par value $100 per share, which have been reacquired and are now held in the company's treasury, and (b) 78,710 shares of Preferred Capital Stock, Issue of 1921, 6% Series, par value $100 per share, of which 3,534 shares have been reacquired and are now held in the company's treasury and of which 75,176 additional shares will be issued;

2. Wisconsin Electric Power Company is to be merged into The Milwaukee Electric Railway and Light Company pursuant to the Statutes of Wisconsin, in connection with which merger The Milwaukee Electric Railway and Light Company will acquire the assets of Wisconsin Electric Power Company, and will assume the following obligations of Wisconsin Electric Power Company: (a) $7,500,000 principal amount of First Mortgage Bonds, 4% Series B, due serially 11/15/41 to 11/15/55, and (b) $500,000 principal amount of 2½% Serial Notes due November 15, 1938. After the proposed merger The Milwaukee Electric Railway and Light Company is to adopt the name of Wisconsin Electric Power Company;

3. The Milwaukee Electric Railway and Light Company is to transfer its transportation properties (excepting certain rights of way and rail lines thereon) to a new transportation company to be created for that purpose in exchange for $10,000,000 in principal amount of 4% Mortgage Bonds and common stock of an aggregate par value of $25,000,000. Such transportation properties consist of the local transportation plant in the City of Milwaukee, Wisconsin and surrounding suburbs, and interurban railways and motor bus business in the surrounding district, the local transportation system in the City of Racine, Wisconsin, and the capital stocks of Motor Transport Company, which conducts a freight transportation business, and of Badger Auto Service Company, which operates parking stations and gasoline filling stations;

4. After completing the foregoing transactions The Milwaukee Electric Railway and Light Company is to issue and sell, through underwriters, the following securities:

(a) $55,000,000 principal amount of 25 or 30 year First Mortgage Bonds, bearing interest at 3½% or 3¾%, and (b) $14,500,000 principal amount of 10 year Serial Notes, bearing interest at the average rate of 3½% or 3¾%, the exact provisions of such Bonds and Notes to be stated prior to the hearing above referred to.

Said First Mortgage Bonds are to be secured by a first lien on substantially all the physical property of The Milwaukee Electric Railway and Light Company then owned by it and by pledge of the bonds to be issued by the new transportation company. It is stated that the proceeds from the sale of the foregoing new bonds and notes of The Milwaukee Electric Railway and Light Company are to be used to redeem on December 1, 1938 the following securities issued or assumed by it: $44,375,500 principal amount of 5% First Mortgage Bonds, Series B, due 1961, $15,000,000 principal amount of First Mortgage Bonds, 5% Series, due 1971, and $7,500,000 principal amount of First Mortgage Bonds, 4% Series B, of Wisconsin Electric Power Company.

The issue and sale of the Preferred Stock, First Mortgage Bonds, and Serial Notes of The Milwaukee Electric Railway and Light Company, referred to above, and the said merger of Wisconsin Electric Power Company into The Milwaukee Electric Railway and Light Company, which includes the assumption by the latter company of the bonds of Wisconsin Electric Power Company, are stated to be subject to the authorization of the Public Service Commission of Wisconsin, applications for which authorization are stated to have been filed with that Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2823; Filed, September 26, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of September, A. D. 1938.

[File No. 2-3635]

IN THE MATTER OF WEST PARK APARTMENTS CORPORATION

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant West Park Apartments Corporation, a Deleware corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in the facing page, Items 31, 32, 33, 34, 35, 37, 39, 45 and the prospectus, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises;

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by West Park Apartments Corporation, a Delaware corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2822; Filed, September 26, 1938; 12:53 p. m.]

Reference

SEP 29 1938

THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES 1934

VOLUME 3 NUMBER 189

Washington, Wednesday, September 28, 1938

The President

EXCLUDING CERTAIN LANDS FROM THE COCONINO NATIONAL FOREST AND ADDING THEM TO THE WALNUT CANYON NATIONAL MONUMENT—ARIZONA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the hereinafter-described lands comprising a part of the Coconino National Forest, in the State of Arizona, are adjacent to the Walnut Canyon National Monument, established by proclamation dated November 30, 1915; and

WHEREAS such lands have situated thereon various objects of historic and scientific interest, and are also required for the proper care and management of the objects of historic and scientific interest now being protected by the said monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 1 of the act of June 4, 1897, 30 Stat. 11, 34, 36 (U. S. C., title 16, sec. 473), and section 2 of the act of June 8, 1906, c. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in the State of Arizona are hereby excluded from the said Coconino National Forest and are hereby added to and made a part of the said Walnut Canyon National Monument:

GILA AND SALT RIVER MERIDIAN—ARIZONA

T. 21 N., R. 8 E.,
sec. 26, SE¼NE¼, lot 3, S½NW¼,
sec. 36, NE¼, N½S½, SE¼SE¼;
T. 21 N., R. 9 E.,
sec. 31, W½NE¼, E½NW¼, NE¼SW¼ and lots 1 to 5, inclusive, containing 913.16 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of the monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 24" day of September in the [SEAL] year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDULL HULL
Secretary of State.

[No. 2300]

[F. R. Doc. 38-2834; Filed, September 27, 1938; 11:48 a. m.]

EMERGENCY BOARD, ATCHISON, TOPEKA & SANTA FE RAILWAY AND OTHER CARRIERS—EMPLOYEES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the President, having been duly notified by the National Mediation Board that a dispute between the carriers listed in the attached exhibits [1] and certain of their employees as they are represented by the following labor organizations, as specified in exhibits A, B, and C:

Brotherhood of Locomotive Engineers
Brotherhood of Locomotive Firemen and Enginemen
Order of Railway Conductors
Switchmen's Union of North America
The Order of Railroad Telegraphers
International Association of Machinists

[1] Exhibits A, B, C, D, E, and F appear at the end of this issue of the FEDERAL REGISTER as an Appendix.

CONTENTS

THE PRESIDENT

Proclamations: Page
Coconino National Forest, Ariz., land transfer to Walnut Canyon National Monument 2321
Emergency Board, Atchison, Topeka & Santa Fe Railway and other carriers—Employees 2321
Executive Order:
Cerro Pelado Ammunition Depot Military Reservation, Canal Zone 2322
Letter:
Application of duties proclaimed in certain trade agreements to articles the growth, etc., of certain foreign countries 2323

RULES, REGULATIONS, ORDERS

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Oleomargarine Manufacturing Industry, trade practice rules 2323
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Traffic in containers of distilled spirits, regulations amended 2325
TITLE 43—PUBLIC LANDS:
General Land Office:
Wyoming, Air Navigation Site Withdrawal No. 124 2326

NOTICES

Securities and Exchange Commission:
Gold Hunter Extension, Inc., stop order 2326
Nepsco Appliance Finance Corp., hearing 2326

FEDERAL REGISTER

Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

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Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America

International Brotherhood of Blacksmiths, Drop Forgers and Helpers

Sheet Metal Workers' International Association

International Brotherhood of Electrical Workers

Brotherhood Railway Carmen of America

International Brotherhood of Firemen and Oilers, Helpers, Roundhouse and Railway Shop Laborers

Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes

Brotherhood of Maintenance of Way Employes

Brotherhood of Railroad Signalmen of America

National Organization Masters, Mates and Pilots of America

National Marine Engineers' Beneficial Association

International Longshoremen's Association

and certain other employees as they are represented by the Brotherhood of Railroad Trainmen, as specified in exhibits D, E, and F, which dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended, now threatens substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, by virtue of the power vested in me by the Constitution and laws of the United States, and by virtue of and under the authority in me vested by section 10 of the Railway Labor Act, as amended, do hereby create a board to be composed of 3 persons not pecuniarily or otherwise interested in any organization of railway employees or any carrier, to investigate the aforementioned dispute and report its findings to me within 30 days from this date.

The members of this board shall be compensated for and on account of such duties in the sum of seventy-five dollars ($75.00) for every day actually employed with or upon account of travel and duties incident to such board. The members will be reimbursed for and they are hereby authorized to make expenditures for expenses for themselves and of the board, including traveling expenses and in conformity with Public, No. 212, 72d Congress, approved June 30, 1932, 11:30 a. m., not to exceed five dollars ($5.00) per diem for expenses incurred for subsistence.

All expenditures of the Board shall be allowed and paid for out of the appropriation "Emergency Boards, Railway Labor Act, May 20, 1926, 1939" on the presentation of itemized vouchers properly approved by the chairman of the board hereby created.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 27th day of September in the [SEAL] year of our Lord one thousand nine hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State

[No. 2301]

[F. R. Doc. 38-2837; Filed, September 27, 1938; 1:33 p. m.]

EXECUTIVE ORDER

CERRO PELADO AMMUNITION DEPOT MILITARY RESERVATION

CANAL ZONE

By virtue of and pursuant to the authority vested in me by section 5 of title 2 of the Canal Zone Code, approved June 19, 1934, and as President of the United States, it is ordered as follows:

SEC. 1. *Setting apart of reservation; boundaries.*— The following - described area of land in the Canal Zone is hereby reserved and set apart as, and assigned to the uses and purposes of, a military reservation, which shall be known as Cerro Pelado Ammunition Depot Military Reservation, and shall be under the control and jurisdiction of the Secretary of War, subject to the provisions of section 2 of this Order:

Beginning at a concrete monument A, marked "Point of Beginning" on Panama Canal drawing No. L6105-81, located 869.0 feet northerly from the center line of the Panama Railroad right-of-way; from said monument the bearing and distance to an iron-rail reference monument, encased in concrete, marked 0+50 of the Cerro Pelado Ammunition Depot control survey, is S. 12°51'30" E., 838.6 feet, and the bearing and distance to Pelado triangulation station of the Canal Zone triangulation system is N. 54°51'50" E., 3122.0 feet; the geographic position of monument A is in latitude 9°07' N. plus 2169.7 feet, and longitude 79°42' W. plus 5303.5 feet.

Thence from said point of beginning by metes and bounds:

Due West, 108.0 feet through brass-plug markers A-1 and A-2 in a concrete road pavement, to a concrete monument, marked B, at the top of the bank of a pond; plugs A-1 and A-2 are 61.5 feet and 77.9 feet, respectively, from monument A;

N. 19°22'30" W., 528.8 feet to a concrete monument marked C;

N. 23°32'00" W., 4986.4 feet, through pipe monuments C-1, C-2, C-3 and C-4, to a concrete monument marked D; monuments C-1, C-2, C-3 and C-4 are 189.2 feet, 1446.0 feet, 3118.7 feet and 4299.6 feet, respectively, from monument C;

S. 88°17'10" E., 4100.4 feet, through pipe monuments D-1 and D-2, to a concrete monument E; monuments D-1 and D-2 are approximately 862 feet and 2937 feet, respectively, from monument D;

S. 12°15'00" W., 4600.0 feet, through pipe monuments E-1, E-2, E-3, E-4 and E-5, to a concrete monument F; monuments E-1, E-2, E-3, E-4 and E-5 are approximately 522 feet, 1767 feet, 2643 feet, 3719 feet and 4199 feet, respectively, from monument E;

S. 59°00'00" W., 878.8 feet, through a pipe monument F-1, and a concrete monument G on the bank of a pond, thence, across the pond to a concrete monument H, located at the top of the bank of said pond. Monuments F-1 and G are 63.0 feet and 319.0 feet, respectively, from monument F;

Due West, 95.0 feet to monument A, the point of beginning.

The directions of the lines refer to the true meridian. The geographic positions of all points and monuments are referred to the Panama-Colon datum of the Canal Zone triangulation system.

The concrete boundary monuments are 12" square, reinforced concrete posts, six feet long and buried three feet in the ground; the center is a drill hole in a four-inch diameter bronze plate fastened into the top of the post and marked "CERRO PELADO AMMUNITION DEPOT—BOUNDARY MONUMENT," and with the significant monument letter.

The pipe monuments are three-inch diameter, galvanized iron pipes, three feet long, filled with concrete and projecting about one and one-half feet above a concrete base buried in the ground.

The brass markers are one-half inch diameter plugs, three-quarter inch long, grouted in the concrete road pavement. The center is a punched hole.

The above-described tract contains an area of 278.6 acres.

The above-described area was surveyed by the Section of Surveys, The Panama Canal, in May 1938, under a work request from the Assistant Department Engineer, Corozal, Canal Zone; and is as shown on Panama Canal Drawing L6105-81, dated July 25, 1938, on file in the Governor's Office, Balboa Heights, Canal Zone, and in the Department Engineer's Office, Panama Canal Department, United States Army, Quarry Heights, Canal Zone.

SEC. 2. *Civil jurisdiction of Canal Zone.*—The area of land composing this reservation shall continue to be subject to the civil jurisdiction of the Canal Zone Government in conformity with the provisions of the Canal Zone Code.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
26 September, 1938.

[No. 7979]

[F. R. Doc. 38-2833; Filed, September 27, 1938; 11:06 a. m.]

APPLICATION OF DUTIES PROCLAIMED IN CERTAIN TRADE AGREEMENTS TO ARTICLES THE GROWTH, ETC., OF CERTAIN FOREIGN COUNTRIES

THE WHITE HOUSE,
Washington, September 23, 1938.

The Honorable HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

MY DEAR MR. SECRETARY: Pursuant to the authority conferred upon me by the Act to amend the Tariff Act of 1930, approved June 12, 1934 (48 Stat. 943), as extended by the Joint Resolution approved March 1, 1937 (50 Stat. 24), I hereby direct that the duties proclaimed on this date in connection with the trade agreement signed on August 6, 1938 with the Republic of Ecuador, and all other duties heretofore proclaimed in connection with trade agreements (other than the trade agreement with Cuba signed on August 24, 1934, and the trade agreement with Nicaragua signed on March 11, 1936) entered into under the authority of the said Act, as originally enacted or as extended, shall be applied on and after the effective date of such duties, or, as the case may be, shall continue to be applied on and from the date of this letter, to articles the growth, produce, or manufacture of all foreign countries, except as otherwise hereinafter provided, whether imported directly or indirectly, so long as such duties remain in effect and this direction is not modified.

Such proclaimed duties shall be applied to articles the growth, produce, or manufacture of Cuba in accordance with the provisions of the trade agreement with Cuba signed on August 24, 1934.

Because I find as a fact that the treatment of American commerce by Germany is discriminatory, I direct that such proclaimed duties shall not be applied to products of Germany (including Austria).

My letters addressed to you on March 15, April 6, and April 15, 1938,[1] with reference to duties heretofore proclaimed in connection with trade agreements signed under the authority of the Act of June 12, 1934, are hereby superseded.

You will please cause this direction to be published in an early issue of the weekly *Treasury Decisions*.

Very sincerely yours,

[SEAL] FRANKLIN D ROOSEVELT

[F. R. Doc. 38-2830; Filed, September 26, 1938; 4:15 p. m.]

[1] 3 F. R. 693, 855, 910 DI.

Rules, Regulations, Orders

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 21st day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-314]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE OLEOMARGARINE MANUFACTURING INDUSTRY

PROMULGATION

Due proceedings having been held[2] under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of September 27, 1938.

STATEMENT BY THE COMMISSION

Trade practice rules for the Oleomargarine Manufacturing Industry, as herein set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure.

The product of the industry to which the rules relate is oleomargarine in its various forms, the total production of which, according to authoritative sources, for the fiscal year ended June 30, 1938, was 411,725,009 pounds.

In the course of the proceedings an industry's conference was held in Chicago, Illinois, under the Commission's auspices, and proposed trade practice rules were submitted by members of the industry. Thereafter tentative action was taken by the Commission on the rules so submitted and a draft of proposed rules was made available upon public notice of at least fifteen days, in pursuance of which all interested and affected parties were afforded opportunity to present such pertinent facts, suggestions or objections as they desired and to be heard in respect to the proposed rules. Such hearing was held in Washington and all matters submitted orally and in writing were received and filed in the proceeding.

Thereafter, and upon consideration of the entire matter, final action was taken and the rules in the form appearing herein under Group I and Group II were respectively approved and received by the Commission.

These rules do not in any respect supplant, or relieve anyone of the necessity of complying with the legal requirements of the pure food laws or other provision of law. They are established under statutes administered by the Federal Trade Commission for the purpose of more effectively stamping out unfair practices in the interest of the public, and to assist in general law enforcement to this end.

TRADE PRACTICE RULES FOR THE OLEOMARGARINE MANUFACTURING INDUSTRY

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

Unfair trade practices which are embraced in these Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation or other organization subject to its jurisdiction, of such unlawful practices in or directly affecting interstate commerce.

RULE 1. *Misrepresentation of industry products.*—It is an unfair trade practice to make or publish, or cause to be made or published, directly or indirectly, any false, misleading or deceptive statement or representation, by way of advertisement or otherwise, concerning the grade, quality, quantity, use, material, content, origin, nutritive value, preparation, manufacture, or distribution of oleomargarine, or in any other material respect.

RULE 2. *Misbranding.*—The false or deceptive marking or branding of oleo-

[2] 3 F. R. 1396 DI.

margarine with any word, phrase, name, trade-mark, label, picture, design, device, or other representation, with respect to the grade, quality, quantity, use, content, origin, preparation, manufacture, or distribution of such oleomargarine, or in any other material respect, is an unfair trade practice.

RULE 3. *Substitution of products not conforming to specifications.*—The substitution and delivery to customers, without the consent of the purchaser, of oleomargarine which does not conform to formula specifications, samples, or representations upon which the purchase order is based; or the substitution or delivery, with or without the consent of the purchaser, of oleomargarine which does not conform to applicable Federal or State laws or regulations; with the purpose or with the tendency and capacity or effect of misleading or deceiving, directly or indirectly, the purchasing or consuming public, is an unfair trade practice.

RULE 4. *Misrepresentation as to milk content.*—Falsely representing, directly or indirectly, through advertising or otherwise, that any type of oleomargarine contains milk when, in fact, the cream or any other food content has been extracted therefrom, for the purpose or with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 5. *Misrepresentation as to fat content.*—It is an unfair trade practice for any member of the industry to sell, or offer for sale through advertising or otherwise, any oleomargarine the fat content of which is less than that specified in applicable regulations, duly promulgated by authority of law, for the purpose, or with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public.

RULE 6. *Compliance with State and Federal specification requirements.*—It is an unfair trade practice to sell or distribute, or cause to be sold or distributed, any oleomargarine manufactured in conformity with formula specifications of buyers or customers or otherwise, when such formula specifications or manufacture is violative of applicable Federal or State laws or regulations and where the tendency and capacity or the effect thereof is, directly or indirectly, to mislead or deceive the purchasing or consuming public.

RULE 7. *Commercial bribery.*—It is an unfair trade practice for a member of the industry directly or indirectly to give or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors, or from dealing or contracting to deal with competitors.

RULE 8. *Unlawful interference with raw material purchases.*—It is an unfair trade practice for any member of the industry, by means of any monopolistic practices or through combination, conspiracy, coercion, boycott, threats, or any other unlawful means, directly or indirectly, to interfere with a competitor's right to purchase his raw materials and supplies from whomsoever he chooses, or to sell his product to whomsoever he chooses.

RULE 9. *Defamation of competitors and disparagement of their products.*—The defamation of a competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of a competitor or of his business methods, selling prices, credit terms, policies, or services, is an unfair trade practice.

RULE 10. *False invoicing.*—Withholding from or inserting in an invoice, billing or statement any material information by reason of which omission or insertion a false record is made, wholly or in part, of the transaction which such invoice or billing or statement purports to represent, with the purpose or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 11. *Inducing breach of contract.*—Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers, or between a competitor and his distributor or agent, by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 12. *Enticing away employees of competitors.*—Wilfully enticing away the employees of competitors, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 13. *Consignment selling.*—It is an unfair trade practice for any member of the industry to use the practice of shipping goods on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade; provided, however, that nothing herein shall be construed or used as restricting or preventing consignment shipping or marketing of commodities in good faith and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

RULE 14. *Publication or circulation of false or misleading price quotations, etc.*—The making, publishing, or circulating by any member of the industry of false or misleading price quotations, price lists, terms or conditions of sale, or reports as to production or sales, with the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 15. *Selling below cost.*—The practice of selling oleomargarine below the seller's cost, with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or unreasonably restrain trade, is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 16. *"Loss leaders".*—The practice of selling oleomargarine below the seller's cost as a "loss leader" to induce the purchase of any other product of the industry, the sale of the latter being used to recoup the loss sustained on the "loss leader" product so sold, with the tendency or capacity to mislead or deceive purchasers, prospective purchasers, or the consuming public, is an unfair trade practice.

RULE 17. (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc.,*[1] *which effect unlawful price discrimination.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, payment of dealer's license, or other form of price differential,[3] where such rebate, refund, discount, credit, payment of dealer's license, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[3] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[4] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[3] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[3] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[3] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[3] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

Group II

Compliance with the trade practice provisions embraced in these Group II rules is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. Where, however, the practice of not complying with any such Group II rules is followed in such manner as to result in unfair methods of competition contrary to law, corrective proceedings may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. *Cost records.*—It is the judgment of the industry that each member should independently keep proper and accurate records for determining his costs.

RULE B. *Repudiation of contracts.*—Lawful contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

RULE C. *Promotion of use of American agricultural products.*—The industry recommends that the members thereof in the manufacture of their products encourage and promote the greater consumption of raw materials produced by American agriculture.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2831; Filed, September 27, 1938; 9:10 a. m.]

[1] Paragraph (a) of Rule 17 shall not be construed as embracing practices prohibited by paragraphs (b), (c), and (d) of this rule.

[2] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States; Provided, That this shall not apply to the Philippine Islands.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4863]

REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS

REGULATIONS 13 AMENDED

To District Supervisors and Others Concerned:

Pursuant to the authority conferred upon me by Public Resolution No. 40, entitled "Joint Resolution to protect the revenue by regulation of the traffic in containers of distilled spirits" (U. S. C. title 26, sec. 1222), Regulations 13, approved May 24, 1937,[1] as amended, is hereby further amended as follows:

Paragraph (o) of Article 1, as amended by Treasury Decision No. 4772,[2] is amended to read as follows:

"(o) The term 'age' in these regulations shall have the meaning given to such term by definition (j) of Article I of Regulations 5 of the Federal Alcohol Administration, Relating to labeling and advertising of distilled spirits, in effect as of July 1, 1938, and shall be stated in the manner provided in section 39 of Article III of said regulation: Provided, however, That the actual age may be stated as to whisky withdrawn from cisterns at registered distilleries in the United States prior to April 1, 1937, and as to such whisky which, when blended or rectified, does not contain spirits other than those withdrawn from registered distilleries in the United States prior to April 1, 1937."

Paragraph (p) of Article 1, as amended by Treasury Decision No. 4772, is amended to read as follows:

"(p) The term 'kind' in these regulations shall have the respective meanings given to such term by the 'Standards of Identity for distilled spirits' set forth in Article II of Regulations 5 of the Federal Alcohol Administration, Relating to labeling and advertising of distilled spirits, in effect as of July 1, 1938, and theretofore, as to spirits produced in the respective periods covered by such regulations, and shall be stated as to spirits produced in each such period in the manner provided in section 34 of Article III of said regulation: Provided, however, That the actual kind may be

[1] 2 F. R. 898 (1070 DI).
[2] 2 F. R. 2410 (2797 DI).

stated as to distilled spirits withdrawn from cisterns at registered distilleries in the United States prior to April 1, 1937, and as to all blends thereof, and as to all such spirits rectified without the addition of spirits other than those withdrawn from cisterns at registered distilleries in the United States prior to April 1, 1937."

Sections (4) (d) and (4) (e) of Article 2 of Regulations 13, approved May 24, 1937, are amended to read as follows:

"(4) (d) If whisky, not blended or rectified, the age thereof, but this statement shall not be required as to Scotch, Irish, or Canadian whisky, or whisky bottled in bond. As to whisky withdrawn from cisterns at registered distilleries in the United States on or after April 1, 1937, and stored in reused cooperage, the period of such storage shall be stated in the form heretofore prescribed for such statements by the regulations of the Federal Alcohol Administration."

"(4) (e) If blended or rectified whisky, the age of the youngest whisky therein, but this statement shall not be required as to Scotch, Irish, or Canadian whisky; and the respective percentage, by volume, of whisky or whiskies, and neutral spirits. As to whisky withdrawn from cisterns at registered distilleries in the United States on or after April 1, 1937, and stored in reused cooperage, and used in blending or rectification, the period of such storage shall be stated in the form heretofore prescribed for such statements by the regulations of the Federal Alcohol Administration."

Section 7 of Article 5 is revoked.

[SEAL] JOHN W. HANES,
Acting Secretary of the Treasury.

Approved, September 23, 1938.

[F. R. Doc. 38-2829; Filed, September 26, 1938; 4:15 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

AIR NAVIGATION SITE WITHDRAWAL NO. 124

WYOMING

SEPTEMBER 16, 1938.

It appearing that the following-described public land in Wyoming is necessary for the purpose, it is ordered, under and pursuant to the provisions of section seven of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section four of the act of May 24, 1928, 45 Stat. 728, that such land be, and it is hereby, withdrawn from all forms of appropriation under the public-land laws for use by the Civil Aeronautics Authority in the maintenance of air navigation facilities:

SIXTH PRINCIPAL MERIDIAN

T. 43 N., R. 79 W., sec. 4 SE¼ of lot 2 and NE¼SW¼NE¼, 20 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2832; Filed, September 27, 1938; 9:48 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of September, A. D. 1938.

[File No. 2-3634]

IN THE MATTER OF GOLD HUNTER EXTENSION, INC.

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of registrant, Gold Hunter Extension, Inc., a Washington corporation, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading in the facing page, Items 3, 5, 14, 15, 17, 19, 20, 26, 27, 28, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 45, 46, 47, 51, 52, 54, 55, 56, Exhibits F and H, and the prospectus, and that the required consents of experts were not filed, and the registrant having consented to the issuance of this order, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, and the Commission being now fully advised in the premises,

It is ordered, pursuant to Section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Gold Hunter Extension, Inc., a Washington corporation, be and the same hereby is suspended.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2836; Filed, September 27, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1938.

[File No. 43-154]

IN THE MATTER OF NEPSCO APPLIANCE FINANCE CORPORATION

NOTICE OF AND ORDER FOR HEARING

A Declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 25, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 19, 1938.

The matter concerned herewith is in regard to the issue and sale of the following securities: Nepsco Appliance Finance Corporation 3% Deferred Debentures of December 1, 1936, to be issued and sold in not exceeding $400,000 aggregate principal amount (including $265,000 in principal amount already issued and outstanding) and promissory notes to banks or trust companies in not exceeding $1,200,000 aggregate principal amount (including $735,000 aggregate principal amount now issued and outstanding).

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2835; Filed, September 27, 1938; 12:48 p. m.]

APPENDIX

The following exhibits are a part of Proclamation No. 2301, appearing on page 2321.

For the organizations:
H. J. ARRIES.
B. M. JEWELL.
A. E. LYON.
For the carriers:
S. H. SCHNEIDER.

[Exhibit A]

Western Territory—List of Railroads, Etc., as Represented by the Carriers' Joint Conference Committee, and Their Employees Represented by the Eighteen Cooperating Organizations as Indicated by "X"

(Authority is co-extensive with the scope of Agreements as to classes of Employees)

Railroads, etc. (1)	Railway employees' department, American Federation of Labor: Engineers BofLE (2)	Firemen BofLE&E (3)	Conductors OofRC (4)	Switchmen SUofNA (5)	Telegraphers OofRT (6)	Machinists IAofM (7)	Boilermakers IBofB&IofA (8)	Blacksmiths IBof BDE&H (9)	Sheet metal workers SMWIA (10)	Electrical workers IBofEW (11)	Carmen BRCofA (12)	Firemen and oilers BofF&O (13)	Clerks BofR&SCFHE&SE (14)	Maintenance of way BofMofWE (15)	Signalmen BofRSofA (16)	Masters and mates NOMM&PofA (17)	Marine engineers NMEBA (18)	Longshoremen ILA (19)
Alameda Belt Line																		
Alton & Southern RR	X	X	X		X	X	X	X	X	X	X	X	X	X	X			
Alton RR																		
Arkansas & Memphis Railway Bridge & Terminal Co	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Atchison, Topeka & Santa Fe Ry																		
Gulf, Colorado & Santa Fe Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Panhandle & Santa Fe Ry																		
Atlanta Union Terminal & Depot Co	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Baltimore & Ohio Chicago Terminal RR																		
Belt Ry. Co. of Chicago	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Burlington-Rock Island RR																		
Butte, Anaconda & Pacific Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Canada Southern RR																		
Chicago & Eastern Illinois Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Chicago & North Western Ry																		
Chicago & Western Indiana RR	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Chicago, Great Western Ry																		
Chicago, Rock Island & Gulf Ry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Chicago, St. Paul, Minneapolis & Omaha Ry																		
Colorado & Southern Ry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Colorado & Wyoming Ry																		
Davenport, Rock Island & Northwestern Ry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Denver & Rio Grande Western RR																		
Denver & Salt Lake Ry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Denver Union Terminal Ry																		
Des Moines Union Ry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Iowa Transfer Ry																		
Duluth, Missabe & Iron Range RR	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Duluth Union Depot & Transfer Co																		
Duluth, Winnipeg & Pacific Ry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
East Poland Freight Terminal																		
East St. Louis Junction Ry	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Elgin, Joliet & Eastern Ry																		

Footnotes at end of table.

Western Territory—List of Railroads, Etc., as Represented by the Carriers' Joint Conference Committee, and Their Employees Represented by the Eighteen Cooperating Organizations as Indicated by "X"—Continued

Railroads, etc.	Engineers	Firemen	Conductors	Switchmen	Telegraphers	Railway employees' department, American Federation of Labor: Machinists	Boilermakers	Blacksmiths	Sheet metal workers	Electrical workers	Carmen	Firemen and oilers	Clerks	Maintenance of way	Signalmen	Masters and mates	Marine engineers	Longshoremen
	BofLE	BofL E &E	OofRC	SUofNA	OofRT	IAofM	IBof BISB& HofA	IBof BD E & H	SMWIA	IBofEW	BRCofA	IBofF&O	BofR& SSC FHE &SE	BofM ofWE	BofRSofA	NOMM &PofA	NMEBA	ILA
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
El Paso Union Passenger Depot Co													X					
Fort Worth & Denver City Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X			
Wichita Valley Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X			
Fort Worth Belt Ry		X		X														
Galveston, Houston & Henderson RR	X	X			X	X	X	X	X	X	X		X	X	X			
Galveston Wharf Co		X		X														
Great Northern Ry	X	X	X[1]		X								X	X	X			
Green Bay & Western RR	X	X	X		X	X	X	X	X		X		X	X				
Kewaunee, Green Bay & Western RR	X	X	X		X	X	X	X	X		X		X	X				
Ahnapee and Western Ry	X	X	X		X	X	X	X	X		X		X	X				
Gulf Coast Lines:																		
T New Orleans, Texas & Mexico Ry	X		X		X	X	X	X	X	X	X	X	X	X[3]	X			
T Beaumont, Sour Lake & Western Ry	X		X		X	X	X	X	X	X	X	X	X	X[3]	X			
T Orange & Northwestern RR	X		X		X	X	X	X	X	X	X	X	X	X[3]	X			
T St. Louis, Brownsville & Mexico Ry	X	X	X		X	X	X	X	X	X	X	X	X	2-X	X			
T New Iberia & Northern RR	X		X		X	X	X	X	X	X	X	X	X	2-X	X			
T Houston & Brazos Valley Ry	X	X	X		X	X	X	X	X	X	X	X	X	2-X	X			
T San Antonio, Uvalde & Gulf RR	X	X	X		X	X	X	X	X	X	X	X	X	2-X	X			
T Sugar Land Ry	X	X	X		X	X	X	X	X	X	X	X	X	2-X	X			
T Rio Grande City Ry	X	X	X		X	X	X	X	X	X	X	X	X	2-X	X			
T Asherton & Gulf Ry	X	X	X		X	X	X	X	X	X	X	X	X	X[3]	X			
T San Antonio Southern Ry	X	X	X		X	X	X	X	X	X	X	X	X	X[3]	X			
T Iberia, St. Mary & Eastern RR	X		X		X	X	X	X	X	X	X	X	X	X[3]	X			
T San Benito & Rio Grande Valley Ry	X	X	X		X	X	X	X	X	X	X	X	X	X[3]	X			
T Asphalt Belt Ry	X	X	X		X	X	X	X	X	X	X	X	X	X[3]	X			
T Houston North Shore Ry	X		X		X	X	X	X	X	X	X	X	X	X[3]	X			
T International-Great Northern RR	X	X	X		X	X	X	X	X	X	X	X	X	X[3]	X			
Harbor Belt Line RR						X	X	X	X	X	X	X	X	X				
Houston Belt & Terminal Ry	X	X			X								X	X	X			
Illinois Central RR	X	X	X		X	X	X	X	X	X	X	X	X	X	X			
Yazoo & Mississippi Valley RR (including A&V-VS&P)	X	X	X		X	X	X	X	X	X	X	X	X	X	X			
Gulf and Ship Island RR	X		X		X	X	X	X	X	X	X	X	X	X	X			
Chicago & Illinois Western RR	X	X										X	X	X				
Kansas City Southern Ry	X	X	X		X								X					
Arkansas Western Ry	X	X	X															
Joplin Union Depot Co													X					
Kansas City Terminal Ry	X	X			X	X	X	X	X	X	X	X	X	X	X			
Lake Superior Terminal & Transfer Co		X		X		X	X	X										
Litchfield & Madison Ry	X												X					
Los Angeles Junction Ry	X																	
Memphis Union Station Co						X	X		X	X	X	X						
Midland Valley RR	X	X	X		X	X	X	X	X	X	X		X	X				
Kansas, Oklahoma & Gulf Ry	X	X	X		X						X		X	X				
Oklahoma City-Ada-Atoka Ry	X	X	X		X						X			X				
Minneapolis, Northfield and Southern Ry		X	X			X	X	X		X	X		X	X				
T Minneapolis, St. Paul & Sault Ste. Marie Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X			
T Duluth, South Shore & Atlantic Ry	X	X	X		X	X	X	X	X	X	X	X	X	X				
T Mineral Range RR	X	X	X		X	X	X	X	X	X	X	X	X	X				
Minnesota & International Ry	X	X	X		X									X				
Big Fork & International Falls Ry	X	X	X		X									X				
Minnesota Transfer Ry	X	X		X		X	X	X	X	X	X		X	X				
Missouri-Kansas-Texas RR	X	X	X		X	X	X	X	X	X	X		X	X	X			
Missouri-Kansas-Texas RR Co. of Texas	X	X	X		X	X	X	X	X		X		X	X	X			
Beaver, Meade & Englewood RR														X				
T Missouri Pacific RR	X	X	X		X	X	X	X	X	X	X	X	X	X[3]	X			
T Missouri-Illinois RR	X	X	X		X	X	X	X	X	X	X	X		X[4]				
Northern Pacific Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X			
Northern Pacific Terminal Co. of Oregon	X	X			X	X	X	X	X	X	X	X	X	X		X	X	
Northwestern Pacific RR	X	X	X		X	X	X	X	X	X	X	X	X	X				
Ogden Union Ry. & Depot Co	X	X										X	X	X				
Oregon, California & Eastern Ry	X	X	X															
Peoria & Pekin Union Ry	X	X										X	X	X				
Port Terminal Railroad Association	X	X												X				
Pueblo Union Depot & Railroad Co																		
St. Joseph Terminal RR Co	X	X										X		X				
T St. Louis-San Francisco Ry	X	X	X		X									X	X			
St. Louis, San Francisco & Texas Ry	X	X	X		X									X	X			
Birmingham Belt RR	X	X	X		X									X				
T St. Louis Southwestern Ry	X	X	X		X	X	X	X	X	X	X	X		X				
T St. Louis Southwestern Ry. Co. of Texas	X	X	X		X		X					X		X				
St. Paul Union Depot Co	X	X		X										X				
Salt Lake City Union Depot & RR Co																		
San Diego & Arizona Eastern Ry	X	X	X		X	X	X	X	X	X	X	X		X				
Sioux City Terminal Ry	X	X		X														
South Omaha Terminal Ry	X	X												X				
Southern Pacific Co.—Pacific Lines	X[6]	X[7]	X[7]		X	X	X	X	X	X	X	X	X	X	X	X		
Spokane, Coeur d'Alene & Palouse Ry	X		X		X									X				
Spokane, Portland & Seattle Ry	X	X	X		X	X	X	X	X			X	X	X				
Oregon Trunk Ry	X	X	X		X	X	X	X	X			X	X	X				
Oregon Electric Ry	X		X		X	X	X	X	X			X	X	X				
United Railways Co	X		X		X	X	X	X	X			X	X	X				
Spokane Union Station Co													X					
Terminal Railroad Association of St. Louis	X	X			X	X	X	X	X	X	X		X	X	X			
Texarkana Union Station Trust													X					
Texas & New Orleans RR (Sou. Pac. Lines in Texas and Louisiana):																		
Galveston, Harrisburg & San Antonio Ry	X	X	X															
Texas & New Orleans RR	X	X	X		X								X	X	X			
Louisiana Western RR	X	X	X															
Morgan's Louisiana & Texas RR & SS Co	X	X	X															
Iberia & Vermillion RR	X	X	X															
Houston & Texas Central RR	X	X	X															
Texas Midland RR	X	X	X															
Galveston, Harrisburg & San Antonio Ry. (Austin Div.)	X	X	X															
Houston East & West Texas Ry	X	X	X															
Houston & Shreveport RR	X	X	X															
Texas & Pacific Ry	X	X	X		X	X	X	X	X	X	X		X	X	X			
Texas-New Mexico Ry	X	X	X															
Abilene & Southern Ry	X	X	X															
Cisco & Northeastern Ry	X	X	X															
Weatherford, Mineral Wells & Northwestern Ry	X	X	X															
Texas Short Line Ry			X															
Texas Pacific-Missouri Pacific Tor RR of New Orleans	X	X			X	X	X	X	X	X	X		X	X		X	X	
Tidewater Southern Ry	X		X															
Tulsa Union Depot Co													X					
Union Pacific RR	X	X	X		X	X	X	X	X	X	X	X	X	X[5]	X			
Union Railway Company (Memphis)	X	X				X	X	X	X		X	X	X					
Union Terminal Co. (Dallas)		X			X	X	X			X	X		X					
Union Terminal Ry. Co. (St. Joseph)		X											X	X				
R Wabash Ry	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
T Western Pacific RR	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Dallas Car Interchange & Inspection Bureau						X	X						X					
Pacific Car Demurrage Bureau													X					
Pacific Fruit Express Company																		

EXPLANATION OF NOTES

[1] Includes yardmasters.

[2] Authority from the following railroads:

New Orleans, Texas & Mexico Ry.
St. Louis, Brownsville & Mexico Ry.
Beaumont, Sour Lake & Western Ry.
Orange & Northwestern R. R.
New Iberia & Northern R. R.
Houston & Brazos Valley Ry.
San Benito & Rio Grande Valley Ry.
Sugerland Ry.
Asherton & Gulf Ry.
San Antonio Southern Ry.
Rio Grande City Ry.
Asphalt Belt Ry.
Iberia, St. May & Eastern R. R.
International-Great Northern R. R.
San Antonio, Uvalde & Gulf R. R.
Houston North Shore Ry.

is subject to exception that authorization shall not empower Carriers' Joint Conference to act for, to negotiate, or in any manner disturb the following rule now a component part of the wage agreement between these railroads and employes thereon represented by the Brotherhood of Maintenance of Way Employes, effective March 1, 1928, reading:

"EXTRA GANGS"

"Rates of pay for extra gang laborers to be established by Management."

[3] Authority from the Missouri Pacific Railroad is subject to exception that authorization shall not empower Carriers' Joint Conference Committee to act for, to negotiate, or in any manner disturb the following agreement between this railroad and employes thereon represented by the Brotherhood of Maintenance of Way Employes: "Rates of pay for extra gang laborers to be established by Management."

[4] Authority from the Missouri-Illinois Railroad is subject to exception that authorization shall not empower Carriers' Joint Conference Committee to act for, to negotiate, or in any manner disturb the following rule now a component part of the wage agreement between this railroad and Brotherhood of Maintenance of Way Employes, effective May 1, 1935, reading:

"Rule 29, * * * The rates of pay now in effect (except rates of pay for extra gang laborers, which shall be established by the Management) * * *."

[5] Authority from the Union Railway Company (Memphis) is subject to exception that authorization shall not empower Carriers' Joint Conference Committee to act for, to negotiate, or in any manner disturb the following agreement between this railway and employes thereon represented by the Brotherhood of Maintenance of Way Employes "Rates of pay for extra gang laborers to be established by Management."

[6] Includes former EP&SW System and former Ariz. & East. R. R.

[7] Includes former EP&SW System.

(R)—Receivership; (T)—Trusteeship; Subject to approval of Court.

September 1, 1938.

For the Organizations:
H. J. ARRIES.
B. M. JEWELL.
A. E. LYON.
For the Carriers:
E. J. MCCLEES.

[Exhibit B]

Eastern Territory—List of Railroads, Etc., as Represented by the Carriers' Joint Conference Committee, and Their Employees Represented by the Eighteen Cooperating Organizations as Indicated by "X"

(Authority is co-extensive with the scope of Agreements as to classes of Employees)

ORGANIZATIONS

1—Brotherhood of Locomotive Engineers
2—Brotherhood of Locomotive Firemen & Enginemen
3—Order of Railway Conductors
4—Switchmen's Union of North America
5—Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express and Station Employees
6—Brotherhood of Maintenance of Way Employees
7—International Association of Machinists
8—International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America
9—International Brotherhood of Blacksmiths, Drop Forgers and Helpers
10—Sheet Metal Workers' International Association
11—International Brotherhood of Electrical Workers
12—Brotherhood Railway Carmen of America
13—International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers
14—Brotherhood of Railroad Signalmen of America
15—Order of Railroad Telegraphers
16—National Organization Masters, Mates & Pilots of America
17—National Marine Engineers' Beneficial Association
18—International Longshoremen's Association

Railroads, etc.	Brotherhood of Locomotive Engineers	Brotherhood of Locomotive Firemen & Enginemen	Order of Railway Conductors	Switchmen's Union of North America	Clerical and station Forces (BofRy &SSCF HE&SE)	Maintenance of way employees (BofM ofWE)	Railway Employees' Department, American Federation of Labor: Machinists (IAofM)	Boilermakers (IBof BiSH&H of Am.)	Blacksmiths (IBof BDF&H)	Sheet metal workers (SMWI Assn.)	Electrical workers (IBof EW)	Carmen (BRC of Am.)	Firemen & Oilers etc. (IBofFO HR& RSL)	Signalmen (BofRS of Am.)	Telegraphers (Oof RT)	Marine Department Employees: Lighter captains (IL Assn.)	Deck room personnel (IL Assn.)	Deck room personnel (NOMM &Pof Am.)	Engine room personnel (IL Assn.)	Engine room personnel (NMEB Assn.)	Miscellaneous (IL) Assn.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
Akron & Barberton Belt Railroad Company, The		(L)				X															
T Akron, Canton & Youngstown Railway Company, The	X	X	X	X (j)	X	X	X	X	X	X	X	X	X	X	X			X		X	
R Ann Arbor Railroad Company, The	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X		X		
Baltimore & Ohio Railroad Company, The	X (g)	X (g)	X		X (h)	X	X	X	X	X	X	X	X			X		X		X	
Baltimore & Ohio (New York Terminals)					X								X		X						
Bessemer & Lake Erie Railroad Company	X	X	X	X	X	X							X	X	X						
Boston & Maine Railroad	X	X	X		X	X	X	X	X	X	X	X	X	X	X						
Boston Terminal Company, The					X										X						
Buffalo Creek Railroad		X		X	X																
Bush Terminal Company					X										X						
Canadian National Railway Lines in New England	X	X	X		X	X	X	X	X		X	X	X		X						
Champlain & St. Lawrence Railroad Company	X	X	X		X	X			X			X									
Canadian National Railway Lines in New York					X						X										
St. Clair Tunnel Company	X	X					X														
United States & Canada Railroad Company	X	X	X		X	X						X									
Central Railroad Company of New Jersey, The	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X		X		X	X (e)
Central Vermont Railway, Inc.	X	X	X		X	X	X	X	X	X	X	X	X		X						
Central Vermont Terminal, Inc.					X																
T Chicago, Indianapolis & Louisville Railway Company	X	X	X (j)		X	X	X	X	X	X	X	X	X	X	X						
Cincinnati Union Terminal Company	X	X			X	X	X	X	X	X	X	X	X	X	X						
Chicago Union Station Company					X	X						X		X	X						
Dayton Union Railway Company, The					X																
Delaware, Lackawanna & Western Railroad Co., The	X	X	X	X	X (a)	X	X	X	X	X	X	X	X	X	X	X		X (b)			X (d)
Detroit & Toledo Shore Line Railroad Company, The	X	X	X (j)	X	X		X	X				X									
Detroit, Toledo & Ironton Railroad Company	X	X					X	X	X	X	X	X	X								
Detroit Terminal Railroad Company	X			X	X																
Donora Southern Railroad Company	X																				
T Erie Railroad Company	X	X	X (j)		X	X	X	X	X	X	X	X	X	X	X	X	X		X		
Chicago and Erie Railroad Company	X	X	X (j)		X	X	X	X	X	X	X	X	X	X	X						
New Jersey and New York Railroad, The	X	X	X		X	X	X	X	X	X	X	X	X	X	X						
T New York, Susquehanna & Western Railroad Company	X	X	X (j)		X	X	X	X	X	X	X	X	X	X	X						X (e)
T Wilkes-Barre & Eastern Railroad Company	X	X	X		X	X	X	X	X	X	X	X	X	X	X						
Grand Trunk Western Railroad Company	X	X	X		X	X	X	X	X	X	X	X	X	X	X			X		X	
Indianapolis Union Railway Company, The	X	X			X	X	X					X		X	X						
Lake Terminal Railroad Company, The		X												X	X	X	X			X	
Lehigh Valley Railroad Company	X	X	X		X	X															
Lehigh & New England Railroad Company		X											X	X	X						
Maine Central Railroad Company	X	X	X		X	X							X	X	X						
Portland Terminal Company	X	X			X	X															
McKeesport Connecting Railroad Company		X																			
Monongahela Railway Company, The	X	X	X		X		X	X	X	X	X	X	X	X							
New York Central Railroad Company, The, and all leased lines:																					
New York Central—Buffalo & East	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X		X			
New York Central—West of Buffalo	X (l)	X (l)	X	X	X	X	X	X	X	X	X	X	X	X	X						
New York Central—Ohio Central Lines	X	X	X		X	X	X	X	X	X	X	X	X	X	X						
New York Central—Grand Central Terminal					X	X	X	X	X	X	X	X	X	X	X						
Boston & Albany Railroad	X	X	X		X	X	X	X	X	X	X	X	X	X	X						
Cleveland, Cincinnati, Chicago & St. Louis Railway Company	X	X	X	X	X		X	X	X	X	X	X	X	X		X	X				
Louisville & Jeffersonville Bridge & Railroad	X	X																			
Cleveland Union Terminals Company, The					X		X	X	X	X	X	X	X	X	X						
Chicago River & Indiana Railroad Company (Chgo. Jct. Ry. Co.)	X	X			X	X	X	X	X	X	X	X	X								
Indiana Harbor Belt Railroad Company, The	X	X			X	X	X	X	X	X	X	X	X	X							
Michigan Central Railroad Company, The	X	X	X	X	X	X	X	X	X	X	X	X		X	X (p)						
Pittsburgh & Lake Erie Railroad Company, The (Incl. L. E. & E.)	X	X	X		X	X	X	X	X	X				X	X						
Troy Union Railroad Company					X																
Newburgh & South Shore Railway Company, The		X																			
New York Dock Railway					X																
New York, Chicago & St. Louis Railroad Company, The	X	X	X		X	X	X	X	X	X	X	X	X	X	X						
T New York, New Haven & Hartford Railroad Company, The	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X		X		X	
New York Connecting Railroad Company, The	X	X	X			X															
T New York, Ontario & Western Railway Company	X	X	X		X	X	X(a)	X (a)	X(a)	X(a)	X (a)	X(a)	X(a)		X						X(f)
Pennsylvania Railroad Company, The	X	X	X		X	X								X	X	X	X	X		X	
Long Island Railroad Company, The	X	X	X		X	X		X		X	X	X		X	X			X		X	
Baltimore & Eastern Railroad Company	X	X	X			X								X							
Pennsylvania-Reading Seashore Lines	X	X	X		X	X								X							
Pere Marquette Rway Company	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			X		X	
Fort St. Union Depot Co., The	X	X		X	X	X	X	X	X	X		X	X	X	X						
Pittsburg & Shawmut Railroad Co., The	X	X	X			X															
R Pittsburg, Shawmut & Northern Railroad Co., The	X	X	X																		
Pittsburgh & West Virginia Ry. Co., The	X	X	X			X	X	X	X			X			X						
Pittsburgh, Chartiers & Youghiogheny Ry	X																				
Reading Company	X	X	X		X	X	X	X		X	X	X	X	X	X			X		X	
Philadelphia, Reading & Pottsville Telegraph Company											X										
River Terminal Railway Company	X	X																			
Staten Island Rapid Transit Railway Company, The	X	X	X				X	X	X	X	X	X		X	X						
Union Belt of Detroit				X	X		X	X	X		X	X	X								
Union Freight Railroad (Boston)		X																			
Union Inland Freight Station (New York)					X																
Union Depot Company (Columbus, Ohio)					X							X		X	X						X
Washington Terminal Company, The		X			X																

Footnotes at end of table.

Eastern Territory—List of Railroads, Etc., as Represented by the Carriers' Joint Conference Committee, and Their Employees Represented by the Eighteen Cooperating Organizations as Indicated by "X"—Continued

Railroads, etc.	Brotherhood of Locomotive Engineers	Brotherhood of Locomotive Firemen & Enginemen	Order of Railway Conductors	Switchmen's Union of North America	Railway Employees' Department, American Federation of Labor: Clerical and station forces (BofRy &SSCF HE&SE)	Railway Employees' Department, American Federation of Labor: Maintenance of way employees (BofM ofWE)	Railway Employees' Department, American Federation of Labor: Machinists (IAof M)	Railway Employees' Department, American Federation of Labor: Boilermakers (IBof BISB&H of Am.)	Railway Employees' Department, American Federation of Labor: Blacksmiths (IBof BDF&H)	Railway Employees' Department, American Federation of Labor: Sheet metal workers (SMWI Assn.)	Railway Employees' Department, American Federation of Labor: Electrical workers (IBof EW)	Railway Employees' Department, American Federation of Labor: Carmen (BRC of Am.)	Railway Employees' Department, American Federation of Labor: Firemen & Oilers etc. (IBofFO HR& RSL)	Signalmen (BofRS of Am.)	Telegraphers (OofRT)	Marine Department Employees: Lighter captains (IL Assn.)	Marine Department Employees: Deck room personnel (IL Assn.)	Marine Department Employees: Deck room personnel (NOMM &PofAm.)	Marine Department Employees: Engine room personnel (IL Assn.)	Marine Department Employees: Engine room personnel (NMEB Assn.)	Miscellaneous (IL) Assn.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
Wallabout Union Freight Station (Brooklyn, N. Y.)					X																
Wheeling & Lake Erie Railroad Company, The (Incl. L. & W. Va.)	X	X	X		X	X	X	X	X	X	X	X	X		X						
Railway Express Agency, Inc.									X												

(a) Organization certified as representing, but agreement still under negotiation.
(b) Includes Deck Personnel in Ferry Service, National Organization Masters, Mates & Pilots of America certified as representing but agreement still under negotiation.
(c) Miscellaneous employees at Pier 18 Coal Dumper, Jersey City, N. J.
(d) Coal Dumper employees.
(e) Coal Dumpers—Edgewater, N. J.
(f) Coal Dumper employees at Weehawken, N. J., and Cornwall, N. Y.
(g) Includes separate agreements on what were formerly known as the Buffalo & Susquehanna, and Buffalo, Rochester & Pittsburgh; also separate agreement for Engineers, Toledo Division.
(h) Includes employees on Baltimore & Ohio Elevators, and Baltimore & Ohio Warehouses, Camden Station (Baltimore) and Cincinnati, Ohio.
(i) Includes employees of the Illinois Division covered by separate agreements.
(j) Includes Yardmasters.
(k) Includes Train Dispatchers.
(l) Taken, care of by Note in Schedule of Regulations and Rates of Pay for the Government of Engineers, Firemen, Yardmen and Hostlers, effective November 1st, 1929, reading: "Engineers, Fireman, Yardmen and Hostlers shall be paid the same rates that prevail on other rail lines in the Akron and Barberton District."
(R) In Receivership, (T) In Trusteeship—Subject to approval of Court.
September 1, 1938.

[Exhibit C]

Southeastern Territory—List of Railroads, Etc., as Represented by the Carriers' Joint Conference Committee, and Their Employees Represented by the Eighteen Cooperating Organizations as Indicated by "X"

(Authority is co-extensive with the scope of Agreements as to classes of Employees)

Railroads, etc.	Engineers	Firemen	Conductors	Switchmen	Telegraphers	Railway employees' department, American Federation of Labor: Machinists	Railway employees' department, American Federation of Labor: Boilermakers	Railway employees' department, American Federation of Labor: Blacksmiths	Railway employees' department, American Federation of Labor: Sheet metal workers	Railway employees' department, American Federation of Labor: Electrical workers	Railway employees' department, American Federation of Labor: Carmen	Firemen and oilers	Clerks	Maintenance of way	Signalmen	Masters, mates and pilots	Marine engineers	Longshoremen
	BofLE	BofLF &E	OofRC	SUofNA	OofRT	IAofM	IBof BISB& HofA	IBof BDF&H	SMWIA	IBofEW	BRCofA	IBofF&O	BofR& SSCFHE &SE	BofM ofWE	BofRSofA	NOMM &PofA	NMEBA	ILA
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)
Atlantic Coast Line	X	X	X		X	X	X		X		X		X	X (i)		X (j)	X	
Atlanta & West Point-Western Ry. of Alabama	X		X		X	X	X	X	X	X	X							
Atlanta Joint Terminals	X	X				X	X	X	X	X	X		X					
Birmingham Southern	X	X																
(R) Central of Georgia	X	X	X		X	X	X	X	X	X	X			X	X			
Charleston & Western Carolina	X		X		X	X	X	X	X	X	X	X						
Chesapeake & Ohio	X (a)	X (a)	X (a)		X	X	X	X	X	X	X	X	X	X	X			X (k)
Clinchfield	X	X	X		X	X	X	X	X	X	X		X	X				
Columbus & Greenville	X	X	X		X	X	X	X	X		X		X	X				
(R) Florida East Coast		X	X		X	X	X	X	X	X	X	X	X	X				
Georgia	X	X	X		X	X	X	X	X									
Gulf Mobile & Northern	X (b)	X (b)	X (b)		X	X	X	X	X	X	X	X	X	X	X			
Jacksonville Terminal	X	X	X		X	X	X	X	X	X	X		X	X	X			
Kentucky & Indiana Terminal	X	X			X								X					
Louisville & Nashville	X	X	X		X								X	X	X			
Nashville, Chattanooga & St. Louis	X	X	X		X	X	X	X	X (g)	X	X	X	X (h)	X	X	X	X	
(R) Norfolk Southern	X	X							X									
Norfolk & Portsmouth Belt	X	X																
Norfolk & Western	X	X	X		X (f)	X			X (g)	X	X	X		X	X			
Richmond, Fredericksburg & Potomac	X	X	X		X	X	X	X			X							
Savannah, Union Station					X													
(R) Seaboard Air Line	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
Southern Railway	X (c)	X (c)	X		X	X	X	X	X	X	X		X	X	X	X	X	
Alabama Great Southern	X (d)	X (d)	X		X	X	X	X	X	X	X		X	X	X			
Belt Railway Company of Chattanooga																		
Cincinnati Burnside & Cumberland River	X	X			X								X	X	X			
Cincinnati, New Orleans & Texas Pacific	X	X	X	X (e)	X	X	X	X	X	X	X		X	X	X			
Georgia Southern & Florida	X	X	X		X	X	X	X	X	X	X		X	X	X			
Harriman & Northeastern	X	X	X		X	X	X	X	X	X	X		X	X	X			
New Orleans & Northeastern	X	X	X		X	X	X	X	X	X	X		X	X	X			
New Orleans Terminal	X	X			X	X	X	X	X	X	X		X	X	X			
Northern Alabama	X	X	X		X	X	X	X	X	X	X		X	X	X			
St. Johns River Terminal	X	X			X	X	X	X	X	X	X		X					
Woodstock & Blocton	X	X	X		X									X				
Tennessee Central	X	X	X		X (f)	X	X	X	X	X	X	X		X				
Virginian			X		X	X	X	X	X	X								

(a) Includes Hocking Division.
(b) Includes N. O. G. N.
(c) Includes East St. Louis Terminal.
(d) Includes Belt Railway Company of Chattanooga.
(e) Cincinnati-Ludlow Yards only.
(f) Includes Dispatchers.
(g) Includes Moulders.
(h) Represented by Committee which represents shop group.
(i) Foremen, mechanics, helpers, steam shovel engineers and cranemen, pile driver engineers, hoisting engineers, ditcher engineers and pump repairers.
(j) Includes unlicensed deck personnel.
(k) For Newport News, Va. only.
(R) Agreement subject to approval of courts with reference to roads in hands of receivers or trustees.
September 1, 1938.
For the Carriers: T. F. Purcell.
For the Organizations: H. J. Arries, B. M. Jewell, A. E. Lyon.

[Exhibit D]

WESTERN TERRITORY

LIST OF RAILROADS, ETC., AS REPRESENTED BY THE CARRIERS' JOINT CONFERENCE COMMITTEE, AND THEIR EMPLOYEES REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

[Authority is co-extensive with the scope of Agreements as to classes of employees]

Alameda Belt Line.
Alton & Southern R. R.
Alton R. R.
Atchison, Topeka & Santa Fe Ry.
Gulf, Colorado & Santa Fe Ry.
Panhandle & Santa Fe Ry.
Baltimore & Ohio Chicago Terminal R. R.
Belt Ry. Co. of Chicago.
Burlington-Rock Island R. R.
Butte, Anaconda & Pacific Ry.
Camas Prairie R. R.
T Chicago & Eastern Illinois Ry.
T Chicago & North Western Ry.
Chicago & Western Indiana R. R.
Chicago, Burlington & Quincy R. R.[1]
T Chicago Great Western R. R.[2]
T Chicago, Milwaukee, St. Paul & Pacific R. R.[1]
T Chicago, Terre Haute & Southeastern Ry.[1]
T Chicago, Rock Island & Pacific Ry.[1]
T Chicago, Rock Island & Gulf Ry.[1]
Chicago, St. Paul, Minneapolis & Omaha Ry.[11]
Colorado & Southern Ry.
Colorado & Wyoming Ry.
T Denver & Rio Grande Western R. R.[1 3]
Denver & Salt Lake Ry.
Des Moines Union Ry.
Duluth, Missabe & Iron Range R. R.
Duluth, Winnipeg & Pacific Ry.
East St. Louis Junction R. R.
Elgin, Joliet & Eastern Ry.
Fort Worth & Denver City Ry.
Wichita Valley Ry.
Galveston, Houston & Henderson R. R.
Great Northern Ry.[1]
Green Bay & Western R. R.
Kewaunee, Green Bay & Western R. R.
Ahnapee and Western Ry.
Gulf Coast Lines.
T New Orleans, Texas & Mexico Ry.[1 4]
T Beaumont, Sour Lake & Western Ry.[4]
T Orange & Northwestern R. R.
T St. Louis, Brownsville & Mexico Ry.[1 6]
T Houston & Brazos Valley Ry.
T San Antonio, Uvalde & Gulf R. R.
T Sugar Land Ry.
T Asherton & Gulf Ry.
T San Antonio Southern Ry.
T Asphalt Belt Ry.
T Houston North Shore Ry.
T International-Great Northern R. R.[1 2]
Houston Belt & Terminal Ry.
Illinois Central R. R.[1]
Yazoo & Mississippi Valley R. R. (Including A. & V.-V. S. & P.).
Gulf and Ship Island R. R.
Chicago & Illinois Western R. R.
Kansas City Southern Ry.
Arkansas Western Ry.
Kansas City Terminal Ry.
Litchfield & Madison Ry.
Los Angeles Junction Ry.
Midland Valley R. R.
Kansas, Oklahoma & Gulf Ry.
Minneapolis, Northfield and Southern Ry.
T Minneapolis, St. Paul & Sault Ste. Marie Ry.
T Duluth, South Shore & Atlantic Ry.
T Mineral Range R. R.
Minnesota & International Ry.
Big Fork & International Falls Ry.
Missouri-Kansas-Texas R. R.[2]
Missouri-Kansas-Texas R. R. Co. of Texas.[2]
T Missouri Pacific R. R.[1]
T Missouri-Illinois R. R.
Northern Pacific Ry.[1]
Northern Pacific Terminal Co. of Oregon.
Northwestern Pacific R. R.
Ogden Union Ry. & Depot Co.
Peoria & Pekin Union Ry.
Port Terminal Railroad Association.
Pueblo Union Depot & Railroad Co.
St. Joseph Terminal R. R. Co.
T St. Louis-San Francisco Ry.[2]
St. Louis, San Francisco & Texas Ry.[3]
Birmingham Belt R. R.[2]
T St. Louis Southwestern Ry.
T St. Louis Southwestern Ry. Co. of Texas.
San Diego & Arizona Eastern Ry.[7]
South Omaha Terminal Ry.
Southern Pacific Co.-Pacific Lines.[1 8 9]
Spokane, Coeur d'Alene & Palouse Ry.
Spokane, Portland & Seattle Ry.
Oregon Trunk Ry.
Oregon Electric Ry.
United Railways Co.
Spokane Union Station Co.
Terminal Railroad Association of St. Louis.
Texas & New Orleans R. R. (Sou. Pac. Lines in Texas and Louisiana).
Galveston, Harrisburg & San Antonio Ry.
Texas & New Orleans R. R.[1 10]
Louisiana Western R. R.
Morgan's Louisiana & Texas R. R. & S. S. Co.
Iberia & Vermillion R. R.
Houston & Texas Central R. R.
Texas Midland R. R.
Galveston, Harrisburg & San Antonio Ry. (Austin Division).
Houston East & West Texas Ry.[7]
Houston & Shreveport R. R.[7]
Texas & Pacific Ry.[1]
Texas-New Mexico Ry.
Abilene & Southern Ry.
Cisco & Northeastern Ry.
Weatherford, Mineral Wells & Northwestern Ry.
Texas Short Line Ry.
Texas Pacific-Missouri Pacific Terminal R. R. of New Orleans.
Union Pacific R. R.[1]
Union Railway Company (Memphis).[1]
Union Terminal Co. (Dallas).
Union Terminal Ry. Co. (St. Joseph).
R Wabash Ry.
T Western Pacific R. R.[1]

SEPTEMBER 1, 1938.

For the Carriers:

S. H. SCHNEIDER.

For the Organization:

W. G. CANTLEY.

[1] Includes Dining Car Stewards.
[2] Includes Yardmen, South St. Paul Terminal.
[3] Includes Yardmasters (Except General Yardmasters on D&RGW RR)
[4] White Trainmen and Yardmen only.
[5] Dining Car Stewards only.
[6] White Engine Foremen only.
[7] Yardmen only.
[8] Includes former EP&SW System.
[9] Includes Train Gatemen (Electric Lines)
[10] Includes Bus and Truck Drivers, New Orleans Terminal.
[11] Does not include Dining Car Stewards.
R—In Receivership; T—In Trusteeship—Subject to Approval of Court.

[Exhibit E]

EASTERN TERRITORY

LIST OF RAILROADS, ETC., AS REPRESENTED BY THE CARRIERS' JOINT CONFERENCE COMMITTEE, AND THEIR EMPLOYEES REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN

[Authority is co-extensive with the scope of Agreements as to classes of employees]

Akron & Barberton Belt Railroad Company, The.
T Akron, Canton & Youngstown Railway Company, The.
R Ann Arbor Railroad Company, The.
Baltimore & Ohio Railroad Company, The.[a]
Bessemer & Lake Erie Railroad Company.
Boston & Maine Railroad.[b]
Bush Terminal Company.
Canadian National Railway Lines in New England.
Champlain & St. Lawrence Railroad Company.
St. Clair Tunnel Company.
United States & Canada Railroad Company.
Central Railroad Company of New Jersey, The.
Central Vermont Railway, Inc.
T Chicago, Indianapolis & Louisville Railway Company.
Cincinnati Union Terminal Company.
Chicago Union Station Company.
Delaware, Lackawanna & Western Railroad Company, The.[g]
Detroit & Toledo Shore Line Railroad Company, The.
Detroit, Toledo & Ironton Railroad Company.
Donora Southern Railroad Company.
T Erie Railroad Company.
Chicago and Erie Railroad Company.
New Jersey and New York Railroad, The.
T New York, Susquehanna & Western Railroad Company.
T Wilkes-Barre & Eastern Railroad Company.
Grand Trunk Western Railroad Company.[a]
Indianapolis Union Railway Company, The.
Lake Terminal Railroad Company, The.
Lehigh Valley Railroad Company.[c]
Lehigh & New England Railroad Company.
Maine Central Railroad Company.[b]
Portland Terminal Company.[b]
McKeesport Connecting Railroad Company.
Monongahela Railway Company, The.
New York Central Railroad Company, The, and all leased lines:
New York Central—Buffalo & East.[g]
New York Central—West of Buffalo.[g]
New York Central—Ohio Central Lines.[b g]
Boston & Albany Railroad.[a]
Cleveland, Cincinnati, Chicago & St. Louis Railway Company.[c]
Louisville & Jeffersonville Bridge & Railroad.
Chicago River & Indiana Railroad Company (Chicago Junction Railway Co.).
Indiana Harbor Belt Railroad Company, The.[d]
Michigan Central Railroad Company, The.[c]
Pittsburgh & Lake Erie Railroad Company, The (incl. L. E. & E.).
Newburgh & South Shore Railway Company, The.
New York, Chicago & St. Louis Railroad Company, The.
T New York, New Haven & Hartford Railroad Company, The.
New York Connecting Railroad Company, The.
T New York, Ontario & Western Railway Company.
Pennsylvania Railroad Company, The.[a]
Long Island Railroad Company, The.[a]
Baltimore & Eastern Railroad Company.
Pennsylvania-Reading Seashore Lines.
Pere Marquette Railway Company.
Pittsburg & Shawmut Railroad Company, The.
R Pittsburg, Shawmut & Northern Railroad Company, The.
Pittsburgh & West Virginia Railway company, The.
Pittsburgh, Chartiers & Youghiogheny Railway.
Reading Company.[f]
River Terminal Railway Company.
Staten Island Rapid Transit Railway Company, The.
Union Freight Railroad (Boston).
Washington Terminal Company, The.
Wheeling & Lake Erie Railroad Company, The (incl. L. & W. Va.).

SEPTEMBER 1, 1938.

For the Carriers:

E. J. MCCLEES.

For the Organization:

W. G. CANTLEY.

[a] Includes Dining Car Stewards.
[b] Includes Yardmasters.
[c] Includes Car Riders Perth Amboy Coal Docks, and Dining Car Stewards.
[d] Includes Train Directors, Levermen, Towermen and related classes represented by the Brotherhood of Railroad Trainmen, for which no agreement has been negotiated as yet.
[e] Includes Guards.
[f] Includes Car Droppers Port Reading Terminal, N. J., and Yardmasters.
[g] Does not include Dining Car Stewards.
R—In Receivership; T—In Trusteeship—Subject to Approval of Court.

[Exhibit F]

SOUTHEASTERN TERRITORY

LIST OF RAILROADS, ETC., AS REPRESENTED BY THE CARRIERS' JOINT CONFERENCE COMMITTEE, AND THEIR EMPLOYEES REPRESENTED BY THE BROTHERHOOD OF RAILROAD TRAINMEN.

[Authority is co-extensive with the scope of Agreements as to classes of employees]

Atlantic Coast Line.[a]
Atlanta & West Point-Western Ry. of Alabama.
Atlanta Joint Terminals.
Birmingham Southern.
R Central of Georgia.
Charleston & Western Carolina.
Chesapeake & Ohio.[b]
Clinchfield.
Columbus & Greenville.
R Florida East Coast.
Georgia.
Gulf, Mobile & Northern.[c]
Kentucky & Indiana Terminal.
Louisville & Nashville.[a]
Nashville, Chattanooga & St. Louis.[a]
R Norfolk Southern.
Norfolk & Portsmouth Belt.
Norfolk & Western.
Richmond, Fredericksburg & Potomac.
R Seaboard Air Line.[c]
Southern Railway.[a]
Alabama Great Southern.[a]
Cincinnati Burnside & Cumberland River.
Cincinnati, New Orleans & Texas Pacific.
Georgia Southern & Florida.
Harriman & Northeastern.
New Orleans & Northeastern.
New Orleans Terminal.
Northern Alabama.
St. Johns River Terminal.
Woodstock & Blocton.
Tennessee Central.
Virginian.

SEPTEMBER 1, 1938.

For the carriers.

T. F. PURCELL.

For the Organization.

W. G. CANTLEY.

[a] Includes Dining Car Stewards.
[b] Includes Hocking Division.
[c] Includes N. O. & G. N.
[d] Includes East St. Louis Terminal.
[e] Includes Belt Railway of Chattanooga.
[f] Does not include dining car stewards.
R—In Receivership;—Subject to Approval of Court.

FEDERAL REGISTER

VOLUME 3 NUMBER 190

Washington, Thursday, September 29, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 102]

THE FEDERAL LAND BANK OF WICHITA

SPECIAL INTEREST RATES ON CERTAIN FEDERAL LAND BANK LOANS

Title 6, Code of Federal Regulations, is amended by adding the following new section:

"SEC. 29.30 *Special interest rates on certain Federal land bank loans.*—The following interest rates, to wit:

(1) For loans through national farm loan associations, one and one-half per centum per annum in excess of the interest rate in the last series of consolidated Federal farm loan bonds, such interest rate not to exceed six per centum per annum:

(2) For direct loans, one-half of one per centum per annum in excess of the interest rate approved for loans through national farm loan associations under (1) preceding; and

(3) For loans under Sec. 25 (b) of the Farm Credit Act of 1937 (50 Stat. 711, 12 U. S. C., Supp. III, 724) through national farm loan associations, the capital stock of which is impaired, one-fourth of one per centum per annum less than the interest rate approved for direct loans under (2) preceding;

shall be charged and collected on all loans secured by first mortgage on:

(A) Land used for the raising of livestock, in estimating the earning power and in establishing the value of which leases or permits for the use of other lands were taken into consideration and were a factor in determining the amount of the loan; and

(B) A farm property, a substantial part of the earnings from which is from orchard crops; on applications approved for loans on and after June 20, 1938. (Sec. 12 "Second," 39 Stat. 370, as amended, 12 U. S. C. 771 "Second"; Sec. 7 (b), 39 Stat. 365, as amended, 12 U. S. C. 723 (b); Sec. 25 (b), 50 Stat. 711, 12 U. S. C., Supp. III, 724; 6 CFR 10.330.1.) [Res. Bd. Dir., June 20, 1938.]"

[SEAL] FEDERAL LAND BANK OF WICHITA,
By ROY S. JOHNSON,
President.

[F. R. Doc. 38-2842; Filed, September 28, 1938; 12:13 p. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-14]

AMENDMENT OF ALASKA FISHERY REGULATIONS

SEPTEMBER 26, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[1] are hereby amended by the following regulation:

KODIAK AREA

Salmon fishery.—Regulation No. 11 is amended so as to permit commercial fishing for salmon between Old Harbor and Kodiak in the period from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 15.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2844; Filed, September 28, 1938; 12:48 p. m.]

[1] 3 F. R. 451, 2222 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 6—AGRICULTURAL CREDIT:	
Farm Credit Administration:	
Federal Land Bank of Wichita, special interest rates on certain loans	2337
TITLE 20—FISH AND GAME:	
Bureau of Fisheries:	
Alaska fishery regulations, amendment	2337
TITLE 25—INDIANS:	
Office of Indian Affairs:	
St. Elizabeths Hospital, commitment to	2338
TITLE 27—INTOXICATING LIQUORS:	
Federal Alcohol Administration Division:	
Distilled spirits labeling regulations amended; application to whiskeys produced on or after March 1, 1938	2338
TITLE 46—SHIPPING:	
Bureau of Marine Inspection and Navigation:	
Certificates of service and efficiency, continuous discharge books, etc., rules of issuance amended	2338
TITLE 49—TRANSPORTATION AND RAILROADS:	
Interstate Commerce Commission:	
Motor carrier employees, maximum hours of service	2339

NOTICES

United States Maritime Commission:	
Isthmian Steamship Co., hearing postponed on application for operating-differential subsidy contract	2340

FEDERAL REGISTER

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TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

[Circular No. 3266]

COMMITMENT TO ST. ELIZABETHS HOSPITAL

SEPTEMBER 12, 1938.

To All Superintendents:

Hereafter, when commitment of mentally ill Indians to St. Elizabeths Hospital, Washington, D. C., is desired, the following procedure must be had:

Notice, in writing, shall be given to the person whose commitment is sought, and to his nearest immediate relatives, of an open hearing to be had before the Superintendent, which shall be attended by at least two qualified physicians selected by him, for the purpose of investigating the sanity of the person proposed to be committed. Such notice must specify the day and hour of the proposed hearing, and shall be issued not less than three nor more than ten days in advance of the hearing; except that in cases of emergency involving the well-being of the patient or the safety of the patient's family or the community, a hearing may be held on less than three days' notice. A copy of the notice shall be posted on the bulletin board at the Agency in order that any other member of the tribe desiring so to do may attend such hearing. A copy of the notice shall also be sent to the Tribal Council or other governing body, if any. Representatives of such Council or governing body may attend the hearing and may, if they desire, submit an advisory report supplemental to that of the Superintendent. A copy of the notice shall accompany the report and other papers in the case when submitted.

Following the hearing, a complete report of the proceedings had should be forwarded to the Indian Office for appropriate action, together with the usual certificate of physical examination on Form 5–230, signed by at least two physicians.

Circular No. 2974 of January 29, 1934, is hereby abrogated.

JOHN HERRICK,
Assistant to the Commissioner.

Approved, September 17, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38–2839; Filed, September 28, 1938; 9:48 a. m.]

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

[Regulations No. 5, Amendment No. 7]

AMENDING THE DISTILLED SPIRITS LABELING REGULATIONS TO RESTRICT THE APPLICATION THEREOF TO WHISKEYS PRODUCED ON OR AFTER MARCH 1, 1938

Pursuant to the provisions of Section 5 (e) of the Federal Alcohol Administration Act, as amended, Regulations No. 5, Relating to Labeling and Advertising of Distilled Spirits,[1] as amended, are further amended as follows:

Article III, Section 34 (d) of said regulations is amended to read:

(d) In the case of whiskey (as defined in Article II, Section 21, Class 2) and American type whiskey, produced on or after March 1, 1938, which, in whole or in part, is treated with wood chips through percolation or otherwise, during distillation, rectification, or storage, there shall be stated in direct conjunction with the class and type designation the phrase "Colored and flavored with wood chips."

[SEAL] W. S. ALEXANDER,
Administrator.

Approved, this 27th day of September 1938.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38–2838; Filed, September 27, 1938; 4:06 p. m.]

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

AMENDMENTS TO RULES AND REGULATIONS FOR ISSUANCE OF CERTIFICATES OF SERVICE AND EFFICIENCY, CONTINUOUS DISCHARGE BOOKS, CERTIFICATES OF IDENTIFICATION, AND CERTIFICATES OF DISCHARGE

By virtue of the authority prescribed by sections 1 and 7 of the act of June 25, 1936 (Public Law No. 808, 74th Congress, 49 Stat., p. 1930), sections 1 and 3 of the act of June 16, 1938 (Public Law No. 647, 75th Congress) and section 1–j of the act of March 24, 1937, (Public Law No. 25, 75th Congress, 50 Stat., p. 49), the following rules and regulations, amending "Rules and Regulations for Issuance of The Certificates of Service and Efficiency, Continuous Discharge Books, Certificates of Identification, and Certificates of Discharge", edition of May 5, 1938,[2] are prescribed for the carrying out of the provisions of section 1 of the foregoing act of June 16, 1938, amending section 13 of the seamen's act of March 4, 1915 (38 Stat., p. 1169) as amended by section 1 of the act of June 25, 1936 (49 Stat., p. 1930), relative to the issuance of certificates of service to able seamen, certificates of efficiency to lifeboat men, certificates of service to qualified member of the engine department, and certificates of service to persons other than able seamen and qualified members of the engine department; and for carrying out of the provisions of section 3 of the act of June 16, 1938 amending the act of March 24, 1937 (Public Law No. 25, 50 Stat., p. 49), amending section 4551 R. S. as amended, relative to the issuance of continuous discharge books, certificates of identification, and certificates of discharge.

738.1—SEC. 1.—GENERAL

Subsection (c) is amended to read as follows:

"(c) Every person employed on any merchant vessel of the United States of 100 tons gross and upward, except those navigating rivers exclusively and the smaller inland lakes, below the rank of licensed officer, shall have a certificate of service issued by a board of local inspectors. No certificate of service or efficiency is required of any person below the rank of licensed officer employed on any unrigged vessel except seagoing barges."

738.2—SEC. 2.—CONTINUOUS DISCHARGE BOOKS AND CERTIFICATES OF IDENTIFICATION

Subsection (a) is amended to read as follows:

"(a) Every seaman employed on any merchant vessel of the United States of 100 gross tons or upward, except vessels employed exclusively in trade on the navigable rivers of the United States, shall be issued, at the option of the seaman, a continuous discharge book or certificate of identification upon application therefor, which shall be retained by him. This book or certificate of identification will bear a number, and this same number shall be shown on all certificates of service or efficiency issued to the holder of the book or certificate of identification. The term 'navigable rivers' shall be held to include all waters over which a vessel inspected and certificated under the General Rules and Regulations prescribed by the Board of Supervising Inspectors for

[1] 1 F. R. 92.

[2] 3 F. R. 1088 DI.

"Rivers" is permitted to be navigated. Provisions of this section are not applicable to unrigged vessels except seagoing barges."

738.3—SEC. 3.—ABLE SEAMAN

This section is amended by the addition of a subsection (dd) headed "Tugs and Towboats", to follow immediately after subsection (d) and subsection (dd) to be followed immediately by the subhead "General", and by the amendment of subsections (i) and (j) as follows:

"Tugs and Towboats"

"(dd) Eighteen months' service on deck at sea or on the Great Lakes or on the bays and sounds directly connected with the seas."

"General"

"(i) Every person employed in a rating as able seaman on any vessel coming under the provisions of these rules and regulations shall produce a certificate as able seaman to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement. No certificate as able seaman is required of any person employed on any unrigged vessel except seagoing barges, nor on any tug or towboat on the bays and sounds connected directly with the seas."

"(j) Each certificate issued shall state the waters on which the holder is permitted to be employed as an able seaman.

"Certificates issued to seamen under paragraphs (a) and (b) of this section shall be issued for "Any Waters" and shall be green in color.

"Certificates issued to seamen under paragraph (c) shall be for "Any Waters—12 months" and shall be blue in color. (Holders of certificates under this provision are limited to one-fourth of the number of able seamen required by law to be employed on a vessel.)

"Certificates issued to seamen under paragraph (d) shall be for "Great Lakes—18 months' service" and shall be blue in color. (Holders of certificates under this provision may comprise the required number of able seamen on vessels on the Great Lakes and on the smaller lakes, bays, and sounds.) If the seaman possesses the requisite service for a certificate under paragraph (c), there shall be added "High Seas—12 months."

"Certificates issued to seamen under paragraph (dd) of this section shall be for "Tugs and Towboats Only" on the High Seas" and shall be blue in color."

738.4—SEC. 4.—LIFEBOAT MAN

Subsection (f) is amended to read as follows:

"(f) Every person employed in a rating as lifeboat man on any vessel coming under the provisions of these rules and regulations shall produce a certificate as lifeboat man to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement. No certificate of efficiency as lifeboat man is required of any person employed on any unrigged vessel, except seagoing barges."

738.5—SEC. 5.—QUALIFIED MEMBER OF THE ENGINE DEPARTMENT

Subsections (a) and (f) are amended to read as follows:

"(a) A qualified member of the engine department is any person below the rating of licensed officer and above the rating of coal passer or wiper, who holds a certificate of service as such qualified member of the engine department issued by a board of local inspectors of the Bureau of Marine Inspection and Navigation. An applicant for a certificate of service as qualified member of the engine department shall produce to such inspectors definite proof of at least 6 months' service at sea in a rating at least equal to that of coal passer or wiper in the engine department of vessels required to have such certificated men, or proof that he is a graduate of a school ship approved by and conducted under rules prescribed by the Secretary of Commerce, or a graduate of the United States Naval Academy or the United States Coast Guard Academy, or definite proof of at least 6 months' service in a rating at least equal to that of coal passer or wiper in the engine department of tugs or towboats operating on the high seas or Great Lakes or on the bays and sounds directly connected with the seas."

"(f) Every person employed in a rating as qualified member of the engine department on any vessel coming under the provisions of these rules and regulations shall produce a certificate as qualified member of the engine department to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement. No certificate as qualified member of the engine department is required of any person employed on any unrigged vessel, except seagoing barges."

738.6—SEC. 6.—CERTIFICATES OF SERVICE FOR RATINGS OTHER THAN ABLE SEAMAN OR QUALIFIED MEMBER OF THE ENGINE DEPARTMENT

Subsection (g) is amended to read as follows:

"(g) Every person employed in a rating other than able seaman or qualified member of the engine department of vessels coming under the provisions of these rules and regulations shall produce a certificate of service for the capacity in which he is employed to the United States shipping commissioner, United States collector or deputy collector of customs, or master before signing Articles of Agreement. No certificate of service shall be required of any person employed on any unrigged vessel, except seagoing barges."

Approved, September 28, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38–2843; Filed, September 28, 1938; 12:48 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–2]

ORDER IN THE MATTER OF MAXIMUM HOURS OF SERVICE OF MOTOR CARRIER EMPLOYEES

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 26th day of September, A. D. 1938.

Upon further consideration of the record in the above entitled proceeding and of petitions for rehearing filed by the American Trucking Associations, Inc., et al., National Association of Motor Bus Operators, Truck Owners Association of California, Arizona Motor Transport Association, Inc., Texas Motor Transportation Association, Oil Field Haulers Division, Mid-Continent Oil Field Haulers Conference, and Midwest Oil Field Carriers Bureau; and good cause appearing therefor:

It is ordered, That this proceeding be, and it is hereby, reopened for further hearing.

It is further ordered, That the effective date of the Commission's order of July 12, 1938,[1] prescribing hours of service regulations applicable to drivers employed by common and contract carriers in interstate and foreign commerce be, and it is hereby, postponed until December 31, 1938, insofar as it applies to common and contract carriers of property and their employees.

It is further ordered, That the effective date of the provision of Rule 5 of the regulations prescribed by said order of July 12, requiring the maintenance of a driver's log be, and it is hereby, postponed until December 31, 1938, insofar as said Rule 5 applies to common and contract carriers of passengers and their employees.

And it is further ordered, That this proceeding be, and it is hereby, assigned for further hearing before Examiner R. W. Snow at the Sherman Hotel, Chicago, Illinois, on November 4, 1938, at 10 A. M. (Standard Time).

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38–2841; Filed, September 28, 1938; 12:10 p. m.]

[1] 3 F.R. 1875 D. I.

Notices

UNITED STATES MARITIME COMMISSION.

APPLICATION OF ISTHMIAN STEAMSHIP COMPANY FOR AN OPERATING-DIFFERENTIAL SUBSIDY CONTRACT

ORDER POSTPONING HEARING

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 27th day of September, A. D. 1938.

It is ordered, That the public hearing heretofore ordered to be held on Friday, September 30, 1938,[1] with respect to the application of the Isthmian Steamship Company for an operating-differential subsidy contract, be postponed until Monday, October 31, 1938, at 10:00 A. M., in Conference Room "B," Government Auditorium, Washington, D. C.

[1] 3 F. R. 2260 DI.

It is further ordered, That a copy of this order be served forthwith upon the Isthmian Steamship Company and the Dollar Steamship Line and that notice of this postponement be published in the FEDERAL REGISTER immediately.

By the Commission.

[SEAL] W. C. PEET, JR.,
Secretary.

[F. R. Doc. 38-2840; Filed, September 28, 1938, 11:02 a. m.]

Reference

Oct 3 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 191

Washington, Friday, September 30, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER OF THE SECRETARY OF AGRICULTURE TERMINATIONG LICENSE FOR MILK—RICHMOND, VIRGINIA, SALES AREA

Whereas, Henry A. Wallace, Secretary of Agriculture of the United States of America, acting under the provisions of Public Act No. 10, 73d Congress, as amended, issued on April 30, 1934, a license for milk—Richmond, Virginia, Sales Area, effective May 1, 1934, which license was amended on April 16, 1935, and suspended on November 1, 1937;[1] and

Whereas, the Secretary of Agriculture has determined to terminate said license;

Now, therefore, Harry L. Brown, Acting, Secretary of Agriculture, acting under the authority vested in him by the terms and provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, and pursuant to the terms and provisions of said license, as amended and as suspended, hereby terminates said license, effective 12:01 a. m., e. s. t., October 1, 1938.

None of the obligations which have arisen or which may hereafter arise in connection with, by virtue of, or pursuant to the operation of said license prior to the effective date of this termination shall be affected, waived, or terminated hereby.

In witness whereof, I, Harry L. Brown, Acting Secretary of Agriculture of the United States, have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 28th day of September 1938.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2854; Filed, September 28, 1938; 3: 52 p. m.]

[1] 2 F. R. 2321 (2703 DI).

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—Q. 45]

GYPSY MOTH AND BROWN-TAIL MOTH QUARANTINE

REVISION OF QUARANTINE AND REGULATIONS

Introductory Note

The principal changes in this revision of the quarantine and the regulations are (1) the release from regulation of certain towns in Coos County, N. H., and parts of the counties of Caledonia, Essex, Lamoille, and Rutland, Vt.; and (2) the transfer from lightly infested to generally infested area of part of Coos County, N. H., parts of the Maine counties of Franklin, Kennebec, Oxford, Penobscot, Somerset, and Waldo, and parts of the Vermont counties of Orange, Windham, and Windsor. The quarantine as revised provides for modifications of its restrictions in accordance with facts as to pest risk found by the Chief of the Bureau of Entomology and Plant Quarantine and set forth in administrative instructions.

Former regulations 2 and 4 have been discontinued and the present regulations have been renumbered.

Summary

The regulated area includes the entire State of Rhode Island and parts of Connecticut, Maine, Massachusetts, New Hampshire, and Vermont. The restricted articles, unless exempted by administrative instructions, are as follows: (1) Coniferous trees, such as spruce, fir, hemlock, pine, juniper (cedar), and arborvitae (white cedar), without roots, known as "Christmas trees," and parts thereof, and evergreen decorative plants, such as boxwood, holly, and laurel, and their parts; (2) forest-plant products, including logs, tanbark, posts, poles, car stakes, railroad ties, cordwood, empty cable reels, and lumber; (3) trees, shrubs, vines, and all plants having persistent woody stems, and parts of such plants excepting seeds and fruit; and (4) stone and quarry products (regulation 1).

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Richmond, Va., Sales Area, termination of license for milk 2341
Bureau of Entomology and Plant Quarantine:
Gypsy moth and brown-tail moth quarantine, revision of quarantine and regulations 2341
TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Arata, John B 2349
Berry Seed Co., et al 2347
Boyce, W. D., Co 2348
Cohen Brothers Corp 2347
Florida Building Material Institute, Inc., et al 2346
Lincoln Dental Supply Co., Inc 2348
Master Lock Co 2349

NOTICES

Civil Aeronautics Authority:
American Airlines, Inc., temporary exemption relative to air service to Huntington, W. Va 2350
Department of Agriculture:
Farm Security Administration:
Tenant purchase loans, designation of counties:
Arizona 2350
Nevada 2350
Utah 2350
Department of the Interior:
National Bituminous Coal Commission:
Kentucky Coal Agency, hearing on application for provisional approval as marketing agency 2350
Securities and Exchange Commission:
United Light and Power Engineering and Construction Co., order approving a subsidiary service company 2352

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Under these regulations no restricted articles shall be moved interstate from the regulated areas to or through any point outside thereof, nor from the generally infested area to the lightly infested area, except under a certificate or permit (regulation 3).

Christmas trees and evergreen boughs originating in the generally infested area are not allowed to be moved interstate to any point outside of that area, and no certificate or permit will be issued authorizing such movement unless such trees have been grown as nursery stock in a cultivated nursery and are certified under the provisions of regulation 4.

Deciduous trees and such parts thereof as bear leaves are not allowed to be moved from the brown-tail moth infested area to outside points without a certificate or permit, except that a State nursery inspection certificate may be substituted in the case of certain classes of movement within the gypsy moth regulated areas (regulation 3).

Woody plants grown in the greenhouse throughout the year and cut flowers thereof may be shipped interstate without inspection and certification on condition that each box or package is plainly labeled to show that the contents were greenhouse grown.

For the conditions governing inspection and certification, marking requirements, and similar details, see regulations 4 to 10, inclusive.

To arrange for inspection and certificates, address Bureau of Entomology and Plant Quarantine, 266 Glenwood Ave., Bloomfield, N. J.

[SEAL] S. H. ROHWER,
Acting Chief, Bureau of Entomology and Plant Quarantine.

NOTICE OF QUARANTINE NO. 45 (REVISED)

(Approved September 28, 1938; effective September 29, 1938)

I, Harry L. Brown, Acting Secretary of Agriculture, have determined that it is necessary to quarantine the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, to prevent the spread of two injurious insects—the gypsy moth (*Porthetria dispar* L.) and the browntail moth (*Nygmia phaeorrhoea* Don.)—not heretofore widely distributed within and throughtout the United States.

Now, therefore, I, Harry L. Brown, Acting Secretary of Agriculture, under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, do hereby quarantine the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, and by this Notice of Quarantine No. 45 do order that (1) coniferous trees, such as spruce, fir, hemlock, pine, juniper (cedar), and arborvitae (white cedar), without roots; known and described as "Christmas trees," and parts thereof, and evergreen decorative plants, such as boxwood, holly, and laurel, and parts thereof, known and described as "Christmas greens and greenery;" (2) forest-plant products, including logs, tanbark, posts, poles, car stakes, railroad ties, cordwood, empty cable reels, and lumber; (3) trees, shrubs, vines, and all plants having persistent woody stems, and parts of such plants excepting seeds and fruit; and (4) stone and quarry products, shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from any of said quarantined States into or through any other State or Territory or District of the United States in manner or method or under conditions other than those prescribed in the rules and regulations hereinafter made and amendments thereto: *Provided*, That the restrictions of this quarantine and of the rules and regulations supplemental thereto may be limited to the areas, in a quarantined State, now or hereafter designated by the Secretary of Agriculture as regulated areas, when said State shall have provided for and enforced such control and regulatory measures with respect to such designated areas as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to prevent the spread of the gypsy moth and brown-tail moth: *And provided further*, That, wherever, in any year, the Chief of the Bureau of Entomology and Plant Quarantine shall find that facts exist as to the pest risk involved in the movement of one or more of the articles enumerated in the regulations supplemental hereto, making it safe to modify, by making less stringent, the restrictions contained in any such regulation, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulation should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof as shall be specified in said administrative instructions, and a copy thereof shall be mailed to the common carriers doing business in the quarantined area affected and every reasonable effort shall be made to give publicity to the said modification of the regulation in the area affected.

Done at the city of Washington this 28th day of September, 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

RULES AND REGULATIONS (EIGHTH REVISION) SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 45

REGULATION 1. DEFINITIONS

For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

(*a*) *Gypsy moth.*—The insect known as the gypsy moth (*Porthetria dispar* L.).

(*b*) *Brown-tail moth.*—The insect known as the brown-tail moth (*Nygmia phaeorrhoea* Don., formerly referred to as *Euproctis chrysorrhoea*).

(*c*) *Quarantined area.*—Any State quarantined by the Secretary of Agriculture upon determination by him that either the gypsy moth or the brown-tail moth, or both, exist therein.

(*d*) *Regulated area.*—The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as regulated to prevent the spread of the gypsy moth or brown-tail moth, or both, therefrom.

(*e*) *Generally infested area.*—The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as generally infested with the gypsy moth.

(*f*) *Lightly infested area.*—The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as lightly infested with the gypsy moth.

(*g*) *Brown-tail moth infested area.*—The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as infested with the brown-tail moth.

(*h*) *Restricted articles.*—(1) Coniferous trees, such as spruce, fir, hemlock, pine, juniper (cedar), and arborvitae (white cedar), without roots, known and described as "Christmas trees", and parts thereof, and evergreen decorative plants, such as boxwood, holly, and laurel, and parts thereof; (2) forest-plant products, including logs, tanbark, posts, poles, car stakes, railroad ties, cordwood, empty cable reels, and lumber; (3) trees, shrubs, vines, and all plants having persistent woody stems, and parts of such plants, excepting seeds and fruit; and (4) stone and quarry products.

(*i*) *Moved interstate; interstate movement.*—Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from one State of the United States into or through any other State or Territory or District.

(*j*) *Inspector.*—An inspector of the United States Department of Agriculture.

REGULATION 2. LIMITATION OF RESTRICTIONS TO REGULATED AREAS. DESIGNATION OF REGULATED AREAS; GENERALLY INFESTED AREA; LIGHTLY INFESTED AREA; BROWN-TAIL MOTH INFESTED AREA

Conditioned upon maintenance on the part of the State concerned of action deemed adequate by the Secretary of Agriculture to prevent the spread of the gypsy moth and brown-tail moth or both such moths, from the regulated area or areas to other parts of the State, the restrictions of these regulations are limited to the following areas:

(1) *Regulated Areas*

Connecticut.—Counties of Hartford, Middlesex, New London, Tolland, and Windham; towns of Barkhamsted, Colebrook, Harwinton, New Hartford, Plymouth, Thomaston, Torrington, and Winchester, in *Litchfield County;* towns of Branford, Guilford, Madison, Meriden, North Branford, North Haven, Waterbury, and Wolcott, in *New Haven County.*

Maine.—Counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York; towns of Avon, Berlin, Carthage, Chesterville, Crockertown, Dallas Plantation, Farmington, Freeman, Greenvale, Industry, Jay, Jerusalem, Kingfield, Madrid, Mount Abraham, New Sharon, New Vineyard, Perkins, Phillips, Rangeley Plantation, Radington, Salem, Sandy River Plantation, Strong, Temple, Washington, Weld, and Wilton, and Townships D and E, in *Franklin County;* all of *Hancock County* except Plantations 3, 4, 35, and 41; all that part of *Oxford County* south and southeast of and including the towns of Magalloway and Richardsontown; towns of Alton, Argyle, Bradford, Bradley, Carmel, Charleston, Clifton, Corinna, Corinth, Dexter, Dixmont, Eddington, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Hudson, Kenduskeag, Levant, Milford, Newburgh, Newport, Orono, Orrington, Plymouth, Stetson, Summit, and Veazie, and cities of Bangor, Brewer, and Old Town, in *Penobscot County;* towns of Abbott, Atkinson, Dover, Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangerville, and Wellington, in *Piscataquis County;* all that part of *Somerset County* south and southeast of and including Highland and Pleasant Ridge Plantations, town of Moscow, and Mayfield Plantation; towns of Beddington, Cherryfield, Columbia, Deblois, Harrington, Millbridge, and Steuben, and Plantations 18 and 24, in *Washington County.*

Massachusetts.—Counties of Barnstable, Bristol, Dukes, Essex, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester; all of *Franklin County* except the town of Monroe.

New Hampshire.—Counties of Belknap, Carroll, Cheshire, Grafton, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; all that part of *Coos County* lying south of and including the towns of Stratford, Odell, Dummer, and Cambridge.

Rhode Island.—The entire State.

Vermont.—Counties of Orange, Windham, and Windsor; towns of Landgrove, Peru, Readsboro, Searsburg, and Winhall, in *Bennington County;* towns of Barnet, Danville, Groton, Kirby, Peacham, Ryegate, St. Johnsbury, and Waterford, in *Caledonia County;* towns of Concord, Granby, Guildhall, Lunenburg, Maidstone, and Victory, in *Essex County;* town of Elmore in *Lamoille County;* towns of Mount Holly, Mount Tabor, Pittsfield, Sherburne, Shrewsbury, and Wallingford, in *Rutland County;* towns of Barre, Berlin, Cabot, Calais, East Montpelier, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Woodbury, and Worcester, in *Washington County.*

(2) *Division of Regulated Area*

For the purpose of regulating inspection and transportation, the territory designated above is divided into two classes of areas to be known as the "generally infested" and "lightly infested" areas respectively, and part of such regulated area is also designated as "brown-tail moth infested."

(3) *Lightly Infested Area*

The following States, counties, townships, towns, plantations, cities, and other political subdivisions, including any cities, towns, boroughs, or other political subdivisions included within their limits, are designated as the lightly infested area:

Connecticut.—County of Middlesex; towns of Avon, Berlin, Bristol, Burlington, Farmington, Marlboro, New Britain, Newington, Plainville, Rocky Hill, Southington, and West Hartford, in *Hartford County;* towns of Colebrook, Harwinton, New Hartford, Plymouth, Thomaston, Torrington, and Winchester, in *Litchfield County;* towns of Branford, Guilford, Madison, Meriden, North Branford, North Haven, Waterbury, and Wolcott, in *New Haven County;* towns of East Lyme, Lyme, and Old Lyme, in *New London County.*

Maine.—Towns of Avon, Berlin, Carthage, Crockertown, Dallas Plantation, Freeman, Greenvale, Jerusalem, Kingfield, Madrid, Mount Abraham, New Vineyard, Perkins, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, Strong, Temple, Washington, and Weld, and Townships D and E, in *Franklin County;* towns of Amherst, Aurora, Bucksport, Dedham, Eastbrook, Franklin, Gouldsboro, Hancock, Lamoine, Mariaville, Orland, Osborn Plantation, Otis, Penobscot, Sorrento, Sullivan, Trenton, Verona, Waltham, city of Ellsworth, and townships or plantations numbered 7, 8, 9, 10, 16, 22, 28, 32, 33, 34, 39, and 40, in *Hancock County;* towns of Andover, Andover North surplus, Byron, C., C. surplus, Grafton, Hanover, Magalloway, Newry, Richardsontown, Riley Grant, Roxbury, and Upton, in *Oxford County;* towns of Alton, Argyle, Bradford, Bradley, Carmel, Charleston, Clifton, Corinna, Corinth, Dexter, Dixmont, Eddington, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Hudson, Kenduskeag, Levant, Milford, Newburgh, Newport, Orono, Orrington, Stetson, Summit, and Veazie, and cities of Bangor, Brewer, and Old Town, in *Penobscot County;* towns of Abbott, Atkinson, Dover, Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangerville, and Wellington, in *Piscataquis County;* towns of Anson, Athens, Bingham, Brighton Plantation, Cambridge, Concord, Cornville, Embden, Harmony, Hartland, Highland, Lexington, Madison, Mayfield, Moscow, New Portland, Palmyra, Pleasant Ridge Plantation, Ripley, St. Albans, and Solon, in *Somerset County;* towns of Brooks, Frankfort, Jackson, Knox, Monroe, Prospect, Searsport, Stockton Springs, Swanville, Thorndike, Waldo, Winterport, and the city of Belfast, in *Waldo County;* towns of Beddington, Cherryfield, Columbia, Deblois, Harrington, Millbridge, and Steuben, and Plantations 18 and 24, in *Washington County.*

Massachusetts.—Towns of Charlemont, Hawley, Heath, and Rowe, in *Franklin County;* towns of Chester and Tolland, in *Hampden County;* towns of Cummington, Huntington, Middlefield, Plainfield, and Worthington, in *Hampshire County.*

New Hampshire.—Town of Hart Location, in *Carroll County;* towns of Beans Grant, Cambridge, Carroll, Chandler Purchase, Crawford Grant, Crawford Purchase, Cutts Grant, Dalton, Dummer, Hadleys Purchase, Jefferson, Kilkenny, Lancaster, Low & Burbank Grant, Milan, Nash & Sawyer Location, Northumberland, Odell, Randolph, Sargent Purchase, Stark, Stratford, Success, Thompson & Meserve Purchase, and Whitefield, in *Coos County;* towns of Bath, Bethlehem, Franconia, Landaff, Lisbon, Littleton, Lyman, and Monroe, in *Grafton County.*

Rhode Island.—Town of New Shoreham (Block Island), in *Newport County.*

Vermont.—Towns of Landgrove, Peru, Readsboro, Searsburg, and Winhall, in *Bennington County;* towns of Barnet,

Danville, Groton, Kirby, Peacham, Ryegate, St. Johnsbury, and Waterford, in *Caledonia County;* towns of Concord, Granby, Guildhall, Lunenburg, Maidstone, and Victory, in *Essex County;* town of Elmore in *Lamoille County;* towns of Braintree, Brookfield, Chelsea, Corinth, Orange, Randolph, Topsham, Strafford, Tunbridge, Vershire, Washington, West Fairlee, and Williamstown, in *Orange County;* towns of Mount Holly, Mount Tabor, Pittsfield, Sherburne, Shrewsbury, and Wallingford, in *Rutland County;* towns of Barre, Berlin, Cabot, Calais, East Montpelier, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Woodbury, and Worcester, in *Washington County;* towns of Brookline, Dover, Halifax, Jamaica, Londonderry, Marlboro, Newfane, Somerset, Stratton, Townshend, Wardsboro, Whitingham, Wilmington, and Windham, in *Windham County;* towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavendish, Ludlow, Plymouth, Pomfret, Reading, Rochester, Royalton, Sharon, Stockbridge, Weston, West Windsor, and Woodstock, in *Windsor County.*

(4) Generally Infested Area

All parts of the regulated area not designated as lightly infested in section (3) hereof, shall comprise the generally infested area.

(5) Brown-Tail Moth Infested Area

The following counties, towns, and other political subdivisions, including any cities, boroughs, or other political subdivisions included within their limits, are also infested with the brown-tail moth and are hereby designated as the brown-tail moth infested area:

Maine.—Counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York; towns of Chesterville, Farmington, Industry, Jay, New Sharon, and Wilton, in *Franklin County;* towns of Bar Harbor, Bucksport, Orland, Surry, and Trenton, and the city of Ellsworth, in *Hancock County,* and all territory west and south of said towns in said county; towns of Albany, Bethel, Brownfield, Buckfield, Canton, Denmark, Dixfield, Fryeburg, Greenwood, Hartford, Hebron, Hiram, Lovell, Mason, Milton Plantation, Norway, Oxford, Paris, Peru, Porter, Rumford, Stoneham, Stow, Sumner, Sweden, Waterford, and Woodstock, in *Oxford County;* cities of Bangor and Brewer, and towns of Carmel, Dixmont, Etna, Hampden, Hermon, Newburgh, Orrington, and Plymouth, in *Penobscot County;* and towns of Canaan, Fairfield, Mercer, Norridgewock, Pittsfield, Skowhegan, Smithfield, and Starks, in *Somerset County.*

Massachusetts.—Counties of Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, and Suffolk; towns of Ashburnham, Berlin, Blackstone, Bolton, Boyleston, Clinton, Douglas, Fitchburg, Gardner, Grafton, Harvard, Holden, Hopedale, Lancaster, Leominster, Lunenburg, Mendon, Milford, Millbury, Millville, Northborough, Northbridge, Paxton, Princeton, Royalston, Shrewsbury, Southboro, Sterling, Sutton, Templeton, Upton, Uxbridge, Webster, West Bolyston, Westboro, Westminster, and Winchendon, and the city of Worcester, in *Worcester County.*

New Hampshire.—Counties of Belknap, Cheshire, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; all of *Carroll County* except the town of Jackson; all of *Grafton County* except the towns of Bethlehem and Littleton.

Vermont.—Towns of Barnet and Ryegate, in *Caledonia County;* towns of Bradford, Fairlee, Newbury, Thetford, and West Fairlee, in *Orange County;* towns of Brattleboro, Dummerston, Putney, Rockingham, Vernon, and Westminster, in *Windham County;* towns of Hartford, Hartland, Norwich, Springfield, Weatherford, West Windsor, and Windsor, in *Windsor County.*

REGULATION 3. CONTROL OF MOVEMENT OF RESTRICTED ARTICLES

Certification required.—Except as otherwise provided in this regulation:

(1) No restricted articles as defined in regulation 1 shall be moved interstate from the regulated areas to or through any point outside thereof, nor from the generally infested area to the lightly infested area, unless and until a certificate or permit shall have been issued therefor by an inspector.

(2) *Christmas trees and evergreen boughs.*—Coniferous trees, such as spruce, fir, hemlock, pine, juniper (cedar), and arbovitae (white cedar), without roots, known and described as "Christmas trees", and parts thereof over 1 foot in length, originating in the generally infested area (unless grown as nursery stock in a cultivated nursery and certified under the provisions of regulation 4 hereof), shall not be moved interstate to any point outside of such area and no certificate or permit will be issued authorizing such movement. Such articles which have originated in the lightly infested area may be moved interstate from the generally infested area under the inspection and certification prescribed in paragraph (1) hereof.

(3) *Shipments from brown-tail moth infested area.*—Except as provided in paragraph (5) hereof no deciduous trees or shrubs, or such branches or other parts thereof as bear leaves, shall be moved interstate from the area designated as infested by the brown-tail moth to any point outside thereof unless and until a certificate or permit shall have been issued therefor by an inspector, except that as to such movement wholly within the generally infested gypsy-moth area or wholly within the lightly infested gypsy-moth area, or from the lightly infested to the generally infested gypsy-moth area, a valid State nursery inspection certificate of the State from which the shipment is made may be substituted for such Federal certificate or permit.

(4) *Shipments within regulated areas unrestricted.*—Other than as prescribed in paragraph (3) hereof, and in regulation 7, no restrictions are placed by these regulations on the interstate movement of restricted articles wholly within the generally infested area or wholly within the lightly infested area or from the lightly infested area to the generally infested area.

(5) *Cut flowers and greenhouse-grown plants.*—In the case of woody plants which are grown in the greenhouse throughout the year, the plants themselves and the cut flowers thereof may be moved interstate without inspection or certification [1] under these regulations on condition that each box or package thereof is plainly labeled to show that the contents were greenhouse grown.

(6) *Herbaceous plants unrestricted.*—No restrictions [1] are placed by these regulations on the interstate movement of strawberry plants, or of other herbaceous annual or perennial plants or parts thereof.

REGULATION 4. CONDITIONS GOVERNING THE ISSUANCE OF CERTIFICATES OF INSPECTION

(*a*) *Application; assembly of articles for inspection.*—Persons intending to move restricted articles interstate shall make application therefor as far as possible in advance of the probable date of shipment. Applications must show the nature and quantity of the plants or plant products or stone and quarry products it is proposed to move, together with their exact location, and, if practicable, the contemplated date of shipment. Applicants for inspection will be required to assemble or indicate the articles to be moved interstate so that they can be readily examined by the inspector. If not so placed, inspection will be refused. Articles to be inspected must be free from ice and snow and in condition to make inspection easily practicable.

(*b*) *Nursery-grown stock.*—With respect to nursery-grown stock, Federal inspection and the issuance of Federal certificates authorizing the interstate movement of nursery products will be conditioned on the presentation of a valid State certificate stating that the nursery or lot of nursery stock in question has been inspected by a State nursery inspector and certifying that it is apparently free from infestation with gypsy and brown-tail moths. Such State certification shall be renewed each year, shall be based on an inspection made as promptly as practicable after the egg-laying period of the gypsy moth, and shall be valid for the purpose of Federal certification, until the following egg-hatching period, except that, pending reinspection, shipments may be inspected

[1] Shipments of such plants and flowers from the area regulated under the Japanese beetle quarantine are subject to the certification requirements of that quarantine.

and certified for interstate movement on the basis of the State certification of the preceding year. Whenever any nursery or independent unit thereof in the regulated area, or any shipment therefrom, is reported by a State inspector to be appreciably infested with either the gypsy moth or the brown-tail moth, or whenever such infestation is determined by a Federal inspector, further certification for interstate movement from such nursery, or independent unit thereof, will be refused until such nursery has been freed from infestation and has been again inspected and certified by the State to be apparently clean except that during such periods of refusal, Federal inspection and certification of individual shipments of nursery stock from nurseries being freed from infestation may be given provided a special certificate showing freedom from infestation has been issued therefor by a State inspector after examination of the material in each such shipment. During the larval period of the gypsy moth all nursery stock shall be assembled for the examination of the Federal inspector, and if passed by him as free from any infestation, either by egg masses or larvae, it may then be lined up and thoroughly sprayed under the direction of and in manner and method satisfactory to the said inspector, who will certify each shipment as having been thus inspected and treated.

(*c*) *Native trees and shrubs.*—With respect to living trees and plants not grown in nurseries, inspection and certification for interstate movement will be conditioned upon the presentation of a statement by the applicant specifying the exact source of such trees and plants, and in addition to such statement, if dug on land other than the property of the applicant, a permit from the owner of the said land authorizing such digging, provided such permit is required under the law of the State wherein the land is situated. If the inspection of the trees or plants intended for shipment discloses infestation with either the gypsy moth or brown-tail moth, certification may be refused as to the intended shipment and as to other similar shipments of trees or plants originating on the same property or in the same locality.

(*d*) *Forest products and stone and quarry products.*—Certificates of inspection authorizing the interstate movement of forest products and stone and quarry products may be issued under either of the following conditions: (1) When the articles to be moved interstate have actually been inspected and found free from infestation; or (2) when the articles have been disinfected under the supervision of an inspector in such a manner as to eliminate all risk of infestation. With respect to quarries, and with respect to yards or other places where forest products are assembled for shipment, as a condition of inspection and certification, the premises or surroundings of such places shall be cleaned up and kept free from gypsy moth infestation.

(*e*) *Charges for storage, etc.*—All charges for storage, cartage, and labor incident to inspection or disinfection other than the services of the inspectors shall be paid by the shipper.

(*f*) *Use of certificates.*—Certificates of inspection will be issued only for plants and plant products and stone and quarry products which are free from infestation by the gypsy moth and the brown-tail moth and have been so determined by an inspector. The use of such certificates in connection with plants and plant products and stone and quarry products which are not in compliance with these regulations is unlawful.

(*g*) *Report of certificates.*—Persons to whom certificates are issued shall report at time of shipment on forms provided for that purpose all their sales or shipments of such articles to points outside the regulated area.

REGULATION 5. CONDITIONS COVERING THE ISSUANCE OF PERMITS WITHOUT INSPECTION, AND THE REPORTING OF SHIPMENTS

Permits authorizing interstate movement of restricted articles may be issued (1) when such products have been grown, or manufactured, processed, and stored in such a matter that, in the judgment of the inspector, no infestation could be transmitted, and (2) when such products originate outside of the infested areas and, while within the infested area, have been stored and safeguarded in such a manner that, in the judgment of the inspector, no infestation could be transmitted. Permits will be issued only for plants and plant products and stone and quarry products which are not infested with the gypsy moth or brown-tail moth.

Persons to whom permits are issued shall report at time of shipment on forms provided for that purpose all their sales or shipments of such articles to points outside the regulated area.

REGULATION 6. MARKETING AND CERTIFICATION A CONDITION OF INTERSTATE TRANSPORTATION

(*a*) Every box, basket, bale, or other container of the articles restricted for which a certificate or permit is required by these regulations shall be plainly marked with the name and address of the consignor and the name and address of the consignee, and the shipper shall securely attach to the outside thereof a valid certificate or permit issued in compliance with these regulations. In the case of lot shipments by freight, one certificate attached to one of the containers and another certificate attached to the waybill will be sufficient.

(*b*) In the case of bulk carload shipments by rail, the certificate shall accompany the waybill, conductor's manifest, memorandum, or bill of lading pertaining to such shipment, and in addition each car shall have securely attached to the outside thereof a placard showing the number of the certificate or certificates accompanying the waybill.

(*c*) In the case of shipment by road vehicle, the certificates shall accompany the vehicle.

(*d*) Certificates shall be surrendered to the consignee upon delivery of the shipment.

REGULATION 7. THOROUGH CLEANING REQUIRED OF CARS, BOATS, AND OTHER VEHICLES BEFORE MOVING INTERSTATE

Cars, boats, and other vehicles which have been used in transporting restricted articles within the regulated areas shall not be moved interstate until the same shall have been thoroughly swept out and cleaned by the carrier at the point of unloading or destination of all litter and rubbish from such regulated articles. No litter, rubbish, or refuse from any such restricted articles shall be moved interstate.

REGULATION 8. INSPECTION IN TRANSIT

Every car, vehicle, basket, box, bale, or other container moved interstate which contains or which the inspector has probable cause to believe contains either infested articles or articles the movement of which is prohibited or restricted by these regulations, shall be subject to inspection by an inspector at any time or place.

REGULATION 9. CANCELATION OF CERTIFICATES AND PERMITS

Certificates and permits issued under these regulations may be withdrawn or canceled by the inspector and further certification refused, whenever in the judgment of the inspector the further use of such certificates might result in the dissemination of infestation.

REGULATION 10. SHIPMENTS FOR EXPERIMENTAL, SCIENTIFIC, OR EDUCATIONAL PURPOSES

Articles subject to restriction in these regulations may be moved interstate for experimental, scientific, or educational purposes, on such conditions and under such safeguards as may be prescribed by the Bureau of Entomology and Plant Quarantine. The container of articles so moved shall bear, securely attached to the outside thereof, an identifying tag from the Bureau of Entomology and Plant Quarantine.

These revised rules and regulations shall be effective on and after September 29, 1938, and shall supersede the rules and regulations promulgated November 4, 1935.

Done at the city of Washington this 28th day of September, 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

APPENDIX

PENALTIES

The Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, provides that no person shall ship or offer for shipment to any common carrier, nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport, from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds * * * or any other article * * * specified in the notice of quarantine * * * in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It also provides that any person who shall violate any of the provisions of this act, or who shall forge, counterfeit, alter, deface, or destroy any certificate provided for in this act or in the regulations of the Secretary of Agriculture shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $500, or by imprisonment not exceeding 1 year, or both such fine and imprisonment, in the discretion of the court.

[F. R. Doc. 38-2859; Filed, September 29, 1938; 12:49 p. m.]

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2857]

IN THE MATTER OF FLORIDA BUILDING MATERIAL INSTITUTE, INC., ET AL.

SEC. 3.27 (f) *Combining or conspiring—To limit distribution to regular channels.*—Combining or conspiring on the part of respondent institute, its officers, directors and retail dealer members and associate manufacturer, producer, and wholesaler, members, in connection with the offer, sale and distribution of lumber products, building materials and builders' supplies, with intent or effect of restricting, monopolizing or eliminating competition in sale of said products, through publication of names of member and approved dealers as exclusive channels of distribution, those cooperating, as source of supplies, in thus recognizing said dealers, and those not cooperating; seeking information as to nonconforming sales, cooperating with other organizations, etc., and bringing cooperative and coercive pressure through threats, boycotts, etc., upon those not cooperating, and cutting off supplies thereby of non-recognized dealers, and taking cooperative action as above indicated toward bestowing their patronage on cooperating sources of supplies, and cutting off and withholding same from noncooperating and from unapproved dealers or vendees, ascertained through exchange of information, espionage and otherwise, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Florida Building Material Institute, Inc., et al., Docket 2857, September 10, 1938].

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF FLORIDA BUILDING MATERIAL INSTITUTE, INC., A CORPORATION; ITS OFFICERS AS FOLLOWS: ROBERT S. BECHTELHEIMER, PRESIDENT, ALSTON SHOAF, VICE-PRESIDENT, J. BEN WAND, TREASURER, CLAUDE E. FLAMBEAU, SECRETARY: AND ITS DIRECTORS AS FOLLOWS: ROLAND E. LEE, GEORGE PHILP, EUGENE H. PICHARD, E. S. SPENCER, CECIL WILLIS, PAUL OSTEEN, SPENCER T. LAINHART, T. J. MAXEY, VERNON G. WIDERQUIST, W. GUY SHEPARD, H. H. BRENNER, ASHER CULP, WALTER GREGORY, RUSH H. TODD, AND RAY SPAULDING

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Florida Building Material Institute, Inc., its officers, directors and members, and the agents, representatives and employees of said members, in connection with the purchase and the offering for sale, sale and distribution of lumber, lumber products, building materials and builders' supplies, in interstate commerce or in the District of Columbia, do forthwith cease and desist from entering into and carrying out any understanding, agreement, combination and conspiracy between and among any two or more of said respondents for the purpose or with the effect of restricting, restraining or monopolizing, or eliminating competition in the sale in interstate commerce of any of said products, and as a part of such understanding, agreement, combination and conspiracy, from doing any of the following acts and things:

(1) Preparing and publishing bulletins, summaries of information, rosters, or other data containing the names of—

(a) Members of the respondent Institute;

(b) Manufacturers, producers, wholesalers and dealers who are recognized by the respondent Institute as cooperating with the said Institute;

(c) Manufacturers, producers, wholesalers and dealers who are not recognized by the respondent Institute as cooperating with the said Institute;

(d) Persons or concerns who are not recognized by the respondent Institute as qualified dealers—

for the purpose of with the effect of indicating that manufacturers, producers and wholesalers of lumber, lumber products, building materials and builders' supplies shbuld confine and limit the sale and distribution of said products to the dealer members of said Institute and to the dealers who are recognized by said Institute as cooperating with said Institute; and that said manufacturers, producers and wholesalers should not sell said products direct to those dealers who are not recognized by the said Institute as cooperating with said Institute, and to those persons or concerns who are not recognized by the Institute as qualified members; and for the further purpose, or with the further effect, of indicating to the dealer members of said Institute and to the dealers recognized by said Institute as cooperating with said Institute, that said dealer members and said recognized dealers should confine and limit the purchase of their requirements to the associate members of said Institute and to the manufacturers, producers and wholesalers who are recognized by said Institute as cooperating with said Institute.

(2) Seeking or obtaining information as to sales, proposed sales or contracts of sale, by manufacturers, producers and wholesalers of lumber, lumber products, building materials and builders' supplies, to purchasers, or prospective purchasers, who are not dealer members of the respondent Institute, or who are not recognized by said Institute as cooperating with said Institute, or who are not recognized by said Institute as qualified dealers, for the purpose of preventing further dealing between such buyers or prospective buyers and the said manufacturers, producers and wholesalers until said buyers or prospective buyers are recognized by said Institute as entitled to buy direct from said manufacturers, producers and wholesalers.

(3) Using boycott, threats of boycott, either with or without coercive methods, to persuade, induce or compel manufacturers, producers and wholesalers to refrain from selling lumber, lumber products, building materials and builders' supplies to dealers who are not recognized by said Institute as cooperating with said Institute or other purchasers.

(4) Directly or indirectly representing to manufacturers, producers and wholesalers that the members of the respondent Institute and the dealers recognized by said Institute as cooperating with said Institute would withhold or withdraw their patronage if said manufacturers,

[1] 1 F. R. 2092.

producers, and wholesalers sold to competing dealers in lumber, lumber products, building materials and building supplies, or to others whose names were not listed on the respondents' rosters.

(5) Cooperating with other dealer organizations and with manufacturers, producers and wholesalers, for the purpose of confining the sale and distribution of lumber, lumber products, building materials and builders' supplies to the active members of the respondent Institute and to the dealers recognized by said Institute as cooperating with said Institute, and preventing their sale and distribution otherwise.

(6) Intimidating the representatives or agents of manufacturers, producers and wholesalers from having, or continuing, business relations with buyers or prospective buyers who are not recognized by the respondent Institute as entitled to buy direct from manufacturers, producers and wholesalers.

(7) Holding meetings to devise means for making effective the aforesaid programs and policies, or similar programs and policies.

(8) Employing other cooperative or coercive acts and methods in promoting and carrying out the aforesaid progress and policies, or similar programs and policies.

It is further ordered, That this proceeding be, and the same hereby is, dismissed 1) as to respondent directors Roland E. Lee, Eugene H. Pichard, and E. S. Spencer; 2) as to respondent Vice President Alston Shoaf; and 3) as to respondent Treasurer J. Ben Wand.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,

[F. R. Doc. 38-2845; Filed, September 28, 1938; 3:27 p. m.]

[Docket No. 2873]

IN THE MATTER OF BERRY SEED COMPANY, ET AL.

SEC. 3.6 (a) 10.1 *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—History.*—Representing respondent's time in business, as exceeding fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec 45b.) [Cease and desist order, Berry Seed Company, et al., Docket 2873, September 9, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Falsely representing respondent's agricultural seeds *re* freedom from weed seed, etc.; having been cleaned with own equipment; germination and purity percentage; due regard had for recognized tolerances; shipments being tagged or labeled to show purity and germination tests; and *re* variety, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Berry Seed Company, et al., Docket 2873, September 9, 1938.]

SEC. 3.6 (d) .1 *Advertising falsely or misleadingly—Conditions of manufacture—In general.*—Falsely representing respondent's agricultural seeds as cleaned with own cleaning equipment, and with every shipment tagged with labels showing purity and germination tests, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Berry Seed Company, et al., Docket 2873, September 9, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., On the 9th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF BERRY SEED COMPANY, A CORPORATION, AND J. FRANK SINN, AS PRESIDENT OF BERRY SEED COMPANY, AND INDIVIDUALLY, AND CHARLES M. KELLY, AS VICE-PRESIDENT OF BERRY SEED COMPANY, AND INDIVIDUALLY, AND JOSEPH F. FAASEN, AS SECRETARY OF BERRY SEED COMPANY, AND INDIVIDUALLY, AND CHARLES S. MCKEE, AS TREASURER OF BERRY SEED COMPANY, AND INDIVIDUALLY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, and answer thereto, testimony and other evidence taken before Robert S. Hall, an examiner of the Commission, theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, briefs filed herein, and oral arguments before the Commission, and the Commission having made its findings as to the facts and its conclusion that respondents Berry Seed Company, a corporation, and J. Frank Sinn, as President of Berry Seed Company, and individually, and Joseph F. Faasen, as Secretary of Berry Seed Company, and individually, have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondents Berry Seed Company, a corporation, its officers, representatives, agents and employees, and J. Frank Sinn, as President of Berry Seed Company, and individually, and Joseph F. Faasen, as Secretary of Berry Seed Company, and individually, in connection with offering for sale, sale and distribution of agricultural seed, in interstate commerce, or in the District of Columbia, do forthwith cease and desist from representing directly or by implication—

1. That respondent Berry Seed Company was founded or engaged in business prior to the year it was incorporated under the laws of the State of Iowa;

2. (a) That respondents' seed is free from weed seed and other foreign matter; (b) That all seed is cleaned by respondents with their own seed cleaning equipment; (c) That the germinating power of all respondents' seed is high; (d) That every shipment of seed has tags or labels attached to it showing the purity and germination tests of the seed; (e) That seed is of a stated variety; when such are not the facts.

3. That seed has a higher percentage of germination and purity than the actual germination and purity of the seed, under recognized tests and within recognized tolerances or allowances.

It is ordered, That the proceedings herein against Charles M. Kelly, as Vice President of Berry Seed Company, and individually, and Charles S. McKee, as Treasurer of Berry Seed Company, and individually, be and the same hereby are dismissed without prejudice.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2846; Filed, September 28, 1938; 3:27 p. m.]

[Docket No. 3297]

IN THE MATTER OF COHEN BROTHERS CORPORATION

SEC. 3.66 (a) *Misbranding or mislabeling—Composition.*: SEC. 3.96 (a) (1) *Using misleading name—Goods—Composition.*—Falsely representing, through use of words "Kashmoor" or "Cashmere", etc., to describe, etc., respondent's knitted outerwear, that such products are made from a fabric composed of wool of the Tibetan or Kashmir goat, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cohen Brothers Corporation, Docket 3297, September 7, 1938.]

United States of America—Before the Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the

[1] 1 F. R. 2136.

[1] 3 F. R. 1542 DI.

answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Cohen Brothers Corporation, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of knitted outerwear in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing, through the use of the words "Kashmoor" or "Cashmere" or any other words, legends, or symbols of similar import and meaning, to describe or refer to its said outerwear, that such outerwear is made from a fabric composed of the wool of the Tibetan or Kashmir goat, unless such outerwear is actually so made from a fabric so composed.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2847; Filed, September 28, 1938; 3:27 p. m.]

[Docket No. 3351]

IN THE MATTER OF LINCOLN DENTAL SUPPLY COMPANY, INC.

SEC. 3.6 (a) (2) *Advertising falsely or misleadingly — Business status, advantages or connections of advertiser—Authorized distributor:* SEC. 3.96 (a) (9) *Using misleading name—Goods—Source or origin—Maker.*—Falsely representing, in sale of dental supplies, through use of names of its competitors, or in any other manner, that respondent is the authorized representative of such competitors, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lincoln Dental Supply Company, Inc., Docket 3351, September 14, 1938.]

SEC. 3.6 (u) *Advertising falsely or misleadingly—Quality.*—Falsely representing that old dental supplies, made by competitors and sold by respondent, are equal in quality, for use intended, to those currently made by said competitors, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lincoln Dental Supply Company, Inc., Docket 3351, September 14, 1938.]

SEC. 3.6 (u) *Advertising falsely or misleadingly—Quality.*—Falsely representing that old dental supplies which have lost their full usefulness through deterioration, are equal in quality, for use intended, save for slight discoloration, to those of current manufacture, prohibited. Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lincoln Dental Supply Company, Inc., Docket 3351, September 14, 1938].

SEC. 3.6 (j) (3.1) *Advertising falsely or misleadingly—Government approval—In general.*—Falsely representing U. S. Government has in any manner approved the quality of respondent's dental supplies, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lincoln Dental Supply Company, Inc., Docket 3351, September 14, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered That the respondent Lincoln Dental Supply Company, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of dental supply products in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing, through the use of the names of its competitors, or through any other means or device, or in any manner, that respondent is the authorized representative of such competitors, when such is not a fact;

(2) Representing that the products manufactured by competitors and offered for sale by the respondent are of equal quality for the use intended as those of current manufacture by said competitors, when such is not a fact;

(3) Representing that products which have lost their full usefulness through deterioration are of the same or equal quality for the use intended, save for slight discoloration, as those of current manufacture;

(4) Representing that the United States Government has in any manner approved the quality of such products, when such is not a fact.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2848; Filed, September 28, 1938; 3:28 p. m.]

[Docket No. 3358]

IN THE MATTER OF W. D. BOYCE COMPANY

SEC. 3.6 (s) 1. *Advertising falsely or misleadingly—Puzzle prize contests:* SEC. 3.6 (a) (11) *Advertising falsely or misleadingly—Business status, advantages or connections—Identity:* SEC. 3.80 (m) *Securing agents or representatives falsely or misleadingly—Puzzle prize contests:* SEC. 3.95 (m) *Using contest schemes unfairly—Puzzle prize contests.*—Making use of a scheme or plan designed and intended to secure a large subscription sales force to sell respondent's magazines, in the guise of a bona fide puzzle prize contest, in which respondent's true identity and interest were concealed, and in which automobiles or other commodities were held out as prizes for those solving the puzzles, with no other qualifications *re* effort or money required, and in which various "comeon" schemes and devices, including pretended credits and bonuses and form letters as personal, were employed to create false impression entrant was in a preferred or continually improving position to win the contest, and was recipient of personal attention in such connection, and in which all the facts entering into matter *re* actual winning of prize, through procuring subscriptions, were not disclosed, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, W. D. Boyce Company, Docket 3358, September 14, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, brief filed herein in support of the complaint, (respondent having waived brief), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, W. D. Boyce Company, a corporation, its officers, representatives, agents and employees, directly or indirectly through any corporate or other device, in connection with the offering for sale, sale and distribution of its magazines or other publications in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

1. Through puzzle contests or through any other means that respondent is operating anything other than a private business for profit.

2. That automobiles or other commodities are given or awarded for any cause other than as payment for securing subscriptions to respondent's magazines.

3. That the only qualification or requirement to win a prize is a prompt solution of the purported puzzle, and no further effort or money is required, when such are not the facts.

4. That any one other than the company or person actually conducting the said contest is conducting it.

5. That any entrant is in any preferred position, when such is not the fact.

6. That form letters sent out generally are individual letters truly describing the individual's purported preferred standing in the contest, when they do not truly state the facts.

7. That all the facts as to the money, work and effort required to win a prize or grand prize are disclosed, when in fact less than full disclosure is made.

It is further ordered, That the respondent shall, within sixty days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2849; Filed, September 28, 1938; 3:28 p. m.]

[Docket No. 3386]

IN THE MATTER OF MASTER LOCK COMPANY

SEC. 3.45 (e) (3) *Discriminating in price—Indirect discrimination—Discounts and allowances.*—Discriminating in price, in connection with sale and offer of padlocks, through granting additional discount and allowance for freight, based on aggregate annual purchases exceeding a specified amount, where it failed to appear that respondent employed different methods of sale and delivery in serving those customers whose purchases thus qualified, as compared with those whose purchases did not, or that purchases of former group, as compared with those of latter, cost respondent less per dollar of sales to make, and where the effect of the difference in price, or discrimination, thus brought about, might be substantially to lessen competition or tend to create a monopoly in the line of commerce in which jobber customers of respondent manufacturer were engaged, or prevent competition with the recipients of the benefits thereof, and that such discrimination was not one that made only due allowances for differences in cost of manufacture, sale or delivery resulting from differing methods or quantities in which padlocks were, to such purchasers, sold or delivered, prohibited; exception being made of discount which makes only due allowance for differences in cost which have been achieved with respect to individual sales made to a particular buyer. (Sec. 2 (a), 49 Stat. 1526; 15 U. S. C., Supp. IV, sec. 13 (a).) [Cease and desist order, Master Lock Company, Docket 3386, September 14, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearings as to said facts, and the Commission having made its findings as to the facts and conclusion, which findings and conclusion are hereby made a part hereof, that said respondent has violated the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended:

It is ordered, That the respondent, Master Lock Company, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of padlocks in interstate commerce or in the District of Columbia, do forthwith cease and desist from continuing to practice the discrimination in price adjudged illegal in the aforesaid findings and conclusions, or from directly or indirectly in any other manner, discriminating in price by paying or granting freight allowances or discounts, the effect whereof may be substantially to lessen competition or tend to create a monopoly in the line of commerce in which customers of the respondent are engaged, or to injure, destroy or prevent competition with any person receiving the benefit of such discrimination, except where such discount makes only due allowance for differences in cost which have been achieved with respect to individual sales made to a particular buyer.

It is further ordered, That the said respondent, Master Lock Company, within sixty (60) days from the date of the service upon it of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2850; Filed, September 28, 1938; 3:29 p. m.]

[Docket No. 3464]

IN THE MATTER OF JOHN B. ARATA

SEC. 3.99 (b) *Using or selling lottery devices.—In merchandising.*—Selling, etc., candy, so packed, etc., that sales thereof to general public are to be, or may be made, by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, John B. Arata, Docket 3464, September 20, 1938].

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers assortments of candy which are, or may be used, without alteration, etc., to conduct a lottery, etc., in the sale thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, John B. Arata, Docket 3464, September 20, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., assortments of candy containing different size pieces, together with tickets with numbers printed thereon which are to be, or may be used in selling, etc., said candy to general public by means of game of chance, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, John B. Arata, Docket 3464, September 20, 1938.]

[1] 3 F. R. 1446 DI.

[1] 3 F. R. 1371 DI.

[1] 3 F. R. 987 DI.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 20th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, John B. Arata, his agents, representatives and employees, in connection with the offering for sale, sale and distribution of candy in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Selling and distributing candy so packed and assembled that sales of such candy to the general public are to be made or may be made by means of a lottery, gaming device or gift enterprise.

2. Supplying to or placing in the hands of dealers assortments of candy which are used or which may be used without alteration or rearrangement of the contents of said assortment to conduct a lottery, gaming device or gift enterprise in the sale or distribution of the candy contained in said assortments to the general public.

3. Selling and distributing assortments of candy containing pieces of candy of different sizes together with tickets with numbers printed thereon which said tickets are to be used or may be used in selling or distributing the said candy to the general public by means of a game of chance, gift enterprise or lottery scheme.

It is further ordered, That the respondent shall, within sixty days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2856; Filed, September 29, 1938; 11:36 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 504-FD]

IN THE MATTER OF THE APPLICATION OF KENTUCKY COAL AGENCY, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE AND ORDER FOR HEARING

The applicant above-named, having on the 23rd day of September, 1938, filed its application for provisional approval as a marketing agency, *notice is hereby given* that the above-entitled matter is assigned for hearing before an Examiner of the Commission, on the 7th day of October, 1938, at ten o'clock a. m., at the hearing room of the Commission, 15th and Eye Streets, Northwest, Washington, D. C., at which time and place interested parties will be afforded an opportunity to be heard.

The Secretary of the Commission is forthwith directed to mail a copy of this Notice of Hearing to the applicant above-named, to the Secretary of each District Board, and to the Consumers' Counsel, and shall cause a copy to be published in the FEDERAL REGISTER.

A copy of the aforesaid application is on file and available for inspection by interested parties at the office of the Secretary of the Commission.

By order of the Commission.

Dated this 28th day of September, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-2855; Filed, September 29, 1938; 9:47 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

ARIZONA

SEPTEMBER 28, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Arizona State Farm Security Advisory Committee last year, the following county is hereby redesignated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Maricopa.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-2852; Filed, September 28, 1938; 3:52 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEVADA

SEPTEMBER 28, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Nevada State Farm Security Advisory Committee last year, the following county is hereby redesignated as that in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939:

Lyon.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-2851; Filed, September 28, 1938; 3:52 p. m.]

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

UTAH

SEPTEMBER 28, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Utah State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1939: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1938;[1] and (2) the following additional county:

Box Elder.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-2853; Filed, September 28, 1938; 3:52 p. m.]

CIVIL AERONAUTICS AUTHORITY.

[Special Order 401-A-5]

TEMPORARILY EXEMPTING AMERICAN AIRLINES, INC., FROM PROVISIONS OF SECTION 401 (A) OF CIVIL AERONAUTICS ACT OF 1938, INSOFAR AS SAME ARE APPLICABLE TO AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER TO HUNTINGTON, WEST VIRGINIA

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 23rd day of September 1938.

Upon consideration by the Authority of the application of American Airlines, Inc., for exemption from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to a scheduled stop proposed to be made by said air carrier at Huntington, West Virginia, the Authority is of the opinion and finds that:

(1) The applicant was, prior to May 14, 1938, and is now an air carrier engaged in the rendition of an air transportation service between Washington, D. C., and Chicago, Illinois, with scheduled intermediate stops at Elkins and Charleston, West Virginia, Cincinnati, Ohio, and Indianapolis, Indiana, and as such is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) Said air carrier, prior to the enactment of the Civil Aeronautics Act of 1938, and prior to and since May 14, 1938, in addition to the service described in Finding (1), was and has been engaged continuously in the rendition of a scheduled airline transportation service between Newark, New Jersey, and Glendale, California; between Newark, New Jersey, and Chicago, Illinois; between Fort Worth, Texas, and Chicago, Illinois; between Newark, New Jersey, and Albany, New York; between Cleveland, Ohio, and Nashville, Tennessee; between Newark, New Jersey, and Cleveland, Ohio, and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor issued by the Secretary of Commerce.

(3) On or about the 5th day of May, 1934, the United States Post Office Department caused to be issued an advertisement for bidders for temporary air mail service, over a route from Washington, D. C., to Chicago, Illinois, with stops at Charleston, and Huntington, West Virginia, Cincinnati, Ohio, and Indianapolis, Indiana, said route being known as AM 25.

(4) On or about the 2nd day of June, 1934, a contract for temporary air mail service over the route described in Finding (3), which route, with the exception of the stop at Huntington, West Virginia, is the same as that described in Finding (1), was awarded by the United States Post Office Department to American Airlines, Inc., said air carrier being the lowest bidder therefor. Said contract was extended from time to time until May 28, 1935, on which date the contract hereinabove mentioned for the transportation of mail by air was extended for an indefinite period of time, and on the date hereof American Airlines, Inc., is the holder of said air mail contract.

(5) On or about the 2nd day of December, 1934, said air carrier, after authorization received from the Secretary of Commerce, commenced operations over said route, transporting thereon passengers, property and mail, and from said date until and including the 4th day of March, 1935, made regular scheduled stops at Huntington, West Virginia.

(6) Prior to March 4, 1935, and after authorization therefor from the Postmaster General, said air carrier discontinued the transportation of mail by air into and away from Huntington, West Virginia, and all other air transportation into and away from said city, for the reason that the airport located at said city was not in a proper condition to permit safe operations, and until the date hereof no scheduled air carrier operations into the Huntington Airport have been conducted by said or any other air carrier.

(7) On or about the 4th day of March, 1935, the Postmaster General authorized the transportation of mail by air by said air carrier, to Elkins, West Virginia, and until the date hereof, said air carrier has conducted regularly scheduled operations for the transportation of passengers, property and mail over the route from Washington, D. C., to Chicago, Illinois, with scheduled intermediate stops at Elkins and Charleston, West Virginia, Cincinnati, Ohio, and Indianapolis, Indiana, and in the conduct thereof has regularly flown over the city of Huntington, West Virginia.

(8) For some time last past, both labor and money have been expended on the improvement of the airport at Huntington, West Virginia, and on the date hereof said airport is in a condition to permit of safe and regularly scheduled air carrier operation into and away from said city. Said airport has been inspected by the inspectors of the Civil Aeronautics Authority and the use of such airport has been approved for Douglas DC-2 aircraft.

(9) Said city of Huntington, West Virginia, is on the regular air mail route AM 25, and by the terms of the contract entered into by and between the United States Post Office Department and said air carrier, is entitled to receive air mail service, and unless said air carrier be permitted to land at said city and citizens thereof will be deprived of the benefits to be derived from such service.

(10) Enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service proposed to be rendered by said air carrier over the route set forth in Finding (3), would be an undue burden on said air carrier by reason of the unusual circumstances affecting the operation of said air carrier with respect to the air transportation service over said route, and particularly the right of said air carrier to land and take off from the airport of said city of Huntington, West Virginia, as a regular stop, and the enforcement of such section would not be in the public interest.

(11) Failure to exempt said air carrier from the provisions of section 401 (a) of said Act, with respect to the air transportation service proposed to be rendered by said air carrier over the route set forth in Finding (3), and particularly to the city of Huntington, West Virginia, would continue to prevent the carriage of mail by air between the cities on said route and other cities in the United States, and likewise would continue to prevent such other air transportation service as might be rendered between said cities by said air carrier, all of which would be contrary to the public interest.

(12) Said air carrier should be exempted from the provisions of section 401 (a) of said Act insofar as the provisions of said section are applicable to the air transportation service of said air carrier proposed to be rendered into and away from the city of Huntington, West Virginia, for the period from the date hereof to and including 120 days from June 23, 1938, and said air carrier should be permitted to make a regularly scheduled stop at the city of Huntington, West Virginia, and to continue its operations over the route set forth in Finding (3) and to render such service to said city and on said route during said period for such charges and rates as are established pursuant to law.

(13) If said air carrier files with the Civil Aeronautics Authority within the period set forth in Finding (12) application for a Certificate of Convenience and Necessity for an air transportation service over the route set forth in Finding (3), and includes therein as an intermediate point for regularly scheduled stops, the city of Huntington, West Virginia, said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, for all classes of traffic for which authorization is sought in connection with the air transportation service to be rendered into and away from the city of Huntington, West Virginia, from the date of filing of such application to the effective date of the Order of the Authority with respect to such application.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, hereby makes and promulgates the following special order:

SPECIAL ORDER 401-A-5. EXEMPTING AMERICAN AIRLINES, INC., FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, INSOFAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER TO HUNTINGTON, WEST VIRGINIA

American Airlines, Inc., is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 insofar as the same are applicable to the air transportation service to be rendered by said air carrier into and away from the city of Huntington, West Virginia, and during the period from the date hereof to and including 120 days from June 23, 1938, and said air carrier is hereby authorized to make a regu-

[1] 3 F. R. 110 DI.

larly scheduled stop at said city and to continue operations over route AM 25 from Washington, D. C., to Chicago, Illinois, with scheduled intermediate stops at Elkins, Charleston and Huntington, West Virginia, Cincinnati, Ohio, and Indianapolis, Indiana, and to render such service thereon during such period for such charges and rates as are established pursuant to law.

Said air carrier is hereby further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, for all classes of traffic for which authorization is sought in connection with said air transportation service over route AM 25 from Washington, D. C., to Chicago, Illinois, with scheduled intermediate stops at Elkins, Charleston and Huntington, West Virginia, Cincinnati, Ohio, and Indianapolis, Indiana, for a further period from the date on which said air carrier files application for a Certificate of Convenience and Necessity for said air transportation service to the effective date of the Order of the Civil Aeronautics Authority with respect to such application, provided that said application for such certificate, including the city of Huntington, West Virginia, as a scheduled intermediate stop, is filed with the Authority within the period from June 23, 1938, to and including 120 days thereafter.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2857; Filed, September 29, 1938; 12:33 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of September 1938.

[File No. 37-24]

IN THE MATTER OF THE UNITED LIGHT AND POWER ENGINEERING AND CONSTRUCTION COMPANY

ORDER APPROVING A SUBSIDIARY SERVICE COMPANY PURSUANT TO PARAGRAPH (B) OF SECTION 13 OF THE PUBLIC UTILITY HOLDING COMPANY ACT, 1935

Approval, based upon the findings of fact and conclusions of law made in this matter, is granted Declarant to conduct its business as a subsidiary service company subject to the following conditions that:

1. In the event of a contemplated substantial change in its organization, the type and character of the companies to be serviced, the scope of services to be rendered or the method of allocating costs to associate companies, Declarant shall first obtain the approval of this Commission of such change.

2. If the application of Declarant's cost-allocation method does not result in a fair and equitable allocation of its costs among the associate serviced companies the Commission will require, after notice and opportunity for hearing, prospective adjustments, and, to the extent that it appears feasible and equitable, retroactive adjustments of such cost allocations.

3. The Insurance Trust Agreement, under which Declarant acts as Trustee, shall be amended to provide for an appropriate distribution of contributions in excess of cost to companies ceasing, at any time, to participate in the Trust.

4. Declarant, as Trustee, shall maintain separate accounts and records for the Insurance Trust and file a separate annual report with this Commission to cover the operations of the Trust.

5. Declarant, as Insurance Trustee, shall, after paying the various claims and expenses of administering the trust fund and taking into account the profit or loss on completed security transactions, after setting aside reasonable reserves, which, in the opinion of the management, will be necessary to provide for future and contingent claims, make refunds at least annually to the participating companies, assuming that the condition of the fund warrants such refunds.

This order is not to be construed as a ruling that Declarant may not be required to effect any changes in its organization and operation, or any other changes which become necessary for it to conform with the Act, present or future rules, regulations or orders.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2858; Filed, September 29, 1938; 12:38 p. m.]

VOL 3

INDEX

Reference

JAN 1 3 1939

FEDERAL REGISTER

Volume 3 — CUMULATIVE INDEX, *June–December 1938* — Nos. 106–254

A

ABRAMS, BERNARD, hearing by Federal Trade Commission— Page 2708

ACCOUNTS AND DEPOSITS. *See* Money and Finance: Treasury.

ACE AUTO SUPPLY CO., hearing by Federal Trade Commission— 1421

ACKIA BATTLEGROUND NATIONAL MONUMENT, MISS., establishment— 2579

ACME MERCHANDISE CO., hearing; cease and desist order by Federal Trade Commission; sale of merchandise— 1545, 2239

ADAMS, CHARLES TRUE:
Hearings, etc., by Securities and Exchange Commission— 1831, 1864, 1973
Petitions to intervene, orders— 2258, 2284, 2364, 2540

ADAMS EXPRESS CO., orders by Securities and Exchange Commission— 1748, 1941

ADAMS, NELSON & WILLIAMSON, hearing by Securities and Exchange Commission— 2818, 3117

ADAMS, S. W., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products— 1845

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER. *See* Federal Register.

ADVANCE - RUMELY CORP., hearings, etc., by Securities and Exchange Commission— 2041, 2142, 2453

AEROPLANE, ETC., MANUFACTURING INDUSTRY, minimum wage determinations— 3043

AGAN & GILLESPIE COAL CO., order by National Bituminous Coal Commission— 2857

AGENTS, employed by foreign principals, registration with Secretary of State— 2177

AGRICULTURAL ADJUSTMENT ADMINISTRATION. *See* Agriculture; Agriculture Department.

AGRICULTURAL COMMODITIES, use as collateral for farm loans— 1805

AGRICULTURAL CONSERVATION PROGRAM. *See* Agriculture: Agricultural Adjustment Administration.

AGRICULTURAL CREDIT:
Commodity Credit Corporation:
Corn loan instructions:
1937 produce— 1399, 2616, 2620, 2621
1938 produce— 2891
Cotton:
Liens for freight and compression charges— 2593
Loans to producers on 1938 crop— 2621, 2665
Notes secured by warehouse receipts— 2589
Prior liens; genuineness of signatures— 2756
Wheat loan intructions, 1938 program— 1997, 2025, 2589, 2592, 2593, 2594
Wool and mohair loan program, 1938, security represented by warehouse receipts— 1400, 1617
Wool loan program, 1938— 2594
Farm Credit Administration:
Acting Governor, authority and designation of order of precedence— 1701, 1721, 2285
Chief Clerk, authority to issue certificates— 2885
Federal Land Banks:
Berkley, fees schedule— 1473
Columbia, partial release of security fees— 1962
New Orleans, partial release fees— 2582
Saint Paul, fees for change of loan maturity dates— 2369
Springfield, partial release of security fees— 2369
Wichita, special interest rates on loans— 2337

AGRICULTURAL CREDIT—Con.
Farm Credit Administration—Continued.
Joint stock land banks:
Authority to hold real estate titles over five years— 2001
Receivers, approval of acts— 2001
Loans to community and cooperative associations and individuals; interest rates— 2353
Production credit associations, eligibility of salaried officers and employees— 2862
Stock retirement upon repayment of loan— 2099
Farm Security Administration:
Emergency Relief Appropriation Act of 1938 certain Executive orders, rules, etc., made applicable to— 1619
Non-appointive workers, employment, wages, hours, and conditions of work— 1708
Regional Directors, authority to designate Acting Directors— 1967
Rural rehabilitation, loans to tenant farmers, etc., for— 2129, 2733
Tenant purchase loans, redelegations of authority— 2305

AGRICULTURAL ECONOMICS BUREAU. *See* Agriculture.

AGRICULTURE:
Agricultural Adjustment Administration:
Agricultural conservation program, 1937, Bulletin 101:
East central region, White County, Tenn— 1625
Southern region; Amendments 19 and 20— 2193, 2245
Western region, Kansas, Supplement 8— 2525
Agricultural conservation program, 1938:
North central region:
Licking County, Ohio— 1373, 2541
Tama County, Iowa— 1599, 2361

AGRICULTURE—Continued.
Agricultural Adjustment Administration—Continued.
Agricultural conservation program, 1938—Con.
Puerto Rico, Supplement No. 2 — 1625
Southern region, Pulaski County, Ark — 1413
Supplement No. 10 — 1697
Supplement No. 11 — 1639
Supplement No. 12 — 3125
Supplement No. 13 — 2147
Supplement No. 14 — 2421
Supplement No. 15 — 2543
Supplement No. 16 — 2594
Supplement No. 17 — 2729
Supplement No. 19 — 3125
Supplement No. 20 — 3184
Thomas County, Kans., Supplement No. 2 — 2773
Western region:
Pondera County, Mont — 1591, 2443
Thomas County, Kans — 1547, 2443
Weber and Davis Counties, Utah — 1556, 2444
Agricultural conservation program, 1939, bulletin — 2715
Florida celery area — 2655
Supplement No. 1 — 3023
California fresh deciduous tree fruits except apples, marketing agreement, etc., terminated — 2650
Celery, handling of, Fla., regulatory order terminated — 2473
Corn:
County acreage allotments, 1938 — 2497
Marketing quotas, administrative review — 1749, 3029
Cotton marketing quotas:
Administrative review of — 1749, 3029
County normal yields for 1938 — 2072
National allotment for 1939 — 2669
Price adjustment payment plan, 1937 — 1701, 2359
Referenda instructions, 1939 crop — 2681
Regulations for 1938–39 marketing year — 1569
Regulations for 1939–40 marketing year — 3053
State and county acreage allotments for 1938 — 3119
Cotton pool participating trust certificates, retirement of — 1754, 2194, 2561
Farmers' Committees, selection and exercise of functions under certain Acts — 1885
Grapes, handling of, Arkansas; proclamation and regulatory order — 1741
Honey and queen bees (package), handling of:
Marketing agreement and license for shippers terminated — 2153
Regulatory order — 2149

AGRICULTURE—Continued.
Agricultural Adjustment Administration—Continued.
Hops, handling of, Oregon, California, and Washington — 1979
Loans, inspection and sealing of agricultural commodities to be used as collateral — 1805
Milk, handling of:
Des Moines, Iowa, Sales Area, license terminated — 1591
Fort Wayne, Ind., Marketing Area, determination and order — 2463, 2464
La Porte County, Ind., Marketing Area, regulatory order amended — 2015
New York Metropolitan Marketing Area, orders — 1945, 2100
Richmond, Va., Sales Area, license terminated — 2341
Toledo, Ohio, Marketing Area, base period; regulatory order — 1893, 2169
Naval stores conservation program, 1938, assignments of interest in payments — 2207
Naval stores conservation program, 1939 — 2666, 2783
Oranges and grapefruit, handling of, Texas, regulatory order; base period — 2213, 2222
Pears (fresh), handling of, Oregon, Washington, and California Marketing Area — 2439
Prunes, handling of, Oregon and Washington, base period; regulatory order — 1779
Range conservation program bulletin, 1938:
Jones County, S. Dak — 1378
Meagher County, Mont — 1459, 2756
Range conservation program bulletin, 1939 — 2697
Rice:
Marketing quotas, administrative review — 1749, 3029
National acreage allotment for 1939 — 2784
Referendum results, 1939–40 marketing year — 3187
Sugar Act of 1937:
California, farming practices for 1939 crop — 2609
Consumption requirements and quotas, 1938 — 1389
Domestic beet sugar area, payment eligibility for farm abandonment and crop deficiency — 2610
Florida, 1938 sugarcane prices — 2505
Hawaii:
Proportionate shares for farms, 1937 and 1938 crops — 1359, 2505
Quota deficits for 1938, proration — 2729

AGRICULTURE—Continued.
Agricultural Adjustment Administration—Continued.
Sugar Act of 1937—Con.
Hawaii—Continued.
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency — 1441, 1626
Wage rate determination, 1937 — 1649
Liquid sugar quota allotments for foreign countries, 1938 — 1427
Louisiana, 1938 sugarcane prices — 2306
Mainland cane sugar area:
Farming practices, determination amended — 2263
Proportionate shares for farms, 1939 crop — 2378
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency — 1786
Wage rates for harvesting — 1626, 2497
Orders, regulations, etc., amended — 2660
Philippine Islands, proration of 1938 deficit — 1391
Puerto Rico:
Direct-consumption portion allotment, 1938 — 1279
Farming practices for 1938–39 crop — 1786
Proportionate shares for sugarcane producers, crop years 1938, 1939, 1940 — 2747
Sugar commercially recoverable; payment eligibility for farm abandonment and crop deficiency — 1474, 1627
Sugar quota allotment, 1938 — 1337
Quota prorations for foreign countries other than Cuba — 2207
Sugar beets:
Normal yields per acre — 2467
Proportionate shares for farms — 1625, 2245
Wage rate determination — 2263
Virgin Islands, proration of 1938 quota deficits — 2729
Tobacco:
Burley:
Farm marketing quotas, 1938 — 2557, 2863
Marketing quotas for 1938–39 — 2848, 3125
National marketing quota for 1939; apportionment and adjustment for 1938–39 — 2801, 2863
Referendum results — 3187

AGRICULTURE—Continued.
Agricultural Adjustment Administration—Continued.
Tobacco—Continued.
Fire-cured and dark air-cured:
Farm marketing quotas for 1938 — 2646, 2862
Marketing quotas for 1938–39 — 2822, 3126
National marketing quota; apportionment and adjustment — 2783, 2801
Referendum results — 3188
Flue-cured:
Farm marketing quota instructions for 1938 — 1438, 1547, 1839, 1963, 2148, 2203.
Marketing quotas for 1938–39, regulations — 1833, 2354, 2443, 2822
National marketing quota, 1938–39; apportionment and adjustment — 1839, 2149, 2769
National marketing quota, 1939–40, apportionment and adjustment — 2828
Quota procedure for 1939 — 2683
Referendum results, proclamation — 3183
Marketing of, refund of penalty erroneously, illegally, etc., collected — 2645
Marketing quotas, administrative review — 1749, 3029
National marketing quota for 1938–39, apportionment and adjustment — 1839, 2149
Walnuts, handling of, California, Oregon, and Washington — 2377
Wheat:
Farm acreage allotments, 1939 crop — 1807
Marketing quotas, administrative review — 1749, 3029
National acreage allotment, 1939 crop — 1754
State acreage allotments, 1939 — 1807
Agricultural Economics Bureau:
Bankhead-Jones Farm Tenant Act, protection of lands acquired or transferred under — 2026
Butter, creamery, standards for quality — 2635
Cotton:
Classification and market news services — 1360
Sea Island cotton, grade standards established — 1966
Standards for length of staple — 1966
Cotton Standards Act, regulations amended — 1965
Cottonseed, for crushing purposes, grade standards — 1343

AGRICULTURE—Continued.
Agricultural Economics Bureau—Continued.
Cottonseed, for crushing purposes, etc.—Continued.
Inspection, sampling, and certification regulations — 1361
Country-run forage seeds for dockage, inspection of — 2436
Export Apple and Pear Act, regulations amended — 1769
Fruits, vegetables, etc., inspection and certification regulations — 1451
Hay and straw, inspection and certification regulations — 1867
Land utilization program, delegations of authority — 1786, 1867
Perishable Agricultural Commodities Act, 1930, regulations — 2208
Poultry and domestic rabbits (dressed), inspection and certification for condition and wholesomeness — 2767
Tobacco markets designated:
Abingdon, Va — 2734
Huntington, W. Va — 2734
Knoxville, Tenn — 2734
Maysville, Paris, and Springfield, Ky — 2734
Owensboro, Ky — 2208
Ripley, Ohio — 2734
South Hill, Va — 2074
United States Warehouse Act, regulations amended — 1400
Entomology and Plant Quarantine Bureau:
Fruits and vegetables, shipment from Hawaii to mainland subject to sterilization — 2515
Gypsy moth and brown-tail moth quarantine, regulations revised — 2341
Japanese beetle quarantine, certification requirement exemptions — 2567
Fruit and vegetable restrictions, termination date — 2264
Onions moving by refrigerator car, fumigation of — 1769
Narcissus bulbs (noninfested) from Holland, treatment requirement revoked as condition of entry — 2680
Nursery stock, plant and seed quarantine regulations — 2822
Pink bollworm quarantine, cotton regulations — 1618, 2735
Tomatoes, fumigation by methyl bromide — 2048
White-fringed beetle quarantine, regulations — 3003
White-pine blister rust quarantine, regulations revised — 1266
Federal Crop Insurance Corporation:
Wheat crop insurance — 1364, 1640, 1722, 1987

AGRICULTURE—Continued.
Plant Industry Bureau:
Federal Seed Act, regulations amended — 2002, 2369
Secretary's Office:
Eastern Shore Experimental Forest, Wicomico County, Md., lands transferred to Forest Service for administration, etc — 2635
Land utilization projects, occupancy, use, etc., by Forest Service — 1755
Migratory Bird Regulations, amendment — 1766
Sugar Division:
California, wage rate for 1939 sugar beet crop — 2784
Consumption requirements and quotas for 1939 — 3171
Domestic beet sugar area, proportionate shares for farms for 1939 crop — 3172
Hawaii:
Sugar consumption requirements for 1939 — 3188
Wage rate for 1938 sugarcane crop — 2785
Mainland cane sugar area, sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency — 3145
Puerto Rico:
Consumption requirements for 1939 — 3188
Direct-consumption portion allotment — 2785
Quota allotments for 1938 — 2885
AGRICULTURE DEPARTMENT:
Agricultural Adjustment Administration. *See also* Agriculture.
Citrus fruit, handling of, Texas, hearing on regulatory order amendment, etc — 1456
Corn, supply for marketing year 1938–39 — 2163
Cotton, referenda instructions on marketing quotas — 2774
Honey and queen bees (package), handling of, base period, etc — 2163
Milk, handling of:
Fort Wayne, Ind., Marketing Area, hearing on marketing agreement amendment, etc — 1516
Greater Boston, Mass., Marketing Area, hearing on marketing agreement amendment, etc — 2787
La Porte County, Ind., Marketing Area, proposed regulatory order — 2018
Lowell-Lawrence, Mass., Marketing Area, hearing — 2363, 2431, 2872

AGRICULTURE DEPARTMENT—Continued. Page
- Agricultural Adjustment Administration—Continued.
  - Milk, handling of—Con.
    - New York Metropolitan Marketing Area, base period; proposed regulatory order 1957, 1849, 2102
    - Omaha-Council Bluffs Marketing Area, hearing on proposed marketing agreement, etc 2871
    - St. Louis, Mo., Marketing Area, hearing on marketing agreement amendment, etc 2891
    - Toledo, Ohio, Marketing Area, proposed regulatory order 2180
  - Oranges, grapefruit, and tangerines, handling of, Florida, hearing on proposed marketing agreement, etc 2872
  - Peaches, handling of, Georgia, hearing on proposed marketing agreement, etc 2116
  - Pears (fresh), handling of, Oregon, Washington, and California, hearing; base period 2045, 2489
  - Rice, referendum instructions for 1939 marketing quota 2787
  - Sugar Act of 1937:
    - California, hearings on wage rates and prices for 1939 crop 1971
    - Hawaii, hearing on wage rates and prices 2671
    - Mainland cane sugar area, hearing on wage rates, etc 1830
    - Puerto Rico:
      - Sugar quota, hearing 2431
      - Wage rates and prices for 1939, hearing 2674
  - Tobacco:
    - Burley, referenda instructions on marketing quotas 2803
    - Fire-cured and dark air-cured, referenda instructions on marketing quotas 2803
    - Flue-cured:
      - National marketing quota 2769
      - Referenda instructions on marketing quotas 2774
    - Walnuts, handling of, California, Oregon, and Washington, hearing on marketing agreement amendment 2133
- Agricultural Economics Bureau. *See* Agriculture.
- Animal Industry Bureau. *See also* Animals and Animal Products.
  - Packers and Stockyards Act, notices:
    - Amarillo Livestock Sales Co 2598
    - Brewton Livestock Commission Co 3045
    - Clovis Livestock Sales Co 2598
    - Coffeyville Stockyards 2431
    - Cook & Caldwell 2471
    - Farmers' Livestock Sales Co 2293
    - Garber Livestock Commission Co 2181
    - Greeneville Livestock Co., Inc 1933
    - Holdrege Livestock Sales Co 1503
    - Jackson Livestock Commission Co 1408
    - Kissimmee Livestock Market, Inc 2598
    - Lubbock Auction & Commission Co 2580
    - Lum, John H 2877
    - Lum, Ray 2650
    - McKee, Knox 2877
    - Memphis Union Stock Yards 2651
    - Moore & McCord Commission Co 2181
    - Northwestern Live Stock Commission Co 2181
    - Owens, C. V., and Son Auction Sales Commission Co 2314
    - St. Johns Stockyard Co 1503
    - Snyder Livestock Market 2580
    - South Greeley Sales Yards 2182
    - Union Live Stock Commission Co., Inc 2651
- Biological Survey Bureau. *See* Wildlife.
- Commodity Exchange Administration. *See also* Commodity and Securities Exchanges.
  - Wool Associates of New York Cotton Exchange, Inc., designated contract market for wool tops 1269
- Commodity Exchange Commission:
  - Grain, limits on position and trading for future delivery 1408
- Entomology and Plant Quarantine Bureau. *See also* Agriculture.
  - White-fringed beetle quarantine in Alabama, Florida, Louisiana, and Mississippi, hearing 2045
- Farm Security Administration. *See also* Agricultural Credit.
  - Bankhead-Jones Farm Tenant Act, equitable distribution of loan funds 1456
  - Standing Stone Experimental Forest, Pa., lands transferred to Forest Service 2314
  - Tenant purchase loans, counties designated for:
    - Alabama 1761
    - Arizona 2350
    - Arkansas 1870
    - California 2239
    - Colorado 1957
    - Connecticut 1935
    - Delaware 1935
    - Florida 1903
    - Georgia 1862
    - Hawaii 2117
    - Idaho 2117
    - Illinois 1863
    - Indiana 1719
    - Iowa 1760
    - Kansas 1761
    - Kentucky 1903
    - Louisiana 1761
    - Maine 1692
    - Maryland 1761
    - Massachusetts 1935
    - Michigan 1719
    - Minnesota 1854
    - Mississippi 1719
    - Missouri 1903
    - Montana 1957
    - Nebraska 1761
    - Nevada 2350
    - New Hampshire 1935
    - New Jersey 1936
    - New Mexico 1854
    - New York 1903
    - North Carolina 1877
    - North Dakota 1877
    - Ohio 1692
    - Oklahoma 1692
    - Oregon 2041
    - Pennsylvania 1903
    - Region XII exclusive of New Mexico 1876
    - Rhode Island 1935
    - South Carolina 1877
    - South Dakota 1862
    - Tennessee 1863
    - Texas 1738
    - Utah 2350
    - Vermont 1935
    - Virginia 1920
    - Washington 2117
    - West Virginia 1935
    - Wisconsin 1800
    - Wyoming 2079
- Federal Crop Insurance Corporation. *See* Agriculture.
- Food and Drug Administration. *See also* Food and Drugs.
  - Eggs, hearing on standards of identity 3011
  - Federal Food, Drug, and Cosmetic Act, hearing on tentative regulations 2502
  - Tomato puree, paste, catsup, and juice, hearing on standard of identity 3012
  - Tomatoes (canned), hearing on standards of identity, quality, fill of container; label statements 3009
- Forest Service. *See* Parks and Forests.

AGRICULTURE DEPARTMENT—Continued. Page
- Interdepartmental Committee on Printing and Processing, representative to be designated 2603
- Lands transferred to Commerce Department and reserved as Welaka Fish Hatchery, Fla 2633
- Plant Industry Bureau. *See* Agriculture.
- Public Roads Bureau. *See* Highways.
- Secretary's Office. *See also* Agriculture.
  - Jurisdiction over lands transferred to Secretary of Interior:
    - New Mexico 2252
    - Rhode Island 1257
  - Lands transferred for use, etc., under Bankhead-Jones Farm Tenant Act 1389
  - Lands transferred from Farm Security Administration to Forest Service:
    - Magazine Mountain Project, Ark 1761
    - Northeast Georgia Project, Ga 1762
    - Standing Stone Experimental Forest, Huntingdon County, Pa 2314
  - Sugar Division:
    - Wage rates for 1939 sugar beet crop, hearings 3065

AINSWORTH, J. C., hearing reopened by Securities and Exchange Commission 3192, 3193

AIR CORPS, applicants for appointment as flying cadets 2174

AIR MAIL:
- Air Mail Act. *See* Civil Aviation.
- Contractors for, application to transport mail on nonmail schedule or plane 2056
- Foreign service, duties of International Postal Service 2356
- Service Division, duties, etc., under First Assistant Postmaster General 2356
- Service under supervision of First Assistant Postmaster General 1991
- Transportation, petitions for determination of compensation rates 2379

AIR NAVIGATION SITES. *See* Public Lands: General Land Office.

AIRCRAFT. *See also* Civil Aeronautics Authority; Civil Aviation.
- Airspace reservation established over portion of District of Columbia 1437
- Convention with United Mexican States on return of stolen or embezzled planes, etc.; regulations 2106
- Entry without special authority from Department of Commerce 2470
- Manufacturing industry, minimum wage determinations 3043
- Supplies, drawback on distilled spirits 2043
- Temporary free importation from Mexico 1933

AIRLINE FEEDER SYSTEM, INC., hearing by Civil Aeronautics Authority 2694, 2790

AIRPORTS OF ENTRY. *See* Ports of Entry.

ALABAMA:
- Agricultural conservation program. *See* Agriculture.
- Bituminous coal in intrastate commerce, investigation 1605
- Brewton Livestock Commission Co., notice under Packers and Stockyards Act 3045
- Child labor, acceptance of State certificates 2500
- Southern Railway System drawbridge regulations across Three Mile Creek at Mobile 2867
- Tenant purchase loans, counties designated for 1761
- Wheeler Migratory Waterfowl Refuge:
  - Establishment 1669
  - Hunting permitted in Madison County 2768
- White-fringed beetle, hearing on proposed State quarantine 2045

ALABAMA POWER CO., hearing by Securities and Exchange Commission 3022

ALASKA. *See also* Alaska Railroad.
- Fishery regulations amended 1382, 1840, 1940, 2018, 2043, 2063, 2082, 2100, 2116, 2131, 2143, 2222, 2337.
- Fort Yukon, airport of entry designated 1657, 1692
- Indian Service hospitals, admission of patients 1663
- Mail carriers, exemption under Civil Aeronautics Act 2531
- Native towns and Indian possessions in trustee towns, sale and disposal 1653
- Public lands:
  - Lighthouse reservation, description corrected 1944
  - Placed under control of Secretary of Interior 2800
  - Withdrawal for town-site purposes modified 2883
  - Withdrawal in aid of flood control 2861
  - Withdrawals revoked 1639, 2072
- Radio services, rules repealed 2907
- Radio stations other than amateur and broadcast, rules 2906
- Reindeer:
  - Grazing regulations 1335
  - Ownership declarations, filing 1641
- Timber, free use for churches, hospitals, etc 2066

ALASKA RAILROAD:
- Anchorage hospital laboratory fees 3184
- Appeals in cases of employees of; procedure 2391
- Joint freight tariffs 1515, 1760, 1919, 2102, 2527.
- Local passenger tariffs 1954, 2044, 2045, 3159.
- Mt. McKinley Park Route time tables 1515

ALBAUM, WOLF, hearing by Federal Trade Commission 2364

ALCOHOL:
- Specially denatured alcohol Formula No. 23–H 2604

ALEXANDRIA GAS CO., hearing, etc., by Securities and Exchange Commission 1832, 1922

ALGREN MANUFACTURING CO., INC., hearing by Federal Trade Commission 1340

ALIENS AND CITIZENSHIP:
- Aliens entering the United States, documents required 1657, 3177
- Immigration and Naturalization Service:
  - Aliens, absence from United States during required residence periods 2621, 2767
  - Border crossing cards, issuance and description 1951
  - Ports of entry designated:
    - Del Bonita, Mont 3057
    - Fort Yukon, Alaska 1657
    - Fortuna, N. Dak 1657
    - Maida, N. Dak 2021
    - Niagara Falls, N. Y 1698
    - Scobey, Mont 1657
    - Tampa, Fla 1951
    - Thousand Islands Bridge, N. Y 1698
  - Puerto Rico, oath required of certain natives to become citizens 2499

ALLEGHENY COUNTY INSTITUTION DISTRICT, order by National Bituminous Coal Commission 2509

ALLEGHENY LUDLUM STEEL CORP., hearing; unlisted trading privileges granted by Securities and Exchange Commission 1871, 3048

ALLEN, H. F., hearing by Federal Trade Commission 2266

ALLISON-BEDFORD CO., hearing by Federal Trade Commission 1541

ALUMINUM CO. OF AMERICA, hearing by Securities and Exchange Commission 2295

ALUMINUM ORE CO., hearing by Securities and Exchange Commission 2295

AMARILLO LIVESTOCK SALES CO., notice under Packers and Stockyards Act — 2598
AMARILLO, TEX., special air traffic rule — 1664
AMATEUR RADIO STATIONS, ETC. *See* Telecommunication.
AMERICAN AIRLINES, INC.:
Exemption from provisions of Civil Aeronautics Act — 2350, 2877
Hearing by Civil Aeronautics Authority — 2888
AMERICAN & FOREIGN POWER CO., INC., hearing by Securities and Exchange Commission — 2546, 2575
AMERICAN BUREAU OF HYGIENE, hearing by Federal Trade Commission — 1542
AMERICAN CLINICAL LABORATORIES, INC., hearing by Federal Trade Commission — 2522
AMERICAN COLLEGE, ET AL., cease and desist order by Federal Trade Commission; sale of instruction courses, etc — 2030
AMERICAN CREDIT CORP., order by Securities and Exchange Commission — 2294
AMERICAN EXPORT LINES, INC., hearing by United States Maritime Commission — 3117
AMERICAN FIELD SEED CO., ET AL., cease and desist order by Federal Trade Commission; sale of agricultural seed — 1968
AMERICAN FRUIT GROWERS, INC., hearing; complaint by Federal Trade Commission; sale of food products — 1888, 2769
AMERICAN GAS AND ELECTRIC CO., hearings, etc., by Securities and Exchange Commission — 2367, 2529
AMERICAN GAS & ELECTRIC SERVICE CORP., hearing by Securities and Exchange Commission — 2874
AMERICAN GAS AND POWER CO.:
Effective date of declarations approved by Securities and Exchange Commission — 2373, 2902
Recapitalization plan granted — 2374
AMERICAN HEALTH ASSOCIATION OF WASHINGTON, D. C., hearing by Federal Trade Commission — 1542
AMERICAN HEALTH SOCIETY, INC., cease and desist order by Federal Trade Commission; sale of medical books — 1512
AMERICAN HOME PRODUCTS CORP., hearing by Securities and Exchange Commission — 2611
AMERICAN LAWN MOWER CO., cease and desist order by Federal Trade Commission; sale of blackboards — 1858
AMERICAN LIGHT & TRACTION CO.:
Hearing by Securities and Exchange Commission — 2164
Sales of stock approved — 2283
AMERICAN MEMORIAL CO., hearing by Federal Trade Commission — 1801
AMERICAN OPTICAL CO., ET AL, hearing by Federal Trade Commission — 2315
AMERICAN PAPER SPECIALTY MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale of food dish trays — 3039
AMERICAN REPUBLICS, instruction of citizens at educational institutions maintained by United States Government — 2105
AMERICAN SPORTSWEAR, hearing by Federal Trade Commission — 2492
AMERICAN STATES UTILITIES CORP.:
Acquisition and retirement of stock approved — 3046
Hearing by Securities and Exchange Commission — 2387
Sale of assets approved — 3047
AMERICAN STEEL FOUNDRIES, trading privileges extended by Securities and Exchange Commission — 1941
AMERICAN WATER WORKS AND ELECTRIC CO., INC., hearing; acquisition of stock approved by Securities and Exchange Commission — 2879, 3175
AMERICAN ZINC AND CHEMICAL CO., exemption granted by National Bituminous Coal Commission — 1368
AMMUNITION, issuance of licenses to manufacturers or dealers — 1868
AMMUNITION DEPOT, lands reserved in Canal Zone as — 2322
ANCHORAGE GROUNDS. *See* Navigation and Navigable waters: War Department.
ANDERSON, HUGH L., notice under Packers and Stockyards Act — 2293
ANGELUS CAMPFIRE CO., hearing by Federal Trade Commission — 1541
ANIMAL INDUSTRY BUREAU. *See* Agricultural Department; Animals and Animal Products.
ANIMALS AND ANIMAL PRODUCTS:
Animal Industry Bureau:
Breeds and purebred animals, recognition of — 1451
Cattle condemned for tuberculosis, etc., appraisement and compensation — 1527, 2018
ANIMALS AND ANIMAL PRODUCTS—Continued.
Animal Industry Bureau—Con.
Hides, skins, etc., for entry into United States, handling and control of — 2595
Livestock imported from or exported to Mexico, inspection and quarantine — 3030
Meat and products imported from Ireland and Austria, marking to show origin — 2561
Meat inspection facilities — 2561
Rinderpest and foot - and - mouth disease, prevention of introduction — 2107, 2271, 2736, 3033
Splenetic or tick fever:
Interstate transportation control of cattle to prevent spread of — 2729
Quarantine release, Nacogdoches County, Tex — 1840
Tuberculosis-free accredited areas, names of counties — 1382, 1755, 2002, 2253, 2481, 2865, 2903
Viruses, etc., production, testing, etc., for treatment of domestic animals — 1857
Western North Dakota Stockmen's Assn., brand inspection by — 2285
ANNUITIES, income tax regulations — 2140
ANTIDUMPING, certain findings revoked — 1287
APACHE GAS CO., reorganization plan approved, etc., by Securities and Exchange Commission — 2492, 2600, 2630
APACHE GAS CO. OF NEV., hearing by Securities and Exchange Commission — 2240, 2268
APALACHEE BAY, FLA., line dividing high seas from rivers, harbors, and inland waters — 1478
APALACHICOLA NATIONAL FOREST, FLA., lands added — 1505
APPALACHIAN ELECTRIC POWER CO., hearings by Securities and Exchange Commission — 1540, 1666
APPAREL INDUSTRY, hearing on employment of learners at less than minimum wage — 2763
APPAREL INDUSTRY COMMITTEE, appointment by Wage and Hour Division — 3066
APPLES, regulations under Export Apple and Pear Act — 1769
APPRENTICES. *See* Labor; Labor Department.
ARANSAS MIGRATORY WATERFOWL REFUGE, TEX., closed area designated — 2807
ARAPAHO NATIONAL FOREST, boundary adjusted — 2445
ARATA, JOHN B., cease and desist order by Federal Trade Commission; sale of candy — 2349

ARCHES NATIONAL MONUMENT, UTAH, enlargement — 2782
ARCHITECTURAL TILING CO., INC., complaint by Federal Trade Commission; sale of tile — 2124
ARGENTINE REPUBLIC, hearings and order by Securities and Exchange Commission — 2471, 2749, 3115
ARIZONA:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates — 2500
Colorado River Storage Project, reclamation withdrawal — 2245
Coronado National Forest:
Lands excluded and added to Chiricahua National Monument — 1399
Lands transferred to control of Treasury Department — 1944
Grazing district established; modification — 1795, 3021
Navajo, Zuni and Hopi Indian Reservations, conduct of trade regulations — 1690
Public land withdrawal revoked — 1995
Public Water Restoration No. 81 — 2679
San Carlos Project, new standard rate schedules for electricity — 1607
Stock driveway withdrawals revoked — 2693, 2774
Tenant purchase loans, counties designated for — 2350
Walnut Canyon National Monument, lands added — 2321
ARKANSAS:
Agricultural conservation program. *See* Agriculture.
Big Lake Reservation:
Fishing regulations — 2075
Name changed to Big Lake Migratory Bird Refuge; lands added — 2747
Child labor, acceptance of State certificates — 2500
Coals produced, investigation by National Bituminous Coal Commission — 2154
Grapes, handling of, base period; regulatory order — 1741
Magazine Mountain Project, lands transferred to Forest Service — 1761
Muddy Creek Refuge enlarged and redesignated Ouachita National Wildlife Preserve — 2587
Ouachita National Forest, lands added — 2169
Ozark National Forest, trespass regulation — 2771
Public land withdrawal for lookout station — 1995
Tenant purchase loans, counties designated for — 1870
ARKANSAS-LOUISIANA GAS CO., investigation, etc., by Federal Power Commission — 2452, 2521
ARKANSAS WESTERN GAS CO., hearing and order by Securities and Exchange Commission — 2601, 3174
ARKOAL COAL CO., order by National Bituminous Coal Commission — 2857
ARLINGTON CONCRETE PIPE CORP., cease and desist order by Federal Trade Commission; sale of concrete pipe — 2028
ARMISTICE DAY:
Included in Customs Regulations as legal holiday — 1344
Proclamation, 1938 — 2577
ARMOUR AND CO. OF DEL., hearing and order by Securities and Exchange Commission — 2418, 2843
ARMOUR AND CO. OF ILL., hearings by Securities and Exchange Commission — 2546, 2575, 3048
ARMSTRONG CORK CO., hearing by Securities and Exchange Commission — 3048
ARMY. *See also* War Department.
Air Corps, applicants for appointment as flying cadets — 2174
Bids and awards — 2027
Contracts, miscellaneous amendments — 1879
Enlisted men, grades and ratings for fiscal year 1939 — 2235
Federal taxes on supplies — 1975
Invitations for bids — 1710, 1975
Medical Corps, appointment of commissioned officers and chaplains — 3057
National Guard. *See* National Defense.
National rifle matches, 1938, Camp Perry, Ohio, regulations — 1723
Reserve Officers' Training Corps:
Honor graduates of honor schools as candidates for United States Military Academy — 2786
Membership, eligibility to — 2650
Supply and equipment — 2109
River and Harbor Act:
Frankford Creek at Bridge Street, Philadelphia, Pa., drawbridge regulations — 2138
Sanitary District of Chicago, operation of controlling district and use of lock on Chicago River — 2139
Texas and Pacific Railway Company Drawbridge at Bayou Lafourche, Napoleonville, La., regulations — 2116
Vouchers for money accounts — 2107
ARON, J., & CO., INC., order by Federal Trade Commission — 2595
ARSPHENAMINE, control of manufacture, importation, and sale of — 1620
ARTWEBB MANUFACTURING CO., INC., hearing by Federal Trade Commission — 2545
ARVIL CO., hearing by Federal Trade Commission — 2316
ASKIN'S RETAIL STORES, INC., cease and desist order by Federal Trade Commission; sale of wearing apparel — 1969
ASPHALT, leasing of segregated deposits, Choctaw and Chickasaw Nations, Okla — 1433
ASSOCIATED CORP.:
Effective date of declaration by Securities and Exchange Commission — 1695, 1699
Notice of hearing — 1411
ASSOCIATED ELECTRIC CO., hearings; effective date of declaration by Securities and Exchange Commission — 1666, 2585, 3049
ASSOCIATED GAS AND ELECTRIC CO., investment statements required by Securities and Exchange Commission — 2873
ASSOCIATED LABORATORIES, INC., N. Y., hearing by Federal Trade Commission — 1540
ASSOCIATED NEWS PHOTOGRAPHIC SERVICE, INC., hearing by Federal Trade Commission — 2792
ASSOCIATED SALES CO., hearing by Federal Trade Commission — 2491
ATCHISON, TOPEKA & SANTA FE RAILWAY CO., ET AL:
Court proceedings pending, orders by Interstate Commerce Commission — 1478, 2244, 2674, 2908
Emergency board created to investigate dispute with employees — 2321
Hearing by Securities and Exchange Commission — 2546, 2575
ATCO SOAP CO., hearing by Federal Trade Commission — 2316
ATLANTIC PORTS, investigation of commodity rates by Interstate Commerce Commission — 2018
ATLANTIC REFINING CO., hearing by Securities and Exchange Commission — 2547, 2575
ATTORNEY GENERAL, authorized to sell certain property under Trading With the Enemy Act — 1255
ATTORNEYS:
Applications to practice before Interstate Commerce Commission — 1992
Appointment and compensation, Federal Home Loan Bank System — 3126
ATWATER, L. P., & CO., registration denied by Securities and Exchange Commission — 2013
AULT COAL CO., order by National Bituminous Coal Commission — 2857

AUSTIN SILVER MINING CO., stop order by Securities and Exchange Commission — 1720
AUSTRIA:
Currency appreciation, payment of losses to U. S. employees — 2015
Meat and products, marking to show origin — 2561
AUTOMOBILES:
Convention between United States and Mexico for return and recovery of stolen or embezzled vehicles — 2106
Temporary free importation from certain countries — 1933
AVERBACH, J., cease and desist order by Federal Trade Commission; sale, etc., of hosiery — 1428
AVIATION. *See* Civil Aeronautics Authority; Civil Aviation.
AVIATION CORP., hearing by Securities and Exchange Commission — 2547, 2575

B

B & T FLOOR CO., hearing by Federal Trade Commission — 2317
BABY CHICK INDUSTRY, trade practice rules by Federal Trade Commission — 2293
BACH, ALBERT A., hearing by Federal Trade Commission — 2677
BACK BAY MIGRATORY WATERFOWL REFUGE, VA., establishment — 1358
BACON, CHARLES H., CO., INC., hearing by Federal Trade Commission — 2629
BADGER PAPER MILLS, INC., hearing by Securities and Exchange Commission — 2875, 3180
BAEHR, WILLIAM A., ORGANIZATION, INC., hearing by Securities and Exchange Commission — 2846
BALDWIN LOCOMOTIVE WORKS, order by Securities and Exchange Commission — 1941
BALTIMORE MAIL STEAMSHIP CO., hearing by United States Maritime Commission — 2796
BANFI PRODUCTS CORP., hearing by Federal Trade Commission — 2711
BANGOR, ME., redesignated airport of entry — 1540
BANKERS INDEMNITY INSURANCE CO., OF NEWARK, N. J., bonds executed in favor of the United States — 1532
BANKHEAD COTTON ACT OF 1934, tax refunds authorized — 1969
BANKHEAD-JONES FARM TENANT ACT:
Land transfers to Forest Service:
Magazine Mountain Project, Ark — 1761
BANKHEAD-JONES FARM TENANT ACT—Continued.
Land transfers to Forest Service—Continued.
Northeast Georgia Project, Ga — 1762
Standing Stone Experimental Forest, Pa — 2314
Lands transferred to Secretary of Agriculture for use, administration, etc — 1389
Loan funds, equitable distribution; schedule — 1456
New Mexico, lands transferred for conservation and utilization program — 2252
Protection of lands acquired or transferred for administration under — 2026
Tenant purchase loans. *See* also under name of State concerned.
Redelegations of authority by Administrator — 2305
BANKING AND CREDIT:
Comptroller of the Currency:
Investment securities regulation — 1619
Federal Deposit Insurance Corporation:
Insured State nonmember banks, report of condition required — 1627
Loans on security of savings deposits — 1528
Federal Reserve System:
Interlocking bank directorates under Clayton Act — 2194, 2685
BANKRUPTCY ACT:
Documentary stamp taxes — 1330
Income tax, cancelation of indebtedness, etc., for — 2686
BANKS. *See* Agricultural Credit; Banking and Credit; Business Credit; Housing Credit; Money and Finance: Treasury.
BARBARA GOULD SALES CORP., cease and desist order by Federal Trade Commission; sale of cosmetics — 1711
BARD, MILLARD H., registration suspended by Securities and Exchange Commission — 2612
BARLEY, limits on position and daily trading for future delivery — 3145
BARNSDALL OIL CO., hearing by Securities and Exchange Commission — 2547, 2575
BATON ROUGE ELECTRIC CO., effective date of declaration by Securities and Exchange Commission — 1695
BAUM, ARTHUR, cease and desist order by Federal Trade Commission; sale of cosmetics, etc — 3037
BAXTER, MARCUS L., declared not a holding company by Securities and Exchange Commission — 2365
BAYOU LAFOURCHE, LA., operation of Texas and Pacific Railway Company Bridge at Napoleonville — 2116
BEASLEY, I. M., notice under Packers and Stockyards Act — 1408
BEAUMONT NAVIGATION DISTRICT, TEX., use and navigation of lock and dam across Taylors Bayou — 1642
BECK COAL AND MINING CO., hearing by National Bituminous Coal Commission — 2161, 2282
BECKER, JACK, hearing by Federal Trade Commission — 2711
BEES:
Handling in interstate commerce, etc., regulatory order — 2149
Base period to be used, etc — 2163
Marketing agreement and license for shippers terminated — 2153
BEINKE, BELMONT W., cease and desist order by Federal Trade Commission; sale of glass — 3034
BELLE ALKALI CO., hearing by Federal Trade Commission — 2134
BELMONT COAL CO., hearing by National Bituminous Coal Commission — 1516
BELMONT METALS CORP., order by Securities and Exchange Commission — 2511
BELMONT SALES CO., hearing by Federal Trade Commission — 2491
BELVEDERE SILKS, INC., cease and desist order by Federal Trade Commission; sale, etc., of fabrics — 1442
BELVEDERE TOBACCO CO., hearing by Federal Trade Commission — 2629
BENCHLEY & VERMILLION COAL CO., hearing by National Bituminous Coal Commission — 1516
BENTON ANNOUNCEMENTS, INC., hearing by Federal Trade Commission — 2134
BERGER, ALBERT E., hearing by Federal Trade Commission — 1283
BERGMAN, MAX, hearing by Federal Trade Commission — 2859
BERK, HARRY S., AND STELLA, cease and desist order by Federal Trade Commission; sale of silverplated ware — 1923
BERKELEY STUDIOS INTERNATIONAL PRESS SERVICE, INC., hearing by Federal Trade Commission — 2793
BERNSTEIN, SAMUEL E., ET AL., cease and desist order by Federal Trade Commission; sale of silverplated ware — 1923

BERRY SEED CO., cease and desist order by Federal Trade Commission; sale of agricultural seed — 2347
BERST-FORSTER-DIXFIELD CO., cease and desist order by Federal Trade Commission; sale of food dish trays — 3039
BERWICK PEN CO., hearing by Federal Trade Commission — 2502
BETHLEHEM STEEL CORP., hearing by Securities and Exchange Commission — 2547, 2575
BEVERLY GAS AND ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission — 1936, 2126
BIDS:
Navy contracts:
Excess profits on — 2279
Purchase methods; awards and bids — 3147
War Department:
Bids and awards — 2027
Default in performance — 1879
Forms of agreement — 1879
Invitations for — 1710, 1975
Wildlife restoration projects, regulations — 1713
BIG LAKE RESERVATION, ARK.:
Fishing regulations — 2075
Name changed to Big Lake Migratory Bird Refuge; lands added — 2747
BIG SIX COAL CO., order by National Bituminous Coal Commission — 2857
BIRDS. *See* Refuges; Wildlife.
BIRMINGHAM GAS CO.:
Effective date of declarations by Securities and Exchange Commission — 2373, 2902
Recapitalization plan granted — 2374
BIRMINGHAM WATER WORKS CO., exemption granted by National Bituminous Coal Commission — 1369
BISHOP JONES CO., cease and desist order by Federal Trade Commission; sale of cosmetics, etc — 2390, 2704
BISSON, ALBERT L., hearing by Federal Trade Commission — 1541
BITUMINOUS COAL. *See* Commerce: National Bituminous Coal Commission; Interior Department.
BLACK, LOUIS, cease and desist order by Federal Trade Commission; sale, etc., of rubber prophylactics — 1366
BLACKSTONE STUDIOS, INC., hearing by Federal Trade Commission — 2792
BLACKSTONE VALLEY GAS AND ELECTRIC CO.; hearing; exemption from provisions of Public Utility Holding Company Act of 1935 — 2653, 2844
BLEECKER-FOSTER, INC., cease and desist order by Federal Trade Commission; sale of food flavors, novelties, etc — 1627
BLOOM, TOM, cease and desist order by Federal Trade Commission; sale of correspondence course, etc — 2639
BLUE SEAL PRODUCTS CO., hearing by Federal Trade Commission — 1541
BLUFFTON GROCERY CO., hearing by Federal Trade Commission — 1541
BOATS, temporary free importation from Canada — 1933
BOBWHITE QUAIL, importation from Mexico — 2081
BOEING AIRPLANE CO., hearing; unlisted trading privileges extended by Securities and Exchange Commission — 1941, 2548, 2575
BOEING, MARTHA A., hearing by Federal Trade Commission — 1541
BOND, ORVILLE J., hearing by Federal Trade Commission — 1340
BONDS. *See also* Money and Finance: Treasury.
Brewers of malt liquors — 1911
Distilled spirits, manufacture, etc — 1514
BONUSES. *See* Pensions, Bonuses, and Veterans' Relief.
BOOKS, modification of postage rates on — 2588, 2662
BORDO PRODUCTS CO., hearing by Federal Trade Commission — 1541
BOSTON-MAINE AIRWAYS, INC., hearing by Civil Aeronautics Authority — 2694
BOSTON, MASS.:
Milk, handling of, hearing — 2787
Municipality and commercial zone, investigation by Interstate Commerce Commission — 1892
Wool transportation by motor vehicle, investigation — 1891
BOULEVARD CANDY CO., hearing by Federal Trade Commission — 2476
BOURJOIS, INC., cease and desist order by Federal Trade Commission; sale of cosmetics — 1711
BOYCE, W. D., CO., hearing; cease and desist order by Federal Trade Commission; sale of magazines — 1371, 2348
BRADFORD ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission — 1589, 1880
BRADLEY BROTHERS COAL CO., hearing by National Bituminous Coal Commission — 2161, 2282
BRANDY. *See* Internal Revenue; Intoxicating Liquors; Treasury Department: Federal Alcohol Administration Division.
BRANIFF AIRWAYS, INC.:
Certificate of air transportation service, exemption — 2605
Hearing by Civil Aeronautics Authority — 2764
BRAVERMAN, SHELLEY, hearing by Federal Trade Commission — 2522
BREEZE CORPORATIONS, INC., stop order by Securities and Exchange Commission — 1958
BRETON BIRD REFUGE, LA., establishment — 2389
BREWTON LIVESTOCK COMMISSION CO., notice under Packers and Stockyards Act — 3045
BRIDGEPORT BRASS CO., hearing by Securities and Exchange Commission — 3048
BROADCAST STATIONS. *See* Telecommunication.
BROTHERHOOD OF LOCOMOTIVE ENGINEERS, ET AL, orders by Interstate Commerce Commission — 1478, 2244, 2674, 2908
BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, cease and desist order by Federal Trade Commission; glass glazing contract business — 3034
BROWN, GLENN, hearing by Federal Trade Commission — 1543
BROWN-TAIL MOTH QUARANTINE, regulations revised — 2341
BRUNING, CHARLES, CO., hearing by Federal Trade Commission — 1420
BRUNNER, ALPHONSE A., hearing by Federal Trade Commission — 1420
BUCKLEY-YOUNG CO., hearing; complaint by Federal Trade Commission; sale of wholesale grocery products — 1888, 2769
BUCKSTAFF, NOEL H., hearing postponed by Federal Power Commission — 1396
BUDGET BUREAU, representative to be designated on Interdepartmental Committee on Printing and Processing — 2603
BUFFALO INDUSTRIAL CO., cease and desist order by Federal Trade Commission; sale of snow fence products — 1845
BUFFALO, N. Y., airport of entry redesignated — 1902
BUNDY, ROBERT C., AND MILDRED, hearing by Federal Trade Commission — 2491
BUNTE BROS., INC., cease and desist order by Federal Trade Commission; sale of candy — 2286

BURD KNITTING MILLS CO., cease and desist order by Federal Trade Commission; sale of hosiery — 2031
BURLEY TOBACCO. *See* Tobacco.
BURLINGTON, VT., redesignated airport of entry — 1540
BURROUGHS GLASS CO., cease and desist order by Federal Trade Commission; sale of glass — 3034
BUSH RIVER, MD., Pennsylvania Railroad drawbridge regulations — 2355
BUSINESS CREDIT:
  Reconstruction Finance Corporation:
    Notes, debentures, bonds, etc., of; transactions and operations in — 2543
BUTTER:
  Creamery, standards of quality — 2635
  Tax regulations amended giving effect to legislative enactments — 1332
BYLLESBY CORP., hearing postponed by Securities and Exchange Commission — 1354, 2318
BYLLESBY, H. M., & CO., hearing postponed by Securities and Exchange Commission — 2318

C

CABLE FACILITIES:
  Excise tax regulations — 1651
  Income tax on services from within United States to outside points — 3147
CADETS:
  Air Corps, War Department, applicants for appointment — 2174
  Selection and training for, on vessels under subsidy agreements — 3044
CALCIUM CHLORIDE ASSN., cease and desist order by Federal Trade Commission; sale of calcium chloride — 3058
CALIFORNIA:
  Agricultural conservation program. *See* Agriculture.
  Air navigation site withdrawal — 1690
  Child labor, acceptance of State certificates — 2533
  Deciduous tree fruits except apples, marketing agreement, etc., terminated — 2650
  Hops, handling of — 1979
  Kings River Project, reclamation withdrawal — 2040
  Klamath Project, addition to Tulelake Reclamation Townsite — 2730
  Los Angeles and Long Beach Outer Harbors, anchorage ground regulations — 2382
  Motor carrier rates, investigation by Interstate Commerce Commission — 1762, 1802, 1940
CALIFORNIA—Continued.
  Orland Irrigation Project, water charges — 2597
  Pears, handling of — 2045, 2439, 2489
  Properties under Home Owners' Loan Corporation, marketing contracts for fruits, etc. — 2686
  Public land withdrawal for use of Navy Department — 2679
  Public Water Reserve No. 160 — 2755
  Public Water Restoration No. 81 — 2679
  Reservoir-Site Reserve No. 21, Cache Creek — 2756
  Shasta and Upper Klamath Indians, reservation proclaimed for — 2749
  Sugar beet crop, 1939:
    Farming practices, determination — 2609
    Wage rates and prices — 1971, 2784
  Tenant purchase loans, counties designated for — 2239
  Tule Lake Wildlife Refuge, hunting permitted — 2500
  Walnuts, handling of — 2133, 2377
CALIFORNIA LUMBERMEN'S COUNCIL, cease and desist order by Federal Trade Commission; sale of lumber, etc — 1897
CALIFORNIA UTILITIES CO.:
  Hearings, etc., by Securities and Exchange Commission — 2240, 2268
  Reorganization plan approval, orders — 2492, 2600, 2630
CAMBRIA CLAY PRODUCTS CO., exemption granted by National Bituminous Coal Commission — 1370
CAMP PERRY, OHIO, regulations for national rifle matches, 1938 — 1723
CANADA:
  Automobiles and boats, temporary free importation from — 1933
  Lumber importations pursuant to trade agreements with — 1888
  Red cedar shingles from, importation limited — 1965
CANADIAN FUR TRAPPERS CORP., hearing by Federal Trade Commission — 2792
CANAL CONSTRUCTION CO., order by Securities and Exchange Commission — 1665
CANAL ZONE, lands set apart as Cerro Pelado Ammunition Depot Military Reservation — 2322
CANDIDATES, public office, rules for standard broadcast stations — 1691
CANNED GOODS, investigation of motor carrier rates in far West by Interstate Commerce Commission — 2022
CANON, F. T., & CO., INC., registration revoked by Securities and Exchange Commission — 1654
CAPE MEARES MIGRATORY BIRD REFUGE, OREG., establishment — 2047
CAPITAL STOCK TAX. *See* Taxes.
CARD CLOTHING MANUFACTURERS' ASSOCIATION, ET AL., hearing by Federal Trade Commission — 1972
CARPET AND RUG INDUSTRY, WOOL, minimum wage determination — 2371
CARRIERS TAXING ACT OF 1937, tax returns — 2179
CASA BLANCA CIGAR CO., hearing by Federal Trade Commission — 2629
CATES, CHARLES F., & SONS, INC., order by Federal Trade Commission — 2595
CATTLE. *See* Animals and Animal Products.
CEASE AND DESIST ORDERS. *See* Commercial Practices.
CELERY, grown in Florida, regulatory order terminated — 2473
CENSUS OF PARTIAL EMPLOYMENT, UNEMPLOYMENT AND OCCUPATIONS, records and property of Administrator's Office transferred to Secretary of Commerce — 2603
CENTRAL ILLINOIS PUBLIC SERVICE CO., hearing; exemption from provisions of Public Utility Holding Company Act of 1935 — 2750, 2890
CENTRAL MAINE POWER CO:
  Exemption from provisions of Public Utility Holding Company Act of 1935 — 1249
  Hearing by Securites and Exchange Commission — 2766, 2875, 2913
  Leave to intervene granted — 2913
CENTRAL OHIO LIGHT & POWER CO., hearing by Securities and Exchange Commission — 2817
CENTRAL SERVICE CORP., hearing by Securities and Exchange Commission — 1509
CENTRAL U. S. UTILITIES CO., hearing; effective date of declaration by Securities and Exchange Commission — 2585, 3049
CENTRAL VALLEY LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber — 1897
CERRO PELADO AMMUNITION DEPOT MILITARY RESERVATION, lands reserved in Canal Zone — 2322
CERTANE CO., hearing by Federal Trade Commission — 2267
CHAMBERS, WILLIAM W., hearing by Federal Trade Commission — 1622
CHAMPION CHEMICAL WORKS, hearing by Federal Trade Commission — 1541

CHAMPION NO-LEAK PAPER DISH CO., cease and desist order by Federal Trade Commission; sale of food dish trays — 3039
CHAPLAINS, appointment of, in Regular Army — 2597, 3057
CHATTAHOOCHEE NATIONAL FOREST, GA., lands added — 1961
CHEESE (filled), definition, tax, etc., regulations — 1464
CHEQUAMEGON NATIONAL FOREST, WIS., lands added — 2496
CHEROKEE NATIONAL GAME REFUGE NO. 2, GA., name changed; boundaries redefined — 1357
CHERRY, ALBERT T., hearing by Federal Trade Commission — 2316
CHESAPEAKE BAY, navigation regulations within firing range of Fort Monroe Military Reservation — 1288
CHESTERFIELD COAL CO., hearing by National Bituminous Coal Commission; petition denied — 1367, 1955
CHICAGO AND SOUTHERN AIR LINES, INC., hearing by Civil Aeronautics Authority — 2806
CHICAGO, ILL., operation of Sanitary District controlling works; use of lock on Chicago River — 2139
CHICAGO, INDIANAPOLIS AND LOUISVILLE RAILWAY CO., hearing, etc., by Securities and Exchange Commission — 1435, 1871
CHICAGO MATTRESS CO., hearing by Federal Trade Commission — 2316
CHICAGO RIVET & MACHINE CO., cease and desist order by Federal Trade Commission; sale of industrial rivets — 1528
CHICAGO THERMO-MAGNETIC CUSHION CO., hearing by Federal Trade Commission — 2432
CHICORY, countervailing duties on imports from the Netherlands — 2673
CHILD LABOR. *See* Labor.
CHILDREN'S BUREAU. *See* Labor.
CHIPPEWA INDIANS:
  Loans to Cooperative Marketing Association — 1320
  St. Croix, reservation proclaimed for, Wis — 3015
  Undisposed-of lands restored to, Minn — 2223
CHIRICAHUA NATIONAL MONUMENT, ARIZ., lands added — 1399
CHRYSLER CORP., hearing by Securities and Exchange Commission — 2548, 2575
CHURCH CREEK, S. C., special drawbridge regulations — 1567
CINADER, MITCHELL AND ESTHER, hearing by Federal Trade Commission — 2709
CINCINNATI GAS & ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission — 1942, 2258
CINCINNATI SOAP CO., order by Federal Trade Commission — 2595
CITIES SERVICE POWER & LIGHT CO., hearing; sale of assets approved by Securities and Exchange Commission — 2584, 2677, 3143
CITIZENS PUBLIC SERVICE CO., ET AL, hearing by Securities and Exchange Commission — 3143
CITIZENSHIP. *See also* Aliens and Citizenship.
  Rules to overcome presumption of having ceased to be an American citizen — 1506
CIVIL AERONAUTICS AUTHORITY. *See also* Civil Aviation.
  Aircraft, operations in North Carolina during Joint Anti-Aircraft-Air Corps Exercises of War Department — 2234
  Certificate of air transportation, exemptions:
    American Airlines, Inc — 2350, 2877
    Braniff Airways, Inc — 2605, 2764
    Eastern Air Lines, Inc — 2519, 2520
    National Airlines, Inc — 2518
    Pan American Airways, Inc — 2103, 2451
    Pennsylvania-Central Airlines Corp — 2066
    Transcontinental and Western Air, Inc — 2605
    United Air Lines Transport Corp — 2067
    Western Air Express Corp — 2068
  Division of Personnel Supervision and Management required to be established — 2271
  Notice of hearings:
    Airline Feeder System, Inc — 2694, 2790
    American Airlines, Inc — 2888
    Boston-Maine Airways, Inc — 2694
    Chicago and Southern Air Lines, Inc — 2806
    Continental Air Lines, Inc — 2598
    Delta Air Corp — 2490
    Eastern Air Lines, Inc — 2764
    Garni, A., of Pan American-Grace Airways, Inc — 2611
    Inland Air Lines, Inc — 2629, 3174
    Inter-Island Airways, Ltd — 2580, 2611
    Marquette Airlines, Inc — 2373, 2489, 2564
    Mid-Continent Airlines, Inc — 2806, 3046
    National Airlines, Inc — 2489, 2527
    Northwest Airlines, Inc — 2806
    Pacific Alaska Airways, Inc — 2490
    Pan American Airways Co — 2489, 3046, 3174
    Pennsylvania-Central Airlines Corp — 2873
CIVIL AERONAUTICS AUTHORITY—Continued.
  Notice of hearings—Continued.
    Transcontinental & Western Air, Inc — 2490
    United Air Lines Transport Corp — 2490, 2908, 3046
    Western Air Express Corp — 2694, 2908, 3046
    Pennsylvania-Central Airlines Corp., filing, posting, etc., of tariff revision — 2675
    Personnel, property, etc., transferred from Commerce Department and Interstate Commerce Commission — 2071
    United Air Lines Transport Corp., filing, posting, etc., of tariff revision — 2605
CIVIL AVIATION:
  Air Commerce Bureau:
    Aircraft, entry and clearance — 2130
    National Airport Corp., use of military road, Fort Myer Military Reservation, for runway — 1987
  Civil Aeronautics Authority:
    Air carriers:
      Forms of accounts — 2474
      Forms of financial and statistical reports — 2473
      Free or reduced-rate transportation — 2610
      Inspectors of the Authority to have access to aircraft of — 3033
      Passes for free transportation, etc., issuance — 2222, 2274
      Tariff schedules and contracts, filing of — 2049, 2274
    Air Mail Act of 1934, repeal of certain provisions postponed — 2056, 2701
    Air travel cards (scrip) entitling holders to fare and rate discounts — 2143, 2307
    Alaskan mail carriers, certificate exemption — 2531
    Certificate of competency, certain foreign aircraft and airmen exempted — 2056
    Certificates of convenience and necessity, applications for — 2049, 2272, 2515
    Civil Air Regulations:
      Adoption of, with amendments, etc — 2051
      Aircraft weight and engine classification for pilot rating, amendment — 2854
      Mechanic rating, amendment — 3069
    Foreign air carrier permits (Grandfather Clause), application for — 2272
    Mail transportation by aircraft, determination of compensation rates — 2379
    Non-scheduled operations, temporary exemption under Civil Aeronautics Act — 2516, 2886

CIVIL AVIATION—Continued.
Civil Aeronautics Authority—Continued.
Postal employees, free travel 2209, 2638
Rules of Practice 2702
CIVIL SERVICE COMMISSION. *See* United States Civil Service Commission.
CIVIL SERVICE RULES:
Amendments, general 1519
Competitive Classified Service, extension 1526
Postal Service, temporary clerks, etc., for holiday business 2733
War Department, classified positions in Ordnance Department at Large 2359
CIVILIAN CONSERVATION CORPS. *See also* Public Welfare.
Veterans' Contingent, composition of 1276
CLAIROL, INC., ET AL., hearing by Federal Trade Commission 2793
CLALLAM INDIANS, reservation proclaimed for Port Gamble Band 1867
CLANTON, LETA M., hearing by Federal Trade Commission 1541
CLARION RIVER POWER CO., hearing, etc., by Federal Power Commission 2571, 2790
CLARK, HAROLD BENJAMIN, suspension order by Securities and Exchange Commission 1509
CLARK, ROBERT L., hearing postponed by Federal Power Commission 1396
CLARKE, FRANK, cease and desist order by Federal Trade Commission; sale of glass 3034
CLAYTON ANTITRUST ACT, interlocking bank directorates 2194, 2685
CLEVELAND, OHIO, entry of articles for Seventh World's Poultry Congress and Exhibition 2380
CLIFFE, RAY Y., hearing by Federal Trade Commission 2265
CLINTON, DAVENPORT & MUSCATINE RAILWAY CO., order by Securities and Exchange Commission 2731
CLOVIS LIVESTOCK SALES CO., notice under Packers and Stockyards Act 2598
COAL. *See also* Interior Department: National Bituminous Coal Commission; Mineral Resources.
Deposits in Choctaw and Chickasaw Nations, Okla., leasing regulations 1433
Imports from Union of Soviet Socialist Republics:
Commercial agreement extended 2018
COAL—Continued.
Imports from Union of Soviet Socialist Republics—Con.
Liquidation of entries suspended 2012, 2507
COAST COUNTIES LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber 1897
COCA LEAVES:
Importation, exportation and transshipment 1258
Taxes on importation, manufacture, sale, etc 1291–1313
COCHETOPA NATIONAL FOREST, COLO., lands transferred to Rio Grande National Forest 3187
COCONINO NATIONAL FOREST, ARIZ., lands excluded 2321
CODIFICATION, Federal Register regulations 2457
COFFEYVILLE STOCKYARDS, notice under Packers and Stockyards Act 2431
COHEN BROTHERS CORP., hearing; cease and desist order by Federal Trade Commission; sale of knitted outerwear 1542, 2347
COHEN, LOUIS, hearing by Federal Trade Commission 2598
COLLINS, HENRY H., JR., appointed Wage and Hour Division representative to act on certain applications 3045
COLONIAL BEACON OIL CO., hearing by Securities and Exchange Commission 3179
COLORADO:
Agricultural conservation program. *See* Agriculture.
Air navigation site withdrawal 1862
Arapaho and Holy Cross National Forests, boundaries adjusted 2445
Bituminous coal in intrastate commerce, etc., investigation 2253
Child labor, acceptance of State certificates 2500
Cochetopa National Forest, lands transferred to Rio Grande National Forest 3187
Dinosaur National Monument, enlargement 1765
Grand Mesa National Forest, boundary adjusted 2445
Grazing district modifications; rule 1233, 1508, 1870, 2157, 2526
Routt National Forest, boundary adjusted 2446
Southern Ute Indian Reservation, restoration order 2444
Stock driveway withdrawal enlarged 2500
Tenant purchase loans, counties designated for 1957
Ute Indian lands, withdrawal revoked 3021
COLORADO RIVER STORAGE PROJECT, reclamation withdrawal 2245
COLUMBIA ALKALI CORP.:
Cease and desist order; sale of calcium chloride 3057
Hearing by Federal Trade Commission 2134
COLUMBIA BASIN PROJECT, WASH., reclamation withdrawal 2040
COLUMBIA GAS & ELECTRIC CORP.:
Declaration and payment of dividends 1354, 1646, 2418
Exemption from provisions of Public Utility Holding Company Act of 1935 2600
Hearings by Securities and Exchange Commission 1941, 2643, 2845
COLUMBIA REFINING CO., hearing by Federal Trade Commission 2523
COLUMBUS AND SOUTHERN OHIO ELECTRIC CO., hearing and order by Securities and Exchange Commission 2859, 3180
COMMERCE:
Foreign and Domestic Commerce Bureau:
Statistics of foreign commerce and navigation of the United States, collection regulations 1269
Secretary's Office:
Line dividing the high seas from rivers, harbors, and inland waters, Juan de Fuca Strait, Washington and Puget Sounds 2254
COMMERCE DEPARTMENT:
Air Commerce Bureau. *See also* Aviation.
Air traffic rules, special:
Amarillo, Tex 1664
Gettysburg Battlefield, Pa 1614
Latonia, Ky 1664
Marietta, Ohio 1664
New York World's Fair Grounds, June 30, 1938 1589
Oklahoma City, Okla 1664
Aircraft, entry without special authority from 2470
Employment of examiners, etc., to carry out functions of National Economic Committee 1945
Fisheries Bureau. *See* Wildlife.
Foreign and Domestic Commerce Bureau. *See* Commerce.
Interdepartmental Committee on Printing and Processing, representative to be designated 2603
Lands transferred from Agriculture Department and reserved as Welaka Fish Hatchery, Fla 2633
Marine Inspection and Navigation Bureau. *See also* Navigation and Navigable Waters; Shipping.
Board of Supervising Inspectors, notice of meeting of Executive Committee 1800

COMMERCE DEPARTMENT—Continued.
Secretary of:
Records and property of Administrator of Census of Partial Employment, Unemployment and Occupations transferred to 2603
Whaling, joint regulations with Secretary of Treasury 3138
Transfer of certain personnel, property, and appropriations to Civil Aeronautics Authority 2071
COMMERCIAL PRACTICES:
Cease and desist orders, etc.:
Acme Merchandise Co 2238
Adams, S. W 1845
American College, et al 2030
American Field Seed Co 1968
American Health Society, Inc 1512
American Lawn Mower Co 1858
American Paper Specialty Manufacturing Co 3039
Arata, John B 2349
Arlington Concrete Pipe Corp 2028
Aron, J., & Co., Inc 2595
Askin's Retail Stores, Inc 1969
Averbach, J 1428
Barbara Gould Sales Corp 1711
Beinke, Belmont W 3034
Belvedere Silks, Inc 1442
Berk, Harry S., and Stella 1923
Bernstein, Samuel E., et al 1923
Berry Seed Co., et al 2347
Berst-Forster-Dixfield Co 3039
Bishop Jones Co 2704
Black, Louis 1366
Bleecker-Foster, Inc 1627
Bloom, Tom 2638
Bourjois, Inc 1711
Boyce, W. D., Co 2348
Brotherhood of Painters, Decorators and Paperhangers of America 3034
Buffalo Industrial Co 1845
Bunte Brothers, Inc 2286
Burd Knitting Mills Co 2031
Burroughs Glass Co 3034
Calcium Chloride Assn 3058
California Lumbermen's Council 1897
Cates, Charles F., & Sons, Inc 2595
Central Valley Lumbermen's Club 1897
Champion No-Leak Paper Dish Co 3039
Cincinnati Soap Co 2595
Clarke, Frank 3034
Coast Counties Lumbermen's Club 1897
Cohen Brothers Corp 2347
Columbia Alkali Corp 3057
Concrete Pipe and Products Co 2028
Connecticut Retail Liquor Package Stores, Assn., Inc 1629, 1630, 1631
Cooperative Library Co 2062
Craddick, William F 2237
COMMERCIAL PRACTICES—Continued.
Cease and desist orders, etc.—Continued.
Crescent Paper Dish Co., Inc 3039
Crown Mail Order House 2639
D. C. Exclusive Retail Liquor Dealers Assn 1629, 1630, 1631
Daniel Brokerage Co 2595
Davis, Roy B 1899
Day-Lite Illuminating Corp 2154, 2155
De Pinna, A., Co., Inc 3041
Deran Confectionery Co 1391, 2003
Dow Chemical Co 3058
Durgin, Allan P 3039
Easterly, H. W 2028
Educational Finance Co 3038
Egan, James F 3034
Elbec Chocolate Co., Inc 1858
Engel, Jane, Inc 1859
Eta Co., Inc 1659, 2758
Excello Fabrics, Inc 1392
Fan Tan Co., Inc 2389, 2703
Fireside Industries, Inc 3035
Florida Building Material Institute, Inc., et al 2346
Food Dish Associates of America 3039
4–U Co. of America 2469
Gallsto Co 2516
Gates Medicine Co., Inc 2482
Gimbel Brothers, Inc 3039
Glade Candy Co 2005
Godchaux Sugars, Inc 2595
Golden Peacock, Inc 1712
Gooch & Co., Inc 3039
Gooderham & Worts, Ltd 1629
Goodyear Associates 2176
Gotham Sales Co., Inc 2287
Gottsegen, Harry J., et al 2287
Goudey Gum Co., et al 2468
Granada Vineyards, Inc 1896
Gray Concrete Pipe Co 2028
Great Lakes Novelty Co 1899
Greater New York Licensed Liquor Stores Assn., Inc 1629, 1630, 1631
Gro Pres Co 2704
Grove Laboratories, Inc 3036
Gum, Inc 2242
Hadley-Dean Glass Co 3034
Hammond Clock Co 1712
Hanser, E. V 3034
Harper Manufacturng Co 1900
Hart, John M., Co 3039
Helena Rubinstein, Inc 1391
Higbe, Denton N 2030
Hill, Edward W 3034
Hiner, Melvin 2062
Hiram Walker, Inc 1630
Hudson Bay Fur Co 1898
Hutchison, L. L 1845
Illinois Wire and Manufacturing Co 1845
Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, et al 1528
Jackson Hay Co 2595
Jackson University, etc 3033
Jacobsen, Irving Roy 2061
John Hancock Pen Co 2028
Johnston, J. D., Jr., Co 2595
COMMERCIAL PRACTICES—Continued.
Cease and desist orders, etc.—Continued.
Joy Package Co., Inc 1419
Julep Bottling Co., Inc 3058
Kadetsky, Hyman 2239
Kallman & Morris, Inc 1859
Kar-Nu Co 2238
Katz, Harry J 1366
Keyes Fiber Co 3039
Kluger, H., Inc 1441
Lady Fair Laboratories 2287
Lady Frances Laboratories 3040
Lancaster Salted Nut Co 2506
Lee, George H., Co 1711
Lee Sales Co 2517
Letellier-Phillips Paper Co., Inc 2032
Levin, Nathan, Maxwell, and Morris W 2469
Lincoln Box Co 3039
Lincoln Dental Supply Co., Inc 2348
Lindabury, H. R., and Sons 1845
Lipman Brothers 3041
Liquidation Merchandise Co 2239
Lock Joint Pipe Co., et al 2027
Longnecker, F. M 3039
Lou Ray Co 2389, 2704
Louisville Pottery Co 2029
Lumino Co., Inc 1713
Madisen Milling Co 1952
Magic Chemical Co 1512
Mahler, Teolinda (D. J. Mahler Co.) 1713
Mall Tool Co 2176
Marvo Beauty Laboratories, Inc 1366
Master Lock Co 2349
Mattson Wire and Manufacturing Co 1845
Medical Book Distributors, Inc 1512
Merco Sales Co 2081
Merritt, John C 2081
Metropolitan Boston Retail Liquor Package Stores, Assn., et al 1629, 1630, 1631
Metropolitan Distributing Co 1859
Metzler-McKean Corp 3040
Michigan Alkali Co 3058
Mid-Atlantic Concrete Pipe and Products Co 2028
Midwest Grocery Co 2470
Midwest Publishing Co., et al 1896
Morton Salt Co 2595
Mosby, G. H 2561
Moses, G. M 1428
Myles Salt Co., Ltd 2595
National Distillers Products Corp 1631
National Glass Distributors' Assn 3034
National Institute of Wine & Spirit Distributors, Inc 1629, 1630, 1631
National Press Service 2638
National Retail Liquor Package Stores Assn 1629, 1630, 1631
National Silver Co 1923, 1967, 2757
Nebraska Bridge Supply and Lumber Co 1845

COMMERCIAL PRACTICES—Continued. Page
- Cease and desist orders, etc.—Continued.
  - New Jersey Fence Co 1845
  - New Jersey Retail Liquor Package Stores Assn., et al 1629, 1630, 1631
  - Newark Felt Novelty Co 2506
  - Newark Paper Co 3039
  - No-Flatz Co 2238
  - Northern Counties Lumbermen's Club 1897
  - Novelcrafts Co., et al 2031
  - N-Urg-Izr, Vit-O-Net, and Electronet 2237
  - Nurre Companies, Inc 3034
  - Nutex Co 1366
  - Ostler Candy Co 2005
  - Oval Wood Dish Corp 3039
  - Paper Plate & Tray, Inc 3039
  - Paper Specialty Corp 3039
  - Parrish, Jack M., and J. Scott 2028
  - Peninsula Lumbermen's Club 1897
  - Perfect Manufacturing Co., Inc 2238
  - Pergande Institute, et al 1898
  - Petrie, John 1906
  - Pincus, J. W 2031
  - Piou, Herbert H 3034
  - Pittsburgh Plate Glass Co., et al 3034
  - Postal Co 3042
  - Prize Medal Laboratories 2287
  - Progressive Education Society, Inc 2062
  - Pro-Ker Laboratories, Inc 2241
  - Purity Products Co 1906
  - Raftery, Lawrence M 3034
  - Raritan Distillers Corp 3034
  - Reliable Specialty Corp 2029
  - Richmond School Furniture Co 1858
  - Rosenheimer, Mary 2517
  - Roth, Lou 2031
  - Rothman, Pauline 2639
  - Rowe Manufacturing Co 1845
  - RX Manufacturing Co 2287
  - St. Joe-Mullen Container Corp 3039
  - Sales on Sound Corp 2237
  - San Joaquin Lumbermen's Club 1897
  - Sanitary Container Corp 3039
  - Sarasin, Celia 1899
  - Seadron, Irwin 1859
  - Schenley Distillers Corp 1630
  - Scientific Laboratories, etc 2287
  - Seagram-Distillers Corp 1628
  - Shaddy, Kelly J 1512
  - Sheeman, Willis G 2759
  - Shelton Tubular Rivet Co 1528
  - Shotwell Manufacturing Co 2595
  - Shupe-Williams Candy Co 2004
  - Silver, Dan 2031
  - Soft-Lite Lens Co., Inc 1627
  - Solvay Sales Corp., et al 3058
  - Southern Champion Tray Co 3039
  - Spater, Adolph 2517
  - Springfield Milling Corp 2203, 2204
  - Standard Carton Co 3039
  - Standard Seed Co 1968
  - Startup Candy Co 2003
  - Steele-Wallace Corp 3039
  - Stevens & Thompson Paper Co 3039
  - Stock's Nu-Tone Tonic 2032
  - Sun-Field Seed Service 1968
  - Superwear Hosiery Co 1428
  - Sweets Co. of America, Inc 3036
  - Tarex Co 1366
  - Taylor Washing Machine Co 1505
  - Tip Top Laboratories 2287
  - Tucker, Benjamin 1898
  - United Distillers (of America) Ltd 1628
  - United Fence Manufacturers Assn., et al 1845
  - Universal Advertisers Service 1899
  - Universal Merchandise Co 2287
  - Van-Tage Medicine Co., Inc 2561
  - Wain's Laboratory, Inc 1712
  - Warner's Renowned Remedies Co 1513
  - Webb Crawford Co 2595
  - Willard Tablet Co., Inc 2568
  - Willys-Overland Motors, Inc 1900
  - Woodbury, William A., Sales Co., Inc 3037
  - World's Desire Bureau 3038
  - Zimmer, H. R 1952
- Trade practice rules promulgated:
  - Baby Chick Industry 3188
  - Fur Industry 1442
  - Macaroni, Noodles, and Related Products Industry 1660
  - Oleomargarine Manufacturing Industry 2323
  - Silk Industry 2623
  - Tomato Paste Manufacturing Industry 2155
  - Woven Cotton Yard Goods, shrinkage properties 1583

COMMERCIAL SOLVENTS CORP., hearing by Securities and Exchange Commission 2548, 2575

COMMISSIONED OFFICERS. *See* Army; National Defense.

COMMITTEE FOR RECIPROCITY INFORMATION. *See* Reciprocity Information, Committee for.

COMMODITY AND SECURITIES EXCHANGES:
- Commodity Exchange Administration:
  - Commodity Exchange Act, regulations:
    - Futures commission merchants, etc 2760
    - Wool tops 1873
  - Limits on position and daily trading for future delivery in wheat, corn, oats, barley, rye, flaxseed 3145
- Securities and Exchange Commission:
  - Public Utility Holding Company Act of 1935:
    - Acquisition of securities exempted (Rule U–9C–3) 2897

COMMODITY AND SECURITIES EXCHANGES—Continued.
- Securities and Exchange Commission—Continued.
  - Public Utility Holding Company Act of 1935—Con.
    - Acquisition of utility assets, notification by acquiring company (Rule U–3D–13) 1977
    - Acquisition or sale of securities, payment of fees to associates, etc. (Rule U–12F–2) 3178
    - Affiliate service companies, etc., reports required (Rule U–13E–1) 2568, 2673
    - Certificate of notification (Rule U6–B–2) 1621, 1734
    - Evidences of indebtedness, issue and sale to consumers (Rule U–3D–11) 1613
    - Foreign utility subsidiaries, exemption (Rule U–3B–2 amended) 1691
    - Independent Officers or Directors (Rule U–17C–11) 3173
    - Public utility securities, etc., sale by registered holding companies (Rule U–12D–1 amended) 1540
    - Public utility subsidiaries exempted, acquisition of utility assets (Rule U–3d–13) 1971
    - Registered holding company employees, annual statements 2012
    - Small holding company systems, exemption (Rule U–3D–12) 1691
    - Statements (Rule U–12 (I)–1) 1663
    - Utility assets, approval of sale of (Rule U–9A2–3) 1539
    - Utility assets and securities, sale of (Rule U–12D–1) 1540
    - Utility assets and securities, sale to associate companies, etc. (Rule U–12F–1) 2897, 3173
  - Rules of Practice, amendments 1584, 2483, 3183
  - Securities Act of 1933:
    - Instruction book for Form A–2, Amendment No. 32 extended 2582
    - "Participates" and "Participation" defined in relation to transactions (Rule S–142) 3015
    - Registrants, omission of information on tentative plans (Rule S–522) 2768
    - Rule S–210 extended 2582
  - Securities Exchange Act of 1934:
    - Evidences of indebtedness (Rule AN21 amended) 1613
    - Exemption of securities (Rule X–AN24) 1472
    - General Rules and Regulations, redesignation 2380

COMMODITY AND SECURITIES EXCHANGES—Continued. Page
- Securities and Exchange Commission—Continued.
  - Securities Exchange Act of 1934—Continued.
    - Hearings (Rule X–UB2 amended) 1636
    - Over-the-counter markets, regulation of, rules readopted 1613
    - Proxy rules amended 1991
    - Registration on additional exchange 1508
    - Securities not registered on a national securities exchange (Rules X–GB4, X–10B–4) 1621, 1912, 2611

COMMODITY CREDIT CORPORATION. *See* Agricultural Credit.

COMMODITY EXCHANGE ADMINISTRATION. *See* Agriculture Department; Commodity and Securities Exchanges.

COMMONWEALTH & SOUTHERN CORP., hearings, etc., by Securities and Exchange Commission 1720, 2548, 2575, 2584, 2677, 2859, 3143, 3175

COMMONWEALTHS DISTRIBUTION, INC., acquisition of securities approved by Securities and Exchange Commission 3186

COMMUNICATIONS. *See* Telecommunication.

COMMUNITY NATURAL GAS CO.:
- Acquisition of securities approved 3185
- Effective date of declaration 3185
- Hearing by Securities and Exchange Commission 2642

COMMUNITY POWER AND LIGHT CO.:
- Hearings by Securities and Exchange Commission 1878, 2818
- Sale of securities approved 2019

COMO MINES CO., order by Securities and Exchange Commission 1665

COMPANIA MEXICANA DE GAS, S. A., order by Securities and Exchange Commission 3067

COMPTROLLER OF THE CURRENCY. *See* Banking and Credit.

CONCORDIA VIRGINIA MINING CO., hearing by Securities and Exchange Commission 2366, 2375

CONCRETE PIPE AND PRODUCTS CO., cease and desist order by Federal Trade Commission; sale of concrete pipes 2028

CONFIDENCE HI-TEST COAL CO., order by National Bituminous Coal Commission 2857

CONGOLEUM-NAIRN, INC., hearing by Securities and Exchange Commission 3048

CONNECTICUT:
- Agricultural conservation program. *See* Agriculture.
- Child labor, acceptance of State certificates 2500
- Saugatuck River at Westport, highway drawbridge regulations revoked 2264
- Tenant purchase loans, counties designated for 1935

CONNECTICUT LIGHT & POWER CO.:
- Exemption from provisions of Public Utility Holding Company Act of 1935 2794, 2888
- Hearing by Securities and Exchange Commission 2731

CONNECTICUT RETAIL LIQUOR PACKAGE STORES ASSN., INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631

CONNER & SMITH COAL CO., order by National Bituminous Coal Commission 2857

CONSERVATION OF POWER. *See* Power, Conservation of.

CONSOLIDATED AIRCRAFT CORP., hearing; unlisted trading privileges extended by Securities and Exchange Commission 1941, 3048

CONSOLIDATED BOOK PUBLISHERS., INC., hearing by Federal Trade Commission 2432

CONSOLIDATED ELECTRIC AND GAS CO., hearing by Securities and Exchange Commission 3047

CONSOLIDATED INDIANA COAL CO., exemption denied by National Bituminous Coal Commission 1369

CONSOLIDATED PINNACLE COAL CO., hearing by Federal Trade Commission 2257

CONSOLIDATED SIGN LETTER CO., INC., hearing by Federal Trade Commission 2433

CONSOLIDATED TEXTILE CORP., hearing and orders by Securities and Exchange Commission 1665, 1977, 2069, 2453

CONSULAR REGULATIONS. *See* Foreign Service Regulations.

CONSUMERS POWER CO., hearing, etc.; issuance of stock approved by Securities and Exchange Commission 2584, 2677, 2879, 3143

CONTAINER CORP. OF AMERICA, hearing by Securities and Exchange Commission 3048

CONTINENTAL AIR LINES, INC., hearing by Civil Aeronautics Authority 2598

CONTINENTAL BAKING CORP., hearing by Securities and Exchange Commission 3048

CONTINENTAL OIL CO., hearing by Securities and Exchange Commission 2549, 2575

CONTINENTAL PUBLIC UTILITIES CO., order by Securities and Exchange Commission 2540

CONTINENTAL ROYALTIES CORP., registration denied by Securities and Exchange Commission 2014

CONTINENTAL SECURITIES CORP., hearing and order by Securities and Exchange Commission 1802, 2528

CONTRACTS. *See also* Public Contracts.
- Awards under Federal Highway Act 2730
- Lincoln Gardens Project, New Brunswick, N. J., release forms adopted 2144
- Navy:
  - Excess profits on contracts 2279
  - Purchase methods; awards 3147
- War Department:
  - Awards 2027
  - Forms of agreement; defaults 1879

CONTROL PRODUCTS CO., hearing by Federal Trade Commission 1420

COOK & CALDWELL, notice under Packers and Stockyards Act 2471

COOMBS, J. W., MFG. CO., INC., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528

COOPER, J. W., hearing by Federal Trade Commission 2433

COOPERATIVE LIBRARY CO., hearing; cease and desist order by Federal Trade Commission; sale of reference books 1370, 2062

COOS BAY WAGON ROAD, OREG., sale of timber from grant lands 1795

COPLAND, DAVID, order by Securities and Exchange Commission 2749

COPPER DISTRICT POWER CO.:
- Effective date of declaration; acquisition of notes approved 2012
- Hearing by Federal Power Commission 2842, 3022
- Hearing by Securities and Exchange Commission 1775

COPPS CO., hearing by Federal Trade Commission 1541

COPYRIGHT OFFICE. *See* Patents and Copyrights.

CORN:
- County acreage allotments, 1938 2497
- Limits on position and daily trading for future delivery 3145

CORN—Continued. Page
Loans to producers, 1937 and 1938 crops 1399, 2616, 2620, 2621, 2891
Marketing quotas, administrative review 1749, 3029
Supply for marketing year 1938–39 2163
CORN PRODUCTS REFINING CO., ET AL., hearing by Federal Trade Commission 2573, 2793
CORONADO NATIONAL FOREST, ARIZ.:
Lands excluded and added to Chiricahua National Monument 1399
Portion transferred to jurisdiction of Treasury Department 1944
CORPORATIONS, acceptable sureties on Federal bonds 1532, 2596
COTTON:
Bankhead Cotton Act of 1934, tax refunds authorized 1969
Classification and market news services, regulations 1360
Cottonseed, sale for crushing purposes:
Inspection, etc., regulations 1361
Standards for grades 1343
County normal yields for 1938 2072
Entry from Mexico, regulations 4618
Liens for freight and compression charges 2593
Loans to producers 2589, 2621, 2665
Prior liens; genuiness of signatures 2756
Marketing quotas:
1938–39 marketing year 1569
1939–40 marketing year 3053
Administrative review 1749, 3029
Referendum instructions, 1939 crop 2681, 2774
National allotment for 1939 2669
Pink bollworm quarantine regulations 1618, 2735
Pool participation trust certificates, Form C–5–1, retirement of 1754, 2194, 2561
Price adjustment payment plan, 1937 1701, 2359
Sea Island cotton, grade standards established 1966
Standards for length of staple 1966
State and county acreage allotments for 1938 3119
United States Cotton Standards Act, regulations 1965
COTTON, ERNEST H., hearing by Federal Power Commission 1340, 3196
COTTON-TEXTILE INDUSTRY, hearing by Wage and Hour Division 2671
COTTON YARD GOODS, WOVEN, trade practice rules promulgated 1583
COUNCIL BLUFFS GAS CO.:
Acquisition of securities approved by Securities and Exchange Commission 2097, 3185
COUNCIL BLUFFS GAS CO.—Continued. Page
Documents made part of record 2135
Effective date of declaration 2097, 3185
Notice of hearings 1881, 2642
COUNCIL, CLARENCE B., hearing by Federal Trade Commission 2792
COUNTERVAILING DUTIES. *See* Customs Duties: Customs Bureau.
COUNTY GAS CO.:
Acquisition of securities approved 3185
Documents made part of record 2135
Effective date of declaration 2097, 3185
Hearings by Securities and Exchange Commission 1881, 2642
CRADDICK, WILLIAM F., hearing; cease and desist order by Federal Trade Commission; sale of electric blankets, etc 1543, 2237
CRANE CHOCOLATE CO., hearing by Federal Trade Commission 2228
CRANE CO., hearing by Securities and Exchange Commission 3048
CRESCENT PAPER DISH CO., INC., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
CRESCENT PUBLIC SERVICE CO., hearing by Securities and Exchange Commission 1422
CRESSY, WILLIAM J., hearing by Federal Trade Commission 2432
CRETE MILLS, hearing by Federal Trade Commission 1545
CROCKER, THEODORE E., hearing postponed by Federal Power Commission 1396
CROSBY, N. DAK., redesignated airport of entry 1540
CROWN MAIL ORDER HOUSE, cease and desist order by Federal Trade Commission; sale of merchandise 2639
CROWN NOVELTY HOUSE, hearing by Federal Trade Commission 2709
CROZIER COAL CO., order by National Bituminous Coal Commission 2857
CUBA:
Automobiles, temporary free importation from 1933
Lumber importations pursuant to trade agreements with 1888
Trade agreement negotiations with, public notice 2857, 2858
CULBERTSON, JAMES G.:
Hearing by Securities and Exchange Commission 1509
Maximum interim allowance of fees, etc., Utilities Elkhorn Coal Co 2303
CUMBERLAND COUNTY POWER AND LIGHT CO., hearing by Securities and Exchange Commission 2503
CUPPLES CO., hearing by Federal Trade Commission 1541
CURL-O-WAVE CO., hearing by Federal Trade Commission 2433
CURTISS WRIGHT CORP., unlisted trading privileges extended by Securities and Exchange Commission 1372, 1763
CUSTOMS BUREAU. *See* Customs Duties; Treasury Department.
CUSTOMS DUTIES:
Customs Bureau:
Antidumping, certain findings revoked 1287
Automobiles, boats, and aircraft, temporary free importation 1933
Bobwhite Quail, importation from Mexico 2081
Coal, coke, and briquets from Soviet Union, commercial agreement extended 2018
Suspension of liquidation of entries involved in protest 2507
Countervailing duties:
Chicory from the Netherlands 2673
Ethylene dibromide from Germany 2391
Milk products from the Netherlands 2543, 2802
Customs Regulations of 1937, amendments:
Aircraft, entry without special authority 2470
American fisheries redefined to include shore stations, etc 2033
Articles in chief value of manufactured sugar, additional invoice data 2033
Cargo, statistical reports 1429
Drawback, obsolete general regulations revoked 1607
Holidays, including Armistice Day, November 11, in list 1344
Invoices, discount data to be included 2370
Mail importations of firearms, implements of war, etc., prohibited 2855
Marking:
Articles exempt from, to indicate country of origin 2082
Articles to be combined 2370
Merchandise subject to control, restriction, or prohibition by Federal agencies 1392
Miscellaneous amendments 1808–1828, 2307
Officers and employees, overtime compensation 1969
Oils, etc., additional facts required on invoices 1640

CUSTOMS DUTIES—Continued. Page
Customs Bureau—Continued.
Customs Regulations of 1937, amendments—Continued.
Samplers, additional personnel permitted to take samples 2604
Sealed mail articles, liable to duty 2855
Seeds imported, kinds and proportions to be colored 2063, 2544
Vessels covered by a preferred mortgage, surrender of documents 1428
Lumber, timbers, etc., marking to indicate country of origin 2802
Oils, etc., tax assessment on importations 1632
Products exported from Sudeten areas under German occupation, customs treatment of 2673
Sawed timber imported, dutiable and taxable status 3071
Seventh World's Poultry Congress and Exposition, Cleveland, Ohio, entry of articles for 2380
Wool hooked rugs, domestic manufacturer's protest overruled on classification and rate of duty 2063
CUSTOMS PORTS. *See* Ports of Entry.
CUTLER, HARRY, hearing by Federal Trade Commission 2477

D

D. C. EXCLUSIVE RETAIL LIQUOR DEALERS ASSN., hearing; cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631, 2432
DAKOTA POWER CO., hearing and order by Securities and Exchange Commission 1668, 2019
DALLAS GAS CO.:
Acquisition of securities approved by Securities and Exchange Commission 2097, 3185
Documents made part of record 2135
Effective date of declaration 2097, 3185
Notice of hearings 1881, 2642
DANIEL BROKERAGE CO., order by Federal Trade Commission 2595
DAVIS, ROY B., cease and desist order by Federal Trade Commission; sale of radios, etc 1899
DAVIS, WARREN T., hearing by Federal Trade Commission 1920
DAWSON, JOHN A., effective date of declaration by Securities and Exchange Commission 2046
DAY-LITE ILLUMINATING CORP., cease and desist order by Federal Trade Commission; electric light fixtures 2154, 2155
DAYTON POWER AND LIGHT CO.: Page
Exemption from provisions of Public Utility Holding Company Act of 1935 2600
Hearing by Securities and Exchange Commission 1941
DE BAR, HAROLD L., hearing by Federal Trade Commission 1542
DE PINNA, A., CO., INC., cease and desist order by Federal Trade Commission; sale of women's apparel 3041
DEAN MILK CO., hearing by Federal Trade Commission 1541
DEARBORN-RIPLEY LIGHT & POWER CO., hearing; sale of assets approved by Securities and Exchange Commission 2387, 3047
DEKAMA, INC., hearing by Federal Trade Commission 2267
DEL BONITA, MONT.:
Designated customs port of entry 1965
Designated port of entry for aliens 3057
DELAWARE:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2500
Motor carrier rates, investigation by Interstate Commerce Commission 1284, 1636
Tenant purchase loans, counties designated for 1935
DELTA AIR CORP., hearing by Civil Aeronautics Authority 2490
DELV, LIMITED, hearing by Federal Trade Commission 2386
DENMARK, pre-sailing examination and collection of fees for vessels 1567
DENTAL CORPS, REGULAR ARMY, examination for appointment in 2527
DERAN CONFECTIONERY CO., cease and desist order by Federal Trade Commission; sale, etc., of candy 1391, 2003
DES MOINES, IOWA, Sales Area, license termination for milk 1591
DESCHUTES NATIONAL FOREST, OREG., lands added 2881, 2885
DESCHUTES PROJECT, OREG., reclamation withdrawal 2904
DETECTIVE PUBLISHING CO., hearing by Federal Trade Commission 1544
DETROIT AND MACKINAC RAILWAY CO., hearing and order by Securities and Exchange Commission 1434, 1614, 2843
DIAMOND ALKALI CO., hearing by Federal Trade Commission 2134
DIAMOND BLOCK COAL CO., hearing by National Bituminous Coal Commission 2161, 2282
DIAMOND CAP CO., hearing by Federal Trade Commission 2041
DICKERSON, KENNETH, hearing by National Bituminous Coal Commission 1516
DIESEL ENGINES TRAINING, hearing by Federal Trade Commission 1447
DIESEL POWER-UNITED ENGINEERING SCHOOLS, hearing by Federal Trade Commission 1446
DIETZEN, EUGENE, CO., hearing by Federal Trade Commission 1420
DINOSAUR NATIONAL MONUMENT, COLO., UTAH, enlargement 1765
DIPLOMATIC OFFICERS. *See* Foreign Service Regulations.
DISTILLED SPIRITS:
Bonds covering manufacture, etc., of 1514
Bottling in bond:
Bottling house, establishment; regulations 1348
Caution notice 1756, 2627
Stamps, marks and brands 1641
Distilling and rectifying, authority to conduct business at less than 600 feet apart; fences 2034
Drawback of, bottled for export 2043
Floor taxes 1469, 1612
Labeling and advertising regulations amended:
Domestic brandy, designations as "cognac" 1903
Name and address on brands bottled by same person at different premises 1395
Use of coloring, flavoring, etc 1394, 1885, 1902
Whiskeys produced after March 1, 1938 2338
Regulation of traffic in containers of 2325
Retailers, extension of credit to 2809
Stills or worms for distilling, manufacture, tax-payment, etc 1608
Tax collection on imports 2354
DISTILLERS CORP. SEAGRAMS, LTD., hearing by Securities and Exchange Commission 3048
DISTRICT OF COLUMBIA:
Airspace reservation established 1437
Child labor, acceptance of certificates 2533
DIVCO-TWIN TRUCK CO., hearing by Securities and Exchange Commission 2230
DOCUMENTARY STAMP TAXES, regulations amended giving effect to legislative enactments 1330
DOLLAR STEAMSHIP LINE, hearing on operating-differential subsidy contract 2260
DOMESART CORP., hearing by Federal Trade Commission 2712

DOMINION GAS CO., exemption from provisions of Public Utility Holding Company Act of 1935 — 2375
DOMINION STORES LIMITED, hearing by Securities and Exchange Commission — 1904
DORNFELD, MORRIS, ET AL., hearing by Federal Trade Commission — 2792
DOVER CASUALTY INSURANCE CO., hearings by Securities and Exchange Commission — 3049, 3050
DOW CHEMICAL CO.:
  Cease and desist order by Federal Trade Commission; sale of calcium chloride — 3058
  Hearing by Securities and Exchange Commission — 2212
DOW FRUIT CO., hearing; complaint by Federal Trade Commission; sale of food products — 1888, 2769
DRAWBACK:
  Customs obsolete general regulations revoked — 1607
  Stills for export — 1608
DRAWBRIDGES. *See* Army; Navigation, and Navigable Waters.
DRESSER POWER CORP., exemption from provisions of Public Utility Holding Company Act of 1935 — 2387
DRUGS. *See* Food and Drugs.
DRUSHELL, J. D., hearing by Federal Trade Commission — 3179
DUBOIS RIFLE CLUB, WYO., land withdrawal revoked for rifle practice — 2567
DUER & HEAD COAL CO., order by National Bituminous Coal Commission — 2857
DUNCAN COLLINS & CO., INC., registration suspended by Securities and Exchange Commission — 2765
DUNLAP, AL, hearing by Federal Trade Commission — 1544
DURGIN, ALLAN P., cease and desist order by Federal Trade Commission; sale of food dish trays — 3039

E

EARL CHROME MANUFACTURING CO., hearing by Federal Trade Commission — 2491
EARLE COAL CO., hearing by National Bituminous Coal Commission — 1516
EASTERLY, H. W., cease and desist order by Federal Trade Commission; sale of concrete pipes — 2028
EASTERLY UTILITIES ASSOCIATES, hearing and order by Securities and Exchange Commission — 1882, 2103
EASTERN AIR LINES, INC.:
  Certificate of air transportation service, exemption — 2519, 2520
  Hearing by Civil Aeronautics Authority — 2764
EASTERN MINNESOTA POWER CORP., hearing by Securities and Exchange Commission — 2555, 2564
EASTERN PREMIUM HOUSE, INC., hearing by Federal Trade Commission — 2710
EASTERN SHORE EXPERIMENTAL FOREST, MD., lands transfererd to Forest Service for administration, etc — 2635
EASTERN SHORE GAS CORP., exemption from provisions of Public Utility Holding Company Act of 1935 — 2366
EASTERN TRADING CO., hearing by Federal Trade Commission — 2417
EBERSBACH COAL CO., hearing by National Bituminous Coal Commission — 1516
ECONOMY BLUE PRINT PRODUCTS, INC., hearing by Federal Trade Commission — 1420
EDISON LIGHT AND POWER CO., order by Securities and Exchange Commission — 2584
EDUCATIONAL FINANCE CO., cease and desist order by Federal Trade Commission; sale of instruction courses — 3038
EDUCATIONAL INSTITUTIONS, instruction of citizens of American Republics — 2105
EDWARDS, WILLIAM, CO., hearing by Federal Trade Commission — 1541
EGAN, JAMES F., cease and desist order by Federal Trade Commission; glass glazing contract business — 3034
EGGS, hearing to establish standards of identity — 3011
EL PASO-JUAREZ VALLEY, maintenance, etc., of Rio Grande Rectification Project — 2297
EL PASO NATURAL GAS CO., hearing by Federal Power Commission — 2491
ELBEE CHOCLATE CO., INC., cease and desist order by Federal Trade Commission; sale of candy — 1858
ELDER, ERNEST E., cease and desist order by Federal Trade Commission; sale of agricultural seed — 1968
ELECTRIC ADVISERS, INC., hearing by Securities and Exchange Commission — 1748
ELECTRIC BOAT CO., unlisted trading privileges extended by Securities and Exchange Commission — 1941
ELECTRIC MINE LAMPS, requirements for approval tests made, and fees — 1529
ELECTRIC UTILITIES, form and filing of financial and statistical reports — 2254, 2255
ELECTRICAL ENERGY, excise tax regulations amended — 1651
ELECTRICIANS, hearing on wage and manning scales and working conditions — 2644
ELECTRICITY, new standard rate schedules, San Carlos Project, Ariz — 1607
ELECTRO BLEACHING GAS CO., hearing by Federal Trade Commission — 2134
ELITE PUBLISHING CO., hearing by Federal Trade Commission — 2523
ELK HORN COAL CO., order by Securities and Exchange Commission — 2013
ELLY, WALTER C., cease and desist order by Federal Trade Commission; sale of books — 3042
EMERGENCY BOARD, created to investigate dispute of Atchison, Topeka & Santa Fe Railway and Other Carriers—Employees — 2321
EMERGENCY RELIEF APPROPRIATION ACT OF 1938:
  Executive orders, rules, etc., made applicable to, for loans — 1619
  Monthly earnings of persons engaged on projects — 1912
  National Youth Administration:
    Part-time employment of out of school youths — 1914
    Student aid program — 1913
  Rates of pay, hours of work, etc., on projects — 1916
  Supply fund for materials and equipment — 1918
EMPIRE MERCHANDISE CORP., hearing by Federal Trade Commission — 2675
EMPIRE SOUTHERN SERVICE CO., hearing by Securities and Exchange Commission — 1421
EMPLOYEES AND EMPLOYERS. *See also* Labor.
  Atchison, Topeka & Santa Fe Railway and other carriers, emergency board created to investigate dispute — 2321
  Information returns under Social Security Act abolished for certain employees — 2303
  Non-appointive emergency workers, wages, hours, and conditions, etc — 1708
  Oregon unemployment compensation law, hearing on effect of changes in — 2914
EMPLOYEES' BENEFITS:
  Railroad Retirement Boards, regulations under retirement act — 1478

EMPLOYEES' BENEFITS—Con.
  Social Security Board:
    Old-age benefits under Title II of Social Security Act — 3006
  United States' Employees' Compensation Commission:
    Alaska Railroad employees, appeals in cases of; procedure — 2391
    Longshoremen's and Harbor Workers' Compensation Act, administration regulations — 2898
EMPLOYEES WELFARE ASSN., INC. (DEL. AND N. J.), hearing by Securities and Exchange Commission — 2889, 2890
ENDURA CORP., hearing by Federal Trade Commission — 2265
ENGEL, JANE, INC., cease and desist order by Federal Trade Commission; sale of dresses — 1859
ENGINEERS PUBLIC SERVICE CO.:
  Effective date of declaration — 1695
  Hearing by Securities and Exchange Commission — 3048
ENTOMOLOGY AND PLANT QUARANTINE BUREAU. *See* Agriculture; Agriculture Department.
ENVELOPE INDUSTRY, minimum wage determination amended — 1613
EQUITABLE AUTO CO., hearing by Securities and Exchange Commission — 2358
EQUITY CORP., hearing by Securities and Exchange Commission — 1426
ERBLANG, JOSEPH B., hearing by Federal Power Commission — 1340, 1396
ERIE LIGHTING CO., hearing, etc., by Federal Power Commission — 2571, 2790
ERIN COAL CO., order by National Bituminous Coal Commission — 2857
ERNSTROM & CO., INC., registration revoked by Securities and Exchange Commission — 1863
ESKIMOS, survey and disposal of native towns and possessions, Alaska — 1653
ESTATE TAX. *See* Taxes.
ETA CO., INC., cease and desist order by Federal Trade Commission; sale of foods, etc — 1659, 2758
ETHYLENE DIBROMIDE, from Germany, countervailing duties — 2391
EUCOZONE LABORATORIES, INC., hearing by Federal Trade Commission — 2316
EVAPORATED AND CONDENSED MILK INDUSTRY, hearing on minimum wages — 2510
EXCELLO FABRICS, INC., cease and desist order by Federal Trade Commission; sale, etc., of fabrics — 1392
EXCESS-PROFITS TAX. *See* Taxes.
EXCISE TAX. *See* Taxes.
EXECUTIVE AGENCIES, postponing effective date of certain provisions of reorganization order — 2359
EXECUTIVE ORDERS. *See* President.
EXPATRIATION, rules to overcome presumption of having ceased to be an American citizen — 1506
EXPLOSIVES, transportation regulations — 1621, 2640, 2871
EXPORT APPLE AND PEAR ACT, regulations amended by Secretary of Agriculture — 1769

F

F. B. PRODUCTS CO., hearing by Federal Trade Commission — 1542
FAASEN, JOSEPH F., cease and desist order by Federal Trade Commission; sale of agricultural seed — 2347
FAERMAN, HARRY, hearing by Federal Trade Commission — 2041
FAIR DEAL NOVELTY CO., hearing by Federal Trade Commission — 2675
FAIR LABOR STANDARDS ACT. *See* Labor; Labor Department.
FAIRBANKS TAILORING CO., hearing by Federal Trade Commission — 2317
FAIRCHILD ENGINE AND AIRPLANE CORP., hearing and order by Securities and Exchange Commission — 1958, 2365
FAIRMONT COALS, INC., hearing by National Bituminous Coal Commission — 2206, 2282
FAN TAN CO., INC., cease and desist order by Federal Trade Commission; sale of cosmetics — 2389, 2704
FARBEN, LOUIS, hearing by Federal Trade Commission — 2709
FARM CREDIT ADMINISTRATION. *See also* Agricultural Credit.
  Division of Personnel Supervision and Management, establishment — 2271
FARM SECURITY ADMINISTRATION. *See* Agricultural Credit; Agriculture Department.
FARM TENANT ACT. *See* Bankhead-Jones Farm Tenant Act.
FARMERS' LIVESTOCK SALES CO., notice under Packers and Stockyards Act — 2293
FEDERAL ADVISERS, INC., hearing by Securities and Exchange Commission — 2135
FEDERAL AGENCIES, establishment of Divisions of Personnel Supervision and Management — 2271
FEDERAL AID WILDLIFE RESTORATION ACT, regulations — 1713
FEDERAL ALCOHOL ADMINISTRATION DIVISION. *See* Intoxicating Liquors; Treasury Department.
FEDERAL COMMUNICATIONS COMMISSION. *See also* Telecommunication.
  Commercial radio operator licenses, renewal — 3159
  Great Lakes and inland waters radio requirements survey, investigation and hearing — 1516, 1517
  Power requirements for ship radio transmitters, investigation — 1409
FEDERAL CROP INSURANCE CORPORATION. *See* Agriculture.
FEDERAL DEPOSIT INSURANCE CORPORATION. *See* Banking and Credit.
FEDERAL FIREARMS ACT, issuance of licenses to manufacturers and dealers in firearms or ammunition — 1868
FEDERAL FOOD, DRUG, AND COSMETIC ACT, regulations; hearing — 1846, 2064, 2502, 3161
FEDERAL HOME LOAN BANK BOARD. *See* Housing Credit.
FEDERAL HOUSING ADMINISTRATION. *See* Housing Credit.
FEDERAL KNITTING MILLS CO., order by Securities and Exchange Commission — 1664
FEDERAL LAND BANKS. *See* Agricultural Credit: Farm Credit Administration.
FEDERAL LIGHT & TRACTION CO., hearings; effective date of declaration by Securities and Exchange Commission — 2795, 3002, 3046
FEDERAL NATIONAL MORTGAGE ASSOCIATION:
  Obligations of, special deposit of public moneys — 1419
  Securities designated for exemption under Securities Exchange Act of 1934 — 1419
FEDERAL POWER COMMISSION. *See also* Power, Conservation of.
  Natural Gas Act:
    Investigation of natural gas companies; filing of report — 1692
    Schedules of rates and charges and reports, filing of — 1694

FEDERAL POWER COMMISSION—Continued.
Order for hearings, etc.:
Appalachian Electric Power Co 1540
Arkansas-Louisiana Gas Co 2452, 2521
Brown, Glenn 1543
Buckstaff, Noel H 1396
City of Los Angeles, et al v. Nevada-California Electric Corp 1249, 1396, 1457
Clarion River Power Co 2571, 2790
Clark, Robert L 1396
Copper District Power Co 2842, 3022
Cotton, Ernest H 1340, 1396
Crocker, Theodore E 1396
El Paso Natural Gas Co 2491
Erblang, Joseph B 1340, 1396
Erie Lighting Co 2571, 2790
Gobler, Leslie N 1340, 1396
Grenacher, Henry 1396
Holston River Electric Co 1654
House, Garret O 1340, 1396
Iowa-Nebraska Light and Power Co 2878, 3013
Iroquois Gas Corp 2790
Jersey Central Power & Light Co 1654, 1932, 2209
Kansas Pipe Line & Gas Co 2452, 2453, 2455, 2527
Kellett, Ernest G 1396
Kentucky - Tennessee Light and Power Co 2778
Kentucky Utilities Co 2791
Lexington Utilities Co 2791
McGuire, John F 1340, 1396
McMillen, James S 1340, 1396
Metropolitan Edison Co 2571, 2790
Miller, Roy F 1340, 1396
Molyneaux, John J 1396
Mt. Hood Electric Co 2791
New Jersey Power & Light Co 1654, 1932, 2209
Northern Pennsylvania Power Co 2571, 2790
Orange and Rockland Electric Co. of N. J 3066
Otter Tail Power Co 2873
Pack, Robert F 1396
Pennsylvania Electric Co 2571, 2790
Pennsylvania Water and Power Co 2651, 2842
Portland General Electric Co 2675, 2791
Puget Sound Power & Light Co 2451, 2502
Rockland Electric Co 3066
Rork, Glen V 1396
Solar Electric Co 2571, 2790
Southwestern Light & Power Co 2451
Tennessee Public Service Co 1540
Texas Cities Gas Co., etc 2491
Twin State Gas & Electric Co 1387, 1503
United Gas Corp 2490
United Gas Pipe Line Co 2490
West Tennessee Power & Light Co 2909
Young, Harold E 1396

FEDERAL RANGE CODE:
Administration of grazing districts 2100
Supplementary rules 1533
FEDERAL REGISTER:
Administrative Committee:
Citation of authority under which document is promulgated 2463
Codification regulations 2457
Preparation of documents amending, etc., material required to be filed with 2463
FEDERAL RESEARCH CORP., hearing by Federal Trade Commission 2522
FEDERAL RESERVE SYSTEM. *See* Banking and Credit.
FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION. *See* Housing Credit.
FEDERAL SAVINGS AND LOAN SYSTEM. *See* Housing Credit: Federal Home Loan Bank Board.
FEDERAL SEED ACT:
Imported seeds, kinds and proportions to be colored 2063
Joint regulations of Secretaries of Agriculture and Treasury 2002, 2369
FEDERAL SHIP MORTGAGE INSURANCE, information and application form 1886
FEDERAL TRADE COMMISSION:
Cease and desist orders. *See* Commercial Practices.
Complaints:
American Fruit Growers, Inc 1888
Architectural Tiling Co., Inc 2124
Bergman, Max 2859
Buckley-Young Co 1888
Dow Fruit Co 1888
Froman, Harry 2859
General Baking Co 3141
Henderson, William, Sugar Refinery 1888
Interstate Premium Novelty Co 2859
Jobbers Produce Co., Inc 1888
Matawan Tile Co 2120
Mississippi Sales Co., Inc 1888
Mosaic Tile Co 2119
Muir, E. O., Co 1888
National Tile Co., Inc 2125
Pacific Fruit and Produce Co 1888
Pardee, C., Works 2120
Penny Stores, Inc 1888
Reliable Premium House 2859
Sauer, C. F., Co 2712
Superior Ceramic Corp 2117
Supreme Sales Co 2859
Trent Tile Co., Inc 2118
Wenczel Tile Co 2122
Wheeling Tile Co 2123
Employment of examiners, etc., to carry out functions of National Economic Committee 1945

FEDERAL TRADE COMMISSION—Continued.
Notice of hearings, etc.:
Abrams, Bernard 2703
Ace Auto Supply Co 1421
Acme Merchandise Co 1545
Albaum, Wolf 2364
Algren Manufacturing Co., Inc 1340
Allen, H. F 2265
Allicon-Bedford Co 1541
American Bureau of Hygiene 1542
American Clinical Laboratories, Inc 2522
American Fruit Growers, Inc 2769
American Health Association of Washington, D. C 1542
American Memorial Co 1801
American Optical Co., et al 2315
American Sportswear 2492
Angelus Campfire Co 1541
Artwebb Manufacturing Co., Inc 2545
Arvil Co 2316
Associated Laboratories, Inc., N. Y 1540
Associated News Photographic Service, Inc., et al 2792
Associated Sales Co 2491
Atco Soap Co 2316
B & T Floor Co 2317
Bach, Albert A 2677
Bacon, Charles H., Co., Inc 2629
Banfi Products Corp 2711
Becker, Jack 2711
Bell Alkali Co 2134
Belmont Sales Co 2491
Belvedere Tobacco Co 2629
Benton Announcements, Inc 2134
Berger, Albert W 1283
Berkeley Studios International Press Service, Inc 2793
Berwick Pen Co 2502
Bisson, Albert L 1541
Blackstone Studios, Inc 2792
Blue Seal Products Co 1541
Bluffton Grocery Co 1541
Boeing, Martha A 1541
Bond, Orville J 1340
Bordo Products Co 1541
Boulevard Candy Co 2476
Boyce, W. D. Co 1371
Braverman, Shelley 2522
Bruning, Charles Co., Inc 1420
Brunner, Alphonse A 1420
Buckley-Young Co 2769
Bundy, Robert C., and Mildred 2491
Canadian Fur Trappers Corp 2792
Card Clothing Manufacturers' Association, et al 1972
Casa Blanca Cigar Co 2629
Certane Co 2267
Chambers, William W 1622
Champion Chemical Works 1541
Cherry, Albert T 2316
Chicago Mattress Co 2316
Chicago Thermo-Magnetic Cushion Co 2432
Cinader, Mitchell and Esther 2709
Clairol, Inc., et al 2793
Clanton, Leta M 1541

FEDERAL TRADE COMMISSION—Continued.
Notice of hearings, etc.—Con.
Cliffe, Ray Y 2265
Cohen Brothers Corp 1542
Cohen, Louis 2598
Columbia Alkali Corp 2134
Columbia Refining Co 2523
Consolidated Book Publishers, Inc 2432
Consolidated Pinnacle Coal Co 2257
Consolidated Sign Letter Co., Inc 2433
Control Products Co 1420
Cooper, J. W 2433
Co-Operative Library Co 1370
Copps Co 1541
Corn Products Refining Co., etc 2573, 2793
Council, Clarence B 2792
Craddick, Wm. F 1543
Crane Chocolate Co 2228
Cressy, William J 2432
Crete Mills 1545
Crown Novelty House 2709
Cupples Co 1541
Curl-O-Wave Co 2433
Cutler, Harry 2477
Davis, Warren T 1920
De Bar, Harold L 1542
Dean Milk Co 1541
DeKama, Inc 2267
Delv, Limited 2386
Detective Publishing Co 1544
Diamond Alkali Co 2134
Diamond Cap Co., et al 2041
Diesel Engines Training 1447
Diesel Power-United Engineering Schools 1446
Dietzen, Eugene, Co 1420
Domesart Corp 2712
Dornfeld, Daniel, Jacob, and Morris 2792
Dow Fruit Co 2769
Drushell, J. D 3179
Dunlap, Al 1544
Earl Chrome Manufacturing Co 2491
Eastern Premium House, Inc 2710
Eastern Trading Co 2417
Economy Blue Print Products, Inc 1420
Edwards, William, Co 1541
Electro Bleaching Gas Co 2134
Elite Publishing Co 2523
Empire Merchandise Corp 2675
Endura Corp 2265
Eucozone Laboratories, Inc 2316
F. B. Products Co 1542
Fair Deal Novelty Co 2675
Fairbanks Tailoring Co 2317
Farben, Louis 2709
Federal Advisers, Inc 2135
Federal Research Corp 2522
Ferrara Panned Candy Co., Inc 2477
Fireside Industries, Inc 1283
Floracube Co., Inc 2257
Flying Intelligence Service 2432
Ford Motor Co 2651
Forson Laboratories 1543
Fromm, Joseph 1421
General Research Foundation, Inc 1920
General Sales Co 2477
Gersten Brothers 2708
Gimbel Bros, Inc 1801
Gimino, Steven V., and Anthony V 2523
Gold Medal Farms, Inc 1421
Gold Star Novelty House 2709
Goldberg, Jacob 2709
Goldblatt Bros., Inc 2227
Good Humor Corp. of America 2676
Goodman, M., & Son 2522
Goody Hose Co 2522
Grand National Films, Inc 2134
Grant, G. G 1541
Gravitonic Life Ray Corp., Inc 1932
Greater Chambers Co 1622
Grey Advertising Agency, Inc 2791
Gulf Refining Co 1446
Hall & Ruckel, Inc 1544
Halperin, Isidore 2709
Harr, Henry O 2417
Hart, Schaffner & Marx 2584
Hastings, Clayton R 1447
Hearn Department Stores, Inc 2583
Heininger, Sylvan B 1541
Hemphill, Roy 1446
Henderson, William, Sugar Refinery, etc 2769
Hiner, Melvin 1370
Hitt Fireworks Co 2264
Hoffman, E. A., Candy Co 2266
Honbaum, W. K 1446
Hooker Electrochemical Co 2134
Houser, Boyd, Candy Co 2538
Howard Sales Co 2502
Huey Co 1420
Hunter, Eugene H., and Rae LaMarr 2257
Hygienic Corp. of America 1542
Illinois Baking Corp 2477
Inderrieden, J. B., Co 1541
International University of Commerce 2318
Isaacs, Leon J 2545
Jackson Sales Co 2491
Jacobs Candy Co., Inc 2573
Jade Hosiery Mills 2522
Jelke, John F., Co., Inc 2134
Joab, Pauline 2502
Jobbers Produce Co., Inc 2769
Jones, Josiah L 1801
Jowett Institute of Physical Culture, Inc 2710
K & K Supply Co., Inc 2134
Kadetsky, Hyman 1545
Kaplan, Morris, & Son, Inc 1801
Kas-Mo Remedy Co 2572
Keuffel & Esser Co 1420
Keystone Blue Paper Co 1420
King Candy Co 2572
Knapp, Charles E 2317
Kohn, Jesse 2545
Koskott Co 2523
Kronheim, Milton S., & Son., Inc., et al 2432
La Perla Vineyard Co., et al 2418
Lady Frances Laboratories 2228
Landrum, A. B 2317
Langsam, Hyman and Abraham 2710
Lau, H. P., Co 1541
Leaderbrand, R. E., and Gladys M 1542
Letellier-Phillips Paper Co., Inc 1447
Lewis, Rosemarie 2267
Lima-Kenton Grocery Co 1541
Lincoln Dental Supply Co., Inc 1446
Lincoln Locker Corp 1249
Linwood Sales Co., Inc 2708
Liquidation Merchandise Co 1545
Lowe, Jean, Cosmetic Co 1543
Lukacher, Isadore H., and Bert 2629
Magnecoil Co., Inc 2257
Manning, Paul V 2318
Marvel Products Co 1340
Master Distributing Corp 2676
Mathieson Alkali Works, Inc 2134
Merrill-Saunders Co., Ltd 1542
Metals and Minerals Research Bureau 2792
Metzler McKean Corp 2228
Meyer, M. J. & H. J., Co., Inc 1541
Millar, Adele 2264
Miller, Theodore G 2492
Miller Growers Association 2584
Mississippi Sales Co., Inc 2769
Mitchell, Stafford T., et al 2316
Mode Novelty Co 2364
Model Home Supply Co 2710
Modern American Co 2317
Monarch China Co 1801
Monarch Stove Top Co 1446
Monsanto Chemical Co 2134
Monticello Drug Co 1802
Moriani, Harry, et al 2711
Morrell, Ellis 2257
Morris, Callie E 1420
Morrison, Louis 2502
Mosby, G. H 1541
Muir, E. O., Co 2769
Murdoc, Richard 2477
Myers, Charles 2677
National Employees Training Service 1543
National Guard Equipment Co 2598
National Institute for Physical Advancement 2266
National Institute, Inc 1447
National Training Institute, Inc., et al 1543
Nation-Wide Distributors 2708
New York Premium Novelty Co 2677
New York Sales Co 2711
Nitke, Samuel 2677
North Western Printing House, Inc., et al 2476
Novelty Premium Co 2710
Nu-Deal Premium Co 2677

FEDERAL TRADE COMMISSION—Continued. Page
Notice of hearings, etc.—Con.
N-Urg-Izer, Vit-O-Net, and Electronet 1543
Official Research Bureau of New York, Inc 2522
O. K. Tailoring Co 1544
Orenstein, Morris 2675, 2709
Pacific China Co 2265
Pacific Fruit and Produce Co 2769
Palazzolo, J 1800
Paradise Co 1541
Paramount Products Co., etc 2492
Parker, A. Mercer 2432
Parker-McCrory Manufacturing Co 2228
Partain, Edward E 2572
Par-Tex Hosiery Mills 2572
Patch Premek Corp 2266
Pease, C. F., Co 1420
Pennsylvania Salt Manufacturing Co 2134
Penny Stores, Inc 2769
Perfect Recognition Spark Plug Co 1421
Perfektum Products Co 2792
Perma Maid Co., Inc 2316
Peters, Karl W 2266
Philip Morris and Co., Ltd., Inc 2708
Plate, Robert Theodore 2317
Politis, Harry 2257
Popper & Klein 2792
Popular Products Corp 2709
Post, Frederick, Co 1420
Premio Sales Co., Inc 2710
Primrose House, Inc 2386
Prostex Co 1542
Protex-U-Hygienic Service 1542
Publishers Finance Co., Inc 1920
Pure, Harry 2676
Rauer, Morris L 2491
Reed, Fred W 1932
Reliable Sales Service Co 2676
Rey, Thomas, Co 1543
Reynolds, T. A., & Co 1543
Rink, Joseph J 1920
Rivenbark, A. J., Jr 2317
Robertson, Effie M 2432
Rothman, Jacob 2711
Rowdabaugh, Seth E 1447
Rubenstein, Philip F 2491
Rubman, Sophie 2675
Run-Proof Laboratories, Inc 1283
Safrin, William M 2712
Saks and Co 2583
Saladof, Joseph and S 2710
Saladoff, Joseph 2676
Sales on Sound Corp 1801
Samdahl, Cleo 2317
Sanders, Peter, Harry, and Samuel 1421
Sanders Manufacturing Co 2546
Sandrow, Isadora 2502
Sauer, Aaron N 2708
Schottland, A., Inc 2583
Schwartz, Max 2492
Scientific Apparatus Makers of America, et al 1420
Scott-Bartels Co., Inc 2629
Scott, Rose R 2523
Scott, S. O 2769
Service Club Sales Co 2477

FEDERAL TRADE COMMISSION—Continued. Page
Notice of hearings, etc.—Con.
Shaw & Davis, Inc 2793
Sherman, Jacob 2316
Sinnock & Sherrill, Inc 2522
Smith, John C 1447
Smith, Laurence A 3179
Solvay Sales Corp 2134
Sommers, Rose 2710
Sorrells, Floyd Irl 2572
Speidel, Chas. W., & Co 1420
Square Deal Candy Co 2265
Statistical Research Bureau 2792
Steffin, Paul 1421
Stein, Isadore 2677
Stylecraft Leather Goods Co., Inc 1446
Surete Laboratories 1542
Taylor, J. M., Co., Inc 2677
Taylor, Robert C 1340
Technical Laboratories, et al 2266
Texas Tasty Co 2572
Thomas Quilt Factories 2227
Thomson, Ray 1543
Trading Sales Co 2676
Tritico, G. J 2572
True-Valu Home Supply 2711
Turmel, Madame Marguerite, Inc 2522
Union Fountain Pen Co 2502
United Buyers Corp., et al 1541
United Distillers Products Corp 2386
United Educators, Inc 1920
United States Blue Print Paper Co 1420
Vacu-Matic Carburetor Co 1544
Valligny Products, Inc 2711
Valmor Undergarment Co 2583
Van-Tage Medicine Co., Inc 1541
Vorunion, William and Benjamin 2502
Voss Co., Inc 2386
Waco Drug Co 2266
Wald, Jack 2677
Waldes Koh-I-Noor, Inc 2791
Wallach's, Inc 2584
Watkins, Warren 2265
Webb, A. M., & Co., Inc 2545
Weil, J. H., & Co., et al 1420
Weiler, Alexander and Lily G 2677
Weinberg, Marcus A., and Belle 2265
Weisman, Samuel 2364
Weissman, Fred P., Inc 2503
Wellworth Sales Co 2709
White, Morris, Mfg. Co., Inc 1446
Willner, Abe S 2708
Wolf, Al B 2492
Wolford, Elmer C 1920
Women's Advisory Bureau 1542
Wynne, Blanche 2317
Yancey, R. Frank 1801
Young, W. R 1543
Zephyr Radio Co 1340
Zollinger, S., Co 1541
Zonite Products Corp. (Larvex Division) 1420
Zweigenthal, Joseph 2712
Trade practice rules proposed. *See also* Commercial Practices.

FEDERAL TRADE COMMISSION—Continued. Page
Trade practice rules proposed—Continued.
Baby Chick Industry 2293
Infants' and Children's Knitted Outerwear Industry 1664
Macaroni, Noodles, and Related Products Industry 1283
Oleomargarine Manufacturing Industry 1396
Paint and Varnish Brush Manufacturing Industry 1831
Roll Leaf Manufacturing Industry 1354
Silk Industry 1738
Tomato Paste Manufacturing Industry 1425
Wool Industry 2791
FEDERAL WATER SERVICE CORP., hearing by Securities and Exchange Commission 1803
FELBER, JOHN C., AND LOUISE D., hearing by Federal Trade Commission 1543
FERRARA PANNED CANDY CO., INC., hearing by Federal Trade Commission 2477
FINANCIAL DISTRIBUTORS, INC., hearing, etc., by Securities and Exchange Commission 2246
FINEBERG, SAMUEL, cease and desist order by Federal Trade Commission; sale of merchandise 2176
FINNELL COAL CO., hearing by National Bituminous Coal Commission 1516
FIRE PREVENTION WEEK—1938, proclamation 2261
FIREARMS:
Licenses, issuance to manufacturers or dealers 1868
Mail importations prohibited, Customs Regulations amended 2855
Tax regulations 1900
FIRESIDE INDUSTRIES, INC., hearing; cease and desist order by Federal Trade Commission; sale of home study decoration courses 3035
FIREWORKS INDUSTRY, minimum wage determination 2370
FISHERIES (AMERICAN), redefined to include shore stations operated in conjunction with U. S. vessels 2033
FISHERIES BUREAU. *See* Wildlife.
FIVE CIVILIZED TRIBES, OKLA.:
Leasing of coal and asphalt deposits 1433
Sale of allotted and inherited lands; reinvestment of proceeds 1344
FLAGLER COAL CO., order by National Bituminous Coal Commission 2857

FLATHEAD INDIAN RESERVATION, MONT.: Page
Assessments on land in non-Indian ownership for construction cost repayments 2009
Irrigation Project:
Flathead, Jocko Valley, and Mission Irrigation Districts, operation and maintenance charges 1608
Operation and maintenance regulations 2011
Leasing of allotted and tribal lands for agricultural, etc., purposes 1860
FLAXSEED, limits on position and daily trading for future delivery 3145
FLEMING, WILLIAM, JR., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
FLINT GLASS INDUSTRY, minimum wage determination 1612
FLOOD CONTROL, land withdrawal, Alaska, in aid of 2861
FLORACUBE CO., INC., hearing by Federal Trade Commission 2257
FLORIDA:
Agricultural conservation program. *See* Agriculture.
Apalachee Bay, line dividing the high seas from rivers, harbors, and inland waters 1478
Apalachicola National Forest, lands added 1505
Cattle, control of interstate transportation to prevent spread of diseases 2729
Celery, handling of, regulatory order terminated 2473
Child labor, acceptance of State certificates 2533
Great White Heron Refuge, establishment 2581
Miami, airport of entry redesignated at 2293
Ocala National Forest, lands added 1769
Oranges, grapefruit, and tangerines, hearing on handling of 2872
St. Petersburg:
Customs port of entry, designation 1749
Harbor, restricted area for maneuvering of seaplanes 2579
Sugarcane prices, 1938 crop 2505
Tampa, International Airport designated port of entry for aliens 1951
Tenant purchase loans, counties designated for 1903
Welaka Fish Hatchery, lands reserved as 2633
White-fringed beetle State quarantine, hearing 2045

FLORIDA BUILDING MATERIAL INSTITUTE, INC., ET AL., cease and desist order by Federal Trade Commission; sale of lumber, etc Page 2346
FLUORSPAR, production cost investigation dismissed by United States Tariff Commission 1964
FLYING INTELLIGENCE SERVICE, hearing by Federal Trade Commission 2432
FOOD AND DRUG ADMINISTRATION. *See* Agriculture Department; Food and Drugs.
FOOD AND DRUGS:
Food and Drug Administration:
Federal Food, Drug, and Cosmetic Act, regulations; repeals 1846, 2064, 3161
Shrimp, canned, inspection regulations revised 1313
Narcotics Bureau:
Appeal to Secretary of Treasury from orders, etc., of Commissioner of Narcotics; cooperation with States in court cases 1231
Narcotic regulations amended, filling of orders 3147
Opium manufactured for smoking, tax regulations 1402
Opium or coca leaves:
Importation, exportation, and transshipment 1258
Tax regulations, importation, sale, etc 1291
Administrative provisions 1310
Commodity taxes 1296
Definitions 1291
Laws applicable 1291
Order forms 1297
Retail dealers, practitioners, dealers in exempt preparations and laboratories 1308
Returns of manufacturers and wholesale dealers 1303
Special exemptions 1300
Special taxes 1292
FOOD DISH ASSOCIATES OF AMERICA, cease and desist order by Federal Trade Commission; sale of food dish trays 3039
FOOT-AND-MOUTH DISEASE (cattle), regulations to prevent introduction of 2107, 2271, 2736, 3033
FORD MOTOR CO., hearing by Federal Trade Commission 2651
FOREIGN AND DOMESTIC COMMERCE BUREAU. *See* Commerce.
FOREIGN CORPORATIONS. *See* Holding Companies.

FOREIGN CURRENCIES, appreciation in relation to American dollar, payment of losses to officers, enlisted men, etc Page 2015, 2249, 2861
FOREIGN MONEYS, values of 1645, 2372
FOREIGN RELATIONS:
Agents of foreign principals, registration 2177
International Boundary Commission, United States and Mexico:
Rio Grande Rectification Project in El Paso-Juarez Valley, maintenance and preservation regulations 2297
Passports, regulations of Secretary of State 1404
Rules to overcome presumption of having ceased to be an American citizen 1506
Tin-plate scrap, issuance of exportation licenses 1566, 3071
FOREIGN SERVICE REGULATIONS:
Consolidation of Consular Regulations and Instructions to Diplomatic Officers 1749
Foreign Service Accounts, amendment 2185
Negotiation of treaties, amendment 2847
FOREIGN-TRADE ZONES BOARD:
Foreign-trade zone grantees, notice of issue of uniform system of accounts, records, and reports for use by 2257
Services and privileges, instructions for publication, posting, etc., of rules, rates, etc 1273
FOREST SERVICE. *See also* Parks and Forests.
Land utilization projects, protection, occupancy, etc., by 1755
Lands transferred to, for administration, etc.:
Magazine Mountain Project, Ark 1761
Northeast Georgia Project, Ga 1762
Standing Stone Experimental Forest, Huntingdon County, Pa 2314
FORESTS. *See* National Forests; Parks and Forests.
FORSON LABORATORIES, hearing by Federal Trade Commission 1543
FORT BERTHOLD INDIAN RESERVATION, N. DAK., restoration order 1860
FORT HALL RESERVATION, leasing of allotted and tribal lands for agricultural, etc., purposes 1860
FORT LARAMIE NATIONAL MONUMENT, WYO., lands reserved as 1768

FORT MONROE MILITARY RESERVATION, navigation of Chesapeake Bay within firing range of 1288

FORT MYER MILITARY RESERVATION, VA., use of military road by National Airport Corporation for runway purposes 1987

FORT TYLER MIGRATORY BIRD REFUGE, N. Y., establishment 1945

FORT WAYNE, IND., MARKETING AREA:
- Milk, handling of:
  - Hearing on proposed agreement, etc 1516
  - Regulatory order; determination 2463, 2464

FORT YUKON, ALASKA, airport of entry designated 1657, 1692

FORTUNA, N. DAK., designated port of entry for aliens 1657

4–U CO. OF AMERICA, cease and desist order by Federal Trade Commission; sale of citric acid, etc 2469

FOWLER, WILLIAM HUGH, hearing, etc., by Securities and Exchange Commission 2815

FRANKFORD CREEK, drawbridge regulations at Bridge Street, Philadelphia, Pa 2138

FREEPORT BRICK CO., order by National Bituminous Coal Commission 2510

FRIED, LEO, hearing by Federal Trade Commission 2792

FRIEDWALD, FRED, hearing by Federal Trade Commission 2793

FROMAN, HARRY, hearing by Federal Trade Commission 2859

FROMM, JOSEPH, hearing by Federal Trade Commission 1421

FRUIT DISTILLERIES, operation on Sunday 2392

FRUITS:
- California:
  - Deciduous tree fruits except apples, marketing agreement, etc., terminated 2650
  - Marketing contracts, property under Home Owners' Loan Corporation 2686
- Citrus, handling of, Texas 1456
- Dried, investigation of motor carrier rates in far West 2022
- Export Apple and Pear Act, regulations amended 1769
- Grapefruit, handling of:
  - Florida 2872
  - Texas 2213, 2222
- Grapes, handling of, Arkansas 1741
- Inspection and certification regulations 1451
- Japanese Beetle Quarantine, termination date on restrictions 2264

FRUITS—Continued.
- Oranges, handling of:
  - Florida 2872
  - Texas 2213, 2222
- Peaches, handling of, Georgia 2116
- Pears (fresh), handling of, Oregon, Washington, and California 2045
- Shipments from Hawaii to mainland subject to sterilization 2515
- Tangerines, handling of, Florida 2872

FUR INDUSTRY, trade practice rules promulgated by Federal Trade Commission 1442

FURNITURE MANUFACTURING INDUSTRIES, hearing on minimum wage determinations 2627, 2628

G

GALLSTO CO., cease and desist order by Federal Trade Commission; sale of medicinal preparations 2516

GARBER LIVESTOCK COMMISSION CO., notice under Packers and Stockyards Act 2181

GARDNER, HENRY A., hearing by Securities and Exchange Commission 2070

GARNI, A., hearing by Civil Aeronautics Authority 2611

GAS. *See also* Natural Gas Act.
- Oil and gas lease forms amended 2445
- Royalty interests in prospecting permits and leases, assignment 2774
- Tax regulations amended; vessel supplies 1860

GAS ADVISERS, INC., hearing by Securities and Exchange Commission 1882

GAS TRANSPORT CO., orders by Securities and Exchange Commission 2600, 2630

GAS TRANSPORT CO. OF NEV., hearings and order by Securities and Exchange Commission 2240, 2268, 2492

GATES, LOUIS R.:
- Effective date of declaration by Securities and Exchange Commission 2230
- Reorganization plan approved 1920, 1940

GATES MEDICINE CO., INC., cease and desist order by Federal Trade Commission; sale of Rock-A-Water Tablets 2482

GELB, JOAN AND MORRIS, hearing by Federal Trade Commission 2793

GENERAL ACCOUNTING OFFICE, designated to establish Division of Personnel Supervision and Management 2271

GENERAL AMERICAN TRANSPORTATION CORP., orders by Securities and Exchange Commission 2269, 2294, 2575

GENERAL BAKING CO., complaint by Federal Trade Commission; sale of bakery products 3141

GENERAL LAND OFFICE. *See* Public Lands.

GENERAL PUBLIC UTILITIES, INC.:
- Acquisition of securities approved 2019
- Effective date of declaration 3142
- Hearings by Securities and Exchange Commission 1667, 2818

GENERAL RESEARCH FOUNDATION, INC., hearing by Federal Trade Commission 1920

GENERAL SALES CO., hearing by Federal Trade Commission 2477

GENESSEE VALLEY GAS CO., INC., hearing; exemption from provisions of Public Utility Holding Company Act of 1935 1275, 1936

GEORGE WASHINGTON NATIONAL FOREST, VA., AND W. VA., boundaries redefined 2779

GEORGIA:
- Agricultural conservation program. *See* Agriculture.
- Chattahoochee National Forest, lands added 1961
- Cherokee National Game Refuge No. 2, name changed to Noontootly National Game Refuge 1357
- Child labor, acceptance of State certificates 2533
- Northeast Georgia Project, lands transferred to Forest Service 1762
- Okefenokee Wildlife Refuge, modification 2581
- Peaches, hearing on handling of 2116
- Tenant purchase loans, counties designated for 1862

GERMAN CENTRAL BANK, order by Securities and Exchange Commission 1699

GERMANY:
- Ethylene dibromide from, countervailing duties 2391
- Products exported from Sudeten areas, customs treatment 2673

GERSTEN BROTHERS, hearing by Federal Trade Commission 2708

GETTYSBURG, PA., special air traffic rule 1614

GIBBINS, RALPH H., registration suspended by Securities and Exchange Commission 2765

GIFT TAX. *See* Taxes.

GILBERT, ARTHUR H., declared not a holding company by Securities and Exchange Commission 2365

GIMBEL BROS., INC.:
- Cease and desist order; sale of ladies' apparel 3039
- Hearing by Federal Trade Commission 1801
- Hearings by Securities and Exchange Commission 2549, 2575

GIMINO, STEVEN V., AND ANTHONY V., hearing by Federal Trade Commission 2523

GLADE CANDY CO., cease and desist order by Federal Trade Commission; sale of candy 2005

GLASS INDUSTRY (FLINT), minimum wage determination 1612

GLOBE DISTRIBUTING CO., INC., hearing by Federal Trade Commission 2432

GLOUCESTER ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission 1936, 2126

GOBLER, LESLIE N., hearing by Federal Power Commission 1340, 1396

GODCHAUX SUGARS, INC., order by Federal Trade Commission 2595

GOLD, shipment exemptions under Government Losses in Shipment Act 2281

GOLD HUNTER EXTENSION, INC., stop order by Securities and Exchange Commission 2326

GOLD MEDAL FARMS, INC., hearing by Federal Trade Commission 1421

GOLD STAR MOTHER'S DAY, designation 2241

GOLD STAR NOVELTY HOUSE, hearing by Federal Trade Commission 2709

GOLDBERG, JACOB, hearing by Federal Trade Commission 2709

GOLDBERG, LOUIS, hearing by Federal Trade Commission 2041

GOLDBLATT BROS., INC., hearing by Federal Trade Commission 2227

GOLDEN GATE INTERNATIONAL EXPOSITION, SAN FRANCISCO, proclamation inviting participation of foreign countries, etc 2821

GOLDEN PEACOCK, INC., cease and desist order by Federal Trade Commission; sale of toilet preparations 1712

GOOCH & CO., INC., cease and desist order by Federal Trade Commission; sale of food dish trays 3039

GOOD HUMOR CORP. OF AMERICA, hearing by Federal Trade Commission 2676

GOODERHAM & WORTS, LTD., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629

GOODMAN, JACOB AND BERTHA, hearing by Federal Trade Commission 2522

GOODMAN, M., & SON, hearing by Federal Trade Commission 2522

GOODRICH, B. F., CO., hearing by Securities and Exchange Commission 2549, 2575

GOODY HOSE CO., hearing by Federal Trade Commission 2522

GOODYEAR ASSOCIATES, cease and desist order by Federal Trade Commission; sale of merchandise 2176

GOODYEAR TIRE & RUBBER CO., hearing by Securities and Exchange Commission 2549, 2575

GORHAM, WALTER H., cease and desist order by Federal Trade Commission; sale of books 1896

GOTHAM SALES CO., INC., cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287

GOTTSEGEN, HARRY J., ET AL., cease and desist order by Federal Trade Commission; sale of cosmetics, etc 2287

GOUDEY GUM CO., cease and desist order by Federal Trade Commission; sale of chewing gum 2468

GOVERNMENT EMPLOYEES. *See also* Civil Service Rules.
- Civil Aeronautics Authority, transfers from Commerce Department and Interstate Commerce Commission 2071
- Customs officers, etc., compensation for overtime service 1969
- Excused from duty on December 24 and 31, 1938 2883
- Grazing Division, Interior Department, holding of State and Federal offices by employees 1945
- Indian Service health personnel, regulations 1383
- Marine Inspection and Navigation Bureau, compensation for overtime services 3042
- National Economic Committee, examiners and experts 1945
- Payment of losses sustained by, due to appreciation of foreign currencies 2015, 2249, 2861
- Postal employees, free travel on air lines 2209, 2638
- Public Works Administration, employment without regard to Civil Service 2047
- Wage and Hour Division, Labor Department, appointments authorized without regard to Civil Service 2105

GOVERNMENT LOSSES IN SHIPMENT ACT, gold and silver exemption order amended 2281

GOVERNMENT OF CHILE, Mortgage Bank of Chile, unlisted trading privileges denied by Securities and Exchange Commission 2817

GOVERNMENT PRINTING OFFICE:
- Division of Personnel Supervision and Management to be established 2271
- Interdepartmental Committee on Printing and Processing, representative to be designated 2603

GRAIN, position and daily trading for future delivery 1408

GRANADA VINEYARDS, INC., cease and desist order by Federal Trade Commission; sale of wines 1896

GRAND MESA NATIONAL FOREST, boundary adjusted 2445

GRAND NATIONAL FILMS, INC.:
- Hearing by Federal Trade Commission 2134
- Hearing; listing and registration order by Securities and Exchange Commission 2357, 2844

GRAND PORTAGE INDIAN RESERVATION, MINN., lands restored to Chippewa Indians 2223

GRAND RAPIDS GAS LIGHT CO., hearing; acquisition of assets approved by Securities and Exchange Commission 2164, 2283

GRAND TETON NATIONAL PARK, local subsidiary regulation 2674

GRANT, G. G., hearing by Federal Trade Commission 1541

GRAPE PRODUCTS, tax regulations amended 1860

GRAPEFRUIT:
- Hearing on handling of, Fla 2872
- Order regulating handling of, etc., Tex 2213, 2222

GRAPES, handling of, Ark., base period; regulatory order 1741

GRAVITONIC LIFE RAY CORP., INC., hearing by Federal Trade Commission 1932

GRAY CONCRETE PIPE CO., cease and desist order by Federal Trade Commission; sale of concrete pipes 2028

GRAZING. *See also* Public Lands: Grazing Division; Taylor Grazing Act.
- Indian lands, leasing regulations 1287, 1288
- Reindeer in Alaska, regulations 1335

GREAT FALLS, MONT., redesignated airport of entry 1386

GREAT LAKES. *See also* Navigation and Navigable Waters.
- Ship radio requirements survey, investigation and hearing 1516, 1517

GREAT LAKES NOVELTY CO., cease and desist order by Federal Trade Commission; sale of radios, etc. 1899

GREAT NORTHERN GAS CO., LIMITED:
- Exemption from provisions of Public Utility Holding Company Act of 1935 2874
- Hearing by Securities and Exchange Commission 2663

GREAT WHITE HERON REFUGE, FLA., establishment 2581

GREATER CHAMBERS CO., hearing by Federal Trade Commission 1622

GREATER NEW YORK LICENSED LIQUOR STORES ASSN., INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc. 1629, 1630, 1631

GREEN MOUNTAIN POWER CORP.:
- Effective date of declaration 2902
- Hearing by Securities and Exchange Commission 2751
- Issue and sale of securities exempted 3001

GREENE, CHESTER AND PATTON TRUST, withdrawal of application with Securities and Exchange Commission 1993

GREENEVILLE LIVESTOCK CO., INC., notice under Packers and Stockyards Act 1933

GREENVILLE ELECTRIC LIGHT AND POWER CO., order by Securities and Exchange Commission 2607

GRENACHER, HENRY, hearing postponed by Federal Power Commission 1396

GREY ADVERTISING AGENCY, INC., hearing by Federal Trade Commission 2791

GREYHOUND CORP., hearing by Securities and Exchange Commission 3048

GRIFFITH, FRANKLIN T., hearing reopened by Securities and Exchange Commission 3192

GRO PRES CO., cease and desist order by Federal Trade Commission; sale of cosmetics, etc. 2390, 2704

GROTH, ARTHUR W., hearing by Federal Trade Commission 1543

GROVE LABORATORIES, INC., cease and desist order by Federal Trade Commission; sale of cold remedies 3036

GUERNSEY COAL CO., hearing by National Bituminous Coal Commission 1516

GUILFORD COURTHOUSE NATIONAL MILITARY PARK, N. C., subsidiary regulations 2545

GULF REFINING CO., hearing by Federal Trade Commission 1446

GULF STATES UTILITIES CO.:
- Effective date of declaration by Securities and Exchange Commission 1695, 2142
- Notice of hearing 1959
- Stock exchange plan adopted 1993

GUM, INC., cease and desist order by Federal Trade Commission; sale of chewing gum 2242

GUTHRIE GAS SERVICE CO.:
- Acquisition of securities approved 3185
- Effective date of declaration 3185
- Hearing by Securities and Exchange Commission 2751, 2765

GYPSY MOTH QUARANTINE, regulations revised 2341

H

HADLEY-DEAN GLASS CO., cease and desist order by Federal Trade Commission; sale of glass 3034

HAINES, J. ALBERT, hearing; registration suspended by Securities and Exchange Commission 2144, 2764

HALL & RUCKEL, INC., hearing by Federal Trade Commission 1544

HALPERIN, ISIDORE, hearing by Federal Trade Commission 2709

HALSEY-STUART AND CO., hearing; acquisition of securities approved by Securities and Exchange Commission 2750, 2901

HAMMOND CLOCK CO., cease and desist order by Federal Trade Commission; sale of organs 1712

HANDICAPPED PERSONS. *See* Labor; Labor Department.

HANSER, E. V., cease and desist order by Federal Trade Commission; sale of glass 3034

HARBISON-WALKER REFRACTORIES CO., exemption granted by National Bituminous Coal Commission 1368

HARBORS. *See* Navigation and Navigable Waters.

HARPER MANUFACTURING CO., ET AL., cease and desist order by Federal Trade Commission; sale of brushes 1900

HARR, HENRY O., hearing by Federal Trade Commission 2417

HARRISON NARCOTIC LAW, tax regulations on importation, etc., of opium or coca leaves 1291, 1313, 1402

HART, JOHN M., CO., cease and desist order by Federal Trade Commission; sale of food dish trays 3039

HART, SCHAFFNER & MARX, hearing by Federal Trade Commission 2584

HARTT, JAY SAMUEL, hearing; maximum fees, etc., allowed by Securities and Exchange Commission 2642, 2884

HASSALL, JOHN, INC., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528

HASTINGS, CLAYTON R., hearing by Federal Trade Commission 1447

HAVERHILL ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission 1936, 2126

HAVRE, MONT., redesignated airport of entry 1386

HAWAII:
- Fruits and vegetables, shipment to mainland subject to sterilization 2515
- Molokai Lighthouse Reservation, boundary descriptions corrected and amended 2615
- Public lands, title transferred to 1437
- Sugar Act of 1937:
  - Consumption requirements for 1939 3188
  - Price determinations, 1938 crop 2505
  - Proportionate shares for farms 1359, 2505
  - Quota deficits for 1938, proration 2729
  - Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1441, 1626
  - Wage rate determinations 1649, 2785
  - Wage rates and prices, hearing 2671
- Tenant purchase loans, designation of county for 2117

HAWKEYE COAL CO., order by National Bituminous Coal Commission 2857

HAY, inspection and certification regulations 1867

HEARINGS. *See* agency holding hearing *or* name of person concerned.

HEARN DEPARTMENT STORES, INC., hearing by Federal Trade Commission 2583

HECKER PRODUCTS CORP., unlisted trading privileges granted by Securities and Exchange Commission 1655, 1699

HEGWOOD, LOREN I., order by National Bituminous Coal Commission 2857

HEININGER, SYLVAN B., hearing by Federal Trade Commission 1541

HELENA RUBINSTEIN, INC., cease and desist order by Federal Trade Commission; sale of cosmetics, etc 1391

HEMPHILL, ROY, hearing by Federal Trade Commission 1446

HENDERSON, WILLIAM, SUGAR REFINERY, hearing; complaint by Federal Trade Commission; sale of food products 1888, 2769

HERR, CLAIR C., cease and desist order by Federal Trade Commission; sale of salted nuts 2506

HIBBARD, CHARLTON B., hearing by Securities and Exchange Commission 1411, 1504

HICKOK OIL CORP., exemption from provisions of Public Utility Holding Company Act 1397

HIDES, SKINS, ETC., offered for entry into United States, handling and control of 2595

HIGBE, DENTON N., cease and desist order by Federal Trade Commission; sale of instruction courses, etc 2030

HIGHWAYS, Federal Highway Act, regulations for award of contracts 2730

HI-HEAT COAL CO.:
- Hearing by National Bituminous Coal Commission 3167
- Petition on production cost data denied 1955

HILL, EDWARD W., cease and desist order by Federal Trade Commission; glass glazing contract business 3034

HINER, MELVIN, hearing; cease and desist order by Federal Trade Commission; sale of reference books 1370, 2062

HIRAM WALKER, INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1630

HITT FIREWORKS CO., hearing by Federal Trade Commission 2264

HOFFMAN, E. A., CANDY CO., hearing by Federal Trade Commission 2266

HOLDING COMPANIES. *See also* Securities and Exchange Commission.
- Foreign personal:
  - Income tax information returns 1464, 1467
  - Liquidation regulations 1424

HOLDREGE LIVESTOCK SALES CO., notice under Packers and Stockyards Act 1503

HOLLAND. *See* Netherlands.

HOLSTON RIVER ELECTRIC CO., hearing by Federal Power Commission 1654

HOLY CROSS NATIONAL FOREST, boundary adjusted 2445

HOME OWNERS' LOAN CORPORATION. *See* Housing Credit.

HOME UTILITIES CO., withdrawal of application with Securities and Exchange Commission 2259

HOMESTAKE MINING CO., order by Securities and Exchange Commission 1941

HONBAUM, W. K., hearing by Federal Trade Commission 1446

HONEY BEES. *See* Bees.

HOOKER ELECTROCHEMICAL CO., hearing by Federal Trade Commission 2134

HOPEWELL VILLAGE NATIONAL HISTORIC SITE, PA., designation 2039

HOPI INDIAN RESERVATION, ARIZ., N. MEX., conduct of trade regulations 1690

HOPS, handling of, Oreg., Calif., and Wash 1979

HOSIERY INDUSTRY, SEAMLESS, notice on minimum wage for learners, handicapped, etc., workers 3065

HOSPITALS, Indian Service, Alaska, admission of patients 1663

HOT SPRINGS NATIONAL PARK, local subsidiary regulation 2012

HOUGHTON COAL CO., order by National Bituminous Coal Commission 2857

HOUSE, GARRETT O., hearing by Federal Power Commission 1340, 1396

HOUSE OF REPRESENTATIVES, inspection of income, excess-profits, and capital stock tax returns by Special Committee on Un-American Activities 1943, 1953

HOUSER, BOYD, CANDY CO., hearing by Federal Trade Commission 2538

HOUSING CREDIT:
- Federal Home Loan Bank Board:
  - Bank President's Conference, change of name 1989
  - Bank System regulations:
    - Attorneys, appointment and compensation of; employees not to act in any capacity for institutions eligible for bank membership 3126
    - Bank membership, effective date of 2239
    - Directors-at-large, residence of 1698
  - Federal Savings and Loan System:
    - Consideration of amendments to regulations 2661
    - Field examinations and appraisals for conversion, approval requirement repealed 2116

HOUSING CREDIT—Continued.
- Federal Home Loan Bank Board—Continued.
  - Investment in securities of savings and loan associations, regulations 1317
  - Merging of State-chartered savings and loan associations with Federal associations 2569
- Federal Housing Administration:
  - Delegations of authority, Acting Administrator 2898
  - Multifamily and group housing insurance, rules 2507
  - Mutual mortgage and housing insurance fund debentures, transactions and operations 2298
- Federal Savings and Loan Insurance Corporation:
  - Insurance of Accounts:
    - Consideration of amendments to regulations 2661
    - Field examinations and appraisals, approval requirement repealed 2116
- Home Owners' Loan Corporation:
  - Accounting Chapter, prepayments and curtailments; funds for credit to loan accounts 1990
  - Auditing Chapter, discontinuing certification of paid-in-full loans 1319, 1463
  - California properties, marketing of fruits, etc 2686
  - Credit reports, authority to incur expense and approve payment for 2382
  - Housing and Credit Chapter, analysis and review section; remittance by mortgagors and vendee 1990
  - Insurance Chapter, waiving rights of Corporation to insurance loss drafts under $100 1880
  - Legal Chapter:
    - Bonds of indemnity 2079
    - Judgments in favor of the Corporation 1907
  - Loan Service Chapter:
    - Extensions, special cases 1908
    - Loan service procedure 2075
    - Miscellaneous credits 1907
    - Payments, time extensions 1906
  - Property Management Chapter, authority of contract brokers to incur charges and make payments 1788
  - Purchase and Supply Chapter:
    - Expenditures in excess of $100 1690
    - Purchases and execution of recurring contracts authorized 1423
  - Treasury Chapter:
    - Assistant Treasurer to act as Treasurer 1990

HOUSING CREDIT—Continued. Page
Home Owners' Loan Corporation—Continued.
Treasury Chapter—Con.
Authorization to sign checks on Regional Working Fund 1953
Bond of indemnity for lost checks 1787
Claims due deceased or incompetent persons 1934
Imprest Cash Fund, change in disbursement procedure 1513
Paid-in-full loans, release 1319
Regional Treasurer, submission of administrative expenses of preaudit 1514
Regional Working Fund, change in disbursement procedure 1513
Section 703 revoked 1788
United States Housing Authority:
Low rent housing projects:
Construction contracts 1908
Use of domestic and foreign materials 1900
HOUSTON NATURAL GAS CORP., exemption from provisions of Public Utility Holding Company Act denied 1921
HOWARD SALES CO., hearing by Federal Trade Commission 2502
HOWEL, CLAYTON J., effective date of declaration by Securities and Exchange Commission 2046
HUDSON BAY FUR CO., cease and desist order by Federal Trade Commission; sale of furs 1898
HUEY CO., hearing by Federal Trade Commission 1420
HUFF AND HASKINS, INC., registration cancelled by Securities and Exchange Commission 2014
HUNT COAL & MINING CO., order by National Bituminous Coal Commission 2857
HUNTER, EUGENE H., AND RAE LAMARR, hearing by Federal Trade Commission 2257
HUNTING. *See* Wildlife.
HUNTINGTON GAS CO., hearing; application approved by Securities and Exchange Commission 2845, 3142
HURON NATIONAL FOREST, MICH., lands added 2496
HUTCHISON, L. L., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
HYGIENIC CORP., OF AMERICA, hearing by Federal Trade Commission 1542

I

IDAHO:
Agricultural conservation program. *See* Agriculture.
IDAHO—Continued. Page
National forest lands, transfers of 2435
Owyhee Project:
Lands opened to entry; availability of water 2868
Reclamation withdrawal 2693
Public Water Reserve No. 160 2755
Stock driveway withdrawal, etc 2597, 2670
Tenant purchase loans, counties designated for 2117
IDAHO POWER CO., hearing by Securities and Exchange Commission 1666
ILLINOIS:
Agricultural conservation program. *See* Agriculture.
Chicago Sanitary District, operation of controlling works; use of lock on Chicago River 2139
Child labor, acceptance of State certificates 2500
Motor carrier rates, investigation by Interstate Commerce Commission 1719, 1762
Tenant purchase loans, counties designated for 1862
ILLINOIS BAKING CORP., hearing by Federal Trade Commission 2477
ILLINOIS IOWA POWER CO., hearing, etc., by Securities and Exchange Commission 2294, 2750
ILLINOIS WIRE AND MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
IMMIGRATION AND NATURALIZATION SERVICE. *See* Aliens and Citizenship.
INCOME TAX. *See* Taxes.
INDEPENDENT COAL & COKE CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
INDERRIEDEN, J. B., CO., hearing by Federal Trade Commission 1541
INDIAN HOLLOW COAL CO., order by National Bituminous Coal Commission 2857
INDIANA:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2500
Milk, handling of:
Fort Wayne Marketing Area, hearing on marketing agreement amendment, etc 1516
La Porte County Marketing Area, regulatory order 2015, 2018
Tenant purchase loans, counties designated for 1719
INDIANA GENERAL SERVICE CO.:
Exemption from provisions of Public Utility Holding Company Act of 1935 2386
Hearing by Securities and Exchange Commission 2247
INDIANAPOLIS POWER & LIGHT CO.:
Exemption from provisions of Public Utility Holding Company Act of 1935 1972
Hearing by Securities and Exchange Commission 1775
INDIANS:
Alaska Indian towns, survey and disposal, etc 1653
Chartered corporations:
Identification of property purchased with credit funds and insurances 1325
Title to property, security, and bills of sale 1321
Chippewa Indian Cooperative Marketing Association, Minn., loans to 1320
Choctaw and Chickasaw Nations, Okla., leasing of coal and asphalt deposits 1433
Commitment to St. Elizabeths Hospital 2338
Cooperative Associations, Okla.:
Loans to 1321
Organization of 1323
Credit Associations, Okla.:
Loans by 1328
Loans to 1324
Flathead Indian Irrigation Project, Mont.:
Assessments on land in non-Indian ownership for construction cost repayments 2009
Operation and maintenance charges for Flathead, Jocko Valley, and Mission irrigation districts 1608
Operation and maintenance regulations 2011
Fort Berthold Indian Reservation, N. Dak., restoration order 1860
Grand Portgage Reservation, Minn., lands restored to Chippewa Indians 2223
Health facilities and duties of personnel, regulations 1383
Indian Service hospitals, admission of patients 1663
Klamath Tribal Loan Fund, administration regulations 1325
Lands, leasing regulations amended:
Agricultural, possessed by heirs of deceased allottee, etc 1287
Allotted and tribal, for agricultural, etc., purposes 1288
Flathead, Fort Hall, Kiowa, Omaha, Umatilla, and Winnebago Reservations 1860
Tribal lands for mining purposes 1429

INDIANS—Continued. Page
Loans to Indians from reimbursable funds 2299
Loans to individual Indians 1406
Navajo, Zuni and Hopi Indian Reservations, Ariz. and N. Mex., conduct of trade regulations 1690
Patents in fee, certificates of competency, sale of allotted and inherited lands, reinvestment of proceeds, regulations 1344
Pueblo lands, acreage benefited by irrigation works of Middle Rio Grande Conservancy District, N. Mex 1620
Reindeer in Alaska, ownership declarations 1641
Reservations proclaimed for:
New Upper Sioux Indian Community, Minn 2562
Port Gamble Band of Clallam Indians, Wash 1867
St. Croix Chippewa Indians, Wis 3015
Shasta and Upper Klamath Indians, Calif 2749
Shoshone Indians, Nev 2705
San Carlos Federal Irrigation Project, defining joint, district and Indian works 2006
San Carlos Project, Ariz., new standard rate schedules for electricity 1607
Southern Ute Indian Reservation, Colo., restoration order 2444
Trust periods on Indian lands expiring during 1939, extension 2435
Wapato Indian Irrigation Project, Wash., assessments on land in non-Indian ownership for construction cost repayments 2223
Wind River Mountain Roadless Area, boundaries amended 2085
INDUSTRIAL MINING CO., hearing by National Bituminous Coal Commission 1516
INDUSTRIES. *See* Labor; Labor Department.
INFANTS' AND CHILDREN'S KNITTED OUTERWEAR INDUSTRY, proposed trade practice rules by Federal Trade Commission 1664
INLAND AIR LINES, INC., hearing by Civil Aeronautics Authority 2629, 3174
INLAND STEEL CO., order by National Bituminous Coal Commission 2161
INLAND WATERS. *See* Navigation and Navigable Waters.
INSPIRATION CONSOLIDATED COPPER CO., unlisted trading privileges extended by Securities and Exchange Commission 1941
INSTITUTE OF TUBULAR-SPLIT AND OUTSIDE PRONGED RIVET MANUFACTURERS, cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
INTERDEPARTMENTAL COMMITTEE ON PRINTING AND PROCESSING, establishment 2603
INTERIOR DEPARTMENT:
General Land Office. *See* Public Lands.
Grazing Division. *See also* Public Lands.
Employees permitted to hold State and Federal offices 1945
Indian Affairs Office. *See* Indians.
Interdepartmental Committee on Printing and Processing, representative to be designated 2603
National Bituminous Coal Commission. *See also* Mineral Resources.
District No. 10, election meeting to fill vacancy on Board 3140
Exemption applications:
Agan & Gillespie Coal Co 2857
Allegheny County Institution District 2509
American Zinc and Chemical Co 1368
Arkoal Coal Co 2857
Ault Coal Co 2857
Beck Coal and Mining Co 2161, 2282
Big Six Coal Co 2857
Birmingham Water Works Co 1369
Bituminous Coal Producers Board, District No. 12, petition to intervene 1956
Bradley Brothers Coal Co 2161, 2282
Cambria Clay Products Co 1370
Confidence Hi-Test Coal Co 2857
Conner & Smith Coal Co 2857
Consolidated Indiana Coal Co 1369
Crozier Coal Co 2857
Diamond Block Coal Co 2161, 2282
Duer & Head Coal Co 2857
Erin Coal Co 2857
Flagler Coal Co 2857
Freeport Brick Co 2510
Harbison-Walker Refractories Co 1368
Hawkeye Coal Co 2857
Hegwood, Loren L 2857
Houghton Coal Co 2857
Hunt Coal & Mining Co 2857
Indian Hollow Coal Co 2857
Inland Steel Co 2161
Lae-Z-Coal Co 2857
Levey Coal Co 2857
Liberty Coal Co 2857
Liter Coal Co 2161, 2282
McLain Fire Brick Co 1368
INTERIOR DEPARTMENT—Con. Page
National Bituminous Coal Commission—Continued.
Exemption applications—Con.
Mahaska Coal Co., Inc 1956, 2161, 2282
Mattern, Ross 2502
Midwest Coal Co 2857
Mulgrew & Sons 2857
Norfolk and Western Railway Co 2159
Pennsylvania Electric Co 2160
Pittsburgh Steel Co 2159, 2160
Quality Coal Mine 2857
Ramsey-Dooms Coal Co 2857
Riggen, C. A., Coal Co 2161, 2282
Ross Clay Products Co 2161
Sargent, H. W., Coal Co 2857
Sumpter Coal Co 2857
Sunshine Anthracite Coal Co 1241, 1396
Vancenbrock Coal Co 2857
Villont Coal Co 2857
Wallace Coal Co 2857
Westmoreland Brick Co 2509
Yocum & Son Coal Co 2857
Marketing agencies, applications for approval as:
Fairmont Coals, Inc 2206, 2282
Kentucky Coal Agency 2350, 2858
Middle States Fuels, Inc 1830, 2508
Southern Illinois Coals, Inc 1956, 2857
Western Pennsylvania Coal Corp 2206, 2233, 3140
What Cheer Clay Products Co 3027
Maximum discounts or price allowances to distributors; marketing rules 1395
Notice of hearings:
Bituminous Coal Producers Board, District No. 4 *vs.* Massilon-Akron Coal Co., et al 1516
Districts Nos. 9–15; minimum prices, etc 2475, 2545, 2597
Minimum Price Area No. 4; tonnage costs 3000, 3026, 3064
Minimum Price Areas Nos. 1, 2, 3, 4 and 5; tonnage costs 1457, 1568, 2162, 2886, 3026, 3064
Minimum Price Areas Nos. 6, 7, 9, and 10; tonnage costs 1277, 2162, 2227, 2887, 3026, 3064
Minimum prices and marketing rules and regulations 2132, 2281
Price violations by use of storage, etc., facilities; investigation 1955
Production costs, introduction in hearing evidence, petitions:
Chesterfield Coal Co 1367, 1955
Hi-Heat Coal Co 1367, 1955
Independent Coal & Coke Co 1367, 1955
Liberty Fuel Co 1367, 1955

INTERIOR DEPARTMENT—Con. Page
National Bituminous Coal Commission—Continued.
Production costs, etc.—Con.
MacLean Coal Co. 1367, 1955
Mallory Coal Co., et al. 1277, 1955
National Coal Co. 1367, 1955
Peerless Sales Co. 1367, 1955
Rochester and Pittsburgh Coal Co. 1277
Royal Coal Co. 1367, 1955
Spring Canyon Coal Co. 1367, 1955
Standard Coal Co. 1367, 1955
Sweet Coal Co. 1367, 1955
United States Fuel Co. 1367, 1955
Utah Fuel Co. 1367, 1955
Tonnage cost reports of producers:
Availability for inspection:
Minimum Price Area No. 4 3000
Minimum Price Areas Nos. 1 to 5 2886
Minimum Price Areas Nos. 6, 7, 9, and 10 2887
Order rescinded permitting inspection of, Minimum Price Areas Nos. 1 to 7, 9, and 10 2243
National Park Service. *See* Parks and Forests.
Reclamation Bureau. *See* Public Lands.
Secretary of:
Land control transferred to:
Alaska 2800
New Mexico 2252
Rhode Island 1257
Territories and Island Possessions Division:
Alaska Railroad. *See also* Territories and Insular Possessions.
Joint freight tariffs 1515, 1760, 1919, 2102, 2527
Local passenger tariffs 1954, 2044, 2045, 3159
Mt. McKinley Park Route time tables 1515

INTER-ISLAND AIRWAYS, LTD., hearing by Civil Aeronautics Authority 2580, 2611

INTERLAKE IRON CORP., declared not an electric utility company by Securities and Exchange Commission 1637

INTERLAKE POWER CORP., hearing by Securities and Exchange Commission 1410

INTERNAL REVENUE:
Internal Revenue Bureau:
Admissions, dues and initiation fees, taxes on 1756
Brandies:
Blending of pure fruit brandies 1925
Fortification of wine, losses of; transfer by pipe line 1925, 1929, 1930
Fortification tax abatement or refund on 1926
Imported, tax collection 2354
Manufacture of 1926

INTERNAL REVENUE—Con. Page
Internal Revenue Bureau—Con.
Brandies—Continued.
Samples, withdrawal for laboratory analysis, etc. 1924
Brewers' bonds 1911
Brewer's wort, taxes on 1860
Capital stock tax, time extensions for filing returns 1393
Carriers Taxing Act of 1937, tax returns 2179
Cheese (filled), definition, tax, etc., regulations 1464
Distillates, removal for denaturation, etc 1912
Distilled spirits:
Bonds covering manufacture, etc., of 1514
Bottled for export, drawback 2043
Bottling in bond 1348, 1641, 2627
Floor taxes 1469, 1612
Imported, tax collection 2354
Traffic in containers of, regulation 2325
Distilling and rectifying, conduct of business at less than 600 feet apart; fences 2034
Documentary stamp taxes, regulations giving effect to legislative enactments 1330
Estate tax regulations amended 1792, 2570
Excise-profits tax regulations 1771
Excise tax regulations amended:
Sales by manufacturers 2034
Telegraph, telephone, radio, etc., facilities 1651
Federal Firearms Act, issuance of licenses to manufacturers and dealers 1868
Firearms and machine guns, tax regulations 1900
Fruit distilleries, operation on Sunday 2392
Future tax liability, closing agreements as to 2064
Gasoline taxes 1860
Gauging Manual amended 2475
Gift tax regulations amended 1788
Grape products, taxes on 1860
Income tax regulations amended:
Annuity payments 2140
Corporate liquidations:
Basis of property received 1466
Foreign personal holding companies 1424
Recognition of gain, determination of electing shareholders 1393, 2761
Corporations:
Foreign, information returns 1464, 1467
Information return, dissolution or liquidation of capital stock 1455
Reorganization, basis of property acquired after December 31, 1937 1477

INTERNAL REVENUE—Con. Page
Internal Revenue Bureau—Con.
Income tax regulations amended—Continued.
Deficiency payments, time extensions 1771
Income from telegraph and cable service 3147
Income tax cases, mitigation of effect of limitation, etc 2085
Indebtedness, cancelation under Bankruptcy Act 2686
Inventories of tanners, producers and processors of non-ferrous metals, elective method 2361
Nonrecognition of gain or loss upon exchanges, etc 2736
Personal property, sale of 1652
Property repossessed, gain or loss upon installment obligations 1847
Test of taxability to the grantor 2242
Liquor dealers, special taxes 1911
Malt products, taxes on 1860
Matches, taxes on 1860
Oil, lubricating, taxes on 1860
Oleomargarine, adulterated butter, etc., tax regulations giving effect to legislative enactments 1332
Palm oil, processing tax 1469
Social Security Act:
Information returns abolished for certain employees 2303
Tax credits and refunds for 1936 under Title IX 1463
Tax credits where State contributions are at reduced rate 2863
Specially Denatured Alcohol Formula No. 23–H 2604
Stamp tax regulations amended 1650, 2141
Stills and worms, manufacture, tax-payment, etc.; drawback exportation 1608
Tax refunds under Bankhead Cotton Act of 1934, Kerr Tobacco Act, and Potato Act of 1935 1969
Tax returns (income and excess profits), inspection by Special Joint Congressional Committee to make an investigation of Tennessee Valley Authority 2692
Tax returns (income, profits, capital stock, estate and gift) and returns under Title IX of Social Security Act, inspection of 2689
Tax returns, inspection by Special Committee on Un-American Activities, House of Representatives 1953
Vermouth, manufacture on bonded winery premises 1927
Wine:
Fruit wines, production, fortification, etc 1929

INTERNAL REVENUE—Con. Page
Internal Revenue Bureau—Con.
Wine—Continued.
Removal for transfer in bond or use as distilling material 1928
Weights for testing scales 2011
United States Board of Tax Appeals:
Rules of Practice amended, computation of time 1367
United States Processing Tax Board of Review:
Proceedings, public inspection of records 1507

INTERNATIONAL BOUNDARIES, issuance and description of border crossing cards 1951

INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND MEXICO, maintenance and preservation of Rio Grande Rectification Project, El Paso-Jaurez Project 2297

INTERNATIONAL CINEMA, INC., hearing and order by Securities and Exchange Commission 1932, 2365

INTERNATIONAL CONVENTION ON SAFETY OF LIFE AT SEA, 1929, acceptance of safety certificates issued 2392

INTERNATIONAL DISTRIBUTING CORP., hearing by Federal Trade Commission 2432

INTERNATIONAL HYDRO-ELECTRIC SYSTEM:
Hearing by Securities and Exchange Commission 2512
Unlisted trading privileges extended 1941

INTERNATIONAL NICKEL CO. OF CANADA, LTD., hearing by Securities and Exchange Commission 2550, 2575

INTERNATIONAL PAPER AND POWER CO:
Hearings by Securities and Exchange Commission 2512, 3048
Unlisted trading privileges extended 1941

INTERNATIONAL RADIO CORP., hearing by Securities and Exchange Commission 2230

INTERNATIONAL UNIVERSITY OF COMMERCE, hearing by Federal Trade Commission 2318

INTERNATIONAL UTILITIES CORP., acquisition of securities approved by Securities and Exchange Commission 3186

INTERSTATE COMMERCE COMMISSION. *See also* Transportation and Railroads.
Applicants for admission to practice before Commission 1992
Boston, Mass., investigation of extent and area of municipality and commercial zone 1892

INTERSTATE COMMERCE COMMISSION—Continued. Page
Carriers by motor vehicle, qualifications of employees and safety of operation and equipment, hearing 1425
Division of Personnel Supervision and Management required to be established 2271
Eastern passenger fares in coaches, hearing reopened 1425
Employees of common, contract, and private motor carriers, investigation of Commission's jurisdiction over 2641
Express rates, 1938, hearings on increases and modifications 1397
Freight rates and charges, hearing on increases 2209
Johnston, A. (Brotherhood of Locomotive Engineers), et al. *v.* Atchison, Topeka & Santa Fe Railway Co., et al., order 2244
Motor carrier rates, investigations:
Atlantic ports to North Carolina 2019
California 1762
Income statements to be submitted 1802, 1940
Canned goods and dried fruit in far West 2022
Central territory 1958
Income statements to be filed 1503, 1972
Iowa, Illinois, Eastern Kansas, Missouri, Eastern Nebraska 1719
Income statements to be submitted 1762
New York, New Jersey, Pennsylvania, and Delaware 1284
Income statements to be filed 1636
Passenger motor carriers, reports of revenues, etc 2022
Private carriers of property by motor vehicle, hearings on safety of operation requirements 2629, 2630, 3022
Property motor carriers, report of revenues, etc 2022
Public stockyard companies, status as common carriers 2209
Substituted freight service 2909
Transfer of certain personnel, property, and appropriations to Civil Aeronautics Authority 2071
Wool transportation by motor vehicle, Boston, Mass., investigation 1891

INTERSTATE HOSIERY MILLS, INC., hearing by Securities and Exchange Commission 1447

INTERSTATE PREMIUM NOVELTY CO., hearing by Federal Trade Commission 2859

INTERSTATE UTILITIES CO., withdrawal of application with Securities and Exchange Commission 2259

INTOXICATING LIQUORS. *See also* Internal Revenue. Page
Federal Alcohol Administration Division:
Distilled spirits:
Bottled in bond, caution notice revised 1756
Labeling and advertising regulations amended:
Name and address on brands bottled by same person at different premises 1395
Use of coloring, flavoring, etc 1394, 1885, 1902
Whiskey produced after March 1, 1938 2338
Malt beverages, labeling and advertising regulations amended 1515
Retailers of alcoholic beverages, credit period to be extended 2809
Wine labeling and advertising regulations amended 2093, 2500

INVESTMENT SECURITIES, regulations by Comptroller of the Currency 1619

IOWA:
Agricultural conservation program. *See* Agriculture.
Des Moines Sales Area, license termination for milk 1591
Motor carrier rates, investigation by Interstate Commerce Commission 1719, 1762
Tenant purchase loans, counties designated for 1760
Union Slough Migratory Waterfowl Refuge, establishment; land description corrected 2261, 2821

IOWA-NEBRASKA LIGHT AND POWER CO., hearing, etc., by Federal Power Commission 2878

IOWA PUBLIC SERVICE CO., hearing and order by Securities and Exchange Commission 1545, 1615, 2538

IRELAND, marking of meat and products to show origin 2561

IRON FIREMAN MANUFACTURING CO., application granted by Securities and Exchange Commission 2492

IROQUOIS GAS CORP., hearing by Federal Power Commission 2790

IRRIGATION PROJECTS. *See* Indians; Public Lands.

ISAACS, LEON J., hearing by Federal Trade Commission 2545

ISLAND POSSESSIONS. *See* Interior Department: Territories and Insular Possessions.

ISTHMIAN STEAMSHIP CO., hearings by United States Maritime Commission 2260, 2340, 2556

J

JACKSON HAY CO., order by Federal Trade Commission 2595

JACKSON LIVESTOCK COMMISSION CO., notice under Packers and Stockyards Act— Page 1408
JACKSON SALES CO., hearing by Federal Trade Commission— 2491
JACKSON UNIVERSITY, ETC., cease and desist order by Federal Trade Commission; sale of instruction courses— 3038
JACOBS CANDY CO., INC., hearing by Federal Trade Commission — 2573
JACOBSON, IRVING ROY, cease and desist order by Federal Trade Commission; sale of books— 2061, 2062
JADE HOSIERY MILLS, hearing by Federal Trade Commission — 2522
JAPANESE BEETLE QUARANTINE:
Articles exempt from certification requirements— 2567
Fruit and vegetable restrictions, termination date— 2264
Onions moving by refrigerator car, fumigation of— 1769
JELKE, JOHN F., CO., INC., hearing by Federal Trade Commission — 2134
JERSEY CENTRAL POWER & LIGHT CO., investigation and hearing by Federal Power Commission— 1654, 1932, 2209
JOAB, PAULINE, hearing by Federal Trade Commission— 2502
JOBBERS PRODUCE CO., INC., hearing; complaint by Federal Trade Commission; produce jobber— 1888, 2769
JOCKO VALLEY IRRIGATION DISTRICT, MONT., operation and maintenance charges — 1608
JOHN HANCOCK PEN CO., cease and desist order by Federal Trade Commission; sale of fountain pens — 2028
JOHNSTON, A. (Brotherhood of Locomotive Engineers), orders by Interstate Commerce Commission— 1478, 2244, 2674, 2908
JOHNSTON, J. D., JR., CO., order by Federal Trade Commission— 2595
JOINT CONGRESSIONAL COMMITTEE, inspection of tax returns by, investigation of Tennessee Valley Authority— 2680, 2692
JOLIET HEATING CORP., hearing and order by Securities and Exchange Commission— 2126, 2631
JONES, JOSIAH L., hearing by Federal Trade Commission— 1801
JOWETT INSTITUTE OF PHYSICAL CULTURE, INC., hearing by Federal Trade Commission— 2710
JOY PACKAGE CO., INC., cease and desist order by Federal Trade Commission; sale, etc., of candy — 1419
JUAN DE FUCA STRAIT, WASHINGTON AND PUGET SOUNDS, designating line dividing high seas from rivers, harbors, etc — 2254
JULEP BOTTLING CO., INC., cease and desist order by Federal Trade Commission; sale of soda water— 3058
JUSTICE DEPARTMENT:
Employment of examiners, etc., to carry out functions of National Economic Committee — 1945
United States Marshals, order postponing effective date of disbursement functions— 2359

K

K & K SUPPLY CO., INC., hearing by Federal Trade Commission — 2134
KADETSKY, HYMAN, hearing; cease and desist order by Federal Trade Commission; sale of merchandise— 1545, 2239
KALAMAZOO RIVER, drawbridge regulations between Douglas and Saugatuck, Mich — 2314
KALLMAN & MORRIS, INC., cease and desist order by Federal Trade Commission; sale of dresses, etc— 1859
KANSAS:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates — 2627
Motor carrier rates, investigation by Interstate Commerce Commission— 1719, 1762
Tenant purchase loans, counties designated for— 1761
KANSAS ELECTRIC POWER CO., effective date of declaration by Securities and Exchange Commission— 1397
KANSAS PIPE LINE & GAS CO., hearings by Federal Power Commission — 2452, 2453, 2455, 2527
KANSAS UTILITIES CO., hearing by Securities and Exchange Commission — 2818
KAPLAN, MORRIS, & SON, INC., hearing by Federal Trade Commission — 1801
KAR-NU CO., cease and desist order by Federal Trade Commission; sale of auto refinisher — 2238
KASLEY, W. H., hearing by National Bituminous Coal Commission— 1516
KAS-MO REMEDY CO., hearing by Federal Trade Commission— 2572
KATZ, HARRY J., cease and desist order by Federal Trade Commission; sale, etc., of rubber prophylactics— 1366
KELLETT, ERNEST G., hearing postponed by Federal Power Commission — 1396
KELLY, CHARLES M., cease and desist order by Federal Trade Commission; sale of agricultural seed— 2347
KENNECOTT COPPER CORP., hearing by Securities and Exchange Commission— 2550, 2575
KENNEDY, MILLARD B., hearing and order by Securities and Exchange Commission— 1774, 2267
KENT, RALPH C., hearing; registration revoked by Securities and Exchange Commission— 2165, 3067
KENTUCKY:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates — 2500
Latonia, special air traffic rule— 1664
Owensboro, designated tobacco market— 2208
Tenant purchase loans, counties designated for— 1903
KENTUCKY COAL AGENCY, hearing and order by National Bituminous Coal Commission— 2350, 2858
KENTUCKY SECURITIES CO., hearing; acquisition of securities approved by Securities and Exchange Commission— 2752, 2845
KENTUCKY - TENNESSEE LIGHT AND POWER CO.:
Hearing by Federal Power Commission— 2778
Hearing; effective date of declaration by Securities and Exchange Commission— 2504, 2585, 3049
KENTUCKY UTILITIES CO.:
Hearing by Federal Power Commission— 2791
Hearing by Securities and Exchange Commission— 2211
Withdrawal of application under Public Utility Holding Company Act— 3067
KENTUCKY WOODLANDS WILDLIFE REFUGE, KY., establishment— 2137
KERR TOBACCO ACT, tax refunds authorized— 1969
KEUFFEL & ESSER CO., hearing by Federal Trade Commission— 1420
KEYES FIBER CO., cease and desist order by Federal Trade Commission; sale of food dish trays— 3039
KEYSTONE BLUE PAPER CO., hearing by Federal Trade Commission— 1420

Page

KEYSTONE UTILITIES, INC., sale of securities approved by Securities and Exchange Commission ---- 1636
KING CANDY CO., hearing by Federal Trade Commission--- 2572
KINGS RIVER PROJECT, CALIF., reclamation withdrawal ---- 2040
KINNER AIRPLANE AND MOTOR CORP., LTD., hearing and order by Securities and Exchange Commission--- 1932, 2365
KIOWA RESERVATION, leasing of allotted and tribal lands for agricultural, etc., purposes---- 1860
KISSIMMEE LIVESTOCK MARKET, INC., notice under Packers and Stockyards Act- 2598
KLAMATH PROJECT, OREG.-CALIF., addition to Tulelake Reclamation Townsite---- 2730
KLAMATH TRIBE, loan fund regulations---- 1325
KLUGER, H., INC., cease and desist order by Federal Trade Commission; sale, etc., of piece goods---- 1441
KNAPP, CHARLES E., hearing by Federal Trade Commission-- 2317
KNITTED OUTERWEAR INDUSTRY, INFANTS' AND CHILDREN'S, proposed trade practice rules by Federal Trade Commission---- 1664
KNITTED WEAR AND HOSIERY INDUSTRY, hearing on employment of learners at less than minimum wage---- 2790
KOHN, JESSE, hearing by Federal Trade Commission---- 2545
KOSKOTT CO., hearing by Federal Trade Commission---- 2523
KRONHEIM, MILTON S., & SON, INC., hearing by Federal Trade Commission---- 2432

L

LA PERLA VINEYARD CO., hearing by Federal Trade Commission---- 2418
LA PORTE COUNTY, IND., MARKETING AREA, handling of milk---- 2015, 2018
LA SALLE-WACKER CORP., hearing and order by Securities and Exchange Commission---- 1880, 2453
LABOR:
Children's Bureau:
Child Labor Regulations:
Certificates of age, Federal and State---- 2487, 2531
Minors:
Employment of, between ages 14 and 16-- 2532, 2627
Hazardous occupations for, between ages 16 and 18---- 2640
State certificates of age, acceptance of---- 2500

Page

LABOR—Continued.
Children's Bureau—Continued.
Child Labor Regulations—Con.
State certificates of age, acceptance of—Con.
California, Florida, Georgia, Virginia, District of Columbia---- 2533
Minnesota, Nebraska, South Dakota---- 2693
Nevada and Kansas---- 2627
South Carolina---- 2773
Secretary's Office:
Children's Bureau Assistant Chief authorized to act as Chief---- 2888
United States Employment Service:
National system of public employment offices, cooperation with States in establishment, etc---- 1470
Wage and Hour Division:
Apparel Industry Committee, appointment of---- 3066
Area of production, term defined---- 2536, 3072
Board, lodging, etc., reasonable cost to employer--- 2535
Employee employed in bona fide executive etc., retailing capacity, or local retailing capacity; terms defined ---- 2518
Employment regulations for:
Apprentices---- 2483, 2508
Handicapped persons- 2485, 2508, 2571, 2670
Learners---- 2484, 2661
Messengers ---- 2484
Industries of a seasonal nature, regulations-- 2534, 3127
Industry committees, regulations applicable to--- 2312, 2744
Records to be kept by employers---- 2533
Textile Industry Committee:
Appointment of---- 2313
Definition amended---- 3065
LABOR DEPARTMENT:
Children's Bureau. *See* Labor.
Employment of examiners, etc., to carry out functions of National Economic Committee ---- 1945
Immigration and Naturalization Service. *See* Aliens and Citizenship.
Public Contracts Division. *See also* Public Contracts.
Minimum wage determinations, hearings, etc.:
Evaporated and Condensed Milk Industry---- 2510
Men's Raincoat Industry-- 3065
Metal Furniture Manufacturing Industry---- 2627
Photographic Supplies Industry ---- 2693
Public Seating Industry--- 2628
Seamless Hosiery Industry- 3065
Wood Furniture Manufacturing Industry---- 2628
Work Glove Industry---- 3065

Page

LABOR DEPARTMENT—Con.
Wage and Hour Division. *See also* Labor.
Appointments to executive positions without regard to Civil Service Rules--- 2105
Collins, Henry H., Jr., appointed to act on applications for:
Special Apprentice certificates---- 3045
Special Handicapped Worker's certificates---- 3045
Employers of industrial home workers, hearing on keeping of special, etc., records by---- 3159
Fair Labor Standards Act of 1938, hearings on amendments to Regulations (area of production)---- 2641, 2772, 2778, 2789, 2887
Learners, hearings on employment at less than minimum wage:
Apparel Industry---- 2763
Knitted Wear and Hosiery Industry ---- 2790
Pecan Shelling Industry--- 2908
Textile Industry---- 2671
Sifton, Paul, appointed Acting Administrator---- 2777
Textile Industry Committee, convening of---- 2315
Tobacco Association of United States, etc., application for exemption from maximum hours provisions--- 3192
Vincent, Merle D., appointed to act on applications for:
Special apprentice certificates---- 2777
Special handicapped worker's certificates---- 2777
Western Union Telegraph Co., etc., hearing, etc., employment of messengers at less than minimum wage---- 2489, 2694, 2883
LACLEDE GAS LIGHT CO., hearing; exemption from provisions of Public Utility Holding Company Act of 1935- 2612, 2910
LADY FAIR LABORATORIES, cease and desist order by Federal Trade Commission; sale of cosmetics, etc---- 2287
LADY FRANCES LABORATORIES, hearing; cease and desist order by Federal Trade Commission; sale of cosmetics--- 2228, 3040
LAE-Z COAL CO., order by National Bituminous Coal Commission ---- 2857
LAFERTY COAL CO., hearing by National Bituminous Coal Commission ---- 1516
LAKE ISOM MIGRATORY WATERFOWL REFUGE, TENN., establishment---- 1995

LANCASTER, ROBERT E., hearing, etc., by Securities and Exchange Commission 3115
LANCASTER SALTED NUT CO., cease and desist order by Federal Trade Commission; sale of salted nuts 2506
LANDRUM, A. B., hearing by Federal Trade Commission 2317
LANGE, C. E., suspension order by Securities and Exchange Commission 2258
LANGSAM, HYMAN AND ABRAHAM, hearing by Federal Trade Commission 2710
LAPEER STOCKYARDS, notice under Packers and Stockyards Act 1503
LASSEN VOLCANIC NATIONAL PARK, subsidiary regulations amended 2445
LATONIA, KY., special air traffic rule 1664
LAU, H. P., CO., hearing by Federal Trade Commission 1541
LAWRENCE GAS AND ELECTRIC CO., hearings; exemption from provisions of Public Utility Holding Company Act of 1935 1458, 1655, 1863
LEADERBRAND, R. E. AND GLADYS M., hearing by Federal Trade Commission 1542
LEARNERS. *See* Labor; Labor Department.
LEE, GEORGE H., CO., cease and desist order by Federal Trade Commission; sale of Gizzard Capsules, etc 1712
LEE SALES CO., cease and desist order by Federal Trade Commission; sale of merchandise 2517
LETELLIER-PHILLIPS PAPER CO., hearing; cease and desist order by Federal Trade Commission; buying and selling waste materials 1447, 2032
LEVEY COAL CO., order by National Bituminous Coal Commission 2857
LEVIN, NATHAN, MAXWELL, AND MORRIS W., cease and desist order by Federal Trade Commission; sale of citric acid, etc 2469
LEWIS, ROSEMARIE, hearing by Federal Trade Commission 2267
LEXINGTON UTILITIES CO.:
Hearing by Federal Power Commission 2791
Hearing by Securities and Exchange Commission 2211
LIBERTY COAL CO., order by National Bituminous Coal Commission 2857
LIBERTY FUEL CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
LICKING COUNTY, OHIO, agricultural conservation program supplement 2541
LIMA CORD SOLE AND HEEL CORP., order by Securities and Exchange Commission 2357
LIMA-KENTON GROCERY CO., hearing by Federal Trade Commission 1541
LINCOLN BOX CO., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
LINCOLN DENTAL SUPPLY CO., INC., hearing; cease and desist order by Federal Trade Commission; sale of dental products 1446, 2348
LINCOLN GARDENS PROJECT, New Brunswick, N. J., contract release forms adopted 2144
LINCOLN LOCKER CORP., hearing by Federal Trade Commission 1249
LINDABURY, H. R., AND SONS, cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
LINWOOD SALES CO., hearing by Federal Trade Commission 2708
LIPMAN BROTHERS, cease and desist order by Federal Trade Commission; sale of women's apparel 3041
LIQUIDATION MERCHANDISE CO., hearing; cease and desist order by Federal Trade Commission; sale of merchandise 1545, 2239
LIQUOR. *See also* Internal Revenue; Intoxicating Liquors.
Concessions at World's Fairs, New York and San Francisco 2256
LITER COAL CO., hearing by National Bituminous Coal Commission 2161, 2282
LIVESTOCK. *See* Agriculture Department: Animal Industry Bureau; Animals and Animal Products.
LOAD LINE REGULATIONS, amendments to Section D 2525
LOANS. *See also* Agricultural Credit; Bankhead - Jones Farm Tenant Act.
Corn. *See* Corn, this index.
Cotton. *See* Cotton, this index.
Emergency Relief Appropriation Act of 1938, orders, rules, etc., made applicable to 1619
Farms, inspection and sealing of agricultural commodities to be used as collateral 1805
Federal Deposit Insurance Corporation, loans on security of savings deposits 1528
Home Owners' Loan Corporation 1319, 1463
LOANS—Continued.
Indian cooperative associations, corporations, etc 1320–1330, 1406
Indian loans 1406, 2299
Rural electrification. *See* Rural Electrification Administration.
Rural rehabilitation loans 2129, 2733
LOCK JOINT PIPE CO., cease and desist order by Federal Trade Commission; sale of concrete pipe products 2027
LOCKHEED AIRCRAFT CORP., hearing by Securities and Exchange Commission 3048
LONE STAR GAS CORP.:
Acquisition and sale of securities approved by Securities and Exchange Commission 2097, 3185
Documents made part of record 2135
Effective date of declaration 2097, 3185
Notice of hearings 1881, 2642, 2751, 2765
LONG BEACH HARBOR, CALIF., anchorage ground regulations 2382
LONGNECKER, F. M., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT, administration regulations 2898
LOS ANGELES, CITY OF, hearings by Federal Power Commission 1249, 1396, 1457
LOS ANGELES HARBOR, CALIF., anchorage ground regulations 2382
LOU RAY CO., cease and desist order by Federal Trade Commission; sale of cosmetics, etc 2704
LOUISIANA:
Agricultural conservation program. *See* Agriculture.
Breton Bird Refuge, establishment 2389
Sugarcane crop for 1938, price determinations 2306
Tenant purchase loans, counties designated for 1761
Texas and Pacific Railway Company Bridge across Bayou Lafourche, Napoleonville, operation regulations 2116
White-fringed beetle State quarantine, hearing 2045
LOUISIANA ICE AND ELECTRIC CO., INC., hearing; effective date of declaration by Securities and Exchange Commission 1421, 1614
LOUISIANA PUBLIC SERVICE CORP.:
Effective date of declaration 2662
Hearing by Securities and Exchange Commission 1738

LOUISIANA STEAM GENERATING CORP., effective date of declaration by Securities and Exchange Commission 1695
LOUISVILLE POTTERY CO., cease and desist order by Federal Trade Commission; sale of pottery products 2029
LOWE, JEAN, COSMETIC CO., hearing by Federal Trade Commission 1543
LOWELL-LAWRENCE, MASS., MARKETING AREA, handling of milk, hearing 2363, 2431, 2872
LOWER SOURIS MIGRATORY WATERFOWL REFUGE, N. DAK., fishing regulations 2385
LUBBOCK AUCTION & COMMISSION CO., notice under Packers and Stockyards Act 2580
LUCAS, HERMAN:
Hearing by Securities and Exchange Commission 2145
Registration suspended 2764
LUGGAGE INDUSTRY, minimum wage determination 1733
LUKACHER, ISADORE H., AND BERT, hearing by Federal Commission 2629
LUM, JOHN H., notice under Packers and Stockyards Act 2877
LUM, RAY, notice under Packers and Stockyards Act 2650
LUMBER:
Import tax amendments 1632
Importations of, conflict with international agreements 1888
Imports, marking to indicate country of origin 2802
Invitations for bids, War Department 1710
LUMINO CO., INC., cease and desist order by Federal Trade Commission; sale of waterproofing, etc., material 1713

M

McCORD RADIATOR AND MANUFACTURING CO., unlisted trading privileges permitted by Securities and Exchange Commission 3116
McCOY, ED., hearing by National Bituminous Coal Commission 1516
McFETRIDGE, C. D., notice under Packers and Stockyards Act 2182
McGUIRE, JOHN F., hearing by Federal Power Commission 1340, 1396
McKEE, CHARLES S., cease and desist order by Federal Trade Commission; sale of agricultural seed 2347
McKEE, KNOX, notice under Packers and Stockyards Act 2877
McLAIN FIRE BRICK CO., exemption granted by National Bituminous Coal Commission 1368
McMILLEN, JAMES S., hearing by Federal Power Commission 1340, 1396
MACARONI, NOODLES, AND RELATED PRODUCTS INDUSTRY, trade practice rules by Federal Trade Commission 1283, 1660
MACHINE GUNS, tax regulations 1900
MacLEAN COAL CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
MacNAUGHTON, E. B., hearing reopened by Securities and Exchange Commission 3192, 3193
MADISON GAS AND ELECTRIC CO., hearing; issue and sale of bonds exempted by Securities and Exchange Commission 2653, 2794
MADISON MILLING CO., cease and desist order by Federal Trade Commission; sale of flour 1952
MAGAZINE MOUNTAIN PROJECT, ARK., lands transferred to Forest Service 1761
MAGIC CHEMICAL CO., cease and desist order by Federal Trade Commission; sale of hair preparations 1512
MAGNECOIL CO., INC., hearing by Federal Trade Commission 2257
MAHASKA COAL CO., hearing, etc., by National Bituminous Coal Commission 1956, 2161, 2282
MAHLER, TEOLINDA, cease and desist order by Federal Trade Commission; sale of electrolysis machines, etc 1713
MAIDA, N. DAK., designated port of entry for aliens 2021
MAINE:
Agricultural conservation program. *See* Agriculture.
Bangor, redesignated airport of entry 1540
Child labor, acceptance of State certificates 2500
Moosehorn Migratory Bird Refuge:
Enlargement 2138
Fishing regulations 1401
Tenant purchase loans, counties designated for 1692
MALDEN ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission 1936, 2126
MALL TOOL CO., cease and desist order by Federal Trade Commission; sale of engines or motors 2176
MALLORY COAL CO., ET AL., order by National Bituminous Coal Commission 1277
MALT BEVERAGES:
Labeling and advertising regulations amended 1515
Retailers, extension of credit to 2809
MANISTEE NATIONAL FOREST, MICH., lands reserved as 2577
MANNING, PAUL V., hearing by Federal Trade Commission 2318
MANUFACTURER'S BELT HOOK CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
MANUFACTURERS TRUST CO., hearing by Securities and Exchange Commission 2555, 2565
MANZELMAN, GEORGE F., effective date of declaration by Securities and Exchange Commission 2046
MARIETTA, OHIO, special air traffic rule 1664
MARINE INSPECTION AND NAVIGATION BUREAU. *See* Commerce Department; Navigation and Navigable Waters; Shipping.
MARITIME COMMISSION. *See* United States Maritime Commission.
MARKET STREET RAILWAY CO.:
Listing and registration orders by Securities and Exchange Commission 1870, 1993, 2714
Orders for hearings, etc 1397, 1434, 2046, 2433
Unlisted trading privileges denied 2013, 2795
MARQUETTE AIRLINES, INC., hearing, etc., by Civil Aeronautics Authority 2373, 2489, 2564
MARQUETTE NATIONAL FOREST, MICH., enlargement 2799
MARSHALL FIELD & CO., hearing by Securities and Exchange Commission 3048
MARTIN, GLENN L., CO., hearing by Securities and Exchange Commission 3048
MARVEL PRODUCTS CO., hearing by Federal Trade Commission 1340
MARVIN & SNEAD SALES CORP., hearing by Federal Trade Commission 2432
MARVO BEAUTY LABORATORIES, INC., cease and desist order by Federal Trade Commission; sale of toilet preparations 1366
MARYLAND:
Agricultural conservation program. *See* Agriculture.
Airspace reservation over certain areas 2435

MARYLAND—Continued. Page
Bush River, Pennsylvania Railroad Drawbridge regulations 2355
Child labor, acceptance of State certificates 2500
Eastern Shore Experimental Forest, Wicomico County, lands transferred to Forest Service for administration, etc 2635
Tenant purchase loans, counties designated for 1761
MASSACHUSETTS:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2500
Milk, hearings on handling of:
Greater Boston Marketing Area 2787
Lowell-Lawrence Marketing Area 2363, 2431, 2872
Tenant purchase loans, counties designated for 1935
MASSACHUSETTS POWER AND LIGHT ASSOCIATES, order by Securities and Exchange Commission 2652
MASSACHUSETTS UTILITIES ASSOCIATES:
Effective date of declaration by Securities and Exchange Commission 1864
Notice of hearings 1398, 1545
Withdrawal of application for exemption 2653
MASSENA SECURITIES CORP., hearing by Securities and Exchange Commission 2295
MASSILON-AKRON COAL CO., hearing by National Bituminous Coal Commission 1516
MASTER DISTRIBUTING CORP., hearing by Federal Trade Commission 2676
MASTER LOCK CO., cease and desist order by Federal Trade Commission; sale of padlocks 2349
MATAWAN TILE CO., complaint by Federal Trade Commission; sale of tile 2120
MATCHES, tax regulations 1860
MATHIESON ALKALI WORKS, INC., hearing by Federal Trade Commission 2134
MATSON NAVIGATION CO., hearing by United States Maritime Commission 2796
MATTERN, ROSS, hearing by National Bituminous Coal Commission 2502
MATTSON WIRE AND MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products 1845
MAUERMANN, MAX J., order by Securities and Exchange Commission 2749
MAXWELL, JOSEPH S., hearing by Securities and Exchange Commission 1411, 1504
MEAT INSPECTION, facilities for; imported meat and products 2561
MEDICAL BOOK DISTRIBUTORS, INC., cease and desist order by Federal Trade Commission; sale of books 1512
MEDICAL CORPS, ARMY, examination for appointment 1935, 2141, 3057
MEMPHIS UNION STOCK YARDS, notice under Packers and Stockyards Act 2651
MEN'S RAINCOAT INDUSTRY, notice on minimum wage for learners, handicapped workers, etc 3065
MERCHANDISE:
Antidumping, certain findings revoked 1287
Customs Regulations of 1937, amendment 1808
Merchandise subject to control, restriction, etc., by Federal agencies 1392
Sealed mail articles subject to duty 2855
Drawback, obsolete general regulations revoked 1607
Oil, lumber, etc., tax assessments on importations 1632
Vessel and aircraft supplies, taxes on gasoline, lubricating oil, matches, etc 1860
MERCO SALES CO., cease and desist order by Federal Trade Commission; sale of merchandise 2081
MERRILL-SAUNDERS CO., LTD., hearing by Federal Trade Commission 1542
MERRITT, JOHN C., cease and desist order by Federal Trade Commission; sale of merchandise 2081
MESSENGERS. *See* Labor; Labor Department.
METAL FURNITURE MANUFACTURING INDUSTRY, hearing on minimum wage determinations 2627
METALS (non-ferrous), income tax regulations on inventories of producers, etc 2361
METALS AND MINERALS RESEARCH BUREAU, hearing by Federal Trade Commission 2792
METROPOLITAN BOSTON RETAIL LIQUOR PACKAGE STORES ASSN., ET AL., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1629, 1630, 1631
METROPOLITAN DISTRIBUTING CO., cease and desist order by Federal Trade Commission; sale of clocks, etc 1859
METROPOLITAN EDISON CO., rehearing denied; investigation, etc., by Federal Power Commission 2571, 2790
METZLER McKEAN CORP., hearing; cease and desist order by Federal Trade Commission; sale of cosmetics 2228, 3040
MEXICO:
Automobiles and aircraft from, temporary free importation 1933
Bobwhite quail, importation from 2081
Convention for recovery and return of stolen or embezzled motor vehicles, etc., regulations effecting Articles I and II 2106
Livestock imports and exports, inspection and quarantine 3030
MEYER, M. J. & H. J., CO., INC., hearing by Federal Trade Commission 1541
MIAMI, FLA., airport of entry redesignated 2293
MICHIGAN:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2500
Huron National Forest, lands added 2496
Kalamazoo River, highway drawbridge regulations between Douglas and Saugatuck 2314
Manistee National Forest, lands reserved as 2577
Marquette National Forest, enlargement 2799
Sault Ste. Marie, airport of entry redesignated at 1902
Seney Migratory Waterfowl Refuge, fishing permitted 2803
Tenant purchase loans, counties designated for 1719
MICHIGAN ALKALI CO., cease and desist order by Federal Trade Commission; sale of calcium chloride 3058
MICHIGAN CONSOLIDATED GAS CO., hearing; acquisition of stocks approved by Securities and Exchange Commission 2164, 2283, 2419
MID-ATLANTIC CONCRETE PIPE AND PRODUCTS CO., cease and desist order by Federal Trade Commission; sale of concrete pipe products 2028
MID-CONTINENT AIRLINES, INC., hearings by Civil Aeronautics Authority 2806, 3046
MIDDLE RIO GRANDE CONSERVANCY DISTRICT, N. MEX., Pueblo Indian lands benefited by irrigation works of 1620

MIDDLE STATES FUELS, INC., hearing and order by National Bituminous Coal Commission 1830, 2508
MIDDLE WEST CORP.:
Effective date of declaration etc., by Securities and Exchange Commission 2012
Exemption from provisions of Public Utility Holding Company Act of 1935 1646, 2503, 2511
Notice of hearings 1775, 2247, 2295, 2471
MIDLAND UNITED CO., hearing by Securities and Exchange Commission 1774
MIDLAND UTILITIES CO., hearing and order by Securities and Exchange Commission 1921, 2023, 2267
MIDWEST COAL CO., order by National Bituminous Coal Commission 2857
MIDWEST GROCERY CO., cease and desist order by Federal Trade Commission; sale of groceries 2470
MIDWEST PUBLISHING CO., cease and desist order by Federal Trade Commission; sale of books 1896
MIGRATORY BIRDS. *See also* Wildlife.
Regulations of Secretary of Agriculture amended 1766
MILFORD RIVET & MACHINE CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
MILK, HANDLING OF. *See also* Agriculture; Agriculture Department: Agricultural Adjustment Administration.
Countervailing duties on milk products produced in The Netherlands 2543, 2802
MILLAR, ADELE, hearing by Federal Trade Commission 2264
MILLER GROWERS ASSN., hearing by Federal Trade Commission 2584
MILLER, ROY F., hearing by Federal Power Commission 1340, 1396
MILLER, THEODORE G., hearing by Federal Trade Commission 2492
MILLS ALLOYS, INC., hearing by Federal Trade Commission 2652
MILWAUKEE ELECTRIC RAILWAY AND LIGHT CO., hearing and orders by Securities and Exchange Commission 2318, 2539, 2564
MILWAUKEE ELECTRIC RAILWAY AND TRANSPORT CO., hearing, etc., by Securities and Exchange Commission 2455, 2539
MIMS, A. S., suspension order by Securities and Exchange Commission 2258
MINERAL RESOURCES:
Mines Bureau:
Electric mine lamps, requirements for permissibility, tests, and fees 1529
National Bituminous Coal Commission:
Arkansas, determination of character of coal produced 2154
Bituminous coal in intrastate commerce, investigations:
Alabama 1605
Colorado 2253
Montana 1565
Oklahoma 1606
Washington 1511
Wyoming 1606
Cost and realization data for 1938 required 2475
District Boards required to submit regulations for assessments 1879
District No. 13, minimum price proposals for coal produced in Tennessee; regulations 2058
Marketing rules and regulations approved (sale and distribution of coal):
Findings and conclusions 2917
Minimum Price Area No. 6:
District Board No. 16 2960
District Board No. 17 2966
District Board No. 18 2974
Minimum Price Area No. 7:
District Board No. 19 2977
District Board No. 20 2981
Minimum Price Area No. 9, District Board No. 22 2986
Minimum Price Area No. 10, District Board No. 23 2992
Mininum price proposals for kinds, qualities and sizes of coal to be submitted:
Minimum Price Area No. 1 1988
Minimum Price Areas Nos. 2, 3, 4, and 5 2057
Minimum Price Areas Nos. 6, 7, 9, and 10 1895
Minimum price proposals submitted by district boards, schedules approved 2915
Findings and conclusions 2917, 3074
Minimum Price Area No. 4, District No. 14 3074, 3076
Minimum Price Area No. 5, District No. 15 3074, 3091
Minimum Price Area No. 6:
District No. 16 2918
District No. 17 2924
District No. 18 2933
Minimum Price Area No. 7:
District No. 19 2938
District No. 20 2945
Minimum Price Area No. 9, District No. 22 2949
Minimum Price Area No. 10, District No. 23 2955
MINERAL RESOURCES—Con.
National Bituminous Coal Commission—Continued.
Minimum prices and marketing rules to be coordinated and submitted; regulations 2998, 3059, 3127, 3128
Rules of Practice and Procedure; amendment 1840, 2059
Sale and distribution of coal by code members, proposed rules to be submitted:
Minimum Price Area No. 1 1989
Minimum Price Areas Nos. 2, 3, 4, and 5 2058
Minimum Price Areas Nos. 6, 7, 9, and 10 1894
Sale and distribution of coal by code members, regulations approved:
Districts No. 14 and 15 3073
Districts Nos. 16 to 20, 22, and 23 2916
Thirty-day contract limitation 1951
Tonnage, weighted average of total costs determined:
Minimum Price Area No. 1 1987
Minimum Price Areas Nos. 2, 3, 4, and 5 2061
Minimum Price Areas Nos. 6, 7, 9, and 10 1893, 1905
MINIMUM WAGES. *See also* Public Contracts; United States Maritime Commission.
Handicapped persons in charitable institutions, etc 2670
Learners, hearings on employment of:
Apparel Industry 2763
Knitted Wear and Hosiery Industry 2790
Pecan Shelling Industry 2908
Textile Industry 2671
Men's Raincoat Industry, notice 3065
Messengers employed by Western Union Telegraph Co., etc 2489, 2694, 2883
Metal Furniture Manufacturing Industry, hearing 2627
Photographic Supplies Industry, hearing 2693
Public Seating Industry, hearing 2628
Seamless Hosiery Industry 3065
Wood Furniture Manufacturing Industry, hearing 2628
Work Glove Industry, notice 3065
MINING. *See* Mineral Resources; Public Lands: General Land Office.
MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY CO., hearing by Securities and Exchange Commission 2795

MINNESOTA:
- Agricultural conservation program. *See* Agriculture.
- Child labor, acceptance of State certificates 2693
- Chippewa Indian Cooperative Marketing Association, loans to 1320
- Grand Portage Reservation, lands restored to Chippewa Indians 2223
- New Upper Sioux Indian Community, reservation proclaimed 2562
- Tamarac Migratory Waterfowl Refuge:
  - Establishment 1255
  - Fishing regulations 1662, 2034
- Tenant purchase loans, counties designated for 1854
- Warroad, airport of entry redesignated 2158

MINNESOTA UTILITIES CO., hearing and order by Securities and Exchange Commission 1738, 2662

MINORS:
- Employment of, between ages 14 and 16 2532, 2627
- Hazardous occupations for, procedure for determination 2640
- State certificates of age, acceptance of 2500, 2531, 2627, 2693, 2773

MISSION IRRIGATION DISTRICT, MONT., operation and maintenance charges 1608

MISSISSIPPI:
- Ackia Battleground National Monument, establishment 2579
- Agricultural conservation program. *See* Agriculture.
- Lum Brothers Stock Yards, notice under Packers and Stockyards Act 2877
- Lum, Ray, notice under Packers and Stockyards Act 2650
- Moore & McCord Commission Co., notice under Packers and Stockyards Act 2181
- Tenant purchase loans, counties designated for 1719
- White-fringed beetle State quarantine, public hearing 2045

MISSISSIPPI SALES CO., INC., hearing; complaint by Federal Trade Commission; general merchandise broker 1888, 2769

MISSOURI:
- Agricultural conservation program. *See* Agriculture.
- Child labor, acceptance of State certificates 2500
- Motor carrier rates, investigation by Interstate Commerce Commission 1719, 1762
- St. Louis Marketing Area, hearing on handling of milk 2901
- Tenant purchase loans, counties designated for 1903

MISSOURI PACIFIC RAILROAD CO., order by Securities and Exchange Commission 2246

MISSOURI SERVICE CO., hearing; effective date of declaration by Securities and Exchange Commission 1517, 2126, 2127

MISSOURI UTILITIES CO., hearing by Securities and Exchange Commission 2818

MITCHELL, STAFFORD T., ET AL., hearing by Federal Trade Commission 2316

MOBILE AND OHIO RAILROAD CO., hearing by Securities and Exchange Commission 2816

MODE NOVELTY CO., hearing, etc., by Federal Trade Commission 2364

MODEL HOME SUPPLY CO., hearing by Federal Trade Commission 2710

MODERN AMERICAN CO., hearing by Federal Trade Commission 2317

MOHAIR, loan program, 1938, instructions amended 1400, 1617

MOLOKAI LIGHTHOUSE RESERVATION, HAWAII, boundary descriptions corrected and amended 2615

MOLYNEAUX, JOHN J., hearing postponed by Federal Power Commission 1396

MONARCH CHINA CO., hearing by Federal Trade Commission 1801

MONARCH STOVE TOP CO., hearing by Federal Trade Commission 1446

MONEY AND FINANCE: TREASURY:
- Accounts and Deposits:
  - Bonds executed by Bankers Indemnity Insurance Co., Newark, N. J., in favor of United States 1532
  - Federal bonds, corporations acceptable as sureties 1532, 2596
  - Payment of Government checks and warrants 1419
  - Public money, special deposits 1419
  - Special Mexican Claims Commission, payments on account of awards 1757
- Public Debt Service:
  - Reconstruction Finance Corporation 7/8% notes, offering of:
    - Series N 1715
    - Series P 2544
  - Treasury Bonds of 1947, 2%, offering of 2866
  - Treasury Bonds of 1950–52, 2½%, offering of 2204
  - Treasury Bonds of 1958–63, 2¾%, offering of 1333
  - Treasury Bonds of 1960–65, 2¾%, offering of 2865

MONEY AND FINANCE: TREASURY—Continued.
- Public Debt Service—Continued.
  - Treasury Notes, 1⅛%, offering of:
    - Series A–1943 1334, 2205
    - Series B–1943 2867
  - United States Bonds and Notes, delivery regulations 1566
  - United States Savings Bonds:
    - Regulations amended 2233, 3128
    - Series D, offering of 3135
- Secretary's Office:
  - Disclosure of official information 2065
  - Federal National Mortgage Association, securities designated for exemption under Securities Exchange Act of 1934 1419
  - Government Losses in Shipment Act, gold and silver exemption order amended 2281
  - Illustrations of United States postage stamps, regulations 2802
  - Navy contracts, excess profits on 2279
  - Silver, newly-mined domestic, acceptance by mints 1794

MONONGAHELA WEST PENN PUBLIC SERVICE CO., hearing; effective date of declaration by Securities and Exchange Commission 2879, 3175

MONSANTO CHEMICAL CO., hearing by Federal Trade Commission 2134

MONTANA:
- Agricultural conservation program. *See* Agriculture.
- Airports of entry designated:
  - Great Falls 1386
  - Havre 1386
  - Scobey 1657
- Bituminous coal in intrastate commerce, investigation 1565
- Child labor, acceptance of State certificates 2500
- Del Bonita:
  - Designated customs port of entry 1965
  - Designated port of entry for aliens 3057
- Flathead Indian Reservation:
  - Irrigation districts:
    - Assessments on land in non-Indian ownership for construction cost repayments 2009
    - Operation and maintenance charges; regulations 1608, 2011
- Grazing district modification 1233
- Range Conservation Program, 1938, Meagher County 1459, 2756
- Reservoir-Site Reserve No. 20, Tongue River 2072
- Stock driveway withdrawal modified 1539
- Tenant purchase loans, counties designated for 1957

MONTEZUMA MIGRATORY BIRD REFUGE, N. Y., establishment 2235

MONTGOMERY WARD & CO., INC., hearing by Securities and Exchange Commission 2550, 2575

MONTICELLO DRUG CO., hearing by Federal Trade Commission 1802

MOORE & McCORD COMMISSION CO., notice under Packers and Stockyards Act 2181

MOORE CORP., unlisted trading privileges denied by Securities and Exchange Commission 2816

MOORES CREEK NATIONAL MILITARY PARK, subsidiary regulation 2526

MOOSEHORN MIGRATORY BIRD REFUGE, MAINE:
- Enlargement 2138
- Fishing regulations 1401

MORIANI, HARRY, ET AL., hearing by Federal Trade Commission 2711

MORRELL, ELLIS, hearing by Federal Trade Commission 2257

MORRIS, CALLIE E., hearing by Federal Trade Commission 1420

MORRIS, HUGH M.:
- Declared not a holding company by Securities and Exchange Commission 1285
- Hearing and order on expense allowances, etc 1774, 2267

MORRISON, LOUIS, hearing by Federal Trade Commission 2502

MORRISTOWN NATIONAL HISTORICAL PARK, local subsidiary regulation 2303

MORTGAGE BANK OF CHILE, unlisted trading privileges denied by Securities and Exchange Commission 2817

MORTON SALT CO., order by Federal Trade Commission 2595

MOSAIC TILE CO., complaint by Federal Trade Commission; sale of tile 2119

MOSBY, G. H., hearing; cease and desist order by Federal Trade Commission; sale of medical preparations 2561

MOSES, G. M., cease and desist order by Federal Trade Commission; sale, etc., of hosiery 1428

MOTHER LODE GOLD MINES, hearing by Securities and Exchange Commission 2643

MOTOR BOAT ACT OF JUNE 9, 1910, inspection of steam vessels subject to 1243

MOTOR CARRIERS. *See* Interstate Commerce Commission; Transportation and Railroads.

MOUNT HOOD ELECTRIC CO., hearing by Federal Power Commission 2791

MOUNTAIN STATES POWER CO., hearings by Securities and Exchange Commission 1426, 2376

MUDDY CREEK REFUGE, ARK., redesignated as Ouachita National Wildlife Preserve 2587

MUIR, E. O., CO., hearing; complaint by Federal Trade Commission; sale of food products 1888, 2769

MULGREW & SONS, order by National Bituminous Coal Commission 2857

MUNITIONS. *See* Firearms.

MURDOC, RICHARD, hearing by Federal Trade Commission 2477

MUSKEGON GAS CO., acquisition of assets approved by Securities and Exchange Commission 2283

MYERS, CHARLES, hearing by Federal Trade Commission 2677

MYERS, GEORGE I., notice under Packers and Stockyards Act 2181

MYLES SALT CO., LTD., order by Federal Trade Commission 2595

N

NARCISSUS BULBS, treatment required revoked as condition of entry from Holland 2680

NARCOTICS BUREAU. *See* Food and Drugs.

NATCHEZ TRACE PARKWAY, regulations for use, management, etc 2040

NATIONAL AIRLINES, INC., exemption and hearings by Civil Aeronautics Authority 2489, 2527, 2518

NATIONAL AIRPORT CORP., use of military road for runway purposes revoked, Fort Myer Military Reservation, Va 1987

NATIONAL ASSOCIATION OF HOSIERY MANUFACTURERS, hearing by Wage and Hour Division 2790

NATIONAL ASSOCIATION OF HOUSE DRESS MANUFACTURERS, INC., hearing by Wage and Hour Division 2763

NATIONAL ASSOCIATION OF MEN'S SHIRTS AND BOYS' BLOUSE CONTRACTORS, INC., hearing by Wage and Hour Division 2763

NATIONAL ASSOCIATION OF SHIRT AND PAJAMA MANUFACTURERS, hearing by Wage and Hour Division 2763

NATIONAL BITUMINOUS COAL COMMISSION. *See* Interior Department; Mineral Resources.

NATIONAL COAL CO.:
- Hearing by National Bituminous Coal Commission 1367
- Petition on production cost data denied 1955

NATIONAL DEFENSE:
- National Guard:
  - Commissioned officers, appointment, examination, etc 3059

NATIONAL DISTILLERS PRODUCTS CORP., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1631

NATIONAL ECONOMIC COMMITTEE, employment of examiners, etc., to carry out functions of 1945

NATIONAL EMERGENCY COUNCIL, abolishment date extended 1358

NATIONAL EMPLOYEES TRAINING SERVICE, hearing by Federal Trade Commission 1543

NATIONAL FEDERATION OF TEXTILES, hearing by Wage and Hour Division 2671

NATIONAL FORESTS. *See also* Parks and Forests.
- Apalachicola, Fla., lands added 1505
- Arapaho, Colo., boundary adjusted 2445
- Chattahoochee, Ga., lands added 1961
- Chequamegon, Wis., lands added 2496
- Cochetopa, Colo., lands transferred to Rio Grande National Forest 3187
- Coconino, Ariz., lands excluded 2321
- Coronado, Ariz.:
  - Lands excluded 1399
  - Portion transferred to jurisdiction of Treasury Department 1944
- Deschutes, Oreg., lands added 2881, 2885
- Exchanges for consolidation or extension 1642
- George Washington, Va., and W. Va., boundaries redefined 2779
- Grand Mesa, Colo., boundary justed 2445
- Holy Cross, Colo., boundary adjusted 2445
- Huron, Mich., lands added 2496
- Idaho, transfers of land 2435
- Manistee, Mich., lands reserved as 2577
- Marquette, Mich., enlargement 2799
- Medicine Bow, Wyo., land withdrawal for lookout station 2883
- Nicolet, Wis., lands added 2495
- Ocala, Fla., lands added 1769
- Ouachita, Ark., lands added 2169
- Permits and leases for lands, stipulation required 2131
- Routt, Colo., boundary adjusted 2446

NATIONAL GAS & ELECTRIC CORP., trustees declared not a holding company by Securities and Exchange Commission 2365

NATIONAL GLASS DISTRIBUTORS' ASSN., cease and desist order by Federal Trade Commission; sale of glass— Page 3034

NATIONAL GUARD EQUIPMENT CO., hearing by Federal Trade Commission — 2598

NATIONAL GYPSUM CO., hearing by Securities and Exchange Commission— 3048

NATIONAL INSTITUTE FOR PHYSICAL ADVANCEMENT, hearing by Federal Trade Commission— 2266

NATIONAL INSTITUTE, INC., hearing by Federal Trade Commission — 1447

NATIONAL INSTITUTE OF WINE & SPIRIT DISTRIBUTORS, INC., cease and desist order by Federal Trade Commission; sale of whiskies, etc— 1629, 1630, 1631

NATIONAL LEAD CO., hearing; unlisted trading privileges extended by Securities and Exchange Commission— 1941, 3048

NATIONAL MONUMENTS. *See also* Parks and Forests: National Park Service.
- Ackia Battleground, Miss., establishment— 2579
- Arches, Utah, enlargement— 2782
- Chiricahua, Ariz., lands added— 1399
- Dinosaur, Colo., and Utah, enlargement— 1765
- Fort Laramie, Wyo., creation— 1768
- Walnut Canyon, Ariz., lands added — 2321
- White Sands, N. Mex., modification — 2129

NATIONAL OATS CO., hearing by Securities and Exchange Commission — 2816

NATIONAL PARK SERVICE. *See* Parks and Forests.

NATIONAL PRESS SERVICE, cease and desist order by Federal Trade Commission; sale of press clipping correspondence course, etc— 2638

NATIONAL PUMPS CORP., orders by Securities and Exchange Commission— 1877, 2142

NATIONAL RAYON WEAVERS ASSN., hearing by Wage and Hour Division— 2671

NATIONAL RETAIL LIQUOR PACKAGE STORES ASSN., cease and desist order by Federal Trade Commission; sale of whiskies, etc— 1629, 1630, 1631

NATIONAL RIFLE MATCHES, 1938, Camp Perry, Ohio, regulations— 1723

NATIONAL RIVET & MFG. CO., cease and desist order by Federal Trade Commission; sale of industrial rivets— 1528

NATIONAL SILVER CO., ET AL., cease and desist order by Federal Trade Commission; sale of silverplated ware— 1923, 1967, 2757

NATIONAL SUPPLY CO. OF PA., hearing by Securities and Exchange Commission— 2550, 2575

NATIONAL TILE CO., complaint by Federal Trade Commission; sale of tile— 2125

NATIONAL TRAINING INSTITUTE, INC., hearing by Federal Trade Commission— 1543

NATIONAL YOUTH ADMINISTRATION. *See also* Public Welfare.
- Executive Director, title changed to Administrator of— 3161

NATION-WIDE DISTRIBUTORS, hearing by Federal Trade Commission— 2708

NATURAL GAS ACT:
- Natural gas companies:
  - Information and data on rate schedules — 3173
  - Investigation of; filing of report— 1692
  - Provisional Rules of Practice and Regulations — 1681
  - Schedules of rates and charges and reports, filing of— 1694

NATURALIZATION. *See* Aliens and Citizenship.

NAVAJO INDIAN RESERVATION, ARIZ., N. MEX., conduct of trade regulations— 1690

NAVAL STORES CONSERVATION PROGRAMS. *See* Agriculture: Agricultural Adjustment Administration.

NAVIGATION AND NAVIGABLE WATERS:
- Marine Inspection and Navigation Bureau:
  - Employees of, compensation for overtime services— 3042
  - Line dividing the high seas from rivers, harbors, and inland waters designated and defined— 1478
  - Load Line Regulations, Section D amendments— 2525
  - Vessels:
    - Accident reports— 1242
    - Boiler and machinery examinations — 1246
    - Carrying of unauthorized lights prohibited— 1244, 1245
    - Certificated tanker men— 1246
    - Construction, alternative procedures for new designs or methods— 1242
    - Equipment, miscellaneous items approved— 1248
    - Fire-fighting equipment on vessels using oil fuel— 1247
    - Flue-openings in heads of externally fired boilers— 1243

NAVIGATION AND NAVIGABLE WATERS—Continued.
- Marine Inspection and Navigation Bureau—Continued.
  - Vessels—Continued.
    - Furnace crowns, repairing method— 1243
    - Gaskets — 1243
    - Inspection of steam vessels subject to Motor Boat Act provisions— 1243
    - Laws, General Rules and Regulations, and Pilot Rules to be furnished licensed officers— 1245
    - License suspension and revocation— 1245
    - Misconduct of licensed officers — 1245
    - Motion picture booth construction — 1246
    - Parting with license— 1246
    - Searchlights— 1244
    - Welded sea chests— 1243
    - Welding rods and electrodes— 1243
    - Whistles, unnecessary sound prohibited— 1244
- War Department:
  - Beaumont Navigation District lock and dam across Taylors Bayou, Tex., use, administration, etc— 1642
  - Chesapeake Bay, navigation regulations within firing range of Fort Monroe Military Reservation— 1288
  - Drawbridge regulations:
    - Bush River, Md., (Pa. R. R.) — 2355
    - Church Creek between Charleston and Rockville, S. C— 1567
    - Kalamazoo River between Douglas and Saugatuck, Mich— 2314
    - Saugatuck River, Westport, Conn— 2264
    - Three Mile Creek, Mobile, Ala. (Southern Railway System) — 2867
  - Los Angeles and Long Beach Outer Harbors, Calif., anchorage grounds— 2382
  - St. Petersburg Harbor, Fla., restricted area for maneuvering of seaplanes— 2579
  - Signal display, operation of craft working on wrecks, etc.:
    - Great Lakes, Red River of the North, etc— 2486
    - Harbors, rivers, inland waters of United States, except Great Lakes, etc— 2486

NAVY:
- Navy Department:
  - Supplies and Accounts Manual Bureau:
    - Purchase methods; release of bids on awards— 3147, 3151

NAVY DEPARTMENT. *See also* Navy.
- Land withdrawal, Calif., for naval purposes— Page 2679
- Life insurance policies for persons entering active naval service — 2289
- Navy contracts, excess profits on — 2279

NEBRASKA:
- Agricultural conservation program. *See* Agriculture.
- Child labor, acceptance of State certificates— 2693
- Farmers' Livestock Sales Co., notice under Packers and Stockyards Act — 2293
- McKee Sales Co., notice under Packers and Stockyards Act— 2877
- Motor carrier rates, investigation by Interstate Commerce Commission— 1719, 1762
- Northwestern Live Stock Commission Co., notice under Packers and Stockyards Act — 2181
- Omaha-Council Bluffs Marketing Area, hearing on handling of milk— 2871
- Tenant purchase loans, counties designated for— 1761
- Union Live Stock Commission Co., Inc., notice under Packers and Stockyards Act— 2651

NEBRASKA BRIDGE SUPPLY AND LUMBER CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products— 1845

NEEDLES GAS AND ELECTRIC CO.:
- Hearing by Securities and Exchange Commission— 2240
- Reorganization plan, etc., approved — 2492, 2600, 2630

NEPSCO APPLIANCE FINANCE CORP.:
- Effective date of declaration— 2765
- Hearing by Securities and Exchange Commission— 2765

NETHERLANDS:
- Chicory from, countervailing duties revoked— 2673
- Milk products from, countervailing duties suspended— 2543, 2802
- Narcissus bulbs (noninfested), treatment requirement revoked as condition of entry from — 2680

NEVADA:
- Agricultural conservation program. *See* Agriculture.
- Child labor, acceptance of State certificates— 2627
- Grazing district modifications— 1698
- Ruby Lake Migratory Waterfowl Refuge, establishment— 1639
- Shoshone Indians, reservation proclaimed for— 2705
- Tenant purchase loans, counties designated for — 2350

NEVADA-CALIFORNIA ELECTRIC CORP., hearing by Federal Power Commission— 1249, 1396, 1457

NEW BRUNSWICK POWER CO., hearing, etc., by Securities and Exchange Commission— 2358, 2528

NEW ENGLAND CAPITAL CORP., hearings and order by Securities and Exchange Commission— 2182, 2183, 2269, 2574, 3160

NEW ENGLAND POWER ASSN., hearing; effective date of declaration by Securities and Exchange Commission— 2751, 2902

NEW ENGLAND RAILROAD CO., hearing by Securities and Exchange Commission— 2612

NEW HAMPSHIRE:
- Agricultural conservation program. *See* Agriculture.
- Child labor, acceptance of State certificates— 2500
- Tenant purchase loans, counties designated for— 1935

NEW JERSEY:
- Agricultural conservation program. *See* Agriculture.
- Bankers Indemnity Co. of Newark, bonds executed in favor of United States— 1532
- Child labor, acceptance of State certificates— 2500
- Lincoln Gardens Project, New Brunswick, contract release forms — 2144
- Motor carrier rates, investigation by Interstate Commerce Commission— 1284, 1636
- Tenant purchase loans, counties designated for— 1936

NEW JERSEY FENCE CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products— 1845

NEW JERSEY POWER & LIGHT CO., investigation and hearing by Federal Power Commission— 1654, 1932, 2209

NEW JERSEY RETAIL LIQUOR PACKAGE STORES ASSN., ET AL., cease and desist order by Federal Trade Commission; sale of whiskies, etc— 1629, 1630, 1631

NEW MEXICO:
- Agricultural conservation program. *See* Agriculture.
- Child labor, acceptance of State certificates — 2500
- Clovis Livestock Sales Co., notice under Packers and Stockyards Act — 2598
- Grazing district modifications— 2239, 2283
- Navajo, Zuni and Hopi Indian Reservations, conduct of trade regulations — 1690
- Public lands, transfer of jurisdiction to Secretary of Interior— 2252

NEW MEXICO—Continued.
- Pueblo Indian lands, acreage benefited by irrigation works of Middle Rio Grande Conservancy District — 1620
- Rio Grande Project, reclamation withdrawal — 1869
- Tenant purchase loans, counties designated for— 1854
- White Sands National Monument, modification— 2129

NEW ORLEANS STOCK YARDS, INC., hearing by Securities and Exchange Commission— 2663

NEW ORLEANS, TEXAS & MEXICO RAILWAY CO., hearing and order by Securities and Exchange Commission— 1435, 2365

NEW YORK:
- Agricultural conservation program. *See* Agriculture.
- Airports of entry designated:
  - Buffalo— 1902
  - Niagara Falls— 1654, 1698
  - Plattsburg— 1386
  - Rochester — 2671
  - Thousand Islands Bridge— 1698
  - Watertown — 1386
- Child labor, acceptance of State certificates — 2500
- Fort Tyler Migratory Bird Refuge, establishment — 1945
- Montezuma Migratory Bird Refuge, establishment— 2235
- Motor carrier rates, investigation by Interstate Commerce Commission— 1284, 1636
- New York Metropolitan Marketing Area, handling of milk:
  - Base period to be used— 1957
  - Price announcements — 2100
  - Regulatory order; notice— 1849, 1945, 2102
- Tenant purchase loans, counties designated for— 1903

NEW YORK AND RICHMOND GAS CO., hearing by Securities and Exchange Commission — 3116

NEW YORK CENTRAL RAILROAD CO., hearing by Securities and Exchange Commission— 2551, 2575

NEW YORK COTTON EXCHANGE, INC., Wool Associates designated contract market for wool tops— 1269

NEW YORK DOCK CO., order by Securities and Exchange Commission — 1664

NEW YORK PREMIUM NOVELTY CO., hearing by Federal Trade Commission— 2677

NEW YORK SALES CO., hearing by Federal Trade Commission— 2711

79500—39——6

NEW YORK STATE ELECTRIC & GAS CORP.:
Exemption from provisions of Utility Holding Company Act of 1935.. 1341, 1614, 1882, 2769
Hearings by Securities and Exchange Commission... 1371, 2504, 2523, 2768, 2845
Withdrawal of application..... 3067
NEW YORK WORLD'S FAIR:
Proclamation inviting participation of foreign countries, etc..... 2821
Special air traffic rule, June 30, 1938..... 1589
NEWARK FELT NOVELTY CO., cease and desist order by Federal Trade Commission; sale of hats, etc..... 2506
NEWARK, N. J., bonds executed by Bankers Indemnity Co. in favor of United States..... 1532
NEWARK PAPER CO., cease and desist order by Federal Trade Commission; sale of food dish trays..... 3039
NEWFOUNDLAND, temporary free importation of automobiles from..... 1933
NEWPORT INDUSTRIES, INC., hearing by Securities and Exchange Commission..... 3048
NIAGARA FALLS, N. Y., airport of entry designated..... 1654, 1698
NIAGARA HUDSON POWER CORP., unlisted trading privileges extended by Securities and Exchange Commission... 1941
NICOLET NATIONAL FOREST, WIS., lands added..... 2495
NILES, C. W., notice under Packers and Stockyards Act..... 2431
NITKE, SAMUEL, hearing by Federal Trade Commission..... 2677
NO-FLATZ CO., cease and desist order by Federal Trade Commission; sale of auto tires, etc..... 2238
NOONTOOTLY NATIONAL GAME REFUGE, GA., change of name; boundaries re-defined..... 1357
NORFOLK AND WESTERN RAILWAY CO., order by National Bituminous Coal Commission..... 2159
NORFOLK SOUTHERN RAILROAD CO., hearing and order by Securities and Exchange Commission..... 1435, 2632
NORTH AMERICAN EDISON CO., hearing and order by Securities and Exchange Commission..... 2318, 2540
NORTH AMERICAN FINANCE CORP., hearing by Securities and Exchange Commission... 3180
NORTH BOSTON LIGHTING PROPERTIES, order by Securities and Exchange Commission..... 2652
NORTH CAROLINA:
Agricultural conservation program. *See* Agriculture.
Aircraft operation during Joint Anti-Aircraft-Air Corps Exercises of War Department.. 2234
Child labor, acceptance of State certificates..... 2500
Common carrier commodity rates, investigation by Interstate Commerce Commission..... 2019
Guilford Courthouse National Military Park, subsidiary regulations..... 2545
Tenant purchase loans, counties designated for..... 1877
NORTH DAKOTA:
Agricultural conservation program. *See* Agriculture.
Crosby, airport of entry redesignated..... 1540
Fort Berthold Indian Reservation, land restoration order.. 1860
Lower Souris Migratory Bird Refuge, fishing regulations.. 2385
Ports of entry for aliens designated:
Fortuna..... 1657
Maida..... 2021
Tenant purchase loans, counties designated for..... 1877
Western North Dakota Stockmen's Assn., authorized to conduct brand inspection.. 2285
NORTH WESTERN PRINTING HOUSE, INC., ET AL., hearing by Federal Trade Commission..... 2476
NORTHEAST GEORGIA PROJECT, GA., lands transferred to Forest Service for use, etc.. 1762
NORTHEASTERN WATER AND ELECTRIC CORP.:
Acquisition of securities approved..... 2165
Hearings by Securities and Exchange Commission... 1855, 1904
Withdrawal of declaration..... 2806
NORTHEASTERN WATER & ELECTRIC SERVICE CORP., hearing by Securities and Exchange Commission..... 2166
NORTHEASTERN WATER COMPANIES, INC.:
Hearing by Securities and Exchange Commission; withdrawal of declaration... 1448, 1615
Reorganization plan, withdrawal of report..... 3181
NORTHERN COUNTIES LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber, etc..... 1897
NORTHERN NATURAL GAS CO., hearings by Securities and Exchange Commission... 2912, 2913
NORTHERN PENNSYLVANIA POWER CO., hearings, etc., by Federal Power Commission..... 2571, 2790
NORTHERN STATES POWER CO. (DEL.):
Application and declaration approved by Securities and Exchange Commission.. 2911, 3180
Notice of hearings... 2127, 2434, 2880
NORTHERN STATES POWER CO. (WIS., MINN.):
Applications and declarations approved by Securities and Exchange Commission..... 3180
Notice of hearings..... 2127, 2434
NORTHWEST AIRLINES, INC., hearing by Civil Aeronautics Authority..... 2806
NORTHWESTERN LIVE STOCK COMMISSION CO., notice under Packers and Stockyards Act..... 2181
NOTICE OF HEARINGS. *See* agency holding hearings or name of person or company concerned.
NOVELCRAFTS CO., ET AL, cease and desist order by Federal Trade Commission; sale of candy..... 2031
NOVELTY PREMIUM CO., hearing by Federal Trade Commission..... 2710
NU-DEAL PREMIUM CO., hearing by Federal Trade Commission..... 2677
N-URG-IZER, VIT-O-NET, AND ELECTRONET, hearing; cease and desist order by Federal Trade Commission; sale of electric blankets, etc.... 1543, 2237
NURRE COMPANIES, INC., cease and desist order by Federal Trade Commission; sale of glass..... 3034
NURSERY STOCK, ETC., QUARANTINE, regulations modified..... 2822
NUTEX CO., cease and desist order by Federal Trade Commission; sale of rubber prophylactics..... 1366
NY PA NJ UTILITIES CO., hearing; acquisition of securities approved by Securities and Exchange Commission... 1636, 2523, 2678

O

O. K. TAILORING CO., hearing by Federal Trade Commission.. 1544
OATS, limits on position and daily trading for future delivery.. 3145
OCALA NATIONAL FOREST, FLA., lands added..... 1769
OFFICIAL RESEARCH BUREAU OF NEW YORK, INC., hearing by Federal Trade Commission..... 2522
OHIO:
Agricultural conservation program. *See* Agriculture.
Camp Perry, regulations for national rifle matches, 1938.. 1723

OHIO—Continued.
Child labor, acceptance of State certificates..... 2500
Marietta, special air traffic rule.. 1664
Sandusky, airport of entry redesignated..... 1386
Seventh World's Poultry Congress and Exposition, Cleveland, entry of articles for.. 2380
Tenant purchase loans, counties designated for..... 1692
Toledo Marketing Area, handling of milk:
Base period to be used, etc.. 1893
Regulatory order..... 2169, 2180
West Sister Island Migratory Bird Refuge, establishment..... 1943, 2047
OHIO BLOCK COAL CO., hearing by National Bituminous Coal Commission..... 1516
OHIO OIL CO., hearing by Securities and Exchange Commission..... 2551, 2575
OHIO POWER CO., hearing, etc., by Securities and Exchange Commission..... 2367, 2529
OIL AND GAS REGULATIONS, lease forms amended..... 2445
OILS:
Importations of:
Customs invoices, additional facts required..... 1640
Tax assessments and collections..... 1632
Lubricating, tax regulations amended..... 1860
Processing tax..... 1469
Royalty interest assignments in prospecting permits and leases..... 2774
OKEFENOKEE WILDLIFE REFUGE, GA., modification..... 2581
OKLAHOMA:
Agricultural conservation program. *See* Agriculture.
Bituminous coal in intrastate commerce, investigation... 1606
Child labor, acceptance of State certificates..... 2500
Choctaw and Chickasaw Nations, leasing of coal and asphalt deposits..... 1433
Indian lands, preference rights, sales, etc..... 1344
Indian Welfare Act:
Loans to cooperative and credit associations... 1321–1330
Loans to individual Indians.. 1406
Organization of cooperative associations..... 1323
Oklahoma City, special air traffic rule..... 1664
Salt Plains Wildlife Refuge, enlargement..... 1640
Tenant purchase loans, counties designated for..... 1692
OKLAHOMA ELECTRIC AND WATER CO., order by Securities and Exchange Commission..... 1426
OKLAHOMA POWER AND WATER CO., hearing by Securities and Exchange Commission..... 1878
OLD-AGE BENEFITS, regulations under Title II of Social Security Act..... 3006
OLEOMARGARINE, tax regulations amended giving effect to legislative enactments.... 1332
OLEOMARGARINE MANUFACTURING INDUSTRY, trade practice rules promulgated by Federal Trade Commission... 1396, 2322
OMAHA-COUNCIL BLUFFS MARKETING AREA, handling of milk, hearing on proposed marketing agreement, etc..... 2871
OMAHA RESERVATION, leasing of lands for agricultural, etc., purposes..... 1860
ONIONS, fumigation by methyl bromide when moving by refrigerator car..... 1769
OPIUM. *See* Food and Drugs: Narcotics Bureau.
ORANGE AND ROCKLAND ELECTRIC CO. OF N. J., notice by Federal Power Commission..... 3066
ORANGES:
Hearing on handling of, Fla.... 2872
Order regulating handling of, etc., Tex..... 2213, 2222
OREGON:
Agricultural conservation program. *See* Agriculture.
Cape Meares Migratory Bird Refuge, establishment..... 2047
Child labor, acceptance of State certificates..... 2500
Deschutes National Forest, lands added..... 2881, 2885
Deschutes Project, reclamation withdrawal..... 2904
Grazing district modification... 3021
Hops, handling of..... 1979
Klamath Project, addition to Tulelake Reclamation Townsite..... 2730
Owyhee Project:
Lands opened to entry; availability of water..... 2868
Reclamation withdrawal..... 2693
Pears, handling of:
Base period to be used, etc.. 2489
Marketing agreement, etc., hearing..... 2045
Regulatory order..... 2439
Power Site Reserve No. 730, partial revocation..... 2233
Prunes (fresh), handling of... 1779
Public Water Reserve No. 160.. 2755
Stock driveway withdrawals reduced; enlarged... 1241, 2131, 2802
Tenant purchase loans, counties designated for..... 2041
OREGON—Continued.
Timber sales from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands.. 1795
Unemployment compensation law, hearing on effect of change in..... 2914
Walnuts, hearing and order regulating handling of.... 2133, 2377
ORENSTEIN, MORRIS, hearing by Federal Trade Commission.. 2675, 2709
ORLAND IRRIGATION PROJECT, CALIF., water charges.. 2597
OSTLER CANDY CO., cease and desist order by Federal Trade Commission; sale of candy.. 2005
OTTER TAIL POWER CO., notice of applications by Federal Power Commission..... 2873
OUACHITA NATIONAL FOREST, ARK., lands added..... 2169
OUACHITA NATIONAL WILDLIFE PRESERVE, ARK., Muddy Creek Refuge enlarged and designated as..... 2587
OVAL WOOD DISH CORP., cease and desist order by Federal Trade Commission; sale of food dish trays..... 3039
OWEGO GAS CORP., hearing by Securities and Exchange Commission..... 2523, 2678
OWENS, C. V., AND SON AUCTION SALES COMMISSION CO., notice under Packers and Stockyards Act..... 2314
OWENSBORO, KY., designated tobacco market..... 2208
OWYHEE PROJECT, OREG.-IDAHO:
Lands opened to entry; availability of water..... 2868
Reclamation withdrawal..... 2693
OZARK NATIONAL FOREST, ARK., trespass regulation.... 2771

P

PACIFIC ALASKA AIRWAYS, INC., hearing by Civil Aeronautics Authority..... 2490
PACIFIC CHINA CO., hearing by Federal Trade Commission... 2265
PACIFIC FRUIT AND PRODUCE Co., hearing; complaint by Federal Trade Commission; sale of food products.... 1888, 2769
PACIFIC NORTHWEST PUBLIC SERVICE CO., hearing reopened by Securities and Exchange Commission..... 3192
PACK, ROBERT F., hearing postponed by Federal Power Commission..... 1396
PACKERS AND STOCKYARDS ACT. *See* Agriculture Department: Animal Industry Bureau.

PAGE POWER CO., hearing; exemption by Securities and Exchange Commission 1388, 2070
PAINT AND VARNISH BRUSH MANUFACTURING INDUSTRY, proposed trade practice rules by Federal Trade Commission 1831
PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, BROTHERHOOD OF, cease and desist order by Federal Trade Commission; glass glazing contract business 3034
PALAZZOLO, J., hearing by Federal Trade Commission 1800
PALM OIL, processing tax 1469
PAN AMERICAN AIRWAYS CO., hearings by Civil Aeronautics Authority 2489, 3046, 3174
PAN AMERICAN AIRWAYS, INC., exemptions, certificate of air transportation services 2103, 2451
PANAMA CANAL, THE, designated to establish Division of Personnel Supervision and Management 2271
PANAMA CANAL ZONE, narcotic tax regulations 1303
PANTEPEC OIL CO., OF VENEZUELA, unlisted trading privilege denied by Securities and Exchange Commission 2096
PAPER PLATE & TRAY, INC., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
PAPER SPECIALTY CORP., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
PARADISE CO., hearing by Federal Trade Commission 1541
PARAMOUNT PICTURES, INC.:
Hearings by Securities and Exchange Commission 2551, 2575, 3048
Unlisted trading privileges extended 1941
PARAMOUNT PRODUCTS CO., ETC., hearing by Federal Trade Commission 2492
PARDEE, C., WORKS, complaint by Federal Trade Commission; sale of tile 2120
PARKER, A. MERCER, hearing by Federal Trade Commission 2432
PARKER-McCRORY MANUFACTURING CO., hearing by Federal Trade Commission 2228
PARKS AND FORESTS:
Forest Service:
Lands conveyed to the United States:
Grantor's right to occupy and use 1953
Rights of way reserved by grantor 1954
PARKS AND FORESTS—Con.
Forest Service—Continued.
Lands conveyed to the United States—Continued.
Water rights reserved by grantor 1953
National forest timber sold on scale, regulations modified 3137
Ozark National Forest, Ark., trespass regulation 2771
National Park Service:
Grand Teton National Park, subsidiary regulation 2674
Guilford Courthouse National Military Park, subsidiary regulations 2545
Hopewell Village National Historic Site, Pa., designation 2039
Hot Springs National Park, subsidiary regulation 2012
Lassen Volcanic National Park, subsidiary regulations amended 2445
Moores Creek National Military Park, subsidiary regulation 2526
Morristown National Historical Park, subsidiary regulation 2303
Natchez Trace Parkway, regulations for use, management, etc 2040
Swift Creek Recreational Demonstration Area, subsidiary regulation 1963
PARKS, JOHN THOMAS, hearing; registration revoked by Securities and Exchange Commission 2229, 2844
PARRISH, JACK M., AND J. SCOTT, cease and desist order by Federal Trade Commission; sale of concrete pipes 2028
PARTAIN, EDWARD E., hearing by Federal Trade Commission 2572
PAR-TEX HOSIERY MILLS, hearing by Federal Trade Commission 2572
PASSPORTS, regulations by Secretary of State 1404
PATCH PREMEK CORP., hearing by Federal Trade Commission 2266
PATENT OFFICE. *See* Patents and Copyrights.
PATENTS AND COPYRIGHTS:
Copyright Office:
Registration of claims to copyright 2868, 3043
United States Patent Office:
Rules of practice, amendments 2429
PATTERSON, A. Z.:
Effective date of declaration by Securities and Exchange Commission 2230
Reorganization plan approved 1920, 1940
PATTERSON, DAVID C., order by Securities and Exchange Commission 2749
PATUXENT GAS CO., hearing, etc., by Securities and Exchange Commission 1832, 1922
PEACHES, handling of, Ga., hearing on marketing agreement, etc 2116
PEARS:
Export Apple and Pear Act, regulations amended 1769
Handling of, Oreg., Wash., and Calif.:
Proposed marketing agreement, etc., hearing 2045
Regulatory order, etc 2439, 2489
PEASE, C. F., CO., hearing by Federal Trade Commission 1420
PECAN SHELLING INDUSTRY, hearing on employment of learners at less than minimum wage 2908
PECAN WORKERS UNION OF SAN ANTONIO, hearing by Wage and Hour Division 2908
PEERLESS SALES CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
PENINSULA LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber, etc 1897
PENN RIVET CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
PENN WESTERN GAS & ELECTRIC CO., hearing; declaration, etc., approved by Securities and Exchange Commission 2478, 2910
PENNSYLVANIA:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2500
Gettysburg Battlefield, special air traffic rule 1614
Hopewell National Historic Site, designation 2039
Motor carrier rates, investigation by Interstate Commerce Commission 1284, 1636
Philadelphia, drawbridge regulations for Frankford Creek at Bridge Street 2138
Standing Stone Experimental Forest, Huntingdon County, lands transferred to Forest Service 2314
Tenant purchase loans, counties designated for 1903
PENNSYLVANIA-CENTRAL AIRLINES CORP.:
Certificate of air transportation service, exemption 2066
Hearing by Civil Aeronautics Authority 2873

PENNSYLVANIA-CENTRAL AIRLINES CORP.—Continued.
Tariff revision, filing, posting, etc 2675
PENNSYLVANIA ELECTRIC CO.:
Order and hearing by Federal Power Commission 2571, 2790
Order by National Bituminous Coal Commission 2160
PENNSYLVANIA INVESTIGATING CORP., hearing by Securities and Exchange Commission 3160
PENNSYLVANIA POWER CO., hearing and order by Securities and Exchange Commission 2859, 3175
PENNSYLVANIA RAILROAD DRAWBRIDGE, regulations across Bush River, Md 2355
PENNSYLVANIA SALT MANUFACTURING CO., hearing by Federal Trade Commission 2134
PENNSYLVANIA WATER AND POWER CO., investigation and hearing by Federal Power Commission 2651, 2842
PENNY STORES, INC., hearing; complaint by Federal Trade Commission; operation of chain grocery stores 1888, 2769
PENSIONS, BONUSES AND VETERANS' RELIEF:
Veterans' Administration:
Awards, amendments and discontinuances 2288
Burial and funeral expenses, etc., of veterans 3017
Civilian Conservation Corps, selection of Veterans' contingent 1276
Claims and supporting evidence, filing of 2430
Death pensions and benefits:
Accrued amounts due and unpaid at death 3017
Death of veteran due to service 1758
Increase on account of posthumous child 3017
Pensionable and compensable service 2705
Rates for widows, children parents 1253, 1758, 2083
Survivors of World War veterans 1250
Disability compensation, application for increase based upon physical condition 2082
Disallowances and awards 1424
Hospital and domiciliary care 3019
Insane veterans 2537
Reduction in service pension for 2705
Information concerning claimants and beneficiaries, release of 3016
Insurance applied for by persons entering active military or naval service, effective date 2289
PENSIONS, BONUSES AND VETERANS' RELIEF—Con.
Veterans' Administration—Con.
Occupational therapy 2083
Orthopedic and prosthetic appliances 2604
Pensions, determinations as to basic entitlement and service connection 2287
Service computation 2288
Service requirements; rates, peace-time service 2537
Veterans' personal effects and funds on station upon death, discharge, etc., disposition of 2289
PEOPLES LIGHT AND POWER CORP., trustees declared not a holding company 1285
PEOPLES LIGHT CO., hearing and order by Securities and Exchange Commission 2166, 2731
PEOPLES WATER AND GAS CO., effective date of declaration by Securities and Exchange Commission 1289
PERFECT MANUFACTURING CO., INC., cease and desist order by Federal Trade Commission; sale of auto tires, etc 2238
PERFECT RECOGNITION SPARK PLUG CO., hearing by Federal Trade Commission 1421
PERFEKTUM PRODUCTS CO., hearing by Federal Trade Commission 2792
PERGANDE INSTITUTE, ET AL, cease and desist order by Federal Trade Commission; sale of instruction courses for Civil Service examinations 1898
PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930, regulations to carry out provisions of 2208
PERMA MAID CO., INC., hearing by Federal Trade Commission 2316
PERMIAN OIL & GAS CO., withdrawal of application with Securities and Exchange Commission 2259
PERSONNEL SUPERVISION AND MANAGEMENT DIVISIONS, establishment in Federal agencies 2271
PETERS, KARL W., hearing by Federal Trade Commission 2266
PETRIE, JOHN, cease and desist order by Federal Trade Commission; sale of medical products 1906
PETTIS, DONALD L.:
Effective date of declaration by Securities and Exchange Commission 2230
Reorganization plan approved 1920, 1940
PHILIP MORRIS & CO., LTD., INC.:
Hearing by Federal Trade Commission 2708
Unlisted trading privileges extended by Securities and Exchange Commission 1941
PHILIPPINE ISLANDS:
Narcotic drugs, tax regulations 1302
Sugar, proration of 1938 deficit 1391
PHOENIX OIL CO., hearing by Securities and Exchange Commission 2714
PHOSPHATE, leases or use permits for mining 1795
PHOTOGRAPHIC SUPPLIES INDUSTRY, hearing on minimum wage determinations 2693
PICARD, RICHARD, cease and desist order by Federal Trade Commission; sale of cosmetics, etc 3037
PIERCE OIL CORP., order by Securities and Exchange Commission 1665
PINCUS, J. W., cease and desist order by Federal Trade Commission; sale of candy 2031
PINK BOLLWORM QUARANTINE, cotton regulations modified 1618, 2735
PIOU, HERBERT H., cease and desist order by Federal Trade Commission; sale of glass 3034
PITTSBURGH COAL CO., order by National Bituminous Coal Commission 1277
PITTSBURGH PLATE GLASS CO., cease and desist order by Federal Trade Commission; sale of glass 3034
PITTSBURGH STEEL CO., order by National Bituminous Coal Commission 2159, 2160
PITTSBURGH TERMINAL COAL CORP.:
Hearings, etc., by Securities and Exchange Commission 1434, 2552, 2575
Listing and registration order 2631
PLANT INDUSTRY BUREAU. *See* Agriculture.
PLATE, ROBERT THEODORE, hearing by Federal Trade Commission 2317
PLATORO GOLD MINES, INC., stop order by Securities and Exchange Commission 2259
PLATTSBURG, N. Y., redesignated airport of entry 1386
POLITIS, HARRY, hearing by Federal Trade Commission 2257
POPPER & KLEIN, hearing by Federal Trade Commission 2792
POPULAR PRODUCTS CORP., hearing by Federal Trade Commission 2709

PORT GAMBLE BAND OF CLALLAM INDIANS, reservation proclaimed, Wash.— 1867
PORTLAND ELECTRIC POWER CO., hearing reopened by Securities and Exchange Commission— 3192, 3193
PORTLAND GENERAL ELECTRIC CO.:
Hearing by Federal Power Commission— 2675, 2791
Hearing reopened by Securities and Exchange Commission— 3193
PORTS OF ENTRY:
Airports of entry. *See* Treasury Department: Customs Bureau.
Aliens. *See* Aliens and Citizenship.
Customs ports of entry designated:
Del Bonita, Mont.— 1965
St. Petersburg, Fla.— 1749
POST, FREDERICK, CO., hearing by Federal Trade Commission— 1420
POST OFFICE DEPARTMENT. *See also* Postal Service.
Employees, free travel on air lines— 2209, 2638
Interdepartmental Committee on Printing and Binding, representative to be designated— 2603
Postal Service, temporary clerks, etc., for holiday business— 2733
POSTAGE STAMPS, UNITED STATES, black-and-white illustrations of— 2802
POSTAL CO., cease and desist order by Federal Trade Commission; sale of books— 3042
POSTAL SERVICE. *See also* Post Office Department.
Air Mail Service Division transferred to supervision of First Assistant Postmaster General; duties, etc— 1991, 2356
First Assistant Postmaster General, duties— 2356
International Postal Service Division, duties relating to foreign air mail service— 2356
Postage rates on books, modifications— 2588, 2662
Second Assistant Postmaster General, duties— 2356
POSTAL TELEGRAPH, hearing on employment of messengers at less than minimum wage— 2489, 2694, 2883
POTATO ACT OF 1935, tax refunds authorized— 1969
POULTRY:
Inspection and certification for condition and wholesomeness— 2767
Interstate transportation control to prevent spread of diseases— 1840
POULTRY CONGRESS AND EXPOSITION, Cleveland, Ohio, entry of articles for exhibition— 2380
POWER, CONSERVATION OF:
Federal Power Commission:
Annual financial and statistical report, F. P. C. Form No. 1, revised schedules, etc— 2582
Electric utilities and licensees, Classes C and D, annual financial and statistical report— 2254, 2255
Natural Gas Act, Provisional Rules of Practice and Regulations— 1681
Natural-gas companies to submit information and data specified in— 3173
Public utilities and licensees, preservation of records— 2421
POWER SITE RESERVE NO. 730, OREG., partial revocation— 2233
PREMIO SALES CO., INC., hearing by Federal Trade Commission— 2710
PRESIDENT, THE:
Executive Orders:
Alaska, public lands:
Placed under control of Secretary of Interior— 2800
Reservation for lighthouse purposes, description corrected— 1944
Withdrawal for town-site purposes modified— 2883
Withdrawal in aid or flood control— 2861
Withdrawals revoked— 1639, 2072
Aliens entering the United States, documents required of— 3177
American Republics, instruction of citizens at educational institutions maintained by United States Government— 2105
Arizona, land withdrawal revoked— 1995
Arkansas, land withdrawal for lookout station— 1995
Army, grades and ratings of enlisted men for fiscal year 1939— 2235
Attorney General, authorized to sell certain property held under Trading With the Enemy Act— 1255
Back Bay Migratory Waterfowl Refuge, Va., establishment— 1358
Bankhead-Jones Farm Tenant Act, lands transferred to Secretary of Agriculture for use, etc., under— 1389
Big Lake Migratory Bird Refuge, Ark., change of name; lands added— 2747
Breton Bird Refuge, La., establishment— 2389
PRESIDENT, THE—Continued.
Executive Orders—Continued.
California, land withdrawals for:
Navy Department for naval purposes— 2679
Reservoir-Site Reserve No. 21, Cache Creek— 2756
Canada, limiting importation of red cedar shingles from— 1965
Cape Meares Migratory Bird Refuge, Oreg., establishment— 2047
Cerro Pelado Ammunition Depot Military Reservation, Canal Zone, lands set apart as— 2322
Civil Areonautics Authority, certain personnel, property, etc., transferred from Commerce Department and Interstate Commerce Commission— 2071
Civil Service Rules, general amendment— 1519
Postal Service, temporary clerks, etc., for holiday business— 2733
War Department, classified positions in Ordnance Department at Large— 2359
Cochetopa National Forest, Colo., lands transferred to Rio Grande National Forest— 3187
Competitive Classified Civil Service, extension— 1526
Convention between United States and Mexico for recovery and return of stolen or embezzled motor vehicles, etc., regulations— 2106
Coronado National Forest, Ariz., land jurisdiction transferred— 1944
Del Bonita, Mont., designated customs port of entry— 1965
District of Columbia, airspace reservation established— 1437
Federal employees excused from duty on December 24 and 31, 1938— 2883
Florida, lands transferred to Commerce Department and reserved as Welaka Fish Hatchery— 2633
Foreign currency appreciation, payment of losses to officers, enlisted men, etc— 2015, 2249, 2861
Foreign Service Regulations of the United States:
Consolidation of Consular Regulations and Instructions to Diplomatic Officers into— 1749
Foreign Service Accounts— 2185
Negotiation of treaties— 2847
Fort Tyler Migratory Bird Refuge, N. Y., establishment— 1945

PRESIDENT, THE—Continued.
Executive Orders—Continued.
Government agencies required to establish Divisions of Personnel Supervision and Management— 2271
Great White Heron Refuge, Fla., establishment— 2581
Hawaii, title to certain public lands transferred to— 1437
Idaho, transfers of national forest lands— 2435
Indian lands, extension of trust periods expiring during 1939— 2435
Interdepartmental Committee on Printing and Processing, establishment— 2603
Interior Department, certain employees in Grazing Division permitted to hold Federal and State offices— 1945
Kentucky Woodlands Wildlife Refuge, Ky., establishment— 2137
Lake Isom Migratory Waterfowl Refuge, Tenn., establishment— 1995
Maryland, airspace reservation over certain areas— 2435
Molokai Lighthouse Reservation, Hawaii, boundary descriptions corrected and amended— 2615
Montezuma Migratory Bird Refuge, N. Y., establishment— 2235
Moosehorn Migratory Bird Refuge, Maine, enlargement— 2138
National Economic Committee, employment of examiners and experts— 1945
National Emergency Council, abolishment date extended— 1358
National Youth Administration, title of Executive Director changed to Administrator of— 3161
New Mexico, jurisdiction over certain lands transferred to Secretary of Interior— 2252
Office of Administrator of Census of Partial Employment, Unemployment and Occupations, records and property transferred to Secretary of Commerce— 2603
Okefenokee Wildlife Refuge, Ga., modification— 2581
Power Site Reserve No. 730, Oreg., partial revocation— 2233
Public Water Reserve No. 160, Calif., Idaho, Oreg., and Wyo., public land withdrawal for— 2755
Public Water Restoration No. 81, Wyo., Ariz., and Calif.— 2679
Public Works Administration Appropriation Act of 1938, employment of personnel without regard to Civil Service Rules— 2047
PRESIDENT, THE—Continued.
Executive Orders—Continued.
Quetico-Superior Committee, existence extended to June 30, 1942— 1625
Reorganization of Executive agencies, disbursement functions by United States Marshals, Justice Department— 2359
Reservoir-Site Reserve No. 20, Tongue River, Mont.— 2072
Rhode Island, jurisdiction over certain lands transferred to Secretary of Interior— 1257
Ruby Lake Migratory Waterfowl Refuge, Nev., establishment— 1639
St. Marks Migratory Bird Refuge, Fla., enlargement— 2262
St. Petersburg, Fla., designated customs port of entry— 1749
Salt Plains Wildlife Refuge, Okla., enlargement— 1640
Special Mexican Claims Commission, powers, rights, and duties terminated— 1423
Tamarac Migratory Waterfowl Refuge, Minn., establishment— 1255
Tax returns (income and excess-profits), inspection by Special Joint Congressional Committee to make an investigation of Tennessee Valley Authority— 2680
Tax returns (income, excess-profits, capital stock) and returns under Title IX of Social Security Act, inspection authorized— 2679
Tax returns, inspection by Special Committee on Un-American Activities, House of Representatives— 1943
Union Slough Migratory Waterfowl Refuge, Iowa:
Establishment— 2261
Land description corrected and amended— 2821
Wage and Hour Division, Labor Department, initial appointments to executive positions without regard to Civil Service Rules— 2105
Waubay Migratory Waterfowl Refuge, S. Dak., enlargement— 2783
West Sister Island Migratory Bird Refuge, Ohio, establishment— 1943, 2047
Wheeler Migratory Waterfowl Refuge, Ala., establishment— 1669
Wyoming, public lands:
Withdrawal for forest lookout station— 2883
Withdrawal revoked for rifle practice— 2567
Withdrawals revoked— 1944, 2861
PRESIDENT, THE—Continued.
Proclamations:
Ackia Battleground National Monument, Miss., establishment— 2579
Apalachicola National Forest, Fla, lands added— 1505
Arches National Monument, Utah, enlargement— 2782
Armistice Day, 1938— 2577
Chattahoochee National Forest, Ga., lands added— 1961
Chequamegon National Forest, Wis., lands added— 2496
Coconino National Forest, Ariz., lands excluded and added to Walnut Canyon National Monument— 2321
Coronado National Forest, Ariz., lands excluded and added to Chiricahua National Monument— 1399
Deschutes National Forest, Oreg., lands added— 2881, 2885
Dinosaur National Monument, Colo., and Utah, enlargement— 1765
Emergency Board, Atchison, Topeka & Santa Fe Railway and Other Carriers—Employees— 2321
Fire Prevention Week—1938— 2261
Fort Laramie National Monument, Wyo., lands reserved as— 1768
General Pulaski Memorial Day— 2147
George Washington National Forest, Va. and W. Va., boundaries redefined— 2779
Gold Star Mother's Day— 2241
Huron National Forest, Mich., lands added— 2496
Manistee National Forest, Mich., lands reserved as— 2577
Marquette National Forest, Mich., enlargement— 2799
Migratory Bird Treaty Act:
Closed area under, vicinity Aransas Migratory Waterfowl Refuge, Tex— 2807
Regulations amended— 1766
New York World's Fair and Golden Gate International Exposition at San Francisco, inviting participation in— 2821
Nicolet National Forest, Wis., lands added— 2495
Noontootly National Game Refuge, Ga., name changed from Cherokee National Game Refuge No. 2; boundaries redefined— 1357
Ocala National Forest, Fla., lands added— 1769
Ouachita National Forest, Ark., lands added— 2169
Ouachita National Wildlife Preserve, Ark., Muddy Creek Refuge enlarged and designated as— 2587

PRESIDENT, THE—Continued. Page
Proclamations—Continued.
Postage rates on books, modification of 2588
Thanksgiving Day—1938 2755
White Sands National Monument, N. Mex., modification 2129
Trade agreements, application of duties proclaimed to articles of certain foreign countries 2323, 2808

PRESSED STEEL CAR CO., INC., hearing by Securities and Exchange Commission 2552, 2575

PRIMROSE HOUSE, INC., hearing by Federal Trade Commission 2386

PRINTING AND PROCESSING, INTERDEPARTMENTAL COMMITTEE, establishment 2603

PRIZE MEDAL LABORATORIES, cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287

PROCLAMATIONS. *See* President, The.

PROCUREMENT DIVISION. *See* Treasury Department.

PRODUCERS CORP., order by Securities and Exchange Commission 1665

PRODUCTION CREDIT ASSOCIATIONS. *See* Agricultural Credit: Farm Credit Administration.

PROGRESSIVE EDUCATION SOCIETY, INC., cease and desist order by Federal Trade Commission; sale of books 2061, 2062

PROJECTS. *See also* Indians; Rural Electrification Administration.
Colorado River Storage Project, reclamation withdrawal 2245
Columbia Basin, Wash., reclamation withdrawal 2040
Deschutes, Oreg., reclamation withdrawal 2904
Farm Security Administration, employment, wages, etc., for non-appointive workers 1708
Kings River, Calif., reclamation withdrawal 2040
Klamath, Oreg.-Calif., addition to Tulelake Reclamation Townsite 2730
Land utilization projects:
Delegations of authority for functions 1786, 1867
Protection, occupancy, etc., by Forest Service 1755
Lincoln Gardens, New Brunswick, N. J., contract release forms 2144
Low rent housing:
Construction contracts 1908
Use of foreign and domestic materials 1900
Magazine Mountain, Ark., lands transferred to Forest Service for use, etc 1761

PROJECTS—Continued. Page
National Youth Administration projects 1913, 1914
Northeast Georgia Project, Ga., lands transferred to Forest Service for use, etc 1762
Owyhee, Idaho-Oreg.:
Lands opened to entry; availability of water 2868
Reclamation withdrawal 2693
Rio Grande, N. Mex., reclamation withdrawal 1869
Rio Grande Rectification, El Paso-Juarez Valley, maintenance regulations 2297
San Carlos, Ariz., standard rate schedules for electricity 1607
Shoshone, Wyo., lands opened to entry; availability of water 1716
Tanana River and Chena Slough flood-control project, Alaska, land withdrawal for 2861
Wildlife restoration, etc., regulations 1713
Works Progress Administration:
Monthly earnings 1912
Rates of pay, hours of work, conditions of employment, etc 1916
Supply fund for materials and equipment 1918

PRO-KER LABORATORIES, INC., cease and desist order by Federal Trade Commission; sale of hair preparations 2241

PROSTEX CO., hearing by Federal Trade Commission 1542

PROTEX-U-HYGIENIC SERVICE, hearing by Federal Trade Commission 1542

PROVIDENCE GAS CO., hearing by Securities and Exchange Commission 1667

PROVINCE OF BUENOS AIRES (Argentine Republic), hearing and order by Securities and Exchange Commission 2471, 2749, 3115

PRUNES (FRESH), handling of, Oreg. and Wash., base period; regulatory order 1779

PUBLIC CONTRACTS:
Public Contracts Division:
Minimum wage determinations:
Aeroplanes, Aircraft Engines, Propellers, Accessories, etc., Manufacturing Industry 3043
Envelope Industry, decision amended 1613
Fireworks Industry 2370
Flint Glass Industry 1612
Luggage Industry 1733
Saddlery Industry 1733
Tag Industry 2537
Wool Carpet and Rug Industry 2371

PUBLIC CONTRACTS DIVISION. *See* Labor Department; Public Contracts.

PUBLIC DEBT SERVICE. *See* Money and Finance: Treasury. Page

PUBLIC HEALTH AND EDUCATION:
Public Health Service:
Arsphenamines, control of manufacture, importation, and sale of 1620
Social Security Act, allotments and payments to States from funds appropriated 1634
Venereal diseases, allotments to States for control measures, 1939 1828

PUBLIC HEALTH SERVICE. *See* Public Health and Education.

PUBLIC LANDS. *See also under* names of States.
General Land Office:
Air navigation site withdrawals, etc.:
California 1690
Colorado 1862
Utah 1642, 1690, 1862
Wyoming 1862, 2326
Alaska:
Reindeer grazing regulations 1335
Survey and disposal of native towns and Indian possessions in trustee towns 1653
Timber, free use by churches, hospitals, etc 2066
Arapaho and Holy Cross National Forests, boundaries adjusted 2445
Grand Mesa National Forest, Colo., boundary adjusted 2445
Mineral Leasing Acts:
Disposition of fees accompanying applications 1800
Stipulation for permits and leases of lands in national forests 2131
National forests, exchanges for consolidation or extension 1642
Oil and gas prospecting permits and leases, assignment of royalty interest 2774
Oil and gas regulations, lease forms amended 2445
Oregon, sale of timber from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands 1795
Phosphate, leases or use permits for mining of 1795
Rights of way for canals, ditches, reservoirs, water pipe lines, etc 1233
Routt National Forest, Colo., boundary adjusted 2446
Stock driveway withdrawals, etc.:
Arizona 2693, 2774
Colorado 2500
Idaho 2597, 2670
Montana 1539
Oregon 1241, 2131, 2802
Wyoming 3137

PUBLIC LANDS—Continued. Page
General Land Office—Con.
Taylor Grazing Act:
Disposition of conflicting applications 1335
Exchanges of State lands, regulations amended 1367
Public sale applications for lands in grazing districts 1508
Ute Indian lands, Colo., land order revoked 3021
Grazing Division:
Federal Range Code:
Administration of grazing districts 2100
Supplementary rules 1533
Grazing district modifications, etc.:
Arizona 1795, 3021
Colorado 1233, 1508, 1870, 2157, 2526
Montana 1233
Nevada 1698
New Mexico 2239, 2883
Oregon 3021
Utah 1539, 1870, 2243, 2856
Reclamation Bureau:
Klamath Project, Oreg.-Calif., addition to Tulelake Reclamation Townsite 2730
Orland Irrigation Project, Calif., water charges 2597
Owyhee Irrigation Project, Oreg.-Idaho, lands opened to entry; availability of water 2868
Reclamation withdrawals:
Colorado River Storage Project 2245
Columbia Basin Project, Wash 2040
Deschutes Project, Oreg 2904
Kings River Project, Calif 2040
Owyhee Project, Idaho-Oreg 2693
Rio Grande Project, N. Mex 1869
Riverton Irrigation Project, annual water charges 2706
Shoshone Irrigation Project, Wyo., lands opened to entry; availability of water 1716
Rhode Island, jurisdiction over certain lands transferred to Secretary of Interior 1257

PUBLIC MONEYS:
Payment of Government checks and warrants 1419
Special deposits 1419

PUBLIC PROPERTY, sale by the Attorney General under Trading With the Enemy Act 1255

PUBLIC ROADS BUREAU. *See* Highways.

PUBLIC SEATING INDUSTRY, hearing on minimum wage determinations 2628

PUBLIC SERVICE CO. OF COLO., hearing and order by Securities and Exchange Commission 2796, 3047

PUBLIC SERVICE CO. OF IND., order by Securities and Exchange Commission 2387

PUBLIC SERVICE CO. OF N. H.:
Effective date of declaration 2879
Exemption from provisions of Public Utility Holding Company Act of 1935 1250
Hearing by Securities and Exchange Commission 2672

PUBLIC SERVICE CO. OF NORTHERN ILLINOIS, withdrawal of application with Securities and Exchange Commission 2357, 2358

PUBLIC SERVICE CO. OF OKLA.:
Hearing by Securities and Exchange Commission 1973, 2210
Withdrawal of declaration 2202

PUBLIC SERVICE OF PA., INC.:
Declared not a holding company 3001
Hearing by Securities and Exchange Commission 2555

PUBLIC UTILITIES:
Foreign-trade zones operated as 1273
Preservation of records of 2421

PUBLIC UTILITIES MANAGEMENT CORP.:
Hearing by Securities and Exchange Commission 1622
Mutual service company approved 2815

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935. *See* Commodity and Securities Exchange; Securities and Exchange Commission.

PUBLIC WELFARE:
Civilian Conservation Corps:
Enrollees, regulations for enrollment, discharge, hospitalization, etc 1759, 1849, 2065, 2763, 2856, 3063
Works Progress Administration:
Monthly earnings, persons paid from project funds 1912
National Youth Administration:
Part-time employment of out of school youths 1914
Student aid program 1913
Rates of pay, hours of work, conditions of employment, etc., on projects 1916
Supply fund for procurement, use, etc., of materials and equipment 1918

PUBLIC WORKS ADMINISTRATION APPROPRIATION ACT OF 1938, employment of personnel without regard to Civil Service Rules 2047

PUBLISHERS FINANCE CO., INC., hearing by Federal Trade Commission 1920

PUEBLO INDIANS, land acreage benefited by irrigation works of Middle Rio Grande Conservancy District, N. Mex 1620

PUERTO RICO: Page
Agricultural conservation program. *See* Agriculture.
Cattle, control of transportation to prevent spread of diseases 2729
Narcotic tax regulations 1302
Sugar consumption requirements for 1939 3188
Sugarcane production:
Commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1474, 1627
Direct-consumption portion allotment, 1938, supplement 2785
Farming practices for 1938–39 crop 1786
Proportionate shares for producers 2747
Quota allotments, 1938 1279, 1337, 2885
Quota allotments for 1939, hearing 2431
Wage rates and prices for 1939 crop, hearing 2674

PUGET SOUND, line dividing high seas from rivers, harbors, etc., Juan de Fuca Strait 2254

PUGET SOUND POWER & LIGHT CO.:
Effective date of declaration by Securities and Exchange Commission 1636
Hearing by Federal Power Commission 2451, 2502

PULASKI MEMORIAL DAY, designation 2147

PURE, HARRY, hearing by Federal Trade Commission 2676

PURE OIL CO., hearing by Securities and Exchange Commission 2552, 2575

PURITY PRODUCTS CO., cease and desist order by Federal Trade Commission; sale of medical products 1906

Q

QUAIL (BOBWHITE), importation from Mexico 2081

QUALITY COAL MINE, order by National Bituminous Coal Commission 2857

QUARANTINES. *See also* Agriculture: Entomology and Plant Quarantine Bureau.
Japanese beetle, fumigation of tomatoes moving by refrigerator car 2048
Livestock imported from and exported to Mexico 3030
Splenetic or tick fever quarantine release, Nacogdoches County, Tex 1840
White-fringed beetle quarantine, Ala., Fla., La., Miss 2045

QUETICO-SUPERIOR COMMITTEE, existence extended to June 30, 1942 1625

79500—39——7

R

RABBITS (dressed domestic), inspection and certification for condition and wholesomeness — 2767
RADIO. *See also* Telecommunication.
Radio facilities, excise tax regulations amended — 1651
RADIO CORP. OF AMERICA, unlisted trading privileges extended by Securities and Exchange Commission — 1941
RAFTERY, LAWRENCE M., cease and desist order by Federal Trade Commission; glass glazing contract business — 3034
RAILROAD RETIREMENT BOARD. *See also* Employees Benefits.
Division of Personnel Supervision and Management required to be established — 2271
RAILROADS. *See* Transportation and Railroads.
RAILWAY EXPRESS AGENCY, INC., hearing by Interstate Commerce Commission — 1397
RAILWAY LABOR ACT. *See* Transportation and Railroads.
RAINBOW LUMINOUS PRODUCTS, INC., hearing; registration order by Securities and Exchange Commission — 1776, 2433
RAMSEY-DOOMS COAL CO., order by National Bituminous Coal Commission — 2857
RANGE CONSERVATION PROGRAM. *See* Agriculture: Agricultural Adjustment Administration.
RARITAN DISTILLERS CORP., cease and desist order by Federal Trade Commission; sale of whiskies, etc — 3034
RAUER, MORRIS L., hearing by Federal Trade Commission — 2491
RECIPROCITY INFORMATION, COMMITTEE FOR:
Trade agreements, public notice of negotiations with:
Cuba — 2858
Venezuela — 1748
RECLAMATION BUREAU. *See* Public Lands.
RECONSTRUCTION FINANCE CORPORATION. *See also* Business Credit.
Offering of ⅞% notes of:
Series N, due July 20, 1941 — 1715
Series P, due November 1, 1941 — 2544
RED CEDAR SHINGLES, importation from Canada limited — 1965
REED, FRED W., hearing by Federal Trade Commission — 1932
REFUGES:
Aransas Migratory Waterfowl, Tex., closed area designated — 2807
REFUGES—Continued.
Back Bay Migratory Waterfowl, Va., establishment — 1358
Big Lake Reservation, Ark.:
Fishing regulations — 2075
Name changed to Big Lake Migratory Bird Refuge; lands added — 2747
Breton Bird Refuge, La., establishment — 2389
Cape Meares Migratory Bird, Oreg., establishment — 2047
Fort Tyler Migratory Bird, N. Y., establishment — 1945
Great White Heron, Fla., establishment — 2581
Kentucky Woodlands Wildlife, Ky., establishment — 2137
Lake Isom Migratory Waterfowl, Tenn., establishment — 1995
Lower Souris Migratory Waterfowl, N. Dak., fishing regulations — 2385
Montezuma Migratory Bird, N. Y., establishment — 2235
Mooschorn Migratory Bird, Maine:
Enlargement — 2138
Fishing regulations — 1401
National wildlife refuges, administration regulations (impounding of animals) — 3009
Noontootly National Game, Ga., name changed from Cherokee National Game Refuge No. 2; boundaries redefined — 1357
Okefenokee Wildlife, Ga., modification — 2581
Ouachita National Wildlife Preserve, Ark., Muddy Creek Refuge redesignated as — 2587
Ruby Lake Migratory Waterfowl, Nev., establishment — 1639
St. Marks Migratory Bird, Fla., enlargement — 2262
Salt Plains Wildlife, Okla., enlargement — 1640
Seney Migratory Waterfowl, Mich., fishing permitted — 2803
Tamarac Migratory Waterfowl, Minn.:
Establishment — 1255
Fishing regulations — 1662, 2034
Tule Lake Wildlife, Calif., hunting permitted — 2500
Union Slough Migratory Waterfowl, Iowa:
Establishment — 2261
Land description corrected — 2821
Upper Mississippi River Wild Life and Fish, hunting regulations — 2309
Waubay Migratory Waterfowl, S. Dak., enlargement — 2783
West Sister Island Migratory Bird, Ohio, establishment — 1943, 2047
Wheeler Migratory Waterfowl, Ala.:
Establishment — 1669
Hunting permitted in Madison County — 2768
REGISTER, J. T., & CO., registration revoked by Securities and Exchange Commission — 1695
REINDEER, in Alaska, grazing regulations; ownership declarations — 1335, 1641
REIS, ROBERT, & CO., hearing; order by Securities and Exchange Commission — 1435, 1870
RELIABLE PREMIUM HOUSE, hearing by Federal Trade Commission — 2859
RELIABLE SALES SERVICE CO., hearing by Federal Trade Commission — 2676
RELIABLE SPECIALTY CORP., cease and desist order by Federal Trade Commission; sale of patent medicines — 2029
REPUBLIC ELECTRIC POWER CORP., hearing; reorganization plan approved by Securities and Exchange Commission — 2240, 2268, 2492, 2600, 2630
REPUBLIC MUTUAL SERVICE CO. OF CALIF., hearing by Securities and Exchange Commission — 2240, 2268
RESERVE OFFICERS' TRAINING CORPS. *See* Army: War Department.
RESERVOIR SITE RESERVES:
No. 20, Tongue River, Mont — 2072
No. 21, Cache Creek, Calif — 2756
REY, THOMAS, CO., hearing by Federal Trade Commission — 1543
REYNOLDS, T. A., & CO., hearing by Federal Trade Commission — 1543
RHODE ISLAND:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates — 2500
Public lands, jurisdiction transferred to Secretary of the Interior — 1257
Tenant purchase loans, counties designated for — 1935
RHODE ISLAND PUBLIC SERVICE CO., order by Securities and Exchange Commission — 2652
RICE:
Marketing quotas, administrative review — 1749, 3029
National acreage allotment for 1939 — 2784
Referendum:
Instructions on 1939 marketing quota — 2787
Results on, 1939–40 marketing year — 3187
RICHFIELD OIL CORP., hearing by Securities and Exchange Commission — 3048
RICHMOND SCHOOL FURNITURE CO., cease and desist order by Federal Trade Commission; sale of blackboards — 1858
RICHMOND, VA., SALES AREA, license for milk terminated — 2341

RICKER, EDWARD G., declared not a holding company by Securities and Exchange Commission — 2365
RIDGE COAL CO., hearing by National Bituminous Coal Commission — 1516
RIFLE MATCHES, 1938, Camp Perry, Ohio, regulations — 1723
RIGGEN, C. A., COAL CO., hearing by National Bituminous Coal Commission — 2161, 2282
RIGHTS OF WAY:
Canals, ditches, reservoirs, etc., over public lands — 1233
Use, etc., by grantor of lands to the United States — 1954
RINDERPEST DISEASE (cattle), regulations to prevent introduction of — 2107, 2271, 2736, 3033
RINK, JOSEPH J., hearing by Federal Trade Commission — 1920
RIO GRANDE NATIONAL FOREST, COLO., lands transferred from Cochetopa National Forest — 3187
RIO GRANDE RECLAMATION PROJECT, N. MEX., reclamation withdrawal — 1869
RIO GRANDE RECTIFICATION PROJECT, El Paso-Juarez Valley, maintenance and preservation regulations — 2297
RIPPNER, HARRY A., AND LOUIS G., cease and desist order by Federal Trade Commission; sale of pens — 2028
RIVENBARK, A. J., JR., hearing by Federal Trade Commission — 2317
RIVER AND HARBOR ACT. *See* Army; Navigation and Navigable Waters: War Department.
RIVERSIDE TRACTION CO., exemption from provisions of Public Utility Holding Company Act of 1935 — 2366
RIVERTON IRRIGATION PROJECT, annual water charges — 2706
ROBERTSON, MRS. EFFIE M., hearing by Federal Trade Commission — 2432
ROCHESTER, N. Y., airport of entry redesignated — 2671
ROCKLAND ELECTRIC CO., notice by Federal Power Commission — 3066
ROGERS, CHARLES E., registration revoked by Securities and Exchange Commission — 1695
ROLL LEAF MANUFACTURING INDUSTRY, hearing on proposed trade practice rules by Federal Trade Commission — 1354
ROMA WINE & LIQUOR CO., hearing by Federal Trade Commission — 2432
RORK, GLEN V., hearing postponed by Federal Power Commission — 1396
ROSENHEIMER, MARY, cease and desist order by Federal Trade Commission; sale of medicinal preparations — 2517
ROSS CLAY PRODUCTS CO., order by National Bituminous Coal Commission — 2161
ROTH, LOU, cease and desist order by Federal Trade Commission; sale of candy — 2031
ROTHMAN, JACOB, hearing by Federal Trade Commission — 2711
ROTHMAN, PAULINE, cease and desist order by Federal Trade Commission; sale of merchandise — 2639
ROUTT NATIONAL FOREST, COLO., boundary adjusted — 2446
ROWDABAUGH, SETH E., hearing by Federal Trade Commission — 1447
ROWE MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale, etc., of snow fence products — 1845
ROYAL COAL CO.:
Hearing by National Bituminous Coal Commission — 1367
Petition on production cost data denied — 1855
RUBENSTEIN, PHILIP F., hearing by Federal Trade Commission — 2491
RUBMAN, SOPHIE, hearing by Federal Trade Commission — 2675
RUBY LAKE MIGRATORY WATERFOWL REFUGE, NEV., establishment — 1639
RUGS (WOOL HOOKED), domestic manufacturer's protest overruled on classification and duty rate imposed — 2063
RULES OF PRACTICE. *See* agency concerned.
RUN-PROOF LABORATORIES, INC., hearing by Federal Trade Commission — 1283
RURAL ELECTRIFICATION ADMINISTRATION:
Allocation of funds for loans — 1275, 1289, 1341, 1371, 1410, 1425, 1694, 1774, 1892, 2069, 2079, 2080, 2182, 2244, 2282, 2283, 2364, 2373, 2478, 2538, 2599, 2651, 2652, 2695, 2884, 3013.
Amendments of prior allocations — 1249, 1275, 1410, 1421, 1472, 2228, 2478
Farms not receiving central station electric service — 2373
Interest on loans — 1721
Project designations amended — 1863
RURAL REHABILITATION, loans to tenant farmers, etc — 2129, 2733
RUSSELL, FARIS R., suspension order by Securities and Exchange Commission — 1509
RUSSIA. *See* Union of Soviet Socialist Republics.
RX MANUFACTURING CO., cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc — 2287
RYE, limits on position and daily trading for future delivery — 3145

S

ST. CROIX CHIPPEWA INDIANS, reservation proclaimed for, Wis — 3015
ST. ELIZABETHS HOSPITAL, commitment of Indians to — 2338
ST. JOE-MULLEN CONTAINER CORP., cease and desist order by Federal Trade Commission; sale of food dish trays — 3039
ST. JOHNS STOCKYARD CO., notice under Packers and Stockyards Act — 1503
ST. LOUIS, MO., MARKETING AREA, hearing on handling of milk — 2901
ST. MARKS MIGRATORY BIRD REFUGE, FLA., enlargement — 2262
ST. PETERSBURG, FLA.:
Designated customs port of entry — 1749
Harbor, restricted area designated for maneuvering of seaplanes — 2579
SADDLERY INDUSTRY, minimum wage determination — 1733
SAFETY ENGINEERING AND MANAGEMENT CO.:
Exemption from provisions of Public Utility Holding Company Act of 1935 — 2366
Hearing; effective date of declaration by Securities and Exchange Commission — 2672, 2844
SAFRIN, WILLIAM M., hearing by Federal Trade Commission — 2712
SAKS AND CO., hearing by Federal Trade Commission — 2583
SALADOF, JOSEPH AND S., hearing by Federal Trade Commission — 2710
SALADOFF, JOSEPH, hearing by Federal Trade Commission — 2676
SALEM GAS LIGHT CO., hearing; effective date of declaration by Securities and Exchange Commission — 1936, 2126
SALES ON SOUND CORP., hearing; cease and desist order by Federal Trade Commission; sale of motion picture sound screens — 1801, 2237
SALT PLAINS WILDLIFE REFUGE, OKLA., enlargement — 1640
SAMDAHL, CLEO, hearing by Federal Trade Commission — 2317
SAMUELSON, R. W.:
Effective date of declaration by Securities and Exchange Commission — 2230

SAMUELSON, R. W.—Continued. Page
Reorganization plan approved 1920, 1940
SAN CARLOS FEDERAL IRRIGATION PROJECT, joint, district and Indian works defined 2006
SAN CARLOS PROJECT, ARIZ., new standard rate schedules for electricity 1607
SAN FRANCISCO, CALIF., proclamation inviting participation of foreign countries, etc., in Golden Gate International Exposition 2821
SAN JOAQUIN LUMBERMEN'S CLUB, cease and desist order by Federal Trade Commission; sale of lumber, etc 1897
SANDAR CORP.:
Declared not a holding company 2503
Hearing by Securities and Exchange Commission 2259
SANDERS, HARRY, ET AL., hearing by Federal Trade Commission 1421
SANDERS MANUFACTURING CO., hearing by Federal Trade Commission 2546
SANDROW, ISADORA, hearing by Federal Trade Commission 2502
SANDUSKY, OHIO, redesignated airport of entry 1386
SANITARY CONTAINER CORP., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
SARASIN, CELIA, cease and desist order by Federal Trade Commission; sale of electric razors, etc 1899
SARGENT, H. W., COAL CO., order by National Bituminous Coal Commission 2857
SAUER, AARON N., hearing by Federal Trade Commission 2708
SAUER, C. F., CO., complaint by Federal Trade Commission; sale of extracts and drugs 2712
SAUGATUCK RIVER, highway drawbridge regulations revoked at Westport, Conn 2264
SAULT STE. MARIE, MICH., airport of entry redesignated 1902
SAVINGS AND LOAN ASSOCIATIONS:
Investment in securities of, by Home Owners' Loan Corporation 1317
Merging with Federal associations 2569
SCADRON, IRWIN, cease and desist order by Federal Trade Commission; sale of clocks, etc 1859
SCHENLEY DISTILLERS CORP., ET AL., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1630
SCHNEITER COAL CO., hearing by National Bituminous Coal Commission 1516
SCHOTTLAND, A., INC., hearing by Federal Trade Commission 2583
SCHUTT, HAROLD S., order by Securities and Exchange Commission 1285
SCHWARTZ, MAX, hearing by Federal Trade Commission 2492
SCIENTIFIC APPARATUS MAKERS OF AMERICA, ET AL., hearing by Federal Trade Commission 1420
SCIENTIFIC LABORATORIES, ETC., cease and desist order by Federal Trade Commission; sale of cosmetics, etc 2287
SCOBEY, MONT., airport of entry designated for aliens 1657
SCOTT-BARTELS CO., INC., hearing by Federal Trade Commission 2629
SCOTT, ROSE R., hearing by Federal Trade Commission 2523
SCOTT, S. O., hearing by Federal Trade Commission 2769
SCOVILL MFG. CO., complaint dismissed by Federal Trade Commission; sale of industrial rivets 1528
SEAGRAM-DISTILLERS CORP., ET AL., cease and desist order by Federal Trade Commission; sale of whiskies, etc 1628
SEAMEN. *See* Shipping.
SEAMLESS HOSIERY INDUSTRY, notice on minimum wage for learners, handicapped, etc., persons 3065
SEAS SHIPPING CO., INC., minimum manning scales for subsidized vessels 3023
SECOND LIBERTY BOND ACT:
Treasury Bonds 2¾% of 1958–63, offering of 1333
Treasury Notes 1⅛% of Series A–1943, offering of 1334
SECURITIES ACT OF 1933. *See* Commodity and Securities Exchanges; Securities and Exchange Commission.
SECURITIES AND EXCHANGE COMMISSION. *See also* Commodity and Securities Exchanges.
Division of Personnel Supervision and Management required to be established 2271
Employment of examiners, etc., to carry out functions of National Economic Committee 1945
Notice of hearings, etc.:
Adams, Charles True 1831, 1864, 1973, 2364
Adams, Nelson & Williamson 2818, 3117
Advance-Rumely Corp 2041, 2142
Ainsworth, J. C. 3192
SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Notice of hearings, etc.—Con.
Alabama Power Co 3022
Alexandria Gas Co 1832, 1922
Allegheny Ludlum Steel Corp 3048
Aluminum Co., of America 2295
Aluminum Ore Co 2295
American & Foreign Power Co., Inc 2546, 2575
American Gas and Electric Co 2367
American Gas & Electric Service Corp 2874
American Home Products Corp 2611
American Light & Traction Co 2164
American States Utilities Corp 2387
American Water Works and Electric Co., Inc 2879
Apache Gas Co. of Nev 2240, 2268
Appalachian Electric Power Co 1666
Arkansas Western Gas Co 2601
Armour and Co. of Del 2418
Armour & Co. of Ill 2546, 2575, 3048
Armstrong Cork Co 3048
Associated Corp 1411
Associated Electric Co 1666, 2585
Atchison, Topeka & Santa Fe Railway Co 2546, 2575
Atlantic Refining Co 2547, 2575
Aviation Corp 2547, 2575
Badger Paper Mills, Inc 2875, 3180
Baehr, William A., Organization, Inc 2846
Barnsdall Oil Co 2547, 2575
Bethlehem Steel Corp 2547, 2575
Beverly Gas and Electric Co 1936
Blackstone Valley Gas and Electric Co 2653
Boeing Airplane Co 2548, 2575
Bradford Electric Co 1589
Bridgeport Brass Co 3048
Byllesby Corp 1354, 2318
Byllesby, H. M., and Co 2318
California Utilities Corp. of Calif 2240, 2268
Central Illinois Public Service Co 2750
Central Maine Power Co 2766, 2875, 2913
Central Ohio Light & Power Co 2817
Central Service Corp 1509
Central U. S. Utilities Co 2585
Chicago, Indianapolis and Louisville Railway Co 1435
Chrysler Corp 2548, 2575
Cincinnati Gas & Electric Co 1942
Cities Service Power & Light Co 2584, 2677
Citizens Public Service Co., et al 3143
Colonial Beacon Oil Co 3179
Columbia Gas & Electric Corp 1354, 1941, 2643, 2845
Columbus and Southern Ohio Electric Co 2859
Commercial Solvents Corp 2548, 2575

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Notice of hearings, etc.—Con.
Commonwealth and Southern Corp 1720, 2548, 2575, 2584, 2677, 2859
Community Natural Gas Co 2642
Community Power and Light Co 1878, 2818
Concordia Virginia Mining Co 2366, 2375
Congoleum-Nairn, Inc 3048
Connecticut Light & Power Co 2731
Consolidated Aircraft Corp 3048
Consolidated Electric and Gas Co 3047
Consolidated Textile Corp 1665, 2069
Consumers Power Co 2584, 2677, 2879
Container Corp. of America 3048
Continental Baking Corp 3048
Continental Oil Co 2549, 2575
Continental Securities Corp 1802
Copper District Power Co 1775
Council Bluffs Gas Co 1881, 2642
County Gas Co 1881, 2642
Crane Co 3048
Crescent Public Service Co 1422
Culbertson, James G 1509
Cumberland County Power and Light Co 2503
Dakota Power Co 1668
Dallas Gas Co 1881, 2642
Dayton Power and Light Co 1941
Dearborn-Ripley Light & Power Co 2387
Detroit and Mackinac Railroad Co 1434, 1614
Distillers Corp., Seagrams, Ltd 3048
Divco-Twin Truck Co 2230
Dominion Stores Limited 1904
Dover Casualty Insurance Co 3049, 3050
Dow Chemical Co 2212
Eastern Minnesota Power Corp 2555, 2564
Eastern Utilities Associates 1882
Electric Advisers, Inc 1748
Empire Southern Service Co 1421
Employees Welfare Assn., Inc. (Del.) 2889, 2890
Employees Welfare Assn., Inc. (N. J.) 2889, 2890
Engineers Public Service Co 3048
Equitable Auto Co 2358
Fairchild Engine and Airplane Corp 1958
Federal Light & Traction Co 2795, 3002
Federal Water Service Corp 1803
Financial Distributors, Inc 2246
Fowler, William Hugh 2815
Gas Advisers, Inc 1882
Gas Transport Co. of Nev 2240, 2268
General American Transportation Corp 2269
General Public Utilities, Inc 1667, 2818
Genesee Valley Gas Co., Inc 1275
Gimbel Bros., Inc 2549, 2575
Gloucester Electric Co 1936
SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Notice of hearings, etc.—Con.
Goodrich, B. F., Co 2549, 2575
Goodyear Tire & Rubber Co 2549, 2575
Grand National Films, Inc 2357
Grand Rapids Gas Light Co 2164
Great Northern Gas Co., Limited 2663
Green Mountain Power Corp 2751
Greyhound Corp 3048
Griffith, Franklin T 3192, 3193
Gulf States Utilities Co 1959
Guthrie Gas Service Co 2751, 2765
Haines, J. Albert 2144
Halsey-Stuart and Co 2750
Hartt, Jay Samuel 2642
Haverhill Electric Co 1936
Hibbard, Charlton B 1411, 1504
Huntington Gas Co 2845
Idaho Power Co 1666
Illinois Iowa Power Co 2294, 2750
Indiana General Service Co 2247
Indianapolis Power & Light Co 1775
Interlake Iron Corp 1410
International Cinema, Inc 1932
International Hydro-Electric System 2512
International Nickel Co. of Canada, Ltd 2550, 2575
International Paper and Power Co 2512, 3048
International Radio Corp 2230
Interstate Hosiery Mills, Inc 1447
Iowa Public Service Co 1545, 1615
Joliet Heating Corp 2126
Kansas Utilities Co 2818
Kennecott Copper Corp 2550, 2575
Kennedy, Millard B 1774
Kent, Ralph C 2165
Kentucky Securities Co 2752
Kentucky-Tennessee Light and Power Co 2504
Kentucky Utilities Co 2211
Kinner Airplane & Motor Corp., Ltd 1932
La Salle-Wacker Corp 1880
Laclede Gas Light Co 2612
Lancaster, Robert E 3115
Lawrence Gas & Electric Co 1458, 1655
Lexington Utilities Co 2211
Lexington Water Power Co 3048
Lockheed Aircraft Corp 3048
Lone Star Gas Corp., et al 1881, 2642, 2751, 2765
Louisiana Ice & Electric Co., Inc 1421
Louisiana Public Service Corp 1738
Lucas, Herman 2145
MacNaughton, E. B 3192
Madison Gas and Electric Co 2653
Malden Electric Co 1936
Manufacturers Trust Co 2555, 2565
Market Street Railway Co 1397, 1434, 2046
Marshall Field & Co 3048
Martin, Glenn L., Co 3048
Massachusetts Utilities Associates 1398, 1545
Massena Securities Corp 2295
SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Notice of hearings, etc.—Con.
Maxwell, Joseph S 1411, 1504
Michigan Consolidated Gas Co 2164
Middle West Corp 1775, 2247, 2295
Bondholders' Protective Committee 2411
Midland United Co 1774
Midland Utilities Co 1921, 2023
Mills Alloys, Inc 2652
Milwaukee Electric Railway and Light Co 2318
Milwaukee Electric Railway and Transport Co 2455
Minneapolis, St. Paul & Sault Ste Marie Railway Co 2795
Minnesota Utilities Co 1738
Missouri Service Co 1517
Missouri Utilities Co 2818
Mobile and Ohio Railroad Co 2816
Monongahela West Penn Public Service Co 2879
Montgomery Ward & Co., Inc 2550, 2575
Morris, Hugh M 1774
Mother Lode Gold Mines Co 2643
Mountain States Power Co 1426, 2376
Muskegon Gas Co 2164
National Gypsum Co 3048
National Lead Co 3048
National Oats Co 2816
National Pumps Corp 1877
National Supply Co. of Pa 2550, 2575
Needles Gas and Electric Co. of Calif 2240, 2268
Nepsco Appliance Finance Corp 2326
New Brunswick Power Co 2358
New England Capital Corp 2182, 2183, 2269
New England Power Assn 2751
New England Railroad Co 2612
New Orleans Stock Yards, Inc 2663
New York and Richmond Gas Co 3116
New York Central Railroad Co 2551, 2575
NY PA NJ Utilities Co 2523, 2678
New York State Electric & Gas Corp 1371, 2504, 2523, 2678, 2845
Newport Industries, Inc 3048
Norfolk Southern Railroad Co 1435
North American Edison Co 2318
North American Finance Corp 3180
Northeastern Water and Electric Corp 1855, 1904
Northeastern Water & Electric Service Corp 2166
Northeastern Water Companies, Inc 1448
Northern Natural Gas Co 2912, 2913
Northern States Power Co. (Del.) 2880
Northern States Power Co. (Minn., Del., Wis.) 2127, 2434

SECURITIES AND EXCHANGE COMMISSION—Continued.
Notice of hearings, etc.—Con. Page
Ohio Oil Co 2551, 2575
Ohio Power Co 2367
Oklahoma Power and Water Co 1878
Owego Gas Corp 2523, 2678
Pacific Northwest Public Service Co 3192
Page Power Co 1388
Paramount Pictures, Inc 2551, 2575, 3048
Parks, John Thomas 2229
Patuxent Gas Co 1832, 1922
Penn Western Gas & Electric Co 2478
Pennsylvania Investing Corp 3160
Pennsylvania Power Co 2859
Peoples Light Co 2166
Phoenix Oil Co 2714
Pittsburgh Terminal Coal Corp 1434, 2552, 2575
Portland Electric Power Co 3192, 3193
Portland General Electric Co 3192, 3193
Pressed Steel Car Co., Inc 2552, 2575
Providence Gas Co 1667
Province of Buenos Aires (Argentine Republic) 2471, 2749
Public Service Co. of Colo 2796
Public Service Co. of N. H 2672
Public Service Co. of Okla 1973, 2210
Public Service of Pa., Inc 2555
Public Utilities Management Corp 1622
Pure Oil Co 2552, 2575
Rainbow Luminous Products, Inc 1776
Reis, Robert, & Co 1435
Republic Electric Power Co. of Del 2240, 2268
Republic Mutual Service Co. of Calif 2240, 2268
Richfield Oil Corp 3048
Safety Engineering and Management Co 2672
Salem Gas Light Co 1936
Sandar Corp 2259
Shennahan, John N 1774
Shields, Paul V 1411, 1504
Simon Silver-Lead Mines, Inc 2606
Simplicity Pattern Co., Inc 2211
Socony-Vacuum Oil Co., Inc 2552, 2575
Southeastern Investing Corp 3048
Southern Colorado Power Co 1959
Southern Oregon Gas Corp. of Calif 2240, 2268
Southern Utilities Co., Limited 2663
Southwestern Electric Co 1878, 2818
Standard Investing Corp 2357, 2575
Standard Oil Co. of Calif 2816, 3001
Staten Island Edison Corp 1425, 1646, 2529
Staten Island Railway Co 2471
Suburban Gas and Electric Co 1936
Superior Oil Corp 3048
Texas Cities Gas Co 1881, 2642

SECURITIES AND EXCHANGE COMMISSION—Continued.
Notice of hearings, etc.—Con. Page
Texas Corp 2553, 2575
Texas-New Mexico Utilities Co 2818
Texas Pacific Land Trust 2772
Toledo Edison Co 1854
Transamerica Corp 2809
Transcontinental & Western Air, Inc 2553, 2575, 3048
Union Electric Co. of Mo 2295, 2602
Union Electric Power Corp 2766
Union Producing Co 1855
United Air Lines Transport Corp 2553, 2575, 3048
United Aircraft Corp 2553, 2575
United Corp 2842
United Fuel Gas Co 2375
United Gas Improvement Co 2554, 2575
United States Rubber Co 2554, 2575
Utilities Elkhorn Coal Co 1509, 2070
Utilities Employees Securities Co 2182, 2183, 2269
Utilities Power & Light Corp., et al 1411, 1449, 1504, 1803, 1831, 1855, 1864, 1871, 1963, 1972, 1973, 2364
Utility Management Corp 2584, 2677
Utility Service Co 2555
Virginia City Gold Mining Co 2230
Virginia Electric and Power Co 2269
Virginia Public Service Co 1458
Walling, William English, II 1871
Walnut Electric & Gas Corp 2752
Walworth Co., Inc 2554, 2575
Washington Gas Light Co 2454
Washington Railway and Electric Co 2294
Washington Suburban Gas Co 1832, 1922
Washtenaw Gas Co 2164
Weaverville Electric Co. of Calif 2240, 2268
Wells, Fargo & Co 1434, 1589, 1696
West Ohio Gas Co 1993
West Penn Power Co 1668
White Motor Co 3048
Wilson & Co., Inc 3048
Wisconsin Electric Power Co 2750
Wisconsin Public Service Corp 1667
Worcester Suburban Electric Co 1355
Worthington Pump & Machinery Corp. (Del) 3048
Wrigley, Wm., Jr., Co 2356
Yellow Truck & Coach Manufacturing Co 2554, 2575

Public Utility Holding Company Act of 1935:
Acquisition, sale of assets, securities, etc.:
American Light & Traction Co 2283
American States Utilities Corp 3046, 3047
American Water Works and Electric Co., Inc 3175
Arkansas Western Gas Co 3174

SECURITIES AND EXCHANGE COMMISSION—Continued.
Public Utility Holding Company Act of 1935—Continued.
Acquisition, sale of assets, securities, etc.—Continued. Page
Cities Service Power & Light Co 3143
Clinton, Davenport & Muscatine Railway Co 2731
Commonwealth & Southern Corp 3143, 3175
Commonwealths Distribution, Inc 3186
Community Natural Gas Co 3185
Community Power and Light Co 2019
Consumers Power Co 3143
Council Bluffs Gas Co 3185
County Gas Co 3185
Dallas Gas Co 3185
Dearborn-Ripley Light & Power Co 3047
Dresser Power Corp 2387
General Public Utilities, Inc 2019
Grand Rapids Gas Light Co 2283
Guthrie Gas Service Co 3185
Halsey, Stuart & Co., Inc 2901
Huntington Gas Co 3142
International Utilities Corp 3186
Kentucky Securities Co 2845
Keystone Utilities, Inc 1636
Lone Star Gas Corp 2097, 3185
Michigan Consolidated Gas Co 2283
Milwaukee Electric Railway and Light Co 2539
Milwaukee Electric Railway & Transport Co 2539
Muskegon Gas Co 2283
North American Edison Co 2539
Northeastern Water and Electric Corp 2165
NY PA NJ Utilities Co 1636
Ohio Power Co., subsidiary of American Gas and Electric Co 2529
Pennsylvania Power Co 3175
Peoples Light Co 2731
Public Service Co. of Ind 2387
Southern Union Gas Co 3174
Southwestern Electric Co 2019
Texas Cities Gas Co 3185
Union Producing Co 1977
United Light and Power Co 2731
Utilities Power & Light Corp., Limited, et al 2911
Walnut Electric & Gas Corp 3001
Washtenaw Gas Co 2283
Adams, Charles True, petitions to intervene 2258, 2284, 2631

Applications under, withdrawal of:
Compania Mexicana De Gas, S. A 3067
Greenville Electric Light and Power Co 2607

SECURITIES AND EXCHANGE COMMISSION—Continued.
Public Utility Holding Company Act of 1935—Continued.
Applications under, withdrawal of—Continued. Page
Home Utilities Co 2259
Interstate Utilities Co 2259
Kentucky Utilities Co 3067
New England Corp 3160
New York State Electric and Gas Corp 3067
Northeastern Water and Electric Corp 2806
Northeastern Water Companies, Inc 3181
Permian Oil & Gas Co 2259
Public Service Co. of Northern Ill 2357, 2358
Staten Island Edison Corp 2806
Utilities Employees Securities Co 3160
Associated Gas and Electric Co., investment account statements to be filed 2873
Central Maine Power Co., petion to intervene granted 2913
Culbertson, James G., maximum interim fees, etc 2303
Declarations, effective dates, etc.:
American Gas and Power Co 2373, 2374, 2902
Associated Corp 1695, 1699
Associated Electric Co 3049
Baton Rouge Electric Co 1695
Beverly Gas and Electric Co 2126
Birmingham Gas Co 2373, 2374, 2902
Bradford Electric Co 1880
Central U. S. Utilities Co 3049
Cincinnati Gas & Electric Co 2258
Columbia Gas & Electric Corp 1646, 2418
Copper District Power Co 2012
Council Bluffs Gas Co 2097, 2135
County Gas Co 2097, 2135
Dakota Power Co 2019
Dallas Gas Co 2097, 2135
Eastern Utilities Associates 2103
Engineers Public Service Co 1695
Federal Light & Traction Co 3046
General Public Utilities, Inc 3142
Gloucester Electric Co 2126
Green Mountain Power Corp 2902
Gulf States Utilities Co 1695, 2142
Haverhill Electric Co 2126
Iowa Public Service Co 2538
Kansas Electric Power Co 1397
Kentucky-Tennessee Light and Power Co 3049
Lone Star Gas Corp., et al 2097, 2135, 3185
Louisiana Ice and Electric Co., Inc 1614
Louisiana Public Service Corp 2662
Louisiana Steam Generating Corp 1695

SECURITIES AND EXCHANGE COMMISSION—Continued.
Public Utility Holding Company Act of 1935—Continued.
Declarations, effective dates, etc.—Continued. Page
Malden Electric Co 2126
Massachusetts Utilities Associates 1864
Middle West Corp 2012
Minnesota Utilities Co 2662
Missouri Service Co 2126, 2127
Monongahela West Penn Public Service Co 3175
Nepsco Appliance Finance Corp 2765
New England Power Assn 2902
Northeastern Water Companies, Inc 1615
Northern States Power Co 2911, 3180
Oklahoma Electric and Water Co 1426
Penn Western Gas & Electric Co 2910
Peoples Water and Gas Co 1289
Public Service Co. of N. H 2879
Public Service Co. of Okla 2202
Puget Sound Power & Light Co 1636
Safety Engineering and Management Co 2844
Salem Gas Light Co 2126
Southern Colorado Power Co 2240
Suburban Gas and Electric Co 2126
Texas Cities Gas Co 2097, 2135
Union Electric Co. of Mo 2814
United Fuel Gas Co 3047
United Telephone and Electric Co., reorganization managers of 2230
Utilities Elkhorn Coal Co 2046
West Penn Power Co 2013, 2794
Worcester Suburban Electric Co 1637
Exemptions from provisions of:
Blackstone Valley Gas and Electric Co 2844
Central Illinois Public Service Co 2890
Central Maine Power Co 1249
Columbia Gas & Electric Corp 2600
Columbus and Southern Ohio Electric Co 3180
Connecticut Light & Power Co 2794, 2888
Continental Public Utilities Co 2540
Dayton Power and Light Co 2600
Dominion Gas Co 2375
Eastern Shore Gas Corp 2366
Genesee Valley Gas Co., Inc 1936
Great Northern Gas Co., Limited 2874
Green Mountain Power Corp 3001
Greene, Chester and Patton Trust 1993
Hickok Oil Corp 1397

SECURITIES AND EXCHANGE COMMISSION—Continued.
Public Utility Holding Company Act of 1935—Continued.
Exemptions from provisions of—Continued. Page
Houston Natural Gas Corp 1921
Indiana General Service Co 2386
Indianapolis Power & Light Co 1972
Laclede Gas Light Co 2910
Lawrence Gas and Electric Co 1863
Madison Gas and Electric Co 2794
Massachusetts Power and Light Associates 2652
Massachusetts Utilities Associates 2653
Michigan Consolidated Gas Co 2419
Middle West Corp 1646, 2503, 2511
New Brunswick Power Co 2528
New York State Electric & Gas Corp 1341, 1614, 1882, 2769
North Boston Lighting Properties 2652
Ohio Power Co., subsidiary of American Gas and Electric Co 2529
Page Power Co 2070
Public Service Co. of N. H 1250
Rhode Island Public Service Co 2652
Riverside Traction Co 2366
Safety Engineering and Management Co 2366
South Carolina Utilities Co 1763
Southern Utilities Co., Limited 2873
Tenney, C. I., Engineering Co 2540
Tenney, C. I., et al., Trustees 2540
Toledo Edison Co 1973
Virginia Electric and Power Co 2387
Virginia Public Service Co 1448
Washington Gas Light Co 1387, 2611
Washington Railway and Electric Co 3027
Wisconsin Electric Power Co 2564
Wisconsin Public Service Corp 2145
Gulf States Utilities Co., stock exchange plan adopted 1993
Hartt, Jay Samuel, maximum fees, expenses, etc 2884
Holding company status:
Gilbert, Arthur H., Marcus L. Baxter, and Edward G. Ricker 2365
National Gas & Electric Corp., trustees 2503
Public Service of Pa., Inc 3001
Sandar Corp 2503
Schutt, Harold S 1285
Interlake Iron Corp., declared not an electric utility company 1637

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Public Utility Holding Company Act of 1935—Continued.
Kennedy, Millard B., compensation for services, etc— 2267
Midland Utilities Co., maximum ad interim expense allowances, etc— 2267
Morris, Hugh M.:
Declared not a holding company— 1285
Maximum ad interim expenses, etc— 2267
Public Utilities Management Corp., mutual service company approved— 2815
Reorganization plans, etc., approved:
Apache Gas Co— 2600, 2630
California Utilities Co— 2600, 2630
Gas Transport Co— 2600, 2630
Needles Gas and Electric Co— 2600, 2630
Republic Electric Power Corp— 2492, 2600, 2630
Southern Oregon Gas Corp— 2600, 2630
United Telephone and Electric Co— 1920, 1940
Weaverville Electric Co— 2600, 2630
West Ohio Gas Co— 2538, 2749
Shannahan, John N., maximum ad interim expense allowances, etc— 2267
Sloss-Sheffield Steel & Iron Co., declared not an electric utility company— 1448
United Corp., petition to intervene— 3115
United Light and Power Engineering and Construction Co., subsidiary service company approved— 2352
Utilities Elkhorn Coal Co., maximum interim fees to attorney, etc— 2303
Utilities Power & Light Corp., petition to intervene; hearings— 2258, 2284, 2524, 2540, 2631
Virginia Public Service Co., issue and sale of bonds exempted— 2599
Documents made part of record— 2599
Walling, William English, II, final compensation disapproved— 3182
Securities Act of 1933:
Lang, C. E., suspension order— 2258
Mims, A. S., suspension order— 2258
Stop orders:
Austin Silver Mining Co— 1720
Breeze Corporations, Inc— 1958
Gold Hunter Extension, Inc— 2326
Platoro Gold Mines, Inc— 2259
United Combustion Corp— 2528
Unity Gold Corp— 1776
West Park Apartments Corp— 2319

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Securities Exchange Act of 1934:
Application for registration on over-the-counter markets, Form 3-M amended— 1458
Listing and registration orders:
Adams Express Co— 1748
Advance-Rumley Corp— 2453
Armour and Co. of Del— 2843
Belmont Metals Corp— 2511
Canal Construction Co— 1665
Chicago, Indianapolis and Louisville Railway Co— 1871
Como Mines Co— 1665
Consolidated Textile Corp— 1977, 2453
Continental Securities Corp— 2528
Detroit and Mackinac Railway Co— 2843
Fairchild Engine and Airplane Corp— 2365
Federal Knitting Mills Co— 1664
General American Transportation Corp— 2294, 2575
German Central Bank— 1699
Grand National Films, Inc— 2844
International Cinema, Inc— 2365
Joliet Heating Corp— 2631
Kinner Airplane and Motor Corp., Ltd— 2365
La Salle-Wacker Corp— 2453
Lima Cord Sole and Heel Corp— 2357
Market Street Railway Co— 1870, 2013, 2433, 2714
National Pumps Corp— 2142
New Orleans, Texas and Mexico Railway Co— 2365
New York Dock Co— 1664
Norfolk Southern Railroad Co— 2632
Pierce Oil Corp— 1665
Pittsburgh Terminal Coal Corp— 2631
Producers Corp— 1665
Province of Buenos Aires (Argentine Republic)— 3115
Rainbow Luminous Products, Inc— 2433
Reis, Robert, & Co— 1870
Staten Island Railway Co— 2843
Taylor, W. R., & Co— 2555
Teck-Hughes Gold Mines, Ltd— 1504
Wrigley, Wm., Jr., Co— 2843
National securities exchanges, suspensions:
Clark, Harold Benjamin— 1509
Russell, Faris R— 1509
Virginia City Gold Mining Co— 2843
White, Weld & Co., et al— 1509
Registrations revoked, suspended, etc.:
American Credit Corp— 2294
Atwater, L. P., & Co— 2013
Bard, Millard H— 2612
Canon, F. T., & Co., Inc— 1654
Continental Royalties Corp— 2014
Duncan Collins & Co., Inc— 2765

SECURITIES AND EXCHANGE COMMISSION—Continued. Page
Securities Exchange Act of 1934—Continued.
Registrations revoked, suspended, etc.—Continued.
Ernstrom & Co., Inc— 1863
Gibbins, Ralph H— 2765
Haines, J. Albert— 2764
Huff and Haskins, Inc— 2014
Kent, Ralph C— 3067
Lucas, Herman— 2764
Missouri Pacific Railroad Co— 2246
Parks, John Thomas— 2844
Rogers, Charles E. (J. T. Register & Co.)— 1695
Steiner, Joseph M— 1877
Vedder, Clyde B— 2766
Unlisted trading privileges; extension, denial, etc.:
Adams Express Co— 1941
Allegheny Ludlum Steel Corp— 1871
American Steel Foundries— 1941
Baldwin Locomotive Works— 1941
Boeing Airplane Co— 1941
Consolidated Aircraft Corp— 1941
Curtiss Wright Corp— 1372, 1763
Electric Boat Co— 1941
Elk Horn Coal Corp— 2013
Equity Corp— 1426
Government of Chile, Mortgage Bank of Chile— 2817
Hecker Products Corp— 1655, 1699
Homestake Mining Co— 1941
Inspiration Consolidated Copper Co— 1941
International Hydro-Electric System— 1941
International Paper & Power Co— 1941
Iron Fireman Manufacturing Co— 2492
McCord Radiator and Manufacturing Co— 3116
Market Street Railway Co— 1397, 1993, 2795
Moore Corp— 2816
National Lead Co— 1941
Niagara Hudson Power Corp— 1941
Pantepec Oil Co., of Venezuela— 2096
Paramount Pictures, Inc— 1941
Philip Morris & Co., Ltd., Inc— 1941
Radio Corp. of America— 1941
Standard Gas and Electric Co— 1864, 2014
United Corp— 1941
Utilities Employees Securities Co., New England Capital Corp., petition to intervene— 2574
York Railways Co., Edison Light and Power Co., time extended for filing requests for findings, etc— 2584
SEEDS:
Country-run forage seeds for dockage, inspection of— 2436

SEEDS—Continued. Page
Federal Seed Act, regulations amended— 2002, 2369
Imported, kinds and proportions to be colored— 2063
Coloring under supervision— 2544
Quarantine regulations modified— 2822
SENEY MIGRATORY WATERFOWL REFUGE, MICH., fishing permitted— 2803
SERVICE CLUB SALES CO., hearing by Federal Trade Commission— 2477
SEVENTH WORLD'S POULTRY CONGRESS, Cleveland, Ohio, entry of articles for exhibition— 2380
SHADDY, KELLY J., cease and desist order by Federal Trade Commission; sale of hair preparations— 1512
SHANNAHAN, JOHN N., notice and order on expense allowances by Securities and Exchange Commission— 1774, 2267
SHAPIRO, FRANK, cease and desist order by Federal Trade Commission; sale of hats, etc— 2506
SHAPIRO, WILLIAM, hearing by Federal Trade Commission— 2792
SHASTA INDIANS, reservation proclaimed for, Calif— 2749
SHAW & DAVIS, INC., hearing by Federal Trade Commission— 2793
SHEEMAN, WILLIS G., cease and desist order by Federal Trade Commission; sale of books, etc— 2759
SHELTON TUBULAR RIVET CO., cease and desist order by Federal Trade Commission; sale of industrial rivets— 1528
SHERMAN, JACOB, hearing by Federal Trade Commission— 2316
SHIELDS, PAUL V., hearing by Securities and Exchange Commission— 1411, 1504
SHINGLES, ETC.:
Marking of imports to indicate country of origin— 2802
Red cedar shingles, importation from Canada limited— 1965
SHIPPING:
Marine Inspection and Navigation Bureau:
Barges in tow— 2392
Certificates of service and efficiency, discharge, identification and continuous discharge books, issuance of— 2338
Danish passenger vessels, pre-sailing examination and collection of fees— 1567
Documentation, entrance and clearance of vessels— 2392
Manifests and shippers' export declarations— 2131

SHIPPING—Continued. Page
Marine Inspection and Navigation Bureau—Continued.
Navigation fees— 2392
Passengers, carriage of— 2392
River passenger vessels, subdivision of; fire equipment items approved— 1934
Safety certificates, acceptance of— 2392
Seamen's protection certificates— 2392
Seas Shipping Co., Inc., minimum manning scales for subsidized vessels— 3023
Tonnage duties and light money— 2392
Vessels undocumented, numbering and recording— 2303
United States Maritime Commission:
Cadets on vessels under subsidy agreements, selection and trading— 3044
Cargo vessels owned by the Commission, wage and manning scales and working conditions— 3006
Subsidized vessels, practices in terminating voyages and determining lay-up periods— 2144
United States Maritime Service:
Establishment— 1760
Regulations for government of— 2224
SHOES, women's and misses, cost production, etc., investigation dismissed by United States Tariff Commission— 1964
SHOSHONE INDIANS, reservation proclaimed for, Nev— 2705
SHOSHONE IRRIGATION PROJECT, WYO., lands opened to entry; availability of water— 1716
SHOTWELL MANUFACTURING CO., order by Federal Trade Commission— 2595
SHRIMP (CANNED), inspection regulations revised— 1313
SHUPE-WILLIAMS CANDY CO., cease and desist order by Federal Trade Commission; sale of candy— 2004
SIFTON, PAUL, appointed Acting Administrator of Wage and Hour Division— 2777
SILK INDUSTRY, trade practice rules by Federal Trade Commission— 1738, 2623
SILVER:
Newly mined domestic, acceptance by mints— 1794
Shipment exemptions under Government Losses in Shipment Act— 2281
SILVER, J. DAN, cease and desist order by Federal Trade Commission; sale of candy— 2031

SIMON SILVER-LEAD MINES, INC., hearing by Securities and Exchange Commission— 2606
SIMPLICITY PATTERN CO., hearing by Securities and Exchange Commission— 2211
SINN, J. FRANK, cease and desist order by Federal Trade Commission; sale of agricultural seed— 1968, 2347
SINNOCK & SHERRILL, INC., hearing by Federal Trade Commission— 2522
SLOSS-SHEFFIELD STEEL & IRON CO., declared not an electric utility company— 1448
SMITH, JOHN C., hearing by Federal Trade Commission— 1447
SMITH, LAURENCE A., hearing by Federal Trade Commission— 3179
SNYDER, IRA C.:
Effective date of declaration by Securities and Exchange Commission— 2230
Reorganization plan approved— 1920, 1940
SNYDER LIVESTOCK MARKET, notice under Packers and Stockyards Act— 2580
SOCIAL SECURITY ACT:
Allotments, etc., to States for public health service— 1634
Information returns abolished for certain employees— 2303
Inspection of tax returns authorized under Title IX of— 2679
Tax credits and refunds for 1936 under Title IX— 1463
Tax credits where contributions to State are at reduced rate— 2863
SOCIAL SECURITY BOARD. *See also* Employees' Benefits.
Division of Personnel Supervision and Management to be established— 2271
Interdepartmental Committee on Printing and Processing, representative to be designated— 2603
Oregon unemployment compensation law, hearing on effect of change in— 2914
SOCONY-VACUUM OIL CO., INC., hearing by Securities and Exchange Commission— 2552, 2575
SOFT-LITE LENS CO., INC., cease and desist order by Federal Trade Commission; sale of optical lenses— 1627
SOLAR ELECTRIC CO., hearing by Federal Power Commission— 2571, 2790
SOLVAY SALES CORP.:
Cease and desist order; sale of calcium chloride— 3058
Hearing by Federal Trade Commission— 2134
SOMMERS, ROSE, hearing by Federal Trade Commission— 2710

SORRELLS, FLOYD IRL, hearing by Federal Trade Commission 2572
SOUTH CAROLINA:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2773
Church Creek between Charleston and Rockville, drawbridge regulations 1567
Tenant purchase loans, counties designated for 1877
SOUTH CAROLINA UTILITIES CO., order by Securities and Exchange Commission 1763
SOUTH DAKOTA:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2693
Range Conservation Program, 1938, Jones County 1378
Tenant purchase loans, counties designated for 1862
Waubay Migratory Waterfowl Refuge, enlargement 2783
SOUTH GREELEY SALES YARDS, notice under Packers and Stockyards Act 2182
SOUTH HILL, VA., designated tobacco market 2074
SOUTHEASTERN EXPRESS CO., hearing by Interstate Commerce Commission 1397
SOUTHEASTERN INVESTING CORP., hearing by Securities and Exchange Commission 3048
SOUTHERN CHAMPION TRAY CO., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
SOUTHERN COLORADO POWER CO., hearing; effective date of declaration by Securities and Exchange Commission 1959, 2240, 2268
SOUTHERN ILLINOIS COALS, INC., hearing and order by National Bituminous Coal Commission 1956, 2857
SOUTHERN OREGON GAS CORP., hearing; reorganization plan approved by Securities and Exchange Commission 2240, 2268, 2492, 2600, 2630
SOUTHERN PECAN SHELLING CO., hearing by Wage and Hour Division 2908
SOUTHERN RAILWAY SYSTEM, drawbridge regulations across Three Mile Creek, Mobile, Ala 2867
SOUTHERN UNION GAS CO., order by Securities and Exchange Commission 3174
SOUTHERN UTE INDIAN RESERVATION, COLO., restoration order 2444
SOUTHERN UTILITIES CO., LIMITED:
Exemption from provisions of Public Utility Holding Company Act of 1935 2873
Hearing by Securities and Exchange Commission 2663
SOUTHWESTERN ELECTRIC CO:
Hearings by Securities and Exchange Commission 1878, 2818
Sale of securities approved 2019
SOUTHWESTERN LIGHT & POWER CO., hearing by Federal Power Commission 2451
SPATER, ADOLPH, cease and desist order by Federal Trade Commission; sale of merchandise 2517
SPECIAL COMMITTEE ON UNAMERICAN ACTIVITIES, House of Representatives, inspection of tax returns by 1943, 1953
SPECIAL MEXICAN CLAIMS COMMISSION:
Payments on account of awards 1757
Powers, rights, and duties terminated 1423
SPEIDEL, CHAS. W., & CO., hearing by Federal Trade Commission 1420
SPIELDOCK, LEOPOLD, cease and desist order by Federal Trade Commission; sale of merchandise 2176
SPILO, LEON A., hearing by Federal Trade Commission 2793
SPLENETIC FEVER, interstate transportation control of cattle to prevent spread of 1840, 2729
SPOKANE, WASH., redesignated airport of entry 1386
SPRING CANYON COAL CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
SPRINGFIELD MILLING CORP., cease and desist order by Federal Trade Commission; sale of flour 2203
SQUARE DEAL CANDY CO., hearing by Federal Trade Commission 2265
STAMP TAX. *See* Taxes.
STANDARD CARTON CO., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
STANDARD COAL CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
STANDARD GAS AND ELECTRIC CO., unlisted trading privileges extended by Securities and Exchange Commission 1864, 2014
STANDARD INVESTING CORP., hearing by Securities and Exchange Commission 2357, 2575
STANDARD OIL CO. OF CALIF., hearing by Securities and Exchange Commission 2816, 3001
STANDARD SEED CO., cease and desist order by Federal Trade Commission; sale of agricultural seed 1968
STANDING STONE EXPERIMENTAL FOREST, PA., lands transferred to Forest Service 2314
STARTUP CANDY CO., cease and desist order by Federal Trade Commission; sale of candy 2003
STATE DEPARTMENT. *See also* Foreign Relations.
Trade agreement negotiations, public notice:
Cuba 2857
Venezuela 1747, 1748
STATEN ISLAND EDISON CORP:
Hearings by Securities and Exchange Commission 1425, 1646, 2529
Listing and registration order 2843
Withdrawal of application 2806
STATEN ISLAND RAILWAY CO., hearing by Securities and Exchange Commission 2471
STATISTICAL RESEARCH BUREAU, hearing by Federal Trade Commission 2792
STEAM VESSELS. *See* Navigation and Navigable Waters: Vessels.
STEELE-WALLACE CORP., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
STEFFIN, PAUL, hearing by Federal Trade Commission 1421
STEIN, ISADORE, hearing by Federal Trade Commission 2677
STEINER, JOSEPH M., registration revoked by Securities and Exchange Commission 1877
STEVENS & THOMPSON PAPER CO., cease and desist order by Federal Trade Commission; sale of food dish trays 3039
STILLS, ETC., manufacture, taxpayment, etc.; drawback exportation 1608
STOCK DRIVEWAYS. *See* Public Lands: General Land Office.
STOCKS, stamp tax on transfers 2141
STOCK'S NU-TONE TONIC, cease and desist order by Federal Trade Commission; sale of medicinal preparation 2032

STOCKYARDS. *See* Packers and Stockyards Act.
STRAW, inspection and certification regulations 1867
STRONG, ROY M., notice under Packers and Stockyards Act 1503
STYLECRAFT LEATHER GOODS CO., INC., hearing by Federal Trade Commission 1446
SUBURBAN GAS AND ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission 1936, 2126
SUDETEN, GERMANY, customs treatment of products exported from 2673
SUGAR ACT OF 1937:
Article in chief value of manufactured sugar, additional data on customs invoice 2033
California, 1939 sugar beet crop:
Farming practices 2609
Wage rates 2784
Consumption requirements and quotas:
1938 1389
1939 3171
Domestic beet sugar area:
Payment eligibility for farm abandonment and crop deficiency 2610
Proportionate shares for farms:
1937 crop 1625
1938 crop 2245
1939 crop 3172
Hawaii:
Price determinations, 1939, hearing 2785
Proportionate shares for 1937 crop 1359
Quota deficits, 1938, proration of 2729
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1441, 1626
Sugar consumption requirements for 1939 2188
Wage rates, 1937, 1938 1649, 2785
Hearing, 1939 crop 2671
Liquid sugar quota allotments for foreign countries, 1938 1427
Louisiana sugarcane, prices for 1938 crop 2306
Mainland cane sugar area:
Farming practices for 1938 crop 2263
Proportionate shares for farms, 1939 crop 2378
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1786, 3145
Wage rates, 1938 1626
Hearings, 1939 1830
Orders, regulations, and determinations amended 2660
SUGAR ACT OF 1937—Con.
Philippine Islands, proration of 1938 deficit 1391
Puerto Rico:
Direct-consumption portion allotment, 1938 quota 1279, 2785
Farming practices for 1938–39 1786
Proportionate shares for sugarcane producers 2747
Quota allotments, 1938 1337, 2885
Hearing, 1939 allotment 2431
Sugar commercially recoverable per acre; payment eligibility for farm abandonment and crop deficiency 1474, 1627
Sugar consumption requirements for 1939 3188
Wage rates and prices for 1939 sugarcane 2674
Quota prorations for foreign countries other than Cuba 2207
Sugar beets:
California, hearings on wage rates and prices, 1939 crop 1971
Normal yields of commercially recoverable sugar per acre 2467
Wage rates:
1938 crop 2263
1939 crop, hearings 3065
Virgin Islands, proration of 1938 quota deficits 2729
SUGAR DIVISION. *See* Agriculture; Agriculture Department.
SUMPTER COAL CO., order by National Bituminous Coal Commission 2857
SUN-FIELD SEED SERVICE, cease and desist order by Federal Trade Commission; sale of agricultural seed 1968
SUNSHINE ANTHRACITE COAL CO., application for certificate of exemption, National Bituminous Coal Commission 1241, 1396, 2154
SUPERIOR CERAMIC CORP., complaint by Federal Trade Commission; sale of tile 2117
SUPERIOR OIL CORP., hearing by Securities and Exchange Commission 3048
SUPERWEAR HOSIERY CO., cease and desist order by Federal Trade Commission; sale, etc., of hosiery 1428
SUPPLIES AND ACCOUNTS MANUAL BUREAU. *See* Navy.
SUPREME SALES CO., hearing by Federal Trade Commission 2859
SURETE LABORATORIES, hearing by Federal Trade Commission 1542
SWEET COAL CO:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
SWEETS CO. OF AMERICA, INC., cease and desist order by Federal Trade Commission; sale of candy 3036
SWIFT CREEK RECREATIONAL DEMONSTRATION AREA, local subsidiary regulation 1963

T

TAG INDUSTRY, minimum wage determination 2537
TAMARAC MIGRATORY WATERFOWL REFUGE, MINN.:
Establishment 1255
Fishing regulations 1662, 2034
TAMPA, FLA., airport of entry designated for aliens 1951
TANGERINES, hearing on handling of, Fla 2872
TAREX CO., cease and desist order by Federal Trade Commission; sale of pharmaceutical preparations 1366
TAXES:
Admissions, dues and initiation fees 1756
Brandy:
Blending of pure fruit brandies 1925
Fortification tax abatement or refund 1926
Imported, collection on 2354
Losses of, intended for fortification of wine 1925
Manufacture of 1926
Samples withdrawn for laboratory analysis, etc 1924
Brewers of malt liquors 1911
Capital stock, time extensions for filing returns 1393
Carriers Taxing Act of 1937, initial and quarterly returns 2179
Cheese (Filled), regulations amended 1464
Closing agreements as to future tax liability 2064
Coal, etc., from Union of Soviet Socialist Republics 2012, 2018
Coca leaves, importation, manufacture, sale, etc 1291–1313
Distilled spirits:
Bonds covering manufacture, etc.; tax increase 1514
Bottling in bond 1348, 1641
Floor taxes 1469, 1612
Imported, collection on 2354
Documentary stamp, effect given to certain legislative enactments 1330
Estate, regulations amended 1792, 2570
Excise:
Miscellaneous regulations amended 1651
Sales by manufacturers 2034
Excise-profits, corporations 1771
Federal taxes on War Department procurements 1975
Firearms and machine guns 1900
Gift, regulations amended 1788

TAXES—Continued. Page
Imports of articles in chief value of manufactured sugar 2033
Income, regulations amended:
Annuity payments 2140
Corporate liquidations, recognition of gain 1393, 2761
Deficiency payments, time extensions 1771
Foreign corporations, information returns 1464, 1467
Indebtedness, cancelation under Bankruptcy Act 2686
Information returns, dissolution or liquidation of capital stock 1455
Inventories of tanners, producers and processors of non-ferrous metals, elective method 2361
Liquidations, basis of property received 1466
Mitigation of effect of limitation provisions, etc 2085
Nonrecognition of gain or loss upon exchanges, etc 2736
Property repossessed, gain or loss upon installment obligations 1847
Reorganization, basis of property acquired after December 31, 1937 1477
Sale of personal property 1652
Telegraph and cable service income 3147
Test of taxability to the grantor 2242
Internal revenue, sealed mail articles 2855
Liquor dealers, special payments 1911
Oils, etc., assessment and collection on importations 1632
Oleomargarine, adulterated butter, etc., effect given to certain legislative enactments 1332
Opium, importation, manufacture, sale, etc 1291–1313, 1402
Processing, on certain oils 1469
Refunds under Bankhead Cotton Act of 1934, Kerr Tobacco Act, and Potato Act of 1935 1969
Returns (income and excess-profits), inspection by Special Joint Congressional Committee to make investigation of Tennessee Valley Authority 2680, 2692
Returns (income, excess-profits, and capital stock), inspection by Special Committee on Un-American Activities, House of Representatives 1943, 1953
Returns (income, excess-profits, capital stock, estate and gift) and returns under Title IX of Social Security Act, inspection of 2679, 2689
Sawed timber imported 3071
Social Security Act:
Credits and refunds under Title IX 1463, 2863

TAXES—Continued. Page
Social Security Act—Continued.
Information returns abolished for employees sixty-five years of age, etc 2303
Stamp, regulations amended 1650, 2141
Stills and Worms, manufacture, sale, etc 1608
Taxes on gasoline, lubricating oil, brewer's wort and malt products, matches, etc 1860
Wine:
Fruit wines 1929
Removal for transfer in bond, etc 1928
TAYLOR GRAZING ACT:
Disposition of conflicting sale and lease applications 1335
Exchanges of State lands, regulations amended 1367
Federal Range Code, supplementary rules 1533
Public sale applications for lands in grazing districts 1508
TAYLOR, J. M., CO., INC., hearing by Federal Trade Commission 2677
TAYLOR, ROBERT C., hearing by Federal Trade Commission 1340
TAYLOR, W. R., & CO., order by Securities and Exchange Commission 2555
TAYLOR WASHING MACHINE CO., cease and desist order by Federal Trade Commission; sale, etc., of washing machine products 1505
TAYLORS BAYOU, TEX., navigation regulations for Beaumont Navigation District lock and dam 1642
TECHNICAL LABORATORIES, ET AL., hearing by Federal Trade Commission 2268
TECK-HUGHES GOLD MINES, LTD., order by Securities and Exchange Commission 1504
TELECOMMUNICATION:
Federal Communications Commission:
Alaska radio services, rules repealed 2907
Alaska radio stations other than amateur and broadcast, rules 2906
Amateur radio stations and operators, rules 2446
Rules cancelled 2450
Broadcasts by candidates for public office 1691
Carrier contracts, agreements, etc., filing of 2908
Commercial radio operators, rules governing 3155
Common carriers, cost of projects 3154
Emergency radio services, rules 1734, 2905
Fixed radio services, definitions 2905

TELECOMMUNICATION—Con. Page
Federal Communications Commission—Continued.
Government telegraph communications, rates of pay 1281
Low power radio frequency electrical devices, operation of 2999
Miscellaneous radio services, rules 3024, 3026
Professional radio operators, rules repealed 3158
Radio, emergency services 2202
Rules of Practice and Procedure 2707, 2829
Ship radio services 2905
Standard broadcast stations, approved power ratings 2255
Tariffs, posting, filing, etc.; schedule changes 2563, 3158
Technical regulations, classification of emissions; communication band width 2904
Telecommunication carriers, destruction of records 2194, 3000
Telegraph carriers, filing of damage claims relating to traffic 3158
Telephone carriers, filing of information, contracts, etc 2202
TELEGRAPH, ETC., FACILITIES:
Excise tax regulations 1651
Income tax on services from within United States to outside points 3147
TENANT PURCHASE LOANS. *See* Bankhead-Jones Farm Tenant Act.
TENNESSEE:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates 2500
Coal, minimum price proposals to National Bituminous Coal Commission 2058
Lake Isom Migratory Waterfowl Refuge, establishment 1995
Memphis Union Stock Yards, notice under Packers and Stockyards Act 2651
Tenant purchase loans, counties designated for 1863
TENNESSEE PUBLIC SERVICE CO., hearing by Federal Power Commission 1540
TENNESSEE VALLEY AUTHORITY, inspection of tax returns by Special Joint Congressional Committee to make investigation of 2680, 2692
TENNEY, C. I., ENGINEERING CO., order by Securities and Exchange Commission 2540
TENNEY, C. I., ET AL. TRUSTEES, order by Securities and Exchange Commission 2540
TERRITORIES AND INSULAR POSSESSIONS:
Alaska Railroad:
Anchorage hospital laboratory fees 3184

TERRITORIES AND ISLAND POSSESSIONS. *See* Interior Department. Page
TEXAS:
Agricultural conservation program. *See* Agriculture.
Amarillo Livestock Sales Co., notice under Packers and Stockyards Act 2598
Amarillo, special air traffic rule 1664
Aransas Migratory Waterfowl Refuge, closed area designated 2807
Cattle, control of interstate transportation to prevent spread of diseases 2729
Citrus fruits, hearing on handling of 1456
Nacogdoches County, release of splenetic or tick fever quarantine 1840
Oranges and grapefruit, handling of, etc 2213, 2222
Taylors Bayou, navigation regulations for Beaumont Navigation District lock and dam 1642
Tenant purchase loans, counties designated for 1738
TEXAS AND PACIFIC RAILWAY COMPANY BRIDGE, operation across Bayou Lafourche, Napoleonville, La 2116
TEXAS CITIES GAS CO.:
Acquisition of securities approved 2097, 3185
Documents made part of record 2135
Effective date of declaration 2097, 3185
Hearing by Federal Power Commission 2491
Hearing by Securities and Exchange Commission 1881, 2642
TEXAS CORP., hearing by Securities and Exchange Commission 2553, 2575
TEXAS-NEW MEXICO UTILITIES CO., hearing by Securities and Exchange Commission 2818
TEXAS PACIFIC LAND TRUST, hearing by Securities and Exchange Commission 2772
TEXAS TASTY CO., hearing by Federal Trade Commission 2572
TEXTILE INDUSTRY, hearing on employment of learners at less than minimum wage 2671
TEXTILE INDUSTRY COMMITTEE:
Appointment by Wage and Hour Division 2313
Definition of, amendment 3065
Order to convene 2315
THANKSGIVING DAY, 1938, proclamation 2755
THOMAS QUILT FACTORIES, hearing by Federal Trade Commission 2227

THOMSON, JUDSON L., MFG. CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
THOMSON, RAY, hearing by Federal Trade Commission 1543
THOUSAND ISLANDS BRIDGE, N. Y., designated port of entry for aliens 1698
THREE MILE CREEK, MOBILE, ALA., Southern Railway System drawbridge regulations 2867
TICK FEVER, interstate transportation control of cattle to prevent spread of 1840, 2729
TIMBER:
Free use by churches, hospitals, and charitable institutions, Alaska 2066
Importations of, conflict with any international agreements 1888
National forest timber sold on scale, regulations 3137
Sales from revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands, Oreg 1795
Sawed timber imported:
Dutiable and taxable status 3071
Marking to indicate country of origin 2802
TIN-PLATE SCRAP, rules for issuance of exportation licenses 1566, 3071
TIP TOP LABORATORIES, cease and desist order by Federal Trade Commission; sale of cosmetics, drugs, etc 2287
TOBACCO:
Burley:
Farm marketing quotas for 1938 2557, 2863
Marketing quotas for 1938–39 2848, 3125
National marketing quota for 1939; apportionment and adjustment for 1938–39 2801, 2863
Referenda instructions on marketing quotas; results 2803, 3187
Fire-cured and dark air-cured:
Farm marketing quotas for 1938 2646, 2862
Marketing quotas for 1938–39 2822, 3126
National marketing quota, 1938–39; apportionment and adjustment 2783, 2801
Referenda instructions on marketing quotas; results 2803, 3188
Flue-cured:
Farm marketing quotas for 1938 1839, 1963, 2148, 2203
National marketing quota, 1938–39; apportionment and adjustment 1839, 2149, 2769

TOBACCO—Continued. Page
Flue-cured—Continued.
National marketing quota, 1939–40, apportionment and adjustment 2828
Marketing quotas for 1938–39 1438, 1547, 1833, 2354, 2443, 2822
Procedure for 1939 quotas 2683
Referenda instructions on marketing quotas; referendum results 2774, 3183
Handlers of, application for exemption from maximum hours provisions, Wage and Hour Division 3192
Kerr Tobacco Act, tax refunds authorized 1969
Marketing of, refund of penalty erroneously, etc., collected 2645
Marketing quotas, administrative review 1749, 3029
Markets designated:
Abingdon, Va 2734
Huntington, W. Va 2734
Knoxville, Tenn 2734
Maysville, Paris, and Springfield, Ky 2734
Owensboro, Ky 2208
Ripley, Ohio 2734
South Hill, Va 2074
TOBACCO ASSN. OF UNITED STATES, ETC., exemption from maximum hours provisions, Wage and Hour Division 3192
TOLEDO EDISON CO., hearing; exemption from provisions of Public Utility Holding Company Act of 1935 1854, 1973
TOLEDO, OHIO, MARKETING AREA, handling of milk, base period; regulatory order 1893, 2169, 2180
TOMATO PASTE MANUFACTURING INDUSTRY, trade practice rules by Federal Trade Commission 1425, 2155
TOMATOES:
Canned, hearing on standards of identity, quality, fill of container; label statements 3009
Fumigation by methyl bromide as certification of moving by refrigerator car 2048
Tomato paste, puree, catsup, and juice, hearing on standards of identity 3012
TOWNSEND CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
TRADE AGREEMENTS:
Application of duties proclaimed to products of certain foreign countries 2323, 2808
Cuba, public notice of negotiations 2857, 2858

TRADE AGREEMENTS—Con. Page
Lumber importations, conflict with any international agreements 1888
Venezuela, public notice of negotiations 1747, 1748
TRADE PRACTICE RULES:
Baby Chick Industry 2293, 3188
Fur Industry 1442
Infants' and Children's Knitted Outerwear Industry, hearing 1664
Macaroni, Noodles, and Related Products Industry 1283, 1660
Oleomargarine Manufacturing Industry 1396, 2323
Paint and Varnish Brush Manufacturing Industry, hearing 1831
Roll Leaf Manufacturing Industry, hearing 1354
Shrinkage of Woven Cotton Yard Goods 1583
Silk Industry 1738, 2623
Tomato Paste Manufacturing Industry 1425, 2155
Wool Industry, hearing 2791
TRADING SALES CO., hearing by Federal Trade Commission 2676
TRADING WITH THE ENEMY ACT, authorizing Attorney General to sell certain property under 1255
TRANSAMERICA CORP., hearing by Securities and Exchange Commission 2809
TRANSCONTINENTAL & WESTERN AIR, INC.:
Certificate of air transportation service, exemption 2605
Hearing by Civil Aeronautics Authority 2490
Hearings by Securities and Exchange Commission 2553, 2575, 3048
TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Carriers by pipe line:
Annual reports 2856
Quarterly statistical reports 2580
Carriers by water:
Annual reports 2707
Depreciation charges 1445, 3000
Quarterly statistical reports 2580
Electric railways:
Annual reports 2771
Uniform system of accounts 2871
Explosives, etc., transportation regulations 1621, 2640, 2871
Express companies, annual reports 2771
Inventory of materials and supplies, valuation orders waived 1386
TRANSPORTATION AND RAILROADS—Continued. Page
Interstate Commerce Commission—Continued.
Johnston, A. (Brotherhood of Locomotive Engineers), et al v. Atchison, Topeka & Santa Fe Railway Co., et al 1478, 2674, 2908
Motor Carrier Act of 1935:
Carriers, postponing effective date of Rule 27, Tariff Circular 20 1719
Common and contract carriers by motor vehicle, qualifications of employees, safety of operation, etc 1902, 2901
Contract to operate or lease operating rights, certificates or permits 2180
Motor carrier employees, maximum hours of service 1439, 1875, 2339, 3158
Motor carriers, filing and approval of surety bonds, etc 2787
Proceedings instituted under, special instructions 1335
Substitution of prospective purchasers; transfers of certificates, permits, etc 2179
Tariffs, schedules, temporary operation of motor carrier properties 2363
Transfers of rights to operate as motor carrier; notification 2157, 2180
Motor carriers of property and passengers, Class I:
Annual reports 3158
Quarterly statistical reports 2021
Railway Labor Act, employees, etc., included within term "employee" 2451, 3045
Steam railway companies, annual reports:
Classes I and II 3137
Class III 2707
Lessors to 2856
Steam railways, Class I, quarterly reports:
Freight commodity statistics 3064
Revenue highway traffic 3064
Steam roads, uniform system of accounts 2871
Switching and Terminal Companies, annual reports:
Class I and Class II 3137
Class III 2786
Valuation orders cancelled 2746
TREASURY DECISIONS:
Bound volumes, notice of changes in numbering and issuance 1699
TREASURY DECISIONS—Con. Page
Court decisions published in, identification of 1931
TREASURY DEPARTMENT:
Accounts and Deposits. *See* Money and Finance: Treasury.
Comptroller of the Currency. *See* Banking and Credit.
Coronado National Forest, Ariz., lands transferred to jurisdiction of 1944
Customs Bureau. *See also* Customs Duties.
Airports of entry designated:
Bangor, Me., Crosby, N. Dak., Burlington, Vt 1540
Buffalo, N. Y 1902
Fort Yukon, Alaska 1692
Miami, Fla 2293
Niagara Falls, N. Y 1654
Rochester, N. Y 2671
Sandusky, Ohio, Great Falls, Mont., Havre, Mont., Plattsburg, N. Y., Spokane, Wash., Watertown, N. Y 1386
Sault Ste. Marie, Mich 1902
Warroad, Minn 2158
Coal from Russia, liquidation of entries suspended 2012
Lumber importations, conflict with international agreements 1888
Treasury Decisions:
Bound volumes, notice of changes in numbering and issuance 1699
Court decisions published in, identification of 1931
Employment of examiners, etc., to carry out functions of National Economic Committee 1945
Federal Alcohol Administration Division. *See also* Intoxicating Liquors.
Brandy (domestic), designations as "cognac" 1903
Liquor-selling concessions at World's Fairs, New York and San Francisco 2256
Interdepartmental Committee on Printing and Processing, representative to be designated 2603
Internal Revenue Bureau. *See* Internal Revenue.
Narcotics Bureau. *See* Food and Drugs.
Procurement Division:
Lincoln Gardens Project, New Brunswick, N. J., release forms adopted 2144
Public Debt Service. *See* Money and Finance: Treasury.
Secretary's Office. *See also* Money and Finance: Treasury.
Foreign moneys, values of 1645, 2372

TREASURY DEPARTMENT—Con. Page
Secretary's Office—Continued.
Whaling, joint regulations with Secretary of Commerce 3138
TREATIES, negotiation of, Foreign Service Regulations amended 2847
TRENT TILE CO., INC., complaint by Federal Trade Commission; sale of tile 2118
TRITICO, G. J., hearing by Federal Trade Commission 2572
TRUE-VALU HOME SUPPLY, hearing by Federal Trade Commission 2711
TUBERCULOSIS (CATTLE):
Appraisement and compensation for condemned cattle 1527, 2018
Counties in modified accredited areas 1382, 1755, 2002, 2253, 2481, 2685, 2903
TUBULAR RIVET & STUD CO., cease and desist order by Federal Trade Commission; sale of industrial rivets 1528
TUCKER, BENJAMIN, cease and desist order by Federal Trade Commission; sale of furs 1898
TULE LAKE WILDLIFE REFUGE, CALIF., hunting permitted 2500
TULELAKE TOWNSITE, CALIF., lands added 2730
TURMEL, MADAME MARGUERITE, INC., hearing by Federal Trade Commission 2522
TWIN STATE GAS & ELECTRIC CO., hearing by Federal Power Commission 1387, 1503

U

UMATILLA RESERVATION, leasing of lands for agricultural, etc., purposes 1860
UN-AMERICAN ACTIVITIES, SPECIAL COMMITTEE ON, House of Representatives, inspection of tax returns by 1943, 1953
UNDERWEAR INSTITUTE, hearing by Wage and Hour Division 2790
UNION ELECTRIC CO. OF MO., hearing; effective date of declaration, etc., by Securities and Exchange Commission 2295, 2602, 2814
UNION ELECTRIC POWER CORP., hearing by Securities and Exchange Commission 2766
UNION FOUNTAIN PEN CO., hearing by Federal Trade Commission 2502
UNION LIVE STOCK COMMISSION CO., INC., notice under Packers and Stockyards Act 2651
UNION OF SOVIET SOCIALIST REPUBLICS:
Coal imported from:
Commercial agreement extended 2018
UNION OF SOVIET SOCIALIST REPUBLICS—Continued. Page
Coal imported from—Con.
Liquidation of entries suspended 2012
UNION PRODUCING CO., hearing by Securities and Exchange Commission; withdrawal of application 1855, 1977
UNION SLOUGH MIGRATORY WATERFOWL REFUGE, IOWA, establishment; land description corrected 2661, 2821
UNITED AIR LINES, hearing by Securities and Exchange Commission 2553, 2575
UNITED AIR LINES TRANSPORT CORP.:
Certificate of air transportation service, exemption 2067
Hearing by Securities and Exchange Commission 3048
Hearings by Civil Aeronautics Authority 2490, 2908, 3046
Tariff revision, filing, posting, etc 2605
UNITED AIRCRAFT CORP., hearing by Securities and Exchange Commission 2553, 2575
UNITED BUYERS CORP., hearing by Federal Trade Commission 1541
UNITED COMBUSTION CORP., stop order by Securities and Exchange Commission 2528
UNITED CORP.:
Hearing; petition to intervene granted by Securities and Exchange Commission 2842, 3115
Unlisted trading privileges extended 1941
UNITED DISTILLERS (OF AMERICA) LTD., cease and desist order by Federal Trade Commission; sale of whiskies, gins, etc 1628
UNITED DISTILLERS PRODUCTS CORP., hearing by Federal Trade Commission 2386
UNITED EDUCATORS, INC., hearing by Federal Trade Commission 1920
UNITED FENCE MANUFACTURERS ASSN., cease and desist order by Federal Trade Commission; sale of snow fence products 1845
UNITED FUEL GAS CO., hearing; effective date of declaration by Securities and Exchange Commission 2375, 3047
UNITED GAS CORP., hearing by Federal Power Commission 2490
UNITED GAS IMPROVEMENT CO., hearing by Securities and Exchange Commission 2554, 2575
UNITED GAS PIPE LINE CO., hearing by Federal Power Commission 2490
UNITED LIGHT AND POWER CO., order by Securities and Exchange Commission 2731
UNITED LIGHT AND POWER ENGINEERING AND CONSTRUCTION CO., order by Securities and Exchange Commission 2352
UNITED MINE WORKERS OF AMERICA, Gas, etc., Workers, District No. 50, order by Securities and Exchange Commission 2574
UNITED STATES BLUE PRINT PAPER CO., hearing by Federal Trade Commission 1420
UNITED STATES BOARD OF TAX APPEALS. *See* Internal Revenue.
UNITED STATES CIVIL SERVICE COMMISSION. *See also* Civil Service Rules.
Apportionment, condition at close of business:
May 31, 1938 1372
June 15, 1938 1450
June 30, 1938 1637
July 15, 1938 1777
July 30, 1938 1937
August 15, 1938 2023
August 31, 1938 2166
September 15, 1938 2259
September 30, 1938 2376
October 15, 1938 2512
October 31, 1938 2613
November 15, 1938 2752
November 30, 1938 2875
December 15, 1938 3051
Division of Personnel Supervision and Management required to be established 2271
UNITED STATES EMPLOYEES' COMPENSATION COMMISSION. *See* Employees' Benefits.
UNITED STATES EMPLOYMENT SERVICE. *See* Labor.
UNITED STATES FUEL CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
UNITED STATES HOUSING AUTHORITY. *See also* Housing Credit.
Division of Personnel Supervision and Management required to be established 2271
UNITED STATES LINES CO., hearing by United States Maritime Commission 2796
UNITED STATES MARITIME COMMISSION. *See also* Shipping.
American Export Lines, Inc., hearing on minimum manning scales 3117
Division of Personnel Supervision and Management required to be established 2271
Electricians, etc., hearing on wage and manning scales, working conditions 2493, 2644

UNITED STATES MARITIME COMMISSION—Continued. Page
Federal Ship Mortgage Insurance, information and application form 1886
Hearings, operation of vessels in intercoastal trade:
Baltimore Mail Steamship Co. 2796
Matson Navigation Co. 2796
United States Lines Co. 2796
Minimum manning scales for subsidized vessels, supplements 2145
Minimum wage scales and working conditions for Purser's Department and Ship's Surgeons on subsidized vessels, hearing 1355
Operating-differential subsidy contract, hearings:
Dollar Steamship Line 2260
Isthmian Steamship Co. 2260, 2340, 2556
United States Maritime Service, establishment 1760
UNITED STATES MILITARY ACADEMY, honor graduates of honor schools as candidates for 2786
UNITED STATES PATENT OFFICE. *See* Patents and Copyrights.
UNITED STATES PROCESSING TAX BOARD OF REVIEW. *See* Internal Revenue.
UNITED STATES RUBBER CO., hearing by Securities and Exchange Commission 2554, 2575
UNITED STATES TARIFF COMMISSION:
Interdepartmental Committee on Printing and Processing, representative to be designated 2603
Investigations in production costs, etc., dismissed:
Fluorspar 1964
Women's and Misses' cemented shoes of leather 1964
UNITED TELEPHONE AND ELECTRIC CO.:
Effective date of declaration by Securities and Exchange Commission 2230
Reorganization plan approved 1920, 1940
UNITY GOLD CORP., stop order by Securities and Exchange Commission 1776
UNIVERSAL ADVERTISERS SERVICE, cease and desist order by Federal Trade Commission; sale of electric razors, etc. 1899
UNIVERSAL MERCHANDISE CO., cease and desist order by Federal Trade Commission; sale of cosmetics, etc. 2287
UPPER KLAMATH INDIANS, reservation proclaimed for, Calif. 2749
UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE, hunting regulations 2309
UTAH:
Agricultural conservation program. *See* Agriculture.
Air navigation site withdrawals 1642, 1690, 1862
Arches National Monument, enlargement 2782
Child labor, acceptance of State certificates 2500
Dinosaur National Monument, enlargement 1765
Grazing district modifications 1539, 1870, 2243, 2856
Tenant purchase loans, counties designated for 2350
UTAH FUEL CO.:
Hearing by National Bituminous Coal Commission 1367
Petition on production cost data denied 1955
UTE INDIANS, COLO., land withdrawal revoked 3021
UTILITIES ELKHORN COAL CO.:
Effective date of declaration by Securities and Exchange Commission 2046
Notice of hearings 1509, 2070
Order on maximum interim allowances for fees, etc. 2303
UTILITIES EMPLOYEES SECURITIES CO., hearings; order by Securities and Exchange Commission 2182, 2183, 2269, 2574, 3160
UTILITIES POWER & LIGHT CORP., ET AL.:
Acquisition of securities approved, etc. 2911
Hearings, etc., by Securities and Exchange Commission 1411, 1449, 1504, 1803, 1831, 1855, 1864, 1871, 1963, 1972, 1973
Orders on petition to intervene 2258, 2284, 2364, 2524, 2540, 2631
UTILITY MANAGEMENT CORP., hearing by Securities and Exchange Commission 2584, 2677
UTILITY SERVICE CO., hearing by Securities and Exchange Commission 2555

V

VACU-MATIC CARBURETOR CO., hearing by Federal Trade Commission 1544
VALLIGNY PRODUCTS, INC., hearing by Federal Trade Commission 2711
VALMOR UNDERGARMENT CO., hearing by Federal Trade Commission 2583
VANCENBROCK COAL CO., order by National Bituminous Coal Commission 2857
VAN-TAGE MEDICINE CO., INC., hearing; cease and desist order by Federal Trade Commission; sale of medicines 1541, 2561
VEDDER, CLYDE B., registration revoked by Securities and Exchange Commission 2766
VEGETABLES:
Inspection and certification regulations 1451
Japanese beetle quarantine restrictions, termination date 2264
Shipments from Hawaii to mainland subject to sterilization 2515
Tomatoes (canned), hearing on standards of identity, quality, etc. 3009
VENEREAL DISEASES, allotments to States for control measures, 1939 1828
VENEZUELA, public notice of trade agreement negotiations with 1747, 1748
VERMONT:
Agricultural conservation program. *See* Agriculture.
Burlington, airport of entry redesignated 1540
Child labor, acceptance of State certificates 2500
Tenant purchase loans, counties designated for 1935
VERMOUTH. *See* Wine.
VESSELS. *See also* Navigation and Navigable Waters; Shipping; United States Maritime Commission.
American fisheries redefined, United States vessels 2033
Beaumont Navigation District lock and dam across Taylors Bayou, Tex., navigation, etc., regulations 1642
Cargo, statistical reports 1429
Chicago River, Ill., operation of controlling works and use of lock 2139
Customs Regulations of 1937, amendment 1808
Documents, surrender of 1428
Fire equipment, miscellaneous items approved 1934
Great Lakes and inland waters, radio requirements survey 1516, 1517
Radio services 2905
Radio transmitters, investigation of power requirements 1409
Supplies:
Drawback on distilled spirits 2043
Taxes on gasoline, lubricating oil, matches 1860
Voyage terminations and lay-up periods 2144
VETERANS' ADMINISTRATION. *See also* Pensions, Bonuses, and Veterans' Relief.
Division of Personnel Supervision and Management required to be established 2271

VILLONT COAL CO., order by National Bituminous Coal Commission 2857
VINCENT, MERLE D., appointed Wage and Hour Division representative to act on certain applications 2777
VIRGIN ISLANDS:
Narcotic tax regulations 1301
Sugar quota deficits, 1938, proration 2729
VIRGINIA:
Agricultural conservation program. *See* Agriculture.
Back Bay Migratory Waterfowl Refuge, establishment 1358
Child labor, acceptance of State certificates 2533
Commodity rate investigation by Interstate Commerce Commission 2019
Fort Myer Military Reservation, use of military road by National Airport Corp. 1987
George Washington National Forest, boundaries redefined 2779
Richmond Sales Area, license for milk terminated 2341
South Hill, designated tobacco market 2074
Tenant purchase loans, counties designated for 1920
VIRGINIA CITY GOLD MINING CO., hearing and order by Securities and Exchange Commission 2230, 2843
VIRGINIA ELECTRIC AND POWER CO., hearing; exemption from provisions of Public Utility Holding Company Act of 1935 2269, 2387
VIRGINIA PUBLIC SERVICE CO., hearing; orders by Securities and Exchange Commission 1448, 1458, 2599
VORUNION, WILLIAM AND BENJAMIN, hearing by Federal Trade Commission 2502
VOSS CO., INC., hearing by Federal Trade Commission 2386

W

WACO DRUG CO., hearing by Federal Trade Commission 2266
WAGE AND HOUR DIVISION. *See also* Labor; Labor Department.
Appointments to executive positions authorized without regard to Civil Service Rules 2105
WAGES. *See* Labor; Public Contracts.
WAIN'S LABORATORY, INC., cease and desist order by Federal Trade Commission; sale of Wain's Compound, etc. 1712
WALD, JACK, hearing by Federal Trade Commission 2677
WALDES KOH-I-NOOR, INC., hearing by Federal Trade Commission 2791
WALLACE COAL CO., order by National Bituminous Coal Commission 2857
WALLACH'S, INC., hearing by Federal Trade Commission 2584
WALLING, WILLIAM ENGLISH, II, hearing; final compensation disapproved by Securities and Exchange Commission 1871, 3182
WALNUT CANYON NATIONAL MONUMENT, ARIZ., lands added 2321
WALNUT ELECTRIC & GAS CORP., hearing; sale of stock approved by Securities and Exchange Commission 2752, 3001
WALNUTS, hearing; order regulating handling of, Calif., Oreg., Wash. 2133, 2377
WALWORTH CO., INC., hearing by Securities and Exchange Commission 2554, 2575
WAPATO INDIAN IRRIGATION PROJECT, WASH., assessments on land in non-Indian ownership for construction cost repayments 2223
WAR DEPARTMENT. *See also* Army; Navigation and Navigable Waters.
Chaplains in Regular Army, appointment of 2597
Civilian Conservation Corps. *See* Public Welfare.
Dental Corps, Regular Army, examination for appointment 2527
Life insurance policies for persons entering active military service 2289
Medical Corps, Regular Army, examination for appointments 1935, 2141
National Guard. *See* National Defense.
Ordnance Department at Large, Civil Service Rules amended with respect to classified positions 2359
WAREHOUSE ACT, UNITED STATES, regulations of Secretary of Agriculture amended 1400
WARM SPRINGS BAY LIGHTHOUSE RESERVE, ALASKA, land description corrected 1944
WARNER'S RENOWNED REMEDIES CO., cease and desist order by Federal Trade Commission; sale of pharmaceutical preparations 1513
WARROAD, MINN., airport of entry redesignated 2158
WASHINGTON:
Agricultural conservation program. *See* Agriculture.
Bituminous coal in intrastate commerce, investigation 1511
WASHINGTON—Continued. Page
Child labor, acceptance of State certificates 2500
Columbia Basin Project, reclamation withdrawal 2040
Hops, handling of 1979
Pears (fresh), base period for agreement and order regulating handling of 2439, 2489
Hearing on proposed agreement, etc. 2045
Port Gamble Band of Clallam Indians, reservation proclaimed 1867
Prunes (fresh), handling of 1779
Spokane, airport of entry redesignated 1386
Tenant purchase loans, counties designated for 2117
Walnuts, hearing and order on handling of 2133, 2377
Wapato Indian Irrigation Project, assessments on land in non-Indian ownership for construction cost repayments 2223
WASHINGTON GAS LIGHT CO., hearing; exemption from provisions of Public Utility Holding Company Act of 1935 1387, 2454, 2611
WASHINGTON RAILWAY AND ELECTRIC CO., hearing; exemption denied by Securities and Exchange Commission 2294, 3027
WASHINGTON SOUND, line dividing high seas from rivers, harbors, etc., Juan de Fuca Strait 2254
WASHINGTON SUBURBAN GAS CO., hearing, etc., by Securities and Exchange Commission 1832, 1922
WASHINGTON WHOLESALE LIQUOR CORP., hearing by Federal Trade Commission 2432
WASHTENAW GAS CO., hearing; acquisition of assets approved by Securities and Exchange Commission 2164, 2283
WATERFOWL REFUGES. *See* Refuges.
WATERTOWN, N. Y., redesignated airport of entry 1386
WATKINS, WARREN, hearing by Federal Trade Commission 2265
WAUBAY MIGRATORY WATERFOWL REFUGE, S. DAK., enlargement 2783
WEAVERVILLE ELECTRIC CO., hearing; reorganization plan approved by Securities and Exchange Commission 2240, 2268, 2492, 2600, 2630
WEBB, A. M., & CO., INC., hearing by Federal Trade Commission 2545
WEBB CRAWFORD CO., order by Federal Trade Commission 2595

WEIL, J. H., & CO., hearing by Federal Trade Commission— 1420
WEILER, ALEXANDER AND LILY G., hearing by Federal Trade Commission— 2677
WEINBERG, MARCUS A., AND BELLE, hearing by Federal Trade Commission— 2265
WEISMAN, SAMUEL, hearing by Federal Trade Commission— 2364
WEISSMAN, FRED P., INC., hearing by Federal Trade Commission— 2503
WELAKA FISH HATCHERY, FLA., lands transferred and reserved as— 2633
WELLS, FARGO & CO., hearing by Securities and Exchange Commission— 1434, 1589, 1696
WELLWORTH SALES CO., hearing by Federal Trade Commission— 2709
WENCZEL TILE CO., complaint by Federal Trade Commission; sale of tile— 2122
WEST OHIO GAS CO., hearing; reorganization plan approved by Securities and Exchange Commission— 2749, 1993, 2538
WEST PARK APARTMENTS CORP., stop order by Securities and Exchange Commission— 2319
WEST PENN POWER CO., hearing; effective date of declaration by Securities and Exchange Commission— 1668, 2013, 2794
WEST SISTER ISLAND MIGRATORY BIRD REFUGE, OHIO, establishment— 1943, 2047
WEST TENNESSEE POWER & LIGHT CO., notice of applications by Federal Power Commission— 2909
WEST VIRGINIA:
Agricultural conservation program. *See* Agriculture.
Child labor, acceptance of State certificates— 2500
George Washington National Forest, boundaries redefined— 2779
Tenant purchase loans, counties designated for— 1935
WESTERN AIR EXPRESS CORP.:
Certificate of air transportation service, exemption— 2068
Hearings by Civil Aeronautics Authority— 2694, 2908, 3046
WESTERN FUEL CO., hearing by National Bituminous Coal Commission— 1516
WESTERN NORTH DAKOTA STOCKMEN'S ASSN., authorized to conduct brand inspection— 2285
WESTERN PENNSYLVANIA COAL CORP., hearing; approval as marketing agency by National Bituminous Coal Commission— 2206, 2233
WESTERN UNION TELEGRAPH CO., hearing on employment of messengers at less than minimum wage— 2489, 2694, 2883
WESTMORELAND BRICK CO., order by National Bituminous Coal Commission— 2509
WESTPORT, CONN., highway drawbridge regulations revoked across Saugatuck River— 2264
WHALING, joint regulations of Secretary of the Treasury and Secretary of Commerce— 3138
WHAT CHEER CLAY PRODUCTS CO., order by National Bituminous Coal Commission— 3027
WHEAT. *See also* Agricultural Credit: Commodity Credit Corporation.
Crop insurance regulations— 1364, 1640, 1722, 1987
Farm acreage allotments, 1939 crop— 1807
Limits on position and daily trading for future delivery— 1408, 3145
Marketing quotas, administrative review— 1749, 3029
National acreage allotment, 1939 crop— 1754
State acreage allotments, 1939— 1807
WHEELER MIGRATORY WATERFOWL REFUGE, ALA.:
Establishment— 1669
Hunting permitted in Madison County— 2768
WHEELING TILE CO., complaint by Federal Trade Commission; sale of tile— 2123
WHISKEY. *See* Distilled Spirits.
WHITE-FRINGED BEETLE QUARANTINE:
Hearing on quarantining Alabama, Florida, Louisiana, and Mississippi— 2045
Regulations; restricted areas— 3003
WHITE, MORRIS, MFG. CO., INC., hearing by Federal Trade Commission— 1446
WHITE MOTOR CO., hearing by Securities and Exchange Commission— 3048
WHITE-PINE BLISTER RUST, quarantine regulations revised— 1266
WHITE SANDS NATIONAL MONUMENT, N. MEX., modification— 2129
WHITE, WELD & CO., ET AL., suspension order by Securities and Exchange Commission— 1509
WHOLESALE LIQUOR DEALERS OF WASHINGTON, INC., hearing by Federal Trade Commission— 2432
WILDLIFE. *See also* Refuges.
Biological Survey Bureau:
Big Lake Reservation, Ark., fishing regulations— 2075
WILDLIFE—Continued.
Biological Survey Bureau—Continued.
Federal Aid Wildlife Restoration Act, regulations— 1713
Lower Souris Migratory Waterfowl Refuge, N. Dak., fishing regulations— 2385
Migratory birds depredating to agricultural interests, killing of— 1400
Moosehorn Migratory Bird Refuge, Maine, fishing regulations— 1401
National wildlife refuges, administration regulations (impounding of animals)— 3009
Tamarac Migratory Waterfowl Refuge, Minn., fishing regulations— 1662, 2034
Tule Lake Wildlife Refuge, Calif., hunting permitted— 2500
Upper Mississippi River Wild Life and Fish Refuge, hunting regulations— 2309
Fisheries Bureau:
Alaska fishery regulations amended— 1382, 1840, 1940, 2018, 2043, 2063, 2082, 2100, 2116, 2131, 2143, 2222, 2337
Whaling, joint regulations of Secretaries of the Treasury and Commerce— 3138
WILDLIFE RESTORATION ACT, regulations— 1713
WILLARD TABLET CO., INC., cease and desist order by Federal Trade Commission; sale of medicines— 2568
WILLNER, ABE S., hearing by Federal Trade Commission— 2708
WILLYS-OVERLAND MOTORS, INC., cease and desist order by Federal Trade Commission; sale of automobiles— 1900
WILSON & CO., INC., hearing by Securities and Exchange Commission— 3048
WIND RIVER MOUNTAIN ROADLESS AREA, Shoshone Indian Reservation, boundaries amended— 2085
WINE. *See also* Brandy.
Fortification tax abatement or refund when used as distilling material, etc— 1926
Fruit wines— 1929
Labeling and advertising regulations— 2500
Losses of brandy intended for fortification of— 1925
Regauging of, customs regulations— 2307
Removal for transfer in bond or for distilling material— 1928
Retailers, extension of credit to— 2809
Standards of identity, etc— 2093
Vermouth, manufacture on bonded winery premises— 1927
Weights for testing scales— 2011
WINNEBAGO RESERVATION, leasing of lands for agricultural, etc., purposes— 1860
WISCONSIN:
Agricultural conservation program. *See* Agriculture.
Chequamegon National Forest, lands added— 2496
Child labor, acceptance of State certificates— 2500
Nicolet National Forest, lands added— 2495
St. Croix Chippewa Indians, reservation proclaimed for— 3015
Tenant purchase loans, counties designated for— 1800
WISCONSIN ELECTRIC POWER CO., hearing and order by Securities and Exchange Commission— 2564, 2750
WISCONSIN PUBLIC SERVICE CORP., hearing; issue and sale of bonds exempted by Securities and Exchange Commission— 1667, 2145
WOLF, AL B., hearing by Federal Trade Commission— 2492
WOLFORD, ELMER C., hearing by Federal Trade Commission— 1920
WOMEN'S ADVISORY BUREAU, hearing by Federal Trade Commission— 1542
WOMEN'S AND MISSES CEMENTED SHOES OF LEATHER, production cost investigation dismissed by United States Tariff Commission— 1964
WOOD FURNITURE MANUFACTURING INDUSTRY, hearing on minimum wage determinations— 2628
WOODBURY, WILLIAM A., SALES CO., INC., cease and desist order by Federal Trade Commission; sale of creams, cosmetics, etc— 3037
WOOL. *See also* Agricultural Credit: Commodity Credit Corporation.
Hooked rugs, domestic manufacturer's protest overruled on classification and duty rate— 2063
Transportation by motor vehicle, Boston, Mass., investigation— 1891
WOOL—Continued.
Wool Associates of New York Cotton Exchange, Inc., designated contract market— 1269
Wool tops, regulations under Commodity Exchange Act— 1873
WOOL CARPET AND RUG INDUSTRY, minimum wage determination— 2371
WOOL INDUSTRY, proposed trade practice rules by Federal Trade Commission— 2791
WORCESTER SUBURBAN ELECTRIC CO., hearing; effective date of declaration by Securities and Exchange Commission— 1355, 1637
WORK GLOVE INDUSTRY, notice on minimum wage for learners, handicapped, etc., workers— 3065
WORKS PROGRESS ADMINISTRATION. *See* Public Welfare.
WORLD'S DESIRE BUREAU, cease and desist order by Federal Trade Commission; sale of instruction courses— 3038
WORTHINGTON PUMP & MACHINERY CORP. (DEL.), hearing by Securities and Exchange Commission— 3048
WOVEN COTTON YARD GOODS, SHRINKAGE, trade practice rules promulgated by Federal Trade Commission— 1583
WRIGLEY, WM., JR., CO., hearing and order by Securities and Exchange Commission— 2356, 2843
WYNNE, BLANCHE, hearing by Federal Trade Commission— 2317
WYOMING:
Agricultural conservation program. *See* Agriculture.
Air navigation site withdrawals— 1862, 2326
Bituminous coal in intrastate commerce, investigation— 1606
Fort Laramie National Monument, lands reserved as— 1768
Public lands:
Withdrawal for forest lookout station— 2883
Withdrawal revoked for rifle practice— 2567
WYOMING—Continued.
Public lands—Continued.
Withdrawals revoked— 1944, 2861
Public Water Reserve No. 160— 2755
Public Water Restoration No. 81— 2679
Shoshone Irrigation Project, lands opened to entry; availability of water— 1716
Stock driveway withdrawals adjusted— 3137
Tenant purchase loans, counties designated for— 2079

Y

YANCEY, R. FRANK, hearing by Federal Trade Commission— 1801
YELLOW TRUCK & COACH MANUFACTURING CO., hearing by Securities and Exchange Commission— 2554, 2575
YOCUM & SON COAL CO., order by National Bituminous Coal Commission— 2857
YORK RAILWAYS CO., order by Securities and Exchange Commission— 2584
YOUNG, G. T., notice under Packers and Stockyards Act— 3045
YOUNG, HAROLD E., hearing postponed by Federal Power Commission— 1396
YOUNG, W. R., hearing by Federal Trade Commission— 1543

Z

ZEPHYR RADIO CO., hearing by Federal Trade Commission— 1340
ZIMMER, H. R., cease and desist order by Federal Trade Commission; sale of Radium Emanator— 1952
ZIPPER, MORRIS, hearing by Federal Trade Commission— 2041
ZOLLINGER, S., CO., hearing by Federal Trade Commission— 1541
ZONITE PRODUCTS CORP., hearing by Federal Trade Commission— 1420
ZUNI INDIAN RESERVATION, ARIZ., N. MEX., conduct of trade regulations— 1690
ZWEIGENTHAL, JOSEPH, hearing by Federal Trade Commission— 2712

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Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM SECURITY ADMINISTRATION

[Administration Order 40 (Rev. 2) (Suppl. 7)[1]]

LOANS TO COMMUNITY AND COOPERATIVE ASSOCIATIONS AND TO INDIVIDUALS TO PARTICIPATE IN SUCH ASSOCIATIONS OR JOINT ACTIVITIES

APPROVAL OF LOANS AND DETERMINATION OF RATES OF INTEREST ON INDIVIDUAL LOANS

1. The purpose of this Supplement is to extend the authority of the regional director to approve Applications on Form FSA–RR 23, "Community and Cooperative Services Application," and to modify policy relative to rates of interest on such loans.

2. Effective immediately, all issuances referring to the limits of authority of the regional directors to approve Applications for loans on Form FSA–RR 23 are amended to conform with the provisions set forth in the following paragraph which is substituted for paragraph 6b I of AO 40 (Rev. 2):

"6 b I. The regional director is hereby authorized to approve loans to individuals, not exceeding in the aggregate seven thousand five hundred dollars ($7,500) contemplated in connection with any one association, group, or individual, and he may approve supplemental loans in such cases, provided that the total unpaid principal balances on the prior loans which have been made in connection with the association, group, or individual plus the amount of the supplemental loans contemplated do not exceed seven thousand five hundred dollars ($7,500). The approval authority herein given to the regional director may be delegated by him to the assistant regional director in charge of RR. Where the total amount of loans to individuals contemplated in connection with any one association, group or individual, including supplemental loans, exceeds seven thousand five hundred dollars ($7,500), two copies of the Application accompanied by a statement of the aggregate amount of the unpaid principal on prior loans, if any, shall be forwarded to the Administrator, Farm Security Administration, Washington, D. C., Refer to: Rural Rehabilitation Division."

3. Paragraphs 10b, c, and d of AO 40 (Rev. 2) are hereby deleted and the following paragraph is substituted therefor:

"10b. In the case of loans hereafter made to individuals for participation in community services or cooperative associations, or for the acquisition of property or services jointly or individually for joint benefit, interest will be charged at the rate of three per cent per annum on balances remaining unpaid from time to time, except in the following cases:

"I. The rate shall be five per cent in the case of loans to individuals for obtaining services when the borrowers thereby obtain no capital interest in the association, service, or facility. Included in this type, but not restricted thereto, are: (1) Loans to individuals to be used for the payment of medical, dental, veterinary, or grazing fees, which fees may cover, in the discretion of the regional director, nominal membership fees and/or fees for services to be acquired through the associations or facilities; and (2) loans to individuals for the purchase jointly or individually for joint benefit of non-recoverable farm supplies or materials.

"II. In order to reduce the number of loans with different interest rates, interest at the rate of five per cent may be charged, in the discretion of the regional director, on any loans described in paragraph 10b hereof when such loans are included as a part of the Farm Plan, either as an initial loan or a supplemental loan, if loan funds for other purposes are or have been included in such Farm Plan. Where an interest rate of five per cent is charged pursuant to the foregoing

[1] Supersedes pars. 6b I, 10b, c, and d of AO 40 (Rev. 2)—9/26/36.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT: Page
Farm Security Administration:
Community and cooperative associations, approval of loans; rates of interest 2353
TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Flue-cured tobacco marketing quotas for 1938–39 marketing year, regulations supplemented 2354
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Imported distilled spirits and brandy, collection of internal revenue tax on 2354
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department:
Pennsylvania Railroad drawbridge operation, Bush River, Md., rules, etc 2355
TITLE 39—POSTAL SERVICE:
Post Office Department:
Division of Air Mail Service under the First Assistant Postmaster General 2356
Division of International Postal Service, duties relating to foreign air mail service 2356
First Assistant Postmaster General, duties of 2356
Second Assistant Postmaster General, duties of 2356

NOTICES

Securities and Exchange Commission:
Hearings:
Equitable Auto Co 2358
Grand National Films, Inc. (common stock, $1 par value) 2357
New Brunswick Power Co 2358

(Continued on next page)

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CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Hearings—Continued.
Standard Investing Corp. (common stock, no par value) ---------- 2357
Wrigley, Wm. Jr., Co. (capital stock, no par value) ---- 2356
Lima Cord Sole and Heel Corp., withdrawal and listing application granted--------- 2357
Public Service Co. of Northern Illinois, consent to withdrawal of applications---- 2357

provisions of this Supplement on the loan or loans made to one or more borrowers for the establishment of a group facility or for participation in a group service or cooperative association, a uniform interest rate of five per cent shall be charged on the loans made to all borrowers for the establishment of such facility or for participation in such group service or cooperative association."

4. The requirements now in effect relative to the preparation and submission of Applications on Form FSA–RR 23, "Community and Cooperative Services Application", including participation agreements and other supporting data, are not affected by the provisions of the above paragraph 10b.

[SEAL] C. B. BALDWIN,
Acting Administrator.

Approved, September 29, 1938.

HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2864; Filed, September 29, 1938; 3:38 p. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 28, Supplement 1]

SUPPLEMENT TO REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE 1938–1939 MARKETING YEAR

Form 38—Tobacco 28, "Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938–1939 Marketing Year",[1] is amended as follows:

Section 502 (Article V—Transfer of Quotas) is amended by striking out the period at the end of the said section and inserting in lieu thereof a semi-colon and the following:

"*Provided, however,* That any quota transferred to a farm on or after the 29th day of September, 1938, shall be transferable from the farm only to the extent of the number of pounds by which the amount of quota previously transferred from the farm is less than 10 percent of the marketing quota established for the farm."

Done at Washington, D. C., this 29th day of September, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc 38–2865; Filed, September 29, 1938; 3:38 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4864]

COLLECTION OF INTERNAL REVENUE TAX ON IMPORTED DISTILLED SPIRITS AND BRANDY

To Collectors of Internal Revenue, Collectors of Customs, and Others Concerned:

Section 710 of the Revenue Act of 1938 (Public No. 554, 75th Congress) is as follows:

(a) Section 600 (a) (4) of the Revenue Act of 1918, as amended, is amended to read as follows:

"(4) On and after January 12, 1934, and until July 1, 1938, $2.00, and on and after July 1, 1938, $2.25, on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon."

(b) Section 600 (c) of such Act, as amended, is amended by striking out "$2.00 per wine gallon" and inserting in lieu thereof "$2.25 per wine gallon."

(c) Section 4 of the Liquor Taxing Act of 1934 is amended by striking out "$2.00" and inserting in lieu thereof "$2.25."

(d) The amendments made by this section shall not apply to brandy and the rates of tax applicable to such brandy shall be the rates applicable without regard to such amendments."

[1] 3 F. R. 1833 DI.

Section 600 (a) (5) of the Revenue Act of 1918, as amended (Sec. 1150 (6) (f), Title 26, U. S. Code), is as follows:

The internal revenue tax imposed by this subdivision upon distilled spirits heretofore or hereafter imported into the United States shall under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected and deposited in the same manner as other internal revenue taxes, except that such collection and depositing shall be by the collector of customs instead of by the collector of internal revenue. Such tax shall be in addition to any customs duty imposed under the Tariff Act of 1922 or any subsequent act.

Pursuant to the above provisions of law, the following regulations relative to the collection of tax on imported distilled spirits are hereby promulgated:

(1) Distilled spirits, except brandy, in customs bonded warehouse or imported into the United States on and after July 1, 1938, are subject to an internal revenue tax, when withdrawn, at the rate of $2.25 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

(2) Brandy in customs bonded warehouse or imported into the United States on and after July 1, 1938, is subject to an internal revenue tax, when withdrawn, at the rate of $2.00 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

(3) Imported perfumes containing distilled spirits are subject to an internal revenue tax, when withdrawn, at the rate of $2.25 per wine gallon and a proportionate tax at a like rate on all fractional parts of such wine gallon.

(4) Champagne and other sparkling wines, still wines, artificially carbonated wines, and vermouth, if containing over 24 per centum of alcohol by volume, are subject to an internal revenue tax, when withdrawn, at the rate of $2.25 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, unless fortified with brandy exclusively, in which event the same are subject to an internal revenue tax, when withdrawn, at the rate of $2.00 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

(5) Cordials, liqueurs, and similar compounds, except as stated below, whether they contain more or less than 24 per centum of alcohol by volume, if brandy is the only distilled spirit used in their production, are subject to an internal revenue tax, when withdrawn, at the rate of $2.00 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, but where brandy and other distilled spirits or other distilled spirits alone, are used in their production, such products are subject to an internal revenue tax, when withdrawn, at the rate of $2.25 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. The exception is as to such liquors made with a wine (fortified or unfortified) base, without distilled spirits, other than brandy, and containing not over 24 per cent of alcohol by volume. Such liquors made with a wine base fortified with brandy and not containing over 24 per centum of alcohol by volume are subject to an internal revenue tax, on each bottle or other container, at the rate of 1¼ cents on each one-half pint or fraction thereof. Such liquors made with an unfortified wine base and not containing over 24 per centum of alcohol are subject to internal revenue tax at the rates applicable to wines.

(6) Compounds and preparations containing distilled spirits, which are beverages or are fit for beverage purposes, are subject to internal revenue tax at the rate of $2.25 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, except where brandy is the only distilled spirit used in the manufacture thereof, in which event such products are subject to internal revenue tax at the rate of $2.00 per proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

(7) Except as hereinafter provided, champagne or other sparkling wine, still wines, artificially carbonated wines, vermouth, cordials, liqueurs or similar compounds, and compounds or preparations, subject to the internal revenue tax as distilled spirits, containing no distilled spirits other than brandy, which are held in customs bonded warehouse or imported into the United States on and after July 1, 1938, may be withdrawn upon payment of the internal revenue tax at the rate of $2.00 per proof gallon, or wine gallon when below proof, if there has been filed with the Collector of Customs of the port at which the liquors are to be withdrawn, a sworn statement signed by the foreign producer, containing the following information:

(1) The name and address of the importer
(2) The name and address of the foreign producer
(3) The kind and brand of the liquor
(4) That no distilled spirits other than brandy are used in the manufacture of the product
(5) That the statement applies to a specific lot or applies generally to all importations of the same kind and brand of liquor
(6) A serial number assigned by the importer

Such statements shall be in the English language or accompanied by a certified translation, if in a foreign language.

Where the liquor covered by such statement is to be withdrawn from various ports, the importer, in lieu of filing an original statement from the foreign producer at each port, may file with Collectors of Customs of such ports a duly sworn and attested copy of the original statement. The copies so filed shall bear the serial number and date of the original statement regardless of the number of ports at which same are filed. The Collector of Customs shall stamp the date of receipt on all statements or copies of statements received by him.

Such products may be entered for consumption or withdrawn from customs bonded warehouse prior to January 1, 1939, upon payment of the internal revenue tax at the $2.00 rate without filing a statement from the foreign producer, provided a sworn statement signed by the importer is filed with the Collector of Customs of each port at which the liquors are to be withdrawn. Such statement, when signed by the importer, shall contain all the information required in the statement of the foreign producer.

(8) If in any case in which a statement intended generally for all importations of the same kind and brand of liquor is on file, the formula for the production of the liquor is changed and other spirits are used in its manufacture, or brandy is eliminated therefrom, the importer shall notify the Collector of Customs at each port where such general statement is on file to that effect, giving adequate information from which the statement may be identified. Notwithstanding a sworn statement, or statements, has already been submitted, the Collector of Customs may require the submission of an additional sworn statement, or statements, at any time such action is deemed necessary.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

JAMES H. MOYLE,
Commissioner of Customs.

Approved, September 28, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38–2866; Filed, September 30, 1938; 9:30 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

RULES AND REGULATIONS TO GOVERN OPENING OF PENNSYLVANIA RAILROAD DRAWBRIDGE ACROSS BUSH RIVER AT BUSH RIVER, MARYLAND[1]

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[*Here follows, in the original document, the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 1056 DI.*]

[1] These regulations will supersede the regulations approved December 2, 1931.

THE REGULATIONS

In pursuance of the foregoing law, the following regulations are prescribed to govern the opening of the Pennsylvania Railroad drawbridge across Bush River at Bush River, Maryland.

1. During the period from June 1 to September 30 each year the draw shall be opened promptly upon signal, as prescribed in paragraph two hereof, at any time between the hours of 10 a. m. and 7 p. m., for the passage of any vessel unable to pass under the closed bridge. Between the hours of 7 p. m. and 10 a. m. during this period and throughout the day or night during the period from October 1 to May 31 each year, the draw shall be opened promptly upon said signal given after at least three hours previous notice to the telegraph operator at Perryville Tower: *Provided,* however, that the draw need not be opened when there is a train in the bridge block approaching to cross the bridge, nor within five minutes of the known time of passage of a passenger, mail, or express train, but in no event, except in case of breakdown of the operating machinery, shall the opening of the draw be delayed more than 10 minutes.

2. Signals:

(a) When a vessel approaches the drawbridge and desires to pass through the draw, three distinct blasts of a whistle, horn or megaphone or three loud and distinct strokes of a bell shall be sounded from the vessel when within reasonable hearing distance from the bridge.

(b) When the draw of the bridge can be opened immediately, the draw tender shall reply by three distinct blasts of a whistle, horn or megaphone or by three loud and distinct strokes of a bell.

(c) When the draw of the bridge cannot be opened immediately, or when the bridge is open and is to be closed immediately, the draw tender shall reply by one distinct blast of a whistle, horn or megaphone or by one loud and distinct stroke of a bell.

3. The owner of the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can be easily read at any time, a copy of these regulations, together with a notice stating exactly how the telegraph operator at Perryville Tower may be reached; and shall arrange for ready communication by telephone with him at any time either from the bridge or from its immediate vicinity.

4. These rules and regulations shall take effect and be in force on and after November 1, 1938, and the regulations approved December 2, 1931, are hereby revoked to take effect on that date.

Approved, September 21, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38–2867; Filed, September 30, 1938; 9:52 a. m.]

TITLE 39—POSTAL SERVICE

POST OFFICE DEPARTMENT

[Order No. 12134]

DUTIES OF THE FIRST ASSISTANT POSTMASTER GENERAL

SEPTEMBER 17, 1938.

Paragraph 1 of Section 11 of the Postal Laws and Regulations of 1932 is amended to read as follows:

1. The First Assistant Postmaster General is charged with the duty of handling for the Postmaster General all matters relating to the selection and nomination of postmasters at post offices of the first, second, and third classes, and the appointment of postmasters at offices of the fourth class; the bonding and commissioning of postmasters; the general management of post offices and the instruction of postmasters, except as otherwise provided; the establishment, discontinuance and changes of sites and names of post offices; the authorization of allowances for clerk and city and village carrier hire, and other expenses connected with post offices; and the conduct of the City Delivery, Village Delivery, and Special Delivery Services; and the treatment of all unmailable and undeliverable mail matter; the authorization and management of the transportation of domestic and international mails by airplanes; the preparation of orders of awards thereon; the authorization of changes of schedules on airplane routes and the frequency thereof; the receipt and examination of reports from postmasters and others as to the performance of domestic air mail service; the issuance of statements of amounts found upon administrative examination to be due the various companies for performance of such service and the forwarding of such statements to the General Accounting Office for payment; all correspondence and negotiations with the United States operators with respect to operation.

[SEAL] W. W. HOWES,
Acting Postmaster General.

[F. R. Doc. 38-2860; Filed, September 29, 1938; 3:19 p. m.]

[Order No. 12135]

DIVISION OF AIR MAIL SERVICE UNDER THE FIRST ASSISTANT POSTMASTER GENERAL

SEPTEMBER 17, 1938.

Section 11 of the Postal Laws and Regulations of 1932, is hereby further amended by the addition of paragraph 5, as follows:

5. The Division of Air Mail Service, under the supervision of the superintendent, is charged with consideration of all matters pertaining to the transportation of air mail; the preparation of advertisements inviting proposals for the carrying of air mails on experimental contract air mail routes; the drafting of orders awarding such service and the preparation of contracts therefor; the approval of equipment used or proposed to be used by carriers and the investigation as to pecuniary ability of contractors; the examination of regular and special reports covering the performance of service; the preparation of advertisements for mail lettings for the transportation of mail by steamboats, and star routes; the preparation of orders of awards thereon and the execution of contracts accordingly; the authorization of changes in schedules on steamboat routes and star routes where they are fixed by orders; the receipt and examination of reports from postmasters and others as to the performance of such service and the preparation of orders for the Postmaster General making deductions for nonperformance and imposing fines for delinquencies, the issuance of statements of amounts found upon administrative examination to be due the various companies, contractors, and others for performance of such service, and the forwarding of such statements to the General Accounting Office for payment; the authorization of payment of salaries to railway postal clerks and making allowances for their travel expenses; the distribution of pouches, sacks, and pouch locks used in the transportation of the mails; the designation and supervision of mail-bag depositories; the direction of the mail distribution and the course of the mails; the supervision of the Railway Mail Service, Rural Delivery Service, International Postal Service (including the sea post, Navy mail, and internatitonal registry, insurance, and collect-on-delivery services), and other classes of transportation mentioned above; and the general supervision of the divisions of the Bureau.

[SEAL] W. W. HOWES,
Acting Postmaster General.

[F. R. Doc. 38-2862; Filed, September 29, 1938; 3:19 p. m.]

[Order No. 12136]

DUTIES OF THE SECOND ASSISTANT POSTMASTER GENERAL

SEPTEMBER 17, 1938.

Paragraph 1 of Section 12 of the Postal Laws and Regulations of 1932, is hereby amended to read as follows:

1. To the Second Assistant Postmaster General are assigned the authorization and management of the transportation of the domestic and international mails by means of railroads, electric and cable cars, steamships, steamboats, rural routes, mail messengers, star routes; the preparation of advertisements for mail lettings for the transportation of mail by steamboats, and star routes; the preparation of orders of awards thereon and the execution of contracts accordingly; the authorization of changes in schedules on steamboat routes and star routes where they are fixed by orders; the receipt and examination of reports from postmasters and others as to the performance of such service and the preparation of orders relating to deductions for the nonperformance of service or other delinquencies on the part of carriers on air mail routes; the preparation of monthly statements to the General Accounting Office of the amounts found upon administrative examination to be due carriers for the performance of service on air mail routes; and the supervision and conduct of the air mail service generally.

Paragraph 5 of Section 12 of the Postal Laws and Regulations of 1932, is hereby revoked.

[SEAL] W. W. HOWES,
Acting Postmaster General.

[F. R. Doc. 38-2861; Filed, September 29, 1938; 3:19 p. m.]

[Order No. 12137]

DIVISION OF INTERNATIONAL POSTAL SERVICE—DUTIES RELATING TO FOREIGN AIR MAIL SERVICE

SEPTEMBER 17, 1938.

Paragraph 3 (a) of Section 12, Postal Laws and Regulations of 1932, is hereby amended by the addition of the following:

The preparation of general correspondence with foreign countries in regard to foreign air mail service and the performance of all duties in connection with the administration thereof except those specifically assigned to the First Assistant.

W. W. HOWES,
Acting Postmaster General.

[F. R. Doc. 38-2863; Filed, September 29, 1938; 3:20 p. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of September, 1938.

IN THE MATTER OF APPLICATION OF WM. WRIGLEY JR. COMPANY TO WITHDRAW ITS CAPITAL STOCK, NO PAR VALUE, FROM LISTING AND REGISTRATION ON THE BOARD OF TRADE OF THE CITY OF CHICAGO

[File No. 1-800]

ORDER SETTING HEARING ON APPPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Wm. Wrigley Jr. Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Capital Stock, No Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, October 26, 1938, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2872; Filed, September 30, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of September, 1938.

[File No. 1-1932]

IN THE MATTER OF APPLICATION OF NEW YORK STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE COMMON STOCK, NO PAR VALUE, OF STANDARD INVESTING CORPORATION

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, No Par Value, of Standard Investing Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, October 27, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2869; Filed, September 30, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of September, 1938.

[File No. 1-2619]

IN THE MATTER OF APPLICATION OF GRAND NATIONAL FILMS, INC. TO WITHDRAW ITS COMMON STOCK, $1 PAR VALUE, FROM LISTING AND REGISTRATION ON THE NEW YORK CURB EXCHANGE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The Grand National Films, Inc., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $1 Par Value, from listing and registration on the New York Curb Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, October 25, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2871; Filed, September 30, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September A. D. 1938.

[File No. 1-2816]

IN THE MATTER OF THE LIMA CORD SOLE AND HEEL CORPORATION COMMON STOCK, $1 PAR VALUE

ORDER GRANTING APPLICATION FOR WITHDRAWAL FROM LISTING AND REGISTRATION

The Lima Cord Sole and Heel Corporation having made application to the Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, for permission to withdrawal for listing and registration on the Cleveland Stock Exchange 112,600 shares of Common Stock, $1 Par Value; and

The Commission having ordered a hearing with respect to said application, which hearing, after due notice,[1] was held on the 4th day of May, 1938; and

The Commission having considered said application, together with the evidence introduced at said hearing and the report of the trial examiner thereon, and having due regard for the public interest and the protection of investors, and having filed its findings and opinion herein;

It is ordered, That said application be and hereby is granted, effective at the close of the trading session on October 9, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2876; Filed, September 30, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1938.

[File No. 31-339]

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NORTHERN ILLINOIS

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant, consents to the withdrawal of the application of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2874; Filed, September 30, 1938; 12:48 p. m.]

[1] 3 F. R. 928 DI.

OCT 5 1938

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September A. D., 1938.

[File No. 31-342]

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NORTHERN ILLINOIS

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant, consents to the withdrawal of the application of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2875; Filed, September 30, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September A. D., 1938.

[File No. 31-46]

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NORTHERN ILLINOIS

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

The Commission, having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant, consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2873; Filed, September 30, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1938.

[File No. 31-411]

IN THE MATTER OF NEW BRUNSWICK POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (b) and Rule U-3B-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 17, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 12, 1938.

The matter concerned herewith is in regard to the application of New Brunswick Power Company for an order declaring it to be exempt from all the provisions of the Public Utility Holding Company Act of 1935 under Section 3 (b) of said act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2868; Filed, September 30, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of September, A. D. 1938.

[File No. 37-34]

IN THE MATTER OF EQUITABLE AUTO COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 18, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 12, 1938.

The matter concerned herewith is in regard to a declaration with respect to the organization and operation of the business of a subsidiary service company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2870; Filed, September 30, 1938; 12:47 p. m.]

OCT 5 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 193

Washington, Tuesday, October 4, 1938

The President

EXECUTIVE ORDER

POSTPONEMENT OF EFFECTIVE DATE OF CERTAIN PROVISIONS OF EXECUTIVE ORDER NO. 6166 OF JUNE 10, 1933

WHEREAS it appears that the interests of economy require that certain transfers, consolidations, and eliminations provided for under section 4 of Executive Order No. 6166 of June 10, 1933, as amended, be further delayed beyond the effective date of that order:

NOW, THEREFORE, pursuant to the provisions of section 22 of the said order, I hereby order that the transfers, consolidations, and eliminations contemplated by section 4 of Executive Order No. 6166 of June 10, 1933, as amended, together with the operation of all other provisions of Executive Order No. 6166 of June 10, 1933, as amended, so far as they relate to the said section 4, be further delayed until December 31, 1938, with respect to the function of disbursement now exercised by United States Marshals under the Department of Justice.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 29, 1938.

[No. 7980]

[F. R. Doc. 38-2877; Filed, Septemer 30, 1938; 3:20 p. m.]

EXECUTIVE ORDER

AMENDMENT OF SUBDIVISION IV, SCHEDULE B, CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404), it is ordered that Subdivision IV of Schedule B of the Civil Service Rules be, and it is hereby, amended by adding thereto the following paragraph:

"5. Classified positions in the Ordnance Department at Large, War Department, when filled by the promotion of unclassified laborers, subject to the approval of the Civil Service Commission."

This order, which is recommended by the Civil Service Commission in view of the agreement by the War Department that hereafter unclassified laborer positions in the Ordnance Department at Large will be filled through appointment from appropriate classified registers as provided in section 3 of Civil Service Rule II, will permit unskilled laborers appointed from the unclassified laborer register to advance upon noncompetitive examination to classified positions in the Ordnance Department at Large, but such promotion will not accord to such employees a classified status or render them eligible for transfer to classified positions in other branches of the Federal service.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 29, 1938.

[No. 7981]

[F. R. Doc. 38-2878; Filed, September 30, 1938; 3:20 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[CAP-105, Amendment 2]

REGULATIONS PERTAINING TO 1937 COTTON PRICE ADJUSTMENT PAYMENT PLAN

AMENDMENT 2

By virtue of the authority vested in the Secretary of Agriculture by the item entitled "Price Adjustment Payment to Cotton Producers" contained in the Third Deficiency Appropriation Act, fiscal year 1937, approved August 25, 1937, (Public Law No. 354, 75th Congress, 1st Session; 50 Stat. 762), by Section 381 (a) of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 3rd

CONTENTS

THE PRESIDENT

Executive Orders: Page
Civil Service Rules, amendment of Subdivision IV, Schedule B (classified positions in Ordnance Department at Large, War Department) 2359
Postponement of effective date of certain provisions of Executive Order No. 6166 (disbursement by United States Marshals under Department of Justice) 2359

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Agricultural conservation program, 1938, Tama County, Iowa, Supplement No. 1 2361
Cotton price adjustment payment plan, 1937, Amendment 2 2359
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, regulations relative to election by tanners, etc., of certain nonferrous metals in taking inventories of raw materials 2361
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Tariffs, etc., temporary operation of motor carrier properties 2363

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Lowell-Lawrence, Mass., Milk Marketing Area, hearing on proposed agreement, etc 2363
Federal Trade Commission:
Mode Novelty Co., et al, order appointing examiner, etc 2364

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Rural Electrification Administration:	
Allocation of funds for loans	2364
Securities and Exchange Commission:	
Applications granted to strike from listing and registration:	
Fairchild Engine and Airplane Corp., common stock	2365
International Cinema, Inc., common stock	2365
Kinner Airplane and Motor Corp., Ltd., common stock	2365
New Orleans, Texas and Mexico Railway Co., capital stock	2365
Concordia Virginia Mining Co., hearing on application to strike from listing, etc	2366
National Gas & Electric Corp., voting trustees ceased to be a holding company	2365
Ohio Power Co., and American Gas and Electric Co., hearing	2366
Safety Engineering and Management Co., increase of percentage of short term indebtedness	2366
Utilities Power & Light Corp., and Charles True Adams, Trustee; order	2364
Withdrawal of applications for exemption:	
Eastern Shore Gas Corp	2366
Riverside Traction Co	2366

Session; 52 Stat. 67), as amended by Section 12 of Public Law No. 470, 75th Congress, approved April 7, 1938 (52 Stat. 202), and by the next to the last proviso to the item entitled "Conservation and Use of Agricultural Land Resources, Department of Agriculture," contained in the Department of Agriculture Appropriation Act, 1939, approved June 16, 1938 (Public Law No. 644, 75th Congress, 3rd Session; 52 Stat. 744), I, Harry L. Brown, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice that subsections D, E, and F of Section 41 of the Regulations Pertaining to 1937 Cotton Price Adjustment Payment Plan (CAP–105)[1] are hereby amended to read as follows and said Section 41 is hereby further amended by adding thereto subsection G which reads as set forth below:

D. Where, subsequent to harvest of the 1937 cotton crop, any producer dies before receiving the payment which otherwise would have been received by him, payment shall be made in accordance with the following order of precedence without regard to claims of creditors other than the United States:

1. To the administrator or executor of the deceased producer's estate;
2. If there is no administrator or executor, to the surviving spouse;
3. If there is no surviving spouse, to the sons and daughters in equal shares. If any child is a minor, payment of his share shall be made to his legal guardian, but if no legal guardian has been appointed payment shall be made to his natural guardian for his benefit, unless the minor's share of the payment exceeds $500, in which event payment shall be made only to his legal guardian. Children of a deceased son or daughter of a deceased producer shall be entitled to their ancestor's share of the payment, share and share alike;
4. If there is no surviving direct descendant of a deceased son or daughter of such deceased producer, the share of the payment which otherwise would have been made to such son or daughter shall be divided equally among the surviving sons and daughters of such deceased producer;
5. If there is no surviving spouse and no direct descendant, payment shall be made to the father and mother of the deceased producer in equal shares or the whole thereof to the surviving father or mother;
6. If there is no surviving spouse, no direct descendant, and no surviving parent, payment shall be made to the brothers and sisters of the deceased producer, share and share alike. If there are surviving descendants of a deceased brother or sister, payment of the share of such deceased brother or sister shall be made to such descendants in the same manner as specified for sons and daughters of the deceased producer and their descendants;
7. If no spouse, direct descendant, parent, brother, or sister, or their descendants survive the deceased producer, the payments shall be made to the heirs-at-law.

Legally adopted children shall be entitled to share in any payment in the same manner and to the same extent as other children. Any payment which the deceased producer could have received may be made jointly to the person(s), or his representative(s) or trustee(s), found to be entitled to such payment or share thereof under this subsection, or, pursuant to instructions issued by the Agricultural Adjustment Administration, a separate check may be issued to each person entitled to share in such payment.

E. Where, subsequent to harvest of the 1937 cotton crop, any producer becomes incompetent before receiving the payment which otherwise would be received by him, such payment shall be made to the guardian or committee legally appointed for such incompetent producer. In case no guardian or committee has been appointed, payment, if not more than $500, may be made, without regard to claims of creditors other than the United States, to the following in the order mentioned for the benefit of the incompetent producer:

1. The spouse;
2. An adult son or daughter;
3. The mother or father;
4. An adult brother or sister;
5. Such person as may be authorized under State law to receive payment for him (See standard procedure prescribed for the respective region).

In case payment is more than $500, payment shall be made only to such person as may be authorized under State law to receive payment for him.

F. No payment shall be made to any person(s) pursuant to subsections D and E of this section, and, if made, the person(s) receiving the same shall refund such payment, if:

1. It is found that the producer, now deceased or incompetent, knowingly planted, or caused or permitted the planting of, cotton in 1938 in excess of the cotton acreage allotment established for 1938 for any farm in which he had an interest as a cotton producer in 1938; or
2. One or more persons who would be entitled to receive payment under subsections D or E of this section took over the 1938 farming operations begun by the producer now deceased or incompetent on any farm in which he had an interest as a cotton producer in 1938 and it is found that such person or persons knowingly planted, or caused or permitted the planting of, cotton in 1938 in excess of the cotton acreage allotment established for 1938 for any farm in which such deceased or incompetent had an interest as a cotton producer in 1938.

G. Where any producer dies or becomes incompetent subsequent to the time application for payment is made by or for him but before the payment is received by such producer, the payment shall be made to the person or persons entitled thereto pursuant to subsections D, E, and F of this section 41 and for purposes of making such payment the use of Form CAP–111 "Application for Payment of Amounts Due Deceased or Incompetent Cotton Producers under the 1937 Cotton Price Adjustment Payment Plan" will be adequate.

Done at Washington, D. C., this 30th day of September 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2881; Filed, September 30, 1938; 4:30 p. m.]

[1] 3 F. R. 1701 DI.

[Form NCR–201–T, Supp. 1]

1938 AGRICULTURAL CONSERVATION PROGRAM, TAMA COUNTY, IOWA

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin for Tama County, Iowa[1] is hereby amended as follows:

1. Section V, subsection C is amended to read as follows:

C. *Use of noncropland as cropland.*—The deductions for use of noncropland as cropland shall be the sum of the following:

1. $5.00 per acre for that acreage of native sod or other land classified as noncropland which is broken out during the period November 1, 1937, to October 31, 1938, inclusive, which was not approved by the county committee as a good farming practice, and
2. $5.00 per acre for that acreage of native sod or other land classified as noncropland which is broken out during the period November 1, 1937, to October 31, 1938, inclusive, which was approved by the county committee as a good farming practice, provided, however, that in the event the soil-conserving acreage on the farm in 1938 exceeds the acreage in the soil-conserving goal, such deduction shall be applicable to the acreage obtained by adding to the acreage broken out and approved by the county committee, the acreage in the soil-conserving goal, and by subtracting from the total thus obtained the soil-conserving acreage on the farm in 1938.

2. Section VI, subsection A is amended to read as follows:

A. *Payments and deductions in connection with corn acreage allotments.*—Net payments or net deductions computed for any farm with respect to the corn acreage allotment shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled at the time the crop is harvested to share in the proceeds (other than fixed commodity payment) of the corn grown on the farm in 1938.

3. Section VI, subsection B is amended to read as follows:

B. *Payments with respect to soil-conserving acres.*—Except for farms rented for cash or fixed commodity payment the amount of payment earned in connection with the soil-conserving acreage for the farm shall be divided 50 percent to the landlords and 50 percent to the operators. The payment to the landlords shall be divided among them in the same proportion that the cropland which they own bears to the total cropland in the farm. The payment to the operators shall be divided among them in the same proportion that the cropland which they operate bears to the total cropland in the farm. The payment computed for a farm rented for cash or for a fixed commodity payment shall be made entirely to the tenant.

Done at Washington, D. C., this 30th day of September 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38–2882; Filed, September 30, 1938; 4: 30 p. m.]

[1] 3 F. R. 1599 DI.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4865]

INCOME TAX

REGULATIONS RELATIVE TO ELECTION BY TANNERS, AND PRODUCERS AND PROCESSORS OF CERTAIN NON-FERROUS METALS IN TAKING INVENTORIES OF RAW MATERIALS

To Collectors of Internal Revenue and Others Concerned:

Paragraph A. Section 22(d) of Title I (Income Tax) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), provides:

SEC. 22. *Gross income.*

* * * * * * *

(d) *Inventories in Certain Industries.*—(1) *Producers and processors of certain non-ferrous metals.*—A taxpayer shall be entitled to elect the method of taking inventories provided in paragraph (2) if his principal business is—

(A) Smelting non-ferrous ores or concentrates, or refining non-ferrous metals, or both; or

(B) Producing brass, copper products, or brass products, or any one or more of them, not further advanced than rods, sheets, tubes, bars, plates, or strips.

(2) *Inventories of raw materials.*—A taxpayer entitled to elect, and who has so elected, shall, in taking his inventory as of the close of any taxable year beginning after December 31, 1938, of raw materials which are—

(A) used in a business described in paragraph (1); and

(B) not yet included in goods in process or finished goods; and

(C) so intermingled that they cannot be identified with specific invoices; treat such raw materials remaining on hand as being: First, those included in the inventory as of the beginning of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year, in the order of acquisition.

(3) *Tanners.*—A taxpayer whose principal business is tanning hides or skins, or both, shall be entitled to elect (with respect to any taxable year beginning after December 31, 1938) the method provided in paragraph (2) as to the raw materials (including those included in goods in process and in finished goods) in the business of tanning hides, or skins, or both, if so intermingled that they cannot be identified with specific invoices.

(4) *Inventories at cost.*—In the case of the application of the provisions of paragraph (2) or (3) all inventories of such materials shall be taken at cost, including the inventory as of the close of the preceding taxable year.

(5) *Election of method.*—The method provided in paragraph (2) or (3) shall not be applied unless the taxpayer, at or before the filing of his return for the preceding taxable year, has filed with the Commissioner his election to have it apply.

(6) *Regulations as to change.*—The change to such method shall be made in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary to prevent the avoidance of tax.

(7) *Change to different method.*—An election made under this subsection shall be irrevocable and the method so elected shall be applied in all subsequent taxable years notwithstanding any change in the principal business of the taxpayer, unless with the approval of the Commissioner change to a different method is authorized, and then upon such terms and conditions and in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe.

Par. B. Section 62 of the Revenue Act of 1938 provides:

SEC. 63. *Rules and regulations.*—The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

Pursuant to the above-quoted provisions and other provisions of the internal revenue laws, the following regulations are hereby prescribed with respect to the application of section 22 (d) of the Revenue Act of 1938:

ARTICLE 1. *Inventories of tanners, and producers and processors of certain non-ferrous metals.*—(a) *Elective method.*—The general rule is that goods taken in the inventory which have been so intermingled that they cannot be identified with specific invoices will be deemed to be the goods most recently acquired which can not be so identified. An exception to this general rule is provided for in section 22 (d) of the Act which permits certain specifically described taxpayers to elect to treat certain raw materials remaining on hand at the close of the taxable year as being: First, those included in the inventory as of the beginning of the taxable year (in the order of acquisition) to the extent thereof, and

second, those acquired in the taxable year, in the order of acquisition. No item in an inventory of raw materials to which this method is applied shall be valued at market. All inventories of such raw materials (including the inventory as of the close of the preceding taxable year) shall be taken at cost. The opening inventory of such raw materials for the taxable year for which an election is made shall be brought in at the same cost as the closing inventory of such raw materials for the preceding taxable year.

A taxpayer shall be entitled to elect to have such method applied in taking his inventory as of the close of any taxable year beginning after December 31, 1938, if his principal business at the beginning of such taxable year (as shown by all transactions during the preceding taxable year and any other facts and circumstances relevant to the determination of the principal business) is—

(1) Smelting non-ferrous ores or concentrates, or refining non-ferrous metals, or both;

(2) Producing brass, copper products, or brass products, or any one or more of them, not further advanced than rods, sheets, tubes, bars, plates or strips; or

(3) Tanning hides or skins, or both.

(b) *Restrictions upon use of method.*—Except in the case of a taxpayer whose principal business is tanning hides or skins, or both, if a taxpayer elects to have the method provided for in section 22 (d) of the Act applied, such method shall be applied in taking inventory of all raw materials used in (1) smelting non-ferrous ores or concentrates, or refining non-ferrous metals, or both, or (2) producing brass, copper products, or brass products, or any one or more of them, not further advanced than rods, sheets, tubes, bars, plates, or strips; and it shall be applied only in taking inventory of such raw materials. To illustrate, suppose the principal business of the M Corporation is refining non-ferrous metals and such corporation is also engaged in producing copper products. If the M Corporation elects to use the method provided for in section 22 (d) of the Act, it shall use such method in taking inventory of (1) all raw materials used in refining non-ferrous metals and (2) all other raw materials which are of a kind used in producing copper products, not further advanced than rods, sheets, tubes, bars, plates, or strips, and which are used by it in producing copper products, even though the copper products produced by it are further advanced than rods, sheets, tubes, bars, plates, or strips. In the case of a taxpayer whose principal business is tanning hides or skins, or both, such method shall be applied only in taking inventory of raw materials used in the business of tanning hides, or skins, or both.

The method provided for in section 22 (d) of the Act is to be applied only to raw materials which are so intermingled that they cannot be identified with specific invoices. There is a further restriction that the method provided for in section 22 (d) of the Act shall be applied only to raw materials not yet included in goods in process or finished goods, but this retriction does not apply in the case of a taxpayer whose principal business is tanning hides or skins, or both. Each taxpayer to whom these restrictions are applicable shall maintain such accounting records as will enable him to comply with such restrictions. If the taxpayer's principal business is tanning hides or skins, or both, the method provided for in section 22 (d) of the Act, if elected by the taxpayer, shall be applied to all raw materials (including those included in goods in process and not finished goods) used in the business of tanning hides or skins, or both, if such raw materials are so intermingled that they can not be identified with specific invoices.

ART. 2. *Time and manner of making election.*—The method of taking inventory provided for in section 22 (d) of the Act shall not be applied, unless the taxpayer, at or before the filing of his return for the taxable year preceding the taxable year as of the close of which the method is first to be applied, has filed with the Commissioner of Internal Revenue his election to have it applied. Such election shall be made under oath or affirmation on Form 970 in triplicate in accordance with the instructions printed thereon and with these regulations and shall be accompanied by a complete statement of all facts pertaining to the taxpayer's right to make such election, including—

1. A description of each business carried on by the taxpayer during the taxable year preceding the taxable year as of the close of which the method provided for in section 22 (d) of the Act is first to be applied, together with a description of the functions and operations performed by each department of each such business.

2. A statement describing any changes made, during the preceding taxable year, in the nature of the business or businesses carried on by the taxpayer.

3. A balance sheet as of the beginning of the taxable year as of the close of which such method is first to be applied, and a balance sheet as of the beginning of the preceding taxable year.

4. An analysis of all inventories as of the beginning of the taxable year as of the close of which such method is first to be applied, and of all inventories as of the beginning of the preceding taxable year. Such analysis shall include a description and the amount of each kind of raw materials. In the case of a taxpayer who claims that his principal business is producing brass, copper products, or brass products, or any one or more of them, not further advanced than rods, sheets, tubes, bars, plates, or strips, the analysis of finished goods shall show the amount of each product of a given style, shape, or use. In the case of any other taxpayer, the analysis of finished goods shall show one of the following: (a) The cost of each group of products going through the same processes in the factory; (b) the cost of each group of products requiring the same kind of raw materials; or (c) the cost of each group of products having the same style, shape, or use. Each group of products shall be clearly described.

5. An analysis of all sales made during the taxable year preceding the taxable year as of the close of which such method is first to be applied. In the case of a taxpayer who claims that his principal business is producing brass, copper products, or brass products, or any one or more of them, not further advanced than rods, sheets, tubes, bars, plates, or strips, such analysis shall show the sales of each product of a given style, shape, or use. In the case of any other taxpayer, such analysis shall show one of the following: (a) The sales of each group of products going through the same processes in the factory; (b) the sales of each group of products requiring the same kind of raw materials; or (c) the sales of each group of products of a given style, shape, or use. Each group of products shall be clearly described.

6. A profit and loss statement for the taxable year preceding the taxable year as of the close of which such method is first to be applied, including therein all items of tax-exempt income.

ART. 3. *Adjustments to be made by taxpayer.*—A taxpayer may not change to the method of taking inventories provided for in section 22 (d) of the Act unless he agrees to and makes such adjustments, and pays such taxes with respect to such adjustments, in the inventories of prior taxable years or otherwise, as the Commissioner of Internal Revenue deems necessary to prevent the change in method from resulting in avoidance of tax. See section 22 (d) (6) of the Act.

ART. 4. *Revocation of election.*—An election made under section 22 (d) of the Act is irrevocable and the method so elected shall be applied in all subsequent taxable years in taking inventory of raw materials used in the business to which such method is applicable under the election, notwithstanding any change in the principal business of the taxpayer, unless another method be authorized by the Commissioner of Internal Revenue pursuant to a written application therefor filed with the Commissioner of Internal Revenue. Application for permission to change the method of taking inventory after an election has been made under section 22 (d) of the Act shall be filed within 90 days after the beginning of the first taxable year for which such change is to be effective. The permission to make the change will not be granted unless the taxpayer and the Commissioner of Internal Revenue agree to the terms and conditions under which the change will be effected.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, September 29, 1938.
JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2879; Filed, September 30, 1938; 4:01 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

TARIFFS, SCHEDULES, AND SUPPLEMENTS WHEN TEMPORARY OPERATION OF MOTOR CARRIER PROPERTIES HAS BEEN GRANTED

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of September, A. D. 1938.

The matter of regulations governing the adoption of tariffs, schedules, and supplements filed pursuant to Sections 217 and 218 of the Motor Carrier Act, 1935, when authority for the temporary operation of motor carrier properties has been granted pursuant to the provisions of Section 210a (b) of said Act, being under consideration.

It appearing, That good cause has been shown for the publication of such rules and regulations:

It is ordered, That when authority for the temporary operation of motor carrier properties has been granted pursuant to the provisions of Section 210a (b) of the said Act, motor carriers shall publish, file and post adoption notices and supplements in accordance with the regulations heretofore adopted and promulgated in Special Circular M No. 1, as modified and supplemented by Amendment No. 1 to said Special Circular M No. 1;

And it is further ordered, That the said Amendment No. 1 to Special Circular M No. 1 be, and it is hereby, approved and made effective September 29, 1938.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

AMENDMENT No. 1 TO SPECIAL CIRCULAR M No. 1

Special Circular M No. 1 is hereby amended to include the following addition.

RULE 5 (ADDITION)—TEMPORARY OPERATION OF MOTOR CARRIER PROPERTIES UNDER AUTHORITY OF SECTION 210A (B)

(a) When temporary authority to take over the operating control of all or a portion of the operations of a carrier is granted pursuant to the provisions of Section 210a (b) of the Motor Carrier Act, 1935, as amended, the new carrier that assumes temporary control of the operations of the old carrier shall, except as provided in paragraph (b) of this rule, comply with the provisions of Rules 1, 2 and 4 of this circular.

(b) The new carrier is not required to reissue the adopted concurrences and powers of attorney during the period of temporary control of the operations of the old carrier. New concurrences and powers of attorney granting authority to publish rates or fares from or to points included in the temporarily controlled operations, shall be in the series of the old carrier; for example,

MFXA 2 No. 6 (Roe's Trucking Series)
John Doe Transport, Inc.
Operator of
Richard Roe
d/b/a
Roe's Trucking
(Post office address)

(c) The new carrier, when it publishes in a tariff or schedule issued in its name, rates, fares, charges, or other provisions relating thereto, from, to, or between points included in the temporarily controlled operations, shall file such publication in the name of the new carrier as operator of the old carrier under consecutive I. C. C. numbers (MF, MP or ME) and in the series of the old carrier. For example, if John Doe Transport, Inc. assumes temporary control of the operations of Richard Roe dba Roe's Trucking, the title page of tariffs, schedules, or supplements thereto, must show the I. C. C. number and name of the carrier in substantially the following manner:

MF–I. C. C. No. 17 (Roe's Trucking Series)
John Doe Transport, Inc
Operator of
Richard Roe
d/b/a
Roe's Trucking

(d) When permanent authority to take over the temporarily controlled operations is granted pursuant to the provisions of Section 213 of the Motor Carrier Act, 1935, the new carrier shall file an adoption notice and otherwise comply with the provisions of Rules 1, 2 and 4 of this circular.

(e) If the temporary authority to assume operating control of the old carrier is not made permanent, the old carrier must file an adoption notice and otherwise comply with Rules 1, 2 and 4 of this circular. The effective date to be shown in the adoption notice and adoption supplements is the date on which the temporary authority for the new carrier to operate the properties of the old carrier expires or is vacated.

[F. R. Doc. 38-2894; Filed, October 3, 1938; 12:10 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-83 O-83]

NOTICE OF PUBLIC HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN LOWELL-LAWRENCE, MASSACHUSETTS, MILK MARKETING AREA

PREPARED AND PROPOSED BY THE NEW ENGLAND MILK PRODUCERS' ASSOCIATION, INC., UPON WHICH SAID ASSOCIATION HAS REQUESTED THE SECRETARY OF AGRICULTURE TO HOLD A HEARING

Whereas, the New England Milk Producers' Association, Inc., has requested the Secretary to hold a public hearing on a marketing agreement and order prepared and proposed by such association and designed to regulate such handling of milk in the Lowell-Lawrence, Massachusetts, milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement or the issuance of an order will tend to effectuate the declared policy of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, with respect to such handling of milk in the Lowell-Lawrence, Massachusetts, milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, under said act notice of and opportunity for a hearing are required prior to the execution of a marketing agreement or the issuance of an order, and the General Regulations, Series A, No. 1, as amended,[1] of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice;

Now, therefore, pursuant to said act and said general regulations, notice is hereby given of a public hearing to be held on the aforementioned marketing agreement and order, prepared and proposed by the aforementioned association and designed to regulate such handling of milk in the Lowell-Lawrence, Massachusetts, milk marketing area as is in the current of interstate commerce on which directly burdens, obstructs or affects interstate commerce in such milk.

This public hearing will be held in Dracut Grange Hall, Dracut, Massachu-

[1] 1 F. R. 155.

setts, at 9:30 a. m., e. s. t., October 14, 1938.

At this public hearing, which will be held jointly with the Milk Control Board of the Commonwealth of Massachusetts, representatives of the Secretary will receive factual evidence (1) as to whether marketing conditions for such handling of milk in the Lowell-Lawrence, Massachusetts, milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk are so disorderly as to necessitate regulation in order that the declared policy of the act may be effectuated, and (2) as to the specific provisions which a marketing agreement or order should contain.

The proposed marketing agreement and order provide, among other things, for: (a) selection of a market administrator, (b) classification of milk, (c) minimum prices, (d) reports of handlers, (e) payments to producers through the use of a market-wide equalization pool, (f) payments to the market administrator for marketing services, and (g) expenses of administration.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area, and that a shorter period of notice than fifteen (15) days is therefore required; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement or order may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

Dated: September 30, 1938.

[F. R. Doc. 38-2880; Filed, September 30, 1938; 4:30 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, Williams A. Ayres, Robert E. Freer.

[Docket No. 3473]

IN THE MATTER OF THE MODE NOVELTY COMPANY, A CORPORATION, AND WOLF ALBAUM, AS PRESIDENT AND TREASURER, AND INDIVIDUALLY, AND SAMUEL WEISMAN, AS VICE PRESIDENT AND SECRETARY, AND INDIVIDUALLY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 17, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2893; Filed, October 3, 1938; 9:44 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION

[Administrative Order No. 292]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 27, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Alabama R9018C1 Cullman	$34,000
Indiana R9001B1 Greene	159,000
Indiana R9038C1 Johnson	54,000
Iowa R9002A1 Sioux	250,000
Iowa R9030B2 Franklin	44,800
Iowa R9049B2 Hardin	7,500
Iowa R9055A1 O'Brien	307,000
Kansas R9021B1	241,000
Kentucky R9040B1 Jessamine	96,000
Mississippi R9017A1 Pontotoc	70,000
Mississippi R9023C1 Copiah	56,000
Mississippi R9038A1 Warren	206,000
Missouri R9023B1 Lewis	450,000
Nebraska R9053B1 Buffalo	130,000
New Mexico R9008A1 Roosevelt	177,000
Ohio R9039B1 Paulding	308,000
Ohio R9060B1 Seneca	238,000
Ohio R9083B1 Huron	155,000
Tennessee R9021C1 Franklin	125,000
Texas R9053B1 McLennan	208,000
Texas R9076A1 Blanco	1,332,000
Virginia R9035A1 Madison	160,000
Wisconsin R9025C1 Monroe	102,000
Wisconsin R9054A1 Polk-Burnett	196,000

JOHN M. CARMODY,
Administrator.

[F. R. 38-2883; Filed, October 1, 1938; 9:55 a. m.]

[Administrative Order No. 293]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 27, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Kansas R9013W1 Brown	$2,000
Nebraska R9056W2 Cedar	5,000
Ohio R9060W2 Seneca	5,000
Wyoming R9011W2 Lincoln	20,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2884; Filed, October 1, 1938; 9:55 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1938.

[File Nos. 34-8, 52-3, 52-5, 52-9, 52-10, 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

ORDER

Harry Reid, Max McGraw, and B. B. Robinson, constituting a "General Protective Committee for Security Holders of Utilities Power & Light Corporation," having filed on August 29, 1938 a petition to intervene in the above-entitled proceedings;

This Commission having on September 16, 1938 entered its Memorandum Opinion and Order [1] allowing said Petitioner to intervene, subject to certain conditions contained in said Order; and

A rehearing on said Memorandum Opinion having been had upon motion of the General Protective Committee; and

This Commission having entered its amended Memorandum Opinion and its Order on September 20, 1938,[2] the effect of which was a modification of certain statements in the aforesaid Memorandum Opinion of September 16, 1938; and

Associated Investing Corporation and Associated Utilities Corporation having filed a motion for a further hearing on said amended Memorandum Opinion and on the said Order; and

This Commission having granted said motion of Associated Investing Corporation and Associated Utilities Corporation for a further hearing; and

The General Protective Committee having filed a motion for leave to be heard upon the matters arising in the above-entitled proceedings pending disposition of the aforesaid motion of Associated Investing Corporation and Associated Utilities Corporation:

It is hereby ordered, That the General Protective Committee be granted leave to

[1] 3 F. R. 2258 DI.
[2] 3 F. R. 2284 DI.

be heard on the matters arising in connection with the above-entitled proceedings, but without the rights of an intervenor, pending the entry of the Order of this Commission with respect to the aforesaid motion of Associated Investing Corporation and Associated Utilities Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2890; Filed, October 1, 1938; 12:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of September, 1938.

[File No. 1-2123]

IN THE MATTER OF APPLICATION BY NEW YORK STOCK EXCHANGE REGARDING THE CAPITAL STOCK, $100 PAR VALUE, OF NEW ORLEANS, TEXAS AND MEXICO RAILWAY COMPANY

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, $100 Par Value, of New Orleans, Texas and Mexico Railway Company; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2888; Filed, October 1, 1938; 12:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of September, 1938.

[File No. 1-2367]

IN THE MATTER OF APPLICATION BY LOS ANGELES STOCK EXCHANGE REGARDING THE COMMON STOCK, $1 PAR VALUE, OF INTERNATIONAL CINEMA, INC.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Los Angeles Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $1 Par Value, of International Cinema, Inc.; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2887; Filed, October 1, 1938; 12:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of September, 1938.

[File No. 1-2410]

IN THE MATTER OF APPLICATION BY LOS ANGELES STOCK EXCHANGE REGARDING THE COMMON STOCK, $1 PAR VALUE, OF KINNER AIRPLANE AND MOTOR CORPORATION, LTD.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Los Angeles Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $1 Par Value, of Kinner Airplane and Motor Corporation, Ltd.; and

After appropriate notice,[2] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2886; Filed, October 1, 1938; 12:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of September, 1938.

[File No. 1-2933]

IN THE MATTER OF APPLICATION BY BOARD OF TRADE OF THE CITY OF CHICAGO REGARDING THE COMMON STOCK, $1 PAR VALUE, OF FAIRCHILD ENGINE AND AIRPLANE CORPORATION

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, $1 Par Value, of Fairchild Engine and Airplane Corporation; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2885; Filed, October 1, 1938; 12:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of September, A. D. 1938.

[File No. 30-83]

IN THE MATTER OF ARTHUR H. GILBERT, MARCUS L. BAXTER, AND EDWARD G. RICKER, VOTING TRUSTEES UNDER VOTING TRUST AGREEMENT DATED APRIL 15, 1935, BETWEEN NATIONAL GAS & ELECTRIC CORPORATION AND SAID VOTING TRUSTEES

ORDER PURSUANT TO SECTION 5 (D), PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Arthur H. Gilbert, Marcus L. Baxter, and Edward G. Ricker, Voting Trustees under Voting Trust Agreement dated April 15, 1935, with National Gas & Electric Corporation having registered on April 3, 1937, pursuant to Section 5 (b) of the Public Utility Holding Company Act of 1935, and an application having been filed on March 26, 1938, pursuant to Section 5 (d) for an order declaring that Arthur H. Gilbert, Marcus L. Baxter, and Edward G. Ricker as Voting Trustees have ceased to be a holding company; a hearing on said application having been held after appropriate public notice; [3] the

[1] 3 F. R. 1435 DI.

[1] 3 F. R. 1932 DI.
[2] 3 F. R. 1932 DI.

[1] 3 F. R. 1958 DI.
[2] 3 F. R. 827 DI.

record in this matter having been examined and the Commission having made appropriate findings;

It is ordered, That Arthur H. Gilbert, Marcus L. Baxter, and Edward G. Ricker, Voting Trustees under Voting Trust Agreement dated April 15, 1935, have ceased to be and at this time are not a holding company. This order shall become effective as of the 30th day of September.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2891; Filed, October 1, 1938; 12:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of September, A. D. 1938.

[File No. 31-394]

IN THE MATTER OF THE APPLICATION OF EASTERN SHORE GAS CORPORATION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2892; Filed, October 1, 1938; 12:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of September, A. D. 1938.

[File No. 41-6]

IN THE MATTER OF SAFETY ENGINEERING AND MANAGEMENT COMPANY

ORDER AUTHORIZING INCREASE OF PERCENTAGE OF SHORT TERM INDEBTEDNESS

Safety Engineering and Management Company, a subsidiary of Consolidated Electric and Gas Company, a registered holding company, having filed with this Commission an application pursuant to the first sentence of Section 6 (b) of the Public Utility Holding Company Act of 1935 for an exemption from the provisions of Section 6 (a) of the Act of the renewal to December 1, 1938, of notes aggregating $1,484,500, which, together with all other outstanding notes and drafts of applicant of a maturity of nine months or less, will aggregate more than 5 per centum of the principal amount and par value of other securities of applicant, having requested that the Commission authorize such increase of said 5 per centum as may be necessary to permit it to issue said notes, a hearing having been held on said application, the record in this matter having been examined, and the Commission having made and filed its findings herein:

It is ordered, That if the applicant, for the purposes, and in accordance with the terms, set forth in said application shall renew such notes having an aggregate principal amount not exceeding $1,484,500, bearing interest at a rate not exceeding 5½ per cent per annum and maturing not later than December 1, 1938, then and in that case the aggregate amount of outstanding notes and drafts of applicant having a maturity of nine months or less, exclusive of days of grace, as to which the applicant is primarily or secondarily liable, may exceed 5 per centum of the principal amount and par value of the other security which the applicant will then have outstanding by such amount as is necessary to permit the issuance of said notes: *Provided, however*, That such increase of such percentage shall be only for the purpose of permitting the renewal of such notes and shall not be applicable to the issue, renewal or guarantee by the applicant of any other notes, drafts or other obligations;

It is further ordered, That not later than October 10, 1938, applicant shall file with the Commission a Certificate of Notification showing that such notes have been renewed in accordance with the terms of the application and including therewith

(1) a copy of any and all agreements with the bank in connection with this matter which are not already a part of the record on said application and,

(2) a copy of the new notes delivered or the legend attached to the existing notes.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2889; Filed, October 1, 1938; 12:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of September, A. D. 1938.

[File No. 31-34]

IN THE MATTER OF THE APPLICATION OF RIVERSIDE TRACTION COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2896; Filed, October 3, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of October, 1938.

[File No. 1-2238]

IN THE MATTER OF APPLICATION BY SAN FRANCISCO MINING EXCHANGE REGARDING THE 10¢ PAR COMMON ASSESSABLE STOCK AND 10¢ PAR COMMON NON-ASSESSABLE STOCK OF CONCORDIA VIRGINIA MINING COMPANY

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The San Francisco Mining Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 10¢ Par Common Assessable Stock and 10¢ Par Common Non-Assessable Stock of Concordia Virginia Mining Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Monday, October 17, 1938, at the office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That John G. Clarkson, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2895; Filed, October 3, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of October, A. D. 1938.

[File Nos. 32-107, 56-13]

IN THE MATTER OF THE OHIO POWER COMPANY AND AMERICAN GAS AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 and a joint application pursuant to Rule 12C-1 (b) and Rule 12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on October 18, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such applicants and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 13, 1938.

The matter concerned herewith is in regard to a proposed issuance and sale by Applicant, The Ohio Power Company, a subsidiary of American Gas and Electric Company, a registered holding company, of $55,000,000 principal amount of First Mortgage Bonds, Series due 1968, such issue and sale to be by public offering; and $10,000,000 principal amount of 3½% notes to be issued direct to banks, to be dated not earlier than October 20, 1938, and not later than December 31, 1938, and to mature in ten years. The proceeds of the securities proposed to be issued and sold are to be expended or otherwise used for the following purposes:

1. The purchase from American Gas and Electric Company for cancellation $15,306,000 principal amount of First and Refunding Mortgage Gold Bonds, Series D, 4½%, due June 1, 1956.

2. The redemption of $13,794,500 principal amount of First and Refunding Mortgage Gold Bonds, Series D, 5%, due July 1, 1952 at 102.

3. The redemption of $29,355,000 principal amount of First and Refunding Mortgage Gold Bonds, Series D, 4½%, due June 1, 1956 at 102.

4. The redemption of $958,500 principal amount of the First Mortgage Gold Bonds of the Ohio Light and Power Company, due May 1, 1944.

5. To discharge the outstanding unsecured indebtedness of $3,810,175.59 due to the American Gas and Electric Company.

6. To reimburse the Applicant's treasury, in so far as may be, for the amounts expended therefrom for the purpose of making permanent improvements and additions to its properties.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2897; Filed, October 3, 1938; 12:50 p. m.]

Release

FEDERAL REGISTER

VOLUME 3 NUMBER 194

Washington, Wednesday, October 5, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 103]

THE FEDERAL LAND BANK OF SAINT PAUL

FEES FOR CHANGE OF MATURITY DATES ON LOANS

Section 27.9 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 27.9. *Fees for change of maturity dates on loans.*—Where the borrower requests that the maturity dates on any loan(s) be changed, the following fees are required: (a) Federal land bank loan, $3.00; (b) Commissioner loan, $3.00; and (c) Joint loan (FLB & Commissioner), $5.00. (Sec. 13 'Ninth', 39 Stat. 372, 12 U. S. C. 781 'Ninth'; Sec. 32, 48 Stat. 48, as amended, 12 U. S. C. 1016; Sec. 1, 48 Stat. 344, 12 U. S. C. 1020; Sec. 2, 48 Stat. 345, 12 U. S. C. 1020a.) [Res. Bd. Dir. July 20, 1938.]"

THE FEDERAL LAND
BANK OF SAINT PAUL.
[SEAL] By F. W. PECK, *President*.

[F. R. Doc. 38-2906; Filed, October 4, 1938; 12:22 p. m.]

[FCA 104]

THE FEDERAL LAND BANK OF SPRINGFIELD

PARTIAL RELEASE OF SECURITY FEES

Section 21.3 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 21.3 *Partial release fees.*—A deposit of $10.00 shall be required with each application for a partial release. If an appraisal is necessary, the charge shall be $10.00 for the partial release of each Federal land bank or Land Bank Commissioner mortgage, unless the premises to be released are covered by both types of mortgages, in which case the charge shall be $10.00. If no appraisal is necessary, the charge shall be $5.00 for the partial release of each Federal land bank mortgage or Land Bank Commissioner mortgage, unless the premises to be released are covered by both types of mortgages, in which case the charge shall be $5.00. However, where the premises to be released consist of more than one parcel and the applicant requests a special release for each parcel, there shall be a further charge of $5.00 for each additional release, except that where such additional release affects premises covered by both a Federal land bank mortgage and a Land Bank Commissioner mortgage, the charge shall be $5.00. There shall be a charge of $3.00 for the preparation of a new release to take the place of one previously executed and delivered, and where such new release affects premises covered by both a Federal land bank mortgage and a Land Bank Commissioner mortgage the charge shall be $3.00. There shall be no charge where a new release is required to correct a previous release. (Sec. 13 "Ninth," 39 Stat. 372, 12 U. S. C. 781 "Ninth"; Sec. 32, 48 Stat. 48, as amended, 12 U. S. C. 1016; Sec. 1, 48 Stat. 344, 12 U. S. C. 1020; Sec. 2, 48 Stat. 345, 12 U. S. C. 1020s.) [Res. Ex. Com., September 27, 1938.]"

FEDERAL LAND BANK
OF SPRINGFIELD.
[SEAL] H. P. PERKINS, *Secretary*.

[F. R. Doc. 38-2907; Filed, October 4, 1938; 12:22 p. m.]

TITLE 7—AGRICULTURE

BUREAU OF PLANT INDUSTRY

REVISION OF REGULATION 10 OF THE REGULATIONS ISSUED PURSUANT TO THE FEDERAL SEED ACT

Under the Authority of Sec. 5 (c) of the Federal Seed Act of August 24, 1912, as amended April 26, 1926 (U. S. C. 7, 115 (c)), Regulation 10 of the regulations jointly issued by the Secretary of the Treasury and the Secretary of Agri-

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Farm Credit Administration: Page
Federal Land Bank of Saint Paul, fees for change of maturity dates on loans... 2369
Federal Land Bank of Springfield, partial release of security fees... 2369
TITLE 7—AGRICULTURE:
Bureau of Plant Industry:
Federal Seed Act regulations revised (coloring seeds under supervision)... 2369
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Customs invoices, notice of data concerning discounts to be included on... 2370
Marking; articles to be combined... 2370
TITLE 41—PUBLIC CONTRACTS:
Division of Public Contracts:
Determination of prevailing minimum wages in:
Fireworks Industry... 2370
Wool Carpet and Rug Industry... 2371

NOTICES

Civil Aeronautics Authority:
Marquette Airlines, Inc., permission to lease two airplanes from American Airlines, Inc.; hearing... 2373
Rural Electrification Administration:
Allocation of funds for loans... 2373
Farms not receiving central station electric service... 2373
Securities and Exchange Commission:
American Gas and Power Co., and Birmingham Gas Co., effectiveness of declarations... 2373
Order adopting report on plan... 2374
Concordia Virginia Mining Co., hearing date changed... 2375

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Securities and Exchange Commission—Continued.	
Dominion Gas Co., withdrawal of application for exemption	2375
Mountain States Power Co., hearing	2376
United Fuel Gas Co., hearing	2375
Treasury Department:	
Office of the Secretary:	
Foreign moneys, values of	2372
United States Civil Service Commission:	
Condition of apportionment at close of business Friday, September 30, 1938	2376

culture, November 19, 1930, is hereby revised to read as follows:

REGULATION 10—COLORING SEEDS UNDER SUPERVISION

Seed required to be colored under Regulation 8 and not found to have been so colored prior to arrival in the United States shall not be permitted importation unless it has been colored at the expense of the importer and under the supervision of a representative of the Bureau of Plant Industry, or of a Customs officer when the Collector of Customs is notified that such supervision under the Bureau of Plant Industry is impracticable.

Regulation 10, thus revised, shall be effective on and after October 3, 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

SEPTEMBER 28, 1938.

[F. R. Doc. 38-2898; Filed, October 3, 1938; 2:54 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49713]

NOTICE OF DATA CONCERNING DISCOUNTS TO BE INCLUDED ON CUSTOMS INVOICES

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 481 (a) (10), Tariff Act of 1930 (U. S. C. title 19, sec. 1481 (a) (10)), and with reference to article 274 (e) (2) of the Customs Regulations of 1937, as amended by T. D. 49426, all customs invoices are required to set forth in detail, in respect of each class or kind of merchandise covered by the invoice, every discount from list or other base price which has been allowed or is to be allowed in fixing each purchase price or value set forth in the invoice.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: September 30, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2909; Filed, October 4, 1938; 12:38 p. m.]

[T. D. 49715]

MARKING—ARTICLES TO BE COMBINED

To Collectors of Customs and Others Concerned:

Numerous inquiries have been received with respect to the scope of article 528 (h) of the Customs Regulations of 1937, as amended by (1938) T. D. 49658.[1] This regulation was issued pursuant to section 304 (a) (2) of the Tariff Act of 1930, as amended by the Customs Administrative Act of 1938 (Public, No. 721, 75th Congress), which provides that:

The Secretary of the Treasury may by regulations—

* * * * *

(2) Require the addition of any other words or symbols which may be appropriate to prevent deception or mistake as to the origin of the article or as to the origin of any other article with which such imported article is usually combined subsequent to importation but before delivery to an ultimate purchaser;

Article 528 (h) in its present form applies only when an imported article is of a kind which is usually combined with another article subsequent to importation but before delivery to an ultimate purchaser in a manner which does not result in an article manufactured or produced in the United States. The phrase "combined with another article", as used in article 528 (h), refers to a combining of an imported article with another article without any process of manufacture or production and in such a manner that their separate identities are maintained and they do not become integral parts of an article manufactured or produced in the United States. Imported watch movements and toothbrush handles, for example, are not within the purview of the article, whereas bottles or other containers imported empty to be filled are within its purview.

Pursuant to the authority contained in section 304 (a) (1) of the Tariff Act of 1930, as amended, collectors of customs are hereby authorized, in the case of articles subject to the special marking requirement of article 528 (h), which are imported before December 1, 1938, to accept such marking when accomplished by means of firmly affixed paper labels or any other means, provided the collector is satisfied in each instance that such special marking is sufficiently permanent to convey to the ultimate purchaser of the combined articles clear information that the country of origin indicated is that of the imported article only. In the case of articles imported on or after December 1, 1938, the special marking required by article 528 (h) should be as permanent as the nature of the article would permit if the marking were accomplished either during the course of manufacture or at some other time prior to shipment.

[SEAL] J. H. MOYLE,
Commissioner of Customs.

Approved: September 30, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. 38-2910; Filed, October 4, 1938; 12:38 p. m.]

[1] 3 F. R. 1808 DI.

TITLE 41—PUBLIC CONTRACTS

DIVISION OF PUBLIC CONTRACTS

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE FIREWORKS INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on May 2, 1938 in the above-entitled matter.

Notice of the hearing was sent to all known members of the industry, to trade unions, trade associations, and trade publications in the field. Invitation to attend the hearing was extended through the national press to all other interested parties.

Testimony was given at the hearing by Counsel for the Association of Pyrotechnic Industries, by members of the industry, and by a representative of the United Mine Workers of America.

The fireworks industry, for the purpose of this decision, is divided into two branches: the commercial fireworks division, and the fusee division. The notice of hearing covered, in addition, the display branch of the industry. The Board advises me that there are very few employees in the display branch of the industry and that the Government does not normally enter into contracts with the members of this branch of the industry. Accordingly, the display branch of the fireworks industry has been excluded from the scope of the definition.

The fusee division of the fireworks industry makes such products as flares, fusees, and torpedoes. Safety fuses and squibs were listed as products of this division in a survey made by the Bureau of Labor Statistics served on all known interested parties, and introduced in evidence at the hearing. The Board advises me that these products are not manufactured by the fireworks industry, and for the purposes of this decision they will not be considered as products of the fireworks industry.

The Bureau's survey covered 1,384 employees of a total average employment of 1,587 as reported by the Bureau of the Census for 1935. It covered 41 establishments, located in 13 states. Of these plants, 19 were engaged in the manufacture of commercial fireworks and employed 988 of the 1,384 workers; 7 were engaged in the manufacture of display fireworks and employed 310 workers. Wage frequency tables, graduated by 5 cent intervals, were set up separately for (1) the commercial and display fireworks divisions, and (2) the fusee division. With minor exceptions the wages were taken from pay rolls in effect in October, 1937.

At the request of the Board, the Bureau of Labor Statistics broke down the available data to show separately and in 2.5 cent intervals the wages paid in the display branch and in the commercial branch of the fireworks industry. The resultant tables were mailed to the interested parties for comment and were also ordered incorporated into the record. No comments were received.

In the commercial fireworks branch of the industry the outstanding concentration of workers in the lower part of the wage structure occurs in the 30 to 32.5 cent interval. Into this 2.5 cent interval fall 137, or 13.8 percent, of the workers, whereas only 61 or 6.2 percent and 72 or 7.3 percent of the workers fall into the two next lower intervals, and only 96 or 9.8 percent and 71 or 7.1 percent fall into the two next higher intervals.

Of the total number of workers covered in the survey of the Bureau of Labor Statistics, only 310 were engaged in the manufacture of fusees, flares, ship and railroad torpedoes. The first pronounced concentration in the wage structure appears in the 32.5 to 37.5 cent interval, wherein 11.6 percent of the workers are found. This is followed by a still heavier concentration in the 37.5 to 42.5 cent interval which contains 16.1 percent of the workers.

The Board recommends (1) that the prevailing minimum wage in the manufacture or supply of commercial fireworks be determined to be 31.25 cents an hour or $12.50 per week for a week of 40 hours; and (2) that the prevailing minimum wage in the manufacture or supply of fusees, flares, and ship and railroad torpedoes be determined to be 37.5 cents an hour or $15.00 per week of 40 hours.

I have examined the findings and recommendations of the Board, and the record of the hearing, and I am of the opinion that such findings and recommendations are correct and I adopt them as my own.

Therefore, I hereby determine

(1) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) for the manufacture or supply of commercial fireworks shall be 31.25 cents an hour or $12.50 per week for a week of 40 hours, arrived at either upon a time or piece work basis; and

(2) That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) for the manufacture or supply of fusees, flares, and ship and railroad torpedoes shall be 37.5 cents an hour or $15.00 per week for a week of 40 hours, arrived at either upon a time or piece work basis.

This determination shall be effective and the minimum wages hereby established shall apply to all such contracts, bids for which are solicited on or after October 15, 1938.

Dated: September 30, 1938

[SEAL] FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-2904; Filed, October 4, 1938; 10:19 a. m.]

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE WOOL CARPET AND RUG INDUSTRY

This case is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." At my direction the Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on June 7, 1938, in the above entitled matter.

Notice of the hearing was sent to all known members of the industry, to trade unions, trade associations, and trade publications in the field. Invitation to attend the hearing was extended through the national press to all other interested parties.

There were no members of the industry present at the hearing on June 7, 1938. Labor was represented at the hearing by Solomon Barkin, Research Director, Textile Workers Organizing Committee, C. I. O.

On July 12, 1938, the Public Contracts Board advised the Administrator that while the facts of record had made out a good case for a 40 cents an hour minimum, nevertheless the Board felt that, inasmuch as all evidence came from labor, industry should be given an opportunity because of the ex parte nature of the testimony to show cause why 40 cents an hour or $16.00 per week for a week of 40 hours should not be determined by the Secretary of Labor to be the minimum wage prevailing in the industry.

On July 16, 1938, the Administrator, acting upon the recommendation of the Board, advised all interested parties that they would be given an opportunity at a hearing to be held before the Board on August 2, 1938, to show cause why the prevailing minimum wage should not be 40 cents an hour or $16.00 per week. Notice of the second hearing was sent to all the parties to whom the original notice was sent. The hearing was attended by Mr. Parkin in his capacity as Research Director for the Textile Workers Organizing Committee, and by a member of the industry. The industry did not furnish by letter or brief any data as to the wage structure in the industry. The 1935 Census of Manufactures shows that in that year there was an average of 27,633 wage earners in the wool carpet and rug industry, excluding rag rugs. The Census indicated that the plants were located in New York, Pennsylvania, Massachusetts, New Jersey, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maine, Michigan, Minnesota, North Carolina, Ohio, Rhode Island, Virginia, and Wisconsin.

Mr. Barkin testified that there were some 27,000 persons engaged in the industry in the States of Pennsylvania, New York, New Jersey, Connecticut, and Massachusetts. The Textile Workers Organizing Committee of the C. I. O. has contractual relations with carpet and rug manufacturers employing some 22,000 workers in 13 or 14 companies, which include, with the exception of two companies, all the large companies producing carpets and rugs, exclusive of rag rugs. The wage agreement with a Minnesota manufacturer employing less than 100 wage earners provided for a 35 cent minimum. In several Philadelphia plants, the union agreement provided for a minimum of 37.5 cents. These Philadelphia plants, subject to this minimum, employ about 1,400 persons. 13,400 employees out of approximately 22,000 who are members of the Textile Workers Organizing Committee of the C. I. O. in an industry employing approximately 27,000 workers are employed under wage agreements providing for a minimum hourly rate of 40 cents. These agreements affect employees in the industry in the States of New York, Pennsylvania, Connecticut, Mas-

sachusetts, Minnesota, and New Jersey. These states are the only ones where the industry is carried on extensively.

I have examined the findings and recommendations of the Board, and the record of the hearing, and I am of the opinion that such findings and recommendations are proper, and I adopt them as my own.

Therefore, I hereby determine:

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) for the manufacture of wool carpets and rugs, exclusive of rag rugs, shall be 40 cents an hour, or $16.00 per week of forty hours, to be arrived at either upon a time or piece work basis.

This determination shall be effective and the minimum wage hereby established shall apply to all such contracts, bids for which are solicited on or after October 15, 1938.

[SEAL] FRANCES PERKINS,
The Secretary.

Dated: September 30, 1938.

[F. R. Doc. 38-2905; Filed, October 4, 1938; 10:19 a. m.]

Notices

TREASURY DEPARTMENT.

Office of the Secretary.

[1938—Department Circular No. 1]

VALUES OF FOREIGN MONEYS

OCTOBER 1, 1938.

Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning October 1, 1938, expressed in any such foreign monetary units: *Provided, however,* That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate, as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2911; Filed, October 4, 1938; 12:38 p. m.]

Values of foreign monetary units (at par as regards gold units; non-gold units have no fixed par with gold)

Country	Monetary unit	Value in terms of United States money	Remarks
Argentine Republic	Peso	$1.6335	Given valuation is of gold peso. Paper nominally convertible at 44% of face value. Conversion suspended Dec. 16, 1929.
Australia	Pound	8.2397	Control of gold stocks and exports authorized Dec. 17, 1929.
Belgium	Belga	.1695	By decree of Mar. 31, 1936. One belga equals 5 Belgian francs.
Bolivia	Boliviano	.6180	Conversion of notes into gold suspended Sept. 23, 1931.
Brazil	Milreis		Conversion of Stabilization-Office notes into gold suspended Nov. 22, 1930.
British Honduras	Dollar	1.6631	Conversion of notes suspended.
Bulgaria	Lev	.0122	Exchange control established Oct. 15, 1931.
Canada	Dollar	1.6931	Embargo on export of gold, Oct. 19, 1931; redemption of Dominion notes in gold suspended Apr. 10, 1933.
Chile	Peso	.3060	Given valuation is of gold peso. Gold pesos are received for conversion at the rate of 4 paper pesos for one gold peso. Conversion of notes suspended July 30, 1931.
China	Yuan		Silver standard abandoned by decree of Nov. 3, 1935; bank notes made legal tender under Currency Board control; exchange rate for British currency primarily fixed at about 1 s. 2⅛d., or about 29⅛¢ U. S., per yuan.
Hong Kong	Dollar		Treasury notes and notes of the three banks of issue made legal tender by silver nationalization ordinance of Dec. 5, 1935; exchange fund created to control exchange rate.
Colombia	Peso	1.6479	Obligation to sell gold suspended Sept. 24, 1931.
Costa Rica	Colon	.7879	Conversion of notes into gold suspended Sept. 18, 1914; exchange control established Jan. 16, 1932.
Cuba	Peso	1.0000	By law of May 25, 1934.
Czechoslovakia	Koruna	.0351	By decree of Oct. 9, 1936.
Denmark	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Dominican Republic	Dollar	1.6931	U. S. money is principal circulating medium.
Ecuador	Sucre	.3386	Conversion of notes into gold suspended Feb. 9, 1932.
Egypt	Pound (100 piasters).	8.3692	Conversion of notes into gold suspended Sept. 21, 1931.
Estonia	Kroon	.4537	Conversion of notes into gold suspended June 28, 1933.
Finland	Markka	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
France	Franc		Provisions of Monetary law of Oct. 1, 1936, providing for gold content of franc, superseded by decree of June 30, 1937, which stated that the gold content of the franc shall be fixed ultimately by a decree adopted by the Council of Ministers. Until issuance of such decree a stabilization fund shall regulate the relationship between the franc and foreign currencies.
Germany	Reichsmark	.4033	Exchange control established July 13, 1931.
Great Britain	Pound Sterling	8.2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Greece	Drachma	.0220	Conversion of notes into gold suspended Apr. 26, 1932.
Guatemala	Quetzal	1.6931	Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Honduras	Lempira	.8466	Gold exports prohibited Mar. 27, 1931; lempira circulates as equivalent of half of U. S. dollar.
Hungary	Pengö	.2961	Exchange control established July 17, 1931.
India [British]	Rupee	.6180	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Indo-China	Piaster		Piaster pegged to French franc at the rate of 1 piaster = 10 French francs; conversion of notes into gold suspended Oct. 2, 1936.
Ireland	Pound	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Italy	Lira	.0526	New gold content of 46.77 milligrams of fine gold per lira established by monetary law of Oct. 5, 1936.
Japan	Yen	.4840	Embargo on gold exports Dec. 13, 1931.
Latvia	Lat		Currency pegged to sterling Sept. 28, 1936, at 2,522 lati=£100.
Liberia	Dollar	1.6931	British money is principal circulating medium.
Lithuania	Litas	.1693	Free export of gold suspended Oct. 1, 1935.
Mexico	Peso		Decree of Aug. 28, 1936, left the monetary unit, the peso, to be later defined by law.
Netherlands and colonies	Guilder (florin)	.6806	Suspension of convertibility of notes into gold and restrictions placed on free gold exports—Sept. 26, 1936.
Newfoundland	Dollar	1.6931	Newfoundland and Canadian notes legal tender.
New Zealand	Pound	8.2397	Conversion of notes into gold suspended and export of gold restricted, Aug. 5, 1914; exchange regulations December 1931.
Nicaragua	Cordoba	1.6933	Embargo on gold exports Nov. 13, 1931.
Norway	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Panama	Balboa	1.6933	U. S. money is principal circulating medium.
Paraguay	Peso (Argentine)	1.6335	Paraguayan paper currency is used; exchange control established June 28, 1932.
Persia (Iran)	Rial	.0824	Obligation to pay out gold deferred Mar. 13, 1932; exchange control established Mar. 1, 1936.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932.
Philippine Islands	Peso	.5000	By act approved Mar. 16, 1935.
Poland	Zloty	.1899	Exchange control established Apr. 27, 1936.
Portugal	Escudo	.0749	Gold exchange standard suspended Dec. 31, 1931.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Salvador	Colon	.8466	Conversion of notes into gold suspended Oct. 7, 1931
Siam	Baht (Tical)	.7491	Conversion of notes into gold suspended May 11, 1932.
Spain	Peseta	.3267	Exchange control established May 18, 1931.
Straits Settlements	Dollar	.9613	British pound sterling and Straits dollar and half dollar legal tender.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.

Values of foreign monetary units (at par as regards gold units; non-gold units have no fixed par with gold)—Continued.

Country	Monetary unit	Value in terms of United States money	Remarks
Switzerland	Franc		Order of Federal Council enacted Sept. 27, 1936, instructed the Swiss National Bank to maintain the gold parity of the franc at a value ranging between 190 and 215 milligrams of fine gold.
Turkey	Piaster	$0.0744	100 piasters equal to the Turkish £; conversion of notes into gold suspended 1916; exchange control established Feb. 26, 1930.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Republics	Chervonetz	8.7123	
Uruguay	Peso	.6583	Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931. New gold content of .585018 grams of pure gold per peso established by monetary law of Jan. 12, 1938.
Venezuela	Bolivar	.3267	Exchange control established Dec. 12, 1936.
Yugoslavia	Dinar	.0298	Exchange control established Oct. 7, 1931.

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 7-408 (A)-1]

APPLICATION OF MARQUETTE AIRLINES, INC., FOR PERMISSION TO LEASE TWO DOUGLAS DC-2 AIRPLANES FROM AMERICAN AIRLINES, INC., UNDER SECTION 408

OCTOBER 3, 1938.

The above entitled proceeding is assigned for public hearing on October 7, 1938, at 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before the Authority.

By the Authority:

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2908; Filed, October 4, 1938; 12:31 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 294]

FARMS NOT RECEIVING CENTRAL STATION ELECTRIC SERVICE

SEPTEMBER 29, 1938.

Pursuant to Section 3 (c) of the Rural Electrification Act of 1936, as amended, and upon information and data in the files of the Rural Electrification Administration, I hereby determine that the number of farms not receiving central station electric service for each State and the number of such farms for the United States at the beginning of the current fiscal year are as set forth in the following schedule:

United States	5,508,372
Alabama	256,956
Arizona	11,825
Arkansas	245,675
California	58,712
Colorado	50,751
Connecticut	12,296
Delaware	8,217
Florida	71,561
Georgia	236,204
Idaho	23,370
Illinois	179,846
Indiana	148,120
Iowa	179,570
Kansas	147,989
Kentucky	276,467
Louisiana	162,735
Maine	24,356
Maryland	30,675
Massachusetts	13,262
Michigan	100,059
Minnesota	175,159
Mississippi	311,336
Missouri	247,984
Montana	36,651
Nebraska	112,483
Nevada	2,204
New Hampshire	8,126
New Jersey	8,404
New Mexico	38,972
New York	86,788
North Carolina	270,709
North Dakota	70,843
Ohio	148,533
Oklahoma	199,065
Oregon	39,177
Pennsylvania	99,779
Rhode Island	178
South Carolina	151,697
South Dakota	69,725
Tennessee	255,367
Texas	459,870
Utah	11,475
Vermont	18,299
Virginia	166,231
Washington	40,193
West Virginia	97,304
Wisconsin	129,618
Wyoming	13,556

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2899; Filed, October 4, 1938; 9:31 a. m.]

[Administrative Order No. 295]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 30, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Iowa 9034C1 Jones	$153,988
Texas 9030C1 Upshur	95,000
Texas 9050C1 Grayson	134,000
Texas 9072A1 Lamar	316,000
Texas 9077A1 Johnson	308,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2900; Filed, October 4, 1938; 9:31 a. m.]

[Administrative Order No. 296]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 30, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Colorado R9016A1 Jefferson	$109,000
Illinois R9018B2 Pike	70,500
Illinois R9018G3 Pike	5,000
Iowa R9034C2 Jones	145,012
Iowa R9057A1 Mitchell	222,000
Kentucky R9027C1 Boyle	162,000
Ohio R9033C1 Auglaize	314,000
Ohio R9084B1 Carroll	194,000
Tennessee R9017A3 Hardeman	11,000
Virginia R9029D1 Nelson	80,000
Wisconsin R9019C1 Chippewa	109,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2901; Filed, October 4, 1938; 9:31 a. m.]

[Administrative Order No. 297]

ALLOCATION OF FUNDS FOR LOANS

SEPTEMBER 30, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Iowa R9032W1 Butler	$5,000
Kansas R9008W1 Allen	1,000
Ohio R9039W2 Paulding	5,000
Ohio R9065W1 Fairfield	2,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2902; Filed, October 4, 1938; 9:31 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1938.

[File No. 50-5]

IN THE MATTER OF AMERICAN GAS AND POWER COMPANY AND BIRMINGHAM GAS COMPANY

ORDER PERMITTING DECLARATIONS TO BECOME EFFECTIVE

American Gas and Power Company, a registered holding company under the Public Utility Holding Company Act of 1935, and Birmingham Gas Company, a subsidiary of American Gas and Power Company (hereinafter referred to as "American" and "Birmingham," respec-

tively), having filed declarations and applications under Sections 7 and 12 (c) of said Act and Rules U–12D–1, U–12E–4 and U–12E–5 of the Commission with respect to a plan with certain amendments thereto (hereinafter referred to as the "Plan") for the recapitalization of Birmingham and the cancellation of certain inter-company debt;

A public hearing having been held on said declarations and applications and on the Plan, after appropriate notice,[1] and thereafter amendments to the Plan having been filed; Applicants having by stipulation waived the preparation and submission to them of any report by the trial examiner and the preparation and submission to them of proposed findings of fact by the Commission and requested findings of fact by counsel for the Commission; and oral argument having been had on this matter; and

The Commission having considered the record in this matter and having made its findings and set forth therein conditions under which such declarations might be permitted to become effective, and the Applicants having been apprised of said conditions and having accepted the same in writing;

It is ordered, That said declarations be and become effective forthwith, subject to the following terms and conditions being fully satisfied and carried out:

(1) *The Plan and supporting documents to be further amended in the following respects:*

1. Section 2 of Article Three of the proposed Note Agreement of Birmingham dated as of October 1, 1938 to be modified so as to provide that Notes delivered to the Trustee thereunder on account of the Sinking Fund requirements shall be credited at cost to Birmingham, or par, whichever is lower, and that the cost of such Notes shall be certified to the Trustee in writing by the president and treasurer of Birmingham.

B. Paragraph B, Article V of the Plan recites that "Under the formula provided in the Supplemental Debenture Agreement of American dated July 18, 1935, the interest and sinking fund instalments on said loan (the $600,000 loan from Continental) will constitute a prior charge in the determination of net earnings of American available for (a) conditional interest on the debentures, (b) sinking fund for retirement of debentures and (c) principal and interest payments on remaining inter-company debt." This provision shall be stricken from the Plan and no such deduction of interest and amortization payments on the $600,000 loan shall be made unless specific consents from the persons designated in paragraph D hereof are obtained to an amendment to the Supplemental Debenture Agreement expressly authorizing such deductions, and expressly excluding any authorization for deducting any other sums for repayment of bank loans.

C. The Plan to be amended to provide that (a) the $100,000 repaid by American to Continental and deducted as a prior charge in the determination of net earnings of American available for distribution under the formula provided in its said Supplemental Debenture Agreement dated July 18, 1935, shall be restored to net earnings available for such distribution and shall be applied (1) ⅓ as conditional interest on its debentures, (2) ⅓ for Sinking Fund and retirement of its debentures, and (3) ⅓ for interest and principal payments to Birmingham, Minneapolis and Jacksonville upon their certificates of indebtedness, and (b) the $160,000 subsequently repaid to Continental shall not be deducted as such a prior charge. These changes shall not be necessary if specific waivers of such restoration and consents to such deductions are received from the persons designated in paragraph D hereof.

D. The Plan to be amended to provide that it shall not become effective unless the Plan as a whole, the matter referred to in paragraph B hereof, and the matters referred to in paragraph C hereof (unless the first sentence of paragraph C is complied with) shall each be approved by at least:

(1) the holders of at least 66⅔% of the principal amount of American's secured debentures (other than those reacquired and now held in American's treasury or pledged);

(2) the holders of at least 80% of the principal amount of Birmingham's publicly held notes;

(3) the holders of at least 95% of the principal amount of Birmingham's preferred stock; and

(4) the Minneapolis and Jacksonville companies, acting through their respective Boards.

(2) *American to confirm agreements and agree as follows:*

A. That the Commission shall retain jurisdiction to pass upon fees and expenses incurred and to be incurred in connection with the Plan of Recapitalization pursuant to Section 7 (d) (4), and that American will not pay fees and expenses in excess of the amounts so approved by the Commission.

B. The Commission shall retain supervisory jurisdiction to prevent diversion of funds available for repayment of Continental loan of $600,000 and that, until said loan is repaid, it will make no commitments other than for current, normal expenditures and will not reacquire additional secured debentures without the approval of the Commission.

C. Not to reissue or repledge any of its reacquired secured debentures unless it makes a showing satisfactory to the Commission that such reissuance or repledge (in addition to conforming with the standards of Section 7 of the Public Utility Holding Company Act of 1935) will not be unfair to any party to the Plan or any person whose consent to such Plan was solicited.

D. To cause Birmingham, Minneapolis and Jacksonville to retain independent counsel to advise them, respectively, upon all intercompany matters now or hereafter arising, including, without thereby limiting the foregoing, the Plan and the proposed modifications thereof, and authorizes the Commission at any time, and from time to time, to inquire into the independent character of such counsel and if it finds that any such counsel is not independent, to require the removal of such counsel and the selection of other counsel.

(3) *American and Birmingham to agree to the following provisions respecting solicitation:*

A. All literature to be used in solicitation of waivers and consents shall first be submitted to and be approved by the Commission and shall contain specific reference to the amendments to the Plan and the agreements of American hereinabove referred to.

B. All solicitation shall be preceded or accompanied by the report of the Commission pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935.

C. Prior to the submission of the Plan with the foregoing modifications to the Boards of Directors of Birmingham, Minneapolis and Jacksonville, independent counsel shall have been chosen by them, respectively, and their names submitted to the Commission. When such Plan is submitted to the respective Boards there shall also be submitted to them a copy of the report of the Commission pursuant to said Section 11 (g) and an analysis of the Plan and of above amendments in form approved by the Commission.

D. Appropriate changes shall be made in all literature, proposals and papers filed with the Commission to give effect to the foregoing amendments, conditions and agreements.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2917; Filed, October 4, 1938; 12:51 p.m.]

[1] 3 F. R. 1175 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of September, A. D. 1938.

[File No. 50–5]

IN THE MATTER OF AMERICAN GAS AND POWER COMPANY AND BIRMINGHAM GAS COMPANY

ORDER ADOPTING REPORT ON PLAN

American Gas and Power Company, a registered holding company under the Public Utility Holding Company Act of 1935, and Birmingham Gas Company, a subsidiary of American Gas and Power Company, (hereinafter referred to as "American" and "Birmingham," respectively) having filed applications for reports under Section 11 (g) of the Act and Rule U–12E–3 of the Commission with respect to a plan and certain amendments thereto (hereinafter referred to as the Plan) for the recapitalization of Birmingham and the cancellation of certain inter-company debt;

A public hearing having been held on said applications and on the Plan, after appropriate notice,[1] and amendments having thereafter been filed to the Plan; Applicants having by stipulation waived the preparation and submission to them of any report by the trial examiner and the preparation and submission to them of proposed findings of fact by the Commission and requested findings of fact by counsel for the Commission; and oral argument having been had on this matter; and

The Commission having considered the record in this matter and having made and filed its findings and opinion on the Plan on this 29th day of September, 1938, and having set forth in said findings and opinion conditions under which the declarations therein referred to might be permitted to become effective, and the Applicants having been apprised of said conditions and having accepted the same in writing; and

The Commission having prepared its report on the Plan as amended pursuant to Section 11 (g) of the Act;

It is ordered, That said applications be and they hereby are granted, and that said report is hereby adopted by the Commission as its report under Section 11 (g) of the Act and Rule U–12E–3 of the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2916; Filed, October 4, 1938; 12:51 p. m.]

[1] 3 F. R. 1175 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of October, 1938.

[File No. 1–2238]

IN THE MATTER OF APPLICATION BY SAN FRANCISCO MINING EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE 10¢ PAR COMMON ASSESSABLE STOCK AND 10¢ PAR COMMON NON-ASSESSABLE STOCK OF CONCORDIA VIRGINIA MINING COMPANY

ORDER CHANGING HEARING DATE

The San Francisco Mining Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 10¢ par common assessable stock and 10¢ par common non-assessable stock of Concordia Virginia Mining Company; and

The Commission having ordered[1] that the matter be set down for hearing at 10 A. M. on Monday, October 17, 1938 at the office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California; and

It appearing that the officer designated in said order to preside at said hearing will not be available on said date;

It is ordered, That the date of said hearing be and the same is hereby changed from October 17, 1938, to October 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2914; Filed, October 4, 1938; 12:50 p. m.]

[1] 3 F. R. 2366 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of October, A. D. 1938.

[File No. 31–410]

IN THE MATTER OF THE APPLICATION OF DOMINION GAS COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2915; Filed, October 4, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1938.

[File No. 43–157]

IN THE MATTER OF UNITED FUEL GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 21, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 17, 1938.

The matter concerned herewith is in regard to the declaration of United Fuel Gas Company, a West Virginia corporation having its principal place of business at Charleston, West Virginia, and being a subsidiary company of Columbia Gas & Electric Corporation, a registered holding company, regarding a change in the par value of declarant's common stock from $100 a share to $1 a share. It is stated that the surplus created by the reduction of capital will be segregated in a separate account and designated as "Special Capital Surplus." It is further stated that all of the shares of such common stock, 300,000 in number, are held by Columbia Gas & Electric Corporation. It is further stated that the funded debt of applicant, which is the only security of the applicant outstanding in the hands of the public, consists of $6,000,000 aggregate principal amount of Guaranteed 4% Serial Notes, dated January 1, 1934, due serially from 1939 to 1946.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2912; Filed, October 4, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its

OCT 7 1938

office in the City of Washington, D. C., on the 4th day of October, A. D. 1938.

[File No. 52-8]

IN THE MATTER OF MOUNTAIN STATES POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application (File No. 52-8) pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935 having been filed with this Commission by Z. E. Merrill, President and Director of Mountain States Power Company, on behalf of the Company and by David S. Soliday, John H. Mason, John W. Sparling, E. B. Williamson and Thomas E. Young as a Preferred Stockholders Committtee for the holders of 7% Cumulative Preferred Stock of Mountain States Power Company;

It is ordered, That a hearing on such matter be held on October 18, 1938 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 13, 1938.

The matter concerned herewith is in regard to a plan of reorganization of said Mountain States Power Company which this Commisison is requested to approve as provided in section 11 (f) of said Act prior to submission of the plan to the District Court of the United States for the District of Delaware in proceedings therein pending for the reorganization of said Mountain States Power Company under section 77B of the Bankruptcy Act. It is proposed to distribute the securities of the reorganized company as follows:

For each $100 principal amount of First Mortgage Bonds, Series A, 5%: $100 principal amount of new First Mortgage 4½% Bonds and $2.88 of new Common Stock, $25 par value.

For each $100 principal amount of First Mortgage Bonds, Series B, 6%: $100 principal amount of new First Mortgage 4½% Bonds and $8.57 of new Common Stock, $25 par value.

For each share of 7% Cumulative Preferred Stock, $100 par value, and all accumulated and unpaid dividends thereon: 4 shares of new 4% Cumulative Preferred Stock, $25 par value, or 4 shares of new Common Stock, $25 par value.

For each 25 shares of no par Common Stock held by persons other than Standard Gas and Electric Company and Standard Power and Light Corporation: One share of new Common Stock, $25 par value.

To Standard Gas and Electric Company for its disputed claim filed in the reorganization proceedings: 130,393.54 shares of new Common Stock, $25 par value.

On May 13, 1938, a plan of reorganization for this Company was filed by H. S. Payson Rowe, Julian D. Anthony, W. H. Duff, T. A. Phillips, F. T. Pratt, and E. B. Sherwin as a Protective Committee for the holders of First Mortgage Bonds of Mountain States Power Company. A hearing was held in connection with that application on July 6, 1938, and will be reopened at the time and place set above and held jointly with the hearing to be held on this application of Z. E. Merrill and the Preferred Stockholders Committee.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2913; Filed, October 4, 1938; 12: 50 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS FRIDAY, SEPTEMBER 30, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	579	38
2. Hawaii	138	15
3. California	2,190	783
4. Texas	2,185	880
5. Alaska	22	9
6. Louisiana	788	372
7. Michigan	1,817	859
8. Arizona	163	81
9. New Jersey	1,516	785
10. South Carolina	652	370
11. Ohio	2,494	1,476
12. Oklahoma	899	539
13. Arkansas	696	426
14. Alabama	993	611
15. Mississippi	754	468
16. New Mexico	159	100
17. North Carolina	1,189	781
18. Georgia	1,091	732
19. Kentucky	981	669
20. Wisconsin	1,103	830
21. Illinois	2,863	2,185
22. Tennessee	982	752
23. Connecticut	603	480
24. Nevada	34	28
25. Indiana	1,215	1,090
26. Delaware	89	80
27. Oregon	358	323
28. Florida	551	501
29. New York	4,723	4,422
30. Wyoming	85	80
31. Utah	191	180
32. Pennsylvania	3,614	3,416
33. Idaho	167	158
34. New Hampshire	175	171
35. Colorado	389	384
36. Washington	587	550
37. Maine	290	258
38. West Virginia	649	647
39. Kansas	706	705

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
QUOTA FILLED			
40. Rhode Island	258	258	−1
IN EXCESS			
41. Massachusetts	1,594	1,621	+27
42. Missouri	1,362	1,418	−16
43. Vermont	133	142	+1
44. Minnesota	962	1,032	−23
45. North Dakota	255	274	+23
46. Montana	202	227	−2
47. South Dakota	260	298	+10
48. Iowa	927	1,096	+13
49. Nebraska	517	631	+1
50. Virginia	909	1,940	−7
51. Maryland	612	1,847	−5
52. District of Columbia	183	8,738	−21

GAINS	
By appointment	80
By reinstatement	0
By transfer	17
By correction	1
Total	98
LOSSES	
By separation	61
By transfer	115
Total	176
Total Appointments	46,806

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,231.

By direction of the Commission:

[SEAL] L. A. MOYER, *Executive Director and Chief Examiner.*

[F. R. Doc. 38-2903; Filed, October 4, 1938; 10:06 a. m.]

OCT 7 1938

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 195

Washington, Thursday, October 6, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER AMENDING ORDER REGULATING HANDLING IN INTERSTATE AND FOREIGN COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE OR FOREIGN COMMERCE, OF WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Whereas, the Secretary of Agriculture of the United States, hereinafter referred to as the "Secretary", issued an order regulating the handling of walnuts grown in California, Oregon, and Washington, effective on and after October 15, 1935, which order was amended on September 23, 1936, effective on and after September 27, 1936, and further amended on September 23, 1937,[1] effective on and after September 29, 1937 (the said order, as amended, is hereinafter referred to as the "order"); and

Whereas, at the request of the Control Board established pursuant to the provisions of said order, a hearing was held on September 6, 1938, in San Francisco, California, upon the proposed amendment to the order, due notice of such hearing[2] having been given interested parties in accordance with the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "act", and the applicable regulations issued thereunder, at which time and place all interested parties were given an opportunity to be heard concerning the proposed amendment to the order; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the said hearing and the record thereof:

1. That the supply of merchantable walnuts available during the crop year 1938-39 for handling in the channels of interstate and foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity, will exceed the consumptive demand for such walnuts during the said period;

2. That a surplus exists in such available supply of walnuts, and that such surplus amounts to at least twenty (20%) per cent of such available supply;

3. That the salable percentage of merchantable walnuts should be eighty (80%) per cent and the surplus percentage should be twenty (20%) per cent;

4. That the fixing of such percentages and the methods provided in the order, as hereby amended, for the disposition of such surplus and for the equalization of the burden of such surplus elimination will tend to establish prices to the growers of such walnuts at a level that will give such walnuts a purchasing power with respect to articles that growers thereof buy equivalent to the purchasing power of such walnuts in the base period, as defined in the order;

5. That the order, as hereby amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to walnuts grown in California, Oregon, and Washington, by establishing and maintaining such orderly marketing conditions therefor as will reestablish prices to growers thereof at a level that will give such walnuts a purchasing power with respect to articles that such growers buy equivalent to the purchasing power of such walnuts in the aforesaid base period, at the same time protecting the interest of the consumer by (a) approaching such level of prices, which it is declared in the act to be the policy of Congress to establish, by gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in the domestic and foreign markets, and (b) authorizing no action which has for its purpose the maintenance of prices to growers above the

[1] 1 F. R. 1455; 2 F. R. 1953 (2288 DI).
[2] 3 F. R. 2133 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Mainland cane sugar area, determination of proportionate shares for farms in (1939 crop)	2378
Walnuts grown in California, Oregon, and Washington, handling in interstate or foreign commerce	2377
TITLE 14—CIVIL AVIATION:	
Civil Aeronautics Authority:	
Petitions for determination of rates of compensation for transportation of mail by aircraft	2379
TITLE 17—COMMODITIES AND SECURITIES EXCHANGES:	
Securities and Exchange Commission:	
Securities Exchange Act of 1934, redesignation of general rules and regulations under; adoption of Rule X-5	2380
TITLE 19—CUSTOMS DUTIES:	
Bureau of Customs:	
Seventh World's Poultry Congress and Exposition, entry of articles for exhibition at	2380
TITLE 24—HOUSING CREDIT:	
Home Owners' Loan Corporation:	
Authority to incur expense and approve payment for credit reports	2382
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:	
War Department:	
Los Angeles and Long Beach Outer Harbor, Calif., anchorage grounds	2382
TITLE 50—WILDLIFE:	
Bureau of Biological Survey:	
Lower Souris Migratory Waterfowl Refuge, N. Dak., fishing permitted	2385

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc., in the matter of: Page
Primrose House, Inc., and Delv, Ltd 2386
United Distillers Products Corp 2386
Voss Co., Inc 2386
Securities and Exchange Commission:
American States Utilities Corp., and Dearborn-Ripley Light & Power Co., hearing 2387
Dresser Power Corp., withdrawal of application 2387
Indiana General Service Co., issue and sale of bonds exempted 2386
Public Service Co. of Indiana, withdrawal of application 2387
Virginia Electric and Power Co., issue and sale of bonds and notes exempted 2387

level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary finds:

1. That the order, as hereby amended, regulates the handling of such walnuts in the same manner as, and is made applicable only to persons in the respective classes of industrial and commercial activities specified in the marketing agreement upon which hearings were held in September 1935, as amended in certain respects and on which amendments a hearing was held in September 1936 and in September 1937;

2. That handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the said commodity or products thereof) of not less than fifty (50%) per cent of the volume of the said commodity covered by the order, as hereby amended, which is produced within the production area defined in the said order, have signed a marketing agreement and an amendment to the same, which marketing agreement, as amended, regulates the handling of said commodity in the same manner as the order, as hereby amended;

3. That the agreement further amending the said marketing agreement, as amended, has been executed by more than three packers, signatory to the said marketing agreement, who during the preceding crop year handled not less than sixty-seven (67%) per cent of the merchantable walnuts handled during such crop year, and has been approved by the Secretary;

4. That the issuance of this amendment to the order is favored by producers who, during the 1937–1938 crop year (which the Secretary hereby determines to be a representative period) have produced for market within the production area specified in said marketing agreement, as amended, and the order as hereby amended, at least two-thirds (⅔) of the volume of such commodity produced for market within such production area;

Now, therefore, the Secretary, acting under the authority vested in him by the act, hereby amends the said order, as amended, regulating the handling of walnuts grown in the States of California, Oregon, and Washington, and orders that the handling of such commodity in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity, from and after the effective date herein specified, shall be in conformity to, and in compliance with, the terms and conditions of the said order, as hereby amended, said amendments being as follows:

1. In Section 2 of Article III of the aforesaid order, as amended, delete the period at the end of the first sentence and add the following:

and the salable percentage for the crop year September 1, 1938, to August 31, 1939, shall be eighty (80%) per cent.

2. In section 2 of Article III of the aforesaid order, as amended, delete the period at the end of the next to the last sentence of said section and add the following:

and twenty (20%) per cent, being the difference between the salable percentage for the crop year ending August 31, 1939, and one hundred (100%) per cent, shall be the "surplus percentage" for said crop year.

Nothing contained in this amendment to the order shall be deemed to affect, waive, or terminate any right, duty, obligation, or liability which has arisen or which may hereafter arise in connection with, by virtue of, or pursuant to any provision of the said order, or affect or impair any right or remedy of the Secretary in connection therewith, except as herein indicated, expressly or by necessary implication.

In witness whereof, H. A. Wallace, Secretary of Agriculture of the United States, acting under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this amendment to the said order under his hand and the official seal of the United States Department of Agriculture in the city of Washington, District of Columbia, on the 4th day of October 1938 and declares this amendment to the said order to be effective on and after 12:01 a. m., Pacific Standard Time, October 8, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2919; Filed, October 4, 1938; 3:14 p.m.]

DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN THE MAINLAND CANE SUGAR AREA FOR THE 1939 CROP

WHEREAS, Section 302 of the Sugar Act of 1937 provides in part as follows:

(a) The amount of sugar or liquid sugar with respect to which payment may be made shall be the amount of sugar or liquid sugar commercially recoverable, as determined by the Secretary, from the sugar beets or sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm, as determined by the Secretary, of the quantity of sugar beets or sugarcane for the extraction of sugar or liquid sugar required to be processed to enable the producing area in which the crop of sugar beets or sugarcane is grown to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

(b) In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of sugar beets and sugarcane marketed (or processed) for the extraction of sugar or liquid sugar and the ability to produce such sugar beets or sugarcane, and the Secretary shall, insofar as practicable, protect the interests of new producers and small producers and the interests of producers who are cash tenants, share-tenants, adherent planters or sharecroppers.

and

Whereas subsection (c) of section 301 of said act provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(c) That there shall not have been marketed (or processed) an amount (in terms of planted acreage, weight, or recoverable sugar content) of sugar beets or sugarcane grown on the farm and used for the production of sugar or liquid sugar to be marketed in, or so as to compete with or otherwise directly affect interstate or foreign commerce, in excess of the proportionate

share for the farm, as determined by the Secretary pursuant to the provisions of section 302, of the total quantity of sugar beets or sugarcane required to be processed to enable the area in which such sugar beets or sugarcane are produced to meet the quota (and provide a normal carryover inventory) as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed. and

Whereas, the Secretary of Agriculture, on September 25, 1938, estimated the amount of sugar required to be processed from the 1939 crop in the mainland cane sugar area to meet the estimated quota (including a normal carryover inventory) for that area, for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed, to be 406,000 tons of sugar, raw value;

Now, therefore, pursuant to the foregoing sections of said act, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the proportionate share of sugarcane for any farm in the mainland cane sugar area for the 1939 crop shall be as follows:

(a) That the proportionate share shall be calculated by taking 75 per centum of the 1938 proportionate share or 100 per centum of the acreage measured for harvest under the 1938 mainland sugarcane program, whichever is smaller, but in no event shall the proportionate share be in excess of 60 per centum of the cropland which was suitable for the production of sugarcane during the 1938 crop season, except as hereinafter provided.

(b) That the minimum proportionate share shall be the largest of the following:

1. For any farm, the sum of the acreage planted to sugarcane for sugar in the fall of 1937, the spring of 1938, and the fall of 1938 prior to October 1, 1938, but not in excess of the 1938 proportionate share;

2. For farms having 30 acres or less suitable for the production of sugarcane, one-third of such acreage but not less than 5 acres;

3. For farms having more than 30 acres suitable for the production of sugarcane, ten acres in any event, with a further addition of one-fourth of such acreage in excess of 30 acres, provided there is plowed under a leguminous crop, immediately prior to and in preparation for the 1938 fall planting of sugarcane, on an acreage equivalent to the difference between the acreage determined pursuant to this subsection (3) and section (a) above.

In addition to the foregoing, the following conditions shall be met:

1. That no change shall have been made in the leasing or cropping agreements for the purpose of diverting to any producer any payment to which tenants or sharecroppers would be entitled if the 1938 leasing or cropping agreements were in effect.

2. That there shall have been no interference by any producer with contracts heretofore entered into by tenants or sharecroppers for the sale of their sugarcane.

Done at Washington, D. C., this 4th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2927; Filed, October 5, 1938; 12:41 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation 406-A-1]

PETITIONS FOR DETERMINATION OF RATES OF COMPENSATION FOR TRANSPORTATION OF MAIL BY AIRCRAFT

At a session of the Civil Aeronautics Authority held in the City of Washington, D. C. on the 4th day of October, 1938.

Acting pursuant to the Authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 406 (a) and 205 (a) of the Act, and finding that its action is desirable in the public interest, is consistent with the provisions of the Act and is necessary and appropriate to carry out the provisions thereof, the Civil Aeronautics Authority hereby makes and promulgates the following regulation:

REGULATION 406-A-1.—PETITIONS FOR DETERMINATION OF RATES OF COMPENSATION FOR TRANSPORTATION OF MAIL BY AIRCRAFT

(a) *Number of copies.*—Ten copies of each petition shall be filed with the Authority. Only one of such copies need be actually executed on behalf of the petitioner. The names and titles of all signing officers shall be clearly typed or printed beneath their signatures. All unexecuted copies filed with the Authority shall contain typed, printed or facsimile signatures.

(b) *Verification.*—The signed copy of each petition shall be verified by the petitioner. If the petitioner is a partnership, such verification shall be made by two or more of the partners. If it is a corporation, business trust or other similar organization, the petition should be verified by three of its officers, who shall be, respectively, the chief executive, the chief financial, and the chief operating officer. In the event of the unavailability of any such officer, the acting officer charged with the responsibility for his duties may execute such verification in his stead. Every such verification shall set forth that the persons verifying the same have read and are familiar with the contents of the petition and the attached exhibits; that they intend and desire that in granting or denying the relief applied for, the Authority shall place full and complete reliance on the accuracy of each and every statement therein contained; that they are familiar with the facts therein set forth, and, that to the best of their information and belief, every statement contained in the petition is true and no such statement is misleading. Every such verification shall be subscribed and sworn to before a notary public or other officer authorized to administer oaths in the jurisdiction in which such petition is executed.

(c) *Amendments to petition.*—If, after receipt of any petition, the Authority shall request the petitioner to supply it with additional information, such information, except that furnished in formal proceedings, shall be furnished in the form of an amendment to the original petition. Each amendment (including those made on the petitioner's own initiative) should be consecutively numbered, and shall comply with the requirements of this Regulation as to form, number of copies, manner of execution, verification, and all other essential respects. In the event that any petition shall be amended, the amendment shall contain a statement that a copy thereof has been served on the Postmaster General by sending the same to him by registered mail, postpaid, prior to the filing with the Authority of such amendment.

(d) *Formal requirements.*—Every petition shall be made on paper approximately 8½" x 13" in size except that exhibits or other documents attached thereto may be folded to those dimensions. Every petition shall be typewritten, printed or reproduced by some other process which will produce a clear and durable result on firm, tough paper. Each copy must be clear and legible in all respects. A margin of at least one inch in width shall be left on the left hand side of all pages, and all petitions must be bound on that side. All pages of a petition shall be consecutively numbered and the petition shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits shall be deemed to constitute a part of the petition to which they are attached.

(e) *Time of filing.*—A petition shall be deemed to have been filed only when it is actually received by the Civil Aeronautics Authority at its office in Washington, D. C.

(f) *Contents of petitions.*—The petition should, in accordance with the provision of section 406 (c) of the Act, include a statement of the rate the petitioner believes to be fair and reasonable. In this connection, the rate-making elements set forth in section 406 (b) of the Act should be particularly considered by the petitioner in the prepara-

tion of the petition. Opportunity for argument will be given at the public hearing.

(g) *Service on Postmaster General.*—The petition shall contain a statement that the petition has served a copy of the petition on the Postmaster General by sending the same to him by registered mail, postpaid, prior to the filing of the petition with the Authority. The petition need not be accompanied by any further proof of service, but, upon setting any petition down for public hearing, the Authority will cause notice of such hearing to be given to such interested parties as it deems appropriate in the particular case.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2923; Filed, October 5, 1938; 11:40 a. m.]

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

REDESIGNATION OF GENERAL RULES AND REGULATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934

ADOPTION OF RULE X-5

The Securities and Exchange Commission has adopted for its General Rules and Regulations under the Securities Exchange Act of 1934 a system of designation which indicates the particular sections of the Act to which the respective rules relate. The rules are now available, with the new designations, in printed pamphlet form.

The Commission has also adopted a new rule which provides that where reference has been made to rules under the old system of designation, such reference shall be deemed to refer to the respective rules under the new system of designation. The application of this rule will be temporary since the old designations will be superseded by the new as the various regulations in which such references occur are reprinted.

The text of the Commission's action follows:

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly section 23 (a) [c. 404, sec. 23, 48 Stat. 901; c. 462, Sec. 8, 49 Stat. 1379; 15 U. S. C. 78w and Sup. III] thereof, and deeming such action necessary and appropriate in the public interest and for the protection of investors and necessary for the execution of the functions vested in the Commission, hereby takes the following action:

1. The Commission hereby adopts for its General Rules and Regulations under the Act the arrangement and system of designation followed in the attached printed copy of "General Rules and Regulations under the Securities and Exchange Act of 1934."[1]

2. The Commission hereby adopts the following new rule:

"SEC. 10.X-5 (RULE X-5). REFERENCE TO RULE BY OBSOLETE DESIGNATION

"Wherever in any rule, form, or instruction book specific reference is made to a rule by number or other designation which is now obsolete, such reference shall be deemed to be made to the corresponding rule or rules in these General Rules and Regulations."

The foregoing action shall be effective as of September 10, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2918; Filed, October 4, 1938; 12:52 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49718]

ENTRY OF ARTICLES FOR EXHIBITION AT THP SEVENTH WORLD'S POULTRY CONGRESS AND EXPOSITION TO BE HELD AT CLEVELAND, OHIO, BEGINNING IN JULY 1939

SEPTEMBER 29, 1938.

To Collectors of Customs and Others Concerned:

Attention is invited to the provisions of Public Resolution No. 653 of the Seventy-fifth Congress, approved June 16, 1938, which read as follows:

That all articles which shall be imported from foreign countries for the purpose of exhibition at the international exposition to be held at Cleveland, Ohio, beginning in July 1939 by the Seventh World's Poultry Congress and Exposition, or for use in constructing, installing, or maintaining foreign buildings or exhibits at the said exposition, upon which articles there shall be a tariff or customs duty shall be admitted without payment of such tariff, customs duty, fees, or charges under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during and/or within three months after the close of the said exposition, to sell within the area of the exposition any articles provided for herein, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury shall prescribe: Provided, That all such articles, when withdrawn for consumption or use in the United States, shall be subject to the duties, if any, imposed upon such articles by the revenue laws in force at the date of their withdrawal; and on such articles, which shall have suffered diminution or deterioration from incidental handling or exposure, the duties, if payable, shall be assessed according to the appraised value at the time of withdrawal from entry hereunder for consumption or entry under the general tariff law: Provided further, That imported articles provided for herein shall not be subject to any marking requirements of the general tariff laws, except when such articles are withdrawn for consumption or use in the United States, in which case they shall not be released from customs custody until properly marked, but no additional duty shall be assessed because such articles were not sufficiently marked when imported into the United States: Provided, further, That at any time during or within three months after the close of the exposition, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, whereupon any duties on such article shall be remitted: Provided further, That articles, which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond, and imported articles in bonded warehouses under the general tariff law may be accorded the privilege of transfer to and entry for exhibition at the said exposition under such regulations as the Secretary of the Treasury shall prescribe: And provided further, That the Seventh World's Poultry Congress and Exposition shall be deemed, for customs purposes only to be the sole consignee of all merchandise imported under the provisions of this Act, and that the actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody, together with the necessary charges for salaries of customs officers and employees in connection with the supervision, custody of, and accounting for articles imported under the provisions of this Act, shall be reimbursed by the Seventh World's Poultry Congress and Exposition to the Government of the United States under regulations to be prescribed by the Secretary of the Treasury, and that receipts from such reimbursements shall be deposited as refunds to the appropriation from which paid, in the manner provided for in section 524, Tariff Act of 1930.

(1) All packages containing imported merchandise to be entered under the provisions of the public resolution shall be plainly marked "Seventh World's Poultry Congress and Exposition," and shall bear separate serial numbers.

(2) All importations of articles of a class requiring a consular invoice, intended for exhibition under the provisions of the public resolution and valued at more than $100, must be covered by consular invoices certified as provided in article 276 of the Customs Regulations of 1937.[1] Such invoices shall contain the information prescribed under section 481 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1481) and shall show that the articles covered thereby are destined to the port of Cleveland, Ohio, and are intended for exhibition or use at the Seventh World's Poultry Congress and Exposition.

[1] 2 F. R. 1512 (1797 DI).

(3) The Seventh World's Poultry Congress and Exposition shall give to the collector of customs at Cleveland, Ohio, such security for compliance with the public resolution and these regulations as may be approved by the Commissioner of Customs.

(4) The collector of customs at Cleveland, Ohio, shall detail an officer to act as his representative at the Seventh World's Poultry Congress and Exposition and shall station inside the exhibition buildings as many additional customs officers and employees as may be necessary properly to protect the revenue.

(5) All actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody of imported articles, together with the necessary charges for salaries of customs officers and employees in connection with the supervision and custody of, and accounting for, articles imported for exhibition at the Seventh World's Poultry Congress and Exposition or transferred thereto for exhibition, shall be reimbursed by the Seventh World's Poultry Congress and Exposition to the Government, payment to be made monthly to the collector of customs, Cleveland, Ohio, for deposit to the credit of the Treasurer of the United States as a refund to the appropriation "Collecting the Revenue from Customs."

(6) Articles to be entered under these regulations which arrive at ports other than Cleveland shall be entered for immediate transportation without appraisement to the latter port in the manner provided by the general customs regulations.

(7) Articles which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond may be transferred to entry for exhibition at the Seventh World's Poultry Congress and Exposition in the manner prescribed in article 453 (c) of the Customs Regulations of 1937,[1] except that in each case an entry under paragraph (9) of these regulations shall be filed, which shall supersede any previous entry, and no new bond other than that specified in paragraph (3) shall be required. Imported articles in bonded warehouses under the general tariff law may be transferred to entry for exhibition at the Seventh World's Poultry Congress and Exposition in the manner prescribed in article 323 of the Customs Regulations of 1937.[2]

(8) The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (U. S. C., title 7, secs. 151 to 165, inclusive, and sec. 167), shall not be permitted except under permits issued therefor by the Bureau of Entomology and Plant Quarantine, Department of Agriculture, and in accordance with the plant quarantine regulations.

(9) Upon the arrival at the port of Cleveland of articles to be entered under these regulations the same should be entered on a special form of entry to read substantially as follows:

Entry for Exhibition

Entry No. ———

Entry at the Port of Cleveland of articles consigned or transferred to the Seventh World's Poultry Congress and Exposition under

I. T. No. ——— ex SS ---------- from ---------- on the ------- day of ----------, 193--, for exhibition purposes under Public Resolution No. 653 of the Seventy-fifth Congress, approved June 16, 1938.

Mark	Number	Package and contents	Quantity	Invoice	Value

SEVENTH WORLD'S POULTRY CONGRESS AND EXPOSITION.
By ----------

(10) Upon such entry being made, the collector shall issue a special permit for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or, in the discretion of the collector, to the appraiser's stores for examination and subsequent transfer to the buildings in which they are to be exhibited or used. Upon the receipt of the articles at such buildings or at the appraiser's stores, the same shall be given a tentative appraisal prior to their exhibition or use. All imported exhibits so received in such buildings shall be kept segregated from domestic articles and imported duty-paid articles and shall not be removed from the exhibition building except in accordance with paragraph (12) of these regulations.

(11) If for any reason articles imported for entry under these regulations are not upon their arrival to be delivered immediately at an exhibition building, the importer should so indicate to the collector in writing, who will cause such articles to be placed in a bonded warehouse under a "general order permit" at the importer's risk and expense, and such articles may be entered at any time within one year from the date of importation for exhibition, as herein provided, or under the general tariff law, or for exportation. If not so entered within such period they will be regarded as abandoned to the Government.

(12) Any articles entered under these regulations may be withdrawn for exportation, for abandonment to the Government, for destruction under customs supervision, or for consumption or entry under the general tariff law, but not otherwise, at any time prior to the opening of the exposition, or at any time during or within three months after the close of the exposition. Upon the withdrawal of such articles for consumption or for entry under the general tariff law, or at the expiration of three months after the close of the exposition in the case of articles not previously so withdrawn, they shall be appraised with due allowance made for diminution or deterioration from incidental handling or exposure. Such appraisal shall be final in the absence of an appeal to reappraisement, as provided in section 501 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1501) as amended by section 16 (b) of the Customs Administrative Act of 1938 (Public, No. 721, 75th Congress). In the case of such articles withdrawn for entry under the general tariff law under a warehouse bond or a bond conditioned upon exportation, the statutory period of the bond and any extension thereof shall be computed from the date of withdrawal from entry under the provisions of Public Resolution No. 653 of the Seventy-fifth Congress.

(13) At any time prior to the opening of the exposition, or at any time during or within three months after the close of the exposition, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, as provided in article 808 of the Customs Regulations of 1937, as amended by (1938) T. D. 49658.[1]

(14) Any articles entered under these regulations which have not been withdrawn for consumption, entry under the general tariff law, or exportation, or which have not been abandoned to the Government or destroyed under customs supervision, before the expiration of three months after the close of the exposition, shall be regarded as abandoned to the Government.

(15) All entries under these regulations shall be made in the name of the Seventh World's Poultry Congress and Exposition, which shall be deemed for customs purposes the sole consignee of the merchandise entered under the Act and which shall be held responsible to the Government for all duties and charges due the United States on account of such entries; but, in the case of merchandise withdrawn from entry under these regulations, an entry under the general tariff law, in the name of any person duly authorized in writing by the Seventh World's Poultry Congress and Exposition to make such entry, may be accepted by the collector, and the bond of the Seventh World's Poultry Congress and Exposition shall thereafter be considered as collateral security for any duties and charges accruing on the merchandise covered by any such entry, unless the entry is for permanent exhibition, in which case the liability of the Seventh World's Poultry Congress and Exposition, under its bond with respect to the articles covered by such entry, shall be terminated when the security required by the general tariff law has been given.

[1] 3 F. R. 1808 DI.

[1] Supplemented by unofficial cross-reference table indicating the designations under which the rules appeared in previous mimeographed Compilations of General Rules and Regulations under the Securities Exchange Act of 1934 and the corresponding designations in the new printed compilation. The printed pamphlet and the unofficial cross-reference table were a part of the original document as filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Securities and Exchange Commission.

[1] 2 F. R. 1547 (1833 DI).
[2] 2 F. R. 1521 (1807 DI).

(16) The marking requirements of the Tariff Act of 1930, as amended by section 3 of the Customs Administrative Act of 1938 (Public, No. 721, 75th Congress), and the regulations promulgated thereunder will not apply to articles imported under these regulations except when such articles are withdrawn for consumption or use in the United States, in which case they shall be released from customs custody only upon a full compliance with the marking requirements of the tariff act and the regulations promulgated thereunder. No additional duty shall be assessed because such articles were not properly marked when imported into the United States.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2922; Filed, October 5, 1938; 11:19 a. m.]

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

[Manual Amendment]

AUTHORITY TO INCUR EXPENSE AND APPROVE PAYMENT FOR CREDIT REPORTS

Be it resolved, that the first and second paragraphs of Section 104 of the Manual be amended to read as follows:

"SEC. 104. Credit reports may be ordered from established and approved credit agencies by the Regional, State or District Manager, the Regional Counsel, or by brokers, when such credit reports are permitted or required by the regulations or are necessary in the business of the Corporation. The cost of such reports shall not exceed $1 per report, except as is otherwise herein provided. Credit agencies must be approved by the General Manager or Regional Manager, and notice of such approval shall be filed with the Auditor.

The General Manager may authorize compensation not exceeding $2 per report to approved credit agencies for such credit reports in localities where such reports can not be obtained at a lower cost, and shall file with the Auditor a schedule of fees in excess of $1 per report which are authorized generally for any locality, and such reports may be ordered within the limits of such schedules by the officers or brokers aforesaid; provided, that in particular cases where, on account of emergency, special service is required, the General Manager may authorize Regional or State Managers to incur, or may authorize Regional Managers to approve, expenses for credit reports in excess of the above limitations, and provided that the cost to the Corporation of any credit report ordered by a broker shall in no event exceed $2."

And be it further resolved, that Section 3.15 of Part 3 of Chapter IV of Title 24 of the Code of Federal Regulations is hereby revoked and the corresponding Section 315 of the Manual is hereby revoked and in lieu of Section 315 of the Manual the following cross-reference shall be set out in the Manual:

"SEC. 315. (See Sec. 104, Chap. I)."

And be it further resolved, that this Resolution shall be effective on and after July 28, 1938.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by sub-Sections a and k of Section 4 of said Act as amended).

Adopted by the Federal Home Loan Bank Board on September 29, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-2920; Filed, October 4, 1938; 3:25 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

ANCHORAGE GROUNDS FOR LOS ANGELES AND LONG BEACH OUTER HARBORS, CALIF., AND RULES AND REGULATIONS RELATING THERETO [1]

PART I—EXTRACTS FROM LAWS REGULATING THE USE OF NAVIGABLE WATERS

Obstruction Prohibited

River and Harbor Act approved March 3, 1899:

SEC. 10. That the creation of any obstruction not affirmatively authorized by Congress to the navigable capacity of any of the waters of the United States is hereby prohibited; • • • • • • • • • • • •

SEC. 12. That every person and every corporation that shall violate any of the provisions of sections nine, ten, and eleven of this Act • • • shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court.

• • • • • • • • • • • •

SEC. 15. That it shall not be lawful to tie up or anchor vessels or other craft in the navigable channels in such manner as to prevent or obstruct the passage of other vessels or craft, or to voluntarily or carelessly sink, or permit or cause to be sunk, vessels or other craft in navigable channels;

• • • • • • • • • • • •

SEC. 16. That every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections thirteen, fourteen, and fifteen of this Act shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding $2,500 nor less than $500, or by imprisonment (in the case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction • • •

[1] Superseding Anchorage Grounds for Los Angeles Harbor, and Rules and Regulations relating thereto, adopted October 26, 1936.

Interference with Range Lights Prohibited

Act approved May 14, 1908:

SEC. 6. That it shall be unlawful for any person to obstruct or interfere with any aid to navigation established or maintained in the Lighthouse Establishment under the Lighthouse Board, or to anchor any vessel in any of the navigable waters of the United States so as to obstruct or interfere with range lights maintained therein, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and be subject to a fine not exceeding the sum of $500 for each offense, and each day during which such violation shall continue shall be considered as a new offense.

Establishment of Anchorage Grounds Authorized

River and harbor act approved March 4, 1915:

SEC. 7. That the Secretary of War is hereby authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Revenue Cutter Service under the direction of the Secretary of the Treasury: PROVIDED, That at ports or places where there is no revenue cutter available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of War. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or person in charge of such vessel shall be liable to a penalty of $100; and the said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be, and in the name of the officer designated by the Secretary of War.

NOTE.—The Revenue Cutter Service is now included in the United States Coast Guard (act of Jan. 28, 1915). The officer of the Coast Guard Service charged with special duties in connection with the enforcement of these regulations under the direction of the Secretary of the Treasury is designated "Captain of the Port." Complaints arising under these regulations should be addressed to that officer. His office is at room 1003, Continental Building, 408 South Spring Street, Los Angeles, Calif.

Establishment of Quarantine Anchorage Grounds

Act approved March 3, 1901:

SEC. 10. That the Supervising Surgeon General, with the approval of the Secretary of the Treasury, is authorized to designate and mark the boundaries of the quarantine grounds and quarantine anchorages for vessels which are reserved for use at each United States quarantine station; • • • (U. S. C. title 42, sec. 102).

THE ANCHORAGE GROUNDS

(All azimuths are referred to a true meridian)

Under authority of the provisions of section 7 of the river and harbor act approved March 4, 1915, quoted above, anchorage grounds for vessels in the navigable waters of Los Angeles Harbor, Calif., were defined and established, and rules and regulations relating thereto were adopted by the Secretary of War under date of October 26, 1936. The anchorage grounds and regulations thus established are hereby rescinded, and the following anchorage grounds and regulations for Los Angeles and Long Beach Outer Harbors are adopted in lieu thereof:

Anchorage A—Yacht and Small Craft Anchorage

The area northwesterly of a line having a bearing of 215° true from the southwest corner of the six story concrete warehouse on pier 1 and passing through the westerly white cross on the San Pedro breakwater; and northerly of a line parallel to and 200 feet distant from the axis of the San Pedro breakwater; provided that no vessel shall anchor in the entrance or in the easterly 250 feet of West Channel, nor in any part of West Channel for a length of 1,300 feet northerly from the most southerly corner of the dredged slip extending easterly from West Channel into Watchorn Basin, nor in the entrance to the said dredged slip.

NOTE.—Temporary floats or buoys for marking anchors or moorings in place will be allowed in this area. Fixed mooring piles or stakes are prohibited except in that portion east of the easterly sides of the West Channel and the dredged slip.

Anchorage B—Naval and Temporary Anchorage

The area southeasterly of a line having a bearing of 215° true from the southwest corner of the six-story concrete warehouse on pier 1, and passing through the westerly white cross on the San Pedro breakwater; southwesterly of a line having a bearing of 135°30′ true from the most southerly of two radio towers on United States reservation in San Pedro and passing through the easterly white cross on the San Pedro breakwater; southwesterly of a line having a bearing of 118°30′ true from the tall concrete stack located immediately south of the United States reservation in San Pedro; southerly of a line having a bearing of 72°30′ true from the east end of Fortieth Street in San Pedro and passing through the roof of the small naval landing near the shore end of the San Pedro breakwater; westerly of a line having a bearing of 171°30′ true from the flashing red beacon at the seaward end of the outer mole at Fish Harbor; and northerly of a line parallel to and 200 feet distant from the axis of the San Pedro breakwater.

Note.—In this area the requirements of the naval service will predominate. Floats or buoys for marking anchors or moorings in place will be allowed the Navy in this area. Vessels other than those of the Navy may anchor temporarily in this area when necessary and space permits, but shall move promptly when the necessity passes or whenever the anchorage is needed for naval vessels.

Fixed mooring piles or stakes are prohibited.

Anchorage C—General Anchorage

The area easterly of the southward prolongation of the westerly side of Reservation Point; northeasterly of a line having a bearing of 120° true from a triangular signal atop the one-story transit shed on pier 1 (this line being the northeasterly side of the main fairway); northwesterly of a line parallel to and 200 feet distant from the axis of the detached breakwater or prolongation thereof; southwesterly of a line having a bearing of 128° true from the flashing red beacon outside the outer mole at Fish Harbor; westerly of a line having a bearing 159°15′ true from the concrete stack of the Pacific Coast Borax Co. on Mormon Island in Wilmington; and northwesterly of a line having a bearing of 185° true from the seaward end of the stone bulkhead at the westerly end of Reeves Field Seaplane Basin, at its juncture with the stone bulkhead which forms the seaward boundary of said Seaplane Basin; provided that no vessel shall anchor within 100 feet of the dredged channel to Fish Harbor or in a position that will obstruct the entrance to this channel.

NOTE.—This anchorage area is reserved for commercial ships of all sizes. Vessels requiring examination by quarantine, custom, or immigration authorities for the ports of Los Angeles or Long Beach may anchor in this area when anchorage H (Quarantine Inspection Anchorage) is not available for this purpose.

The southerly portion of anchorage C is reserved for use as an explosives anchorage, whenever necessity arises for such anchorage. A description of the area available for this purpose will be found under the heading "Explosives Anchorage".

Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited.

Anchorages D, E and F—Naval and Temporary Anchorage

Anchorage D.—The area easterly of a line having a bearing of 159°15′ true from the concrete stack of the Pacific Coast Borax Co. on Mormon Island in Wilmington; northeasterly of a line having a bearing of 128° true from the flashing red beacon outside the outer mole at Fish Harbor; northwesterly of a line parallel to and 200 feet distant from the axis of the detached breakwater; southwesterly of a line having a bearing of 156°30′ true from the most southwesterly stack of the Southern California Edison Company, at West Long Beach; southeasterly of a line having a bearing of 69° true from the tank located northwesterly of the northeasterly corner of Fish Harbor; southeasterly of the axis of the stone bulkhead forming the seaward boundary of Reeves Field Seaplane Basin; and easterly of a line having a bearing of 185° true from a point on the aforesaid stone bulkhead at its juncture with the stone bulkhead at the westerly end of Reeves Field Seaplane Basin.

Anchorage E.—The area easterly of a line having a bearing 183°15′ true from the fixed red light No. 4 on the southerly end of the east mole, Long Beach Harbor; northeasterly of a line having a bearing 144°30′ true from the most southwesterly stack of the Southern California Edison Company; northwesterly of a line parallel to and 120 feet distant from the axis of the seaward arm of Long Beach breakwater; westerly of a line parallel to and 200 feet distant from the shoreward arm of Long Beach breakwater; southerly of a line having a bearing of 90°30′ true from the concrete stack of the Pacific Borax Co. on Mormon Island; and southeasterly of a line having a bearing of 235° true from the aero beacon at First Street and Pine Avenue in Long Beach.

Anchorage F.—The area easterly of a line having a bearing 156°30′ true from Long Beach Entrance Channel flashing green West Jetty light No. 7; northerly of a line having a bearing 269°30′ true from a tank at Sunset Beach (see U. S. C. and G. S. Chart No. 5143); westerly of a line having a bearing 167°30′ true from the tower atop the Villa Riviera Hotel and Apartments; and southerly of a line having a bearing of 70° true from the flashing red beacon at the seaward end of the outer mole at Fish Harbor.

NOTE.—In this area the requirements of the naval service will predominate. Vessels other than those of the Navy may anchor temporarily in this area when necessary and space permits but shall move promptly when the necessity passes or whenever the anchorage is needed for naval vessels.

Floats or buoys for marking anchors or moorings in place and fixed mooring piles or stakes are prohibited.

Anchorage G—Quarantine Anchorage

A quarantine anchorage for vessels is established on the seaward side of the seaward arm of Long Beach breakwater, northeasterly of a line having a bearing 156°30′ true from Long Beach Entrance Channel West Jetty light No. 7; northwesterly of a line having a bearing 70° true from the flashing red beacon at the seaward end of the outer mole at Fish Harbor; southwesterly of a line having a bearing of 153° true from the inner range light on the center line of Long Beach Entrance Channel; and southeasterly of a line parallel to and 120 feet distant from the axis of the seaward arm of Long Beach breakwater.

NOTE.—The establishment of quarantine anchorages and of rules and regulations governing quarantine and their enforcement are under the Secretary of the Treasury, and under his authority the foregoing anchorage has been established. (See page 3.)

Anchorage H—Quarantine Inspection Anchorage

The area easterly of a line having a bearing of 171°30′ true from the flashing red beacon at the seaward end of

the outer mole at Fish Harbor; northerly of a line parallel to and 200 feet distant from the axis of the San Pedro breakwater; southwesterly of a line having a bearing of 314° true from the flashing green light on the end of the San Pedro breakwater; and southwesterly of a line having a bearing 120° true from the second door from the south end of the one-story wooden transit shed of the Outer Harbor Wharf and Dock Company, (this line being the southwesterly line of the main fairway).

NOTE.—In this area the requirements of the naval service will predominate. This area will be available for vessels undergoing or awaiting quarantine inspection except during periods when its occupancy by the Navy is necessary. In each case in which this area is to be occupied by the Navy the Commander Base Force, U. S. Navy, or his authorized representative, will notify the Captain of the Port and the Medical Officer in charge, Los Angeles Quarantine Station, U. S. Public Health Service, of such prospective occupancy.

Explosives Anchorage

That portion of anchorage C described as a circular area of 900 feet radius, with center located 1,000 yards 46° true from the flashing green light on the easterly end of the San Pedro breakwater, is reserved for the anchorage of vessels engaged in carrying, loading, or unloading explosives in quantities up to, but not in excess of, 500 tons. When the explosives anchorage is occupied by a vessel carrying, loading, or unloading explosives, that portion of a circular zone 1,500 feet wide, partially surrounding the explosives anchorage, which lies in anchorages C and D, is forbidden anchorage and shall not be used by any vessels, provided; that vessels of the United States Navy may occupy the zone of forbidden anchorage at the discretion of the Naval authorities. For regulations regarding anchorage of vessels carrying explosives in excess of 500 tons, see Part II, paragraph 4.

NOTE.—When not required for use as an explosives anchorage, the above described area will be considered a part of anchorage C, and will be available for the uses assigned to that anchorage. Vessels engaged in the transportation of explosives will be required to make application in writing, in triplicate, to the Captain of the Port for use of the explosives anchorage not later than noon of the day preceding the anticipated date of occupancy, describing fully and accurately the type and quantity of explosives to be carried, loaded or unloaded; provided that when the anticipated date of occupancy falls on Monday, application must be made not later than noon of the preceding Saturday. The Captain of the Port will, in each case, secure the prior approval of the Commander, Base Force, U. S. Navy, or his authorized representative, before assigning a vessel engaged in transporting explosives to anchorage in this area. (See Part III for regulations.)

PART II—THE RULES AND REGULATIONS FOR ANCHORAGES IN GENERAL

1. Except in cases of great emergency no vessel shall be anchored in the navigable waters of Los Angeles and Long Beach Harbors outside of the anchorage areas hereby defined and established.

2. Anchors must not be placed outside the anchorage areas, nor shall any portion of the hull or rigging at any time extend outside the boundaries of the anchorage areas.

3. Any vessel anchoring under circumstances of great emergency outside of the anchorage areas must be placed near the edge of the channel and in such position as not to interfere with free navigation of the channel nor obstruct the approach to any pier nor impede the movement of any boat, and shall move away immediately after the emergency ceases, or upon notification by the Captain of the Port.

4. No vessels, other than those of the United States Government, shall anchor in any of the established anchorage areas nor in any other areas within the outer Los Angeles-Long Beach Harbors, as defined by the limits of the San Pedro breakwater, the detached breakwater, and the Long Beach breakwater, nor closer than 1 mile to any point of said breakwaters in the waters seaward thereof, while carrying, loading, or unloading explosives in quantities in excess of 500 tons. Vessels engaged in the transportatiton of explosives in quantities of 500 tons or less may occupy that portion of anchorage C designated as "Explosives Anchorage", subject to the conditions stated in the note following the description of this anchorage, and in accordance with the rules and regulations set forth in Part III hereof.

5. The instructions of the Captain of the Port assigning vessels to parts of anchorage grounds suitable to their draft; requiring vessels to anchor bow and stern, or with two bow anchors, requiring shifting the anchorage of any vessel within any anchorage ground for the common safety or convenience; or for otherwise enforcing these rules and regulations; shall be promptly followed by owners, masters, and persons in charge of vessels.

6. Permission to anchor in the channels within the limits of Los Angeles and Long Beach Harbors may be granted by the Captain of the Port to plants or vessels engaged in recovering sunken property or in laying or repairing pipe or cable lines legally established, when approved by the United States district engineer, and to plants or vessels engaged in dredging operations when authorized by the district engineer. The provisions of this paragraph shall not apply to plants or vessels engaged under the supervision of the United States district engineer upon works for the improvement of the harbor, but the district engineer will advise the Captain of the Port in all cases where plant is to be employed under his supervision.

7. Nothing in these rules and regulations shall be construed as relieving the owner or person in charge of any vessel or plant from the penalties of the law for obstructing navigation or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, or for otherwise violating law.

PART III—REGULATIONS GOVERNING THE USE AND NAVIGATION OF THE WATERS OF LOS ANGELES AND LONG BEACH OUTER HARBORS AND THE HANDLING OF EXPLOSIVES THEREIN BY VESSELS CARRYING EXPLOSIVES

The Law

Section 7 of the River and Harbor Act approved August 8, 1917, provides as follows:

That it shall be the duty of the Secretary of War to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in case of a natural person) not exceeding six months, in the discretion of the court (33 U. S. C. 1).

NOTE.—The act of Congress approved March 4, 1921, imposes certain restrictions upon the transportation of explosives by common carriers engaged in interstate or foreign commerce, and also provides that "The Interstate Commerce Commission shall formulate regulations for the safe transportation within the limits of the jurisdiction of the United States of explosives and other dangerous articles, including inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, and poisonous substances, which shall be binding upon all common carriers engaged in interstate or foreign commerce which transport explosives or other dangerous articles by land or water, and upon all shippers making shipments of explosives or other dangerous articles via any common carrier engaged in interstate or foreign commerce by land or water." Under this act the Interstate Commerce Commission has prescribed regulations which were made effective February 1, 1935, and which are published in a pamphlet entitled: "Part V—Regulations for the transportation of explosives and other dangerous articles on freight and freight-and-passenger vessels by water • • •".

Nothing contained in the following regulations shall be construed as relieving any common carrier, owner, shipper or other person subject to regulations prescribed by the Interstate Commerce Commission pursuant to the aforesaid act of March 4, 1921, from full compliance with said Commission's regulations so prescribed.

Any regulations prescribed by the Secretary of War in pursuance of Section 7 of the act of August 8, 1917, may be enforced as provided in Section 17 of the River and Harbor Act approved March 3, 1899, which reads as follows:

SEC. 17. That the Department of Justice shall conduct the legal proceedings necessary to enforce the foregoing provisions • • •, and it shall be the duty of the district attorneys of the United States to vigorously prosecute all offenders against the same whenever requested to do so by the Secretary of War or by any of the Officials hereinafter designated, and it shall furthermore be the duty of said district attorneys to report to the Attorney-General of the United States the action taken by him against offenders so reported, and a transcript of such reports shall be transmitted to the Secretary of War by the Attorney-General; and for the better enforcement of the said provisions and to facilitate the detection and bringing to punishment of such offenders, the officers and agents of the United States in charge of river and harbor improvements, and the assistant engineers and inspectors employed under them by authority of the Secretary of War, and the United States collectors of customs and other revenue officers, shall have power and authority to swear out process and to arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by the aforesaid sections of this Act, or who may violate any of the provisions of the same; PROVIDED, That no person shall be arrested without process for any offense not committed in the presence of some one of the aforesaid officials: AND PROVIDED FURTHER, That whenever any arrest is made under the provisions of this Act, the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States (33 U. S. C. 413).

The Regulations

Under authority of Section 7 of the River and Harbor Act approved August 8, 1917, the following regulations are prescribed to govern the use and navigation of the waters of Los Angeles and Long Beach Outer Harbors, by vessels other than common carriers, carrying explosives:

1. The officer of the Coast Guard designated "Captain of the Port" shall have immediate supervision of the enforcement of these regulations, but such supervision shall not be construed to diminish or affect the duties of other Federal officials as prescribed in Section 17 of the River and Harbor Act of March 3, 1899.

2. The Captain of the Port may, at his discretion, assign guards to supervise the transportation, handling, or transfer of high explosives on, from, to, or between vessels, and he may limit or designate the quantity of high explosives that may be carried by any vessel, except as otherwise provided for by law. He may require that a permit be obtained from him for the movement of such vessels and cargo through any channel or waterway. However, no responsibility of any kind connected with the navigation of such vessel shall, in any case, be assumed by the Captain of the Port.

3. Every vessel loading, unloading, transporting, or containing explosives shall display by day a red flag at least 16 square feet in area at its masthead, or at least 10 feet above the upper deck if the vessel has no mast, and shall display by night a red light in the same position specified for the flag.

4. Every vessel carrying explosives shall be at all times in charge of a competent person. It shall be the duty of such person and of the master of the vessel to make effective the regulations prescribed herein, to instruct employees thoroughly in the provisions of said regulations, to maintain close supervision over all operations where the handling and movement of explosives are involved, and to reduce such handling to a minimum.

5. Nothing in these regulations shall be construed as relieving the master of any vessel carrying explosives from the responsibility of making frequent inspections, both by day and by night, to see that said regulations are complied with, or as relieving the owner and/or the person in charge of any vessel from any liability or penalty incurred by reason of violation of law.

6. To promote uniform enforcement of law and to minimize the dangers to life and property incident to the transportation and handling of explosives on vessels, all vessels carrying explosives within Los Angeles and Long Beach Outer Harbors which are not common carriers subject to regulations of the Interstate Commerce Commission governing the transportation, handling, transfer, and stowage of explosives on, from, to, or between such vessels, shall comply with the applicable portions of such regulations of said commission effective February 1, 1935, and published in the pamphlet entitled: "Part V—Regulations for the transportation of explosives and other dangerous articles on freight and freight-and-passenger vessels by water • • •" as amended by subsequent supplements or in other manner by said commission.

7. When local regulations of any place require previous local authority for the transfer of explosives or fireworks between vessels or between a vessel and a wharf or other place ashore, the Captain of the Port shall permit the removal from the anchorage ground of such vessel containing explosives, to any place covered by such local regulations, only when he is satisfied that the required local authority has been granted.

8. Serious violations of regulations, accidents, fires, explosions, and leakage or breaking of packages of explosives occurring in connection with the operations mentioned in these regulations shall be reported promptly to the Captain of the Port by the master of the vessel concerned.

9. In any case of violation of these regulations, the Captain of the Port is empowered to cause the removal of any vessel or any person or persons from the waters to which these regulations pertain, or to stop the loading or unloading of explosives to or from any vessel in said waters.

10. The term "explosives", wherever used in any of the foregoing rules and regulations or descriptions of an anchorage, shall be held to include only explosives permitted by the Interstate Commerce Commission regulations for interstate and foreign commerce, when packed, marked, labeled, and described as required by the said Commission's regulations.

Recommended September 21, 1938.

M. C. TYLER,
Brigadier General,
Acting Chief of Engineers.

Approved September 23, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-2921: Filed, October 5, 1938; 9:53 a. m.]

TITLE 50—WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING FISHING WITHIN LOWER SOURIS MIGRATORY WATERFOWL REFUGE, NORTH DAKOTA

Pursuant to regulations 2 and 3 of the regulations of the Secretary of Agriculture, effective November 24, 1937, for the administration of National wildlife refuges,[1] it is hereby ordered that in accordance with the provisions of said regulations fish may be taken for non-commercial purposes each day during the period June 16 to September 15, both dates inclusive, in any year, within the waters of the Lower Souris Migratory Waterfowl Refuge, North Dakota, subject to conditions and restrictions herein specified, except that the season shall not open until July 16 in such areas as the Chief of the Bureau of Biological Survey shall zone and designate for nesting purposes from time to time, depending on local conditions to be determined by him.

1. *Waters open to fishing.*—All waters of the Refuge shall be open to hook-and-line fishing as defined by State law insofar as such fishing is not inconsistent with the primary object for which the refuge is established. In the event that the Chief of the Bureau of Biological Survey shall find that fishing in any of the aforesaid waters is unduly depleting any species of fish therein or is interfering with the use of any particular waters by migratory birds or other wildlife, he may suspend the privilege of fishing in such waters pending final determination by the Secretary of Agriculture.

2. *Routes of travel.*—Persons entering the refuge for the purpose of reaching waters thereof for fishing shall follow such routes of travel as shall from time to time be designated by the officer in charge of the refuge.

3. *State fishing laws.*—Any person who fishes in any waters of the refuge must comply with applicable fishing laws and regulations of the State of North Dakota, and in the absence of any State

[1] 2 F. R. 2537 (2951 DI).

law or regulation in respect to the number and size of the fishes that may be taken, the Chief of the Bureau of Biological Survey may fix such limits.

4. *Fishing permits.*—Any person exercising the privilege of fishing within the refuge shall be in possession of a valid State fishing license issued by the State of North Dakota, if such license is required, and shall carry such license on his person while fishing, and when requested to do so shall exhibit it to any representative of the North Dakota State Department of Conservation authorized to enforce the game and fish laws of the State, or to any representative of the Bureau of Biological Survey.

5. *Use of boats.*—The use of boats, rafts, or other floating devices while fishing within the waters of the refuge is prohibited.

6. *Hook-and-line fishing.*—Fishing is permitted only by the use of hook and line, as defined by State law, in such manner as will not interfere with the objects for which the refuge was established. The use of nets, seines, hoop nets, traps, set lines, or other similar contrivances is prohibited. Commercial fishing, as defined by State law, is prohibited in any waters of the refuge.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 5th day of October 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2928; Filed, October 5, 1938; 12:41 p. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2850]

IN THE MATTER OF UNITED DISTILLERS PRODUCTS CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 10, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 35, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2924; Filed, October 5, 1938; 11:43 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington D. C., on the 3rd day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3314]

IN THE MATTER OF PRIMROSE HOUSE, INC., DELV, LIMITED

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, October 11, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 35, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2925; Filed, October 5, 1938; 11:44 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3490]

IN THE MATTER OF VOSS COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 12, 1938, at nine o'clock in the forenoon of that day (eastern standard time) in Room 35, United States Court House, Foley Square, New York City, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2926; Filed, October 5, 1938; 11:44 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of October, A. D. 1938.

[File No. 32-103]

IN THE MATTER OF INDIANA GENERAL SERVICE COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS

Indiana General Service Company, a subsidiary of American Gas and Electric Company, a registered holding company, having filed an application and amendment thereto pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of $6,500,000 of its First Mortgage Bonds, 3¼% Series due 1963;

A hearing on such matter having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein; and having received the representations of the Guaranty Trust Company that said Trust company shall resign as Trustee under the proposed indenture within sixty days after the said issue and sale of the proposed securities, unless the Commission decides that there is no such substantial conflict of interest as to make such resignation advisable;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon the further condition that if the express authorization of the issue and sale of such securities by the Public Service Commission of Indiana shall be revoked or otherwise terminated this exemption shall immediately terminate without further order of this Commission, and upon the further condition that within ten days after the issue and sale of the proposed bonds the applicant shall file with this Commission a Certificate of Notification showing that such issue and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2929; Filed, October 5, 1938; 12:48 p. m.]

[1] 3 F. R. 2247 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1938.

[File Nos. 32-57, 47-14]

IN THE MATTER OF DRESSER POWER CORPORATION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATIONS

Dresser Power Corporation, a subsidiary of the trustee of Midland United Company, a registered holding company, having heretofore filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of securities of the applicant; and

Said Dresser Power Corporation having filed an application pursuant to Sections 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935 for approval of acquisition of utility assets or interest in business; and

Said Dresser Power Corporation having thereafter requested the withdrawal of said applications without prejudice:

The Commission consents to the withdrawal of the above applications without prejudice and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2930; Filed, October 5, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1938

[File No. 32-104]

IN THE MATTER OF VIRGINIA ELECTRIC AND POWER COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS AND NOTES

Virginia Electric and Power Company, a subsidiary of Engineers Public Service Company, a registered holding company, having filed an application and amendments thereto pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of $37,500,000 of its First and Refunding Mortgage Bonds, Series B, 3½% due September 1, 1968 and $4,000,000 of its notes to be issued to banks, to be dated October 10, 1938 to October 1, 1939 to mature serially from May 1, 1940 to November 1, 1946 and to bear interest at the rate of 3%;

A hearing on such matter having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said amended application, be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon the further condition that if the express authorization of the issue and sale of such securities by the State Corporation Commission of Virginia and/or the express authorization of the issue and sale of such securities by the Utilities Commission of North Carolina shall be revoked or otherwise terminated this exemption shall immediately terminate without further order of this Commission, and upon the further condition that within ten days after the issue and sale of the proposed bonds and each serial issue and sale of the proposed notes the Applicant shall file with this Commission a Certificate of Notification showing that such issue and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said amended application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2932; Filed, October 5, 1938; 12:48 p. m.]

[1] 3 F. R. 2263 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1938.

[File No. 46-45]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF INDIANA

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION

Public Service Company of Indiana, a subsidiary of the trustee of Midland United Company, a registered holding company, having heretofore filed with this Commission an application pursuant to Section 10(a)(1) of the Public Utility Holding Company Act of 1935, for approval of acquisition of securities; and

Said Public Service Company of Indiana having thereafter requested the withdrawal of said application without prejudice:

The Commission consents to the withdrawal of the above application without prejudice and to that effect.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2933; Filed, October 5, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1938.

[File No. 57-2 and 44-16]

IN THE MATTER OF AMERICAN STATES UTILITIES CORPORATION AND DEARBORN-RIPLEY LIGHT & POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to section 12 (c) and Rule U12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on October 21, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in re-

Reference

OCT 10 1938

spect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 17, 1938.

The matter concerned herewith is in regard to a joint application by American States Utilities Corporation (a registered holding company) and Dearborn-Ripley Light & Power Company (its wholly owned subsidiary) pursuant to Rule U12D–1 seeking the Commission's approval of the sale of all the physical assets of Dearborn-Ripley Light & Power Company to Public Service Company of Indiana (a non-associated company), for $65,000, the amount being subject to certain adjustments as set forth in the application; said application stating that the proceeds of such sale will be applied by Dearborn-Ripley Light & Power Company to the partial discharge of its obligations to American States Utilities Corporation, and in turn will be applied by American States Utilities Corporation, as required by its charter, to the purchase and retirement of its preferred stock; and an application by American States Utilities Corporation pursuant to Section 12 (c) seeking the approval of the Commission of the acquisition and retirement of its preferred stock by tender.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–2931; Filed, October 5, 1938; 12:48 p. m.]

Reference

OCT 10 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES 1934

FEDERAL REGISTER

VOLUME 3 NUMBER 196

Washington, Friday, October 7, 1938

The President

EXECUTIVE ORDER

ESTABLISHING THE BRETON BIRD REFUGE LOUISIANA

By virtue of and pursuant to the authority vested in me as President of the United States, and by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act, 45 Stat. 1222, it is ordered that all lands owned or controlled by the United States on Breton Island, Freemason Islands, Old Harbor Islands, Errol Island, and that part of the Chandeleur Islands lying south of a line bearing N. 73°30′ E., and S. 73°30′ W., through a point that is S. 36° E., 3 miles distant from Chandeleur Lighthouse (the geographic position of which lighthouse is latitude 30°02.9′ N., and longitude 88°52.3′ W., from Greenwich), all off the coast of Louisiana, in Breton and Chandeleur Sounds, and in the Gulf of Mexico, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that nothing herein shall affect the recovery of the oil and gas deposits from any of the island areas under the mineral leasing act of February 25, 1920, c. 85, 41 Stat. 437, as amended, or the necessary operations pertaining to such recovery.

The Executive orders of October 4, 1904, and November 11, 1905, reserving certain of these islands as the Breton Island Reservation, are hereby revoked.

The Executive orders of September 24, 1847, and August 31, 1869, reserving the Chandeleur Islands and Errol Island, respectively, for lighthouse purposes, are hereby revoked in so far as they are affected by this order.

Errol Island and that part of the Chandeleur Islands described above were, on November 13, 1937, declared by the Department of Commerce to be surplus to its needs, and the reservation made by this order is subject to the right of the Director of Procurement to dispose of such property in accordance with the provisions of the act of August 27, 1935, c. 744, 49 Stat. 885 (U. S. C., title 40, sec. 304a).

This reservation shall be known as the Breton Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 4, 1938.

[No. 7983]

[F. R. Doc. 38–2935; Filed, October 5, 1938; 2:56 p. m.]

Rules, Regulations, Orders

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3352]

IN THE MATTER OF FAN TAN COMPANY, INC., ETC.

SEC. 3.6 (t) *Advertising falsely or misleadingly — Qualities or properties of product.*—Representing that respondents' various cosmetic and toilet preparations, sold under brand names "Fan Tan", "Lou Ray", and "Gro Pres" (and including various creams, powders, soaps, and lotions), or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will end oily skin problems, melt into the pores, prevent blackheads and wrinkles, nourish and sterilize the skin, reduce enlarged pores, cause pimples to vanish, bleach and whiten the skin, and clear up and remove blemishes, etc., as in order set forth, and use of any other similar representations of like import and effect as to the beneficial value of said preparations or the benefits accruing from use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Fan Tan Company, Inc., etc., Docket 3352, September 27, 1938.]

CONTENTS

THE PRESIDENT

Executive Order: Page
Louisiana, establishing the Breton Bird Refuge ---------- 2389

RULES, REGULATIONS, ORDERS

TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Fan Tan Co., Inc., etc., cease and desist order ---------- 2389
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Countervailing duties on ethylene dibromide from Germany ---------- 2391
TITLE 20—EMPLOYEES' BENEFITS:
United States Employees' Compensation Commission:
Alaska Railroad employees, appeals in cases of; procedure ---------- 2391
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Fruit distilleries, operation on Sunday ---------- 2392
TITLE 46—SHIPPING:
Bureau of Marine Inspection and Navigation:
Vessels, documentation, entrance and clearance of; tonnage duties and light money; carriage of passengers; navigation fees; acceptance of safety certificates ---------- 2392

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Harr, Henry O., trading as Eastern Trading Co ---------- 2417
La Perla Vineyard Co., and Harry Ex, doing business as S. Goldenburg & Co., etc ---------- 2418
Securities and Exchange Commission:
Allegheny Ludlum Steel Corp., application denied ---------- 2418

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission—Continued. Page

Armour and Co. of Delaware, hearing on application to strike from listing, etc. 2418

Columbia Gas & Electric Corp., declaration and payment of dividends. 2418

Michigan Consolidated Gas Co., order relative to issue and sale of bonds and notes. 2419

Supplemental order. 2419

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that respondents' various cosmetic and toilet preparations, sold under brand names "Fan Tan", "Lou Ray", and "Gro Pres" (and including "Sarcoptic Mange Medicine", "Shampoo Soap", "Three-Fold Brilliantine Hair Grower", etc.), or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will promote the growth of longer, straighter hair, recondition the hair, vitalize scalp roots, get rid of, prevent and end dandruff, clean hair roots, grow hair, rout the cause of hair and scalp trouble, increase the length of hair, make hair longer, straighter, smoother and softer, etc., as in order specified, and use of any other similar representations of like import and effect as to beneficial value of said preparations or benefits accruing from use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Fan Tan Company, Inc., etc., Docket 3352, September 27, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF FAN TAN COMPANY, INC., A CORPORATION, ALSO TRADING AS LOU RAY COMPANY, GRO PRES COMPANY, AND BISHOP JONES COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Fan Tan Company, Inc., a corporation, also trading as Lou Ray Company, Gro Pres Company and Bishop Jones Company, or trading under any other name, its officers, representatives, agents and employees, either directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of various cosmetic and toilet preparations now sold by it under various and sundry names in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing that the preparation now designated as Fan Tan Liquifying Creme or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will end oily skin problems, melt into the pores and prevent blackheads and wrinkles.

2. Representing that the preparation now designated as Fan Tan Vanishing Creme or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will nourish the skin.

3. Representing that the preparation now designated as Fan Tan Sarcoptic Mange Medicine or any other preparation composed of the same or similar ingredients and possessing similar properties will promote the growth of longer, straighter hair, will prevent dandruff, will recondition the hair and will vitalize scalp roots.

4. Representing that the preparation now designated as Fan Tan Medicated Shampoo Soap, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will sterilize the skin.

5. Representing that the preparation now designated as Fan Tan Tar Shampoo, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will get rid of dandruff and will clean hair roots.

6. Representing that the preparation now designated as Fan Tan Astringent Lotion, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will reduce enlarged pores and reduce oiliness of the skin.

7. Representing that the preparation now designated as Lou Ray Three-Fold Brilliantine Hair Grower, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will grow hair and supply nourishment to the hair.

8. Representing that the preparation now designated as Gro Pres Medicated Hot Oil Treatment and Lou Ray Medicated Hot Oil Treatment, or any other preparation composed of the same or similar ingredients or possessing similar properties, under whatever name sold, will "rout the cause of hair and scalp trouble."

9. Representing that the preparation now designated as Lou Ray Lemon Cleansing Creme and Gro Pres Lemon Cleansing Creme or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will cause pimples to vanish, will bleach the skin and will clear up blemishes.

10. Representing that the preparation now designated as Lou Ray Wheel of Fortune Hair Dressing or any other preparation composed of the same or similar ingredients and possessing similar properties under whatever name sold, will increase the length of the hair.

11. Representing that the preparation now designated as Fan Tan Bleach Creme, Lou Ray Bleach Creme and Gro Pres Bleach Creme or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, is an effective remedy for pimples, blackheads, wrinkles and all causes of rough harsh skin, and will bleach the skin, remove freckles, pimples, blotches, roughness and enlarged pores.

12. Representing that the preparation now designated as Lou Ray Skin Bleach Soap and Gro Pres Skin Bleach Soap or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will bleach the skin.

13. Representing that the preparation now designated as Gro Pres Hair Grower or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will grow hair and end dandruff and itchy scalp.

14. Representing that the preparation now designated as Franko Hair Dressing Remedy or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will make hair longer, straighter, smoother and softer.

15. Representing that the preparations now designated as Creme Shampoo, Hair Tinting Jet Black Shampoo, Light Weight Shampoo Soap and Tinting Shampoo soap or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will end dandruff and falling hair.

16. Representing that the preparation now designated as Fan Tan Whitening Soap or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will whiten the skin and will remove skin blemishes, is healing and will correct skin eruptions and pimples.

17. And from making any other similar representations of like import of effect as to the beneficial value of said preparations or the benefits accruing from the use thereof.

It is further ordered, That the respondent, Fan Tan Company, Inc., shall, within sixty days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[1] 3 F. R. 1194 DI.

Upon ethylene dibromide imported directly or indirectly from Germany and entered for consumption or withdrawn from bonded warehouse for consumption after thirty days after publication of this declaration in a weekly issue of the "Treasury Decisions", whether such ethylene dibromide is imported in the same condition as when exported from Germany or has been changed in condition in a third country by remanufacture or otherwise, there shall be levied, collected and paid, in addition to any other duties which may accrue thereon, a countervailing duty equal to the bounty or grant paid or bestowed as determined and declared above.

[SEAL] JAMES H. MOYLE, *Commissioner of Customs.*

Approved, September 30, 1938.

STEPHEN B. GIBBONS, *Acting Secretary of the Treasury.*

[F. R. Doc. 38-2938; Filed, October 6, 1938; 11:21 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

UNITED STATES EMPLOYEES' COMPENSATION COMMISSION

APPEALS IN CASES OF EMPLOYEES OF ALASKA RAILROAD; PROCEDURE

AMENDMENT TO REGULATIONS EFFECTIVE JUNE 1, 1938 GOVERNING THE ADMINISTRATION OF THE FEDERAL EMPLOYEES' COMPENSATION ACT OF SEPTEMBER 7, 1916, AS AMENDED

OCTOBER 5, 1938.

The regulations adopted by the U. S. Employees' Compensation Commission governing the administration of the Federal Employees' Compensation Act of September 7, 1916, as amended to June 1, 1938, are hereby supplemented by the addition of Part 4, Sections 4.1 and 4.2, as follows:

"SEC. 4.1 *Appeals in cases of employees of Alaska Railroad; procedure.* (a) Every person whose claim under said Act has been adjudicated by the General Manager of the Alaska Railroad shall have the right of appeal to the Commission from the decision of such General Manager. The Commission may on its own motion review the decision of such General Manager and, in accordance with the facts found on such review, may proceed as provided in section 37 of said Act. The appeal or review in such a case may be upon questions of fact or law, or both.

"(b) An appeal in such a case shall be filed in writing by the claimant and shall state the name and address of the person appealing and, if such person is a dependent, the name and address of the deceased employee on account of whose death the claim arose, the date and place of the employee's injury, the nature of his injury, by whom he was employed, the claim number, and the specific ground or grounds upon which the appeal is based. Such appeal shall be accompanied by a copy of the award, rejection of claim, or other paper containing the action of the said General Manager from which the appeal is taken. No new evidence shall be submitted with the appeal in such a case. A duplicate of such appeal and of all supporting papers shall be filed with the original thereof.

"SEC. 4.2 *Same; Record on appeal or review.* (a) Upon the filing of an appeal as provided by section 4.1, the Commission shall transmit to the General Manager of the Alaska Railroad a copy thereof with request for the file in the case of the person appealing. Such file shall be sent by registered mail to the Commission by the said General Manager, together with all of the evidence considered by him in adjudicating the claim and the finding of facts and the award or other disposition of the claim made by him in such case pursuant to the provisions of section 36 of said Act. The said General Manager, upon consideration of the grounds of the appeal, shall advise the Commission with respect thereto and of any recommendations he may care to make; shall advise the Commission of the amount of compensation, if any, paid in the case, including all medical, hospital, and other expense, and shall state the period or periods covered by payments of compensation.

"(b) For the purpose of facilitating the action of the Commission upon an appeal or upon review of such a case, the finding of facts and award, or other disposition of the claim, required to be made by the provisions of section 36 of said Act shall be included in an order appropriately captioned 'Compensation Order, Award of Compensation,' 'Compensation Order, Rejection of Claim,' 'Compensation Order, Modification of Award,' or 'Compensation Order, Suspension of Payments,' as the case may be. The order shall be appropriately captioned with the name of the claimant and shall contain finding of facts, conclusions of law (where involved), and an action paragraph containing the award, rejection of the claim, or other appropriate action. This order shall be signed by the said General Manager under the date of the filing thereof. A copy of such order shall in each case be transmitted to the claimant, and such fact stated at the bottom of the order, together with the address to which such copy was sent.

"(c) All original compensation orders shall contain under a paragraph headed 'Finding of Facts,' findings with respect to the name and address of the claimant (and the name of the employee in death cases), the name of the employer, the date and place of injury or alleged injury, a statement of the circumstances surrounding the accident or alleged accident, a concise but complete statement of the injury or alleged injury, a statement with respect to notice of injury, a statement of the monthly pay, and such other findings as may be necessary to determine

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49719]

COUNTERVAILING DUTIES ON ETHYLENE DIBROMIDE FROM GERMANY

PAYMENT OR BESTOWAL OF A BOUNTY OR GRANT UPON THE EXPORTATION OF ETHYLENE DIBROMIDE FROM GERMANY DECLARED AND COLLECTORS OF CUSTOMS INSTRUCTED TO COLLECT COUNTERVAILING DUTIES EQUAL TO SUCH BOUNTY OR GRANT UPON IMPORTATIONS OF ETHYLENE DIBROMIDE FROM THAT COUNTRY

To Collectors of Customs and Others Concerned:

The Bureau is in receipt of information which it regards as reliable to the effect that a bounty or grant, within the meaning of the provisions of section 303 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1303), is paid or bestowed on ethylene dibromide exported from Germany.

The bounty or grant paid or bestowed upon ethylene dibromide exported from Germany has been determined and is hereby declared to be 3.775¢ per pound.

[F. R. Doc. 38-2936; Filed, October 6, 1938; 9:35 a. m.]

all issues adjudicated in said case. In cases in which awards of death benefits are made, the dates of birth of each claimant shall be stated in the compensation order. In cases in which the claim is rejected, the reasons for the rejection shall be stated in a separate paragraph following the finding of facts.

"(d) In compensation orders other than the original order, reference shall be made to the prior order or orders with the date or dates thereof. The finding of facts in such subsequent orders shall relate only to the issues considered by such General Manager, without restatement of facts found in any prior order relating to the same case."

Adopted by the Commission, October 4, 1938.

WM. MCCAULEY,
Secretary.

[F. R. Doc. 38-2934; Filed, October 5, 1938; 2:14 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4866]

OPERATION OF FRUIT DISTILLERIES ON SUNDAY

To District Supervisors, and Others Concerned:

Pursuant to the provisions of Section 3255, R. S., as amended (U. S. C., Supp. III, title 26, sec. 1176; Public—No. 635—75th Congress), the following regulations are prescribed:

1. Distillers of brandy from the fruits and materials specified in Section 3255, R. S., as amended, are hereby exempted from the provisions of Section 3283, R. S. (U. S. C., title 26, sec. 1187), in any case in which the district supervisor finds, in accordance with the procedure hereinafter set forth, that an emergency exists requiring operation of the distillery between 11:00 P. M. Saturday and 1:00 A. M. Monday, for the purpose of preventing the loss of, and to effect the salvaging of, crop or other materials.

2. Any distiller of brandy desiring to operate his distillery between the hours specified shall file application, in duplicate, with the district supervisor, setting forth specifically the dates on which he desires to so operate and describing fully the necessity therefor.

3. The application shall be filed a sufficient time in advance of the earliest date named therein for such emergency operation to enable the district supervisor to determine whether such an emergency exists, and, if he approves the application, to assign an officer to supervise the operations where deemed necessary.

4. If the application is approved, the district supervisor will note his approval on both copies thereof, with the date of approval, and will return one copy to the applicant and retain the other copy on file.

5. Any operation of the distillery between 11:00 P. M. Saturday and 1:00 A. M. Monday without first filing application and securing the district supervisor's approval thereof, as herein provided, will render the distiller liable to the penalty prescribed therefor by Section 3283, R. S.

6. The provisions of Part Three of Regulations 7, "Relative to the Production, Fortification, Tax-Payment, Etc., of Wine and the Production of Grape Brandy for Fortification", approved March 6, 1930, which are inconsistent herewith are hereby revoked to the extent of such inconsistency.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, October 5, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2937; Filed, October 6, 1938; 11:21 a. m.]

TITLE 46—SHIPPING

BUREAU OF MARINE INSPECTION AND NAVIGATION

REGULATIONS FOR DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS; TONNAGE DUTIES AND LIGHT MONEY; CARRIAGE OF PASSENGERS; NAVIGATION FEES; ACCEPTANCE OF SAFETY CERTIFICATES ISSUED UNDER THE INTERNATIONAL CONVENTION ON SAFETY OF LIFE AT SEA, 1929; BARGES IN TOW AND SEAMEN'S PROTECTION CERTIFICATES

By virtue of and pursuant to the authority contained in: Sec. 2, 23 Stat. 118 as amended, 46 U. S. C. 2; R. S. 161, 5 U. S. C. 22; Sec. 1 (b), 38 Stat. 1193 as amended, 46 U. S. C. 12; Sec. 11, 38 Stat. 1168 as amended, 46 U. S. C. 599; Sec. 13, 38 Stat. 1169 as amended, 46 U. S. C., Sup. III, 672; R. S. 4214 as amended, 46 U. S. C. 103; R. S. 4177 as amended, 46 U. S. C. 45; Sub-sec. W, Sec. 30, 41 Stat. 1006, 46 U. S. C. 983; Sec. 2, 41 Stat. 437, 46 U. S. C. 52; Sec. 5, 40 Stat. 602 as amended, 46 U. S. C., Sup. III, 288; Sec. 4, 49 Stat. 519, 19 U. S. C., Sup. III, 1704; Secs. 1, 2, 3, 31 Stat. 58 as amended, 46 U. S. C. 163; Sec. 433, 46 Stat. 711, 19 U. S. C. 1433; Sec. 434, 46 Stat. 711 as amended, 19 U. S. C., Sup. III, 1434; Sec. 3, 23 Stat. 119, 46 U. S. C. 3; Secs. 9, 10, and 11, 22 Stat. 190, 46 U. S. C. 158, 159, and 160; 50 Stat. 303, 19 U. S. C., Sup. III, 1435, b; 32 Stat. 172 as amended, 46 U. S. C. 95; Sec. 447, 46 Stat. 714, 19 U. S. C. 1447; R. S. 3124 as amended, 19 U. S. C. 291; R. S. 4157 as amended, 46 U. S. C. 27; Sec. 4, 28 Stat. 743, 46 U. S. C. 79; R. S. 4400 as amended, 46 U. S. C. 362; the following regulations are prescribed:

PART I. DOCUMENTATION OF VESSELS

1. *Customs ports authorized to issue marine documents.*—Marine documents may issue from the following-named ports:

ATLANTIC AND GULF COASTS

MAINE AND NEW HAMPSHIRE (1)

Eastport.
Calais.
Jonesport.
Bar Harbor.
Bangor.
Belfast.
Rockland.
Bath.
*Portland.
Portsmouth.

MASSACHUSETTS (4)

Gloucester.
Salem.
*Boston.
Provincetown.
New Bedford.
Fall River.

RHODE ISLAND (5)

*Providence.
Newport.

CONNECTICUT (6)

New London.
Hartford.
New Haven.
*Bridgeport.

NEW YORK (10)

*New York.
Albany.
Newark.
Perth Amboy.

PHILADELPHIA (11)

*Philadelphia.
Wilmington.

MARYLAND (13)

*Baltimore.
Annapolis.
Crisfield.
Cambridge.
Washington.

VIRGINIA (14)

Alexandria.
Reedville.
*Newport News.
*Norfolk.
Cape Charles.

NORTH CAROLINA (15)

Elizabeth City.
Washington.
Beaufort.
*Wilmington.

SOUTH CAROLINA (16)

Georgetown.
*Charleston.

GEORGIA (17)

*Savannah.
Brunswick.

FLORIDA (18)

Fernandina.
Jacksonville.
St. Augustine.
Miami.
Key West.
*Tampa.
Apalachicola.
Pensacola.

MOBILE (19)

*Mobile.
Gulfport.
See also Rivers.

NEW ORLEANS (20)

*New Orleans.
See also Rivers.

SABINE (21)

*Port Arthur.
Beaumont.
Lake Charles, La.

GALVESTON (22)

*Galveston.
Houston.

SAN ANTONIO (23)

*San Antonio.
Corpus Christi.

PUERTO RICO (49)

*San Juan.

VIRGIN ISLANDS

*St. Thomas.

WESTERN RIVERS

NEW ORLEANS (20)

*New Orleans.
Baton Rouge.
See also Gulf.

TENNESSEE (43)

*Memphis.
Nashville.
Chattanooga.

MOBILE (19)

*Mobile.
See also Gulf.

KENTUCKY (42)

*Louisville.

ST. LOUIS (45)

*St. Louis.
Kansas City.

OMAHA (46)

*Omaha.

DAKOTA (34)

*Pembina.

MONTANA AND IDAHO (33)

*Great Falls.

IOWA (44)

*Des Moines.

MINNESOTA (35)

*Minneapolis.

DULUTH AND SUPERIOR (36)

*Duluth.
See also Lakes.

WISCONSIN (37)

*Milwaukee.
See also Lakes.

CHICAGO (39)

*Chicago.
Peoria.
See also Lakes.

INDIANA (40)

*Indianapolis.
Evansville.

OHIO (41)

Cincinnati.
See also Lakes.

PITTSBURGH (12)

*Pittsburgh.

NORTHERN LAKES

VERMONT (2)

*St. Albans.
Burlington.

ST. LAWRENCE (7)

Rouses Point.
*Ogdensburg.
Cape Vincent.

ROCHESTER (8)

Oswego.
*Rochester.

BUFFALO (9)

*Buffalo.

OHIO (41)

Erie.
*Cleveland.
Sandusky.
Toledo.
See also Rivers.

MICHIGAN (36)

*Detroit.
Port Huron.
Sault Ste. Marie.
Grand Haven.

CHICAGO (39)

*Chicago.
See also Rivers.

WISCONSIN (37)

*Milwaukee.
See also Rivers.

DULUTH AND SUPERIOR (36)

*Duluth.
See also Rivers.

PACIFIC COAST

SAN DIEGO (25)

*San Diego.

LOS ANGELES (27)

*Los Angeles.
Port San Luis.

SAN FRANCISCO (28)

*San Francisco-Oakland.
Eureka.

OREGON (29)

Marshfield.
Astoria.
*Portland.

WASHINGTON (30)

Tacoma.
*Seattle.
Bellingham.
Port Townsend.
Port Angeles.
Aberdeen.

ALASKA (31)

Ketchikan.
Hyder.
Wrangell.
Petersburg.
Eagle.
*Juneau.
Sitka.
Skagway.
Cordova.

HAWAII (32)

*Honolulu.

NOTE.—The grand divisions are printed in capitals, the district names in small capitals, with the numbers enclosed in parentheses, and the ports in roman with asterisks (*) to indicate the headquarters ports. Marine documents are not issued at the headquarters ports of San Antonio, Indianapolis, and St. Albans, nor in the districts of El Paso (24), Arizona (26), Colorado (47), and Utah and Nevada (48).

†Marine documents may be issued at the port of Washington, N. C. Washington is a customs station, but not a port of entry.

A duplicate of each marine document issued to a vessel, together with the surrendered original, if there is one, should be sent to the headquarters port for review. All duplicates, surrendered originals, and copies of lost originals must be forwarded from the headquarters port to the Director of the Bureau of Marine Inspection and Navigation at the end of each day.

A license may be renewed by endorsement by the collector at the headquarters port or by any deputy collector within that particular district, but a notice of such renewal, Cat. No. 1302, must be sent to the port at which the license was issued, to the port of last previous renewal, and to the home port.

Additional ports will be designated as ports of documentation when this action is required by the exigencies of the service.

2. *General definitions.*—(a) The word "vessel", within the meaning of the Tariff Act of 1930, includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft.

(b) The word "vessel", within the meaning of the navigation laws, includes every description of water craft or other artificial contrivance used or capable of being used as a means of transportation on water, but does not include seaplanes or other aircraft. (R. S. 3, 1 U. S. C. 3; 44 Stat. 572, 49 U. S. C. 177.)

(c) The term "marine document" includes registry, enrollment and license, and license. (41 Stat. 1000, 46 U. S. C. 911.)

(d) The term "documented" means registered or enrolled and licensed or licensed under the laws of the United States, whether permanently or temporarily. (Ibid.)

(e) The term "port of documentation" means the home port of a vessel. It does not include a port in which a temporary document is issued. (R. S. 4141, 46 U. S. C. 17; 43 Stat. 948, 46 U. S. C. 1012; 41 Stat. 1000, 46 U. S. C. 911.)

(f) The term "vessel of the United States" means any vessel documented under the laws of the United States. (41 Stat. 1000, 46 U. S. C. 911.)[1]

(g) The term "load line" means a line or mark to indicate the maximum depth to which a vessel may be loaded safely. (45 Stat. 1492, 46 U. S. C. 85.)

(h) The term "mortgagee", in the case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated in such deed. (41 Stat. 1000, 46 U. S. C. 911.)

3. *Vessels entitled to documents.*[2]—(a) Vessels of 20 net tons and upward may be registered or enrolled and licensed. Vessels of 5 net tons and less than 20 net tons may be licensed (except on the Great Lakes) or registered.

(b) Any vessel of the United States navigating the waters of the northern, northeastern, and northwestern frontiers, otherwise than by sea, shall be enrolled and licensed. (Commerce Form 1273.) (See art. 70, C. R. 1937.)

(c) The following classes of vessels are entitled to receive documents under existing laws:

Class 1.—Those built in the United States, wholly owned by citizens or by an incorporated company of the United States.

An American-owned and American-built vessel, which by sale has become the property of a foreigner, will be entitled to a new marine document upon afterward becoming American property, but cannot engage in the coastwise trade.

Class 2.—Those purchased from the Maritime Commission by persons who are citizens of the United States. (See art. 72, C. R. 1937.)

Class 3.—Those built in the United States, in whole or in part under foreign ownership and recorded, on becoming wholly owned by a citizen or citizens of the United States, and never before documented. (See art. 76, C. R. 1937.)

Class 4.—Those captured in a war to which the United States is a party, by a citizen or citizens thereof, lawfully condemned as prizes, and wholly owned by a citizen or citizens of the United States.

Class 5.—Those which have been adjudged to be forfeited for a breach of the laws of the United States, when wholly owned by citizens thereof. This does not include vessels, not otherwise entitled to documents, sold under a decree of admiralty for debt or seamen's wages.

Class 6.—Those sold by the United States Government to citizens, if built in the United States. Foreign-built ves-

[1] For the purposes of the Ship Mortgage Act, a yacht licensed under the provisions of R. S. 4214 as amended may be included in this definition.

[2] For statutory provisions, see R. S. 4132 as amended, 46 U. S. C. 11; 39 Stat. 730 as amended, 46 U. S. C. 808; R. S. 4180, 46 U. S. C. 54; R. S. 4184, 46 U. S. C. 57; R. S. 4136 as amended, 46 U. S. C. 14; 41 Stat. 997, 46 U. S. C. 13; 21 Stat. 44, 46 U. S. C. 332; R. S. 4385, 46 U. S. C. 335; 18 Stat. 31, 46 U. S. C. 336; 24 Stat. 81, 46 U. S. C. 319; 49 Stat. 442, sec. 1, 46 U. S. C., Sup. III, 883.

sels bought or chartered by the Government are entitled to documents on sale to a citizen or citizens on compliance with the requirements for class 9.

Class 7.—Those authorized by special act of Congress to be documented.

Class 8.—Those wrecked on the coasts of the United States or its possessions or in adjacent waters, when purchased by a citizen or citizens of the United States and repaired in a shipyard in the United States or its possessions.

It must be proved to the satisfaction of the Secretary of Commerce, through a board of three appraisers appointed by him, if necessary, that the repairs put upon such vessel are equal to three times the appraised salved value thereof. The expense of such appraisal shall be borne by the owner of the vessel.

If any of the material facts sworn to or represented by the owner, or at his instance, to obtain documents of any vessel are not true, such vessel is liable to forfeiture.

Class 9.—Seagoing vessels, whether steam or sail, wherever built, when wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or any State thereof, the president and managing directors of which are citizens of the United States. (See art. 72, C. R. 1937.)

Foreign-built vessels registered in accordance with the foregoing provisions of class 9 shall engage only in trade with foreign countries or with the Philippine Islands, the islands of Tutuila, Guam, Wake, Midway and Kingman Reef. They shall not engage in the coastwise trade, except as provided by sections 18 and 22, Merchant Marine Act, 1920.

(d) Vessels described as follows, if falling within the provisions of the foregoing classes, may be documented:

Barges, lighters, and other boats provided with sail or internal motive power, whether such power is generally used or not.

Barges and boats without sail or internal motive power of their own, engaged in trade with Canada, or employed upon the navigable waters of the United States.

Barges and boats without sail or internal motive power of their own, carrying passengers.

4. *Provisional registers.*—(a) Consular officers of the United States, and such other persons as may be designated by the President for the purpose,[3] are authorized to issue provisional certificates of registry to vessels abroad which have been purchased by citizens of the United States, including corporations, as defined in section 4132, Revised Statutes, as amended. (46 U. S. C. 11.)

(b) Such provisional certificates shall entitle the vessel to the privileges of a vessel of the United States in trade with foreign countries or with the Philippine Islands, American Samoa, and the island of Guam, until the expiration of six months from the date thereof, or until 10 days after the vessel's arrival in a port of the United States, and no longer. On arrival at a port of the United States the vessel shall become subject to the laws relating to officers, inspection, and measurement, as amended by the act of August 18, 1914. (46 U. S. C. 11.)

(c) Such provisional certificates shall be issued and surrendered in exchange for certificates of registry under regulations prescribed by the Secretary of Commerce.

(d) To cover American-owned ships now in foreign ports until their return to the United States for permanent registry, the Department has arranged with the State Department for the issue of provisional registers by Consuls.

When bills of sale covering such cases are presented to a collector, he will proceed as follows:

(1) The bill of sale will be filed with him.

(2) The vendee will execute an affidavit as to the bona fides of the transfer of title and the citizenship of the vendee, which the collector will file with the bill of sale.

(3) If the vendor or his duly authorized representative be present, he should also sign the affidavit.

(4) The collector will then communicate with the Director of the Bureau of Marine Inspection and Navigation (by telegraph at the expense of those concerned, if desired) a statement that a bill of sale has been filed with him and the proper affidavit executed of the sale, giving names, and, if a corporation, particulars of the vendor and of vendee, respectively, of the (rig of vessel) called (name of vessel) of ------ gross, ------ net tons. He will also state the foreign port where the vessel is at the time, so the proper Consul may be instructed.

(5) On receipt of the papers or telegram from the collector, the Director of the Bureau of Marine Inspection and Navigation will award signal letters to the vessel and through the usual channels promptly advise the State Department. The State Department will then cable at the expense of the parties concerned instructions and data for the issue of the provisional register by the American Consul at the port where the vessel is stated to be.

5. *Yachts entitled to documents.*—Yachts measuring 16 gross tons or over, used exclusively as pleasure vessel, otherwise entitled to be documented, may be licensed, and if so licensed, may proceed from port to port within the United States without entering or clearing, and to foreign ports without clearing at the customhouse. Such yachts must enter at the customhouse on arrival from foreign ports.

6. *Vessels exempt from documentation.*[4]

7. *Vessels required to have certificate of award of number.*[5]

8. *Marine documents, kinds of.*[6]—(a) Marine documents consist of certificates of registry, enrollments, and licenses.

(b) Marine documents are of two descriptions—permanent, granted to vessels at their home ports, and temporary, granted to vessels at ports other than their home ports.

(c) These two classes of documents should be distinguished by plainly writing the word "permanent" or "temporary" in the margin immediately above the number, and the same rule should be observed in respect to the copies and records.

(d) Registers and enrollments are valid for any length of time until a contingency arises requiring their surrender. (See art. 48, C. R. 1937.) Licenses are valid for one year only, but may be renewed or changed at any time during the year for which they are granted. Care should be taken that only one license, and for one employment, be granted to a vessel for the same time.[7]

(e) No enrollment and license or license shall be considered in force longer than the vessel to which it is granted is owned as stated therein, nor shall it be valid if the description of the vessel is changed, or if the vessel engages in any business or employment other than that for which the document was granted.

9. *Marine documents, execution of.*[8]—(a) All marine documents must be signed and sealed by the collector before being issued.

(b) The certificate of registry must bear the seal of the Department of Commerce, attested by the Director of Marine Inspection and Navigation.

10. *New marine documents.*—When a new marine document is issued in lieu of one surrendered, such new document must in all cases cite the previous document by number, date, and port of issue, carry any notation of the authority for documentation or of the existence of unsatisfied preferred mortgages as appearing on the surrendered document, and give the cause of surrender of the old document. A certificate of the builder or a surveyor's certificate of measurement will not be required unless some change of tonnage has taken place since the time of the previous documentation. (See arts. 48, 53, and 55, C. R. 1937.)

11. *Marine documents to include dimensions and tonnage.*[9]—The marine document of every vessel shall express her length, breadth, and depth, and the height under the third or spar deck; the number of decks and masts; the tonnage under the tonnage deck; that on the between decks above the tonnage deck; that of the poop or other inclosed spaces above the deck, each separately; it shall state separately the deductions made from the gross tonnage, and shall also state the net or register tonnage.

12. *Registers.*[10]—(a) Certificates of registry are requisite for vessels of the United States engaged in the foreign trade, and are permitted to such vessels engaged in the domestic trade, under the requirement of entering at the customhouse at every port of arrival. Blank forms (commerce Form 1265) attested under the seal of the Department of Commerce, will be furnished to collectors. (See art. 56, C. R. 1937.)

(b) Foreign-built vessels, though documented, may not engage in the fisheries. (See art. 14, class 9, C. R. 1937.)

13. *Enrollment and license, coasting trade and fisheries.*[11]—(a) Vessels of 20 tons net or more enrolled and having a license in force, or, if of 5 tons net and less than 20 tons net, not enrolled but having a license in force, may be employed in the coasting trade and fisheries.

(b) Vessels engaged exclusively in the "cod fishery" should be so licensed. Vessels engaged in taking fish of any other description should be licensed for the "mackerel fishery." Vessels engaged in the whale fishery should be licensed for the "whale fishery." Vessels which engage in both the coasting trade and the fishery (other than the "whale fishery") may be licensed for the "coasting trade and mackerel fishery." Vessels engaged in taking out fishing parties are not fishing vessels and should be licensed for the coasting trade unless they intend to proceed to foreign ports, in which case a certificate of registry is required (art. 26, C. R. 1937). See article 70, C. R. 1937 for vessels on the Great Lakes.

(c) Vessels enrolled and licensed may engage in trade with the Canal Zone.

14. *Builder's certificates.*[12]—(a) In order to document a vessel of class 1 not before documented it is necessary to produce a certificate (commerce Form 1261) from the builder under whose direction the vessel was built that she was so built, stating the place, time, person or persons for whom built, number of decks and masts, length, breadth, depth, and tonnage, and such other particulars as are usually descriptive of the identity of a vessel. This certificate will be sufficient to authorize the removal of a new vessel, if in ballast only, from the district where she may have been built to another district in the same or an adjoining State where the owner or owners actually reside. The collector may require the production of a certificate of acknowledgment by the builder before an officer having a seal.

(b) Any certificate in which the requirements of the law are fairly and fully complied with may be accepted; and where from any cause it is found impracticable to obtain the certificate of the builder, other competent evidence establishing the particulars and facts required to be certified by him may be accepted, with the approval of the Director of Marine Inspection and Navigation.

(c) The place of build is where the hull was built. The time of build is the year of completion. Both must appear in all marine documents.

15. *Measurement of vessel.*[13]

16. *Official number and signal letters.*—(a) Every documented vessel is required by law to have an official number awarded by the Director, Bureau of Marine Inspection and Navigation. Application therefor shall be made on commerce Form 1320 by the owner himself or by some person duly authorized by him to act in his behalf, through the collector of customs. In the case of corporate ownership, the application should be signed in the corporate name, by a corporate officer or authorized agent. In case of a firm or partnership, the firm or partnership name must be signed either by a member of the firm or one of the partners, or by a duly authorized agent. In the case of individual ownership by two or more persons, one of the owners may sign in his own name as "managing owner" *provided* there is filed with the collector a written authorization for him to act in that capacity, signed by *all* the owners. In addition to the information therein required, the application must state the name of the former owner, if any; and that the bill of sale has been examined by the collector of customs, or has not, as the case may be.

(b) All seagoing vessels of 100 tons or over, in addition to an official number, may have signal letters awarded. Signal letters may also be awarded to seagoing vessels of less than 100 tons where special application is made therefor through the collector.

17. *Marking of official number and net tonnage.*[14]

18. *Evidence as to marking official number, etc.*—(a) Marine documents will not be issued until proper evidence is produced that the official number and net tonnage have been marked upon the vessel's main beam, and that her name has been marked upon both sides of her bow and her name and hailing port have been marked upon her stern as required by law (commerce Form 1322).

(b) If the vessel is out of the district, the owner may make affidavit as to the above facts; but as soon as she arrives at a place within the home district, where the inspection certificate of a customs officer can be procured, such certificate must be required by the collector of customs of the district.

(c) If the vessel is at a place in the home district which is not readily accessible to a customs officer, an affidavit that the law has been complied with may be submitted by the owner or agent.

19. *Marking of draft of registered vessels.*[15]—The draft of every registered vessel shall be marked upon the stem and sternpost, in English feet or decimeters, in either Arabic or Roman numerals. The bottom of each numeral shall indicate the draft to that line. If all the figures indicating the draft of registered vessels can not be placed on the sternpost they may be continued upward on the adjacent part.

20. *Name and home port on documented vessel.*[16]—(a) The name of every documented vessel (yachts excepted) shall be marked in full upon each bow and upon the stern, and the home port shall also be marked in full upon the stern. These names shall be painted, or carved, or gilded, in Roman letters in a light color on a dark ground, or in a dark color on a light ground, and must be distinctly visible. The letters used shall not be less than 4 inches high. If any vessel of the United States is found without these names so marked, the owner or owners shall be liable to a penalty of $10 for each name omitted. Every steam vessel of the United States must, in addition, have her name conspicuously placed in distinct, plain letters of not less than 6 inches high on each outer side of the pilot house, if it has such, and in case the vessel has side wheels, also on the outer side of each wheel house, under the same penalty as provided above.

(b) On vessels called "double-enders" the letters prescribed by the statute may be placed on the parts corresponding to the bow and stern, and on vessels with sterns not affording sufficient space for letters they may be placed on the adjacent parts, in both cases so as to conform to the law as closely as possible, and so that the hailing port shall be marked at one end of the vessel.

(c) Scows, barges, or other vessels "scow-built" or with square bow may be marked on the bow instead of the side

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[3] The collector of customs of the Philippine Islands, the captains of the ports of Cristobal and Balboa, Canal Zone, and the Governor of Guam were designated by Executive Order of Apr. 17, 1915.

[4] See provisions in 21 Stat. 44, 46 U. S. C. 332; R. S. 4385, 46 U. S. C. 335; 18 Stat. 31, 46 U. S. C. 336; Merchant Marine Act of 1920, sec. 27, as amended, 46 U. S. C., Sup. III, 883; 24 Stat. 81, sec. 7, 46 U. S. C. 319.

[5] See 40 Stat. 602 as amended, 46 U. S. C. and Sup. III, 288 and Part I, Sec. 63 post.

[6] For statutory provisions, see R. S. 4190, 46 U. S. C. 61; R. S. 4191, 46 U. S. C. 62; R. S. 4138, 46 U. S. C. 16; R. S. 4315, 46 U. S. C. 255; R. S. 4327, 46 U. S. C. 269; R. S. 4324, 46 U. S. C. 266.

[7] A license may be issued for the "coasting trade and mackerel fisheries."

[8] For statutory provisions, see R. S. 4158, 46 U. S. C. 28; 46 U. S. C. 274; 46 Stat. 740, 19 U. S. C. 1523.

[9] For statutory provisions, see R. S. 4150, 46 U. S. C. 74; R. S. 4153 as amended, 46 U. S. C. 77.

[10] For statutory provisions, see R. S. 4132 as amended, 46 U. S. C. 11, 41 Stat. 997, 46 U. S. C. 13.

[11] For statutory provisions, see R. S. 4311, 46 U. S. C. 251; R. S. 4321, 46 U. S. C., Sup. III, 263; 24 Stat. 81, 46 U. S. C. 319.

[12] For statutory provisions, see R. S. 4147, 46 U. S. C. 24; R. S. 4148, 46 U. S. C. 71; R. S. 4149, 46 U. S. C. 72; R. S. 4180–84, 46 U. S. C. 54–57.

[13] See Rules and Regulations, Admeasurement of Vessels, 4th Ed. Jan. 2, 1925.

[14] See Rules and Regulations, Admeasurement of Vessels, 4th Ed., Jan. 2, 1925.

[15] For statutory provision, see 26 Stat. 766 as amended, 46 U. S. C. 48.

[16] For statutory provisions, see R. S. 4178 as amended, 46 U. S. C. 46; R. S. 4495, 46 U. S. C. 493; 23 Stat. 58, 46 U. S. C. 47; R. S. 4214 as amended, 46 U. S. C. 103.

where such marking would be speedily obliterated by chafing against other vessels, spiles, or docks.

(d) The hailing port or port to be marked on the stern may be either the port where the vessel is permanently documented, or the place in the same district where the vessel was built or where one or more of the owners reside.

(e) Documented yachts are required to have their names and hailing ports placed on some conspicuous part of their hulls.

21. *Home port, definition, change of:* [17] [18]—(a) A vessel's home port is that port of documentation which has been fixed and determined by the owner with the approval of the Director of Marine Inspection and Navigation. It is also the port at which a vessel's permanent documents issue but it must appear in all documents whether they are permanent or temporary.

(b) It is desirable that the home port be at or nearest the place where the vessel business of the owner is conducted but it need not be in the State where the owning company is incorporated.

(c) If the owner desires to have the home port elsewhere, an application accompanied by a detailed statement setting forth the reasons therefor shall be forwarded to the Director of Marine Inspection and Navigation for his approval.

22. *Citizen ownership of corporation, partnership, or association.*[19]—(a) No corporation, partnership, or association shall be deemed a citizen of the United States, within the meaning of the Shipping Act, 1916 and the Merchant Marine Act, 1920, unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof. The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or if the majority of the voting power in such corporation is not vested in citizens of the United States; or if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or if by any other means control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(b) In the case of a vessel operating in the coastwise trade, the amount of interest in the corporation, association, or partnership required to be owned by citizens of the United States shall be 75 per cent.

(c) In the case of corporate ownership the applicant for documents will furnish a satisfactory certificate as to the organization of the corporation and the names of its president and managing directors. The citizenship of the president and managing directors must be established to the satisfaction of the collector.

(d) The proofs submitted to establish the above facts, as well as the proofs of the percentage of stock held by citizens free from foreign control should be filed in the office of the collector.

23. *Evidence of citizenship of owners and officers.*[20]—In addition to the oaths of citizenship specified, a collector of customs may require the production of such further evidence as may be necessary to satisfy him that the person is a citizen of the United States and a proper notation of the evidence produced should be made on the papers retained in the collector's office, such as the number, date, and office of issue of an officer's license or a seaman's passport or a citizen's passport, or the same data as to birth certificate or a naturalization certificate, or a continuous discharge book, or certificate of identification.

24. *Forms of oath.*[21]—The oath of ownership required for the registry of any vessel or for the enrollment and license or license of a vessel shall be, as near as possible, in the following forms:

Oath of Owner

(a) If the vessel be of 20 tons or more, the owner's oath for license shall be as follows (commerce Forms 1262, 1270):

I, _____, of _____, in the county of _____, and State of _____, do swear (or affirm), according to the best of my knowledge and belief, that the vessel called the _____, of _____, official number _____, of _____ gross, and _____ net, was *[built in 19____, at _____]; that I am a citizen of the United States, and that the said vessel is wholly the property of _____ citizen _____ of the United States of America, owning and residing as follows: _____; and that no subject or citizen of any foreign power is, directly or indirectly, by way of trust, confidence, or otherwise, interested therein, or in the profits or issues thereof, and that _____, the present master thereof, is a citizen of the United States.

_____

Sworn to and subscribed before me, this _____ day of _____.

_____, *Collector.*

(b) If the vessel be of less than 10 tons net, the owner's oath for license shall be as follows (commerce Form 1284):

I, _____, of _____, in the county of _____, and State of _____, swear (or affirm), according to the best of my knowledge and belief, that the vessel called the _____, of _____, official number _____, of _____ gross, _____ net, is wholly the property of _____ citizen__ of the United States of America, viz: _____

_____

Sworn to and subscribed before me, this _____ day of _____

_____, *Collector.*

(c) If the vessel is owned by an incorporated company, the ownership oath for the foreign trade shall be as shown on commerce Form 1263 and for the coasting trade as shown on commerce Form 1263 b.

(d) If the vessel be of the fourth class, the following clause must be substituted for the portion in brackets marked *;

On the _____ day of _____, 19__, captured in war by a citizen (or citizens) of the United States and lawfully condemned as a prize by a decree, sentence, or judgment of the _____ court of _____, an authenticated copy of which I now produce.

(c) If of the fifth class, the following:

Adjudged to be forfeited, for a breach of the laws of the United States, by a decree, sentence, or judgment of the _____ court of _____, an authenticated copy of which I now produce.

(f) If of the sixth class, the following:

Formerly the _____, purchased from the United States (or from an officer, naming him and his office).

(g) If of the seventh class, the following:

Authorized to be documented by act of Congress and by the Director of Marine Inspection and Navigation by letter under date of _____, an authenticated copy of which I now produce.

(h) In all cases where there is more than one owner the name and place of residence of each owner and the proportion owned by him must be inserted in the appropriate space.

Oath of Master

(i) The oath of master required for the registry of a vessel shall be as follows:

I, _____, master of the _____ called the _____, official number _____ do swear that I am a citizen of the United States, having been * [born within the limits thereof].

(j) For the enrollment and license of a vessel the master's oath shall be as follows:

I, _____, master of the _____ called the _____, official number _____ do swear that I am a citizen of the United States, having been * [born within the limits thereof], and that the license bearing date _____, granted to said vessel by the collector of customs for the district of _____, shall not be used for any other vessel, or for any other employment than (the coasting trade, the fisheries, or for pleasure, as the case may be), or in any trade or business whereby the revenue of the United States may be defrauded. So help me God.

(k) If the master is not a native of the United States a statement as to how he became a citizen must be inserted in lieu of the clause in brackets marked * as follows:

Naturalized in the State of _____, on the _____ day of _____, _____, by virtue of decree or order of the _____ court of _____, and the oath of allegiance according to law.

(l) For the issue or renewal of a license to a vessel of less than 20 net tons the master's oath shall be as follows:

I, _____, master of the vessel described in these proceedings for license, swear that I am a citizen of the United States of America, and that the license bearing number _____, and date _____, for carrying on the (coasting trade, or fisheries, or for pleasure, as the case may be), granted for the said vessel by the collector of customs for the district of _____, shall not be used for any other vessel, or for any other employment than the coasting trade, the fisheries, or for pleasure, as the case may be, or in any trade or business whereby the revenue of the United States may be defrauded. So help me God.

25. *Owner's oath before collectors.*[22]—(a) Previous to the granting of a register, license, or enrollment and license to any vessel, an owner's oath must be taken before the collector on one of the forms set forth in article 39, C. R. 1937.

(b) If the vessel be owned by one individual, the oath must be taken by him or by his duly authorized agent.

(c) If the vessel be owned by several individuals or a firm or unincorporated company, the oath may be taken by one of the owners, who must specify the names, places of abode, and proportions of the vessels owned by each of the others and also certify to their citizenship.

(d) If the vessel be owned by a corporation, the oath may be taken by the president, secretary, or any other officer or agent thereof, duly authorized in writing, attested by the corporate seal, to act in its behalf.

(e) On the death, removal, or resignation of the president or the secretary of an incorporated company owning any vessel and whose name appears on the documents of such vessel, a new document must be obtained.

(f) If the master of the vessel be within the district where the registry is to be issued, he must take oath or make affirmation as to his citizenship. In all cases of enrollment and license or license the master's oath must be taken.

(g) In all cases where there is more than one owner, the proportions owned by each must be stated in the oath.

(h) If any of the matters of fact contained in the oath or affirmation be false, within the knowledge of the party so swearing, there shall be a forfeiture of the vessel, her tackle, furniture, and apparel, or the value thereof to be recovered, with costs of suit, from the person taking such oath or making such affirmation; but if that portion relating to the citizenship of the master prove false, the master or other person in charge so falsely swearing or affirming shall himself forfeit the sum of $1,000.

26. *Owner's oath before State officer.*[23]—In the case of an application for enrollment and license or license, the requirement that the owner's oath be taken before the collector may be waived, and the oath may be taken before an officer authorized by the laws of the State to administer oaths generally and may be mailed to the collector.

27. *Master's oath on licensing vessel.*[24]—(a) Previous to the granting or renewing of the license of any vessel the master shall swear that he is a citizen of the United States, and that such license shall not be used for any other vessel or for any other employment than that for which it was specially granted, or in any trade or business whereby the revenue of the United States may be defrauded.

(b) This oath may be taken before any officer authorized by the laws of the State to administer oaths, and may be mailed to the collector, together with the marine document, whereupon action may be taken as if the oath had been administered by the collector.

28. *Change of master.*[25]—(a) When the master of any documented vessel, except a licensed ferryboat, is changed, the owner or the new master must report the change to the collector at the port where the same shall take place, or where the vessel shall first arrive thereafter, and produce to him the documents and take oath (commerce Form 1311) that the new master is a citizen of the United States, stating whether he is a native or is naturalized, and, if naturalized, how he became a citizen. The collector will then indorse upon the document the name of the new master.

(b) The oath required to be taken by the new master previous to the indorsement of the change of master on an enrollment or license may be taken before any officer authorized by the laws of the State to administer oaths, and may be mailed to the collector, together with the marine document, whereupon action may be taken as if the oath had been administered by the collector.

(c) If the change of master be reported to the collector or deputy collector at a port other than that at which the document was granted, the officer making the indorsement must transmit a notice (commerce Form 1420) thereof to the officer by whom the document was granted, and the latter shall make the change in his record. If the change of master be not reported, or if the oath aforesaid be not taken, the document will be void, and the master subject to a fine of $100 for a registered vessel and $10 for a licensed vessel.

(d) Any person or body corporate having more than one-half ownership of any vessel shall have the same power to remove a master, who is also part owner of such vessel, as such majority owners have to remove a master not an owner. This does not apply where there is a valid written agreement subsisting by virtue of which such master would be entitled to possession.

29. *Issue and record of marine documents.*[26]—(a) The provisions of the law having been complied with, the collector shall issue a register, enrollment and license, or license to the vessel. Care should be taken to insure the insertion of the required notation on documents issued to foreign-built vessels. An exact copy of each document issued shall be placed in a permanent record kept for that purpose and a proper index made thereof. This record shall be kept open to public inspection during office hours.

(b) Copies of all marine documents issued shall be transmitted to the Director of Marine Inspection and Navigation each day except as provided in paragraph (c). Notation of the Specific address of the owner or managing owner shall be made on the transmitted copies.

(c) When a vessel is documented at a port other than a headquarters port, a duplicate of the marine document issued, together with the surrendered original, if there is one, must be sent by the deputy collector to the collector at the headquarters port for review and transmittal to the Director of Marine Inspection and Navigation. Should the headquarters port desire additional duplicates of vessels' documents, deputy collectors may be so instructed.

(d) When a document is surrendered for any cause, or when proof of loss, destruction, or mislaying is received, or the document has ceased to be valid, an indorsement accurately stating the place, date, and cause of surrender shall be made on the surrendered document or on the copy if the original has been lost, citing the new document issued, if any. The place and date of surrender should be the place and date of issue of the new document.

(e) When a vessel is lost, abandoned as unfit for service, sold to an alien, or sold to the United States, an indorsement will be made in like manner, stating the date, place, and circumstance of such disaster, abandonment, or sale.

(f) Any alteration or change made in the original document after issue shall be noted on the retained copy.

[17] For statutory provisions, see 43 Stat. 947 as amended, 46 U. S. C. 18; R. S. 4214 as amended, 46 U. S. C. 103; R. S. 4141, 46 U. S. C. 17.

[18] See footnote 2, sec. 44.

[19] For statutory provision, see 39 Stat. 729 as amended, 46 U. S. C. 802. See also sec. 25, post.

[20] For statutory provisions, see R. S. 4142, 46 U. S. C. 19; R. S. 4144, 46 U. S. C. 22.

[21] For statutory provisions, see R. S. 4142, 46 U. S. C. 19; R. S. 4320 as amended, 46 U. S. C. 262; R. S. 4132 as amended, 46 U. S. C. 11; R. S. 4144, 46 U. S. C. 22; R. S. 4312, 46 U. S. C. 252.

[22] For statutory provisions, see R. S. 4314 as amended, 46 U. S. C. 254; R. S. 4142, 46 U. S. C. 19; R. S. 4139 as amended, 46 U. S. C. 20; R. S. 4138, 46 U. S. C. 16; R. S. 4315 as amended, 46 U. S. C. 255; R. S. 4144, 46 U. S. C. 22; R. S. 4320 as amended, 46 U. S. C. 262; R. S. 4143, 46 U. S. C. 21; R. S. 4163, 46 U. S. C. 33.

[23] For statutory provision, see R. S. 4320 as amended, 46 U. S. C. 262.

[24] For statutory provision, see R. S. 4320 as amended, 46 U. S. C. 262.

[25] For statutory provisions, see R. S. 4171 as amended, 46 U. S. C. 40; R. S. 4335, 46 U. S. C. 276; R. S. 4250 as amended, 46 U. S. C. 227.

[26] For statutory provisions, see R. S. 4164 as amended, 46 U. S. C. 34; R. S. 4329 as amended, 46 U. S. C. 271.

(g) When a document is surrendered, notation of the fact, cause, date, etc., of such surrender shall be made in appropriate records at the port of issue.

(h) When a new document is issued, an indorsement shall be made on the record of the former document showing the kind and number of the new document, place and date of the new document, and cause for its issue.

(i) At the time application is made for a new document the former document of the vessel must be surrendered to the collector to whom the application for such new document is made. And if the former document is not surrendered, unless it has been lost, destroyed, or unintentionally mislaid, and an oath thereof has been taken, the owner of the vessel becomes liable to a penalty of $500.

(j) On proof that any vessel has been sold or transferred by process of law and that her marine document is retained by the former owners the collector of the district to which the vessel belongs may, with the approval of the Director of Marine Inspection and Navigation, grant a new document, but the owners shall not be required to produce and surrender the canceled document. The issue of the new document does not remove the liability of the holders for failure to surrender the former one.

30. *Permanent enrollment or license or renewal thereof to a vessel absent from home port.*[27]—(a) Permanent enrollment and license or license may be issued to any vessel absent from her home port upon application to the collector or deputy collector thereof, through the office of the collector or deputy collector at the port at which the vessel may be, where the master's oath should first be taken.[28]

(b) Whenever it shall become necessary or desirable for any vessel of the United States, in a port other than her home port, to procure a permanent enrollment and license or license, the same proceedings may be had at the port at which the vessel then is as are required by law at the vessel's home port, except the issuance of the document.

(c) The officer before whom such proceedings are taken shall certify the same (commerce Form 1301) to the collector or deputy collector at the vessel's home port, who shall duly document the vessel in the same form as if the application had originally been made in his office, and either deliver the document or forward it by mail to the officer who certified to him the preliminary proceedings, who shall in such case deliver the document to the owner or master of the vessel.

(d) This regulation is not to be construed to change existing forms, except in so far as to enable owners to procure permanent enrollments or licenses without returning their vessels to their home ports.

31. *Renewal of license.*[29]—(a) A license granted to any vessel must be presented to the collector of the district in which the vessel may then be, within 3 days after its expiration, or, if the vessel be at sea at that time, within 3 days from her first arrival within a district. If the master fails to deliver the license, as herein required, he shall be liable to a penalty of $10, which shall not be mitigated.

(b) Licenses may be renewed or changed at any time during the year for which they are granted, care being taken that only one license, and for one employment, be granted to a vessel for the same time. However, a license or its renewal may be issued for the "coasting trade and mackerel fishery."

(c) A permanent or temporary license which has been renewed by indorsement need not be renewed again at any port until the expiration of the statutory period after the date of the latest renewal; but a temporary license must be surrendered within 10 days after the arrival of a vessel at her home port. The statutory period is 1 year and 3 days, but if a vessel is absent when the period expires, then within 3 days after her first arrival in any district she must renew her license.

(d) When a renewal is indorsed upon a license, a notice (Commerce Form 1302) must be sent to the port of issue and the home port.

32. *Surrender of permanent documents.*[30]—Marine documents must be surrendered when a vessel is sold in whole or in part; when a vessel has been lost or taken by an enemy, or otherwise prevented from returning to the port to which she belongs; when a vessel is burnt or broken up; when a vessel is altered in form or burden by being lengthened, shortened, or built upon, or changed from one denomination to another by the method of rigging or fitting; when a vessel changes from one employment to another; when a vessel changes her name; when the president or the secretary of an incorporated company owning a vessel and whose name appears on the documents of such vessel dies, is removed, or resigns therefrom; when a vessel arrives at her home port while under temporary documents; when the managing owner of a vessel changes residence from one port to another, either within or without the same customs district, provided there has been no change in ownership of the vessel; and when the vessel is exempt from documentation under the act of April 18, 1874. (18 Stat. 51, 46 U. S. C. 336.) (See section 6.) The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage must be obtained except in cases stated in section 37 (f).

33. *Surrender of temporary documents.*[31]—(a) A new document granted by the collector at a port other than the one where the vessel belongs shall be temporary.[32]

(b) Temporary documents are to be surrendered to the collector at the port where the vessel belongs within 10 days after her arrival and in all cases in which the surrender of permanent documents is required.

(c) By the term "arrival" is to be understood the voluntary arrival of the vessel at her home port, to which she was destined in the regular course of her employment.

(d) If the master neglects to surrender such temporary document within 10 days he shall forfeit $100, and the document shall become null and void.

(e) The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage must be obtained except in cases stated in section 37 (f).

34. *Revision of tonnage.*[33]

35. *Rebuilt vessels.*[34]—(a) A rebuilt vessel must retain her original name and official number, and her marine documents should give the date and place of original building. The date and place of rebuilding should be noted in the appropriate place in the document. A vessel is rebuilt, if any considerable part of the hull of an old vessel in its intact condition, without being broken up, is built upon. It is new if none of the old timber is left undisturbed or if all of the timber used, whether old or new, is taken up, refitted and reset. It is of little consequence how much of the old timber is reused.

(b) Upon affidavit by a reputable shipbuilder of the United States that an unrigged wooden vessel of the United States, except those admitted under section 5, Panama Canal Act, as amended (46 U. S. C. 11), has been rebuilt, giving the date and place of such rebuilding, that it is sound and free from rotten or doted wood in structural parts, is properly fastened and calked, and is in strength and seaworthiness as good as new, the Director of the Bureau of Marine Inspection and Navigation shall include in the publication, Merchant Vessels of the United States, a notation to that effect.

(c) When application is made to the collector of customs to note the place and date of rebuild of a vessel on the marine document, the applicant should submit specifications of the rebuild, in affidavit form, through the collector to the Director of the Bureau of Marine Inspection and Navigation who will rule upon all questions regarding the status of the reconstructed vessel with respect to whether it is to be considered a "rebuilt" or "new" vessel.

36. *Change of build or rig.*[35]—(a) Whenever a documented vessel is altered in form or burden, by being lengthened, shortened, or built upon, or changed from one denomination to another, by the method of rigging or fitting, the vessel shall be documented anew; otherwise she shall cease to be deemed a vessel of the United States.

(b) When there is a change in the manner or method of propulsion of a vessel,[36] as from steam engine to gas engine, from gas engine to oil engine, or vice versa, or in any other way which may change the description, a new marine document should be issued. The new marine document may have assigned as the cause for its issue, "Engine changed from gas to oil", or as the case may be. An indorsement of a similar tenor should be placed on the surrendered document. Collectors are referred to "Explanations and abbreviations" in "Merchant Vessels of the United States" for the various kinds of engines.

37. *Exchange of documents.*[37]—(a) Any enrolled and licensed or licensed vessel may be registered, and any registered vessel may be enrolled and licensed or licensed upon the surrender of her documents to the collector of any district; but neither enrollment nor license shall be granted to a vessel having on board merchandise brought from a foreign port until it be wholly unladen and the duties paid or secured.

(b) No such documented vessel, shall receive a license, or enrollment and license, or renewal until the collector to whom application is made is satisfied, from the oath of the owner or master, that all equipments purchased and repairs made abroad within the year immediately preceding such application have been duly accounted for, and the duties accruing thereon duly paid.

(c) When the vessel is at any other port than the one to which she belongs, the collector at such port shall make the exchange on the application of the master and upon his taking oath that the property remains as expressed in the document to be surrendered. A new document thus granted shall be temporary, and shall, within 10 days after the arrival of the vessel at the port to which she belongs, be delivered to the collector thereof for cancellation and for the issue of a permanent document.

(d) If the master neglects to deliver such temporary document within 10 days, he shall be liable to a penalty of $100.

(e) Forfeiture of vessel and cargo [a] is imposed by law in case a vessel, enrolled or licensed for the coasting trade by sea, proceeds on a foreign voyage without first surrendering her enrollment and license and taking out a register.

(f) The requirement of the Merchant Marine Act, 1920, section 30 (o) (a) (U. S. C. title 46, sec. 961 (a)), that the documents of a vessel covered by a preferred mortgage may not be surrendered without the approval of the United States Maritime Commission and the mortgagee, does not refer to renewals of licenses or changes of documents incident to change of trade where the ownership and home port remain the same.

38. *Report of casualty to vessel.*[38]—(a) Whenever a vessel of the United States has sustained or caused any accident involving serious injury or loss of life, or any substantial loss of property, or has received any material damage affecting her seaworthiness or her efficiency, the managing owner, agent, or master of such vessel shall, within 5 days after the happening, or as soon thereafter as possible, send to the collector of customs of the district wherein such vessel belongs, or of that within which such accident or damage occurred, a report thereof (Coast Guard Form 2692), signed by such owner, agent, or master stating the name and official number of the vessel, the port to which she belongs, the place where she was, the nature and probable occasion of the casualty, the number and names of those lost, and the estimated amount of loss or damage to the vessel or cargo; and shall furnish, upon the request of either of such collectors of customs, such other information concerning the vessel, her cargo, and the casualty as may be called for; and if he neglects or refuses to comply with the foregoing requirements, after a reasonable time, he shall incur a penalty of $100.

(b) Whenever the managing owner or agent of any vessel of the United States has reason, owing to the nonappearance of such vessel, or to any other circumstances, to apprehend that such vessel has been lost, he shall, as soon as convenient, send notice, in writing, to the collector of customs of the port to which the vessel belonged, of such loss, and the probable occasion thereof, stating the name and official number of the vessel, and the names of all persons on board, so far as the same can be ascertained, and shall, if possible, furnish such additional information as the collector at such port may request; and if he neglects to comply with the above requirements within a reasonable time, he shall incur a penalty of $100.

(c) It shall be the duty of the collectors of customs to transmit immediately to the Commandant of the Coast Guard and to the Director of Marine Inspection and Navigation such reports and information as they may receive under the provisions of the two preceding paragraphs, and they shall also report to the Director of Marine Inspection and Navigation any neglect or refusal on the part of the managing owner, agent, or master of any vessel of the United States to comply with the requirements thereof.

(d) Loss of property involved in any accident sustained or caused by a vessel of the United States, amounting to less than $300,[40] will not be reported as "substantial" within the meaning of this section, and reports of such casualties, unless involving the loss of life or serious injury to any person, will not be required, except in cases of stranding, reports of which are desirable to aid in determining and locating points of danger to navigation. Reports will, however, be required in all cases of the total loss of vessels, although the amount involved may be less than $300.

(e) In cases of collisions, reports will be required from both of the colliding vessels where the damage or loss of property of the two together amounts to $300, notwithstanding one of the vessels may have suffered little or no loss.

(f) Whenever there is a marine casualty or accident, immediate notice thereof by telegram or radiogram or equally prompt means of communication shall be given by either master, owner, charterer or agent of the vessel or vessels involved, to the nearest local office of the Bureau of Marine Inspection and Navigation, Department of Commerce, or to the Bureau of Marine Inspection and Navigation, Department of Commerce, Washington, D. C. Such notice shall furnish the names of the vessel or vessels involved, the owner, agent, the nature or cause of the casualty or accident, the locality, the nature of injuries and damage done to property, and such notices

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[27] For statutory provisions, see R. S. 4328 as amended, 46 U. S. C. 270.

[28] The collector at the home port of a vessel may issue a permanent document for that vessel if the owner's and master's oaths are executed at the home port of the vessel even though the vessel may be outside the limits of the customs district within which the home port is situated.

[29] R. S. 4325 as amended, 46 U. S. C. 267; R. S. 4326, 46 U. S. C. 268; R. S. 4327, 46 U. S. C. 269; 49 Stat. 1367, 46 U. S. C., Sup. III, 263.

[30] For statutory provisions, see R. S. 4146 as amended, 46 U. S. C. 23; R. S. 4160, 46 U. S. C. 30; R. S. 4170 as amended, 46 U. S. C. 39; R. S. 4322, 46 U. S. C. 264; R. S. 4325 as amended, 46 U. S. C. 267; Merchant Marine Act of 1920, sec. 30, sub-sec. o (a), 46 U. S. C. 961 (a); 49 Stat. 1987, 46 U. S. C., Sup. III, 1114.

[31] For statutory provisions, see R. S. 4168, 46 U. S. C. 37; R. S. 4160, 46 U. S. C. 30; R. S. 4162, 46 U. S. C. 32; R. S. 4323 as amended, 46 U. S. C. 265; Merchant Marine Act of 1920, section 30, sub-sec. 0 (a), 46 U. S. C. 961 (a); 49 Stat. 1987, 46 U. S. C., Sup. III, 1114.

[32] Under the "Seattle Plan", which is in force in a number of customs districts, a vessel having its home port within the district may secure a permanent document at any other port of the same district from which marine documents issue.

[33] See Rules and Regulations, Admeasurement of Vessels, 4th Ed., Jan. 2, 1925.

[34] For statutory provisions, see R. S. 4179, 46 U. S. C. 50; R. S. 4155 as amended, 46 U. S. C. 25; R. S. 4319 as amended, 46 U. S. C. 259; 37 Stat. 189, 46 U. S. C. 63.

[35] For statutory provision, see R. S. 4170 as amended, 46 U. S. C. 39.

[36] In the event a vessel's engine is changed but there is no change in the type of motive power, no redocumentation will be required unless the installation of the new engine changes the admeasured tonnage of the vessel.

[37] For statutory provisions, see R. S. 4322, 46 U. S. C. 1264; R. S. 3114 as amended, 49 U. S. C. 257; R. S. 3115 as amended, 19 U. S. C. 258; R. S. 4337, 46 U. S. C. 278; 49 Stat. 1987, 46 U. S. C., Sup. III, 1114.

[a] I. e., imported cargo.

[38] For statutory provisions, see 18 Stat. 128, sec. 10, 33 U. S. C. 361; 18 Stat. 128, sec. 11, 33 U. S. C. 362; 18 Stat. 128, sec. 12, 33 Stat. 363.

[40] Under R. S. 4450 as amended, all accidents regardless of the amount of damage involved must be reported in the manner set forth in paragraph (f).

shall be in addition to any other notice required by law. An officer or employee of the United States or any other person having material knowledge or information concerning a marine casualty or accident shall immediately bring such information to the attention of the Bureau of Marine Inspection and Navigation.

39. *Loss of marine document.*[41]—Whenever the marine document of any vessel is lost, destroyed, mislaid, or withheld from the owner, and the master or other person having the charge or command thereof makes oath (commerce Form 1305) to such fact, the collector of the port where the vessel first arrives after such loss shall issue a new document in lieu thereof, reciting that it was issued in place of the one lost or destroyed. A document is held to be lost when it is wrongfully withheld from the possession of the owner.[42]

40. *Sale of vessel.*[43]—(a) When a vessel once registered, enrolled and licensed, or licensed in pursuance of law shall, in whole or in part, be sold or transferred to a citizen of the United States, such vessel must be documented anew; otherwise she ceases to be deemed a vessel of the United States.

(b) A proper bill of sale having been produced to the collector, the former document surrendered, and the regulations governing the issue of marine documents complied with in other respects, a new document may issue.

(c) In order that a vessel of the United States may be sold to an American corporation, partnership or association without the consent of the United States Maritime Commission, a controlling interest (51 per cent) in said corporation, partnership, or association must be owned by citizens of the United States and if the vessel is to engage in the coastwise trade 75 per cent interest must be owned by citizens of the United States as defined in section 2 of the Shipping Act, 1916, as amended by section 38 of the Merchant Marine Act, 1920.

41. *Sale outside of home port.*[44]—(a) A temporary marine document may be granted to any vessel entitled to be documented which becomes the property of a citizen of the United States while at a port other than the one where the new owner usually resides. The temporary marine document must be surrendered within 10 days after the arrival of the vessel within the district to which she belongs or the owner and the master shall severally be liable to a penalty of $100.

(b) Should the purchase of a vessel as herein provided be made by the agent of a citizen who resides more than 50 miles from the port at which such purchase is made, the oath of ownership shall be modified (commerce Form 1264) so as to express the fact of such agency.

(c) When a vessel changes ownership while away from her designated home port, a temporary document may be issued expressing the new ownership. The bill of sale on which the temporary document is based may be recorded, if the collector so desires, but no fee should be collected.

(d) The bill of sale, together with a duplicate of the temporary marine document, must be mailed by the issuing collector to the collector at the new home port. The bill of sale, however, should not be recorded at the new home port until there has been furnished to the collector a certified copy of the record of the vessel at the former port of documentation (commerce Form 1331) as provided for by the Ship Mortgage Act, 1920 (U. S. Code, title 46, sec. 926 (c).) The recording fees should be collected at the new home port.

42. *Sale abroad.*[45]—A documented vessel which has been sold or transferred, in whole or in part, to a citizen of the United States while such vessel is without the limits of the United States will, on her first arrival thereafter, be entitled to all the privileges of a vessel of the United States if a new document is obtained within three days after the time entry of the vessel is required at the port of first arrival.

43. *Sale or charter to an alien.*[46]—(a) It shall be unlawful to sell, transfer, or mortgage, or, except under regulations prescribed by the United States Maritime Commission, to charter, any vessel purchased from the board or documented under the laws of the United States to any person not a citizen of the United States, as defined by the Merchant Marine Act, 1920, (41 Stat. 1008, 46 U. S. C. 802), or to put the same under a foreign registry or flag, without first obtaining the Commission's approval.

(b) On the sale or transfer, in whole or in part, of a documented vessel to a subject of a foreign country, even in trust or confidence, the document must be delivered if the vessel is within a district of the United States, to the collector within seven days after such purchase or transfer. But if such sale or transfer happens while the vessel is in a foreign port or place, or at sea, the master or person having the charge or command thereof shall, within 8 days after his arrival, within any district of the United States, deliver the document to the collector of such district. Any master or owner violating the provisions of this article shall be liable to a penalty not exceeding $500, and the document shall be henceforth void; and if such sale or transfer is not so made known, the vessel, together with her tackle, apparel, and furniture, shall be subject to forfeiture. This forfeiture, however, does not attach to any share of such vessel owned by a citizen of the United States who was ignorant of the sale or transfer.

(c) The United States Maritime Commission has by resolution prescribed that a documented vessel may be chartered to an alien for a period not to exceed 12 months, or where the probable duration of the voyage or voyages will not exceed 12 months, without further action on its part, but its consent must be obtained for the charter of all vessels which have been purchased or chartered from it, or in aid of whose construction or improvement a loan was made by it. All vessels while under charter to aliens must have citizens of the United States as officers.

44. *Preferred mortgages, recording and indorsing.*[47]—(a) In case a mortgage is given to cover documented vessels and vessels in the process of construction and it is desired that the vessels in process of construction shall be covered by a preferred mortgage upon documentation, it is suggested that a supplemental mortgage be given at the time of documentation, the indorsement required by the Merchant Marine Act of 1920, section 30, sub-section D, as amended (49 Stat. 424, 46 U. S. C., Sup. III, 922) to be made at such time. Such mortgages should provide for the separate discharge of the uncompleted vessel at any time prior to its documentation and the recording of the supplemental mortgage hereinabove referred to.

(b) When a preferred mortgage is presented for record the collector shall request two identical copies of such mortgage, and he shall carefully compare these copies with the original before certification. (Merchant Marine Act of 1920, section 30, sub-section E, 41 Stat. 1001, 46 U. S. C. 923).

(c) When a mortgage has been recorded in the customhouse the original is to be returned to the mortgagee and his receipt taken therefor, and two certified copies delivered to the mortgagor.

[41] For statutory provisions, see R. S. 4167, 46 U. S. C. 36; R. S. 4326, 46 U. S. C. 268.

[42] All questions of what constitutes a wrongful withholding must be referred to the Director of the Bureau of Marine Inspection and Navigation for determination.

[43] For statutory provisions, see R. S. 4170 as amended, 46 U. S. C. 39; 41 Stat. 994, 46 U. S. C. 808.

[44] For statutory provisions, see R. S. 4159, 46 U. S. C. 29; R. S. 4160, 46 U. S. C. 30; R. S. 4161, 46 U. S. C. 31.

[45] For statutory provisions, see R. S. 4166, 46 U. S. C. 35.

[46] For statutory provisions, see Shipping Act 1916, sec. 9, 39 Stat. 730, as amended by Merchant Marine Act of 1920, sec. 18, 41 Stat. 994, 46 U. S. C. 808; R. S. 4146 as amended, 46 U. S. C. 23; R. S. 4172, 46 U. S. C. 41.

[47] For statutory provisions, see Merchant Marine Act of 1920, section 30, sub-section C, 41 Stat. 1000, 46 U. S. C. 921 (Recording of Mortgages); *Ibid.*, sub-section M, 41 Stat. 1004, 46 U. S. C. 953 (Preferred Maritime Liens); *Ibid.*, sub-section H, 41 Stat. 1002, 46 U. S. C. 926 (Conditions Precedent to Record); *Ibid.*, sub-section G, 41 Stat. 1002, 46 U. S. C. 925 (Discharge of Lien); *Ibid.*, sub-section F, 41 Stat. 1002, 46 U. S. C. 924 (Prior and Subsequent Maritime Liens on Mortgaged Vessel); *Ibid.*, sub-section O (a), 41 Stat. 1004, 46 U. S. C. 961 (a) (Surrender of Documents); 49 Stat. 1987, 46 U. S. C., Sup. III, 1114.

[48] In no event shall bills of sale, mortgages, etc. be accepted for record prior to the receipt of the collector of the approval of the designated home port.

(d) When a preferred mortgage is offered for record it is not incumbent on the collector at the recording office to ascertain whether there is any existing incumbrance at the vessel's present or previous home port. This information should be included in the affidavit provided for by the Merchant Marine Act of 1920, section 30, sub-section D.

(e) The law does not prohibit the placing of an additional mortgage, preferred or otherwise, on a vessel which already is covered by a preferred or non-preferred mortgage.

(f) The affidavit required in case of preferred mortgages by the Merchant Marine Act of 1920, section 30, sub-section D, is to be made by the mortgagor and is to be acknowledged before a notary public or other officer authorized by a law of the United States or of a State, Territory, District or possession thereof to take acknowledgment of deeds.

(g) The preferred mortgage indorsement provided by the Merchant Marine Act of 1920, section 30, sub-section D, shall be made on the document by the collector at the permanent home port of the vessel unless she is in another port, in which case the collector of the home port of the vessel shall direct on the request of the mortgagee such indorsement to be made at the port where the vessel may be.

(h) The collector shall enter on his mortgage record the day, hour, and minute that (a) the indorsement was made on the vessel's document, (b) the mortgage was received for recording, and (c) the indorsement was recorded.

(i) The collector shall require the claim of lien on a vessel covered by a preferred mortgage (Merchant Marine Act of 1920, section 30, sub-section G (a), 41 Stat. 1002, 46 U. S. C. 925) to be in the form of an affidavit which shall be firmly attached to the preferred mortgage record and property indexed.

(j) When the mortgagor presents for record a certificate of discharge of mortgage, such certificate shall be in the nature of a satisfaction of mortgage, similar to that now filed on commerce Form 1363.

(k) (1) In case of a change of home port the collector at the previous home port of the vessel shall furnish the record of title required by the Merchant Marine Act of 1920, section 30, sub-section H (c) (41 Stat. 1002, 46 U. S. C. 926), such record of title to include, in addition to the other data required, any claims of liens upon the vessel filed. For example, if a vessel is permanently documented at New York and while she is at Portland there is a change of ownership requiring her to be redocumented with home port at Seattle, and a new preferred mortgage is placed on her at Portland, the collector at Seattle shall instruct the collector at Portland to indorse the documents, who will forward such mortgage after such indorsement to the collector at Seattle, where such mortgage, together with the bill of sale, is to be recorded together with a certified copy of the record of title of the vessel furnished by the collector at New York to the collector at Seattle.

(2) Incident to the change of the home port of a vessel, the old document must be surrendered and a new one issued showing the new home port. The approval of the United States Maritime Commission of the surrender of the document of a vessel covered by a preferred mortgage must be obtained prior to surrender of the old document.

(l) When a collector forwards to another port a certified copy of the record of a vessel because of change of home port, he shall permit no further records or liens to be recorded in his office in connection with that vessel, it being necessary that such records and liens be recorded in the new home port.

(m) The provisions of the Merchant Marine Act of 1920, section 30, sub-section H (c), apply in the case of all documented vessels where there is a change of home port and where bills of sale, conveyances, or mortgages are to be recorded.

(n) In case of change of ownership without change of port of documentation, the copy of the record is not required.

(o) Where there is a change of home port of a vessel without a change of title and no bills of sale, conveyances, or mortgages are at that time to be recorded, the certified copy of the record should be filed at the new home port.

(p) When a vessel is sold under order of a court to a private owner, the evidence of ownership by the private owner shall not be recorded at a new home port until the certified copy of the record from the previous home port has been furnished. The same procedure is to be followed where a vessel is sold by a department of the Federal Government to a private owner, provided that while Government-owned the vessel was not documented but was documented prior to being owned by the Government.

(q) When a vessel covered by a preferred mortgage is sold at a United States marshal's sale under the provision of section 961 (c), United States Code, title 46, without intervention on the part of the mortgagee, the vessel is sold free and clear of the preferred mortgage and may be redocumented without indorsement. The court shall however, upon the request of the mortgagee, the libellant, or any intervenor, require the purchaser at such sale to give and the mortgagee to accept a new mortgage of the vessel for the remainder of the term of the original mortgage. The conditions of such new mortgage shall be the same, so far as practicable, as those of the original mortgage and shall be subject to the approval of the court.

(r) When a preferred mortgage is assigned, a notation of the assignment of the mortgage shall be written across the indorsement of the preferred mortgage on the vessel's document.

(s) (1) Assignments of preferred mortgages should be handled in the same way as the original preferred mortgage; namely, by requiring an original and three copies, and after recordation, retaining the file copy for the records of the collector's office and returning the original, together with two certified copies of the same, to the mortgagor and mortgagee. It is not necessary to incorporate a copy of the latest marine document in the preferred mortgage assignment. There should be incorporated in the preferred mortgage assignment a reference to the license or enrollment number and date, port where recorded, etc., as covered by the original preferred mortgage. A copy of the preferred mortgage assignment should be placed on board the vessel covered by the preferred mortgage.

(2) The fee provided by sub-sec. I, sec. 30, Merchant Marine Act of June 5, 1920, for recording a mortgage and furnishing a certified copy thereof may be assessed for the recording of preferred mortgage assignments and the furnishing of certified copies of the same.

(t) A preferred mortgage may not be placed upon a vessel which is not a documented vessel of the United States.

(u) Notice of claim of lien on a vessel shall be received for record only in the event the vessel is covered by a preferred mortgage.

(v) A copy of the complete record at the former home port would, in certain cases, make a voluminous certificate which it would be impracticable to furnish. In such cases collectors may prepare certificates on commerce Form 1331.

(w) A preferred mortgage need not include the recital of the last marine document of the vessel covered by the mortgage. However, all the requirements of sub-sec. C (b), sec. 30 of the Merchant Marine Act of 1920, must be shown in the preferred mortgage, or the collector may refuse to record on ground that he cannot record in accordance with statute.

45. *Certificates and fees.*[49]—(a) In furnishing the certified copy of the record of the vessel at a former port of documentation, collectors will use commerce Form 1331.

(b) The fees collected under subsection I are to be deposited as navigation fees and so reported. The word "folio," as used in that subsection, means 100 words, counting each figure as a word (U. S. Code, title 28, sec. 607). Bulky mortgages in printed or typewritten form submitted for recording need not be copied in the mortgage record book, but may be firmly attached in such book after comparison with the original in accordance with existing practice. Collectors will, however, charge the same fees as if such mortgages had been actually copied in the book.

[49] For statutory provision, see Merchant Marine Act of 1920, section 30, sub-section I, 46 U. S. C. 927.

(c) In computing fees to be charged for recording bills of sale, mortgages, and satisfaction of mortgages, collectors shall be guided by the following rules in counting the words:

(1) All typewritten, pen-written, and printed words, if not erased (except as provided in (3) below), are to be counted.

(2) All printed words, whether erased or not, if found in the register, enrollment, or license cited (except as provided in (3)), are to be counted.

(3) References to acts of Congress and explanatory words, usually in parentheses or printed as notes, and the printed and written customhouse indorsement under the commerce form vided in (3)), are to be counted.

(d) The provisions of sub-section I for the collection of fees apply only to the items covered by the ship mortgage act, which are as follows:

Sub-section C (b). Recording bills of sale, conveyances, and mortgages.

Sub-section E. Furnishing certified copies of mortgage.

Sub-section H (c). Furnishing certified copy of the record at former home port.

Sub-section I (1). Furnishing certificate setting forth the names of the owners, interest held by each owner, the material facts as to each bill of sale, conveyance, or mortgage or lien or incumbrance on the vessel.

Sub-section I (2). Furnishing certified copies of bills of sale, conveyances, mortgages, notices of claim of lien, or certificates of discharge of mortgages or liens. (See Table of Fees, art. 210, C. R. 1937.)

(e) The words "certificate or certified copy" used in subsection I apply only to certificates and certified copies, provided for in the Ship Mortgage Act, 1920.

46. *Vessels on Great Lakes.*[50]—(a) Vessels of the United States navigating the waters of the northern, northeastern, and northwestern frontiers, otherwise than by sea, must receive special enrollment and be licensed before they are employed on those waters in the foreign or coasting trade. Vessels so documented operating on the Great Lakes and their connecting and tributary waters may, without change in the form of enrollment and license engage in the taking within such waters of fish of every description. The enrollment and license shall be in the special form provided for vessels in the domestic and foreign trade otherwise than by sea, viz, commerce Form 1273. Commerce Form 1290 is used on the Great Lakes for all yachts, without regard to size. Registers of American vessels arriving from a foreign port must be deposited in the customhouse, under the provisions of the Tariff Act of 1930, section 434, as amended (19 U. S. C., Sup. III, 1434), and any marine documents of a vessel in port may be left in the customhouse for surrender and exchange.

(b) Such vessels are not required by law to have certificates of registry, but they are in every other respect liable to the rules, regulations, and penalties in force relating to registered and to enrolled and licensed vessels.

47. *Transfer from lakes to seaboard.*—(a) When a vessel so enrolled and licensed leaves the inland waters of the frontier and engages in trade on the seaboard, she must surrender her frontier papers and take out coasting papers; and if bound on a foreign voyage partly by sea she must take, in lieu of her frontier papers, a certificate of registry (commerce Form 1285). (For procedure for vessels engaged in trade between Great Districts Nos. 1 and 6, see article 199 (d) (2), C. R. 1937.)

(b) If she sails for a frontier port, and it is intended to clear her thence for a port in the United States on the seaboard or for a foreign port, in part by sea, she shall be furnished with a certificate of registry before starting on her voyage. Vessels neglecting these precautions are subject to the penalties and disabilities imposed on vessels engaged in trade without legal documents.

48. *Registry of foreign-built vessels under Revised Statutes 4132, as amended.*[51]—(a) Application for registry of American-owned, foreign-built vessels under section 5 of the Panama Canal Act (class 9), as amended by the act of August 18, 1914, shall be made to the collector of customs at the proposed home port. Application for official number (Commerce Form No. 1320) in addition to the information therein required will give the name of the former owner and state that the bill of sale has been examined by the collector of customs or not as the case may be.

(b) In lieu of the builder's certificate required for American-built vessels, the application shall be accompanied by the ship's foreign registry and a certified copy of the ship's foreign measurement certificate, if there be one, and a certificate of measurement as required by law. In case of the vessel having been built for the applicant and not having been in foreign registry the builder's certificate executed by the builder must be produced.

(c) Certificates of inspection by the United States local inspectors of steam vessels must be supplied, except as to such sail and other vessels as do not require inspection before registry. Certificates from the local inspectors must, however, be supplied as to the safety of such vessels to carry dry and perishable cargo. (See art. 90 (a), C. R. 1937.)

(d) The ownership and citizenship of owners (vendees) must be established as in the case of vessels built in the United States. In case of corporate ownership, applicant must furnish a certificate satisfactory to the collector as to organization of the corporation, and the citizenship of its president and managing directors. The sale of vessels must be unconditional and complete. Any reservation to the vendor of a right to repurchase the vessel will be sufficient cause for refusal to issue a register. The bona fides of the purchase and the ability to purchase must be established by an affidavit of the vendee.

(e) Foreign-built vessels[52] owned and documented prior to February 1, 1920, by persons citizens of the United States, and those owned by the United States on June 5, 1920, when sold to and owned by persons citizens of the United States, are unlimited as to documents and trade so long as they continue in such ownership. When a marine document is issued to such a vessel, the following notation must be made thereon:

As amended by section 5 of the Panama Canal Act and by the Act of August 18, 1914, and sections 22 and 38 of the Merchant Marine Act of June 5, 1920. This vessel is 75 per cent American owned as required by law and may engage in the coastwise trade so long as so owned and no longer.

(f) Foreign-built vessels acquired by American citizens subsequent to February 1, 1920 or June 5, 1920, as the case may be, are limited to the foreign trade. When a register is issued to such a vessel, the following notation must be made thereon:

As amended by section 5 of the Panama Canal Act, by the Act of August 18, 1914, and by the Act of May 24, 1938, entitling the vessel to engage only in trade with foreign countries, with the Philippine Islands or the islands of Guam, Tutuila, Wake, Midway and Kingman Reef. This vessel shall not engage in the coastwise trade.

(g) Care should be taken to insure the issuance of the proper document with the appropriate notation in the case of redocumentation.

49. *Foreign-built yachts.*—Any foreign-built yacht purchased by a citizen of the United States may be documented under Revised Statutes 4132, as amended (U. S. Code, title 46, sec. 11). The collector of customs may issue to any such yacht owned by a citizen a consolidated certificate of enrollment and yacht license (commerce Form 1290) or a license of yacht under 20 tons (commerce Form 1288) upon the filing of a bill of sale by the owner and upon compliance with the other usual requirements. Any document issued to such yacht shall have written across its face the legend, "This vessel may not engage in coastwise trade."

50. *Certificate of protection.*[53]—(a) Any foreign-built undocumented yacht purchased by a citizen of the United States is nevertheless entitled to legal protection as property of a citizen. The collector may issue to any such vessel a certificate that the bill of sale has been recorded and is valid in form and substance. This certificate shall be substantially in the following form:

(b) *Foreign-built American-owned yachts*

I, _____, collector of customs for the port of _____, State of _____, United States of America, do hereby certify that the bill of sale, bearing date of _____, 19____, of the _____ net tonnage, sold and transferred by _____ (Class and name) _____, of _____, in _____ to _____, of _____, State of _____, United States of America, is in form and substance valid and effective in law, and has been recorded in this office; and that the said _____ (Purchaser) is a citizen of the United States.

As witness my hand and seal this ____ day of _____, 19____.

[SEAL] (Signed) _____,
Collector.

(c) A separate record shall be kept of these foreign-built, American-owned undocumented yachts, and in the tonnage returns they shall be reported under the caption "Foreign-built undocumented yachts owned by citizens of the United States."

51. *Recorded vessels.*—In the documentation of recorded vessels (class 3) the builder's certificate is unnecessary, and the admeasurement also, if the certificate of record correctly indicates the tonnage.

52. *Record of American-built vessels owned by aliens.*[54]—(a) A vessel built in the United States, never before documented, and belonging wholly or in part to an alien, may receive a certificate of record on commerce Form 1316. On being purchased or wholly owned by a citizen she is entitled to documents as a vessel of the United States.

(b) Before the issuance of a certificate of record the collector of the district shall require the builder to swear that the vessel was built by him or under his supervision.

(c) The vessel must be measured and the usual certificate of admeasurement filed before the certificate of record is granted to the master of the vessel.

(d) If the parties clearing new vessels, built in the United States for foreign account, under a certificate of record, fail or refuse to furnish a shippers' export declaration (customs Form 7525) to comply with the requirements of class 7999 of the Statistical Classification of Exports, collectors shall prepare such declaration, ascertaining the gross tonnage and value of the vessels from the best obtainable sources.

(e) If an application is made for marine documents for a vessel built in the United States for foreign account which was not originally covered by a certificate of record, evidence must be produced to show the date and place of building and builder's name.

(f) Certificates of record are not to be considered as documents similar to certificates of registry, enrollment and license, or license.—An undocumented motorboat owned by a resident alien and found on the navigable waters of the United States must be in possession of a certificate of award of number, even though a certificate of record has been issued to it.

53. *Certificates of record.*[55]—Certificates of record shall be regularly numbered; and when recorded vessels are documented as vessels of the United States the certificate must be surrendered, if one has been issued, canceled, and returned to the Director of Marine Inspection and Navigation.

54. *Prizes and forfeited vessels.*[56]—In case of application for documentation of a vessel entitled thereto by reason of having been captured in war by a citizen of the United States and condemned as a lawful prize (class 4) or condemned for a violation of law (class 5), when wholly owned by a citizen, all the requirements relating to documentation, except the builder's certificate, must be complied with, and the collector must be furnished with a properly authenticated copy of the decree of condemnation and the proof of the applicant's ownership. The owner's oath will be modified accordingly.

55. *Inspection of marine documents.*—The papers of a documented vessel, when such vessel is in commission, shall be on board and accessible to the person in charge except when such papers are in the custody of the collector.

56. *Change of name of documented vessel.*[57]—(a) The name of a documented vessel shall not be changed except with the consent and approval of the Director of Marine Inspection and Navigation, under penalty of forfeiture.

(b) The application for change in name shall be executed under oath by the owner of the vessel, addressed to the Director of Marine Inspection and Navigation, and submitted in duplicate to the collector of customs at the home port of the vessel.

(c) The application must state the change desired, the reasons therefor, place and date of build, official number, rig, gross tonnage, and the name or names of the owner of the vessel. It must state in detail a list of all liens, mortgages, etc., on record against the vessel, and the consent of the mortgagee or other beneficiary under each lien or mortgage must be submitted in writing with the application.

(d) Certificates, commerce Form 1330, from the collectors at each port where the vessel has been permanently documented must also be submitted. If an abstract and certificate of record of title, commerce Form 1331, from each port of permanent documentation since the passage of the Merchant Marine Act, 1920, are on file with the collector at the home port, such collector may issue commerce Form 1330, noting that commerce Forms 1331 are on file.

(e) Application under the new name of the vessel for approval of home port need not be submitted unless there is a change in ownership or a change of home port.

(f) In transmitting the application the collector shall note the date and place of last inspection. In case the vessel is not usually inspected, the local inspectors are authorized to make special examinations and to furnish necessary certificate of seaworthiness.

(g) The collector shall see that there has been compliance with these preliminaries and thereupon forward the application with his recommendation, giving any reasons within his knowledge for or against the change.

(h) If the application is approved by the Director of Marine Inspection and Navigation, the collector shall collect the fee prescribed in article 88, C. R. 1937, deposit it as a navigation fee, inserting in commerce Form 1008 the old name of the vessel, her gross tonnage, and the amount of the fee collected. Permission for change of name is not effective until the fee is paid.

(i) The order for the change in name must be published in some daily or weekly paper at or nearest to the port of documentation, in at least four consecutive issues.

(j) The cost of procuring evidence and of advertising must be paid by the applicant.

(k) Copies of the newspaper in which the advertisement appeared, together with receipt for the payment of the cost thereof, shall be furnished by the applicant to the collector of customs and by him forwarded to the Director of Marine Inspection and Navigation with a copy of the new document issued.

(l) An accurate index of changes of names of documented vessels under old and new names, with dates of authorization, etc., should be kept by the collector.

(m) A vessel formerly documented, sold to the United States, and resold to citizens, shall be redocumented under the old name and official number; but a vessel never before documented and sold by the United States to citizens, may be documented under any name.

(n) Incident to the change of name of a vessel, the old document must be surrendered and a new one issued under the new name. The approval of the United States Maritime Commission of the surrender of a document of a vessel covered by a preferred mortgage must be obtained prior to the surrender of the old document.

[50] For statutory provisions see R. S. 4318 as amended, 46 U. S. C. 258; R. S. 4321, 46 U. S. C. 263.

[51] For statutory provisions, see R. S. 4132 as amended, 46 U. S. C. 11; R. S. 4149, 46 U. S. C. 72; Shipping Act of 1916, sec. 2, as amended, 46 U. S. C. 802.

[52] Cannot engage in American fisheries.

[53] For statutory provision, see R. S. 4100, 46 U. S. C. 61.

[54] For statutory provisions, see R. S. 4132 as amended, 46 U. S. C. 11; R. S. 4180, 46 U. S. C. 54; R. S. 4181, 46 U. S. C. 73.

[55] For statutory provisions, see R. S. 4183 as amended, 46 U. S. C. 56; R. S. 4184, 46 U. S. C. 57.

[56] For statutory provision, see R. S. 4132 as amended, 46 U. S. C. 11.

[57] For statutory provisions, see R. S. 4179, 46 U. S. C. 50; 41 Stat. 437, 46 U. S. C. 53; 49 Stat. 1987, 46 U. S. C., Sup. III, 1114.

57. *Fee for change of vessel's name.*[58]—When the name of a vessel is changed, the following fees are to be paid by the owners of vessels to collectors of customs, to be deposited in the Treasury by such collectors as navigation fees: For vessels 99 gross tons and under, $10; for vessels 100 gross tons and up to and including 499 gross tons, $25; for vessels 500 gross tons and up to and including 999 gross tons, $50; for vessels, 1,000 gross tons and up to and including 4,999 gross tons, $75; for vessels 5,000 gross tons and over, $100.

58. *Yacht privileges and obligations.*[59]—(a) Licensed yachts are required by law to use the signal prescribed by the Secretary of the Navy, as follows: "The American ensign substituting in the field a white foul anchor, surrounded by 13 white stars in a circle, in lieu of a star for each State." This ensign shall not be carried by yachts of foreign ownership. Any vessel owned by a citizen of the United States may carry the United States flag. The union jack of yachts should be made up on horizontal rows of stars. Yachts duly licensed shall not transport merchandise nor carry passengers for pay.

(b) For any violation of the provisions of the law under which they are licensed, yachts are liable to seizure and forfeiture.

(c) Masters or other persons in command of yachts must exhibit their marine documents on demand of any officer authorized to enforce the navigation laws.

(d) A commission may be issued by the Secretary of Commerce to a yacht belonging to any regularly organized and incorporated yacht club to identify such yacht and its owner during foreign voyages, upon application of the owner (commerce Form 1250), submitted through the collector of customs. This commission is a token of credit to any United States official and to the authorities of any foreign power, for privileges enjoyed under it.

(e) Such commissions shall be regarded as conclusive evidence of nationality. On the return of such vessels to the United States they are required to make entry at the customhouse and surrender their commissions.

(f) Whenever it shall be made to appear to the satisfaction of the President of the United States that yachts belonging to any regularly organized yacht club of the United States are allowed to arrive at and depart from any foreign port and to cruise in the waters of such port without entering or clearing at the customhouse thereof and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes, or charges for cruising licenses, the Secretary of Commerce may authorize and direct the customs authorities at the various ports of entry of the United States to allow yachts from such foreign ports belonging to any regularly organized yacht club thereof to arrive at and depart from any port of the United States and to cruise in waters of the United States without the payment of any charges for entering or clearing, dues, duty per ton, or tonnage taxes, but the Secretary of Commerce may, in his discretion direct that such foreign yachts shall be required to obtain licenses to cruise, in a form prescribed by him, before they shall be allowed under the foregoing provisions to cruise in waters of the United States. Such licenses shall be issued without cost to such yachts and shall prescribe such limitations as to length of time, direction, and place of cruising and action, and such other particulars as the Secretary of Commerce may deem proper.

In order to obtain a cruising license or permit it will be necessary for the person desiring such cruising license or permit to file application for the same with the Director of the Bureau of Marine Inspection and Navigation, Department of Commerce, submitting therewith affidavit that he is a member of a regularly organized yacht club of the country in which he is a citizen, together with a written statement of the yacht club of which he is a member to the effect that he is a member in good standing. The statement of the yacht club must be attested to by its president and secretary, respectively. Upon the approval of the duly executed application the Secretary of Commerce will cause a cruising license or permit to be issued. The cruising license or permit is addressed to the several collectors of customs informing them that the yacht named in the license or permit is to be permitted to cruise in American waters for a period of six months from a certain date without the payment of any charges, dues, duty per ton, or tonnage taxes. The cruising license or permit when issued does not exempt the master of the yacht to which it is issued from compliance with section 433 of the Tariff Act of 1930 (19 U. S. C. 1433).

(g) Undocumented yachts, not nationalized, or shown to be yachts, by proper registry, enrollment, or regular marine documents, foreign or otherwise, are subject to tonnage tax and light money under sections 4219 and 4225, Revised Statutes (U. S. Code, title 46, secs. 121 and 128), on entry from a foreign port, in the same manner as other vessels in ballast, which are not licensed as yachts or public vessels. Section 4225, Revised Statutes (U. S. Code, title 46, sec. 128), will not apply if undocumented yachts are actually carrying, on arriving in the United States, a sea letter or certificate under section 4226, Revised Statutes (U. S. Code, title 46, sec. 129), and if oath is made before the collector of customs as prescribed by that section. No tonnage tax should be imposed under section 36 of the act of August 5, 1909 (36 Stat. 111, 46 U. S. C. 121). Such undocumented yachts, the property of American citizens, are not required to enter or clear or to pay tonnage tax or light money on arriving at or departing from a port in the United States on a coastwise voyage terminating in the same great district. On foreign voyages they must enter or clear, as the case may be.

(h) All yachts, except those of 15 gross tons or under, shall, upon their return from a foreign country, make due entry at the customhouse of the port at which they first arrive, but the master of any yacht arriving from a foreign port with dutiable articles on board shall report to the customs officer at the port or place at which the vessel arrives and shall deliver to the said officer a manifest of all dutiable articles brought from a foreign country in such yacht.

(i) At the first port of arrival of a foreign-built yacht purchased by a resident of the United States the following requirements of law should be observed:

(1) The vessel must be entered under the navigation laws. Undocumented vessels may be subjected to penal tonnage taxes (see R. S. 4219 and 4225 and art. 133, C. R. 1937).

(2) The vessel must be documented or awarded a motor-boat number.

59. *Vessels required to be inspected.*[60]

60. *Vessels not required to be inspected.*[61]

61. *License to carry gunpowder.*[62]—No steam vessel employed in the carriage of passengers shall carry gunpowder without having conspicuously posted on board a certificate issued by the local inspectors authorizing the carriage of such gunpowder. Whenever any passenger steam vessel receives or carries gunpowder on board without having such certificate posted as required, or carries gunpowder in a place or in a manner not authorized by the certificate such vessel becomes liable to a penalty of $100 for each offense.

[58] For statutory provision, see 41 Stat. 437, 46 U. S. C. 53.

[59] For statutory provisions, see R. S. 4215, 46 U. S. C. 109; R. S. 4214 as amended, 46 U. S. C. 103; R. S. 4336, 46 U. S. C. 277; R. S. 4217 as amended, 46 U. S. C. 105; 35 Stat. 425 as amended, 46 U. S. C. 104; R. S. 4218 as amended, 46 U. S. C. 106; 46 Stat. 711, 19 U. S. C. 1433; 46 Stat. 712, 46 U. S. C., Sup. 111, 1441.

[60] For statutory provisions, see R. S. 4400 as amended, 46 U. S. C. 362; R. S. 4498 as amended, 46 U. S. C. 496; 36 Stat. 462, 46 U. S. C. 511; R. S. 4427, 46 U. S. C. 405; 41 Stat. 305, 46 U. S. C. 363; R. S. 4417 as amended, 46 U. S. C. 391; 35 Stat. 428, 46 U. S. C. 395; R. S. 4421 as amended, 46 U. S. C. 399; 35 Stat. 428 as amended, 46 U. S. C. 397; R. S. 4498 as amended, 46 U. S. C. 496; R. S. 4423 as amended, 46 U. S. C. 400; R. S. 4409 as amended, 46 U. S. C. 497; R. S. 4500, 46 U. S. C. 498; R. S. 4424 as amended, 46 U. S. C. 402; Merchant Marine Act of 1920, section 26, 46 U. S. C. 882, 49 Stat. 1545, secs. 1, 2, 46 U. S. C., Sup. III, 367; R. S. 4417 a, 46 U. S. C., Sup. III, 391 (a).

[61] For statutory provisions, see 36 Stat. 462, 46 U. S. C. 511; R. S. 4426 as amended, 46 U. S. C. 404; R. S. 4417 as amended, 46 U. S. C. 391; 35 Stat. 426, 46 U. S. C. 395; R. S. 4400 as amended, 46 U. S. C. 362; 38 Stat. 1193, 46 U. S. C. 12; 49 Stat. 1545, secs. 1, 2, 46 U. S. C., Sup. III, 367.

[62] For statutory provisions, see 38 Stat. 1217, sec. 2, 46 U. S. C. 401; 38 Stat. 1217, sec. 4, 46 U. S. C. 402.

62. *Officers' licenses.*[63]—(a) Every vessel of the United States must be commanded by a citizen of the United States. Any vessel whose officers are not citizens of the United States shall pay a tax of 50 cents per ton.

(b) All the licensed officers of vessels of the United States shall be citizens of the United States. All the officers of vessels of the United States who have charge of a watch, including pilots, shall be citizens of the United States. The word "officers" includes the chief engineer and each assistant engineer in charge of a watch on vessels propelled wholly or in part by steam.

(c) The following officers must be licensed by the local inspectors of the Bureau of Marine Inspection and Navigation, and licenses may not be lawfully issued to any but citizens of the United States.

1. Masters, chief mates, and second and third mates, if in charge of a watch, engineers and pilots of all steam vessels.

2. Masters and chief mates of sail vessels of over 700 gross tons.

3. Masters of all other vessels over 100 gross tons carrying passengers for hire.

4. Masters, mates, engineers, and pilots of seagoing motor propelled vessels of 300 gross tons or over.

(d) Where, on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United States, a vessel is for any reason deprived of the services of a watch officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel to any United States port, without incurring any penalty or penal tax.

(e) Masters and mates may be licensed as pilots also, but where the master of a steam vessel of over 150 gross tons is licensed as a pilot also, the license must be that of a first-class pilot.

63. *Application for certificate of award of number.*—(a) Applications for certificates of award of number must be made by the owner or master to the collector of customs in the district in which the owner resides. Upon the granting of the certificate of the award of number the certificate must be retained at all times on board the vessel for which it was granted and the number so awarded permanently affixed on each side of the bow of the craft.

(b) This law[64] does not amend section 14 of the Act of March 4, 1915, (46 U. S. C. 481), requiring the marking of lifeboats.

(c) All undocumented vessels coming within the purview of the act[64] that are equipped with permanently fixed engines must be numbered whether over or under 16 feet in length. The exception in section 1 in favor of "Vessels not exceeding 16 feet in length measured from end to end over the deck excluding sheer, temporarily equipped with detachable motors" is held to apply only to such boats as rowboats and canoes designed and intended for the use of oars or paddles as the ordinary means of propulsion. Boats designed for the use of detachable motors as the ordinary means of propulsion are held to be subject to the act even if not in excess of 16 feet in length.

64. *Enforcement of navigation laws.*—As soon as the collectors receive reports of violations of the navigation laws, they will immediately notify the offender of the penalty incurred, giving full details in each case. The offender shall also be notified by the collector of his privilege of applying to the Secretary of Commerce for relief from the penalties incurred. The application must be sworn to and sent to the collector of customs, and should contain all of the circumstances of the case. If there is a conflict between the statement of the reporting officer and that of the offender, the offender's statement will be submitted to the reporting officer for a further report. All of the papers will then be submitted to the Secretary of Commerce for action.

65. *Revocation of registry, enrollment, license, or numbering of vessels.*—While the law prescribes that the collector of customs may determine the evidence which he deems sufficient that such vessel is being used or is intended to be used illegally, it is the opinion of this Department that in order to secure uniformity and prevent injustice, the collector of customs, before revoking any existing document of a vessel, should present the charges filed with him to the owner of the vessel that he may have an opportunity to reply under oath thereto; except, that in cases before the collector of customs which are supported by evidence that is practically conclusive, and where immediate action is desirable, the collector would be justified in revoking, or in refusing to issue the documents of the vessel subject to an appeal by the owner to the Secretary of Commerce.

Any appeal to the Secretary of Commerce made pursuant to the law shall be in writing and must be sworn to before a notary public or other officer authorized by law to administer oaths generally, and filed in triplicate with the collector, who will retain one copy in his office. The owner should be permitted to submit with his appeal corroborative evidence in the form of affidavits from persons having actual knowledge in the premises, also, if he so desires, a description in detail and blueprints of the vessel. Such evidence, with two copies of the owner's appeal, should be promptly forwarded to this Department, together with the collector's report, which should present in detail the facts and evidence supporting his action, and also any additional comments he desires to make regarding any facts not before the collector at the time of his original action.

PART II—ENTRY OF VESSELS

1. *Boarding of vessels.*—(1) These regulations shall not apply to a passenger steamship of a regular line, but they shall apply to any other merchant vessel arriving from a foreign port or from a port in another great district (except from a port in an adjoining State) or from Porto Rico, Hawaii, or the Philippines.

(2) It shall not be lawful for any person, with or without the consent of the master, except a pilot, officer of the customs, health officer, agent of the vessel, or consul, to go on board of a vessel not in distress, arriving at any seaport of the United States, until the vessel has been properly inspected by the customs and quarantine officers, and placed in security by being brought to the dock or anchored at the point at which cargo is to be taken or discharged.

(3) It shall not be lawful for the master of any vessel, not in distress, arriving at any seaport of the United States, to allow any person or persons, except a pilot, officer of the customs, health officer, agent of the vessel, or consul, except as provided in regulation 5, to go on board of the vessel, until the vessel has been properly inspected by the customs and quarantine officers, and placed in security by being brought to the dock or anchored at the point at which cargo is to be taken or discharged. The keeper, runner, or any agent of a sailors' boarding house, or any person soliciting seamen for any purpose, shall not in any case be allowed to board any vessel until such dock or anchorage has been reached.

(4) It shall not be lawful for any person in charge of a tugboat, rowboat, or other vessel to come alongside and put any person, except as authorized by law or regulations, on board an incoming vessel heretofore described.

(5) The collector, or other chief officer of the customs, where there is no collector, upon application by the owner or agent of a vessel, is authorized to issue permits in special cases and on satisfactory grounds to persons, other than those above specified, to board such vessel, subject to the master's consent, after it has been properly inspected by customs and quarantine officers, and before it has been placed in security as above provided. In case of emergency, permits to board a vessel before it has been inspected may be issued; but any person to whom such permit may be granted shall be subject to customs and quarantine regulations.

[63] For statutory provisions, see R. S. 4131 as amended, 46 U. S. C. 221; R. S. 4219 as amended, 46 U. S. C. 121; R. S. 4438 as amended, 46 U. S. C. 224; R. S. 4440 as amended, 46 U. S. C. 228; R. S. 4443.

[64] The act requiring numbering and recording of undocumented vessels: 40 Stat. 602, as amended, 46 U. S. C. 288 and Sup. III 288.

In the case of vessels provided for by the act of 1882 (22 Stat. 186, 46 U. S. C. 151–162), permits shall be issued subject to the limitations provided in section 9 of that act. A permit shall not in any case be issued to the keeper, runner, or any agent of a sailors' boarding house or to any person soliciting seamen for any purpose.

(6) Upon boarding a vessel for customs or quarantine inspection the boarding officers will furnish a copy of these regulations to the master. Copies of the regulations may also be furnished to pilots and masters of tugboats with the request that they be supplied to the masters of incoming vessels in their charge.

(7) Officers boarding a vessel under authority of these regulations shall also ascertain whether any person has boarded the vessel in violation of law, and if so shall report the facts to the principal officer of the customs at the port.

(8) The Coast Guard is specially charged with the enforcement of these regulations, but any officer of the Government may report to the principal officer of the customs any violation of the regulations which comes to his knowledge.

(9) The principal officer of the customs shall report the facts to the United States attorney and also to the Department.

(10) The principal officer of the customs, or the officer commanding a Coast Guard cutter, or the principal officer of the Public Health Service at any seaport, when he deems it desirable and when it is practicable, may detail any person subject to his orders to remain on board a vessel to secure the enforcement of these regulations, until the vessel has been placed in security, as above provided. In the case of deep sea sailing vessels, such detail shall be made whenever practicable.

2. *Vessels not required to enter.*[66]

[66] Sec. 441 of the Tariff Act of 1930, as amended (46 Stat. 712, 19 U. S. C., Sup. III, 1441) reads as follows:

"*Vessels not required to enter.*—The following vessels shall not be required to make entry at the customhouse:

"(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade;

"(2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel shall be required to report such baggage and merchandise to the collector within twenty-four hours after arrival;

"(3) Yachts of fifteen gross tons or under not permitted by law to carry merchandise or passengers for hire and not visiting any hovering vessel, nor having at any time or, if forfeited to the United States or to a foreign government, at any time after forfeiture, become liable to seizure and forfeiture for any violation of the laws of the United States;

"(4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board; and

"(5) Tugs enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers when towing vessels which are required by law to enter and clear."

[66] Whenever, under any provision or provisions of any statute of the United States, it is made the duty of the masters of vessels to make entry and clearance of the same, it shall be lawful for such duties to be performed by any licensed deck officer or purser of such vessel; and when such duties are performed by a licensed deck officer or purser of the vessel, such acts will have the same force and effect as if performed by the masters of the vessels. However, the masters are not thereby relieved of the penalty or liability provided by any statute relating to the entry or clearance of vessels.

[67] See Part V, section 19.

3. *Report of arrival of vessels.*[68]—(a) The report of arrival required by sec. 433 of the Tariff Act, 1930 must be filed within 24 hours after the arrival.

(b) The report must be made in every case unless the vessel has been boarded by a duly authorized customs officer assigned for the purpose, or for the purpose of accepting preliminary entry.

(c) In the case of vessels described in paragraph 4 of section 441 of the Tariff Act, 1930, the report may be filed by either the master, owner, or agent, and shall be in the form and give the information required by that statute. (See art. 107, C. R. 1937.)

(d) Vessels may depart at the option of the master after report and before the expiration of 24 hours.

(e) Any person bringing in a derelict vessel may take the master's oath.

(f) In the case of car ferries falling within the purview of Sec. 441 (2) 46 Stat. 712 (Tariff Act of 1930); 19 U. S. C., Sup. III, 1441 (2), report shall be made as provided for in articles 107 (b) and 212, C. R. 1937.

(g) All penalties incurred by masters for failure to make report of arrival should be reported to the Secretary of Commerce, through the Bureau of Marine Inspection and Navigation, and all applications for relief should be addressed to that officer and sworn to before an officer authorized to administer oaths.

4. *Preliminary entry, nights, Sundays, holidays.*[69]—(a) Vessels in the foreign trade arriving for the sole purpose of taking on domestic cargo may be granted a permit for that purpose on customs Form 3171 when preliminary or formal entry of the vessel has been made. When the vessel is in ballast, or has no foreign residue cargo on board, or if the vessel has foreign residue cargo on board but has previously given bond at another port, no bond is required unless it is desired to have the vessel boarded at night or on a Sunday or holiday for the purpose of making preliminary entry, or overtime services of officers are required to supervise such lading, in which event an application therefor and bond should be required in accordance with paragraphs (e) and Art. 112 (e), C. R. 1937. Such vessels should not be cleared in any event until the provisions of articles 173, 174, 1305, and 1306 of C. R. 1937 have been complied with.

(b) The term "at night" shall include the hours from 5 p. m. of any day to 8 a. m. of the following day.

(c) The term "holidays" shall include only national holidays,[70] viz, January 1, February 22, May 30, July 4, and the first Monday in September, Thanksgiving day (when designated by the President), and December 25, and such other days as may be made national holidays.

(d) Services in connection with the entering of vessels, within the meaning of Sec. 451 of the Tariff Act 1930 (19 U. S. C. 1451) include the boarding of vessels for the purpose of preliminary entry thereof. Requests pursuant to this section of the Tariff Act shall be made in writing on customs Form 3853–A and the required bond shall be on customs Form 7567 or 7569. In the case of vessels belonging to an established line operating on a regular schedule, requests for services may be made monthly, provided the required term bond is on file.

(e) Bonds are not required for vessels of the United States Maritime Commission under its "Operating Agreement, 1935" and its "Temporary Operating Agreement, 1937."

5. *Entry of American vessels.*—(a) The oath on entry shall be on customs Form 3251.

(b) The master shall account for the ship's crew by the following indorsement on the crew list:

I, ----------, master of the ----------, do solemnly and truly swear that all of the above-named crew have returned with me in said vessel to this port except those who failed to join vessel before sailing and those noted below:

I further swear that those shipped after clearance as substitutes or otherwise, have all returned in the vessel except as otherwise stated.

----------,
Master.

Sworn to before me this ---------- day of ----------.

----------,
Deputy Collector.

(c) On entry the master shall also report to the collector the equipment purchased or the repairs made in the foreign country, making oath on customs Form 3415 or 3417, as the case may be.

(d) The master shall also present on entry the pratique issued by the United States Public Health Service on its Form 1940A or 1940B; and shall pay the tonnage taxes, the prescribed fees, and any penalties incurred.

(e) Vessels arriving under the condition set forth in Sec. 441 (4), 46 Stat. 712 (Tariff Act of 1930), 19 U. S. C., Sup. III, 1441 (4)[66] must make formal entry if the stay of the vessel in port is extended more than 24 hours. If said vessel arrives at a port other than that to which she is bound, the boarding officer or collector will endorse the facts on the inward manifest and notify the collector at the port of ultimate destination.

[68] Armistice Day a national holiday.

6. *Production of crew list and crew.*—(a) The master of every vessel of the United States returning from a foreign voyage or engaged in the whale fishery shall exhibit the certified copy of the list of the crew (shipping Form 710A) to the first boarding officer at the first port in the United States at which he arrives on his return, and also produce the persons named therein to the boarding officer, whose duty it shall be "to examine the men with such list" (commerce Form 1431) and to report the same to the collector.

(b) Boarding officers will also muster destitute American seamen, if any should be on board, in order to verify the consular certificates.

7. *Copy of crew list transmitted to port of original sailing, penalty for failure to produce member of crew.*—The collector at the port of arrival, if it is not the port from which the vessel originally sailed, will transmit a copy of the crew list so reported to him, or a certificate as prescribed by the Department of Commerce (commerce Form 1432), to the collector of the port from which such vessel originally sailed. For each failure to produce any person on the certified copy of the list of the crew, the master and owner are severally liable to a penalty of $400, but such penalties are not incurred on account of the master not producing to the first boarding officer any of the persons contained in the list who may have been discharged in a foreign country with the consent of the consular officer there residing, certified in writing, under his hand and official seal, to be produced to the collector with the other persons composing the crew, nor on account of any such person dying or absconding or being forcibly impressed into other service, of which satisfactory proof shall also be exhibited to the collector.

8. *Carriage of destitute seamen in United States vessels.*—(a) Masters of vessels of the United States, homeward bound, are required, under a penalty of $100 for each refusal, to receive on board, at the request of consular officers, any destitute seamen, and to carry them to the port of the vessel's destination, on the terms specified by law; but no vessel shall be obliged thus to transport, on one voyage, more than one such seaman for each 100 tons burden, nor to receive any person having a contagious disease. If any seaman be so carried who is unable to perform duty, the Comptroller General may allow an additional compensation to the vessel.

(b) On arrival of the vessel, the consular voucher for transportation (consular Form 24) must be presented, together with the seamen named therein, to the boarding officer or inspector of customs, who will certify thereon to the seaman's arrival, his physical condition, and whether service was performed on the voyage.

(c) This indorsement serves as a basis for the collector's official record and his further certification as to other facts required.

(d) The certificate, after certification by the collector, is to be returned to the agent of the vessel for forwarding to the Bureau of Accounts, Department of State, Washington, D. C., for final adjustment and payment of claim for the transportation of the seaman.

(e) The name of the seaman must appear on the vessel's manifest and the passenger list filed on entry of the vessel.

9. *Entry of foreign vessels.*[70]—(a) The master of any such vessel shall exhibit his register to the collector on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the collector the certificate provided by law. If not delivered to the consul, the register must be deposited in the customhouse.

10. *Record of entrance and clearance of vessels.*—Permanent records will be kept at every customhouse of the entrance and clearance of vessels, foreign (commerce Form 1404) and coastwise (commerce Form 1405), and shall be open to public inspection.

11. *Simultaneous vessel transactions or movements.*—(a) Vessels may move between coastwise ports engaged in several transactions or movements simultaneously, i. e.:

(1) To discharge residue cargo or passengers for domestic ports, under article 150, C. R. 1937.

(2) With foreign cargo destined for foreign ports, to be retained on board under article 151, C. R. 1937.

(3) To lade domestic cargo for foreign ports, via another domestic port, under article 183, C. R. 1937.

(4) American vessel on a coastwise voyage, under article 198, C. R. 1937.

(5) American vessel to a port in noncontiguous United States territory, under article 199 (a), C. R. 1937.

(6) American vessel on an intercoastal voyage, under article 199 (b), C. R. 1937.

(b) In all cases care should be exercised to indicate all the movements of the vessels on commerce Form 1385.

[66] Sec. 1441 (4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores, or ship's stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board.

[70] See section 5 (e).

(c) A vessel with foreign cargo destined for several domestic ports, and for a foreign port or ports, will proceed from domestic port to domestic port on commerce Form 1385, and foreign clearance will be granted at the last domestic port.

(d) Any vessel proceeding from port to port with residue cargo may also lade cargo at each port for export, as outlined in article 183, C. R. 1937, and the manifest and statistical requirements should be met at each port. American vessels only, so proceeding, may lade cargo for delivery at coastwise, intercoastal, or noncontiguous American ports.

(e) The inward foreign voyage will be completed at port of final discharge. The outward foreign voyage begins at the port where cargo was first laden for export.

(f) Where a vessel is engaged in simultaneous transactions or movements, but one fee should be exacted.

PART III—TONNAGE DUTY AND LIGHT MONEY

1. *Tonnage duty or tax.*—(a) Tonnage duty accrues on the entry of all vessels from foreign ports, except vessels in distress or not engaged in trade. It should be imposed on the net tonnage given in a vessel's certificate of registry or other national paper, except where the tonnage is manifestly wrong or where the net tonnage has been changed by an appendix attached to the document, showing a tonnage ascertained under the so-called British rules or those of a foreign country which have been accepted as substantially in accord with the American rules, in which case the date of such change should be noted in the records.

(b) A tonnage duty of 2 cents per net ton, not to exceed in the aggregate 10 cents per net ton in any one year, is imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, Newfoundland, or the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), and a duty of 6 cents per net ton not to exceed 30 cents per net ton per annum, is imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port.

(c) The tonnage year is to be computed from the date of the first payment without regard to its rate, and expires on the day preceding the corresponding date of the following year. There may be five payments at the maximum (6 cent) and five at the minimum (2 cent) rate during a tonnage year, but there should not be more than five at the same rate. The maximum assessment of tonnage duty may, therefore, amount to 40 cents per net ton for the tonnage year of vessels engaged in alternating trade. Tonnage duty will be suspended, in whole or in part, whenever the President, by proclamation, shall so direct.

(d) Tonnage tax should be imposed at 6 cents per net ton on a regularly documented foreign vessel entering from the Philippine Islands, and reported under "Philippine Islands Fund."

(e) Tonnage tax and fees should be imposed on a vessel which enters a port of the United States from a foreign country in ballast either through the Canal Zone or direct.

(f) Tonnage tax should be imposed on a vessel which enters a port of the United States for orders.

2. *Exemptions from tonnage duty.*[11]—Tonnage tax shall not be imposed on—

(1) Vessels arriving in distress, even when required to enter.

(2) Vessels not engaged in trade—

(a) Vessels of war; public vessels employed for the conveyance of letters and dispatches, and vessels carrying fuel for war vessels, if they do not carry passengers or merchandise in trade.

(b) Yachts and other pleasure vessels, if they do not carry passengers or merchandise in trade.

(c) Vessels coming in for bunkers (fuel or water for the vessel), sea stores, or ship's stores. If such vessels remain more than 24 hours, their masters must make entry, but tonnage tax should not be imposed unless cargo or passengers are taken on or landed, or other acts done which usually require payment of tax.

(d) Vessels engaged exclusively in scientific activities.

(e) Vessels engaged exclusively in laying or repairing cables.

(f) Vessels engaged in whaling or other fisheries, even though they may have entered a foreign port for fuel or supplies, if they did not carry passengers or merchandise in trade.

(3) Passenger vessels making three trips or more a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise.

(4) Tugs enrolled and licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers (Great Lakes) when towing vessels which are required by law to enter and clear.

(5) Vessels which enter otherwise than by sea (Great Lakes) from a foreign port at which tonnage or lighthouse dues or other equivalent tax or taxes are not imposed on vessels of the United States, shall be exempt from the tonnage duty of 2 cents per ton.

(6) Vessels owned by citizens of the Philippine Islands and documented by the Philippine Government, and American vessels coming direct from these islands.

(7) Vessels entering direct from the Virgin Islands of the United States, the Canal Zone, the United States Naval station at Guatanamo (Cuba), American Samoa, or the islands of Guam and Wake.

(b) In case of vessels making regular daily trips between any port of the United States and any port in the Dominion of Canada wholly upon interior waters not navigable to the ocean, no tonnage or clearance fees shall be charged against such vessels by the officers of the United States except upon the first clearing of such vessels in each year.

3. *Light money.*—A duty of 50 cents per ton, to be denominated "light money", shall be levied and collected on all vessels not of the United States, which may enter the ports of the United States. Such light money shall be levied and collected in the same manner and under the same regulations as the tonnage duties: Provided, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States, nor for a vessel owned by a citizen or citizens of the Philippine Islands when documented by the Government of said islands.

4. *Rates of tonnage duty.*—(a) The following table shows the rates of tonnage duty and "light money" to which the several classes of vessels are liable:

Classes of vessels	Under what law	Rate per net ton
Vessels of the United States:		
1. Whose officers are citizens[1]	Act of Aug. 5, 1909, sec. 36	$0.02 or $0.06
And, in addition, if any officer is not a citizen	R. S. 4219	.50
Vessels not of the United States:		
1. Not built in the United States, but belonging to citizens thereof, and provided with sea letters or other customhouse documents proving the vessels to be American property. (See sec. 4220, R. S.)[2]	Act of Aug. 5, 1909, sec. 36	02 or .06
	R. S. 4219	.50
And, in addition, if the owner or master refuses to take the oath required by section 4226, R. S.	R. S., 4225, "Light money"	.50
2. Vessels not of the United States	(When under treaty and proclamation, the same as vessels of the United States.)	.02 or .06
3. Belonging wholly or in part to subjects of foreign powers, and not having privileges under treaties and proclamations:		
(a) Built in the United States, etc.	Act of Aug. 5, 1909, sec. 30	.02 or .06
	R. S. 4219	.30
	R. S. 4225, "light money"	.50
(b) Not built in the United States	Act of Aug. 5, 1909, sec. 36	.02 or .06
	R. S. 4219	.50
	R. S. 4225, "light money"	.50
(c) Wherever built, which enter from a foreign port or place where vessels of the United States are not ordinarily permitted to enter and trade (to be collected on each entry from such port or place).	Act of Aug. 5, 1909, sec. 36	.02 or .06
	R. S. 4219	2.00
	R. S. 4225, "light money"	.50
4. Without documents—		
(a) Built in the United States, etc. (the same as vessels of class 3a).	Act of Aug. 5, 1909, sec. 36	.02 or .06
	R. S. 4219	.30
	R. S. 4225, "light money"	.50
(b) Not built in the United States (the same as vessels of class 3b).	Act of Aug. 5, 1909, sec. 36	.02 or .06
	R. S. 4219	.50
	R. S. 4225, "light money"	.50

[1] The duty prescribed by R. S. 4219 is not to be collected provided the vessel is registered under the act of Aug. 18, 1914.

[2] The duty prescribed by R. S. 4219 and 4225 on a vessel owned by a citizen of the United States is not to be collected provided the vessel after entering an American port shall, before leaving, be registered as a vessel of the United States.

(b) Foreign-built yachts owned or chartered by American citizens the title to which was acquired subsequent to February 5, 1897, are subject to tonnage tax on entry from foreign ports under section 4219, Revised Statutes (U. S. Code, title 46, sec. 121), and light money under section 4225, Revised Statutes (U. S. Code, title 46, sec. 128), unless exempted from the latter by section 4226, Revised Statutes (U. S. Code, title 46, sec. 129). An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under section 4225, Revised Statutes, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

(c) The decision of the Director of Marine Inspection and Navigation is final on all questions of interpretation relating to the collection of tonnage tax and to the refund of such tax when collected erroneously or illegally, and collectors should, when in doubt, refer questions for his consideration and instructions.

5. *Certificate of payment.*—A certificate on Commerce Form 1002 will be issued by collectors to every master showing the date and number of each and every payment made by him during the tonnage year, which will constitute the official evidence of such payments. In the absence of such certificate, evidence of payment of tonnage duty must be obtained from the Director of Marine Inspection and Navigation.

6. *Application for refund of tonnage duty.*—(a) On account of the expense and difficulty of obtaining a refund of money excessively or erroneously collected, customs officers are instructed to

[11] For statutory provisions see Sec. 441, 46 Stat. 712, 19 U. S. C. Sup. III 1441; R. S. 4220, 46 U. S. C. 122; R. S. 4214, 46 U. S. C. 103; R. S. 2792, 46 U. S. C. 124; 36 Stat. 234, 46 U. S. C. 132; Sec. 2, 35 Stat. 70, 46 U. S. C. 127; Sec. 1, 39 Stat. 286; 46 U. S. C. 130; R. S. 4221, 46 U. S. C. 113 and 125.

place in special deposit, if such course is practicable, money collected under protest or where there is reason to believe that application for refund will be made immediately.

(b) If, however, it is found necessary to deposit collections to the credit of the Treasurer of the United States on account of fiscal regulations, or for any other reason, and refund is asked, collectors may notify the payor to prepare an application requesting refund of the amount which he alleges was excessively or erroneously collected. In the preparation of this application the following instructions will be observed:

(1) The application must be in duplicate, each signed, addressed to the Director of Marine Inspection and Navigation, and submitted through the collector of customs.

(2) It must be a direct request for the refund of a definite sum, showing concisely the reasons therefor, the nationality, rig, and name of the vessel, and the date, place, and amount of each payment for which refund is asked. A protest against a payment will not be accepted as an application for its refund.

(3) It must be made within 1 year from date of the payment. A protest against a payment will not alone be sufficient to bring a claim within the statute.

(4) The application and its duplicate should be forwarded to the Director of Marine Inspection and Navigation by the collector of customs after all statements which are of record in his district have been verified, and with such comments as he may choose to make.

(5) A certified statement, also in duplicate (commerce Form 1086), should be carefully prepared and forwarded to the Director of Marine Inspection and Navigation after the collector has been so authorized. In preparing this statement the collector should bear in mind that it must be signed by the owner or charterer of the vessel, whose name and address must be given in every instance as the payee, even when the money to be refunded had been paid by an agent or representative, as the Comptroller General has held that such payer must look to his principal for repayment.

7. *Vessels in the domestic trade.*[12]—(a) Tonnage duty accrues generally on the arrival at any port of the United States of any registered vessel which, while bound on a voyage from one domestic port to another, has entered at any foreign port, unless such entrance was made in distress or only for bunker coal or fuel oil.

(b) Vessels enrolled and licensed for trade in the waters of the northern frontiers, entering direct from a foreign port, must pay tonnage tax, except as otherwise directed; but if such vessels clear from a port in one collection district for a port in another collection district and complete the voyage to the port of destination, they are not required to pay tonnage tax, although during the voyage they may touch at intermediate foreign ports and receive on board dutiable goods.

(c) Foreign steam tugs employed in towing coastwise vessels are liable to pay 50 cents per ton on the measurement of the vessel towed unless the towing is done in whole or in part within or upon foreign waters or when the tugboat is owned by a foreign railway company whose cars enter into the United States by means of such transportation.

8. *Alien officers on vessels of the United States.*[13]—There will be collected from every vessel of the United States of which an alien shall be an officer a duty of 50 cents per ton, unless such alien shall have supplied a vacancy occurring during a foreign voyage or a voyage between Atlantic and Pacific ports, in any place below the rank of master; but such alien shall not act as officer after the return of the vessel to any United States port. In all such cases the collector will report the facts to the Secretary of Commerce for instructions before imposing the duty.

PART IV—CARRIAGE OF PASSENGERS

1. *Passenger vessels, restrictions, penalties.*—(a) A passenger, within the meaning of the steamboat inspection laws, is any person carried who is not connected with the vessel, her navigation, ownership, or business.

(b) Passenger vessels of the United States or United States vessels carrying passengers are subject to all the provisions of the laws governing the manning and inspection and equipment of vessels.

(c) It shall not be lawful to take on board of any vessel a greater number of passengers than is stated in the certificate of inspection.

(d) Foreign vessels carrying steerage passengers are subject to the provisions of the Passenger Act of 1882, and such vessels carrying passengers (cabin and steerage) from the United States are also subject to some of the inspection laws of the United States.

(e) Cargo vessels of the United States may carry not to exceed 16 persons in addition to the crew, provided the laws, rules, and regulations respecting life-saving equipment, lifeboat accommodations, radio laws, etc., are complied with and the persons to be carried have been notified of the presence on board of any dangerous articles or of any condition or circumstances which would constitute a risk of safety for passengers or crew."[14] (See art. 168, C. R. 1937.)

(f) This privilege is extended in so far as the foreign trade is concerned to the cargo vessels of any nation which allows the like privilege to cargo vessels of the United States in trades not restricted to vessels under its own flag.

(g) The master will be required to make oath on commerce Form 1375 or 1376 as to the number of such persons he proposes to carry.

(h) A vessel carrying passengers to and from a foreign country should be furnished with the same customs and navigation forms as a vessel carrying cargo, e. g., a vessel taking passengers at an American port for a foreign destination, intending to stop at another domestic port en route, should be cleared under article 183, C. R. 1937 on a permit to proceed coastwise to lade for a foreign port (commerce Form 1385), and inbound passenger vessels should be treated in the same manner under articles 149 and 150, C. R. 1937 (commerce Form 1385).

(i) Collectors do not certify the legal capacity of vessels for the carriage of passengers, except as prescribed in the Passenger Act of August 2, 1882.

(j) The inspectors of steam vessels issue to steamers for excursion trips a special permit in which is stated the number of passengers that may be carried and the number and kind of life-saving appliances to be provided for their safety, and also, in their discretion, limit the route for such excursions. (Commerce Form 1463.)

(k) Any vessel and the owner and master thereof carrying more passengers than are permitted, or failing to have on board the number and kind of life-saving appliances prescribed by the inspectors of steam vessels, will be subject to the penalties prescribed therefor in chapter 2 of title 52 of the Revised Stat-

[12] For statutory provisions see R. S. 2793, 4221, 46 U. S. C. 111, 123 and 125; R. S. 4370, 46 U. S. C. 316.

[13] For statutory provisions see R. S. 4219, 46 U. S. C. 121; and R. S. 4131, 46 U. S. C. 221.

[14] Statutory provision is found in Sec. 26, Merchant Marine Act of 1920, 41 Stat. 998, 46 U. S. C. 882. The International Convention for the Safety of Life at Sea 1929, defines a passenger ship to be "A ship is a passenger ship if it carries more than 12 passengers." The Bureau of Marine Inspection and Navigation in Circular Letter ≠179, Nov. 3, 1937, held that the provision in Sec. 26, Merchant Marine Act, 1920, requiring that when any cargo vessel as defined therein, carries persons other than members of the crew, the owner, agent, or master must first notify such persons of the presence on board of any dangerous articles as defined by law, as well as of any other condition or circumstance which would constitute a risk of safety for passengers or crew, is also applicable to cargo vessels carrying not more than 12 passengers when engaged on international voyages.

The Bureau in Circular Letter ≠191 January 5, 1938, further held that "The only cargo vessels to which section 26 of the Merchant Marine Act of 1920 applies, authorizing 16 persons to be carried in addition to the crew, are those engaged in voyages from a port within the United States to another point within the United States except cargo vessels engaged in intercoastal voyages."

utes, as amended (46 U. S. C., Chapter 15).

2. *Masters in foreign trade must deliver, with manifest, list of passengers.*—The master of every vessel arriving at a port of the United States from any foreign place (ports and places in territory contiguous to the United States excepted) shall submit for inspection to the officer of customs who first makes demand therefor, and shall subsequently deliver, with his manifest of cargo on entry, a correct list (commerce Form 1440), signed and verified on oath by the master, of all passengers taken on board the vessel at any foreign port or place, specifying the name of each passenger, age (if a child of 8 years or under), sex, married or single, location of compartment or space occupied during the voyage (if the passenger be other than a cabin passenger), whether a citizen of the United States, number of pieces of baggage, and if any passenger die on the voyage the list shall specify the manner, age, and cause of death of each deceased passenger. For a violation of this law the master will be liable to a fine of $1,000.

3. *Requirements for the carriage of steerage passengers.*—It shall not be lawful for the master of any vessel whereon steerage passengers have been taken at any port or place in a foreign country or dominion (ports and places in foreign territory contiguous to the United States excepted) to bring such vessel and passengers to or take them from any port or place in the United States, unless the compartments, spaces, and accommodations prescribed by the Passenger Act of 1882 (U. S. Code, title 46, secs. 151–162) have been provided, allotted, maintained and used for and by such passengers, during the entire voyage, unobstructed by cargo, stores, or goods.

4. *Examination of vessels with steerage passengers.*—The collector, or the surveyor where there is one, of the port at which any vessel carrying steerage passengers arrives shall direct an officer to make an examination of the vessel, and to admeasure the compartments or spaces occupied by passengers other than cabin passengers during the voyage; and such admeasurement shall be made in the manner provided by law for admeasuring vessels for tonnage; and to compare the number of passengers found on board with the list of passengers (commerce Form 1440) furnished by the master to the collector; and the officer will make a report on commerce Forms 1461 and 1462 to the surveyor, if there be one, by whom it will be forwarded to the collector at the end of each month. The collector will transmit it to the Secretary of Commerce.

5. *Deaths of passengers.*—(a) The master, owner, or consignee of any vessel bringing steerage passengers from a foreign country, except foreign territory contiguous to the United States, must, under a penalty of $50, pay to the collector, within 24 hours after entry, $10 for every death by natural disease occurring during the voyage on board his vessel among such passengers over 8 years of age. (Commerce Forms 1461 and 1462.)

(b) The money so collected is to be deposited to the credit of the United States subject to the directions of the Secretary of the Treasury.

(c) The voyage referred to in this section terminates with the arrival of the vessel within a collection district.

6. *Copies of law to be on board.*—Vessels propelled in whole or in part by steam, carrying passengers, must have on board two copies of title 52 of the Revised Statutes entitled "Regulations of steam vessels," (Laws governing Marine Inspection) which will be furnished by the department through steamboat inspectors, upon application. A master who neglects to have said copies on board, or who unreasonably refuses to exhibit them to a passenger, becomes liable to a fine of $20.

PART V—FOREIGN CLEARANCES

1. *Requirements of clearance.*—(a) A vessel bound for foreign port or ports must be cleared for definite port or ports in the order of its itinerary, but an application to clear for a port of place "for orders" (instructions to masters as to destination of vessel) may be acted upon favorably if the cargo is to be discharged in a port of the same country as the port to which the vessel is to be cleared.

(b) In the event that departure is delayed beyond the second day after clearance the fact of detention should be noted on the certificate of clearance and on the official record of clearance. If, after clearance, the proposed voyage is canceled, the reason therefor should be reported in writing and the certificate of clearance surrendered.

(c) Collectors may permit vessels to proceed to sea to adjust compasses, try out new machinery, clean tanks, etc., without requiring formal clearance, but the provisions of the oil pollution act must be strictly complied with.

(d) A new vessel built in the United States for foreign account should be cleared under a certificate of record (commerce Form 1316), and a shipper's export declaration must be furnished by the agents or prepared by the collector for statistical purposes.

(e) A shipper's export declaration should likewise be furnished for an American vessel sold foreign upon her first departure from the United States.

(f) Before a clearance certificate (commerce Form 1378) is issued to a vessel bound to a foreign port collectors will verify the compliance with the following requirements as set forth in the succeeding articles:

(1) Accounting for inward cargo.
(2) Verifying nationality and tonnage.
(3) Verification of inspection.
(4) Cattle-carrying vessels.
(5) Meat and meat food products—inedible fats.
(6) Fumigation.
(7) Radio apparatus and operators on steamers.
(8) Outward foreign manifests.
(9) Shippers' export declarations.
(10) Vessel properly documented for foreign trade.
(11) Crew list, certified copy of.
(12) Shipping articles and enforcement of seamen's act.
(13) Observance of neutrality—Exportation of arms and munitions.
(14) Inspection and fees under State laws.
(15) Port sanitary statements.
(16) Record of clearance of vessels—Record of manifest.
(17) Foreign vessels proceeding coastwise.
(18) Vessels clearing foreign via domestic ports.
(19) Clearance fees.
(20) Carriage of United States securities.
(21) Carriage of mail matter.
(22) Medicine and slop chest requirement.
(23) Load line regulations.

2. *Accounting for inward cargo.*—Inward cargo discrepancies must be accounted for and adjusted by post-entry, affidavit, or both, but the vessel may be cleared and the adjustment deferred if the discharging officer's return has not been received.

3. *Verifying nationality and tonnage.*—Nationality and tonnage of a vessel should be verified by production of the certificate of registry or other national papers. If these documents are not submitted when tonnage tax is imposed and it is afterward found that the amount collected was too small, additional tax should be collected, and a separate tonnage tax receipt should be given.

4. *Verification of inspection.*—(a) Collectors will ascertain whether the certificate of inspection, as provided for in article 90, C. R. 1937, is still in force.

(b) Masters of all vessels required to be inspected, clearing without passengers, are required to make oath to that effect, as prescribed in commerce Form 1376.

(c) An application to carry persons on cargo vessels in addition to the crew should be made in time to permit an inspection for the purpose of ascertaining whether or not the vessel's life saving equipment is sufficient for the entire company.

(d) When a permit is issued for a certain number of such persons it will not be necessary to renew the application or the permit for successive voyages so long as it remains in force unless it is desired to carry a greater number up to the limit of 12, when the vessel must be again visited. If the vessel is found to be equipped with life saving appliances sufficient for the additional number of persons, a permit may be issued therefor.

(e) The master on clearance should be required to subscribe to commerce Form 1375.

5. *Cattle-carrying vessels.*—The Bureau of Animal Industry, Department of Agriculture, inspects animals for export and notice of the inspection must be filed for vessels carrying horses, mules, asses, cattle, sheep, swine, goats, and live domestic poultry.

6. *Meat and meat-food products, inedible fats.*—(a) All meat and meat-food products except ship stores and small quantities exclusively for the personal use of the consignee and not for sale or for distribution, when shipped to Great Britain or Ireland or any of the countries of continental Europe or to Canada, Venezuela, Argentina, Peru, Colombia, Japan, Cuba, Algeria, or the French Antilles shall be accompanied by export meat-inspection certificates issued by the United States Department of Agriculture. Export meat-inspection certificates are not required for meat and meat-food products exported to countries other than those named.

(b) The duplicate copies of export meat-inspection certificates are required to be delivered by the shipper to the agent of the railroad or other carrier which transports the consignment from the United States otherwise than by water or to the chief officer of the vessel on which the export shipment is made. The chief officer of the vessel shall file such duplicate with the United States customs officer at the time of filing the master's manifest or the supplemental manifest. No clearance shall be given to vessels containing meat and meat-food products destined to the countries named unless the meat and meat-food products are accompanied by export meat-inspection certificates handled as indicated.

(c) No tallow, stearin, oleo oil, or other rendered fat derived from cattle, sheep, swine, or goats that has not been inspected, passed, and marked by the United States Department of Agriculture shall be exported unless the shipper files with the collector of customs at the port from which the export shipment is made an affidavit by the exporter on his export declaration that such article is inedible.

7. *Fumigation.*—(a) Proof should be required that the vessel has been fumigated if same was ordered by the Public Health Service.

(b) In instances where the quarantine officer remands a vessel to another American port for fumigation, a notation "this vessel to be fumigated at the next United States port" must be placed on the face of the permit to proceed.

8. *Radio apparatus and operators on steamers.*[1]

9. *Outward foreign manifest.*—(a) Before or at the time of clearing for a foreign port the master should file with the collector a manifest (commerce Form 1374) of the complete lading of the vessel, but if that be impracticable collectors are authorized to grant clearance on an application on customs Form 7301 and execution of the bond on this form and the filing of a manifest of a few items of merchandise, preferably cargo, upon which advance statistical reports are published.

(b) Bonds are not required for vessels of the United States Maritime Commission under the United States Maritime Commission's "Operating Agreement 1935" and its "Temporary Operating Agreement 1937."

(c) When a vessel with meat or meat food products as cargo clears for ports in Great Britain or Ireland or any of the countries of continental Europe, or to Canada, Venezuela, Argentina, Peru, Colombia, Japan, Cuba, Algeria or the French Antilles, the master should be required to file an affidavit as follows:

I, _____, do solemnly, sincerely, and truly swear that I am the master of the steamship or vessel called the _____, for which clearance is this day requested, and that no meat or meat food products, as defined and classified by the Department of Agriculture, are or will be included in the cargo of the said steamship or vessel, unless such meat or meat food products are duly marked "U. S. Inspected and Passed," and that the certificates covering the same, required by the regulations of the Bureau of Animal Industry, Department of Agriculture, known as Regulation 25 of B. A. I. Order No. 211, have been obtained from the Department of Agriculture and are herewith filed with the master's manifest, or will hereafter be filed with the supplemental manifest of the cargo of said steamship or vessel.

_____,
Master.

Subscribed and sworn to before me this _____ day of _____, 19____.

_____,
Deputy Collector.

(d) The certificate of clearance (commerce Form 1378) granted by a collector for a vessel and its cargo need not specify the particulars thereof, unless required by the master or other person in charge or command of the vessel.

(e) The complete manifests, together with the duplicate shippers' export declarations, must be filed within four days after clearance of vessels, and when received should be numbered consecutively. The customhouse number of the shippers' export declaration for each item of lading must be indicated and the manifests verified by comparison with the shippers' export declarations to verify completeness. Therefore, agents should not accept merchandise for shipment unless accompanied by shippers' export declarations.

(f) Copies of outward manifests will be certified on request at 20 cents per copy.

(g) The following oath must be taken by agent filing final manifest:

I, _____, attorney for the agent of the _____ which cleared from this port _____, do truly swear to the best of my knowledge and belief that the within manifest is a true statement of all the goods, wares, and merchandise laden on board said vessel and that the values of the separate items are as stated in the shipper's export declarations, duplicates of which are filed herewith.

_____

Sworn to before me this _____ day of _____.

_____,
Deputy Collector.

10. *Shippers' export declarations.*—(a) The shippers and consignors of merchandise should deliver to the collector, before clearance of the exporting vessel is granted, verified declarations in duplicate, on customs Forms 7525, of the portions of the cargo to be shipped by them. The declarations may be verified on oath before the collector, his representative, or before notaries public or other persons authorized by law to administer oaths.

(b) On presentation the declarations should be scrutinized carefully to insure compliance with the requirement that the merchandise be correctly described, that the quantities be given in the units called for by the statistical schedule, and that values be correctly stated.

(c) When the declarations are accepted they should be numbered, the duplicates returned to the shippers for delivery with merchandise to the steamship company, and the originals filed in numerical order. (See art. 1261 et seq. C. R. 1937 for preparation of shipper's export declarations.)

11. *Vessels properly documented for foreign trade.*—(a) Vessels of the United States in the foreign trade must be documented therefor before being cleared for a foreign port and are required to operate under a certificate of registry. (Commerce Form 1265.) A vessel is in the foreign trade as soon as cargo is laden for a foreign port, whether sailing foreign direct, or via a domestic port or ports.

(b) Every enrolled or licensed vessel, unless enrolled and licensed for the coasting and foreign trade on the northern, northeastern, and northwestern frontiers otherwise than by sea, commerce Form 1273, which proceeds on a foreign voyage without being registered is liable to seizure and forfeiture, together with her tackle, apparel, and furniture, and the merchandise so imported therein.

(c) Vessels may engage in trade with and transit the Canal Zone under enrollment and license.

12. *Crew list, certified copy of.*—Crew lists must be filed at the port of final departure for vessels of the United States clearing for foreign ports or engaged in the whale fishery. A vessel's crew list (commerce—shipping service Form 710A) must contain the names, places of birth, and residence, and personal description of the ship's company, and the names and addresses of their next of kin, to which list the oath of the master shall be annexed that the statements are correct as far as he can ascertain them. The list must be presented in duplicate without erasure or interlineation, and the collector shall certify one copy and deliver it to the master,

[1] See Rules Governing Ship's Services, Rules and Regulations, Federal Communications Commission.

who shall surrender the list and account for the persons named therein to the collector at the first port in the United States touched at on the return voyage.

13. *Shipping articles and enforcement of seamen's act.*—(a) Shipping articles (commerce—shipping service Form 705a) in triplicate must be presented at the port of final departure for every vessel of the United States bound to a foreign port, or for any such vessel of 75 tons or upward bound from a port on the Atlantic to a port on the Pacific, or vice versa, and the collector will certify (commerce Form 1455) the triplicates of the articles before a clearance is granted.

(b) These articles of agreement shall be entered into before a United States shipping commissioner if such an officer is at the port or before the collector who is authorized to act at any port in which no shipping commissioner shall have been appointed.

If any seaman, who is required to sign articles in the presence of a shipping commissioner (except as provided in R. S. 4503, 46 U. S. C. 543), is signed on articles without the presence of a shipping commissioner, the statutory penalty prescribed by R. S. 4514, 46 U. S. C. 567, will be incurred. However, replacements occasioned by desertion or casualty (R. S. 4516, 46 U. S. C. 569) may be reported to the United States Consul at the first port at which the vessel may arrive. If such action be taken, no penalty is incurred.

(c) The masters of vessels of the United States engaged in trade between the United States and British North America, or the West Indies or Mexico, or of vessels engaged in the coastwise trade, or lake-going vessels that touch at foreign ports, or of vessels where the seamen are by agreement entitled to share in the profits of voyage, are, however, not required to enter into agreements with their seamen before a United States shipping commissioner unless they so desire. They shall, however, obtain a copy of the shipping articles certified by the collector on commerce Form 1435 when bound on any foreign voyage, other than on foreign voyages enumerated in this subsection.

(d) The Seamen's Act of March 4, 1915, provides that no clearance shall be granted any American or foreign vessel until the requirements of section 11, 38 Stat. 1168, 46 U. S. C. 599, respecting advances and allotments of wages, and also provides that no clearance shall be granted any American vessel until the requirements of section 13, 38 Stat. 1169, 46 U. S. C. 672, regarding the language test and number of able seamen have been complied with but the requirements of section 11, 38 Stat. 1168, 46 U. S. C. 599, apply to foreign vessels only when American seamen are shipped at American ports.

(e) When an American vessel, clearing foreign and subject to the Act, applies for clearance, the collector shall examine the shipping articles (commerce—shipping service Form 705a) and satisfy himself that they carry notations of allotments of wages, if any, and that the vessel has as members of its unlicensed deck crew the required percentage of able seamen, i. e., 65 percent of the deck crew must be of a rating not less than Able Seaman.

(f) Collectors are authorized to accept consuls' certificates that there have been no advances of wages to or for the account of persons signed on in port as members of crews of foreign vessels, nor allotments to any one other than the relatives specified in the Act.

(g) A statement as follows, should be made a part of the outward manifest sworn to by the master, of all vessels, American and foreign, clearing for foreign ports:

I, ----------, master of the within-named vessel do certify that to the best of my knowledge and belief the provisions of the Seamen's Act of March 4, 1915, as amended, have been fully complied with.

----------,
Master.

(h) A collector may, upon his own motion, and shall, upon sworn information of any reputable citizen filed at least 6 hours before a vessel of the United States departs or is scheduled to depart, cause a muster of the crew to determine whether 75 per cent of the crew can understand any order given by the officers of such vessel and if 65 per cent of her deck crew, exclusive of licensed officers and apprentices, are of a rating not less than able seamen.

13A. *Port sanitary statements.*—(a) Port sanitary statements, United States Public Health Service Form 1964, are issued by medical officers of the United States Public Health Service to vessels departing from United States Ports.

(b) At ports where Public Health Service officers are not available, the port sanitary statements will be issued by collectors of customs.

14. *Record of clearance of vessels, record of manifest.*—Records of clearance of vessels and outward manifests shall be made in accordance with article 125, C. R. 1937.

15. *Foreign vessels proceeding coastwise.*—(a) A foreign vessel can not, without incurring a penalty, carry merchandise or passengers from point to point or from port to port in the United States, or for any part of the voyage even though the voyage may be temporarily broken by a clearance for a foreign port and arrival there.

(b) A foreign vessel may, however, proceed from one domestic port to another domestic port in ballast, and should be cleared as follows: Subdivisions (4) and (5) on the reverse side of commerce Form 1385 in duplicate should be used. The original should be filed by the collector issuing the permit to proceed and the copy delivered to the master on which to enter at the next port. Upon arrival at destination the vessel should be entered by making use of the entrance oath subdivision (6) provided on this form. Such movements should be recorded as foreign transactions. A foreign vessel may also proceed from port to port in the United States for the purpose of unlading foreign cargo and/or passengers (art. 150, C. R. 1937), retaining foreign cargo on board (art. 151, C. R. 1937), and/or loading domestic cargo for foreign ports (art. 183, C. R. 1937). Such movements should be recorded as foreign transactions.

If a vessel, bound and cleared from one domestic port to another domestic port is diverted by radio while enroute to a port other than that to which cleared and specified in the permit, the operators should immediately notify the chief officer of customs at the port of clearance of such diversion who should in turn at the expense of the operator notify the chief officer of customs at the port to which the vessel had been diverted. This notification may be accepted as a supplemental permit to proceed to the port to which diverted and should be filed with the entry.

(c) The transportation of passengers by foreign vessels from a port in the United States through domestic and foreign waters, sometimes touching at a foreign port and returning them to the port of departure, is not in violation of the first paragraph of this section.

(d) Foreign vessels can not engage in the American fisheries.

(e) It has been held that the coastwise laws have not been extended to the Canal Zone, and consequently foreign vessels may engage in trade therewith.

16. *Vessels clearing foreign via domestic ports.*—(a) Any vessel may proceed from port to port to lade cargo for export and/or take passengers for foreign ports. When merchandise is to be laden at several ports the vessel should be cleared at the first port for the foreign port or ports of destination via the domestic port or ports on manifest (commerce Form 1374), in duplicate, itemizing the entire cargo laden at that port. Such movements should be recorded as foreign transactions.

(b) The procedure regarding incomplete manifests outlined in article 173, C. R. 1937, may be followed.

(c) The oath on the reverse side need not be executed, but a permit to proceed (commerce Form 1385) should be attached to each copy of the manifest and one copy given to the master to be used in entering his vessel at the next port of lading and the original copy filed. The shipper's export declarations for the cargo laden at each port should be filed thereat.

(d) On arrival at the second domestic port the master will enter his vessel within 24 hours by making oath on commerce Form 1385 and filing the manifest and permit issued at the first port. This procedure should be followed at all intermediate ports and collectors should specify on outward manifests the domestic ports at which cargo was laden for export. In case of a diversion by radio to a port other than that cleared for, the procedure provided for in sec. 15 (b) should be followed.

(e) The direct foreign clearance of the vessel on commerce Form 1378 will be granted at the final port of departure.

(f) A manifest of a vessel's complete lading must be filed at the final port of clearance. This manifest should consist of certified copies of the complete manifests, filed at each preceding port, and the obligation to prepare, present for certification, and forward the copies to the final port rests with the vessel's agents at each port.

(g) A notation as follows should be made by rubber stamp or otherwise on the outward foreign manifest forms, delivered by the master at each port:

Manifest ---------- complete (or incomplete). Shippers' export declarations and export requirements have been, or will be, met at port of lading and certified copies of complete manifest will be forwarded by vessel's agents to the final port of departure in the United States.

(h) If it becomes necessary to substitute one American vessel for another, collectors may grant an application from a regularly established company and issue an order to transfer the cargo and/or passengers. Notice of the abandonment of the voyage and the name of the substituted vessel must be furnished by the collector granting the application to the collector at the port where the cargo was laden.

(i) Vessels proceeding to American ports in noncontiguous territory to lade or unlade should be entered and cleared in the same manner as vessels proceeding from port to port on the mainland, except that a certificate of clearance (commerce Form 1378) appropriately modified, should be issued to such vessels at the last port of departure.

(j) Any vessel proceeding from port to port to lade cargo for export may also discharge residue foreign cargo, as outlined in article 150, C. R. 1937. American vessels, excepting those not authorized to engage in the coastwise trade, so proceeding, may also lade cargo for delivery at coastwise ports.

(k) On clearance from each port the master shall present a copy of the store list or extract therefrom showing all articles not released from customs acquired abroad by officers and members of the crew, together with all liquor and tobacco remaining on board. The collector shall certify such list, noting thereon any other sea or ship stores which may be unusual in character or quantity, and attach it to the vessel's clearance papers for presentation at the next port.

17. *Carriage and mail matter.*—A master bound for a foreign port must make oath (commerce Form 1374) that he will not receive nor convey any letters or other packets which have not been regularly posted and received from the post office at the port of departure, except letters or letter packets relating to the cargo and addressed to the owner or consignee of the vessel and letters or letter packets inclosed in United States stamped envelopes of sufficient denomination to cover the postage. It is the duty of the collector to require from the master, as a condition of clearance (commerce Form 1378), an oath or affirmation (commerce Form 1374), that he has not under his care, or within his control, and will not receive or convey any letters or letter packets in violation of this provision. (See art. 121, C. R. 1937.)

PART VI—COASTWISE CLEARANCE AND ENTRANCE

1. *Coastwise trade and fisheries limited to American vessels.*—(a) The coastwise trade and fisheries of the United States are limited to vessels documented under the laws of the United States.

(b) Foreign vessels, and American vessels with limited registration (registered for foreign trade only) may proceed from one domestic port to another domestic port or ports to complete discharging inward cargoes (art. 150, C. R. 1937), retaining on board cargo for foreign ports (art. 151, C. R. 1937), or to complete lading of outward cargoes, or for both purposes (art. 183, C. R. 1937), but if such vessels proceed in ballast they must be cleared on commerce Form 1385, as outlined in article 182, C. R. 1937.

(c) Barges equipped for harbor transportation must be owned by citizens of the United States.

2. *Great districts.*—(a) The seacoasts and navigable waters of the United States, Alaska, Hawaii, and Puerto Rico are divided into six great districts: The first to include all the collection districts on the seacoast and navigable rivers between the northern boundary of the State of Maine and the southern boundary of the State of Texas; the second to consist of the island of Puerto Rico; the third to include the collection districts on the seacoasts and navigable rivers between the southern boundary of the State of California and the northern boundary of the State of Washington; the fourth to consist of the Territory of Alaska; the fifth to consist of the Territory of Hawaii; and the sixth to include all the collection districts on the Great Lakes, their connecting and tributary waters, as far east as the Maquette River, New York.

(b) The navigation of the Yukon, Stikine, and Porcupine Rivers is governed by special regulations.[76]

[76] (a) Navigation Yukon River:

Small American river steamers may be carried in sections from Dyea or the Stikine River to the head waters of the Yukon River, to be assembled there free of Canadian customs duty, and may carry cargo and passengers from customs stations at those head waters to Circle City and other places in Alaska. Such steamers cannot engage in the coasting trade from one place to another in Canadian territory.

In navigating the Yukon River in Canada the usual Canadian customs regulations are to be observed. These permit only vessels of British registry to carry passengers and cargo from one place in Canada and land the same at another place in Canada. If the river steamers transported into the Yukon have American registers, they may clear with passengers and cargo from a customs station on the Yukon in Canada for ports in Alaska and vice versa. In cases of emergency, pending the receipt of registry, a clearance may, however, be granted to any of these steamers without certificate of registry on board for the first voyage down the Yukon to Alaska, but not for a subsequent voyage. (T. D. 18926.)

(b) *Vessels in sections.*—American stern-wheel steamers built in sections and transported by way of the Stikine River to Lake Teslin will be dealt with in the same manner and under the same regulations as in the case of similar vessels transported in sections by the Dyea route.

The regulations are embodied in (a) above, and provide that small American river steamers may be carried in sections from Dyea, etc., to the head waters of the Yukon River, to be assembled there free of customs duty, and may carry cargo and passengers from customs stations at those head waters to Circle City and other places in Alaska, but cannot engage in the coasting trade from one place to another in Canadian territory. (T. D. 19172.)

(c) *Navigation of the Stikine River and its connecting rivers and lakes.*—A. *Transfer of cargoes and passengers at Wrangell.*—1. (a) The transfer of cargo or passengers from a vessel from any port in the United States (except another port or place in Alaska) or from any foreign port to a vessel destined by way of the mouth of the Stikine River to any port or place on the Stikine River or its connecting rivers and lakes, and (b) the transfer of cargo or passengers from a vessel, destined by way of the mouth of the Stikine River from any port or place on the Stikine River, or its connecting rivers and lakes, to any American port or place (except to another port or place in Alaska) or any foreign port, shall be permitted only at the port of Wrangell under the supervision of officers of the customs.

2. Officers of the customs at Wrangell, when they deem it necessary, shall board any vessel bound to the United States within four leagues of the coast of the United States for the purpose of demanding its manifest and enforcing the laws and regulations of the United States.

3. Vessels entitled by law to engage in the coasting trade of the United States may proceed from one port or place in Alaska to another port or place in Alaska in the manner prescribed by law for the entry and clearance of vessels within the same customs district.

B. *Entry and clearance at Wrangell.*—1. *American vessels.*—Any vessel entitled by law to engage in the coasting trade of the United States, in ballast, or with passengers or cargo, or both, that are destined from a port or place in the United States (elsewhere than in Alaska) or from a foreign port for any port or place on the Stikine River or its connecting rivers and lakes, shall enter at Wrangell in the manner prescribed by law.

Such vessel may then (a) proceed to her place of destination; or (b) transfer her cargo and passengers, if destined for a port or place in Alaska, to another American vessel, which may proceed according to laws governing the entry and clearance of vessels in the same customs district; or (c) transfer her cargo and passengers, if des-

amine the shipping articles (commerce—shipping service Form 705a) and satisfy entrance oath subdivision (6) provided to a port other than

(b) Vessels carrying merchandise in bond are required to be cleared and entered at ports of lading and destination of the bonded merchandise, but not at intermediate ports.

(c) Registered vessels moving coastwise and enrolled and licensed vessels proceeding between ports in different great coasting districts are required to be entered and cleared.

(d) Neglect to comply with the foregoing requirements subjects the master or other person in charge or command to a penalty of $100.

(e) The foregoing provisions concerning vessels in the coastwise trade shall not be held to include vessels exclusively engaged in the navigation of the Mississippi River or tributaries above the port of New Orleans.

tined to a port or place in British Columbia or the Northwest Territory, to an American or British vessel which shall clear from Wrangell in the manner provided by law.

2. *Foreign vessels.*—Any foreign vessel, in ballast, or with passengers or cargo, or both, that are destined from a foreign port or place to a port or place on the Stikine River or its connecting rivers and lakes, shall enter at Wrangell in the manner prescribed by law.

A British vessel may then (a) proceed to her place of destination; or (b) transfer her cargo and passengers, if destined to a port or place in Alaska, to an American vessel, which may proceed according to the law governing the entry and clearance of vessels in the same customs district; or (c) transfer her cargo or passengers, if destined to a port or place in British Columbia or the Northwest Territory, to an American or British vessel, which shall clear from Wrangell in the manner prescribed by law.

3. Article XXVI of the treaty of 1871 between the United States and Great Britain, so far as applicable to the Yukon, Porcupine, and Stikine Rivers, provides:

The navigation of the rivers Yukon, Porcupine, and Stikine ascending and descending, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

This article creates a reserved privilege for a reciprocal equivalent, and the general favored-nation clause of treaties, which covers only gratuitous favors, does not, therefore, apply. The navigation privileges reserved by Article XXVI of the treaty to American citizens and British subjects are not extended to the citizens and vessels of other nations.

C. *Arrival of vessels at Wrangell from ports or places in British Columbia or the Northwest Territory.*—1. A vessel descending the Stikine River from ports or places in British Columbia or the Northwest Territory, in ballast, or with cargo or passengers, or both, shall come to at Wrangell, or such port near the boundary between Alaska and British Columbia or the Northwest Territory as may hereafter be designated, and shall report in compliance with law. (*Note:* The last part of this regulation originally read "and shall report in compliance with the provisions of Section 2772 of the Revised Statutes," R. S. 2772 relative to report of entry by master of every vessel bound to a port of delivery was repealed by Section 641 of the Tariff Act of 1922, 42 Stat. 989. Section 433 of the Tariff Act of 1922, 42 Stat. 951 provided for the report of arrival of vessels and the duty of the master. It in turn was repealed by the Act of June 17, 1930, chapter 497, Title 4, Section 651 (a)

4. *Coastwise clearance and entrance procedure between ports in the same great district.*—(a) The master of a vessel clearing from one coastwise port to another coastwise port in the same great district will deliver to the collector verified duplicate manifests on commerce Form 1381 of the cargo laden at that port for the other domestic port of discharge. If the vessel is light or in ballast, the reverse side of commerce Form 1385 should be used in lieu of the manifest. The collector will return to the master one copy of commerce Form 1381 or 1385, as the case may be, with the permit to proceed thereon, which the master, upon his arrival at the port of destination, will present for entry purposes.

(b) If cargo is laden at one domestic port for more than one other domestic port, the master will deliver to the collector verified duplicate manifests (commerce Form 1381) representing the lading at that port for each such other port, and the collector will return one copy for each such other port with permit to proceed thereon. Cargo other than bonded goods need not be itemized—a general statement being sufficient.

(c) Where bonded goods are carried covered by transportation entries, the merchandise should be so manifested as to show that it is bonded and the transportation entry numbers quoted. The names and addresses of shippers and consignees need not be quoted.

(d) If bonded goods are loaded after the master has cleared the vessel at the customhouse, the master may make proper notations on the copy of the manifest in his possession before he presents it for entrance of the vessel at the port of destination, and he should notify the collector at port of clearance, furnishing the necessary details.

(e) Collectors at intermediate ports should not take up manifests not pertaining to the cargo destined for such ports, nor should they require masters, upon clearance, to furnish duplicate manifests covering other than the cargo or ballast laden at their particular ports.

(f) The entry of a vessel coastwise consists of delivering to the collector within 24 hours after arrival the sworn manifest of cargo certified to on commerce Form 1381 or 1385, and obtaining from the collector a permit to discharge on customs Form 3169.

(g) If there be no cargo on board the master must produce the coastwise clearance and permit granted by the collector at the port of departure.

5. *Coastwise clearance and entrance procedure between ports in different great districts.*—(a) *Trade with noncontiguous territories of the United States.*—(1) While the trade between continental United States and Alaska, Puerto Rico, and Hawaii is strictly coastwise, for statistical purposes, American vessels clearing to and from ports in noncontiguous territories of the United States must file

(1), 46 Stat. 762. Section 433 of the Tariff Act of 1930, 46 Stat. 711, 19 U. S. C. 1433 provides as follows: "*Report of Arrival.* Within twenty-four hours after the arrival of any vessel from a foreign port or place or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, at any port or place within the United States at which such vessel shall come to, the master shall, unless otherwise provided by law, report the arrival of the vessel at the nearest customhouse under such regulations as the Secretary of Commerce may prescribe.") (See also Section 601.3)

2. *American vessels.*—A vessel, entitled by law to engage in the coastwise trade of the United States, may then (a) proceed on her voyage in compliance with the laws governing the coasting trade of the United States; or (b) enter at Wrangell and there transfer her cargo and passengers, if destined to a port or place in the United States, to an American vessel, as transfers are provided for in section A of these regulations; or (c) enter at Wrangell and there transfer her cargo and passengers, if destined to a foreign port or place, to an American or foreign vessel.

3. *British vessels.*—A British vessel may then enter at Wrangell and there transfer her cargo and passengers, as such transfers are provided for in section A of these regulations: (a) if destined to an American port, to an American vessel; or (b) if destined to a foreign port, to an American or foreign vessel.

D. *Supervision of vessels ascending and descending the Stikine River.*—The collector of customs of Alaska, under the direction of the Secretary of the Treasury, shall from time to time station deputy collectors and inspectors of customs at such places on the Stikine River as he may deem necessary for the enforcement of the laws of the United States. Such officers shall be compensated at rates to be fixed by the Secretary of the Treasury.

E. *Privileges.*—British vessels plying on the Stikine River may touch at places in Alaska

for the purchase of fuel or supplies, or in distress, under the supervision of an officer of the customs.

Said officer of the customs may, in his discretion, issue permits for the temporary landing of passengers, but if any passenger fails to return to a vessel before her departure the vessel shall become liable to the penalty prescribed by law. (T. D. 19324)

(d) *Navigation of the Yukon and Porcupine rivers between Dawson and Rampart.*—(1) A vessel from Dawson or Rampart, and destined by way of the Yukon and Porcupine rivers through Alaska for another place in the Northwest Territory, shall report at the subport nearest the point at which such vessel shall enter the waters of the United States, there pay tonnage dues and other legal charges, and enter as prescribed by law.

(2) The deputy collector of customs at such subport shall then issue a special permit for such vessel to proceed to the subport nearest to the point at which it is about to depart from the waters of the United States.

(3) Such vessel shall come to and report at the subport nearest the point at which it is about to depart from the waters of the United States, and upon satisfying the deputy collector of customs that it has complied with the laws and regulations may clear to its destination.

(4) These regulations shall not be construed to deprive an American vessel of any of the privileges of the coasting trade to which it is entitled by law.

(5) Until other subports have been established on the Porcupine River and on the upper Yukon, the report subsequent to entry into the waters of the United States, and prior to the departure therefrom, prescribed above, may both be made at Circle City. Such subports will be established, however, as soon as practicable. (T. D. 19435)

complete manifests (or incomplete manifests—customs Form 7301), together with shippers' export declarations as described in article 173, C. R. 1937. Bonded merchandise should be manifested as prescribed in article 198, C. R. 1937.

(2) Where the cargo is to be transshipped in another customs district, including Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States for transportation to a foreign country or noncontiguous territory of the United States, the shippers' export declarations (customs Form 7525) should be filed only with the collector of customs at the port where the merchandise is last laden for its final destination.

(3) A certificate of clearance (commerce Form 1378), appropriately modified by striking out "to a foreign port" and substituting "to noncontiguous territory of the United States" should be issued to such vessels.

(4) Upon arrival the master should surrender the modified clearance (commerce Form 1378); present an itemized manifest (commerce Form 1381) in triplicate, subscribing to the coastwise entrance oath thereon; furnish a passenger list (commerce Form 1440)," and comply with the requirements of the Public Health Service regarding bills of health and quarantine inspection.

(5) One copy of the manifest should be filed as coastwise entrance; and when covering merchandise subject to internal-revenue tax, another copy should be sent by the collector of customs to the collector of internal revenue indicating the merchandise subject to such tax; and the third copy should be attached to the coastwise permit to land goods (customs Form 3169) which should bear the following notation: "You will deliver to the collector of internal revenue all merchandise subject to internal revenue tax and obtain his receipt for same on back hereof."

(b) *Special procedure for vessels engaged in intercoastal trade exclusively.*—(1) American vessels in trade between Atlantic and Pacific ports will be cleared on commerce Form 1382, "Intercoast permit for an American vessel to proceed from port to port on the Atlantic or the Pacific coast to lade for a port or ports on the opposite coast", and on manifest formed of as many parts as there are ports of discharge, i. e., the lading for each port on the opposite coast shall be manifested on uncertified separate sheets, in duplicate, in such detail as to show the quantity in long tons of 2,240 pounds, and description of each commodity carried, but commodities in quantities of less than 10 tons each may be combined and designated as "General cargo."

(2) Original manifests, or parts thereof, will be filed at port of lading, and copies will go forward with vessels to the respective ports of discharge.

(3) Excepting the cargo reports provided for in article 193, C. R. 1937, no statistical reports of coastwise cargoes are required at the port of departure. If a vessel (not engaged in a simultaneous foreign transaction as described in article 201, C. R. 1937) continues to load cargo after clearing, corrected uncertified sheets showing all the cargo loaded may be prepared by the agents after departure of the vessel and forwarded by overland mail, to be substituted before entrance for the sheets presented on clearance.

(4) To provide for the master's oath on clearance and entrance between intermediate ports, when proceeding from the first port of lading to the last port of discharge, duplicate manifests on commerce Form 1381 will be used, on which a notation as follows should be made in lieu of specifying the cargo on board.

Cargo laden at _____ (name first and each subsequent port)
_____ (Pacific coast ports or vice versa) as per manifest(s) filed at each port on clearance.
No local cargo loaded at _____ (That port of departure) for _____ (next intermediate port)
(Or cross out and specify local cargo, if any was carried.)

The oath and permit on the reverse side will be used.

(5) On arrival at the first intermediate port of lading the master will enter his vessel on the returned copy of commerce Form 1381 and will deposit the coastwise permit to proceed, commerce Form 1382, and the manifests of cargo laden at preceding port. This permit with attached manifests will be returned to the master on clearing, together with a copy of the manifest of the cargo laden at that port, which copy should be attached to the appropriate sheets; and the vessel will be cleared on duplicate commerce Form 1381 to the next intermediate port.

(6) On arrival at the second and subsequent ports the procedure outlined will be followed.

(7) At final port of lading the vessel will be cleared for the first port of discharge on the opposite coast on the same permit, commerce Form 1382, and on duplicate commerce Form 1381.

(8) On arrival at the first port of discharge (on the opposite coast) the master will enter on the returned copy of commerce Form 1381 issued on clearance at the last port, the duplicate and triplicate part manifest of the cargo destined for that port, and the permit to proceed, commerce Form 1382. The triplicate manifest should be attached to customs Form 3169 for the use of the discharging inspector. He will also deposit with the collector the part manifests of the cargo destined for other ports. On completion of unlading the vessel will be cleared on duplicate commerce Form 1381, and the collector will return the manifests of the cargo destined for other ports attached to commerce Form 1384, "Coasting trade permit allowing American vessel to proceed to another port with residue of cargo under original coasting manifest."

(9) On arrival at the second and at subsequent ports of discharge the vessel will be entered on the returned copy of commerce Form 1381, issued at the preceding port, and the permit, commerce Form 1384, and the part manifest of the cargo destined for that port. The master will deposit with the collector the part manifests of the residue cargo not destined for that port.

(10) On clearing from second and subsequent ports the procedure outlined will be followed.

(c) *Special procedure for the shipment of other than bonded merchandise on an American vessel between any two ports of the United States or its island possessions via the Panama Canal, to be transshipped in the Canal Zone to another American vessel.*—(1) When other than bonded merchandise, shipped on an American vessel between ports of the United States, including its island possessions, via the Isthmus of Panama, is to be transshipped to another American vessel in the Canal Zone, a special manifest shall be prepared in triplicate on commerce Form 1381, and certified by the collector of customs at the port of departure, Form 1381, to be modified to meet the circumstances and to harmonize with the forms provided for in article 236, C. R. 1937, as follows:

Special Coastwise Manifest of Merchandise To Be Transshipped in the Canal Zone

Customs District No. _____ Port of _____

We certify that the above-described merchandise (other than bonded goods) has been laden on the American S. S. _____ at _____ for transportation to _____ to be transshipped at the Panama Canal Zone to [16] another American vessel for carriage to destination.

_____, _____
Inspector.
_____
Deputy Collector of Customs.

Oath on arrival

I, _____, master of the (second vessel) of _____, do swear that the certified manifest which I now exhibit contains a true account of the articles transshipped from the said _____ (first vessel), in the Canal Zone.

_____
Master.

(2) One copy of the manifest shall be filed in the office of the collector at the port of departure, one copy delivered to the master of the vessel to be given to the master of the second vessel for his use in making entry at the port of arrival, and one copy mailed to the collector at the port of destination of the merchandise, same to be attached to the

[11] Form 1440 not required, except in cases of vessels entering from foreign ports.

[16] The oath of arrival on reverse side should be modified so that the Master of the vessel to which transshipped will certify transshipment and sign his name as master of such vessel (naming the vessel to which transshipped).

delivery permit (customs Form 3169) when the second vessel enters at destination.

(3) It will not be necessary to seal the packages or the compartments in which they are shipped, nor will any supervision of the transshipment in the Canal Zone be required. However, upon arrival of the merchandise at the port of destination, the packages will be examined by officers of the customs and compared with the marks and numbers on the manifest. All goods so shipped not corresponding with the manifest, will be held for duty. Baggage of passengers may be manifested in this manner, but will be subject to inspection.

(4) These regulations shall not apply to merchandise shipped in bond.

(d) *Trade between ports in Great District No. 1 (Atlantic and Gulf coasts) and Great District No. 6 (Great Lake ports).*—(1) Vessels proceeding via the St. Lawrence River must operate under certificate of registry (art. 71, C. R. 1937). They are required by Canadian Customs to enter and clear at Montreal, and must comply with foreign entrance requirements (art. 113 C. R. 1937) in addition to the coastwise procedure (art. 201, C. R. 1937). If cargoes are laden or discharged at, or passengers carried to or from, Canadian ports, tonnage taxes and navigation fees should be collected. Foreign manifests in detail (customs Form 7527–B) with appropriate notations are a necessity and the duplicate manifests (commerce Form 1381) of the lading at each coastwise port must be certified by the collectors (art. 201, C. R. 1937). When no passengers or cargoes or supplies are carried to or from Canadian ports, tonnage taxes and navigation fees may be waived.

(2) Vessels proceeding via the Hudson River should operate under Frontier Enrollment and License, commerce Form 1273, which may be issued at seaboard ports. If the vessels are engaged only in the coastwise trade they should follow the procedure for the trade between ports in the same Great District (art. 198, C. R. 1937) and if engaged in the coastwise and foreign trade they should follow the procedure outlined in article 201, C. R. 1937.

6. *Registered vessels in coastwise trade.*—(a) Vessels under register engaged in the coasting trade, bound from one collection district to another, are required to enter and clear, whether they are in ballast or with cargo. The regulations regarding great coasting districts do not affect them.

(b) When a part only of the cargo is discharged, the collector will indorse the articles so discharged on the manifest and will grant a permit to the master to proceed with the vessel to the place of her further destination.

(c) If there be no cargo on board, the master must produce the coastwise clearance and permit granted by the collector at the port of departure.

(d) The register will be deposited with the collector upon entrance, and returned to the master upon clearance. It should be examined to see that the vessel is entitled to engage in the coastwise trade.

7. *Registered vessels in coastwise and foreign trade.*—(a) A vessel with unrestricted registration (i. e., one which may engage in coastwise trade) moving coastwise with inward foreign cargo under article 150, C. R. 1937 and/or proceeding from port to port to lade cargo for a foreign port under article 183, C. R. 1937, may simultaneously engage in the coastwise trade. Under these conditions, both foreign and coastwise clearance and entrance are required.

(b) Such a registered vessel may engage in trade between ports of the United States, with the privilege of touching at one or more foreign ports during the voyage, discharging and receiving merchandise, passengers, baggage, and mails, but must be furnished by the collector of the port in the United States at which cargo is laden, with certified manifests in duplicate setting forth the particulars of the cargo, the marks, numbers of packages, names of shippers, consignees, and destination.

(c) Vessels so employed, and their cargoes, are subject to the provisions of the revenue and collection laws of the United States, and their masters must, on arrival from a foreign port, conform to the laws regulating foreign and coastwise entrance. The duplicate certified coastwise manifest will be sent to the discharging inspector with the permit to land (customs Form 3169) attached.

(d) Merchandise conveyed from one port to another port within the United States, under the provisions of the warehousing laws, and duty-paid goods, are not subject to duty by reason of the vessel having touched at a foreign port during the voyage.

8. *Report of arrival at another port.*—Whenever a vessel which is required to enter and clear in the coastwise trade shall put into a port other than the one to which she is bound, the master must, if she remains 24 hours, report to the collector his arrival, the place whence he came, and whither he is bound, with an account of the lading on board his vessel.

9. *Masters in coastwise trade to keep a count of passengers.*—(a) The master of every passenger steamer of the United States in the coastwise trade shall keep a correct count of all the passengers received and delivered from day to day, which count shall be open to the inspection of the inspectors and officers of the customs at all times, and the aggregate number of passengers shall be furnished to inspectors as often as called for.

(b) A correct list of passengers received and delivered from day to day shall be kept, instead of a correct count, by the masters of seagoing passenger steamers in the coastwise trade and by the masters of passenger steamers on the Great Lakes on routes exceeding 300 miles. Nothing herein shall affect existing laws relative to vessels running between this country and foreign ports.

(c) The master of any passenger steamer who fails through negligence or design to keep a count or list of passengers as required by the preceding paragraphs shall be liable to a penalty of $100.

(d) The penalty shall be a lien upon the vessel, but a bond may, as provided in other cases, be given to secure the satisfaction of the judgment.

10. *Fishing vessels touching and trading at foreign places.*—(a) The master of a vessel licensed to carry on the fisheries which is about to engage in a fishing voyage must, if the vessel intends to touch or trade at a foreign port or place, obtain from the collector at the port from which the vessel is to depart a permit (commerce Form 1379) for such purpose. On return to the United States he must make regular entry, surrender the permit to touch and trade, and in all respects conform to the regulations prescribed for vessels arriving from a foreign port. A permit to touch and trade for the purpose of touching at a foreign port or place may not be issued to a vessel licensed for the "coasting trade and mackerel fishery" which is departing on a voyage to engage exclusively in trade. In such a case the vessel must secure a certificate of registry and obtain clearance for the foreign port or place.

(b) Foreign merchandise imported in such vessels is liable to the payment of duties thereon. Vessels licensed for the fisheries found within 3 leagues of the coast with foreign goods of greater value than $500, and without such permit, will, with such goods, be subject to forfeiture.

11. *Guano trade.*—(a) Commercial intercourse with the guano islands that are bonded in pursuance of law forms a part of the coasting trade of the United States, and the laws relative thereto forbid foreign vessels from engaging in such trade.

(b) Vessels engaged in the guano trade are not required to produce clearances or certified manifests from such islands. The masters of such vessels must have manifests of the cargo, subscribed by themselves, to be produced on demand to officers of the customs for inspection. Entry at the customhouse must be made on arrival at the port of destination in the United States, and the cargo inspected by the customs officers.

12. *Vessels of 5 net tons or over arriving from contiguous foreign countries.*—Vessels of 5 net tons or over arriving from contiguous foreign countries, including such vessels sailing coastwise from a domestic port and touching at a foreign port or ports en route for the purpose of lading or unlading cargo, shall be entered and manifests shall be filed therefor in duplicate on customs Form 7527, in the same manner as in the case of vessels arriving from any other foreign country. (See art. 122 (b), C. R. 1937.)

13. *Domestic vessels touching at foreign ports—departure.*—The master of every registered or enrolled and licensed vessel departing for a foreign contiguous country shall be required to clear and file a manifest in duplicate on commerce Form 1374 in the same manner as in the case of a vessel departing for any other foreign country.

14. *Foreign vessels—Departure for contiguous foreign countries.*—Foreign vessels departing for a foreign contiguous country are subject to all the laws and regulations governing the departure of vessels for any other foreign country.

PART VII—ACCEPTANCE OF SAFETY CERTIFICATES ISSUED UNDER INTERNATIONAL CONVENTION

1. *Instructions to supervising and local inspectors and collectors of customs.*"—Under the International Convention on Safety of Life at Sea signed at London May 31, 1929, provision was made for the issue to vessels of countries signatory or acceding to the Convention, of safety certificates equivalent to our certificates of inspection. These safety certificates can be issued only to vessels which are in full compliance with the provisions of the Safety Convention, and the regulations of that Convention have been found by this Department to be at least as effective in safeguarding life as our existing laws.

You are hereby instructed that vessels carrying such unexpired safety certificates issued under authority of the said Convention shall be subject to no other inspection than necessary to satisfy the local inspectors that the condition of the vessel, her boilers, and lifesaving equipments are as stated in her current safety certificate.

This instruction will apply only to the vessels of countries which have by their laws accorded to the vessels of the United States visiting such countries the same privilege accorded herein to the vessels of such countries visiting the United States.

The countries which have ratified or acceded to the Safety Convention are as follows:

United Kingdom.	Japan for Chosen, Taiwan and Leased Territory of Kwantung.
Hong Kong.	Netherlands.
Straits Settlements.	Netherlands East Indies.
Belgium.	New Zealand.
Bulgaria.	Norway.
Canada.	Panama.
China.	Poland.
Brazil.	Portugal.
Danzig.	Roumania.
Denmark.	Soviet Union.
Estonia.	Spain.
Finland.	Sweden.
France.	Burma.
Germany.	Argentina.
Hungary.	Commonwealth of Australia.
Iceland.	Egypt.
India.	Greece.
Irish Free State.	United States of America.
Italy.	
Italian Colonies of Libya, Eritrea, Somaliland and Italian Islands in the Aegean.	
Japan.	

[1] See pre-sailing examination of Danish vessels, Department Circular No. 304, April 21, 1938.

PART VIII—SEAMEN'S PROTECTION CERTIFICATES

1. *Applications.*—(a) An application for a seaman's protection certificate (commerce Form 1437) must be in writing, signed and sworn to and presented to the collector by the applicant in person, together with satisfactory evidence that he is a seaman and legal evidence that he is a citizen of the United States.

(b) The application must bear the left thumb print, photograph, and signature of the applicant and be stamped with the same serial number as the corresponding certificate (commerce Form 1436). The signature must be written partly across the seal space and partly across the photograph.

(c) The evidence submitted should be noted on the application and attached thereto, except when it is in the form of certificates from permanent records, in which case proper notations of the records may be made on the application and the certificates returned to the applicant. Affidavits are not of this class and should be retained by collectors and attached to the application.

(d) The applications with attached papers should be filed alphabetically by names of applicants.

2. *Evidence that applicant is an American seaman.*—Licenses of officers, continuous discharge books, certificates of identification, recent discharges from the United States Navy or merchant marine vessels, and certificates from properly authorized persons showing that the applicants have been engaged for service as members of the crews of outgoing American vessels may be accepted as evidences of seamanship. The last-named certificates should be retained and attached to the applications.

3. *Evidence of American citizenship.*—(a) Evidence of citizenship should be of the character described in sec. 23, part I. The applicant should furnish proof that he either was born in the United States, or was duly naturalized as a citizen thereof, or was born of an American father in a foreign country or at sea.

(b) A foreign-born seaman claiming American citizenship through naturalization based upon his own application to a court, or derived through his parent, must furnish a certificate of naturalization issued by the clerk of the court in which the naturalization occurred, or a certificate of citizenship issued by the Commissioner of Immigration and Naturalization, Washington, D. C.

4. *Seamen's protection certificates.*—(a) The certificate (commerce Form 1456) shall contain a full description of the applicant, particular attention being paid to identification marks, and shall issue only to an American seaman who has produced proof in the manner directed by law that he is a native or naturalized citizen of the United States.

(b) Each certificate should bear the left thumb print, photograph, and signature of the person described therein. The signature should be written partly across the seal space and partly across the photograph.

(c) The collector of customs or his authorized deputy should sign each certificate and impress the seal of his office thereon.

(d) The certificate should bear the same serial number and date as the application (commerce Form 1437).

5. *Duplicate certificates.*—Duplicate certificates on commerce Form 1436, may be issued on presentation of an affidavit as to loss satisfactory to the collector. They shall be issued only by the port which issued the original, and if application is made at any other port the applicant's affidavit accompanied by two photographs of himself should be forwarded to the collector of the port of issue and the duplicate certificate delivered to the applicant when it is received from such port. It should be stamped "duplicate."

6. *General instructions.*—(a) Information concerning seamen, desired by relatives and others, may be given in the discretion of collectors.

(b) No certificate should be issued to an applicant under 17 years of age without the written permission of his parents or guardian, acknowledged before a notary public.

(c) Lost and found certificates received in the mails or otherwise should be forwarded to the port of issue and placed in the files with the applications on which they were issued.

[SEAL] J. M. JOHNSON,
Acting Secretary of Commerce.
R. S. FIELD,
Director of the Bureau of Marine Inspection and Navigation.

MAY 28, 1938.

[F. R. Doc. 38–2716; Filed, May 31, 1938; 5:11 p. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3432]

IN THE MATTER OF HENRY O. HARR, AN INDIVIDUAL, DOING BUSINESS AS EASTERN TRADING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

the collector upon entrance, and re-

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 17, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent.

The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2939; Filed, October 6, 1938; 11:23 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3433]

IN THE MATTER OF LA PERLA VINEYARD COMPANY, A CORPORATION, AND HARRY EX, AN INDIVIDUAL DOING BUSINESS AS S. GOLDENBERG & COMPANY, RAMSHEAD PRODUCTS COMPANY AND RAMSHEAD DISTILLING COMPANY, AND ALSO AS PRESIDENT OF THE LA PERLA VINEYARD COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, October 18, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2940; Filed, October 6, 1938; 11:23 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 4th day of October 1938.

[File No. 1-677]

IN THE MATTER OF APPLICATION BY BOARD OF TRADE OF THE CITY OF CHICAGO TO STRIKE FROM LISTING AND REGISTRATION THE 7% GUARANTEED CUMULATIVE PREFERRED STOCK OF ARMOUR AND COMPANY OF DELAWARE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 7% Guaranteed Cumulative Preferred Stock of Armour and Company of Delaware; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, November 1, 1938, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Ill., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2941; Filed, October 6, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of October 1938.

[File No. 7-256]

IN THE MATTER OF ALLEGHENY LUDLUM STEEL CORPORATION COMMON STOCK, $1 PAR VALUE

ORDER DENYING APPLICATION UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE JF2 (B)

Continuance of unlisted trading privileges on the Philadelphia Stock Exchange in the $1 Par Common Stock of Ludlum Steel Company having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application is not made and the application is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2943; Filed, October 6, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

[File No. 51-12]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION

ORDER REGARDING DECLARATION AND PAYMENT OF DIVIDENDS

Columbia Gas & Electric Corporation, a registered holding company, having filed a supplemental application, pursuant to Section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-12C-2 promulgated thereunder, regarding the declaration and payment of its regular November 15, 1938 quarterly dividends on its Cumulative 6% Preferred Stock, Series A, its Cumulative Preferred Stock, 5% Series, and its 5% Cumulative Preference Stock;

A hearing having been held on such supplemental application after appropriate notice,[1] and the Commission having considered the record in this matter and having made and filed its opinion and findings herein:

[1] 3 F. R. 1354 DI.

It is ordered, That the declaration and payment of said dividends be and the same hereby are approved, subject however to the following terms and conditions:

(1) To the extent that said November 15, dividend requirements may exceed 1938 earnings available at the dividend declaration date, and to the extent that applicant may be required to charge any deficiency to "Surplus at December 31, 1937" applicant shall restore to said surplus account an equivalent amount out of its next available earnings;

(2) To the extent that dividends have been paid to applicant by its subsidiaries during the current year other than out of 1938 earnings or surplus credits applicable to 1938 such excess shall be transferred from income account to "Surplus at December 31, 1937."

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2942; Filed, October 6, 1938; 12:37 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

[File Nos. 32-102 and 43-153]

IN THE MATTER OF MICHIGAN CONSOLIDATED GAS COMPANY

ORDER RELATIVE TO ISSUE AND SALE OF BONDS AND NOTES

Michigan Consolidated Gas Company (formerly Detroit City Gas Company), a subsidiary of American Light & Traction Company, a registered holding company, having duly filed with this Commission an application, and amendments thereto (File No. 32-102), for exemption, pursuant to the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935, from the provisions of Section 6 (a) of said Act of the issue and sale, through underwriters, of the principal amount of $34,000,000 of First Mortgage Bonds, 4% Series due 1963, and the principal amount of $8,000,000 of 4% Serial Notes due August 1, 1939 to August 1, 1948, the issue and sale of such securities having been expressly authorized by the Michigan Public Utilities Commission;

Public hearings on said matter having been held after appropriate notice,[1] and the Commission having considered the record in this matter and having made and filed its findings and opinion herein;

It is ordered, That the issue and sale of the aforesaid First Mortgage Bonds and Serial Notes in accordance with the terms and conditions set forth in, and for the purposes represented by, said application, as amended, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions: (a) That Michigan Consolidated Gas Company shall approve and consent, in writing, to the making and issuing by the Commission of an order in this proceeding, pursuant to the provisions of Section 12 (c) of said Act, that unless otherwise ordered by the Securities and Exchange Commission so long as any of said Company's said First Mortgage Bonds 4% Series due 1963 are outstanding under the indenture of mortgage dated September 1, 1938, to City Bank Farmers Trust Company and Ralph E. Morton, Trustees, Michigan Consolidated Gas Company and any successors of said Company as the party of the first part under said indenture shall not declare or pay any dividends (other than dividends payable in shares of its common stock) or make any other distribution on any shares of its common stock unless there shall have been included as charges to operating expenses of said Company on its books of account in each and every calendar year, beginning with that portion of the calendar year from October 1 to December 31, 1938, an aggregate amount for maintenance and repairs to and as provision for reserves for depreciation of the Company's properties equivalent to 2¾% of the average amount during such year of the gross property account of the Company, such charges for the period from October 1 to December 31, 1938, to be equivalent to 11/16% of such average amount. For the purposes of computing such charges the amount of the gross property account of the Company at October 1, 1938, shall be deemed to be $78,000,000 and the amount of the gross property account at any date subsequent to October 1, 1938, shall be $78,000,000 plus the original cost to the Company of all property additions made from October 1, 1938, to such subsequent date, less the original cost to the company of all property retired from October 1, 1938, to such subsequent date. The average amount of the gross property account during any year shall be deemed to be the average of the amounts of the gross property account at January 1 and December 31 of such year; (b) that if the express authorization of the issue and sale of such securities by the Public Utilities Commission of the State of Michigan shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission, and (c) that within ten days after the issue and sale of such securities the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended, and in accordance with the terms and conditions of this order; and

[1] 3 F. R. 2164 DI.

It is further ordered, That, upon the request of Michigan Consolidated Gas Company, that Company's declaration filed, in the alternative, pursuant to Section 7 of said Act regarding the issuance and sale of the securities which have been exempted from the provisions of Section 6 (a) of said Act by this order may be withdrawn.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2945; Filed, October 6, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

[File No. 32-102]

IN THE MATTER OF MICHIGAN CONSOLIDATED GAS COMPANY

SUPPLEMENTAL ORDER

Michigan Consolidated Gas Company, a subsidiary of American Light & Traction Company, a registered holding company, having duly filed an application and amendments thereto with this Commission, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act regarding the issue and sale of the principal amount of $34,000,000 of First Mortgage Bonds, 4% Series due 1963, and the principal amount of $8,000,000 of 4% Serial Notes due August 1, 1939-1948, the issue and sale of such securities having been expressly authorized by the Public Utilities Commission of Michigan; hearings on such matter having been held after appropriate notice;[1] the record in this matter having been examined; the Commission having made and filed its findings herein; and the Commission having ordered, by its order entered on this 5th day of October 1938, that the issue and sale of the aforesaid Bonds and Serial Notes be and are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject however to certain conditions set forth in said order, one of which conditions is as follows:

(a) That Michigan Consolidated Gas Company shall approve and consent, in writing, to the making and issuing by the Commission of an order in this proceeding, pursuant to the provisions of Section 12 (c) of said Act, that unless otherwise ordered by the Securities and Exchange Commission so long as any of said Company's said First Mortgage Bonds 4% Series due 1963 are outstanding under the indenture of mortgage dated September 1, 1938, to City Bank Farmers Trust Com-

[1] 3 F. R. 2164 DI.

Reference

pany and Ralph E. Morton, Trustees, Michigan Consolidated Gas Company and any successors of said Company as the party of the first part under said indenture shall not declare or pay any dividends (other than dividends payable in shares of its common stock) or make any other distribution on any shares of its common stock unless there shall have been included as charges to operating expenses of said Company on its books of account in each and every calendar year, beginning with that portion of the calendar year from October 1 to December 31, 1938, an aggregate amount for maintenance and repairs to and as provision for reserves for depreciation of the company's properties equivalent to 2¾% of the average amount during such year of the gross property account of the Company, such charges for the period from October 1 to December 31, 1938 to be equivalent to 11/16% of such average amount. For the purposes of computing such charges the amount of the gross property account of the Company at October 1, 1938 shall be deemed to be $78,000,000 and the amount of the gross property account at any date subsequent to October 1, 1938 shall be $78,000,000 plus the original cost to the Company of all property additions made from October 1, 1938 to such subsequent date, less the original cost to the Company of all property retired from October 1, 1938 to such subsequent date. The average amount of the gross property account during any year shall be deemed to be the average of the amounts of the gross property account at January 1 and December 31 of such year.

The matter of the restriction of the payment of dividends having been raised, by consent of the parties at the hearing herein, the Commission having jurisdiction of the matter of payment of dividends by said Company, the record containing evidence with respect to such matter, and Michigan Consolidated Gas Company having previously approved and consented, in writing, to the making and issuing of this order in this proceeding; and

The Commission deeming the making and entry of this order necessary and appropriate to protect the financial integrity of companies in the holding company system of which Michigan Consolidated Gas Company is a part and to carry out the provisions of Section 12 (c) of said Act;

It is ordered, That, unless otherwise ordered by the Securities and Exchange Commission, so long as any of the First Mortgage Bonds 4% Series due 1968 of said Michigan Consolidated Gas Company are outstanding under the indenture of mortgage of said Company, dated September 1, 1938, to City Bank Farmers Trust Company and Ralph E. Morton, Trustees, Michigan Consolidated Gas Company and any successors of said Company as the party of the first part under said indenture shall not declare or pay any dividends (other than dividends payable in shares of its common stock) or make any other distribution on any shares of its common stock unless there shall have been included as charges to operating expenses of said Company on its books of account in each and every calendar year, beginning with that portion of the calendar year from October 1 to December 31, 1938, an aggregate amount for maintenance and repairs to and as provision for reserves for depreciation of the Company's properties equivalent to 2¾% of the average amount during such year of the gross property account of the Company, such charges for the period from October 1 to December 31, 1938 to be equivalent to 11/16% of such average amount. For the purposes of computing such charges the amount of the gross property account of the Company at October 1, 1938, shall be deemed to be $78,000,000 and the amount of the gross property account at any date subsequent to October 1, 1938 shall be $78,000,000 plus the original cost to the Company of all property additions made from October 1, 1938 to such subsequent date, less the original cost to the Company of all property retired from October 1, 1938 to such subsequent date. The average amount of the gross property account during any year shall be deemed to be the average of the amounts of the gross property account at January 1 and December 31 of such year.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2944; Filed, October 6, 1938; 12:37 p. m.]

Reference

OCT 10 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 197

Washington, Saturday, October 8, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-1938-17]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 14

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended,[1] is hereby further amended by adding the following to subsection B of section I:

5. The State acreage allotments of Georgia-Florida Type 62 tobacco are as follows:

	Acres
Florida	2,349
Georgia	551

6. The State acreage allotments of commercial potatoes are as follows:

	Acres
Alabama	1,866
California	45,520
Colorado	84,143
Connecticut	8,312
Delaware	1,150
Florida	17,372
Georgia	1,038
Idaho	98,826
Indiana	15,000
Kansas	9,398
Kentucky	5,947
Maine	158,271
Maryland	11,518
Massachusetts	6,447
Michigan	150,572
Minnesota	179,954
Missouri	9,069
Montana	4,790
Nebraska	62,229
Nevada	1,135
New Hampshire	2,149
New Jersey	52,462
New York	115,965
North Carolina	35,134
North Dakota	88,442
Ohio	37,474
Oklahoma	5,267
Oregon	30,744
Pennsylvania	72,353
Rhode Island	2,486
South Carolina	10,324
South Dakota	12,508
Utah	5,488
Vermont	1,938
Virginia	49,338
Washington	27,544
Wisconsin	126,506
Wyoming	19,981
Total	1,569,669

[1] 3 F. R. 2147 DI.

Done at Washington, D. C., this 6th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-2955; Filed, October 7, 1938; 11:13 a. m.]

TITLE 18—CONSERVATION OF POWER

FEDERAL POWER COMMISSION

[Order No. 54]

PRESCRIBING REGULATIONS TO GOVERN THE PRESERVATION OF RECORDS OF PUBLIC UTILITIES AND LICENSEES

AUGUST 30, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

The Commission, pursuant to authority vested in it by the Federal Power Act, particularly section 301 (a) thereof, and finding such action necessary and appropriate for carrying out the provisions of said act, hereby adopts the accompanying "Regulations to Govern the Preservation of Records of Public Utilities and Licensees" and it is hereby *ordered* that:

(A) Said regulations be and the same are hereby prescribed and promulgated as the regulations governing the preservation of records by public utilities subject to the jurisdiction of the Commission and by licensees holding licenses issued by the Commission, to the extent and in the manner set forth therein;

(B) Said regulations shall, as to all public utilities now subject to the juris-

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program bulletin, 1938, supplement No. 14 2421
TITLE 18—CONSERVATION OF POWER:
Federal Power Commission:
Preservation of records of public utilities and licensees 2421
TITLE 37—PATENTS AND COPYRIGHTS:
United States Patent Office:
Rules of practice, amendments 2429
TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:
Veterans' Administration:
Filing of claims and supporting evidence 2430

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Lowell-Lawrence, Mass., Milk Marketing Area, hearing on proposed agreement and order 2431
Puerto Rico sugar quota, hearing 2431
Bureau of Animal Industry:
Niles, C. W., doing business as Coffeyville Stockyards, notice under Packers and Stockyards Act 2431
Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Chicago Thermo-Magnetic Cushion Co., and A. Mercer Parker 2432
Consolidated Book Publishers, Inc 2432
Consolidated Sign Letter Co., Inc 2433
Cooper, J. W., trading as Curl-O-Wave Co 2433

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Federal Trade Commission—Con.
Orders appointing examiners, etc.—Continued. Page
Cressy, William J., and Mrs. Effie M. Robertson, trading as Flying Intelligence Service ____ 2432
Kronheim, Milton S., & Son, Inc., et al ____ 2432
Securities and Exchange Commission:
Market Street Railway Co., order ____ 2433
Northern States Power Co. (Del.), hearing ____ 2434
Northern States Power Co. (Minn.) (Del.) (Wis.), hearing ____ 2434
Rainbow Luminous Products, Inc., registration withdrawal ____ 2433

diction of the Commission and as to all present licensees, become effective on August 1, 1938, and as to any public utility or licensee which may hereafter become subject to the jurisdiction of the Commission, said regulations shall become effective as of the date when such public utility becomes subject to the jurisdiction of the Commission or on the effective date of the license of such licensee;

(C) A copy of said regulations be forthwith served on each public utility subject to the jurisdiction of the Commission, and each licensee or permittee holding a license or permit from the Commission.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

GENERAL INSTRUCTIONS

1. The accompanying schedules show the periods of time that designated accounts, records, and memoranda of public utilities and licensees must be preserved. All records not required to be preserved may be destroyed at any time, and all records required to be preserved for a specified period of time may be destroyed after the elapse of such period in the manner elected by each utility.

2. Wherever the period specified herein for the retention of cash and other documents which may be involved in claims by or against the utility is shorter than the period specified in the statute of limitations of the State wherein the utility operates, the latter shall control.

3. Voluminous detailed records, such as material requisitions and issues, time and labor distribution cards, etc., may be photographed and the films kept for the respective periods indicated in lieu of the original documents, but this rule shall not apply to cash and journal vouchers and similar important documents, although it does apply to the details in support thereof.

4. Supervision over the destruction of records should be vested in an officer of the utility and that officer shall permanently keep a record, by classes and general description, of accounts, records, and memoranda destroyed, together with the respective dates of destruction.

5. If any accounts, records, or memoranda, required to be kept for a period of 6 years or more, are destroyed accidentally by fire, flood, or other casualty, a statement shall be prepared and filed with the Commission listing, as far as possible, the records destroyed and describing the circumstances of destruction.

6. The provisions of these regulations apply to all records which come into the possession of the accounting utility in connection with the acquisition of property, such as by purchase, consolidation, merger, etc.

7. These regulations shall not be construed as requiring the keeping of accounts, records, or memoranda not required to be kept by other regulations, such as the Uniform System of Accounts, of the Commission.

8. These regulations shall not be construed as excusing compliance with any other lawful requirement for the preservation of accounts, records, or memoranda for longer periods than those herein prescribed.

INDEX TO SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Corporate and General
1. Capital stock records.
2. Bond records.
3. Securities authorizations from regulatory bodies.
4. Statements and reports filed with Securities and Exchange Commission.
5. Proxies and voting lists.
6. Minute books.
7. Titles, franchises, and licenses.
8. Permits.
9. Contracts and agreements.
10. General and subsidiary ledgers.
11. Journals.
12. Journal vouchers and journal entries.
13. Cash books.
14. Voucher registers.
15. Vouchers.
16. Accounts receivable.
17. Records of securities owned.
18. Insurance records.
19. Tax records.
20. Accountants' and auditors' reports.
21. Tabulating machine records.

Plant and Depreciation Reserve
22. Plant and construction ledgers.
23. Construction work orders.
24. Retirement work orders.
25. Plant additions and retirements not covered by work orders.
26. Appraisals and valuations.
27. Records of plant units.
28. Maps.
29. Engineering records.
30. Contracts and other agreements.
31. Reclassifications of plant accounts.
32. Reserve for depreciation of electric plant.

Treasury
33. Statements of funds and deposits.
34. Deposits with banks and others.
35. Receipts and disbursements.

Revenue Accounting and Collecting
36. Customers' service applications and contracts.
37. Rate schedules.
38. Customers' guarantee deposits.
39. Meter reading sheets and records.
40. Maximum demand charts and demand meter record cards.
41. Miscellaneous billing data.
42. Revenue summaries.
43. Customers' ledgers and records used in lieu thereof.
44. Merchandise sales—accounting and collecting.
45. Collection reports and records.
46. Customers' account adjustments.
47. Uncollectible accounts and customers' credit records.

Pay Roll and Personnel Records
48. Pay roll records.
49. Assignments, attachments, and garnishments.
50. Personnel records.
51. Employees' welfare and pension records.
52. Instructions to employees and others.
53. Organization diagrams and charts.

Purchases and Stores
54. Purchases.
55. Material ledgers.
56. Materials and supplies received and issued.
57. Sales of scrap and materials and supplies.
58. Inventories of materials and supplies.

Operations
59. Production.
60. Transmission and distribution.
61. Customers' service.
62. Auxiliary and other operations.

Statistics
63. Financial, operating, and statistical reports regularly prepared in the course of business.
64. Reports to stockholders.
65. Reports to Federal and State regulatory commissions.
66. Miscellaneous statistical reports.
67. Tabulating cards.

Miscellaneous
68. Maintenance work orders and job orders.
69. Estimates of future operating expenditures.
70. Injuries and damages.
71. Correspondence.
72. Other miscellaneous records.
73. Duplicate accounts, records, and memoranda.

Schedule of Records and Periods of Retention

Description of records	*Period to be retained*
Corporate and general:	
1. Capital stock records:	
(a) Capital stock ledgers	Permanently.
(b) Capital stock subscription accounts.	Do.
(c) Subscription notices and requests for allotment.	3 years.
(d) Stubs or similar records of capital stock certificates.	Permanently.
(e) Stock transfer registers.	Do.
(f) Papers pertaining to or supporting transfers of capital stock.	3 years.
(g) Canceled capital stock certificates or certificates of destruction thereof.	Permanently.
(h) Change of address notices of stockholders.	Destroy at option after entries to records.
(i) Dividend notices and letters to stockholders (1 copy of each in connection with each dividend declaration).	Permanently.
(j) Dividend registers	6 years.
2. Bond records:	
(a) Registered bond ledgers.	Permanently.
(b) Bond subscription accounts.	3 years.
(c) Subscription notices and requests for allotment.	Do.
(d) Stubs or similar records of bonds issued.	5 years after redemption.
(e) Papers pertaining to or supporting transfers of registered bonds.	3 years.
(f) Records of interest coupons paid and unpaid.	Destroy at option in compliance with note below.
(g) Canceled bonds and paid interest coupons. NOTE.—When any canceled bonds, receiver's certificates, notes, or interest coupons are destroyed a certificate of destruction giving full descriptive reference to the documents destroyed shall be made by the person or persons authorized to perform such destruction and shall be retained permanently by the utility. When documents represent debt secured by mortgage, the certificates of destruction shall also be authorized by a representative of the trustees acting in conjunction with the person or persons destroying the documents or shall have the trustees' acceptance thereon.	Do.
3. Authorizations from regulatory bodies for issuance of securities:	
(a) Copies of applications to regulatory bodies for authority to issue stocks, bonds, and other securities, including copies of exhibits in support of such applications.	Permanently.
(b) Official copies of opinions and orders of regulatory bodies granting authority to issue securities.	Permanently.
(c) Reports filed with regulatory bodies in compliance with authorizations to issue securities. (Reports of sales of securities, of application of proceeds, etc.) File copies of such reports and supporting papers.	Do.
4. Copies of registration statements and other data filed with the Securities and Exchange Commission in connection with offerings of securities for sale to the public, or the listing of securities on exchanges, including supporting papers; also copies of periodic reports and supporting papers filed in compliance with either the Securities Act of 1933 or the Securities Exchange Act of 1934.	Do.
5. Proxies and voting lists:	
(a) Proxies of holders of voting securities.	6 years.
(b) Lists of holders of voting securities represented at meetings.	Do.
6. Minute books of stockholders', directors', and directors' committee meetings.	Permanently.
7. Titles, franchises, and licenses:	
(a) Deeds and other title papers (including abstracts of title and supporting data).	6 years after property is disposed of unless surrendered to transferee.
(b) Corporate charters or certificates of incorporation.	Permanently.
(c) Franchises and certificates authorizing operations as a public utility.	Do.
(d) Licenses (including amendments thereof) granted by Federal or State authorities for construction and operation of dams, reservoirs, power houses, etc.	Do.
(e) Copies of formal orders of regulatory commissions served upon the utility.	Do.
8. Permits:	
(a) Permits and granted applications for the use of facilities of others.	6 years after expiration or cancelation.
(b) Copies of permits and applications granted others for the use of the utility's facilities.	Do.
(c) Applications for the use of facilities not granted and copies of such applications.	Destroy at option.
(d) Permits of a temporary nature from municipalities or others to perform specific work, such as permits to open streets and place poles, and copies of petitions for such permits.	Do.
9. Contracts and agreements (See also item 30):	
(a) Service contracts, such as for management, accounting, and financial services.	Permanently.
(b) Contracts with other electric utilities for, the purchase, sale, or interchange of electric energy.	6 years after expiration or cancelation.
(c) Leases pertaining to rentals of property to or from others.	Do.
(d) Contracts and agreements with individual employees, labor unions, company unions, and other employee organizations relative to wage rates, hours, and similar matters.	3 years after expiration or cancelation.
(e) Contracts and agreements with employees and associated companies for the purchase or sale of the company's own securities.	10 years after expiration or cancelation.
(f) Memoranda clarifying or explaining provisions of contracts listed above.	For same periods as contracts to which they relate.
(g) Card or book records of contracts, leases, and agreements made, showing dates of expirations and of renewals, memoranda of receipts and payments under such contracts, etc.	Do.
(h) Summaries and abstracts of contracts, leases, and agreements covered by items above.	Destroy at option.
10. General and subsidiary ledgers:	
(a) General ledgers and ledgers subsidiary or auxiliary thereto except customers' and stores ledgers provided for elsewhere.	Permanently.
(b) Indexes to general and subsidiary ledgers.	Do.
(c) Trial balance sheets of general and subsidiary ledgers.	10 years.
11. Journals:	
General and subsidiary journals, including departmental and divisional journals.	Permanently.
12. Journal vouchers and journal entries:	
(a) General, departmental, divisional, and petty journal vouchers.	Do.
(b) Material and supplies disbursement and labor distribution records supporting journal vouchers:	
(1) Affecting operations and maintenance only.	6 years.
(2) Affecting plant	Permanently.
(c) Papers forming part of or necessary to explain journal vouchers except as covered by item 12 (b), above.	Do.
(d) Schedules for recurring journal entries.	Destroy when superseded.
(e) Lists of standard journal entry numbers.	Do.

Description of records	*Period to be retained*
13. Cash books:	
(a) Treasurers' and auditors' general cash books.	Permanently.
(b) Cash books subsidiary or auxiliary to general cash books except those showing solely collections from customers.	Do.
(c) Subsidiary cash records showing solely customers' collections.	6 years.
(d) Other cash books of a memorandum nature.	3 years.
14. Voucher registers:	
(a) Voucher distribution registers.	Permanently.
15. Vouchers:	
(a) Paid and canceled vouchers (1 copy), analysis sheets showing detailed distribution of charges on individual vouchers and other supporting papers.	Do.
(b) Original bills and invoices for materials, services, etc., paid by vouchers and which should be attached thereto.	Do.
(c) Paid checks and receipts for payments by voucher or otherwise.	10 years.
(d) Authorizations for the payment of specific vouchers.	Permanently.
(e) Lists of unaudited bills (accounts payable), lists of vouchers transmitted and memoranda regarding changes in unaudited bills.	Destroy at option.
(f) Voucher indexes	6 years.
16. Accounts receivable (See items 43 and 44 for accounts with customers for electric service and for merchandise sales):	
(a) Records of accounts receivable pertaining to sales of electric plant.	Permanently.
(b) Record or register of accounts receivable and indexes thereto and summaries of distribution.	6 years.
(c) Accounting department copies of invoices issued and supporting papers which do not accompany the original invoices.	6 years after payment.
(d) Authorizations for charges including supporting papers.	Do.
(e) Periodic statements of unsettled accounts, except trial balances.	1 year.
(f) Schedule of invoices to be issued.	Destroy at option.
17. Records of securities owned:	
Records of securities owned, in treasury, or with custodians.	6 years.
18. Insurance records:	
(a) Ledgers, cards, or other records of insurance policies in force, showing coverage, premiums paid, and expiration dates.	6 years after expiration of policies.
(b) Records of self-insurance against losses from fire, casualties, and damages to property of others or to persons.	10 years.
(c) Detailed schedules or spread sheets of monthly insurance charges to operating expenses and other accounts.	6 years.
(d) Detailed schedules of monthly accruals for self-insurance.	Do.
(e) Insurance policies	6 years after expiration
(f) Records of amounts recovered from insurance companies in connection with losses and of claims against insurance companies, including reports of losses and supporting papers.	6 years.
(g) Inspectors' reports and records of condition of property.	1 year after superseded.
(h) Reports of minor losses not covered by insurance or less than minimum amount collectible.	3 years.
(i) Insurance maps of property and structures erected thereon.	During life of property.
(j) Records and statements relating to insurance requirements.	Destroy at option.
19. Tax records:	
(a) Copies of schedules, returns, and supporting working papers to taxing authorities and records of appeals:	
(1) Federal income, excess profits, undistributed income, and capital stock taxes.	20 years.
(2) State income taxes	Do.
(3) Other taxes	Do.
(b) Tax bills from taxing authorities and receipts for payment.	See item 15 (b).
(c) Summaries of taxes paid by classes of taxes and by location.	6 years.
(d) Summaries of taxes paid by taxing districts.	Do.
(e) Schedules of monthly accruals by classes of taxes and supporting papers showing how estimates of taxes to be paid were determined.	Do.
(g) Restatements of schedules of taxes paid after giving effect to refunds and addititonal assessments.	Do.
20. Accountants' and auditors' reports:	
(a) Reports of examinations and audits by accountants and auditors not in the regular employ of the utility. (Including reports of public accounting firms and regulatory commission accountants.)	Permanently.
(b) Internal audit reports and working papers.	3 years.
21. Tabulating machine records (not including billing machine records):	
(a) Tabulating or punched cards used in assembling figures to be posted to an account:	
(1) Where a printed sheet or tape showing voucher number, account number, and amount on each sheet is not preserved:	
Affecting operations and maintenance only.	6 years.
Affecting plant	Permanently.
(2) Where a printed sheet or tape described in (1) above is preserved.	Destroy at option of utility.
(b) Printed sheets or tapes showing the details and summaries of accounting data indicated on the punched cards:	
Affecting operations and maintenance only.	6 years.
Affecting plant	Permanently.
Plant and depreciation reserve:	
22. Plant and construction ledgers:	
(a) Ledgers of electric plant accounts, including land and other detailed ledgers, showing the cost of electric plant by classes.	Do.
(b) Construction work in progress ledgers.	Do.
23. Construction work orders and supplemental records:	
(a) Work order sheets to which are posted in summary form or in detail, the entries for labor, materials, and other charges for electric plant additions and the entries closing the work orders to electric plant in service at completion.	Do.
(b) Authorizations for expenditures for additions to electric plant, including memoranda showing the detailed estimates of cost and the bases therefor. (Including original and revised or subsequent authorizations.)	6 years after plant is retired.
(c) Requisitions and registers of authorizations for electric plant expenditures.	6 years.
(d) Completion or performance reports showing comparison between authorized estimates and actual expenditures for electric plant additions.	6 years after plant is retired.
(e) Analysis or cost reports showing quantities of materials used, unit costs, number of man-hours, etc., in connection with completed construction projects.	Permanently.
(f) Records and reports pertaining to progress of construction work, the order in which jobs are to be completed, and similar records which do not form a basis of entries to the accounts.	Destroy at option.

Description of records	*Period to be retained*
24. Retirement work orders and supplemental records:	
(a) Work order sheets to which are posted the entries for removal costs, materials recovered, and credits to electric plant accounts for cost of plant retired.	Permanently.
(b) Authorizations for retirement of electric plant, including memoranda showing the basis for determination of cost of plant to be retired and estimates of salvage and removal costs.	6 years after plant is retired.
(c) Registers of retirement work orders.	6 years.
25. Summary sheets, distribution sheets, reports, statements, and papers directly supporting debits and credits to electric plant accounts not covered by construction or retirement work orders and their supporting records.	Permanently.
26. Appraisals and valuations made of the utility's property and all records, reports and data pertaining thereto.	Do.
27. Book or card records showing description, location, quantities, cost, etc., of physical units (or items) of electric plant owned.	Do.
28. Maps showing the location and physical characteristics of production, transmission, and distribution systems of the utility.	Do.
29. Engineering records in connection with construction projects:	
(a) Maps, diagrams, profiles, plans, photographs, records of engineering studies, and similar records in connection with proposed construction projects:	
(1) If construction of project results wholly or in part.	Do.
(2) If construction of project does not result.	Destroy at option 6 years after completely accounting for expenses incurred.
30. Contracts and other agreements relating to electric plant:	
(a) Contracts relating to acquisition or sale of plant.	Permanently.
(b) Contracts and other agreements relating to services performed in connection with construction of electric plant of the utility (including contracts for the construction of plant by others for the utility and for supervision and engineering relating to construction work).	6 years after plant is retired.
31. Records pertaining to reclassifications of electric plant accounts to conform to prescribed systems of accounts, including supporting papers showing the bases for such reclassifications.	Permanently.
32. Records of reserve for depreciation of electric plant:	
(a) Detailed records or analysis sheets segregating the depreciation reserve according to functional classifications of plant.	Permanently.
(b) Records supporting computation of depreciation expense of electric plant, including such data as life and salvage studies.	Do.
Treasury:	
33. Statements of funds and deposits:	
(a) Summaries and periodic statements of cash balances on hand and with depositories.	3 years.
(b) Statements of managers and agents' cash balances on hand and with depositories.	2 years.
(c) Authorizations for and statements of transfer of funds from one depository to another.	Do.
(d) Requisitions and receipts for funds furnished managers, agents, and others.	May be destroyed at option after funds have been returned or accounted for.
(e) Records of fidelity bonds of employees and others responsible for funds of the utility.	Until liability of bonding company has expired.
(f) Reports and estimates of funds required for general and special purposes.	2 years.
34. Records of deposits with banks and others:	
(a) Bank deposit books	1 year.
(b) Copies of bank deposit slips.	Do.
(c) Advice of deposits made when information thereon is shown on other records which are retained.	Destroy at option.
(d) Statements from depositories showing the details of funds received, disbursed, transferred, and balances on deposit.	6 years.
(e) Bank reconcilement papers.	1 year.
(f) Statements from banks of interest credits.	3 years.
(g) Check stubs, registers, or other records of checks issued.	6 years.
(h) Correspondence and memoranda relating to the stopping of payment of bank checks and to the issuance of duplicate checks.	Do.
35. Records of receipts and disbursements:	
(a) Daily or other periodic statements of receipts or disbursements of funds.	3 years.
(b) Records or periodic statements of outstanding vouchers, checks, drafts, etc., issued and not presented.	2 years.
(c) Reports of managers and agents, showing working fund transactions, and summaries thereof.	3 years.
(d) Reports of revenue collections by field cashiers, pay stations, etc.	2 years.
Revenue accounting and collecting:	
36. Customers' service applications and contracts:	
(a) Applications for electric service for which contracts have been executed.	Destroy at option.
(b) Applications for electric service used in lieu of contracts.	3 years after service is discontinued.
(c) Contracts and card files or other records thereof with customers for electric service. (See also item 9 (b).)	3 years after expiration or cancelation.
(d) Applications for electric service which were withdrawn by applicant or not granted by the utility.	1 year.
(e) Contracts or sales agreements with customers and others for sale of electric merchandise and appliances.	3 years after sales agreement as discharged.
(f) Contracts for lease of motors, transformers, and other equipment to customers, including receipts for same.	3 years after expiration of contract or return of equipment.
(g) Applications and contracts for extension of lines covered by refundable deposits or guarantees of revenue, also records pertaining to such contracts.	3 years after entire amount is refunded.
(h) Applications and contracts for extension of lines for which donations or contributions are made by customers or others.	Permanently.
37. Rate schedules:	
(a) General files of published rate sheets and schedules of electric service. (Including schedules suspended or superseded.)	Do.
(b) Divisional or local office copies of rate sheets and schedules of electric service.	1 year after expiration or cancelation.
38. Customers' guarantee deposits:	
(a) Customers' deposit ledgers or card records.	6 years after refund.
(b) Customers' deposit certificate books.	Do.
(c) Receipts for customers' deposits refunded.	Do.
(d) Receipts for interest on customers' deposits.	Do.
39. Meter reading sheets and records:	
(a) Meter reading sheets.	6 years.

Description of records	*Period to be retained*
(*b*) Meter reread sheets (special readings to check high or low consumption).	3 years.
(*c*) Customers' reading cards.	Do.
(*d*) Connection and disconnection orders.	Do.
(*e*) Indexes to meter books.	6 years.
40. Maximum demand charts and demand meter record cards.	Do.
41. Miscellaneous billing data:	
(*a*) Connected load cards of customers.	1 year after displaced or superseded.
(*b*) Records of residence room counts.	Do.
(*c*) Billing department's copies of contracts with customers (in addition to contracts in general files).	Destroy at option after expiration.
(*d*) Service and inspection orders on which customers are charged and sundry charge advices.	3 years.
(*e*) Authorizations for charges under power contracts.	1 year after expiration of contract.
(*f*) Standard billing sheets or schedules (showing computed bills of varying consumption according to rates).	Destroy at option.
42. Revenue summaries:	
(*a*) Summaries of monthly operating revenues according to classes of service for entire electric utility.	6 years.
(*b*) Summaries of monthly operating revenues according to classes of service by towns, districts, or divisions. (Including summaries of forfeited discounts and penalties.)	Do.
43. Customers' ledgers and other records used in lieu thereof:	
(*a*) Customers' ledgers.	Do.
(*b*) Records used in lieu of customers' ledgers, such as bill summaries, registers, bill stubs, etc.	Do.
(*c*) Copies of large power bills:	
If details are transcribed to ledgers covered by item (*a*) above.	Destroy at option.
If details are not transcribed to ledgers.	6 years.
(*d*) Trial balances of ledgers referred to above.	3 years.
(*e*) Indexes to customers' accounts.	6 years.
(*f*) Change of address notices.	Destroy at option.
(*g*) Cards and other records relating to forfeited discounts.	3 years.
(*h*) Special ledger records of customers exempt from taxes on electricity.	6 years.

Description of records	*Period to be retained*
44. Merchandise sales—Accounting and collecting:	
(*a*) Merchandise sales tickets (duplicates) and charge slips for work done.	Destroy at option after annual audit and 6 months after account is settled.
(*b*) Merchandise sales journals or registers and summaries of sales.	6 years.
(*c*) Merchandise ledgers and installment records.	3 years after completion of payments.
(*d*) Merchandise sales returns and adjustment tickets.	Destroy at option after annual audit and 6 months after account is settled.
(*e*) Cashiers' stubs for merchandise collections.	3 years.
(*f*) Cashiers' periodic reports and statements of collections on merchandise accounts.	Do.
(*g*) Records of monthly statements to customers.	Destroy at option.
(*h*) Reports relating to status of merchandise accounts receivable.	1 year.
(*i*) Job orders and supporting details of charges to customers for work done.	3 years.
(*j*) Indexes and trial balances of merchandise ledgers.	Do.
45. Collection reports and records:	
(*a*) Periodic reports, lists, and summaries of collections of operating revenues by collectors, agents, and local or divisional or district offices. (See item 35 (*d*).)	2 years.
(*b*) Bill stubs, copies of bills, collection slips, and other records pertaining to collections, summarized or detailed in daily or periodic cash reports.	3 years.
(*c*) Memorandum records of remittances from local or branch offices. NOTE.—See item 34 pertaining to deposits of cash with banks. Item 34 applies to all bank accounts whether at general, local, or divisional offices.	Do.
46. Customers' account adjustments:	
(*a*) Detailed records pertaining to adjustments of customers' accounts for overcharges, undercharges, and other errors, results of which have been transcribed to other records.	3 years, if individual accounts can be identified; otherwise, 6 years.

Description of records	*Period to be retained*
(*b*) Detailed records of high-bill complaints whether or not resulting in adjustments to customers' accounts.	3 years.
47. Uncollectible accounts and customers' credit records:	
(*a*) Records of ratings, credit classifications, and investigations of customers.	Destroy at option.
(*b*) Ledger accounts and supporting details of customers' accounts considered to be uncollectible.	For period legally collectible.
(*c*) Reports and statements showing age and status of customers' accounts.	1 year.
(*d*) Data on unpaid final bills.	Do.
(*e*) Authorizations for writing off customers' accounts.	6 years.
Pay roll and personnel records:	
48. Pay roll records:	
(*a*) Pay roll sheets or registers of payments of salaries and wages to individual officers and employees. (See item (*k*) below for pension or annuity pay rolls and item 23 (*a*) for construction pay rolls.)	10 years.
(*b*) Records showing the distribution of salaries and wages paid to officers and employees for each monthly, semimonthly, or weekly pay roll period and summaries or recapitulation statements of such distribution.	See item 12 (*b*).
(*c*) Time tickets, time sheets, time books, time cards, workmen's reports and other records showing hours worked, description of work, and accounts to be charged.	Do.
(*d*) Paid checks, receipts for wages paid in cash, and other evidences of payments for services rendered by employees.	10 years.
(*e*) Receipts for pay rolls and pay checks delivered to paymasters or other employees for distribution.	Destroy at option.
(*f*) Applications and authorizations for changes in wage and salary rates, summaries and reports of changes in pay rolls, and similar records.	6 years.
(*g*) Applications for pay roll changes not authorized.	Destroy at option.
(*h*) Pay roll authorizations and records of authorized positions.	6 years.
(*i*) Records of deductions from pay rolls for social security taxes.	Do.
(*j*) Comparative or analytical statements of pay rolls.	Do.
(*k*) Pension or annuity pay rolls.	Do.

Description of records	*Period to be retained*
49. Assignments, attachments, and garnishments:	
(*a*) Record of assignments, attachments, and garnishments of employees' salaries, including files of notices, etc., pertaining thereto.	3 years.
(*b*) Minors' salary releases.	Destroy at option.
50. Personal records:	
(*a*) Employees' service records, attendance, length of service, and other pertinent data.	3 years after termination of employment.
(*b*) Applications for employment, requests for medical examination, medical examiner's report, photographs and other identification records, and other miscellaneous records pertaining to the hiring of employees.	Destroy at option.
51. Employees' welfare and pension records:	
(*a*) Records pertaining to employees' recreational, educational, hospital, benefit, accident prevention, and similar activities:	
(1) Supporting entries to operating expenses and other accounts, but not including plant accounts.	6 years.
(2) Supporting entries to plant accounts.	Permanently.
(3) Not supporting entries to the accounts.	Destroy at option.
(*b*) Detailed records showing computations of accruals for pension liabilities.	Permanently.
52. Instructions to employees and others:	
(*a*) Bulletins or memoranda of general instructions to employees pertaining to accounting, engineering, operating maintenance, or construction methods and procedure.	Do.
(*b*) Notices to employees on matters of discipline, department, and other similar subjects. NOTE.—If copies of instructions covered by (*a*) above are kept in the general files of the department in which the complete official file is maintained, other copies in the various departments may be destroyed after expiration or cancelation.	Destroy at option.
53. Organization diagrams and charts.	Do.
Purchases and stores:	
54. Purchases:	
(*a*) Advices or requisitions from storekeeper and others for the purchase of materials and supplies or services.	Do.
(*b*) Bids received from vendors in connection with the purchases of materials and supplies.	3 years.

Description of records	*Period to be retained*
(*c*) Purchasing department copy of purchase orders and specifications of materials ordered.	6 years.
(*d*) Contracts for the purchase of materials and supplies:	
Contracts for materials used directly in construction.	Until plant is retired.
Contracts for other material.	6 years.
(*e*) Purchasing department copies of invoices for materials and supplies. (See item 15 (*b*) for original invoices.)	Destroy at option.
(*f*) Registers or similar records of invoices.	6 years.
(*g*) Price records or indexes of purchases.	Destroy at option.
(*h*) Advices from vendors acknowledging receipt of orders for materials and supplies, notices of shipment, packing slips, and copies of bills of lading.	Do.
(*i*) Receipts or delivery tickets issued for materials and supplies received in installments and subsequently surrendered with and in support of invoices or bills covering complete purchases.	Do.
(*j*) Demurrage or car records showing periods freight cars are held on company sidings.	Do.
(*k*) Copies of notices to vendors for materials and supplies returned for credit or repair.	Do.
(*l*) Lists or records of invoices transmitted to or from storekeepers.	Do.
(*m*) Records and reports used for checking and tracing materials and supplies covered by invoices provided for in item (*e*) above.	Do.
55. Material ledgers:	
(*a*) Ledger sheets and card records of materials and supplies received, issued, and on hand.	Permanently.
(*b*) Statements of materials and supplies on hand, per ledgers.	3 years.
56. Materials and supplies received and issued:	
(*a*) Records and reports pertaining to receipt of materials and supplies.	Do.
(*b*) Records of inspecting and testing materials and supplies.	Destroy at option.
(*c*) Records showing the detailed distribution of materials and supplies issued during accounting periods.	See item 12 (*b*)
(*d*) Material disbursement tickets showing quantities, unit prices, and accounts to be charged for materials and supplies issued from stores for use.	Do.
(*e*) Materials returned credit slips, showing details of materials returned to stock.	Do.

Description of records	*Period to be retained*
(*f*) Requisitions and receipts for materials and supplies issued, the details of the issues being set forth in the material disbursement tickets.	Destroy at option.
(*g*) Records and reports of materials and supplies transferred from one department, storeroom, or division to another.	3 years.
(*h*) Records and reports of materials recovered and returned to stock if transcribed to records covered by item (*c*) above.	Do.
(*i*) Records and reports of materials and supplies issued to individuals or gangs of employees to be accounted for when used or returned to stock.	After being accounted for.
(*j*) Minor records and reports pertaining to materials and supplies not involving costs or final disposition, such as reports of unfilled requisitions, authorizations for additions to stock, and similar records; also, storeroom copies of purchase orders and price records, other copies being retained in files of purchasing department.	Destroy at option.
57. Records of sales of scrap and materials and supplies:	
(*a*) Authorizations for sale of scrap and materials and supplies.	6 years.
(*b*) Contracts for sale of scrap and materials and supplies.	Do.
(*c*) Memoranda pertaining to sale of scrap and materials and supplies.	Do.
58. Inventories of materials and supplies:	
(*a*) General inventories of materials and supplies on hand with records of adjustments of accounts required to bring stores records into agreement with physical inventories.	Do.
(*b*) Stock cards, inventory cards, and other detailed records pertaining to the taking of inventories if abstracted into records covered by (*a*) above.	Destroy at option.
(*c*) Minor inventories of materials and supplies on hand if not reflected in adjustments of accounts.	Do.
Operations:	
59. Production:	
(*a*) Boiler room, condenser room, turbine room, and pump room logs, including supporting data.	3 years.
(*b*) Boiler room and turbine room reports of equipment in service and performance.	Do.

Description of records	*Period to be retained*
(c) Boiler-tube failure report.	3 years.
(d) Generation and output logs with supporting data.	6 years.
(e) Station and system generation reports.	Permanently.
(f) Generating high-tension and low-tension load records.	6 years.
(g) Oil and waste reports.	Do.
(h) Load curves, temperature logs, coal and water logs.	Do.
(i) Gage-reading reports.	Do.
(j) Recording instrument charts.	3 years.
(k) Load dispatcher's and station permits.	Do.
60. Transmission and distribution:	
(a) Substation and transmission line logs.	6 years.
(b) System operator's daily logs and reports of operation.	Do.
(c) Storage battery and other equipment logs and records.	3 years.
(d) Interruption logs and reports.	6 years.
(e) Records of substation general inspections and operation tests.	3 years.
(f) Apparatus failure reports.	6 years.
(g) Line-trouble reports and records.	3 years.
(h) Lightning and storm data.	6 years.
(i) Insulator test records.	3 years.
(j) Reports on inspections and repairs of all street openings.	6 years.
(k) Records of meter tests.	For life of meter.
(l) Meter shop reports (monthly reports summarizing tests, repairs, etc.).	6 years.
(m) Meter history records.	For life of meter.
(n) Transformer history records.	For life of transformer.
(o) Records of transformer inspections, oil tests, etc.	Do.
(p) Pole, tower, structure, equipment, and other history records.	For life of equipment.
NOTE.—Life or mortality study data for depreciation purposes shall be retained permanently.	
61. Customers' service:	6 years.
(a) Reports of inspections of customers' premises.	
(b) Records and reports of customers' service complaints.	Do.
(c) Surveys of customers' premises to determine type of service and equipment to be installed.	3 years.
(d) Records of installed customers' appliances.	1 year after displaced or superseded.
62. Records of auxiliary and other operations: Records of operations other than electric utility operations.	For the same periods as described in these regulations for similar records pertaining to electric operations.
Statistics:	
63. Annual, quarterly, monthly, or other periodic financial, operating, and statistical reports regularly prepared in the course of business to show the results of electric operations and the financial condition of the utility, including supporting detailed reports and statements essential to verification of the main reports.	Annual reports permanently; other reports 6 years.
64. Reports to stockholders:	
(a) Annual reports or statements to stockholders, file copies of and supporting papers.	Permanently.
(b) Written acknowledgments of receipts of reports to stockholders and written requests for copies of such reports.	Destroy at option.
65. Reports to Federal and State regulatory commissions:	
(a) Annual financial, operating, and statistical reports, file copies of, and supporting papers.	Permanently.
(b) Monthly and quarterly reports of operating revenues, expenses, and statistics, file copies of, and supporting papers.	3 years after current year.
(c) Special or periodic reports, including supporting papers, on the following subjects:	
(1) Transactions with associated companies.	6 years.
(2) Budget of expenditures.	Do.
(3) Accidents	Do.
(4) Employees and wages.	Do.
(5) Loans to officers and employees.	3 years after fully paid.
(6) Issues of securities. (See items 3 (c) and 4.)	Permanently.
(7) Purchases and sales of electric properties.	Do.
(8) Plant changes—units added and retired.	Do.
(9) Service interruptions.	6 years.
(10) Other matters	Do.
66. Miscellaneous statistical reports, statements, and summaries (not covered elsewhere in these these regulations) prepared for administrative or operating purposes only and not used as the basis for entries to the accounts of the utility.	Destroy at option.
67. Tabulating cards used only in compilation of statistics, when the results are transcribed to other records covered by these regulations. (See item 21.)	Destroy at option after appropriate summaries have been made.
Miscellaneous:	
68. Maintenance work orders and job orders:	
(a) Authorizations for expenditures for maintenance work to be covered by work orders, including memoranda showing the estimates of costs to be incurred.	6 years.
(b) Work order sheets to which are posted in detail the entries for labor, material, and other charges in connection with maintenance and other work pertaining to electric operations.	6 years.
(c) Summaries of expenditures on maintenance work orders and job orders and clearances to operating and other accounts (exclusive of plant accounts).	Do.
69. Detailed estimates (and authorizations) of future annual or monthly expenditures to be incurred for operations, maintenance, and taxes by the utility or operating departments, districts, or divisions, including revisions of such estimates and memoranda showing reasons for revisions; also records showing comparison of actual expenses with estimated.	3 years.
70. Injuries and damages:	
(a) Claim registers, card or book indexes, and similar records in connection with claims presented against the utility in connection with accidents resulting in damages to the property of others or in personal injuries to employees and others.	6 years after settlement or rejection.
(b) Papers, reports, statements of witnesses, etc., relating to individual claims against the utility necessary to the support or rejection of such claims.	Do.
(c) Other papers, reports, or statements, pertaining to accidents, resulting in property damages or personal injuries, not necessary to the support or rejection of claims.	Destroy at option.
(d) Detailed schedules or spread sheets of payments to others for personal injuries or for property damages.	6 years.
(e) Detailed schedules of periodic accruals to reserves for injuries and damages or for self-insurance.	Do.
71. Correspondence:	
(a) Correspondence and indexes thereto relating to subjects covered by other items of these regulations.	For the period prescribed for the item to which it relates where necessary to a proper explanation of same.
(b) Stenographers' notebooks and dictaphone or other mechanical device records.	Destroy at option.
(c) Mailing lists of prospects for appliance sales, securities, etc.	Do.
72. Other miscellaneous records:	
(a) Copies of advertisements of the utility in newspapers, magazines, and other publications, including records thereof.	6 years.
(b) Receipts and records pertaining to delivery of articles to employees, such as badges, keys, and material receipt books.	Destroy at option after accounted for.
(c) Records of building space occupied by various departments of the utility.	6 years.
(d) Indexes of forms used by the company.	Do.
(e) Transmittal lists or forms used for indicating papers and records forwarded from one department to another, provided such lists do not contain data affecting the accounts of the company.	Destroy at option.
73. Duplicate accounts, records, and memoranda:	
Duplicate copies of accounts, records, and memoranda listed in these regulations if all information on such duplicates is contained in the originals or other copies retained, and if such duplicates are not specifically provided for in these regulations.	Do.

[F. R. Doc. 38-2946; Filed, October 7, 1938; 9:31 a. m.]

TITLE 37—PATENTS AND COPYRIGHTS

UNITED STATES PATENT OFFICE

AMENDMENTS TO THE RULES OF PRACTICE OF THE UNITED STATES PATENT OFFICE

Acting under the provisions of Section 483 of the Revised Statutes (U. S. C., title 35, sec. 6) and with the approval of the Secretary of Commerce, Rules 7, 11, 14, 17, 18, 19, 20, 21, 22, 23, 31, 47, 50, 68, 96, 97, 103, 129, 149, 151, 152, 153, 154, 156, 158, 162, 164, 165, 167, 169, 170, 173, and 191, are amended as follows:

RULE 7

By inserting in line 2 of the first paragraph after the word "attorney" the words *or an agent shall have filed his authority,*

By inserting in line 2 of the second paragraph after the word "attorney" the words *or agent*

By inserting in line 3 of the second paragraph after the word "attorneys" the words *or agents*

RULE 11

By striking out in the second line of the third paragraph the words "or his attorney" and inserting the words *, his attorney or agent*

RULE 14

By inserting in the fifth line of the second paragraph after the word "attorney" the word *, agent*

RULE 17

By cancelling the present rule and substituting therefor the following:

17. An applicant or an assignee of the entire interest may prosecute his own case, but he is advised, unless familiar with such matters, to employ a competent registered attorney or registered agent, as the value of patents depends largely upon the skillful preparation of the specification and claims. The office cannot aid in the selection of an attorney or agent.

A register of attorneys and a register of agents will be kept in this office, on which will be entered the names of all persons entitled to represent applicants before the Patent Office in the presentation and prosecution of applications for patent. Registration under the provision of this rule shall not be construed as authorizing persons not members of the bar to practice law.

(a) Upon written request there will be entered upon the register of attorneys the name of any attorney at law who is in good standing in any court of record in the United States or any of the States or Territories thereof and who shall furnish a certificate of the clerk of such United States, State, or Territorial court, duly authenticated under the seal of the court, that he is an attorney in good standing and who shall establish to the satisfaction of the Commissioner that he is possessed of the necessary legal and scientific qualifications to enable him to render applicants for patents valuable service and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office.

(b) The name of any firm which shall show that the individual members composing the firm are each and all registered as attorneys under section (a) will, upon written request, be entered upon the register of attorneys.

(c) Upon written request, there will be entered upon the register of agents, the name of any person not an attorney at law, who is a citizen or resident of the United States and who shall establish to the satisfaction of the Commissioner that he is of good moral character and of good repute and possessed of the necessary legal and scientific qualifications to enable him to render applicants for patents valuable service and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office.

(d) The name of any firm which shall show that the individual members composing the firm are each and all registered either as attorneys under section (a) or as agents under section (c) will, upon written request, be entered upon the register of agents.

(e) In order to determine whether a person seeking to have his name placed upon the aforesaid registers has the qualifications specified in paragraphs (a) and (c), an examination will be held from time to time. No person will be permitted to take the examination unless he submits satisfactory proof as to his good moral character and as to having had a sufficient basic training in scientific and technical matters: Provided, That the taking of the examination may be waived in the case of any person who has served for 3 years in the examining corps of the Patent Office.

(f) Any foreign patent attorney not a resident of the United States, who shall file proof to the satisfaction of the Commissioner that he is registered and in good standing before the patent office of the country of which he is a citizen or subject, and is possessed of the qualifications stated in paragraph (c) will be registered as entitled to represent applicants before the Patent Office in the presentation and prosecution of applications: Provided, That the patent office of the country of which he is a citizen or subject allows substantially reciprocal privileges to those admitted to practice before the United States Patent Office.

(g) Any person or firm not registered and not entitled to be recognized under this rule as an attorney or agent to represent applicants generally may, upon a showing of circumstances which render it necessary or justifiable, be recognized by the Commissioner to prosecute as attorney or agent certain specified application or applications, but this limited recognition shall not extend further than the application or applications named.

(h) No person not registered or entitled to recognition as above provided will be permitted to prosecute applications before the Patent Office.

(i) Every attorney and agent registered to practice before the United States Patent Office shall submit to the Commissioner of Patents for approval copies of all proposed advertising matter, circulars, letters, cards, etc., intended to solicit patent business, and if it be not disapproved by him and the attorney or agent so notified within ten days after submission, it may be considered approved.

No registered agent shall, in advertising matter or in papers filed in the Patent Office, represent himself to be an attorney, solicitor or lawyer.

Any registered attorney or agent sending out or using any such matter, a copy of which has not been submitted to the Commissioner of Patents in accordance with this rule, or which has been disapproved by the Commissioner of Patents, and any registered agent misrepresenting his status shall be subject to suspension or disbarment.

(j) Before his name may be entered on the register of attorneys or on the register of agents every applicant must,

after his application is approved, subscribe and swear to an oath prescribed by the Commissioner of Patents and pay to the office a registration fee of $5.

(k) The status of any person or firm whose name stands enrolled on the register of attorneys at the date when the present rule becomes effective will not be affected by any provision of this rule.

RULE 18

By inserting in line 1 after the word "attorney" the words *or agent*

By cancelling in line 3 the words "power of attorney" and inserting the word *authorization*

By cancelling in the same line the word "powers" and inserting the word *authority*

By cancelling in line 6 the words "A power of attorney" and inserting the words *An authorization*

By cancelling in the last line the words "power of attorney" and inserting the word *authorization*

RULE 19

By inserting in line 2 before the word "upon" the words *or agent*

By inserting in line 3 before the word "agent" the words *attorney or*

RULE 20

By inserting in line 1 after the word "attorney" the words *and authorizations of agents*

By inserting in line 5 after the word "attorney", each occurrence, the words *or agent*

By inserting in line 7 after the word "attorney" the words *or authorization*

By cancelling in line 8 the word "power" and inserting the word *authorization*

By inserting in line 10 after the word "attorney" the words *or agent*

RULE 21

By cancelling in line 1 the words "or their attorneys" and inserting the words *, their attorneys or agents*

By cancelling in line 2 the word "attorneys" and inserting the word *public*

RULE 22

By cancelling in line 1 the words "and attorneys" and inserting the words *, attorneys and agents*

By cancelling in line 22 of paragraph (c) the words "Supreme Court of" and inserting the words *United States District Court for*

RULE 23

By cancelling in lines 4 and 5 the words "powers of attorney" and inserting the word *authorization*

RULE 31

By inserting in line 6 of paragraph 5 after the word "him" the words *, his attorney*

RULE 47

By inserting in line 15 after the word "attorney" the words *or agent*

RULE 50

By cancelling in line 4 the words "in fact" and inserting the words *or agent*

RULE 68

By cancelling in line 10 the words "or his attorney" and inserting the words *, his attorney or agent*

RULE 96

By inserting in line 8 of the first paragraph and in lines 3 and 4 of the second paragraph after the word "attorney" the words *or agent*

RULE 97

By inserting in line 6 after the word "attorney" the words *or agent*

By inserting in the last line after the word "attorneys" the words *and agents*

RULE 103

By inserting in line 3 after the word "attorneys", each occurrence, the words *or agents*

By inserting in line 7 after the word "attorney" the words *or agent*

RULE 129

By inserting in line 10 after the word "attorneys" the words *or agents*

By inserting in line 12 after the word "attorney" the words *or agent*

RULE 149

By cancelling in lines 1 and 2 of the third paragraph the words "who is an applicant"

By cancelling in line 3 of the third paragraph the words "his appeal will be dismissed if" and inserting the word *and*

By inserting in line 8 of the third paragraph after the words and figures "4915 R. S." the following:

, certified copies of the foregoing papers will be transmitted to the U. S. Court of Customs and Patent Appeals for such action as may be necessary.

RULE 151

By inserting in line 21 after the word "attorneys" the words *or agents*

RULE 152

By inserting in line 4 after the word "attorneys" the words *or agents*

RULE 153

By inserting in lines 5 and 10 after the word "attorney" the words *or agent*

RULE 154

By inserting in line 8 of paragraph (a) after the word "attorney" the words *or agent*

By inserting in lines 3 and 4 of paragraph (b) after the word "attorney" the words *or agent*

By cancelling in lines 9, 11 and 12 of paragraph (b) the words "or his attorney" and inserting the words *, his attorney or his agent*

By cancelling in line 25 of paragraph (c) the words "of counsel"

RULE 156

By inserting in line 5 of the first paragraph after the word "attorney" the words *or agent*

By cancelling in lines 1 and 2 of the third paragraph the word "counsel" and inserting the words *attorneys or agents*

RULE 158

By inserting in line 5 of paragraph (e) after the word "parties" the words *, their attorneys*

RULE 162

By cancelling in line 19 of the second paragraph the words "extension thereof" and inserting the words *further time*

By cancelling in line 20 of the second paragraph the word "shall" and inserting the word *may*

RULE 164

By cancelling in line 3 the words "or his attorney" and inserting the words *, his attorney or his agent,*

RULE 165

By cancelling in line 9 the words "or his attorney" and inserting the words *, his attorney or his agent*

RULE 167

By inserting in line 5 after the word "applicant" the words *, his attorney*

RULE 169

By inserting in lines 2, 3 and 4 after the word "attorney" the words *or agent*

RULE 170

By inserting in the last line of the second paragraph after the word "patentee" the words *, his attorney*

By cancelling in lines 2 and 3 of the third paragraph the words "or his attorney" and inserting the words *, his attorney or his agent*

RULE 173

By cancelling in line 2 the words "or rejected"

RULE 191

By inserting in line 56 after the word "attorneys" the words *or agents*

By inserting in lines 62 and 63 after the word "attorney" the words *or agent*

[SEAL] CONWAY P. COE,
Commissioner.

Approved to be effective November 15, 1938.

DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-2957; Filed, October 7, 1938; 12: 29 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

FILING OF CLAIMS AND SUPPORTING EVIDENCE

SEC. 2.1026. *Application for benefits.*—(a) A properly completed and executed Form 526, Revised March 1938, upon receipt by the Veterans' Administration will be considered an application for all disability compensation or disability pension benefits for which the veteran may be eligible by reason of active service and will be adjudicated under the applicable laws. (October 7, 1938.)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-2956; Filed, October 7, 1938; 11:19 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

PUERTO RICO SUGAR QUOTA

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Section 205 (a) of the Sugar Act of 1937 (Public, No. 414, 75th Congress) and on the basis of the information now before me, I, H. A. Wallace, Secretary of Agriculture, do hereby find that the allotment of that portion of the 1939 quota for Puerto Rico for consumption in the continental United States which may be filled by direct-consumption sugar, pursuant to section 207 (b) of the said act, is necessary to prevent disorderly marketing and importation of such sugar and to afford all interested parties an equitable opportunity to market such sugar in the continental United States, and hereby give notice that a public hearing will be held at Washington, D. C., in the auditorium of the United States Department of Agriculture on October 25, 1938, at 10 a. m.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture (1) to make a fair, efficient and equitable distribution of the abovementioned portion of the 1939 quota for Puerto Rico among persons who bring such sugar into the continental United States, and (2) to amend Puerto Rico Sugar Order No. 11, issued June 1, 1938,[1] for the purpose of allotting among Puerto Rican processors of direct-consumption sugar the portion of the unallotted reserve established therein which is unfilled on November 15, 1938.

A statement setting forth a tentative basis for the 1939 allotments may be obtained from the Hearing Clerk, Office of the Solicitor, Department of Agriculture, Washington, D. C.

Mr. Robert B. Tyler and Mr. John C. Bagwell are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Done at Washington, D. C., this 6th day of October 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2954; Filed, October 7, 1938; 11:12 a. m.]

[1] 3 F. R. 1279 DI.

[Docket No. A-83 O-83]

NOTICE OF PUBLIC HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN LOWELL - LAWRENCE, MASSACHUSETTS, MILK MARKETING AREA

PREPARED AND PROPOSED BY THE NEW ENGLAND MILK PRODUCERS' ASSOCIATION, INC., UPON WHICH SAID ASSOCIATION HAS REQUESTED THE SECRETARY OF AGRICULTURE TO HOLD A HEARING UNDER THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

Whereas, the New England Milk Producers' Association, Inc., has requested the Secretary of Agriculture to hold a public hearing on a marketing agreement and order prepared and proposed by such association and designed to regulate such handling of milk in the Lowell-Lawrence, Massachusetts, milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement or the issuance of an order will tend to effectuate the declared policy of Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, with respect to such handling of milk in the Lowell-Lawrence, Massachusetts, milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk; and

Whereas, under said act notice of and opportunity for a hearing are required prior to the execution of a marketing agreement or the issuance of an order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice;

Now, therefore, pursuant to said act and said general regulations, notice is hereby given of a public hearing to be held on the aforementioned marketing agreement and order, prepared and proposed by the aforementioned association and designed to regulate such handling of milk in the Lowell-Lawrence Massachusetts, milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk.

This public hearing will be held in Dracut Grange Hall, Dracut, Massachusetts, at 9: 30 a. m., e. s. t., October 14, 1938.

At this public hearing, which will be held jointly with the Milk Control Board of the Commonwealth of Massachusetts, representative of the Secretary of Agriculture will receive factual evidence (1) as to whether marketing conditions for such handling of milk in the Lowell-Lawrence, Massachusetts, milk marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce in such milk are so disorderly as to necessitate regulation in order that the declared policy of the act may be effectuated, and (2) as to the specific provisions which a marketing agreement or order should contain.

The proposed marketing agreement and order provide, among other things, for: (a) selection of a market administrator, (b) classification of milk, (c) minimum prices, (d) reports of handlers, (e) payments to producers through the use of individual handler pools, (f) payments to the market administrator for marketing services, and (g) expenses of administration.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area, and that a shorter period of notice than fifteen (15) days is therefore required; and it is hereby determined that the period of notice given is reasonable under the circumstances.

This notice of hearing on the said marketing agreement and order supersedes the notice of hearing issued on September 30, 1938.

Copies of the proposed marketing agreement or order may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated October 7, 1938.

[F. R. Doc. 38-2962; Filed, October 7, 1938; 12:50 p. m.]

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

OCTOBER 7, 1938.

To C. W. NILES.
Doing business as Coffeyville Stockyards, Coffeyville, Kans.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Coffeyville Stockyards, at Coffeyville, State of Kansas, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said

[1] Modifies list posted stockyards 9 CFR 13.034.

Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2953; Filed, October 7, 1938; 11:12 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3400]

IN THE MATTER OF MILTON S. KRONHEIM & SON, INC., MARVIN & SNEAD SALES CORPORATION, PHILLIP HORWITZ AND LEON SAMET, INDIVIDUALLY AND AS PARTNERS TRADING UNDER THE NAME AND STYLE ROMA WINE & LIQUOR COMPANY, INTERNATIONAL DISTRIBUTING CORPORATION, WASHINGTON WHOLESALE LIQUOR CORPORATION, GLOBE DISTRIBUTING COMPANY, INC., D. C. EXCLUSIVE RETAIL LIQUOR DEALERS ASSOCIATION, A CORPORATION, MANUEL DAVIS, INDIVIDUALLY, AND AS SECRETARY OF D. C. EXCLUSIVE RETAIL LIQUOR DEALERS ASSOCIATION, WHOLESALE LIQUOR DEALERS OF WASHINGTON, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 5, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 332, Federal Trade Commission, 6th and Constitution Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2947; Filed, October 7, 1938; 9:39 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3431]

IN THE MATTER OF WILLIAM J. CRESSY, TRADING AS FLYING INTELLIGENCE SERVICE, AND MRS. EFFIE M. ROBERTSON, TRADING AS FLYING INTELLIGENCE SERVICE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, October 20, 1938, at eleven o'clock in the forenoon of that day (central standard time) in Room 316, Federal Building, Milwaukee, Wisconsin.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2948; Filed, October 7, 1938; 9:39 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3465]

IN THE MATTER OF CONSOLIDATED BOOK PUBLISHERS, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 26, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2949; Filed, October 7, 1938; 9:39 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3523]

IN THE MATTER OF CHICAGO THERMO-MAGNETIC CUSHION CO. AND A. MERCER PARKER, INDIVIDUALLY AND AS OFFICER OF CHICAGO THERMO-MAGNETIC CUSHION COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered that the taking of testimony in this proceeding begin on Monday, October 24, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2950; Filed, October 7, 1938; 9:40 a. m.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3524]

IN THE MATTER OF J. W. COOPER, TRADING AS CURL-O-WAVE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, October 25, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2951; Filed, October 7, 1938; 9:40 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3539]

IN THE MATTER OF CONSOLIDATED SIGN LETTER COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, October 27, 1938, at nine o'clock in the forenoon of that day, (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2952; Filed, October 7, 1938; 9:40 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of October, 1938.

[File No. 1-957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE

ORDER

The Market Street Railway Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to the Commission to withdraw its 6% Cumulative Prior Preference Stock, $100 par value, from listing and registration on the San Francisco Stock Exchange; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission, after due consideration of said application together with the evidence introduced at said hearing, having entered an order among other things granting said application which will become effective at the close of the trading session on October 11, 1938; and

The San Francisco Stock Exchange having made application to the Commission to extend unlisted trading privileges on said Exchange to the security above-named, and said Exchange having requested the Commission to postpone the effective date of the order herein pending the disposition by the Commission of the application to extend unlisted trading privileges;

It is ordered, That the effective date of said order, insofar as it relates to said 6% Cumulative Prior Preference Stock, $100 par value, be and the same is hereby postponed from October 11, 1938 until the close of the trading session on November 15, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2959; Filed, October 7, 1938; 12:48 p. m.]

[1] 3 F. R. 2046 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of October, A. D. 1938.

[File No. 1-1119]

IN THE MATTER OF RAINBOW LUMINOUS PRODUCTS, INC., COMMON STOCK, CLASSES A AND B, NO PAR VALUE

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the New York Curb Exchange of the Common Stock, Class A, No Par Value, and the Common Stock, Class B, No Par Value, of Rainbow Luminous Products, Inc., shall be suspended or withdrawn; and

After appropriate notice,[1] a hearing having been held in this matter on July 26, 1938, in Washington, D. C.; and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Section 13 (a) of said Act, as amended, and Rule KA1 prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion, in view of the failure of the issuer to comply in the above respects with the provisions of Title I of said Act as amended, and the rules and regulations thereunder, that it is necessary and appropriate for the protection of investors to withdraw the registration of said Common Stock on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the New York Curb Exchange of the Common Stock, Class A, No Par Value, and the Common Stock, Class B, No Par Value, of Rainbow Luminous Products, Inc., shall be and the same is hereby withdrawn, effective as of November 5, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2960; Filed, October 7, 1938; 12:48 p. m.]

[1] 3 F. R. 1776 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of October, A. D. 1938.

[File Nos. 46–102, 56–4, 32–94]

IN THE MATTERS OF NORTHERN STATES POWER COMPANY (MINNESOTA), NORTHERN STATES POWER COMPANY (DELAWARE), NORTHERN STATES POWER COMPANY (WISCONSIN)

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to Sections 10 (a), 12 (d) and 6 (b) of the Public Utility Holding Company Act of 1935, and amendments thereto, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matters be held on October 26, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such applicants and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 21, 1938.

The matter concerned herewith is in regard to

(1) An application by Northern States Power Company (Wisconsin), pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act of the issuance and sale of 80,000 shares of the common stock of the applicant, of a par value of $100 per share, to Northern States Power Company (Minnesota) in consideration of the cancellation of certain advances on open account, said issuance and sale having been approved by the Public Service Commission of Wisconsin by its order 2 SB 97, dated May 6, 1938; and

(2) Applications by Northern States Power Company (Delaware) and Northern States Power Company (Minnesota), pursuant to Sections 12 (d) and 10 (a) of the Public Utility Holding Company Act of 1935, for the sale by Northern States Power Company (Delaware) to Northern States Power Company (Minnesota) of certain bonds and stocks of Northern States Power Company (Wisconsin) and associate companies for $2,402,487.80, said amount to be applied as a credit on a note in the amount of $11,108,810.66 of Northern States Power Company (Delaware) held by Northern States Power Company (Minnesota), the unpaid balance of said note to be recorded as an open account indebtedness to the latter company; $64,736.25 in cash, and payment of accrued interest on the bonds; and for the acquisition by Northern States Power Company (Minnesota) of 80,000 shares of the common stock of Northern States Power Company (Wisconsin) as set forth in the preceding paragraph, numbered (1).

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2958; Filed, October 7, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of October, A. D. 1938.

[File No. 43–156]

IN THE MATTER OF NORTHERN STATES POWER COMPANY, A DELAWARE CORPORATION

NOTICE OF AND ORDER FOR HEARING

Northern States Power Company, a Delaware corporation and a registered holding company, having filed with this Commission a declaration, pursuant to Section 7 of the Public Utility Holding Company Act, and an application for a report on a reorganization plan and a declaration with respect to the solicitation of proxies in connection with said plan, pursuant to Rules U–12E–4 and U–12E–5 adopted by this Commission under the provisions of Sections 11 (g) and 12 (e) of said Act:

It is ordered, That a hearing on such matters be held on October 26, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 21, 1938.

The matters concerned herewith are in regard to: (a) changing the Class A Common Stock of the declarant having a par value of $100 per share, which is now outstanding in an aggregate amount of $34,155,100, into a like number of shares of Class A Common Stock without par value having allocated thereto an aggregate capital amount of $8,538,775; (b) reducing the amount of capital allocated to the Class B Common Stock (729,166⅓ shares) without par value from $7,291,663.33 to $1.00 for all of such shares; (c) charging against the capital surplus created by the reduction in capital effected by the changes above referred to, an aggregate amount of $30,767,030.98, such charges being made to reflect the reduction ($21,383,972.50) in value of securities owned by the declarant and the writing off of unamortized preferred and common stock discount and expense ($9,383,053.48); (d) an application by said Company for a report by this Commission on the plan of reorganization to be effected by the foregoing transactions; and (e) the solicitation by said Company from the holders of its shares of capital stock of all classes of proxies and consents pertaining to such matters.

The declarations and application filed herein incorporate by reference thereto the applications heretofore filed with this Commission, pursuant to Sections 10 (a), 12 (d) and 6 (b) of the Public Utility Holding Company Act of 1935, by Northern States Power Company, a Minnesota Corporation (File No. 46–102), Northern States Power Company, a Delaware Corporation (File No. 56–4), and Northern States Power Company, a Wisconsin corporation (File No. 32–94), to the subject matter of which applications the matters above referred to are related.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2961; Filed, October 7, 1938; 12:49 p. m.]

Reference

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES 1934

VOLUME 3 NUMBER 198

Washington, Tuesday, October 11, 1938

The President

EXECUTIVE ORDER

EXTENSION OF TRUST PERIODS ON INDIAN LANDS EXPIRING DURING CALENDAR YEAR 1939

By virtue of and pursuant to the authority vested in me by section 5 of the act of February 8, 1887, 24 Stat. 388, 389, by the act of June 21, 1906, 34 Stat. 325, 326, and by the act of March 2, 1917, 39 Stat. 969, 976, it is hereby ordered that the periods of trust applying to any Indian lands, whether of a tribal or individual status, which, unless extended, will expire during the calendar year 1939, be, and they are hereby, extended for a further period of 25 years from the date on which any such trust would otherwise expire.

This order is not intended to apply to any case in which the Congress has specifically reserved to itself authority to extend the period of trust on tribal or individual Indian lands.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 7, 1938.

[No. 7984]

[F. R. Doc. 38–2973; Filed, October 8, 1938; 10:01 a. m.]

EXECUTIVE ORDER

ESTABLISHING AN AIRSPACE RESERVATION OVER CERTAIN AREAS IN MARYLAND

By virtue of the authority vested in me by section 4 of the Air Commerce Act of 1926 (44 Stat. 568, 570), the air space over the inclosed areas shown upon the map A. P. G. 7310 P. R. dated February 24, 1938 (a copy of which is on file in the Division of the FEDERAL REGISTER, The National Archives, Washington, D. C.), at Aberdeen Proving Ground, Maryland, which areas include the Aberdeen Proving Ground, portions of the Fort Hoyle and the Edgewood Arsenal Military Reservations, and portions of Bush River, Gunpowder River, and Chesapeake Bay, all in the State of Maryland, is hereby reserved and set apart for national-defense purposes: *Provided, however*, that when the areas marked "Section No. 1" and "Section No. 2" on the said map are not being used or immediately required for national-defense purposes, they may be released by the Secretary of War to the Civil Aeronautics Authority for the crossing by such civil aircraft as may be mutually agreed upon.

The Secretary of War and the Civil Aeronautics Authority shall designate in their Department and office, respectively, the agencies which, under their direction, shall execute the provisions of this order.

Persons operating aircraft within this airspace reservation in violation of the provisions of this order or of the said Air Commerce Act of 1926 will be subject to the penalties prescribed by section 11 of that act.

This order supersedes Executive Order No. 5211 of October 19, 1929, establishing an airspace reservation over certain areas in the State of Maryland.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 8, 1938.

[No. 7985]

[F. R. Doc. 38–2985; Filed, October 10, 1938; 11:19 a. m.]

EXECUTIVE ORDER

TRANSFERS OF NATIONAL-FOREST LANDS

IDAHO

By virtue of the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U. S. C., title 16, sec. 473), and on the recommendation of the Secretary of Agriculture, it is ordered that transfers of the hereinafter-described national-forest lands, in Idaho, be, and they are hereby, made as follows:

From the Lemhi National Forest to the Salmon National Forest

All lands now a part of the Lemhi National Forest lying East or North and

CONTENTS

THE PRESIDENT

Executive Orders: Page
Idaho, transfers of national forest lands 2435
Indian lands, extension of trust periods expiring during calendar year 1939 2435
Maryland, airspace reservation over certain areas 2435

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Agricultural conservation program, 1938, supplements No. 1 for:
Pondera County, Mont. 2443
Thomas County, Kans. 2443
Weber and Davis Counties, Utah 2444
Fresh pears, handling of, in the Oregon, Washington, and California Marketing Area 2439
Tobacco, flue-cured, supplement to regulations on marketing quotas 2443
Bureau of Agricultural Economics:
Inspection of country-run forage seeds for dockage 2436
TITLE 25—INDIANS:
Office of Indian Affairs:
Southern Ute Indian Reservation, Colo., order of restoration 2444
TITLE 36—PARKS AND FORESTS:
National Park Service:
Lassen Volcanic National Park, amendment to subsidiary regulations 2445
TITLE 43—PUBLIC LANDS:
General Land Office:
Boundaries adjusted:
Arapaho and Holy Cross National Forests 2445

(Continued on next page)

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CONTENTS—Continued

TITLE 43—PUBLIC LANDS—Contd.
General Land Office—Contd.
Boundaries adjusted—Contd. Page
Grand Mesa National Forest 2445
Routt National Forest 2446
Lease forms prescribed under oil and gas regulations, amendment; helium provisions 2445
TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Amateur radio stations and amateur radio operators, rules governing 2446
Rules cancelled 2450
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
"Employee" under Railway Labor Act, inclusions within the term 2451

NOTICES

Civil Aeronautics Authority:
Pan American Airways, Inc., amendment of temporary exemption, air service between Seattle and Juneau via Ketchikan 2451
Federal Power Commission:
Arkansas-Louisiana Gas Co., investigation; rate schedule suspended; hearing 2452
Kansas Pipe Line & Gas Co., orders setting date of oral arguments 2452
Puget Sound Power & Light Co., hearing 2451
Southwestern Light & Power Co., consolidated hearings 2451

CONTENTS—Continued

Securities and Exchange Commission:
Applications granted for withdrawal from listing and registration: Page
Advance-Rumely Corp., common stock 2453
Consolidated Textile Corp., capital stock 2453
La Salle-Wacker Corp., first mortgage bonds 2453
Washington Gas Light Co., hearing 2454

East of a line beginning where the divide between Lemhi Union Gulch and Bruce Canyon joins the main divide between Birch Creek and Little Lost River and extending southerly along the main divide between Birch Creek and Little Lost River to the crest of Saddle Mountain, thence direct to the northwest corner of Township 6 North, Range 30 East, Boise Meridian, including that part in Lemhi and Clark Counties, Idaho, lying South of the Montana-Idaho State line.

From the Lemhi National Forest to the Challis National Forest

All lands now a part of the Lemhi National Forest not included in the above-described transfer.

From the Targhee National Forest to the Salmon National Forest

Unsurveyed Sections 4, 9, 16, 21, 28 and Sections 14, 15, 22, 23, 26, 27, 34 and 35, Township 12 North, Range 32 East, Boise Meridian, and all that part of the Medicine Lodge Creek drainage West of Irving Creek drainage which is now a part of the Targhee National Forest.

It is not intended by this order to give any publicly-owned lands a national-forest status which have not hitherto had such status, or to remove any publicly-owned lands from a national-forest status.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 8, 1938.

[No. 7986]

[F. R. Doc. 38-2986; Filed, October 10, 1938; 11:19 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

[Part 62]

RULES AND REGULATIONS GOVERNING INSPECTION OF COUNTRY-RUN FORAGE SEEDS FOR DOCKAGE #

By virtue of the authority vested in the Secretary of Agriculture by the provision in the Act of Congress entitled "An Act Making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1939, and for other purposes," approved June 16, 1938, (52 Stat. 710) authorizing the establishment of an inspection service for farm products, I, H. A. Wallace, Secretary of Agriculture, do prescribe and promulgate the following rules and regulations governing the inspection and certification of country-run forage seeds for dockage, to be in force and effect on and after October 10, 1938 as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority.

Regulation 1.—Definitions

SECTION 1. (62.01)* *Meaning of words.*—Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. (62.02) *Terms defined.*—For the purposes of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

PARAGRAPH 1. (a) *The act.*—The following provision of an act of Congress entitled "an act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1939, and for other purposes," approved June 16, 1938 (52 Stat., 710) "For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits, and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the Department shall be received in all courts of the United States as Prima facie evidence of the truth of the statements therein contained."

All sections (62.01–62.42) issued under authority contained in 52 Stat. 710.

* Figures and letters in parentheses indicate designations in Code of Federal Regulations.

PAR. 2. (b) *Secretary.*—Secretary of Agriculture of the United States.

PAR. 3. (c) *Bureau.*—Bureau of Agricultural Economics of the United States Department of Agriculture.

PAR. 4. (d) *Person.*—Individual, association, partnership, or corporation.

PAR. 5. (e) *Inspector.*—Employee of the Department of Agriculture authorized by the Secretary, or other person licensed by him in accordance with these regulations, to investigate and certify to shippers and other interested parties the class, dockage, and condition of country-run forage seeds under the act.

PAR. 6. (f) *Official sampler.*—Employee of the Department of Agriculture, or other person authorized or licensed by the Secretary, to draw official samples of country-run forage seeds under the act and these regulations.

PAR. 7. (g) *Forage seeds.*—Forage seeds shall include the seeds of alfalfa, red clover, alsike clover, crimson clover, white clover, sweetclover, lespedeza, vetch, timothy, redtop, bluegrass, orchard grass, bentgrass, ryegrass, bromegrass, millet, sorgo, Sudan grass, and any other seeds used for the production of forage.

PAR. 8. (h) *Country-run forage seeds.*—Uncleaned or rough-cleaned forage seeds as they are threshed, handled or shipped by the producer or shipper and sold or shipped to the wholesale dealer.

PAR. 9. (i) *Dockage.*—Dockage shall be weed seeds, stems, chaff, straw, and any other material which can be removed readily from the forage seed of the class under consideration by the use of appropriate sieves or screens and other cleaning devices, but shall not include other merchantable forage seeds.

PAR. 10. (j) *Office of inspection.*—The office of an inspector of country-run forage seeds.

PAR. 11. (k) *Inspection certificate.*—Certificate of the class, dockage, and/or condition of country-run forage seeds issued by an inspector under the act.

PAR. 12. (l) *Interested party.*—Any person who has a financial interest in the seed involved, including all carriers and warehouses who have handled or will handle the seed, the present owner or any person who owned the seed prior to him, and persons to whom the seed has been sold or shipped and whose acceptance thereof hinges on the inspection.

PAR. 13. (m) *Regulations.*—Rules and regulations of the Secretary under the act.

Regulation 2.—Administration

SECTION 1. (62.03) *Administration.*—The Chief of the Bureau is charged with the administration of the provisions of the act and these regulations, and is authorized to issue such instructions as he may deem proper and necessary for the conduct of the service.

Regulation 3.—Where Service Is Offered

SECTION 1. (62.04) *Inspection; where made.*—Inspections may be made for the purpose of the act wherever country-run forage seeds are offered for interstate shipment including farms, warehouses, elevators, loading platforms, wagons, trucks, railroad cars, boats, barges, and vessels and at designated important central markets whenever inspectors or official samplers are available and at nearby points accessible to such inspectors or samplers.

Regulation 4.—Inspection

SECTION 1. (62.05) *Kind of service.*—Inspections made under the act are for the purpose of determining class, dockage, and condition of country-run forage seeds.

SEC. 2. (62.06) *Who may obtain inspection.*—Application for inspection of country-run forage seeds under the act may be made by a State, or by any interested party, or by any authorized person in behalf of such applicant.

SEC. 3. (62.07) *How to make application.*—Application for inspection of country-run forage seeds under the act may be made in writing, or orally, by telegraph, telephone, or otherwise. Such application may be filed in the office of inspection or with inspector or official sampler. If made orally, the inspector may require that it be confirmed in writing.

SEC. 4. (62.08) *Form of application.*—The written application for inspection of country-run forage seeds under the act shall include: (a) the date of the application; (b) the identification and location of the seed; (c) the kind of seed; (d) the name and post office address of the applicant and of the person, if any, making the application in his behalf; and (e) such other necessary information as the inspector may require.

SEC. 5. (62.09) *When application deemed filed.*—An application shall be deemed filed when delivered to an office of inspection or to an official sampler or inspector. Record showing date and time of filing shall be made.

SEC. 6. (62.10) *When an application may be rejected.*—Any application may be rejected by the inspector with whom it is filed or by the Chief of the Bureau for any noncompliance with the act or these regulations or instructions of the Chief of the Bureau and all expenses incurred in connection therewith shall be paid by the applicant as provided in regulation 7, section 3.

SEC. 7. (62.11) *When an application may be withdrawn.*—An application for inspection may be withdrawn by the applicant at any time before the sample or any portion thereof is drawn upon payment of all expenses incurred in connection therewith as provided in regulation 7, section 3.

SEC. 8. (62.12) *Authority of agent.*—Proof of authority of any person applying for inspection on behalf of another may be required, in the discretion of the inspector.

SEC. 9. (62.13) *Certificate issued on each lot.*—A separate certificate shall be issued for each carlot, truck lot, or other lot of seed covered by one application. Wherever there are distinctly two or more qualities of seed in a carlot, truck lot, or other lot of seed covered by one application and these can be segregated by sampling they shall be sampled separately and reported separately in the inspection certificate, or they may be segregated further when requested by the applicant.

SEC. 10. (62.14) *Form of certificate.*—The inspection certificate for country-run forage seeds shall be in a form approved by the Chief of the Bureau and shall include among other things the following information for each lot inspected: (a) serial number of certificate, (b) the heading "United States Department of Agriculture, Bureau of Agricultural Economics," (c) the statement that it is an inspection certificate for dockage, (d) the location of the seed at time of inspection, (e) date of inspection, (f) quantity inspected, (g) identification of lot, (h) percentage of dockage, (i) name and percentage of each merchantable crop seed in screenings, (j) fees and charges, (k) name of applicant, and (l) signature of inspector.

SEC. 11. (62.15) *Order of inspection.*—The inspector shall comply with as many applications for inspections as facilities will permit and so far as practicable in the order in which applications are received, except that appeal inspections shall take precedence over other inspections.

SEC. 12. (62.16) *Disposition of certificates.*—The original inspection certificate, immediately upon its issuance, shall be delivered or mailed to the applicant or a person designated by him. One copy shall be filed in the office of the inspector, and one or more copies forwarded to the supervising inspector or the Chief of the Bureau. Additional copies shall be furnished upon request: (a) to the applicant for whom the inspection was made, or his order; (b) to interested parties who have sold or purchased the seed involved on the basis of Federal inspection; and (c) to interested carriers and public warehouses.

SEC. 13. (62.17) *Advance information.*—Upon request of an applicant for whom an inspection has been made, all or any part of the contents of the certificate may be telegraphed or telephoned to him or the certificate will be sent airmail special delivery at his expense.

Regulation 5.—Appeals

SECTION 1. (62.18) *When an appeal may be taken.*—Whenever an applicant for whom an inspection has been made or any other interested party believes the class, dockage, and/or condition of a lot of seed stated in an inspection certificate is not the correct class, dockage, and/or condition of such seed, he may, not later than the close of the third business day following the date of the original inspection, file an appeal.

SEC. 2. (62.19) *How to obtain.*—Application for an appeal, under these regula-

tions, may be made in writing or orally, by telegraph, telephone, or otherwise. If made orally it shall be confirmed promptly in writing. Such application shall be filed either with an inspector or with the Chief of the Bureau and shall be accompanied by the inspection certificate from which the appeal is taken, if in possession of the appellant. It shall state the reasons for the appeal and whether it is requested, provided the conditions named below can be met, that the appeal be made on the basis of a new sample or on a representative portion of the original sample. An appeal may be made on a new sample only provided (a) all of the seed covered by such inspection is available and accessible for an appeal inspection, (b) the condition of the seed has not undergone any material change, and (c) the identity of the seed has not been lost.

SEC. 3. (62.20) *Record of filing time.*—A record showing the date and time of filing such application shall be made immediately at the proper office.

SEC. 4. (62.21) *When an appeal may be dismissed.*—If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial, or the act or these regulations have not been complied with, the appeal may be dismissed, the appellant shall be notified by telegraph or in writing of the reason for such dismissal, a statement of such action shall be included in the record of such appeal by the officer making the same, and all expenses incurred in connection therewith shall be paid by the appellant as provided in regulation 7, section 3. Upon the dismissal or withdrawal of an appeal, any inspection certificate filed therewith shall be returned immediately to the person by whom filed or delivered, upon his written order.

SEC. 5. (62.22) *When an appeal may be withdrawn.*—An appeal may be withdrawn by the appellant at any time before the appeal sample or any portion thereof is drawn upon payment of any expense incurred by the department in connection therewith as provided in regulation 7, section 3.

SEC. 6. (62.23) *Order in which made.*—Appeal inspections shall be made as nearly as practicable in the order in which applications are received, and shall take precedence over other inspections.

SEC. 7. (62.24) *Who shall pass upon appeals.*—Appeal inspections shall be made by inspectors designated for the purpose by the Chief of the Bureau.

SEC. 8. (62.25) *Issuance of appeal inspection certificate.*—When an appeal inspection has been made, an appeal inspection certificate shall be signed and issued by the inspector making the appeal inspection. This appeal inspection certificate shall state the class, dockage, and condition of the seed as shown by the appeal inspection. It shall supersede all other certificates for inspection of the same lot of seed previously made and shall refer specifically to the inspection from which the appeal is taken. Copies of the appeal inspection certificate shall be sent to all interested parties, if known, other than the carriers, and to such of them as have been applicants for any former inspection of the seed on which the special inspection is made. In all other respects the provisions of regulation 4 relative to inspections shall apply to appeal inspections.

SEC. 9. (62.26) *Superseded certificates.*—The appeal inspection certificate shall supersede all other certificates for inspections of the same lot of seed previously made at the same place and applicable to the same lot of seed at the time the appeal certificate was issued. When an inspection certificate has been superseded under these regulations by an appeal inspection certificate, it shall not thereafter represent the class and dockage of the lot of seed described therein. If the original and all copies of the superseded certificates are not delivered to the person with whom the application for an appeal inspection is filed, the inspector issuing the appeal inspection certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

Regulation 6.—Licensed Samplers

SECTION 1. (62.27) *Who may be licensed.*—Persons who are citizens of the United States and who show proper qualifications may be licensed by the Secretary to draw official samples of seed under the act from lots offered for inspection. No person shall be licensed as a sampler who is interested, financially or otherwise, directly or indirectly, in the seed to be sampled or who is interested in any seed storage or processing place or in the merchandising of seed; nor shall he be in the employment of a person, corporation, or association owning or operating any storage place, processing place, or merchandising company or other organization which handles seed commercially; nor shall he have been in the employment of any such organization for a period of at least one month prior to being licensed as a sampler.

SEC. 2. (62.28) *When samples shall be drawn.*—Upon request of an inspector or an applicant for inspection, licensed samplers shall draw official samples from designated lots in accordance with the methods approved by the Chief of the Bureau.

SEC. 3. (62.29) *Where samples shall be forwarded.*—Licensed samplers shall forward all samples drawn by them to such inspectors as the Chief of the Bureau may direct and shall furnish with each sample such information as the Chief of the Bureau may request.

SEC. 4. (62.30) *Samples shall be official.*—Samples drawn by licensed samplers shall be accepted by any inspector as official samples and used in connection with the sampler's record as a basis for determining the class, dockage, and/or condition of the lot or lots of seed from which the samples have been drawn.

SEC. 5. (62.31) *Fees and charges paid by applicant.*—Fees and charges for the services of licensed samplers shall be reasonable, subject to the approval of the Chief of the Bureau, and shall be paid by the applicant.

SEC. 6. (62.32) *License may be suspended.*—Pending final action by the Secretary, a sampler's license may be suspended by the Chief of the Bureau or by any official by whom it may be countersigned whenever such official shall deem such action to be for the good of the service. Within ten days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

Regulation 7.—Fees, Charges, and Expenses

SECTION 1. (62.33) *Basis for fees and charges.*—The fees and charges to be collected for sampling, inspections, and appeal inspections of seed at shipping points, designated markets, and other points shall be fixed in accordance with paragraphs 1, 2, and 3 of this section.

PARAGRAPH 1. (a) *Sampling.*—The fees and charges for sampling by licensed samplers and by salaried employees of the Department of Agriculture shall be fixed by the Chief of the Bureau and published in accordance with regulation 8, section 2.

PAR. 2. (b) *Inspection.*—The fees and charges for inspections by salaried employees of the Department of Agriculture shall be fixed by the Chief of the Bureau and published in accordance with regulation 8, section 2.

PAR. 3. (c) *Appeal inspection.*—The fees for appeal inspections shall be double those for inspections, provided that when it is found there was a material error in the inspection from which the appeal is taken, no fees or charges will be assessed against the appellant.

SEC. 2. (62.34) *For traveling expenses, etc.*—Such further charges may be made for traveling expenses and other items paid or incurred by the sampler or inspector in connection with an inspection made at a place where no sampler or inspector is located or available at the time for making inspections, or appeal inspections where the services of a second inspector are required. These charges shall be included with the fee for inspection on the bill furnished the applicant.

SEC. 3. (62.35) *When inspections or appeal inspections are withdrawn or refused.*—When applications for inspection or appeal inspection are withdrawn by the applicant in accordance with regulation 4, section 7, or regulation 5, section 5, or when such applications are rejected or dismissed in accordance with regulation 4, section 6, or regulation 5, section 4, the regular fee will not be charged but the applicant may be required to pay a reasonable amount for the inspector's time, together with all expenses for travel and other items in connection with such application prior to such withdrawal or refusal.

SEC. 4. (62.36) *Payment; how made.*—The fees and charges for each inspection or appeal inspection shall be paid by the applicant in accordance with the directions on the fee bill furnished by the inspector and in advance if required by the inspector.

Regulation 8.—Miscellaneous

SECTION 1. (62.37) *Fraud or misrepresentation.*—Any misrepresentation or any deceptive or fraudulent practice made or committed by any applicant for inspection may be deemed sufficient cause for debarring the person guilty thereof from any further inspections under the act.

SEC. 2. (62.38) *Publication.*—Publications under the act and these regulations shall be made in Service and Regulatory Announcements of the Bureau and such other mediums as the Chief of the Bureau may from time to time designate for the purpose.

SEC. 3. (62.39) *Political activity.*—All samplers and inspectors authorized either by appointment or license from the Secretary of Agriculture to draw official samples of seed or to issue inspection certificates under the act and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this regulation will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

SEC. 4. (62.40) *Inspection records confidential.*—Records of inspection, including copies of certificates issued, records of such certificates, applicants' accounts, and other detailed information relating to the work of an inspection office are not to be made available to or to be opened for examination by any person who is not connected with the inspection service. Such records are to be held strictly confidential for reference by the inspector in charge of the office and his assistants and by the supervising inspector. Summarized reports which do not disclose the operations of an individual grower, shipper or other applicant for inspection and which are identified clearly as to source and contents may be released to the public, provided that when so released they shall be published in such manner and in such mediums as will make the information available alike to all interested persons.

SEC. 5. (62.41) *Identification.*—An identification card licensing or authorizing the person whose signature appears on the back to sample or inspect seed shall be accepted as proper identification.

SEC. 6. (62.42) *Receipt of papers to be recorded.*—The inspector or other official operating under these regulations receiving any paper accepted for filing shall note thereon, or on a record kept for the purpose, the place and date of its receipt.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 8th day of October 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2981; Filed, October 10, 1938; 10:36 a. m.]

AGRICULTURAL ADJUSTMENT ADMINISTRATION

ORDER REGULATING SUCH HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF FRESH PEARS IN THE OREGON, WASHINGTON, AND CALIFORNIA MARKETING AREA AS IS IN INTERSTATE COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE

Whereas, it is provided in Public No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937 (hereinafter called the act), as follows:

SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

and

Whereas, the Secretary of Agriculture, hereinafter referred to as the "Secretary", has proclaimed that the purchasing power of Buerre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh winter pears grown in the States of Oregon, Washington, and California for the period August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of such pears can be satisfactorily determined from the available statistics of the Department of Agriculture for the period August 1920–July 1929, and that the period August 1920–July 1929, is, therefore, the base period to be used in connection with this order in determining the purchasing power of such fruit; and

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of said act with respect to the establishment and maintenance of such orderly marketing conditions in interstate and foreign commerce for fall and winter pears grown in the States of Oregon, Washington, and California as would establish prices to the growers of such fruit at a level that would give such fruit a purchasing power with respect to articles that such growers buy equivalent to the purchasing power of such fruit in the base period, did, pursuant to the provisions of said act and the regulations thereunder, give due notice of the hearing [1] to be held in San Jose, California, on August 26, 1938; in Placerville, California, on August 27, 1938; in Medford, Oregon, on August 29, 1938; in Hood River, Oregon, on August 31, 1938; in Yakima, Washington, on September 1, 1938; and in Wenatchee, Washington, on September 2, 1938, on a proposed order regulating the handling in interstate and foreign commerce, and such handling as directly burdens, obstructs, or affects interstate or foreign commerce, of designated varieties of fresh winter pears grown in the States of Oregon, Washington, and California, and did, upon said dates, conduct a public hearing thereon, and did give opportunity to all interested parties to be heard concerning the proposed agreement; and

Whereas, the Secretary further finds upon the evidence introduced at the hearing and the record thereof:

(1) That more than 80 percent of all shipments of fresh fall and winter pears grown in the States of Oregon, Washington, and California is in the current of interstate or foreign commerce, and that the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of such pears constitute more than 75 percent of the total volume of fall and winter pears produced in said States;

(2) That the average farm prices for fall and winter pears grown in the States of California, Oregon, and Washington did not, during the 1937 season, exceed 25 percent and did not, during the past six years, exceed 78 percent of prices which would give such pears a purchasing power with respect to commodities farmers buy equivalent to the purchasing power of such commodities during the base period;

(3) That, in the past, lack of regulation of shipments of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California was an important factor in contributing to unstable marketing conditions for such varieties of pears and consequently depressed prices to growers;

[1] 3 F. R. 2045 DI.

(4) That the regulation of shipments of such varieties of pears through grade and size regulations, as prescribed by this order, will serve to prevent marked fluctuation of prices to growers, particularly prices which are so low as to represent losses to growers, and thereby establish and maintain a more stabilized market for such pears, tending to restore prices to growers of such pears to a level that will have a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such fall and winter pears in such base period;

(5) That the method of regulating shipment by grade and size, as prescribed in this order, is fair and equitable;

(6) That this order is limited in its application to the smallest regional production area and regional marketing area that is practicable; and that issuance of several orders applicable to any subdivision of regional production and marketing areas covered by this order would not effectively carry out the declared policy of the act with respect to establishing and maintaining such marketing conditions for such varieties of fall and winter pears as will reestablish prices to growers that will give such commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such commodities in the base period;

(7) That the prorata contribution of handlers to the expenses of the administrative agency herein created based upon the quantity of fall and winter pears shipped, as provided in this order, is fair and equitable;

(8) That the interest of the consumer is protected by reason of the fact that the order will operate so as to approach a level of prices which it is declared to be the policy of Congress to establish by securing a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in the domestic and foreign markets, and by reason of the fact that the order authorizes no action which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in said act;

(9) That this order will tend to establish and maintain such orderly marketing conditions for Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California in interstate and foreign commerce as will establish prices to growers at a level that will give such pears a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such pears in the base period; and

(10) That this order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to said varieties of fresh pears grown in the States of Oregon, Washington, and California; and

(11) That there are no differences in the production and marketing of such varieties of fall and winter pears in the production area covered by this order that make necessary different terms applicable to different parts of such area; and

Whereas, the Secretary further finds:

1. That the marketing agreement regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California executed by him on October 7, 1938, upon which a public hearing was held at the same time as the hearing upon this order, was signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping the fruit covered by this order), who handled during the year 1937 not less than 50 percent of the volume of such fruit covered by this order which was marketed, during the said year, in the current of interstate and foreign commerce and so as directly to burden, obstruct, or affect the interstate and foreign commerce of such fruit;

2. That this order regulates the handling of said varieties of fall and winter pears in the same manner as the aforesaid marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement; and

3. That the issuance of this order is favored by growers, who, during the year 1937, which the Secretary determines to be a representative period, produced for market at least two-thirds (⅔) of the volume of said varieties of fall and winter pears produced for market in said year within the production area specified in this order.

Now, therefore, it is ordered by the Secretary of Agriculture that the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California in the current of interstate and foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such fruit, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

ARTICLE I—DEFINITIONS

SECTION 1. *Terms.*—As used in this agreement, the following terms have the following meanings:

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937.

3. "Persons" means individual, partnership, corporation, association, or any other business unit.

4. "Pears" means and includes any and all of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington, and California, and shipped in fresh form.

5. "Size" means the number of pears contained in a standard western pear box 18" long, 11½" wide and 8½" deep, inside measurements, packed in accordance with the packing requirements of the United States Standards for Pears effective June 22, 1936.

6. "Grower" means any individual, each member of a partnership, any corporation, association, or any other business unit engaged in growing pears in the area covered by this agreement, who or which has a financial interest in the crop.

7. "Handler" means any person who ships, or is engaged in shipping, marketing, consigning, or dealing in pears, either in person or as through an agent, broker, representative or otherwise, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

8. "To handle" or "to ship" means to convey in, or sell for shipment in, to ship in, or to cause to be conveyed or handled for shipment in, or in any other way to put pears in the channels of trade by conveying or causing to be conveyed by rail, truck, boat or any other means whatsoever (except as a common carrier of pears owned by another person) in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

9. "Control Committee" means the Control Committee provided for in, and created pursuant to, article II of this order.

10. "Fiscal Period" means the period beginning with the effective date of this order and ending May 31, 1939.

11. "District" means any of the following areas:

Medford District shall include the Counties of Jackson, Josephine, Curry, Coos, Douglas, Lane, and Klamath in the State of Oregon.

Hood River-White Salmon-Underwood District shall include all of the State of Oregon not included in the Medford District, and the Counties of Skamania and Klickitat in the State of Washington.

Wenatchee District shall include the Counties of Chelan, Okanogan, Douglas, and Spokane in the State of Washington.

Yakima District shall include all of the State of Washington not included in the Wenatchee District or in the Hood River-White Salmon-Underwood District.

Placerville District shall include all counties north of the northern boundarie of San Francisco, Contra Costa, San

Joaquin, Calaveras, and Alpine Counties in the State of California.

Santa Clara District shall include all of the State of California not included in the Placerville District.

ARTICLE II—ADMINISTRATIVE BODY

SECTION 1. *Control committee membership.*—1. A Control Committee consisting of twelve (12) members is hereby established to administer the terms and provisions of this order as herein specifically provided. There shall be an alternate for each of said twelve (12) members of the Control Committee. Members of the Control Committee and their respective alternates shall be growers and handlers of pears. Each grower member and alternate shall be a grower who grows pears in the area covered by this order and who does not handle pears in excess of twenty (20) percent of the quantity grown by him, nor shall such member or alternate be an employee or representative of a handler. Any person selected as a member or alternate of the Control Committee shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment. The members and alternates shall be as follows:

(a) S. M. Tuttle, of Medford, Oregon, as member and R. R. Reter, of Medford, Oregon, as his alternate to represent handlers in the Medford District.

(b) D. R. Wood, of Medford, Oregon, as member and Chester Fitch, of Medford, Oregon, as his alternate to represent growers in the Medford District.

(c) R. J. McIsaac, of Parkdale, Oregon, as member and John Duckwall, of Hood River, Oregon, as his alternate to represent handlers in the Hood River-White Salmon-Underwood District.

(d) R. S. Haseltine, of Hood River, Oregon, as member and Louis Thun, of Underwood, Washington, as his alternate to represent growers in the Hood River-White Salmon-Underwood District.

(e) J. M. Wade, of Wenatchee, Washington, as member and Harry Jensen, of Wenatchee, Washington, as his alternate to represent handlers in the Wenatchee District.

(f) Henry M. Smith, of Dryden, Washington, as member and E. Barclay Brauns, of Wenatchee, Washington, as his alternate to represent growers in the Wenatchee District.

(g) O. K. Conant, of Yakima, Washington, as member and B. A. Perham, of Yakima, Washington, as his alternate to represent handlers in the Yakima District.

(h) Edward A. Bannister, of Yakima, Washington, as member and Norman P. Mead, of Yakima, Washington, as his alternate to represent growers in the Yakima District.

(i) Paul A. Scherer, of Placerville, California, as member and Wilson Bryant, of Placerville, California, as his alternate to represent handlers in the Placerville District.

(j) L. W. Veerkamp, of Placerville, California, as member and James A. Irving, of Placerville, California, as his alternate to represent growers in the Placerville District.

(k) Edgar Jackson, of Santa Clara, California, as member and Wendell C. Day, of Santa Clara, California, as his alternate to represent handlers in the Santa Clara District.

(l) Will B. Weston, of Santa Clara, California, as member and Raymond Gallagher, of San Jose, California, as his alternate to represent growers in the Santa Clara District.

2. The term of office of each member and each alternate of the Control Committee shall begin at the time that this order becomes effective and shall terminate on the date of the termination thereof.

3. In case of any vacancy occasioned by the failure of any member or alternate named herein to qualify, or by the death, resignation, disqualification, or removal of any member of the Control Committee or his alternate, the Secretary shall designate a person to fill such vacancy. Such person shall be from the same district and shall have the same qualifications as his predecessor.

4. An alternate for a member of the Control Committee shall act in the place and stead of such member in the event of such member's absence or until a successor for the unexpired term of such member has been designated in the event of such member's (a) removal, (b) resignation, (c) disqualification, or (d) death.

5. The members of the Control Committee, and their respective alternates, shall serve without compensation, but said members and their respective alternates shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

SEC. 2. *Powers.*—The Control Committee shall have the following powers:

1. To administer, as herein specifically provided, the terms and provisions of this order;

2. To make administrative rules and regulations in accordance with and to effectuate the terms and provisions of this order; and

3. To receive, investigate, and report to the Secretary complaints of violations of this order.

SEC. 3. *Duties.*—The duties of the Control Committee shall be as follows:

1. To act as intermediary between the Secretary and any grower or handler;

2. To keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee, and such minute books and records shall be subject at any time to examination by the Secretary or by such persons as may be designated by the Secretary;

3. To investigate, from time to time, and assemble data on the growing, shipping, and marketing conditions respecting pears grown in the area covered by this order, and to furnish to the Secretary such available information as may be requested;

4. To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public No. 320, 74th Congress, approved August 24, 1935, as amended;

5. To cause the books of the Control Committee to be audited by one or more competent accountants at the end of the fiscal period and at such other times as the Control Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;

6. To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

7. To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee;

8. To select a chairman of the Control Committee and such other officers as it may deem advisable; and

9. To submit to the Secretary for his approval a budget of its expenses.

SEC. 4. *Procedure.*—1. A quorum of the Control Committee shall consist of nine (9) members, or alternates then serving in the place and stead of any members, in attendance at the meeting. All decisions of the Control Committee shall be made by not less than seven (7) affirmative votes.

2. The Control Committee may provide for members voting by mail, telephone, or telegraph upon due notice to all members, and, promptly after voting by telephone or telegraph, the members thus voting shall confirm in writing the votes so cast.

3. The members of the Control Committee, including successors and alternates, and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

SEC. 5. *Funds and other property.*—1. All funds received by the Control Committee pursuant to any of the provisions of this order shall be used solely for the purpose herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

2. Upon the death, resignation, removal, disqualification, or expiration of

the term of office of any member of the Control Committee or of any employee of the Control Committee, all books, records, funds, and other property in his possession shall be delivered to the Control Committee or to his successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee or his successor full title to all the books, records, funds, and other property in the possession or under the control of such member or employee pursuant to this order.

ARTICLE III—REGULATION BY GRADE AND SIZE

SECTION 1. *Grade and size regulation.*—1. No handler shall ship pears which do not meet the requirements of U. S. Combination Grade as such grade is specified in the U. S. Standards for Pears effective June 22, 1936: *Provided, however,* That, for the purposes of this order, unhealed broken skins or skin punctures not to exceed three-sixteenths (3/16) of an inch in diameter shall be permitted when the pears otherwise meet the specifications of such grade and are shipped in interstate commerce only: *Provided, further,* That, for the purposes of this order, pears shall be "hand picked," that is, shall show no evidence of rough handling or of having been on the ground.

2. No handler shall ship pears (a) of the Doyenne Du Comice variety of a size smaller than the 180 size, (b) of the Beurre Bosc variety of a size smaller than the 195 size, and (c) of the Winter Nelis variety of a size smaller than the 210 size if exported off the Continent of North America and the 195 size if shipped to destinations on the Continent of North America, packed in accordance with the packing requirements of the U. S. Standards for pears, effective June 22, 1936.

SEC. 2. *Exemptions.*—1. The Control Committee shall adopt and announce the procedural rules by which exemption certificates will be issued to the growers, and shall grant an exemption certificate to any grower who furnishes proof that he will be prevented because of the regulation established pursuant to section 1 of this article from shipping as large a percentage of his crop of a specified variety of pears as the average of all growers of such variety of pears in his district. Such exemption certificate shall permit such grower to ship a quantity of such regulated grades and sizes of the particular variety of pears which will enable such grower to ship as large a portion of his crop of such variety as the average for all growers in his district.

2. The Secretary shall have the power to modify, change, or alter (a) any such procedural rules and (b) any exemption granted under subsection 1 of this section.

SEC. 3. *Inspection and certification.*—1. All shipments of pears in interstate or foreign commerce, grown in the area covered by this order, shall be inspected and certified on the basis of grades now promulgated by the United States Department of Agriculture, or as the same may be modified or changed hereafter.

2. Each handler, prior to making such shipment of pears in interstate or foreign commerce, shall have the pears included in each such shipment inspected by a duly authorized representative of the Federal-State Inspection Service, and each such shipper shall submit promptly, or cause to be submitted promptly, to the Control Committee shipping point inspection certificates issued by the Federal-State Inspection Service stating the grade of pears in each such shipment.

ARTICLE IV—ASSESSMENTS

SECTION 1. *Expenses and assessments.*—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions under the provisions hereof. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each handler shall pay to the Control Committee upon demand such handler's pro rata share, as is approved by the Secretary, of the expenses as the Secretary finds will be necessarily incurred by the Control Committee for the maintenance and functioning of the Control Committee during the fiscal period. Each handler's share of such expenses shall be that proportion thereof which the total quantity of pears shipped by such handler in the current of interstate or foreign commerce during said fiscal period is of the total quantity of pears shipped by all handlers in the current of interstate or foreign commerce during said fiscal period. Said assessment may be adjusted, from time to time, by the Control Committee, with the approval of the Secretary, in order to cover any later finding by the Secretary of estimated expenses or the actual expenses of the Control Committee during said fiscal period. The assessment of each handler for the fiscal period shall be due and payable at such time and shall be payable in such installments, if any, as the Control Committee, with the approval of the Secretary, shall determine.

3. At the end of the fiscal period, the Control Committee shall credit each contributing handler with the excess of the amount paid by such handler above his pro rata share of the expenses or debit such handler with the difference between his pro rata share and the amount paid by such handler. Any such debits shall become due and payable upon the demand of the Control Committee.

4. From the funds acquired pursuant to this article, the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

ARTICLE V—REPORTS

SECTION 1. *Reports.*—Upon the request of the Control Committee, subject to the disapproval of the Secretary, each handler shall furnish the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its powers and duties under the terms hereof.

ARTICLE VI—AGENTS

SECTION 1. *Agents.*—The Secretary may name, by a designation in writing, any person, including any officer or employee of the Government or any Bureau of Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

ARTICLE VII—EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective time.*—The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until June 1, 1939, unless terminated prior to said time in one of the ways hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate the provisions hereof as to all parties hereto by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.

2. The provisions hereof shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Proceedings after termination.*—1. Upon the termination hereof, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of liquidating the provisions hereof, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall from time to time account for all receipts and disbursements or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct; and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control Committee or the joint trustees pursuant to this order. Any funds collected for expenses pursuant to article IV hereof and held by such joint trustees or such person over and above amounts necessary to meet outstanding obligations and the expenses incurred necessarily by the joint trustees or such other person in the performance of their

duties hereunder, shall, as soon as practicable after the termination of this order, be returned to the handlers pro rata in proportion to their contributions made thereto pursuant to the provisions hereof.

2. Any person to whom funds, property, or claims have been delivered by the Control Committee or its members upon direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.

ARTICLE VIII—DURATION OF IMMUNITIES

SECTION 1. *Duration of immunities.*—The benefits, privileges, and immunities conferred by virtue hereof shall cease upon its termination except with respect to acts done under and during the existence hereof, and the benefits, privileges, and immunities conferred by this order upon any party subject hereto shall cease upon the termination of this order as to such party except with respect to the acts done under and during the existence hereof.

ARTICLE IX—SEPARABILITY

SECTION 1. *Separability.*—If any provision hereof is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

ARTICLE X—DEROGATION

SECTION 1. *Derogation.*—Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

ARTICLE XI—LIABILITY OF CONTROL COMMITTEE MEMBERS

SECTION 1. *Liability.*—No member of the Control Committee nor any employee thereof shall be held liable individually in any way whatsoever to any party hereunder or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such members or employees, except for acts of dishonesty. The liability of the parties hereunder is several and not joint, and no party shall be liable for the default of any other party.

In witness whereof, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 7th day of October 1938, and declares this order to be effective on and after 12:01 a. m., e. s. t., October 11, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2963; Filed, October 7, 1938; 12:50 p. m.]

[Form 38—Tobacco 28—Supplement 2]

SUPPLEMENT TO REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE 1938–1939 MARKETING YEAR

Form 38–Tobacco 28, "Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938–1939 Marketing year",[1] is amended as follows:

Article III—Marketing of Tobacco and Penalties—is amended by adding at the end of the said article a new section as follows:

"SEC. 309. *Tolerance on farm scrap tobacco.*—In computing the penalty upon any marketing of farm scrap tobacco which is subject to penalty, an allowance shall be made of 3 cents per pound on that number of pounds obtained by multiplying the gross weight of the scrap tobacco by the dealer's tolerance factor for the calendar week in which such tobacco was acquired. The dealer's tolerance factor for any calendar week shall be that percentage which the weight of the unmerchantable (except for by-product uses) portion of all the scrap tobacco acquired by the dealer during the calendar week is of the gross weight of all the scrap tobacco acquired by him during such period. The weight of that portion of the scrap tobacco which is unmerchantable shall be the difference between the gross weight of the scrap tobacco minus 5 percent thereof, and the net weight (i. e., its weight after screening and picking). No allowance pursuant to the provisions of this section shall be made unless the dealer establishes the gross and net weight of all scrap tobacco acquired by him, and disposes of that portion of the scrap tobacco which is unmerchantable, to the satisfaction of the Agricultural Adjustment Administration."

Done at Washington, D. C., this 7th day of October 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2974; Filed, October 8, 1938; 12:33 p. m.]

[ACP—1938–1—Pondera County, Mont.]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR PONDERA COUNTY, MONTANA

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program for Pondera County, Montana,[1] is hereby amended as follows:

(1) Subsection A of Section V of Part I is hereby amended to read as follows:

"A. *Payments and deductions in connection with practice T (Diversion), erosion, breaking-out of native sod, and the restoration land goal.*—For any farm the payment or deduction in connection with practice T (Diversion), the net payment or net deduction with respect to the restoration land goal and the deductions computed under the provisions of subsections C and D of Section IV shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled, at the time of harvest, to share in the proceeds of the soil-depleting crops seeded on the farm for harvest in 1938."

(2) Subsection A of Section X of Part I is hereby amended to read as follows:

"A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V of Part I a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agrement, or (2) who is owner or operator of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land."

Done at Washington, D. C., this 8th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2983; Filed, October 10, 1938; 10:37 a. m.]

[ACP—1938–1—Thomas County, Kansas]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR THOMAS COUNTY, KANSAS

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program for Thomas County, Kansas,[2] is hereby amended as follows:

(1) Subsection D of Section IV is amended by omitting from the latter

[1] 3 F. R. 1833, 2354 DI.

[1] 3 F. R. 1591 DI.
[2] 3 F. R. 1547 DI.

part thereof the words "designated as restoration land" and substituting therefor the words "for which credit is given under Practice A–7".

(2) Subsection A of Section V is amended to read as follows:

"A. *Payments and deductions in connection with acreage allotments.*—The net payment or net deduction computed with respect to the soil-depleting acreage allotment on any farm for which a payment is computed under Subsection A–1 of Section IV, shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled at the time the crop was harvested to share in the proceeds of the wheat grown on the farm in 1938, provided, however, that (1) if wheat is not harvested on such farm in 1938 or (2) if the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, finds that due to crop failure the acreage of wheat was reduced sufficiently to affect materially the division of payments or deductions, the net payment or net deduction, if any, with respect to the acreage allotment shall be divided among the landlords and tenants in the same proportion that the county committee determines that such persons would have shared in the proceeds of the wheat crop if such crop had been harvested on the farm in 1938, or if the acreage of such crop had not been so reduced.

"The net payment or net deduction computed for any farm with respect to the soil-depleting acreage allotment shall, if no payment is computed for the farm under Subsection A–1 of Section IV, be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of percentages) that the proceeds of the general crops are, or would be, divided among the landlords and tenants.

"In computing such net payments and net deductions with respect to acreage allotments the total amount of deductions computed under Section IV with respect to (1) soil-depleting crops grown in excess of the total soil-depleting acreage allotment (subsection A–1); (2) failure to prevent wind and water erosion (subsection C); and (3) breaking out of native sod (subsection D) shall be regarded (a) as deductions with respect to the soil-depleting acreage allotments."

(3) Subsection B of Section V is amended by changing the last sentence of such subsection to read as follows:

"Where practice A-7 (restoring farmland to pasture) has been carried out on the farm all persons shall be deemed to have contributed to the performance of such practice in the same proportion that such persons are entitled to share in the payment with respect to soil-depleting acreage allotments."

(4) Subsection A of Section X is hereby amended to read as follows:

"A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section V of Part I a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1938 in carrying out approved soil-building practices."

Done at Washington, D. C., this 8th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2932; Filed, October 10, 1938; 10:37 a. m.]

[ACP—1938–1—Weber and Davis Counties, Utah]

1938 AGRICULTURAL CONSERVATION PROGRAM FOR WEBER AND DAVIS COUNTIES, UTAH

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program for Weber and Davis Counties, Utah,[1] is hereby amended as follows:

(1) The first paragraph of subsection A of Section V of Part I is hereby amended to read as follows:

"A. *Payments and deductions in connection with acreage allotments.*—The net payment or net deduction computed for any farm with respect to the wheat or potato acreage allotment shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the wheat or potatoes, respectively, grown on the farm in 1938."

(2) Subsection A of Section X of Part I is hereby amended to read as follows:

"A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of such Section V a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land."

(3) Item 1 of subsection A of Section XIII of Part I is hereby amended by adding at the end thereof the following paragraph:

"(d) Where normal wheat yields are used for the purpose of computing deductions for farms in Weber and Davis Counties, Utah, (where land summer fallowed is classified as soil-depleting) such yields shall be reduced for such purpose in accordance with instructions issued by the Agricultural Adjustment Administration, to reflect the average production of wheat on the acreage normally devoted to wheat and summer fallow on the farm."

Done at Washington, D. C., this 8th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–2984; Filed, October 10, 1938; 10:37 a. m.]

[1] 3 F. R. 1556 DI.

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

SOUTHERN UTE INDIAN RESERVATION, COLORADO

ORDER OF RESTORATION

SEPTEMBER 14, 1938.

Whereas, pursuant to the provisions of the Act of February 20, 1895 (28 Stat. L., 677), the Southern Ute Band of Indians in Colorado ceded to the United States a large area of their reservation in the State of Colorado established expressly for their benefit under the treaty of June 15, 1880 (21 Stat. L., 199), and

Whereas, There is now remaining undisposed of within the said ceded area approximately 200,000 acres of such ceded land, most of which is urgently required as grazing land for the use of the Southern Ute Band of Indians, and which has been found to be primarily of value for Indian purposes as an addition to the existing Southern Ute Indian Reservation, and

Whereas, by relinquishment and cancellation of homestead entries within this area a limited additional acreage of land of similar character may later be included within this class of undisposed-of ceded land, and

Whereas, the Tribal Council, the Superintendent of the Consolidated Ute Indian Agency, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of all such undisposed-of ceded land within the following described boundaries:

Townships 32, 33 and 34 North, Ranges 1½ to 13 West, inclusive, of the N. M. P. M., in Colorado, being that area lying between the north boundary of the old Southern Ute Reservation and the south boundary of the State of Colorado and extending west from the 107th Meridian to the east boundary of the present Southern Ute Reservation.

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the Act of June 18, 1934 (48 Stat. L., 984), I hereby find that restoration to tribal ownership of all land which is now, or may hereafter be, classified as undisposed-of ceded Ute Indian land lying within the above described boundaries in Colorado, will be in the public interest, and the said land is hereby restored to tribal ownership for the use and benefit of the Southern Ute Tribe of Indians of the Southern Ute Indian Reservation in Colorado, and is added to and made a part of the existing Southern Ute Reservation, subject to any valid existing rights.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38–2967; Filed, October 8, 1938; 9:24 a. m.]

TITLE 36—PARKS AND FORESTS

NATIONAL PARK SERVICE

LASSEN VOLCANIC NATIONAL PARK

AMENDMENT TO SUBSIDIARY REGULATIONS

Pursuant to the authority contained in the General Rules and Regulations, approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), and upon the recommendation of the Superintendent, the subsidiary fishing regulations for Lassen Volcanic National Park, approved May 27, 1936 (1 F. R. 534, 36 CFR 13.25 (a)), are hereby amended by adding thereto the following sub-paragraph, to become effective immediately:

(4) Limit of catch: The limit of catch is ten fish, or ten pounds and one fish, per person per day in all waters except Manzanita and Reflection Lakes, where the limit is five fish, or five pounds and one fish.

Approved, September 30, 1938.

[SEAL] A. E. DEMARAY,
Acting Director.

[F. R. Doc. 38–2968; Filed, October 8, 1938; 9:26 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1451]

AMENDMENT OF LEASE FORMS PRESCRIBED UNDER OIL AND GAS REGULATIONS FOR THE PROTECTION OF LANDS EMBRACED IN A RESERVATION OR SEGREGATED FOR ANY PARTICULAR PURPOSE, AND AS TO HELIUM PROVISIONS

1. *Provision for protection of lands embraced in a reservation or segregated for any particular purpose.*—Hereafter all leases issued under the oil and gas leasing act of February 25, 1920 (41 Stat. 437), as amended, and regulations thereunder, for lands embraced in a reservation or segregated for any particular purpose, will contain the following subsection:

Reserved or segregated lands.—If any of the land included in this lease is embraced in a reservation or segregated for any particular purpose, the lessee shall conduct operations thereunder in conformity with such requirements as may be made by the Secretary of the Interior for the protection and use of the land for the purpose for which it was reserved or segregated, so far as may be consistent with the use of the land for the purposes of this lease, which latter shall be regarded as the dominant use unless otherwise provided herein or separately stipulated.

2. *Oil and gas lease forms amended as to helium provisions.*—Subsection 3 (e) of the form of lease prescribed by Circular No. 672 approved March 11, 1920 (47 L. D. 437) and subsection 3 (d) of the form of lease prescribed by Circular No. 1386 approved May 7, 1936 (55 I. D. 502) which contain provisions relative to the helium content of any gas produced on lands embraced in such leases, are amended to read as follows:

Helium.—Pursuant to Section 1 of the Act, and Section 1 of the act of Congress approved March 3, 1927 (44 Stat. 1387), as amended, the lessor reserves the ownership and the right to extract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, helium from all gas produced under this lease, but the lessee shall not be required to extract and save the helium for the lessor; in case the lessor elects to take the helium the lessee shall deliver all gas containing same, or portion thereof desired, to the lessor at any point on the leased premises in the manner required by the lessor, for the extraction of the helium in such plant or reduction works for that purpose as the lessor may provide, whereupon the residue shall be returned to the lessee with no substantial delay in the delivery of gas produced from the well to the purchaser thereof: *Provided*, That the lessee shall not, as a result of the operation in this paragraph provided for, suffer a diminution of value of the gas from which the helium has been extracted, or loss otherwise, for which the lessee is not reasonably compensated, save for the value of the helium extracted; the lessor further reserves the right to erect, maintain, and operate any and all reduction works and other equipment necessary for the extraction of helium on the premises leased.

FRED W. JOHNSON,
Commissioner.

I concur: June 15, 1938.

JOHN C. PAGE,
Commissioner, Bureau of Reclamation.

I concur: August 2, 1938.

W. C. MENDENHALL,
Director, Geological Survey.

Approved, September 24, 1938.

E. K. BURLEW,
Acting Secretary of the Interior.

[F. R. Doc. 38–2969; Filed, October 8, 1938; 9:24 a. m.]

ARAPAHO AND HOLY CROSS NATIONAL FORESTS BOUNDARIES ADJUSTED

SEPTEMBER 24, 1938.

It is ordered that so much of the proclamation of May 26, 1930, as defined the boundaries of the Arapaho and Holy Cross National Forests in T. 2 S., R. 82 W., 6th P. M., be and it is hereby construed in conformity with the official plat of resurvey of such township, accepted by the General Land Office May 19, 1936, to include the following-described lands:

In Arapaho National Forest: lots 2, 3, S½NE¼ and S½ sec. 8, lots 2, 3, 4, SW¼NW¼ and S½ sec. 9, secs. 13 to 17, inclusive, those portions of secs. 20, 21 and 22 lying north of the divide between Sheep Creek and Piney River, secs. 23, 24, 25 and those portions of secs. 26, 27 and 36 lying northeast of the above-mentioned divide;

In Holy Cross National Forest: those portions of secs. 20, 21 and 22 lying south of such divide, those portions of secs. 26 and 27 lying southwest of the divide, secs. 28 and 29, E½E½ sec. 30, E½NE¼, NE¼SE¼, lots 11 and 13 sec. 31, N½, N½SW¼, NW¼SE¼, lot 1 and E½SE¼ sec. 32, secs. 33, 34 and 35, that part of sec. 36 lying southwest of the divide, and all Tract 48.

W. C. MENDENHALL,
Assistant Secretary of the Interior.

[F. R. Doc. 38–2970; Filed, October 8, 1938; 9:46 a. m.]

GRAND MESA NATIONAL FOREST BOUNDARY ADJUSTED

SEPTEMBER 24, 1938.

It is ordered that so much of the proclamation of March 1, 1913, as defined

the boundaries of the Grand Mesa (formerly Battlement) National Forest in such townships, be and it is hereby construed in conformity with the official plats of surveys or resurveys of Ts. 8 S., Rs. 92, 93 and 94 W., and Ts. 8½ S., Rs. 93 and 94 W., 6th P. M., Colorado, accepted by the General Land Office April 28, 1936, to include the following-described lands:

T. 8 S., R. 92 W., secs. 19 to 29, inclusive, NE¼E½SE¼ and lots 1, 2, 3, 4 and 5 sec. 30, E½E½, SW¼SE¼ and lots 1, 2, 3, 4 and 5 sec. 31, secs. 32 to 36, inclusive;
T. 8 S., R. 93 W., lots 5 to 14, inclusive, S½N½, SW¼ and W½SE¼ sec. 3, secs. 4 to 9, inclusive, lots 1, 2, 3, 4, W½E½ and W½ sec. 10, lots 1, 2, 3, 4, 5, 6, SW¼ and W½SE¼ sec. 13, lots 1, 2, 3, 4 and S½ sec. 14, lots 1, 2, W½NE¼, NW¼ and S½ sec. 15, secs. 16 to 24, inclusive, lots 1, 2, 3, 4, 5, W½NE¼, NW¼, N½SW¼ and SW¼SW¼ sec. 25, secs. 26 to 35, inclusive, lots 1, 2, 3 and NW¼NW¼ sec. 36;
T. 8½ S., R. 93 W., secs. 2 to 6, inclusive;
Ts. 8 and 8½ S., R. 94 W., all.

W. C. MENDENHALL,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2971; Filed, October 8, 1938; 9:46 a. m.]

ROUTT NATIONAL FOREST BOUNDARY ADJUSTED

SEPTEMBER 24, 1938.

It is ordered that so much of the proclamation of May 26, 1930, as defined the boundaries of the Routt National Forest in T. 3 N., R. 82 W., 6th P. M., Colorado, be and it is hereby construed in conformity with the official plat of resurvey of the township accepted by the General Land Office April 1, 1938, to include the following-described lands:

Lots 5 to 15, inclusive, SW¼NE¼, S½NW¼, SW¼ and W½SE¼ sec. 4, secs. 5, 6, 7, and 8, lots 1, 2, 3, 4, W½E½ and W½ sec. 9, lots 1, 2, 3, 4, W½E½ and W½ sec. 16, secs. 17, 18, 19 and 20, lots 1, 2, 3, 4, W½E½ and W½ sec. 21, lots 2, 3, 4, 5 and S½S½ sec. 26, lots 1, 2, 3, 4, 5, 6 and S½SE¼ sec. 27, lots 1, 2, 3, 4, W½E½ and W½ sec. 28, secs. 29 to 33, inclusive, lots 1, 2, 3, 4, 5, 6, NE¼, S½SW¼ and SE¼ sec. 34, sec. 35, lots 6, 7, 8, 9, 10, S½SW¼ and SW¼SE¼ sec. 36, and Tract 49.

W. C. MENDENHALL,
Assistant Secretary of the Interior.

[F. R. Doc. 38-2972; Filed, October 8, 1938; 9:46 a. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER XII. RULES GOVERNING AMATEUR RADIO STATIONS AND AMATEUR RADIO OPERATORS * #

* Sections 150.01 to 152.54 issued under the authority contained in Sec. 4 (i) 48 Stat. 1066; 47 U. S. C. 154 (i)—Sec. 303 (f) 48 Stat. 1082; 47 U. S. C. 303 (f).

Sections 150.01 to 152.54 promulgated by F. C. C. on October 4, 1938, to become effective December 1, 1938.

TABLE OF CONTENTS

Part
150. Definitions
151. Amateur Operators
152. Amateur Radio Stations

PART 150. DEFINITIONS

Sec.
150.01 Amateur service
150.02 Amateur station
150.03 Amateur portable station
150.04 Amateur portable-mobile station
150.05 Amateur radio communication
150.06 Amateur operator

SEC. 150.01 *Amateur service.* The term "amateur service" means a radio service carried on by amateur stations.

SEC. 150.02 *Amateur station.* The term "amateur station" means a station used by an "amateur", that is, a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest. It embraces all radio transmitting apparatus at a particular location used for amateur service and operated under a single instrument of authorization.

SEC. 150.03 *Amateur portable station.* The term "amateur portable station" means an amateur station that is portable in fact, that is so constructed that it may conveniently be moved about from place to place for communication, and that is in fact so moved from time to time, but which is not operated while in motion.

SEC. 150.04 *Amateur portable-mobile station.* The term "amateur portable-mobile station" means an amateur station that is portable in fact, that is so constructed that it may conveniently be transferred to or from a mobile unit or from one such unit to another, and that is in fact so transferred from time to time and is ordinarily used while such mobile unit is in motion.

SEC. 150.05 *Amateur radio communication.* The term "amateur radio communication" means radio communication between amateur stations solely with a personal aim and without pecuniary interest.

SEC. 150.06 *Amateur operator.* The term "amateur operator" means a person holding a valid license issued by the Federal Communications Commission authorizing him to operate licensed amateur stations.

PART 151. AMATEUR OPERATORS

LICENSES; PRIVILEGES

Sec.
151.01 Eligibility for license
151.02 Classification of operating privileges
151.03 Scope of operator authority
151.04 Posting of license
151.05 Duplicate license
151.06 Renewal of amateur operator license
151.07 Who may operate an amateur station

EXAMINATIONS

151.15 When required
151.16 Elements of examination
151.17 Elements required for various privileges
151.18 Manner of conducting examination
151.19 Additional examination for holders of Class C privileges
151.20 Examination abridgment
151.21 Examination procedure
151.22 Grading
151.23 Eligibility for reexamination

Licenses; Privileges

SEC. 151.01 *Eligibility for license.* The following are eligible to apply for amateur operator license and privileges:

Class A—A United States citizen who has within five years of receipt of application held license as an amateur operator for a year or who in lieu thereof qualified under Section 151.20.

Class B—Any United States citizen.

Class C—A United States citizen whose actual residence, address, and station, are more than 125 miles airline from the nearest point where examination is given at least quarterly for Class B; or is shown by physician's certificate to be unable to appear for examination due to protracted disability; or is shown by certificate of the commanding officer to be in a camp of the Civilian Conservation Corps or in the regular military or naval service of the United States at a military post or naval station and unable to appear for Class B examination.

SEC. 151.02 *Classification of operating privileges.* Amateur operating privileges are as follows:

Class A—All amateur privileges.

Class B—Same as Class A except specially limited as in Section 152.28.

Class C—Same as Class B.

SEC. 151.03 *Scope of operator authority.* Amateur operators' licenses are valid only for the operation of licensed amateur stations; *provided, however,* any person holding a valid radio operator's license of any class may operate stations in the experimental service licensed for, and operating on, frequencies above 300000 kilocycles.

SEC. 151.04 *Posting of license.* The original operator's license shall be posted in a conspicuous place in the room occupied by such operator while on duty or kept in his possession and available for inspection at all times while the operator is on duty, except when such license has been filed with application for modification or renewal, or has been mutilated, lost, or destroyed, and application has been made for a duplicate.

SEC. 151.05 *Duplicate license.* Any licensee applying for a duplicate license to replace an original which has been lost, mutilated, or destroyed, shall submit to the Commission such mutilated license or affidavit attesting to the facts regarding the manner in which the original was lost or destroyed. If the original is later found, it or the duplicate shall be returned to the Commission.

SEC. 151.06 *Renewal of amateur operator license.* An amateur operator license may be renewed upon proper application and a showing that within three months of receipt of the application by the Commission the licensee has lawfully operated an amateur station licensed by the Commission, and, that he has communicated by radio with at least three other such amateur stations. Failure to meet the requirements of this section will make it necessary for the applicant to again qualify by examination.

SEC. 151.07 *Who may operate an amateur station.* An amateur station may be operated only by a person holding a valid amateur operator's license, and then only to the extent provided for by the class of privileges for which the operator's license is endorsed. When an amateur station uses radiotelephony (type A–3 emission) the licensee may permit any person to transmit by voice, provided a duly licensed amateur operator maintains control over the emissions by turning the carrier on and off when required and signs the station off after the transmission has been completed.

Examinations

SEC. 151.15 *When required.* Examination is required for a new license as an amateur operator or for change of class of privileges.

SEC. 151.16 *Elements of examination.* The examination for amateur operator privileges will comprise the following elements:

1. Code test—ability to send and receive, in plain language, messages in the International Morse Code at a speed of not less than thirteen words per minute, counting five characters to the word, each numeral or punctuation mark counting as two characters.

2. Amateur radio operation and apparatus, both telephone and telegraph.

3. Provisions of treaty, statute and regulations affecting amateurs.

4. Advanced amateur radiotelephony.

SEC. 151.17 *Elements required for various privileges.* Examinations for Class A privileges will include all four examination elements as specified in Section 151.16.

Examinations for Classes B and C privileges will include elements 1, 2, and 3 as set forth in Section 151.16.

SEC. 151.18 *Manner of conducting examination.* Examinations for Class A and Class B privileges will be conducted by an authorized Commission employee or representative at points specified by the Commission.

Examinations for Class C privileges will be given by volunteer examiner(s), whom the Commission may designate or permit the applicant to select; in the latter event the examiner giving the code test shall be a holder of an amateur license with Class A or B privileges, or have held within five years a license as a professional radiotelegraph operator or have within that time been employed as a radiotelegraph operator in the service of the United States; and the examiner for the written test, if not the same individual, shall be a person of legal age.

SEC. 151.19 *Additional examination for holders of Class C privileges.* The Commission# may require a licensee holding Class C privileges to appear at an examining point for a Class B examination. If such licensee fails to appear for examination when directed to do so, or fails to pass the supervisory examination, the license held will be canceled and the holder thereof will not be issued another license for the Class C privileges.

Whenever the holder of Class C amateur operator privileges changes his actual residence or station location to a point where he would not be eligible to apply for Class C privileges in the first instance, or whenever a new examining point is established in a region from which applicants were previously eligible for Class C privileges, such holders of Class C privileges shall within four months thereafter appear at an examining point and be examined for Class B privileges. The license will be canceled if such licensee fails to appear, or fails to pass the examination.

SEC. 151.20 *Examination abridgment.* An applicant for Class A privileges, who holds a license with Class B privileges, will be required to pass only the added examination element No. 4 (see Section 151.16).

A holder of Class C privileges will not be accorded an abridged examination for either Class B or Class A privileges.

An applicant who has held a license for the class of privileges specified below, within five years prior to receipt of application, credited with examination elements as follows:

Class of license or privileges:	*Credits*
Commercial extra first	Elements 1, 2 & 4
Radiotelegraph 1st, 2nd, or 3rd	Elements 1 & 2
Radiotelephone 1st or 2nd	Elements 2 & 4
Class A	Elements 2 & 4

No examination credit is given on account of license of Radiotelephone 3rd Class, nor for other class of license or privileges not above listed.

SEC. 151.21 *Examination procedure.*—Applicants shall write examinations in longhand,—code tests and diagrams in ink or pencil, written tests in ink—except that applicants unable to do so because of physical disability may typewrite or dictate their examinations and, if unable to draw required diagrams, may make instead a detailed description essentially equivalent. The examiner shall certify the nature of the applicant's disability and, if the examination is dictated, the name and address of the person(s) taking and transcribing the applicant's dictation.

SEC. 151.22 *Grading.* Code tests are graded as passed or failed, separately for sending and receiving tests. A code test is failed unless free of omission or other error for a continuous period of at least one minute at required speed. Failure to pass the required code test will terminate the examination. (See Sec. 151.23).

A passing grade of 75 per cent is required separately for Class B and Class A written examinations.

SEC. 151.23 *Eligibility for reexamination.* An applicant who fails examination for amateur privileges may not take another examination for such privileges within two months, except that this rule shall not apply to an examination for Class B following one for Class C.

PART 152. AMATEUR RADIO STATIONS

LICENSES

Sec.
152.01 Eligibility for amateur station license
152.02 Eligibility of corporations or organizations to hold license
152.03 Location of station
152.04 License period
152.05 Authorized operation
152.06 Renewal of amateur station license
152.07 Posting of station license

CALL SIGNALS

152.08 Assignment of call letters
152.09 Call signals for member of U. S. N. R.
152.10 Transmission of call signals

PORTABLE AND PORTABLE-MOBILE STATIONS

152.11 Requirements for portable and portable-mobile operation
152.12 Special provisions for portable stations
152.13 Special provisions for non-portable stations

USE OF AMATEUR STATIONS

152.14 Points of communication
152.15 No remuneration for use of station
152.16 Broadcasting prohibited
152.17 Radiotelephone tests

ALLOCATION OF FREQUENCIES

152.25 Frequencies for exclusive use of amateur stations
152.26 Use of frequencies above 300000 kilocycles
152.27 Frequency bands for telephony
152.28 Additional bands for telephony
152.29 Television and frequency-modulation transmission
152.30 Facsimile transmission
162.31 Individual frequency not specified
152.32 Types of emission

EQUIPMENT AND OPERATION

152.40 Maximum power input
152.41 Power supply to transmitter
152.42 Requirements for prevention of interference
152.43 Modulation of carrier wave
152.44 Frequency measurement and regular check
152.45 Logs

SPECIAL CONDITIONS

152.50 Additional conditions to be observed by licensee
152.51 Quiet hours
152.52 Second notice of same violation
152.53 Third notice of same violation
152.54 Operation in emergencies

Licenses

SEC. 152.01 *Eligibility for amateur station license.* License for an amateur station will be issued only to a licensed amateur operator who has made a satisfactory showing of control of proper transmitting apparatus and control of the premises upon which such apparatus is to be located; *provided, however,* that in the case of an amateur station of the military or Naval Reserve of the United States located in approved public quarters and established for training purposes, but not operated by the United States Government, a station license may be issued to a person in charge of such a station although not a licensed amateur operator.

SEC. 152.02 *Eligibility of corporations or organizations to hold license.* An amateur station license will not be issued to a school, company, corporation, association, or other organization; nor for their use; *provided, however*, that in the case of a bona-fide amateur radio society a station license may be issued in accordance with Section 152.01 to a licensed amateur operator as trustee for such society.

SEC. 152.03 *Location of station.* An amateur radio station, and the control point thereof when remote control is authorized, shall not be located on premises controlled by an alien.

SEC. 152.04 *License period.* License for an amateur station will normally be for a period of three years from the date of issuance of a new, renewed, or modified license.

SEC. 152.05 *Authorized operation.* An amateur station license authorizes the operation of all transmitting apparatus used by the licensee at the location specified in the station license and in addition the operation of portable and portable-mobile stations at other locations under the same instrument of authorization.

SEC. 152.06 *Renewal of amateur station license.* An amateur station license may be renewed upon proper application and a showing that, within three months of receipt of the application by the Commission, the licensee thereof has lawfully operated such station in communication by radio with at least three other amateur stations licensed by the Commission, except that in the case of an application for renewal of station license issued for an amateur society or reserve group, the required operation may be by any licensed amateur operator. Upon failure to comply with the above requirements, a successor license will not be granted until two months after expiration of the old license.

SEC. 152.07 *Posting of station license.* The original of each statio[illegible]nse or a facsimile thereof shall be posted by the licensee in a conspicuous place in the room in which the transmitter is located or kept in the personal possession of the operator on duty, except when such license has been filed with application for modification or renewal, or has been mutilated, lost, or destroyed, and application has been made for a duplicate.

Call Signals

SEC. 153.08 *Assignment of call letters.* Amateur station calls will be assigned in regular order and special requests will not be considered except that a call may be reassigned to the latest holder, or if not under license during the past five years, to any previous holder, or to an amateur organization in memoriam to a deceased member and former holder, and particular calls may be temporarily assigned to stations connected with events of general public interest.

SEC. 152.09 *Call signals for member of U. S. N. R.* In the case of an amateur licensee whose station is licensed to a regularly commissioned or enlisted member of the United States Naval Reserve, the Commandant of the naval district in which such station is located may authorize in his discretion the use of the call-letter prefix N in lieu of the prefix W or K, assigned in the license issued by the Commission, provided that such N prefix shall be used only when operating in the frequency bands 1715–2000 [1] kilocycles, 3500–4000 kilocycles, 56000–60000 kilocycles, and 400000–401000 kilocycles in accordance with instructions to be issued by the Navy Department.

SEC. 152.10 *Transmission of call signals.* An operator of an amateur station shall transmit its assigned call at the end of each transmission and at least once every ten minutes during transmission of more than ten minutes duration: *provided, however*, that transmission of less than one minute duration from stations employing break-in operation need be identified only once every ten minutes of operation and at the termination of the correspondence. In addition, an operator of an amateur portable or portable-mobile radiotelegraph station shall transmit immediately after the call of the station the fraction-bar character (DN) followed by the number of the amateur call area in which the portable or portable-mobile amateur station is then operating, as for example:

Example 1. Portable or portable-mobile amateur station operating in the third amateur call area calls a fixed amateur station: W1ABC W1ABC W1ABC DE W2DEF DN3 W2DEF DN3 W2DEF DN3 AR.

Example 2. Fixed amateur station answers the portable or portable-mobile amateur station: W2DEF W2DEF W2DEF DE W1ABC W1ABC W1ABC K.

Example 3. Portable or portable-mobile amateur station calls a portable or portable-mobile amateur station: W3GHI W3GHI W3GHI DE W4JKL DN4 W4JKL DN4 W4JKL DN4 AR.

If telephony is used, the call sign of the station shall be followed by an announcement of the amateur call area in which the portable or portable-mobile station is operating.

Portable and Portable-Mobile Stations

SEC. 152.11 *Requirements for portable and portable-mobile operation.* A licensee of an amateur station may operate portable amateur stations (Section 150.03) in accordance with the provisions of Sections 152.09, 152.10, 152.12 and 152.45. Such licensee may operate portable and portable-mobile amateur stations without regard to Section 152.12, but in compliance with Sections 152.09, 152.10, and 152.45, when such operation takes place on authorized amateur frequencies above 28000 kilocycles.

SEC. 152.12 *Special provisions for portable stations.* Advance notice in writing shall be given by the licensee to the inspector in charge of the district in which such portable station is to be operated. Such notices shall be given prior to any operation contemplated, and shall state the station call, name of licensee, the date of proposed operation, and the locations as specifically as possible. An amateur station operating under this Section shall not be operated during any period exceeding one month without giving further notice to the inspector in charge of the radio-inspection district in which the station will be operated, nor more than four consecutive periods of one month at the same location. This Section does not apply to the operation of portable or portable-mobile amateur stations on frequencies above 28000 kilocycles. (See Section 152.11.)

SEC. 152.13 *Special provisions for non-portable stations.* The provisions for portable stations shall not be applied to any non-portable station except that:

a. An amateur station that has been moved from one permanent location to another permanent location may be operated at the latter location in accordance with the provisions governing portable stations for a period not exceeding sixty days, but in no event beyond the expiration date of the license, provided an application for modification of license to change the permanent location has been made to the Commission.

b. The licensee of an amateur station who is temporarily residing at a location other than the licensed location for a period not exceeding four months may for such period operate his amateur station at his temporary address in accordance with the provisions governing portable stations.

Use of Amateur Stations

SEC. 152.14 *Points of communication.* An amateur station shall communicate only with other amateur stations, except that in emergencies or for testing purposes it may be used also for communication with commercial or Government radio stations. In addition, amateur stations may communicate with any mobile radio station which is licensed by the Commission to communicate with amateur stations, and with stations of expeditions which may also be authorized to communicate with amateur stations. They may also make transmissions to points equipped only with receiving apparatus for the measurement of emissions, observation of transmission phenomena, radio control of remote objects, and similar purely experimental purposes.

SEC. 152.15 *No remuneration for use of station.* An amateur station shall not be used to transmit or receive messages for hire, nor for communication for material compensation, direct or indirect, paid or promised.

[1] Subject to change to "1750 to 2050" kilocycles in accordance with the "Inter-American Arrangement Covering Radiocommunication", Havana, 1937.

SEC. 152.16 *Broadcasting prohibited.* An amateur station shall not be used for broadcasting any form of entertainment, nor for the simultaneous retransmission by automatic means of programs or signals emanating from any class of station other than amateur.

SEC. 152.17 *Radiotelephone tests.* The transmission of music by an amateur station is forbidden. However, single audio-frequency tones may be transmitted by radiotelephony for test purposes of short duration in connection with the development of experimental radiotelephone equipment.

Allocation of Frequencies

SEC. 152.25 *Frequencies for exclusive use of amateur stations.* The following bands of frequencies are allocated exclusively for use by amateur stations:

1715 to 2000 kilocycles [1]
3500 to 4000 kilocycles
7000 to 7300 kilocycles
14000 to 14400 kilocycles
28000 to 30000 kilocycles
56000 to 60000 kilocycles
112000 to 118000 kilocycles [2]
224000 to 230000 kilocycles [2]
400000 to 401000 kilocycles

SEC. 152.26 *Use of frequencies above 300000 kilocycles.* The licensee of an amateur station may, subject to change upon further order, operate amateur stations, with any type of emission authorized for amateur stations, on any frequency above 300000 kilocycles without separate licenses therefor.

SEC. 152.27 *Frequency bands for telephony.* The following bands of frequencies are allocated for use by amateur stations using radiotelephony, type A–3 emission:

1800 to 2000 kilocycles
28500 to 30000 kilocycles
56000 to 60000 kilocycles
112000 to 118000 kilocycles [2]
224000 to 230000 kilocycles [2]
400000 to 401000 kilocycles

SEC. 152.28 *Additional bands for telephony.* An amateur station may use radiotelephony, type A–3 emission, in the following additional bands of frequencies: *provided* the station is licensed to a person who holds an amateur operator's license endorsed for Class A privileges, and actually is operated by an amateur operator holding Class A privileges:

3900 to 4000 kilocycles
14150 to 14250 kilocycles

SEC. 152.29 *Television and frequency-modulation transmission.* The following bands of frequencies are allocated for use by amateur stations for television and radiotelephone frequency-modulation transmission:

112000 to 118000 kilocycles [2]
224000 to 230000 kilocycles [2]
400000 to 401000 kilocycles

[1] Subject to change to "1750 to 2050" kilocycles in accordance with the "Inter-American Arrangement Covering Radiocommunication", Havana, 1937.

[2] The Commission reserves the right to change or cancel these frequencies without advance notice or hearing.

SEC. 152.30 *Facsimile transmission.* The following bands of frequencies are allocated for use by amateur stations for facsimile transmission:

1715 to 2000 kilocycles [1]
56000 to 60000 kilocycles
112000 to 118000 kilocycles [2]
224000 to 230000 kilocycles [2]
400000 to 401000 kilocycles

SEC. 152.31 *Individual frequency not specified.* Transmissions by an amateur station may be on any frequency within the bands above assigned. Sideband frequencies resulting from keying or modulating a transmitter shall be confined within the frequency band used.

SEC. 152.32 *Types of emission.* All bands of frequencies allocated to the amateur service may be used for radiotelegraphy, type A–1 emission. Type A–2 emission may be used in the following bands of frequencies only:

56000 to 60000 kilocycles
112000 to 118000 kilocycles [2]
224000 to 230000 kilocycles [2]
400000 to 401000 kilocycles

Equipment and Operation

SEC. 152.40 *Maximum power input.* The licensee of an amateur station is authorized to use a maximum power input of 1 kilowatt to the plate circuit of the final amplifier stage of an oscillator-amplifier transmitter or to the plate circuit of an oscillator transmitter. An amateur transmitter operating with a power input exceeding nine-hundred watts to the plate circuit shall provide means for accurately measuring the plate power input to the vacuum tube, or tubes, supplying power to the antenna.

SEC. 152.41 *Power supply to transmitter.* The licensee of an amateur station using frequencies below 60000 kilocycles shall use adequately filtered direct-current plate power supply for the transmitting equipment to minimize frequency modulation and to prevent the emission of broad signals.

SEC. 152.42 *Requirements for prevention of interference.* Spurious radiations from an amateur transmitter operating on a frequency below 60000 kilocycles shall be reduced or eliminated in accordance with good engineering practice and shall not be of sufficient intensity to cause interference on receiving sets of modern design which are tuned outside the frequency band of emission normally required for the type of emission employed. In the case of A–3 emission, the transmitter shall not be modulated in excess of its modulation capability to the extent that interfering spurious radiations occur, and in no case shall the emitted carrier be amplitude-modulated in excess of 100 per cent. Means shall be employed to insure that the transmitter is not modulated in excess of its modulation capability. A spurious radiation is any radiation from a transmitter which is outside the frequency band of emission normal for the type of transmission employed, including any component whose frequency is an integral multiple or submultiple of the carrier frequency (harmonics and subharmonics), spurious modulation products, key clicks, and other transient effects, and parasitic oscillations. The frequency of emission shall be as constant as the state of the art permits.

SEC. 152.43 *Modulation of carrier wave.* Except for brief tests or adjustments, an amateur radiotelephone station shall not emit a carrier wave unless modulated for the purpose of communication.

SEC. 152.44 *Frequency measurement and regular check.* The licensee of an amateur station shall provide for measurement of the transmitter frequency and establish procedure for checking it regularly. The measurement of the transmitter frequency shall be made by means independent of the frequency control of the transmitter and shall be of sufficient accuracy to assure operation within the frequency band used.

SEC. 152.45 *Logs.* Each licensee of an amateur station shall keep an accurate log of station operation, including the following data:

a. The date and time of each transmission. (The date need only be entered once for each day's operation. The expression "time of each transmission" means the time of making a call and need not be repeated during the sequence of communication which immediately follows; however, an entry shall be made in the log when "signing off" so as to show the period during which communication was carried on.)

b. The signature of the person manipulating the transmitting key of a radiotelegraph transmitter or the signature of the person operating a transmitter of any other type (type A–3 or A–4 emission) with statement as to type of emission, and the signature of any other person who transmits by voice over a radiotelephone transmitter (type A–3 emission). (The signature need only be entered once in the log provided the log contains a statement to the effect that all transmissions were made by the person named except where otherwise stated. The signature of any other person who operates the station shall be entered in the proper space for his transmissions.)

c. Call letters of the station called. (This entry need not be repeated for calls made to the same station during any sequence of communication, provided the time of "signing off" is given.)

d. The input power to the oscillator, or to the final amplifier stage where an oscillator-amplifier transmitter is employed. (This need be entered only once, provided the input power is not changed.)

e. The frequency band used. (This information need be entered only once in the log for all transmissions until there is a change in frequency to another amateur band.)

f. The location of a portable or portable-mobile station at the time of each transmission. (This need be entered

only once provided the location of the station is not changed. However, suitable entry shall be made in the log upon changing location, showing the type of vehicle or mobile unit in which the station is operated and the approximate geographical location of the station at the time of operation.)

g. The message traffic handled. (If record communications are handled in regular message form, a copy of each message sent and received shall be entered in the log or retained on file for at least one year.)

The log shall be preserved for a period of at least one year following the last date of entry. The copies of record communications and station log, as required under this section, shall be available for inspection upon request by an authorized Government representative.

Special Conditions

SEC. 152.50 *Additional conditions to be observed by licensee.* An amateur station license is granted subject to the conditions imposed in Sections 152.51 to 152.54 inclusive, in addition to any others that may be imposed during the term of the license. Any licensee receiving due notice requiring the station licensee to observe such conditions shall immediately act in conformity therewith.

SEC. 152.51 *Quiet hours.* In the event that the operation of an amateur station causes general interference to the reception of broadcast programs with receivers of modern design, such amateur station shall not operate during the hours from 8 o'clock p. m. to 10:30 p. m., local time, and on Sunday for the additional period from 10:30 a. m. until 1 p. m., local time, upon such frequency or frequencies as cause such interference.

SEC. 152.52 *Second notice of same violation.* In every case where an amateur station licensee is cited a second time within a year for the same violation under Section 152.25, 152.27, 152.28, 152.30, 152.31, 152.41, or 152.42, the Commission will direct that the station remain silent from 6 p. m. to 10:30 p. m., local time, until written notice has been received authorizing full-time operation. The licensee shall arrange for tests at other hours with at least two amateur stations within fifteen days of the date of notice, such tests to be made for the specific purpose of aiding the licensee in determining whether the emissions of his station are in accordance with the Commission's Regulations. The licensee shall report under oath to the Commission at the conclusion of the tests as to the observations reported by amateur licensees in relation to the reported violation. Such reports shall include a statement as to the corrective measures taken to insure compliance with the Regulations.

SEC. 152.53 *Third notice of same violation.* In every case where an amateur station licensee is cited the third time within a year for the same violation as indicated in Section 152.52, the Commission will direct that the station remain silent from 8 a. m. to 12 midnight, local time, except for the purpose of transmitting a prearranged test to be observed by a monitoring station of the Commission to be designated in each particular case. Upon completion of the test the station shall again remain silent during these hours until authorized by the Commission to resume full-time operation. The Commission will consider the results of the tests and the licensee's past record in determining the advisability of suspending the operator license and/or revoking the station license.

SEC. 152.54 *Operation in emergencies.* In the event of widespread emergency conditions affecting domestic communication facilities, the Commission may confer with representatives of the amateur service and others and, if deemed advisable, will declare that a state of general communications emergency exists, designating the licensing area or areas concerned (in general not exceeding 1,000 miles from center of the affected area), whereupon it shall be incumbent upon each amateur station in such area or areas to observe the following restrictions for the duration of such emergency:

a. No transmissions except those relating to relief work or other emergency service such as amateur nets can afford, shall be made within the 1715–2000 [1] kilocycle or 3500–4000 kilocycle amateur bands. Incidental calling, testing, or working, including casual conversation or remarks not pertinent or necessary to constructive handling of the general situation shall be prohibited.

b. The frequencies 1975–2000, 3500–3525, and 3975–4000 kilocycles shall be reserved for emergency calling channels, for initial calls from isolated stations or first calls concerning very important emergency relief matters or arrangements. All stations having occasion to use such channels shall, as quickly as possible, shift to other frequencies for carrying on their communications.

c. A five-minute listening period for the first five minutes of each hour shall be observed for initial calls of major importance, both in the designated emergency calling channels and throughout the 1715–2000 [1] and 3500–4000 kilocycle bands. Only stations isolated or engaged in handling official traffic of the highest priority may continue with transmissions in these listening periods, which must be accurately observed. No replies to calls or resumption of routine traffic shall be made in the five-minute listening period.

d. The Commission may designate certain amateur stations to assist in promulgation of its emergency announcement, and for policing the 1715–2000 [1] and 3500–4000 kilocycle bands and warning non-complying stations noted operating therein. The operators of these observing stations shall report fully the identity of any stations failing, after due notice, to comply with any section of this regulation. Such designated stations will act in an advisory capacity when able to provide information on emergency circuits. Their policing authority is limited to the transmission of information from responsible official sources, and full reports of non-compliance which may serve as a basis for investigation and action under Section 502 of the Communications Act. Policing authority extends only to 1715–2000 [1] and 3500–4000 kilocycle bands. Individual policing transmissions shall refer to this Section by number, shall specify the date of the Commission's declaration, the area and nature of the emergency, all briefly and concisely. Policing-observer stations shall not enter into discussions beyond essentials with the stations notified, or other stations.

e. These special conditions imposed under this Section will cease to apply only after the Commission shall have declared such emergency to be terminated.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38–2975; Filed, October 10, 1938; 9:50 a. m.]

CHAPTER XII. RULES GOVERNING AMATEUR RADIO STATIONS AND AMATEUR RADIO OPERATORS #

It is ordered, That the following rules,[2] which are now in effect, are hereby cancelled as of December 1, 1938:

361	383
362	384
364	384 (a)
365	385
366	386
366 (a)	387, as amended
367	400
368, as amended	401
370	402, as amended
371, as amended	403
372	404, as amended
373	405
374	406
374 (a)	407
375	408
376	409
377	410
378	411
379	412
380	413
381, as amended	414
382, as amended	415

October 4, 1938.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38–2976; Filed, October 10, 1938; 9:50 a. m.]

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[1] Subject to change to "1750 to 2050" kilocycles in accordance with the "Inter-American Arrangement Covering Radiocommunication". Havana, 1937.

Action taken by F. C. C. on October 4, 1938, effective December 1, 1938.

[2] These rules were incorporated in Chapter XII of the Federal Communications Commission's submission to the Codification Board and were identified as Sections 150.01 to 152.90, inclusive.

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER

[Ex Parte 72 (Sub-No. 1)]

IN THE MATTER OF REGULATIONS CONCERNING THE CLASS OF EMPLOYEES AND SUBORDINATE OFFICIALS THAT ARE TO BE INCLUDED WITHIN THE TERM "EMPLOYEE" UNDER THE RAILWAY LABOR ACT

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 29th day of September, A. D. 1938.

It appearing, That certain employee organizations have filed petitions requesting this Commission to amend or interpret its orders defining and classifying employees and subordinate officials under paragraph 5 of section 1 of the Railway Labor Act, as amended,[1] so as to include the work of the persons described in the next succeeding paragraph hereof and full investigation of the matters and things involved having been made, and the division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof: [2]

It is ordered, That the work defined as that of an employee or subordinate official in orders of this Commission now in effect be, and it is hereby, amended and interpreted so as to include the work of persons designated by terms such as "red caps", station attendants, station porters, parcel porters, ushers, chief ushers, and captains, whose duties consist of or include the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and other places on carriers' premises and equipment, in cities of over 100,000 population, based on the 1930 census, whether such persons receive a stated compensation or are entirely dependent upon tips, and brings the persons performing such work within the term "employee" as used in the fifth paragraph of section 1 of the Railway Labor Act, as amended.

By the Commission, division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38–2980; Filed, October 10, 1938; 10:12 a. m.]

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[1] 48 Stat. 1186.

[2] The report was a part of the original document as filed with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

Notices

CIVIL AERONAUTICS AUTHORITY.

[Amendment No. 1 to Special Order 401–A–4]

TEMPORARILY EXEMPTING PAN AMERICAN AIRWAYS, INC., WITH REFERENCE TO AIR TRANSPORTATION SERVICE RENDERED BETWEEN SEATTLE, WASHINGTON, AND JUNEAU, ALASKA, VIA KETCHIKAN, ALASKA

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 30th day of September, 1938.

Upon consideration of the application of Pan American Airways, Inc., for an amendment of the provisions of Special Order 401–A–4,[1] authorizing transportation of property in certain overseas air transportation between Seattle, Washington, and Juneau, Alaska, such authorization being subject to the terms and conditions of the Letter of Authority issued by the Secretary of Commerce (referred to in said Special Order as the "authorization dated August 19, 1938"), and it appearing that the enforcement of certain of the terms and conditions of such Letter of Authority would be an undue burden on such air carrier by reason of the unusual circumstances affecting the operations of said air carrier with respect to said overseas air transportation service, and such enforcement would not be in the public interest, therefore the Authority, acting pursuant to the powers granted to it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, hereby amends Special Order 401–A–4 as follows:

Amendment No. 1 to Special Order 401–A–4, temporarily exempting Pan American Airways, Inc., from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier between Seattle, Washington, and Juneau, Alaska, via Ketchikan, Alaska.

Special Order 401–A–4, insofar as the same requires Pan American Airways, Inc., to comply at all times and in all respects with the terms and conditions set forth in the authorization for a proving period for an overseas air transportation service between Seattle, Washington, and Juneau, Alaska, issued by the Secretary of Commerce and dated August 19, 1938, is hereby amended by extending the time specified in Paragraph 1, clauses (c), (d) and (e), and Paragraph 2, clause (b), thereof, from October 1, 1938, to October 3, 1938, or to such other date thereafter as shall be reasonably necessary to enable Pan American Airways, Inc., to complete the round-trip proving flight scheduled to depart from Seattle, Washington, for Juneau, Alaska, on September 30, 1938.

For the Authority:

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38–2964; Filed, October 7, 1938; 1:09 p. m.]

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[1] 3 F. R. 2103 DI.

FEDERAL POWER COMMISSION.

[Project No. 943]

IN THE MATTER OF PUGET SOUND POWER & LIGHT COMPANY, LICENSEE

ORDER FIXING DATE OF HEARING

OCTOBER 5, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that the matters involved in the determination of the actual legitimate original cost of the initial Rock Island project No. 943, Puget Sound Power & Light Company, Licensee, are now at issue;

The Commission orders that:

A public hearing on said matters be held on October 26, 1938, at 10 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–2965; Filed, October 8, 1938; 9:23 a. m.]

[Dockets No. IT–5515, IT–5514]

IN THE MATTER OF RATES AND CHARGES BY SOUTHWESTERN LIGHT & POWER COMPANY, AND IN THE MATTER OF SOUTHWESTERN LIGHT & POWER COMPANY, RATE SCHEDULE FPC No. 11

ORDER CONSOLIDATING MATTERS FOR HEARING AND SETTING DATE OF HEARING

OCTOBER 5, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) By order adopted May 21, 1938, in the matter of Docket No. IT–5515, Southwestern Light & Power Company was required to show cause on or before June 23, 1938, why the rates and charges assessed and collected for electric energy furnished to the Town of Frederick, Oklahoma, as provided in Southwestern Light & Power Company, Rate Schedule FPC No. 10, should not be made available to the Towns of Eldorado, Olustee,

Manitou, and Granite, Oklahoma, H. W. Barnard, doing business as Cache Telephone and Electric Company and Wolverton Brothers Light & Power Company;

(b) Thereafter by order adopted June 20, 1938, in said matter, the date for responding to said Order to Show Cause was extended to July 8, 1938;

(c) Pursuant thereto and on July 8, 1938, the respondent, Southwestern Light & Power Company, filed its Objection to Jurisdiction and Response to Order to Show Cause wherein it avers that:

(1) The Commission is without jurisdiction as a matter of law to consider, hear and determine the issues tendered in its order of May 21, 1938;

(2) The facts attendant upon the matters and those set forth in said order and upon which the Commission attempts to take jurisdiction expressly exclude such right, power, and jurisdiction;

(3) Its rates made to any of the towns or persons mentioned in the Order to Show Cause are not excessive or discriminatory and that it has not in the past granted and is not now granting any undue preference or advantage, or maintaining any unreasonable difference in rates, charges, service, facilities, or in any other respect or manner whatever between the localities mentioned in the said Order to Show Cause or between the classes of service mentioned in said Order;

all as set forth in said Objection to Jurisdiction and Response to Order to Show Cause, and prays that the complaint in said matter be dismissed;

(d) By order adopted May 21, 1938, in the matter of Docket No. IT–5514, the Commission directed that Southwestern Light & Power Company, Rate Schedule FPC No. 11, be suspended and that it shall not become effective prior to August 23, 1938, unless the Commission shall otherwise provide by order, or as a consequence of the Show Cause proceedings instituted in Docket No. IT–5515;

(e) Thereafter by order adopted August 16, 1938, the Commission directed that Southwestern Light & Power Company, Rate Schedule FPC No. 11, be further suspended for the period August 23, 1938, to October 23, 1938;

The Commission having considered the foregoing and the matters set forth in said Objection to Jurisdiction and Response to Order to Show Cause, upon its own motion, orders that:

(A) The matters designated as Docket No. IT–5515 and Docket No. IT–5514 be and are hereby consolidated for hearing purposes;

(B) A public hearing on said matters be held on October 24, 1938, at 10 a. m., in the District Court Room, Court House, in the Town of Frederick, Oklahoma, for the purpose of adducing evidence pertaining to the issues raised by said Order to Show Cause and the respondent's return thereto, and by the suspension of said Rate Schedule FPC No. 11.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–2966; Filed, October 8, 1938; 9:23 a. m.]

[Docket No. G–110]

IN THE MATTER OF ARKANSAS-LOUISIANA GAS COMPANY, RATE SCHEDULE FPC No. 2

ORDER ENTERING UPON AN INVESTIGATION, SUSPENDING RATE SCHEDULE, AND SETTING MATTER DOWN FOR HEARING

OCTOBER 6, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) On August 22, 1938, Arkansas-Louisiana Gas Company, a natural gas company within the meaning of the Natural Gas Act, filed with the Commission a contract and agreement, dated October 16, 1937, between said company and the Camden Gas Corporation, such contract being designated on the files of the Commission as Arkansas-Louisiana Gas Company Rate Schedule FPC No. 2;

(b) The said Rate Schedule FPC No. 2 continues the rates and charges provided for in a schedule designated on the files of the Commission as Arkansas-Louisiana Gas Company Rate Schedule FPC No. 1 in effect until October 31, 1938, and effective on and after October 31, 1938, the said Rate Schedule FPC No. 2 provides for a new schedule of rates and charges for natural gas sold by the Arkansas-Louisiana Gas Company to the Camden Gas Corporation for resale for ultimate public consumption for domestic, commercial, industrial and other uses, in and immediately adjacent to the City of Camden, Arkansas;

(c) The new schedule of rates and charges proposed to be made effective on and after October 31, 1938, by said Rate Schedule FPC No. 2 will substantially increase the existing rates and charges, and may result in unlawful rates and charges to the Camden Gas Corporation or place an undue burden upon ultimate consumers of natural gas;

Wherefore the Commission finds that:

(1) An investigation should be entered into by the Commission and a public hearing held to determine whether the new schedule of rates and charges, as provided for in Rate Schedule FPC No. 2, is just and reasonable and not otherwise unlawful;

(2) Pending such hearing and the decision of the Commission upon the issue or issues therein to be heard, the operation of said Rate Schedule FPC No. 2, except as the same relates to the sale of natural gas for resale for industrial use only, should be suspended in the public interest.

The Commission, upon its own initiative, orders that:

(A) An investigation be and is hereby entered upon concerning the lawfulness of the new schedule of rates and charges provided for in said Rate Schedule FPC No. 2, for service on and after October 31, 1938, including the sale of natural gas for resale for ultimate public consumption for domestic, commercial, industrial or any other use and that in pursuance of such investigation a public hearing be held on November 10, 1938, at 10:00 a. m., in the Hearing Room of the Federal Power Commission, in the Hurley-Wright Building, 1800 Pennsylvania Ave., N. W., Washington, D. C.;

(B) Pending such hearing, and the decision and further order of the Commission in the case Arkansas-Louisiana Gas Company Rate Schedule FPC No. 2, except as the same relates to the sale of natural gas for resale for industrial use only, be and the same is hereby suspended for the period October 31, 1938, to March 31, 1939; and during the said period the Arkansas-Louisiana Gas Company shall continue to collect and receive rates and charges in effect on the date of this order;

(C) At the said hearing the Arkansas-Louisiana Gas Company shall have the burden of proving that the proposed new rates and charges, as provided for in the said Rate Schedule FPC No. 2, are just and reasonable and not otherwise unlawful.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–2979; Filed, October 10, 1938; 9:54 a. m.]

[Docket No. G–106]

IN THE MATTER OF KANSAS PIPE LINE & GAS COMPANY

ORDER SETTING DATE OF ORAL ARGUMENT

OCTOBER 7, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon petition filed by the partnership of Hagy, Harrington & Marsh of Amarillo, Texas, for leave to appear and join as a petitioner and applicant in the proceeding before the Commission on the application of the Kansas Pipe Line & Gas Company, filed on September 10, 1938, for a certificate of public convenience and necessity pursuant to Section 7 (c) of the Natural Gas Act:

The Commission orders that: Oral argument on said petition of Hagy, Harrington & Marsh be heard on October 21, 1938, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, NW., Washington, D. C., on the question whether, and if so, to what extent, the participation of said petitioner in this proceeding will be in the public interest.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–2977; Filed, October 10, 1938; 9:54 a. m.]

Docket No. G–106

IN THE MATTER OF KANSAS PIPE LINE & GAS COMPANY

ORDER SETTING DATE OF ORAL ARGUMENT

OCTOBER 7, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon petitions filed by the National Bituminous Coal Commission, the National Coal Association, the United Mine Workers of America, the Northwestern Retail Coal Dealers Association, and the Maher Coal Bureau for leave to intervene and become parties to the proceeding before the Commission on the application of the Kansas Pipe Line & Gas Company, filed on September 10, 1938, for a certificate of public convenience and necessity pursuant to Section 7 (c) of the Natural Gas Act, and upon motion of the Kansas Pipe Line & Gas Company for an order of the Commission denying said petitions;

The Commission orders that: Oral argument on said petitions and motion be heard on October 21, 1938, at 10 a. m. in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., such argument to cover the following questions:

(A) Whether the petitioners are competitors of the applicant company within the meaning of Section 15 (a) of the Natural Gas Act and as such should be permitted to intervene in this proceeding;

(B) Whether, and if so, to what extent, the participation of the petitioners in this proceeding will be in the public interest;

(C) Whether the Natural Gas Act requires or contemplates that the Commission, in determining the question of public convenience and necessity in this proceeding, shall consider the effect which the construction or extension of facilities by a natural-gas company and the service of natural gas thereby, will have upon persons directly or indirectly engaged in the business of producing or distributing a fuel other than natural gas.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–2978; Filed, October 10, 1938; 9:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of October 1938.

[File No. 1–2585]

IN THE MATTER OF LA SALLE-WACKER CORPORATION FIRST (CLOSED) MORTGAGE BONDS, ETC.

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The La Salle-Wacker Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to withdraw its First (Closed) Mortgage Bonds (5% Income) due August 1, 1957, Debentures (5% Income) due August 1, 1962, and First (Closed) Mortgage Bonds (5% Fixed Interest Bearing) due August 1, 1957, from listing and registration on the Board of Trade of the City of Chicago; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2987; Filed, October 10, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of October 1938.

[File No. 1–1284]

IN THE MATTER OF APPLICATION BY THE BALTIMORE STOCK EXCHANGE CONCERNING CAPITAL STOCK, NO PAR VALUE, OF CONSOLIDATED TEXTILE CORPORATION

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Baltimore Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, No Par Value, of Consolidated Textile Corporation; and

After appropriate notice,[2] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2988; Filed, October 10, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of October 1938.

[File No. 1–551]

IN THE MATTER OF APPLICATION BY THE NEW YORK STOCK EXCHANGE CONCERNING COMMON STOCK, NO PAR VALUE, OF ADVANCE-RUMELY CORPORATION

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Common Stock, No. Par Value, of Advance-Rumely Corporation; and

After appropriate notice,[2] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 18, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–2989; Filed, October 10, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of October, A. D. 1938.

[1] 3 F. R. 1880 DI.

[1] 3 F. R. 2069 DI.

[2] 3 F. R. 2142 DI.

[File No. 32-106]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 24, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 18, 1938.

The matter concerned herewith is in regard to an application by Washington Gas Light Company, a subsidiary of Washington and Suburban Companies, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of $8,500,000 principal amount of applicant's Refunding Mortgage Bonds, 4% Series due 1963. The Bonds are to be dated as of September 1, 1938, are to bear interest at the rate of four per cent (4%) per annum from September 1, 1938, are to mature on September 1, 1963, and are to be issued pursuant to a supplemental indenture dated September 1, 1938, between Washington Gas Light Company and The Riggs National Bank of Washington, D. C. The net proceeds from the issue and sale (excluding accrued interest) together with other funds are to be used for the redemption of all of applicant's outstanding $8,500,000 principal amount of Refunding Mortgage Gold Bonds, 5% Series due 1958.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2990; Filed, October 10, 1938; 12:42 p. m.]

OCT 13 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 199

Washington, Wednesday, October 12, 1938

Notices

FEDERAL POWER COMMISSION.

[Docket No. G-106]

APPLICATION OF KANSAS PIPE LINE & GAS COMPANY

ORDER SETTING DATE OF ORAL ARGUMENT

OCTOBER 10, 1938.

Commissioners: Claude L. Draper, Acting Chairman; Basil Manly, John W. Scott.

Upon petition filed by the Truax-Traer Coal Company, of Minot, North Dakota, for leave to intervene and become a party to the proceeding before the Commission on the application of the Kansas Pipe Line & Gas Company, filed on September 10, 1938, for a certificate of public convenience and necessity pursuant to Section 7 (c) of the Natural Gas Act;

The Commission orders that:

Oral argument on said petition be heard on October 21, 1938, at 10:00 a. m. in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., such argument to cover the following questions:

(A) Whether the petitioner is a competitor of the applicant company within the meaning of Section 15 (a) of the Natural Gas Act and as such should be permitted to intervene in this proceeding;

(B) Whether, and if so, to what extent, the participation of the petitioner in this proceeding will be in the public interest;

(C) Whether the Natural Gas Act requires or contemplates that the Commission, in determining the question of public convenience and necessity in this proceeding, shall consider the effect which the construction or extension of facilities by a natural-gas company and the service of natural gas thereby, will have upon persons directly or indirectly engaged in the business of producing or distributing a fuel other than natural gas.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-2991; Filed, October 11, 1938; 11:22 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

[File No. 46-116]

IN THE MATTER OF THE MILWAUKEE ELECTRIC RAILWAY AND TRANSPORT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 10 (a) (1) and 10 (a) (2) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 13, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 13th, 1938.

The matter concerned herewith is in regard to the acquisition by applicant from The Milwaukee Electric Railway and Light Company, of all the latter company's transportation properties (excepting certain rights of way and rail lines thereon), which consist of (a) the local transportation system in the City of Milwaukee, Wisconsin and surrounding suburbs, and interurban railways and motor bus business in the surrounding district; (b) the local transportation system in the City of Racine, Wisconsin; (c) 8,876 shares Capital Stock without par value of Motor Transport Company, of Wisconsin, which conducts a motor freight transportation business; and (d) 800 shares Capital Stock, par value $50 per share, of Badger Auto Service Company, of Wisconsin, which operates park-

CONTENTS

NOTICES

Federal Power Commission: Page
Kansas Pipe Line & Gas Co., order setting date of oral argument 2455
Securities and Exchange Commission:
Milwaukee Electric Railway and Transport Co., notice of and order for hearing 2455

FEDERAL REGISTER

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ing and gasoline filling stations in Milwaukee. Said shares of stock constitute all of the issued and outstanding stock of each such corporation.

Said transportation properties will be received in exchange for the issue by applicant to said The Milwaukee Electric Railway and Light Company of $10,000,000 in principal amount of 4% Mortgage Bonds of the applicant and 250,000 shares of its Capital Stock, par value $100 per share. Said bonds and shares of stock will constitute all of applicant's outstanding securities.

This matter is related to a series of transactions now before the Commission for its approval in Files No. 32–106, 46–114, and 46–115, which include an application of said The Milwaukee Railway and Light Company to acquire the securities of The Milwaukee Electric Railway and Transport Company set forth above.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2992; Filed, October 11, 1938; 12:52 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 200

Washington, Thursday, October 13, 1938

Rules, Regulations, Orders

TITLE 1—GENERAL PROVISIONS

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CODIFICATION REGULATIONS*#

Sec.
1.0 Codification Amendment to the Federal Register Act.
1.01 Resolution.
1.1 Definitions.
1.1(a) Act.
1.1(b) Document.
1.1(c) Agency or Federal agency.
1.1(d) Committee or Administrative Committee.
1.1(e) Board and Chairman.
1.2 Nature of Codification.
1.3 Revisions.
1.4 Completeness.
1.5 Present general applicability and legal effect.
1.5(a) Internal administration.
1.5(b) Administrative decisions.
1.5(c) Repealed or superseded matter.
1.5(d) Documents referring to public lands.
1.6 Other information to be included.
1.6(a) Citation of authority.
1.6(b) Short method of citation of authority.
1.6(c) Short method of citation of statutes interpreted.
1.6(d) Citation of source.
1.6(e) Short method of citation of source.
1.6(f) Short method of citation of source continued.
1.6(g) Explanatory material or references.
1.6(h) Decisions and interpretations.

FORM

1.7 Physical format.
1.7(a) Number of copies.
1.7(b) Size of paper.
1.7(c) Contents and numbering of pages.
1.7(d) Typing.
1.7(e) Forms—illustrations and diagrams.

ARRANGEMENT

1.8 System of headings and numbers.
1.8(a) Assignment of titles.
1.8(b) Assignment of chapters.
1.9 Numbering system.
1.9(a) Numbering of titles, chapters, etc.
1.9(b) Numbering of parts.
1.9(c) Numbering of sections.
1.9(d) Alternative method of section numbering.
1.10 Table of contents—indexing.
1.10(a) Tables of contents to be included.
1.10(b) Tables of contents not necessary to be included.
1.10(c) Table of contents explained.
1.10(d) Numbers and captions in tables of contents.
1.10(e) Heads for titles, etc.
1.10(f) Punctuation of heads.
1.10(g) Captions for chapters assigned to subdivisions of departments.
1.10(h) Captions for sub titles and sub chapters in side heads for notes to sections.
1.11 Joint regulations.

STYLE

1.12 Abbreviations: CFR.
1.13 Style manual.
1.14 Description of tracts of land.
1.15(a) Cross references within a title.
1.15(b) Cross references from the body of one title to material contained in other titles.
1.16 Codification of Executive orders and Presidential proclamations.

DOCUMENTS RELATING TO PUBLIC LANDS

1.17 Codification of Executive orders, Presidential proclamations, and other documents relating to public lands.
1.18 Information to be included in tabulation.
1.16 Codification of Executive orders and Proclamations in tabulations.
1.20 Illustrative forms for tabulations.
1.21 Additional information regarding public land documents.
1.22 Miscellaneous.
1.22(a) Effective date of regulations.
1.22(b) Official mail.
1.23 Repeal of existing Codification Regulations.
1.24 Publication of regulations.

1.0 *Codification amendment to Federal Register Act.* (a) On July 1, 1938, and on the same date of every fifth year thereafter, each agency of the Government shall have prepared and shall file with the Administrative Committee a complete codification of all documents which, in the opinion of the agency, have general applicability and legal effect and which have been issued or promulgated by such agency and are in force and effect and relied upon by the agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities on June 1, 1938. The Committee shall, within ninety days thereafter, report thereon to the President, who may authorize and direct the publication of such codification in special or

* Sections 1.0 to 1.23 issued under the authority contained in Section 11 (d), 50 Stat. 304; 44 U. S. C., Sup. III, 311.

The source of Sections 1.0 to 1.24 is Codification Regulations, Administrative Committee, October 11, 1938.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 1—GENERAL PROVISIONS:
Administrative Committee of the Federal Register: Page
Codification Regulations 2457
FEDERAL REGISTER, regulations amended 2463

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Fort Wayne, Ind., Marketing Area, determination relative to handling of milk 2463
Regulatory order 2464
Sugar beet program, 1938, normal yields of commercially recoverable sugar per acre 2467

TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Cease and desist orders:
4–U Company of America 2469
Goudey Gum Co., et al 2468
Midwest Grocery Co 2470

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Entry of aircraft without special authority from Department of Commerce 2470

NOTICES

Department of Agriculture:
Bureau of Animal Industry:
Cook & Caldwell Commission Market, notice under Packers and Stockyards Act 2471

Securities and Exchange Commission:
Middle West Corp., hearing 2471
Province of Buenos Aires (Argentine Republic), gold bonds, hearing on listing and registration 2471
Staten Island Railway Co., gold bonds, hearing on listing and registration 2471

FEDERAL REGISTER

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supplemental editions of the Federal Register.

(b) There is hereby established a Codification Board, which shall consist of six members: The Director of the Division of the Federal Register, chairman ex officio; three attorneys of the Department of Justice, designated by the Attorney General; and two attorneys of the Division of the Federal Register, designated by the Archivist. The Board shall supervise and coordinate the form, style, arrangement, and indexing of the codifications of the various agencies.

(c) The codified documents of the several agencies published in the supplemental edition of the Federal Register pursuant to the provisions of subsection (a) hereof, as amended by documents subsequently filed with the Division, and published in the daily issues of the Federal Register, shall be prima facie evidence of the text of such documents and of the fact that they are in full force and effect on and after the date of publication thereof.

(d) The Administrative Committee shall prescribe, with the approval of the President, regulations for carrying out the provisions of this section.* #

1.01 *Resolution.* Whereas, the Administrative Committee agrees that the prompt, accurate, efficient, and adequate carrying out of the Act of Congress requires (1) an immediate and close liaison between the Codification Board and the several agencies, together with the prompt and energetic prosecution of the work by each agency; (2) the submission of completed units of the proposed codification of each agency from time to time, for criticism, suggestions, and fitting into the general code, subject, however to the final approval, amendment, and certification of each code by the agency concerned as provided in the act and the regulations which follow herein; (3) the exertion of every effort to assure that each of the several Federal agencies will submit a creditable codification so that no agency will suffer by comparison of its codification with the codifications of other agencies or be subject to legal difficulties or practical embarrassments in its operations after the codification for the whole executive and administrative branch is published; and (4) the submission of a report on the whole completed code of executive and administrative rules and orders to the President in accurate, complete, and usable form, ready for printing, within the time limit prescribed in the Act of Congress;

Therefore, pursuant to the authority contained in Section 11 (d) of the Federal Register Act, as amended by the Act of June 19, 1937 (50 Stat. 304; 44 U. S. C., Sup. III, 311), the Administrative Committee of the Federal Register hereby prescribes, with the approval of the President, the following regulations to govern the preparation (including form, style, arrangement, and indexing) and submission of the codes required to be submitted thereunder.*

1.1 *Definitions.* As used herein, unless the context otherwise requires:

(*a*) *Act.* The term "act" means the Federal Register Act, approved July 26, 1935 (49 Stat. 500; 44 U. S. C., Sup. III, 301 et seq.) as amended by the Act of June 19, 1937 (50 Stat. 304; 44 U. S. C., Sup. III, 311).

(*b*) *Document.* "The term 'document' means any Presidential proclamation or Executive order, and any order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by a Federal agency" (Sec. 4 of the act) and of "general applicability and legal effect" which is "in force and effect and relied upon by such agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities" (Sec. 11 (a) of the act).[1]

(*c*) *Agency or Federal agency.* "The terms 'Federal agency' and 'agency' mean the President of the United States, or any executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States, but not the legislative or judicial branches of the Government" (Sec. 4 of the act).

(*d*) *Committee or Administrative Committee.* The terms "Committee" and "Administrative Committee" mean the Administrative Committee of the Federal Register established under Sec. 6 of the act.

(*e*) *Board and Chairman.* The term "Board" means the "Codification Board" established under section 11 of the act, and the term "Chairman" means the Chairman of the Codification Board.

[1] See also Sec. 1.5, *infra*.

1.2 *Nature of codification.*[1] "Codification" as ordinarily used in the United States and as intended in the act and these regulations means the collection of all documents and their systematic organization and arrangement, with all obsolete and repealed matter eliminated and all new matter and amendments incorporated in their appropriate sections or paragraphs, so that the whole may be republished as one complete document.* #

1.3 *Revisions.* The complete revision or restatement of documents, either in their language or substance, is not necessarily contemplated, although agencies are free to do so provided such work may be completed and the revision made effective in a reasonable time. On the other hand, portions of documents consisting of extensive quotation of statutory provisions, with or without quotation marks, are to be deleted whenever such deletion does not affect the meaning of the remaining portions of the document.* #

1.4 *Completeness.* Main emphasis should be laid upon completeness and accuracy of the Codification rather than the form of the source documents, since the act requires "complete" codifications of "all" documents (Sec. 11 (a) of the act). The omission of material which should be included will embarrass the agency in its future work, impair the effectiveness of the codification, and lessen its practical value both to the agency and to the public.* #

1.5 *Present general applicability and legal effect.*[2] Each agency should keep constantly in mind the fact that the codifications are to include only documents which are (1) currently "in force and effect and relied upon by the agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities," and also (2) "of general applicability and legal effect." The phrase "present general applicability and legal effect," relates to all documents (1) prescribing a penalty (Sec. 5 (a) (3) of the act), conferring rights, privileges, authority, or immunities, or imposing obligations, and (2) currently relevant or applicable to the general public, the members of a class, or the persons of a locality, as distinguished from named individuals or organizations. In short, such documents must be of "public" as distinguished from "private" import, as illustrated generally by the classification of laws in the Statutes-at-Large into "Public Laws" and "Private Laws", and by the regulations approved by the President respecting the type of matter to be published in the Federal Register.

More particularly, the following types of documents require special treatment:

(*a*) *Internal administration.* Those documents or parts of documents "effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof" should not be included (Cf. Sec. 5 (a) (1) of the act); but documents or portions thereof prescribing intra-departmental procedure which the public should know or follow in dealing with an agency should be included.

(*b*) *Administrative decisions.* Codifications should not include the decisions of executive or administrative agencies, made upon hearing or otherwise and applicable only to named parties, unless such decisions are also promulgated as formal and general rules, or unless they establish rules or principles which affect the public or a class thereof.

(*c*) *Repealed or superseded matter.*[1] No obsolete, repealed, or superseded matter should be included even though it might become relevant in cases arising under past states of fact. The term "in force or effect and relied upon by the agency as authority for, or invoked by it in the discharge of, any of its functions or activities" refers to present activities under the latest statutes or regulations on the same subject matter. Thus, regulations under old tax statutes should be excluded, except as they are applicable to current taxation.

(*d*) *Documents referring to public lands.* Agencies having masses of documents referring to public lands, should consult with representatives of the Board before attempting a codification of such documents, in order to determine how they shall be dealt with in the preparation of the codification.* #

[1] "The word 'codification' is not intended to lay down rigid requirements. It means an orderly presentation of 'documents' brought up to date in the form best adapted to usefulness as tested by the experience of the agency. Thus, if there have been a series of amendments to a regulation, the minimum requirement would be a rewriting of such regulation, eliminating from its text obsolete provisions, and inserting therein new matter. If a regulation is already in such form, the agency may in its discretion deem further codification unnecessary, even though the inclusion of various regulations in that form may involve some repetition of provisions common to two or more of them.

"If a regulation has never been set forth by the agency in an orderly and easily available form, the amendment would require that this be done. In many cases an adequate codification would also require the systematizing of regulatory material according to subject matter." House Report 478, 75 Cong. 1 Sess.

[2] "As the President has for purposes of the daily issues determined the classes of documents having general applicability and legal effect, the several agencies would in general be guided by that determination in selecting the kinds of material for inclusion in the codification." House Report 478, 75 Cong. 1 Sess. See also Sec. IIA (d) of the latest revision of the Federal Register Regulations, prescribed by the Administrative Committee of the Federal Register, and approved by the President May 26, 1938 (3 F. R. 1209 D1).

[1] "Regulations, under acts of Congress which have been repealed or superseded, for instance, would presumably be found no longer to have 'general applicability', even though a few cases arising under them still remain open." House Report 478, 75 Cong. 1 Sess.

AUTHORITY

1.6 *Other information to be included.* At the end of each section there shall be noted the statutory authority for its issuance and the documentary source of its text.

(*a*) *Citation of authority.* The authority (statute, order, proclamation, or otherwise) for the issuance of each document which is embodied in a section of the code shall be cited *in parentheses* at the end of each section or paragraph. This citation shall include the specific authorization, if any, for the issuance of regulations and, whenever possible, the statutory provisions interpreted or applied by the section. Citations, as nearly as possible, shall be in the following form:

Statutes. "(Sec. 6, 49 Stat. 501; 44 U. S. C. 306)" Where statutes are cited, the United States Code citations shall be given as well as the Statutes-at-Large citations. Only the section number and page or pages of the Statutes-at-Large on which the authority for the regulation appears should be given and not the first page of the statute or the chapter; and in citing the United States Code, the 1934 edition should be used and only the title number and the section number (and subsection number or letter, if any) should be given, separated by "U. S. C."

United States Code Supplements. A more specific citation to the Supplements or to the Code and the Supplements may be made in the form indicated by the following illustrations: (1) Where reference is to be made to a specific Supplement: 7 U. S. C., Sup. II, 502. (2) Where reference is to be made to the United States Code, 1934 ed., and to a specific Supplement: 7 U. S. C., 502 and Sup. II.

In any case where an agency wishes to make citations both to the specific authority under which the section is issued and to the statutory provisions interpreted or applied by the section, the following form of citation may be used: (Secs. 1, 10, 50 Stat. 307, 314; 45 U. S. C., Sup. III, 228a, 228j). Here Sec. 10, 50 Stat. 314; 45 U. S. C., Sup. III, 228j is the specific authority for the issuance of the regulations contained in the section, and Sec. 1, 50 Stat. 307; 45 U. S. C., Sup. III, 228a is the statutory provision interpreted or applied. In the same situation, should the agency desire to use the short method of citation for the authority for issuance prescribed by Sec. 1.6 (b) of these regulations, it may do so by using an appropriate footnote explaining that the asterisk (*) refers to the authority for issuance. The citation would then be as follows: (*; Sec. 1, 50 Stat. 307; 45 U. S. C., Sup. III, 228a). The asterisk here refers to Sec. 10, 50 Stat. 314; 45 U. S. C., Sup. III, 228j.

(*b*) *Short method of citation of authority* for issuance applicable when all, or a majority of, a large number of sections in sequence have the same citation. (1) Place an asterisk (*) at the end of each section to which the citation is pertinent. (2) Include an appropriate footnote, preceded by an asterisk, on the sheet carrying the title of the page, part, or other subdivision in which the sections, or majority of the sections, in sequence having the same citations appear. This footnote shall include a statement of: (a) the statutory authority; and (b) the first and last numbers of the sections in sequence. Such footnotes for example, where all the sections in sequence have the same citation, may be in the following form:

* §§ — to — issued under the authority contained in Sec. 23, 42 Stat. 708; 40 U. S. C. 218.

Or in a case where some sections in the sequence have a different citation such sections shall be designated and the footnote may be in the following form:

* §§ — to —, except §§ —, —, —, are issued under the authority contained in Sec. 23, 42 Stat. 708; 40 U. S. C. 218.

(*c*) *Short method of citation of statutes interpreted.* Where the arrangement of materials or the keying of section numbers automatically indicates the statutory provisions interpreted, a short method of citing the statute interpreted may be employed.

The following methods may be used in cases where the agency determines that short citations are desirable: (1) In cases where the text of a statute is included in the codification and the regulatory provisions are distributed so as to indicate their relations to each statutory provision, no further citation of the statute interpreted will be necessary. Such procedure, however, should be explained in a footnote placed on the sheet carrying the headnote of the subdivision in which this procedure is followed. The footnote should designate the numbers of the sections to which it applies and may be in the following form: "§§ — to — follow the statutory provisions to which they respectively refer." (2) In cases where the numbers of the code sections are keyed to the numbers of the sections in the statutes interpreted, a footnote to this effect should be placed on the sheet carrying the headnote of the subdivision in which this procedure is followed. This footnote may be in the following form: "In §§ — to —, the numbers to the right of the decimal point are keyed to numbers of §§ — to —, 49 Stat. 1652, 26 U. S. C. — to —.

Wherever it is appropriate and convenient, the above footnotes may be combined with the footnotes suggested for short citation of authority or source.

SOURCE

(*d*) *Citation of source.* At the end of each section or paragraph, (1) the official designation or type of the original document (Executive order, Administrative order, Memorandum, Bulletin, etc.), of which the text of the section or paragraph

originally formed a part and from which it is taken, together with (2) the date of its adoption and (3) the title of the officer, board or commission issuing the same, unless the issuing agency is the same as the agency named in the title of the codification, and (4) similar information with respect to all amendments thereto, shall be cited in brackets immediately following the citations of authority on which the documents are based, in the following form:

Executive orders (President). [E. O. 7298, Feb. 18, 1936.]

Regulations (Veterans' Administration and Bureau of Internal Revenue). [Reg. R–1001 (K), V. Ad., Oct. 14, 1937.] [Reg. 100, Art. 603, Bu. Int. Rev., Oct. 12, 1936.]

Bulletins (Agricultural Adjustment Administration). [SR–Bull.–1, A. A. A., Mar 20, 1936.]

Orders (Federal Communications Commission). [Order 17–A, F. C. C., Sept. 29, 1937.]

Rules (Securities and Exchange Commission). [Rule 3D8, S. E. C., Oct. 4, 1937.]

Circulars (Treasury). [Circ. 570, Sec. Treas., Oct. 11, 1937.]

(e) *Short method of citation of source,* applicable where a large number of sections in sequence have the name citation of source. Where section numbers are keyed to section numbers in original source document: (1) Place a number sign (#) at the end of each section or paragraph to which the citation is pertinent, (2) Include an appropriate footnote, preceded by the number sign (#), on the sheet carrying the headnote of the subdivision to which the footnote is applicable. This footnote should indicate (a) the method by which sections in the codification are keyed to the original source, and (b) the sections covered by the footnote. Thus, for example, such footnote may be in the following form: "# In §§ — to —, the numbers to the right of the decimal point correspond with the respective section numbers in Bulletin 10, Sept. 7, 1936."

(f) *Where section numbers are not keyed to section numbers in original source document.* (1) Place the original section, article, or rule number and a number sign in brackets at the end of each section or paragraph, e. g., [art. 171, #] to which the citation is pertinent. (2) Include an appropriate footnote, preceded by the number sign (#), on the sheet carrying the headnote of the subdivision to which the footnote is applicable. This footnote should indicate (a) the common original source, and (b) the sections covered by the footnote. Thus, for example, such footnote may be in the following form: "# the source of §§ — to — is Bull. 10, Sept. 7, 1936." These short methods of citation may be employed in cases where the great proportion of a large number of sections in sequence have the same citation. When employing these methods, care should be taken, however, to give a specific citation in the form prescribed in the Codification Regulations for any sections in the sequence to which the short citation is inapplicable. In those cases where the short citation is inapplicable for certain sections in sequence, a footnote such as the following may be used: "The source of §§ — to — with the exceptions of §§ —, —, — is Bull. 10, Sept. 7, 1936."

(g) *Explanatory material or references.* Any other material which the agency deems necessary by way of explanation or reference may be submitted in the form of footnotes.

(h) *Decisions and interpretations.* Decisions of executive or administrative agencies which construe or apply documents, but which do not amend the text of the documents, and judicial opinions which refer to documents should not be cited except in unusual circumstances and then only in explanatory footnotes.* #

FORM

1.7 *Physical format.* The partial and final codifications submitted shall conform to the following specifications:

(a) *Number of copies.* Three copies shall be submitted.

(b) *Size of paper.* Only letter size paper (approximately 8½ x 10 or 11 inches) shall be used, and the material shall be placed thereon parallel with the long side of the sheet so that the individual sheets may be conveniently handled and filed, and a maximum of margins left for notes, corrections, and insertions.

(c) *Contents and numbering of pages.* Not more than one section shall be placed on a page, and the pages shall be numbered consecutively in Arabic numbers.

(d) *Typing.* All matter shall be legibly typewritten, mimeographed, or printed, except that material already in such form may be cut and pasted on pages of the prescribed size in order to save time and eliminate typing and the errors often incident thereto, and in such cases corrections may be made in ink or by typewriter in the margins or by interlineation and striking out.

(e) *Forms—Illustrations and diagrams.* Ordinarily, forms should not be incorporated in the codifications. Illustrations should not be incorporated in the codifications as a part of a document unless their publication is essential in the public interest. In cases where an illustration was incorporated as a part of a document which has been issued and amended and the publication of the illustration is essential, a new illustration including the necessary changes to conform to the amendments shall be prepared and forwarded with the codified document. Illustrations accompanying codifications, when published, shall be reduced to page size and be line-cuts only. Copy for illustrations should be in the form of tracings on linen and shall be securely attached to the part of the code which incorporates such illustration.* #

ARRANGEMENT

1.8 *System of headings and numbers.* Titles will be the major divisions of the Code of Federal Regulations. Subtitles and chapters will be the major divisions of titles. Parts will be the divisions of subtitles and chapters. Sections will be the normal units within parts. Paragraphs, subparagraphs, etc., will be lesser units within sections.

(a) *Assignment of titles.* There will be a subject matter arrangement into titles of the materials submitted by the agencies.

(b) *Assignment of chapters.* Each independent agency or major subdivision of a department will be assigned a Chapter in the Title indicated by the materials codified by the agency or subdivision.

(1) In special cases a Chapter may be assigned to a subdivision of an independent agency or a subordinate subdivision of a department, in instances where a specific regulatory function is vested in the subdivision and the logical classification of the subject matter so requires.

(2) In cases where a Title contains more than one Chapter subject to the exceptions in (b) (3) and (b) (4), of this section, the first Chapter shall include Parts 1–199, and each succeeding chapter respectively a block of one hundred part numbers, viz.—Chapter I shall include Parts 1–199; Chapter II, Parts 200–299, etc.

(3) In the titles assigned to the several departments, the title may be divided into subtitles, of which Parts 1–19 shall be allocated to a Subtitle A to provide for documents issued by the departmental head and not included in the submission of the subdivision of the department. Subtitle B shall be subdivided into chapters, of which Chapter I shall comprise Parts 20–199; Chapter II, Parts 200–299, etc., subject to the exceptions in (4).

(4) In case the parts assigned to a chapter under the rule in (2) are insufficient, one or more additional blocks of one hundred part numbers in sections, as are required, may be included in the chapter.

(5) The use of subtitles or subparts is to be avoided, unless deemed necessary by the agency and the board member concerned or unless the materials included are sufficiently extensive to justify the grouping of parts in subchapters.* #

1.9 *Numbering system.* The following general rules are to be followed (with such exceptions as may be appropriate) in the numbering of titles, chapters, etc.

(a) *Numbering of titles, chapters, etc.* Titles are to be numbered consecutively in Arabic as prescribed by the Board, subtitles consecutively in capitals, chapters consecutively throughout the title in Roman, and subchapters consecutively throughout the chapter in capitals.

(b) *Numbering of parts.* Parts are to be numbered serially in Arabic, leaving sufficient unassigned numbers to provide for expansion. Normally, subparts and similar subdivision of parts are not to be numbered or lettered, except as indicated in (d) (2) of this section. In exceptional cases, with the Board's approval, subparts may be numbered, as may be appropriate, either in Roman capital letters or by a decimal method such as described in (d) (2) of this section.

(c) *Numbering of sections.* The numbers assigned to individual sections shall include (1) the number of the part in which the section is placed, followed by a decimal point, and (2) a serial number following the decimal point, assigned to the section within the part. Such serial number may consist of one or more digits in Arabic as may be required.

Thus the section number to be given to the 21st Section in Part 25 would be 25.21.

In cases where it is desired, subject to the approval of the Codification Board, the serial numbers following the decimal point, assigned to individual sections in (c) of this section, may correspond with the present numbering of sections in the document forming the original source of the codification.

Thus, assuming that the part number 100 were to be assigned to Regulations 94 of the Bureau of Internal Revenue, Art. 113 (a) (8)–1 of Regulations 94, would have the following number: 110.113 (a) (8)–1.

(d) *Alternative method of section numbering.* The internal structure of sections may be indicated by the following alternative method of numbering:

(1) First method: Sections may be subdivided into paragraphs designated by lower case letters in parentheses, and subparagraphs into subdivisions, designated by lower case Roman numerals in parentheses, thus

Terminology	*Numbering symbol*
Paragraph	(a)
Subparagraph	(2)
Subdivision	(iii)

(2) Second or decimal method: In this system sections may be designated by the first, first two, or more digits to the right of the decimal point in the section number, depending upon the structure of the part. Such sections may be subdivided into paragraphs, subparagraphs and subdivisions, which may be designated by adding one, two, or three digits to the section number, as the case may be. Thus, in a part requiring two digits to the right of the decimal point for section numbers, the break-down would be as follows:

Terminology	*Numbering symbol*
Part	1
Subpart	1.1
Section	1.12
Paragraph	1.125
Subparagraph	1.1253
Subdivision	1.12539

(3) In general, the numbering within sections should conform to one of the systems indicated in (1) and (2) above, and the method adopted by the agency should be uniform throughout each chapter. In special cases, to be approved by the Board, the method employed in an individual part may be varied from that generally adopted for the chapter, or where there is a substantial need to retain the identity of a numbering system because of the wide-spread use of the document codified, adequate alternative methods of numbering within sections may be employed.

(4) The numbering system employed to designate sections or subdivisions thereof shall be uniformly applied throughout the chapter or part affected.* #

1.10 *Tables of contents—indexing.* Each submission of the codification should be accompanied by a table of contents, giving the titles, chapters, parts, sections, and paragraphs, together with their numbers, headings, and headnotes. Agencies are not required to prepare indexes but they are invited to submit indexes to aid the Board in its indexing of the codifications.

(a) *Tables of contents to be included.* The tables of contents shall be included in copy for all:

Titles including two or more chapters or subtitles.
Titles without chapters but including two or more parts.
Departmental subtitles [Cf. 1.8 (b) (3)] including two or more parts.
Chapters including two or more parts.
Parts including two or more sections.

(b) *Tables of contents not necessary to be included.* Except upon special instructions by the Board, no tables of contents shall be included in copy for:

Titles comprising a single chapter.
Titles without chapters comprising a single part.
Departmental subtitles comprising a single part.
Non-departmental subtitles [Cf. 1.8 (b) (3)].
Chapters comprising a single part.
Subchapters.
Parts comprising a single section.

(c) *Tables of contents explained.* In the application of this provision, the following examples may be followed:

(1) Tables of contents for titles including two or more chapters shall show the numbers and captions of all chapters included in title, the numbers of the first part included in each chapter, and all subtitles, in the following form:

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter	Part
Subtitle A—Office of the Secretary of the Interior	1
Subtitle B—Land Regulations	
I General Land Office, Department of the Interior	51
II Bureau of Reclamation, Department of the Interior	401

(2) Tables of contents for titles without chapters, departmental subtitles and chapters, including two or more parts, shall show the numbers and captions of all parts included in the chapter or subtitle and all subtitles, in the following form:

CHAPTER I—GENERAL LAND OFFICE
Department of the Interior
Subchapter A—Alaska

Part
51 Public Land Laws, Alaska.
56 Coordination and supervision of work in Alaska.

(3) Tables of contents for parts shall show the numbers and headnotes of all sections included in the part, and the captions and numbers, if any, of all subparts or analogous guide lines, in the following form:

PART 81—REGULATIONS RELATING TO COOPERATION WITH STATES IN THE ARREST, CONTROL, AND ERADICATION OF CONTAGIOUS AND INFECTIOUS DISEASES OF ANIMALS AND POULTRY

Subpart—Bang's Disease (Infectious Abortion), Cattle Reacting to Blood Test

Sec.
Definitions
81.001 Words, names, and terms, meaning.
Cooperation with States and Territories.
81.002 Chief of Bureau of Animal Industry authorized to cooperate with States and Territories.
Appraisal of cattle
81.003 By whom appraised.
81.004 How reported.
81.005 Proceeds of marketing, report.

(d) *Numbers and captions in tables of contents.* The numbers and captions of subtitles, titles, subchapters, parts, subparts, sections, etc., in tables of contents shall correspond literally with those in the text (except that the dash in chapters and part heads is to be omitted in listing these items in title or chapter tables of contents).

(e) *Heads for titles, etc.* Heads for titles, subtitles, chapters, subchapters, parts, and lettered or numbered subparts, shall include the designation and number or letter of the title, etc., separated by a dash from the caption, in the following form:

TITLE I—GENERAL PROVISIONS

Subpart heads, if not numbered or lettered [Cf. 1.9 (b)] shall include the designation and subpart separated by a dash from the caption, thus—

SUBPART—DEFINITIONS

The following shall not be included in captions in heads:

(1) The article "the" as an initial word in the caption.
(2) Concluding prepositions in heads (which are in inverted order so as to commence with significant words).

(f) *Punctuation of heads.* Heads shall be punctuated as follows:

(1) Commas, semicolons, and colons, not periods or dashes, are to be used to separate items without captions.
(2) Dashes shall be used to separate the number, letter, or designation in a center head from the caption [Cf. (e) of this section]; a section, paragraph, or subparagraph sidehead in the text from a following sidehead.
(3) There shall be no punctuation between a section, paragraph, etc., number or letter and the sidehead or text following.
(4) There shall be the following punctuation at the end of the heads:
Centered heads: None.
Sideheads for notes, etc.: Colon.

Sideheads in body of text, (section, paragraph, etc., headnotes): Period, if followed by text. Dash, if followed by sidehead. (Confer (2) above.)

(g) *Captions for chapters assigned to subdivisions of departments.* Such captions shall include the departmental designation, in the following form:

Chapter head: Chapter I—General Land Office Department of the Interior

	Chapter	Part
Table of contents for title:	I General Land Office, Department of the Interior	51

Running head: Chapter I—General Land Office (Interior)

(h) *Captions for subtitles and subchapters in sideheads for notes to sections.* In captions for subtitles and subchapters and in sideheads for notes to sections (which are to be set in capitals and small capitals), the initial letters of all nouns, pronouns, adjectives, verbs (including both elements of the verb "to be") adverbs, interjections and prepositions or conjunctions (which have four or more letters), should be capitalized. The remaining letters in such captions, including the initial letters of articles and prepositions or conjunctions of less than four letters, should be typed in lower case. In headnotes to sections, paragraphs, etc., the initial letters of the first word of all proper names only shall be capitalized.* #

1.11 *Joint regulations.* Whenever two or more Federal agencies issue documents jointly, or whenever an agency issues documents affecting two or more agencies, the problem of the location of the joint regulations within the codifications involved should be submitted to the Board.* #

STYLE

1.12 *Abbreviations: CFR.* Each agency shall join with the Board in settling the abbreviations peculiar to, and to be used by, the agency so that the same abbreviations will be used by all agencies for the same material.

"CFR" shall be used as the abbreviation for the Code of Federal Regulations.* #

1.13 *Style manual.* Punctuation, capitalization, orthography, and other matters of style shall conform, so far as practicable, to the most recent edition of the Style Manual of the United States Government Printing Office. Spelling of geographic names shall conform to the most recent decisions of the United States Geographic Board made pursuant to Executive order, No. 27–A of September 4, 1890, No. 399 of January 23, 1906, and No. 6680 of April 17, 1934.* #

1.14 *Description of tracts of land.* Descriptions of tracts of land shall conform, so far as practicable, with the most recent edition of the Specifications for Descriptions of Tracts of Land for Use in Executive orders and Proclamations, issued by the Board of Surveys and Maps of the Federal Government.* #

1.15 (a) *Cross references within a title.* Cross references to material within the same title in which the reference occurs should be made without referring to the title number. Thus, a cross reference to a chapter within the title, a part within the title, a section within the title, or a paragraph within the title, should be made, respectively, as follows:

Chapter II.
Part 30.
Sec. 30.19.
Sec. 30.19(a) (where the reference is to a paragraph).

(b) *Cross references from the body of one title to material contained in other titles.* Cross references from one title to material in another title should include the title number and the Code symbol CFR. Thus, for example, cross references to a chapter, a part, a section, or a paragraph in another title should be, respectively, in the following forms:

10 CFR Chapter II.
10 CFR Part 30.
10 CFR 30.19.
10 CFR 30.19(a) (where the reference is to be a paragraph) *#.

1.16 *Codification of Executive orders and Presidential proclamations.* The Act of June 19, 1937 (50 Stat. 304; 44 U. S. C. Sup. III, 311), contemplates the inclusion in the codification of each agency of all Executive orders or Presidential proclamations which are in force and effect and relied upon by the agency as authority for, or invoked or used by it in the discharge of, its duties and which are of general applicability and legal effect. This requirement is subject to the special rules outlined in Sec. 1.16 respecting Executive orders and Presidential proclamations which contain land descriptions.* #

DOCUMENTS RELATING TO PUBLIC LANDS

1.17 *Codification of Executive orders, Presidential proclamations, and other documents relating to public lands.* Codifications of the several agencies need not include documents which contain only land descriptions. In cases where documents contain codifiable regulatory material and also land descriptions such land descriptions may be included in the codification to preserve the sense and continuity of the document. In cases where the rights of private citizens are affected by land descriptions which embody reservations or define areas for public purposes, such descriptions should be included in the codifications of the several agencies, in tabulated form. In the following cases such tabulation should be made:

a. *Military and naval reservations.* All Executive orders and Presidential proclamations affecting such reservations.

b. *Wild life refuge.* All Executive orders and Presidential proclamations defining boundaries of wild life refuges or designating portions of these areas as subject to specific types of regulations.

c. *National forests, monuments, and parks; historical sites.* All Presidential proclamations and Executive orders affecting national forests, monuments, and parks. All orders of the Secretary of the Interior designating national historical sites.

d. *Grazing districts.* All orders of the Secretary of the Interior establishing or modifying the descriptions of land within grazing districts.

e. *Flight over restricted areas.* Executive orders prohibiting flight over restricted areas.

Tabulations should not be made in the following cases:

1. Executive orders transferring lands from one Federal agency to another.

2. Executive orders administered by the General Land Office withdrawing or reserving lands for any purpose unless specified under a, b, c, d, e above.

3. Executive orders withdrawing public lands for investigation and classification as mineral lands and orders or restoration after classification. (Coal, phosphate, petroleum, sodium, oil, shale, and potash lands.)

4. Executive orders affecting reservoir and power site reservations and restorations.

5. Orders of the Secretary of the Interior and the Commissioner of the General Land Office withdrawing or reserving public lands.

6. Orders of the Secretary of the Interior relating to public water reserves.

7. Classifications and reclassifications by the Director of the Geological Survey of the mineral status of public lands.

8. Departmental orders as to: water power designations, Act of 1888 reservoir site reserves, power site classifications, and orders modifying, cancelling, or interpreting such orders.

Whether or not tabulations should be made in any case not covered in the above enumeration shall be determined upon consultation between the agency and the Codification Board.* #

1.18 *Information to be included in tabulation.* Tabulations should contain the following information: (1) Name of reservation or area; (2) State or territory and, where possible, the county or analogous subdivision in which the reservation is located; (3) Subject matter, when appropriate; e. g., easement or other interests; (4) Number and date of all Executive orders and all Presidential proclamations referring to the reservation or area; (5) The serial number, if any, and the date of any other document to be included in the tabulation to be given in connection with the name or title of the document; (6) Citations to the Federal Register or to the Statutes-at-Large, in accordance with Sec. 1.18, when available, for all documents tabulated.* #

1.19 *Citation of Executive Orders and Proclamations in tabulations.* When available, the Federal Register citation to Executive orders and to Presidential proclamations should be given. In the case of Presidential proclamations, the citation to the Statutes-at-Large should be given. Citations to the Federal Register should be to the bound volume or, when the document has not been published in a bound volume, to the Daily Issue page number, e. g., 3 F. R. 502 (DI). The following abbreviated forms of citation are suggested: E. O. 1173, Mar. 3, 1910; E. O. 7405, June 6, 1936 (1 F. R. 735); E. O. 7818, Feb. 17, 1938 (3 F. R. 503 (DI)); Proc. 2010, May 2, 1934 (47 Stat. 1516); Proc. 2161, Mar. 19, 1936 (49 Stat. 2210; 1 F. R. 39); Proc. 2273, Feb. 14, 1938 (3 F. R. 447 (DI)).* #

1.20 *Illustrative forms for tabulations.* The following forms for tabulations of documents subject to appropriate modifications are suggested:

Military Reservations

Name	State or territory	Subdivision	Easement or other interests	Documents affecting		
				No.	Date	Citation

Waterfowl Refuges

Refuge	State or territory	Subdivision	Documents affecting		
			No.	Date	Citation
Alba Waterfowl Refuge	Alaska	2d dis.	E. O. 7020. E. O. 7128.	Feb. 2, 1936 Feb. 10, 1937	(2 F.R.209 (DI).)

National Forests

Forest	State or territory	Subdivision	Documents affecting		
			No.	Date	Citation
Allegheny National Forest	Penna.	Elk Co.	Proc. 2010. Proc. 2101. E. O. 7208.	May 2, 1934 Mar. 19, 1936 Apr. 1, 1937	(47 Stat. 1516.) (47 Stat. 2210;1 F. R. 39.) (2 F. R. 981 (DI).)

*#

1.21 *Additional information regarding public land documents.* In appropriate cases the agencies should supply footnotes stating where copies of the documents bearing upon a classification of public lands subject to regulations or information pertaining thereto may be obtained. In cases where tabulations of such documents are made this notation may conveniently form a footnote to the tabulation; in other cases, the footnote may be placed at the appropriate point in the codification. * #

1.22 *Miscellaneous (a) Effective date of regulations.* The foregoing regulations, subject to amendment or amplification, shall be effective immediately upon approval by the President.

(b) *Official mail.* All official mail on matters arising under Section 11 of the act or under these regulations should be addressed to:

THE CHAIRMAN, CODIFICATION BOARD,
THE NATIONAL ARCHIVES,
Washington, D. C. * #

1.23 *Repeal of existing codification regulations.* These regulations supersede any and all codification rules and regulations heretofore made, established, and issued pursuant to Section 11 (d) of the Federal Register Act by the Administrative Committee with the approval of the President. * #

1.24 *Publication of Regulations.* The foregoing regulations shall be published in the Federal Register.

Administrative Committee of
the Federal Register,
By R. D. W. Connor, *Chairman.*

Approved:

FRANKLIN D ROOSEVELT
THE WHITE HOUSE,
Oct 11 1938

[F. R. Doc. 38–2998; Filed, October 12, 1938; 11:18 a. m.]

AMENDMENT OF FEDERAL REGISTER REGULATIONS

The Regulations prescribed by the Administrative Committee of the Federal Register and approved by the President May 26, 1938 (3 F. R. 1209 D. I.) are hereby amended as follows:

Paragraph (b) of Section VII[1] is amended to read as follows:

"The authority under which the document is promulgated shall be cited in the body thereof. However in documents which are subject to codification pursuant to Section 11 of the Federal Register Act as amended by the Act of June 11, 1937 (50 Stat. 304) the authority shall be cited in parenthesis at the end of each section as prescribed by section 1.6 of the Codification Regulations."

Section XXI is amended to read as follows:

"All documents, excepting Presidential proclamations and Executive orders, amending, supplementing, revising, revoking or superseding material required to be prepared and to be filed with the Administrative Committee of the Federal Register pursuant to Section 11 of the Federal Register Act, as amended by the Act of June 19, 1937 (50 Stat. 304), shall be prepared in accordance with the provisions of Section VII of the Federal Register Regulations and Sections 1.6 and 1.9 of the Codification Regulations of October 11, 1938, and shall be filed in the office of the Director of the Division of the Federal Register. In addition, there shall be prepared in accordance with the provisions of Section VII of the Federal Register Regulations and Sections 1.6 and 1.9 of the Codification Regulations of October 11, 1938, and filed with the Director of the Division, all other documents, issued subsequent to June 1, 1938, which are subject to codification pursuant to Section 11 of the Federal Register Act, as amended by the Act of June 19, 1937 (50 Stat. 304); provided, however, that in such cases as it may be necessary, in the judgment of the Director of the Division, the application of this provision, concerning compliance with Sections 1.6 and 1.9 of the Codification Regulations may be deferred until March 1, 1939. Agencies desiring to have the application of this provision deferred shall address a written request to the Director of the Division setting forth therein the reasons for such request."

(Sec. 6, 49 Stat. 501; 44 U. S. C., Sup. III, 306)

Administrative Committee of
the Federal Register,
By R. D. W. Conner, *Chairman.*

Approved:

FRANKLIN D ROOSEVELT
THE WHITE HOUSE,
Oct 11 1938

[F. R. Doc. 38–2999; Filed, October 12, 1938; 11:18 a. m.]

[1] 3 F. R. 1223 DI.

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF SECRETARY OF AGRICULTURE APPROVED BY THE PRESIDENT OF THE UNITED STATES WITH RESPECT TO PROPOSED ORDER REGULATING HANDLING OF MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to the terms and provisions of

Public Act No. 10, 73d Congress, as amended, having executed on January 23, 1937, a marketing agreement regulating the handling of milk in the Fort Wayne, Indiana, Marketing Area, which marketing agreement became effective on and after February 1, 1937, and having reason to believe that the execution of an amendment to said marketing agreement and the issuance of an order with respect to the handling of milk in the Fort Wayne, Indiana, Marketing Area would tend to effectuate the declared policy of said act as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, gave, on the 24th day of June, 1938, notice of a public hearing [1] to be held on a proposed amendment to said marketing agreement and on a proposed order, said hearing being held jointly with the State of Indiana at Fort Wayne, Indiana, on the 6th day of July 1938, and at said time and place all interested parties were afforded an opportunity to be heard on the proposed amendment to said marketing agreement and on the proposed order; and

Whereas, after said hearing and after the tentative approval of an amendment to said marketing agreement by the Secretary on August 30, 1938, handlers of more than fifty (50) percentum of the volume of milk covered by such proposed order, which is produced for sale in the Fort Wayne, Indiana, Marketing Area, refused or failed to sign such marketing agreement as tentatively amended:

Now, therefore, the Secretary of Agriculture, pursuant to the power and authority vested in him by said act, hereby determines:

(1) That the refusal or failure of said handlers to sign said marketing agreement as tentatively amended tends to prevent the effectuation of the declared policy of the act;

(2) That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk which is produced for sale in said area; and

(3) That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the month of June, 1938, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area, and who participated in a referendum conducted by the Secretary.

In witness whereof, H. A. Wallace, Secretary of Agriculture, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed hereto, in the City of Washington, District of Columbia, this 7th day of October, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved:
FRANKLIN D ROOSEVELT
The President of the United States

Dated: October 10 1938

[F. R. Doc. 38-2994; Filed, October 11, 1938; 2:53 p. m.]

[1] 3 F. R. 1516 DI.

ORDER REGULATING SUCH HANDLING OF MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA AS IS IN INTERSTATE COMMERCE, AND AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary, on January 23, 1937, issued a marketing agreement regulating the handling of milk in the Fort Wayne, Indiana, marketing area, which marketing agreement became effective on February 1, 1937; and

Whereas, under the terms and provisions of said act, the Secretary of Agriculture is empowered to issue orders applicable to processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary, having reason to believe that the execution of an amendment to the aforementioned marketing agreement and the issuance of an order with respect to the handling of milk in the Fort Wayne, Indiana, marketing area would tend to effectuate the declared policy of said act, gave, on the 24th day of June 1938, notice of a public hearing [1] to be held at Fort Wayne, Indiana, on the 6th day of July 1938, on a proposed amendment to said marketing agreement and on a proposed order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the proposed amendment to said marketing agreement and on the proposed order; and

Whereas, the Secretary has found and proclaimed the period August 1919–July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Fort Wayne, Indiana, marketing area; and

Whereas, after said hearing and after the tentative approval by the Secretary of an amendment to said marketing agreement on the 30th day of August 1938, handlers of more than 50 percent of the volume of milk covered by this order, which is marketed within the Fort Wayne, Indiana, marketing area, failed or refused to sign such tentatively approved amendment to said marketing agreement; and

Whereas, the Secretary determined, on the 7th day of October 1938, said determination being approved by the President of the United States on the 10th day of October 1938, that said refusal or failure tends to prevent the effectuation of the declared policy of said act and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area, and is approved or favored by over two-thirds of the producers who, during the month of June 1938, said month having been determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the Fort Wayne, Indiana, marketing area; and

Whereas, the Secretary of Agriculture finds, upon the evidence introduced at said public hearing:

1. That approximately 6 percent of the total volume of milk handled in the Fort Wayne, Indiana, marketing area is in the current of interstate commerce, and that regulation of the handling of such milk in said area, complementary to the regulation of the State of Indiana, is necessary in order, among other things, to obtain uniformity in the administration of the Federal and State programs relating to the regulation of the handling of milk in said area;

2. That the prices calculated to give milk handled in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of the act are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply and demand for such milk, and that the minimum prices set forth in this order are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

[1] 3 F. R. 1516 DI.

3. That this order regulates the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement and an amendment to such marketing agreement upon which hearings have been held; and

4. That orderly marketing conditions for milk flowing into the Fort Wayne, Indiana, marketing area are so disrupted as to result in impairment of the purchasing power of such milk, and that the issuance of this order and all of its terms and conditions will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by said act, hereby orders that such handling of milk produced for sale in the Fort Wayne, Indiana, marketing area as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, be in conformity to and in compliance with the terms and conditions hereinafter set forth.

ARTICLE I—DEFINITIONS

SECTION 1. *Terms.*—The following terms shall have the following meanings:

1. "Fort Wayne, Indiana, marketing area," hereinafter called the marketing area, means the territory within the corporate limits of Fort Wayne, Indiana, and the territory within 4 miles of the corporate limits of Fort Wayne, Indiana.

2. "Person" means any individual, partnership, corporation, association, and any other business unit.

3. "Producer" means any person, irrespective of whether such person is also a handler, who produces milk in conformity with the health requirements applicable for milk to be sold for consumption as milk in the marketing area.

4. "Distributor" means any person so defined in chapter 281 of the acts of the General Assembly of the State of Indiana for the year 1935 who handles milk which is sold as milk or cream in the marketing area.

5. "Handler" means any person, irrespective of whether such person is a producer or an association of producers, wherever located or operating, who engages in such handling of milk, which is sold as milk or cream in the marketing area, as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in milk and its products.

6. "Market administrator" means the person designated pursuant to article II as the agency for the administration hereof and designated by the Milk Control Board of Indiana as the administrator of the order of said board regulating the marketing area.

7. "Delivery period" means the current marketing period from the 1st to, and including, the last day of each month.

8. "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

9. "Secretary" means the Secretary of Agriculture of the United States.

ARTICLE II—MARKET ADMINISTRATOR

SECTION 1. *Selection, removal, and bond.*—The market administrator shall be selected by the Secretary and shall be subject to removal by him at any time. The market administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

SEC. 2. *Compensation.*—The market administrator shall be entitled to such reasonable compensation as may be determined by the Secretary.

SEC. 3. *Powers.*—The market administrator shall have power:

1. To administer the terms and provisions hereof; and

2. To receive, investigate, and report to the Secretary complaints of violations of the terms and provisions hereof.

SEC. 4. *Duties.*—The market administrator, in addition to the duties hereinafter described, shall:

1. Keep such books and records as will clearly reflect the transactions provided for herein;

2. Submit his books and records to examination by the Secretary at any and all times;

3. Furnish such information and such verified reports as the Secretary may request; and

4. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to article V or (b) made payments pursuant to article VIII.

SEC. 5. *Responsibility.*—The market administrator, in his capacity as such, shall not be held responsible in any way whatsoever to any handler or any other person for errors in judgment, for mistakes, or for other acts either of commission or omission, except for his own willful misfeasance, malfeasance, or dishonesty.

ARTICLE III—CLASSIFICATION OF MILK

SECTION 1. *Sales and use classification.*—Milk purchased or handled by handlers shall be classified as follows:

1. All milk sold or distributed as milk, all milk used to produce cream which is sold as fluid cream, and all milk not specifically accounted for as Class II milk shall be Class I milk;

2. All milk from which the butterfat is sold or manufactured into a milk product, other than cream which is sold as fluid cream, and all milk accounted for as actual plant shrinkage but not exceeding 3 percent of the total receipts of milk, shall be Class II milk.

SEC. 2. *Interhandler and nonhandler sales.*—Milk sold by a handler to another handler or to a person not a handler who distributes milk or manufactures milk products shall be presumed to be Class I milk. In the event that such selling handler, on or before the date fixed for filing reports pursuant to article V, furnishes proof satisfactory to the market administrator that such milk has been sold or disposed of by such purchaser other than as Class I milk, then, and in that event, such milk shall be classified in accordance with such proof.

ARTICLE IV—MINIMUM PRICES

SECTION 1. *Class I price.*—Each handler shall pay producers, in the manner set forth in article VIII, for the 4 percent butterfat content equivalent of Class I milk, at such handler's plant, not less than $2.15 per hundredweight.

SEC. 2. *Class II price.*—Each handler shall pay producers, in the manner set forth in article VIII, for the 4 percent butterfat content equivalent of Class II milk, not less than that price per hundredweight, calculated for each delivery period by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is received, and add 30 percent thereof: *Provided*, That for a quantity of Class II milk not to exceed 15 percent of the 4 percent butterfat content equivalent of the Class I milk sold by such handler, each handler shall pay producers, in the manner set forth in article VIII, not less than that price per hundredweight calculated for each delivery period by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is received and add 10 cents.

ARTICLE V—REPORTS OF HANDLERS

SECTION 1. *Periodic reports.*—On or before the 5th day after the end of each delivery period each handler shall, with respect to milk or cream which was, during such delivery period, (a) received from producers, (b) received from handlers, and (c) produced by such handler, report to the market administrator, in the detail and form prescribed by him, as follows:

1. The receipts at each plant from producers who are not handlers;

2. The receipts at each plant from any other handler, including any handler who is also a producer;

3. The quantity, if any, produced by such handler; and

4. The respective quantities of milk which were sold, distributed, or used, including sales to other handlers, for the purpose of classification pursuant to article III.

SEC. 2. *Reports as to producers.*—Each handler shall report to the market administrator:

1. Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator, (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made; and

2. As soon as possible after first receiving milk from any producer, (a) the name and address of such producer, (b) the date upon which such milk was first received, and (c) the plant at which such producer delivered milk.

SEC. 3. *Reports of payments to producers.*—Each handler shall submit to the market administrator on or before the 20th day after the end of each delivery period his producer pay roll for such delivery period which shall show for each producer (a) the net amount of such producer's payment with the prices, deductions, and charges involved, and (b) the total delivery of milk with the average butterfat test thereof.

SEC. 4. *Verification of reports.*—In order that the market administrator may submit verified reports to the Secretary pursuant to paragraph 3 of section 4 of article II, each handler shall permit the market administrator or his agent, during the usual hours of business, to (a) verify the information contained in reports submitted in accordance with this article and (b) weigh milk delivered by each producer and sample and test milk for butterfat.

ARTICLE VI—HANDLERS WHO ARE ALSO PRODUCERS

SECTION 1. With respect to each handler who is also a producer:

1. The market administrator shall, subject to the condition set forth in paragraph 2 of this section, exclude from the computations made pursuant to section 1 of article VII, the quantity of milk produced and sold, used, or distributed by such handler: *Provided*, That where any such handler has purchased milk from other producers, the value of the milk purchased shall be computed under section 1 of article VII as follows: the quantity of such milk shall be ratably apportioned among such handler's total Class I and Class II sales (after excluding purchasers, if any, from other handlers) and multiplied by the Class I and Class II prices, respectively.

2. The market administrator shall, upon prior written notice from such handler of the exercise thereof, grant the option of having all milk produced by such handler included in the computation made pursuant to section 1 of article VII in lieu of the provisions of paragraph 1 of this section.

3. The market administrator shall consider as Class II milk any milk or cream sold in bulk by any such handler who has not exercised the option set forth in paragraph 2 of this section, to another handler operating a bottling or processing plant. If such buying handler uses or sells such milk or cream for other than Class II purposes, the market administrator shall add to the total value computed pursuant to section 1 of article VII the difference between (a) the value of such milk or cream at the Class II price and (b) the value according to its actual usage.

ARTICLE VII—DETERMINATION OF UNIFORM PRICES TO PRODUCERS

SECTION 1. *Computation of the value of milk for each distributor.*—For each delivery period the market administrator shall compute from the report of each distributor the value of milk sold or used by such distributor, which was not purchased from other distributors, as follows:

1. Multiply by the Class I price the hundredweight of milk computed as follows: divide by 4 the butterfat contained in the total weight of the units of Class I milk determined by the average butterfat test of the several units of Class I milk;

2. Multiply by the Class II prices the hundredweight of milk computed as follows: divide by 4 the butterfat contained in the total weight of the products of Class II milk determined by the average butterfat test of the several products in Class II milk;

3. Combine into one total the hundredweight of milk computed pursuant to paragraphs 1 and 2 of this section;

4. Combine into one total the values of the milk computed pursuant to paragraphs 1 and 2 of this section;

5. If the hundredweight of milk computed pursuant to paragraph 3 of this section is less than the hundredweight of milk received from producers, multiply such difference by 10 cents per hundredweight; add such amount to the value of milk computed pursuant to paragraph 4 of this section; and add to the computed hundredweight of milk an amount representing the difference between such hundredweight and the hundredweight of milk received from producers; and

6. If the hundredweight of milk computed pursuant to paragraph 3 of this section is greater than the hundredweight of milk received from producers, multiply such difference by 10 cents per hundredweight; subtract such amount from the value of milk computed pursuant to paragraph 4 of this section; and subtract from the computed hundredweight of milk an amount representing the difference between such hundredweight and the hundredweight of milk received from producers.

SEC. 2. *Computation and announcement of uniform prices.*—The market administrator shall, for each delivery period, make computations and announce the uniform price per hundredweight of milk received by handlers and distributors during each delivery period as follows:

1. Combine into one total the respective values of milk computed pursuant to section 1 of this article for each distributor who made the payments required of him for the previous delivery period;

2. For all milk received from a producer who did not regularly sell milk during a period of 30 days next preceding February 1, 1937, subtract an amount computed by multiplying by the lower Class II price the hundredweight of milk received from such producer. Such computation shall be made for all milk received from each such producer during the period beginning with his first regular delivery of milk and continuing until the end of two full calendar months following the date of such first delivery of milk;

3. If the hundredweight of milk computed pursuant to paragraph 3 of section 1 is less than the hundredweight of milk received from producers, add an amount computed by multiplying such difference by $1.20 per hundredweight:

4. If the hundredweight of milk computed pursuant to paragraph 3 of section 1 is greater than the hundredweight of milk received from producers, subtract an amount computed by multiplying such difference by $1.20 per hundredweight;

5. Divide by the hundredweight of milk received from producers, other than the milk represented by the amount subtracted in paragraph 2 of this section;

6. Subtract not less than 4 cents nor more than 5 cents per hundredweight of milk for the purpose of retaining a cash balance in connection with the payments set forth in paragraph 3 of section 1 of article VIII;

7. Add an amount per hundredweight of milk which will prorate any cash balance available pursuant to section 3 of this article; and

8. On or before the 10th day after the end of each delivery period, the market administrator shall notify each handler and each distributor of the uniform price for milk and of the Class II price, and shall make public announcement of the computation of the uniform price.

SEC. 3. *Proration of cash balance.*—For each delivery period, the market administrator shall prorate, by an appropriate addition pursuant to paragraph 7 of section 2 of this article, the cash balance, if any, available from payments received by him during the next preceding delivery period to meet obligations arising out of paragraph 3 of section 1 of article VIII.

ARTICLE VIII—PAYMENTS FOR MILK

SECTION 1. *Time and method of payment.*—On or before the 15th day after the end of each delivery period, each handler shall make payment for the total value of milk received from producers during such delivery period, computed according to section 1 of article VII, subject to the butterfat differential set forth in section 3 of this article, as follows:

1. To producers located outside the State of Indiana, at not less than the uniform price per hundredweight, computed pursuant to section 2 of article VII, for all milk received from each such producer;

2. To any producer located outside the State of Indiana who did not regularly sell milk during a period of 30 days next preceding February 1, 1937, at not less than the lower Class II price for all the milk received from such producer during the period beginning with the first regular delivery of such producer and continuing until the end of two full calendar months following the date of such first delivery of milk; and

3. To producers, through the market administrator, by paying to or receiving from the market administrator, as the case may be, the amount by which the sum representing the payments to be made by such handler, pursuant to paragraphs 1 and 2 of this section, is less than, or exceeds, the total value of milk computed for such handler pursuant to section 1 of article VII, as shown in a statement rendered by the market administrator on or before the 10th day after the end of such delivery period.

SEC. 2. *Errors in payments.*—Errors in making the payments prescribed in this article shall be corrected not later than the date for making payments next following the determination of such errors.

SEC. 3. *Butterfat differential.*—If any producer has delivered to any handler during any delivery period milk having an average butterfat content other than 4 percent, such handler shall pay to such producer, for each one-tenth of one percent of average butterfat content above 4 percent, or shall deduct for each one-tenth of one percent of average butterfat content below 4 percent, 3 cents per hundredweight.

SEC. 4. *Advance payments.*—Nothing contained in this article shall be construed as preventing the making, by any handler, of advance payments to producers for current deliveries of milk.

ARTICLE IX—MARKETING SERVICES

SECTION 1. *Deductions for marketing services.*—Each handler shall deduct an amount not exceeding 3 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made direct to producers pursuant to paragraphs 1 and 2 of section 1 of article VIII, with respect to all milk received by such handler during the delivery period from such producers, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Except as set forth in section 2 of this article, such moneys shall be expended by the market administrator only for market information to, and for verification of weights, samples, and tests of milk received from, said producers.

SEC. 2. *Payment to an association.*—In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing (as determined by the market administrator, subject to review by the Secretary) the services set forth in section 1 of this article, the market administrator may pay to such association, with respect to the deliveries of milk of producers who are members of or who are marketing their milk through such association, and who received payment for milk pursuant to paragraph 1 of section 1 of article VIII, an amount per hundredweight equal to the per hundredweight deduction made from all producers pursuant to section 1 of this article.

ARTICLE X—AMENDMENT, SUSPENSION, AND TERMINATION

SECTION 1. *Effect of amendment, suspension, or termination.*—The amendment, suspension, or termination of any or all of the provisions of this order shall not affect, waive, or terminate any right, duty, obligation, violation, or liability which shall have arisen, or may thereafter arise, in connection with any of the provisions herein.

SEC. 2. *Power of the market administrator to liquidate.*—Upon the suspension or termination of this order, the powers and duties of the market administrator shall be continued for the purpose of permitting the market administrator then functioning, or such other person as the Secretary may designate, to: (1) reduce all assets to cash, (2) pay all costs of liquidation, (3) distribute all remaining cash on hand to the parties entitled to receive the same, and (4) ship all books and records to the Secretary for filing.

ARTICLE XI—LIABILITY

SECTION 1. *Handlers.*—The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

Now, therefore, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the Department of Agriculture in the city of Washington, District of Columbia, on this 11th day of October, 1938, and declares this order to be effective on and after 12:01 a. m., October 15, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-2993; Filed, October 11, 1938; 2:53 p. m.]

DETERMINATION OF NORMAL YIELDS OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE FOR SUGAR BEETS—1938 SUGAR BEET PROGRAM

Pursuant to the provisions of Section 303 of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the normal yield of commercially recoverable sugar per acre for a farm on which sugar beets were planted for harvest in 1938 shall be the amount of sugar obtained by multiplying the normal yield of sugar beets, in tons per acre, for the farm by the amount of sugar, raw value, determined to be commercially recoverable in the determination entitled "Determination of Sugar Commercially Recoverable from Sugar Beets," approved March 28, 1938,[1] from a ton of sugar beets of normal percentage of sugar content for the farm.

For the purposes of this determination:

I. The normal yield of sugar beets in tons per acre shall be,

A. For a farm on which sugar beets were planted for harvest in three or more of the years 1931–37, inclusive, the simple average of the annual average yields of sugar beets per acre planted on the farm for harvest for all of the years 1931–37, inclusive, in which sugar beets were planted for harvest;

B. For a farm on which sugar beets were planted for harvest in only one or two of the years 1931–37, inclusive, the number of tons obtained by multiplying the county normal yield in tons of sugar beets per acre[2] by the percentage that the simple average of the yields of sugar beets per acre planted on the farm for harvest in such year or two years is of the simple average of the yields of sugar beets per acre for the county for such year or two years, which county average yield shall be, (1) for any year in which sugar beets were planted for harvest on ten or more of the farms on which sugar beets were planted for harvest in 1938, the weighted average yield of sugar beets per acre planted for harvest in that year on farms in the county on which sugar beets were planted for harvest in 1938;

[1] 3 F. R. 769 DI.
[2] Defined in C of this section.

and (2) for any year in which sugar beets were planted for harvest on less than ten of the farms on which sugar beets were planted for harvest in 1938, the yield per acre established by the State Agricultural Conservation Committee on the basis of the yields per acre for that year in the county and in adjacent counties which have similar sugar beet production conditions: *Provided, however*, That the normal yield for such farm shall not be less than 80 percent nor more than 120 percent of the county normal yield; and

C. For a farm on which sugar beets were not planted for harvest in any of the years 1931–37, inclusive, 90 percent of the county normal yield per acre, which county normal yield shall be, (1) for a county in which sugar beets were planted for harvest in three or more of the years 1931–37, inclusive, on ten or more of the farms on which sugar beets were planted for harvest in 1938, the simple average of the county average yields, as defined in B above, for all of the years 1931–37, inclusive, in which sugar beets were planted for harvest on ten or more of such farms; and (2) for a county in which sugar beets were planted for harvest in less than three of the years 1931–37, inclusive, on ten or more of the farms on which sugar beets were planted for harvest in 1938, the yield per acre established by the State Agricultural Conservation Committee on the basis of the yields per acre for the years 1931–37, inclusive, in the county and in adjacent counties which have similar sugar beet production conditions.

II. The normal percentage of sugar content of sugar beets shall be,

A. For farms from which sugar beets were contracted to be marketed in 1938 under that type of agreement commonly known as an "individual test contract," as follows:

(1) In cases in which sugar beets were so marketed in three or four of the years 1934 to 1937, inclusive, the simple average of the annual average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in such years (including all years in which sugar beets were so marketed);

(2) In cases in which sugar beets were so marketed in only one or two of the years 1934 to 1937, inclusive, the percentage of sugar content obtained by multiplying the county normal percentage of sugar content of sugar beets[1] by the percentage that the simple average of the average percentages of sugar content, at the time of delivery to a processor, of the sugar beets marketed in such year or two years is of the simple average of the average percentages of sugar content of sugar beets for the county for such year or two years, which county average percentage shall be, (a) for any year in which sugar beets were so marketed from ten or more of the farms on which sugar beets were planted for harvest in 1938, the weighted average percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in that year from farms in the county on which sugar beets were planted for harvest in 1938; and (b) for any year in which sugar beets were so marketed from less than ten of the farms on which sugar beets were planted for harvest in 1938, the percentage of sugar content established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in that year from farms in the county and in adjacent counties; and

(3) In cases in which sugar beets were not so marketed in any of the years 1934 to 1937, inclusive, the county normal percentage of sugar content of sugar beets, which county normal percentage shall be, (a) for a county in which sugar beets were so marketed in three or four of the years 1934 to 1937, inclusive, from ten or more of the farms on which sugar beets were planted for harvest in 1938, the simple average of the county average percentages of sugar content of sugar beets, as defined in (2) above, for such years (including all years in which sugar beets were so marketed from ten or more of the farms on which sugar beets were planted for harvest in 1938); and (b) for a county in which sugar beets were not so marketed in at least three of the years 1934 to 1937, inclusive, from ten or more of the farms on which sugar beets were planted for harvest in 1938, the percentage of sugar content of sugar beets established by the State Agricultural Conservation Committee on the basis of the percentage of sugar content, at the time of delivery to a processor, of the sugar beets marketed in the years 1934 to 1937, inclusive, from farms in the county and in adjacent counties; and

B. For farms from which sugar beets were contracted to be marketed in 1938 under any type of agreement other than that commonly known as an "individual test contract," the normal percentage of sugar content of sugar beets for the district (an area in which a common marketing agreement was in use in 1938), which district normal percentage shall be:

(1) For districts in which beet sugar factories were operated in three or more of the years 1931–37, inclusive, the simple average of the annual average percentages of sugar content, at the time of processing, of all of the sugar beets processed in the district in all of such years in which sugar beets were processed; and

(2) For districts in which beet sugar factories were operated in less than three of the years 1931–37, inclusive, the percentage of sugar content of sugar beets established by the Agricultural Adjustment Administration on the basis of the average percentage of sugar content, at the time of processing, of sugar beets produced under similar conditions in the years 1931–37, inclusive.

Done at Washington, D. C., this 12th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3001; Filed, October 12, 1938 11:47 a. m.]

[1] Defined in A (3) of this section.

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3313]

IN THE MATTER OF THE GOUDEY GUM COMPANY ET AL.

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to wholesale dealers, etc., chewing gum, so packed, etc., that sales thereof to general public are to be, or are designed to be made, by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to wholesale dealers, etc., assortments of chewing gum which are, or are designed to be used, without alteration, etc., to conduct a lottery, etc., in the sale thereof to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices — In merchandising.* — Packing, etc., in same assortment, for sale to public at retail, uniform pieces of different colored chewing gum, with small flags or other articles as prizes for purchasers procuring certain color, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to wholesale dealers, etc., display cards, either with assortments of chewing gum or separately, bearing statement, etc., informing purchaser that the chewing gum is being sold to public by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, The Goudey Gum Company et al., Docket 3313, September 27, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF THE GOUDEY GUM COMPANY, A CORPORATION, ALSO TRADING AS AROUND THE WORLD GUM COMPANY; AND RAINBOW GUM COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs of counsel filed herein (oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, The Goudey Gum Company, a corporation, in its own name or trading as Around The World Gum Company, or under any other name, its officers, representatives, agents and employees; and the respondent, Rainbow Gum Company, a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of chewing gum in interstate commerce, do cease and desist from:

(1) Selling and distributing to wholesale dealers and jobbers for resale to retail dealers, chewing gum so packed and assembled that sales of such chewing gum to the general public are to be made or are designed to be made by means of a lottery scheme, gaming device, or gift enterprise.

(2) Supplying to or placing in the hands of wholesale dealers and jobbers, assortments of chewing gum which are used or are designed to be used, without alteration or rearrangement of the contents of such assortments, to conduct a lottery, gaming device, or gift enterprise in the sale or distribution of the chewing gum contained in said assortments to the public.

(3) Packing or assembling in the same package or assortment of chewing gum, for sale to the public at retail, pieces of chewing gum of uniform size and shape but of different colors, together with small flags or other articles of merchandise, which said small flags or other articles of merchandise are to be given as prizes to the purchaser of a piece of chewing gum of a particular color.

(4) Furnishing to wholesale dealers and jobbers display cards, either with assortments of chewing gum or separately, bearing a statement or statements informing the purchaser that the chewing gum is being sold to the public by lot or chance or in accordance with a sales plan which constitutes a lottery, gaming device, or gift enterprise.

It is further ordered, That the respondents shall, within sixty (60) days after the service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2995; Filed, October 12, 1938; 9:18 a. m.]

[1] 3 F. R. 546 DI.

[Docket No. 3476]

IN THE MATTER OF 4-U COMPANY OF AMERICA

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., citric acid, sodium citrate, lithium citrate, sodium tartrate and bottle crowns so arranged, etc., that sales thereof to the general public are to be, or may be, made by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to, etc., dealers, citric acid, sodium citrate, lithium citrate, sodium tartrate and bottle crowns, or any other products, with a device which is to be, or may be used, in selling, etc., said products to purchasing public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to dealers bottle caps or crowns with letters or numbers therein, either with other products or separately, which are to be, or may be used, in selling, etc., said products to purchasing public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that soda water made from respondents' products is slenderizing, energizing, alkalizing, or healthful, and will relieve acid stomach and after effects resulting from excessive use of alcohol, and making other representations of similar import with respect thereto, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, 4-U Company of America, Docket 3476, September 27, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF NATHAN LEVIN, MAXWELL LEVIN, MORRIS W. LEVIN, INDIVIDUALLY, AND AS CO-PARTNERS TRADING AS 4-U COMPANY OF AMERICA

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer respondents admit all of the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Nathan Levin, Maxwell Levin, Morris W. Levin, individually, and as co-partners trading under the name of 4-U Company of America, or under any other trade name, their agents, representatives, and employees, in connection with the offering for sale, sale, and distribution of citric acid, sodium citrate, lithium citrate, sodium tartrate, and bottle crowns in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Selling and distributing said products so arranged and assembled that sales of such products to the general public are to be made, or may be made, by means of a game of chance, gift enterprise, or lottery scheme.

2. Furnishing to, or placing in the hands of, dealers said products, or any other products, together with a device, which said device is to be used, or may be used, in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme.

3. Furnishing to dealers bottle caps or crowns with printed or impressed letters or numbers therein, either with other products or separately, which said bottle caps or crowns are to be used, or may be used, in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme.

4. Advertising that soda water manufactured from said products is slenderizing, energizing, invigorating, alkalizing, or healthful; that said soda water will

relieve an acid stomach and the after effects resulting from the excessive use of alcohol, commonly referred to as a "hangover"; and, from making any other representations of similar import and effect concerning said soda water.

It is further ordered, That the respondents, Nathan Levin, Maxwell Levin, and Morris W. Levin shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2996; Filed, October 12, 1938; 9:18 a. m.]

[Docket No. 3501]

IN THE MATTER OF MIDWEST GROCERY COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., to dealers, groceries so packed, etc., that sales thereof are to be, or are designed to be, made to general public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Midwest Grocery Company, Docket 3501, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers, groceries, together with coupons and circulars with numbers printed thereon, for use in sale of said groceries to general public by means of game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Midwest Grocery Company, Docket 3501, September 27, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers, coupons and circulars with numbers printed thereon, etc., for use in sale and distribution of groceries, etc., to general public, by means of game of chance, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Midwest Grocery Company, Docket 3501, September 27, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of September, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Midwest Grocery Company, a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of groceries in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing to dealers groceries so packed and assembled that sales thereof are to be made, or are designed to be made to the general public, by means of a game of chance, gift enterprise, or lottery scheme.

(2) Supplying to, and placing in the hands of dealers, groceries together with coupons and circulars with numbers printed thereon, which said coupons and circulars are to be used, or are designed to be used, in the sale and distribution of said groceries to the general public by means of a game of chance, gift enterprise, or lottery scheme.

(3) Supplying to, or placing in the hands of dealers, coupons with numbers printed thereon and circulars with numbers printed thereon, or any other device or devices, which are to be, or are designed to be, used in the sale and distribution of groceries, or any other products, to the general public by means of a game of chance, gift enterprise, or lottery scheme.

It is further ordered.—That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-2997; Filed, October 12, 1938; 9:18 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49721]

ENTRY OF AIRCRAFT WITHOUT SPECIAL AUTHORITY FROM DEPARTMENT OF COMMERCE

LIST OF COUNTRIES PUBLISHED PURSUANT TO THE PROVISIONS OF THE CUSTOMS REGULATIONS OF 1937, AS AMENDED

October 7, 1938.

To Collectors of Customs and Others Concerned:

Under the provisions of the Customs Regulations of 1937 (art 253 (c), and art. 477 (b), as amended by T. D. 39658 [1]) permits on customs Forms 4449 and 4447 may be issued covering foreign aircraft, without prior authority from the Department of Commerce, when such craft are registered in a country with which the United States has a reciprocal agreement concerning aircraft and piloting privileges. The following is a list of countries with which the United States has such agreements:

Canada.[1]
Chile.[2]
Colombia.[2]
Costa Rica.[2]
Denmark.[4]
Dominican Republic.[2]
Ecuador.[2]
Germany.[5]
Great Britain.[4]
Guatemala.[2]
Haiti.[2]
Honduras.[2]
Ireland.[5]
Italy.[6]
Nicaragua.[2]
Norway.[7]
Panama.[2]
Sweden.[4]
The Netherlands.[8]
Union of South Africa.[2]

[1] No mention in agreement of application to specific territories or possessions. Regarded, however, as applicable to Alaska and continental United States.

[2] No mention in agreement of application to specific territories or possessions. Matter to be determined in the event of a case arising.

[3] Applies only to commercial aircraft which are permitted to land on land or water in the Atlantic and Pacific ports of the United States. The extent to which aircraft may enter the United States under the agreement to be determined in the event of a case arising.

[4] Applies to flights in the continental United States, including Alaska, and Puerto Rico.

[5] Applies only to flights in the continental United States, exclusive of Alaska.

[6] The language of the agreement indicates that it is applicable to territories and possessions of the United States as well as to continental United States.

[7] Applies only to flights in the United States, its territories and possessions, exclusive of the Hawaiian Islands.

[8] Applies only to flights in the continental United States of aircraft registered in The Netherlands which are not engaged in the commercial transportation of goods or passengers. Aircraft from this country may enter the United States under customs Form 4447 without prior authority from the Department of Commerce, but must obtain the prior approval of that Department when entering under customs Form 4449.

This Treasury decision supersedes Treasury Decisions 46898 and 47595.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

[F. R. Doc. 38-3002; Filed, October 12, 1938; 12:38 p. m.]

[1] 3 F. R. 1808 DI.

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT [1]

OCTOBER 12, 1938.

To J. M. COOK and E. L. CALDWELL, *doing business as Cook & Caldwell Commission Market, Alexandria, La.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Cook & Caldwell Commission Market, at Alexandria, State of Louisiana, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3000; Filed, October 12, 1938; 11:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of October 1938.

[File No. 1-879]

IN THE MATTER OF APPLICATION BY NEW YORK STOCK EXCHANGE CONCERNING FIRST MORTGAGE FIFTY-YEAR 4½% GOLD BONDS, DUE JUNE 1, 1943, OF THE STATEN ISLAND RAILWAY COMPANY

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the First Mortgage Fifty-Year 4½% Gold Bonds, due June 1, 1943, of The Staten Island Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, November 1, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3003; Filed, October 12, 1938; 12:41 p. m.]

[1] Modifies list posted stockyards 9 CFR 13.034.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of October 1938.

[File No. 1-2416]

IN THE MATTER OF APPLICATION BY NEW YORK STOCK EXCHANGE CONCERNING 6% REFUNDING EXTERNAL SINKING FUND GOLD BONDS, DUE MARCH 1, 1961 (UNSTAMPED) OF PROVINCE OF BUENOS AIRES (ARGENTINE REPUBLIC)

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the 6% Refunding External Sinking Fund Gold Bonds, due March 1, 1961 (Unstamped) of Province of Buenos Aires (Argentine Republic); and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, November 3, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3004; Filed, October 12, 1938; 12:40 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission at its office in the City of Washington, D. C., on the 12th day of October, A. D. 1938.

[File Nos. 34-14, 34-15]

IN THE MATTER OF ARTHUR E. SWANSON, KELLOGG LOGSDON AND GARY BARTHELL CONSTITUTING A BONDHOLDERS' PROTECTIVE COMMITTEE, AND THE MIDDLE WEST CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications and declarations pursuant to Sections 11 (g) and 12 (c) of the Public Utility Holding Company Act of 1935, and Rule U-12E promulgated thereunder having been duly filed with this Commission by the above named parties;

It is ordered, That a hearing on such matters be held on October 31, 1938 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 26, 1938.

The matters concerned herewith are in regard to:

(1) A joint application by Arthur E. Swanson, Kellogg Logsdon and Gary Barthell, constituting a bondholders' protective committee under a bondholders'

protective agreement dated December 6, 1932, as amended, providing for the deposit of Collateral Trust Sinking Fund Gold Bonds Series A 6%, Series B 6% and Series C 6% of Inland Power & Light Corporation, a registered holding company, and by The Middle West Corporation, a registered holding company, regarding a proposed plan of reorganization of Inland Power & Light Corporation and The Commonwealth Light & Power Company, requesting a report on the proposed plan of reorganization by the Securities and Exchange Commission. Proceedings for the reorganization of the two companies last mentioned pursuant to the provisions of Section 77B of the Bankruptcy Act are pending in the District Court of the United States for the Northern District of Illinois, Eastern Division.

The proposed plan of reorganization contemplates the dissolution of Commonwealth and the formation of a reorganized company as successor to both companies now in reorganization. The reorganized company will have only common stock outstanding, which will be distributed to the creditors of Commonwealth and Inland.

The treatment of creditors and stockholders of Inland under the proposed plan will be as follows:

For each $1,000 principal amount of First Lien Collateral Trust Bonds, Series A, B, and C, accompanied by, in the case of Series A bonds, all interest coupons maturing on and after March 1, 1933, in the case of Series B bonds, all interest coupons maturing on and after May 1, 1933, and in the case of the Series C bonds, all interest coupons maturing on and after April 1, 1933, there shall be issued in exchange 50 shares of the common stock of the reorganized company. Upon consummation of the Plan and participation therein by all persons entitled to participate, approximately 239,125 shares of the new common stock will be issued to the Inland bondholders, constituting approximately 71.5% of the total capital stock of the reorganized company to be outstanding under the Plan.

For each $1,000 Sinking Fund Debenture of Inland, together with all coupons maturing on and after December 1, 1932, there shall be issued in exchange 22.85 shares of the common stock of the reorganized company. Upon consummation of the Plan and participation therein by all persons entitled to participate there will be distributed to the holders of debentures of Inland an aggregate of approximately 26,552 shares of the common stock of the reorganized company constituting approximately 7.94% of the total capital stock of the reorganized company to be outstanding under the Plan.

For each $1,000 amount of claims allowed to unsecured creditors in the pending Inland reorganization proceedings, other than claims to be paid in full, aggregating $1,877.01, and other than the claim of Commonwealth, the treatment of which is hereafter described, there will be distributed 19.437 shares of common stock of the reorganized company. Upon consummation of the Plan and participation therein by all persons entitled to participate, approximately 1,713 shares of new common stock will be issued to such other unsecured creditors, constituting approximately .51% of the total capital stock of the reorganized company to be outstanding under the Plan.

The holders of the outstanding preferred stocks and common stocks of Inland will receive no participation in the securities of the reorganized company.

The treatment of creditors and stockholders of Commonwealth under the proposed plan will be as follows:

Inland is indebted to Commonwealth upon an unsecured claim in the amount of $3,449,646.89. Commonwealth as a creditor of Inland will be entitled under the distribution provisions herein set forth, to 67,050 shares of stock of the reorganized company. This is equivalent to 19.437 shares for each $1,000 principal amount of Commonwealth debt as will be received by other unsecured creditors of Inland. The stock which would otherwise be issued to the Trustee in Bankruptcy of Commonwealth on account of the Commonwealth claim will be issued directly to the creditors of Commonwealth. Creditors of Commonwealth, whose claims, including $283,956.99 of interest accrued prior to bankruptcy on the Refunding and Unifying Bonds, approximate $2,000,000, will receive 33.46 shares of the common stock of the reorganized company for each $1,000 of claim. Upon consummation of the Plan and participation therein by all persons entitled to participate, approximatey 67,050 shares of new common stock will be distributed to the creditors of Commonwealth, constituting approximately 20% of the total capital stock of the reorganized company to be outstanding under the Plan.

The holders of the outstanding common stock of Commonwealth will receive no participation in the stock of the reorganized company.

It is stated that applicant, The Middle West Corporation, is the owner of approximately 24.27% of the bonds of Inland, 29.24% of the outstanding debentures of Inland, 93.55% of the outstanding Refunding and Unifying Bonds of Commonwealth and general claims of $53,848.60 against Commonwealth and $1,032.26 against Inland, and that if the reorganization is effected The Middle West Corporation would receive 128,615.4 shares of the common stock of the reorganized company, constituting approximately 38% of such common stock.

(2) A declaration, File No. 34–15, by said Arthur E. Swanson, Kellogg Logsdon and Gary Barthell, constituting a bondholders' protective committee as aforesaid, with respect to solicitation of consents to the proposed plan of reorganization.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3003; Filed, October 12, 1938; 12:40 p. m.]

OCT 17 [illegible]

FEDERAL REGISTER

VOLUME 3 NUMBER 201

Washington, Friday, October 14, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

TERMINATION OF ORDER REGULATING THE HANDLING OF CELERY GROWN IN THE STATE OF FLORIDA

Whereas, the Secretary of Agriculture of the United States of America, acting under the provisions of Public, No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, for the purposes and within the limitations therein contained and pursuant to the general regulations issued thereunder, on the 9th day of November 1937, issued Order No. 21,[1] regulating the handling in interstate and foreign commerce and such handling as directly burdens, obstructs, or affects interstate or foreign commerce of celery grown in the State of Florida; and

Whereas, the Secretary of Agriculture deems it advisable to terminate the said order;

Now, therefore, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under the authority vested in the Secretary by said act and pursuant to subsection 1, section 2, article VIII of said order, hereby terminates said order, subject, however, to the following conditions:

1. That the provisions of section 3 of article VIII of said order, relating to the proceedings after termination, and subsection 3 of section 5 of article II, relating to the maintenance of suits for the collection of expenses, shall remain in force and effect for the purpose of enabling the Control Committee now functioning to liquidate and settle all matters arising under the terms and provisions of said order.

2. That no obligation which has arisen under said order or which may hereafter arise in connection with, by virtue of, or pursuant to, the said order shall be affected, waived, or terminated hereby.

3. That the said Control Committee shall collect any and all of the moneys due to the said Control Committee under the terms and provisions of said order.

4. That said Control Committee shall have and exercise all of the powers and authority vested in the Control Committee under the terms and provisions of the said order as may be necessary or proper to carry out the foregoing purposes.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this termination in duplicate and caused the official seal of the Department of Agriculture to be affixed thereto in the city of Washington, District of Columbia, this 12th day of October 1938, and hereby declare that this termination shall be effective on and after 12:01 a. m., eastern standard time, October 15, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3019; Filed, October 13, 1938; 12:13 p. m.]

[1] 2 F. R. 2434 (2829 DI).

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation 407–A–1]

FORMS OF FINANCIAL AND STATISTICAL REPORTS OF AIR CARRIERS

At a session of the Civil Aeronautics Authority held in the City of Washington, D. C., on the 10th day of October 1938.

The matter of the appropriate provisions for regulations with respect to the manner and form in which monthly and annual financial and statistical reports shall be made by air carriers, being under consideration by the Civil Aeronautics Authority upon its own motion pursuant to the authority contained in sections 205 (a) and 407 (a) of the Civil Aeronautics Act of 1938, (52 Stat. 973, 984, 1000), and being fully advised in the premises, the

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Celery grown in Florida, termination of order regulating handling of ... Page 2473
TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Air carriers, forms of accounts ... 2474
Forms of financial and statistical reports ... 2473
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Gauging Manual amended ... 2475
TITLE 30—MINERAL RESOURCES:
National Bituminous Coal Commission:
Cost and realization data, calendar year 1938; reports required from producers ... 2475

NOTICES

Department of the Interior:
National Bituminous Coal Commission:
District boards for Districts Nos. 9–13, hearing on minimum prices and marketing rules and regulations ... 2475
Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Boulevard Candy Co. ... 2476
Casey Concession Co. (Louis Keller and William Carsky) ... 2475
Ferrara Panned Candy Co., Inc. ... 2477
General Sales Co. (Harry Cutler) ... 2477
Illinois Baking Corp. ... 2477
North Western Printing House, Inc., et al. ... 2476
Service Club Sales Co. (Richard Murdoc) ... 2477

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Rural Electrification Administration:	
Allocation of funds for loans	2478
Amendment of prior allocations	2478
Securities and Exchange Commission:	
Penn Western Gas & Electric Co., hearing	2478

Authority is of the opinion and finds that:

1. There has heretofore been issued by the Post Office Department, pursuant to the provisions of the Air Mail Act of 1934, as amended, (48 Stat. 933; 49 Stat. 615) for use by air carriers holding domestic air-mail contracts under the said Act, as amended, a Monthly Financial Report and Operating Statistics (Form No. 2780).

2. There has heretofore been issued by the Post Office Department, pursuant to the provisions of the Foreign Air Mail Act of 1928, as amended, (45 Stat. 248; 45 Stat. 1449) for use by air carriers holding foreign air-mail contracts under the said Act, as amended, a Monthly Report—Financial and Operating Statistics (Form No. 2380).

3. The regulation hereinafter set forth is consistent with the provisions of the Civil Aeronautics Act of 1938 and is necessary and appropriate to carry out the provisions thereof.

The Civil Aeronautics Authority therefore, pursuant to the authority vested in it by sections 205 (a) and 407 (a) of the Civil Aeronautics Act of 1938, (52 Stat. 973, 984, 1000), hereby makes and promulgates the following regulation:

REGULATION 407–A–1. FORMS OF FINANCIAL AND STATISTICAL REPORTS OF AIR CARRIERS

Any and all reports, including financial and statistical reports, shall be kept and maintained as follows:

(a) Each air carrier engaged in regularly scheduled interstate air transportation within the continental limits of the United States and each air carrier engaged in regularly scheduled operations within the territory of Hawaii shall make monthly financial and statistical reports to the Authority in accordance with the provisions of the Monthly Financial Report and Operating Statistics (Form No. 2780) heretofore issued by the Post Office Department and which was prescribed by such Department to be used by domestic air mail carriers, and such report form is hereby adopted by the Authority for such purposes until further action by the Authority.

(b) Each other air carrier engaged in regularly scheduled air transportation (not including, however, foreign air carriers) shall make its reports with respect to such matters in accordance with the provisions of the Monthly Report—Financial and Operating Statistics (Form No. 2380) heretofore issued by the Post Office Department, and such report form is hereby adopted by the Authority for such purposes until further action by the Authority.

Whenever the above-mentioned forms refer to the Postmaster General, any Assistant Postmaster General, the United States Post Office Department, or any division or section thereof, they shall hereafter be deemed to refer to the Civil Aeronautics Authority.

For the Authority:

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–3006; Filed, October 12, 1938; 4:46 p. m.]

[Regulation 407–D–1]

FORMS OF ACCOUNTS OF AIR CARRIERS

At a session of the Civil Aeronautics Authority held in the City of Washington, D. C., on the 10th day of October 1938.

The matter of the appropriate provisions for regulations with respect to the manner and form in which any and all accounts shall be kept by air carriers, being under consideration by the Civil Aeronautics Authority upon its own motion pursuant to the authority contained in sections 205 (a) and 407 (d) of the Civil Aeronautics Act of 1938, (52 Stat. 973, 984, 1000), and being fully advised in the premises, the Authority is of the opinion and finds that:

1. There has heretofore been issued by the Post Office Department pursuant to the provisions of the Air Mail Act of 1934, as amended, (48 Stat. 933; 49 Stat. 615) for use by air carriers holding domestic air-mail contracts under the said Act, as amended, a Uniform System of Accounts.

2. There has heretofore been issued by the Post Office Department pursuant to the provisions of the Foreign Air Mail Act of 1928, as amended, (45 Stat. 248; 45 Stat. 1449) for use by air carriers holding foreign air-mail contracts under the said Act, as amended, a Uniform System of Accounts (Part One, Operating Revenues and Operating Expenses; and Part Two, Real Property and Equipment Accounts).

3. The regulation hereinafter set forth is consistent with the provisions of the Civil Aeronautics Act of 1938 and is necessary and appropriate to carry out the provisions thereof.

The Civil Aeronautics Authority therefore, pursuant to the authority vested in it by sections 205 (a) and 407 (d) of the Civil Aeronautics Act of 1938, (52 Stat. 973, 984, 1000), hereby makes and promulgates the following regulation:

REGULATION 407–D–1. FORMS OF ACCOUNTS OF AIR CARRIERS

Any and all accounts, records and memoranda kept by air carriers engaged in scheduled air transportation, including their accounts, records and memoranda of the movement of traffic, as well as of their receipts and expenditures of money, shall be kept and maintained as follows:

(a) Each air carrier engaged in regularly scheduled interstate air transportation within the continental limits of the United States and each air carrier engaged in regularly scheduled operations within the territory of Hawaii shall keep its accounts with respect to such transactions in accordance with a Uniform System of Accounts heretofore issued by the Post Office Department and which was prescribed by such Department to be used by domestic air mail carriers and such uniform system of accounts is hereby adopted by the Authority for such purposes until further action by the Authority.

(b) Each other air carrier engaged in regularly scheduled air transportation (not including, however, foreign air carriers) shall keep its accounts with respect to such transactions in accordance with the provisions of a so-called "Uniform System of Accounts for Foreign Carriers by Air" which was heretofore issued by the Post Office Department and such Uniform System of Accounts is hereby adopted by the Authority for such purposes until further action by the Authority.

Wherever the manuals prescribing such Uniform System of Accounts as aforesaid refer to the Postmaster General, any Assistant Postmaster General, the United States Post Office Department, or any division thereof, they shall hereafter be deemed to refer to the Civil Aeronautics Authority.

For the Authority:

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–3007; Filed, October 12, 1938; 4:46 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4867]

GAUGING MANUAL AMENDED

To District Supervisors and Others Concerned:

Paragraph 71 (i) of the Gauging Manual[1] is hereby amended to read as follows:

(i) Whiskey, rye whiskey, wheat whiskey, malt whiskey, rye malt whiskey, bourbon whiskey, or corn whiskey, as defined in sub-paragraphs 71 (d) and (e), produced on or after March 1, 1938, which in whole or in part, is treated with wood chips through percolation or otherwise, during distillation or storage, shall be further marked, either by branding or stenciling, with the words "Treated with oak chips."

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, October 11, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38–3018; Filed, October 13, 1938; 11:19 a. m.]

TITLE 30—MINERAL RESOURCES

NATIONAL BITUMINOUS COAL COMMISSION

[Order No. 252]

AN ORDER REQUIRING FROM PRODUCERS FOR ALL MINES HAVING PRESENT ACTUAL DAILY CAPACITY OF FIFTY NET TONS OR MORE AND ALL MINES SHIPPING DIRECTLY BY RAIL OR RIVER, REGARDLESS OF DAILY CAPACITY, REPORTS OF COST AND REALIZATION DATA FOR THE CALENDAR YEAR 1938, PURSUANT TO SECTION 10 (A) OF THE BITUMINOUS COAL ACT OF 1937

Whereas, the Commission by its Order No. 236,[2] dated March 22, 1938, requires all producers of bituminous coal to file complete reports showing the total costs of the tonnage produced and realization prices derived from the sale of coal for each mine and for each calendar month so as to include all coal produced and all coal sold on and after the first day of January, 1938; and

Whereas, the Commission believes that in order better to perform its duties under the Bituminous Coal Act of 1937, and in order to be more fully informed as to the production and distribution of bituminous coal throughout the United States, it should have such information on total costs of the tonnage produced and realization prices derived from the sale of coal submitted to it, in a consolidated form covering the calendar year 1938, by producers for all mines having present actual daily capacity of fifty (50) net tons or more and by producers for all mines shipping directly by rail or river, regardless of daily capacity;

Now, therefore, Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs as follows:

1. That each producer of bituminous coal, whether or not a code member and whether or not engaged in commerce in coal which is subject to the provisions of Section 4 of said Act, and whose mine or mines have a present actual daily capacity of fifty (50) net tons or more, or who ships directly by rail or river, regardless of daily capacity of such mine or mines, shall file, in duplicate, complete reports of the total costs of the tonnage produced at such mine or mines and realization prices derived from the sale of such coal on Commission's Cost Form No. 3, all as more fully set forth and specified in said cost form, such reports to be made separately for each such mine, so as to include all such coal produced and all such coal sold during the calendar year 1938.

2. That each such producer shall file the reports required under Paragraph 1, above, with the statistical bureau of the Commission within the district in which the mine or mines reported on are located, on or before the 25th day of January, 1939, said reports to be filed by the producer in lieu of the reports required to be filed by him on or before the 25th day of January, 1939, covering all coal produced and all coal sold during the month of December, 1938, as presently required under Paragraphs 1 and 3 of Order No. 236.

3. In the case of any mine of the class described in Paragraph 1, above, which is not actually in operation during the calendar year 1938, the producer shall report for such calendar year such data as will show the costs of ownership and maintenance.

4. That reports required to be filed under this Order shall be signed by the producer if an individual, by a member of the firm if a partnership, or if a corporation, by a responsible officer thereof who is familiar with the facts.

5. That Order No. 236, except as modified herein, shall remain in full force and effect.

That producers, whose mine or mines do not ship directly by rail or river and have a present actual daily capacity of less than fifty (50) net tons, shall file with the proper statistical bureau of the Commission a monthly report for December 1938 on Cost Form No. 3–A, as presently required under Paragraphs 1 and 3 of Order No. 236.

6. That the Secretary of the Commission shall cause the proper statistical bureau of the Commission to mail to each known producer within the United States whose mine or mines come within the description set forth in Paragraph 1, above, a copy of this Order, together with the necessary forms for making the required reports, and shall make available to all such producers additional copies of said forms at the statistical bureau as such bureaus are established in each district under said Act.

That the Secretary of the Commission shall also mail a copy of this Order, together with a copy of Cost Form No. 3 to the Secretary of the Bituminous Coal Producers Board for each of the several districts and to Consumers' Counsel, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 12th day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–3020; Filed, October 13, 1938; 12:28 p. m.]

[1] 3 F. R. 753 DI.
[2] 3 F. R. 723 DI.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF AND ORDER FOR HEARING IN MATTER OF PROPOSAL OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS SUBMITTED BY DISTRICT BOARDS FOR DISTRICTS NOS. 9, 10, 11, 12, 13 (EXCEPT VAN BUREN, WARREN AND MCMINN COUNTIES IN TENNESSEE)

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That notice be and the same hereby is given to all interested parties that a hearing in the above entitled matter shall be held before the Commission, commencing on the 26th day of October, 1938 at 10:00 o'clock A. M., in the Hearing Room of the Commission at Fifteenth and Eye Streets, N. W., Washington, D. C., for the purpose of receiving evidence relating to the proposals of the minimum prices and marketing rules and regulations submitted by the District Boards for Districts Nos. 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn

Counties in Tennessee), 14, and 15, to the Commission, pursuant to Orders Nos. 249 and 250,[1] dated August 20, 1938, to enable the Commission to approve or disapprove such proposed minimum prices and marketing rules and regulations, or to enable the Commission to modify such proposed minimum prices in conformity with the requirements of Section 4–II (a) of the Act, or to enable the Commission to modify the proposed marketing rules and regulations as provided in said Section 4–II (a) of the Act, in order that such proposed minimum prices and marketing rules and regulations, as approved, or modified, as the case may be, may serve as the basis for the coordination as provided by Section 4–II (b) of the Act, at which time all interested parties will be afforded an opportunity to be heard.

2. That at said hearing the Commission will receive evidence relating to the kinds, qualities, and sizes of coal produced in each of the aforesaid districts, and evidence relating to the classification of such coal, price variations as to mines, consuming market areas, values as to uses and seasonal demand, and evidence as to whether or not such proposed minimum prices conform, or in what respect they should be modified so as to conform, to the following requirements of subsection (a) of Part II, Section 4 of the Act:

a. The proposed minimum prices for each of the aforesaid districts shall yield a return, per net ton, for such districts, equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which such district is located, as said weighted average heretofore has been determined by Order of the Commission dated August 19, 1938, in this proceeding.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal to which they are applicable.

c. They shall be just and equitable as between producers within the district.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

At said hearing the Commission will also receive evidence as to whether or not such proposed marketing rules and regulations are consistent with the requirements of Section 4–II (a) of the Act, and conform to the standards of fair competition established by the Act, or in what respect they should be modified to be made consistent with the requirements of Section 4–II (a) of the Act, and to conform to the standards of fair competition established by said Act.

3. That the Secretary is hereby directed to cause copies of the aforesaid proposals to be made available forthwith for inspection by interested parties at the office of the Secretary of the Commission at Washington, D. C., and at the office of each Statistical Bureau of the Commission within each of Districts Nos. 9, 10, 11, 12, 13, 14 and 15.

4. That the Secretary of the Commission shall cause a copy of this Notice of and Order for Hearing to be published forthwith in the Federal Register and in two consecutive issues of a newspaper of general circulation in each of the aforesaid districts, and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel, and to the Secretary of each District Board, and to be made available for inspection in each of the Statistical Bureaus of the Commission.

By Order of the Commission
Dated this 11th day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38–3021; Filed, October 13, 1938; 12:28 p. m.]

[1] 3 F. R. 2057, 2058 DI.

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3396]

IN THE MATTER OF BOULEVARD CANDY COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 2, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–3011; Filed, October 13, 1938; 10:47 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3413]

IN THE MATTER OF LOUIS KELLER AND WILLIAM CARSKY, INDIVIDUALLY AND TRADING AS CASEY CONCESSION COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 2, 1938, at two o'clock in the afternoon of that day (central standard time) in Room 1123 New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–3012; Filed, October 13, 1938; 10:47 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3429]

IN THE MATTER OF NORTH WESTERN PRINTING HOUSE, INC., A CORPORATION IN ITS OWN NAME AND RIGHT AND TRADING AS FEDERAL TRADE BUILDERS; AND LOUIS ROVNER AND MORRIS LEAVITT, INDIVIDUALLY AND AS OFFICERS OF CORPORATE RESPONDENT; AND EDWIN J. PEARSON, INDIVIDUALLY AND AS AN EMPLOYEE OF CORPORATE RESPONDENT

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–3013; Filed, October 13, 1938; 10:47 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3495]

IN THE MATTER OF ILLINOIS BAKING CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 9, 1938, at two-thirty o'clock in the afternoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–3014; Filed, October 13, 1938; 10:47 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3458]

IN THE MATTER OF RICHARD MURDOC, INDIVIDUALLY, AND TRADING AS SERVICE CLUB SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at ten-thirty o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–3015; Filed, October 13, 1938; 10:48 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3542]

IN THE MATTER OF FERRARA PANNED CANDY CO., INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 2, 1938, at ten-thirty o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–3016; Filed, October 13, 1938; 10:48 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3568]

IN THE MATTER OF HARRY CUTLER, INDIVIDUALLY AND TRADING AS GENERAL SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at eleven o'clock in the forenoon of that day (cen-

tral standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3017; Filed, October 13, 1938; 10:48 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 298]

ALLOCATION OF FUNDS FOR LOANS

OCTOBER 8, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia R9081A1 Towns	$113,000
Georgia R9087A1 Tattnall	69,380
Illinois R9032A1 McDonough	282,000
Kentucky R9030C1 Shelby	86,000
New York R9018B1 Tompkins	500,000
Virginia R9027F1 Nottoway	200,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-3008; Filed, October 13, 1938; 9:54 a. m.]

[Administrative Order No. 299]

ALLOCATION OF FUNDS FOR LOANS

OCTOBER 8, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia 9087A2 Tattnall	$163,620

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-3009; Filed, October 13, 1938; 9:54 a. m.]

[Administrative Order No. 300]

AMENDMENT OF PRIOR ALLOCATIONS OF FUNDS FOR LOANS

OCTOBER 11, 1938.

I hereby amend Administrative Order No. 120, dated July 26, 1937, which allocated $100,000 to West Virginia 8010G Harrison to read $100,000 for West Virginia 8010B1 Harrison.

I hereby amend Administrative Order No. 179, dated January 3, 1938, by changing the designation from Wisconsin 8019B Chippewa to read Wisconsin 8019B2 Chippewa.

I hereby amend Administrative Order No. 230, dated March 31, 1938, by cancelling the rescission of $6,000 allocated to Iowa 8033W and 8033BW Calhoun and making effective Administrative Order No. 160, dated November 11, 1937, which allocated $6,000 to Iowa 8033W and 8033BW Calhoun.

I hereby amend Administrative Order No. 267, dated July 7, 1938, which allocated $165,000 to Minnesota 9003B1 Meeker to read $46,972 to Minnesota 9003B1 Meeker and $118,028 to Minnesota R9003B2 Meeker.

I hereby amend Administrative Order No. 278, dated August 9, 1938, which allocated $427,000 to Michigan 9043A1 Chippewa to read $283,300 to Michigan 9043A1 Chippewa and $143,700 to Michigan R9043A2 Chippewa.

I hereby amend Administrative Order No. 280, dated August 18, 1938, by adding the letter "R" to each of the following project designations:

Michigan 9020B1 Delta to read Michigan R9020B1 Delta.

Michigan 9041A1 Oceana to read Michigan R9041A1 Oceana.

I hereby amend Administrative Order No. 288, dated September 12, 1938, by adding the letter "R" to the project designation Minnesota 9063W1 Scott to read Minnesota R9063W1 Scott.

I hereby amend Administrative Order No. 289, dated September 12, 1938, by adding the letter "R" to each of the following project designations:

Idaho 9015A1 Idaho to read Idaho R9015A1 Idaho.

Illinois 9031A1 Monroe to read Illinois R9031A1 Monroe.

Indiana 9027A1 Decatur to read Indiana R9027A1 Decatur.

Indiana 9044A1 Allen to read Indiana R9044A1 Allen.

Iowa 9009E1 Scott to read Iowa R9009E1 Scott.

Iowa 9011B1 Webster to read Iowa R9011B1 Webster.

Iowa 9039C1 Benton to read Iowa R9039C1 Benton.

Kentucky 9033D1 Daviess to read Kentucky R9033D1 Daviess.

Michigan 9044A1 Grand Traverse to read Michigan R9044A1 Grand Traverse.

Minnesota 9009B1 Goodhue to read Minnesota R9009B1 Goodhue.

Minnesota 9015C1 Faribault to read Minnesota R9015C1 Faribault.

Minnesota 9018D1 Douglas to read Minnesota R9018D1 Douglas.

Montana 9016A1 Park to read Montana R9016A1 Park.

Ohio 9087A2 Wood to read Ohio R9087A2 Wood.

Pennsylvania 9015C1 Bradford to read Pennsylvania R9015C1 Bradford.

I hereby amend Administrative Order No. 290, dated September 16, 1938, by omitting the letter "R" from the project designation Georgia R9086A1 Seminole to read Georgia 9086A1 Seminole.

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-3010; Filed, October 13, 1938; 9:54 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of October, A. D. 1938.

[File No. 51-16]

IN THE MATTER OF PENN WESTERN GAS & ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 12 (c) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 31, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 25, 1938.

The matter concerned herewith is in regard to an application duly filed by Penn Western Gas & Electric Company, a registered holding company, pursuant to Rule U-12C-2 promulgated under Section 12 (c) of the Act, for an order approving the declaration and payment of a dividend or dividends out of capital or unearned surplus. It is proposed to effect a complete liquidation and dissolution of applicant. Prior to the formal dissolution thereof applicant proposes to sell all of its assets (other than cash and stock of Sioux City Gas and Electric Company) for cash. The assets are to be distributed by the declaration and payment of a dividend or dividends to consist of a distribution in kind to each stockholder of applicant of one share of Sioux City Gas and Electric Company common stock for each share of stock of applicant held, plus an amount in cash representing his proportionate share, if any, of the cash of the applicant remaining after the payment, or the making of provision for the payment, of the debts of the applicant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3022; Filed, October 13, 1938; 12:52 p. m.]

OCT 17 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 202

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Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER I—BUREAU OF ANIMAL INDUSTRY

[Amendment 24 to Declaration No. 12[1]]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

OCTOBER 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936,[2] the following named counties in the States named having completed the necessary retests for re-accreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Choctaw, October 1, 1941; Clarke, October 1, 1941; Jackson, October 1, 1941; Marengo, October 1, 1941; Mobile, October 1, 1941; Washington, October 1, 1941.

Arizona: Graham, October 1, 1941.

Arkansas: Carroll, October 1, 1941; Conway, October 1, 1941; Phillips, October 1, 1941.

Florida: Baker, October 1, 1941; Bradford, October 1, 1941; Nassau, October 1, 1941; Union, October 1, 1941.

Georgia: Calhoun, October 1, 1941; Clay, October 1, 1941; Early, October 1, 1941; Glascock, October 1, 1941; Jones, October 1, 1941; Lowndes, October 1, 1941; McDuffie, October 1, 1941; McIntosh, October 1, 1941; Newton, October 1, 1941; Putnam, October 1, 1941; Seminole, October 1, 1941; Ware, October 1, 1941.

Illinois: Jo Daviess, October 1, 1941; Logan, October 1, 1944; Piatt, October 1, 1944; Stark, October 1, 1941; White, October 1, 1941.

Indiana: Boone, October 1, 1941; La Porte, October 1, 1941; Vigo, October 1, 1941.

Iowa: Keokuk, October 1, 1941; Union, October 1, 1944.

Kansas: Atchison, October 1, 1941; Jewel, October 1, 1941; Seward, October 1, 1914; Shawnee, October 1, 1941; Stevens, October 1, 1941.

Kentucky: Henry, October 1, 1941; Robertson, October 1, 1941.

Michigan: Dickinson, October 1, 1941; Iron, October 1, 1941; Marquette, October 1, 1941; Ontonagon, October 1, 1941; Schoolcraft, October 1, 1941.

Minnesota: Hennepin, October 1, Polk, October 1, 1944.

Mississippi: Marion, October 1, 1941.

Missouri: Audrain, October 1, 1941; Boone, October 1, 1941; Callaway, October 1, 1941; Charlton, October 1, 1941; Daviess, October 1, 1941; Grundy, October 1, 1941; Knox, October 1, 1941; Laclede, October 1, 1941; Lewis, October 1, 1941; Macon, October 1, 1941; Randolph, October 1, 1941.

Montana: Beaverhead, October 1, 1941; Golden Valley, October 1, 1941; Phillips, October 1, 1941.

Nebraska: Hitchcock, October 1, 1941; Johnson, October 1, 1941; Kearney, October 1, 1941; Nance, October 1, 1941.

New Jersey: Bergen, October 1, 1940.

New Mexico: Quay, October 1, 1941.

North Carolina: Catawba, October 1, 1941; Davidson, October 1, 1941; Rowan, October 1, 1941.

Ohio: Belmont, October 1, 1941; Harrison, October 1, 1941; Jefferson, October 1, 1941; Licking, October 1, 1941.

Oklahoma: Cimarron, October 1, 1941; Dewey, October 1, 1941; Texas, October 1, 1941; Washita, October 1, 1941.

Pennsylvania: Armstrong, October 1, 1941; Lebanon, October 1, 1941.

South Carolina: Charleston, October 1, 1941; Florence, October 1, 1941.

South Dakota: Bennett, October 1, 1941; Fall River, October 1, 1941; Hamlin, October 1, 1941; Harding, October 1, 1941; Shannon, October 1, 1941; Washabaugh, October 1, 1941; Washington, October 1, 1941.

Tennessee: Fentress, October 1, 1941; Lauderdale, October 1, 1941; Morgan, October 1, 1941; Overton, October 1,

[1] Supplements footnote to 9 C F R 3.303.
[2] 1 F. R. 1338.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry: Page
Modified tuberculosis-free accredited areas, names of counties placed in 2481
TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Gates Medicine Co., Inc., cease and desist order 2482
TITLE 17—COMMODITIES AND SECURITIES EXCHANGES:
Securities and Exchange Commission:
Rules of Practice, amendment to 2483
TITLE 29—LABOR:
Wage and Hour Division:
Fair Labor Standards Act, regulations applicable to employment of:
Apprentices 2483
Handicapped persons 2485
Learners 2484
Messengers 2484
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department:
Amendment of rules governing display of signals, craft working on wrecks, engaged in dredging, etc.:
Great Lakes, Red River of the North, etc 2486
Harbors, rivers, inland waters of United States, except Great Lakes, etc 2486
TITLE 42—PUBLIC HEALTH AND EDUCATION:
Children's Bureau:
Child labor regulations; certificates of age 2487

NOTICES

Civil Aeronautics Authority:
Hearings on applications for permanent certificate of

(Continued on next page)

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CONTENTS—Continued

Civil Aeronautics Authority—Con.
public convenience and necessity for certain air transportation by: Page
Delta Air Corp 2490
Marquette Airlines, Inc 2489
National Airlines, Inc 2489
Pacific Alaska Airways, Inc 2490
Pan American Airways Co 2489
Transcontinental & Western Air, Inc 2490
United Air Lines Transport Corp 2490
Department of Agriculture:
Agricultural Adjustment Administration:
Fresh pears grown in Oregon, Washington, and California, base period for agreement and order regulating handling of 2489
Department of Labor:
Wage and Hour Division:
Western Union Telegraph Co., hearing for permission to employ messengers at less than applicable minimum wage specified 2489
Federal Power Commission:
Hearings on applications of:
El Paso Natural Gas Co 2491
Texas Cities Gas Co., and El Paso Natural Gas Co 2491
United Gas Corp 2490
United Gas Pipe Line Co 2490
Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
American Sportswear (Theodore G. Miller) 2492
Associated Sales Co. (Phillip F. Rubenstein) 2491
Belmont Sales Co., and Robert C. and Mildred Bundy 2491

CONTENTS—Continued

Federal Trade Commission—Con. Page
Orders appointing examiners, etc., in the matter of—Con.
Earl Chrome Manufacturing Co. (Morris L. Rauer) 2491
Paramount Products Co., etc. (Al B. Wolf and Max Schwartz 2492
Securities and Exchange Commission:
Iron Fireman Manufacturing Co., voting trust certificates, application granted 2492
Republic Electric Power Corp., et al, notice of order approving plan 2492
United States Maritime Commission:
Hearings on minimum wage scales, minimum manning scales and working conditions for electricians, etc., on subsidized vessels 2493

1941; Scott, October 1, 1941; Stewart, October 1, 1941.

Texas: Anderson, October 1, 1941; Henderson, October 1, 1941.

Virginia: King & Queen, October 1, 1941; King William, October 1, 1941; Lee, October 1, 1941; Norfolk, October 1, 1941; Roanoke, October 1, 1941; Westmoreland, October 1, 1941.

West Virginia: Doddridge, October 1, 1941; Lincoln, October 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended,[1] is hereby further amended accordingly.

[SEAL] J. R. MOHLER, *Chief of Bureau.*

[F. R. Doc. 38-3023; Filed, October 13, 1938; 1:43 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3483]

IN THE MATTER OF GATES MEDICINE COMPANY, INC.

SEC. 3.6 (y) *Advertising falsely or misleadingly—Safety.* — Representing that "Rock-A-Water Tablets", or any substantially similar product, may be taken with impunity by all, for reduction of fat, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gates Medicine Company, Inc., Docket 3483, October 4, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that use of "Rock-A-Water Tablets", or any substantially similar product, will cause user to reduce ten pounds in eleven days, or result in any definite reduction of fat, etc., within any definite period of time, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gates Medicine Company, Inc., Docket 3483, October 4, 1938.]

SEC. 3.6 (l) *Advertising falsely or misleadingly—Indorsements and testimonials:* Sec. 3.18 *Claiming indorsements or testimonials falsely.*—Falsely representing that "Rock-A-Water Tablets", or any substantially similar product, have approval of a "noted authority" or any other authority, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gates Medicine Company, Inc., Docket 3483, October 4, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact as set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent, Gates Medicine Company, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce and in the District of Columbia of the product now designated as "Rock-A-Water Tablets", or of any product or products of substantially the same or similar ingredients, or possessing the same or similar properties, under the same or any other name or names, do forthwith cease and desist, directly or indirectly, from representing:

(1) That said product constitutes a safe or harmless agency, which may be taken with impunity by all persons, for the reduction of fat or decrease in body weight;

(2) That the use of said product will cause the user to "reduce 10 pounds in 11 days" or result in any definite reduction of fat or decrease in body weight within any definite period of time;

(3) That said product has the approval of a "noted authority", or any other authority, when such is not the fact.

It is further ordered, That the respondent shall, within ten (10) days after service upon it of this order, file with the Commission an interim report in writing stating whether it intends to comply with this order, and, if so, setting forth in detail the manner and form in which it intends to comply; and that, within sixty (60) days after service upon it of this order, said respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3036; Filed, October 14, 1938; 11:41 a. m.]

[1] 3 F. R. 2253 DI.

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDMENT TO RULES OF PRACTICE

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) [C. 38, sec. 19, 48 Stat. 85; c. 404, sec. 209, 48 Stat. 908; 15 U. S. C. 77s] thereof, the Securities Exchange Act of 1934, particularly Section 23 (a) [C. 404, sec. 23, 48 Stat. 901; c. 462, sec. 8, 49 Stat. 1379; 15 U. S. C. 78w and Sup. III] thereof, the Public Utility Holding Company Act of 1935, particularly Section 20 (a) [C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t] thereof, and finding that it is necessary to carry out the provisions of the Securities Act of 1933, as amended, and the Public Utility Holding Company Act of 1935, and that it is necessary for the execution of the functions vested in the Commission by the Securities Exchange Act of 1934 hereby amends Rule IX (e) [Sec. 1.IX] of the Rules of Practice of the Commission by striking the first sentence of said rule and substituting the following sentence:

"Within five days after the receipt of a copy of the transcript of the testimony, if promptly at the conclusion of the hearing he has ordered a copy thereof, or if he has not ordered a copy, within five days after the filing of the transcript of the testimony with the duly designated officer of the Commission, any party or counsel to the Commission may submit to the presiding officer, or, in the case of a hearing before a trial examiner in respect of which no trial examiner's report is required to be submitted, to the officer designated in paragraph (a) of this Rule as the person with whom transcripts of testimony are to be filed, a statement in writing in terse outline setting forth such party's request for specific findings, which may be accompanied by a brief in support thereof."

Effective immediately upon publication.[1]

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3046; Filed, October 14, 1938; 12:49 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

[Part 521]

REGULATIONS APPLICABLE TO EMPLOYMENT OF APPRENTICES PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT *

The following regulations—Part 521—(Regulations applicable to Employment of Apprentices pursuant to Section 14 of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 521—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this 12 day of Oct. 1938.

ELMER F. ANDREWS, *Administrator.*

It having been found by me upon investigation that, in order to prevent curtailment of opportunities for employment, it is necessary to make special provision for the employment of apprentices at minimum wage rates fixed in the apprenticeship agreement, where such rates are less than the minimum wage rates applicable under Section 6 of the Fair Labor Standards Act of 1938, I hereby prescribe the following Rules and Regulations governing the employment of apprentices: *

SECTION 521.1 DEFINITIONS

For the purpose of these Rules and Regulations the term "apprentice" shall mean: a person at least 16 years of age who is covered by a written agreement with an employer, or with an association of employers, which apprenticeship agreement (1) has been approved by the State Apprenticeship Council or other established authority of the State, or if none such exists, by the Federal Committee on Apprenticeships, and (2) provides for not less than 4,000 hours of reasonably continuous employment for such person, for his participation in an approved schedule of work experience through employment and at least 144 hours per year of related supplemental instruction.*

SECTION 521.2 APPLICATIONS ON OFFICIAL FORMS

Whenever employment of an apprentice is desired at a rate or rates less than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act of 1938, application therefor may be made of the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C., upon forms furnished by that agency.*

SECTION 521.3 APPLICATIONS TO BE JOINT

Such application shall be signed by both the employer and the apprentice and shall be accompanied by the apprenticeship agreement or an authenticated copy thereof.*

SECTION 521.4 ISSUANCE OF SPECIAL CERTIFICATES

If, upon an examination of such application and the accompanying apprenticeship agreement, the Administrator or his authorized representative is satisfied that the application and agreement comply with the provisions of the foregoing regulations, and that not less than 4,000 hours of reasonably continuous employment is required to prepare a worker of normal ability for the skilled occupation designated in the apprenticeship agreements, he will issue, in triplicate, a Special Certificate in the name of the Administrator, authorizing the employment of the named apprentice at the rate or rates (less than the minimum wage applicable under Section 6) and for the length or lengths of time specified in the agreement. Such rate or rates and the length of time for which they are applicable shall be set forth in the Certificate.*

SECTION 521.5 COPIES OF CERTIFICATES

One copy of the Certificate will be given the apprentice, one copy shall be given the employer who shall keep the same on file with his employment record, and one copy will be retained in the files of the Wage and Hour Division, Department of Labor.*

SECTION 521.6 RATE SET IN CERTIFICATE

No employer shall employ any apprentice under a Special Certificate at a wage rate less than the rate applicable in such Certificate.*

SECTION 521.7 PETITION FOR REVIEW

Any person aggrieved by the action of an authorized representative of the Administrator under these regulations, either in granting or denying a Certificate for the employment of an appentice, may, within 15 days after the action of such representative, or within such further time as the Administrator, for cause shown, may allow, file a petition with the Administrator requesting a review by the Administrator of the action of the representative and praying for such relief as is desired. If the request for review is

[1] October 14, 1938.

* Sections 521.1 to 521.8 issued under the authority contained in Sec. 14, 52 Stat. 1060.

granted, all interested parties will be afforded an opportunity to be heard, either in support or in opposition to the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the FEDERAL REGISTER and made public by general press release at least five days before the date of such hearing: Provided, that if review is granted by the Administrator in a case where the petitioners are requesting the cancellation of a Special Certificate, a notice of the time and place of the hearing will be sent by registered mail to the apprentice and his employer at their last known address or addresses.*

SECTION 521.8 PETITION FOR AMENDMENT OF REGULATIONS

Any person wishing a revision of any of the terms of the foregoing regulations applicable to apprentices may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the Rules and Regulations is set forth the Administrator will either schedule a hearing, with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.

[F. R. Doc. 38-3050; Filed, October 14, 1938; 1:16 p. m.]

[Part 522]

REGULATIONS APPLICABLE TO EMPLOYMENT OF LEARNERS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT *

The following regulations—Part 522—(Regulations applicable to Employment of Learners pursuant to Section 14 of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 522—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C. this 12 day of Oct. 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 522.1 APPLICATION FOR LEARNERS

Application may be made to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C. to employ learners in an occupation at a wage lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 whenever employment at such lower rate is necessary to prevent curtailment of employment opportunities.*

SECTION 522.2 APPLICATIONS BY GROUPS OR INDIVIDUALS

Such application may be filed by an employer or employee or group of employers or employees. Preferential consideration will be given, however, to applications filed by groups or organizations which are deemed to be representative of the interests of a whole industry or branch thereof.*

SECTION 522.3 CONSIDERATION ON BASIS OF INDUSTRY

All applications filed under these regulations will be considered and acted upon on the basis of the needs of the employees and employers in the industry as a whole rather than on the basis of the needs of individual employees or employers in the industry.*

SECTION 522.4 INFORMATION IN APPLICATIONS

The application shall

(a) identify the industry and occupation or occupations therein in which learners are requested to be employed at a wage lower than those applicable under Section 6;

(b) described the processes to be learned in the occupation;

(c) state whether experienced workers are available for employment in the occupation or occupations for which learners are requested to be employed at a wage lower than those applicable under Section 6, as shown by the records of the public employment office or offices in the region where such industry or branch thereof is located;

(d) state average hourly earnings of experienced workers in such occupation;

(e) state why learners should be employed at a wage less than those applicable under Section 6;

(f) set forth the proposed hourly wage rate at which learners will be compensated; and

(g) include any other information believed to be pertinent.*

SECTION 522.5 HEARINGS

A hearing will be held before the Administrator or his authorized representative on such application at which all interested parties will be afforded an opportunity to present evidence and to be heard. A notice of the time, place, and scope of the hearing will be published in the FEDERAL REGISTER and made public by a general press release at least five days before the date of such hearing.*

SECTION 522.6 WITNESSES

The Administrator or his authorized representative may cause to be brought before him at such hearing any witness whose testimony he deems material to the matters in issue.*

SECTION 522.7 BURDEN OF PROOF ON APPLICANTS

The applicants shall have the burden of showing at such hearing that the minimum wage applicable under Section 6 will curtail employment opportunities for learners in the occupation or occupations of the industry designated in the application.*

SECTION 522.8 FURTHER REGULATIONS FOR CERTIFICATES

If upon the hearing the Administrator or his authorized representative determines that a lower wage rate than the rate applicable under Section 6 is necessary for an occupation or occupations of the industry to prevent curtailment of employment opportunities, the Administrator will issue regulations providing for the employment of learners in such occupation in the industry under special certificates at such lower wage (subject to such limitations as to time, number, proportion and length of service) as the Administrator or his authorized representative has found to be necessary on the basis of the evidence presented at the hearing.*

SECTION 522.9 PETITION FOR REVIEW

Any person aggrieved by the action of an authorized representative of the Administrator under these regulations may within fifteen days after the action of such representative file a petition with the Administrator requesting a review by the Administrator of the action of the representative. If the request for review is granted, all interested parties will be afforded an opportunity to be heard either in support or in opposition to the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the FEDERAL REGISTER and made public by a general press release at least five days before the date of such hearing.*

SECTION 522.10 PETITION FOR AMENDMENT OF REGULATIONS

Any person wishing a revision of any of the terms of the foregoing regulations applicable to learners may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, either in support or in opposition to the proposed changes.*

[F. R. Doc. 38-3051; Filed, October 14, 1938; 1:16 p. m.]

[Part 523]

REGULATIONS APPLICABLE TO EMPLOYMENT OF MESSENGERS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT *

The following regulations—Part 523—(Regulations applicable to Employment

* Sections 522.1 to 522.10 issued under the authority contained in Sec. 14, 52 Stat. 1060.

* Sections 523.1 to 523.10 issued under the authority contained in Sec. 14, 52 Stat. 1060.

of Messengers pursuant to Section 14 of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 523—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C. this 12 day of Oct. 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 523.1 APPLICATION FOR MESSENGERS

Application may be made to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C., to employ messengers to be engaged exclusively in delivering letters and messages at a wage lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 whenever employment at such lower rate is necessary to prevent curtailment of employment opportunities.*

SECTION 523.2 APPLICATIONS BY GROUPS OR INDIVIDUALS

Such application may be filed by an employer or employee or group of employers or employees. Preferential consideration will be given, however, to applications filed by groups or organizations which are deemed to be representative of the interests of a whole industry or branch thereof.*

SECTION 523.3 CONSIDERATION ON BASIS OF INDUSTRY

All applications filed under these regulations will be considered and acted upon on the basis of the needs of the employees and employers in the industry as a whole rather than on the basis of the needs of individual employees or employers in the industry.*

SECTION 523.4 INFORMATION IN APPLICATIONS

The application shall

(a) identify the industry in which messengers, to be engaged exclusively in delivering letters and messages, are requested to be employed at a wage lower than those applicable under Section 6;

(b) set forth the proposed hourly wage rate at which messengers will be compensated;

(c) state why messengers should be employed at a wage less than those applicable under Section 6; and

(d) include any other information believed to be pertinent.*

SECTION 523.5 HEARINGS

A hearing will be held before the Administrator or his authorized representative on such application at which all interested parties will be afforded an opportunity to present evidence and to be heard. A notice of the time, place, and scope of the hearing will be published in the FEDERAL REGISTER and made public by a general press release at least five days before the date of such hearing.*

SECTION 523.6 WITNESSES

The Administrator or his authorized representative may cause to be brought before him at such hearing any witness whose testimony he deems material to the matters in issue.*

SECTION 523.7 BURDEN OF PROOF ON APPLICANTS

The applicant or applicants shall have the burden of showing at such hearing that the minimum wage applicable under Section 6 will curtail employment opportunities for messengers in the industry designated in the application.*

SECTION 523.8 FURTHER REGULATIONS FOR CERTIFICATES

If upon the hearing the Administrator or his authorized representative determines that a lower wage rate than the rate applicable under Section 6 is necessary to prevent curtailment of employment opportunities, the Administrator will issue rules and regulations providing for the employment of messengers in the industry under special certificates at such lower wage (subject to such limitations as to time, number, proportion and length of service) as the Administrator or his authorized representative has found to be necessary on the basis of the evidence presented at the hearing.*

SECTION 523.9 PETITION FOR REVIEW

Any person aggrieved by the action of an authorized representative of the Administrator under these regulations may within fifteen days after the action of such representative file a petition with the Administrator requesting a review by the Administrator of the action of the representative. If the request for review is granted, all interested parties will be afforded an opportunity to be heard either in support or in opposition to the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the FEDERAL REGISTER and made public by a general press release at least five days before the date of such hearing.*

SECTION 523.10 PETITION FOR AMENDMENT OF REGULATIONS

Any person wishing a revision of any of the terms of the foregoing regulations applicable to messengers may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.*

[F. R. Doc. 38-3052; Filed, October 14, 1938; 1:16 p. m.]

[Part 524]

REGULATIONS APPLICABLE TO EMPLOYMENT OF HANDICAPPED PERSONS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT *

The following regulations—Part 524—(Regulations applicable to Employment of Handicapped Persons pursuant to Section 14 of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 524—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C. this 12 day of Oct. 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 524.1 PURPOSE OF APPLICATION

Application may be made to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C. to employ a worker whose earning capacity is impaired by age or physical or mental deficiency or injury, at a wage lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, whenever employment at such lower rate is necessary to prevent curtailment of employment opportunities.*

SECTION 524.2 APPLICATIONS ON OFFICIAL FORMS

Such application shall be made upon forms furnished by the Wage and Hour Division and shall be signed by both the handicapped worker and the employer.*

SECTION 524.3 ISSUANCE OF CERTIFICATES

If the application is in proper form and sets forth facts showing

(a) that the worker is handicapped within the meaning of Section 14 of said act;

(b) that such handicap has impaired the earning capacity of the worker for the particular position for which the application is made, and the extent of such impairment; and

(c) that such worker should be employed at a wage lower than the minimum wage applicable under Section 6 to prevent curtailment of such worker's employment opportunities,

the Administrator or his authorized representative may accept the facts as presented and issue, in triplicate, a Special Certificate in the name of the Administrator, authorizing the employment of the named worker in the position designated at such rate lower than the minimum wage applicable under Section 6 and for such length of time as the Administrator or such representative determines to be necessary to prevent curtailment of employment opportunities,

* Sections 524.1 to 524.10 issued under the authority contained in Sec. 14, 52 Stat. 1060.

subject to the limitations hereinafter prescribed in these regulations. Such rate and the length of time for which it is applicable shall be specified in the Certificate.*

SECTION 524.4 INVESTIGATION MAY BE ORDERED

To determine whether the facts justify the issuance of a Special Certificate for a handicapped worker, the Administrator or his authorized representative may in any case order an investigation and require the worker to take a medical examination, or may require that certain facts be certified to by designated officers of the state or federal government.*

SECTION 524.5 REQUIREMENT FOR RATES LESS THAN 75% OF APPLICABLE RATE

No wage rate fixed for a handicapped worker shall be less than 75% of the minimum wage applicable under Section 6 until approved by the Administrator after investigation showing that such lesser wage rate is justified.*

SECTION 524.6 TERMINATION OF CERTIFICATES

All Special Certificates issued for handicapped workers prior to July 1, 1939 shall terminate on September 1, 1939.*

SECTION 524.7 NO CERTIFICATES FOR SLOW OR INEXPERIENCED WORKERS

No Special Certificate will be issued for a worker because he is shown to be slow or inexperienced, unless he is handicapped within the meaning of the act and these regulations.*

SECTION 524.8 PROHIBITION—FALSE EVIDENCE

(a) No employer shall employ any handicapped worker under a Special Certificate at a wage rate lower than the rate applicable in such Certificate.

(b) No employer shall set forth any fact or facts in his application which he knows or has reasonable cause to believe are false.

(c) A Special Certificate shall be null and void if any material statement or information carried in the application is found to be false.*

SECTION 524.9 PETITION FOR REVIEW

Any person aggrieved by the action of the Administrator or an authorized representative of the Administrator under these regulations, either in granting or denying a Certificate for the employment of a handicapped worker, may within 15 days thereafter, or within such further time as the Administrator, for cause shown, may allow, file a petition with the Administrator requesting a review by the Administrator of his section or the action of the authorized representative and praying for such relief as is desired. If the request for review is granted, all interested parties will be afforded an opportunity to be heard, either in support or in opposition to the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the FEDERAL REGISTER and made public by general press release at least 5 days before the date of such hearing: *Provided*, That if review is granted by the Administrator in a case where the petitioners are requesting the cancellation of a Special Certificate, a notice of the time and place of the hearing will be sent by registered mail to the handicapped worker and his employer named in the Certificate, at their last known address or addresses.*

SECTION 524.10 PETITION FOR AMENDMENT OR REGULATIONS

Any person wishing a revision of any of the terms of the foregoing regulations applicable to handicapped workers may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the rules and regulations is set forth, the Administrator will either schedule a hearing, with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.*

[F. R. Doc. 38-3053; Filed, October 14, 1938; 1:17 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

AMENDMENT TO RULES AND REGULATIONS GOVERNING DISPLAY OF SIGNALS ON, AND OPERATION OF, ALL CRAFT AND ACCESSORIES WORKING ON WRECKS, ENGAGED IN DREDGING, SURVEYING, OR OTHER WORK OF IMPROVEMENT, AND THE USE AND NAVIGATION OF WATERS IN VICINITY OF GREAT LAKES AND THEIR CONNECTING AND TRIBUTARY WATERS AS FAR EAST AS MONTREAL, RED RIVER OF THE NORTH, AND RIVERS WHOSE WATERS FLOW INTO GULF OF MEXICO, AND THEIR TRIBUTARIES

In pursuance of Section 7 of the River and Harbor Act[1] approved August 8, 1917, paragraph 7 of these regulations is hereby amended to read as follows:

7. Lights to be displayed on pipe lines—Floodlights.

Pipe lines attached to dredges, and either floating or supported on trestles, shall display by night one row of amber lights not less than 8 feet nor more than 12 feet above the water, about equally spaced and in such number as to mark distinctly the entire length and course of the line, the intervals between lights where the line crosses navigable channels to be not more than 30 feet. There shall also be displayed on the shore or discharge end of the line 2 red lights, 3 feet apart, in a vertical line with the lower light at least 8 feet above the water, and if the line is to be open at night for the passage of vessels, a similar arrangement of lights shall be displayed on each side of the opening. The light shall be of the same size and character as specified in rule 5 above.

All floodlights or headlights of which the light rays point directly toward an approaching vessel shall be switched off until the passing vessel has reached a point where such lights will not blind the pilot.

Approved, October 3, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-3029; Filed, October 14, 1938; 9:54 a. m.]

AMENDMENT TO SUPPLEMENTAL REGULATIONS GOVERNING DISPLAY OF SIGNALS ON, AND OPERATION OF, ALL CRAFT AND ACCESSORIES WORKING ON WRECKS, ENGAGED IN DREDGING, SURVEYING, OR OTHER WORK OF IMPROVEMENT, AND THE USE AND NAVIGATION OF WATERS IN VICINITY, IN ALL HARBORS, RIVERS, AND INLAND WATERS OF UNITED STATES, EXCEPT GREAT LAKES AND THEIR CONNECTING AND TRIBUTARY WATERS AS FAR EAST AS MONTREAL, RED RIVER OF THE NORTH, AND RIVERS EMPTYING INTO GULF OF MEXICO AND THEIR TRIBUTARIES

In pursuance of Section 7 of the River and Harbor Act[1] approved August 8, 1917, paragraph 1 of these regulations is hereby amended to read as follows:

1. Lights to be displayed on pipe lines—Floodlights.

Pipe lines attached to dredges, and either floating or supported on trestles, shall display by night one row of amber lights not less than 8 feet nor more than 12 feet above the water, about equally spaced and in such number as to mark distinctly the entire length and course of the line, the intervals between lights where the line crosses navigable channels to be not more than 30 feet. There shall also be displayed on the shore or discharge end of the line 2 red lights, 3 feet apart, in a vertical line with the lower light at least 8 feet above the water, and if the line is to be open at night for the passage of vessels, a similar arrangement of lights shall be displayed on each side of the opening. The lights shall be of the same size and character as specified in rule 5 above.

All floodlights or headlights of which the light rays point directly toward an approaching vessel shall be switched off until the passing vessel has reached a point where such lights will not blind the pilot.

Approved, October 3, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-3030; Filed, October 14, 1938; 9:55 a. m.]

[1] 40 Stat. 266; 3 F. R. 1111 DI.

[1] 40 Stat. 266; 3 F. R. 1111 DI.

TITLE 42—PUBLIC HEALTH AND EDUCATION

CHILDREN'S BUREAU

CHILD LABOR REGULATIONS

REGULATION NO. 1—CERTIFICATES OF AGE

OCTOBER 14, 1938.

By virtue of and pursuant to the authority conferred by section 3 (1) and section 11 (b) of the Fair Labor Standards Act of 1938 (Act of June 25, 1938, Public No. 718, 75th Congress, Chapter 676, 3d Session), the following regulation is prescribed for the administration of the child-labor provisions of the Fair Labor Standards Act of 1938 relating to certificates of age.

Authority for Regulation

SEC. 3 (1) OF THE ACT

"* * * *oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Chief of the Children's Bureau certifying that such person is above the oppressive child-labor age.*"

SEC. 11 (B) OF THE ACT

"*With the consent and cooperation of State agencies charged with the administration of State labor laws, the Administrator and the Chief of the Children's Bureau may, for the purpose of carrying out their respective functions and duties under this act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.*"

Certificates of Age

SEC. 1. *Definitions.*—As used in this regulation:

(a) "Act" means the child-labor provisions of the Fair Labor Standards Act of 1938;

(b) "Chief of the Bureau" means the Chief of the Children's Bureau of the United States Department of Labor;

(c) "Oppressive child-labor age" means—

(1) Under the age of 16 years with respect to employment in any occupation;[1]

(2) 16 and under 18 years of age with respect to employment in any occupation found and by order declared by the Chief of the Bureau to be particularly hazardous for the employment of minors of such ages or detrimental to their health or well-being.

(d) A certificate of age means a certificate as provided in subsections (a) or (b) of section 2 of this regulation.

(e) "State agency" means any executive department, board, bureau or commission of the State or any division or unit thereof.

SEC. 2. *Certificates of age, effect.*—The employment of any minor shall not be deemed to constitute oppressive child labor under the Act if his employer shall have on file an unexpired certificate, issued and held in accordance with this regulation, which shall be either:—

(a) A Federal certificate of age, issued by a person authorized by the Chief of the Bureau, showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed, or—

(b) A State certificate, which may be in the form of and known as an age, employment, or working certificate or permit, issued by or under the supervision of a State agency in such States as hereafter may be designated for this purpose by the Chief of the Bureau, showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed. Any such certificate shall have the force and effect specified in section 4 hereof.

An employer, in order to protect himself from unwitting violation of the Act, should obtain a certificate of age as prescribed in paragraphs (a) and (b) of this section, for each minor 16 or 17 years of age employed by him; and, if the employment is in an occupation found and by order declared to be particularly hazardous for the employment of minors 16 and under 18 years of age or detrimental to their health or well-being, he should obtain a certificate of age for each minor 18 or 19 years of age so employed. An employer may request the issuance of a certificate for any minor of more advanced age if he has any doubt concerning the age of such minor.

SEC. 3. *Federal certificates of age, information contained in.*—A Federal certificate of age issued by any person authorized by the Chief of the Bureau shall contain the following information:

(a) Name and address of minor.

(b) Place and date of birth of minor, together with a statement indicating the evidence on which this is based.

(c) Sex and color of minor.

(d) Signature of minor.

(e) Name and address of minor's parent or person standing in place of parent.

(f) Name and address of employer.

(g) Signature of issuing officer.

(h) Date and place of issuance.

A Federal certificate of age for a minor under 18 years of age shall be sent by the person authorized to issue such certificates to the prospective employer of the minor, who shall keep such certificate on file at the place of the minor's employment and who on the termination of the employment of the minor shall return the certificate to the person issuing it. A certificate so returned shall be accepted as proof of age for the issuance of any subsequent Federal certificate of age for that minor, without presentation of further proof of age. Whenever a Federal certificate of age is issued for a minor 18 or 19 years of age it shall be given to the minor by the person issuing the certificate. Every minor 18 or 19 years of age shall, upon entering employment, deliver his certificate of age to his employer for filing and upon the termination of the employment the employer shall return the certificate to the minor.

SEC. 4. *Proof of age.*—A Federal certificate of age shall be issued upon application of the minor desiring employment to the person authorized to issue such certificates and only after documentary evidence of age has been received, examined, and approved. Such evidence shall consist of one of the following proofs of age, to be required in the order of preference herein designated, as follows:

(a) A birth certificate or attested trancript thereof or a signed statement of the recorded date and place of birth, issued by a registrar of vital statistics or other officer charged with the duty of recording births.

(b) A record of baptism or attested transcript thereof, showing the date and place of birth and date and place of baptism of the minor, or a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or other documentary evidence satisfactory to the Chief of the Bureau or such persons as he may authorize to issue Federal certificates of age, such as a passport showing the age of the minor, or a certificate of arrival in the United States issued by the United States immigration office and showing the age of the minor, or a life-insurance policy; *Provided*, That, such other documentary evidence has been in existence at least one year prior to the time it is offered as evidence; and *Provided further*, That a

[1] Employment of a child by his parent or by a person standing in place of a parent in occupations other than manufacturing or mining is exempted (section 3 (1)) from the 16-year minimum-age standard.

The Act provides that the Chief of the Bureau shall provide by regulation or by order that the employment of employees between the ages of 14 and 16 years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Chief of the Bureau determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

school record of age or an affidavit of a parent or a person standing in place of a parent, or other written statement of age shall not be accepted except as specified in paragraph (c) of this section;

(c) The school record or the school-census record of the age of the minor, together with the sworn statement of a parent or person standing in place of a parent as to the age of the minor and also a certificate signed by a physician specifying what in his opinion is the physical age of the minor; such certificate shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician as to the physical age of the minor is based. If the school or school-census record of age is not obtainable, the sworn statement of the parent or person standing in place of a parent as to the age of the minor, together with a physician's certificate of age as hereinbefore specified, may be accepted as evidence of age.

The officer issuing a Federal certificate of age for a minor shall require the evidence of age specified in paragraph (a) of this section in preference to that specified in paragraphs (b) and (c) of this section, and shall not accept the evidence of age permitted by either subsequent paragraph unless he shall receive and file evidence that the evidence of age required by the preceding paragraph or paragraphs cannot be obtained.

SEC. 5. *Acceptance of State certificates.*—A State in which age, employment, or working certificates or permits are issued by or under the supervision of a State agency substantially in accordance with this regulation may be designated by the Chief of the Bureau as a State in which certificates so issued shall have the same force and effect as Federal certificates except as individual certificates may be suspended or revoked in accordance with section 6 hereof: *Provided*, That any State having a certificate system which does not entirely conform with this regulation may be so designated temporarily by the Chief of the Bureau upon the basis of an agreement with an agency of the State pending such improvements in State law and procedure as will bring such State system up to the Standards of this regulation.

Certificates requiring conditions or restrictions additional to those required by this regulation shall not be deemed to be inconsistent herewith.

The designation of a State under this section shall have force and effect during the period of time specified therein unless withdrawal of such designation at an earlier date is deemed desirable for the effective administration of the Act. No withdrawal or expiration of the designation of a State under this section shall make any certificate invalid if it was issued by or under the supervision of a State agency as herein provided prior to such withdrawal or expiration.

SEC. 6. *Suspension or revocation of certificates.*—(a) Whenever a person duly authorized to make investigations or inspections under this Act shall obtain substantial evidence that the age of the minor as given on a certificate held by an employer subject to this Act is incorrect, he shall inform the employer and the minor of such evidence and of his intention to present the same to the issuing officer in order to afford such officer opportunity to revoke the certificate. Before revoking a certificate the issuing officer shall give the employer and the minor reasonable opportunity to present any evidence which they may desire to present in support of the validity of the certificate. If, upon such presentation, the issuing officer does not revoke the certificate, the said authorized person shall, if in his judgment the evidence so warrants, suspend the certificate for the purposes of the Act by writing across the face of the certificate "SUSPENDED AS PROOF OF AGE UNDER THE FAIR LABOR STANDARDS ACT OF 1938" and he shall notify the employer, the minor, the issuing officer, and the State agency or agencies supervising the issuance or revocation of certificates that the certificate is suspended as proof of age under the Act. Such notice shall contain a statement of the evidence upon which the suspension is based and the reason for such suspension, and shall inform the persons notified that if they so desire they may send documentary evidence or certified copies thereof, or other relevant information concerning the age of the minor for whom the certificate is suspended, to the appropriate reviewing officer in that State, if any, whose name and address shall be stated in said notice, or, if there is no such reviewing officer, to the Chief of the Bureau, who in such case shall be the reviewing officer. The person suspending the certificate shall also send to the reviewing officer a complete statement of the case, including copies of documentary evidence upon which such suspension is based. In no case shall the Chief of the Bureau cancel the acceptance for the purposes of the Act of a State certificate issued by or under the supervision of a State agency without giving the State agency or agencies supervising the issuance or revocation of certificates adequate opportunity to revoke or cancel the certificate in question.

(b) After the expiration of a reasonable period for the submission of evidence to the reviewing officer by any of the interested persons and upon the basis of evidence so submitted—

(1) the reviewing officer shall revoke the certificate or cancel the acceptance of the certificate for the purposes of the Act and send notices of his action to the minor, the employer, the officer suspending the certificate, the issuing officer, and when the reviewing officer is not the Chief of the Bureau, to the Chief of the Bureau, *or*—

(2) if the reviewing officer is not the Chief of the Bureau and if such reviewing officer believes that the action of the officer suspending the certificate should be reversed, he shall submit the case to the Chief of the Bureau with such recommendations as he may wish to make.

The Chief of the Bureau shall have the right in all cases to review and approve or reverse the action of suspending or reviewing officers and shall review suspensions in all cases in which there has been no previous review, and shall send notices of his decision to the minor, the employer, the issuing officer, the officer suspending the certificate, and the reviewing officer.

(c) If the action on a suspension or revocation of a certificate is reversed, a new certificate may be issued upon the surrender of the one suspended or revoked. If for any reason such new certificate cannot be obtained from an issuing officer the notice of the reversal of suspension or revocation, if attached to such certificate, shall be recognized and accepted as meeting the requirements of the Act and of this regulation.

SEC. 7. *Revoked or suspended certificates.*—A certificate which has been revoked, suspended, or canceled as proof of age under the Act shall be of no force and effect under the Act, after notice of such revocation, suspension, or cancellation, except as otherwise provided in section 6 hereof.

SEC. 8. *Effect on other laws.*—No provision of this regulation shall under any circumstances justify or be construed to permit noncompliance with the provisions of any other Federal law or of any State law or municipal ordinance establishing higher standards than those established under this regulation.

SEC. 9. *Revision of regulation.*—Any person wishing a revision of any of the terms of the foregoing regulation applicable to certificates of age may submit in writing to the Chief of the Bureau a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Chief of the Bureau believes that reasonable cause for amendment of the regulation is set forth, he shall either schedule a hearing, with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.

KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 38-3045; Filed, October 14, 1938; 12:48 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

PROCLAMATION WITH RESPECT TO BASE PERIOD TO BE USED FOR PURPOSE OF MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER AND BEURRE CLAIRGEAU VARIETIES OF FRESH PEARS GROWN IN STATES OF OREGON, WASHINGTON AND CALIFORNIA

By virtue of the authority vested in the Secretary of Agriculture by Public No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, approved June 3, 1937, it is hereby found and proclaimed that, with respect to the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington and California, the purchasing power of such fall and winter pears during the base period, August 1909—July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter and Beurre Clairgeau varieties of fresh pears grown in the States of Oregon, Washington and California, but the purchasing power of such fall and winter pears grown in the States of Oregon, Washington and California, can be satisfactorily determined from available statistics of the Department of Agriculture for the post-war period, August 1920–July 1929. The period August 1920–July 1929 is, therefore, hereby declared and proclaimed to be the base period to be used in determining the purchasing power of said varieties of fresh pears grown in the States of Oregon, Washington and California for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such fruit.

In witness whereof, the Secretary of Agriculture has executed this proclamation in duplicate and has hereunto set his hand and caused the seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of October 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3024; Filed, October 13, 1938; 1:43 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING REGARDING APPLICATION OF WESTERN UNION TELEGRAPH COMPANY FOR PERMISSION TO EMPLOY MESSENGERS AT WAGE RATES LESS THAN APPLICABLE MINIMUM WAGE SPECIFIED IN SECTION 6 OF FAIR LABOR STANDARDS ACT OF 1938

Whereas, application has been made by the Western Union Telegraph Company under Section 14 of the Fair Labor Standards Act of 1938 and regulations (Part 523—Regulations Applicable to the Employment of Messengers pursuant to Section 14 of the Fair Labor Standards Act—Title 29, Labor, chapter 5, Wage and Hour Division) issued by the Administrator thereunder for permission to employ messengers at wages less than the applicable minimum wage specified in Section 6 of the Act;

Now, therefore, pursuant to the Act and the regulations, notice is hereby given of a public hearing to be held on said application in Room 500, State Office Building, 80 Center Street, New York City, to commence at 10:00 A. M., on October 20, 1938, to take testimony for the purpose of determining whether it is necessary, in order to prevent curtailment of opportunities for employment, to provide for the employment of messengers (employed exclusively in delivering letters and messages) at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and, if such necessity is found to exist, to determine at what wages lower than the minimum wage applicable under Section 6, such employment of messengers shall be permitted, and with what limitations as to time, number, proportion and length of service.

At this hearing, opportunity will be afforded to interested persons to present evidence relevant to the foregoing inquiry. All persons or associations desiring to avail themselves of this opportunity should if possible notify the Administrator in advance by telegraph.

Pursuant to authority vested in the Administrator by the Fair Labor Standards Act of 1938, Mr. William M. Leiserson is hereby designated as presiding officer to conduct the said hearing and to determine whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of messengers (employed exclusively in delivering letters and messages) at wage rates lower than the minimum wage applicable under Section 6 of said act, and if such necessity is found to exist, to determine at what wages lower than the minimum wage applicable under Section 6, such employment of messengers shall be permitted, and with what limitations as to time, number, proportion, and length of service.

[SEAL] ELMER F. ANDREWS,
Administrator,

OCTOBER 14, 1938.

[F. R. Doc. 38-3044; Filed, October 14, 1938; 12:47 p. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 5-401 (E)-2]

APPLICATION OF NATIONAL AIRLINES, INC., UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION OF MAIL, PASSENGERS, AND PROPERTY BETWEEN DAYTONA BEACH AND MIAMI, FLA., VIA ORLANDO, LAKELAND, TAMPA, ST. PETERSBURG, SARASOTA, AND FORT MYERS, FLA.

OCTOBER 13, 1938.

The above-entitled proceeding is assigned for public hearing on October 29, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before examiner L. Jordan.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3037; Filed, October 14, 1938; 12:32 p. m.]

[Docket No. 6-401 (E)-1]

APPLICATION OF PAN AMERICAN AIRWAYS COMPANY UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION OF PASSENGERS, PROPERTY, AND MAIL BETWEEN SAN FRANCISCO, CALIF., AND HONG KONG, CHINA

OCTOBER 13, 1938.

The above-entitled proceeding is assigned for public hearing on October 24, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before examiner F. A. Law.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3038; Filed, October 14, 1938; 12:32 p. m.]

[Docket No. 7-401 (E)-1]

APPLICATION OF MARQUETTE AIRLINES, INC., UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION OF PASSENGERS, AND PROPERTY FROM ST.

LOUIS, MO., VIA GREENVILLE, ILL., VINCENNES, IND., SEYMOUR, IND., TO CINCINNATI, OHIO, THENCE TO DAYTON, OHIO, THENCE VIA FINDLAY, OHIO, TO TOLEDO, OHIO, THENCE TO DETROIT, MICH., AND RETURN

OCTOBER 13, 1938.

The above-entitled proceeding is assigned for public hearing on October 25, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before examiner A. G. Nye.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3039; Filed, October 14, 1938; 12:32 p. m.]

[Docket No. 8-401 (E)-1]

APPLICATION OF DELTA AIR CORPORATION UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION OF MAIL, PASSENGERS, AND PROPERTY, FROM CHARLESTON, S. C., TO FORT WORTH, TEXAS

OCTOBER 13, 1938.

The above-entitled proceeding is assigned for public hearing on October 26, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before examiner F. W. Brown.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3040; Filed, October 14, 1938; 12:32 p. m.]

[Docket No. 10-401 (E)-1]

APPLICATION OF PACIFIC ALASKA AIRWAYS, INC., UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION OF PASSENGERS, PROPERTY, AND MAIL BETWEEN FAIRBANKS, ALASKA, AND JUNEAU, ALASKA; FAIRBANKS, ALASKA, AND NOME, ALASKA; AND FAIRBANKS, ALASKA, AND BETHEL, ALASKA

OCTOBER 13, 1938.

The above-entitled proceeding is assigned for public hearing on October 24, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before examiner F. A. Law.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3041; Filed, October 14, 1938; 12:32 p. m.]

[Docket No. 16-401 (E)-1]

APPLICATION OF UNITED AIR LINES TRANSPORT CORPORATION UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION FOR THE FOLLOWING ROUTES AND CLASSES OF SERVICE

(1) *Route AM-1, Newark via intermediate points, including Cleveland, Chicago, Omaha, Denver, Cheyenne, Salt Lake City, and San Francisco, to Oakland and return. Mail, Passengers, and property.*

(2) *Route AM-11, Seattle via intermediate points, including Portland, Oakland, San Francisco, and Los Angeles to San Diego, and return. Mail, passengers, and property.*

(3) *Route AM-12, Salt Lake City via Boise, Pendleton, and Portland, to Seattle, and return, and Pendleton via Walla Walla to Spokane and return. Mail, passengers, and property.*

(4) *Route AM-17, Denver to Cheyenne and return. Mail, passengers, and property.*

(5) *Seattle to Vancouver, British Columbia, and return. Passengers and property.*

(6) *Cleveland via Camden to Newark and return, and Camden to Allentown and return. Passengers and property.*

OCTOBER 13, 1938.

The above-entitled proceeding is assigned for public hearing on October 27, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before examiner F. W. Brown.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3042; Filed, October 14, 1938; 12:33 p. m.]

[Docket No. 17-401 (E)-1]

APPLICATION OF TRANSCONTINENTAL & WESTERN AIR, INC., UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION COVERING THE FOLLOWING ROUTES AND SERVICES

Scheduled operations (mail, passenger, and property)
Newark (New York)—Los Angeles
Newark (New York)—San Francisco—Oakland
Newark (New York)—Phoenix
Phoenix—San Francisco—Oakland
Phoenix—Los Angeles
Scheduled operations (passengers and property)
Chicago—Kansas City

OCTOBER 13, 1938.

The above-entitled proceeding is assigned for public hearing on October 28, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before examiner C. E. Leasure.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3043; Filed, October 14, 1938; 12:33 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. G-102]

APPLICATION OF UNITED GAS PIPE LINE COMPANY

ORDER SETTING DATE OF HEARING

OCTOBER 11, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon application filed August 15, 1938, by the United Gas Pipe Line Company of Houston, Texas, for an order of the Commission authorizing the exportation of natural gas from the State of Texas into the Republic of Mexico, and,

It appearing that: A public hearing should be held upon said application to enable the Commission to determine whether the proposed exportation will be consistent with the public interest;

Now, therefore, the Commission orders that: A public hearing on said application be held on November 7, 1938, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3025; Filed, October 14, 1938; 9:54 a. m.]

[Docket No. G-103]

APPLICATION OF UNITED GAS CORPORATION

ORDER SETTING DATE OF HEARING

OCTOBER 11, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon application filed August 30, 1938, by the United Gas Corporation of Houston, Texas, for an order of the Commission authorizing the exportation of natural gas from the State of Texas into the Republic of Mexico, and,

It appearing that: A public hearing should be held upon said application to enable the Commission to determine whether the proposed exportation will be consistent with the public interest;

Now, therefore, the Commission orders that: A public hearing on said application be held on November 7, 1938, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., before examiner C. E. Leasure.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3026; Filed, October 14, 1938; 9:54 a. m.]

[Docket No. G-104]

APPLICATION OF EL PASO NATURAL GAS COMPANY

ORDER SETTING DATE OF HEARING

OCTOBER 11, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman, Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon application filed September 3, 1938, by the El Paso Natural Gas Company of El Paso, Texas, for an order of the Commission authorizing the exportation of natural gas from a point near the Town of Naco, Arizona, into the Republic of Mexico, and,

It appearing that: A public hearing should be held upon said application to enable the Commission to determine whether the proposed exportation will be consistent with the public interest;

Now, therefore, the Commission orders that: A public hearing on said application be held on November 8, 1938, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Ave. N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3027; Filed, October 14, 1938; 9:54 a. m.]

[Docket No. G-107]

APPLICATIONS OF TEXAS CITIES GAS COMPANY AND EL PASO NATURAL GAS COMPANY

ORDER SETTING DATE OF HEARING

OCTOBER 11, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon applications filed September 19, 1938, by the Texas Cities Gas Company of Dallas, Texas, and September 21, 1938, by the El Paso Natural Gas Company of El Paso, Texas, respectively, for an order of the Commission authorizing the exportation of natural gas from the State of Texas into the Republic of Mexico, and,

It appearing that: A public hearing should be held upon said applications to enable the Commission to determine whether the proposed exportation will be consistent with the public interest;

Now, therefore, the Commission orders that: A public hearing on said applications be held on November 8, 1938, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3028; Filed, October 14, 1938; 9:54 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3422]

IN THE MATTER OF BELMONT SALES COMPANY, A CORPORATION, AND ROBERT C. BUNDY, INDIVIDUALLY AND TRADING AS JACKSON SALES COMPANY AS AN OFFICER OF BELMONT SALES COMPANY AND MILDRED BUNDY, INDIVIDUALLY AND AS OFFICER OF BELMONT SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 14, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3031; Filed, October 14, 1938; 11:40 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3426]

IN THE MATTER OF MORRIS L. RAUER, INDIVIDUALLY AND TRADING AS EARL CHROME MANUFACTURING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 9, 1938, at eleven o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3032; Filed, October 14, 1938; 11:40 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3496]

IN THE MATTER OF PHILIP F. RUBENSTEIN, INDIVIDUALLY AND TRADING AS ASSOCIATED SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, Nov. 9, 1938, at eleven-thirty

o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3033; Filed, October 14, 1938; 11:40 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3508]

IN THE MATTER OF THEODORE G. MILLER, INDIVIDUALLY AND TRADING AS AMERICAN SPORTSWEAR

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at two o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3034; Filed, October 14, 1938; 11:41 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3569]

IN THE MATTER OF AL B. WOLF AND MAX SCHWARTZ, INDIVIDUALLY AND DOING BUSINESS UNDER THE NAMES OF PARAMOUNT PRODUCTS COMPANY, AND PARAMOUNT GARMENT COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 9, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3035; Filed, October 14, 1938; 11:41 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of October, A. D. 1938.

[File Nos. 43-103, 47-19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORP., SOUTHERN OREGON GAS CORP., CALIFORNIA UTILITIES CO., NEEDLES GAS AND ELECTRIC CO., WEAVERVILLE ELECTRIC CO., APACHE GAS CO., AND GAS TRANSPORT CO.

NOTICE OF ORDER APPROVING PLAN

The Republic Electric Power Corporation of Delaware, a registered holding company, and its subsidiaries, with properties in California, Oregon, and Oklahoma, have jointly filed a declaration under Section 7 and applications under Sections 10, 11 (e) and 12 (d), and amendments thereto, regarding the sale and issuance of securities and acquisition and sale of utility assets incident to a comprehensive plan of reorganization and recapitalization. As part of the Revised Plan, the applicants and declarants consent to an order providing for the ultimate disposition by Republic Electric Power Corporation of the properties of Apache Gas Company and Gas Transport Company and the dissolution of the Republic Electric Power Corporation and the Republic Mutual Service Company in conformity with Section 11 (b), and the simplification of the system's corporate structure.

A public hearing having been held after appropriate notice;[1] the applicants and declarants having waived a trial examiner's report, submission of proposed findings of fact to the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission and all arguments before the Commission, prior to the entry of the Commission's findings, opinion, and order herein; and the Commission having considered the record in these matters:

Has approved the Revised Plan as conforming to the provisions of Section 11 (b) of the Public Utility Holding Company Act, as necessary to effectuate the provisions thereof, and as fair and equitable to the persons affected thereby; subject, however, to certain terms and conditions set forth in the findings, opinion, and order of the Commission, a copy of which has been filed for inspection at the Office of the Federal Register.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3048; Filed, October 14, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 13th day of October, 1938.

[File No. 7-259]

IN THE MATTER OF IRON FIREMAN MANUFACTURING CO. VOTING TRUST CERTIFICATES REPRESENTING COMMON CAPITAL STOCK, NO PAR VALUE, VOTING TRUST AGREEMENT EXTENDED TO DECEMBER 1, 1948

ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the New York Curb Exchange in the Voting Trust Certificates representing the Common Stock, No Par Value of Iron Fireman Manufacturing Company, issued under the authority of the Voting Trust Agreement terminating December 1, 1938, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule JF2, having applied to this Commission setting forth that there are being effected changes in said security

[1] 3 F. R. 2268 DI.

other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule JF2 (b) promulgated thereunder, that the determination sought by said application be and the same is hereby made, subject to the effective date of the Voting Trust Agreement, December 1, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3047; Filed, October 14, 1938; 12:49 p. m.]

UNITED STATES MARITIME COMMISSION.

At a regular session of the United States Maritime Commission held at its office in Washington, D. C. on the 13th day of October 1938.

ORDER FOR HEARINGS ON MINIMUM WAGE SCALES, MINIMUM MANNING SCALES AND REASONABLE WORKING CONDITIONS FOR ELECTRICIANS, MACHINISTS, PLUMBERS, STOREKEEPERS, BOILERMAKERS, ETC., EMPLOYED ON SUBSIDIZED VESSELS

Application having been made to the Commission, pursuant to Section 301 (a) of the Merchant Marine Act, 1936, by the National Maritime Union of New York, New York, and the International Brotherhood of Electrical Workers of Washington, D. C., for the establishment of, and incorporation in contracts authorized under Titles VI and VII of said Act, minimum wage scales, minimum manning scales and reasonable working conditions for members of the crews of subsidized vessels employed as electricians, machinists, plumbers, storekeepers, boilermakers, and in other specialized unlicensed ratings; and

The Commission deeming it advisable to determine what, if any, minimum wage scales, minimum manning scales and reasonable working conditions should be adopted for said employees, it is hereby

Ordered, that public hearings be held at the offices of the Commission at 45 Broadway, New York, New York, on November 1, 1938, and at the offices of the Commission at 200 Bush Street, San Francisco, California, on November 1, 1938, to take evidence of the relevant facts, concerning the working conditions of said employees in ocean-going shipping, to be considered by the Commission, together with other facts obtained through its investigations, in determining what, if any, minimum wage scales, minimum manning scales and reasonable working conditions should be established by the Commission for those members of the crews of vessels receiving an Operating-Differential Subsidy, who are employed as electricians, machinists, plumbers, storekeepers, boilermakers, and in other specialized unlicensed ratings, and it is further

Ordered, that said hearings be conducted by a member of the Commission or a duly designated officer of the Commission, and they are hereby empowered to subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of any books, papers or other documents which are relevant or material to the matter under investigation; and it is further

Ordered, that such member or duly designated officer of the Commission may change the time and place of said hearings, may continue or adjourn said hearings from time to time, and may conduct the same in such manner and under such rules as by him may be deemed necessary or advisable.

By the Commission.

[SEAL] W. C. PEET, JR., *Secretary.*

[F. R. Doc. 38-3049; Filed, October 14, 1938; 1:00 p. m.]

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 203

Washington, Tuesday, October 18, 1938

The President

NICOLET NATIONAL FOREST—WISCONSIN

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS by Proclamation No. 2269 of January 17, 1938,[1] there were included in and reserved as part of the Nicolet National Forest, in the State of Wisconsin, certain lands which had been acquired by the United States through the Farm Security Administration or its predecessors under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that within the exterior boundaries of the said Nicolet National Forest, there are situated certain other lands which have been acquired since the date of the said Proclamation No. 2269 of January 17, 1938, or are in process of acquisition, under authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935; and

WHEREAS by Executive Order No. 7908 of June 9, 1938,[2] all the right, title, and interest of the United States in such lands, acquired or in process of acquisition, were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525), and the related provisions of Title IV thereof; and immediately upon acquisition of legal title to those lands now in process of acquisition, the said order, under the terms thereof, will become applicable to all the additional right, title, and interest thereby acquired by the United States; and

WHEREAS it appears that all of such lands are suitable for national-forest purposes and that it would be in the public interest to reserve such lands as part of the said Nicolet National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), and Title III of the said Bankhead-Jones Farm Tenant Act, do proclaim (1) that all lands within the exterior boundaries of the said Nicolet National Forest which have been acquired by the United States since the date of the said Proclamation No. 2269 of January 17, 1938, under the authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935, are hereby included in and reserved as part of the Nicolet National Forest, and (2) that all lands within the said boundaries which are in process of acquisition by the United States under the authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935 shall upon the acquisition of title thereto be added to and made a part of the said forest.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 14'' day of October in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2302]

[F. R. Doc. 38-3060; Filed, October 17, 1938; 10:45 a. m.]

[1] 3 F. R. 145 DI.
[2] 3 F. R. 1389 DI.

CONTENTS

THE PRESIDENT

Proclamations:
Lands included in and reserved as part of: Page
Chequamegon National Forest, Wis. 2496
Huron National Forest, Mich. 2496
Nicolet National Forest, Wis. 2495

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
County corn acreage allotments, 1938 2497
Sugarcane, wage rates for harvesting in mainland area, September 1, 1938 to June 30, 1939 2497

TITLE 8—ALIENS AND CITIZENSHIP:
Immigration and Naturalization Service:
Puerto Rico, oath of allegiance required of certain natives to become citizens of United States 2499

TITLE 27—INTOXICATING LIQUORS:
Federal Alcohol Administration Division:
Wine labeling and advertising regulations, amending effective dates of Amendment No. 2 2500

TITLE 42—PUBLIC HEALTH AND EDUCATION:
Children's Bureau:
Child labor regulations, acceptance of State certificates 2500

TITLE 43—PUBLIC LANDS:
General Land Office:
Stock Driveway Withdrawal No. 2, Colorado No. 2, enlarged 2500

TITLE 50—WILDLIFE:
Bureau of Biological Survey:
Tule Lake Wildlife Refuge, Calif., hunting of certain game birds 2500

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Department of Agriculture: Page
Food and Drug Administration:
Federal Food, Drug, and Cosmetic Act, notice of hearing on regulations to be promulgated under ----- 2502
Department of the Interior:
National Bituminous Coal Commission:
Mattern, Ross, hearing on application for exemption- 2502
Federal Power Commission:
Puget Sound Power & Light Co., hearing postponed-------- 2502
Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Union Fountain Pen Co., et al---------- 2502
Vorunion, William and Benjamin, trading as Howard Sales Co., etc---------- 2502
Weissman, Fred P., Inc----- 2503
Securities and Exchange Commission:
Cumberland County Power and Light Co., hearing-------- 2503
Kentucky-Tennessee Light and Power Co., hearing-------- 2504
Middle West Corp., second amendment to exemption order ---------- 2503
New York State Electric & Gas Corp., hearing---------- 2504
Sandar Corp., holding company status---------- 2503

CHEQUAMEGON NATIONAL FOREST—WISCONSIN

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS by Proclamation No. 2271 of January 17, 1938,[1] there were included in and reserved as part of the Chequamegon National Forest, in the State of Wisconsin, certain lands which had been acquired by the United States through the Farm Security Administration or its predecessors under authority of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that within the exterior boundaries of the said Chequamegon National Forest, there are situated certain other lands which have been acquired since the date of the said Proclamation No. 2271 of January 17, 1938, or are in process of acquisition, under authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935; and

WHEREAS by Executive Order No. 7908 of June 9, 1938,[2] all the right, title, and interest of the United States in such lands, acquired or in process of acquisition, were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525), and the related provisions of Title IV thereof; and immediately upon acquisition of legal title to those lands now in process of acquisition, the said order, under the terms thereof, will become applicable to all the additional right, title, and interest thereby acquired by the United States; and

WHEREAS it appears that all of such lands are suitable for national-forest purposes and that it would be in the public interest to reserve such lands as part of the said Chequamegon National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), and Title III of the said Bankhead-Jones Farm Tenant Act, do proclaim (1) that all lands within the exterior boundaries of the said Chequamegon National Forest which have been acquired by the United States since the date of the said Proclamation No. 2271 of January 17, 1938, under the authority of the said National Industry Recovery Act and the said Emergency Relief Appropriation Act of 1935, are hereby included in and reserved as part of the Chequamegon National Forest, and (2) that all lands within the said boundaries which are in process of acquisition by the United States under authority of the said National Industrial Recovery Act and the said Emergency Relief Appropriation Act of 1935 shall upon the acquisition of title thereto be added to and made a part of the said forest.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 14" day of October in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2303]

[F. R. Doc. 38-3061; Filed, October 17, 1938; 10:45 a. m.]

[1] 3 F. R. 145 DI.
[2] 3 F. R. 1389 DI.

HURON NATIONAL FOREST—MICHIGAN

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS by Proclamation No. 2270 of January 17, 1938,[1] there were included in and reserved as part of the Huron National Forest, in the State of Michigan, certain lands which had been acquired by the United States through the Farm Security Administration or its predecessors under authority of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that within the exterior boundaries of the said Huron National Forest, there are situated certain other lands which have been acquired since the date of the said Proclamation No. 2270 of January 17, 1938, or are in process of acquisition, under authority of the said Emergency Relief Appropriation Act of 1935; and

WHEREAS by Executive Order No. 7908 of June 9, 1938,[2] all the right, title, and interest of the United States in such lands, acquired or in process of acquisition, were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522,525), and the related provisions of Title IV thereof; and immediately upon acquisition of legal title to those lands now in process of acquisition, the said order, under the terms thereof, will become applicable to all the additional right, title, and interest thereby acquired by the United States; and

WHEREAS it appears that all of such lands are suitable for national-forest purposes and that it would be in the public interest to reserve such lands as part of the said Huron National Forest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), and Title III of the said Bankhead-Jones Farm Tenant Act, do proclaim (1) that all lands within the exterior boundaries of the said Huron National Forest which have been acquired by the United States since the date of the said Proclamation No. 2270 of January 17, 1938, under the authority of the said Emergency Relief Appropriation Act of 1935, are hereby included in and reserved as part of the Huron National Forest, and (2) that all lands within the said boundaries which are in process of acquisition by the United States under the authority of the said Emergency Relief Appropriation Act of 1935 shall upon the acquisition of title thereto be added to and made a part of the said forest.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington, this 14" day of October in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2304]

[F. R. Doc. 38-3062; Filed, October 17, 1938; 10:45 a. m.]

[1] 3 F. R. 145 DI.
[2] 3 F. R. 1389 DI.

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR HARVESTING SUGARCANE IN THE MAINLAND SUGARCANE AREA BETWEEN SEPTEMBER 1, 1938, AND JUNE 30, 1939

Whereas, Section 301 (b) of the Sugar Act of 1937[1] provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however*, That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas the Secretary of Agriculture has held a number of public hearings[1] in the mainland cane sugar area for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the harvesting of sugarcane during the period from September 1, 1938, to June 30, 1939.

Now, therefore, I, Harry L. Brown, Acting Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine that the requirements of Section 301 (b) of the Sugar Act of 1937 shall be deemed to have been met with respect to any harvesting of cane in the mainland cane sugar area during the period from September 3, 1938, to June 30, 1939, if all persons employed on the farm during that period in the harvesting of sugarcane shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates not less than the following:

1. Louisiana—

A. For cutting, topping and stripping cane: adult male workers, not less than $1.50 per day of 9 hours; adult female workers, not less than $1.20 per day of 9 hours. For a working day longer or shorter than 9 hours, the rate shall be not less than 17 cents per hour for adult male workers and 13 cents per hour for adult female workers.

B. For cutting, topping and stripping cane on a tonnage basis, not less than 75 cents per ton.

2. Florida—

A. For cutting, topping, stripping and loading green cane on a tonnage basis, not less than the following rates per ton:

Type of cane.	*Rate per ton*
Small barrel cane	$1.19
Medium barrel cane	.97
Large barrel cane	.81

B. For cutting, topping and loading burnt cane on a tonnage basis, not less than the following rates:

Type of cane.	*Rate per ton*
Small barrel cane	$0.97
Medium barrel cane	.81
Large barrel cane	.65

Provided, however, That the producer shall furnish to the laborer, without charge, the customary perquisites, such as, a habitable hcuse, a suitable garden spot with facilities for its cultivation, pasturage for livestock, medical attention, and similar incidentals: and *Provided further*, That the producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above.

Nothing in this determination shall be construed to mean that a producer may qualify for a payment under the said act who has not paid in full the amount agreed upon between the producer and the laborer.

Done at Washington, D. C., this 15th day of October 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3059; Filed, October 15, 1938; 12:18 p. m.]

[1] 50 Stat. 909.

[1] 3 F. R. 1830 DI.

1938 COUNTY CORN ACREAGE ALLOTMENTS

Pursuant to the authority vested in the Secretary of Agriculture under Section 329, paragraph (a), Part II of Title III of the Agricultural Adjustment Act of 1938, as amended, the national acreage allotment of corn for 1938 as established by the proclamation dated February 26, 1938,[1] is hereby apportioned among the commercial corn-producing counties as follows:

COUNTY ACREAGE ALLOTMENT

Illinois

Adams, 68,239 acres; Alexander, 17,831 acres; Bond, 28,912 acres; Boone, 43,441 acres; Brown, 26,937 acres; Bureau, 163,884 acres; Calhoun, 16,834 acres; Carroll, 58,488 acres; Cass, 46,832 acres; Champaign, 204,547 acres; Christian, 100,697 acres; Clark, 47,745 acres; Clay, 42,324 acres; Clinton, 38,007 acres; Coles, 77,124 acres; Cook, 50,877 acres; Crawford, 39,781 acres; Cumberland, 38,863 acres; De Kalb, 125,187 acres; De Witt, 77,770 acres; Douglas, 74,044 acres; Du Page, 33,586 acres; Edgar, 95,129 acres; Edwards, 22,787 acres; Effingham, 40,432 acres; Fayette, 61,430 acres; Ford, 105,257 acres; Franklin, 26,534 acres; Fulton, 103,519 acres; Gallatin, 37,817 acres; Greene, 64,459 acres; Grundy, 89,046 acres; Hamilton, 32,822 acres; Hancock, 85,337 acres; Hardin, 10,312 acres; Henderson, 57,320 acres; Henry, 152,674 acres; Iroquois, 226,474 acres; Jackson, 37,554 acres; Jasper, 47,513 acres; Jeffer-

[1] 3 F. R. 549 DI.

son, 43,083 acres; Jersey, 31,038 acres; Jo Daviess, 45,812 acres; Johnson, 22,243 acres; Kane, 81,067 acres; Kankakee, 122,929 acres; Kendall, 59,501 acres; Knox, 111,589 acres; Lake, 34,502 acres; La Salle, 234,996 acres; Lawrence, 37,048 acres; Lee, 129,512 acres; Livingston, 233,772 acres; Logan, 114,830 acres; McDonough, 92,027 acres; McHenry, 85,116 acres; McLean, 257,386 acres; Macon, 104,219 acres; Macoupin, 78,387 acres; Madison, 56,321 acres; Marion, 40,095 acres; Marshall, 68,303 acres; Mason, 76,204 acres; Massac, 19,446 acres; Menard, 46,531 acres; Mercer, 91,260 acres; Monroe, 25,481 acres; Montgomery, 67,477 acres; Morgan, 79,865 acres; Moultrie, 56,147 acres; Ogle, 115,978 acres; Peoria, 80,638 acres; Perry, 24,697 acres; Piatt, 81,743 acres; Pike, 71,947 acres; Pope, 16,330 acres; Pulaski, 20,090 acres; Putnam, 24,806 acres; Randolph, 34,546 acres; Richland, 31,254 acres; Rock Island, 57,146 acres; Saint Clair, 48,611 acres; Saline, 34,586 acres; Sangamon, 138,176 acres; Schuyler, 39,619 acres; Scott, 35,732 acres; Shelby, 101,464 acres; Stark, 54,833 acres; Stephenson, 72,277 acres; Tazewell, 106,068 acres; Union, 24,480 acres; Vermilion, 158,257 acres; Wabash, 25,567 acres; Warren, 105,192 acres; Washington, 33,237 acres; Wayne, 55,469 acres; White, 60,372 acres; Whiteside, 117,298 acres; Will, 125,292 acres; Williamson, 26,334 acres; Winnebago, 66,129 acres; Woodford, 95,654 acres.

Indiana

Adams, 33,999 acres; Allen, 63,347 acres; Bartholomew, 43,571 acres; Benton, 83,620 acres; Blackford, 18,986 acres; Boone, 62,868 acres; Carroll, 55,320 acres; Cass, 55,322 acres; Clay, 30,570 acres; Clinton, 62,737 acres; Daviess, 42,754 acres; Dearborn, 15,920 acres; Decatur, 46,209 acres; Dekalb, 30,260 acres; Delaware, 49,425 acres; Dubois, 28,091 acres; Elkhart, 37,809 acres; Fayette, 24,712 acres; Fountain, 48,158 acres; Franklin, 30,952 acres; Fulton, 47,436 acres; Gibson, 54,005 acres; Grant, 52,479 acres; Greene, 37,657 acres; Hamilton, 57,122 acres; Hancock, 45,804 acres; Hendricks, 54,266 acres; Henry, 53,616 acres; Howard, 41,256 acres; Huntington, 41,735 acres; Jackson, 37,461 acres; Jasper, 77,982 acres; Jay, 39,384 acres; Jennings, 20,086 acres; Johnson, 44,476 acres; Knox, 62,913 acres; Kosciusko, 56,858 acres; Lagrange, 34,258 acres; Lake, 45,142 acres; La Porte, 64,374 acres; Madison, 64,733 acres; Marion, 33,988 acres; Marshall, 48,118 acres; Miami, 47,130 acres; Montgomery, 66,482 acres; Morgan, 40,380 acres; Newton, 60,913 acres; Noble, 38,484 acres; Owen, 17,997 acres; Parke, 40,944 acres; Pike, 22,120 acres; Porter, 41,025 acres; Posey, 46,963 acres; Pulaski, 52,929 acres; Putnam, 44,589 acres; Randolph, 59,980 acres; Ripley, 31,113 acres; Rush, 66,438 acres; St. Joseph, 41,025 acres; Shelby, 64,061 acres; Starke, 33,377 acres; Steuben, 23,750 acres; Sullivan, 43,748 acres; Tippecanoe, 73,315 acres; Tipton, 41,476 acres; Union, 20,958 acres; Vanderburgh, 21,991 acres; Vermillion, 28,787 acres; Vigo, 39,255 acres; Wabash, 48,525 acres; Warren, 55,350 acres; Warrick, 27,527 acres; Washington, 29,062 acres; Wayne, 50,237 acres; Wells, 43,820 acres; White, 80,816 acres; Whitley, 31,857 acres.

Iowa

Adair, 96,464 acres; Adams, 67,845 acres; Allamakee, 40,693 acres; Appanoose, 37,087 acres; Audubon, 82,396 acres; Benton, 123,347 acres; Black Hawk, 93,568 acres; Boone, 116,187 acres; Bremer, 62,539 acres; Buchanan, 92,669 acres; Buena Vista, 122,326 acres; Butler, 99,547 acres; Calhoun, 122,662 acres; Carroll, 116,883 acres; Cass, 105,522 acres; Cedar, 91,335 acres; Cerro Gordo, 98,257 acres; Cherokee, 113,232 acres; Chickasaw, 66,991 acres; Clarke, 47,583 acres; Clay, 109,155 acres; Clayton, 70,355 acres; Clinton, 114,010 acres; Crawford, 136,127 acres; Dallas, 114,988 acres; Davis, 37,759 acres; Decatur, 49,930 acres; Delaware, 83,888 acres; Des Moines, 54,138 acres; Dickinson, 69,022 acres; Dubuque, 61,878 acres; Emmet, 75,779 acres; Fayette, 89,705 acres; Floyd, 85,286 acres; Franklin, 117,063 acres; Fremont, 126,661 acres; Greene, 127,486 acres; Grundy, 92,242 acres; Guthrie, 99,716 acres; Hamilton, 121,136 acres; Hancock, 107,449 acres; Hardin, 111,565 acres; Harrison, 150,075 acres; Henry, 57,835 acres; Howard, 54,564 acres; Humboldt, 91,608 acres; Ida, 92,194 acres; Iowa, 85,256 acres; Jackson, 58,397 acres; Jasper, 128,880 acres; Jefferson, 52,055 acres; Johnson, 90,977 acres; Jones, 73,704 acres; Keokuk, 86,479 acres; Kossuth, 192,255 acres; Lee, 41,235 acres; Linn, 105,121 acres; Louisa, 59,285 acres; Lucas, 41,290 acres; Lyon, 113,434 acres; Madison, 80,517 acres; Mahaska, 93,265 acres; Marion, 80,433 acres; Marshall, 102,972 acres; Mills, 98,779 acres; Mitchell, 67,954 acres; Monona, 140,239 acres; Monroe, 36,483 acres; Montgomery, 84,410 acres; Muscatine, 63,789 acres; O'Brien, 111,733 acres; Osceola, 77,958 acres; Page, 100,777 acres; Palo Alto, 110,224 acres; Plymouth, 177,632 acres; Pocahontas, 124,687 acres; Polk, 96,756 acres; Pottawattamie, E., 104,284 acres; Pottawattamie, W., 107,334 acres; Poweshiek, 98,135 acres; Ringgold, 63,563 acres; Sac, 120,687 acres; Scott, 68,548 acres; Shelby, 125,199 acres; Sioux, 155,068 acres; Story, 125,774 acres; Tama, 112,413 acres; Taylor, 80,089 acres; Union, 56,143 acres; Van Buren, 36,528 acres; Wapello, 47,117 acres; Warren, 78,562 acres; Washington, 87,227 acres; Wayne, 53,606 acres; Webster, 139,574 acres; Winnebago, 71,055 acres; Winneshiek, 73,115 acres; Woodbury, 187,548 acres; Worth, 60,693 acres; Wright, 121,703 acres.

Kansas

Anderson, 47,697 acres; Atchison, 50,546 acres; Brown, 96,235 acres; Coffey, 52,923 acres; Crawford, 52,955 acres; Doniphan, 58,775 acres; Douglas, 40,373 acres; Franklin, 53,880 acres; Jackson, 85,163 acres; Jefferson, 63,058 acres; Jewell, 129,124 acres; Johnson, 43,556 acres; Leavenworth, 37,897 acres; Linn, 52,888 acres; Lyon, 66,033 acres; Marshall, 131,824 acres; Miami, 61,582 acres; Nemaha, 120,150 acres; Norton, 127,650 acres; Osage, 74,809 acres; Phillips, 125,529 acres; Pottawatomie, 73,455 acres; Republic, 111,340 acres; Riley, 47,011 acres; Shawnee, 55,875 acres; Smith, 136,000 acres; Washington, 112,265 acres.

Kentucky

Fulton, 23,487 acres; Hickman, 28,087 acres; Henderson, 62,050 acres; Union, 41,140 acres.

Michigan

Branch, 36,393 acres; Hillsdale, 39,798 acres; Lenawee, 64,528 acres; Monroe, 47,680 acres; Saint Joseph, 35,391 acres.

Minnesota

Big Stone, 51,072 acres; Blue Earth, 106,066 acres; Brown, 79,248 acres; Carver, 31,192 acres; Chippewa, 87,554 acres; Cottonwood, 98,458 acres; Dakota, 51,693 acres; Dodge, 47,190 acres; Faribault, 109,959 acres; Fillmore, 60,760 acres; Freeborn, 88,698 acres; Goodhue, 50,511 acres; Grant, 46,584 acres; Houston, 30,647 acres; Jackson, 116,535 acres; Kandiyohi, 78,606 acres; Lac Qui Parle, 107,464 acres; Le Sueur, 45,313 acres; Lincoln, 66,179 acres; Lyon, 113,942 acres; McLeod, 49,802 acres; Martin, 131,874 acres; Meeker, 58,403 acres; Mower, 75,695 acres; Murray, 115,127 acres; Nicollet, 50,593 acres; Nobles, 125,401 acres; Olmsted, 59,934 acres; Pipestone, 76,316 acres; Redwood, 137,728 acres; Renville, 130,609 acres; Rice, 49,503 acres; Rock, 86,228 acres; Scott, 29,909 acres; Sibley, 63,958 acres; Steele, 48,841 acres; Stevens, 63,281 acres; Swift, 83,929 acres; Traverse, 57,005 acres; Wabasha, 34,728 acres; Waseca, 50,517 acres; Watonwan, 69,559 acres; Winona, 32,789 acres; Wright, 56,989 acres; Yellow Medicine, 113,405 acres.

Missouri

Adair, 32,810 acres; Andrew, 54,266 acres; Atchison, 115,392 acres; Audrain, 84,985 acres; Barton, 56,465 acres; Bates, 86,652 acres; Benton, 41,613 acres; Boone, 47,927 acres; Buchanan, 39,408 acres; Caldwell, 52,482 acres; Callaway, 44,293 acres; Cape Girardeau, 33,075 acres; Carroll, 72,885 acres; Cass, 71,522 acres; Chariton, 70,940 acres; Clark, 34,528 acres; Clay, 35,056 acres; Clinton, 51,120 acres; Cooper, 41,500 acres; Daviess, 54,210 acres; DeKalb, 49,737 acres; Gentry, 47,933 acres; Grundy, 35,474 acres; Harrison, 57,069 acres; Henry, 69,454 acres; Holt, 78,865 acres; Howard, 34,944 acres; Jackson, 45,572 acres; Johnson, 67,997 acres; Knox, 40,886 acres; Lafayette, 76,184 acres; Lewis, 32,445 acres; Lincoln, 43,986 acres; Linn, 45,558 acres; Livingston, 45,803 acres; Macon, 61,339 acres; Marion, 33,043 acres; Mercer, 31,505 acres; Mississippi, 49,455 acres; Moniteau, 23,827 acres; Monroe, 55,581 acres; Montgomery, 35,876 acres; New Madrid, 67,701 acres; Nodaway, 128,730 acres; Pemiscot, 37,798 acres; Perry, 22,589 acres; Pettis, 50,341 acres; Pike, 55,009 acres; Platte, 39,662 acres; Putnam, 30,505 acres; Ralls, 44,507 acres; Randolph, 33,719 acres; Ray, 72,188 acres; St. Charles, 34,503 acres; St. Clair, 51,393 acres; Saline, 96,264 acres; Schuyler, 15,853 acres; Scotland, 30,870 acres; Scott, 40,600 acres; Shelby, 47,236 acres; Stoddard, 66,824 acres; Vernon, 80,555 acres; Worth, 27,570 acres.

Nebraska

Adams, 86,537 acres; Antelope, 156,528 acres; Boone, 137,152 acres; Boyd, 64,519 acres; Buffalo, 154,572 acres; Burt, 113,989 acres; Butler, 111,890 acres; Cass, 124,509 acres; Cedar, 150,298 acres; Clay, 98,602 acres; Colfax, 76,717 acres; Cuming, 117,854 acres; Custer, 283,928 acres; Dakota, 52,202 acres; Dawson, 139,497 acres; Dixon, 98,812 acres; Dodge, 111,615 acres; Douglas, 63,256 acres; Dundy, 107,569 acres; Fillmore, 99,424 acres; Franklin, 96,624 acres; Frontier, 134,713 acres; Furnas, 128,877 acres; Gage, 136,712 acres; Gosper, 86,072 acres; Greeley, 81,210 acres; Hall, 78,720 acres; Hamilton, 104,110 acres; Harlan, 101,909 acres; Hayes, 91,373 acres; Hitchcock, 81,248 acres; Howard, 76,082 acres; Jefferson, 78,102 acres; Johnson, 57,195 acres; Kearney, 80,648 acres; Knox, 166,830 acres; Lancaster, 147,928 acres; Madison, 121,815 acres; Merrick, 71,725 acres; Nance, 84,547 acres; Nemaha, 74,769 acres; Nuckolls, 99,761 acres; Otoe, 116,362 acres; Pawnee, 61,733 acres; Perkins, 135,557 acres; Phelps, 105,284 acres; Pierce, 111,284 acres; Platte, 145,441 acres; Polk, 93,319 acres; Redwillow, 97,841 acres; Richardson, 96,900 acres; Saline, 81,482 acres; Sarpy, 52,610 acres; Saunders, 167,196 acres; Seward, 109,206 acres; Sherman, 80,796 acres; Stanton, 83,916 acres; Thayer, 87,616 acres; Thurston, 98,251 acres; Valley, 93,337 acres; Washington, 78,852 acres; Wayne, 102,791 acres; Webster, 101,501 acres; York, 125,619 acres.

Ohio

Adams, 27,390 acres; Allen, 43,340 acres; Ashland, 25,081 acres; Auglaize, 46,825 acres; Brown, 39,290 acres; Butler, 50,652 acres; Champaign, 49,712 acres; Clark, 48,383 acres; Clermont, 35,987 acres; Clinton, 57,754 acres; Coshocton, 19,592 acres; Crawford, 36,863 acres; Darke, 80,781 acres; Defiance, 35,205 acres; Delaware, 41,782 acres; Erie, 17,728 acres; Fairfield, 49,500 acres; Fayette, 61,214 acres; Franklin, 49,241 acres; Fulton, 43,810 acres; Greene, 55,184 acres; Hamilton, 15,523 acres; Hancock, 60,787 acres; Hardin, 52,756 acres; Henry, 55,213 acres; Highland, 51,848 acres; Holmes, 22,853 acres; Huron, 33,378 acres; Knox, 35,530 acres; Licking, 47,721 acres; Logan, 46,066 acres; Lucas, 25,720 acres; Madison, 67,140 acres; Marion, 49,459 acres; Mercer, 51,482 acres; Miami, 55,062 acres; Montgomery, 48,784 acres; Morrow, 32,077 acres; Ottawa, 19,519 acres; Paulding, 52,248 acres; Perry, 16,856 acres; Pickaway, 68,898 acres; Pike, 22,602 acres; Preble, 57,923 acres; Putnam, 61,171 acres; Richland, 29,399 acres; Ross, 56,331 acres; Sandusky, 42,205 acres; Scioto, 21,483 acres; Seneca, 53,999 acres; Shelby, 46,954 acres; Union, 46,794 acres; Van Wert, 52,670 acres; Warren, 44,449 acres; Williams, 36,485 acres; Wood, 83,366 acres; Wyandot, 41,706 acres.

South Dakota

Bon Homme, 85,999 acres; Brookings, 106,204 acres; Charles Mix, 161,627 acres; Clay, 84,571 acres; Davison, 67,612 acres; Douglas, 66,579 acres; Hanson, 63,058 acres; Hutchinson, 104,191 acres; Kingsbury, 91,986 acres; Lake, 87,176 acres; Lincoln, 115,447 acres; McCook, 91,425 acres; Minnehaha, 141,521 acres; Moody, 87,412 acres; Turner, 107,590 acres; Union, 93,891 acres; Yankton, 79,501 acres.

Wisconsin

Dane, 114,669 acres; Grant, 88,461 acres; Green, 56,199 acres; Iowa, 45,239 acres; Lafayette, 60,385 acres; Rock, 87,856 acres.

Done at Washington, D. C., this 15th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3070; Filed, October 17, 1938; 12:45 p. m.]

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[General Order No. C-5]

DECLARATION OF OATH OF ALLEGIANCE REQUIRED OF CERTAIN NATIVES OF PUERTO RICO TO BECOME CITIZENS OF THE UNITED STATES

OCTOBER 15, 1938.

The Act of May 16, 1938 (52 Stat. 377), entitled "An Act To Correct United States citizenship status of certain persons born in Puerto Rico, and for other purposes," provides as follows:

That a new section is hereby inserted between section 5b and 6 of the Act entitled "An Act to provide a civil government for Porto Rico, and for other purposes," approved March 2, 1917, as amended, as follows:

SEC. 5c. That any person of good character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, and born in Puerto Rico on or after April 11, 1899, who has continued to reside within the jurisdiction of the United States, whose father elected on or before April 11, 1900, to preserve his allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain entered into on April 11, 1899, and who, by reason of misinformation regarding his or her own citizenship status failed within the time limits prescribed by section 5 or section 5a hereof to exercise the privilege of establishing United States citizenship and has heretofore erroneously but in good faith exercised the rights and privileges and performed the duties of a citizen of the United States, and has not personally sworn allegiance to any foreign government or ruler upon or after attainment of majority, may make a sworn declaration of allegiance to the United States before any United States district court. Such declaration shall set forth facts concerning his or her birth in Puerto Rico, good character, attachment to the principles of the Constitution of the United States, and being well disposed to the good order and happiness of the United States, residence within the jurisdiction of the United States, and misinformation regarding United States citizenship status, and shall be accompanied by proof thereof satisfactory to the court. After making such declaration and submitting such proofs, such person shall be admitted to take the oath of allegiance before the court, and thereupon shall be considered a citizen of the United States.

Pursuant to the authority contained in Section 28 of the Act of June 29, 1906 (34 Stat. 606), as amended by Section 8 of the Act of March 2, 1929 (45 Stat. 1515; 8 U. S. C. 356), the following rules and regulations are prescribed for the enforcement of the aforesaid Act of May 16, 1938:

SEC. 1. *Form of sworn declaration of allegiance; execution of.*—The preliminary step to be taken by a native of Puerto Rico, at least twenty-one years of age and having the other qualifications required by the Act of May 16, 1938, shall be the execution, in duplicate, of Form 2236. The execution shall take place in the office of the Clerk of the United States District Court in which the applicant seeks to make the declaration of allegiance. Form No. 2236 shall be numbered consecutively in chronological order, in a series separate and apart from the forms and papers used in other naturalization proceedings.

SEC. 2. *Oath of allegiance.*—The oath of allegiance to be administered before the Court shall be the oath prescribed in Section 4 of the Act of June 29, 1906 (34 Stat. 596, 597; 8 U. S. C. 381).

SEC. 3. *Documentary evidence to be delivered to applicant.*—After an order of court has been entered directing the administration of the oath of allegiance to the applicant and that he be thereupon considered a citizen of the United States, an appropriate record thereof shall be made by the clerk of court on Form No. 2236. The duplicate copy of said form, duly executed, shall be forwarded to the Commissioner of Immigration and Naturalization, Washington, D. C., through the appropriate District Director or Divisional Director on the first day of the month immediately succeeding the month in which the oath of allegiance was taken. A certificate of naturalization shall be issued to the declarant by the clerk of court and shall be handled in the same manner as other certificates of naturalization.

SEC. 4. *Fee; none to be exacted.*—The Act of May 16, 1938, makes no provision for charging or collecting any fee for the

making of the declaration of allegiance, or for the issuance to the applicant of the documentary evidence described in Section 3 of this order.

[SEAL] JAMES L. HOUGHTELING,
Commissioner.

Approved:
FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-3065; Filed, October 17, 1938; 10:15 a. m.]

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

[Regulations No. 4, Amendment No. 3]

AMENDING THE EFFECTIVE DATES OF AMENDMENT NO. 2 TO THE WINE LABELING AND ADVERTISING REGULATIONS

Pursuant to the provisions of Section 5 of the Federal Alcohol Administration Act, as amended, Amendment No. 2 to Regulations No. 4,[1] Relating to Labeling and Advertising of Wine, is amended by adding at the end of the last paragraph thereof a new sentence to read:

Prior to such effective dates, labeling and advertising of wine shall be deemed to conform to the requirements of Regulations No. 4, if such labeling or advertising complies with the provisions of such regulations as now in effect, or as hereby amended.

[SEAL] W. S. ALEXANDER,
Administrator.

Approved, this 14th day of October 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury

[F. R. Doc. 38-3057; Filed, October 15, 1938; 12:16 p. m.]

TITLE 42—PUBLIC HEALTH AND EDUCATION

CHILDREN'S BUREAU

[REGULATION No. 2]

CHILD LABOR REGULATIONS

ACCEPTANCE OF STATE CERTIFICATES

OCTOBER 15, 1938.

Pursuant to the provisions of section 5 of Child Labor Regulation No. 1[2] entitled "Certificates of Age" issued October 14, 1938, under the authority conferred by sections 3 (1) and 11 (b) of the Fair Labor Standards Act of 1938 (52 Stat. 1060) I do hereby designate the following States as States in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
Colorado	North Carolina
Connecticut	Ohio
Delaware	Oklahoma
Illinois	Oregon
Indiana	Pennsylvania
Kentucky	Rhode Island
Maine	Tennessee
Maryland	Utah
Massachusetts	Vermont
Michigan	Washington
Missouri	West Virginia
Montana	Wisconsin
New Hampshire	

This designation shall be effective for the period of six months from and after October 24, 1938.

KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 38-3055; Filed, October 15, 1938; 12:07 p.m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 2, COLORADO NO. 2, ENLARGED

OCTOBER 11, 1938.

It appearing that the following-described public lands should be included in Stock Driveway Withdrawal No. 2, Colorado No. 2, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

NEW MEXICO PRINCIPAL MERIDIAN

T. 32 N., R. 7 E.,
sec. 24, SE¼ NE¼, lots 1, 2, 3 and 4;
T. 32 N., R. 8 E.,
sec. 1, lot 4,
sec. 2, lots 1, 2, 3, 4, SW¼ NW¼, W½ SW¼,
sec. 3, SE¼ SE¼,
sec. 8, S½ SE¼,
sec. 9, E½ NE¼, S½ S½, NE¼ SE¼,
sec. 10, N½ N½,
sec. 17, W½ NE¼, S½ NW¼,
sec. 18, SE¼ NE¼, E½ SE¼,
sec. 19, NE¼ NE¼, S½ N½;
T. 32 N., R. 9 E.,
secs. 3, 10 and 15, E½ E½,
sec. 22, E½ NE¼ and lot 4;
Aggregating 2,184.51 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

W. C. MENDENHALL,
Acting Assistant Secretary of the Interior.

[F. R. Doc. 38-3064; Filed, October 17, 1938; 10:09 a. m.]

TITLE 50—WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING AND REGULATING HUNTING OF CERTAIN GAME BIRDS WITHIN THE TULE LAKE WILDLIFE REFUGE, CALIFORNIA

By virtue of authority conferred upon the Secretary of Agriculture by section 84 of the Act of March 4, 1909 (35 Stat. 1088), as amended by the Act of April 15, 1924 (43 Stat. 98), and by section 10 of the Act of February 18, 1929 (45 Stat. 1222), and in extension of regulation 9 of the general regulations of the Secretary of Agriculture of November 23, 1937,[1] governing the administration of National wildlife refuges under the jurisdiction of the Bureau of Biological Survey, made and prescribed pursuant to said authority, *it is ordered*, That migratory waterfowl (except those species for which no open season is prescribed by the Migratory Bird Treaty Act Regulations), coots, and Chinese pheasants may be taken from year to year within the areas of Tule Lake Wildlife Refuge, California, hereinafter described, and hereby designated "shooting areas," when, in manner, by means, and to the extent not prohibited either by Federal or State law or regulation, and under the following special provisions, conditions, restrictions, and requirements.

1. *Shooting areas.*—Those areas within the Tule Lake Wildlife Refuge described as follows:

Area No. 1.—Beginning at the southwest corner of sec. 31, T. 47 N., R. 4 E., Mount Diablo Meridian.
Thence between Tps. 47 N., Rs. 3 and 4 E.,
Northerly with west boundary of secs. 31, 30, 19, 18, and 7, T. 47 N., R. 4 E., to the northwest corner of lot 4, sec. 7, T. 47 N., R. 4 E.;
Thence in T. 47 N., R. 4 E.,
Easterly to the northeast corner of said lot 4, sec. 7;
Southerly with the east boundaries of lot 4, sec. 7, and lots 1 and 2, sec. 18, to the southeast corner of lot 2, sec. 18;
Easterly to the one-quarter corner between secs. 17 and 18;
Northerly to the northwest corner of sec. 17;
Westerly to a point 200 feet west of the outer toe of the Tule Lake Dike;
Southerly in secs. 17, 20, 29, and 32 to a point 200 feet south of the outer toe;
Easterly in secs. 32 and 33 to the line common to secs. 33 and 34;
Southerly between secs. 33 and 34 to the corner common to secs. 3 and 4, T. 46 N., R. 4 E., and secs. 33 and 34, T. 47 N., R. 4 E.;
Thence in T. 46 N., R. 4 E.,
Southerly between secs. 3 and 4 to the southwest corner of sec. 3;
Easterly between secs. 3 and 9, 3 and 10, and 2 and 10, to the northeast corner of sec. 10;
Southerly between secs. 10 and 11, and 14 and 15, to the north boundary of the Lava Beds National Monument;
Westerly with the north boundary of the Lava Beds National Monument, in secs. 15, 16, 15, 10, 9, 16, 21, 20, 17, and 18, to the one-quarter corner common to sec. 13, T. 46 N., R. 3 E., and sec. 18, T. 46 N., R. 4 E.;
Thence between Tps. 46 N., Rs. 3 and 4 E.,
Northerly with the west boundary of secs. 18, 7, and 6 to the northeast corner of T. 46 N., R. 3 E.;
Thence with the south boundary of T. 47 N., R. 3 E.,
Easterly to the southeast corner of said township;
Thence with the east boundary of T. 47 N., R. 3 E.,
Northerly to the place of beginning.

EXCEPTION:

Beginning at the corner common to secs. 7, 8, 17, and 18, T. 47 N., R. 4 E.,
Thence,
Southerly to the one-quarter corner of secs. 17 and 18;
Westerly to the center one-quarter corner of Sec. 18;
Northerly to the center one-quarter corner of sec. 6;
Easterly to the center one-quarter corner of sec. 5;
Southerly to the one-quarter corner common to secs. 8 and 17;
Westerly to the place of beginning.

Area No. 2.—Beginning at the corner common to secs. 22, 23, 26, and 27, T. 47 N., R. 4 E.,
Thence,
Easterly between secs. 23 and 26, and 24 and 25, to a point 10 feet east of the outer toe of the Tule Lake dike;
Northerly in secs. 24, 13, and 12, with a line parallel with, and 10 feet east of, said dike, to a point 200 feet southwest of the toe of the dike in sec. 12, bearing southeast and northwest;
Southeasterly in sec. 12 with a line parallel with, and 200 feet distant from, the toe of the said dike, to the intersection with the line between T. 47 N., R. 4 E., and T. 47 N., R. 5 E.;
Thence in T. 47 N., R. 5 E.,
Southeasterly in secs. 7, 18, 17, and 20, with a line parallel with, and 200 feet distant from, the toe of the said dike, to the west right-of-way boundary of the Great Northern Railroad;
Southerly in secs. 20, 29, 32, and 33, with the west right-of-way boundary of the Great Northern Railroad, to the intersection with the line between T. 47 N., R. 5 E., and T. 46 N., R. 5 E.;
Thence in T. 46 N., R. 5 E.,
Southeasterly in sec. 4, with the west right-of-way boundary of the Great Northern Railroad to the east-west center line;
Westerly in sec. 4 to a point 10 feet north of the toe of the dike;
Westerly in secs. 5 and 6, with a line parallel with, and 10 feet distant from, said dike, to the line between T. 46 N., R. 5 E., and T. 46 N., R. 4 E.;
Thence in T. 46 N., R. 4 E.,
Westerly in secs. 1 and 2 with a line parallel with, and 10 feet distant from, said dike, to a point 10 feet east of the toe of the dike;
Northerly in sec. 2 with a line parallel with, and 10 feet distant from, said dike, to the line between T. 46 N., R. 4 E., and T. 47 N., R. 4 E.;
Thence in T. 47 N., R. 4 E.,
Northerly in sec. 35 with a line parallel with, and 10 feet distant from, said dike, to a point in the line between secs. 34 and 35;
Northerly between secs. 34 and 35, and 26 and 27, to the place of beginning.

2. *Entry upon refuge—firearms.*—No person may enter the refuge for the purpose of hunting in accordance with this Order except under permit from the officer in charge thereof, and the having or carrying of firearms on the refuge without permit from the officer in charge, except on highways, thoroughfares, and shooting areas, or routes of travel to and from such areas designated by such officer, or when appropriate to the object for which any special permit may have been issued, will not be permitted. Persons entering or crossing the refuge for the purpose of hunting, as permitted by this Order, shall use such established routes of travel and shall not otherwise enter upon the refuge. The carrying or being in possession of rifled firearms or the use of single ball or slug load shotgun shells on the refuge is prohibited.

3. *Registration of hunters.*—Each person to whom has been issued a permit to hunt on the refuge shall register his name and address at an established checking station with the officer in charge, or his deputy, and shall produce for inspection his State hunting license, and if hunting migratory waterfowl, a properly validated Federal Migratory Bird Hunting Stamp. Before leaving the refuge, each such person shall report to the officer in charge, or his deputy, at the checking station through which he entered, the species and number of each species of migratory waterfowl and the number of coots and Chinese pheasants taken by him each day during the time spent on such shooting areas, and whenever requested by any officer shall exhibit all such birds in his possession for inspection.

4. *Disorderly conduct, intoxication.*—No person who is visibly intoxicated will be permitted to enter upon the refuge for the purpose of hunting, and any person who indulges in any disorderly conduct on the refuge will be removed therefrom by the officer in charge and dealt with as prescribed by law.

5. *Hunting dogs, horses.*—Each person hunting on the public shooting grounds will be permitted to take his hunting dogs, not to exceed two in number, upon such areas for the purpose of retrieving dead or wounded birds, but such dogs shall not be permitted to run at large on the public shooting grounds or elsewhere on the refuge. Hunting from horse-back will not be permitted and no mounted hunter will be allowed to enter the public shooting grounds.

6. *Defacement or destruction of public property.*—The destruction, injury, defacement, removal, or disturbance in any manner of any public building, notice, sign, signboard, equipment, fence, dike, dike embankment, dam, bridge, or other structure, or of any other public property of any kind or nature, or any tree, flower, or vegetation, or the killing or molestation of any animal or bird (other than migratory waterfowl, coots, and Chinese pheasants permitted to be killed under the provisions, conditions, restrictions, and requirements of this Order), or other wildlife within the Tule Lake Wildlife Refuge is prohibited.

The Orders of the Secretary of Agriculture of October 30, 1936 and October 30, 1937[1] permitting hunting on certain areas within the Tule Lake Wildlife Refuge are hereby revoked.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 14th day of October 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3054; Filed, October 14, 1938; 3:56 p. m.]

[1] 3 F. R. 2093 DI.
[2] 3 F. R. 2487 DI.

[1] 2 F. R. 2538 (2952 DI).

[1] F. R. 1700; 2 F. R. 2406 (2973 DI).

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 336–FD]

IN THE MATTER OF THE APPLICATION OF ROSS MATTERN FOR EXEMPTION UNDER THE SECOND PARAGRAPH OF SECTION 4A OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF CONTINUANCE OF HEARING

The above entitled matter, having been previously noticed for hearing for October 18, 1938, at 10 o'clock, A. M., at the Hearing Room of the Commission in the Fort Steuben Hotel, Steubenville, Ohio, and having been assigned to Examiner Charles O. Fowler to conduct said hearing, and Counsel for the Commission having requested a continuance until the 12th day of December 1938, and having made proper showing therefor:

Notice is hereby given that the Hearing in the above entitled matter is continued to the 12th day of December 1938, at the same hour and place as provided in the original notice of continuance.

A copy of this notice of continuance shall forthwith be mailed to the applicant above named, and to the secretary of each district board, and to the Consumers' Counsel, and a copy hereof shall be published in the FEDERAL REGISTER.

By order of the Examiner.

Dated this 14th day of October 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–3069; Filed, October 17, 1938; 12:25 p. m.]

DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

REGULATIONS UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

NOTICE OF HEARING

In the matter of the promulgation of regulations under the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (Public No. 717—75th Congress), except regulations with reference to which a public hearing is required by section 701 (e) of the Act.

Notice is hereby given to all interested parties that a hearing in the above entitled matter will be held in the Auditorium of the South Building of the Department of Agriculture, Independence Avenue, between 12th and 14th Streets, Southwest, Washington, District of Columbia, beginning at 10 o'clock in the forenoon on November 17, 1938, at which time and place tentative regulations to be promulgated under the Federal Food, Drug, and Cosmetic Act (June 25, 1938), exclusive of regulations with reference to which a public hearing is required by section 701 (e) of the Act, will be presented for discussion.

Copies of the tentative regulations may be obtained by addressing the Department of Agriculture, Room 4803 South Building, Washington, District of Columbia.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

October 15, 1938.

[F. R. Doc. 38–3058; Filed, October 15, 1938; 12:17 p. m.]

FEDERAL POWER COMMISSION.

[Project No. 943]

IN THE MATTER OF PUGET SOUND POWER & LIGHT COMPANY, LICENSEE

ORDER POSTPONING HEARING

OCTOBER 14, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application by counsel for Puget Sound Power & Light Company, licensee of Project No. 943, for postponement of the public hearing in this cause set for October 26, 1938, by order of the Commission adopted October 5, 1938; [1]

The Commission orders that The public hearing in the above cause now set for October 26, 1938, be and the same is hereby postponed to February 1, 1939, at the hour and place specified in said order of October 5, 1938.

By the Commission.

LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38–3063; Filed, October 17, 1938; 10: 09 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, Wiliam A. Ayres, Robert E. Freer.

[Docket No. 3514]

IN THE MATTER OF WILLIAM VORUNION, TRADING AS HOWARD SALES COMPANY AND BERWICK PEN COMPANY; AND BENJAMIN VORUNION, TRADING AS HOWARD SALES COMPANY AND BERWICK PEN COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 1, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and receive evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–3066; Filed, October 17, 1938; 11:28 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3522]

IN THE MATTER OF UNION FOUNTAIN PEN COMPANY, A CORPORATION, AND PAULINE JOAB, INDIVIDUALLY AND AS OFFICER UNION FOUNTAIN PEN COMPANY, AND ISADORA SANDROW AND LOUIS MORRISON, INDIVIDUALLY AND AS OFFICERS, UNION FOUNTAIN PEN COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 2, 1938, at ten o'clock in the forenoon of that day, (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON *Secretary.*

[F. R. Doc. 38–3067; Filed, October 17, 1938; 11:28 a. m.]

[1] 3 F. R. 2451 DI.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3532]

IN THE MATTER OF FRED P. WEISSMAN, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 31, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–3068; Filed, October 17, 1938; 11:28 a m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of October A. D. 1938.

[File No. 46–77]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

SECOND AMENDMENT TO ORDER GRANTING EXEMPTION

The Middle West Corporation, a registered holding company, having heretofore applied, pursuant to Section 9 (c) (3) of the Public Utility Holding Company Act of 1935, for an order exempting from the provisions of Section 9 (a) the applicant's acquisition of not more than 10,000 shares of the $6.00 cumulative preferred stock of Central Illinois Public Service Company, one of its subsidiaries; the Commission having by its order of November 26, 1937, granted such exemption subject to certain conditions specified in such order, one of which was that such order should expire at the close of business on June 30, 1938;

The Middle West Corporation having now filed an application in the same proceeding to extend the life of such order until the close of business on October 30, 1938, and having represented that at the close of business on June 16, 1938, it had acquired 7,200 shares of said stock out of the 10,000 authorized to be acquired and that it believes that acquisitions under such order will be concluded by September 30, 1938;

It appearing to the Commission that said The Middle West Corporation has heretofore filed a separate application (File No. 46–97) for an order exempting from the provisions of Section 9 (a) the applicant's acquisition of not more than an additional 20,000 shares of said preferred stock, which application has been approved by the Commission by its order of even date herewith; the Commission having by its order of July 2, 1938 [1] amended its order dated November 26, 1937 by striking from paragraph three of the conditions to that order of that date the words "June 30, 1938" and substituting in lieu thereof the words "upon or after the date the Commission issues its order upon the application of The Middle West Corporation (File No. 46–97), the Commission reserving jurisdiction to further extend the life of the original order in these proceedings, if it be then so advised, and to attach such additional terms and conditions to such amendatory or supplemental order or orders as the Commission may prescribe";

It further appearing to the Commission that not all of the shares authorized to be purchased by its original order in this matter have been so purchased:

It is ordered, That said order as amended be further amended by striking therefrom the words last quoted and substituting in lieu thereof the words "December 31, 1938".

It is further ordered, That in all other respects the conditions to said order shall remain unchanged and in full force and effect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3074; Filed, October 17, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of October A. D. 1938.

[1] 3 F. R. 1646 DI.

[File No. 30–23]

IN THE MATTER OF SANDAR CORPORATION

ORDER OF THE COMMISSION

Sandar Corporation, a registered holding company, having made application, pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935, for an order declaring that it has ceased to be a holding company; notice and opportunity for hearing on said application having been duly given; [1] the record in the matter having been duly considered; and the Commission having thereupon entered its findings and opinion on such application;

It is ordered, That the Sandar Corporation has ceased to be, and at this time is not, a holding company. This order shall be effective as of the 13th day of October, 1938.

It is further ordered, That, if the gross revenues of Sandar Corporation and its subsidiary companies derived from their operations as public-utility companies exceed the sum of $150,000 in any fiscal year, Sandar Corporation shall notify the Commission of such fact within 60 days after the close of such fiscal year.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3056; Filed, October 15, 1938; 12:11 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of October, A. D. 1938.

[File No. 43–158]

IN THE MATTER OF CUMBERLAND COUNTY POWER AND LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby

[1] 3 F. R. 2259 DI.

OCT 20 1938

authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 3, 1938.

The matter concerned herewith is in regard to an issue by the declarant, a subsidiary of New England Public Service Company, a registered holding company, of 7,500 shares of its Common Capital Stock without par or face value, as a stock dividend to New England Public Service Company, sole owner of the declarant's Common Capital Stock.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3072; Filed, October 17, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

[File No. 43-159]

IN THE MATTER OF KENTUCKY-TENNESSEE LIGHT AND POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 3, 1938, at 11:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 29, 1938.

The matter concerned herewith is in regard to the filing of a declaration by Kentucky-Tennessee Light and Power Company, a subsidiary of Central U. S. Utilities Company, a registered subholding company in the Associated Gas and Electric Company holding company system, in regard to the proposed issue and sale by it on or before November 14, 1938 to The First National Bank of Boston of its $750,000 4¼% promissory note payable eleven months after date of issue. It is stated that the proceeds, to the extent of $560,000, will be used to refund declarant's presently outstanding 4¼% note dated December 11, 1937 in the face amount of $1,000,000 and to the extent of $190,000 to pay current obligations. The new note is to be secured by the pledge of $7,256,600 of declarant's First and Refunding Mortgage 5% Bonds due May 1, 1954 with the consent of Pennsylvania Investing Corporation, an associate company, which is the present owner thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3073; Filed, October 17, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

[File No. 32-105]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 4, 1938, at 11:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 29, 1938.

The matter concerned herewith is in regard to the proposed issuance of two bonds, one in the principal amount of $125,000 and the other in the principal amount of $30,000, aggregating $155,000, each bearing interest at the rate of six per centum per annum.

The bond in the principal amount of $125,000 is to run for fourteen (14) years but to be retired by regular monthly installment payments on principal and interest. Said installments are to begin on the first of the month next following the issuance of said bond. The amount of such monthly payments will be $661.31 for the first forty-eight installments, thereafter and for the remaining one hundred and twenty installments the amount will be $1,365.86. The second bond in the principal amount of $30,000 is to run for four years, installment payments on principal and interest to be made the first day of each month beginning with the first day of the month next after the completion of the foundation and the roof of a building hereinafter mentioned.

It is proposed that the bonds, the issuance of which has been approved by the New York State Public Service Commission, will be issued as a part of a total purchase price of $175,000 for a lot of land in the City of Ithaca, New York to be acquired by the applicant from the Lynwood-Slater Corporation which has its principal office in that city. A building is to be constructed by the vendor on such lot of land which is to be used as the principal office building of the applicant. The balance of the purchase price, to wit, $20,000, is proposed to be paid as follows: $2,000 is to be paid upon delivery of the deed and $18,000 plus interest at the rate of six per centum per annum is to be amortized in nine equal monthly payments of $2,050 each.

Each of the bonds will be secured by a separate purchase money mortgage to be executed by the applicant. Each of such mortgages, it is alleged, will be a first lien on the property so to be acquired.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3071; Filed, October 17, 1938; 12:53 p. m.]

OCT 20 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 204

Washington, Wednesday, October 19, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1938 CROP OF FLORIDA SUGARCANE

Whereas Section 301 (d) of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

"That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing;" and

Whereas the Secretary of Agriculture, on June 3, 1938, held a public hearing in Clewiston, Florida, for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1938 crop of Florida sugarcane;

Now, therefore, I, M. L. Wilson, Acting Secretary of Agriculture, after investigation and consideration of the evidence obtained at the aforesaid hearing and all other information before me, do hereby determine, with respect to the requirements of Section 301 (d) of the Sugar Act of 1937, fair and reasonable prices for the 1938 crop of Florida sugarcane to be paid by processors, who as producers, apply for payments under the said Act, to be not less than the prices set forth in the Standard Florida Sugarcane Purchase Contract with cooperative participation supplement now used by the United States Sugar Corporation: *Provided, however*, That, when 10 cc. of the crusher juice of any sugarcane are titrated against a N/10 solution of NaOH, using phenolphthalein as an indicator, and it requires more than 2.25 cc. of N/10 NaOH to neutralize the acidity in the crusher juice, a deduction may be made in settlement, based upon decreased boiling house efficiency, at a rate not in excess of 3.775 per centum of the payment herein provided for for each .25 cc. of acidity above 2.25 cc., but not in excess of 4.50 cc. (intervening fractions computed to the nearest multiple of .05 cc.).

Done at Washington, D. C., this 17th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-3077; Filed, October 17, 1938; 4:04 p. m.]

DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN THE TERRITORY OF HAWAII FOR THE 1938 SUGAR CROP

Pursuant to the provisions of Section 302 (a) of the Sugar Act of 1937, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that the proportionate share for each farm in the Territory of Hawaii for the 1938 crop shall be the amount of sugar, raw value, commercially recoverable from sugarcane grown on each farm and marketed (or processed by the producer) for the extraction of sugar during the calendar year 1938.

Done at Washington, D. C. this 17th day of October 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON, *Acting Secretary.*

[F. R. Doc. 38-3076; Filed, October 17, 1938; 4:04 p. m.]

DETERMINATION OF FAIR AND REASONABLE PRICES FOR THE 1938 CROP OF HAWAIIAN SUGARCANE

Whereas Section 301 (d) of the Sugar Act of 1937, approved September 1, 1937, provides, as one of the conditions for

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Florida, prices for 1938 crop of sugarcane	2505
Hawaii, prices for 1938 crop of sugarcane	2505
Proportionate shares for farms	2505
TITLE 16—COMMERCIAL PRACTICES:	
Federal Trade Commission:	
Cease and desist orders:	
Lancaster Salted Nut Co	2506
Newark Felt Novelty Co	2506
TITLE 19—CUSTOMS DUTIES:	
Bureau of Customs:	
Coal from Russia, suspension of liquidation of entries	2507
TITLE 24—HOUSING CREDIT:	
Federal Housing Administration:	
Multifamily and group housing insurance, rules amended	2507
TITLE 29—LABOR:	
Wage and Hour Division:	
Temporary certificates of exemption during period before normal procedure is in full operation:	
Apprentices	2508
Handicapped persons	2508

NOTICES

Department of the Interior:	
National Bituminous Coal Commission:	
Allegheny County Institution District, exemption	2509
Freeport Brick Co., exemption	2510
Middle States Fuels, Inc., marketing agency status	2508
Westmoreland Brick Co., exemption	2509
Department of Labor:	
Division of Public Contracts:	
Evaporated and Condensed Milk Industry, hearing on minimum wages	2510

(Continued on next page)

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CONTENTS—Continued

Securities and Exchange Commission: Page
Belmont Metals Corp., common capital stock, suspension or withdrawal of registration 2511
International Hydro-Electric System, hearing 2512
International Paper and Power Co., hearing 2512
Middle West Corp., exemption of acquisition of securities 2511
United States Civil Service Commission:
Condition of apportionment at close of business October 15, 1938 2512

payment to producers of sugar beets and sugarcane, as follows:

"That the producer on the farm who is also, directly or indirectly, a processor of sugar beets or sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing"; and

Whereas the Secretary of Agriculture, pursuant to a notice of hearing, dated February 28, 1938,[1] held public hearings in the Territory of Hawaii for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable prices for the 1938 crop of Hawaiian sugarcane;

[1] 3 F. R. 576 DI.

Now, therefore, I, M. L. Wilson, Acting Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine that the prices for the 1938 crop of sugarcane heretofore agreed upon between the several processors in Hawaii and producers of such sugarcane are fair and reasonable.

Done at Washington, D. C., this 17th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3078; Filed, October 17, 1938; 4:04 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3493]

IN THE MATTER OF NEWARK FELT NOVELTY COMPANY

SEC. 3.69 (b) (9) *Misrepresenting oneself and goods—Goods—Old, second-hand or reconstructed as new.*—Representing that hats and novelty hats and caps made in whole or in part from second-hand old and used materials are new or are composed of new materials, by failure to affix tags or labels thereto clearly and conspicuously showing actual composition of products, or by any other means or device, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Newark Felt Novelty Company, Docket 3493, October 12, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF FRANK SHAPIRO, INDIVIDUALLY, AND DOING BUSINESS AS NEWARK FELT NOVELTY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent, Frank Shapiro, individually, and doing business as Newark Felt Novelty Company, or under any other trade name, his representatives, agents and employees, successors or assigns, in connection with offering for sale, sale and distribution of hats and novelty hats and caps in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing that hats and novelty hats and caps made in whole or in part from second-hand old and used materials are new or are composed of new materials, by failure to affix tags or labels thereto, clearly and conspicuously showing that such hats and novelty hats and caps are composed in whole or in part, of second-hand old and used materials, or by any other means or device.

It is further ordered, That the respondent shall, within thirty (30) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3082; Filed, October 18, 1938; 10:11 a. m.]

[Docket No. 3518]

IN THE MATTER OF LANCASTER SALTED NUT COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., salted nuts or any other products so packed, etc., that sales thereof to general public are to be, or may be, made by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lancaster Salted Nut Company, Docket 3518, October 12, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers assortments of salted nuts or any other products which are to be, or may be, used, without alteration, etc., to conduct a lottery, etc., in the sale, etc., of said products to the general public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec 45b.) [Cease and desist order, Lancaster Salted Nut Company, Docket 3518, October 12, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying, etc., to dealers assortments of salted nuts or any other products, together with a punch board, or any other lottery device for use, or which may be used, in distributing, etc., said products to the general public at retail, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lancaster Salted Nut Company, Docket 3518, October 12, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Furnishing to dealers a punch board or any other lottery device, either with packages or assortments of salted nuts or any other products, or separately, which punch board, etc., is to be used, or may be used, in distributing, etc., said products to the general public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lancaster Salted Nut Company, Docket 3518, October 12, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF CLAIR C. HERR, INDIVIDUALLY AND TRADING AS LANCASTER SALTED NUT COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Clair C. Herr, individually and trading as Lancaster Salted Nut Company or under any other name, his agents, representatives, and employees in connection with the offering for sale, sale and distribution of salted nuts or any other products in interstate commerce or in the District of Columbia do forthwith cease and desist from:

(1) Selling and distributing salted nuts or any other products so packed and assembled that sales of such salted nuts or other products to the general public are to be made or may be made by means of a lottery, gaming device or gift enterprise.

(2) Supplying to or placing in the hands of dealers assortments of salted nuts or any other products which are to be used or which may be used without alteration or rearrangement of the contents of such assortments to conduct a lottery, gaming device or gift enterprise in the sale or distribution of the salted nuts or other products contained in said assortments to the general public.

(3) Supplying to or placing in the hands of dealers assortments of salted nuts or any other products, together with a device commonly called a punch board, or any other lottery device for use or which may be used in distributing or selling the said salted nuts or other products to the general public at retail.

(4) Furnishing to dealers a device commonly called a punch board or any other lottery device, either with packages or assortments of salted nuts or any other products, or separately, which punch board or other lottery device is to be used or may be used in distributing or selling said salted nuts or other products to the general public.

It is further ordered, That the said respondent shall within sixty (60) days from the date of the service of this order upon him file with the Commission a report in writing setting forth in detail the manner and form in which he has complied therewith.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3083; Filed, October 18, 1938; 10:11 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49724]

PROTEST FILED AGAINST LIQUIDATION OF AN ENTRY COVERING COAL FROM RUSSIA

COLLECTORS OF CUSTOMS INSTRUCTED TO SUSPEND LIQUIDATION OF THE ENTRIES INVOLVED

To Collectors of Customs and Others Concerned:

Reference is made to T. D. 49547, approved May 2, 1938,[1] published in the weekly Treasury Decisions, Vol. 73, No. 19, of May 12, 1938, proclaiming the classification of and rate of duty imposed upon coal of the kind described in said treasury decision.

Publication of the above-mentioned decision was occasioned by a complaint with respect to the classification of and rate of duty imposed upon the merchandise described in T. D. 49547, filed under section 516 (b) of the Tariff Act of 1930 (U. S. C. title 19, sec. 1516 (b)) by the Hudson Coal Company, an American producer of such merchandise.

Notice of a desire to protest having been filed with the Secretary of the Treasury and a protest having been filed with the collector of customs, Providence, R. I. (No. 629), against the liquidation on September 19, 1938, of consumption entry 010 of August 2, 1938, in form and substance as in the statute provided, pending the decision of the United States Customs Court on the protest in question collectors of customs will suspend liquidation of all unliquidated entries covering coal of the kind described in T. D. 49547, imported or withdrawn from warehouse after the expiration of 30 days after the publication of T. D. 49547, and will comply in all respects, in connection with the liquidation or reliquidation of entries of such merchandise, with the provisions of section 516 (b) of the Tariff Act of 1930.

See T. D. 49674 dated August 10, 1938.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved: October 15, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3084; Filed, October 18, 1938; 10:11 a. m.]

[1] 3 F. R. 1068 DI.

TITLE 24—HOUSING CREDIT

FEDERAL HOUSING ADMINISTRATION

AMENDMENTS TO ADMINISTRATIVE RULES AND REGULATIONS FOR MULTIFAMILY AND GROUP HOUSING INSURANCE UNDER SECTION 207 OF TITLE II OF THE NATIONAL HOUSING ACT

Paragraph 1 of Section I of said Administrative Rules,[1] as amended, is hereby amended to read as follows:

"1. Information required for preliminary examinaton of a Rental Housing project under Section 207 shall be submitted by a mortgagee or by the sponsors of such project through the local Federal Housing Administration office on FHA Form 2013, executed in triplicate. No application will be considered unless the exhibits called for by that form are furnished. The submission of Form 2013 will be deemed to be the applicant's agreement to pay in accordance with the provisions of this section and on account of the costs of appraisal and inspection by the Administrator, the following sums:

(a) One dollar and fifty cents per thousand of the face amount of the mortgage loan applied for (referred to as "Application Fee") upon submission of application, and

(b) A sum (referred to as "Commitment Fee") which when added to the Application Fee will aggregate $3.00 per thousand of the face amount of the mortgage loan approved for insurance by the Administrator, and which shall be paid at the time of delivery of the commitment letter.

However, in case of a Public Housing project, the fee to be paid under this Paragraph shall be fixed by the Administrator, but shall not exceed $3.00 per thousand of the original face amount of the mortgage.

If the Administrator shall issue a commitment as herein provided and the commitment fee shall not be paid and delivery accepted by the applicant within the period of time specified in the commitment letter, such commitment shall, unless the period for such payment be specifically extended, be considered void and of no effect. If an application to increase the amount of the insured mortgage is presented after commitment, a new application fee based upon the amount of such increase must be paid at the time the application for such increase is filed which payment will be subject to adjustment as above provided in accordance with the amount of the increase approved by the Administrator. If the amount of the insured mortgage is increased after insurance either by amendment of by the substitution of a new insured mortgage, the fees herein provided for shall be based upon the amount of such increase.

[1] 3 F. R. 426 DI.

If an application is rejected upon preliminary examination as determined by the Administrator the application fee will be returned to the applicant. Otherwise fees paid as above provided shall not be returned.

The first sentence of paragraph 10 of Section II of said Administrative Rules,[1] as amended, is hereby amended to read as follows:

"10. The mortgage shall provide for payments by the mortgagor to the mortgagee on each interest payment date of an amount sufficient to accumulate in the hands of the mortgagee one payment period prior to its due date, the next annual mortgage insurance premium payable by the mortgagee to the Administrator." • • •

Issued at Washington, D. C., this 8th day of October, 1938, and effective immediately.

[SEAL] STEWART MCDONALD,
Federal Housing Administrator.

[F. R. Doc. 38-3075; Filed, October 17, 1938; 2:17 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

[Part 521]

REGULATIONS APPLICABLE TO EMPLOYMENT OF APPRENTICES PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT[2]

SECTION 521.90—TEMPORARY CERTIFICATE OF EXEMPTION DURING PERIOD BEFORE NORMAL PROCEDURE IS IN FULL OPERATION*

The following regulation—Section 521.90—is hereby issued. Said Regulation—Section 521.90—shall become effective upon my signing the original and upon the publication thereof in the Federal Register and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this 18th day of October, 1938.

ELMER F. ANDREWS,
Administrator.

Section 521.90 Temporary Certificate of Exemption During Period Before Normal Procedure Is in Full Operation

From October 24, 1938, to February 1, 1939, this regulation shall be deemed to be a certificate authorizing employers to employ apprentices at wage rates less than the minimum rates applicable under Section 6 of the Fair Labor Standards Act of 1938, subject to the following conditions:

(a) The employee must be an apprentice as defined in Section 521.1.

(b) He must be covered by a written apprenticeship agreement conforming to the description in Section 521.1.

(c) He must be employed at a rate not less than that specified in said apprenticeship agreement.

Formal applications for the appointment of apprentices must be forwarded to the Administrator as soon as possible in accordance with the routine procedure set forth in Part 521. If a special certificate is issued on the basis of such application, it will forthwith supersede the temporary certificate provided by this Section. If any such application is denied, prior to February 1, 1939, the temporary exemption, as to the named apprentice will become inoperative immediately upon notice to the employer of such denial.*

[F. R. Doc. 38-3079; Filed, October 18, 1938; 9:36 a. m.]

[Part 524]

REGULATIONS APPLICABLE TO EMPLOYMENT OF HANDICAPPED PERSONS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT[3]

SECTION 524.90—TEMPORARY CERTIFICATE OF EXEMPTION DURING PERIOD BEFORE NORMAL PROCEDURE IS IN FULL OPERATION*

The following regulation—Section 524.90—is hereby issued. Said Regulation—Section 524.90—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this 18th day of October, 1938.

ELMER F. ANDREWS,
Administrator.

Section 524.90 Temporary Certificate of Exemption During Period Before Normal Procedure Is in Full Operation

From October 24, 1938, to February 1, 1939, this regulation shall be deemed to be a certificate authorizing employers to continue in their employ handicapped workers at wage rates less than the minimum rates applicable under Section 6 of the Fair Labor Standards Act, subject to the following conditions:

(a) The earning capacity of the employee for the particular position held by him must be, or must honestly be believed by the employer to be, substantially impaired by age or physical or mental deficiency or injury.

(b) Such handicapped worker must have been employed by the employer on or before October 17, 1938, at a rate less than the normal minimum rate prescribed in Section 6 of the Act.

(c) If the employer had in his employ on October 17 any non-handicapped worker or workers similarly employed, the handicapped worker must have been employed at that date at a rate less than the rate paid to such non-handicapped workers.

(d) In no event shall the wage paid to the handicapped employee during this period of temporary exemption be at a rate less than 75 per cent of the normal minimum rate applicable under Section 6 of the Act.

(e) For the purposes of this regulation no alleged handicapped worker shall be temporarily exempted if, prior to October 17, 1938, more than 5 per cent of the workers were employed by the employer to perform similar work at the same rate of pay as that received by such alleged handicapped worker; provided, that this limitation shall not apply in the case of employment by non-profit or semi-charitable organizations.

(f) The temporary exemption herein provided shall terminate on December 1, 1938, as to any particular employee claimed to be handicapped, unless prior to that date the Administrator shall have received an application for exemption as prescribed in Part 524, Title 29, Chapter V, Regulations Applicable to Handicapped Persons. If a special certificate is issued on the basis of such application, it will supersede the temporary certificate provided by this Section. If any such application is denied, prior to February 1, 1939, the temporary exemption, as to the named employee, will become inoperative immediately upon notice to the employer of such denial.

[F. R. Doc. 38-3080; Filed, October 18, 1938; 9:36 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 361-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE MIDDLE STATES FUELS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

At a session of the National Bituminous Coal Commission held at its office in Washington, D. C. on the 17th day of October, 1938.

It appearing that the above-named applicant, Middle States Fuels, Incorporated, a Delaware corporation authorized to engage in business in the State of Illinois, filed its application for provisional approval as a marketing agency on the 8th day of July, 1938, pursuant to Order No. 6 of the Commission,[1] and the matter being assigned to Trial Examiner Tilman B. Cantrell, and proper notice having been given,[2] the same came on for hearing before the said Examiner on the 1st day of August, 1938, and at said hearing the applicant having duly appeared and representatives of the Legal Division of the Commission and of the Consumers' Counsel having entered their respective appearances therein, the evidence was adduced; and

It further appearing that the Trial Examiner having received said evidence, did, on the 27th day of August, 1938, file, with the Commission, his report and proposed findings of fact, together with his recommendations that said application be granted, and it appearing that true copies of said report and proposed findings of fact of the Examiner were duly served upon all parties appearing at said hearing, on the 29th day of August, 1938, and more than fifteen days having elapsed since the service of said report, no execptions have been filed thereto; and

The Commission having considered the application, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof finds that the "Findings of Fact" as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937 the National Bituminous Coal Commission hereby orders:

That the application of the Middle States Fuels, Incorporated, for provisional approval as a marketing agency be and the same is hereby granted and the said Middle States Fuels, Incorporated, be and the same is hereby considered to be a marketing agency and provisionally approved as such within the purview of Section 12 of the Bituminous Coal Act of 1937 until further order of the Commission.

By order of the Commission.

Dated this 17th day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3090; Filed, October 18, 1938; 12:50 p. m.]

[Docket 501-FD]

ORDER IN THE MATTER OF THE APPLICATION OF THE ALLEGHENY COUNTY INSTITUTION DISTRICT FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4-A OF THE ACT

At a regular session of the National Bituminous Coal Commission Held in its Offices in Washington, D. C., on the 17th day of October 1938.

It appearing, that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong. 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Allegheny County Institution District, on the 13th day of August, 1938, forwarded to the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 insofar as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of heat, light and power used in the operation of the buildings of the Allegheny County Institution District which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, after considering the allegations made in the verified application of the Allegheny County Institution District, that applicant is a corporation, a political sub-division of the Commonwealth of Pennsylvania, being the Poor District of the County of Allegheny, exclusive of the City of Pittsburgh; that applicant is the owner and producer of bituminous coal from a mine located in Collier Township, Allegheny County, Pennsylvania; that all the bituminous coal produced at such mine is consumed by applicant in the manufacture of heat, light and power used in the operation of the buildings of the Allegheny County Institution District;

Now, therefore, it is hereby ordered:

That the provisions of Section 4 Part II (1) of the Bituminous Coal Act of 1937 do apply to the bituminous coal produced by the Allegheny County Institution District at its mine located in Collier Township, Allegheny County, Pennsylvania, which is consumed by the Allegheny County Institution District in the manufacture of heat, light and power used in the operation of the buildings of the Allegheny County Institution District, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and to the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3091; Filed, October 18, 1938; 12:50 p. m.]

[Docket 487-FD]

ORDER IN THE MATTER OF THE APPLICATION OF WESTMORELAND BRICK COMPANY, FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4-A OF THE ACT

At a regular session of the National Bituminous Coal Commission Held at its Offices in Washington, D. C., on the 17th day of October 1938.

It appearing, that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Westmoreland Brick Company, on the 17th day of June, 1938, filed with the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 in so far as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of fire brick at its plant in Hunker, Pennsylvania, which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, after considering the allegations made in the verified application of Westmoreland Brick Company, that applicant is a corporation, duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania; that applicant is a member of the Bituminous Coal Code; that applicant is the owner and producer of bituminous coal from a drift mine located at Hunker, Pennsylvania; that all of the bituminous coal produced at such mine is consumed by applicant in the manufacture of fire brick at its plant in Hunker, Pennsylvania;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 do apply to the Bituminous coal produced by Westmoreland Brick Company at its mine located at Hunker, Pennsylvania, which is consumed by Westmoreland Brick Company in the manufacture of fire brick at its plant in Hunker, Pennsylvania, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

[1] 3 F. R. 427 DI.
[2] 3 F. R. 2483 DI.
* Section 521.90 issued under the authority contained in Section 14, 52 Stat. 1060.

[1] 3 F. R. 2485 DI.
* Section 524.90 issued under the authority contained in Sec. 14, 52 Stat. 1060.

[1] 2 F. R. 1078 (1287 DI).
[2] 3 F. R. 1830 DI.

Within fifteen (15) days from the date of this Order all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3093; Filed, October 18, 1938; 12:51 p. m.]

[Docket 492-FD]

ORDER IN THE MATTER OF THE APPLICATION OF FREEPORT BRICK COMPANY, FOR EXEMPTION FROM THE PROVISIONS OF SECTION 4 OF THE BITUMINOUS COAL ACT OF 1937, FILED UNDER PROVISIONS CONTAINED IN THE SECOND PARAGRAPH OF SECTION 4-A OF THE ACT

At a regular session of the National Bituminous Coal Commission Held at its offices in Washington, D. C., on the 17th day of October, 1938.

It appearing, that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, Freeport Brick Company, on the 16th day of June, 1937, forwarded to the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 in so far as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, in the manufacture of brick at its plant near the Boro of Freeport, Armstrong County, Pennsylvania; which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, after considering the allegations made in the verified application of Freeport Brick Company, that applicant is a corporation, duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania; that applicant is a member of the Bituminous Coal Code; that applicant is the owner and producer of bituminous coal from a mine located near the Boro of Freeport, Armstrong County, Pennsylvania; that all of the bituminous coal produced at such mine is consumed by applicant in the manufacture of brick at its plant near the Boro of Freeport, Armstrong County, Pennsylvania;

Now therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 do apply to the bituminous coal produced by Freeport Brick Company at its mine located near the Boro of Freeport, Armstrong County, Pennsylvania, which is consumed by Freeport Brick Company in the manufacture of brick at its plant near the Boro of Freeport, Armstrong County, Pennsylvania, and such shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and applicant shall file such accompanying reports as will enable the Commission to determine whether the facts as found in this Order continue to exist.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 17th day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3092; Filed, October 18, 1938; 12:50 p. m.]

DEPARTMENT OF LABOR.

Division of Public Contracts.

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE EVAPORATED AND CONDENSED MILK INDUSTRY

NOTICE OF HEARING

The Public Contracts Board will hold a hearing in Room 3229, Department of Labor Building, Washington, D. C., at 10 A. M., Friday, October 28, 1938, to take testimony upon which findings of fact will be made to assist the Secretary of Labor in determining, pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35), the prevailing minimum wages in the Evaporated and Condensed Milk Industry.

There is enclosed herewith a copy of the report of the Women's Bureau, Department of Labor, entitled *Wages and Hours in Milk Condenseries in 1938.*[1] This report will be introduced at the hearing in this matter.

At the hearing an opportunity to be heard, either in person or by duly appointed representatives, will be given to persons engaged in the above-named industry, either as employers or as employees, to groups of such persons, and to others within the discretion of the Board. Briefs or telegraphic communications may be filed but they should be received by the Board on or before the hearing date. Five copies of all briefs must be submitted. Employers appearing in person, or by representatives, or presenting briefs, should furnish the Board with the following essential data:

(1) Name of firm.
(2) Plant address.
(3) Total number of employees in plant.
(4) Number of male employees.
(5) Number of female employees.
(6) Classification of employees by occupations, including number engaged in each operation.
(7) Hourly wages in each operation with designation of applicable time period.
(8) If paid on piece work basis, weekly earnings in each class of employees.
(9) Hours worked per week.

This outline of suggested data is not meant to exclude the submission of any other pertinent information which an employer may desire to submit.

Employees appearing at the hearing, either in person or by their representatives, or submitting briefs, should acquaint the Board with facts as to the wages now being paid in the industry.

Dated: October 14, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3081; Filed, October 18, 1938; 10:03 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 12th day of October, A. D. 1938.

[File No. 46-97]

IN THE MATTER OF THE MIDDLE WEST CORPORATION

[Corrected Order]

ORDER GRANTING EXEMPTION OF THE ACQUISITION OF SECURITIES

The Middle West Corporation, a registered holding company, having duly filed with this Commission an application and amendments thereto for an order exempting from the provisions of Section 9 (a) of said Act the acquisition by the applicant in the open market, from time to time, of not exceeding 20,000 shares of the preferred stock of Central Illinois Public Service Company;

A hearing on said application, as amended, having been held after appropriate notice,[1] the record in this matter having been examined, and the Commission having made and filed its findings herein:

It is ordered, That the acquisition by the applicant of not exceeding 20,000 shares of the $6 cumulative preferred stock of Central Illinois Public Service Company be and the same hereby is exempted from the provisions of Section 9 (a) of said Act; and

It is further ordered, Pursuant to Section 9 (c) (3) of said Act, and as conditions to the foregoing order that:

(1) On or before the fifth day of each week while the order of the Commission in this case remains in effect, the applicant shall file with the Commission a report with respect to its purchases of preferred stock of Central Illinois during the preceding week. Each such report shall set out the date of each purchase, the number of shares purchased in each transaction, the prices paid therefor, the exchange on which purchased, and the name and address of the broker in each transaction;

(2) The order of the Commission shall be summarily revocable if at any time the Commission shall deem that the circumstances are such as to make further purchases no longer compatible with the public interest or the interest of investors and consumers. In any event, such order shall expire at the close of business on March 31, 1939;

(3) The applicant shall not, directly or indirectly, sell any shares of the preferred stock of Central Illinois during the time while the order in this case is effective or for a period of six months thereafter;

(4) All such purchases shall be made in compliance with the terms of the application filed with the Commission in this matter;

(5) Central Illinois Public Service Company shall, at the expense of The Middle West Corporation, and in the next regular communication which Central Illinois Public Service Company makes to its preferred stockholders (which will normally be on the date the December 15, 1938 preferred dividend checks are mailed), enclose a letter stating that prior to June 15, 1937, The Middle West Corporation owned 1,520 shares of Central Illinois Public Service Company preferred stock; that on or about June 15, 1937, The Middle West Corporation was authorized by the Securities and Exchange Commission to purchase an additional 3,000 shares of such preferred stock from an affiliated company; that on June 30, 1937 The Middle West Corporation obtained authority from said Commission to purchase an additional 10,000 shares of such preferred stock on the open market; that on November 26, 1937 it obtained authority from said Commission to purchase an additional 10,000 shares of said preferred stock; that on October 12, 1938 The Middle West Corporation obtained an order from said Commission authorizing the purchase of an additional 20,000 shares of such preferred stock on the open market, but that such order was expressly conditioned upon the foregoing information being communicated to all preferred stockholders of Central Illinois Public Service Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3086; Filed, October 18, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of October, A. D., 1938.

[File No. 1-2308]

IN THE MATTER OF BELMONT METALS CORPORATION COMMON CAPITAL STOCK, PAR VALUE 25 CENTS, NON-ASSESSABLE

SUSPENSION OR WITHDRAWAL OF REGISTRATION

I

It appearing to the Commission:

That Belmont Metals Corporation, a corporation, is the issuer of Common Capital Stock, Par Value 25 Cents, Non-Assessable; and

That said Belmont Metals Corporation registered such security on the San Francisco Mining Exchange, a national securities exchange, by filing on or about December 7, 1935, an application with the said Exchange and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, formerly designated as Rule JB1, promulgated by the Commission thereunder; and

That pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, and Rules X-13A-1 and X-13A-2, formerly designated as Rules KA1 and KA2, respectively, promulgated by the Commission thereunder, said Belmont Metals Corporation filed on or about May 11, 1936, and on or about May 3, 1937, its annual reports on Form 10-K for the respective fiscal years ended December 31, 1935, and December 31, 1936; and

That said Rule X-13A-1 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That said Rule X-13A-2 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified and that no other form was or is specified for use by the said Belmont Metals Corporation; and

II

The Commission having reason to believe:

That Belmont Metals Corporation has failed to comply with said Section 13 (a) and the Rules and Regulations promulgated thereunder in that it has failed to file the information and documents required by said Rule X-13A-1 adopted by the Commission pursuant to Section 13 (a), and has failed to file its annual report for the year ended December 31, 1937, on Form 10-K, as required by Rule X-13A-2 adopted by the Commission pursuant to said Section 13 (a); and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Belmont Metals Corporation has so failed to comply with said Section 13 (a) and said Rules and Regulations promulgated by the Commission thereunder, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said Common Capital Stock, Par Value 25 Cents, Non-Assessable, on said San Francisco Mining Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 1st day of November, 1938, at 10:00 A. M., at the Regional Office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and to continue thereafter at such times and places as said officer may determine; and

[1] The report was filed as a part of the original document with the Division of the FEDERAL REGISTER. The National Archives; requests for copies should be addressed to Division of Public Contracts, Department of Labor.

[1] 3 F. R. 929 DI.

It is further ordered, That for the purpose of such proceeding, John Clarkson, an officer of the Commission be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3089; Filed, October 18, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October, A. D. 1938.

[File No. 31-207]

IN THE MATTER OF INTERNATIONAL HYDRO-ELECTRIC SYSTEM

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 3 (a) (5) and 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 9, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 4, 1938.

The matter concerned herewith is in regard to the applicant's request for an order under Section 3 (a) (5) of the Public Utility Holding Company Act of 1935 exempting it from all provisions of said Act, and for an order under Section 2 (a) (8) of said Act declaring New England Power Association and Moreau Manufacturing Corporation not to be subsidiaries of the applicant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3087; Filed, October 18, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October, A. D. 1938.

[File No. 31-208]

IN THE MATTER OF INTERNATIONAL PAPER AND POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 3 (a) (5) and 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 9, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 4, 1938.

The matter concerned herewith is in regard to the applicant's request for an order under Section 3 (a) (5) of the Public Utility Holding Company Act of 1935 exempting it from all provisions of said Act, and for an order under Section 2 (a) (8) of said Act declaring New England Power Association and Moreau Manufacturing Corporation not to be subsidiaries of the applicant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3088; Filed, October 18, 1938; 12:49 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS SATURDAY, OCTOBER 15, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	581	99
2. Hawaii	139	15
3. California	2,137	763
4. Texas	2,192	880
5. Alaska	22	9
6. Louisiana	791	371
7. Michigan	1,822	860
8. Arizona	164	80
9. New Jersey	1,521	790
10. South Carolina	654	375
11. Ohio	2,501	1,484
12. Oklahoma	902	546
13. Arkansas	698	430
14. Alabama	996	614
15. Mississippi	756	469
16. New Mexico	159	101
17. North Carolina	1,193	783
18. Georgia	1,095	731
19. Kentucky	984	670
20. Wisconsin	1,106	841
21. Illinois	2,872	2,199
22. Tennessee	985	759
23. Connecticut	605	481
24. Nevada	34	29
25. Oregon	359	319
26. Indiana	1,219	1,097
27. Delaware	90	81
28. Florida	553	510
29. New York	4,737	4,439
30. Pennsylvania	3,625	3,430
31. Idaho	167	159
32. Utah	191	182
33. Wyoming	85	82
34. New Hampshire	175	172
35. Maine	300	296
36. West Virginia	651	645
37. Kansas	708	703

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
QUOTA FILLED			
38. Rhode Island	259	259	−1
IN EXCESS			
39. Colorado	390	392	+4
40. Washington	588	592	+31
41. Massachusetts	1,599	1,617	+18
42. Missouri	1,366	1,421	−17
43. Vermont	135	142	+1
44. Minnesota	965	1,031	−27
45. North Dakota	256	276	+24
46. Montana	202	227	−2
47. South Dakota	281	298	+9
48. Iowa	930	1,067	+11
49. Nebraska	519	631	−1
50. Virginia	911	1,919	−10
51. Maryland	614	1,845	−9
52. District of Columbia	183	8,746	−13

GAINS

By appointment	242
By reinstatement	1
By transfer	36
By correction	1
Total	280

LOSSES

By separation	105
By transfer	34
Total	139
Total Appointments	46,947

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,249.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38-3085; Filed, October 18, 1938; 10:45 a. m.]

OCT 21

FEDERAL REGISTER

VOLUME 3 NUMBER 205

Washington, Thursday, October 20, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q. 481]

AUTHORIZING THE SHIPMENT OF FRUITS AND VEGETABLES FROM HAWAII TO THE MAINLAND SUBJECT TO STERILIZATION UNDER SUPERVISION

[Approved October 19, 1938; effective November 1, 1938]

Extensive experiments have demonstrated that holding of fruits and vegetables at certain prescribed temperatures for certain periods will kill all stages of the Mediterranean fruitfly and the melon fly. Available data suggest that certain fruits and vegetables may be subjected to such treatment without affecting their palatability and marketability. Treatment in Hawaii of fruits and vegetables at prescribed temperatures under supervision of inspectors of the Bureau of Entomology and Plant Quarantine and the handling of the treated products under supervision so as to prevent reinfestation will preclude the possible introduction of these pests into the mainland and the following two treatments are prescribed:

1. Cooling until the approximate center of the fruit or vegetable reaches a temperature of 35° F. and holding the fruit or vegetable so the inside temperature does not exceed 35° F. for a period of 15 days.

2. Heating the fruit or vegetable until the approximate center reaches 110° F. and holding this temperature for a period of 8 hours.

On the basis of evidence obtained and under the authority contained in the first proviso of regulation 2 of the rules and regulations supplemental to Quarantine 13, provision is hereby made for the certification of fruits and vegetables for movement from the Territory of Hawaii into or through any State, Territory or District of the United States when treatments are applied in Hawaii at plants designated for this purpose by the United States Department of Agriculture and under the supervision of the inspectors of the Bureau of Entomology and Plant Quarantine, provided that in the issuance of permits fruits and vegetables so treated shall be moved and handled by the treating plant and loaded on ships in a manner which, in the judgment of the inspectors, will preclude fruit-fly infestation subsequent to treatment.

In authorizing the entry of fruits and vegetables into the mainland of the United States under the provisions of this circular, it should be emphasized that inexactness and carelessness in applying the treatment may result in injury to fruits or vegetables or to their rejection.

The treatment required under the provisions of this circular represents the requirements necessary for the elimination of pest risk and no liability shall be attached to the United States Department of Agriculture or to any officer or representative of that Department in event of injury resulting to fruit or vegetable offered for entry under the provisions of this circular. It should also be emphasized that evidence based on trial shipments under conditions of transportation from Hawaii is not available to demonstrate that fruits and vegetables will be marketable after the application of the treatments here authorized, and that any fruits or vegetables treated and shipped under the provisions of this circular are at the risk of the shipper.

LEE A. STRONG,
Chief.

[F. R. Doc. 38-3108; Filed, October 19, 1938; 12:10 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Amendment No. 2 of Regulation 401-B-1]

APPLICATION FOR CERTIFICATES OF CONVENIENCE AND NECESSITY

At a session of the Civil Aeronautics Authority held at its office in Washing-

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Entomology and Plant Quarantine:
Shipment of fruits and vegetables from Hawaii to mainland subject to sterilization ... 2515

TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Certificates of convenience and necessity, application for ... 2515
Temporarily exempting nonscheduled operations from certain provisions of Civil Aeronautics Act ... 2516

TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Gallsto Co ... 2516
Lee Sales Co ... 2517

TITLE 29—LABOR:
Wage and Hour Division:
Terms defined, employee employed in bona fide executive, etc., retailing capacity, or in capacity of outside salesman ... 2518

NOTICES

Civil Aeronautics Authority:
Exemptions relative to certain air transportation service rendered by:
Eastern Air Lines, Inc ... 2519
National Airlines, Inc ... 2518
Federal Power Commission:
Arkansas-Louisiana Gas Co., hearing postponed ... 2521
Federal Trade Commission:
Orders appointing examiners, etc., in matter of:
American Clinical Laboratories, Inc., et al ... 2522
Columbia Refining Co ... 2523
Gimino, Steven V., and Anthony V., trading as Elite Publishing Co ... 2523

(Continued on next page)

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CONTENTS—Continued

	Page
Federal Trade Commission—Con.	
Goodman, Jacob and Bertha, trading as M. Goodman & Son, etc	2522
Scott, Rose R., trading as Koskott Co	2523
Sinnock & Sherrill, Inc	2522
Turmel, Madame Marguerite, Inc	2522
Securities and Exchange Commission:	
Owego Gas Corp., et al, hearing	2523
Utilities Power & Light Corp., and Charles True Adams, Trustee, order	2524

ton, D. C., on the 10th day of October, 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 401 (b) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Authority hereby amends Regulation 401–B–1, as heretofore amended,[1] as follows:

(1) By amending the first sentence of paragraph (a) thereof so that the same shall read as follows:

"(a) *Number of copies.*—Ten copies of each application for a certificate issued pursuant to section 401 of the Act shall be filed with the Authority."

[1] 3 F. R. 2049, 2272 DI.

This amendment No. 2 of Regulation 401–B–1 shall become effective October 25, 1938.

For the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38–3104; Filed, October 19, 1938; 11: 19 a. m.]

TEMPORARILY EXEMPTING NON-SCHEDULED OPERATIONS FROM CERTAIN PROVISIONS OF CIVIL AERONAUTICS ACT OF 1938

At a session of the Civil Aeronautics Authority held in the City of Washington, D. C., on the 18th day of October, 1938.

It appearing that:

1. No person engaged in operating aircraft is subject to the provisions of section 401 or the other provisions of Title IV of the Civil Aeronautics Act of 1938 unless such person is engaged in "the carriage by aircraft of persons or property as a common carrier for compensation or hire or in the carriage of mail by aircraft in commerce";

2. A large number of persons are engaged in a great variety of non-scheduled operations of a commercial character, some of which may be interstate or foreign in nature;

3. Questions as to the economic effect of such operations upon air transportation generally deserve additional study as to

a. the extent to which particular classes of non-scheduled operations should be made subject to or permanently exempted from the provisions of Title IV of the Act generally; and

b. suitable means of determining whether or not any particular person engaged in such non-scheduled operations is engaged in interstate, overseas or foreign air transportation;

The Authority finds that:

The present enforcement of the provisions of Title IV of the Civil Aeronautics Act of 1938 generally, in so far as such provisions are applicable to the service of air transportation rendered by such persons engaged in non-scheduled operations of aircraft, would be an undue burden on such persons by reason of the unusual circumstances affecting their operations, and such enforcement would not be in the public interest.

Now, therefore, the Civil Aeronautics Authority, acting pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, adopts and issues the following regulation:

REGULATION 400–1. TEMPORARILY EXEMPTING NON-SCHEDULED OPERATIONS FROM CERTAIN PROVISIONS OF TITLE IV OF THE CIVIL AERONAUTICS ACT OF 1938

(a) Until the Authority shall adopt further rules, regulations or orders with respect to such matter, every air carrier shall be exempt from the provisions of section 401 and all other provisions of Title IV of the Civil Aeronautics Act of 1938 (except as provided in paragraph (b) of this regulation) if such air carrier does not engage in scheduled operations. Within the meaning of this regulation any operation by an air carrier shall be deemed to be a "scheduled" one, if:

(1) such operation involves the flight of one or more airplanes from a take-off point in one state (or a territory or possession of the United States) to a landing point in another such state, territory or possession or in a foreign nation; and

(2) the air carrier holds out to the public by advertisement or otherwise that it will operate one or more airplanes between such points regularly or with a reasonable degree of regularity; and

(3) the air carrier permits it to be generally understood that on such flights, and for compensation or hire, it will accept for transportation between such points such members of the public as may apply therefor or such express or other property as the public may offer.

(b) The exemptions provided by this regulation shall not be applicable to the provisions of subsection (l) of section 401 of the Act or to the reporting requirements of section 407 of the Act; *Provided*, That no provision of any rule, regulation or order that may be adopted by the Authority requiring reports pursuant to section 407 of the Act shall be deemed applicable to any non-scheduled operator unless such rule, regulation or order expressly provides that such provision is to be applicable to air carriers who are exclusively engaged in non-scheduled operations.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38–3110; Filed, October 19, 1938; 12:46 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3444]

IN THE MATTER OF GALLSTO COMPANY

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that preparation now designated, etc., as "Doctor's prescription," is an effective remedy or competent treatment for colds, la grippe and headaches, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gallsto Company, Docket 3444, October 7, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that preparation now designated, etc., as "Gallsto," relieves, or is a competent treatment or effective remedy for, gallstones, colic, or liver trouble, or that through use of said product surgical operations for gallstones or other disorders may be avoided or prevented, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Gallsto Company, Docket 3444, October 7, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 7th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF MARY ROSENHEIMER, TRADING AS GALLSTO COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that she waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Mary Rosenheimer, trading as Gallsto Company, or under any other trade name, her representatives, agents and employees, in connection with the offering for sale, sale and distribution of medicinal preparations, under whatever name sold, for the relief of colds, grippe, headaches, gallstones, colic and liver complaints, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing directly or by inference:

(1) That the preparation now designated and described as "Doctor's prescription" is an effective remedy or competent treatment for colds, la grippe and headaches;

(2) That the preparation now designated and described as "Gallsto" relieves, or that it is a competent treatment or effective remedy for, gallstones, colic or liver trouble;

(3) That through the use of said preparation now designated and described as "Gallsto" surgical operations for gallstones or other disorders may be avoided or prevented.

It is further ordered, That the respondent shall, within sixty (60) days after service upon her of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which she has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–3094; Filed, October 18, 1938; 4:03 p. m.]

[Docket No. 3492]

IN THE MATTER OF LEE SALES COMPANY

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying to, etc., others, pull cards or circulars having pull tabs thereon, or other lottery devices, for the purpose of enabling such persons to dispose of, etc., jewelry, cameras, china, silverware, razors, clothing, cosmetics, and various other articles, by the use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lee Sales Company, Docket 3492, October 6, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices — In merchandising.* — Mailing, etc., to his agents, etc., pull cards or circulars having pull tabs thereon, or other lottery devices so prepared or printed as to enable said persons to sell, etc., jewelry, cameras, china, silverware, razors, clothing, cosmetics, and various other articles, by the use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lee Sales Company, Docket 3492, October 6, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Selling, etc., jewelry, cameras, china, silverware, razors, clothing, cosmetics, and various other articles, by the use of pull cards or circulars having pull tabs thereon, or any other lottery device, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lee Sales Company, Docket 3492, October 6, 1938.]

SEC. 3.6 (gg) *Advertising falsely or misleadingly—Value.*—Representing, directly or indirectly, in connection with sale of jewelry, cameras, china, silverware, razors, clothing, cosmetics, etc., that various articles of merchandise which respondent sells, etc., have a retail value greatly in excess of usual or normal retail value thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lee Sales Company, Docket 3492, October 6, 1938.]

SEC. 3.6 (i) *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e) *Offering deceptive inducements to purchase—Free goods.*—Falsely representing, directly or indirectly, in connection with sale of jewelry, cameras, china, silverware, razors, clothing, cosmetics, etc., that respondent's merchandise is distributed free or without cost, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Lee Sales Company, Docket 3492, October 6, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 6th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3492]

IN THE MATTER OF ADOLPH SPATER, INDIVIDUALLY AND TRADING AS LEE SALES COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Adolph Spater, individually and trading as Lee Sales Company, or trading under any other name, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of various articles of merchandise including, among others, watches, cameras, china and silverware, lamps, razors, razor blades, pens, mirrors, dolls, dresser sets, clothing, clocks, cigarette lighters, jewelry, cosmetics, bedding and kitchenware in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others pull cards or circulars having pull tabs thereon, or other lottery devices for the purpose of enabling such persons to dispose of or sell such merchandise by the use thereof.

(2) Mailing, shipping or transporting to his agents or to distributors or to members of the public pull cards or circulars having pull tabs thereon, or other lottery devices so prepared or printed as to enable said persons to sell or distribute such merchandise by the use thereof.

(3) Selling or otherwise disposing of such merchandise by the use of pull cards or circulars having pull tabs thereon, or any other lottery device.

(4) Representing directly or indirectly that the articles of merchandise which he sells or offers for sale have a retail value greatly in excess of the usual or normal retail value thereof.

(5) Representing directly or indirectly that his merchandise is distributed free or without cost when such is not the fact.

It is further ordered, That the said respondent shall, within sixty (60) days from the date of the service of this order upon him, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied therewith.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38–3095; Filed, October 18, 1938; 4: 03 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 541. REGULATIONS DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, OR LOCAL RETAILING CAPACITY, OR IN THE CAPACITY OF OUTSIDE SALESMAN" PURSUANT TO SECTION 13 (A) (1) OF THE FAIR LABOR STANDARDS ACT *

The following regulations—Part 541—(Regulations defining and delimiting the terms "any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman" pursuant to Section 13 (a) (1) of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 541—shall become effective on my signing the original and after the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this nineteenth day of October, 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 541.1 *Executive and Administrative.* The term "employee employed in a bona fide executive [and] administrative . . . capacity" in Section 13 (a) (1) of the Act shall mean any employee whose primary duty is the management of the establishment, or a customarily recognized department thereof, in which he is employed, and who customarily and regularly directs the work of other employees therein, and who has the authority to hire and fire other employees or whose suggestions and recommendations as to the hiring and firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight, and who customarily and regularly exercises discretionary powers, and who does no substantial amount of work of the same nature as that performed by nonexempt employees of the employer, and who is compensated for his services at not less than $30 (exclusive of board, lodging, or other facilities) for a workweek.*

SECTION 541.2 *Professional.* The term "employee employed in a bona fide . . . professional . . . capacity" in Section 13 (a) (1) of the Act shall mean any employee

(a) who is customarily and regularly engaged in work

(i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work, and

(ii) requiring the consistent exercise of discretion and judgment both as to the manner and time of performance, as opposed to work subject to active direction and supervision, and

(iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, and

(iv) based upon educational training in a specially organized body of knowledge as distinguished from a general academic education and from an apprenticeship and from training in the performance of routine mental, manual, mechanical or physical processes in accordance with a previously indicated or standardized formula, plan or procedure, and

(b) who does no substantial amount of work of the same nature as that performed by non-exempt employees of the employer.*

SECTION 541.3 *Local retailing capacity.* The term "employee employed in a bona fide * * * local retailing capacity" in Section 13 (a) (1) of the Act shall mean any employee who customarily and regularly is engaged in making retail sales the greater part of which are in intrastate commerce, or who performs work immediately incidental thereto, such as the wrapping or delivery of packages, and who does no substantial amount of work of the same nature as that performed by non-exempt employees of the employer.*

SECTION 541.4 *Outside Salesman.* The term "employee employed . . . in the capacity of outside salesman" in Section 13 (a) (1) of the Act shall mean any employee who customarily and regularly performs his work away from his employer's place or places of business, who is customarily and regularly engaged in making sales as defined in Section 3 (k) of the Act and who does no substantial amount of work of the same nature as that performed by non-exempt employees of the employer. For the purposes of this definition, recurrent routine deliveries, whether or not prior orders are placed by the purchases, and collections, shall not be considered sales.*

SECTION 541.5 *Petition for Amendment of Regulations.* Any person wishing a revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, either in support of or in opposition to the proposed changes. In determining such future regulations, separate treatment for different industries and for different classes of employees may be given consideration.*

[F. R. Doc. 38-3109; Filed, October 19, 1938; 12:30 p. m.]

* Sections 541 through 541.5 issued under the authority contained in Section 13 (a) (1), 52 Stat. 1060.

Notices

CIVIL AERONAUTICS AUTHORITY.

[Special Order 401-A-6]

EXEMPTING NATIONAL AIRLINES, INCORPORATED, RELATIVE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER OVER A ROUTE FROM JACKSONVILLE, FLORIDA, TO NEW ORLEANS, LOUISIANA, VIA INTERMEDIATE CITIES

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 10th day of October, 1938.

Upon consideration by the Authority of the application of National Airlines, Incorporated, for exemption from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier from Jacksonville, Florida, to New Orleans, Louisiana, via Tallahassee, Marianna, and Pensacola, Florida, Mobile, Alabama, and Gulfport, Mississippi, the Authority is of the opinion and finds that:

(1) The applicant was, prior to May 14, 1938, and is now an air carrier engaged in the rendition of an interstate air transportation service, and as such air carrier is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) Said air carrier, prior to, on and since May 14, 1938, was and has been continuously engaged in the rendition of a scheduled air transportation service between Miami, Florida, and Daytona Beach, Florida, via Fort Myers, Sarasota, St. Petersburg, Tampa, Lakeland and Orlando, Florida.

(3) On or about the 12th day of April, 1938, the United States Post Office Department caused to be issued an advertisement for bidders for an air mail service over a route from Jacksonville, Florida, to New Orleans, Louisiana, via Tallahassee, Marianna, and Pensacola, Florida, Mobile, Alabama, and Gulfport, Mississippi, said route being known as route AM 39.

(4) On or about the 10th day of June, 1938, a contract for air mail service over the route described in Finding (3) was awarded by the United States Post Office Department to National Airlines, Incorporated, said air carrier being the lowest bidder therefor. By the terms of said contract, said air carrier was authorized by the Postmaster General to engage in the transportation of mail over said route AM 39. Air mail service over said route was provided for by the Act of Congress making appropriations for the Treasury Department and the Post Office Department, approved March 28, 1938. Said route is specifically set forth in section 401 (e) (2) (F) of the Civil Aeronautics Act of 1938.

(5) On or about the 15th day of July, 1938, the United States Post Office Department caused to be published a notice which provided in terms that air mail service over the route described in Finding (3) would be inaugurated on or about the 15th day of October, 1938. Said air carrier is not required, pursuant to the terms of the contract with the United States Post Office Department, to inaugurate said air mail service prior to the 10th day of December, 1938, although said air carrier desires, in the interest of the public, to commence such service as soon as possible.

(6) The present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier over the route described in Finding (3), would be an undue burden on such air carrier by reason of the unusual circumstances affecting the operations of such air carrier, with respect to said air transportation service, and such enforcement would not be in the public interest.

(7) Failure to exempt said air carrier from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service to be rendered by said air carrier over the route set forth in Finding (3) would prevent the institution of such service and would deny to the cities named in the route described in Finding (3), and the citizens thereof, the enjoyment of an air transportation service for the carriage of passengers, property and mail, all of which would be contrary to the public interest.

(8) Said air carrier should be exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier over the route described in Finding (3) for a period from the date hereof to and including 120 days from June 23, 1938, and said air carrier should be permitted to inaugurate operations over said route and render such services thereon during said period for such charges and rates as are established pursuant to law, provided, and upon the condition that, said air carrier obtains and at all times is possessed of an air carrier operating certificate issued by the Authority, prescribing the terms, conditions and limitations reasonably necessary to assure the safety of the air transportation service to be rendered over said route.

(9) Said air carrier has heretofore caused to be filed with the Authority an application for a Certificate of Convenience and Necessity, for an air transportation service over the route described in Finding (3). Said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, for all classes of traffic for which authorization is sought, in connection with said air transportation service, from the date hereof until such time as the Authority shall issue a Certificate of Convenience and Necessity for the air transportation service over such route to said air carrier or shall issue its final order denying the application of said air carrier for such certificate.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, hereby makes and promulgates the following Special Order:

[Special Order 401-A-6]

EXEMPTING NATIONAL AIRLINES, INCORPORATED, FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, IN SO FAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER, FROM JACKSONVILLE, FLORIDA, TO NEW ORLEANS, LOUISIANA, VIA INTERMEDIATE CITIES

National Airlines, Incorporated, is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to transportation by such air carrier of mail, passengers and property, over the route between Jacksonville, Florida, and New Orleans, Louisiana, via Tallahassee, Marianna, and Pensacola, Florida, Mobile, Alabama, and Gulfport, Mississippi, during the period from the date hereof to and including 120 days from June 23, 1938. Such exemption from the provisions of said section shall continue after the expiration of such 120-day period until such time as the Authority shall issue a Certificate of Convenience and Necessity for the air transportation service over such route to said air carrier, or shall issue its final order denying the application of said air carrier for such certificate. This exemption is granted subject to the condition that, during all times while it shall continue to be in effect, said air carrier shall have a valid air carrier operating certificate issued by the Authority with respect to its operations on such route and that such air carrier shall, during all such times, comply with all applicable provisions and requirements of the Civil Air Regulations.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3105; Filed, October 19, 1938; 11:19 a. m.]

[Special Order 401-A-7]

EXEMPTING EASTERN AIR LINES, INC., RELATIVE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER OVER A ROUTE FROM TAMPA, FLORIDA, TO TALLAHASSEE, FLORIDA, AND FROM TALLAHASSEE, FLORIDA, TO MEMPHIS, TENNESSEE, VIA DOTHAN, MONTGOMERY, BIRMINGHAM, AND FLORENCE-SHEFFIELD-TUSCUMBIA, ALABAMA, AND FROM TALLAHASSEE, FLORIDA, TO ATLANTA, GEORGIA, VIA ALBANY, GEORGIA

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 10th day of October, 1938.

Upon consideration by the Authority of the application of Eastern Air Lines, Inc., for exemption from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier from Tampa, Florida, to Tallahassee, Florida, and from Tallahassee, Florida, to Memphis, Tennessee, via Dothan, Montgomery, Birmingham, and Florence-Sheffield-Tuscumbia, Alabama, and from Tallahassee, Florida, to Atlanta, Georgia, via Albany, Georgia, the Authority is of the opinion and finds that:

(1) The applicant was, prior to May 14, 1938, and is now an air carrier engaged in the rendition of an interstate air transportation service, and as such air carrier is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) Said air carrier, prior to, on and since May 14, 1938, was and has been continuously engaged in the rendition of a scheduled airline transportation service between Houston, Texas, and Atlanta, Georgia, via intermediate cities; between Miami, Florida, and Atlanta, Georgia, via intermediate cities; between Miami, Florida, and Newark, New Jersey, via intermediate cities; between Atlanta, Georgia, and Newark, New Jersey, via intermediate cities; between Richmond, Virginia, and Newark, New Jersey, via intermediate cities; and between Atlanta, Georgia, and Chicago, Illinois, via intermediate cities; and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor, issued by the Secretary of Commerce.

(3) On or about the 12th day of April, 1938, the United States Post Office Department caused to be issued an advertisement for bidders for an air mail service over a route from Tampa, Florida, to Tallahassee, Florida, and from Tallahassee, Florida, to Memphis, Tennessee, via Dothan, Montgomery, Birmingham, and Florence-Sheffield-Tuscumbia, Alabama, and from Tallahassee, Florida, to Atlanta, Georgia, via Albany, Georgia, said route being known as route AM 40.

(4) On or about the 26th day of May, 1938, a contract for air mail service over the route described in Finding (3) was awarded by the United States Post Office Department to Eastern Air Lines, Inc., said air carrier being the lowest bidder therefor. Thereafter, to-wit, on or about the 6th day of July, 1938, a contract providing for air mail service

over said route was executed, by the terms of which said contract, said air carrier was authorized by the Postmaster General to engage in the transportation of mail over said route AM 40. Air mail service over said route was provided for by the Act of Congress making appropriations for the Treasury Department and the Post Office Department, approved March 28, 1938. Said route is specifically set forth in section 401 (e) (2), Clause (G), of the Civil Aeronautics Act of 1938.

(5) On or about the 28th day of September, 1938, the United States Post Office Department caused to be published a notice which provided in terms that air mail service over that portion of the route described in Finding (3), between Tampa, Florida, and Tallahassee, Florida, and between Tallahassee, Florida, and Atlanta, Georgia, via Albany, Georgia, would be inaugurated on or about the 10th day of October, 1938. Said air carrier is not required, pursuant to the terms of the contract with the United States Post Office Department, to inaugurate air mail service over said route, or any portion thereof, prior to the 21st day of December, 1938, although said air carrier desires, in the interest of the public, to commence such service as soon as possible.

(6) Said air carrier has expended considerable sums of money in preparation for the inauguration of an air transportation service over the route described in Finding (3), and particularly that portion thereof over which the United States Post Office Department desires that service shall be inaugurated on October 10, 1938.

(7) The present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier over the route described in Finding (3), would be an undue burden on said air carrier by reason of the unusual circumstances affecting the operations of such air carrier, with respect to said air transportation service, and such enforcement would not be in the public interest.

(8) Failure to exempt said air carrier from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service to be rendered by said air carrier over the route set forth in Finding (3), would prevent the institution of an air transportation service over the route from Tampa, Florida, to Tallahassee, Florida, and from Tallahassee, Florida, to Atlanta, Georgia, via Albany, Georgia, on October 10, 1938, as is required in order to transport mail by air as has been ordered by the Postmaster General, and would deny to the cities on said route AM 40, and to the citizens thereof, the enjoyment of an air transportation service for the carriage of passengers, property and mail, all of which would be contrary to the public interest.

(9) Said air carrier should be exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier over the route described in Finding (3), for the period from the date hereof to and including 120 days from June 23, 1938, and said air carrier should be permitted to inaugurate operations over said route and to render such services thereon during said period for such charges and rates as are established pursuant to law, provided, and upon the condition that, said air carrier obtains and is at all times possessed of an air carrier operating certificate issued by the Authority, prescribing the terms, conditions and limitations reasonably necessary to assure the safety of the air transportation service to be rendered over said route.

(10) If said air carrier files with the Civil Aeronautics Authority, within the period set forth in Finding (9), application for a Certificate of Convenience and Necessity, for an air transportation service over the route described in Finding (3), said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, for all classes of traffic for which authorization is sought, in connection with said air transportation service, from the date of filing of such application until such time as the Authority shall issue a Certificate of Convenience and Necessity for the transportation service over such route to said air carrier, or shall issue its final order denying the application of said air carrier for such certificate.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, hereby makes and promulgates the following Special Order:

[Special Order 401–A–7]

EXEMPTING EASTERN AIR LINES, INC., FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, IN SO FAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER OVER A ROUTE FROM TAMPA, FLORIDA, TO TALLAHASSEE, FLORIDA, AND FROM TALLAHASSEE, FLORIDA, TO MEMPHIS, TENNESSEE, VIA DOTHAN, MONTGOMERY, BIRMINGHAM, AND FLORENCE-SHEFFIELD-TUSCUMBIA, ALABAMA, AND FROM TALLAHASSEE, FLORIDA, TO ATLANTA, GEORGIA, VIA ALBANY, GEORGIA

Eastern Air Lines, Inc., is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to transportation by such air carrier of mail, passengers and property, over a route from Tampa, Florida, to Tallahassee, Florida, and from Tallahassee, Florida, to Memphis, Tennessee, via Dothan, Montgomery, Birmingham, and Florence-Sheffield-Tuscumbia, Alabama, and from Tallahassee, Florida, to Atlanta, Georgia, via Albany, Georgia, during the period from the date hereof to and including 120 days from June 23, 1938. If, within such 120 days, said air carrier shall make application to the Authority for a Certificate of Convenience and Necessity with respect to the route aforesaid, such exemption shall continue thereafter until such time as the Authority shall issue a Certificate of Convenience and Necessity for the air transportation service over such route to said air carrier, or shall issue its final order denying the application of said air carrier for such certificate. This exemption is granted subject to the condition that, during all times while it shall continue to be in effect, said air carrier shall have a valid air carrier operating certificate issued by the Authority with respect to its operations on such route and that such air carrier shall, during all such times, comply with all applicable provisions and requirements of the Civil Air Regulations.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–3106; Filed, October 19, 1938; 11:19 a. m.]

EXEMPTING EASTERN AIR LINES, INC., RELATIVE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER OVER A ROUTE FROM HOUSTON, TEXAS, TO BROWNSVILLE, TEXAS, VIA CORPUS CHRISTI, AND FROM HOUSTON, TEXAS, TO SAN ANTONIO, TEXAS

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 10th day of October, 1938.

Upon consideration by the Authority of the application of Eastern Air Lines, Inc., for exemption from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier over the route described in Finding (3), for the period from the date hereof to and including 120 days from June 23, 1938, and said air carrier should be permitted to inaugurate operations over said route and to render such services thereon during said period for such charges and rates as are established pursuant to law, provided, and upon the condition that, said air carrier obtains and is at all times possessed of an air carrier operating certificate issued by the Authority, prescribing the terms, conditions and limitations reasonably necessary to assure the safety of the air transportation service to be rendered over said route.

(10) If said air carrier files with the Civil Aeronautics Authority, within the period set forth in Finding (9), application for a Certificate of Convenience and Necessity, for an air transportation service over the route described in Finding (3), said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, for all classes of traffic for which authorization is sought, in connection with said air transportation service, from the date of filing of such application until such time as the Authority shall issue a Certificate of Convenience and Necessity for the transportation service over such route to said air carrier, or shall issue its final order denying the application of said air carrier for such certificate.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, hereby makes and promulgates the following Special Order:

[Special Order 401–A–8]

EXEMPTING EASTERN AIR LINES, INC., FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, IN SO FAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER OVER A ROUTE FROM HOUSTON, TEXAS, TO BROWNSVILLE, TEXAS, VIA CORPUS CHRISTI, AND FROM HOUSTON, TEXAS, TO SAN ANTONIO, TEXAS

Eastern Air Lines, Inc., is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to transportation by such air carrier of mail, passengers and property, over a route from Houston, Texas, to Brownsville, Texas, via Corpus Christi, and from Houston, Texas, to San Antonio, Texas, during the period from the date hereof to and including 120 days from June 23, 1938. If, within such 120 days, said air carrier shall make application to the Authority for a Certificate of Convenience and Necessity with respect to the route aforesaid, such exemption shall continue thereafter until such time as the Authority shall issue a Certificate of Convenience and Necessity for the air transportation service over such route to said air carrier, or shall issue its final order denying the application of said air carrier for such certificate. This exemption is granted subject to the condition that, during all times while it shall continue to be in effect, said air carrier shall have a valid air carrier operating certificate issued by the Authority with respect to its operations on such route and that such air carrier shall, during all such times, comply with all applicable provisions and requirements of the Civil Air Regulations.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–3107; Filed, October 19, 1938; 11:19 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. G–110]

IN THE MATTER OF ARKANSAS-LOUISIANA GAS COMPANY, RATE SCHEDULE FPC No. 2

ORDER POSTPONING DATE OF HEARING

OCTOBER 18, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

The Arkansas-Louisiana Gas Company has requested a postponement of the date of hearing in this proceeding, now assigned to be held on November 10, 1938, in accordance with the order of the Commission adopted October 6, 1938;[1]

The Commission *orders* that:

(A) For good cause shown, the public hearing in this proceeding, now set for November 10, 1938, be and is hereby postponed to February 10, 1939, at the same time and place.

(B) The order of the Commission of October 6, 1938, in all other respects and

[1] 3 F. R. 2452 DI.

except as to the date of the hearing set therein, shall continue in full force and effect.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3103; Filed, October 19, 1938; 9:54 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3415]

IN THE MATTER OF AMERICAN CLINICAL LABORATORIES, INC., OFFICIAL RESEARCH BUREAU OF NEW YORK, INC., FEDERAL RESEARCH CORPORATION, AND SHELLEY BRAVERMAN

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commisison, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3096; Filed, October 19, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3421]

IN THE MATTER OF SINNOCK & SHERRILL, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, November 18, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3097; Filed, October 19, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3485]

IN THE MATTER OF JACOB GOODMAN, INDIVIDUALLY AND AS PARTNER, TRADING AS M. GOODMAN & SON, JADE HOSIERY MILLS, AND GOODY HOSE COMPANY; AND BERTHA GOODMAN, INDIVIDUALLY AND AS PARTNER, TRADING AS M. GOODMAN & SON, JADE HOSIERY MILLS, AND GOODY HOSE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41).

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 10, 1938, at 10 o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3098; Filed, October 19, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3513]

IN THE MATTER OF MADAME MARGUERITE TURMEL, INC., A CORPORATION, ALSO TRADING AS MADAME MARGUERITE TURMEL, AND MADAME TURMEL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 8, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3099; Filed, October 19, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3517]

IN THE MATTER OF COLUMBIA REFINING CO.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, November 12, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3100; Filed, October 19, 1938; 9:27 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3521]

IN THE MATTER OF STEVEN V. GIMINO, TRADING AS ELITE PUBLISHING COMPANY, AND ANTHONY V. GIMINO, TRADING AS ELITE PUBLISHING COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 14, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3101; Filed, October 19, 1938; 9:27 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3575]

IN THE MATTER OF ROSE R. SCOTT, TRADING AS KOSKOTT COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 14, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3102; Filed, October 19, 1938; 9:27 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of October, A. D. 1938.

[File Nos. 32-101, 56-8, 46-112]

IN THE MATTER OF OWEGO GAS CORPORATION NY PA NJ UTILITIES COMPANY NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 6 (b) and 10 (a) (1), and Rule 12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties; and it appearing that the hearings on such applications should be joined and consolidated;

It is ordered, That a hearing on such matter be held on November 14, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 9th, 1938.

The matter concerned herewith is in regard to an application of Owego Gas Corporation, a subsidiary company in the Associated Gas and Electric Company holding company system, pursuant to Section 6 (b), for exemption from the provisions of Section 6 (a) of the issue and sale to its parent, NY PA NJ Utilities Company, a registered holding company, of 1,632 shares of its own no par value common stock with a stated value of $50 per share for $81,600, an application by NY PA NJ Utilities Company, pursuant to Rule 12D-1 to sell said stock to its sub-

sidiary, New York State Electric & Gas Corporation, for $1.00, and an application by New York State Electric & Gas Corporation, filed pursuant to Section 10 (a) (1), to acquire the said securities. It is stated that the above transactions have been approved by the New York State Public Service Commission by its order of June 22, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3111; Filed, October 19, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of October, A. D. 1938.

[File Nos. 34-8, 52-3, 52-5, 52-9, 52-10, 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

ORDER

Whereas the Commission on September 16, 1938,[1] and September 20, 1938,[2] entered certain orders and an opinion in the above entitled matters; and

Whereas Associated Investing Corporation and Associated Utilities Corporation, intervenors in these proceedings, moved for a further hearing on the orders and the opinion, as amended; and

Whereas at the further hearing the General Protective Committee appeared and requested that it be heard on further objections filed on its behalf and that it be heard on a motion that in the event the objections of the Committee were overruled the Committee be given the right to be heard in all these proceedings; and

Whereas the Commission has already granted the Committee one rehearing, has heard objections by the Committee, and has ruled thereon;

It is ordered, That the request of the Committee to be heard further on objection to the orders and opinion of September 16 and 20, 1938, is denied; and

It is further ordered, That the Commission will hear the Committee on its motion that it be given the right to be heard throughout the proceedings as distinguished from the right to intervene.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3112; Filed, October 19, 1938; 12:49 p. m.]

[1] 3 F. R. 2258 DI.
[2] 3 F. R. 2284 DI.

FEDERAL REGISTER

VOLUME 3 NUMBER 206

Washington, Friday, October 21, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[WRB-101—Kansas, Supplement 8]

1937 AGRICULTURAL CONSERVATION PROGRAM, WESTERN REGION

BULLETIN NO. 101, KANSAS, SUPPLEMENT 8

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101—Kansas, as amended by Supplement 1, Supplement 2, Supplement 3, Supplement 4, Supplement 5, Supplement 6, and Supplement 7,[1] is further amended by this supplement as follows:

Part III, Section 4, Paragraph C is amended to read as follows:

C. *Wind-erosion control practices.*—Payment will be made for the carrying out on designated wind-erosion acreage in 1937 such of the following practices as are approved by the county committee for the farm prior to their institution, without such practices, when carried out on designated wind-erosion acreage, being regarded as in any way affecting the prior classification of such acreage. Payment may be made with respect to practice U in addition to either practice S, 1; Q, 1; or Q, 5, if carried out on the same acreage and with respect to practice V in addition to either practice S, 1; Q, 1; or Q, 5, if carried out on the same acreage.

The provisions of this Supplement 8 and of Supplements 5, 6, and 7 shall be effective as of October 14, 1937, so as to be covered by the provisions of the "Order Increasing the Allowances, Deductions, and Rates of Payment under the 1937 Agricultural Conservation Program in the East Central, Northeast, North Central, Southern, and Western Regions" issued by the Secretary of Agriculture on October 14, 1937.[2]

Done at Washington, D. C., this 19th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-3121; Filed, October 20, 1938; 11:48 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

BUREAU OF MARINE INSPECTION AND NAVIGATION

AMENDMENTS TO SECTION D OF THE LOAD LINE REGULATIONS OF THE UNITED STATES

Pursuant to Executive Order 7548 of February 5, 1937,[1] issued by Franklin D. Roosevelt, President of the United States (2 F. R. 257), and pursuant further to the Coastwise Load Line Act, 1935, as amended June 20, 1936 (Section 2, 49 Stat. 888, as amended by 49 Stat. 1543, 46 U. S. C. Sup. III, 88 (a)), Section D of the Load Line Regulations of the United States, September 28, 1937[2] is hereby amended as follows:

PART 1, PARAGRAPH 18. *The subdivision load line certificates.*—Insert between the present second and third subparagraphs the following paragraph:

A note shall be added to the Load Line Certificate below the signature of the assigning authority in the following form: "The bulkhead deck used for determining the position of the subdivision load lines certified above is ---------- (Here describe bulkhead deck)."

PART 2, RULE 31. *Side ports.*—Insert the following words as the beginning of the second sentence of subparagraph (a): "When located below the bulkhead deck." Rule 31, paragraph (a), will then read as follows:

"Gangway, cargo, and coaling ports shall be of sufficient strength. When

[1] 3 F. R. 382 DI.
[2] 2 F. R. 2214 (2574 DI).

[1] 2 F. R. 257 (307 DI).
[2] 2 F. R. 1972 (2309 DI).

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Agricultural conservation program, 1937, Western Region, Bulletin 101, Kansas, Supplement 8	2525
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:	
Bureau of Marine Inspection and Navigation:	
Load Line Regulations, amendments to Section D	2525
TITLE 36—PARKS AND FORESTS:	
National Park Service:	
Moores Creek National Military Park, subsidiary regulation	2526
TITLE 43—PUBLIC LANDS:	
Office of Secretary of Interior, Grazing Division:	
Modifications:	
Colorado Grazing District No. 1	2526
Colorado Grazing District No. 6	2526

NOTICES

Civil Aeronautics Authority:	
National Airlines, Inc., hearing on application for certificate of public convenience and necessity	2527
Department of the Interior:	
Division of Territories and Island Possessions:	
Alaska Railroad, class and commodity rates	2527
Federal Power Commission:	
Kansas Pipe Line & Gas Co., hearing	2527
War Department:	
Dental Corps, Regular Army, examination for appointment in	2527

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Securities and Exchange Commission:	
Continental Securities Corp., withdrawal of registration of securities	2528
New Brunswick Power Co., exemption granted	2528
Ohio Power Co., American Gas and Electric Co., sale of bonds and notes	2529
Staten Island Edison Corp., hearing	2529
United Combustion Corp., stop order	2528

located below the bulkhead deck they shall be effectively closed and secured watertight before the ship leaves port and shall be kept closed during navigation."

Approved, October 19, 1938.

[SEAL] DANIEL C. ROPER, *Secretary of Commerce.*

[F. R. Doc. 38-3123; Filed, October 20, 1938; 12:23 p. m.]

TITLE 36—PARKS AND FORESTS

NATIONAL PARK SERVICE

MOORES CREEK NATIONAL MILITARY PARK SUBSIDIARY REGULATION

Pursuant to the authority contained in the General Rules and Regulations, approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), the following subsidiary regulation for Moores Creek National Military Park has been recommended by the Superintendent and approved by the Acting Director of the National Park Service, to become effective immediately:

SEC. 15.9 *Visiting hours.*—The park shall remain open to visitors from 7:00 a. m. to 6:00 p. m. between May 1 and September 30, and from 7:00 a. m. to 5:00 p. m. between October 1 and April 30: Provided, That the superintendent may open the park at such other times as may be deemed expedient for the convenience of the public: Provided further, That the superintendent may close the park to all visitors when, in his judgment, such action is necessary for the protection of the park or the public.

Approved, October 13, 1938.

[SEAL] A. E. DEMARAY, *Acting Director.*

[F. R. Doc. 38-3116; Filed, October 20, 1938; 9:52 a. m.]

TITLE 43—PUBLIC LANDS

OFFICE OF SECRETARY OF INTERIOR, GRAZING DIVISION

COLORADO GRAZING DISTRICT NO. 1

MODIFICATION

OCTOBER 13, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of July 9, 1935, establishing Colorado Grazing District No. 1, is hereby revoked as far as it affects the following-described land:

COLORADO

Sixth Principal Meridian

T. 1 N., R. 90 W., S½ sec. 19, secs. 20, 21, N½ secs. 22 and 29, sec. 30;
T. 3 N., R. 90 W., secs. 4, 5, and 6;
Tps. 4 and 5 N., R. 90 W., all;
T. 6 N., R. 90 W., that part south of Yampa River;
T. 7 N., R. 90 W., that part south of Yampa River;
T. 1 N., R. 91 W., secs. 18, 19, 25, 30, 31, 35, and 36;
T. 3 N., R. 91 W., secs. 1 to 33 inclusive;
T. 4 N., R. 91 W., all;
T. 5 N., R. 91 W., secs. 1 to 3, 10 to 15, 22 to 27, and 34 to 36 inclusive;
T. 6 N., R. 91 W., that part south of Yampa River;
T. 1 N., R. 92 W., secs. 4 to 11 and 13 to 36 inclusive;
T. 2 N., R. 92 W., secs. 4 to 9, 16 to 21, and 28 to 33 inclusive;
T. 3 N., R. 92 W., secs. 12, 13, 24, 25, 31 to 36 inclusive;
T. 6 N., R. 92 W., sec. 36, that part south of Yampa River;
T. 1 N., R. 93 W., secs. 1 to 4, E½ secs. 5 and 8, secs. 9 to 16, E½ secs. 17 and 20, secs. 21 to 26, E½ sec. 29, secs. 31 to 36 inclusive;
T. 2 N., R. 93 W., secs. 1 to 4, E½ secs. 5 and 8, secs. 9 to 16, E½ secs. 17 and 20, secs. 21 to 28, E½ secs. 29 and 32, secs. 33 to 36 inclusive;
T. 3 N., R. 93 W., E½ sec. 32, secs. 33 to 36 inclusive;
T. 1 N., R. 94 W., secs. 33 to 36 inclusive;
T. 2 S., R. 90 W., W½ secs. 6, 7, and 18;
T. 1 S., R. 91 W., secs. 1 to 12 and 14 to 24 inclusive, W½ sec. 25, E½ sec. 26, W½ sec. 35, sec. 36;
T. 2 S., R. 91 W., sec. 1, E½ secs. 12 and 13;
T. 1 S., R. 92 W., secs. 1 to 35 inclusive, W½ sec. 36;
T. 2 S., R. 92 W., secs. 2 to 11 and 14 to 16 inclusive, E½, NW¼ sec. 17, NW¼ sec. 23;
T. 1 S., R. 93 W., all;
T. 2 S., R. 93 W., secs. 1 to 6 inclusive, secs. 11, 12, and 14;
T. 3 S., R. 93 W., sec. 19, SW¼ sec. 20, secs. 29 to 32 inclusive;
T. 1 S., R. 94 W., secs. 1 to 4, 9 to 16, 21 to 28, 33 to 36;
T. 2 S., R. 94 W., secs. 1 to 4, 9 to 16, 21 to 28, 33 to 36;
T. 3 S., R. 94 W., secs. 1 to 4, 9 to 16, 21 to 28, 33 to 36.

HARRY SLATTERY, *Acting Secretary of the Interior.*

[F. R. Doc. 38-3118; Filed, October 20, 1938; 9:52 a. m.]

COLORADO GRAZING DISTRICT NO. 6

MODIFICATION

OCTOBER 13, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of July 11, 1935, establishing Colorado Grazing District No. 6, is hereby revoked as far as it affects the following-described land:

COLORADO

Sixth Principal Meridian

T. 11 N., R. 86 W., sec. 6;
T. 12 N., R. 86 W., secs. 16 to 21 inclusive, N½, SW¼ sec. 28, secs. 29, 30, 31, N½, SW¼ sec. 32;
T. 10 N., R. 87 W., secs. 5, 6, 7;
Tps. 11 and 12 N., R. 87 W., all;
T. 10 N., R. 88 W., secs. 1 to 6 inclusive, N½ secs. 7 and 8, NW¼ sec. 9, E½ sec. 10, secs. 11, 12;
Tps. 11 and 12 N., R. 88 W.;
T. 7 N., R. 89 W., secs. 4 to 9 and 16 to 18 inclusive;
T. 8 N., R. 89 W., all;
T. 9 N., R. 89 W., W½ sec. 7, S½ sec. 17, W½, SE¼ sec. 18, secs. 19, 20, 21, S½ sec. 22, secs. 26 to 36 inclusive;
T. 10 N., R. 89 W., NW¼ sec. 6;
Tps. 11 and 12 N., R. 89 W.;
T. 6 N., R. 90 W., that part north of Yampa River;
T. 7 N., R. 90 W., that part north of Yampa River;
T. 8 N., R. 90 W., all;
T. 9 N., R. 90 W., SW¼ sec. 1, secs. 2 to 36 inclusive;
T. 10 N., R. 90 W., secs. 1, 2, 3, S½N½, S½ sec. 4, SE¼NE¼, SE¼ sec. 5, NE¼, S½ sec. 7, secs. 8 to 12 inclusive, N½ secs. 13 and 14, secs. 15 to 22 inclusive, W½, SE¼ sec. 26, secs. 27 to 35 inclusive;
T. 11 N., R. 90 W., secs. 1 to 17, N½, N½SW¼ sec. 18, N½N½, S½NE¼, SE¼ sec. 20, secs. 21 to 28, NE¼, E½SE¼ sec. 29, NE¼NE¼ sec. 32, N½N½, SE¼NE¼, NE¼SE¼ sec. 33, secs. 34, 35, 36;
T. 12 N., R. 90 W., all;
T. 6 N., R. 91 W., that part north of Yampa River;
Tps. 7, 8, 9 N., R. 91 W., all;
T. 10 N., R. 91 W., secs. 5, 6, 7, 8, W½, NE¼SE¼, S½SE¼ sec. 9, SW¼, W½SE¼ sec. 10, NE¼, S½ sec. 13, W½ sec. 15, secs. 16 to 36 inclusive;
T. 5 N., R. 92 W., that part north of Yampa River;
T. 6 N., R. 92 W., that part north of Yampa River;
Tps. 7 to 10 N., R. 92 W., all;
T. 5 N., R. 93 W., that part north of Yampa River;
T. 6 N., R. 93 W., that part north of Yampa River;
Tps. 7 to 10 N., R. 93 W., all;
T. 7 N., R. 94 W., secs. 1 to 4, 9 to 16, 21 to 24 inclusive;
Tps. 8, 9, and 10 N., R. 94 W., all;
T. 8 N., R. 95 W., all;
T. 9 N., R. 95 W., secs. 1 to 5, 8 to 17, 20 to 29, and 32 to 36, inclusive.

HARRY SLATTERY, *Acting Secretary of the Interior.*

[F. R. Doc. 38-3119; Filed, October 20, 1938; 9:53 a. m.]

Notices

WAR DEPARTMENT.

EXAMINATION FOR APPOINTMENT IN THE DENTAL CORPS, REGULAR ARMY

1. An examination of applicants for appointment as first lieutenant, Dental Corps, Regular Army, under the provisions of AR 605-15, will be held within the continental limits of the United States from February 13 to 18, 1939, inclusive.

2. Applications and requests for information concerning this examination should be addressed to The Adjutant General. Applications received after January 31, 1939, will not be considered. (Sec. 24, 41 Stat. 774; 10 U. S. C. 122, 123.) [W. D. Cir. 61, October 18, 1938.]

[SEAL] E. S. ADAMS, *Major General, The Adjutant General.*

[F. R. Doc. 38-3115; Filed, October 20, 1938; 9:52 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[Supplement No. 6 to I. C. C. No. 128 [1]]

THE ALASKA RAILROAD IN CONNECTION WITH ALASKA STEAMSHIP COMPANY (FX 5 No. 5), AMERICAN YUKON NAVIGATION COMPANY (FX 2 No. 1), PUGET SOUND FREIGHT LINES (FX 5 No. 16)

[Supplement No. 6 to Joint Freight Tariff No. 5-E]

NAMING CLASS AND COMMODITY RATES BETWEEN SEATTLE AND TACOMA, WASHINGTON AND POINTS ON THE ALASKA RAILROAD, AMERICAN YUKON NAVIGATION COMPANY, IN ALASKA

Governed, except as otherwise provided herein, by the Western Classification No. 67 (as published in Consolidated Freight Classification No. 12), R. C. Fyfe's I. C. C. No. 25, supplements thereto or successive reissues thereof. Transportation service in connection with The Alaska Railroad, American Yukon Navigation Company, is subject to restoration and discontinuance as indicated on page 17 of tariff. Issued, September 27, 1938. Effective, November 11, 1938. Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by: O. F. Ohlson, General Manager, Anchorage, Alaska.

Section 2.—Commodity Rates

If the charge accruing under Section 1 of this Tariff is lower than the charge accruing under this Section on the same shipment via the same route, the charge accruing under Section 1, will apply.

[1] Supplements Nos. 3, 4, 5 (suspension of rail and water service), and 6 contain all changes from the original tariff that are effective on the date hereof. Supplement 5 appears at 3 F. R. 2102 DI.

Item No.	Commodities	Stations	Rates in cents per 100 pounds except as shown
435-C Cancels 435-B	Fruit and Vegetables, fresh, viz: Apricots, Artichokes, Asparagus, Avocados, Bananas, Beans, Beets, with tops, Berries, Brussel Sprouts, Cantaloupes, Carrots, with tops, Cauliflower, Celery, Chayotes, Cherries, Corn, Cranberries, Cucumbers, Currants, Egg Plant, Grapes, Any quantity. Greens, Lettuce, Melons, Onions, with tops, Parsley, Parsnips, with tops, Peaches, Pears, Peas, Peppers, Pineapples, Plums, Pomegranates, Prunes, Quinces, Radishes, Rhubarb, Spinach, Tomatoes, Turnips, with tops,	From Seattle, Wash. to: Anchorage / Matanuska / Palmer / *Premier / *Jonesville / *Eska / Wasilla / *Talkeetna / Curry / Healy / *Suntrana / Nenana / *Marshall / Fairbanks / Alaska.	426 / 470 / 478 / 494 / 494 / 494 / 478 / A556 / A578 / A668 / A672 / A702 / 702 / A730
	NOTE.—Shipments requiring cool room service on steamers from Seattle, Wash. to Seward, Alaska will be subject to additional charge as provided in Item 255 for such service.		
			L. C. L. / C. L.
490-C Cancels 490-B	Meats, fresh, including Sausage and Dressed Poultry. Less than carloads. Straight or mixed carloads, minimum weight 26,000 pounds. NOTE.—Rates named in this item include cold storage service on steamers between Seattle, Wash., and Seward, Alaska.	Between Seattle, Wash., and: Anchorage / Palmer / *Premier / *Jonesville / *Eska / Wasilla / *Willow / *Talkeetna / Healy / *Suntrana / Nenana / *Marshall / Fairbanks / Alaska.	441 / 385 / 493 / 422 / 509 / 433 / 509 / 433 / 493 / 422 / 525 / 444 / 571 / 476 / A683 / A555 / A687 / A557 / A717 / A678 / 717 / 578 / A745 / A598
535-C Cancels 535-B	Sugar, Carloads, minimum weight 30,000 pounds.	From Seattle Wash., Tacoma Wash., to: Anchorage / Fairbanks / Alaska.	173 / A311

A Denotes Advance. * No agent, Freight Charges must be prepaid.

The above is hereby confirmed.

RUTH HAMPTON, *Assistant Director.*

[F. R. Doc. 3117; Filed, October 20, 1938; 9:52 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 5-401(E)-1]

APPLICATION OF NATIONAL AIRLINES, INC., UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SCHEDULED AIR TRANSPORTATION OF MAIL, PASSENGERS, AND PROPERTY BETWEEN JACKSONVILLE, FLA., AND NEW ORLEANS, LA., VIA TALLAHASSEE, MARIANNA, AND PENSACOLA, FLA., MOBILE, ALA., AND GULFPORT, MISS.

OCTOBER 19, 1938.

The above-entitled proceeding is assigned for public hearing on October 29, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority, Hearing Room #2062, Washington, D. C., before examiner L. Jordan.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-3120; Filed, October 20, 1938; 10:39 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. G-106]

APPLICATION OF KANSAS PIPE LINE & GAS COMPANY

ORDER SETTING DATE OF ORAL ARGUMENT

OCTOBER 19, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon petition filed by the American Retail Coal Association for leave to intervene and become a party to the proceeding before the Commission on the application of the Kansas Pipe Line & Gas Company, filed on September 10, 1938, for a certificate of public convenience and necessity pursuant to Section 7 (c) of the Natural Gas Act;

The Commission *orders* that:

Oral argument on said petition be heard on October 21, 1938, at 10:00 a. m.

in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., such argument to cover the following questions:

(A) Whether the petitioner is a competitor of the applicant company within the meaning of Section 15 (a) of the Natural Gas Act and as such should be permitted to intervene in this proceeding;

(B) Whether, and if so, to what extent, the participation of the petitioner in this proceeding will be in the public interest;

(C) Whether the Natural Gas Act requires or contemplates that the Commission, in determining the question of public convenience and necessity in this proceeding, shall consider the effect which the construction or extension of facilities by a natural-gas company and the service of natural gas thereby, will have upon persons directly or indirectly engaged in the business of producing or distributing a fuel other than natural gas.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3122; Filed, October 20, 1938; 12:16 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of October, A. D. 1938.

[File No. 1-1999]

IN THE MATTER OF CONTINENTAL SECURITIES CORPORATION

ORDER WITHDRAWING REGISTRATION OF SECURITIES ON A NATIONAL SECURITIES EXCHANGE

The Commission having instituted a proceeding pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, to determine whether the registration on the Boston Stock Exchange of the 15-Year 5% Debentures, Series A, due May 1, 1942, of the $5 Cumulative Preferred Stock, $100 Par Value, and of the Common Stock, $5 Par Value, of Continental Securities Corporation shall be suspended or withdrawn; and

After appropriate notice,[1] a hearing having been held in this matter on July 27, 1938, in Washington, D. C.; and

The Commission having found, based upon the evidence introduced at said hearing, that the issuer has failed to comply with the provisions of Section 13 (a) of said Act, as amended, and Rule X-13A-1 prescribed under said Section, all as more fully set forth in the Commission's Opinion this day issued; and

The Commission being of the opinion that it is necessary and appropriate for the protection of investors to withdraw the registration of said securities on said Exchange;

It is ordered, Pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, that the registration on the Boston Stock Exchange of the 15-Year 5% Debentures, Series A, due May 1, 1942, of the $5 Cumulative Preferred Stock, $100 Par Value, and of the Common Stock, $5 Par Value, of Continental Securities Corporation shall be and the same is hereby withdrawn, effective as of October 28, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3113; Filed, October 19, 1938; 3:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of October, A. D. 1938.

[File No. 2-3547]

IN THE MATTER OF UNITED COMBUSTION CORPORATION

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of United Combustion Corporation, a Delaware corporation, and the proposed amendment filed May 9, 1938, to said registration statement, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading in the facing page, Items 3, 14, 20, 27, 29, 37, 39, 46, 47, 53, 54, 55, Exhibits F and H, the accountant's certificate, the consents of experts and the prospectus, and it not appearing to the Commission that the aforesaid amendment, on its fact, is not incomplete or inaccurate in any material respect, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and the Commission being now fully advised in the premises;

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, that the effectiveness of the registration statement filed by the United Combustion Corporation be and the same hereby is suspended; and

It is further ordered, That the request of United Combustion Corporation that the proposed amendment filed by it on May 9, 1938, be declared effective be and the same hereby is denied.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 3114; Filed, October 19, 1938; 3:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held in its office in the City of Washington, D. C., on the 18th day of October, A. D. 1938.

[File No. 31-411]

IN THE MATTER OF THE APPLICATION OF NEW BRUNSWICK POWER COMPANY

ORDER GRANTING EXEMPTION

New Brunswick Power Company having made application pursuant to Section 3 (b) of the Public Utility Holding Company Act of 1935, for an order exempting it from the provisions of the Act applicable to it as a subsidiary of Federal Light and Traction Company and of Cities Service Power and Light Company, registered holding companies; a hearing on said application having been held after appropriate public notice;[1] the record in this matter having been duly considered; and the Commission having made appropriate findings of fact;

It is ordered, That the said New Brunswick Power Company be, and it is hereby exempted, to the extent specified, from certain provisions of the Act applicable to it as a subsidiary company of Federal Light and Traction Company and Cities Service Power and Light Company, registered holding companies, as follows:

(a) Section 6 of the Act, with respect to any issue or sale of a security of such company, except that this exemption shall not extend to any issue or sale of securities which are to be publicly offered for sale within the United States: however, such exemption shall be applicable to the exercise of a privilege or right to alter the priorities, preferences, voting power, or any other rights of the holders of any security, if at the time of the exercise of such privilege or right no securities are outstanding in the hands of the public other than those outstanding on the date of this order.

[1] 3 F. R. 1802 DI.

[1] 3 F. R. 2358 DI.

(b) Section 9 of the Act, except that this exemption shall not apply to the acquisition of any utility assets located within the United States or to the acquisition of any interest in the business of, or securities issued or guaranteed by any public utility or holding company which, directly or indirectly, owns or controls utility assets located within the United States;

(c) Sections 12 (c), and 12 (d) of the Act;

(d) Subdivision (2) of subsection (h) of Section 12 of the Act, except with reference to a contribution to, or in support of any political party in the United States or any committee or agency thereof;

(e) Section 13 of the Act with respect to any transactions, except the performing of services or construction for, or the sale of goods to any public utility holding company which is, or subsidiary thereof which is a public utility company, operating within the United States;

(f) Section 17 (c) of the Act; and

(g) Section 15 of the Act, unless rules, regulations or orders promulgated by the Commission pursuant to the provisions of such section shall by their terms be made expressly applicable to a company which is not, and which has no subsidiary company which is, a public utility company operating in the United States; and

(h) Sections 11 (f), 11 (g), and 12 (e) of the Act, provided, however, that exemption from the provisions of Sections 11 (g) and 12 (e) shall not be applicable to any solicitation regarding any securities, other than securities owned by Cities Service Company, Cities Service Power and Light Company, or Federal Light and Traction Company, or other associates of the issuer, which shall have been the subject of a public offering within the United States subsequent to the effective date of the order issued in this matter.

It is further ordered, That the exemption herein granted shall expire on December 31, 1940, without prejudice to the right of New Brunswick Power Company to apply for an extension of the time during which such order shall be effective and also without prejudice to the right of said New Brunswick Power Company to apply at any time for such enlargement of any of the provisions of this order as it may deem appropriate.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3125; Filed, October 20, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of October, A. D. 1938.

[File Nos. 32-107, 56-13]

IN THE MATTER OF THE OHIO POWER COMPANY, AMERICAN GAS AND ELECTRIC COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS AND NOTES; APPROVING THE SALE AND ACQUISITION OF BONDS

The Ohio Power Company, a subsidiary of American Gas and Electric Company, a registered holding company, having filed an application and amendments thereto pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of $55,000,000 of its First Mortgage Bonds, 3¼% Series due 1968, and $10,000,000 of 3½% Notes to be issued direct to banks and to mature in ten years;

The Ohio Power Company and American Gas and Electric Company having filed a joint application pursuant to Rule U-12C-1(b) and Rule U-12D-1 under the Public Utility Holding Company Act of 1935, for the approval of the acquisition by The Ohio Power Company of $15,306,000 of its First and Refunding Mortgage Gold Bonds, 4½% Series "D", and for the approval of the sale by American Gas and Electric Company of $15,306,000 of First and Refunding Mortgage Gold Bonds, 4½% Series "D" of The Ohio Power Company to the latter company;

A joint hearing on such matters having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings;

It is ordered, That the issue and sale of the aforesaid First Mortgage Bonds and Notes by The Ohio Power Company in accordance with the terms and conditions set forth in, and for the purposes represented by the said amended application, be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon the further condition that if the express authorization of the issue and sale of such securities by the Public Utility Commission of Ohio shall be revoked or otherwise terminated, this exemption shall immediately terminate without further order of this Commission, and upon the further condition that within ten days after the issue and sale of the proposed bonds and notes the applicant, The Ohio Power Company, shall file with this Commission a Certificate of Notification showing that such issue and sale have been effected in accordance with terms and conditions of and for the purposes represented by said amended application;

It is further ordered, That the sale by the applicant, American Gas and Electric Company of the aforesaid First and Refunding Mortgage Gold Bonds and the acquisition of same by the applicant, The Ohio Power Company, in accordance with the terms and conditions set forth in, and for the purposes represented by said application, are hereby approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3124; Filed, October 20, 1938; 12:44 p. m.]

[1] 3 F. R. 2367 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of October, A. D. 1938.

[File No. 32-109]

IN THE MATTER OF STATEN ISLAND EDISON CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on October 27, 1938, at 11:00 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 25, 1938.

The matter concerned herewith is in regard to an application pursuant to section 6 (b) by Staten Island Edison Corporation, a subsidiary of NY PA NJ Utilities Company, a registered holding company for exemption from provisions of section 6 (a) of said Act for the issue and sale to The Chase National Bank

OCT 24 1938

of the City of New York of a Five Year 3¼% note of the face value of $3,000,000 and the issuance of $3,000,000 principal amount of Staten Island Edison Corporation first mortgage 3½% bonds to mature in not less than twenty years, such bonds to be pledged with said bank as collateral for the note. The proceeds of the sale of said note will be used as follows: $1,000,000 will be used to retire $1,000,000 principal amount of Richmond Light & Railway Company 4% bonds presently outstanding, and $2,000,000 of proceeds of said note will be used to partially reimburse the treasury for expenditures previously made, and after such reimbursement the said $2,000,000 will be used to pay applicant's Refunding and Improvement Mortgage 4% Bonds due July 15, 1938, presently outstanding in that amount.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3126; Filed, October 20, 1938; 12:44 p. m.]

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Rules, Re

TITLE 14-

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FEDERAL REGISTER

VOLUME 3 NUMBER 207

Washington, Saturday, October 22, 1938

Rules, Regulations, Orders

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation 401–B–2]

EXEMPTION OF ALASKAN MAIL CARRIERS

Acting pursuant to the authority conferred upon it by the Civil Aeronautics Act of 1938, particularly sections 416 (b) and 205 (a) thereof and finding that the regulation hereinafter provided is pursuant to and consistent with the provisions of said Act and necessary to carry out its provisions, and that, in so far as such regulation provides exemption from certain provisions in regulation 401–B–1,[1] the enforcement of such provisions would be an undue burden on the class of air carriers to which such exemption is applicable because of unusual circumstances affecting their operations and that the enforcement of such provisions against such persons would not be in the public interest, the Civil Aeronautics Authority hereby makes and promulgates the following regulation:

REGULATION 401–B–2. EXEMPTION OF ALASKAN MAIL CARRIERS FROM CERTAIN REQUIREMENTS OF REGULATION 401–B–1

Every air carrier which on August 22nd had a contract with the Post Office Department for the carriage of mail by aircraft in Alaska but which has not yet made application to the Authority for a certificate of public convenience and necessity pursuant to the provisions of section 401 (e) and desires to file such an application on or before October 21, 1938, is hereby exempted from the requirement that such application must be made in the first instance in accordance with the provisions of regulation 401–B–1. Any such carrier may make application to the Authority for such a certificate by letter or telegram, and any such carrier may make such application by an attorney or agent, *Provided* That, within such time after October 21st as the Authority may deem reasonable, such air carrier shall file with the Authority an application for such a certificate which shall conform in all other respects with the requirements of regulation 401–B–1, and *Provided further*, That in the event that any such application is made by an attorney or agent, such carrier shall thereafter approve or ratify the action of such attorney or agent in that respect.

For the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–3140; Filed, October 21, 1938; 12:32 p. m.]

[1] 3 F. R. 2049 (2272 DI).

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 1–A]

CHILD LABOR REGULATIONS

TEMPORARY CERTIFICATES OF AGE

OCTOBER 14, 1938.

By virtue of and pursuant to the authority conferred by section 3 (1) and section 11 (b) of the Fair Labor Standards Act of 1938 (Act of June 25, 1938, Public No. 718, 75th Congress, Chapter 676, 3d Session[1]) the following regulation is prescribed for the administration of the child labor provisions of the Fair Labor Standards Act of 1938 relating to certificates of age.

Authority for Regulation

SEC. 3 (1) OF THE ACT

"* * * oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Chief of the Children's Bureau certifying that such person is above the oppressive child-labor age."

SEC. 11 (B) OF THE ACT

"With the consent and cooperation of State agencies charged with the administration of State labor laws, the Administrator and the Chief of the Children's Bureau may, for the purpose of carrying out their respective functions and duties under

[1] 52 Stat. 1060.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 14—CIVIL AVIATION:	
Civil Aeronautics Authority:	
Alaskan mail carriers, exemption of	2531
TITLE 29—LABOR:	
Children's Bureau:	
Child Labor Regulations:	
Minors between 14 and 16, employment of	2532
State certificates, acceptance of	2533
Temporary certificates of age	2531
Wage and Hour Division:	
Fair Labor Standards Act of 1938:	
"Area of production", term defined	2536
Industries of a seasonal nature	2534
Reasonable cost of board, lodging, and other facilities	2535
Records to be kept by employers	2533
TITLE 38—PENSIONS, BONUSES AND VETERANS' RELIEF:	
Veterans' Administration:	
Interpretation of phrase "is being furnished hospital treatment"	2537
Service requirement; rates, peace-time service	2537
TITLE 41—PUBLIC CONTRACTS:	
Division of Public Contracts:	
Tag Industry, prevailing minimum wages	2537

NOTICES

Federal Trade Commission:	
Houser, Boyd, Candy Co., order appointing examiner, etc	2538
Rural Electrification Administration:	
Allocation of funds for loans	2538
Securities and Exchange Commission:	
Continental Public Utilities Co., exemption application withdrawal	2540

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Securities and Exchange Commission:—Continued.	
Iowa Public Service Co., effectiveness of declaration	2538
North American Edison Co., et al, applications granted	2539
Tenney, C. I., et al, Trustees, exemption application withdrawal	2540
Tenney, C. I., Engineering Co., exemption application withdrawal	2540
Utilities Power & Light Corp., and Charles True Adams, Trustee, order	2540
West Ohio Gas Co., plan of reorganization	2538

this Act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes."

Temporary Certificates of Age

In any State where no provision is made for the issuance of State or Federal certificates of age as prescribed in section 2 of Child Labor Regulation No. 1 issued October 14, 1938,[1] any of the following documents will be accepted as a certificate until January 23, 1939, if the said document shows the age of the minor to be above the oppressive child-labor age applicable to the occupation in which he is employed:

(a) A birth certificate or attested transcript thereof, or a signed statement of the recorded date and place of birth issued by a registrar of vital statistics or other officer charged with the duty of recording births, or

[1] 3 F. R. 2487 DI.

(b) A record of baptism or attested transcript thereof showing the age of the minor.

KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 38-3132; Filed, October 21, 1938; 11:22 a. m.]

[Regulation No. 3]

CHILD LABOR REGULATIONS

TEMPORARY REGULATION FOR EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE

October 21, 1938.

Authority for Regulation

SEC. 3 (1) OF THE ACT

"* * * The Chief of the Children's Bureau shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Chief of the Children's Bureau determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being."

By virtue of and pursuant to the authority conferred by section 3 (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060) and upon the basis of the experience of those states which, while establishing a minimum age of at least 16 years for the employment of minors in manufacturing and mining occupations, have permitted the employment of minors below that age outside school hours in certain occupations deemed to be non-injurious to the health or well-being of such minors, and pending the assembling of more complete information concerning the employment of minors between 14 and 16 years of age in occupations subject to the Act, I hereby determine and in the following temporary regulation, effective until January 23, 1939, provide that the employment of minors between 14 and 16 years of age in the occupations and for the periods and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to constitute oppressive child labor.

Regulation

SEC. 1. *Occupations.*—This regulation shall apply to all occupations *other than* the following:

(a) Manufacturing or mining occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are produced.

(b) The operation of motor vehicles, service as helpers on such vehicles.

(c) Messenger service.

In all occupations covered by this regulation the employment of minors between 14 and 16 years of age, or the permitting or suffering of such minors to work, for the periods and under the conditions hereafter specified shall not be deemed to be oppressive child labor.

SEC. 2. *Periods of employment.*—The employment of minors in accordance with section 1 hereof shall be confined to the following periods:

(a) Outside school hours.

(b) Not more than 3 hours on any school day.

(c) Not more than 8 hours on any other day.

(d) Between 6 a. m. and 7 p. m. in any one day.

SEC. 3. *Conditions.*—No minor may be employed in accordance with section 1 hereof unless his employment shall be in conformity with all applicable State laws and regulations and local ordinances relating to the employment of such minor, including compliance with the provisions of any State law or regulation or local ordinance applicable thereto requiring for work in such occupations an employment certificate, permit, badge, or license showing that the minor is 14 years of age or over.

SEC. 4. *Certificates of age, effect.*—The employment of any minor which is otherwise in accordance with the provisions of this regulation shall not be deemed to constitute oppressive child labor under the Act if his employer shall have on file an unexpired certificate of age showing that the minor is 14 years of age or over issued in the same manner as that provided for the issuance of certificates in Child Labor Regulations Nos. 1 [1] and 1-A, issued by the Chief of the Children's Bureau on October 14 and 21, 1938, respectively.

SEC. 5. *Effect on other laws.*—No provision of this regulation shall under any circumstances justify or be construed to permit noncompliance with the wages and hours provisions of the Act or with the provisions of any other Federal law, or of any State law or municipal ordinance establishing higher standards than those established under this regulation.

SEC. 6. *Effective period of regulation.*—This regulation shall remain in effect for a period of 90 days from and after October 24, 1938, that is until January 23, 1939, unless revised in accordance with section 7 hereof.

SEC. 7. *Revision of regulation.*—Any person wishing a revision of any of the terms of this regulation may submit in writing to the Chief of the Bureau a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Chief of the Bureau believes that reasonable cause for amendment of the regulation is set forth, he shall either schedule a hearing with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to be heard.

KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 38-3133; Filed, October 21, 1938; 12 m.]

[1] 3 F. R. 2487 DI.

[Regulation No. 4]

CHILD LABOR REGULATIONS

ACCEPTANCE OF STATE CERTIFICATE

OCTOBER 21, 1938.

Pursuant to the provisions of section 5 of Child Labor Regulation No. 1 [1] entitled "Certificates of Age" issued October 14, 1938, under the authority conferred by sections 3 (l) and 11 (b) of the Fair Labor Standards Act of 1938 (52 Stat. 1060) I do hereby designate the following States as States in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938:

California.
Florida.
Georgia.
Virginia.
District of Columbia.

This designation shall be effective for the period of six months from and after October 24, 1938.

KATHARINE F. LENROOT,
Chief of the Children's Bureau.

[F. R. Doc. 38-3134; Filed, October 21, 1938; 12 m.]

WAGE AND HOUR DIVISION

PART 516—REGULATIONS ON RECORDS TO BE KEPT BY EMPLOYERS PURSUANT TO SECTION 11 (c) OF THE FAIR LABOR STANDARDS ACT*

The following regulations—Part 516—(Regulations on Records to be kept by Employers Pursuant to Section 11 (c) of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 516—shall become effective on my signing the original and after the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C. this twenty-first day of October, 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 516.1 *Records Required.*—Every employer subject to any provisions of the Fair Labor Standards Act or any order issued under this Act shall make and preserve records containing the following information with respect to each person employed by him, with the exception of those specified in Sections 13 (a) (3), 13 (a) (4), 13 (a) (5), 13 (a) (6), 13 (a) (8), 13 (a) (9), and 13 (a) (10) of the Act:

(a) Name in full.
(b) Home address.
(c) Date of birth if under 19.

(d) Hours worked each workday and each workweek.
(e) Regular rate of pay and basis upon which wages are paid.[1]
(f) Wages at regular rate of pay for each workweek, excluding extra compensation attributable to the excess of the overtime rate over the regular rate.[1]
(g) Extra wages for each workweek attributable to the excess of the overtime rate over the regular rate.[1]
(h) Additions to cash wages at cost, or deductions from stipulated wages in the amount deducted or at the cost of the item for which deduction is made, whichever is less.[2]
(i) Total wages paid for each workweek.
(j) Date of payment.

Provided, however, that with respect to employees specified in Section 13 (b) of the Act, records referred to in paragraphs (f) and (g) of this Section shall not be required, and *Provided*, further that with respect to employees who are specified in Section 13 (a) (2) of the Act and employees who are defined in regulations of the Wage and Hour Division—Part 541 (Regulations defining and delimiting the terms "any employee employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman" pursuant to Section 13 (a) (1) of the Fair Labor Standards Act)—employers need make and preserve records containing the following information only:

(a) Name in full.
(b) Home address.
(c) Occupation.*

SECTION 516.2 *Form of Records.*—No particular order or form is prescribed for these records, provided that the information required in Section 516.1 is easily obtainable for inspection purposes.*

SECTION 516.3 *Place and Period for Keeping Records.*—Each employer shall keep the records required by these regulations for his employees within each State either at the place or places of employment or, where that is impracticable, in or about at least one of his places of business within such State, unless otherwise authorized by the Administrator. Such records shall be kept safe and readily accessible for a period of at least four years after the entry of the record, and such records shall be open to inspection and transcription by the Administrator or his duly authorized and designated representative at any time.*

SECTION 516.4 *Definitions of Terms Used in These Regulations.*

(a) *Act.*—The "Act" means the Fair Labor Standards Act of 1938.

(b) *Hours Worked.*—For the purpose of these regulations the term "hours worked" shall include all time during which an employee is required by his employer to be on duty or to be on the employer's premises or to be at a prescribed workplace.

(c) *Workday and Workweek.*—For the purposes of these regulations, a "workday" with respect to any employee shall be any 24 consecutive hours, and a "workweek" with respect to any employee shall be 7 consecutive days, provided that the workday or workweek is not changed for the purpose of evasion of provisions of the Act or any regulations prescribed pursuant thereto.

(d) *Wage or Wages.*—For the purposes of these regulations, the term "wage" or "wages" means all remuneration for employment of whatsoever nature whether paid on timework, piecework, salary, commission, bonus, or other basis.

(e) *Employee.*—The term "employee" is defined by the Act (Sec. 3 (e)) to include "any individual employed by an employer," and the term "employ" is defined by the Act (Sec. 3 (g)) to include "to suffer or permit to work."

It shall be the duty of each employer to make and preserve all records required under these regulations with respect to each employee employed by him, whether or not such employees perform their work in an establishment or plant operated by the employer or subject to his immediate supervision. Thus, the required records shall be made and preserved by the employer for "industrial homeworkers" or other employees who produce goods for the employer from material furnished by him or who are compensated for such employment at piece rates, wherever such employees actually perform their work.

(f) *Regular rate of pay.*—For the purpose of these regulations, the term "regular rate of pay" means—

(i) with respect to an employee paid solely on an hourly basis (i. e., receiving no additional wage whatever):—the hourly wage rate at which he is employed.

(ii) with respect to an employee employed on a daily, weekly, semi-monthly [1] or monthly [1] basis for a regular number of hours per week determined by agreement or custom:—the average hourly

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[1] 3 F. R. 2487 DI.

* Sections 516.1 through 516.5 issued under the authority contained in Section 11 (c), 52 Stat. 1060.

[1] These three items of information are only required when overtime is worked by the employee.

[2] This information is required only where the cash wage actually paid is less than the minimum wage required by the Act. The reasonable cost of board, lodging, and other facilities as part of wages, is defined and delimited by regulations of the Wage and Hour Division—Part 531—(Regulations determining the reasonable cost of board, lodging, and other facilities pursuant to Section 3 (m) of the Fair Labor Standards Act). This matter is dealt with further in Interpretative Bulletin No. 8 of the Wage and Hour Division.

[1] With respect to an employee paid on a monthly basis, the wages earned during a workweek are computed by multiplying the monthly wage by 12 and dividing the result by 52. With respect to an employee paid on a semi-monthly basis, the wages earned during a workweek are computed by multiplying the semi-monthly wage by 24 and dividing the result by 52.

rate[1] obtained by dividing the wages[2] earned for that regular number of hours in the workweek by that regular number of hours; and

(iii) with respect to an employee paid on any other basis than those specified in (i) and (ii) of this Paragraph (f):—the average hourly rate[2] obtained by dividing the wages[2] earned for the particular workweek by the total number of hours worked during that workweek.

SECTION 516.5 *Petition for Amendment of Regulations.*—Any person wishing a revision of any of the terms of the foregoing regulations on records to be kept by employers—Sections 516.1 through 516.4—may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provisions for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.*

[F. R. Doc. 38-3136; Filed, October 21, 1938; 12:21 p. m.]

PART 526—REGULATIONS APPLICABLE TO INDUSTRIES OF A SEASONAL NATURE PURSUANT TO SECTION 7 (B) (3) OF THE FAIR LABOR STANDARDS ACT OF 1938*

The following regulations—Sections 526.1–526.7 and 526.90—are hereby issued. Said regulations—Sections 526.1–526.7 and 526.90—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C. this twentieth day of October, 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 526.1 *Statutory Provisions*—

SECTION 7 (a) No employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or in the production of goods for commerce—

(1) for a workweek longer than forty-four hours during the first year from the effective date of this section,

(2) for a workweek longer than forty-two hours during the second year from such date, or

(3) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

* * * * *

(3) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year in an industry found by the Administrator to be of a seasonal nature,

and if such employee receives compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

SECTION 526.2 *Meaning of "Industry".*—"Industry" means a trade, business, industry, or branch thereof, or group of industries in which individuals are gainfully employed.

SECTION 526.3 *Industry to Which the Exemption is Applicable.*—The exemption for an industry of a seasonal nature is applicable to an industry which both:

(a) Engages in the handling, extracting or processing of materials during a season or seasons occurring in a regularly, annually recurring part or parts of the year; and

(b) ceases production, apart from work such as maintenance, repair, clerical and sales work, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials handled, extracted, or processed, in the form in which such materials are handled, extracted or processed, are not available in the remainder of the year.*

SECTION 526.4 *Application for Exemption.*—Any industry, or employer, or employer group therein, may make written application to the Administrator for exemption. The application shall state the facts and reasons relied upon to show that the employer or employer group making application is a part or the whole of an industry which meets the conditions set forth in Section 526.3. Preferential consideration will be given to applications filed by groups or organizations which are deemed to be representative of the interests of a whole industry or branch thereof.*

SECTION 526.5 *Procedure upon Application for Exemption.*—Upon consideration of the facts and reasons stated in an application, the Administrator may

(a) without further proceedings deny the application on the ground that it fails to allege facts entitling the industry to an exemption as a seasonal industry; or

(b) may set the application for hearing before the Administrator or his authorized representative; or

(c) may notify the applicant of, and publish in the FEDERAL REGISTER and by general press release, a preliminary determination that a *prima facie* case for the granting of an exemption has been shown. In the event that the Administrator determines that a *prima facie* case for exemption has been shown, the Administrator for 15 days following the publication of his preliminary determination will receive objection to the granting of the exemption and request for hearing from any person interested, including but not limited to employees, employee groups, and employee labor organizations, within the industry claimed to be exempt. Upon receipt of objection and request for hearing, the Administrator will set the application for hearing before the Administrator or an authorized representative. If no objection and request for hearing is received within 15 days, the Administrator will make a finding upon the prima facie case shown upon the application. The exemption shall become effective upon publication of the finding in the FEDERAL REGISTER.

SECTION 526.6 *Procedure Where Application for Exemption Set for Hearing.*—

(a) One combined hearing may be held on two or more applications presenting related issues of fact or law.

(b) A notice of the time, place, and scope of a hearing upon an application will be published in the FEDERAL REGISTER and made public by a general press release at least five days before the date of such hearing.

(c) All persons interested, including employees, employee groups, employee labor organizations, employers, employer groups, and trade associations, within the industry affected, and designated subordinates of the Administrator, will be afforded an opportunity to present evidence and to be heard.

(d) The Administrator or his authorized representative may cause to be brought before him at such hearing any witness whose testimony he deems material to the matters in issue.

(e) The Administrator or his authorized representative, as the case may be, will make his finding upon the record made at the hearing. If the finding, made by the Administrator himself, is that the industry in question is of a seasonal nature within the meaning of Section 526.3, the exemption shall become effective upon publication of the finding in the FEDERAL REGISTER. If the finding is by an authorized representative of the Administrator, the further procedure set forth in Section 526.7 is applicable.

SECTION 526.7 *Petition for Review of Finding by Authorized Representative.*—Where hearing is had before an authorized representative of the Administrator any person aggrieved by the finding of such representative may within fifteen days after the action of such representative file a petition with the Administrator requesting a review by the Administrator of the action of the representative upon the record of hearing before the representative. If the request for review is granted, all interested parties will be afforded an opportunity to be heard either in support of, or in opposition to, the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the FEDERAL REGISTER and made public by a general press release at least five days before the date of such hearing.

If no such petition for review is filed within fifteen days, or if such petition is filed and subsequently is denied by the Administrator, the finding of the authorized representative shall become final. If such finding is that the industry in question is of a seasonal nature within the meaning of Section 526.3, the exemption shall become effective upon publication of the finding in the FEDERAL REGISTER.

If a petition for review is granted and upon hearing the Administrator confirms a finding by the representative that the industry is of a seasonal nature within the meaning of Section 526.3, or if the Administrator, rejecting a finding by the representative to the contrary, finds on the record that the industry is of a seasonal nature within the meaning of Section 526.3 then the exemption shall become effective upon publication of the Administrator's finding in the FEDERAL REGISTER.

SECTION 526.90 *Temporary Regulation of Administrator Relating to Exemptions for Industries of a Seasonal Nature Under Section 7 (b) (3) of the Fair Labor Standards Act.*—

(a) Subject to objection by any person interested as hereinafter provided in paragraph (d), the Administrator (without prejudice to the possible subsequent inclusion of other industries as of a seasonal nature within the meaning of Sec. 526.3) temporarily until December 31, 1938 finds the following industries to be of a seasonal nature:

Industries which both:

(1) Engage in the handling, extracting, or processing of materials during a season or seasons occurring in regularly, annually recurring part or parts of the year; and cease production, apart from the work of maintenance, repair, and clerical employees, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials handled, extracted, or processed in the form in which such materials are handled, extracted, or processed, are not available in the remainder of the year; and which

(2) Produce 50 per cent or more of their annual output in a period or periods amounting in the aggregate to not more than 14 workweeks.

(b) Such industries may, until December 31, 1938, for a period or periods of not more than 14 workweeks in the aggregate, employ employees 12 hours in any workday and 56 hours in any workweek without payment of time and one-half; provided, however, that such employees receive compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which they are employed. Industries seeking exemption beyond December 31, 1938, must make application pursuant to Section 526.4.

(c) Any employer, group of employers, or trade association representing employers, who are not a part or the whole of an industry within the terms of Paragraph (a) because 50 per cent or more of the annual output is not produced within a period or periods of 14 workweeks, or who are in doubt as to whether they are a part or the whole of such industry, should make application to the Administrator for exemption in accordance with the Administrator's regulations Sections 526.1–526.7.

(d) Any employee, or group of employees, who are employed by an employer or employers claiming to be a part or the whole of an industry within the terms of Paragraph (a) of this section, or any employee labor organization representing such employees, or any other person interested, may make written objection to the Administrator and request a hearing on the ground that such employer or employers are not entitled to exemption as a part or the whole of an industry of a seasonal nature.

If objection and request for hearing is received, the Administrator or his authorized representative will hold a hearing and any further proceedings in accordance with the procedure set forth in Sections 526.6–526.7.

The finding of the Administrator or his authorized representative following such procedure shall be published in the same manner and have the same force and effect as if the hearing had been had upon application for exemption under Section 526.4, and the exemption upon a finding of an industry of a seasonal nature shall become effective in accordance with the provisions of Sections 526.6–526.7; provided, however, that if the industry is within the terms of Paragraph (a) of this Section, the finding of the Administrator or his authorized representative shall so state, and the exemption upon such finding shall be effective as of October 24, 1938.*

[F. R. Doc. 38-3137; Filed, October 21, 1938; 12:21 p. m.]

PART 531—REGULATIONS DETERMINING THE REASONABLE COST OF BOARD, LODGING, AND OTHER FACILITIES PURSUANT TO SECTION 3 (M) OF THE FAIR LABOR STANDARDS ACT*

The following regulations—Part 531—(Regulations determining the reasonable cost of board, lodging, and other facilities pursuant to Section 3 (m) of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 531—shall become effective on my signing the original and after publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this twentieth day of October, 1938

ELMER F. ANDREWS,
Administrator.

SECTION 531.1 *Reasonable Cost Under Section 3 (m) of the Act.*—The term "reasonable cost" in Section 3 (m) of the Act is hereby determined to be not more than the actual cost to the employer of the board, lodging or other facilities customarily furnished by him to his employees.

(a) Reasonable cost does not include a profit to the employer or to any affiliated person.

(b) The reasonable cost of company houses rented to the employee and of any other capital investments used in furnishing board, lodging or other facilities is hereby determined to be the cost of operation and maintenance including any depreciation due to wear and tear plus a reasonable allowance (not more than 5½%) for interest on the depreciated amount of capital invested. Capital and depreciation shall be computed pursuant to Regulations 94 of the Bureau of Internal Revenue. No cost will be recognized as reasonable which is in excess of the fair rental value of the property.

(c) The cost of furnishing "facilities" which are primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

The following list of facilities found by the Administrator to be primarily for the benefit or convenience of the employer is meant as illustrative rather than exclusive: (1) tools of the trade and other materials and services incidental to carrying on the employer's business; (2) the cost of any construction by and for the employer; (3) the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.*

SECTION 531.2 *Procedure Under Section 3 (m) of the Act.*—The Administrator or his duly authorized representative

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[1] In computing the average hourly rate fractions of less than one-half cent may be disregarded, and fractions over one-half cent should be raised to the next full cent.

[2] In computing the average hourly rate all wages earned or paid during a particular workweek must be included except—

(a) bonuses not computed on the basis of measured work performed (e. g. bonuses for punctuality, simple Christmas bonuses, etc.)

(b) extra compensation attributable to the excess of the overtime rate over the regular rate, and

(c) additions to the cash wage for board, lodging or other facilities furnished by the employer.

* Sections 526.1–526.7 and 526.90 issued under the authority contained in Section 7 (b) (3), 52 Stat., 1060.

* Sections 531.1 through 531.3 issued under the authority contained in Section 8 (m), 52 Stat. 1060.

may at any time notify an employer that he intends to hold a hearing to determine the reasonable cost to him of the board, lodging or other facilities customarily furnished to his employees. The employer shall notify his employees of the place, date and purpose of the hearing by posting notices thereof in conspicuous places on his premises. A hearing will accordingly be held by the Administrator or his duly authorized representative at a place designated by the Administrator or his duly authorized representative, which shall be as close to the employer's place of business as reasonably possible. Interested persons will be heard orally or in writing and findings of fact made.

Upon application of an employee or group of employees or an agent or representative thereof stating (1) the name and location of the employer's place of business in which the employee or employees are employed, (2) the nature of the board, lodging or other facilities furnished and whether or not these facilities are customarily furnished by the employer, (3) the charges or deductions made therefor by the employer, (4) the cash wages paid and (5) the reason why the hearing is requested, the Administrator or his duly authorized representative will notify the employer that he intends to hold a hearing to determine the reasonable cost to the employer of such board, lodging or other facilities. The employer shall notify his employees as above. A hearing will be held as above and findings of fact made.

Upon application of an employer, a hearing shall likewise be set. The employer's application shall include (1) the name and location of his place or places of business; (2) a detailed description of the board, lodging, or other facilities customarily furnished to the employees and asserted by the employer to constitute wages; (3) an itemized statement of the actual cost to the employer of board, lodging or other facilities furnished; (4) an itemized statement of the cash wages paid; and (5) the reason why the hearing is requested. The employer shall notify his employees as above. A hearing will be held as above and findings of fact made.*

SECTION 531.3 *Petition for Amendment of Regulations.*—Any person wishing a revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provisions for affording interested parties an opportunity to present their views, either in support of or in opposition to the proposed changes. In determining such future regulations, separate treatment for different industries and for different classes of employees may be given consideration.*

[F. R. Doc. 38-3138; Filed, October 21, 1938; 12:21 p. m.]

PART 536—REGULATIONS DEFINING THE TERM "AREA OF PRODUCTION" AS USED IN SECTION 7 (C) AND IN SECTION 13 (A) (10) OF THE FAIR LABOR STANDARDS ACT *

The following regulations—Part 536—(Regulations Defining the term "Area of Production" as used in Section 7 (c) and in Section 13 (a) (10) of the Fair Labor Standards Act) are hereby issued. Said regulations—Part 536—shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C. this twentieth day of October, 1938.

ELMER F. ANDREWS,
Administrator.

Congress having provided in Section 7 (c) of the Fair Labor Standards Act of 1938 that in the case of "an employer engaged * * * in the first processing, within the area of production (as defined by the Administrator), of any agricultural or horticultural commodity during seasonal operations," the overtime provisions of Section 7 (a) during a period or periods of not more than 14 workweeks in the aggregate in any calendar year shall not apply to his employees in any place of employment where he is so engaged; and

Congress having provided in Section 13 (a) (10) that the wage and hour provisions of Sections 6 and 7 shall not apply to "any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products"; and

It appearing that the intent of the Congress in making these special provisions relating to the "area of production" was to prevent undue disturbance to agriculture and to enable small businesses closely related to agriculture to employ occasional workers in addition to members of the employer's family without regard to the wage or hour standards of the Act; and

It appearing that the exemption of only those businesses which employ a small number of workers would not result in material inequities between firms doing the same type of business; and

It appearing that such small businesses are predominately located in the open country or in rural communities, receive most of their raw products from neighboring farms, and frequently employ workers who spend part of their time in actual farming operations; and

It appearing that the exemptions herein granted to such small businesses would not defeat the declared purposes of the Act;

Therefore, in view of the foregoing, the following regulations defining the term "area of production", as used in the aforementioned Sections of the Act, are hereby issued.

SECTION 536.1 *"Area of production" as used in section 7 (c) of the Fair Labor Standards Act.*—An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity during seasonal operations within the "area of production" within the meaning of Section 7 (c)—

(a) if the first processing is conducted on a farm and is performed on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the commodities processed are obtained from farms in the immediate locality of the processing establishment and the number of employees there engaged in such processing does not exceed seven.*

SECTION 536.2 *"Area of production" as used in Section 13 (a) (10) of the Fair Labor Standards Act.*—An individual shall be regarded as employed in the "area of production" within the meaning of Sections 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products—

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven.*

SECTION 536.3 *Petition for Amendment of Regulations.*—Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2 by increasing or decreasing the maximum of employees permitted within the exemption as defined. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their views either in support of or in opposition to the proposed changes.*

* Sections 536.1 through 536.3 issued under the authority contained in Sections 7 (c) and 13 (a) (10), 52 Stat. 1060.

[F. R. Doc. 38-3139; Filed, October 21, 1938; 12:21 p. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

INTERPRETATION OF PHRASE "IS BEING FURNISHED HOSPITAL TREATMENT"

SEC. 2.1258. An insane veteran without dependants who is receiving hospital treatment, institutional or domiciliary care, which is being paid for by his guardian from funds belonging to the veteran's estate, is not being furnished hospital treatment by the Government or any political subdivision thereof within the meaning of Sec. 8.06, paragraph VI, even though the estate is derived from funds paid by the Veterans Administration: *Provided*, That where the guardian of the veteran's estate pays an amount less than that regularly fixed by the state authorities for care and treatment in a state institution, the veteran shall be considered as being hospitalized by a political subdivision of the United States within the meaning of Sec. 8.06 and subject to the reduction provisions thereof. (October 20, 1938.) [48 Stat. 9; 38 U. S. C. 706.]

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3127; Filed, October 20, 1938; 3:18 p. m.]

SERVICE REQUIREMENTS—RATES, PEACE-TIME SERVICE

SERVICE REQUIREMENTS; PERSONS INCLUDED, IN ADDITION TO OFFICERS AND ENLISTED MEN, OTHER THAN THOSE MENTIONED IN THE ACT OF JULY 14, 1862, AND OTHER CONTROLLING LAWS (PUBLIC, NO. 2, 73D CONGRESS)

(See also Sec. 2.1001)

SEC. 2.2006. (A) Personnel of the United States Coast Guard who served since July 2, 1930.

(B) Personnel of the National Guard or the National Guard of the United States, the Officers' Reserve Corps of the Enlisted Reserve Corps, while in the active service of the United States.

(C) Reserve officers and members of the enlisted reserves of the United States Army ordered to active duty for training purposes are also entitled to pension under Public, No. 159, 75th Congress. However, such benefits shall not be payable prior to the date of claim or June 23, 1937, whichever is the later.

(D) Reserve personnel of the Navy and Marine Corps while in the active service of the United States. Such personnel suffering disability while on active duty for training purposes, are pensionable after June 30, 1925 and prior to June 23, 1937 under the United States Employees Compensation Act. From and after June 23, 1937 such personnel have an election between United States Employees Compensation and pension under Public, No. 159, 75th Congress.

(E) Personnel of the Revenue Cutter Service while serving under the direction of the Secretary of the Navy in cooperation with the Navy. (1 A. V. A. 115).

(F) Pay clerks in the Navy. (7 P. D. 595.)

(G) Paymaster clerks while serving under a commission from the Secretary of War. (19 P. D. 149.)

(H) Members of the Naval Academy Band on and after April 12, 1910.

(I) Army field clerks appointed under the Act of August 29, 1916.

(J) Contract surgeons, except as to Sec. 8.013. (A. D. 237.) (October 21, 1938.)

RATES—PEACE-TIME SERVICE

SEC. 2.2088. (C) The protection afforded by Public No. 788, 74th Congress, will be extended to the claims of veterans who were on March 19, 1933, receiving compensation under the War Risk Insurance Act, as protected by section 602 of the World War Veterans Act, 1924, as amended, for a disability incurred prior to April 6, 1917, where the veteran was also in the active service on April 6, 1917, or for a disability incurred subsequent to July 2, 1921, where such disability would also have been pensionable on March 19, 1933, under the General Law (Act of July 14, 1862), by awarding, effective July 1, 1936, seventy-five per centum of the rate payable under the General Law where that benefit is greater than the amount payable under Public No. 2, 73d Congress. In this class of cases a claim for compensation under the War Risk Insurance Act will be accepted for the purpose of awarding the benefits under Public No. 788, 74th Congress, as a claim for pension under the General Law, and such claims will be forwarded to the director, veterans claims service, central office. (October 21, 1938.)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3128; Filed, October 20, 1938; 3:18 p. m.]

TITLE 41—PUBLIC CONTRACTS

DIVISION OF PUBLIC CONTRACTS

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE TAG INDUSTRY

This matter is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes". The Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on April 19, 1938 in the above-entitled matter.

Notice of this hearing was sent to all known members of the industry, to trade unions, to trade publications, and to trade associations in the field. Invitation to attend the hearing was also extended through the national press to all other interested parties.

At the hearing the Tag Institute presented for the record a wage survey of the Tag Industry. Counsel for the Institute, members of the industry, and a representative of organized labor testified at the hearing.

The tag industry, for the purpose of this decision, is defined as that industry which is engaged primarily in the manufacture of shipping and system tags, merchandise and marketing tags, and pin tags.

The survey presented by the Tag Institute covered 2,084 employees, or an estimated 95 per cent of the employees in the industry. It covered 31 out of an estimated 40 plants in the industry. The survey gave wage information, as of March, 1938, in the form of a wage frequency table arranged by 5 cent intervals to 50 cents an hour, above which 10 and 20 cent intervals were used.

95 percent of the industry, by volume, has signed the so-called Tag Industry Agreement. This agreement provides for a minimum wage of 33 cents an hour and has resulted in minimum wages which are practically uniform throughout the country. 191 workers out of 2,084 covered by the industry survey, or 9 percent of the total, fall within the bracket between 30 and 35 cents.

I have examined the findings of the Board and the record of the hearing, together with the brief filed by counsel for the Tag Institute, and in the light of the facts

I hereby determine—

That the minimum wage for employees engaged in the performance of contracts with agencies of the United States Government subject to the provisions of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) for the manufacture or supply of tags, shall be 33 cents an hour or $13.20 per week of forty hours, arrived at either upon a time or piece work basis.

This determination shall be effective, and the minimum wage hereby established shall apply to all such contracts bids for which are solicited on or after October 31, 1938.

Dated, OCTOBER 19, 1938.

[SEAL] FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-3135; Filed, October 21, 1938; 12 m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 20th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3506]

IN THE MATTER OF BOYD HOUSER, INDIVIDUALLY, AND TRADING AS BOYD HOUSER CANDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 3, 1938, at eleven o'clock in the forenoon of that day (central standard time), at room 1123 New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3131; Filed, October 21, 1938; 11:20 a. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 301]

ALLOCATION OF FUNDS FOR LOANS

OCTOBER 18, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Arkansas R9024A1 Washington	$244,000
Georgia R9020C1 Troup	135,000
Georgia R9031B1 Upson	129,000
Indiana 9006B2 Boone	54,000
Indiana R9042A2 Parke	82,000
Indiana R9047A2 Orange	20,000
Louisiana R9009B1 Lafayette	94,000
Minnesota R9004B1 Lake	84,000
Minnesota R9048B1 Anoka	209,000
Minnesota R9053C1 Waseca	250,500
Nebraska R9026B1 Platte	214,000
North Carolina R9023C1 Caldwell	377,000
North Dakota 9011C1 Cass	227,220
North Dakota R9011C2 Cass	22,780
Ohio 9032C1 Belmont	220,000
Ohio 9041B1 Licking	258,000
Ohio 9086B1 Guernsey	237,000
Oklahoma R9015B1 Tillman	120,000
South Carolina R9009E1 Richland	98,000
Texas 9040B1 Bowie	97,000
Texas 9052B1 Fannin	111,000
Texas 9060A1 Lynn	304,000
Texas 9064B1 San Augustine	223,000
Wisconsin R9014C1 Oconto	106,000
Wisconsin R9041B1 Vernon	157,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-3129; Filed, October 21, 1938; 10:19 a. m.]

[Administrative Order No. 302]

ALLOCATION OF FUNDS FOR LOANS

OCTOBER 18, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia R9070W3 Mitchell	$20,000
Georgia R9073W1 Dodge	20,000
Minnesota R9001W2 Kanabec	10,000
Ohio R9033W1 Auglaize	5,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-3130; Filed, October 21, 1938; 10:19 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of October, A. D. 1938

[File No. 52-4]

IN THE MATTER OF DAVID C. PATTERSON, MAX J. MAUERMANN AND DAVID COPLAND, AS A COMMITTEE FOR HOLDERS OF FIRST AND REFUNDING MORTGAGE 6% BONDS, SERIES A, DUE DECEMBER 1, 1954, OF WEST OHIO GAS COMPANY

ORDER

The above-named bondholders' committee, hereinafter referred to as the applicants, having submitted for approval under Section 11 (f) and Rule U-11F-1 of the Public Utility Holding Company Act of 1935 a plan of reorganization of West Ohio Gas Company, a subsidiary of a registered holding company;

[1] Hearings having been held on said plan and amendments thereto; and the Commission having heard argument and having considered the record in these matters and having made and filed its findings herein; and having determined, in respect of the securities to be issued pursuant to said plan, that the requirements of Section 7 of said Act are satisfied, subject, however, to requisite authorization of said securities by The Public Utilities Commission of Ohio, and subject, also, to further consideration by this Commission, when submitted by amendment, of the definitive documents and a more specific statement of the terms and conditions of said securities, for which purpose jurisdiction is retained;

It is ordered, That the said plan of reorganization as amended be and the same hereby is approved subject, however, to the following terms and conditions:

1. That pursuant to Rule U-11F-1 (e), the Commission reserves jurisdiction to consider any amendments modifying the plan or any other amendments filed subsequent to the approval herein granted.

2. That the consummation of the plan be effected in substantial compliance with the terms and conditions and for the purposes represented by said application as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3180; Filed, October 21, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October, A. D., 1938.

[File No. 43-131]

IN THE MATTER OF IOWA PUBLIC SERVICE COMPANY

ORDER PERMITTING AMENDED DECLARATION TO BECOME EFFECTIVE

Iowa Public Service Company, a registered holding company, having duly filed with this Commission a declaration, and amendments thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale by declarant of $300,000 principal amount of its First Mortgage Gold Bonds, 5% Series, due 1957; a hearing on said amended declaration having been duly held after appropriate notice;[2] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That said declaration, as amended, be and become effective forthwith, upon condition, however, that the

[1] 3 F. R. 1993 DI.
[2] 3 F. R. 1615 DI.

issue and sale of said bonds shall be effected in substantial compliance with the terms and conditions of, and for the purposes represented by, said declaration, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3175; Filed, October 21, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1938.

[File Nos. 46-115, 46-114, 32-106, 46-116]

IN THE MATTERS OF NORTH AMERICAN EDISON COMPANY, THE MILWAUKEE ELECTRIC RAILWAY AND LIGHT COMPANY, THE MILWAUKEE ELECTRIC RAILWAY & TRANSPORT COMPANY

ORDER

North American Edison Company, a registered holding company, The Milwaukee Electric Railway and Light Company, a subsidiary of said North American Edison Company, and The Milwaukee Electric Railway & Transport Company, organized to become a subsidiary of said The Milwaukee Electric Railway and Light Company upon completion of a transaction for which approval is herein sought, having filed, pursuant to Sections 6 (b), 7, and 10 of the Public Utility Holding Company Act of 1935, and to Rule U-12D-1, adopted by this Commission under that Act, the following declarations and applications, and amendments thereto:

1. An application by North American Edison Company (File No. 46-115), pursuant to Rule U-12D-1, for approval of the sale by it to The Milwaukee Electric Railway and Light Company of all the outstanding shares of capital stock of Wisconsin Electric Power Company, consisting of 400,000 shares of Common Capital Stock, par value $20 per share, in consideration of the issue to the applicant of the following shares of The Milwaukee Electric Railway and Light Company:

(a) 13,494 shares of Six Per Cent Preferred Capital Stock, par value $100 per share, which have been reacquired and are now held in the issuing company's treasury; and

(b) 78,710 shares of Preferred Capital Stock, Issue of 1921, 6% Series, par value $100 per share, of which 3,534 shares have been reacquired and are now held in the issuing company's treasury and of which 75,176 shares will be newly issued; of said 75,176 newly issued shares, 12,204 shares to be issued subject to the restriction that on October 30, 1943 they shall be retired, in effect, by the issue of an equivalent aggregate par value of Common Stock of The Milwaukee Electric Railway and Light Company;

2. An application by North American Edison Company (File No. 46-115), pursuant to Section 10, for approval of the acquisition by the applicant of the aforesaid securities to be issued by The Milwaukee Electric Railway and Light Company;

3. An application by The Milwaukee Electric Railway and Light Company (File No. 46-114), pursuant to Section 10, for approval of its acquisition from North American Edison Company of the capital stock of Wisconsin Electric Power Company, as described above;

4. An application by The Milwaukee Electric Railway and Light Company (File No. 32-106), pursuant to Section 6 (b), for exemption from the provisions of Section 6 (a) of said Act, of—

(a) the issue and sale of shares of its preferred stocks, as described in and for the purposes stated in paragraph 1 above;

(b) the assumption of $7,500,000 principal amount of First Mortgage Bonds, 4% Series B, due serially 11/15/1941 to 11/15/1955, of Wisconsin Electric Power Company;

the issue and sale and assumption of such securities as aforesaid having been expressly authorized by the Public Service Commission of Wisconsin;

5. An application by The Milwaukee Electric Railway & Transport Company (File No. 46-116), pursuant to Section 10, for approval of its acquisition from The Milwaukee Electric Railway and Light Company of all the latter company's transportation assets (excepting certain rights of way and rail lines thereon), which consist of—

(a) the local transportation system in the City of Milwaukee, Wisconsin and surrounding suburbs, and interurban railway and motor bus business in the surrounding district;

(b) the local transportation system in the City of Racine, Wisconsin;

(c) 8,876 shares Capital Stock, without par value, of Motor Transport Company, of Wisconsin;

(d) 800 shares Capital Stock, par value $50 per share, of Badger Auto Service Company, of Wisconsin;

said transportation assets to be received in consideration of the issue by the applicant to said The Milwaukee Electric Railway and Light Company of $10,000,000 in principal amount of 4% Mortgage Bonds of the applicant, and 250,000 shares of its Capital Stock, par value $100 per share;

6. An application by The Milwaukee Electric Railway and Light Company (File No. 46-114), pursuant to Section 10, for approval of its acquisition of the securities to be issued by The Milwaukee Electric Railway & Transport Company, as described in and for the purposes stated in paragraph 5 above; and

7. An application by The Milwaukee Electric Railway and Light Company (File No. 32-106), pursuant to Section 6 (b), for exemption from the provisions of Section 6 (a) of said Act, of

(a) the issue and sale of $55,000,000 in principal amount of First Mortgage Bonds, 3½% Series due 1968;

(b) the issue and sale to The Chase National Bank of the City of New York of $14,500,000 in principal amount of 3.4% unsecured notes, maturing serially from 10/28/1939 to 10/28/1948;

the issue and sale of such securities as aforesaid having been expressly authorized by the Public Service Commission of Wisconsin.

Public hearing on said matters having been held after appropriate notice,[1] and the Commission having considered the record in these matters and having made its findings of fact herein (except as to the application of The Milwaukee Electric Railway and Light Company (File No. 32-106) referred to in paragraph 7 hereof, the hearing in the latter matter not having been completed and the record therein not having been fully made),

It is ordered, That said applications, as amended (with the exception of the application of The Milwaukee Electric Railway and Light Company (File No. 32-106) referred to in paragraph 7 hereof and filed pursuant to Section 6 (b) of said Act), be granted, all subject, however, to the condition that all matters in connection with said applications, as amended, shall be performed in all respects as set forth in and for the purposes represented by said applications as amended.

It is further ordered, That, forthwith upon the acquisition by the Electric Company of the 400,000 shares of Common Capital Stock of the Power Company, being all the outstanding capital stock of the Power Company, the Electric Company shall take or cause to be taken all action necessary to effect the merger into it of the Power Company and the distribution and transfer to and the acquisition by the Electric Company of all the property and assets of the Power Company, subject to said Company's then existing liabilities which are to be assumed by the Electric Company; and that the due observance by the Electric Company of the terms of this paragraph of this order is and shall be a further condition upon which the said applications granted by this order are so granted.

It is further ordered, That the jurisdiction of the Commission be and hereby is reserved with respect of the matter of the application, referred to in paragraph 7 hereof, of The Milwaukee Electric Railway and Light Company for exemption of the issue and sale of First Mortgage Bonds and unsecured serial notes

[1] 3 F. R. 2318 DI.

from the provisions of Section 6 (a) of said Act, and to make such order or orders therein as the Commission deems appropriate on the conclusion of the hearing in respect of said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3176; Filed, October 21, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1938.

[File No. 31-173]

IN THE MATTER OF THE APPLICATION OF C. I. TENNEY, ET AL. TRUSTEES

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3177; Filed, October 21, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1938.

[File No. 31-172]

IN THE MATTER OF THE APPLICATION OF C. I. TENNEY ENGINEERING COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3178; Filed, October 21, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1938.

[File No. 31-171]

IN THE MATTER OF THE APPLICATION OF CONTINENTAL PUBLIC UTILITIES COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3179; Filed, October 21, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1938.

[File Nos. 34-8, 52-3, 52-5, 52-9, 52-10, 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

ORDER

Whereas the Commission on September 16, 1938, and September 20, 1938,[1] entered certain orders and an opinion in the above entitled matters; and

Whereas the Commission has given addftional consideration to the aforesaid orders and opinion;

It is ordered, That the aforesaid order of the Commission dated September 16, 1938, be amended by striking the last clause therein, reading:

"and *Provided further*, That a copy of the Commission's Memorandum Opinion in respect of this Petition to Intervene shall accompany any letters or circulars transmitted to security holders after the date hereof."

and inserting in lieu thereof the following:

"and *Provided further*, That a copy of the Commission's Memorandum Opinion in respect of this Petition to Intervene shall be sent to each security holder when next circularized or communicated with after the date of this order."

It is further ordered, That the memorandum opinion entered on September 16, 1938, as amended on September 20, 1938, be further amended by striking out the eleventh paragraph and inserting in lieu thereof the following:

"The Committee will be allowed to intervene subject to the conditions that a copy of this opinion shall be sent to each security holder when next circularized or communicated with after the date hereof; and that the Committee's rights as a party will be limited to the exercise of such rights, and no others, as the security holders have empowered the Committee to exercise on their behalf and that it will not be permitted to maintain any position inconsistent with any representations which it has made to security holders."

It is further ordered, That the aforesaid orders and opinion of the Commission stand in all other respects as the orders and opinion of the Commission in these matters.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3181; Filed, October 21, 1938; 12:56 p. m.]

[1] 3 F. R. 2258, 2284 DI.

FEDERAL REGISTER

VOLUME 3 NUMBER 208

Washington, Tuesday, October 25, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form NCR-201-L, Supplement No. 1]

1938 AGRICULTURAL CONSERVATION PROGRAM, LICKING COUNTY, OHIO

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin for Licking County, Ohio[1] is hereby amended as follows:

1. Section II, paragraphs 1 to 6, inclusive, are amended to read as follows:

Section II. Classification of Land Use or Treatment With Associated Productivity Factors

The acreage of cropland upon a farm in 1937 and in 1938 shall be classified according to its use or treatment in such year and shall receive the appropriate productivity factor as follows:

1. CROPLAND NOT PLANTED

a. Cropland idle and bare during season	−2.0
b. Cropland idle but not bare nor fallowed during season	−0.5
c. Cropland fallowed during season	−2.0

2. CROPLAND PLANTED TO FIELD CROPS FOR HARVESTING WITHIN THE CROP YEAR

a. Field corn for silage or grain harvested or hogged off	−2.0
b. Winter-grains (wheat, rye) harvested as grain, hay, or pasture, including hogged off	−1.0
c. Spring or summer seeded small grains (oats, barley, flax, buckwheat) harvested as grain, hay, or pasture	−0.9
d. Soybeans or cowpeas harvested as seed or hay	−0.5
e. Sudan grass harvested as hay or pasture	−1.5
f. Millet harvested as hay or pasture	−1.5
g. Sorghuma for harvesting	−2.0
h. Rape for pasture	−1.0
i. Cropland planted to a crop for harvesting within the crop year, not fall plowed but bare of sod or of winter cover crop as of October 31, 1938. (This factor to be applied in addition to any other factor applicable to such cropland)	−0.5

3. CROPLAND ON WHICH IS GROWING A GOOD STAND OF HAY OR PASTURE PLANTS

For a land use to be classified as producing one of the crops listed in this subsection 3. at least 75 percent of the stand must be of that particular crop.

a. Alfalfa, stand in year of seeding	+1.5
b. Alfalfa, 2nd year stand	+1.0
c. Alfalfa, 3rd year stand	+0.5
d. Alfalfa, 4th year and more stand	0.0
e. Sweet clover (biennial) year of seeding	+1.5
f. Sweet clover, 2nd year of growth, pastured or cut for hay	+1.0
g. Sweet clover, 2nd year of growth, not pastured or cut for hay	+1.5
h. Clovers, (red, mammoth, alsike) year of seeding	+1.0
i. Clovers, (red, alsike, mammoth) 2nd year of growth, pastured or cut for hay	+1.0
j. Clovers, (red, alsike, mammoth) 2nd year of growth, not pastured or cut for hay	+1.5
k. Alfalfa-grass mixtures, year of seeding	+1.5
l. Alfalfa-grass mixtures, 2nd year of growth	+0.5
m. Alfalfa-grass mixture, 3rd year of growth	+0.5
n. Alfalfa-grass mixture, 4th year of growth	0.0
o. Clover-grass mixture, year of seeding	+0.5
p. Clover-grass mixture, 2nd year of growth	+0.5
q. Timothy, orchard grass, or mixtures regardless of year of seeding	0.0
r. Bluegrass and other permanent pasture grasses	0.0
Any of these crops grown from unadapted seed planted between November 1, 1937 and October 31, 1938 shall receive a productivity factor of	0.0

4. CROPLAND INTO WHICH IS INCORPORATED A GREEN MANURE OR A RESIDUE CROP

a. Sweet clover, 2nd year of growth, not pastured, plowed under green prior to June 1	+1.0
b. Sweet clover, 2nd year of growth, not pastured nor cut for hay or seed, plowed under after June 1	+2.0

[1] 3 F. R. 1373 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program, 1938, Supplement No. 15 2543
Licking County, Ohio, Supplement No. 1 2541
TITLE 13—BUSINESS CREDIT:
Reconstruction Finance Corporation:
Transactions and operations in notes, debentures, bonds, etc., of the Corporation 2543
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Countervailing duties on products obtained from milk produced in the Netherlands 2543
Customs Regulations amended relative to coloring seeds 2544
TITLE 31—MONEY AND FINANCE: TREASURY:
Public Debt Service:
Offering of Reconstruction Finance Corporation ⅞% notes of Series P, due November 1, 1941 2544
TITLE 36—PARKS AND FORESTS:
National Park Service:
Guilford Courthouse National Military Park, subsidiary regulations 2545

NOTICES

Department of the Interior:
National Bituminous Coal Commission:
Districts Nos. 9–15, postponement of hearing on proposed minimum prices and marketing rules 2545
Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Artwebb Manufacturing Co., Inc., et al 2545
Sanders Manufacturing Co 2546

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Securities and Exchange Commission:	
Eastern Minnesota Power Corp., hearing	2555
Hearings under Sec. 12 (f) of Securities Exchange Act of 1934:	
American & Foreign Power Co., Inc.	2546
Armour and Co. of Ill.	2546
Atchison, Topeka & Santa Fe Railway Co.	2546
Atlantic Refining Co.	2547
Aviation Corp.	2547
Barnsdall Oil Co.	2547
Bethlehem Steel Corp.	2547
Boeing Airplane Co.	2548
Chrysler Corp.	2548
Commercial Solvents Corp.	2548
Commonwealth & Southern Corp.	2548
Continental Oil Co.	2549
Gimbel Bros., Inc.	2549
Goodrich, B. F., Co.	2549
Goodyear Tire & Rubber Co.	2549
International Nickel Co. of Canada, Ltd.	2550
Kennecott Copper Corp.	2550
Montgomery Ward & Co., Inc.	2550
National Supply Co. of Pa.	2550
New York Central Railroad Co.	2551
Ohio Oil Co.	2551
Paramount Pictures, Inc.	2551
Pittsburgh Terminal Coal Corp.	2552
Pressed Steel Car Co., Inc.	2552
Pure Oil Co.	2552
Socony-Vacuum Oil Co., Inc.	2552
Texas Corp.	2553
Transcontinental & Western Air, Inc.	2553
United Aircraft Corp.	2553
United Air Lines Transport Corp.	2553
United Gas Improvement Co.	2554
United States Rubber Co.	2554
Walworth Co., Inc.	2554
Yellow Truck & Coach Manufacturing Co.	2554
Manufacturers Trust Co., Utility Service Co., hearing	2555
Public Service of Pa., Inc., hearing	2555
Taylor, W. R., & Co. (William Reid Taylor), memorandum opinion and order suspending registration	2555
United States Maritime Commission:	
Isthmian Steamship Co., hearing postponed on application for operating-differential subsidy contract	2556

c. Alfalfa, 2nd or more years of growth, not pastured and plowed under green prior to June 1 +1.0
d. Alfalfa, 2nd or later years of growth, not pastured nor cut for hay or seed, plowed under green after June 1 +2.0
e. Clovers, (red, alsike, mammoth), 2nd year of growth, not pastured and plowed under green prior to June 1 +0.75
f. Clovers (red, alsike, mammoth), 2nd year of growth, not pastured nor cut for hay or seed, plowed under after June 1 +1.75
g. Soybeans, cowpeas, or vetch, entire plant plowed under in bloom stage +1.5
h. Rye, wheat, or buckwheat not pastured, plowed under green with at least sixty days of growth +0.5
i. Sweet Corn, entire stalk and leaves plowed under green after removal of ears (This factor in addition to that indicated under subsection 5, this Section II) +0.5
j. Field corn, drilled solid and entire plant plowed under green in tassel stage +1.5

5. CROPLAND PLANTED TO VEGETABLES AND SPECIAL CROPS FOR HARVESTING WITHIN THE CROP YEAR

a. Popcorn for harvesting —1.5
b. Sweet corn harvested for market or canning —1.5
c. Sweet corn for other uses —2.0
d. Tomatoes for harvesting —2.0
e. Irish potatoes for harvesting —2.0
f. Sweet potatoes for harvesting —2.0
g. Onions for harvesting —2.0
h. Melons for harvesting —2.0
i. Pumpkins for harvesting —2.0
j. Cucumbers for harvesting —2.0
k. Cabbage for harvesting —1.5
l. Canning peas for harvesting —0.5
m. Field peas for harvesting —0.5
n. Field beans for harvesting —0.5

6. CROPLAND OCCUPIED BY FRUIT OR FOREST TREE PLANTINGS

a. Non-commercial Orchards (entire acreages) —2.5
(Orchards interplanted, in addition to this factor shall receive the factor assigned to the interplanted crop for the acreage of such interplanted crop)
b. Cane and Bush Fruits —2.0
c. Rhubarb —1.0
d. Asparagus —1.0
e. Forest Trees and Windbreaks 0.0

2. Section III is amended as follows:

a. The introductory paragraph is amended to read as follows:

There shall be established for each farm productivity balance values for 1937 and 1938. In determining these productivity balance values the following procedure shall be used:

b. Paragraph 6 is amended by substituting in place of the words "number of crop acres" in the first sentence thereof the words "acreage of cropland".

3. Section IV, paragraph 1 is amended by substituting in place of the last sentence thereof the following:

The maintenance payment for each acre of cropland shall be equal to 1.25 cents for each point (0.01) by which the 1938 productivity balance value for that farm is above the lower extreme of the payment scale for that farm up to a limit of the number of such points between the lower and upper extremes of the payment scale for that farm.

4. Section IV, paragraph 2 is amended to read as follows:

2. *Building payment.*—The cropland building payment for each acre of cropland shall be equal to 1.50 cents for each point (0.01) by which the 1938 productivity balance value exceeds the 1937 productivity balance value up to a limit of 40 such points.

5. Section V, paragraph 2, item d is amended by substituting the figure 154 in place of 150.

6. Section VII, paragraph 1 is amended by amending the first parenthetical expression to read as follows:

(as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages).

7. Section IX, paragraph 1 is amended to read as follows:

1. *Other farms in Licking County.*—If a person who has made application for payment with respect to any farm in Licking County has an interest as landlord or tenant in any other farm in Licking County which qualifies for neither a maintenance payment nor a building payment as calculated under Section IV, the payment which otherwise would be made to such person shall be decreased by an amount equal to such person's share of the deduction with respect to such other farm. The deduction for each acre of cropland in such other farm shall be equal to 1.25 cents for each point (0.01) by which the 1938 productivity balance value is below the lower extreme of the payment scale.

Any deduction computed for a farm in accordance with the above provisions shall be divided among the landlords and tenants in the same proportion (as indicated by their acreage shares ex-

pressed in terms of either proportionate acreages or percentages) that such persons are entitled, at the time the crops are harvested, to share in the proceeds (other than a fixed commodity payment) of the crops grown on the farm in 1938.

Done at Washington, D. C., this 21st day of October 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3186; Filed, October 22, 1938; 12:21 p. m.]

[ACP—1938-18]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 15

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended April 16, 1938,[1] is hereby further amended as follows:

Subsection B of Section I is hereby amended by the addition of the following:

The State acreage allotments of total soil-depleting crops for the States in the Western Region are as follows:

Arizona	435,470
California	5,084,539
Colorado	6,220,571
Idaho	2,733,292
Kansas	22,586,216
Montana	5,777,709
Nevada	63,148
New Mexico	1,824,761
North Dakota	17,464,443
Oregon	2,895,948
Utah	770,675
Washington	4,805,861
Wyoming	1,116,141

Done at Washington, D. C., this 21st day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3187; Filed, October 22, 1938; 12:21 p. m.]

TITLE 13—BUSINESS CREDIT

RECONSTRUCTION FINANCE CORPORATION

REGULATIONS GOVERNING TRANSACTIONS AND OPERATIONS IN NOTES, DEBENTURES, BONDS, AND OTHER SUCH OBLIGATIONS OF THE CORPORATION

Pursuant to the authority conferred upon the Reconstruction Finance Corporation (hereinafter referred to as the Corporation) by the Reconstruction Finance Corporation Act, approved January 22, 1932, (47 Stat. 5; U. S. C. title 15, sec. 601 et seq.), as amended and supplemented, the following regulations governing the marketing and issuance of the Corporation's notes, debentures, bonds, and other such obligations, including interim certificates issued in lieu thereof and interest coupons pertaining thereto (all of which are referred to as securities), the granting of relief on account of the loss, theft, destruction, mutilation, or defacement of the securities, and other transactions and operations therein, are hereby promulgated:

1. *General.*—The securities shall be issued and sold only with the approval of the Secretary of the Treasury, as provided in Section 9 of the Reconstruction Finance Corporation Act, as amended and supplemented. The forms, denominations, terms, and conditions, as well as the text of the securities, of each particular series shall be prescribed by the Corporation. The United States Treasury Department will act as Agent for the Corporation in connection with the transactions and operations hereunder.

2. *Relief on account of lost, stolen, destroyed, mutilated, or defaced securities.*—The statutes of the United States now or hereafter in force governing relief on account of the loss, theft, destruction, mutilation, or defacement of United States securities and the regulations of the Treasury Department now or hereafter in force governing the issuance of substitute securities or the payment of such lost, stolen, destroyed, mutilated, or defaced securities so far as applicable and as necessarily modified to relate to securities of the Reconstruction Finance Corporation, are hereby adopted as the regulations of the Corporation for the issuance of substitute securities or the payment of lost, stolen, destroyed, mutilated, or defaced securities of the Corporation.

3. *Other transactions and operations.*—The general regulations of the United States Treasury Department now or hereafter in force governing transactions and operations in United States bonds and coupons are hereby adopted so far as applicable as the regulations of the Corporation for similar transactions and operations in securities of the Corporation.

4. *Administration.*—The Secretary of the Treasury or the Acting Secretary of the Treasury is hereby authorized and empowered on behalf of the Corporation to administer the regulations governing any transactions or operations in securities of the Corporation to do all things necessary to conduct such transactions and operations, and to delegate such authority at his discretion to other officers, employees, and agents of the United States Treasury Department. The Secretary, the Acting Secretary, the Under Secretary, or any Assistant Secretary acting by direction of the Secretary is hereby authorized to waive any such regulations on behalf of the Corporation at his discretion in any particular case in which a similar regulation of the Treasury Department with respect to United States Treasury bonds or coupons would be waived.

5. *Amendments.*—The Corporation reserves the right at any time upon notice to the Secretary of the Treasury to revoke and, the further right at any time or from time to time, with the approval of the Secretary of the Treasury to amend these regulations or to prescribe and issue supplemental rules and regulations governing transactions or operations in securities of the Corporation.

Adopted by the Board of Directors of the Reconstruction Finance Corporation on October 5, 1938.

[SEAL] G. R. COOKSEY,
Secretary.

Approved: October 14, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3182; Filed, October 22, 1938; 10:11 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49729]

COUNTERVAILING DUTIES ON PRODUCTS OBTAINED FROM MILK PRODUCED IN THE NETHERLANDS

To Collectors of Customs and Others Concerned:

The Bureau is in receipt of official information which establishes to its satisfaction that bounties or grants, within the meaning of the provisions of section 303 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1303), are being paid or bestowed on butter, dried skimmed milk, dried buttermilk, casein, lactose, Gouda cheese, Edam cheese, sweetened condensed milk, evaporated milk, and whole milk powder produced in the Netherlands.

Accordingly, the products mentioned above, imported directly or indirectly from the Netherlands, entered for consumption or withdrawn from warehouse for consumption after thirty days after the publication of this declaration in a weekly issue of Treasury Decisions will be subject to the payment of countervailing duties equal to any bounty or grant found to have been paid or bestowed upon their manufacture or production, as determined or estimated and declared thereafter, whether such articles are imported in the same condition as when exported from the Netherlands or have been changed in condition by remanufacture or otherwise.

On and after the effective date of this declaration a deposit of estimated coun-

[1] 3 F. R. 915 DI.

tervailing duties calculated at the rates set forth below shall be required in respect of all such merchandise from the Netherlands entered for consumption or withdrawn from warehouse for consumption:

Name of Product	*Per lb.*
Butter	$0.0954
Dried skimmed milk	0.0191
Dried buttermilk	0.0164
Casein	0.0396
Lactose	0.0506
Gouda cheese	0.0644
Edam cheese	0.0596
Sweetened condensed milk	0.014
Evaporated milk	0.0137
Whole milk powder	0.0491

The liquidation of consumption entries and unliquidated warehouse entries shall be suspended pending estimation or determination and declaration of the amounts of the bounties or grants paid or bestowed, and the amounts of the countervailing duties to be collected.

The facts of each case shall be reported to the Bureau promptly at the time of entry for consumption or at the time of the first withdrawal from warehouse for consumption on and after the effective date of this declaration.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, October 18, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3190; Filed, October 24, 1938; 12:11 p. m.]

[T. D. 49730]

AMENDMENT OF CUSTOMS REGULATIONS OF 1937 RELATING TO COLORING SEEDS UNDER THE SUPERVISION OF A REPRESENTATIVE OF BUREAU OF PLANT INDUSTRY, OR OF A CUSTOMS OFFICER

OCTOBER 19, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C. title 5, sec. 22), and section 5 (c) of the Federal seed act, as amended by the act approved April 26, 1926 (U. S. C. title 7, sec. 115 (c)), article 594 of the Customs Regulations of 1937[1] is hereby amended to read as follows:

ART. 594. *Coloring seeds under supervision.*—Seed required to be colored under article 592 and not found to have been so colored prior to arrival in the United States shall not be permitted importation unless it has been colored at the expense of the importer and under the supervision of a representative of the Bureau of Plant Industry, or of a customs officer when the collector of customs is notified that such supervision under the Bureau of Plant Industry is impracticable.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3191; Filed, October 24, 1938; 12:11 p. m.]

[1] 2 F. R. 1581 (1870 DI.)

TITLE 31—MONEY AND FINANCE TREASURY

PUBLIC DEBT SERVICE

[1938—Department Circular No. 597]

RECONSTRUCTION FINANCE CORPORATION ⅞ PERCENT NOTES OF SERIES P, DUE NOVEMBER 1, 1941

OCTOBER 24, 1938.

I. OFFERING OF NOTES AND INVITATION FOR TENDERS

1. The Secretary of the Treasury, on behalf of the Reconstruction Finance Corporation, invites subscriptions, at par, from the people of the United States for notes of the Reconstruction Finance Corporation, designated ⅞ percent notes of Series P.

2. The Secretary of the Treasury, on behalf of the Reconstruction Finance Corporation, offers to purchase on November 1, 1938, at par and accrued interest the outstanding notes of the Corporation designated Series K, maturing December 15, 1938, to the extent to which the holders thereof subscribe to the issue of Series P notes hereunder. Tenders of Series K notes for that purpose are invited.

3. The amount of the offering of Series P notes under this circular will be limited to the amount of Series K notes tendered for purchase in accordance herewith.

II. DESCRIPTION OF NOTES

1. The notes will be dated November 1, 1938, and will bear interest from that date at the rate of ⅞ percent per annum, payable semiannually on May 1 and November 1 in each year until the principal amount becomes payable. They will mature November 1, 1941, and will not be subject to call for redemption prior to maturity.

2. The notes will be issued under authority of an act of Congress (known as "Reconstruction Finance Corporation Act") approved January 22, 1932, as amended and supplemented, which provides that the notes shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof; and that they shall be exempt both as to principal and interest from all taxation (except sur-taxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. These notes shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

3. The authorizing act further provides that in the event the Reconstruction Finance Corporation shall be unable to pay upon demand, when due, the principal of or interest on notes issued by it, the Secretary of the Treasury shall pay the amount thereof, which is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amounts so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such notes.

4. The notes will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege.

5. Bearer notes with interest coupons attached will be issued in denominations of $1,000, $5,000, $10,000 and $100,000. The notes will not be issued in registered form.

III. SUBSCRIPTION AND ALLOTMENT

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington, and should be accompanied by notes of Series K tendered for purchase, to a par amount equal to the par amount of notes of Series P subscribed for. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. PAYMENT

1. Payment at par for notes subscribed for hereunder must be made on or before November 1, 1938, or on later allotment. Notes of Series K tendered for purchase must have coupons dated December 15, 1938, attached, and payment will be made at par and accrued interest to November 1, 1938. The principal proceeds of the Series K notes will be applied in payment of the Series P notes, and accrued interest from June 15, 1938, to November 1, 1938, on Series K notes ($5.696721 per $1,000) will be paid following acceptance of the notes.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38-3192; Filed, October 24, 1938; 12:11 p. m.]

TITLE 36—PARKS AND FORESTS

NATIONAL PARK SERVICE

GUILFORD COURTHOUSE NATIONAL MILITARY PARK

SUBSIDIARY REGULATIONS

The following subsidiary regulations, issued under the authority of the General Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), have been recommended by the Superintendent and approved by the Director of the National Park Service, and are in force and effect within the boundaries of Guilford Courthouse National Military Park:

SEC. 15.7 (a) *Travel on roads.*—Travel on roads within the park is limited to passenger carrying vehicles, except:

(1) Vehicles belonging to the United States Government, the State of North Carolina, the County of Guilford, North Carolina, or the City of Greensboro, North Carolina.

(2) Privately owned vehicles temporarily engaged under contract with an agency enumerated in sub-paragraph (1) of this paragraph.

(3) Privately owned vehicles engaged wholly in hauling or trucking to or from property in the vicinity of the park, where the use of the park roads is necessary as a means of ingress to or egress from a public road.

(b) *Prohibited devices.*—The operation or movement upon any road of any vehicle fitted with flanges, ribs, clamps, cleats, lugs, spikes, or any device which may tend to damage the roadway, is prohibited.

(c) *Load and vehicle weight limitations.*—No vehicle equipped with pneumatic tires shall be operated or moved upon any road which has:

(1) A total weight, including vehicle and load, in excess of twelve thousand (12,000) pounds.

(2) A total weight, including vehicle and load, in excess of six thousand pounds on any one axle, or in excess of three thousand (3,000) pounds on any one wheel.

(3) For vehicles equipped with solid rubber tires, the maximum weight, including vehicle and load, shall not exceed seventy five (75%) per cent of the maximum weights prescribed in subparagraphs (1) and (2) of this paragraph.

(4) For vehicles equipped with tires made in whole or in part of metal, the total weight, including vehicle and load, shall not exceed four hundred (400) pounds per inch of tire width.

(5) The provisions of this paragraph shall not apply to traction engines or tractors the propulsive power of which is exerted by means of a flexible band or chain known as a movable track, when the portions of the movable track in contact with the surface of the roadway present plain surfaces.

(d) *Speed.*—The speed of automobiles and other vehicles, except Government cars and ambulances on emergency trips, is limited to 30 miles per hour on all roads.

(e) *Exception.* — These regulations shall not apply to traffic on U. S. Highway No. 220.

Approved, October 17, 1938.

[SEAL] HILLORY A. TOLSON,
Acting Director.

[F. R. Doc. 38-3183; Filed, October 22, 1938; 10:11 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

POSTPONEMENT OF HEARING, PROPOSAL OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS SUBMITTED BY DISTRICT BOARDS FOR DISTRICTS NOS. 9–13 (EXCEPT VAN BUREN, WARREN, AND M'MINN COUNTIES IN TENNESSEE), 14, AND 15

Notice is hereby given that the date for the Hearing in the matter of the proposal of minimum prices and marketing rules and regulations submitted by the District Boards for Districts Nos. 9, 10, 11, 12, 13 (except Van Buren, Warren, and McMinn Counties in Tennessee), 14, and 15, as previously set by Commission's Order dated October 11, 1938,[1] for the 26th day of October, 1938, at 10:00 A. M. in the Hearing Room of the Commission at 15th and Eye Streets NW., Washington, D. C., has been postponed from said date of October 26, 1938, to November 3rd, 1938, at the same hour and place.

The Secretary of the Commision shall cause a copy of this Notice of Postponement to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of the aforesaid districts, and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel, and to the Secretary of each District Board, and to be made available for inspection in each of the Statistical Bureaus of the Commission.

By Order of the Commission.

Dated this 21st day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3188; Filed, October 24, 1938; 10:54 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3471]

IN THE MATTER OF ARTWEBB MANUFACTURING COMPANY, INC., A. M. WEBB & COMPANY, INC., LEON J. ISAACS, INDIVIDUALLY AND AS OFFICER, AND JESSE KOHN, INDIVIDUALLY AND AS OFFICER, OF ARTWEBB MANUFACTURING COMPANY, INC., AND OF A. M. WEBB & COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 16, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the exam-

[1] 3 F. R. 2475 DI

iner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3184; Filed, October 22, 1938; 11:25 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3526]

IN THE MATTER OF SANDERS MANUFACTURING COMPANY A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 1, 1938, at ten o'clock in the forenoon of that day (central standard time) in the Federal Building, Room 245, Nashville, Tennessee.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3196; Filed, October 24, 1938; 12:51 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-261]

IN THE MATTER OF AMERICAN & FOREIGN POWER COMPANY, INC., COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange, having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value of American & Foreign Power Company, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3168; Filed, October 21, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October, 1938.

[File No. 7-262]

IN THE MATTER OF ARMOUR AND COMPANY OF ILLINOIS COMMON STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange, having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $5 Par Value of Armour and Company of Illinois; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10:00 a. m. Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3169; Filed, October 21, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-263]

IN THE MATTER OF THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY COMMON STOCK, $100 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange, having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $100 Par Value of The Atchison, Topeka & Santa Fe Railway Company and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein des-

ignated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3170; Filed, October 21, 1938; 12:54 p.m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 18th day of October, 1938.

[File No. 7-264]

IN THE MATTER OF THE ATLANTIC REFINING COMPANY COMMON STOCK, $25 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange, having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $25 Par Value of The Atlantic Refining Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3171; Filed, October 21, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 18th day of October 1938.

[File No. 7-265]

IN THE MATTER OF THE AVIATION CORPORATION CAPITAL STOCK, $3 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange, having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $3 Par Value of The Aviation Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3172; Filed, October 21, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-266]

IN THE MATTER OF BARNSDALL OIL COMPANY COMMON STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $5 Par Value of Barnsdall Oil Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3173; Filed, October 21, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-267]

IN THE MATTER OF BETHLEHEM STEEL CORPORATION COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of Bethlehem Steel Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein desig-

nated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3163; Filed, October 21, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-268]

IN THE MATTER OF BOEING AIRPLANE COMPANY CAPITAL STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $5 Par Value, of Boeing Airplane Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3162; Filed, October 21, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-269]

IN THE MATTER OF CHRYSLER CORPORATION COMMON STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES AND EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $5 Par Value, of Chrysler Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3161; Filed, October 21, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-270]

IN THE MATTER OF COMMERCIAL SOLVENTS CORPORATION COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of Commercial Solvents Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3160; Filed, October 21, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-271]

IN THE MATTER OF THE COMMONWEALTH & SOUTHERN CORPORATION COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of The Commonwealth & Southern Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday,

November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3159; Filed, October 21, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-272]

IN THE MATTER OF CONTINENTAL OIL COMPANY CAPITAL STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $5 Par Value, of Continental Oil Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3158; Filed, October 21, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-273]

IN THE MATTER OF GIMBEL BROTHERS, INC. COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of Gimbel Brothers, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3157; Filed, October 21, 1938; 12:52 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 18th day of October 1938.

[File No. 7-274]

IN THE MATTER OF THE B. F. GOODRICH COMPANY COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of The B. F. Goodrich Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3156; Filed, October 21, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-275]

IN THE MATTER OF THE GOODYEAR TIRE & RUBBER COMPANY COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of The Goodyear Tire & Rubber Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3155; Filed, October 21, 1938; 12:51 p.m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-276]

IN THE MATTER OF THE INTERNATIONAL NICKEL COMPANY OF CANADA, LTD. COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of The International Nickel Company of Canada, Ltd.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3164; Filed, October 21, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-277]

IN THE MATTER OF KENNECOTT COPPER CORPORATION CAPITAL STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, No Par Value, of Kennecott Copper Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3165; Filed, October 21, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-278]

IN THE MATTER OF MONTGOMERY WARD & CO., INC. COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of Montgomery Ward & Co., Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3166; Filed, October 21, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-279]

IN THE MATTER OF THE NATIONAL SUPPLY CO. OF PENNSYLVANIA COMMON STOCK, $10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $10 Par Value, of The National Supply Co. of Pennsylvania; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3167; Filed, October 21, 1938; 12:53 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of October 1938.

[File No. 7-280]

IN THE MATTER OF THE NEW YORK CENTRAL RAILROAD COMPANY CAPITAL STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12(F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, No Par Value, of The New York Central Railroad Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3174; Filed, October 21, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-281]

IN THE MATTER OF THE OHIO OIL COMPANY COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of The Ohio Oil Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3143; Filed, October 21, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-282]

IN THE MATTER OF PARAMOUNT PICTURES, INC. COMMON STOCK, $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value, of Paramount Pictures, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3142; Filed, October 21, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 18th day of October 1938.

[File No. 7-283]

IN THE MATTER OF PITTSBURGH TERMINAL COAL CORPORATION COMMON STOCK, $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value, of Pittsburgh Terminal Coal Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3141; Filed, October 21, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-284]

IN THE MATTER OF PRESSED STEEL CAR COMPANY, INC., COMMON STOCK, $1 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $1 Par Value, of Pressed Steel Car Company, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3154; Filed, October 21, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-285]

IN THE MATTER OF THE PURE OIL COMPANY COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of The Pure Oil Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3153; Filed, October 21, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 18th day of October 1938.

[File No. 7-286]

IN THE MATTER OF SOCONY-VACUUM OIL COMPANY, INC., CAPITAL STOCK, $15 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $15 Par Value, of Socony-Vacuum Oil Company, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3152; Filed, October 21, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-287]

IN THE MATTER OF THE TEXAS CORPORATION CAPITAL STOCK, $25 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $25 Par Value, of The Texas Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opporunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3151; Filed, October 21, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-288]

IN THE MATTER OF TRANSCONTINENTAL & WESTERN AIR, INC. COMMON STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $5 Par Value, of Transcontinental & Western Air, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3150; Filed, October 21, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-289]

IN THE MATTER OF UNITED AIRCRAFT CORPORATION CAPITAL STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $5 Par Value, of United Aircraft Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938, in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R.. Doc. 38-3148; Filed, October 21, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-290]

IN THE MATTER OF UNITED AIR LINES TRANSPORT CORPORATION CAPITAL STOCK, $5 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED.

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Capital Stock, $5 Par Value of United Air Lines Transport Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3149; Filed, October 21, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-291]

IN THE MATTER OF THE UNITED GAS IMPROVEMENT COMPANY COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of The United Gas Improvement Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3147; Filed, October 21, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-292]

IN THE MATTER OF UNITED STATES RUBBER COMPANY COMMON STOCK, $10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, $10 Par Value, of United States Rubber Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3146; Filed, October 21, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of October 1938.

[File No. 7-293]

IN THE MATTER OF WALWORTH COMPANY, INC. COMMON STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (F) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Pittsburgh Stock Exchange having made application to the Commission pursuant to Rule JF1 under the Securities Exchange Act of 1934, as amended, for extension of unlisted trading privileges to the Common Stock, No Par Value, of Walworth Company, Inc.; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, November 8, 1938 in Room 1103 Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3144; Filed, October 21, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1938.

IN THE MATTER OF WILLIAM REID TAYLOR, DOING BUSINESS AS W. R. TAYLOR & COMPANY, 311 WOODSIDE BUILDING, GREENVILLE, SOUTH CAROLINA

MEMORANDUM OPINION AND ORDER SUSPENDING REGISTRATION

This is a proceeding ordered by the Commission on January 17, 1938, pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, to determine whether the registration of William Reid Taylor, doing business as W. R. Taylor & Company, as a dealer, effective April 21, 1937, should be revoked or suspended.

Notice of the hearing to be held in this proceeding was duly given in accordance with the registrant's consent as embodied in Item 27 of his Form 3-M application for registration. Hearing was held before a trial examiner on May 27, 1938, and the registrant failed to appear personally or by counsel. The trial examiner has filed an advisory report in which he found that the registrant had violated Rule X-15B-2 (formerly Rule MB2) in failing to inform the Commission of a change in his business address and in failing to inform the Commission that his license as a dealer in securities was revoked by the Insurance Commissioner of the State of South Carolina. The record contains evidence of such character as to persuade us that the registrant had a motive in concealing his whereabouts, but since Taylor did not appear and defend himself against these charges, we withhold our findings and final determination until he comes in to be heard. However, pending such final determination, we think it clear from the record that it is necessary and appropriate in the public interest and for the protection of investors that Taylor's right to use the mails and instruments of interstate commerce in securities transactions be suspended.

It is therefore ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of William Reid Taylor, doing business as W. R. Taylor & Company, as a dealer, be and is hereby suspended pending final determination whether such registration shall be revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3185; Filed, October 22, 1938; 11:59 a m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22 day of October, A. D. 1938.

[File No. 30-160]

IN THE MATTER OF PUBLIC SERVICE OF PENNSYLVANIA, INC.

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 8, 1938, at 9:45 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 3, 1938.

The matter concerned herewith is in regard to the application under Section 5 (d) for an order declaring that Public Service of Pennsylvania, Inc., has ceased to be a holding company by reason of the exemption provided by Rule U-3D-12.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3193; Filed, October 24, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File No. 31-178]

IN THE MATTER OF EASTERN MINNESOTA POWER CORPORATION

NOTICE OF AND ORDER FOR HEARING

A hearing pursuant to section 3 (a) (2) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 5, 1938.

The matter concerned herewith is in regard to the application of Eastern Minnesota Power Corporation for an order pursuant to Section 3 (a) (2) of the Act declaring it to be exempt from the applicable provisions thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3195; Filed, October 24, 1938; 12:42 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File No. 31-183]

IN THE MATTER OF MANUFACTURERS TRUST COMPANY, UTILITY SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A hearing pursuant to section 3 (a) (4) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be

held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so deignated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 5, 1938.

The matter concerned herewith is in regard to the joint application of Manufacturers Trust Company and Utility Service Company for an order pursuant to Section 3 (a) (4) of the Act declaring each of them to be exempt from the applicable provisions thereof.

By the Commission,

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3194; Filed, October 24, 1938; 12:42 p. m.]

UNITED STATES MARITIME COMMISSION.

APPLICATION OF ISTHMIAN STEAMSHIP COMPANY FOR OPERATING-DIFFERENTIAL SUBSIDY CONTRACT

HEARING POSTPONED

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 20th day of October, A. D. 1938

It is ordered, That the public hearing heretofore ordered to be held on Monday, October 31, 1938,[1] with respect to the application of the Isthmian Steamship Company for an operating-differential subsidy contract, be postponed until Monday, November 14, 1938, at 10:00 A. M., in the Main Auditorium, Department of Commerce Building, Washington, D. C.

It is further ordered, That a copy of this order be served forthwith upon the Isthmian Steamship Company and the Dollar Steamship Line and that notice of this postponement be published in the FEDERAL REGISTER immediately.

By the Commission.

[SEAL] W. C. PEET, Jr., *Secretary.*

[F. R. Doc. 38-3189; Filed, October 24, 1938; 11:17 a. m.]

[1] 3 F. R. 2340 DI.

FEDERAL REGISTER

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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38-Tobacco-29]

PROCEDURE FOR THE DETERMINATION OF BURLEY TOBACCO FARM MARKETING QUOTAS FOR 1938

PART I.—GENERAL

SECTION 1. *Definitions.*—As used in this procedure and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject-matter otherwise requires:

(a) ***Act*** means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *Base 1938 Production* means the number of pounds obtained by multiplying the farm yield by 150 percent of the 1938 tobacco acreage.

(c) *Burley tobacco* means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as type 31.

(d) *Burley Quota Procedure* means this Form 38-Tobacco-29, "Procedure for the Determination of Burley Tobacco Farm Marketing Quotas for 1938."

(e) *Cropland* means farm land tilled annually or in regular rotation, excluding commercial orchards.

(f) *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land) the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the Burley Quota Procedure;

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops; *Provided*, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or the local administrative area within the county, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or local administrative area, as the case may be, in which the major portion of the farm is located.

(g) *Farm Marketing Quota* means a Burley tobacco marketing quota established for a farm under section 313 of the Agricultural Adjustment Act of 1938.

(h) *Farm Workers* means a person over fourteen years of age regularly engaged in farm work on the farm.

(i) *Local Committee* means the county and community committee utilized under the Act. "County Committee" or "community committee" shall have corresponding meanings in the connection in which they are used.

(j) *New Farm* means a farm on which tobacco is produced in the year 1938 and on which tobacco was not produced in any of the years 1934, 1935, 1936, and 1937.

(k) *New Farm Reserve* means that amount of the national marketing quota of 350,000,000 pounds apportioned by the Secretary of Agriculture, pursuant to section 313 (c) of the Act, for allotment of marketing quotas to new farms.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Burley tobacco farm marketing quotas for 1938, determination of 2557
Cotton pool participation trust certificates, Form C-5-1, supplement to regulations on retirement of 2561
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Meat Inspection, facilities for 2561
Imported meat and products 2561
TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Van-Tage Medicine Co., Inc. (G. H. Mosby), cease and desist order 2561
TITLE 25—INDIANS:
Office of Indian Affairs:
New Upper Sioux Indian Community, Minn 2562
TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Tariffs, posting, filing, etc.; changes in schedules 2563

NOTICES

Civil Aeronautics Authority:
Marquette Airlines, Inc., application dismissed 2564
Securities and Exchange Commission:
Eastern Minnesota Power Corp., hearing 2564
Manufacturers Trust Co., Utility Service Co., hearing 2565
Wisconsin Electric Power Co., order relative to issue and sale of bonds and notes 2564

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(l) *Old Farm* means a farm on which tobacco is produced in the year 1938 and on which tobacco was also produced in one or more of the years 1934, 1935, 1936, and 1937.

(m) *Operator* means the person who, as owner, landlord, or tenant, is in charge of the supervision and the conduct of the farming operations on the entire farm.

(n) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(o) *State Committee* means the group of persons designated within any State to assist in the administration in the State of the Act.

(p) *State Quota* or *State Marketing Quota* means that amount of the national marketing quota of 350,000,000 pounds apportioned by the Secretary of Agriculture, pursuant to section 313 (a) of the Act, for allotment of marketing quotas to old farms in the State; and does not include the 2 percent addition thereto pursuant to section 313 (f) of the Act.

(q) *Three-Year Average* means the average tobacco production and diversion for the farm during the years 1935, 1936, and 1937.

(r) *Tobacco* means Burley tobacco.

SEC. 2. *Gender and number of terms.*—Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

SEC. 3. *Extent of calculations and rule of fractions.*—(a) All percentages shall be calculated to the nearest whole percent. Fractions of more than five-tenths of one percent shall be rounded upward, and fractions of five-tenths of one percent or less shall be dropped. (b) All acreages shall be calculated to the nearest one-tenth of an acre. Fractions of more than five-hundredths of an acre shall be rounded upward, and fractions of five-hundredths of a acre or less shall be dropped. (c) Yields per acre, three-year averages, and marketing figures resulting from multiplication of acreage by farm yield shall be calculated to the nearest ten pounds. Between intervals of ten, amounts of more than five pounds shall be rounded upward, and amounts of five pounds or less shall be dropped.

SEC. 4. *Instructions and forms.*—The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture shall cause to be prepared and issued with his approval such instructions and such forms as may be necessary or expedient for carrying out this procedure for determining farm quotas.

SEC. 5. *Applicability of procedure.*—This Burley Quota Procedure shall relate to, and be effective for, the establishment of farm marketing quotas for Burley tobacco for the marketing year beginning with the first day of October, 1938, and ending with the 30th day of September, 1939.

PART II.—ESTABLISHMENT OF QUOTAS FOR OLD FARMS

SEC. 1. *Determination of normal marketings for old farms.*—The normal marketings for an old farm will be the normal past marketings computed pursuant to section 2 below, adjusted, if necessary, pursuant to section 3 below: *Provided,* that the normal marketings shall in no event exceed the base 1938 production for the farm.

SEC. 2. *Determination of normal past marketings.*—(a) The normal past marketings for an old farm on which tobacco was produced in one of the three years 1935–37, shall be whichever of items (i), (ii), (iii) or (iv) below is the highest for the farm, plus any addition thereto which may be made pursuant to subsection (c) below.

(i) The three year average;

(ii) 33⅓% of the total harvested and diverted tobacco acreage in the three years, 1935–37, multiplied by the farm yield;

(iii) 40% of the total harvested and diverted tobacco acreage in the two years, of the three years, 1935–37, in which such acreage was the highest, multiplied by the farm yield;

(iv) 60% of the harvested and diverted tobacco acreage in that one of the three years, 1935–37, in which such acreage was the highest, multiplied by the farm yield.

(b) The normal past marketings for an old farm on which tobacco was produced in 1934, but was not produced in any of the three years 1935–37, shall be 50% of the harvested and diverted tobacco acreage for the farm for the year 1934, multiplied by the farm yield plus any addition thereto which may be made pursuant to subsection (c) below.

(c) The amount determined for the farm, pursuant to subsection (a) or (b) above, shall be increased, if, because of drought, flood, hail, other abnormal weather conditions, plant bed and other diseases, such amount is substantially less than the amount which otherwise would be determined for the farm. The increase shall be in such an amount as the local and State committees find will cause the normal past marketing for the farm to equal the amount which would have been determined for the farm pursuant to subsection (a) or (b) above in the absence of such abnormal conditions of production.

SEC. 3. *Adjustment of normal past marketings for production capacity.*—(a) The normal past marketings determined for any farm shall be increased if the capacity of the farm for the production of tobacco as indicated by the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco on the farm in 1938, is substantially greater than the tobacco production capacity of other farms in the county having similar normal past marketings, and shall be decreased if the farm's capacity for tobacco production is substantially less than that of other farms in the county having similar normal past marketings.

(b) Any increase or decrease in the normal past marketings of a farm, pursuant to subsection (a) above, shall be in such amount as the local committee finds will cause the normal marketings for the farm (i. e., normal past marketings as adjusted pursuant to this subsection) to reflect adequately the difference in the capacity of the farm for the production of tobacco as compared with the tobacco production capacity of other farms in the county having similar normal past marketings; *provided,* That—

(i) the amount of increase shall not exceed 25 percent of the normal past marketings;

(ii) the amount of decrease shall not exceed the smaller of (A) 25 percent of the normal past marketings or (B) the amount by which the normal past marketings exceeds the smallest of the three-year average, 2,400 pounds, or 85 percent of the base 1938 production; and

(iii) the sum of the increases for all farms in a county shall not exceed the sum of the decreases for all farms in the county.

(c) In appraising the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco for the purpose of determining the capacity of a farm for the production of tobacco, the local committee shall proceed in the following manner:

(i) *Land.*—The land available for the production of tobacco on the farm shall be determined by taking into consideration the total acreage of cropland in the farm, the crop-rotation practices customarily carried out on the farm, the 1938 acreage of tobacco on the farm, and the acreage of other soil-depleting crops normally grown on the farm.

(ii) *Labor.*—The labor available for the production of tobacco on the farm in 1938 shall be determined by taking into consideration the number of farm workers, whether such workers had prior experience in growing tobacco and the extent to which they are required for work on the farm other than in connection with the production of tobacco.

(iii) *Equipment.*—Equipment available for the production of tobacco on the farm shall be determined by taking into consideration the acreage capacity of the tobacco-curing space available for the farm in 1938. Curing space shall include the total space available for curing tobacco in tobacco curing barns or in sheds, rooms, barn lofts or other spaces suitable for curing tobacco, which are located on the farm and are in condition and available for the curing of tobacco for the farm in 1938. Curing space shall also include that part of a tobacco curing barn which is in condition for curing use in 1938 but is located on a different farm which is owned or operated by the same operator, and which is customarily used for curing tobacco grown on the farm; but in considering any such barn allowance shall be made for the fact that such barn serves more than one farm, and the capacity allowed for any farm shall not exceed the proportionate use of such barn by the farm, and the capacity for all farms shall not exceed the total capacity of such barn.

SEC. 4. *Determination of farm yield, marketing, harvested acreage, diverted acreage and diversion.*—(a) *Farm yield.*—The farm yield shall be the average yield per acre for the farm computed pursuant to paragraph (i), (ii), (iii) or (iv) below, adjusted, if necessary, pursuant to paragraph (v) below.

(i) If tobacco was produced on the farm in each of the three years, 1935–37, the average yield per acre shall be the simple average of the tobacco yields per acre for the farm for each of such years. The tobacco yield per acre for a farm for any year shall be computed by dividing the harvested acreage into the marketings for such year.

(ii) If tobacco was produced on the farm in two of the three years, 1935–37, the average yield per acre shall be the number of pounds obtained by multiplying the simple average of the tobacco yields per acre for the farm for each of such two years by that percentage which the county average tobacco yield for the three years, 1935–37, is of the county average yield for the two years in which tobacco was produced on the farm.

(iii) If tobacco was produced on the farm in only one of the three years, 1935–37, the average yield per acre shall be the number of pounds obtained by multiplying the tobacco yield per acre for such year by that percentage which the county average yield for the three years, 1935–37 is of the county average yield for the year in which tobacco was produced on the farm.

(iv) If tobacco was produced on the farm in 1934, but not in any of the three years, 1935–37, the average yield per acre shall be the county average yield for the three years 1935–37.

(v) The local committee shall adjust the average yield per acre for any farm if it determines that such average yield is substantially lower or higher than a yield which reasonably could be expected from the farm. In making its determination the committee shall take into consideration the average yields per acre for other farms in the county which are similar with respect to type of soil, topography and production facilities and the effect of flood, drought, hail, other abnormal weather conditions, fire, plant-bed, and other diseases upon the extent of marketing of tobacco from the farm during any of the years used in computing the average yield per acre for the farm. Any adjustment pursuant to this paragraph shall be such as will result in a farm yield which the committee finds, upon consideration of such factors, could reasonably be expected to be obtained from the farm; *provided,* That in no event shall the weighted farm yields for all farms in the county exceed the weighted average yield per acre for all farms in the county. The weighted farm yield and the weighted average yield per acre for old farms on which tobacco was produced in one or more of the three years, 1935–37, shall be computed by multiplying the farm yield and the average yield per acre for the farm, respectively, by whichever of the following is the highest for the farm:

A. 33⅓ percent of the total harvested and diverted tobacco acreage in the three years 1935–37.

B. 40 percent of the total harvested and diverted tobacco acreage in the two of the three years 1935–37 in which such acreage was the highest, or

C. 60 percent of the harvested and diverted tobacco acreage in that one of the three years, 1935–37, in which such acreage was the highest.

The weighted farm yield and the weighted average yield per acre for old farms on which tobacco was produced in 1934 but not in any of the three years, 1935–37, shall be computed by multiplying the farm yield and the average yield per acre for the farm, respectively, by 50 percent of the harvested and diverted acreage of tobacco for the farm for the year 1934.

(b) *Marketings.*—The marketings for any year shall be the number of pounds of tobacco marketed from the farm during such year. The total marketings for any year for all farms in a county shall not exceed the total number of pounds of tobacco produced in the county in such year. The marketings for any year, as reported by the operator, shall be adjusted by the local committee if it determines that the amount of such marketings as shown by the records submitted by the operator, or as estimated by him, is larger than the amount of tobacco which reasonably could have been marketed from the farm in such year. In making its determination, the committee shall take into consideration the acreage planted to tobacco on the farm in such year, the yields obtained in such year on other farms in the same community which are similar with respect to soil, topography, and production facilities, the community average yield for such year, and the yield on the farm in years for which records acceptable to the committee are available. The adjusted marketings for any year shall be the amount of tobacco which the committee finds, upon consideration of such factors, could reasonably have been marketed from the farm in such year.

(c) *Harvested acreage.*—The harvested acreage for any year shall be the number of acres actually harvested on the farm. If the county records do not show the harvested acreage for any year, the acreage reported by the operator as having been harvested in such year shall be adjusted if the local committee determines that such reported acreage is larger than the number of acres which could reasonably have been grown in such year. In making its determination, the committee shall take into consideration the curing space available, the cropland, the acres of other crops grown on the farm and the labor on the farm in such year. The adjusted harvested acreage for any year shall be an acreage which the committee finds, upon consideration of such factors, could reasonably have been grown on the farm in such year.

(d) *Diverted acreage.*—The diverted acreage for any year will be the base acreage determined for the farm in connection with the agricultural adjustment or conservation program for such year, minus the harvested acreage for such year; *provided,* That (i) the diverted acreage for 1935 shall not exceed 40 percent of the base acreage for such year, (ii) the diverted acreage for 1936 shall not exceed 30 percent of the base acreage for such year, (iii) the diverted acreage for 1937 shall not exceed 25 percent of the base acreage for such year, and (iv) the diverted acreage for 1934 shall not exceed 50 percent of the base acreage for such year.

(e) *Diversion.*—Diversion for any year shall be the number of pounds obtained by multiplying the diverted acreage for such year by the farm yield.

(f) *Subdivided farm.*—If land operated as a single farm in 1934, 1935, 1936, or 1937 has been subdivided into two or

more tracts, the base acreage, harvested acreage, and marketings of tobacco for the farm for such year shall be apportioned among the tracts in the proportion which the acres of cropland suitable for the production of tobacco on each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year; provided, that if the local committee finds that such apportionment would not be equitable in view of the subsequent production on the farms which include such tracts, it shall make such other apportionment as it determines to be fair and equitable.

SEC. 5. *Allotment of State marketing quota.*—Marketing Quotas for Old Farms. The State marketing quota will be allotted, and marketing quotas for old farms will be established, as follows:

(a) An amount will be reserved from the State marketing quota for the purpose of making adjustments as provided in subsections (f) and (h) of this section. The amount to be reserved will be determined by the Agricultural Adjustment Administration in an amount not to exceed 5 percent of the State marketing quota, but such amount shall in no event be less than the amount necessary for making the adjustments required in subsection (f) below.

(b) The Agricultural Adjustment Administration will determine the percentage which the State quota is of the normal marketings of all old farms in the State.

(c) A minimum allotment will be made to every old farm in the State for which there would be obtained, by taking the percentage determined pursuant to (b) above of the normal marketings for the farm, a number of pounds equal to or less than the smallest of (i) 2400 pounds, or (ii) the farm's three-year average, or (iii) 85 percent of the farm's base 1938 production. The minimum allotment for any such farm will be the smallest of (i) 2400 pounds, or (ii) the farm's three-year average, or (iii) 85 percent of the farm's base 1938 production, and such allotment, unless increased pursuant to subsection (h) shall constitute the farm marketing quota.

(d) The total of the normal marketings for all farms to which minimum allotments are so made will be deducted from the total of the normal marketings for all old farms in the State; and the total of such minimum allotments will be deducted from the State marketing quota.

(e) After such deductions, the balance of the normal marketings will be reduced to the amount of the balance of the State marketing quota. This reduction will be made by reducing the normal marketings for all old farms, to which a minimum allotment has not been made pursuant to subsection (c), by the percentage which the balance of the State marketing quota determined pursuant to subsection (d) is of the balance of the normal marketings. The amount of the normal marketings for each such old farm as so reduced will be allotted to the farm, and, unless increased pursuant to subsections (f), (g), or (h) of this section, shall constitute the farm marketing quota.

(f) If the amount allotted to any farm pursuant to (e) above is less than the minimum allotment which would have been established for the farm pursuant to (c) above, then the amount so allotted shall be increased by an amount sufficient to provide such a minimum. The total of all such increases for all old farms in the State will be deducted from the amount reserved pursuant to (a) above.

(g) There will be computed for each old farm in the State the difference by which the amount allotted pursuant to the foregoing subsections is less than the smaller of (i) 80 percent of the farm's three-year average, or (ii) 85 percent of the base 1938 production. The total of all such differences for all old farms in the State will be reduced to an amount equal to 2 percent of the State marketing quota. This reduction will be made by reducing the difference for each farm by the percentage which 2 percent of the State marketing quota is of the total of the differences for all farms. The amount of the farm's difference as so reduced will be added to the farm's allotment and the sum thereof will be the amount of the farm marketing quota unless further increased pursuant to subsection (h) below.

(h) The amount reserved pursuant to subsection (a), less the amount deducted therefrom pursuant to subsection (f), will be allocated by the State committee among the counties of the State upon the basis of (i) the relationship of the balance of the normal marketings (found under (d) above) for old farms in the county to the balance of the normal marketings for old farms in all counties in the State, and (ii) the relative needs of the counties for adjustments of the quotas established for old farms therein. The amount so allocated to a county shall be allotted upon the recommendation of the local committees among these old farms in the county whose marketing quotas, as compared with the marketing quotas for other similar farms in the county, are determined by the local committee to require adjustment in order to take into adequate account past marketings of tobacco, making due allowance for abnormal weather conditions, plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

PART III.—ESTABLISHMENT OF QUOTAS FOR NEW FARMS

SECTION 1. *Allotment of new farm reserve—Marketing quotas for new farms.*—The marketing quota for a new farm will be that percentage of the normal marketings for such farm which the new farm reserve is of total normal marketings for all new farms in the United States.

SEC. 2. *Determination of normal marketings for new farms.*—(a) The normal marketings for a new farm shall, unless adjusted pursuant to subsection (b) below, be 75 percent of the number of pounds obtained by multiplying the community average yield by whichever of the following is the smaller:

(i) The 1938 tobacco acreage for the farm;

(ii) The county average tobacco acreage for old farms.

The community average yield shall be the simple average of the farm yields for a representative sample of old farms in the community. A representative sample shall include 20 percent or more of the old farms in the community and shall consist, as far as practicable, of alternate farms (i. e., every third, fourth, or fifth farm listed on the State listing sheet) in the community. If the local committee and State committee finds that the number of old farms in the community is too small to provide a reasonable representative sample, the average yield for the nearest community which the State committee finds to be most similar with respect to type of soil, topography, and productivity shall be used as the community average yield.

The county average tobacco acreage for old farms shall be the number of acres obtained by dividing the total of 1938 tobacco acreage of all the old farms in the county by the number of such farms; provided, that if the number of old farms in any county is less than the number of new farms in the county, the county average tobacco acreage for old farms in such county shall be the county average tobacco acreage for old farms in the nearest county (as determined by the State committee) in which the total number of old farms exceeds the total number of new farms.

(b) The number of pounds determined for a farm pursuant to subsection (a) above shall be increased if the capacity of the farm for the production of tobacco as indicated by the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco on the farm in 1938, is substantially greater than the tobacco production capacity of other farms in the county for which a similar number of pounds were determined pursuant to said subsection (a), and shall be decreased if the farm's capacity for tobacco production is substantially less than that of other farms in the county for which a similar number of pounds were determined pursuant to said subsection.

Any adjustment pursuant to this subsection (b) shall be in such amount as the local committee finds will cause the normal marketings for the farm to reflect adequately the difference in the capacity of the farm for the production of tobacco as compared with the tobacco production capacity of other farms in the county for which a similar number of pounds were determined pursuant to subsection (a) above; provided that the adjustment shall in no event cause the normal marketings to exceed the number of pounds obtained by multiplying the community average yield by the 1938 tobacco acreage for the farm.

In appraising the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco for the purpose of determining the capacity of a farm for the production of tobacco, the local committee shall proceed in the same manner as provided in section 3 (c) of Part II with respect to old farms.

Done at Washington, D. C., this 24th day of October, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3202; Filed, October 25, 1938; 12:27 p. m.]

[Supplement No. 2]

REGULATIONS RESPECTING THE RETIREMENT OF COTTON POOL PARTICIPATION TRUST CERTIFICATES, FORM C-5-I

By virtue of the authority vested in the Secretary of Agriculture by Title IV, "Cotton Pool Participation Trust Certificates," of the Agricultural Adjustment Act of 1938, as amended, Public No. 430, 75th Congress, approved February 16, 1938, and the item entitled "Retirement of Cotton Pool Participation Trust Certificates" contained in Title I of the Department of Agriculture Appropriation Act, 1939, Public No. 644, 75th Congress, approved June 16, 1938, I hereby prescribe the following supplemental regulation designated as Section VII of the Regulations of the Secretary of Agriculture with respect to the retirement of Cotton Pool Participation Trust Certificates, form C-5-I: [1]

SECTION VII. A party signatory to a 1933 "Offer To Enter Into Cotton Option-Benefit or Benefit Contracts" who was not joined as a party to the Cotton Option Contract shall not be deemed to be a co-producer in any case where:

1. Such party signed a waiver which authorized the Secretary to deal with the producer as though he were the sole party in interest.

2. The name of such party does not appear in the recital of parties to the contract at the head of the 1933 Offer, following the words, "The undersigned".

3. Such party is shown on the 1933 Offer to be a lienor.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, this 25th day of October 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3201; Filed, October 25, 1938; 12:27 p. m.]

[1] 3 F. R. 1754, 2194 DI.

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

REGULATIONS GOVERNING THE MEAT INSPECTION OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

FACILITIES FOR INSPECTION

SEC. 11.094b *Overtime meat inspection; reimbursement for; specific instructions by Chief of Bureau.*—Reference is made to memoranda Nos. 288 and 489 of the Secretary of Agriculture dated August 4, 1919, and June 18, 1924, respectively, and instructions pertaining thereto, relative to overtime meat inspection furnished at establishments subject to the provisions of the Meat Inspection Act of June 30, 1906, as amended and extended, and the Horse Meat Act of July 24, 1919.

Under the provisions of these memoranda, hereafter meat inspection furnished on New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Armistice Day, and Christmas Day at establishments subject to the Meat Inspection Act of June 30, 1906, as amended and extended, and the Horse Meat Act of July 24, 1919, shall constitute overtime work by the employees of the Bureau required to conduct said inspection. Claim will be made by the Department of Agriculture for the cost of said overtime inspection in conformity with the regulations contained in memorandum No. 288.

The foregoing instructions supersede Bureau Circular Letter No. 2105. (B. A. I. Order 211, Revised Sept. 1, 1922, Reg. 7, Sec. 4.) [S. R. A. B. A. I. 376, August 1938.]

[SEAL] A. W. MILLER,
Acting Chief of Bureau.

[F. R. Doc. 38-3203; Filed, October 25, 1938; 12:27 p. m.]

REGULATIONS GOVERNING THE MEAT INSPECTION OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

IMPORTED MEAT AND PRODUCTS

SEC. 11.770a *Meats from Ireland and Austria; marking to show origin.*—Referring to the notice in Service and Regulatory Announcements of May 1938 quoting abstracts of Customs decisions of the Treasury Department dated February 7 and April 8, 1938, concerning the marking of articles from Ireland and Austria, there are quoted below additional Customs decisions concerning the marking of articles manufactured or produced in Ireland and the territory which formerly comprised the Republic of Austria.

Ireland

"Products of Ireland: Previous decision is extended to include the marking 'Eire' as well as 'Ireland' on merchandise from Ireland."

Austria

"Products of Austria: Merchandise manufactured or produced within the territory which comprised the Republic of Austria may be marked 'Made in Germany (Austria)' or 'Made in the Austrian State of Germany.'"

Inspectors in charge and other interested parties will please be governed accordingly. (B. A. I. Order 211, Revised Sept. 1, 1922, Reg. 27, Sec. 10.) [S. R. A. B. A. I. 376, August 1938.]

[SEAL] A. W. MILLER,
Acting Chief of Bureau.

[F. R. Doc. 38-3204; Filed, October 25, 1938; 12:27 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3055]

IN THE MATTER OF VAN-TAGE MEDICINE COMPANY, INC. (G. H. MOSBY)

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that respondent's Van-Tage medical product, or any other product of similar design and for substantially same uses and purposes, will, through action and effect thereof in the body in promoting and aiding the functioning of the stomach and digestive processes and of the liver, kidneys, bladder and bowels, and through effect on said organs as specified and through elimination of impurities from the system, etc., bring relief from headaches, skin eruptions, drowsy tired feeling, rheumatism, backache, and a variety of ailments and conditions attributed to or associated with the functioning of said various organs, and strengthen the nerves naturally, relieve neuritis, etc., and promote vigorous health and improve appearance, etc., or that it is a satisfactory or competent remedy, cure or treatment for any of the numerous conditions set forth, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Van-Tage Medicine Company, Inc. (G. H. Mosby), Docket 3055, October 19, 1938.]

SEC. 3.6 (l) *Advertising falsely or misleadingly — Indorsements and testimonials:* SEC. 3.18 *Claiming indorsements or testimonials falsely.* — Representing, through paid testimonials, the effect of a general use of respondent's Van-Tage medical product upon persons not sufficiently skilled in the diagnosis of human maladies, ills, and conditions, accurately

to state the nature or extent of any effect obtained from use of said product, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Van-Tage Medicine Company, Inc. (G. H. Mosby), Docket 3055, October 19, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 19th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and the substituted answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint to be true, and state that the Commission may, without taking further testimony or any other intervening procedure, enter and issue its findings as to the facts and conclusion and order to cease and desist, and the Commission, having made it findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, G. H. Mosby individually, and as President of the Van-Tage Medicine Company, Inc., and the Van-Tage Medicine Company, Inc., a corporation, their representatives, salesmen, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of Van-Tage, a medical product or preparation, or any other product of similar design and for substantially the same uses and purposes, whether sold under said name or any other name, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing that the use of the product will throw off poisons that foster stomach trouble and permit the kidney and liver to function properly; that it will act within ten minutes, or any other fixed period of time, to stop gas and pains, sourness, or bloat, and will work the bile from the liver as black as ink, drive the poison from the kidneys, relieve headaches, bladder irritation, and weakness, or is a remedy for any of these troubles in man or woman.

(2) Representing that it will strengthen the nerve by natural means and is considered as having value in the treatment of enuresis, that it will bring out gases and impurities, which cause many days of misery with headaches, dizzy spells, skin eruptions, lazy, drowsy, tired feeling, or is a remedy for any of these troubles in man or woman.

(3) Representing that it will relieve acid conditions, and make the digestive organs sweet and clean, and give complete relief from indigestion, bloating, sour stomach, shortness of breath, and dyspepsia.

(4) Representing that it will flush out quantities of impurities from the kidneys that may have become dammed up inside a person, causing backache, sharp pains, and rising at night, that it will make a person's liver more active, clear away old bile deposits, thus relieving spells of biliousness and sick headache.

(5) Representing that it will relieve rheumatism and neuritis; that it will clear up skin eruptions that are caused by impurities in the organs, and will overcome the sallowness or muddiness that is due to sluggish liver, and put the rosy glow of health into the cheeks; that it will act on a person's stomach, liver, kidneys, and bowels, build a person up in general and make him (or her) look, act, and feel like a different man (or woman), years younger than his (or her) real age.

(6) Representing that it is a satisfactory or competent remedy, cure, or treatment for any of the conditions set forth herein.

(7) Representing through paid testimonials, the effect of a general use of said product upon persons not sufficiently skilled in the diagnosis of human maladies, ills, and conditions, to accurately state the nature or extent of any effect obtained from a use of said product.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3199; Filed, October 25, 1938; 11:12 a. m.]

[1] 3 F. R. 1541 DI.

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

NEW UPPER SIOUX INDIAN COMMUNITY IN MINNESOTA

RESERVATION PROCLAMATION

OCTOBER 6, 1938.

By virtue of authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. L., 984), the lands described below, acquired by purchase for the use and benefit of the New Upper Sioux Indian Community in Minnesota as authorized in accordance with the provisions of Section 5 of that Act are hereby proclaimed to be an Indian reservation:

The East Half of the Southeast Quarter (E½SE¼) and Government Lot Two (2) in Section Fifteen (15) in Township One Hundred Fifteen, North, Range Thirty-nine (39) West of the Fifth P. M., and containing 101.88 acres, excepting and reserving all that part of the Southeast Quarter of the Southeast Quarter (SE¼SE¼) of said Section Fifteen (15) of said Township and Range which lies south and west of the public highway running through said forty, which exception contains 19.60 acres; also Government Lot One (1) of Section Fourteen (14), in said township and range, containing 16.50 acres according to Government survey thereof; also Government Lot Two (2) of Section Fourteen (14) in said Township and Range; also that part of Government Lot Three (3) in Section Fourteen (14) described as follows: Beginning ten (10) chains west from the Southeast Corner of Lot Three (3) thence west eleven (11) chains, and fifty (50) links, thence due north twenty (20) chains, or parallel with the west line of Section Fourteen (14), thence due east eight (8) chains and Eighty-two (82) links to the Minnesota River, thence down said river bank to a point due North from the starting point, thence South parallel with the North and South center line of said section to the place of beginning containing 21½ acres, more or less; also all of the Southeast Quarter of the Southwest Quarter (SE¼SW¼) of Section Fourteen (14) excepting twenty and 5/100 (20.05) acres thereof described as follows: Commencing at the quarter post between Sections Fourteen and Twenty-three (23), thence northerly on line Twenty (20) chains, thence westerly on line Ten (10) chains, thence southerly to a point on the section line Ten (10) chains and Fifty (50) links westerly from the quarter post thence to the quarter post Ten (10) chains and Fifty (50) links to the place of beginning; also all of the Northwest quarter of the Southwest quarter (NW¼SW¼) of Section Fourteen (14) said Township and Range, containing Forty (40) acres according to Government Survey; excepting and reserving therefrom Lot Four (4) in the Northwest Quarter of the Southwest quarter (NW¼SW¼) of Section Fourteen (14), Township One Hundred Fifteen (115), Range Thirty-nine (39) described as follows: Commencing on the North line of said Forty, Nine (9) chains West of the Northeast corner, thence running South Twenty (20) chains, thence West Two and 5/10 (2.5) chains, thence North Twenty (20) chains, thence East Two and 5/10 (2.5) chains to the point of beginning, containing five acres; also to a tract beginning at a point on the west line of the Southwest quarter of the Southwest quarter (SW¼SW¼) of said Section Fourteen (14), Two and 16/100 (2.16) chains north of the Southwest corner of said Section Fourteen (14) and running thence by needle variations south fifty-three degrees, east eight and 50/100 (8.50) chains, crossing section line and into Section Twenty-three (23) in said township and range, thence north thirty-seven (37) degrees, east sixteen and 53/100 (16.53) chains, to the east line of said forty, thence North on line to the Northeast corner of said forty, thence west on line to the northwest corner of said forty, thence south on line to place of beginning, all of said lands being situated in Township One Hundred Fifteen (115) North, Range Thirty-nine (39) West of the 5th P. M.; excepting therefrom, however, a tract of land sold to the State of Minnesota, for highway purposes described as follows:

All that part of the four following described tracts:

1. Northeast quarter of the Southeast quarter (NE¼SE¼) of Section 15, Township 115, north, Range 39, west.

2. Northwest quarter of the Southwest quarter (NW¼SW¼) of Section 14, Township 115 north, Range 39 west; less sub-lot 4, described as follows: Commencing on north line of said forty, 9 chains west of the northeast corner and running thence south 20 chains, thence west 2.5 chains, thence north 20 chains, thence east 2.5 chains to place of beginning.

3. That part of the Southwest quarter of the Southwest quarter (SW¼SW¼) of Section 14, Township 115 north, Range 39 west, described as follows: Beginning at a point on the west line of the Southwest quarter of the Southwest quarter (SW¼SW¼) of said Section 14, 2.16 chains north of the southwest corner of said section 14 and running thence by needle variations south 53 degrees east 8.50 chains crossing section line and into section 23, thence north 37 degrees east 16.53 chains to the east line of said forty; thence north on line to the northeast corner of said forty, thence west on line to the northwest corner of said forty; thence south on line to place of beginning.

4. The Southeast quarter of the Southwest quarter (SE¼SW¼) of Section 14, Township 115 north, Range 39 west, except the following: Commencing at the quarter post between sections 14 and 23, thence northerly on line 20 chains, thence westerly on line 10 chains, thence southerly to a point on section line 10 chains 50 links westerly from the quarter post, thence to the quarter post 10 chains 50 links to place of beginning;

which lies within a distance of 50 feet northeasterly and 75 feet southwesterly of the following described line:

Beginning at a point on the easterly boundary of section 25, township 115 north, range 39 west, distant 216 feet southerly of the northeast corner thereof; thence run northwesterly at an angle of 67 degrees 08′ with said easterly boundary for a distance of 3667.9 feet, thence deflect to the right at an angle of 40 degrees 03′ for a distance of 3935.7 feet, thence deflect to the right at an angle of 13 degrees 41′ for a distance of 1874.4 feet, thence deflect to the right at an angle of 30 degrees 36′ for a distance of 1103.5 feet, thence deflect to the left on a 4 degree 00′ curve delta angle 39 degrees 24′, for a distance of 985.0 feet, thence on tangent to said curve for a distance of 1397.0 feet; thence deflect to the left on a 1 degree 00′ curve delta angle 7 degrees 20′, for a distance of 733.3 feet, thence on tangent to said curve for a distance of 1381.7 feet and there terminating,

together with a strip of land 5 feet in width lying immediately adajcent to and northeasterly of the above described strip; Beginning at a distance of 520 feet southeasterly of the westerly boundary of the first above described tract and extending southeasterly for a distance of 200 feet (both measurements being along the above described line) and there terminating; containing 11.45 acres, more or less.

That part of Sections 13, 14 and 23, in Township 115, Range 39 West of the 5th P. M., described as follows:—

The W½ of SW¼ and Government Lot #1 of said Section 13, except the East 5.48 acres of said Lot #1 and excepting from Government Lot 1 in said Section 13 the West 5 acres of sub-lot 4 which sub-lot is described as follows:—Commencing at a point 12.70 chains East of the Southwest corner of said Government Lot 1, running thence North 14.18 chains to the South bank of the Minnesota River, thence East along said river 5.30 chains, thence South 12.22 chains to the South boundary of said Government Lot 1 and thence West 5.30 chains to the place of beginning, containing 6.99 acres.

Government Lots #4 and #6 and the E½ of SE¼ of said Section 14, and Government Lot #3 of said Section 14, except the West 21½ acres thereof conveyed by James F. Langmaid and wife to Sever Olson by deed dated December 14, 1892, and recorded in the office of the Register of Deeds of said County in Book S of Deeds on page 418 and excepting from Government lot 6 in said Section 14 the following tracts:

Sub-lot 5 described as follows: Commencing on the South line of said lot Six 14.26 chains East of the Southwest corner of said Government lot 6, running thence North 25.25 chains to the Minnesota River, thence down the river a point 2 chains due East, thence South 24 chains to the South line of said lot 6 and thence West 2 chains to the place of beginning, containing 4.92 acres and deduct from Government lot 6 of said Section 14 two and 9/100 acres, being a strip of land 92 links wide off the East side of sub-lot 6 which sub-lot is described as follows: Commencing on the South line of said Government lot six 16.26 chains East of the Southwest corner of said Government Lot, running thence North 24 chains to the Minnesota River, thence East down said river 2.20 chains, thence South 22.30 chains to the South line of said Government lot 6 and thence West 2.20 chains to the place of beginning, containing 5.09 acres and also excepting from Government lot 6 of said Section 14, Sub-lot Seven described as follows: Commencing on the South line of said lot six 18.46 chains East of the Southwest corner of said lot six, running thence North 22.30 chains to the South bank of the Minnesota River, thence East down said river 75/100 chains, thence South 21.70 chains to the South line of said lot six and thence West 75/100 chains to the place of beginning, containing 1.65 acres.

That part of the SE¼ of the SW¼ of said Section 14, described as follows:—Commencing at the quarter Section post between said Sections 14 and 23, running thence north on the east line of said last mentioned 40 acre tract, twenty chains, thence west on a line 10 chains, thence south to a point on said section line 10 chains and 5 links westerly of said quarter post and thence to said quarter post 10 chains and 5 links to place of beginning, containing 20.05 acres.

NW¼ of NE¼ and N½ of NE¼ of NE¼; and the NW¼ and the SW¼ of NE¼ of said Section 23, except that part thereof lying South of the Public Highway running in a northwesterly and southeasterly direction through said section 23 as such highway was located in the year 1913 and except 3.75 acres of said section 23 conveyed to Sever Olson in and by deed recorded in the office of the Registrar of Deeds of said County in Book L of Deeds on page 150.

All of said lands being within Yellow Medicine County, Minnesota, containing a total of 738.65 acres, more or less.

E. K. BURLEW, *Acting Secretary of the Interior.*

[F. R. Doc. 38-3198; Filed, October 25, 1938; 9:35 a. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

RULES GOVERNING POSTING, FILING, ETC., OF TARIFFS

PART 227. CHANGES IN SCHEDULES

Section 227.07 amended to read as follows: * #

Sec. 227.07 *Schedules attributable to foreign carrier or administration.* When any change is made in a charge by a foreign carrier or foreign administration

* Sections 220.01 to 235.04 issued under the authority contained in Sec. 203 (a), 48 Stat. 1070; 47 U. S. C. 203 (a).

Rule 8 (g), Order No. 12-D, F. C. C., Oct. 18, 1938, effective Nov. 17, 1938.

not subject to the Act and such charge is used as a factor of through charges published and filed by a carrier subject to the Act, for communications between points in the continental United States and points in any foreign country, a change in such through charges may be established by the carrier subject to the Act on not less than one day's notice to the Commission and to the public; provided (1) that the carrier subject to the Act has no control over such charge of such foreign carrier or foreign administration by contract or otherwise, (2) that the change in through charges shall reflect only the difference in through charges caused by the change in such charge of such foreign carrier or foreign administration, (3) that a tariff, supplement or revised page shall be filed each time a reduction is made in the charge of such foreign carrier or foreign administration, as well as when increases are made, and (4) that every such tariff, supplement and revised page shall be accompanied by a memorandum showing the portion of the through charges accruing to the carrier subject to the Act.

By the Commission,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3197; Filed, October 25, 1938; 9:35 a. m.]

Notices

CIVIL AERONAUTICS AUTHORITY.

[Special Order 408-A-1]

DISMISSING APPLICATION OF MARQUETTE AIRLINES, INC.

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 24th day of October 1938.

On September 22, 1938, Marquette Airlines, Inc., applied to the Civil Aeronautics Authority pursuant to section 408 (a) of the Civil Aeronautics Act of 1938 for permission to lease certain aircraft from American Airlines, Inc. Hearings on this matter were held by the Authority at its offices in Washington, D. C., on October 7, 1938 and October 10, 1938.[1] At the hearing on October 10, counsel for the applicant stated that the applicant had decided to purchase the necessary aircraft and moved for the dismissal of the application.

The Civil Aeronautics Authority, therefore, acting pursuant to the provisions of section 205 (a) of the Civil Aeronautics Act of 1938 and finding that its action in such matter is desirable in the public interest, hereby makes and issues the following special order:

[1] 3 F. R. 2373 DI.

SPECIAL ORDER 408-A-1 DISMISSING APPLICATION OF MARQUETTE AIRLINES, INC., FILED PURSUANT TO SECTION 408 (A) (2) OF THE CIVIL AERONAUTICS ACT OF 1938 (52 STAT. 973, 987)

The motion for the dismissal of the application of Marquette Airlines, Inc., for permission to lease certain aircraft is hereby granted and the application is dismissed. The application and all documents pertaining thereto shall, however, be retained in the files of the Civil Aeronautics Authority.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3200; Filed, October 25, 1938; 11:23 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File Nos. 32-106 and 46-114]

IN THE MATTER OF WISCONSIN ELECTRIC POWER COMPANY (FORMERLY THE MILWAUKEE ELECTRIC RAILWAY AND LIGHT COMPANY)

ORDER RELATIVE TO ISSUE AND SALE OF BONDS AND NOTES

Wisconsin Electric Power Company (name changed on October 21, 1938 from The Milwaukee Electric Railway and Light Company), a subsidiary of North American Edison Company, a registered holding company, having duly filed with this Commission an application, and amendments thereto (File No. 32-106), for exemption, pursuant to the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935, from the provisions of Section 6 (a) of said Act of the issue and sale of $55,000,000 in principal amount of First Mortgage Bonds, 3½% Series due 1968, and of $14,500,000 in principal amount of 3.4% unsecured promissory notes, maturing serially from October 28, 1939 to October 28, 1948, the issue and sale of such securities having been expressly authorized by the Public Service Commission of Wisconsin;

Public hearings on said matter having been held after appropriate notice,[1] and the Commission having considered the record in this matter and having made and filed its findings and opinion herein:

It is ordered, That the issue and sale of the aforesaid First Mortgage Bonds and unsecured promissory notes in accordance with the terms and conditions set forth in, and for the purposes represented by, said application, as amended, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions:

(a) That if the express authorization of the issue and sale of such securities by the Public Service Commission of Wisconsin shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission;

(b) That all matters in connection with said application, as amended, shall be performed in all respects as set forth in and for the purposes represented by said application, as amended, provided, however, that no fee shall be paid to Dillon, Read & Co. in connection with the issue and sale of the unsecured promissory notes pending further order of this Commission; and

(c) That within ten days after the issue and sale of such securities the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended, and in accordance with the terms of this order.

It is further ordered, That the Commission reserves jurisdiction to determine, at a later date, whether the fee to be paid to Dillon, Read & Co., in connection with the issue and sale of the unsecured promissory notes, is or is not reasonable.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[1] 3 F. R. 2318 DI.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 5, 1938.

The matter concerned herewith is in regard to the application of Eastern Minnesota Power Corporation for an order pursuant to Section 3 (a) (2) of the Act declaring it to be exempt from the applicable provisions thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3206; Filed, October 25, 1938; 12:38 p. m.]

No. 209——2

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File No. 31-183]

IN THE MATTER OF MANUFACTURERS TRUST COMPANY, UTILITY SERVICE COMPANY

CORRECTED NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (4) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 5, 1938.

The matter concerned herewith is in regard to the joint application of Manufacturers Trust Company and Utility Service Company for an order pursuant to Section 3 (a) (4) of the Act declaring each of them to be exempt from the applicable provisions thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc.38-3205; Filed, October 25, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

[File No. 31-178]

IN THE MATTER OF EASTERN MINNESOTA POWER CORPORATION

CORRECTED NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (2) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 10, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

OCT 28 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 210

Washington, Thursday, October 27, 1938

The President

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 3674 OF MAY 17, 1922, WITHDRAWING LANDS FOR THE USE AND OCCUPANCY OF THE DUBOIS RIFLE CLUB FOR RIFLE PRACTICE

WYOMING

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 3674 of May 17, 1922, withdrawing lands for the use and occupancy of the DuBois Rifle Club, DuBois, Wyoming, for rifle practice, is hereby revoked.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Oct 25 1938

[No. 7992]

[F. R. Doc. 38-3217; Filed, October 26, 1938; 9: 51 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—395 (3rd Revision)[1]]

LIST OF ARTICLES EXEMPT FROM CERTIFICATION REQUIREMENTS UNDER THE JAPANESE BEETLE QUARANTINE

(Approved October 26, 1938; effective November 1, 1938.)

The principal change in this revision is the addition of trailing arbutus to the list of exempted plants (see item 14). There have been eliminated from this list items such as aquatic plants, silica sand, and similar materials, since the conditions of exemption with reference to these items are covered in the current regulations of the quarantine.

[1] 3 F. R. 711 DI.

In accordance with the third proviso in Notice of Quarantine No. 48, as revised,[1] the following articles, being considered innocuous as carriers of infestation are exempted from the restrictions of this quarantine and of the regulations supplemental thereto:

1. Balsam pillows, when composed of balsam needles only.
2. Banana stalks, when crushed, dried, and shredded.
3. Dyed moss and dyed sand, when heat treated, and when so labeled on the outside of each container of such materials.
4. Floral designs or "set pieces," including wreaths, sprays, casket covers, and all formal florists' designs. Bouquets and cut flowers not so prepared are not exempted.
5. Herbarium specimens, when dried, pressed, and treated, and when so labeled on the outside of each container of such materials.
6. Manure, peat, compost, or humus (*a*) when dehydrated and either shredded, ground, pulverized, or compressed, or (*b*) when treated with crude petroleum or any other product having high potency as an insecticide, and when so labeled on the outside of each commercial container of such materials. (See also item 13.)
7. Moss, sheet (*Calliergon schriberi* and *Thuridium recognitum*).
8. Mushroom spawn, in brick, flake, or pure culture form.
9. Orchids, cut.
10. Orchid plants, when growing exclusively in Osmunda fiber.
11. Osmunda fiber, Osmundine, or orchid peat (*Osmunda cinnamomea*, and *O. claytoniana*).
12. Resurrection plant or birds'-nest moss (*Selaginella lepidophylla*).
13. Sphagnum moss, bog-moss, or peat moss (*Sphagnaceae*) when dried and baled. (See also item 6.)
14. Trailing arbutus, or Mayflower (*Epigaea repens*), when free from soil

[1] 2 F. R. 454 (528 DI).

CONTENTS

THE PRESIDENT

Executive Order: Page
Wyoming, revocation of land withdrawal for rifle practice ---------- 2567

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Entomology and Plant Quarantine:
Japanese beetle quarantine, list of articles exempt from certification requirements ---------- 2567

TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Willard Tablet Co., Inc., cease and desist order ---------- 2568

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES:
Securities and Exchange Commission:
Public Utility Holding Company Act of 1935, rule adopted relative to reports required from affiliate service companies, etc ---------- 2568

TITLE 24—HOUSING CREDIT:
Federal Home Loan Bank Board:
State-chartered savings and loan associations permitted to merge or consolidate with Federal associations ---------- 2569

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Estate tax regulations amended ---------- 2570

TITLE 29—LABOR:
Wage and Hour Division:
Handicapped persons, amendment of regulations applicable to employment of ---------- 2571

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

	Page
Federal Power Commission:	
Metropolitan Edison Co., et al, petition for rehearing dismissed, etc	2571
Federal Trade Commission:	
Corn Products Refining Co., etc., complaint and notice	2573
Orders appointing examiners, etc., in the matter of:	
Jacobs Candy Co., Inc	2573
King Candy Co	2572
Partain, Edward E., trading as Par-Tex Hosiery Mills	2572
Sorrells, Floyd Irl, trading as Texas Tasty Co	2572
Tritico, G. J., trading as Kas-Mo Remedy Co	2572
Securities and Exchange Commission:	
American & Foreign Power Co., Inc., et al, hearing postponed	2575
General American Transportation Corp., listing and registration	2575
Standard Investing Corp., place and date of hearing changed	2575
Utilities Employees Securities Co., New England Capital Corp., order granting right to intervene	2574

or primary roots, and when shipped during the period between October 16 and June 14, inclusive.

[SEAL] LEE A. STRONG, *Chief.*

[F. R. Doc. 38-3220; Filed, October 26, 1938; 12:09 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3100]

IN THE MATTER OF WILLARD TABLET COMPANY, INC.

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that "Willard Tablets" and "Treatment", or other preparation or treatment of substantially same composition, is a competent and adequate cure or remedy for stomach and duodenal ulcers; is "remarkable" or "marvelous"; or will do more than produce a soothing effect on the irritations in the stomach caused by an excess acid condition or provide a temporary relief from the symptoms of distress caused by such condition; or bring "definite relief", unless qualified, as specified, by "relief from symptoms of distress"; or that it is more dependable than any other treatment for correcting aforesaid ailments and conditions of the body, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Willard Tablet Company, Inc., Docket 3100, October 15, 1938.]

SEC. 3.6 (d) .1 *Advertising falsely or misleadingly—Conditions of manufacture—In General.—Representing that* preparation "Willard Tablets" is compounded from an "unique" formula, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Willard Tablet Company, Inc., Docket 3100, October 15, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by John N. Wheelock, counsel for the Commission, and by John A. Nash, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Willard Tablet Company, Inc., its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of a medicinal preparation designated as "Willard Tablets", and literature containing certain dietary and hygienic advice referred to jointly with such preparation as the "Willard Treatment", or any other preparation or treatment of substantially the same composition and ingredients, sold under the above mentioned names or any other names, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

(a) That such preparation or treatment is a competent and adquate cure or remedy for stomach and duodenal ulcers;

(b) That such preparation or treatment will do more than produce a soothing effect on the irritations in the stomach caused by an excess acid condition or provide a temporary relief from the symptoms of distress caused by such condition;

(c) That such preparation or treatment will bring "definite relief", unless such statement is qualified by the phrase, "relief from symptoms of distress", in equally conspicuous terms in direct connection with such representation;

(d) That such preparation or treatment is "remarkable" or "marvelous";

(e) That such preparation is compounded from an "unique" formula;

(f) That such treatment is more dependable than any other treatment for correcting the aforesaid ailments and conditions of the human body.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3208; Filed, October 25, 1938; 2:25 p. m.]

[1] 2 F. R. 1353 (1612 DI).

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U-13E-1 AND FORM U-13E-1

The Securities and Exchange Commission, acting pursuant to the Public Utility Holding Company Act of 1935, particularly Sections 13 (e), 13 (f) and 20 (a) thereof, and finding it necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out and to prevent the circumvention of the provisions of said Act and the rules, regulations and orders thereunder, hereby adopts Rule U-13E-1 and Form U-13E-1, the rule to read as follows:

SEC. 15. U-13E-1. (Rule U-13E-1). *Reports Required from Affiliate Service Companies and Companies Principally Engaged in Performing Services.*—No affiliate of a registered holding company or subsidiary company thereof shall take any step in the performance of any service or construction for, or any sale of goods to, any company of which it is an affiliate and no company whose principal business is the performance of service or construction for, or sale of goods to, one or more registered holding companies or public utility subsidiary companies thereof, either directly or through one or more other companies, shall take any step in the performance of any such service, construction or sale of goods, unless such affiliate or company:

(a) Has filed with the Commission a report on Form U-13E-1 [Sec. 17.U-13E-1][1] containing the information prescribed by that form, and

(b) Files with the Commission such information supplementing its report on Form U-13E-1 [Sec. 17.U-13E-1] [1] and regarding its accounts, costs, charges, maintenance of competitive conditions, disclosure of interests, duration of contracts, and other similar matters at such times and in accordance with such forms and instructions as the Commission shall designate.

The provisions of this rule are not applicable to a company authorized to perform service or construction for, or sell goods to, associate companies by rules U-13-11 [Sec. 15. U-13-11], U-13-21 [Sec. 15.U-13-21] or U-13-22 [Sec. 15.U-13-22]

(C. 687, sec. 13, 49 Stat. 825; 15 U. S. C., Sup. III, 79m: C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t)

[Rules and Regs., Rule U-13E-1, effective November 15, 1938.]

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3225; Filed, October 26, 1938; 12:39 p. m.]

[1] C. 687, sec. 13, 49 Stat. 825; 15 U. S. C., Sup. III, 79m: C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t. [Form U-13E-1, adopted October 22, 1938]

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

AMENDMENT TO RULES AND REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

PERMITTING STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS, WHEN DULY AUTHORIZED BY THE LAW OF THEIR CREATION, TO MERGE OR CONSOLIDATE WITH FEDERAL ASSOCIATIONS

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (d) of Section 5 of Home Owners' Loan Act of 1933, as amended (12 U. S. C. 1464 (d)), Section 104.001 of the Rules and Regulations for the Federal Savings and Loan System is hereby amended to read as follows:

SEC. 104.001. *Merger of Federal Associations.*

PAR. a. *Scope of section.*—For the purpose of this section the word "association" means a Federal association and any building and loan association, savings and loan association, cooperative bank or homestead association incorporated under the laws of any of the States or Territories of the United States or of the District of Columbia, provided that any such institution under the laws of the jurisdiction of its creation is empowered to merge or consolidate with a Federal association.

PAR. b. *Procedure: Effective date.*—Two or more associations may merge in the following manner (the associations which will be absorbed upon the effective date of the merger being hereinafter referred to as the "merging associations"), provided, however, that if any one or more of the merging associations is not a Federal association, such merging associations shall, in addition, comply with all requirements of law of the jurisdiction of their creation, subsection (i) of Section 5 of Home Owners' Loan Act of 1933, as amended, and the pertinent provisions of these rules and regulations prescribed pursuant thereto; except that no Charter K will be issued to such association because such association is simultaneously merging into the Federal association resulting from the merger (hereinafter referred to as the "resulting association"):

The board of directors of each association by a majority vote of each of the separate boards of directors shall approve a plan of merger evidenced by a merger agreement. Such agreement shall specify (1) the name to be used by the resulting association, which may be the name of the resulting association, the name of any of the merging associations, or a proposed new name; (2) the charter under which the resulting association shall operate, which shall be a Charter K; (3) the location of the home office of the resulting association; (4) the basis of the issuance of the share accounts of the resulting association to the holders of share accounts; (5) the number of directors of the resulting association and the names and residences of those who are chosen to serve until the first annual meeting of the resulting association. Application for approval by the Board of the merger shall be made by filing, with the Federal home loan bank of which at least one of the associations, party to the merger, is a member, two copies of the merger agreement properly executed in the name of the respective associations and two certified copies of the minutes of all of the meetings of the respective boards of directors at which the plan of merger was considered and approved. The merger agreement shall state that it shall not be effective unless and until approved by the Board. Upon receipt of such application the Board will thereupon either approve or disapprove the plan of merger or recommend modifications of the proposed plan of merger, which, if accepted by the respective boards of directors, will make the plan of merger satisfactory to the Board. If the plan of merger as approved by the Board is approved by the respective boards of directors, the Board shall be promptly notified by the similar filing of two copies of an amended merger agreement properly executed which incorporates the modifications recommended by the Board, and by the similar filing of two certified copies of the minutes of all meetings of the boards of directors at which such modified plan of merger was considered and approved. If any of the merging associations is not a Federal association, it shall thereupon hold the meeting of its shareholders to vote upon conversion into a Federal association coincident with its merger under the plan, as provided in section 102.023 hereof. If the resulting association is to operate under a new name, its charter shall be surrendered to the Board so that the name may be amended by reissuance of such charter in the new name of the resulting association. If the location of the home office of the resulting association is to be different from the location of the home office set forth in its charter, the location of the home office of the resulting association will be set forth in the reissued charter of the resulting association. The charters of the merging associations, which are Federal associations, shall be surrendered for cancellation by being similarly filed. The last date on which any of such charters are cancelled by the Board shall be the effective date of the merger, except that if any of the merging associations is not a Federal association, the effective date shall be the date, as to each such merging association, upon which it ceases to exist under the laws of the jurisdiction of its creation. Membership in a Federal home loan bank of any merging association shall be cancelled and its stock subscription shall be refunded to the resulting association, after adjustment to the minimum number of shares required to be held by the resulting association under the provisions of the Federal Home Loan Bank Act, unless the resulting association desires to retain a larger stock subscription than the required minimum. The certificate of insurance of any merging associations which are insured by the Federal Savings and Loan Insurance Corporation shall be surrendered for cancellation to the Federal Savings and Loan Insurance Corporation after adjustment by additional premium payment or premium credit, pursuant to the rules and regulations for insurance of accounts. The membership certificate and the insurance certificate of the re-

sulting association shall be surrendered for reissuance in the new name of the resulting association, if the resulting association is to operate under a new name.

PAR. c. *Assets transferred by operation of law.*—Upon the effective date of such merger, all of the assets and property of every kind and character, real, personal and mixed, tangible and intangible, choses in action, rights and credits then owned by the merging associations, or which would inure to any of them, shall immediately by operation of law and without any conveyance or transfer and without any further act or deed, be vested in and become the property of the resulting association, which shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same were possessed, held, and enjoyed by the merging associations prior to such merger; and the resulting association shall be deemed to be and shall be a continuation of the entity and identity of the Federal association, which absorbed the merging associations; and all of the rights and obligations of the merging associations shall remain unimpaired, and the resulting association, on the effective date of such merger, shall succeed to all of such rights and obligations and the duties and liabilities connected therewith.

Adopted by the Federal Home Loan Bank Board on October 25, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-3218; Filed, October 26, 1938; 10:07 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4868]

ESTATE TAX REGULATIONS AMENDED

AMENDMENTS OF ARTICLES 18, 19 AND 26 OF REGULATIONS 80 (1937 EDITION)

To Collectors of Internal Revenue and Others Concerned:

Article 18 of Regulations 80 (1937 edition)[1] is amended to read as follows:

ART. 18. *Transfers with possession or enjoyment retained.*—Except in the case of a bona fide sale for an adequate and full consideration in money or money's worth, the gross estate embraces (section 302 (c), as amended) all property transferred by the decedent, whether in trust or otherwise, if he retained or reserved the use, possession, right to the income, or other enjoyment of the transferred property, and if the transfer was made—

(1) At any time after 10:30 p. m., eastern standard time, March 3, 1931, and such retention or reservation is for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period; or

(2) At any time after 5 p. m., eastern standard time, June 6, 1932, and such retention or reservation is for any period mentioned in (1) or for any period not ascertainable without reference to his death.

A reservation for a "period not ascertainable without reference to his death" may be illustrated by a reservation of the right to receive, in quarterly payments, the income of the transferred property where none of the income between the last quarterly payment and decedent's death was to be received by him or his estate; or by a reservation of a life estate following a precedent estate for life or a term of years.

The use, possession, right to the income, or other enjoyment of the property, will be considered as having been retained by or reserved to the decedent to the extent that during any such period it is to be applied towards the discharge of a legal obligation of the decedent, or otherwise for his pecuniary benefit.

If such retention or reservation is of a part only of the use, possession, income, or other enjoyment of the property, then only a corresponding proportion of the value of the property should be included in determining the value of the gross estate.

(See article 15.)

Article 19 of Regulations 80 (1937 edition) is amended to read as follows:

ART. 19. *Transfers with right retained to designate who shall possess or enjoy.*—The statute (section 302 (c), as amended) provides that, except in the case of a bona fide sale for an adequate and full consideration in money or money's worth, the gross estate shall embrace all property transferred by the decedent, whether in trust or otherwise, if there is retained by or reserved to him for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period, or for a period not ascertainable without reference to his death, the right either alone or in conjunction with any other person or persons to designate the person or persons who shall possess or enjoy the transferred property, or the income thereof.

This provision of the statute covers, in the main, transfers to which also apply the provisions of certain other subdivisions of section 302. Thus, to the extent that the enjoyment of the transferred property is subject to any change through the exercise of a power by the decedent alone or in conjunction with any other person or persons to alter, amend, revoke, or terminate, the provisions of section 302 (d), as amended, and of article 20 will apply. Or, if the decedent reserved to himself a general power of appointment and the property passed in his lifetime or by his will pursuant to the exercise of such power, the property may be required by section 302 (f), as amended, to be included in the gross estate, and in such case the provisions of article 24 will apply without regard to when such power was created.

A transfer of the kind dealt with in this article, when not also falling within the provisions of some other subdivision of section 302, requires the inclusion of the transferred property within the gross estate, if the transfer was made—

(1) At any time after 10:30 p. m., eastern standard time, March 3, 1931, and the right to so designate was retained by or reserved to the decedent alone for his life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period; or

(2) At any time after 5 p. m., eastern standard time, June 6, 1932, and the right to so designate was retained by or reserved to the decedent alone or in conjunction with any other person or persons for decedent's life, or for such a period as to evidence his intention that it should extend at least for the duration of his life and his death occurs before the expiration of such period, or for any period not ascertainable without reference to his death.

If the retention or reservation of the right described pertains to a part only of the transferred property, or to a part only of the income therefrom, then only a corresponding proportion of the value of the transferred property is includible in determining the value of the gross estate.

The right to so designate will be treated as having been retained or reserved if at the time of the transfer there was an understanding, either express or implied, that such right would later be created or conferred.

(See article 15.)

Article 26 of Regulations 80 (1937 edition) is amended to read as follows:

ART. 26. *Insurance in favor of the estate.*—The provision requiring the inclusion in the gross estate of all insurance receivable by the executor, without any exemption, applies to policies made payable to the decedent's estate or his executor or administrator, and all insurance which is in fact receivable by, or for the benefit of, the estate. It includes insurance taken out to provide funds to meet the estate tax, and any other taxes or charges which are enforceable against the estate. The manner in which the policy is drawn is immaterial so long as there is an obligation, legally binding upon the beneficiary, to use the proceeds in payment of such taxes or charges. If the decedent took out insurance in favor of another person or corporation as collateral security for a loan or other accommodation, the insurance is considered to be receivable for the benefit of the estate. The amount of the loan outstanding at decedent's death will be deductible in determining the net estate, and the interest thereon will be deductible in accordance with the provisions of article 36.

This Treasury Decision is issued under authority prescribed in section 1101 of the Revenue Act of 1926 and section 403 of the Revenue Act of 1932, as amended.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, October 24, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3209; Filed, October 25, 1938; 3:31 p. m.]

[1] 2 F. R. 2324 (2707 DI).

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 524—REGULATIONS APPLICABLE TO EMPLOYMENT OF HANDICAPPED PERSONS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT

The following amendment to Regulations—Part 524—(Regulations Applicable to Employment of Handicapped Persons pursuant to Section 14 of the Fair Labor Standards Act[1]) is hereby issued. Said amendment makes an addition to Part 524 by inserting between Section 524.3 and Section 524.4, a new Section, to be Section 524.3A. Said amendment shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this twenty-fifth day of October, 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 524.3A *Distribution of copies of certificates.*—One copy of the Certificate will be given the handicapped worker, one copy shall be given the employer who shall keep this copy on file in the same place at which the worker's employment records are maintained, and one copy will be retained in the files of the Wage and Hour Division, Department of Labor. (Issued under the authority contained in Section 14, 52 Stat. 1060).

[F. R. Doc. 38-3219; Filed, October 26, 1938; 11:46 a. m.]

[1] 3 F. R. 2485 DI.

Notices

FEDERAL POWER COMMISSION.

[Docket No. IT-5015]

IN THE MATTER OF METROPOLITAN EDISON COMPANY, NORTHERN PENNSYLVANIA POWER COMPANY, PENNSYLVANIA ELECTRIC COMPANY, ERIE LIGHTING COMPANY, THE CLARION RIVER POWER COMPANY, AND SOLAR ELECTRIC COMPANY

ORDER DISMISSING PETITION FOR REHEARING, TERMINATING PROCEEDINGS THEREUNDER, AND ASSIGNING MATTERS UNDER INVESTIGATION FOR HEARING

OCTOBER 22, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly. John W. Scott not participating.

It appearing to the Commission that:

(a) On January 6, 1936, the Commission by order instituted an inquiry and investigation into the ownership, operation, management, and control of respondents; all contracts and working arrangements between the respondents and any person which controlled the respondents, directly or indirectly, as well as all contracts and working arrangements between respondents and any person controlled by the person or persons which controlled respondents insofar as such contracts or working arrangements related to transactions with or the business of respondents;

(b) The order of January 6, 1936, further directed that respondents file with the Commission copies of all contracts, a complete statement of all working arrangements, and full and complete statements of charges on respondents' books for the years 1934 and 1935, representing payments made or obligations incurred by the respondents to any of the persons designated in the order, as well as the name and address of the person with whom the charge first originated, the cost to the person rendering the service and by whom performed, and further provided that the books, accounts, records, memoranda, and correspondence of the respondents and of the persons included in the order were to be made available to representatives of the Commission for examination;

(c) Respondents having made partial return to the Commission, as required by the order of January 6, 1936, and representatives of the Commission having conducted a field investigation for the purpose of examining books, records, accounts, and correspondence of respondents and certain affiliated companies, the Commission on January 26, 1937, adopted a further order in which was recited the fact that certain persons with whom respondents had working arrangements or contracts and with whom respondents had business transactions but which respondents claimed were non-affiliates, had refused to furnish the complete information called for and had also refused to permit examination of their books, records, accounts, and memoranda by representatives of the Commission;

(d) The order of January 26, 1937, further directed that the report prepared by representatives of the Commission, setting forth results of the field investigation and examination of books, records, accounts, memoranda, and correspondence of respondents and certain admitted affiliates, be served upon respondents, as well as upon the other persons named in paragraph (b) of that order;

(e) The respondents, on February 23, 1937, filed a Petition for Rehearing directed to the order of the Commission of January 26, 1937; the petition having been granted by the Commission, the matter was assigned for hearing; said hearing was halted during its progress by an injunction issuing out of the United States Circuit Court of Appeals for the Third Circuit, and that injunction having been made permanent, the action of the Circuit Court of Appeals was reviewed by the Supreme Court of the United States on certiorari; the Supreme Court in disposing of the issues presented held, among other things, that the order of January 26, 1937, was not a reviewable order and that the injunction had been improperly issued; on mandate from the Supreme Court of the United States the permanent injunction issuing out of the United States Circuit Court of Appeals for the Third Circuit has been vacated and annulled;

(f) The public interest requires that the investigation heretofore instituted by order of the Commission be completed;

The Commission orders that:

A. The Petition for Rehearing filed by respondents under date of February 23, 1937, be and the same is hereby dismissed and all proceedings thereunder terminated;

B. All matters involved in the investigation instituted by order of January 6, 1936, and the order of January 26, 1937, are assigned for hearing on December 1, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

C. The following persons shall be served, by registered mail, with a copy of this order and shall have an opportunity to be heard on those matters involved in this investigation which pertain to their respective operations:

Associated Gas & Electric Properties
Associated Securities Corporation
Associated Gas & Electric Company
Associated Gas & Electric Corporation
Metropolitan Edison Corporation
NYPANJ Utilities Company
Associated Electric Company

Pennsylvania Electric Corporation
Central U. S. Utilities Company
The Associated Corporation
Associated Gas & Electric Securities Co., Inc. (Del.)
Associated Real Properties, Inc.
General Gas & Electric Corporation
Utility Clearing Corporation
The Utility Management Corporation
E. M. Gilbert Engineering Corporation
Utilities Purchasing & Supply Corporation
Utilities Employees Securities Company
Public Utilities Appliance Corporation
Employees Welfare Association, Inc.
Utility Accountants and Tax Consultants
Utility and Financial Accountants, Inc.
Financial and Securities Assistants
Transfer and Coupon Paying Agency
Corporate Records and Secretarial Assistants
J. I. Mange
H. C. Hopson
H. C. Hopson & Company
Edward J. Cheney
Utility and Financial Advertising Agency
C. M. M. Corporation
Day & Company
Edmund B. Naylon.

Notice—The hearing provided for under the foregoing order will be heard by the Federal Power Commission sitting jointly with the Pennsylvania Public Utility Commission, the issues to be limited to those matters with respect to which the Federal Power Commission is authorized to act under the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3216; Filed, October 26, 1938; 9:51 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3437]

IN THE MATTER OF KING CANDY COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 10, 1938, at ten o'clock in the forenoon of that day (central standard time) in Office of Custodian, Federal Building, Forth Worth, Texas.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3211; Filed, October 26, 1938; 9:49 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3487]

IN THE MATTER OF FLOYD IRL SORRELLS, TRADING AS TEXAS TASTY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 9, 1938, at ten o'clock in the forenoon of that day (central standard time) in Office of Custodian, Federal Building, Fort Worth, Texas.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3212; Filed, October 26, 1938; 9:49 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3510]

IN THE MATTER OF EDWARD E. PARTAIN, TRADING AS PAR-TEX HOSIERY MILLS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 14, 1938, at ten o'clock in the forenoon of that day (central standard time) in Civil Service Room 536, Federal Building, Dallas, Texas.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3213; Filed, October 26, 1938; 9:50 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3536]

IN THE MATTER OF G. J. TRITICO, DOING BUSINESS UNDER THE TRADE NAME OF KAS-MO REMEDY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at ten o'clock in the forenoon of that day (central standard time) in Subcourthouse Courtroom, Lakeshore and Austin Sts., Port Arthur, Texas.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3214; Filed, October 26, 1938; 9:50 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3586]

IN THE MATTER OF JACOBS CANDY COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he is hereby designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, November 4, 1938, at ten o'clock in the forenoon of that day (central standard time) in Hearing Room, New Orleans Association of Commerce Building, New Orleans, Louisiana.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3215; Filed, October 26, 1938; 9:51 a. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3633]

IN THE MATTER OF CORN PRODUCTS REFINING COMPANY, CORN PRODUCTS SALES COMPANY, INC.

COMPLAINT

The Federal Trade Commission, having reason to believe that the Corn Products Refining Company and the Corn Products Sales Company, Inc., hereinafter called Respondents, since June 19, 1936, have been and are now violating the provisions of Section 2 (a) of the Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (Public No. 212, the Clayton Act), as amended by Section 1 of the Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936, (Public No. 692, the Robinson-Patman Act), hereby issues this its complaint against respondents and states its charges with respect thereto as follows, to wit:

PARAGRAPH 1: Respondent Corn Products Refining Company is a corporation organized and existing under the laws of New Jersey with its principal office and place of business at 17 Battery Place in the City and State of New York. Respondent Corn Products Sales Company, Inc. is a corporation organized under the laws of the State of New Jersey and has its principal office and place of business at 17 Battery Place, City and State of New York. Respondent Corn Products Sales Company, Inc. is a wholly owned sales subsidiary of respondent Corn Products Refining Company through which products manufactured by Corn Products Refining Company are sold and distributed. Corn Products Refining Company owns the entire capital stock of Corn Products Sales Company, Inc. and controls and directs Corn Products Sales Company, Inc.

PAR. 2: Respondent, Corn Products Refining Company, is a large and powerful corporation holding a dominating position in the field of the manufacture and sale of corn products. It has an authorized capital stock of $100,000,000. Corn Products Refining Company owns and operates plants at Pekin and Argo, Illinois; North Kansas City, Missouri and Edgewater, New Jersey. The Argo, Pekin and North Kansas City plants have a corn grinding capacity of 155,000 bushels per day, with complete facilities for the finished fabrication of all known corn starch products, both for household and industrial use, and including well equipped carton and can plants and printing establishments for use in producing the many packaged products of the company. The Edgewater plant has a reserve corn grinding capacity of 30,000 bushels daily. Respondent's production of corn products exceeds that of all of its combined competitors. When respondent reduces the prices of corn products its competitors conformably reduce the prices on the said commodities and when respondent advances the prices competitors make similar advances in their prices.

PAR. 3: At all times since June 19, 1936 respondents have been and are now engaged in the business of manufacturing, selling and distributing in interstate commerce products derived from corn. The principal products derived from corn are (1) Starch, both for food and laundry purposes; (2) Glucose or Corn syrup; and (3) Corn sugar. Starch is first manufactured from the corn, and glucose and grape sugar are made by treating the starch with certain acids, the resulting solid product being grape sugar and the resulting syrup being glucose. Glucose is largely used in the manufacture of candy, jellies, jams, preserves, and the like, as well as in the mixing of syrups. Grape sugar is used in the tanning, brewing and wine trades. Starch is used for laundry purposes, as well as in various articles of food.

The principal by-products of corn resulting in the corn products business are glutten feed, corn oil, corn-oil cake and corn-oil meal, and these by-products result whether the principal products manufactured be starch, glucose, or corn sugar.

The Corn Products Refining Company, in addition to bulk products, produces the following branded products;

Kingsford and Duryea Starches, Karo Syrup, Mazola Oil, Argo Corn Starch, Argo Gloss Starch, Kre-Mel Dessert and Linit.

PAR. 4: Since June 19, 1936, in the course and conduct of their business, the respondents have been and are now manufacturing the aforesaid commodities at the aforesaid plants and have sold and shipped and do now sell and ship such commodities in commerce between and among the various states of the United States from the states in which their factories are located across state lines to purchasers thereof located in states other than the states in which respondents' said plants are located in competition with other persons, firms and corporations engaged in similar lines of commerce.

PAR. 5: Since June 19, 1936 and while engaged as aforesaid in commerce among the several states of the United States and the District of Columbia, the respondents have been and are now, in the course of such commerce, discriminating in price between purchasers of said commodities of like grade and quality, which commodities are sold for use, consumption or resale within the several states of the United States and the District of Columbia in that the respondents have been and are now selling such commodities to some purchasers at a higher price

than the price at which commodities of like grade and quality are sold to other purchasers generally competitively engaged with the first mentioned purchasers.

PAR. 6: The aforesaid discriminations in price referred to in Paragraph Four are generally effected through the employment of delivered prices. The delivered prices charged buyers, while identical in terms of dollars and cents as to those located at any given point of delivery, are discriminatory among buyers located at diverse points of delivery. The differences in price between buyers located at diverse points of delivery are often substantial. To illustrate:

A manufacturer of candy located at St. Joseph, Missouri, paid respondents a delivered price of $3.40 a hundred pounds for a tank car of corn syrup weighing 95,800 pounds net. The freight paid by respondents on the said shipment was 3½¢ a hundred pounds. The price per hundred pounds, exclusive of freight, was $3.365 to such buyer. A competing candy manufacturer located at Chicago, Illinois paid respondents at the same time, for goods of like grade and quality a delivered price of $3.04 a hundred pounds. The freight switching charge paid by respondents on the said shipment was 3½¢ a hundred pounds. The price per hundred pounds, exclusive of freight, was $3.005 to such buyer. The difference between $3.365 and $3.005 amounts to a discrimination in price of 36¢ a hundred pounds between the aforesaid buyers located at St. Joseph, Missouri, and at Chicago, Illinois, or $344.88 on the aforesaid car.

Respondents' customers taking delivery of corn syrup at Kansas City, Missouri, and supplied by respondents' North Kansas City plant are required to pay a price which is 36¢ a hundred pounds more than respondents' customers pay when taking delivery of goods of like grade and quality at Chicago, Illinois, which goods are supplied by respondents' Argo, Illinois, plant. This amounts to a discrimination in price of 36¢ a hundred pounds between respondents' customers, competing in the manufacture, sale and distribution of candy made from such corn syrup, who respectively take delivery at Kansas City, Missouri, and Chicago, Illinois.

PAR. 7: The effect of said discriminations in price made by said respondents, as set forth in Paragraph Five herein, may be substantially to lessen competition in the sale and distribution of corn products between the said respondents and other manufacturers of corn products and also between the said buyers of said corn products receiving said lower discriminatory prices and other buyers not receiving said lower discriminatory prices; and the effect of said discriminations has been, or may be, to injure, destroy or prevent competition in the sale and distribution of corn products between the said respondents and other manufacturers of corn products; and the effect of said discriminations has been, or may be, to injure, destroy and prevent competition in the lines of commerce in which those who purchase from respondents are engaged between the said beneficiaries of said discriminatory prices and said buyers who do not and have not received such beneficial prices.

Wherefore, the premises considered, the Federal Trade Commission on this 21st day of October, A. D. 1938, now issues this its complaint against said respondents.

NOTICE

Notice is hereby given you, Corn Products Refining Company and Corn Products Sales Company, Inc., respondents herein, that the 25th day of November, A. D., 1938, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 21st day of October, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3210; Filed, October 26, 1938; 9:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of September, A. D. 1938.

[File Nos. 31-419, 60-1]

IN THE MATTERS OF UTILITIES EMPLOYEES SECURITIES COMPANY, NEW ENGLAND CAPITAL CORPORATION

ORDER GRANTING RIGHT TO INTERVENE

The Gas, By-Product Coke and Chemical Workers, District No. 50 of the United Mine Workers of America having filed a petition to intervene in the above entitled proceedings which heretofore have been consolidated for the purpose of hearings thereon; Utilities Employees Securities Company and New England Capital Corporation having objected to such intervention; oral argument on behalf of the companies and on behalf of the petitioner having been heard by the Commission; and the Commission having considered the merits of the plea of intervention and objections thereto, and having found that the petitioner is a representative of interested security holders with an interest in the subject matter of these proceedings,

It is ordered, That the plea of intervention be granted and that Gas, By-Product Coke and Chemical Workers, District No. 50 of the United Mine Workers of America be admitted as a party to these proceedings.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3224; Filed, October 26, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 24th day of October 1938.

[File No. 1-2328]

IN THE MATTER OF APPLICATION OF GENERAL AMERICAN TRANSPORTATION CORPORATION TO WITHDRAW ITS COMMON STOCK, $5 PAR VALUE, FROM LISTING AND REGISTRATION ON THE BOARD OF TRADE OF THE CITY OF CHICAGO

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The General American Transportation Corporation, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to withdraw its Common Stock, $5 Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on November 3, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3223; Filed, October 26, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of October, 1938.

IN THE MATTER OF AMERICAN & FOREIGN POWER COMPANY, INC., COMMON STOCK, NO PAR VALUE; ARMOUR AND COMPANY OF ILLINOIS, COMMON STOCK, $5 PAR VALUE; THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO., COMMON STOCK, $100 PAR VALUE; THE ATLANTIC REFINING COMPANY, COMMON STOCK, $25 PAR VALUE; THE AVIATION CORPORATION, CAPITAL STOCK, $3 PAR VALUE; BARNSDALL OIL COMPANY, COMMON STOCK, $5 PAR VALUE; BETHLEHEM STEEL CORPORATION, COMMON STOCK, NO PAR VALUE; BOEING AIRPLANE COMPANY, CAPITAL STOCK, $5 PAR VALUE; CHRYSLER CORPORATION, COMMON STOCK, $5 PAR VALUE; COMMERCIAL SOLVENTS CORPORATION, COMMON STOCK, NO PAR VALUE; THE COMMONWEALTH & SOUTHERN CORPORATION, COMMON STOCK, NO PAR VALUE; CONTINENTAL OIL COMPANY, CAPITAL STOCK, $5 PAR VALUE; GIMBEL BROTHERS, INC., COMMON STOCK, NO PAR VALUE; THE B. F. GOODRICH COMPANY, COMMON STOCK, NO PAR VALUE; THE GOODYEAR TIRE & RUBBER COMPANY, COMMON STOCK, NO PAR VALUE; MONTGOMERY WARD & CO., INC., COMMON STOCK, NO PAR VALUE; THE NATIONAL SUPPLY CO. OF PENNSYLVANIA, COMMON STOCK, $10 PAR VALUE; THE NEW YORK CENTRAL RAILROAD COMPANY, CAPITAL STOCK, NO PAR VALUE; THE OHIO OIL COMPANY, COMMON STOCK, NO PAR VALUE; PARAMOUNT PICTURES, INC., COMMON STOCK, $1 PAR VALUE; PITTSBURGH TERMINAL COAL CORPORATION, COMMON STOCK, $1 PAR VALUE; PRESSED STEEL CAR COMPANY, INC., COMMON STOCK, $1 PAR VALUE; THE PURE OIL COMPANY, COMMON STOCK, NO PAR VALUE; SOCONY-VACUUM OIL COMPANY, INC., CAPITAL STOCK, $15 PAR VALUE; THE TEXAS CORPORATION, CAPITAL STOCK, $25 PAR VALUE; TRANSCONTINENTAL & WESTERN AIR, INC., COMMON STOCK, $5 PAR VALUE; UNITED AIRCRAFT CORPORATION, CAPITAL STOCK, $5 PAR VALUE; UNITED AIR LINES TRANSPORT CORPORATION, CAPITAL STOCK, $5 PAR VALUE; THE UNITED GAS IMPROVEMENT COMPANY, COMMON STOCK, NO PAR VALUE; UNITED STATES RUBBER COMPANY, COMMON STOCK, $10 PAR VALUE; WALWORTH COMPANY, INC., COMMON STOCK, NO PAR VALUE; YELLOW TRUCK & COACH MANUFACTURING COMPANY, CLASS "B" STOCK, $1 PAR VALUE; THE INTERNATIONAL NICKEL CO. OF CANADA, LTD., COMMON STOCK, NO PAR VALUE; KENNECOTT COPPER CORPORATION, CAPITAL STOCK, NO PAR VALUE

ORDER POSTPONING HEARING

The Pittsburgh Stock Exchange, pursuant to clause (2) of Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule X-12F-1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the above-mentioned securities; and

The Commission having ordered that these applications be set down for hearing on November 8, 1938, in Washington, D. C.;[1] and

Said Exchange having requested a postponement of said hearing;

It is ordered, That said hearing be postponed until 10 A. M. on Tuesday, November 15, 1938, in Room 1103, 1778 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3222; Filed, October 26, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 25th day of October 1938.

[File No. 1-1932]

IN THE MATTER OF APPLICATION OF NEW YORK STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE COMMON STOCK, NO PAR VALUE, OF STANDARD INVESTING CORPORATION

ORDER CHANGING PLACE AND DATE OF HEARING

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to strike from listing and registration the Common Stock, No Par Value, of Standard Investing Corporation; and

The Commission having ordered that the matter be set down for hearing on October 27, 1938, in Washington, D. C.;[1] and

The attorney for two stockholders owning approximately 2,000 shares of said common stock having requested that said hearing be held in New York City, to which request said Exchange has agreed;

It is ordered, That said hearing be postponed until 10 A. M. on Thursday, November 3, 1938, in Room 2017, Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3221; Filed, October 26, 1938; 12:38 p.m.]

[1] 3 F. R. 2269 DI.

[1] 3 F. R. 2546-2554 DI.

[1] 3 F. R. 2357 DI.

Reference

OCT 31 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 211

Washington, Friday, October 28, 1938

The President

ARMISTICE DAY—1938

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the preamble to Senate Concurrent Resolution 18, Sixty-ninth Congress (44 Stat. 1982), passed June 4, 1926, recites that November 11, 1918 "marked the cessation of the most destructive, sanguinary, and far-reaching war in human annals and the resumption by the people of the United States of peaceful relations with other nations, which we hope may never again be severed;" and

WHEREAS the said concurrent resolution provides

"That the President of the United States is requested to issue a proclamation calling upon the officials to display the flag of the United States on all Government buildings on November 11 and inviting the people of the United States to observe the day in schools and churches, or other suitable places, with appropriate ceremonies expressive of our gratitude for peace and our desire for the continuance of friendly relations with all other peoples"; and

WHEREAS by an act approved May 13, 1938 (Public No. 510, 75th Congress) the 11th day of November in each year is made a legal public holiday to be dedicated to the cause of world peace and to be celebrated and known as Armistice Day: and

WHEREAS it is especially fitting at this time of world unrest that November 11, 1938, the twentieth anniversary of the Armistice, should be observed with suitable ceremonies manifesting our belief that peace can be attained only by non-aggression, and can be made enduring only by respect for the rights of others and good will among the nations of the world.

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby direct that on Armistice Day, November 11, 1938, the flag of the United States be displayed on all Government buildings, and I invite the observance of the day by the people of the United States with appropriate ceremonies in schools, churches, and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 25th day of October, in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2305]

[F. R. Doc. 38-3226; Filed, October 26, 1938; 1:09 p. m.]

MANISTEE NATIONAL FOREST—MICHIGAN

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain lands within the State of Michigan have been or may hereafter be acquired by the United States of America under authority of the act of March 1, 1911, c. 186, 36 Stat. 961, 962 (U. S. C., title 16, sec. 516), as amended by the act of June 7, 1924, 43 Stat. 653 (U. S. C., title 16, sec. 515), the act of March 31, 1933, c. 348, 48 Stat. 22 (U. S. C., title 16, sec. 585), the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195, 202, U. S. C., title 40, sec. 403), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that it would be in the public interest to give such lands, together with certain intermingled public lands, a national-forest status:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103 (U. S. C., title 16, sec. 471), by section 11 of the act of March 1, 1911, 36 Stat. 963 (U. S. C., title 16, sec. 521), the act of March 31, 1933, 48 Stat. 22 (U. S. C., title 16, sec. 585), the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195, 202, U. S. C., title 40, sec. 403), and section 5 of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115, 118), do proclaim (1) that there are

CONTENTS

THE PRESIDENT

Proclamations: Page
Ackia Battleground National Monument, Miss., establishment 2579
Armistice Day, 1938 2577
Manistee National Forest, Mich., lands reserved 2577

RULES, REGULATIONS, ORDERS

TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department:
St. Petersburg Harbor, Fla., restricted area for maneuvering of seaplanes 2579
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Statistical reports required of:
Carriers by water 2580
Pipe line companies 2580

NOTICES

Civil Aeronautics Authority:
Inter-Island Airways, Ltd., hearing on application for permanent certificate of convenience and necessity 2580
Department of Agriculture:
Bureau of Animal Industry:
Notices under Packers and Stockyards Act:
Lubbock Auction & Commission Co 2580
Snyder Livestock Market 2580

FEDERAL REGISTER

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hereby reserved and set apart as the Manistee National Forest all lands of the United States within the area described hereinafter and shown on the diagram attached hereto and made a part hereof, and (2) that all lands within such area which may hereafter be acquired by the United States under the authority of the said acts of March 1, 1911, June 7, 1924, March 31, 1933, June 16, 1933, and April 8, 1935, shall upon acquisition of title thereto become, and be administered as, part of the said Manistee National Forest:

MICHIGAN PRINCIPAL MERIDIAN

T. 11 N., R. 15 W., secs. 3 to 10, inclusive, secs. 15 to 22, inclusive, and secs. 27 to 34, inclusive;
T. 12 N., R. 10 W., secs. 3 to 10, inclusive, and secs. 15 to 22, inclusive.
T. 12 N., R. 11 W., secs. 1 to 24, inclusive, and secs. 29 to 32, inclusive.
T. 12 N., R. 12 W., all.
T. 12 N., R. 15 W., secs. 4 to 9, inclusive, secs. 15 to 22, inclusive, and secs. 27 to 34, inclusive.
T. 12 N., R. 16 W., all.
T. 12 N., R. 17 W., secs. 1 to 5, inclusive, and secs. 8 to 17, inclusive.
T. 13 N., R. 10 W., secs. 3 to 10, inclusive, secs. 15 to 22, inclusive, and secs. 27 to 34, inclusive.
Tps. 13 N., Rs. 11 and 12 W., all.
T. 13 N., R. 13 W., secs. 1 to 3, inclusive, secs. 10 to 15, inclusive, secs. 22 to 27, inclusive, and secs. 34 to 36, inclusive.
T. 13 N., R. 15 W., secs. 2 to 11, inclusive, secs. 14 to 23, inclusive, and secs. 26 to 34, inclusive.
T. 13 N., R. 16 W., all.
T. 13 N., R. 17 W., secs. 24 to 29, inclusive, and secs. 32 to 36, inclusive.
T. 14 N., R. 10 W., secs. 5 to 8, inclusive, secs. 16 to 21, inclusive, and secs. 28 to 34, inclusive.
Tps. 14 N., Rs. 11, 12 and 13 W., all.
T. 14 N., R. 14 W., secs. 1 to 7, inclusive, secs. 10 to 15, inclusive, and secs. 22 to 24, inclusive.
T. 14 N., R. 15 W., secs. 1 to 22, inclusive, and secs. 27 to 34, inclusive.
T. 14 N., R. 16 W., secs. 1 and 2, secs. 11 to 14, inclusive, secs. 23 to 26, inclusive, and secs. 35 and 36.
T. 15 N., R. 10 W., secs. 18 and 19; and secs. 29 to 32, inclusive.
Tps. 15 N., Rs. 11, 12, 13, 14 and 15 W., all.
T. 15 N., R. 16 W., secs. 1 and 2; secs. 11 to 14, inclusive; secs. 23 to 26, inclusive, and secs. 35 and 36.
T. 16 N., R. 11 W., secs. 4 to 9, inclusive, secs. 16 to 21, inclusive, and secs. 28 to 36, inclusive.
Tps. 16 N., Rs. 12, 13, 14 and 15 W., all.
T. 16 N., R. 16 W., secs. 1 to 4, inclusive, secs. 9 to 14, inclusive, N½ sec. 15, N½ sec. 16, secs. 23 to 26, inclusive, and secs. 35 and 36.
T. 17 N., R. 11 W., secs. 5 to 8, inclusive, secs. 16 to 21, inclusive, and secs. 28 to 33, inclusive.
Tps. 17 N., Rs. 12, 13, 14 and 15 W., all.
T. 17 N., R. 16 W., secs. 1 and 2; 11 to 14, inclusive, 23 to 26, inclusive, and secs. 33 to 36, inclusive.
T. 18 N., R. 11 W., secs. 31 and 32.
T. 18 N., R. 12 W., secs. 34 to 36, inclusive.
T. 18 N., R. 13 W., secs. 3 to 10, inclusive; W½ sec. 15; secs. 16 to 21, inclusive; W½ sec. 22; W½ sec. 27; secs. 28 to 33, inclusive; and W½ sec. 34.
T. 18 N., R. 14 W., all.
T. 18 N., R. 15 W., secs. 1 to 4, inclusive, secs. 7 to 36, inclusive.
T. 18 N., R. 16 W., sec. 36.
T. 19 N., R. 13 W., secs. 3 to 10, inclusive, secs. 15 to 22, inclusive, and secs. 27 to 34, inclusive.
T. 19 N., R. 14 W., all.
T. 19 N., R. 15 W., secs. 1 to 16, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive.
T. 19 N., R. 16 W., secs. 1 and 2.
T. 20 N., R. 11 W., secs. 1 to 23, inclusive, and secs. 28 to 30, inclusive.
T. 20 N., R. 12 W., secs. 1 to 6, inclusive.
T. 20 N., R. 13 W., secs. 1 to 10, inclusive, secs. 15 to 22, inclusive, and secs. 27 to 34, inclusive.
Tps. 20 N., Rs. 14 and 15 W., all.
T. 20 N., R. 16 W., secs. 1 to 18, inclusive, secs. 23 to 26, inclusive, and secs. 35 and 36.
T. 20 N., R. 17 W., secs. 1 to 23, inclusive, N½ sec. 26; secs. 27 to 33, inclusive, and W½ sec. 34.
T. 20 N., R. 18 W., all that part East of Lake Michigan.
T. 21 N., R. 10 W., secs. 2 to 11, inclusive, secs. 14 to 23, inclusive, and secs. 26 to 35, inclusive.
Tps. 21 N., Rs. 11, 12, 13, 14 and 15 W., all.
T. 21 N., R. 16 W., sec. 1; sec. 2 except lot 2; sec. 3 except lots 1, 2 and 4; sec. 4 except lot 3; secs. 9 to 16, inclusive; secs. 21 to 28, inclusive; and secs. 33 to 36, inclusive.
Tps. 22 N., Rs. 10, 11, 12 and 13 W., all.
T. 22 N., R. 14 W., secs. 1 to 5, inclusive, secs. 8 to 17, inclusive, secs. 19 to 36, inclusive.
T. 22 N., R. 15 W., secs. 19 to 36, inclusive.

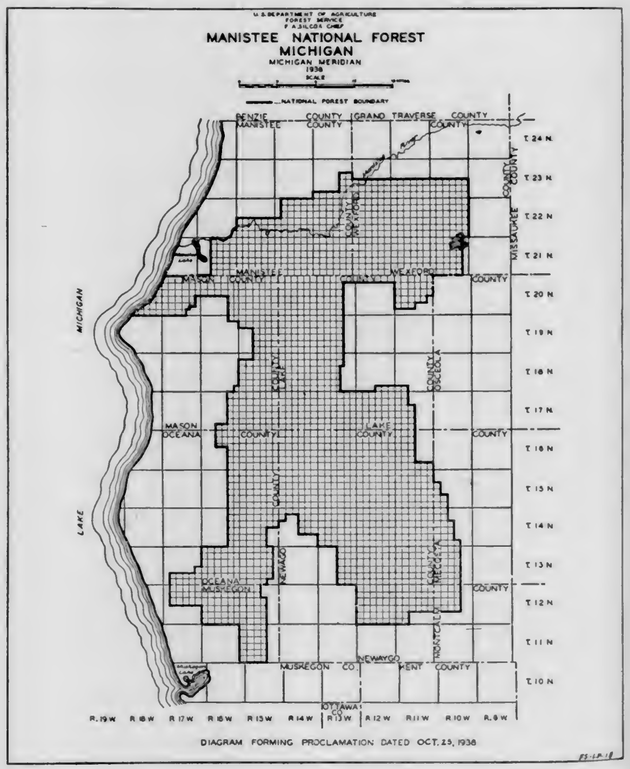


DIAGRAM FORMING PROCLAMATION DATED OCT. 25, 1938

T. 22 N., R. 16 W., lots 5, 6 and 7, and S½SE¼ sec. 25; lots 5 and 6 sec. 33; lot 4 sec. 34; lot 6 sec. 35; lots 1, 3 and 5. E½SW¼ and E½ sec. 36.
T. 23 N., R. 10 W., secs. 19 to 36, inclusive.
T. 23 N., R. 11 W., secs. 19 to 36, inclusive.
T. 23 N., R. 12 W., secs. 19 to 36, inclusive.
T. 23 N., R. 13 W., secs. 13 and 14, secs. 23 to 26, inclusive, and secs. 31 to 36, inclusive.

The reservation made by this proclamation shall as to all lands which are at this date legally appropriated under the public-land laws or reserved for any public purpose other than classification, be subject to and shall not interfere with or defeat legal rights under such appropriation, or prevent the use for such public purpose of lands so reserved, so long as such appropriation is legally maintained or such reservation remains in force.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 25th day of October in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2306]

[F. R. Doc. 38-3227; Filed, October 26, 1938; 1:09 p. m.]

ACKIA BATTLEGROUND NATIONAL MONUMENT—MISSISSIPPI

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 2 of the act of Congress entitled "An Act to provide for the commemoration of the two hundredth anniversary of the Battle of Ackia, Mississippi, and the establishment of the Ackia Battleground National Monument, and for other purposes", approved August 27, 1935 (49 Stat. 897), provides:

"That the Secretary of the Interior be, and he is hereby, authorized in his discretion to acquire, by purchase or by condemnation and/or accept by donation in behalf of the United States, such lands, easements, and buildings not to exceed fifty acres, and when title satisfactory to the Secretary of the Interior shall have been vested in the United States such area or areas shall be, upon proclamation of the President, established, dedicated, and set apart as a public monument for the benefit and enjoyment of the people and shall be known as the 'Ackia Battleground National Monument:' *Provided*, That such area shall include the site of the Battle of Ackia";

AND WHEREAS the Secretary of the Interior has caused title to certain lands in the State of Mississippi, aggregating 49.15 acres and including the site of the Battle of Ackia, to be vested in the United States of America:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, by virtue of and pursuant to the power in me vested by the said act of August 27, 1935, do proclaim that the following-described lands in Lee County, State of Mississippi, are hereby established, dedicated, and set apart, subject to an easement of the Tennessee Valley Authority in and to an established electric transmission line, as the Ackia Battleground National Monument:

Beginning at a point which lies north 41 degrees 03 minutes east 138.53 feet from the quarter section corner between sections 23 and 26, T. 9 S., R. 5 E., of the Chickasaw Meridian; thence north 80 degrees 03 minutes east 1166.0 feet to a point; thence south 55 degrees 10 minutes east 300.94 feet to a point; thence south 55 degrees 12 minutes east 479.8 feet to a point; thence south 29 degrees 45 minutes west 695.31 feet to a point; thence south 60 degrees 21 minutes west 933.6 feet to a point; thence north 64 degrees 26 minutes west 1236.0 feet to a point; thence north 31 degrees 49 minutes east 912.75 feet to the place of beginning, containing 49.15 acres of land and being parts of sections 23 and 26 T. 9 S., R 5 E., of the Chickasaw Meridian, County of Lee, State of Mississippi.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of the monument as provided in the act of Congress entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535, U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 25th day of October in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2307]

[F. R. Doc. 38-3228; Filed, October 26, 1938; 1:10 p. m.]

Rules, Regulations, Orders

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

RESTRICTED AREA IN ST. PETERSBURG HARBOR, FLORIDA, FOR THE MANEUVERING OF SEAPLANES AND RULES AND REGULATIONS RELATING THERETO

THE LAW

Section 7 of the River and Harbor Act of August 8, 1917, provides as follows:

That it shall be the duty of the Secretary of War to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding $500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

In pursuance of the foregoing law, a portion of St. Petersburg Harbor, Florida, is hereby defined and established as a restricted area for the maneuvering of seaplanes, and the following rules and regulations relating thereto are hereby adopted:

THE AREA

1. Adjacent to the U. S. Coast Guard Air Station in the easterly portion of the turning basin known as the Port of St. Petersburg at St. Petersburg, Florida, commencing at point, being the intersection of the easterly end of the concrete bulkhead along the northerly side of the Port of St. Petersburg with the northerly end of the steel bulkhead along the easterly side of said port; thence S. 62°30′ W., 450 feet; thence S. 27°30′ E., 600 feet; thence N. 62°30′ E., 450 feet to the steel bulkhead on the east side of the said Port of St. Petersburg; thence along the said steel bulkhead N. 27°30′ W., 600 feet to the point and place of beginning.

2. The area is marked at its northwesterly and southwesterly corners by yellow conical seaplane anchorage buoys projecting approximately one foot above water, and at the northeasterly and southeasterly corners at the steel bulkhead, by white signs 2′ x 3′ in size, containing the word "Warning", and copies of these rules and regulations. The buoys and signs will not be lighted.

3. The ramp of the U. S. Coast Guard Station is located in the center of the

easterly side of the above-described area and is marked by two green lights 40 feet apart on each side, about three feet above mean high water and about 20 feet westerly of and parallel to the easterly boundary of the area.

THE RULES AND REGULATIONS

1. No vessels shall anchor within this area.

2. No vessels of less than five gross tons shall come within the limits of this area, and other vessels crossing the area shall proceed with the greatest possible dispatch.

NOTE.—Complaints arising under these regulations should be addressed to the Engineer in Local Charge, United States Engineer Suboffice, Tampa, Florida.

Approved, October 17, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-3230; Filed, October 27, 1938; 10:02 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF STATISTICAL REPORTS OF PIPE LINE COMPANIES

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 20th day of October, A. D. 1938.

The subject of statistical reports of pipe line companies being under consideration:

It is ordered, That each and every pipe line company subject to the provisions of Section 20 of the Interstate Commerce Act, if it has had annual operating revenues of more than $500,000 for the three consecutive calendar years prior to the period for which the report hereinafter mentioned is rendered, shall and is hereby required to make a report every three months of its total transportation revenue and total number of barrels of oil originated and received from connections, in accordance with the attached quarterly form [1] which is made a part of this order.

It is further ordered, That each said quarterly report shall be filed in duplicate in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., within thirty days after the close of the period to which it relates, the first report to be for the three months ended September 30, 1938.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3233; Filed, October 27, 1938; 12:17 p. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

ORDER IN THE MATTER OF STATISTICAL REPORTS OF CARRIERS BY WATER

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 20th day of October, A. D. 1938.

The subject of statistical reports of carriers by water being under consideration:

It is ordered, That each and every carrier by water subject to the provisions of Section 20 of the Interstate Commerce Act, if it has had annual operating revenues of more than $500,000 for the three consecutive calendar years prior to the period for which the report hereinafter mentioned is rendered, shall and is hereby required to make a report every three months of its total freight and passenger revenue separately, the total number of tons of freight carried, and the number of passengers carried, in accordance with the attached quarterly form [1] which is made a part of this order.

It is further ordered, That each said quarterly report shall be filed in duplicate in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., within thirty days after the close of the period to which it relates, the first report to be for the three months ended September 30, 1938.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3234; Filed, October 27, 1938; 12:17 p. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[2] Modifies list posted stockyards 9 CFR 13.034.

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT [2]

OCTOBER 26, 1938.

To FRED SNYDER, *Doing Business as Snyder Livestock Market, Lubbock, Tex.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Snyder Livestock Market, at Lubbock, State of Texas, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3231; Filed, October 27, 1938; 12:08 p. m.]

NOTICE UNDER PACKERS AND STOCKYARDS ACT [1]

OCTOBER 26, 1938.

To J. M. MULLINS, CLAUDE KEETON, and H. G. LAWSON, *Doing Business as Lubbock Auction & Commission Company, Lubbock, Tex.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Lubbock Auction & Commission Company, at Lubbock, State of Texas, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3232; Filed, October 27, 1938; 12:08 p. m.]

[1] Modifies list posted stockyards 9 CFR 13.034.

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 25-401 (E)-1]

INTER-ISLAND AIRWAYS, LTD., APPLICATION FOR A PERMANENT CERTIFICATE OF CONVENIENCE AND NECESSITY UNDER SECTION 401 (e) OF THE CIVIL AERONAUTICS ACT OF 1938, FOR THE TRANSPORTATION OF MAIL, PASSENGERS AND PROPERTY BY SCHEDULED AIR SERVICE BETWEEN HONOLULU, OAHU AND HILO, HAWAII, HONOLULU, OAHU AND PORT ALLEN, KAUAI, AND HONOLULU AND OAHU AND MAUI

OCTOBER 26, 1938.

The above entitled proceeding is assigned for public hearing on November 5, 1938, 10 o'clock a. m. (eastern standard time), at the office of the Civil Aeronautics Authority (Hearing Room No. 2062), Washington, D. C., before Examiner R. J. Bartoo.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3229; Filed, October 27, 1938; 9:55 a. m.]

Terence

OCT 31 '38

THE NATIONAL ARCHIVES

FEDERAL REGISTER

VOLUME 3 NUMBER 212

Washington, Saturday, October 29, 1938

The President

EXECUTIVE ORDER

ESTABLISHING GREAT WHITE HERON REFUGE

FLORIDA

By virtue of and pursuant to the authority vested in me as President of the United States and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all surveyed and unsurveyed islands and parts of islands belonging to, or to be acquired by, the United States of America, lying and being in the Gulf of Mexico and within the following-described area, be, and they are hereby, withdrawn from settlement, location, sale, or entry, and reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as a refuge and breeding ground for great white herons, other migratory birds, and other wildlife: *Provided*, That any public lands within the area described shall become a part of the refuge hereby established upon the termination of any private right thereto or appropriation thereof: *Provided further*, That any private lands within the area described shall become a part of the refuge hereby established upon the acquisition of title thereto or control thereof by the United States:

TALLAHASSEE MERIDIAN

T. 66 S., R. 25 E., all;
T. 67 S., R. 25 E., secs. 1 to 18, inclusive;
T. 66 S., R. 26 E., all;
T. 67 S., R. 26 E., secs. 1 to 11, inclusive; secs. 16 to 18, inclusive; sec. 20;
T. 65 S., R. 27 E., all;
T. 66 S., R. 27 E., secs. 1 to 21, inclusive, sec. 24, and secs. 29 to 31, inclusive;
T. 65 S., R. 28 E., all;
T. 66 S., R. 28 E., E½ sec. 1; W½ sec. 2; secs. 3 to 8, inclusive, and sec. 18;
T. 65 S., R. 29 E., all;
T. 66 S., R. 29 E., secs. 1 to 3, inclusive, and secs. 5, 6, 11, 12, and 14;
T. 65 S., R. 30 E., secs. 13 to 36, inclusive;
T. 66 S., R. 30 E., secs. 1 to 10, inclusive;
T. 65 S., R. 31 E., all.

The reservation made by this order supersedes the withdrawals made by Executive Orders Nos. 4109 of December 8, 1924, and 6964 of February 5, 1935, as amended, insofar as such withdrawals affect the above-described lands.

This reservation shall be known as the Great White Heron Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Oct. 27 1938

[No. 7993]

[F. R. Doc. 38-3244; Filed, October 28, 1938; 12:23 p. m.]

EXECUTIVE ORDER

MODIFICATION OF OKEFENOKEE WILDLIFE REFUGE

GEORGIA

By virtue of the authority vested in me as President of the United States, it is ordered that the Okefenokee Wildlife Refuge in Georgia, established by Executive Order No. 7593 of March 30, 1937 (2 F. R. 627),[1] be, and it is hereby, modified by excluding therefrom the following-described lands:

WARE COUNTY, GEORGIA

8th District

Lots 433, 434, 435, 436, 437, 440, 441, and 442;

9th District

Lots 19 and 20.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 27, 1938.

[No. 7994]

[F. R. Doc. 38-3245; Filed, October 28, 1938; 12:23 p. m.]

[1] 2 F. R. 627 (739 DI).

CONTENTS

THE PRESIDENT

Executive Orders: Page
Florida, establishing Great White Heron Refuge 2581
Georgia, modification of Okefenokee Wildlife Refuge 2581

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Farm Credit Administration:
Federal Land Bank of New Orleans, partial release fees 2582
TITLE 17—COMMODITIES AND SECURITIES EXCHANGES:
Securities and Exchange Commission:
Securities Act of 1933:
Instruction book for Form A-2, extension of Amendment 32 2582
Rule S-210, extension of 2582
TITLE 18—CONSERVATION OF POWER:
Federal Power Commission:
Annual financial and statistical report, F. P. C. Form No. 1, revised schedules and instructions 2582

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Hart, Schaffner & Marx, and Wallach's, Inc 2584
Hearn Department Stores, Inc 2583
Miller Growers Association, et al 2584
Saks and Co 2583
Schottland, A., Inc., and Valmor Undergarment Co 2583
Securities and Exchange Commission:
Notice of and orders for hearings:
Associated Electric Co., Central U. S. Utilities Co 2585

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission—Continued.
Notice of and orders for hearings—Continued. Page
Consumers Power Co., Cities Service Power & Light Co., and Commonwealth & Southern Corp. 2584
Utility Management Corp. 2584
York Railways Co., Edison Light and Power Co., time extended for filing requests for findings and briefs. 2584

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 105]

THE FEDERAL LAND BANK OF NEW ORLEANS

PARTIAL RELEASE FEES

Section 25.2 of Title 6, Code of Federal Regulations, is amended to read as follows:

"SEC. 25.2 *Partial release fees.*—A charge of $5.00 is made on each application for the release of land, sand, gravel, clay, and other minerals from the operation of any Federal Land Bank or Land Bank Commissioner mortgage, and on each application for the subordination of any such mortgage to an oil and gas lease or a mineral sale. This fee should accompany the application.

If it is necessary for the loan security to be appraised, there will be charged the actual cost of appraisal which is based on a charge of $2.00 per hour for the time required to inspect the property and prepare the appraisal report.

No additional fee will be required on such applications involving joint Federal Land Bank and Land Bank Commissioner loans.

(Sec. 13 'Ninth', 39 Stat. 372, 12 U. S. C. 781 'Ninth'; Sec. 32, 48 Stat. 48, as amended, 12 U. S. C. 1016; Sec. 1, 43 Stat. 344, 12 U. S. C. 1020; Sec. 2, 48 Stat. 345, 12 U. S. C. 1020a.) [Res. Ex. Comm., June 2, 1938.]"

[SEAL] THE FEDERAL LAND BANK OF NEW ORLEANS,
By R. L. THOMPSON, *President*.

[F. R. Doc. 38-3243; Filed, October 28, 1938; 11:37 a. m.]

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

EXTENSION OF RULE S-210

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, particularly Sections 3 (b) and 19 (a) thereof [C. 38, sec. 3, 48 Stat. 75; c. 404, sec. 202, 48 Stat. 906; c. 498, sec. 214, 49 Stat. 557; 15 U. S. C., 77c and Sup. III: C. 38, sec. 19, 48 Stat. 85; c. 404, sec. 209, 48 Stat. 908; 15 U. S. C. 77s], and finding that registration of the class of securities specified in Rule S-210 [1] [Sec. 5. S-210] of Regulation A, when sold in conformity with the terms and conditions prescribed therein, is not necessary in the public interest or for the protection of investors by reason of the small amounts involved and the limited character of the public offerings, and finding the temporary extension of such rule to be necessary and appropriate in the public interest and for the protection of investors and necessary to carry out the provisions of the Act, hereby takes the following action:

Rule S-210 [Sec. 5.S-210] as adopted and published on April 22, 1938, is hereby continued in effect until the close of business on February 28, 1939. In the absence of further action by the Commission, such rule shall cease to be effective after February 28, 1939, except as to any offering commenced on or before that date.

The foregoing action of the Commission shall be effective immediately upon publication.[2]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3235; Filed, October 27, 1938; 4:18 p. m.]

[1] 3 F. R. 943 DI.
[2] October 27, 1938.

SECURITIES ACT OF 1933

EXTENSION OF AMENDMENT NO. 32 TO INSTRUCTION BOOK FOR FORM A-2

The Securities and Exchange Commission, finding that any information or documents specified in Schedule A [C. 38, Schedule A, 48 Stat. 88; 15 U. S. C. 77aa] of the Securities Act of 1933, as amended, which Form A-2 [Sec. 6.A-2] and the book of instructions accompanying that form, as amended, do not require to be set forth, are inapplicable to the class of securities to which such form is appropriate, and that disclosure fully adequate for the protection of investors is otherwise required to be included in the registration statement, and that such information and documents as Form A-2 [Sec. 6.A-2] and the accompanying book of instructions, as amended, require to be set forth, but which are not specified in Schedule A [C. 38, Schedule A, 48 Stat. 88; 15 U. S. C. 77aa], are necessary and appropriate in the public interest and for the protection of investors, and finding the temporary extension of Amendment No. 32 to the instruction book to Form A-2 [1] [Sec. 6.A-2] to be necessary and appropriate in the public interest and for the protection of investors and necessary to carry out the provisions of the Act, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Sections 7 and 19 (a) thereof [C. 38, sec. 7, 48 Stat. 78; 15 U. S. C. 77g: c. 38, sec. 19, 48 Stat. 85; c. 404, sec. 209, 48 Stat. 908; 15 U. S. C. 77s], hereby takes the following action:

Amendment No. 32 to the instruction book for Form A-2 [Sec. 6.A-2], as adopted and published on April 22, 1938, is hereby continued in effect until the close of business on February 28, 1939. In the absence of further action by the Commission, such amendment shall cease to be effective after February 28, 1939.

The foregoing action of the Commission shall be effective immediately upon publication.[2]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3236; Filed, October 27, 1938; 4:18 p. m.]

TITLE 18—CONSERVATION OF POWER

FEDERAL POWER COMMISSION

ORDER PRESCRIBING REVISED SCHEDULES AND INSTRUCTIONS AS PART OF ANNUAL FINANCIAL AND STATISTICAL REPORT, F. P. C. FORM NO. 1

OCTOBER 22, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly. John W. Scott not participating.

The Federal Power Commission, pursuant to authority granted by the Federal Power Act, particularly Sections 309 and 311 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act,

(1) Hereby adopts as a part of the form of Annual Financial and Statistical Report, heretofore (on August 6, 1937) adopted by the Commission and designated as F. P. C. Form No. 1, the accompanying revised schedules [1] designated Schedules 104, 109, 227, 285, 320, 514, 575 and 588 in lieu of schedules bearing the same numbers as adopted by the Commission's order of August 6, 1937;

(2) Hereby adopts as a part of said form of Annual Financial and Statistical Report, F. P. C. Form No. 1, the accompanying Rates and Sales Section [1] comprising

SECTION 6: Rates and Sales Section with instructions and subdivisions numbered 600, 601, 602, 603, 604 and 605

in lieu of the Rates and Sales Section of said Annual Financial and Statistical Report, F. P. C. Form No. 1, adopted by the Commission's order of October 12, 1937, comprising

SECTION 6: Rates and Sales Section with instructions and subdivisions numbered 600, 601, 602, 603, 604, 605, 606, 607, 608, 609 and 610;

(3) Hereby adopts as a part of said form of Annual Financial and Statistical Report, F. P. C. Form No. 1, the accompanying revised instruction page [1] entitled "Instructions for the Preparation of Schedules for Licensed Projects" in lieu of the instruction page entitled "Instructions for the Preparation of Schedules for Licensed Projects," adopted by the Commission's order of October 12, 1937.

By the Commission.

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3237; Filed, October 28, 1938; 9:19 a. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Federal Power Commission.

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3276]

IN THE MATTER OF A. SCHOTTLAND, INC., A CORPORATION, AND VALMOR UNDERGARMENT COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, November 4, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, Judge's Chambers, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3241; Filed, October 28, 1938; 10:00 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3453]

IN THE MATTER OF HEARN DEPARTMENT STORES, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 7, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in room 2301, Judge's Chambers, United States Court House, Foley Square, New York City.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3238; Filed, October 28, 1938; 9:59 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3456]

IN THE MATTER OF SAKS AND COMPANY, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 9, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 2301, Judge's Chambers, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3239; Filed, October 28, 1938; 9:59 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3560]

IN THE MATTER OF HART, SCHAFFNER & MARX, AND WALLACH'S, INC., CORPORATIONS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 10, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 2301, Judge's Chambers, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3240; Filed, October 28, 1938; 9:59 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3573]

IN THE MATTER OF MILLER GROWERS ASSOCIATION, A CORPORATION, AND BENJAMIN MILLER AND LEAH MILLER, PARTNERS, TRADING AS MILLER GROWERS ASSOCIATION; AND MINERVA MILLER

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 2, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 2301, Judge's Chambers, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3242; Filed, October 28, 1938; 10:00 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of October, A. D. 1938.

[File Nos. 31-433, 31-432]

IN THE MATTER OF YORK RAILWAYS COMPANY, EDISON LIGHT AND POWER COMPANY

ORDER EXTENDING TIME FOR FILING REQUESTS FOR FINDINGS AND BRIEFS

The hearing with respect to the above entitled matters having been closed on October 22, 1938; and

Counsel for the applicants, York Railways Company and Edison Light and Power Company, having by letter intended to be dated October 25, 1938, but inadvertently dated December 25, 1938 and received by the Commission October 27, 1938 requested that the time of said applicants for filing requests for specific findings of fact be extended until November 8, 1938; and

The Commission having duly considered the matter and being fully advised in the premises;

It is ordered, That the time of each party for the filing of requests for specific findings and a brief in support thereof as provided in paragraph (e) of Rule IX of the Rules of Practice of the Commission be and it hereby is extended to and including November 8, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3249; Filed, October 28, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[File No. 37-28]

IN THE MATTER OF THE UTILITY MANAGEMENT CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 21, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 16, 1938.

The matter concerned herewith is in regard to an application for approval as a mutual service company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3248; Filed, October 28, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[File Nos. 47-28 and 57-3]

IN THE MATTER OF CONSUMERS POWER COMPANY, CITIES SERVICE POWER & LIGHT COMPANY, AND THE COMMONWEALTH & SOUTHERN CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to section 10 and Rule U-12D-1, and a declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on November 15, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 10, 1938.

The matter concerned herewith is in regard to a proposed acquisition by the applicant and declarant, Consumers Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, of utility assets and other interests from The Citizens Light & Power Company, a subsidiary of Cities Service Power & Light Company, a registered holding company. In connection therewith, Consumers Power Company has filed an application under Section 10 of the Act, and Cities Service Power & Light Company has filed an application under Rule U-12D-1. In connection with the proposed acquisition, Consumers Power Company proposes to issue First Mortgage Bonds in the principal amount of $2,000,000 and common stock in the amount of $1,200,000, and has filed a declaration under Section 7 of the Act.

The declarant, Consumers Power Company, states that the First Mortgage Bonds are to be issued privately or publicly, at an interest rate and maturity as yet not determined. The declarant, Consumers Power Company, states that the common stock is to be issued to its parent company, The Commonwealth & Southern Corporation. The Commonwealth & Southern Corporation has, in this connection, filed an application under Section 10 of the Act.

The properties to be acquired by the applicant and declarant, Consumers Power Company, from The Citizens Light & Power Company consist of electric distribution, transmission and generating facilities and steam heating properties in, and in the vicinity of the Cities of Adrian and Morenci, Michigan. The applicant and declarant, Consumers Power Company, has agreed to pay the vendor, The Citizens Light and Power Company, upon tender and delivery of deeds to and conveyances of the properties, the sum of $3,175,000, plus the cost of the net property additions made to the properties subsequent to June 30, 1938 by the vendor to and including September 30, 1938, amounting to $15,443.13 and plus the cost of net property additions from September 30, 1938 to date of closing, estimated at $10,000, making the sum approximately $3,200,000 to be paid in cash for the said physical property.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3246; Filed, October 28, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[File No. 56-14]

IN THE MATTER OF ASSOCIATED ELECTRIC COMPANY, CENTRAL U. S. UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to Rule U-12D-1 promulgated under the Public Utility Holding Company Act of 1935, having been duly filed with this Commision by the above-named parties;

It is ordered, That a hearing on such matter be held on November 3, 1938, at 11:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declarations shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 3, 1938.

The matter concerned herewith is in regard to the filing of an application pursuant to Rule U-12D-1 by Associated Electric Company and Central U. S. Utilities Company, both registered holding companies, in connection with the proposed pledge by Pennsylvania Investing Corporation, a direct subsidiary of Central U. S. Utilities Company and an indirect subsidiary of Associated Electric Company, of $7,256,600 of First and Refunding Mortgage 5% Bonds due May 1, 1954, of Kentucky-Tennessee Light and Power Company as security for a proposed $750,000, 4¼%, promissory note of that company to The First National Bank of Boston. It appears that the matters involved are intimately connected with those involved in a declaration heretofore filed by Kentucky-Tennessee Light and Power Company (File No. 43-159) in regard to the proposed issue and sale by it on or before November 14, 1938 to The First National Bank of Boston of its $750,000, 4¼%, promissory note on which a hearing has been ordered for November 3, 1938, at 11:00 o'clock before Charles S. Lobingier. It appears that it is desirable that both such declaration and the present application be heard together.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3247; Filed, October 28, 1938; 12:51 p. m.]

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evidence in this proceeding and to perform all other duties authorized by law; | on the 28th day of October, A. D. 1938. | Holding Company Act of 1935, [illegible]

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FEDERAL REGISTER

VOLUME 3 NUMBER 213

Washington, Tuesday, November 1, 1938

The President

OUACHITA NATIONAL WILDLIFE PRESERVE—ARKANSAS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS by proclamation of March 8, 1935 (49 Stat. 3439), certain lands of the United States within the Ouachita National Forest, Arkansas, were designated as the "Muddy Creek Refuge"; and

WHEREAS it appears that it would be in the public interest to enlarge the said refuge, and to change the name thereof to "Ouachita National Wildlife Preserve":

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the act of June 13, 1933, 48 Stat. 128 (U. S. C., title 16, sec. 693), and upon recommendation of the Secretary of Agriculture, do proclaim that the said Muddy Creek Refuge is hereby enlarged so that it shall include and be composed of the area within the following-described boundaries, and that such refuge shall hereafter be known as the "Ouachita National Wildlife Preserve":

Beginning at a point on the south line of Sec. 25, T. 2 N., R. 27 W., 5th P. M., where the east line of the right-of-way of Highway No. 28 intersects this section line approximately 30 chains west of the southeast corner of said section 25; thence in a northeasterly direction, following the east line of the right-of-way of Highway No. 28, approximately a third of a mile, to its intersection with Hurricane Ridge Road, which branches off to the east; thence in a northeasterly direction, following the south line of right-of-way of Hurricane Ridge Road, approximately five miles, to its intersection with the east line of SW¼SW¼, section 12, T. 2 N., R. 26 W; thence south to the south line of said section 12 and continuing south 5 chains into section 13, T. 2 N., R. 26 W.; thence east 20 chains; thence north 5 chains to the north line of said section 13; thence east along this section line 20 chains; thence north approximately 23 chains to the south line of the right-of-way of Little Texas Road; thence northeasterly, following the south line of said right-of-way approximately five miles to its intersection with West Gafford Creek near the east line of section 2, T. 2 N., R. 25 W.; thence following up west bank of West Gafford Creek in a southerly direction approximately 2 miles to a branch entering West Gafford Creek from the east in the NW¼NW¼, section 13, T. 2 N., R. 25 W.; thence in an easterly direction, following the south bank of said branch approximately 2½ miles to its source and continuing approximately ¼ mile to the hydrographic divide between West Gafford Creek and Gafford Creek in the SE¼ of section 8, T. 2 N., R. 24 W.; thence in a southwesterly direction approximately 4 miles along the top of said divide to the section line between sections 35 and 36, T. 2 N., R. 25 W.; thence south approximately ½ mile along said section line, to the southeast corner of section 35; thence continuing south on the section line between sections 1 and 2, T. 1 N., R. 25 W., to the SE corner of section 2; thence east approximately 2⅓ miles along section lines between sections 1 and 12, T. 1 N., R. 25 W., and sections 6 and 7 and 5 and 8, T. 1 N., R. 24 W., to the first hydrographic divide east of Ritter Creek; thence in a southeasterly direction, following said divide, approximately ½ mile to the summit of Muddy Creek Mountain; thence following the divide of Muddy Creek Mountain in a northeasterly direction, to its summit at Lone Pine Lookout Tower in NW¼, section 2, T. 1 N., R. 24 W.; thence, in a southeasterly direction, along the first hydrographic divide north of Muddy Creek leading from Muddy Creek Mountain approximately 1¼ miles to the section line between sections 11 and 12, T. 1 N., R. 24 W.; thence south along said section line and the section line between sections 13 and 14, said township approximately one mile, to the hydrographic divide to the south of Muddy Creek; thence in a southwesterly direction along said divide,

CONTENTS

THE PRESIDENT

	Page
Proclamations:	
Arkansas, Muddy Creek Refuge enlarged and designated Ouachita National Wildlife Preserve	2587
Postage rates, modification of	2588
RULES, REGULATIONS, ORDERS	
TITLE 6—AGRICULTURAL CREDIT:	
Commodity Credit Corporation:	
1938–39 Cotton Circular Letter No. 1	2593
Loans to cotton producers on notes secured by cotton warehouse receipts	2589
1938 Wheat Circular Letter:	
No. 2	2589
No. 3	2592
No. 4	2592
No. 5	2592
No. 6	2593
No. 7	2594
1938 Wool Circular Letter, No. 4	2594
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Agricultural conservation program bulletin, 1938, Supplement No. 16	2594
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:	
Bureau of Animal Industry:	
Hides, skins, etc., offered for entry into United States, handling and control of	2595
TITLE 16—COMMERCIAL PRACTICES:	
Federal Trade Commission:	
Webb Crawford Co., et al, cease and desist order	2595
TITLE 31—MONEY AND FINANCE: TREASURY:	
Accounts and Deposits:	
Corporations acceptable as sureties on Federal bonds	2596
TITLE 43—PUBLIC LANDS:	
General Land Office:	
Stock driveway withdrawal No. 253, Idaho No. 19	2597

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 43—PUBLIC LANDS—Contd. Page
Reclamation Bureau:
Orland Irrigation Project, Calif., public notice of annual water charges 2597

NOTICES

Civil Aeronautics Authority:
Continental Air Lines, Inc., hearing on application for permanent certificate of public convenience and necessity 2598
Department of Agriculture:
Bureau of Animal Industry:
Notices under Packers and Stockyards Act:
Amarillo Livestock Sales Co 2598
Clovis Livestock Sales Co 2598
Kissimmee Livestock Market Inc 2598
Department of the Interior:
National Bituminous Coal Commission:
Districts No. 9–15, separation and postponement of hearings, minimum prices and marketing rules 2597
Federal Trade Commission:
National Guard Equipment Co. (Louis Cohen, also known as Louis Kahn), order appointing examiner, etc 2598
Rural Electrification Administration:
Allocation of funds for loans 2599
Securities and Exchange Commission:
Arkansas Western Gas Co., hearing 2601

CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Dayton Power and Light Co., Columbia Gas & Electric Corp., application granted 2600
Republic Electric Power Corp., et al, plan approved; effectiveness of declarations and applications 2600
Union Electric Co. of Missouri, hearing 2602
Virginia Public Service Co., issue and sale of bonds 2599
Order making documents part of record 2599
War Department:
Chaplains in Regular Army, appointment of 2597

approximately 5 miles to the approximate center of section 32, T. 1 N., R. 24 W., where this divide intersects a divide running northwest and dividing Muddy Creek at the north from Wheat Creek to the south; thence following this divide in a northwesterly direction approximately one mile to the north and south quarter-section line of section 31, near its north quarter-section corner; thence in a southwesterly direction, following a short ridge approximately ½ mile to the west line of section 31, T. 1 N., R. 24 W.; thence south, with the west line of section 31 to the SW corner of said section; thence west with the south lines of T. 1 N., R. 25 W., and T. 1 N., R. 26 W., to the SW corner of section 35, T. 1 N., R. 26 W.; thence north with the west line of section 35 to the hydrographic divide south of West Fiddler's Creek; thence in a westerly direction following the hydrographic divide south of West Fiddler's Creek, approximately 2½ miles to the junction of Forester Road and U. S. Highway No. 270 in the SW¼, section 4, T. 1 S., R. 26 W.; thence in a northerly direction, following the east line of the right-of-way of Forester Road approximately 7 miles to its junction with East Cedar Road in the NE¼, section 7, T. 1 N., R. 26 W.; thence in an easterly direction, following the south line of the right-of-way of East Cedar Road approximately ¼ mile to its intersection with the east section line of said section 7; thence north along this section line to the NE corner of section 6; thence east 2.89 chains to the SW corner of section 32, T. 2 N., R. 26 W.; thence north to the NW corner of said section 32; thence west along the south section line of section 30, T. 2 N., R. 26 W., and the south section line of section 25, T. 2 N., R. 27 W., to the place of beginning; containing 78,000 acres, more or less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 29th day of October in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2308]

[F. R. Doc. 38-3280; Filed, October 31, 1938; 12:51 p. m.]

MODIFICATION OF POSTAGE RATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS I find after survey that the interests of the public, in the promotion of the cultural growth, education, and development of the American people, require that the postage rates on books of the class hereinafter described be modified:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States, under and by virtue of the authority vested in me by section 2 of the act of June 16, 1933, 48 Stat. 254, as amended by section 515 of title III of the act of May 10, 1934, 48 Stat. 760, Public Resolution 36, approved June 28, 1935, 49 Stat. 431, and Public Resolution 48, approved June 29, 1937, 50 Stat. 358, do proclaim that the postage rate on books consisting wholly of reading matter and containing no advertising matter other than incidental announcements of books, when mailed under such regulations as the Postmaster General shall prescribe, shall be for the period commencing November 1, 1938, and ending June 30, 1939, one and one-half cents a pound or fraction thereof, irrespective of the zone of destination.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 31st day of October, in the year [SEAL] of our Lord nineteen hundred and thirty-eight and of the Independence of the United States of America the one-hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2309]

[F. R. Doc. 38-3281; Filed, October 31, 1938; 12:51 p. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

1938 WHEAT CIRCULAR LETTER NO. 2

SUPPLEMENTAL INSTRUCTIONS

AUGUST 27, 1938.

The Instructions (1938 CCC Wheat Form 1)[1] issued by Commodity Credit Corporation for the 1938 wheat loan program are hereby amended and supplemented.

Commodity Credit Corporation will make loans on eligible wheat stored on farms in the following counties in New Mexico:

San Juan, Taos and Rio Arriba, and that portion of Colfax County lying west of the west boundary of Township 22 East, New Mexico Principal Meridian in the state of New Mexico.

Subsection (a) of Section 3 of said Instructions is hereby supplemented by adding the following basic loan value for wheat of the added grade and subclass at the terminal market indicated:

Market	Grade and subclass	Loan value per bushel
Minneapolis and Duluth, Minnesota, and Superior, Wisconsin.	No. 2 Hard White Wheat.	$0.75

Subsection (b) of Section 3 of said Instructions is hereby further amended by adding the following paragraph:

"The loan value of eligible wheat stored in approved subterminal warehouses which was shipped by rail may be determined by deducting from the appropriate designated terminal market loan value an amount equal to the transit balance of the through freight rate from point of origin for such wheat to such terminal market. Arrangements have been made for the railroads to indicate such balances on the inbound paid freight bills on a basis of 100 pounds. To obtain the loan value as determined above there must be attached to the warehouse receipts, representing eligible wheat, issued by approved subterminal warehouses, freight bills duly registered for transit privileges and bearing the stamped or typed notation over the signature of the station agent of the railroad as to the transit balance of the through freight applicable to such wheat to the appropriate designated terminal market. A notation substantially as follows will be sufficient:

"Balance through freight rate to ---------- is ---- cents per 100 pounds.
(Market)
(Railroad Company)
By ----------, Agent"

The foregoing shall apply to all approved warehouses that have executed the Terminal Warehouse Agreement (1938 CCC Wheat Form H) other than those situated in the designated terminal markets. Lending agencies may proceed with the making of loans on this basis. Information in regard to the appropriate designated terminal market may be obtained from the Loan Agencies of Reconstruction Finance Corporation.

Due to the refusal of warehousemen to issue insured warehouse receipts in the Pacific Northwest, Commodity Credit Corporation has obtained primary insurance on wheat stored in public warehouses in the states of California, Idaho, Oregon and Washington, which is pledged as security to notes held by Commodity Credit Corporation on 1938 CCC Wheat Form B. This insurance covers the risks of fire, lightning, explosion and windstorm, cyclone and tornado and attaches only on the making of loans or the purchase of paper by Commodity Credit Corporation. Lending agencies must carry their own insurance and no allowance will be made for such insurance on the purchase of notes. Wheat stored by warehousemen issuing insured warehouse receipts in the above states will not be covered by the primary insurance of Commodity Credit Corporation.

Terminal and subterminal warehousemen are advised that Commodity Credit Corporation will accept only the original, official inbound inspection certificates, or duplicates thereof, under Section 9 of the Instructions (1938 CCC Wheat Form 1).

[SEAL] JAS. A. COLE,
Special Assistant.

[F. R. Doc. 38-3254; Filed, October 29, 1938; 10:23 a. m.]

[C. C. C. Cotton Form 1, Instructions, 1938-39]

INSTRUCTIONS CONCERNING THE MAKING OF LOANS BY COMMODITY CREDIT CORPORATION TO COTTON PRODUCERS ON NOTES SECURED BY COTTON WAREHOUSE RECEIPTS

SEPTEMBER 1, 1938.

Commodity Credit Corporation has authorized the making of loans and the purchase of paper of producers of cotton, secured by pledge of cotton warehouse receipts. These instructions state the requirements with reference to making such loans and the purchase of such paper.

1. *Definitions.*—As used in these instructions, unless the context otherwise requires, the following terms will be construed respectively to mean:

(a) *Producer.*—Any person, partnership, association, or corporation producing cotton either as landowner, landlord, or tenant.

(b) *Cooperator.*—Any producer who has not knowingly planted, or caused or permitted the planting of cotton in 1938 on any farm in excess of the cotton acreage allotment established for the farm in connection with farm marketing quotas for cotton for the 1938–39 marketing year. All other producers are noncooperators.

(c) *Eligible cotton.*—Cotton produced in 1938 by a cooperator, of grade and staple as specified in section 3 hereof, the beneficial title to which is and always has been in the producer. That portion of the cotton produced by a noncooperator, meeting the requirements specified above, which if marketed would be subject to penalty provided in the Agricultural Adjustment Act of 1938.

(d) *Lending agency.*—Any bank, corporation, partnership, association, or person lending money to producers on 1938–39 C. C. C. Cotton Form A in accordance with these instructions (A Loan Agency of the Reconstruction Finance Corporation is not included within this definition.)

(e) *Eligible paper.*—Notes of producers with loan agreements upon 1938–39 C. C. C. Cotton Form A or any form hereafter approved by Commodity Credit Corporation dated subsequent to September 10, 1938, and prior to May 1, 1939, and executed in accordance with these instructions with State documentary revenue stamps affixed thereto where required by law. (Notes executed by an administrator, executor, or trustee will be acceptable only where valid in law, and all such notes must be submitted for direct loans in accordance with section 12 hereof.)

2. *Forms.*—The following documents must be delivered in connection with every loan made or note purchased by Commodity Credit Corporation:

(a) Note of producer (1938–39 C. C. C. Cotton Form A).

(b) Loan agreement (1938–39 C. C. C. Cotton Form A).

(c) Warehouse receipts complying with the provisions of section 8 hereof issued by an approved warehouse.

(d) Producer's Letter of Transmittal (1938–39 C. C. C. Cotton Form B) or Lending Agency's Letter of Transmittal (1938–39 C. C. C. Cotton Form C).

(e) Certificate of classing complying with the provisions of section 4 hereof.

3. *Amount.*—Loans to cooperators will be made on the basis of the rates shown in the following schedule and loans to noncooperators will be made on the basis of 60% of such rates. Loans will not be made on grades of cotton not shown below, or on Irrigated Cotton less than 1 1/16 inch staple length. The rates shown below are expressed in cents per pound of cotton.

[1] 3 F. R. 1997 DI.

Loan rates applicable for all growths of American upland cotton except irrigated cotton

Grade	Length of staple					
	1 3/16"	7/8" and 29/32"	15/16" and 31/32"	1" and 1 1/32"	1 1/16" and 1 3/32"	1 1/8" and longer
White and extra white:						
Good middling and better	7.80	8.80	9.10	9.40	9.80	10.75
Strict middling	7.60	8.60	8.90	9.20	9.65	10.60
Middling	7.20	8.30	8.60	8.90	9.30	10.20
Strict low middling	6.40	7.70	8.00	8.30	8.55	8.95
Low middling	5.30	6.70	6.90	7.10	7.20	7.40
Spotted:						
Good middling	7.30	8.30	8.65	8.90	9.20	9.80
Strict middling	7.10	8.10	8.45	8.75	9.05	9.40
Middling	6.30	7.50	7.90	8.15	8.40	8.70
Tinged:						
Good middling	6.50	7.80	7.95	8.20	8.40	8.90
Strict middling	6.20	7.50	7.75	7.95	8.20	8.65
Yellow stained:						
Good middling	5.40	6.80	7.10	7.30	7.50	7.70
Gray:						
Good middling	6.50	7.70	7.90	8.10	8.30	8.90
Strict middling	6.30	7.50	7.70	7.90	8.10	8.60

Loan rates applicable to irrigated cotton grown in western Texas, New Mexico, Arizona, and California

Grade	Length of staple			
	15/16" and 31/32"	1" and 1 1/32"	1 1/16" and 1 3/32"	1 1/8" and longer
White and extra white:				
Good middling and better	8.85	9.25	9.50	9.70
Strict middling	8.75	9.15	9.40	9.60
Middling	8.45	8.75	9.00	9.20
Strict low middling	7.40	7.50	7.70	7.85
Low middling	None	None	None	None
Spotted:				
Good middling	7.60	7.70	7.80	7.85
Strict middling	7.50	7.60	7.70	7.75
Middling	6.85	6.95	7.00	7.00
Tinged:				
Good middling	None	None	None	None
Strict middling	None	None	None	None
Yellow stained:				
Good middling	None	None	None	None
Gray:				
Good middling	None	None	None	None
Strict middling	None	None	None	None

4. *Classification of cotton.*—Commodity Credit Corporation will accept as evidence of the grade and staple of cotton:

(a) The classification shown on the warehouse receipt of a warehouseman licensed under the United States Warehouse Act; or

(b) A Form A, Classification Memorandum of the United States Department of Agriculture; or

(c) A Form 1, Classification Memorandum of the United States Department of Agriculture; or

(d) A Federally Licensed Cotton Classifier's Certificate.

Section 9 of the Loan Agreement (1938 C. C. C. Cotton Form A) provides for a deduction of five cents per bale from the loan proceeds. The funds derived from this source will be used to supervise the classing of the pledged cotton. The payee named in the note should withhold an amount equal to five cents per bale for all pledged cotton, and such amount will be deducted by Commodity Credit Corporation at the time of purchase of notes from lending agencies.

5. *Preparation of documents.*—A producer desiring a loan upon eligible cotton may obtain the necessary forms from any county Agricultural Conservation Committee in the cotton-producing areas, also from the Loan Agencies of the Reconstruction Finance Corporation listed in section 16 of these instructions. Such forms may also be obtained from Commodity Credit Corporation, Washington, D. C. The forms are identified and no reprints or substitutes may be used.

All blanks in both the note and loan agreement must be filled in with ink, indelible pencil, or typewriter in the manner indicated therein, and no documents containing additions, alterations, or erasures will be acepted by Commodity Credit Corporation. Only the white copy of the note and loan agreement marked *original* is to be executed; the colored copy marked *duplicate* is to be returned by the producer.

6. *Determination of cooperators or non-cooperators.*—As evidence that the producer is a cooperator, Commodity Credit Corporation will accept the certificate of the payee named in the note as provided in the "Payee's Certificate" appearing on the reverse side of the note. Where notes are signed jointly by two or more producers the serial numbers of Form(s) Cotton 211 for all signatories to the note must be shown in the "Payee's Certificate." If such certificate is not signed by the original payee the applicable certificate of the County Agricultural Conservation Committee appearing in section 10 of the loan agreement must be completed. The certificate of the County Agricultural Conservation Committee must be completed on all notes tendered for direct loans by Commodity Credit Corporation pursuant to section 12 hereof.

7. *Warehouses.*—Commodity Credit Corporation will accept only insured warehouse receipts covering cotton pledged as collateral to notes on 1938–39 C. C. C. Cotton Form A issued by any warehouse approved by Commodity Credit Corporation. Warehousemen are advised to communicate with the Loan Agency of the Reconstruction Finance Corporation serving the district in which such warehouses are located, concerning approval. When warehouses are approved, notification will be given either by letter or published lists. All cotton pledged as security for a note must be in the same warehouse.

The warehouseman is required, as provided in the certificate and waiver in section 1 of the loan agreement, to draw representative samples from the bales and to deliver or forward such samples for classing. Warehousemen are also required to hold the identical samples used in classing for the account of Commodity Credit Corporation, except that provision is made to accept the samples returned by a representative of the United States Department of Agriculture as the identical samples.

8. *Warehouse receipts.*—Only negotiable insured warehouse receipts dated on or prior to the date of the producer's note and properly assigned by an endorsement in blank so as to vest title in the holders or issued to bearer, executed by warehousemen who are not owners of the cotton, will be acceptable. They must set out in their written or printed terms a description by tag number and weight of the bale or bales represented thereby, and all other facts and statements required to be stated in the written or printed terms of a warehouse receipt under the provisions of section 2 of the Uniform Warehouse Receipts Act. Warehouse receipts issued prior to August 1, 1938, which by their terms will expire prior to August 1, 1939, must bear endorsement of the warehouse extending the terms of the warehouse receipt for a period of 1 year from August 1, 1938. Block warehouse receipts will be accepted only when the tag number and weight of each bale is indicated on the block receipt.

9. *Warehouse charges.*—The warehouseman's charges are limited and his obligations defined by the form of warehouseman's certificate and waiver provided in section 1 of the loan agreement. This should be read carefully and

must be executed by the warehouseman issuing the cotton warehouse receipts pledged as collateral to the producer's note.

10. *Liens.*—All cotton tendered to Commodity Credit Corporation must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in the loan agreement. The names of the holders of all existing liens on the pledged cotton such as landlords, laborers, or mortgagees (but not warehousemen), must be listed in the space provided therefor in section 2 of the loan agreement. If the borrower is a tenant, the landlord must sign the lien waiver whether or not he claims lien, unless the note is signed jointly by the landlord and tenant. A misrepresentation as to prior liens, or otherwise, will render the producer personally liable under the terms of the Loan Agreement (1938–39 C. C. C. Cotton Form A) and subject to criminal prosecution under the provisions of section 35 of the Criminal Code of the United States (18 U. S. C. A. 80). The waiver and consent to the pledge of the cotton and the payment of the proceeds of the loan and the proceeds of the sale of the cotton solely to the producer as contained in section 2 of the loan agreement must be signed personally by all lienholders listed or by their agents whose duly executed authority must be attached firmly; or, if corporations, by the designated officer thereof customarily authorized to execute such instruments, in which case the duly executed authority need not be attached. Notes in which the waiver and consent to pledge, as contained in section 2 of the loan agreement, are not signed by all prior lienholders listed by producers, will not be acceptable to Commodity Credit Corporation. The producer may direct in the Letter of Transmittal (1938–39 C. C. C. Cotton Form B) that the proceeds check for a direct loan from Commodity Credit Corporation be made payable to him and/or such other person or concern as he may direct thereon.

11. *Liability of producer.*—If the producer complies with the terms of the loan agreement, he will not be personally liable for any deficiency upon the sale of the pledged cotton. The note and loan agreement govern the liability of the producer and should be read carefully.

12. *Direct loans.*—It is contemplated that producers will ordinarily obtain loans from a local bank or other lending agency which, in turn, may sell the paper evidencing such loans to Commodity Credit Corporation. Arrangements, however, have been made for making direct loans to producers prior to May 1, 1939. In such cases the note must be made payable to Commodity Credit Corporation and must be tendered to the Loan Agency of the Reconstruction Finance Corporation serving the district in which the cotton is stored on a Producer's Letter of Transmittal (1938–39 C. C. C. Cotton Form B) in duplicate, postmarked not later than midnight of April 30, 1939, if tendered by mail. Upon delivery of all necessary documents properly executed and upon approval, payment will be made in accordance with the directions of the producer contained in said 1938–39 C. C. C. Cotton Form B.

13. *Time and manner of loans and purchase.*—Commodity Credit Corporation will purchase eligible paper, as defined above, only from lending agencies which have executed and delivered prior to January 1, 1939, to the Loan Agency to which notes are submitted Contract to Purchase (1938–39 C. C. C. Cotton Form D) obtainable only from Loan Agencies. Under the terms of this contract, lending agencies are required to report on 1938–39 C. C. C. Cotton Form F all payments or collections on producers' notes held by them, and to remit promptly to Commodity Credit Corporation, Washington, D. C., an amount equivalent to one and one-half percent per annum interest on the principal amount collected from the date of the note to the date of payment, and five cents per bale for all cotton released.

Notes must be tendered on Lending Agency's Letter of Transmittal (1938–39 C. C. C. Cotton Form C) in duplicate prior to July 1, 1939, to the Loan Agency serving the district in which the cotton is stored as indicated in section 16 hereof. The purchase price to be paid by Commodity Credit Corporation for notes accepted will be the face amount of such notes, plus accrued interest from their respective dates to the date of payment of the purchase price at the rate of two and one-half percent per annum, less five cents per bale for all cotton pledged as security to the notes.

14. *Lending agency.*—The lending agency may endorse the notes of producers as provided in the note, 1938–39 C. C. C. Cotton Form A. Care should be exercised by the lending agency to determine the genuineness of the signatures to the note and loan agreement and that the warehouse receipts are genuine. No provision is made for any deduction from the loan proceeds as a charge for handling the loan documents. Lending agencies must complete the "Advice of Loan" slip appended to the loan agreement, detach and mail same to Commodity Credit Corporation, Washington, D. C., as loans are made to producers. All blanks in the Advice of Loan and Schedule of Repayments (1938–39 C. C. C. Cotton Form F) must be filled in with ink, indelible pencil, or typewriter.

15. *Insurance.*—Holders of notes desiring insurance coverage in addition to the insurance coverage provided by the warehousemen as specified in section 1 of the Loan Agreement (1938–39 C. C. C. Cotton Form A), should obtain such coverage at their own expense. In addition to the insurance provided by the warehousemen, Commodity Credit Corporation has obtained a blanket insurance policy covering any differences between the market value of the cotton and the loan value plus interest and accrued charges, in the event that the market value of the cotton at the time and place of a loss is less than the amount of the note plus interest and accrued charges. This blanket policy protects the Corporation in the event the warehouseman fails to comply with the insurance requirements of the Corporation and also covers any losses or damage to the cotton to the amount of the loan, plus interest and charges, due to flood.

The premium under this blanket policy is 1⅓ cents per $100 per month on the daily average balance of the outstanding loans, with respect to the insurance of warehousemen, and flood. The premium for any difference between loan value and market value is at the rate of 6 cents per $100 per month on the actual amount of such difference, this premium to be reported and paid only in the event that the market value as quoted by the Bureau of Agricultural Economics of the United States Department of Agriculture, for middling seven-eights inch cotton on the New Orleans spot market, is less than the loan value plus interest and accrued charges.

Banks and other lending agencies may obtain such insurance coverage as they desire through the usual channels or they may secure coverage under the blanket policy carried by Commodity Credit Corporation. Banks and other lending agencies desiring to obtain this coverage should write Commodity Credit Corporation, Washington, D. C., and appropriate instructions will be issued together with the necessary forms for reporting thereunder. Upon purchase by Commodity Credit Corporation no allowance will be made to cover the costs of insurance obtained by lending agencies.

16. *Loan Agencies of the Reconstruction Finance Corporation.*—The location of the Loan Agencies of the Reconstruction Finance Corporation previously referred to herein and the district served by each agency are shown below:

Loan agency	*District served*
Atlanta, Ga.	Georgia.
	Florida.
Birmingham, Ala.	Alabama.
Charlotte, N. C.	Virginia.
	North Carolina.
	South Carolina.
Dallas, Tex.	Cities in Texas attached to Dallas and El Paso in Federal Reserve Inter-District Collection System.
	New Mexico.
Houston, Tex.	Cities in Texas attached to Houston in Federal Reserve Inter-District Collection System.
Little Rock, Ark.	All cities in Arkansas except those attached to Memphis in Federal Reserve Inter-District Collection System.
Los Angeles, Calif.	California.
	Arizona.

Loan agency	*District served*
Memphis, Tenn.	Illinois. Missouri. Tennessee. Cities in Arkansas and Mississippi attached to Memphis in Federal Reserve Inter-District Collection System.
New Orleans, La.	Louisiana. Cities in Mississippi attached to New Orleans in Federal Reserve Inter-District Collection System.
Oklahoma City, Okla.	Oklahoma.
San Antonio, Tex.	Cities in Texas attached to San Antonio in Federal Reserve Inter-District Collection System.

17. *Repayments.*—If the producer's note was made payable directly to Commodity Credit Corporation and he desires to obtain the return of the note and the release of the collateral upon payment he should notify the Federal Reserve Bank or branch thereof serving the district in which the cotton is stored as provided in section 16 hereof. If his note was made payable to a payee other than Commodity Credit Corporation the producer should notify the payee named therein. Warehouse receipts representing cotton held by Commodity Credit Corporation will be released by the Federal Reserve Bank or branch thereof holding the receipts upon the payment of the amount of the loan, the accrued interest, and proper charges. Upon written request of the producer, or the payee or the lending agency, the note and warehouse receipts will be forwarded to an approved bank to be released to the producer or his agent against payment. Where receipts are transmitted to a bank they will be sent, with a request to return them to the sender, if payment and release are not effected within 15 days. All charges and expenses of the bank are to be paid by the producer. Where notes are repaid to lending agencies prior to purchase by Commodity Credit Corporation the loan agreement should be detached and mailed to Commodity Credit Corporation, Washington, D. C., with the remittance as provided in section 13 hereof.

18. *Partial releases.*—Producers may obtain the release of a part of the cotton securing any note upon payment of the amount loaned plus interest and proper charges on the cotton to be released. Lending agencies should credit partial payments on the notes. Commodity Credit Corporation will purchase producers' notes on which partial releases have been made by lending agencies, paying therefor the amount of the loan on the cotton remaining pledged as security to the note as determined in accordance with these instructions, plus interest at the rate of two and one-half percent per annum on such amount less the deduction of five cents per bale referred to in sections 4 and 13 hereof. If the note is held by Commodity Credit Corporation, producers desiring to obtain a partial release of collateral should identify the cotton to be released by warehouse receipt numbers.

[SEAL] M. R. BUCK,
Assistant Secretary.

[F. R. Doc. 38-3252; Filed, October 29, 1938; 10:12 a. m.]

1938 WHEAT CIRCULAR LETTER No. 3

SUPPLEMENTAL INSTRUCTIONS

SEPTEMBER 2, 1938.

Section 9 of the Instructions (1938 CCC Wheat Form 1)[1] relating to warehouse receipts is hereby amended and supplemented to provide that in the case of eligible wheat delivered by rail to an approved subterminal warehouse located at railroad transit point, the warehouse receipts issued by such subterminal warehouse representing eligible wheat, shall be accompanied by paid freight bills officially registered for transit privileges and bearing the stamped or typed notation over the signature of the station agent of the railroad as to the transit balance of the through freight from point of origin, applicable to such wheat, to the appropriate designated terminal market, provided that Commodity Credit Corporation will accept in lieu of such bills, warehouse receipts on which a legend, signed by the warehouseman, has been stamped or typewritten in the following form or the certificate of such warehouseman containing such an undertaking:

The wheat represented hereby was received by rail freight as evidenced by original paid freight bill which has been officially registered for transit and will be held and kept alive, within statutory and tariff limitations, for the benefit of the holder hereof. The aforementioned original paid freight bill carries notation thereon by the railroad agent showing transit balance of through rate from point of origin to _____ (basic loan terminal market) of _____ cents per 100 pounds.

_____ (Warehouseman)

_____ (Address)

With reference to wheat grading No. 3 and/or No. 4 solely on account of test weight, otherwise meeting the requirements of the next higher grade as set forth in 1938 Wheat Circular Letter No. 1, arrangements have been made through the Bureau of Agricultural Economics to indicate the grade of such wheat upon certificates issued by inspectors licensed under the United States Grain Standards Act, under either of the following statements applicable to each such grade of wheat as the case may be:

"This wheat is grade No. 3 solely account test weight," or "This wheat is grade No. 4 solely account test weight."

[SEAL] JAS. A. COLE,
Special Assistant.

[F. R. Doc. 38-3255; Filed, October 29, 1938; 10:23 a. m.]

[1] 3 F. R. 1997 DI.

1938 WHEAT CIRCULAR LETTER No. 4

SUPPLEMENTAL INSTRUCTIONS

SEPTEMBER 9, 1938.

The definition of eligible farm stored wheat as set forth in Subsection (b) of Section 1 of the Instructions (1938 CCC Wheat Form 1)[1] is hereby amended to provide that wheat of the classes Hard Red Spring or Durum shall contain not more than 14½ per cent moisture and wheat of other eligible classes shall not contain more than 14 per cent moisture. Wheat grading tough shall not be considered eligible.

The loan value of wheat stored in Stockton and Oakland, California, shall be the same as wheat stored in San Francisco and Los Angeles, California.

Evidence of the protein content of wheat of the subclass Red Winter of the class Soft Red Winter need not be submitted by terminal or subterminal warehouses located in the districts served by the following Loan Agencies of Reconstruction Finance Corporation as set forth in Section 18 of the Instructions (1938 CCC Wheat Form 1):

Chicago, Cleveland, Detroit, Louisville, Nashville, New York, Philadelphia, Richmond, and St. Louis.

[SEAL] JAS. A. COLE,
Special Assistant.

[F. R. Doc. 38-3256; Filed, October 29, 1938; 10:24 a. m.]

1938 WHEAT CIRCULAR LETTER No. 5

SUPPLEMENTAL INSTRUCTIONS

SEPTEMBER 19, 1938.

Evidence of the protein content of eligible wheat of the subclasses Soft White, Western White, White Club, and Western Red need not be submitted by terminal or subterminal warehouses approved by Commodity Credit Corporation for the storage of wheat.

In lieu of protein certificates issued prior to unloading of the wheat delivered by or for the account of producers to approved terminal and subterminal warehouses, Commodity Credit Corporation will accept warehouse receipts and protein certificates accompanied by a certificate of the warehouseman in the following form:

The undersigned warehouseman certifies that a protein analysis on wheat represented by warehouse receipt No. _____, dated _____, 1938, was not requested prior to the unloading of such wheat; that a protein analysis is not customary for the kind of wheat in question, in the market in which the undersigned warehouseman is located; that there is attached a protein certificate in form and issued by an outside laboratory customarily used by the trade of said market, setting forth the protein content of a bin-run sample of wheat of the kind, grade and equal quality of the wheat, represented by said warehouse receipt, which was inspected prior to unloading and that the protein content of the wheat delivered upon the presentation of said warehouse receipt will not be less than the protein content stated in said certificate, within one-half of one per cent.

Location: _____ (Warehouse Company)

_____ By _____

It is intended that warehousemen shall issue the foregoing certificates only in those instances in which the wheat delivered by or for producers was unloaded and binned prior to the receipt of the wheat regulations of Commodity Credit Corporation, or in those markets in which it is not customary to make a protein analysis upon the delivery of wheat.

[SEAL] JAS. A. COLE,
Special Assistant.

[F. R. Doc. 38-3257; Filed, October 29, 1938; 10:24 a. m.]

[1] 3 F. R. 1997 DI.

1938-39 COTTON CIRCULAR LETTER No. 1

SEPTEMBER 20, 1938.

Due to the anticipated congestion of warehouse facilities in central areas in Texas, Oklahoma and New Mexico, Commodity Credit Corporation will recognize liens for freight and compression charges in accordance with these instructions on cotton moved by or for the account of producers to approved port warehouses situated in Texas making satisfactory arrangements with Commodity Credit Corporation.

Such liens will be recognized only to the extent of the lowest possible rail transportation cost from shipping point to the port warehouse, based on the rate applicable to 65,000 pound minimum loadings except that with respect to irrigated cotton the rail rate based on 50,000 pound minimum loadings may be used. Liens will be recognized for high density compression charges with respect to cotton shipped by rail under the 65,000 pound minimum loading rate and for standard density compression charges, with respect to irrigated cotton shipped by rail under the 50,000 pound minimum rail rate. Freight and compression charges shall be based on receiving weights of the port warehouse. No leins for patching will be recognized. All liens shall be stated in the warehouse receipts and each note and loan agreement must be accompanied by the following additional certificate of the warehouseman:

The cotton securing the attached note of _____, dated _____ (Name and Address of Producer) in the amount of $_____ was moved by _____ from _____ to the (rail or truck) warehouse stated in said loan agreement and freight thereon in the amount of $_____ was paid by the undersigned as evidenced by signed duplicate freight bills or truckers' receipts attached hereto. Compression charges in the amount of $_____ were also paid _____, in accordance with the tariff of such warehouseman. (Warehouse Company and Address) The original freight bills covering such cotton will be held and kept alive, within statutory and tariff limitations for the benefit of the holder of said warehouse receipts. Notwithstanding the terms of the warehouse receipts lien will not be claimed for more than the amount stated in the warehouseman's certificate and waiver in said loan agreement plus the amounts shown herein for compression and the lowest possible rail transportation cost from the shipping point to any port warehouse in Texas or the amount paid for freight as stated herein, whichever is less as determined by Commodity Credit Corporation.

Date _____ _____ (Warehouse Company)

Location _____ By _____

Payment will be made of freight and compression charges recognized by Commodity Credit Corporation at the time storage charges are paid. No compression charges will be paid on any cotton moved by truck.

Under this arrangement producers will have the option of storing their cotton at port locations which will prevent any congestion at interior points.

Lists of port warehouses where liens for freight and compression of cotton will be recognized by Commodity Credit Corporation, will be made available by the Loan Agency of the Reconstruction Finance Corporation serving the district in which the warehouse is located.

[SEAL] G. E. RATHELL,
Treasurer.

[F. R. Doc. 38-3253; Filed, October 29, 1938; 10:23 a. m.]

1938 WHEAT CIRCULAR LETTER No. 6

SUPPLEMENTAL INSTRUCTIONS

SEPTEMBER 26, 1938.

1. Subsection (a) of Section 3 of the Instructions (1938 CCC Wheat Form 1)[1] is hereby supplemented by adding the following basic loan value for wheat of the added grade and subclass at the terminal markets indicated:

Market	Grade and subclass	Loan value per bushel
Minneapolis, St. Paul, Duluth, Minnesota, and Superior, Wisconsin.	No. 2 Hard Amber Durum Wheat.	$0.74

2. Due to the lack of approved warehouse space in the states of Michigan and Ohio under the wheat loan program, Commodity Credit Corporation will make advances on wheat originating in such states and stored in approved warehouses in Buffalo, New York, at the Michigan or Ohio loan values (depending on point of origin) plus the per bushel freight costs in carload lots as evidenced by paid freight bills registered for transit privileges. In lieu of the delivery of such bills Commodity Credit Corporation will accept warehouse receipts representing such wheat stored in Buffalo, on which a legend, signed by the warehouseman, has been typed or stamped substantially in the following form, or certificate of such warehouseman containing such an undertaking:

The wheat represented hereby was shipped from _____ and the original paid freight bill covering same has been registered for transit and will be held and kept alive, within statutory limitations, for the benefit of the holder hereof. The freight from said shipping point to Buffalo on wheat in carload lots is _____ cents per bushel.

_____ (Warehouseman)

3. Such legend or certificate will be accepted in lieu of the legend or certificate required under the last sentence of Section 9 of the Instructions (1938 CCC Wheat Form 1). Notes secured by such wheat stored in Buffalo may be submitted to the Cleveland, Ohio, Detroit, Michigan, or New York City Loan Agencies of Reconstruction Finance Corporation. Producers must arrange for the payment of all charges except freight up to the unloading of the wheat in an approved terminal warehouse in Buffalo. The advance of Commodity Credit Corporation will permit the reimbursement of any amounts paid or advanced for freight.

4. Section 5 of said Instructions (1938 CCC Wheat Form 1) is hereby amended to include the states of California and Nevada in the area in which the quantity of smut shall be determined on a percentage basis.

5. In accordance with the following procedure, Commodity Credit Corporation will permit producers to obtain the benefit of any premium value of high protein wheat and high quality Durum pledged as security to notes and loan agreements or mortgages on 1938 CCC Wheat Forms A and B. At any time prior to May 15, 1939, the producer may notify Commodity Credit Corporation of his desire to withdraw pledged or mortgaged wheat of a protein content in excess of 12%, or, in the case of Durum, wheat of a quality higher than ordinary and country run quality or equal Amber or Hard Amber Durum. If such producer has complied with the terms of the loan agreement or mortgage, Commodity Credit Corporation will advise the producer not later than June 1, 1939, of the terms under which such pledged wheat may be withdrawn. Such terms shall consist of one of the following and the producer shall have thirty (30) days from the date of such advice to comply therewith:

(a) The payment of an amount equal to the current market value at point of storage, as determined by Commodity Credit Corporation, of an equal quantity of wheat of the same grade and subclass and country run quality or equal as the wheat originally pledged but containing 12% protein, or Amber or Hard Amber Durum of the same grade;

(b) The delivery of warehouse receipts issued by an approved warehouseman, dated not earlier than the receipts to be released, at a point not less favorably located than the original warehouse point, representing an equal quantity of wheat of the same grade and subclass and country run quality or equal as the

[1] 3 F. R. 1997 DI.

wheat originally pledged but containing not less than 12% protein, or Amber or Hard Amber Durum of the same grade. Such warehouse receipts must be in the same form and accompanied by inspection and other certificates required for obtaining the loan in the first instance and will be held in lieu of the wheat released.

6. The definition of eligible wheat, as set forth in Subsection (b) of Section 1 is hereby supplemented as follows: "Eligible wheat stored on farms shall include wheat of the class Hard Red Spring graded No. 4, solely on the factor of test weight per bushel, which wheat otherwise meets the requirements of the next higher grade for damaged kernels, foreign material and wheats of other classes."

7. Wheat of the classes Hard Red Winter, Soft Red Winter and White containing not more than 14½% moisture, if otherwise meeting the requirements of Commodity Credit Corporation, and in good, sound condition, will be eligible for a loan at a rate of two cents (2¢) per bushel less than the rate for such wheat testing 14% or less in moisture content, when stored on the farm in all counties in the state of Michigan and in the following counties in the states of Indiana and Ohio:

Indiana.—Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Elkhart, Fountain, Fulton, Grant, Hamilton, Henry, Howard, Huntington, Jasper, Jay, Kosciusko, La Grange, Lake, LaPorte, Madison, Marshall, Miami, Montgomery, Newton, Noble, Porter, Pulaski, Randolph, Saint Joseph, Starke, Steuben, Tippecanoe, Tipton, Vermillion, Wabash, Warren, Wayne, Wells, White, and Whitely.

Ohio.—Allen, Ashtabula, Auglaize, Carroll, Belmont, Clark, Columbiana, Coshocton, Crawford, Cuyahoga, Darke, Defiance, Delaware, Erie, Franklin, Fulton, Guernsey, Hancock, Hardin, Henry, Holmes, Huron, Knox, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Miami, Morrow, Muskingum, Ottawa, Paulding, Portage, Putnam, Richland, Seneca, Stark, Summit, Trumbull, Tuscarawas, Union, Van Wert, Williams, Wood, and Wyandot.

[SEAL] JAS. A. COLE,
Special Assistant.

[F. R. Doc. 38-3258; Filed, October 29, 1938; 10:24 a. m.]

1938 WHEAT CIRCULAR LETTER NO. 7

SUPPLEMENTAL INSTRUCTIONS

OCTOBER 13, 1938.

1. The Instructions 1938 CCC Wheat Form 1) [1] issued by Commodity Credit Corporation for the 1938 wheat loan program are hereby amended to provide for a loan value of 50¢ per bushel for No. 1 Northern and No. 1 Dark Northern Spring wheat stored in the state of Utah and in all counties of Idaho south of Idaho county.

2. Commodity Credit Corporation will also make loans on the class MIXED WHEAT, consisting only of mixtures of those eligible grades of wheat on which loan values are established, provided such mixtures of wheat are the natural product of the field.

Wheat of the class mixed wheat (except mixed wheat graded amber mixed durum and mixed durum, on which basic loans are provided as noted below) will be eligible for loan at a discount of three cents (3¢) per bushel below the established loan rate for the comparable numerical grade of that class of wheat contained in the mixture which would take the lowest loan rate applicable to any sub-class thereof if it were not mixed.

3. Sub-section (a) of Section 3 of said Instructions is hereby supplemented by adding the following basic loan values for wheat of the description shown at terminal markets indicated:

Market	Grade and subclass	Loan value per bushel
Minneapolis, St. Paul, and Duluth, Minnesota, and Superior, Wisconsin.	No. 2 Amber Mixed Durum.	69¢
	No. 2 Mixed Durum.	62¢

Valid inbound inspection of grade, including wheat stored on farms, as required under Commodity Credit Corporation regulations, with specific reference to all grades of mixed wheat, should show the approximate percentage of each class of wheat in the mixture, the total of all of which should equal 100%.

[SEAL] JAS. A. COLE,
Special Assistant.

[F. R. Doc. 38-3259; Filed, October 29, 1938; 10:25 a. m.]

1938 WOOL CIRCULAR LETTER NO. 4

SUPPLEMENTAL INSTRUCTIONS

OCTOBER 25, 1938.

1. The Instructions (1938 CCC Wool Form 1) [1] issued by Commodity Credit Corporation for the 1938 wool loan program are hereby amended to authorize the acceptance of notes on 1938 CCC Wool Forms A, B, C or M, dated on or before December 31, 1938. This extends the time for making loans on wool for an additional period of two months.

2. Prior to January 1, 1939, Commodity Credit Corporation will permit the grading of wool pledged as security to notes on 1938 CCC Wool Forms A, B or C and will recognize the lien of the warehouseman for grading charges of not more than ½¢ per pound. Such grading may be done only with the consent of the producers or pool representatives. The wool securing any one note must be graded separately and each grade of the wool must be repacked separately. The original warehouse receipt or receipts evidencing such graded wool must have attached thereto a certificate of the warehouseman substantially in the following form:

The undersigned warehouseman hereby certifies that at the written request of the borrower, _____ lbs. of wool represented by warehouse receipt Numbers ____, ____, ____, pledged as security to CCC Note dated _____, in the amount of $_____, was graded and each grade repacked separately in bags. The quantities of each grade are as follows:

Description	*Weight*
_____	_____
_____	_____
_____	_____
Total _____ lbs.	

A lien is claimed for grading said wool at the rate of ____¢ per pound.

_____
(Warehouseman)

Dated_____ By_____
(Title)

In the case of notes held by Commodity Credit Corporation, the foregoing certificate may be forwarded to the Loan Agency of Reconstruction Finance Corporation serving the district in which the wool is stored for attachment to the notes and warehouse receipts. In the case of notes held by lending agencies, the certificates must be attached to the warehouse receipts prior to the purchase of the notes by Commodity Credit Corporation.

3. In some instances, the quantity of wool securing one note will not be sufficient to justify the grading of such wool. Two or more producers desirous of having such wool graded may pay the notes and new loans may be obtained after the wool is pooled and graded, by utilizing the Graded Wool Note (1938 CCC Wool Form M). Commodity Credit Corporation will permit such wool to be reappraised and new loans may be obtained on such wool on or before December 31, 1938.

[SEAL] SAMUEL H. SABIN,
Secretary.

[F. R. Doc. 38-3260; Filed, October 29, 1938; 10:25 a. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-1938-19]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 16

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended,[1] is hereby further amended as follows:

The third paragraph of subsection A of Section VI is hereby amended to read as follows:

In computing such net payments and net deductions with respect to acreage allotments, general crops, and restoration land goals, the deduction with respect to commercial vegetables (item 5, subsection A, Section V) shall be regarded as a prorata deduction with respect to the potato acreage allotment and the cigar filler (type 41) or binder (types 51, 52, and 53) tobacco acreage allotment. The total amount of deductions computed under Section V with respect to (1) soil-depleting crops grown in excess of the total soil-depleting acreage allotment (item 6, subsection A); (2) failure to prevent wind and water erosion (subsection C); and (3) breaking out of native sod (subsection D) shall be regarded (a) as prorata deductions with respect to the payments computed under Section IV in connection with the wheat acreage allotment and general soil-depleting crops on class A farms, *Provided*, That if no such payments are computed for the farm the total amount of such deductions shall be regarded as a net deduction with respect to general soil-depleting crops; (b) as deductions with respect to the wheat acreage allotment on class B farms for which a payment is computed under Section IV in connection with a wheat acreage allotment; (c) as prorata deductions with respect to the payments computed under Section IV in connection with crop acreage allotments and the restoration land goal on class B farms for which no payment is computed in connection with a wheat acreage allotment; or (d) as deductions with respect to the soil-building goal on class B farms for which no payment is computed under Section IV in connection with crop acreage allotments or a restoration land goal, *Provided*, That any net amount of such deductions computed for such farms shall be divided equally among the landlords and tenants on the farm.

Done at Washington, D. C., this 28th day of October 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3271; Filed, October 29, 1938; 12:22 p. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 4 to B. A. I. Order 341 [2]]

REGULATIONS GOVERNING THE SANITARY HANDLING AND CONTROL OF HIDES, SKINS, FLESHINGS, HIDE CUTTINGS, PARINGS, GLUE STOCK, HAIR, WOOL, AND OTHER ANIMAL BYPRODUCTS, AND HAY AND STRAW OFFERED FOR ENTRY INTO THE UNITED STATES

OCTOBER 29, 1938.

Under authority of the act of Congress approved February 2, 1903, the regulations governing the sanitary handling and control of hides, skins, fleshings, hide cuttings, parings, glue stock, hair, wool, and other animal byproducts, and hay and straw offered for entry into the United States (B. A. I. Order 341), issued September 27, 1933, as amended, are hereby further amended in the following particulars:

Regulation 1 (CFR subparagraph (1)—Sec. 9.001) is modified by the elimination of the word "equines" and comma following, and the comma following the word "ruminants," in the definition of *Animal byproducts* therein.

Section 1, regulation 5, (CFR Sec. 9.005) is modified by inserting the word "and" in lieu of the comma following the word "cattle" in line 1; and by eliminating the words "and horses or other equines" and the commas preceding and following those words in the said line 1.

The effect of this amendment is to release hides and skins of horses and other equines from the requirements of the regulations contained in the said B. A. I. Order 341.

This amendment, which for purpose of identification is designated Amendment 4 to B. A. I. Order 341, shall be effective on and after December 1, 1938. (Sec. 2, 32 Stat. 792: 21 U. S. C. 111.) [B. A. I. Order 341, Reg. 1 and Reg. 5, Sec. 1, as amended by Amendment 4, October 29, 1938.]

Done at Washington this 29th day of October 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3272; Filed, October 29, 1938; 12:22 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3214]

IN THE MATTER OF THE WEBB CRAWFORD COMPANY ET AL.

SEC. 3.45 (e) (1) *Discriminating in price—Indirect discrimination — Brokerage payments.*—Granting, paying, transmitting and delivering, by seller-respondents Charles F. Cates & Sons, Inc., and four others, their officers, etc., in connection with sale of commodities in interstate commerce to respondent wholesale grocer, The Webb Crawford Co., of any fees or commissions as brokerage, or any allowance in lieu thereof, to said buyer-respondent, Webb Crawford Co., its officers, etc., or to certain individuals, officers and principal owners and operators of said buyer-respondent, as partners in broker-respondent, The Daniel Brokerage Co., or in their individual capacities; and accepting or receiving, by said buyer-respondent, its officers, etc., or by aforesaid certain individuals, either as partners, etc., or in their individual capacities, as above set forth, in connection with purchase of commodities in interstate commerce by said wholesale grocer buyer-respondent, Webb Crawford Co., of any fees or commissions as brokerage, or any allowance in lieu thereof; prohibited. (Sec. 2 (c), 49 Stat. 1527; 15 U. S. C., Supp. IV, sec. 13 (c).) [Cease and desist order, The Webb Crawford Company et al., Docket 3214, October 20, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF THE WEBB CRAWFORD COMPANY, A CORPORATION, ED. D. WIER, E. L. WIER, AND CARTER W. DANIEL, INDIVIDUALS TRADING UNDER THE FIRM NAME AND STYLE OF DANIEL BROKERAGE COMPANY, CHARLES F. CATES & SONS, INC., A CORPORATION, GODCHAUX SUGARS, INC., A CORPORATION, J. ARON & COMPANY, INC., A CORPORATION, MYLES SALT COMPANY, LTD., A CORPORATION, MORTON SALT COMPANY, A CORPORATION, J. D. JOHNSTON, JR., COMPANY, THE SHOTWELL MANUFACTURING COMPANY, CINCINNATI SOAP COMPANY AND JACKSON HAY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answers of the parties respondent named in the caption hereof, testimony and other evidence, taken before John J. Keenan, an Examiner for the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed in support of said complaint and in opposition thereto and the oral arguments of John Darsey, counsel for the Commission, and Max Michael and Edgar Watkins, Sr., counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that the said parties respondent have violated, and are now violating, the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement

[1] 3 F. R. 1997 DI.

[1] 3 F. R. 1181 DI.

[1] 3 F. R. 2543 DI.

[2] Amending CFR Sec. 9.001 (1), CFR Sec. 9.005.

[1] 2 F. R. 2497 (2905 DI).

existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13) and for other purposes":

It is ordered, That the respondents Charles F. Cates & Sons, Inc., Godchaux Sugars, Inc., J. Aron & Company, Inc., Myles Salt Company, Ltd., and Morton Salt Company, and their respective officers, representatives, agents and employees, in connection with the sale of commodities in inferstate commerce to the respondent The Webb Crawford Company, do forthwith cease and desist from granting, paying, transmitting and delivering to the respondent The Webb Crawford Company, its officers, representatives, agents or employees, and the respondents Ed. D. Wier, E. L. Wier, and Carter W. Daniel, either in their capacities as partners in the Daniel Brokerage Company, or in their individual capacities, any fees or commissions as brokerage or any allowance in lieu thereof.

It is further ordered, That the respondent The Webb Crawford Company, its officers, representatives, agents and employees, and the respondents, Ed. D. Wier, E. L. Wier and Carter W. Daniel, either in their capacities as partners in the Daniel Brokerage Company, or in their individual capacities, in connection with the purchases of commodities in interstate commerce by the respondent The Webb Crawford Company, do forthwith cease and desist from accepting or receiving from sellers any fees or commissions as brokerage or any allowance in lieu thereof.

It is further ordered That the complaint herein be, and the same hereby is, dismissed as to the respondents J. D. Johnston, Jr., Company, The Shotwell Manufacturing Company, Cincinnati Soap Company and Jackson Hay Company, for the reason that the respective individual members of said partnerships were not served with process herein.

It is further ordered That the parties respondent shall, within thirty (30) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3275; Filed, October 31, 1938; 11:14 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

ACCOUNTS AND DEPOSITS

[1938—Department Circular No. 570 Revised [1]]

CORPORATIONS ACCEPTABLE AS SURETIES ON FEDERAL BONDS

OCTOBER 17, 1938.

The following is a list of companies, as of October 14, 1938, holding certificates of authority from the Secretary of the Treasury, issued under the Acts of Congress of August 13, 1894 (28 Stat. 279), and March 23, 1910 (36 Stat. 241), as acceptable sureties on Federal bonds; this list also includes acceptable reinsurance companies under Department Circular No. 297, dated July 5, 1922, as amended. Further details including the amount of underwriting limitation of each company, as well as the extent and localities with respect to which they are acceptable as sureties on Federal bonds may be found at any time by reference to the current issue of Treasury Department Form 356, copies of which may be procured from the Treasury Department, Section of Surety Bonds, Washington, D. C.

NAMES OF COMPANIES, LOCATIONS OF PRINCIPAL EXECUTIVE OFFICES, AND STATES IN WHICH INCORPORATED

California

1. Associated Indemnity Corporation, San Francisco.
2. Fireman's Fund Indemnity Co., San Francisco.
3. National Automobile Insurance Co., Los Angeles.
4. Occidental Indemnity Co., San Francisco.
5. Pacific Indemnity Co., Los Angeles.

Connecticut

6. The Aetna Casualty and Surety Co., Hartford.
7. The Century Indemnity Co., Hartford.
8. Hartford Accident and Indemnity Co., Hartford.

Delaware

9. Mellbank Surety Corporation, Pittsburgh, Pa.
10. Saint Paul-Mercury Indemnity Co. of St. Paul, Minn.

Illinois

11. American Motorists Insurance Co., Chicago.

Indiana

12. Continental Casualty Co., Chicago, Ill.
13. Inland Bonding Co., South Bend.

Kansas

14. The Kansas Bankers Surety Co., Topeka.
15. The Western Casualty and Surety Co., Fort Scott.

Maryland

16. American Bonding Co. of Baltimore.
17. Fidelity and Deposit Co. of Maryland, Baltimore.
18. Maryland Casualty Co., Baltimore.
19. United States Fidelity and Guaranty Co., Baltimore.

Massachusetts

20. American Employers' Insurance Co., Boston.
21. Massachusetts Bonding and Insurance Co., Boston.

Michigan

22. National Casualty Co., Detroit.
23. Standard Accident Insurance Co., Detroit.

Missouri

24. Central Surety & Insurance Corporation, Kansas City.
25. Employers Reinsurance Corporation, Kansas City.

New Hampshire

26. Peerless Casualty Co., Keene.

New Jersey

27. Commercial Casualty Insurance Co., Newark.
28. The Excess Insurance Co. of America, New York, N. Y.
29. International Fidelity Insurance Co., Jersey City.

New York

30. American Re-Insurance Co., New York.
31. American Surety Co. of New York.
32. Columbia Casualty Co., New York.
33. Eagle Indemnity Co., New York.
34. The Fidelity and Casualty Co. of New York.
35. General Reinsurance Corporation, New York.
36. Glens Falls Indemnity Co., Glens Falls.
37. Globe Indemnity Co., New York.
38. Great American Indemnity Co., New York.
39. The Home Indemnity Co., New York.
40. London & Lancashire Indemnity Co. of America, Hartford, Conn.
41. Merchants Indemnity Corporation of New York.
42. The Metropolitan Casualty Insurance Co. of New York, Newark, N. J.
43. National Surety Corporation, New York.
44. New Amsterdam Casualty Co., Baltimore, Md.
45. New York Casualty Co., New York.
46. Phoenix Indemnity Co., New York.
47. The Preferred Accident Insurance Co. of New York.
48. Royal Indemnity Co., New York.
49. Seaboard Surety Co., New York.
50. Standard Surety and Casualty Co. of New York.
51. Sun Indemnity Co. of New York.
52. United States Casualty Co., New York.
53. United States Guarantee Co., New York.
54. The Yorkshire Indemnity Co. of New York.

Ohio

55. The Ohio Casualty Insurance Co., Hamilton.

Pennsylvania

56. Eureka Casualty Co., Philadelphia.
57. Indemnity Insurance Co. of North America, Philadelphia.

South Dakota

58. Western Surety Co., Sioux Falls.

[1] 2 F. R. 2177 (2535 DI).

Texas

59. American General Insurance Co., Houston.
60. American Indemnity Co., Galveston.
61. Commercial Standard Insurance Co., Fort Worth.
62. Employers Casualty Co., Dallas.
63. Texas Indemnity Insurance Co., Galveston.
64. Trinity Universal Insurance Co., Dallas.

Virginia

65. Virginia Surety Co., Inc., Roanoke.

Washington

66. General Casualty Co. of America, Seattle.
67. Northwest Casualty Co., Seattle.
68. United Pacific Insurance Co., Seattle.

FOREIGN COMPANIES AUTHORIZED TO DO A REINSURANCE BUSINESS ONLY

69. Accident and Casualty Insurance Co. of Winterthur, Switzerland (U. S. Office, New York, N. Y.).
70. The Employers' Liability Assurance Corp., Ltd., London, England (U. S. Office, Boston, Mass.).
71. The European General Reinsurance Co., Ltd., London, England (U. S. Office, New York, N. Y.).
72. The Guarantee Co. of North America, Montreal, Canada (U. S. Office, New York, N. Y.).
73. London Guarantee and Accident Co., Ltd., London, England (U. S. Office, New York, N. Y.).
74. The Ocean Accident and Guarantee Corp., Ltd., London, England (U. S. Office, New York, N. Y.).

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3277; Filed, October 31, 1938; 12:34 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 253, IDAHO NO. 19

OCTOBER 18, 1938.

It appearing that the following-described public land in Idaho is necessary for the purpose, it is ordered, under and pursuant to the provisions of section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such land, excepting any mineral deposits therein, be, and it is hereby, withdrawn from all disposal under the public-land laws and reserved for use by the general public as a stock driveway, subject to valid existing rights and the power site withdrawal affecting the land:

BOISE MERIDIAN

T. 13 S., R. 44 E., sec. 30, NE¼NW¼. 40 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 38-3274; Filed, October 31, 1938; 9:45 a. m.]

BUREAU OF RECLAMATION

[No. 21]

ORLAND IRRIGATION PROJECT, CALIFORNIA

PUBLIC NOTICE OF ANNUAL WATER CHARGES [1]

OCTOBER 13, 1938.

1. *Annual operation and maintenance charges.*—The annual operation and maintenance charge for the irrigation season of 1939, and thereafter until further notice, against all lands of the Orland project, California, under public notice, shall be a minimum charge of one dollar and sixty cents ($1.60) per irrigable acre whether water is used thereon or not, which charge will permit the delivery of not to exceed 3 acre-feet of water per acre; and additional water, up to the amount of the surplus natural flow water used prior to the time it becomes necessary to draw upon any storage water, will be furnished at the rate of ten (10) cents per acre-foot and further additional water at the rate of forty (40) cents per acre-foot.

2. *Time of payment.*—The minimum charge announced above will be due and payable on or before December 31, 1938, and no water will be delivered until it is paid. Charges for additional water will become due and payable on December 31 following the irrigation season. All charges are subject to the penalties prescribed by subsection H of section 4 of the act of December 5, 1924 (43 Stat., 701) if not paid on or before the due dates stated above. The same terms of payment will apply to further irrigation seasons unless subsequently modified.

3. *Method of billing and payment.*—All charges will be billed direct to the water users and will be payable by them to the Bureau of Reclamation, Orland, California.

W. C. MENDENHALL,
Acting Assistant Secretary.

[F. R. Doc. 38-3273; Filed, October 31, 1938; 9:45 a. m.]

Notices

WAR DEPARTMENT.

APPOINTMENT OF CHAPLAINS IN THE REGULAR ARMY

1. Examination of applicants for appointment as chaplains in the grade of first lieutenant in the Regular Army under the provisions of AR 605-30 and the following special conditions will be held on December 6 and 7, 1938, in Washington, D. C.

2. In order to provide for existing or prospective denominational vacancies, applications will be restricted to clergymen duly accredited to the following denominations:

Reformed Church in America.
Roman Catholic.
Churches of Christ (not Disciples).
Baptist, South.

[1] Act of June 17, 1902, 32 Stat., 388, as amended or supplemented.

3. Eligibility to compete in the examination will be confined to candidates who are at the time of the examination—

a. Male citizens of the United States between the ages of 23 and 34 years.

b. Regularly ordained, duly accredited by and in good standing with one of the religious denominations listed above.

c. Graduates of both a 4-year college course and a 3-year theological seminary course.

d. Actively engaged in the ministry as the principal occupation in life and credited with 3 years' experience therein.

4. Full information and application blanks will be furnished upon request to The Adjutant General, Washington, D. C. Formal applications on W. D., A. G. O. Form No. 62, accompanied by at least three letters of recommendation, small photographs of applicants, and proper ecclesiastical indorsements must reach The Adjutant General not later than December 1, 1938. Applications received after that date will not be considered.

(Sec. 24, 41 Stat. 774; 10 U. S. C. 231.)
[Sec. I, Cir. No. 62, W. D., 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3261; Filed, October 29, 1938; 10:25 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF SEPARATION AND POSTPONEMENT OF HEARINGS ON MINIMUM PRICES AND MARKETING RULES AND REGULATIONS SUBMITTED BY DISTRICT BOARDS FOR DISTRICTS NOS. 9, 10, 11, 12, 13 (EXCEPT VAN BUREN, WARREN, AND M'MINN COUNTIES IN TENNESSEE), 14 AND 15

Notice is hereby given that the hearing in the matter of the proposal of minimum prices and marketing rules and regulations submitted by the District Boards for Districts Nos. 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn Counties in Tennessee), 14 and 15, as previously set by the Commission's Order dated October 21, 1938 [1] for the 3rd day of November, 1938 at 10:00 A. M. in the Hearing Room of the Commission at 15th and Eye Streets NW., Washington, D. C., has been separated so as to provide for that part of the hearing relating to Minimum Price Area No. 3 to be held in the City of Washington, D. C. on the 9th day of November, 1938, and so as to provide for that part of the hearing relating to Minimum Price Areas Nos. 2, 4, and 5 to be held in the

[1] 3 F. R. 2545 DI.

City of Chicago, Illinois on the 14th day of November, 1938.

Further notice is hereby given that the date for the hearing in the matter of the proposal of minimum prices and marketing rules and regulations submitted by the District Board for District No. 13 (except Van Buren, Warren and McMinn Counties in Tennessee), as previously set by Commission Order dated October 21, 1938, for the 3rd day of November, 1938 at 10:00 A. M. in the Hearing Room of the Commission at 15th and Eye Streets NW., Washington, D. C. has been postponed from said date of November 3, 1938 to November 9, 1938, at the same hour and place.

Further notice is hereby given that the date for the hearing in the matter of the proposal of minimum prices and marketing rules and regulations submitted by the District Boards for Districts Nos. 9, 10, 11, 12, 14 and 15, as previously set by the Commission's Order dated October 21, 1938, for the 3rd day of November, 1938 at 10:00 A. M. in the Hearing Room of the Commission at 15th and Eye Streets NW., Washington, D. C., has been postponed from said date of November 3, 1938 to November 14, 1938 at the hour of 10:00 A. M. in the hearing Room of the Commission in the Morrison Hotel, Chicago, Illinois.

The Secretary of the Commission shall cause a copy of this Notice of Separation of Hearing and Postponement to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of Districts Nos. 9, 10, 11, 12, 13, 14 and 15, and shall cause copies hereof to be mailed to each code member, the Consumers' Counsel, and to the Secretary of each District Board, and to be made available for inspection in each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 29th day of October, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-3276; Filed, October 31, 1938; 11:38 a. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

OCTOBER 27, 1938.

To W. H. HILL AND JACK COULTER, *doing business as Amarillo Livestock Sales Company, Amarillo, Tex.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Amarillo Livestock Sales Company, at Amarillo, State of Texas, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-3268; Filed, October 29, 1938; 12:21 p. m.]

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

OCTOBER 27, 1938.

To J. B. H. YOUNG, J. D. HARDGROVE, AND J. W. HARDGROVE, *doing business as Clovis Livestock Sales Company, Clovis, N. Mex.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Clovis Stock Yards, at Clovis, State of New Mexico, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-3269; Filed, October 29, 1938; 12:21 p. m.]

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

OCTOBER 27, 1938.

To KISSIMMEE LIVESTOCK MARKET, INC., *Kissimmee, Fla.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Kissimmee Livestock Market, at Kissimmee, State of Florida, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN, *Acting Secretary of Agriculture.*

[F. R. Doc. 38-3270; Filed, October 29, 1938; 12:21 p. m.]

[1] Modifies list posted stockyards 9 CFR 13.034.

[1] Modifies list posted stockyards 9 CFR 13.034.

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 2-401 (E)-1]

CONTINENTAL AIR LINES, INC., APPLICATION FOR PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (E) FOR THE TRANSPORTATION BY AIR OF MAIL, PASSENGERS AND PROPERTY IN SCHEDULED OPERATIONS BETWEEN DENVER, COLORADO, AND EL PASO, TEXAS, VIA COLORADO SPRINGS, PUEBLO AND TRINIDAD, COLORADO, AND LAS VEGAS, SANTA FE AND ALBUQUERQUE, NEW MEXICO

OCTOBER 28, 1938.

The above-entitled proceeding is assigned for public hearing on November 10, 1938, 10 o'clock a. m. (standard Time), at the office of the Civil Aeronautics Authority (Hearing Room No. 1851), Washington, D. C., before Examiner A. G. Nye.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-3262; Filed, October 29, 1938; 11:17 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3588]

IN THE MATTER OF LOUIS COHEN, ALSO KNOWN AS LOUIS KAHN, TRADING AS NATIONAL GUARD EQUIPMENT COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That John J. Keenan, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Saturday, November 19, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3267; Filed, October 29, 1938; 12:13 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 304]

ALLOCATION OF FUNDS FOR LOANS

OCTOBER 26, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Alabama R9026A1 Barbour	$374,000
Alabama R9027A1 Conecuh	236,000
Alabama 9031A1 Mobile	359,000
Delaware 9002B1 Sussex	29,836
Delaware R9002B2 Sussex	279,164
Indiana 9024B1 Carroll	145,000
Indiana 9074B1 Huntington	122,000
Iowa R9047G3 Franklin	165,000
Iowa R9048G4 Pocahontas	25,000
Iowa R9049C1 Hardin	64,000
Iowa R9060A1 Emmet-Dickinson	431,000
Minnesota R9055C1 Watonwan	225,000
Mississippi 9022B1 Leake	245,000
Nebraska R9059A1 Butler	165,000
North Carolina R9014C1 Pitt	56,000
North Carolina R9031A1 Halifax	62,000
Ohio 9031C1 Holmes	14,300
Ohio R9031C2 Holmes	124,700
Ohio 9065C1 Fairfield	332,000
Ohio R9091G1 Preble	237,000
Pennsylvania R9013C1 Tioga	240,000
Pennsylvania R9014B1 Clearfield	226,000
Texas 9062A1 Bailey	178,000
Texas 9063C1 Navarro	178,000
Texas 9069A1 Erath	189,000
Texas 9070A1 Hamilton	286,000
Wisconsin R9056G1 Crawford	500,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-3250; Filed, October 29, 1938; 10:11 a. m.]

[Administrative Order No. 305]

ALLOCATION OF FUNDS FOR LOANS

OCTOBER 26, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Kentucky 9031W1 Union	$3,000
North Carolina R9023W3 Caldwell	17,000
Ohio 9086W1 Guernsey	5,000
Ohio 9087W1 Wood	10,000
Washington 9018W1 Spokane	20,000
West Virginia 9010W1 Harrison	15,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-3251; Filed, October 29, 1938; 10:11 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[File No. 32-89]

IN THE MATTER OF VIRGINIA PUBLIC SERVICE COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS PREVIOUSLY AUTHORIZED BY A STATE COMMISSION

Virginia Public Service Company, a direct subsidiary of Eastern Power Company, a registered holding company, and an indirect subsidiary of Southeastern Electric and Gas Company, General Gas and Electric Corporation, Associated Gas and Electric Corporation and Associated Gas and Electric Company, all registered holding companies, having duly filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of that Act of the issue and sale by it of $677,000 principal amount of Newport News and Hampton Railway, Gas and Electric Company (a constituent company) First and Refunding Mortgage 5% Gold Bonds, due January 1, 1944, at private sale, the proceeds of the said sale to be used solely to retire at maturity $677,000 principal amount of Newport News and Old Point Railway and Electric Company (a constituent company) First Mortgage, Forty Years, 5% Gold Bonds due November 1, 1938, both of which issues were assumed by the applicant as successor company by merger as of December 31, 1926;

A hearing on said application, as amended, having been duly held[1] after appropriate notice; the record in this matter having been examined and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the said bonds be, and the same hereby are, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; subject, however, to the following conditions:

(1) That such issue and sale of the said bonds shall be in compliance with the terms and conditions of, and for the purposes represented by said application, as amended, and in compliance with the terms and conditions imposed by the order of the State Corporation Commission of the Commonwealth of Virginia.

(2) That (a) in January 1939 and each month thereafter, before the declaration or payment of any dividend upon any class of applicant's stock, applicant shall expend for maintenance or accrue to its reserve for retirements, renewals and replacements (or any similar reserve which may be created through the adoption of a different classification of accounts) not less than 16% of its gross revenues derived from its electric and gas operations and not less than 25% of its gross revenues derived from its street railway operations; and that (b) after the date of this order no dividend upon the common stock of applicant shall be declared or paid unless and until this Commission, upon application, shall have approved the declaration and payment of the proposed dividend. The conditions imposed by this paragraph "(2)" shall continue in effect until the applicant shall satisfy this Commission that there has been such improvement in its security structure, the maintenance of its properties, its depreciation policies, and/or in other respects as to justify modification or termination of said conditions by this Commission in accordance with the principles and applicable provisions of the Public Utility Holding Company Act of 1935 and the rules and regulations adopted thereunder.

(3) That prior to the issuance of said bonds applicant shall surrender to the trustee for cancellation all of the Newport News and Hampton Railway, Gas and Electric Company First and Refunding Mortgage 5% Gold Bonds, due January 1, 1944, previously issued and now held in applicant's treasury.

(4) That such exemption shall immediately terminate without further order of this Commission if at any time the authorization of the issue and sale of the bonds by the State Corporation Commission of the Commonwealth of Virginia shall be revoked or shall otherwise terminate.

(5) That within ten days after the initial issue and sale of the said bonds and monthly thereafter, until all of the said bonds have been sold, the applicant shall file with this Commission its Certificate of Notification showing that the issue and sale of the said bonds have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended, and stating the aggregate amount of the bonds issued and sold to date.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3263; Filed, October 29, 1938; 12:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[File No. 32-89]

IN THE MATTER OF VIRGINIA PUBLIC SERVICE COMPANY

ORDER MAKING DOCUMENTS PART OF RECORD

The hearing on the above matters having been ordered closed[1] on the 22nd day of July, 1938; and

[1] 3 F. R. 1458 DI.

[1] 3 F. R. 1458 DI.

Subsequent to that date the applicant by its counsel having stipulated on October 28, 1938, that the following documents may be made part of the record in these proceedings:

(1) Letter dated August 3, 1938 from Lynne A. Warren, counsel to the applicant, to this commission relating to the bonds proposed to be issued herein.

(2) Copy of "Final Order" in a cause entitled "Commonwealth of Virginia at the Relation of State Corporation Commission vs. Virginia Public Service Company and Others (Case No. 6486)" dated August 22, 1938.

(3) Copy of "Final Decree" in a cause entitled "Commonwealth of Virginia at the Relation of Abram P. Staples, Attorney General of Virginia, vs. Virginia Public Service Company, a Virginia Corporation (Case No. 6507)".

(4) Copy of "Stipulation and Agreement for Settlement of Case" in a cause entitled "Commonwealth of Virginia at the Relation of Abram P. Staples, Attorney General of Virginia, vs. Virginia Public Service Company, a Virginia Corporation (Case No. 6507)", dated August 19, 1938, and the exhibits attached thereto.

(5) Letter from J. M. Costello, treasurer of the applicant, to this Commission dated August 31, 1938 relating to the stipulation entered into between the applicant and the Attorney General of Virginia, dated August 19, 1938.

(6) Letter from J. M. Costello, treasurer of the applicant, to this Commission, dated September 6, 1938.

(7) Letter dated October 28, 1938 from J. M. Costello, treasurer of the applicant, to the Securities and Exchange Commission, attaching a copy of a proposed order of the Commission and of a resolution of the Board of Directors of the applicant adopted October 19, 1938.

It now appearing that the said documents and stipulation are material to the issues in the above matter;

It is ordered, That the said documents and stipulation be, and the same hereby are, made a part of the record herein.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3264; Filed, October 29, 1938; 12:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[File Nos. 32-99, 46-106]

IN THE MATTER OF THE DAYTON POWER AND LIGHT COMPANY AND THE COLUMBIA GAS & ELECTRIC CORPORATION

ORDER GRANTING APPLICATION

The Dayton Power and Light Company, a subsidiary company of Columbia Gas & Electric Corporation, a registered holding company, having filed an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of 42,500 shares of its common stock without par value to said Columbia Gas & Electric Corporation;

Columbia Gas & Electric Corporation having filed an application pursuant to Section 10 (a) (1) of said Act for approval of the acquisition of the sale of said stock at a price of $2,550,000;

A public hearing having been held[1] on said applications after appropriate notice; and the Commission having considered the record in these matters and made and filed its findings herein:

It is ordered, That said applications be and the same hereby are granted, subject to the following terms and conditions:

(1) That the issue and sale by Dayton and the acquisition by Columbia be in conformity with the terms and for the purposes represented by the respective applications.

(2) That within ten days after the issue and sale of its securities Dayton shall file with this Commission a certificate of notification to the effect that the issue and sale have been carried out pursuant to the terms of this order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3265; Filed, October 29, 1938; 12:02 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[Files No. 43-103, 47-19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORPORATION, SOUTHERN OREGON GAS CORPORATION, CALIFORNIA UTILITIES COMPANY, NEEDLES GAS AND ELECTRIC COMPANY, WEAVERVILLE ELECTRIC COMPANY, APACHE GAS COMPANY, AND GAS TRANSPORT COMPANY

SUPPLEMENTARY ORDER APPROVING PLAN AND PERMITTING DECLARATIONS AND APPLICATIONS TO BECOME EFFECTIVE

The Republic Electric Power Corporation of Delaware, a registered holding company, and its subsidiaries, with properties in California, Oregon, and Oklahoma, have jointly filed a declaration under Section 7 and applications under Sections 10, 11 (e) and 12 (d), and amendments thereto, regarding the sale and issuance of securities and acquisition and sale of utility assets incident to a comprehensive plan of reorganization and recapitalization. As part of the Revised Plan, the applicants and declarants consent to an order providing for the ultimate disposition of Republic Electric Power Corporation of the properties of Apache Gas Company and Gas Transport Company and the dissolution of the Republic Mutual Service Company in conformity with Section 11 (b), and the simplification of the system's corporate structure.

A public hearing having been held[1] after appropriate notice; the applicants and declarants having waived a trial examiner's report, submission of proposed findings of fact to the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission and all arguments before the Commission, prior to the entry of the Commission's findings, opinion, and order herein; and the Commission having considered the record in these matters; and having filed its findings and opinion and preliminary order herein:

It is ordered, That the Revised Plan filed under Section 11 (e) be, and hereby is, approved, and such approval shall include each of the following steps to be taken under such plan:

(1) The transfer by Republic Electric Power Corporation of all its assets and securities and the Weaverville Ice Plant and securities and obligations of Needles Steam Laundry to the California Pacific Utilities Company (the operating company which will result from the merger of the constituent companies and hereinafter referred to as the Surviving Corporation);

(2) the cancellation by Republic Electric Power Corporation of so much of the note obligations of Needles Gas and Electric Company, California Utilities Company, and Weaverville Electric Company as exceeds $425,000;

(3) the merger of California Utilities Company, Needles Gas and Electric Company, and Weaverville Electric Company into Southern Oregon Gas Corporation;

(4) the assumption by the Surviving Corporation of all the assets and non-canceled liabilities of the constituent corporations;

(5) the issuance by the Surviving Corporation to Republic Electric Power Corporation of 4,250 shares of 5% First Preferred, 6,690 shares 5% Second Preferred, and 6,450 shares Common;

(6) the execution by the Surviving Corporation of an open-end indenture of trust;

(7) the issuance by the Surviving Corporation of $475,000 First and Refunding Mortgage Bonds, $425,000 of which will be issued to Republic Electric Power Corporation and $50,000 of which will be issued to the Niagara Share Corporation, in cancellation, respectively, of the indebtedness of its constituent corporations;

(8) the issuance by Gas Transport Company and Apache Gas Company to Republic Electric Power Corporation of non-negotiable notes totaling $200,000;

[1] 3 F. R. 1941 DI.

[1] 3 F. R. 2268 DI.

(9) the issuance by Apache Gas Company to Republic Electric Power Corporation of a non-negotiable note covering the balance of its indebtedness to the Republic Electric Power Corporation and the transfer of this note by Republic Electric Power Corporation to the Surviving Corporation;

(10) the issuance by Republic Electric Power Corporation to Niagara Share Corporation of a $200,000 non-negotiable note, in cancellation of a like amount indebtedness, and to accompany this note with the pledge of the $200,000 non-negotiable note issued to it by Gas Transport Company and Apache Gas Company and all the shares of Apache Gas Company and Gas Transport Company;

(11) the transfer by Republic Electric Power Corporation to Niagara Share Corporation of all the First and Refunding Mortgage Bonds and all the First and Second Preferred Stock which it received from the Surviving Corporation, in cancellation of $1,094,000 indebtedness to Niagara Share Corporation;

(12) the distribution by Republic Electric Power Corporation of the Common stock which it will receive from the Surviving Corporation to its own stockholders on a share-for-share basis;

(13) the disposition by Republic Electric Power Corporation to third persons, other than the present management of Republic Electric Power Corporation, of its interests in Apache Gas Company and Gas Transport Company; and

(14) the dissolution, within one year from the effective date of this Order, of the Republic Electric Power Corporation and the Republic Mutual Service Company.

It is further ordered, That, in pursuance of Section 11 (b) and in accordance with the express consent of the Republic Electric Power Corporation that within one year of the date of this Order:

(1) Republic Electric Power Corporation distribute its common stock holdings of the Surviving Corporation to its stockholders; and

(2) Republic Electric Power Corporation dispose of its interests in the Apache Gas Company and Gas Transport Company to third persons, other than the present management of the Republic Electric Power Corporation.

And it is further ordered, That the declarations,

(1) by the Surviving Corporation regarding the issuance of First and Refunding Mortgage Bonds, common stock, and preferred stock;

(2) by Apache Gas Company regarding the issuance of non-negotiable notes;

(3) by Gas Transport Company regarding the issuance of a non-negotiable note; and

(4) by Republic Electric Power Corporation regarding the issuance of a non-negotiable note;

be and become effective forthwith subject to the terms and for the purposes represented thereby.

That the applications,

(1) by the Surviving Corporation regarding the acquisitions of interests in business and securities; and

(2) by Republic Electric Power Corporation regarding the acquisition of securities;

be and hereby are approved.

And it is further ordered, That the application by Republic Electric Power Corporation regarding the sale or other disposition of the securities and public utility assets be and the same is hereby approved, except that no authorization is given to Republic Electric Power Corporation to dispose of its interests in Apache Gas Company and Gas Transport Company by the sale of the securities of the latter companies, and if Republic Electric Power Corporation desires to make such a disposition of its interests the Commission reserves jurisdiction over such transaction. The authorization herein granted is subject to the condition that if the sale of Republic Electric Power Corporation's interests in Apache Gas Company and Gas Transport Company takes the form of a sale of assets and properties, Republic Electric Power Corporation must give this Commission twenty days' notice, in writing, of its intention to sell and of the terms of such sale, and if within that twenty-day period the Commission does not issue an order requiring Republic Electric Power Corporation to show cause why the terms and conditions of such sale, and the effect thereof, are not detrimental to the public interest or the interests of investors or consumers, and will not circumvent the provisions of the Act or any rules, regulations, or order of the Commission thereunder, then the sale may be consummated without further order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3266; Filed, October 29, 1938; 12:03 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of October, A. D. 1938.

[File No. 32-111]

IN THE MATTER OF ARKANSAS WESTERN GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 17, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 12, 1938.

The matter concerned herewith is in regard to an application by Arkansas Western Gas Company, a subsidiary of Southern Union Gas Company, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of $750,000 principal amount of applicant's First Mortgage Series A Ten-year 5% Sinking Fund Bonds, to be dated October 15, 1938 and to mature October 15, 1948; and the issue and exchange of 2,500 shares of new 6% Fifty-dollar Par Value Cumulative Preferred Stock for $125,000 principal amount of applicant's Five-year 7% Gold Debentures, due January 1, 1939 (now owned by Southern Union Gas Company, the parent of applicant).

The proceeds from the sale of the First Mortgage Bonds are intended to be used for the purpose of retiring applicant's presently outstanding First (closed) Mortgage 7% Sinking Fund Gold Bonds due January 1, 1939, to provide working capital and for other corporate purposes.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3278; Filed, October 31, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of October, A. D. 1938.

NOV 4 1938

[File No. 32-112]

IN THE MATTER OF UNION ELECTRIC COMPANY OF MISSOURI

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 16, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day, the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 11, 1938.

The matter concerned herewith is in regard to the application of the above named company which is a subsidiary of The North American Company, a registered holding company, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, requesting that (1) the issue of promissory notes in the principal amount of $13,000,000 due nine months or less from date of issue, (2) the issue and sale of 130,000 shares of preferred stock without par value entitled to cumulative dividends of $5 per annum and (3) the issue and sale of interim receipts for such stock be exempted from the provisions of Section 6 (a) of said Act. There is also a request for alternative consideration of the application as a declaration under Section 7.

According to statements contained in the application the applicant proposes to offer such $5 preferred stock to the public through underwriters for the purpose of financing its business and out of the proceeds proposes to redeem the present preferred stock consisting of 90,000 shares with $100 par value entitled to dividends of 7% per annum, and 40,000 shares with $100 par value entitled to dividends at 6% per annum. The applicant further states that to accomplish this it is necessary, first, to issue the above notes to certain banks for the purpose of borrowing sufficient funds for such redemption and, second, to issue to subscribers to the proposed new preferred stock interim receipts for the purpose of evidencing their rights to certificates of the new preferred stock when issued.

It further appears, according to statements contained in the application, that the issue and sale of the new preferred stock and of the interim receipts therefor are subject to the approval of the Missouri Public Service Commission, but that the issue of the notes is not so subject.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3279; Filed, October 31, 1938; 12:51 p. m.]

Reference

NOV 4 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 214

Washington, Wednesday, November 2, 1938

The President

EXECUTIVE ORDER

ESTABLISHING THE INTERDEPARTMENTAL COMMITTEE ON PRINTING AND PROCESSING

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

1. There is hereby established the Interdepartmental Committee on Printing and Processing, to be composed of representatives of each of the following-named departments and agencies, and such other departments or agencies as the Committee itself may designate:

Bureau of the Budget
Government Printing Office
Department of Agriculture
Department of the Interior
Treasury Department
Department of Commerce
Social Security Board
United States Tariff Commission
Post Office Department

2. Each department or agency represented on the Committee shall have one representative, who shall be designated by the head thereof.

3. Pending selection of a permanent chairman by the Committee the representative of the Bureau of the Budget shall serve as its temporary chairman.

4. The members of the Committee shall be officers or employees of the department, independent establishment, or agency which they represent and shall serve without additional compensation.

5. The Committee shall promulgate rules and regulations relating to the establishment, coordination, and maintenance of uniform policies and procedures, consistent with law, for the efficient and economical utilization of printing and processing in the executive branch of the Government.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 29, 1938.

[No. 7998]

[F. R. Doc. 38-3288; Filed, November 1, 1938; 12:43 p. m.]

EXECUTIVE ORDER

TRANSFERRING TO THE SECRETARY OF COMMERCE THE RECORDS AND PROPERTY OF THE OFFICE OF THE ADMINISTRATOR OF THE CENSUS OF PARTIAL EMPLOYMENT, UNEMPLOYMENT AND OCCUPATIONS, AND AUTHORIZING THE EMPLOYMENT OF CERTAIN EMPLOYEES OF THAT OFFICE WITHOUT REGARD TO THE COMPETITIVE REQUIREMENTS OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me as President of the United States and by the provisions of paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404) it is hereby ordered as follows:

1. All records, files, equipment, and property of every kind of the Office of the Administrator of the Census of Partial Employment, Unemployment and Occupations, established by Executive Order No. 7711, of September 22, 1937,[1] pursuant to the act approved August 30, 1937 (50 Stat. 883), shall be transferred effective as of November 1, 1938, to the custody and control of the Secretary of Commerce.

2. William C. Cole, George H. McEwen, Mrs. Margaret M. Martin, and Frank R. Wilson, who have served with merit under the said Administrator, may be appointed to appropriate positions in the classified civil service without compliance with the competitive requirements of the Civil Service Rules, subject to their establishing requisite qualifications before the Civil Service Commission.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 31, 1938.

[No. 7999]

[F. R. Doc. 38-3289; Filed, November 1, 1938; 12:43 p. m.]

[1] 2 F. R. 1891 (2221 DI).

CONTENTS

THE PRESIDENT

Executive Orders: Page
Interdepartmental Committee on Printing and Processing, establishment 2603
Transfer to Secretary of Commerce of records, etc., of Office of Administrator of Census of Partial Employment, Unemployment and Occupations; employment of certain employees 2603

RULES, REGULATIONS, ORDERS

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Customs personnel permitted to take samples 2604
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Special denatured alcohol Formula No. 23-H; use in rubbing alcohol compounds 2604
TITLE 38—PENSIONS, BONUSES AND VETERANS' RELIEF:
Veterans' Administration:
Orthopedic and prosthetic appliances, revision of regulations 2604

NOTICES

Civil Aeronautics Authority:
Exemption of certain air transportation services rendered by:
Braniff Airways, Inc. 2605
Transcontinental and Western Air, Inc. 2605
United Air Lines Transport Corp., filing, etc., of tariff revision 2605
Securities and Exchange Commission:
Greenville Electric Light and Power Co., withdrawal of application 2607
Simon Silver-Lead Mines, Inc., hearing on registration of common capital stock 2606

FEDERAL REGISTER

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Rules, Regulations, Orders

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49734]

CUSTOMS REGULATIONS OF 1937 AMENDED TO PERMIT OTHER CUSTOMS PERSONNEL, IN ADDITION TO SAMPLERS, WHEN SO DIRECTED AND WITH THE APPROVAL OF THE APPRAISER, TO TAKE SAMPLES

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 624 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1624), paragraph (g) of article 1389 of the Customs Regulations of 1937 [1] is hereby amended to read as follows:

(g) In addition to samplers, other customs personnel, when so directed and with the approval of the appraiser, shall take samples.

[SEAL] J. H. MOYLE,
Commissioner of Customs.

Approved, October 26, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3285; Filed, November 1, 1938; 12 m.]

[1] 2 F. R. 1740 (2035 DI).

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4869]

AUTHORIZING SPECIALLY DENATURED ALCOHOL FORMULA NO. 23–H

USE IN MANUFACTURE OF RUBBING ALCOHOL COMPOUNDS

To District Supervisors, Chemists in Charge, Authorized Chemists, and Others Concerned:

Pursuant to authority conferred by the Act of June 7, 1906 (U. S. C., Title 26, Sec. 1320), and Title III of the National Prohibition Act, (U. S. C., Title 27, Sec. 71, et seq.), the following specially denatured alcohol Formula No. 23–H is hereby authorized:

To every 100 gallons of ethyl alcohol 190° proof add 8 gallons of Acetone U. S. P. and 1.5 gallons of Methyl Isobutyl Ketone.

Treasury Decision 4743 [1] is hereby modified so as to provide that specially denatured alcohol Formula No. 23–H may be used in the manufacture of rubbing alcohol compounds. Rubbing alcohol compounds manufactured with specially denatured alcohol Formula No. 23–H must contain 70 per cent absolute ethyl alcohol by volume or as near 70 per cent as is practicable to be obtained by the ordinary commercial methods used for compounding alcoholic preparations. In order that finished products shall contain 70 per cent absolute ethyl alcohol by volume, the manufacturer shall use 103.3 fluid ounces of specially denatured alcohol Formula No. 23–H to which must be added ½ avoirdupois ounce of sucrose octa acetate, and then made up to 1 gallon with water.

Standard Formula for Rubbing Alcohol Compounds Manufactured with Specially Denatured Alcohol Formula No. 23–H:

SDA Formula No. 23–H	103.3 Fluid ounces.
Sucrose Octa Acetate	½ Avoirdupois ounce.
Water, qs	1 gallon.

The manufacturer of rubbing alcohol compounds may also add to the formula such other odorous constituents or medicaments as is desired, provided they are shown in the formula submitted for approval and the finished product contains 70 per cent absolute alcohol by volume.

Manufacturers desiring to manufacture rubbing alcohol compounds shall submit quantitative formulae and labels for these preparations on Form 1479–A, in quadruplicate, to the district supervisor, who will handle them in accordance with the provisions set forth in Treasury Decision 4743.

Rubbing alcohol compounds must be packaged, labeled, and distributed as provided in the second paragraph of Article 146 of Regulations No. 3, as amended by Treasury Decision 4743.

This regulation shall become effective on the date of its approval.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, October 28, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3286; Filed, November 1, 1938; 12 m.]

[1] 2 F. R. 1105 (1321 DI).

TITLE 38—PENSIONS, BONUSES AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

ORTHOPEDIC AND PROSTHETIC APPLIANCES [1]

SEC. 6.6115 (a) Artificial limbs and other orthopedic or prosthetic appliances of a permanent type may be purchased, made or repaired; and special clothing made necessary by the wearing of such appliance may be supplied, for persons entitled under Sec. 6.6060, to out-patient treatment for a service-connected disease or injury which, in medical judgment, requires such service.

(b) Artificial limbs and other orthopedic and prosthetic appliances of a permanent type may be furnished persons entitled to the benefits of out-patient treatment under Sec. 6.6060, when in medical judgment deemed necessary as adjunct treatment for a disease or injury associated with and aggravating the disability from a service-connected condition under treatment.

(c) Artificial limbs and other orthopedic and prosthetic appliances, or special clothing made necessary by the wearing of such appliance, may, upon medical determination and authorization, be furnished beneficiaries hospitalized for treatment under the provisions of Sec. 6.6047, subject to these conditions: (1) when the disability requiring an artificial limb or appliance is service-connected; (2) when the artificial limb or other appliance is required as adjunct to a service-connected disability; (3) when the non-service-connected condition for which a patient is hospitalized itself requires a prosthetic appliance, or is associated with another non-service-connected disease or injury necessitating an artificial limb or other prosthetic appliance (auxiliary treatment). An artificial limb will not be repaired or replaced by a new limb merely because of any or all surgical treatment of a stump, such as treatment of a stump ulcer or neuroma. Such repair or replacement will be in order when, as a result of reamputation, a change in stump contour is caused which necessitates supply of a new limb or alteration of the artificial limb that had been in use prior to such surgical intervention.

(d) Members in domiciliary (barracks) status will be supplied artificial limbs or other orthopedic or prosthetic appliances, or repairs thereof, or special clothing made necessary by the wearing of such appliance, subject to the same provisions as (c) hereof applying to patients receiving hospital treatment.

(i) For furnishing of appliances to hospitalized patients other than ex-members of the military or naval forces, and retired officers or retired enlisted men of the regular establishment, and for procedure in supply or repair of orthopedic and prosthetic appliances, see currently effective medical procedure. (October 31, 1938.) (Secs. 1, 2, 46 Stat. 1016; 38 U. S. C. 11, 11a, 241–250) (Ex. Order 5476, November 4, 1930).

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3282; Filed, October 31, 1938; 3:25 p. m.]

[1] Revision of Section 6.6115.

Notices

CIVIL AERONAUTICS AUTHORITY.

[Special Order 401–A–9]

EXEMPTING BRANIFF AIRWAYS, INC., RELATIVE TO CERTAIN AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER BETWEEN DALLAS AND SAN ANTONIO, TEXAS, VIA AUSTIN, TEXAS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 17th day of October 1938.

The Civil Aeronautics Authority, acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, and particularly sections 205 (a) and 416 (b) thereof, and finding that such action is pursuant to and consistent with the provisions of the Act and that the enforcement of the provisions of section 401 (a) of the Act would be an undue burden on Braniff Airways, Inc., in so far as the provisions of said section are applicable to the air transportation service hereinafter exempted from said provisions, hereby makes and promulgates the following special order:

Braniff Airways, Inc., is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to transportation by such air carrier of mail, passengers and property on one of its schedules known as Trip 7 to operate between Dallas and San Antonio, Texas, via Austin, Texas, until December 31, 1938, and, if before that time such air carrier shall apply to the Authority for a certificate of public convenience and necessity with respect to a route between Dallas and San Antonio, Texas, via Austin, Texas, as a new route (as distinguished from an application pursuant to clause (e) of section 401 of the Act), then and in that case this exemption shall continue until the Authority shall have issued such a certificate to such carrier or until it shall have entered an order denying such application, whichever of such events shall first occur. This exemption is granted, subject to the condition that, during all times while it shall continue to be in effect, said air carrier shall have a valid air carrier operating certificate issued by the Authority with respect to its operations between Dallas and San Antonio, Texas, via Austin, Texas, and that such air carrier, during all times while this exemption is in effect, shall comply with all applicable provisions and requirements of the Civil Air Regulations.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3283; Filed, November 1, 1938; 9:41 a. m.]

[Special Tariff Permission C. A. A. No. 2]

FILING, POSTING, AND PUBLISHING OF TARIFF REVISION BY UNITED AIR LINES TRANSPORT CORPORATION

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 28th day of October 1938.

Application having been made by United Air Lines Transport Corporation under Rule 10 of Regulation 403–A–1 [1] for permission to file, post, and publish on less than the 30 days' notice of any proposed tariff change required by section 403 (c) of the Civil Aeronautics Act of 1938, first revision of page 71 of United Air Lines Transport Corporation Local and Joint Passenger Tariff C. A. A. No. 1; and

It appearing, That one-way fares were erroneously published in the table of round-trip excursion fares between Pittsburgh, Pa., and Portland, Oreg., and Seattle, Wash., such fares being published to be effective between the dates of 12: 01 a. m., November 1, 1938, to 11: 59 p. m., December 14, 1938; and that the new revised page 71 will show the correct round-trip excursion fare of $175.10 instead of the one-way fare inadvertently published of $117.20; and that correction should be made as soon as possible so that erroneous sales will not be made.

Now therefore, the Civil Aeronautics Authority finding that its action in such respect is desirable in the public interest, and acting pursuant to the authority vested in it by section 403 (c) of the Civil Aeronautics Act of 1938, hereby makes and promulgates the following special tariff permission:

It is ordered, That United Air Lines Transport Corporation may file, post and publish its first revision of page 71 of United Air Lines Transport Corporation Local and Joint Passenger Tariff C. A. A. No. 1, which is in loose leaf form, upon one day's notice, provided that such revised page shall bear a notation to the effect that it is authorized by this special permission.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3284; Filed, November 1, 1938; 9:41 a. m.]

[1] 3 F. R. 2274 DI.

[Special Order 401–A–10]

EXEMPTING TRANSCONTINENTAL AND WESTERN AIR, INC., RELATIVE TO AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER OVER A ROUTE FROM PHOENIX, ARIZONA, TO LAS VEGAS, NEVADA, VIA PRESCOTT AND KINGMAN, ARIZONA, AND BOULDER CITY, NEVADA

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C. on the 31st day of October 1938.

Upon consideration by the Authority of the application of Transcontinental and Western Air, Inc., for exemption from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier from Phoenix, Arizona, to Las Vegas, Nevada, via Prescott and Kingman, Arizona and Boulder City, Nevada, the Authority is of the opinion and finds that:

(1) The applicant was, prior to May 14, 1938, and is now an air carrier engaged in the rendition of an interstate air transportation service and as such air carrier is subject to the provisions of the Civil Aeronautics Act of 1938, and the jurisdiction of the Civil Aeronautics Authority.

(2) Said air carrier, prior to, on and since May 14, 1938, was and has been continuously engaged in the rendition of scheduled air line transportation service and was then and still is possessed of a valid Scheduled Airline Competency Certificate therefor, issued by the Secretary of Commerce.

(3) On or about the 23rd day of June, 1938, and prior to the effective date of section 401 of the Civil Aeronautics Act of 1938, a contract for air mail service over a route from Phoenix, Arizona, to Las Vegas, Nevada, via Prescott and Kingman, Arizona, was awarded by the United States Post Office Department to Transcontinental and Western Air, Inc. authorizing said air carrier to engage in the transportation of mail over said route. By the terms of said contract the Post Office Department reserved the right to prescribe additional intermediate stops. Air mail service over said route

was provided for by the Act of Congress making appropriations for the Treasury Department and the Post Office Department, approved March 28, 1938. Said route is specifically set forth in section 401 (e) (2), Clause (E) of the Civil Aeronautics Act of 1938.

(4) On or about October 28, 1938 the Post Office Department authorized Transcontinental and Western Air, Inc. to include Boulder City, Nevada, as a regular intermediate stop on the route described in Finding (3).

(5) The present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of said section are applicable to the air transportation service to be rendered by said air carrier over the route described in Finding (3), including the intermediate stop at Boulder City, Nevada, would be an undue burden on said air carrier by reason of the unusual circumstances affecting the operations of such air carrier, with respect to said air transportation service, and such enforcement would not be in the public interest.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, hereby makes and promulgates the following Special Order:

[Special Order 401–A–10]

EXEMPTING TRANSCONTINENTAL AND WESTERN AIR, INC., FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938 IN SO FAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE TO BE RENDERED BY SAID AIR CARRIER OVER A ROUTE FROM PHOENIX, ARIZONA, TO LAS VEGAS, NEVADA, VIA PRESCOTT AND KINGMAN, ARIZONA, AND BOULDER CITY, NEVADA

Transcontinental and Western Air, Inc., is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 with respect to transportation by such air carrier of mail, passengers and property over a route from Phoenix, Arizona, to Las Vegas, Nevada, via Prescott and Kingman, Arizona, and Boulder City, Nevada, during the period from the date hereof until such time as the Authority shall issue a Certificate of Convenience and Necessity for the air transportation service over such route to said air carrier or shall issue its final order denying the application of said air carrier for such certificate. This exemption is granted subject to the condition that during all times while it shall continue to be in effect, said air carrier shall have a valid air carrier operating certificate issued by the Authority with respect to its operations on such route and that such air carrier shall, during all such times, comply with all applicable provisions and requirements of the Civil Air Regulations.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–3287; Filed, November 1, 1938; 12:25 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 31st day of October, A. D. 1938.

[File No. 1–2248]

IN THE MATTER OF THE REGISTRATION OF SIMON SILVER-LEAD MINES, INC. COMMON CAPITAL STOCK, $1 PAR VALUE

ORDER FOR HEARING

I

It appearing to the Commission:

That Simon Silver-Lead Mines, Inc., a corporation, is the issuer of Common Capital Stock, $1 Par Value; and

That said Simon Silver-Lead Mines, Inc., registered such security on the San Francisco Mining Exchange, a national securities exchange, by filing on or about November 13, 1935, an application with the said Exchange and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X–12B–1, as amended, formerly designated as Rule JB1, promulgated by the Commission thereunder; and

That pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, and Rules X–13A–1 and X–13A–2, formerly designated as Rules KA1 and KA2, respectively, promulgated by the Commission thereunder, said Simon Silver-Lead Mines, Inc. filed on or about April 30, 1936, and on or about May 1, 1937, its annual reports on Form 10–K for the respective fiscal years ended December 31, 1935, and December 31, 1936; and

That said Rule X–13A–1 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That said Rule X–13A–2 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 10–K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified and that no other form was or is specified for use by the said Simon Silver-Lead Mines, Inc.; and

II

The Commission having reason to believe:

That Simon Silver-Lead Mines, Inc. has failed to comply with said Section 13 (a) and the Rules and Regulations promulgated thereunder in that the annual report filed by it for the year ended December 31, 1936,

(1) Fails to list Mr. B. B. Bryan as the parent of the registrant and his respective percentage of voting stock, although required by Item 1 of said Form 10–K and the Instructions thereto;

(2) Fails to include information concerning the general effect of material contracts and arrangements made or in effect within the fiscal year not previously reported, including the dates thereof and names of parties thereto, although required by Item 5, paragraph (b), of said Form 10–K and the Instructions thereto;

(3) Fails to set forth in Schedule III the policy followed by the registrant with respect to provisions for depreciation, depletion and amortization, although required by Item 8 of said Form 10–K and the Instructions thereto;

(4) Fails to include in Schedule VIII the number of shares of common stock owned by its parent, Mr. B. B. Bryan, although required by Item 8 of said Form 10–K and the instructions thereto; and

That the said Simon Silver-Lead Mines, Inc., has also failed to file the information and documents required by said Rule X–13A–1, adopted by the Commission pursuant to said Section 13 (a) in that it has failed to file its annual report for the year ended December 31, 1937, on Form 10–K, as prescribed by Rule X–13A–2 adopted by the Commission pursuant to said Section 13 (a); and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Simon Silver-Lead Mines, Inc. has so failed to comply with said Section 13 (a) and said Rules and Regulations promulgated by the Commission thereunder, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said Common Capital Stock, $1 Par Value, on the said San Francisco Mining Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 16th day of November, 1938, at 10:00 A. M. at the Regional Office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceedings, John Clarkson, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3290; Filed, November 1, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of November, A. D. 1938.

[File No. 32–80]

IN THE MATTER OF THE GREENVILLE ELECTRIC LIGHT AND POWER COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

The Commission, upon the request of the applicant, consents to the withdrawal of the above-captioned application, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3291; Filed, November 1, 1938; 12:50 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 215

Washington, Thursday, November 3, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT ON FARMS IN CALIFORNIA IN CONNECTION WITH THE PRODUCTION OF SUGAR BEETS DURING THE CROP YEAR 1939

Whereas, Section 301 of the Sugar Act of 1937 authorizes the Secretary of Agriculture to make payments under specified conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar, and

Whereas, the condition with respect to farming practices, as stated in Section 301 (e) of the said act, is as follows:

"That there shall have been carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated."

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the conditions prescribed in Section 301 (e) of the Sugar Act of 1937 shall be deemed to have been fulfilled with respect to the production of the 1939 crop of sugar beets on any farm if there is carried out, during the crop year 1939, on land on the farm which is adapted to the production of sugar beets, not less than one acre of soil-conserving practices for each acre planted to sugar beets: *Provided, however,* That one-half acre of soil-conserving practices may be carried out for each acre planted to sugar beets on land which has not produced sugar beets since 1935 if a perennial legume was produced thereon in 1936 or if any legumes were produced thereon in 1937 or 1938, and three-fourths acre of soil-conserving practices may be carried out for each acre planted to sugar beets on land which has not grown sugar beets since 1936 if legumes were produced thereon in 1937 or 1938; and *Provided further,* That not in excess of 75 percent of the foregoing requirements in connection with rented acreage which would otherwise be part of another farm may consist of practices carried out on such farm in excess of any practices required thereon.

For the purposes of this determination:

(1) The term "crop year" means the calendar year, except where the grower requests that the crop year be the twelve-month period beginning 30 days prior to the planting date of sugar beets for the farm, in which case the crop year shall be such twelve-month period, if approval is given by the County Committee.

(2) Each of the following shall be deemed to be one acre of soil-conserving practices:

(a) Maintaining until after July 1, 1939, one acre of a protective covering of adapted perennial or biennial legumes, adapted perennial grasses or mixtures of such legumes and grasses; or

(b) Seeding during the crop year 1939 one-half acre of land to adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(c) Seeding and maintaining until after December 31, 1939, one acre of an adapted cover crop or plowing under during the crop year 1939 one acre of a good stand and a good growth of an adapted green manure crop; or

(d) Applying during the crop year 1939 eight short tons of animal manure or the amount of manure normally produced in one year by any of the following: two head of cattle (of more than one year of age), two horses, two mules, four calves, four colts, ten sheep, or ten goats; or

(e) Applying during the crop year 1939, to land planted to sugar beets, 75 pounds

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
California, sugar beet farming practices, crop year 1939 2609
Domestic beet sugar area, eligibility for payment with respect to abandonment and crop deficiency for farms in 2610
TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Free or reduced-rate transportation 2610
TITLE 17—SECURITIES AND EXCHANGES:
Securities and Exchange Commission:
Securities Exchange Act of 1934, postponing effectiveness of Rule X–10B–4 2611

NOTICES

Civil Aeronautics Authority:
Hearings on applications by:
Garni, A., permission to serve on Board of Directors of Eastern Air Lines, Inc 2611
Inter-Island Airways, Ltd., retaining of officers, etc., connected with parent company 2611
Securities and Exchange Commission:
American Home Products Corp., unlisted trading privileges hearing 2611
Bard, Millard H., memorandum opinion and order suspending registration 2612
Laclede Gas Light Co., hearing 2612
New England Railroad Co., listing and registration hearing 2612
Washington Gas Light Co., exemption of issue and sale of bonds 2611

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

United States Civil Service Commission: Page
Condition of apportionment at close of business Monday, October 31, 1938---------- 2613

(or in the case of peat or muck land, determined as such by the State Agricultural Conservation Committee, an amount approved by such committee but not less than 35 pounds) of net available nitrogen and/or potash in the form of commercial chemical fertilizers; or

(f) Applying during the crop year 1939, to land planted to sugar beets, or to or in connection with the seeding of perennial or biennial legumes or perennial grasses, 64 pounds (or in the case of peat or muck land, determined as such by the State Agricultural Conservation Committee, an amount approved by such committee but not less than 30 pounds) of net available P_2O_5 in the form of commercial chemical fertilizers; or

(g) Applying during the crop year 1939 not less than eight tons (air-dry weight) of leguminous crop residues.

(3) Adapted perennial or biennial legumes, or adapted perennial grasses, or mixtures thereof, or adapted green manure crops, shall be deemed to be those perennial and biennial legumes, or perennial grasses, or mixtures thereof, or green manure crops which are approved under the 1939 State Agricultural Conservation Program as being adaptable for the State.

All of the foregoing soil-conserving practices shall be carried out in accordance with farming methods commonly used in the community in which the farm is located.

Acres of soil-conserving practices carried out to meet the requirements prescribed for the 1938 sugar beet crop, pursuant to Section 301 (e) of the Sugar Act of 1937, shall not be used to meet the requirements set forth herein for the 1939 crop.

Done at Washington, D. C., this 1st day of Nov., 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3295; Filed, November 1, 1938; 3:53 p. m.]

DETERMINATION OF ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN THE DOMESTIC BEET SUGAR AREA

Pursuant to the provisions of Section 303 of the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, hereby determine:

1. That the County Agricultural Conservation Committee for each county in which sugar beets are planted for harvest shall ascertain whether the actual yield of commercially recoverable sugar from the acreage planted to sugar beets in any year on 10 per centum or more of all the farms on which sugar beets were planted for harvest in such year in the county, or any local producing area, as defined herein, was less than 80 per centum of the respective normal yields of commercially recoverable sugar because of drought, flood, storm, freeze, disease, or insects. A county or local producing area in which the actual yields on 10 per centum or more of the farms on which sugar beets were planted for harvest in any year are less than 80 per cent of the respective normal yields shall be designated as an "acreage abandonment and crop deficiency area."

2. That the County Agricultural Conservation Committee shall approve for abandonment and deficiency payments any farm in an acreage abandonment and crop deficiency area on which there was abandonment of planted sugar beet acreage or on which the actual yield of commercially recoverable sugar is less than 80 per centum of the normal yield of the harvested sugar beet acreage, provided (a) such acreage abandonment or crop deficiency was directly due to drought, flood, storm, freeze, disease, or insects, (b) the acres that were abandoned or the acres with respect to which there was a crop deficiency were suitable for the protection of sugar beets and were cared for, up to the time of harvest or abandonment, as the case may be, in a manner which could have been expected, under average conditions, to produce a normal crop of sugar beets, and (c) the farm has otherwise met the conditions of Title III of the said act. Such approval on the application for payment by a member of the County Agricultural Conservation Committee, on behalf of such committee, shall constitute determination that such farm is eligible for abandonment and deficiency payments.

3. That a "local producing area," for the purpose of paragraph one above, shall be all contiguous farms in the county which are found by the County Agricultural Conservation Committee to be similar with respect to types of soil, or with respect to topography: *Provided, however,* That farms separated from other farms by any natural barrier (such as mountains) or large area of land shall not be included within the same local producing area.

Done at Washington, D. C., this 2d day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3297; Filed, November 2, 1938; 12:10 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Temporary Regulation 403-B-1]

FREE OR REDUCED-RATE TRANSPORTATION

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C. on the 31st day of October 1938.

Acting pursuant to the authority conferred upon it by sections 403 (b) and 205 (a) of the Civil Aeronautics Act of 1938 and finding that such action is pursuant to and consistent with the provisions of said Act and necessary to carry out its provisions and to exercise and perform its powers and duties thereunder, the Civil Aeronautics Authority prescribes and adopts the following regulation:

[Temporary Regulation 403-B-1]

FREE OR REDUCED-RATE TRANSPORTATION

Until the Authority shall prescribe more definitive rules with respect to the terms and conditions under which air carriers or foreign air carriers may issue or interchange tickets or passes for free or reduced-rate transportation, any air carrier or foreign air carrier may issue or interchange tickets or passes for free or reduced-rate transportation to any director, officer or employee of an air carrier or foreign air carrier or to the immediate family of any such director, officer or employee; witnesses and attorneys attending any legal investigation in which any such air carrier is interested; persons injured in aircraft accidents and physicians and nurses attending such persons; and any person or property with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation; and in the case of overseas or foreign air transportation, to such other persons as under like circumstances commonly received free or reduced-rate overseas or foreign air transportation from such carrier during the period from June 23, 1938 to August 22, 1938 in accordance with the rules, regulations or other established practices which such carrier then had in effect. Each ticket or pass issued or interchanged pursuant to this regulation shall be revocable in the event actual performance of the transportation would be contrary to the rules, regulations, orders, terms or conditions prescribed by the Authority and in effect at the time performance is requested. This regulation shall take effect immediately and shall remain in force until further order of the Authority.

For the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3294; Filed, November 1, 1938; 3:43 p. m.]

TITLE 17—SECURITIES AND EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

POSTPONING EFFECTIVENESS OF RULE X-10B-4 [1]

The Securities and Exchange Commission deeming it necessary for the execution of the functions vested in it and necessary and appropriate in the public interest and for the protection of investors so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934, as amended, particularly Sections 10 (b) and 23 (a) thereof [c. 404, sec. 10, 48 Stat. 891; 15 U. S. C. 78j: c. 404, sec. 23, 48 Stat. 901; c. 462, sec. 8, 49 Stat. 1379; 15 U. S. C. 78w and Sup. III], hereby amends its Rule X-10B-4 [2] [Sec. 10.X-10B-4] by striking out in Paragraph (c) thereof "November 1, 1938" and inserting in lieu thereof "until further action by the Commission."

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3298; Filed, November 2, 1938; 12:50 p. m.]

[1] October 31, 1938. (Previously designated "Rule X-GB-4.")
[2] 3 F. R. 1002, 1059, 1621, 1912 DI.

Notices

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 25-409(a)-1]

INTER-ISLAND AIRWAYS, LTD., APPLICATION FOR APPROVAL, UNDER SECTION 409 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, OF APPLICANT'S HAVING AND RETAINING OFFICERS AND DIRECTORS WHO ARE ALSO OFFICERS AND/OR DIRECTORS OF APPLICANT'S PARENT COMPANY, INTER-ISLAND STEAM NAVIGATION COMPANY, LTD.

OCTOBER 31, 1938.

The above entitled matter is assigned for public hearing on November 5, 1938, 10 o'clock a. m. (eastern standard time), at the office of the Civil Aeronautics Authority (Hearing Room No. 2062), Washington, D. C., before Examiner R. J. Bartoo.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3292; Filed, November 1, 1938; 3:42 p. m.]

[Docket No. 15-409 (A)-1]

APPLICATION OF A. GARNI, A MEMBER OF THE BOARDS OF DIRECTORS OF PAN AMERICAN-GRACE AIRWAYS, INC., OF GRACE LINE, INC., AND OF OTHER CORPORATIONS, FOR PERMISSION TO SERVE ON THE BOARD OF DIRECTORS OF EASTERN AIR LINES, INC., PURSUANT TO SECTION 409 (A) OF THE CIVIL AERONAUTICS ACT OF 1938.

NOVEMBER 1, 1938.

The above entitled proceeding is assigned for public hearing on November 14, 1938, 10 o'clock a. m. (eastern standard time), at the office of the Civil Aeronautics Authority (Hearing Room No. 2062), Washington, D. C., before Examiner A. G. Nye.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3293; Filed, November 1, 1938; 3:42 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1938.

[File No. 32-108]

IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS AUTHORIZED BY STATE COMMISSION

Washington Gas Light Company, a subsidiary of Washington and Suburban Companies, a registered holding company, has filed an application and two amendments thereto, pursuant to the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of $8,500,000 principal amount of its Refunding Mortgage Bonds, 4% Series due 1963. The bonds are to be dated as of September 1, 1938, are to bear interest at the rate of four per cent (4%) per annum from September 1, 1938, are to mature on September 1, 1963, and are to be redeemable prior to maturity as a whole at any time or in part on any interest payment date or dates by lot.

A hearing on the application, as amended, having been duly held after appropriate notice; [1] the record in this matter having been duly considered; and the Commission having made and filed its findings therein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, as amended, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of such securities by the Public Utilities Commission of the District of Columbia shall be revoked or otherwise terminated, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of the proposed bonds the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3302; Filed, November 2, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of October 1938.

[File No. 7-260]

IN THE MATTER OF APPLICATION BY CLEVELAND STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO AMERICAN HOME PRODUCTS CORPORATION COMMON CAPITAL STOCK, $1 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO EXTEND UNLISTED TRADING PRIVILEGES

The Cleveland Stock Exchange, pursuant to Section 12 (f) of the Securities

[1] 3 F. R. 2454 DI.

Exchange Act of 1934, as amended, and Rule X–12F–1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the Common Capital Stock, $1 Par Value, of American Home Products Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 a. m. on November 23, 1938, at the office of the Securities and Exchange Commission, 1370 Ontario Street, Cleveland, Ohio, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3301; Filed, November 2, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of November, A. D. 1938.

IN THE MATTER OF MILLARD H. BARD 310 OLSON BUILDING LOCKPORT, NEW YORK

MEMORANDUM OPINION AND ORDER SUSPENDING REGISTRATION

This is a proceeding pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, to determine whether the registration of Millard H. Bard as a broker and dealer, effective January 1, 1936, should be revoked or suspended.

On July 8, 1938, at a hearing held pursuant to the Commission's order of May 24, 1938, at New York, New York, the registrant failed to appear personally or by counsel. Notice of the hearing had been sent to the registrant at two business addresses and his residence by registered mail on June 25, 1938, but had not actually been received by him because of his removal from those addresses. The trial examiner filed an advisory report in which he found that the registrant on December 3, 1937, had been permanently enjoined from engaging in the securities business in the State of New York and that the registrant had failed to apprise the Commission either that he had removed his office and residence from the places named in the application for registration or of the injunction mentioned above. On an independent review of the record we adopt the trial examiner's findings as accurate and further find that the registrant's failure to inform the Commission of the injunction and of the change of address through a supplement to the application for registration filed within 10 days after the occurrence of those events constituted a wilful violation of Rule X–15B–2 (referred to as Rule MB2 in the order for hearing but renumbered on October 1, 1938) of the Rules and Regulations under the Securities Exchange Act of 1934.

The sole remaining question is the effect of the failure to serve notice personally on the registrant. We follow our previous decisions in holding that, in the absence of personal service or service by registered mail based on previous consent to such service, we cannot order revocation. However, the registrant's registration should be temporarily suspended pending final disposition of the question of permanent revocation if and when the registrant comes in to be heard.

It is therefore ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Millard H. Bard as a broker and dealer be and is hereby suspended pending final determination whether such registration shall be revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3303; Filed, November 2, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 1st day of November 1, 1938.

[File No. 1–1345]

IN THE MATTER OF APPLICATION OF BOSTON STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE CONSOLIDATED MORTGAGE 5% GOLD BONDS, DUE JULY 1, 1945, OF NEW ENGLAND RAILROAD COMPANY

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Boston Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 promulgated thereunder, having made application to strike from listing and registration the Consolidated Mortgage 5% Gold Bonds, due July 1, 1945, of New England Railroad Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, November 22, 1938, at the office of the Securities and Exchange Commission, 82 Devonshire Street, Boston, Massachusetts, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Frank Kopelman, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3299; Filed, November 2, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of November, A. D. 1938.

[File No. 32–110]

IN THE MATTER OF THE LACLEDE GAS LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 21, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 15, 1938.

The matter concerned herewith is in regard to an application by The Laclede Gas Light Company for the exemption from the provisions of Section 6 (a) of said Act of the extension of the maturity of $10,000,000 in principal amount of its Refunding and Extension Mortgage 5% Gold Bonds, dated April 1, 1904, from April 1, 1934 and/or April 1, 1939 to April 1, 1942.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3300; Filed, November 2, 1938; 12:50 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS MONDAY, OCTOBER 31, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	585	39
2. Hawaii	139	15
3. California	2,150	771
4. Texas	2,206	887
5. Alaska	22	9
6. Louisiana	796	375
7. Michigan	1,834	873
8. Arizona	165	82
9. New Jersey	1,531	800
10. South Carolina	659	379
11. Ohio	2,518	1,499
12. Oklahoma	908	556
13. Mississippi	761	470
14. Arkansas	702	434
15. Alabama	1,002	622
16. New Mexico	160	102
17. North Carolina	1,201	788
18. Georgia	1,102	735
19. Kentucky	990	679
20. Wisconsin	1,113	851
21. Tennessee	991	760
22. Illinois	2,890	2,221
23. Connecticut	609	482
24. Nevada	34	29
25. Oregon	361	317
26. Indiana	1,227	1,103
27. Delaware	90	83
28. Florida	556	518
29. New York	4,768	4,505
30. Idaho	169	160
31. Pennsylvania	3,648	3,464
32. Wyoming	85	82
33. Utah	192	188
34. Kansas	712	700
35. West Virginia	655	647
36. Maine	302	299
37. New Hampshire	176	175

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
QUOTA FILLED			
IN EXCESS			
38. Massachusetts	1,610	1,618	+8
39. Washington	592	603	+38
40. Colorado	392	401	+11
41. Missouri	1,375	1,421	−26
42. Vermont	136	142	0
43. Rhode Island	260	274	+13
44. Minnesota	971	1,029	−35
45. North Dakota	258	282	+28
46. Montana	204	228	−3
47. South Dakota	262	300	+10
48. Iowa	936	1,094	+2
49. Nebraska	522	625	−10
50. Virginia	917	1,938	−17
51. Maryland	618	1,847	−11
52. District of Columbia	184	8,752	−8

GAINS	
By appointment	415
By reinstatement	2
By transfer	10
By correction	2
Total	429
LOSSES	
By separations	56
By transfers	69
Total	125
Total appointments	47,251

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,336.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38–3296; Filed, November 2, 1938; 11:57 a. m.]

Reference

NOV 7 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 216

Washington, Friday, November 4, 1938

The President

EXECUTIVE ORDER

CORRECTING AND AMENDING DESCRIPTION OF BOUNDARIES OF MOLOKAI LIGHTHOUSE RESERVATION

TERRITORY OF HAWAII

WHEREAS by Executive Order No. 962 of October 27, 1908, certain lands situated within the Kalaupapa Leprosarium, Makanalua, District of Koolna, Island of Molokai, Territory of Hawaii, were withdrawn and set aside for lighthouse purposes, and such lands comprise the Molokai Lighthouse Reservation; and

WHEREAS a recent survey has developed discrepancies in the description of the boundaries of the said Lighthouse Reservation as contained in the said Executive Order of October 27, 1908; and

WHEREAS an additional strip of land for lighthouse purposes is required along the present south boundary of the Lighthouse Reservation; and

WHEREAS a portion of the lighthouse plot at the northwest corner of the reservation is needed by the Territory of Hawaii for landing field purposes; and

WHEREAS a right of way in the nature of an easement for all duly accredited agents of the United States Lighthouse Service to pass over certain Territory of Hawaii land is required:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 91 of the act of April 30, 1900, 31 Stat. 141, 159, as amended by section 7 of the act of May 27, 1910, 36 Stat. 443, 447, it is ordered that the description of the Molokai Lighthouse Reservation be, and it is hereby, corrected and amended to read as follows:

Beginning at a concrete monument at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kalawao" being 985.33 feet north and 158.56 feet west, as shown on Government Survey Registered Map 1728, and running by azimuths measured clockwise from true south:

1. 342°01′ 1301.00 feet to an iron pipe, passing over a concrete monument at 1201.00 feet; thence

2. 106°04′ 1226.50 feet to an iron pipe; thence

3. 164°32′ 540.00 feet to an iron pipe at the south edge of a roadway, passing over a concrete monument at 100.00 feet; thence

4. 225°00′ 220.00 feet along south side of a roadway to an iron pipe; thence

5. 236°08′ 218.25 feet along same to a spike in the ground at fence corner; thence

6. 260°15′ 592.70 feet along fence to the point of beginning;

AREA, 22.88 acres more or less.

Together with the right by way of an easement for all duly accredited agents of the United States Lighthouse Service to pass over (with or without vehicles) the roadway running along Courses 4 and 5 of the above description of survey and the continuation thereof in a general southwesterly direction to the Kalaupapa Landing and also over the roadway running from the end of the said Course 5 to the east boundary of the herein-described piece or parcel of land, which latter-named roadway is more particularly shown on map attached hereto and made a part hereof.[1] These easements for rights of way shall also apply to any relocation of the roadways referred to above.

SUBJECT, however, to the right of any duly accredited agent of the Territory of Hawaii to enter, at any reasonable time, the premises of the Light Station above described and to cross the said premises to occupy and use the Government Survey Triangulation Station "Kalawao", located therein as shown on the aforesaid map hereto attached and made a part hereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Nov 1, 1938.

[No. 8000]

[F. R. Doc. 38-3305; Filed, November 2, 1938; 2:43 p. m.]

[1] See page 2616.

CONTENTS

THE PRESIDENT

Executive Order: Page
Molokai Lighthouse Reservation, Hawaii, boundary description corrected and amended 2615

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Commodity Credit Corporation:
Corn loans (1937 corn), instructions concerning the making of 2616
Corn circular letter No. 1, supplemental instructions 2620
Corn circular letter No. 2, supplemental instructions 2621
Cotton circular letter No. 2 2621
TITLE 8—ALIENS AND CITIZENSHIP:
Immigration and Naturalization Service:
Absence from United States during periods of residence required by naturalization laws 2621
TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Silk Industry, trade practice rules 2623
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Bottling of distilled spirits in bond, Regulations No. 6 amended 2627
TITLE 29—LABOR:
Children's Bureau:
Child Labor Regulations:
Minors between 14 and 16, temporary regulation for employment amended 2627
State certificates, acceptance of 2627

NOTICES

Civil Aeronautics Authority:
Inland Air Lines, Inc., hearing on application for certificate of public convenience and necessity 2629

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Department of Labor:
Division of Public Contracts: Page
Hearings on determination of prevailing minimum wages in:
Metal Furniture Manufacturing Industry 2627
Public Seating Industry 2628
Wood Furniture Manufacturing Industry 2628
Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Bacon, Charles H., Co., Inc., and Scott-Bartels Co., Inc. 2629
Lukacher, Isadore H., trading as Casa Blanca Cigar Co., etc., and Bert Lukacher 2629
Interstate Commerce Commission:
Safety of operation of motor vehicles used in transporting property by private carriers, notice and order 2629
Securities and Exchange Commission:
Listing and registration applications granted:
Joliet Heating Corp 2631
Norfolk Southern Railroad Co 2632
Pittsburgh Terminal Coal Corp 2631
Republic Electric Power Corp., et al. corrected supplementary order approving plan, etc 2630
Utilities Power & Light Corp., and Charles True Adams, Trustee, order denying petition 2631

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

[1938 C. C. C. Corn Form 1—Instructions]

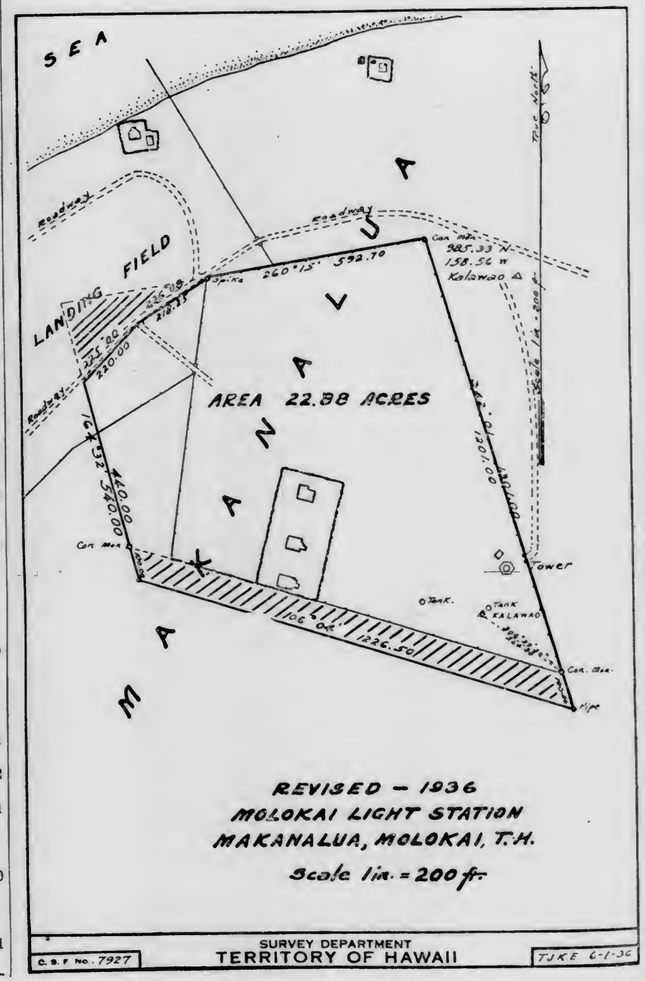
INSTRUCTIONS CONCERNING THE MAKING OF CORN LOANS BY COMMODITY CREDIT CORPORATION ON 1937 CORN

Commodity Credit Corporation has authorized the making of loans secured by corn produced in 1937, either husked and in the ear, or shelled, stored on farms in cribs or granaries. These instructions state the requirements of Commodity Credit Corporation with reference to making such loans on corn and the purchase of notes secured by corn.

1. *Definitions.*—For the purpose of these instructions and the notes and mortgages relating thereto, unless the context clearly requires otherwise, the following terms shall be construed, respectively, to mean:

(a) *Eligible producer*—

(a–1) For the areas named in Section 2 hereof an eligible producer shall be any person, partnership, association, or corporation producing or acquiring corn as landowner, landlord, or tenant who has received or will receive a payment in connection with his participation in the 1937 Agricultural Conservation Program, and upon whose farm in 1938 the field corn acreage does not exceed 102 percent of the corn acreage allotment for such farm under the 1938 Agricultural Conservation Program.



(a–2) For the areas named in Section 2 (a) hereof an eligible producer shall be any person, partnership, association, or corporation who obtained a loan on corn under the 1937–38 corn loan program on corn produced or acquired as landowner, landlord, or tenant and who has received or will receive a payment in connection with his participation in the 1937 Agricultural Conservation Program and upon whose farm in 1938 the acreage planted to soil-depleting crops does not exceed 102 percent of the farm acreage allotment for soil-depleting crops under the 1938 Agricultural Conservation Program.

(b) *Eligible corn.*—Merchantable field corn produced in 1937, either husked and in the ear or shelled, which grades No. 3 or better as defined in the Official Grain Standards of the United States, effective October 1, 1937, and containing not more than 13 percent moisture * when stored as shelled corn and 15½ percent moisture * when stored in the ear, on the basis of a sample taken from each crib or granary of corn offered to be sealed (each sample to be representative of the entire quantity of corn in the crib or granary from which the same is obtained), which was produced by an "eligible producer" on a farm in the areas hereinafter named, *provided*—

(1) the beneficial title to such corn is and always has been in the eligible producer; or

(2) such corn was purchased by one eligible producer from another eligible producer for feeding purposes only who has executed the Certificate of the Seller in Section 13 of 1938 C. C. C. Corn Form A.

(3) that the corn located in the area listed in Section 2 (a) hereof is pledged as security to a note on 1937–38 C. C. C. Corn Form A.

(c) *Eligible storage structures.*—Cribs, granaries, or bins which are of such substantial and permanent construction as to afford safe storage of corn for a period of 2 years and permit effective fumigation (in the case of shelled corn) for the destruction of insects, and afford protection against rodents, other animals, thieves, and weather, as determined by the County Agricultural Conservation Committees.

(d) *Lending agency.*—Any bank, cooperative marketing association, or other corporation, partnership, or person making loans in accordance with these instructions upon 1938 C. C. C. Corn Form A, which has executed the Contract to Purchase on 1938 C. C. C. Corn Form D (a Loan Agency of the Reconstruction Finance Corporation is not included within this definition).

(e) *Eligible paper.*—Eligible paper shall consist of notes of producers with mortgages upon 1938 C. C. C. Corn Form A, or any form hereafter approved by Commodity Credit Corporation, secured by corn in existence and undamaged from the perils of fire, lightning, cyclone, tornado, windstorm and flood, dated subsequent to September 1, 1938, and prior to November 1, 1938, and executed in accordance with these instructions with State Documentary Revenue Stamps affixed thereto where required by law. (Notes executed by an administrator, executor, or trustee will be acceptable only where valid in law, and all such notes must be submitted for direct loan in accordance with Section 14 hereof.)

2. *Corn loan area.*—Loans will be made pursuant to these instructions to eligible producers, as defined in Subsection (a–1) of Section 1 hereof in the following States and counties:

Illinois.—All counties.

Indiana.—Adams, Allen, Bartholomew, Benton, Blackford, Boone, Carroll, Cass, Clay, Clinton, Daviess, Dearborn, Decatur, De Kalb, Delaware, Dubois, Elkhart, Fayette, Fountain, Franklin, Fulton, Gibson, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington, Jackson, Jasper, Jay, Jennings, Johnson, Knox, Kosciusko, Lagrange, Lake, La Porte, Madison, Marion, Marshall, Miami, Montgomery, Morgan, Newton, Noble, Owen, Parke, Pike, Porter, Posey, Pulaski, Putnam, Randolph, Ripley, Rush, St. Joseph, Shelby, Starke, Steuben, Sullivan, Tippecanoe, Tipton, Union, Vanderburg, Vermillion, Vigo, Wabash, Warren, Warrick, Washington, Wayne, Wells, White, and Whitley.

Iowa.—All counties.

Kansas.—Anderson, Atchison, Brown, Coffee, Crawford, Doniphan, Douglas, Franklin, Jackson, Jefferson, Jewell, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Nemaha, Norton, Osage, Phillips, Pottawatomie, Republic, Riley, Shawnee, Smith, and Washington.

Kentucky.—Fulton, Henderson, Hickman, and Union.

Michigan.—Branch, Hillsdale, Lenawee, Monroe, and St. Joseph.

Minnesota.—Big Stone, Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Grant, Houston, Jackson, Kandiyohi, Lac Qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Redwood, Renville, Rice, Rock, Scott, Sibley, Steele, Stevens, Swift, Traverse, Wabasha, Waseca, Watonwan, Winona, Wright, and Yellow Medicine.

Missouri.—Adair, Andrew, Atchison, Audrain, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Cape Girardeau, Carroll, Cass, Chariton, Clark, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Mississippi, Monlteau, Monroe, Montgomery, New Madrid, Nodaway, Pemiscot, Perry, Pettis, Pike, Platte, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, Saline, Schuyler, Scotland, Scott, Shelby, Stoddard, Vernon, and Worth.

Nebraska.—All counties except Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Dawes, Deuel, Garden, Garfield, Grant, Holt, Hooker, Keith, Keyapaha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Rock, Scotts Bluff, Sheridan, Sioux, Thomas, and Wheeler.

Ohio.—All counties except Ashtabula, Athens, Belmont, Carroll, Columbiana, Cuyahoga, Gallia, Geauga, Guernsey, Harrison, Hocking, Jackson, Jefferson, Lake, Lawrence, Lorain, Mahoning, Medina, Meigs, Monroe, Morgan, Muskingum, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, Vinton, Washington, and Wayne.

South Dakota.—Bon Homme, Brookings, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Minnehaha, Moody, Turner, Union, and Yankton.

Wisconsin.—Dane, Grant, Green, Iowa, Lafayette, and Rock.

2. (a). *Corn loan areas.*—Loans will be made pursuant to these instructions to eligible producers, as defined in Sub-section (a–2) of Section 1 hereof, in the following States and counties:

Indiana.—Clark, Floyd, Harrison, Lawrence, Orange, Martin, Monroe, Spencer.

Kansas.—Cheyenne, Clay, Cloud, Decatur, Geary, Graham, Morris, Rawlins, Sherman, Wabaunsee, Wyandotte.

Missouri.—Cedar, Cole, Dade, Franklin, Gasconade, Jasper, Morgan, St. Louis, Sullivan, Warren.

Nebraska.—Chase, Holt, Keith, Lincoln, Wheeler.

Ohio.—Jackson, Lorain, Muskingham.

South Dakota.—Deuel, Grant, Miner, Roberts, Sanborn.

Minnesota.—Anoka, Hennepin, Pope, Sherburne, Washington.

Wisconsin.—Columbia, Green Lake, Winnebago, Fond du Lac, Sheboygan, Washington, Dodge, Jefferson, Racine, Walworth, Kenosha, Sauk.

3. *Amount.*—Loans will be made at the rate of 57 cents per bushel, a bushel of shelled corn being determined by using not less than 1¼ cubic feet of shelled corn grading No. 3 or better, testing not more than 13 percent in moisture content; and a bushel of ear corn being determined by using not less than 2½ cubic feet of ear corn testing not more than 15½ percent in moisture content. From the foregoing rate there shall be deducted an amount equal to one-tenth cent (1/10¢) per bushel of mortgaged corn. The funds derived from this source will be used to cover the cost of moisture-testing equipment and supplies. The payee named in the note

* Determination of moisture content will be made in State agricultural conservation offices in accordance with the Official Grain Standards Manual.

should withhold an amount equal to one-tenth cent (1/10¢) per bushel for all mortgaged corn, and such amount will be deducted by Commodity Credit Corporation at the time of purchase of notes from lending agencies.

4. *Maturity and interest rate.*—Loans will be available from September 1, 1938, to October 31, 1938, inclusive. Loans on 1938 C. C. C. Corn Form A will mature on August 1, 1939, and will bear interest at the rate of four percent (4%) per annum. Producer-borrowers must agree to store the pledged corn until 60 days after maturity date of the loan.

5. *Inspection of storage structures, sampling, measurement, and sealing of corn.*—The County Agricultural Conservation Committees will supervise the inspection of storage structures, measuring, and sealing the corn by an inspector, and will arrange for moisture testing and grading of samples. Chattel mortgages covering the corn must be executed, and filed in accordance with the applicable State law. Producers may obtain information and assistance from the County Agricultural Conservation Committees in regard to the execution and filing of such chattel mortgages. Where the borrower is a tenant, the expiration date of the lease must be given in Section 2 (c) of the chattel mortgage. If the expiration date of the lease is prior to October 1, 1939, the landlord shall execute the Consent for Storage, Section 12 of 1938 C. C. C. Corn Form A. The Consent Agreement must also be signed by any other party or parties entitled to possession. Each producer must agree to shell, if not already shelled, and deliver the mortgaged corn to a shipping point designated by the holder which is reasonably convenient to the producer as provided in the mortgage.

6. *Execution and filing of chattel mortgages.*—All chattel mortgages must be executed and filed for record in accordance with the following requirements. The mortgage forms have been prepared in triplicate, and the following instructions provide for filing the duplicate copy of the mortgage on which the certification of true copy has been completed. The receipt of the recorder, register of deeds, county clerk, auditor, or similar county official, must be completed and executed on the original mortgage to indicate the date of filing or recordation. In those instances in which chattel mortgages must be filed in both the county in which the mortgagor resides and in the county in which the corn is stored, the triplicate copy of the mortgage must be used for this purpose and an additional receipt from the county official typed or stamped on the original mortgage. Except where required for filing, the triplicate copy of the mortgage should be delivered to the mortgagor. In case the triplicate copy is used for filing, the mortgagor should be given a copy of the mortgage which may be completed on any one copy of the form. A separate mortgage must be completed for corn stored on each quarter section. In States in which acknowledgments or affidavits are required, all copies should be completed in full. Unless acknowledged, all mortgages must be executed in the presence of one witness, except as stated otherwise.

All documents must be carefully examined as to compliance with the following requirements:

ILLINOIS

The mortgage must be executed and acknowledged by the mortgagor. The duplicate copy must be filed for record within 10 days from the date of execution in the office of the recorder of deeds of the county in which the mortgagor resides, or if a nonresident of the State, in the office of the recorder of deeds of the county in which the corn is stored. Commodity Credit Corporation will not accept any note secured by mortgage filed for record later than 10 days after the date of the note and mortgage.

INDIANA

The mortgage must be executed and acknowledged by the mortgagor. The original mortgage must be recorded within 10 days from the date of execution in the office of the recorder of the county in which the mortgagor resides, or if a nonresident of the State, in the office of the recorder of the county in which the corn is stored. Commodity Credit Corporation will not accept any note secured by mortgage recorded later than 10 days after the date of the note and mortgage.

IOWA

The mortgage must be executed and acknowledged by the mortgagor and spouse. The duplicate copy must be filed for record in the office of the recorder of the county in which the mortgagor resides, or if a nonresident of the State, in the office of the recorder of the county in which the corn is stored.

KANSAS

The mortgage must be executed by the mortgagor and spouse. The duplicate copy must be filed for record immediately upon the execution of the mortgage in the office of the register of deeds of the county in which the mortgagor resides, or if a nonresident of the State, in the office of the register of deeds of the county in which the corn is stored. Commodity Credit Corporation will not accept any note secured by mortgage filed for record later than 10 days after the date of the note and the mortgage.

KENTUCKY

The mortgage must be executed by the mortgagor either in the presence of two witnesses or it must be acknowledged before an officer qualified to take acknowledgments. The duplicate copy of the mortgage must be filed for record in the office of the county clerk of the county in which the mortgagor resides; or, if the mortgagor is a nonresident of the State, it must be filed for record in the office of the county clerk of the county in which the corn is stored.

MICHIGAN

The mortgage must be executed by the mortgagor. The mortgagor's Affidavit of Good Faith and Receipt on such mortgage must be completed by the mortgagor. The duplicate copy of the mortgage must be filed for record in the office of the register of deeds of the county in which the corn is stored. If the mortgagor resides in another county within the State, the triplicate copy of the mortgage must be certified as a true copy and filed for record in the office of the register of deeds of such county.

MINNESOTA

The mortgage must be executed by the mortgagor in the presence of two witnesses and duly acknowledged. The Mortgagor's Affidavit of Good Faith and Receipt must be completed by the mortgagor, and the Mortgagee's Affidavit of Good Faith must be completed by the Payee except in the case of direct loans, in which event it must be completed by a member of the county committee as agent of Commodity Credit Corporation. The duplicate copy of the mortgage must be filed for record in the office of the register of deeds of the county in which the corn is stored, but if the corn is stored in cities of the first class it must be filed in the office of the clerk of the municipality where the corn is stored.

MISSOURI

The mortgage must be executed and acknowledged by the mortgagor. The duplicate copy of the mortgage must be filed for record in the office of the recorder of deeds of the country in which the mortgagor resides, or if a nonresident of the State, in the office of the recorder of deeds of the county in which the corn is stored.

NEBRASKA

The mortgage must be executed by the mortgagor. The duplicate copy of the mortgage must be filed for record in the office of the county clerk of the county in which the mortgagor resides, or if a nonresident of the State, in the office of the county clerk of the county in which the corn is stored.

OHIO

The mortgage must be executed by the mortgagor. The Mortgagee's Affidavit of Good Faith must be completed by the Payee except in the case of direct loans, in which event it must be completed by a member of the county committee as agent of Commodity Credit Corporation. The duplicate copy must be filed in the office of the county recorder of the county in which the mortgagor resides or, if a nonresident of the State, in the office of the county recorder of the county in which the corn is stored.

SOUTH DAKOTA

The chattel mortgage must be executed by the mortgagor, either in the presence of two witnesses, or it may be acknowledged before an officer authorized to take acknowledgments. The Mortgagor's Affidavit of Good Faith and Receipt must be completed. The duplicate copy must be filed for record in the office of the register of deeds of the county in which the corn is stored.

WISCONSIN

The mortgage must be executed by the mortgagor and spouse in the presence of two witnesses. The duplicate copy of the mortgage must be filed for record in the office of the register of deeds of the county in which the corn is stored.

7. *Liens.*—The corn collateral must be free and clear of all liens except in favor of the lien holders listed in the space provided therefor in 1938 C. C. C. Corn Form A. The names of the holders of all existing liens on the mortgaged corn, such as landlord, laborers, shellers, or mortgagees must be listed in the space provided therefor in the mortgage. The Waiver and Consent to the mortgage of the corn and the payment of the proceeds of the loan and the proceeds of the sale of the corn, solely to the producer as contained in the mortgage, must be signed personally by all lien holders listed or by their agents, whose duly executed authority must be firmly attached; or, if a corporation, by the designated officer thereof customarily authorized to execute such instrument, in which case the duly executed authority need not be attached. In the case of mortgaged corn now represented by farm warehouse certificates which are pledged as security to notes *held by Commodity Credit Corporation* the producer should list Commodity Credit Corporation as lien holder and it will not be necessary for the waiver and consent to pledge to be executed by Commodity Credit Corporation. If the notes secured by such farm warehouse certificates are held by a bank or lending agency, Commodity Credit Corporation will expect the farm warehouse certificates to be released of record prior to the completion of the new loan. The producer may direct in the Letter of Transmittal (1938 C. C. C. Corn Form B) that the proceeds check for a direct loan from Commodity Credit Corporation be made payable to him and/or such other person or concern as he may designate therein. Producers should read carefully all real estate or other mortgages previously given by them in order to be certain that crops are not covered thereby. Any fraudulent misrepresentation of fact made in the execution of the note and mortgage and related forms shall render the producer personally liable for the amount of the loan and subject to the provisions of the United States Criminal Code.

8. *Insurance.*—All producers who obtain loans are required, at their own expense, to keep the corn collateral insured, so long as the loan is unpaid, against loss by fire, lightning, windstorm, cyclone, tornado, and with or without hail coverage, for not less than the amount of the loan with accrued interest to maturity. Producers must also obtain at their own expense any insurance coverage desired with respect to their equity in the mortgaged corn.

To comply with this requirement there must be attached to each producer's note and mortgage a certificate in the form printed at the end of these instructions, issued by a company or association licensed to do business in the State in which the corn is stored. This insurance coverage may be obtained through the customary channels and the form of certificate required will be furnished by the agent writing same.

In addition to the foregoing, Commodity Credit Corporation has obtained a blanket insurance policy which protects it in the event of any loss by or in consequence of damage to or destruction of mortgaged corn, arising from fire, and lightning; cyclone, tornado, windstorm and hail; theft and wrongful conversion and flood. This policy is in the nature of errors and omissions and excess insurance and the cost of this coverage is 1¼ cents per $100 per month on the daily average balance of loans outstanding. Banks and other lending agencies which have executed the Contract to Purchase (1938 C. C. C. Corn Form D) desiring insurance coverage in addition to the primary insurance carried by the producer, until the notes are purchased by Commodity Credit Corporation, should obtain such coverage at their own expense. Such coverage may be obtained through the customary channels or under the blanket insurance carried by Commodity Credit Corporation. Banks and other lending agencies desiring coverage under the Corporation's blanket policy should write Commodity Credit Corporation, Washington, D. C., and appropriate instructions will be issued, together with the necessary forms for reporting thereunder.

9. *Certification by County Agricultural Conservation Committee.*—The form 1938 C. C. C. Corn Form A contains a certificate which must be signed in each instance by a member of a County Agricultural Conservation Committee of the county in which the corn was produced.

10. *Documents required.*—

(i) Corn Producer's Note and Chattel Mortgage (1938 C. C. C. Corn Form A).

(ii) Original and duplicate of Producer's Letter of Transmittal (1938 C. C. C. Corn Form B), or Lending Agency's Letter of Transmittal (1938 C. C. C. Form C), whichever is applicable.

(iii) Certificate of Insurance.

(a) *Lending agencies.*—Banks or others acting as lending agencies must also obtain and use the following forms:

(i) Contract to Purchase (1938 C. C. C. Corn Form D).

(ii) Schedule of Repayments (1938 C. C. C. Corn Form E).

(iii) Assignment of Mortgage (1938 C. C. C. Corn Form F).

11. *Source and preparation of documents.*—Forms will be obtainable from any County Agricultural Conservation Committee in the areas designated in Section 2 hereof and any Loan Agency of the Reconstruction Finance Corporation listed in Section 17 hereof. All blanks in 1938 C. C. C. Corn Form A must be filled in with ink, typewriter; or indelible pencil, and no documents containing additions, alterations, or erasures will be acceptable by Commodity Credit Corporation.

12. *Certificate of seller.*—The certificate of seller, as contained in 1938 C. C. C. Corn Form A must be executed by the seller of the corn in connection with all loans in which any part of the mortgaged corn was not grown by the producer but was purchased from another eligible producer as outlined in subsection (b) of Section 1 hereof.

13. *Conversion of old corn loans.*—Outstanding loans on 1937–38 C. C. C. Corn Form A secured by farm warehouse certificates representing farm stored corn may be converted to new loans prior to November 1, 1938. It is expected that lending agencies desiring to carry the new loans will arrange with the producers for the completion of the new forms and the retirement of the old corn loans out of the proceeds of the new corn loans. Any old corn loan held by Commodity Credit Corporation may be converted by the producer completing new loan papers and forwarding the same to the Loan Agency of Reconstruction Finance Corporation with instructions in the Producer's Letter of Transmittal (1938 C. C. C. Corn Form B) to repay the old corn loan out of the proceeds of the new corn loan. If the producer contemplates mortgaging shelled corn under the new loan, the present loan *must* be repaid in full prior to the breaking of the seal and the shelling of the corn.

14. *Direct loans.*—It is contemplated that producers will ordinarily obtain loans from a local bank or other lending agency which, in turn, may sell the paper evidencing such loan to Commodity Credit Corporation. Arrangements, however, have been made for making direct loans to producers. In such cases, the note must be made payable to Commodity Credit Corporation and must be delivered to a Loan Agency of the Reconstruction Finance Corporation designated in Section 17 hereof. Paper for direct loans tendered by mail, in person, or otherwise, must be accompanied by a Producer's Letter of Transmittal on 1938 C. C. C. Corn Form B, in duplicate, and must be delivered or postmarked prior to November 1, 1938. The triplicate copy of this letter shall be retained by the producer as a memorandum. Upon delivery of all necessary documents properly executed and upon approval of the

loan, payment will be made pursuant to the Letter of Transmittal.

15. *Purchase of loans.*—Commodity Credit Corporation will purchase eligible paper, as defined above, only from lending agencies which have executed and delivered to the Loan Agency of the Reconstruction Finance Corporation to which notes are submitted the Contract to Purchase 1938 C. C. C. Corn Form D obtainable only from Loan Agencies of the Reconstruction Finance Corporation designated in Section 17 hereof. Under the terms of this contract, lending agencies are required to report monthly on 1938 C. C. C. Corn Form E all payments or collections on producer's notes held by them, and to remit monthly to Commodity Credit Corporation, Washington, D. C., an amount equivalent to one and one-half percent (1½%) interest per annum on the principal amount collected from the date of the note to the date of payment plus one-tenth cent (1/10¢) per bushel for all corn released. Such payments should be accompanied by the respective mortgages which shall be detached from the notes for this purpose. Such eligible paper must be tendered to a Loan Agency of the Reconstruction Finance Corporation prior to July 1, 1939.

The purchase price to be paid by Commodity Credit Corporation for notes accepted will be the face amount of such notes, plus accrued interest from their respective dates to the date of payment of the purchase price at the rate of 2½ percent per annum, less one-tenth cent (1/10¢) per bushel for all corn mortgaged as security to the notes.

16. *Assignment of mortgages.*—Each mortgage tendered by a lending agency to Commodity Credit Corporation for purchase must be accompanied by an assignment on 1938 C. C. C. Corn Form F. The duplicate copy of this assignment must have been filed for record in the office(s) of the recording official(s) of the county or counties in which the mortgage was filed or recorded. The original assignment must contain the executed receipt(s) of the recording official indicating the date of filing or recordation.

17. *Reconstruction Finance Corporation Loan Agencies.*—The locations of the Loan Agencies of the Reconstruction Finance Corporation, previously referred to herein, follow:

Chicago, Ill., Cleveland, Ohio, Detroit, Mich., Kansas City, Mo., Louisville, Ky., Minneapolis, Minn., Omaha, Nebr., St. Louis, Mo.

18. *Release of collateral held by Commodity Credit Corporation.*—A producer may obtain the return of notes secured by corn upon his request in writing and payment of the principal amount due thereon with accrued interest and proper charges. The producer's note and mortgage will be transmitted to an approved bank with instructions to deliver the loan documents to the producer, or his agent, upon the payment of the full amount due thereon with accrued interest and proper charges. Where such paper is sent to an approved bank for collection, instructions will be given to return such paper to the sender if payment and release are not effected within 15 days. All charges and expenses of the collecting bank shall be paid by the producer. County Agricultural Conservation Committees will be requested to release the mortgage of record, after payment in full, either by the filing of an instrument of release or by a margin release on the county records. Partial releases of collateral will not be permitted.

If the producer's note is made payable directly to Commodity Credit Corporation and he desires to obtain the release of the collateral upon payment, as aforesaid, he should notify the Federal Reserve Bank or branch thereof located in the city to which the note was submitted. If his note was made payable to a payee other than Commodity Credit Corporation, the producer should notify the payee named therein.

Certificate No. ------

Amount ---------- $------
Premium ---------- ------
Term ----------

CERTIFICATE OF INSURANCE

Corn in Farm Storage

Agency at ----------

1. This certifies that in consideration of ------ dollars premium (subject to all the terms and conditions of Open Policy No. ------, issued by this company or association) ---------- does insure -----
(Company or association)
---------- against all direct loss or damage by fire, lightning, windstorm, cyclone, tornado, and hail* in the sum of ------ dollars on ------ bushels of corn stored and sealed in the possession of the assured in structure(s) situated on the ------ quarter of section ------, township ------, range ------, County of ----------, State of ----------, for the term of one (1) year from the ------- day of ----------, 19--, at 12 o'clock noon, to the ------- day of ----------, 19--, at 12 o'clock noon, said structure(s) having been inspected and sealed in accordance with regulations issued by the Secretary of Agriculture pursuant to the Agricultural Adjustment Act of 1938, as amended.

2. Any loss which may be ascertained and proved to be due the insured under this contract shall be payable to the insured and/or the holder of note secured by such corn as their respective interests may appear.

Special (Corn) Endorsement Providing the Basis of Adjustment in Case of Loss on Corn Mortgaged Under Loan Program of Commodity Credit Corporation

3. All or any part of the corn described herein having been mortgaged as security for a loan on 1938 C. C. C. Corn Form A, it is a condition of this insurance that in event of loss or damage to any of such mortgaged corn the basis of adjustment shall be the actual cash market value at the time and place of the loss, except that if such actual cash market value is less than the loan value per bushel, plus accrued interest at four percent (4%) per annum, then such actual cash value shall be disregarded and the value of any corn so mortgaged shall be deemed to be the loan value per bushel plus accrued interest thereon.

4. The provisions of Section 3 hereof shall attach and apply only so long as the note secured by the corn described herein is outstanding.

5. *In witness whereof*, this company or association has executed and attested these presents, but this certificate shall not be valid until countersigned by a duly authorized agent of this company or association.

---------- *Secretary.*

---------- *President.*

Countersigned:

This ------- day of ----------, 19--

(Agent)

[SEAL]

M. R. BUCK,
Assistant Secretary.

SEPTEMBER 1, 1938.

[F. R. Doc. 38-3308; Filed, November 3, 1938; 9:39 a. m.]

*Optional.

1938 CORN CIRCULAR LETTER NO. 1

SUPPLEMENTAL INSTRUCTIONS

OCTOBER 12, 1938.

1. The definition of eligible corn as set forth in Section 1 (b) of the Instructions (1938 CCC Corn Form 1)[1] is hereby amended to permit the acceptance of shelled corn containing not more than 13½% moisture.

2. Any lending agency may sell corn paper to another lending agency and the Contract to Purchase of Commodity Credit Corporation will cover notes and chattel mortgages on 1938 CCC Corn Form A in the hands of the lending agencies which did not make the loans in the first instance. However, it is necessary that all such notes and chattel mortgages be assigned of record to the second lending agency, and the original of the assignment indicating the recordation or filing for record of the duplicate copy of the assignment must accompany the note and chattel mortgage when tendered to the Loan Agency of Reconstruction Finance Corporation for purchase. The assignment of a chattel mortgage as between lending agencies should be similar in form to the assignment of chattel mortgages designated as 1938 CCC Corn Form F, with the exception that the name of Commodity Credit Corporation should be deleted and the name of the lending agency inserted.

3. All notes payable to a lending agency must be specially endorsed by such lending agency without recourse. Such endorsement may be stamped or typed on the note or on a separate paper and attached to the note.

[SEAL]

SAMUEL H. SABIN,
Secretary.

[F. R. Doc. 38-3309; Filed, November 3, 1938; 9:39 a. m.]

[1] See page 2616.

1938 CORN CIRCULAR LETTER NO. 2

SUPPLEMENTAL INSTRUCTIONS

OCTOBER 25, 1938.

1. The Instructions (1938 CCC Corn Form 1)[1] concerning the making of loans on corn produced in 1937, are hereby amended to authorize the acceptance of notes on 1938 CCC Corn Form A dated on or before November 15, 1938. This extends the time for making loans on 1937–38 corn for an additional period of fifteen days.

2. Hereafter, all loans on 1938 CCC Corn Form A will be handled solely by the Chicago Loan Agency of Reconstruction Finance Corporation. Producers and lending agencies should refer all matters relating to loans on corn produced in 1937 to the Chicago Loan Agency.

3. No extension has been made of the time for the purchase of 1937–38 corn loans carried by banks and lending agencies. Notes and loan agreements on 1937–38 CCC Corn Form A in the hands of banks and lending agencies must be tendered for purchase prior to November 1, 1938. Such notes must be submitted to the Chicago Loan Agency of Reconstruction Finance Corporation. In each instance the bank or lending agency must have executed a Contract to Purchase (1937–38 CCC Corn Form D) with a Loan Agency of Reconstruction Finance Corporation.

4. Instructions have been issued to the County Agricultural Conservation Committees concerning the conversion of old corn loans into new corn loans or the liquidation of 1937–38 corn notes by the delivery of corn. Producers are advised that outstanding corn loans on 1937–38 CCC Corn Form A must be converted into new loans or liquidated by the delivery of corn collateral on or before November 15, 1938.

[SEAL]

JOHN D. GOODLOE,
Vice President.

[F. R. Doc. 38-3310; Filed, November 3, 1938; 9:39 a. m.]

1938–39 COTTON CIRCULAR LETTER NO. 2[2]

OCTOBER 27, 1938.

In order that proper warehousing facilities will be available to all producers desiring to obtain loans on 1938 Crop Cotton, Commodity Credit Corporation will accept warehouse receipts showing liens for freight and compression charges in accordance with these instructions on cotton moved by or for the account of producers to port warehouses.

Payment for freight and compression charges will be made by Commodity Credit Corporation at the time of shipment of the cotton and only to the extent provided in the certificate of the warehouseman accompanying the note. No liens for patching will be recognized. All liens shall be stated in the warehouse receipts and each note and loan agreement must be accompanied by the following additional certificate of the warehouseman:

The cotton securing the attached note of ---------- dated ------
(Name & Address of Producer)
---------- in the amount of $------ was moved by ---------- from ------
(rail, truck or barge)
---------- to ---------- the warehouse stated in said loan agreement and freight thereon in the amount of $------ was paid by the undersigned as evidenced by signed duplicate freight bills or truckers' receipts attached hereto. Compression charges in the amount of $------ were also paid ----------, in accordance with the tariff of such warehouseman. Notwithstanding the terms of the warehouse receipts, lien will not be claimed against any holder of said warehouse receipts for more than the amounts stated below:
(Name & Address of Compress)

(a) For cotton shipped export, or coastwise:

The cost of compression as indicated herein plus the lowest possible rail transportation cost from the shipping point to any port warehouse.

(b) For cotton delivered to a mill at the warehouse location:

The lowest possible rail transportation cost from the shipping point to any port warehouse plus the cost of compression, as indicated herein, where compression is necessary to obtain the lowest rail transportation cost.

(c) For cotton shipped by rail to domestic mills:

An amount which when added to the lowest possible rail transportation costs from the port warehouse to the mill destination, and after deducting the refund value of any freight bills properly transferred under the provisions of the carrier's tariffs, does not exceed the lowest possible rail transportation cost from the point of origin of the cotton to the domestic mill location plus the cost of compression where necessary to compress the cotton to obtain the lowest freight rate.

Warehouse Company
By ----------

Date ----------
Location ----------

Lines for compression on cotton shipped to port locations other than Texas or California ports, will be recognized only to the extent of the rates applicable to Standard Density Compression and cotton shipped to such port locations should be compressed Standard Density. Cotton shipped to Texas or California ports should be compressed High Density. No liens will be recognized for patching, or for compression services performed after arrival of the cotton at the port warehouse.

Port warehouses located in Texas may use either the procedure outlined herein or in 1938–39 Cotton Circular Letter No. 1, dated September 20, 1938.

The loan value for cotton covered with cotton bagging has been increased by an amount equal to 65 cents per bale. Lending Agencies in determining the amount of the loan on such cotton should add 65 cents for each bale of cotton covered with cotton bagging, such cotton to be evidenced by a certificate of the warehouseman in following form which must be attached to the note:

The undersigned warehouseman hereby certifies that the bales of cotton listed below are covered with cotton bagging:

Warehouse receipt No.	Warehouse receipt No.	Warehouse receipt No.	Warehouse receipt No.	Warehouse receipt No.

Warehouse Company
By ----------

Date ----------
Location ----------

[SEAL]

G. E. RATHELL,
Treasurer.

[F. R. Doc. 38-3311; Filed, November 3, 1938; 9:40 a. m.]

[1] See page 2616.
[2] 3 F. R. 2593 DL.

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[General Order No. C-6]

ABSENCE OF AN ALIEN FROM THE UNITED STATES DURING THE PERIODS OF RESIDENCE REQUIRED BY THE NATURALIZATION LAWS

NOVEMBER 2, 1938.

Public Resolution No. 128 of June 29, 1938, entitled "Joint Resolution To amend the Naturalization Act of June 29, 1906 (34 Stat. 596), as amended", provides as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of the fourth subdivision of section 4 of the Naturalization Act of June 29, 1906 (U. S. C., title 8, sec. 382), as amended by section 1 of the Act of June 25, 1936 (49 Stat. 1925), is amended to read as follows:

"Absence from the United States for a continuous period of more than six months and less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization, or during the period between the date of filing the petition, and the date of final hearing, shall be presumed to break the continuity of such residence, but such presumption may be overcome by the presentation to the naturalization court of satisfactory evidence that such individual had a reasonable cause for not returning to the United States during such absence. Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship immediately preceding the date of filing the petition for naturalization or during the period between the date of filing the petition and the date of final hearing, shall break the continuity of such residence, except, that in the case of an alien—

(a) who has been lawfully admitted into the United States for permanent residence,

(b) who has resided in the United States for at least one year thereafter, and

(c) who has made a declaration of intention to become a citizen of the United States, who shall be deemed an eligible alien for the purposes of this paragraph and who thereafter has been sent abroad as an employee of or under contract with the Govern-

ment of the United States, or who thereafter proceeded abroad as an employee or representative of, or under contract with an American institution of research recognized as such by the Secretary of Labor, or as an employee of a firm or corporation engaged in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or any such eligible alien as above defined who has proceeded abroad temporarily and has within a period of one year of his departure from the United States become an employee or representative of, or who is under contract with such an American institution of research, or has become an employee of such an American firm or corporation, no such absence shall break the continuity of residence in the United States if—

"(1) Prior to the beginning of such absence, or prior to the beginning of such employment, contract, or representation on behalf of an American institution of research or an American firm or corporation as aforesaid, such alien has established to the satisfaction of the Secretary of Labor that his absence for such period is to be on behalf of such government or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged solely or principally in the development of such foreign trade and commerce, or whose residence abroad is necessary to the protection of the property rights abroad of such firm or corporation; and

"(2) Such alien proves to the satisfaction of the court that his absence from the United States for such period has been for such purpose.

"An alien who has been lawfully admitted into the United States for permanent residence, and who is the wife or husband of a citizen of the United States so engaged abroad within one of the above-mentioned categories, shall be considered as residing in the United States for the purpose of naturalization notwithstanding any absence from the United States.

"This amendment shall not affect cases of aliens who prior to the date of its enactment have established to the satisfaction of the Secretary of Labor, pursuant to an Act entitled 'An Act to amend the naturalization laws in respect of residence requirements, and for other purposes', approved June 25, 1936, that absence from the United States was to be or had been for the purpose of carrying on activities described therein."

Pursuant to the authority contained in Section 28 of the Act of June 29, 1906 (34 Stat. 606), as amended by Section 8 of the Act of March 2, 1929 (45 Stat. 1515; 8 U. S. C., 356), the following rules and regulations are prescribed for the enforcement of the aforesaid Public Resolution No. 128 of June 29, 1938:

Sec. 7.43, Title 8 of the Code of Federal Regulations (Rule 3, Subdivision B, paragraph 1 of the Naturalization Regulations of December 1, 1936), is amended by adding in the proper numerical order the following:

Form No. 2364.	Title Application for the Benefits of Public Resolution No. 128 of June 29, 1938.

Sections 7.113 through 17.116 of Title 8 of the Code of Federal Regulations (Rule 7, Subdivision E of the Naturalization Regulations of December 1, 1935), are amended to read as follows:

SEC. 7.113 (a) *Residence; effect of absence from the United States not exceeding six months.*—Where a petitioner for naturalization has been absent from the United States for not more than six months during the period immediately preceding the date of filing the petition for naturalization for which continuous residence is required, or during the period between the date of filing such petition and the date of final hearing thereon, objection to the granting of naturalization will not be made on that ground unless the facts and circumstances indicate a break in the continuity of the required residence, in which case objection shall be made. (*; Sec. 4 (4), 34 Stat. 598, Sec. 6 (b), 45 Stat. 1513, Sec. 1, 49 Stat. 1925, 8 U. S. C. Supp. III).

(b) *Residence; effect of absence from the United States more than six but less than one year.*—Where the absence from the United States during either of the periods described in paragraph (a) of Sec. 7.113 has been continuous for more than six months and less than one year, objection shall be made unless the evidence to be presented to the naturalization court satisfactorily overcomes the presumption raised by the statute that the required continuity of residence has been broken. (*; Sec. 4 (4), 34 Stat. 598, Sec. 6 (b), 45 Stat. 1513, Sec. 1, 49 Stat. 1925, 8 U. S. C. Supp. III.)

(c) *Residence; effect of absence from the United States for one year or more.*—Where the absence from the United States during either of the periods described in paragraph (a) of Sec. 7.113 has been for a continuous period of one year or more, objection shall be made, unless the case comes within the provisions of Sections 7.114, 7.115, 7.116 (A) or 7.116 (B), as otherwise the law itself declares that such absence breaks the continuity of the required residence. (*; Sec. 4 (4), 34 Stat. 598, Sec. 6 (b), 45 Stat. 1513, Sec. 1, 49 Stat. 1925, 8 U. S. C. Supp. III.)

(d) *When objection overruled; procedure.*—If objection made under this section is overruled, exception shall be noted and the facts reported immediately to the Central Office.

SEC. 7.114 *Residence, when not affected by absence from the United States before June 25, 1936.*—No period of residence outside the United States during the five years immediately preceding June 25, 1936, shall be held to have broken the continuity of residence required by the naturalization laws if the alien declarant—

(a) proves to the satisfaction of the Secretary of Labor that during all such period of absence

(1) the applicant was under employment by, or under contract with the Government of the United States, or

(2) the applicant was under employment by, or under contract with, an American institution of research recognized as such by the Secretary of Labor, for the purpose of carrying on scientific research on behalf of such institution, or

(3) the applicant was an employee of an American firm or corporation, or subsidiary thereof, engaged in whole or in part in the development of foreign trade and commerce of the United States, or

(4) the presence of the applicant was necessary to the protection of the property rights of such firm or corporation in any foreign country or countries;

and if—

(b) at the hearing on the petition for naturalization the alien proves to the satisfaction of the court that the absence from the United States for such period was for the purpose which was established to the satisfaction of the Secretary of Labor. (*; Sec. 4 (4), 34 Stat. 598, Sec. 6 (b), 45 Stat. 1513, Sec. 1, 49 Stat. 1925, 8 U. S. C. Supp. III.)

SEC. 7.115 *Limitation on effect of Public Resolution No. 128 of June 29, 1938.*—Public Resolution No. 128 of June 29, 1938, has no effect upon the cases of aliens who, prior to that date, had established to the satisfaction of the Secretary of Labor pursuant to the Act of June 25, 1936, that their absence from the United States during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization, was to be or had been for any of the purposes set forth in paragraph (a) of Section 7.114. However, proof that the Secretary was so satisfied in respect of that matter must be made by the applicant to the satisfaction of the court at the hearing on his or her petition for naturalization.

SEC. 7.116 *Residence; when not affected by absence from the United States on or after June 29, 1938.*—No absence from the United States on or after June 29, 1938, shall break the continuity of residence in the United States in the case of an alien—

(a) who has been lawfully admitted into the United States for permanent residence, has resided therein for at least one year thereafter, has made a declaration of intention to become a citizen of the United States, who shall be deemed an eligible alien for the purposes of this section and—

(1) who thereafter has—

(i) been sent abroad as an employee of, or under contract with, the Government of the United States or

(ii) proceeded abroad as an employee or representative of, or under contract with, an American institution of research recognized as such by the Secretary of Labor, or

(iii) proceeded abroad as an employee of a firm or corporation engaged in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or

(2) who has proceeded abroad temporarily and within a period of one year of his departure from the United States has become—

(i) an employee or representative of, or under contract with, such an American institution of research, or

(ii) an employee of such an American firm or corporation, if such alien

(b) prior to the beginning of such absence, or prior to the beginning of such employment, contract, or representation on behalf of an American institution of research, or an American firm or corporation as aforesaid, has established to the satisfaction of the Secretary of Labor that his absence for such period is to be—

(1) on behalf of the Government of the United States, or

(2) for the purpose of carrying on scientific research on behalf of such institution, or

(3) for the purpose of engaging solely or principally in the development of such foreign trade and commerce, or

(4) necessary to the protection of the property rights abroad of such firm or corporation;

and if—

(c) at the hearing on the petition for naturalization the alien proves to the satisfaction of the court that the absence from the United States for such period was for the purpose which was established to the satisfaction of the Secretary of Labor. (*; Sec. 4 (4), 34 Stat. 598, Sec. 6 (b), 45 Stat. 1513, Sec. 1, 49 Stat. 1925, 8 U. S. C. Supp. III.)

* * * * *

The following new sections are added to Title 8, Code of Federal Regulations immediately after Section 7.116 (such added sections being addenda to Rule 7, Subdivision E of the Naturalization Regulations of December 1, 1936):

SEC. 7.116 (A) *Alien wife or husband of a citizen of the United States.*—An alien who has been lawfully admitted into the United States for permanent residence, and is the wife or husband of a citizen of the United States engaged abroad within one of the categories mentioned in Section 7.116 shall be considered as residing in the United States for the purpose of naturalization notwithstanding any absence from the United States.*

SEC. 7.116 (B) *Application forms.*—Application for the benefits of Section 7.114 shall be submitted in duplicate to the Secretary of Labor on Form No. 2363, (A) "Application for the Benefits of the Act of June 25, 1936 (49 Stat. 1925)." Application for the benefits of Section 7.115 shall be submitted to the Secretary in duplicate on Form No. 2364, "Application for the Benefits of Public Resolution No. 128 of June 29, 1938." The application will be duly considered by the Secretary of Labor and the alien notified of the decision thereon. A copy of such decision, verified or certified by the Commissioner of Immigration and Naturalization, or any Deputy Commissioner of Immigration and Naturalization, shall be filed in the naturalization court with the alien's petition for naturalization as a part of the record of the naturalization proceeding.

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved:
FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-3304; Filed, November 2, 1938; 1:53 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 2nd day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-323]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE SILK INDUSTRY

PROMULGATION

Due proceedings having been held[1] under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of November 4, 1938.

STATEMENT BY THE COMMISSION

Trade practice rules for the Silk Industry, as herein set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure. The general purpose of the rules is to foster and promote fair competitive conditions and the protection of the purchasing and consuming public in the interest of both the industry and the public; to this end to provide for proper identification and disclosure of material content of merchandise containing or purporting to contain silk in whole or in part; to make provision for accurate designations and descriptions to be used in marketing such products; and to eliminate and prevent misrepresentation, deceptive concealment and other unfair methods of competition or unfair or deceptive acts or practices.

In the course of the proceedings an industry's conference was held in Washington, D. C., under the Commission's auspices, and proposed trade practice rules were submitted by members of the industry. Thereafter tentative action was taken by the Commission on the rules so submitted and a draft of proposed rules was made available upon public notice of at least fifteen days, in pursuance of which all interested and affected parties were afforded opportunity to present such pertinent facts, suggestions or objections as they desired and to be heard in respect to the proposed rules. Such hearing was held in Washington and all matters submitted orally or in writing were received and filed in the proceeding.

Thereafter, and upon consideration of the entire matter, final action was taken and the rules in the form appearing herein under Group I and Group II were respectively approved and received by the Commission.

Information received in the premises indicates that 57,815,573 pounds of raw silk, with a dollar value of $106,594,358, were imported into the United States in 1937. This raw product was converted by American mills and factories into more than 60 varieties of finished goods with a total retail sales value of approximately $600,000,000. Such American industry is reported to have a capital investment of more than $500,000,000 and to afford direct employment in the United States to approximately 250,000 persons.

As promulgated the Group I rules are intended to afford a helpful guide to the industry and the public in respect to the described unfair trade practices, which are considered by the Commission to be harmful and illegal. The requirements of law as expressed in such rules are binding upon all engaged directly or indirectly in promoting the sale or distribution or other marketing of the fiber, yarn, thread, strands, fabric, garments and products specified.

The rules for the Silk Industry herein promulgated supersede and replace prior rules published by the Federal Trade Commission on June 18, 1932, concerning the subject of silk weighting.

Said new silk rules are as follows:

Group I

The unfair trade practices which are embraced in these Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited, within the purview of the Federal Government, by acts of Congress, as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation or other organization, of such unlawful practices in or directly affecting interstate commerce.

Such provisions of the rules express requirements which are applicable to all sellers, whether importers, manufacturers, converters, distributors, dealers

[1] 3 F. R. 1738 DI.

or other vendors. Each has the definite responsibility of seeing to it that the merchandise as it is advertised by him or as it is introduced by him into the channels of trade or commerce is properly labeled and represented in keeping with the requirements of such Group I rules.

The labeling and other requirements respecting the fiber, yarn, thread, strands, fabric or garment or other product covered by the rules apply to such merchandise in whatever form it may be sold or distributed.

In the case of finished garments or articles manufactured for distribution through the channels of trade to the ultimate consuming public without intermediate processing, it is deemed proper practice for manufacturers thereof not only to label the garment or article with proper disclosure of material content and other disclosure as is required by these rules, but also to cause the labeling (tagging or branding) to be done in such manner as to carry through the ordinary channels of trade to the ultimate consumer and be appropriate in the sale or resale of the garment or article to the consuming public, thereby rendering further or additional labeling as to material content unnecessary so long as the proper label, tag or brand affixed by the manufacturer remains on the garment or article and the material content of the product has not been changed. This shall not, however, be construed as relieving dealers or other vendors of any of their responsibility under the rules of seeing to it that the garment or article bears a proper and appropriate label, brand or tag disclosing the information required by these rules to be disclosed and that it is not falsely or deceptively labeled, nor otherwise marked, advertised, represented or offered for sale in a manner contrary to the provisions of these rules.

RULE 1. (a) *Silk defined.*—Silk is the natural fiber derived from the cocoon of the silkworm.

(b) *Deceptive passing off of silk.*—It is an unfair trade practice to cause any silk fiber, yarn, thread, strands, fabric, or garment or other product made therefrom, to be sold, offered for sale, distributed, advertised, described, branded, labeled or otherwise represented: (1) as not being silk; or (2) as being something other than silk; or (3) without disclosure of the fact that such material or product is silk, made clearly and unequivocally in the invoices, in labels, tags or brands attached to the merchandise, and in whatever advertising matter, sales promotional descriptions or representations thereof may be used, however disseminated or published, where such nondisclosure has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public.

(c) It is an unfair trade practice to cause any fiber, yarn, thread, strands, fabric, garment or other product, containing or purporting to contain silk of any kind in whole or in part, to be offered for sale, sold or distributed under any conditions of deceptive concealment of the fiber content or under any other deceptive or misleading conditions or representations.

RULE 2. *Silk noil.*—(a) Silk noil is waste silk produced in the operations incident to manufacture of spun silk. The term "silk noil" as used in these rules, however, shall not be construed as including spun silk, except to the extent such spun silk is made of silk noil. For purposes of making disclosure, under these rules, as to content of product, such silk noil may be designated as "Silk Noil", "Noil Silk", "Silk Waste" or "Waste Silk".

(b) In offering for sale, selling or distributing, or promoting the sale or distribution of, any fiber, yarn, thread, strands, fabric, or garment or other product, containing silk noil either in whole or in part, full and nondeceptive disclosure of the presence of such silk noil should be made in labels, tags or brands affixed to the merchandise and in the invoices and in such advertising matter, sales promotional descriptions or representations as may be used in respect thereof, however disseminated or published; and it is an unfair trade practice to deceptively conceal the presence of such silk noil or to fail or refuse to make said disclosure, having the capacity and tendency or effect of thereby misleading or deceiving the purchasing or consuming public. In the use of the term "silk noil", "noil silk", "silk waste" or "waste silk", the words "noil" and "waste" shall not be misleadingly or deceptively minimized, obscured, remotely placed or rendered inconspicuous.

RULE 3. *Pure silk.*—(a) It is an unfair trade practice to use the term or phrase "Pure Silk", "All Silk", "Pure Dye Silk" or the distinctive term or phrase "Pure Dye" or the unqualified word "Silk", or any other word, term, phrase, designation or representation of similar import, as descriptive of any fiber, yarn, thread, strands, fabric, or garment or other product containing the same, (1) the fiber content of which is not silk exclusively; or (2) which contains any metallic weighting whatsoever; or (3) which contains any loading or adulterating materials or other foreign or added substance or material (except the necessary dyeing and/or finishing materials required to produce the color and finish of the product). Such necessary dyeing and/or finishing materials shall, however, in no case exceed 10% in the aggregate, except black, which shall not exceed 15% in the aggregate. These percentages shall be computed upon the weight of the silk in its finished state. Nothing in this rule shall be construed as permitting the use of dyeing or finishing materials, either within or in excess of such 10% and 15% limits, for the purpose or with the result of thereby deceptively loading the product with excess or unnecessary dyeing or finishing materials.

(b) Nothing in this rule shall prohibit the use of the term or phrase "Pure Silk", "Pure Dye Silk" or "Silk", in a truthful and nondeceptive manner, as descriptive of the silk content of a mixed fabric, *provided* said content meets the requirements of the foregoing paragraph (a) of this Rule 3 and the requirements of Rule 7 as to mixed goods; *and provided, further*, it is accurately and in immediate conjunction disclosed clearly and unequivocally that such term or phrase so employed is used as applying only to the silk content of such mixed fabric—such as, for example:

"Rayon and Pure Silk"
or
"Rayon and Silk"
or
"60% Rayon, 40% Pure Dye Silk".

RULE 4. *Weighted Silk.*—(a) Full and nondeceptive disclosure of the presence of metallic weighting, together with the proportion or percentage thereof, in any silk or silk product of any kind, shall be made in labels, tags or brands attached to the merchandise and in the invoices and in whatever advertising matter, sales promotional descriptions or representations may be used in respect thereto, however disseminated or published, to the end that misrepresentation of the merchandise or deception of the purchasing or consuming public may be avoided and prevented; and it is an unfair trade practice (1) to fail or refuse to make such full and nondeceptive disclosure through the means stated and in conformity with the requirements of this rule; or (2) otherwise to deceptively conceal the presence of such metallic weighting or the percentage or proportion thereof.

(b) The percentage or proportion of such metallic weighting to be disclosed under this rule shall be that proportion or percentage which the total weight of such metallic substance bears to the total weight of the silk in its finished state; subject, however, to the allowance of a tolerance of five points' variation from such stated percentage or proportion to the extent the variation is due to unavoidable variations in processing and not to lack of reasonable effort to state the percentage or proportion accurately. The following are illustrative examples of the disclosure provided for in this rule:

"Silk, Weighted 25%"
or
"Silk with 25% Metallic Weighting"
or
"Silk (weighted 25%) and Rayon".

(c) Nothing in this rule, however, shall be construed as prohibiting the making of such disclosure as to weighting and the percentage thereof by truthfully and nondeceptively disclosing that the weighting is not over a certain percentage, or that the weighting in such parts of the product as consist of weighted silk ranges from a certain minimum to a certain maximum figure, such as, for example:

"Silk, Weighted up to 50%"

"Silk, Weighted not over 50%"

"Silk, Weighted between 25% and 50%"

"Silk with 25% to 50% Weighting"

"Silk, Weighted from 25% to 50%".

(d) In making disclosure under these rules as to weighting, the disclosure of the fact that the product, or respective part thereof, is weighted and of the percentage or proportion of weighting, shall be made plainly and unequivocally, also in immediate conjunction with such representations of content as are used, and shall not be set forth in such manner as to be misleadingly or deceptively minimized, obscured, remotely placed or rendered inconspicuous.

(e) In case any such product so weighted with metallic substance is silk noil, the fact that such is noil shall also be disclosed in accordance with the requirements of Rule 2 and in addition to said disclosure as to weighting materials—such as, for example:

"Silk Noil, Weighted 25%"

"Noil Silk with 25% Weighting".

RULE 5. *Special finishing materials, excess finishing materials, loading or adulterating materials.*—(a) This rule applies to nonfibrous material other than metallic weighting provided for in Rule 4 and other than the necessary dyeing and/or finishing materials referred to in Rule 3.

(b) The presence of such nonfibrous materials which have been added to any fiber, yarn, thread, strands or fabric shall be truthfully and nondeceptively disclosed in accordance with the following requirements of this rule to the end that misunderstanding, confusion and deception of the purchasing or consuming public may be avoided and prevented.

(c) In the case where such nonfibrous material has been added to the product as special finishing materials, the product shall be designated and described in such manner as will clearly and nondeceptively disclose to the purchasing and consuming public that such added finishing materials are present in the product. The term "special finishing materials" as used in this rule means such finishing materials as are added to the product for the purpose and with the effect of thereby imparting certain useful properties to the product, such as water-repellant qualities, etc.

(d) In cases of fiber, yarn, thread, strands or fabric where nonfibrous materials have been added to or are present in the product as excess dyeing or finishing materials, loading or adulterating materials, full, clear and nondeceptive disclosure of the presence of such excess dyeing or finishing materials, or loading or adulterating materials, and of the maximum percentage or proportion in which such materials are present, shall be made in tags, labels or brands attached to the product, in the invoices and in whatever advertising or trade promotional descriptions or representations may be used in respect to the product, however disseminated or published.

(e) It is an unfair trade practice to fail or refuse to make such disclosure provided for in this rule, such failure or refusal having the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public; and it is an unfair trade practice to omit or fail to take such other steps as may be necessary to avoid the sale or distribution of such products in the channels of trade or to the purchasing or consuming public under false, misleading or deceptive representations or conditions.

RULE 6. *Terms "Silk", "Wool", "Linen", "Flax", "Cotton", etc.*—It is an unfair trade practice to use, or cause to be used, as descriptive of any textile merchandise, the word "silk", or word, term or representation of similar import, either alone or in conjunction with the words "wool", "linen", "flax", "cotton", "rayon" or other term or representation, such as, for example, "Silk Rayon", "Rayon Silk", "Silk Linen", "Linen Silk", etc., so as to import or imply that the product is silk or contains silk or has the properties of silk, when such is not the fact. However, nothing in this rule shall prohibit the use of the words "silk", "rayon", "wool", "linen", "flax", or "cotton", in any truthful and nondeceptive designation or representation made in conformity with the requirements of Rule 7 as to disclosure of mixed goods.

RULE 7. *Mixed goods.*—In the case of any yarn, thread, strands, fabric, or garment or other product made therefrom, containing a mixture of any kind of silk and other fiber or fibers, full and nondeceptive disclosure of the fiber content of such merchandise should be made in accordance with the hereinafter stated provisions of this rule, to the end that the purchasing and consuming public may be informed as to the contents of such merchandise and that deceptive concealment, misunderstanding, misrepresentation and unfair practices in the marketing of such merchandise in the channels of trade and to the public may be avoided and prevented. And it is an unfair trade practice to conceal the presence of any fiber constituent of such merchandise, or to fail or refuse to make said disclosure of fiber constituents, having the capacity, tendency or effect of misleading or deceiving the purchasing or consuming public. Such disclosure of the fiber content of said products, pursuant to this rule, shall be made by accurately designating and naming each constituent fiber thereof in the order of its predominance by weight, beginning with the largest single constituent, such as, for example, "Silk, Rayon and Wool", for yarn, thread, strands or fabric composed of silk, rayon and wool and containing silk in larger proportion than either rayon or wool and containing rayon in greater proportion than wool; subject to the following:

(I) Said disclosure shall be made in labels, brands or tags attached to the merchandise and in such advertising and sales promotional descriptions or representations of the product as may be used, however disseminated or published. Said disclosure shall also be made in such other documents, passing from seller to purchaser, as may be necessary to fully inform purchasers of the fiber content of the merchandise and to avoid and prevent the sale or resale of the merchandise under deceptive or misleading conditions.

(II) In setting forth a disclosure of the names of the fiber contained in any such mixed product of two or more fibers, the respective name of any such fiber shall not be set forth in type or manner so disproportionately enlarged, emphasized or conspicuously placed as thereby to have the capacity, tendency or effect of misleading or deceiving the purchasing or consuming public into the belief that a greater proportion of such over-emphasized fiber is present than is in fact true; such as, for example, in printing or otherwise setting forth said illustrative disclosure of "Silk, Rayon and Wool", the word "silk" or the word "wool" shall not be disproportionately enlarged or otherwise emphasized in such manner as to have the capacity, tendency or effect of misleading or deceiving the purchasing or consuming public in respect to the proportion or effective character of the silk or the wool in such mixed product.

(III) In case the product contains silk noil, weighted silk, special or excess finishing materials or loading or adulterating materials, the disclosure thereof shall be made in conformity with the applicable provisions of the other Group I rules, namely, Rule 2 respecting silk noil, Rule 4 respecting weighted silk, Rule 5 respecting special or excess finishing materials, loading or adulterating materials.

(IV) Where the fiber or fibers comprising at least 95% of the mixed product are disclosed not only by name as required by the foregoing provisions of this rule, but also with the percentage of each in the order of predominance by weight as recommended in Rule A, Group II, then the remaining 5% or less of the fiber content of such product may be designated and disclosed as "Other Fibers" or "Miscellaneous Fibers", *provided* such 5% proportion or less of one definitely known to be composed of one fiber or readily ascertainable as consisting of but one fiber, but on the contrary is composed of fibers which may be of various kinds, the percentages or quantities of each of which are not definitely known or readily ascertainable; *and provided further*, that such fiber content designated or disclosed as "Other Fibers" or "Miscellaneous Fibers" is not otherwise misrepresented. Illustrative examples of the disclosure provided for under this rule are as follows: "50% Silk, 46% Rayon, 4% Other

Fibers" or "55% Silk, 40% Wool, 5% Miscellaneous Fibers" for products composed of the respective stated percentages of silk, rayon and wool and composed in the remainder of fibers the proportion or percentage of each of which is not definitely known or readily ascertainable, including such small additional amounts of silk or rayon as may be present due to unavoidable variations in manufacturing processes.

(V) In making disclosure of fiber content under these rules by choosing to specifically name any particular fiber in any such mixed product which is present in the proportion of 5% or less by weight of the entire content, the name of the fiber shall be accompanied in immediate conjunction therewith by accurate and nondeceptive disclosure of the percentage or proportion in which said specifically named fiber is present, such as, for example, "2% Silk", or "2% Wool", to the end that the purchasing or consuming public may not be misled or deceived into the erroneous belief that said fiber is present in a greater or lesser proportion than is in fact true. Nothing in this rule shall be construed as permitting the concealment of the percentage in which any fiber is present above 5% where conditions or circumstances misleading or deceptive to the purchasing or consuming public may be produced by reason of such concealment.

(VI) In setting forth any item, name, statement, percentage or other information required to be disclosed under this or any other rule hereof, the same shall be set forth clearly and unequivocally and not in type or manner so disproportionate, or so minimized, obscured or remotely or inconspicuously placed as to be misleading or deceptive to the purchasing or consuming public.

RULE 8. *Passing off merchandise as and for silk.*—(a) It is an unfair trade practice to offer for sale, sell, distribute, describe, brand, label, advertise or otherwise represent, directly or indirectly, any fiber, yarn, thread, strands, fabric, or garment or other product made therefrom, as being silk or as containing silk of any kind or as having any of the properties of silk when such is not the fact.

(b) In the case of fiber, yarn, thread, strands, fabric, or garment or other product, not containing silk of any kind but which has been manufactured or processed in such manner as to simulate silk or which purports to contain silk in whole or in part, the failure or refusal to make full and nondeceptive disclosure of the fiber content of such merchandise, in conformity with law and applicable rules and regulations thereunder, and so as to avoid and prevent deceptive concealment, confusion, misunderstanding and misrepresentation, is an unfair trade practice.

RULE 9. *Deteriorated or damaged merchandise.*—In any case of merchandise, composed wholly or in part of silk, the character, quality or value of which has become impaired through age, deterioration or damage, it is an unfair trade practice in the sale or distribution of such merchandise to conceal such impairment for the purpose or with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public in respect to the character, quality, value or condition of such merchandise.

RULE 10. *Encouraging or promoting misleading merchandising methods.*—It is an unfair trade practice for any person, partnership or corporation to induce, aid or abet an importer, converter, manufacturer, distributor, dealer or other person to cause any fiber, yarn, thread; strands, fabric, or garment or other product, containing or purporting to contain silk in whole or in part, to be advertised, represented, offered for sale, sold or distributed through any means or devices or under any conditions which have the capacity and tendency or effect of causing, promoting or aiding the marketing of any such merchandise in the channels of trade or to the consuming public under false, misleading or deceptive circumstances or representations.

RULE 11. *Word "Silk" as part of trade or corporate name.*—(a) It is an unfair trade practice for any person, partnership or corporation to use the word "silk", or word, term or representation of similar import, as part of a trade or corporate name indicative of a silk business or silk products unless at least a substantial part of such business is devoted to silk or silk products and, as to any merchandise of said business which is not composed wholly of silk, full and nondeceptive disclosure is made, in immediate conjunction with such trade or corporate name, of the fact that such merchandise is not silk but is composed of or contains other named fibers.

(b) It is an unfair trade practice (1) to use the word "silk", or word, term or representation of similar import, in any trade-mark indicative of silk, when the merchandise which bears such mark, or which is advertised, offered for sale, sold or distributed thereunder, is not in fact composed of silk; or (2) to use said trade-mark in any other manner, or under any other condition, which is misleading or deceptive.

RULE 12. *Misrepresentations as to being a manufacturer, producer or importer.*—(a) It is an unfair trade practice for any person, partnership or corporation, by trade or corporate name or otherwise, to hold himself or itself out as being a manufacturer or producer of silk or silk products when such is not true in fact.

(b) It is an unfair trade practice for any person, partnership or corporation in the conduct of business to represent himself or itself, directly or indirectly, as having or operating a silk business in whole or in part, or a silk department or branch, or as being an importer of silk, when such is not true in fact; or in any other manner to misrepresent the character, nature or status of the business of such person, partnership or corporation.

RULE 13. *Inducing or abetting violation of rules.*—(a) It is an unfair trade practice for any importer, manufacturer, producer or organization to aid, abet, induce or coerce a dealer, distributor or other vendor to omit or refuse to make the disclosure as to content of merchandise required by the foregoing Group I rules, or to otherwise engage in any of the unfair trade practices specified in such rules.

(b) It is an unfair trade practice for any dealer or other vendor or organization to induce, aid, abet or coerce an importer, manufacturer, producer or other seller to omit or refuse to comply with the requirements of the foregoing Group I rules, or to otherwise engage in any unfair trade practice specified in such rules.

Group II

Compliance with the trade practice provisions embraced in these Group II rules is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. Where, however, the practice of not complying with any such Group II rules is followed in such manner as to result in unfair methods of competition contrary to law, corrective proceedings may be instituted by the Commission as in the case of a violation of Group I rules.

RULE A. *Disclosure of proportions of constituent fibers in mixed goods.*—The practice of making full and accurate disclosure of the proportions or percentages of the constituent fibers in mixed goods is approved as a proper practice to the end that salespersons, dealers and other marketers of such products may have accurate information of the fiber content thereof and may in turn correctly inform the purchasing and consuming public, thereby avoiding confusion, misunderstanding or misrepresentation as to the nature or content of such products. Any action taken in following this rule should be consonant with the requirements of the foregoing Group I rules. In the case where all fibers present are listed and disclosed by name together with the percentage in which each is present, a tolerance of not to exceed 3% variation from the stated percentages may be allowed to the extent that such variation is due to unavoidable variations in manufacturing processes and not to lack of reasonable effort to state such percentages accurately.

RULE B. *Terms descriptive of silk fabrics or relating to weavers of textures.*—Subject to and in conformity with the requirements of the foregoing Group I rules, the practice of truthfully qualifying by the word "silk" all words, terms, phrases or representations which mean silk or are associated in the minds of the purchasing or consuming public with fabrics composed of silk is recommended as a desirable practice. For example: "silk chiffon", "silk crepe", "silk satin", "silk taffeta", etc.

RULE C. *Information as to treatment and care of product.*—The practice, by producers, manufacturers and distributors, of furnishing and disseminating, through tags, labels, advertisements or other publicity, accurate information as to the proper treatment, care and cleaning of the products covered by these rules, is approved and recommended as a desirable practice to follow in the interest of enabling consumers to obtain and enjoy full benefit of the desirable qualities and services of such products.

Promulgated and issued by the Federal Trade Commission as of November 4, 1938.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3313; Filed, November 3, 1938; 10:31 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4870]

BOTTLING OF DISTILLED SPIRITS IN BOND

AMENDING REGULATIONS NO. 6

To District Supervisors and Others Concerned:

Section 23, of Regulations No. 6, Bottling of Distilled Spirits in Bond, approved June 3, 1938,[1] is hereby amended to read as follows:

SEC. 23. *Caution notice.*—Every person bottling distilled spirits in bond except for export shall attach to each bottle filed by him a caution notice reading as follows:

This bottle has been filled and stamped under the provisions of the Act of Congress entitled "An Act to allow the bottling of distilled spirits in bond," approved March 3, 1897, as amended. Any person who shall reuse the stamp affixed to this bottle, or remove the contents of this bottle without so destroying the stamp affixed thereto as to prevent reuse, or who shall sell this bottle, or reuse it for distilled spirits, will be liable to the penalties prescribed by law.

When spirits are bottled for export the bottler may attach the caution notice if he so desires.

This notice shall be of convenient size for attachment to the bottle, shall be printed in plain, legible, black characters, with a black border, and shall be securely attached to the bottle. The type used in printing caution labels shall not be less than six point when used on bottles of one pint or more.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, November 1, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury

[F. R. Doc. 38-3319; Filed, November 3, 1938; 12:17 p.m.]

[1] 3 F. R. 1351 DI.

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 6]

CHILD LABOR

PART 402. ACCEPTANCE OF STATE CERTIFICATES

NOVEMBER 3, 1938.

SEC. 402.3 *Designation of States.*—Pursuant to the provisions of section 401.5 (section 5 of Child Labor Regulation No. 1, entitled "Certificates of Age" issued October 14, 1938 *) I do hereby designate the following States as States in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938:

Kansas and Nevada

This designation shall be effective from and after the date hereof until the expiration of the period of six months from and after October 24, 1938.

KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 38-3327; Filed, November 3, 1938; 12: 52 p. m.]

[Regulation No. 3-A]

CHILD LABOR REGULATIONS

AMENDMENT TO TEMPORARY REGULATION FOR EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE

NOVEMBER 3, 1938.

AUTHORITY FOR REGULATION

Sec. 3 (1) of the Act

"*****The Chief of the Children's Bureau shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Chief of the Children's Bureau determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being."

Representations having been made to me that the limitation of the employment of minors between 14 and 16 years of age to the hours between 6 a. m. and 7 p. m. in any one day as provided for in section 2 (d) of Child Labor Regulation No. 3, entitled "Temporary Regulation for Employment of Minors Between 14 and 16 Years of Age" issued October 21, 1938,[1] will give rise in certain occupations to problems which will require time for adjustment, and in order to provide opportunity for assembling more complete information concerning the problems involved in such hour limitation and the extent to which the employment of minors of the ages specified before 6 a. m. and after 7 p. m. may interfere with hours of sleep and other conditions conducive to their health, school-progress, and general well-being, therefore I do hereby determine that section 2 (d) of the said regulation No. 3, which is effective for a period of 90 days from the date of its issuance, shall be of no force and effect as provided in the following regulation issued by virtue of and pursuant to the authority conferred by section 3 (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060).

REGULATION

Section 2 (d) of Child Labor Regulation No. 3 issued October 21, 1938 by virtue of and pursuant to the authority conferred by section 3 (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060) shall be of no force and effect until a public hearing can be held and further determination can be made and regulation issued upon the basis thereof.

KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 38-3326; Filed, November 3, 1938; 12:52 p. m.]

* Issued pursuant to the authority conferred by sections 3 (1) and 11 (b) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); 3 F. R. 2487 DI.

[1] 3 F. R. 2532 DI.

Notices

DEPARTMENT OF LABOR.

Division of Public Contracts.

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE METAL FURNITURE MANUFACTURING INDUSTRY

NOTICE OF HEARING

The Public Contracts Board will hold a hearing in Room 3229, Department of Labor Building, Washington, D. C., at 10 a. m., Thursday, November 17, 1938, to take testimony upon which findings of fact will be made to assist the Secretary of Labor in determining, pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) the prevailing minimum wages in the Metal Furniture Manufacturing Industry. The Metal Furniture Manufacturing Industry shall be understood to be that industry which manufactures metal office and household furniture and metal hospital furniture. Metal office furniture shall include the following:

Metal office furniture.—Vertical filing cabinets; horizontal sections and half-sections, and bookcases; Hi-line and book-shelf units; card index cases; transfer units; desks; tables; chairs; storage cabinets and wardrobes.

Steel shelving.—Industrial and general-purpose steel shelving, miscellaneous fittings, attachments, and accessories.

Steel lockers.—Box lockers; single-tier lockers; double-tier lockers; two-person and compartment lockers; miscellaneous fittings as used in schools, clubs, gymnasiums, commercial, and industrial establishments.

Visible filing equipment.—Cabinets, panels, pockets, cards, and other inserts,

signalling and other devices for visible filing.

The enclosed survey of the Furniture Industries[1] consists of such excerpts from the forthcoming survey of the Bureau of Labor Statistics as are immediately pertinent to the requirements of the Public Contracts Board in arriving at prevailing wage recommendations for the industries. This survey will be introduced in evidence at the hearing.

At the hearing an opportunity to be heard, either in person or by duly appointed representatives, will be given to persons engaged in the above-named industry, either as employers or as employees, to groups of such persons, and to others within the discretion of the Board. Briefs or telegraphic communications may be filed but they should be received by the Board on or before the hearing date. Five copies of all briefs must be submitted. Employers appearing in person, or by representatives, or presenting briefs, should furnish the Board with the following essential data:

(1) Name of firm.
(2) Plant address.
(3) Total number of employees in plant.
(4) Number of male employees.
(5) Number of female employees.
(6) Classification of employees by occupations, including number engaged in each operation.
(7) Hourly wages in each operation with designation of applicable time period.
(8) If paid on piece work basis, weekly earnings in each class of employees.
(9) Hours worked per week.

This outline of suggested data is not meant to exclude the submission of any other pertinent information which an employer may desire to submit.

Employees appearing at the hearing, either in person or by their representatives, or submitting briefs, should acquaint the Board with facts as to the wages now being paid in the industry.

Dated October 31, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3314; Filed, November 3, 1938; 11:47 a. m.]

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE PUBLIC SEATING INDUSTRY

NOTICE OF HEARING

The Public Contracts Board will hold a hearing in Room 3229, Department of Labor Building, Washington, D. C., at 10 a. m., Wednesday, November 16, 1938, to take testimony upon which findings of fact will be made to assist the Secretary of Labor in determining, pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35), the prevailing minimum wages in the Public Seating Industry. The term "Public Seating Industry" shall be understood to be that industry which fabricates, assembles, and installs (by those who fabricate or assemble) Public Seating (upholstered or non-upholstered), fabricated or assembled of wood, plywood, iron, steel, non-ferrous metals, or any combinations of these materials, and consisting of the following:

(a) Fixed or connected seating for such public places as theatres, auditoriums, lodges, assembly halls, shoe stores, rinks, ball parks, race tracks, stadia, and other similar buildings, and structures;

(b) Pewing, chancel, choir stalls, and related furniture and accessories for ecclesiastical purposes, seats and benches for court houses, hospitals, public waiting rooms, and for other similar public purposes;

(c) Pupils' desks, pupils' tables, pupils' chairs, and school furniture for all educational purposes;

(d) Portable chairs with folding seats in both single and multiple units;

(e) Portable folding seating in single units for other than household use.

The enclosed survey of the Furniture Industries[1] consists of such excerpts from the forthcoming survey of the Bureau of Labor Statistics as are immediately pertinent to the requirements of the Public Contracts Board in arriving at prevailing wage recommendations for the industries. This survey will be introduced in evidence at the hearing.

At the hearing an opportunity to be heard, either in person or by duly appointed representatives, will be given to persons engaged in the above-named industry, either as employers or as employees, to groups of such persons, and to others within the discretion of the Board. Briefs or telegraphic communications may be filed but they should be received by the Board on or before the hearing date. Five copies of all briefs must be submitted. Employers appearing in person, or by representatives, or presenting briefs, should furnish the Board with the following essential data:

(1) Name of firm.
(2) Plant address.
(3) Total number of employees in plant.
(4) Number of male employees.
(5) Number of female employees.
(6) Classification of employees by occupations, including number engaged in each operation.
(7) Hourly wages in each operation with designation of applicable time period.
(8) If paid on piece work basis, weekly earnings in each class of employees.
(9) Hours worked per week.

This outline of suggested data is not meant to exclude the submission of any other pertinent information which an employer may desire to submit.

[1] "Average Hourly Earnings in the Furniture Manufacturing Industry, October, 1937," filed as a part of the original document with the Division of the Federal Register, The National Archives.

Employees appearing at the hearing, either in person or by their representatives, or submitting briefs, should acquaint the Board with facts as to the wages now being paid in the industry.

Dated October 31, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3315; Filed, November 3, 1938; 11:48 a. m.]

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE WOOD FURNITURE MANUFACTURING INDUSTRY

NOTICE OF HEARING

The Public Contracts Board will hold a hearing in Room 3229, Department of Labor Building, Washington, D. C., at 10 a. m., Tuesday, November 15, 1938, to take testimony upon which findings of fact will be made to assist the Secretary of Labor in determining, pursuant to Section 1 (b) of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35), the prevailing minimum wages in the Wood Furniture Manufacturing Industry. The Wood Furniture Manufacturing Industry shall be understood to be that industry which manufactures wood upholstered furniture, exclusive of studio couches; wood kitchen furniture; wood office chairs, wood office desks, and wood office tables; parlor frames, chairs in the white, furniture parts of wood, and other unfinished household furniture. The term "furniture parts of wood" as used herein means wood parts for furniture where the process of manufacture has advanced so far that the product can be used only in the production of furniture, but not including hardwood dimension stock, nor plywood.

The enclosed survey of the Furniture Industries[1] consists of such excerpts from the forthcoming survey of the Bureau of Labor Statistics as are immediately pertinent to the requirements of the Public Contracts Board in arriving at prevailing wage recommendations for the industries. This survey will be introduced in evidence at the hearing.

At the hearing an opportunity to be heard, either in person or by duly appointed representatives, will be given to persons engaged in the above-named industry, either as employers or as employees, to groups of such persons, and to others within the discretion of the Board. Briefs or telegraphic communications may be filed but they should be received by the Board on or before the hearing date. Five copies of all briefs must be submitted. Employers appearing in person, or by representatives, or presenting briefs, should furnish the Board with the following essential data:

(1) Name of firm.
(2) Plant address.
(3) Total number of employees in plant.
(4) Number of male employees.

(5) Number of female employees.
(6) Classification of employees by occupations, including number engaged in each operation.
(7) Hourly wages in each operation with designation of applicable time period.
(8) If paid on piece work basis, weekly earnings in each class of employees.
(9) Hours worked per week.

This outline of suggested data is not meant to exclude the submission of any other pertinent information which an employer may desire to submit.

Employees appearing at the hearing, either in person or by their representatives, or submitting briefs, should acquaint the Board with facts as to the wages now being paid in the industry.

Dated October 31, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3316; Filed, November 3, 1938; 11:48 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 26-401(E)-1]

INLAND AIR LINES, INC., APPLICATION UNDER SECTION 401 (E) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION BY AIR OF MAIL, PASSENGERS AND PROPERTY BETWEEN GREAT FALLS, MONTANA, AND CHEYENNE, WYOMING, VIA LEWISTOWN, AND BILLINGS, MONTANA, AND SHERIDAN AND CASPER, WYOMING; AND BETWEEN HURON, SOUTH DAKOTA, AND CHEYENNE, WYOMING, VIA PIERRE, BLACK HILLS AIRPORT (SERVING LEAD, DEADWOOD, SPEARFISH) AND RAPID CITY, SOUTH DAKOTA

NOVEMBER 2, 1938.

The above entitled proceeding is assigned for public hearing on November 12, 1938, 10 o'clock a. m. (standard time), at the office of the Civil Aeronautics Authority (Hearing Room No. 2062), Washington, D. C., before Examiner Lucian Jordan.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3312; Filed, November 3, 1938; 9:58 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2087]

IN THE MATTER OF CHARLES H. BACON COMPANY, INC., AND THE SCOTT-BARTELS COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 8, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 332, Federal Trade Commission Building, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3306; Filed, November 3, 1938; 9:32 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayers, Robert E. Freer.

[Docket No. 3589]

IN THE MATTER OF ISADORE H. LUKACHER, TRADING AS CASA BLANCA CIGAR COMPANY AND AS BELVEDERE TOBACCO COMPANY, AND BERT LUKACHER, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, November 10, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 332, Federal Trade Commission Building, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3307; Filed, November 3, 1938; 9:32 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC-3]

NOTICE IN THE MATTER OF ESTABLISHING REASONABLE REQUIREMENTS TO PROMOTE SAFETY OF OPERATION OF MOTOR VEHICLES USED IN TRANSPORTING PROPERTY BY PRIVATE CARRIERS

OCTOBER 31, 1938.

To Private Carriers of Property by Motor Vehicle:

For the purpose of aiding in the presentation of evidence at the hearings in the above proceeding, your attention is directed to the order of the Commission dated December 23, 1936,[1] prescribing Safety Regulations for common and contract carriers by motor vehicles, and the order of the Commission dated July 12, 1938,[2] prescribing maximum hours of service for employees of common and contract carriers by motor vehicle.

In addition to submitting testimony on the need for Federal regulation of private carriers of property, it will be helpful to have evidence submitted as to what changes, if any, should be made in the safety regulations prescribed for common and contract carriers in order to make them applicable to private carriers of property.

Printed copies of these regulations may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C., as follows: Motor Carrier Safety Regulations, 10 cents per copy; Motor Carrier Hours of Service Regulations, 5 cents per copy.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3318; Filed, November 3, 1938; 12:06 p.m.]

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[1] 2 F. R. 113, 144 DI.
[2] 3 F. R. 1875 DI.

[Ex Parte No. MC-3]

ORDER IN THE MATTER OF ESTABLISHING REASONABLE REQUIREMENTS TO PROMOTE SAFETY OF OPERATION OF MOTOR VEHICLES USED IN TRANSPORTING PROPERTY BY PRIVATE CARRIERS

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 31st day of October, A. D. 1938.

It appearing, That by order dated the 30th day of July, 1936,[1] the Commission instituted an investigation in the above subject matter, for the purpose of determining whether in the interest of, and to promote, safety, there is need for prescribing regulations governing the qualifications and maximum hours of service of employees of, and standards of equipment for, private carriers of property by motor vehicle, and good cause therefor appearing;

It is ordered, That the said order of the 30th day of July, 1936, be, and the same is hereby, amended to read as follows:

That a proceeding of inquiry and investigation be, and it is hereby instituted, to establish for private carriers of property by motor vehicle, engaged in interstate or foreign commerce, if need therefor is found, reasonable requirements with respect to qualifications and maximum hours of service of employees and safety of operation and equipment;

And it is further ordered, That this proceeding be, and it is hereby, assigned for hearing before Examiner R. W. Snow, at the following times and places:

January 9, 1939, 10 A. M. S. T., at the offices of the Interstate Commerce Commission, in Washington, D. C.

January 12, 1939, 10 A. M. S. T., at the Hotel New Yorker, New York, New York.

January 16, 1939, 10 A. M. S. T., at the Hotel Sherman, Chicago, Illinois.

January 19, 1939, 10 A. M. S .T., at the Hotel Nicollet, Minneapolis, Minnesota.

January 23, 1939, 10 A. M. S. T., at the U. S. Court House, Spokane, Washington.

January 25, 1939, 10 A. M. S. T., at the Hotel Multnomah, Portland, Oregon.

January 30, 1939, 10 A. M. S. T., at the offices of the California Railroad Commission, Los Angeles, California.

February 3, 1939, 10 A. M. S. T., at the Hotel Fontenelle, Omaha, Nebraska.

February 6, 1939, 10 A. M. S. T., at the Hotel Peabody, Memphis, Tennessee.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-3317; Filed, November 3, 1938; 12:06 p. m.]

[1] 1 F. R. 1016.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1938.

[Files Nos. 43-103 and 47-19]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORPORATION, SOUTHERN OREGON GAS CORPORATION, CALIFORNIA UTILITIES COMPANY, NEEDLES GAS AND ELECTRIC COMPANY, WEAVERVILLE ELECTRIC COMPANY, APACHE GAS COMPANY, AND GAS TRANSPORT COMPANY

CORRECTED SUPPLEMENTARY ORDER APPROVING PLAN AND PERMITTING DECLARATIONS AND APPLICATIONS TO BECOME EFFECTIVE

The Republic Electric Power Corporation of Delaware, a registered holding company, and its subsidiaries, with properties in California, Oregon, and Oklahoma, have jointly filed a declaration under Section 7 and applications under Sections 10, 11 (e) and 12 and amendments thereto, regarding the sale and issuance of securities and acquisition and sale of utility assets incident to a comprehensive plan of reorganization and recapitalization. As part of the Revised Plan, the applicants and declarants consent to an order providing for the ultimate disposition by Republic Electric Power Corporation of the properties of Apache Gas Company and Gas Transport Company and the dissolution of the Republic Mutual Service Company in conformity with Section 11 (b), and the simplification of the system's corporate structure.

A public hearing having been held[1] after appropriate notice; the applicants and declarants having waived a trial examiner's report, submission of proposed findings of fact to the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission and all arguments before the Commission, prior to the entry of the Commission's findings, opinion, and order herein; and the Commission having considered the record in these matters; and having filed its findings and opinion and preliminary order herein:

It is ordered, That the Revised Plan filed under Section 11 (e) be, and hereby is, approved, as necessary or appropriate to effectuate the provisions of Section 11 (b), and such approval shall include each of the following steps to be taken under such plan:

(1) The transfer by Republic Electric Power Corporation of all its assets and securities and the Weaverville Ice Plant and securities and obligations of Needles Steam Laundry to the California Pacific Utilities Company (the operating company which will result from the merger of the constituent companies and hereinafter referred to as the Surviving Corporation);

(2) the cancellation by Republic Electric Power Corporation of so much of the note obligations of Needles Gas and Electric Company, California Utilities Company, and Weaverville Electric Company as exceeds $425,000;

(3) the merger of California Utilities Company, Needles Gas and Electric Company, and Weaverville Electric Company into Southern Oregon Gas Corporation;

(4) the assumption by the Surviving Corporation of all the assets and noncanceled liabilities of the constituent corporations;

(5) the issuance by the Surviving Corporation to Republic Electric Power Corporation of 4,250 shares 5% First Preferred, 6,690 shares 5% Second Preferred, and 6,450 shares Common;

(6) the execution by the Surviving Corporation of an open-end indenture of trust;

(7) the issuance by the Surviving Corporation of $475,000 First and Refunding Mortgage Bonds, $425,000 of which will be issued to Republic Electric Power Corporation and $50,000 of which will be issued to the Niagara Share Corporation, in cancellation, respectively, of the indebtedness of its constituent corporations;

(8) the issuance by Gas Transport Company and Apache Gas Company to Republic Electric Power Corporation of non-negotiable notes totaling $200,000;

(9) the issuance by Apache Gas Company to Republic Electric Power Corporation of a non-negotiable note covering the balance of its indebtedness to the Republic Electric Power Corporation and the transfer of this note by Republic Electric Power Corporation to the Surviving Corporation;

(10) the issuance by Republic Electric Power Corporation to Niagara Share Corporation of a $200,000 non-negotiable note, in cancellation of a like amount indebtedness, and to accompany this note with the pledge of the $200,000 non-negotiable note issued to it by Gas Transport Company and Apache Gas Company and all the shares of Apache Gas Company and Gas Transport Company;

(11) the transfer by Republic Electric Power Corporation to Niagara Share Corporation of all the First and Refunding Mortgage Bonds and all the First and Second Preferred Stock which it received from the Surviving Corporation, in cancellation of $1,519,000 indebtedness to Niagara Share Corporation;

(12) the distribution by Republic Electric Power Corporation of the Common stock which it will receive from the Surviving Corporation to its own stockholders on a share-for-share basis;

(13) the disposition by Republic Electric Power Corporation to third persons, other than the present management of Republic Electric Power Corporation, of its interests in Apache Gas Company and Gas Transport Company; and

(14) the dissolution, within one year from the effective date of this Order, of the Republic Electric Power Corporation and the Republic Mutual Service Company.

It is further ordered, That, in pursuance of Section 11 (b) and in accordance with the express consent of the Republic Electric Power Corporation that within one year of the date of this Order:

(1) Republic Electric Power Corporation distribute its common stock holdings of the Surviving Corporation to its stockholders; and

(2) Republic Electric Power Corporation dispose of its interests in the Apache Gas Company and Gas Transport Company to third persons, other than the present management of the Republic Electric Power Corporation.

And it is further ordered, That the declarations,

(1) by the Surviving Corporation regarding the issuance of First and Refunding Mortgage Bonds, common stock, and preferred stock;

(2) by Apache Gas Company regarding the issuance of non-negotiable notes;

(3) by Gas Transport Company regarding the issuance of a non-negotiable note; and

(4) by Republic Electric Power Corporation regarding the issuance of a non-negotiable note;

be and become effective forthwith subject to the terms and for the purposes represented thereby.

That the applications,

(1) by the Surviving Corporation regarding the acquisitions of interests in business and securities and of any of the above-described utility assets, the acquisition of which is subject to Section 9 (a) of the Act;

(2) by Republic Electric Power Corporation regarding the acquisition of securities; and

(3) for authorization under Rule U-12C-2 regarding the distribution by Republic Electric Power Corporation of the common stock which it will receive from the Surviving Corporation to its own stockholders on a share-for-share basis;

be and hereby are approved.

And it is further ordered, That the application by Republic Electric Power Corporation regarding the sale or other disposition of the securities and public utility assets be and the same is hereby approved, except that no authorization is given to Republic Electric Power Corporation to dispose of its interests in Apache Gas Company and Gas Transport Company by the sale of the securities of the latter companies, and if Republic Electric Power Corporation desires to make such a disposition of its interests the Commission reserves jurisdiction over such transaction. The authorization herein granted is subject to the condition that if the sale of Republic Electric Power Corporation's interests in the Apache Gas Company and Gas Transport Company takes the form of a sale of assets and properties, Republic Electric Power Corporation must give this Commission twenty days' notice, in writing, of its intention to sell and of the terms of such sale, and if within that twenty day period the Commission does not issue an order requiring Republic Electric Power Corporation to show cause why the terms and conditions of such sale, and the effect thereof, are not detrimental to the public interest or the interests of investors or consumers, and will not circumvent the provisions of the Act or any rules, regulations, or order of the Commission thereunder, then the sale may be consummated without further order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-3325; Filed, November 3, 1938; 12:49 p. m.]

[1] 3 F. R. 2268 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of November, A. D. 1938.

[File Nos. 34-8, 52-3, 52-5, 52-9, 52-10, 59-1]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION AND CHARLES TRUE ADAMS, TRUSTEE

ORDER DENYING PETITION

Harry Reid, Max McGraw and B. B. Robinson, representing themselves as the General Protective Committee for Security Holders of Utilities Power & Light Corporation, having on October 4, 1938, filed a petition to be heard in the above entitled proceedings; and

This Commission having heard[1] said Committee on its petition, having duly considered the matter and being fully informed in the premises;

It is ordered, That the petition of said Harry Reid, Max McGraw and B. B. Robinson, representing themselves as the General Protective Committee for Security Holders of Utilities Power & Light Corporation to be heard in the above entitled proceedings be and hereby is denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-3324; Filed, November 3, 1938; 12:48 p. m.]

[1] 3 F. R. 2540 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 2nd day of November 1938.

[File No. 1-2701]

IN THE MATTER OF APPLICATION BY THE BOARD OF TRADE OF THE CITY OF CHICAGO TO STRIKE FROM LISTING AND REGISTRATION THE 6% CUMULATIVE CONVERTIBLE PREFERRED STOCK, OF JOLIET HEATING CORPORATION

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to strike from listing and registration the 6% Cumulative Convertible Preferred Stock, of Joliet Heating Corporation; and

After appropriate notice, a hearing having been held[1] in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on November 12, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 38-3323; Filed, November 3, 1938; 12:48 p. m.]

[1] 3 F. R. 2126 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of November, A. D. 1938.

[File No. 1-1203]

IN THE MATTER OF PITTSBURGH TERMINAL COAL CORPORATION PREFERRED STOCK (6% CUMULATIVE) $100 PAR VALUE; COMMON STOCK, $1 PAR VALUE

ORDER GRANTING APPLICATION FOR STRIKING SECURITIES FROM LISTING AND REGISTRATION

The New York Stock Exchange having made an application to the Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 to strike from listing and registration on said Exchange the Preferred Stock (6% Cumulative), $100 Par Value, and Common Stock, $1 Par Value, of Pittsburgh Terminal Coal Corporation; and

The Commission having ordered a hearing with respect to said application, which hearing, after due notice, was held [1] on June 29, 1938; and

The Commission having considered the application, together with the evidence introduced at the hearing and the report of the trial examiner thereon, and having due regard for the public interest and the protection of investors, and having filed its findings and opinion herein;

It is ordered, That said application be and the same hereby is granted, effective at the close of the trading session on December 2, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3322; Filed, November 3, 1938; 12:48 p. m.]

[1] 3 F. R. 1434 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of November, A. D. 1938.

[File No. 1-2211]

IN THE MATTER OF NORFOLK SOUTHERN RAILROAD COMPANY CAPITAL STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION FOR STRIKING SECURITIES FROM LISTING AND REGISTRATION

The New York Stock Exchange having made an application to the Commission pursuant to Section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 to strike from listing and registration on said Exchange the Capital Stock, $100 Par Value, of Norfolk Southern Railroad Company; and

The Commission having ordered a hearing with respect to said application, which hearing, after due notice, was held [1] on June 29, 1938; and

The Commission having considered the application, together with the evidence introduced at the hearing and the report of the trial examiner thereon, and having due regard for the public interest and the protection of investors, and having filed its findings and opinion herein;

It is ordered, That said application be and the same hereby is granted, effective at the close of the trading session on December 2, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3321; Filed, November 3, 1938; 12:48 p. m.]

[1] 3 F. R. 1435 DI.

NOV. 7 1938

FEDERAL REGISTER

THE NATIONAL ARCHIVES OF THE UNITED STATES — LITTERA SCRIPTA MANET — 1934

VOLUME 3 NUMBER 217

Washington, Saturday, November 5, 1938

The President

EXECUTIVE ORDER

TRANSFERRING CERTAIN LANDS FROM THE DEPARTMENT OF AGRICULTURE TO THE DEPARTMENT OF COMMERCE AND RESERVING THEM AS THE WELAKA FISH HATCHERY

FLORIDA

WHEREAS the hereinafter-described lands have been acquired under authority of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), in connection with the Department of Agriculture's land-utilization and land-conservation project in Florida known as the Welaka Project, LA-FL 10; and

WHEREAS by Executive Order No. 7908, dated June 9, 1938,[1] all the right, title, and interest of the United States in such lands were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the Bankhead-Jones Farm Tenant Act, approved July 27, 1937 (50 Stat. 522, 525), and the related provisions of Title IV thereof; and

WHEREAS it appears that it would be in the public interest to reserve such lands for use as a fish hatchery:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 32 (c), Title III of the said Bankhead-Jones Farm Tenant Act, it is hereby ordered that the hereinafter-described lands in the County of Putnam, Florida, together with any improvements thereon, be, and they are hereby, transferred from the Secretary of Agriculture to the Department of Commerce, Bureau of Fisheries, and reserved and set apart for the use of the Department of Commerce as a fish hatchery:

1. Land located in Triay Grant, Section 40, Township 12 South, Range 26 East, described as follows:

All of Lots 1, 2 and 3 lying South of County Road in Block 20 and Lots 1, 2 and 3 in Block 58, Town of Beecher, containing 26.13 acres, more or less.

Lot 1, Block 59, Town of Beecher, containing 5.05 acres, more or less.

Lot 2, Block 59, Town of Beecher, containing 5.06 acres, more or less.

Lot 3, Block 59, Town of Beecher, containing 5.06 acres, more or less.

All of Block 4, Town of Beecher, containing 1.78 acres, more or less (except County Highway).

All of Block 5, Town of Beecher, containing 1.58 acres more or less (except County Highway).

All of Block 6, Town of Beecher, containing 2.93 acres, more or less.

All of Block 7, Town of Beecher, containing 2.93 acres, more or less.

The south 275 feet of Block 13, Town of Beecher, containing 2.56 acres, more or less.

The south 275 feet of Block 14, Town of Beecher, containing 2.56 acres, more or less.

All of Block 15, Town of Beecher, containing 1.46 acres, more or less.

All of Block 16, Town of Beecher, containing 1.46 acres, more or less.

All of Lots 1 and 2 lying South of County Road in Block 19, Town of Beecher, containing 1.26 acres, more or less.

All of lot 7 of Block 19 of the Town of Beecher; all of lots 5 and 6 of the Town of Beecher (except a triangularly shaped tract described as follows: Beginning at SE corner of Lot 6 of Block 19, thence N 48° W 484 feet to a point on E line of lot 5 of Block 19, thence S 46° W 484 feet to SE corner of lot 4, Block 19, thence E to a point of beginning); also that part of lots 4 and 3 East of a line described as: Beginning at a point 249 feet West of the SE corner of lot 4 of Block 19, said point being on the South line of lot 4, Block 19, thence N 13° 36'30" East 165 feet to a point, thence N 43°28'30" W 95.09 feet to a point, thence N 62°2'30" W 210.92 feet to a point, thence N 56°17'30" W 70 feet to a point, thence N 34°42' E 105.26 feet to a point, thence N 63°21' E 265.81 feet to the Triay Grant line. All containing 16.35 acres, more or less.

[1] 3 F. R. 1389 DI.

CONTENTS

THE PRESIDENT

Executive Order: Page
Welaka Fish Hatchery, Fla., land transferred from Department of Agriculture to Department of Commerce and reserved as 2633

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
United States standards for quality of creamery butter 2635
Office of Secretary of Agriculture:
Eastern Shore Experimental Forest, Wicomico County, Md., land transfer 2635
TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Free travel for postal employees 2638
TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Crown Mail Order House (Pauline Rothman) 2639
National Press Service (Tom Bloom) 2638
TITLE 29—LABOR:
Children's Bureau:
Child labor, procedure governing determinations of hazardous occupations 2640
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Explosives, etc., transportation of 2640

NOTICES

Department of Labor:
Wage and Hour Division:
Hearing on amendment of regulations under Fair Labor Standards Act of 1938 (area of production) 2640

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Page

Interstate Commerce Commission:
Jurisdiction over employees of common, contract, and private motor carriers, notice and order ---------- 2641

Securities and Exchange Commission:
Notice of and orders for hearings in the matter of:
Columbia Gas & Electric Corp. 2643
Hartt, Jay Samuel ---------- 2642
Lone Star Gas Corp., et al ---- 2642
Mother Lode Gold Mines ----- 2643

United States Maritime Commission:
Minimum wage and manning scales, and reasonable working conditions for electricians, etc., postponement of hearing ---------- 2644

All of Block 63, Town of Beecher, containing 1.465 acres, more or less.

All of Block 64, Town of Beecher, containing 1.465 acres, more or less.

All of Block 65, Town of Beecher, containing 2.93 acres, more or less.

All of Block 66, Town of Beecher, containing 2.93 acres, more or less.

All of block 73, Town of Beecher, containing 2.93 acres, more or less.

All of Block 74 Town of Beecher, containing 2.93 acres, more or less.

All of Block 75, Town of Beecher, containing 1.64 acres, more or less.

All of Block 76, Town of Beecher, containing 1.63 acres, more or less.

2. Government Lot 3 and W½ of NW¼ of Section 23, Township 12 South, Range 26 East, containing 107.92 acres, more or less.

Government Lots 4 and 5, Section 14, Township 12 South, Range 26 East, containing 80.06 acres, more or less.

The NE¼ of the NW¼ and N½ of SE¼ of NW¼ of Section 23, Township 12 South, Range 26 East, containing 60.09 acres, more or less.

3. All that parcel of land located in the County of Putnam, State of Florida, in Sections 40, 4 and 3, in Township 12 South, Range 26 East, and more fully described as follows:

BEGINNING at the intersections of the East side of the Welaka-Georgetown County Road and the South line of Ocklawaha Avenue;

Thence S 48°15'45'' E along said road 132 feet to a point;

Thence S 52°44'15'' E along said road 170 feet to a point, said point being on the North side of a road designated as "Quail Hatchery Road;"

Thence N 37°09' E along "Quail Hatchery Road" for a distance of 298 feet to a point;

Thence N 71°33' E along Quail Farm Road for a distance of 144 feet to the SE corner of Lot 8 of Block 58;

Thence N 0°00' 594.53 feet to the NE corner of said lot;

Thence N 32°45' W 642 feet to the NW corner of Lot 8 of Block 20;

Thence N 0°00' 100 Feet across Welaka Avenue to the SE corner of Lot 7 of Block 19;

Thence W 0°00' 337 feet along the N side of Welaka Avenue to the SE corner of Lot 6, Block 19;

Thence N 48° W 484 feet to a point on the E line of Lot 5 of Block 19;

Thence S 46° W 484 feet to the SE corner of Lot 4 of Block 19;

Thence W 249 feet along the S line of Lot 4 of Block 19 to a point;

Thence N 13°36'30'' E 165.49 feet to a point;

Thence N 43°28'30'' W 95.09 feet to a point;

Thence N 62°02'30'' W 210.92 feet to a point;

Thence N 56°17'30'' W 70 feet to a point;

Thence N 34°42' E 105.26 feet to a point;

Thence N 63°21' E 265.81 feet to the intersection of the N line of the Triay Grant, which is also the N line of the Town of Beecher and the S line of the Town of Welaka;

Thence E 186 feet along said line, which is also the S line of Lot 1 of Block 65, Town of Welaka, to the SE corner of said Lot 1;

Thence N 40° W 105 feet to a point on the Easterly line of said Lot 1;

Thence N 22°21'30'' E 75.20 feet to a point;

Thence N. 56°11'30'' E 169.12 feet to a point;

Thence N 82°13'30'' E 143.12 feet to a point;

Thence N 58°42' E 167 feet to a point;

Thence N 3°49'30'' W 154.82 feet to a point;

Thence N 64°00'30'' W 358.60 feet to a point;

Thence S 62°42' W 291.30 feet to a point;

Thence S 12°44' W 157.52 feet to a point;

Thence S 86°17' W 99.70 feet to the SE corner of Lot 1 of Block 64;

Thence S 85°50' W 412 feet along the N line of South Street to the SW corner of Lot 4 of Block 64;

Thence S 4°10' E 210 feet across South Street to a point on the E line of Lot 4 of Block 65, which is 50 feet S of the NE corner of Lot 4 of Block 65;

Thence S 85°50' W 200 feet to the E line of Lot 8 of Block 65 to a point 50 feet S of the NE corner of said Lot 8 of Block 65;

Thence N 4°10' W 150 feet to the NE corner of Lot 9 of Block 65;

Thence S 85°50' W 50 feet along the South line of South Street to a point;

Thence N 38°30' W 260 feet to the NW corner of Lot 11 of Block 64;

Thence N 4°10' W 60 feet to the SW corner of Block 63;

Thence S 85°50' W 520 feet along the N property line of McClure Street to the SE corner of Lot 1 of Block 30;

Thence N 4°10' W 100 feet to the NE corner of Lot 1 of said Block 30;

Thence S 85°50' W 260 feet to the NE corner of Lot 1 of Block 27;

Thence S 4°10' E 100 feet to the SE corner of Lot 1 of said Block 27, being the N property line of McClure Street;

Thence S 85°50' W 200 feet along the N line of McClure Street to the intersection of the E property line of 3rd Avenue, being the SW corner of Lot 8 of said Block 27;

Thence S 4°10' E 390 feet along the E property line of 3rd Avenue to the intersection of the E right of way line of the Welaka-Georgetown County Road;

Thence S 36°54' E 82 feet along said E right of way line to the intersection of the S line of the Town of Welaka, which is also the N line of the Town of Beecher and also the N line of the Triay Grant;

Thence E 637.11 feet along said boundary line to the NE corner of Block 5, Town of Beecher;

Thence S 159 feet along the E line of Block 5 to the intersection of the E right of way line of the Welaka-Georgetown County Road;

Thence S 52°45'30'' E 845.50 feet along the said E right of way line;

Thence S 68°15' E 514.30 feet along the said E right of way line;

Thence S 48°15'45'' E 1540 feet along said right of way line to the point of beginning.

EXCEPTING therefrom a parcel for a house in Block 20, described as follows:

Beginning at a point where the East side of the Welaka-Georgetown County Road intersects the division line between lots 3 and 4 of Block 20 of the Town of Beecher;

Thence run along the East side of said Road N 68°15' W a distance of 266 feet, more or less to a fence being Southwest corner of fence for reservoir ponds;

Thence N 62°30' E along said fence 362 feet to a point;

Thence N 83°15' E a distance of 101 feet more or less to a point, said point being on the North line of Welaka Avenue of the Town of Beecher;

Thence S 50° E a distance of 182 feet more or less, to a point, this point being the North fence line of fence enclosing "24 one acre Fish Rearing Ponds";

Thence S 39°45' W along said fence 305 feet, more or less, to a point on the East side of said County Road, this point being 1478 feet in a Northwesterly direction from a point where the East side of said County Road intersects the South line of Ocklawaha Avenue, said 1478 feet being measured along the East side of the said County Road;

Thence N 58°15' W a distance of 139 feet to the point of beginning.

ALSO EXCEPTING therefrom a 20-feet right of way for Quail Farm Road along the East side of Lot 8 of Block 58 and extending into Lot 8 of Block 20, said part for road in Lot 8 of Block 20 being described as beginning at Southeast corner of said Lot 8 of Block 20;

Thence extending West along the South side of said Lot 20 feet;

Thence North to boundary line of this description;

Thence Southeasterly along the boundary line to the Southeast corner of said Lot 8 of Block 20.

4. All that parcel of land located in Reeders Subdivision of Block 3 of the Town of Welaka in Section 41, Township 12 South, Range 26 East,

In the County of Putnam, State of Florida, and more fully described as follows:

A parcel of land at foot of McClure Street, being 30 feet wide, 160 feet on the North side and 170 feet on the South side with riparian rights.

The land transferred under subdivisions 3 and 4 of this Executive order contains 84 acres, more or less.

This reservation shall be known as the Welaka Fish Hatchery.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 2, 1938.

[No. 8001]

[F. R. Doc. 38-3331; Filed, November 4, 1938; 11:34 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

OFFICE OF SECRETARY OF AGRICULTURE

[Administrative Order]

EASTERN SHORE EXPERIMENTAL FOREST, WICOMICO COUNTY, MARYLAND

TRANSFER OF LANDS FROM FARM SECURITY ADMINISTRATION AND BUREAU OF AGRICULTURAL ECONOMICS TO FOREST SERVICE FOR ADMINISTRATION, PROTECTION AND MANAGEMENT

By virtue of and pursuant to the authority vested in me by Executive Order No. 7908, dated June 9, 1938,[1] and Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), the lands within the hereinafter described boundaries that have been acquired or are in process of acquisition by the Farm Security Administration under the provisions of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), or which have been or may be acquired by the Bureau of Agricultural Economics under Title III of the said Bankhead-Jones Farm Tenant Act, are hereby transferred from the Farm Security Administration and the Bureau of Agricultural Economics to the Forest Service for administration, protection, and management as an experimental forest, under the laws applicable to said lands, and such rules and regulations as have been or hereafter may be promulgated consistent with the powers and authority vested in the Secretary of Agriculture by the aforesaid Executive Order, and the aforesaid Title III of the Bankhead-Jones Farm Tenant Act, to wit:

All lands of the United States within the boundaries shown on the attached diagram[2] and more particularly described as follows:

Beginning at the intersection of the west boundary of Pittsburg Township and the Salisbury-Powellville Road on Nassawango Creek in Wicomico County, Maryland.

Thence from said initial point

Southeasterly with the center line of the road approximately 1.4 miles to the intersection with the Benjamin A. Johnson tract (#169) line which extends south of the highway

Southerly along the Benjamin A. Johnson tract line approximately 0.1 mile to the southermost corner of the tract

Northeasterly along the Benjamin A. Johnson tract line approximately 0.1 mile to the intersection with the Salisbury-Powellville Road

Southeasterly with the center line of the road approximately 1.1 miles to the intersection with the county road

Northeasterly with the center line of the road approximately 2 miles to the intersection with the Powellville-Parsonburg county road

Northwesterly with the center line of the road approximately 3 miles to the intersection with Nassawango Creek

Southwesterly with the stream bed approximately 3 miles to the place of beginning

[SEAL] HARRY L. BROWN,
Acting Secretary.

Date: November 3, 1938.

[F. R. Doc. 38-3320; Filed, November 3, 1938; 12:33 p. m.]

[1] 3 F. R. 1389 (DI).

[2] See p. 2636.

BUREAU OF AGRICULTURAL ECONOMICS

[Subpart 55]

U. S. STANDARDS FOR QUALITY OF CREAMERY BUTTER[1]

By virtue of the authority vested in the Secretary of Agriculture by the provision in the Act of Congress entitled "An Act Making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1939, and for other purposes," (52 Stat. 710), approved June 16, 1938, authorizing an inspection service for farm products, I, H. A. Wallace, Secretary of Agriculture, do prescribe and promulgate the following standards for quality and creamery butter, that shall be employed for the grading and certification of creamery butter by official graders of the United States Department of Agriculture, to be effective on April 1, 1939, and thereafter unless amended or superseded by standards hereafter prescribed and promulgated under such authority. These standards shall supersede all standards for quality of creamery butter previously promulgated.

SECTION 55.41 *Terms defined.*—For the purpose of the United States standards[2] for quality of creamery butter:

(a) *Butter.*—Butter shall be the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than 80 per cent by weight of milk fat, all tolerances having been allowed for.[3]

(b) *Creamery butter.*—Creamery butter shall be butter manufactured in a commercial creamery.

(c) *United States score grade.*—The United States score grade of a lot of

[1] Supersedes Service and Regulatory Announcements (Markets) 51.

[2] The specifications of these standards shall not excuse failure to comply with the provisions of the Federal Food and Drugs Act.

[3] In conformity with an act of Congress approved March 24, 1923.

creamery butter consisting of packages of the same official United States score shall be expressed in terms of an official United States score using whole numbers only. The United States score grades shall be from U. S. 85 score to U. S. 93 score, inclusive.*

SECTION 55.42 *United States grades for creamery butter.*—The following United States grades for creamery butter are established:

(a) U. S. 93 score butter shall possess a fine flavor. It may possess a very slightly normal feed or slightly cooked flavor. It is made from cream to which a culture (starter) may or may not have been added. The total permitted defects in body, color, and salt are limited to a rating of one-half (tables 1 and 2).

(b) U. S. 92 score butter shall possess a pleasing flavor. It may possess a slightly normal feed, slightly storage, slightly heated cream (summer defect), slightly flat, slightly coarse-acid, or a definitely cooked flavor. The total permitted defects in body, color, and salt are limited to a rating of one-half unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed one-half; provided, however, that the total ratings for defects in body, color, and salt must not exceed one in 92 score butter regardless of the flavor rating (tables 1 and 2).

(c) U. S. 91 score butter shall possess a fairly pleasing flavor. It may possess any of the following flavors if present only to a slight degree: Acidy, utensil, scorched, neutralizer, aged (butter), greasy, woody, bitter, and old-cream. It may possess any of the following flavors even when present to a definite degree: Storage, normal feed, heated cream (summer defect), flat, coarse-acid, and smothered. The total permitted defects in body, color and salt are limited to a rating of one-half unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed one-half (tables 1 and 2).

(d) U. S. 90 score butter shall possess a fairly pleasing flavor. It may possess any of the following flavors if present only to a slight degree: Cabbage, turnip, potato, rape, weedy (ordinary-common), and musty. It may possess any of the following flavors even when present to a definite degree: Acidy, utensil, scorched, neutralizer, aged (butter), greasy, woody, bitter, and old-cream. The total permitted defects in body, color, and salt are limited to a rating of one-half unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed one-half (tables 1 and 2).

(e) U. S. 89 score butter may possess any of the following flavors if present only to a slight degree: Fruity, yeasty, cheesy, oily, metallic, and barny. It may possess any of the following flavors even when present to a definite degree: Sour, scorched - neutralizer, scorched - old - cream, alkaline, cabbage, turnip, potato, rape, weedy (ordinary-common), musty, and stale-cream. The total permitted defects in body, color, and salt are limited to a rating of one unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed one (tables 1 and 2).

(f) U. S. 88 score butter may possess a slightly obnoxious weed flavor or any of the following flavors even when present to a definite degree: Fruity, yeasty, cheesy, oily, metallic, cabbage, turnip, potato, rape, and barny. It may possess any of the following flavors even when present to a pronounced degree: Alkaline, musty, and stale-cream. The total permitted defects in body, color, and salt are limited to a rating of one unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed one (tables 1 and 2).

(g) U. S. 87 score butter may possess a fishy, onion and garlic flavor if present only to a slight degree. It may possess an obnoxious weed and barny flavor even when present to a definite degree. It may also possess a yeasty and cheesy flavor when present to a pronounced degree and a stale-cream flavor when present to a very pronounced degree. The total permitted defects in body, color, and salt are limited to a rating of two unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed two (tables 1 and 2).

(h) U. S. 86 score butter may possess any of the following flavors: Definitely fishy, definitely onion or garlic, and pronouncedly obnoxious weeds. The total permitted defects in body, color, and salt are limited to a rating of two unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed two (tables 1 and 2).

(i) U. S. 85 score butter may possess a pronouncedly obnoxious weed, onion and garlic flavor. The total permitted defects in body, color, and salt are limited to a rating of three unless the flavor rating is sufficiently high to permit the total ratings for defects in these factors to exceed three (tables 1 and 2).

(j) No grade. Butter that is below the requirements of U. S. 85 score because of its flavor or other conditions or because of excessive defects in body, color, and/or salt shall be classified as "no grade"[**].

SECTION 55.43 *Basis for determination of quality of creamery butter.*—The basis for determination of quality of creamery butter, except "no grade" butter, shall be the ratings given the flavor and the defects in body, color, and salt. The official United States score of individual samples of creamery butter shall be determined by the following general rule:

General rule.—The official United States score of an individual sample of creamery butter shall be determined by deducting from the flavor rating[§] of the sample the amount that the total ratings of the defects in body, color, and salt is in excess of the ratings for defects permitted in these factors for butter of the particular flavor rating (table 1), the official United States score to be expressed as a whole number by lowering any half score to the next lower full score; provided, however, that the total ratings for defects in body, color, and salt must not exceed one in 92 score butter regardless of the flavor rating.*

SECTION 55.44 *Ratings of certain Identified flavors in creamy butter.*—The various identified flavors in butter listed below shall be rated as follows:

Identified flavor	*Rating*
(a) Fine	93
(b) Pleasing	92
(c) Fairly pleasing	91–90
(d) Acidy:	
Slightly acidy	91
Definitely acidy	90
Definitely sour	89
(e) Utensil:	
Slightly utensil	91
Definitely utensil	90
(f) Fruity:	
Slightly fruity	89
Definitely fruity	88
(g) Yeasty:	
Slightly yeasty	89
Definitely greasy	88
Pronouncedly yeasty	87
(h) Cheesy:	
Slightly cheesy	89
Definitely cheesy	88
Pronouncedly cheesy	87
(i) Cooked:	
Slightly cooked	93
Definitely cooked	92
(j) Scorched:	
Slightly scorched-acid	91
Definitely scorched-acid	90
Definitely scorched-old-cream	89
(k) Neutralizer:	
Slightly neutralizer	91
Definitely neutralizer	90
Definitely scorched-neutralizer	89
Definitely alkaline	89
Pronouncedly alkaline	88
(l) Storage:	
Slightly storage	92
Definitely storage	91
(m) Aged (butter):	
Slightly aged	91
Definitely aged	90
(n) Greasy:	
Slightly greasy	91
Definitely greasy	90
(o) Oily:	
Slightly oily	89
Definitely oily	88
(p) Metallic:	
Slightly metallic	89
Definitely metallic	88
(q) Fishy:	
Slightly fishy	87
Definitely fishy	86
(r) Normal feed:	
Very slightly normal feed	93
Slightly normal feed	92
Definitely normal feed	91
(s) Cabbage, turnip, potato, rape:	
Slightly cabbage, turnip, potato, rape	90
Definitely cabbage, turnip, potato, rape	89–88
(t) Weedy (ordinary-common):	
Slightly weedy	90
Definitely weedy	89
(u) Obnoxious weeds:	
Slightly obnoxious weeds	88
Definitely obnoxious weeds	87
Pronouncedly obnoxious weeds	86–85
(v) Onion or garlic:	
Slightly onion or garlic	87
Definitely onion or garlic	86
Pronouncedly onion or garlic	85
(w) Musty:	
Slightly musty	90
Definitely musty	89
Pronouncedly musty	88
(x) Woody:	
Slightly woody	91
Definitely woody	90
(y) Heated cream (summer defect):	
Slightly heated cream	92
Definitely heated cream	91
(z) Flat:	
Slightly flat	92
Definitely flat	91
(aa) Coarse:	
Slightly coarse-acid cream	92
Definitely coarse-acid cream	91
(bb) Smothered:	
Definitely smothered	91
(cc) Bitter:	
Slightly bitter	91
Definitely bitter	90
(dd) Old-cream:	
Slightly old-cream	91
Definitely old-cream	90
(ee) Stale-cream:	
Definitely stale-cream	89
Pronouncedly stale-cream	88
Very pronouncedly stale-cream	87
(ff) Barny:	
Slightly barny	89
Definitely barny *	88–87

SECTION 55.45 *Flavors and conditions in butter that cause it to be classified as "No Grade."*—Butter that possesses the following flavors or in which the following conditions are present shall be classified as "No Grade."

(a) Flavors:
- Pronouncedly fishy
- Surface-taint
- Limburger
- Tallowy
- Rancid
- Paint or varnish
- Gasoline, kerosene or fly spray
- Chemical

(b) Conditions:
- Mold
- Grains of sand
- Splinters of wood
- Specks of rust
- Other foreign materials *

SECTION 55.46 *Ratings for defects in body, color, and salt.*—The ratings for defects[‡] in body, color, and salt shall be established in accordance with the following rules:

Rule (a). Gummy, leaky, spongy or weak, crumbly, or sticky body, wavy color, color specks and sharp salt shall be rated for defects as follows:

Defects	*Rating*
Slight	½
Definite	1

Rule (b). Ragged-boring, mealy or grainy, and streaked or mottled color shall be rated for defects as follows:

Defects	*Rating*
Slight	1
Definite	2

Rule (c) High color (unnatural) shall be rated for defects as follows:

Defects	*Rating*
Pronounced	1

Rule (d). Gritty salt shall be rated for defects as follows:

Defects	*Rating*
Slight	1
Definite *	2

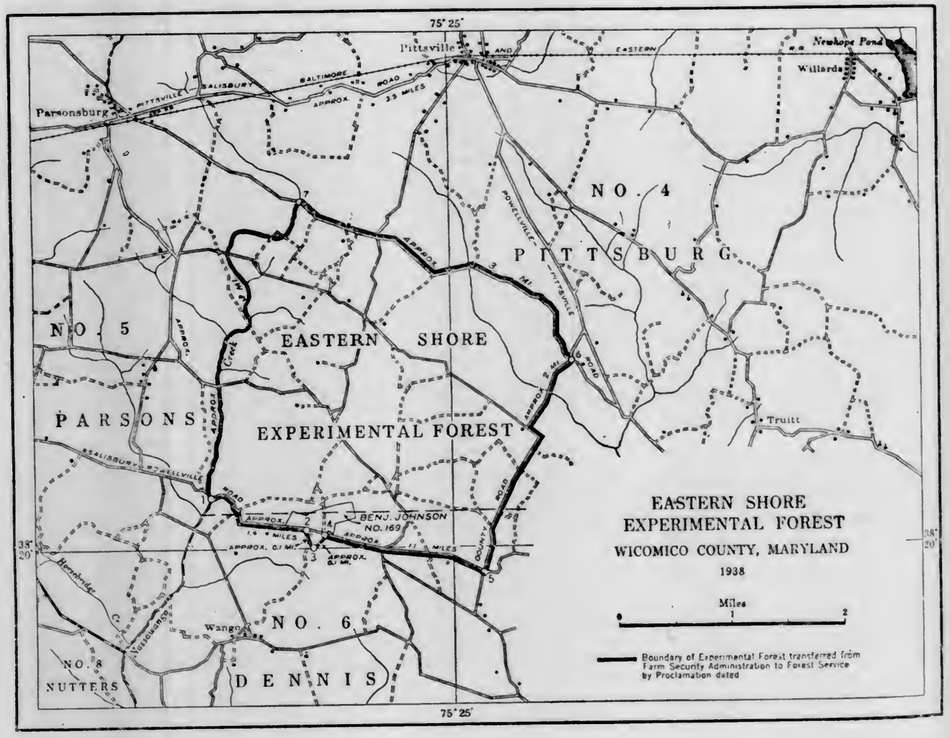
SECTION 55.47 *Defects permitted in body, color, and salt without causing official United States score to be placed below flavor rating.*—The maximum total ratings for defects in body, color, and salt

* See table (Sec. 55.47) for ratings of each degree of defect in body, color, and salt.

* Sections 55.41 to 55.48 issued under the authority contained in 52 Stat. 740.

** See Sec. 55.45 for flavors and conditions that cause butter to be classified as "no grade"

‡ When more than one flavor is discernible in a sample of butter the flavor rating for the sample shall be established on the basis of the flavor that carries the lowest rating.



permitted in butter that do not cause the official United States score of butter to be lowered below the flavor rating are indicated in Table 1.

Table 1.

Flavor rating	Maximum total ratings for defects permitted in body, color, and/or salt	Limitations of defects to 1 or more factors
93	½	In 1 factor only.
92	½	In 1 factor only.
91	½	In 1 factor only.
90	½	In 1 factor only.
89	1	
88	1	
87	2	
86	2	
85	3	

When the sum of the ratings for the defects in body, color, and salt exceeds that permitted by Table 1 for butter of a specified flavor rating, the butter shall be given an official United States score below the flavor rating in accordance with the general rule (Sec. 55.43), for determining the official United States score of individual samples of creamery butter.*

SECTION 55.48 *Application of general rule.*

Table 2. Examples illustrating application of general rule

Example No.	Flavor rating	Defects present in—			Total defects present	Defects permitted	Defects in excess of those permitted	Official U. S. score
		Body	Color	Salt				
1	93	½	0	0	½	½	0	93
2	93	0	1	0	1	½	½	92
3	93	½	1	0	1½	½	1	[1] 91
4	92	0	½	0	½	½	0	92
5	92	0	1	0	1	½	½	91
6	91	0	1	0	2	½	1½	89
7	90	1	0	0	1	½	½	89
8	89	½	½	0	1	1	0	89
9	89	1	1	0	2	1	1	88
10	88	0	2	1	3	1	2	86
11	87	2	1	0	3	2	1	86
12	87	2	2	0	4	2	2	85
13	86	1	2	0	3	2	1	85
14	85	2	2	0	4	3	1	(2)

[1] See explanation of example 3 below for detailed information.
[2] "No grade".

Examples 1, 4, and 8 are given an official United States score which is the same as the flavor rating because the defects in body, color, and salt are not in excess of those permitted in butter of the particular flavor rating. The official United States score of all other samples is lower than the flavor rating because the defects in body, color, and salt exceed those that are permitted in butter of the particular flavor rating, the excess being in the amount of one-half or more.

In example 2, the flavor rating is 93. The defects permitted in body, color, and salt for butter of that flavor rating are limited to a maximum of one-half. The defects present in the sample amounted to 1, therefore the defects are in excess of those permitted by a total of one-half. The official United States score is lowered 1 below the flavor rating instead of one-half because the official United States score must be expressed as a whole number. In example 3, the official United States score is lowered 2 below the flavor rating instead of 1 because the total ratings for defects in body, color, and salt must not exceed one in 92 score butter. In example 10, the flavor rating is 88. The permitted defects in body, color, and salt for butter with a flavor rating of 88 are 1. The defects in this particular sample totaled 3 and are, therefore, in excess of those permitted by a total of 2. The official United States score, therefore is 2 lower than 88 or 86. In example 14, the flavor rating is 85. The total permitted defects in body, color, and salt for butter with a flavor rating of 85 is 3. This butter showed defects totaling 4, or 1 in excess of those permitted in butter with a flavor rating of 85. The official United States grade of this butter is indicated by "no grade" because the application of the general rule would give this butter a score of 84. Such butter is below the requirements of U. S. 85 score because of excessive defects in body, color, and salt. Therefore, it must be classified as "no grade." *

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, This 3d day of November 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3338; Filed, November 3, 1938; 2:55 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Amendment No. 1 of Regulation 405-M-1]

FREE TRAVEL FOR POSTAL EMPLOYEES

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 4th day of November 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 401 (b) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Authority hereby amends Regulation 405-M-1,[1] as follows:

By amending the last sentence of paragraph (c) thereof so that the same shall read as follows:

"On or before the tenth day of each month each air carrier shall forward one copy of all statements received by it during the second preceding calendar month to the Secretary of the Civil Aeronautics Authority, Washington, D. C., and one copy to the Superintendent, Air Mail Service, Post Office Department, Washington, D. C."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3337; Filed, November 4, 1938; 12:39 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3488]

IN THE MATTER OF NATIONAL PRESS SERVICE

SEC. 3.6 (j) *Advertising falsely or misleadingly—Earnings.*—Representing, in connection with sale of correspondence course of instruction in press clipping and writing, and of a booklet entitled "Press Clipping and Picture Manual", and of other printed matter, that purchasers of said "manual" earn $25 and up every week, or $15 per week, or any other stated amounts, or "big" money; or can turn out a feature article or Trade Journal item a day and sell such articles or items for as much as $10 each or for any stated amount; prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, National Press Service, Docket 3488, October 25, 1938.]

SEC. 3.6 (f) *Advertising falsely or misleadingly—Demand or business opportunities.*—Representing, in connection with sale of correspondence course of instruction in press clipping and writing, and of a booklet entitled "Press Clipping and Picture Manual", and of other printed matter, that writing, feature writing, or clipping and selling press items is "as easy as A-B-C", and that one can make a success of either vocation without special ability or training, or previous experience, or "connections"; or that purchasers of its said "manual" can begin making money at once, write feature articles in trade journals, rewrite same item half a dozen times from different angle or slant and sell it to as many editors, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, National Press Service, Docket 3488, October 25, 1938.]

SEC. 3.6 (n) 2) *Advertising falsely or misleadingly — Nature — Product.*—Representing, in connection with sale of correspondence course of instruction in press clipping and writing, and of a booklet entitled "Press Clipping and Picture Manual", and of other printed matter, that the "Press Card" issued to respondent's subscribers will gain attention, consideration and entree for the holder, and is the "Open Sesame" to otherwise barred places, or that said "manual" contains complete information on how and where to find valuable articles and where to send them for cash, and that it discloses a "fascinating new way" to make "big" money and build up an active and growing income, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, National Press Service, Docket 3488, October 25, 1938.]

SEC. 3.6 (n) 1) *Advertising falsely or misleadingly—Nature—Business:* SEC. 3.6 (a) 18) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser — Non-profit character:* SEC. 3.96 (b) 4) *Using misleading name — Vendor — Non-profit character.*—Representing, in connection with sale of correspondence course of instruction in press clipping and writing, and of a booklet entitled "Press Clipping and Picture Manual", and of other printed matter, through use of its trade name or through any other name of similar import and effect, or in any way, that respondent's said business is a service conducted for, or on behalf of, newspapers, or the press, or is anything other than a private business conducted for profit, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, National Press Service, Docket 3488, October 25, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF TOM BLOOM, AN INDIVIDUAL, DOING BUSINESS UNDER THE TRADE NAME OF NATIONAL PRESS SERVICE

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Tom Bloom, an individual, doing business under the trade name National Press Service, or under any other trade name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of a correspondence course of instruction in press clipping and writing and of a booklet entitled "Press Clipping and Picture Manual" and of other printed matter, pamphlets and press cards in connection therewith, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

1. That purchasers of respondent's "Press Clipping and Picture Manual" earn $25 and up every week, or $15 per week, or any other stated amounts, or "big" money.

2. That writing, feature writing, or clipping and selling press items is "as easy as A-B-C", and that one can make a success of either vocation without special ability or training, or previous experience, or "connections."

3. That purchasers of respondent's "Press Clipping and Picture Manual" can turn out a feature article or Trade Journal item a day and sell such articles or items for as much as $10 each or for any stated amount.

4. That the "Press Card" issued to respondent's subscribers will gain attention, consideration and entree for the holder, and is the "Open Sesame" to otherwise barred places.

5. That purchasers of respondent's "Press Clipping and Picture Manual" can begin making money at once, can write feature articles and Trade Journal items, and can rewrite the same item half a dozen times, from a different angle or slant, and sell it to as many editors.

6. That said "Press Clipping and Picture Manual" contains complete information on how and where to find valuable articles and where to send them for cash, and that it discloses a "fascinating new way" to make "big" money and build up an active and growing income.

7. Through use of the trade name "National Press Service" or through any other name of similar import and effect, or through any means or device, or in any manner, that the business conducted by him is a service conducted for or on behalf of newspapers or the press, or is anything other than a private business conducted for profit.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3329; Filed, November 3, 1938; 3:47 p. m.]

[Docket No. 3540]

IN THE MATTER OF CROWN MAIL ORDER HOUSE

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Supplying to, etc., others, pull-cards or circulars having pull tabs thereon, or other lottery devices, to enable such persons to dispose of, etc., electric lamps, cosmetics, jewelry, silverware, clothing, and various other articles, by the use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Crown Mail Order House, Docket 3540, October 25, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.*—Mailing, etc., to her agents, etc., or to members of public, pull-cards or circulars having pull tabs thereon, or other lottery devices, so prepared or printed as to enable said persons to sell, etc., electric lamps, cosmetics, jewelry, silverware, clothing, and various other articles, by the use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Crown Mail Order House, Docket 3540, October 25, 1938.]

SEC. 3.99 (b) *Using or selling lottery devices — In merchandising.* — Selling, etc., electric lamps, cosmetics, jewelry, silverware, clothing, and various other articles, by the use of pull-cards or circulars having pull tabs thereon, or any other lottery device, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Crown Mail Order House, Docket 3540, October 25, 1938.]

SEC. 3.6 (i) *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e) *Offering deceptive inducements to purchase—Free goods.*—Falsely representing, directly or indirectly, in connection with sale of electric lamps, cosmetics, jewelry, silverware, clothing, etc., that respondent's merchandise is distributed free or without cost, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., sec. 45b.) [Cease and desist order, Crown Mail Order House, Docket 3540, October 25, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of October, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF PAULINE ROTHMAN, INDIVIDUALLY AND TRADING AS CROWN MAIL ORDER HOUSE

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Pauline Rothman, individually and trading as Crown Mail Order House, or trading under any other name, her representatives, agents, or employees, in connection with the offering for sale, sale, and distribution of electric lamps, handkerchiefs, cosmetics, jewelry, hot water bottles, kitchenware, cutlery sets, silver-

* Sections 55.41 to 55.48 issued under the authority contained in 52 Stat. 740.

[1] 3 F. R. 2209 DI.

ware, clocks, electric toasters, electric irons, cameras, clothing, sporting goods, blankets, bedspreads, and leather wallets, or any other articles of merchandise in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Supplying to or placing in the hands of others pull-cards or circulars having pull tabs thereon or other lottery devices for the purpose of enabling such persons to dispose of or sell such merchandise by the use thereof;

(2) Mailing, shipping, or transporting to her agents or to dealers or to members of the public pull-cards or circulars having pull tabs thereon or other lottery devices so prepared or printed as to enable said persons to sell or distribute such merchandise by the use thereof;

(3) Selling or otherwise disposing of such merchandise by the use of pull-cards or circulars having pull tabs thereon or any other lottery device;

(4) Representing directly or indirectly that her merchandise is distributed free or without cost when such is not the fact.

It is further ordered that the said respondent shall within sixty (60) days from the date of service of this order upon her file with the Commission a report in writing setting forth in detail the manner and form in which she has complied therewith.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3330; Filed, November 3, 1938; 3:47 p. m.]

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 5]

CHILD LABOR

PART 421. PROCEDURE GOVERNING DETERMINATIONS OF HAZARDOUS OCCUPATION *

NOVEMBER 3, 1938.

SEC. 421.1 *Investigation and conference.*—Preparatory to the making of a finding by the Chief of the Children's Bureau that an occupation or a group of occupations is particularly hazardous for the employment of minors between 16 and 18 years of age or is detrimental to their health or well-being, a study shall be made of information obtained by the Bureau or submitted to it with respect to the hazardous or detrimental nature of such occupation or occupations. Conferences may be held with representative employers and workers in the industry, experts in industrial health and safety, and others for the purpose of discussing the nature and characteristics of the occupation or occupations under consideration. A public hearing may be held upon reasonable public notice of the time and place thereof whenever such action is deemed by the Chief of the Bureau to be expedient for the purpose of obtaining such evidence with respect to the nature and characteristics of such occupation or group of occupations. A transcript of the proceedings of any such hearing shall be made and filed with the Bureau. A report of facts and conclusions with respect to the hazardous or detrimental nature of the occupation or occupations under consideration shall be prepared upon the basis of such information and evidence.

SEC. 421.2 *Public hearing on proposed finding and order.*—A proposed finding and order shall be prepared upon the basis of the report of facts and conclusions with respect to a particular occupation or group of occupations. Before a proposed finding and order is made final, reasonable notice and opportunity to be heard shall be afforded to interested parties as well as opportunity to submit briefs and documentary evidence with respect to such proposed finding and order. Copies of the proposed finding and order shall be made available to the public at the office of the Bureau. A transcript of the proceedings, together with all information offered as evidence in writing, shall be filed with the Bureau for consideration.

SEC. 421.3 *Rehearing.*—If, after such hearing, a substantial change in the proposed finding and order is in the judgment of the Chief of the Bureau required, a rehearing shall be held with respect to the proposed finding and order as so changed. Every such rehearing shall be conducted in the manner prescribed for hearings in section 421.2.

SEC. 421.4 *Finding and order.*—A finding and order shall be made by the Chief of the Bureau upon the basis of all the information and evidence in the case, including the report of facts and conclusions with respect to the particular occupation or occupations under consideration, and the evidence and briefs received with respect to the proposed finding and order. Every such finding and order shall be published, pursuant to law, in the FEDERAL REGISTER and by such other means as the Chief of the Bureau deems reasonably calculated to give interested parties general notice of the making of such order. Such orders shall become effective when made and published in the FEDERAL REGISTER or thereafter at such time as may be specified and shall be made available to the public at the office of the Bureau.

SEC. 421.5 *Revision of regulation.*—Any person wishing a revision of any of the terms of the foregoing regulation may submit in writing to the Chief of the Bureau a petition setting forth the changes desired and the reason for proposing them. If, after consideration of the petition, the Chief of the Bureau believes that reasonable cause for amendment of the regulation is set forth, he shall either schedule a hearing, with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.

KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 38-3332; Filed, November 4, 1938; 11:34 a. m.]

* Issued pursuant to the authority conferred by section 3 (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060).

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[No. 3666]

ORDER IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Present: Frank McManamy, Commissioner, to whom the above entitled matter has been assigned for action thereon.

The matter of regulations for the safe transportation of dangerous articles other than explosives by freight by land being under further consideration:

It is ordered, That order in No. 3666, Special Series A, dated September 4, 1935, be, and is hereby, amended to provide for trial use of glass-lined two-unit fusion-welded tank car, constructed under the authority of the order, in the transportation of water-white electrolyte-grade (66° Baume) sulphuric acid;

It is further ordered, That the aforesaid order as amended herein be and shall remain in full force and shall be observed until further order of the Commission;

It is further ordered, That the authority granted herein be and is hereby made effective on and after the date of approval and publication thereof;

And it is further ordered, That copies of this order be served upon all the respondents herein, and that notice to the public be given by posting in the office of the Secretary of the Commission at Washington, D. C.

Dated at Washington, D. C., this 29th day of October, 1938.

By the Commission, Commissioner McManamy.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3334; Filed, November 4, 1938; 12:37 p. m.]

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING ON PROPOSED AMENDMENT OF SECTION 536.2 (AREA OF PRODUCTION) OF REGULATIONS ISSUED UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Whereas, Section 13 (a) of the Fair Labor Standards Act of 1938 provides that the wages and hours provisions contained in Sections 6 and 7 of said Act shall not apply with respect

(10) to any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products.

and

Whereas, pursuant to the authority contained in said section, the Administrator of the Wage and Hour Division on October 20, 1938 issued the following regulations:

SECTION 536.2 *"Area of Production" as Used in Section 13 (a) (10) of the Fair Labor Standards Act.*—An individual shall be regarded as employed in the "area of production" within the meaning of Section 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven.

SECTION 536.3 *Petition for Amendment of Regulations.*—Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2 by increasing or decreasing the maximum of employees permitted within the exemption as defined. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their view either in support of or in opposition to the proposed changes.

and

Whereas, on October 31, 1938, the Michigan Elevator Exchange filed a petition with the Administrator to amend said Section 536.2 [1] of said regulations by adding thereunto a phrase reading in substance as follows:

Exemptive of women employees engaged solely in the handpicking and cleaning of beans in country elevators, which otherwise meet these conditions;

or, alternatively, that the phrase in said Section 536.2 (b) reading, "and the number of employees in such establishment does not exceed seven", be stricken in its entirety,

Now, therefore, notice is hereby given of a public hearing to be held on November 14, 1938, at 10 o'clock a. m. in Room 3229, United States Department of Labor, Washington, D. C., before Mr. Carl C. Alpern, the presiding officer hereby designated, at which interested parties will be heard on the following question:

What, if any, amendment should be made of Section 536.2 of the regulations issued under the Fair Labor Standards Act of 1938 in respect to the limitation on the number of employees that may be employed in handling, storing, or preparing for market in their raw or natural state navy, cranberry, kidney, or similar types of dry edible beans.

Said petition may be examined at Room 5419, United States Department of Labor, Washington, D. C.

Signed at Washington, D. C., this third day of November, 1938.

ELMER F. ANDREWS,
Administrator.

[1] 3 F. R. 2536 DI.

[F. R. Doc. 38-3333; Filed, November 4, 1938; 11:44 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 28]

NOTICE OF INVESTIGATION TO DETERMINE EXTENT OF COMMISSION'S JURISDICTION OVER EMPLOYEES OF COMMON, CONTRACT, AND PRIVATE MOTOR CARRIERS UNDER SECTION 204 (A) OF MOTOR CARRIER ACT, 1935

The Commission has instituted a proceeding to determine the extent of its jurisdiction over the hours of service of employees, other than drivers, of motor carriers (including private carriers). One of the reasons for this proceeding is the existing confusion among motor carriers and their employees due to the recent enactment of the Fair Labor Standards Act approved June 25, 1938, and commonly known as the Wage and Hour Law, which became effective on October 24. Section 13 (b) of that act reads as follows:

The provisions of section 7 shall not apply with respect to (1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or (2) any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act.

Section 7 of the Fair Labor Standards Act relates to maximum hours.

Many inquiries have been and are being received as to what employees of motor carriers are subject to the "power" of the Commission referred to in the section of the Fair Labor Standards Act quoted above.

Section 204 (a) (1) of the Motor Carrier Act reads as follows:

To regulate common carriers by motor vehicle as provided in this part, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

Section 204 (a) (2) is identical with subdivision (1) except that it relates to contract instead of to common carriers.

Section 204 (a) (3) relates to private carriers and as it differs from the provisions of subdivision (1), it is here quoted:

To establish for private carriers of property by motor vehicle, if need therefor is found, reasonable requirements to promote safety of operation, and to that end prescribe qualifications and maximum hours of service of employees, and standards of equipment. In the event such requirements are established, the term "motor carrier" shall be construed to include private carriers of property by motor vehicle in the administration of sections 204 (d) and (e); 205; 220; 221; 222 (a), (b), (d), (f), and (g); and 224.

While the question here presented was considered in Ex Parte No. MC 2, 6 M. C. C. 557, to the extent there necessary for action, it was not fully and completely answered, and hence this proceeding. As it is primarily a question of law, and not of fact, no public hearing will be held and no evidence taken at this time, but the Commission will receive briefs on or before December 10, 1938, from such interested parties as may care to file them, and will hear arguments on December 16, 1938. As the order of investigation indicates, it may be necessary later, after this question of law is determined, to hold public hearings for the purpose of determining certain questions of fact.

The Administrator of the Wage and Hour Division of the Department of Labor, who is charged with the administration of the Fair Labor Standards Act, will be invited by the Commission to consider the briefs filed, to attend the argument and, if he wishes, to participate in the proceeding.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3335; Filed, November 4, 1938; 12:37 p. m.]

[Ex Parte No. MC 28]

ORDER RELATIVE TO INVESTIGATION TO DETERMINE EXTENT OF COMMISSION'S JURISDICTION OVER EMPLOYEES OF COMMON, CONTRACT, AND PRIVATE MOTOR CARRIERS UNDER SECTION 204 (A) OF MOTOR CARRIER ACT, 1935

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 2nd day of November, A. D. 1938.

It appearing, That it is necessary for the proper administration, execution, and enforcement of the Motor Carrier Act, 1935, that a determination be made of the extent of the Commission's jurisdiction under section 204 (a) of the Motor Carrier Act, 1935, over employees of common, contract, and private carriers by motor vehicle, engaged in interstate or foreign commerce;

It further appearing, That by order dated July 12, 1938, the Commission determined its jurisdiction over, and prescribed maximum hours of service for, drivers of motor vehicles operated by common and contract carriers in interstate or foreign commerce:

It is ordered, That an investigation be, and it is hereby, instituted by the Commission on its own motion, into and con-

cerning the extent of the Commission's jurisdiction to prescribe reasonable requirements with respect to qualifications and maximum hours of service of employees, other than drivers, of common, contract, and private carriers by motor vehicle under section 204 (a), sub-paragraphs (1), (2), and (3) of the Motor Carrier Act, 1935, and particularly to determine whether the Commission has jurisdiction to prescribe such requirements with respect to all employees of common and contract carriers or only with respect to those employees of such carriers whose activities affect the safety of operation of motor vehicles and, if it be determined that the jurisdiction of the Commission is limited to prescribing such requirements with respect only to those employees, other than drivers, whose activities affect the safety of operation of motor vehicles, the class or classes of such employees.

It is further ordered, That this proceeding, except as to the determination of the class or classes of employees, other than drivers, whose activities affect the safety of operation of motor vehicles, be, and it is hereby, assigned for oral argument before the Commission at the offices of the Commission in Washington, D. C., on December 16, 1938.

It is further ordered, That briefs in this proceeding may be filed by any interested party on or before December 10, 1938.

And it is further ordered, That in the event it be determined by the Commission that the Commission's jurisdiction is limited to prescribing such requirements with respect only to those employees, other than drivers, whose activities affect the safety of operation of motor vehicles, that this proceeding be assigned for hearing at a time and place hereafter to be fixed by the Commission for the sole purpose of determining such class or classes of employees.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3336; Filed, November 4, 1938; 12:37 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of November, A. D. 1938.

[File No. 55-11]

IN THE MATTER OF JAY SAMUEL HARTT

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 11 (f) and 20 (a) and Rule U-11F-2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 22, 1938.

The matter concerned herewith is in regard to an application of Jay Samuel Hartt, an engineer, of Madison, Wisconsin, pursuant to sections 11 (f) and 20 (a) of the Public Utility Holding Company Act of 1935 and Rule U-11F-2 thereunder for approval by the Commission as to the maximum amount that may reasonably be paid to him for services rendered and cash disbursements made during the months of June, July, August and September 1938, as consulting engineer and adviser to Charles True Adams, Trustee of Estate of Utilities Power and Light Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3340; Filed, November 4, 1938, 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of November, A. D. 1938.

[File No. 43-142]

IN THE MATTERS OF LONE STAR GAS CORPORATION, LONE STAR GAS COMPANY, TEXAS CITIES GAS COMPANY, COUNCIL BLUFFS GAS COMPANY, THE DALLAS GAS COMPANY, COUNTY GAS COMPANY, COMMUNITY NATURAL GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

A joint and combined declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by all of the above-named parties with the exception of the Lone Star Gas Corporation;

Joint and combined applications pursuant to Rule U-12C-1 promulgated under said Act having been duly filed by all of the above-named parties with the exception of Lone Star Gas Corporation; and

An application pursuant to Rule U-12D-1 promulgated under said Act having been filed by Lone Star Gas Corporation;

It is ordered, That a hearing on such matters be held on November 22, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to express all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 17th, 1938.

The joint and combined declarations pursuant to section 7 of the Act filed by the companies hereinbefore referred to, each of which is a subsidiary company of Lone Star Gas Corporation, a registered holding company, are in regard to the issue and sale to said holding company of the following enumerated securities:

Lone Star Gas Company

4½% note due August 1, 1953, in the principal amount of $6,385,000.

4½% note due August 1, 1953, in the principal amount of $1,345,000.

4½% note due August 1, 1953, in the principal amount of $6,770,000.

Texas Cities Gas Company

4½% note due August 1, 1953, in the principal amount of $3,400,000.

30,000 shares common capital stock, par value $100 per share, $3,000,000.

10,000 shares common capital stock, par value $100 per share, $1,000,000.

Council Bluffs Gas Company

4½% note due August 1, 1953, in the principal amount of $1,350,000.

12,000 shares common capital stock, par value $100 per share, $1,200,000.

The Dallas Gas Company

4½% note due August 1, 1953, in the principal amount of $300,000.

6,530 shares common capital stock, par value $100 per share, $653,000.

County Gas Company

4½% note due August 1, 1953, in the principal amount of $100,000.

Community Natural Gas Company

4½% note due August 1, 1953, in the principal amount of $4,000,000.

4½% note due August 1, 1953, in the principal amount of $1,000,000.

4½% note due August 1, 1953, in the principal amount of $2,000,000.

50,000 shares common capital stock, par value $100 per share, $5,000,000.

The 4½% notes due August 1, 1953, are to be issued by the subsidiary companies to the holding company in the place and stead of, and are to be substituted for, certain 6% income demand notes and/or 6% demand notes in the same principal amounts issued by such subsidiary companies and now held by Lone Star Gas Corporation. The 30,000 shares common stock of Texas Cities Gas Corporation and the 12,000 shares common stock of Council Bluffs Gas Company are to be issued by Lone Star Gas Corporation in exchange for "non-interest bearing stock notes" issued by such companies and now held by the holding company. The 10,000 shares common stock of Texas Cities Gas Company having a par value of $100 per share are to be issued to the holding company in exchange for 200,000 shares no-par common stock having a stated or assigned value of $5.00 per share, now held by the holding company. The 6,530 shares of common stock of The Dallas Gas Company and the 50,000 shares of common stock of Community Natural Gas Company are to be issued to the holding company to be credited as payments in the respective amounts on notes issued by such companies and now held by the holding company.

The joint and combined applications pursuant to Rule U-12C-1 promulgated under the Act filed by the subsidiary companies of Lone Star Gas Corporation as hereinbefore stated are in regard to the acquisition and retirement of the notes and/or stock of such companies now held by Lone Star Gas Corporation but which will be returned to the issuing companies upon the issue and sale of the securities as hereinbefore referred to.

The application pursuant to Rule U-12D-1 promulgated under the Act filed by Lone Star Gas Corporation is in regard to the disposition to the issuing subsidiary companies of the notes and/or stock of such companies which is now held by the holding company but which are to be returned to the issuing companies upon the issue and sale of the securities referred to hereinbefore.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3339; Filed, November 4, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of November, A. D. 1938.

[File No. 43-160]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 21, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearings from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 16, 1938.

The matter concerned herewith is in regard to a declaration filed by Columbia Gas & Electric Corporation, a registered holding company, regarding the reduction of the capital represented by its shares of common stock from $194,349,005.62 to $12,304,282, without reducing the number of shares outstanding.

The declaration states that the reduction will be effected in the manner prescribed by Section 28 of the General Corporation Law of the State of Delaware, the state under the laws of which the declarant is organized, by a resolution adopted by the holders of record of a majority of the common shares and the shares of 5% Cumulative Preference stock of the declarant at a special meeting called for that purpose.

It is further stated that the surplus so created by such reduction, in the amount of $182,044,723.62, will be segregated in a surplus account to be designated "Special Capital Surplus", which will be used primarily for the absorption of such writedowns of assets as may be ordered by regulatory bodies or may be deemed advisable by the management. It appears from the declaration that Columbia Gas & Electric Corporation has outstanding the following securities:

Funded debt in the amount of $104,570,700, (5% debentures due in 1952 and 1961):

Cumulative 6% Preferred Stock, Series A, par value $100 per share of which 949,085 shares are presently outstanding, including 1,240 shares held in declarant's treasury and 7,181 shares held by subsidiary companies of the declarant;

Cumulative Preferred Stock, 5% Series, par value $100 per share of which 40,466 shares are outstanding, including 1,771 shares held by subsidiary companies of the declarant;

5% Cumulative Preference Stock, par value $100 per share of which 124,020 shares are outstanding, including 160 shares held in declarant's treasury and 2,192 shares held by subsidiary companies of the declarant;

Common Stock, without par value, of which 12,304,282 shares are outstanding, including 81,026 shares held by subsidiary companies of the declarant.

It is stated that such reduction of capital must be approved by resolution adopted by the holders of a majority of the outstanding shares of declarant's 5% Cumulative Preference Stock and Common Stock.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3341; Filed, November 4, 1938; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of November, A. D. 1938.

[File No. 1-2853]

IN THE MATTER OF PROCEEDING UNDER SECTION 19 (A) (2) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, TO DETERMINE WHETHER THE REGISTRATION OF THE MOTHER LODE GOLD MINES COMMON CAPITAL STOCK, PAR VALUE 40 CENTS, SHOULD BE SUSPENDED OR WITHDRAWN

ORDER FOR HEARING

I

It appearing to the Commission:

That The Mother Lode Gold Mines, a corporation, is the issuer of Common Capital Stock, Par Value 40 Cents; and

That said The Mother Lode Gold Mines registered such security on the San Francisco Mining Exchange, a national securities exchange, by filing on or about April 9, 1937, an application with the said Exchange and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, formerly designated as Rule JB1, promulgated by the Commission thereunder; and

That said Rule X-12B-1, as amended, did and does require such applications to be filed on Form 10 for Corporations; and

That in accordance with the provisions of Form 10 for Corporations, and the Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, as to the use of Form 10 for Corporations, in effect both at the time said application was filed and at all subsequent times, Item 32 of said Form did and does require a brief and concise statement of the dates of, parties to, and general effect of every material contract, except employment contracts with officers not required to be named in answer to Item 26, entered into between the registrant and any director or officer of the registrant, any underwriter named in answer to Item 23 or any security holder named in answer to Item 25; and

The Commission having reason to believe:

That said The Mother Lode Gold Mines has failed to comply with the provisions of said Section 12 (b) of said Securities Exchange Act of 1934, as amended, with the provisions of said Rule X-12B-1, as amended, with the provisions of said Form 10 for Corporations, and with the provisions of said Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, in that in neither the application filed by it for registration of said security on said Exchange pursuant to said Section 12 (b) nor in any amendment thereto is Item 32 of said Form answered in respect of the lease and option to purchase the Bonanza Group of mines concerning which the registrant and certain of its officers and/or directors have entered into agreements as set forth in Exhibit J, although such information is required by the Rules and Regulations of the Commission; and

II

It appearing to the Commission:

That Rule X-13A-1, formerly designated as Rule KA1, promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule X-13A-2, formerly designated as Rule KA2, promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified and that no other form was or is specified for use by the said The Mother Lode Gold Mines; and

The Commission having reason to believe:

That The Mother Lode Gold Mines has failed to comply with said Section 13 (a) and said Rule X-13A-1 promulgated by the Commission thereunder in that it has failed to file its annual report for the year ended December 31, 1937, on Form 10-K, as prescribed by said Rule X-13A-2 adopted by the Commission pursuant to said Section 13 (a); and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said The Mother Lode Gold Mines has so failed to comply with said Sections 12 (b) and 13 (a) and said Rules and Regulations promulgated by the Commission thereunder or with either of said Sections or any Rule or Regulation promulgated by the Commission under either of said Sections, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said Common Capital Stock, Par Value 40 Cents, on said San Francisco Mining Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 21st day of November, 1938, at 10:00 A. M. at the Regional Office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, John G. Clarkson, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3342, Filed, November 4, 1938; 12:47 p. m.]

UNITED STATES MARITIME COMMISSION.

MINIMUM WAGE SCALES, MINIMUM MANNING SCALES, AND REASONABLE WORKING CONDITIONS FOR ELECTRICIANS, ETC.

NOTICE OF POSTPONING OF HEARING

On November 3, 1938, the United States Maritime Commission confirmed action of October 27, 1938,[1] postponing until December 1, 1938, hearing in the matter of minimum wage scales, minimum manning scales and reasonable working conditions for electricians, machinists, plumbers, storekeepers, boilermakers, etc., previously set for November 1, 1938, at the offices of the Commission at 200 Bush Street, San Francisco, California.

[SEAL] RUTH GREENE,
Assistant Secretary.

[F. R. Doc. 38-3338; Filed, November 4, 1938; 12:41 p. m.]

[1] 3 F. R. 2493 DI.

FEDERAL REGISTER

VOLUME 3 NUMBER 218

Washington, Tuesday, November 8, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38—Tobacco 47]

PART 714—REGULATIONS PERTAINING TO REFUND OF PENALTY ERRONEOUSLY, ILLEGALLY, OR WRONGFULLY COLLECTED BY THE SECRETARY OF AGRICULTURE WITH RESPECT TO THE MARKETING OF TOBACCO *#

By virtue of the authority vested in the Secretary of Agriculture by Section 372 (c) of Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938, as amended), I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations pertaining to the refund of penalty erroneously, illegally, or wrongfully collected by the Secretary of Agriculture with respect to the marketing of tobacco, such regulations to be in force and effect until amended, or superseded, by regulations hereafter made by the Secretary of Agriculture under said act.

Done at Washington, D. C., this 5th day of November, 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

CONTENTS

Sec.
714.1 Who may claim.
714.2 Manner of filing.
714.3 Time of filing.
714.4 Statement of claim.
714.5 Execution of claim.
714.6 Certificate of operator.
714.7 Designation of trustee and declaration of trust.
714.8 Certification by County Committee.
714.9 Examination of claim.
714.10 Certification by Comptroller.
714.11 Instructions and forms.
714.12 Gender and plural meaning of terms.
714.13 Definitions.

SEC. 714.1 *Who may claim.*—Claim for refund of any sum of money erroneously, illegally, or wrongfully collected as penalty with respect to marketing of tobacco may be made by:

(a) Any person who was entitled to share in the price paid to the producer with respect to any sale from which a deduction was made, pursuant to Section 314 of the act, and who bore the burden of such deduction; or

(b) Any person who paid such penalty on any sale and who did not deduct from the price paid to the producer in connection with such sale the amount thereof pursuant to Section 314 of the act.

If under either paragraphs (a) or (b) above more than one person is entitled to file a claim with respect to a sale, then a joint claim may be filed by all such persons.* #

SEC. 714.2 *Manner of filing.*—Claim for refund shall be made on Form 38-Tobacco 48 and shall be filed in the county office.* #

SEC. 714.3 *Time of filing.*—Any such claim must be filed within one year after payment to the Secretary of the penalty with respect to which claim is made.

The date the penalty is received by the Office of the Comptroller of the Agricultural Adjustment Administration, United States Department of Agriculture, shall constitute the date when payment of such penalty was made to the Secretary.* #

SEC. 714.4 *Statement of claim.*—Full and complete information shall be given on Form 38—Tobacco 48 concerning the sale of tobacco with respect to which claim is made; the names, addresses, and proportionate shares in the amount claimed, of all persons who had an interest in the purchase price paid for the tobacco and who bore the burden of such

* Sections 714.1 to 714.13 issued under the authority contained in Section 372 (c), 52 Stat. 204.

= The source of Sections 714.1 to 714.13 is Form 38—Tobacco 47, A. A. A., November 5, 1938.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE: Page
Agricultural Adjustment Administration:
California fresh deciduous tree fruits except apples, marketing agreement, etc., terminated ---- 2650
Tobacco marketing:
Determination of fire-cured and dark air-cured tobacco quotas for 1938-- 2646
Refund of penalty erroneously, etc., collected with respect to---- 2645
TITLE 10—ARMY:
War Department:
Reserve Officers' Training Corps, eligibility to membership ---- 2650

NOTICES

Department of Agriculture:
Bureau of Animal Industry:
Notices under Packers and Stockyards Act:
Lum, Ray---- 2650
Memphis Union Stock Yards---- 2651
Union Live Stock Commission Co., Inc---- 2651
Federal Power Commission:
Pennsylvania Water and Power Co., investigation and hearing---- 2651
Federal Trade Commission:
Ford Motor Co., order appointing examiner, etc---- 2651
Rural Electrification Administration:
Allocation of funds for loans--- 2651
Securities and Exchange Commission:
Exemption application withdrawals:
Massachusetts Power and Light Associates, North Boston Lighting Properties---- 2652

(Continued on next page)

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CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Exemption application withdrawals—Continued.
Massachusetts Utilities Associates, Massachusetts Utilities Associates Common Voting Trust 2653
Rhode Island Public Service Co 2652
Notice of and orders for hearings:
Blackstone Valley Gas and Electric Co 2653
Madison Gas and Electric Co 2653
Mills Alloys, Inc 2652

penalty; and the reasons why such penalty is claimed to have been erroneously, illegally, or wrongfully collected. There should be attached to the claim all pertinent documents, such as warehouse bill, marketing card, etc.* #

SEC. 714.5 *Execution of claim.* — The claim (Form 38—Tobacco 48) shall be executed in the same manner as is provided in ACP-16, "Instructions on Signatures and Authorizations," for the execution of applications for payment or related papers under the Agricultural Conservation Program.* #

SEC. 714.6 *Certificate of operator.*—Where the claim is made by a producer other than an operator, the Certificate of Operator must be executed by the person who was the operator of the farm at the time of the sale of the tobacco with respect to which claim was made.* #

SEC. 714.7 *Designation of trustee and declaration of trust.*—Where there is more than one claimant and all the claimants desire to appoint a trustee to receive and disburse any payment to be made to them with respect to the claim, such trustee shall be appointed in the Designation of Trustee contained in paragraph "(4)" Form 38—Tobacco 48 and in the event of such appointment, the person so designated as trustee shall execute the Declaration of Trust provided on said form.* #

SEC. 714.8 *Certification by county committee.*—Immediately upon receipt of a claim (Form 38—Tobacco 48), the county committee shall record on the face thereof the date of its receipt. If it determines on the basis of information available to it that the data and representations on the claim are correct, one of its members shall on behalf of the committee so certify in the place provided therefor. The committee shall, in any event, forthwith transmit the claim to the Tobacco Section, Agricultural Adjustment Administration, Washington, D. C.* #

SEC. 714.9 *Examination of claim.*—The Tobacco Section shall examine the claim (Form 38—Tobacco 48) and make such investigation as may be necessary. After consideration of the claim, the Chief of such section, or someone designated by him in writing, shall endorse thereon the amount recommended for payment stating the reasons therefor and shall submit the claim to the Solicitor for legal approval. Upon approval of the claim by the Solicitor, or someone designated by him in writing, the claim shall be transmitted to the Comptroller for his approval. If the claim is not recommended or approved for payment, the Chief of the Tobacco Section shall notify the claimant that his claim has been rejected.* #

SEC. 714.10 *Certification by Comptroller.*—The Comptroller, for and on behalf of the Secretary, shall certify on "Public Voucher for Refunds of Marketing Penalties" (Form 38—A. A. A.—11) and on "Public Voucher for Refunds of Marketing Penalties — Continuation Sheet" (Form 38—A. A. A.—10) to the Secretary of the Treasury of the United States for payment all such claims for refund as have been approved.* #

SEC. 714.11 *Instructions and forms.*—The Administrator of the Agricultural Adjustment Administration, United States Department of Agriculture, shall cause to be prepared and issued with his approval such instructions and forms as may be required to carry out these regulations.* #

SEC. 714.12 *Gender and plural meaning of terms.*—Any term used in the masculine or in the singular shall also be considered as applied in the feminine or neuter gender, or in the plural or singular person, wherever the context or application of such terms shall require.* #

SEC. 714.13 *Definitions.*—As used in these regulations and in all forms and documents in connection therewith, unless the context of the subject matter otherwise requires:

(a) *Act* means the Agricultural Adjustment Act of 1938 (52 Stat. 31) and any amendments thereto.

(b) *Secretary* means the Secretary of Agriculture of the United States.

(c) *Regulations* means those regulations pertaining to refund of penalty, erroneously, illegally or wrongfully collected by the Secretary of Agriculture with respect to the marketing of tobacco.

(d) *County committee* means the county committee utilized under the act.

(e) *County office* means the office of the county committee.

(f) *Comptroller* means the Comptroller, or Acting Comptroller of the Agricultural Adjustment Administration, United States Department of Agriculture.

(g) *Farm* means the farm for which the marketing quota was established.

(h) *Operator* means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(i) *Producer* means a person who, as owner, landlord, tenant, sharecropper, or laborer was entitled under the provisions of his agreement relating to the production of tobacco to share in the tobacco marketed from the farm.

(j) *Farm marketing quota or quota* means a tobacco marketing quota established for a farm under Title III of the act.

(k) *Sale* means the disposition subject to penalty of one or more lots of tobacco covered by one memorandum of sale.

(l) *Memorandum of sale* means the form or forms prescribed by the Secretary and used in connection with the marketing of tobacco for the purpose of determining whether or not such marketing was subject to penalty.

(m) *Claimant* means any person who makes claim on Form No. 38—Tobacco 48, in accordance with these regulations.

(n) *Claim* means a request for refund of penalty on Form No. 38—Tobacco 48.

(o) *Penalty* means an amount of money collected by the Secretary from any person with respect to the marketing of tobacco.

(p) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State, or of the Federal Government.

(q) *Tobacco section* means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.* #

[F. R. Doc. 38-3352; Filed, November 5, 1938; 12:34 p. m.]

[Form 38—Tobacco 38]

PROCEDURE FOR THE DETERMINATION OF FIRE-CURED AND DARK AIR-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

PART I—GENERAL

SECTION 1. *Definitions.*—As used in this procedure and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject-matter otherwise requires:

(a) *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *Base 1938 production* means the number of pounds obtained by multiplying the farm yield by 150 percent of the 1938 tobacco acreage.

(c) *Fire-cured* and *dark air-cured tobacco* means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as types 21, 22, 23, 24, 35, 36, and 37.

(d) *Dark tobacco quota procedure* means this Form 38—Tobacco 38, "Procedure for the Determination of Fire-Cured and Dark Air-Cured Tobacco Farm Marketing Quotas for 1938".

(e) *Cropland* means farm land tilled annually or in regular rotation, excluding commercial orchards.

(f) *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land) the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the Dark Tobacco Quota Procedure;

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops: *Provided*, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or the local administrative area within the county, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or local administrative area, as the case may be, in which the major portion of the farm is located.

(g) *Farm marketing quota* means a fire-cured and dark air-cured tobacco marketing quota established for a farm under section 313 of the Agricultural Adjustment Act of 1938.

(h) *Farm worker* means a person over fourteen years of age regularly engaged in farm work on the farm.

(i) *Local committee* means the county and community committee utilized under the Act. "County Committee" or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(j) *New farm* means a farm on which tobacco is produced in the year 1938 and on which tobacco was not produced in any of the years 1934, 1935, 1936, and 1937.

(k) *New farm reserve* means that amount of the national marketing quota of 145,000,000 pounds apportioned by the Secretary of Agriculture, pursuant to section 313 (c) of the Act, for allotment of marketing quotas to new farms.

(l) *Old farm* means a farm on which tobacco is produced in the year 1938 and on which tobacco was also produced in one or more of the years 1934, 1935, 1936, and 1937.

(m) *Operator* means the person who, as owner, landlord, or tenant, is in charge of the supervision and the conduct of the farming operations on the entire farm.

(n) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(o) *State committee* means the group of persons designated within any State to assist in the administration in the State of the Act.

(p) *State quota* or *State marketing quota* means that amount of the national marketing quota of 145,000,000 pounds apportioned by the Secretary of Agriculture, pursuant to section 313 (a) of the Act, for allotment of marketing quotas to old farms in the State; and does not include the 2 percent addition thereto pursuant to section 315 (f) of the Act.

(q) *Three-year average* means the average tobacco production and diversion for the farm during the years 1935, 1936, and 1937.

(r) *Tobacco* means fire-cured and dark air-cured tobacco.

(s) *Dark tobacco* means fire-cured and dark air-cured tobacco.

SEC. 2. *Gender and number of terms.*—Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

SEC. 3. *Extent of calculations and rule of fractions.*—(a) All percentages shall be calculated to the nearest whole percent. Fractions of more than five-tenths of one percent shall be rounded upward, and fractions of five-tenths of one percent or less shall be dropped. (b) All acreages shall be calculated to the nearest one-tenth of an acre. Fractions of more than five-hundredths of an acre shall be rounded upward, and fractions of five-hundredths of an acre or less shall be dropped. (c) Yields per acre, three-year averages, and marketing figures resulting from multiplication of acreage by farm yield shall be calculated to the nearest ten pounds. Between intervals of ten, amounts of more than five pounds shall be rounded upward, and amounts of five pounds or less shall be dropped.

SEC. 4. *Instructions and forms.*—The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture shall cause to be prepared and issued with his approval such instructions and such forms as may be necessary or expedient for carrying out this procedure for determining farm quotas.

SEC. 5. *Applicability of procedure.*—This Dark Tobacco Quota Procedure shall relate to and be effective for, the establishment of farm marketing quotas for fire-cured and dark air-cured tobacco for the marketing year beginning with the first day of October, 1938, and ending with the 30th day of September, 1939.

PART II—ESTABLISHMENT OF QUOTAS FOR OLD FARMS

SECTION 1. *Determination of normal marketings for old farms.*—The normal marketings for an old farm will be the normal past marketings computed pursuant to section 2 below, adjusted, if necessary, pursuant to section 3 below; *provided*, that the normal marketings shall in no event exceed the base 1938 production for the farm.

SEC. 2. *Determination of normal past marketings.*—(a) The normal past marketings for an old farm on which tobacco was produced in one of the three years 1935–37, shall be whichever of items (i), (ii), (iii), or (iv) below is the highest for the farm, plus any addition thereto which may be made pursuant to subsection (c) below.

(i) The three-year average;

(ii) 33⅓% of the total harvested and diverted tobacco acreage in the three years, 1935–37, multiplied by the farm yield;

(iii) 40% of the total harvested and diverted tobacco acreage in the two years of the three years, 1935–37, in which such acreage was the highest, multiplied by the farm yield;

(iv) 60% of the harvested and diverted tobacco acreage in that one of the three years, 1935–37, in which such acreage was the highest, multiplied by the farm yield.

(b) The normal past marketings for an old farm on which tobacco was produced in 1934, but was not produced in any of the three years 1935–37, shall be 50% of the harvested and diverted tobacco acreage for the farm for the year 1934, multiplied by the farm yield plus any addition thereto which may be made pursuant to subsection (c) below.

(c) The amount determined for the farm, pursuant to subsection (a) or (b) above, shall be increased, if, because of drought, flood, hail, other abnormal weather conditions, plant bed and other diseases, such amount is substantially less than the amount which otherwise

would be determined for the farm. The increase shall be in such an amount as the local and State committees find will cause the normal past marketing for the farm to equal the amount which would have been determined for the farm pursuant to subsection (a) or (b) above in the absence of such abnormal conditions of production.

SEC. 3. *Adjustment of normal past marketings for production capacity.*—(a) The normal past marketings determined for any farm shall be increased if the capacity of the farm for the production of tobacco as indicated by the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco on the farm in 1938, is substantially greater than the tobacco production capacity of other farms in the county having similar normal past marketings, and shall be decreased if the farm's capacity for tobacco production is substantially less than that of other farms in the county having similar normal past marketings.

(b) Any increase or decrease in the normal past marketings of a farm, pursuant to subsection (a) above, shall be in such amount as the local committee finds will cause the normal marketings for the farm (i. e., normal past marketings, as adjusted pursuant to this subsection) to reflect adequately the difference in the capacity of the farm for the production of tobacco as compared with the tobacco production capacity of other farms in the county having similar normal past marketings; *provided*, That—

(i) the amount of increase shall not exceed 25 percent of the normal past marketings;

(ii) the amount of decrease shall not exceed the smaller of (A) 25 percent of the normal past marketings, or (B) the amount by which the normal past marketings exceeds the smallest of the three-year average, 2400 pounds, or 85 percent of the base 1938 production; and

(iii) the sum of the increases for all farms in a county shall not exceed the sum of the decreases for all farms in the county.

(c) In appraising the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco for the purpose of determining the capacity of a farm for the production of tobacco, the local committee shall proceed in the following manner:

(i) *Land.*—The land available for the production of tobacco on the farm shall be determined by taking into consideration the total acreage of cropland in the farm, the crop-rotation practices customarily carried out on the farm, the 1938 acreage of tobacco on the farm, and the acreage of other soil-depleting crops normally grown on the farm.

(ii) *Labor.*—The labor available for the production of tobacco on the farm in 1938 shall be determined by taking into consideration the number of farm workers, whether such workers had prior experience in growing tobacco and the extent to which they are required for work on the farm other than in connection with the production of tobacco.

(iii) *Equipment.*—Equipment available for the production of tobacco on the farm shall be determined by taking into consideration the acreage capacity of the tobacco-curing space available for the farm in 1938. Curing space shall include the total space available for curing tobacco in tobacco curing barns or in sheds, rooms, barn lofts, or other spaces suitable for curing tobacco, which are located on the farm and are in condition and available for the curing of tobacco for the farm in 1938. Curing space shall also include that part of a tobacco curing barn which is in condition for curing use in 1938 but is located on a different farm which is owned or operated by the same operator, and which is customarily used for curing tobacco grown on the farm; but in considering any such barn allowance shall be made for the fact that such barn serves more than one farm, and the capacity allowed for any farm shall not exceed the proportionate use of such barn by the farm, and the capacity for all farms shall not exceed the total capacity of such barn.

SEC. 4. *Determination of farm yield, marketings, harvested acreage, diverted acreage and diversion.*—(a) *Farm yield.*—The farm yield shall be the average yield per acre for the farm computed pursuant to paragraph (i), (ii), (iii) or (iv) below, adjusted, if necessary, pursuant to paragraph (v) below.

(i) If tobacco was produced on the farm in each of the three years, 1935–37, the average yield per acre shall be the simple average of the tobacco yields per acre for the farm for each of such years. The tobacco yield per acre for a farm for any year shall be computed by dividing the harvested acreage into the marketings for such year.

(ii) If tobacco was produced on the farm in two of the three years, 1935–37, the average yield per acre shall be the number of pounds obtained by multiplying the simple average of the tobacco yields per acre for the farm for each of such two years by that percentage which the county average tobacco yield for the three years, 1935–37, is of the county average yield for the two years in which tobacco was produced on the farm.

(iii) If tobacco was produced on the farm in only one of the three years 1935–37, the average yield per acre shall be the number of pounds obtained by multiplying the tobacco yield per acre for such year by that percentage which the county average yield for the three years, 1935–37, is of the county average yield for the year in which tobacco was produced on the farm.

(iv) If tobacco was produced on the farm in 1934, but not in any of the three years 1935–37, the average yield per acre shall be the county average yield for the three years 1935–37.

(v) The local committee shall adjust the average yield per acre for any farm if it determines that such average yield is substantially lower or higher than a yield which reasonably could be expected from the farm. In making its determination the committee shall take into consideration the average yields per acre for other farms in the county which are similar with respect to type of soil, topography and production facilities and the effect of flood, drought, hail, other abnormal weather conditions, fire, plant-bed, and other diseases upon the extent of marketing of tobacco from the farm during any of the years used in computing the average yield per acre for the farm. Any adjustment pursuant to this paragraph shall be such as will result in a farm yield which the committee finds, upon consideration of such factors, could reasonably be expected to be obtained from the farm; *provided*, that in no event shall the weighted farm yields for all farms in the county exceed the weighted average yield per acre for all farms in the county. The weighted farm yield and the weighted average yield per acre for old farms on which tobacco was produced in one or more of the three years, 1935–37, shall be computed by multiplying the farm yield and the average yield per acre for the farm, respectively, by whichever of the following is the highest for the farm:

A. 33⅓ percent of the total harvested and diverted tobacco acreage in the three years 1935–37.

B. 40 percent of the total harvested and diverted tobacco acreage in the two of the three years 1935–37 in which such acreage was the highest, or

C. 60 percent of the harvested and diverted tobacco acreage in that one of the three years, 1935–37, in which such acreage was the highest.

The weighted farm yield and the weighted average yield per acre for old farms on which tobacco was produced in 1934 but not in any of the three years, 1935–37, shall be computed by multiplying the farm yield and the average yield per acre for the farm, respectively, by 50 percent of the harvested and diverted acreage of tobacco for the farm for the year 1934.

(b) *Marketings.*—The marketings for any year shall be the number of pounds of tobacco marketed from the farm during such year. The total marketings for any year for all farms in a county shall not exceed the total number of pounds of tobacco produced in the county in such year. The marketings for any year, as reported by the operator, shall be adjusted by the local committee if it determines that the amount of such marketings as shown by the records submitted by the operator, or as estimated by him, is larger than the amount of tobacco which reasonably could have been marketed from the farm in such year. In making its determination, the committee shall take into consideration the acreage planted to tobacco on the farm in such year, the yields obtained in such year on other farms in the same community which are similar with respect to soil, topography, and production facilities, the community average yield for such year, and the yield on the farm in years for which records acceptable to the committee are available. The adjusted marketings for any year shall be the amount of tobacco which the committee finds, upon consideration of such factors, could reasonably have been marketed from the farm in such year.

(c) *Harvested acreage.*—The harvested acreage for any year shall be the number of acres actually harvested on the farm. If the county records do not show the harvested acreage for any year, the acreage reported by the operator as having been harvested in such year shall be adjusted if the local committee determines that such reported acreage is larger than the number of acres which could reasonably have been grown in such year. In making its determination, the committee shall take into consideration the curing space available, the cropland, the acres of other crops grown on the farm and the labor on the farm in such year. The adjusted harvested acreage for any year shall be an acreage which the committee finds, upon consideration of such factors, could reasonably have been grown on the farm in such year.

(d) *Diverted acreage.*—The diverted acreage for any year will be the base acreage determined for the farm in connection with the agricultural adjustment or conservation program for such year, minus the harvested acreage for such year; *provided*, that (i) the diverted acreage for 1935 shall not exceed 20 percent of the base acreage for such year, (ii) the diverted acreage for 1936 or 1937 shall not exceed 30 percent of the base acreage for such year, and (iii) the diverted acreage for 1934 shall not exceed 25 percent of the base acreage for such year.

(e) *Diversion.*—Diversion for any year shall be the number of pounds obtained by multiplying the diverted acreage for such year by the farm yield.

(f) *Subdivided farm.*—If land operated as a single farm in 1934, 1935, 1936, or 1937 has been subdivided into two or more tracts, the base acreage, harvested acreage, and marketings of tobacco for the farm for such year shall be apportioned among the tracts in the proportion which the acres of cropland suitable for the production of tobacco on each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year; provided, that if the local committee finds that such apportionment would not be equitable in view of the subsequent production on the farms which include such tracts, it shall make such other apportionment as it determines to be fair and equitable.

SEC. 5. *Allotment of state marketing quota—Marketing quotas for old farms.*—The State marketing quota will be allotted, and marketing quotas for old farms will be established, as follows:

(a) An amount will be reserved from the State marketing quota for the purpose of making adjustments as provided in subsections (f) and (h) of this section. The amount to be reserved will be determined by the Agricultural Adjustment Administration in an amount not to exceed 5 percent of the State marketing quota, but such amount shall in no event be less than the amount necessary for making the adjustments required in subsection (f) below.

(b) The Agricultural Adjustment Administration will determine the percentage which the State quota is of the normal marketings of all old farms in the State.

(c) A minimum allotment will be made to every old farm in the State for which there would be obtained, by taking the percentage determined pursuant to (b) above of the normal marketings for the farm, a number of pounds equal to or less than the smallest of (i) 2400 pounds, or (ii) the farm's three-year average, or (iii) 85 percent of the farm's base 1938 production. The minimum allotment for any such farm will be the smallest of (i) 2400 pounds, or (ii) the farm's three-year average, or (iii) 85 percent of the farm's base 1938 production, and such allotment, unless increased pursuant to subsection (h) shall constitute the farm marketing quota.

(d) The total of the normal marketings for all farms to which minimum allotments are so made will be deducted from the total of the normal marketings for all old farms in the State; and the total of such minimum allotments will be deducted from the State marketing quota.

(e) After such deductions, the balance of the normal marketings will be reduced to the amount of the balance of the State marketing quota. This reduction will be made by reducing the normal marketings for all old farms, to which a minimum allotment has not been made pursuant to subsection (c), by the percentage which the balance of the State marketing quota determined pursuant to subsection (d) is of the balance of the normal marketings. The amount of the normal marketings for each such old farm as so reduced will be allotted to the farm, and, unless increased pursuant to subsections (f), (g), or (h) of this section, shall constitute the farm marketing quota.

(f) If the amount allotted to any farm pursuant to (e) above is less than the minimum allotment which would have been established for the farm pursuant to (c) above, then the amount so allotted shall be increased by an amount sufficient to provide such a minimum. The total of all such increases for all old farms in the State will be deducted from the amount reserved pursuant to (a) above.

(g) There will be computed for each old farm in the State the difference by which the amount allotted pursuant to the foregoing subsections is less than the smaller of (i) 80 percent of the farm's three-year average, or (ii) 85 percent of the base 1938 production. The total of all such differences for all old farms in the State will be reduced to an amount equal to 2 percent of the State marketing quota. This reduction will be made by reducing the difference for each farm by the percentage which 2 percent of the State marketing quota is of the total of the differences for all farms. The amount of the farm's difference as so reduced will be added to the farm's allotment and the sum thereof will be the amount of the farm marketing quota unless further increased pursuant to subsection (h) below.

(h) The amount reserved pursuant to subsection (a), less the amount deducted therefrom pursuant to subsection (f), will be allocated by the State committee among the counties of the State upon the basis of (i) the relationship of the balance of the normal marketings (found under (d) above) for old farms in the county to the balance of the normal marketings for old farms in all counties in the State, and (ii) the relative needs of the counties for adjustments of the quotas established for old farms therein. The amount so allocated to a county shall be allotted upon the recommendation of the local committee among those old farms in the county whose marketing quotas, as compared with the marketing quotas for other similar farms in the county, are determined by the local committee to require adjustment in order to take into adequate account past marketings of tobacco, making due allowance for abnormal weather conditions, plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

PART III—ESTABLISHMENT OF QUOTAS FOR NEW FARMS

SECTION 1. *Allotment of new farm reserve—Marketing quotas for new farms.*—The marketing quota for a new farm will be that percentage of the normal marketings for such farm which the new farm reserve is of total normal marketings for all new farms in the United States.

SEC. 2. *Determination of normal marketings for new farms.*—(a) The normal marketings for a new farm shall, unless adjusted pursuant to subsection (b) below, be 75 percent of the number of pounds obtained by multiplying the community average yield by whichever of the following is the smaller:

(i) The 1938 tobacco acreage for the farm;

(ii) The county average tobacco acreage for old farms.

The community average yield shall be the simple average of the farm yields for a representative sample of old farms in the community. A representative sample shall include 20 percent or more of the old farms in the community and shall consist, as far as practicable, of alternate farms (i. e., every third, fourth, or fifth farm listed on the State listing sheet) in the community. If the local committee and State committee find that the number of old farms in the community is too small to provide a reasonable representative sample, the average yield for the nearest community which the State committee finds to be most similar with respect to type of soil, topography, and productivity shall be used as the community average yield.

The county average tobacco acreage for old farms shall be the number of acres obtained by dividing the total of the 1938 tobacco acreage of all the old farms in the county by the number of such farms; provided, that if the number of old farms in any county is less than the number of new farms in the county, the county average tobacco acreage for old farms in such county shall be the county average tobacco acreage for old farms in the nearest county (as determined by the State committee) in which the total number of old farms exceeds the total number of new farms.

(b) The number of pounds determined for a farm pursuant to subsection (a) above shall be increased if the capacity of the farm for the production of tobacco as indicated by the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco on the farm in 1938, is substantially greater than the tobacco production capacity of other farms in the county for which a similar number of pounds were determined pursuant to said subsection (a), and shall be decreased if the farm's capacity for tobacco production is substantially less than that of other farms in the county for which a similar number of pounds were determined pursuant to said subsection.

Any adustment pursuant to this subsection (b) shall be in such amount as the local committee finds will cause the normal marketings for the farm to reflect adequately the difference in the capacity of the farm for the production of tobacco as compared with the tobacco production capacity of other farms in the county for which a similar number of pounds were determined pursuant to subsection (a) above; provided that the adjustment shall in no event cause the normal marketings to exceed the number of pounds obtained by multiplying the community average yield by the 1938 tobacco acreage for the farm.

In appraising the land (taking into account the crop-rotation practices customarily carried out on the farm), labor, and equipment available for the production of tobacco for the purpose of determining the capacity of a farm for the production of tobacco, the local committee shall proceed in the same manner as provided in section 3 (c) of Part II with respect to old farms.

Done at Washington, D. C., this 5th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-3353; Filed, November 5, 1938; 12:34 p. m.]

ORDER TERMINATING MARKETING AGREEMENT AND AMENDED LICENSE REGULATING HANDLING OF CALIFORNIA FRESH DECIDUOUS TREE FRUITS EXCEPT APPLES, AND DISCHARGING THE CONTROL COMMITTEE MEMBERS FROM SERVING AS JOINT TRUSTEES

Whereas, the Control Committee, established pursuant to the provisions of the marketing agreement executed by the Secretary of Agriculture of the United States on July 17, 1935, effective on and after July 20, 1935, and the amended license issued by the Secretary of Agriculture of the United States on July 17, 1935, effective on and after July 21, 1935, regulating the handling of California fresh deciduous tree fruits except apples, has no indebtedness and has disposed of all of its assets in accordance with the provisions of said marketing agreement and amended license;

Now, therefore, it is hereby ordered by the Secretary of Agriculture of the United States that (1) the aforesaid marketing agreement and the aforesaid amended license be, and the same hereby are, terminated, and (2) the members of the aforesaid Control Committee be, and they hereby are, discharged from further duties pursuant to or in connection with said marketing agreement and amended license.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture of the United States, have executed this order and caused the official seal of the United States Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, on the 5th day of November 1938 and, pursuant to the provisions of the aforesaid marketing agreement and amended license, declare this order to be effective on and after 12:01 a. m., eastern standard time, November 8, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3348; Filed, November 5, 1938; 12:33 p. m.]

TITLE 10—ARMY

WAR DEPARTMENT

PART 62. RESERVE OFFICER'S TRAINING CORPS

ADMINISTRATION AND TRAINING

SEC. 62.15 [1] *Eligibility to membership.*—Eligibility to membership in the Reserve Officer's Training Corps is limited to students at institutions in which units of such corps may be established, who are citizens of the United States, who are not less than 14 years of age, and whose bodily condition is such as to meet the physical requirements specified herein. Enrollments of students who have passed their twenty-sixth birthday will not be made in the Reserve Officers' Training Corps, except that in Medical Corps units students may be enrolled whose requirements for appointment in the Medical Reserve Corps can be fulfilled before attaining the age of thirty-five. No member of the active personnel of the Army, Navy, or Marine Corps of the United States, nor any commissioned officer of the National Guard or Naval Militia, nor Reserve officer of the military forces of the United States is eligible for membership in the Reserve Officers' Training Corps, except that a Reserve officer who is also a medical student may be admitted to a Medical Corps unit. Members of the Naval or Marine Corps Reserve are not eligible for membership in the Reserve Officers' Training Corps. The fact that an applicant is a member of the Regular Army Reserve does not make him ineligible for enrollment providing he is otherwise qualified. See Ops. J. A. G. June, 6, 1917; January 10, 1919; July 28, 1920; October 5, 1921; and October 11, 1938.

(Sec. 40, 39 Stat. 191; sec. 33, 41 Stat. 776; 10 U. S. C. 381) (Sec. 44, 39 Stat. 192; 10 U. S. C. 382.) [A. R. 145-10, May 28, 1931; Cir. No. 64, W. D., 1938.]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3345; Filed, November 5, 1938; 9:48 a. m.]

[1] Revision.

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT [1]

NOVEMBER 4, 1938.

To RAY LUM,
Vicksburg, Miss.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Ray Lum Stockyards, at Vicksburg, State of Mississippi, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3350; Filed, November 5, 1938; 12:33 p. m.]

[1] Modifies list posted stockyards 9 CFR 13.034.

NOTICE UNDER PACKERS AND STOCKYARDS ACT [1]

NOVEMBER 4, 1938.

To UNION LIVE STOCK COMMISSION CO., INC.,
Scottsbluff, Nebr.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Union Live Stock Commission Company, at Scottsbluff, State of Nebraska, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3349; Filed, November 5, 1938; 12:33 p. m.]

MEMPHIS UNION STOCK YARDS

NOTICE OF POSTING [1]

NOVEMBER 4, 1938.

Whereas, in accordance with the provisions of Section 301 of Title III and Section 302 (a) and (b) of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes," approved August 15, 1921, the Secretary of Agriculture posted the stockyard known as the Guyton Stock Yards, Memphis, Tenn., as being subject to the provisions of said Act; and

Whereas, it now appears that since the date of posting there has been a change in the operator of the stockyard posted as the Guyton Stock Yards, Memphis, Tenn., and that such stockyard is now being operated by the Owen Brothers Horse & Mule Commission Company as a part of the posted stockyard known as the Memphis Union Stock Yards, Memphis, Tenn.:

Therefore, it is ordered that the notice of the posting of the Guyton Stock Yards, Memphis, Tenn., be and hereby is amended to show that the correct name of said stockyard is the Memphis Union Stock Yards, Memphis, Tenn.

[SEAL] HARRY L. BROWN,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3351; Filed, November 5, 1938; 12:33 p. m.]

[1] Modifies list posted stockyards 9 CFR 13.034.

FEDERAL POWER COMMISSION.

[Docket No. IT-5524]

IN THE MATTER OF PENNSYLVANIA WATER AND POWER COMPANY

ORDER INSTITUTING INVESTIGATION AND SETTING DATE OF HEARING

NOVEMBER 1, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) By order to show cause in the above entitled matter dated September 2, 1938, the Pennsylvania Water and Power Company (hereinafter referred to as respondent) was ordered to show cause, if any there be, why appropriate proceedings should not be instituted against said company for operating and maintaining its Holtwood Development without a license granted pursuant to the Federal Power Act, or a permit or valid existing right-of-way granted prior to June 10, 1920;

(b) On October 10, 1938, the respondent filed an answer to said order to show cause wherein it admitted that it operates and maintains for purposes of developing electric power, a dam, reservoir, power house and other works incidental thereto, across and in the Susquehanna River at Holtwood near McCall's Ferry, Pennsylvania, but denied that said Susquehanna River is a navigable water of the United States from above the Reservoir so operated to its mouth in the Chesapeake Bay, and particularly denied that it is a navigable water of the United States at the site of the Holtwood Development.

The Commission, having considered the matters set forth in the order to show cause and in the answer thereto, upon its own motion, orders that:

(A) An investigation be and is hereby instituted to determine all facts, conditions, or matters relating to the navigability of the Susquehanna River, and the authority under which the Holtwood Development is maintained and operated in said River; and whether an order of the Commission, appropriate, expedient and in the public interest should be issued to conserve and utilize the navigation and water power resources of said region.

(B) A public hearing be held on December 6, 1938, at 10:00 A. M. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C., to ascertain all facts pertaining to this investigation and to any other issues raised by the order to show cause and the answer thereto.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3346; Filed, November 5, 1938; 9:49 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3174]

IN THE MATTER OF FORD MOTOR COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 29, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 921, United States Post Office Building, Detroit, Michigan.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3354; Filed, November 5, 1938; 12:36 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 306]

ALLOCATION OF FUNDS FOR LOANS

NOVEMBER 3, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for

loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Alabama R9020B1 Baldwin	$65,000
Georgia R9022D1 Colquitt	125,000
Georgia R9034C1 Carroll	138,000
Georgia R9045B1 Sumter	282,000
Illinois R9038A1 McLean	1,164,000
Kansas R9008B1 Allen	53,000
Kentucky 9018B1 Meade	46,000
Kentucky R9034B1 Barren	184,000
Louisiana R9006B1 St. Marys	37,500
Minnesota R9065C1 Dakota	150,000
Missouri 9018C1 Texas	236,000
Missouri R9031B1 Mississippi	198,000
Nebraska R9058A1 Boone	226,000
Nebraska R9060A1 Hamilton	216,000
Nebraska R9065A1 Wayne	197,000
Ohio R9075C1 Williams	136,000
Oklahoma R9010B1 Cleveland	99,000
Oregon R9014B1 Umatilla	37,000
Pennsylvania R9017A2 Armstrong	43,000
Texas R9023B1 McCulloch	186,000
Texas R9041C1 Panola	36,000
Texas R9053C1 McLennan	46,000
Texas R9061B1 Coleman	145,000
Texas R9071A1 Clay	115,000
Wisconsin R9045C6 Chippewa	120,000
Wyoming 9005B1 Big Horn	23,920
Wyoming R9005B2 Big Horn	183,080
Wyoming 9012B1 Park	22,300

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3343; Filed, November 5, 1938; 9:48 a. m.]

[Administrative Order No. 307]

ALLOCATION OF FUNDS FOR LOANS

NOVEMBER 3, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia R9051W1 Newton	$7,000
Missouri R9019W2 Boone	10,000
North Dakota R9011W2 Cass	5,000
Ohio R9029W1 Pike	8,000
Ohio R9083W2 Huron	5,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3344; Filed, November 5, 1938; 9:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 4th day of November, A. D. 1938.

[File No. 1-1804]

IN THE MATTER OF THE REGISTRATION OF MILLS ALLOYS, INC., $2 CUMULATIVE CONVERTIBLE CLASS A PREFERRED STOCK, NO PAR VALUE, AND CLASS B COMMON STOCK, NO PAR VALUE

ORDER FOR HEARING

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It appearing to the Commission:

That Mills Alloys, Inc., a corporation, is the issuer of $2 Cumulative Convertible Class A Preferred Stock, No Par Value, and Class B Common Stock, No Par Value; and

That said Mills Alloys, Inc. registered such securities on the Los Angeles Stock Exchange, a national securities exchange, by filing on or about June 13, 1935, an application with the said Exchange and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, formerly designated as Rule JB1, promulgated by the Commission thereunder; and

That Rule X-13A-1 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule X-13A-2 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified and that no other form was or is specified for use by the said Mills Alloys, Inc.; and

The Commission having reason to believe:

That Mills Alloys, Inc. has failed to comply with said Section 13 (a) and said Rule X-13A-1 promulgated by the Commission thereunder in that it has failed to file its annual report for the year ended December 31, 1937, on Form 10-K, as prescribed by Rule X-13A-2 adopted by the Commission pursuant to said Section 13 (a); and

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Mills Alloys, Inc. has so failed to comply with said Section 13 (a) and said Rules and Regulations promulgated by the Commission thereunder, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said $2 Cumulative Convertible Class A Preferred Stock, No Par Value, and Class B Common Stock, No Par Value, on said Los Angeles Stock Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 23rd day of November, 1938, at 10:00 A. M. at the Regional Office of the Securities and Exchange Commission, 650 South Spring Street, Los Angeles, California, and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, John Clarkson, an officer of the Commission be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3347; Filed, November 5, 1938; 12:04 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of November A. D. 1938.

[File No. 31-155]

IN THE MATTER OF THE APPLICATION OF THE RHODE ISLAND PUBLIC SERVICE COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the application for exemption of the above-named applicant, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3355; Filed, November 7, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of November A. D. 1938.

[File No. 31-157]

IN THE MATTER OF THE APPLICATION OF MASSACHUSETTS POWER AND LIGHT ASSOCIATES, NORTH BOSTON LIGHTING PROPERTIES

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicants, the Commission consents to the withdrawal of the application for exemption of the above-named applicants, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3356; Filed, November 7, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of November A. D. 1938.

[File No. 31-160]

IN THE MATTER OF THE APPLICATION OF MASSACHUSETTS UTILITIES ASSOCIATES, MASSACHUSETTS UTILITIES ASSOCIATES COMMON VOTING TRUST

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FOR EXEMPTION FROM PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicants, the Commission consents to the withdrawal of the application for exemption of the above-named applicants, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3357; Filed, November 7, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of November, A. D. 1938.

[File No. 32-113]

IN THE MATTER OF BLACKSTONE VALLEY GAS AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 23, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 18, 1938.

The matter concerned herewith is in regard to a proposed issuance and sale by applicant, Blackstone Valley Gas and Electric Company, a subsidiary of Eastern Utilities Associates, a registered holding company, of $4,000,000 principal amount Mortgage and Collateral Trust Bonds, Series D, 3½%, due December 1, 1968; such issue and sale to be made by public offering through underwriters. The net proceeds of the securities proposed to be issued and sold are to be expended, or otherwise used, together with other treasury funds if and to the extent necessary, for the payment at maturity on January 1, 1939, of the applicant's First and General Mortgage Gold Bonds, 5%, due January 1, 1939, outstanding in the principal amount of $4,045,000.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3358; Filed, November 7, 1938; 12:45 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of November, A. D. 1938.

[File No. 32-114]

IN THE MATTER OF MADISON GAS AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 22, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 17, 1938.

The matter concerned herewith is in regard to the exemption from Section 6 (a) of the Public Utility Holding Company Act of 1935, of the issue and sale of $1,000,000 First Mortgage Bonds, 4% Series due 1960 by Madison Gas and Electric Company for the reason that such issue and sale are solely for the purpose of financing the business of the Madison Gas and Electric Company and have been expressly authorized by the Public Service Commission of Wisconsin.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3359; Filed, November 7, 1938; 12:45 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 219

Washington, Wednesday, November 9, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[SRB–301—Florida Celery]

1939 AGRICULTURAL CONSERVATION PROGRAM FOR THE FLORIDA CELERY AREA

SOUTHERN REGION BULLETIN 301

SEC. I. *Authority, availability of funds, and applicability.*—(a) Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1939, payments and grants of aid will be made for participation in the 1939 Agricultural Conservation Program for the Florida Celery Area (hereinafter referred to as the 1939 program) in accordance with the provisions hereof and such modifications thereof or other provisions as may hereafter be made.

(b) The provisions of the 1939 program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation, the apportionment of such appropriation under the provisions of the Soil Conservation and Domestic Allotment Act, as amended, and the extent of national participation. As an adjustment for participation the rates of payment and deductions with respect to any commodity or item of payment may be increased or decreased by as much as 10 percent.

(c) The provisions of the 1939 program contained herein, except Sec. IX, are not applicable to (1) counties other than those in the Florida celery area; and (2) public domain of the United States, including land owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

SEC. II. *Farm acreage allotments and goals.*—The county committee, with the assistance of other local committees in the county, shall establish acreage allotments and soil-building practice goals, in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. The soil-depleting acreage allotments established for the farms in a county shall not exceed the applicable county acreage allotments established for the county by the Secretary, and the sum of the acreage allotments for farms with respect to which allotments are established shall not exceed their proportionate share of the county acreage allotments.

(a) *Total soil-depleting acreage allotment.*—The total soil-depleting acreage allotment for any farm shall be determined on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, the acreage of all soil-depleting crops customarily grown on the farm, and the acreage of food and feed crops needed for home consumption on the farm, taking into consideration special crop acreage allotments determined for the farm. The total soil-depleting acreage allotment for any farm shall be comparable with the allotments determined for other farms in the same community which are similar with respect to such factors. Total soil-depleting allotments will be determined for all farms on which general crops or livestock is produced for market, except those for which a special crop acreage allotment is not established.

(b) *Celery allotment.*—Acreage allotments for celery shall be determined on the basis of tillable acreage, crop rotation practices, type of soil, and topography, giving special consideration to small farms. Consideration shall also be given

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program, 1939, for Florida celery area, Southern Region Bulletin 301 2655
Sugar Act of 1937, amendment to orders, regulations and determinations under 2660
TITLE 24—HOUSING CREDIT:
Federal Home Loan Bank Board:
Federal Savings and Loan System, method of notification in connection with consideration of amendments to rules for 2661
Federal Savings and Loan Insurance Corporation:
Insurance of accounts, method of notification in connection with consideration of amendments to rules for 2661
TITLE 29—LABOR:
Wage and Hour Division:
Learners, employment of; regulations amended 2661
TITLE 39—POSTAL SERVICE:
Post Office Department:
Postage rates on books, modification of 2662

NOTICES

Securities and Exchange Commission:
Great Northern Gas Co., Ltd., hearing 2663
Louisiana Public Service Corp., effectiveness of declaration 2662
Minnesota Utilities Co., effectiveness of declaration 2662
New Orleans Stock Yards, Inc., listing and registration 2663
Southern Utilities Co., Ltd., hearing 2663

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to the other special crop acreage allotments established for the farm. The allotment for any farm shall be comparable to the allotments determined for other farms in the same community which are similar with respect to such factors.

(c) *Tobacco allotment.* — Acreage allotments for flue-cured tobacco shall be determined on the basis of past acreage and production of flue-cured tobacco with due allowance for the effects of abnormal weather conditions and plant bed and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The tobacco acreage allotment for any farm on which tobacco was grown in one or more of the years 1935 to 1938, inclusive, shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors: *Provided*, That special consideration shall be given to farms for which acreage allotments are small. The allotment for any farm on which tobacco is to be produced in 1939 for the first time since 1934 shall not exceed 75 percent of the allotment for other farms in the same community on which tobacco was produced since 1934 which are similar with respect to land, labor, and equipment available for the production of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

(d) *Potato allotment.*—In counties included in the commercial potato-producing areas, potato acreage allotments shall be established for each farm on which the acreage normally planted to potatoes for market is determined to be three acres or more. Potato acreage allotments shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, production facilities, and the acreage of potatoes customarily grown on the farm. The potato acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

(e) *Commercial vegetables.*—Acreage allotments of commercial vegetables shall be established for each farm on which the average acreage of land planted to commercial vegetables in 1936 and 1937 was three acres or more. The acreage allotments shall be the average acreage for 1936 and 1937 with adjustments for abnormal weather conditions and taking into consideration the tillable acreage on the farm, type of soil, and production facilities. The sum of the allotments of commercial vegetables established for such farms in a county shall not exceed the sum of the average annual acreages of land planted to commercial vegetables on such farms in 1936 and 1937, except upon approval of the Administrator where it is found that the acreages grown in 1936 and 1937 were substantially reduced because of abnormal weather conditions.

(f) *Soil-building goal.*—The soil-building goal for any farm shall be one unit of soil-building practices for each $1.50 of the payment computed for the farm under Sec. V (e).

SEC. III. *Normal yields.*—The county committee with the assistance of other local committees in the county shall determine for each farm for which a tobacco, celery, or potato acreage allotment is established a normal yield for each such crop in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration. The normal yield of tobacco, celery, or potatoes, as the case may be, for any farms shall be the yield which may reasonably be expected from the land devoted to the production of the crop in 1939 with due consideration for type of soil, production practices, general fertility of the land, and the yield of such crop customarily made on the farm. The average yield for all farms in any county with respect to any such crop shall not exceed the county average yield for the crop established by the Secretary.

SEC. IV. *Soil-building practices.*—Such of the soil-building practices listed in the following schedule as are carried out in accordance with specifications issued by the State committee with the approval of the Director of the Southern Division shall count toward the achievement of the soil-building goal to the extent indicated therein. The specifications issued shall be such as to assure that the soil-building practice will be performed in workmanlike manner and in accordance with good farming practice for the locality.

Practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency other than the Agricultural Adjustment Administration shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal: *Provided*, That labor, seed, trees, and materials furnished to a State, a political subdivision of a State, or an agency thereof by an agency of the same State shall not be deemed to have been furnished by "a State or Federal agency" within the meaning of this paragraph.

Trees purchased from a Clark-McNary Cooperative State Nursery shall not be deemed to be paid for in whole or in part by a State or Federal agency.

The unit credits listed below are the maximum units allowable, and the credit for any practice on the item included may be adjusted downward by the State committee with the approval of the Administrator.

Schedule of soil-building practices.—(a) *Practice unit equivalent—one unit.*—Each of the following practices in the amounts specified shall be counted as one unit: *Provided*, That when the materials specified in subparagraphs (1) or (2) of this paragraph are applied to biennial or perennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, or Natal grass seeded or grown in connection with a soil-depleting crop, no part of the material applied shall be counted.

(1) Application of 300 pounds of 16 percent superphosphate (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

(2) Application of 500 pounds of basic slag or rock phosphate to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

(3) Reseeding depleted pastures with good seed of adapted pasture grasses or legumes—10 pounds of seed.

(4) Application of not less than two tons, air dry weight, of straw or equivalent mulching materials, excluding barnyard and stable manure per acre in orchards or on commercial vegetable land.

(5) Application of 1500 pounds of ground limestone or its equivalent.

(b) *Unit equivalents per acre—one unit.*—Each acre of the following shall be counted as one unit:

(1) Seeding biennial legumes, perennial legumes, perennial grasses, or mixtures containing perennial grasses, perennial legumes, or biennial legumes (except any of such crops qualifying at a higher rate of credit under any other practice listed in this Sec. IV.

(2) Seeding winter legumes, annual lespedeza, annual ryegrass, crotalaria, sesbania, or annual sweet clover.

(3) Green manure crops and cover crops (excluding (1) lespedeza and (2) any crop for which credit is given in 1939 under any other practice, of which a good stand and good growth is (1) plowed or disced under on land not subject to erosion, or if subject to erosion, such crop is followed by a winter cover crop, or (2) left on land subject to erosion or in orchards or on commercial vegetable or potato land.

(c) *Unit equivalents per acre—two units.*—Each acre of the following shall be counted as two units:

1. Seeding permanent grasses or pasture mixtures containing a full seeding of legumes or grasses, or both.

(d) *Unit equivalents per acre—three units.*—Each acre of the following shall be counted as three units:

1. Establishment of a permanent vegetative cover by planting sod pieces of perennial grasses.

(e) *Unit equivalents per acre—four units.*—Each acre of the following shall be counted as four units:

1. Establishment of a permanent vegetative cover by planting crowns of kudzu.

(f) *Unit equivalents per acre—five units.*—Each acre of the following shall be counted as five units:

1. Planting forest trees (including shrubs in protective plantings) provided such trees are protected and cultivated in accordance with good tree culture practice.

(g) *Acre equivalents per unit—two acres.*—Each two acres of the following shall be counted as one unit:

1. Summer legumes not classified as soil-depleting (interplanted or grown in combination with soil-depleting crops) of which a good stand and a good growth is left on the land or plowed or disced under.

(h) *Acre equivalents per unit—four acres.*—Each four acres of the following shall be counted as one unit:

1. Contour listing or furrowing non-crop land (the acreage of this practice shall be computed on the basis of the area so handled, each furrow or strip being considered to occupy an area not in excess of 8¼ feet in width).

SEC. V. *Payment for full performance.*—Payment will be made with respect to any farm for not exceeding soil-depleting acreage allotments, and for achieving soil-building goals in an amount which shall be the sum of the following:

(a) *Flue-cured tobacco.*—0.8 cent per pound of the normal yield per acre of tobacco for the farm for each acre in the tobacco acreage allotment.

(b) *Potatoes.*—3 cents per bushel of the normal yield per acre of potatoes for the farm for each acre in the potato acreage allotment; or, if the acreage planted to potatoes is less than 80 percent of the potato acreage allotment, payment will be computed on the normal yield of an acreage equal to 125 percent of the acreage planted to potatoes unless the county committee finds that failure to plant 80 percent of such potato acreage allotment was due to flood or drought.

(c) *Commercial vegetables.*—$1.50 per acre for each acre of the acreage allotment of commercial vegetables established for the farm, or, if the acreage planted to commercial vegetables is less than 80 percent of the commercial vegetable acreage allotment, payment will be computed on an acreage equal to 125 percent of the acreage planted to commercial vegetables unless the county committee finds that failure to plant 80 percent of such acreage allotment was due to flood or drought.

(d) *Celery.*—2½ cents a crate of the normal yield per acre of celery for the farm for each acre in celery acreage allotment, or, if the acreage planted to celery is less than 80 percent of the celery acreage allotment, payment will be computed on the normal yield of an acreage equal to 125 percent of the acreage planted to celery unless the county committee finds that failure to plant 80 percent of such celery acreage allotment was due to flood or drought: *Provided*, That the acreage on which payment is made shall not exceed the acreage on which an approved green manure crop is plowed or disced under. Such acreage of the green manure crop shall not count toward meeting the soil-building goal for the farm.

(e) *Payments in connection with soil-building practices.*—(1) $1.50 per acre of commercial orchards on the farm January 1, 1939.

(2) 70 cents per acre of cropland in any farm in excess of the sum of (1) the acreages used in computing payments with respect to the tobacco, celery, or potato acreage allotments established for the farm, and (2) the acreage of sugarcane for sugar grown on the farm in 1939.

(3) 25 cents per acre of fenced non-crop open pasture land in excess of one-half of the number of acres of cropland in the farm which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land.

SEC. VI. *Payments for partial performance.*—Payments computed for any farm under the provisions of Sec. V shall be subject to all the following deductions which are applicable to the farm.

(a) *Flue-cured tobacco.*—8 cents per pound of the normal yield for the farm for each acre of flue-cured tobacco in excess of the tobacco acreage allotment established for the farm.

(b) *Potatoes.*—(i) (Farms for which potato acreage allotments are established) 30 cents per bushel of the normal yield for the farm for each acre planted to potatoes in excess of the potato acreage allotment.

(ii) (Farms for which potato acreage allotments are not established in commercial potato-producing areas which are not also commercial vegetable-producing areas) 30 cents per bushel of the normal yield for the farm for each acre planted to potatoes for market in excess of three acres.

(c) *Celery.*—20 cents per crate of the normal yield for the farm for each acre planted to celery in excess of the celery acreage allotment established for the farm.

(d) *Commercial vegetables.*—(Farms in commercial vegetable areas) $20.00 per acre for each acre of land planted to commercial vegetables in excess of the usual acreage of commercial vegetables established for the farm or three acres, whichever is greater.

(e) *General soil-depleting crops.*—(Farms for which a total soil-depleting acreage allotment is established) $5.00 for each acre classified as soil-depleting in excess of (1) the total soil-depleting acreage allotment established for the farm plus the acreages with respect to which deductions are computed under paragraphs (a) to (d), inclusive, of this Sec. VI, or (2) the acreage of tobacco on the farm plus 20 acres, whichever is greater.

(f) *Soil-building goal.*—$1.50 for each unit by which the soil-building goal is not reached.

SEC. VII. *Division of payments and deductions.*—(a) *Payments and deductions in connection with acreage allotments.*—(1) The net payment or net deduction computed for any farm with respect to the tobacco, celery, commercial vegetable, or potato acreage allotment or general soil-depleting crops shall be divided among the landlords, tenants, and sharecroppers in the proportion (as indicated by their acreage shares expressed in terms of either proportionate acreages or percentages) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the tobacco, potatoes, general crops, celery, or commercial vegetables, respectively, grown on the farm in 1939: *Provided*, That in the event tobacco, potatoes, general crops, celery, or commercial vegetables are not harvested in 1939 on the farm, or in the event the county committee, in accordance with instructions issued by the Agricultural Adjustment Administration, finds that due to crop failure the acreage of such crop(s) was reduced sufficiently to affect materially the division of payments or deductions, the net payment or net deduction, if any, with respect to the acreage allot-

ment or usual acreage for such crop(s) shall be divided among the landlords, tenants, and sharecroppers in the same proportion that the county committee determines that such persons would have shared in the proceeds of such crop(s) if such crop(s) had been harvested on the farm in 1939 or if the acreage of such crop(s) had not been so reduced.

(2) In computing such payments and such net deductions with respect to acreage allotments and general crops, the deduction with respect to total soil-depleting crops shall be regarded as pro rata deductions with respect to the payments computed under Sec. V in connection with crop acreage allotments: *Provided*, That on any farm for which no payment is computed under Sec. V in connection with crop acreage allotments, such deductions shall be divided equally among the landlords and tenants on such farm.

(b) *Payments with respect to soil-building practices.*—The amount of payment earned in connection with the soil-building goal for the farm shall be paid to the landlord, tenant, or sharecropper who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying out of soil-building practices on the farm in 1939, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1939. All persons contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event such units shall be divided in the proportion which the county committee determines each such person contributed thereto.

(c) *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SEC. VIII. *Increase in small payments.*—The total payment computed under Sec. V to VII, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1 to $1.99	$0.40	$32 to $32.99	$10.40
$2 to $2.99	.80	$33 to $33.99	10.60
$3 to $3.99	1.20	$34 to $34.99	10.80
$4 to $4.99	1.60	$35 to $35.99	11.00
$5 to $5.99	2.00	$36 to $36.99	11.20
$6 to $6.99	2.40	$37 to $37.99	11.40
$7 to $7.99	2.80	$38 to $38.99	11.60
$8 to $8.99	3.20	$39 to $39.99	11.80
$9 to $9.99	3.60	$40 to $40.99[1]	12.00
$10 to $10.99	4.00	$41 to $41.99	12.10
$11 to $11.99	4.40	$42 to $42.99	12.20
$12 to $12.99	4.80	$43 to $43.99	12.30
$13 to $13.99	5.20	$44 to $44.99	12.40
$14 to $14.99	5.60	$45 to $45.99	12.50
$15 to $15.99	6.00	$46 to $46.99	12.60
$16 to $16.99	6.40	$47 to $47.99	12.70
$17 to $17.99	6.80	$48 to $48.99	12.80
$18 to $18.99	7.20	$49 to $49.99	12.90
$19 to $19.99	7.60	$50 to $50.99	13.00
$20 to $20.99	8.00	$51 to $51.99	13.10
$21 to $21.99	8.20	$52 to $52.99	13.20
$22 to $22.99	8.40	$53 to $53.99	13.30
$23 to $23.99	8.60	$54 to $54.99	13.40
$24 to $24.99	8.80	$55 to $55.99	13.50
$25 to $25.99	9.00	$56 to $56.99	13.60
$26 to $26.99	9.20	$57 to $57.99	13.70
$27 to $27.99	9.40	$58 to $58.99	13.80
$28 to $28.99	9.60	$59 to $59.99	13.90
$29 to $29.99	9.80	$60 to $185.99	14.00
$30 to $30.99	10.00	$186 to $199.99	(2)
$31 to $31.99	10.20	$200 and over	(2)

[1] Increase to $200.
[2] No increase.

SEC. IX. *Payments limited to $10,000.*—The total of all payments made in connection with programs for 1939 under Section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate with respect to farms and turpentine places located within a single State, territory, or possession, shall not exceed the sum of $10,000. The total of all payments made in connection with programs for 1939 under Section 8 of the Soil Conservation and Domestic Allotment Act to any person other than an individual, partnership, or estate with respect to farms and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico) shall not exceed the sum of $10,000.

All or any part of any payment which has been or otherwise would be made to any person under the 1939 program may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, or formation of any corporation, partnership, estate, trust, or by any other means, which was designed to evade, or would have the effect of evading, the provisions of this section.

Sec. X. *Deductions incurred on other farms.*—(a) *Other farms in the same county.*—If the deductions computed under Sec. VI with respect to any farm in a county exceed the payment for full performance on such farm computed under Sec. V, a landlord's or tenant's share of the amount by which such deduction exceeds such payments shall be deducted from such landlord's or tenant's share of the payment which would otherwise be made to him with respect to any other farms in such county.

(b) *Other farms in Florida.*—If the deductions computed for a landlord or tenant with respect to one or more farms in a county exceed the payments computed for such landlord or tenant on other farms in such county, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in Florida if the Florida State committee finds that the crops grown and practices adopted on the farm with respect to which such deductions are computed substantially offset the contribution to the program made on such other farms.

SEC. XI.—*Deduction for assocation expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

SEC. XII. *Materials furnished as grants of aid.*—Wherever it it found practicable, limestone, superphosphate, trees, seeds, and other materials, upon request of the producer, may be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out approved soil-building practices which shall be counted toward meeting the soil-building goal for the farm. Wherever such materials are furnished, a deduction from the payment for the farm shall be made in the amount of the approximate average cost of such material to the Agricultural Adjustment Administration in any county, State, or other areas. Such deduction shall be applied first to the payment computed for the person to whom such materials are furnished, and the balance, if any, of such deduction shall be prorated among the payments to other persons sharing in the payment with respect to the farm on which such materials were used.

In making a request for materials pursuant to this section, the producer to whom such materials are furnished shall agree that in the event the amount of the deduction for the materials exceeds the amount of the payment with respect to the farm the amount of such difference shall be repaid by him to the Secretary.

SEC. XIII. *General provisions relating to payments.*—(a) *Payment restricted to effectuation of purposes of the program.*—(1) All or any part of any payment which otherwise would be made to any person under the 1939 program may be withheld (a) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1939 or previous agricultural conservation programs, (b) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (c) if, with respect to forest land or woodland owned or controlled by him, he has adopted any practice which the Director of the Southern Division finds is contrary to sound conservation practices.

(2) No payments other than payments in connection with soil-building practices shall be computed with respect to any farm which is idle in 1939.

(b) *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in paragraph (d) of this Sec. XIII) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

(c) *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1939 any change of the arrangements which existed on the farm in 1938 is made between the landlord and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord under the 1939 program than would have been made to the landlord for performance on the farm under the 1938 program, payments to the landlord under the 1939 program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1938 had been continued in 1939, if the county committee certifies that the change is not justified and disapproves such change.

If on any farm the number of sharecroppers or share tenants in 1939 is less than the average number on the farm during the years 1936 to 1938, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1939 program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part the amount of any payment which has been or would otherwise be made to such person in connection with the 1939 program.

(d) *Assignments.*—Any person who may be entitled to any payment in connection with the 1939 program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1939. No such assignment will be recognized unless the assignment is made in writing on Form ACP–69 in accordance with instructions (ACP–70) issued by the Agricultural Adjustment Administration.

Nothing contained in this Sec. XIII shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

(e) *Excess cotton acreage.*—Any person who knowingly plants cotton on his farm in 1939 on acreage in excess of the cotton acreage allotment established for the farm for 1939 shall not be eligible for any payment under the provisions of the 1939 program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1939 on acreage in excess of the cotton acreage allotment for the farm for 1939 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless the farmer establishes the fact that the excess acreage was planted to cotton due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1939.

SEC. XIV. *Application for payment.*—(a) *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Sec. VII a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1939 in carrying out approved soil-building practices.

(b) *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Director of the Southern Division. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

(c) *Applications for other farms.*—If a person has the right to receive all or a portion of the crops, or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee any person shall file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SEC. XV. *Appeals.*—Any person may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters affecting any farm in which he has an interest: (a) eligibility to file an application for payment; (b) any soil-depleting acreage allotment or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee, he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the Director of the Southern Division to review the decision of the State committee.

SEC. XVI. *Instructions and forms.*—The Agricultural Adjustment Administration shall prepare and issue such instructions and forms as may be required in administering the 1939 program.

SEC. XVII. *Definitions.*—For the purposes of the 1939 program unless the context otherwise requires:

(a) *Officials.*—(1) *Secretary* means the Secretary of Agriculture of the United States.

(2) *Administrator* means the Administrator of the Agricultural Adjustment Administration.

(3) *Director of the Southern Division* means the person in charge of the agricultural conservation programs in the Southern Region.

(4) *State Committee* means the group of persons designated within any State to assist in the administration of the agricultural conservation programs in Florida.

(5) *County Committee* means the group of persons elected within any county to assist in the administration of the agricultural conservation programs in such county.

(b) *Areas.*—(1) *Southern Region* means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississipi, Oklahoma, South Carolina, and Texas.

(2) *Florida celery area* means the following counties in Florida: Manatee, Marion, Palm Beach, Sarasota, and Seminole.

(3) *Commercial Potato-producing Area* means counties to be designated by the Administrator as counties normally producing a surplus of potatoes.

(4) *Commercial Vegetable-producing Area* means counties or administrative areas designated by the Administrator as surplus vegetable-producing areas, provided that in no event shall a county be designated if the acerage acreage of commercial vegetables in the county in 1936 and 1937 was less than 100 acres.

(5) *County* means the political or civil division of a State designated as a county.

(c) *Farm.*—*Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops: *Provided*, That land not under the same ownership shall be included in the same farm only if the county committee determines that:

(i) There is one crop rotation system on the entire area of land;

(ii) The yields and productivity of the different ownerships do not vary substantially;

(iii) The combination is not being made for the purpose of increasing acreage allotments or primarily for the purpose of effecting compliance; and

(iv) The several ownership tracts constitute a farming unit for the operator and will be regarded in the community as a farm in 1939.

A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the cropland is located.

(d) *Crops and land uses.*—(1) *Acreage Planted to Potatoes* means acreage of land seeded to potatoes for any purpose.

(2) *Acreage Planted to Celery* means acreage of land set to celery for any purpose.

(3) *Soil-depleting Acreage* means the acreage of land devoted during the 1939 crop year to one or more of the following crops or uses:

(a) Corn planted for any purpose except sweet corn or popcorn grown in home gardens for use on the farm,

(b) Tobacco harvested for any purpose.

(c) Grain sorghums planted for any purpose.

(d) Cotton which reaches the stage of growth at which bolls are first formed.

(e) Sugarcane planted for any purpose.

(f) Rice planted for any purpose.

(g) Peanuts harvested for nuts or dug for hay.

(h) Potatoes planted for any purpose except when grown in home gardens for use on the farm.

(i) Annual truck and vegetable crops planted for any purpose except when grown in home gardens for use on the farm.

(j) Perennial truck and vegetable crops harvested for any purpose except when grown in home gardens for use on the farm.

(k) Canning peas and freezing peas harvested for any purpose except when grown in home gardens for use on the farm.

(l) Soybeans harvested for seed for crushing.

(m) Sweet sorghums, Sudan grass, or millet harvested for grain, seed, or sirup.

(4) *General Soil-depleting Crops* or *General Crops* means all crops listed in the definition of soil-depleting acreage except sugarcane for sugar and the crops for which special crop acreage allotments are established on the farm.

(5) *Commercial Vegetables* means the acreage of vegetables or truck crops (including potatoes on farms where a potato acreage allotment is not established, sweetpotatoes, tomatoes, sweet corn, melons, cantaloupes, strawberries, and commercial bulbs and flowers, but excluding celery, peas for canning, and sweet corn for canning, and artichokes for use other than as vegetables) of which the principal part of the production is sold to persons not living on the farm.

(6) *Commercial Orchards* means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1939 (excluding nonbearing orchards and vineyards), from which the principal part of the production is normally sold.

(e) *Miscellaneous.*—(1) *Person* means an individual, partnership, association, corporation, estate, or trust, and, whereever applicable, a State, a political subdivision of a State, or any agency thereof.

(2) *Landlord* means a person who owns land and rents such land to another person or operates such land.

(3) *Sharecropper* means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

(4) *Tenant* means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

(5) *Cropland* means farm land which in 1938 was tilled annually or in regular rotation.

(6) *Noncrop Open Pasture Land* means pasture land (other than rotation pasture land and range land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

(7) *Special Crop Acreage Allotment* means a tobacco, celery, or potato acreage allotment.

(8) *Animal Unit* means one cow, one horse, five sheep, or five goats, two calves, or two colts, or the equivalent thereof.

Done at Washington, D. C., this 7th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3362; Filed, November 8, 1938; 12:02 p. m.]

[General Sugar Regulations, Series 2, No. 4]

AMENDMENT TO ORDERS, REGULATIONS AND DETERMINATIONS UNDER THE SUGAR ACT OF 1937

Pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, I, H. A. Wallace, Secretary of Agriculture, do hereby amend all orders, regulations and determinations issued by the Secretary of Agriculture, pursuant to the Sugar Act of 1937, by striking out the words "Sugar Section", "Sugar Section, Agricultural Adjustment Administration", and "Sugar Section of the Agricultural Adjustment Administration", wherever they appear and inserting in lieu thereof the words "Sugar Division".

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 8th day of November, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3363; Filed, November 8, 1938; 12:02 p. m.]

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

AMENDMENT TO THE RULES AND REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

PROVIDING FOR THE METHOD OF NOTIFICATION IN CONNECTION WITH THE CONSIDERATION OF AMENDMENTS TO THE RULES AND REGULATIONS FOR THE FEDERAL SAVINGS AND LOAN SYSTEM

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of Home Owners' Loan Act of 1933, as amended (12 U. S. C. 1464 (a)), paragraphs b and d of Section 101.002 of the Rules and Regulations for the Federal Savings and Loan System are hereby amended to read as follows:

"par. b. *Thirty-day notice of major amendments not of an emergency character.*—No amendment deemed to be major, affecting a matter of general principle or policy, and not of an emergency character, will be aprpoved by the Board until at least thirty days have elapsed after the proposed amendment has been mailed to each member of the Federal Savings and Loan Advisory Council. A copy of each such proposed amendment shall be filed with the editor of the Federal Home Loan Bank Review for publication in the next possible issue of such Review. (Sec. 5 (a) of H. O. L. A. of 1933, 48 Stat. 132, 12 U. S. C. 1464 (a); Sec. 8a of F. H. L. B. A., as added by Sec. 4, 49 Stat. 294, 12 U. S. C., Sup., 1428a.)"

"par. d. *Hearings on regulations.*—After receipt of the written requests therefor to the Secretary to the Board of at least seven members of the Federal Savings and Loan Advisory Council or of at least fifty Federal associations (accompanied by certified resolutions of the boards of directors of such associations), the Board will fix a time and place for a hearing on a proposed amendment or upon an existing regulation to which petitioners object. The Secretary to the Board will give written notice of the time and place of such hearing to the members of the Federal Savings and Loan Advisory Council and to each of the Federal associations requesting such hearing. If such requests for such hearing have been received before thirty days have elapsed from the date such proposed amendment was mailed to each member of the Federal Savings and Loan Advisory Council, the Board will not take final action upon the proposed amendment prior to such hearing. The filing of a request for a hearing upon an existing regulation to which petitioners object shall not suspend the operation of such regulation. Any member of the Federal Savings and Loan Advisory Council, or any Federal association among those requesting the hearing, may, prior to the date of such hearing, file with the Secretary to the Board a written brief regarding the proposed amendment or existing regulation involved; in addition thereto, such member or institution may appear in person at such hearing before the Board or may be represented at such hearing by any of its directors, officers, employees, agents, or attorney-at-law; and may offer evidence and examine witnesses. (Sec. 5 (a) of H. O. L. A. of 1933, 48 Stat. 132, 12 U. S. C. 1464 (a)); Sec. 8a of the F. H. L. B. A. as added by Sec. 4, 49 Stat. 294, 12 U. S. C., Sup 1428a.)"

Be it further resolved, That these amendments, being deemed to be of a procedural character, shall be effective upon filing for publication in the FEDERAL REGISTER.

Adopted by the Federal Home Loan Bank Board on November 7, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-3364; Filed, November 8, 1938; 12:12 p. m.]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

AMENDMENT TO THE RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

PROVIDING FOR THE METHOD OF NOTIFICATION IN CONNECTION WITH THE CONSIDERATION OF AMENDMENTS TO THE RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

Be it resolved, That pursuant to authority vested in the Board of Trustees of the Federal Savings and Loan Insurance Corporation by subsection (a) of Section 402 and subsection (b) of Section 403 of the National Housing Act, as amended (12 U. S. C. 1725 (a), 1726 (b)), paragraphs b and d of Section 201.022 of the Rules and Regulations for Insurance of Accounts are hereby amended to read as follows:

"par. b. *Thirty-day notice of major amendments not of an emergency character.*—No amendment deemed to be major, affecting a matter of general principle or policy, and not of an emergency character, will be approved by the Board until at least thirty days have elapsed after the proposed amendment has been mailed to each member of the Federal Savings and Loan Advisory Council. A copy of each such proposed amendment shall be filed with the editor of the Federal Home Loan Bank Review for publication in the next possible issue of such Review.

"par. d. *Hearings on regulations.*—After receipt of the written requests therefor to the Secretary to the Board of at least seven members of the Federal Savings and Loan Advisory Council or of at least fifty insured institutions (accompanied by certified resolutions of the boards of directors of such institutions), the Board will fix a time and place for a hearing on a proposed amendment or upon an existing regulation to which petitioners object. The Secretary to the Board will give written notice of the time and place of such hearing to the members of the Federal Savings and Loan Advisory Council and to each of the insured institutions requesting such hearing. If such requests for such hearing have been received before 30 days have elapsed from the date such proposed amendment was mailed to each member of the Federal Savings and Loan Advisory Council, the Board will not take final action upon the proposed amendment prior to such hearing. The filing of a request for a hearing upon an existing regulation to which petitioners object shall not suspend the operation of such regulation. Any member of the Federal Savings and Loan Advisory Council, or any insured institution among those requesting the hearing, may, prior to the date of such hearing, file with the Secretary to the Board a written brief regarding the proposed amendment or existing regulation involved; in addition thereto, such member or institution may appear in person at such hearing before the Board or may be represented at such hearing by any of its directors, officers, employees, agents, or attorney-at-law; and may offer evidence and examine witnesses."

Be it further resolved, That these amendments, being deemed to be of a procedural character, shall be effective upon filing for publication in the FEDERAL REGISTER.

Adopted by the Federal Home Loan Bank Board on November 7, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-3365; Filed, November 8, 1938; 12:12 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 522.—REGULATIONS APPLICABLE TO EMPLOYMENT OF LEARNERS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT.*

The following amendments to Regulations — Part 522 — (Regulations Applicable to Employment of Learners pursuant to Section 14 of the Fair Labor

* Sections 522.4 and 522.6, as amended, issued under the authority contained in Section 14, 52 Stat. 1060.

Standards Act) [1] are hereby issued. The first of said amendments to Part 522 amends and reletters subsections of Section 522.4, and excises subsection (c) of Section 522.4. The second of said amendments to Part 522 amends Section 522.6. Said amendments shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C. this seventh day of November, 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 522.4 *Information in applications.*—The application shall

(a) identify the industry and occupation or occupations therein in which learners are requested to be employed at wages lower than the minimum wage applicable under Section 6;

(b) describe the processes to be learned in the occupation;

(c) state average hourly earnings of experienced workers in such occupation;

(d) state why learners should be employed at a wage lower than the minimum wage applicable under Section 6;

(e) set forth the proposed hourly wage rate at which learners will be compensated; and

(f) include any other information believed to be pertinent.*

SECTION 522.6 *Witnesses.*—The Administrator or his authorized representative may cause to be brought before him at such hearing any witness whose testimony he deems material to the matters in issue, including any witness deemed by the Administrator or his authorized representative to be competent to testify whether experienced workers, as shown by the records of the public employment office or offices in the region where such industry or branch thereof is located, are available for employment in the occupation or occupations for which learners are requested to be employed at wages lower than the minimum wage applicable under Section 6.*

[F. R. Doc. 38-3361; Filed, November 8, 1938; 11:53 a. m.]

TITLE 39—POSTAL SERVICE

POST OFFICE DEPARTMENT

[Order No. 12264]

MODIFICATION OF POSTAGE RATES ON BOOKS

OCTOBER 31, 1938.

In pursuance of the proclamation of the President dated October 31, 1938,[2] the Postal Laws and Regulations are amended by the addition of paragraph 2½ to section 561 and a new section, 572½, reading, respectively, as follows:

"2½. Books consisting wholly of reading-matter and containing no advertising matter, other than incidental announcements of books, in parcels not exceeding 8 ounces in weight and otherwise conforming to the conditions set forth in section 572½, may be mailed for the period November 1, 1938, to June 30, 1939, inclusive, at the postage rate of 1½ cents a pound or fraction thereof where such rate is less than that chargeable under existing regulations."

"572½. The postage rates on books consisting wholly of reading matter, containing no advertising matter other than incidental announcements of books, when mailed under such regulations as the Postmaster General may prescribe, shall be for the period commencing November 1, 1938, and ending June 30, 1939, 1½ cents per pound or fraction thereof, irrespective of the zone of their destination.

"2. A book, within the contemplation of this section, shall be a cloth- or paper-bound volume having 24 or more pages, of which at least 22 are printed, and shall not contain ruled or blank pages intended for records or memoranda purposes.

"3. The permissible additions to and enclosures with fourth-class matter as set forth in section 574 shall also be permissible in the case of books mailed under the provisions of this section."

[SEAL] S. W. PURDUM,
Acting Postmaster General.

[F. R. Doc. 38-3360; Filed, November 8, 1938; 10:35 a. m.]

[1] 3 F. R. 2484 DI.
[2] 3 F. R. 2588 DI.

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of November, A. D. 1938.

[File No. 43-134]

IN THE MATTER OF LOUISIANA PUBLIC SERVICE CORPORATION

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Louisiana Public Service Corporation, a subsidiary of American Utilities Service Corporation, a registered holding company, having filed with this Commission a declaration and amendment thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of its 6% Promissory Note in the principal amount of $25,000, to be dated January 1, 1938, and to mature January 1, 1965:

Public hearing thereon having been held after appropriate notice; [1] the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such declaration, as amended, be and become effective forthwith, on the conditions, however,

(1) that all matters in connection with said declaration, as amended, shall be performed in all respects as set forth in and for the purposes represented by said declaration, as amended; and

(2) that within ten days after the issue and sale of said shares of stock the declarant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said declaration as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3369; Filed, November 8, 1938; 12:48 p. m.]

[1] 3 F. R. 1738 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 5th day of November, A. D. 1938.

[File No. 43-135]

IN THE MATTER OF MINNESOTA UTILITIES COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Minnesota Utilities Company, a subsidiary of American Utilities Service Corporation, a registered holding company, having filed with this Commission a declaration and amendment thereto, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issue and sale of 2,000 shares of its Common Stock, without par value;

Public hearing hereon having been held after appropriate notice; [1] the record in this matter having been duly considered; and the Commission having filed its findings herein:

It is ordered, That such declaration, as amended, be and become effective forthwith, on the conditions, however,

(1) that all matters in connection with said declaration, as amended, shall be performed in all respects as set forth in and for the purposes represented by said declaration, as amended; and

(2) that within ten days after the issue and sale of such note the declarant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said declaration as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3370; Filed, November 8, 1938; 12:48 p. m.]

[1] 3 F. R. 1733 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 7th day of November 1938.

[File No. 1-1882]

IN THE MATTER OF APPLICATION BY NEW ORLEANS STOCK YARDS, INC. TO WITHDRAW ITS COMMON STOCK, $100 PAR VALUE, FROM LISTING AND REGISTRATION ON THE NEW ORLEANS STOCK EXCHANGE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The New Orleans Stock Yards, Inc., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, $100 Par Value, from listing and registration on the New Orleans Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, November 29, 1938, in the Grand Jury Room of the United States Post Office Building, in New Orleans, Louisiana, and continue thereafter at such times and places as the Commission or its officers herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That William Green and Robert L. Ballentine, or either of them, officers of the Commission, be and they hereby are designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3368; Filed, November 8, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

[File No. 31-437]

IN THE MATTER OF SOUTHERN UTILITIES COMPANY, LIMITED

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 29, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 23, 1938.

The matter concerned herewith is in regard to the application for exemption of the applicant as a subsidiary company of North Continent Utilities Corporation, a registered holding company, from certain sections of the Act, wherein it is alleged that the applicant derives no material part of its income, directly or indirectly, from sources within the United States, and is not a public-utility company operating in the United States.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3366; Filed, November 8, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

[File No. 31-439]

IN THE MATTER OF GREAT NORTHERN GAS COMPANY, LIMITED

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 29, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 23, 1938.

The matter concerned herewith is in regard to the application for exemption of the applicant as a subsidiary company of North Continent Utilities Corporation, a registered holding company, from certain sections of the Act, wherein it is alleged that the applicant derives no material part of its income, directly or indirectly, from sources within the United States, and is not a public utility company operating in the United States.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3367; Filed, November 8, 1938; 12:48 p. m.]

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FEDERAL REGISTER

VOLUME 3 NUMBER 220

Washington, Thursday, November 10, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

1938–39 COTTON CIRCULAR LETTER NO. 3 [1]

NOVEMBER 3, 1938.

Section 4 of the Printed Instructions, 1938–39 CCC Cotton Form 1, provides for acceptance of a form 1 Classification Memorandum of the U. S. Department of Agriculture, as evidence of the grade and staple of cotton pledged as security to loans on 1938–39 CCC Cotton Form A.

Because of the provisions as to sampling as provided in the Warehouseman's Certificate and Waiver contained in the Loan Agreement, producers have not been in position to avail themselves of the benefits of cotton classed under the Smith-Doxey Act except in those instances where the warehouseman sampled the cotton.

In order to permit producers to make use of the Form 1 Classification Memorandum of the U. S. Department of Agriculture issued on cotton classed from gin samples, Commodity Credit Corporation will accept such Form 1 Classification Memorandum of the U. S. Department of Agriculture in those instances where the cotton may be identified by the name of the gin and by gin tag number as shown in the following certificate of the warehouseman which must accompany the Note and Loan Agreement:

The cotton securing the attached note of

(Name and address of producer)

dated _____ in the amount of $_____ bears gin tag numbers of _____

(Name and address of gin)

on the bales corresponding to the warehouse receipt numbers as listed below:

Warehouse receipt number	Gin tag number	Warehouse receipt number	Gin tag number

Notification is hereby given that the Warehouseman's Certificate and Waiver included in the Loan Agreement has been signed in accordance with the provisions of 1938–39 Cotton Circular Letter No. 3 with the understanding that the undersigned warehouseman does not assume any responsibility for the drawing of samples for classing of said cotton or for maintainance of the samples.

_____
Warehouse company

By _____

Date _____

Location _____

Attention of lending agencies holding paper on 1938–39 CCC Cotton Form A is called to the fact that in purchasing notes Commodity Credit Corporation will pay interest from the date of the note or the date of the classification memorandum or federally licensed classifier's certificate, whichever is later, to the date of payment, as such is the earliest date such loan could have been completed in accordance with the Corporation's instructions.

[SEAL] F. P. BIGGS,
Assistant Treasurer.

[F. R. Doc. 38–3372; Filed, November 9, 1938; 9:39 a. m.]

[1] 3 F.R. 2621 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT: Page
Commodity Credit Corporation:
1938–39 Cotton Circular Letter No. 3 2665
TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Cotton, national allotment for calendar year beginning January 1, 1939 2669
Naval stores conservation program, 1939 2666
TITLE 29—LABOR:
Wage and Hour Division:
Employment of handicapped persons, regulations amended 2670
TITLE 43—PUBLIC LANDS:
General Land Office:
Stock Driveway Withdrawal No. 226, Idaho No. 16, enlarged 2670

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Hawaii, hearing on wage rates and sugarcane prices 2671
Department of Labor:
Wage and Hour Division:
Cotton-Textile Institute, etc., hearing on applications for permission to employ learners at wage rates less than minimum 2671

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission:
Notice of and orders for hearings: Page
Public Service Company of New Hampshire 2672
Safety Engineering and Management Co 2672
Treasury Department:
Bureau of Customs:
Rochester Municipal Airport, N. Y., redesignated as airport of entry for one year 2671

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 706—1939 NAVAL STORES CONSERVATION PROGRAM*

[Bulletin NSCP—301]

TABLE OF CONTENTS

Sec.
706.0 Authority, availability of funds.
706.1 Definitions.
706.2 Duration of Program.
706.3 Kind of Payments.
706.4 Condition of Payment—Performance required.
706.5 Rates of Payment.
706.6 Application and eligibility for payment.
(a) Filing of work sheet and application.
(b) Time limit for filing work sheets and applications.
(c) Producer eligible for payment.
(d) Time of payment.
706.7 Administration.

(For the information of producers of gum naval stores in North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas. This bulletin explains the procedure to be followed in order to qualify for payments under the Naval Stores Conservation Program for 1939.)

SEC. 706.0 *Authority and availability of funds.*—Pursuant to the authority vested in the Secretary of Agriculture under section 8 of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of section 7 (a) of the said Act in 1939, payments and grants of aid will be made for participation in the 1939 Naval Stores Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1939 Naval Stores Conservation Program are subject to such legislation relating to said program as the Congress of the United States may hereafter enact, and the making of the payments herein provided for is contingent upon such appropriation as the Congress may hereafter provide for such purpose; the amounts of such payments and grants of aid will be finally determined by such appropriation and by the extent of participation in the program. Any increase or decrease in rates of payments and deductions because of the extent of participation in the program will not be in excess of 10 percent.* #

SEC. 706.1 *Definition of Terms.*—(a) *Turpentine farm.*—The land and turpentine timber owned or leased, or operated on a share-crop basis, and under one management and in one general locality, which is being operated for the production of gum naval stores, and generally referred to as a "turpentine place."

(b) *Gum naval stores.*—Crude gum (oleoresin), gum turpentine, and gum rosin produced from living trees. Gum naval stores does not include naval stores produced from dead timber, stumps, knots, etc.

(c) *Producer.*—Any person or persons, firm, partnership or corporation doing business as a single legal entity and producing gum naval stores from timber under fee ownership, cash lease, percentage lease or other form of control.

(d) *Face.*—The whole wound or aggregate of streaks made by chipping, streaking, or pulling live trees to stimulate the flow of gum.

(e) *Cup.*—A metal, clay, or other container hung on or below the face to accumulate the flow of gum.

(f) *Tins.*—The gutters or aprons, made of sheet metal or other material, used to aid in conducting the crude gum (oleoresin) from a face into a cup.

(g) *Crop.*—10,000 turpentine faces.

(h) *Drift or tract.*—A portion or subdivision of a "crop" set apart for convenience of operation.

(i) *D. b. h.*—Diameter breast height, i. e., diameter of tree measured at breast height or 4½ feet from the ground.

(j) *Turpentine season.*—The entire calendar year or, if a farm is operated less than the full calendar year, that period within the calendar year during which a producer is operating his turpentine farm for the production of gum naval stores.

(k) *Application.*—The prescribed form of application for payment for cooperating in the 1939 Naval Stores Conservation Program (hereinafter referred to as the 1939 program).* #

SEC. 706.2 *Duration of program.*—The period during which this program is to be in effect is the period January 1 to December 31, 1939, inclusive.* #

SEC. 706.3 *Kind of payments.*—Payment will be made to producers who in 1939 carry out the following approved practices with respect to turpentine farms currently being worked in 1939, beginning such cooperation on or within time limits to be established by the Forest Service of the United States Department of Agriculture, (hereinafter referred to as Forest Service) as appropriate and practicable time limits necessary to afford full opportunity to producers to cooperate in the program and to obtain a full measure of compliance with the objectives of the program.* #

SEC. 706.4 *Conditions of payment—performance required.*—In order to qualify for payment, producers shall meet the following requirements:

(a) No new (virgin) faces shall be operated during the 1939 turpentine season on trees less than 9 inches d. b. h. on any turpentine farm owned or leased by the applicant producer, whether or not such farm is covered by a work sheet and an application.

(b) No faces (either old or new) shall be operated during the 1939 turpentine season on trees less than 9 inches d. b. h. on any turpentine farm which is covered by a worksheet and an application.

(c) A reduction in payment to the producer will be made at ½ cent per face for all virgin faces worked by him in 1939 if any such virgin faces are on trees less than 10 inches d. b. h. No such reduction in payment will be made if all such virgin faces are on trees 10 inches d. b. h. or larger.

(d) On any turpentine farm which is covered by a work sheet and an application no tree that is less than 14 inches d. b. h. shall have more than one face worked during the 1939 turpentine season.

(e) Each participating producer shall make a net reduction in the number of operating faces in 1939 to the extent and in the manner as hereinafter prescribed, using as 100 percent the number of faces operated by him in 1938; provided that where a producer has acquired by lease, purchase or other form of control, prior to the filing of a work sheet, an additional turpentine farm or portion thereof, which had been worked in 1938, he shall use as his base (i. e., 100%) the number of faces represented by such acquisition, in addition to the number of faces which he worked in 1938 for the purpose of determining the percentage of reduction required under paragraph (g) of this section. In such cases, the producer who operated such turpentine farm or portion thereof in 1938 will have to deduct a corresponding number of faces in computing his base.

(f) The producer shall discontinue working on all faces which measure more than 90 inches in height, averaged by drifts or tracts, at the beginning of the 1939 season, provided that work need not be discontinued on such faces (more than 90 inches in height) to an extent exceeding 30 percent of the number of faces which he operated in 1938.

(g)

If the number of his faces operated in 1938 that are more than 90 inches in height at the beginning of the 1939 season, in relation to the total number operated in 1938 ranges from:	Then the producer shall discontinue operation on a net number of faces operated in 1938, that are less than 90 inches in height at the beginning of the 1939 season, that shall not be less than the following corresponding proportion of the total number of faces operated in 1938:
Faces more than 90 inches high	*Faces less than 90 inches high*
0 percent to 10 percent	15 percent
10.1 percent to 20 percent	10 percent
20.1 percent to 30 percent	5 percent
30.1 percent or more	0 percent

The producer shall be permitted to discontinue operation on a larger net proportion, than is indicated above, of the total of those of his 1938 working faces that are less than 90 inches in height at the beginning of the 1939 season but will not receive payment for such net proportion of discontinued faces in excess of 40 per cent of his total of all 1938 working faces: provided, that payment shall be restricted to such discontinued faces on which the producer retains ownership, lease or other control throughout the period of the 1939 program.

(h) Faces discontinued by new participants in the 1939 program on trees under 9 inches d. b. h. and on trees between 9 and 14 inches d. b. h., as required by paragraphs (b) and (d) of this section shall apply as part of the percentage of reduction required and permitted under paragraph (g) of this section.

(i) The requirement in paragraphs (e) (f) and (g) of this section for a "net reduction" means that the participating producer shall have a reduction in the number of faces worked in 1939, including new (virgin) faces, as compared to the number of faces worked in 1938.

(j) All faces discontinued under this program shall be discontinued by drifts or tracts with the exception of faces discontinued on trees under 9 inches d. b. h. and on trees between 9 and 14 inches as required by paragraphs (b) and (d) of this section.

(k) Cups and tins must be removed from discontinued faces on trees under 9 inches d. b. h. and on trees between 9 and 14 inches d. b. h., but need not be removed from the area. Cups must be removed from all other discontinued faces unless all three of the following conditions are met, namely, such faces must be discontinued by drifts or tracts, the boundaries of the areas containing such discontinued faces must be clearly marked by blazed or painted lines and such discontinued faces must remain under the producer's control throughout the period of the 1939 season.

(l) Total streaks per face made during the period of the 1939 program, averaged by drifts or tracts, shall not exceed 18 inches in vertical measurement (average of measurements between shoulders of first streak and shoulders of last streak).

(m) Payment shall not be made on faces in production which do not average, by drifts or tracts, at least 12 streaks for the 1939 season and such streaks shall have been made at no greater frequency than two streaks per week.

(n) Payment shall not be made on faces either retained in production or taken out of production in any drift or tract where the average height of faces exceeds 90 inches at the beginning of the 1939 turpentine season, in average vertical measurement between shoulders of first streak and shoulders of last streak, including jump streaks.

(o) Payment shall not be made on faces taken out, or remaining out, of production in any drift or tract (1) unless such faces were in operation for two or more months during the 1938 turpentine season, (2) unless such faces were discontinued under the 1938 program, or (3) unless such faces were discontinued under the 1937 program and kept out of production under the 1938 program, and (4) unless the cups on all such faces were first installed during or after the season of 1935.

(p) No tree shall have any new (first-year) back face unless a bark-bar on each side of the back face is provided and maintained throughout the 1939 season, the total of the two being not less than 7 inches in width, measured horizontally along the bark surface; provided, however, that the restriction with respect to the width of bark-bar shall not apply to any tree which has on it two or more old faces.

(q) Any person having part ownership and control of more than one turpentine farm shall have the right and privilege of consolidating two or more such farms for the purpose of carrying into effect the provisions of this program.

(r) In the event of a loan program being set up for producers during 1939 only those producers who are participating in the program will be eligible for loans except as provided in paragraph (s) of this section; furthermore, loans shall not be made to any producer whose entire operation consists of more than 75 percent of new (virgin) faces.

(s) The provisions of the 1939 Naval Stores Conservation Program as contained in this bulletin are not applicable to producers on such portion of their operations as may be within the public domain of the United States, including land owned by the United States and administered by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States; provided, however, that such producers shall have the privilege of borrowing under any loan program which may be set up for naval stores producers during 1939.

(t) The applicant producer shall protect from fire all forest land of any kind within the turpentine farm owned, leased, or otherwise controlled by him during the 1939 turpentine season to the best of his ability, and in doing so shall cooperate with the State and Federal Governments in any cooperative forest fire protective system that exists contiguous to his turpentine farm or within the area within which such farm is situated; provided, that the producer shall not be required to pay the cost of fire protection on land not owned by him unless so stipulated in the terms of his lease. He shall be required, however, to so conduct his operations in all cases in such manner as will prevent fires escaping to adjoining forest land whether protected or not.

(u) The applicant producer, in order to provide for restocking and to promote continued production of timber upon which the naval stores, pulp and paper, lumber, and other wood-using industries are dependent, shall, in any and all cutting of timber under his ownership or control during the 1939 season, meet or exceed the following minimum requirements:

In cutting operations on turpentine areas

(1) all worked-out turpentine, defective, and non-turpentine trees may be cut, provided at least 6 thrifty seed trees 8 inches or more in diameter at the stump (12 inches above the ground) outside bark, per acre, are left uncut or provided sufficient young growth (at least 150 trees per acre 6 to 8 feet high) is left uncut: no round or one-faced turpentine trees, except such as are defective or where thinnings are needed, shall be cut, thinnings may be made but in such case there shall be left

*Sections 706.0 of 706.7 were issued under the authority contained in Sections 7 to 17, as amended, 49 Stat. 1148, 1915; 50 Stat. 329; 52 Stat. 31, 204; 16 U. S. C., Sup. III, 590g–590q.

The source of Sections 706.0 to 706.7 is NSCP–301, A. A. A., November 9, 1938.

not less than 50 trees per acre 6 to 9 inches in diameter, outside bark, at the stump (12 inches above the ground).

(2) In all other cutting operations at least 4 thrifty seed trees per acre 8 inches or more in diameter, outside bark, at the stump (12 inches above the ground) shall be left uncut unless sufficient young growth (at least 150 trees per acre 6 to 8 feet high) is left standing.

Such standards have been adopted by members of the American Pulpwood Association in the southern and southeastern United States, who have committed themselves to cooperate with the naval stores industry in the salvage and cutting of worked-out turpentine timber.

(v) Each applicant producer in measuring his trees to determine those on which operation shall respectively be continued or discontinued under the 1939 program shall make an accurate count, by drifts, lots, or other suitable units, of all faces separately as to those that are to remain in operation and those which are not; and he shall make and keep a written record thereof; and such record shall be made available to any field inspector who is responsible for inspecting his operations under the program. Each producer who files a work sheet shall assist the representatives of the Forest Service in the administration of the 1939 program by giving them free access to his turpentine farm, indicating the location of trees and faces recorded on the work sheet, and otherwise facilitating the work of the inspectors in checking compliance with the terms and conditions of the program.* #

SEC. 706.5 *Rates of payment.*—In connection with the utilization, during the period of the 1939 program, of land devoted to growing trees suitable for and used in the production of gum naval stores, on all turpentine farms operated in accordance with the conditions hereinabove set forth, payment will be made to each participating producer at the following rates:

(a) One-half (½) cent per face for each face in continuous operation during the 1939 turpentine season except new (virgin) faces (front or back), and except faces in drifts or tracts which, by drifts or tracts, average more than 90 inches in height at the beginning of the 1939 season.

(b) Five (5) cents per face:

(1) For any one face of one or more faces on trees less than 9 inches d. b. h., and for any one face of two or more faces on trees 9 to 14 inches d. b h., on which work is discontinued during the 1939 season;

(2) For each face which was taken out of operation during the 1938 season and kept out of operation in 1939, for which payment was made in 1938, and which was first installed during or after the 1935 season;

(3) For each face which was taken out of operation under the 1937 program, remained out of operation during the 1938 season, and is kept out of operation in 1939 for which payment was made in 1937 and 1938 provided such face was first installed during or after the 1935 season: and

(4) For each face under 90 inches in height at the beginning of the 1939 season for all such faces, up to 40 percent (in excess of the virgin faces worked in 1939) of the total number of all faces operated in 1938, which are taken out of operation during the 1939 season provided, that the producer shall retain control of such discontinued faces throughout the period of the 1939 program.

(c) One-half (½) cent per face will be deducted from the payment to any producer for each virgin face worked by him in 1939 if any such virgin faces are on trees under 10 inches d. b. h. No such deduction will be made if all such virgin faces are on trees 10 inches d. b. h. or larger.

(d) Payments limited to $10,000. The total of all payments made in connection with programs for 1939 under Section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate with respect to farms, ranching units, and turpentine places located within a single State, territory, or possession, shall not exceed the sum of $10,000. The total of all payments made in connection with programs for 1939 under Section 8 of the Soil Conservation and Domestic Allotment Act to any person other than an individual, partnership, or estate with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico) shall not exceed the sum of $10,000.

All or any part of any payment which *has been* or otherwise would be made to any person under said Act may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the formation of any corporation, partnership, estate, trust, or by any other means, which was designed to evade, or had the effect of evading, the provisions of this section.

(e) The total payment computed for any producer with respect to his turpentine farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $16.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $99.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

(f) There shall be deducted from the payments to each producer his pro-rata share of all or such part as the Secretary of Agriculture may prescribe of the estimated expenses incurred or to be incurred in the administration of the 1939 program.* #

SEC. 706.6 *Application and eligibility for payment.*—(a) *Filing of work sheet and application.*—Payments will be made upon the basis of facts established in an application for payment properly executed on a prescribed form and filed in a district or regional office of the Forest Service. Each person filing an application for payment will be required to show that a work sheet has been properly executed covering each turpentine farm owned, leased, or otherwise controlled, and being operated by him, with respect to which an application for payment is filed.

An application for payment may be made (1) by any producer who is actively engaged in the production of gum naval stores during the 1939 season; (2) by any person who was so engaged during 1938, or who participated in the 1938 program on land owned, leased, or otherwise controlled by him; or (3) by such other persons as may be designated by the Secretary of Agriculture.

(b) *Time limit for filing work sheets and applications.*—Work sheets and applications shall be filed in the manner prescribed and within time limits established by the Forest Service as reasonably affording opportunity to producers to participate in the benefits of the program and keeping the administrative costs within the budget and as low as reasonably may be reached.

(c) *Producer eligible for payment.*—Payment will be made to the producer who operates the turpentine farm and who executes the application for payment. In the event one producer conducts the operation of a turpentine farm during a portion of the 1939 turpentine season and another producer (or producers) conducts the operation of the turpentine farm during the remainder of the season, payment will be made to the producer who last conducts the operation of the turpentine farm during the season, or the payments shall be divided between such producers on the basis of a mutual agreement between them.

(d) *Time of payment.*—Payment will be made as soon as practicable after a final field inspection of the turpentine farm on which a work sheet has been filed and after an application for payment has been filed with respect to such farm.

SEC. 706.7 *Administration.*—The field work in connection with this program shall be administered by the Forest Service through the Office of the Regional Forester, United States Forest Service, Glenn Building, Atlanta, Georgia.

Done at Washington, D. C., this 9th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3377; Filed, November 9, 1938; 12:11 p. m.]

[A. A. A. Cotton 1939—1]

NATIONAL ALLOTMENT OF COTTON FOR CALENDAR YEAR BEGINNING JANUARY 1, 1939

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA, A PROCLAMATION

Whereas the Agricultural Adjustment Act of 1938, as amended, provides:

SEC. 342. Not later than November 15 of each year the Secretary [of Agriculture] shall find and proclaim (a) the total supply, the normal supply, and the carry-over of cotton as of August 1 of such year, (b) the probable domestic consumption of American cotton during the marketing year commencing August 1 of such year, (c) the probable exports of American cotton during such marketing year, and (d) the estimated carry-over of cotton as of the next succeeding August 1.

SEC. 345. Whenever the Secretary determines that the total supply of cotton for any marketing year exceeds by more than 7 per centum the normal supply thereof for such marketing year, the Secretary shall proclaim such fact not later than November 15 of such marketing year * * *, and marketing quotas shall be in effect during the next succeeding marketing year with respect to the marketing of cotton. Cotton produced in the calendar year in which such marketing year begins shall be subject to the quotas in effect for such marketing year notwithstanding that it may be marketed prior to August 1.

SEC. 348. (a) Not later than November 15 of each year the Secretary shall find and proclaim the amount of the national allotment of cotton for the succeeding calendar year in terms of standard bales of five hundred pounds gross weight. The national allotment shall be the number of bales of cotton adequate, together with the estimated carry-over as of August 1 of such succeeding calendar year, to make available a supply of cotton, for the marketing year beginning on such August 1, equal to the normal supply. * * *.

(b) If the national allotment for 1938 or 1939 is determined to be less than ten million bales, the national allotment for such year shall be ten million bales for such year, as the case may be. If the national allotment for 1938 or 1939 is determined to be more than eleven million five hundred thousand bales, it shall be eleven million five hundred thousand bales for such year, as the case may be.

(c) Notwithstanding the foregoing provisions of this section, the national allotment for any year shall be increased by a number of bales equal to the production of the acres allotted under section 344 (e) for such year.

SEC. 344. (a) The national allotment for cotton for each year (excluding that portion of the national allotment provided for in section 343 (c)) shall be apportioned by the Secretary among the several States on the basis of the average, for the five years preceding the year in which the national allotment is determined, of the normal production of cotton in each State. The normal production of a State for a year shall be (1) the quantity produced therein plus (2) the normal yield of the acres diverted in each county in the State under the previous agricultural adjustment or conservation programs. The normal yield of the acres diverted in any county in any year shall be the average yield per acre of the planted acres in such county in such year times the number of acres diverted in such county in such year.

(b) The Secretary shall ascertain, on the basis of the average yield per acre in each State, a number of acres in such State which will produce a number of bales equal to the allotment made to the State under subsection (a). Such number of acres plus the number of acres allotted to the State pursuant to subsection (e) (2) is referred to as the "State acreage allotment." The average yield per acre for any State shall be determined on the basis of the average of the normal production for the State for the years used in computing the allotment to the State, and the average, for the same period, of the acres planted and the acres diverted in the State.

(c) (1) The State acreage allotment (less the amount required for apportionment under paragraph (2)) shall be apportioned annually by the Secretary to the counties in the State. The apportionment to the counties shall be made on the basis of the acreage planted to cotton during the five calendar years immediately preceding the calendar year in which the State allotment is apportioned (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs), with adjustments for abnormal weather conditions and trends in acreage during such five-year period.

(2) Not more than 2 percentum of the State acreage allotment shall be apportioned to farms in such State which were not used for cotton production during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and equipment available for the production of cotton; crop rotation practices; and the soil and other physical facilities affecting the production of cotton.

* * * * * * *

(e) (1) For 1938 and 1939, the Secretary shall allot to the several counties, to which an apportionment is made under subsection (c), a number of acres required to provide a total acreage for allotment under this section to such counties of not less than 60 per centum of the sum of (1) the acreage planted to cotton in such counties in 1937, plus (2) the acreage therein diverted from cotton production in 1937 under the agricultural adjustment and conservation program. The acreage so diverted shall be estimated in case data are not available at the time of making such allotment.

(2) The Secretary shall allot to each State to which an allotment is made under subsection (b), and in which at least three thousand five hundred bales were produced in any of the five years immediately preceding the year for which the allotment is made, a number of acres sufficient to provide a total State acreage allotment for such State of not less than five thousand acres.

* * * * * * *

(g) For each of the years 1938 and 1939 an acreage equal to 4 per centum of the State acreage allotment shall be apportioned by the Secretary, to counties and farms in the State receiving allotments under this Part, * * *.

(h) Notwithstanding any other provisions of this section, the cotton acreage allotment for any farm for each of the years 1938 and 1939, after making the allotments provided in subsection (g), shall be increased in such amount as may be necessary to provide an allotment of not less than 50 per centum of the sum of the acreage planted in cotton in 1937 and the acreage diverted from cotton production in 1937 under the agricultural conservation program, as determined for each farm in accordance with regulations prescribed by the Secretary * * * *Provided*, That this subsection shall not operate to raise the cotton acreage of any farm above 40 per centum of the acreage on such farm which is tilled annually or in regular rotation, as determined under regulations prescribed by the Secretary.

(i) The acreage required for apportionment under subsection (g) and (h) shall be in addition to the State acreage allotment, and the production of such acreage shall be in addition to the national allotment.

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Carry-over" of cotton for any marketing year shall be the quantity of cotton on hand either within or without the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

* * * * * * *

Cotton, August 1—July 31; * * *.

"Normal supply" in the case of * * * cotton * * * shall be a normal year's domestic consumption and exports of the commodity, plus * * * 40 per centum in the case of cotton * * * of a normal year's domestic consumption and exports, as an allowance for a normal carry-over.

"Normal year's domestic consumption," in the case of cotton * * *, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Total supply" of * * * cotton * * * for any marketing year shall be the carry-over of the commodity for such marketing year plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins.;

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act."; and

Whereas said Act provides, in section 350, that the provisions of Part IV (Marketing Quotas—Cotton) of subtitle B of Title III thereof shall not apply to cotton the staple of which is 1 1/2 inches or more in lenth;

Now, therefore, be it known that I, Henry A. Wallace, Secretary of Agriculture of the United States of America,

acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, as amended, upon the basis of the latest available statistics of the Federal Government, do hereby find, determine, and proclaim under sections 342, 343, and 345 of said Act:

(1) That the "total supply" of cotton as of August 1, 1938, was 25,250,000 running bales;

(2) That the "total supply" of cotton for the marketing year commencing August 1, 1938, is 25,702,000 running bales;

(3) That the "normal supply" of cotton as of August 1, 1938, was 18,200,000 running bales;

(4) That the "carry-over" of cotton as of August 1, 1938, was 13,652,000 running bales;

(5) That the "probable domestic consumption of American cotton" during the marketing year commencing August 1, 1938, is 6,500,000 running bales;

(6) That the "probable exports of American cotton" during the marketing year beginning August 1, 1938, is 5,000,000 running bales;

(7) That the estimated "carry-over" of cotton as of August 1, 1939, is 14,200,000 running bales;

(8) That the "total supply" of cotton for the marketing year beginning August 1, 1938, exceeds by more than 7 per centum the "normal supply" of cotton for such marketing year; and

(9) That the national allotment of cotton for the calendar year beginning on January 1, 1939, shall be 10,000,000 standard bales of five hundred pounds gross weight, increased by that number of standard bales of five hundred pounds gross weight equal to the production in the calendar year 1939 of that number of acres required to be allotted for 1939 under the terms of subsections (e), (g), and (h) of section 344 of said Act.

Done at Washington, D. C., this 9th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3376; Filed, November 9, 1938; 12:11 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 524—REGULATIONS APPLICABLE TO EMPLOYMENT OF HANDICAPPED PERSONS PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT

The following amendment to Regulations—Part 524—(Regulations Applicable to Employment of Handicapped Persons pursuant to Section 14 of the Fair Labor Standards Act)[1] is hereby issued. Said amendment makes an addition to Part 524 by adding thereto a new Section, to follow Section 524.90, to be Section 524.91. Said amendment shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in full force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this ninth day of November, 1938.

ELMER F. ANDREWS,
Administrator.

It appearing that a substantial number of handicapped individuals are provided remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature in charitable organizations and institutions conducted not for profit but for the purpose of carrying out a recognized program for the rehabilitation of such individuals; and

It appearing advisable for the Administrator to give further consideration to the special problems affecting the employment of such handicapped individuals at wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act; and

It being the intention of the Administrator to appoint an advisory committee to make recommendations with respect to permanent regulations and procedure providing for the employment of handicapped individuals in charitable organizations and institutions of the type described above at wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act;

Therefore, in view of the foregoing, the following regulation is hereby issued:

SEC. 524.91 *Temporary certificate of exemption for handicapped individuals employed by certain charitable nonprofit institutions and organizations during period before normal procedure is in full operation.*—Notwithstanding any provision in Section 524.90 of Part 524 (providing a temporary certificate of exemption during period before normal procedure is in full operation), from October 24, 1938, to February 1, 1939, or such earlier date as the Administrator may after notice determine, this regulation shall be deemed to be a certificate authorizing charitable organizations and institutions conducted not for profit but for the purpose of carrying out a recognized program of rehabilitation for handicapped individuals and of providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature, to employ (or suffer or permit to work) handicapped individuals for such purposes at wage rates less than the minimum rate applicable under Section 6 of the Fair Labor Standards Act, subject to the following conditions:

(a) the earning capacity of the employee for the particular position held by him or for the work which he is suffered or permitted to do must be, or must be honestly believed by the employer to be, substantially impaired by age or physical or mental deficiency or injury;

(b) in no event shall the minimum wage paid any such handicapped individual during this period of temporary exemption be less than that proportion of the minimum wage applicable under Section 6 which the handicapped individual's earning capacity bears to the earning capacity of a non-handicapped worker.

(Issued under the authority contained in Section 14, 52 Stat. 1060.)

[F. R. Doc. 38-3375; Filed, November 9, 1938; 12:02 p. m.]

[1] 3 F. R. 2485, 2508.

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 226, IDAHO NO. 16, ENLARGED

OCTOBER 28, 1938.

It appearing that the following-described public lands should be included in Stock Driveway Withdrawal No. 226, Idaho No. 16, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights:

BOISE MERIDIAN

T. 29 N., R. 1 E.,
sec. 5, lot 2, S½ NE¼;
T. 31 N., R. 4 W.,
sec. 21, SW¼ NE¼, SE¼,
sec. 27, W½,
sec. 28, NE¼,
sec. 34, N½ NW¼;
aggregating 884.18 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38-3373; Filed, November 9, 1938; 9:39 a. m.]

Notices

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 49739]

ROCHESTER MUNICIPAL AIRPORT, ROCHESTER, NEW YORK, REDESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

NOVEMBER 5, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Rochester Municipal Airport, Rochester, New York, is hereby redesignated as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from November 7, 1938.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3371; Filed, November 8, 1938; 2:15 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

WAGE RATES, SUGARCANE PRICES, TERRITORY OF HAWAII

NOTICE OF PUBLIC HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that a public hearing will be held at Honolulu, on the Island of Oahu, Territory of Hawaii, on November 16, 1938, at 9:30 a. m., in the Court Room of the United States District Court for the Territory of Hawaii, in the Federal Building at Honolulu.

The purpose of the hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane during the calendar year 1939 on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1939 crop of sugarcane to be paid, under either purchase or toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugarcane, and the terms and conditions of contracts between laborers and producers of sugarcane.

Such hearing, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

Howard B. Boyd and George W. Mills are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 9th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3378; Filed, November 9, 1938; 12:12 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

APPLICATIONS OF THE COTTON-TEXTILE INSTITUTE, INC., THE NATIONAL RAYON WEAVERS ASSOCIATION, AND THE NATIONAL FEDERATION OF TEXTILES, INC., AND SUNDRY OTHER PARTIES FOR PERMISSION TO EMPLOY LEARNERS IN THE TEXTILE INDUSTRY AT WAGE RATES LESS THAN THE APPLICABLE MINIMUM

NOTICE OF HEARING

Whereas, applications have been made by the Cotton-Textile Institute, Inc., the National Rayon Weavers Association, and the National Federation of Textiles, Inc., and sundry other parties under section 14 of the Fair Labor Standards Act of 1938 and regulations (Part 522—Regulations Applicable to the Employment of Learners pursuant to Section 14 of the Fair Labor Standards Act—Title 29, Labor, Chapter 5, Wage and Hour Division) issued by the Administrator thereunder for permission to employ learners in the textile industry at wages less than the applicable minimum wage specified in Section 6 of the Act;

Now, therefore, pursuant to the Act and the regulations, notice is hereby given of a public hearing to be held on said applications in Room 3229, Department of Labor building, located at Constitution Avenue and 14th Street, Washington, D. C., to commence at 10:00 A. M., on November 28, 1938, to take testimony for the purpose of determining:

(a) what if any occupation or occupations in the textile industry require a learning period, and

(b) whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) if such necessity is found to exist, to determine at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

At this hearing, learner applications will be considered and acted upon on the basis of the needs of the employees and the employers in the industry as a whole rather than on the basis of the needs of individual employees or employers of the industry. Opportunity will be afforded to interested parties to present evidence relevant to the foregoing inquiry. All persons or associations desiring to avail themselves of this opportunity should, if possible, notify the Administrator in advance of the hearing.

Pursuant to authority vested in the Administrator by the Fair Labor Standards Act of 1938, Mr. Merle D. Vincent is hereby designated as presiding officer to conduct the said hearing and to determine:

(a) what, if any, occupation or occupations in the textile industry require a learning period, and

(b) whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) if such necessity is found to exist, to determine at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

For the purpose of this hearing, Mr. Merle D. Vincent shall have all the powers conferred on the Administrator in Section 9, relating to the attendance of witnesses and the production of books, papers and documents.

As used in this notice, the term "textile industry" means:

(a) the manufacturing or processing of yarn or thread and all processes preparatory thereto, and the manufacturing, bleaching, dyeing, printing, and other finishing of woven fabrics (other than carpets and rugs) from cotton, wool, silk, flax, jute or any synthetic fibre, or from mixtures of these fibres; except the chemical manufacturing of synthetic fibre and such related processing of yarn as is conducted in establishments manufacturing synthetic fibre;

(b) the manufacturing of batting, wadding or filling and the processing of waste from the fibres enumerated in clause (a);

(c) the manufacturing, bleaching, dyeing, or other finishing of pile fabrics

NOV 14 1938

(except carpets and rugs) from any fibre or yarn;

(d) the manufacturing or finishing of braid, net or lace from any fibre or yarn;

(e) the manufacturing of cordage, rope or twine from any fibre.

Signed at Washington, D. C., this ninth day of November, 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3374; Filed, November 9, 1938; 12:02 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

[File No. 32-115]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 21, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 16, 1938.

The matter concerned herewith is in regard to an application for exemption of the issue and sale of securities, by a subsidiary of a registered holding company, which are solely for the purpose of financing applicant's business and which have been expressly authorized by a State Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3380; Filed, November 9, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9 day of November, A. D. 1938.

[File No. 41-7]

IN THE MATTER OF SAFETY ENGINEERING AND MANAGEMENT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 28, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 23, 1938.

The matter concerned herewith is in regard to exemption from Section 6 (a) of the Act of the renewal of $696,000 of notes of applicant held by the Chase National Bank of the City of New York, New York City and Harris Trust and Savings Bank, Chicago, Illinois, to February 1, 1939, which notes are due December 1, 1938, it being alleged that such renewal or extension is not a part of a public offering and matures within 90 days.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3379; Filed, November 9, 1938; 12:49 p. m.]

NOV 1 1 1938

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 221

Washington, Friday, November 11, 1938

Rules, Regulations, Orders

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Form U-13E-1, Report to be Filed Pursuant to Rule U-13E-1 under the Public Utility Holding Company Act of 1935 by an Affiliate Service Company or a Company Principally Engaged in the Performance of Services, adopted October 22, 1938, was filed with the Division of the Federal Register, The National Archives, on November 10, 1938, at 12:49 p. m. (F. R. Doc. 38-3400). Requests for copies should be addressed to the Securities and Exchange Commission.

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49741]

COUNTERVAILING DUTIES ON CHICORY FROM THE NETHERLANDS

PAYMENT OF A BOUNTY UPON THE EXPORTATION OF CHICORY FROM THE NETHERLANDS DECLARED; COLLECTORS OF CUSTOMS INSTRUCTED TO SUSPEND LIQUIDATION; DEPOSIT OF ESTIMATED COUNTERVAILING DUTIES REQUIRED

To Collectors of Customs and Others Concerned:

The Bureau is in receipt of official information which establishes to its satisfaction that a bounty or grant, within the meaning of the provisions of section 303 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1303), is being paid or bestowed on chicory exported from the Netherlands.

The amount of the bounty or grant paid or bestowed at the present time on dried chicory is estimated to be Florin 0.0036 per kilogram.

Dried chicory from the Netherlands, imported directly or indirectly, and entered for consumption or withdrawn from warehouse for consumption after thirty days following the publication of this order in the weekly Treasury Decisions will be subject to the payment of countervailing duties equal to any bounty or grant found to have been paid or bestowed upon the exportation thereof, as determined or estimated and declared thereafter, whether such chicory is imported in the same condition as when exported from the Netherlands or has been changed in condition in a third country by manufacture or otherwise.

A deposit of estimated countervailing duty, calculated at the rate of Florin 0.0036 per kilogram of dried chicory, shall be required in respect of all chicory from the Netherlands imported and entered for consumption or withdrawn from warehouse for consumption on and after the effective date of this order. Liquidation of entries shall be suspended pending estimation or determination and declaration of the amount of bounty or grant paid or bestowed and the amount of the countervailing duty to be collected.

The facts of each case shall be reported promptly to the Bureau.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, November 7, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3394; Filed, November 10, 1938; 12:12 p. m.]

[T. D. 49743]

INSTRUCTIONS REGARDING CUSTOMS TREATMENT OF PRODUCTS EXPORTED FROM SUDETEN AREAS UNDER GERMAN OCCUPATION

NOVEMBER 10, 1938.

To Collectors of Customs and Others Concerned:

There is published below a copy of a telegram dispatched on November 9,

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES:
Securities and Exchange Commission: Page
Public Utility Holding Company Act of 1935, adoption of Form U-13E-1 ... 2673

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Chicory from The Netherlands, countervailing duties ... 2673
Products exported from Sudeten areas under German occupation, customs treatment of ... 2673

TITLE 36—PARKS AND FORESTS:
National Park Service:
Grand Teton National Park, local subsidiary regulation ... 2674

TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Order relative to *A. Johnson, of the Brotherhood of Locomotive Engineers, et al., v. Atchison, Topeka & Santa Fe Railway Co., et al* ... 2674

NOTICES

Civil Aeronautics Authority:
Pennsylvania - Central Airlines Corp., special tariff permission ... 2675

Department of Agriculture:
Agricultural Adjustment Administration:
Puerto Rico, hearing on wage rates and prices, 1939 crop of sugarcane ... 2674

Federal Power Commission:
Portland General Electric Co., hearing ... 2675

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Federal Trade Commission:

Orders appointing examiners, etc., in the matter of: Page

Empire Merchandise Corp., and Sophie Rubman---- 2675

Fair Deal Novelty Co., etc. (Morris Orenstein)---- 2675

Good Humor Corp. of America---- 2676

Master Distributing Corp---- 2676

New York Premium Novelty Co. (Alexander and Lily Greenspan Weiler)---- 2677

Nu-Deal Premium Co. (Albert A. Bach and Jack Wald)- 2677

Reliable Sales Service Co. (Joseph Saladoff)---- 2676

Taylor, J. M,. Co., Inc., and Samuel Nitke, Charles Myers, and Isadore Stein- 2677

Trading Sales Co. (Harry Pure)---- 2676

Securities and Exchange Commission:

Notice of and orders postponing hearings:

Consumers Power Co., Commonwealth & Southern Corp., Cities Service Power & Light Co---- 2677

Owego Gas Corp., NY PA NJ Utilities Co., New York State Electric & Gas Corp---- 2678

Utility Management Corp--- 2677

1938, to collectors of customs, which is self-explanatory.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

"State Department having today announced to Treasury Department a change of jurisdiction from Czechoslovak to German in those Sudeten areas now under German occupation, products of those areas exported from any country on or after November 10, 1938, shall be regarded as products of Germany for the purposes of the marking provisions of the Tariff Act of 1930 and for determining applicable rates of duty. Such areas are to be regarded as parts of Germany on and after November 10, 1938, for determining dates of exportation for customs purposes. Give importers all possible notice."

[F. R. Doc. 38-3395; Filed, November 10, 1938; 12:12 p. m.]

TITLE 36—PARKS AND FORESTS

NATIONAL PARK SERVICE

GRAND TETON NATIONAL PARK

LOCAL SUBSIDIARY REGULATION

The following subsidiary regulation, issued under the authority of the General Rules and Regulations approved by the Secretary of the Interior June 18, 1936 (1 F. R. 672), has been recommended by the superintendent and approved by the Acting Director of the National Park Service, and is in force and effect within the boundaries of Grand Teton National Park:

SEC. 13.17 *Speed.*—Speed of automobiles and other vehicles, except ambulances and Government cars on emergency trips, is limited to 25 miles per hour on primary roads, and to 15 miles per hour in campground areas.

Approved, October 31, 1938.

[SEAL] A. E. DEMARAY,
Acting Director.

[F. R. Doc. 38-3391; Filed, November 10, 1938; 9:38 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[No. 24049]

ORDER RELATIVE TO A. JOHNSTON, GRAND CHIEF ENGINEER OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, ET AL., V. THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, ET AL.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 7th day of November, A. D. 1938.

Upon further consideration of the record in the above-entitled proceeding and in view of information received from Judge Paul Jones to the effect that it is impossible at the present time to convene a three-judge court to try the issue of the validity of the order herein dated December 27, 1937,[1] in the suit now pending in the United States District Court for the Northern District of Ohio, and to afford an opportunity for the securing of judges to hear said case;

It is ordered, That the effective date of said order be, and it is hereby, further postponed from November 15 to December 15, 1938.

It is further ordered, That the application of the above-named defendants for postponement of the effective date of said order to January 1, 1939, be, and the same is, denied.

It is further ordered, That said order shall in all other respects remain in full force and effect.

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3392; Filed, November 10, 1938; 10:39 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

WAGE RATES AND PRICES, 1939 CROP OF SUGARCANE, PUERTO RICO

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that a public hearing will be held at San Juan, Puerto Rico, in the Auditorium of the Ateneo, on December 6, 1938, at 9 a. m.

The purpose of such hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation or harvesting of the 1939 crop of sugarcane on farms with respect to which applications for payment under the act are made, and (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1939 crop of sugarcane to be paid, under either purchase or toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugarcane.

Such hearing, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officers.

J. Bernhardt, J. B. Frisbie and G. Laguardia are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearing.

Done at Washington, D. C., this 10th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3396; Filed, November 10, 1938; 12:41 p. m.]

[1] 2 F. R. 2984 (3450 DI).

CIVIL AERONAUTICS AUTHORITY.

PENNSYLVANIA—CENTRAL AIRLINES CORPORATION

SPECIAL TARIFF PERMISSION C. A. A. NO. 3 UNDER REGULATION 403-A-1

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 9th day of November 1938.

It appearing that:

1. An application has been made to the Civil Aeronautics Authority by the Pennsylvania-Central Airlines Corporation under Rule 10 of Regulation 403-A-1[1] for permission to file, post and publish on less than 30 days' notice a proposed tariff change, such permission on such notice being required by section 403 (c) of the Civil Aeronautics Act of 1938:

2. The proposed tariff change consists of a first revision of page 49 of Pennsylvania-Central Airlines Corporation Local and Joint Passenger Tariff C. A. A. No. 1 to correct the statement of the joint inter-line fare between Detroit, Michigan, and Atlanta, Georgia, via PCA Detroit-Chicago, EAL Chicago-Atlanta, erroneously published at $83.65 for one-way fare and $150.62 for round-trip fare; and the above-mentioned first revision of page 49 will show a one-way fare of $46.40 and a round-trip fare of $83.52 in lieu of the respective fares stated above;

The Authority finds that:

It is desirable in the public interest to grant special permission to Pennsylvania-Central Airlines Corporation to file, post and publish such proposed change on less than 30 days' notice.

Now, therefore, the Civil Aeronautics Authority, acting pursuant to the authority vested in it by section 403 (c) of the Civil Aeronautics Act of 1938, hereby makes and promulgates the following special tariff permission:

It is ordered, That Pennsylvania-Central Airlines Corporation may file, post and publish its first revision of page 49 of Pennsylvania-Central Airlines Corporation Local and Joint Passenger Tariff C A. A. No. 1, which is in loose leaf form, upon one day's notice, provided that such revised page shall bear a notation to the effect that such publication is authorized by this special permission.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3393; Filed, November 10, 1938; 12:03 p. m.]

[1] 3 F. R. 2274 DI.

FEDERAL POWER COMMISSION.

[Docket No. IT-5528]

APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY

ORDER FIXING DATE OF HEARING

NOVEMBER 8, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper; Basil Manly, John W. Scott.

Upon application filed September 27, 1938, by Portland General Electric Company of Portland, Oregon, pursuant to Sections 8 and 203 of the Federal Power Act, for an order authorizing it to purchase the plant and system of Mt. Hood Electric Company, in Clackamas County, Oregon, and to merge said facilities into its own electric facilities; and, in connection therewith, for approval of the transfer to the applicant of license for Transmission Line Project No. 1001 as amended, now held by the said Mt. Hood Electric Company;

The Commission orders that: A hearing on said application be held on the 29th day of November, 1938, beginning at 10 o'clock a. m., in the Commission's hearing room, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3381; Filed, November 10, 1938; 9:28 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3353]

IN THE MATTER OF MORRIS ORENSTEIN, INDIVIDUALLY AND TRADING AS FAIR DEAL NOVELTY COMPANY, AND FAIR DEAL NOVELTY HOUSE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 19, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3382; Filed, November 9, 1938; 1:49 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3357]

IN THE MATTER OF EMPIRE MERCHANDISE CORPORATION, A CORPORATION, AND SOPHIE RUBMAN, INDIVIDUALLY, AND AS AN OFFICER OF EMPIRE MERCHANDISE CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 19, 1938, at ten-thirty

o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3383; Filed, November 9, 1938; 1:49 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3401]

IN THE MATTER OF MASTER DISTRIBUTING CORPORATION, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 12, 1938, at eleven o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3384; Filed, November 9, 1938; 1:50 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3406]

IN THE MATTER OF HARRY PURE, INDIVIDUALLY AND TRADING AS TRADING SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 15, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3385; Filed, November 9, 1938; 1:50 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3516]

IN THE MATTER OF GOOD HUMOR CORPORATION OF AMERICA, A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, December 21, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3386; Filed, November 9, 1938; 1:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3535]

IN THE MATTER OF JOSEPH SALADOFF, AN INDIVIDUAL, TRADING AS RELIABLE SALES SERVICE COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 19, 1938, at three o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3387; Filed, November 9, 1938; 1:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3567]

IN THE MATTER OF J. M. TAYLOR CO., INC., A CORPORATION, AND SAMUEL NITKE, CHARLES MYERS, AND ISADORE STEIN, INDIVIDUALS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress, (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 12, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3388; Filed, November 9, 1938; 1:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3578]

IN THE MATTER OF ALBERT A. BACH AND JACK WALD, INDIVIDUALLY AND TRADING AS CO-PARTNERS UNDER THE NAME OF NU-DEAL PREMIUM CO.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 16, 1938, at eleven o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3389; Filed, November 9, 1938; 1:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 8th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3579]

IN THE MATTER OF ALEXANDER WEILER AND LILY GREENSPAN WEILER, INDIVIDUALLY, AND DOING BUSINESS UNDER THE NAME OF NEW YORK PREMIUM NOVELTY CO.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 16, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission:

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3390; Filed, November 9, 1938; 1:52 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of November, A. D. 1938.

[File No. 37-28]

IN THE MATTER OF THE UTILITY MANAGEMENT CORPORATION

ORDER POSTPONING HEARING

Upon application of Counsel for The Utility Management Corporation for a postponement of the hearing[1] in this matter,

It is ordered, That the hearing in this matter be, and it hereby is, postponed to November 29, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such date the Hearing Room Clerk, in Room 1102, will advise as to the room where such hearing will be held.

It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 24, 1938.

The matter concerned herewith is in regard to an application for approval as a mutual service company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3398; Filed, November 10, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

[File Nos. 47-28 and 57-3]

IN THE MATTER OF CONSUMERS POWER COMPANY, THE COMMONWEALTH & SOUTHERN CORPORATION, CITIES SERVICE POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

Applications pursuant to Section 10 and Rule U-12D-1, and a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

Whereas it was ordered on October 28, 1938, that a hearing on such matter be held on November 15, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C.;[1]

And whereas, the above-named parties have requested that said hearing be postponed;

It is ordered, That said hearing be, and hereby is, postponed until November 29, 1938, at 10:00 in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C.

It is further ordered, That Robert P. Reeder or any other officer or officers of

[1] 3 F. R. 2584 DI.

the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such postponement is hereby given to said declarant and applicants and to any other person whose participation in such proceedings may be in the public interest or for the protection of investors or consumers.

The matter concerned herewith is in regard to a proposed acquisition by the applicant and declarant, Consumers Power Company a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, of utility assets and other interests from The Citizens Light & Power Company, a subsidiary of Cities Service Power & Light Company, a registered holding company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3399; Filed, November 10, 1938; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

[File Nos. 52-101, 56-8 and 46-112]

IN THE MATTER OF OWEGO GAS CORPORATION, NY PA NJ UTILITIES COMPANY, NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

Applications pursuant to Sections 6 (b) and 10 (a) (1) and Rule U-12D-1 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

Whereas it was ordered on October 19, 1938, that a hearing on such matter be held on November 14, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; [1]

And whereas the above-named parties have requested that said hearing be postponed:

[1] 3 F. R. 2523 DI.

It is ordered, That said hearing be, and hereby is, postponed until November 30, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C., to be held in all other respects, in accordance with the Commission's order of October 19, 1938.

Notice of such postponement is hereby given to said applicants and to any other person whose participation in such proceedings may be in the public interest or for the protection of investors or consumers.

The matter concerned herewith is in regard to a proposed issuance and sale by Owego Gas Corporation, a subsidiary company in the Associated Gas and Electric Company holding company system, to its parent NY PA NJ Utilities Company, a registered holding company, of 1632 shares of its no par value common stock, and a resale by applicant, NY PA NJ Utilities Company, of said stock to its subsidiary, New York State Electric & Gas Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3397; Filed, November 10, 1938; 12:48 p. m.]

Reference

NOV 16 1938

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET

FEDERAL REGISTER

1934
OF THE UNITED STATES

VOLUME 3 NUMBER 222

Washington, Tuesday, November 15, 1938

The President

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDERS OF DECEMBER 5, 1913, JANUARY 13, 1915, AND FEBRUARY 23, 1928

PUBLIC WATER RESTORATION NO. 81

Wyoming, Arizona and California

By virtue of and pursuant to the authority vested in me by section 1 of the act of June 25, 1910, c. 421, 36 Stat. 847, the Executive Orders of December 5, 1913, January 13, 1915, as modified by Interpretation No. 70 of June 16, 1928, and February 23, 1928, creating, respectively, Public Water Reserves Nos. 12, 24, and 114, are hereby revoked insofar as they pertain to or affect the following-described lands in Wyoming, Arizona, and California:

WYOMING

Sixth Principal Meridian

In Public Water Reserve No. 12:
T. 44 N., R. 70 W.,
sec. 30, S½SW¼;
sec. 31, N½NW¼.

ARIZONA

Gila and Salt River Meridian

In Public Water Reserve No. 24:
T. 38 N., R. 5 E., sec. 6, lot 2 (NW¼NE¼), SW¼NE¼.

CALIFORNIA

San Bernardino Meridian

In Public Water Reserve No. 114:
T. 12 S., R. 11 E., sec. 14, NE¼, N½NW¼, E½SE¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 10, 1938.

[No. 8003]

[F. R. Doc. 38-3403; Filed, November 12, 1938; 11:29 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS FOR USE OF THE NAVY DEPARTMENT FOR NAVAL PURPOSES

CALIFORNIA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, and subject to the conditions therein expressed and to any valid existing rights, it is ordered that the following-described public land in the State of California be, and it is hereby, withdrawn from settlement, location, sale, entry, or other form of appropriation, and reserved for the exclusive use of the Navy Department for naval purposes:

SAN BERNARDINO MERIDIAN

T. 16 S., R. 10 E., sec. 35, 640 acres.

This order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 12, 1938.

[No. 8004]

[F. R. Doc. 38-3404; Filed, November 12, 1938; 11:29 a. m.]

EXECUTIVE ORDER

AUTHORIZING THE INSPECTION OF INCOME, EXCESS-PROFITS, AND CAPITAL STOCK TAX RETURNS, ESTATE AND GIFT TAX RETURNS FILED AFTER JUNE 16, 1933, AND RETURNS UNDER TITLE IX OF THE SOCIAL SECURITY ACT

By virtue of and pursuant to the authority vested in me by section 257 (a) of the Revenue Act of 1926 (44 Stat., 9, 51); section 55 of the Revenue Act of 1928 (45 Stat., 791, 809); section 55 of the Revenue Act of 1932 (47 Stat., 169, 189), as amended by section 218 (h) of the National Industrial Recovery Act (48 Stat., 195, 209); sections 215 (e) and 216 (b) of the National Industrial Recovery Act (48 Stat., 195, 208); sections 55 (a), 701 (e), and 702 (b) of the Revenue Act of

CONTENTS

THE PRESIDENT

Executive Orders: Page
California, land withdrawal for use of Navy Department--- 2679
Inspection of income, etc., tax returns by Special Joint Congressional Committee to make an investigation of the Tennessee Valley Authority- 2680
Inspection of income, etc., tax returns filed after June 16, 1933, and returns under Title IX of Social Security Act ---------- 2679
Wyoming, Arizona and California, Public Water Restoration No. 81---------- 2679

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Cotton marketing quotas on 1939 crop, instructions for holding referendum on--- 2681
Flue-cured tobacco quotas, 1939, procedure---------- 2683
Bureau of Entomology and Plant Quarantine:
Treatment requirement of noninfested Holland narcissus bulbs as a condition of entry revoked---------- 2680
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Declaring names of counties placed in modified tuberculosis-free accredited areas---------- 2685
TITLE 12—BANKING AND CREDIT:
Board of Governors of the Federal Reserve System:
Interlocking bank directorates under the Clayton Act--- 2685

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 24—HOUSING CREDIT:
Home Owners' Loan Corporation:
Marketing of fruits and other produce of California properties — Page 2686

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, cancelation of indebtedness and reduction of basis of debtor's property in proceedings under Bankruptcy Act of 1898, as amended — 2686
Regulations governing inspection of tax returns by Special Joint Congressional Committee to make an investigation of Tennessee Valley Authority — 2692
Regulations governing inspection of tax returns of individuals, partnerships, estates, trusts, etc — 2689

TITLE 29—LABOR:
Children's Bureau:
Child labor regulations, acceptance of State certificates — 2693

TITLE 43—PUBLIC LANDS:
Bureau of Reclamation:
Owyhee Project, Idaho-Oregon, first form reclamation withdrawal — 2693
General Land Office:
Stock Driveway Withdrawal No. 77, Arizona No. 3, revoked — 2693

NOTICES

Civil Aeronautics Authority:
Hearings on applications for certificates of public convenience and necessity:
Airline Feeder System, Inc. — 2694

CONTENTS—Continued

Civil Aeronautics Authority—Con.
Hearings on applications for certificates of public convenience and necessity—Con. — Page
Boston-Maine Airways, Inc. — 2694
Western Air Express Corp. — 2694
Department of Labor:
Division of Public Contracts:
Photographic Supplies Industry, hearing on determination of prevailing minimum wages — 2693
Wage and Hour Division:
Messengers, review of determination denying applications to employ at wages lower than applicable minimum specified — 2694
Rural Electrification Administration:
Allocation of funds for loans — 2695

1934 (48 Stat., 680, 698, 770); sections 105 (e) and 106 (c) of the Revenue Act of 1935 (49 Stat., 1014, 1018, 1019); section 905 of the Social Security Act (49 Stat., 620, 641); sections 55 (a), 351 (c), and 503 (a) of the Revenue Act of 1936 (49 Stat., 1648, 1671, 1733, 1738); and sections 55 (a), 409, 501 (e), and 602 (c) of the Revenue Act of 1938 (52 Stat., 447, 564, 565, 567), it is hereby ordered that (1) income, excess-profits, and capital stock tax returns made under the Revenue Act of 1938, the Revenue Act of 1936, the Revenue Act of 1935, the Revenue Act of 1934, the National Industrial Recovery Act, the Revenue Act of 1932, the Revenue Act of 1932 as amended by the National Industrial Recovery Act, and under the prior Revenue Acts, (2) estate and gift tax returns made under the Revenue Act of 1932 or the Revenue Act of 1932 as amended, and filed after June 16, 1933, (3) returns made under Title IX of the Social Security Act, and (4) returns made under any of the said Acts as amended, shall be open to inspection in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the Treasury Decision relating to the inspection of such returns, approved by me this date.[1]

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 12, 1938.

[No. 8005]

[F. R. Doc. 38-3419; Filed, November 14, 1938; 12:31 p. m.]

EXECUTIVE ORDER

INSPECTION OF INCOME AND EXCESS-PROFITS TAX RETURNS BY THE SPECIAL JOINT CONGRESSIONAL COMMITTEE TO MAKE AN INVESTIGATION OF THE TENNESSEE VALLEY AUTHORITY

By virtue of the authority vested in me by section 257 (a) of the Revenue Act of 1928 (44 Stat. 9, 51); section 55 of the Revenue Act of 1928 (45 Stat. 791, 809); section 55 of the Revenue Act of 1932 (47 Stat. 169, 189) as amended by section 218 (h) of the National Industrial Recovery Act (48 Stat. 195, 209); section 216 (b) of the National Industrial Recovery Act (48 Stat. 195, 208); sections 55 (a) and 702 (b) of the Revenue Act of 1934 (48 Stat, 680, 770); section 106 (c) of the Revenue Act of 1935 (49 Stat. 1014, 1019); and section 55 (a) of the Revenue Act of 1936 (49 Stat. 1648), it is hereby ordered that income and excess-profits tax returns made under the Revenue Act of 1926, the Revenue Act of 1928, the Revenue Act of 1932, the National Industrial Recovery Act, the Revenue Act of 1934, the Revenue Act of 1935, and the Revenue Act of 1936, or under any of such Acts as amended, for the calendar year 1925 and all subsequent taxable years to and including the calendar year 1937, shall be open to inspection by the Special Joint Congressional Committee to make an investigation of the Tennessee Valley Authority, or any duly authorized subcommittee thereof, for the purpose of carrying out the provisions of Public Resolution 83, approved April 4, 1938, (Seventy-fifth Congress) (52 Stat. 154); such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in the Treasury Decision relating to the inspection of returns by that committee, approved by me this date.[1]

This order shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE
Nov. 14, 1938.

[No. 8006]

[F. R. Doc. 38-3418; Filed, November 14, 1938; 12:31 p. m.]

[1] See page 2689.

[1] See page 2692.

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—482]

TREATMENT REQUIREMENT OF NONINFESTED HOLLAND NARCISSUS BULBS AS A CONDITION OF ENTRY REVOKED

NOVEMBER 10, 1938.

On January 14, 1935, as authorized in regulation 3, as revised on said date, of the Rules and Regulations Supplemental to Notice of Quarantine No. 37, the announcement was made that on and after December 15, 1936, narcissus bulbs would be authorized entry under permit in unlimited numbers for any purpose, subject to inspection and certification in the country of origin and reinspection at the port of entry in the United States with the understanding that any shipments found to be infested would be rejected. At the same time, revocation of the domestic Narcissus Bulb Quarantine No. 62 was announced, effective April 1, 1935.

On August 1, 1936, in accordance with the authority contained in regulation 9 of said Notice of Quarantine No. 37, it was further announced that, as a condition of entry, the treatment of narcissus bulbs would be required since external examination of these bulbs could not be relied upon to determine their freedom from infestation by the bulb nematode, *Ditylenchus dipsaci*. Those in interest were informed in a circular issued September 16, 1936, of the "latest approved treatment" to be employed with respect to all entries of narcissus bulbs.

Since it was a matter of record that imported and domestic bulbs other than narcissus were known hosts of the bulb nematode, a conference was held in Washington on December 15, 1936, to consider the desirability of treating all known hosts of the bulb nematode enterable under the Nursery Stock, Plant, and Seed Quarantine No. 37. The following day, December 16, 1936, a hearing was held [1] to consider the advisability of establishing a domestic plant quarantine for the purpose of requiring the treatment of narcissus bulbs and other known hosts of the bulb nematode as a prerequisite to interstate shipment. On February 15, 1937, it was announced that the evidence presented at the conference in question indicated that the bulb nematode risk which accompanies the importation of most ornamental bulbs which have been inspected in the country of origin, supplemented by inspection at the port of entry in the United States, does not justify the requirement that all known hosts of this nematode be treated as a condition of entry. No change in the requirements as to importation of narcissus bulbs was announced at that time. While no public announcement has been made with reference to the conclusion reached as the result of the hearing on December 16, 1936, no Federal domestic quarantine has been promulgated requiring the treatment of narcissus bulbs and other known hosts of the bulb nematode as a condition of interstate shipment.

At the request of the Netherlands Government, a committee of technical experts representing the governments of the Netherlands and of this country was appointed for the purpose of considering on the ground, in Holland, the necessity of requiring the hot-water treatment of Holland narcissus bulbs as a condition of entry into the United States. This committee held a series of meetings in Holland, during the month of April 1938, most of which took place in the narcissus bulb fields where every opportunity was afforded to inspect the bulbs as to foliage or by lifting them, and to observe the cultural practices and sanitary measures employed in an effort to reduce the bulb nematode infestation to the minimum. The field examinations revealed an almost complete absence of bulb nematode infestations in the narcissus plantings. In view of this condition and the sanitary measures practiced, which involve repeated field examinations during the growing season, supplemented by inspection and certification of the bulbs at the time of shipment, it is evident, so long as the above conditions exist, that the bulb nematodes risk incident to the importation of Holland narcissus bulbs does not justify the continuation of the requirement that all importations of these bulbs be given the hot-water treatment as a condition of entry. This requirement, therefore, will not be in effect on and after August 15, 1939. On and after that date, all such importations, in accordance with the provisions of regulation 7 of the Nursery Stock, Plant, and Seed Quarantine No. 37, shall be accompanied by a certificate certifying that the bulbs have been thoroughly inspected at the time of packing and found or believed to be free of injurious plant diseases and insect pests. Finally, upon arrival at the American ports of entry, all shipments will be examined by inspectors of the Bureau of Entomology and Plant Quarantine and this examination will include the cutting of suspicious-looking bulbs when necessary to determine their freedom from infestation by the bulb nematode. Any shipments found to be infested will be given the latest approved treatment or rejected.

[SEAL] LEE A. STRONG,
Chief.

[F. R. Doc. 38-3423; Filed, November 14, 1938; 12:42 p. m.]

[1] 1 F. R. 1749.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[39—AAA—1]

INSTRUCTIONS FOR HOLDING REFERENDUM ON COTTON MARKETING QUOTAS ON THE 1939 CROP

In view of the fact that the Secretary of Agriculture has determined and proclaimed,[1] pursuant to the provisions of section 345 of the Agricultural Adjustment Act of 1938, that the total supply of cotton for the 1938-39 marketing year exceeds by more than 7 percent the normal supply thereof for such marketing year, a referendum, by secret ballot, of farmers who were engaged in the production of cotton in 1938 will be held on December 10, 1938, pursuant to section 347 of said Act and in accordance with the regulations herein set forth, to determine whether they favor or oppose cotton marketing quotas on the 1939 cotton crop. Such quotas will be in effect unless more than one-third of the farmers voting in the referendum oppose them.

[1] 3 F. R. 2669 DI.

A. VOTING ELIGIBILITY

All farmers who were engaged in the production of cotton in 1938 are eligible to vote in the referendum (except as provided in the following paragraph). Any person who shared in the proceeds of the 1938 cotton crop as owner (other than a landlord of a standing-rent or fixed-rent tenant), tenant, or sharecropper shall be considered as having been engaged in the production of cotton in 1938. Farmers who planted cotton in 1938 but produced no cotton on such acreage for any reason except willful neglect to farm the planted acreage, or who made arrangements to plant cotton in 1938 but were prevented from planting by flood, excessive rainfall, or drought, shall be regarded as having been engaged in the production of cotton in 1938 and therefore eligible to vote.

Since marketing quotas are not applicable to cotton the staple of which is 1½ inches or more in length, a person who was engaged in the production of such cotton in 1938 is not eligible to vote, unless in 1938 he was also engaged in the production of cotton the staple of which was less than 1½ inches in length.

No farmer (whether an individual, partnership, corporation, association, or other legal entity) shall be entitled to more than one vote in the referendum, even though he may have been engaged in the production of cotton in two or more communities, counties, or States in 1938.

In the event several persons, such as husband, wife, and children, participated in the production of cotton in 1938 under a single rental or cropping agreement or lease, only the person or persons who signed or entered into the rental or cropping agreement or lease shall be eligible to vote.

In the event two or more persons engaged in producing cotton in 1938 not as members of a partnership but as tenants in common or joint tenants or as owners of community property, each such person is entitled to vote.

There shall be no voting by mail, proxy, or agent, but a duly authorized officer of a corporation, firm, association, or other legal entity or a duly authorized member of a partnership may cast its vote.

If a community referendum committee determines that a farmer residing within the jurisdiction of such committee at the time of the referendum is eligible to vote by reason of his having engaged in producing cotton in another community in 1938, the committee may issue a ballot form to him and permit him to vote, provided the committee also satisfies itself that such farmer has not previously voted in the referendum in another community. If the committee cannot so satisfy itself and the farmer insists upon voting, it shall challenge the ballot in the manner hereinafter outlined.

B. INSTRUCTIONS TO COUNTY COMMITTEE

The County Agricultural Conservation Committee (hereinafter referred to as the county committee) shall be respon-

sible for the proper holding of the referendum in the county and it shall:

1. Designate one readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting a notice on form Cotton 301, "Notice—Cotton Marketing Quota Referendum", at one or more places open to the public within each community at least 5 days in advance of the date of the referendum.

2. Make use (without advertising expense) of all available agencies of public information, including newspapers and radio, to give cotton farmers in the county full and accurate public notice of the day and hours of voting, the location of polling places, and the rules governing eligibility to vote. Such notice should be given as soon as practicable after the plans for holding the referendum in the county have been made, but must be given at least 5 days in advance of the date of the referendum.

3. Designate three cotton farmers residing in each community as members of the community referendum committee to conduct the referendum in such community and name one of the members chairman of the committee.

4. In counties with less than 100 cotton farms the county committee may treat the county as one community for the purpose of the referendum and hold the referendum and perform the duties both of county committee and community referendum committee.

5. See that each community referendum committee is provided with a suitable ballot box.

6. Execute form Cotton 303, "Register of Eligible Voters and Ballots Cast—1939 Cotton Marketing Quota Referendum", for each community in the county, listing thereon the names and addresses of all persons who were engaged in the production of cotton in such community during 1938. If lists of such persons by communities are already available to the county committee, they may be turned over to the community referendum committee for its own preparation of form Cotton 303.

7. Deliver a supply of form Cotton 302, "1939 Cotton Marketing Quota Referendum Ballot", and form Cotton 304, "Community Summary of 1939 Cotton Marketing Quota Ballots", as well as the executed copies of Cotton 303 (or a supply of blank forms Cotton 303 and the required list of cotton farmers in the community), to the chairman of the respective community referendum committee.

8. See to it that the community referendum committees understand their duties as to (a) issuing ballot forms, (b) recording votes, (c) tabulating ballots, and (d) certifying results of the referendum in the community.

9. See that appropriate measures are taken to insure that the referendum is conducted by secret ballot.

10. Notify the State committee by telephone, telegraph, or in person, as soon as possible after the closing of the polls, as to the preliminary count of "Yes" and "No" votes in the county.

11. Meet not later than 8:30 o'clock a. m., Monday, December 12, 1938, for the purpose of receiving and tabulating the data from forms Cotton 304 on form Cotton 305, "County Summary of 1939 Cotton Marketing Quota Ballots." Such meeting shall be open to the public. Cotton 305, showing the results in the county, shall be prepared and certified in quadruplicate, two copies of which shall be sent to the State Agricultural Conservation Committee (hereinafter referred to as State committee) not later than four calendar days after the date of the referendum, one copy posted for sixty days in a conspicuous place accessible to the public in or near the office of the county committee (hereinafter referred to as the county office), and one copy permanently filed in the county office. One copy of each executed form Cotton 304 shall be posted for sixty days in a conspicuous place accessible to the public in or near the county office.

12. Notify the State committee as soon as possible by mail (on form Cotton 305) as to the final outcome of the referendum in the county.

13. Make an investigation in each case of controversy or dispute regarding eligibility of a voter to vote in the referendum. In each case where a ballot is found in a sealed envelope marked "Challenged" by the community referendum committee and bearing the voter's name and a statement of the reason for the challenge, the eligibility of such person shall first be determined. If it is determined that such person is eligible, the ballot shall be placed with the challenged ballot of every other person found to be eligible, and when all the challenged ballots shall have been passed upon by the committee those ballots found to be valid shall be opened and tabulated in the county summary. If it is determined that such person is not eligible, the envelope shall not be opened but shall be preserved with the ballots, as provided in paragraph 15 of this section B.

14. Make an investigation in each case of dispute regarding the correctness of the summary of the referendum in a community. No dispute shall be investigated by the county committee unless it is brought to its attention within three calendar days after the date on which the referendum was held. The county committee shall promptly decide the dispute and immediately report its findings to the State committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

15. Seal the voted ballots, challenged ballots found ineligible, register sheets, and community summary sheets for the county in one or more envelopes or packages (marked "Cotton Referendum 1939", followed by the name of the county) and place them under lock and key in a safe place under the custody of the secretary of the county agricultural conservation association for a period of 60 calendar days from the date of the referendum. If no notice to the contrary is received by the end of such time, the ballots shall be destroyed and the register and community summary sheets permanently filed in the county office.

C. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

Each community referendum committee designated by the county committee shall:

1. Arrange, with the assistance of the county committee, for conducting the referendum by secret ballot.

2. Assist the county committee in giving adequate public notice of the time and place for casting ballots at least five days in advance of the date on which the referendum will be held.

3. Provide a place where each eligible farmer can prepare and cast a ballot in secret and without interference.

4. Provide a ballot box. Any container so arranged that ballots cannot be seen and cannot be removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks and show that the seal has been tampered with.

5. Open the polls not later than 9 o'clock a. m., local standard time, on Saturday, December 10, 1938.

6. Hold the referendum in a fair and unbiased manner and see that appropriate measures are taken to insure that it is conducted by secret ballot.

7. See that no device is used whereby any voter's ballot may be identified (except in the case of a challenged ballot), and instruct each voter as he is handed a ballot form as to the procedure to be followed in casting his ballot and to fold his ballot before he places it in the ballot box after he has marked it to show which way he votes.

8. Issue a ballot to each person who is eligible to vote and to each person who claims to be eligible to vote and insists upon voting even though his eligibility is challenged by the committee. Every unchallenged ballot shall be placed in the ballot box by the person who voted it. In every case where the eligibility of the voter is challenged, his ballot, after being marked by the challenged person, shall be placed (by him, or by the committee if he refuses) in an envelope and shall be sealed and marked with his name, and the word "Challenged", and a statement of the reason for the challenge, and the envelope shall then be placed in the ballot box. The letter "C" shall be entered with a red pencil on form Cotton 303 immediately to the left of the name of each person whose vote is challenged.

9. Record on form Cotton 303 the name and address of each farmer to whom a ballot form is issued if he is not already listed thereon prior to the time the ballot form is issued to him.

10. Enter an "X" in the designated column on form Cotton 303 beside the name and address of each farmer to whom a ballot form is issued and who places his ballot in the ballot box (whether or not his ballot is challenged).

11. Close the polls and discontinue acceptance of ballots at 5 o'clock p. m., local standard time (unless a later hour is fixed by the State committee) on the date of the referendum.

12. Immediately after closing the polls, open the ballot box and canvass the ballots cast, which canvass shall be kept open to the public.

13. Tabulate and record the results of the referendum on form Cotton 304. The number of challenged ballots cast shall be entered on form Cotton 304 in the space provided and will not, of course, be shown as being either for or against the marketing quotas. If any ballot is found to be mutilated or marked in such a way so that it cannot be determined whether the voter approved or opposed the marketing quotas, it shall not be counted as a ballot cast but the number of such spoiled ballots shall be entered in the space provided, and such ballots placed in an envelope marked "Spoiled Ballots", followed by the designation of the community.

14. Certify to the accuracy of the executed forms Cotton 303 and Cotton 304 by signing in the spaces provided.

15. Notify the county committee by telephone or in person as soon as possible after the closing of the polls as to the preliminary count of "Yes" and "No" votes in the community.

16. Seal the voted ballots (including those challenged), the spoiled ballots, the register sheet, and the community summary in one or more envelopes appropriately identified by the designation of the community and deliver them to the county committee not later than 8:30 o'clock a. m., Monday, December 12, 1938, with the unused ballot and other forms. The chairman of the community referendum committee shall be responsible for the safe delivery of such reports, ballots, and forms to the county committee.

17. Post an executed copy of form Cotton 304, as soon as it is executed, at a conspicuous place at the polling place and see that it remains posted and accessible to the public for at least three calendar days after the date of the holding of the referendum.

D. INSTRUCTIONS TO STATE COMMITTEE

The State committee shall be in charge of and responsible for the conducting of the referendum in the State and shall:

1. Notify the applicable Regional Director by telegraph as to the preliminary count in the State of votes for and votes against marketing quotas.

2. Summarize on form Cotton 306, "State Tabulation of 1939 Cotton Marketing Quota Ballots", the information contained on the forms Cotton 305 reported to it and forward via air mail special delivery two fully executed forms Cotton 306 to the applicable Regional Director, Agricultural Adjustment Administration, Washington, D. C., not later than 7 calendar days after the date of the referendum. If one sheet proves insufficient for listing the information with respect to all counties in the State, additional sheets properly numbered and identified and securely attached to the first sheet may be used for continuation, in which case totals and signatures should be entered only on the last sheet. One fully executed copy of each form Cotton 305 and form Cotton 306 shall be permanently filed in the State office of the Agricultural Adjustment Administration.

3. Complete the investigation of any report from any county regarding controversies, irregularities, or the correctness of summaries of the referendum, not later than 10 calendar days after the date of the referendum, and forward its findings in such cases to the applicable Regional Director.

E. RESULTS OF REFERENDUM

Final and official tabulation of the votes cast in the referendum will be made by the Agricultural Adjustment Administration and the result of the referendum announced by the Secretary of Agriculture. The reports on Cotton 306 and related papers shall be permanently filed with such tabulation and shall remain available for public inspection.

Each county committee is authorized to give out unofficial reports of the total "Yes" and total "No" votes in its county, to the public press and to other inquirers. The State committee is authorized to release to the press and other inquirers the unofficial results of the referendum for the respective State by counties as rapidly as the votes in the various counties are tabulated.

If the Administrator of the Agricultural Adjustment Administration or the Secretary of Agriculture deems it necessary, the report of any community referendum committee, county committee, or State committee shall be reexamined and checked by such persons or agencies as may be designated.

Done at Washington, D. C., this 10th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3405; Filed, November 12, 1938; 11:50 a. m.]

[Form 39—Tobacco 3]

PROCEDURE FOR 1939 FLUE-CURED TOBACCO QUOTAS

PART 1—GENERAL

SEC. 1. *Definitions.*—As used in this procedure and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject matter otherwise requires.

(a) *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *Committee* means the committees within a county or community utilized under the Agricultural Adjustment Act of 1938. "County committee," "community committee," or "local committee" shall have corresponding meanings in the connection in which they are used.

(c) *Diversion* means the normal production of the acres on the farm diverted from the production of tobacco under agricultural adjustment or conservation programs.

(d) *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land) the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the Agricultural Conservation Program and under the flue-cured tobacco quota procedure for 1939;

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops: *Provided*, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or the local administrative area within the county, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or local administrative area, as the case may be, in which the major portion of the farm is located.

(e) *Marketing year* means the period beginning with the 1st day of July in one year and ending with the 30th day of June in the next calendar year. 1938–39 marketing year and 1939–40 marketing year mean the marketing years beginning in the calendar years 1938 and 1939, respectively.

(f) *New farm* means a farm on which tobacco is produced in the year 1939 and on which tobacco was not produced in any of the years 1935, 1936, 1937 or 1938.

(g) *Old farm* means a farm on which tobacco is produced in the year 1939 and

on which tobacco was also produced in one or more of the years 1935, 1936, 1937 and 1938.

(h) *Quota* means the farm marketing quota established pursuant to Section 313 of the Act. 1938 quota and 1939 quota mean the quotas established for a farm for the 1938–39 marketing year and the 1939–40 marketing year, respectively.

(i) *State committee* means the persons designated within any State to assist in the administration of the Act in the State.

(j) *Three-year average* means the average tobacco production and diversion for the farm during the years 1936, 1937, and 1938.

(k) *Tobacco* means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as types 11, 12, 13, and 14 and collectively known as flue-cured tobacco.

SEC. 2. *Gender and number of terms.*—Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

SEC. 3. *Instructions and forms.*—The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture shall cause to be prepared and issued with his approval such instructions and such forms as may be necessary or expedient for carrying out this procedure for determining farm quotas.

PART II—ESTABLISHMENT OF PRELIMINARY QUOTAS

SEC. 1. *Preliminary quotas.*—Preliminary 1939 quotas shall be established, as provided in this procedure, for all farms for which 1938 quotas were established. No preliminary quota shall be established for any farm for which a 1938 quota was not established. Quotas for such farms shall be established in accordance with such procedure as the Secretary of Agriculture may hereafter prescribe.

SEC. 2. *Determination of preliminary quota.*—The preliminary quota for a farm shall be determined, in accordance with the provisions of Section 4, from the "committee adjusted quota." The committee adjusted quota for the farm shall be determined in accordance with the provisions of Section 3.

SEC. 3. *Determination of committee adjusted quota.*—The committee adjusted quota for a farm shall be determined by adjustment of the 1938 quota (prior to any adjustment thereof by a review committee) for the farm as provided below.

(a) *Adjustment of data and farm yield.*—If the committee finds that the data used in computing the 1938 quota requires adjustment or that the farm yield used in computing the 1938 quota was not a normal yield for the farm, the 1938 quota established for the farm shall be adjusted so as to equal the number of pounds which would have been computed for the farm as its 1938 quota upon the basis of the adjusted data and a farm yield which the committee finds is a normal yield for the farm. A normal farm yield shall be that yield which the committee determines could reasonably be obtained from the farm. In making the determination, the committee shall take into consideration the type of soil, topography and production facilities of the farm, the yields obtained on other farms in the locality, which are similar with respect to such factors, the yields obtained from the farm during years for which records indicating such yields acceptable to the committee are available, and the effect of flood, drought, hail, other abnormal weather conditions, fire, plant-bed and other diseases, upon the yields obtained from the farm in such years.

(b) *Adjustment for estimated 1938 marketings.*—In order to take into account the estimated marketings from the farm during the 1938–39 marketing year, the 1938 quota, as adjusted pursuant to subsection (a) above, shall be adjusted upward if such marketings exceed the 1938 quota and downward if such marketings are less than the 1938 quota. The amount of the upward or downward adjustment, as the case may be, shall be 20 percent of the difference between such marketings and the 1938 quota.

(c) *Adjustment for past marketings, etc.*—The committee shall adjust the 1938 quota (as adjusted pursuant to subsections (a) and (b) above) if they find, upon consideration of the data used in computing the 1938 quota and other information available to them, that adjustment is necessary in order to take into adequate account past marketings of tobacco, making due allowance for abnormal weather conditions, plant-bed and other diseases; land, labor and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

(d) *Limit of adjustment.*—The sum of the adjustments made, pursuant to subsections (b) and (c) of this section, for any farm shall not exceed 20 percent of the 1938 quota for the farm, as adjusted pursuant to subsection (a) of this section; provided that in the case of a farm, on which tobacco was produced in 1938 and on which tobacco was not produced in any of the years 1934, 1935, 1936 or 1937, the sum of such adjustments may be greater if recommended by the community and county committee, and approved by the State committee, in order to provide a committee adjusted quota which will adequately take into account the land, labor and equipment available for the production of tobacco on the farm.

(e) *Minimum quota.*—The committee adjusted quota shall in no case be less than the smaller of 3200 pounds or the three-year average for the farm.

(f) *Adjustments to balance.*—The sum of the upward adjustments for all farms in the county shall not exceed the sum of the downward adjustments for all farms in the county, except with the approval of the State committee.

(g) *Statement of reasons for adjustment.*—Where the adjustment made pursuant to this Section 3 exceeds 10 percent of the 1938 quota, the committee shall make a brief explanatory statement in writing of the reasons why such adjustment is necessary in order to take into adequate account the factors required to be taken into consideration in making such adjustment.

(h) *Adjustments subject to approval by the State committee.*—All adjustments made by the committee pursuant to this Section 3 shall be subject to approval by the State committee.

SEC. 4. *Determination of preliminary quota from committee adjusted quota.*—(a) To any farm which has a committee adjusted quota equal to the smaller of 3200 pounds or the farm's three year average, such quota will be assigned as its preliminary quota.

(b) The total of the preliminary quotas assigned pursuant to subsection (a) shall be deducted from an amount equal to 99 percent of the State marketing quota, to determine the balance of quota available.

(c) The total of the committee adjusted quotas for all farms to which preliminary quotas have not been assigned pursuant to subsection (a) shall be reduced to an amount equal to the balance of quota available, determined pursuant to subsection (b). This reduction will be made by reducing the committee adjusted quotas for all farms, to which a preliminary quota has not been assigned, by the percentage which the balance of quota available is of the total of such committee adjusted quotas. The amount of the committee adjusted quota for each such farm as so reduced shall be the farm's preliminary quota; provided that if the preliminary quota so determined for any farm is less than the smaller of 3200 pounds of the farm's three year average, the amount of the preliminary quota shall be increased by an amount sufficient to provide for such farm a preliminary quota equal to the smaller of 3200 pounds or the farm's three year average.

SEC. 5. *Final quotas.*—If the national marketing quota is effective for the 1939–40 marketing year, the preliminary quota established for a farm shall be the final 1939 quota, subject to adjustment as follows:

If there is any material change for the farm in 1939 with respect to (a) past marketings, or (b) land, labor and equipment available for the production of tobacco, or (c) crop-rotation practices, or (d) the soil and other physical factors affecting the production of tobacco, as compared with such factors in 1938, and such change was not given consideration in the establishment of the preliminary quota, the farm's quota shall be the preliminary quota adjusted to take such change into account; provided that the farm's 1939 quota shall not exceed (except in the case of a farm which is entitled to a quota of the smaller of 3200 pounds or the farm's three year average) the number of pounds obtained by multiplying 110 percent of the farm's 1939 tobacco acreage by the farm yield.

Done at Washington, D. C., this 12th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. 38–3422; Filed, November 14, 1938; 12:42 p.m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 25 to Declaration No. 12 [1]]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

NOVEMBER 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936,[2] the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

Puerto Rico: Dorado, November 1, 1941; Jayuya, November 1, 1941; Juana Diaz, November 1, 1941; Toa Baja, November 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for re-accreditation, are hereby continued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Barbour, November 1, 1941; Butler, November 1, 1941; Conecuh, November 1, 1941; Crenshaw, November 1, 1941; Dale, November 1, 1941; Geneva, November 1, 1941; Lamar, November 1, 1941; Marion, November 1, 1941; Marshall, November 1, 1941; Monroe, November 1, 1941; Wilcox, November 1, 1941.

Arkansas: Washington, November 1, 1941.

Florida: Gilchrist, November 1, 1941; Suwanee, November 1, 1941.

Georgia: Colquitt, November 1, 1941; Decatur, November 1, 1941; Dougherty, November 1, 1941; Grady, November 1, 1941; Meriwether, November 1, 1941; Thomas, November 1, 1941; Troup, November 1, 1941; Worth, November 1, 1941.

[1] Supplements footnote to 9 CFR 3.303.
[2] 1 F. R. 1338.

Idaho: Nez Perce, November 1, 1941.

Indiana: Brown, November 1, 1941; Dearborn, November 1, 1941; Henry, November 1, 1941.

Iowa: Lee, November 1, 1941; Monroe, November 1, 1941; O'Brien, November 1, 1941; Polk, November 1, 1941.

Kansas: Pawnee, November 1, 1941; Republic, November 1, 1941; Rice, November 1, 1941.

Louisiana: Acadia, November 1, 1941; Allen, November 1, 1941; Ascension, November 1, 1941; Assumption, November 1, 1941; Avoyelles, November 1, 1941; Bossier, November 1, 1941; Calcasieu, November 1, 1941; Cameron, November 1, 1941; Catahoula, November 1, 1941; Concordia, November 1, 1941; Evangeline, November 1, 1941; Franklin, November 1, 1941; Grant, November 1, 1941; Jefferson Davis, November 1, 1941; Lafayette, November 1, 1941; LaSalle, November 1, 1941; Orleans, November 1, 1941; Plaquemines, November 1, 1941; Rapides, November 1, 1941; St. James, November 1, 1941; St. Landry, November 1, 1941; St. Martin, November 1, 1941; Tangipahoa, November 1, 1941; Tensas, November 1, 1941; Terrebonne, November 1, 1941; Vermilion, November 1, 1941.

Maryland: Calvert, November 1, 1941; Garrett, November 1, 1941; Talbot, November 1, 1941.

Michigan: Chippewa, November 1, 1941; Crawford, November 1, 1941; Houghton, November 1, 1941; Luce, November 1, 1941; Mackinac, November 1, 1941; Ottawa, November 1, 1941.

Minnesota: Anoka, November 1, 1941; Kandiyohi, November 1, 1941.

Mississippi: Amite, November 1, 1941; Hancock, November 1, 1941; Hinds, November 1, 1941; Lincoln, November 1, 1941; Pearl River, November 1, 1941; Pike, November 1, 1941; Wilkinson, November 1, 1941.

Missouri: Adair, November 1, 1941; Lawrence, November 1, 1941; Linn, November 1, 1941; Mercer, November 1, 1941; Schuyler, November 1, 1941.

Nebraska: Gage, November 1, 1941.

New Jersey: Mercer, November 1, 1940; Warren, November 1, 1940.

North Carolina: Davie, November 1, 1941; Iredell, November 1, 1941; Scotland, November 1, 1941.

Ohio: Lake, November 1, 1941; Noble, November 1, 1941.

Oklahoma: Beaver, November 1, 1941; Cotton, November 1, 1941; Custer, November 1, 1941; Major, November 1, 1941.

Pennsylvania: Bedford, November 1, 1941.

South Carolina: Hampton, November 1, 1941.

South Dakota: Custer, November 1, 1941.

Tennessee: Macon, November 1, 1941.

Texas: Falls, November 1, 1941; Freestone, November 1, 1941; Leon, November 1, 1941; Nolan, November 1, 1941; Nueces, November 1, 1941; Williamson, November 1, 1941.

Utah: Beaver, November 1, 1941; Carbon, November 1, 1941; Emery, November 1, 1941; Piute, November 1, 1941; Salt Lake, November 1, 1941; Tooele, November 1, 1941; Wayne, November 1, 1941.

Virginia: Accomac, November 1, 1941; Chesterfield, November 1, 1941; Loudoun, November 1, 1941.

West Virginia: Berkeley, November 1, 1941.

Wisconsin: Adams, November 1, 1944; Oconto, November 1, 1944.

Wyoming: Big Horn, November 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended,[3] is hereby further amended accordingly.

[SEAL] J. R. MOHLER,
Chief of Bureau.

[F. R. Doc. 38–3406; Filed, November 12, 1938; 12:30 p. m.]

TITLE 12—BANKING AND CREDIT

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

INTERLOCKING BANK DIRECTORATES UNDER THE CLAYTON ACT

On November 7, 1938, the Board of Governors of the Federal Reserve System adopted the following resolution:

Resolved, That Regulation L (12 CFR. 212), Interlocking Bank Directorates Under the Clayton Act, be amended, effective immediately, as follows:

(1) By adding the following after the semicolon at the end of section 3 (a) (12 CFR. 212.3 (a)) thereof:

"and any private banker or any director, officer, or employee of a member bank of the Federal Reserve System who is lawfully serving as a director, officer, or employee of a Morris Plan bank or similar institution on January 31, 1939 may continue such service until August 1, 1939;"

(2) By changing the period at the end of section 3 (12 CFR.212.3) to a semicolon and adding at the end of that section a new subsection "(e)" (12 CFR.212.3 (e)) as follows:

"(e) Any director, officer, or employee of any member bank of the Federal Reserve System who, on August 23, 1935, was lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company and whose services in such capacities have been continuous since such date, may continue, until August 1, 1939, to serve such member bank and not more than one other such bank, banking association, savings bank, trust company or private banker."

(Sec. 8, 38 Stat. 732; Sec. 329, 49 Stat. 717; Sec. 11, 38 Stat. 734; Sec. 602 (d), 48 Stat. 1102; 15 U. S. C. 19 and Sup. III; 15 U. S. C. 21.)

[3] 3 F. R. 2481 DI.

[Reg. L, Bd. Govs. F. R. S. Revised effective Jan. 4, 1936, as amended effective Nov. 7, 1938.]

[SEAL] S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 38-3401; Filed, November 10, 1938; 3:29 p. m.]

TITLE 24—HOUSING CREDIT

HOME OWNERS' LOAN CORPORATION

MARKETING OF FRUITS AND OTHER PRODUCE OF CALIFORNIA PROPERTIES

SPECIAL RESOLUTION AMENDING PART 1 OF CHAPTER IV, TITLE 24 OF THE CODE OF FEDERAL REGULATIONS BY ADDING THERETO A NEW SECTION TO BE NUMBERED SECTION 401.62

SECTION 401.62 *Marketing of fruits and other produce of California properties.*—The Regional Manager at San Francisco, with the advice of the Regional Counsel at San Francisco, is authorized to execute and deliver on behalf of the Corporation contracts and agreements for the picking, packing, hauling and marketing of fruits and other produce and issue of real property situate within the State of California and under the jurisdiction of the Property Management Division at such prices and upon such terms and conditions as he may deem to be in the best interests of the Corporation, and to do all things necessary or proper to effect disposition of such fruits, produce and issue in pursuance of any such contract or agreement so executed and delivered, and the expenses incurred in connection with the performance of such contracts and agreements may be paid by the Corporation on vouchers approved by the said Regional Manager.

(Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1938 (48 Stat. 643-647) and particularly by subSections a and k of Section 4 of said Act as amended.)

Adopted by the Federal Home Loan Bank Board on November 7, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-3417; Filed, November 14, 1938; 11:22 a. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4871]

INCOME TAX

CANCELATION OF INDEBTEDNESS AND REDUCTION OF BASIS OF DEBTOR'S PROPERTY IN PROCEEDINGS UNDER BANKRUPTCY ACT OF 1898, AS AMENDED

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. The Bankruptcy Act of 1898, as amended by the Act of June 22, 1938 (Public, No. 696, Seventy-fifth Congress) provides in part as follows:

CHAPTER X—CORPORATE REORGANIZATIONS

SEC. 268. Except as provided in section 270 of this Act, no income or profit, taxable under any law of the United States or of any State now in force or which may hereafter be enacted, shall, in respect to the adjustment of the indebtedness of a debtor in a proceeding under this chapter, be deemed to have accrued to or to have been realized by a debtor, by a trustee provided for in a plan under this chapter, or by a corporation organized or made use of for effectuating a plan under this chapter by reason of a modification in or cancelation in whole or in part of any of the indebtedness of the debtor in a proceeding under this chapter.

SEC. 269. Where it appears that a plan has for one of its principal purposes the avoidance of taxes, objection to its confirmation may be made on that ground by the Secretary of the Treasury, or, in the case of a State, by the corresponding official or other person so authorized. Such objections shall be heard and determined by the judge, independently of other objections which may be made to the confirmation of the plan, and, if the judge shall be satisfied that such purpose exists, he shall refuse to confirm the plan.

SEC. 270. In determining the basis of property for any purposes of any law of the United States or of a State imposing a tax upon income, the basis of the debtor's property (other than money) or of such property (other than money) as is transferred to any person required to use the debtor's basis in whole or in part shall be decreased by an amount equal to the amount by which the indebtedness of the debtor, not including accrued interest unpaid and not resulting in a tax benefit on any income tax return, has been canceled or reduced in a proceeding under this chapter. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as he may deem necessary in order to reflect such decrease in basis for Federal income-tax purposes and otherwise carry into effect the purposes of this section.

SEC. 276. c. the provisions of sections 77A and 77B of chapter VIII, as amended, of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, shall continue in full force and effect with respect to proceedings pending under those sections upon the effective date of this amendatory Act, except that—

* * * * *

(3) sections 268 and 270 of this Act shall apply to any plan confirmed under section 77B before the effective date of this amendatory Act and to any plan which may be confirmed under section 77B on and after such effective date, except that the exemption provided by section 268 of this Act may be disallowed if it shall be made to appear that any such plan had for one of its principal purposes the avoidance of income taxes, and except further that where such plan has not been confirmed on and after such effective date, section 269 of this Act shall apply where practicable and expedient.

CHAPTER XI—ARRANGEMENTS

SEC. 395. Except as provided in section 396 of this Act, no income or profit, taxable under any law of the United States or of any State now in force or which may hereafter be enacted, shall, in respect to the adjustment of the indebtedness of a debtor in a proceeding under this chapter, be deemed to have accrued to or to have been realized by a debtor or a corporation organized or made use of for effectuating an arrangement under this chapter by reason of a modification in or cancellation in whole or in part of any such indebtedness in a proceeding under this chapter: *Provided, however,* That if it shall be made to appear that the arrangement had for one of its principal purposes the evasion of any income tax, the exemption provided by this section shall be disallowed.

SEC. 396. In determining the basis of property for any purposes of any law of the United States or of a State imposing a tax upon income, the basis of the debtor's property (other than money) or of such property (other than money) as is transferred to any person required to use the debtor's basis in whole or in part shall be decreased by an amount equal to the amount by which the indebtedness of the debtor, not including accrued interest unpaid and not resulting in a tax benefit on any income tax return, has been cancelled or reduced in a proceeding under this chapter. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as he may deem necessary in order to reflect such decrease in basis for Federal income tax purposes and otherwise carry into effect the purposes of this section.

SEC. 399. (4) sections 395 and 396 of this Act shall apply to compositions and extensions confirmed under sections 12 and 74 before the effective date of this amendatory Act and to compositions and extensions which may be confirmed under sections 12 and 74 on and after such effective date.

CHAPTER XII—REAL PROPERTY ARRANGEMENTS BY PERSONS OTHER THAN CORPORATIONS

SEC. 520. Except as provided in section 522 of this Act, no income or profit, taxable under any law of the United States or of any State now in force or which may hereafter be enacted, shall, in respect to the adjustment of the indebtedness of a debtor in a proceeding under this chapter, be deemed to have accrued to or to have been realized by a debtor, by a trustee provided for in an arrangement under this chapter, or by a corporation organized or made use of for effectuating an arrangement under this chapter by reason of a modification in or cancelation in whole or in part of any of the indebtedness of the debtor in an arrangement consummated under this chapter.

SEC. 521. Where it appears that an arrangement has for one of its principal purposes the evasion of taxes, objection to its confirmation may be made on that ground by the Secretary of the Treasury or, in the case of a State, by the corresponding official or other person so authorized. Such objections shall be heard and determined by the judge, independently of other objections which may be made to the confirmation of the arrangement, and, if the judge shall be satisfied that such purpose exists, he shall refuse to confirm the arrangement.

SEC. 522. In determining the basis of property for any purposes of any law of the United States or of a State imposing a tax upon income, the basis of the debtor's property (other than money) or of such property (other than money) as is transferred to any person required to use the debtor's basis in whole or in part shall be decreased by an amount equal to the amount by which the indebtedness of the debtor, not including accrued interest unpaid and not resulting in a tax benefit on any income tax return, has been cancelled or reduced in a proceeding under this chapter. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as he may deem necessary in order to reflect such decrease in basis for Federal income tax purposes and otherwise carry into effect the purposes of this section.

SEC. 526. (4) sections 520 and 522 of this Act shall apply to compositions and extensions confirmed under section 74 before the effective date of this amendatory Act and to compositions and extensions which may be confirmed under section 74 on and after such effective date, except that the exemption provided by section 520 of this Act may be disallowed if it shall be made to appear that such composition or extension, or composition and extension, had for one of its principal purposes the avoidance of income taxes, and except further that where such composition or extension, or composition and extension, has not been confirmed on or after such effective date, section 521 of this Act shall apply where practicable and expedient.

CHAPTER XIII—WAGE EARNERS' PLANS

SEC. 679. No income or profit, taxable under any law of the United States or of any State now in force or which may hereafter be enacted, shall, in respect to the adjustment of the indebtedness of a debtor in a proceeding under this chapter, be deemed to have accrued to or to have been realized by a debtor by reason of a modification in or cancelation in whole or in part of any such indebtedness in a proceeding under this chapter: *Provided, however,* That if it shall be made to appear that the plan had for one of its principal purposes the evasion of any income tax, the exemption provided by this section shall be disallowed.

SEC. 686. (4) section 679 of this Act shall apply to compositions and extensions confirmed under section 74 before the effective date of this amendatory Act and to compositions and extensions which may be confirmed under section 74 on and after such effective date:

Pursuant to the authority contained in sections 62 of the Revenue Acts of 1934 and 1936 and in the foregoing provisions of the Bankruptcy Act of 1898, as amended, the following regulations are promulgated:

Article 22 (a)-14 of Regulations 94[1] is amended to read as follows:

"ART. 22 (a)-14. *Cancelation of indebtedness.*—(*a*) *In general.*—The cancelation of indebtedness, in whole or in part, may result in the realization of income. If, for example, an individual performs services for a creditor, who in consideration thereof cancels the debt, income in the amount of the debt is realized by the debtor as compensation for his services. A taxpayer realizes income by the payment or purchase of his obligations at less than their face value. (See article 22 (a)-18.) If a shareholder in a corporation which is indebted to him gratuitously forgives the debt, the transaction amounts to a contribution to the capital of the corporation.

"(*b*) *Proceedings under Bankruptcy Act.*—Income is not realized by a taxpayer by virtue of the discharge, under section 14 of the Bankruptcy Act, as amended, of his indebtedness as the result of an adjudication in bankruptcy, or by virtue of an agreement among his creditors not consummated under any provision of the Bankruptcy Act, as amended, if immediately thereafter the taxpayer's liabilities exceed the value of his assets. Furthermore, income is not realized in any case by a taxpayer in the case of a cancelation or reduction of his indebtedness under—

"(1) a plan of corporate reorganization confirmed under either section 77B or Chapter X of the Bankruptcy Act, as amended;

"(2) a composition agreement confirmed under either section 12 or 74 of the Bankruptcy Act, as amended;

"(3) an 'arrangement' or a 'real property arrangement' confirmed under Chapter XI or XII, respectively, of the Bankruptcy Act, as amended; or

"(4) a 'wage earner's plan' confirmed under Chapter XIII of the Bankruptcy Act, as amended.

"If, however, such plan of corporate reorganization or agreement of composition referred to in (1) to (4) above had for one of its principal purposes the avoidance of income tax, the cancelation or reduction of indebtedness, under such plan or agreement confirmed under section 12, 74 or 77B or under Chapter X, XI, XII or XIII of the Bankruptcy Act, as amended, may result in the realization of income.

"For adjustment of basis of certain property in the case of cancelation or reduction of indebtedness required by the Bankruptcy Act, as amended by the Act of June 22, 1938 (Public, No. 696, Seventy-fifth Congress), see article 113 (b)-2."

Article 22 (a)-14 of Regulations 86 is amended to read as follows:

"ART. 22 (a)-14. *Cancelation of indebtedness.*—(*a*) *In general.*—The cancelation of indebtedness, in whole or in part, may result in the realization of income. If, for example, an individual performs services for a creditor, who in consideration thereof cancels the debt, income in the amount of the debt is realized by the debtor as compensation for his services. A taxpayer realizes income by the payment or purchase of his obligations at less than their face value. (See article 22 (a)-18.) If a shareholder in a corporation which is indebted to him gratuitously forgives the debt, the transaction amounts to a contribution to the capital of the corporation.

"(*b*) *Proceedings under Bankruptcy Act.*—Income is not realized by a taxpayer by virtue of the discharge, under section 14 of the Bankruptcy Act, as amended, of his indebtedness as the result of an adjudication in bankruptcy, or by virtue of an agreement among his creditors not consummated under any provision of the Bankruptcy Act, as amended, if immediately thereafter the taxpayer's liabilities exceed the value of his assets. Furthermore, income is not realized in any case by a taxpayer in the case of a cancelation or reduction of his indebtedness under (1) a plan of corporate reorganization confirmed under section 77B of the Bankruptcy Act, as amended, or (2) a composition agreement confirmed under either section 12 or 74 of such Act. If, however, such plan of corporate reorganization or agreement of composition had for one of its principal purposes the avoidance of income tax, the cancelation or reduction of indebtedness, under such plan or agreement confirmed under section 12, 74 or 77B of the Bankruptcy Act, as amended, may result in the realization of income.

"For adjustment of basis of certain property in the case of cancelation or reduction of indebtedness required by the Bankruptcy Act, as amended by the Act of June 22, 1938 (Public, No. 696, Seventy-fifth Congress), see article 113 (b)-2."

Regulations 94 are amended by inserting after article 113 (b)-1 thereof the following new article:

"ART. 113 (b)-2. *Adjusted basis: Cancelation of indebtedness.*—In addition to the adjustments provided in section 113 (b) (1) and article 113 (b)-1 which are required to be made with respect to the cost or other basis of property, a further adjustment shall be made in any case in which there shall have been a cancelation or reduction of indebtedness in any proceeding under section 12, 74 (except in the case of a 'wage earner' as defined in the Bankruptcy Act, as amended), or 77B or under Chapter X, XI, or XII of the Bankruptcy Act of 1898, as amended. Such further adjustment shall be made in the following manner and order:

"(1) In the case of indebtedness incurred to purchase specific property (other than inventory or notes or accounts receivable), whether or not a lien is placed against such property securing the payment of all or part of such indebtedness, which indebtedness shall have been canceled or reduced in any such proceeding, the cost or other basis of such property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) by the amount by which the indebtedness so incurred with respect to such property shall have been canceled or reduced;

"(2) In the case of specific property (other than inventory or notes or accounts receivable) against which, at the time of the cancelation or reduction of the indebtedness, there is a lien (other than a lien securing indebtedness incurred to purchase such property) the cost or other basis of such property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) by the amount by which the indebtedness secured by such lien shall have been canceled or reduced;

"(3) Any excess of the total amount by which the indebtedness shall have been so canceled or reduced in such proceeding over the sum of the adjustments made under (1) and (2) shall next be applied to reduce the cost or other basis of the property of the debtor (other than inventory and notes and accounts receivable, but including property covered by (1) and (2)) as follows: The cost or other basis of each unit of property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) in an amount equal to such

[1] 1 F. R. 1860.

proportion of such excess as the adjusted basis (without reference to this article) of each such unit of property bears to the sum of the adjusted bases (without reference to this article) of all the property of the debtor other than inventory and notes and accounts receivable; and

"(4) Any excess of the total amount by which such indebtedness shall have been so canceled or reduced over the sum of the adjustments made under (1), (2) and (3) shall next be applied to reduce the cost or other basis of inventory and notes and accounts receivable, as follows: The cost or other basis of inventory or notes or accounts receivable, as the case may be, shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) in an amount equal to such proportion of such excess as the adjusted basis of inventory, notes receivable or accounts receivable, as the case may be, bears to the sum of the adjusted bases of such inventory and notes and accounts receivable.

"For the purposes of this article—

"(A) Basis shall be determined as of the date of confirmation of the plan, composition or arrangement under which such indebtedness shall have been canceled or reduced;

"(B) Except where the context otherwise requires, property means all of the debtor's property, other than money;

"(C) No adjustment shall be made by virtue of the cancelation or reduction of any accrued interest unpaid which shall not have resulted in a tax benefit in any income tax return; and

"(D) The phrase 'indebtedness incurred to purchase' includes (i) indebtedness for money borrowed and applied in the purchase of property and (ii) an existing indebtedness secured by a lien against the property which the debtor, as purchaser of such property, has assumed to pay.

"The basis of any of the debtor's property which shall have been transferred to a person required to use the debtor's basis in whole or in part shall be determined in accordance with the provisions of this article."

Regulations 86 are amended by inserting after article 113 (b)–1 thereof the following new article:

"ART. 113 (b)–2. *Adjusted basis: Cancelation of indebtedness.*—In addition to the adjustments provided in section 113 (b) (1) and article 113 (b)–1 which are required to be made with respect to the cost or other basis of property, a further adjustment shall be made in any case in which there shall have been a cancelation or reduction of indebtedness in any proceeding under section 12, 74 (except in the case of a 'wage earner' as defined in the Bankruptcy Act, as amended), or 77B of the Bankruptcy Act of 1898, as amended. Such further adjustment shall be made in the following manner and order:

"(1) In the case of indebtedness incurred to purchase specific property (other than inventory or notes or accounts receivable), whether or not a lien is placed against such property securing the payment of all or part of such indebtedness, which indebtedness shall have been canceled or reduced in any such proceeding, the cost or other basis of such property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) by the amount by which the indebtedness so incurred with respect to such property shall have been canceled or reduced;

"(2) In the case of specific property (other than inventory or notes or accounts receivable) against which, at the time of the cancelation or reduction of the indebtedness, there is a lien (other than a lien securing indebtedness incurred to purchase such property) the cost or other basis of such property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) by the amount by which the indebtedness secured by such lien shall have been canceled or reduced;

"(3) Any excess of the total amount by which the indebtedness shall have been so canceled or reduced in such proceeding over the sum of the adjustments made under (1) and (2) shall next be applied to reduce the cost or other basis of the property of the debtor (other than inventory and notes and accounts receivable, but including property covered by (1) and (2)) as follows: The cost or other basis of each unit of property shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) in an amount equal to such proportion of such excess as the adjusted basis (without reference to this article) of each such unit of property bears to the sum of the adjusted bases (without reference to this article) of all the property of the debtor other than inventory and notes and accounts receivable; and

"(4) Any excess of the total amount by which such indebtedness shall have been so canceled or reduced over the sum of the adjustments made under (1), (2) and (3) shall next be applied to reduce the cost or other basis of inventory and notes and accounts receivable, as follows: The cost or other basis of inventory or notes or accounts receivable, as the case may be, shall be decreased (but the amount of the decrease shall not be more than the amount of the adjusted basis without reference to this article) in an amount equal to such proportion of such excess as the adjusted basis of inventory, notes receivable or accounts receivable, as the case may be, bears to the sum of the adjusted bases of such inventory and notes and accounts receivable.

"For the purposes of this article—

"(A) Basis shall be determined as of the date of confirmation of the plan, composition or arrangement under which such indebtedness shall have been canceled or reduced;

"(B) Except where the context otherwise requires, property means all of the debtor's property, other than money;

"(C) No adjustment shall be made by virtue of the cancelation or reduction of any accrued interest unpaid which shall not have resulted in a tax benefit in any income tax return; and

"(D) The phrase 'indebtedness incurred to purchase' includes (i) indebtedness for money borrowed and applied in the purchase of property and (ii) an existing indebtedness secured by a lien against the property which the debtor, as purchaser of such property, has assumed to pay.

"The basis of any of the debtor's property which shall have been transferred to a person required to use the debtor's basis in whole or in part shall be determined in accordance with the provisions of this article."

Articles 113 (b)–2 of Regulations 86 and 94 are amended by striking out the first paragraph and inserting in lieu thereof the following:

"ART. 113 (b)–3. *Substituted basis.*—Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, as defined in section 113 (b) (2), the adjustments indicated in article 113 (b)–1 shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. In addition, whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, as defined in section 113 (b) (2) (A), the adjustment indicated in article 113 (b)–2 shall also be made, whenever necessary, after first making in respect of such substituted basis a proper adjustment of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor. Similar rules shall also be applied in the case of a series of substituted bases."

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, November 9, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3402; Filed, November 12, 1938; 11:22 a. m.]

[T. D. 4873]

INSPECTION OF RETURNS

REGULATIONS GOVERNING THE INSPECTION OF RETURNS OF INDIVIDUALS, PARTNERSHIPS, ESTATES, TRUSTS, CORPORATIONS, ASSOCIATIONS, JOINT-STOCK COMPANIES, AND INSURANCE COMPANIES; AND INCOME, PROFITS, AND CAPITAL STOCK TAX RETURNS UNDER THE PRIOR REVENUE ACTS, OR UNDER ANY SUCH ACT AS AMENDED

Collectors of Internal Revenue and others concerned:

PARAGRAPH A. Section 55 (Title I) of the Revenue Act of 1938 provides in part:

(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

PAR. B. Section 409 (Title IA) of the Revenue Act of 1938 (relating to surtax on personal holding companies) provides:

All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I, shall, insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title, except that the provisions of section 131 shall not be applicable.

PAR. C. Section 601 (Title III) of the Revenue Act of 1938 (relating to capital stock tax) provides in part:

(c) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

PAR. D. Section 602 (Title III) of the Revenue Act of 1938 (relating to excess-profits tax) provides in part:

(c) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.

PAR. E. Section 55 (Title I) of the Revenue Act of 1936 provides in part:

(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

PAR. F. Section 351 (Title IA) of the Revenue Act of 1936 (relating to surtax on personal holding companies) provides in part:

(c) *Administrative Provisions.*—All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section • • •.

PAR. G. Section 503 (Title III) of the Revenue Act of 1936 (relating to tax on unjust enrichment) provides in part:

(a) All provisions of law (including penalties) applicable with respect to taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this title, be applicable with respect to the taxes imposed by this title • • •.

PAR. H. Section 105 (Title I) of the Revenue Act of 1935 (relating to capital stock tax) provides in part:

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

PAR. I. Section 106 (Title I) of the Revenue Act of 1935 (relating to excess-profits tax) provides in part:

(c) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of the Revenue Act of 1934, as amended, shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, • • •.

PAR. J. Section 905 (Title IX) of the Social Security Act (relating to tax on employers of eight or more) provides in part:

(c) Returns filed under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

PAR. K. Section 55 (Title I) of the Revenue Act of 1934, as amended by the Act approved April 19, 1935 (Public, No. 40, Seventy-fourth Congress, first session), provides in part:

(a) Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

PAR. L. Section 351 (Title IA) of the Revenue Act of 1934 (relating to surtax on personal holding companies) provides in part:

(c) *Administrative provisions.*—All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, • • •.

PAR. M. Section 701 (Title V) of the Revenue Act of 1934 (relating to capital stock tax) provides in part:

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

PAR. N. Section 702 (Title V) of the Revenue Act of 1934 (relating to excess-profits tax) provides in part:

(b) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, • • •.

PAR. O. Section 55 (Title I) of the Revenue Act of 1932, as amended by section 218 (h), Title II, of the National Industrial Recovery Act, approved June 16, 1933, provides:

Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926; and all returns made under this Act after the date of enactment of the National Industrial Recovery Act shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

PAR. P. Section 215, Title II, of the National Industrial Recovery Act (relating to capital stock tax) provides in part:

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under title II of the Revenue Act of 1926.

PAR. Q. Section 216, Title II, of the National Industrial Recovery Act (relating to excess-profits tax) provides in part:

(b) The tax imposed by this section shall be assessed, collected, and paid in the same manner, and shall be subject to the same provisions of law (including penalties), as the taxes imposed by title I of the Revenue Act of 1932.

PAR. R. Section 55, Title I, of the Revenue Act of 1932 provides:

Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

PAR. S. Section 55, Title I, of the Revenue Act of 1928 provides:

Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

PAR. T. Section 257, Title II, of the Revenue Act of 1926, provides in part:

(a) Returns upon which the tax has been determined by the Commissioner shall constitute public records; but, except as hereinafter provided in this section and section 1203, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President.

Pursuant to the above-quoted provisions of law, it is hereby ordered that the returns of individuals, partnerships, estates, trusts, corporations, associations, joint-stock companies, and insurance companies, made pursuant to the requirements of the Revenue Act of 1938; the Revenue Act of 1936; the Revenue Act of 1935; Title IX of the Social Security Act; the Revenue Act of 1934; sections 215 and 216, Title II, National Industrial Recov-

ery Act; the Revenue Act of 1932, as amended by section 218, Title II of the National Industrial Recovery Act; Title I of the Revenue Act of 1932; Title I of the Revenue Act of 1928; Title II of the Revenue Act of 1926; and income, profits, and capital stock tax returns under the prior Revenue Acts, or under any such Act as amended, shall be open to inspection in accordance and upon compliance with the following rules and regulations:

Part I

Income, Profits, and Capital Stock Tax Returns and Returns Under Title IX of the Social Security Act

ARTICLE 1. *Return.*—The word "return" when used in Part I of these regulations shall include only income and profits tax returns; special excise tax returns of corporations made pursuant to section 1000 of Title X of each of the Revenue Acts of 1918 and 1921 and section 700 of Title VII of the Revenue Act of 1924; capital stock tax returns made pursuant to section 215 of Title II of the National Industrial Recovery Act, section 701 of Title V of the Revenue Act of 1934, section 105 of the Revenue Act of 1935, and section 601 of the Revenue Act of 1938; and returns under Title IX of the Social Security Act. Any other word or term used in these regulations which is defined by the Revenue Acts, the National Industrial Recovery Act, or the Social Security Act, shall be given the respective definition contained in the Act under which the particular return is made.

ART. 2. *Corporation.*—The word "corporation" when used in these regulations includes associations, joint-stock companies, and insurance companies.

ART. 3. *Partnership.*—The word "partnership" when used in these regulations includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of the income tax laws, a trust or estate or a corporation.

ART. 4. *Stock.*—The word "stock" includes the shares in an association, joint-stock company, or insurance company; and the word "shareholder" includes a member in an association, joint-stock company or insurance company.

ART. 5. *Return of individual.*—The return of an individual shall be open to inspection (*a*) by the person who made the return, or by his duly constituted attorney in fact; (*b*) if the maker of the return has died, or become legally incompetent, by the administrator, executor, trustee, or guardian of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (*c*) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of such deceased person, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin, or beneficiary, has a material interest which will be affected by information contained in the return; (*d*) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law imposing an income tax upon the individual, or a tax upon intangible property owned by the individual, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States, or political subdivisions thereof, of income returns for taxable years beginning on or after January 1, 1935, see articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626 (C. B. XV–1, 61, 71), and articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732 [1] (C. B. 1937–1, 145); and section 55 of the Revenue Act of 1938.

ART. 6. *Joint return of husband and wife.*—A joint return of a husband and wife shall be open to inspection (*a*) by either spouse for whom the return was made, upon satisfactory evidence of such relationship being furnished, or by his or her duly constituted attorney in fact; (*b*) if either spouse has died, or become legally incompetent, by the administrator, executor, trustee, or guardian of his or her estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (*c*) in the discretion of the Commissioner of Internal Revenue by any heir at law, next of kin, or beneficiary under the will, of such deceased spouse, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; and (*d*) for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the partnership or upon any member thereof in respect of income therefrom or a tax upon intangible property owned by the partnership, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626 (C. B. XV–1, 61, 71), and articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732 (C. B. 1937–1, 145); and section 55 of the Revenue Act of 1938.

ART. 7. *Partnership return.*—The return of a partnership shall be open to inspection (*a*) by any individual who was a member of such partnership during any part of the time covered by the return, or by his duly constituted attorney in fact, upon satisfactory evidence of such fact being furnished; (*b*) if a member of such partnership during any part of the time covered by the return has died, or become legally incompetent by the administrator, executor, trustee, or guardian, of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (*c*) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of such deceased person, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; (*d*) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State Law; and (*e*) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the estate or upon any beneficiary of the estate in respect of income therefrom, or a tax upon intangible property owned by the estate, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626 (C. B. XV–1, 61, 71), and articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732 (C. B. 1937–1, 145); and section 55 of the Revenue Act of 1938.

ART. 8. *Estates.*—The return of an estate shall be open to inspection (*a*) by the administrator, executor, or trustee of such estate, or by his duly constituted attorney in fact; (*b*) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of the deceased person for whose estate the return is made, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, or if any such heir at law, next of kin or beneficiary has died or become legally incompetent, by his administrator, executor, trustee, or guardian of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian, upon a showing of material interest which will be affected by information contained in the return; (*c*) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State Law; and (*d*) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the estate or upon any beneficiary of the estate in respect of income therefrom, or a tax upon intangible property owned by the estate, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626 (C. B. XV–1, 61, 71), and articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732 (C. B. 1937–1, 145); and section 55 of the Revenue Act of 1938.

ART. 9. *Trusts.*—The return of a trust shall be open to inspection (*a*) by the trustee or trustees, jointly or severally, or the duly constituted attorney in fact of such trustee or trustees; (*b*) by any individual who was a beneficiary of such trust during any part of the time covered by the return, or by his duly constituted attorney in fact, upon satisfactory evidence of such fact being furnished; (*c*) if any individual who was a beneficiary of such trust during any part of the time covered by the return has died, or become legally incompetent, by the administrator, executor, trustee, or guardian, of his estate, or by the duly constituted attorney in fact of such administrator, executor, trustee, or guardian; (*d*) in the discretion of the Commissioner of Internal Revenue, by any heir at law, next of kin, or beneficiary under the will, of such deceased person, or by the duly constituted attorney in fact of such heir at law, next of kin, or beneficiary, upon a showing that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; (*e*) as to returns under Title IX of the Social Security Act in the discretion of the Commissioner and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State law; and (*f*) as to returns for any taxable year begun prior to January 1, 1935, in the discretion of the Commissioner of Internal Revenue, and at such time and in such manner as the Commissioner may prescribe for the inspection, by an officer or employee of any State having a law imposing an income tax upon the trust or upon any beneficiary of the trust in respect of income therefrom, or a tax upon intangible property owned by the trust, measured by the income derived therefrom, upon written application signed by the governor of such State under the seal of the State, designating the person to make the inspection and showing that the inspection is solely for such State income or intangible property tax purposes. With respect to inspection on behalf of States or political subdivisions thereof of income returns for taxable years beginning on or after January 1, 1935, see articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 86, as substituted by Treasury Decision 4626 (C. B. XV–1, 61, 71), and articles 55 (b)–1 to 55 (b)–4, inclusive, of Regulations 94, both as amended by Treasury Decision 4732 (C. B. 1937–1, 145); and section 55 of the Revenue Act of 1938.

ART. 10. *Corporations.*—The return of a corporation shall be open to inspection (*a*) by any person designated by action of its board of directors, or other similar governing body, upon submission of satisfactory evidence of such action, or (*b*) by any officer or employee of such corporation upon written request to the Commissioner of Internal Revenue signed by any principal officer and attested by the secretary, or other officer under the corporate seal, if any, or (*c*) by the duly constituted attorney in fact of such corporation. The return of a corporation which has since been dissolved, shall, in the discretion of the Commissioner of Internal Revenue, be open to inspection by any person who under these regulations might have inspected the return at the date of dissolution.

Returns of corporations under Title IX of the Social Security Act, in the discretion of the Commissioner, and at such time and in such manner as the Commissioner may prescribe, shall be open to inspection by an officer of any State having a law certified to the Secretary of the Treasury by the Social Security Board as having been approved in accordance with section 903 of the Social Security Act, upon written application signed by the governor of such State under the seal of the State, designating the officer to make the inspection and showing that such inspection is solely for purposes of administering such State law.

Part II

Estate and Gift Tax Returns Filed After June 16, 1933, Under the Revenue Act of 1932, or Under the Revenue Act of 1932, as Amended

Estate tax returns and notices, and gift tax returns, shall be treated as privileged communications and shall not be inspected nor their contents disclosed, except as hereinafter provided.

ARTICLE 1. Upon application to the collector, internal revenue agent in charge, or Commissioner, an estate tax return or notice may be inspected by the executor, or his successor in office, or by his duly authorized attorney in fact. Upon like application a gift tax return may be inspected by the donor or his duly authorized attorney in fact.

ART. 2. An internal revenue officer engaged in an official investigation of an estate tax or gift tax liability may dis-

[1] 2 F. R. 646 (763 DI).

[1] 1 F. R. 1802.

close the returned value of any item or the amount of any specific deduction, or other limited information, if such disclosure is necessary in order to verify the same or to arrive at a correct determination of the tax. This right of disclosure, however, is limited to the purposes of the investigation, and in no case extends to such information as the amount of the estate, the amount of tax, or other general data.

ART. 3. A return or notice may be exhibited, or information contained therein may be disclosed, to an officer of any State, for official use in connection with an estate, inheritance, legacy, succession, gift, or other tax of the State, provided a like cooperation is given by the State to the Commissioner of Internal Revenue or his representatives for use in the administration of the Federal tax laws. Such officer may also be permitted to inspect schedules, lists, and other statements designed to be supplemental to or to become a part of, the original return, and other records and reports which contain information included or required by statute to be included in the return.

ART. 4. If any other person has a material interest in ascertaining any fact disclosed by the return, or in obtaining information as to the payment of the tax, he may make a written application to the Commissioner of Internal Revenue for such information, setting forth the nature of his interest and the purpose of the application. Thereupon, the Commissioner may permit an inspection of, or furnish a copy of the return, or may furnish such information as he deems advisable.

Part III

General Provisions

The following provisions, unless otherwise stated, are applicable to all returns referred to in Parts I and II of these regulations.

ARTICLE 1. *Permission to inspect.*—The Commissioner of Internal Revenue, upon written application setting forth fully the reason for the request, may grant permission for the inspection of returns in accordance with these regulations.

ART. 2. *Treasury Department officials and employees.*—The officers and employees of the Treasury Department whose official duties require inspection of returns may inspect any such returns without making such written application. If the head of a bureau or office in the Treasury Department, not a part of the Internal Revenue Bureau, desires to inspect, or to have an employee in his bureau or office inspect a return, in connection with some matter officially before him, for reasons other than tax administration purposes, the inspection may, in the discretion of the Secretary, be permitted upon written application to him by the head of such bureau or office, showing in detail why the inspection is desired.

ART. 3. *Inspection by branch of Government other than Treasury Department.*—Except as provided in article 4, if the head of an executive department (other than the Treasury Department), or of any other establishment of the United States Government, desires to inspect or to have some other officer or employee of his branch of the service inspect a return in connection with some matter officially before him, the inspection may, in the discretion of the Secretary of the Treasury, be permitted upon written application to him by the head of such executive department or other Government establishment. The application shall be signed by such head and shall show in detail why the inspection is desired, the name and address of the taxpayer who made the return, and the name and official designation of the person it is desired shall inspect the return. The information obtained under this article and article 2 may be used as evidence in any proceeding, conducted by or before any department or establishment of the United States, or to which the United States is a party.

ART. 4. *Inspection by Government attorneys.*—Any return shall be open to inspection by a United States attorney or by an attorney of the Department of Justice where necessary in the performance of his official duties. The request for inspection shall be in writing and, except as provided in article 7, shall be addressed to the Commissioner, and shall state the purpose for which inspection is desired. It may be signed by the Attorney General, the Assistant to the Attorney General, an Assistant Attorney General, or a United States attorney.

ART. 5. *Information returns.*—Information returns, schedules, lists, and other statements designed to be supplemental to, or to become a part of, the returns shall be subject to the same rules and regulations as to inspection as are the returns themselves. In any case where inspection of the return is authorized by these regulations, the Commissioner may, in his discretion, permit inspection of other records and reports which contain information included or required by statute to be included in the return.

ART. 6. *Place of inspection.*—Generally, returns may be inspected only in the Bureau of Internal Revenue, Washington, D. C., unless such returns are in the custody of a collector of internal revenue or internal revenue agent in charge, in which event the returns may be inspected in the office of such collector or agent in charge, but only in the presence of an internal revenue officer, designated by the collector or agent for that purpose.

ART. 7. *Applications for inspection.*—Except as provided in article 3, and as hereinafter provided, all applications for permission to inspect returns must be made in writing to the Commissioner of Internal Revenue. When a return is in the custody of a collector of internal revenue or internal revenue agent in charge, such collector or revenue agent in charge, upon written application to him, is authorized to permit the inspection of such return by a United States attorney, or an attorney in the Department of Justice, or by the taxpayer or his duly authorized attorney in fact, in accordance with these regulations.

ART. 8. *Penalties.*—Section 3167, Revised Statutes, as amended by the Revenue Act of 1918, and reenacted without change by section 1115 of the Revenue Act of 1926, makes it a misdemeanor, punishable by fine not exceeding $1,000, or by imprisonment not exceeding one year, or both, at the discretion of the court, for any person to print or publish in any manner whatever not provided by law information contained in any income return, and further provides that if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment. The penalties provided in section 3167, Revised Statutes, are applicable also to disclosure of information contained in excess-profits and capital stock tax returns and returns made under Title IX of the Social Security Act.

ART. 9. *Former regulations revoked.*—Former regulations issued with the approval of the President in respect of inspection of returns, except regulations relating to the inspection of returns by committees of Congress, regulations relating to overassessments contained in Treasury Decision 4583 (C. B. XIV–2, 318) and regulations governing the inspection of income tax returns, Form 1042B, by the Department of National Revenue, Ottawa, Canada (T. D. 4765, C. B. 1937–2, 121), are hereby revoked[1] to the extent that they are inconsistent with this Treasury Decision.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Approved:

FRANKLIN D ROOSEVELT
The White House,
Nov. 12, 1938.

[F. R. Doc. 38–3421; Filed, November 14, 1938; 12:31 p. m.]

[T. D. 4872]

REGULATIONS GOVERNING THE INSPECTION OF INCOME AND EXCESS-PROFITS TAX RETURNS BY THE SPECIAL JOINT CONGRESSIONAL COMMITTEE TO MAKE AN INVESTIGATION OF THE TENNESSEE VALLEY AUTHORITY

Collectors of Internal Revenue and Others Concerned:

Pursuant to the provisions of section 257 (a) of the Revenue Act of 1926; section 55 of the Revenue Act of 1928; section 55 of the Revenue Act of 1932, as amended by section 218 (h) of the National Industrial Recovery Act; section 216 (b) of the National Industrial Recovery Act; sections 55 (a) and 702 (b) of the Revenue Act of 1934; section 106 (c) of the Revenue Act of 1935; and section 55 (a) of the Revenue Act of 1936, income and excess-profits tax returns made under the Revenue Acts of 1926, 1928, 1932, the National Industrial Recovery Act, the Revenue Acts of 1934, 1935, and 1936,[1] or under any of such Acts as amended, for the calendar year 1925 and all subsequent taxable years to and including the calendar year 1937, shall be open to inspection by the Special Joint Congressional Committee to make an investigation of the Tennessee Valley Authority, or any duly authorized subcommittee thereof, for the purpose of carrying out the provisions of Public Resolution 83 (Seventy-fifth Congress) approved April 4, 1938 (52 Stat. 154). The inspection of returns herein authorized may be by the committee or a duly authorized subcommittee thereof, acting directly as a committee or a subcommittee, or by or through such examiners or agents as the committee or subcommittee may designate or appoint. Upon written notice by the chairman of the committee or of the authorized subcommittee to the Secretary of the Treasury, giving the names and addresses of the taxpayers whose returns it is necessary to inspect and the taxable periods covered by the returns, the Secretary and any officer or employee of the Treasury Department shall furnish such committee or subcommittee with any data relating to or contained in or accompanying or supporting any such return, or shall make such return available for inspection by the committee or subcommittee or by such examiners or agents as the committee or subcommittee may designate or appoint, in the office of the Commissioner of Internal Revenue. Any information thus obtained by the committee or the subcommittee thereof, which is relevant or pertinent to the purpose of the investigation, may be submitted by the committee or the subcommittee to the Senate or the House of Representatives.

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Approved:

FRANKLIN D ROOSEVELT,
The White House,
Nov. 14, 1938.

[F. R. Doc. 38–3420; Filed, November 14, 1938; 12:31 p. m.]

[1] 2 F. R. 2088 (2455 DI).

[1] 44 Stat. 9; 45 Stat. 791; 47 Stat. 169; 48 Stat. 195, 680; 49 Stat. 1014, 1652.

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL NO. 77, ARIZONA NO. 3, REVOKED

NOVEMBER 3, 1938.

Departmental order of March 29, 1919, which withdrew the following-described land as Stock Driveway No. 77, Arizona No. 3, under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, is hereby revoked:

GILA AND SALT RIVER MERIDIAN

T. 16 S., R. 9 E.,
sec. 1, all,
sec. 12, N½;
T. 15 S., R. 10 E.,
sec. 25, NE¼ and S½,
sec. 26, E½SE¼,
sec. 34, S½S½,
sec. 35, NE¼SW¼, S½SW¼ and SE¼;
T. 16 S., R. 10 E.,
sec. 1, N½ and SW¼,
secs. 3 and 4,
sec. 5, N½,
sec. 6, N½,
sec. 8, NE¼ and S½,
sec. 9, N½ and SW¼,
sec. 10, N½,
sec. 11, N½,
sec. 12, NW¼,
sec. 17, all,
sec. 18, E½E½,
sec. 19, NE¼ and S½,
sec. 20, NW¼,
secs. 30 and 31;
T. 17 S., R. 10 E.,
sec. 6, N½ and SW¼;
T. 15 S., R. 11 E.,
sec. 12, NE¼ and S½,
secs. 13, 14 and 15,
sec. 19, SE¼,
secs. 20, 21 and 22,
sec. 29, NW¼,
sec. 30, all,
sec. 31, W½;
T. 16 S., R. 11 E.,
sec. 6, NW¼;
T. 14 S., R. 12 E.,
secs. 25, 26 and 34, S½,
sec. 35, all;
T. 15 S., R. 12 E.,
sec. 3, N½,
sec. 4, all,
sec. 5, S½,
sec. 7, all,
sec. 8, N½ and SW¼,
sec. 9, NW¼;
T. 14 S., R. 13 E.,
sec. 27, NW¼SW¼ and S½SW¼,
secs. 28, 29 and 30, S½,
sec. 31, N½N½;
aggregating 19,729.22 acres.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38–3410; Filed, November 14, 1938; 9:49 a. m.]

BUREAU OF RECLAMATION

FIRST FORM RECLAMATION WITHDRAWAL OWYHEE PROJECT, IDAHO–OREGON

THE SECRETARY OF THE INTERIOR.
(Through the Division of Grazing)

OCTOBER 7, 1938.

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat. 1976) it is recommended that Departmental Order of April 8, 1935 establishing Grazing District No. 1, Idaho, under and pursuant to the provisions of the Act of June 28, 1934 (48 Stat. 1269) be revoked in so far as the following described lands are affected and said lands be withdrawn from public entry under the first form withdrawal, as provided in Section 3, Act of June 17, 1902 (32 Stat. 388).

OWYHEE PROJECT, IDAHO–OREGON

BOISE PROJECT, IDAHO

T. 2 N., R. 4 W.,
Sec. 19, N½SE¼;
Sec. 20, NE¼NW¼ and NW¼SW¼

Respectfully,

JOHN C. PAGE,
Commissioner.

I concur, October 15, 1938.

JULIAN TERRETT,
Acting Director, Division of Grazing.

OCTOBER 28, 1938.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38–3411; Filed, November 14, 1938; 9:49 a. m.]

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 7]

CHILD LABOR

PART 402. ACCEPTANCE OF STATE CERTIFICATES

NOVEMBER 12, 1938.

SEC. 402.4 *Designation of States.*—Pursuant to the provisions of section 401.5 (section 5 of Child Labor Regulation No. 1, entitled "Certificates of Age" issued October 14, 1938[1]) I do hereby designate the following States as States in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938:

Minnesota, Nebraska, and South Dakota.

This designation shall be effective from and after the date hereof until the expiration of the period of six months from and after October 24, 1938.

[SEAL] KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 38–3407; Filed, November 12, 1938; 1:00 p. m.]

[1] Issued pursuant to the authority conferred by sections 3 (l) and 11 (b) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); 3 F. R. 2487 DI.

Notices

DEPARTMENT OF LABOR.

Division of Public Contracts.

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE PHOTOGRAPHIC SUPPLIES INDUSTRY

NOTICE OF HEARING

The Public Contracts Board will hold a hearing in Room 3229, Department of Labor Building, Washington, D. C., at 10 a. m., on Tuesday, November 29, 1938, to take testimony upon which findings of fact will be made to assist the Secretary of Labor in determining, pursuant to

Section 1 (b) of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) the prevailing minimum wages in the Photographic Supplies Industry. The Photographic Supplies Industry shall be understood to be that industry engaged in the manufacture of cameras, including motion-picture cameras (except 35 millimeter); photostat machines and blueprinting machines; tripods, film rewinders and reels, shutters, and other photographic accessories; such equipment as flashlight apparatus, plate holders, developing tanks; supplies such as films, plates, developers; projection machines (except 35 millimeter) of all types, both home and commercial, including sound equipment.

At the hearing an opportunity to be heard, either in person or by duly appointed representatives, will be given to persons engaged in the above-named industry, either as employers or as employees, to groups of such persons, and to others within the discretion of the Board. Briefs or telegraphic communications may be filed but they should be received by the Board on or before the hearing date. Five copies of all briefs must be submitted. Employers appearing in person, or by representatives, or presenting briefs, should furnish the Board with the following essential data:

(1) Name of firm.
(2) Plant address.
(3) Total number of employees in plant.
(4) Number of male employees.
(5) Number of female employees.
(6) Classification of employees by occupations, including number engaged in each operation.
(7) Hourly wages in each operation with designation of applicable time period.
(8) If paid on piece work basis, weekly earnings in each class of employees.
(9) Hours worked per week.

This outline of suggested data is not meant to exclude the submission of any other pertinent information which an employer may desire to submit.

Employees appearing at the hearing, either in person or by their representatives, or submitting briefs, should acquaint the Board with facts as to the wages now being paid in the industry.

Dated this 10th day of November, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3412; Filed, November 14, 1938; 10:17 a. m.]

Wage and Hour Division.

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION DENYING APPLICATIONS FOR PERMISSION TO EMPLOY MESSENGERS AT WAGES LOWER THAN APPLICABLE MINIMUM SPECIFIED

Whereas, the Western Union Telegraph Company, Postal Telegraph Landline System and All America Cables, Inc., pursuant to Part 523 (Regulations applicable to employment of messengers pursuant to Section 14 of the Fair Labor Standards Act of 1938)[1] made application for permission to employ messengers employed exclusively in delivering letters and messages at wages lower than the applicable minimum wage specified in Section 6 of the Act; and

Whereas, a hearing on said application[2] was held before William M. Leiserson, the representative of the Administrator of the Wage and Hour Division, duly authorized to hear and determine whether it is necessary in order to prevent curtailment of opportunities for employment to provide for the employment of such messengers at such lower wages, and, if such necessity were found to exist, to determine at what wages lower than the minimum wage applicable under Section 6 of the Act such employment shall be permitted and with what limitations as to time, number, proportion and length of service; and

Whereas, following such hearing, the said William M. Leiserson duly made his report and found and determined as follows

"(a) That it is not necessary, in order to prevent curtailment of opportunities for employment, to provide for the employment of messengers, employed exclusively in delivering letters and messages, under special certificates at wages lower than the minimum wage applicable under Section 6; and

(b) That the Administrator is not authorized by Section 14 of the Act to issue such certificates for the messengers employed by the applicant companies."

and therefore, determined that the said applications be denied; and

Whereas, said Report and Findings was duly filed with the Administrator on November 12, 1938 and is now on file in his office, Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all interested parties;

Now, Therefore, pursuant to the provisions of Section 523.9 of the aforesaid Regulations, notice is hereby given that any person aggrieved by the said determination may, within fifteen days after the date this notice appears in the FEDERAL REGISTER, file a petition with the Administrator requesting that he review the determination of the said representative.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3416; Filed, November, 14, 1938; 10:48 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 13-401 (E)-1]

BOSTON-MAINE AIRWAYS, INC.

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (E) FOR THE TRANSPORTATION BY AIR OF MAIL, PASSENGERS AND PROPERTY BETWEEN BOSTON, MASSACHUSETTS, AND CARIBOU, MAINE, WITH SCHEDULED INTERMEDIATE STOPS AT PORTLAND, AUBURN-LEWISTON, AUGUSTA, WATERVILLE, BANGOR, MILLINOCKET, HOULTON AND PRESQUE ISLE, MAINE; AND BETWEEN BOSTON AND MONTREAL, CANADA, WITH SCHEDULED INTERMEDIATE STOPS AT MANCHESTER AND CONCORD, NEW HAMPSHIRE, AND BARRE-MONTPELIER AND BURLINGTON, VERMONT

NOVEMBER 12, 1938.

The above-entitled proceeding is assigned for public hearing on November 23, 1938, 10 o'clock a. m. (eastern standard time), at the offices of the Civil Aeronautics Authority (Hearing room No. 1851), Washington, D. C., before Examiner R. F. Walter.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3415; Filed, November 14, 1938; 10:19 a. m.]

[Docket No. 31-401 (E)-1]

WESTERN AIR EXPRESS CORPORATION

APPLICATION UNDER SECTION 401 (E) FOR A PERMANENT CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY COVERING THE TRANSPORTATION BY AIR OF MAIL, PASSENGERS, EXPRESS AND PROPERTY IN SCHEDULED AND NON-SCHEDULED OPERATION BETWEEN SAN DIEGO, CALIFORNIA AND SALT LAKE CITY, UTAH VIA LOS ANGELES (BURBANK), CALIFORNIA, AND LAS VEGAS, NEVADA; AND BETWEEN SALT LAKE CITY AND GREAT FALLS, MONTANA, VIA POCATELLO AND IDAHO FALLS, IDAHO, AND WEST YELLOWSTONE, BUTTE, AND HELENA, MONTANA

NOVEMBER 12, 1938.

The above-entitled proceeding is assigned for public hearing on November 21, 1938, 10 o'clock a. m. (eastern standard time), at the offices of the Civil Aeronautics Authority (Hearing room No. 1851), Washington, D. C., before Examiner G. A. Keyser.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3413; Filed, November 14, 1938; 10:19 a. m.]

[Docket No. 57-401 (E)-1]

AIRLINE FEEDER SYSTEM, INC.

APPLICATION UNDER SECTION 401 (E) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION BY AIR OF PASSENGERS AND PROPERTY BETWEEN NEWARK, NEW JERSEY, AND WESTFIELD, MASSACHUSETTS, VIA BRIDGEPORT, NEW HAVEN, AND HARTFORD, CONNECTICUT

NOVEMBER 12, 1938.

The above-entitled proceeding is assigned for public hearing on November 26, 1938, 10 o'clock a. m. (eastern standard time), at the offices of the Civil Aeronautics Authority (Hearing room No. 1851), Washington, D. C., before Examiner R. J. Bartoo.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3414; Filed, November 14, 1938; 10:19 a. m.]

[1] 3 F. R. 2484 DI.
[2] 3 F. R. 2489 DI.

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 308]

ALLOCATION OF FUNDS, FOR LOANS

NOVEMBER 9, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia R9022W2 Colquitt	$20,000
Michigan R9029W1 Ontonagon	15,000
Minnesota R9039W1 Chippewa	25,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3408; Filed, November 14, 1938; 9:45 a. m.]

[Administrative Order No. 309]

ALLOCATION OF FUNDS FOR LOANS

NOVEMBER 9, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia R9067C1 Bacon	$178,000
Georgia R9090B1 Candler	152,000
Indiana R9101A1 Hamilton	430,000
Illinois R9028B1 Champaign	477,000
Kansas R9014A1 Sumner-Cowley	231,000
Mississippi R9045A1 Clarke-Lauderdale	368,000
Missouri R9019D1 Boone	135,000
Missouri R9020B1 Marion	61,000
Montana R9001B2 Ravalli	15,000
Ohio R9060A3 Seneca	20,000
Oklahoma R9015B2 Tillman	33,000
Texas R9040C1 Bowie	38,000
Texas R9045B1 Limestone	188,000
Texas R9054B1 Wood	195,000
Texas R9065B1 Rusk	125,000
Virginia R9002B2 Craig	30,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3409; Filed, November 14, 1938; 9:45 a. m.]

NOV 17 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 223

Washington, Wednesday, November 16, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[RCP–39]

PART 705—1939 RANGE CONSERVATION PROGRAM BULLETIN*#

CONTENTS

Sec. 705.1 Authority, availability of funds and applicability.
Sec. 705.2 Definitions.
Sec. 705.3 Rates of range-building payments.
Sec. 705.4 Range-building allowance.
Sec. 705.5 Conditions of payment.
Sec. 705.6 Changes in leasing arrangements and other devices.
Sec. 705.7 Eligibility for payment.
Sec. 705.8 Payment restricted to effectuation of the purposes of the program.
Sec. 705.9 Payments computed and made without regard to claims.
Sec. 705.10 Increase in small payments.
Sec. 705.11 Payments limited to $10,000.
Sec. 705.12 Deductions for association expenses.
Sec. 705.13 Assignments.
Sec. 705.14 Establishment of grazing capacities.
Sec. 705.15 Appeals.
Sec. 705.16 State and regional bulletins, instructions and forms.

SEC. 705.1 *Authority, availability of funds, and applicability.*—(a) *Authority.*—Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1939, payments will be made for participation in the 1939 Range Conservation Program in accordance with the provisions hereof and such modifications thereof or other revisions as may hereafter be made.

(b) *Availability of funds.*—The provisions of the 1939 Agricultural Conservation Program, including the Range Conservation Program, are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments will necessarily be within the limits finally determined by such appropriation, the apportionment of such appropriation under the provisions of the Soil Conservation and Domestic Allotment Act, as amended, and the extent of national participation. Any increase or decrease in rates of payment made because of the extent of participation in the Range Conservation Program will not exceed 10 percent.

(c) *Applicability.*—The provisions of the 1939 Range Conservation Program contained herein, except Section 705.11, are not applicable to (1) Hawaii, Puerto Rico, and Alaska; (2) counties for which special range programs under said Act are approved for 1939 by the Secretary; and (3) public domain of the United States, including land owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.*#

SEC. 705.2 *Definitions.*—For the purposes of the 1939 Range Conservation Program unless the context otherwise requires:

Secretary means the Secretary of Agriculture of the United States.

North Central Region means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

Southern Region means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana,

* Sections 705.1 to 705.16 are issued under the authority contained in Sections 7 to 17, as amended, 49 Stat. 1148, 1915; 50 Stat. 329; 52 Stat. 31, 204; 16 U. S. C., Sup. III, 590g–590q.

The source of sections 705.1 to 705.16 is RCP–39, AAA, November 10, 1938.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Range conservation program bulletin, 1939 ---------- 2697

TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Postponing repeal of certain provisions of the Air Mail Act ---------- 2701
Rules of practice under Title IV and Section 1002 (d) to (i) of the Civil Aeronautics Act of 1938 ------ 2702

TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Fan Tan Co., etc., cease and desist order ---------- 2703

TITLE 25—INDIANS:
Office of Indian Affairs:
Nevada, certain lands established as Indian reservation ---------- 2705

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:
Veterans' Administration:
Hospital reductions ---------- 2705
Pensionable and compensable service for death pension and compensation purposes ---------- 2705

TITLE 43—PUBLIC LANDS:
Bureau of Reclamation:
Riverton Irrigation Project, notice of annual water charges ---------- 2706

TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Rules of practice and procedure, hearings:
Rules adopted ---------- 2707
Rules repealed ---------- 2707

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission: Page
Filing of annual reports from:
Carriers by water 2707
Steam railway companies of Class III 2707

NOTICES

Federal Trade Commission:
Orders appointing examiners, etc.:
Banfi Products Corp., etc 2711
Crown Novelty House (Jacob Goldberg) 2709
Domesart Corp. (Joseph Zweigenthal and William M. Safrin) 2712
Eastern Premium House, Inc. 2710
Gersten Brothers 2708
Gold Star Novelty House (Louis Farben) 2709
Jowett Institute of Physical Culture, Inc 2710
Linwood Sales Co., Inc. (Bernard Abrams and Abe S. Willner) 2708
Model Home Supply Co. (Hyman and Abraham Langsam) 2710
Nation - Wide Distributors (Aaron N. Sauer) 2708
Novelty Premium Co. (Joseph and S. Saladof) 2710
New York Sales Co. (Jacob Rothman) 2711
Philip Morris and Co., Ltd., Inc 2708
Popular Products Corp. 2709
Premio Sales Co., Inc., and Rose Sommers 2710
Tru-Valu Home Supply (Jack Becker) 2711
Valligny Products, Inc. 2711

CONTENTS—Continued

Federal Trade Commission—Con. Page
Orders appointing examiners, etc.—Continued.
Wellworth Sales Co. (Isidore Halperin and Morris Orenstein) 2709
Sauer, C. F., Co., complaint and notice 2712
Securities and Exchange Commission:
Market Street Railway Co., listing and registration order 2714
Phoenix Oil Co., hearing on listing and registration 2714

Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

Regional Director means the director of the division of the Agricultural Adjustment Administration in charge of the Agricultural Conservation Programs and the Range Conservation Programs in the Region.

State Committee means the group of persons designated for any State to assist in the administration of the Agricultural Conservation Programs and the Range Conservation Programs in such State.

County Committee means the group of persons elected for any county to assist in the administration of the Agricultural Conservation Programs and the Range Conservation Programs in such county.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable a State, a political sub-division of a State, or any agency thereof.

Range-building Payment means a payment for the carrying out of one or more approved range-building practices.

Range-building Allowance means the largest amount for any ranching unit which may be earned as a range-building payment on such ranching unit.

Ranch Operator means a person who as owner, cash tenant, or share tenant operates, or a person who acts in similar capacity in the operation of, a ranching unit in 1939.

Range Land means any land in which a ranch operator has such a legal estate or interest as to give him control thereof, which produces forage grazed by range livestock, without cultivation or general irrigation. Range land shall not include public domain of the United States including lands owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

Ranching Unit means all range land which is used in 1939 by the ranch operator as a single unit in producing range livestock, with machinery, workstock, and labor substantially separate from that of any other range land. In order to facilitate the administration of the program the Regional Director may prescribe that for the purposes of this program tracts shall be deemed ranching units only if they contain more than the minimum acreage of range land fixed by him. A ranching unit shall be regarded as located in the county in which its principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the ranching unit is located.

Animal Unit means one cow, one horse, five sheep, or five goats, or the equivalent thereof.

Grazing Capacity of Range Land means the number of animal units which such land will sustain, on a 12-month basis, over a period of years without decreasing the stand of grass or other grazing vegetation, and without injury to the forage, tree growth, or watershed.* #

SEC. 705.3 *Rates or range-building payments.*—Within the limits of the range-building allowance and subject to the conditions hereinafter set forth, payment will be made for carrying out on range land in 1939 such of the following range-building practices as are recommended for the State by the State committee and aproved by the Regional Director, and as are approved by the county committee for the ranching unit prior to their institution:

Practices and Conditions of Payment—Rate of Payment

RESEEDING OF RANGE LAND

(a) *Natural reseeding by deferred grazing.*—For withholding 25 percent of the range land in the ranching unit from grazing for the normal period from the start of forage growth to seed maturity, established by the State committee and approved by the Regional Director: *Provided*, (1) if grazing is deferred on less than 25 percent of the range land in the ranching unit, or the area deferred is normally grazed for one month or more but not all the months in the period approved for deferred grazing, a proportionate payment will be made; (2) on ranching units on which cattle or horses are grazed the area to be kept free of grazing is fenced and the fence is maintained sufficiently to prevent the entry of livestock; (3) on ranching units used exclusively for grazing sheep either the area to be kept free of grazing is fenced and the fence is maintained sufficiently to prevent entry of livestock or the entry of livestock on the non-grazed acreage is prevented by herding; (4) the remaining range land in such ranching unit is not pastured to such an extent as will decrease the stand of grass or injure the forage, tree growth, or watershed; (5) such practice shall not be applicable to range land in the ranching unit which normally is not used for grazing during the period for which payment is claimed; (6) the ranch operator has submitted to the county committee in writing the designation of the nongrazing range area of the ranching unit previous to the initiation of such practice; and (7) the ranch operator complies with such other conditions or specifications as may be established by the county committee with the approval of the State committee, where the county committee determines such additional conditions or specifications are needed in the interest of range conservation: 60 percent of that part of the range-building allowance which is computed under Section 705.4 (a): *Provided*, That if the ranch operator fails to comply with any conditions or specifications established by the county committee under subparagraph (7) of this paragraph (a) the rate shall be 40 percent of that part of the range building allowance computed under Section 705.4 (a).

(b) *Artificial reseeding.*—For reseeding depleted range land, including mountain meadow land, with good seed of adapted varieties of range grasses, legumes, or forage shrubs: $0.20 per pound of seed sown, but not in excess of $2.00 per acre.

(c) *Artificial sodding.*—For reseeding depleted range land with adapted varieties of range grasses: $3.00 per acre.

EROSION AND RUNOFF CONTROL

(d) *Contour listing, furrowing, or subsoiling.*—For listing, furrowing, or subsoiling range land, including mountain meadow land, on the contour: $0.50 per acre.

(e) *Contour ridging.*—For ridging rangeland on the contour: $0.10 per 100 linear feet.

(f) *Spreader dams and terraces.*—For constructing spreader dams and spreader terraces alone or in combination with each other for the diversion of surface water to prevent soil washing of range land, including mountain meadow land.

(1) Spreader dams: $0.15 per cubic yard of material moved.

(2) Spreader terraces: $0.50 per 100 linear feet.

DEVELOPMENT OF STOCK WATER ON RANGE LAND

(g) *Earthen tanks or reservoirs.*—For constructing reservoirs or earthen tanks with spillways adequate to prevent dams from washing out, for the purpose of providing water for range livestock: $0.15 per cubic yard of material moved not in excess of 5,000 cubic yards, and $0.10 per cubic yard of material moved in excess of 5,000 cubic yards for each tank or reservoir.

(h) *Concrete or rubble masonry dams.*—For constructing concrete or rubble masonry dams in rough or broken areas (where earthern dams or reservoirs are impracticable and where there is no possibility of using the masonry dam for irrigation), for the purpose of providing water for range livestock: $6.00 per cubic yard of concrete or rubble masonry.

(i) *Wells.*—(1) For drilling or digging wells with casing not less than 4 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. Payment will not be made for a well developed at any ranch headquarters: $2.00 per linear foot.

(2) For drilling or digging wells with casing less than 4 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. An artesian well with casing less than 4 inches in diameter will qualify for payment, provided adequate stock water is made available during the grazing season and the water is conveyed to a tank or trough. Payment will not be made for a well developed at any ranch headquarters: $1.00 per linear foot.

(j) *Development of natural watering places.*—For developing springs or seeps for the purpose of providing water for range livestock, provided the source is protected from trampling, and at least 20 cubic feet of available water storage is provided: $0.30 per cubic foot in soil or gravel and $0.50 per cubic foot in rock formation for excavation of source, provided the minimum payment will be $20.00 and the maximum payment $100.00 for any single development.

PLANTING AND MAINTAINING A STAND OF TREES

(k) *Tree planting.*—Planting of trees on range land, provided that the trees are planted in 1939 prior to November 1; that the number, kind, and age of trees planted and methods of planting and growing of such trees are in accordance with approved specifications; and that the acreage planted to trees is fenced and the fence is maintained sufficiently to prevent entry of livestock: $7.50 per acre.

(l) *Cultivating and maintaining a stand of trees.*—Cultivating, protecting, and maintaining, by replanting if necessary a full stand of at least 500 trees per acre of forest planting, or 200 trees per acre of windbreak or shelter-belt plantings planted on range land between July 1, 1935 and July 1, 1939: $3.00 per acre.

CONSERVATION OF RANGE LANDS THROUGH ELIMINATION OF DESTRUCTIVE PLANTS

(m) *Prickly pear and cactus.*—
(1) Light infestation: $0.50 per acre.
(2) Medium infestation: $0.75 per acre.
(3) Heavy infestation: $1.00 per acre.

(n) *Mesquite.*—
(1) Light infestation: $0.50 per acre.
(2) Medium infestation: $1.00 per acre.
(3) Heavy infestation: $2.00 per acre.

(o) *Cedar.*—
(1) Light infestation: $0.75 per acre.
(2) Medium infestation: $1.00 per acre.
(3) Heavy infestation: $1.50 per acre.

(p) *Lechuguilla.*—
(1) Heavy infestation: $0.50 per acre.

Provided, That if the county committee determines the elimination of destructive plants under any of practices (m) to (p), inclusive, will reduce the vegetative cover to such an extent as to encourage increased soil erosion, the use of practice (b), Artificial reseeding, shall also be required where soil and climatic conditions permit.

FIRE GUARDS

(q) *Fire guards.*—For the establishment on range land of fire guards not less than 10 feet in width by plowing furrows or otherwise exposing the mineral soil. Payment will not be made if any fire guard is used in connection with controlled burning within the ranching unit: $0.05 per 100 linear feet.* #

SEC. 705.4 *Range-building allowance.*—(a) *Acreage and grazing capacity.*—In Texas, Oklahoma, Kansas, Nebraska, South Dakota, and California, the range-building allowance shall be 2 cents per acre of range land in the ranching unit plus $1.00 times the grazing capacity of the range land; and in Arizona, New Mexico, Nevada, Utah, Colorado, Washington, Oregon, Idaho, Montana, Wyoming, and North Dakota, the range-building allowance shall be 3 cents per acre of range land in the ranching unit plus 75 cents times the grazing capacity of the range land: *Provided, however*, that in either area the grazing capacity item shall not be calculated on more than one animal unit for each 10 acres of range land in the ranching unit, and the acreage item shall not be calculated on more than 60 acres for each animal unit of grazing capacity established for the ranching unit.

(b) *Mountain meadow land.*—In addition, the range-building allowance shall include 35 cents times the number of acres of mountain meadow land in the ranching unit from which hay is normally harvested for feeding on the ranching unit to range livestock owned by the operator of the ranching unit. The counties in which this additional allowance is made shall be those mountain counties in the Western Region for which, upon the basis of the recommendations of the county and State committees, the regional director determines the reseeding and erosion control practices specified in Section 705.3 to be necessary and effective in promoting range conservation: *Provided, however*, the mountain meadow land for which this additional allowance is made shall not be considered in calculating the portion of the range-building allowance provided for in paragraph (a).* #

SEC. 705.5 *Conditions of Payment.*—(a) *Promotion of conservation and good range management.*—Payments for carrying out range-building practices are conditioned upon the adoption or maintenance of conservative range management practices designed to secure or maintain a good stand of grass or other palatable forage plants and in bringing about such use of the forage resources of the ranch as will most effectively carry out the purposes of the Soil Conservation and Domestic Allotment Act. Payments under the 1939 Range Conservation Program will be made only with

respect to those ranching units on which the county committee certifies that such range management practices have been followed. The range-building practices approved by the county committee for any ranching unit shall be practices which the county committee finds are needed on the ranch in order to promote conservation and good range management.

(b) *Payments limited to range-building allowance.*—The range-building payment with respect to any ranching unit shall not exceed the range-building allowance for such ranching unit. Payment will be made only if range-building practices are carried out according to specifications recommended by the State committee and approved by the regional director. Payments made for carrying out range-building practices shall not be subject to the provisions of Section 701.9 of the 1939 Agricultural Conservation Program Bulletin.

(c) *State or Federal aid.*—No payment will be made for practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency other than the Agricultural Adjustment Administration, or for practices with respect to which a portion of the labor, seed, trees, or other materials used in carrying out such practices is furnished by a State or Federal agency other than the Agricultural Adjustment Administration, if such portion represents one-half or more of the total cost of carrying out such practices. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents less than one-half of the total cost of carrying out such practice, payment will be made for such practice at one-half of the rate specified in Sec. 705.3. *Provided*, That labor, seed, trees, and materials furnished to a State, political subdivision of a State, or any agency thereof by an agency of the same State shall not be deemed to have been furnished by "any State * * * agency" within the meaning of this paragraph. Trees purchased from a Clark-McNary Cooperative State Nursery shall not be deemed to be paid for in whole or in part by a State or Federal agency. No payment will be made for the planting and protection of forest trees planted under a cooperative agreement entered into with the Forest Service in connection with the Prairie States Forestry Project.* #

Sec. 705.6 *Changes in leasing arrangements and other devices.*—No payment will be made to any person who has for 1939 made any change from the 1938 leasing arrangements of range land for the purpose of, or which would have the effect of, diverting to such person any payment to which any lessee would be entitled if the 1938 leasing arrangements of such range land were in effect for 1939. If the State committee finds that any person who files an application for a payment pursuant to the provisions of the 1939 Range Conservation Program has made any change from the 1938 leasing arrangements of such range land or has employed any other scheme or device whatsoever for the purpose of, or which would have the effect of, depriving any other person of any payment or share therein to which such other person otherwise would be entitled, the secretary may withhold in whole or in part from the person participating in such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or otherwise would be made to such person for performance in connection with the 1939 Range Conservation Program.* #

Sec. 705.7 *Eligibility for payment.*—(a) *Persons eligible to file application.*—Application for range-building payment may be made only by ranch operators. Range-building payments will be made to (1) a sole ranch operator, or (2) each ranch operator of a group of two or more ranch operators, provided they all signify in the application for the range-building payment a percentum of the total payment to be made to each ranch operator. In case there are two or more ranch operators, the application must be made by all of them, except that in cases where any ranch operator refuses to sign the application for payment the county committee shall determine the percentage share of each ranch operator and payment of his percentage share will be made to each ranch operator applying for payment in accordance with such determination.

(b) *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment to any ranch operator who fails to file any form or furnish any information required with respect to any ranching unit in which such ranch operator is interested, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks' notice to the public shall be given in advance of the expiration of a time limit for filing prescribed forms.

(c) *Excess cotton acreage.*—Any person who makes application for payment with respect to any ranching unit located in a county in which cotton is planted in 1939 shall file with such application a statement that the applicant has not knowingly planted or caused to be planted during 1939 cotton on land in any farm in which he has an interest in excess of the cotton acreage allotment established for the farm for 1939 and that cotton was not planted in excess of such allotment by his authority or with his consent.

Any person who knowingly plants cotton on his farm in 1939 on acreage in excess of the cotton acreage allotment established for the farm in 1939 shall not be eligible for any payment under the provisions of the 1939 Range Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1939 on acreage in excess of the cotton acreage allotment for the farm for 1939 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless the farmer establishes the fact that the excess acreage was planted to cotton due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1939.* #

Sec. 705.8 *Payment restricted to effectuation of the purposes of the program.*—All or any part of any payments which otherwise would be made to any person under the 1939 Range Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1939 or previous range conservation programs, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the regional director finds is contrary to sound conservation practices.

No payment will be made to any person if it is determined in accordance with instructions issued by the Agricultural Adjustment Administration that, with respect to any ranch which he owns or operates, the stand of grass has been decreased or the forage, tree growth or watershed has been injured by overgrazing in 1939.* #

Sec. 705.9 *Payments computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in Sec. 705.13), and without regard to any claim or lien against any crop or livestock, or proceeds thereof, in favor of the owner or any other creditor.* #

Sec. 705.10 *Increase in small payments.*—The total payment, computed for any person with respect to any

ranching unit shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to 200.00.* #
[2] No increase.

Sec. 705.11 *Payments limited to $10,000.*—The total of all payments made in connection with programs for 1939 under Section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate with respect to farms, ranching units, and turpentine places located within a single State, Territory, or possession, shall not exceed the sum of $10,000. The total of all payments made in connection with programs for 1939 under Section 8 of the Soil Conservation and Domestic Allotment Act to any person other than an individual, partnership, or estate with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico) shall not exceed the sum of $10,000.

All or any part of any payment which has been or otherwise would be made to any person under the 1939 Agricultural Conservation Program, including the Range Conservation Program, may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, or formation of any corporation, partnership, estate, trust, or by any other means, which was designed to evade, or would have the effect of evading, the provisions of this section.* #

Sec. 705.12 *Deductions for association expenses.*—There shall be deducted pro rata from the payments with respect to any ranching unit all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the ranching unit is located.* #

Sec. 705.13 *Assignments.*—Any person who may be entitled to any payment in connection with the 1939 Range Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1939. No such assignment will be recognized unless the assignment is made in writing on Form ACP-69 in accordance with instructions (ACP-70) issued by the Agricultural Adjustment Administration.

Nothing contained in this Sec. 705.13 shall be construed to give an assignee a right to any payment other than that to which the ranch operator is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the ranch operator without regard to the existence of any such assignment.* #

Sec. 705.14 *Establishment of grazing capacities.*—There shall be established a grazing capacity for each ranching unit for which an application for determination of grazing capacity is received on or before a date established by the regional director as affording reasonable opportunity for the filing of such applications. In determining grazing capacity, consideration shall be given to the following: (a) composition, palatability, and density of forage growth; (b) climatic fluctuations; (c) distribution and character of watering facilities; (d) topographic and cultural features; (e) presence or absence of rodents and poisonous plant infestations; and (f) number and classes of livestock previously carried. The average of the individual grazing capacities established for all ranching units in a county shall not exceed the county average grazing capacity limit established by the Agricultural Adjustment Administration on the basis of available statistics.* #

Sec. 705.15 *Appeals.*—Any person may within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters affecting any ranching unit in which he has an interest: (a) eligibility to file an application for payment, (b) grazing capacity established for the range land in such ranching unit, or (c) any other matter affecting the right to or the amount of his payment with respect to the ranching unit. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee, he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State Committee. The State committee shall notify such person of its decision in writing 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.* #

Sec. 705.16 *State and regional bulletins, instructions and forms.*—The Agricultural Adjustment Administration is hereby authorized to make such determinations and to prepare and issue such State and regional bulletins, instructions, and forms as may be required pursuant to the provisions hereof in administering the 1939 Range Conservation Program.

Done at Washington, D. C., this 10th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3435; Filed, November 15, 1938; 12:45 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[General Order 1107-K-1, amended November 14, 1938]

POSTPONING REPEAL OF CERTAIN PROVISIONS OF AIR MAIL ACT

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 14th day of November 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 1110 thereof, and finding that such action is necessary or desirable in the public interest and consistent with the provisions of said Act, the Civil Aeronautics Authority hereby amends General Order 1107-K-1, adopted on the 20th day of August, 1938,[1] to read as follows:

[General Order 1107-K-1 (As Amended November 14, 1938]

POSTPONING REPEAL OF CERTAIN PROVISIONS OF THE AIR MAIL ACT

The effective date of subsection (k) of section 1107 of the Civil Aeronautics Act of 1938 is hereby postponed until and including December 20, 1938, to the extent that prior to such date that subsection shall not have the effect of repealing the following portion of section 3 (f) of the Air Mail Act of 1934, as amended:

"That the Postmaster General may, upon application by an air-mail contractor, authorize said contractor for his own convenience to transport air mail on any nonmail schedule or plane, with the understanding that the weights of mail so transported will be credited to regular mail schedules and no

[1] 3 F. R. 2056 DI.

mileage compensation will be claimed therefor . . ."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3429; Filed, November 15, 1938; 11:25 a. m.]

RULES OF PRACTICE UNDER TITLE IV AND SECTION 1002 (D) TO (I) OF THE CIVIL AERONAUTICS ACT OF 1938

[Effective November 21, 1938]

TABLE OF CONTENTS

Rule
1. Proceedings.
2. General Requirements as to Papers in Proceedings.
   (a) Informal Complaints.
   (b) Conformity to Rules.
   (c) Requirements in Absence of Rules.
   (d) Insufficient Allegations.
   (e) Answers.
   (f) Protests and Memoranda.
3. Form and Filing of Documents.
   (a) Execution, Number of Copies, and Service.
   (b) Verification.
   (c) Formal Specifications of Papers.
   (d) Waiver of Strict Compliance with Rule.
4. Appearances and Memoranda by Third Persons—Formal Interventions.
   (a) Public Bodies.
   (b) Other Persons.
   (c) Formal Interventions.
5. Hearings, Argument, Examiner's Report and Proceedings Subsequent Thereto.
   (a) Oral Argument Before Examiner, Proposed Findings, Briefs.
   (b) Examiner's Report.
   (c) Exceptions and Briefs; Service Thereof.
   (d) Oral Argument Before the Authority.
6. Exhibits.
7. Hearings Before the Authority and Before Boards of Examiners.

RULE 1—PROCEEDINGS

There shall be one form of formal proceeding (to be known as a "proceeding") under Title IV and section 1002 (d)–(i) of the Act.

A proceeding may be instituted (1) by order to show cause or other process of the Authority, (2) by the filing with the Authority of a formal application, complaint or petition.

RULE 2—GENERAL REQUIREMENTS AS TO PAPERS IN PROCEEDINGS

(a) *Informal complaints.*—Complaints may be made to the Authority informally by letter or other writing and matters so presented may, if their nature warrants, be taken up by correspondence or conference with the person or persons complained of. Any matter not disposed of informally may be made the subject of a formal proceeding.

(b) *Conformity to rules.*—Any person wishing to institute a proceeding should consult the rules, regulations and orders of the Authority under the various sections of the Act. The Authority's rules, regulations and orders are numbered to correspond with the section numbers of the Act and any person wishing to proceed under any particular section of the Act may readily ascertain whether the Authority has issued any rules, regulations, or orders under such section.

(c) *Requirements in absence of rules.*—In case there is no rule, regulation or order of the Authority which prescribes the contents of the formal application, complaint or petition in a given case, the application, complaint or petition should contain a concise but complete statement of the facts relied upon as the basis for the relief sought. The names and addresses of the persons, if any, against whom relief is sought, should also be set forth in full.

(d) *Insufficient allegations.*—In any case where the Authority is of the opinion that a formal application, complaint or petition does not sufficiently set forth the material required to be set forth by any applicable rule, regulation or order of the Authority, or is otherwise insufficient, the Authority may advise the party filing the same of the deficiency and require that any additional information be supplied by amendment.

(e) *Answers.*—Answers to formal complaints, petitions and orders to show cause will not usually be required. In case the Authority deems an answer to be desirable, the parties will be notified.

(f) *Protests and memoranda.*—Nothing in these rules contained shall prevent the filing of a protest or memorandum in any case where this is specifically permitted by the Act. Any such protest or memorandum may be informal, but should be filed before the close of the hearing in the proceding in which it is filed.

RULE 3—FORM AND FILING OF DOCUMENTS

(a) *Execution, number of copies, and service.*—Unless otherwise required by applicable rule or regulation, every application, petition and formal complaint relating to any of the provisions of Title IV or of section 1002 (d)–(i) of the Act, and every answer or other formal document in any such proceeding, shall be signed by, or on behalf of, the person filing the same, and shall be verified by the person signing the same, in the manner required by paragraph (b) of this rule. Briefs and exceptions to reports of examiners shall be signed but need not be verified. Any general partner may sign on behalf of a partnership. Documents filed by a corporation, business trust or other similar organization must be signed by an officer who is duly authorized to take such action. An executed original copy of each such document, and nine true copies thereof, which need not be signed or verified, but which should have typed or facsimile signatures, shall be filed with the Authority. Each person filing any such document shall furnish such additional copies and shall make such service of the document on other persons as the Authority may at any time require. Such documents shall be delivered in person, through the mails, or otherwise, to the Civil Aeronautics Authority in Washington, D. C., and shall be deemed to have been filed on the date on which they are actually received by the Authority.

(b) *Verification.*—Every verification shall set forth that the person verifying the document has read and is familiar with the contents thereof and the attached exhibits, if any; that he intends and desires that in granting or denying the relief required, the Authority shall place full and complete reliance upon the accuracy of each and every statement therein contained; that he is familiar with the facts therein set forth; that to the best of his information and belief, every statement contained in the instrument is true and no such statement is misleading.

(c) *Formal specifications of papers.*—All papers filed in proceedings should be on strong, durable paper not larger than 8½" by 13" in size except that tables, charts and other documents may be larger, folded to approximately that size. The left margin should be at least 1½" wide and, if the document is bound, it should be bound on the left side.

Papers may be reproduced by printing or by any other process, provided the copies are clear and legible. Appropriate notes or other indications should be used, so that the existence of deficits and any other matters normally shown in color will be accurately indicated on photostatic copies.

(d) *Waiver of strict compliance with rule.*—The Authority may, in its discretion, waive strict compliance with any requirement of this rule.

RULE 4—APPEARANCES AND MEMORANDA BY THIRD PERSONS—FORMAL INTERVENTIONS

(a) *Public bodies.*—Any state, political subdivision thereof, state aviation commission, or other public body may appear at any hearing, present any evidence that is relevant to the issues, and otherwise participate in the hearing to the extent permitted to other persons by paragraph (b) of this rule.

If any such body desires to present its opinions with respect to any matter before the Authority without appearing at the hearing, it may do so by filing a memorandum of its views with the Authority not later than the close of the hearing. A copy of such memorandum should be furnished by the person filing the same to every person who is a party to the proceeding, and the document filed with the Authority should contain a statement giving the names and addresses of the persons to whom copies have thus been furnished. Any material contained in such memorandum shall be subject to objection and rebuttal.

(b) *Other persons.*—Any person other than a public body as described above, may appear at any hearing, and present any evidence that is relevant to the issues. Such persons may also suggest questions or interrogatories to be propounded by counsel for the Authority to witnesses called by other persons. With the consent of counsel for the Authority, such third persons may also cross-examine witnesses directly, and submit memoranda of their views or opinions, provided that copies of such memoranda are also served upon all parties to the proceeding.

(c) *Formal interventions.*—Any person having a substantial interest in the subject matter of any proceeding may ask leave to intervene in such proceeding and become a party thereto upon compliance with the provisions of this paragraph. In general, such motions will not be granted unless the Authority, or, in appropriate cases, the examiner, shall find,

(1) that such person has a statutory right to be made a party to such proceeding, or,

(2) that such person will or may be bound by the order to be entered in the proceeding, or,

(3) that such person has a property or financial interest which may not be adequately represented by existing parties, if such intervention would not unduly broaden the issues or delay the proceeding.

However, the denial of such a motion for leave to intervene shall not prevent the moving person from participating in the proceeding in the manner described in paragraphs (a) or (b) of this rule.

Except for good cause clearly shown, every motion for leave to intervene shall be filed with the Authority not less than five (5) days before the date set for the first hearing of the proceeding. Copies of the motion papers shall be mailed or delivered to each party to the proceeding prior to the filing of the motion. The Authority, however, may pass upon any such motion without receiving testimony or argument either from the moving person or from other parties to the proceeding. The motion papers shall clearly set forth the interest of the moving party, and shall otherwise comply with the requirements of Rule 3.

If adequate cause is shown for failure to comply with the preceding provisions of this rule, a motion for leave to intervene may be made within less than five (5) days before the date set for the hearing, and under extraordinary circumstances, such motion may be entertained by the Authority or an examiner at the time of the hearing. In the event that such motion is heard by an examiner, his determination shall be governed by the standards hereinabove set forth, but no decision by an examiner on such a motion shall be binding on the Authority. Interventions herein provided are for administrative purposes, and no decision to grant leave to intervene shall be deemed to constitute a finding or determination that the intervening party has such a substantial interest in the order that is to be entered in that proceeding as will entitle it to demand review of such order by the circuit courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

RULE 5—HEARINGS, ARGUMENT, EXAMINER'S REPORT AND PROCEEDINGS SUBSEQUENT THERETO

(a) *Oral argument before examiner, proposed findings, briefs.*—Upon request of any party, an examiner may permit oral argument at the close of the hearing. Oral argument shall be transcribed, but shall not constitute part of the record.

If a case presents unusually difficult questions of fact or law, the examiner may permit or require the submission of proposed findings of fact or conclusions of law, or of written briefs, to aid him in the preparation of his report.

(b) *Examiner's report.*—In each case heard before an examiner, an appropriate announcement will be made by the examiner prior to the close of the hearing as to whether or not an examiner's report will be made in the proceeding. Such report will ordinarily be made, except in cases where the examiner, with the consent of counsel for the Authority, and without objection by any other party, announces at the hearing that he will recommend the granting of the application or other relief under consideration in the proceeding. If an examiner's report is to be made in the proceeding, the examiner will also announce, or state in his report,

(1) the names of the persons who are to receive copies of the same;

(2) the time within which exceptions are to be filed and exchanged; and

(3) the time thereafter within which briefs relating to such exceptions are to be filed and exchanged,

and may give other instructions relating to procedure after the hearing.

(c) *Exceptions and briefs; service thereof.*—The exceptions and briefs above referred to are to be filed with the Authority and not with the examiner. Exceptions may be taken either to the examiner's recommended findings of fact or conclusions of law. Exceptions to findings of fact shall designate, by exact and specific reference, the portions of the record which will be relied upon in support of such exceptions. Exceptions to conclusions of law shall briefly cite the statutory provisions or the principal authorities that will be relied upon in support of the exceptions to the conclusions of law.

After the filing and exchange of exceptions, each party should prepare a single brief supporting its own exceptions and covering any points which it wishes to raise in connection with exceptions filed by others. Except by special permission of the Authority, briefs shall not exceed 50 pages in length. Reply briefs will not be received except by special permission of the Authority.

Each set of exceptions and brief shall, when filed, be accompanied by proof of service thereof by mail upon all parties to the proceedings and other persons designated by the examiner to receive copies of his report. The number of copies to be filed is governed by paragraph (a) of rule 3.

(d) *Oral argument before the Authority.*—If any person desires to argue a case orally before the Authority he must request leave of the Authority to make such argument. Such request should be filed with the briefs for the Authority in the proceeding. The Authority will advise the persons making such request as to its decision and if such argument is to be allowed all persons who have filed briefs in the proceedings will be advised of the date and hour set for such argument and the amount of time allowed to each such person.

RULE 6—EXHIBITS

Wherever practicable, one copy of each exhibit (in addition to the original offered in evidence at the hearing) should be furnished for the use of each examiner and two copies should be furnished to counsel representing the Authority. One of such copies will be made available for inspection by all persons present at the hearing. One copy should also be furnished to each party and the examiner may, in his discretion, direct that any other person deemed by him to have a sufficient interest shall receive copies of designated exhibits.

Excerpts from lengthy documents or of portions of the record in other proceedings before the Authority should be offered in the form of exhibits and copies furnished as above provided. Such exhibits may be received in evidence, subject to objection and rebuttal by counsel for the Authority or others, after opportunity to examine the exhibit in question and the source from which the same was taken.

RULE 7—HEARINGS BEFORE THE AUTHORITY AND BEFORE BOARDS OF EXAMINERS

Provisions of these rules governing the conduct of hearings before single examiners shall also govern, with necessary changes, in cases where such hearings are held before the Authority, a member thereof, or a board of more than one examiner.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3434; Filed, November 15, 1938; 12:40 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3352]

IN THE MATTER OF FAN TAN COMPANY, INC., ETC.

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that respondents' various cosmetic and toilet preparations,

sold under brand names "Fan Tan," "Lou Ray," and "Gro Pres" (and including various creams, powders, soaps, and lotions), or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will end oily skin problems, melt into the pores, prevent blackheads and wrinkles, nourish and sterilize the skin, reduce enlarged pores, cause pimples to vanish, whiten the skin, and clear up and remove blemishes, etc., as in order set forth, and use of any other similar representations of like import and effect as to the beneficial value of said preparations or the benefits accruing from use thereof; or representing that its said various preparations, as specified, other than said "Fan Tan Bleach Creme," will bleach the skin; prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, Fan Tan Company, Inc., etc., Docket 3352, November 1, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing that respondents' various cosmetic and toilet preparations, sold under brand names "Fan Tan", "Lou Ray", and "Gro Pres" (and including "Sarcoptic Mange Medicine", "Shampoo Soap", "Three-Fold Brilliantine Hair Grower", etc.), or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will promote the growth of longer, straighter hair, recondition the hair, vitalize scalp roots, get rid of, prevent and end dandruff, clean hair roots, grow hair, rout the cause of hair and scalp trouble, increase the length of hair, make hair longer, straighter, smoother and softer, etc., as in order specified, and use of any other similar representations of like import and effect as to beneficial value of said preparations or benefits accruing from use thereof, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, Fan Tan Company, Inc., etc., Docket 3352, November 1, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 1st day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF FAN TAN COMPANY, INC., A CORPORATION, ALSO TRADING AS LOU RAY COMPANY, GRO PRES COMPANY, AND BISHOP JONES COMPANY

MODIFIED ORDER TO CEASE AND DESIST [1]

This proceeding having been heard by the Federal Trade Commission upon a motion of respondent to modify the order to cease and desist issued herein on September 27, 1938, and the Commission having duly considered said motion and the record herein and being now fully advised in the premises;

It is ordered, That the motion to modify the order to cease and desist issued herein be, and the same hereby is, granted and the said order is hereby modified so as to read:

It is ordered, That the respondent, Fan Tan Company, Inc., a corporation, also trading as Lou Ray Company, Gro Pres Company and Bishop Jones Company, or trading under any other name, its officers, representatives, agents and employees, either directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of various cosmetic and toilet preparations now sold by it under various and sundry names in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing that the preparation now designated as Fan Tan Liquifying Creme or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will end oily skin problems, melt into the pores and prevent blackheads and wrinkles.

2. Representing that the preparation now designated as Fan Tan Vanishing Creme or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will nourish the skin.

3. Representing that the preparation now designated as Fan Tan Sarcoptic Mange Medicine or any other preparation composed of the same or similar ingredients and possessing similar properties will promote the growth of longer, straighter hair, will prevent dandruff, will recondition the hair and will vitalize scalp roots.

4. Representing that the preparation now designated as Fan Tan Medicated Shampoo Soap, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will sterilize the skin.

5. Representing that the preparation now designated as Fan Tan Tar Shampoo, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will get rid of dandruff and will clean hair roots.

6. Representing that the preparation now designated as Fan Tan Astringent Lotion, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will reduce enlarged pores and reduce oiliness of the skin.

7. Representing that the preparation now designated as Lou Ray Three-Fold Brilliantine Hair Grower, or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will grow hair and supply nourishment to the hair.

8. Representing that the preparation now designated as Gro Pres Medicated Hot Oil Treatment and Lou Ray Medicated Hot Oil Treatment, or any other preparation composed of the same or similar ingredients or possessing similar properties, under whatever name sold, will "rout the cause of hair and scalp trouble".

9. Representing that the preparation now designated as Lou Ray Lemon Cleansing Creme and Gro Pres Lemon Cleansing Creme or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will cause pimples to vanish, will bleach the skin and will clear up blemishes.

10. Representing that the preparation now designated as Lou Ray Wheel of Fortune Hair Dressing or any other preparation composed of the same or similar ingredients and possessing similar properties under whatever name sold, will increase the length of the hair.

11. Representing that the preparations now designated as Fan Tan Bleach Creme, Lou Ray Bleach Creme and Gro Pres Bleach Creme or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, are effective remedies for pimples, blackheads, wrinkles and all causes of rough harsh skin, and will remove freckles, pimples, blotches, roughness and enlarged pores.

12. Representing that the preparations now designated as Lou Ray Skin Bleach Soap, Gro Pres Skin Bleach Soap, Lou Ray Bleach Creme and Gro Pres Bleach Creme, or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will bleach the skin.

13. Representing that the preparation now designated as Gro Pres Hair Grower or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will grow hair and end dandruff and itchy scalp.

14. Representing that the preparation now designated as Franko Hair Dressing Remedy or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will make hair longer, straighter, smoother and softer.

15. Representing that the preparations now designated as Creme Shampoo, Hair Tinting Jet Black Shampoo, Light Weight Shampoo Soap and Tinting Shampoo soap or any other preparations composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will end dandruff and falling hair.

16. Representing that the preparation now designated as Fan Tan Whitening Soap or any other preparation composed of the same or similar ingredients and possessing similar properties, under whatever name sold, will whiten the skin and will remove skin blemishes, is healing and will correct skin eruptions and pimples.

17. And from making any other similar representations of like import or effect as to the beneficial value of said preparations or the benefits accruing from the use thereof.

It is further ordered, That the respondent, Fan Tan Company, Inc., shall, within thirty days after service upon it of this modified order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this modified order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3426; Filed, November 15, 1938; 9:34 a. m.]

[1] 3 F. R. 2389 DI.

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

PROCLAMATION ESTABLISHING CERTAIN LANDS IN NEVADA AS AN INDIAN RESERVATION

OCTOBER 27, 1938.

By virtue of authority contained in Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the lands described below, acquired by purchase under the provisions of Section 5 of that act, for the use and benefit of such landless Shoshone Indians, resident in Southern Nevada, who are eligible under Section 19 of the said Indian Reorganization Act, and who shall be designated by the Secretary of the Interior, are hereby proclaimed to be an Indian reservation:

Township 10 North, Range 38 East, M. D. B. & M.
Section 21: SE¼ of the NW¼
Township 12 North, Range 38 East, M. D. B. & M.
Section 31: SE¼ of the NW¼
Township 12 North, Range 40 East, M. D. B. & M.
Section 3: SW¼ of the NW¼; W½ of the SW¼
Section 4: NE¼ of the NE¼; S½ of the NE¼; SE¼
Section 9: NE¼; E½ of the W½; W½ of the SE¼
Section 16: E½ of the W½; NW¼ of the NE¼; S½ of the SE¼
Township 12 North, Range 40 East, M. D. B. & M.
Section 21: E½ of the W½
Section 28: NE¼ of the NW¼; S½ of the NW¼; SW¼ of the NE¼; E½ of the SW¼; W½ of the SE¼; SE¼ of the SE¼
Section 33: NE¼ of the NW¼; N½ of the NE¼; SE¼ of the NE¼; NE¼ of the SE¼
Section 11: W½ of the SW¼
Section 14: NE¼ of the NW¼; NW¼ of the NE¼
Section 24: W½ of the SW¼; SE¼ of the SW¼
Section 25: SW¼ of the NE¼
Township 14 North, Range 41 East, M. D. B. & M.
Section 4: Lot 4 of the NW¼; SW¼ of NW¼; NW¼ of SW¼
Section 5: Lot 1 of the NE¼; S½ of NE¼; SE¼
Section 7: E½ of SE¼
Section 8: N½ of NE¼; SW¼ of NE¼; SE¼ of NW¼; W½ of SE¼; SW¼
Section 17: NW¼ of NE¼; W½
Section 18: E½ of E½
Township 15 North, Range 41 East, M. D. B. & M.
Section 33: SW¼

All of said lands being within Nye County, Nevada, containing a total of 3,721.48 acres, more or less.

HARRY SLATTERY, *Acting Secretary of the Interior.*

[F. R. Doc. 38-3427; Filed, November 15, 1938; 9:35 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

HOSPITAL REDUCTIONS

See also Secs. 2.1255, 2.1256, 2.2108,[1] 2.2110 [2] and 2.2112 (a).[3]

SEC. 2.2181 [4] Reductions in service pension while a veteran is in a State Soldiers' Home, the U. S. Soldiers' Home, the U. S. Naval Home or a Veterans' Administration facility mentioned in Secs. 2.2108, 2.2110 and 2.2112, will be continued during furloughs or other temporary absences for periods of less than thirty days, unless discharged without readmission, in which event the award will be adjusted, if otherwise in order, effective as of the day the veteran left the institution. (See Sec. 2.1256.) (November 21, 1938.) [48 Stat. 9; 38 U. S. C. 706]

REDUCTION BASED UPON MAINTENANCE IN STATE HOMES; U. S. SOLDIERS HOME, WASHINGTON, D. C.; AND U. S. NAVAL HOME

SEC. 2.2189 [4] (a) *Public No. 269, 74th Congress.*—Pursuant to the provisions contained in the Acts of May 1, 1926, and June 2, 1930, pension is restricted to $50.00 monthly while the veteran is residing in a State Soldiers Home, the U. S. Soldiers Homes, or U. S. Naval Home. (A. D. 332.) (January 25, 1936.)

(b) *Indian Wars.*—See Sec. 2.2110. (September 1, 1937.) [50 Stat. 786; 38 U. S. C. 381-1.]

[SEAL] FRANK T. HINES, *Administrator.*

[F. R. Doc. 38-3424; Filed, November 14, 1938; 3:26 p. m.]

PENSIONABLE AND COMPENSABLE SERVICE FOR DEATH PENSION AND COMPENSATION PURPOSES [4]

SEC. 2.2532 *Death of veteran due to peace-time service: Public No. 2, 73d Congress.*—(a) For the purposes of Public No. 2 (Act of March 20, 1933), the surviving widow, child or children and/or dependent mother or father of any deceased person who died as a result of injury or disease incurred in or aggravated by active military or naval service subsequent to April 20, 1898, other than in a period of war service, as provided for in Sec. 8.012, paragraph I, as amended by Public No. 159, 75th Congress (Act of June 23, 1937) shall be entitled to receive pension at the monthly rates specified in Sec. 2.2622 (c) and/or (d).[5]

(b) For the purposes of Public No. 159, 75th Congress (Act of June 23, 1937) as amended by Public No. 732, 75th Congress (Act of June 25, 1938), the surviving widow, child or children and dependent mother or father of any deceased person who dies or has died as a result of physical injury (sickness or disease shall not be regarded as an injury) incurred in line of duty while performing active naval service, subsequent to June 15, 1933, shall be entitled to receive pension at the monthly rates specified in Sec. 2.2622 (d).

(c) If death resulted from an injury received in line of duty in actual combat in a military expedition or military occupation, the dependents shall be entitled to the war-time rates specified in Sec. 2.2622 (a) and/or (b). (Sec. 8.012, paragraph I (c).) See also Sec. 2.1067.

(d) Pension may not be allowed by virtue of death resulting from Coast Guard service during peace time unless death or the disability causing such death occurred subsequent to July 2, 1930 (A. D. 200) (November 15, 1938).

CONCURRENT PAYMENTS

SEC. 2.2551 *Concurrent payment of two benefits to the same person.*—Under the provisions of Public No. 2, 73d Congress (Act of March 20, 1933) not more than one pension or award of compensation shall be payable to any one individual, except the receipt of pension or compensation by a widow, child, or parent on account of the death of any person shall not bar the payment of pension or compensation on account of the death of any other person. (Sec. 8.10, paragraph XIII.)

(a) For the purposes of Sec. 8.012, paragraph I, as amended by Public No. 159, 75th Congress (Act of June 23, 1937) and Public No. 732, 75th Congress (Act of June 25, 1938) pension shall not be paid concurrently with active duty pay or United States Employees Compensation. Where a person who is eligible for pension is also eligible for the benefits of United States Employees Compensation Act, he shall elect which benefit he shall receive. (November 15, 1938.)

COMMENCEMENT OF ORIGINAL AWARDS OF DEATH PENSION OR COMPENSATION

SEC. 2.2574 *Public No. 2 and Sections 28 and 31, Title III, Public No. 141, 73d Congress, Section 3, Public No. 304, and Section 3, Public No. 514, 75th Con-*

[1] 1 F. R. 2089.
[2] 3 F. R. 883 DI.
[3] 1 F. R. 2090.
[4] Revision.
[5] 2 F. R. 1840 (2152 DI).

gress.—Original awards of death pension or compensation under Public No. 2, 73d Congress, (Act of March 20, 1933), Sections 28 and 31, Title III, Public No. 141, 73d Congress, (Act of March 28, 1934) Section 3, Public No. 304, and Section 3, Public No. 514, 75th Congress (Acts of August 16, 1937 and May 13, 1938) shall commence as follows:

(b) For the purposes of Sec. 8.012, paragraph I, as amended by Public No. 159, 75th Congress (Act of June 23, 1937) granting pension to the surviving dependents of reserve officers and members of the enlisted reserves of the United States Army, Navy or Marine Corps, pension payments shall commence:

(1) Dependents of reservists whose deaths resulted from injury or disease incurred in or aggravated while in service *other than for training purposes:*—the date of filing application or the date following the date of last payment of United States Employees Compensation, whichever is the later, where such benefits have been awarded and the claimant has elected to receive pension.

(2) Dependents of reservists whose deaths resulted from injury or disease incurred in or aggravated while in service *for training purposes:*

(a) If the Army reservist (Naval reservists not entitled from July 1, 1925, to June 15, 1933) died as a result of injury or disease acquired in service prior to June 15, 1933, from the date of filing claim.

(b) If the reservist (Army or Navy) died as a result of injury or disease acquired on or after June 15, 1933, from the date of filing claim, the date following the date of last payment of United States Employees Compensation where such benefits have been awarded and the claimant has elected to receive pension under Public No. 159, 75th Congress, or June 23, 1937, whichever is the later.

(c) If in time of peace a member of the Naval Reserves or Marine Corps Reserves (Army Reserves not included) dies or has died as a result of injury received on or after June 15, 1933, while performing active duty with or without pay, training duty with or without pay, drills, equivalent instruction or duty, (appropriate duty, or other prescribed duty,) or while performing authorized travel to or from such duties, the date of filing claim or from the date of last payment of United States Employees Compensation where such benefits have been awarded and the claimant has elected to receive pension under the provisions of Public No. 159, 75th Congress as amended by Public No. 732, 75th Congress, whichever is the later; provided that any claim filed under Sec. 8.012, or under that Section as amended by Public No. 159, 75th Congress, disallowed or abandoned, may upon written notice from the claimant or a representative of the claimant to the Veterans' Administration, be revived at any time prior to July 1, 1939, and when title is otherwise established under Public No. 159, 75th Congress as amended by Public No. 732, 75th Congress, payments shall commence on July 1, 1938. (November 15, 1938.)

EFFECTIVE DATES OF INCREASE OF DEATH PENSION OR COMPENSATION

SEC. 2.2582 *Public No. 2 and Sections 28 and 31, Title III, Public No. 141, 73d Congress.*—The effective date of an award of increased pension or compensation payable under Public No. 2, 73d Congress, or Sections 28 and 31, Title III, Public No. 141, 73d Congress, shall be fixed in accordance with the facts found, except that:

(a) No award of increased pension or compensation may be effective prior to the date of receipt of the evidence showing entitlement thereto; except that a widow who attains an age at which an increased rate is provided under Secs. 8.011 and 8.012 or under Section 3 of Public No. 304, 75th Congress, shall be entitled to receive such increase effective on the date of attainment of the age of 50 years or 65 years if evidence establishing the date of birth is on file on the date of attainment of such age or is received within one year from the fiftieth or sixty-fifth anniversary of the date of birth, whichever is involved; provided that in original claims where the claimant has shown that she was past the age of 50 or 65 years at the date of filing her claim, the increased rate provided on account of age may be authorized from the date of filing the claim, provided satisfactory proof of the fact and date of birth is received within one year from the date of request therefor; provided further that in no event will the increase be awarded from a date prior to the date authorized in the law or regulation invoked; provided further that any increase authorized under Section 3 of Public No. 304, 75th Congress, must be made subject to the conditions of paragraph (C) hereof. (November 15, 1938.) [48 Stat. 8, 9; 50 Stat. 660; 38 U. S. C. 472b, 701, 704.]

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3425; Filed, November 14, 1938; 3:26 p. m.]

TITLE 43—PUBLIC LANDS

BUREAU OF RECLAMATION

[No. 18]

RIVERTON IRRIGATION PROJECT

NOTICE OF ANNUAL WATER CHARGES[1]

NOVEMBER 3, 1938.

1. *Water rental.* — Irrigation water when available, will be furnished upon a rental basis under approved applications for temporary water service during the irrigation season of 1939 and thereafter until further notice to those lands in private ownership and to those public lands opened under the orders "opening public land to entry" dated March 3, 1926, Nov. 9, 1926, March 23, 1931, May 2, 1932 and January 31, 1933, *against which assessments for water rental were not levied by the Midvale Irrigation District in 1938.*

2. *Charges and terms of payment.*—The minimum water-rental charge for the irrigation season of 1939 and thereafter until further notice will be One Dollar and Twenty-Five Cents ($1.25) per acre for each irrigable acre of land in each 40-acre subdivision for which application has been or is hereafter made which will entitle the applicant to two and one half (2½) acre-feet of water, or so much thereof as may be necessary for beneficial use, for said season. Payment of the minimum charge shall be made for the entire irrigable area of each farm unit of public land entered under orders "opening public land to entry" dated March 3, 1926, Nov. 9, 1926, March 23, 1931, May 2, 1932 and January 31, 1933 and for the entire irrigable area in each 40-acre subdivision of private land for which application has been made or is hereafter made. Said minimum charge will be made against each acre of irrigable land whether or not water is used; shall be paid in advance on or before May 1, 1939 and no part of said charge will be refunded. Additional water will be furnished during said irrigation season at the rate of fifty cents ($0.50) per acre-foot, payable on December 1, 1939. When water-rental application is submitted and approved after June 15, for public land entered under the reclamation law and after Aug. 1 for land in private ownership, the minimum charge shall apply as a credit on the minimum charge for the following irrigation season.

3. *Penalty for nonpayment.*—If payment of the minimum charge be not made on or before May 1 and payment for additional water furnished be not made on or before Dec. 1, as herein provided, there shall be added to the amount unpaid a penalty of one half of one per centum thereof on the first day of the third calendar month thereafter, and there shall be added a like penalty of one half of one per centum on the first day of each month thereafter so long as such default shall continue, and no water shall be delivered to the owner or entryman in subsequent years until all such charges and penalties have been paid in full.

HARRY SLATTERY,
Under Secretary.

[F. R. Doc. 38-3428; Filed, November 15, 1938; 9:36 a. m.]

[1] Act of June 17, 1902, 32 Stat., 388, as amended and supplemented.

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

RULES OF PRACTICE AND PROCEDURE

PART 7. HEARINGS

The following rules are repealed, effective November 14, 1938, except that as to the disposition of matters involved in hearings commenced prior to November 14, 1938, such rules were continued in effect:

Rule 106.27 (C. F. R. Sec. 7.27)
Rule 106.28 (C. F. R. Sec. 7.28)
Rule 106.29 (C. F. R. Sec. 7.29)
Rule 106.30 (C. F. R. Sec. 7.30)

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3430; Filed, November 15, 1938; 12:01 p. m.]

RULES OF PRACTICE AND PROCEDURE

PART 7. HEARINGS

The following rules are adopted, effective November 14, 1938:

SEC. 7.27 *Conduct of hearings.*—Except for hearings before the Commission en banc the Commission will provide for the conduct of each hearing by a specific order of reference, and unless otherwise specified in such order:

(a) *Authority of presiding officer.*—The presiding officer at the hearing shall have authority to administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Commission, and to rule upon the admissibility of evidence and other matters that normally and properly arise in the course of the hearing, but shall have no power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding.

(b) *Transcript filed with Secretary; correction of record.*—After the close of the hearing the complete transcript of testimony taken, together with any exhibits and any briefs or memoranda of law filed theretofore on behalf of any party, shall be filed in the office of the Secretary of the Commission. The presiding officer at the hearing shall have authority to act upon motions to correct the record, made in accordance with the rules.

(c) *Findings proposed by parties.*—Within twenty days from the filing of the transcript of record of the hearing, each party to the proceeding shall file with the Commission proposed findings of fact and conclusions which shall be served upon all parties participating in the hearing in the manner provided in the rules.

(d) *Contents of findings proposed by parties.*—Such proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out in detail and with particularity all basic evidentiary facts developed by the evidence, (with appropriate citations to the transcript of record or exhibits relied on) supporting the conclusions proposed by the party filing same. Proposed conclusions shall be separately stated. Proposed findings of fact and conclusions submitted by a person other than an applicant may be limited to those issues in connection with the hearing which affect the interests of such person. Such proposed findings and conclusions may be accompanied by briefs or memoranda of law.

(e) *Proposed decision of Commission.*—The Commission will thereafter enter its proposed report or findings of fact and conclusions.

(f) *Exceptions; oral argument.*—Within twenty days from the filing of the Commission's proposed report or findings of fact and conclusions the parties to the proceeding may file exceptions to the same which shall point out with particularity alleged errors in said report or findings of fact and conclusions and shall contain specific reference to the page of the transcript of hearing or exhibit on which the exception is based, such exceptions shall be accompanied by a memorandum brief in support thereof, and may request oral argument. If no request for oral argument is made within said twenty day period all parties will be considered as waiving any right thereto.

(g) *Reply briefs.* — Reply memorandum briefs may be filed by any party to the proceeding within thirty days from the filing of the Commission's proposed report or findings of fact and conclusions.

(h) *Service of exceptions or briefs.*—At or prior to the date fixed for the filing of any exceptions or memorandum brief the party filing the same shall serve at least one copy thereof, as provided in the rules, upon all other parties to the proceeding, and no exceptions or memorandum brief will be accepted or considered by the Commission unless accompanied by an affidavit showing this requirement has been met.

(i) *Number of copies.*—Fifteen copies of any proposed findings of fact and conclusions, exceptions, or memorandum briefs filed in connection with any hearing shall be filed with the Commission.

(j) *Decision of Commission.*—After oral argument, or in the event oral argument is waived, after the expiration of the time for filing memorandum briefs the Commission will file its report or findings of fact and conclusions and its order. (Sec. 4 (i) 48 Stat. 1066; 47 U. S. C. 154) [Rule 106.27, F. C. C., November 14, 1938].

SEC. 7.28 *Hearings before more than one person.* The authority to perform any act in connection with a hearing vested in a "presiding officer" under these rules shall be vested in a majority of the persons conducting the hearing if the hearing is conducted by more than one person. (Sec. 4 (i) 48 Stat. 1066; 47 U. S. C. 154) [Rule 106.28, F. C. C., November 14, 1938].

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3431; Filed, November 15, 1938; 12:01 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF ANNUAL REPORTS FROM STEAM RAILWAY COMPANIES OF CLASS III

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 4th day of November, A. D. 1938.

The subject of the requirement of annual reports from steam railway companies being under consideration:

It is ordered:

1. That the order of this Commission dated November 13, 1937,[1] in the Matter of Annual Reports from Steam Railway Companies of Class III, is hereby annulled.

2. That all steam railway companies of Class III subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form C (Small Roads), which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3432; Filed, November 15, 1938; 12:11 p. m.]

ORDER IN THE MATTER OF ANNUAL REPORTS FROM CARRIERS BY WATER

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 9th day of November, A. D. 1938.

The subject of the requirement of annual reports from carriers by water being under consideration:

[1] 2 F. R. 2532 (2944 DI).

[2] Filed as a part of the original document with the Division of the FEDERAL REGISTER, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

It is ordered:

1. That the order of this Commission dated October 20, 1937,[1] In the Matter of Annual Reports from Carriers by Water, is hereby annulled.

2. That all Carriers by Water subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form K (Carriers by Water), which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-3433; Filed, November 15, 1938; 12:11 p. m.]

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2810]

IN THE MATTER OF MORTIMER ALFRED GERSTEN, AND LEE GERSTEN, CO-PARTNERS, TRADING AS GERSTEN BROTHERS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, November 18, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3445; Filed, November 15, 1938; 12:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3398]

IN THE MATTER OF PHILIP MORRIS AND CO., LTD., INC. A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 23, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3446; Filed, November 15, 1938; 12:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3407]

IN THE MATTER OF AARON N. SAUER, INDIVIDUALLY AND TRADING AS NATION-WIDE DISTRIBUTORS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, December 14, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3440; Filed, November 15, 1938; 12:49 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3414]

IN THE MATTER OF LINWOOD SALES CO., INC., AND BERNARD ABRAMS AND ABE S. WILLNER, INDIVIDUALLY AND AS OFFICERS OF LINWOOD SALES CO., INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, December 14, 1938, at eleven o'clock in the forenoon of that day (eastern standard time), in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3447; Filed, November 15, 1938; 12:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3449]

IN THE MATTER OF LOUIS FARBEN, INDIVIDUALLY AND TRADING AS GOLD STAR NOVELTY HOUSE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 15, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3448; Filed, November 15, 1938; 12:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3470]

IN THE MATTER OF ISIDORE HALPERIN AND MORRIS ORENSTEIN, INDIVIDUALLY AND TRADING AS WELLWORTH SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 19, 1938, at eleven o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3449; Filed, November 15, 1938; 12:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3479]

IN THE MATTER OF POPULAR PRODUCTS CORPORATION, A CORPORATION, AND MITCHELL CINADER AND ESTHER CINADER, INDIVIDUALLY, AND AS OFFICERS OF POPULAR PRODUCTS CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 15, 1938, at eleven o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3450; Filed, November 15, 1938; 12:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3484]

IN THE MATTER OF JACOB GOLDBERG, AN INDIVIDUAL, TRADING AS CROWN NOVELTY HOUSE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 12, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3441; Filed, November 15, 1938; 12:50 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[1] 2 F. R. 2482 (2885 DI).

[2] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[Docket No. 3489]

IN THE MATTER OF PREMIO SALES COMPANY, INC., A CORPORATION, AND ROSE SOMMERS, INDIVIDUALLY, AND AS AN OFFICER OF PREMIO SALES COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 16, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3451; Filed, November 15, 1938; 12:52 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3504]

IN THE MATTER OF EASTERN PREMIUM HOUSE, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, December 14, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3452; Filed, November 15, 1938; 12:53 p.m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3505]

IN THE MATTER OF JOSEPH SALADOF AND S. SALADOF, INDIVIDUALLY, AND TRADING AS NOVELTY PREMIUM COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 19, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3453; Filed, November 15, 1938; 12:53 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3507]

IN THE MATTER OF HYMAN LANGSAM AND ABRAHAM LANGSAM, INDIVIDUALLY AND AS CO-PARTNERS, TRADING UNDER THE FIRM NAME AND STYLE MODEL HOME SUPPLY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 13, 1938, at eleven o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3442; Filed, November 15, 1938; 12:50 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3529]

IN THE MATTER OF JOWETT INSTITUTE OF PHYSICAL CULTURE, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, November 21, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 108, New Custom House, Second and Chestnut Streets, Philadelphia, Pennsylvania.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3454; Filed, November 15, 1938; 12:53 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3582]

IN THE MATTER OF JACK BECKER, INDIVIDUALLY, AND TRADING AS TRU-VALU HOME SUPPLY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 13, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3443; Filed, November 15, 1938; 12:50 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of November, A. D., 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3584]

IN THE MATTER OF JACOB ROTHMAN, INDIVIDUALLY, AND TRADING AS NEW YORK SALES COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 13, 1938, at two o'clock in the afternoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3444; Filed, November 15, 1938; 12:51 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3598]

IN THE MATTER OF BANFI PRODUCTS CORPORATION, AND HARRY MORIANI, PRESIDENT, BANFI PRODUCTS CORPORATION; JOHN MORIANI, TREASURER, BANFI PRODUCTS CORPORATION; PAUL MORIANI, SECRETARY, BANFI PRODUCTS CORPORATION; AND JOSEPH B. MORIANI

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 22, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301 United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3456; Filed, November 15, 1938; 12:54 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3602]

IN THE MATTER OF VALLIGNY PRODUCTS, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 22, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301 United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3455; Filed, November 15, 1938; 12:53 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3602]

IN THE MATTER OF VALLIGNY PRODUCTS, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, November 22, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301 United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3456; Filed, November 15, 1938; 12:54 p. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3620]

IN THE MATTER OF DOMESART CORPORATION, A CORPORATION, AND JOSEPH ZWEIGENTHAL AND WILLIAM M. SAFRIN, INDIVIDUALLY, AND AS OFFICERS OF DOMESART CORPORATION.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 22, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3457; Filed, November 15, 1938; 12:54 p. m.]

United States of America—Before Federal Trade Commission

[Docket No. 3646]

IN THE MATTER OF THE C. F. SAUER COMPANY, A CORPORATION

COMPLAINT

The Federal Trade Commission, having reason to believe that The C. F. Sauer Company, hereinafter called Respondent, since June 19, 1936, has been and is now violating the provisions of Section 2 (a) and 2 (d) of the Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, (Public No. 212, the Clayton Act), as amended by Section 1 of the Act of Congress entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U. S. C. title 15, sec. 13), and for other purposes", approved June 19, 1936, (Public No. 692, the Robinson-Patman Act), hereby issues this its complaint against respondent and states its charges with respect thereto as follows, to wit:

Count I

PARAGRAPH 1. The C. F. Sauer Company is a corporation organized and existing under the laws of the State of Virginia with its principal office and place of business at 2000 West Broad Street in the City of Richmond and State of Virginia. It has an authorized capital stock of $600,000. The C. F. Sauer Company owns and operates plants at Richmond, Virginia and Greenville, South Carolina. The company is principally engaged in the importation of vanilla beans and the manufacture and distribution in interstate commerce of special brands of extracts and drugs. Additionally one of the principal articles sold and distributed is mayonnaise.

PAR. 2. Since June 19, 1936, in the course and conduct of its business the respondent has been and is now manufacturing the aforesaid commodities in the aforesaid plants and has sold and shipped and does now sell and ship such commodities in commerce between and among the various states of the United States from the states in which its factories are located across state lines to purchasers thereof located in states other than the states in which respondent's said plants are located in competition with other persons, firms and corporations engaged in similar lines of commerce.

PAR. 3. Dixie-Home Stores was incorporated May 7, 1937 under the laws of the State of South Carolina as a consolidation of Dixie Stores and Home Stores. Dixie-Home Stores comprises a chain of 164 retail grocery stores operated on a "cash and carry" basis in the States of North Carolina, South Carolina and Georgia. These stores are engaged in the sale of a wide variety of groceries, meats, meat products, vegetables, fruits, dairy products, sea food, household supplies, tobacco, tobacco products, sundries and various other kinds of food and kindred articles. Approximately 50 of the stores are combination units, each handling fresh meat and sea foods as well as other lines of groceries, dairy products, household supplies, etc. The stores are located principally in the central section of South Carolina and the Piedmont section of North and South Carolina. One hundred and thirteen of the stores are located in the State of South Carolina of which 28 are located in the City of Columbia; 49 are located in the State of North Carolina, of which 11 are located in the City of Ashville; and 2 are located in the City of Augusta, Georgia. One of such retail stores is located at Greenwood, South Carolina.

PAR. 4. Thomas & Howard Company, Inc. is a chain of wholesale grocery houses with stores located at Charlotte, Durham, Greensboro, Hickory, Salisbury and Rocky Mount all in the State of North Carolina and at Allendale, Chester, Columbia, Darlington, Sumter, Camden, Spartanburg, Newberry, Seneca and Charleston all in the State of South Carolina, and at Thomasville, Georgia and Pulaski, Virginia. The Newberry, Camden, Darlington and Columbia stores operate as a unit.

PAR. 5. Rose-Phillips Company is a wholesale grocery business with its principal place of business located in Greenwood, South Carolina. It largely serves the same territory as that served by the Newberry store of Thomas & Howard.

PAR. 6. Since June 19, 1936, while engaged as aforesaid in commerce among the several states of the United States and the District of Columbia, the respondent has been and is now in the course of such commerce discriminating in price between purchasers of said commodities of like grade and quality, which commodities are sold for use, consumption and resale within the several states of the United States and the District of Columbia in that the respondent has been and is now selling such commodities to some purchasers at a lower price than the price at which commodities of like grade and quality are sold to the purchasers generally competitively engaged with the first mentioned purchasers and the respondent has been and is now selling such commodities to some purchasers at a lower price than the price at which commodities of like grade and quality are sold to other purchasers whose customers are generally competitively engaged with the first mentioned purchasers. To illustrate:

On or about February 17, 1936, C. F. Sauer Company agreed with the Home Stores and Dixie Stores to sell and ship the following commodities to the Home Stores and the Dixie Stores at the following net delivered prices. This agreement was to continue for six months and at the expiration of each six months the said agreement was renewed and is in force and effect today and the following commodities have been and are now being sold and delivered to the Dixie Home Stores at delivered prices as set forth hereunder:

Dukes Mayonnaise

4 oz.	0.90
Pints	3.05
Quarts	5.15
8 oz.	1.55
3 oz.	.85

Less 10-5-5%

Sauer's Salad Dressing

Quarts	2.70
Pints	1.05
8 oz.	.95

Less 5%

Pure Extracts

All sizes list.
Price less 10, 5 and 5%.

Black Pepper

2 oz.	0.45 Less 5% (Hood per Mr. Sauer, Jr.)
1¼ oz.	.29 Net 27¢
4 oz.	.55 " 51¢

Less 7½%

Imitation Extracts

Gold Medal #2 $4.25 gr.

Kwikdeth and Tea

List price less 10, 5, 20%.

Miscellaneous Spices

40¢ less 5% except Celery Seed, Celery Salt, Mace
60¢ less 5%

All Prices Less Freight

6 oz. Salts	$1.65 gross
#2 Castor Oil	4.15 "
#2 Turpentine	3.50 "
Aspirin	1.90 "

At the same time Thomas & Howard Company, Inc. and Rose-Phillips Company, wholesalers, paid for quarts of Sauer's Salad Dressing $3.80 less 10% and 5% or a net price of $3.25. The Dixie Stores sold the Salad Dressing at retail at $3.00 per dozen. Thomas & Howard Company, Inc. Paid at the same time a net delivered price on #2 Castor Oil of $4.75 a gross and on #2 Turpentine $4.25 a gross and on 4 ounce Epsom Salts $2.15 a gross.

On March 5, 1938 Rose-Phillips Company of Greenwood, South Carolina was sold and invoiced by The C. F. Sauer Company as follows:

4 Chili Powder	.70	2.80	
6 Grd. Cinnamon	.70	4.20	
6 Grd. Ginger	.70	4.20	
6 Grd. Mustard	.70	4.20	
6 Grd. Red Pepper	.70	4.20	
6 Rubbed Sage	.75	4.50	
6 Who. Cloves	.65	3.90	
6 Pickling Spice	.75	4.50	
12 #2 Sauer's Lemon	.90	10.80	
6 #10 Sauer's Vanilla	3.25	19.50	
			62.80
Less 10 & 5% delivered			53.70
Less freight			2.36
			51.34

On September 13, 1937, the C. F. Sauer Company at Richmond, Virginia shipped and invoiced Thomas & Howard Company at Salisbury, North Carolina as follows:

24 #5 Sauer's Vanila	1.95	46.80	
60 #2 Vanilla	.90	54.00	
1 #2 Peppermint		.90	
½ gal A Pure Vanilla		4.15	
1 qt X Pure Lemon		2.30	
12 10¢ Grd Allspice	.70	8.40	
12 10¢ Grd Cinnamon	.70	8.40	
6 10¢ Cr. Tartar	.70	4.20	
12 10¢ Grd Ginger	.70	8.40	
12 10¢ Grd Mustard	.70	8.40	
24 10¢ Grd Red Pepper	.70	16.80	
6 10¢ Grd Turmeric	.70	4.20	
12 10¢ Celery Seed	.80	9.60	
12 10¢ Who. Cloves	.65	7.80	
6 10¢ Who. Ginger	.65	3.90	
1 #2 Spts. Ammonia		1.20	
1 #2 Spts. Camphor		1.20	
24 4 oz. Grd Blk Pepper	.70	16.80	
1 10 can Grd Cayenne Pepper		.36	
1 Sauer's Liniment		2.25	
		210.06	
Less 10-5%			179.60
Less frt			4.64
			174.96

The foregoing prices charged Rose-Phillips Company and Thomas & Howard Company, Inc. are substantially higher than those charged the Dixie-Home Stores as shown in the agreement above referred to.

PAR. 7. The effect of the discriminations in price set forth in Paragraph Six hereof may be substantially to lessen competition in the sale and distribution of the said commodities in the respective lines of commerce in which respondent and its customers are engaged, and has been and may be to injure, destroy or prevent competition in the sale and distribution of said commodities with the respondent and with its customers who receive the benefit of such discriminatory prices.

Count II

PARS. 1 to 5, inclusive. Paragraphs One to Five, inclusive of Count I of this complaint are hereby incorporated in this Count II, with the same respective numerical designations and to the same extent as if they and each of them were set forth in full and repeated verbatim in this Count.

PAR. 6. Since June 19, 1936, while engaged as aforesaid in commerce among the several states of the United States and the District of Columbia, the respondent has been and is now paying and contracting for the payment of valuable considerations in the form of credit memoranda to customers of The C. F. Sauer Company in the course of such commerce as compensation for advertising services furnished through such customers in connection with the sale and offering for sale of products manufactured and sold by The C. F. Sauer Company, which payment or consideration was and is not available on proportionally equal terms to all other customers competing in the distribution of such products. To illustrate:

In the form of credit memoranda, Thomas & Howard Company, Inc., is granted 5% and 2½% on Duke's Mayonnaise; on Sauer's Package Tea, 10%; Kwikdeth, 10%; Drugs, 10%; Thomas & Howard's Greenville, South Carolina branch alone receives 5% on extracts except on the No. 2 size. Dixie Home Stores receives 5% generally and 7½% on four ounce and one and one quarter ounce black pepper. J. Drake Eadens of Columbia, South Carolina receives nothing. The Miller Stores of Greenwood, South Carolina competitively engaged with the Dixie Home Stores receive nothing. Rose-Phillips Company receives 5% on Duke's Mayonnaise only. Nation Wide Service Grocers, Inc., Washington, D. C. receives 5% on net purchases. District Grocery Stores of Washington, D. C. formerly received $40.00 a month and at present receives $50.00 a month.

Many customers purchasing directly from The C. F. Sauer Company and competitively engaged with the aforesaid are not accorded any advertising allowances.

Wherefore, the premises considered, the Federal Trade Commission on the 7th day of November, A. D. 1938, now issues this its complaint against said respondent.

Notice

Notice is hereby given you, The C. F. Sauer Company, respondent herein, that the 16th day of December, A. D., 1938, at 2 o'clock in the afternoon is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why any order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense.

Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing

NOV 18 1938

made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 7th day of November, A. D. 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3439; Filed, November 15, 1938; 12:49 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of November 1938.

[File No. 1-957]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE

ORDER

The Market Street Railway Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to the Commission to withdraw its 6% Cumulative Prior Preference Stock, $100 Par Value, from listing and registration on the San Francisco Stock Exchange; and

After appropriate notice, a hearing having been held in this matter; and

The Commission, after due consideration of said application together with the evidence introduced at said hearing, having entered an order among other things granting said application which will become effective at the close of the trading session on November 15, 1938; and

The San Francisco Stock Exchange having made application to the Commission to extend unlisted trading privileges on said Exchange to the security abovenamed, and said Exchange having requested the Commission to postpone the effective date of the order herein pending the disposition by the Commission of the application to extend unlisted trading privileges;

It is ordered, That the effective date of said order, insofar as it relates to said 6% Cumulative Prior Preference Stock, $100 Par Value, be and the same is hereby postponed from November 15, 1938 until the close of the trading session on November 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3437; Filed, November 15, 1938; 12:46 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of November, A. D. 1938.

[File No. 1-1596]

IN THE MATTER OF THE REGISTRATION OF PHOENIX OIL COMPANY SIX PER CENT CUMULATIVE PREFERRED STOCK, $1 PAR VALUE, AND COMMON STOCK, 25 CENTS PAR VALUE.

ORDER FOR HEARING

I

It appearing to the Commission:

That Phoenix Oil Company, a corporation, is the issuer of Six Per Cent Cumulative Preferred Stock, $1 Par Value, and Common Stock, 25 Cents Par Value; and

That said Phoenix Oil Company registered such securities on the Pittsburgh Stock Exchange by filing on or about May 29, 1935, an application with the said Exchange and with the Commission, pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, formerly designated as Rule JB1, promulgated by the Commission thereunder; and

That pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, and Rules X-13A-1 and X-13A-2, formerly designated as Rules KA1 and KA2, respectively, promulgated by the Commission thereunder, said Phoenix Oil Company filed on or about September 1, 1938, its annual report on Form 10-K for the fiscal year ended December 31, 1937; and

That said Rule X-13A-1 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That said Rule X-13A-2 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified and that no other form was or is specified for use by the said Phoenix Oil Company; and

II

The Commission having reason to believe:

That Phoenix Oil Company has failed to comply with said Section 13 (a), said Rules X-13A-1 and X-13A-2 and with the provisions of Form 10-K and with the provisions of the Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, in that in neither the annual report filed by it for the fiscal year ended December 31, 1937, nor in any amendment thereto are the financial statements submitted in answer to Item 8 of said Form 10-K certified by an independent public or independent certified public accountant or accountants, although required by Item 8 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission; and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Phoenix Oil Company has so failed to comply with said Section 13 (a) and said Rules and Regulations promulgated by the Commission thereunder, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said Six Per Cent Cumulative Preferred Stock, $1 Par Value, and Common Stock, 25 Cents Par Value, on said Pittsburgh Stock Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 30th day of November, 1938, at 10:00 A. M. in Room 1102A at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3438; Filed, November 15, 1938; 12:46 p. m.]

NOV 18 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 224

Washington, Thursday, November 17, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-39]

PART 701—1939 AGRICULTURAL CONSERVATION PROGRAM BULLETIN *#

CONTENTS

Sec. 701.1 Authority, availability of funds and applicability.
(a) Authority.
(b) Availability of funds.
(c) Applicability.
Sec. 701.2 Definitions.
(a) Officials.
(b) Areas.
(c) Farms.
(d) Crops and land uses.
(e) Miscellaneous.
Sec. 701.3 National and State acreage allotments and goals.
(a) National goals.
(b) National and State acreage allotments and restoration land goals.
Sec. 701.4 County acreage allotments and goals.
(a) Total soil-depleting acreage allotment.
(b) Cotton allotment.
(c) Corn allotment.
(d) Wheat allotment.
(e) Tobacco allotment.
(f) Potato allotment.
(g) Peanut allotment.
(h) Restoration land goal.
(i) Soil-building goal.
Sec. 701.5 Farm acreage allotments and goals.
(a) Total soil-depleting acreage allotment.
(b) Cotton allotment.
(c) Corn allotment.
(d) Wheat allotment.
(e) Tobacco allotment.
(f) Potato allotment.
(g) Peanut allotment.
(h) Rice allotment.
(i) Commercial vegetable allotment.
(j) Usual acreage of wheat.
(k) Usual acreage of corn for grain.
(l) Restoration land goal.
(m) Soil-building goal.
Sec. 701.6 Normal yields and productivity indexes.
(a) Normal yields of special soil-depleting crops.
(b) Productivity indexes.
Sec. 701.7 Soil-building practices.
Schedule of soil-building practices.
(a) Practice unit equivalent—one unit.
(b) Unit equivalents per acre—one unit.
(c) Unit equivalents per acre—two units.
(d) Unit equivalents per acre—three units.
(e) Unit equivalents per acre—four units.
(f) Unit equivalents per acre—five units.
(g) Acre equivalents per unit—two acres.
(h) Acre equivalents per unit—four acres.
(i) Acre equivalents per unit—six acres.
(j) Acre equivalents per unit—eight acres.
(k) Acre equivalents per unit—ten acres.
Sec. 701.8 Payment for full performance.
(a) Cotton.
(b) Corn.
(c) Wheat.
(d) Tobacco.
(e) Potatoes.
(f) Peanuts.
(g) Rice.
(h) Commercial vegetables.
(i) General soil-depleting crops.
(j) Restoration land goal.
(k) Payments in connection with soil-building practices.
Sec. 701.9 Payments for partial performance.
(a) Cotton.
(b) Corn.
(c) Wheat.
(d) Tobacco.
(e) Potatoes.
(f) Peanuts.
(g) Rice.
(h) Commercial vegetables.
(i) General soil-depleting crops.
(j) Soil-building goal.
(k) Restoration land goal.
(l) Cropping restoration land.
(m) Failure to prevent wind and water erosion.
(n) Breaking out native sod.
Sec. 701.10 Division of payments and deductions.
(a) Payments and deductions in connection with acreage allotments, general crops, and restoration land goals.
(b) Payments in connection with soil-building practices.
(c) Proration of net deductions.
Sec. 701.11 Increase in small payments.
Sec. 701.12 Payments limited to $10,000.
Sec. 701.13 Deductions incurred on other farms.
(a) Other farms in the same county.
(b) Other farms in the State.
Sec. 701.14 Deduction for association expenses.
Sec. 701.15 Materials furnished as grants of aid.
Sec. 701.16 General provisions relating to payments.
(a) Payment restricted to effectuation of purposes of the program.
(b) Payment computed and made without regard to claims.
(c) Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.
(d) Assignments.
(e) Excess cotton acreage.
(f) Use of soil-conserving crops for market.
Sec. 701.17 Application for payment.
(a) Persons eligible to file applications.
(b) Time and manner of filing application and information required.
(c) Applications for other farms.

* Sections 701.1 to 701.19 are issued under the authority contained in Sections 7 to 17, as amended, 49 Stat. 1148, 1915; 50 Stat. 329; 52 Stat. 31, 204; 16 U. S. C., Sup. III, 590g-590q.

\# The source of sections 701.1 to 701.19 is ACP-39, AAA, November 10, 1938.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program bulletin, 1938, Supplement No. 17 2729
Agricultural conservation program bulletin, 1939 2715
Hawaiian and Virgin Islands sugar deficits, 1938, proration of 2729
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Cattle, regulation to prevent spread of splenetic, southern, or Texas fever in 2729
TITLE 23—HIGHWAYS:
Bureau of Public Roads:
Federal Highway Act, amendment to rules and regulations 2730
TITLE 43—PUBLIC LANDS:
Bureau of Reclamation:
Klamath Project, Oregon-California, addition to Tulelake Reclamation Townsite 2730

NOTICES

Securities and Exchange Commission:
Connecticut Light & Power Co., hearing 2731
Peoples Light Co., etc., acquisition and sale of assets 2731

FEDERAL REGISTER

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Sec. 701.18 Appeals.
Sec. 701.19 State and regional bulletins, instructions and forms.

SEC. 701.1 *Authority, availability of funds, and applicability.*—(a) *Authority.*—Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, and in connection with the effectuation of the purposes of section 7 (a) of said Act in 1939, payments and grants of aid will be made for participation in the 1939 Agricultural Conservation Program (hereinafter referred to as the 1939 program) in accordance with the provisions hereof and such modifications thereof or other provisions as may hereafter be made.

(b) *Availability of funds.*—The provisions of the 1939 program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation, the apportionment of such appropriation under the provisions of the Soil Conservation and Domestic Allotment Act, as amended, and the extent of national participation. As an adjustment for participation the rates of payment and deduction with respect to any commodity or item of payment may be increased or decreased from the rates set forth herein by as much as 10 percent.

(c) *Applicability.*—The provisions of the 1939 program contained herein, except section 701.12, are not applicable to (1) Hawaii, Puerto Rico, and Alaska; (2) counties for which special agricultural conservation programs under said Act are approved for 1939 by the Secretary; and (3) public domain of the United States, including land owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.*#

SEC. 701.2 *Definitions.*—For the purposes of the 1939 program unless the context otherwise requires:

(a) *Officials.*—

(1) *Secretary* means the Secretary of Agriculture of the United States.

(2) *Administrator* means the Administrator of the Agricultural Adjustment Administration.

(3) *Regional Director* means the director of the division of the Agricultural Adjustment Administration in charge of the agricultural conservation programs in the region.

(4) *State Committee* means the group of persons designated within any State to assist in the administration of the agricultural conservation programs in such State.

(5) *County Committee* means the group of persons elected within any county to assist in the administration of the agricultural conservation programs in such county.

(b) *Areas.*—

(1) *Northeast Region* means the area included in the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

(2) *East Central Region* means the area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

(3) *Southern Region* means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

(4) *North Central Region* means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

(5) *Western Region* means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

(6) *Area A* means the North Central Region, North Dakota, Kansas, and such counties or administrative areas in Arkansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, and California as may be designated by the Administrator as areas normally producing a surplus of general soil-depleting crops.

(7) *Area B* means the East Central Region and those portions of the Southern and Western Regions not included in Area A.

(8) *Area C* means the Northeast Region.

(9) *Commercial corn-producing area* means counties in the States of Ohio, Michigan, Indiana, Kentucky, Illinois, Wisconsin, Minnesota, Iowa, Missouri, South Dakota, Nebraska, and Kansas designated by the Administrator with the approval of the Secretary.

(10) *Commercial potato-producing area* means counties designated by the Administrator as counties normally producing substantial quantities of potatoes for market.

(11) *Commercial vegetable-producing area* means counties or administrative areas designated by the Administrator as counties normally producing substantial quantities of commercial vegetables, provided that in no event shall a county be designated if the average acreage of commercial vegetables in the county in 1936 and 1937 was less than 100 acres.

(12) *Commercial peanut-producing area* means Virginia, North Carolina, Georgia, and Alabama, and counties in Florida and Texas, designated by the Administrator as counties normally producing substantial quantities of peanuts for market: *Provided*, That any county in any of such States may be excluded from the commercial peanut-producing area if not more than 300 acres of peanuts for market were grown in 1938 and the State committee recommends that such county be excluded from the commercial peanut-producing area.

(13) *Special wind erosion area* means the following counties in Kansas, Oklahoma, Texas, New Mexico, and Colorado:

Kansas.—Greeley, Wichita, Hamilton, Kearny, Stanton, Grant, Morton, Stevens.

Oklahoma.—Cimarron, Texas.

Texas.—Dallam, Sherman, Hartley, Moore.

New Mexico.—Quay, Harding, Union.

Colorado.—Las Animas, Baca, Prowers, Kiowa, Cheyenne, Kit Carson, Lincoln.

(c) *Farms.*—

(1) *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, and

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that:

(aa) There is one crop rotation system on the entire area of land;

(bb) The yields and productivity of the different ownerships do not vary substantially;

(cc) The combination is not being made for the purpose of increasing acreage allotments or primarily for the purpose of effecting compliance; and

(dd) The several ownership tracts constitute a farming unit for the operator and will be regarded in the community as a farm in 1939.

A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

(2) *Non-Corn-Allotment Farm* means a farm in the commercial corn-producing area (a) for which no corn acreage allotment is determined, or (b) for which a corn acreage allotment of 8 acres or less is determined and the persons having an interest in the corn planted on the farm elect, in accordance with instructions issued by the Agricultural Adjustment Administration, to have such farm considered as a non-corn-allotment farm.

(3) *Non-Wheat-Allotment Farm* means (a) a farm for which no wheat acreage allotment is determined, (b) a farm for which a wheat acreage allotment of 8 acres or less is determined and the persons having an interest in the wheat planted on the farm elect, in accordance with instructions issued by the Agricultural Adjustment Administration, to have such farm considered as a non-wheat-allotment farm, or (c) a wind erosion farm.

(4) *Non-General-Allotment Farm* means a farm in Area A for which a total soil-depleting acreage allotment (excluding the cotton acreage allotment) of 20 acres or less is determined and the persons having an interest in the general soil-depleting crops planted on the farm elect, in accordance with instructions issued by the Agricultural Adjustment Administration, to have such farm considered as a non-general-allotment farm.

(5) *Wind Erosion Farm* means a farm, in an area designated by the Administrator as an area subject to wind erosion, which is owned or leased by a conservation district, an association determined by the State committee to have been organized for conservation purposes, or a State agency authorized by law to own or lease land for conservation or wind erosion control purposes.

(d) *Crops and land uses.*—

(1) *Acreage Planted to Corn* means the acreage of land seeded to field corn, sweet corn and popcorn, except (1) any acreage of sweet corn contracted to be sold for canning, (2) any acreage of sweet corn sold for canning or roasting ears, (3) any acreage of sweet corn to be sold or used as seed, (4) any acreage of popcorn sold or to be used as seed, (5) any acreage of sown or close-drilled corn used as a cover crop or green manure crop, and (6) any acreage of sweet corn or popcorn grown in home gardens for use on the farm.

(2) *Acreage Planted to Cotton* means the acreage of land seeded to cotton, the staple of which is normally less than 1 1/2 inches in length, which reaches a stage of growth at which bolls are first formed, and means also for purposes of section 701.8 any acreage seeded to cotton, the staple of which is normally less than 1 1/2 inches in length, which because of flood, hail, drought, or insects, fails to reach the stage of growth at which bolls are first formed.

(3) *Acreage Planted to Wheat* means (1) any acreage of land devoted to seeded wheat (except when such crop is seeded in a mixture containing less than 50 percent by weight of wheat, or containing 25 percent or more by weight of rye, barley, vetch or Austrian winter peas, and the seeding mixture may reasonably be expected to produce a crop containing such proportions of plants other than wheat that the crop could not be harvested as wheat for grain or seed) which is on the farm on or after December 15, 1938; (2) any acreage of land devoted to volunteer wheat which remains on the land until May 1 (April 15 in the Southern Region and New Mexico), 1939; and (3) any acreage of land which is seeded to a mixture containing wheat but the crops other than wheat fail to reach maturity and the wheat is harvested for grain or hay.

(4) *Soil-Depleting Acreage* means the acreage of land devoted during the 1939 crop year to one or more of the following crops or uses.

(i) Corn planted for any purpose except sown or close-drilled corn used as a cover crop or green manure crop and sweet corn or popcorn grown in home gardens for use on the farm.

(ii) Tobacco harvested for any purpose.[1]

(iii) Grain sorghums planted for any purpose except when a good stand or good growth of such crops is used as a green manure crop in areas in Texas designated by the Administrator as areas affected by cotton root rot.

(iv) Cotton which reaches the stage of growth at which bolls are first formed.

(v) Sugar beets planted or sugarcane grown for any purpose.

(vi) Rice planted for any purpose.

(vii) Peanuts harvested for nuts or dug for hay.

(viii) Broomcorn harvested for any purpose.

(ix) Mangels or cowbeets planted for any purpose.

(x) Potatoes planted for any purpose except when grown in home gardens for use on the farm.

(xi) Annual truck and vegetable crops planted for any purpose except when grown in home gardens for use on the farm.

(xii) Perennial truck and vegetable crops harvested for any purpose except when grown in home gardens for use on the farm.

(xiii) Commercial bulbs and flowers, commercial mustard, cultivated sunflowers, mint, safflower, or hemp harvested for any purpose.

(xiv) Field beans planted for any purpose.

(xv) Peas harvested for canning, freezing, or dried peas, except when grown in home gardens for use on the farm.

(xvi) Soybeans harvested for seed for crushing or used in any area in any other manner determined by the Administrator to be soil-depleting in such area.

(xvii) Flax planted for any purpose except when used as a nurse crop for biennial or perennial legumes or perennial grasses of which a good stand is established in 1939 or, in areas designated by the Administrator as areas where it is not practicable to use flax as a nurse crop, when matched acre for acre by a good stand of biennial or perennial legumes seeded alone in 1939 or perennial grasses seeded alone after November 1, 1938 or in 1939.

(xviii) Wheat planted (or regarded as planted) for any purpose on a farm considered as an allotment farm with respect to wheat.

(xix) Wheat (on a non-wheat-allotment farm), oats, barley, rye, emmer, speltz, or mixtures of these crops harvested for grain.

(xx) Wheat (on a non-wheat-allotment farm), oats, barley, rye, emmer, speltz, or mixtures of these crops harvested for hay except (1) when such crops are used as nurse crops for legumes or perennial grasses of which a good stand is established in 1939 and the nurse

[1] Each acre of Georgia-Florida Type 62 tobacco shall be counted as 8/10 of an acre if—
(1) An average of at least four top leaves is left on each stalk on all of the acreage of Type 62 tobacco grown on the farm in 1939 and all such stalks are cut within 7 days after harvesting of the other leaves is completed and either left on the land for the remainder of 1939 or plowed under, and
(2) A cover crop of sorghum, cowpeas, velvet beans, or crotalaria, or any mixture of these, is seeded in 1939 on all land planted to Type 62 tobacco and a reasonably good stand and a good growth of such cover crop is attained and is plowed under or disced in before December 31, 1939, after it has attained at least 3 months' growth, provided such cover crop shall not be counted toward meeting the soil-building goal regardless of how used.

crop is cut green for hay, or (2) when such crops are grown in a mixture containing at least 25 percent by weight of winter legumes.

(xxi) Buckwheat, Sudan grass, or millet harvested for grain or seed or used in any area in any other manner determined by the Administrator to be soil-depleting in such area.

(xxii) Sweet sorghums, when harvested for any purpose in the East Central Region, in the North Central Region except South Dakota and Nebraska, and in Area B in the Southern Region; when harvested for grain, seed or sirup in the Western Region, in Area A in the Southern Region, and in Nebraska and South Dakota; and when harvested for silage in the commercial corn area in the States of Kansas, Nebraska, and South Dakota.

(xxiii) Land summer fallowed in the States of Washington, Oregon, Idaho, and Utah, except when such land is seeded in 1939 to a nondepleting crop approved by the Administrator.

(xxiv) Land summer fallowed in any area and not protected from wind and water erosion by methods approved by the State committee.

(xxv) Such other similar crops and uses as may be specified by the Administrator.

(7) *General Soil-Depleting Crops or General Crops* means all crops and land uses listed in the definition of soil-depleting acreage except sugar beets and sugarcane for sugar and the crops for which separate crop acreage allotments are established on the farm.

(8) *Commercial Vegetables* means the acreage of vegetables or truck crops (including potatoes on farms where a potato acreage allotment is not established, sweetpotatoes, tomatoes, sweet corn, melons, cantaloupes, strawberries, and commercial bulbs and flowers, but excluding peas for canning and sweet corn for canning and artichokes for use other than as vegetables) of which the principal part of the production is sold to persons not living on the farm.

(9) *Peanuts for Market* means peanuts separated from the vines by mechanical means and from which the principal part of the production is sold to persons not living on the farm.

(10) *Commercial Orchards* means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1939 (excluding non-bearing orchards and vineyards), from which the principal part of the production is normally sold.

(e) *Miscellaneous*—

(1) *Person* means an individual, partnership, association, corporation, estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(2) *Landlord or Owner* means a person who owns land and rents such land to another person or operates such land.

(3) *Sharecropper* means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

(4) *Tenant* means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

(5) *Cropland* means farm land which in 1938 was tilled or was in regular rotation excluding restoration land and any land which constitutes or will constitute if such tillage is continued a wind erosion hazard to the community and excluding also, except in the Southern Region, any land in commercial orchards.

(6) *Restoration Land* means farm land, in areas designated by the Administrator as areas subject to serious wind erosion and areas containing large acreages unsuited to continued production of cultivated crops, which has been cropped at least once since January 1, 1930, and which is designated by the county committee as land on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

(7) *Noncrop Open Pasture Land* means pasture land (other than rotation pasture land and range land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

(8) *Special Crop Acreage Allotment* means a corn, cotton, wheat, tobacco, rice, peanut, or potato acreage allotment.

(9) *Animal Unit* means one cow, one horse, five sheep, or five goats, two calves, or two colts, or the equivalent thereof.* #

SEC. 701.3 *National and State acreage allotments and goals.*—(a) *National goals.*—The national goals in connection with the 1939 program shall be:

(1) The following acreages of soil-depleting crops:

	Acres
Cotton	27,000,000 to 29,000,000
Corn	94,000,000 to 97,000,000
Wheat	55,000,000 to 60,000,000
Tobacco:	
Flue-cured	860,000 to 900,000
Burley	375,000 to 400,000
Fire-cured and dark air-cured	160,000 to 170,000
Cigar filler and binder	85,000 to 90,000
Georgia-Florida Type 62	2,800 to 3,000
Potatoes	3,100,000 to 3,300,000
Peanuts	1,550,000 to 1,650,000
Rice	850,000 to 880,000
Total soil-depleting crops	270,000,000 to 285,000,000

(2) The conservation of the cropland not required in 1939 for the growing of soil-depleting crops, the restoration, insofar as is practicable, of a permanent vegetative cover on land unsuited to the continued production of cultivated crops; and the carrying out of soil-building practices that will conserve and improve soil fertility and prevent wind and water erosion.

(b) *National and State acreage allotments and restoration land goals.*—National and State acreage allotments of soil-depleting crops and restoration land goals will be established by the Secretary.* #

SEC. 701.4 *County acreage allotments and goals.*—The Agricultural Adjustment Administration with the assistance of State committees and the approval of the Secretary shall establish county acreage allotments and restoration land goals as hereinafter set forth. The soil-depleting acreage allotments for all counties in each State shall not exceed the applicable acreage allotment established for the State by the Secretary except as otherwise provided herein.

(a) *Total soil-depleting acreage allotment.*—County acreage allotments of total soil-depleting crops shall be established by distributing the State acreage allotment of total soil-depleting crops among the counties in the State on the basis of the total soil-depleting acreage allotments established in connection with the 1938 Agricultural Conservation Program (hereinafter referred to as the 1938 program), with due allowance for trends in acreage of soil-depleting crops, changes in area designations and crop classifications, the acreage of food and feed crops needed for home consumption in the county, and the relationship of the special crop acreage allotments established for 1938 to the special crop acreage allotments established for 1939.

(b) *Cotton allotment.*—(1) County cotton acreage allotments shall be established as follows: The State acreage allotment of cotton (less 2 percent for use in making allotments to farms on which cotton will be planted in 1939 but on which cotton was not planted in any of the years 1936, 1937, and 1938) shall be prorated among the counties in the State on the basis of the acreage planted to cotton plus the acreage diverted from cotton under agricultural adjustment and conservation programs during the five years 1933 to 1937, inclusive: *Provided*, That there shall be added to the acreage allotment so determined for each county the number of acres, if any, required to provide an acreage allotment in such county of not less than 60 percent of the acreage planted to cotton in such county in 1937, plus 60 percent of the acreage diverted from cotton in the county under the 1937 Agricultural Conservation Program (hereinafter referred to as the 1937 program).

(2) If the Agricultural Adjustment Administration finds, because of differences in types, kinds and productivity of the soil or other conditions, there are one or more administrative areas in any county which should be treated separately in order to prevent discrimination, the county acreage allotment shall be apportioned pro rata among such administrative areas on the basis of the acreage planted to cotton in 1937 plus the acreage diverted from cotton under the 1937 program, or, if the Agricultural Adjustment Administration determines that conditions affecting the acreage planted to cotton were not reasonably uniform throughout the county in 1937, then on the basis of the cotton base acreages determined under the 1937 Cotton Price Adjustment Payment Plan. Allotments to the farms within each such administrative area shall be made in the manner provided in section 701.5 for the apportionment of county cotton acreage allotments among farms.

(c) *Corn allotment.*—County acreage allotments of corn for counties in the commercial corn-producing area shall be established by distributing the corn acreage allotment established for the commercial corn area within the State among such counties in such State pro rata on the basis of the acreage seeded for the production of corn plus the acreage diverted from corn under the agricultural adjustment and conservation programs in such counties during the ten years, 1928 to 1937, inclusive, with adjustments for abnormal weather conditions and trends in acreage in accordance with a procedure approved by the Secretary.

(d) *Wheat allotment.*—County acreage allotments of wheat shall be established by distributing the State acreage allotment of wheat among the counties in such State pro rata on the basis of the acreage seeded for the production of wheat plus the acreage diverted under agricultural adjustment and conservation programs in such counties during the ten years, 1928 to 1937, inclusive, with adjustments for abnormal weather conditions and trends in acreage in accordance with a procedure approved by the Secretary.

(e) *Tobacco allotment.*—County acreage allotments for each kind of tobacco shall be established by distributing the State acreage allotment of such kind of tobacco among the counties in the State on the basis of the acreage allotments of such kind of tobacco established for such counties under the 1938 program, taking into consideration allotments for small farms, trends in acreage, and plant bed and other diseases.

(f) *Potato allotment.*—County acreage allotments of potatoes for counties in commercial potato-producing areas shall be established by distributing the State acreage allotment of potatoes among such counties in such State on the basis of the acreage allotments established under the 1938 program or, if counties are included for which acreage allotments were not established under the 1938 program, on the basis of the average acreage devoted to potatoes in such counties during the five years, 1933 to 1937, inclusive, taking into consideration trends in acreage on commercial potato-producing farms and also taking into consideration the acreage of potatoes on non-commercial potato-producing farms.

(g) *Peanut allotment.*—County acreage allotments of peanuts for market for counties in the commercial peanut-producing areas shall be established by distributing the State peanut acreage allotment among such counties in such State on the basis of the county acreage allotments established under the 1938 program, or, if counties are included in 1939 for which peanut acreage allotments were not established under the 1938 program, on the basis of the base acreages for peanuts established under the 1937 program for the counties in the commercial peanut-producing area and the 1937 acreage of peanuts, taking into consideration trends in acreage on commercial peanut-producing farms.

(h) *Restoration land goals.*—County goals for restoration land shall be established by distributing the applicable State restoration land goal among the counties in the areas designated by the Administrator as areas subject to serious wind erosion and areas containing large acreages unsuited to continued production of cultivated crops, on the basis of the amount of land in such counties which was cropped at least once since January 1, 1930, but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

(i) *Soil-building goal.*—Insofar as practicable, county goals shall be established for particular soil-building practices which are not routine farming practices and which are most needed in the county in order to conserve and improve soil fertility and to prevent wind and water erosion.* #

SEC. 701.5 *Farm acreage allotments and goals.*—The county committee, with the assistance of other local committees in the county, shall establish acreage allotments, usual acreages, and goals in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. Except as otherwise provided herein the soil-depleting acreage allotments established for the farms in a county shall not exceed the applicable county acreage allotments established for the county, and the sum of the acreage allotments for farms with respect to which allotments are established shall not exceed their proportionate share of the county acreage allotments.

(a) *Total soil-depleting acreage allotment.*—The total soil-depleting acreage allotment for any farm shall be determined on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, the acreage of all soil-depleting crops customarily grown on the farm, and in areas where the Administrator finds it applicable, the acreage of food and feed crops needed for home consumption on the farm, taking into consideration special crop acreage allotments determined for the farm. The total soil-depleting acreage allotment for any farm shall be comparable with the allotments determined for other farms in the same community which are similar with respect to such factors. Total soil-depleting allotments will be established for all farms in Area A, farms for which a special crop acreage allotment is established in Area B in the Western and East Central Regions, and farms in Area B in the Southern Region, on which general crops or livestock are produced for market, and for which a special crop acreage allotment is established.

(b) *Cotton allotment.*—(1) County cotton acreage allotments shall be apportioned among the farms in the county on which cotton was planted in any one of the years 1936, 1937, and 1938 in a manner that will result in a cotton acreage allotment for each such farm which is a percentage (which shall be the same percentage for all farms in the county or administrative area) of the land in the farm in 1938 which was tilled annually or in regular rotation exclusive of the acres of such land normally devoted to the production of sugarcane for sugar, wheat, tobacco, or rice for market, or wheat or rice for feeding to livestock for market except that:

(i) For any such farm with respect to which the highest acreage planted to cotton and diverted from cotton under agricultural conservation programs in any one of the three years 1936, 1937, and 1938 is less than 5 acres the cotton acreage allotment for the farm shall be such highest number of acres if the county cotton acreage allotment is sufficient therefor;

(ii) For any such farm with respect to which the highest number of acres planted to cotton and diverted from cotton under agricultural conservation programs in any one of the three years 1936, 1937, and 1938 is 5 acres or more the allotment for the farm shall not be less than 5 acres if the county cotton acreage allotment is sufficient therefor;

(iii) Notwithstanding the foregoing provisions of this sub-paragraph (1), a number of acres equal to not more than 3 percent of the county acreage allotment in excess of the allotments made to farms on which the highest number of acres planted to cotton plus the acres diverted from cotton under agricultural conservation programs in any of the years 1936, 1937, and 1938, was less than 5 acres and the number of acres required for allotments of 5 acres for each other farm in the county on which cotton was planted in 1936, 1937, or 1938 may be apportioned among farms in the county on which cotton was planted in 1936, 1937, or 1938, and for which the allotment otherwise provided is 5 acres or more, but less than

15 acres and less than the highest number of acres planted to cotton and diverted from cotton under agricultural conservation programs in any one of the years 1936, 1937, and 1938.

In making such allotments under subdivision (iii) in this sub-paragraph consideration shall be given to the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton, and such increases shall not be such as to increase the allotment to any farm above 15 acres. In no event shall the allotment for any farm under this sub-paragraph (1) exceed the highest number of acres planted to cotton and diverted from cotton under agricultural conservation programs in any one of the three years 1936, 1937, and 1938.

(2) In case the county allotment is insufficient to provide allotments to farms in the county which are determined, under instructions issued by the Agricultural Adjustment Administration, to be adequate and representative in view of their past production of cotton and their tilled land, there shall be apportioned to such farms, under instructions issued by the Agricultural Adjustment Administration, such part of a State reserve equal to 4 percent of the State acreage allotment as is necessary to give such farms allotments in conformity with subparagraph (1) which are as nearly adequate and representative as such 4-percent reserve will permit. Such additional allotment shall be used first to increase allotments to farms under subdivisions (i) and (ii) of subparagraph (1).

(3) If the cotton acreage allotments for any farms are substantially smaller than the cotton acreage allotments which would have been made without regard to the provisions of subdivisions (i) and (ii) of sub-paragraph (1) above, the cotton acreage allotments for such farms shall be increased to the acreage which would have resulted in the absence of such provisions insofar as the remaining portion of the 4-percent State reserve will permit after making allotments under sub-paragraph (2) above.

(4) After allotments have been made from the 4-percent reserve as provided in paragraphs (2) and (3) above, one-half of the remainder, if any, of the 4-percent reserve shall be apportioned to farms for which the acreage allotment otherwise determined is less than 50 percent of the sum of the acreage planted in cotton in 1937 and the acreage diverted from cotton production in 1937 under the 1937 program, and the other one-half of the remainder, if any, of the 4-percent reserve shall be available for increasing the allotments for any farms which are determined in accordance with instructions issued by the Agricultural Adjustment Administration to be inadequate and not representative in view of past production on the farm: *Provided*, That the cotton acreage allotment for any farm shall not be increased under this paragraph (4) above the highest number of acres planted to cotton and diverted from cotton under agricultural conservation programs in any one of the three years 1936, 1937 and 1938 nor above 40 percent of the acreage on such farm which is tilled annually or in regular rotation.

(5) Notwithstanding the provisions of sub-paragraphs (1), (2), (3), and (4) above, the cotton acreage allotment for any farm shall be increased by such amount as may be necessary to provide an allotment of not less than 50 percent of the sum of the acreage as determined by the county committee to have been planted to cotton in 1937 and the acreage diverted from cotton under the 1937 program: *Provided*, That the cotton acreage allotment for any farm shall not be increased under this sub-paragraph to more than 40 percent of the acreage on such farm which is tilled annually or in regular rotation.

(6) That portion of the State acreage allotment not apportioned among the counties under section 701.4 (b) (1) shall be apportioned to farms in the State on which cotton will be planted in 1939 but on which cotton was not planted in any of the years 1936, 1937 and 1938, so as to result in comparable allotments to farms which are similar with respect to land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton. The acreage on the farm which will be tilled in 1939 or was tilled in 1938 shall, as a reflection of the several factors to be taken into consideration, be regarded as the basic index of the farm's capacity for cotton production. The county committee shall report, through the State committee, to the Agricultural Adjustment Administration the acreage required for the allotments to such farms in the county together with such substantiating data as may be required by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall allot to the county the proportion of that part of the State acreage allotment reserved for this purpose which it finds reasonable on the basis of the data so reported.

(c) *Corn allotment.*—Acreage allotments of corn shall be determined for farms in the commercial corn-producing area on the basis of tillable acreage, crop rotation practices, type of soil and topography. The allotment for any farm shall be comparable to the allotments recommended for other farms in the same community which are similar with respect to such factors. For any farm with respect to which a corn acreage allotment of 8 acres or less is determined and, in accordance with instructions issued by the Agricultural Adjustment Administration, the persons having an interest in the corn planted on the farm so elect, such farm shall be considered as a non-corn-allotment farm.

(d) *Wheat allotment.*—Acreage allotments of wheat shall be determined for farms on which wheat has been planted for harvest in one or more of the years 1936, 1937, and 1938, on the basis of tillable acreage and crop rotation practices as reflected in the usual acreage of wheat on the farm or the ratio of wheat acreage to cropland in the community or in the county, and on the basis of the type of soil and topography. Not more than 3 percent of the county wheat acreage allotment shall be apportioned to farms in such county on which wheat was not planted for harvest in any one of the three years 1936, 1937, and 1938, on the basis of tillable acreage, crop rotation practices, type of soil and topography. The wheat acreage allotment for any farm shall be comparable with the allotment determined for other farms in the same community which are similar with respect to such factors. Wheat acreage allotments for 1939 will be established for all farms on which 100 bushels or more are normally produced for market. In addition, in areas designated by the Administrator as areas in which practically all wheat planted is for market, wheat acreage allotments may be established for all farms: *Provided*, That no allotment will be established for farms with respect to which the allotment determined for the farm is or would be 8 acres or less and, in accordance with instructions issued by the Agricultural Adjustment Administration, the persons having an interest in the wheat planted on the farm elect to have such farm considered as a non-wheat-allotment farm; and *Provided, further*, That in no event shall a wheat acreage allotment be established for a wind erosion farm.

(e) *Tobacco allotment.*—Acreage allotments for each kind of tobacco shall be determined on the basis of past acreage and production of each kind of tobacco with due allowance for the effects of abnormal weather conditions and plant bed and other diseases; land, labor and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The tobacco acreage allotment for any farm on which tobacco was grown in one or more of the years 1935 to 1938, inclusive, shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors: *Provided*, That in the case of flue-cured, Burley and fire-cured and dark air-cured tobacco, special consideration shall be given to farms for which acreage allotments are small. The allotment for any farm on which tobacco is to be produced in 1939 for the first time since 1934 shall not exceed 75 percent of the allotment for other farms in the same community on which tobacco was produced since 1934 which are similar with respect to land, labor, and equipment available for the production of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

(f) *Potato allotment.*—In counties included in the commercial potato-producing areas, potato acreage allotments shall be established for each farm for which the normal acreage of potatoes for market is determined to be three acres or more. Potato acreage allotments shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, production facilities, and the acreage of potatoes customarily grown on the farm. The potato acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

(g) *Peanut allotment.*—In counties included in the commercial peanut-producing area peanut acreage allotments shall be determined on the basis of the acreage of peanuts for market customarily grown and the tillable acreage on the farm, taking into consideration other special crop acreage allotments established for the farm.

(h) *Rice allotment.*—(1) A rice acreage allotment shall be determined by State and county committees for each producer who is participating in the production of rice in 1939 and who participated in the production of rice in one or more of the five years, 1934 to 1938, inclusive, on the basis of the past production of rice adjusted to the acreage adapted to the production of rice, taking into consideration crop rotation practices, soil fertility, the acreage diverted under previous agricultural adjustment and conservation programs, and other physical factors affecting the production of rice, including the labor and equipment available for the production of rice on the farm.

(2) An acreage not to exceed 3 percent of the State rice acreage allotment shall be apportioned among producers who are participating in the production of rice for the first time in 1939 since 1933 on the basis of the applicable standards of apportionment set forth in this paragraph (h): *Except* that the rice acreage allotment to any farm operated by any person(s) who is participating in the production of rice for the first time in 1939 since 1933 shall not exceed 75 percent of the rice acreage allotment that would have been made to the farm had such person(s) participated in the production of rice in one or more of the five years 1934 to 1938, inclusive.

(i) *Commercial vegetable allotment.*—In counties included in the commercial vegetable-producing areas commercial vegetable acreage allotments shall be established for each farm on which the average acreage of land planted to commercial vegetables in 1936 and 1937 was 3 acres or more. The commercial vegetable acreage allotment shall be the average acreage for 1936 and 1937 with adjustments for abnormal weather conditions and taking into consideration the tillable acreage on the farm, type of soil, and production facilities. The sum of the commercial vegetable acreage allotments established for such farms in a county shall not exceed the sum of the average annual acreages of land planted to commercial vegetables on such farms in 1936 and 1937, except upon approval of the Administrator where it is found that the acreages grown in 1936 and 1937 were substantially reduced because of abnormal weather conditions.

(j) *Usual acreage of wheat.*—Usual acreages of wheat shall be established for all farms (in the Southern and East Central Regions and in areas in the Western and Northeast Regions where wheat acreage allotments are established only for farms normally producing 100 bushels or more of wheat for market) for which a wheat acreage allotment is not established and on which the normal acreage of wheat for harvest as grain or hay is more than 8 acres. The usual acreage of wheat shall be determined on the basis of the past acreage with due allowance for the effects of abnormal weather conditions, tillable acreage, crop rotation practices, type of soil, and topography. The sum of the usual wheat acreages established for such farms in a county shall not exceed the sum of the 1937 acreages of wheat harvested for grain or hay on such farms, except upon approval by the Administrator, where it is found that the 1937 acreage was not representative because of abnormal weather conditions or marked shifts in cropping practices in the county.

(k) *Usual acreage of corn for grain.*—Usual acreages of corn for grain shall be established for all farms in Area C for which a special crop acreage allotment is established and on which the usual acreage of corn for grain is more than 8 acres. The usual acreage of corn for grain shall be determined on the basis of the average annual acreage of corn harvested for grain and diverted therefrom during the years 1936, 1937 and 1938, with adjustments for crop rotation practices. The sum of the usual acreages of corn for grain established for such farms in a county shall not exceed the sum of the average annual acreages of corn harvested for grain and diverted therefrom on such farms during the years 1936, 1937 and 1938.

(l) *Restoration land goal.*—Restoration land goals shall be determined on the basis of the land in the farm which was designated as restoration land under the 1938 program and any additional land in the farm which has been cropped at least once since January 1, 1930 but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

(m) *Soil-building goal.*—The soil-building goal for any farm shall be one unit of soil-building practices for each $1.50 of the payment computed for the farm under section 701.8 (k): *Provided, That* in counties in the special wind erosion area the soil-building goal for any farm shall not be less than one unit for each $5.00 of the total payment computed for the farm under section 701.8 and, *Provided, further*, That for any wind erosion farm the soil-building goal shall not be less than one unit for each $2.00 of the total payment computed for the farm under section 701.8, and the total payment computed for a wind erosion farm under section 701.8 shall be considered as a payment in connection with soil-building practices. Insofar as practicable, the county committee shall determine for individual farms practices to be followed in meeting the goal which are not routine farming practices on the farm, but which are needed on the farm in order to conserve and improve soil fertility and prevent wind and water erosion, and which will tend to accomplish the goals, if any, established for the county with respect to particular soil-building practices.* #

SEC. 701.6 *Normal yields and productivity indexes.*—(a) *Normal yields of special soil-depleting crops.*—The county committee with the assistance of other local committees in the county shall determine for each farm for which a cotton, corn, wheat, rice, tobacco, peanut or potato acreage allotment is established or a deduction is computed a normal yield for each such crop in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration.

(1) *Cotton.*—(i) Where reliable records of the actual average yield of cotton per acre for the five years 1934 to 1938, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

(ii) If for any year of such five-year period records of the actual average yield are not available or there was no actual yield because cotton was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all available facts, including the yield customarily made on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such five-year period.

(iii) The yields determined under subdivision (ii) of this sub-paragraph (1) shall be adjusted so that the average of the normal yields determined for all farms in the county or administrative area (weighted by the cotton acreage allotments established for such farms) shall conform to the county or administrative area average yield established by the Secretary.

(2) *Corn and wheat.*—(i) Where reliable records of the actual average yields

per acre of corn or wheat, as the case may be, for the ten years 1928 to 1937, inclusive, are presented by the farmer or

sub-paragraph (3) shall be reduced pro rata so that the average of such normal yields shall not exceed such state average yield.

ment of the soil-building goal to the extent indicated therein, when such practices are carried out in 1939 in areas designated by the Administrator and in ac-

erosion farms shall not (by virtue of the use of such equipment) be deemed to be paid for in whole or in part by a State or Federal agency.

lent in areas designated by the Administrator as areas in which the average cost of ground limestone to farmers is:

(applicable only on wind erosion farms in the special wind erosion area).

(c) *Unit equivalents per acre — two*

per acre of corn or wheat, as the case may be, for the ten years 1928 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and abnormal weather conditions in accordance with instructions issued by the Agricultural Adjustment Administration.

(ii) If for any year of such ten-year period reliable records of the actual average yield are not available or there was no actual yield because the crop was not planted on the farm in such year, the normal yield for the farm shall be the yield which, on the basis of all the available facts, including the yield customarily made on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the county committee determines to be the yield which was or could reasonably have been expected on the farm for such ten-year period. Where the productivity index most recently established for the farm in connection with the agricultural conservation programs is determined by the county committee to be an accurate reflection of the foregoing factors, the yield obtained by multiplying such index by the county average yield established by the Secretary shall be used as the normal yield for the farm.

(iii) The yields determined under subdivision (ii) of this sub-paragraph (2) shall be adjusted so that the average of the normal yields for all farms in the county (weighted by the respective corn or wheat acreage allotments established for such farms) shall conform to the county average yield established by the Secretary.

(3) *Rice.*—(i) Where reliable records of the actual average yield of rice per acre for the five years 1934 to 1938, inclusive, are presented by the farmer or are available to the committee, the normal yield of rice for the farm shall be the average of such yields.

(ii) If for any year of such five-year period records of the actual average yield are not available or there was no actual yield because rice was not planted on the farm in such year, the county committee shall ascertain from all the available facts, including the yield customarily made on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the yield which was or could reasonably have been expected on the farm for such year, and the yield so determined shall be used as the actual yield for such year under subdivision (i) of this sub-paragraph (3).

(iii) If the average of the normal yields for all farms participating in the 1939 program in the State (weighted by the rice acreage allotments therein) exceeds the average yield per acre for the State during the five years 1934 to 1938, inclusive, established by the Secretary, the normal yields for such farms, determined under subdivisions (i) and (ii) of this sub-paragraph (3) shall be reduced pro rata so that the average of such normal yields shall not exceed such state average yield.

(4) *Tobacco, peanuts and potatoes.*—The normal yield of tobacco, peanuts for market, or potatoes, as the case may be, for any farm shall be the yield which may reasonably be expected from the land devoted to the production of the crop in 1939 with due consideration for type of soil, production practices, general fertility of the land and the yield of such crop customarily made on the farm. The average yield for all farms in any county with respect to any such crop shall not exceed the county average yield for the crop established by the Secretary.

(b) *Productivity indexes.*—The Secretary shall establish for each county or portion of a county in Area A a county productivity index or per-acre rate which will vary among the counties as the productivity of the cropland in the county devoted to the production of general soil-depleting crops varies as compared with the productivity of cropland in the United States devoted to the production of such crops.

A productivity index or rate per acre shall be determined in accordance with instructions issued by the Agricultural Adjustment Administration for each farm in Area A by the county committee, subject to the approval of the State committee. Such productivity index or rate per acre shall be based upon the normal yield per acre for the farm of the major soil-depleting crop in the county as compared with the normal yield per acre for such crop in the county. Where the yield of the major soil-depleting crop in the county does not accurately reflect the productivity of a farm, the yield of a crop that reflects the productivity of the farm may be used, provided that the productivity index or rate per acre for such farm shall be adjusted, if necessary, so as to be fair and equitable as compared with the productivity indexes or rates per acre for other farms in the county having similar soils or productive capacity, and as contrasted with other farms in the county having different soils or productive capacity.

The average productivity index or per-acre rate for all farms for which productivity indexes or per-acre rates are determined in the county shall not exceed 100 or the county per-acre rate, respectively, unless it is determined that farms for which such indexes or rates per acre are established are not representative of all farms in the county and a variation from 100 or the county per-acre rate is approved by the Agricultural Adjustment Administration.*#

SEC. 701.7 *Soil-building practices.*—Such of the soil-building practices listed in the following schedule as the Administrator determines are adapted to any region and should be encouraged in such region shall count toward the achievement of the soil-building goal to the extent indicated therein, when such practices are carried out in 1939 in areas designated by the Administrator and in accordance with specifications issued by the regional director or by the State committee with the approval of the regional director. The areas designated for any soil-building practice shall be areas in which such practice is desirable and necessary as a conservation measure. The specifications issued shall be such as to assure that the soil-building practice will be performed in workmanlike manner and in accordance with good farming practice for the locality.

Practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency other than the Agricultural Adjustment Administration shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal: *Provided*, That labor, seed, trees, and materials furnished to a State, a political subdivision of a State, or an agency thereof by an agency of the same State shall not be deemed to have been furnished by "any State . . . agency" within the meaning of this paragraph. No credit for meeting the soil-building goal shall be given for the planting and protection of forest trees planted under a cooperative agreement entered into with the Forest Service in connection with the Prairie States Forestry Project.

Full credit for meeting the soil-building goal will be given for any of the practices listed in the following schedule which are carried out under the Department's water facilities program if the entire cost of labor, materials and equipment used in carrying out such practices is paid by the owner or operator or covered by a loan agreement executed by him. If a portion of such cost is not paid by the owner or operator or covered by a loan agreement executed by him and such portion constitutes less than one-half of such cost, one-half credit will be given. If such portion constitutes one-half or more of such cost, no credit for meeting the soil-building goal will be given for such practices.

Wind erosion control practices and restoration land measures carried out with the use of equipment furnished by the Soil Conservation Service on wind erosion farms shall not (by virtue of the use of such equipment) be deemed to be paid for in whole or in part by a State or Federal agency.

Trees purchased from a Clark-McNary Cooperative State Nursery shall not be deemed to be paid for in whole or in part by a State or Federal agency.

The unit credits listed below are the maximum units allowable, and the credit for any practice included may be adjusted downward by the State committee with the approval of the Administrator.

Schedule of soil-building practices:

(a) *Practice unit equivalent—one unit.*—Each of the following practices in the amounts specified shall be counted as one unit: *Provided*, That when the materials specified in subparagraphs (1), (2), or (3) of this paragraph are applied to biennial or perennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, or Natal grass seeded or grown in connection with a soil-depleting crop, only such proportionate part, if any, of the material applied shall be counted as is specified by the Agricultural Adjustment Administration.

(1) Application of 300 pounds of 16-percent superphosphate (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

(2) Application of 200 pounds of 50-percent muriate of potash (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

(3) Application of 500 pounds of basic slag or rock phosphate to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza crotalaria, Natal grass, or permanent pasture.

(4) Application of 300 pounds of gypsum containing 18-percent sulphur (or its sulphur equivalent).

(5) Reseeding depleted pastures or restoration land with good seed of adapted pasture grasses or legumes—10 pounds of seed.

(6) Contour ridging of noncrop open pasture land—750 linear feet of ridge or terrace.

(7) Application of one ton, air dry weight, of straw or equivalent mulching material, excluding barnyard and stable manure, in commercial orchards in areas designated by the regional director as areas in which straw normally costs more than $5.00 per ton.

(8) Application of not less than two tons, air dry weight, of straw or equivalent mulching materials, excluding barnyard and stable manure, per acre in orchards or on commercial vegetable land.

(9) Application of the following quantities of ground limestone or its equivalent in areas designated by the Administrator as areas in which the average cost of ground limestone to farmers is:

(i) Not more than $2.00 per ton	2,000 lb.
(ii) More than $2.00 but not more than $3.00 per ton	1,500 lb.
(iii) More than $3.00 but not more than $5.00 per ton	1,000 lb.
(iv) More than $5.00 per ton	600 lb.

(10) Natural reseeding of noncrop open pasture by nongrazing during the normal pasture season on an acreage equal to one-half of the number of acres of such pasture required to carry one animal unit for a 12-month period.

(11) Construction of 200 linear feet of standard terrace for which proper outlets are provided.

(12) Construction of reservoirs and dams—10 cubic yards of material moved in making the fill or excavation or 7 cubic feet of concrete or rubble masonry.

(13) Construction of concrete or rubble masonry check dams or drops and measuring weirs for the control of erosion leaching and seepage of irrigated cropland and orchard land—7 cubic feet of concrete or rubble masonry (applicable only in arid and semi-arid areas).

(14) Construction of 300 linear feet of ditching, with a depth of one foot and a top width of four feet, or the cubic equivalent thereof, for the diversion and spreading of flood water or well water on restoration land, cropland, pasture land, or hay land (applicable only in arid and semi-arid areas).

(b) *Unit equivalents per acre—one unit.*—Each acre of the following shall be counted as one unit:

(1) Seeding biennial legumes, perennial legumes, perennial grasses (other than timothy or redtop) or mixtures (other than a mixture consisting solely of timothy and redtop) containing perennial grasses, perennial legumes, or biennial legumes (except any of such crops qualifying at a higher rate of credit under any other practice listed in this section 701.7).

(2) Seeding winter legumes, annual lespedeza, annual ryegrass, crotalaria, sesbania, or annual sweet clover.

(3) Green manure crops and cover crops (excluding (1) lespedeza, (2) any crop for which credit is given in 1939 under any other practice, (3) wheat on non-irrigated land except in humid areas designated by the Administrator, and (4) such other crops as may be determined as not qualifiable for any area by the Administrator) of which a good stand and good growth is (1) plowed or disced under on land not subject to erosion, or if subject to erosion, such crop is followed by a winter cover crop, or (2) left on land subject to erosion or in orchards or on commercial vegetable or potato land, or on such other land as is designated by the Administrator.

(4) Leveling of hummocks created by wind erosion, where such practice has prior approval of the county committee (applicable only on wind erosion farms in the special wind erosion area).

(c) *Unit equivalents per acre—two units.*—Each acre of the following shall be counted as two units:

(1) Seeding alfalfa.

(2) Seeding permanent grasses or pasture mixtures containing a full seeding of legumes or grasses, or both, other than timothy and redtop (applicable only to varieties and areas designated by the Administrator with respect to which the cost of establishing improved pastures is exceptionally high and their increase is important).

(3) Cultivating, protecting, and maintaining by replanting, if necessary, a good stand of forest trees, planted between July 1, 1935 and July 1, 1939.

(4) With prior approval of the county committee improving a stand of forest trees under such approved system of farm woodlot management as is specified by the Agricultural Adjustment Administration.

(d) *Unit equivalents per acre—three units.*—Each acre of the following shall be counted as three units:

(1) Establishment of a permanent vegetative cover by planting sod pieces of perennial grasses.

(e) *Unit equivalents per acre—four units.*—Each acre of the following shall be counted as four units:

(1) Establishment of a permanent vegetative cover by planting crowns of kudzu.

(f) *Unit equivalents per acre—five units.*—Each acre of the following shall be counted as five units:

(1) Planting forest trees (including shrubs in protective plantings) provided such trees are protected and cultivated in accordance with good tree culture practice.

(2) Control of seriously infested plots of perennial noxious weeds, designated by the Administrator, on cropland, orchard land, or noncrop pasture land, in organized weed control districts, in accordance with good chemical or tillage methods.

(3) Applying sand free from stones or loam to a depth of at least one-half inch on fruiting cranberry bogs.

(g) *Acre equivalents per unit—two acres.*—Each two acres of the following shall be counted as one unit:

(1) Summer legumes not classified as soil-depleting (interplanted or grown in combination with soil-depleting crops) of which a good stand and a good growth is obtained and is not harvested.

(2) Renovation of perennial legumes and mixtures of perennial grasses and legumes.

(3) Seeding timothy or redtop or a mixture consisting solely of timothy and redtop.

(4) Protecting muck land subject to serious wind erosion by establishing or maintaining approved shrub windbreaks.

(h) *Acre equivalents per unit—four acres.*—Each four acres of the following shall be counted as one unit:

(1) Leaving on the land as a protection against wind erosion (only in wind erosion areas, which will be designated by the Administrator) the stalks of sorghums (including broomcorn) or Sudan grass, classified as soil-depleting, where it is determined by the county committee that such cover is necessary as a protection against wind erosion and the operator's farming plan provides that such cover will be left on the land until the spring of 1940.

(2) Restoration of farm woodlots, normally overgrazed, by nongrazing during the normal pasture season. Credit will not be allowed for more than two acres of woodland for each animal unit normally grazed on such woodland.

(3) Contour listing, deep or shallow subsoiling, or furrowing noncrop land (the acreage of this practice shall be computed on the basis of the area so handled, each furrow or strip being considered to occupy an area not in excess of one-half rod in width).

(4) Stripcropping with alternate strips of close-grown crops and intertilled crops or fallow.

(5) Protecting summer-fallowed acreage from wind and water erosion by contour listing, pit cultivation, or incorporating stubble and straw into the surface soil. No credit will be given for this practice on any farm when carried out on light sandy soils or on soils in any area where destruction of the vegetative cover results in the land becoming subject to serious wind erosion.

(i) *Acre equivalents per unit — six acres.*—Each six acres of the following shall be counted as one unit in the special wind erosion area:

(1) Contour listing except when carried out on protected summer-fallowed acreage or as a part of a seeding operation.

(j) *Acre equivalents per unit—eight acres.*—Each eight acres of the following shall be counted as one unit:

(1) Contour farming intertilled crops.

(2) Contour listing except when carried out on protected summer-fallowed acreage or as a part of a seeding operation.

(3) Pit cultivation, pits to be at least four inches in depth below surface of soil and constructed so that surface of pit covers at least 25 percent of the ground surface (applicable only in the special wind erosion area). No credit will be given for this practice when carried out on protected summer-fallowed acreage or as a part of a seeding operation.

(k) *Acre equivalents per unit — ten acres.*—Each ten acres of the following shall be counted as one unit:

(1) Contour seeding of small-grain crops.

(2) Pit cultivation, pits to be at least four inches in depth below surface of soil and constructed so that surface of pit covers at least 25 percent of the ground surface. No credit will be given for this practice when carried out on protected summer-fallowed acreage or as a part of a seeding operation.

(3) Natural vegetative cover or small-grain stubble of crops harvested in 1939 left on cropland not tilled after July 1, 1939 where it is determined by the county committee that such cover is necessary as a protection against wind erosion and the operator's farming plan provides that such cover will be left on the land until the spring of 1940 (applicable only in the special wind erosion area). No credit will be given for this practice on any wind erosion farm.

(4) Contour cultivation with a shallow furrowing or shovel-type implement following small-grain crop harvested in 1939, furrows being not more than 20 inches apart (applicable only in the special wind erosion area).*#

SEC. 701.8 *Payment for full performance.*—Payment will be made with respect to any farm for not exceeding soil-depleting acreage allotments, and for achieving soil-building and restoration land goals in an amount which shall be the sum of the following.

(a) *Cotton.*—2 cents per pound of the normal yield per acre of cotton for the farm for each acre in the cotton acreage allotment; or, if the acreage planted to cotton is less than 80 percent of the cotton acreage allotment, payment will be computed on the normal yield of an acreage equal to 125 percent of the acreage planted to cotton unless the county committee finds that failure to plant 80 percent of such cotton acreage allotment was due to flood or drought.

(b) *Corn.*—9 cents per bushel of the normal yield per acre of corn for the farm for each acre in the corn acreage allotment; or, if the acreage planted to corn is less than 80 percent of the corn acreage allotment, payment will be computed on the normal yield of an acreage equal to 125 percent of the acreage planted to corn unless the county committee finds that failure to plant 80 percent of such corn acreage allotment was due to flood or drought.

(c) *Wheat.*—17 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat acreage allotment; or, if the acreage planted to wheat is less than 80 percent of the wheat acreage allotment, payment will be computed on the normal yield of an acreage equal to 125 percent of the acreage planted to wheat unless the county committee finds that failure to plant 80 percent of such wheat acreage allotment was due to flood or drought.

(d) *Tobacco.*—The following number of cents per pound of the normal yield per acre of tobacco for the farm for each acre in the tobacco acreage allotment for each of the following kinds of tobacco:

(1) Burley	0.8 cent.
(2) Flue-cured	0.8 cent.
(3) Fire-cured and dark air-cured	1.4 cents.
(4) Cigar filler and binder (except Type 45)	1.0 cent.
(5) Georgia-Florida Type 62	1.5 cents.

(e) *Potatoes.*—3 cents per bushel of the normal yield per acre of potatoes for the farm for each acre in the potato acreage allotment; or, if the acreage planted to potatoes is less than 80 percent of the potato acreage allotment, payment will be computed on the normal yield of an acreage equal to 125 percent of the acreage planted to potatoes unless the county committee finds that failure to plant 80 percent of such potato acreage allotment was due to flood or drought.

(f) *Peanuts.*—$3.00 per ton of the normal yield per acre of peanuts for the farm for each acre in the peanut acreage allotment.

(g) *Rice.*—10 cents per 100 pounds of the normal yield per acre of rice for the farm for each acre in the rice acreage allotment; or, if the acreage planted to rice is less than 80 percent of the rice acreage allotment, payment will be computed on the normal yield of an acreage equal to 125 percent of the acreage planted to rice unless the county committee finds that failure to plant 80 percent of such rice acreage allotment was due to flood or drought.

(h) *Commercial vegetables.*—$1.50 for each acre in the commercial vegetable acreage allotment established for the farm; or, if the acreage of land planted to commercial vegetables is less than 80 percent of the commercial vegetable acreage allotment payment will be computed on an acreage equal to 125 percent of the acreage of land planted to commercial vegetables unless the county committee finds that failure to plant 80 percent of such commercial vegetable acreage allotment was due to flood or drought.

(i) *General soil-depleting crops.*—(Farms in Area A except non-general-allotment farms.) $1.10 per acre adjusted for productivity for each acre in the total soil-depleting acreage allotment established for the farm in excess of the sum of (1) the acreages used in computing payments with respect to the special crop and commercial vegetable acreage allotments established for the farm; and (2) the acreage of sugar beets for sugar planted on the farm in 1939.

(j) *Restoration land goal.*—50 cents per acre for each acre of restoration land established for the farm.

(k) *Payments in connection with soil-building practices.*—(1) 50 cents per acre of cropland in the farm in excess of the total soil-depleting acreage allotment for the farm (applicable only to farms in Area A).

(2) $2.00 per acre of commercial orchards on the farm January 1, 1939, except that in the Southern Region (where the commercial orchard acreage is not excluded from the acreage of cropland) the rate shall be $1.50 per acre.

(3) (i) 2 cents per acre of noncrop open pasture land in the farm, plus $1.00 for each animal unit of grazing capacity (on a 12-month basis) of such pasture, in the North Central Region, Kansas, California, Oklahoma, and Texas: *Provided*, That for any county or group of counties where the grazing capacity of the noncrop open pasture land is reasonably uniform, such payment may, upon approval of the Administrator, be computed at a flat rate per acre of noncrop open pasture land, such rate to be not greater than the average amount of payment per acre of noncrop pasture land determined for such county or group of counties on the basis of the foregoing rate.

(ii) 3 cents per acre of noncrop open pasture land plus 75 cents for each animal unit of grazing capacity (on a 12-month basis) of such pasture, in North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Idaho, Oregon, and Washington: *Provided*, That for any county or group of counties where the grazing capacity of the noncrop open pasture land is reasonably uniform, such payment may, upon approval of the Administrator, be computed at a flat rate per acre of noncrop open pasture land, such rate to be not greater than the average amount of payment per acre of noncrop pasture land determined for such county or group of counties on the basis of the foregoing rate.

(iii) 25 cents per acre of fenced noncrop open pasture land in excess of one-half of the number of acres of cropland in the farm which is capable of maintaining during the normal pasture season at least one animal unit for each 5 acres of such pasture land, in the East Central Region and in States other than Texas and Oklahoma in the Southern Region.

(iv) 40 cents per acre of fenced noncrop open pasture land, in excess of one-half of the number of acres of cropland in the farm, which is capable of maintaining during the normal pasture season at least one animal unit for each 5 acres of such pasture land, in the Northeast Region.

(4) 70 cents per acre of cropland in excess of the sum of (1) the acreages used in computing payments with respect to special crop acreage allotments established for the farm, and (2) the acreage of sugar beets for sugar planted, and sugarcane for sugar grown, on the farm in 1939 (applicable only to farms in Area B and Area C).

(5) 70 cents for each acre in the commercial vegetable acreage allotment established for the farm (applicable only to farms in commercial vegetable-producing areas in Area A).

(6) $1.10 per acre, adjusted for productivity, for each acre in the total soil-depleting acreage allotment established for the farm in excess of the sum of (1) the acreages used in computing payments with respect to the special crop and commercial vegetable acreage allotments established for the farm, and (2) the acreage of sugar beets for sugar planted on the farm in 1939 (applicable only to non-general-allotment farms in Area A).*#

SEC. 701.9 *Payments for partial performance.*—Payments computed for any farm under the provisions of section 701.8 shall be subject to all the following deductions which are applicable to the farm.

(a) *Cotton.*—4 cents per pound of the normal yield for the farm for each acre planted to cotton in excess of the cotton acreage allotment established for the farm.

(b) *Corn.*—(i) (Farms in the commercial corn-producing area, except non-corn-allotment farms) 40 cents per bushel of the normal yield for the farm for each acre planted to corn in excess of the corn acreage allotment.

(ii) (Non-corn-allotment farms in the commercial corn-producing area) 40 cents per bushel of the normal yield for the farm for each acre planted to corn in excess of 8 acres.

(iii) (Farms in Area C for which a special crop acreage allotment is established) $10.00 per acre for each acre of corn harvested for grain in excess of the larger of the usual acreage of corn for grain established for the farm or 8 acres.

(c) *Wheat.*—(i) (Farms in the North Central Region and in areas in the Western and Northeast Regions where wheat acreage allotments may be established for all farms) 50 cents per bushel of the normal yield for the farm for each acre planted to wheat in excess of the wheat acreage allotment or, if the farm is a non-wheat-allotment farm, for each acre of wheat classified as soil-depleting acreage under section 701.2 (d) (6) (xix) and (xx) in excess of 8 acres.

(ii) (Farms in the Southern and East Central Regions and in areas in the Western and Northeast Regions where wheat acreage allotments are established only for farms normally producing 100 bushels or more of wheat for market) 50 cents per bushel of the normal yield for the farm for each acre planted to wheat in excess of the wheat acreage allotment or, if the farm is a non-wheat-allotment farm, for each acre of wheat classified as soil-depleting acreage under section 701.2 (d) (6) (xix) and (xx) in excess of the larger of (1) eight acres, or (2) the usual acreage of wheat established for the farm.

(d) *Tobacco.*—8 cents per pound of the normal yield for the farm for each acre of tobacco harvested in excess of the applicable tobacco acreage allotment established for the farm.

(e) *Potatoes.*—(i) (Farms for which potato acreage allotments are established) 30 cents per bushel of the normal yield for the farm for each acre planted to potatoes in excess of the potato acreage allotment.

(ii) (Farms for which potato acreage allotments are not established in commercial potato-producing areas which are not also commercial vegetable-producing areas) 30 cents per bushel of the normal yield for the farm for each acre planted to potatoes for market in excess of 3 acres.

(f) *Peanuts.*—(Farms in commercial peanut-producing areas) $25.00 per ton of the normal yield for the farm for each acre of peanuts for market in excess of the peanut acreage allotment established for the farm.

(g) *Rice.*—80 cents per 100 pounds of the normal yield for the farm for each acre planted to rice in excess of the rice acreage allotment established for the farm.

(h) *Commercial vegetables.*—(Farms in commercial vegetable-producing areas) $20.00 per acre for each acre of land planted to commercial vegetables in excess of the larger of the commercial vegetable acreage allotment established for the farm or 3 acres.

(i) *General soil-depleting crops.*—(1) (Farms in Area A, except non-general-allotment farms) $8.00 per acre, adjusted for productivity, for each acre of the soil-depleting acreage in excess of the total soil-depleting acreage allotment established for the farm plus the acreages with respect to which deductions are computed under paragraphs (a) to (h), inclusive, of this section 701.9.

(ii) (Non-general-allotment farms in Area A) $8.00 per acre adjusted for productivity for each acre of the soil-depleting acreage in excess of the sum of (1) 20 acres, (2) the cotton acreage allotment established for the farm and (3) the acreages with respect to which deductions are computed under paragraphs (a) to (h), inclusive, of this section 701.9.

(iii) (Farms in Area B for which a total soil-depleting acreage allotment is established) $5.00 for each acre classified as soil-depleting in excess of the larger of (1) the total soil-depleting acreage allotment established for the farm plus the acreages with respect to which deductions are computed under paragraphs (a) to (h), inclusive, of this section 701.9, or (2) the acreages on which cotton is planted or tobacco is harvested, plus 20 acres.

(j) *Soil-building goal.*—$1.50 for each unit by which the soil-building goal is not reached.

(k) *Restoration land goal.*—$1.00 for each acre of restoration land on which there are not carried out in 1939 conservation measures specified by the county committee in accordance with instructions issued by the Agricultural Adjustment Administration.

(l) *Cropping restoration land.*—$3.00 for each acre designated in 1938 or 1939 as restoration land which is plowed or tilled in 1939 for any pur-

pose other than tillage practices to protect the land from wind erosion or tillage operations necessary for the seeding of an approved nondepleting cover crop of which the entire growth is left on the land.

(m) *Failure to prevent wind and water erosion.*—$1.00 for each acre of land other than restoration land in an area designated by the Administrator as subject to serious wind and water erosion hazards with respect to which there are not adopted in 1939 methods recommended by the county committee and approved by the State committee for the prevention of wind and water erosion.

(n) *Breaking out native sod.*—In areas designated by the Administrator as being areas subject to serious wind erosion or areas containing large acreages unsuited to continuing production of cultivated crops, $3.00 for each acre of native sod or any other land on which a permanent vegetative cover has been established, broken out during the period November 1, 1938, to October 31, 1939, inclusive, less the acreage broken out with the approval of the county committee as a good farming practice for which an acreage of cropland other than restoration land is restored to permanent vegetative cover.

SEC. 701.10 *Division of payments and deductions.*—(a) *Payments and deductions in connection with commercial vegetables, general soil-depleting crops, crops for which special crop acreage allotments are established, and restoration land goals.*—(1) The net payment or net deduction computed for any farm with respect to commercial vegetables, general soil-depleting crops, or any crop for which a special acreage allotment is established, shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares expressed in terms of either acreages or percentages) that such persons are entitled at the time of harvest to share in the proceeds (other than a fixed commodity payment) of such crop(s) grown on the farm in 1939; *Provided,* That if because of crop failure the harvested acreage of any such crop(s) is less than the planted acreage of such crop(s) and the county committee finds, in accordance with instructions issued by the Agricultural Adjustment Administration, that use of the harvested acreage as a basis for the division of the net payment or net deduction would result in a materially different division from that which would result from the use of the planted acreage, such net payment or net deduction shall be divided among the landlords, tenants, and sharecroppers in the proportion that the county committee determines that such persons would have shared in the proceeds of such crop(s) if the entire acreage planted to such crop(s) in 1939 had been harvested; *Provided,* further, that if any such crop(s) is not grown on the farm in 1939, the net payment or net deduction computed for such crop(s) shall be divided among the landlords, tenants, and sharecroppers in the proportion that the county committee determines that such persons would have shared in the proceeds of such crop(s) if the entire acreage in such acreage allotment had been planted and harvested in 1939; *Provided, further,* that upon the written agreement of all persons who are entitled to receive a landlord's share of the proceeds of any such crop(s), the share of each such person in the net payment or net deduction computed with respect to such crop(s) on any farm comprising separately owned tracts of land shall be determined on the basis of each such person's respective share (as indicated by their acreage shares expressed in terms of either acreages or percentages) in the acreage allotments which could have been established for such crop(s) on the land in which he has an interest.

(2) The net payment or net deduction computed with respect to the restoration land goal for any farm shall be divided equally between the owners and operators thereof unless the county committee determines that the owners and operators thereof did not contribute equally to the acreage in the restoration land goal and to the carrying out of restoration land measures thereon, in which event such payment or deduction shall be divided in the proportion that the county committee determines that such owners and operators contributed to the acreage in the restoration land goal and to the carrying out of restoration land measures thereon.

(3) In computing such net payments and such net deductions with respect to acreage allotments, general crops and restoration land goals, the deduction with respect to (1) corn for grain in Area C, (2) total soil-depleting crops in Area B, (3) failure to prevent wind and water erosion, (4) cropping restoration land, (5) breaking out of native sod, and (6) any net deduction computed with respect to the soil-building goal, shall be regarded as deductions with respect to general crops in Area A and shall be regarded as pro rata deductions with respect to the payments computed in connection with crop acreage allotments in Areas B and C.

(b) *Payments in connection with soil-building practices.*—The amount of net payment earned in connection with the soil-building goal for the farm shall be made to the landlord, tenant, or sharecropper who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying out of soil-building practices on the farm in 1939, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1939. All persons contributing to the carrying out of any soil-building practice on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event such units shall be divided in the proportion which the county committee determines each such person contributed thereto.

(c) *Proration of net deductions.*—If the sum of the net payments computed for all persons on a farm exceeds the sum of the net deductions computed for all persons on such farm, the sum of the net deductions computed for all persons on such farm shall be prorated among the persons on such farm for whom a net payment is computed, on the basis of such computed net payments. If the sum of the net deductions computed for all persons on a farm equals or exceeds the sum of the net payments computed for all persons on such farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on such farm for whom a net deduction is computed, on the basis of such computed net deductions.

SEC. 701.11 *Increase in small payments.*—The total payment computed under Sec. 701.8 to 701.10, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	0.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	(1)
$31.00 to $31.99	10.20	$200.00 and over	(2)

[1] Increase to $200.00.
[2] No increase.

SEC. 701.12 *Payments limited to $10,000.*—The total of all payments made in connection with programs for 1939 under section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate with respect to farms, ranching units, and turpentine places located within a single State, territory, or possession, shall not exceed the sum of $10,000. The total of all payments made in connection with programs for 1939 under section 8 of the Soil Conservation and Domestic Allotment Act to any person other than an individual, partnership, or estate with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico) shall not exceed the sum of $10,000.

All or any part of any payment which has been or otherwise would be made to any person under the 1939 program may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, or formation of any corporation, partnership, estate, trust, or by any other means, which was designed to evade, or would have the effect of evading, the provisions of this section.* #

SEC. 701.13 *Deductions incurred on other farms.*—(a) *Other farms in the same county.*—If the deductions computed under Section 701.9 with respect to any farm in a county exceed the payment for full performance on such farm computed under section 701.8, a landlord's or tenant's share of the amount by which such deduction exceeds such payments shall be deducted from such landlord's or tenant's share of the payment which would otherwise be made to him with respect to any other farms in such county.

(b) *Other farms in the State.*—If the deductions computed for a landlord or tenant with respect to one or more farms in a county exceed the payments computed for such landlord or tenant on other farms in such county, the amount of such excess deductions shall be deducted from the payments computed for such landlord or tenant with respect to any other farms in the State if the State committee finds that the crops grown and practices adopted on the farm with respect to which such deductions are computed substantially offset the contribution to the program made on such other farms.* #

SEC. 701.14 *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.* #

SEC. 701.15 *Materials furnished as grants of aid.*—Wherever it is found practicable limestone, superphosphate, trees, seeds, and other materials, upon request of the producer, may be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out approved soil-building practices which shall be counted toward meeting the soil-building goal for the farm. Wherever such materials are furnished, a deduction from the payment for the farm shall be made in the amount of the approximate average cost of such material to the Agricultural Adjustment Administration in any county, State, or other areas. Such deduction shall be applied first to the payment computed for the person to whom such materials are furnished, and the balance, if any, of such deduction shall be prorated among the payments to other persons sharing in the payment with respect to the farm on which such materials were used. In making a request for materials pursuant to this section, the producer to whom such materials are furnished shall agree that in the event the amount of the deduction for the materials exceeds the amount of the payment with respect to the farm, the amount of such difference shall be repaid by him to the Secretary.

Notwithstanding any other provisions herein for any farm, in areas designated by the Administrator, on which no performance is rendered under the 1939 program except the carrying out of practices through the use of materials furnished by the Agricultural Adjustment Administration, the furnishing of such materials shall be in lieu of any payment which otherwise might be computed for the farm.* #

SEC. 701.16 *General provisions relating to payments.*—(a) *Payment restricted to effectuation of purposes of the program.*—(1) All or any part of any payment which otherwise would be made to any person under the 1939 program may be withheld (a) if he has adopted any practices which the Secretary determines tends to defeat any of the purposes of the 1939 or previous agricultural conservation programs, (b) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (c) if, with respect to forest land or woodland owned or controlled by him, he has adopted any practice which the regional director finds is contrary to sound conservation practices.

(2) No payments other than payments in connection with the restoration land goal and in connection with soil-building practices shall be computed with respect to any farm which is idle in 1939.

(3) In areas designated by the Administrator as areas subject to serious wind erosion in 1939 no payment will be made to any person with respect to any farm which such person owns or operates in a county, if the county committee finds that such person has been negligent and careless in his farming operations by failing to carry out approved wind erosion control measures on land under his control to the extent that any part of such land has become a wind erosion hazard in 1939 to the community in which such farm is located.

(b) *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in paragraph (d) of this section 701.16) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

(c) *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1939 any change of the arrangements which existed on the farm in 1938 is made between the landlord and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord under the 1939 program than would have been made to the landlord for performance on the farm under the 1938 program, payments to the landlord under the 1939 program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1938 had been continued in 1939, if the county committee certifies that the change is not justified and disapproves such change.

If on any farm the number of sharecroppers or share tenants in 1939 is less than the average number on the farm during the years 1936 to 1938, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1939 program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1939 program.

(d) *Assignments.*—Any person who may be entitled to any payment in connection with the 1939 program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1939. No such assignment will be recognized unless the assignment is made in writing on Form ACP–69 in accord-

ance with instructions (ACP–70) issued by the Agricultural Adjustment Administration.

Nothing contained in this section 701.16 shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

(e) *Excess cotton acreage.*—Any person who makes application for payment with respect to any farm located in a county in which cotton is planted in 1939 shall file with such application a statement that he has not knowingly planted or caused to be planted during 1939 cotton on land in any farm in which he has an interest in excess of the cotton acreage allotment established for the farm for 1939, and that cotton was not planted in excess of such allotment by his authority or with his consent.

Any person who knowingly plants cotton on his farm in 1939 on acreage in excess of the cotton acreage allotment established for the farm for 1939 shall not be eligible for any payment under the provisions of the 1939 program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1939 on acreage in excess of the cotton acreage allotment for the farm for 1939 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless the farmer establishes the fact that the excess acreage was planted to cotton due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton on the farm in 1939.

(f) *Use of soil-conserving crops for market.*—Payment will not be made with respect to any farm unless on such farm in 1939 an acreage of cropland or restoration land, not devoted to soil-depleting crops, is withheld from the production of soil-conserving crops for market, equal to the acreage by which the normal acreage of soil-depleting crops on such farm exceeds the larger of (1) the total soil-depleting acreage allotment for the farm, or (2) the acreage devoted to soil-depleting crops on the farm in 1939: *Provided*, That payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of this paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable are used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions unless: (1) the number of cows kept for the production of milk in the county exceeds by more than five percent the normal number of such cows; (2) the acres retired from soil-depleting crops in the county exceed five percent of the normal acreage of such crops and exceed 1,000 acres; and (3) the average number of cows kept for the production of milk exceeds two cows per farm and exceeds two cows per 160 acres of farm land.

The normal acreage of soil-depleting crops and the number of cows kept for the production of milk or the products thereof for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department, and shall announce, the counties not deemed to be in substantial compliance.

As used in this paragraph (f), the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this paragraph (f), the term "soil-conserving crops" means grasses and legumes grown on cropland except those listed in the definition of soil-depleting acreage in section 701.2.*#

SEC. 701.17 *Application for payment.*—(a) *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of section 701.10 a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner or operator of such farm and participates thereon in 1939 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land.

(b) *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

(c) *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee any person shall file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.*#

SEC. 701.18 *Appeals.*—Any person may, within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters affecting any farm in which he has an interest: (a) eligibility to file an application for payment; (b) any soil-depleting acreage allotment, usual acreage, or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.*#

SEC. 701.19 *State and regional bulletins, instructions, and forms.*—The Agricultural Adjustment Administration is hereby authorized to make such determinations and to prepare and issue such State and regional bulletins, instructions, and forms as may be required pursuant to the provisions hereof in administering the 1939 program.

Done at Washington, D. C., this 10th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3436; Filed, November 15, 1938; 12:46 p. m.]

[G. S. Q. R. Series 5, No. 6]

PRORATION OF THE 1938 HAWAIIAN AND VIRGIN ISLANDS SUGAR DEFICITS

GENERAL SUGAR QUOTA REGULATIONS SERIES 5, NO. 1, REVISION 1, SUPPLEMENT 2

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937 (hereinafter referred to as the "act"), I, H. A. Wallace, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give public notice of these regulations (constituting a supplement to General Sugar Quota Regulations Series 5, No. 1, Revision 1, issued June 9, 1938 [1]), which shall have the force and effect of law and shall remain in force and effect until amended or superseded by order or regulations hereinafter made by the Secretary of Agriculture.

1. It is hereby determined, pursuant to section 204 (a) of the said act, that for the calendar year 1938 Hawaii and the Virgin Islands will be unable by the amounts of 29,671 and 5,123 short tons of sugar, raw value, respectively, to market the quotas established for those areas in General Sugar Quota Regulations, Series 5, No. 1, Revision 1, approved June 9, 1938.

2. An amount of sugar equal to the deficit determined in paragraph 1 is hereby prorated, pursuant to section 204 (a) of the said act, as follows:

Areas	*Additional quotas (short tons raw values)*
Domestic Beet Area	11,524
Mainland Cane Sugar Area (Louisiana & Florida)	3,124
Puerto Rico	5,933
Cuba	14,213
Total	34,794

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington this 15th day of November, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3460; Filed, November 16, 1938; 12:22 p. m.]

[1] 3 F. R. 1389 DI.

[ACP–1938–20]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 17

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended on February 19, 1938,[1] and as amended by Supplements Nos. 3 to 16, inclusive, is hereby further amended as follows:

The definition of "early potato-producing area" in Section XVIII, as amended by paragraph (7) of Supplement No. 10 (ACP–1938–12),[2] is hereby amended to read as follows:

"Early potato-producing area means all the States in the East Central and Southern Regions, the States of Missouri and Kansas, the counties of Kern, Los Angeles, Riverside, San Bernardino, San Diego, and Santa Barbara in the State of California, the counties of Clark, Floyd, Harrison, Perry, and Spencer in the State of Indiana, and the counties of Dawson and Buffalo in Nebraska."

Done at Washington, D. C., this 16th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3459; Filed, November 16, 1938; 12:22 p. m.]

[1] 3 F. R. 563 DI.
[2] 3 F. R. 1697 DI.
[2] Amends 9 CFR 3.052 to 3.057.

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[B. A. I. Order 369 [1]]

PART 3—REGULATIONS RELATING TO THE CONTROL OF THE INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY TO PREVENT THE SPREAD OF CONTAGIOUS OR INFECTIOUS DISEASES

REGULATION TO PREVENT THE SPREAD OF SPLENETIC, SOUTHERN, OF TEXAS FEVER IN CATTLE

Effective On and After December 1, 1938

SEC. 3.052 *Splenetic or tick fever in cattle: Notice that still exists in described territory in Florida, Puerto Rico, and Texas and prohibiting interstate movement of cattle.*—Notice is hereby given that the contagious and infectious disease known as splenetic or tick fever exists in cattle in the following-named States and Territory, to wit: Florida, Puerto Rico and Texas.

Now, therefore I, H. A. Wallace, Secretary of Agriculture, do hereby quarantine the areas hereinafter described, and do order by this rule 1, revision 37 (sections 3.052 to 3.057) that the interstate movement of cattle from the areas herein quarantined shall be made only in accordance with Sections 3.051 to 3.079 for the prevention of the spread of splenetic or tick fever in cattle. (Sec. 6, 23 Stat. 32, Secs. 1, 3, 33 Stat. 1264, 1265, Sec. 1, 44 Stat. 774; 21 U. S. C. 115, 123, 125.) [B. A. I. Order 369 November 15, 1938.]

SEC. 3.053 *Description of area quarantined in Florida.*—The following counties and portions of counties are quarantined: Collier and Hendry; that portion of Glades County comprised in townships 40 and 41 south, range 29 east, townships 40 and 41 south, range 30 east, and townships 40 and 41 south, range 31 east; that portion of Highlands County lying south of the township line between townships 36 and 37 south; that portion of Osceola County lying east and north of State Roads 29 and 24; and that portion of Orange County lying east of U. S. Highways Numbers 17 and 92. (Sec. 6, 23 Stat. 32, Sec. 1, 33 Stat. 1264, Sec. 1, 44 Stat. 774; 21 U. S. C. 115, 123.) [B. A. I. Order 369 November 15, 1938.]

SEC. 3.054 *Description of area quarantined in Puerto Rico.*—All that portion of the Territory of Puerto Rico lying east of the following described line is quarantined: Beginning at the point east of Arecibo, where the Arecibo River empties into the Atlantic Ocean, thence south along said river to the town of Utuado, thence continuing in a southerly direction from the bridge in Utuado along Road No. 6, through the town of Adjuntas, to a point west of Ponce where Road No. 6 intersects Road No. 2, thence south to Maltilde Creek, and along said creek to Ponce Playa where Matilde Creek empties into the Caribbean Sea. (Sec. 6, 23 Stat. 32, Sec. 1, 33 Stat. 1264, Sec. 1, 44 Stat. 774; 21 U. S. C. 115, 123.) [B. A. I. Order 369 November 15, 1938.]

SEC. 3.055 *Description of area quarantined in Texas.*—The following counties and portion of counties are quarantined: Angelina, Hardin, Polk, Shelby, Webb, and Zapata; that part of Cameron County lying south of, and including all incorporated and unincorporated townsites intersected by, the following described line, beginning at a point on the Hidalgo-Cameron county line where the Arroyo Colorado intersects said line, thence easterly along the Arroyo Colorado to its intersection with Federal Highway 83, thence southeasterly along Federal Highway 83 to a point where it intersects State Highway 100, thence easterly and northeasterly along State Highway 100 to a point where it approaches Laguna Madre, thence due east to Laguna Madre; that

part of Hidalgo County lying south and west of, and including all incorporated and unincorporated townsites intersected by, a line beginning at a point where the main line of the Missouri Pacific Railroad which runs between Harlingen and Rio Grande City, Texas, intersects the Cameron-Hidalgo county line, running thence in a westerly direction along the north line of said railroad right-of-way to a point where it intersects the east survey line of Porcion 80, thence northerly along said survey line to a point where it intersects the West Edinburg Road, thence westerly along the north right-of-way of said road to its intersection with the west survey line of Porcion 73, thence northerly on said survey line to a point where it intersects the Monte Christo Road, thence westerly along said road to its intersection with the Starr-Hidalgo county line; and that part of Starr County lying south and west of, and including all incorporated and unincorporated townsites intersected by, a line beginning at a point where the Roma-Hebbronville road intersects the Jim Hogg-Starr county line, running thence in a southerly direction along said road to a point where it intersects the southwest survey line of the Buena Vista ranch, running thence southeasterly along the south line of this ranch to a point where it intersects the southwest line of the Las Escobas ranch, following the southwest line of this ranch to the south corner, running thence in a northeasterly direction along the ranch survey line to where it intersects the Las Escobas-Monterrey Road, running thence in a southeasterly direction to a point where this road intersects the east survey line of the Francisco-Antonio Villerreal Survey 108, thence southerly on this survey line to a point where it intersects the east El Saus Road, thence running southeasterly along this road to a point where it intersects the Rio Grande-Corpus Christi Road, thence running southerly on the west survey line of Section 519 and easterly on the south survey line of sections 519 and 520 to the east line of Section 520, thence running southerly on the east line of Section 134 to the southeast corner of the survey, thence westerly on the south line of Section 134 to a point where it intersects the east line of Section 503, thence southerly on the west survey line of the Rincon ranch to its southwest corner, thence easterly on the south line of the Rincon ranch to where it intersects the Hidalgo-Starr County line. (Sec. 6, 23 Stat. 32, Sec. 1, 33 Stat. 1264, Sec. 1, 44 Stat. 774; 21 U. S. C. 115, 123.) [B. A. I. Order 369 November 15, 1938.]

SEC. 3.056 *Effect of rule 1, revision 37.*—This rule 1, revision 37, shall be construed in connection with the regulation of the Secretary of Agriculture for the prevention of the spread of splenetic or tick fever in cattle and is subject to amendment or revision on statutory notice.

Rule 1, revision 36 (B. A. I. Order 363),[1] dated November 16, 1937, effective December 1, 1937, shall cease to be effective on and after December 1, 1938, on and after which date this rule 1, revision 37, which for purposes of identification is designated as B. A. I. Order 369, (9 CFR 3.052 to 3.057) shall become and be effective until otherwise ordered.

The effect of this order is as follows:

In Florida: A part of Orange County is released from quarantine.

In Texas: Jasper, Jefferson, Newton, Orange, Sabine, San Augustine, Trinity, and Tyler Counties; the remainder of Chambers, Galveston, and Liberty Counties; and parts of Cameron, Hidalgo, and Starr Counties are released from quarantine.

In Puerto Rico: A part of the Territory of Puerto Rico is released from quarantine. (Sec. 6, 23 Stat. 32, Secs. 1, 3, 33 Stat. 1264, 1265, Sec. 1, 44 Stat. 774; 21 U. S. C. 115, 123, 125.) [B. A. I. Order 369 November 15, 1938.]

Done in the City of Washington this 15th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

SEC. 3.057 *Properly equipped, noninfectious pens maintained at a certain point in Texas.*—Properly equipped, noninfectious pens are maintained at the following point within the quarantined area:

TEXAS

Laredo, Webb County: International & Great Northern Railroad Co. pens. (See Sec. 3.069) (Sec. 6, 23 Stat. 32, Secs. 1, 3, 33 Stat. 1264, 1265, Sec. 1, 44 Stat. 774; 21 U. S. C. 115, 123, 125.) [B. A. I. Order 369 November 15, 1938.]

[F. R. Doc. 38-3462; Filed, November 16, 1938; 12:23 p. m.]

[1] 2 F. R. 2504 (2914 DI).

TITLE 23—HIGHWAYS

BUREAU OF PUBLIC ROADS

AMENDMENT NO. 2 TO THE RULES AND REGULATIONS FOR CARRYING OUT THE FEDERAL HIGHWAY ACT (EXCEPT THE PROVISIONS THEREOF RELATIVE TO FOREST ROADS)

Pursuant to authority conferred upon the Secretary of Agriculture by Section 18 of the Federal Highway Act of November 9, 1921 (42 Stat. 212), and amendatory and supplementary acts, and in order to give effect to Section 12 of the amendatory Act of June 8, 1938 (Public No. 584, 75th Congress), Section 3, Regulation 8, of the Rules and Regulations approved February 27, 1935, for carrying out the provisions of said Federal Highway Act, is hereby amended to read as follows:

REGULATION 8. CONTRACTS

"SECTION 3. No procedure or requirement shall be approved which, in the judgment of the Secretary, is designed or may operate to prevent the submission of a bid by, or the award of a contract to, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed, such as laws and regulations which require the licensing of a contractor before he may submit a bid or prohibit the consideration of a bid submitted by a contractor not so licensed, or rules which govern the prequalification of contractors by which the amount of work that may be awarded to a contractor is limited otherwise than by a full and appropriate evaluation of his experience, equipment, financial resources and performance record."

Done at the City of Washington this 15th day of November, 1938, as witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3461; Filed, November 16, 1938; 12:22 p. m.]

TITLE 43—PUBLIC LANDS

BUREAU OF RECLAMATION

ADDITION TO TULELAKE RECLAMATION TOWNSITE, KLAMATH PROJECT, OREGON-CALIFORNIA

OCTOBER 26, 1938.

THE SECRETARY OF THE INTERIOR:

SIR: I have the honor to recommend that under authority contained in the Acts of Congress approved April 16, 1906 (34 Stat. 116) and June 27, 1906 (34 Stat. 519), the following described lands which were withdrawn from entry under the Act of June 17, 1902 (32 Stat. 388) by Departmental Orders of July 19, 1904 and January 28, 1905, be reserved for townsite purposes as an addition to the Tulelake Townsite, California.

KLAMATH PROJECT, OREGON-CALIFORNIA

Mount Diablo Meridian, California

T. 48 N., R. 4 E., Sec. 35, N½N½SE¼SW¼, N½S½N½SE¼SW¼; N½N½SW¼SE¼, and N½S½N½SW¼SE¼.

Very respectfully,

R. B. WILLIAMS,
Acting Commissioner.

NOVEMBER 8, 1938.

The foregoing recommendation is hereby approved, and it is so ordered. The Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38-3458; Filed, November 16, 1938; 9:33 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of November, A. D. 1938.

[File No. 47-24]

IN THE MATTER OF PEOPLES LIGHT COMPANY, THE UNITED LIGHT AND POWER COMPANY, AND CLINTON, DAVENPORT & MUSCATINE RAILWAY COMPANY

ORDER APPROVING ACQUISITION AND SALE OF UTILITY ASSETS

Peoples Light Company, an Iowa corporation, and a wholly owned subsidiary of The United Light and Power Company, a Maryland corporation, and a registered holding company, having filed an application pursuant to Sections 10 (a) (2) and 10 (a) (3) of the Public Utility Holding Company Act of 1935 for approval of the acquisition by it of all of the electric utility assets of Clinton, Davenport & Muscatine Railway Company, an Iowa corporation, and a wholly owned subsidiary of said The United Light and Power Company; said The United Light and Power Company and Clinton, Davenport & Muscatine Railway Company having filed applications for leave to intervene in the above-entitled matter for the purpose of fulfilling the requirements of Section 12 (d) of the Public Utility Holding Company Act of 1935; a joint hearing on said applications, as amended, having been held after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings herein:

It is ordered, That the applications for leave to intervene of The United Light and Power Company and Clinton, Davenport & Muscatine Railway Company be and the same hereby are granted and that The United Light and Power Company and Clinton, Davenport & Muscatine Railway Company be and the same hereby are made parties to this proceeding.

It is further ordered That such acquisition of the aforesaid utility assets by Peoples Light Company and that such sale of the aforesaid utility assets in accordance with the terms and conditions and for the purposes represented by said applications be and the same hereby are approved; provided that within ten days after such acquisition and sale the applicants shall file with this Commission certificates of notification showing that such acquisition and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said applications, containing a statement of the final purchase price paid together with a reconciliation of said final purchase price with the purchase price as represented in said applications and an itemized statement of all fees, commissions or other remuneration, to whomsoever paid, directly or indirectly, by any of the parties hereto in connection with the acquisition by Peoples Light Company of the electric utility assets of Clinton, Davenport & Muscatine Railway Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3464; Filed, November 16, 1938; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of November, A. D. 1938.

[File No. 32-116]

IN THE MATTER OF THE CONNECTICUT LIGHT & POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to sections 6 (b), 12 (c) and 20 (a) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 21, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 19, 1938.

The matter concerned herewith is in regard to an application by The Connecticut Light and Power Company, a subsidiary of United Gas Improvement Corporation, a registered holding company, pursuant to Section 6 (b) of the Act for exemption from Section 6 (a) of $15,000,000 of First and Refunding Mortgage Bonds, Series H, to be sold privately, the proceeds to be used to refund presently outstanding bonds, open account indebtedness and bank loans, and to provide additional working capital for the applicant.

The applicant has consented in the application to such order or orders as the Commission may issue under Section 12 (c) and/or 20 (a) restricting the payment of dividends and relating to depreciation or to the retirement reserve in order that the applicant may not charge an amount of less than twelve and one half percent of its gross operating revenues against income for the maintenance and replacements of its properties.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3463; Filed, November 16, 1938; 12:44 p. m.]

[1] 3 F. R. 2166 DI.

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FEDERAL REGISTER

VOLUME 3 NUMBER 225

Washington, Friday, November 18, 1938

The President

EXECUTIVE ORDER

AMENDMENT OF PARAGRAPH 6, SUBDIVISION VII, SCHEDULE A, CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by paragraph Eighth, subdivision SECOND, section 2 of the Civil Service Act (22 Stat. 403, 404), it is ordered that paragraph 6, Subdivision VII, Schedule A of the Civil Service Rules be, and it is hereby, amended to read as follows:

"6. Temporary clerks, carriers, and laborers required for part-time or intermittent work in the Postal Service in connection with the holiday or seasonal business from November 15, 1938, to January 15, 1939."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 15, 1938.

[No. 8007]

[F. R. Doc. 38-3469; Filed, November 17,1938; 11:12 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM SECURITY ADMINISTRATION

[Memorandum No. 796]

PRESCRIBING RULES AND REGULATIONS FOR THE ADMINISTRATION OF LOANS, GRANTS AND FARM DEBT ADJUSTMENT ACTIVITIES FOR NEEDY PERSONS, UNDER THE RURAL REHABILITATION PROGRAM

NOVEMBER 16, 1938.

Pursuant to the authority vested in me by the Emergency Relief Appropriation Act of 1938, I hereby prescribe the following rules and regulations for the administration of loans, grants and farm debt adjustment activities for needy persons, under the rural rehabilitation program of the Farm Security Administration:

1. Loans may be made by the Farm Security Administration for the purpose of financing, in whole or in part, the purchase of necessary equipment, stock, supplies and subsistence needs of, and for soil and farm improvements for farmers, farm tenants, croppers and farm laborers, and for such other purposes as may be necessary in the administration of rural rehabilitation and relief for needy persons.

(a) Such loans may be made either to individuals or to bona fide agencies or cooperative associations, provided, however, that loans to such agencies or associations may only be made upon condition that (1) no inequitable restrictions on membership or participation are imposed, and (2) that such agencies or associations be so conducted under the supervision of the Farm Security Administration as to protect adequately the interests of the United States and of the members or participants therein. No loan shall be made without my approval to any individual which would result in his total indebtedness to the Farm Security Administration under the rural rehabilitation program exceeding the amount of $10,000, to any cooperative association or agency which would result in a total indebtedness of such association or agency to the Farm Security Administration exceeding the amount of $15,000, or to any individual for participation in any cooperative association or agency which would result in the total outstanding indebtedness of individuals for loans in the aggregate for participation in such association or agency exceeding the amount of $17,500.

(b) Interest shall be charged on such loans at a rate not greater than 5% nor less than 3% per annum. Different interest rates may be fixed for different classes of loans.

(c) No loan to an individual shall be for a period in excess of 10 years, or to a cooperative association or agency for a period in excess of 40 years. Subject to these limitations, the period for any loan or class of loans, and the repayment schedules therefor, shall be fixed upon the basis of (1) the use to which the

CONTENTS

THE PRESIDENT

Executive Order: Page
Civil Service Rules, amendment of Paragraph 6, Subdivision VII, Schedule A (temporary clerks, etc., Postal Service) 2733

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Farm Security Administration:
Rural rehabilitation program, loans, grants, etc., for needy persons 2733

TITLE 7—AGRICULTURE:
Bureau of Agricultural Economics:
Tobacco markets, order of designation of 2734
Bureau of Entomology and Plant Quarantine:
Pink bollworm quarantine regulations, modification 2735

TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Rinderpest and foot-and-mouth disease, amendment of regulations to prevent introduction of 2736

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, nonrecognition of gain or loss upon exchanges and distributions made in obedience to orders of Securities and Exchange Commission, etc 2736

TITLE 29—LABOR:
Wage and Hour Division:
Industry committees, regulations applicable to 2744

TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Cancellation of obsolete orders 2746

FEDERAL REGISTER

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proceeds thereof shall be put; (2) the financial resources and earning capacity of the borrower; and (3) in the case of loans to finance the purchase of specific property, the probable rate of depreciation and the estimated life thereof.

(d) Upon default in any payment due to the Farm Security Administration, it may (1) enforce payment by realizing upon the security or by legal proceedings or (2) renew the obligations of the debtor upon terms and conditions not inconsistent with the provisions of these rules and regulations.

(e) The Farm Security Administration shall have authority to do all acts necessary or proper for the making, servicing, renewing and collecting of loans made pursuant hereto or heretofore made by, or transferred to, said administration. Security shall be taken whenever deemed desirable and for this purpose authority is hereby granted to accept, record, release and satisfy instruments of security of all kinds.

2. The Farm Security Administration may make direct grants to farmers, farm tenants, croppers and farm laborers for necessary subsistence and medical needs. Such grants shall be limited in each instance to the amount required by the farm family to meet actual subsistence needs and to preserve its health. Where the protection of the family water supply, the screening of houses, or the building of sanitary privies is essential to health, grants may be made to eligible families for such purposes when authorized for a given area by the Administrator.

3. The Farm Security Administration shall assist farmers, farm tenants, croppers and farm laborers in bringing about an adjustment of their debts by voluntary agreement with their creditors and for this purpose may cooperate with state and local agencies.

4. The Administrator of the Farm Security Administration, or, in his absence, the Acting Administrator, shall exercise the authority contained herein subject to my general supervision, may issue detailed instructions for the administration of the rural rehabilitation program, consistent with these rules and regulations, and, to the extent found advisable, shall be empowered to delegate and authorize the redelegation of this authority to subordinate officers and employees of the Farm Security Administration.

5. The Administrator, the Acting Administrator and each subordinate officer and employee of the Farm Security Administration to whom any of the authority herein granted is redelegated, shall be authorized as agent and attorney-in-fact for the United States of America to execute any and all legal instruments necessary or proper in the execution of the program herein established.

6. To the extent legally permissible, the authority delegated by me by memorandum of January 14, 1938, with respect to the state rural rehabilitation corporation trust funds and state rural rehabilitation corporations under the control of the Department, shall be exercised in accordance with these rules and regulations, in the execution of a rural rehabilitation program.

7. Existing orders and procedures governing the Farm Security Administration in the conduct of the rural rehabilitation program shall remain in effect until superseded by instructions issued by the Administrator or the Acting Administrator.

8. Nothing herein contained shall be deemed to affect any programs or activities of the Farm Security Administration involving loans for water facilities, loans for construction purposes, or loans made in connection with any resettlement project or rural rehabilitation project for resettlement purposes.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-3465; Filed, November 16, 1938; 3:49 p. m.]

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

PART 29—THE TOBACCO INSPECTION ACT

ORDER OF DESIGNATION OF TOBACCO MARKETS

Abingdon, Virginia; Huntington, West Virginia; Knoxville, Tennessee; Maysville, Paris, and Springfield, Kentucky; and Ripley, Ohio

Whereas, The Act of Congress approved August 23, 1935 (49 Stat., 731; 7 U. S. C., Sup. I, Chap. 21A) entitled "The Tobacco Inspection Act" contains the following provisions:

SEC. 2. That transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

SEC. 5. That the Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this Act, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: Provided, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this Act shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

and

Whereas, pursuant to said Act referendums were held among growers who sold Burley tobacco at auction during the last season on the markets of Abingdon, Virginia; Huntington, West Virginia; Knoxville, Tennessee; Maysville, Paris, and Springfield, Kentucky; and Ripley, Ohio, in which referendums such growers were given an opportunity to vote for or against the designation of said markets as provided in Section 5 of the Act; and

Whereas, more than two-thirds of the growers voting in said referendums and who sold tobacco at auction on said markets during the last marketing season voted in favor of said designation,

SEC. 29.301 (k) *Designation of tobacco markets.*

Now, therefore, by virtue of the authority conferred upon me by Section 5 of The Tobacco Inspection Act and the affirmative results of the referendums conducted thereunder, the auction tobacco markets of Abingdon, Virginia; Huntington, West Virginia; Knoxville, Tennessee; Maysville, Paris, and Springfield, Kentucky; and Ripley, Ohio are designated as markets where tobacco bought and sold thereon at auction, or the products manufactured therefrom, moves in commerce.

It is hereby ordered, That, effective 30 days from this date no tobacco shall be offered for sale at auction on the above-named markets until it shall have been inspected and certified by an authorized representative of the United States Department of Agriculture according to standards established under the Act; *Provided, however*, That the requirement of inspection and certification may be suspended at such times as it is found impracticable to provide inspection or when the quantity of tobacco available for inspection is insufficient to justify the cost of such service. No fee or charge shall be imposed or collected for the inspection and certification of tobacco sold or offered for sale at auction on the markets designated herein. (49 Stat. 731; 7 U. S. C. Sup. I, Chap. 21A.)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 16th day of November 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3467; Filed, November 16, 1938; 3:50 p. m.]

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[BEPQ—Q. 52; Rev. of Reg. 3]

MODIFICATION OF PINK BOLLWORM QUARANTINE REGULATIONS

INTRODUCTORY NOTE

The following revision adds to the lightly infested area that part of Pinal County in Arizona not heretofore within the regulated area, all of Maricopa County in Arizona, and the Texas counties of Brooks, Jim Wells, Kenedy, Kleberg, and Nueces. This action is taken with respect to all counties, except Kenedy, owing to the recent finding of light infestations of the pink bollworm of cotton. Kenedy County is included in the regulated area because there are no facilities in that county for ginning the small acreage of cotton grown therein which is normally ginned in the regulated area.

LEE A. STRONG,
Chief.

AMENDMENT NO. 5 TO REVISED RULES AND REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 52

Under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended by the act of Congress approved March 4, 1917 (39 Stat. 1134, 1165), it is ordered that regulation 3 of the revised rules and regulations supplemental to Notice of Quarantine No. 52, on account of the pink bollworm of cotton, which were promulgated on October 13, 1936, as amended effective December 1, 1936, April 6, 1937, October 28, 1937, and January 3, 1938, be and the same is hereby still further amended to read as follows:

REGULATION 3. REGULATED AREAS: HEAVILY AND LIGHTLY INFESTED AREAS

Regulated Areas

In accordance with the provisos to Notice of Quarantine No. 52 (revised), the Secretary of Agriculture designates as regulated areas, for the purpose of these regulations, the following counties and parts of counties in Arizona, New Mexico, and Texas:

Arizona area.—Counties of Cochise, Graham, Greenlee, Maricopa, Pinal, and Santa Cruz, and all of *Pima County* except that part lying west of the western boundary line of range 8 east.

New Mexico area.—Counties of Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Roosevelt, Sierra, Socorro, and Valencia.

Texas area.—Counties of Andrews, Brewster, Brooks, Cameron, Cochran, Crane, Culberson, Dawson, Ector, El Paso, Gaines, Glasscock, Hidalgo, Hockley, Howard, Hudspeth, Jeff Davis, Jim Wells, Kenedy, Kleberg, Loving, Martin, Midland, Nueces, Pecos, Presidio, Reeves, Starr, Terrell, Terry, Upton, Ward, Willacy, Winkler, and Yoakum; that part of *Bailey County* lying south of the following-described boundary line: beginning on the east line of said county where the county line intersects the northern boundary line of league 207; thence west following the northern boundary line of leagues 207, 203, 191, 188, 175, and 171 to the northeast corner of league 171; thence south on the western line of league 171 to the northeast corner of the W. H. L. survey; thence west along the northern boundary of the W. H. L. survey and the northern boundary of sections 68, 67, 66, 65, 64, 63, 62, 61, and 60 of block A of the M. B. and B. survey to the western boundary of said county; that part of *Lamb County* lying south of the following-described boundary line: beginning on the east line of said county where the county line intersects the northern boundary line of section 9 of the R. M. Thomson survey; thence west following the northern boundary line of sections 9 and 10 of the R. M. Thomson survey and the northern boundary line of sections 6, 5, 4, 3, 2, and 1 of the T. A. Thompson survey and the northern boundary line of leagues 637, 636, and 635 to the southeast corner of league 239; thence north on the eastern boundary line of league 239 to the northeast corner of said league; thence west on the northern boundary line of leagues 239, 238, 233, 222, 218, and 207 to the western boundary line of said county.

Heavily Infested Areas

Of the regulated areas, the following counties and parts of counties are hereby designated as heavily infested within the meaning of these regulations:

Counties of Brewster, Culberson, Jeff Davis, Presidio, and Terrell, in the State of Texas, and all of *Hudspeth County* in the same State except that part of the northwest corner of said county lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½.

Lightly Infested Areas

The following areas are designated as lightly infested:

The counties of Cochise, Graham, Greenlee, Maricopa, Pinal, and Santa Cruz, and the regulated part of Pima County in Arizona;[1] the counties of Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Roosevelt, Sierra, Socorro, and Valencia in New Mexico; the entire counties of Andrews, Brooks, Cameron, Cochran, Crane, Dawson, Ector, El Paso, Gaines, Glasscock, Hidalgo, Hockley, Howard, Jim Wells, Kenedy, Kleberg, Loving, Martin, Midland, Nueces, Pecos, Reeves, Starr, Terry, Upton, Ward, Willacy, Winkler, and Yoakum, the regulated parts of Bailey and Lamb Counties in Texas, and that part of the northwest corner of Hudspeth County, Tex., lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½.

This amendment shall be effective on and after November 17, 1938, and shall on that date supersede amendment No. 4 which became effective January 3, 1938.[2]

Done at the city of Washington this 15th day of November 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3466; Filed, November 16, 1938; 3:49 p. m.]

[1] Part of the lightly infested area in Arizona is regulated on account of the Thurberia weevil under quarantine No. 61, and shipments therefrom must comply with the requirements of that quarantine.

[2] 2 F. R. 2975 (3439 DI).

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 3 to B. A. I. Order 366 [1]]

PART 8—REGULATIONS TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

NOVEMBER 15, 1938.

SEC. 8.001 *Importation of domestic livestock or meats from countries where rinderpest or foot-and-mouth disease declared exists prohibited.*—Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930, the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 366), dated May 27, 1938, and effective June 1, 1938, as amended, is hereby further amended by adding the names "Latvia" and "Lithuania" to the list of countries in said order, as I have determined that foot-and-mouth disease exists in those countries and I have so officially notified the Secretary of the Treasury.

The effect of this amendment is to render commodities specified in B. A. I. Order 366, originating in Latvia or Lithuania, subject to the provisions of said B. A. I. Order 366.

This amendment, which for purpose of identification is designated Amendment 3 to B. A. I. Order 366, 9 C F R 8.001, shall be effective on and after November 19, 1938. (Sec. 306, 46 Stat. 689, Sec. 2, 32 Stat. 792, 45 Stat. 59; 19 U. S. C. 1306 (a), (b), and (c), 21 U. S. C. 111) [B. A. I. Order 366, unnumbered paragraph 1, as amended by Amendment 1, August 27, 1938, Amendment 2, September 21, 1938 [2] and Amendment 3, November 15, 1938.]

Done at Washington this 15th day of November 1938.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3468; Filed, November 16, 1938; 3:50 p. m.]

[1] Amending 9 CFR 8.001.
[2] 3 F. R. 2271 DI.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4874]

INCOME TAX, REVENUE ACT OF 1938

REGULATIONS RELATING TO NONRECOGNITION OF GAIN OR LOSS UPON EXCHANGES AND DISTRIBUTIONS MADE IN OBEDIENCE TO ORDERS OF THE SECURITIES AND EXCHANGE COMMISSION, AND THE BASIS OF PROPERTY ACQUIRED UPON SUCH EXCHANGES AND DISTRIBUTIONS

To Collectors of Internal Revenue and Others Concerned:

Pursuant to the provisions of section 62 and Supplement R of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), and other provisions of the internal revenue laws, the following regulations are hereby prescribed with respect to the nonrecognition of gain or loss upon exchanges and distributions made in obedience to orders of the Securities and Exchange Commission, and the basis of property acquired upon such exchanges and distributions, as provided in sections 112 (b) (8), 113 (a) (17), 371, 372 and 373 of the Act, such subsections and sections being quoted in, and made a part of, such regulations:

PART I.—NONRECOGNITION OF GAIN OR LOSS

SEC. 112. *Recognition of gain or loss.*

* * * * * * *

(b) *Exchanges solely in kind.*—

* * * * * * *

(8) Exchanges and distributions in obedience to orders of Securities and Exchange Commission.—In the case of any exchange or distribution described in section 371, no gain or loss shall be recognized to the extent specified in such section with respect to such exchange or distribution.

SEC. 371. *Nonrecognition of gain or loss.*—(a) Exchanges of Stock or Securities Only.—No gain or loss shall be recognized to the transferor if stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary company are transferred to such corporation or to an associate company thereof which is a registered holding company or a majority-owned subsidiary company solely in exchange for stock or securities (other than stock or securities which are nonexempt property), and the exchange is made by the transferee corporation in obedience to an order of the Securities and Exchange Commission.

(b) *Exchanges of property for property by corporations.*—No gain or loss shall be recognized to a transferor corporation which is a registered holding company or an associate company of a registered holding company, if such corporation, in obedience to an order of the Securities and Exchange Commission transfers property solely in exchange for property (other than nonexempt property), and such order recites that such exchange by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which the transferor corporation is a member.

(c) *Distribution of stock or securities only.*—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized.

(d) *Transfers within system group.*—(1) No gain or loss shall be recognized to a corporation which is a member of a system group (A) if such corporation transfers property to another corporation which is a member of the same system group in exchange for other property, and the exchange by each corporation is made in obedience to an order of the Securities and Exchange Commission, or (B) if there is distributed to such corporation as a shareholder in a corporation which is a member of the same system group, property, without the surrender by such shareholder of stock or securities in the corporation making the distribution, and the distribution is made and received in obedience to an order of the Securities and Exchange Commission. If an exchange by or a distribution to a corporation with respect to which no gain or loss is recognized under any of the provisions of this paragraph may also be considered to be within the provisions of subsection (a), (b), or (c), then the provisions of this paragraph only shall apply.

(2) If the property received upon an exchange which is within any of the provisions of paragraph (1) of this subsection consists in whole or in part of stock or securities issued by the corporation from which such property was received, and if in obedience to an order of the Securities and Exchange Commission such stock or securities (other than stock which is not preferred as to both dividends and assets) are sold and the proceeds derived therefrom are applied in whole or in part in the retirement or cancellation of stock or of securities of the recipient corporation outstanding at the time of such exchange, no gain or loss shall be recognized to the recipient corporation upon the sale of the stock or securities with respect to which such order was made; except that if any part of the proceeds derived from the sale of such stock or securities is not so applied, or if the amount of such proceeds is in excess of the fair market value of such stock or securities at the time of such exchange, the gain, if any, shall be recognized, but in an amount not in excess of the proceeds which are not so applied, or in an amount not more than the amount by which the proceeds derived from such sale exceed such fair market value, whichever is the greater.

(e) *Exchanges not solely in kind.*—(1) If an exchange (not within any of the provisions of subsection (d) would be within the provisions of subsection (a) or (b) if it were not for the fact that property received in exchange consists not only of property permitted by such subsection to be received without the recognition of gain or loss, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property, and the loss, if any, to the recipient shall not be recognized.

(2) If an exchange is within the provisions of paragraph (1) of this subsection and if it includes a distribution which has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under such paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under such paragraph (1) shall be taxed as a gain from the exchange of property.

(f) *Application of section.*—The provisions of this section shall not apply to an exchange or distribution unless (1) the order of the Securities and Exchange Commission in obedience to which such exchange or distribution was made recites that such exchange or distribution is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, (2) such order specifies and itemizes the stock and securities and other property which are ordered to be transferred and received upon such exchange or distribution, and (3) such exchange or distribution was made in obedience to such order and was completed within the time prescribed therefor in such order.

(g) *Non-application of other provisions.*—If an exchange or distribution made in obedience to an order of the Securities and Exchange Commission is within any of the provisions of this section and may also be considered to be within any of the provisions of section 112 (other than the provisions of paragraph (8) of subsection (b)), then the provisions of this section only shall apply.

ART. 371-0. *Terms used.*—The following terms are defined in section 373 of the Revenue Act of 1938 and when used in these regulations shall have the meanings therein assigned to them: "Order of the Securities and Exchange Commission"; "registered holding company"; "holding-company system"; "associate company"; "majority-owned subsidiary company"; "system group"; "nonexempt property"; and "stock or securities". Any other term used in these regulations, which is defined in that Act, shall be given the respective definition contained in the Act.

The sections referred to in these regulations, unless otherwise stated, are sections of the Revenue Act of 1938. Supplement R, referred to in these regulations, is Supplement R of the Revenue Act of 1938 and includes sections 371-373, inclusive, of that Act.

ART. 371-1. *Purpose and scope of exception.*—The general rule is that the entire amount of gain or loss from the sale or exchange of property is to be recognized (see section 112 (a)) and that the entire amount received as a dividend is to be included in gross income (see sections 22 (a) and 115). Exceptions to the general rule are provided in section 112, one of which is that made by section 112 (b) (8) with respect to exchanges, sales, and distributions specifically described in section 371. Section 371 provides the extent to which gain or loss is not to be recognized on an exchange or sale, or the receipt of a distribution, made in obedience to an order of the Securities and Exchange Commission, which is issued to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935. Section 115 (c) provides that a distribution in liquidation of a corporation shall be treated as an exchange, and such a distribution is to be so treated under the provisions of Supplement R. The order of the Securities and Exchange Commission must be one requiring or approving action which the Commission finds to be necessary or appropriate to effect a simplification or geographical integration of a particular public utility holding-company system. For specific requirements with respect to an order of the Securities and Exchange Commission, see section 371 (f).

The requirements for nonrecognition of gain or loss as provided in section 371 are precisely stated with respect to the following four general types of transactions:

(1) The exchange that is provided for in section 371 (a), in which stock or securities in a registered holding company or a majority-owned subsidiary company are exchanged for stock or securities.

(2) The exchange that is provided for in section 371 (b), in which a registered holding company or an associate company of a registered holding company exchanges property for property.

(3) The distribution that is provided for in section 371 (c), in which stock or securities are distributed to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company.

(4) The transfer that is provided for in section 371 (d), in which a corporation which is a member of a system group transfers property to another member of the same system group.

Certain rules with respect to the receipt of nonexempt property on an exchange described in section 371 (a) or (b) are prescribed in section 371 (e).

These new exceptions to the general rule are to be strictly construed as in the case of the other exceptions in section 112. Unless both the purpose and the specific requirements of Supplement R are clearly met, the recognition of gain or loss upon the exchange, sale, or distribution will not be postponed under Supplement R. Moreover, even though a taxable transaction occurs in connection or simultaneously with a realization of gain or loss to which nonrecognition is accorded, nevertheless, as under the various provisions of section 112, nonrecognition will not be accorded to such taxable transaction. In other words, the provisions of section 371 do not extend in any case to gain or loss other than that realized from and directly attributable to a disposition of property as such, or the receipt of a corporate distribution as such, in an exchange, sale, or distribution specifically described in section 371.

The application of the provisions of Supplement R is intended to result only in postponing the recognition of gain or loss until a disposition of property is made which is not covered by such provisions, and the continuation of the basis as provided in section 372 is designed to effect this result. Although the time of recognition may be shifted, there must be a true reflection of income in all cases, and it is intended that the provisions of Supplement R shall not be construed or applied in such a way as to defeat this purpose.

ART. 371-2. *Exchanges of stock or securities solely for stock or securities.*—The exchange, without the recognition of gain or loss, that is provided for in section 371 (a) must be one in which stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary company are exchanged solely for stock or securities other than stock or securities which constitute nonexempt property. An exchange is not within the provisions of section 371 (a), unless the stock or securities transferred and those received are stock or securities as defined by section 373 (f). The stock or securities which may be received without the recognition of gain or loss are not limited to stock or securities in the corporation from which they are received. An exchange within the provisions of section 371 (a) may be a transaction between the holder of stock or securities and the corporation which issued the stock or securities. Also the exchange may be made by a holder of stock or securities with an associate company (i. e., a corporation in the same holding-company system with the issuing corporation) which is a registered holding company or a majority-owned subsidiary company. In either case, the nonrecognition provisions of section 371 (a) apply only to the holder of the stock or securities. However, the transferee corporation must be acting in obedience to an order of the Securities and Exchange Commission directed to such corporation, if no gain or loss is to be recognized to the holder of the stock or securities who makes the exchange with such corporation. See also section 371 (b), in case the holder of the stock or securities is a registered holding company or an associate company of a registered holding company. An exchange is not within the provisions of section 371 (a) if it is within the provisions of section 371 (d), relating to transfers within a system group. For further limitations, see section 371 (f).

ART. 371-3. *Exchanges of property for property by corporations.*—The nonrecognition of gain or loss provided for in section 371 (b) is limited to an exchange by a transferor corporation which is (1) a registered holding company or (2) an associate company of a registered holding company. No restriction is imposed with respect to the class of property which may be transferred by the transferor corporation, but in order that all of the transferor corporation's gain from the exchange be nonrecognized (see section 371 (e)), no part of the property received by such corporation may consist of nonexempt property, though the receipt, in part, of nonexempt property by the transferor corporation does not prevent nonrecognition of all of its loss from the exchange under section 371 (e). It is essential to the nonrecognition either of gain or loss that in making the exchange the transferor corporation shall be acting in obedience to an order of the Securities and Exchange Commission reciting that such exchange by the transferor corporation is necessary or appropriate to the integration or simplification of the holding company system of which such corporation is a member. An exchange is not within the provisions of section 371 (b), if it is within the provisions of section 371 (d), relating to transfers within a system group. For further limitations, see section 371 (f).

Example.—The A Corporation, a registered holding company, is a member of holding-company system No. 1 which comprises an integrated utility system in region X, except for the fact that the A Corporation owns all of the voting stock of the B Corporation with transmission lines in region Y. The transmission lines of the B Corporation have an adjusted basis of $300,000 and a fair market value of $325,000. The C Corporation, a registered holding company, is a member of holding-company system No. 2 which comprises an integrated utility system in region Y, except for the fact that the C Corporation owns all of the voting stock of the D Corporation, an operating company with a generating plant and transmission lines in region X. The generating plant and

transmission lines of the D Corporation have an adjusted basis of $275,000 and a fair market value of $325,000. In obedience to an appropriate order of the Securities and Exchange Commission relative to the integration of holding-company system No. 1, the B Corporation transfers its transmission lines in region Y to the D Corporation in exchange for the generating plant and transmission lines of the D Corporation in region X. Under section 371 (b), no gain is recognized to the B Corporation upon the exchange. However, the provisions of section 371 (b) do not apply to the disposition by the D Corporation of its generating plant and transmission lines in region X unless such disposition is made in obedience to an appropriate order of the Securities and Exchange Commission which relates to such disposition and recites that such disposition is necessary or appropriate to the integration of holding-company system No. 2.

ART. 371–4. *Distribution solely of stock or securities.*—If, without any surrender of his stock or securities as defined in section 373 (f), a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company receives stock or securities in such corporation or owned by such corporation, no gain to the shareholder will be recognized with respect to the stock or securities received by such shareholder which do not constitute nonexempt property, if the distribution to such shareholder is made by the distributing corporation in obedience to an order of the Securities and Exchange Commission directed to such corporation. A distribution is not within the provisions of section 371 (c) if it is within the provisions of section 371 (d), relating to transfers within a system group. A distribution is also not within the provisions of section 371 (c) if it involves a surrender by the shareholder of stock or securities or a transfer by the shareholder of property in exchange for the stock or securities received by the shareholder. For further limitations, see section 371 (f).

ART. 371–5. *Transfers within system group.*—The nonrecognition of gain or loss provided for in section 371 (d) (1) is applicable to an exchange of property for other property (including money and other nonexempt property). In order for any exchange to come within such section, all the parties to the exchange must be corporations which are members of the same system group. The term "system group" is defined in section 373 (d).

Section 371 (d) (1) also provides for nonrecognition of gain to a corporation which is a member of a system group if property (including money or other nonexempt property) is distributed to such corporation as a shareholder in a corporation which is a member of the same system group, without the surrender by such shareholder of stock or securities in the distributing corporation.

As stated in article 371–1 of these regulations, nonrecognition of gain or loss will not be accorded to a transaction not clearly provided for in Supplement R, even though such transaction occurs simultaneously or in connection with an exchange, sale, or distribution to which nonrecognition is specifically accorded. Therefore, nonrecognition will not be accorded to any gain or loss realized from the discharge, or the removal of the burden, of the pecuniary obligations of a member of a system group, even though such obligations are acquired upon a transfer or distribution specifically described in section 371 (d) (1); but the fact that the acquisition of such obligations was upon a transfer or distribution specifically described in section 371 (d) (1) will, because of the basic provisions of section 372 (d), affect the cost to the member of such discharge or its equivalent. Thus, section 371 (d) (1) does not provide for the nonrecognition of any gain or loss realized from the discharge of the indebtedness of a member of a system group as the result of the acquisition in exchange, sale, or distribution of its own bonds, notes, or other evidences of indebtedness which were acquired by another member of the same system group for a consideration less or more than the issuing price thereof (with proper adjustments for amortization of premiums or discounts).

Example.—Suppose that the A Corporation and the B Corporation are both members of the same system group; that the A Corporation holds at a cost of $900 a bond issued by the B Corporation at par, $1,000; and that the A Corporation and the B Corporation enter into an exchange subject to the provisions of section 371 (d) (1) in which the $1,000 bond of the B Corporation is transferred from the A Corporation to the B Corporation. The $900 basis reflecting the cost to the A Corporation which would have been the basis available to the B Corporation if the property transferred to it had been something other than its own securities (see article 372–4 of these regulations) will, in this type of transaction, reflect the cost to the B Corporation of effecting a retirement of its own $1,000 bond. The $100 gain of the B Corporation reflected in the retirement will therefore be recognized.

No exchange or distribution may be made without the recognition of gain or loss as provided for in section 371 (d) (1), unless all the corporations which are parties to such exchange or distribution are acting in obedience to an order of the Securities and Exchange Commission. If an exchange or distribution is within the provisions of section 371 (d) (1) and also may be considered to be within some other provision of section 371, it shall be considered that only the provisions of section 371 (d) (1) apply and that the nonrecognition of gain or loss upon such exchange or distribution is by virtue of that section.

ART. 371–6. *Sale of stock or securities received upon exchange by members of system group.*—Section 371 (d) (2) provides that to the extent that property received upon an exchange by corporations which are members of the same system group consists of stock or securities *issued* by the corporation from which such property was received, such stock or securities may, under certain specifically described circumstances, be sold to a party not a member of the system group, without the recognition of gain or loss to the selling corporation. The nonrecognition of gain or loss is limited, in the case of stock, to a sale of stock which is preferred as to both dividends and assets. The stock or securities must have been received upon an exchange with respect to which section 371 (d) (1) operated to prevent recognition of gain or loss to any party to the exchange. Nonrecognition of gain or loss upon the sale of such stock or securities is permitted only if the proceeds derived from the sale are applied in retirement or cancellation of stock or securities of the selling corporation which were outstanding at the time the exchange was made. It is also essential to nonrecognition of gain or loss upon the sale that both the sale of the stock or securities and the application of the proceeds derived therefrom be made in obedience to an order of the Securities and Exchange Commission. If any part of the proceeds derived from the sale is not applied in making the required retirement or cancellation of stock or securities and if the sale is otherwise within the provisions of section 371 (d) (2), the gain resulting from the sale shall be recognized, but in an amount not in excess of the proceeds which are not so applied. In any event, if the proceeds derived from the sale of the stock or securities exceed the fair market value of such stock or securities at the time of the exchange through which they were acquired by the selling corporation, the gain resulting from the sale is to be recognized to the extent of such excess. Section 371 (d) (2) does not provide for the nonrecognition of any gain resulting from the retirement of bonds, notes, or other evidences of indebtedness for a consideration less than the issuing price thereof. Also, that section does not provide for the nonrecognition of gain or loss upon the sale of any stock or securities received upon a distribution or otherwise than upon an exchange.

Example.—The X Corporation and the Y Corporation, both of which make their income tax returns on a calendar year basis, are members of the same system group. As part of an exchange in which section 371 (d) (1) is applicable the Y Corporation on June 1, 1938, issues to the X Corporation 1,000 shares of class A stock, preferred as to both dividends and assets. The fair market value of such stock at the time of issuance is $90,000 and its basis to the X Corporation is $75,000. On December 1, 1938, in obedience to an appropriate order of the Securities and Exchange Commission, the X Corporation sells all of such stock to the public for $100,000 and applies $95,000 of this amount to the retirement of its own bonds, which were outstanding on June 1, 1938. The remaining $5,000 is not used to retire any of the X Corporation's stock or securities. Of the total gain of $25,000 realized on the disposition of the Y Corporation stock only $10,000 is recognized, being the difference between the fair market value of the stock when acquired and the amount for which it was sold, since such amount is greater than the portion ($5,000) of the proceeds not applied to the retirement of the X Corporation's stock or securities.

If in the above example the stock required by the X Corporation had not been stock of the Y Corporation issued to the X Corporation or if it had been stock not preferred as to both dividends and assets, the full amount of the gain ($25,000) realized upon its disposition would have been recognized, regardless of what was done with the proceeds.

ART. 371–7. *Exchanges in which money or other nonexempt property is received.*—Under section 371 (e) (1), if in any exchange (not within any of the provisions of section 371 (d)) in which (a) stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary are exchanged for stock or securities as provided for in section 371 (a), or (b) property of a corporation which is a registered holding company or an associate company of a registered holding company is exchanged for other property as provided for in section 371 (b), there is received by the taxpayer money or other nonexempt property (in addition to property permitted to be received without recognition of gain), then—

(1) The gain, if any, to the taxpayer is to be recognized in an amount not in excess of the sum of the money and the fair market value of the other nonexempt property, but

(2) The loss, if any, to the taxpayer from such an exchange is not to be recognized to any extent.

If money or other nonexempt property is received from a corporation in an exchange described in this article and if the distribution of such money or other nonexempt property by or on behalf of such corporation has the effect of the distribution of a taxable dividend, then, as provided in section 371 (e) (2), there shall be taxed to each distributee (1) as a dividend, such an amount of the gain recognized on the exchange as is not in excess of the distributee's ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913, and (2) the remainder of the gain so recognized shall be taxed as a gain from the exchange of property.

ART. 371–8. *Requirements with respect to order of Securities and Exchange Commission.*—The term "order of the Securities and Exchange Commission" is defined in section 373 (a). In addition to the requirements specified in that definition, section 371 (f) provides that the provisions of section 371 shall not apply to an exchange or distribution unless each of the following requirements is met:

(1) The order of the Securities and Exchange Commission must recite that the exchange or distribution is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

(2) The order shall specify and itemize the stock and securities and other property (including money) which are ordered to be transferred and received upon the exchange or distribution, so as clearly to identify such property.

(3) The exchange or distribution shall be made in obedience to the order and shall be completed within the time prescribed in such order.

These requirements were not designed merely to simplify the administration of the provisions of section 371, and they are not to be considered as pertaining only to administrative matters. Each one of the three requirements is of the essence, and must be met if gain or loss is not to be recognized upon the transaction.

ART. 371–9. *Non-application of other provisions of the Act.*—The effect of section 371 (g) is that an exchange, sale, or distribution which is within section 371 shall, with respect to the nonrecognition of gain or loss and the determination of basis, be governed only by Supplement R, the purpose being to prevent overlapping of the provisions of such supplement and other provisions of the Act. In other words, if by virtue of section 371 any portion of a person's gain or loss on any particular exchange, sale or distribution is not to be recognized, then the gain or loss of such person shall be nonrecognized only to the extent provided in section 371, regardless of what the result might have been under section 112 if Supplement R had not been enacted; and similarly, the basis in the hands of such person of the property received by him in such transaction shall be the basis provided by section 372, regardless of what the basis of such property might have been under section 113 if Supplement R had not been enacted. On the other hand, if section 371 does not provide for the nonrecognition of any portion of a person's gain or loss (whether or not such person is another party to the same transaction referred to above), then the gain or loss of such person shall be recognized or nonrecognized to the extent provided for by other provisions of the Act as if Supplement R had not been enacted; and similarly, the basis in his hands of the property received by him in such transaction shall be the basis provided by other provisions of the Act as if Supplement R had not been enacted.

ART. 371–10. *Records to be kept and information to be filed with returns.*—(a) Every holder of stock or securities who receives stock or securities and other property (including money) upon an exchange shall, if the exchange is made with a corporation acting in obedience to an order of the Securities and Exchange Commission, file as a part of his income tax return for the taxable year in which the exchange takes place a complete statement of all facts pertinent to the nonrecognition of gain or loss upon such exchange, including—

(1) A clear description of the stock or securities transferred in the exchange, together with a statement of the cost or other basis of such stock or securities.

(2) The name and address of the corporation from which the stock or securities were received in the exchange.

(3) A statement of the amount of stock or securities and other property (including money) received from the exchange. The amount of each kind of stock or securities and other property received shall be set forth upon the basis of the fair market value thereof at the date of the exchange.

(b) Each corporation which is a party to an exchange made in obedience to an order of the Securities and Exchange Commission directed to such corporation shall file as a part of its income tax return for its taxable year in which the exchange takes place a complete statement of all facts pertinent to the nonrecognition of gain or loss upon such exchange, including—

(1) A copy of the order of the Securities and Exchange Commission directed to such corporation, in obedience to which the exchange was made.

(2) A certified copy of the corporate resolution authorizing the exchange.

(3) A clear description of all property, including all stock or securities, transferred in the exchange, together with a complete statement of the cost or other basis of each class of property.

(4) The date of acquisition of any stock or securities transferred in the exchange, and, if any of such stock or securities were acquired by the corporation in obedience to an order of the Securities and Exchange Commission, a copy of such order.

(5) The name and address of all persons to whom any property was transferred in the exchange.

(6) If any property transferred in the exchange was transferred to another corporation, a copy of any order of the Securities and Exchange Commission directed to the other corporation, in obedience to which the exchange was made by such other corporation.

(7) If the corporation transfers any nonexempt property, the amount of the

undistributed earnings and profits of the corporation accumulated after February 28, 1913, to the time of the exchange.

(8) A statement of the amount of stock or securities and other property (including money) received upon the exchange, including a statement of all distributions or other disposition made thereof. The amount of each kind of stock or securities and other property received shall be stated on the basis of the fair market value thereof at the date of the exchange.

(9) A statement showing as to each class of its stock the number of shares and percentage owned by any other corporation, the voting rights and voting power, and the preference (if any) as to both dividends and assets.

(c) Each shareholder who receives stock or securities or other property (including money) upon a distribution made by a corporation in obedience to an order of the Securities and Exchange Commission shall file as a part of his income tax return for the taxable year in which such distribution is received a complete statement of all facts pertinent to the nonrecognition of gain upon such distribution, including—

(1) The name and address of the corporation from which the distribution is received.

(2) A statement of the amount of stock or securities or other property received upon the distribution, including (in case the shareholder is a corporation) a statement of all distributions or other disposition made of such stock or securities or other property by the shareholder. The amount of each class of stock or securities and each kind of property shall be stated on the basis of the fair market value thereof at the date of the distribution.

(3) If the shareholder is a corporation, a statement showing as to each class of its stock the number of shares and percentage owned by a registered holding company or a majority-owned subsidiary company of a registered holding company, the voting rights and voting power, and the preference (if any) as to both dividends and assets.

(d) Every corporation making a distribution in obedience to an order of the Securities and Exchange Commission shall file as a part of its income tax return for its taxable year in which the distribution is made a complete statement of all facts pertinent to the nonrecognition of gain to the distributee upon such distribution, including—

(1) A copy of the order of the Securities and Exchange Commission, in obedience to which the distribution was made.

(2) A certified copy of the corporate resolution authorizing the distribution.

(3) A statement of the amount of stock or securities or other property (including money) distributed to each shareholder. The amount of each kind of stock or securities or other property shall be stated on the basis of the fair market value thereof at the date of the distribution.

(4) The date of acquisition of the stock or securities distributed, and, if any of such stock or securities were acquired by the distributing corporation in obedience to an order of the Securities and Exchange Commission, a copy of such order.

(5) The amount of the undistributed earnings and profits of the corporation accumulated after February 28, 1913, to the time of the distribution.

(6) A statement showing as to each class of its stock the number of shares and percentage owned by any other corporation, the voting rights and voting power, and the preference (if any) as to both dividends and assets.

(e) Each corporation which is a member of a system group and which in obedience to an order of the Securities and Exchange Commission sells stock or securities received upon an exchange (made in obedience to an order of the Securities and Exchange Commission) and applies the proceeds derived therefrom in retirement or cancellation of its own stock or securities shall file as a part of its income tax return for the taxable year in which the sale is made a complete statement of all facts pertaining to the nonrecognition of gain or loss upon such sale, including—

(1) A copy of the order of the Securities and Exchange Commission in obedience to which the sale was made.

(2) A copy of the order of the Securities and Exchange Commission in obedience to which the proceeds derived from the scale were applied in whole or in part in the retirement or cancellation of its stock or securities.

(3) A certified copy of the corporate resolutions authorizing the sale of the stock or securities and the application of the proceeds derived therefrom.

(4) A clear description of the stock or securities sold, including the name and address of the corporation by which they were issued.

(5) The date of acquisition of the stock or securities sold, together with a statement of the fair market value of such stock or securities at the date of acquisition, and a copy of all orders of the Securities and Exchange Commission in obedience to which such stock or securities were acquired.

(6) The amount of the proceeds derived from such sale.

(7) The portion of the proceeds of such sale which was applied in retirement or cancellation of its stock or securities, together with a statement showing how long such stock or securities were outstanding prior to retirement or cancellation.

(8) The issuing price of its stock or securities which were retired or cancelled.

(f) Permanent records in substantial form shall be kept by every taxpayer who participates in an exchange or distribution made in obedience to an order of the Securities and Exchange Commission, showing the cost or other basis of the property transferred and the amount of stock or securities and other property (including money) received, in order to facilitate the determination of gain or loss from a subsequent disposition of such stock or securities and other property received on the exchange or distribution.

PART II—BASIS FOR DETERMINING GAIN OR LOSS

SEC. 113. *Adjusted basis for determining gain or loss.*

(a) *Basis (unadjusted) of property.*—The basis of property shall be the cost of such property; except that—

* * * * * *

(17) *Property acquired in connection with exchanges and distributions in obedience to certian orders of Securities and Exchange Commission.*—If the property was acquired in any manner described in section 372, the basis shall be that prescribed in such section with respect to such property.

SEC. 372. *Basis for determining gain or loss.*

(a) *Exchanges generally.*—If the property was acquired upon an exchange subject to the provisions of section 371 (a), (b), or (e), the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 371 (a) or (b) to be received without the recognition of gain or loss, and in part of nonexempt property, the basis provided in this subsection shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such nonexempt property (other than money) an amount equivalent to its fair market value at the date of the exchange. This subsection shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(b) *Transfers to corporations.*—If, in connection with a transfer subject to the provisions of section 371 (a), (b), or (e), the property was acquired by a corporation, either as paid-in surplus or as a contribution to capital, or in consideration for stock or securities issued by the corporation receiving the property (including cases where part of the consideration for the transfer of such property to the corporation consisted of property or money in addition to such stock or securities), then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(c) *Distributions of stock or securities.*—If the stock or securities were received in a distribution subject to the provisions of section 371 (c), then the basis in the case of the stock in respect of which the distribution was made shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, between such stock and the stock or securities distributed.

(d) *Transfers within system group.*—If the property was acquired by a corporation which is a member of a system group upon a transfer or distribution described in section 371 (d) (1), then the basis shall be the same as it would be in the hands of the transferor; except that if such property is stock or securities issued by the corporation from which such stock or securities were received and they were issued (1) as the sole consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either (A) the same as in the case of the property transferred therefor, or (B) the fair market value of such stock or securities at the time of their receipt, whichever is the lower; or (2) as part consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either (A) an amount which bears the same ratio to the basis of the property transferred as the fair market value of such stock or securities at the time of their receipt bears to the total fair market value of the entire consideration received, or (B) the fair market value of such stock or securities at the time of their receipt, whichever is the lower.

ART. 372–0. *Basis for determining gain or loss.*—Section 113 (a) (17) provides that if property is acquired in any manner described in section 372, the basis shall be that prescribed in such section with respect to such property. Section 372 therefore expands section 113 (a) in order to make adequate provisions with respect to the basis of property acquired in a transfer made in obedience to an order of the Securities and Exchange Commission in connection with which the recognition of gain or loss is prohibited by the provisions of section 112 (b) (8) and section 371 with respect to the whole or any part of the property received. In general, it is intended that the basis for determining gain or loss pertaining to the property prior to its transfer, as well as the basis for determining the amount of depreciation or depletion deductible and the amount of earnings or profits available for distribution, shall continue notwithstanding the nontaxable conversion of the asset in form or its change in ownership. The continuance of the basis may be reflected in a shift thereof from one asset to another in the hands of the same owner, or in its transfer with the property from one owner into the hands of another. See also article 371–1 of these regulations.

ART. 372–1. *Basis of property acquired upon exchanges under section 371 (a), 371 (b), or 371 (e).*—In the case of an exchange of stock or securities for stock or securities as described in section 371 (a), or an exchange of property for property as described in section 371 (b), if no part of the gain or loss upon such exchange was recognized under section 371, the basis of the property acquired is the same as the basis of the property transferred by the taxpayer with proper adjustments to the date of the exchange.

If, in an exchange of stock or securities as described in section 371 (a) or in an exchange of property for property as described in section 371 (b), gain to the taxpayer was recognized under section 371 (e), on account of the receipt of money, the basis of the property acquired is the basis of the property transferred (adjusted to the date of the exchange), decreased by the amount of money received and increased by the amount of gain recognized upon the exchange. If, upon such exchange, there were received by the taxpayer money and other nonexempt property (not permitted to be received without the recognition of gain), and gain from the transaction was recognized under section 371 (e), the basis (adjusted to the date of the exchange) of the property transferred by the taxpayer, decreased by the amount of money received and increased by the amount of gain recognized, must be apportioned to and is the basis of the properties (other than money) received on the exchange. For the purpose of the allocation of such basis to the properties received, there must be assigned to the nonexempt property (other than money) an amount equivalent to its fair market value at the date of the exchange.

Section 371 (e) provides that no loss may be recognized on an exchange of stock or securities for stock or securities as described in section 371 (a), or on an exchange of property for property as described in section 371 (b), although the taxpayer receives money or other nonexempt property from the transaction. However, the basis of the property (other than money) received by the taxpayer is the basis (adjusted to the date of the exchange) of the property transferred, decreased by the amount of money received. This basis must be apportioned to the properties received, and for this purpose there must be allocated to the nonexempt property (other than money) an amount of such basis equivalent to the fair market value of such nonexempt property at the date of the exchange.

Section 372 (a) does not apply in ascertaining the basis of property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it. For the rule in such cases, see section 372 (b).

ART. 372–2. *Basis of property acquired by corporation under section 371 (a), 371 (b), or 371 (e) as contribution of capital or surplus, or in consideration for its own stock or securities.*—If in connection with an exchange of stock or securities for stock or securities as described in section 371 (a), or an exchange of property for property as described in section 371 (b), or an exchange as described in section 371 (e), property is acquired by a corporation by the issuance of its stock or securities, the basis of such property shall be determined under section 372 (b). If the corporation issued its stock or securities as part or sole consideration for the property acquired, the basis of the property in the hands of the acquiring corporation is the basis (adjusted to the date of the exchange) which the property would have had in the hands of the transferor if the transfer had not been made, increased in the amount of gain or decreased in the amount of loss recognized under section 371 to the transferor upon the transfer. If any property is acquired by a corporation from a shareholder as paid-in surplus, or from any person as a contribution to capital, the basis of the property to the corporation is the basis (adjusted to the date of acquisition) of the property in the hands of the transferor.

ART. 372–3. *Basis of stock or securities acquired by shareholder upon tax-free distribution under section 371 (c).*—Under section 372 (c), if there was distributed to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company stock or securities (other than stock or securities which are nonexempt property), and if by virtue of section 371 (c) no gain was recognized to the shareholder upon such distribution, then the basis of the stock in respect of which the distribution was made must be apportioned between such stock and the stock or securities so distributed to the shareholder. The basis of the old shares and the stock or securities received upon the distribution shall be determined in accordance with the following rules:

(1) If the stock or securities received upon the distribution consist solely of stock in the distributing corporation and the stock received is all of substantially the same character and preference as the stock in respect of which the distribution is made, the basis of each share will be the quotient of the cost or other basis of the old shares of stock divided by the total number of the old and the new shares.

(2) If the stock or securities received upon the distribution is in whole or in part stock in a corporation other than the distributing corporation, or is in whole or in part stock of a character or preference materially different from the stock in respect of which the distribution is made, or if the distribution consists in whole or in part of securities other than stock, the cost or other basis of the stock in respect of which the distribution is made shall be apportioned between such stock and the stock or securities distributed in proportion, as nearly as may be, to the respective values of each class of stock or security, old and new, at the time of such distribution, and the basis of each share of stock or unit of security will be the quotient of the cost or other basis of the class of stock or security to which such share or unit belongs, divided by the number of shares or units in the class. Within the meaning of the foregoing provisions stocks or securities in one corporation are different in class from stocks or securities in another corporation, and, in general, any material difference in character or preference or terms sufficient to distinguish one stock or security from another stock or security so that different values may properly be assigned thereto, will constitute a difference in class. As to the basis of stock or securities distributed by one member of a system group to another member of the same system group, see section 372 (d).

of stock or securities or other property | tion made in obedience to an order of | such corporation, then the basis of such

ART. 372–4. *Basis of property acquired under section 371 (d) in transactions between corporations of the same system group.*—If property was acquired by a corporation which is a member of a system group, from a corporation which is a member of the same system group, upon a transfer or distribution described in section 371 (d) (1), then as a general rule the basis of such property in the hands of the acquiring corporation is the basis which such property would have had in the hands of the transferor if the transfer or distribution had not been made.

Except as otherwise indicated in this article, this rule will apply equally to cases in which the consideration for the property acquired consists of stock or securities, money, and other property, or any of them, but it is contemplated that an ultimate true reflection of income will be obtained in all cases, notwithstanding any peculiarities in form which the various transactions may assume. See the example in article 371–5 of these regulations.

An exception to this general rule is provided for in case the property acquired consists of stock or securities issued by the corporation from which such stock or securities were received. If such stock or securities were the sole consideration for the property transferred to the corporation issuing such stock or securities, then the basis of the stock or securities shall be (1) the same as the basis (adjusted to the time of the transfer) of the property transferred for such stock or securities, or (2) the fair market value of such stock or securities at the time of their receipt, whichever is the lower. If such stock or securities constituted only part consideration for the property transferred to the corporation issuing such stock or securities, then the basis shall be an amount which bears the same ratio to the basis of the property transferred as the fair market value of such stock or securities on their receipt bears to the total fair market value of the entire consideration received, except that the fair market value of such stock or securities at the time of their receipt shall be the basis therefor, if such value is lower than such amount.

Example.—Suppose the A Corporation has property with an adjusted basis of $600,000, and in an exchange in which section 371 (d) (1) is applicable, transfers such property to the B Corporation in exchange for a total consideration of $1,000,000, consisting of (1) cash in the amount of $100,000, (2) tangible property having a fair market value of $400,000 and an adjusted basis in the hands of the B Corporation of $300,000, and (3) stock or securities issued by the B Corporation with a par value and a fair market value as of the date of their receipt in the amount of $500,000. The basis to the B Corporation of the property received by it is $600,000, which is the adjusted basis of such property in the hands of the A Corporation. The basis to the A Corporation of the assets (other than cash) received by it is as follows: Tangible property, $300,000, the adjusted basis of such property to the B Corporation, the former owner; stock or securities issued by the B Corporation, $300,000, an amount equal to 500,000/1,000,000 of $600,000.

Suppose that the property of the A Corporation transferred to the B Corporation had an adjusted basis of $1,100,000 instead of $600,000, and that all other factors in the illustration in the preceding paragraph remain the same. In such case the basis to the A Corporation of the stock or securities in the B Corporation is $500,000 which was the fair market value of such stock or securities at the time of their receipt by the A Corporation, and not the amount established as 500,000/1,000,000ths of $1,100,000, or $550,000.

PART III—DEFINITIONS

SEC. 373. *Definitions.*

As used in this supplement—

(a) The term "order of the Securities and Exchange Commission" means an order (1) issued after the date of enactment of this Act and prior to January 1, 1940, by the Securities and Exchange Commission to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, or (2) issued by the Commission subsequent to December 31, 1939, in which it is expressly stated that an order of the character specified in clause (1) is amended or supplemented, and (3) which has become final in accordance with law.

(b) The terms "registered holding company", "holding-company system", and "associate company" shall have the meanings assigned to them by section 2 of the Public Utility Holding Company Act of 1935.

(c) The term "majority-owned subsidiary company" of a registered holding company means a corporation, stock of which, representing in the aggregate more than 50 per centum of the total combined voting power of all classes of stock of such corporation entitled to vote (not including stock which is entitled to vote only upon default or nonpayment of dividends or other special circumstances) is owned wholly by such registered holding company, or partly by such registered holding company and partly by one or more majority-owned subsidiary companies thereof, or by one or more majority-owned subsidiary companies of such registered holding company.

(d) The term "system group" means one or more chains of corporations connected through stock ownership with a common parent corporation if—

(1) At least 90 per centum of each class of the stock (other than stock which is preferred as to both dividends and assets) of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations; and

(2) The common parent corporation owns directly at least 90 per centum of each class of the stock (other than stock which is preferred as to both dividends and assets) of at least one of the other corporations; and

(3) Each of the corporations is either a registered holding company or a majority-owned subsidiary company.

(e) The term "nonexempt property" means—

(1) Any consideration in the form of a cancellation or assumption of debts or other liabilities (including a continuance of encumbrances subject to which the property was transferred);

(2) Short-term obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding twenty-four months, exclusive of days of grace;

(3) Securities issued or guaranteed as to principal or interest by a government or subdivision thereof (including those issued by a corporation which is an instrumentality of a government or subdivision thereof);

(4) Stock or securities which were acquired after February 28, 1938, unless such stock or securities (other than obligations described as nonexempt property in paragraph (2) or (3)) were acquired in obedience to an order of the Securities and Exchange Commission;

(5) Money, and the right to receive money not evidenced by a security other than an obligation described as nonexempt property in paragraph (2) or (3).

(f) The term "stock or securities" means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness (including any evidence of an interest in or right to subscribe to or purchase any of the foregoing).

ART. 373–1. *Definition.*—(a) *"Order of the Securities and Exchange Commission."*—An order of the Securities and Exchange Commission as defined in section 373 (a) must be issued after May 28, 1938 (the date of the enactment of the Revenue Act of 1938) and must be issued under the authority of section 11 (b) or 11 (e) of the Public Utility Holding Company Act of 1935 to effectuate the provisions of section 11 (b) of such Act (or must amend or supplement an order so issued and expressly state that it amends or supplements such an order). In all cases the order must have become final in accordance with law; *i.e.*, it must be valid, outstanding, and not subject to further appeal. See further sections 373 (a) and 371 (f). Section 11 (b) of the Public Utility Holding Company Act of 1935 provides:

(b) It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, and to such other businesses as are reasonably incidental or economically necessary or appropriate to the operations of such integrated public-utility system: *Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.

The Commission may permit as reasonably incidental, or economically necessary or appropriate to the operations of one or more integrated public-utility systems the retention of an interest in any business

(other than the business of a public-utility company as such) which the Commission shall find necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of such system or systems.

(2) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such steps as the Commission shall find necessary to ensure that the corporate structure or continued existence of any company in the holding-company system does not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among security holders, of such holding-company system. In carrying out the provisions of this paragraph the Commission shall require each registered holding company (and any company in the same holding-company system with such holding company) to take such action as the Commission shall find necessary in order that such holding company shall cease to be a holding company with respect to each of its subsidiary companies which itself has a subsidiary company which is a holding company. Except for the purpose of fairly and equitably distributing voting power among the security holders of such company, nothing in this paragraph shall authorize the Commission to require any change in the corporate structure or existence of any company which is not a holding company, or of any company whose principal business is that of a public-utility company.

The Commission may by order revoke or modify any order previously made under this subsection, if, after notice and opportunity for hearing, it finds that the conditions upon which the order was predicated do not exist. Any order made under this subsection shall be subject to judicial review as provided in section 24.

Section 11 (e) of the Public Utility Holding Company Act of 1935 provides:

(e) In accordance with such rules and regulations or order as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers, any registered holding company or any subsidiary company of a registered holding company may, at any time after January 1, 1936, submit a plan to the Commission for the divestment of control, securities, or other assets, or for other action by such company or any subsidiary company thereof for the purpose of enabling such company or any subsidiary company thereof to comply with the provisions of subsection (b). If, after notice and opportunity for hearing, the Commission shall find such plan, as submitted or as modified, necessary to effectuate the provisions of subsection (b) and fair and equitable to the persons affected by such plan, the Commission shall make an order approving such plan; and the Commission, at the request of the company, may apply to a court, in accordance with the provisions of subsection (f) of section 18, to enforce and carry out the terms and provisions of such plan. If, upon any such application, the court, after notice and opportunity for hearing, shall approve such plan as fair and equitable and as appropriate to effectuate the provisions of section 11, the court as a court of equity may, to such extent as it deems necessary for the purpose of carrying out the terms and provisions of such plan, take exclusive jurisdiction and possession of the company or companies and the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee, to hold or administer, under the direction of the court and in accordance with the plan theretofore approved by the court and the Commission, the assets so possessed.

(b) *"Registered holding company," "holding-company system," and "associate company."*—Under section 5 of the Public Utility Holding Company Act of 1935 any holding company may register by filing with the Securities and Exchange Commission a notification of registration, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. A holding company shall be deemed to be registered upon receipt by the Securities and Exchange Commission of such notification of registration. The term "registered holding company" as used in these regulations means a holding company whose notification of registration has been so received and whose registration is still in effect under section 5 of the Public Utility Holding Company Act of 1935. Under section 2 (a) (7) of the Public Utility Holding Company Act of 1935, a corporation is a holding company (unless it is declared not to be such by the Securities and Exchange Commission), if such corporation directly or indirectly owns, controls, or holds with power to vote 10 percent or more of the outstanding voting securities of a public-utility company (*i. e.*, an electric utility company or a gas utility company as defined by such Act) or of any other holding company. A corporation is also a holding company if the Securities and Exchange Commission determines, after notice and opportunity for hearing, that such corporation directly or indirectly exercises (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility company (*i. e.*, an electric utility company or a gas utility company as defined by such Act) or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such corporation be subject to the obligations, duties, and liabilities imposed upon holding companies by the Public Utility Holding Company Act of 1935. An electric utility company is defined by section 2 (a) (3) of the Public Utility Holding Company Act of 1935 to mean a company which owns or operates facilities used for the generation, transmission, or distribution to tenants, or employees of the other than sale to tenants or employees of the company operating such facilities for their own use and not for resale; and a gas utility company is defined by section 2 (a) (4) of such Act to mean a company which owns or operates facilities used for the distribution at retail (other than distribution only in enclosed portable containers, or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power. However, under certain conditions the Securities and Exchange Commission may declare a company not to be an electric utility company or a gas utility company, as the case may be, in which event the company shall not be considered an electric utility company or a gas utility company.

The term "holding company system" has the meaning assigned to it by section 2 (a) (9) of the Public Utility Holding Company Act of 1935, and hence means any holding company, together with all its subsidiary companies (*i. e.*, subsidiary companies within the meaning of section 2 (a) (8) of such Act, which in general include all companies 10 percent of whose outstanding voting securities is owned directly or indirectly by such holding company) and all mutual service companies of which such holding company or any subsidiary company thereof is a member company. The term "mutual service company" means a company approved as a mutual service company under section 13 of the Public Utility Holding Company Act of 1935. The term "member company" is defined by section 2 (a) (14) of such Act to mean a company which is a member of an association or group of companies mutually served by a mutual service company.

The term "associate company" has the meaning assigned to it by section 2 (a) (10) of the Public Utility Holding Company Act of 1935, and hence an associate company of a company is any company in the same holding-company system with such company.

(c) *"Majority-owned subsidiary company."*—The term "majority-owned subsidiary company" is defined in section 373 (c). Direct ownership by a registered holding company of more than 50 percent of the specified stock of another corporation is not necessary to constitute such corporation a majority-owned subsidiary company. To illustrate, if the H Corporation, a registered holding company, owns 51 percent of the common stock of the A Corporation and 31 percent of the common stock of the B Corporation, and the A Corporation owns 20 percent of the common stock of the B Corporation (the common stock in each case being the only stock entitled to vote), both the A Corporation and the B Corporation are majority-owned subsidiary companies.

(d) *"System group."*—The term "system group" is defined in section 373 (d) to mean one or more chains of corporations connected through stock ownership with a common parent corporation, if at least 90 percent of each class of stock (other than stock preferred as to both dividends and assets) of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations and the common parent corporation owns directly at least 90 percent of each class of such stock of at least one of the other corporations; but no corporation is a member of a system group if it is not either a registered holding company or a majority-owned subsidiary company. It is to be observed that while the type of stock which must be

at least 90 percent owned for the purpose of this definition (*i. e.*, stock not preferred as to both dividends and assets) may be different from the voting stock which must be more than 50 percent owned for the purpose of the definition of a majority-owned subsidiary company under section 373 (c), yet as a general rule both types of ownership tests must be met under section 373 (d), since a corporation, in order to be a member of a system group, must also be a registered holding company or a majority-owned subsidiary company.

(e) *"Nonexempt property."*—The term "nonexempt property" is defined by section 373 (e) to include—

(1) The amount of any consideration in the form of a cancellation or assumption of debts or other liabilities (including a continuance of encumbrances subject to which the property was transferred). To illustrate, if in obedience to an order of the Securities and Exchange Commission the X Corporation, a registered holding company, transfers property to the Y Corporation in exchange for property (not nonexempt property) with a fair market value of $500,000, the X Corporation receives $100,000 of nonexempt property if, for example,

(A) The Y Corporation cancels $100,000 of indebtedness owed to it by the X Corporation;

(B) The Y Corporation assumes an indebtedness of $100,000 owed by the X Corporation to another company, the A Corporation; or

(C) The Y Corporation takes over the property conveyed to it by the X Corporation subject to a mortgage of $100,000.

(2) Short-term obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace.

(3) Securities issued or guaranteed as to principal or interest by a government or subdivision thereof (including those issued by a corporation which is an instrumentality of a government or subdivision thereof).

(4) Stock or securities which were acquired after February 28, 1938, unless such stock or securities were acquired in obedience to an order of the Securities and Exchange Commission (as defined in section 373 (a)) and are not nonexempt property within the meaning of section 373 (e) (2) or (3).

(5) Money, and the right to receive money not evidenced by a security other than an obligation described as nonexempt property in section 373 (e) (2) or (3). The term "the right to receive money" includes, among other items, accounts receivable, claims for damages, and rights to refunds of taxes.

(f) *"Stock or securities."*—The term "stock or securities" is defined in section 373 (f) for the purposes of sections 371 to 373, inclusive. As therein defined the term includes voting trust certificates and stock rights or warrants.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, November 16, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3470; Filed, November 17, 1938; 12:23 p. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 511—REGULATIONS APPLICABLE TO INDUSTRY COMMITTEES PURSUANT TO SECTION 5 OF THE FAIR LABOR STANDARDS ACT *

The following Regulations—Part 511—(Regulations Applicable to Industry Committees Pursuant to Section 5 of the Fair Labor Standards Act) are hereby issued. Said Regulations—Part 511—repeal and re-enact without change, except by renumbering and by adding captions, Rules and Regulations Applicable to Industry Committees, approved by me September 22, 1938, and published in the FEDERAL REGISTER September 27, 1938.[1] Said Regulations—Part 511—shall become effective on my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in force and effect until repealed by Regulations hereafter made and published by me.

Signed at Washington, D. C. this 17th day of November, 1938.

ELMER F. ANDREWS,
Administrator.

SEC. 511.1 *Appointment of members.*—The members of an industry committee are appointed and the chairman designated by the Administrator.*

SEC. 511.2 *Appointment of subcommittees.*—The chairman of the industry committee may appoint authorized subcommittees of one or more persons from among the membership of the committee; provided, however, that the industry committee may, by a vote of not less than a majority of all its members, adopt a different procedure for the appointment of authorized subcommittees.*

SEC. 511.3 *Convening of committee.*—An industry committee may be convened by the Administrator from time to time for the purpose of recommending the minimum rate or rates of wages to be paid employees in the industry. Orders by the Administrator convening an industry committee shall be published in the FEDERAL REGISTER and otherwise made public in a general press release.*

SEC. 511.4 *Call of meeting of committees.*—The industry committee shall meet at the call of the chairman or the Administrator. A subcommittee shall meet at the call of the chairman of the industry committee or the chairman of the subcommittee.*

SEC. 511.5 *Place of meeting.*—The industry committee and authorized subcommittees shall meet in Washington, D. C., unless the Administrator, or the chairman of the industry committee, or the chairman of the particular subcommittee, designates another place of meeting.*

SEC. 511.6 *Quorum; requirement for decision of committee.*—Two-thirds of the members of the industry committee shall constitute a quorum, and the decision of the industry committee shall require a vote of not less than a majority of all its members.*

SEC. 511.7 *Personnel assistance for committees.*—The chairman of the industry committee may request the Administrator to furnish specified legal, stenographic, clerical, and other assistance to the industry committee and to subcommittee.*

SEC. 511.8 *Per diem and expense allowance for committee members.*—Each member of the industry committee will be allowed a per diem of $15 for each day actually spent in the work of the committee, and will in addition be reimbursed for necessary transportation and other expenses incident to traveling, in accordance with Standardized Government Travel Regulations, as amended, dated January 30, 1934, and December 10, 1935. All travel expenses will be paid on travel vouchers certified by the chairman of the committee. Any other necessary expenses which are incidental to the work of the committee will, after approval by the Administrator, or his authorized representative, be paid upon the certification of the chairman of the committee.*

SEC. 511.9 *Committee to investigate conditions in the industry.*—Upon being convened by the Administrator, the industry committee shall proceed as expeditiously as possible to investigate conditions in the industry for which it is appointed for the purpose of recommending the minimum rate or rates of wages to be paid employees in the industry.*

SEC. 511.10 *Evidence to be submitted to committee.*—The industry committee shall consider such data as is submitted to it by the Administrator and by interested persons. The chairman of the committee may call upon the Administrator to furnish additional information to aid the committee in its deliberation. Any interested person may submit in writing pertinent data to the committee either through the Administrator or through the chairman of the committee.*

SEC. 511.11 *Witnesses and public hearings.*—The industry committee, or an authorized subcommittee, may hear witnesses who may be summoned by the chairman of the industry committee or may be brought before it by the Administrator. If an industry committee or an authorized subcommittee elects to hold a public hearing in the course of its investigations, the chairman of the committee or of the subcommittee shall cause to be inserted in the FEDERAL REGISTER and to be made public by a general press release a notice of the time, place, and scope of such hearing, at least 5 days before the date of such hearing.*

SEC. 511.12 *Journal to be kept by committee.*—The industry committee shall keep a journal, recording the time and place of all its meetings, the members present, the votes, and other formal proceedings, including the appointment of subcommittees; but shall not be required to keep a stenographic transcript of any testimony that may be given before it or of its discussions. Subcommittees shall keep a similar journal.*

SEC. 511.13 *Subpoena power of committee.*—For the purpose of performing its duties and functions, an industry committee may exercise the powers conferred by the provisions of Sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 26, 1914, as amended (U. S. C., 1934 edition, title 15, sections 49 and 50). These sections are set forth in full in the appendix to these regulations. Subpoenas and orders for the taking of testimony by deposition shall be issued only by the chairman of the industry committee or of a subcommittee upon forms to be furnished by the Administrator, and oaths shall be administered only by the chairman of the industry committee or of a subcommittee. Applications to a court for the enforcement of a subpoena shall be made only by the Administrator or his authorized deputy.*

SEC. 511.14 *Privacy of information.*—No member of an industry committee shall make public any information obtained by the committee or a subcommittee thereof without the approval of the Administrator.*

SEC. 511.15 *Payment of witnesses.*—Witnesses summoned before a committee shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.*

SEC. 511.16 *Progress reports to administrator.*—When called upon by the Administrator, an industry committee shall furnish him with such reports relating to its activities and such other information as he may request.*

SEC. 511.17 *Recommendation to administrator on scope of industry.*—An industry committee may, at any time, recommend to the Administrator that the scope of the industry as defined in the order appointing the committee be enlarged, modified, or restricted.*

SEC. 511.18 *Final recommendations; basic considerations.*—To reach the objective of a universal minimum wage of 40 cents an hour as rapidly as is economically feasible, the committee, in accordance with the declared policy of the act to eliminate labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency, and general well-being of workers, shall recommend the highest minimum-wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry. The industry committee shall recommend such reasonable classifications as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum-wage rate (not in excess of 40 cents an hour) which (1) will not substantially curtail employment in such classifications, and (2) will not give competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum-wage rate which the committee determines will not substantially curtail employment in such classifications. In determining whether such classifications should be made in the industry, in making such classifications, and in determining the minimum-wage rate for such classifications, no classification shall be made and no minimum-wage rate shall be fixed solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) Competitive conditions as affected by transportation, living, and production costs;

(2) The wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) The wages paid for work of like or comparable character by employers who voluntarily maintain minimum-wage standards in the industry.

No classification shall be made on the basis of age or sex.*

SEC. 511.19 *Report of committee; recommendations and reasons.*—Upon the completion of its investigation, the industry committee shall submit to the Administrator a report containing its recommendations together with a statement of the reasons supporting such recommendations. No such recommendations shall be made by the committee unless concurred in by a vote of not less than the majority of all its members. The report shall be signed by all the members of the committee who approve it. Members dissenting therefrom shall note their dissent and append a signed statement in explanation thereof.*

SEC. 511.20 *Records deposited with administrator.*—After a report is submitted, the committee shall deposit with the Administrator all of its records and documents.*

SEC. 511.21 *Dissolution of committee.*—If an industry committee is unable to arrive at a recommendation or refuses to make a recommendation, or unreasonably delays its work, it may be dissolved by the Administrator.*

SEC. 511.22 *End of committee's function.*—When a committee has submitted a report, as provided in section 511.19 hereof, it shall cease to perform any further functions until reconvened by the Administrator; provided, however, that the Administrator may dissolve the committee after it has submitted its report.

APPENDIX TO REGULATIONS PART 511

[Referred to in Section 511.13]

AN ACT TO CREATE A FEDERAL TRADE COMMISSION, TO DEFINE ITS POWERS AND DUTIES, AND FOR OTHER PURPOSES (38 STAT. 717)

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The Commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any

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[1] 3 F. R. 2312 DI.

* Sections 511.1 through 511.22 issued under the authority contained in Section 5, 52 Stat. 1060.

stage of such proceeding or investigation. Such deposition may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No persons shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: Provided, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

Approved September 26, 1914.

[F. R. Doc. 38-3472; Filed, November 17, 1938; 12:44 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

CANCELLATION OF OBSOLETE ORDERS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 10th day of November, A. D. 1938.

The Commission, pursuant to directions contained in the Federal Register Act, 49 Stat. 500–503, as amended,[1] having under consideration a codification of all documents which, in its opinion, have general applicability and legal effect in connection with its functions and duties under section 19a of the Interstate Commerce Act,

And it appearing, That certain orders heretofore entered by it, by reason of subsequent orders or for other reasons, have now become obsolete;

It is ordered, That Valuation Orders Nos. 2 and 10, dated May 12, 1914, and December 23, 1914, respectively, relating to abandoned property; Valuation Order No. 9, dated April 4, 1916, relating to transportation of employees, supplies and cars of the Bureau of Valuation; Valuation Order No. 13, dated February 9, 1915, relating to schedules of property owned or used by steam carriers; and Valuation Order No. 21, dated July 6, 1917, relating to specifications for maps, charts, and schedules of telegraph and telephone properties in so far as applicable to railroads, be, and they are hereby, cancelled.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary*.

[F. R. Doc. 38-3471; Filed, November 17, 1938; 12:24 p. m.]

[1] 50 Stat. 304.

NOV 21 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 226

Washington, Saturday, November 19, 1938

The President

EXECUTIVE ORDER

CHANGING THE NAME OF THE BIG LAKE RESERVATION TO BIG LAKE MIGRATORY BIRD REFUGE, AND ADDING CERTAIN LANDS THERETO

ARKANSAS

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered as follows:

1. The name of the Big Lake Reservation, in the State of Arkansas, established by Executive Order No 2230 of August 2, 1915, is hereby changed to Big Lake Migratory Bird Refuge.

2. Subject to valid existing rights, the following-described lands, acquired by the United States, are hereby included in and reserved as part of such refuge:

FIFTH PRINCIPAL MERIDIAN

T. 14 N., R. 9 E.,
sec. 2, lots 5b, 6b, 8b, and 11b, and those parts of lots 5a, 6a, 8a, and 11a lying north and west of the southeasterly right-of-way boundary for improvement No. 28 of Drainage District No. 17;
sec. 10, lots 4 and 12b, and that part of lot 12a lying north and west of the southeasterly right-of-way boundary for improvement No. 28 of Drainage District No. 17;

T. 15 N., R. 9 E.,
sec. 14, N½NE¼b, SE¼NE¼b, S½E½SE¼b., and those parts of N½NE¼a, SE¼NE¼a, and S½E½SE¼a lying south and west of the north and east right-of-way boundary for improvement No. 28 of Drainage District No. 17;
sec. 17, those parts of lots 3, 4, and 7 lying east and north of the east and north right-of-way boundary for Drainage District No. 16;
sec. 23, that part of E½NE¼ (including lot b) lying west of the east right-of-way boundary for improvement No. 28 of Drainage District No. 17;
sec. 28, lots 1 to 4, inclusive, and that part of S½NW¼ lying east of the east right-of-way boundary for Drainage District No. 16;
sec. 33, lot 5;
sec. 35, SE¼b and that part of SE¼a lying northwest of the southeasterly right-of-way boundary for improvement No. 28 of Drainage District No. 17;

T. 16 N., R. 9 E.,
sec. 27, NE¼b and those parts of NE¼a and SE¼ lying west of the east right-of-way boundary for improvement No. 28 of Drainage District No. 17.

AREA 442.27 acres, more or less.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 17, 1938.

[No. 8008]

[F. R. Doc. 38-3474; Filed, November 18, 1938; 10:06 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

AMENDMENT TO DETERMINATION OF PROPORTIONATE SHARES FOR SUGARCANE PRODUCERS IN PUERTO RICO FOR CROP YEARS 1938, 1939, 1940

NOVEMBER 18, 1938.

Whereas, Section 302 of the Sugar Act of 1937 provides in part as follows:

(a) The amount of sugar or liquid sugar with respect to which payment may be made shall be the amount of sugar or liquid sugar commercially recoverable, as determined by the Secretary, from the sugar beets or sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm, as determined by the Secretary, of the quantity of sugar beets or sugarcane for the extraction of sugar or liquid sugar required to be processed to enable the producing area in which the crop of sugar beets or sugarcane is grown to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

(b) In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of sugar beets and sugarcane marketed (or processed) for the extraction of sugar or liquid sugar and the ability to produce such sugar beets or sugarcane, and the Secretary shall, insofar as practicable, protect the interests of new pro-

CONTENTS

THE PRESIDENT

Executive Order: Page
Arkansas, Big Lake Reservation changed to Big Lake Migratory Bird Refuge; lands added ---------- 2747

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Puerto Rico, determination of proportionate shares for sugarcane producers, 1938, 1939, 1940, amendment ---------- 2747
TITLE 25—INDIANS:
Office of Indian Affairs:
Shasta and Upper Klamath Indian Reservation, Calif., proclamation ---------- 2749

NOTICES

Securities and Exchange Commission:
Hearings:
Central Illinois Public Service Co., and Halsey-Stuart and Co ---------- 2750
Green Mountain Power Corp., and New England Power Assoc ---------- 2751
Kentucky Securities Co ---------- 2752
Lone Star Gas Corp., Guthrie Gas Service Co ---------- 2751
New York Stock Exchange, application to strike from listing and registration 6½% External Sinking Fund Gold Bonds of 1930, due August 1, 1961 ---------- 2749
Walnut Electric & Gas Corp ---------- 2752
Wisconsin Electric Power Co. (Formerly The Milwaukee Electric Railway and Light Co.) ---------- 2750
Orders:
Illinois Iowa Power Co., designating new trial examiner ---------- 2750
West Ohio Gas Co ---------- 2749

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

United States Civil Service Commission: Page
Apportionment at close of business Tuesday, November 15, 1938 2752

ducers and small producers and the interests of producers who are cash tenants, share-tenants, adherent planters, or share-croppers.

Whereas, subsection (c) of section 301 of said act provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(c) That there shall not have been marketed (or processed) an amount (in terms of planted acreage, weight, or recoverable sugar content) of sugar beets or sugarcane grown on the farm and used for the production of sugar or liquid sugar to be marketed in, or so as to compete with or otherwise directly affect interstate or foreign commerce, in excess of the proportionate share for the farm, as determined by the Secretary pursuant to the provisions of section 302, of the total quantity of sugar beets or sugarcane required to be processed to enable the area in which such sugar beets or sugarcane are produced to meet the quota (and provide a normal carryover inventory) as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

Now, therefore, pursuant to the foregoing sections of the said act, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine:

A. That the "Determination of Proportionate Shares for Sugarcane Producers in Puerto Rico for the Crop Years 1938 and 1939, Pursuant to the Sugar Act of 1937", issued January 11, 1938,[1] be, and the same is hereby, amended as follows:

1. The 1939 proportionate share shall be calculated by multiplying the 1938 base (as defined in the said determination, or as may be established pursuant to the provisions of 2 and 3 below) of each grower by a fraction whose numerator shall be 845,739 and whose denominator shall be the sum of all the aforesaid 1938 bases.

2. Any grower who, under the said determination, received a 1938 proportionate share of less than 15 tons of sugar, raw value, shall be entitled, upon proper application, to increase his 1938 base to an amount equal to his 1938 production, as determined by the Secretary of Agriculture, but in no event shall such base be more than 15 tons of sugar, raw value.

3. Those growers who would have been entitled to an allotment under the 1935–36 production adjustment program if they had been producing sugar in those years, and who have sugarcane under cultivation in 1939, shall, upon proper application, be entitled to a 1938 base equal to:

(i) 33 percent of the best option available to such growers under the said 1935–36 production adjustment program, or

(ii) the lesser of either:

(a) 15 tons of sugar, raw value, or

(b) the number of short tons of sugar, raw value, obtained by multiplying the number of acres of sugarcane growing in 1939 by 3.

The option herein made available to such growers shall lapse if no part of the 1940 proportionate share resulting therefrom is filled during the crop year 1940.

B. That the proportionate shares for sugarcane producers in Puerto Rico for the crop year 1940 shall be established on the following bases:

I

1. For a producer for whom a 1939 proportionate share is established, pursuant to the provisions of the "Determination of Proportionate Shares for Sugarcane Producers in Puerto Rico for the Crop Years 1938 and 1939, Pursuant to the Sugar Act of 1937", issued January 11, 1938, as amended, such proportionate share shall constitute his 1939 base and his proportionate share for the 1940 crop year shall be calculated in terms of short tons of sugar, raw value, by multiplying such 1939 base by a fraction whose numerator shall be the sum of the initial sugar quotas established for Puerto Rico for the calendar year 1940, pursuant to sections 201 and 203 of the said act, plus (or minus) such adjustment as may be required to provide a normal carryover inventory for Puerto Rico, pursuant to section 302 (a) of the said act, and whose denominator shall be the total of all such 1939 bases, plus the total of the 1939 bases determined for new growers[1] as provided in 2 and 3 below.

A producer for whom a 1939 proportionate share is established as aforesaid, and who grows sugarcane on land covered by a 1939 proportionate share but from which no sugarcane was harvested during any one of the crop years 1931, 1932, 1934, or any subsequent crop year, may be considered as a new grower for 1940 with respect to such new production, and as such shall be entitled to increase his 1939 base in accordance with the provisions of 2 and 3 below.

2. For a producer for whom a 1939 proportionate share is not established as aforesaid, and whose 1940 production, as estimated by the Secretary of Agriculture, is 15 tons of sugar, raw value, or less, such production shall constitute his 1939 base, and the 1940 proportionate share of such producer shall be calculated, in terms of short tons of sugar, raw value, by adjusting his 1939 base in the manner specified in 1 above.

3. For a producer for whom a 1939 proportionate share is not established as aforesaid, and whose current production, as estimated by the Secretary of Agriculture, is more than 15 tons of sugar, raw value, the 1940 proportionate share shall be calculated in the manner specified in 1 above from a base determined as follows:

Fifteen tons, *plus* an amount determined by multiplying the first ton of such estimated production in excess of 15 tons by 98 per centum, and thereafter by multiplying each successive ton by a percentage figure which shall be progressively reduced by 2 per centum for every such ton.

II

1. In the event that a producer wishes to be considered as a new grower for 1940, application must be made at such time and in such manner as may be prescribed by the Secretary of Agriculture.

2. In the event that a proportionate share for 1940, established in accordance with the foregoing provisions of this determination, is not filled, the unfilled portion thereof shall be prorated, on the basis of the proportionate shares then in effect, among all of the producers within the same mill area who are able to supply such unfilled portion.

In addition to the foregoing, the following conditions shall be met:

1. That no change shall have been made in the leasing or cropping agreements for the purpose of, or which shall have the effect of, diverting to any producer any payment to which tenants or share-croppers would be entitled if the 1939 leasing or cropping agreements were in effect.

2. That there shall have been no interference by any producer with contracts heretofore entered into by tenants or share-croppers for the sale of their sugarcane.

IV

The Chief, or the Acting Chief, of the Sugar Division of the Department of Agriculture, and the Officer in Charge of the San Juan office of the Agricultural Adjustment Administration, or the Acting Officer in Charge thereof, are hereby designated to act, jointly or severally, as agents of the Secretary of Agriculture in administering the provisions of this determination.

Done at Washington, D. C., this 18th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3476; Filed, November 18, 1938; 12:37 p. m.]

[1] 3 F. R. 89 DI

[1] A new grower (producer) for the 1940 crop year shall be the person who is the legal owner of the sugarcane crop grown on land for which a 1939 proportionate share was not established pursuant to the provisions of the "Determination of Proportionate Shares for Sugarcane Producers in Puerto Rico for the Crop Years 1938 and 1939, Pursuant to the Sugar Act of 1937", issued January 11, 1938.

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

SHASTA AND UPPER KLAMATH INDIAN RESERVATION, CALIFORNIA

OCTOBER 18, 1938

By virtue of authority contained in Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. L., 984), the lands described below, acquired by purchase under the provisions of Section 5 of that Act, for the use and benefit of such Shasta and Upper Klamath Indians eligible to participate in the benefits of the Act of June 18, 1934, supra, as shall be designated by the Secretary of the Interior, are hereby proclaimed to be an Indian reservation:

NW¼, W½SW¼ Sec. 2, E½SE¼ Sec. 3, and a fractional portion of the NE¼NE¼ Sec. 3 beginning at the southeast corner of the NE¼NE¼ Sec. 3; thence north 68 rods; thence west 12 rods; thence southwest to a point 30 rods due west from center of the east line of said NE¼NE¼ Sec. 3; thence southeast to a point 12 rods due west of the point of beginning; thence east to point of beginning, all in T. 43 N., R. 10 W.

All that portion of SE¼NE¼ Sec. 3 described as: beginning at the southeast corner of the SE¼NE¼ Sec. 3; thence north along the east line of said quarter quarter section 80 rods to the northeast corner thereof; thence west along the north line of said quarter quarter section 70 rods to a point; thence south 8 rods to a point; thence east 2 rods to a point; thence south 72 rods to a point in the south line of said quarter quarter section; thence east along said south line 68 rods to point of beginning, in T. 43 N., R. 10 W., M. D. M.

All of said lands being within Siskiyou County, California, containing 364 acres, more or less.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 38-3475; Filed, November 18, 1938; 10:10 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of November 1938.

[File No. 52-4—Public Utility Holding Company Act of 1935 Sections 11 (f) and 11 (g)]

IN THE MATTER OF DAVID C. PATTERSON, MAX J. MAUERMANN AND DAVID COPLAND, AS A COMMITTEE FOR HOLDERS OF FIRST AND REFUNDING MORTGAGE 6% BONDS, SERIES A, DUE DECEMBER 1, 1954, OF WEST OHIO GAS COMPANY

ORDER OF THE COMMISSION

The above-named Bondholders' Committee having submitted a plan of reorganization of West Ohio Gas Company, a subsidiary of a registered holding company, to the Commission pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935 for its approval prior to the submission thereof to the Court having jurisdiction of the reorganization of West Ohio Gas Company under Section 77B of the Federal Bankruptcy Act; and

The Commission having by order made October 14, 1938, approved said plan of reorganization, as subsequently amended, for the purpose of submission thereof to the Court as aforesaid; and

Said Committee having on November 15, 1938, filed an amendment to its applications under said Section 11 (f) and under Section 11 (g) of said Act in respect of said Plan, as amended, consisting of revised balance sheet and revised pro forma balance sheet of West Ohio Gas Company, both as at June 30, 1938, copies of which are hereto annexed;[1] and

The Commission having reviewed said revised balance sheet and revised pro forma balance sheet and having considered the effect thereof upon its findings and opinion on the Plan, as amended (Release No. 1284), and having determined that they do not affect its said findings and opinion;

It is ordered, That said amendment be filed and made a part of the record herein: and

It is further ordered, That said order of the Commission made herein on October 14, 1938,[2] approving the Plan, as amended, for the purposes of Section 11 (f) of said Act, stand as the order of the Commission in this matter, as if said revised balance sheet and revised pro forma balance sheet had been filed with the Commission before the entry of said order.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3485; Filed, November 18, 1938; 12:51 p. m.]

[1] Filed as part of the original document with the Division of the Federal Register, The National Archives.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 17th day of November 1938.

[File No. 1-2416]

IN THE MATTER OF APPLICATION BY NEW YORK STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE 6½% EXTERNAL SINKING FUND GOLD BONDS OF 1930, OF PROVINCE OF BUENOS AIRES (ARGENTINE REPUBLIC)

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 6½% External Sinking Fund Gold Bonds of 1930, due August 1, 1961 (Stamped as assenting to the Loan Readjustment Plan of 1933) of Province of Buenos Aires (Argentine Republic); and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, December 13, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to

[2] 3 F. R. 2538.

perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3479; Filed, November 18, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C., on the 17th day of November, A. D. 1938.

[File No. 31-154]

IN THE MATTER OF ILLINOIS IOWA POWER COMPANY

ORDER DESIGNATING NEW TRIAL EXAMINER

The application of the Illinois Iowa Power Company pursuant to Section 3 (a) (2) of the Public Utility Holding Company Act of 1935, having been regularly set for hearing on October 18, 1938 by an Order of the Commission dated the 22d day of September, 1938,[1] designating Richard Townsend as Trial Examiner and the said Richard Townsend having been unable to preside at said hearing on said date and the Commission having designated Charles S. Moore as Trial Examiner and said hearing having been continued from time to time at the request of counsel for the applicant by Order of Trial Examiner Charles S. Moore and now being set for hearing on November 28, 1938, and it appearing to the Commission that Trial Examiner Charles S. Moore will be unable to preside at said hearing; it is hereby ordered that Richard Townsend preside at the hearing in the above matter and he is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a Trial Examiner under the Commission's rules of practice to continue or postpone said hearing from time to time.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3484; Filed, November 18, 1938; 12:51 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of November, A. D. 1938.

[File Nos. 32-106 and 46-114]

IN THE MATTER OF WISCONSIN ELECTRIC POWER COMPANY (FORMERLY THE MILWAUKEE ELECTRIC RAILWAY AND LIGHT COMPANY)

NOTICE OF AND ORDER FOR HEARING

The issue and sale by Wisconsin Electric Power Company of $55,000,000 in principal amount of First Mortgage Bonds, 3½% Series due 1968, and of $14,500,000 in principal amount of 3.4% unsecured promissory notes, maturing serially from October 28, 1939 to October 28, 1948, having been expressly authorized by the Public Service Commission of Wisconsin, and having been exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935 by the order of this Commission entered on the 24th day of October, 1938, after public hearings on the application of said Company, as amended, for such exemption filed pursuant to the provisions of Section 6 (b) of said Act, said order having expressly provided that such exemption of such issue and sale of securities was subject to the condition, among others, set forth in said order that no fee shall be paid to Dillon, Read & Company in connection with the issue and sale of the unsecured promissory notes pending further order of this Commission, and this Commission, by said order, having expressly reserved jurisdiction to determine, at a later date, whether the fee to be paid to Dillon, Read & Company, in connection with the issue and sale of the unsecured promissory notes, is or is not reasonable;

It is ordered, That a hearing on the matter of the payment by Wisconsin Electric Power Company of any fee to Dillon, Read & Company in connection with the issue and sale of said notes and the reasonableness of any such fee be held on November 25, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to said Wisconsin Electric Power Company and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 23, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3478; Filed, November 18, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., and the 18th day of November, A. D. 1938.

[Files Nos. 32-117 and 46-118]

IN THE MATTER OF CENTRAL ILLINOIS PUBLIC SERVICE COMPANY, HALSEY-STUART AND COMPANY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 6 (b) and 10 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on December 5, 1938, at 10 o'clock in the forencon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 30, 1938.

The matter concerned herewith is in regard to the issuance and sale of $38,000,000 principal amount of First Mortgage Bonds, Series A, 3¾%, due December 1, 1968 and $10,000,000 principal amount of Serial Debentures 3½%-4%, due serially December 1, 1939 to December 1, 1948 by Central Illinois Public Service Company, a subsidiary of The Middle West Corporation a registered holding company. The net proceeds from the sale of said bonds and debentures will be applied by the applicant, Central Illinois Public Service Company, with other funds provided by the applicant out of its treasury, to the redemption of the following bonds of the applicant, constituting the entire funded debt:

$7,160,000 of First Mortgage and Refunding 5% Gold Bonds, Series E, due May 1, 1956, of the applicant, proposed to be called at 103 and accrued interest, requiring, exclusive of interest	$7,374,800.00
$26,260,500 of First Mortgage Gold Bonds, Series F, 4½%, due December 1, 1967, of the applicant, proposed to be called at 103 and accrued interest, requiring, exclusive of interest	$27,048,315.00
$12,273,900 of First Mortgage Gold Bonds, Series G, 5%, due November 1, 1968, of the applicant, proposed to be called at 102½ and accrued interest, requiring, exclusive of interest	12,580,747.50
$2,536,000 of First Mortgage Gold Bonds, Series H, 4½%, due June 1, 1981, of the applicant, proposed to be called at 102½ and accrued interest, requiring, exclusive of interest	2,599,400.00
Total	$49,603,262.50

Halsey-Stuart and Company has filed an application under section 10 of the Act for the approval of the acquisition of securities. Halsey-Stuart and Company, an affiliate of the applicant, Central Illinois Public Service Company, proposes to act as principal underwriter in the aforementioned issuance and sale of bonds and serial debentures by Central Illinois Public Service Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3483; Filed, November 18, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of November, A. D. 1938.

[Files Nos. 32-119, 43-162]

IN THE MATTER OF GREEN MOUNTAIN POWER CORPORATION, NEW ENGLAND POWER ASSOCIATION

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to Section 6 (b) and Rule U-12D-1 and a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on December 5, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 30, 1938.

The matter concerned herewith is in regard to a proposed reduction of the common capital stock of Green Mountain Power Corporation, a subsidiary of New England Power Association, a registered holding company, by 10,500 shares of no par value. This reduction is to be effected through surrender by New England Power Association of 10,500 shares for such purpose. Accordingly, Green Mountain Power Corporation has filed a declaration pursuant to Section 7 of the Act and New England Power Association has filed an application pursuant to Rule U-12D-1 promulgated under the Act.

Green Mountain Power Corporation has also filed an application pursuant to Section 6 (b) of the Act for exemption from the provisions of Section 6 (a) of the issue and sale of $7,750,000 principal amount of First and Refunding Mortgage Bonds 3¾% Series due 1963, and $1,375,000 principal amount of serial notes, 4½%. The net proceeds of such securities will be applied:

(1) To the payment on or about December 28, 1938 of an unsecured note due May 4, 1939 payable to the First National Bank of Boston	$450,000.00
(2) To the redemption on or before February 1, 1939 of the First Mortgage 5% Gold Bonds, Series of 1948, due August 1, 1948, of the applicant out-standing in the principal amount of $8,250,000, exclusive of accrued interest but including the premium of $165,000	$8,415,000.00
(3) To the payment of accrued interest on the First Mortgage 5% Gold Bonds Series of 1948, due August 1, 1948, of the applicant to the extent of the amount of interest which will accrue on such bonds from December 28, 1938 to February 1, 1939, during which period interest will also accrue on the securities to be issued	$37,812.50

The balance of the proceeds will be used to reimburse the applicant's treasury for expenditures heretofore made for improvements, betterments, and additions to its property.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3482; Filed, November 18, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of November, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF LONE STAR GAS CORPORATION, GUTHRIE GAS SERVICE COMPANY

NOTICE OF AND ORDER FOR HEARING

A joint and combined declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Guthrie Gas Service Company;

An application pursuant to Rule U-12C-1, promulgated under said Act, having been duly filed with this Commission by Guthrie Gas Service Company;

An application pursuant to Rule U-12D-1, promulgated under said Act, having been duly filed with this Commission by Lone Star Gas Corporation;

It is ordered, That a hearing on such matters be held on November 22, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N.W., Washington, D. C On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18(c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 21, 1938.

The application pursuant to Section 7 of the Act filed by Guthrie Gas Service Company, a subsidiary company of Lone Star Gas Corporation, a registered holding company, is in regard to the issue and sale of the following enumerated securities:

4½% note, due August 1, 1953, in the principal amount of $25,000;

4½% note, due August 1, 1953, in the principal amount of $15.000.

The notes heretofore described are to be issued to the holding company in the place and stead of and are to be substituted for Guthrie Gas Service Com-

[1] 3 F. R. 2294.

pany's 6% income demand notes dated July 2, 1934 and December 31, 1934, held by Lone Star Gas Corporation, on which there is a balance due of $25,000 and $15,000, respectively.

The application of Guthrie Gas Service Company, filed pursuant to Rule U–12C–1, is in regard to the acquisition and retirement of the 6% income demand notes dated July 2, 1934 and December 31, 1934, now held by Lone Star Gas Corporation, and in exchange for which the 4½% notes, due August 1, 1953, are to be exchanged.

The declaration pursuant to Rule U–12D–1, filed by Lone Star Gas Corporation, is in regard to the disposition to Guthrie Gas Service Company of the 6% income demand notes of such company, now held by Lone Star Gas Corporation and which are to be exchanged for the 4½% notes due August 1, 1953.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3480; Filed, November 18, 1938; 12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of November, A. D. 1938.

[File No. 46–85]

IN THE MATTER OF KENTUCKY SECURITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 10 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 23, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Chas. S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 20, 1938.

The matter concerned herewith is in regard to the proposed acquisition by the applicant, Kentucky Securities Company, a subsidiary of Kentucky Utilities Company, a subsidiary of The Middle West Corporation, a registered holding company, of 18,120 shares of 6% Convertible Preferred stock of the par value of $20 per share and 76,360 shares of Common Stock of the par value of $5 per share of Southeastern Greyhound Lines, in payment and satisfaction of $1,126,000 principal amount of notes of Southeastern Greyhound Lines now held by said applicant, all accrued and unpaid interest on said notes to date of liquidation thereof to be paid in cash and said shares of Preferred Stock to be taken at $20 per share and said shares of Common Stock at $10 per share.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3477; Filed, November 18, 1938; 12:49 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of November, A. D. 1938.

[File No. 56–15]

IN THE MATTER OF WALNUT ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 12 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 5, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18–(c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 30, 1938.

The matter concerned herewith is in regard to the sale by the applicant of 547 shares of the common stock of Peoples Gas Company, a subsidiary of the applicant, that being all the capital stock outstanding to C. A. Davis, a Vice-President and affiliate of the applicant for a consideration of $5,000

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3481; Filed, November 18, 1938; 12:50 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS TUESDAY, NOVEMBER 15, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	587	41
2. Hawaii	140	15
3. California	2,160	776
4. Alaska	23	9
5. Texas	2,216	892
6. Louisiana	796	374
7. Michigan	1,842	874
8. Arizona	166	84
9. New Jersey	1,537	840
10. South Carolina	661	381
11. Ohio	2,528	1,760
12. Oklahoma	911	558
13. Mississippi	765	424
14. Alabama	1,007	621
15. Arkansas	705	479
16. New Mexico	161	102
17. North Carolina	1,266	795
18. Georgia	1,109	739
19. Kentucky	955	681
20. Wisconsin	1,118	857
21. Tennessee	995	794
22. Illinois	2,963	1,957
23. Connecticut	611	448
24. Nevada	35	29
25. Oregon	363	316
26. Indiana	1,232	1,105
27. Delaware	91	83
28. Florida	558	522
29. Pennsylvania	3,664	3,480
30. New York	4,789	4,553
31. Idaho	169	161
32. Kansas	716	700
33. Utah	193	190
34. Wyoming	86	85
35. West Virginia	658	652
36. Maine	303	301
QUOTA FILLED		
37. New Hampshire	177	177
IN EXCESS		
38. Massachusetts	1,617	1,622	+5
39. Missouri	1,381	1,422	−31
40. Washington	595	615	+47
41. Colorado	394	408	+16
42. Vermont	137	142	−1
43. Minnesota	975	1,028	−40
44. Rhode Island	262	278	+16
45. North Dakota	259	279	+24
46. Montana	204	226	−5
47. South Dakota	264	301	+9
48. Iowa	940	1,094	−2
49. Nebraska	524	626	−11
50. Virginia	921	1,939	−20
51. Maryland	621	1,847	−14
52. Dist. of Columbia	185	8,753	−8

GAINS	
By appointment	277
By reinstatement	0
By transfer	15
By correction	1
Total	293
LOSSES	
By separation	43
By transfer	46
Total	89
Total appointments	47,455

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,408.

By direction of the Commission.

L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38–3473; Filed, November 17, 1938; 3:40 p.m.]

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 227

Washington, Tuesday, November 22, 1938

The President

THANKSGIVING DAY—1938

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby designate Thursday, the twenty-fourth of November, 1938, as a day of general thanksgiving.

Our Fathers set aside such a day as they hewed a nation from the primeval forest. The observance was consecrated when George Washington issued a Thanksgiving proclamation in the first year of his presidency. Abraham Lincoln set apart "a Day of Thanksgiving and Praise to our beneficent Father who dwelleth in the heavens."

Thus from our earliest recorded history, Americans have thanked God for their blessings. In our deepest natures, in our very souls, we, like all mankind since the earliest origin of mankind, turn to God in time of trouble and in time of happiness. "In God We Trust."

For the blessings which have been ours during the present year we have ample cause to be thankful.

Our lands have yielded a goodly harvest, and the toiler in shop and mill receives a more just return for his labor.

We have cherished and preserved our democracy.

We have lived in peace and understanding with our neighbors and have seen the world escape the impending disaster of a general war.

In the time of our fortune it is fitting that we offer prayers for unfortunate people in other lands who are in dire distress at this our Thanksgiving Season.

Let us remember them in our families and our churches when, on the day appointed, we offer our thanks to Almighty God. May we by our way of living merit the continuance of His goodness.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this nineteenth day of November, in the year of our Lord nineteen hundred
[SEAL] and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2310]

[F. R. Doc. 38-3501; Filed, November 21, 1938; 11:51 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS

PUBLIC WATER RESERVE NO. 160

California, Idaho, Oregon, and Wyoming

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, and subject to the conditions therein expressed and to valid existing rights, it is ordered that the following-described public lands be, and they are hereby, withdrawn from settlement, location, sale, or entry and reserved for public use in accordance with the provisions of section 10 of the act of December 29, 1916, c. 9, 39 Stat. 862, 865:

CALIFORNIA

Mount Diablo Meridian

T. 7 S., R. 20 E., sec. 2, NE¼SE¼.

IDAHO

Boise Meridian

T. 31 N., R. 3 W.,
sec. 26, lot 3;
sec. 27, lot 5.

OREGON

Willamette Meridian

T. 9 S., R. 23 E., sec. 18, NE¼SW¼.

WYOMING

Sixth Principal Meridian

T. 40 N., R. 84 W., sec. 25, SE¼SE¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 18, 1938.

[No. 8009]

[F. R. Doc. 38-3492; Filed, November 19, 1938; 11:04 a. m.]

CONTENTS

THE PRESIDENT

Proclamation: Page
Thanksgiving Day, 1938 2755
Executive Orders:
Public Water Reserve No. 160, Calif., Idaho, Oreg., Wyo., public land withdrawal 2755
Reservoir-Site Reserve No. 21, Cache Creek, Calif., public land withdrawal 2756

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Commodity Credit Corporation:
1938-39 Cotton Circular Letter No. 4 2756
TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
1938 Range Conservation Program Bulletin for Meagher County, Mont., Supplement No. 1 2756
TITLE 16—COMMERCIAL PRACTICES:
Cease and desist orders:
Eta Co., Inc., and Willis G. Sheeman 2758
National Silver Co., et al 2757
TITLE 17—COMMODITY AND SECURITIES EXCHANGES:
Commodity Exchange Administration:
Commodity Exchange Act, amendment of rules and regulations 2760
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Income tax, recognition of gain on certain corporate liquidations 2761
TITLE 45—PUBLIC WELFARE:
Civilian Conservation Corps:
Enrollment, discharge, etc., of enrollees; allotments and deposits 2763

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Civil Aeronautics Authority: Page
Hearings on applications for certificates of public convenience and necessity:
Braniff Airways, Inc. 2764
Eastern Air Lines, Inc. 2764
Department of Labor:
Wage and Hour Division:
Apparel industry, hearing on employment of learners at wage rates less than applicable minimum specified 2763
Securities and Exchange Commission:
Lone Star Gas Corp., Guthrie Gas Service Co., consolidation of hearings 2765
Nepsco Appliance Finance Corp., effectiveness of declaration 2765
Notice of and orders for hearings:
Central Maine Power Co. 2766
Union Electric Power Corp. 2766
Registration suspended:
Collins, Duncan, & Co., Inc. 2765
Gibbins, Ralph H. 2765
Haines, J. Albert 2764
Lucas, Herman 2764
Vedder, Clyde B., doing business as Clyde B. Vedder & Co., registration revoked 2766

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS, RESERVOIR-SITE RESERVE NO. 21

CACHE CREEK, CALIFORNIA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is hereby ordered as follows:

1. Executive Order No. 6910 of November 26, 1934, as amended, temporarily withdrawing all public lands in Certain states for classification and other purposes, is hereby revoked in so far as it affects the following-described tracts of land in California:

Mount Diablo Meridian

T. 14 N., R. 6 W.,
sec. 3, (fractional) W½W½;
sec. 5, (fractional) W½NE¼, SE¼NW¼, and N½SW¼;
sec. 10, NW¼NW¼.
T. 15 N., R. 6 W.,
sec. 7, (fractional) S½;
sec. 8, NE¼, SW¼, and NE¼SE¼;
sec. 9, E½NE¼, SW¼NE¼, SW¼NW¼, and SE¼;
sec. 17, SW¼NW¼, and W½SW¼;
sec. 18, lots 1 and 2, SE¼NE¼, and NE¼NW¼;
sec. 20, W½W½;
sec. 21, SW¼SE¼;
sec. 28, SE¼NE¼, and E½SE¼;
sec. 29, E½NW¼, and SW¼;
sec. 32, NW¼;
sec. 33, E½E½.
T. 15 N., R. 7 W.,
sec. 12, N½SW¼, SE¼SW¼, and SE¼;
sec. 13, NE¼NE¼, S½NE¼, and S½NW¼.
AREA 3,039 acres.

2. Subject to the conditions expressed in the above-mentioned acts and to all valid existing rights, the lands described in section 1 of this order are hereby withdrawn from settlement, location, sale, or entry and reserved for reservoir sites.

3. The reservation made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 18, 1938.

[No. 8010]

[F. R. Doc. 38-3500; Filed, November 21, 1938; 11:02 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

1938-39 COTTON CIRCULAR LETTER NO. 4

NOVEMBER 9, 1938.

Reports received by the Washington office of the Corporation indicate that there has been a material increase in the number of instances in which producers have obtained loans without disclosing the existence of prior liens upon the pledged cotton. A majority of the cases reported relate to crop mortgages, running to the Governor of the Farm Credit Administration, in connection with loans made through the Emergency Crop and Feed Loan Offices.

The Farm Credit Administration is cooperating in this matter by undertaking to have the Emergency Crop and Feed Loan Offices furnish all banks in their respective territories with an alphabetical list of their borrowers. Banks and other lending agencies will be expected to check against any such lists of producers which they may have been furnished as having outstanding liens against their 1938 crop before completing loans under the 1938-39 cotton loan program. Banks and other lending agencies making these loans should obtain these lists. Producers should also be questioned specifically concerning their status as landowner, landlord or tenant, as the Printed Instructions (1938-39 CCC Cotton Form 1) [1] require the execution of the lien waiver by the landlord in all instances in which the borrower is the tenant.

It has also been reported that in some instances cotton has been purchased from producers and loans obtained by forging the producer's signature on the note or the use of fictitious names. Attention of lending agencies is again called to their warranty as to the genuineness of signatures with respect to notes purchased by Commodity Credit Corporation.

Attention of banks and other lending agencies is also called to the provisions of the Printed Instructions and the Contract to Purchase which require the completion of the advice of loan slips and the prompt forwarding of same to the Washington office of Commodity Credit Corporation with respect to all loans made on 1938-39 CCC Cotton Form A.

[SEAL] G. E. RATHELL,
Treasurer.

[F. R. Doc. 38-3491; Filed, November 19, 1938; 10:29 a. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[RCP—1938-1—Meagher County, Mont.]

1938 RANGE CONSERVATION PROGRAM BULLETIN FOR MEAGHER COUNTY, MONTANA

SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Range Conservation Program Bulletin for Meagher County, Montana, issued June 21, 1938,[2] is hereby amended as follows:

Section I is hereby amended to read as follows:

SECTION I. *Rates of range-building payments.*—Subject to the conditions set forth in subsection A-1 below, payments will be made for the performance of limited grazing on range land, if approved by the county committee for the ranching unit prior to its institution, during the year 1938. Within the limits of that part of the range-building allowance remaining after applying the provisions of subsection A-1 below, and subject to the conditions set forth in the remaining subsections, there will be paid for carrying out in 1938 on range land such of the range-building practices as are approved by the county committee for the ranching unit prior to their institution.

Practices and Conditions of Payment—Rate of Payment

PRACTICE A. *Reseeding of range land.*—A-1. Natural reseeding by limited grazing.

a. Ranches designated as not overgrazed.

(1) If no goal is established for the ranching unit by the county committee or if a goal is established by the county committee for the ranching unit and the operator fails to fully comply with the provisions thereof: 40% of the range-building allowance, computed under Section II, subsection A.

(2) If a goal is established for the ranching unit by the county committee and if the operator fully complies with the provisions thereof: 60% of the range-building allowance, computed under Section II, subsection A.

b. Ranches designated as overgrazed.

(1) If no goal is established for the ranching unit by the county committee or if a goal is established by the county committee for the ranching unit and the operator fails to fully comply with the provisions thereof: 60% of the range-building allowance, computed under Section II, subsection A.

(2) If a goal is established for the ranching unit by the county committee and if the operator fully complies with the provisions thereof: 75% of the range-building allowance, computed under Section II, subsection A.

c. For the purposes of this subsection A-1, the county committee shall determine the ranching units in the county which are overgrazed and those not overgrazed. In making such determination with respect to a ranching unit, the county committee shall give consideration to the following: Varieties, palatability, and density of forage growth; climatic fluctuations; distribution and character of watering facilities; topographic and cultural features, presence or absence of rodents and poisonous plants infestations; the number and classes of livestock currently grazed upon such ranching unit, and other similar factors.

d. The provisions of this subsection A-1, subparagraphs b and c, shall be applicable only during 1938 and 1939. In 1940, the rates for all ranches will be as prescribed under subparagraphs a (1) and a (2) above.

e. The goal provided for in this subsection A-1 shall be established by the county committee and shall consist of conditions and specifications other than those listed in this bulletin, and in addition to limited grazing, which the county committee determines are necessary on the ranch either to support and complement the effective conservation use to be made of the range in connection with such range-building practices as are contained in this bulletin or to assist in connection with limited grazing in bringing about on the ranching unit such use of the forage resources as will more effectively carry out the purposes of the Soil Conservation and Domestic Allotment Act. The county committee's determination with respect to goals shall be based on conservative range management, forage and feed resources of the ranch, topographic and cultural features, utilization of forage by wildlife and the extent to which the resources of the ranch have been utilized in a conservative manner.

A-2. Artificial reseeding: $0.20 per pound of seed sown, but not in excess of $2.00 per acre.

For reseeding depleted range land with good seed of adapted varieties of range grasses, legumes, or forage shrubs.

PRACTICE B. *Erosion and runoff control.*—B-3-a. Contour listing, furrowing, or subsoiling: $0.50 per acre.

For listing, furrowing, or subsoiling range land on the contour.

B-4. Spreader dams and terraces: For constructing spreader dams and spreader terraces alone or in combination with each other for the diversion of surface water to prevent soil washing of range land.

a. Spreader dams: $0.15 per cubic yard of material moved.

b. Spreader terraces: $0.40 per 100 linear feet.

PRACTICE C. *Development of stock water on range land.*—C-5. Earthen tanks or reservoirs: $0.15 per cubic yard of fill or excavation.

For constructing reservoirs or earthen tanks with spillways adequate to prevent dams from washing out, for the purpose of providing water for range livestock.

C-7-a. Wells: For drilling or digging wells with casing not less than 4 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. Payment will not be made for a well developed at ranching unit headquarters: $2.00 per linear foot.

C-7-b. Wells: For drilling or digging wells with casing less than 4 inches but not less than 2 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. An artesian well will qualify for payment provided adequate stock water is made available during the grazing season and the water is conveyed to a tank or trough. Payment will not be made for a well developed at ranching unit headquarters: $1.00 per linear foot.

C-8. Development of natural watering places. For developing springs or seeps, protecting the source from trampling and conveying the water in a trough or in a pipe not less than one inch in diameter to a tank, for the purpose of providing water for range livestock.

a. Excavation in soil or gravel: $0.40 per cubic foot.

b. Excavation in rock: $0.70 per cubic foot.

PRACTICE F. *Fire Guards.*—F-15. For the establishment of fire guards not less than 10 feet in width by plowing furrows or otherwise exposing the mineral soil. Payment will not be made if the fire guard is used in connection with controlled burning within the ranching unit: $0.05 per 100 linear feet.

Done at Washington, D. C., this 18th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3499; Filed, November 19, 1938; 12:23 p. m.]

[1] 3 F. R. 2589 DI.
[2] 3 F. R. 1459 DI.

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3162]

IN THE MATTER OF NATIONAL SILVER COMPANY ET AL.

SEC. 3.6 (r) (7) *Advertising falsely or misleadingly—Prices—Usual as reduced:* SEC. 3.72 (n) *Offering deceptive inducements to purchase—Special offers.*—Representing, or aiding, abetting or assisting retail dealers in silverplated flatware in representing, in connection with offer or sale of such product, that any price at which it is offered for sale or sold is a special or reduced price, or a price that is lower than the price ordinarily and usually received therefor, when such is not the fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, National Silver Company et al., Docket 3162, November 3, 1938.]

SEC. 3.6 (u) *Advertising falsely or misleadingly — Quality.* — Representing, or aiding, abetting or assisting retail dealers in silverplated flatware in representing, in connection with offer or sale of such product, that it is of a certain, specified quality or standard, when such is not the fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified ccase and desist order, National Silver Company et al., Docket 3162, November 3, 1938.]

SEC. 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Manufacturer.*—Representing, or authorizing others to represent, in connection with offer or sale of such product, that respondent corporation is a manufacturer of silverplated

flatware, when such is not the fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, National Silver Company et al., Docket 3162, November 3, 1938.]

SEC. 3.6 (a) 10.1 *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—History.*—Representing, or authorizing others to represent, in connection with offer or sale of silverplated flatware, that respondent corporation was established in 1890, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, National Silver Company et al., Docket 3162, November 3, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the motion, and the application to amend motion, of Brill, Bergenfeld & Brill, counsel for the respondents, to modify and amend Paragraphs 1 to 5, inclusive, of the order to cease and desist as issued in these proceedings on July 29, 1938 [1] and the Commission having considered said motion and said application to amend motion and the record herein and being now fully advised in the premises:

It is ordered, That the motion, and application to amend motion, to modify and amend Paragraphs 1 to 5, inclusive, of the order to cease and desist issued herein on July 29, 1938 be and the same hereby is granted as prayed;

It is further ordered, That the order to cease and desist issued herein on July 29, 1938 be and the same hereby is modified as to read as follows:

Order to Cease and Desist

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, briefs and oral arguments having been waived, and the Commission having made its findings as to the facts and its conclusion that the said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondents National Silver Company, a corporation, its officers and directors, Samuel E. Bernstein, Philip J. Bernstein, Morton Bernstein, Milton Bernstein, Bernard Bernstein and Harry S. Berk, and their successors, and its representatives, agents and employees, in connection with the offering for sale, sale and distribution of silverplated ware in interstate commerce or in the District of Columbia, do forthwith, directly or indirectly, cease and desist from:

1. Representing that any price at which silverplated flatware is offered for sale or sold is a special or reduced price, or a price that is lower than the price ordinarily and usually received therefor, when such is not the fact;

2. Aiding, abetting or assisting retail dealers in silverplated flatware in representing that any price at which silverplated flatware is offered for sale or sold is a special or reduced price, or a price that is lower than the price ordinarily and usually received therefor, when such is not the fact;

3. Representing that said silverplated flatware is of a certain, specified quality or standard when such is not the fact;

4. Aiding, abetting or assisting retail dealers in silverplated flatware in representing that said silverplated flatware is of a certain, specified quality or standard, when such is not the fact;

5. Representing, or authorizing others to represent, that the respondent corporation is a manufacturer of silverplated flatware, when such is not the fact;

6. Representing, or authorizing others to represent, that respondent corporation was established in 1890.

It is further ordered, That this proceeding be, and the same hereby is, dismissed as to the respondent Stella Berk.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3487; Filed, November 19, 1938; 9:52 a. m.]

[1] 3 F. R. 1923 DI.

[Docket No. 3243]

IN THE MATTER OF THE ETA COMPANY, INC. ET AL.

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing, in connection with offer and sale of "Eta Concentrated Foods," and of "Mastery of Success" and "Brain Power Supreme" books or pamphlets, or substantially similar products, that said "Foods" sold under some fifteen various names such as "Eta Food Sodium," "Eta Food Potassium," "Eta Food Magnesium," etc., have any curative, remedial or therapeutic value or are in any way beneficial in the treatment of any of a great variety of ailments, diseases and conditions, including indigestion, nervousness, skin diseases, etc., as in said order specified, and will bring about many positive benefits and improvements including youthful appearance, increased popularity, courage, etc., and that the lack of said foods will cause a great variety of ailments, diseases or conditions, as in said order specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, The Eta Company, Inc. et al., Docket 3243, November 5, 1938.]

SEC. 3.6 (y) (1) *Advertising falsely or misleadingly—Scientific or other relevant facts.*—Representing, in connection with offer and sale of "Eta Concentrated Foods," and of "Mastery of Success" and "Brain Power Supreme" books or pamphlets, or substantially similar products, that lack of said "Foods" sold under some fifteen various names such as "Eta Food Sodium," "Eta Food Potassium," "Eta Food Magnesium," etc., will cause a great variety of ailments, diseases or conditions, as in said order specified, and that the asserted immediate physical, mental and financial success assured any one by aforesaid books, is unattainable without them, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, The Eta Company, Inc., et al., Docket 3243, November 5, 1938.]

SEC. 3.6 (c) *Advertising falsely or misleadingly—Composition of goods.*—Representing, in connection with offer and sale of "Eta Concentrated Foods," and of "Mastery of Success" and "Brain Power Supreme" books or pamphlets, or substantially similar products, that any of said "Foods" sold under some fifteen various names such as "Eta Food Sodium," "Eta Food Potassium," "Eta Food Magnesium," etc., contain sufficient minerals, when taken in the dosage directed by respondents, to remedy or correct any mineral deficiency in the diet, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, The Eta Company, Inc. et al., Docket 3243, November 5, 1938.]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.*—Representing, in connection with offer and sale of "Eta Concentrated Foods," and of "Mastery of Success" and "Brain Power Supreme" books or pamphlets, or substantially similar products, that respondents' said books or pamphlets will enable persons to shape their own destiny and make a complete and satisfying success of their lives, or will assure anyone of immediate physical, mental and financial success, unattainable without these books or pamphlets, or that they will enable anyone to overcome all obstacles which retard success, and prevent or cure bodily ailments and diseases regardless of their cause and nature, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, The Eta Company, Inc. et al., Docket 3243, November 5, 1938.]

SEC. 3.6 (r) (7) *Advertising falsely or misleadingly—Prices—Usual as reduced:* SEC. 3.72 (n) *Offering deceptive inducements to purchase—Special offers.*—Representing, in connection with offer and sale of "Eta Concentrated Foods," and of "Mastery of Success" and "Brain Power Supreme" books or pamphlets, or substantially similar products, that the prices at which said books or pamphlets are offered for sale, etc., are special, when in fact they are the usual and customary prices, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, Sec. 45b.) [Modified cease and desist order, The Eta Company, Inc. et al., Docket 3243, November 5, 1938.]

SEC. 3.6 (a) (1) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Authorities and personages connected with.*—Representing, in connection with offer and sale of "Eta Concentrated Foods," and of "Mastery of Success" and "Brain Power Supreme" books or pamphlets, or substantially similar products, through use of term Medical Doctor, or Doctor of Medicine, or any abbreviation thereof, or any other professional designation of like or similar import, that respondent Willis G. Sheeman is a duly qualified physician and licensed medical practitioner, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Modified cease and desist order, The Eta Company, Inc. et al., Docket 3243, November 5, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF THE ETA COMPANY, INC., A CORPORATION, AND WILLIS G. SHEEMAN, AN INDIVIDUAL

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the motion to modify the order to cease and desist issued herein on June 30, 1938,[1] and the Commission having duly considered said motion and the record herein, and being fully advised in the premises:

It is ordered That the said order to cease and desist be, and the same is, hereby modified to provide as follows:

It is ordered, That the respondents, the Eta Company, Inc., its officers, representatives, agents and employees, and Willis G. Sheeman, an individual, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of so-called food products now designated and described generally as "Eta Concentrated Foods", or any other so-called food products containing substantially the same ingredients or possessing substantially the same properties under whatever name sold, in or in connection with the offering for sale, sale and distribution of the books or pamphlets now known as and sold under the name of "Mastery of Success" and "Brain Power Supreme", under whatever name sold, in interstate commerce or in the District of Columbia, do forthwith cease and desist from directly or indirectly representing:

1. That said "Eta Concentrated Foods" have any curative, remedial or therapeutic value or are in any way beneficial in the treatment of any of the ailments, diseases or conditions hereinafter named.

2. That any of said "Eta Concentrated Foods" contain sufficient minerals, when taken in the dosage directed by the respondents, to remedy or correct any mineral deficiency in the diet.

3. That the "Eta Concentrated Food" sold under the name of "Eta Food Sodium" will improve digestion, prevent fermentation of food, increase will power, eliminate carbon dioxide, remove acid and waste, "alkalinize nerves and clear the brain," and that a lack of "Food Sodium" will cause acidity, serious stomach disorders, rheumatic ailments and the formation of acid in the nerves and brain.

4. That the "Eta Concentrated Food" sold under the name of "Eta Food Potassium" will build and reconstruct muscles, make motor nerves function properly, help to assimulate fat, gain weight, multiply body cells, cause the growth of muscles and tissues, alkalize the blood, increase power of resistance, increase pep, courage and magnetism, and that a lack of "Food Potassium" in the diet will cause fermentation of food, neuralgia, insomnia, water to form in the tissues, swollen ankles, moroseness, lack of ambition, hallucinations, a feeling of bruised muscles and weak and sagging ligaments.

5. That the "Eta Concentrated Food" sold under the name of "Eta Food Magnesium" will convert acid into a neutral salt, calm the nerves, stimulate bowel action, aid in increasing weight, prevent acid stomach, catarrhal discharges, overheated blood, dry and torpid bowels, fainting spells, jerky nerves, backache, stringy-mucus, greasy hair, acne pimples, itching blisters, noxious acids, gases and toxins, soothe the sexual instinct and promote sleep.

6. That the "Eta Concentrated Food" sold under the name of "Eta Food Iron" will prevent trembling spells, shooting pains, disturbed blood pressure, will renew strength, cause a youthful appearance, increase popularity and fascination of women, make men strong and courageous, and promote enthusiasm and cheerfulness.

7. That the "Eta Concentrated Food" sold under the name of "Eta Food Chlorin" will promote the elimination of water from the body, remove impurities, germs and pus, make tissues dense and elastic, exclude water, fat and carbohydrates from tissues and increase the strength of the voice, and that a lack of "Food Chlorin" in the diet will cause puffiness under the eyes, between finger joints and around the ankles, skin to become dull and red, and white spots to appear on the skin, dry throats, nervousness, heart trouble, noises in the ear, pale skin and a heavy tongue and limbs.

8. That the "Eta Concentrated Food" sold under the name of "Eta Food Phosphorous" will improve nutrition of nerves and tissues, strengthen bones and teeth and increase red corpuscles, and that a lack of "Food Phosphorous" will destroy self-confidence, lead to sterility, neuralgia and pus formation, cause children to be dumb and prevent them from controlling their fingers, cause irritation of nerves, lack of will power, destroy the ability to concentrate, destroy the appetite, cause nervousness, morbidity, pallid faces, waxy skin, night sweats and twitching in the muscles of the eyelids.

9. That the "Eta Concentrated Food" sold under the name of "Eta Food Silicon" will make the blood warmer, muscles firmer, increase growth of hair, prevent ovarian and menstrual trouble, increase endurance of elderly people, improve eyesight, hair and complexion, free the nasal canals permitting discharge of phlegm and mucus, and cause catarrh, headaches and disturbance of the brain, and colds, to disappear.

10. That the "Eta Concentrated Food" sold under the name of "Eta Food Fluorin" will provide material for feeding teeth enamel, work against tubercular, syphilitic and vaccine pus formation, prevent spinal diseases and brain trouble, and that a lack of "Food Fluorin" in the diet will cause head, neck, skin and the lower abdomen to become puffed and swollen, the gums to become loose, tender and spongy, development of ailments of the nails and eyelashes, brown and yellow spots to appear on the skin, and the eyesight to become poor and large veins to appear.

11. That the "Eta Concentrated Food" sold under the name of "Eta Food Sulphur" will prevent jerky nerves, fitful moods, fussy notions, panting for air in warm rooms, tired eyelids, flushes of heat, sudden indigestion, lame fingers, partial closure of the throat, tension in the neck with restlessness and headache, and dryness of the skin, and that by the use of "Food Sulphur" there will be maintained a more uniform temperature in the nerves, the brain centers, the sexual nerves, nerves of the kidneys, liver and optic centers, the lymph, the cerebrospinal fluid and the neurolin in nerve and brain matter.

12. That the "Eta Concentrated Food" sold under the name of "Eta Food Calcium" will improve the nerves, prevent tooth decay, has a beneficial effect upon ulcers, infection, eczema and psoriasis skin diseases, and that a lack of "Food Calcium" will cause brain softening, running ears and pasty complexion.

13. That the "Eta Concentrated Food" sold under the name of "Eta Food Iodin" will neutralize toxins, cause skin eruptions, pimples, sores, ulcers and unsightly

[1] 3 F. R. 1659 DI.

blemishes to clear up quickly, disintegrate fat, reduce bodily weight, preserve the tint of nails, complexion, hair, beauty of the eyes, eyelashes and brows, strengthen nerves, make the mind more alert, and that the users of "Food Iodin" will never suffer from goiter, scrofula, nervous ailments, defective bone metabolism, and blood and skin diseases.

14. That the "Eta Concentrated Food" sold under the name of "Eta Food Manganese" possesses antiseptic and germicidal properties, that it will counteract body acids and toxic products, increase power of body purification, hinder the development of cancerous growths in the membranes, linings and organs, toughen and harden the linings of the heart, bones cranium, membranes surrounding the viscera, the abdominal cavity and joint structures, and that a lack of "Food Manganese" will cause the linings of the human structures and conductors to become thin and lose their ductility, the organs, vessels and their nerves to suffer, cause a state of fever in the nerves, result in congested headaches, chronic neuralgia, nerve cramps, shrunken facial tissues, terrific cramps before menstruation, shrinkage of the brain, lack of ability to concentrate, absentmindedness and optical illusions.

15. That the "Eta Concentrated Food" sold under the name of "Etalax" corrects constipation, is one of the surest, safest and most effective means of flushing the intestinal tract of impurities, strengthening the intestinal muscles, will give new power to and tone up the entire eliminative system.

16. That the "Eta Concentrated Food" sold under the name of "Eta Food No. 26" nourishes and builds up eye structure and possesses the positive power to improve eyesight, will enable one to "lay off" glasses for good, and the use of this product and certain exercises, distributed in connection with the sale thereof, will restore the natural shape of the eyeball.

17. That the "Eta Concentrated Foods" sold under the names of "Eta Food #2," "Eta Food #3," "Etagland Food Male," and "Etagland Food Female" will give food elements to the cell structures and give strength to the functions of generation, and that the said preparations will be of benefit in cases of sexual debility.

18. That respondents' books or pamphlets known as "Mastery of Success" and "Brain Power Supreme" will enable persons to shape their own destiny and make a complete and satisfying success of their lives, or will assure anyone of immediate physical, mental and financial success, unattainable without these books or pamphlets; or that these books or pamphlets will enable anyone to overcome all obstacles which retard success, and prevent or cure bodily ailments and diseases regardless of their cause and nature.

19. That the prices at which said books or pamphlets "Mastery of Success" and "Brain Power Supreme" are offered for sale and sold are special, when in fact the prices at which said books or pamphlets are offered for sale and sold are the usual and customary prices therefor.

20. Through the use of the term Medical Doctor, or Doctor of Medicine, or any abbreviation thereof, or any other professional designation of like or similar import, that Willis G. Sheeman is a duly qualified physician and licensed medical practitioner."

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3486; Filed, November 18, 1938; 1:59 p. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

COMMODITY EXCHANGE ADMINISTRATION

AMENDMENTS TO RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED

By virtue of the authority vested in the Secretary of Agriculture by the Commodity Exchange Act (7 U. S. C. and Sup. III, secs. 1–17a), as amended by the act of Congress, approved April 7, 1938 (52 Stat. 205), I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following amendments to the rules and regulations of the Secretary of Agriculture under said act, as amended, said amendments to become effective on the first day of January 1939,[1] and continue in force and effect until amended or superseded under the authority of said act, as amended.

Section 7 [1.7][2] of article I[3] of said rules and regulations is amended to read as follows:

SEC. 7. [1.7] *Registration required of futures commission merchants.*—No person shall engage as futures commission merchant in the solicitation or acceptance of orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market, unless such person shall have secured a certificate of registration as futures commission merchant under the Commodity Exchange Act issued by the Secretary of Agriculture and countersigned by the Chief or Acting Chief of the Commodity Exchange Administration and such registration shall not have expired, been suspended, or been revoked. Such registration shall be required of every person engaged as herein described irrespective of whether accounting records relating to such orders and trades and contracts resulting therefrom are maintained by other futures commission merchants to whom such orders are transmitted for execution or clearance. (Sec. 5, 49 Stat. 1494; 7 U. S. C., Sup. III, 6d.)

Section 12 [1.12], as amended, of article I of said rules and regulations is amended to read as follows:

SEC. 12. [1.12] *Posting of registration certificate; fee for duplicate.*—Every person registered as futures commission merchant under the act shall—

(a) post in a conspicuous place in each office in the United States maintained by such person in which orders for the purchase or sale of any commodity for future delivery are solicited or accepted, the original or a duplicate (issued by the Secretary of Agriculture) of such registrant's registration certificate as futures commission merchant; and

(b) post in a conspicuous place in each office in the United States in which orders for the purchase or sale of any commodity for future delivery are solicited or accepted *for, and in the name of*, such registrant, a duplicate (issued by the Secretary of Agriculture) of such registrant's registration certificate as futures commission merchant.

Duplicates of registration certificates may be procured on request on payment of two dollars ($2) for each duplicate. Remittances in payment of duplicates shall be made payable to the Treasurer of the United States. The word "DUPLICATE" in conspicuous letters shall appear on the face of each duplicate. (Secs. 5, 10, 49 Stat. 1495, 1500; 7 U. S. C., Sup. III, 6f (2), 12a (4) (5).)

Section 14 [1.14], as amended, of article I of said rules and regulations is amended to read as follows:

SEC. 14. [1.14] *Changes to be reported by futures commission merchants and floor brokers.*—The registrant shall file with the Commodity Exchange Administration a statement on form 3–R setting forth any change which renders no longer accurate and current the information contained in any of the following enumerated items of the registrant's application for registration (or any statement supplemental thereto):

With respect to a futures commission merchant.—Item 2 (address of principal office), item 3 (concerning general books and records), item 4 (form of organization), item 9 (addresses of branch offices and names of managers thereof, and location of branch offices in which there is

[1] 2 F. R. 1223 (1465 DI).

[2] Bracketed numbers refer to sections of Title 17, Code of Federal Regulations.

[3] Title 17, Code of Federal Regulations, Part 1, Subpart.—General Provisions.

maintained a separate and complete set of financial records of commodity customers' accounts), item 10 (agents authorized to solicit or accept commodity futures orders for, and in the name of, the registrant), and item 14 (refusal of, or suspension or expulsion from, commodity-exchange membership). Any change in the personnel of a partnership resulting from the death, withdrawal, or addition of a partner which, as a matter of law, does not create a new partnership may be reported on form 3–R, as provided in section 15 [1.15] hereof.

With respect to a floor broker.—Item 2 (a) (business address), item 9 (names and addresses of clearing members through whom registrant clears commodity futures transactions for his own account), and item 11 (refusal of, or suspension or expulsion from, commodity-exchange membership).

Upon discontinuing business as futures commission merchant or as floor broker the registrant shall immediately notify the Commodity Exchange Administration on form 3–R.

All statements on form 3–R shall be prepared and filed in accordance with the instructions appearing thereon. (Sec. 5, 49 Stat. 1495; 7 U. S. C., Sup. III, 6f (1)).

Article I of said rules and regulations, as amended, is amended by adding after section 31 [1.31] thereof the following section:

SEC. 31a. [1.31a] *Compliance with sections 32 to 36 [1.32 to 1.36], inclusive.*—With respect to a futures commission merchant who transmits all customers' commodity futures orders, together with all money, securities, and property received to margin, guarantee, or clear the trades or contracts of such customers, to another futures commission merchant for execution or clearance, and the latter renders confirmations and statements of purchase and sale, and transmits remittances, direct to such customers, the requirements of sections 32 to 36 [1.32 to 1.36], inclusive, of these rules and regulations shall be deemed to be complied with if the books and records described in the aforesaid sections are prepared and kept, in the form and manner therein set forth, by either the futures commission merchant transmitting such orders or by the futures commission merchant to whom such orders are transmitted. (Sec. 10, 49 Stat. 1500; 7 U. S. C., Sup. III, 12a (5)).

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 19th day of November 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3502; Filed, November 21, 1938; 12:12 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4875]

INCOME TAX

REGULATIONS RELATING TO THE RECOGNITION OF GAIN ON CERTAIN CORPORATE LIQUIDATIONS

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 112 (b) (7) of the Revenue Act of 1938, enacted May 28, 1938 (Public No. 554, Seventy-fifth Congress, Chapter 289, third session), provides:

[*In the original document, here follows the text of Section 112 (b) (7) of the Revenue Act of 1938.*]

PAR. B. Pursuant to the authority contained in sections 62 and 112 (b) (7) of the Revenue Act of 1938, the following regulations are prescribed with respect to the recognition and treatment of gain or qualified electing shareholders upon the complete liquidation of a domestic corporation occurring within the month of December, 1938, the sections referred to therein being sections of the Revenue Act of 1938:

ARTICLE 112 (b) (7)–1. *Corporate liquidations in December, 1938.*—(*a*) *General.*—Section 112 (b) (7) provides a special rule, in the case of certain specifically described complete liquidations of domestic corporations occurring within the month of December, 1938, for the treatment of gain on the shares of stock owned by qualified electing shareholders on the date of the adoption of the plan of liquidation. The effect of such section is in general to postpone the recognition of that portion of a qualified electing shareholder's gain on the liquidation which would otherwise be recognized and which is attributable to appreciation in the value of certain corporate assets unrealized by the corporation at the time such assets are distributed in complete liquidation. Only qualified electing shareholders are entitled to the benefits of section 112 (b) (7). The determination of who is a qualified electing shareholder is to be made under section 112 (b) (7) (C) and article 112 (b) (7)–2 of these regulations. For the basis of property received on such liquidations, see section 113 (a) (18).

(*b*) *Type of liquidation.*—The liquidation must be in pursuance of a plan of liquidation adopted after May 28, 1938. Such plan may be adopted at any time after May 28, 1938, and before the first distribution under the liquidation occurs, even though the date of adoption falls in a taxable year of the liquidating corporation to which the Revenue Act of 1936 applies. The Act specifically requires that the distribution be in complete cancelation or redemption of all the stock of the corporation. The Act also requires that the transfer of all the property, both tangible and intangible, of the corporation under the liquidation occur entirely within the month of December, 1938, but if proper arrangements are made in good faith for the payment, after December 31, 1938, of unascertained or contingent liabilities and expenses, this requirement will be considered to have been complied with. The assets reserved for this purpose must be in cash and must be reasonable in amount. Though it is not necessary that the corporation dissolve in December, 1938, it is essential that a status of liquidation exist at the time the first distribution is made under the plan and that such status continue to the date of dissolution of the corporation. A status of liquidation exists when the corporation ceases to be a going concern and its activities are merely for the purpose of winding up its affairs, paying its debts, and distributing any remaining balance to its shareholders.

If a transaction constitutes a distribution in complete liquidation within the meaning of the Act and satisfies the requirements of section 112 (b) (7), it is immaterial that it is otherwise described under the local law.

ART. 112 (b) (7)–2. *Qualified electing shareholder.*—No corporate shareholder may be a qualified electing shareholder if at any time between April 9, 1938, and the date of the adoption of the plan of liquidation, both dates inclusive, it is the owner of stock of the liquidating corporation possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote upon the adoption of the plan of liquidation. All other shareholders are divided into two groups for the purposes of determining whether they are qualified electing shareholders: (a) shareholders other than corporations, and (b) corporate shareholders. Any shareholder of either of such two groups (whether or not the stock he owns is entitled to vote on the adoption of the plan of liquidation) is a qualified electing shareholder if—

(1) His written election to be governed by the provisions of section 112 (b) (7) (which can not be withdrawn or revoked) has been made and filed as prescribed in article 112 (b) (7)–3 of these regulations; and

(2) Like elections have been made and filed by owners of stock possessing at least 80 percent of the total combined voting power of all classes of stock owned by shareholders of the same group on the date of, and entitled to vote upon, the adoption of the plan of liquidation.

Example.—The R Corporation has outstanding 20 shares of common stock on July 1, 1938, the date of the adoption of a plan of liquidation within the provisions of section 112 (b) (7), each entitled to one vote upon the adoption of such plan of liquidation. Ten of such shares are owned by the S Corporation, two each by the X Corporation and the

Y Corporation, one by the Z Corporation, and one each by A, B, C, D, and E, individuals. There are also outstanding two shares of preferred stock, not entitled to vote on liquidation, one share being owned by F, an individual, and one share by the P Corporation. The S Corporation, being a corporate shareholder and the owner of 50 percent of the voting stock, may not be a qualified electing shareholder under any circumstances. In order for any other corporate shareholder to be a qualified electing shareholder, it is necessary that the X Corporation and the Y Corporation file their written elections to be governed by section 112 (b) (7). If this is done, the P Corporation will also be a qualified electing shareholder if it has filed a like election. Similarly, in the case of the individual shareholders, some combination of four of the individual holders of the common stock must have filed their written elections, before any individual shareholder may be considered a qualified electing shareholder, but if this is done, F will also be a qualified electing shareholder if he has filed a like election.

An election to be governed by the provisions of section 112 (b) (7) relates to the treatment of gain realized upon the cancelation or redemption of stock upon liquidation and can therefore be made only by or on behalf of the person by whom gain, if any, will be realized. Thus, the shareholder who may make such election must be the actual owner of stock and not a mere record holder, such as a nominee.

A shareholder is entitled to make an election relative to the gain only on stock owned by him at the time of the adoption of the plan of liquidation. The election is personal to the shareholder making it and does not follow such stock into the hands of a transferee.

ART. 112 (b) (7)–3. *Making and filing of written elections.*—An election to be governed by section 112 (b) (7) shall be made in duplicate under oath or affirmation on Form 964 in accordance with the instructions printed thereon and with these regulations. Such duplicate originals shall be filed by the shareholder or by the liquidating corporation with the Commissioner of Internal Revenue, Washington, D. C., attention of the Income Tax Unit, Records Division, within 30 days after the adoption of the plan of liquidation. A copy shall also be attached to and made a part of the shareholder's income tax return for his taxable year in which the transfer of all the property under the liquidation occurs.

ART. 112 (b) (7)–4. *Treatment of gain.*—(a) *Computation of gain.*—As in the case of shareholders generally, for the purpose of computing gain, amounts received by qualified electing shareholders are treated as in full payment in exchange for their stock, as provided in section 115 (c), and gain from the receipt of such amounts is determined as provided in section 111. Gain or loss must be computed separately on each share of stock owned by a qualified electing shareholder on the date of the adoption of the plan of liquidation. The limited recognition and special treatment accorded by section 112 (b) (7) applies only to the gain on such shares of stock upon which gain was realized and not to net gain computed by setting off losses realized on some shares against gains on others.

(b) *Recognition of gain.*—Pursuant to section 112 (b) (7) only so much of the gain on each share of stock owned by a qualified electing shareholder on the date of the adoption of the plan of liquidation is recognized as does not exceed the greater of the following—

(1) Such share's ratable share of the earnings and profits of the corporation accumulated after February 28, 1913, computed as of December 31, 1938, without diminution by reason of distributions made during the month of December, 1938; or

(2) Such share's ratable share of the sum of the amount of money received by such shareholder on shares of the same class and the fair market value of all the stock or securities so received which were acquired by the liquidating corporation after April 9, 1938. The mere replacement after April 9, 1938, of lost or destroyed certificates or instruments acquired on or before April 9, 1938, or the mere conversion of certificates or instruments into certificates or instruments of larger or smaller denominations will not constitute an acquisition within the meaning of the phrase "acquired after April 9, 1938". Nor will such an acquisition result from the issuance after April 9, 1938, of certificates of stock in connection with a subscription made and accepted on or before April 9, 1938.

(c) *Treatment of recognized gain.*—In the case of a qualified electing shareholder other than a corporation that part of the recognized gain on a share of stock owned on the date of the adoption of the plan of liquidation which is not in excess of its ratable share of the earnings and profits of the liquidating corporation accumulated after February 28, 1913, determined as provided in section 112 (b) (7) (E) (i) is treated and taxed to him as a dividend. It retains its character as a dividend for all tax purposes. The remainder of the gain which is recognized is treated and taxed to him as a short-term or long-term capital gain, as the case may be. In the case of a qualified electing shareholder which is a corporation the entire amount of the gain which is recognized is treated and taxed as a capital gain.

Example.—The X Corporation has only one class of stock outstanding, owned in equal amounts by three shareholders. The basis of the stock owned by each shareholder is $50, each having bought his stock in a single bloc prior to the date of the adoption of a plan of liquidation conforming to the requirements of section 112 (b) (7). One of such shareholders is an individual and two are corporations and all are qualified electing shareholders. The X Corporation has earnings and profits accumulated after February 28, 1913, of $60, its assets consisting of property (other than stock or securities and money) with a fair market value of $240, cash of $75, and stock and securities acquired after April 9, 1938, with a fair market value of $90, all of which assets are distributed in December, 1938, to the shareholders pro rata in complete liquidation of the corporation, as provided in section 112 (b) (7). Each shareholder, therefore, receives, in cash and property, $135 and his gain is $85.

In the case of each shareholder $55 of this gain is recognized, since such amount represents the sum of the cash received by him and the fair market value of the stock and securities received by him which were acquired by the X Corporation after April 9, 1938, and is greater than his ratable share of the earnings and profits ($20). In the case of the corporate shareholders this amount is treated as capital gain. In the case of the individual shareholder, however, $20, being the amount of the shareholder's ratable share of the earnings and profits, is taxable to him as a dividend, and $35, being the difference between the shareholder's ratable share of the earnings and profits and the sum of the cash and stock and securities received by him, is recognized and treated as a short-term or long-term capital gain, as the case may be. The remainder of each shareholder's gain, $30, is not recognized. If the basis of each shareholder's stock had been $100, instead of $50, the corporate shareholders would be taxed on only $35 as capital gain and the individual shareholder on $20 as a dividend but only on $15 as a capital gain, since the total amount taxed is limited by the amount of gain realized by the shareholder upon the cancelation or redemption of his stock.

ART. 112 (b) (7)–5. *Records to be kept and information to be filed with return.*—Permanent records in substantial form shall be kept by every qualified electing shareholder receiving distributions in complete liquidation of a domestic corporation. Such shareholder shall file with his income tax return for his taxable year in which the liquidation occurs a statement of all facts pertinent to the recognition and treatment of the gain realized by him upon the shares of stock owned by him on the date of the adoption of the plan of liquidation, including—

(a) A statement of his stock ownership in the liquidating corporation as of the date of the distribution, showing the number of shares of each class owned on such date and the cost or other basis of each such share;

(b) A list of all the property including money received upon the distribution, showing the fair market value of each item of such property other than money on the date distributed and stating what items, if any, consist of stock or securities acquired by the liquidating corporation after April 9, 1938;

(c) A statement of his ratable share of the earnings and profits of the liquidating corporation accumulated after February 28, 1913, computed without diminution by reason of distributions made during the month of December, 1938; and

(d) A copy of such shareholder's written election to be governed by the provisions of section 112 (b) (7). (See article 112 (b) (7)–3 of these regulations.)

PAR. C. Treasury Decision 4809, approved June 8, 1938[1] [I. R. B. 1938–24, 2], relating to the determination of who is a qualified electing shareholder, and to the making and filing of elections under section 112 (b) (7) of the Revenue Act of 1938, is hereby superseded.

GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, November 18, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38–3507; Filed, November 21, 1938; 12:26 p. m.]

TITLE 45—PUBLIC WELFARE

CIVILIAN CONSERVATION CORPS

PART 3.—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH, AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS

SEC. 3.10 *Allotments and deposits.*[2]

* * * * *

(a) *Amounts.*—The State selecting agency in selecting men for enrollment will note on the certificate of selection the amount of the allotment and the name of the beneficiary, and/or the amount of the deposit required to be made by each enrollee. At the time of enrollment the amount of the allotment and/or deposit will be in all cases $22. Selection is made contingent to such an allotment and/or a deposit.

(b) *Changes or termination.*—(1) Subsequent to the certification of an allotment or deposit by the State selecting agency the designated allottee will not be subject to change, and the allotment will not be subject to reduction or cancelation, except upon approval by the State selecting agency. For stoppages of allotment or deposit upon final payment see Section 3.16, this part. Should the corps area commander not concur in the action taken by the State selecting agency, the matter will be referred to the Department of Labor or the Veterans' Administration through the normal channels of command. The decision of the Department of Labor or the Veterans' Administration will be final. (See Paragraph (g), this section.) Request for change of allotment may be initiated either by the enrollee or the State selecting agency.

(2) Subsequent to enrollment the company commander, upon the request of the enrollee, may authorize the increase of an allotment from the approved deposit and/or cash payment or may authorize an increase in the approved deposit from the cash payment, without reference to the State selecting agency.

* * * * *

(i) *Deposits.*—(1) Enrollees may be required by the State selecting agency to make deposits of a portion of their basic monthly pay in the amount of $22 per month. The State selecting agency may permit an allotment to be made in addition to a deposit. If the State selecting agency permits a combination deposit and allotment, the sum of the deposit and allotment at the time of enrollment will be in all cases $22. The amount and period of deposit will be entered in the appropriate space under "Deposits," C. C. C. Form No. 1.

* * * * *

(50 Stat. 319.) [C. C. C. Regs., W. D., Dec. 1, 1937; C 17, Nov. 15, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38–3490; Filed, November 19, 1938; 10:29 a. m.]

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING, APPLICATION OF NATIONAL ASSOCIATION OF HOUSE DRESS MANUFACTURERS, INC., NATIONAL ASSOCIATION OF SHIRT AND PAJAMA MANUFACTURERS, NATIONAL ASSOCIATION OF MEN'S SHIRTS AND BOYS' BLOUSE CONTRACTORS, INC., AND SUNDRY OTHER PARTIES FOR PERMISSION TO EMPLOY LEARNERS IN APPAREL INDUSTRY AT WAGE RATES LESS THAN APPLICABLE MINIMUM SPECIFIED

Whereas, application has been made by the National Association of House Dress Manufacturers, Inc., the National Association of Shirt and Pajama Manufacturers, the National Association of Men's Shirts and Boys' Blouse Contractors, Inc., and sundry other parties under Section 14 of the Fair Labor Standards Act of 1938, 52 Stat. 1060, and Regulations—Part 522, as amended,—(Regulations Applicable to the Employment of Learners pursuant to Section 14 of the Fair Labor Standards Act)[1] issued by the Administrator thereunder for permission to employ learners in the apparel industry at wages less than the applicable minimum wage specified in Section 6 of the Act;

Now, therefore, pursuant to the Act and the Regulations, notice is hereby given of a public hearing to be held on said application at the Raleigh Hotel, located at Pennsylvania Avenue and 12th Street, Washington, D. C., to commence at 10:00 A. M., on December 5, 1938, to take testimony for the purpose of determining:

(a) What, if any, occupation or occupations in the apparel industry require a learning period, and

(b) Whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) if such necessity is found to exist, at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

At this hearing, learner applications will be considered and acted upon on the basis of the needs of the employees and the employers in the industry as a whole rather than on the basis of the needs of individual employees or employers of the industry. Opportunity will be afforded to interested parties to present evidence relevant to the foregoing inquiry. All persons or associations desiring to avail themselves of this opportunity should, if possible, notify the Administrator in advance by telegraph.

Pursuant to authority vested in the Administrator by the Fair Labor Standards Act of 1938, Mr. Merle D. Vincent is hereby designated as presiding officer to conduct the said hearing and to determine:

(a) What, if any, occupation or occupations in the apparel industry require a learning period, and

(b) whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) if such necessity is found to exist, at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

As used in this notice, the term "apparel industry" includes men's, women's,

[1] 8 F. R. 1393 DI.
[2] Amendment.

[1] 3 F. R. 2484, 2661 DI.

infants', and children's apparel and accessories excepting gloves, boots and shoes, millinery, knitted wear and hosiery.

Signed at Washington, D. C., this eighteenth day of November, 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3498; Filed, November 19, 1938; 12:03 p. m.]

CIVIL AERONAUTICS AUTHORITY.

BRANIFF AIRWAYS, INC.

NOTICE OF HEARING

[Docket No. 1-401 (E)-1]

Application Under Section 401 (e) for a Certificate of Public Convenience and Necessity for the Transportation by Air of Mail, Passengers, and Express Between: Chicago, Ill., and Dallas, Texas, via (Burlington, Ia.), Kansas City, Mo., Wichita, Kans., (Ponca City, Okla.) Oklahoma City, Okla., and Fort Worth, Texas; and

[Docket No. 1-401 (E)-2]

Application Under Section 401 (e) for a Certificate of Public Convenience and Necessity for the Transportation by Air of Mail, Passengers, and Property Between Amarillo, Texas and Brownsville, Texas, via Wichita Falls, Ft. Worth, Dallas, Waco, Austin, Houston, Galveston, San Antonio and Corpus Christi, Texas.

NOVEMBER 18, 1938.

The above-entitled proceeding is assigned for public hearing on November 29, 1938, 10 o'clock a. m. (standard time) at the office of the Civil Aeronautics Authority, Washington, D. C., before Examiner C. E. Leasure.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3488; Filed, November 19, 1938; 10:22 a. m.]

EASTERN AIR LINES, INC.

NOTICE OF HEARING

[Docket No. 9-401 (E)-1]

Application Under Section 401 (e) for a Certificate of Public Convenience and Necessity for the Transportation by Air of Mail, Passengers and Property as Follows:

Between Newark, N. J. (New York) and Miami, Fla., With Intermediate Stops at Camden, N. J., Baltimore, Md., Washington, D. C., Richmond, Va., Raleigh, N. C., Charleston, S. C., Savannah, Ga., Jacksonville, Daytona Beach, Orlando, Vero Beach, and West Palm Beach, Fla.

Between Newark, N. J. (New York) and Brownsville, Texas, With Intermediate Stops at Camden, N. J., Baltimore, Md., Washington, D. C., Richmond, Va., Greensboro and Charlotte, N. C., Spartanburg and Greenville, S. C., Atlanta, Ga., Montgomery and Mobile, Ala., New Orleans and Baton Rouge, La., Beaumont, Houston and Corpus Christi, Texas.

Between Newark, N. J. (New York) and San Antonio, Texas, With Intermediate Stops at Camden, N. J., Baltimore, Md., Washington, D. C., Richmond, Va., Greensboro and Charlotte, N. C., Spartanburg and Greenville, S. C., Atlanta, Ga., Montgomery and Mobile, Ala., New Orleans and Baton Rouge, La., and Beaumont and Houston, Texas

Between Newark, N. J. (New York) and Tampa, Fla., With Intermediate Stops at Camden, N. J., Baltimore, Md., Washington, D. C., Richmond, Va., Greensboro and Charlotte, N. C., Spartanburg and Greenville, S. C., Atlanta and Albany, Ga., and Tallahassee, Fla.

Between Chicago, Ill., and Miami, Fla., With Intermediate Stops at Indianapolis, Ind., Louisville, Ky., Nashville and Chattanooga, Tenn., Atlanta and Macon, Ga., Jacksonville, Daytona Beach, Orlando, Vero Beach, and West Palm Beach, Fla.

Between Chicago, Ill., and Tampa, Fla., With Intermediate Stops at Indianapolis, Ind., Louisville, Ky., Nashville and Chattanooga, Tenn., Atlanta and Albany, Ga., and Tallahassee, Fla.

Between Memphis, Tenn., and Tallahassee, Fla., With Intermediate Stops at Florence-Sheffield-Tuscumbia, Birmingham, Montgomery, and Dothan, Ala.

NOVEMBER 18, 1938.

The above entitled proceeding is assigned for public hearing on December 1, 1938, 10 o'clock a. m., (eastern standard time) at the office of the Civil Aeronautics Authority, Washington, D. C., before Examiner C. E. Leasure.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3489; Filed, November 19, 1938; 10:22 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1938.

IN THE MATTER OF J. ALBERT HAINES, 150 BROADWAY, NEW YORK, NEW YORK

ORDER SUSPENDING REGISTRATION

The registration of J. Albert Haines, as a dealer on over-the-counter markets, having come on for hearing[1] before the Commission upon the question of revocation or suspension pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, and the Commission having entered its findings of fact in the matter and being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors to suspend the said registration;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of J. Albert Haines, as a dealer transacting business on over-the-counter markets, be and the same is hereby suspended until further order of the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3496; Filed, November 19, 1938; 11:53 a. m.]

[1] 3 F. R. 2144 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1938.

IN THE MATTER OF HERMAN LUCAS, 38 PARK ROW, NEW YORK, NEW YORK

ORDER SUSPENDING REGISTRATION

The registration of Herman Lucas, as a broker and dealer on over-the-counter markets, having come on for hearing[1] before the Commission upon the question of revocation or suspension pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, and the Commission having entered its findings of fact in the matter and being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors to suspend the said registration;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Herman Lucas, as a broker and dealer transacting business on over-the-counter markets, be and the same is hereby suspended until further order of the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3497; Filed, November 19, 1938; 11:53 a. m.]

[1] 3 F. R. 2145 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1938.

IN THE MATTER OF DUNCAN COLLINS & COMPANY, INC., 5225 WILSHIRE BOULEVARD, LOS ANGELES, CALIFORNIA

MEMORANDUM OPINION AND ORDER SUSPENDING REGISTRATION

This is a proceeding pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, to determine whether the registration of Duncan Collins & Company, Inc., as a broker and dealer should be revoked or suspended.

On August 1, 1938, at a hearing held pursuant to the Commission's order of June 20, 1938, the registrant failed to appear personally or by counsel. Notice of the hearing had been sent to the person designated by the registrant as the person to receive notices at his business address and residence by registered mail on July 22, 1938, but had not actually been received by him because of his removal from those addresses. The trial examiner filed an advisory report in which he found that the license of the registrant to act as a broker in California had been suspended and that the registrant had failed to advise the Commission of this fact or of the fact that he had changed his address. On an independent review of the record we adopt the trial examiner's findings as accurate and further find that the registrant's failure to inform the Commission of the suspension of his license to act as a broker in California and of the change of address through a supplement to the application for registration filed within ten days after the occurrence of those events constituted a wilful violation of Rule X-15B-2 (referred to as Rule MB2 in the order for hearing, but since renumbered) of the Rules and Regulations under the Securities Exchange Act of 1934.

The sole remaining question is the effect of the failure to serve notice personally on the registrant. We follow our previous decisions in holding that, in the absence of personal service or service by registered mail based on previous consent to such service, we cannot order revocation. However, the registrant's registration should be temporarily suspended pending final disposition of the question of permanent revocation when the registrant comes in to be heard.

It is therefore ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Duncan Collins & Company, Inc., as a broker and dealer be and hereby is suspended pending final determination whether such registration shall be revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3495; Filed, November 19, 1938; 11:52 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1938.

IN THE MATTER OF RALPH H. GIBBINS DOING BUSINESS AS GIBBINS BROKERAGE COMPANY, 202 CAROLINA LIFE BLDG., COLUMBIA, SOUTH CAROLINA

MEMORANDUM OPINION AND ORDER SUSPENDING REGISTRATION

This is a proceeding ordered by the Commission on June 22, 1938, pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, to determine whether the registration of Ralph H. Gibbins, doing business as Gibbins Brokerage Company, as a dealer, effective July 8, 1937, should be revoked or suspended.

Notice of a hearing to be held in this proceeding was duly given in accordance with the registrant's consent as embodied in Item 27 of his Form 3-M application for registration. A hearing was held before a trial examiner on July 25, and July 27, 1938. The registrant failed to appear personally or by counsel. The trial examiner has filed an advisory report in which he found that the registrant has wilfully violated Rule X-15B-2 (formerly Rule MB2) of the Rules and Regulations under the Securities Exchange Act in failing to inform the Commission that his license to sell securities in South Carolina had expired. The trial examiner also found that the registrant falsely stated his business address in his application for registration. Since the registrant did not appear and defend himself against these charges, we withhold our findings and final determination until he comes in to be heard. However, pending such final determination we think it clear from the record that it is necessary and appropriate in the public interest and for the protection of investors that the registrant's right to use the mails and instrumentalities of interstate commerce in securities transactions be suspended.

It is therefore ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Ralph H. Gibbins, doing business as Gibbins Brokerage Company, as a dealer be and is hereby suspended pending final determination whether such registration shall be revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3494; Filed, November 19, 1938; 11:52 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of November, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF LONE STAR GAS CORPORATION, GUTHRIE GAS SERVICE COMPANY

ORDER FOR CONSOLIDATION OF HEARINGS FOR STATED PURPOSES

The Commission now having pending before it joint and combined declarations and applications of Lone Star Gas Corporation and various subsidiary companies of such holding company and such matters having been set down for hearing[1] on the 22nd day of November 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Commission Building, Washington, D. C., and subsequent thereto Guthrie Gas Service Company and Lone Star Gas Corporation having filed applications and declarations in regard to the proposed issue by such subsidiary company of certain 4½% notes and the exchange of such securities for certain 6% income demand notes now held by said holding company in the same principal amounts; and

It appearing that such proceedings will involve common questions of law and fact and that evidence offered in respect to each matter may have a bearing on the other; that the parties in the respective matters are substantially the same; and that substantial savings in time, effort and expense will result if the hearings are consolidated so that they may be heard as one matter;

It is ordered, That the declarations and applications of Guthrie Gas Service Company and Lone Star Gas Corporation referred to as having been filed subsequent to the date upon which the pending matters were set down for hearing be and they hereby are consolidated with those matters now pending for the purpose of hearings thereon.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3493; Filed, November 19, 1938; 11:52 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1938.

[File No. 43-154]

IN THE MATTER OF NEPSCO APPLIANCE FINANCE CORPORATION

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE PURSUANT TO SECTION 7 OF THE 1935 PUBLIC UTILITY HOLDING COMPANY ACT

Based upon the findings of fact and conclusions of law made in this matter, it is ordered that the declaration become

[1] 3 F. R. 2751 DI.

effective forthwith subject to the following conditions that:

1. The debentures shall be issued and sold, or resold, only to companies in the holding company system of which declarant is a member;

2. the declarant shall not issue any promissory note which has a maturity date later than December 31, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3503; Filed, November 21, 1938; 12:23 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of November 1938.

IN THE MATTER OF CLYDE B. VEDDER, DOING BUSINESS AS CLYDE VEDDER & COMPANY, 6253 HOLLYWOOD BOULEVARD, HOLLYWOOD, CALIFORNIA

ORDER REVOKING REGISTRATION

Clyde B. Vedder, doing business as Clyde Vedder & Company, a sole proprietorship, hereinafter called the registrant, a broker and dealer being registered under Section 15 (b) of the Securities Exchange Act of 1934, as amended; and

The Commission having reasonable grounds to believe that the said registrant has willfully violated the provisions of Section 8 (b) of the Securities Exchange Act of 1934, as amended, and Rule X-15B-2 of the Rules and Regulations under the Securities Exchange Act of 1934, as amended; and having further reasonable grounds to believe that it is in the public interest to revoke the said registration; and

The Commission, on August 23, 1938, having authorized proceedings on the question of revocation and/or suspension of registration of the said registrant pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended; and the said matter after appropriate notice having come on for hearing on October 12, 1938 in Los Angeles, California; and the said registrant having consented in writing to the revocation of his registration; and such consent having been introduced into the record of the proceedings as Commission's Exhibit 5; and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Clyde B. Vedder, doing business as Clyde Vedder & Company, as a broker and dealer transacting business on the over-the-counter markets, be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3506; Filed, November 21, 1938; 12:24 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of November, A. D. 1938.

[File No. 31-131]

IN THE MATTER OF UNION ELECTRIC POWER CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 3, 1938.

The matter concerned herewith is in regard to the application of Union Electric Power Corporation for an order declaring it not to be a subsidiary of Central States Edison, Inc.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3505; Filed, November 21, 1938; 12:23 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of November, A. D. 1938.

[File No. 32-118]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 7, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 2, 1938.

The matter concerned herewith is in regard to a proposed issuance and sale by applicant, Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, of

(a) First and Gold Mortgage Bonds, Series H, 3½%, due 1966, dated August 1, 1936 and maturing August 1, 1966, in the principal amount of $4,500,000, such issue and sale to be made by public offering through underwriters, and

(b) 5,000 shares of common stock, no par value, at the price of $100 per share; such shares to be first offered to the holders of applicant's common stock and 6% preferred stock at said price on the basis of one share for every 27.2702 of outstanding shares then held by such holders.

A portion of the net proceeds of such sales will be used by the applicant for the payment of principal and interest to maturity of applicant's First Mortgage, 30 year, 5% Gold Bonds due November 1, 1939, in the principal amount of $3,303,000. The balance of said proceeds will be used to pay bank loans of the applicant now outstanding in the amount of $1,225,000 and for other regular corporate purposes of the applicant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3504; Filed, November 21, 1938; 12:33 p. m.]

NOV 25 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 228

Washington, Wednesday, November 23, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

[Amendment 1 to Service and Regulatory Announcements 131]

PART 56—INSPECTION AND CERTIFICATION OF DRESSED POULTRY AND DRESSED DOMESTIC RABBITS FOR EXTERNAL CONDITION, AND DRESSED POULTRY AND DRESSED DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF FOR CONDITION AND WHOLESOMENESS

By virtue of the authority vested in the Secretary of Agriculture by a provision of the act of Congress entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1939, and for other purposes", approved June 16, 1938 (52 Stat., 710), authorizing the establishment of an inspection service for perishable farm products, I, H. A. Wallace, Secretary of Agriculture, do hereby issue the following amendment to S. R. A. 131 (B. A. E.)[1] to be in force and effect on and after March 1, 1939:

In Regulation 6, Section 1, add a new paragraph to be known as Paragraph 5, as follows:

"PAR. 5 (Sec. 56.46 (e))* No person shall affix or place, or cause to be affixed or placed, the inspection mark, or any abbreviation, copy, or representation thereof, or the number designating a plant where federal poultry or domestic rabbit inspection is maintained, or a statement that any ingredient has been inspected and certified at a plant where federal poultry or domestic rabbit inspection is maintained, to or on any can, pot, tin, or other receptacle constituting an immediate container within the meaning of these regulations, of any dog food, cat food, fox food, or any similar product prepared in whole or in part of poultry or domestic rabbit meat or byproduct thereof: *Provided,* That dog food, cat food, fox food, or any similar product prepared in a plant where federal poultry or domestic rabbit inspection is maintained and prepared in whole or in part of poultry or domestic rabbit meat or byproduct thereof, and placed in a can, pot, tin, or other receptacle, may bear a statement in the following form:

'The poultry meat, domestic rabbit meat, poultry byproduct or domestic rabbit byproduct ingredient of this article has been examined and passed under the supervision of the Bureau of Agricultural Economics. This article has been prepared in a plant operating under the poultry or domestic rabbit inspection service of the Bureau of Agricultural Economics.'

"When any dog food, cat food, fox food, or any similar product is prepared in a part of an approved premises the sanitation of that part of the approved premises shall be supervised by inspectors or other authorized agents of the Bureau of Agricultural Economics on the same basis as other parts of the approved premises." (52 Stat., 740)

In testimony whereof, I have hereunto set my hand in the City of Washington, D. C., this 21st day of November, 1938.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-3514; Filed, November 22, 1938; 12:47 p. m.]

[1] 2 F. R. 1417 (1695 DI).

*Code of Federal Regulations designation.

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[General Order No. C-7]

ABSENCE OF AN ALIEN FROM THE UNITED STATES DURING THE PERIODS OF RESIDENCE REQUIRED BY THE NATURALIZATION LAWS

NOVEMBER 19, 1938.

Pursuant to the authority contained in Section 28 of the Act of June 29, 1906

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Bureau of Agricultural Economics:	
Dressed poultry and domestic rabbits, inspection and certification	2767
TITLE 8—ALIENS AND CITIZENSHIP:	
Immigration and Naturalization Service:	
Absence of alien from United States during periods of residence required	2767
TITLE 17—COMMODITY AND SECURITIES EXCHANGES:	
Securities and Exchange Commission:	
Securities Act of 1933, adoption of Rule S-522 (omission of information as to tentative plans)	2768
TITLE 50—WILDLIFE:	
Bureau of Biological Survey:	
Wheeler Migratory Waterfowl Refuge, hunting permitted in Madison County, Ala., portion	2768

NOTICES

Department of Agriculture:	
Agricultural Adjustment Administration:	
Flue-cured tobacco, national marketing quota for	2769
Federal Trade Commission:	
Mississippi Sales Co., Inc., et al, order appointing examiner, etc	2769
Securities and Exchange Commission:	
New York State Electric & Gas Corp., issuance of bonds exempted	2769

FEDERAL REGISTER

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(34 Stat. 606), as amended by Section 8 of the Act of March 2, 1929 (45 Stat. 1515; 8 U. S. C., 356);

Sec. 7.43, Title 8 of the Code of Federal Regulations (Rule 3, Subdivision B, paragraph 1 of the Naturalization Regulations of December 1, 1936), is amended by changing the title of Form 2363 to read:

APPLICATION FOR THE BENEFITS OF THE ACT OF JUNE 25, 1936 (49 STAT. 1925), AS AMENDED

Said section is further amended by deleting therefrom the following, added thereto by General Order No. C–6, November 2, 1938: [1]

Form No. 2364	Title
	Application for the Benefits of Public Resolution No. 128 of June 29, 1938.

Sec. 7.113 (c), Title 8 of the Code of Federal Regulations (Rule 7, Subdivision E of the Naturalization Regulations of December 1, 1936), as amended by General Order No. C–6, is amended to read as follows:

SEC. 7.113 (c) *Residence; effect of absence from the United States for one year or more.*—Where the absence from the United States during either of the periods described in paragraph (a) of Sec. 7.113 has been for a continuous period of one year or more, objection shall be made, unless the case comes within the provisions of Sections 7.114, 7.115, 7.116 or 7.116 (A), as otherwise the law itself declares that such absence breaks the continuity of the required residence. (*; Sec. 4 (4), 34 Stat. 598, Sec. 6 (b), 45 Stat. 1513, Sec. 1, 49 Stat. 1925, 8 U. S. C., Supp. III.)

[1] 3 F. R. 2621 DI.

Sec. 7.116 (B), Title 8 of the Code of Federal Regulations (Rule 7, Subdivision E of the Naturalization Regulations of December 1, 1936), supplied by General Order No. C–6, is amended to read as follows:

SEC. 7.116 (B) *Application forms.*—Application for the benefits of Section 7.114 or of Section 7.116 shall be submitted in duplicate to the Secretary of Labor on Form No. 2363, "Application for the Benefits of the Act of June 25, 1936 (49 Stat. 1925), as amended." The application will be duly considered by the Secretary of Labor and the alien notified of the decision thereon. A copy of such decision, verified or certified by the Commissioner of Immigration and Naturalization, or any Deputy Commissioner of Immigration and Naturalization, shall be filed in the naturalization court with the alien's petition for naturalization as a part of the record of the naturalization proceeding.*

[SEAL] JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

Approved.

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38–3510; Filed, November 22, 1938; 10:04 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

ADOPTION OF RULE S-522

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, and deeming such action necessary to carry out the provisions of the Act and necessary and appropriate in the public interest and for the protection of investors, hereby adopts the following rule:

SEC. 5. S–522 (Rule S–522). *Omission of Information as to Tentative Plans under Section 11 (b)[1] of the Public Utility Holding Company Act of 1935.*—A registration statement need not include the details of any tentative plan relating to Section 11 (b)[1] of the Public Utility Holding Company Act of 1935 which has been or is to be submitted informally to the Commission by the registrant or any of its parents or subsidiaries not later than December 1, 1938, pursuant to the Commission's request of August 3, 1938. In such case the registration statement shall contain an appropriate reference to the provisions of Section 11 (b)[1] and a statement to the effect that such tentative plan has been or is to be so submitted. The foregoing provisions shall likewise be applicable to prospectuses. (C. 38, sec. 19, 48 Stat. 85; c. 404, sec. 209, 48 Stat. 908; 15 U. S. C. 77s) [General Rules and Regs., Rule S–522, effective November 21, 1938]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3508; Filed, November 21, 1938; 3:50 p. m.]

*Section 28, 34 Stat. 606 as amended by Section 8, 45 Stat. 1515; 8 U. S. C., 356.

[1] C. 687, sec. 11, 49 Stat. 820; 15 U. S. C., Sup. III, 79k.

[1] 2 F. R. 2538 (2952 DI).

[2] 3 F. R. 1669 DI.

TITLE 50—WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING HUNTING OF MIGRATORY GAME BIRDS IN THAT PART OF THE WHEELER MIGRATORY WATERFOWL REFUGE SITUATED IN MADISON COUNTY, ALABAMA

By virtue of authority conferred upon the Secretary of Agriculture by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), section 84 of the act of March 4, 1909, 35 Stat. 1104, as amended by the act of April 15, 1924, 43 Stat. 98, and in extension of Regulation 9 of the General Regulations of the Secretary of Agriculture of November 23, 1937,[1] governing the Administration of National Wildlife Refuges under the Jurisdiction of the Bureau of Biological Survey, made and prescribed pursuant to said authority, it is ordered that migratory waterfowl (except those species for which no open season is prescribed by the Migratory Bird Treaty Act regulations) and coots may be taken in 1938 within that part of the Wheeler Migratory Waterfowl Refuge situated in Madison County, Alabama, as established by Executive Order No. 7926, approved July 7, 1938,[2] when, in manner, by means, and to the extent not prohibited by either Federal or State law or regulation.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 21st day of November 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3513; Filed, November 22, 1938; 12:47 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA

A Proclamation

Whereas the Agricultural Adjustment Act of 1938, as amended, provides:

SEC. 312. (a) Whenever, on the 15th day of November of any calendar year, the Secretary [of Agriculture] finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. Such proclamation shall be made not later than the 1st day of December in such year.

and

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins * * *.

"Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current * * *.

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

* * * * * *

"Tobacco (flue-cured), July 1–June 30 * * *.

"Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" of tobacco shall be a normal year's domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"Normal year's domestic consumption," in the case of * * * tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports" in the case of * * * tobacco * * * shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years * * * immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

and

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act."; and

Whereas on the 15th day of November 1938, I, H. A. Wallace, Secretary of Agriculture of the United States, found, upon the basis of the latest available statistics* of the Federal Government,—

that the "reserve supply level" of flue-cured tobacco was 1,727,000,000 pounds; and

that the "total supply" of flue-cured tobacco for the marketing year for such tobacco beginning July 1, 1938, was 1,750,000,000 pounds and exceeded the reserve supply level of such tobacco:

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States, acting under and pursuant to, and by virtue of, the authority vested in me by the Agricultural Adjustment Act of 1938, as amended, do hereby proclaim my findings aforesaid and do hereby determine and proclaim that the amount of the national marketing quota for flue-cured tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning July 1, 1939, a supply of such tobacco equal to the reserve supply level, is 754,000,000 pounds.

Done at Washington, D. C., this 21st day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3512; Filed, November 22, 1938; 12:47 p. m.]

* Rounded to the nearest 1,000,000 pounds.

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 22nd day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3511]

IN THE MATTER OF MISSISSIPPI SALES COMPANY, INC., A CORPORATION; JOBBERS PRODUCE COMPANY, INC., A CORPORATION; S. O. SCOTT, INDIVIDUALLY AND AS PRESIDENT, DIRECTOR AND MAJORITY STOCKHOLDER OF JOBBERS PRODUCE COMPANY, INC., AND MISSISSIPPI SALES COMPANY, INC.; THE PENNY STORES, INC., A CORPORATION; BUCKLEY-YOUNG COMPANY, A CORPORATION; AMERICAN FRUIT GROWERS, INC., A CORPORATION; PACIFIC FRUIT AND PRODUCE COMPANY, A CORPORATION; DOW FRUIT COMPANY, A CORPORATION; E. O. MUIR COMPANY, A CORPORATION; WILLIAM HENDERSON, HUNT HENDERSON, CHRIST GAMBLE, AND FRED GAMBLE, INDIVIDUALS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF WILLIAM HENDERSON SUGAR REFINERY; RESPONDENTS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U. S. C. A., Section 41), and (49 Stat. 1526, U. S. C. A., Section 13, as amended)

It is ordered, That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 6, 1938, at ten o'clock in the forenoon of that day (Central standard time) in Court Room 212, Federal Building, Meridian, Mississippi.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38–3511; Filed, November 22, 1938; 12:15 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of November, A. D. 1938.

[File No. 32–105]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

ORDER EXEMPTING ISSUANCE OF BONDS

New York State Electric & Gas Corporation, a subsidiary company of NY PA NJ Utilities Company, Associated Gas and Electric Corporation, and Associated Gas and Electric Company, registered holding companies, having duly filed with this Commission an application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of section 6 (a) of

said Act of the issuance of two bonds in the aggregate principal amount of $155,000, bearing interest at the rate of 6% per annum, to be retired by regular monthly installments of principal and interest and secured by purchase money mortgages; a hearing on said application having been duly held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the issuance of said bonds be, and the same hereby are, exempted from the provisions of section 6 (a) of the Public Utility Holding Company Act of 1935; subject, however, to the following conditions:

(1) That the issuance of said bonds shall be in compliance with the terms and conditions of, and for the purposes represented by, said application, and in compliance with the terms and conditions imposed by the order of the Public Service Commission of New York.

(2) That such exemption shall terminate immediately if, at any time, the authorization of such issuance by the Public Service Commission of New York shall be revoked or otherwise terminate.

(3) That within ten days after the issuance of said bonds, the applicant shall file with this Commission a certificate of notification, stating that said bonds have been issued in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3509; Filed, November 21, 1938; 3:50 p. m.]

TITLE 36—PARKS AND FORESTS

FOREST SERVICE

OZARK NATIONAL FOREST, ARKANSAS

TRESPASS REGULATION

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat., 628), amendatory of the Act of June 4, 1897 (30 Stat., 11, 35), I, H. A. Wallace, Secretary of Agriculture, do make and publish the following regulation for the occupancy, use, protection and administration of the National Forests, to be in force and effect from the 1st day of December, 1938, and to constitute a part of the National Forest Manual:

Reg. T-7½. The following acts are prohibited on lands of the United States within the boundaries of the Sylamore Ranger District, Ozark National Forest, Arkansas:

Permitting dogs to run at large, or having in possession dogs not in leash or confined.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 23d day of November, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3517; Filed, November 23, 1938; 12:07 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF ANNUAL REPORTS FROM EXPRESS COMPANIES

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 17th day of November, A. D. 1938.

The subject of the requirement of annual reports from Express companies being under consideration:

It is ordered:

1. That the order of this Commission dated December 7th, 1937,[1] in the matter of annual reports from Express companies, is hereby annulled.

2. That all Express companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form H (Express), which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3519; Filed, November 23, 1938; 12:36 p. m.]

ORDER IN THE MATTER OF ANNUAL REPORTS FROM ELECTRIC RAILWAYS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 17th day of November, A. D. 1938.

The subject of the requirement of annual reports from Electric railway companies being under consideration:

It is ordered:

1. That the order of this Commission dated October 28, 1937,[3] in the matter of annual reports from Electric Railways, is hereby annulled.

2. That all Electric railway companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form G (Electric Railways), which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3520; Filed, November 23, 1938; 12:36 p. m.]

[1] 2 F. R. 2802 (3243 DI).
[2] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.
[3] 2 F. R. 2483 (2886 DI).

Reference

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FEDERAL REGISTER

VOLUME 3 NUMBER 229

Washington, Thursday, November 24, 1938

Rules, Regulations, Orders

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 29 — TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission: Page
Annual reports to be filed by:
Electric railways 2771
Express companies 2771
TITLE 36—PARKS AND FORESTS:
Forest Service:
Ozark National Forest, Ark., trespass regulation 2771

NOTICES

Department of Labor:
Wage and Hour Division:
Fair Labor Standards Act regulations (area of production), hearing on proposed amendments 2772
Securities and Exchange Commission:
Texas Pacific Land Trust, hearing on listing and registration of certificates of proprietary interest 2772

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Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING ON PROPOSED AMENDMENTS OF SECTIONS 536.1 AND 536.2 (AREA OF PRODUCTION) OF REGULATIONS ISSUED UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Whereas, Section 7 (c) of the Fair Labor Standards Act of 1938 provides that the maximum hours provision contained in Section 7 (a) of said Act shall not apply during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year to employees of an employer engaged in

The first processing, within the area of production (as defined by the Administrator), of any agricultural or horticultural commodity during seasonal operations.

Whereas, Section 13 (a) of the Fair Labor Standards Act of 1938 provides that the wages and hours provisions contained in Sections 6 and 7 of said Act shall not apply with respect

(10) to any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products.

and

Whereas, pursuant to the authority contained in said section, the Administrator of the Wage and Hour Division on October 20, 1938[1] issued the following regulations:

SEC. 536.1 *"Area of production" as used in Section 7 (c) of the Fair Labor Standards Act.*—An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity during seasonal operations within the "area of production" within the meaning of Section 7 (c)

(a) if the first processing is conducted on a farm and is performed on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the commodities processed are obtained from farms in the immediate locality of the processing establishment and the number of employees there engaged in such processing does not exceed seven.

SEC. 536.2 *"Area of production" as used in Section 13 (a) (10) of the Fair Labor Standards Act.*—An individual shall be regarded as employed in the "area of production" within the meaning of Section 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products.

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven.

SEC. 536.3 *Petition for amendment of regulations.*—Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2 by increasing or decreasing the maximum of employees permitted within the exemption as defined. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their view either in support of or in opposition to the proposed changes.

and

Whereas, The Texas Citrus Shippers Association, The West Michigan Growers and Shippers Association, The Agricultural Producers' Labor Committee, The International Apple Association, and sundry other parties have filed petitions with the Administrator to amend said Section 536.1 of said regulations by striking therefrom the phrase

"and the number of employees there engaged in such processing does not exceed seven,"

or to amend said Section 536.2 of said regulations by striking therefrom the phrase

"and the number of employees in such establishment does not exceed seven."

or modify both said sections by sundry other amendments.

Now, therefore, notice is hereby given of a public hearing to commence on December 14, 1938, at 10 o'clock a. m. in the Raleigh Hotel, Twelfth Street and Pennsylvania Avenue, Washington, D. C., before Mr. Merle D. Vincent, the presiding officer hereby designated, at which interested parties will be heard on the following question:

What, if any, amendment should be made of Section 536.1 or Section 536.2 of the regulations issued under the Fair Labor Standards Act of 1938 in respect to the definition of "area of production" for fresh fruits and vegetables.

Said petitions may be examined in Room 5321, United States Department of Labor, Washington, D. C.

Signed at Washington, D. C., this twenty-second day of November, 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3515; Filed, November 23, 1938; 10:22 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 22nd day of November 1938.

[File No. 1-737]

IN THE MATTER OF LISTING AND REGISTRATION OF THE CERTIFICATES OF PROPRIETARY INTEREST, $100 PAR VALUE, OF TEXAS PACIFIC LAND TRUST

ORDER SETTING HEARING

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Certificates of Proprietary Interest, $100 Par Value, of Texas Pacific Land Trust; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, December 14, 1938, at the office of the Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3518; Filed, November 23, 1938; 12:30 p. m.]

[1] 3 F. R. 2536 DI.

NOV 28 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 230

Washington, Saturday, November 26, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

1938 AGRICULTURAL CONSERVATION PROGRAM FOR THOMAS COUNTY, KANSAS

SUPPLEMENT NO. 2[1]

[Issued November 23, 1938]

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program for Thomas County, Kansas, as amended, is hereby further amended as follows:

The last sentence of Subsection B of Section V is omitted and the following paragraph is added to such Subsection B:

"Where practice A-7 (restoring farm land to pasture) has been carried out on any farm which is owned by one person and operated by one person, all persons shall be deemed to have contributed to the performance of such practice in the same proportion that such persons are entitled to share in the payment with respect to the soil-depleting acreage allotment. Where practice A-7 is carried out on any farm which comprises field-rented or separately-owned tracts, the units of such practice shall be attributed to the persons in the same proportion that such persons contribute to the acreage of farm land restored to pasture on the farm; each person shall be deemed to have contributed to the farm land restored to pasture on a field-rented or separately owned tract in the proportion that the principal crop normally grown on such tract is divided."

Done at Washington, D. C., this 23d day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3527; Filed, November 25, 1938; 12:34 p. m.]

[1] 3 F. R. 2443 DI.

TITLE 29—LABOR

CHILDREN'S BUREAU

[Regulation No. 8]

CHILD LABOR

PART 402. ACCEPTANCE OF STATE CERTIFICATES[1]

NOVEMBER 22, 1938.

SEC. 402.5 *Designation of States.*—Pursuant to the provisions of section 401.5 (section 5 of Child Labor Regulation No. 1, entitled "Certificates of Age" issued October 14, 1938*) I do hereby designate the following State as a State in which State age, employment, or working certificates or permits shall have the same force and effect as Federal certificates of age under the Fair Labor Standards Act of 1938:

South Carolina

This designation shall be effective from and after the date hereof until the expiration of the period of six months from and after October 24, 1938.

KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 38-3524; Filed, November 25, 1938; 11:47 a. m.]

[1] 3 F. R. 2500, 2533, 2627, 2693 DI.

* Issued pursuant to the authority conferred by sections 3 (1) and 11 (b) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); 3 F. R. 2487 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Thomas County, Kansas, 1938 Agricultural Conservation program	2773
TITLE 29—LABOR:	
Children's Bureau:	
Child labor regulations, acceptance of State certificates	2773
TITLE 43—PUBLIC LANDS:	
General Land Office:	
Arizona, stock driveway withdrawals	2774
Oil and gas, assignment of royalty interests	2774

NOTICES

Department of Agriculture:	
Agricultural Adjustment Administration:	
Cotton and flue-cured tobacco marketing quotas, instructions for holding referenda	2774
Department of Labor:	
Wage and Hour Division:	
Vincent, Merle D. appointment as representative to grant or deny applications:	
Administrative Order No. 3, special apprentice certificates	2777
Administrative Order No. 4, special handicapped worker's certificates	2777
Sifton, Paul, appointed acting administrator	2777
Proposed amendment of section 536.2, hearing	2778
Federal Power Commission:	
Kentucky-Tennessee Light and Power Co., application filed for order approving sale of certain electrical facilities	2778

FEDERAL REGISTER

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TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWALS NOS. 114, 170 AND 180, REVOKED

ARIZONA

NOVEMBER 14, 1938.

Departmental orders of November 19, 1919, May 22, 1924, November 27, 1926, April 2 and 15, and July 27, 1929, December 10, 1931, and April 22, 1932, establishing and modifying Stock Driveways Nos. 114, 170 and 180 under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144), are hereby revoked, in so far as they affect the following described lands, which are within Arizona Grazing District No. 1, established July 9, 1935:

GILA AND SALT RIVER MERIDIAN

T. 41 N., R. 1 E.,
sec. 1, S½, sec. 8, SE¼, sec. 9, NE¼ and S½, N½ of secs. 10 and 11, sec. 12, NW¼, sec. 17, N½, sec. 18, N½ and N½SW¼;
T. 41 N., R. 2 E.,
W½ of secs. 6, 7, 18, 19, 30 and 31;
T. 42 N., R. 2 E.,
sec. 31, all;
T. 40 N., R. 1 W.,
sec. 4, W½, S½ of secs. 5 and 7, W½ of secs. 8 and 18;
T. 41 N., R. 1 W.,
sec. 1, W½W½, S½N½ of secs. 9, 10 and 11, sec. 12, NW¼, sec. 13, S½N½ and N½S½, sec. 14, S½NE¼ and SE¼, sec. 22, S½, sec. 23, NE¼ and S½, sec. 27, W½, sec. 28, S½ and sec. 33, W½;
T. 42 N., R. 1 W.,
S½S½ of secs. 34 and 35;
T. 39 N., R. 2 W.,
sec. 4, NW¼, N½ of secs. 5 and 6;
T. 40 N., R. 2 W.,
S½ of secs. 13 and 23, W½ of secs. 24 and 26, sec. 27, S½, sec. 33, N½ and SW¼, sec. 34, NW¼;
T. 39 N., R. 3 W.,
sec. 1, N½ and SW¼, sec. 3, all, sec. 4, N½ and SE¼, N½ of secs. 5, 6, 10 and 11, and sec. 12, NW¼;
T. 40 N., R. 3 W.,
sec. 31, all;
T. 39 N., R. 4 W.,
sec. 1, N½ and SW¼, sec. 11, SE¼, sec. 12, W½, sec. 14, all, sec. 15, S½, N½ of secs. 19, 20 and 21, and sec. 22, NW¼;
T. 37 N., R. 5 W.,
sec. 6, NE¼ and S½;
T. 38 N., R. 5 W.,
E½ of secs. 6, 7, 18, 19, 30 and 31;
T. 39 N., R. 5 W.,
sec. 17, all, sec. 18, N½ and SE¼, sec. 19, E½, N½ of secs. 20, 21, 22, 23 and 24, E½ of secs. 30 and 31;
T. 40 N., R. 5 W.,
sec. 35, N½NW¼;
T. 41 N., R. 5 W.,
E½ of secs. 6 and 7;
T. 42 N., R. 5 W.,
sec. 31, E½;
T. 37 N., R. 6 W.,
sec. 1, S½, sec. 8, E½, N½ of secs. 9, 10 and 11, sec. 12, NW¼, sec. 17, N½ and SW¼, sec. 20, W½, sec. 29, NW¼, sec. 30, N½;
T. 39 N., R. 6 W.,
E½ of secs. 3 and 10, N½ of secs. 13 and 14, sec. 15, NE¼
T. 40 N., R. 6 W.,
E½ of secs. 3, 10, 15, 22, 27 and 34;
T. 41 N., R. 6 W.,
sec. 25, E½SE¼, sec. 34, E½SE¼, sec. 35, NE¼ and S½;
T. 35 N., R. 7 W.,
sec. 4, W½;
T. 36 N., R. 7 W.,
sec. 4, W½, sec. 5, E½, sec. 7, N½ and SW¼, sec. 8, N½ and SE¼, sec. 9, NW¼, sec. 17, E½, sec. 18, W½, sec. 19, NW¼, sec. 20, E½, sec. 28, SW¼NW¼ and SW¼, sec. 29, NE¼, N½SE¼ and SE¼SE¼, sec. 33, W½;
T. 37 N., R. 7 W.,
sec. 4, NW¼, E½ of secs. 5, 8, 17 and 20, sec. 25, N½, sec. 26, N½ and SW¼, sec. 28, SW¼, sec. 29, E½, sec. 33, all, sec. 34, N½, sec. 35, NW¼;
T. 38 N., R. 7 W.,
W½ of secs. 3, 10 and 15, sec. 21, N½ and SW¼, sec. 22, NW¼, W½ of secs. 28 and 33;
T. 39 N., R. 7 W.,
sec. 27, E½, sec. 34, N½ and SW¼;
T. 36 N., R. 8 W.,
sec. 23, N½ and SW¼, sec. 24, N½, W½ of secs. 26 and 35;
T. 35 N., R. 10 W.,
sec. 4, N½ and SE¼, sec. 9, E½;
T. 36 N., R. 10 W.,
sec. 5, N½SE¼, W½ of secs. 6, 7 and 18, sec. 19, NW¼ and S½, sec. 20, S½, sec. 28, W½, sec. 29, NE¼, sec. 33, W½;
T. 37 N., R. 10 W.,
all of secs. 6, 7, 18 and 19, E½W½ and W½E½ of secs. 30 and 31;
T. 38 N., R. 10 W.,
sec. 30, S½S½, sec. 31, all
T. 38 N., R. 11 W.,
all of secs. 5, 8, 17, 20 and 29, S½S½ of secs. 25, 26, 27 and 28;
aggregating 57,372.50 acres.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38-3522; Filed, November 25, 1938; 11:02 a. m.]

[Circular No. 1453]

ASSIGNMENT OF ROYALTY INTERESTS IN OIL AND GAS PROSPECTING PERMITS AND LEASES PRIOR TO A DISCOVERY WILL NOT RECEIVE APPROVAL

SEC. 192.42a. (1) *Royalty interests in oil and gas prospecting permits and assignments thereof.*—Royalty interests in oil and gas prospecting permits do not constitute holdings or control of lands and deposits within the meaning of section 27 of the act of February 25, 1920 (41 Stat. 437), as amended. Prior to the discovery of a valuable deposit of oil or gas, assignments of royalty interests in permits will not be approved, recognized or considered in any way and should not be filed with the Department. After discovery such assignments should be filed in the appropriate district land offices and be accompanied by a showing in affidavit form by the assignees as to their citizenship and holdings in other oil and gas prospecting permits and leases in the same State.*

SEC. 192.42b. (2) *Royalty interests in oil and gas leases and assignments thereof.*—Royalty interests in oil and gas leases constitute holdings or control of lands and deposits within the meaning of section 27 of the act of February 25, 1920 (41 Stat. 437), as amended. Assignments of such interests in leases must be filed for record purposes in the appropriate district land offices accompanied by a showing in affidavit form by the assignees as to their citizenship and holdings in other oil and gas prospecting permits and leases in the same State, but they will not be approved unless and until a discovery of a valuable deposit of oil or gas is made.*

SEC. 192.42c. (3) *Effective date and applicability.*—These regulations shall be effective on the date of their approval and are applicable to all assignments of royalty interests in oil and gas prospecting permits and leases not heretofore approved by the Department regardless of the date the assignment was made.*

(4) *Regulations superseded.*—To the extent that section 1 (g) of the regulations approved April 4, 1932 (53 I. D. 640), is inconsistent herewith it is hereby modified. Circular No. 1331 approved July 31, 1934 (54 I. D. 549), Sec. 192.42 of the Code of Federal Regulations is hereby superseded.

ANTOINETTE FUNK,
Acting Commissioner.

Approved, November 18, 1938.

HARRY SLATTERY,
Acting Secretary.

[F. R. Doc. 38-3523; Filed, November 25, 1938; 11:02 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

INSTRUCTIONS FOR HOLDING REFERENDA ON COTTON AND FLUE-CURED TOBACCO MARKETING QUOTAS

[Issued November 23, 1938]

In view of the fact that the Secretary of Agriculture has determined and proclaimed,[1] pursuant to the provisions of Section 345 of the Agricultural Adjustment Act of 1938, that the total supply of cotton for the 1938–39 marketing year exceeds by more than 7 percent the normal supply thereof for such marketing year, a referendum, by secret ballot, of farmers who were engaged in the production of cotton in 1938 will be held on December 10, 1938, pursuant to Section 347 of said Act and in accordance with the regulations herein set forth, to determine whether they favor or oppose cotton marketing quotas on the 1939 cotton crop. Such quotas will be in effect unless more than one-third of the farmers voting in the referendum oppose them.

Likewise, in view of the fact that the Secretary of Agriculture has duly proclaimed,[2] pursuant to the provisions of Section 312 (a) of the Agricultural Adjustment Act of 1938, a national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1939, a referendum of farmers who were engaged in production of the 1938 crop of flue-cured tobacco will be held on December 10, 1938, pursuant to the provisions of Section 312 (c) of said Act and in accordance with the regulations herein set forth, to determine whether such farmers are in favor of or opposed to such quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota will not be in effect for the marketing year beginning July 1, 1939.

The following forms will be used:

Cotton 301—"Notice—Cotton Marketing Quota Referendum"

Tobacco 301—"Notice—Flue-Cured Tobacco Marketing Quota Referendum"

Cotton 302—"1939 Cotton Marketing Quota Referendum Ballot"

Tobacco 302—"1939 Flue-Cured Tobacco Marketing Quota Referendum Ballot"

Cotton 303—"Register of Eligible Voters and Ballots Cast—1939 Cotton Marketing Quota Referendum"

Tobacco 303—"Register of Eligible Voters and Ballots Cast—1939 Flue-Cured Tobacco Marketing Quota Referendum"

Cotton 304—"Community Summary of 1939 Cotton Marketing Quota Ballots"

Tobacco 304—"Community Summary of 1939 Flue-Cured Tobacco Marketing Quota Ballots"

Cotton 305—"County Summary of 1939 Cotton Marketing Quota Ballots"

Tobacco 305—"County Summary of 1939 Flue-Cured Tobacco Marketing Quota Ballots"

Cotton 306—"State Tabulation of 1939 Cotton Marketing Quota Ballots"

Tobacco 306—"State Tabulation of 1939 Flue-Cured Tobacco Marketing Quota Ballots"

[1] 3 F. R. 2670 DI.
[2] 3 F. R. 507 DI.

* Issued under authority of Sec. 32, 41 Stat. 450; 30 U. S. C. 189.

A. VOTING ELIGIBILITY

All farmers who were engaged in the production of cotton in 1938 are eligible to vote in the cotton marketing quota referendum (except as provided in the following paragraph) and all farmers who were engaged in the production of flue-cured tobacco in 1938 are eligible to vote in the flue-cured tobacco marketing quota referendum. The fact that a farmer is eligible to vote in one referendum does not mean that he is eligible to vote in both referenda; however, he is eligible to vote in both referenda if in 1938 he was engaged in the production of both cotton and flue-cured tobacco. Any person who shared in the proceeds of the 1938 cotton crop as owner (other than a landlord of a standing-rent or fixed-rent tenant), tenant, or sharecropper shall be considered as having been engaged in the production of cotton in 1938. Likewise, any person who shared in the proceeds of the 1938 flue-cured tobacco crop as owner (other than a landlord of a standing-rent or fixed-rent tenant), tenant, or sharecropper is considered as having been engaged in the production of flue-cured tobacco. Farmers who planted cotton or flue-cured tobacco in 1938, but produced no cotton or flue-cured tobacco on such acreage for any reason except willful neglect to farm the planted acreage, or who made arrangements to plant cotton or flue-cured tobacco in 1938 but were prevented from planting by flood, excessive rainfall, drought, or plant disease, shall be regarded as having been engaged in the production of cotton or flue-cured tobacco in 1938 and therefore as eligible to vote in the respective referendum.

Since marketing quotas are not applicable to cotton the staple of which is 1½ inches or more in length, a person who was engaged in the production of such cotton in 1938 is not eligible to vote, unless in 1938 he was also engaged in the production of cotton the staple of which was less than 1½ inches in length.

No farmer (whether an individual, partnership, corporation, association, or other legal entity) shall be entitled to more than one vote in either referendum, even though he may have been engaged in the production of cotton or flue-cured tobacco in two or more communities, counties, or States in 1938.

In the event several persons, such as husband, wife, and children, participated in the production of cotton or flue-cured tobacco in 1938 under a single rental or cropping agreement or lease, only the person or persons who signed or entered into the rental or cropping agreement or lease shall be eligible to vote.

In the event two or more persons engaged in producing cotton or flue-cured tobacco in 1938 not as members of a partnership but as tenants in common or joint tenants or as owners of community property, each such person is entitled to vote.

There shall be no voting by mail, proxy, or agent, but a duly authorized officer of a corporation, firm, association, or other legal entity, or a duly authorized member of a partnership, may cast its vote.

If a community referendum committee determines that a farmer residing within the jurisdiction of such committee at the time of the referendum is eligible to vote by reason of his having engaged in producing cotton or flue-cured tobacco in another community in 1938, the committee may issue a ballot form to him and permit him to vote, provided the committee also satisfies itself that such farmer has not previously voted in another community. If the committee cannot so satisfy itself and the farmer insists upon voting, it shall challenge the ballot in the manner hereinafter outlined.

B. INSTRUCTIONS TO COUNTY COMMITTEES

The county agricultural conservation committee (hereinafter referred to as the county committee) shall be responsible for the proper holding of the referenda in the county and shall:

1. Designate one readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting the applicable notice form at one or more places open to the public within each community at least five days in advance of the date of the referenda.

2. Make use (without advertising expense) of all available agencies of public information, including newspapers and radio, to give cotton and flue-cured tobacco farmers in the county full and accurate public notice of the day and hours of voting, the location of polling places, and the rules governing eligibility to vote. Such notice should be given as soon as practicable after the plans for holding the referenda in the county have been made, but must be given at least five days in advance of the date of the referenda.

3. Designate three local farmers residing in each community as members of the community referendum committee to conduct the referenda on cotton marketing quotas and on the national marketing quota for flue-cured tobacco in such community, and name one of the members chairman of the committee.

4. In counties with a combined total of less than 200 cotton and flue-cured tobacco farms, the county committee may treat the county as one community for the purpose of the referenda and hold the referenda and perform the duties both of county committee and community referendum committees.

5. See that each community referendum committee is provided with a suitable ballot box for the cotton mar-

keting quota referendum and a separate ballot box for the flue-cured tobacco marketing quota referendum.

6. Execute form Cotton 303 for each community in the county, listing thereon the names and addresses of all persons who were engaged in the production of cotton in the community during 1938. Likewise, execute form Tobacco 303 for each community in the county, listing thereon the names and addresses of all persons who were engaged in the production of flue-cured tobacco in the community during 1938. If lists of such persons by communities are already available to the county committee, they may be turned over to the community referendum committees for their own preparation of forms Cotton 303 and Tobacco 303.

7. Deliver a supply of the forms Cotton 302 and Cotton 304 and Tobacco 302 and Tobacco 304, as well as the executed copies of Cotton 303 and Tobacco 303 (or a supply of blank forms Cotton 303 and Tobacco 303 and the required lists of cotton and flue-cured tobacco farmers in the community), to the chairman of the respective community referendum committee.

8. See to it that the community referendum committees understand their duties as to (a) issuing ballot forms, (b) recording votes, (c) tabulating ballots, and (d) certifying results of the referendum in the community.

9. See that appropriate measures are taken to insure that each referendum is conducted by secret ballot.

10. Notify the State committee by telephone, telegraph, or in person, as soon as possible after the closing of the polls, as to the preliminary count of "Yes" and "No" votes in each referendum held in the county.

11. Meet not later than 8:30 A. M., Monday, December 12, 1938, for the purpose of receiving and tabulating the data from forms Cotton 304 and Tobacco 304 on forms Cotton 305 and Tobacco 305, respectively. Such meeting shall be open to the public. Cotton 305 and Tobacco 305, showing the results in the county, shall be prepared and certified in quadruplicate, the original and one copy of each shall be sent to the State agricultural conservation committee (hereinafter referred to as the State committee) not later than four calendar days after the date of the referenda, one copy of each posted for sixty days in a conspicuous place accessible to the public in or near the office of the county committee (hereinafter referred to as the county office), and one copy of each permanently filed in the county office. One copy of each executed form Cotton 304 and Tobacco 304 shall be posted for sixty days in a conspicuous place accessible to the public in or near the county office.

12. Notify the State committee as soon as possible by mail (on forms Cotton 305 and Tobacco 305) as to the final outcome of the referenda in the county.

13. Make an investigation in each case of controversy or dispute regarding eligibility of a voter. In each case where a ballot is found in a sealed envelope marked "Challenged" by the community referendum committee and bearing the voter's name and a statement of the reason for the challenge, the eligibility of such person shall first be determined. If it is determined that such person is eligible, the envelope shall be opened and the ballot placed with the challenged ballot of every other person found to be eligible, and when all the challenged ballots shall have been passed upon by the committee those ballots found to be valid shall be tabulated in the county summary. If it is determined that such person is not eligible, the envelope shall not be opened but shall be preserved with the ballots, as provided in paragraph 15 of this section B.

14. Make an investigation in each case of dispute regarding the correctness of the summary of either referendum in a community. No dispute shall be investigated by the county committee unless it is brought to its attention within three calendar days after the date on which the referendum in question was held. The county committee shall promptly decide the dispute and immediately report its findings to the State committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

15. Seal the voted ballots, challenged ballots found ineligible, register sheets, and community summary sheets for the county in one or more envelopes or packages (marked "Cotton Referendum 1939" or "Flue-Cured Tobacco Referendum 1939", as the case may be, followed by the name of the county) and place them under lock and key in a safe place under the custody of the secretary of the county agricultural conservation association for a period of sixty calendar days from the date of the referendum. If no notice to the contrary is received by the end of such time, the ballots shall be destroyed and the register and community summary sheets permanently filed in the county office.

C. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

Each community referendum committee designated by the county agricultural conservation committee shall:

1. Arrange, with the assistance of the county committee, for conducting the referenda by secret ballot.

2. Assist the county committee in giving adequate public notice of the time and place for casting ballots at least five days in advance of the date on which the referenda will be held.

3. Provide a place where each eligible farmer can prepare and cast a ballot in secret and without interference.

4. Provide ballot boxes. Any container so arranged that ballots cannot be seen and cannot be removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks and show that the seal has been tampered with.

5. Open the polls not later than 9:00 A. M., local standard time, on Saturday, December 10, 1938.

6. Hold the referenda in a fair and unbiased manner and see that appropriate measures are taken to insure that the referenda are conducted by secret ballot.

7. See that no device is used whereby any voter's ballot may be identified (except in the case of a challenged ballot). Instruct each voter, as he is handed a ballot form, as to the procedure to be followed in casting his ballot and instruct him to fold his ballot before he places it in the ballot box after he has marked it to show which way he votes.

8. Issue a ballot to each person who is eligible to vote and to each person who claims to be eligible to vote and insists upon voting even though his eligibility is challenged by the committee. Every unchallenged ballot shall be placed in the ballot box by the person who voted it. In every case where the eligibility of the voter is challenged, his ballot, after being marked by the challenged person, shall be placed (by him, or by the committee if he refuses) in an envelope and shall be sealed and marked with his name, the word "Challenged", and a statement of the reason for the challenge, and the envelope shall then be placed in the ballot box. The letter "C" shall be entered with a red pencil on form Cotton 303 or Tobacco 303, whichever is applicable, immediately to the left of the name of each person whose vote is challenged.

9. Record on forms Cotton 303 and Tobacco 303, respectively, the name and address of each farmer to whom a ballot form is issued if he is not already listed thereon prior to the time the ballot form is issued to him.

10. Enter an "X" in the designated column on forms Cotton 303 and Tobacco 303 beside the name and address of each farmer to whom a ballot form is issued and who places his ballot in the ballot box (whether or not his ballot is challenged).

11. Close the polls and discontinue acceptance of ballots at 5:00 P. M., local standard time, on the date of the referendum or such later hour as is fixed by the State committee.

12. Immediately after closing the polls, open the ballot box and canvass the ballots cast, which canvass shall be kept open to the public.

13. Tabulate and record the results of the referenda on forms Cotton 304 and Tobacco 304, respectively. The number of challenged ballots cast shall be entered on forms Cotton 304 and Tobacco 304, respectively, in the space provided and will not, of course, be shown as being either for or against the marketing quotas. If any ballot is found to be mutilated or marked in such a way that it cannot be determined whether the voter approved or opposed marketing quotas, it shall not be counted as a ballot cast but the number of such spoiled ballots shall be entered in the space provided and such ballots placed in an envelope marked "Spoiled Ballots", followed by the designation of the community.

14. Certify to the accuracy of the executed forms Cotton 303 and Tobacco 303 and Cotton 304 and Tobacco 304 by signing in the spaces provided.

15. Notify the county committee by telephone, or in person, as soon as possible after the closing of the polls as to the preliminary count of "Yes" and "No" votes in the community.

16. Seal the voted ballots (including those challenged), the spoiled ballots, the register sheets, and the community summary sheets in one or more envelopes appropriately identified by the designation of the community and deliver them to the county committee not later than 8:30 A. M., Monday, December 12, 1938, with the unused ballots and other forms. The chairman of the community referendum committee shall be responsible for the safe delivery of such reports, ballots, and forms to the county committee.

17. Post an executed copy of forms Cotton 304 and Tobacco 304, as soon as they are executed, at a conspicuous place at the polling place and see that it remains posted and accessible to the public for at least three calendar days after the date of the holding of the referendum.

D. INSTRUCTIONS TO STATE COMMITTEE

The State committee shall be in charge of and responsible for the conducting of the referenda in the State and shall:

1. Notify the applicable regional director by telegraph as to the preliminary count in each referendum in the State of votes for and votes against marketing quotas.

2. Summarize on forms Cotton 306 and Tobacco 306, respectively, the information contained on the forms Cotton 305 and Tobacco 305 and forward via air mail special delivery two fully executed forms Cotton 306 and Tobacco 306 to the applicable regional director not later than seven calendar days after the date of the referenda. If one sheet proves insufficient for listing the information with respect to all counties in the State, additional sheets properly numbered and identified and securely attached to the first sheet may be used for continuation, in which case totals and signatures should be entered only on the last sheet. One fully executed copy each of forms Cotton 305 and Cotton 306 and Tobacco 305 and Tobacco 306 shall be permanently filed in the State office of the Agricultural Adjustment Administration.

3. Complete the investigation of any report from any county regarding controversies, irregularities, or the correctness of summaries of the referenda, not later than seven calendar days after the date of the referenda, and forward its findings in such cases to the applicable regional director.

E. RESULTS OF REFERENDA

Final and official tabulation of the votes cast in the referenda will be made by the Agricultural Adjustment Administration and the results of the referenda announced by the Secretary of Agriculture. The reports on Cotton 306 and Tobacco 306 and related papers shall be permanently filed with such tabulation and shall remain available for public inspection.

Each county committee is authorized to release to the public press and to other inquirers unofficial reports of the total "Yes" and total "No" votes in the referenda in the county.

The State committee is authorized to release to the press and to other inquirers the unofficial results of the referenda for the respective State by counties as rapidly as the votes in the various counties are tabulated.

If the Administrator of the Agricultural Adjustment Administration or the Secretary of Agriculture deems it necessary, the report of any community referendum committee, county committee, or State committee shall be reexamined and checked by such persons or agencies as may be designated.

Done at Washington, D. C., this 23d day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3528; Filed, November 25, 1938; 12:34 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

[Administrative Order No. 3]

APPOINTMENT OF MERLE D. VINCENT AS AUTHORIZED REPRESENTATIVE TO GRANT OR DENY APPLICATIONS FOR SPECIAL APPRENTICE CERTIFICATES

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, hereby designate and appoint Merle D. Vincent as my authorized representative with full power and authority to grant or deny applications for special apprentice certificates and to sign and issue special certificates authorizing the employment of apprentices pursuant to the provisions of Section 14 of the Fair Labor Standards Act of 1938 and regulations Title 29—Labor, Chapter V—Wage and Hour Division, Part 521[1]—(Regulations applicable to Employment of Apprentices pursuant to Section 14 of the Fair Labor Standards Act of 1938).

Signed at Washington, D. C., this 23 day of November 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3525; Filed, November 25, 1938; 12:23 p. m.]

[Administrative Order No. 4]

APPOINTMENT OF MERLE D. VINCENT AS AUTHORIZED REPRESENTATIVE TO GRANT OR DENY APPLICATIONS FOR SPECIAL HANDICAPPED WORKER'S CERTIFICATES

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, hereby designate and appoint Merle D. Vincent as my authorized representative with full power and authority to grant or deny applications for special handicapped worker's certificates, and to sign and issue special certificates authorizing the employment of handicapped persons pursuant to the provisions of Section 14 of the Fair Labor Standards Act of 1938 and regulations Title 29—Labor, Chapter V—Wage and Hour Division, Part 524[2] (Regulations Applicable to Employment of Handicapped Persons pursuant to Section 14 of the Fair Labor Standards Act of 1938).

Signed at Washington, D. C., this 23 day of November 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3526; Filed, November 25, 1938; 12:23 p. m.]

[Division Instruction No. 5]

APPOINTMENT OF PAUL SIFTON AS ACTING ADMINISTRATOR

OCTOBER 28, 1938.

1. By virtue of the authority vested in me by Section 4 (c) of the Fair Labor Standards Act of 1938, the Deputy Administrator, Paul Sifton, is hereby authorized to act as Administrator and to exercise any or all of the powers of the Administrator under the Fair Labor Standards Act of 1938, when the Administrator is unable to act by reason of sickness or absence from Washington.

2. This order shall be effective as of Oct. 28, 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3530; Filed, November 25, 1938; 12:58 p. m.]

[1] 3 F. R. 2483 DI.
[2] 3 F. R. 2485 DI.

PROPOSED AMENDMENT OF SECTION 536.2[1] (AREA OF PRODUCTION) OF REGULATIONS ISSUED UNDER THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF HEARING

Whereas, Section 13 (a) of the Fair Labor Standards Act of 1938 provides that the wages and hours provisions contained in Sections 6 and 7 of said Act shall not apply with respect

"(10) to any individual employed within the area of production (as defined by the Administrator) engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products."

and

Whereas, pursuant to the authority contained in said section, the Administrator of the Wage and Hour Division on October 20, 1938 issued the following regulations:

SECTION 536.2 *"Area of production" as used in section 13 (a) (10) of the Fair Labor Standards Act.*—An individual shall be regarded as employed in the "area of production" within the meaning of Section 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven.

SECTION 536.5 *Petitions for amendment of regulations.*—Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2 by increasing or decreasing the maximum of employees permitted within the exemption as defined. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their view either in support of or in opposition to the proposed changes.

and

Whereas, on November 14, 1938 the Cigar Manufacturers Association of America, Inc., and on November 23, 1938 the Department of Agriculture and Commerce of Puerto Rico, the Puerto Rico Tobacco Marketing Association, and the Farmers' Association of Puerto Rico filed petitions with the Administrator to amend said Section 536.2 of said regulations by adding thereunto a new paragraph numbered (c) reading as follows:

"With respect to establishments in which Puerto Rican cigar leaf tobacco is prepared for market, if the establishment where he is employed is located in the area in which Puerto Rican cigar leaf tobacco is grown;"

or alternatively, to provide that individuals employed in packing establishments located in the area in which Puerto Rican tobacco is grown and engaged in handling, receiving, bulking, sorting, stripping, grading and packing, or any other services in connection with preparing for market, cigar leaf tobacco grown on the Island of Puerto Rico are regarded as employed within the area of production within the meaning of Section 13 (a) (10) of the Fair Labor Standards Act of 1938.

Now, therefore, notice is hereby given of a public hearing to commence on December 9, 1938 at 10 o'clock a. m. in Room 3229, United States Department of Labor, Washington, D. C., before a presiding officer to be hereafter designated, at which interested parties will be heard on the following question:

What, if any, amendment should be made of Section 536.2 of the regulations issued under the Fair Labor Standards Act of 1938 in respect to employees employed in packing establishments located in the area in which Puerto Rican tobacco is grown and engaged in handling, receiving, bulking, sorting, stripping, grading and packing, or any other services in connection with preparing for market, cigar leaf tobacco grown on the Island of Puerto Rico.

Said petition may be examined at Room 5321, United States Department of Labor, Washington, D. C.

Signed at Washington, D. C. this twenty-fifth day of November, 1938.

PAUL SIFTON,
Deputy Administrator.

[F. R. Doc. 38-3529; Filed, November 25, 1938; 12:58 p. m.]

[1] 3 F. R. 2536 DI.

FEDERAL POWER COMMISSION.

[Docket No. IT-5532]

IN THE MATTER OF KENTUCKY-TENNESSEE LIGHT AND POWER COMPANY

NOTICE OF FILING OF APPLICATION

NOVEMBER 23, 1938.

Notice is hereby given that on November 5, 1938, an application was filed with the Federal Power Commission, pursuant to Section 203 of the Federal Power Act, by Kentucky-Tennessee Light and Power Company for an order authorizing and approving the sale by that company of certain electrical facilities located in the County of Henry, Tennessee, to the City of Paris, Tennessee; certain electrical facilities located in Weakley County, Tennessee, to Weakley County, Tennessee; and certain electrical facilities located in the Counties of Weakley, Henry, Carroll, Gibson, Dyer, Obion and Lake, Tennessee, to the Tennessee Valley Authority, all as more fully appears in said application on file with the Federal Power Commission.

Any person desiring to be heard with reference to said application or to file any petition or protest with reference thereto should, on or before November 30, 1938, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3521; Filed, November 25, 1938; 11:02 a. m.]

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FEDERAL REGISTER

VOLUME 3 NUMBER 231

Washington, Tuesday, November 29, 1938

The President

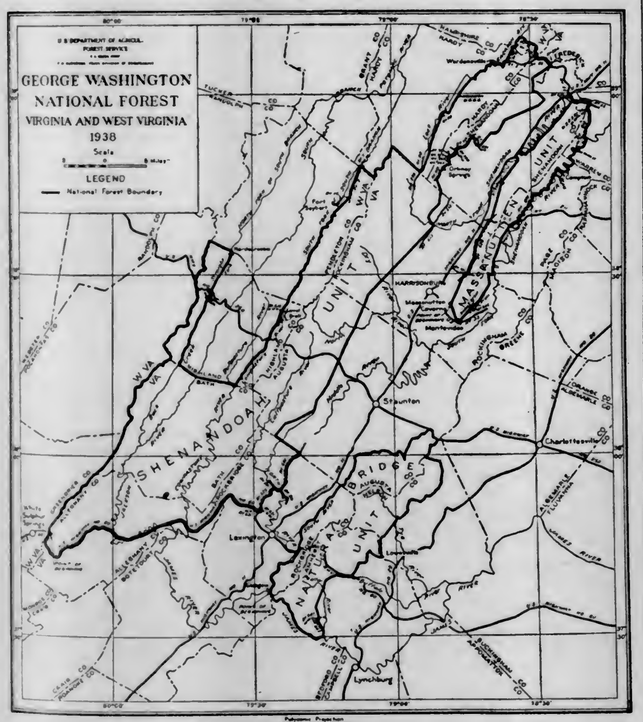
GEORGE WASHINGTON NATIONAL FOREST—VIRGINIA AND WEST VIRGINIA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS it appears to be in the public interest to redefine the boundaries of the George Washington National Forest in the States of Virginia and West Virginia, as designated by Proclamation No. 2167 of April 28, 1936 (49 Stat. 3513, 1 F. R. 297):

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), and



CONTENTS

THE PRESIDENT

Proclamations: Page
Arches National Monument, Utah, enlargement 2782
George Washington National Forest, Va., and W. Va., boundaries redefined 2779
Executive Order:
Waubay Migratory Waterfowl Refuge, S. Dak., enlargement 2783

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Fire-cured and dark air-cured tobacco, apportionment and adjustment of national quota for 1938-39 marketing year 2783
Naval stores conservation program, 1939, amendment 2783
Rice, national acreage allotment, calendar year 1939 2784
Sugar Division:
California, wage rates, 1939 crop of sugar beets 2784
Hawaii, wages, sugarcane production, January 1 to December 31, 1938 2785
Puerto Rico, direct-consumption portion of 1938 sugar quota for 2785
TITLE 10—ARMY:
War Department:
Reserve Officers' Training Corps, administration and training 2786
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Security for protection of public (surety bonds with individual sureties) 2787
Switching and terminal companies of Class III, annual reports from 2786

(Continued on next page)

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CONTENTS—Continued

NOTICES

Civil Aeronautics Authority: Page
- Airline Feeder System, Inc., hearing on application for certificate of public convenience and necessity 2790

Department of Agriculture:
- Agricultural Adjustment Administration:
  - Greater Boston, Mass., Marketing Agreement, hearing on amendment of order and marketing agreement on handling of milk 2787
  - Rice marketing quota for year beginning August 1, 1939, instructions for holding referendum 2787

Department of Labor:
- Wage and Hour Division:
  - Fair Labor Standards Act, change in date of hearing on amendment of section relative to "area of production" 2789
  - National Association of Hosiery Manufacturers, etc., hearing on application to employ learners at wage rates less than applicable minimum specified 2790

Federal Power Commission:
- Orders setting dates of hearings:
  - Iroquois Gas Corp 2790
  - Kentucky Utilities Co., and Lexington Utilities Co 2791
  - Metropolitan Edison Co., et al (postponement) 2790
  - Portland General Electric Co., and Mt. Hood Electric Co 2791

CONTENTS—Continued

Federal Trade Commission: Page
- Orders appointing examiners, etc.:
  - Associated News Photographic Service, Inc., and Blackstone Studios, Inc., etc 2792
  - Berkeley Studios International Press Service, Inc., and Fred Friedwald 2793
  - Canadian Fur Trappers Corp., and Daniel, Jacob, and Morris Dornfeld 2792
  - Clairol, Inc., et al 2793
  - Corn Products Refining Co., etc 2793
  - Council, Clarence B., trading as Statistical Research Bureau, etc 2792
  - Popper & Klein, trading as Perfektum Products Co 2792
  - Shaw & Davis, Inc., et al 2793
  - Waldes Koh-I-Noor, Inc., and Grey Advertising Agency, Inc 2791
- Wool Industry, notice of opportunity to present views, etc., on trade practice rules 2791

Securities and Exchange Commission:
- Connecticut Light & Power Co., issue and sale of bonds 2794
- Federal Light & Traction Co., hearing 2795
- Madison Gas and Electric Co., issue and sale of bonds 2794
- Market Street Railway Co., order relating to unlisted trading privileges 2795
- Minneapolis, St. Paul & Sault Ste Marie Railway Co., listing and registration 2795
- Public Service Co. of Colorado, hearing 2796
- West Penn Power Co., effectiveness of declaration; jurisdiction over fees 2794

United States Maritime Commission:
- Baltimore Mail Steamship Co., Matson Navigation Co., United States Lines Co., hearing on applications by 2796

section 11 of the act of March 1, 1911, 36 Stat. 963 (U. S. C., title 16, sec. 521), do proclaim that there are hereby reserved and set apart as the George Washington National Forest all lands of the United States within the following-described boundaries as shown on the diagram attached hereto and made a part hereof:

Shenandoah Unit

Beginning at the intersection of U. S. Highway 60 with the Virginia-West Virginia State line; thence with said State line in a northeasterly and southeasterly direction approximately 85 miles to the intersection of said State line with Straight Fork approximately ¼ of a mile north of the Village of Hardscrable, Va.; thence southwesterly leaving the State line and up Straight Fork to its headwaters; thence southwesterly, crossing the divide between Straight Fork and Back Creek to the headwaters of Back Creek; thence southwesterly down Back Creek approximately 16 miles to the intersection of said creek with the Highland-Bath County line, Va.; thence with said County line in a southeasterly direction to Cowpasture River; thence northeasterly with west bank of Cowpasture River passing corner 4 of the Bess E. Byrd tract 219 to the mouth of Carroll Draft; thence up Carrol Draft to Route 614; thence northerly with said Route to its intersection with the South Fork South Branch Potomac River; thence northeasterly approximately 22 miles with the South Fork South Branch Potomac River crossing the Va.-W. Va. State line to the mouth of Stony Run, a point approximately 1½ miles south of Fort Seybert, W. Va.; thence northeasterly on a straight line to the intersection of Route 3 with Route 14; thence northeasterly with Route 3 to the Pendleton-Hardy County line; thence southeasterly with said County line to the Va.-W. Va. State line; thence northeasterly and southeasterly with said State line to its intersection with Route 58 Hardy County, W. Va., which is Route 259, Rockingham Co., Va.; thence northeasterly on a straight line to corner 37 of the Shenandoah Lumber and Iron Company tract 1e; thence with the boundary of said tract reversed to corner 34; thence northeasterly on a straight line to corner 8 of the Union Tanning Co. tract 51; thence with the boundary of said tract reversed to corner 4; thence northeasterly on a straight line to corner 5 of the Union Tanning Co. tract 53; thence with the boundary of said tract reversed to corner 45 which is corner 18 of the Isaac Bowman tract 127; thence with said tract to corner 19 which is corner 27 of the Union Tanning Co. tract 53; thence with the boundary of said tract reversed to corner 24 which is also corner 24 of the Miller Heirs tract 30; thence with said tract to corner 25 which is corner 4 of the Jas. L. Garrett tract 52; thence with boundary of said tract reversed to a point in line of corners 3–2, said point being corner 7 of the Charles A. Garrett track 198; thence with a line of said tract reversed to corner 6; thence northeasterly on a straight line to the intersection of Route 58 and Schoolhouse Run; thence southeasterly on a straight line to corner 7 of the Orndorff and Miley tract 454; thence northeasterly on a straight line to corner 3 of the Catherine Yard tract 132; thence northeasterly with the boundary of said tract to corner 5; thence northeasterly on a straight line to corner 14 of said tract 132; thence northeasterly on a straight line to corner 17 of said tract 132; thence northeasterly on a straight line to U. S. G. S. triangulation Station, Hommon; thence northeasterly on a straight line to a point where Three Springs Run empties into Lost River; thence down Lost River to a point where it crosses the Barney and Landacre tract 3b between corners 7 and 8 at 1.47 chains southwest of corner 8; thence northeasterly and southeasterly with said tract to a point where Lost River again crosses said tract between corners 8 and 9; thence with Lost River to its intersection with the Barney and Landacre tract 3a between corners 6 and 7; thence with the boundary of said tract reversed to corner 5 which is corner 6 of the B. F. Tharp tract 250c a point on the southwest bank of Lost River; thence with tract 250c to corner 7; thence leaving said tract and with Lost River to its intersection with the boundary of the B. F. Tharp tract 250c between corners 8 and 1; thence with said tract boundary to a point where Lost River again crosses said tract line between corners 8 and 1; thence northeasterly with Lost River to a point where it merges into the Cacapon River; thence with the west bank of Cacapon River to the corporate limits of Wardensville; thence with the west, south and east corporate limits of Wardensville to Route 23; thence with said Route in a northeasterly direction to its intersection with Route 5; thence with said Route in a northeasterly direction to its intersection with Slate Rock Run; thence northwesterly with said Run to Cacapon River; thence with west bank of Cacapon River to its intersection with Route 16; Hampshire County, W. Va.; thence southeasterly with Route 16 to its intersection with the Charles F. Nelson tract 81c a point between corners 5 and 6 of said tract; thence with the boundary of tract 81c reversed to a point in line between corners 3 and 2 where Route 16 crosses said line; thence southeasterly with Route 16 to the W. Va.-Va. State line; thence continuing on the same Route which becomes Route 609 on entering Frederick County, Va., to Route 55; thence southeasterly with Route 55 to its intersection with Route 604; thence southwesterly on a straight line to corner 1 of the Williamson and Moul tract 70; thence southeasterly with the boundary of said tract reversed to corner 32; thence southwesterly on a straight line to corner 4 of the St. Luke Hospital tract 75b-2; thence southwesterly on a straight line to corner 2 of the St. Luke Hospital tract 75a; thence southeasterly on a straight line to corner 3 of the Paul J. Williams tract 361; thence southeasterly on a straight line to corner 10 of the St. Luke Hospital tract 75c; thence southeasterly with a line of said tract to corner 11; thence southeasterly on a straight line to the intersection of Route 646 with Route 623; thence southwesterly with Route 623 to the point of intersection with Toms Brook; thence southwesterly on a straight line to corner 102 of the Shenandoah Iron and Coal Co. tract 100a; thence southwesterly on a straight line to corner 154; thence to corner 155; thence southwesterly on a straight line to corner 160; thence northwesterly on a straight line to corner 172; thence following the south boundary of the Isaac Zane lap to corner 174 of the said tract 100a; thence southwesterly on a straight line to corner 23 of the Shenandoah Iron and Coal Co. tract 100b; thence southwesterly on a straight line to corner 29; thence southwesterly with the boundary of said tract 100b to corner 36 which is corner 4 of the Wetherholtz Heirs tract 148; thence southerly with the boundary of tract 148 reversed to corner 3; thence westerly on a straight line to corner 2 of the Shenandoah Iron and Coal Co. tract 100b; thence following the boundary of said tract to point in line between corners 7 and 8 where Stony Creek crosses said line; thence leaving the tract boundary and down Stony Creek to the mouth of Laurel Run; thence up Laurel Run to a point where Route 691 crosses it; thence northwesterly with Route 691 to its junction with Route 717; thence southwesterly with said Route to its intersection with Route 720; thence southwesterly on a straight line to corner 12 of the B. F. Anderson tract 113; thence with the boundary of said tract to a point in line between corners 14 and 15 where Route 717 crosses said line; thence southerly with said Route to its junction with Route 265; thence with Route 265 to its junction with Route 263; thence southwesterly with Route 263 to its junction with Route 610 at Orkney Springs, Va.; thence southwesterly with Route 610 to a point in line between corners 8 and 9 of the Nevin C. Funkhouser tract 163; thence with the boundary of tract 163 reversed to corner 8; thence southeasterly on a straight line, passing into Rockingham County, to corner 7 of the M. A. Williams tract 608; thence southwesterly on a straight line to corner 5 of the Lennig Estate tract 30c–VI; thence southwesterly with a line of said tract to corner 1; thence southwesterly on a straight line to corner 6 of the Lennig Estate tract 30c–V; thence southwesterly with said tract 23 chains to a point in line between corners 6 and 7 where Sours Run emerges from said tract; thence down Sours Run to its confluence with Runions Creek; thence down Runions Creek to its confluence with the North Fork Shenandoah River; thence down said river to the bridge where Route 613 crosses; thence southwesterly on a straight line to corner 1 of the Mary H. Murray tract 16; thence southwesterly on a straight line passing into Augusta County, Va., to corner 12 of the Samuel B. Loose tract 8; thence with a line of said tract to corner 13; thence southwesterly on a straight line to corner 7 of the Chesapeake Western Ry. tract 3; thence with a line of said tract to corner 8; thence southwesterly on a straight line to corner 3 of the Frank Chichester tract 47–I; thence southwesterly with boundary of said tract to corner 7; thence southwesterly on a straight line to corner 14 of the P. G. & R. H. Stratton tract 552; thence southwesterly on a straight line to corner 4 of said tract; thence southwesterly on a straight line to corner 7 of the Buffalo Gap Development Co. tract 492; thence southwesterly with boundary of said tract to corner 10; thence southwesterly on a straight line to a point on the Chesapeake and Ohio Ry. in Buffalo Gap; thence southwesterly with said railroad to corner 6 of the Peter McLaren Estate tract 518; thence leaving the railroad right of way southwesterly on a straight line to corner 6 of the V. P. Kunkle tract 519; thence southwesterly on a straight line to corner 16 of the H. B. Hutchison tract 488; thence with the boundary of said tract reversed to corner 14; thence southwesterly on a straight line to corner 9 of the said tract 488; thence southwesterly with the boundary of said tract reversed to corner 8; thence southwesterly on a straight line to corner 4 of the C. G. Craig tract 516; thence southwesterly to corner 1 of the E. C. Chamberlain et al. tract 484; thence southwesterly on a straight line passing through corner 5 of the R. E. R. Nelson tract 489 to the Augusta-Rockbridge County line; thence southeasterly with said county line to its intersection with Route 602; thence southwesterly with Route 602 to its junction with Route 501; thence northwesterly with Route 501 to its junction with Route 623; thence southwesterly with said Route 623 to its junction with Route 631; thence northwesterly with said Route 631 to its junction with U. S. Highway 60; thence westerly with said highway to the point of beginning.

Massanutten Unit

Beginning at a concrete tank on top of hill over the Massanutten Caverns, approximately 6 miles southeast of Harrisonburg, Virginia; thence northeasterly on a straight line to the intersection of Route 721 with Route 620; thence southeasterly and northeasterly with Route 620 to its intersection with U. S. Highway 211; thence with U. S. Highway 211 and Route 620 southeasterly to the point where Route 620 leaves U. S. Highway 211; thence northeasterly on a straight line to the intersection of Route 699 with a private road coming from the south at Walkers Chapel; thence northeasterly on a straight line to corner 10 of Wilkins and Bowman tract 600; thence with boundary of said tract northerly to corner 1; thence northeasterly on a straight line to a point on the North Fork of Shenandoah River at the mouth of a small drain directly south of a small Island where said river bends sharply northward; thence down the North Fork of Shenandoah River to corner 3 of the Town of Woodstock tract 410; thence northeasterly on a straight line to corner 9 of H. B. Chapman tract 1a–1b; thence with the boundary of said tract

reversed to corner 3 which is corner 3 of the H. B. Chapman tract 1a–II; thence with tract 1a–II to corner 4; thence with the boundary of said tract to corner 1, a point in line between corners 1 and 2 of tract 1a–1b; thence northeasterly with said tract to corner 2 of tract 1a–I; thence with a line of said tract to corner 3; thence northeasterly on a straight line to corner 5 of the Mary E. McInturff tract 65; thence with a line of said tract to corner 4; thence northeasterly on a straight line to corner 6 of the Ricketts and Graham tract 68–I; thence with a line of said tract to corner 7; thence northeasterly on a straight line to corner 33 of the Ricketts and Graham tract 68; thence northeasterly on a straight line to corner 26 of said tract; thence northeasterly with 6 courses of said tract reversed to corner 20; then northeasterly on a straight line to corner 2 of the Frank Tewalt tract 160; thence with meanders of said tract to corner 3; thence on a straight line northeasterly to corner 6 of said tract; thence on a straight line northeasterly to the junction of Route 636 with Route 55; thence easterly with said Route 55 (new location) to its intersection with Forest Highway 74; thence southwesterly with said highway to its junction with Route 613; thence southerly with Route 613 to its intersection with a small stream at forks of road; thence easterly with said stream to South Fork Shenandoah River; thence up said river, passing into Page County, to the first ford, a point about 1½ miles west of Compton; thence with a road westerly and southerly to its junction with Route 615; thence with Route 615 southwesterly to junction with U. S. Highway 211; thence westerly with said Highway and State Route 615 to a point where Route 615 leaves U. S. Highway 211; thence southwesterly on a straight line to corner 9 of the M. H. Jeffries et al tract 97; thence along the east boundary of said tract, the east boundaries of H. H. Rust tract 39 and the Allegheny Ore and Iron Co. tract 90 to corner 23 of said tract 90; thence southwesterly on a straight line to corner 19 of tract 90; thence southwesterly to corner 13; thence southwesterly on a straight line to corner 10; thence southwesterly to corner 9; thence southwesterly on a straight line to corner 5; thence with the boundary of said tract 90 reversed to corner 54; thence southerly on a straight line to a point on Batman Run where the Page-Rockingham County line intersects said Run; thence northwesterly with the Page-Rockingham County line to corner 51 of tract 90; thence with a line of said tract reversed to corner 50; thence southeasterly on a straight line to corner 5 of C. V. Harnsberger tract 828; thence southwesterly with a line of said tract to corner 6; thence southwesterly on a straight line to the intersection of Routes 646 and 647; thence with Route 647 to its intersection with Route 644; thence southwesterly on a straight line to the junction of Route 12 and U. S. Highway 33 at Montevideo; thence northwesterly on a straight line to the point of beginning.

Natural Bridge Unit

Beginning at the junction of North River with James River near the town of Glasgow, Virginia; thence up North River to Lowry Run; thence up Lowry Run and its North Fork to a point in line between corners 7 and 8 of the J. H. Paxton Heirs tract 7; thence northeasterly with the boundary of said tract 7 reversed to corner 2 which is corner 7 of the T. T. & W. E. Dickinson tract 293a; thence northwesterly with said tract 293a to corner 1 which is corner 18 of the French and Post tract 3; thence with the boundary of said tract reversed to corner 16h; thence northeasterly on a straight line to corner 16a; thence with the boundary of said tract 3 reversed to corner 16; thence northeasterly on a straight line to corner 7 of the Buena Vista Iron Co. tract 13; thence with the boundary of said tract to a point in line between corners 12 and 13 where the South Fork of Chalk Mine Run crosses said line; thence down South Fork of Chalk Mine Run and up Chalk Mine Run to where said Run crosses the French and Post tract 13, a point 0.41 chains southeast of corner 23; thence northeasterly with said tract 13 to corner 24; thence northerly on a straight line to the confluence of Stony Run with South River; thence northeasterly with South River to where Route 608 crosses a point between Mt. Joy Church and Pkin Station; thence with Route 608 to its junction with Route 610; thence with Route 610 to its junction with Route 633; thence northeasterly with Route 633 to its junction with Route 634; thence southeasterly with Route 634 to its junction with Route 610; thence with Route 610 to its intersection with Back Creek; thence down Back Creek to its intersection with the Norfolk and Western Railway; thence northeasterly with said railway to its intersection with U. S. Highway 250; thence southeasterly with U. S. Highway 250 to its junction with Route 609; thence with Route 609 to its intersection with Route 610; thence easterly on a straight line to a point where Route 610 joins Route 6; thence southerly with Route 6 to its junction with Route 151; thence southwesterly with Route 151 to its junction with Route 664; thence westerly with said Route to its junction with Route 680; thence southerly with Route 680 to its junction with Route 681; thence northerly and westerly with Route 681 to its junction with Route 655; thence southwesterly on a straight line to the junction of Route 666 with Route 678; thence southwesterly with Route 666 to its junction with Route 629 at Lowesville; thence northwesterly with Route 629 to its junction with Route 628; thence southwesterly on a straight line to the junction of Route 621 with Route 625; thence southerly with Route 625 to its intersection with Route 627; thence westerly with Route 627 to its junction with Route 617; thence southerly with Route 617 to its intersection with Route 631; thence southwesterly with Route 631 to its intersection with U. S. Highway 60; thence westerly with U. S. Highway 60 to its intersection with Route 635 at Dodds Ford; thence southwesterly on a straight line to corner 3 of the J. P. Phillips and A. D. Watts tract 19; thence with the boundary of said tract to corner 6, which is corner 2 of the C. M. Barnes tract 117; thence with the boundary of said tract 117 to corner 6; then southwesterly on a straight line to corner 2 of the C. H. Foster tract 16; thence southeasterly on a straight line to the junction of Route 647 with Route 649; thence southeasterly with Route 649 to its intersection with Pedlar River; thence southerly down Pedlar River to its confluence with James River; thence up James River to the place of beginning.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 23rd day of November in the
[SEAL] year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2311]

[F. R. Doc. 38–3532; Filed, November 26, 1938; 11:09 a. m.]

ENLARGING THE ARCHES NATIONAL MONUMENT—UTAH

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain public lands contiguous to the Arches National Monument, in Utah, established by proclamation of April 12, 1929 (46 Stat. 2988), have situated thereon geologic and prehistoric structures of historic and scientific insterest; and

WHEREAS there are other public lands contiguous to the said monument which are necessary for the proper care, management, and protection of the objects of scientific interest situated on the lands included in the monument and on the other lands referred to above; and

WHEREAS it appears that it would be in the public interest to reserve such lands as part of the said monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, c. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in Utah are hereby reserved from all forms of appropriation under the public-land laws and added to and made a part of the said Arches National Monument:

SALT LAKE MERIDIAN—UTAH

T. 23 S., R. 20 E.,
sec. 12, S½,
sec. 13, all,
sec. 22, E½,
sec. 23, all,
sec. 24, N½,
T. 23 S., R. 21 E.,
sec. 7, S½,
secs. 16 to 18, inclusive,
sec. 19, N½,
sec. 20, N½ and SE¼,
secs. 21 and 22,
secs. 26 to 28, inclusive,
secs. 34 and 35,
T. 24 S., R. 21 E.,
sec. 1, all,
sec. 2, N½,
sec. 3, N½,
secs. 12 and 13,
secs. 23 to 27 and 33 to 35, inclusive,
sec. 36, N½ (all unsurveyed),
T. 25 S., R. 21 E.,
secs. 3 to 5 and 8 to 10, inclusive,
secs. 15 to 17, inclusive,
sec. 22, all
and all those parts of secs. 20, 21, 27 and 28 north of State Highway No. 450,
T. 24 S., R. 22 E.,
sec. 4, W½,
secs. 5 to 8, inclusive,
sec. 9, W½,
secs. 17 to 20, inclusive,
secs. 29 to 30,
sec. 31, N½,
sec. 32, N½,
aggregating approximately 29,160 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes", approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 25" day of November in the
[SEAL] year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
The Secretary of State.

[No. 2312]

[F. R. Doc. 38–3545; Filed, November 28, 1938; 11:07 a. m.]

EXECUTIVE ORDER

ENLARGING THE WAUBAY MIGRATORY WATERFALL REFUGE

SOUTH DAKOTA

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands acquired or to be acquired by the United States within the following-described area, comprising 573.60 acres, more or less, in Day County, South Dakota, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture, subject to valid existing rights, as an addition to the Waubay Migratory Waterfowl Refuge established by Executive Order No. 7245 of December 10, 1935: *Provided*, That any private lands within the areas described shall become a part of the refuge upon the acquisition of title thereto or control thereof by the United States:

FIFTH PRINCIPAL MERIDIAN

T. 123 N, R. 53 W.,
sec. 17, SE¼NE¼;
sec. 29, lots 1 and 2;
T. 122 N., R. 54 W.,
sec. 4, lot 1;
sec. 5, lots 2, 3, and part of 4, NW¼SW¼, and S½SW¼;
sec. 6, lot 1, SW¼NW¼, S½SW¼, and SW¼SE¼;
T. 123 N., R. 54 W.,
sec 31, lot. 4.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Nov 25 1938

[No. 8013]

[F. R. Doc. 38–3533; Filed, November 26, 1938; 12:26 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

[Bulletin NSCP–301, Supp. No. 1]

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 706—1939 NAVAL STORES CONSERVATION PROGRAM

Bulletin NSCP–301, setting forth the terms and conditions of the 1939 Naval Stores Conservation Program, approved by the Secretary of Agriculture, November 9, 1938,[1] is hereby amended, as follows:

I. Paragraph (e) of Section 706.4, headed, "Conditions of Payment—Performance Required," is amended to read as follows:

(e) Each participating producer shall make a net reduction in the number of operating faces in 1939 to the extent and in the manner as hereinafter prescribed, using as 100 percent the number of faces operated by him in 1938; provided that where a producer has acquired from another producer (who, if operating in 1939, is a participant in the 1939 program) by lease, purchase or other form of control, prior to the filing of a work sheet, an additional turpentine farm or portion thereof, which had been worked by said other producer in 1938, he may use as his base (i. e., 100%) the number of faces represented by such acquisition, in addition to the number of faces which he worked in 1938, for the purpose of determining the percentage of reduction required under paragraph (g) of this section, and if such addition to the base is made and stated on a filed work sheet, together with evidence of the consent thereto by the producer from whom acquired, the same number of faces as acquired by the one producer shall be deducted from the base of the other producer. In cases where one producer secures faces from another producer who operated such turpentine farm or portion thereof in 1938, but who, if still operating in 1939, is not a participant in the 1939 program, said faces shall not become a part of the base of the operator who acquires them.

II. The concluding sentence of paragraph (g) of Section 706.4, headed, "Conditions of Payment—Performance Required," is amended to read as follows:

(g) • • •

The producer shall be permitted to discontinue operation on a larger net proportion, than is indicated above, of the total of those of his 1938 working faces that are less than 90 inches in height at the beginning of the 1939 season but will not receive payment for such net proportion of discontinued faces in excess of 40 per cent of his total of all 1938 working faces; provided that said 40 per cent limitation shall not apply to faces discontinued in 1939 on trees less than 9 inches d. b. h., and on trees between 9 and 14 inches d. b. h., as required by paragraphs (b) and (d) of this section; and provided further that payment shall be restricted to such discontinued faces on which the producer retains ownership, lease or other control throughout the period of the 1939 program.

Done at Washington, D. C., this 25th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3538; Filed, November 26, 1938; 12:33 p. m.]

DETERMINATION OF APPORTIONMENT AND ADJUSTMENT OF NATIONAL MARKETING QUOTA FOR FIRE-CURED AND DARK AIR-CURED TOBACCO FOR 1938–39 MARKETING YEAR

Pursuant to section 313 of the Agricultural Adjustment Act of 1938 (approved

[1] 3 F. R. 2666 DI.

February 15, 1938), as amended, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the national marketing quota for Fire-Cured and Dark Air-Cured Tobacco for the 1938–39 marketing year, as proclaimed by the Secretary of Agriculture on February 18, 1938,[1] be apportioned and adjusted in accordance with the following table:

States and new farms (i. e., farms on which tobacco is produced for the first time in 5 years	Apportionment of national marketing quota proclaimed February 18, 1938	Adjustment pursuant to section 313 (f), 2% increase all States	Totals as apportioned and adjusted
(1)	(2)	(3)	(4)
	1,000 pounds	*1,000 pounds*	*1,000 pounds*
Virginia	21,832	437	22,269
Kentucky	72,410	1,448	73,858
Tennessee	47,017	940	47,957
Indiana	479	10	489
New Farms	3,262	0	3,262
Total	145,000	2,835	147,835

Done at Washington, D. C., this 25th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3537; Filed, November 26, 1938; 12:33 p. m.]

NATIONAL ACREAGE ALLOTMENT OF RICE, CALENDAR YEAR 1939

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA, A PROCLAMATION

Whereas the Agricultural Adjustment Act of 1938, approved February 16, 1938, as amended, provides:

SEC. 352. The national acreage allotment of rice for any calendar year shall be that acreage which the Secretary determines will, on the basis of the national average yield of rice for the five calendar years immediately preceding the calendar year for which such national average yield is determined, produce an amount of rice adequate, together with the estimated carry-over from the marketing year ending in such calendar year, to make available a supply for the marketing year commencing in such calendar year not less than the normal supply. Such national acreage allotment shall be proclaimed not later than December 31 of each year.

SEC. 354. (a) Not later than December 31 of each year the Secretary shall ascertain from the latest available statistics of the Department and shall proclaim the total amount of rice which will be needed during the next succeeding marketing year to meet the requirements of consumers in the United States. Such amount is hereinafter referred to as the "domestic allotment of rice".

SEC. 355. (a) If at the time of any proclamation made under the provisions of section 354 (a) it shall appear from the latest available statistics of the Department that the total supply of rice exceeds the normal supply thereof for the current marketing year by more than 10 per centum of such normal supply, the Secretary shall also proclaim that, beginning on the first day of the marketing year next following and continuing throughout such year a national marketing quota shall be in effect for marketing of rice by producers: *Provided*, That no marketing quota shall be in effect for the marketing year commencing August 1, 1938. The Secretary shall also ascertain and specify in such proclamation the amount of the national marketing quota in terms of the total quantity thereof which may be marketed by producers which shall be that amount of rice which the Secretary determines will make available during such marketing year a normal supply.

Whereas said act contains, in section 301 (b), the following definition of terms here pertinent:

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second dates specified below:

* * * * * * *

Rice, August 1—July 31; * * *.

"Carry-over," in the case of * * * rice, for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current.

"Normal supply" in the case of * * * rice * * * shall be a normal year's domestic consumption and exports of the commodity, plus * * * 10 per centum in the case of rice, * * * of a normal year's domestic consumption and exports, as an allowance for a normal carry-over.

"Normal year's domestic consumption," in the case of rice, shall be the yearly average quantity of rice produced in the United States that was consumed in the United States during the five marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports" in the case of * * * rice, shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during * * * the five marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

"Total supply" of * * *, rice, * * * for any marketing year shall be the carry-over of the commodity for such marketing year plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins.

and

Whereas said act provides, in section 301 (c), as follows:

The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act;

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, approved February 16, 1938, as amended, upon the basis of the latest available statistics of the Federal Government, do hereby find, determine, and proclaim under sections 352, 354 (a), and 355 (a) of said Act:

(1) That the total amount of rice which will be needed during the marketing year beginning August 1, 1939, to meet the requirements of consumers in the United States (i. e., the "Domestic Allotment") is 10,920,000 barrels.

(2) That the "estimated production" of rice during the calendar year 1938 is 14,990,000 barrels.

(3) That the "carry-over" of rice for the marketing year beginning August 1, 1938, is 1,900,000 barrels.

(4) That the "total supply" of rice for the marketing year beginning August 1, 1938, is 16,890,000 barrels.

(5) That a "normal year's domestic consumption" of rice is 10,920,000 barrels.

(6) That a "normal year's exports" of rice is 1,670,000 barrels.

(7) That the "normal supply" of rice for the marketing year beginning August 1, 1938, is 13,849,000 barrels.

(8) That the "total supply" of rice for the marketing year beginning August 1, 1938, exceeds by more than 10 per centum the "normal supply" of rice for such marketing year.

(9) That the "estimated carry-over" of rice, as of August 1, 1939, is 2,110,000 barrels.

(10) That the amount of the national marketing quota of rice in terms of the total quantity thereof which may be marketed by producers which will make available during the marketing year beginning August 1, 1939, a normal supply is 11,974,000 barrels.

(11) That the "national average yield" of rice for the five calendar years 1934–1938, inclusive, is 13.62 barrels.

(12) That the "national acreage allotment" of rice for the calendar year 1939 is 862,000 acres.

As used herein, a barrel is 162 pounds of rough rice.

Done at Washington, D. C. this 26th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3558; Filed, November 28, 1938; 12:25 p. m.]

SUGAR DIVISION

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION OR HARVESTING OF THE 1939 CROP OF SUGAR BEETS IN CALIFORNIA

Whereas, Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however*, That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas, the Secretary of Agriculture, pursuant to a notice of hearing dated August 10, 1938,[1] held public hearings for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation or harvesting of the 1939 crop of sugar beets.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1939 crop of sugar beets as follows:

SOUTHERN CALIFORNIA[2]

Blocking and thinning.—Either $6.50 per acre on a piece work basis or 35 cents per hour on a time basis.

First hoeing.—Either $1.50 per acre on a piece work basis or 30 cents per hour on a time basis.

Second and subsequent hoeings.—Either $1.00 per acre for each hoeing on a piece work basis or 30 cents per hour on a time basis.

Topping and loading.—On a time basis 40 cents per hour. On a piece work basis:

Net tons per acre	Rate per ton	Net tons per acre	Rate per ton
Below 5[1]	$1.93	13	$0.91
5	1.63	14	.86
6	1.48	15	.82
7	1.33	16	.78
8	1.23	17	.75
9	1.15	18	.72
10	1.08	19	.70
11	1.02	20 or above	.69
12	.96		

[1] All fractional tonnages between 5 and 20 tons shall be paid in proportion, within each interval.

NORTHERN CALIFORNIA[3]

Blocking and thinning.—Either $7.50 per acre on a piece work basis or 40 cents per hour on a time basis.

First hoeing.—Either $2.00 per acre on a piece work basis or 35 cents per hour on a time basis.

Second and subsequent hoeings.—Either $1.50 per acre for each hoeing on a piece work basis or 35 cents per hour on a time basis.

Topping and loading.—On a time basis 45 cents per hour. On a piece work basis:

Net tons per acre	Rate per ton	Net tons per acre	Rate per ton
Below 5[1]	$2.28	13	$1.01
5	1.98	14	.96
6	1.68	15	.92
7	1.43	16	.88
8	1.33	17	.85
9	1.25	18	.82
10	1.18	19	.80
11	1.12	20 or above	.79
12	1.06		

[1] All fractional tonnages between 5 and 20 tons shall be paid in proportion, within each interval.

Provided, however, That in addition to the foregoing, the producer shall furnish to the laborer, without charge, the perquisites customarily furnished by him, such as, a house, garden plot, and similar incidentals; and *Provided further*, That the foregoing shall not be construed to mean that a producer may qualify for payment who has not paid in full the amount agreed upon between the producer and the laborer; and *Provided further*, That the producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above.

Done at Washington, D. C., this 25th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3536; Filed, November 26, 1938; 12:32 p. m.]

DETERMINATION OF FAIR AND REASONABLE WAGES FOR PERSONS EMPLOYED IN THE PRODUCTION, CULTIVATION, OR HARVESTING OF SUGARCANE IN HAWAII DURING THE PERIOD JANUARY 1, 1938, TO DECEMBER 31, 1938

Whereas Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however*, That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

and

Whereas the Secretary of Agriculture has held a number of public hearings[1] in Hawaii for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production, cultivation or harvesting of sugarcane in Hawaii during the period January 1, 1938, to December 31, 1938; and

Whereas the evidence submitted indicates that the sugarcane growers in Hawaii have voluntarily increased average payments to labor in 1938 above the level prevailing during the calendar year 1937:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings and all other information before me, do hereby determine that the wages which have been paid in Hawaii during the calendar year 1938 shall be deemed to be fair and reasonable, provided laborers (except those who are paid monthly salaries of $100 or more) shall have received for the calendar year 1938 not less than the wages they would have received if the bonus system in effect on September 1, 1938, had been continued to December 31, 1938: *Provided, however*, That in computing the resulting increment, conditional payments at the flat rate of 50 cents per hundred pounds of sugar shall be considered as part of the price of sugar: *and provided further*, That (1) the producer shall provide laborers free of charge with the perquisites customarily furnished by him, (2) all laborers shall have been paid in full for all work at not less than the rates agreed upon, such rates in the case of long term cultivation or irrigation agreements in effect or entered into during the period from January 1, 1938, to December 31, 1938, to be the amounts due and payable under such agreements in said period for such work, and (3) the producer shall not through any subterfuge or device whatsoever reduce the wage rates to laborers below those determined above.

Done at Washington, D. C., this 25th day of November, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3535; Filed, November 26, 1938; 12:32 p. m.]

[P. R. Sugar Order No. 11, Supp. 1]

SUPPLEMENT TO DECISION AND ORDER ALLOTTING DIRECT-CONSUMPTION PORTION OF 1938 SUGAR QUOTA FOR PUERTO RICO

Pursuant to notice of hearing issued October 6, 1938,[2] a hearing was held in

[1] 3 F. R. 508 DI.

[1] 3 F. R. 1971 DI.

[2] Applicable to farms located in the following counties: Imperial, Santa Barbara, San Diego, San Luis Obispo, Orange, Kern, Riverside, Kings, San Bernardino, Tulare, Los Angeles, Fresno, Ventura.

[3] Applicable (a) to farms located in counties in California other than those specified in footnote 1, and (b) to farms located outside California from which sugar beets are contracted to be delivered to factories located in counties in California other than those specified in footnote 1.

[1] 3 F. R. 2671 DI.

[2] 3 F. R. 2431 DI.

Washington, D. C., on October 25–26, 1938, for the purpose, among others, of amending Puerto Rico Sugar Order No. 11, issued June 1, 1938,[2] by allotting among Puerto Rican processors of direct-consumption sugar the portion of the unallotted reserve established therein which was unfilled on November 15, 1938.

Section 205 (a) of the Sugar Act of 1937 (hereinafter referred to as the "act") provides, in part, as follows:

> The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made.

In view of this provision of the act, it is necessary in allotting the unallotted reserve to apply the same basic formula as was used in Puerto Rico Sugar Order No. 11.

The amount of the unallotted reserve set out in Puerto Rico Sugar Order No. 11, is 5,712 short tons of sugar, raw value. As of November 15, 1938, the records of the Department of Agriculture show that only 200 short tons of sugar, raw value, have been charged against this unallotted reserve.

The processors receiving an allotment under Puerto Rico Sugar Order No. 11 offered no testimony at the hearing in opposition to the allotment of the unallotted reserve, nor did they offer any testimony in support of a change in the basic figures underlying the allotments set forth in that order.[3] Therefore, employing the same basis of allotment as was applied in Puerto Rico Sugar Order No. 11, the per centum of the unallotted reserve applicable to each processor would be as follows: [4]

	Per centum
Porto Rico American Sugar Refinery	78.104
Aguirre	2.862
Carmen	0.052
Guanica	3.150
Igualdad	4.542
Roig	9.838
San Francisco	1.452

On the basis of the record of the hearing of October 25–26, 1938, and the official statistics of the Department of Agriculture, I hereby find:

(1) That as of November 15, 1938, the unfilled balance of the unallotted reserve established in Puerto Rico Sugar Order No. 11, was 5,512 short tons of sugar, raw value.

(2) That upon the basis of the formula used in establishing the allotments in Puerto Rico Sugar Order No. 11, the per centum of the said unfilled balance of the unallotted reserve for each Puerto Rican processor is as follows:

	Per centum
Porto Rico American Sugar Refinery	78.104
Aguirre	2.862
Carmen	0.052
Guanica	3.150
Igualdad	4.542
Roig	9.838
San Francisco	1.452

On the basis of the foregoing and after consideration of the briefs submitted by interested persons following the hearing of October 25–26, 1938, it is hereby ordered that the allotments set forth in Puerto Rico Sugar Order No. 11 be, and they hereby are, increased as follows:

	Additional direct consumption allotment (short tons, raw value)
Porto Rico American Sugar Refinery	4,305
Aguirre	158
Carmen	3
Guanica	174
Igualdad	250
Roig	542
San Francisco	80
	5,512

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 25th day of November 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3534; Filed, November 26, 1938; 12:32 p. m.]

TITLE 10—ARMY

WAR DEPARTMENT

PART 62—RESERVE OFFICERS' TRAINING CORPS

ADMINISTRATION AND TRAINING

SEC. 62.29 [1] *Honor graduates of honor military schools as candidates for the United States Military Academy.*

* * * * *

(b) An honor graduate, designated as principal, of a selected institution will be appointed a cadet of the United States Military Academy upon the certificate of the head of the institution that the appointee is an honor graduate of that institution of a year for which the institution was designated an honor military school. All honor graduates are appointed subject to the same tests for mental and physical qualifications as are required of other candidates. In the event that the honor graduate designated as principal does not accept the appointment or fails to qualify for admission, the first alternate will, if qualified, be appointed, and in the event that neither the principal nor the first alternate qualifies, the second alternate will, if qualified, be appointed. The honor graduate must, at date of admission to the United States Military Academy, be between the ages of 17 and 22.

(Sec. 40, 39 Stat. 191; sec. 33, 41 Stat. 776; 10 U. S. C. 381.) (40 Stat. 894; 47 Stat. 158; 10 U. S. C. 1091.) [AR 145–10, May 28, 1931; C 2, Oct. 26, 1936; Cir. 71, W. D., 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3539; Filed, November 28, 1938; 9:47 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF ANNUAL REPORTS FROM SWITCHING AND TERMINAL COMPANIES OF CLASS III

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 22nd day of November, A. D. 1938.

The subject of the requirement of annual reports from switching and terminal companies being under consideration:

It is ordered:

1. That the Order of this Commission dated December 6, 1937 [1] In the Matter of Annual Reports from Switching and Terminal Companies of Class III, is hereby annulled.

2. That all switching and terminal companies of Class III subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form D (Small Switching and Terminal Companies), which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed in duplicate in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3556; Filed, November 28, 1938; 12:22 p. m.]

[3] 3 F. R. 1279 DI.

[2] The representative of Central Igualdad contended that the unallotted reserve should be allotted on a different basis from that used in establishing the initial allotments (R. p. 145), but such procedure would not comply with the provisions of section 205 (a) of the act.

[4] Expert testimony on behalf of the Camuy Sugar Company indicates a mill refining capacity for that company of 100 short tons of sugar per day (R. p. 65). Applying the basis used in Puerto Rico Sugar Order No. 11, this company would be entitled to 1.884 per centum of the unallotted reserve. However, in view of the statement of the representative of the Camuy Sugar Company that the company would be unable to market any direct-consumption sugar in 1938 (R. pp. 57, 58), no allotment can be made to it from the unallotted reserve.

[1] Revision of paragraph (b) of Section 62.29 of Code of Federal Regulations.

[1] 2 F. R. 2083 (3243 DI).

[2] Filed as a part of the original document with the Division of the Federal Register. The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[Ex Parte No. MC 5]

ORDER IN THE MATTER OF SECURITY FOR THE PROTECTION OF THE PUBLIC AS PROVIDED IN THE MOTOR CARRIER ACT, 1935, AND OF RULES AND REGULATIONS GOVERNING THE FILING AND APPROVAL OF SURETY BONDS, POLICIES OF INSURANCE, QUALIFICATIONS AS A SELF-INSURER OR OTHER SECURITIES AND AGREEMENTS BY MOTOR CARRIERS AND BROKERS SUBJECT TO THE MOTOR CARRIER ACT, 1935

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 22nd day of November, A. D., 1938.

The matter of acceptance and approval of surety bonds with individual (personal) sureties under rules and regulations governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements prescribed by our order entered in this proceeding on August 3, 1936,[1] and relating to the matter of security for the protection of the public, being under consideration;

It is ordered, That, surety bonds with individual (personal) sureties will not be accepted and approved under Sections 211 (c) and 215 of the Motor Carrier Act, 1935, and that Rule VI of said rules and regulations prescribed by said order of August 3, 1936, be, and it is hereby, amended to read as follows:

Each certificate or policy of insurance or surety bond filed with the Commission for approval must be for not less than the full limits of liability required under these rules and regulations, *Provided, however,* That only corporations may qualify to act as surety. In each case in which the surety on any such bond is a surety company, such company must be one approved by the United States Treasury Department under the laws of the United States and the applicable rules and regulations governing bonding companies.

By the Commission, Division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3555; Filed, November 28, 1938; 12:22 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-84 O-84]

NOTICE OF HEARING WITH RESPECT TO PROPOSAL TO AMEND ORDER NO. 4, AS AMENDED, REGULATING HANDLING OF MILK IN GREATER BOSTON, MASSACHUSETTS, MARKETING AREA, AND WITH RESPECT TO PROPOSAL TO AMEND MARKETING AGREEMENT TENTATIVELY APPROVED JANUARY 18, 1936, AS AMENDED

Whereas, under section 8c of Title I of Public Act No. 10, 73rd Congress, as amended, the Secretary of Agriculture, hereinafter called the Secretary, issued an order regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area, effective February 9, 1936, which order was amended effective August 1, 1937; [1] and

Whereas, the Secretary tentatively approved a marketing agreement regulating the handling of milk in the said marketing area on January 18, 1936, which marketing agreement was amended July 10, 1937; [2] and

Whereas, New England Dairies, Inc., New England Milk Producers' Association, Inc., Milton Cooperative Dairy Corporation, Inc., and United Farmers Cooperative Milk Producers Association, Inc., have proposed certain amendments to said order, as amended, and to said tentatively approved marketing agreement, as amended; and

Whereas, the Market Administrator of such order, as amended, has also proposed certain amendments to said order, as amended, and to said tentatively approved marketing agreement, as amended; and

Whereas, the Secretary has reason to believe that an amendment of said order, as amended, and of said tentatively approved marketing agreement, as amended, will tend to effectuate the declared policy of Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937; and

Whereas, under the aforesaid act notice of hearing is required in connection with a proposal to amend an order and the General Regulations, Series A, No. 1, as amended,[3] of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice and opportunity for hearing upon amendments to marketing agreements and orders;

Now, therefore, pursuant to said act and general regulations, notice is hereby given of a hearing to be held on said proposals to amend the order, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area, and to amend the tentatively approved marketing agreement, as amended, regulating the handling of milk in the Greater Boston, Massachusetts, Marketing Area, in Fuller Hall, St. Johnsbury, Vermont, at 9:30 a. m., e. s. t., December 3, 1938; in House of Representatives Chamber, State House, Augusta, Maine, at 9:30 a. m., e. s. t., December 5, 1938; in Gardner Auditorium, State House, Boston, Massachusetts, at 9:30 a. m., e. s. t., December 6, 1938, and at such other times and places as the presiding officer may deem necessary.

This public hearing is for the purpose of receiving evidence as to the necessity for (1) revising the minimum prices, (2) changing the method of computing the price for class II milk, (3) providing a price for class II milk made into butter or American cheese during certain delivery periods, (4) redefining "marketing area" and "producer" and defining "receiving plant," (5) clarifying basis of classification and classes of utilization of milk, (6) deleting the provision relating to sales outside the marketing area, (7) amending article V relative to reports of handlers, (8) amending article VI relative to handlers who are also producers, and (9) amending certain other minor provisions so as to clarify the language of the said order and the said tentatively approved marketing agreement.

Copies of the proposals to amend the order and the marketing agreement may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated November 28, 1938.

[F. R. Doc. 38-3557; Filed, November 28, 1938; 12:25 p. m.]

[39-AAA-1-D]

INSTRUCTIONS FOR HOLDING REFERENDUM ON RICE MARKETING QUOTA FOR THE MARKETING YEAR BEGINNING AUGUST 1, 1939

Pursuant to Section 355 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is directed to conduct a referendum by secret ballot of producers who would be subject to the national marketing quota for rice for the marketing year beginning August 1, 1939, which will be held on Saturday, December 10, 1938, in order to determine whether they favor or oppose such marketing quota. Such quota will be in effect unless more than one-third of the producers voting in the referendum oppose it.

A. VOTING ELIGIBILITY

1. Every producer (a) who was engaged in the production of rice in 1938 and who on the date of the referendum has available land or equipment suitable for the production of rice in 1939 and has not abandoned or signified his intention to abandon the production of rice in 1939 or (b) who at the time of holding the referendum has made definite arrangements for engaging in the

[1] F. R. 1440.

[1] 2 F. R. 1331 (1588 DI).

[2] 2 F. R. 1330 (1587 DI).

[3] 1 F. R. 155.

production of rice in 1939 is entitled to vote. As used herein the term "producer" means an owner-operator, cash or standing-rent tenant, landlord of a share tenant, share tenant, or sharecropper, who is or will be entitled to the whole or a share of the 1939 rice crop or its proceeds.

2. No rice producer (whether an individual partnership, corporation, firm, association, or other legal entity) shall be entitled to more than one vote in the referendum, even though he may engage in 1939 in the production of rice in two or more communities, counties, or States.

3. If a community referendum committee determines that a producer residing in the community within the jurisdiction of that committee is eligible to vote in another community, the committee may issue a ballot to him and permit him to cast a ballot, provided the committee also determines that such producer has not previously cast a ballot in another community. If the committee cannot so determine, the committee shall "challenge" the ballot as hereinafter outlined.

4. There shall be no voting by proxy or agent, but a duly authorized member of a partnership or officer of a corporation, firm, association, or other legal entity shall be allowed to cast its vote.

5. In case several persons, such as husband, wife, and children, have made definite arrangements to engage together in the production of rice in 1939 under a lease or sharecropping agreement, only the person or persons who signed or entered into the lease or sharecropping agreement shall be eligible to vote.

6. If two or more persons have made definite arrangements to engage in producing rice in 1939 as joint tenants, tenants in common, or owner-operators of community property, each such persons is entitled to vote.

B. INSTRUCTIONS TO COUNTY COMMITTEE

The county agricultural conservation committee (hereinafter referred to as the county committee) shall be responsible for the proper holding of the referendum in the county on Saturday, December 10, 1938, and it shall:

1. Designate one readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting a notice on form Rice 301, "Notice—Rice Marketing Quota Referendum", at one or more places open to the public within each community at least 5 days in advance of the date of the referendum. In counties with less than 50 rice producers the county committee may treat the county as one community for the purpose of the referendum and hold the referendum and perform the duties both of county committee and of community referendum committee.

2. Make use (without advertising expense) of all available agencies of public information, including newspapers and radio, to give rice producers in the county full and accurate public notice of the day and hours of voting, the location of polling places, and the rules governing eligibility to vote. Public notice should be given as soon as practicable after the plans for holding the referendum in the county have been made, but must be given at least 5 days in advance of the date of the referendum.

3. Designate three farmers as members of the community referendum committee in each community to conduct the referendum in such community and name one of the members chairman of the committee. In those communities where the cotton referendum is being held, the county committee may designate one community referendum committee to conduct the referenda on both cotton and rice.

4. See that each community referendum committee is provided with a suitable ballot box.

5. Prepare for each community in the county a list of the names and addresses of all producers in such community who were engaged in the production of rice during 1938. If lists of such persons by communities are already available to the county committee, such lists may be turned over to the community referendum committees.

6. Deliver a supply of forms Rice 302, "1939 Rice Marketing Quota Referendum Ballot", and form Rice 304, "Community Summary of 1939 Rice Marketing Quota Ballots", as well as a supply of blank forms Rice 303, "Register of Ballots—1939 Rice Marketing Quota Referendum," to the chairman of the respective community referendum committee.

7. See to it that the community referendum committees understand their duties as to (a) issuing ballot forms, (b) recording votes on forms Rice 303, (c) tabulating ballots, and (d) certifying results of the referendum in the community.

8. See that appropriate measures are taken to insure that the referendum is conducted by secret ballot.

9. Notify the State committee by telephone or telegraph or in person as soon as possible after the closing of the polls as to the preliminary count of "yes" and "no" votes in the county.

10. Meet not later than 8:30 A. M. Monday, December 12, 1938, for the purpose of receiving and tabulating the data from forms Rice 304 on form Rice 305, "County Summary of 1939 Rice Marketing Quota Ballots." Such meeting shall be open to the public. Four copies of Rice 305, showing the county results, shall be prepared and certified, two copies of which shall be sent to the State agricultural conservation committee (hereinafter referred to as State committee) not earlier than 4 calendar days or later than 6 calendar days after the date of the referendum, one copy posted for 60 days in a conspicuous place accessible to the public in or near the office of the county committee (hereinafter referred to as the county office), and one copy permanently filed in the county office. One copy of each executed form Rice 304 shall be posted for 60 days in a conspicuous place accessible to the public in or near the county office.

11. Notify the State committee as soon as possible by mail on form Rice 305 as to the final outcome of the referendum in the county.

12. Make an investigation in each case of controversy or dispute regarding eligibility of a voter to vote in the referendum. Where a ballot is contained in a sealed envelope marked "Challenged" by the community referendum committee and bearing the voter's name and a statement of the reason for the challenge, the eligibility of such person shall first be determined. If it is determined that such person is eligible, the envelope shall be opened and the ballot placed with the challenged ballot of every other person found to be eligible and when all the challenged ballots shall have been passed upon by the committee those ballots found to be valid shall be tabulated in the county summary. If it is determined that such person is not eligible, the envelope shall not be opened but shall be preserved with the ballots as provided in paragraph 14 of this section B.

13. Make an investigation in each case of dispute regarding the correctness of the summary of the referendum in a community. No dispute shall be investigated by the county committee unless it is brought to its attention within 3 calendar days after the date on which the referendum was held. The county committee shall promptly decide the dispute and immediately report its finding to the State committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

14. Seal the voted ballots, challenged ballots found ineligible, register sheets, and community summary sheets for the county in one or more envelopes or packages (marked "Rice Referendum 1939" followed by the name of the county), and place them under lock and key in a safe place under the custody of the secretary of the county agricultural conservation association for a period of 60 calendar days from the date of the referendum. If no notice to the contrary is received by the end of such time, the ballots shall be destroyed and the register and community summary sheets permanently filed in the county office.

C. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

Each community referendum committee designated by the county committee shall:

1. Arrange, with the assistance of the county committee, for conducting the referendum by secret ballot.

2. Assist the county committee in giving adequate public notice of the time and place for casting ballots at least 5 days in advance of the date on which the referendum will be held.

3. Provide a place where each eligible producer can prepare and cast a ballot in secret and without interference.

4. Provide a ballot box. Any container so arranged that ballots cannot be seen and cannot be removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks and show that the seal has been tampered with.

5. Open the polls not later than 9:00 A. M., local standard time, on Saturday, December 10, 1938.

6. Hold the referendum in a fair and unbiased manner and see that appropriate measures are taken to insure that it is conducted by secret ballot.

7. See that no device is used whereby any voter's ballot may be identified (except in the case of a challenged ballot), and instruct each voter as he is handed a ballot form as to the procedure to be followed in casting his ballot and to fold his ballot before he places it in the ballot box after he has marked it to show which way he votes.

8. Issue a ballot to each person who is eligible to vote and to each person who claims to be eligible to vote and insists upon voting even though his eligibility is challenged by the committee. Every unchallenged ballot shall be placed in the ballot box by the person who voted it. In every case where the eligibility of the voter is challenged, his ballot, after being marked by the challenged person, shall be placed (by him, or by the committee if he refuses) in an envelope and shall be sealed and marked with his name, and the word "Challenged", and a statement of the reason for the challenge, and the envelope shall then be placed in the ballot box. The letter "C" shall be entered with a red pencil on form Rice 303 immediately to the left of the name of each person whose vote is challenged.

9. Enter an "X" in the designated column on form Rice 303 beside the name of each producer to whom a ballot is issued and who places his ballot in the ballot box (whether or not his ballot is challenged).

10. Record on form Rice 303 the name and address of each producer to whom a ballot is issued.

11. Close the polls and discontinue acceptance of ballots at 5:00 P. M., local standard time (unless a later hour is fixed by the State committee) on the date of the referendum.

12. Immediately after closing the polls, open the ballot box and canvass the ballots cast, which canvass shall be kept open to the public.

13. Tabulate and record the results of the referendum on form Rice 304. The number of challenged ballots cast shall be entered on form Rice 304 in the space provided and will not be shown as being either for or against the marketing quota. If any ballot is found to be mutilated or marked in such a way so that it cannot be determined whether the voter approved or opposed the marketing quota, it shall not be counted as a ballot cast, but the number of such spoiled ballots shall be entered in the space provided, and such ballots placed in an envelope marked "Spoiled Ballots", followed by the designation of the community.

14. Certify to the accuracy of the executed forms Rice 303 and 304 by signing in the spaces provided.

15. Notify the county committee by telephone or in person as soon as possible after the closing of the polls as to the preliminary count of "yes" and "no" votes in the community.

16. Seal the voted ballots (including those challenged), the spoiled ballots, the register sheet, and the community summary in one or more envelopes appropriately identified by the designation of the community and deliver them to the county committee not later than 8:30 A. M., Monday, December 12, 1938, with the unused ballots and other forms. The chairman of the community referendum committee shall be responsible for the safe delivery of such reports, ballots, and forms to the county committee.

17. Post an executed copy of form Rice 304, as soon as it is executed, at a conspicuous place at the polling place and see that it remains posted and accessible to the public for at least 3 calendar days after the date of the holding of the referendum.

D. INSTRUCTIONS TO STATE COMMITTEE

The State committee shall be in charge of and responsible for the conducting of the referendum in the State and shall:

1. Summarize on form Rice 306, "State Tabulation of 1939 Rice Marketing Quota Ballots", the information contained on the forms Rice 305 reported to it and forward via air mail special delivery two fully executed forms Rice 306 to the applicable regional director, Agricultural Adjustment Administration, Washington, D. C., not later than 10 calendar days after the date of the referendum. If one sheet proves insufficient for listing the information with respect to all counties in the State, additional sheets properly numbered and identified and securely attached to the first sheet may be used for continuation, in which case totals and signatures should be entered only on the last sheet. One fully executed copy of each form Rice 305 and form Rice 306 shall be permanently filed in the State office of the Agricultural Adjustment Administration.

2. Complete the investigation of any report from any county regarding controversies, irregularities, or the correctness of summaries of the referendum, not later than 10 calendar days after the date of the referendum, and forward its findings in such cases to the applicable regional director.

E. INSTRUCTIONS APPLICABLE TO THE TERRITORY OF HAWAII

In the event State and county agricultural conservation committees have not been established in the Territory of Hawaii, the Officer in Charge, Agricultural Adjustment Administration, Territory of Hawaii, shall perform the duties of both the State and county committees as set forth in sections "B" and "L" of these instructions.

F. RESULTS OF REFERENDUM

Final and official tabulation of the votes cast in the referendum will be made by the Agricultural Adjustment Administration and the result of the referendum announced by the Secretary of Agriculture. The reports on Rice 306 and related papers shall be permanently filed with such tabulation and shall remain available for public inspection.

Each county committee is authorized to give out unofficial reports of the total "yes" and total "no" votes in its county to the public press and to other inquirers. The State committee is authorized to release to the press and other inquirers the unofficial results of the referendum for the respective State by counties as rapidly as the votes in the various counties are tabulated.

If the Administrator of the Agricultural Adjustment Administration or the Secretary of Agriculture deems it necessary, the report of any community referendum committee, county committee, or State committee shall be reexamined and checked by such persons or agencies as may be designated.

Done at Washington, D. C., this 9th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3559; Filed, November 28, 1938; 12:25 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF CHANGE IN DATE OF HEARING ON PROPOSED AMENDMENTS OF SECTIONS 536.1 AND 536.2 (AREA OF PRODUCTION) OF REGULATIONS ISSUED UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Whereas, on the 22nd day of November, 1938, Notice of Hearing [1] on the Proposed Amendments of Sections 536.1 and 536.2 (Area of Production) of Regulations Issued Under the Fair Labor Standards Act of 1938, was duly issued by Elmer F. Andrews, Administrator, Wage and Hour Division, United States Department of Labor, to commence on December 14, 1938 at 10 o'clock A. M. at the Raleigh Hotel, Twelfth Street and Pennsylvania Avenue, Washington, D. C., before Mr. Merle D. Vincent, the presid-

[1] F. R. 2772 DI.

ing officer designated, on the following question:

What, if any, amendment should be made of Section 536.1 or Section 536.2 of the regulations issued under the Fair Labor Standards Act of 1938 in respect to the definition of "area of production" for fresh fruits and vegetables.

Now take notice that said Hearing has been postponed to the 19th day of December, 1938, at 10 o'clock A. M., at the said designated place.

Signed at Washington, D. C., this twenty-eighth day of November, 1938.

PAUL SIFTON,
Deputy Administrator.

[F. R. Doc. 38-3569; Filed, November 28, 1938; 1:08 p. m.]

IN RE: APPLICATION OF THE NATIONAL ASSOCIATION OF HOSIERY MANUFACTURERS, THE UNDERWEAR INSTITUTE, AND SUNDRY OTHER PARTIES PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT OF 1938 AND RULES AND REGULATIONS ISSUED THEREUNDER FOR PERMISSION TO EMPLOY LEARNERS IN THE KNITTED WEAR AND HOSIERY INDUSTRY AT WAGE RATES LESS THAN THE APPLICABLE MINIMUM SPECIFIED IN SECTION 6

NOTICE OF HEARING

Whereas, application has been made by the National Association of Hosiery Manufacturers, the Underwear Institute, and sundry other parties under Section 14 of the Fair Labor Standards Act of 1938, 52 Stat. 1060, and Regulations—Part 522, as amended,—(Regulations Applicable to the Employment of Learners pursuant to Section 14 of the Fair Labor Standards Act)[1] issued by the Administrator thereunder for permission to employ learners in the knitted wear and hosiery industry at wages less than the applicable minimum wage specified in Section 6 of the Act;

Now, therefore, pursuant to the Act and the Regulations, notice is hereby given of a public hearing to be held on said application at the Raleigh Hotel, located at Pennsylvania Avenue and 12th Street, Washington, D. C., to commence at 10 A. M., on December 14, 1938, to take testimony for the purpose of determining:

(a) What if any occupation or occupations in the knitted wear and hosiery industry require a learning period, and

(b) Whether it is necessary in order to prevent curtailment of opportunities for employment to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) If such necessity is found to exist, at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

At this hearing, learner applications will be considered and acted upon on the basis of the needs of the employees and the employers in the industry as a whole rather than on the basis of the needs of individual employees or employers of the industry. Opportunity will be afforded to interested parties to present evidence relevant to the foregoing inquiry. All persons or associations desiring to avail themselves of this opportunity should, if possible, notify the Administrator in advance by telegraph.

Pursuant to authority vested in the Administrator by the Fair Labor Standards Act of 1938, Mr. Merle D. Vincent is hereby designated as presiding officer to conduct the said hearing and to determine:

(a) What if any occupation or occupations in the knitted wear and hosiery industry require a learning period, and

(b) Whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) If such necessity is found to exist, at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

As used in this notice, the term "knitted wear and hosiery" industry includes men's, women's, infants' and children's knitted apparel, accessories and hosiery.

Signed at Washington, D. C., this twenty-eighth day of November, 1938.

PAUL SIFTON,
Deputy Administrator.

[F. R. Doc. 38-3570; Filed, November 28, 1938; 1:08 p. m.]

[1] 3 F. R. 2484. 2661 DI.

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 57-401(E)-1]

AIRLINE FEEDER SYSTEM, INC.

APPLICATION UNDER SECTION 401(E) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION BY AIR OF PASSENGERS AND PROPERTY BETWEEN NEWARK, NEW JERSEY, AND WESTFIELD, MASSACHUSETTS, VIA BRIDGEPORT, NEW HAVEN, AND HARTFORD, CONNECTICUT

NOVEMBER 26, 1938.

The above-entitled proceeding is assigned for public hearing on December 5, 1938, 10 o'clock a. m. (eastern standard time), at the offices of the Civil Aeronautics Authority, Washington, D. C., before Examiner R. J. Bartoo (Hearing Room 951, The Earle Building).

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3544; Filed, November 28, 1938; 10:49 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. G-111]

APPLICATION OF IROQUOIS GAS CORPORATION

ORDER SETTING DATE OF HEARING

NOVEMBER 25, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, John W. Scott. Basil Manly not participating.

Upon application filed October 12, 1938, by the Iroquois Gas Corporation of Buffalo, New York, for an order of the Commission authorizing the exportation of natural gas from the States of Pennsylvania and New York to the Provincial Gas Company, Ltd., of Ontario, for sale and distribution in the Dominion of Canada; and

It appearing that: A public hearing should be held upon said application to enable the Commission to determine whether the proposed exportation will be consistent with the public interest;

Now, therefore, the Commission orders that: A public hearing on said application be held on December 14, 1938, at 10:00 A. M., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3540; Filed, November 28, 1938; 9:47 a. m.]

[Docket No. IT-5015]

IN THE MATTER OF METROPOLITAN EDISON CO., NORTHERN PENNSYLVANIA POWER CO., PENNSYLVANIA ELECTRIC CO., ERIE LIGHTING CO., THE CLARION RIVER POWER CO., AND SOLAR ELECTRIC CO.

ORDER POSTPONING HEARING

NOVEMBER 25, 1938.

Commissioners: Clyde L. Seavey, Acting Chairmen; Claude L. Draper, John W. Scott. Basil Manly not participating.

It appearing to the Commission that:

(a) On October 22, 1938, the Commission, by order,[1] assigned the matters involved in the above investigation for hearing on December 1, 1938;

(b) Due to unforeseen conditions and circumstances, it will be impossible to proceed with the hearing in this matter now assigned for December 1, 1938;

The Commission orders that: The hearing upon the matters specified in the order of the Commission under date of October 22, 1938, be postponed from December 1, 1938, to December 14, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3541; Filed, November 28, 1938; 9:47 a. m.]

[1] 3 F. R. 2571 DI.

[Docket No. IT-5527]

APPLICATION OF KENTUCKY UTILITIES COMPANY AND LEXINGTON UTILITIES COMPANY

ORDER FIXING DATE OF HEARING

NOVEMBER 25, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, John W. Scott. Basil Manly not participating.

Upon application filed September 26, 1938, pursuant to Section 203 (a) of the Federal Power Act, by Kentucky Utilities Company and Lexington Utilities Company, both being Kentucky corporations domiciled at Lexington, Kentucky, for an order authorizing the merger or consolidation of all of their respective facilities subject to the jurisdiction of this Commission; and

Upon application filed October 13, 1938, pursuant to Section 8 of the Federal Power Act, by the said Kentucky Utilities Company and said Lexington Utilities Company, for an order authorizing the transfer of the license, being

License granted to Kentucky Hydro Electric Company, August 19, 1926, for Project No. 539 (Kentucky) and assigned to Kentucky Utilities Company,

to a consolidated corporation to be known as "Kentucky Utilities Company";

The Commission orders that: A public hearing on said applications be held on December 12, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3542; Filed, November 28, 1938; 9:48 a. m.]

[Docket No. IT-5528 and Project No. 1001]

APPLICATIONS OF PORTLAND GENERAL ELECTRIC COMPANY AND MT. HOOD ELECTRIC COMPANY

ORDER CONSOLIDATING PROCEEDINGS AND FIXING DATE OF HEARING

NOVEMBER 25, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, John W. Scott. Basil Manly not participating.

Upon the application filed November 14, 1938, by Mt. Hood Electric Company, licensee under the license for the project designated on the records of the Commission as Project 1001, for an order authorizing and approving the assignment and transfer of its plant and system and of said license to Portland General Electric Company and joining in the application filed September 27, 1938, by Portland General Electric Company for an order authorizing purchase of said system and plant and merger thereof into its own facilities and transfer of said license;

And it appearing that: On November 8, 1938, the Commission ordered that a hearing on the aforesaid application filed September 27, 1938, be held on the 29th day of November, 1938, beginning at 10 o'clock a. m. in the Commission's hearing room, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.;

The Commission orders that:

(A) Proceedings on the aforesaid application, filed November 14, 1938, be consolidated with proceedings on the aforesaid application, filed September 27, 1938;

(B) That a hearing at the time and place heretofore fixed, as stated above, be held on both the said applications.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3543; Filed, November 28, 1938; 9:48 a. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-326]

IN THE MATTER OF PROPOSED TRADE PRACTICE RULES FOR THE WOOL INDUSTRY

NOTICE OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS OR OBJECTIONS

This matter now being before the Federal Trade Commission under its Trade Practice Conference procedure, in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), or other applicable provisions of law administered by the Commission;

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, partnerships, corporations, associations, groups or other parties affected by or having an interest in the proposed trade practice rules for the Wool Industry to present to the Commission, orally or in writing, their views upon the same, including such pertinent information, suggestions or objections, if any, as they desire to submit. For this purpose they may, upon application to the Commission, obtain copies of the proposed rules. Written communications of such matters should be filed with the Commission not later than December 14, 1938. Opportunity for oral hearing and presentation will be afforded at 10 a. m., December 14, 1938, in Room 332, Federal Trade Commission Building, Constitution Avenue at 6th Street, Washington, D. C., to any such persons, partnerships, corporations, associations, groups or other parties as may desire to appear and be heard. After giving due consideration to all matters submitted concerning the proposed rules, the Commission will proceed to their final consideration.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3531; Filed, November 25, 1938; 2:36 p. m.]

[1] 3 F. R. 2675 DI.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3269]

IN THE MATTER OF WALDES KOH-I-NOOR, INC., A CORPORATION, AND THE GREY ADVERTISING AGENCY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 22, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take

testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3547; Filed, November 28, 1938; 11:36 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3288]

IN THE MATTER OF POPPER & KLEIN, A CORPORATION, ALSO TRADING AS PERFEKTUM PRODUCTS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 9, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3548; Filed, November 28, 1938; 11:36 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3424]

IN THE MATTER OF CANADIAN FUR TRAPPERS CORPORATION, A CORPORATION, AND DANIEL DORNFELD, JACOB DORNFELD, AND MORRIS DORNFELD, AS INDIVIDUALS, AND AS OFFICERS OF SAID CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 12, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3549; Filed, November 28, 1938; 11:36 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3561]

IN THE MATTER OF ASSOCIATED NEWS PHOTOGRAPHIC SERVICE, INC., AND BLACKSTONE STUDIOS, INC., LEO FRIED, PRESIDENT, ASSOCIATED NEWS PHOTOGRAPHIC SERVICE, INC., AND BLACKSTONE STUDIOS, INC.; WILLIAM SHAPIRO, VICE PRESIDENT, ASSOCIATED NEWS PHOTOGRAPHIC SERVICE, INC., AND BLACKSTONE STUDIOS, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, December 20, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3550; Filed, November 28, 1938; 11:37 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3572]

IN THE MATTER OF CLARENCE B. COUNCIL, TRADING AS STATISTICAL RESEARCH BUREAU AND METALS AND MINERALS RESEARCH BUREAU

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Charles P. Vicini, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 5, 1938, at ten o'clock in the forenoon of that day (Pacific Standard Time), in Room 548, Federal Office Building, San Francisco, California.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3551; Filed, November 28, 1938; 11:37 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3615]

IN THE MATTER OF CLAIROL, INC., A CORPORATION, JOAN GELB, PRESIDENT, CLAIROL, INC., AND LEON A. SPILO, VICE PRESIDENT, CLAIROL, INC., AND MORRIS GELB, SECRETARY, CLAIROL, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 16, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence,

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3552; Filed November 28, 1938; 11:37 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3618]

IN THE MATTER OF BERKELEY STUDIOS INTERNATIONAL PRESS SERVICE, INC., FRED FRIEDWALD, PRESIDENT AND TREASURER, BERKELEY STUDIOS INTERNATIONAL PRESS SERVICE, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, December 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Courtroom Number Four, United States Post Office Building, Boston, Massachusetts.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3553; Filed, November 28, 1938; 11:38 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3635]

IN THE MATTER OF SHAW & DAVIS, INC., ABNER SHAW, PRESIDENT, SHAW & DAVIS, INC., JANET SHAW, VICE PRESIDENT, SHAW & DAVIS, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, December 14, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 2301, United States Court House, Foley Square, New York, New York.

Upon completion of the testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3554; Filed, November 28, 1938; 11:38 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3633]

IN THE MATTER OF CORN PRODUCTS REFINING COMPANY, CORN PRODUCTS SALES COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U. S. C. A., Section 41), and (49 Stat. 1526, U. S. C. A., Section 13, as amended),

It is ordered, That Charles F. Diggs, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 5, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 2303, United States Court House, Foley Square, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3561; Filed, November 28, 1938; 12:53 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 21st day of November, A. D. 1938

[File No. 43–136]

IN THE MATTER OF WEST PENN POWER COMPANY

SUPPLEMENTAL ORDER UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935—SECTION 7

A declaration of West Penn Power Company, a subsidiary company of American Water Works and Electric Company, Incorporated, a registered holding company, having by previous order of this Commission herein under date of August 12, 1938[1] been permitted to become effective with the exception that the Commission in said order of August 12, 1938 reserved jurisdiction to determine, at a later date, whether certain fees to be paid to W. C. Langley & Co. were or were not reasonable;

The Commission having given further consideration to the record in this matter:

It is ordered, That the Commission hereby relinquishes jurisdiction over the matter of such fees; and

It is further ordered, That the third paragraph of the Commission's order of August 12, 1938 which reads

"It is further ordered that no fees be paid to W. C. Langley & Co. pending further order of this Commission"

be no longer in effect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3565; Filed, November 28, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of November, A. D., 1938.

[File No. 32–114]

IN THE MATTER OF MADISON GAS AND ELECTRIC COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS

Madison Gas and Electric Company, a subsidiary of American Light & Traction Company and The United Light and Power Company, both registered holding companies, has filed an application pursuant to the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act, of the issue and sale of $1,000,000 principal amount of its First Mortgage Bonds, 4% Series, due 1960.,

A hearing on the application having been duly held[1] after appropriate notice; the record in this matter having been duly considered; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities be and the same are hereby exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject to the following conditions:

1. That all matters in connection with the issue and sale of said bonds shall be performed in all respects as set forth in, and for the purposes represented by the application as amended.

2. That within ten days after the issue and sale of said bonds the applicant shall file with the Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application, as amended.

3. That such exemption shall immediately terminate without further order of this Commission if at any time the authorization of the issue and sale of the bonds by the Public Service Commission of Wisconsin shall be revoked or otherwise terminate.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3568; Filed, November 28, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of November, A. D. 1938.

[File No. 32–116]

IN THE MATTER OF THE CONNECTICUT LIGHT & POWER COMPANY

ORDER

The Connecticut Light & Power Company, a subsidiary of United Gas Improvement Company, a registered holding company, having filed an application under Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act in regard to the issue and sale of $15,000,000 principal amount of First and Refunding Mortgage Three and One-quarter Percent Bonds, Series H (due December 1, 1968), the issue and sale of such securities having been expressly authorized by the Public Utilities Commission of the State of Connecticut, and the applicant having consented to the issuance of such order or orders by the Commission under Section 12 (c) and/or 20 (a) as will give assurance that the applicant will fulfill the obligation which it has assumed to set aside annually 12½ per centum of its gross income for depreciation and maintenance;

Public hearings on this matter having been held[1] after appropriate notice, the Commission having considered the record in this matter and having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid First and Refunding Mortgage Three and One-quarter Percent Bonds, Series H, in accordance with the terms and conditions set forth in, and for the purposes represented by, the said application be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions:

(a) That if the express authorization of the issue and sale of such securities by the Public Utilities Commission of Connecticut shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission;

(b) That all matters in connection with said application shall be performed in all respects as set forth in and for the purposes represented by said application, provided, however, that no fee shall be paid to Putnam & Company or to Charles W. Scranton & Company, in connection with the issue and sale of such First and Refunding Mortgage Three and One-quarter Percent Bonds pending further order of this Commission; and

(c) That within ten days after the issue and sale of such securities the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, and in accordance with the terms of this order.

It is further ordered, That the Commission reserves jurisdiction to determine, at a later date, whether the fee to be paid to Putnam & Company and to Charles W. Scranton & Company, in connection with the issue and sale of the First and Refunding Mortgage Three and One-quarter Percent Bonds, Series H, is or is not reasonable.

It is further ordered, Pursuant to the provisions of Sections 12 (c) and 20 (a), that the applicant shall declare and pay no dividends on its common stock after January 1, 1938 unless such applicant shall have set aside for depreciation and maintenance an amount equal to 12½ per centum of its gross operating revenues from the sale of services in accordance with the following obligation which has been assumed by the applicant:

"As long as any Series H bonds are outstanding, the Company shall charge to income during each year beginning January 1, 1938 for the maintenance and replacement of its properties, an amount equivalent to not less than twelve and one-half per cent of its gross operating revenues from the sale of service during such year, any portion of such aggregate amount not actually expended for current maintenance during any twelve months' period ending December 31 in any year shall be segregated in the retirement reserve account which shall in subsequent years be used only for maintenance expenditures or for replacements and renewals in excess of the twelve and one-half per cent. If during any such year the provision of the Company for maintenance, replacements and renewals should in the aggregate exceed an amount equivalent to twelve and one-half per cent of its gross operating revenues from the sale of service during said year, any such excess may be credited upon the twelve and one-half per cent requirement in subsequent years."

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3567; Filed, November 28, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 26th day of November 1938.

[File No. 1–862]

IN THE MATTER OF MINNEAPOLIS, ST. PAUL & SAULT STE MARIE RAILWAY COMPANY—4% LEASED LINE STOCK CERTIFICATES, 7% NON-CUMULATIVE PREFERRED STOCK, $100 PAR VALUE, COMMON STOCK, $100 PAR VALUE, AND CENTRAL TERMINAL RAILWAY COMPANY CHICAGO TERMINAL FIRST MORTGAGE 4% THIRTY-YEAR GOLD BONDS DUE NOVEMBER 1, 1941

ORDER SETTING HEARING ON APPLICATIONS TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the 4% Leased Line Stock Certificates, 7% Non-Cumulative Preferred Stock, $100 Par Value, Common Stock, $100 Par Value, and Central Terminal Railway Company Chicago Terminal First Mortgage 4% Thirty-Year Gold Bonds due November 1, 1941, of Minneapolis. St. Paul & Sault Ste Marie Railway Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, December 20, 1938, at the office of the Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3566; Filed, November 28, 1938; 12:56 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28 day of November, A. D. 1938.

[File No. 43–163]

IN THE MATTER OF FEDERAL LIGHT & TRACTION COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 14, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 9, 1938.

The matter concerned herewith is in regard to the issue and sale of $1,500,000 collateral promissory notes of the declarant to Irving Trust Company, No. 1 Wall Street, New York, N. Y., the proceeds to be used to discharge declarant's 3½% collateral promissory note dated February 18, 1938, due February 1, 1939 and payable to The Chase National Bank of the City of New York in the principal amount of $1,500,000.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3563; Filed, November 28, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of November, A. D. 1938.

[File No. 7–235]

IN THE MATTER OF MARKET STREET RAILWAY COMPANY COMMON STOCK, $100 PAR VALUE; 6% CUMULATIVE PRIOR PREFERENCE STOCK, $100 PAR VALUE; 6% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE; AND 6% NON-CUMULATIVE SECOND PREFERRED STOCK, $100 PAR VALUE

ORDER

The San Francisco Stock Exchange having made application to the Commission pursuant to Section 12 (f) (3) of the Securities Exchange Act of 1934, as amended, for permission to extend unlisted trading privileges to the Market Street Railway Company Common Stock, $100 Par Value, 6% Cumulative Prior Preference Stock, $100 Par Value, 6% Cumulative Preferred Stock, $100 Par Value, and 6% Non-Cumulative Second Preferred Stock, $100 Par Value; and a hearing having been held in this matter after appropriate notice; and the Commission having made and filed its findings therein and having on August 11, 1938, denied the application; and

The San Francisco Stock Exchange having applied to the Commission for a rehearing with respect to the extension of unlisted trading privileges to the 6% Cumulative Prior Preference Stock; and a rehearing having been held[1] in this matter after appropriate notice; and the

[1] 3 F. R. 1993 DI.

[1] 3 F. R. 2653 DI.

[1] 3 F. R. 2731 DI.

[1] 3 F. R. 1108 DI.

Commission having this day made and filed its findings herein;

It is ordered, That the order of this Commission dated August 11, 1938, denying the application stand as the order of the Commission in this proceeding.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3562; Filed, November 28, 1938; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of November, A. D. 1938.

[File No. 43-165]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF COLORADO

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 12, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 9, 1938.

The matter concerned herewith is in regard to the issue and sale of the following securities:

First Mortgage Bonds:
% Series due 1963 ---------- $40,000,000
% Sinking Fund Debentures due 1948 ---------- $10,000,000
% Cumulative First Preferred Stock Series of 1948 ($100 par) ---------- $5,000,000

The declaration states that the aforedescribed Bonds, Debentures and Preferred Stock are to be issued and sold solely for the purpose of refunding or discharging outstanding securities of the Declarant and/or its predecessor companies listed hereafter and for the purpose of financing the business of the Declarant as a public utility company.

To the redemption, at 105% of the principal amount, on May 1, 1939, of $5,298,900 principal amount of The Denver Gas and Electric Company's General Mortgage 5% Gold Bonds, due May 1, 1949 (exclusive of accrued interest) ----------	$5,563,845.00
To the redemption, at 105% of the principal amount, on May 1, 1939, of $6,297,300 principal amount (exclusive of $3,026,700 principal amount in sinking fund) of The Denver Gas and Electric Light Company's First and Refunding Mortgage 5% Sinking Fund Gold Bonds, due May 1, 1951 (exclusive of accrued interest) ----------	6,612,165.00
To the redemption, at 105% of the principal amount, on May 1, 1939, of $3,579,900 principal amount of The Colorado Power Company's First Mortgage 5% Gold Bonds, due May 1, 1953 (exclusive of accrued interest) ----------	3,758,895.00
To the redemption, at 103.50% of the principal amount, on January , 1939, of $3,541,900 principal amount of the Company's First Mortgage and Refunding Gold Bonds, Series A, 6%, due September 1, 1953 (exclusive of accrued interest) ----------	3,665,866.50
To the redemption, at 103% of the principal amount, on January , 1939, of $11,987,100 principal amount of the Company's First Mortgage and Refunding Gold Bonds, Series B, 5½%, due September 1, 1954 (exclusive of accrued interest) ----------	12,346,713.00
To the redemption, at 104.50% of the principal amount, on January , 1939, of $10,345,500 principal amount of the Company's First Mortgage and Refunding Gold Bonds, Series C, 6%, due November 1, 1961 (exclusive of accrued interest) ----------	10,811,047.50
To the redemption, at 101% of the principal amount, on January , 1939, of $3,162,700 principal amount of the Company's Twenty Year 6% Gold Debentures, due May 1, 1946 (exclusive of accrued interest) ------	3,194,327.00
To the payment of the Company's 4% Secured Notes payable to The Chase National Bank of the City of New York aggregating $4,500,000 principal amount, plus a prepayment premium of $11,250 (exclusive of accrued interest) ----------	4,511,250.00
To the payment or reimbursement for the payment of equipment notes outstanding at September 30, 1938----------	366,222.00
To the payment of the company's $2,190,000 6% Notes payable to Cities Service Power & Light Company, without premium, less $158,792.29 credit allowed by such parent company, representing difference between redemption prices and book costs of $962,400 principal amount of funded debt owned by such parent company included in above items to be redeemed (exclusive of accrued interest) ----------	2,031,207.71
	52,861,538.71

Detailed information as to interest and dividend rates on the new securities and redemption dates is to be supplied by amendment.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3564; Filed, November 28, 1938; 12:55 p. m.]

UNITED STATES MARITIME COMMISSION.

[No. 486]

ORDER IN RE (1) APPLICATION OF THE BALTIMORE MAIL STEAMSHIP COMPANY FOR AMENDMENT OF THE ORDER OF JUNE 7, 1938, RELATING TO TRANSFER OF CERTAIN VESSELS OWNED BY IT TO INTERCOASTAL TRADE; (2) APPLICATION OF MATSON NAVIGATION COMPANY FOR WRITTEN PERMISSION TO CHARTER A VESSEL OWNED BY IT FOR OPERATION BY THE BALTIMORE MAIL STEAMSHIP COMPANY IN INTERCOASTAL TRADE; AND (3) APPLICATION OF UNITED STATES LINES COMPANY FOR PERMISSION TO CHARTER THE SS. WASHINGTON FOR OPERATION BY THE BALTIMORE MAIL STEAMSHIP COMPANY ON A SINGLE VOYAGE IN INTERCOASTAL TRADE

At a session of the United States Maritime Commission, held at its office in Washington, D. C., on the 23d day of November 1938.

It appearing, That the United States Lines Company has heretofore entered into an Operating-Differential Subsidy Agreement with the United States Maritime Commission pursuant to the provisions of Title VI of the Merchant Marine Act, 1936;[1]

It further appearing, That The Baltimore Mail Steamship Company is a subsidiary, affiliate, or associate company of the said United States Lines Company within the meaning of Section 805 (a) of said Act,[2] and that, pursuant to application of said The Baltimore Mail Steamship Company, the Commission by Order dated June 7, 1938, granted written permission to said company to operate in intercoastal trade the five vessels named in its application, namely, *City of Baltimore*, *City of Norfolk*, *City of Hamburg*, *City of Havre*, and *City of Newport News*;

[1] 49 Stat. 2001.
[2] 49 Stat. 2012.

It further appearing, That said The Baltimore Mail Steamship Company has applied for an amendment of said Order so as to provide that it may operate on its present intercoastal route its five named vessels and such owned or chartered substitute and/or additional vessels of similar carrying capacity as may be necessary from time to time in order to maintain a service of one sailing each week without interruption, and that said company has also applied for written permission to operate under charter from the United States Lines Company for one round trip commencing February 11, 1939, from New York to the Pacific Coast and return the S. S. *Washington*, the proposed voyage to be in the intercoastal service of The Baltimore Mail Steamship Company and to be in substitution for the voyage of the vessel regularly scheduled for sailing on that date;

It further appearing, That The Oceanic Steamship Company has heretofore entered into an Operating-Differential Subsidy Agreement with the United States Maritime Commission pursuant to the provisions of Title VI of the Merchant Marine Act, 1936;

It further appearing, That said The Oceanic Steamship Company is a wholly owned subsidiary of Matson Navigation Company, and that said Matson Navigation Company has applied for written permission to charter to The Baltimore Mail Steamship Company for operation in its present intercoastal route the S. S. *Maui*, such application being conditioned upon the granting of the aforesaid application of The Baltimore Mail Steamship Company;

It further appearing, That the United States Lines Company has applied for written permission to charter to The Baltimore Mail Steamship Company for operation on one round trip commencing February 11, 1939, from New York to the Pacific Coast and return the S. S. *Washington*, the proposed voyage to be in the intercoastal service of The Baltimore Mail Steamship Company and to be in substitution of the voyage for the vessel regularly scheduled for sailing on that date;

It is ordered, That in accordance with the provisions of Section 805 (a) of the Merchant Marine Act, 1936, and for the purposes stated therein, a public hearing be held before such member or members of the Commission or such Examiner as the Commission may designate, in the Main Auditorium, Department of Commerce Building, Washington, D. C., on Thursday, December 1, 1938, beginning at 11:00 A. M.

It is further ordered, That the person or persons designated as aforesaid to conduct such hearing may, at the request of any interested party, conduct at the time above stated a separate hearing upon one or more of the aforesaid applications limiting the testimony received to the issues presented thereby, and may adjourn or continue, from time to time as may be deemed advisable, such hearing or hearings so held upon any one or more of such applications.

It is further ordered, That, subject to provisions of Section 805 (a) of said Act, the rules of procedure to be observed at this hearing shall be those new in effect with respect to regulatory proceedings before the Commission.

It is further ordered, That a copy of this Order be served upon the United States Lines Company, the Baltimore Mail Steamship Company, Matson Navigation Company, and the Operators engaged in the intercoastal trade named in Appendix A attached hereto and made a part hereof.

By the Commission.

[SEAL] RUTH GREENE,
Assistant Secretary.

APPENDIX "A"

American-Hawaiian Steamship Company, 90 Broad St., New York, N. Y.

(Arrow Line) Sudden & Christenson, 310 Sansome St., San Francisco, Calif.

California Eastern Line, Inc., Porter Bldg., Portland, Oreg.

Calmar Steamship Corporation, 25 Broadway, New York, N. Y.

Dollar Steamship Lines Inc., Ltd., 311 California St., San Francisco, Calif.

(Grace Line) Panama Mail Steamship Company, 10 Hanover Square, New York, N. Y.

Isthmian Steamship Company, 100 West 10th St., Wilmington, Del.

Luckenbach Gulf Steamship Company, Inc., 120 Wall St., New York, N. Y.

Luckenbach Steamship Company, Inc., 120 Wall St., New York, N. Y.

McCormick Steamship Company, 461 Market St., San Francisco, Calif.

Pacific Coast Direct Line, Inc., 21-24 State St., New York, N. Y.

(Quaker Line) Pacific-Atlantic Steamship Co., Porter Bldg., Portland, Oreg.

States Steamship Company (California-Eastern Line), Porter Bldg., Portland, Oreg.

American Foreign Steamship Corporation, 80 Broad St., New York, N. Y.

Bulk Carriers Corporation, 80 Broad St., New York, N. Y.

Shepard Steamship Company, 40 Central St., Boston, Mass.

Weyerhæuser Steamship Company, P. O. Box 629, Newark, N. J.

Gulf Pacific Mail Line, Ltd., 215 Market St., San Francisco, Calif.

Swayne & Hoyt, Ltd. (Gulf Pacific Line), 215 Market St., San Francisco, Calif.

The Union Sulphur Company, 33 Rector St., New York, N. Y.

[F. R. Doc. 38-3560; Filed, November 28, 1938; 12:33 p. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 232

Washington, Wednesday, November 30, 1938

The President

ENLARGING THE MARQUETTE NATIONAL FOREST—MICHIGAN

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain lands adjacent to the Marquette National Forest within the State of Michigan have been or hereafter may be acquired by the United States of America under authority of the act of March 1, 1911, c. 186, 36 Stat. 962 (U. S. C., title 16, sec. 516), as amended by the act of June 7, 1924, 43 Stat. 653 (U. S. C., title 16, sec. 515), the act of March 31, 1933, c. 348, 48 Stat. 22 (U. S. C., title 16, sec. 585), the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 195, 202, U. S. C., title 40, sec. 403), and the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115); and

WHEREAS it appears that the said lands and certain intermingled public lands are suitable for national-forest purposes, and that it would be in the public interest to give such lands a national-forest status:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1095, 1103 (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), by section 11 of the act of March 1, 1911, 36 Stat. 963 (U. S. C., title 16, sec. 521), the act of March 31, 1933, 48 Stat. 22 (U. S. C., title 16, sec. 585), the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 202, U. S. C., title 40, sec. 403), and section 5 of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115, 118), do proclaim (1) that there are hereby reserved and set apart as an addition to the Marquette National Forest all lands of the United States within the area hereinafter described and shown on the diagram attached hereto and made a part hereof,[1] and (2) that all lands within such area which may hereafter be acquired by the United States under the authority of the said acts of March 1, 1911, June 7, 1924, March 31, 1933, June 16, 1933, and April 8, 1935, shall upon acquisition of title thereto become, and be administered as, part of the said Marquette National Forest.

Michigan Principal Meridian

That portion of the Round Island Lighthouse Reservation in the Straits of Mackinac, Michigan, lying eastward of the true north and south line passing through a point distant 1900 feet, 135 degrees true south 45 degrees east, from the center of the Round Island Lighthouse tower, which tower is located at latitude 45 degrees, 50 minutes, 15 seconds north, and longitude 84 degrees, 37 minutes west, described by metes and bounds as follows: Beginning at the point defined above; thence due north 200 feet, more or less, to the shore line; thence following the shore line southeasterly and southerly to the extreme southeasterly point of the Island; thence northwesterly following the shore line to a point on the southwesterly shore line which is due south of the point of beginning; thence due north 530 feet, more or less, to the point of beginning.

T. 40 N., R. 4 W.,
secs. 1, 2, 3, 4, 5, 8, 9, fractional secs. 10, 11 and 12, and W½ sec. 15.
T. 41 N., R. 1 E.,
all of Government Island No. 6, subject, however, to the provisions of section 13 of the act of May 28, 1935, 49 Stat. 305, 307.
T. 41 N., R. 2 W.,
secs. 2, 3, 10 and 11.
T. 41 N., R. 3 W.,
all that part West of Lake Huron.
T. 41 N., R. 4 W.,
all.
T. 41 N., R. 5 W.,
all that part North and East of Lake Michigan.
T. 42 N., R. 2 W.,
all that part lying North of St. Martin's and Search Bays in Lake Huron.
T. 42 N., R. 3 W.,
all that part lying West and North of St. Martin's Bay in Lake Huron.

[1] See page 2800.

CONTENTS

THE PRESIDENT

Proclamation: Page
Marquette National Forest, Mich., enlargement 2799
Executive Order:
Alaska, placing certain land under control of Secretary of Interior 2800

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
National marketing quotas for:
Burley tobacco 2801
Fire-cured and dark air-cured tobacco 2801
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Lumber, timbers, poles, and shingles; marking of 2802
Netherlands milk products, suspension of imposition of countervailing duties 2802
TITLE 31—MONEY AND FINANCE: TREASURY:
Office of the Secretary:
United States postage stamps, amendment of regulations relating to illustrations of 2802
TITLE 43—PUBLIC LANDS:
General Land Office:
Stock Driveway Withdrawal No. 209, Oregon No. 26, enlarged 2802
TITLE 50—WILDLIFE:
Bureau of Biological Survey:
Seney Migratory Waterfowl Refuge, Mich., fishing permitted 2803

NOTICES

Civil Aeronautics Authority:
Hearings on applications for certificates of public convenience and necessity:
Chicago and Southern Air Lines, Inc 2806

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Civil Aeronautics Authority—Con.	
Hearings on applications for certificates of public convenience and necessity—Contd.	
Mid-Continent Airlines, Inc.	2806
Northwest Airlines, Inc.	2806
Department of Agriculture:	
Agricultural Adjustment Administration:	
Burley, fire-cured and dark air-cured tobacco, instructions for holding referenda on marketing quotas	2803
Securities and Exchange Commission:	
Withdrawal of applications by:	
Northeastern Water and Electric Corp.	2806
Staten Island Edison Corp.	2806

Tps. 42 N., Rs. 4 and 5 W., all.
Tps. 43 N., Rs. 2, 3, 4 and 5 W., all.
T. 44 N., R. 3 W., secs. 6, 7, 18 and 19; S½ secs. 27 and 28; W½NE¼, W½, and SE¼ of sec. 29; and secs. 30 to 34, inclusive.
T. 44 N., R. 4 W., secs. 25 to 36, inclusive.
T. 44 N., R. 5 W., secs. 25 to 36, inclusive.
T. 45 N., R. 3 W., secs. 27 to 31, inclusive, and the N½ of sec. 32.

The Executive Orders of July 21, 1874, and October 20, 1874, withdrawing public lands for lighthouse purposes are hereby revoked, and Executive Order No. 4430 of April 23, 1926, withdrawing public lands for classification, is hereby revoked in so far as it affects any of the above-described lands.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 25'' day of November in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2313]

[F. R. Doc. 38-3546; Filed, November 28, 1938; 11:07 a. m.]

EXECUTIVE ORDER

PLACING CERTAIN LAND UNDER THE CONTROL OF THE SECRETARY OF THE INTERIOR

ALASKA

By virtue of and pursuant to the authority vested in me by section 1 of the act of July 5, 1884, 23 Stat. 103, it is ordered as follows:

SECTION 1. Having become useless for military purposes, all tracts of land now withdrawn for such purposes at the Circle, Hot Springs, Fort St. Michael, and Iditarod Military Reservations, Alaska, are hereby placed under the control of the Secretary of the Interior for disposition as provided in the above-mentioned act, or as may be otherwise provided by law.

SECTION 2. The Executive orders of October 20, 1897, May 4, 1908, September 30, 1908, June 6, 1914, and December 16, 1919, reserving certain lands for military purposes, are hereby revoked in so far as they effect the tracts of land designated in section 1 of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
November 26, 1938.

[No. 8014]

[F. R. Doc. 38-3571; Filed, November 28, 1938; 2:50 p. m.]

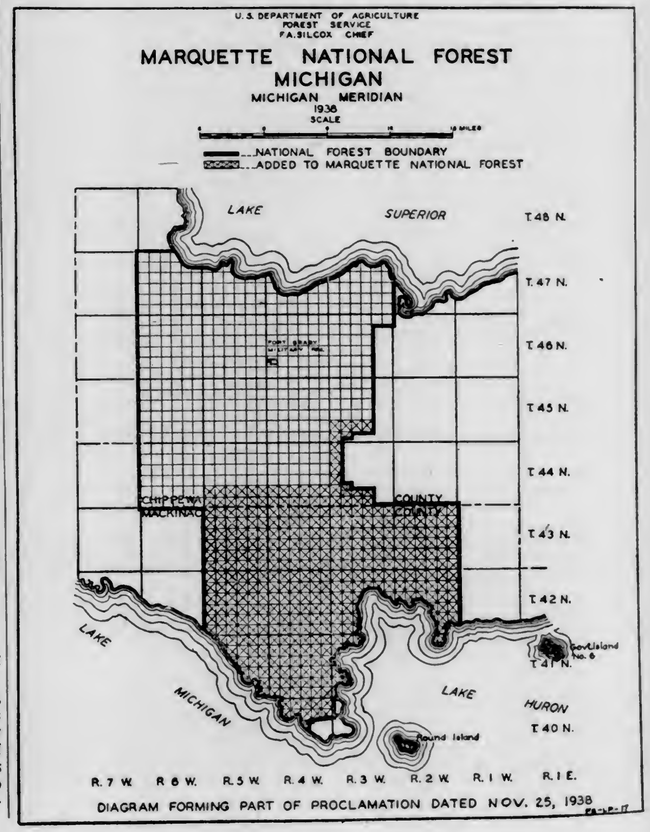


DIAGRAM FORMING PART OF PROCLAMATION DATED NOV. 25, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

NATIONAL MARKETING QUOTA FOR BURLEY TOBACCO

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA, A PROCLAMATION

Whereas the Agricultural Adjustment Act of 1938, as amended, provides:

SEC. 312. (a) Whenever, on the 15th day of November of any calendar year, the Secretary [of Agriculture] finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. Such proclamation shall be made not later than the 1st day of December in such year.

and

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins • • •

"Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current • • •

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

• • • • •

Tobacco (other than flue-cured), October 1–September 30 • • •.

"Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" of tobacco shall be a normal year's domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"Normal year's domestic consumption", in the case of • • • tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports" in the case of • • • tobacco • • • shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years • • • immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

and

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act."; and

Whereas on the 15th day of November 1938, I, H. A. Wallace, Secretary of Agriculture of the United States, found, upon the basis of the latest available statistics[1] of the Federal Government, that the "reserve supply level" of Burley tobacco was 1,014,000,000 pounds; and that the "total supply" of Burley tobacco for the marketing year for such tobacco beginning October 1, 1938, was 1,053,000,000 pounds and exceeded the reserve supply of such tobacco:

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States, acting under and pursuant to, and by virtue of, the authority vested in me by the Agricultural Adjustment Act of 1938, as amended, do hereby proclaim my findings aforesaid and do hereby determine and proclaim that the amount of the national marketing quota for Burley tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning October 1, 1939, a supply of such tobacco equal to the reserve supply level, is 315,000,000 pounds.

Done at Washington, D. C., this 29th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3577; Filed, November 29, 1938; 12:32 p. m.]

NATIONAL MARKETING QUOTA FOR FIRE-CURED AND DARK AIR-CURED TOBACCO

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA, A PROCLAMATION

Whereas the Agriculutral Adjustment Act of 1938, as amended, provides:

SEC. 312. (a) Whenever, on the 15th day of November of any calendar year, the Secretary [of Agriculture] finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. Such proclamation shall be made not later than the 1st day of December in such year.

and

Whereas said Act contains, in section 301 (b), the following definitions of terms here pertinent:

"Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins • • •

"Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current • • •

"Marketing year" means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

• • • • •

Tobacco (other than flue-cured), October 1–September 30 • • •.

"Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" of tobacco shall be a normal year's domestic consumption and exports plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

"Normal year's domestic consumption," in the case of • • • tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

"Normal year's exports" in the case of • • • tobacco • • • shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years • • • immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

and

Whereas said Act provides, in section 301 (c), that "The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act."; and

Whereas on the 15th day of November 1938, I, H. A. Wallace, Secretary of Agriculture of the United States, found, upon the basis of the latest available statistics[1] of the Federal Government, that the "reserve supply level" of fire-cured and dark air-cured tobacco was 341,000,000 pounds; and that the "total supply" of fire-cured and dark air-cured tobacco for the marketing year for such tobacco beginning October 1, 1938, was 366,000,000 pounds and exceeded the reserve supply level of such tobacco:

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States, acting under and pursuant to, and by virtue of, the authority vested in me by the Agricultural

[1] Rounded to the nearest 1,000,000 pounds.

Adjustment Act of 1938, as amended, do hereby proclaim my findings aforesaid and do hereby determine and proclaim that the amount of the national marketing quota for fire-cured and dark air-cured tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning October 1, 1939, a supply of such tobacco equal to the reserve supply level, is 138,000,000 pounds.

Done at Washington, D. C., this 29th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3578; Filed, November 29, 1938; 12:32 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49749]

IMPOSITION OF COUNTERVAILING DUTIES ON CERTAIN NETHERLANDS MILK PRODUCTS SUSPENDED PENDING CONSIDERATION OF NEW INFORMATION

To Collectors of Customs and Others Concerned:

The Bureau has received new information through official channels indicating that the procedures on the basis of which countervailing duties were to be imposed on certain Netherlands milk products (T. D. 49729 of October 18, 1938[1]) have been discontinued. Accordingly, pending investigation and consideration of the current situation, the instructions published in T. D. 49729 are hereby suspended.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, November 25, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3574; Filed, November 29, 1938; 12:09 p. m.]

[T. D. 49750]

MARKING OF LUMBER, TIMBERS, POLES, AND SHINGLES

NOVEMBER 25, 1938.

To Collectors of Customs and Others Concerned:

Section 304 (a) (3) (J) of the Tariff Act of 1930, as amended by section 3 of the Customs Administrative Act of 1938 (Public, No. 721, 75th Congress), provides that the Secretary of the Treasury may by regulations authorize the exception of any imported article from the requirement of section 304 that it be marked to indicate the country of its origin if—

(J) Such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly Treasury Decisions within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin: *Provided*, That this subdivision (J) shall not apply after September 1, 1938, to sawed lumber and timbers, telephone, trolley, electric-light, and telegraph poles of wood, and bundles of shingles; but the President is authorized to suspend the effectiveness of this proviso if he finds such action required to carry out any trade agreement entered into under the authority of the Act of June 12, 1934 (U. S. C., 1934 edition, title 19, secs. 1351–1354), as extended.

In T. D. 49690 of August 22, 1938,[2] notice was given that pursuant to the provisions of the said section 304 (a) (3) (J), and section 532 (b) of the Customs Regulations of 1937,[3] as amended by (1938) T. D. 49658,[3] the articles listed below were then exempt from marking but, subject to further notice, were required to be marked to indicate the country of their origin if entered for consumption or withdrawn from warehouse for consumption after September 1, 1938:

Lumber, sawed.
Poles (wood), electric-light.
Poles (wood), telegraph.
Poles (wood), telephone.
Poles (wood), trolley.
Shingles (wood), bundles of.
Timbers, sawed.

Pursuant to the authority contained in the proviso to section 304 (a) (3) (J) of the Tariff Act of 1930, as amended, the President, by his proclamation dated November 25, 1938, of the new Canadian Trade Agreement, has suspended, effective November 26, 1938, the requirement that all imported articles enumerated above be marked to indicate the country of origin. Therefore, notice is hereby given that pursuant to the provisions of the said section 304 (a) (3) (J) and of section 532 (b) of the Customs Regulations of 1937, as amended, no article listed above which is entered for consumption or withdrawn from warehouse for consumption on or after November 26, 1938, shall be required to be marked to indicate the country of its origin.

So much of T. D. 49690 as is in conflict herewith is hereby superseded.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3575; Filed, November 29, 1938; 12:09 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

OFFICE OF THE SECRETARY

AMENDMENT OF REGULATIONS RELATING TO ILLUSTRATIONS OF UNITED STATES POSTAGE STAMPS

NOVEMBER 26, 1938.

Pursuant to the authority contained in section 2 (b) of the Act of Congress of January 27, 1938, entitled "An Act to permit the printing of black-and-white illustrations of United States and foreign postage stamps for philatelic purposes", section 3 of the Regulations relating to illustrations of United States postage stamps, approved February 14, 1938,[1] is hereby amended to read as follows:

"SEC. 3. *Illustrations permitted.*—The printing, publishing, and importation, and the making and importation of the necessary plates for such printing and publishing, for philatelic purposes in articles, books, journals, newspapers, and albums (including the circulars and advertising literature of legitimate dealers in stamps and publishers of and dealers in philatelic and historical articles, books, journals, and albums) of black and white illustrations of canceled and uncanceled United States postage stamps (including postage stamps impressed upon stamped envelopes and postal cards) are permitted, provided that such illustrations are of a size less than three-quarters or more than one and one-half, in linear dimension, of each part of such stamp."

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

Approved: November 26, 1938.

FRANKLIN D ROOSEVELT
The White House.

[F. R. Doc. 38-3573; Filed, November 29, 1938; 12:09 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWAL No. 209, OREGON No. 26, ENLARGED

NOVEMBER 18, 1938.

It appearing that the following-described public lands should be included in Stock Driveway Withdrawal No. 209, Oregon No. 26, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that such lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights and the power site withdrawals affecting the greater portion of the land:

WILLAMETTE MERIDIAN

T. 9 S., R. 23 E.,
sec. 1, S½SE¼,
sec. 11, N½NE¼, NW¼,
sec. 12, N½N½;
aggregating 480 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38-3572; Filed, November 29, 1938; 10:00 a. m.]

[1] 3 F. R. 2543 DI.
[2] 3 F. R. 2082 DI.
[3] 2 F. R. 1570 (1859 DI).
[3] 3 F. R. 1808 DI.
[1] 3 F. R. 449 DI.

TITLE 50—WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

ORDER PERMITTING FISHING WITHIN SENEY MIGRATORY WATERFOWL REFUGE, MICHIGAN

Pursuant to regulations 2 and 3 of the regulations of the Secretary of Agriculture, effective November 24, 1937, for the administration of national wildlife refuges,[1] it is hereby ordered, until further notice, that in accordance with the provisions of said regulations fish may be taken through the ice for noncommercial purposes each day during the period December 1 to March 15, both dates inclusive, in any year, within the following-described waters of the Seney Migratory Waterfowl Refuge, Michigan, subject to conditions and restrictions hereinafter specified:

1. *Waters open to fishing.*—All waters of the refuge within the following-described areas shall be open to ice fishing: N½N½ sec. 5, T. 44 N., R. 13 W.; all of secs. 16, 17, 18, 19, 20, 21, 28, 29, and 30, E½ and NE¼NW¼ sec. 31, all of sec. 32, and W½E½ and W½ sec. 33, T. 45 N., R. 13 W.; and all of sec. 24, and NE¼ and NE¼NW¼ sec. 25, T. 45 N., R. 14 W., Michigan Meridian.

2. *Routes of travel.*—Persons entering the refuge for the purpose of reaching the waters thereof for ice fishing shall follow such routes of travel as shall from time to time be designated by the officer in charge.

3. *State fishing laws.*—Any person who fishes on the refuge must comply with applicable fishing laws and regulations of the State of Michigan, and in the absence of any State law or regulation with respect to the number and size of the fishes that may be taken, the Chief of the Bureau of Biological Survey may fix such limits. The species of fishes taken, the kind of bait used, and the manner of taking fishes shall be the same as permitted by State law or regulation in similarly classified waters of the State, except that the use of live bait is prohibited.

4. *Fishing permits.*—Any person exercising the privilege of ice fishing within the refuge shall be in possession of a valid fishing license issued by the State of Michigan, if such license is required, and shall carry such license on his person while fishing, and when requested to do so shall exhibit it to any representative of the Michigan Commission of Conservation authorized to enforce the game and fish laws of the State, or to any representative of the Bureau of Biological Survey.

In testimony whereof I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 29th day of November 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3576; Filed, November 29, 1938; 12:32 p. m.]

[1] 2 F. R. 2537 (2951 DI).

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[39-AAA-1-B]

INSTRUCTIONS FOR HOLDING REFERENDA ON NATIONAL MARKETING QUOTAS FOR (1) BURLEY TOBACCO, AND (2) FIRE-CURED AND DARK AIR-CURED TOBACCO

In view of the fact that the Secretary of Agriculture has duly proclaimed, pursuant to the provisions of Section 312 (a) of the Agricultural Adjustment Act of 1938, national marketing quotas for (1) Burley tobacco, and (2) fire-cured and dark air-cured tobacco, for the marketing year beginning October 1, 1939, a referendum of farmers who were engaged in the production of the 1938 crop of Burley tobacco and a referendum of farmers who were engaged in the production of the 1938 crop of fire-cured and dark air-cured tobacco will be held on December 17, 1938, pursuant to the provisions of section 312 (c) of the said act and in accordance with the regulations herein set forth to determine whether such farmers are in favor of or opposed to such quotas. If, in either referendum, more than one-third of the farmers voting therein oppose the national marketing quota for the marketing year beginning October 1, 1939, such quota will not be in effect for such marketing year.

The following forms will be used:

Tobacco 307—"Notice—Burley Tobacco Marketing Quota Referendum"
Tobacco 313—"Notice—Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Referendum"
Tobacco 308—"1939 Burley Tobacco Marketing Quota Referendum Ballot"
Tobacco 314—"1939 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Referendum Ballot"
Tobacco 309—"Register of Eligible Voters and Ballots Cast—1939 Burley Tobacco Marketing Quota Referendum"
Tobacco 315—"Register of Eligible Voters and Ballots Cast—1939 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Referendum"
Tobacco 310—"Community Summary of 1939 Burley Tobacco Marketing Quota Ballots"
Tobacco 316—"Community Summary of 1939 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Ballots"
Tobacco 311—"County Summary of 1939 Burley Tobacco Marketing Quota Ballots"
Tobacco 317—"County Summary of 1939 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Ballots"
Tobacco 312—"State Tabulation of 1939 Burley Tobacco Marketing Quota Ballots"
Tobacco 318—"State Tabulation of 1939 Fire-Cured and Dark Air-Cured Tobacco Marketing Quota Ballots"

A. VOTING ELIGIBILITY

All farmers who were engaged in the production of Burley tobacco in 1938 are eligible to vote in the Burley tobacco marketing quota referendum. All farmers who were engaged in the production of fire-cured or dark air-cured tobacco in 1938 are eligible to vote in the fire-cured and dark air-cured tobacco marketing quota referendum. The fact that a farmer is eligible to vote in one referendum does not mean that he is eligible to vote in the other. Any person who shared in the proceeds of the 1938 Burley tobacco crop as owner (other than a landlord of a standing-rent or fixed-rent tenant), tenant, or sharecropper shall be considered as having been engaged in the production of Burley tobacco in 1938. Likewise, any person who shared in the proceeds of the 1938 fire-cured or dark air-cured tobacco crop as owner (other than a landlord of a standing-rent or fixed-rent tenant), tenant, or sharecropper is considered as having been engaged in the production of fire-cured or dark air-cured tobacco in 1938. Farmers who (1) planted Burley tobacco or fire-cured or dark air-cured tobacco in 1938 but produced no Burley tobacco or fire-cured or dark air-cured tobacco on such acreage for any reason except willful neglect to farm the planted acreage, or (2) who made arrangements to plant Burley tobacco or fire-cured or dark air-cured tobacco in 1938 but were prevented from planting by flood, excessive rainfall, drought, or plant disease, shall be regarded as having been engaged in the production of (1) Burley tobacco or (2) fire-cured or dark air-cured tobacco, respectively, in 1938 and, therefore, eligible to vote.

No farmer (whether an individual, partnership, corporation, association, or other legal entity) shall be entitled to more than one vote in either referendum, even though he may have been engaged in the production of (1) Burley tobacco or (2) fire-cured or dark air-cured tobacco in two or more communities, counties, or States in 1938.

In the event several persons, such as husband, wife, and children, participated in the production of (1) Burley tobacco

or (2) fire-cured or dark air-cured tobacco in 1938 under a single rental or cropping agreement, lease, or other arrangement, only the person or persons who signed or entered into the rental or cropping agreement or lease, or the head of the family if no such agreement or lease obtains, shall be eligible to vote.

In the event two or more persons engaged in producing (1) Burley tobacco or (2) fire-cured or dark air-cured tobacco in 1938 not as members of a partnership but as tenants in common or joint tenants or as owners of community property, each such person is entitled to vote.

There shall be no voting by mail, proxy, or agent, but a duly authorized officer of an eligible corporation, firm, association, or other legal entity, or a duly authorized member of a partnership, may cast its vote.

If a community referendum committee determines that a farmer residing within the jurisdiction of such committee at the time of the referendum is eligible to vote by reason of his having engaged in producing (1) Burley tobacco or (2) fire-cured or dark air-cured tobacco in another community in 1938, the committee may issue a ballot form to him and permit him to vote, provided the committee also satisfies itself that such farmer has not voted in the pertinent referendum in another community. If the committee cannot so satisfy itself and the farmer insists upon voting, it shall challenge the ballot in the manner hereinafter outlined.

B. INSTRUCTIONS TO COUNTY COMMITTEES

The County Agricultural Conservation Committee (hereinafter referred to as the county committee) shall be responsible for the proper holding of the referenda in the county and shall:

1. Designate one readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting the applicable notice form at one or more places open to the public within each community at least 5 days in advance of the date of the referenda.

2. Make use (without advertising expense) of all available agencies of public information, including newspapers and radio, to give (1) Burley tobacco farmers, and (2) fire-cured and dark air-cured tobacco farmers in the county full and accurate public notice of the day and hours of voting, the location of polling places, and the rules governing eligibility to vote. Such notice should be given as soon as practicable after the plans for holding the referenda in the county have been made, but must be given at least five days in advance of the date of the referenda.

3. Designate three local farmers residing in each community as members of the community referendum committee to conduct (1) the Burley tobacco marketing quota referendum, and (2) the fire-cured and dark air-cured tobacco marketing quota referendum in such community, and name one of the members chairman of the committee.

4. In counties with a total of less than 200 Burley tobacco and fire-cured and dark air-cured tobacco farms, the county committee may treat the county as one community for the purpose of the referenda and hold the referenda and perform the duties both of the county committee and community referendum committee.

5. See that each community referendum committee is provided with (1) a suitable ballot box for the Burley tobacco marketing quota referendum and (2) a separate ballot box for the fire-cured and dark air-cured marketing quota referendum.

6. Execute Form Tobacco 309 for each community in the county, listing thereon the names and addresses of all persons who were engaged in the production of Burley tobacco in such community during 1938. Likewise, execute Form Tobacco 315 for each community in the county, listing thereon the names and addresses of all persons who were engaged in the production of fire-cured or dark air-cured tobacco in such community during 1938. If lists of such persons by communities are already available to the county committee, they may be turned over the community referendum committees for their own preparation of Forms Tobacco 309 and Tobacco 315.

7. Deliver a supply of the applicable Forms Tobacco 308 and 310 and Tobacco 314 and 316, as well as the executed copies of Tobacco 309 and Tobacco 315 (or a supply of blank Forms Tobacco 309 and Tobacco 315 and the required lists of Burley tobacco and fire-cured and dark air-cured tobacco farmers in the community), to the chairman of the respective community referendum committee.

8. See to it that the community referendum committees understand their duties as to (a) issuing ballot forms, (b) recording votes, (c) tabulating ballots, and (d) certifying results of the referendum in the community.

9. See that appropriate measures are taken to insure that each referendum is conducted by secret ballot.

10. Notify the State committee by telephone, telegraph, or in person, as soon as possible after the closing of the polls, as to the preliminary count of "Yes" and "No" votes in each referendum held in the county.

11. Meet not later than 8:30 o'clock a. m. Monday, December 19, 1938, for the purpose of receiving and tabulating the data from Forms Tobacco 310 and Tobacco 316 on Forms Tobacco 311 and Tobacco 317, respectively. Such meeting shall be open to the public. Forms Tobacco 311 and Tobacco 317, showing results of the vote in the county, shall be prepared and certified in quadruplicate, two copies of which shall be sent to the State Agricultural Conservation Committee (hereinafter referred to as the State Committee) not later than four calendar days after the date of the referenda, one copy of each posted for sixty days in a conspicuous place accessible to the public or in or near the office of the county committee (hereinafter referred to as the county office), and one copy of each permanently filed in the county office. One copy of each executed Tobacco 310 and Tobacco 316 shall be posted for sixty days in a conspicuous place accessible to the public in or near the county office.

12. Make an investigation in each case of controversy or dispute regarding eligibility of a voter. In each case where a ballot is found in a sealed envelope marked "Challenged" by the community referendum committee and bearing the voter's name, and a statement of the reason for the challenge, the eligibility of such person shall first be determined. If it is determined that such person is eligible, the envelope shall be opened and the ballot placed with the challenged ballot of every other person found to be eligible, and when all the challenged ballots shall have been passed upon by the committee those ballots found to be valid shall be unfolded and tabulated in the county summary. If it is determined that such person is not eligible, the envelope shall not be opened but shall be preserved with the ballots, as provided in paragraph 14 of this section B.

13. Make an investigation in each case of dispute regarding the correctness of the summary of either referendum in a community. No dispute shall be investigated by the county committee unless it is brought to its attention within three calendar days after the date on which the referendum in question was held. The county committee shall promptly decide the dispute and immediately report its findings to the State committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

14. Seal the voted ballots, challenged ballots found ineligible, register sheets, and community summary sheets for the county in one or more envelopes or packages (marked "Burley Tobacco Referendum 1939", or "Fire-cured and Dark Air-cured Tobacco Referendum 1939", as the case may be, followed by the name of the county) and place them under lock and key in a safe place under the custody of the secretary of the county agricultural conservation association for a period of 60 calendar days from the date of the referendum. If no notice to the contrary is received by the end of such time, the ballots shall be destroyed and the register and community summary sheets permanently filed in the county office.

C. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

Each community referendum committee designated by the county agricultural conservation committee shall:

1. Arrange, with the assistance of the county committee, for conducting the referenda by secret ballot.

2. Assist the county committee in giving adequate public notice of the time and place for casting ballots at least five days in advance of the date on which the referenda will be held.

3. Provide a place where each eligible farmer can prepare and cast a ballot in secret and without interference.

4. Provide ballot boxes. Any container so arranged that ballots cannot be seen and cannot be removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks and show that the seal has been tampered with.

5. Open the polls not later than 9 o'clock a. m., local standard time, on Saturday, December 17, 1938.

6. Hold the referenda in a fair and unbiased manner and see that appropriate measures are taken to insure that the referenda are conducted by secret ballot.

7. See that no device is used whereby any voter's ballot may be identified (except in the case of a challenged ballot). Instruct each voter, as he is handed a ballot form, as to the procedure to be followed in casting his ballot and instruct him to fold his ballot before he places it in the ballot box after he has marked it to show which way he votes.

8. Issue a ballot to each person who is eligible to vote and to each person who claims to be eligible to vote and insists upon voting even though his eligibility is challenged by the committee. Every unchallenged ballot shall be placed in the ballot box by the person who voted it. In every case where the eligibility of the voter is challenged, his ballot, after being marked by the challenged person, shall be placed (by him, or by the committee if he refuses) in an envelope and shall be sealed and marked with his name, the word "Challenged", and a statement of the reason for the challenge, and the envelope shall then be placed in the ballot box. The letter "C" shall be entered on (1) Form Tobacco 309 or (2) Tobacco 315, whichever is applicable, immediately to the left of the name of each person whose vote is challenged.

9. Record on Forms Tobacco 309 and Tobacco 315, respectively, the name and address of each farmer to whom a ballot form is issued if he is not already listed thereon prior to the time the ballot form is issued to him.

10. Enter an "X" in the designated column on Forms Tobacco 309 and Tobacco 315 beside the name and address of each farmer to whom a ballot form is issued and who places his ballot in the ballot box (whether or not his ballot is challenged).

11. Close the polls and discontinue acceptance of ballots at 5 o'clock p. m., local standard time, on the date of the referendum or such later hour on such date as is fixed by the State Committee.

12. Immediately after closing the polls, open the ballot box and canvass the ballots cast, which canvass shall be kept open to the public.

13. Tabulate and record the results of the referenda on Forms Tobacco 310 and Tobacco 316, respectively. The number of challenged ballots cast shall be entered on Forms Tobacco 310 and Tobacco 316, respectively, in the space provided and will not, of course, be shown as being either for or against the national marketing quota. If any ballot is found to be spoiled or marked in such a way that it cannot be determined whether the voter approved or opposed the national marketing quota, it shall not be counted as a ballot cast but the number of such spoiled ballots shall be entered in the space provided and such ballots placed in an envelope marked "Spoiled Ballots", followed by the designation of the community.

14. Certify to the accuracy of the executed Forms Tobacco 309 and 310 and Tobacco 315 and 316 by signing in the spaces provided.

15. Notify the county committee by telephone or in person as soon as possible after the closing of the polls as to the preliminary count of "Yes" and "No" votes in the community.

16. Seal the voted ballots (including those challenged), the spoiled ballots, the register sheet, and the community summary sheets in one or more envelopes appropriately identified by the designation of the community and deliver them to the county committee not later than 8:30 o'clock a. m., Monday, December 19, 1938, with the unused ballots and other forms. The chairman of the community referendum committee shall be responsible for the safe delivery of such reports, ballots, and forms to the county committee.

17. Post an executed copy of (1) Forms Tobacco 310 and (2) Tobacco 316 as soon as they are executed, at a conspicuous place at the polling place and see that it remains posted and accessible to the public for at least three calendar days after the date of the holding of the referendum.

D. INSTRUCTIONS TO STATE COMMITTEE

The State committee shall be in charge of and responsible for the conducting of the referenda in the State and shall:

1. Report by wire the preliminary results of the referenda to the Regional Director as soon as possible.

2. Summaries on Forms Tobacco 312 and Tobacco 318, respectively, the information reported to it on the Forms Tobacco 311 and Tobacco 317 and forward via air mail special delivery two fully executed Forms Tobacco 312 and Tobacco 318 to the applicable Regional Director, Agricultural Adjustment Administration, Washington, D. C., not later than seven calendar days after the date of the referenda. If one sheet proves insufficient for listing the information with respect to all counties in the State, additional sheets properly numbered and identified and securely attached to the first sheet may be used for continuation, in which case totals and signatures should be entered only on the last sheet. One fully executed copy each of Forms Tobacco 311 and 312 and Tobacco 317 and 318 shall be permanently filed in the State office of the Agricultural Adjustment Administration.

3. Complete the investigation of any report from any county regarding controversies, irregularities, or the correctness of summaries of the referenda, not later than ten calendar days after the date of the referenda, and forward its findings in such cases to the applicable Regional Director.

E. RESULTS OF REFERENDA

Final and official tabulation of the votes cast in the referenda will be made by the Agricultural Adjustment Administration and the results of the referenda announced by the Secretary of Agriculture. The reports on Tobacco 312 and Tobacco 318 and related papers shall be permanently filed with such tabulation and shall remain available for public inspection.

Each county committee is authorized to give out unofficial reports of the total "Yes" and total "No" votes in its county to the public press and to other inquiries. The State Committee is authorized to release to the press and other inquirers the unofficial results of the referenda for the respective State by counties as rapidly as the votes in the various counties are tabulated.

If the Administrator of the Agricultural Adjustment Administration or the Secretary of Agriculture deems it necessary, the report of any community referendum committee, county committee, or State committee shall be reexamined and checked by such persons or agencies as may be designated.

Done at Washington, D. C., this 23d day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3516; Filed, November 23, 1938; 12:07 p. m.]

DEC 3 1938

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 42-401(E)-1]

NORTHWEST AIRLINES, INC.

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (E) FOR THE TRANSPORTATION OF MAIL, PASSENGERS AND PROPERTY BY AIR BETWEEN CHICAGO, ILLINOIS, AND WINNIPEG, MANITOBA, VIA MILWAUKEE, WISCONSIN, ROCHESTER, ST. PAUL, AND MINNEAPOLIS, MINNESOTA, AND FARGO, NORTH DAKOTA, AND BETWEEN FARGO, NORTH DAKOTA, AND PORTLAND, OREGON, VIA BISMARCK, NORTH DAKOTA, MILES CITY, BILLINGS, BUTTE, HELENA, AND MISSOULA, MONTANA, SPOKANE, WENATCHEE, YAKIMA AND SEATTLE, WASHINGTON.

NOVEMBER 28, 1938.

The above entitled proceeding is assigned for hearing on December 8, 1938, at 10 o'clock a. m. (eastern standard time), at the offices of the Civil Aeronautics Authority, Washington, D. C., before Examiner F. W. Brown.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3581; Filed, November 29, 1938; 12:45 p. m.]

[Docket No. 3-401(E)-1]

MID-CONTINENT AIRLINES, INC.

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER SECTION 401 (E) FOR THE TRANSPORTATION BY AIR OF MAIL, PASSENGERS, AND PROPERTY IN SCHEDULED OPERATIONS BETWEEN MINNEAPOLIS, MINN., AND TULSA, OKLA., VIA WATERTOWN, HURON AND SIOUX FALLS, S. DAKOTA, SIOUX CITY, IOWA, OMAHA, NEBRASKA, AND ST. JOSEPH AND KANSAS CITY, MO., AND BETWEEN MINNEAPOLIS, MINN., AND KANSAS CITY, MO., VIA SIOUX CITY, IOWA AND OMAHA, NEBRASKA AND BETWEEN HURON, SOUTH DAKOTA AND BISMARCK-MANDAN, NORTH DAKOTA, VIA ABERDEEN, SOUTH DAKOTA

NOVEMBER 28, 1938.

The above-entitled proceeding is assigned for public hearing on December 6, 1938, at 10 o'clock a. m. (eastern standard time), at the offices of the Civil Aeronautics Authority, Washington, D. C., before Examiner G. A. Keyser.

For the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3582; Filed, November 29, 1938; 12:45 p. m.]

[Docket No. 4-401(E)-1]

CHICAGO AND SOUTHERN AIR LINES, INC.

APPLICATION UNDER SECTION 401 (E) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION BY AIR OF MAIL, PERSONS, AND PROPERTY BETWEEN CHICAGO, ILL., AND NEW ORLEANS, LA., VIA PEORIA, BLOOMINGTON, AND SPRINGFIELD, ILL., ST. LOUIS, MO., MEMPHIS, TENN., AND GREENWOOD AND JACKSON, MISS.

NOVEMBER 28, 1938.

The above-entitled proceeding is assigned for public hearing on December 13, 1938, 10 o'clock a. m. (eastern standard time), at the office of the Civil Aeronautics Authority, Washington, D. C., before Examiner G. A. Keyser.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3583; Filed, November 29, 1938; 12:45 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of November, A. D. 1938.

[File No. 43-115]

IN THE MATTER OF NORTHEASTERN WATER AND ELECTRIC CORPORATION

ORDER OF WITHDRAWAL OF APPLICATION

A declaration (File No. 43-115) having been filed with this Commission by Northeastern Water and Electric Corporation pursuant to section 7 of the Public Utility Holding Company Act of 1935 regarding the proposed issue and sale of a promissory note in the principal amount of $500,000 to Chemical Bank and Trust Company; subsequent to such filing the declarant having requested the Commission to permit the withdrawal of the named declaration in the event that the Commission approved for cash the acquisition concerned in the matter of Northeastern Water and Electric Corporation, File No. 46-96, and the Commission by an order dated August 31, 1938 having approved[1] the acquisition referred to for cash but upon certain conditions;

The Commission having due regard to the public interest and the interest of investors and consumers, upon said request consents to the withdrawal of said declaration contained in Commission's File No. 43-115.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3579; Filed, November 29, 1938; 12:34 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of November, A. D. 1938.

[Files No. 43-126 and No. 43-133]

IN THE MATTER OF STATEN ISLAND EDISON CORPORATION

ORDER OF WITHDRAWAL OF APPLICATION

Staten Island Edison Corporation having filed with this Commission, declarations, Files No. 43-126 and No. 43-133, in regard to a proposed issue and sale of certain securities and pursuant to section 7 of the Public Utility Holding Company Act of 1935, and subsequent thereto Staten Island Edison Corporation having filed an application pursuant to section 6 (b) of said Act, concerning the issue and sale of certain securities in the place and stead of those contemplated by the declarations hereinbefore referred to;

The Commission having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant and declarant consents to withdrawal of the declarations contained in Commission's Files No. 43-126 and No. 43-133, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3580; Filed, November 29, 1938; 12:34 p. m.]

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[1] 3 F. R. 2165 DI.

DEC 3 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — OF THE UNITED STATES 1934

FEDERAL REGISTER

VOLUME 3 NUMBER 233

Washington, Thursday, December 1, 1938

The President[1]

CLOSED AREA UNDER THE MIGRATORY BIRD TREATY ACT, TEXAS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Secretary of Agriculture has submitted to me for approval the following regulation adopted by him on October 26, 1938, under authority of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755):

Regulation Designating as Closed Area Certain Lands and Waters Within, Adjacent to, or in the Vicinity of the Aransas Migratory Waterfowl Refuge, Texas

By virtue of and pursuant to the authority vested in me by section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, U. S. C., title 16, sec. 704), and in conformity with Regulation 4 of the Migratory Bird Treaty Act Regulations,[1] I, H. A. Wallace, Secretary of Agriculture, do hereby designate as closed area in or on which hunting, taking, capturing, or killing, or attempting to hunt, take, capture, or kill, migratory birds is hereby phohibited, all areas of land and water in Aransas and Refugio Counties, Texas, not now owned or controlled by the United States within the following-described exterior boundary:

Begining at a point at the head of St. Charles Bay, on the right or west bank and at the mouth of Twin (Willow) Creek, said point being marked with a U. S. Biological Survey standard concrete post;

Thence from said initial point, upstream with the right or west bank meanders of Twin (Willow) Creek,

N. 43°17' E., 1.83 chains;
S. 74°32' E., 2.617 chains;
N. 45°43' E., 1.912 chains;
N. 16°19' E., 1.87 chains;
N. 14°22' W., 1.862 chains;
N. 58°08' W., 1.173 chains;
N. 84°14' W., 2.575 chains;
N. 44°57' W., 7.37 chains;
N. 70°27' W., 1.20 chains;
S. 62°12' W., 2.677 chains;
N. 33°51' W., 5.52 chains;
N. 77°14' W., 1.836 chains;
N. 39°29' W., 5.76 chains;
N. 00°54' W., 3.53 chains;
N. 87°02' E., 0.985 chain;
S. 35°29' E., 2.00 chains;
N. 00°38' E., 1.008 chains;
N. 36°14' W., 3.06 chains;
N. 24°36' E., 1.86 chains;
N. 18°53' W., 0.936 chain;
N. 35°41' W., 4.38 chains;
N., 37°44' E., 1.11 chains;
N. 2°38' W., 2.926 chains;
N. 18°18' W., 8.00 chains;
N. 41°06' W., 2.18 chains;
N. 34°39' E., 1.826 chains;
N. 50°50' W., 1.571 chains;
N. 61°49' W., 2.27 chains;
N. 75°49' W., 4.46 chains;
N. 43°07' W., 2.29 chains;
N. 8°38' E., 1.827 chains;
N. 64°34' W., 1.06 chains;
N. 22°12' E., 1.60 chains;
N. 45°00' E., 1.909 chains;
N. 13°38' W., 2.358 chains;
N. 56°10' E., 1.68 chains;
N. 1°51' W., 1.486 chains;
N. 29°33' W., 4.48 chains;
N. 3°22' W., 3.34 chains;
S. 66°21' W., 4.16 chains;
S. 82°56' W., 0.869 chain;
N. 71°13' W., 1.38 chains;
N. 36°25' W., 1.44 chains;
N. 21°29' W., 2.509 chains;
N. 1°35' W., 3.30 chains;
N. 33°19' W., 1.882 chains;
N. 61°43' W., 4.43 chains;

Thence crossing Twin (Wiliow) Creek and Blackjack Peninsula,

N. 13°39' E., 48.90 chains:
N. 18°06' E., 42.81 chains;
N. 12°13' E., 2.271 chains;
N. 00°49' E., 80.08 chains;
N. 89°12' E., 94.53 chains;
N. 00°43' W., 39.85 chains;
N. 89°11' E., 119.08 chains;
N. 00°51' W., 80.04 chains;
N. 89°15' E., 120.03 chains;
N 00°44' W., 61.58 chains;

[1] 2 F. R. 1356 (1617 DI).

CONTENTS

THE PRESIDENT

Proclamation: Page
Texas, closed area under the Migratory Bird Treaty Act 2807
Application of duties proclaimed in certain trade agreements to articles the growth, etc., of certain foreign countries 2808

RULES, REGULATIONS, ORDERS

TITLE 27—INTOXICATING LIQUORS:
Federal Alcohol Administration Division:
Credit period to be extended to retailers of alcoholic beverages 2809

NOTICES

Securities and Exchange Commission:
Applications denied:
Government of Chile, Mortgage Bank of Chile, agricultural notes 2817
Moore Corp., limited common stock 2816
Moore Corp., limited 7% cumulative convertible Class "A" preference stock 2816
Notice of hearings:
Adams, Nelson & Williamson 2818
Central Ohio Light & Power Co 2817
Community Power and Light Co., et al 2818
Fowler, William Hugh 2815
General Public Utilities, Inc. 2818
Mobile and Ohio Railroad Co. 2816
National Oats Co 2816
Standard Oil Co. of Calif. 2816
Transamerica Corp 2809
Public Utilities Management Corp., approval as mutual service company 2815
Union Electric Co. of Missouri, order 2814

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N. 89°07′ E., 76.70 chains;
S. 1°30′ E., 40.44 chains;
S. 89°28′ E., 40.27 chains;
South, 0.352 chain;
East, 0.188 chain;
S. 00°28′ E., 6.85 chains;
N. 89°31′ E., 163.06 chains to a point on Webb Point on the west shore of San Antonio Bay;

Thence along the west shore of San Antonio Bay with the meanders thereof,

S. 38°51′ W., 5.73 chains;
S. 30°40′ W., 5.67 chains;
S. 5°42′ W., 5.60 chains;
S. 31°18′ W., 5.95 chains;
S. 39°07′ W., 4.64 chains;
S. 19°40′ W., 5.74 chains;
S. 42°44′ W., 6.71 chains;
S. 40°02′ W., 9.52 chains;
S. 14°01′ W., 4.23 chains;
S. 65°20′ W., 4.00 chains;
S. 11°39′ E., 4.59 chains;
S. 76°20′ W., 6.36 chains;
S. 67°47′ W., 7.83 chains;
S. 43°51′ W., 15.16 chains;
S. 47°53′ W., 13.18 chains;
S. 47°30′ W., 10.81 chains;
S. 28°11′ W., 5.55 chains;
S. 37°42′ W., 5.13 chains;
S. 16°56′ W., 12.63 chains;
S. 2°47′ W., 14.58 chains;
S. 16°55′ E., 14.76 chains;
S. 28°24′ E., 16.62 chains;
S. 36°14′ E., 11.25 chains;
S. 42°05′ E., 6.92 chains;
S. 52°45′ E., 8.55 chains;
S. 44°24′ E., 9.89 chains;
S. 66°50′ E., 4.57 chains;
S. 54°11′ E., 6.60 chains;
S. 45°29′ E., 15.20 chains to a point on Dagger Point;
S. 5°05′ W., 6.39 chains;
S. 5°34′ E., 6.93 chains;
S. 11°30′ W., 8.95 chains;
S. 15°32′ E., 12.38 chains;
S. 19°12′ E., 25.44 chains;
S. 37°09′ E., 25.00 chains;
S. 44°20′ E., 14.97 chains;
S. 27°44′ E., 5.47 chains;
S. 44°21′ E., 11.71 chains;
S. 20°07′ E., 8.83 chains;
S. 6°42′ E., 16.41 chains;
S. 13°46′ E., 6.26 chains;
S. 8°05′ E., 9.05 chains to a point at the mouth of Mustang Lake;

Thence crossing the inlet to Mustang Lake and continuing with the west shore meanders of San Antonio Bay,

S. 15°08′ E., 12.69 chains;
S. 10°17′ E., 9.81 chains;
S. 8°28′ W., 6.21 chains;
S. 44°58′ W., 4.50 chains;
S. 12°50′ E., 17.98 chains;
S. 12°21′ E., 7.29 chains;
S. 37°15′ E., 3.39 chains;
S. 21°38′ W., 8.43 chains;
S. 6°04′ E., 10.52 chains;
S. 10°25′ W., 5.72 chains;
S. 8°50′ E., 9.86 chains to a point on False Live Oak Point;
S. 11°59′ W., 9.32 chains;
S. 16°54′ W., 8.99 chains;
S. 25°51′ W., 10.10 chains;
S. 38°22′ W., 10.48 chains to a point;

Thence in San Antonio Bay and Ayres Bay,

S. 46°16′ W., 303.60 chains to a point on north shore of Ayres Bay;

Thence along the north shore of Ayres Bay,

S. 58°16′ W., 7.77 chains to a point;

Thence in Mullet Bay,

S. 68° W., 60.00 chains (approximately);
S. 46° W., 98.00 chains (approximately), to the southeasternmost point on Bludworth Island;

Thence in Back Bay,

S. 36° W., 165.00 chains (approximately), to a point on Cedar Point and the southerly right-of-way boundary of the Old Intracoastal Canal;

Thence with the southerly right-of-way boundary of the Old Intracoastal Canal,

Southwesterly to the angle point of said canal which is south of Dunham Island;

Thence leaving said canal, in Aransas Bay,

West, approximately 275.00 chains to a point due south of Blackjack Point;
North, approximately 51.00 chains to a point on Blackjack Point;

Thence crossing East Pocket,

N. 10°09′ E., 31.79 chains to a point on Bird Point;

Thence in St. Charles Bay,

N. 10° E., 205.00 chains (approximately), to a point opposite Egg Point;
N. 30° E., 180.00 chains (approximately), to a point opposite Big Sharp Point;
N. 25° W., 130.00 chains (approximately), to a point opposite Meile Dietrich Point;
N. 30° E., 330.00 chains (approximately), to the place of beginning.

The bearings in the above description are referred to the true meridian as determined by solar observations made in surveys by the Bureau of Biological Survey in 1937.

AND WHEREAS upon consideration it appears that the foregoing regulation will tend to effectuate the purposes of the aforesaid Migratory Bird Treaty Act of July 3, 1918;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid Migratory Bird Treaty Act of July 3, 1918, do hereby approve and proclaim the foregoing regulation of the Secretary of Agriculture.

IN WITNESS WHEREOF I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 26th day of November in the year [SEAL] of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President,
SUMNER WELLES
Acting Secretary of State.

[F. R. Doc. 38-3587; Filed, November 30, 1938; 10:53 a. m.]

APPLICATION OF DUTIES PROCLAIMED IN CERTAIN TRADE AGREEMENTS TO ARTICLES THE GROWTH, ETC., OF CERTAIN FOREIGN COUNTRIES

THE WHITE HOUSE,
Washington, November 25, 1938

The Honorable HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

MY DEAR MR. SECRETARY: Pursuant to the authority conferred upon me by the Act to amend the Tariff Act of 1930, approved June 12, 1934 (48 Stat. 943), as extended by the Joint Resolution approved March 1, 1937 (50 Stat. 24), I hereby direct that the duties proclaimed on this date in connection with the trade agreements signed on November 17, 1938 with the United Kingdom and with Canada, and all other duties heretofore proclaimed in connection with trade agreements (other than the trade agreement with Cuba signed on August 24, 1934, and the trade agreement with Nicaragua signed on March 11, 1936) entered into under the authority of the said Act, as originally enacted or as extended, shall be applied on and after the effective date of such duties, or, as the case may be, shall continue to be applied on and from the date of this letter, to articles the growth, produce, or manufacture of all foreign countries, except as otherwise hereinafter provided, whether imported directly or indirectly, so long as such duties remain in effect and this direction is not modified.

Such proclaimed duties shall be applied to articles the growth, produce, or manufacture of Cuba in accordance with the provisions of the trade agreement with Cuba signed on August 24, 1934.

Because I find as a fact that the treatment of American commerce by Germany is discriminatory, I direct that such proclaimed duties shall not be applied to products of Germany.

My letter addressed to you on September 23, 1938[1] with reference to duties heretofore proclaimed in connection with trade agreements signed under the authority of the Act of June 12, 1934 is hereby superseded.

You will please cause this direction to be published in an early issue of the weekly *Treasury Decisions*.

Very sincerely yours,

[SEAL] FRANKLIN D ROOSEVELT

[F. R. Doc. 38-3584; Filed, November 29, 1938; 3:16 p. m.]

[1] 3 F. R. 2323 DL

Rules, Regulations, Orders

TITLE 27—INTOXICATING LIQUORS

FEDERAL ALCOHOL ADMINISTRATION DIVISION

[Regulations No. 8]

REGULATIONS PRESCRIBING THE CREDIT PERIOD TO BE EXTENDED TO RETAILERS OF ALCOHOLIC BEVERAGES

Pursuant to the provisions of sections 2 (d) and 5 (b) (6) of the Federal Alcohol Administration Act, as amended, the following regulations, relating to the extension of credit to retailers of distilled spirits, wine, and malt beverages, are hereby prescribed and promulgated:

SEC. 1. Pursuant to clause 6, subsection (b), section 5, Federal Alcohol Administration Act, the credit period usual and customary to the industry is hereby ascertained to be thirty days from date of delivery in the case of all sales of distilled spirits, wine, and malt beverages.

SEC. 2. The extension of credit to a retailer, by any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, for a period of time in excess of thirty days from date of delivery, is prohibited when the extension of such credit induces any retailer engaged in the sale of distilled spirits, wine, or malt beverages to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means to such an extent as to substantially restrict or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce.

SEC. 3. For the purpose of these regulations, the period of credit shall be calculated as the time elapsing between the date of delivery of the merchandise and the date of full legal discharge of the retailer, through the payment of cash or its equivalent, from all indebtedness arising from the transaction.

SEC. 4. These regulations, in so far as they affect future sales transactions, shall take effect three months after the date of filing with the Division of the Federal Register, and in so far as they relate to the extension of credit upon deliveries of distilled spirits, wine, and malt beverages heretofore consummated, shall take effect twelve months after the date of filing with the Division of the Federal Register. Any accounts covered by these regulations and based upon transactions completed prior to the date of filing these regulations with the Division of the Federal Register, the liquidation of which has not been completed within one year thereafter, may be further liquidated under such terms as in the opinion of the Administrator would not conflict with the requirements of the Act.

[SEAL] W. S. ALEXANDER,
Administrator.

Approved, this 29th day of November 1938.

[SEAL] JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3588; Filed, November 30, 1938; 11:56 a. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its offices in the City of Washington, D. C., on the 22nd day of November, A. D. 1938.

[File No. 1-2964]

IN THE MATTER OF THE REGISTRATION OF TRANSAMERICA CORPORATION CAPITAL STOCK, $2 PAR VALUE

ORDER FOR HEARING AND DESIGNATING OFFICER TO TAKE TESTIMONY

It appearing to the Commission that Transamerica Corporation is the issuer of Capital Stock, $2 par value, and that said Transamerica Corporation registered 11,590,784 shares of such stock on the New York Stock Exchange, the Los Angeles Stock Exchange, and, by amendment, on the San Francisco Stock Exchange, all national securities exchanges, by filing on or about August 7, 1937, an application on Form 24 signed for the Corporation by John M. Grant, President, with the said exchanges and with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1 (now Rule X-12B-1) as amended, promulgated by the Commission thereunder, which application became effective September 10, 1937; and

The Commission having reasonable grounds to believe that Transamerica Corporation has failed to comply with the provisions of Section 12(b) of the Securities Exchange Act of 1934, as amended, the rules, regulations, Form 24 and the Instructions thereto, promulgated by the Commission thereunder, in that the application for registration on Form 24 and the amendments thereto, filed by said Corporation contain false and misleading statements of material facts, including financial statements of said Corporation and its subsidiaries, which do not correctly reflect the true financial condition of the Corporation and its subsidiaries, all as hereinafter more particularly set forth;

The false and misleading statements which the Commission has reasonable grounds to believe exist in the application on Form 24 and the amendments thereto being more particularly as follows:

I. Item 4 (b) and Item 11, Col, G call for certain information with respect to all parents of the registrant. The Instructions to Form 24 define the term "parent" to include a person in control of the registrant and the term "control" is defined to mean "the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise."

The Commission has reasonable grounds to believe that in 1934 general proxies, to remain in full force and effect, unless revoked, for a term of seven years, were delegated to a Committee composed of A. P. Giannini, John M. Grant and L. M. Giannini, that such proxies were voted at the annual meeting of stockholders on March 29, 1934, and were in effect at the date of the application on Form 24, and that at such date these proxies conferred upon A. P. Giannini, John M. Grant and L. M. Giannini the power to direct the management and policies of the registrant. It therefore appears to the Commission that the failure in Item 4 (b) and Item 11, Col. G to disclose the committee composed of A. P. Giannini, John M. Grant and L. M. Giannini as a parent of the registrant constitutes an omission of a material fact.

II. Item 28 and Item 29 call for information with respect to the remuneration paid by the registrant and its subsidiaries

to certain of its officers, directors and employees.

The Commission has reasonable grounds to believe that on January 20, 1930, the sum of $1,400,000 was placed on the books of Bankitaly Company of America (then a subsidiary of Transamerica Corporation) to the credit of A. P. Giannini; that of this $1,400,000 all but $792,000 had been paid to A. P. Giannini, by September, 1931, at which time counsel for the then existing management of Transamerica Corporation advised that further payment would be illegal; that thereafter subsequent to the change in management in 1932, A. P. Giannini withdrew from the balance of $792,000 the following sums:

1932	$134,826.58
1933	132,896.92
1934	100,596.24
1935	251,952.03
1936	65,914.28

It appears to the Commission that the failure to disclose these facts in Items 28 and 29 renders registrant's response to these items materially misleading.

III. With respect to the "Balance Sheet" of Transamerica Corporation as of December 31, 1936—

A. In Schedule VI the figure $1,171,714.56 is set forth as a charge to "Paid-In Surplus" in 1936 under the caption "Charge resulting from cancellations and redistribution of capital stock."

The Commission has reasonable grounds to believe that of this amount $1,124,724.78 represents commissions and other monies paid by Transamerica Corporation to Associated American Distributors, Inc. (at that time a wholly-owned subsidiary of Inter-Continental Corporation which was itself a wholly-owned subsidiary of Transamerica Corporation), in connection with the following activities:

From 1934 to April, 1937, Associated American Distributors, Inc. engaged in the business of soliciting orders to purchase Transamerica Corporation stock on the various stock exchanges on which such stock was listed. It does not appear that in any case Associated American Distributors, Inc. solicited orders for the purchase of capital stock held by Transamerica Corporation. The solicitations were effected by means of contracts entered into by Associated American Distributors, Inc. with independent dealers and through a large number of salesmen employed directly by Associated American Distributors, Inc. Associated American Distributors, Inc. paid commissions to the dealers and to its salesmen for the orders obtained and, to encourage retention of the stock so purchased, additional commissions were paid in proportion to the duration of "placements." To support these activities, Transamerica Corporation paid the following amounts to Associated American Distributors, Inc.: In 1934, $336,857; in 1935, $891,202.17; in 1936, $1,124,724.78. These payments were treated by Associated American Distributors, Inc. as current earnings and were set up on its books as income in the years received.

In the light of the facts set forth above, it appears to the Commission that the commissions and other monies paid to Associated American Distributors, Inc., in the amount of $1,124,724.78 in 1936, represent a current expense properly chargeable to profit and loss and that registrant's treatment of this item as a charge to "Paid-In Surplus" and its failure to reflect this item as a current expense with a consequent reduction in "Earned Surplus" renders the "Balance Sheet" and Schedule VI materially misleading.

IV. With respect to the "Profit and Loss Statement" of Transamerica Corporation—

A. Schedule VI sets forth as charges to "Paid-In Surplus" under the caption "Charge resulting from cancellations and redistribution of capital stock" the figures $495,152.72 in 1934, $891,202.17 in 1935 and $1,171,714.56 in 1936.

The Commission has reasonable grounds to believe that of these figures $336,857 in 1934, $891,202.17 in 1935, and $1,124,724.78 in 1936 represent commissions and other monies paid by Transamerica Corporation to Associated American Distributors, Inc. (then a wholly-owned subsidiary of Inter-Continental Corporation which was itself a wholly-owned subsidiary of Transamerica Corporation) in connection with the activities described above in paragraph III–A. In the light of the facts and for the reasons set forth above in paragraph III–A, it appears to the Commission that registrant's treatment of these items renders the profit and loss statements for 1934, 1935, and 1936 materially misleading.

V. With respect to the "Balance Sheet" of Inter-America Corporation as of December 31, 1936—

A. Under the caption "Reserves—For liability and possible loss under outstanding contract of guaranty", and in Schedule V relating to additions and charges to "Reserves", there is set forth the figure $9,302,381.82. The accompanying Note states that this amount relates to a contract of guaranty given to Bank of America N. T. and S. A. in connection with certain assets of the Bank.

The Commission has reasonable grounds to believe that certain facts having a material bearing on this matter are as follows:

In 1931, in the course of an examination of Bank of America N. T. & S. A., the national bank examiners classified certain assets of the Bank in the face amount of approximately $35,214,000 as losses and doubtful accounts of such unsatisfactory character as to require their elimination from the Bank's balance sheet. Under three contracts dated June 26, 1931, December 31, 1931, and February 13, 1932, Bank of America N. T. & S. A. and Corporation of America (both of which were at that time 99.65% owned by Transamerica Bank Holding Company, itself a wholly-owned subsidiary of Transamerica Corporation), entered into agreements which provided that Bank of America N. T. & S. A. "agrees to sell, transfer and set over and does hereby sell, transfer and set over to the Corporation, and the Corporation agrees to purchase and does hereby purchase from the Bank" all such assets. As consideration for these assets, Corporation of America agreed to pay the face amount of $35,214,000. To secure performance Corporation of America pledged with the Bank the assets purchased together with additional collateral. Corporation of American failed to give effect on its books to the assets acquired by these contracts of purchase and sale or to reflect any direct liability thereunder, but apparently treated the obligation arising under the contracts as a guaranty by setting up a reserve from capital surplus in an amount approximately equal to the aggregate purchase price under the contracts.

In 1933, the three contracts were transferred to Transamerica Bank Holding Company, and Transamerica Bank Holding Company by a resolution of its Board of Directors, dated August 30, 1933, agreed to "assume all of the obligations of Corporation of America under those three certain contracts between said Corporation of America and Bank of America N. T. & S. A." In connection with this transfer, Corporation of America eliminated the reserve set up to cover its obligation under the contracts, then aggregating approximately $34,994,376.57, and a reserve in the same amount appeared on the books of Transamerica Bank Holding Company. At a "Special Stockholders Meeting" on April 20, 1935, the name of Transamerica Bank Holding Company was changed to Inter-America Corporation. From time to time Bank of America N. T. & S. A. reduced the item set up on its books to reflect the obligation of Inter-America Corporation under the three contracts by a write-up of unrelated assets and by various other means as set forth below under paragraphs VII to XI, and XV to XVII, both inclusive.

In the light of the facts set forth, it appears to the Commission that the items "Reserves—For liability and possible loss under outstanding contract of guaranty" together with the accompanying Note, Schedule V, and the "Balance Sheet" are materially misleading:

1. In treating the contracts described and the obligation of Inter-America Corporation thereunder as a guaranty rather than as a purchase and sale which should have been recorded by setting up the assets purchased with a corresponding direct liability for the purchase price and, in view of the character of the assets, a reserve for the losses which would be borne by Inter-America Corporation;

2. In that amount set up as "Reserves" for this obligation does not reflect the

true amount of the liability due nor the possible losses under the contracts;

3. In the use of the term "recoveries" in Schedule V as charges to the "Reserve" originally set up to cover Inter-America's obligation under the three contracts, in that the term "recoveries" fails to indicate and falsifies the true nature of the reduction of Inter-America's obligation by conveying the impression of actual cash recoveries on assets written down, whereas in fact the "recoveries" were accomplished by the write-up by Bank of America N. T. & S A. of unrelated assets as set forth below in paragraphs VII to XI and XV to XVII, both inclusive.

VI. With respect to the "Balance Sheet" of Transamerica General Corporation as of December 21, 1936—

A. Under the caption "Investments in Securities of Affiliates" and in Schedule II there is set forth the figure $8,982,-180.20 as the carrying value of the investment in the capital stock of Banca d'America e d'Italia.

The Commission has reasonable grounds to believe that certain restrictions imposed by the Italian Government upon the transfer of any profits or other funds from Italy to any other country materially affects this investment. It therefore appears to the Commission that it is materially misleading to set forth the figure $8,982,180.20 as the carrying value of the investment in the capital stock of Banca d'America e d'Italia without indicating the effect that the restrictions referred to above may have upon the investment.

VII. With respect to the "Combined Report of Condition" of Bank of America N. T. & S. A., First National Bank in Reno, Bank of America (California) as of December 31, 1936—

A. The item "Loans and discounts" under "Assets" and in Schedule E is stated to be $539,899,100.65. This figure includes, among other things, loans in the amount of $304,674,551.73 on "farm lands" and "other real estate." The Commission has reasonable grounds to believe that the item of $539,899,100.65 includes estimated losses and doubtful accounts aggregating in excess of $8,000,-000 and slow accounts in excess of $125,-000,000 held by Bank of America N. T. & S. A. Registrant has failed to disclose these losses, doubtful items and slow accounts in the "Report of Condition", either in Schedule E or elsewhere in the registration statement, has failed to provide any reserve for such losses and doubtful accounts, and, in the supplementary data furnished in accordance with paragraph I (5) of the Instructions as to Financial Statements in the Instruction Book for Form 24, has affirmatively stated that there are no losses on loans and discounts not provided for.

B. "United States Government obligations, direct and/or fully guaranteed" and "Other bonds, stocks and securities" are set forth under "Assets" and in Schedule F and Schedule G at $478,019,-771.38 and $175,078,108.60, respectively. The Commission has reasonable grounds to believe that these items include United States Government and Municipal securities held by Bank of America N. T. & S. A. which were written up in 1935 and 1936 to the extent of approximately $14,000,000 and which at the date of the "Report of Condition" included an unrealized appreciation of approximately $9,000,000. The registrant has failed to disclose this fact in either Schedule F, Schedule G, the supplementary data furnished in accordance with paragraph I (5) of the Instruction Book for Form 24, or elsewhere in the registration statement.

C. The only provision for a reserve, captioned "Reserve for contingencies", is set at $2,049,928.01. The Commission has reason to believe that $1,971,058.48 of this figure is applicable to Bank of America N. T. & S. A., and that of this $1,971,-058.48, approximately $1,460,000 is a reserve for self-insurance. The Commission further has reason to believe that this reserve is misleading because of its inadequacy—

1. In failing to provide for losses and doubtful accounts of Bank of America N. T. & S. A. other than loans on "farm lands" and "other real estate" included in the "Assets" to the extent of approximately $8,000,000;

2. In failing to provide sufficient reserves for the $304,674,551.73 of loans on "farm lands" and "other real estate";

3. In failing to provide for losses on real estate other than bank premises held by Bank of America N. T. & S. A. to the extent of approximately $1,600,000;

4. In failing to provide sufficient depreciation for bank premises, furniture, and fixtures of Bank of America N. T. & S. A.;

5. In failing to provide for losses on bonds and other securities held by Bank of America N. T. & S. A. to the extent of approximately $400,000 and for losses on other asset items to the extent of approximately $300,000.

D. "Undivided profits—net" is set forth at $22,503,612.05. The Commission has reasonable grounds to believe that this figure is false and misleading—

1. In that it includes approximately $9,000,000 of unrealized appreciation resulting from the $14,000,000 write-up in 1935 and 1936 of United States and Municipal securities held by Bank of America N. T. & S. A.;

2. In failing to include a reserve for losses and doubtful accounts, losses on real estate, depreciation of bank premises, furniture and fixtures of Bank of America N. T. & S. A. and losses on securities and other assets in excess of $13,000,000;

3. In that the total of (1) and (2) would wipe out that portion of the "Undivided profits—net" which may be attributed to Bank of America N. T. & S. A. and would require a reduction of the "surplus" account of Bank of America N. T. & S. A.

VIII. With respect to the "Combined Report of Earnings and Dividends" for Bank of America N. T. & S. A., First National Bank In Reno and Bank of America (California)—

A. For the year ended December 31, 1935—

1. The items "Recoveries on bonds, stocks and other securities" and "Profits on securities sold" are stated to total $14,942,992.67. The Commission has reason to believe that this figure includes unrealized appreciation of approximately $7,000,000 resulting from an approximately $8,000,000 write-up in 1935 of United States Government and Municipal securities held by Bank of America N. T. & S. A., and, in addition, includes a substantial amount of unrealized appreciation resulting from the write-up of certain Transamerica Corporation stock held by Bank of America N. T. & S. A. as collateral for written off loans, and that the inclusion of this unrealized appreciation as income is false and misleading;

2. The provision for loss and depreciation on "banking house, furniture and fixtures" is set at $1,055,223.40. The Commission has reason to believe that this figure is inadequate;

3. The deficiencies set forth in (1) and (2) are reflected in the statement of net profits and undivided profits and render these items false and misleading to an amount in excess of $7,000,000. It appears that the dividends paid in 1935 by Bank of America N. T. & S. A. were more than $3,500,000 in excess of its actual current earnings.

B. For the year ended December 31, 1936—

1. The item "Recoveries on bonds, stocks and other securities" is stated to be $6,309,400.26. The Commission has reasonable grounds to believe that this figure includes unrealized appreciation of approximately $2,000,000 resulting from a $6,000,000 write-up in 1936 of United States Government and Municipal securities held by Bank of America, N. T. & S. A., and, in addition, includes a substantial amount of unrealized appreciation resulting from the write-up of certain Transamerica Corporation stock held by Bank of America, N. T. & S. A. as collateral for written off loans, and that the inclusion of this unrealized appreciation as income is false and misleading;

2. The report of Earnings and Dividends further appears misleading in that no provision from earnings has been made for doubtful accounts and uncollectible foreign credits held by Bank of America N. T. & S. A. which the Commission has reasonable grounds to believe aggregated approximately $3,700,000;

3. The provision for losses and depreciation on "banking house, furniture

and fixtures". is set at $1,082,748.86. The Commission has reasonable grounds to believe that this figure is inadequate.

4. The deficiencies set forth in (1), (2) and (3) are reflected in the statement of net profits and undivided profits and render these items false and misleading to an amount in excess of $6,000,000. It appears that the dividends paid in 1936 by Bank of America N. T. & S. A. were more than $1,500,000 in excess of its actual current earnings.

IX. With respect to the "Balance Sheet" of California Lands, Inc., as of December 31, 1936—

A. Schedule VII relating to "Surplus" sets forth as an addition to "Earned Surplus" under the caption "Profit on sale of assets purchased from affiliate" the sum of $297,918.26. The accompanying Note states that this amount represents the excess of realization over the cost to California Lands, Inc. of an undivided one-half interest in certain notes, parts of notes, deficiency judgments, etc., theretofore written off on the books of Bank of America N. T. & S. A. and purchased from the Bank by Inter-America Corporation and from Inter-America Corporation by California Lands, Inc.

The Commission has reason to believe that certain facts having a material bearing on this matter are as follows:

On February 1, 1933, Bank of America N. T. & S. A. sold to Corporation of America (both of which were at this time 99.65% owned by Transamerica Bank Holding Company, itself a wholly-owned subsidiary of Transamerica Corporation), for a consideration of $250,000, all of the Bank's charged off assets, including those to be charged off up to July 1, 1933. This agreement was transferred for the same consideration to Transamerica General Corporation and then to Transamerica Bank Holding Company (both wholly-owned subsidiaries of Transamerica Corporation). On January 2, 1934, Bank of America N. T. & S. A. sold to Transamerica Bank Holding Company for a consideration of $50,000 all of the assets of the Bank charged off from July 1, 1933, to July 1, 1937. At a Special Stockholders Meeting on April 20, 1935, the name of Transamerica Bank Holding Company was changed to Inter-America Corporation.

On October 1, 1936, Inter-America Corporation transferred the charged off assets covered by the two aforementioned agreements to California Lands, Inc. and Capital Company (both wholly-owned subsidiaries of Transamerica General Corporation which corporation was 100% owned by Transamerica Corporation) for an aggregate consideration of $500,000.

On July 14, 1937, California Lands, Inc. and Capital Company transferred these same assets less $1,486,185.67 collected by Inter-America Corporation (for the account of California Lands, Inc. and Capital Company) to Bank of America N. T. & S. A. for a consideration of $6,500,000. Thus, in 1937, Bank of America N. T. & S. A. paid $6,500,000 for a portion of the same assets which the Bank had originally sold in 1933 and 1934 for $300,000.

As part of this same transaction, Transamerica Corporation entered into an agreement guaranteeing the Bank against loss to the extent of $6,500,000 on the charged off assets repurchased.

In the light of the facts set forth above, it appears to the Commission that the figure $297,918.26 set forth in Schedule VII as "Earned Surplus" under the caption "Profit on sale of assets purchased from affiliate", together with the accompanying Note, and the inclusion of this amount in the "Earned surplus—deficit" in the "Balance Sheet" are materially misleading.

X. With respect to the "Balance Sheet" of Capital Company as of December 31, 1936—

A. Schedule VII relating to "Surplus" sets forth as an addition to "Earned Surplus" as "Profit on sale of assets purchased from affiliate" the sum of $297,919.23. The accompanying Note states that this amount represents the excess of realization over the cost to Capital Company of an undivided one-half interest in certain notes, parts of notes, deficiency judgments, etc., theretofore written off on the books of Bank of America N. T. & S. A. and purchased from the Bank by Inter-America Corporation and from Inter-America Corporation by Capital Company.

In the light of the facts set forth above under paragraph IX–A, it appears to the Commission that the figure $297,919.23 set forth in Schedule VII as "Profit on sale of assets purchased from affiliate" together with the accompanying Note, and the inclusion of this amount as "Earned Surplus" in the "Balance Sheet" are materially misleading.

It appearing to the Commission that pursuant to Section 13 (a) and (b) of the Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 (now Rules X–13A–1 and X–13A–2) promulgated by the Commission thereunder, Transamerica Corporation filed on or about June 27, 1938, its annual report on Form 24–K for the fiscal year ended December 31, 1937, signed for the Corporation by John M. Grant, President; and

The Commission having reasonable grounds to believe that said Transamerica Corporation has failed to comply with the provisions of Section 13 (a) and (b) of the Securities Exchange Act of 1934, as amended, the rules, regulations, Form 24–K and the Instructions thereto, promulgated by the Commission thereunder, in that the annual report on Form 24–K filed by said Transamerica Corporation contains false and misleading statements of material facts including financial statements of said Transamerica Corporation and its subsidiaries, which do not correctly reflect the true financial condition of the Corporation and its subsidiaries, all as hereinafter more particularly set forth;

The false and misleading statements which the Commission has reasonable grounds to believe exist in the annual report referred to above being more particularly as follows:

XI. With respect to the "Balance Sheet" of Transamerica Corporation as of December 31, 1937—

A. Note B referring to the items captioned "Marketable Securities" and "Investments in Securities of Affiliates" states that securities having a market value of $1,338,835 and investments in securities of affiliates having a carrying value of $5,636,576.32 were pledged as security "(1) in connection with a contract of guarantee and (2) on an option to purchase certain securities." Note I referring to "Contingent Liabilities" states that "At December 31, 1937, the Corporation was reported as being contingently liable [sic] under certain conditions of contract in the amount of $5,838,123.74."

1. The Commission has reasonable grounds to believe that certain additional facts having a material bearing on the "contract of guarantee" referred to in Note B are as follows:

In connection with the transactions described above under paragraph IX–A, in which a portion of the charged off assets of Bank of America N. T. & S. A., originally sold by the Bank in 1933 and 1934 for an aggregate consideration of $300,000, were repurchased by the Bank on July 14, 1937, from California Lands, Inc. and Capital Company for a consideration of $6,500,000, Transamerica Corporation entered into an agreement guaranteeing the Bank against loss to the extent of $6,500,000 on the assets repurchased. The reference in Notes B and I to a "contract of guarantee" apparently refers to this agreement.

In the light of the facts set forth above in this paragraph and in paragraph IX–A, and in the light of the apparent disparity between the actual value of the assets repurchased by the Bank and the amount of recovery guaranteed by Transamerica Corporation, it appears to the Commission that Notes B and I and the "Balance Sheet" are grossly inadequate to reflect the nature of Transamerica's obligation under the contract of guarantee.

2. The Commission has reasonable grounds to believe that certain additional facts having a material bearing on the "option to purchase certain securities" referred to in Note B are as follows:

In July, 1937, Bank of America N. T. & S. A. purchased from Transamerica Corporation 56,600 shares of stock of National City Bank at the then market price of $48 per share. It appears that

the stock purchased was set up on the books of Bank of America N. T. & S. A. at $2,716,800, the purchase price, and that payment was made by crediting $2,716,800 to Inter-America Corporation to reduce by that amount the balance of the $35,214,000 obligation originally undertaken by Inter-America Corporation under the circumstances set forth in paragraph V–A. As part of the contract of purchase and sale of National City Bank stock, Transamerica Corporation agreed to repurchase the stock at $48 per share over a period of 5 years at the rate of 11,320 shares each year, and pledged an additional block of 18,400 shares to secure this agreement. It further appears that on December 31, 1937, the market value of National City Bank stock was approximately $27 per share. The reference in Note B to "an option to purchase certain securities" apparently relates to this transaction.

It appears to the Commission that the foregoing transaction was a device employed in an attempt to reduce or eliminate the balance of the obligation originally undertaken by Inter-America Corporation, and that the designation and treatment of this transaction as an "option" and the failure to disclose the additional information set forth above and the circumstances surrounding this transaction render Notes B and I and the "Balance Sheet" materially misleading.

B. In Schedule VIII the figure $444,000 is set forth as a charge to "Paid-In Surplus" in 1937 under the caption "Contribution to Associated American Distributors (Incorporated) in connection with redistribution of capital stock."

The Commission has reasonable grounds to believe that this amount represents commissions and other monies paid by Transamerica Corporation to Associated American Distributors, Inc., (then a wholly-owned subsidiary of Inter-Continental Corporation which was a wholly owned subsidiary of Transamerica General Corporation, itself a wholly-owned subsidiary of Transamerica Corporation), in connection with the activities described above in paragraph III–A.

In the light of the facts set forth above in paragraph III–A, it appears to the Commission that registrant's treatment of this item renders the "Balance Sheet" and Schedule VIII materially misleading.

XII. With respect to the "Profit and Loss Statement" of Transamerica Corporation—

A. In Schedule VIII the figure $444,000 is set forth as a charge to "Paid-In Surplus" in 1937 under the caption "Contribution to Associated American Distributors (Incorporated) in connection with redistribution of capital stock."

The Commission has reasonable grounds to believe that this amount represents commissions and other monies paid by Transamerica Corporation to Associated American Distributors, Inc. (then a wholly-owned subsidiary of Inter-Continental Corporation which was a wholly-owned subsidiary of Transamerica General Corporation, itself a wholly-owned subsidiary of Transamerica Corporation), in connection with the activities described above in paragraph III–A.

In the light of the facts and for the reasons set forth in paragraph III–A, it appears to the Commission that registrant's treatment of this item renders the "Profit and Loss Statement" and Schedule VIII materially misleading.

XIII. With respect to the "Balance Sheet" of Inter-America Corporation as of June 30, 1937—

A. Under the caption "Reserves—For liability and possible loss under outstanding contract of guaranty", and in Schedule VI relating to additions and charges to "Reserves", there is set forth the figure $8,561,099.82.

In the light of the facts set forth above under paragraph V–A, it appears to the Commission that the items "Reserves—For liability and possible loss under outstanding contract of guaranty", Schedule VI, and the "Balance Sheet" are materially misleading:

1. In treating the contracts described in paragraph V–A and the obligation of Inter-America Corporation thereunder as a guaranty rather than as a purchase and sale which should have been recorded by setting up the assets purchased with a corresponding direct liability for the purchase price, and, in view of the character of the assets, a reserve for the losses which would be borne by Inter-America Corporation;

2. In that the amount set up as "Reserves" for this obligation does not reflect the true amount of the liability due nor the possible losses under the contracts;

3. In the use of the term "recoveries" in Schedule VI as charges to the "Reserves" originally set up to cover Inter-America's obligation under the three contracts, in that such term fails to indicate the true nature of the reduction of Inter-America's obligation.

XIV. With respect to the "Balance Sheet" of Transamerica General Corporation as of December 31, 1937—

A. Under the caption "Investments in Securities of Affiliates—Banks" there is set forth the figure $9,374,148.06. In Schedule II it is stated that the investment in the capital stock of Banca d'America e d'Italia is carried on the balance sheet at the amount of $8,982,321.85.

In the light of the facts set forth above under paragraph VI–A, it appears to the Commission that it is materially misleading to set forth the figure $8,982,321.85 as the carrying value of the investment in the capital stock of Banca d'America e d'Italia without indicating the effect that the restrictions referred to in paragraph VI–A may have upon this investment.

XV. With respect to the "Balance Sheet" of California Lands, Inc., as of December 31, 1937—

A. Schedule IX relating to "Surplus" sets forth as an addition to "Earned Surplus" under the caption "Profit on sale of assets purchased from affiliate" the sum of $3,595,120.54. The accompanying Note states that of this amount $345,120.54 represents the excess of realization over the cost to California Lands, Inc. of an undivided one-half interest in certain notes, parts of notes, deficiency judgments, etc., theretofore written off on the books of Bank of America N. T. & S. A. and purchased from the Bank by Inter-America Corporation and from Inter-America Corporation by California Lands, Inc., and that the remaining $3,250,000 represents the share of California Lands, Inc. in $6,500,000, which on July 14, 1937, Bank of America N. T. & S. A. agreed to pay to California Lands, Inc. and Capital Company for the right to future recoveries on these same assets. The Note further states that in connection with this purchase Transamerica Corporation entered into an agreement whereby it guaranteed that the Bank would recover the amount of $6,500,000 at an annual rate of $1,300,000.

In the light of the facts set forth above under paragraph IX–A, it appears to the Commission that the figure $3,595,120.54 set forth in Schedule IX as "Earned Surplus" under the caption "Profit on sale of assets purchased from affiliate" together with the accompanying Note, and the inclusion of this amount as "Earned Surplus" in the "Balance Sheet" are materially misleading.

XVI. With respect to the "Balance Sheet" of Capital Company as of December 31, 1937—

A. Schedule IX to "Surplus" sets forth as an addition to "Earned Surplus" under the caption "Profit on sale of assets purchased from affiliate" the sum of $3,595,119.56. The accompanying Note states that of this amount $345,119.56 represents the excess of realization over the cost to Capital Company of an undivided one-half interest in certain notes, parts of notes, deficiency judgments, etc., therefore written off on the books of Bank of America N. T. & S. A. and purchased from the Bank by Inter-America Corporation and from Inter-America Corporation by Capital Company, and that the remaining $3,250,000 represents the share of Capital Company in $6,500,000 which on July 14, 1937, Bank of America N. T. & S. A. agreed to pay to California Lands, Inc. and Capital Company for the right to future recoveries on these same assets. The Note further states that in connection with this purchase Transamerica Corporation entered into an agreement whereby it guaranteed that the Bank would recover the amount

of $6,500,000 at an annual rate of $1,300,000.

In the light of the facts set forth above under paragraph IX–A, it appears to the Commission that the figure $3,595,119.56 set forth in Schedule IX as "Earned Surplus" under the caption "Profit on sale of assets purchased from affiliate" together with the accompanying Note, and the inclusion of this amount as "Earned Surplus" in the "Balance Sheet" are materially misleading.

The Commission having reasonable grounds to believe that Transamerica Corporation has failed to comply with the provisions of Section 12 (b) and Section 13 (a) and (b) of the Securities Exchange Act of 1934, as amended, the rules, regulations, Form 24, Form 24–K, and the Instructions thereto, promulgated by the Commission thereunder, in that the application for registration on Form 24, the annual report on Form 24–K and the amendments thereto, filed by said Transamerica Corporation contain financial statements of Transamerica Corporation and its subsidiaries, which do not correctly reflect the true financial condition of Transamerica Corporation and its subsidiaries, as hereinafter more particularly set forth:

XVII. It appears to the Commission that the general policy of Transamerica Corporation and its subsidiaries with respect to the manner of creation and treatment of certain "reserves", and the adequacy thereof, is improper in the following respects:

A. In the elimination of "reserves" on the books of certain companies and the creation of fictitious "reserves" in similar or substantially similar amounts on the books of other companies in the Transamerica group for the purpose of utilizing such "reserves" to absorb losses with consequent distortion of the true financial condition of the separate corporate entities and of the entire group as a whole: in particular, with respect to the "reserves" set up on the "Balance Sheets" of Transamerica General Corporation as of December 31, 1936, and December 31, 1937, "for real estate losses and contingencies of controlled affiliates" in the amounts of $6,861,814.19 in 1936 and $1,700,050.22 in 1937, and $5,034,583.95 in 1936 and $1,168,002.25 in 1937, for Capital Company and California Lands, Inc., respectively;

B. In that the amount of the reserves provided on the books of the various companies in the Transamerica group is materially inadequate; in particular, the "Combined Report of Condition" of Bank of America N. T. & S. A., First National Bank in Reno, and Bank of America (California) as of December 31, 1936, shows "Loans and discounts" in the amount of $539,899,100.65 which includes, among other things, loans in the amount of $304,674,551.73 on "farm lands" and "other real estate." The only reserve in this "Combined Report of Condition" is designated as "Reserve for contingencies" and is set forth at $2,049,928.01, of which approximately $1,460,000 is a reserve for self-insurance, leaving a balance of $589,928.01. In its "Balance Sheet" as of December 31, 1936, Capital Company carried "Real Estate Held for Resale," at $51,379,652.11, which amount represented "Land, Buildings and Improvements", and as of the same date, California Lands, Inc. carried "Real Estate and Equipment Held for Resale" at $31,357,098.76, which amount included "Land, Buildings and Improvements" at $31,335,825.76, with no reserve on the books of either company applicable to such assets. As of the same date, Occidental Life Insurance Company (a wholly owned subsidiary of Transamerica General Corporation, itself a wholly owned subsidiary of Transamerica Corporation) showed on its books "mortgage loans on real estate" and "balance due on property sold under contract" in the amounts of $8,175,516.57 and $3,856,986.03, respectively, with no reserves applicable thereto. These various items of loans, discounts, and investments in real estate aggregate $634,668,354.12, against which there is an aggregate reserve of but $589,928.01.

In that because of the nature of the "reserves" referred to above under A, it was improper to charge losses and expenses against such "reserves";

D. In the treatment of losses and expenses which were not present at the date of a readjustment of accounts but resulted from events occurring subsequent thereto as charges to certain reserves created at the time of such readjustment.

XVIII. It further appears to the Commission that registrant, in its application for registration on Form 24 and in its annual report for 1937 on Form 24–K, has failed to file financial statements for itself and its subsidiaries certified in accordance with the requirements of paragraph II of the Instructions as to Financial Statements in the Instruction Books for Form 24 and Form 24–K, respectively.

It being the opinion of the Commission that the hearing herein ordered to be made is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Securities Exchange Act of 1934, as amended;

It is ordered, Pursuant to Section 19 (a) (2) of said Act, that a public hearing be held to determine whether Transamerica Corporation has failed to comply with Section 12 (b) and Section 13 (a) and (b) of the Securities Exchange Act of 1934, as amended, the rules, regulations and forms promulgated by the Commission thereunder, in the respects set forth above; and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Corporation's Capital Stock, $2 par value, on said New York Stock Exchange, Los Angeles Stock Exchange and San Francisco Stock Exchange;

It is further ordered, Pursuant to the provisions of Section 21 (b) of the Securities Exchange Act of 1934, as amended, that for the purposes of such hearing, Henry Fitts, an officer of the Commission, is hereby designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law;

It is further ordered, That the taking of testimony in this hearing begin on the 16th day of January, 1939, at 10:00 A. M. in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. and continue thereafter at such time and place as the officer hereinbefore designated may determine.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3586; Filed, November 29, 1938; 3:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of November, A. D. 1938.

[File No. 32–112]

IN THE MATTER OF UNION ELECTRIC COMPANY OF MISSOURI

ORDER

Union Electric Company of Missouri, a subsidiary of North American Edison Company and of The North American Company, both registered holding companies, having filed an application and declaration pursuant to Sections 6 (b) and 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale of 130,000 shares of its $5 preferred stock, interim receipts for such stock and $13,000,000 aggregate principal amount of its promissory notes to evidence a short-term bank loan;

A public hearing having been held on said application and declaration after appropriate notice,[1] and the Commission having considered the record in this matter and having made and filed its findings herein:

It is ordered, That the issue and sale of interim receipts for such preferred stock be and the same hereby are exempted from the provisions of Section 6 (a) of said Act;

It is further ordered, That the declaration with respect to said 130,000 shares of preferred stock and said $13,000,000 aggregate principal amount of promissory notes be and become effective forthwith;

[1] 3 F. R. 2602 DI.

It is further ordered, That this order be subject to the following terms and conditions:

(1) That all matters in connection with said declaration, as amended, shall be performed in all respects as set forth in, and for the purposes represented by, said declaration, as amended; and

(2) That in the event the Missouri Public Service Commission shall revoke, rescind, amend, or otherwise alter the effectiveness of its order approving the securities, then the exemption granted herein shall immediately terminate, without further notice or order; and

(3) That within ten days after the issuance of the notes referred to herein, within ten days after the issue and sale of the interim receipts, and within ten days after the stock certificates are available for delivery declarant shall file with this Commission certificates of notification showing that such issuance of the notes, and issuance and sale of the interim receipts, and delivery of the certificates (when delivered) have been or will be effected in accordance with the terms and conditions of, and for the purposes represented by, the declaration as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3585; Filed, November 29, 1938; 3:41 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of November 1938.

[File No. 37–30]

IN THE MATTER OF PUBLIC UTILITIES MANAGEMENT CORPORATION

ORDER APPROVING A MUTUAL SERVICE COMPANY PURSUANT TO PARAGRAPHS (B) AND (D) OF SECTION 13 OF THE PUBLIC UTILITY HOLDING COMPANY ACT, 1935

Approval, based upon the findings of fact and conclusions of law made in this matter, is granted Applicant as a mutual service company subject to the following conditions that:

(1) In the event of a contemplated substantial change in its organization, the type and character of the companies to be serviced, the scope of services to be rendered or the method of allocating costs to associate companies. Applicant shall first obtain the approval of this Commission of such change.

(2) If the application of Applicant's cost-allocation method does not result in a fair and equitable allocation of its costs among the associate serviced companies, the Commission will require, after notice and opportunity for hearing, prospective adjustments, and, to the extent that it appears feasible and equitable, retroactive adjustments of such cost allocations.

(3) Applicant shall furnish satisfactory proof at any future time, upon request of the Commission, that the cost of services rendered to its associate companies is reasonably lower than the cost of comparable services furnished by independent persons.

(4) Applicant shall dispose of its investment in the $6 Preferred Stock of Birmingham Gas Company within six months of the date of this order, and shall report to the Commission within ten days of such disposition all pertinent facts as to the basis of such disposition and the accounting therefor.

This order is not to be construed as a ruling that Applicant may not be required to effect any changes in its organization and operation, or any other changes which become necessary for it to conform with the Act, present or future rules, regulations or orders.

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3591; Filed, November 30, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 23rd day of November 1938.

IN THE MATTER OF WILLIAM HUGH FOWLER, DOING BUSINESS AS W. H. FOWLER, SUITE 616, CANDLER BUILDING, 220 WEST 42ND STREET, NEW YORK, NEW YORK

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCATION AND/OR SUSPENSION OF REGISTRATION

William Hugh Fowler, doing business as W. H. Fowler, a sole proprietorship, hereinafter called the registrant, having filed with the Commission on September 1, 1936, an application for registration on Form 3–M pursuant to Sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934, as amended; and registration having become effective on October 1, 1936; and

The Commission having reasonable grounds to believe:

(1) That the said registrant is enjoined by a decree of the Supreme Court of the State of New York, entered in Albany County on March 21, 1938, from engaging in or continuing certain conduct and practices in connection with the purchase and sale of securities; and

(2) That the said registrant has willfully violated the provisions of Rule X–15B–2 adopted by the Commission under Sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934, as amended, by reason of said registrant having failed to report by means of a supplemental statement on Form 6–M the fact that he is so enjoined, which fact renders no longer accurate the information furnished under Item 21 of the aforesaid application; and

(3) That it is in the public interest to suspend or revoke registration; and

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

It is ordered, That proceedings be held to determine whether the registration of the said William Hugh Fowler, doing business as W. H. Fowler, should be revoked or suspended pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended.

It is further ordered, That a hearing for the purpose of taking testimony begin on December 19, 1938, at 10:30 A. M. at the Commission Office, 120 Broadway, New York, New York, and that the said hearing be continued at such other time or place as the Commission or the officer conducting said hearing may determine; that for the purpose of said hearing Adrian C. Humphreys be and he is hereby designated as the officer of the Commission to administer oaths and affirmations, subpena witnesses, and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on William Hugh Fowler, doing business as W. H. Fowler, personally or by registered mail not less than seven (7) days prior to the time of said hearing, or by publication in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission, and transmit same with a record of the hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3589; Filed, November 30, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C. on the 29th day of November 1938.

[File No. 1-1187]

IN THE MATTER OF APPLICATION OF NATIONAL OATS COMPANY TO WITHDRAW ITS COMMON STOCK, NO PAR VALUE, FROM LISTING AND REGISTRATION ON THE ST. LOUIS STOCK EXCHANGE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

The National Oats Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the St. Louis Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, December 20, 1938, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3597; Filed, November 30, 1938; 12:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 29th day of November 1938.

[File No. 1-2081]

IN THE MATTER OF APPLICATION OF THE NEW YORK STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE GENERAL MORTGAGE 4% GOLD BONDS, DUE SEPTEMBER 1, 1938, OF MOBILE AND OHIO RAILROAD COMPANY

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the General Mortgage 4% Gold Bonds, due September 1, 1938, of Mobile and Ohio Railroad Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard; and

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, December 21, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3598; Filed, November 30, 1938; 12:40 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of November 1938.

[File No. 7-296]

IN THE MATTER OF MOORE CORPORATION, LIMITED COMMON STOCK, WITHOUT PAR VALUE

ORDER DENYING APPLICATION UNDER SECTION 12 (F) AND 23 (A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE X-12F-2 (B) PROMULGATED THEREUNDER

Continuance of unlisted trading privileges on the New York Curb Exchange in the Common Stock, Without Par Value of Moore Corporation, Limited, having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule X-12F-2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application is not made and the application is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3595; Filed, November 30,1938; 12:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of November A. D. 1938.

[File No. 31-59]

IN THE MATTER OF STANDARD OIL COMPANY OF CALIFORNIA

ORDER REOPENING HEARING AND NOTICE THEREOF

An application for exemption pursuant to Section 3 (a) (3) (A) of the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above-named party;

A hearing having been held on said application on the 30th day of March, 1936, before Edward C. Johnson, an officer of the Commission, which hearing was closed on said date; and counsel for the Commission having moved that such hearing be reopened for the purpose of taking additional testimony and receiving additional evidence;

It is ordered, That a hearing on such matter be held on December 13, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 8, 1938.

The matter concerned herewith is in regard to the application for exemption as a holding company filed by Standard Oil Company of California pursuant to Section 3 (a) (3) (A) of the Act, wherein it is alleged that the applicant is only incidentally a holding company, being primarily engaged or interested in the production, refining and marketing of petroleum and its products, and that no material part of applicant's income is derived directly or indirectly from any public utility subsidiary thereof.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3593; Filed, November 30, 1938; 12:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of November 1938.

[File No. 7-295]

IN THE MATTER OF GOVERNMENT OF CHILE MORTGAGE BANK OF CHILE, GUARANTEED 5-YEAR 6% AGRICULTURAL NOTES, DUE DECEMBER 31, 1931, "STAMPED" WITH THE FOLLOWING LEGEND "SUBJECT TO THE PROVISIONS OF LAW NO. 5580 OF JANUARY 31, 1935, AS REGULATED BY DECREE NO. 1730 OF MAY 17, 1938 AND DECREE NO. 37 OF JANUARY 4, 1936, OF THE REPUBLIC OF CHILE AND DECREES ISSUED PURSUANT THERETO"

ORDER DENYING APPLICATION UNDER SECTION 12 (F) AND 23 (A) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND RULE X-12F-2 (B) PROMULGATED THEREUNDER

Continuance of unlisted trading privileges on the New York Curb Exchange in the 5-Year 6% Agricultural Gold Notes, due December 31, 1931, of Mortgage Bank of Chile and in the same issue stamped with the following legend: "Assented to the form and conditions of service established by Law No. 5580 of January 31, 1935, of the Republic of Chile and Decree No. 37 of January 4, 1936, issued pursuant thereto," having been permitted by action of this Commission; and

Said Exchange, pursuant to paragraph (b) of Rule X-12F-2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to either of said securities heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, That the determination sought by said application is not made and the application is hereby denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3590; Filed, November 30, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

[File No. 32-121]

IN THE MATTER OF CENTRAL OHIO LIGHT & POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

An application, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 15, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 10, 1938.

The matter concerned herewith is in regard to an application by Central Ohio Light & Power Company, a subsidiary of Crescent Public Service Company, a registered holding company, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of its notes as follows:

(1) A series of thirty unsecured promissory notes aggregating $106,852, dated as of the date of delivery of certain equipment, payable monthly, bearing interest at the rate of 6% per annum, each of the notes being in the principal amount of $3,000 except note No. 30 which is in the amount of $19,852;

(2) Eight unsecured promissory notes aggregating $21,071.32, dated as of the date of shipment of certain equipment, payable three, six, nine, twelve, fifteen, eighteen, twenty-one and twenty-four months after date, bearing interest at the rate of 6% per annum, four of which notes are in the principal amount of $2,633.91 and four in the principal amount of $2,633.92.

The thirty notes are to be issued and delivered to Westinghouse Electric & Manufacturing Company and the eight notes are to be issued and delivered to General Electric Company, all of which notes represent a part of the purchase price of certain equipment purchased in connection with the installation of a sec-

ond generating unit in applicant's plant at Bluffton, Ohio.

The proposed issue and sale has been authorized by the Public Utilities Commission of Ohio.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3599; Filed, November 30, 1938; 12:40 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

[File No. 43-164]

IN THE MATTER OF GENERAL PUBLIC UTILITIES, INC.

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 15, 1938, at 11:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 11, 1938.

The matter concerned herewith is in regard to an issue by the declarant, a registered holding company and a subsidiary of the Community Power and Light Company, of the maximum amount of 15,212 shares of its Common Capital Stock without par value for the purpose of paying a stock dividend to such stockholders as may elect to receive stock, in lieu of cash, in connection with proposed dividend by declarant to be payable in cash or stock at the option of the recipient.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3592; Filed, November 30, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

[File No. 55-12]

IN THE MATTER OF ADAMS, NELSON & WILLIAMSON

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (f) and Rule U-11F-2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on December 28, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 23, 1938.

The matter concerned herewith is in regard to an application of Adams, Nelson & Williamson, pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935 and Rule U-11F-2, for approval by the Commission of final compensation in the maximum amount of $45,000 (less an interim allowance of $7,500) for services rendered as attorneys to James L. Houghteling who was appointed as an investigator by the District Court of the United States for the Northern District of Illinois in connection with the reorganization of Utilities Power & Light Corporation, a registered holding company, under Section 77B of the Bankruptcy Act, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3596; Filed, November 30, 1938; 12:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

[File No. 43-169]

IN THE MATTER OF COMMUNITY POWER AND LIGHT COMPANY, SOUTHWESTERN ELECTRIC COMPANY, THE KANSAS UTILITIES COMPANY, MISSOURI UTILITIES COMPANY, TEXAS-NEW MEXICO UTILITIES COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration and an application pursuant to sections 7 and 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on December 15, 1938, at 2:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 9, 1938.

The matter concerned herewith is in regard to the issue and sale of notes by Community Power and Light Company in the amount of $1,350,000, Southwestern Electric Company, $1,250,000, The Kansas Utilities Company, $300,000 Missouri Utilities Company, $300,000, and Texas-New Mexico Utilities Company $800,000, and the acquisition by Community Power and Light Company of the notes to be issued by Southwestern Electric Company and the acquisition by Southwestern Electric Company of the notes to be issued by the other three companies. The notes of Community Power and Light Company are to be sold to Reconstruction Finance Corporation and the proceeds are to be used in part to reimburse Community Power and Light Company for funds expended for construction purposes and in part to supply Southwestern Electric Company with funds to furnish equipment, machinery and facilities to the other three companies.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3600; Filed, November 30, 1938; 12:57 p. m.]

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FEDERAL REGISTER

VOLUME 3 NUMBER 234

Washington, Friday, December 2, 1938

The President

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS during the year 1939 there is to be held at New York City a world's fair to celebrate the one hundred and fiftieth anniversary of the inauguration of the first President of the United States of America and of the establishment of the national government and there is to be held at San Francisco, California, an international exposition to celebrate the completion of the San Francisco-Oakland Bridge and the Golden Gate Bridge and to depict and exihibit the progress and accomplishments of the Pacific area of the United States in science, industry, and culture; and

WHEREAS joint resolutions of Congress approved June 15, 1936 (49 Stat. 1516, 1518), authorized and requested the President by proclamation, or in such manner as he might deem proper, to invite foreign countries and nations to the exposition and the world's fair with a request that they participate therein; and

WHEREAS I have by proclamations of November 16, 1936 (Nos. 2209, 2210; 50 Stat. 1796, 1797),[1] invited the participation of the nations in these celebrations, and the responses to these invitations have been most gratifying;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do invite the attention of our citizens and of friends beyond our borders to the World's Fair at New York and the Golden Gate International Exposition at San Francisco and express the hope that the fair and the exposition will be attended by many from this country who will join with the Government in greeting with a warm welcome the many from abroad taking advantage of the occasion to visit our shores.

[1] 1 F. R. 1978, 1979.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 29'' day of November, in the [SEAL] year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D ROOSEVELT

By the President:

SUMNER WELLES
Acting Secretary of State.

[No. 2315]

[F. R. Doc. 38-3610; Filed, December 1, 1938; 11:44 a. m.]

EXECUTIVE ORDER

CORRECTING THE DESCRIPTION OF LANDS RESERVED AS UNION SLOUGH MIGRATORY WATERFOWL REFUGE, IOWA

WHEREAS errors have been discovered in the description of the lands reserved as the Union Slough Migratory Waterfowl Refuge, in the State of Iowa, by Executive Order No. 7976 of September 19, 1938:[1]

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered that the said description contained in Executive Order No. 7976 of September 19, 1938, be, and it is hereby, corrected to read as follows:

FIFTH PRINCIPAL MERIDIAN

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sec. 3, fractional N½NE¼, NW¼SW¼NE¼, the east 0.28 chain SE¼NE¼, fractional E½N½NW¼, diagonal SE½ of fractional W½N½NW¼, S½NW¼, NW¼NE¼SW¼, and W½SW¼;
sec. 4, SE¼SW¼NE¼, NE¼SE¼NE¼, S½SE¼NE¼, NE¼SE¼, E½NW¼SE¼, NE¼SW¼SE¼, S½SW¼SE¼, and SE¼SE¼;
sec. 9, W½NE¼NE¼, W½NE¼, SE¼NE¼NW¼, SE¼NW¼, E½SW¼, NE¼SW¼SW¼, SE¼NE¼SE¼, NW¼SE¼, and S½SE¼;
sec. 10, SW¼NW¼SW¼, S½SW¼, and S½SE¼;

[1] 3 F. R. 2261 DI.

CONTENTS

THE PRESIDENT

	Page
Proclamation:	
World's Fair at New York, and Golden Gate International Exposition at San Francisco	2821
Executive Order:	
Union Slough Migratory Waterfowl Refuge, Iowa, land description corrected	2821

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:	
Agricultural Adjustment Administration:	
Fire-cured and dark air-cured tobacco marketing quotas for 1938–39; regulations	2822
Flue-cured tobacco, apportionment and adjustment of national marketing quota for 1939–40	2828
Bureau of Entomology and Plant Quarantine:	
Nursery stock, plant, and seed quarantine regulations, modification	2822
TITLE 47—TELECOMMUNICATION:	
Federal Communications Commission:	
Rules of Practice and Procedure, effective January 1, 1939	2829
Rules cancelled, effective January 1, 1939	2842

NOTICES

Federal Power Commission:	
Copper District Power Co., hearing	2842
Pennsylvania Water and Power Co., hearing postponed	2842
Securities and Exchange Commission:	
Blackstone Valley Gas and Electric Co., issue and sale of bonds	2844
Kentucky Securities Co., acquisition of securities	2845

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission—Continued.
Notice of and orders for hearings: Page
Baehr, William A., Organization, Inc. 2846
Columbia Gas & Electric Corp., and Huntington Gas Co. 2845
New York State Electric & Gas Corp. 2845
United Corp. 2842
Parks, John Thomas, registration revoked 2844
Safety Engineering and Management Co., effectiveness of declaration 2844
Withdrawals from listing and registration:
Armour and Co. of Del., preferred stock 2843
Detroit and Mackinac Railway Co., capital and common capital stock 2843
Grand National Films, Inc., common stock 2844
Staten Island Railway Co., gold bonds 2843
Virginia City Gold Mining Co., common stock 2843
Wrigley, Wm., Jr., Co., capital stock 2843

T. 98 N., R. 28 W.,
sec. 34, diagonal SE¼S½SE¼SW¼ and SE¼;
sec. 35, SW¼.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Nov. 30, 1938.

[No. 8015]

[F. R. Doc. 38-3609; Filed, December 1, 1938; 11:37 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—Q. 37; Reg. 3 revised]

MODIFICATION OF NURSERY STOCK, PLANT, AND SEED QUARANTINE REGULATIONS

Introductory Note

The only change involved in this revision of regulation 3 of the Regulations Supplemental to Notice of Quarantine No. 37 is to make provision for the entry of *Begonia* and *Gloxinia* tubers on and after December 1, 1939, without limitation as to quantity or use.

LEE A. STRONG, *Chief.*

AMENDMENT NO. 3 TO REVISED RULES AND REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 37

Under authority conferred by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), it is ordered that regulation 3 of the revised rules and regulations supplemental to Notice of Quarantine No. 37, on account of certain injurious insects and fungous diseases, which were promulgated December 17, 1930, and amended effective July 1, 1932 and January 14, 1935, be, and the same is hereby, further amended to read as follows:

Regulation 3. Nursery Stock, Other Plants and Parts of Plants, Including Seeds, for Which a Permit Is Required

The following nursery stock, other plants and parts of plants, including seeds, not including, however, such other plants and parts of plants as are named in Appendix A, which are governed by special quarantines and other restrictive orders now in force, nor such as may hereafter be made the subject of special quarantines, may be imported, without limitation as to quantity or use, from countries which maintain inspection (Appendix B), under permit upon compliance with these regulations:

(1) Bulbs, corms, or root stocks (pips) of the following genera: *Lilium* (lilly), *Convallaria* (lily-of-the-valley), *Hyacinthus* (hyacinth), *Tulipa* (tulip), *Crocus*, and *Narcissus* (daffodil and jonquil); until further notice, *Chionodoxa* (glory-of-the-snow), *Galanthus* (snowdrop), *Scilla* (squill), *Fritillaria*, *Muscari* (grape-hyacinth), *Ixia*, and *Eranthis* (winter aconite); and, on and after December 1, 1939, *Begonia* and *Gloxinia* tubers.

(2) Cuttings, scions, and buds of fruits or nuts: *Provided*, That cuttings, scions, and buds of fruits or nuts may be imported from Asia, Japan, Philippine Islands, and Oceania (including Australia and New Zealand) under the provisions of regulation 14 only. (Stocks of fruits or nuts may not be imported, under permit or otherwise.)

(3) Rose stocks, including Manetti, *Rosa multiflora* (brier rose), and *R. rugosa*.

(4) Nuts, including palm seeds for growing purposes: *Provided*, That such nuts or seeds shall be free from pulp.

(5) Seeds of fruit, forest, ornamental, and shade trees, seeds of deciduous and evergreen ornamental shrubs, and seeds of hardy perennial plants: *Provided*, That such seeds shall be free from pulp: *Provided further*, That citrus seeds may be imported only through specified ports subject to disinfection as provided in regulation 9: *Provided further*, That mango seeds may not be imported under permit or otherwise, except from the countries of North America, Central America, and South America, and the West Indies.

Importations from countries not maintaining inspection of nursery stock, other plants and parts of plants, including seeds, the entry of which is permissible under this regulation, may be made under permit upon compliance with these regulations in limited quantities for public-service purposes only, but this limitation shall not apply to tree seeds.

(6) Materials permitted entry under Quarantine No. 56 for consumption purposes are authorized entry under this regulation for propagation.

This amendment shall be effective on and after December 1, 1938, and shall on that date supersede amendment No. 2, which became effective January 14, 1935.

Done in the city of Washington this 30th day of November 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3605; Filed, November 30, 1938; 4:00 p. m.]

[Form 38-Tobacco 69]

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 726—REGULATIONS PERTAINING TO FIRE-CURED AND DARK AIR-CURED TOBACCO MARKETING QUOTAS FOR THE 1938-39 MARKETING YEAR

CONTENTS

GENERAL

Sec.
726.31 Definitions.
726.32 Gender and number of terms.
726.33 Instructions and forms.

FARM MARKETING QUOTAS

726.34 Establishment of farm marketing quota.
726.35 Publication, notice, review.
726.36 Rights of producers in quota.
726.37 Successors in interest.
726.38 Marketing card for every quota.
726.39 Marketings charged against quota.

MARKETING OF TOBACCO AND PENALTIES

726.40 A memorandum of sale to be obtained for every marketing.
726.41 When memorandum of resale to be obtained.
726.42 Purpose of memorandum of sale.
726.43 Marketings free of penalty.
726.44 Marketings subject to penalty.
726.45 Amount of penalty.

Sec.
726.46 Persons to pay penalty, and deduction from purchase price.
726.47 Payment of penalty.
726.48 Refund of penalty.

MARKETING CARDS

726.49 Form of card.
726.50 Person authorized to issue card.
726.51 Entries on card.
726.52 Receipt for card.
726.53 Rights of producers in card.
726.54 Invalid cards.
726.55 Invalid cards suspended.
726.56 Duplicate card to replace card which is lost, stolen, destroyed, or which becomes illegible.
726.57 Amount of quota for duplicate cards.
726.58 Replacement of old cards.
726.59 Apportionment of transfer allotment among cards.

TRANSFER OF QUOTA

726.60 Amount of quota transferable.
726.61 Duties of person authorized to make transfer.
726.62 Direct transfers.
726.63 Transfers through a county office transfer book.
726.64 County office transfer book.
726.65 Consideration for transfer.
726.66 Distribution of consideration.
726.67 Producers' rights in transferred quota.

RECORDS AND REPORTS

726.68 Warehouseman's records and reports.
726.69 Dealer's records and reports.
726.70 Records and reports of cooperatives.
726.71 Records and reports of redryers, etc.
726.72 Separate records and reports from persons engaged in more than one business.
726.73 Failure to keep record or make report.
726.74 Records open to inspection.
726.75 Information confidential.

GENERAL

SECTION 726.31 *Definitions.*—As used in these regulations and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this Section shall have the meanings herein assigned to them unless the context or subject matter requires otherwise.

(a) *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *County committee* means the county committee utilized under the Act.

(c) *County office* means the office of the County Agricultural Conservation Association, or the committees and employees of such association, according to the sense in which such term is used.

(d) *Dealer* means a person who engages, to any extent, in the business of acquiring tobacco from producers. No warehouseman shall be considered a dealer because of any purchase of tobacco made by him on his own warehouse floor if the identical tobacco is subsequently resold by him on his own warehouse floor.

(e) *Farm* means the farm for which the marketing quota was established.

(f) *Farm marketing quota or quota* means a fire-cured and dark air-cured tobacco marketing quota established for a farm under the Act.

(g) *Field assistant* means a field assistant or a field officer of the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture.

(h) *Fire-cured and dark air-cured tobacco or dark tobacco* means tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as types 21, 22, 23, 24, 35, 36, and 37.

(i) *Marketing* means the first bona fide disposition of tobacco by sale, barter, or exchange. "Market" and "marketed" shall have corresponding meanings to the term "marketing".

(j) *Marketing card or card* means a marketing card (Form 38-Tobacco 45) issued for a farm pursuant to these regulations.

(k) *The 1938-39 Marketing year* means the period beginning with the first day of October 1938 and ending with the 30th day of September 1939.

(l) *Memorandum of resale* means Form 38-Tobacco 60.

(m) *Memorandum of sale* means Form 38-Tobacco 55 in the case of warehouse sales, and Form 38-Tobacco 56 in the case of nonwarehouse sales.

(n) *Nonwarehouse sale* means a marketing other than a warehouse sale.

(o) *Operator* means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(p) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(q) *Pound* means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually delivered by a grower, would equal one pound standard weight.

(r) *Producer* means a person who, as owner, landlord, tenant, share-cropper, or laborer, is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of the tobacco.

(s) *Regulations* means these Regulations Pertaining to Fire-cured and Dark Air-cured Tobacco Marketing Quotas for the 1938-39 Marketing Year.

(t) *Resale* means the disposition by sale, barter, or exchange of tobacco which has been marketed.

(u) *Share of tobacco* means that part of the tobacco available for marketing, or of the proceeds of the marketing thereof, which a producer is entitled to receive or retain under his agreement relating to the production of the tobacco. Such share shall be computed without regard to the time of passage of title under State law, and without deduction on account of any claim of any creditor.

(v) *Tobacco* means fire-cured and dark air-cured tobacco.

(w) *Tobacco available for marketing from a farm* means all tobacco produced on the farm which was not marketed (or otherwise disposed of) prior to the beginning of the 1938-39 marketing year, but shall not include any such tobacco which was destroyed before its marketing.

(x) *Tobacco Section* means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(y) *Warehouse* means a building or other place at which sales of tobacco at public auction are regularly held by a warehouseman during the tobacco marketing season.

(z) *Warehouseman* means a person regularly engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(aa) *Warehouse sale* means a marketing by sale at public auction on a warehouse floor and in the regular course of business.

SEC. 726.32 *Gender and number of terms.*—Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, and in the plural number, wherever the context or application of such term so requires.

SEC. 726.33 *Instructions and forms.*—The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.

FARM MARKETING QUOTAS

SEC. 726.34 *Establishment of farm marketing quota.*—The quota for a farm shall be determined and established in accordance with Sec. 726.11-726.23 ("Procedure for the Determination of Fire-Cured and Dark Air-Cured Tobacco Farm Marketing Quotas for 1938" (Form 38-Tobacco 38) issued by the Secretary of Agriculture [1]). (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.35 *Publication, notice, review.*—The publication, notice, and review of quotas as established shall be in accordance with Part 711 ("Regulations Governing (A) Applications and Hearings under Section 363 of Title III of the Agricultural Adjustment Act of 1938 Relating to Administrative Review of Marketing Quotas for Tobacco, Corn, Wheat, Cotton and Rice Established under said Title, and (B) the Publication and Notice of such Quotas under Section 362 of said Act" (designated 38-AAA-2), issued by the Secretary of Agriculture [2]).

SEC. 726.36 *Rights of producers in quota.*—Each producer having a share

[1] 3 F. R. 2646 DI.
[2] 3 F. R. 1749 DI.

in the tobacco available for marketing from the farm shall be entitled to market, or to have marketed for him, under the quota, his share of such tobacco; provided that, if the quota is less than the total amount of such tobacco, each producer shall be entitled to market, or to have marketed for him, under the quota, only that proportion of his share of such tobacco which the quota is of the total quantity of such tobacco. (Sec. 375, 52 Stat. 66.)

SEC. 726.37 *Successors in interest.*—Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer in the quota. (Sec. 375, 52 Stat. 66.)

SEC. 726.38 *Marketing card for every quota.*—There shall be issued for each farm to which a quota is allotted a marketing card (Form 38-Tobacco 45) as evidence of the number of pounds allotted to the farm as its quota; provided that the quota may be divided among such number of cards as the operator may request. Marketing cards shall be issued as provided in Sec. 726.49–726.59 of these regulations. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66.)

SEC. 726.39 *Marketings charged against quota.*—Marketings of tobacco shall be charged against the quota for the farm on which such tobacco was produced in the order in which the memoranda of sale (Forms 38-Tobacco 55 or 56) covering such marketings are issued; provided that, a marketing shall not be charged against the quota to the extent that (as shown by the memorandum of sale or a Form 38-Tobacco 25) such marketing consists of tobacco (1) marketed subject to penalty, (2) marketed solely for nicotine or other by-product uses, or (3) grown for experimental purposes only by a publicly owned experiment station. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66.)

MARKETING OF TOBACCO AND PENALTIES

SEC. 726.40 *A memorandum of sale to be obtained for every marketing.*—Whenever any tobacco is marketed (whether the marketing is within the quota or not) the marketing card for the farm on which such tobacco was produced, together with the warehouse bill or other record of the marketing, shall be presented to the field assistant who is located most conveniently to the place of marketing for the purpose of obtaining a memorandum of sale (Form 38–Tobacco 55 in the case of warehouse sales, and Form 38–Tobacco 56 in the case of nonwarehouse sales) covering the tobacco marketed. A memorandum of sale shall then be issued by the field assistant; provided that, in the case of a nonwarehouse sale which is subject to penalty, the memorandum shall not be issued unless the certificate on Form 38–Tobacco 56 as to the facts of the marketing is signed by the dealer and the producer (or by the producer alone if the marketing is made directly to a person outside the United States). (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66.)

SEC. 726.41 *When memorandum of re-sale to be obtained.*—Whenever any tobacco is resold through a warehouse, the warehouse bill covering such resale shall be presented to the field assistant at the warehouse, and, upon representation by the warehouseman that the tobacco covered by the warehouse bill was tobacco the marketing of which was previously covered by a memorandum of sale, the field assistant shall issue a memorandum of resale covering such tobacco. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66.)

SEC. 726.42 *Purpose of memorandum of sale.*—A memorandum of sale shall identify the tobacco covered by the memorandum as tobacco the marketing of which is subject to penalty, or tobacco the marketing of which is free of penalty, as the memorandum, on its face, may show, and if the marketing is subject to penalty, shall state the amount of the penalty upon the marketing.

It shall be the responsibility of the person liable for the payment of the penalty upon a marketing to check carefully the entries on the memorandum of sale issued to cover the marketing and the records upon which such memorandum is based. Any errors should be brought immediately to the attention of the field assistant for correction. Failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries. (Sec. 314, 52 Stat. 48; Sec. 375, 52 Stat. 66.)

SEC. 726.43 *Marketings free of penalty.*—Any marketing of tobacco shall be free of penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that

(a) such tobacco is marketed within the quota for the farm on which such tobacco was produced, as shown by a valid marketing card presented to obtain the memorandum of sale to cover such marketing; provided that if the producer and the person liable for the payment of the penalty shall designate any tobacco as tobacco marketed subject to penalty, then such tobacco shall be deemed to be marketed in excess of the quota, and the memorandum of sale shall not identify such tobacco as marketed free of penalty; or

(b) such tobacco is marketed solely for nicotine or other by-product uses and is so identified by a certificate made on Form 38–Tobacco 25 by the by-product manufacturer and the producer; or

(c) such tobacco was grown for experimental purposes only by a publicly owned agricultural experiment station and is so identified by a certificate made on Form 38–Tobacco 25 by an authorized representative of the experiment station and the producer. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66.)

SEC. 726.44 *Marketings subject to penalty.*—(a) Any marketing of tobacco shall be subject to penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that the tobacco marketed cannot, as of the date of the issuance of the memorandum of sale, be identified pursuant to Sec. 726.43 of these regulations as tobacco the marketing of which was free of penalty.

(b) If a memorandum of sale or a memorandum of resale has not been obtained to cover a sale of tobacco through a warehouse, such sale shall be deemed to be a marketing which was subject to penalty.

(c) If a memorandum of sale has not been obtained to cover a nonwarehouse sale, such sale shall be deemed to be a marketing which was subject to penalty. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66.)

SEC. 726.45 *Amount of penalty.*—The penalty upon any marketing of tobacco subject to penalty shall be 50 percent of the market price of such tobacco on the date of marketing, or 2 cents per pound, whichever is higher. The sale price of any tobacco will be considered as evideince of the market price on the date of marketing where verified, in the case of warehouse sales, by a warehouse bill, or in the case of nonwarehouse sales, by the certificate (on Form 38–Tobacco 56) of the dealer and the producer. (Sec. 314, 52 Stat. 48.)

SEC. 726.46 *Persons to pay penalty, and deduction from purchase price.*—(a) If the tobacco is marketed by the producer through a warehouseman (or cooperative marketing association or other agent who performs services comparable to the services performed by a warehouseman) the penalty shall be paid by the warehouseman (or such other agent), but the warehouseman (or such other agent) may deduct an amount equivalent to the penalty from the purchase price paid to the producer.

(b) If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(c) If the tobacco is marketed by the producer in a manner other than as described in paragraphs (a) and (b) of this section, the penalty shall be paid by the person who acquires the tobacco from the producer; but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale. (Sec. 314, 52 Stat. 48.)

SEC. 726.47 *Payment of penalty.*—Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.) not later than the end of the calendar week next following the week in which the penalties became due. The remittance shall be accompanied,

(a) in the case of a warehouseman, by his report on Form 38–Tobacco 58, or

(b) in the case of a dealer, by his report on Form 38–Tobacco 59, or

(c) in the case of a producer, by his statement showing the date of sale, the number of pounds sold, the grade, the sale price thereof, and the name of the person outside the United States to whom sold. The remittance may be made by draft, money order, or check, payable to the order of the Treasurer of the United States, but any such draft, money order, or check shall be received subject to payment at par. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204.)

SEC. 726.48 *Refund of penalty.*—Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of any penalty collected from any person pursuant to the Act, the Secretary of Agriculture finds that such penalty was erroneously, illegally, or wrongfully collected, the Secretary of Agriculture shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of such penalty. Any claim filed with the Secretary of Agriculture pursuant to this Section shall be made in accordance with regulations prescribed by him. (Sec. 372, 52 Stat. 65, 204.)

MARKETING CARDS

SEC. 726.49 *Form of card.*—The marketing card (Form 38–Tobacco 45) shall contain the signature in ink of both the person authorized to issue the marketing card and the operator, and a statement of the following information:

(a) the State and county code and serial number of the farm for which the marketing card is issued;

(b) the number of the marketing card;

(c) the name and address of the operator;

(d) the amount of the marketing quota, or, if more than one marketing card is issued for the farm, the number of pounds for which the marketing card is issued, expressed in words on the face of the marketing card and expressed in figures on the inside of the marketing card in column 1 opposite the word "Quota";

(e) the date on which the marketing card is issued; and

(f) if more than one card is issued for any farm, the amount of the farm's transfer allotment apportioned to the card in accordance with Sec. 726.59 of these regulations. (Sec. 373, 52 Stat. 65; Sec 375, 52 Stat. 66.)

SEC. 726.50 *Person authorized to issue card.*—The county committee shall designate one of its members or the Secretary of the County Agricultural Conservation Association as the person authorized to issue marketing cards for farms in the county. Only one person shall be designated by the committee for this purpose, and in the absence of a specific designation the Secretary of the County Agricultural Conservation Association shall be deemed to be the person designated. (Sec. 375, 52 Stat. 66.)

SEC. 726.51 *Entries on card.*—No person other than a field assistant, or a person designated by the Chief of the Tobacco Section or by the county committee, shall make any entry (except for the writing by the operator of his signature) on the marketing card; but every entry on the marketing card should be carefully checked by each interested person, and any error should be immediately reported for correction to a person authorized to make entries on the marketing card. (Sec. 375, 52 Stat. 66.)

SEC. 726.52 *Receipt for card.*—After the marketing card has been duly prepared, it shall be delivered to the operator upon his receipt therefor. There shall be listed on the "Operator's Receipt for Marketing Card" (Form 38–Tobacco 44), in the appropriate spaces thereon, the following information:

(a) each marketing card issued for the farm and received by him, and the number of pounds for which each such marketing card was issued; and

(b) the names of all producers having a share in the tobacco available for marketing from the farm.

The receipt shall be retained in the county office and shall be available to any producer having a share in the tobacco available for marketing from the farm, whether the name of such person be listed on the receipt or not, either for inspection or for evidence as to any matter to which the receipt relates. (Sec. 375, 52 Stat. 66.)

SEC. 726.53 *Rights of producers in card.*—Each producer who has a share in the tobacco available for marketing from the farm shall have the right to market, or to have marketed for him, under the marketing card issued for the farm, the quantity of such tobacco which he is entitled to market, or to have marketed for him, under the quota for the farm, as provided in Sec. 726.36 of these regulations. (Sec. 375, 52 Stat. 66.)

SEC. 726.54 *Invalid cards.*—(a) A marketing card shall be invalid if the marketing card was not issued or delivered in the form and manner required in these regulations, but such invalid marketing card shall become valid when returned to the county office and reissued and delivered in the required form and manner.

(b) A marketing card shall be invalid if the entries on the marketing card with respect to the amount, portion, or balance of quota are incorrect, or if, because of the omission of any entry which should have been made on the marketing card, the balance of unused quota is incorrect; but if, subsequent to the time of invalidation, no transfer from the farm has been made, and no marketings have been made and entered on the marketing card which would have been subjected to penalty if the correct entries had been shown on the marketing card, then such invalid marketing card shall become valid when the error has been corrected by a person authorized to make entries on the marketing card, or, in any other case, when the marketing card has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(c) A marketing card shall be invalid if the marketing card is credited with an amount of quota, any part of which has been transferred in violation of these regulations; but such invalid marketing card shall become valid when the marketing card has been forwarded to the Tobacco Section and the necessary corrections have been made under its direction.

(d) A marketing card shall be invalid if any entry is made on the marketing card by a person not authorized to make such entry; but such invalid marketing card, when returned to the county office, shall be replaced by a new marketing card issued for an amount of quota determined as provided in Sec. 726.57 of these regulations.

(e) A marketing card shall be invalid if it is presented and used to obtain a memorandum of sale covering the marketing of tobacco which was grown on a farm other than the farm for which the marketing card was issued; but such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(f) A marketing card shall be invalid if it is lost or stolen, but if no entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which the marketing card was issued, then such invalid marketing card shall become valid when it has been returned to the operator; or if any entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which it was issued, then such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction; provided that if such lost or stolen marketing card is not found or returned to the operator prior to the issuance of a duplicate marketing card, as provided for in Sec. 726.56 of these regulations, then such lost or stolen marketing card shall be permanently invalid.

(g) A marketing card shall be invalid if it is destroyed or becomes illegible; but a new marketing card shall be issued to replace such destroyed or illegible marketing card, as provided in Sec. 725.56 of these regulations, and such destroyed or illegible marketing card shall be permanently invalid. (Sec. 375, 52 Stat. 66.)

SEC. 726.55 *Invalid cards suspended.*—If any field assistant or the county office shall learn of or ascertain the invalidity of any marketing card, such person shall immediately notify the Tobacco Section of the code and serial number, and the name and address of the operator of the farm for which the marketing card was issued, and of the facts causing the invalidity of the marketing card, unless the marketing card is then in the possession of such person, in which case he shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 725.54 of these regulations. Upon receipt of such notice, the Tobacco Section shall notify all field assistants, all county offices, and the operator of the farm, that the marketing card has been suspended for invalidity. If any such marketing card shall thereafter come into the possession of any field assistant or county office, such person shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 726.54 of these regulations. (Sec. 375, 52 Stat. 66.)

SEC. 726.56 *Duplicate card to replace card which is lost, stolen, destroyed, or which becomes illegible.*—Whenever any marketing card is lost, stolen, destroyed, or becomes illegible, the county office shall be notified of the code and serial number, the name of the operator of the farm for which the marketing card was issued, the number of the marketing card, and, if known, the amount of the unused quota evidenced by the marketing card and the amount of quota which had been transferred to the card. Such notice shall be in writing, subscribed by the operator of the farm for which the marketing card was issued. If, in the case of a lost or stolen marketing card, the producer is at or near a warehouse where he believes the loss or theft occurred, he shall also notify the field assistant at the warehouse.

When such notice has been given to the county office and a period of two weeks has elapsed from the time of its receipt of such notice, a duplicate marketing card may be issued by the country office for an amount of quota determined as provided in Sec. 726.57 of these regulations.

Such marketing card shall bear the same number as the number of the marketing card which was lost, stolen, destroyed, or which became illegible, and shall have written under the card number, in large letters, the word "Duplicate". The person issuing the marketing card shall sign the card in the space provided for his signature and shall also sign below the word "Duplicate". (Sec. 375, 52 Stat. 66.)

SEC. 726.57 *Amount of quota for duplicate cards.*—Whenever the county office issues a marketing card to replace any marketing card which has become invalid, the amount of quota for which such card shall be issued shall equal whichever of the following amounts is the smaller:

(a) the unused quota as stated by the operator; or

(b) the unused quota as determined by subtracting the sum of—

(1) the total marketings within quota,

(2) the amount of quota transferred from the farm, and

(3) the total unused quota shown on all other marketing cards issued for the farm;

from the sum of—

(1) the quota established for the farm, and

(2) the amount of quota transferred to the farm; provided that, if no amount is stated by the operator, as provided under paragraph (a) of this section, the amount for which the card shall be issued shall be the amount determined under paragraph (b) of this section. (Sec. 375, 52 Stat. 66.)

SEC. 726.58 *Replacement of old cards.*—Whenever the space for recording marketings on any card becomes inadequate, such marketing card shall be surrendered to the county office and a new marketing card shall be issued for the amount of unused quota remaining on the marketing card so surrendered. The new card shall bear the same number as the number of the surrendered card, and such number shall be preceded by the letter "R". An appropriate entry shall be made on the surrendered marketing card showing that a new card has been so issued. (Sec. 375, 52 Stat. 66.)

SEC. 726.59 *Apportionment of transfer allotment among cards.* Every marketing card issued shall bear a statement of the amount of the transfer allotment (determined in accordance with paragraph (b) of Sec. 726.60 of these regulations) which has been apportioned to the card; except that where only one card is issued for the farm such card shall bear no such statement. This statement shall be written on the face of the card and below the words "Marketing Card (1938–39 fire-cured and dark air-cured tobacco)", and shall be in the following words, or an appropriate abbreviation thereof: "Maximum Increase by Transfer", followed by the amount apportioned to the card, or "No Increase by Transfer" if no apportionment is made to the card, as the case may be.

The apportionment of the transfer allotment among cards shall be made in accordance with the following rules:

(a) If only one card is issued for the entire quota, no entry will be made, and the entire transfer allotment shall be deemed to be apportioned to the card;

(b) If the quota established for the farm is divided among two or more cards, the apportionment shall be made in accordance with the request of the operator; or, if the operator makes no request with respect to the apportionment, there shall be apportioned to each card that portion of the transfer allotment which the amount of quota for which the card is issued is of the quota established for the farm;

(c) If, after the issuance of the marketing card or cards for a farm, the quota for the farm is increased, the amount of transfer allotment which shall be apportioned to the card issued on account of such increase in the farm quota shall be the amount by which the transfer allotment is increased by the increase of the farm marketing quota.

(d) If an old card is replaced pursuant to Sec. 726.58, or if a duplicate card is issued pursuant to Sec. 726.56, the amount apportioned to the new card shall be the amount apportioned to the original card less the amount already transferred on account of such apportionment; provided that, if the amount apportioned to the original card cannot be determined from the county office records, the statement of the amount apportioned to the new card shall be "No Increase by Transfer", unless the operator of the farm shall present all other cards for the farm, and in that case the amount apportioned to the old card shall be deemed to be the amount by which the transfer allotment is greater than the total amount of the apportionments to such other cards. (Sec. 313, 52 Stat. 47, 586.)

TRANSFER OF QUOTA

SEC. 726.60 *Amount of quota transferable.*—(a) *From a farm.*—Quota may be transferred from a farm only to the extent and in the event that such quota exceeds the sum of: (1) the number of pounds of tobacco available for marketing from the farm which have not been marketed (or otherwise disposed of) at the time of the proposed transfer, (2) the number of pounds of tobacco marketed from the farm solely for nicotine or other by-product uses, and (3) the number of pounds of tobacco marketed from the farm which were grown for experimental purposes only by a publicly owned agricultural experiment station.

(b) *To a farm.*—The amount of quota which may be transferred to a farm shall be the larger of: (1) 10 percent of the quota established for the farm, or (2) 500 pounds; and such larger amount shall be the farm's transfer allotment. (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.61 *Duties of person authorized to make transfer.*—Transfers may be made by a field assistant, or by a person authorized by the county committee to make transfers, and shall be made either directly between farms or through the county office transfer book. Any authorized person who makes a transfer of quota shall

(a) satisfy himself that the authorization for transfer has been duly executed by the operator of the farm from which the transfer is to be made; that the requested transfer is proper (i. e., that the amount of quota to be transferred from the one farm is available for transfer in accordance with these regulations, and that the transfer to the other farm will not exceed the amount of the unused transfer allotment apportioned to the card on which the transfer is to be entered);

(b) record the transfer by making the appropriate entries on the respective cards, in case of direct transfers, or on the cards, and in the county office transfer book, in case of transfers through a county office transfer book;

(c) when the appropriate entries have been made, execute the certificate on the authorization for transfer;

(d) after making a transfer to a farm through the county office transfer book, make a record of the transfer on Form 38–Tobacco 67. (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.62 *Direct transfers.*—If the transfer is to be made directly from one farm to another, the marketing cards for the respective farms, together with the authorization (Form 38–Tobacco 66) of the operator of the farm from which the transfer is to be made, shall be presented, for appropriate entries, to a field assistant or person in the county office authorized to make transfers. (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.63 *Transfers through a county office transfer book.*—(a) *From a farm.*—If the operator of the farm desires to arrange for a transfer of quota from his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for this farm, together with his authorization (Form 38–Tobacco 66), to a person in the county office (for the county in which the farm is located) authorized to make transfers. (Sec. 313, 52 Stat. 47, 586.)

(b) *To a farm.*—If a producer desires to arrange a transfer of quota to his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for his farm, together with a deposit of the amount required to pay for the transfer (in the form of cash or a cashier's check, certified check, or money order payable to the County Agricultural Conservation Association) to a person in the county office authorized to make transfers. (Sec. 313, 52 Stat. 47, 586.)

(c) *Order of transfer.*—(1) *To farms.*—Transfers of quota to farms through the county office transfer books shall be made in the order in which requests for transfers, together with the marketing cards upon which such transfers are to be entered and the deposits to pay for such transfers, are received in the county office by a person authorized to make transfers.

(2) *From farms.*—Transfers of quota from farms through the county office transfer book shall be made in the order in which authorizations for such transfers (Form 38–Tobacco 66) are received in the county office by a person authorized to make transfers. (Sec. 313, 52 Stat. 47, 586.)

(d) *Expense of transfer.*—The county committee may adopt a schedule of charges (not exceeding 10 cents per 100 pounds, or major portion thereof, of quota transferred, or $1.00 for any one request) to cover the expense of making transfers of quota through the county office transfer book. Such schedule of charges, when approved by the State committee, shall be applied uniformly to all transfers through the county office transfer book, and shall be collected from the person requesting a transfer to his farm. The amount of any charge so collected shall be paid over to the Treasurer of the County Agricultural Conservation Association. (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.64 *County office transfer book.*—The county committee shall designate and authorize one person to make transfers in the county office, and in the absence of a specific designation, the person authorized to make transfers shall be the Secretary of the County Agricultural Conservation Association. The county committee may also designate an alternate person who, in the absence of the person authorized to make transfers in the county office, shall be authorized to make such transfers. The person so authorized shall be responsible for keeping the county office transfer book in which he shall record, with respect to each transfer, the following information:

(a) The code and serial number, and the name of the operator, of the farm from which quota is made available for transfer, the number of pounds, and the date on which made available, and the amount paid to the operator for the transfer.

(b) The code and serial number, and the name of the operator, of the farm to which a transfer is requested, the date of the request, the deposit or payment received and the number of pounds transferred. (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.65 *Consideration for transfer.*—(a) If a transfer is made directly between farms, the consideration for the transfer shall be whatever consideration is agreed upon by the operators of the respective farms; provided that no such transfer shall be made for a consideration which is less than 2 cents per pound for each pound of quota transferred, unless all the producers on the farm from which the quota is to be transferred have consented thereto.

(b) If the transfer is made through a county office transfer book, the consideration for the transfer shall be 2 cents per pound for each pound of quota transferred. (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.66 *Distribution of consideration.*—The consideration received by the operator for the transfer of any portion of the quota for the farm shall be divided among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm; except as follows:

(a) If the amount of tobacco produced on the farm in 1938 was materially affected because of drought, flood, hail, or other adverse weather conditions, or plant-bed or other diseases; such consideration shall be divided among the producers on the farm in proportion to what their shares would have been in the amount of tobacco which, except for such abnormal conditions of production, would have been available for marketing from the farm; such amount to be determined by multiplying the planted acreage, or the acreage which would have been planted except for such abnormal conditions, by the farm yield established for the farm pursuant to the Dark Tobacco Quota Procedure.

(b) If there is a loss of tobacco by fire, theft, or other accidental cause, the consideration shall be divided among the producers on the farm in proportion to their shares in the tobacco which, except for such loss, would have been available for marketing from the farm.

(c) If the consideration is received for quota which was not allotted to the farm but was acquired by transfer, the consideration shall be divided among the producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer.

(d) If all the producers on the farm agree among themselves upon a division of the consideration, the consideration shall be divided among the producers in accordance with such agreement. (Sec. 313, 52 Stat. 47, 586.)

SEC. 726.67 *Producers' rights in transferred quota.*—Each producer having a share in the tobacco available for marketing from the farm which has not been marketed at the time of the transfer, shall be entitled to market, or to have marketed for him, under the transferred quota, that proportion of his share of such tobacco which his contribution to the consideration for such transfer is of the total consideration for the transfer; provided that all producers on the farm shall be given an opportunity to contribute to such consideration in proportion to their shares in the tobacco available for marketing from the farm. (Sec. 313, 52 Stat. 47, 586.)

RECORDS AND REPORTS

SEC. 726.68 *Warehouseman's records and reports.*—(a) *Record of marketing.*—Every warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse: The name of the seller, the name of the purchaser, the date of sale, the number of pounds sold, the sale price, and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco sold was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

(b) *Reports.*—Every warehouseman shall make, on Form 38–Tobacco 58 and on Form 38–Tobacco 61, a daily report of those transactions made on his warehouse which are required to be shown on such forms. These reports shall be made for each day on which any such transaction is made on his warehouse,

and, not later than the end of the calendar week next following the week in which occurred the days for which the reports are made, these reports, together with the warehouseman's remittance of penalties for such preceding week, payable to the Treasurer of the United States, shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C.

Every warehouseman shall also make, under oath and on Form 38–Tobacco 62, a monthly report of those transactions made on his warehouse which are required to be shown on such form. This report shall be made for each month during which any such transaction is made on his warehouse, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than 10 days after the end of the calendar month for which the report is made.

Every warehouseman shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65.)

SEC. 726.69 *Dealer's records and reports.*—(a) *Records.*—Every dealer shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each purchase (or other acquisition) of tobacco and each sale (or other disposition) of tobacco made by him: The date when and the place where made, the number of pounds of tobacco involved, the price (or other consideration) paid or received, the name and address of the person from whom acquired or to whom the disposition was made (or if acquired or disposed of by sale at auction on a warehouse floor, the name of such warehouse), and in case the tobacco is acquired from a producer, the name of the operator of the farm on which the tobacco marketed was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

(b) *Reports.*—Every dealer shall make a report, on Form 38–Tobacco 59, of those transactions required to be reported on such form for each day on which he makes a purchase of tobacco from a producer other than at a warehouse sale. This report, together with the dealer's remittance of penalty, payable to the Treasurer of the United States, shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., on or before the end of the calendar week next following the week in which occurred the day for which the report is made.

Every dealer shall also make, under oath and on Form 38–Tobacco 63, a monthly report of all purchases and sales of tobacco made by him during the month for which the report is made. This report shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than 10 days after the end of the calendar month for which the report is made.

Every dealer shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65.)

SEC. 726.70 *Records and reports of cooperatives.*—Every cooperative marketing association which acquires title to any tobacco shall keep the records and make the reports required of dealers by these regulations. Every cooperative marketing association which acts as the agent of the producer in marketing tobacco shall keep the records and make the reports required of warehousemen by these regulations. (Sec. 373, 52 Stat. 65.)

SEC. 726.71 *Records and reports of redryers, etc.*—Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, the name and address of the person from whom the tobacco was received (and, if received from a producer, the name and address of the operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco.

Every such person shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65.)

SEC. 726.72 *Separate records and reports from persons engaged in more than one business.*—Any person who is required to keep any record or make any report as warehouseman, dealer, processor, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who engages in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business. (Sec. 373, 52 Stat. 65.)

SEC. 726.73 *Failure to keep record or make report.*—Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under Sec. 726.68–726.72 of these regulations, or who makes any false report or record, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than $500. (Sec. 373, 52 Stat. 65.)

SEC. 726.74 *Records open to inspection.*—For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary of Agriculture is authorized by the Act to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of any warehouseman, dealer, processor, common carrier, or person engaged in the business of redrying, prizing, or stemming tobacco for producers. (Sec. 373, 52 Stat. 65.)

SEC. 726.75 *Information confidential.*—All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act. (Sec. 373, 52 Stat. 65.)

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938) as amended, I, H. A. Wallace, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the foregoing regulations pertaining to fire-cured and dark air-cured tobacco marketing quotas for the 1938–39 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 30th day of November, 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3604; Filed, November 30, 1938; 4:00 p. m.]

DETERMINATION OF THE APPORTIONMENT AND ADJUSTMENT OF THE NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO FOR THE 1939–40 MARKETING YEAR

Pursuant to section 313 of the Agricultural Adjustment Act of 1938 (approved February 16, 1938), as amended, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the national marketing quota for Flue-cured Tobacco for the 1939–40 marketing year, as proclaimed by the Secretary of Agriculture on November 21, 1938,[1] be apportioned and adjusted in accordance with the following table:

States and Reserve pursuant to Section 313 (c)	Apportionment of national marketing quota proclaimed November 21, 1938	Adjustment pursuant to section 313 (e) to bring State up to minimum State poundage	Totals as apportioned and adjusted
(1)	(2)	(3)	(4)
	1,000 pounds	*1,000 pounds*	*1,000 pounds*
Virginia	70,453		70,453
North Carolina	493,964		493,964
South Carolina	87,713		87,713
Georgia	81,149		81,149
Florida	12,995		12,995
Alabama	186	240	426
Section 313 (c) Reserve	7,540		7,540
Total	754,000	240	754,240

Done at Washington, D. C., this 30th day of November 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3606; Filed, November 30, 1938; 4:01 p. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER I. RULES OF PRACTICE AND PROCEDURE*

TABLE OF CONTENTS

Part
1. Administrative Provisions.
2. Personal Appearances; Practitioners.
3. Parties.
4. Applications and Amendments—General.
5. Amendments to Pleadings.
6. Petitions.
7. Subscription and verification.
8. Specifications as to Documents and Pleadings.
9. Service of Documents; Copies.
10. Proof of Official Record.
11. Subpoenas.
12. Hearings.
13. Motions Docket.
14. Rehearings.
15. Special provisions relating to Radio.
16. Special provisions relating to Common Carriers.

PART 1. ADMINISTRATIVE PROVISIONS

Sec.
1.01 Offices; hours.
1.02 Meetings.
1.03 Minutes.
1.04 Authentication of documents.
1.05 Inspection of records.
1.06 Certified copies, requests for; costs.
1.07 Official reporter; transcript.
1.08 Person, defined.
1.09 Computation of time.
1.10 Additional time to parties in certain cases.
1.11 Documents in foreign languages.
1.99 Suspension, amendments, etc. of rules.

SEC. 1.01 *Offices; hours.* The principal office of the Commission shall be located at Washington, D. C., and all communications to it shall be addressed to the Secretary, Washington, D. C., unless otherwise specifically directed. The hours of the Commission are from 8:30 a. m. to 4 p. m., Monday to Friday, inclusive, and on Saturday from 8:30 a. m. to 12:30 p. m., except on legal holidays.

SEC. 1.02 *Meetings.* All meetings of the Commission, unless otherwise determined by a majority of the members thereof, shall be held at the principal office of the Commission.

SEC. 1.03 *Minutes.* The minutes of a meeting of the Commission shall be the official record of any action taken therein, and shall be kept by, and in the office of, the Secretary.

SEC. 1.04 *Authentication of documents.* All orders, permits, licenses, or other instruments of authorization made, issued, or granted by the Commission, shall, unless otherwise specifically provided by order of the Commission, be signed by the Secretary in the name of the Commission and authenticated by the Seal of the Commission.

SEC. 1.05 *Inspection of records.* Subject to the provisions of Sections 4 (j), 412 and 606 of the Act, the files of the Commission shall be open to inspection as follows:

(a) Tariff schedules required to be filed under Section 203 of the Act and annual and monthly reports required to be filed under Section 219 of the Act.

(b) All applications and amendments thereto filed under Title II and Title III of the Act, including all documents and exhibits filed with and made a part thereof; authorizations and certifications issued upon such applications; all pleadings, depositions, exhibits, transcripts of testimony, examiners' reports, exceptions, briefs, proposed reports or findings of fact and conclusions, minutes, and orders of the Commission.

(c) Other files in the discretion of the Commission upon written request describing in detail the documents to be inspected and the reasons therefor.

SEC. 1.06 *Certified copies; requests for; costs.* Copies of any documents subject to inspection under the provisions of Sec. 1.05 will be prepared and certified by the Secretary, under seal, on written request, specifying the exact documents, the number of copies desired, and the date on which the same will be required: *Provided, however,* That such request must be made so as to permit a reasonable time for the preparation of such copies: *And provided further,* That any cost incurred in the preparation of such copies shall be prepaid by the person making application therefor.

SEC. 1.07 *Official reporter; transcript.* The Commission will designate from time to time an official reporter for the taking down and transcribing of its proceedings. No transcript of the testimony taken, or argument had, at any hearing will be furnished by the Commission, but will be open to inspection under Sec. 1.05. Such transcript, if desired, must be obtained from the official reporter upon payment of the charges therefor.

SEC. 1.08 *Person, defined.* Wherever in these rules the term "person" is used, it shall include an individual, partnership, association, joint-stock company, trust, or corporation.

SEC. 1.09 *Computation of time.* In computing any period of time prescribed or allowed by these rules, by order of the Commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

SEC. 1.10 *Additional time to parties in certain cases.* Where, under these rules, unless otherwise expressly provided, any limitation is made as to the time within which any document is required to be filed, or any procedural step is required to be taken in connection with any hearing, parties who are residents of Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California shall have an additional period of five days; and parties who reside beyond the confines of the continental United States shall have an additional period of twenty days within which to file such document or take such other procedural step: *Provided, however,* That this rule shall not apply to any limitation as to time fixed by statute.

SEC. 1.11 *Documents in foreign languages.* Every document, exhibit, or other paper written in a language other than English, which shall be filed in any proceeding before the Commission or in response to any order of the Commission unless expressly waived therein, shall be filed in the language in which it is written, together with an English translation thereof duly verified under oath to be a true translation. Each copy of every such document, exhibit, or other paper filed, shall be accompanied by a separate copy of the translation.

SEC. 1.99 *Suspension, amendment, etc. of rules.* The rules and regulations of the Commisison may be suspended, revoked, modified, amended, or supplemented, in whole or in part, at any time by the Commission.

PART 2. PERSONAL APPEARANCES; PRACTITIONERS

Sec.
2.01 Appearances.
2.02 Authority for representation.
2.03 Persons who may be admitted to practice.

[1] 3 F. R. 2769 DI.

* Promulgated under the authority contained in Sec. 4 (i) 48 Stat. 1066; 47 U. S. C. 154 (i).

\# Adopted by the F. C. C. on November 28, 1938, to become effective January 1, 1939.

Sec.
2.04 Applications for admission.
2.05 Oath.
2.06 Suspension; disbarment.
2.07 Register of practitioners.
2.08 Former employees.
2.09 Appearance blanks.

SEC. 2.01 *Appearances.* Any individual, receiver or trustee may appear and be heard in person or by attorney. A partnership may appear and be represented by any member thereof or by attorney. A corporation, association, joint-stock company, or trust, may appear only by attorney.

SEC. 2.02 *Authority for representation.* Any person, in a representative capacity, transacting business with the Commission, may be required to show his authority to act in such capacity.

SEC. 2.03 *Persons who may be admitted to practice.* Attorneys at law admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State or Territory, upon application may be admitted to practice before the Commission. Any attorney at law from any place other than the District of Columbia may, in the discretion of the Commission or the official presiding at any hearing, be admitted for a particular case in which he may be employed.

SEC. 2.04 *Applications for admission.* Applications for admission to practice shall be on a form prescribed and provided by the Commission. (See Appendix No. 1.)

SEC. 2.05 *Oath.* No person shall be admitted to practice before the Commission until he shall have subscribed to an oath or affirmation that he will demean himself as a practitioner before the Commission, uprightly and according to law; and that he will support the Constitution and laws of the United States and will conform to the Rules and Regulations of the Commission.

SEC. 2.06 *Suspension; disbarment.* The Commission may censure, suspend, disbar, or revoke the right of any person who has been admitted to practice before it if it finds that such person has violated his oath taken upon admission; or has, in obtaining admission, concealed any material facts with reference to his legal qualifications, professional standing, character or integrity, or has failed to conform to recognized standards of professional conduct: *Provided, however,* That before any member of the bar of this Commission shall be censured, suspended, disbarred, or his right to practice before the Commission revoked, charges shall be preferred by the Commission against such practitioner and he shall be afforded an opportunity to be heard thereon.

SEC. 2.07 *Register of practitioners.* A register will be maintained by the Commission in which will be entered the names of all persons entitled to practice before the Commission. Only individuals will be admitted or recognized.

SEC. 2.08 *Former Employees.* No member, officer or employee of the Commission shall, within two years after his service with the Commission is terminated, appear as attorney before the Commission in any cause or application which he has handled or passed upon while in the service of the Commission.

SEC. 2.09 *Appearance Blanks.* Attorneys representing parties to any proceeding shall enter their appearances on the form prescribed for the purpose by the Commission prior to participating in such proceeding, which appearance shall be made a part of the record. (See Appendix No. 2.)

PART 3. PARTIES

Sec.
3.01 Parties, defined.
3.02 Applicant.
3.03 Complainant.
3.04 Defendant.
3.05 Petitioner.
3.06 Intervener.
3.07 Protestant.
3.08 Respondent.
3.09 Receiver or trustee of carrier.
3.10 Substitution of parties.

SEC. 3.01 *Parties, defined.* Parties to proceedings will be designated applicants, complainants, defendants, petitioners, interveners, protestants, and respondents. The term "party" shall include any person, body politic, municipal organization, or State Commission.

SEC. 3.02 *Applicant.* The term "applicant" means a party applying for a certificate, certification, permit, license, or such other instrument of authorization as the Commission is empowered to grant, and for which an application is required.

SEC. 3.03 *Complainant.* The term "complainant" means a party who complains to the Commission of anything done or omitted to be done by any common carrier subject to the Act in violation of the provisions thereof.

SEC. 3.04 *Defendant.* The term "defendant" means a common carrier subject to the Act against whom a complaint has been filed of anything done or omitted to be done in violation of the provisions of the Act.

SEC. 3.05 *Petitioner.* The term "petitioner" means a party seeking relief within the jurisdiction of the Commission.

SEC. 3.06 *Intervener.* The term "intervener" means a party who, upon petition, has been permitted to become a party to any proceeding before the Commission.

SEC. 3.07 *Protestant.* The term "protestant" means a party opposing the schedules under suspension in investigation and suspension proceedings, or a party who files a protest to a tentative valuation in valuation proceedings.

SEC. 3.08 *Respondent.* The term "respondent" means:

(a) A party against whom a petition has been filed or against whom the Commission has, on its own motion, instituted an inquiry, investigation, or other proceedings; or

(b) Any license, applicant for any certificate, certification, or instrument of authorization, or other person who may be aggrieved or whose interest may be adversely affected by the granting of any application designated for hearing, and who is named in the Commission's notice of designation for hearing, or a licensee or holder of an instrument of authorization or certification which the Commission is empowered to grant, and against whom the Commission has instituted revocation, suspension, modification or cancellation proceedings.

SEC. 3.09 *Receiver or trustee of carrier.* The receiver or trustee of any common carrier subject to the Act shall be made a part to any proceeding in which such carrier is a party.

SEC. 3.10 *Substitution of parties.* The Commission in a proper case may order a substitution of parties; in case of death of a party, upon suggestion thereof; and in other circumstances, for good cause shown, upon petition.

PART 4. APPLICATIONS AND AMENDMENTS—GENERAL

Sec.
4.01 Applications made on prescribed forms; exceptions.
4.02 Defective applications.
4.20 Amendments and dismissals; when allowed.
4.21 Form of amendments.
4.22 Amendments ordered.

SEC. 4.01 *Applications made on prescribed forms; exceptions.* Each application for an instrument of authorization shall comply with the Commission's Rules and Regulations and shall be made in writing, subscribed and verified as provided in Section 7.01, on a form furnished by or in the manner prescribed by the Commission: *Provided, however,* That in emergency cases the Commission may waive the requirements of formal application with respect to applications for other than radio licenses and for licenses, renewals, or modification thereof for stations on vessels or aircraft of the United States, pursuant to Section 308 (a) of the Act. Separate application shall be filed for each instrument of authorization requested; *Provided, however,* That in cases where a single licensee holds a number of licenses identical in their terms with the exception of locality, and in other cases in the discretion of the Commission, a single application may be filed for renewal or modification of such licenses, where such single application sets forth in detail and in unmistakable terms, an accurate description of the individual license sought to be renewed or modified: *Provided, further,* That in cases where an applicant desires a modification of a rule or regulation, he shall submit a formal petition setting forth the desired change and the reasons therefor in support thereof. The required forms may be obtained from the Commission or from any of its field offices.

(For a list of such offices and related geographical districts, see Appendix No. 3.)

SEC. 4.02 *Defective applications.* Any application which is not filed in accordance with the Commission's regulations will be considered defective. If an applicant, by specific request of the Commission is required to file any documents or information not included in the prescribed application forms, a failure to comply therewith shall constitute a defect in the application. Such defective application will not be considered by the Commission, but will be returned to the applicant by the Secretary, with a brief statement of the respect in which it is defective.

SEC. 4.20 *Amendments and dismissals; when allowed.* An application may be amended as a matter of right or dismissed without prejudice prior to the designation of such application for hearing. Thereafter, leave to amend or dismiss without prejudice will be granted or refused as the circumstances of the case may warrant and requests to amend or dismiss without prejudice will be considered only upon written motion.

SEC. 4.21 *Form of amendments.* Any amendment to an application shall be subscribed, verified, and submitted in the same manner, and with the same number of copies, as was the original application.

SEC. 4.22 *Amendments ordered.* The Commission may, upon its own motion or upon motion of any party to the proceeding, order the applicant to amend his application so as to make the same more definite and certain.

PART 5. AMENDMENTS TO PLEADINGS

Sec.
5.01 Time of filing; service.

SEC. 501. *Time of filing; service.* Amendments to any pleading, other than applications, may be made as a matter of course if filed with the Commission and served upon all parties of record not less than thirty days prior to the date set for hearing on such proceeding.

Amendments to any such pleading filed less than thirty days of the date of the hearing may be allowed upon motion therefor as provided in Section 13.01.

PART 6. PETITIONS

Sec.
6.01 General.
6.02 Intervention.

SEC. 6.01 *General.* Petitions for relief under the jurisdiction of the Commission shall set forth clearly and concisely the petitioner's interest and the facts supporting the relief sought. (See also third proviso, Section 4.01).

SEC. 6.02 *Intervention.* Petitions for intervention shall disclose a substantial interest in the subject matter of the hearing or investigation and must be subscribed and verified by the petitioner, in accordance with Section 7.02. Any person may, at any time more than ten days before the date scheduled for hearing, file with the Commission a petition to intervene.

PART 7. SUBSCRIPTION AND VERIFICATION

Sec.
7.01 Applications; amendments.
7.02 Pleadings.

SEC. 7.01 *Applications; amendments.* Each application or amendment thereto shall be personally subscribed and verified: (1) By the party filing such application or amendment, or by one of the parties, if there be more than one; (2) by an officer of the party filing the application or amendment if the party be a corporation; Provided, however, That subscription and verification may be made by the attorney for the party (1) in case of physical disability of the party, or (2) his absence from the continental United States. If it be made by a person other than the party, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the party.

SEC. 7.02 *Pleadings.* All pleadings (not including applications or amendments thereto) filed by any party represented by an attorney, shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served. For a wilful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

PART 8. SPECIFICATIONS AS TO DOCUMENTS AND PLEADINGS

Sec.
8.01 Papers, general.
8.02 Briefs.

SEC. 8.01 *Papers, general.* All papers filed in any proceeding shall, unless otherwise specifically provided herein, be on paper 8½ x 13 or 14 inches, with lefthand margin not less than 1½ inches wide: *Provided,* that this requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits; *And provided further* that specially prepared exhibits may be submitted on paper of a width of 13 or 14 inches, of any length with a lefthand margin of 1½ inches on the 13 or 14 inch dimension. The impression shall be on one side of the paper only and shall be double-spaced, except that long quotations shall be single-spaced and indented. All papers, except charts and maps, shall be typewritten or prepared by mechanical processing methods other than letter press. The foregoing shall not apply to official publications. All copies must be clearly legible.

SEC. 8.02 *Briefs.* Briefs may be printed, typewritten, mimeographed or multigraphed, provided, however, that printed briefs shall be in 10 or 12-point type, on good unglazed paper, 5⅞ inches wide by 9 inches long, with inside margin not less than 1½ inches wide, and with double-leaded text and single-leaded citations.

PART 9. SERVICE OF DOCUMENTS; COPIES

Sec.
9.01 Service; proof of service.
9.02 Copies.

SEC. 9.01 *Service, proof of service.* All pleadings, petitions, motions, or other documents (other than applications under Title II, formal complaints, supplemental complaints, cross-complaints and amended complaints) filed in any proceeding shall be served by the party filing the same upon all parties of record, as follows:

Service upon common carriers shall be made as provided in Section 413 of the Communications Act of 1934, as amended.

In all other cases whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party himself is ordered by the Commission. Proof of service shall be by signature of the party served, or by affidavit showing personal service or service by registered mail to the last known address of said party; and the prescribed number of copies, including proof of service, shall be furnished to the Commission.

SEC. 9.02 *Copies.* A party filing a petition or motion that, under Sec. 13.01, will be placed on the Motions Docket for action will furnish an original and eight copies thereof. An original and fourteen copies of all other pleadings or documents must be filed unless otherwise specifically provided for in these rules.

PART 10. PROOF OF OFFICIAL RECORD

Sec.
10.01 Authentication of copy.
10.02 Proof of lack of record.
10.03 Other proof.

SEC. 10.01 *Authentication of copy.* An official record, or entries therein when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by the judge

of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

SEC. 10.02 *Proof of lack of record.* A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

SEC. 10.03 *Other proof.* This rule does not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

PART 11. SUBPOENAS

Sec.
11.01 Who may sign and issue.
11.02 Requests; verifications and content.
11.03 Witness fees.
11.04 Return of subpoenas; manner of service.

SEC. 11.01 *Who may sign and issue.* Subpoenas requiring the attendance and testimony of witnesses, and subpoenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing may be signed and issued as follows: (1) Hearings before the Commission en banc: By any Commissioner; (2) Hearings before any designated officer; (a) By any Commissioner; (b) The officer designated to hear a case may sign and issue subpoenas in that case; (3) In other cases: By any Commissioner.

SEC. 11.02 *Requests; verification and content.* Unless directed by the Commission upon its own motion, subpoenas will be issued only upon request in writing. Requests for subpoenas to compel witnesses to produce documentary evidence must be verified, in accordance with Section 7.02 and must specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby.

SEC. 11.03 *Witness fees.* Witnesses who are summoned and respond thereto are entitled to the same fees as are paid for like service in the courts of the United States, such fees to be paid by the party at whose instance the testimony is taken at the time the subpoena is served.

SEC. 11.04 *Return of subpoenas; manner of service.* Service may be made by a United States marshal or his deputy, or any person of legal age who is a citizen of the United States, and who is competent to be a witness. If service of subpoena is made by a United States marshall or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereof, stating the date, time, and manner of service; and return such affidavit on, or with, the original subpoena in accordance with the form thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpoena. In making service, the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by the required return, affidavit, or statement, shall be returned forthwith to the Secretary of the Commission, or, if so directed on the subpoena, to the presiding officer before whom the person named in the subpoena is required to appear.

PART 12. HEARINGS

Sec.
12.01 Classes.

Informal Hearings

12.10 Informal; procedure.

Formal Hearings—Fixing of Hearing Date

12.20 Joinder of issue; date for hearing.
12.21 Related matters.

Notice of Hearing

12.30 Under Part I of Title III.
12.31 Under Title II or Part II of Title III.

Continuances; Extensions; Postponements

12.40 Continuances and extensions.
12.41 Petitioner to show diligence.
12.42 Postponement or change of place.

Order of Procedure

12.50 Order of procedure.

Evidence

12.60 Rules of evidence.
12.61 Cumulative evidence.
12.62 Further evidence during hearing.
12.63 Additional documentary evidence after hearing.
12.64 Documents containing matter not material.
12.65 Exhibits in duplicate.
12.66 Mechanical reproductions as evidence.
12.67 Tariffs as evidence.

Depositions

12.70 Request for orders to take; time of filing; contents.
12.71 Contents of order.
12.72 Record of examination; oath; objection.
12.73 Submission to witness; changes; signing.
12.74 Certification and filing by officer; copies.
12.75 Waiver of objections.
12.76 Time of filing.
12.77 Inclusion in Record.

Conduct of Hearings

12.80 Conduct of hearings.
(a) Authority of presiding officer.
(b) Transcript filed with Secretary.
(c) Corrections to transcripts.
(d) Findings proposed by parties.
(e) Contents of findings proposed by parties.
(f) Proposed decision of Commission.
(g) Exceptions; oral argument.
(h) Reply briefs.
(i) Service of exceptions or briefs.
(j) Number of copies.
(k) Decision of Commission.
12.81 Hearings before more than one person.

SEC. 12.01 *Classes.* Hearings before the Commission may be formal or informal.

Informal hearings

SEC. 12.10 *Informal; procedure.* The Commission may upon petition by any person or upon its own motion hold such informal hearings as it may deem necessary from time to time in connection with the investigation of any matter which it has power to investigate under the law, or for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties, or the formulation or amendment of its Rules and Regulations. For such purposes it may summon witnesses and require the production of testimony as in formal hearings but the procedure to be followed shall be informal and such as in the opinion of the Commission will best serve the purposes of such hearing.

Formal hearings—Fixing of hearing date

SEC. 12.20 *Joinder of issue; date for hearing.* After issue is joined, the Commission shall designate the date on which a hearing shall be held: *Provided, however,* That this rule shall not apply to proceedings instituted upon the Commission's own motion.

In cases arising on applications under Title III of the Act where the Commission designates the case for hearing, the filing by the applicant of his appearance and notice of intention to prove the matters set forth in his application shall constitute a joinder of issue.

SEC. 12.21 *Related matters.* In fixing dates for hearings the Commission will, so far as practicable, endeavor to fix the same date for hearings on all related matters which involve the same applicant, or arise out of the same complaint or cause; and for hearings on all applications which by reason of the privileges, terms, or conditions requested present conflicting claims of the same nature, excepting, however, applications filed after any such application has been designated for hearing.

Notice of Hearing

SEC. 12.30 *Under Part I of Title III.* In cases arising under Part I of Title III of the Act, notice of applications received and of action thereon shall be given in the following manner:

(1) Where it appears that the granting of any application designated for hearing may cause objectionable interference to the satisfactory reception of any existing station within the limits prescribed by the empirical engineering standards of the Commission for a particular class of station, or with the facilities requested by any applicant whose application is on file at the time the application to be heard was designated for hearing, actual notice shall be given to such existing licensees or applicants;

(2) In addition, a list of all applications received and action taken by the Commission thereon shall be published weekly at the office of the Commission and posted in the office of the Secretary and such list shall be mailed to all persons who, in writing, request this service.

SEC. 12.31 *Under Title II or Part II of Title III.* In cases arising under Title II, or Part II of Title III of the Act, except where specific provision is made by statute or by these rules for actual or constructive notice, the Commission shall give or require reasonable notice.

CONTINUANCES; EXTENSIONS; POSTPONEMENTS

SEC. 12.40 *Continuances and extensions.* Continuance in respect to any proceeding or hearing pending before the Commission and extensions of time for making any filing or performing any act required or allowed to be done within a specified time may be granted for good cause shown, except where the time for performance or filing is limited by statute: *Provided, however,* That requests for continuance or extension of time shall be made in writing in the form of a verified petition which shall set forth reasons therefor and the additional time required, and shall show service as provided in Section 9.01 upon all parties of record. Provided, further, That in cases of emergency when such petition shall show that the party filing the same has given actual notice so far as possible to all parties of record, by telephone or other available means, the Commission may waive, for good cause shown, the requirement of service as provided in Section 9.01.

SEC. 12.41 *Petitioner to show diligence.* Petitions filed under Section 12.40 shall show diligence on the part of the petitioner and shall be made at such time and in such manner as to avoid unnecessary hardship or expense to the parties to the proceeding.

SEC. 12.42 *Postponement or change of place.* The Commission or the presiding officer at a hearing may after opening any hearing pursuant to notice, temporarily postpone the hour or date or change the place thereof when in its or his judgment the ends of justice will be better served.

Order of Procedure

SEC. 12.50 *Order of procedure.* At hearings on complaints, petitions, applications, or other proceedings for instruments of authorization which the Commission is empowered to issue, the complainant, petitioner, or applicant as the case may be, shall open and close. At hearings on investigation and suspension proceedings under Title II of the Act, the respondent whose tariffs are under suspension shall open and close. At hearings in all other investigations, and in modifications of licenses under Section 312 (b) of the Act, the party to whom the Order to show cause was issued shall open and close. At hearings under Title III of the Act on revocations and suspension of operator licenses or other like proceedings instituted by the Commission, the Commission shall open and close. In hearings upon a consolidated record, the Commission or presiding officer shall designate the order of presentation. Interveners shall follow the party in whose behalf intervention is made, and in all cases where the intervention is not in support of an original party, the Commission, or presiding officer, shall designate at what stage such interveners shall be heard.

Evidence

SEC. 12.60 *Rules of evidence.* Except as otherwise provided herein, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern formal hearings before the Commission: *Provided, however,* That the Commission reserves the right to relax such rules in any case where in its judgment the ends of justice will be better served by so doing.

SEC. 12.61 *Cumulative evidence.* The introduction of merely cumulative evidence shall be avoided, and the Commission reserves the right to limit the number of witnesses that may be heard in behalf of a party on any issue.

SEC. 12.62 *Further evidence during hearing.* At any stage of a hearing, the presiding officer may call for further evidence upon any issue, and may require such evidence to be presented by any party to the proceeding.

SEC. 12.63 *Additional documentary evidence after hearing.* Before the close of a hearing, the presiding officer may, at the request of a party or upon his own motion, require that a party furnish additional documentary evidence supplementary to the existing record, within a stated period of time. The record of such proceeding will be held open until the expiration of such fixed time, and such additional documentary evidence will be made a part thereof.

SEC. 12.64 *Documents containing matter not material.* Where material and relevant matter offered in evidence is embraced in a document containing other matter not material or relevant, and not intended to be put in evidence, such document will not be received, but the party offering the same shall present to opposing counsel, and to the Commission, the original document, together with true copies of such material and relevant matter taken therefrom, as it is desired to introduce. Upon presentation of such matter in proper form, it may be received in evidence, and become a part of the record: *Provided, however,* That opposing counsel shall be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant.

SEC. 12.65 *Exhibits in duplicate.* No document, exhibit, or part thereof shall be received as, or admitted in, evidence unless offered in duplicate.

SEC. 12.66 *Mechanical reproductions as evidence.* Unless offered for the sole purpose of attempting to prove or demonstrate sound effect, mechanical or physical reproductions of sound waves shall not be admitted in evidence. Any party desiring to offer any matter alleged to be contained therein or thereupon shall have such matter typewritten on paper of the size prescribed by the Rules of the Commission, and the same shall be identified and offered in duplicate in the same manner as other exhibits.

SEC. 12.67 *Tariffs as evidence.* In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity (tariff and page number) in such manner as to be readily identified, and may be received in evidence by reference subject to check with the original tariff schedules so on file.

Depositions

SEC. 12.70 *Request for orders to take; time of filing; contents.* The Commission will either on its own initiative, or on formal notice of a party to a proceeding, issue an order to take a deposition. Motions to take depositions shall be filed with the Commission not less than twenty-five days before the proposed date for taking of the depositions, and shall set forth the names and addresses of the witnesses, a specific statement as to each witness of the matters and facts concerning which it is expected such witness will testify, the place where, the time when, the officer before whom, and the cause or reason why such deposition should be taken. Such motion shall be subscribed as provided in Section 7.02, and shall be accompanied by proof of service and by the proposed order in a sufficient number of copies to be served on all parties. If said order is allowed, the Secretary shall mail a copy thereof to all parties to the proceeding at least fifteen days prior to the date fixed for the taking of testimony.

SEC. 12.71 *Contents of order.* The order issued authorizing the taking of a deposition shall state the name and address of each witness, the matters and facts concerning which it is expected such witness will testify, the place where, the time when, and the designated officer before whom the witness is to testify as provided in Section 409 (e) of the Act.

SEC. 12.72 *Record of examination; oath; objections.* The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by some one acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to

the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

SEC. 12.73 *Submission to witness; changes; signing.* When the testimony is fully transcribed the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the Commission holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

SEC. 12.74 *Certification and filing by officer; copies.* The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that said officer is not of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly send the original and one copy thereof together with the original and one copy of all exhibits by registered mail to the Secretary of the Commission.

SEC. 12.75 *Waiver of objections.* Objections to the form of question and answer shall be made before the officer taking the depositions, and if not so made, shall be deemed waived: *Provided, however,* That if no representative of the Commission is present at the taking of the deposition of any witness, such deposition shall be received in evidence at the hearing when offered subject to such legal objection by the Commission as may be proper.

SEC. 12.76 *Time of filing.* All depositions shall be filed with the Commission not later than five days before the date of the hearing in which they are to be offered as evidence, and Section 1.10 shall not apply or in any wise serve to extend this time.

SEC. 12.77 *Inclusion in record.* No deposition shall constitute a part of the record in any proceeding until received in evidence at a hearing, unless otherwise ordered by the Commission.

Conduct of Hearings

SEC. 12.80[1] *Conduct of hearings.* Except for hearings before the Commission en banc the Commission will provide for the conduct of each hearing by a specific order of reference and unless otherwise specified in such order:

(a) *Authority of presiding officer.* The presiding officer at the hearing shall have authority to administer oaths, examine witnesses, and receive evidence at any place in the United States designated by the Commission, and to rule upon the admissibility of evidence and other matters that normally and properly arise in the course of the hearing, but shall have no power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding.

(b) *Transcript filed with Secretary.* After the close of the hearing the complete transcript of testimony taken, together with any exhibits and any briefs or memoranda of law filed theretofore on behalf of any party, shall be filed in the office of the Secretary of the Commission.

(c) *Corrections to transcripts.* Suggested corrections to transcripts of records shall be considered only if offered within ten days after the date the transcript is filed with the Commission. Suggested corrections shall be served upon all other parties participating in the proceeding as provided in Section 9.01 prior to the filing with the Commission. The presiding officer at the hearing shall have authority to act upon motions to correct the record.

(d) *Findings proposed by parties.* Within twenty days from the filing of the transcript of record of the hearing, each party to the proceeding shall file with the Commission proposed findings of fact and conclusions which shall be served upon all parties participating in the hearing in the manner provided in the Section 9.01.

(e) *Contents of findings proposed by parties.* Such proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out in detail and with particularity all basic evidentiary facts developed by the evidence, (with appropriate citations to the transcript of record or exhibits relied on) supporting the conclusions proposed by the party filing same. Proposed conclusions shall be separately stated. Proposed findings of fact and conclusions submitted by a person other than an applicant may be limited to those issues in connection with the hearing which affect the interests of such person. Such proposed findings and conclusions may be accompanied by briefs or memoranda of law.

(f) *Proposed decision of Commission.* The Commission will thereafter enter its proposed report or findings of fact and conclusions.

(g) *Exceptions; oral argument.* Within twenty days from the filing of the Commission's proposed report or findings of fact and conclusions the parties to the proceeding may file exceptions to the same which shall point out with particularity alleged errors in said report or findings of fact and conclusions and shall contain specific reference to the page of the transcript of hearing or exhibit on which the exception is based, such exceptions shall be accompanied by a memorandum brief in support thereof, and may request oral argument. If no request for oral argument is made within said twenty day period all parties will be considered as waiving any right thereto.

(h) *Reply briefs.* Reply memorandum briefs may be filed by any party to the proceeding within thirty days from the filing of the Commission's proposed report or findings of fact and conclusions.

(i) *Service of exceptions or briefs.* At or prior to the date fixed for the filing of any exceptions or memorandum brief the party filing the same shall serve at least one copy thereof, as provided in Section 9.01 upon all other parties to the proceeding, and no exceptions or memorandum brief will be accepted or considered by the Commission unless accompanied by an affidavit showing this requirement has been met.

(j) *Number of copies.* Fifteen copies of any proposed findings of fact and conclusions, exceptions, or memorandum briefs filed in connection with any hearing shall be filed with the Commission.

(k) *Decision of Commission.* After oral argument, or in the event oral argument is waived, after the expiration of the time for filing memorandum briefs the Commission will file its report or findings of fact and conclusions and its order.

SEC. 12.81[1] *Hearings before more than one person.* The authority to perform any act in connection with a hearing vested in a "presiding officer" under these rules shall be vested in a majority of the persons conducting the hearing if the hearing is conducted by more than one person.

PART 13. MOTIONS DOCKET

Sec.
13.01 Matters to be heard.
13.02 Time of calling; continuances.
13.03 Time for filing motions.
13.04 Oppositions; right to be heard.
13.05 Adverse ruling; exceptions.

SEC. 1301 *Matters to be heard.* All motions, petitions, or matters in cases designated for formal hearing, excepting motions and petitions requesting final disposition of a case on its merits, those having the nature of an appeal to the Commission, and those requesting change or modification of a final order made by the Commission, shall be placed upon the Motions Docket for hearing.

SEC. 13.02 *Time of calling; continuances.* The Motions Docket will be called at the offices of the Commission at such times as the Commission may designate and the presiding officer shall have the authority to continue any motion, petition, or other matter presented to a future date.

SEC. 13.03 *Time for filing motions.* [2]No such motion, petition or other matter presented shall be called, considered or determined in the absence of consent by all parties unless the same shall have been on file, accompanied by proof of service upon all interested parties, with the Commission for a period of *five* days: *Provided, however,* That all petitions, motions, or other matters involving parties residing in the states set out in Section 1.10 or residing beyond the continental limits of the United States shall not be called, considered, or determined in the absence of consent of all parties until the expiration of *seven* days.

SEC. 13.04 *Oppositions; right to be heard.* During the time specified in Section 13.03, any party in interest shall have the right to file an opposition thereto. Any party shall have the right to be heard on the day designated for hearing of the motion, petition, or other matter against which the opposition is directed. Such opposition shall show service on the petitioner or moving party.

SEC. 13.05 *Adverse ruling; exceptions.* Where a ruling on any petition, motion, or other matter is adverse to an interested party, said interested party may except thereto, and when the matter comes on for the hearing of the evidence, he shall state into the record at such hearing that he reserves an exception to the ruling made by the presiding officer of the Motions Docket and request that such exception be noted and carried forward in the record. In the event such interested party fails to note his exception taken at the time ruling was made by the presiding officer of the Motions Docket, such exception shall be considered waived.

PART 14. REHEARINGS

Sec.
14.01 Petitions; contents.
14.02 Subscription and service.
14.03 Opposition.
14.04 Special calendar when granted.

SEC. 14.01 *Petitions; contents.* Any party whose interests are aggrieved or adversely affected by any decision, order or requirement of the Commission may file a petition for rehearing of the same or any matter determined therein as provided in Section 405 of the Act. Such petition for rehearing may request (1) reconsideration, either in cases decided after hearing or in cases of applications granted without hearing under Title III of the Act; (2) reargument; (3) reopening of the proceeding; (4) amendment of any finding, or (5) other relief. Such petition shall be specific as to the form of relief sought and, subject to this requirement, may contain alternative requests. Each such petition shall state with particularity in what respect the decision, order or requirement or any matter determined therein is claimed to be unjust, unwarranted or erroneous, and with respect to any finding of fact must specify the pages of record relied on. Where the existence of newly discovered evidence is claimed, the petition must be accompanied by a verified statement of the facts, together with the facts relied on to show that the petitioner with due diligence could not have known or discovered such facts at the time of the hearing.

SEC. 14.02 *Subscription and service.* Each petition for rehearing shall be subscribed as provided in Section 7.02 and served upon all parties participating in the hearing in the manner provided in Section 9.01. In case the petition seeks reconsideration of a decision, order or requirement made without a hearing, the party filing the petition shall serve the same in the manner provided in Section 9.01 upon the party or parties to whom such decision, order or requirement was directed.

SEC. 14.03 *Opposition.* Opposition to any petition for rehearing shall be filed within ten days after the filing of such petition and shall be subscribed as provided in Section 7.02 and served upon all parties participating in the hearing in the manner provided in Section 9.01.

SEC. 14.04 *Special calendar when granted.* In case any petition for rehearing is granted, whether the taking of additional testimony is ordered or otherwise, the case shall be placed upon a special calendar and consideration of the same shall be expedited.

PART 15. SPECIAL PROVISIONS RELATING TO RADIO

Applications Under Part I of Title III of the Act

Sec.
15.01 Place of filing; number of copies.
15.02 Contents.
15.03 Full disclosure.
15.04 Additional statements.
15.05 Installation or removal of apparatus.
15.06 Extension of time for construction.
15.07 License following construction permit.
15.08 Where construction permit not required.
15.09 Modification of license.
15.10 Renewal of license.
15.11 Financial statements.
15.12 Filing directed by Commission.
15.13 Temporary extension of licenses.
15.14 Assignment or transfer of control.
(a) General.
(b) Broadcast.
(c) Other than broadcast.
15.15 Special authorizations.
(a) Operation which may be authorized.
(b) Filing of requests.
(c) Consents.
15.16 Inconsistent or conflicting applications.
15.17 Multiple applications broadcast services.
15.18 Repetitious applications.
(a) Broadcast.
(b) Other radio services.
15.19 Pending appeal.

Action on Applications Under Part I of Title III of the Act

15.30 Partial grants.
15.31 Designation for hearing.
(a) Notice of designation.
(b) Appearance.
(c) Default for failure to file statement.
(d) Notice of time and place of hearing.
(e) Default for failure to appear.
(f) Action by Commission.

Answers to Notices of Violation

15.40 Under Title III of the Act.

Revocation and Modification of Station Licenses

Section
15.50 Revocation.
15.51 Modification.
(a) Order to show cause.
(b) Contents of order to show cause.
(c) Failure to appear.

Suspension of Operator Licenses

15.60 Order of suspension.
15.61 Proceedings.

Applications Under Part I of Title III of the Act

SEC. 15.01 *Place of filing; number of copies.* Each application for construction permit or station license, and all papers incorporated therein and made a part thereof, with respect to the number of copies and place of filing, shall be submitted as follows:

Class of station	*Number of application forms required and method of filing*
a. All classes of Alaskan stations, except broadcast and amateur.	3 copies via Inspector in Charge, radio district No. 14, Seattle, Wash.
b. Aircraft	1 copy direct to Washington, D. C.
c. Geophysical	1 copy direct to Washington, D. C.
d. Portable (all classes, except amateur)	2 copies direct to Washington, D. C.
e. Ship	1 copy direct to Washington, D. C.
f. All other classes, except amateur	2 copies direct to Washington, D. C.
g. Amateur	1 copy to be sent as follows: (a) to proper district office if it requires personal appearance for operator examination under direct supervision from that office; (b) direct to Washington, D. C., in all other cases, including examinations for class C privileges.

SEC. 15.02 *Contents.* Each application shall be specific with regard to frequency or frequencies, power, hours of operation, equipment, location of the station, and other information required by the application forms. An application for broadcast facilities in the band 550 kilocycles to 1600 kilocycles shall be limited to one specific frequency. An application for radio station construction permit or license requesting alternate facilities will not be accepted.

SEC. 15.03 *Full disclosures.* Each application shall contain full and complete

[1] Supersedes Sec. 7.27 (3 F. R. 2707 DI).

[1] Supersedes Sec. 7.28 (3 F. R. 2707 DI).

disclosures with regard to the real party or parties in interest, and their legal, technical, financial and other qualifications, and as to all matters and things required to be disclosed by the application forms.

SEC. 15.04 *Additional statements.* In addition the Commission may require an applicant to submit such documents and written statements of fact, under oath, as in its judgment may be necessary.

SEC. 15.05 *Installation or removal of apparatus.* Applications for construction permit or modification thereof, involving removal of existing transmitting apparatus and/or installation of new transmitting apparatus, shall be filed at least sixty days prior to the contemplated removal and/or installation.

SEC. 15.06 *Extension of time for construction.* Any application for extension of time within which to commence and/or complete construction of a station shall be filed at least thirty days prior to the expiration date of such permit: *Provided, however,* That any such application filed within less than thirty days may be accepted upon satisfactory showing to the Commission of sufficient reasons for the delay in filing such application. No application for reinstatement of a permit already forfeited will be granted, except upon a satisfactory showing to the Commission of sufficient reasons for the delay in filing such application.

SEC. 15.07 *License following construction permit.* In all cases where a construction permit is required by Section 319 of the Act for the construction of a station, the application for station license (or for station license or modification thereof, if for station other than broadcast) shall be filed by permittee prior to service or program tests.

SEC. 15.08 *Where construction permit not required.* Each application for new license, except amateur, where a construction permit is not a prerequisite thereto, shall be filed at least sixty days prior to the contemplated operation of the station: *Provided, however,* That in emergency and for good cause shown, the Commission may waive the requirements of this rule.

SEC. 15.09 *Modification of license.* An application for modification of license, except amateur, and except as otherwise provided by these rules, may be filed for change in frequency, change in operating power where no construction is necessary, change in hours of operation, and for change in name of licensee where no change in ownership or control is involved. In case of a broadcast station, an application for modification of license may be filed for change in location of main studio. In case of all stations other than broadcast, an application for modification of license may be filed for change in points of communication, change in nature of authorized service, and to cover an outstanding construction permit where the station is already licensed. Except when filed to cover construction permit, each application for modification of license shall be filed at least sixty days prior to the contemplated modification of license: *Provided, however,* that in emergencies and for good cause shown, the requirements hereof may be waived in so far as time for filing is concerned.

SEC. 15.10 *Renewal of license.* Unless otherwise directed by the Commission, each application for renewal of license shall be filed at least sixty days prior to the expiration date of the license sought to be renewed. No application for renewal of license of a standard broadcast station will be considered unless there is on file with the Commission, the balance sheet and income statement currently required by Section 15.11, reference to which by date and file number shall be included in the application.

SEC. 15.11 *Financial statements.* Each licensee of a standard broadcast station shall file with the Commission on or before March 1 of each year on Forms 705 and 706, or such other forms as may be prescribed by the Commission, a balance sheet showing the financial condition of the licensee as of December 31 of the preceding year and an income statement for the preceding calendar year. Each such form shall be subscribed as provided in Section 7.01.

SEC. 15.12 *Filing directed by Commission.* Whenever the Commission regards an application for a renewal of license as essential to the proper conduct of a hearing or investigation, and specifically directs that it shall be filed by a date certain, such application shall be filed within the time thus specified. If the licensee fails to file such application within the prescribed time, the hearing or investigation shall proceed as if such renewal application had been received.

SEC. 15.13 *Temporary extension of station licenses.* Where there is pending before the Commission any application, investigation, or proceeding which, after hearing, might lead to or make necessary the modification of, revocation of, or the refusal to renew an existing license, the Commission may, in its discretion grant a temporary extension of such license: *Provided, however,* That no such temporary extension shall be construed as a finding by the Commission that the operation of any radio station thereunder will serve public interest, convenience, and necessity beyond the express terms of such temporary extension of license: *And provided further,* That such temporary extension of license will in no wise affect or limit the action of the Commission with respect to any pending application or proceeding.

SEC. 15.14 *Assignment or transfer of control.* (a) *General.* An application for consent to assignment of a construction permit or license, or for consent to transfer of control of a corporation holding a construction permit or license, shall be filed with the Commission at least sixty days prior to the contemplated effective date of assignment or transfer of control. If the assignment or transfer is voluntary, the appropriate application shall be fully executed by all parties and, if involuntary, by assignee or transferee only.

(b) *Broadcast.* With each such application, involving any standard broadcast station construction permit or license, there shall be submitted under oath or affirmation all information required to be disclosed by the application forms prescribed by the Commission, together with such other information under oath or affirmation as the Commission may require.

(c) *Other than broadcast.* In all classes of applications for consent to assignment of construction permit or license or for consent to transfer of control of a corporation holding a construction permit or license, other than those prescribed in paragraph (b), the Commission may require the furnishing of such information as in its discretion is deemed necessary.

SEC. 15.15 *Special authorizations.* (a) *Operation which may be authorized.* Upon proper request by the licensee of a broadcast station or by the licensee of, or applicant for, a service other than broadcasting, the Commission may grant special temporary authority for the operation of a station for a limited time, or in a manner and to an extent, or for a service other or beyond that authorized in its existing license: *Provided, however,* That if request is for a broadcast station it shall be limited to a definite and temporary period or periods for the transmission of programs or events which are not recurrent, and approval thereof may not be granted for a period in excess of thirty days.

(b) *Filing of requests.* No such request will be considered unless:

1. It is received by the Commission at least ten days previous to the date of proposed operation: *Provided, however,* That any such request received within less than ten days may be accepted upon due showing of sufficient reasons for the delay in submitting such request.

2. If the request is for broadcast operation upon a clear channel, it shall be supported by the consent of the dominant clear-channel station.

3. If the request is for broadcast operation on any frequency it shall be supported by the consent of each station licensed for operation upon the same and adjacent frequency, when the consenting station is located at a distance less than that given in the latest published table of recommended separations.

4. If the request is made by a sharing-time broadcast station it shall be supported by the consent of the station with which time is shared.

5. Full particulars as to the purpose for which the request is made are stated.

(c) *Consents.* Consent, when required under this rule shall be forwarded direct to the Commission by the consenting station and shall show whether the same is for simultaneous operation or whether consenting station is giving up the time sought by applicant.

SEC. 15.16 *Inconsistent or conflicting applications.* When an applicant has an application pending and undecided, no other inconsistent or conflicting application filed by the same applicant, his successor or assignee, or on behalf or for the benefit of said applicant, will be accepted for consideration.

SEC. 15.17 *Multiple applications; broadcast services.* In the broadcast service, while there is one application for new or additional facilities pending for a standard, international, television, facsimile, high frequency or experimental broadcast station, the Commission will not consider another application for new or additional facilities for a station of the same class (as given above) to serve in whole or in part the same area, by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest. Two such applications may not be filed simultaneously.

SEC. 15.18 *Repetitious applications.* (a) *Broadcast services.* In the broadcast service, where an applicant has been afforded an opportunity to be heard with respect to a particular application for a new standard, international, television, facsimile, high frequency, or experimental broadcast station and the Commission has, after hearing or default, denied the application or dismissed it with prejudice, the Commission will not consider another application for a station of the same class (as given above) to serve in whole or in part the same area, by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest, until after the lapse of twelve months.

(b) *Other radio services.* In any other radio service, where an applicant has been afforded an opportunity to be heard with respect to a particular application for a new station, or for an extension, or enlargement of service or facilities and the Commission has after hearing or default denied the application, or dismissed it with prejudice, the Commission will not consider a like application involving service of the same kind in the same area by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest, until after the lapse of twelve months; *Provided, however,* That the Commission may waive the requirements of this rule in situations affecting safety of life or property.

SEC. 15.19 *Pending appeal.* Where an appeal has been taken from the action of the Commission in denying a particular application, another application for the same class of broadcast service and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest, will not be considered until the final disposition of such appeal.

Action on Applications

SEC. 15.30 *Partial grants.* Where any application is granted in part, or with any privileges, terms, or conditions other than those requested, without a hearing thereon, the action of the Commission shall be considered as granting such application unless the applicant shall, within thirty days from the date on which public announcement of such grant is made, or from its effective date if a later date is specified, file with the Commission a written request for a hearing with respect to the part, or with respect to the privileges, terms, or conditions, not granted. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner manner as other applications are set for hearing, and the applicant and other parties in interest will be notified thereof.

SEC. 15.31 *Designation for hearing.* In cases where the application is proper upon its face but the Commission is unable to determine, without a hearing on the merits, that the granting of such application, either in whole or in part, would serve public interest, convenience, or necessity, and that the granting of such application, either in whole or in part, would not aggrieve or adversely affect the interest of any licensee, or any person having a pending application, the Commission will designate the same for hearing and the following procedure will govern:

(a) *Notice of designation.* The Secretary shall forthwith mail a written notice to the applicant setting forth the action of the Commission designating the application for hearing (together with such statement of the Commission's reasons therefor as shall be appropriate to the nature of the application), and a list of the other parties notified thereof.

(b) *Appearances.* In order to avail himself of the opportunity to be heard the applicant in person or by his attorney shall, within fifteen days of the mailing of the notice of designation for hearing by the Secretary, file with the Commission one additional copy of the application and all papers incorporated as a part thereof and a written appearance, under oath, stating that he will appear and present evidence in support of his application on such date as may be fixed for hearing. Copies of such written appearance (not including the application and supporting documents) shall be served upon all other parties named in the notice of designation for hearing and accompanied by proof of service as provided in Sec. 9.01.

Within twenty-five days of the mailing of the notice of designation for hearing by the Secretary, any respondent named in said notice who desires to participate in the hearing shall file in person or by his attorney with the Commission his written appearance, under oath, stating facts showing a substantial interest in the proceeding, the manner in which his interest may be aggrieved or adversely affected, and that he intends to appear at the hearing on the application on such date as may be fixed for the hearing. Copies of such appearance shall be served upon the applicant and accompanied by proof of service as provided in Sec. 9.01.

(c) *Default for failure to file statement.* In case no such statement is filed by the applicant within the time specified, the applicant will be deemed in default, his application denied, and the Secretary shall notify the applicant and other parties.

(d) *Notice of time and place.* In such case appearance is filed by the applicant within the time specified, the application will be entered upon the hearing docket and notice of the time and place for hearing shall be given by the Secretary.

(e) *Default for failure to appear.* If, at the date set for hearing, the applicant does not appear and offer evidence in support of his said application, a default will be entered, and the Commission will deny the application.

(f) *Action by Commission.* After a hearing has been held in accordance with the foregoing, the Commission may grant the application, deny it, or grant it in part, or deny it in part.

Answers to Notices of Violation

SEC. 15.40 *Under Title III of the Act.* Any licensee receiving official notice of a violation of the terms of the Communications Act of 1934, any legislative act, Executive Order, treaty to which the United States is a party, or the Rules and Regulations of the Federal Communications Commission, shall, within three days from such receipt, send a written answer direct to the Federal Communications Commission at Washington, D. C., and a copy thereof to the office of the Commission originating the official notice when the originating office is other than the office of the Commission in Washington, D. C.; *Provided, however,* That if an answer cannot be sent nor an acknowledgment made within such three day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to some violation that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps, if any, are taken to prevent future violations, and if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufac-

turer, and promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification as will permit of ready reference. If the notice of violation relates to some lack of attention or improper operation of the transmitter, the name and license number of the operator in charge shall be given.

Revocation and Modification of Station Licenses

SEC. 15.50 *Revocation.* Whenever the Commission shall institute a revocation proceeding against the holder of any radio station construction permit or license under Section 312 (a), it shall initiate said proceeding by serving upon said licensee an order of revocation effective not less than fifteen days after written notice thereof is given the licensee. The order of revocation shall contain a statement of the grounds and reasons for such proposed revocation and a notice of the licensee's right to be heard by filing with the Commission a written request for hearing within fifteen days after receipt of said order. Upon the filing of such written request for hearing by said licensee the order of revocation shall stand suspended and the Commission will set a time and place for hearing and shall give the licensee and other interested parties notice thereof. If no request for hearing on any order of revocation is made by the licensee against whom such an order is directed within the time hereinabove set forth, the order of revocation shall become final and effective, without further action of the Commission. When any order of revocation has become final, the person whose license has been revoked shall forthwith deliver the station license in question to the inspector in charge of the district in which the licensee resides.

SEC. 15.51 *Modification.* (a) *Order to show cause.* Whenever the Commission shall determine that public interest, convenience, and necessity would be served, or any treaty ratified by the United States will be more fully complied with, by the modification of any radio station construction permit or license either for a limited time, or for the duration of the term thereof, it shall issue an order for such licensee to show cause why such construction permit or license should not be modified.

(b) *Contents of order to show cause.* Such order to show cause shall contain a statement of the grounds and reasons for such proposed modification, and shall specify wherein the said construction permit or license is required to be modified. It shall require the licensee against whom it is directed, to be and appear at a place and time therein named, in no event to be less than thirty days from the date of receipt of the order to show cause why the proposed modification should not be made and the order of modification issued.

(c) *Failure to appear.* If the licensee against whom the order to show cause is directed does not appear at the time and place provided in said order, a final order of modification shall issue forthwith.

Suspension of Operator Licenses

SEC. 15.60 *Order of suspension.* No order of suspension of any operator's license shall take effect until fifteen days' notice in writing thereof, stating the cause for the proposed suspension, has been given to the operator licensee who may make written application to the Commission at any time within said fifteen days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have fifteen days in which to mail the said application. In the event that physical conditions prevent mailing of the application at the expiration of the fifteen-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be held in abeyance until the conclusion of the hearing which shall be conducted under such rules as the Commission shall deem appropriate. Upon the conclusion of said hearing the Commision may affirm, modify, or revoke said order of suspension.

SEC. 15.61 *Proceedings.* Proceedings for the suspension of an operator's license shall in all cases be initiated by the entry of an order of suspension. Respondent will be given notice thereof together with notice of his right to be heard and to contest the proceeding. The effective date of the suspension will not be specified in the original order but will be fixed by subsequent motion of the Commission in accordance with the conditions specified above. Notice of the effective date of suspension will be given respondent, who shall send his operator license to the office of the Commission in Washington, D. C., on or before the said effective date, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

PART 16. SPECIAL PROVISIONS RELATING TO COMMON CARRIERS

Complaints Under Title II of the Act

Sec.
16.01 Formal or informal.
16.02 Informal complaints; substance.
16.03 Action on informal complaints.
16.04 Resubmission; six months' rule.
16.05 Formal complaints; requirements.
16.06 Statement of issues; joinder of causes of complaint.
16.07 Notice of complaints.
16.08 Charges, etc.; specific references.
16.09 Separate statement of each provision violated.
16.10 Allegations; certainty.
16.11 Challenge of general radio adjustments; reparation.
16.12 Discrimination specified.
16.13 Preference or prejudice.
16.14 Reparation; prayer for.
16.15 Limitations; damages pendente lite
16.16 Supplemental complaints.
(a) General.
(b) Seeking damages.
16.17 Cross complaints.
16.18 Answers to complaints and petitions.
16.19 Answers to petitions or amended complaints.

Extensions of Carrier Facilities

16.30 Applications under Section 214 of the Act.
16.31 Applications under Section 221 of the Act.

Orders to Show Cause

16.40 Orders instituting action under Title II of the Act.
16.41 Answer to order to show cause.

Protests of Valuations

16.50 Tentative valuations.

Suspension of Tariff Schedules

16.60 Under Section 204 of the Act.

Service and Number of Copies

16.70 Service by the Commission.

Complaints Under Title II of the Act

SEC. 16.01 *Formal or informal.* Complaints filed under Title II of the Act may be either formal or informal.

SEC. 16.02 *Informal complaints; substance.* No form of informal complaint is prescribed, but it must be in writing, subscribed, and verified by the complainant. The complaint shall state the name and address of the complainant, the name of the carrier against whom the complaint is made, and shall state as definitely as possible the basis or reason for the complaint.

Communications to the Commission complaining of anything done, or omitted to be done, in contravention of the provisions of the Act, which do not fulfill the requirements herein prescribed for formal or informal complaints may, in the discretion of the Commission, be investigated or otherwise acted upon in any manner the Commission may deem expedient; but such communications shall not be deemed to be either formal or informal complaints within the meaning of these rules, irrespective of any action taken thereon by the Commission.

SEC. 16.03 *Action on informal complaints.* Upon receipt of an informal complaint properly drawn and executed, the Commission will, if its nature warrants, take the question up by correspondence with the carrier complained of in an endeavor to bring about satisfaction. Such correspondence with the carrier shall call upon it either to satisfy the complainant or advise the Commission of its refusal or inability to do so within such time as may be prescribed. If the carrier satisfies the complainant it shall immediately notify the Commission and file with it proof of satisfaction; whereupon the complaint will be dismissed. If the carrier refuses or is unable to satisfy the complainant within the time prescribed, it shall so notify the Commission, which decision the

Commission will forthwith give notice of to the complainant.

SEC. 16.04 *Resubmission; six months' rule.* When an informal complaint has not been satisfied pursuant to the foregoing rule, the complainant may either file a formal complaint or resubmit his informal complaint within six months from the date of the Commission's notice: *Provided, however,* That such resubmitted informal complaint must contain new material matter upon the same cause of action. The procedure prescribed herein for the handling of informal complaints will be followed in case of resubmitted informal complaints. If such resubmitted informal complaint or a formal complaint is filed with the Commission within the six months' period, such resubmission or filing will be deemed to relate back to the date of the filing of the original informal complaint. But reference to the original date of the informal complaint must be made in such resubmission or in the formal complaint filed.

SEC. 16.05 *Formal complaints; requirements.* Formal complaints shall contain the names of all parties complainant and defendant in full, without abbreviations, the address of each complainant, and the name and address of his attorney, if represented by attorney, and shall be subscribed and verified by the complainant as provided in Section 7.02. (See Appendix No. 4 for form of formal complaint.)

SEC. 16.06 *Statement of issues; joinder of causes of complaint.* Formal complaints shall be so drawn as to advise the Commission and the defendant fully wherein the provisions of the Act, or an order, rule, or regulation of the Commission, have been violated, the facts claimed to constitute such violation, and the relief sought. Two or more grounds of complaint involving the same principle, subject, or state of facts may be included in one complaint, but should be separately stated and numbered.

SEC. 16.07 *Notice of complaints.* Upon receipt of any formal complaint against any common carrier subject to the Act, the Commission will forward a copy of the same to such carrier together with a notice of the filing thereof, which notice shall contain an order of the Commission calling upon the carrier to satisfy the complaint or answer the same in writing within the time specified in said notice, which in no event shall be less than thirty days.

SEC. 16.08 *Charges, etc.; specific references.* The several charges, classifications, regulations, or practices complained of shall be set out by specific references to schedules of charges and classifications, and also the particular regulations or practices whenever that is possible.

SEC. 16.09 *Separate statement of each provision violated.* When a violation of more than one provision of a section of the Act is alleged, such violation shall be separately stated with respect to each provision of the Act claimed to be violated.

SEC. 16.10 *Allegations; certainty.* In case recovery of damage is sought, the complaint should contain appropriate allegations showing such data as will serve to identify, with reasonable certainty, the communications or transmissions, or other services, in respect of which recovery is sought, and shall state (1) that the complainant makes claim for reparation; (2) the name and address of each individual claimant asking reparation; (3) the name and address of defendants against which claim is made; (4) the communications, transmissions, or other services rendered, the charge applied thereto, the date when charges were paid, by whom paid, and by whom borne; (5) the period of time within which, or the specific dates when such communications, transmissions, or other services were rendered; (6) points of origin and reception of such communications or transmissions, and if known, the routes over which such communications or transmissions were made or transmitted, and if the damages sought to be recovered are for services other than communications or transmissions, then the allegations of the complaint shall state the nature and extent of such services, the date or dates when rendered, when paid for, and by whom borne; (7) nature and amount of injury sustained by each claimant; (8) if reparation is sought on behalf of others than the complainant, in what capacity or by what authority complaint is made in their behalf; and (9) that claimant has not filed suit in any court on the basis of the same claim.

SEC. 16.11 *Challenge of general radio adjustments; reparation.* If a general rate adjustment is challenged in the complaint, or many communications and transmissions or points of origin and reception are involved, the Commission will find and determine in its report the issues as to violation of the Act, injury thereby to complainant, and right to reparation. The Commission will afford the parties opportunity to agree to make proof respecting the communications, transmissions, or other services, and amount of reparation due under its findings, before entering its order awarding reparation. In such cases, authenticated schedule of charges, receipts, statements, and other exhibits bearing on details of such communications, transmissions, or other services, for which reparation is claimed, and the amount claimed (separately stated with respect to each communication, transmission, or other service rendered), need not be produced at the hearing unless called for or needed to develop other pertinent facts.

SEC. 16.12 *Discrimination specified.* In case unjust or unreasonable discrimination is alleged, the charge, practice, classification, regulation, facility, or service complained of must be clearly specified.

SEC. 16.13 *Preference or prejudice.* In case undue or unreasonable preference, advantage, or prejudice is alleged, the particular person, company, firm, corporation, locality, or description of traffic affected thereby, and the particular preference or prejudice or disadvantage, relied upon as constituting a violation, shall be clearly specified.

SEC. 16.14 *Reparation; prayer for.* Reparation will not be awarded upon a complaint unless specifically prayed for, except under unusual circumstances and for good cause shown. Reparation may be awarded, however, upon a supplemental complaint based upon the finding of the Commission in the original proceeding.

SEC. 16.15 *Limitations; damages pendente lite.* The Commission will consider as in substantial avoidance of the statute of limitations, a complaint in which the complainant alleges that the matters complained of, if continued in the future, will constitute violations of the Act in the particulars and to the extent indicated, and prays reparation accordingly as to charges which shall be paid and borne by complainant on all communications, transmissions, or other services affected thereby occurring during the pendency of the proceeding.

SEC. 16.16 *Supplemental complaints.*—(a) *General.* Supplemental complaints may be tendered for filing by the parties complainant, against the parties defendant, setting forth any causes of action under the Act alleged to have accrued in favor of the complainants and against the defendants since the filing of the original complaint.

(b) *Seeking damages.* If recovery of damages is sought by supplemental complaint, it must be filed with the Commission within the statutory periods stated in Section 415 of the Act.

SEC. 16.17 *Cross complaints.* Cross complaints alleging violations of the Act by other carriers, parties to the proceedings, or seeking relief against them under the Act, may be tendered for filing by defendants with their answers and, upon leave granted, will be filed and served by the Commission in the manner provided for serving complaints.

SEC. 16.18 *Answers to complaints and petitions.* Any party upon whom a copy of a complaint, petition, or cross complaint is filed under Title II of the Act, shall file answer within thirty days after service of the complaint. Such answer shall be subscribed by the party answering as provided in Section 7.02, and shall be so drawn as to advise the parties and the Commission fully and completely of the nature of the defense, and shall admit or deny specifically and in detail all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort shall

be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve answer within the time and in the manner prescribed will be deemed in default, and the Commission will issue an appropriate order. (Counterclaims and set-offs against users of service supplied by carriers are not within the jurisdiction of the Commission.) This section does not apply to protests or applications seeking suspensions of proposed tariff schedules.

SEC. 16.19 *Answers to petitions or amended complaints.* In proceedings under Title II, answers to petitions for intervention, or to amended complaints filed and served upon leave granted, need not be separately made unless the defendant so elects, and defendant's answer to the complaint will be deemed its answer to the petition in intervention.

Extensions of Carrier Facilities

SEC. 16.30 *Applications under Section 214 of the Act.* Upon receipt of an application filed under Section 214 of the Act, the Commission will cause notice of the filing of such application, together with copies thereof, to be given to the Governor of each State in which the additional or extended line, or any part thereof, is proposed to be constructed or operated, and to the State commission or other regulatory authority having jurisdiction over the carrier, with the request that they advise the Commission if they desire to be heard in the matter. Such notice may also be given to any other person or party, and in any manner the Commission deems proper. If any party so notified, as provided herein, requests a hearing upon the application, the Commission will order a hearing and will give notice to all parties of the time and place thereof: *Provided, however,* That the Commission may, upon application, grant authority to furnish temporary or emergency service, or to supplement existing facilities, in whole or in part, and upon such terms as it may prescribe, without notice or hearing.

SEC. 16.31 *Applications under Section 221 of the Act.* Upon receipt of an application filed under Section 221 of the Act, the Commission will order a hearing thereon, and will give reasonable notice in writing of the time and place of such hearing to the Governor of each of the States in which the physical property affected, or any part thereof, is situated, and to the State commission or other regulatory authority having jurisdiction over telephone carriers in each of said States, and to such other person or party as it may deem advisable. A copy of the application will be furnished such parties together with the notice as above provided.

Orders to Show Cause

SEC. 16.40 *Orders instituting action under Title II of the Act.* Whenever the Commission shall institute a proceeding within its jurisdiction under Title II of the Act against any common carrier, it may commence such action by serving upon the carrier an order to show cause. Said order shall contain a statement of the particulars and matters upon which the Commission is inquiring, and the reasons for such action, and shall call upon the carrier to be and appear before the Commission at a place and time therein stated, and then and there answer and give evidence upon the matters specified in said order. The Commission may, however, require in said order, that the carrier file with the Commission its verified answer to the order to show cause, on or before a day certain, prior to the hearing date therein fixed, in no event less than thirty days after service of the order: *Provided, however,* That the Commission may include in an order to show cause any further provisions which it may deem necessary and which are within its jurisdiction under the Act. Nothing in this rule shall be construed to limit the authority of the Commission to institute or conduct any investigation or inquiry within its jurisdiction in any other manner or according to any other procedure which it may deem necessary or proper.

SEC. 16.41 *Answer to order to show cause.* Any carrier, upon whom an order to show cause has been served under Section 16.40 shall respond to the same by filing its answer within the time specified in said order. Such answer shall be subscribed in the manner provided in Section 7.02, shall be drawn so as specifically to admit or deny the charges or allegations which may be made in said order, and so as to advise the Commission fully and completely upon the matters and things inquired of.

Protests of Valuations

SEC. 16.50 *Tentative valuations.* Protests in opposition to a tentative valuation, under the provisions of Title II of the Act, shall be subscribed and verified by the protestant and shall contain a concise statement of the essential elements of the protest with particularity to the matters concerning which protest is made. Each object of protest shall be set up as a separate item in a separately numbered paragraph and the protest shall also include a statement of the protestant's interest in the matter in controversy.

Suspension of Tariff Schedules

SEC. 16.60 *Under Section 204 of the Act.* Suspensions of tariff schedules under Section 204 of the Act will not ordinarily be considered unless protest and application therefor is made in writing or by telegram at least 10 days before the effective date named in the schedule. Applications for suspensions must indicate the schedule affected by its Federal Communications Commission number and give specific reference to the items against which protest is made, together with a statement of the grounds thereof. If such application is made by telegram, the telegram must be followed and confirmed by application in writing and the telegram should succinctly state the substance of the matters to be set forth in the written application. Sixteen copies of each written application must be furnished to the Commission.

Service and Number of Copies

SEC. 16.70 *Service by the Commission.* Applications under Title II of the Act, formal complaints, supplemental complaints, cross complaints, and amended complaints, will be served by the Commission and copies of each shall be furnished in sufficient number so as to provide the Commission with 15 copies for its use, and a copy for each party to the proceeding.

Service by the Commission upon common carriers shall be by leaving a copy of any document requiring service with the designated agent of such carrier at his office or usual place of residence in the District of Columbia, and if no such agent is designated, then service may be made by posting such notice, process, order, decision, or pleading in the office of the Secretary of the Commission.

APPENDIX No. 1

Application for Admission to Practice Before the Commission Under Section 2.04

I, _____ hereby apply for admission to practice before the Federal Communications Commission under Section 2.04 of the rules of practice of the Commission, and submit the following:

1. I reside at _____, _____ (Street number) _____ County, State of _____ (City)

My office address is _____, _____ (City) _____ County, State of _____.

2. I was admitted to practice as an attorney at law by the _____ Court of _____ on the _____ day of _____, 19____, and am now a member of the bar of that court; I have never been suspended or disbarred from practice before any court (state here any exception) _____.

_____ (Signature of applicant)

STATE OF _____
County of _____ *ss:*

_____ being first duly sworn, on his oath deposes and says: I am the person named in the foregoing application for admission to practice before the Federal Communications Commission, and that the statements of facts therein contained are true.

_____ (Signature of applicant)

Subscribed in my presence, and sworn to before me, this ____ day of _____, 19____.

[SEAL] _____ (Title)

Commission expires _____.

Clerk's Certificate

I, _____, clerk of the _____ court of _____, hereby certify that _____ the above-named applicant for admission to practice before the Federal Communications Commission, is duly admitted to practice as an attorney at law by the said court, and is now in good standing as a member of the bar of said court.

Dated this _____ day of _____, 19____.

[SEAL] _____ (Clerk of said court)

PLEASE NOTE CAREFULLY:

SEC. 2.03 *Persons who may be admitted to practice.* Attorneys at law admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State or Territory, upon application may be admitted to practice before the Commission. An attorney at law from any place other than the District of Columbia may, in the discretion of the Commission or the official presiding at any hearing, be admitted for a particular case in which he may be employed.

If this certificate is not from a Court of the United States or the District of Columbia, *then it must be from the highest court of the State or Territory, or the applicant must furnish evidence that his admission entitles him to practice before the highest court of such State or Territory.*

APPENDIX No. 2

Appearance Blank

Federal Communications Commission

Docket No. ____

In the Matter of

_____

_____

For _____

Appearance

The record will show the entry of my appearance as counsel for _____ Respondent / Applicant / (Other) _____ in the above-entitled matter.

(Name of Party)

_____ (Attorney)

Address:

(See Sections 2.07 and 2.09 of F. C. C. Regulations)

APPENDIX No. 3

Radio Districts

Number, address of the inspector in charge, and territory

1. Customhouse, Boston, Mass.:
   Connecticut, all counties.
   Maine, all counties.
   Massachusetts, all counties.
   New Hampshire, all counties.
   Rhode Island, all counties.
   Vermont, all counties.
2. Federal Building, New York, N. Y.:
   New Jersey, Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren.
   New York, Albany, Bronx, Columbia, Delaware, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Schenectady, Suffolk, Sullivan, Ulster, and Westchester.
3. New United States Customhouse, Philadelphia, Pa.:
   Delaware, Newcastle.
   New Jersey, Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem.
   Pennsylvania, Adams, Berks, Bucks, Carbon, Chester, Cumberland, Dauphin, Delaware, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Perry, Philadelphia, Schuylkill, and York.

4. Fort McHenry, Baltimore, Md.:
   Delaware, Kent and Sussex.
   District of Columbia, all counties.
   Maryland, all counties.
   Virginia, Arlington, Clark, Fairfax, Fauquier, Frederick, Loudoun, Page, Prince William, Rappahannock, Shenandoah, and Warren.
5. New Post Office Building, Norfolk, Va.:
   North Carolina, all except district 6.
   Virginia, all except district 4.
6. New Post Office Building, Atlanta, Ga.:
   Alabama, all except district 8.
   Georgia, all counties.
   North Carolina, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, and Yancey.
   South Carolina, all counties.
   Tennessee, all counties.
7. Post Office Box 150, Miami, Fla.:
   Florida, all except district 8.
8. Customhouse, New Orleans, La.:
   Alabama, Mobile, Baldwin.
   Arkansas, all counties.
   Florida, Escambia.
   Louisiana, all counties.
   Mississippi, all counties.
   Texas, city of Texarkana only.
9. Federal Building, Galveston:
   Texas, Aransas, Brazoria, Brooks, Calhoun, Cameron, Chambers, Fort Bend, Galveston, Goliad, Harris, Hidalgo, Jackson, Jefferson, Jim Wells, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, Victoria, Wharton, and Willacy.
10. U. S. Terminal Annex Building, Dallas, Tex.:
    New Mexico, all counties.
    Oklahoma, all counties.
    Texas, all except district 9 and the city of Texarkana.
11. Rives-Strong Building, Los Angeles, Calif.:
    Arizona, all counties.
    California, Imperial, Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.
    Nevada, Clarke.
12. Customhouse, San Francisco:
    California, all except district 11.
    Nevada, all except Clarke.
    Guam.
    Midway.
    Wake.
    American Samoa.
13. New United States Courthouse, Portland, Oreg:
    Idaho, all except district 14.
    Oregon, all counties.
14. Federal Office Building, Seattle, Wash.:
    Alaska.
    Idaho, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone.
    Montana, Beaverhead, Broadwater, Cascade, Deerlodge, Flathead, Gallatin, Glacier, Granite, Jefferson, Lake, Lewis and Clark, Lincoln, Madison, Meagher, Mineral, Missoula, Pondera, Powell, Ravalli, Sanders, Silver Bow, Teton, and Toole.
    Washington, all counties.
15. Customhouse, Denver, Colo.:
    Colorado, all counties.
    Montana, except district 14.
    Utah, all counties.
    Wyoming, all counties.
16. Main Post Office Building, St. Paul, Minn.:
    Minnesota, all counties.
    Michigan, Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft.
    North Dakota, all counties.
    South Dakota, all counties.
    Wisconsin, all except district 18.
17. Pickwick Building, Kansas City, Mo.:
    Iowa, all except district 18.
    Kansas, all counties.
    Missouri, all counties.
    Nebraska, all counties.
18. U. S. Court House, Chicago, Ill.:
    Illinois, all counties.
    Indiana, all counties.
    Iowa, Allamakee, Buchanan, Cedar, Clayton, Clinton, Delaware, Des Moines, Dubuque, Fayette, Henry, Jackson, Johnson, Jones, Lee, Linn, Louisa, Muscatine, Scott, Washington, and Winneshiek.
    Wisconsin, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Kenosha, Lafayette, Milwaukee, Ozaukee, Racine, Richland, Rock Sauk, Walworth, Washington, and Waukesha.
19. New Federal Building, Detroit, Mich.:
    Kentucky, all counties.
    Michigan, all except district 16.
    Ohio, all counties.
    West Virginia, all counties.
20. Federal Building, Buffalo, N. Y.:
    New York, all except district 2.
    Pennsylvania, all except district 3.
21. Aloha Tower, Honolulu, Territory of Hawaii:
    Territory of Hawaii.
22. Ochoa Building, San Juan, Puerto Rico:
    Puerto Rico.
    Virgin Islands.

APPENDIX No. 4

Approved Forms

(These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary.)

COMPLAINT

Before the Federal Communications Commission, Washington, D. C.

Complainant

Docket No. ____

(To be inserted by the Secretary of the Commission)

_____, COMPLAINANT
v.
_____, DEFENDANT

The complainant (here insert full name of each complainant and if a corporation the corporate title of such complainant) respectfully shows:

(1) That (here state occupation and post-office address of each complainant).

(2) That (here insert the full name, occupation, and post-office address of each defendant).

(3) That (here insert fully and clearly the specific act or thing complained of together with such facts as are necessary to give a full understanding of the situation).

Wherefore, complainant asks (here state specifically the relief desired).

Dated at _____ this _____ day of _____ 19__.

_____ (Name of each complainant)

_____ (Name and address of attorney, if any)

FORM OF VERIFICATION

_____ being first duly sworn, on oath, deposes, and says: That he is the complainant (or one of the complainants), in the above-entitled matter; that he has read the within and foregoing complaint and knows the contents thereof, and that the matters and things therein stated are true of his own knowledge, save and except those matters therein stated on information and belief, and as to those he believes them to be true.

_____

Subscribed and sworn to before me this ——— day of ———— 193—.
[SEAL] ————————————
(Notary public or other proper officer)

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3602; Filed, November 30, 1938; 1:11 p. m.]

CHAPTER I. RULES OF PRACTICE AND PROCEDURE #

It is ordered, That the following rules,[1] which are now in effect, are hereby cancelled, effective January 1, 1939:

100.1	101.1	102.1	103.1	103.12	104.1
100.3	101.2	102.2	103.2	103.13	104.2
100.4	101.3	102.3	103.3	103.14	104.3
100.5	101.4	102.4	103.4	103.15	104.4
100.6	101.5	102.5	103.5	103.16	104.5
100.7	101.6	102.6	103.6	103.17	104.6
100.8	101.7	102.7	103.7	103.18	104.7
100.9		102.8	103.8	103.19	104.8
100.10		102.9	103.9		
100.11		102.10	103.10		
100.12			103.11		

105.1	105.15	105.29	106.1	106.15	107.1
105.2	105.16	105.30	106.2	106.16	
105.3	105.17	105.31	106.3	106.17	
105.4	105.18	105.32	106.4	106.18	
105.5	105.19	105.33	106.5	106.19	
105.6	105.20	105.34	106.6	106.20	
105.7	105.21	105.35	106.7	106.21	
105.8	105.22	105.36	106.8	106.22	
105.9	105.23	105.37	106.9	106.23	
105.10	105.24	105.38	106.10	106.24	
105.11	105.25		106.11	106.25	
105.12	105.26		106.12	106.26	
105.13	105.27		106.13	106.27	
105.14	105.28		106.14	106.28	
				106.31	

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3601; Filed, November 30, 1938; 1:11 p. m.]

Notices

FEDERAL POWER COMMISSION.

[Docket No. DI-145-Michigan]

IN THE MATTER OF COPPER DISTRICT POWER COMPANY

ORDER FIXING DATE OF HEARING

NOVEMBER 29, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon declaration of intention to construct a diversion dam on the Middle Branch of the Ontonagon River in Ontonagon County, Michigan, filed July 7, 1938, by the Copper District Power Company, a corporation organized under the laws of Michigan and having its principal place of business at Ontonagon, Michigan, pursuant to Section 23 (b) of the Federal Power Act; and

It appearing that: A public hearing on the declaration is desirable in order to determine the questions presented thereby;

The Commission orders that: A public hearing on said declaration of intention be held on December 19, 1938, at 10 a. m., in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-3607; Filed, December 1, 1938; 10:15 a. m.]

[Docket IT-5524]

IN THE MATTER OF PENNSYLVANIA WATER AND POWER COMPANY

ORDER POSTPONING DATE OF HEARING

NOVEMBER 30, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) On November 1, 1938, the Commission, by order assigned the matters involved in the above investigation for hearing on December 6, 1938;[1]

(b) Due to unforeseen conditions and circumstances, it will be impossible to proceed with the hearing in this matter now assigned for December 6, 1938;

The Commission orders that: The hearing upon the matters specified by the order of the Commission under date of November 1, 1938, be postponed from December 6, 1938, to December 28, 1938, at 10 a. m., in the Hurley-Wright Building, Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-3608; Filed, December 1, 1938; 10:15 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

[File No. 63-1]

IN THE MATTER OF THE UNITED CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to Rule 9C-4 under the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 8, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 5, 1938.

The matter concerned herewith is in regard to an application by The United Corporation pursuant to Rule 9C-4 under the Public Utility Holding Company Act of 1935 for approval of an investment program for the company's current funds.

The United Corporation is desirous of investing not to exceed $8,000,000 of its present funds or of funds which may hereafter come into its possession upon the sale of any of its presently owned assets, in securities other than securities issued by any public utility holding company, public utility operating company, investment trust or investment company, or any security issued or assumed by The United Corporation.

Under the proposed program The United Corporation would invest its funds only in securities as to which an active market exists for such securities other than one made by it, or by any person acting for it, or by any person controlling, controlled by or under common control with it.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3603; Filed, November 30, 1938; 1:25 p. m.]

These rules were incorporated in Chapter I of the Federal Communications Commission's submission to the Codification Board and were identified as Sections 1.01 to 8.01, inclusive.

[1] These rules were incorporated in Chapter I of the Federal Communications Commission's submission to the Codification Board and were identified as Sections 1.01 to 8.01, inclusive.

[1] 3 F. R. 2651 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 29th day of November 1938.

[File No. 1-206]

IN THE MATTER OF APPLICATION OF VIRGINIA CITY GOLD MINING COMPANY TO WITHDRAW ITS COMMON STOCK, 10¢ PAR VALUE, FROM LISTING AND REGISTRATION ON THE STANDARD STOCK EXCHANGE OF SPOKANE

ORDER GRANTING APPLICATION

The Virginia City Gold Mining Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to withdraw its Common Stock, 10¢ par value, from listing and registration on the Standard Stock Exchange of Spokane; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on December 9, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3619; Filed, December 1, 1938; 12:32 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 29th day of November 1938.

[File No. 1-677]

IN THE MATTER OF APPLICATION BY BOARD OF TRADE OF THE CITY OF CHICAGO TO STRIKE FROM LISTING AND REGISTRATION THE 7% GUARANTEED CUMULATIVE PREFERRED STOCK OF ARMOUR AND COMPANY OF DELAWARE

ORDER GRANTING APPLICATION

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to strike from listing and registration the 7% Guaranteed Cumulative Preferred Stock of Armour and Company of Delaware; and

After appropriate notice,[2] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective forty-five days from the date of the order or upon the listing and registration on the Chicago Stock Exchange, which ever is the sooner.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3617; Filed, December 1, 1938; 12:32 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 29th day of November 1938.

[File No. 1-800]

IN THE MATTER OF APPLICATION OF WM. WRIGLEY JR. COMPANY TO WITHDRAW ITS CAPITAL STOCK, NO PAR VALUE, FROM LISTING AND REGISTRATION ON THE BOARD OF TRADE OF THE CITY OF CHICAGO

ORDER GRANTING APPLICATION

The Wm. Wrigley Jr. Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to withdraw its Capital Stock, No Par Value, from listing and registration on the Board of Trade of the City of Chicago; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective forty-five days from the date of the order or upon the listing and registration of this capital stock on the Chicago Stock Exchange, whichever is the sooner.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3618; Filed, December 1, 1938; 12:32 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 29th day of November 1938.

[File No. 1-879]

IN THE MATTER OF APPLICATON BY NEW YORK STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE FIRST MORTGAGE FIFTY-YEAR 4½% GOLD BONDS, DUE JUNE 1, 1943, OF THE STATEN ISLAND RAILWAY COMPANY

ORDER GRANTING APPLICATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to strike from listing and registration the First Mortgage Fifty-Year 4½% Gold Bonds, due June 1, 1943, of The Staten Island Railway Company; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on December 9, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3620; Filed, December 1, 1938; 12:33 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of November 1938.

[File No. 1-1327]

IN THE MATTER OF APPLICATION BY THE NEW YORK STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE PREFERRED CAPITAL STOCK 5% NON-CUMULATIVE, $100 PAR VALUE, AND COMMON CAPITAL STOCK, $100 PAR VALUE, OF DETROIT AND MACKINAC RAILWAY COMPANY

ORDER GRANTING APPLICATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to strike from listing and registration the Preferred Capital Stock 5% Non-Cumulative, $100 Par Value, and Common Capital Stock, $100 Par Value, of Detroit and Mackinac Railway Company; and

After appropriate notice,[2] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

[1] 3 F. R. 2230 DI.
[2] 3 F. R. 2418 DI.

[1] 3 F. R. 2356 DI.

[1] 3 F. R. 2471 DI.
[2] 3 F. R. 1614 DI.

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on December 9, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3622; Filed, December 1, 1938; 12:33 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 29th day of November 1938.

[File No. 1-2619]

IN THE MATTER OF APPLICATION OF GRAND NATIONAL FILMS, INC. TO WITHDRAW ITS COMMON STOCK, $1 PAR VALUE, FROM LISTING AND REGISTRATION ON THE NEW YORK CURB EXCHANGE

ORDER GRANTING APPLICATION

The Grand National Films, Inc., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 promulgated thereunder, having made application to withdraw its Common Stock, $1 Par Value, from listing and registration on the New York Curb Exchange; and

After appropriate notice,[1] a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on December 9, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3621; Filed, December 1, 1938; 12:33 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of November, A. D. 1938.

[File No. 32-113]

IN THE MATTER OF BLACKSTONE VALLEY GAS AND ELECTRIC COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS

Blackstone Valley Gas and Electric Company, a subsidiary of Eastern Utilities Associates, a registered holding company, having filed an application and amendments thereto pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of its Mortgage and Collateral Trust Bonds, Series D, 3½%, due December 1, 1968;

A hearing on such matter having been held after appropriate notice; [1] the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be, and the same hereby are, exempt from the provisions of Section 6 (a) in the Public Utility Holding Company Act of 1935; upon further condition that if the express authorization of the issue and sale of such securities by the Division of Public Utilities of the Rhode Island Department of Revenue and Regulation shall be revoked or otherwise terminated this exemption shall immediately terminate without further order of this Commission, and upon the further condition that within ten days after the issue and sale of the proposed bonds the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said amended application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3612; Filed, December 1, 1938; 12:31 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29 day of November, A. D. 1938.

[File No. 41-7]

IN THE MATTER OF SAFETY ENGINEERING AND MANAGEMENT COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE REGARDING THE ISSUE AND SALE OF NOTES.

Safety Engineering and Management Company, a subsidiary of Consolidated Electric and Gas Company, a registered holding company having filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for an exemption from the provisions of Section 6 (a) of the Act of the renewal to February 1, 1939 of notes aggregating $696,000, which together with all other outstanding notes and drafts of applicant of a maturity of nine months or less will aggregate more than 5 per centum of the present amount and par value of all other securities of applicant, and having also asked that the application be considered as a declaration under Section 7 of the Act, a hearing on such application having been held after appropriate notice,[1] the record in this matter having been examined and the Commission having determined that the application shall be considered as a declaration under Section 7 of the Act; and having accordingly filed its findings herein;

It is ordered, That such declaration be and become effective forthwith on the condition however, that the renewal of said notes shall be effected in compliance with the terms and conditions set forth in, and for the purpose represented by said declaration.

It is further ordered, That not later than December 10, 1938 applicant shall file with the Commission a certificate of notification, showing that such notes have been renewed in accordance with the terms of the application and including therewith (1) a copy of any and all agreements with the banks in connection with this matter which are not already part of the record of said declaration and (2) a copy of any notes delivered or the legend attached to the existing notes.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3611; Filed, December 1, 1938; 12:31 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 30th day of November 1938.

IN THE MATTER OF JOHN THOMAS PARKS DOING BUSINESS AS JOHN T. PARKS, INVESTMENT BROKER, POST OFFICE BOX 363, YAKIMA, WASHINGTON

ORDER REVOKING REGISTRATION

John Thomas Parks, doing business as John T. Parks, Investment Broker, a sole proprietorship, hereinafter called the registrant, being registered as a broker and dealer under Section 15 (b) of the Securities Exchange Act of 1934, as amended: and

The Commission, on September 1, 1938, having ordered proceedings on the question of revocation and/or suspension of registration of the said registrant pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended; the said matter, after appropriate notice,[1] having come on for hearing on October 20, 1938, in Seattle, Washington; the said registrant having consented in writing to the revocation of his registration; and the Commission having duly considered the matter and being fully advised in the premises;

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of John Thomas Parks, doing business as John T. Parks, Investment Broker, be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3614; Filed, December 1, 1938; 12:31 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

[File No. 46-85]

IN THE MATTER OF KENTUCKY SECURITIES COMPANY

ORDER RELATIVE TO ACQUISITION OF SECURITIES

Kentucky Securities Company, a subsidiary of Kentucky Utilities Company, which in turn is a subsidiary of The Middle West Corporation, a registered holding company, having filed with this Commission an application for the amendment of an order issued pursuant to Section 10 of the Public Utility Holding Company Act of 1935 for the approval of the acquisition by Kentucky Securities Company of 18,120 shares of 6% convertible cumulative preferred stock, par value $20 per share, and 76,360 shares of common stock, $5 par value, issued by Southeastern Greyhound Lines, said preferred stock to be acquired at $20 per share and said common stock at $10 per share;

A hearing having been held on such application after appropriate notice;[1] the record in the matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the acquisition of the aforesaid securities in the manner set forth in the application be and the same hereby is approved;

It is further ordered, That within ten days after the acquisition of the securities referred to above, the applicant shall file with this Commission a Certificate of Notification, showing that such acquisition was effected in accordance with the terms and conditions and for the purposes represented by such application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3613; Filed, December 1, 1938; 12:31 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

[File No. 54-7]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION AND HUNTINGTON GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 11 (e), 12 (c) and 12 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on December 12, 1938, at 2 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 7, 1938.

The matter concerned herewith is in regard to:

(1) A joint application by Columbia Gas & Electric Corporation and Huntington Gas Company, both registered holding companies, for approval of a plan of liquidation and dissolution of Huntington Gas Company, filed pursuant to Section 11 (e) of the Public Utility Holding Company Act of 1935.

(2) An application by Huntington Gas Company, pursuant to Section 12 (d) of said Act and Rule U-12D-1 promulgated thereunder, for approval of the transfer of certain public utility securities to Columbia Gas & Electric Corporation by Huntington Gas Company upon liquidation, said public utility securities being 39,871 shares (99.7%) of the outstanding common stock of Huntington Development & Gas Company and 14,433 shares (99.9%) of the outstanding 6% cumulative preferred stock of said Huntington Development & Gas Company.

(3) An application by said Huntington Gas Company, pursuant to Section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-12C-1 thereunder, for approval of the acquisition and retirement by Huntington Gas Company of the outstanding shares of its common stock, upon liquidation.

It is stated in said applications that Columbia Gas & Electric Corporation owns all of the outstanding securities of Huntington Gas Company, consisting of 20,000 shares of common stock. It is further stated that all of the outstanding securities of Huntington Development & Gas Company are owned by Huntington Gas Company, except 2 shares of the preferred stock of Huntington Development & Gas Company and 129 shares of the common stock of that company which shares are publicly held.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3616; Filed, December 1, 1938; 12:32 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of December, A. D. 1938.

[File No. 32-122]

IN THE MATTER OF NEW YORK STATE ELECTRIC & GAS CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 19, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors

[1] 3 F. R. 2357 DI.

[1] 3 F. R. 2652 DI.

[1] 3 F. R. 2672 DI.
[2] 3 F. R. 2229 DI.

[1] 3 F. R. 2752 DI.

DEC 5 1938

or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 13, 1938.

The matter concerned herewith is in regard to the proposed issuance of First Mortgage Bonds, 4% Series due 1965, of the applicant in the total principal amount of $14,000,000. The proceeds from the sale of these bonds are to be used to the extent of $8,458,500 to redeem certain underlying bonds outstanding. The bonds to be redeemed are as follows:

Empire Gas and Electric Company—General and Refunding Mortgage 6% Gold Bonds, Series A due 1952	$1,720,000
Empire Gas and Electric Company and Empire Coke Company—Joint First and Refunding Mortgage 5% Gold Bonds, due 1941	2,634,000
New York Central Electric Corporation—First Gold Bonds, 5½% Series due 1950	3,049,000
New York Central Electric Corporation—First Gold Bonds, 5% Series due 1952	662,000
Seneca Power Corporation—First Mortgage 6% Gold Bonds, due 1946	393,500

In addition to the redemption of said underlying bonds the applicant proposes to retire two of its notes. One in the principal amount of $3,460,000 bearing interest at 4½% matures May 6, 1942. The other note in the principal amount of $1,200,000 bearing interest at 4% (due $100,000 monthly) matures ultimately on December 1, 1939. At the present time these notes embody no provision for retirement prior to maturity. The balance of $881,500 the applicant proposes to use for the construction of additions, improvements and betterments to its properties.

While the Public Service Commission of New York has not yet approved this issue, the applicant states that it anticipates that the order authorizing the sale of these bonds will issue around December 1, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3623; Filed, December 1, 1938; 12: 33 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of December, A. D. 1938.

[File No. 37-37]

IN THE MATTER OF WILLIAM A. BAEHR ORGANIZATION, INC.

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

IT IS ORDERED that a hearing on such matter be held on December 16, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 11, 1938.

The matter concerned herewith is in regard to a declaration with respect to the organization and operation of a subsidiary service company for the North Continent Utilities System.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3615; Filed, December 1, 1938; 12:31 p. m.]

DEC 5 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 235

Washington, Saturday, December 3, 1938

The President

EXECUTIVE ORDER

AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by Article II, section 2, of the Constitution of the United States of America and by section 1752 of the Revised Statutes of the United States (22 U. S. C. § 132), it is ordered that the Foreign Service Regulations[1] of the United States be, and they are hereby, amended by prescribing the following as Chapter XI thereof:

CHAPTER XI—NEGOTIATION OF TREATIES

XI-1. *General provisions regarding the negotiation of treaties.*—Bilateral treaties to which the United States is one of the parties may be negotiated and concluded either at Washington or at the capital of the foreign country. When circumstance or convenience makes it desirable to negotiate and conclude a treaty at the capital of the other contracting party, the American diplomatic agent will be furnished with a full power from the President authorizing him to negotiate, conclude, and sign the treaty. If the proposal originates with the United States, there will also be furnished to the diplomatic agent a tentative draft of the proposed treaty for submission by him to the other government for its consideration. The diplomatic agent shall submit to the Department any modification of the draft or counter-proposal made by the other government and shall await instructions from the Department. If the original proposal emanates from a foreign government, the diplomatic agent shall forward the proposal to the Department and await its instructions. In no case shall a diplomatic agent sign a treaty until finally advised by the Department to do so after an accord has been reached. The treaty should then be signed in two originals, one for each government.

XI-2. *The principle of the "alternat".*—In the preparation of a treaty for signature, after an accord has been reached, the principle of the *alternat* should be observed, that is to say:

(1) When English and a language other than English are both used, the texts in the two languages should be placed either in parallel vertical columns on the same page, half the width of the page, or on opposite pages of the document, the entire width of the page. The former style is preferred, as it lends itself more conveniently to the binding and sealing of the treaty. If the two languages are placed in parallel columns on the same page, the English text should occupy the left-hand column of each page and the foreign text the right-hand column, in the original to be retained by the United States; in the original to be retained by the foreign government, the foreign text should occupy the left-hand column and the English text the right-hand column. If the two languages are placed on opposite pages of the document, the English text should occupy the left-hand page and the foreign text the right-hand page, in the United States' original, and conversely in the foreign government's original.

In certain oriental countries where by its nature the written language is not adapted to contracted space, the expedient may be resorted to of making and signing two separate originals in each language, but in no other case is this desirable or advisable.

(2) In the original to be retained by the United States, the United States and the plenipotentiary of the United States should be named first in both the English and the foreign texts wherever the names of the countries or of the plenipotentiaries occur, and the signature of the plenipotentiary of the United States should appear above the signature of the foreign plenipotentiary. Conversely, in both texts throughout the original to be retained by the foreign government, that government and its plenipotentiary should be named first and the signature of the foreign plenipotentiary should ap-

[1] 3 F. R. 1749, 2185 DI.

CONTENTS

THE PRESIDENT

Executive Order: Page
Foreign Service Regulations of the United States, amendment (negotiation of treaties) ---------- 2847

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Burley tobacco marketing quotas for 1938–39 marketing year, regulations-- 2848
TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Regulations amended — aircraft weight and engine classification for pilot rating---------- 2854
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Customs Regulations amended:
Mail importations of arms, implements of war, etc. 2855
Sealed mail articles-------- 2855
TITLE 43—PUBLIC LANDS:
Office of the Secretary of Interior, Grazing Division:
Utah Grazing District No. 6, modification ---------- 2856
TITLE 45—PUBLIC WELFARE:
Civilian Conservation Corps:
Enrollment, etc., regulations amended — allowances; claims for amounts due deceased or insane enrollees---------- 2856
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Orders in the matter of annual reports from:
Carriers by pipe line------- 2856
Lessors to steam railway companies---------- 2856

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Committee for Reciprocity Information: Page
Trade agreement negotiations with Cuba, public notice (list of products) 2858
Department of the Interior:
National Bituminous Coal Commission:
Provisional approval as marketing agencies granted:
Kentucky Coal Agency, Inc. 2858
Southern Illinois Coals, Inc. 2857
Sumpter Coal Co., et al., withdrawal of applications for exemption 2857
Department of State:
Trade agreement negotiations with Cuba, public notice 2857
Federal Trade Commission:
Orders appointing examiners, etc., in the matter of:
Bergman, Max, trading as Interstate Premium Novelty Co 2859
Froman, Harry, trading as Supreme Sales Co., etc 2859
Securities and Exchange Commission:
Notice of and orders for hearings:
Columbus and Southern Ohio Electric Co 2859
Pennsylvania Power Co., Commonwealth & Southern Corp 2859

pear above the signature of the plenipotentiary of the United States.

XI–3. *Conformity of texts.*—Before signing the treaty, the diplomatic agent of the United States shall see that the texts in the two languages of both originals of the prepared treaty are in exact conformity with the texts of the two languages in the drafts agreed upon, and that the foreign text is essentially in accord with the English text. The punctuation of the two texts should be brought into substantial conformity.

XI–4. *Exhibition or exchange of full powers.*—Full powers may be either exchanged or exhibited by the plenipotentiaries at the time of signature as may be preferred by the foreign plenipotentiary. If exchanged, the original full power of the foreign plenipotentiary shall be forwarded to the Department with the United States' original of the signed treaty. If the plenipotentiaries retain their own full powers, the foreign plenipotentiary should be requested to furnish to the plenipotentiary of the United States a photostat or certified copy of his full power in lieu of the original. This is the practice in Washington.

XI–5. *Ratification of treaties.*—After the signature of a treaty, the original intended for the Government of the United States shall be forwarded by the diplomatic agent to the Secretary of State to be laid before the President and, if approved, to be transmitted by him to the Senate to receive the advice and consent of the Senate to ratification.

Since all treaties signed on the part of the United States are subject to ratification by and with the advice and consent of the Senate, and as the time required for action on any particular treaty cannot be foreseen, it is preferred by this Government that it be provided in the treaties signed on its part that the exchange of ratifications shall be effected "as soon as possible" rather than within a specified period.

XI–6. *Exchange of ratifications.*—Exchange of ratifications is effected by the plenipotentiary of the United States handing to the plenipotentiary of the foreign government a copy of the United States' original of the treaty ratified by the President and the plenipotentiary of the foreign government handing to the plenipotentiary of the United States a copy of the foreign government's original of the treaty ratified by the head of the foreign government. A protocol attesting the exchange of ratifications should be signed by the two plenipotentiaries at the time the exchange is made. The protocol should be signed in duplicate originals, one for each government, in which the principle of the *alternat* is observed the same as in the treaty.

Before making the exchange of ratifications the diplomatic agent of the United States shall satisfy himself that the texts in the two languages as incorporated in the instrument of ratification of the foreign government are, with the exception of the observance of the *alternat*, in exact conformity with the two texts as contained in the President's instrument of ratification.

XI–7. *Date of exchange to be cabled.*—As most treaties stipulate for their going into effect on the day of the exchange of ratifications, the date of exchange and the date of the instrument of ratification of the foreign government shall be cabled to the Department of State at once in order that the treaty may be proclaimed by the President. The instrument of ratification of the foreign government and one original of the signed protocol of exchange shall be forwarded to the Department by the first following mail.

Sections of Regulations Canceled

The following provisions of the Foreign Service Regulations of the United States are hereby canceled:

Sections IX–1 to IX–7, inclusive, Part I.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 1, 1938.

[No. 8016]

[F. R. Doc. 38–3636; Filed, December 2, 1938; 11:28 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38–Tobacco 72]

PART 724—REGULATIONS PERTAINING TO BURLEY TOBACCO MARKETING QUOTAS FOR THE 1938–39 MARKETING YEAR

CONTENTS

Sec.
GENERAL
724.31 Definitions.
724.32 Gender and number of terms.
724.33 Instructions and forms.
FARM MARKETING QUOTAS
724.34 Establishment of farm marketing quota.
724.35 Publication, notice, review.
724.36 Rights of producers in quota.
724.37 Successors in interest.
724.38 Marketing card for every quota.
724.39 Marketings charged against quota.
MARKETING OF TOBACCO AND PENALTIES
724.40 A memorandum of sale to be obtained for every marketing.
724.41 When memorandum of resale to be obtained.
724.42 Purpose of memorandum of sale.
724.43 Marketings free of penalty.
724.44 Marketings subject to penalty.
724.45 Amount of penalty.
724.46 Persons to pay penalty, and deduction from purchase price.
724.47 Payment of penalty.
724.48 Refund of penalty.
MARKETING CARDS
724.49 Form of card.
724.50 Person authorized to issue card.
724.51 Entries on card.
724.52 Receipt for card.
724.53 Rights of producers in card.
724.54 Invalid cards.
724.55 Invalid cards suspended.
724.56 Duplicate card to replace card which is lost, stolen, destroyed, or which becomes illegible.
724.57 Amount of quota for duplicate cards.
724.58 Replacement of old cards.
724.59 Apportionment of transfer allotment among cards.
TRANSFER OF QUOTA
724.60 Amount of quota transferable.
724.61 Duties of person authorized to make transfer.
724.62 Direct transfers.
724.63 Transfers through a county office transfer book.
724.64 County office transfer book.
724.65 Consideration for transfer.
724.66 Distribution of consideration.
724.67 Producers' rights in transferred quota.
RECORDS AND REPORTS
724.68 Warehouseman's records and reports.
724.69 Dealer's records and reports.
724.70 Records and reports of cooperatives.
724.71 Records and reports of redryers, etc.
724.72 Separate records and reports from persons engaged in more than one business.
724.73 Failure to keep record or make report.
724.74 Records open to inspection.
724.75 Information confidential.

GENERAL

SECTION 724.31 *Definitions.* As used in these regulations and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject matter otherwise requires.

(a) *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) *Burley tobacco* means tobacco classified in Service and Regulatory Announcement No. 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture as type 31.

(c) *County committee* means the county committee utilized under the Act.

(d) *County office* means the office of the County Agricultural Conservation Association, or the committees and employees of such association, according to the sense in which such term is used.

(e) *Dealer* means a person who engages, to any extent, in the business of acquiring tobacco from producers. No warehouseman shall be considered a dealer because of any purchase of tobacco made by him on his own warehouse floor if the identical tobacco is subsequently resold by him on his own warehouse floor.

(f) *Farm* means the farm for which the marketing quota was established.

(g) *Farm marketing quota* or *quota* means a Burley tobacco marketing quota established for a farm under the Act.

(h) *Field assistant* means a field assistant or a field officer of the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture.

(i) *Marketing* means the first bona fide disposition of tobacco by sale, barter, or exchange. "Market" and "marketed" shall have corresponding meanings to the term "marketing."

(j) *Marketing card* or *card* means a marketing card (Form 38–Tobacco 41) issued for a farm pursuant to these regulations.

(k) *The 1938–39 marketing year* means the period beginning with the first day of October 1938 and ending with the 30th day of September 1939.

(l) *Memorandum of resale* means Form 38–Tobacco 60.

(m) *Memorandum of sale* means Form 38–Tobacco 53 in the case of warehouse sales, and Form 38–Tobacco 54 in the case of nonwarehouse sales.

(n) *Nonwarehouse sale* means a marketing other than a warehouse sale.

(o) *Operator* means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(p) *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

(q) *Pound* means that amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually delivered by a grower, would equal one pound standard weight.

(r) *Producer* means a person who, as owner, landlord, tenant, share-cropper, or laborer, is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of the tobacco.

(s) *Regulations* means these Regulations Pertaining to Burley Tobacco Marketing Quotas for the 1938–39 Marketing Year.

(t) *Resale* means the disposition by sale, barter, or exchange of tobacco which has been marketed.

(u) *Share of tobacco* means that part of the tobacco available for marketing, or of the proceeds of the marketing thereof, which a producer is entitled to receive or retain under his agreement relating to the production of the tobacco. Such share shall be computed without regard to the time of passage of title under State law, and without deduction on account of any claim of any creditor.

(v) *Tobacco* means Burley tobacco.

(w) *Tobacco available for marketing from a farm* means all tobacco produced on the farm which was not marketed (or otherwise disposed of) prior to the beginning of the 1938–39 marketing year, but shall not include any such tobacco which was destroyed before its marketing.

(x) *Tobacco Section* means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

(y) *Warehouse* means a building or other place at which sales of tobacco at public auction are regularly held by a warehouseman during the tobacco marketing season.

(z) *Warehouseman* means a person regularly engaged in the business of holding sales of tobacco at public auction at a warehouse during the tobacco marketing season.

(aa) *Warehouse sale* means a marketing by sale at public auction on a warehouse floor and in the regular course of business.

SEC. 724.32 *Gender and number of terms.* Any term used in the masculine gender or in the singular number shall also be construed or applied in the feminine or neuter gender, and in the plural number, wherever the context or application of such term so requires.

SEC. 724.33 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued such instructions and such forms as may be deemed necessary or expedient for carrying out these regulations.

FARM MARKETING QUOTAS

SEC. 724.34 *Establishment of farm marketing quota.* The quota for a farm shall be determined and established in accordance with Sec. 724.11 – 724.21 ("Procedure for the Determination of Burley Tobacco Farm Marketing Quotas for 1938" (Form 38–Tobacco 29) issued by the Secretary of Agriculture[1]). (Sec. 313, 52 Stat. 47, 586)

SEC. 724.35 *Publication, notice, review.* The publication, notice, and review of quotas as established shall be in accordance with Part 711 ("Regulations Governing (A) Applications and Hearings under Section 363 of Title III of the Agricultural Adjustment Act of 1938 Relating to Administrative Review of Marketing Quotas for Tobacco, Corn, Wheat, Cotton and Rice Established under said Title, and (B) the Publication and Notice of such Quotas under Section 362 of said Act" (designated 38–AAA–2), issued by the Secretary of Agriculture[2]).

SEC. 724.36 *Rights of producers in quota.* Each producer having a share in the tobacco available for marketing from the farm shall be entitled to market, or to have marketed for him, under the quota, his share of such tobacco; provided that, if the quota is less than the total amount of such tobacco, each producer shall be entitled to market, or to have marketed for him, under the quota, only that proportion of his share of such tobacco which the quota is of the total quantity of such tobacco. (Sec. 375, 52 Stat. 66)

SEC. 724.37 *Successors in interest.* Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to the extent of such succession, have the same rights as the producer in the quota. (Sec. 375, 52 Stat. 66)

SEC. 724.38 *Marketing card for every quota.* There shall be issued for each farm to which a quota is allotted a marketing card (Form 38–Tobacco 41) as

[1] 3 F. R. 2557 DI.
[2] 3 F. R. 1749 DI.

evidence of the number of pounds allotted to the farm as its quota; provided that the quota may be divided among such number of cards as the operator may request. Marketing cards shall be issued as provided in Sec. 724.49–724.59 of these regulations. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

SEC. 724.39 *Marketings charged against quota.* Marketings of tobacco shall be charged against the quota for the farm on which such tobacco was produced in the order in which the memoranda of sale (Forms 38–Tobacco 53 or 54) covering such marketings are issued; provided that, a marketing shall not be charged against the quota to the extent that (as shown by the memorandum of sale or a Form 38–Tobacco 25) such marketing consists of tobacco (1) marketed subject to penalty, (2) marketed solely for nicotine or other by-product uses, or (3) grown for experimental purposes only by a publicly owned experiment station. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66)

MARKETING OF TOBACCO AND PENALTIES

SEC. 724.40. *A memorandum of sale to be obtained for every marketing.* Whenever any tobacco is marketed (whether the marketing is within the quota or not) the marketing card for the farm on which such tobacco was produced, together with the warehouse bill or other record of the marketing, shall be presented to the field assistant who is located most conveniently to the place of marketing for the purpose of obtaining a memorandum of sale (Form 38–Tobacco 53 in the case of warehouse sales, and Form 38–Tobacco 54 in the case of nonwarehouse sales) covering the tobacco marketed. A memorandum of sale shall then be issued by the field assistant; provided that, in the case of a nonwarehouse sale which is subject to penalty, the memorandum shall not be issued unless the certificate on Form 38–Tobacco 54 as to the facts of the marketing is signed by the dealer and the producer (or by the producer alone if the marketing is made directly to a person outside the United States). (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

SEC. 724.41. *When memorandum of resale to be obtained.* Whenever any tobacco is resold through a warehouse, the warehouse bill covering such resale shall be presented to the field assistant at the warehouse, and, upon representation by the warehouseman that the tobacco covered by the warehouse bill was tobacco the marketing of which was previously covered by a memorandum of sale, the field assistant shall issue a memorandum of resale covering such tobacco. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

SEC. 724.42. *Purpose of memorandum of sale.* A memorandum of sale shall identify the tobacco covered by the memorandum as tobacco the marketing of which is subject to penalty, or tobacco the marketing of which is free of penalty, as the memorandum, on its face, may show, and if the marketing is subject to penalty, shall state the amount of the penalty upon the marketing.

It shall be the responsibility of the person liable for the payment of the penalty upon a marketing to check carefully the entries on the memorandum of sale issued to cover the marketing and the records upon which such memorandum is based. Any errors should be brought immediately to the attention of the field assistant for correction. Failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries. (Sec. 314, 52 Stat. 48; Sec. 375, 52 Stat. 66)

SEC. 724.43 *Marketings free of penalty.* Any marketing of tobacco shall be free of penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that—

(a) such tobacco is marketed within the quota for the farm on which such tobacco was produced, as shown by a valid marketing card presented to obtain the memorandum of sale to cover such marketing; provided that if the producer and the person liable for the payment of the penalty shall designate any tobacco as tobacco marketed subject to penalty, then such tobacco shall be deemed to be marketed in excess of the quota, and the memorandum of sale shall not identify such tobacco as marketed free of penalty; or

(b) such tobacco is marketed solely for nicotine or other by-product uses and is so identified by a certificate made on Form 38–Tobacco 25 by the by-product manufacturer and the producer; or

(c) such tobacco was grown for experimental purposes only by a publicly owned agricultural experiment station and is so identified by a certificate made on Form 38–Tobacco 25 by an authorized representative of the experiment station and the producer. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66)

SEC. 724.44 *Marketings subject to penalty.* (a) Any marketing of tobacco shall be subject to penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that the tobacco marketed cannot, as of the date of the issuance of the memorandum of sale, be identified pursuant to Sec. 724.43 of these regulations as tobacco the marketing of which was free of penalty.

(b) If a memorandum of sale or a memorandum of resale has not been obtained to cover a sale of tobacco through a warehouse, such sale shall be deemed to be a marketing which was subject to penalty.

(c) If a memorandum of sale has not been obtained to cover a nonwarehouse sale, such sale shall be deemed to be a marketing which was subject to penalty. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204; Sec. 375, 52 Stat. 66)

SEC. 724.45 *Amount of penalty.* The penalty upon any marketing of tobacco subject to penalty shall be 50 percent of the market price of such tobacco on the date of marketing, or 3 cents per pound, whichever is higher. The sale price of any tobacco will be considered as evidence of the market price on the date of marketing where verified, in the case of warehouse sales, by a warehouse bill, or in the case of nonwarehouse sales, by the certificate (on Form 38–Tobacco 54) of the dealer and the producer. (Sec. 314, 52 Stat. 48)

SEC. 724.46 *Persons to pay penalty, and deduction from purchase price.* (a) If the tobacco is marketed by the producer through a warehouseman (or cooperative marketing association or other agent who performs services comparable to the services performed by a warehouseman) the penalty shall be paid by the warehouseman (or such other agent), but the warehouseman (or such other agent) may deduct an amount equivalent to the penalty from the purchase price paid to the producer.

(b) If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(c) If the tobacco is marketed by the producer in a manner other than as described in paragraphs (a) and (b) of this section, the penalty shall be paid by the person who acquires the tobacco from the producer; but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale. (Sec. 314, 52 Stat. 48)

SEC. 724.47 *Payment of penalty.* Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.) not later than the end of the calendar week next following the week in which the penalties became due. The remittance shall be accompanied,

(a) in the case of a warehouseman, by his report on Form 38–Tobacco 58, or

(b) in the case of a dealer, by his report on Form 38–Tobacco 59, or

(c) in the case of a producer, by his statement showing the date of sale, the number of pounds sold, the grade, the sale price thereof, and the name of the person outside the United States to whom sold. The remittance may be made by draft, money order, or check, payable to the order of the Treasurer of the United States, but any such draft, money order, or check shall be received subject to payment at par. (Sec. 314, 52 Stat. 48; Sec. 372, 52 Stat. 65, 204)

SEC. 724.48 *Refund of penalty.* Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of any penalty collected from any person pursuant to the Act, the Secretary of Agriculture finds that such penalty was erroneously, illegally, or wrongfully collected, the Secretary of Agriculture shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of such penalty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations prescribed by him. (Sec. 372, 52 Stat. 65, 204)

MARKETING CARDS

SEC. 724.49 *Form of card.* The marketing card (Form 38–Tobacco 41) shall contain the signature in ink of both the person authorized to issue the marketing card and the operator, and a statement of the following information:

(a) the State and county code and serial number of the farm for which the marketing card is issued;

(b) the number of the marketing card;

(c) the name and address of the operator;

(d) the amount of the marketing quota, or, if more than one marketing card is issued for the farm, the number of pounds for which the marketing card is issued, expressed in words on the face of the marketing card and expressed in figures on the inside of the marketing card in column 1 opposite the word "Quota";

(e) the date on which the marketing card is issued; and

(f) if more than one card is issued for any farm, the amount of the farm's transfer allotment apportioned to the card in accordance with Sec. 724.59 of these regulations. (Sec. 373, 52 Stat. 65; Sec. 375, 52 Stat. 66)

SEC. 724.50 *Person authorized to issue card.* The county committee shall designate one of its members or the Secretary of the County Agricultural Conservation Association as the person authorized to issue marketing cards for farms in the county. Only one person shall be designated by the committee for this purpose, and in the absence of a specific designation the Secretary of the County Agricultural Conservation Association shall be deemed to be the person designated. (Sec. 375, 52 Stat. 66)

SEC. 724.51 *Entries on card.* No person other than a field assistant, or a person designated by the Chief of the Tobacco Section or by the county committee, shall make any entry (except for the writing by the operator of his signature) on the marketing card; but every entry on the marketing card should be carefully checked by each interested person, and any error should be immediately reported for correction to a person authorized to make entries on the marketing card. (Sec. 375, 52 Stat. 66)

SEC. 724.52 *Receipt for card.* After the marketing card has been duly prepared, it shall be delivered to the operator upon his receipt therefor. There shall be listed on the operator's receipt (Form 38–Tobacco 40), in the appropriate spaces thereon, the following information:

(a) each marketing card issued for the farm and received by him, and the number of pounds for which each such marketing card was issued; and

(b) the names of all producers having a share in the tobacco available for marketing from the farm.

The receipt shall be retained in the county office and shall be available to any producer having a share in the tobacco available for marketing from the farm, whether the name of such person be listed on the receipt or not, either for inspection or for evidence as to any matter to which the receipt relates. (Sec. 375, 52 Stat. 66)

SEC. 724.53 *Rights of producers in card.* Each producer who has a share in the tobacco available for marketing from the farm shall have the right to market, or to have marketed for him, under the marketing card issued for the farm, the quantity of such tobacco which he is entitled to market, or to have marketed for him, under the quota established for the farm, as provided in Sec. 724.36 of these regulations, or under any quota transferred to the farm as provided in Sec. 724.67 of these regulations. (Sec. 375, 52 Stat. 66)

SEC. 724.54 *Invalid cards.* (a) A marketing card shall be invalid if the marketing card was not issued or delivered in the form and manner required in these regulations, but such invalid marketing card shall become valid when returned to the county office and reissued and delivered in the required form and manner.

(b) A marketing card shall be invalid if the entries on the marketing card with respect to the amount, portion, or balance of quota are incorrect, or if, because of the omission of any entry which should have been made on the marketing card, the balance of unused quota is incorrect; but if, subsequent to the time of invalidation, no transfer from the farm has been made, and no marketings have been made and entered on the marketing card which would have been subjected to penalty if the correct entries had been shown on the marketing card, then such invalid marketing card shall become valid when the error has been corrected by a person authorized to make entries on the marketing card, or, in any other case, when the marketing card has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(c) A marketing card shall be invalid if the marketing card is credited with an amount of quota, any part of which has been transferred in violation of these regulations; but such invalid marketing card shall become valid when the marketing card has been forwarded to the Tobacco Section and the necessary corrections have been made under its direction.

(d) A marketing card shall be invalid if any entry is made on the marketing card by a person not authorized to make such entry; but such invalid marketing card, when returned to the county office, shall be replaced by a new marketing card issued for an amount of quota determined as provided in Sec. 724.57 of these regulations.

(e) A marketing card shall be invalid if it is presented and used to obtain a memorandum of sale covering the marketing of tobacco which was grown on a farm other than the farm for which the marketing card was issued; but such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(f) A marketing card shall be invalid if it is lost or stolen, but if no entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which the marketing card was issued, then such invalid marketing card shall become valid when it has been returned to the operator; or if any entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which it was issued, then such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction; provided that if such lost or stolen marketing card is not found or returned to the operator prior to the issuance of a duplicate marketing card, as provided for in Sec. 724.56 of these regulations, then such lost or stolen marketing card shall be permanently invalid.

(g) A marketing card shall be invalid if it is destroyed or becomes illegible; but a new marketing card shall be issued to replace such destroyed or illegible marketing card, as provided in Sec. 724.56 of these regulations, and such destroyed or illegible marketing card shall be permanently invalid. (Sec. 375, 52 Stat. 66)

SEC. 724.55 *Invalid cards suspended.* If any field assistant or the county office shall learn of or ascertain the invalidity of any marketing card, such person shall immediately notify the Tobacco Section of the code and serial number, and the name and address of the operator of the farm for which the marketing card was issued, and of the facts causing the invalidity of the marketing card, unless the marketing card is then in the possession of such person, in which case he shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 724.54 of these regulations. Upon receipt of such notice, the Tobacco Section shall notify all field assistants, all county offices, and the operator of the farm that the marketing card has been suspended

for invalidity. If any such marketing card shall thereafter come into the possession of any field assistant or county office, such person shall retain and make disposition of the marketing card in accordance with the provisions of Sec. 724.54 of these regulations. (Sec. 375, 52 Stat. 66)

SEC. 724.56 *Duplicate card to replace card which is lost, stolen, destroyed, or which becomes illegible.* Whenever any marketing card is lost, stolen, destroyed, or becomes illegible, the county office shall be notified of the code and serial number, the name of the operator of the farm for which the marketing card was issued, the number of the marketing card, and, if known, the amount of the unused quota evidenced by the marketing card and the amount of quota which had been transferred to the card. Such notice shall be in writing, subscribed by the operator of the farm for which the marketing card was issued. If, in the case of a lost or stolen marketing card, the producer is at or near a warehouse where he believes the loss or theft occurred, he shall also notify the field assistant at the warehouse.

When such notice has been given to the county office and a period of two weeks has elapsed from the time of its receipt of such notice, a duplicate marketing card may be issued by the county office for an amount of quota determined as provided in Sec. 724.57 of these regulations.

Such marketing card shall bear the same number as the number of the marketing card which was lost, stolen, destroyed, or which became illegible, and shall have written under the card number, in large letters, the word "Duplicate." The person issuing the marketing card shall sign the card in the space provided for his signature and shall also sign below the word "Duplicate." (Sec. 375, 52 Stat. 66)

SEC. 724.57 *Amount of quota for duplicate cards.* Whenever the county office issues a marketing card to replace any marketing card which has become invalid, the amount of quota for which such card shall be issued shall equal whichever of the following amounts is the smaller:

(a) the unused quota as stated by the operator; or

(b) the unused quota as determined by subtracting the sum of—

(1) the total marketings within quota,

(2) the amount of quota transferred from the farm, and

(3) the total unused quota shown on all other marketing cards issued for the farm;

from the sum of—

(1) the quota established for the farm, and

(2) the amount of quota transferred to the farm; provided that, if no amount is stated by the operator, as provided under paragraph (a) of this section, the amount for which the card shall be issued shall be the amount determined under paragraph (b) of this section. (Sec. 375, 52 Stat. 66)

SEC. 724.58 *Replacement of old cards.* Whenever the space for recording marketings on any card becomes inadequate, such marketing card shall be surrendered to the county office and a new marketing card shall be issued for the amount of unused quota remaining on the marketing card so surrendered. The new card shall bear the same number as the number of the surrendered card, and such number shall be preceded by the letter "R". An appropriate entry shall be made on the surrendered marketing card showing that a new card has been so issued. (Sec. 375, 52 Stat. 66)

SEC. 724.59 *Apportionment of transfer allotment among cards.* Every marketing card issued shall bear a statement of the amount of the transfer allotment (determined in accordance with paragraph (b) of Sec. 724.60 of these regulations) which has been apportioned to the card; except that where only one card is issued for the farm such card shall bear no such statement. This statement shall be written on the face of the card and below the words "Marketing Card (1938–39 Burley tobacco)", and shall be in the following words, or an appropriate abbreviation thereof: "Maximum Increase by Transfer", followed by the amount apportioned to the card, or "No Increase by Transfer" if no apportionment is made to the card, as the case may be.

The apportionment of the transfer allotment among cards shall be made in accordance with the following rules:

(a) If only one card is issued for the entire quota, no entry will be made, and the entire transfer allotment shall be deemed to be apportioned to the card;

(b) If the quota established for the farm is divided among two or more cards, the apportionment shall be made in accordance with the request of the operator; or, if the operator makes no request with respect to the apportionment, there shall be apportioned to each card that portion of the transfer allotment which the amount of quota for which the card is issued is of the quota established for the farm;

(c) If, after the issuance of the marketing card or cards for a farm, the quota for the farm is increased, the amount of transfer allotment which shall be apportioned to the card issued on account of such increase in the farm quota shall be the amount by which the transfer allotment is increased by the increase of the farm marketing quota.

(d) If an old card is replaced pursuant to Sec. 724.58, or if a duplicate card is issued pursuant to Sec. 724.56, the amount apportioned to the new card shall be the amount apportioned to the original card less the amount already transferred on account of such apportionment; provided that, if the amount apportioned to the original card cannot be determined from the county office records, the statement of the amount apportioned to the new card shall be "No Increase by Transfer", unless the operator of the farm shall present all other cards for the farm, and in that case the amount apportioned to the old card shall be deemed to be the amount by which the transfer allotment is greater than the total amount of the apportionments to such other cards. (Sec. 313, 52 Stat. 47, 586)

TRANSFER OF QUOTA

SEC. 724.60 *Amount of quota transferable*—(a) *From a farm.* Quota may be transferred from a farm only to the extent and in the event that such quota exceeds the sum of: (1) the number of pounds of tobacco available for marketing from the farm which have not been marketed (or otherwise disposed of) at the time of the proposed transfer, (2) the number of pounds of tobacco marketed from the farm solely for nicotine or other by-product uses, and (3) the number of pounds of tobacco marketed from the farm which were grown for experimental purposes only by a publicly owned agricultural experiment station.

(b) *To a farm.* The amount of quota which may be transferred to a farm shall be the larger of: (1) 10 percent of the quota established for the farm, or (2) 500 pounds; and such larger amount shall be the farm's transfer allotment. (Sec. 313, 52 Stat. 47, 586)

SEC. 724.61 *Duties of person authorized to make transfer.* Transfers may be made by a field assistant, or by a person authorized by the county committee to make transfers, and shall be made either directly between farms or through the county office transfer book. Any authorized person who makes a transfer of quota shall

(a) satisfy himself that the authorization for transfer has been duly executed by the operator of the farm from which the transfer is to be made; and that the requested transfer is proper (i. e., that the amount of quota to be transferred from the one farm is available for transfer in accordance with these regulations, and that the transfer to the other farm will not exceed the amount of the unused transfer allotment apportioned to the card on which the transfer is to be entered);

(b) record the transfer by making the appropriate entries on the respective cards, in case of direct transfers, or on the cards and in the county office transfer book, in case of transfers through a county office transfer book;

(c) when the appropriate entries have been made, execute the certificate on the authorization for transfer;

(d) after making a transfer to a farm through the county office transfer book, make a record of the transfer on Form 38–Tobacco 65. (Sec. 313, 52 Stat. 47, 586)

SEC. 724.62 *Direct transfers.* If the transfer is to be made directly from one farm to another, the marketing cards for the respective farms, together with the authorization (Form 38–Tobacco 64) of the operator of the farm from which the transfer is to be made, shall be presented, for appropriate entries, to a field assistant or person in the county office authorized to make transfers. (Sec. 313, 52 Stat. 47, 586)

SEC. 724.63 *Transfers through a county office transfer book*—(a) *From a farm.* If the operator of the farm desires to arrange for a transfer of quota from his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for this farm, together with his authorization (Form 38–Tobacco 64), to a person in the county office (for the county in which the farm is located) authorized to make transfers. (Sec. 313, 52 Stat. 47, 586)

(b) *To a farm.* If a producer desires to arrange a transfer of quota to his farm through the county office transfer book, he shall present, for the appropriate entries, the marketing card for his farm, together with a deposit of the amount required to pay for the transfer (in the form of cash or a cashier's check, certified check, or money order payable to the County Agricultural Conservation Association) to a person in the county office authorized to make transfers.

(c) *Order of transfer*—(1) *To farms.* Transfers of quota to farms through the county office transfer book shall be made in the order in which requests for transfers, together with the marketing cards upon which such transfers are to be entered and the deposits to pay for such transfers, are received in the county office by a person authorized to make transfers.

(2) *From farms.* Transfers of quota from farms through the county office transfer book shall be made in the order in which authorizations for such transfers (Form 38–Tobacco 64) are received in the county office by a person authorized to make transfers.

(d) *Expense of transfer.* The county committee may adopt a schedule of charges (not exceeding 10 cents per 100 pounds, or major portion thereof, of quota transferred, or $1.00 for any one request) to cover the expense of making transfers of quota through the county office transfer book. Such schedule of charges, when approved by the State committee, shall be applied uniformly to all transfers through the county office transfer book, and shall be collected from the person requesting a transfer to his farm. The amount of any charge so collected shall be paid over to the Treasurer of the County Agricultural Conservation Association. (Sec. 313, 52 Stat. 47, 586)

SEC. 724.64 *County office transfer book.* The county committee shall designate and authorize one person to make transfers in the county office, and in the absence of a specific designation, the person authorized to make transfers shall be the Secretary of the County Agricultural Conservation Association. The county committee may also designate an alternate person who, in the absence of the person authorized to make transfers in the county office, shall be authorized to make such transfers. The person so authorized shall be responsible for keeping the county office transfer book in which he shall record, with respect to each transfer, the following information:

(a) The code and serial number, and the name of the operator, of the farm from which quota is made available for transfer, the number of pounds, and the date on which made available, and the amount paid to the operator for the transfer.

(b) The code and serial number, and the name of the operator, of the farm to which a transfer is requested, the date of the request, the deposit or payment received and the number of pounds transferred. (Sec. 313, 52 Stat. 47, 586)

SEC. 724.65 *Consideration for transfer.* (a) If a transfer is made directly between farms, the consideration for the transfer shall be whatever consideration is agreed upon by the operators of the respective farms; provided that no such transfer shall be made for a consideration which is less than 5 cents per pound for each pound of quota transferred, unless all the producers on the farm from which the quota is to be transferred have consented thereto.

(b) If the transfer is made through a county office transfer book, the consideration for the transfer shall be 5 cents per pound for each pound of quota transferred. (Sec. 313, 52 Stat. 47, 586)

SEC. 724.66 *Distribution of consideration.* The consideration received by the operator for the transfer of any portion of the quota for the farm shall be divided among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm; except as follows:

(a) If the amount of tobacco produced on the farm in 1938 was materially affected because of drought, flood, hail, or other adverse weather conditions, or plant-bed or other diseases; such consideration shall be divided among the producers on the farm in proportion to what their shares would have been in the amount of tobacco which, except for such abnormal conditions of production, would have been available for marketing from the farm; such amount to be determined by multiplying the planted acreage, or the acreage which would have been planted except for such abnormal conditions, by the farm yield established for the farm pursuant to the Burley Tobacco Quota Procedure.

(b) If there is a loss of tobacco by fire, theft, or other accidental cause, the consideration shall be divided among the producers on the farm in proportion to their shares in the tobacco which, except for such loss, would have been available for marketing from the farm.

(c) If the consideration is received for quota which was not allotted to the farm but was acquired by transfer, the consideration shall be divided among the producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer.

(d) If all the producers on the farm agree among themselves upon a division of the consideration, the consideration shall be divided among the producers in accordance with such agreement. (Sec. 313, 52 Stat. 47, 586)

SEC. 724.67 *Producers' rights in transferred quota.* Each producer having a share in the tobacco available for marketing from the farm which has not been marketed at the time of the transfer, shall be entitled to market, or to have marketed for him, under the transferred quota, that proportion of his share of such tobacco which his contribution to the consideration for such transfer is of the total consideration for the transfer; provided that all producers on the farm shall be given an opportunity to contribute to such consideration in proportion to their shares in the tobacco available for marketing from the farm. (Sec. 313, 52 Stat. 47, 586)

RECORDS AND REPORTS

SEC. 724.68 *Warehouseman's records and reports*—(a) *Record of marketing.* Every warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made at his warehouse: The name of the seller, the name of the purchaser, the date of sale, the number of pounds sold, the sale price, and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco sold was produced, the amount of any penalty, and the amount of any deduction on account of penalty from the price paid the producer.

(b) *Reports.* Every warehouseman shall report, on Form 38–Tobacco 58 and on Form 38–Tobacco 61, those transactions which such forms require to be reported. A report shall be made for each day on which any such transaction is made on his warehouse, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week next following the week in which occurred the day for which the report is made. The reports on Form 38–Tobacco 58 shall be accompanied by the warehouseman's remittance of penalties as provided in Sec. 724.47 of these regulations.

Every warehouseman shall also make, under oath and on Form 38–Tobacco 62, a monthly report of those transactions made on his warehouse which are required to be shown on such form. This report shall be made for each month during which any such transaction is

made on his warehouse, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than 10 days after the end of the calendar month for which the report is made.

Every warehouseman shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65)

SEC. 724.69 *Dealer's records and reports*—(a) *Records.* Every dealer shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each purchase (or other acquisition) of tobacco and each sale (or other disposition) of tobacco made by him: The date when and the place where made, the number of pounds of tobacco involved, the price (or other consideration) paid or received, the name and address of the person from whom acquired or to whom the disposition was made (or if acquired or disposed of by sale at auction on a warehouse floor, the name of such warehouse), and in case the tobacco is acquired from a producer, the name of the operator of the farm on which the tobacco marketed was produced, the amount of any penalty, and the amount of any deduction on account of penalty from the price paid the producer.

(b) *Reports.* Every dealer shall report, on Form 38–Tobacco 59, those transactions which such form requires to be reported. A report shall be made for each day on which the dealer acquires any tobacco from a producer other than at warehouse sale, and shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week next following the week in which occurred the day for which the report is made. The reports on Form 38–Tobacco 59 shall be accompanied by the dealer's remittance of penalties as provided in Sec. 724.47 of these regulations.

Every dealer shall also make, under oath and on Form 38–Tobacco 63, a monthly report of all purchases and sales of tobacco made by him during the month for which the report is made. This report shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than 10 days after the end of the calendar month for which the report is made.

Every dealer shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65)

SEC. 724.70 *Records and reports of cooperatives.* Every cooperative marketing association which acquires title to any tobacco shall keep the records and make the reports required of dealers by these regulations. Every cooperative marketing association which acts as the agent of the producer in marketing tobacco shall keep the records and make the reports required of warehousemen by these regulations. (Sec. 373, 52 Stat. 65)

SEC. 724.71 *Records and reports of redryers, etc.* Every person engaged in the business of redrying, prizing, or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, the name and address of the person from whom the tobacco was received (and, if received from a producer, the name and address of the operator, and the code and serial number of the farm on which the tobacco was grown), the amount of advance made by him on the tobacco, and the disposition of the tobacco.

Every such person shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request. (Sec. 373, 52 Stat. 65)

SEC. 724.72 *Separate records and reports from persons engaged in more than one business.* Any person who is required to keep any record or make any report as warehouseman, dealer, processor, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, and who engages in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent for each such business as if he were engaged in no other business. (Sec. 373, 52 Stat. 65)

SEC. 724.73 *Failure to keep record or make report.* Any warehouseman, processor, or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or persons engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under Sec. 724.68–724.72 of these regulations, or who makes any false report or record, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than $500. (Sec. 373, 52 Stat. 65)

SEC. 724.74 *Records open to inspection.* For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary of Agriculture is authorized by the Act to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of any warehouseman, dealer, processor, common carrier, or person engaged in the business of redrying, prizing, or stemming tobacco for producers. (Sec. 373, 52 Stat. 65)

SEC. 724.75 *Information confidential.* All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of these regulations shall be kept confidential by all officers and employees of the Department of Agriculture, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act. (Sec. 373, 52 Stat. 65)

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938) as amended, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the foregoing regulations pertaining to Burley tobacco marketing quotas for the 1938–39 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 1st day of December, 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38–3625; Filed, December 1, 1938; 3:54 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

AMENDMENT NO. 1 OF CIVIL AIR REGULATIONS AS ADOPTED BY THE AUTHORITY AND ISSUED PURSUANT TO REGULATION 601–A–1, PROMULGATED AUGUST 20, 1938, AMENDING AIRCRAFT WEIGHT AND ENGINE CLASSIFICATION FOR PILOT RATING

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 30th day of November 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends Regulation 601–A–1,[1] Safety Rules, and the Civil Air Regulations adopted thereunder, as follows:

(1) By striking the number "1,500" appearing after the word "than" in subparagraph (a), and the number "1,500" following the word "between" in subparagraphs (b) and (c) of said sub-paragraphs of section 20.55 of Part 20, and of section 21.35 of Part 21 of the Civil Air Regulations, and inserting in lieu thereof in each of said sub-paragraphs the number "1,300", so that said sub-paragraphs shall read as follows:

"(a) Class 1.—Gross weight not more than 1,300 pounds.

[1] 3 F. R. 2051 DI.

"(b) Class 2S.—Gross weight between 1,300 and 4,000 pounds, single-engine.

"(c) Class 2M.—Gross weight between 1,300 and 4,000 pounds, multi-engine."

For the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38–3630; Filed, December 2, 1938; 10:24 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49754]

CUSTOMS REGULATIONS AMENDED—MAIL IMPORTATIONS, ARMS, IMPLEMENTS OF WAR, AND OTHER NON-EXPLOSIVE MUNITIONS OF WAR—FIREARMS

ARTICLE 394 (A), CUSTOMS REGULATIONS OF 1937 (PAR. 23 (A), JOINT DEPARTMENTAL MAIL REGULATIONS) RELATIVE TO THE IMPORTATION OF FIREARMS, ETC., THROUGH THE MAILS, AMENDED, AND AMPLIFIED TO INCLUDE THOSE ARTICLES DESIGNATED ARMS, IMPLEMENTS OF WAR, AND OTHER NON-EXPLOSIVE MUNITIONS OF WAR BY THE PRESIDENT IN HIS PROCLAMATION OF MAY 1, 1937, AND FIREARMS AS THAT TERM IS DEFINED IN THE NATIONAL FIREARMS ACT, AS AMENDED

NOVEMBER 29, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to authority contained in section 161, Revised Statutes (U. S. C., title 5, sec. 22), section 1 of the Act of February 8, 1927 (U. S. C., title 18, sec. 361), section 217 of the Act of March 4, 1909, as amended (U. S. C., title 18, sec. 340); and section 624 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1624), article 394 (a) of the Customs Regulations of 1937[1] (par. 23 (a), Joint Departmental Mail Regulations) is hereby amended by deleting the second and third sentences and substituting therefor the following:

The importation by mail of explosives of all kinds, intoxicating liquors, opium, morphine, cocaine, and other narcotics is prohibited. The importation of firearms capable of being concealed on the person, except under the conditions set forth in section 607 of the Postal Laws and Regulations of 1932, or any subsequent revision thereof or amendment thereto, is likewise prohibited (U. S. C., title 18, sec. 361). Mail shipments of admissible arms, implements of war, and other non-explosive munitions of war designated in the President's proclamation of May 1, 1937,[2] issued by authority of section 5 of the Joint Resolution of Congress approved May 1, 1937 (U. S. C., Sup. III, title 22, sec. 245b (k)), or any revision or amendment thereof, shall be detained by customs until an import license from the Secretary of State has been submitted. Likewise, firearms, as that term is defined in the National Firearms Act (U. S. C., title 26, sec. 1132), as amended, shall be detained by customs until an import permit from the Commissioner of Internal Revenue has been submitted by the addressee. If the import license and the import permit are found to be in proper form the mail parcel shall be endorsed by customs showing that it is entitled to entry, and released to the postmaster for delivery or dispatch to destination in the mails subject to any duties that may accrue and to other customs requirements applicable thereto.

The following marginal references should be added to those appearing opposite article 394 (a) of the Customs Regulations of 1937: U. S. C., title 18, sec. 340; U. S. C., title 18, sec. 361; U. S. C., Sup. III, title 22, sec. 245b (d) and (k); U. S. C., title 26, sec. 1132, et seq.; and U. S. C., Sup. III, title 26, sec. 1132.

AMBROSE O'CONNELL,
Acting Postmaster General.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38–3633; Filed, December 2, 1938; 10:41 a. m.]

[1] 2 F. R. 1532 (1818 DI).
[2] 2 F. R. 778 (923 DI).

[T. D. 49755]

CUSTOMS REGULATIONS AMENDED—SEALED MAIL ARTICLES

ARTICLES 371 (C) AND 372 (D), CUSTOMS REGULATIONS OF 1937, AMENDED TO PROVIDE THAT SEALED MAIL ARTICLES CONTAINING MERCHANDISE LIABLE TO DUTY ARE SUBJECT TO SEIZURE AND FORFEITURE WHEN NOT LABELED OR INDORSED TO INDICATE THAT THEY MAY BE OPENED FOR CUSTOMS PURPOSES, AND TO MITIGATE SUCH FORFEITURES AS MAY BE SO INCURRED, UNDER CERTAIN CONDITIONS

NOVEMBER 25, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in Article 46 of the Universal Postal Convention of March 20, 1934 (49 Stat. pt. 2, 2766), section 251 of the Revised Statutes (U. S. C. title 19, sec. 66), and section 618 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1618), articles 371 (c) and 372 (d) of the Customs Regulations of 1937[1] are hereby amended as follows:

Article 371 (c) (J. R. 11c) is amended by deleting the last three sentences and substituting therefor the following:

If the articles shall be found to contain merchandise unconditionally free of duty and free of internal-revenue tax, or the aggregate value of the merchandise is not more than $1 and it is free of internal-revenue tax, it may be delivered to the addressee. If the articles shall be found to contain merchandise subject to duty (including conditionally free merchandise) with an aggregate value exceeding $1, or subject to internal-revenue tax irrespective of its value, such merchandise shall be subject to seizure and forfeiture as having been imported contrary to law. Under the authority contained in section 618 of the Tariff Act of 1930, any forfeiture so incurred is hereby mitigated to an amount equal to 10 percent of the duty (actual or potential) provided there is no evidence indicating to the collector that failure to label or indorse the package was due to wilful negligence or to an intent to defraud the revenue. If there is any such evidence, or for any other reason the collector believes that it would not be in the interest of the United States to grant this relief, the matter will be reported to the Bureau for instructions. The mail entry (customs Form 3419 or 3420) shall be used for the entry of shipments not exceeding $100 in value in unendorsed articles, and the duty and mitigated forfeiture shall be entered as separate items thereon. If the addressee fails to respond to the postmaster's notice within 30 days, or the article remains undelivered after 30 days, such article shall be treated as undeliverable mail matter, to be disposed of in accordance with the postal regulations, except as provided in J. R. 19 (a) to 19 (c) and 20 (a) to 20 (c). (See also art. 372 (d) (J. R. 12d) as to shipments subject to formal entry.) [*Cotzhausen* v. *Nazro*, 107 U. S. 215; 18 Op. Atty. Gen. 457; 33 Op. Atty. Gen. 276.]

Article 372 (d) (J. R. 12d) is amended to read as follows:

(d) (J. R. 12d.) Sealed articles not endorsed or labeled as required by J. R. 8a, which are found after opening in accordance with J. R. 11c to contain merchandise valued at more than $100, shall be subjected to formal entry in accordance with J. R. 12a and 12b. In such cases, the customs officers preparing the notice to the addressee to make formal entry (customs Form 3509) shall note thereon that the shipment is subject to such duty and mitigated forfeiture as may be applicable thereto in accordance with the provisions in article 371 (c) (J. R. 11c), and that such amounts (except the duty, if entered conditionally free) must be deposited prior to the release of the merchandise. The collector of customs at the place where formal entry is made shall record the transaction on customs Form 5211 and schedule the penalty when collected on customs Form 5161–B. The duty shall be accounted for as such in the regular manner.

[SEAL] STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

S. W. PURDUM,
Acting Postmaster General.

[F. R. Doc. 38–3637; Filed, December 2, 1938; 11:53 a. m.]

[1] 2 F. R. 1528 (1814 DI).

TITLE 43—PUBLIC LANDS

OFFICE OF THE SECRETARY OF INTERIOR, GRAZING DIVISION

UTAH GRAZING DISTRICT NO. 6

MODIFICATION

NOVEMBER 15, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of June 22, 1935, establishing Utah Grazing District No. 6, is hereby revoked as far as it affects the following described lands, such revocation to be effective upon the inclusion of the lands within the Arches National Monument:

UTAH

Salt Lake Meridian

T. 23 S., R. 20 E.,
sec. 12, S½,
sec. 13, all,
sec. 22, E½,
sec. 23, all,
sec. 24, N½,
T. 23 S., R. 21 E.,
sec. 7, S½,
secs. 16 to 18 inclusive,
sec. 19, N½,
sec. 20, N½ and SE¼,
secs. 21 and 22,
secs. 26 to 28 inclusive,
secs. 34 and 35,
T. 24 S., R. 21 E.,
sec. 1, all,
sec. 2, N½,
sec. 3, N½,
secs. 12 and 13,
secs. 23 to 27 and 33 to 35, inclusive,
sec. 36, N½ (all unsurveyed),
T. 25 S., R. 21 E.,
secs. 3 to 5 and 8 to 10 inclusive,
secs. 15 to 17 inclusive,
sec. 22, all,
and all those parts of secs. 20, 21, 27 and 28 north of State Highway No. 450,
T. 24 S., R. 22 E.,
sec. 4, W½,
secs. 5 to 8 inclusive,
sec. 9, W½,
secs. 17 to 20, inclusive,
secs. 29 and 30,
sec. 31, N½,
sec. 32, N½.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 38-3629; Filed, December 2, 1938; 10:03 a. m.]

TITLE 45—PUBLIC WELFARE

CIVILIAN CONSERVATION CORPS

PART 3—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH, AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS [1]

Sections 3.09 and 3.12a [2] are amended to read as follows:

SEC. 3.09 *Allowances.* The allowance or pay of enrollees has been fixed at the following rates per month:

For enrollees	$30
For assistant leaders	36
For leaders	45

[1] 3 F. R. 1759, 1849, 2065, 2763 DI.
[2] 3 F. R. 1760 DI.

Allowances accrue from the date the enrollee subscribes to the oath of enrollment. Settlement of allowances due will be made at the end of each calendar month except in the case of an enrollee who is accused of an offense which may involve a dishonorable discharge and on discharge.

An enrollee who has been arrested and confined by civil authorities but subsequently acquitted or released without conviction is entitled to all pay and allowance accruing during such period. If found guilty of civil offense, no pay or allowance will accrue for the period during which he has been absent.

Any enrollee who willfully absents himself from duty for a period in excess of 24 hours or who becomes incapacitated for full duty as a result of his own misconduct during the period of his current enrollment will lose all allowances due for such absence or period of incapacitation. The company commander will make final decision in cases arising under this subparagraph. (50 Stat. 319) [C.C.C. Regs., W.D., Dec. 1, 1937; C 13, Sept. 28, 1938.]

SEC. 3.12a *Claims for amounts due deceased or insane enrollees.* Company commanders will furnish claimants with Standard Form No. 1055 (Application for Payment of Amounts Due Deceased or Incompetent Civilian Employees, Officers and Enlisted Men in the Military Service, and Public Creditors of the United States) and assist such claimants in the preparation of this form in connection with claims for amounts due deceased enrollees. Claims for amounts due deceased enrollees as stated on Standard Form No. 1055 will be forwarded directly to the General Accounting Office, Claims Division. If an enrollee is not mentally competent to sign commercial papers and no guardian has legally been appointed, Standard Form No. 1055 will be forwarded directly to the General Accounting Office, Claims Division. If an enrollee is mentally competent to sign commercial papers, or if a guardian has legally been appointed, no Standard Form No. 1055 is required. (50 Stat. 319) [C.C.C. Regs., W.D., Dec. 1, 1937; C 16, Nov. 3, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3624; Filed, December 1, 1938; 3:13 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF ANNUAL REPORTS FROM LESSORS TO STEAM RAILWAY COMPANIES

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of November, A. D. 1938.

The subject of the requirement of annual reports from lessors to steam railway companies being under consideration:

It is ordered:

1. That the order of this Commission dated October 23, 1937,[1] In the Matter of Annual Reports from Lessors to Steam Railway Companies is hereby annulled.

2. That all lessors to steam railway companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form E (Lessor Companies), which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3638; Filed, December 2, 1938; 12:44 p. m.]

ORDER IN THE MATTER OF ANNUAL REPORTS FROM CARRIERS BY PIPE LINE

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of November, A. D. 1938.

The subject of the requirement of annual reports from carriers by pipe line being under consideration:

It is ordered:

1. That the order of this Commission dated October 16, 1937,[1] In the Matter of Annual Reports from Carriers by Pipe Line, is hereby annulled.

2. That all carriers by pipe line subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form P (Carriers by Pipe Line), which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3639; Filed, December 2, 1938; 12:44 p. m.]

[1] 2 F. R. 2483 (2885 DI).
[2] Filed as a part of the original document with the Division of the Federal Register. The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.
[2] 2 F. R. 2482 (2885 DI).

Notices

DEPARTMENT OF STATE.

TRADE AGREEMENT NEGOTIATIONS WITH CUBA

PUBLIC NOTICE

NOVEMBER 30, 1938.

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930", as extended by Public Resolution No. 10, approved March 1, 1937, and to Executive Order No. 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of Cuba, to supplement and amend the trade agreement with that Government signed at Washington, August 24, 1934.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date [1] issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

SUMNER WELLES,
Acting Secretary of State.

NOVEMBER 30, 1938.

[F. R. Doc. 38-3634; Filed, December 2, 1938; 11:01 a. m.]

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Docket No. 362-FD]

ORDER IN THE MATTER OF THE APPLICATION OF SOUTHERN ILLINOIS COALS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

At a special session of the National Bituminous Coal Commission held at its office in Chicago, Illinois, on the 29th day of November, 1938.

It appearing that the above-named applicant, Southern Illinois Coals, Incorporated, a Delaware corporation authorized to engage in business in the State of Illinois, filed its application for provisional approval as a marketing agency on the 7th day of July, 1938, pursuant to Order No. 6 of the Commission,[2] and the matter being assigned to Trial Examiner William A. Cuff, and proper notice having been given, the same came on for hearing before the said Examiner on the 29th day of August, 1938,[3] and at said hearing the applicant having duly appeared and representatives of the Legal Division of the Commission and of the Consumers' Counsel having entered their respective appearances therein, the evidence was adduced; and

It further appearing that the Trial Examiner having received said evidence did, on the 31st day of October, 1938, file, with the Commission, his report and proposed findings of fact, together with his recommendations that said application be granted, and it appearing that true copies of said report and proposed findings of fact of the Examiner were duly served upon all parties appearing at said hearing, on the 4th day of November, 1938, and more than fifteen days having elapsed since the service of said report, no exceptions having been filed thereto; and

The Commission having considered the application, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof finds that the "Findings of Fact" as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937 the National Bituminous Coal Commission hereby orders:

That the application of the Southern Illinois Coals, Incorporated, for provisional approval as a marketing agency be and the same is hereby granted and the said Southern Illinois Coals, Incorporated, be and the same is hereby considered to be a marketing agency and provisionally approved as such within the purview of Section 12 of the Bituminous Coal Act of 1937 until further order of the Commission.

By order of the Commission.
Dated this 29th day of November, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3626; Filed, December 2, 1938; 9:54 a. m.]

ORDER IN THE MATTER OF THE APPLICATIONS FOR EXEMPTION UNDER THE SECOND PARAGRAPH OF SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937

Sumpter Coal Company, Pella, Iowa (Docket No. 365-FD), Confidence Hi-Test Coal Company, Promise City, Iowa (Docket No. 369-FD), Yocum & Son Coal Company, Melrose, Iowa (Docket No. 370-FD), Duer & Head Coal Company, Melrose, Iowa (Docket No. 371-FD), Crozier Coal Company, Promise City, Iowa (Docket No. 372-FD), Loren I. Hegwood, Dallas, Iowa (Docket No. 373-FD), H. W. Sargent Coal Company, Oscaloosa, Iowa (Docket No. 374-FD), Quality Coal Mine, Given, Iowa (Docket No. 375-FD), Agan & Gillespie Coal Company, Columbia, Iowa (Docket No. 376-FD); Ault Coal Company, Eldon, Iowa (Docket No. 379-FD), Villont Coal Company, Bussey, Iowa (Docket No. 380-FD), Erin Coal Company, Ottumwa, Iowa (Docket No. 381-FD), Flagler Coal Company, Rt. 3, Knoxville, Iowa (Docket No. 384-FD), Midwest Coal Company, Des Moines, Iowa (Docket No. 385-FD), Indian Hollow Coal Company, Des Moines, Iowa (Docket No. 389-FD), Houghton Coal Company, Attica, Iowa (Docket No. 390-FD), Conner & Smith Coal Company, Columbia, Iowa (Docket No. 391-FD), Big Six Coal Company, Hamilton, Iowa (Docket No. 393-FD), Ramsey-Dooms Coal Company, Knoxville, Iowa (Docket No. 394-FD), Vancenbrock Coal Company, Knoxville, Iowa (Docket No. 399-FD), Wallace Coal Company, Marysville, Iowa (Docket No. 403-FD), Liberty Coal Company, Marysville, Iowa (Docket No. 404-FD), Hunt Coal & Mining Company, Hamilton, Iowa (Docket No. 405-FD), Lae-Z Coal Company, Hamilton, Iowa (Docket No. 406-FD), Levey Coal Company, Carlisle, Iowa (Docket No. 407-FD), Arkoal Coal Company, Marysville, Iowa (Docket No. 408-FD), Mulgrew & Sons, Dubuque, Iowa (Docket No. 410-FD), Hawkeye Coal Company, Des Moines, Iowa (Docket No. 487-ID)

At a special session of the National Bituminous Coal Commission held in its offices in Chicago, Ill., on the 29th day of November, 1938.

It appearing that the above-named applicants having heretofore filed with the Commission their respective applications for exemption from the provisions of Section 4 and the first paragraph of Section 4-A of the Bituminous Coal Act of 1937; and

It further appearing that the above-named applicants have filed with the Commission their respective withdrawals, without prejudice, of their applications for exemption;

Now therefore, it is hereby ordered:

1. That the withdrawals of said applications for exemption from the provisions of Section 4, and the first paragraph of Section 4-A, filed by the above-named applicants, be and the same hereby are granted without prejudice to the rights of any of the above-named applicants to file at any future time an application for exemption pursuant to the provisions of Section 4-A, and without such withdrawals constituting a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application; and

2. That the said applications for exemption are hereby deemed to be withdrawn.

3. The Secretary of the Commission is directed forthwith to mail a copy of this Order to each of the applicants above-named or to their attorneys of record, to the Consumers' Counsel, to the Secretary of each District Board, to the Commissioner of Internal Revenue, and shall

[1] See page 2858.
[2] 2 F. R. 1079 (1287 DI).
[3] 3 F. R. 1956 DI.

cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 29th day of November, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-3627; Filed, December 2, 1938; 9:54 a. m.]

[Docket No. 504-FD]

ORDER IN THE MATTER OF THE APPLICATION OF KENTUCKY COAL AGENCY, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

At a special session of the National Bituminous Coal Commission held at its office in Chicago, Illinois, on the 29th day of November, 1938.

It appearing that the above-named applicant, Kentucky Coal Agency, Incorporated, a Kentucky corporation authorized to engage in business in the State of Kentucky, filed its application for provisional approval as a marketing agency on the 23rd day of September, 1938, pursuant to Order No. 6 of the Commission,[1] and the matter being assigned to Trial Examiner William A. Shipman, and proper notice having been given, the same came on for hearing before the said Examiner on the 7th day of October, 1938,[2] and at said hearing the applicant having duly appeared and representatives of the Legal Division of the Commission and of the Consumers' Counsel having entered their respective appearances therein, the evidence was adduced; and

It further appearing that the Trial Examiner having received said evidence, did, on the 31st day of October, 1938, file, with the Commission, his report and proposed findings of fact, together with his recommendations that said application be granted, and it appearing that true copies of said report and proposed findings of fact of the Examiner were duly served upon all parties appearing at said hearing, on the 4th day of November, 1938, and more than 15 days having elapsed since the service of said report, no exceptions having been filed thereto; and

The Commission having considered the application, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof finds that the "Findings of Fact" as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937 the National Bituminous Coal Commission hereby orders:

That the application of the Kentucky Coal Agency, Incorporated, for provisional approval as a marketing agency be and the same is hereby granted and the said Kentucky Coal Agency, Incorporated, be and the same is hereby considered to be a marketing agency and provisionally approved as such within the purview of Section 12 of the Bituminous Coal Act of 1937 until further order of the Commission.

By order of the Commission.

Dated this 29th day of November, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-3628; Filed, December 2, 1938; 9:55 a. m.]

COMMITTEE FOR RECIPROCITY INFORMATION.

TRADE AGREEMENT NEGOTIATIONS WITH CUBA

PUBLIC NOTICE

Closing Date for Submission of Briefs: December 24, 1938; Closing Date for Application To Be Heard: December 24, 1938; Public Hearings Open: January 3, 1939

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of Cuba, notice of intention to negotiate which has been issued by the Acting Secretary of State on this date,[1] shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, December 24, 1938. Such communications should be addressed to "Chairman, Committee for Reciprocity Information, Old Land Office Building, Eighth and E Streets, N. W., Washington, D. C."

A public hearing will be held beginning at 10 a. m. on January 3, 1939, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Old Land Office Building, where supplemental oral statements will be heard.

Six copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 30th day of November.

JOHN P. GREGG, *Secretary.*

NOVEMBER 30, 1938.

LIST OF PRODUCTS ACCOMPANYING NOTICE OF INTENTION TO NEGOTIATE A SUPPLEMENTAL TRADE AGREEMENT WITH CUBA

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930. Only the articles covered by the descriptive phraseology of the list will come under consideration for the granting or modification of concessions by the United States.

In the event that articles which are at present regarded as classifiable under the descriptions included in the above list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles.

United States Tariff Act of 1930—paragraph	Description of article	Present minimum preferential reduction[2] to Cuba	Present rate of duty (applicable to Cuban products)
501	Sugars, tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses, testing by the polariscope not above 75 sugar degrees, and all mixtures containing sugar and water, testing by the polariscope above 50 sugar degrees and not above 75 sugar degrees.	20%	$0.006165 per lb.[1]
	And for each additional degree shown by the polariscopic test	20%	$0.000135 per lb. additional, and fractions of a degree in proportion.[1]
601	Wrapper tobacco, and filler tobacco when mixed or packed with more than 35 per centum of wrapper tobacco:		
	If unstemmed	20%	$1.20 per lb.
	If stemmed	20%	$1.72 per lb.
601	Filler tobacco, not specially provided for:		
	If unstemmed	20%	$0.28 per lb.
	If stemmed	20%	$0.40 per lb.
603	Scrap tobacco	20%	$0.28 per lb.
605	Cigars, cigarettes, cheroots of all kinds and paper cigars and cigarettes, including wrappers.	20%	$3.60 per lb. and 20% ad val.[2]
771	White or Irish potatoes, when imported and entered for consumption during the period from December 1 to the last day of the following February, inclusive, in any years.	50%	$0.30 per 100 lbs.
802	Rum, in containers holding each one gallon or less	20%	$2.00 per proof gallon.

[1] 96° sugar 0.9 cent per pound.

[2] Effective Jan. 1, 1939, the rate on cigarettes from Cuba will be $1.80 per lb. and 10% ad val., by reason of a duty reduction in the trade agreement with the United Kingdom and the provisions of Article III of the existing agreement with Cuba.

[F. R. Doc. 38-3635; Filed, December 2, 1938; 11:13 a. m.]

[1] See page 2857.

[1] 2 F. R. 1079 (1287 DI).

[2] 3 F. R. 2350 DI.

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of November, A. D., 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3559]

IN THE MATTER OF HARRY FROMAN, INDIVIDUALLY AND TRADING AS SUPREME SALES COMPANY AND RELIABLE PREMIUM HOUSE

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, December 15, 1938, at ten-thirty o'clock in the forenoon of that day (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3631; Filed, December 2, 1938; 10:28 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of November, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3577]

IN THE MATTER OF MAX BERGMAN, INDIVIDUALLY AND TRADING AS INTERSTATE PREMIUM NOVELTY COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Randolph Preston, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, December 16, 1938, at ten-thirty o'clock in the forenoon of that day, (eastern standard time) in Room 500, 45 Broadway, New York, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3632; Filed, December 2, 1938; 10:28 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of December, A. D. 1938.

[File No. 32-123]

IN THE MATTER OF COLUMBUS AND SOUTHERN OHIO ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 20, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 14th, 1938.

The matter concerned herewith is in regard to the issue and sale by applicant to John Hancock Mutual Life Insurance Company and to The Equitable Life Assurance Society of the United States of $2,000,000 in principal amount of First Mortgage and Collateral Trust Bonds, 3¼% Series due 1968, to be dated December 1, 1938 and to mature December 1, 1968. Said bonds are to be issued under a Third Supplemental Indenture which will be supplemental to a Mortgage and Deed of Trust dated November 1, 1935, executed by applicant under its former name as The Columbus Railway, Power and Light Company, of which Mortgage and Deed of Trust The Chase National Bank of the City of New York is Trustee.

The amount of bonds to be taken by each of said purchasers, the price to be paid, and other terms of the sale are yet to be agreed upon and will be supplied by amendment. Applicant states that it proposes to pay Dillon, Read & Co. one-half of one per cent of the face amount of the bonds for its services in negotiating the sale of the bonds.

Applicant states that the proceeds from such sale are to be used to pay certain notes payable in the principal sum of $500,000 and the balance to reimburse in part its treasury for moneys expended therefrom; the proceeds of such notes and the moneys so expended from the treasury having been applied by applicant to the construction of additional electrical generating facilities and substations and the extension and improvement of its transmission lines.

Applicant states that it has filed with the Public Utilities Commission of Ohio an Application and Statement requesting that commission's approval of the issue and sale of said bonds.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3641; Filed, December 2, 1938; 12:54 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of December, A. D. 1938.

[File No. 43-170]

IN THE MATTER OF PENNSYLVANIA POWER COMPANY, THE COMMONWEALTH & SOUTHERN CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications and a declaration pursuant to sections 6 (b), 7, and 10, of the

Public Utility Holding Company Act of | Practice to continue or postpone said | be sold publicly. The applicant and de-

Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on December 19, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 14, 1938.

The matter concerned herewith is in regard to the issuance and sale by the applicant and declarant, Pennsylvania Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, of 42,000 shares of $5 preferred stock, no par value, and 10,000 shares of common stock, no par value. The common stock is to be sold to the applicant's and declarant's parent, The Commonwealth & Southern Corporation. The preferred stock is to be sold publicly. The applicant and declarant, Pennsylvania Power Company, is also to issue a Demand Note, 1½%, in the principal amount of $3,000,000. Proceeds from the Note, together with a sufficient additional amount of treasury funds, will be used by the applicant and declarant for the redemption of 10,027 shares of its $6.60 preferred stock and 23,555 shares of its $6 preferred stock at $105 per share, plus accrued dividends to date of redemption.

The Commonwealth & Southern Corporation has filed an application pursuant to Section 10 of the Act for the acquisition of the aforementioned 10,000 shares of common stock for a consideration of $300,000.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3640; Filed, December 2, 1938; 12:54 p. m.]

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 236

Washington, Tuesday, December 6, 1938

The President

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 6672 OF APRIL 7, 1934, WITHDRAWING PUBLIC LANDS

WYOMING

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 6672 of April 7, 1934, withdrawing public lands in Wyoming pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the lands involved.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 2, 1938.

[No. 8017]

[F. R. Doc. 38-3647; Filed, December 3, 1938; 11:32 a. m.]

EXECUTIVE ORDER

AMENDMENT OF EXECUTIVE ORDER NO. 7972 OF SEPTEMBER 15, 1938

By virtue of and pursuant to the authority vested in me by the act of March 26, 1934, c. 87, 48 Stat. 466, as amended, section 3 of Executive Order No. 7972 of September 15, 1938,[1] prescribing regulations for payment of losses sustained by officers, enlisted men, and employees of the United States in foreign countries on account of appreciation of foreign currencies in their relation to the American dollar, is hereby amended by adding thereto a new paragraph (h), to read as follows:

"(h) The computation of currency-appreciation losses by disbursing officers of the Navy and Marine Corps (except naval attaches) will be determined by the disbursing officer's average cost rate, and this provision shall be retroactive to April 1, 1934, as to all credits of losses calculated on the basis of conversion made prior to the effective date of this order: *Provided*, That hereafter no loss shall be payable if on the date the payment accrues the value of the foreign currency has depreciated to or below the basic rate applicable to that country."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 2, 1938.

[No. 8018]

[F. R. Doc. 38-3648; Filed, December 3, 1938; 11:33 a. m.]

[1] 3 F. R. 2249 DI.

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND IN AID OF FLOOD CONTROL

ALASKA

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, and subject to the conditions therein expressed, it is ordered that all public lands in the following-described areas in Alaska be, and they are hereby, temporarily withdrawn from settlement, location, sale, or entry, for flood-control purposes in connection with the Tanana River and Chena Slough flood-control project under the supervision of the War Department as authorized by the act of June 28, 1938, 52 Stat. 1215:

FAIRBANKS MERIDIAN

T. 2 S., R. 2 E.,
secs. 22 to 27, inclusive, 35 and 36,
T. 3 S., R. 2 E.,
those parts of secs. 1, 2 and 12 east of Tanana River,
T. 2 S., R. 3 E.,
secs. 19 and 28 to 34, inclusive (unsurveyed),
T. 3 S., R. 3 E.,
all east of Tanana River (partly unsurveyed),
T. 4 S., R. 3 E.,
secs. 1, 12 and 13,
T. 3 S., R. 4 E.,
secs. 6, 7, 18, 19, 30 and 31 (unsurveyed),
T. 4 S., R. 4 E.,
secs. 6, 7, 18 and 19,
containing approximately 24,503.53 acres.

CONTENTS

THE PRESIDENT

Executive Orders: Page
Alaska, land withdrawal in aid of flood control 2861
Losses by officers, etc., of United States on account of foreign currency appreciation; regulations amended 2861
Wyoming, revocation of land withdrawal 2861

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Farm Credit Administration:
Production Credit Associations, eligibility of salaried officers and employees 2862
TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Burley tobacco:
Apportionment and adjustment of national marketing quota, 1938–39 2863
Determination of farm marketing quota for 1938 2863
Fire-cured and dark air-cured tobacco farm marketing quotas for 1938, procedure for determination supplemented 2862
TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Social Security Act, additional credit against tax where contributions to State are at reduced rate 2863
TITLE 31—MONEY AND FINANCE: TREASURY:
Public Debt Service:
Offering of:
2% Treasury Bonds of 1947 2866
2¾% Treasury Bonds of 1960–65 2865
1⅛% Treasury Notes of Series B–1943 2867

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
War Department: Page
Three Mile Creek, Mobile, Ala., opening of drawbridge of Southern Railway System ... 2867
TITLE 37—PATENTS AND COPYRIGHTS:
Copyright Office:
Registration of claims to copyright; Rule 39 amended ... 2868
TITLE 43—PUBLIC LANDS:
Bureau of Reclamation:
Owyhee Irrigation Project, Oregon-Idaho, Succor Creek Division, lands opened to entry; availability of water ... 2868
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Explosives, etc., transportation of ... 2871
Uniform system of accounts to be kept by:
Electric railways ... 2871
Steam roads ... 2871

NOTICES

Civil Aeronautics Authority:
Pennsylvania - Central Airlines Corp., hearing on application for permanent certificate of public convenience and necessity ... 2873
Department of Agriculture:
Agricultural Adjustment Administration:
Florida, hearing on handling of oranges, grapefruit, and tangerines grown in ... 2872

CONTENTS—Continued

Department of Agriculture—Con.
Agricultural Adjustment Administration—Con. Page
Lowell-Lawrence, Mass., Marketing Area, reopening of hearing on handling of milk ... 2872
Omaha-Council Bluffs Marketing Area, hearing on handling of milk ... 2871
Federal Power Commission:
Otter Tail Power Co., notice of application ... 2873
Securities and Exchange Commission:
Associated Gas and Electric Co., filing of statement ... 2873
Central Maine Power Co., postponement of hearing ... 2875
Exemptions granted:
Great Northern Gas Co., Ltd. ... 2874
Southern Utilities Co., Ltd. ... 2873
Notice of and orders for hearings:
American Gas & Electric Service Corp. ... 2874
Badger Paper Mills, Inc. ... 2875
United States Civil Service Commission:
Apportionment at close of business, Wednesday, November 30, 1938 ... 2875

This order shall continue in force until revoked by the President or by an act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 2, 1938.

[No. 8020]

[F. R. Doc. 38-3646; Filed, December 3, 1938; 11:32 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 106]

ELIGIBILITY OF SALARIED OFFICERS AND SALARIED EMPLOYEES OF PRODUCTION CREDIT ASSOCIATIONS

DECEMBER 5, 1938.

SEC. 50.102 (d) of Title 6, Code of Federal Regulations, is amended by adding the following paragraph:

"(8) Except with the prior approval of the Governor, no individual shall be eligible to become or be a salaried officer or salaried employee if during his term of office or employment he also is or becomes a candidate for, or is or becomes the holder of any elective or appointive public office that is remunerative. (Sec. 20, 48 Stat. 259; 12 U. S. C. 1131d.) (Rules and Regulations for Production Credit Associations, as amended by Revision No. 12, December 5, 1938.)"

S. M. GARWOOD,
Production Credit Commissioner.

[F. R. Doc. 38-3660; Filed, December 5, 1938; 10:58 a. m.]

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Form 38-Tobacco-38, Supp. 1]

SUPPLEMENT TO PROCEDURE FOR THE DETERMINATION OF FIRE-CURED AND DARK AIR-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

Form 38-Tobacco-38, "Procedure for the Determination of Fire-Cured and Dark Air-Cured Tobacco Farm Marketing Quotas for 1938",[1] is amended as follows:

Paragraph (b) of section 1, part I, is amended to read as follows:

"(b) Base 1938 production means the number of pounds obtained by multiplying the farm yield by 200 percent of the 1938 tobacco acreage."

Item (ii) of paragraph (b) of section 3, part II is amended to read as follows:

"(ii) the amount of decrease shall not exceed the smaller of (A) 25 percent of the normal past marketings, or (B) the amount by which the normal past marketings exceeds the smallest of the three-year average, 2,400 pounds, or 63.75 percent of the base 1938 production; and"

Paragraph (c) of section 5, part II, is amended to read as follows:

"(c) A minimum allotment will be made to every old farm in the State for which there would be obtained, by taking the percentage determined pursuant to (b) above of the normal marketings for the farm, a number of pounds equal to or less than the smallest of (i) 2400 pounds, or (ii) the farm's three-year average, or (iii) 63.75 percent of the farm's base 1938 production. The minimum allotment for any such farm will be the smallest of (i) 2400 pounds or (ii) the farm's three-year average, or (iii) 63.75 percent of the farm's base 1938 production, and such allotment, unless increased pursuant to subsection (h) shall constitute the farm marketing quota."

Paragraph (g) of section 5, part II, is amended to read as follows:

"(g) There will be computed for each old farm in the State the difference by which the amount allotted pursuant to the foregoing subsections is less than the smaller of (i) 80 percent of the farm's three-year average, or (ii) 63.75 percent of the base 1938 production. The total of all such differences for all old farms in the State will be reduced to an amount equal to 2 percent of the State marketing quota. This reduction will be made by reducing the difference for each farm by the percentage which 2 percent of the State marketing quota is of the total of the differences for all farms. The amount of the farm's difference as so reduced will be added to the farm's allotment and the sum thereof will be the amount of the farm marketing quota unless further increased pursuant to subsection (h) below.

Done at Washington, D. C. this 3d day of December 1938. Witness the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-3654; Filed, December 3, 1938; 12:42 p. m.]

[1] 3 F. R. 2646 DI.

DETERMINATION OF THE APPORTIONMENT AND ADJUSTMENT OF THE NATIONAL MARKETING QUOTA FOR BURLEY TOBACCO FOR THE 1938-39 MARKETING YEAR

Pursuant to Section 313 of the Agricultural Adjustment Act of 1938 (approved February 16, 1938), as amended, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the national marketing quota for Burley tobacco for the 1938-39 marketing year, as proclaimed by the Secretary of Agriculture on March 28, 1938,[1] be apportioned and adjusted in accordance with the following table:

States and new farms (i. e., farms on which tobacco is produced for the first time in 5 years) (1)	Apportionment of national marketing quota proclaimed March 28, 1938 (2)	Adjustment pursuant to section 313 (f), 2% increase, all States (3)	Totals as apportioned and adjusted (4)
	1,000 pounds	*1,000 pounds*	*1,000 pounds*
Ohio	11,484	229.7	11,713.7
Indiana	8,857	177.1	9,034.1
Missouri	5,207	104.1	5,311.1
Kansas	332	6.6	338.6
Virginia	12,032	240.7	12,272.7
West Virginia	2,812	56.2	2,868.2
North Carolina	8,095	161.9	8,256.9
Kentucky	235,969	4,719.4	240,688.4
Tennessee	57,134	1,142.7	58,276.7
South Carolina	13	.3	13.3
Georgia	35	.7	35.7
Alabama	111	2.2	113.2
Arkansas	26	.5	26.5
Oklahoma	5	.1	5.1
Illinois	13	.3	13.3
New Farms	7,875	0	7,875.0
United States	350,000	6,842.5	356,842.5

Done at Washington, D. C., this 3d day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3664; Filed, December 5, 1938; 12:23 p. m.]

[1] 3 F. R. 769 DI.

[Form 38—Tobacco—29, Supp. 1]

SUPPLEMENT TO PROCEDURE FOR THE DETERMINATION OF BURLEY TOBACCO FARM MARKETING QUOTAS FOR 1938

Form 38—Tobacco—29, "Procedure for the Determination of Burley Tobacco Farm Marketing Quotas for 1938,"[1] is amended as follows:

Paragraph (g) of section 5, part II, is amended to read as follows:

"(g) There will be computed for each old farm in the State the difference by which the amount allotted pursuant to the foregoing subsections is less than the smaller of (i) the farm's three-year average, or (ii) 85 percent of the base 1938 production. The total of all such differences for all old farms in the State will be reduced to an amount equal to 2 percent of the State marketing quota. This reduction will be made by reducing the difference for each farm by the percentage which 2 percent of the State marketing quota is of the total of the differences for all farms. The amount of the farm's difference as so reduced will be added to the farm's allotment and the sum thereof will be the amount of the farm marketing quota unless further increased pursuant to subsection (h) below."

Done at Washington, D. C., this 3d day of December, 1938. Witness the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38-3665; Filed, December 5, 1938; 12:23 p. m.]

[1] 3 F. R. 2557 DI.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4876]

REGULATIONS UNDER SECTION 909, TITLE IX, OF THE SOCIAL SECURITY ACT, RELATING TO ALLOWANCE OF ADDITIONAL CREDIT AGAINST TAX UNDER THAT TITLE WHERE CONTRIBUTIONS TO STATE ARE AT REDUCED RATE

REGULATIONS 90 AMENDED

To Collectors of Internal Revenue and Others Concerned:

Regulations 90, approved February 17, 1936, as amended, relating to the excise tax on employers under Title IX of the Social Security Act, are further amended (1) by eliminating article 212 and (2) by inserting immediately after article 211 the following:

SECTION 909 OF THE ACT

SEC. 909. (a) In addition to the credit allowed under section 902, a taxpayer may, subject to the conditions imposed by section 910, credit against the tax imposed by section 901 for any taxable year after the taxable year 1937, an amount, with respect to each State law, equal to the amount, if any, by which the contributions, with respect to employment in such taxable year, actually paid by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever of the following is the lesser—

(1) The amount of contributions which he would have been required to pay under such law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law; or

(2) Two and seven-tenths per centum of the wages payable by him with respect to employment with respect to which contributions for such year were required under such law.

(b) If the amount of the contributions actually so paid by the taxpayer is less than the amount which he should have paid under the State law, the additional credit under subsection (a) shall be reduced proportionately.

(c) The total credits allowed to a taxpayer under this title shall not exceed 90 per centum of the tax against which such credits are taken.

SECTION 910 OF THE ACT

SEC. 910. (a) A taxpayer shall be allowed the additional credit under section 909, with respect to his contribution rate under a State law being lower, for any taxable year, than that of another employer subject to such law, only if the Board finds that under such law—

(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than three years of compensation experience;

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ per centum of the total wages payable by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such account amounts to not less than 7½ per centum of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

(b) Such additional credit shall be reduced, if any contributions under such law are made by such taxpayer at a lower rate under conditions not fulfilling the requirements of subsection (a), by the amount bearing the same ratio to such additional credit as the amount of contributions made at such lower rate bears to the total of his contributions paid for such year under such law.

(c) As used in this section—

(1) The term "reserve account" means a separate account in an unemployment fund, with respect to an employer or group of employers, from which compensation is payable only with respect to the unemployment of individuals who were in the employ of such employer, or of one of the employers comprising the group.

(2) The term "pooled fund" means an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible individuals, except that to individuals last employed by em-

ployers with respect to whom reserve accounts are maintained by the State agency, it is payable only when such accounts are exhausted.

(3) The term "guaranteed employment account" means a separate account, in an unemployment fund, of contributions paid by an employer (or group of employers) who

(A) guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within twelve or less consecutive calendar weeks), and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties,

from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

(4) The term "year of compensation experience", as applied to an employer, means any calendar year throughout which compensation was payable with respect to any individual in his employ who became unemployed and was eligible for compensation.

ART. 212. *Additional credit against tax.*—(a) *General.* In addition to the credit against tax allowable under section 902 for contributions actually paid (see article 211), the taxpayer may be entitled to a further credit under section 909. This further or *additional* credit is allowable to the taxpayer with respect to the amount of contributions which he is relieved from paying to a State. Generally, an additional credit is available to an employer if, by reason of having stabilized the employment of his employees in any State, or for some other reason, he is granted a "merit rate" under the unemployment compensation law of the State and is therefore permitted to pay contributions to such State for the calendar year, or portion thereof, at a lower rate than the highest rate applicable under such law for the corresponding period. For the purposes of this article and article 213, the phrase "the highest rate applicable means the highest rate provided by or under the State law even though such rate is not actually applied to any employer. The computation of the additional credit and the limitations upon its allowance are set forth in the remaining paragraphs of this article.

(b) *Amount of the additional credit allowable with respect to a State law*—(1) *Method of computation.* In ascertaining the additional credit for a taxable year with respect to a particular State law, the taxpayer must first compute the following three amounts:

(A) The amount of contributions which the taxpayer would have been required to pay under the State law for the calendar year (whether or not such contributions are with respect to employment as defined in section 907 (c)) if, for each period for which contributions under such law were payable, he had been subjected to the highest rate applicable under such law for such period.

(B) 2.7 percent of the wages payable by the taxpayer with respect to *employment* (as defined in section 907 (c)), with respect to which contributions for such year were required under such law.

(C) The amount of contributions the taxpaper actually paid to such State, before the date the Federal return on Form 940 for such year is required to be filed, with respect to *employment* (as defined in section 907 (c)) in such calendar year.

The amount computed under (C) should then be subtracted from the amount arrived at under (A) or (B), whichever is the lesser, and the result will be the additional credit for the taxable year with respect to the law of that State. (For the amount of such additional credit allowable if State contributions are not paid in full, see (2) below. For the amount of such additional credit allowable if part of the contributions are paid at a lower rate under conditions not fulfilling the requirements of section 910 (a), see (3) below.)

Example.—A employs individuals in State X only, where contributions were payable monthly. For each month throughout the calendar year the highest rate applicable under the law of State X for such year was 3 percent of the wages payable. However, under the law of such State, A had obtained a merit rate of 1 percent and paid the entire amount of each month's contributions at that rate before the date on which his Federal return on Form 940 was required to be filed for the calendar year. The amount of wages payable by A for the year with respect to employment was $25,000 and the rate of Federal tax was 3 percent. A's additional credit under section 909 for the year is $425, computed as follows:

Total wages payable	$25,000
State contributions at 3 percent (highest rate)	750
2.7 percent of wages payable (with respect to employment)	675
Less:	
State contributions (with respect to employment) actually paid at merit rate of 1 percent	250
Additional credit to A	425

Since the lesser amount in this example is 2.7 percent of the wages payable with respect to employment, it is from this amount that the State contributions actually paid at the merit rate ($250) are deducted to ascertain the additional credit ($425). Thus A is entitled to credit under section 902 of $250 for contributions paid to the State and an additional credit under section 909 of $425, or a total credit of $675 against the Federal Tax (such amount not being more than 90 percent of the Federal tax of $750).

(2) *Reduction if State contributions are not paid in full.* If before the date the Federal return on Form 940 for a calendar year is required to be filed, a taxpayer pays a State less than the total amount of contributions required of him under such State law with respect to employment (as defined in section 907 (c)) in such calendar year, the additional credit computed as provided in (1) above shall be reduced by an amount equal to the portion of such contributions not actually paid before the date upon which such return is required to be filed. (See section 909 (b).) The additional credit as so reduced shall be the amount of the additional credit allowable for the taxable year with respect to the law of that State. (But see (3) below if part of the contributions are paid at a lower rate under conditions not fulfilling the requirements of section 910 (a).)

Example.—B employs individuals in State Y only, where contributions were payable monthly, the amount of wages payable for the year being $25,000. For each month throughout the calendar year the highest rate applicable under the law of State Y for such year was 3.6 percent of the wages payable. Under the law of such State, B had obtained a merit rate of nine-tenths of one percent. His total required State contributions is, therefore, $225. However, before the date on which the Federal return on Form 940 was required to be filed, B actually paid State Y only one half, or $112.50, of the contributions with respect to employment at the merit rate. B's additional credit allowable under section 909 for the year is $450, computed as follows:

Total wages payable	$25,000.00
State contributions at 3.6 percent (highest rate)	900.00
2.7 percent of wages payable (with respect to employment)	675.00
Less:	
State contributions (with respect to employment) actually paid at merit rate of .9 percent	112.50
Additional credit computed as provided in article 212 (b) (1)	562.50
Less:	
Amount of State contributions (with respect to employment) not actually paid before date Federal return required to be filed	112.50
Additional credit allowable to B	450.00

(3) *Where contributions are paid in part under conditions not fulfilling the requirements of section 910 (a).* If a taxpayer claims an additional credit in accordance with the provisions of section 909 by reason of contributions paid to the State for a calendar year at a reduced rate under conditions *not* fulfilling the requirements of section 910 (a) of the Act as well as by reason of contributions paid to such State at a reduced rate under conditions fulfilling the requirements of section 910 (a), such additional credit shall be reduced by the amount bearing the same ratio to such additional credit as the amount of the taxpayer's contributions made at the reduced rate under conditions not fulfilling the requirements of such section bears to the total of his contributions paid for such year under such law.

(c) *Amount of additional credit allowable where contributions are paid under more than one State law.* If the taxpayer makes contributions at a reduced rate to more than one State in any one calendar year, the additional credit allowable with respect to each State law shall be computed separately (in accordance with (b) above), and the total additional credit allowable against the tax shall be the aggregate of the additional credits allowable with respect to each State law.

(d) *Limitations on the allowance of the additional credit.* The allowance of the additional credit under section 909 is subject to the following limitations—

(1) In no case is a taxpayer entitled to an additional credit unless under the State law he is permitted to pay contributions for a calendar year or portion thereof at a rate which is lower than the highest rate applicable under such State law for the corresponding period. If the State law does not make provision for such a lower rate no *additional* credit is available to the taxpayer and he can take only the credit allowable under section 902 for contributions actually paid. (See article 211.)

(2) No additional credit shall be allowed with respect to calendar years prior to the calendar year 1938.

(3) The aggregate of such additional credit and the credit under section 902 (see article 211) shall not exceed 90 percent of the tax against which credit is taken.

(4) No additional credit may be taken with respect to contributions under a State law for any calendar year unless the Social Security Board has found that a lower rate with respect to such contributions is permitted in conformance with the conditions specified in section 910 (a) of the Act.

ART. 213. *Proof of credit*—(a) *Credit under section 902.* Credit against the tax for contributions paid into State unemployment funds shall not be allowed unless there is submitted to the Commissioner:

(1) A certificate of the proper officer of each State (the laws of which required the contributions to be paid) showing, for the taxpayer—

(A) The total amount of required contributions with respect to employment during the calendar year (exclusive of penalties and interest) actually paid *before* the date the Federal return is required to be filed; and

(B) The amounts and dates of payment of required contributions with respect to employment during the calendar year (exclusive of penalties and interest) actually paid *on or after* the date the Federal return is required to be filed.

(2) An affidavit by the taxpayer that no part of any payment made by him into a State unemployment fund, which is claimed as a credit against the tax, was deducted or is to be deducted from the wages of individuals in his employ.

(3) Such other or additional proof as the Commissioner may deem necessary to establish the right to the credit provided for under section 902.

(b) *Additional credit under section 909.* Additional credit under section 909 of the Act shall not be allowed unless there is submitted to the Commissioner, in addition to the proof required by paragraph (a) above:

(1) A certificate of the proper officer of each State (with respect to the laws of which the additional credit is claimed) showing, for the taxpayer who pays contributions to such State at a rate which is lower than the highest rate applicable under the law of such State—

(A) The total remuneration, with respect to which contributions were required to be paid by the taxpayer under the State law, for each period during the calendar year for which contributions are payable;

(B) The highest rate of contributions applicable under the law of the State for each period for which contributions are payable during the calendar year; and

(C) The rate applied to the taxpayer for each period for which contributions are payable during the calendar year.

(2) Such other or additional proof as the Commissioner may deem necessary to establish the right to the additional credit provided for under section 909.

This Treasury Decision is prescribed under the authority contained in section 908 of the Social Security Act.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, November 30, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3652; Filed, December 3, 1938; 12:07 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

PUBLIC DEBT SERVICE

[1938—Department Circular No. 598]

UNITED STATES OF AMERICA 2¾ PERCENT TREASURY BONDS OF 1960–65

DECEMBER 5, 1938.

I. OFFERING OF BONDS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for 2¾ percent bonds of the United States, designated Treasury Bonds of 1960–65. The amount of the offering is $400,000,000, or thereabouts, with the right reserved to the Secretary of the Treasury to increase the offering by an amount sufficient to accept all subscriptions for which Treasury Notes of Series C–1939, maturing March 15, 1939, are tendered in payment and accepted.

II. DESCRIPTION OF BONDS

1. The bonds will be dated December 15, 1938, and will bear interest from that date at the rate of 2¾ percent per annum, payable semiannually on June 15 and December 15 in each year until the principal amount becomes payable. They will mature December 15, 1965, but may be redeemed at the option of the United States on and after December 15, 1960, in whole or in part, at par and accrued interest, on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The bonds shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, or gift taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of bonds authorized by the Second Liberty Bond Act, approved September 24, 1917, as amended, the principal of which does not exceed in the aggregate $5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in clause (b) above.

3. The bonds will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege and will not be entitled to any privilege of conversion.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $50, $100, $500, $1,000, $5,000, $10,000 and $100,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. SUBSCRIPTION AND ALLOTMENT

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may

submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Cash subscriptions from banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Cash subscriptions from all others must be accompanied by payment of 10 percent of the amount of bonds applied for. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, subscriptions in payment of which Treasury Notes of Series C–1939 are tendered will be allotted in full. Allotment notices will be sent out promptly upon allotment, and the basis of the allotment will be publicly announced.

IV. PAYMENT

1. Payment at par and accrued interest, if any, for bonds allotted on cash subscriptions must be made or completed on or before December 15, 1938, or on later allotment. In every case where payment is not so completed, the payment with application up to 10 percent of the amount of bonds applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit for bonds allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve bank of its district. Treasury Notes of Series C–1939, maturing March 15, 1939, with coupon dated March 15, 1939, attached, will be accepted at par in payment for any bonds subscribed for and allotted, and should accompany the subscription. Accrued interest from September 15, 1938, to December 15, 1938, on the maturing notes ($3.770718 per $1,000) will be paid following acceptance of the notes.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38–3666; Filed, December 5, 1938; 12:37 p. m.]

[1938—Department Circular No. 599]

UNITED STATES OF AMERICA 2 PERCENT TREASURY BONDS OF 1947

DECEMBER 5, 1938.

I. OFFERING OF BONDS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par, from the people of the United States for 2 percent bonds of the United States, designated Treasury Bonds of 1947, in payment of which only Treasury Notes of Series C–1939, maturing March 15, 1939, may be tendered. The amount of the offering under this circular will be limited to the amount of Treasury Notes of Series C–1939 tendered and accepted.

II. DESCRIPTION OF BONDS

1. The bonds will be dated December 15, 1938, and will bear interest from that date at the rate of 2 percent per annum, payable semiannually on June 15 and December 15 in each year until the principal amount becomes payable. They will mature December 15, 1947, and will not be subject to call for redemption prior to maturity.

2. The bonds shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, or gift taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of bonds authorized by the Second Liberty Bond Act, approved September 24, 1917, as amended, the principal of which does not exceed in the aggregate $5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in clause (b) above.

3. The bonds will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege and will not be entitled to any privilege of conversion.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $50, $100, $500, $1,000, $5,000, $10,000 and $100,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. SUBSCRIPTION AND ALLOTMENT

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of bonds applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. PAYMENT

1. Payment at par for bonds allotted hereunder must be made or completed on or before December 15, 1938, or on later allotment, and may be made only in Treasury Notes of Series C–1939, maturing March 15, 1939, which will be accepted at par, and should accompany the subscription. Coupons dated March 15, 1939, must be attached to the notes when surrendered, and accrued interest from September 15, 1938, to December 15, 1938, ($3.770718 per $1,000), will be paid following acceptance of the notes.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38–3667; Filed, December 5, 1938; 12:37 p. m.]

[1938—Department Circular No. 600]

UNITED STATES OF AMERICA 1⅛ PERCENT TREASURY NOTES OF SERIES B–1943

DECEMBER 5, 1938.

I. OFFERING OF NOTES

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for 1⅛ percent notes of the United States, designated Treasury Notes of Series B–1943. The amount of the offering is $300,000,000, or thereabouts, with the right reserved to the Secretary of the Treasury to increase the offering by an amount sufficient to accept all subscriptions for which Treasury Notes of Series C–1939, maturing March 15, 1939, are tendered in payment and accepted.

II. DESCRIPTION OF NOTES

1. The notes will be dated December 15, 1938, and will bear interest from that date at the rate of 1⅛ percent per annum, payable semiannually on June 15 and December 15 in each year until the principal amount becomes payable. They will mature December 15, 1943, and will not be subject to call for redemption prior to maturity.

2. The notes shall be exempt, both as to principal and interest, from all taxation (except estate or inheritance taxes, or gift taxes) now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be accepted at par during such time and under such rules and regulations as shall be prescribed or approved by the Secretary of the Treasury in payment of income and profits taxes payable at the maturity of the notes.

4. The notes will be acceptable to secure deposits of public moneys, but will not bear the circulation privilege.

5. Bearer notes with interest coupons attached will be issued in denominations of $100, $500, $1,000, $5,000, $10,000 and $100,000. The notes will not be issued in registered form.

III. SUBSCRIPTION AND ALLOTMENT

1. Subscriptions will be received at the Federal Reserve banks and branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve banks and the Treasury Department are authorized to act as official agencies. Others than banking institutions will not be permitted to enter subscriptions except for their own account. Cash subscriptions from banks and trust companies for their own account will be received without deposit but will be restricted in each case to an amount not exceeding one-half of the combined capital and surplus of the subscribing bank or trust company. Cash subscriptions from all others must be accompanied by payment of 10 percent of the amount of notes applied for. The Secretary of the Treasury reserves the right to close the books as to any or all subscriptions or classes of subscriptions at any time without notice.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, to make allotments in full upon applications for smaller amounts and to make reduced allotments upon, or to reject, applications for larger amounts, or to adopt any or all of said methods or such other methods of allotment and classification of allotments as shall be deemed by him to be in the public interest; and his action in any or all of these respects shall be final. Subject to these reservations, subscriptions in payment of which Treasury Notes of Series C–1939 are tendered will be allotted in full. Allotment notices will be sent out promptly upon allotment, and the basis of the allotment will be publicly announced.

IV. PAYMENT

1. Payment at par and accrued interest, if any, for notes allotted on cash subscriptions must be made or completed on or before December 15, 1938, or on later allotment. In every case where payment is not so completed, the payment with application up to 10 percent of the amount of notes applied for shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit for notes allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits, when so notified by the Federal Reserve bank of its district. Treasury Notes of Series C–1939, maturing March 15, 1939, with coupon dated March 15, 1939, attached, will be accepted at par in payment for any notes subscribed for and allotted, and should accompany the subscription. Accrued interest from September 15, 1938, to December 15, 1938, on the maturing notes ($3.770718 per $1,000) will be paid following acceptance of the notes.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve banks of the respective districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38–3668; Filed, December 5, 1938; 12:37 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

WAR DEPARTMENT

REGULATIONS TO GOVERN THE OPENING OF THE DRAWBRIDGE OF THE SOUTHERN RAILWAY SYSTEM ACROSS THREE MILE CREEK, MOBILE, ALABAMA [1]

THE LAW

The River and Harbor Act of August 18, 1894, contains the following section:

[*Here follows, in the original document the text of Section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 1056 DI.*]

THE REGULATIONS

In pursuance of the aforementioned law, the following regulations are prescribed to govern the opening of the drawbridge of the Southern Railway System across Three Mile Creek, Mobile, Alabama:

1. The owner or agency controlling the bridge will not be required to keep a bridge tender in attendance between the hours of 8:30 P. M. and 4:30 A. M.

2. Whenever, in the event of an emergency, a vessel is required to pass through the draw span between these hours, the draw shall be opened promptly upon receipt of notice by the bridge tender who is domiciled in the immediate vicinity of the bridge.

3. The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in a manner that it can easily be read at any time,

[1] These regulations are supplemental to Title 33 of the Federal Register Code.

a copy of these regulations, together with a notice stating exactly how the bridge tender specified in paragraph two may be reached.

4. These regulations are supplemental to the "Rules and Regulations to govern the operation of drawbridges crossing all navigable waterways of the United States discharging their waters into the Atlantic Ocean south of and including Chesapeake Bay and the Gulf of Mexico, excepting the Mississippi River and its tributaries", and shall take effect and be in force on and after December 1, 1938.

Approved, November 21, 1938.

[SEAL] HARRY H. WOODRING,
Secretary of War.

[F. R. Doc. 38-3657; Filed, December 5, 1938; 10:10 a. m.]

TITLE 37—PATENTS AND COPYRIGHTS

COPYRIGHT OFFICE

REGISTRATION OF CLAIMS TO COPYRIGHT

RULE 39 AMENDED

The first paragraph of Rule 39 of the Rules and Regulations for the Registration of Claims to Copyright (Copyright Office Bulletin No. 15, p. 16) is supplemented to read as follows:

"If special registration is requested for any contribution to a periodical, *one* complete copy of the number of the periodical in which the 'contribution appears should be deposited promptly after publication. The contribution to a periodical herein referred to includes any writing of an author published with copyright notice in any given number of a periodical."

C. L. BOUVÉ,
Register of Copyrights.

Approved:

HERBERT PUTNAM,
Librarian of Congress,
NOVEMBER 2, 1938.

[F. R. Doc. 38-3644; Filed, December 3, 1938; 10:13 a. m.]

TITLE 43—PUBLIC LANDS

BUREAU OF RECLAMATION

[No. 9]

OWYHEE IRRIGATION PROJECT, OREGON-IDAHO, SUCCOR CREEK DIVISION

PUBLIC NOTICE OPENING PUBLIC LANDS TO ENTRY AND ANNOUNCING AVAILABILITY OF WATER FOR PUBLIC AND PRIVATE LANDS

NOVEMBER 18th, 1938.

1. *Land for which water will be furnished.*—In pursuance of the act of June 17, 1902, (32 Stat., 388) and acts amendatory thereof or supplementary thereto, announcement is hereby made that upon proper water-rental application being made therefor, water will be furnished on a rental basis under the Succor Creek Division of the Owyhee Irrigation Project, Oregon-Idaho, in the irrigation season of 1939 and thereafter until further notice, for the irrigable lands shown on farm unit plats for Township 23 S., Range 47 E., Willamette Principal Meridian, Oregon; and Townships 2 and 3 N., Ranges 4, 5 and 6 W., Boise Principal Meridian, Idaho, and, beginning on December 15, 1938, entry may be made in accordance with this notice for the following described vacant farm units, to-wit:

Boise Meridian, Idaho

	Irrigable Acres
Township 2 North, Range 4 West:	
Section 8, farm unit A—S½SW¼, SW¼SE¼, Sec. 8 and NW¼NW¼, Sec. 17	58
Section 9, farm unit A—S½SE¼	29
Section 10, farm unit A—E½SW¼, SW¼SW¼, Sec. 10 and NW¼NW¼, Sec. 15	64
Section 17, farm unit:	
B—NE¼	83
C—SW¼NW¼, N½SW¼	51
D—N½SE¼, SE¼SE¼	44
E—S½SW¼, Sec. 17 and NE¼NW¼, Sec. 20	40
Section 18, farm unit:	
A—Lot 1, Lot 2	46
B—SE¼NE¼, N½SE¼	74
C—Lot 3, Lot 4 and E½SW¼	54
Section 19, farm unit A—N½SE¼, Sec. 19 and NW¼SW¼, Sec. 20	17
Township 2 North, Range 5 West:	
Section 5, farm unit A—Lot 3, Lot 4 and SW¼NW¼	47
Section 8, farm unit:	
A—SW¼NE¼, E½SE¼NW¼, N½SE¼, N½N½SW¼SE¼, N½N½SE¼SE¼	80
B—SE¼SE¼, Sec. 5 and E½NE¼, Sec. 8	72
C—SW¼SE¼, Sec. 5, and NW¼NE¼, NE¼NW¼, Sec. 8	67
Township 3 North, Range 5 West:	
Section 6, farm unit D—Lot 6 and NE¼SW¼	69
Section 19, farm unit A—Lot 1, Lot 2 and E½NW¼	90
Section 29, farm unit:	
A—N½NW¼	75
B—S½NW¼	78
C—N½SW¼	75
D—S½SW¼	59
Section 30, farm unit:	
A—N½NE¼	53
B—Lot 4 and SE¼SW¼	48
Section 31, farm unit:	
A—Lot 1, NW¼NE¼ and NE¼NW¼	80
B—Lot 2, SW¼NE¼ and SE¼NW¼	80
Township 3 North, Range 6 West:	
Section 23, farm unit B—Lot 5, Lot 6 and NE¼SW¼	47
Section 25:	
A—E½NW¼	40
C—S½SW¼	35
Section 26, A—S½NE¼, N½SE¼	26

The farm unit plats referred to above were approved on the date of this notice and are on file in the office of the Construction Engineer, Bureau of Reclamation, Boise, Idaho, and in the local land offices at The Dalles, Oregon, and Blackfoot, Idaho.

2. *Limit of acreage for which entry may be made or water rental secured.*—For the farm units described above, and any other lands covered by this notice which may become subject to homestead entry the limit of area of public land per entry, representing the area which, in the opinion of the Secretary of the Interior, may be reasonably required for the support of a family upon such land, is fixed at the amounts shown upon the said farm unit plats for the respective farm units thereon. The maximum limit of area for which water rental application may be made for lands in private ownership shall be 160 acres of irrigable land for each landowner.

3. *Filing of water rental applications.*—Water rental applications for entered lands and lands in private ownership must be filed in the office of the Construction Engineer and such applications may be made on or after the date of this notice. For public land farm units the water rental applications must be made in accordance with the conditions hereinafter stated.

4. *Preference rights to ex-service men.*—Pursuant to the provisions of joint Public Resolution No. 35, 71st Congress, approved June 12, 1930 (46 Stat., 580), and until March 15, 1939, the farm units described above will be open to entry only by officers, soldiers, sailors, or marines who have served in the Army or Navy of the United States, in any war, military occupation, or military expedition, and have been honorably separated or discharged therefrom or placed in the regular Army or Naval Reserve. The same preference rights are applicable to those citizens of the United States who served with the allied armies during the World War and who were honorably discharged, upon their resumption of citizenship in the United States, provided the service with the allied armies was similar to the service with the Army of the United States for which recognition is granted in the aforesaid Public Resolution No. 85; *Provided, however*, That they must be qualified to make entry under the homestead laws and also possess the qualifications as to industry, experience, character, and capital required of all applicants under this notice.

5. *Applicants must be qualified.*—No entry shall be accepted by the local land office until the applicant therefor has satisfied the Examining Board appointed for the Owyhee Project to consider such matters, that he is possessed of such qualifications (in addition to the qualifications required under the homestead laws) as to industry, experience, character, and capital, as in the opinion of the board are necessary to give reasonable assurance of success by the prospective settler.

6. *Requirements as to industry, experience, character and capital.*—Each applicant must possess good health and have had at least two years' actual experience in farm work and farm practice. He must have at least $2,000 in money free of liability, or the equivalent thereof in livestock, farming equipment, or other assets deemed by the Examining Board to be as useful to the applicant as money.

7. *Examining Board.*—An Examining Board of three members has been appointed by the Secretary of the Interior, to consider the fitness of each applicant to undertake the development and operation of a farm on the Owyhee project. Each applicant, except those described in paragraph 13 (a), must appear in person before the Examining Board, and the Construction Engineer, who is the member representing the United States, and who will act as Secretary of the board, will notify each applicant of the period of time set for his appearance and examination. The members of the board will be present at the project office when the opening is being held, and interested applicants, and particularly non-residents, will be examined at such times as it is convenient for them to be present. There must be, of course, some limit of time covering this feature, and the board will fix this limit, and will also announce such other incidental rules as will necessitate one appearance only by each applicant. Careful investigation shall be made to verify the statements and representations made by applicants, to the end that no misunderstanding may prevail, either regarding the applicant's fitness or his appreciation of the problem before him.

8. *Determination of relative standing of applicants.*—The relative standings of the applicants will be based upon a percentage rating with the following maximum weights given to the four prescribed qualifications:

Character	15%
Industry	20%
Capital	30%
Farm Experience	35%

Applicants will be rated according to the following schedules and no applicants will be considered eligible who fall below the minimum named in any one of the headings of these schedules, or who do not, in the opinion of the board, possess the health and vigor necessary for active farm work:

Character	*Per Cent*
Fair	5
Good	6 to 10
Excellent	11 to 15
Industry	*Per Cent*
Fair	5
Good	6 to 10
Excellent	11 to 20
Capital	*Per Cent*
$2,000 to $2,999	27
$3,000 to $3,999	28
$4,000 to $4,999	29
$5,000 or above	30
Farm Experience	*Per Cent*
A. *In farming other than irrigation:*	
2 years, any time	10
Additional credit of 2% to be allowed for each year in farming other than irrigation for more than 2 years, up to a total of 12 years (10% for 2 years, plus 2% per year up to 10 additional years), or a maximum of	30
B. *In irrigation farming:*	
2 years, any time	15
2 years, in last 4 years	20
2 years, in last 2 years	25
3 years, in last 4 years	30
3 or more years in responsible charge of irrigation farm in last 4 years	35

In determining the percentages to be given for experience under irrigated farming, the members of the examining board may reduce the percentages from 1 to 5 per cent, if, in their judgment, the experience indicated by the applicant as having been gained in other irrigated areas is not of the type that would justify his being rated for farming under the particular conditions on the Owyhee project, at any of the percentages above listed.

9. *When, and how to apply for a farm unit.*—Any person desiring to acquire any of the farm units described in paragraph 1 must, as a first step, secure from the Construction Engineer, Boise, Idaho, or from the Commissioner, Bureau of Reclamation, Washington, D. C., a farm application blank. The blanks will be available on and after the date of this notice, and full answer must be made to each question propounded therein. The farm application must designate in the first paragraph the particular farm desired. If the applicant claims a preference right on account of military service, he shall attach to this application an affidavit setting forth such military service. The affidavit shall state the applicant's time of service, the unit of which he was a member, the date on which he was honorably discharged, or separated, or transferred to the regular Army or Naval Reserve, and that he did not refuse to wear the uniform of such service or to perform the duties thereof. If the applicant claims a preference right on account of military service with the allied armies during the World War, the affidavit should also state, if true, that the service with the allied armies was similar to the service with the Army of the United States for which recognition was granted in the said Public Resolution No. 85. There shall be attached to said affidavit a copy of such honorable discharge or separation from the service, or the order of transfer to the regular Army or Naval Reserve, as the case may be, which copy shall be certified by a notary public to be a true copy of the original. In the event that the original of an applicant's honorable discharge or of such order of transfer has been lost or otherwise is not readily available, a record of his military service and of his discharge, separation or transfer under the seal of the War Department may be furnished in lieu of the certified copy of the aforementioned original, and shall be attached to said affidavit.

10. *When and where to file the farm application.*—The farm application with the proof to be furnished by the ex-service man, must be filed with the Construction Engineer at Boise, Idaho, in person, if convenient, or by mail, or otherwise, prior to December 15, 1938, if the applicant desires to qualify under paragraph 11 below. No advantage will accrue to an applicant presenting his application in person rather than by mail, and, if the applicant does not reside at Boise, his application should be mailed. Farm applications received on or after December 15, 1938 will be filed and noted in the order of their receipt.

11. *Simultaneous filing of farm applications.*—All applications received prior to December 15, 1938, the date of opening, will be held and treated as simultaneously filed.

12. *Preference rights for ex-service men not filing in accordance with Paragraph 11.*—In order that ex-service men may take advantage of the preference right as provided in Paragraph 4 of this notice, in the event that they fail to file prior to December 15, 1938, as set forth in Paragraph 11 above, their applications together with the proof to be furnished by them, must be filed in the Office of the Construction Engineer, Boise, Idaho, on or prior to March 15, 1939, the day before the date upon which the farm units herein described, except those units for which applications of ex-service men have been accepted, become open to entry by the general public. No advantage will accrue to an applicant presenting his application in person rather than by mail.

13. *Showing of applicants and selection thereof.*—(a) Where the applicant fails to make a *prima facie* case—that is, where the applicant does not possess good health or does not show at least two years' farm experience, and the assets required in Paragraph 6, the application shall be rejected and the applicant notified thereof by registered mail, and of his right to appeal to the Secretary of the Interior within 10 days from receipt of notice. Like action shall be taken where the evidence of military service is defective or not furnished. All appeals allowed under this order must be filed in the office of the project Construction Engineer at Boise, Idaho, and within 10 days from receipt of notice.

(b) Each applicant who makes a *prima facie* case and has not been previously examined by the board shall be notified by the board, by registered mail, of the time within which he must appear before it. After such personal examinations, and after consideration of the showing made in the application, the board will rate the applicant in accordance with the scale set forth above, and place such rating in red ink, with the initials of each member of the board upon the face of the farm application blank. Should the applicant fail to appear for examination after due notice, his application will receive no further consideration by the board at that time. Should he later appear his application may be considered for any farm then remaining unassigned. The date of receipt of his application shall then be considered as being the day

he actually appeared before the board. The rating necessary to establish qualification is the minimum named in Paragraph 8 of this order, and the applications of all who fail to attain this minimum shall be rejected and the applicants notified thereof by registered mail, and of the right of appeal to the Secretary within 10 days from receipt of notice. After the expiration of the appeal period and in the absence of any pending appeals, the board shall select the 29 applicants (there being 29 farm units described in paragraph 1 subject to entry) with the highest ratings and the Secretary of the examining board will issue to each of the selected applicants a certificate stating that the qualifications of such applicant to enter public lands, as required by Subsection C of Section 4 of the Act of December 5, 1924 (43 Stat., 702), have been passed upon and approved by the examining board and giving the applicant's ratings. Immediately following the selection of the successful applicants the board shall notify each of the other applicants that since the number of qualified applicants exceeds the number of available farms, it is necessary to reject all applications below the first 29 in qualification ratings. Each rejected applicant may appeal to the Secretary within 10 days. In the event that the number of qualified applicants is less than the number of available farm units, and also if in such case there are several applications for the same farm unit, the board shall assign a farm unit to each of such applicants. Whenever practicable, the board shall allow the applicants to exercise a choice of farms; and if it is found practicable to do so, the applicants will be given the right of selection, regardless of other applications, in the order of their ratings. The intent of the law is to select the best qualified applicants for the farms available, and the Government reserves the right to assign the farms regardless of individual preferences. Where two or more applicants have received identical ratings a drawing shall be made by the examining board to determine the order in which the available farms shall be awarded.

14. *Notification of applicant that he has been selected.*—After the expiration of the appeal periods in all of the contingencies named above, or any other that may arise, and in the absence of any pending appeals, the board shall notify each applicant selected for a farm, by registered mail, and enclose a water rental application for the farm selected, which must be filled in by the applicant and returned to the Construction Engineer within 10 days from receipt of notice with payment of the water rental charges, as specified in Paragraph 21 hereof. Upon receipt by the Construction Engineer of the water rental application, executed by the applicant and accompanied by the required payment, the board shall make appropriate notation on a copy of said water rental application, which will entitle the applicant to file homestead application at the local land office, and the board will return said copy by registered mail to the applicant, together with the certificate mentioned in paragraph 13 (b) relative to the applicant's qualifications and the filing of a water rental application, which certificate must be attached by the applicant to his homestead application when he files such application at the local land office. Such homestead application shall be made within 15 days from the date of receipt of the approved water rental application. Failure to make homestead entry within the period named will render the application subject to rejection.

15. *Failure of selected applicant to complete transaction.*—If the applicant fails to comply with any of the requirements named above the board will select the next highest in qualification rating, and when the list has been exhausted, and if there still remain lands unallotted, the board will consider applications filed thereafter in the order filed, and such applications will otherwise be handled by the board as prescribed in Paragraph 13.

16. *General entry.*—On and after March 16, 1939 any farm units described in Paragraph 1 above which remain unentered, shall be subject to entry under this notice by any person having the necessary qualifications. If, on March 16, 1939, prior to 2 p. m., the number of applications filed exceeds the number of available farm units, then the right to make entry for any such farm unit shall be determined in accordance with Paragraph 13 of this order, the provisions of which shall continue in effect in a similar manner in the future if the number of applications at any time exceeds the number of remaining available farm units.

17. *Warning against unlawful settlement.*—No person shall be permitted to gain or exercise any right under any settlement or occupation of any of the public lands covered by this notice except under the terms and conditions prescribed by this notice: *Provided, however,* That this shall not affect any valid existing right obtained by settlement or entry while the land was subject thereto.

18. *All land to be included in an irrigation district.*—Substantially all of the lands covered by this public notice are within the Gem Irrigation District organized under the laws of the State of Idaho, or the Owyhee Irrigation District organized under the laws of the State of Oregon. For any of the lands covered by this notice which are not within those districts, the water rental applicant will be required to execute a water rental application in which the following clause shall be inserted:

"I agree to the inclusion of my land in the ---------- Irrigation District". (The name of the district to which the land should properly be joined to be inserted by the project office.)

19. *Contracts with irrigation districts.*—(*a*) A contract was entered into October 14, 1926, and a supplementary contract on March 16, 1936, between the United States and the Gem Irrigation District, providing for payment of charges and operation of works. (*b*) A contract was entered into October 14, 1926, and a supplementary contract on March 16, 1936 between the United States and the Owyhee Irrigation District, providing for payment of charges and operation of works.

20. *Construction charges.*—The construction cost shall be paid in accordance with the contracts dated October 14, 1926, and the supplementary contract dated March 16, 1936, between the United States and the Gem Irrigation District and the Owyhee Irrigation District, which contracts are on file in the office of the Construction Engineer, Bureau of Reclamation, Boise, Idaho, where they may be examined.

21. *Water rental and other charges.*—Water rental charges shall be payable as follows:

(a) Each successful applicant for any of the farm units described above in the Gem Irrigation District, and each prospective entryman on any other farm unit covered by this notice which may become subject to homestead entry in that district, shall, before making homestead entry, pay to the United States one dollar ($1.00) for each irrigable acre in the farm unit, as an advance initial payment for the rental of water for the season of 1939. Such payment will entitle him to two and six-sevenths (2⅔) acre feet of water per irrigable acre. Additional water may be furnished during the same season at the rate of thirty-five cents ($0.35) per acre foot, payments therefor to be made to the Gem Irrigation District in advance of its delivery: *Provided,* That, in any case where water rental application is not filed until after June 1, 1939, and no water is used during the irrigation season of 1939, initial water rental payments, made as specified in this paragraph, will be credited upon water charges coming due for the next irrigation season if the operation and maintenance of the project by the United States is continued beyond the 1939 season, or will be refunded in the event that such operation and maintenance by the United States is not so continued. *Provided, further,* That in any case where water rental application is filed on or prior to June 1, 1939, such initial payments shall be applied as water rental charges for the season of 1939, whether water is used or not.

(b) In addition to the payment of water rental charges specified in (a) above, payment must also be made to the irrigation district in which the farm unit is included of the annual assessment or assessments for district administrative purposes at the same rate and in the same manner as for similar lands in private ownership in such district.

(c) Water rental charges for privately owned lands covered by this notice shall be in accordance with Article 13 H of contract dated March 16, 1936 between the United States and the Gem Irrigation District and the Owyhee Irrigation District, and other subscribing districts of the Owyhee project.

22. *Place and manner of payment of water rental charges.*—All initial water rental charges must be paid at the office of the Bureau of Reclamation at Boise, Idaho, by cash or bank draft, cashier's check, certified check, or postal or express money order, payable to Bureau of Reclamation.

23. *Reservation of rights of way for county highways.*—Rights of way are reserved for county highways along all section lines, said rights of way being 30 feet in width on each side of said lines.

24. *Waiver of mineral rights.* — All homestead entries for any of the above described farm units, and for any lands covered by this notice which may become subject to such entry, will be subject to the laws of the United States governing mineral land and all homestead applicants under this notice must waive the right to the mineral content of the land, if required to do so by the Land Office, otherwise the homestead application will be rejected or the homestead entry cancelled.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38-3656; Filed, December 5, 1938; 10:10 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF A UNIFORM SYSTEM OF ACCOUNTS TO BE KEPT BY ELECTRIC RAILWAYS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of November, A. D. 1938.

In the matter of the order of July 13, 1937,[1] effective July 1, 1937, prescribing operating-revenue account 108½, "Protective service revenue—Perishable freight", for electric railways, the order of July 31, 1937,[2] changing the effective date to January 1, 1938, and the order of December 18, 1937,[3] changing the effective date to January 1, 1939.

It is ordered, That the effective date be changed to January 1, 1940.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3661; Filed, December 5, 1938; 12:09 p. m.]

[1] 2 F. R. 1259 (1506 DI).
[2] 2 F. R. 1382 (1651-2 DI).
[3] 2 F. R. 2973 (3434-5 DI).

ORDER IN THE MATTER OF A UNIFORM SYSTEM OF ACCOUNTS TO BE KEPT BY STEAM ROADS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of November, A. D. 1938.

In the matter of the order of July 13, 1937,[1] effective July 1, 1937, prescribing operating-revenue account 117, "Protective service—Perishable freight", for steam roads, the order of July 31, 1937,[2] changing the effective date to January 1, 1938, and the order of December 18, 1937,[3] changing the effective date to January 1, 1939.

It is ordered, That the effective date be changed to January 1, 1940.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3662; Filed, December 5, 1938; 12:09 p. m.]

[No. 3666]

ORDER IN THE MATTER OF REGULATIONS FOR TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Present: Frank McManamy, Commissioner, to whom the above entitled matter has been assigned for action thereon.

Regulations for the transportation of explosives and other dangerous articles by rail in freight, express, and baggage services, and by water and highway, being under further consideration:

And it appearing, That upon application made by interested parties, amended regulations should be established pursuant to section 233 of the Criminal Code (Transportation of Explosives Act), and upon investigation are found to be in accord with the best-known practicable means for securing safety in transit, covering the packing, marking, loading, handling while in transit, and the precautions necessary to determine whether the material when offered is in proper condition to transport:

It is ordered, That the aforesaid regulations as heretofore published in order of May 12, 1930, be and they are hereby superseded and amended as follows, effective March 1, 1939:

Superseding and amending paragraph 201 (m) of the freight regulations, order May 12, 1930, to read as follows (*prohibited articles for transportation*):

Ground bituminous coal, sea coal, coal facings, 90 per cent of which will pass through a 100-mesh sieve, unless stored for at least six days after grinding, or unless shipped in tight metal tank cars, or in tight metal containers on container cars, or in permanently covered metal hopper cars, or in other tight metal containers. *Ground bituminous coal* which has been dried by heating before grinding unless packed in air-tight metal containers.

It is further ordered, That the aforesaid regulations as further amended herein shall be and remain in force on and after March 1, 1939, and shall be observed until further order of the Commission;

It is further ordered, That compliance with the aforesaid amendments made effective by this order is hereby authorized on and after the date of approval and publication thereof;

And it is further ordered, That copies of this order be served upon all the respondents herein, and that notice to the public be given by posting in the office of the Secretary of the Commission at Washington, D. C.

Dated at Washington, D. C., this 29th day of November, 1938.

By the Commission, Commissioner McManamy.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3663; Filed, December 5, 1938; 12:09 p. m.]

[1] 2 F. R. 1259 (1508 DI).
[2] 2 F. R. 1382 (1651-2 DI).
[3] 2 F. R. 2973 (3434-5 DI).

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-86 O-86]

NOTICE OF PUBLIC HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN OMAHA - COUNCIL BLUFFS MARKETING AREA, PREPARED AND PROPOSED BY THE NEBRASKA-IOWA NON-STOCK COOPERATIVE MILK ASSOCIATION

Whereas, the Nebraska-Iowa Non-Stock Cooperative Milk Association has requested the Secretary to hold a public hearing on a marketing agreement and order prepared and proposed by such association and designed to regulate such handling of milk in the Omaha-Council Bluffs marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement or the issuance of an order will tend to effectuate the declared policy of Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, with respect to such handling of milk in the Omaha-Council Bluffs marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce; and

Whereas, under said act notice of and opportunity for a hearing are required prior to the execution of a marketing agreement or the issuance of an order, and the General Regulations, Series A,

No. 1, as amended,[1] of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice;

Now, therefore, pursuant to said act and said general regulations, notice is hereby given of a public hearing to be held at the Post Office Building, Omaha, Nebraska, December 15, 1938, at 10:00 a. m., c. s. t., on the aforementioned marketing agreement and order, prepared and proposed by the aforementioned association and designed to regulate such handling of milk in the Omaha-Council Bluffs marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce.

At this public hearing, representatives of the Secretary will receive factual evidence (1) as to whether marketing conditions for such handling of milk in the Omaha-Council Bluffs marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce are so disorderly as to necessitate regulation of the handling of such milk in order that the declared policy of the act may be effectuated, and (2) as to the specific provisions which a marketing agreement or order should contain.

The proposed marketing agreement and order provide, among other things, for: (a) selection of a market administrator, (b) classification of milk, (c) minimum prices, (d) reports of handlers, (e) payments to producers through the use of a market wide pool, (f) payments from the pool by the market administrator to producers' association for rendering marketing services, and (g) expenses of administration.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed marketing agreement or order may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: December 3, 1938.

[F. R. Doc. 38-3653; Filed, December 3, 1938; 12:42 p. m.]

[Docket No. A-85 O-85]

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN STATE OF FLORIDA

Whereas, under Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, notice of hearing is required in connection with a proposed marketing agreement or a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice; and

Whereas, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to such handling of oranges, grapefruit, and tangerines grown in the State of Florida as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce;

Now, therefore, pursuant to the said act and said general regulations, notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating such handling of oranges, grapefruit, and tangerines grown in the State of Florida, in the City Auditorium, Lakeland, Florida, on December 12, 1938, at 10:00 a. m., e. s. t.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling of the aforesaid citrus fruits as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce. Among other things, the proposed marketing agreement and order provide for: (a) the establishment of a Growers Advisory Committee and a Shippers Advisory Committee, (b) weekly regulation of the quantity of valencia oranges to be shipped and allotment thereof to handlers, (c) regulation of shipments by grade or size, or both, (d) expenses of administration, (e) reports of shipments by handlers, (f) inspection of fruit, and other matters relating to the handling of the aforesaid citrus fruit grown in the State of Florida.

It is hereby declared that an emergency exists in the handling of oranges, grapefruit, and tangerines grown in the aforesaid area, and it is hereby determined that the period of notice of said hearing hereby given is reasonable under the circumstances.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: December 3, 1938.

[F. R. Doc. 38-3655; Filed, December 3, 1938; 12:43 p. m.]

[1] 1 F. R. 155.

[Docket No. A-83-1 O-83-1]

NOTICE OF REOPENING OF HEARING HELD ON OCTOBER 14, 1938, ON PROPOSED MARKETING AGREEMENT AND ORDER REGULATING HANDLING OF MILK IN LOWELL-LAWRENCE, MASSACHUSETTS, MILK MARKETING AREA

Whereas, pursuant to Public Act No. 10, 73rd Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture held a public hearing at Dracut, Massachusetts, on the 14th day of October, 1938,[1] in connection with a proposed marketing agreement and proposed order regulating the handling of milk in the Lowell-Lawrence, Massachusetts, Milk Marketing Area; and

Whereas, the Secretary has determined to reopen said hearing for the purpose of receiving additional evidence as to (a) the price for class I milk and the advisability of automatically lowering such price during the spring or "flush" season, (b) general economic conditions in the marketing area which may necessitate regulation of the handling of milk in said area in order that the declared policy of the aforesaid act may be effectuated, and (c) the specific provisions which a marketing agreement and order should contain;

Now, therefore, notice is hereby given that the aforesaid hearing will be reopened on December 12, 1938, at 10:30 a. m., e. s. t., in Russell Hall, Y. M. C. A., Lawrence, Massachusetts, for the purpose of receiving additional evidence as to (a) the price for class I milk and the advisability of automatically lowering such price during the spring or "flush" season, (b) general economic conditions in the marketing area which may necessitate regulation of the handling of milk in said area in order that the declared policy of the aforesaid act may be effectuated, and (c) the specific provisions which a marketing agreement and order should contain.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area, and it is hereby determined that the period of notice of the reopening of said hearing hereby given is reasonable under the circumstances.

Copies of the proposed marketing agreement and the proposed order may be inspected at or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated: December 3, 1938.

[F. R. Doc. 38-3670; Filed, December 5, 1938; 12:45 a. m.]

[1] 3 F. R. 2431 DI.

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 18-401(E)-1]

PENNSYLVANIA-CENTRAL AIRLINES CORPORATION

NOTICE OF HEARING

DECEMBER 2, 1938.

Application Under Section 401 (e) for a Permanent Certificate of Public Convenience and Necessity for the Transportation by Air of: (1) Mail, Passengers and Property Between Detroit, Mich., and Norfolk, Va., via Cleveland and Akron, Ohio, Pittsburgh, Pa., and Washington, D. C.; Between Detroit, Mich., and Milwaukee, Wis., via Flint, Lansing, Grand Rapids, and Muskegon, Mich., and an Extension From Grand Rapids, Mich., to Chicago, Ill.; Between Washington, D. C., and Buffalo, N. Y., via Baltimore, Md., Harrisburg and Williamsport, Pa.; Between Detroit, Mich., and Sault Ste. Marie, Mich., via Flint, Saginaw-Bay City and Traverse City, Mich.; (2) Passengers and Property Between Pittsburgh, Pa. and Buffalo, N. Y. and Between Pittsburgh, Pa. and Baltimore, Md.

The above-entitled proceeding is assigned for public hearing on December 15, 1938, 10 o'clock, a. m. (eastern standard time) at the office of the Civil Aeronautics Authority (Hearing Room, 951 Earle Bldg.), Washington, D. C., before Examiner R. J. Bartoo.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3642; Filed, December 2, 1938; 4:53 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5533]

IN THE MATTER OF OTTER TAIL POWER COMPANY

NOTICE OF APPLICATIONS

DECEMBER 2, 1938.

Notice is hereby given that on November 14, 1938, an application was filed with the Federal Power Commission pursuant to Section 204 of the Federal Power Act by Otter Tail Power Company, a corporation organized under the laws of the State of Minnesota and doing business in the States of Minnesota, North Dakota and South Dakota, requesting either (1) an order authorizing said company to issue four shares of Special Common Stock of the par value of $1.00 per share for, and in conversion of each share of Special Common Stock without par value outstanding, and four shares of Founders Common Stock of the par value of $1.00 per share for, and in conversion of each share of Founders Common Stock without par value outstanding, such issuance to be accomplished by an amendment of its articles of incorporation; or, (2) that said application be dismissed for want of jurisdiction.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 20th day of December, 1938, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3645; Filed, December 3, 1938; 10:16 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of December, A. D. 1938.

[File No. 30-127]

IN THE MATTER OF ASSOCIATED GAS AND ELECTRIC COMPANY

ORDER REQUIRING FILING OF STATEMENT

The Commission deeming it necessary and appropriate to the performance of its duty under Section 11 (a) of the Public Utility Holding Company Act of 1935 and to the obtaining, pursuant to Section 18 (b) of said Act, of information regarding the business, financial condition and practices of various companies in the Associated Gas and Electric Company Holding-Company System, to ascertain the condition of the investment accounts of the various subsidiary companies of Associated Gas and Electric Company, a registered holding company,

It is ordered, Pursuant to Section 18 (a) of said Act, that Associated Gas and Electric Company file with it a statement in writing containing the following information in tabular form, as of October 31, 1938, regarding the investment accounts of itself and each of its subsidiary companies:

1. Name of issuer or debtor.
2. Description of investment, including rate of interest, or dividends.
3. Date when investment was acquired.
4. Principal amount held:
   (a) Shares, if applicable.
   (b) Par or stated amount.
5. Carrying value.
6. Investments pledged:
   (a) Amount.
   (b) Pledgee.
   (c) Nature and amount of obligation secured by pledge.
   (d) Holder of obligation secured by pledge.
   (e) Date when pledge will be released.

NOTE.—Include as investments: convertible obligations, notes, open accounts of every character, and accounts receivable from companies in the Associated Gas and Electric Company Holding-Company System, Gas and Electric Associates, Associated Electric Companies and Subsidiaries, and Utilities Investing Trust and Subsidiaries.

The information requested should be filed in triplicate, verified as required by Rule U-5B-1, and should be filed with the Commission not later than December 17, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3649; Filed, December 3, 1938; 11:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of December 1938.

[File No. 31-437]

IN THE MATTER OF THE APPLICATION OF SOUTHERN UTILITIES COMPANY, LIMITED

ORDER GRANTING EXEMPTION

Southern Utilities Company, Limited, having made application pursuant to Section 3 (b) of the Public Utility Holding Company Act of 1935, for an Order exempting it from the provisions of the Act applicable to it as a subsidiary of North Continent Utilities Corporation, a registered holding company; the record in this matter having been duly considered; and the Commission having made appropriate findings of fact;

It is ordered That the said Southern Utilities Company, Limited be, and it is, hereby exempted, to the extent specified, from certain provisions of the Act applicable to it as a subsidiary company of North Continent Utilities Corporation, a registered holding company, as follows:

(a) Section 6 of the Act, except that this exemption shall not extend to any issue or sale of securities which are to be publicly offered for sale within the United States or to any exercise of a privilege or right to alter the priorities, preferences, voting power, or any other right of the holders of any security which, prior to the exercise of such privilege or right shall have been publicly offered for sale within the United States, other than securities which are

owned or held directly or indirectly by associate companies in the United States;

(b) Section 9 of the Act, except that this exemption shall not apply to the acquisition of any utility assets located within the United States or to the acquisition of any interest in the business of, or securities issued or guaranteed by any public utility or holding company which, directly or indirectly, owns or controls utility assets located within the United States;

(c) Subdivision (2) of subsection (h) of Section 12 of the Act, except with reference to a contribution to, or in support of any political party in the United States or any committee or agency thereof;

(d) Section 13 of the Act with respect to any transactions, except the performing of services or construction for, or the sale of goods to any public utility holding company, or subsidiary thereof which is a public utility company, operating within the United States;

(e) Section 17 (c) of the Act; and

(f) Section 15 of the Act, unless rules, regulations or orders promulgated by the Commission pursuant to the provisions of such section shall by their terms be made expressly applicable to a company which is not, and which has no subsidiary company which is, a public utility company operating in the United States; and

(g) Sections 11 (f), 11 (g) and 12 (e), provided however, that exemption from the provisions of Sections 11 (g) and 12 (e) shall not be applicable to any solicitation regarding any securities, other than securities owned by North Continent Utilities Corporation, or other associates of the issuer, which shall have been the subject of a public offering within the United States subsequent to the effective date of the order issued in this matter.

It is further ordered That the exemption herein granted shall expire on December 31, 1940, without prejudice to the right of Southern Utilities Company, Limited, to apply for an extension of the time during which such order shall be effective and also without prejudice to the right of said Southern Utilities Company, Limited, to apply at any time for such enlargement of any of the provisions of this order as it may deem appropriate.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3650; Filed, December 3, 1938; 11:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of December 1938.

[File No. 31-439]

IN THE MATTER OF THE APPLICATION OF GREAT NORTHERN GAS COMPANY, LIMITED

ORDER GRANTING EXEMPTION

Great Northern Gas Company, Limited, having made application pursuant to Section 3 (b) of the Public Utility Holding Company Act of 1935, for an Order exempting it from the provisions of the Act applicable to it as a subsidiary of North Continent Utilities Corporation, a registered holding company; the record in this matter having been duly considered; and the Commission having made appropriate findings of fact;

It is ordered, That the said Great Northern Gas Company, Limited be, and it is, hereby exempted, to the extent specified, from certain provisions of the Act applicable to it as a subsidiary company of North Continent Utilities Corporation, a registered holding company, as follows:

(a) Section 6 of the Act, except that this exemption shall not extend to any issue or sale of securities which are to be publicly offered for sale within the United States or to any exercise of a privilege or right to alter the priorities, preferences, voting power, or any other right of the holders of any security which, prior to the exercise of such privilege or right shall have been publicly offered for sale within the United States, other than securities which are owned or held directly or indirectly by associate companies in the United States;

(b) Section 9 of the Act, except that this exemption shall not apply to the acquisition of any utility assets located within the United States or to the acquisition of any interest in the business of, or securities issued or guaranteed by any public utility or holding company which, directly or indirectly, owns or controls utility assets located within the United States;

(c) Subdivision (2) of subsection (h) of Section 12 of the Act, except with reference to a contribution to, or in support of any political party in the United States or any committee or agency thereof;

(d) Section 13 of the Act with respect to any transactions, except the performing of services or construction for, or the sale of goods to any public utility holding company, or subsidiary thereof which is a public utility company, operating within the United States;

(e) Section 17 (c) of the Act; and

(f) Section 15 of the Act, unless rules, regulations or orders promulgated by the Commission pursuant to the provisions of such section shall by their terms be made expressly applicable to a company which is not, and which has no subsidiary company which is, a public utility company operating in the United States; and

(g) Sections 11 (f), 11 (g), and 12 (e), provided, however, that exemption from the provisions of Sections 11 (g) and 12 (e) shall not be applicable to any solicitation regarding any securities, other than securities owned by North Continent Utilities Corporation, or other associates of the issuer, which shall have been the subject of a public offering within the United States subsequent to the effective date of the order issued in this matter.

It is further ordered, That the exemption herein granted shall expire on December 31, 1940, without prejudice to the right of Great Northern Gas Company, limited, to apply for an extension of the time during which such order shall be effective and also without prejudice to the right of said Great Northern Gas Company, Limited, to apply at any time for such enlargement of any of the provisions of this order as it may deem appropriate.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3651; Filed, December 3, 1938; 11:56 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of December, A. D. 1938.

[File No. 37-33]

IN THE MATTER OF AMERICAN GAS & ELECTRIC SERVICE CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 13 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 21, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 16, 1938.

The matter concerned herewith is in regard to a declaration with respect to the organization and operation of a subsidiary service company for the American Gas & Electric System.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3658; Filed, December 5, 1938; 10:57 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of December, 1938.

[File No. 1-2904]

IN THE MATTER OF APPLICATION OF BADGER PAPER MILLS, INC. TO WITHDRAW ITS COMMON STOCK, NO PAR VALUE, FROM LISTING AND REGISTRATION

ORDER SETTING HEARING

The Badger Paper Mills, Inc., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Chicago Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on January 4, 1939, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3659; Filed, December 5, 1938; 10:57 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 3rd day of December, A. D. 1938.

[File No. 32-118]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

Whereas it was ordered on November 19, 1938 that a hearing on such matter be held on December 7, 1938 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C.;

And whereas, it appears to be in the public interest that said hearing be postponed;

It is ordered, That said hearing be, and the same hereby is, postponed until December 22, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated at any such hearing is hereby authorized to exercise all powers that is granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such postponement is hereby given to said applicant and to any other person whose participation in such proceedings may be in the public interest or for the protection of investors or consumers.

The matter concerned herewith is in regard to a proposed issuance and sale by applicant, Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, of

(a) First and Gold Mortgage Bonds, Series H, 3½%, due 1966, dated August 1, 1936 and maturing August 1, 1966, in the principal amount of $4,500,000, such issue and sale to be made by public offering through underwriters, and

(b) 5,000 shares of common stock, no par value at the price of $100 per share; such shares to be first offered to the holders of applicant's common stock and 6% preferred stock at said price on the basis of one share for every 27.2702 of outstanding shares then held by such holders.

A portion of the net proceeds of such sales will be used by the applicant for payment of the principal and interest to maturity of applicant's First Mortgage, 30 year, 5% Gold Bonds due November 1, 1939 in the principal amount of $3,303,000. The balance of said proceeds will be used to pay bank loans of the applicant now outstanding in the amount of $1,225,000 and for other regular corporate purposes of the applicant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3669; Filed, December 5, 1938; 12:39 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS WEDNESDAY, NOVEMBER 30, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	588	41
2. Hawaii	140	15
3. California	2,164	779
4. Alaska	23	0
5. Texas	2,220	892
6. Louisiana	801	373
7. Michigan	1,845	877
8. Arizona	166	84
9. New Jersey	1,540	817
10. South Carolina	663	382
11. Ohio	2,553	1,519
12. Oklahoma	913	502
13. Alabama	1,008	623
14. Mississippi	705	474
15. Arkansas	707	439
16. New Mexico	161	103
17. North Carolina	1,208	804
18. Georgia	1,108	742
19. Kentucky	996	682
20. Tennessee	997	763

DEC 8 1938

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS—Continued		
21. Wisconsin	1,120	859
22. Illinois	2,908	2,233
23. Connecticut	612	493
24. Oregon	363	318
25. Nevada	35	31
26. Indiana	1,234	1,098
27. Delaware	91	83
28. Florida	559	523
29. Idaho	170	160
30. Pennsylvania	3,670	3,488
31. New York	4,797	4,568
32. Utah	194	189
33. Kansas	717	706
34. West Virginia	659	653
35. Maine	304	303
QUOTA FILLED		
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State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
IN EXCESS			
36. Massachusetts	1,619	1,625	+6
37. New Hampshire	177	179	+8
38. Wyoming	86	87	+8
39. Missouri	1,383	1,418	−37
40. Washington	596	617	+48
41. Vermont	137	142	−1
42. Colorado	395	414	+21
43. Minnesota	977	1,024	−46
44. North Dakota	259	279	+24
45. Rhode Island	262	286	+23
46. Montana	205	225	−7
47. South Dakota	264	299	+7
48. Iowa	942	1,095	−3
49. Nebraska	525	628	−10
50. Virginia	923	1,937	−24
51. Maryland	622	1,844	−18
52. District of Columbia	186	8,759	−3

GAINS

By appointment	246
By reinstatement	1
By transfer	15
By correction	1
Total	263

LOSSES

By separation	31
By transfer	146
By correction	1
Total	178
Total Appointments	47,540

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,456.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38-3643; Filed, December 3, 1938; 9:27 a. m.]

DEC 8 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 237

Washington, Wednesday, December 7, 1938

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

DECEMBER 6, 1938.

To JOHN H. LUM, *doing business as Lum Brothers, Natchez, Miss.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Lum Brothers Stock Yards, at Natchez, State of Mississippi, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3677; Filed, December 6, 1938; 12:39 p. m.]

NOTICE UNDER PACKERS AND STOCKYARDS ACT[1]

DECEMBER 6, 1938.

To KNOX MCKEE, *doing business as McKee Sales Company, Superior, Nebr.*

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as McKee Sales Company, at Superior, State of Nebraska, is subject to the provisions of said Act.

[1] Modifies list posted stockyards 9 CFR 204.1.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-3678; Filed, December 6, 1938; 12:39 p. m.]

CIVIL AERONAUTICS AUTHORITY.

[Special Order 401-A-11]

AMERICAN AIRLINES, INC., STOP AT SPRINGFIELD, MASSACHUSETTS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 5th day of December 1938.

The Post Office Department having approved certain schedules of American Airlines, Inc., which provide that the aircraft of such carrier shall make landings at Springfield, Massachusetts, on airmail route A. M. 18 between Boston, Massachusetts, and Newark, New Jersey, with various other intermediate stops, said American Airlines, Inc., having requested an exemption from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 with respect to such schedules, and it appearing to the Authority:

1. That the original airmail contract dated May 9, 1934, between the Post Office Department and American Airlines, Inc., as amended on October 11, 1934, provided that airmail route A. M. 18 flown by such air carrier should include a stop at Springfield, Massachusetts, and that thereafter said air carrier rendered service to Springfield until on or about June 3, 1935, at which time the Bureau of Air Commerce determined that the airport used at Springfield by such air carrier was unsafe for aircraft of the size and character flown by such air carrier; and

2. That since the date last mentioned the aircraft of said air carrier flying between Newark, New Jersey, and Boston, Massachusetts, by way of New Haven and Hartford, Connecticut, and Providence, Rhode Island, have omitted the stop at Springfield; and

3. That no substantial improvements have been made in the airport at Springfield, Massachusetts, but that the Westfield Municipal Airport at Westfield, Massachusetts, which is approximately ten miles distant from Springfield, has been so improved that the aircraft of said air carrier can use it with safety; and that said airport can thus be used advantageously to serve Springfield as well as Westfield; and

4. That Airline Feeder System, Inc., has heretofore engaged in the air transportation of passengers and express between Westfield, Massachusetts, and Newark, New Jersey, with various intermediate stops, but that the route of such air carrier does not extend beyond such terminal points, and that at the present

CONTENTS

NOTICES

	Page
Department of Agriculture:	
Bureau of Animal Industry:	
Notices under Packers and Stockyards Act:	
Lum Brothers, Natchez, Miss	2877
McKee Sales Co., Superior, Nebr	2877
Civil Aeronautics Authority:	
American Airlines, Inc., stop at Springfield, Mass.; exemption	2877
Federal Power Commission:	
Iowa-Nebraska Light and Power Co., notice of filing of application	2878
Securities and Exchange Commission:	
Notice of and orders for hearings:	
Consumers Power Co	2879
Monongahela West Penn Public Service Co., and American Water Works and Electric Co., Inc	2878
Northern States Power Co	2880
Public Service Co. of N. H., effectiveness of declaration	2879

FEDERAL REGISTER

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time it is operating only one round-trip schedule per week between such points, and

5. That American Airlines, Inc., filed an application for a certificate of public convenience and necessity under section 401 (e) of the Act, by which it requests, among other things, a right to stop at Springfield, Massachusetts, on the route aforesaid, which application has not yet been passed upon by the Authority; and

6. That it is in the public interest that Springfield, Massachusetts, shall have, as nearly as possible, direct passenger and express service, as well as mail service, from that city to Boston, Massachusetts, and Newark, New Jersey, and other intermediate cities pending the determination of the Authority on the application aforesaid, or pending the filing by American Airlines, Inc., within a reasonable time, of such other applications as may prove necessary in that connection, and the final determination of the Authority on such applications; and

7. That the enforcement of the provisions of section 401 (a), with respect to such service to Springfield, Massachusetts, during the time while such applications as aforesaid are under consideration by this Authority would be an undue burden upon American Airlines, Inc., by reason of the unusual circumstances affecting the operations of such air carrier, and that such enforcement would not be in the public interest;

Now, therefore, it is ordered that American Airlines, Inc., be exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, in so far as the provisions of that section would otherwise be applicable to an intermediate stop at Springfield, Massachusetts (Westfield Municipal Airport, Westfield, Massachusetts) on the route between Boston, Massachusetts, and Newark, New Jersey, with intermediate stops at Springfield, Massachusetts, Providence, Rhode Island, and New Haven and Hartford, Connecticut, subject, however, to the following conditions:

1. American Airlines, Inc., shall promptly serve, or cause to be served, a copy of this order upon the trustee in bankruptcy, and upon at least one of the managing officers, of Airline Feeder System, Inc. Within three weeks after receiving a copy of such order such trustee and such managing officer shall each have a right to file with the Authority a request for reconsideration of this order and to accompany such request with such memoranda of protests or objections and such statements of facts as such trustee or officer may deem necessary or desirable. A copy of such request, memoranda and statements shall be served on American Airlines, Inc., and proof of such service shall be delivered to the Authority, and American Airlines, Inc., may, within two weeks after such service, serve on the Authority and on Airline Feeder System, Inc., such statements of fact or memoranda in support of this order as it may deem necessary or desirable. Upon consideration of such statements and memoranda the Authority may amend, suspend or revoke this order.

2. Unless thus amended, suspended or revoked, the exemption provided by this order shall continue in effect until the Authority shall have issued to American Airlines, Inc., a certificate of public convenience and necessity, pursuant to the application now on file with the Authority under subsection (e) of section 401 of the Act, for the transportation of mail, passengers and property on said route A. M. 18, including a stop at Westfield Municipal Airport, Westfield, Massachusetts, for the purpose of serving Springfield, Massachusetts, or until the Authority shall have entered an order denying such application; *Provided*, That if the Authority shall determine that such air carrier is entitled to such certificate pursuant to the provisions of subsection (e) of section 401 of the Act, but is not entitled pursuant to that subsection to stop at Westfield Municipal Airport, Westfield, Massachusetts, for the purpose of serving Springfield, Massachusetts, then and in such event the exemption provided by this order shall continue until the thirtieth day following the entry of an order by the Authority evidencing such determination, and if, before the expiration of said thirtieth day, American Airlines, Inc., shall file with the Authority an application requesting an amendment or modification of its certificate of public convenience and necessity to authorize such stop, then and in that case this exemption shall further continue until the Authority shall have issued a certificate of public convenience and necessity or an amendment or modification of the one then held by American Airlines, Inc., authorizing such stop or until the Authority shall have entered an order denying such application, whichever of such events shall first occur.

For the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3676; Filed, December 6, 1938; 11:29 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT 5535]

IOWA-NEBRASKA LIGHT AND POWER COMPANY

NOTICE OF FILING OF APPLICATION

DECEMBER 5, 1938.

Notice is hereby given that on December 5, 1938, an application was filed with the Federal Power Commission, pursuant to Section 203 of the Federal Power Act, by Iowa-Nebraska Light and Power Company, a corporation organized in the State of Delaware and doing business in the States of Nebraska and Iowa, for an order authorizing and approving the sale by that company of certain electric facilities for the production, transmission, distribution and sale of electric energy situated within the territory south of the Platte River in the State of Nebraska to The Central Nebraska Public Power and Irrigation District; and certain electric facilities for the production, transmission, distribution and sale of electric energy situated within the territory north of the Platte River in the State of Nebraska to Loup River Public Power District, all as more fully appears in said application on file with the Federal Power Commission.

Any person desiring to be heard with reference to said application or to file any petition or protest with reference thereto should, on or before December 12, 1938, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3672; Filed, December 6, 1938; 10:56 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of December, A. D. 1938.

[File No. 43-119]

IN THE MATTER OF MONONGAHELA WEST PENN PUBLIC SERVICE COMPANY AND AMERICAN WATER WORKS AND ELECTRIC COMPANY, INCORPORATED

NOTICE OF AND ORDER FOR HEARING

A declaration and application pursuant to sections 7 and 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on December 10, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 9, 1938.

The matter concerned herewith is in regard to the following:

Monongahela West Penn Public Service Company, a subsidiary company of American Water Works and Electric Company, Incorporated, The West Penn Electric Company and West Penn Railways Company, all registered holding companies, has heretofore filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the reduction in the par value of its shares of common capital stock from $25 per share to $15 per share.

Said Monongahela West Penn Public Service Company has now filed an amendment to its declaration regarding the issue and sale of 200,000 shares of its common capital stock of a par value of $15 per share to said American Water Works and Electric Company, Incorporated, for a consideration of $3,000,000.

American Water Works and Electric Company, Incorporated, has likewise now filed an application pursuant to Section 10 (a) (1) of said Act for approval of the acquisition by it of said 200,000 shares of the common capital stock of Monongahela West Penn Public Service Company, upon condition that Monongahela West Penn Public Service Company use the proceeds of the sale of such stock to discharge $3,000,000 of open-account indebtedness now owed by Monongahela West Penn Public Service Company to American Water Works and Electric Company, Incorporated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3671; Filed, December 5, 1938; 4:01 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of December 1938.

[File No. 32-115]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE PURSUANT TO SECTION 7 OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Based upon the findings of fact and conclusions of law made in this matter, it is ordered that the declaration become effective forthwith subject to the following conditions that:

(1) The issue and sale of the proposed stock shall be effected in accordance with the terms and conditions of, and for the purposes represented by, this amended declaration.

(2) If the express authorization of the issue and sale of these securities by the Public Utilities Commission of New Hampshire shall be revoked or otherwise terminated, this order permitting the declaration to become effective shall immediately terminate without further order of this Commission.

(3) The proposed stock shall not be sold at a price less than $90 a share ($87 a share to the company) unless an order expressly approving such price is obtained from this Commission.

(4) Until the sale of the proposed shares is completed, the company shall report to this Commission, not later than the tenth day of each month, the number of shares sold on each day of the previous calendar month, together with the price of such sales, and the agent through whom the sales were made.

(5) In the event that the public-offering price is changed, the company shall report to this Commission immediately. Such report shall contain the following information.

a. The effective date of such price change;

b. the amount of the price change;

c. details of negotiations leading to such price change;

d. all the facts considered by the company's representatives during such negotiations which led to the price change.

(6) In the event that the company receives written notice that the Agents have terminated the Agency Agreement, it shall report to this Commission immediately. Such report shall state the date of the termination and the reasons therefor.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3673; Filed, December 6, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of December, A. D. 1938.

[File No. 43-172]

IN THE MATTER OF CONSUMERS POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on December 21, 1938, at 2:00 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 16, 1938.

The matter concerned herewith is in regard to the issuance and sale by the declarant, Consumers Power Company, a subsidiary of The Commonwealth &

Southern Corporation, a registered holding company, of $8,168,000 principal amount of First Mortgage Bonds, 3¼%, series of 1936, due 1966. The declarant proposes to sell said bonds at not less than 100% of the principal amount thereof and accrued interest, and apply the proceeds thereof together with other treasury funds to retire a like amount of the declarant's bonds of the Series of 1934, 4%, due 1944.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3674; Filed, December 6, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of December, A. D. 1938.

[File No. 43-156]

IN THE MATTER OF NORTHERN STATES POWER COMPANY A DELAWARE CORPORATION

NOTICE OF AND ORDER FOR HEARING

Northern States Power Company, a Delaware corporation and a registered holding company, having filed with this Commission amendments to the declarations and application heretofore filed with this Commission in this proceeding pursuant to Section 7 of the Public Utility Holding Company Act and Rules U-12E-4 and U-12E-5 adopted by this Commission under the provisions of Sections 11 (g) and 12 (e) of said Act:

It is ordered, That a hearing on such matters be held on December 22, 1938, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 17, 1938.

The matters concerned herewith are in regard to (a) reducing the amount of capital allocated to the Class B common stock (729,166⅓ shares) without par value from $7,291,663.33 to zero, (b) changing the rights of the holders of the Class B common stock so that in the event of liquidation of said Company such holders shall not be entitled to any participation in its assets, (c) changing the rights of the holders of the Class B common stock so that after January 1, 1941 said stock shall have no voting power, and (d) an application for an order to be issued by this Commission pursuant to Section 11 of said Act providing for the cancellation on January 1, 1944 of the Class B stock unless certain conditions as to the amount of the net income of the Company, as set forth in said application, are fulfilled.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3675; Filed, December 6, 1938; 11:05 a. m.]

DEC 10 1938

THE NATIONAL ARCHIVES

FEDERAL REGISTER

OF THE UNITED STATES

1934

VOLUME 3 NUMBER 238

Washington, Thursday, December 8, 1938

The President

DESCHUTES NATIONAL FOREST—OREGON

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the hereinafter-described lands in the State of Oregon have been found by the Secretaries of Agriculture and of the Interior to be chiefly valuable for national-forest purposes; and

WHEREAS such lands are within the limitations contained in the act of February 2, 1922, entitled "An act authorizing the adjustment of the boundaries of the Deschutes National Forest, in the State of Oregon, and for other purposes", c. 46, 42 Stat. 362, as amended by the act of May 24, 1935, c. 140, 49 Stat. 288; and

WHEREAS it appears that the addition of such lands to the Deschutes National Forest would be in the public interest:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by the aforesaid act of February 2, 1922, as amended, do proclaim that the following-described lands in the State of Oregon are hereby added to, and reserved as a part of, the Deschutes National Forest:

WILLAMETTE MERIDIAN

T. 24 S., R. 7 E.,
sec. 11, E½;
secs. 12 and 13;
sec. 14, E½;
T. 25 S., R. 7 E.,
secs. 1 and 2;
sec. 12, N½, N½SW¼, SE¼SW¼, SE¼;
sec. 13, NE¼, NE¼SW¼, N½SE¼, SE¼SE¼;
T. 24 S., R. 8 E.,
sec. 1;
sec. 2, E½;
secs. 7 to 34, inclusive;
sec. 35, NE¼, E½NW¼, NW¼NW¼, S½;
sec. 36.
T. 25 S., R. 8 E.,
secs. 1 to 7, inclusive;
sec. 8, N½, N½SW¼, SE¼SW¼, SE¼;
secs. 9 and 10;
sec. 11, NW¼, S½;
secs. 12 to 16, inclusive;
sec. 17, E½, E½W½;
sec. 18, W½NE¼, W½, NW¼SE¼.
T. 10 S., R. 9 E.,
sec. 36, lot 2.
T. 11 S., R. 9 E.,
sec. 1, lots, 1, 2, 3, 4, 5, 6, S½NE¼, SE¼NW¼, NE¼SW¼, SE¼;
sec. 12, NE¼, lots 1, 2, 3, 4, E½SE¼;
sec. 13, lot 1, SE¼SE¼;
sec. 24, NE¼NE¼, E½SE¼;
sec. 25, NE¼NE¼, S½NE¼, N½SE¼;
sec. 36.
T. 22 S., R. 9 E.,
sec. 13, S½;
secs. 24 to 36, inclusive.
T. 23 S., R. 9 E.,
secs. 3, 4, and 5, N½;
sec. 13, SW¼;
sec. 14, SE¼;
sec. 19;
sec. 23, E½;
secs. 24 and 25;
sec. 26, E½;
sec. 28, W½;
secs. 29, 30, and 31;
sec. 34, SE¼;
secs. 35 and 36.
T. 24 S., R. 9 E.,
sec. 1, NE¼NE¼, W½E½, W½;
secs. 2 and 3;
sec. 4, E½E½;
sec. 5, W½;
secs. 6 to 11, inclusive;
sec. 12, NW¼, W½SW¼;
sec. 13, W½NW¼, NW¼SW¼;
secs. 14 to 23, inclusive;
sec. 24, NW¼, S½;
secs. 25 to 29, inclusive;
sec. 30, E½, NW¼, N½NW¼, SW¼SW¼;
secs. 31 to 36, inclusive.
T. 25 S., R. 9 E.,
secs. 1 to 5, inclusive;
sec. 6, N½NE¼, NW¼, W½SW¼, SE¼SW¼, S½SE¼, NE¼SE¼;
secs. 7 to 18, inclusive;
sec. 22, N½;
T. 10 S., R. 10 E.,
sec. 27, lot 1;
sec. 28, lots 1, 2, 3, 4, 5, S½SW¼, SW¼SE¼;
sec. 29, lots 1, 2, 3, 4, 5, S½SE¼;
sec. 31, lots 1, 2, 3, 4, 5, E½SW¼, SE¼;
secs. 32 and 33;
sec. 34, lots 1, 2, 3, 4, 5, 6, SW¼NW¼, SW¼;
sec. 35, lot 1.
T. 11 S., R. 10 E.,
sec. 2, lots 1 and 2;
sec. 3, lots 1, 2, 3, 4, 5, SW¼NE¼, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
sec. 10;
sec. 11, lots, 1, 2, 3, NW¼NW¼, S½NW¼, SW¼, W½SE¼, SE¼SE¼;
sec. 12, lots 1 and 2, SW¼SW¼;
sec. 13, lots 1 and 2, SW¼NE¼, W½, SE¼;
secs. 14 and 15, and 22 to 27, inclusive;
sec. 33, S½;
secs. 34, 35, 36.
T. 12 S., R. 10 E.,
secs. 1 to 4, and 7 to 36, inclusive.
T. 13 S., R. 10 E.,
secs. 1 to 5, inclusive;
sec. 6, N½;
secs. 8 to 36, inclusive.
T. 14 S., R. 10 E.,
secs. 1 to 24, and 28 to 34, inclusive.
T. 15 S., R. 10 E.,
secs. 3 to 10, 15 to 23, and 26 to 35, inclusive.
T. 16 S., R. 10 E.
T. 17 S., R. 10 E.,
secs. 1 to 6, and 8 to 15, inclusive;
sec. 16, E½;
secs. 22 to 26, inclusive, and 35 and 36.

CONTENTS

THE PRESIDENT

Page

Proclamation:
Deschutes National Forest, Oreg., lands added to 2881
Executive Orders:
Alaska, modification of land withdrawal for town-site purposes 2883
Federal employees, excused from duty on December 24 and 31, 1938 2883
Wyoming, land withdrawal for forest lookout station 2883

RULES, REGULATIONS, ORDERS

TITLE 43—PUBLIC LANDS:
Office of Secretary of Interior, Division of Grazing:
New Mexico Grazing District No. 4, modification 2883

NOTICES

Department of Labor:
Wage and Hour Division:
Messengers, employment at wages lower than minimum specified; hearing on petitions for review of determination 2883
Rural Electrification Administration:
Allocation of funds for loans 2884
Securities and Exchange Commission:
Hartt, Jay Samuel, order relative to application of 2884

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T. 18 S., R. 10 E.,
sec. 1, N½, S½SW¼, SE¼;
secs. 2 and 3;
sec. 10, N½NE¼, SW¼NW¼, W½SW¼, SE¼SW¼, S½SE¼, NE¼SE¼;
secs. 11 to 14, inclusive, and 24, 25, and 36.
T. 19 S., R. 10 E.,
secs. 1, 2, 11, 12, 13, 14;
sec. 25, N½SW¼;
sec. 26, SE¼NW¼;
sec. 34, SW¼NW¼.
T. 20 S., R. 10 E.,
sec. 1, SE¼SW¼, SE¼;
sec. 11, SW¼NW¼;
sec. 12, E½, E½W½, SW¼NW¼, W½SW¼;
sec. 13, E½, NE¼SW¼, S½SW¼;
sec. 23, E½E½, SW¼NW¼, W½SW¼, SE¼SW¼, SW¼SE¼;
secs. 24 and 25;
secs. 31, 32, 33 and 34, S½;
secs. 35 and 36.
T. 22 S., R. 10 E.,
sec. 8, E½;
sec. 17, W½;
sec. 18, S½;
sec. 19;
sec. 24, E½E½;
secs. 30 and 31, W½.
T. 23 S., R. 10 E.,
sec. 1;
sec. 12, N½;
sec. 19;
sec. 20, W½;
sec. 30, NW¼NE¼, W½;
sec. 31, N½NW¼, SW¼NW¼, NW¼SW¼;
sec. 33, S½SW¼.
T. 24 S., R. 10 E.,
sec. 4, NW¼;
sec. 5, E½, E½SW¼;
sec. 7, NE¼SE¼;
sec. 8, N½, N½S½;
sec. 11, SE¼;
sec. 12, S½;
secs. 13 and 14;
sec. 15, NE¼, S½;
sec. 16, SE¼;
sec. 19, S½;
secs. 20, and 22 to 27, inclusive;
sec. 28, NE¼, S½;
secs. 29 to 36, inclusive.
T. 25 S., R. 10 E.,
secs. 1 to 12, inclusive.
T. 11 S., R. 11 E.,
sec. 18, lots 1, 2, 3, 4, 5, SE¼SW¼;
sec. 19, lots 1, 2, 3, 4, 5, 6, W½NE¼, E½W½, SE¼;
sec. 20, lots 1 and 2;
sec. 28, lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
sec. 29, lots 1, 2, 3, 4, 5, 6, SW¼NW¼, SW¼;
secs. 30, 31, 32;
sec. 33, N½, SW¼, W½SE¼;
T. 12 S., R. 11 E.,
sec. 4, W½E½, W½;
secs. 5, 6, 7, 8;
sec. 9, NW¼, N½SW¼, SW¼SW¼;
sec. 17, NE¼, W½;
sec. 18;
sec. 31, W½, W½SE¼.
T. 13 S., R. 11 E.,
sec. 6, W½NE¼, W½, SE¼;
sec. 7;
sec. 18, W½E½, W½.
T. 16 S., R. 11 E.,
secs. 30 and 31, W½.
T. 17 S., R. 11 E.,
sec. 4, S½;
sec. 5, NW¼, S½;
secs. 6 to 9, inclusive;
sec. 15, W½, W½SE¼;
secs. 16 to 21, inclusive;
sec. 22, W½E½, W½;
secs. 27 to 34, inclusive.
T. 18 S., R. 11 E.,
secs. 3 to 10, inclusive;
sec. 11, W½E½, W½;
secs. 14 to 23, and 26 to 35, inclusive.
T. 19 S., R. 11 E.,
sec. 2, NE¼NE¼, W½NE¼, W½;
secs. 3 to 10, inclusive;
sec. 13, W½SW¼;
sec. 14, NW¼NW¼, S½NW¼, S½;
secs. 15 to 18, and 20 to 22, inclusive;
sec. 23, N½, N½S½, S½SW¼, SW¼SE¼;
sec. 24, SW¼NE¼, NW¼NW¼, S½NW¼;
secs. 25 to 29, inclusive;
sec. 30, SE¼;
sec. 31, N½, N½SW¼, SE¼SW¼, SE¼;
secs. 32 to 36, inclusive.
T. 20 S., R. 11 E.,
secs. 1 to 5, inclusive;
sec. 6, E½, E½NW¼, SW¼NW¼, SW¼;
secs. 7 to 22, inclusive;
sec. 25, SE¼;
secs. 27 to 34, inclusive, and sec. 36.
T. 21 S., R. 11 E.,
secs. 3, 4, 5, 8, 9, 10;
sec. 11, SE¼;
sec. 12, S½;
secs. 13 to 17, inclusive;
sec. 20, NE¼, S½;
secs. 21 to 28, inclusive;
sec. 29, N½;
sec. 32, E½, E½W½;
secs. 33 to 36, inclusive.
T. 22 S., R. 11 E.,
secs. 1 to 5 inclusive;
sec. 7, E½;
secs. 8 to 22, inclusive;
sec. 24, NE¼;
secs. 27, 28, 29;
sec. 30, SE¼;
secs. 31 to 34, inclusive.
T. 23 S., R. 11 E.,
sec. 4, E½;
secs. 5 to 8, and 16 to 19, inclusive;
sec. 20, W½;
sec. 26, NE¼, S½;
secs. 27 and 28, S½;
secs. 29 to 36, inclusive.
T. 24 E., R. 11 E.,
sec. 2, N½, SW¼;
secs. 3 to 11, inclusive, and sec. 16;
sec. 17, N½;
secs. 18 and 19.
T. 19 S., R. 12 E.,
sec. 31;
sec. 32, SW¼;
sec. 33, SW¼SW¼;
sec. 35, SW¼NE¼.
T. 20 S., R. 12 E.,
sec. 3, NE¼SE¼;
sec. 7, SW¼;
sec. 14, SW¼NW¼;
sec. 16;
sec. 17, W½;
secs. 18, 19, 20;
sec. 21, W½
secs. 29 and 30;
sec. 31, W½.
T. 21 S., R. 12 E.,
sec. 4, W½;
sec. 5, NE¼, S½;
sec. 6, SE¼;
sec. 7;
sec. 8, N½, SW¼;
secs. 18, 19, 30, and 31.
T. 22 S., R. 12 E.,
sec. 5, W½;
secs. 6 and 7;
sec. 8, W½;
sec. 16;
sec. 17, W½;
sec. 18;
sec. 19, N½;
sec. 20;
sec. 21, NW¼;
T. 20 S., R. 13 E.,
sec. 6, W½SW¼;
sec. 8, NW¼NW¼.
Aggregating 411,813.48 acres.

The reservation made by this proclamation shall as to any land which is at this date embraced in any valid claim or reserved for any public purpose other than for classification or as a stock-driveway, be subject to, and shall not interfere with or defeat, legal rights under such claim, or prevent the use for such public purpose of lands so reserved, so long as such claim is legally maintained or such reservation remains in force.

Executive Order No. 5082 of March 22, 1929, withdrawing the public lands within certain areas in Oregon for classification, is hereby revoked as to the following-described lands, which have been classified as not of a national-forest character:

WILLAMETTE MERIDIAN

T. 23 S., R. 9 E.,
sec. 4, SW¼SW¼;
sec. 5, E½SW¼, SE¼;
sec. 8;
sec. 9, N½NW¼, SW¼NW¼;
sec. 15, E½SE¼;
sec. 16;
sec. 17, N½, N½S½;
sec. 20, N½SW¼, SE¼SW¼, W½SE¼;
sec. 21, S½N½, N½SW¼, SE¼SW¼, SE¼;
sec. 22, E½NE¼, S½SW¼;
sec. 27, N½, SW¼, N½SE¼;
sec. 28, E½;
sec. 32, W½NE¼, E½W½, SE¼;
sec. 33, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼;
sec. 34, N½NW¼.
T. 24 S., R. 9 E.,
sec. 5, N½NE¼, SE¼SE¼;
sec. 13, SE¼NE¼, SE¼SW¼, SE¼;
sec. 24, S½NE¼.
T. 21 S., R. 10 E.,
sec. 4, N½, SE¼;
sec. 5, NW¼, S½;
sec. 6, E½, lots 3, 4, 7, SE¼SW¼;
sec. 7, N½NW¼;
sec. 8, NE¼, E½NW¼;
sec. 9;
sec. 21, NE¼;
sec. 33, W½SE¼.
T. 22 S., R. 10 E., sec. 5, N½SE¼.
T. 23 S., R. 10 E.,
sec. 29, N½NE¼, NE¼NW¼;
sec. 32, S½SW¼.
T. 24 S., R. 10 E.,
sec. 7, S½SE¼;
sec. 8, S½S½;
sec. 9, NE¼, E½NW¼, S½;
sec. 10, SE¼NE¼, S½;
sec. 11, N½, SW¼;
sec. 12, N½;
sec. 15, NW¼;
sec. 17, E½NE¼, W½NW¼, SW¼, N½SE¼;
sec. 18;
sec. 19, N½NE¼, SW¼NE¼, S½NW¼;
sec 21;
sec. 28, NW¼;
T. 22 S., R. 11 E.,
sec. 6, E½NE¼;
sec. 30, N½NE¼, SW¼NE¼, E½W½, lots 2 and 4.
Aggregating 12,557.04 acres.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 5'' day of December in the year of our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:

SUMNER WELLES
Acting Secretary of State.

[No. 2316]

[F. R. Doc. 38-3686; Filed, December 7, 1938; 11:16 a. m.]

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LAND FOR FOREST LOOKOUT STATION

WYOMING

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered as follows:

Section 1. Executive Order No. 6910 of November 26, 1934, as amended, temporarily withdrawing certain lands for classification and other purposes, is hereby revoked as to the following-described tract of public land in Wyoming:

SIXTH PRINCIPAL MERIDIAN

T. 13 N., R. 77 W., sec. 13, SE¼NE¼, N½SE¼, 120 acres.

Section 2. Subject to valid existing rights, the tract of land described in section 1 of this order is hereby temporarily withdrawn from settlement, location, sale, or entry and reserved for use by the Forest Service of the Department of Agriculture as a fire-lookout station in connection with the administration of the Medicine Bow National Forest.

Section 3. The withdrawal made by section 2 of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 5, 1938.

[No. 8021]

[F. R. Doc. 38-3679; Filed, December 6, 1938; 1:16 p. m.]

EXECUTIVE ORDER

EXCUSING FEDERAL EMPLOYEES FROM DUTY OF DECEMBER 24 AND 31, 1938

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

1. The several Executive departments, independent establishments, and other governmental agencies in the District of Columbia, including the Government Printing Office and the Navy Yard and Naval Stations, shall be closed all day on Saturday, December 24, 1938, the day preceding Christmas Day, and all day on Saturday, December 31, 1938, the day preceding New Year's Day; and all employees in the Federal service in the District of Columbia, and in the field service of the Executive departments, independent establishments, and other agencies of the Government, except those who may for special public reasons be excluded from the provisions of this order by the heads of their respective departments, establishments, or agencies, or those whose absence from duty would be inconsistent with the provisions of existing law, shall be excused from duty on those days.

2. This order shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 6, 1938.

[No. 8022]

[F. R. Doc. 38-3683; Filed, December 7, 1938; 10:24 a. m.]

EXECUTIVE ORDER

MODIFICATION OF EXECUTIVE ORDER NO. 4683 OF JULY 4, 1927, WITHDRAWING PUBLIC LANDS FOR TOWN-SITE PURPOSES

ALASKA

By virtue of and pursuant to the authority vested in me by sections 2380 and 2381 of the Revised Statutes of the United States, and as President of the United States, Executive Order No. 4683 of July 4, 1927, withdrawing public lands in Alaska for town-site purposes, is hereby modified to the extent necessary to permit the entry under the provisions of section 11 of the act of March 3, 1891, 26 Stat. 1099 (U. S. C., title 48, sec. 355), in behalf of settlers, of that portion of the land withdrawn by the said Executive order of July 4, 1927, which has been subdivided for town-site purposes as shown by plat of survey accepted August 10, 1938.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 6, 1938.

[No. 8023]

[F. R. Doc. 38-3684; Filed, December 7, 1938; 10:24 a. m.]

Rules, Regulations, Orders

TITLE 43—PUBLIC LANDS

OFFICE OF SECRETARY OF INTERIOR, DIVISION OF GRAZING

NEW MEXICO GRAZING DISTRICT NO. 4

MODIFICATION

DECEMBER 2, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing New Mexico Grazing District No. 4, is hereby revoked as far as it affects the following-described land:

NEW MEXICO

New Mexico Principal Meridian

T. 3 S., R. 11 E., all.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 38-3680; Filed, December 7, 1938; 9:35 a. m.]

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING ON PETITIONS FOR REVIEW OF DETERMINATION DENYING APPLICATIONS FOR PERMISSION TO EMPLOY MESSENGERS AT WAGES LOWER THAN APPLICABLE MINIMUM SPECIFIED IN SECTION 6 OF THE FAIR LABOR STANDARDS ACT OF 1938

Whereas, the Western Union Telegraph Company and Postal Telegraph Landline System, pursuant to Section 523.9 of Part 523 of Regulations of the Department of Labor, Title 29, Chapter V, Wage and Hour Division (Regulations applicable to employment of messengers pursuant to Section 14 of the Fair Labor Standards Act of 1938),[1] and to notice given by the Administrator pursuant to said Section 523.9, filed with the Administrator on November 29, 1938, their respective petitions requesting that he review the determination of William M. Leiserson, made under date of November 10, 1938, which denied the respective applications of said companies for permission to employ messengers employed exclusively in delivering letters and messages at wages lower than the applicable minimum wage specified in Section 6 of the Act; and

Whereas, the Western Union Telegraph Company has requested that oral argument in support of its petition for review be allowed, and Postal Telegraph

[1] 3 F. R. 2484 DI.

Landline System has requested that oral argument and briefs in support of its petition for review be allowed; and

Whereas, Messrs. Cecil P. Stewart, William Rosenblatt, Milton W. Harrison, and Hamilton Pell, as a Committee of bondholders of Postal Telegraph and Cable Corporation, and the Protective Committee for Postal Telegraph and Cable Corporation Bonds, of which Mr. Robert Lehman is Chairman, respectively have requested permission to intervene in any proceedings before the Administrator upon the petition for review of Postal Telegraph Landline System and such requests to intervene have been granted by the Administrator;

Now, therefore, pursuant to the Fair Labor Standards Act of 1938, and the said Part 523 of the Regulations issued by the Administrator thereunder, notice is hereby given that the Administrator, on the basis of the record and the report and findings of said William M. Leiserson, will review the said determination of William M. Leiserson and that a hearing on the matters prayed for in said petitions will be held before the Administrator in Room 3135, Department of Labor Building, located at Constitution Avenue and 14th Street, Washington, D. C., to commence at 10:00 o'clock A. M., on December 19, 1938.

At such time and place, any interested party will be afforded an opportunity to present oral argument in support of or in opposition to the matters prayed for in said petitions for review, or in either of them, provided that he shall have filed with the Administrator prior to 12:00 o'clock noon on December 17, 1938, written notice of his intention to participate in said argument.

Briefs for any such party in support of any of the matters prayed for in the petitions for review, or in either of them, will be received and considered by the Administrator if filed with him on or before December 19, 1938, and briefs in opposition thereto will be received and considered by the Administrator if filed on or before December 24, 1938. All such briefs should be addressed to the Administrator, Room 5144, Department of Labor Building, Washington, D. C. If briefs are typewritten or mimeographed, 10 copies shall be filed; if printed, 20 copies shall be filed. Copies of such briefs will be furnished on request to the extent practicable, and copies may be examined in Room 5144, United States Department of Labor, Washington, D. C.

Signed at Washington, D. C., this seventh day of December, 1938.

PAUL SIFTON,
Deputy Administrator.

[F. R. Doc. 38-3687; Filed, December 7, 1938; 1:02 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 310]

ALLOCATION OF FUNDS FOR LOANS

DECEMBER 3, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Florida R9016W2 Sumter	$12,000
Georgia R9045W2 Sumter	10,000
Georgia R9067W3 Bacon	10,000
Georgia R9083W1 Jackson	7,000
Georgia R9088W1 Telfair	30,000
Kentucky R9023W1 Taylor	10,000
Kentucky R9034W1 Barren	10,000
Michigan R9038W2 Cass	15,000
Nebraska R9051W1 Burt	5,000
North Carolina R9025W1 Rutherford	5,000
North Dakota R9013W1 Foster	10,000
Ohio R9001W2 Miami	4,000
Texas R9065W1 Rusk	5,000
Vermont R9007W1 Orleans	6,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3681; Filed, December 7, 1938; 9:35 a. m.]

[Administrative Order No. 311]

ALLOCATION OF FUNDS FOR LOANS

DECEMBER 3, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Alabama R9018D1 Cullman	$39,000
Arkansas R9022A1 Clay	300,000
Georgia R9007C1 Catoosa	312,000
Georgia R9068C1 Grady	100,000
Idaho R9004C1 Bonner	40,000
Illinois R9037A1 Saline	811,000
Illinois R9041A1 Jefferson	507,000
Indiana R9007B1 Whitley	55,000
Iowa R9005C1 Carroll	147,000
Iowa R9007A1 Marshall	130,000
Iowa R9052A1 Howard	306,000
Iowa R9071A1 Buchanan	293,000
Kansas R9024A1 Clay	276,000
Kansas R9025A1 Lyon	143,000
Kansas R9027A1 Morris	523,000
Kentucky R9051A1 Hardin	328,000
Minnesota R9063D1 Scott	271,000
Mississippi R9020B1 Yazoo	162,000
Missouri R9012B1 Pemiscot	379,000
Missouri R9038A1 Reynolds	194,000
Nebraska R9044C1 Cass	632,000
Nebraska R9044D1 Cass	239,000
Nebraska R9051B1 Burt	140,000
Nebraska R9056B1 Cedar	139,000
Nebraska R9069A1 Dawson	318,000
Tennessee R9024B1 Montgomery	563,000
Texas R9056C1 Lubbock	163,000
Texas R9067B1 Rains-Rockwall	215,000
Texas R9075A1 Wharton	162,000
Texas R9078A1 Cherokee	276,000
Texas R9086A1 Comanche	173,000
Virginia R9026B1 Lancaster	$52,000
Washington R9025B1 Cowlitz	128,000
Wisconsin R9035D1 Richland	56,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3682; Filed, December 7, 1938; 9:35 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of December 1938.

[File No. 55-11]

IN THE MATTER OF THE APPLICATION OF JAY SAMUEL HARTT

ORDER

Jay Samuel Hartt, having filed application pursuant to Section 11 (f) and 20 (a) of the Public Utility Holding Company Act of 1935 and Rule U-11F-2 thereunder; a public hearing having been held on this application pursuant to appropriate notice;[1] said applicant having waived a trial examiner's report, submission of proposed findings of fact by the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission, and oral argument before the Commission, prior to the entry of the Commission's findings and order herein; and the Commission having considered the record in these matters and having made and filed its findings herein;

It is ordered:

(1) That the maximum amount of fees, expenses, commissions and remuneration which shall be paid to applicant Hartt for services as engineering adviser to the Trustee from June 1, to September 30, 1938, shall be $2,524.16, together with remuneration for cash disbursements during said period in the amount of $1,943.30, as additional amounts to the interim allowances already paid.

(2) The order heretofore entered on May 23, 1938,[2] in File 55-1 exempting said Hartt from Rule U-11F-2 upon conditions therein stated, is to remain in force subject to the further order of the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3685; Filed, December 7, 1938; 10:52 a. m.]

[1] 3 F. R. 2642 DI.
[2] 3 F. R. 1205 DI.

Retirement

FEDERAL REGISTER

VOLUME 3 NUMBER 239

Washington, Friday, December 9, 1938

The President

DESCHUTES NATIONAL FOREST—OREGON

Correction

Proclamation No. 2316 (F. R. Doc. 38-3686; Filed, December 7, 1938; 11:16 a. m.), appearing in the FEDERAL REGISTER of December 8, 1938, should be corrected as follows:

Page 2881, second column, under "T. 24 S., R. 9 E.," the description following "sec. 30," should read as follows:

sec. 30, E½, NW¼, N½SW¼, SW¼SW¼;

Page 2882, second column, "T. 24 E., R. 11 E.," should read:

T. 24 S., R. 11 E.,

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

FARM CREDIT ADMINISTRATION

[FCA 107]

AUTHORITY OF CHIEF CLERK TO ISSUE CERTIFICATES

DECEMBER 8, 1938.

Sec. 3.72 of Title 6, Code of Federal Regulations, is amended to read as follows:

"Sec. 3.72 *Certificates, authority of Chief Clerk to issue.* The Chief Clerk of the Farm Credit Administration is hereby authorized to execute and issue under the seal of the Farm Credit Administration, statements (1) authenticating copies of, or excerpts from, official records and files of the Farm Credit Administration; (2) certifying, on the basis of the records of the Farm Credit Administration, the effective periods of regulations, orders, instructions, and regulatory announcements; and (3) certifying, on the basis of the records of the Farm Credit Administration, the appointment, qualification, and continuance in office of any officer or employee of the Farm Credit Administration, or any conservator or receiver acting under the supervision or direction of the Farm Credit Administration. (E. O. 6084, March 27, 1933, 6 CFR 1.1 (12).) [FCA Order No. 238, December 8, 1938.]"

[SEAL] F. F. HILL,
Governor.

[F. R. Doc. 38-3700; Filed, December 8, 1938; 12:11 p. m.]

TITLE 7—AGRICULTURE

SUGAR DIVISION

[P. R. Sugar Order No. 12, Supp. 1]

SUPPLEMENT TO DECISION AND ORDER ALLOTTING THE 1938 SUGAR QUOTAS FOR PUERTO RICO

Whereas, General Sugar Quota Regulations Series 5, No. 1, Revision 1, Supplement 2,[1] increased the 1938 sugar quota for Puerto Rico for marketing in the continental United States by 5,933 short tons of sugar, raw value, and

Whereas, Puerto Rico Sugar Order No. 12, issued June 21, 1938,[2] provided that any increase in the 1938 sugar quotas for Puerto Rico should be prorated among Puerto Rican processors on the basis of the allotments set forth therein, and

Whereas, all interested Puerto Rican processors have waived their right to a hearing with respect to this supplement to Puerto Rico Sugar Order No. 12, as provided in Section 205 (a) of the Sugar Act of 1937.

Now, therefore, upon the basis of the foregoing and pursuant to the authority vested in the Secretary of Agriculture by section 201 (a) of the said act, it is hereby ordered that the continental United States marketing allotments set forth in

[1] 3 F. R. 2729 DI.
[2] 3 F. R. 1474 DI.

CONTENTS

THE PRESIDENT — Page
Deschutes National Forest, Oreg., correction of Proclamation No. 2316 — 2885

RULES, REGULATIONS, ORDERS

TITLE 6—AGRICULTURAL CREDIT:
Farm Credit Administration:
Certificates, authority of Chief Clerk to issue — 2885
TITLE 7—AGRICULTURE:
Sugar Division:
Puerto Rico, supplement to decision and order allotting 1938 sugar quotas for — 2885
TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Non-scheduled operations, temporary exemptions — 2886
TITLE 29—LABOR:
Office of Secretary of Labor:
Assistant Chief to perform duties of Chief of Children's Bureau in absence of latter — 2886

NOTICES

Civil Aeronautics Authority:
American Airlines, Inc., hearing on application for certificate of public convenience and necessity — 2888
Department of the Interior:
National Bituminous Coal Commission:
Reopening of hearings, weighted average of total costs of tonnage produced in:
Minimum Price Areas 1, 2, 3, 4, and 5 — 2886
Minimum Price Areas 6, 7, 9, and 10 — 2887
Department of Labor:
Wage and Hour Division:
Fair Labor Standards Act of 1938, change in date of hearing on amendments relative to area of production — 2887

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
Securities and Exchange Commission:	
Central Illinois Public Service Co., exemption of issue and sale of bonds and debentures	2890
Connecticut Light & Power Co., corrected order	2888
Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Inc. (Del.); and Employees Welfare Association, Inc. (N. J.):	
Hearing on status as:	
Affiliates of other specified companies	2889
Subsidiaries of other specified companies	2889
Order for consolidation of hearings for stated purposes	2890

Puerto Rico Sugar Order No. 12, be, and they hereby are, increased as follows:

Puerto Rican processors:	*Additional continental United States marketing allotment (short tons, raw value)*
Aguirre	672
Boca Chica	102
Cambalache	280
Canovanas	214
Caribe	44
Carmen	103
Coloso	233
Constancia Ponce	53
Constancia Toa	147
Eastern Sugar Associates	584
El Ejemplo	88
Eureka	95
Fajardo	413
Guamani	76
Guanica	645
Herminia	13
Igualdad	112
Juanita	137
Lafayette	200
Mercidita	235
Monserrate	82
Pellejas	18
Plata	83
Playa Grande	51
Plazuela	264
Rochelaise	61
Roig	182
Rufina	189
San Francisco	40
Santa Barbara	18
San Vicente	230
Soller	47
Vannina	105
Victoria	117
Total	5,933

In testimony whereof, I, H. A. Wallace, Secretary of Agriculture, have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of December 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3699; Filed, December 8, 1938; 12:04 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation 400-1, as amended 12-7-38]

TEMPORARILY EXEMPTING NON-SCHEDULED OPERATIONS FROM CERTAIN PROVISIONS OF TITLE IV OF THE CIVIL AERONAUTICS ACT OF 1938

At a session of the Civil Aeronautics Authority held at its office in the City of Washington, D. C., on the 7th day of December 1938.

Acting pursuant to the Authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 and finding that its action is consistent with the provisions of said Act and necessary to carry out such provisions and further finding that the facts and circumstances existing with respect to non-scheduled operations of a commercial character have not changed since the date of the issuance of Regulation 400-1, but that such Regulation requires clarification in certain respects, the Civil Aeronautics Authority hereby amends Regulation 400-1[1] so that hereafter such Regulation shall read as follows:

"(a) Until the authority shall adopt further rules, regulations or orders with respect to such matter, every air carrier which engages solely in non-scheduled operations shall be exempt from the provisions of section 401 and all other provisions of Title IV of the Civil Aeronautics Act of 1938 (except as provided in paragraph (b) of this regulation). Within the meaning of this regulation any operation shall be deemed to be non-scheduled if the air carrier does not hold out to the public by advertisement or otherwise that it will operate one or more airplanes between any designated points regularly or with a reasonable degree of regularity upon which airplane or airplanes it will accept for transportation, for compensation or hire, such members of the public as may apply therefor or such express or other property as the public may offer.

"(b) The exemptions provided by this regulation shall not be applicable to the provisions of subsection (L) of section 401 of the Act or to the reporting requirements of section 407 of the Act; *provided*, That no provision of any rule, regulation or order that may be adopted by the Authority requiring reports pursuant to section 407 of the Act shall be deemed applicable to any non-scheduled operator unless such rule, regulation or order expressly provides that such provision is to be applicable to air carriers who are exclusively engaged in non-scheduled operations."

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3692; Filed, December 8, 1938; 11:06 a. m.]

[1] 3 F. R. 2516 DI.

TITLE 29—LABOR

OFFICE OF SECRETARY OF LABOR

[Administrative Order]

ORDER AUTHORIZING THE ASSISTANT CHIEF TO PERFORM THE DUTIES OF THE CHIEF OF THE CHILDREN'S BUREAU IN THE ABSENCE OF THE LATTER

By virtue of the authority vested in me by section 161 of the Revised Statutes (U. S. Code, ti. 5, sec. 22), it is hereby ordered that the Assistant Chief of the Children's Bureau is authorized to perform the duties of the Chief of the Children's Bureau in the absence of the Chief of the Children's Bureau.

FRANCES PERKINS,
Secretary.

NOVEMBER 9, 1938.

[F. R. Doc. 38-3688; Filed, December 7, 1938; 3:05 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

ORDER IN THE MATTER OF ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

REOPENING OF HEARING IN THE MATTER OF DETERMINATIONS OF WEIGHTED AVERAGE OF TOTAL COSTS OF TONNAGE PRODUCED IN MINIMUM PRICE AREAS 1, 2, 3, 4, AND 5; AND PROVIDING FOR AVAILABILITY OF INDIVIDUAL COST REPORTS FOR INSPECTION BY INTERESTED PARTIES

Whereas, hearings[1] within the above-entitled proceedings were held in the City of Washington, D. C., from the 6th day to the 23rd day of July, 1938, both dates inclusive, in the matter of the determinations of the weighted average of the total costs of the tonnage produced in each of Minimum Price Areas 1, 2, 3, 4, and 5, at which certain composite reports, based upon the verified cost reports of individual producers, were received in evidence and considered by the Commission in arriving at its determinations of the weighted average of the total costs of the tonnage produced in each of the aforesaid Minimum Price Areas, by orders entered on August 10, 1938, for Minimum Price Area No. 1 and on August 19, 1938, for Minimum Price Areas Nos. 2, 3, 4 and 5,[2] which orders are made a part hereof by reference; and

Whereas, interested parties were advised at said hearings that further testimony would be received and cross-examination would be permitted, at a later date, when said cost reports would be available for inspection and introduction in evidence:

Now, therefore, pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the Secretary of the Commission be and he is hereby directed to cause the verified cost reports of the individual producers within each of Minimum Price Areas 1, 2, 3, 4 and 5 submitted to the Commission pursuant to Orders Nos. 15 and 29,[3] to be made available for inspection during business hours on and after December 15th, 1938, at the offices of the Commission, Washington, D. C., by those interested parties who have filed appearances in this proceeding. Notices of appearance may be filed with the Commission at the Secretary's Office, Washington, D. C.

2. That the hearings in the matter of the weighted average of the total costs per net ton of the tonnage produced in Minimum Price Areas 1, 2, 3, 4 and 5 are hereby reopened and interested parties will be afforded further opportunity to introduce affirmative evidence and to cross-examine witnesses as to the correctness of said composite reports heretofore introduced in evidence at the aforesaid hearings within this proceeding, upon proper notice, at a time and place to be later designated by the Commission.

3. That the Secretary be, and he is hereby directed, to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of Districts Nos. 1 to 15, both inclusive, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 6th day of December 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3689; Filed, December 8, 1938; 10:11 a. m.]

[1] 3 F. R. 1457, 1568, 2162 DI.

[2] 3 F. R. 1987, 2057 DI.
[2] 2 F. R. 1234, 1347 (1477, 1606 DI).

[General Docket No. 15]

ORDER IN THE MATTER OF ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

REOPENING OF HEARING IN THE MATTER OF DETERMINATIONS OF WEIGHTED AVERAGE OF TOTAL COSTS OF TONNAGE PRODUCED IN MINIMUM PRICE AREAS 6, 7, 9, AND 10; AND PROVIDING FOR AVAILABILITY OF INDIVIDUAL COST REPORTS FOR INSPECTION BY INTERESTED PARTIES

Whereas, a hearing[1] within the above-entitled proceedings was held in the City of Denver, Colorado, from the 13th day to the 16th day of June, 1938, both dates inclusive, in the matter of the determinations of the weighted average of the total costs of the tonnage produced in each of Minimum Price areas 6, 7, 9 and 10, at which certain composite reports, based upon the verified cost reports of individual producers, were received in evidence and considered by the Commission in arriving at the determinations of the weighted average of the total costs of the tonnage produced in each of the aforesaid Minimum Price Areas, by orders entered herein on July 30, 1938, and August 1, 1938,[2] which orders are made a part hereof by reference; and

Whereas, interested parties were advised at said hearing that further testimony would be received and cross-examination would be permitted, at a later date, when said cost reports would be available for inspection and introduction in evidence:

Now, therefore, Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That the Secretary of the Commission be and he is hereby directed to cause the vertified cost reports of the individual producers within each of Minimum Price Areas 6, 7, 9, and 10, submitted to the Commission pursuant to Orders No. 15 and 29,[3] to be made available for inspection during business hours on and after December 15th, 1938, at the offices of the Commission, Central Savings Bank Building, Denver, Colorado, by those interested parties who have filed appearances in this proceeding. Notices of appearance may be filed with the Commission at the Secretary's Office, Washington, D. C., or at the Offices of the Commission, Central Savings Bank Building, Denver, Colorado.

2. That the hearing in the matter of the determination of the weighted average of the total costs per net ton of the tonnage produced in Minimum Price Areas 6, 7, 9, and 10, is hereby reopened and notice is hereby given that the Commission will, on the 28th day of December, 1938, at 10:00 A. M. in its hearing room in the Albany Hotel, Denver, Colorado, afford all interested parties further opportunity to introduce affirmative evidence and to cross-examine witnesses as to the correctness of said composite reports heretofore introduced in evidence in this proceeding.

3. That any interested party desiring to avail himself of the opportunity to introduce affirmative evidence or to cross-examine any witness shall, not later than the 24th day of December, file with the Commission at its office in the Central Savings Bank Building, Denver, Colorado, a written statement setting forth the nature of such affirmative evidence and/or the names of the witnesses to be cross-examined.

4. That the Secretary be and he is hereby directed to cause a copy of this Order and Notice to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in each of Districts No. 16, 17, 18, 19, 20, 22, and 23, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 6th day of December 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3690; Filed, December 8, 1938; 10:11 a. m.]

[1] 3 F. R. 1277, 2162, 2227 DI.
[2] 3 F. R. 1893, 1905 DI.
[3] 2 F. R. 1234, 1347 (1477, 1606 DI).

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF FURTHER CHANGE IN DATE OF HEARING ON PROPOSED AMENDMENTS OF SECTIONS 536.1 AND 536.2 (AREA OF PRODUCTION) OF REGULATIONS ISSUED UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Whereas, the Hearing[1] on the above proposed amendments has heretofore been duly postponed to the 19th day of December, 1938 at 10 o'clock A. M. at

[1] 3 F. R. 2789 DI.

the Raleigh Hotel, Twelfth Street and Pennsylvania Avenue, Washington, D. C., before Mr. Merle D. Vincent, the presiding officer designated, on the following question:

What, if any, amendment should be made of Section 536.1[3] or Section 536.2 of the regulations issued under the Fair Labor Standards Act of 1938 in respect to the definition of "area of production" for fresh fruits and vegetables.

Now take notice that said Hearing has been further postponed to the 9th day of January, 1939 at 10 o'clock A. M., at the said designated place.

Signed at Washington, D. C., this eighth day of December, 1938.

PAUL SIFTON,
Deputy Administrator.

[F. R. Doc. 38-3693; Filed, December 8, 1938; 11:18 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 22-401 (E)-1]

AMERICAN AIRLINES, INC.

NOTICE OF HEARING

Application under section 401 (e) for a certificate of public convenience and necessity for the transportation by air of persons, property and mail between designated points in scheduled operations as follows:

Dallas, Texas, to Los Angeles, Calif., and return, via Fort Worth, Abilene, Big Spring and El Paso, Texas, Douglas, Tucson and Phoenix, Arizona.

Newark, N. J., to Chicago, Ill., and return via Scranton and Wilkes Barre, Pa., Elmira, Syracuse, Rochester and Buffalo, N. Y., Detroit, Ann Arbor, Jackson, Battle Creek, and Kalamazoo, Mich., and South Bend, Indiana.

Boston, Mass., to Newark, N. J., and return via Springfield, Mass., Providence, R. I., Hartford and New Haven, Connecticut.

Boston, Mass., to Cleveland, Ohio, and return via Springfield, Mass., Albany, Utica, Syracuse, Rochester and Buffalo, N. Y., and Erie, Pa.

Cleveland, Ohio, to Nashville, Tenn., and return via Columbus, Dayton and Cincinnati, Ohio, and Louisville, Kentucky.

Albany, N. Y., to Fort Worth, Texas and return via Newark, N. J., Philadelphia, Pa., Baltimore, Md., Washington, D. C., Charlottesville, Lynchburg, Roanoke and Bristol, Va., Knoxville, Nashville and Memphis, Tenn., Little Rock and Texarkana, Ark., and Dallas, Texas.

Washington, D. C., to Chicago, Ill., and return, via Elkins, Charleston and Huntington, W. Va., Cincinnati, Ohio, and Indianapolis, Indiana.

Chicago, Ill., to Forth Worth, Texas, and return, via Peoria and Springfield, Ill., St. Louis and Springfield, Mo., Tulsa and Oklahoma City, Okla., and Dallas, Texas.

Also from Newark, N. J., to Lakehurst, N. J., and return.

DECEMBER 7, 1938.

The above-entitled proceeding is assigned for public hearing on December 20, 1938, 10 o'clock (eastern standard time) at the offices of the Civil Aeronautics Authority (Conference Room "B," Departmental Auditorium) Washington, D. C., before Examiner A. G. Nye.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3691; Filed, December 8, 1938; 11:06 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of November, A. D. 1938.

[File No. 32-116]

IN THE MATTER OF THE CONNECTICUT LIGHT & POWER COMPANY

CORRECTED ORDER[1]

The Connecticut Light & Power Company, a subsidiary of United Gas Improvement Company, a registered holding company, having filed an application under Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act in regard to the issue and sale of $15,000,000 principal amount of First and Refunding Mortgage Three and One-quarter Percent Bonds, Series H (due December 1, 1968), the issue and sale of such securities having been expressly authorized by the Public Utilities Commission of the State of Connecticut, and the applicant having consented to the issuance of such order or orders by the Commission under Section 12 (c) and/or 20 (a) as will give assurance that the applicant will fulfill the obligation which it has assumed to set aside annually not less than 12½ per centum of its gross operating revenue from the sale of services for maintenance and as a provision for renewals, replacements and retirements;

Public hearings on this matter having been held after appropriate notice, the Commission having considered the record in this matter and having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid First and Refunding Mortgage Three and One-quarter Percent Bonds, Series H, in accordance with the terms and conditions set forth in, and for the purposes represented by, the said application be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions:

(a) That if the express authorization of the issue and sale of such securities by the Public Utilities Commission of Connecticut shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission;

(b) That all matters in connection with said application shall be performed in all respects as set forth in and for the purposes represented by said application, provided, however, that no fee shall be paid to Putnam & Company or to Charles W. Scranton & Company, in connection with the issue and sale of such First and Refunding Mortgage Three and One-quarter Percent Bonds pending further order of this Commission; and

(c) That within ten days after the issue and sale of such securities the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, and in accordance with the terms of this order.

It is further ordered, That the Commission reserve jurisdiction to determine, at a later date, whether the fee to be paid to Putnam & Company and to Charles W. Scranton & Company, in connection with the issue and sale of the First and Refunding Mortgage Three and One-quarter Percent Bonds, Series H, is or is not reasonable.

It is further ordered, Pursuant to the provisions of Sections 12 (c) and 20 (a), that the applicant shall declare and pay no dividends on its common stock after January 1, 1938 unless such applicant shall have set aside in each year for maintenance and as a provision for renewals, replacements and retirements an amount equal to not less than 12½ per centum of its gross operating revenues from the sale of services in accordance with the following obligation which has been assumed by the applicant:

"As long as any Series H bonds are outstanding, the Company shall charge to income during each year beginning January 1, 1938 for the maintenance and replacement of its properties, an amount equivalent to be not less than twelve and one-half percent of its gross operating revenues from the sale of service during such year, any portion of such aggregate amount not actually expended for current maintenance during any twelve months' period ending December 31 in any year shall be segregated in the retirement reserve account which shall in subsequent years be used only for maintenance expenditures or for replacements and renewals in excess of the twelve and one-half per cent. If during any such year the provision of the Company for maintenance, replacements and renewals should in the aggregate exceed an amount equivalent to twelve and one-half per cent of its gross operating revenues from the sale of service during said year, any such excess may be credited upon the twelve and one-half per cent requirement in subsequent years."

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3698; Filed, December 8, 1938; 11:21 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of December, A. D. 1938.

[File No. 60-2]

IN THE MATTER OF TRUSTEES UNDER PENSION TRUST AGREEMENT, DATED DECEMBER 14, 1937; EMPLOYEES WELFARE ASSOCIATION, INCORPORATED (DELAWARE); AND EMPLOYEES WELFARE ASSOCIATION, INC. (NEW JERSEY)

NOTICE OF AND ORDER FOR HEARING TO DETERMINE WHETHER SUCH COMPANIES SHOULD BE DECLARED TO BE AFFILIATES OF OTHER SPECIFIED COMPANIES

The Commission having reasonable cause to believe that Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) and each of such companies, stand in such relation to—

Associated Gas and Electric Company, and New England Gas and Electric Association

and each of such companies that there is liable to be such an absence of arm's-length bargaining in transactions between them as to make it necessary and appropriate in the public interest and for the protection of investors and consumers that Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) be subject to the obligations, duties, and liabilities imposed upon affiliates of a company by the Public Utility Holding Company Act of 1935.

It is ordered, Pursuant to section 2 (a) (11) (D) of said Act that a hearing be held to determine whether such relation exists, and if such relation is found to exist, to declare Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) to be affiliates of the other above-named companies and each of them.

It is further ordered, That such hearing be held on January 4, 1939 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That William Swift, Raoul Berger or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3695; Filed, December 8, 1938; 11:20 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of December, A. D. 1938.

[File No. 60-3]

IN THE MATTER OF TRUSTEES UNDER PENSION TRUST AGREEMENT DATED DECEMBER 14, 1937; EMPLOYEES WELFARE ASSOCIATION, INCORPORATED (DELAWARE); AND EMPLOYEES WELFARE ASSOCIATION, INC. (NEW JERSEY)

NOTICE OF AND ORDER FOR HEARING TO DETERMINE WHETHER SUCH COMPANIES SHOULD BE DECLARED TO BE SUBSIDIARIES OF OTHER SPECIFIED COMPANIES

The Commission having reasonable cause to believe that Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) and each of such companies are subject to a controlling influence, directly or indirectly, by—

Associated Gas and Electric Company, and New England Gas and Electric Association

(either alone or pursuant to an arrangement or understanding with one or more persons) and by each of such companies so as to make it necessary and appropriate in the public interest and for the protection of investors and consumers that Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) be subject to the obligations, duties and liabilities imposed upon subsidiaries of holding companies by the Public Utility Holding Company Act of 1935.

It is ordered, Pursuant to section 2 (a) (8) (B) of said Act that a hearing be held to determine whether such controlling influence exists, and if such controlling influence is found to exist, to declare Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) to be subsidiaries of the other above-named companies and each of them.

It is further ordered, That such hearing be held on January 4, 1939 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That William Swift, Raoul Berger or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing as hereby given to Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delware) and Employees Welfare Association, Inc. (New Jersey) and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3696; Filed, December 8, 1938; 11:20 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of December, A. D. 1938.

[3] 3 F. R. 2536 DI.

[1] 3 F. R. 2794 DI.

DEC 13 1938

[Files No. 60-2, 60-3]

IN THE MATTER OF TRUSTEES UNDER PENSION TRUST AGREEMENT, DATED DECEMBER 14, 1937; EMPLOYEES WELFARE ASSOCIATION, INCORPORATED (DELAWARE); AND EMPLOYEES WELFARE ASSOCIATION, INC. (NEW JERSEY)

ORDER FOR CONSOLIDATION OF HEARINGS FOR STATED PURPOSES

The Commission now having pending before it the following related matters:

(1) File No. 60-2—Proceeding pursuant to section 2 (a) (11) (D) of the Public Utility Holding Company Act of 1935 to determine whether Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) should be declared affiliates of certain specified companies.

(2) File No. 60-3—Proceeding pursuant to section 2 (a) (8) (B) to determine whether Trustees Under Pension Trust Agreement Dated December 14, 1937; Employees Welfare Association, Incorporated (Delaware); and Employees Welfare Association, Inc. (New Jersey) should be declared subsidiaries of such specified companies.

It appearing that such proceedings involve common questions of law and fact and that evidence offered in respect to each matter may have a bearing on the other; that the parties in the respective matters are substantially the same; and that substantial saving in time, effort and expense will result if the hearings on said matters are consolidated so that they may be heard as one matter and so that the evidence adduced in each matter may stand as evidence in the other for all purposes.

It is ordered, That the matters referred to in (1) and (2) hereof, Commission's File Nos. 60-2 and 60-3, be, and they hereby are, consolidated for the purpose of hearings thereon. The Commission reserves the right, if at any time it may appear conducive to an orderly and economic disposition of either of such matters, to order a separate hearing with respect to the same or any part thereof, or to close the record with respect thereto and/or to take action thereon prior to closing the record on said other matter.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3694; Filed, December 8, 1938; 11:20 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

[File No. 32-117]

IN THE MATTER OF CENTRAL ILLINOIS PUBLIC SERVICE COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS AND DEBENTURES

Central Illinois Public Service Company, a subsidiary of Middle West Corporation, a registered holding Company, having filed an application and amendments thereto pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of the $38,000,000 principal amount of its first Mortgage Bonds, Series A, 3¾%, due December 1, 1968, and $10,000,000 principal amount of its Serial Debentures, 3½%-4%, due serially December 1, 1939—December 1, 1948;

A hearing on such matter having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said amended application, be, and the same hereby are, exempt from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon further condition that if the express authorization of the issue and sale of such securities by the Illinois Commerce Commission shall be revoked or otherwise terminated this exemption shall immediately terminate without further order of this Commission, and upon the further condition that within ten days after the issue and sale of the proposed bonds and debentures the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said amended application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3697; Filed, December 8, 1938; 11:21 a. m.]

[1] 3 F. R. 2750 DI.

DEC 13 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 240

Washington, Saturday, December 10, 1938

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

COMMODITY CREDIT CORPORATION

[1938-39 C. C. C. Corn Form 1, Instructions]

INSTRUCTIONS CONCERNING LOANS ON 1938 CORN

Commodity Credit Corporation has authorized the making of loans and the purchase of eligible paper secured by corn stored on farms in certain areas and on corn produced in certain other areas which is stored in approved public grain warehouses. These instructions state the requirements of Commodity Credit Corporation with reference to making such loans on corn and the purchase of notes secured by corn.

1. *Definitions.*—For the purpose of these instructions and the notes and loan agreements or mortgages relating thereto, words used in the singular form shall be deemed to impart the plural and vice versa, as the case may be, and unless the context clearly requires otherwise, the following terms shall be construed, respectively, to mean:

(a) *Eligible producer.*—(For each farm as determined by the county agricultural conservation committee in accordance with the provisions of 1938 Agricultural Conservation Program Bulletin, as amended, April 16, 1938.[1])

(1) For counties listed in section 2 (a) hereof (1938 commercial corn area), an eligible producer shall be any person, partnership, association, or corporation producing corn as landowner, landlord, or tenant, upon whose farm the 1938 field-corn acreage does not exceed the 1938 corn acreage allotment established for the farm pursuant to Title III of the Agricultural Adjustment Act of 1938, as amended.

(2) For counties listed in section 2 (b) and 2 (c) hereof, an eligible producer shall be any person, partnership, association, or corporation producing corn as landowner, landlord, or tenant, upon whose farm the 1938 total acreage allotment for soil-depleting crops does not exceed the 1938 total acreage allotment for soil-depleting crops established for the farm pursuant to the provisions of the 1938 Agricultural Conservation Program.

(b) *Eligible corn—Eligible ear corn* shall be merchantable field corn produced in 1938 in the areas listed under section 2 (a) and section 2 (b) hereof, husked and in the ear, containing not more than 20½ percent moisture and which otherwise grades No. 3 or better, as defined in the official grain standards of the United States on the basis of a representative sample taken from each crib of corn offered as collateral for a loan, provided that:

(1) The beneficial title to such corn is and always has been in the eligible producer; or

(2) Such corn was purchased in accordance with the following: An eligible producer who will operate a different farm in 1939 from that operated in 1938 may purchase corn from an eligible producer and place such corn under a loan. The number of bushels of such purchased corn which may be placed under loan shall not exceed the number of bushels of corn produced by the producer on the farm operated by him as an eligible producer in 1938. In such cases, the corn produced by the producer on the farm he operated in 1938 shall not be eligible for a loan to the extent that corn purchased, as provided in this paragraph, is placed under loan.

Eligible shelled corn shall be merchantable field corn produced in 1938 in the area listed under section 2 (c) hereof, which is shelled and which grades No. 3 or better, as defined in the official grain standards of the United States, and containing not more than 14 percent moisture when stored in an approved warehouse by an "eligible producer" provided the beneficial title to such corn is and always has been in the eligible producer.

(c) *Eligible storage* shall include farm storage and public grain warehouses

[1] 3 F. R. 563, 915 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 6—AGRICULTURAL CREDIT:	
Commodity Credit Corporation:	
Instruction concerning loans on 1938 corn	2891
TITLE 17—COMMODITY AND SECURITIES EXCHANGES:	
Securities and Exchange Commission:	
Public Utility Holding Company Act:	
Acquisitions of securities exempted (Rule U-9C-3 amended)	2897
Sale of securities, etc., to associate companies or affiliates (Rule U-12F-1 adopted)	2897
TITLE 20—EMPLOYEES' BENEFITS:	
United States Employees' Compensation Commission:	
Longshoremen's and Harbor Workers' Compensation Act, amendment of regulations governing administration of	2898
TITLE 24—HOUSING CREDIT:	
Federal Housing Administration:	
Delegation of authority in certain cases	2898
TITLE 49 — TRANSPORTATION AND RAILROADS:	
Interstate Commerce Commission:	
Qualifications of employees, safety of operation and equipment of common and contract carriers by motor vehicle	2900

NOTICES

Department of Agriculture:	
Agricultural Adjustment Administration:	
St. Louis, Mo., Marketing Area, hearing on amendment of marketing agreement and order regulating handling of milk	2901

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Securities and Exchange Commission: Page
American Gas and Power Co., and Birmingham Gas Co., effectiveness of declaration 2902
Green Mountain Power Corp., New England Power Association, order 2902
Halsey, Stuart & Co., Inc., acquisition of securities 2901

meeting the following respective requirements:

(1) *Farm storage* shall consist of cribs which are of such substantial and permanent construction as to afford protection against rodents, other animals, thieves, and weather, for a period of 2 years, as determined by the County Agricultural Conservation Committee. Loans on corn in farm storage will be available only for those areas listed in sections 2 (a) and 2 (b) hereof.

(2) *Public grain warehouses* must have executed warehouse agreements with Commodity Credit Corporation. Loans on shelled corn stored in public grain warehouses will be available only for eligible producers in the area listed in section 2 (c) hereof.

(d) *Lending agency.*—Any bank, cooperative marketing association, or other corporation, partnership, or person, making loans in accordance with these instructions upon 1938–39 C. C. C. Corn Form A, secured by chattel mortgages on 1938–39 C. C. C. Corn Form A–1 which has executed the contract to purchase on 1938–39 C. C. C. Corn Form D. (A Loan Agency of the Reconstruction Finance Corporation is not included within this definition.)

(e) *Eligible paper.*—For the purpose of the Contract to Purchase (1938–39 C. C. C. Corn Form D) eligible paper shall consist of notes of producers upon 1938–39 C. C. C. Corn Form A secured by chattel mortgages on 1938–39 C. C. C. Corn Form A–1, or any form hereafter approved by Commodity Credit Corporation secured by ear corn in existence and undamaged from the perils of fire, lightning, cyclone, tornado, windstorm, and flood, dated on or after December 1, 1938, and prior to April 1, 1939, and executed in accordance with these instructions with State documentary revenue stamps affixed thereto where required by law. (Notes executed by an administrator, executor, or trustee, will be acceptable only where valid in law, and all such notes must be submitted for direct loans in accordance with section 15 hereof.)

2. *Corn areas.*—(a) *1938 commercial corn area:*

Illinois.—All counties.

Indiana.—All counties except Brown, Clark, Crawford, Floyd, Harrison, Jefferson, Lawrence, Martin, Monroe, Ohio, Orange, Perry, Scott, Spencer, and Switzerland.

Iowa.—All counties.

Michigan.—Branch, Hillsdale, Lanawee, Monroe, and St. Joseph.

Minnesota.—Big Stone, Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Grant, Houston, Jackson, Kandiyohi, Lac qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Olmstead, Pipestone, Redwood, Renville, Rice, Rock, Scott, Sibley, Steele, Stevens, Swift, Traverse, Wabasha, Waseca, Watonwan, Winona, Wright, and Yellow Medicine.

Missouri.—Adair, Andrew, Atchison, Audrain, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Cape Girardeau, Carroll, Cass, Charlton, Clark, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Pemiscot, Perry, Pettis, Pike, Platte, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, Saline, Schuyler, Scotland, Scott, Shelby, Stoddard, Vernon, and Worth.

Nebraska.—All counties except Arthur, Banner, Blaine, Box, Butte, Brown, Chase, Cherry, Cheyenne, Dawes, Deuel, Garden, Garfield, Grant, Holt, Hooker, Keith, Keyapaha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Rock, Scotts Bluff, Sheridan, Sioux, Thomas, and Wheeler.

Ohio.—All counties except Ashtabula, Athens, Belmont, Carroll, Columbiana, Cuyahoga, Gallia, Geauga, Guernsey, Harrison, Hocking, Jackson, Jefferson, Lake, Lawrence, Lorain, Mahoning, Medina, Meigs, Monroe, Morgan, Muskingum, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, Vinton, Washington, and Wayne.

South Dakota.—Bon Homme, Brookings, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Minnehaha, Moody, Turner, Union, and Yankton.

Wisconsin.—Dane, Grant, Green, Iowa, Lafayette, and Rock.

Kansas.—Anderson, Atchison, Brown, Coffey, Crawford, Doniphan, Douglas, Franklin, Jackson, Jefferson, Jewell, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Nemaha, Norton, Osage, Phillips, Pottawatomie, Republic, Riley, Shawnee, Smith, and Washington.

Kentucky.—Fulton, Henderson, Hickman, and Union.

(b) *Northern noncommercial corn area:*

Colorado.—All counties.

Delaware.—All counties.

Indiana.—Brown, Clark, Crawford, Floyd, Harrison, Jefferson, Lawrence, Martin, Monroe, Ohio, Orange, Perry, Scott, Spencer, and Switzerland.

Kansas.—Allen, Barber, Barton, Bourbon, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Claud, Comanche, Cowley, Decatur, Dickinson, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Logan, McPherson, Marion, Meade, Mitchell, Montgomery, Morris, Morton, Neosho, Ness, Osborne, Ottawa, Pawnee, Pratt, Rawlins, Reno, Rice, Rooks, Rush, Russell, Saline, Scott, Sedgwick, Seward, Sheridan, Sherman, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Wichita, Wilson, Woodson, Wyandotte.

Kentucky.—All counties except Fulton, Henderson, Hickman, and Union.

Maryland.—All counties.

Michigan.—All counties except Branch, Hillsdale, Lenawee, Monroe, and St. Joseph.

Minnesota.—Aitkin, Anoka, Becker, Beltrami, Benton, Carlton, Cass, Chisago, Clay, Clearwater, Cook, Crow, Wing, Douglas, Hennepin, Hubbard, Isanti, Itasca, Kanabec, Kittson, Koochiching, Lake, Lake of the Woods, Mahnomen, Marshall, Mille Lacs, Morrison, Norman, Otter Tail, Pennington, Pine, Polk, Pope, Ramsey, Red Lake, Roseau, St. Louis, Sherburne, Stearns, Todd, Wadena, Washington, and Wilkin.

Missouri.—Barry, Bollinger, Butler, Camden, Carter, Cedar, Christian, Cole, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Franklin, Gasconade, Greene, Hickory, Howell, Iron, Jasper, Jefferson, Laclede, Lawrence, McDonald, Madison, Maries, Miller, Morgan, Newton, Oregon, Osage, Ozark, Phelps, Polk, Pulaski, Reynolds, Ripley, St. Francois, St. Louis, Ste. Genevieve, Shannon, Stone, Sullivan, Taney, Texas, Warren, Washington, Wayne, Webster, and Wright.

Montana.—All counties.

Nebraska.—Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Dawes, Deuel, Garden, Garfield, Grant, Holt, Hooker, Keith, Keyapaha, Kinball, Lincoln, Logan, Loup, McPherson, Morrill, Rock, Scotts Bluff, Sheridan, Sioux, Thomas, Wheeler.

North Dakota.—All counties.

Ohio.—Ashtabula, Athens, Belmont, Carroll, Columbiana, Cuyahoga, Gallia, Geauga, Guernsey, Harrison, Hocking Jackson, Jefferson, Lake, Lawrence, Lorain, Mahoning, Medina, Meigs, Monroe, Morgan, Muskingum, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, Vinton, Washington, and Wayne.

South Dakota.—Armstrong, Aurora, Beadle, Bennett, Brown, Brule, Buffalo, Butte, Campbell, Clark, Codington, Corson, Custer, Day, Deuel, Dewey, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Harding, Hughes, Hyde, Jackson, Jerauld, Jones, Lawrence, Lyman, McPherson, Marshall, Meade, Mellette, Miner, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Todd, Tripp, Walworth, Washabaugh, Washington, and Ziebach.

Tennessee.—Dyer, Lake, and Obion.

Virginia.—All counties.

West Virginia.—All counties.

Wisconsin.—All counties except Dane, Grant, Green, Iowa, Lafayette, and Rock.

Wyoming.—All counties.

(c) *Southern noncommercial corn area:*

Alabama.—All counties.
Arkansas.—All counties.
Florida.—All counties.
Georgia.—All counties.
Louisiana.—All counties.
Mississippi.—All counties.
North Carolina.—All counties.
Oklahoma.—All counties.
South Carolina.—All counties.
Tennessee.—All counties except Dyer, Lake, and Obion.
Texas.—All counties.

3. *Amount.*—Loans will be made on eligible corn to eligible producers in accordance with the following provisions:

(a) *Ear corn.*—Loans on ear corn in farm storage will be made at the rate of fifty-seven cents (57¢) per bushel for corn produced in the "Commercial Corn Area" (listed in section 2 (a) hereof and at the rate of forty-three cents (43¢) per bushel for corn produced in the "Northern Noncommercial Corn Area" (listed in section 2 (b) hereof). A bushel shall be determined by using not less than 2½ cubic feet of ear corn testing not more than 15½ percent in moisture content. A deduction from the number of bushels so computed will be made for moisture content in excess of 15½ percent in accordance with the following schedule:

Moisture content (percent):	Deduction (percent)
15½ to 16½	2
16½ to 17½	4
17½ to 18½	6
18½ to 19½	8
19½ to 20½	10
Above 20½	No Loan

(b) *Shelled corn.*—Loans will be made at the rate of forty-three cents (43¢) per bushel on warehouse receipts representing shelled corn which was produced in the "Southern Noncommercial Corn Area" (listed in section 2 (c) hereof) and which is stored in a warehouse which has executed an agreement with Commodity Credit Corporation. No allowance will be made for freight on shelled corn by Commodity Credit Corporation. If and when any of the pledged shelled corn in the above-mentioned area is shipped by Commodity Credit Corporation an allowance will be made for the reshipping value of any paid freight bills duly registered for transit privileges which are made available for use by Commodity Credit Corporation.

4. *Maturity and Interest rate.*—Loans will be available from December 1, 1938, to March 31, 1939, inclusive, will mature on August 1, 1939, and will bear interest at the rate of four percent (4%) per annum. Producers must agree to store the pledged corn until October 1, 1939, in the case of farm storage.

5. *Farm storage.*—The County Agricultural Conservation Committees will supervise the inspection of storage structures, measuring, and sealing the corn by an inspector, and will arrange for moisture testing of samples. Chattel mortgages covering the corn must be executed, and filed in accordance with the applicable State law. Producers may obtain information and assistance from the County Agricultural Conservation Committee in regard to the execution and filing of such chattel mortgages. Where the borrower is a tenant, the expiration date of the lease must be given in section 2 (c) of the chattel mortgage. If the expiration date of the lease is prior to October 1, 1939, the landlord shall execute the Consent for Storage, section 12 of 1938–39 C.C.C. Corn Form A–1. The consent agreement must also be signed by any other party or parties entitled to possession of the farm prior to October 1, 1939. Each producer must agree to shell and deliver the mortgaged corn to a shipping point designated by the holder of the mortgage which is reasonably convenient to the producer.

6. *Execution and filing of chattel mortgages.*—All chattel mortgages must be executed and filed for record in accordance with the following requirements. The mortgage forms have been prepared in triplicate and the following instructions provide for filing the original or a duplicate copy of the mortgage. The receipt of the recorder, register of deeds, county clerk, auditor, or similar county official, must be completed and executed on the original mortgage or the duplicate copy thereof tendered to Commodity Credit Corporation to indicate the date of filing or recordation. In those instances in which chattel mortgages must be filed in both the county in which the mortgagor resides and in the county in which the corn is stored, the triplicate copy of the mortgage must be used for this purpose and an additional receipt from the county official typed or stamped on the copy of the mortgage tendered to Commodity Credit Corporation. Each duplicate copy of a chattel mortgage submitted to Commodity Credit Corporation must have completed thereon the Certification of True Copy by a Notary Public or the recording official. Except where required for filing, the triplicate copy of the mortgage with the duplicate copy of the note should be delivered to the mortgagor. In case the triplicate copy is used for filing, the mortgagor should be given a copy of the mortgage which may be completed on any one copy of the form. A separate mortgage must be completed for corn stored on each quarter section.

All documents must be carefully examined as to compliance with the following requirements:

Colorado.—The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy thereof must be filed for record in the office of the clerk and recorder of the county in which the corn is stored.

Delaware.—The mortgage must be executed and acknowledged by the mortgagor and spouse. The mortgagor's affidavit of good faith and receipt must be completed by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record within 10 days from the date of execution in the office of the recorder of deeds of the county in which the corn is stored. Commodity Credit Corporation will not accept any notes secured by a mortgage filed for record later than 10 days from the date of the note and mortgage. In acknowledging the chattel mortgage, the spouse should be examined apart from her husband and the acknowledgment form should contain this additional language:

"and said_____,
(Spouse)
being at the same time privately examined by me apart from her husband acknowledged that she executed the said chattel mortgage willingly, without compulsion or threats, and free of her husband's displeasure."

Illinois.—The mortgage must be executed and acknowledged by the mortgagor. The original mortgage must be endorsed by the mortgagee or his agent as follows: "This mortgage to be filed but not recorded," and filed for record within 10 days from the date of execution in the office of the recorder of deeds of the county in which the mortgagor resides, or, if a nonresident of

the State, in the office of the recorder of deeds of the county in which the corn is stored. Commodity Credit Corporation will not accept any note secured by mortgage filed for record later than 10 days after the date of the note and mortgage.

Indiana.—The mortgage must be executed and acknowledged by the mortgagor. The original mortgage must be recorded within 10 days from the date of execution in the office of the recorder of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of the county in which the corn is stored. Commodity Credit Corporation will not accept any note secured by mortgage recorded later than 10 days after the date of the note and mortgage.

Iowa.—The mortgage must be executed and acknowledged by the mortgagor and spouse. The original or a duplicate copy must be filed for record in the office of the recorder of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of the county in which the corn is stored.

Kansas.—The mortgage must be executed by the mortgagor and spouse. The original or a duplicate copy must be filed for record immediately upon the execution of the mortgage in the office of the register of deeds of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the register of deeds of the county in which the corn is stored. Commodity Credit Corporation will not accept any note secured by mortgage filed for record later than 10 days after the date of the note and mortgage.

Kentucky.—The mortgage must be executed by the mortgagor either in the presence of two witnesses or it must be acknowledged before an officer qualified to take acknowledgements. The original or a duplicate copy of the mortgage must be filed for record in the office of the county clerk of the county in which the mortgagor resides, or, if the mortgagor is a nonresident of the State, it must be filed for record in the office of the county clerk of the county in which the corn is stored.

Maryland.—The mortgage must be executed and acknowledged by the mortgagor. The mortgagee's affidavit of good faith must be completed by the payee, except in the case of direct loans, in which event it must be completed by a member of the county committee as agent of Commodity Credit Corporation. The mortgagee's affidavit must have typed or stamped therein the following:

"That the mortgagee has not required the mortgagor, his agent or attorney, or any persons for the said mortgagor, to pay the tax levied upon the interest covenanted to be paid in advance, nor will he require any tax levied thereon to be paid by the mortgagor, or any persons for him, during the existence of this mortgage."

The original or a duplicate copy of the mortgage must be filed for record within 20 days from the date of execution in the office of the clerk of a circuit court of the county where the mortgagor resides, or, if a nonresident of the State, in the county where the corn is stored. If the corn is located in Baltimore City, the mortgage must be recorded in the office of the clerk of the Superior Court of Baltimore City. Commodity Credit Corporation will not accept any notes secured by a mortgage filed for record later than 20 days after the date of the note and mortgage.

Michigan.—The mortgage must be executed by the mortgagor. The mortgagor's affidavit of good faith and receipt on such mortgage must be completed by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record in the office of the register of deeds of the county in which the corn is stored. If the mortgagor resides in another county within the State, the triplicate copy of the mortgage must be certified as a true copy and filed for record in the office of the register of deeds of such county.

Minnesota.—The chattel mortgage must be executed by the mortgagor in the presence of two witnesses and duly acknowledged. The original chattel mortgage must be filed in the office of the register of deeds of the county in which the property is situated, unless the property is situated in cities of the first class, whereupon the chattel mortgage must be filed in the office of the clerk of the municipality where the property is situated. A full, true, and correct copy of the chattel mortgage must be delivered to the mortgagor whose receipt therefor is contained in the body of the mortgage.

Missouri.—The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record in the office of the recorder of deeds of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the recorder of deeds of the county in which the corn is stored.

Montana.—The mortgage must be signed and acknowledged by the mortgagor. Mortgagor must execute receipt for copy of mortgage and such receipt must accompany the mortgage when presented for filing and be filed therewith. Mortgagee's affidavit of good faith must be completed by the payee of the note or in the case of direct loans by a member of the county committee as agent of the Commodity Credit Corporation and must be attached to the mortgage. The original mortgage, together with affidavit of good faith or a copy thereof certified to be correct by the officer before whom the same was acknowledged or verified or by the county clerk and recorder with whom it is filed, must be filed in the office of the county clerk and recorder of the county where the property is situated at the time of the execution of the mortgage, accompanied by the receipt for a copy of the mortgage.

Nebraska.—The mortgage must be executed by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record in the office of the county clerk of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the county clerk of the county in which the corn is stored.

North Dakota.—The mortgage must be signed by the mortgagor and spouse in the presence of two witnesses who must sign the same as witnesses thereto, or must be acknowledged before some official qualified to take acknowledgments. The mortgagor's receipt for copy of mortgage must be signed by the mortgagor and spouse and attached to the the mortgage and must accompany the mortgage when presented for filing and be filed therewith. The original mortgage with receipt for copy attached thereto must be filed in the office of the register of deeds in the county in which the property is situated.

Ohio.—The mortgage must be executed by the mortgagor. The mortgagee's affidavit of good faith must be completed by the payee except in the case of direct loans, in which event it must be completed by a member of the county committee as agent of Commodity Credit Corporation. The original or a duplicate copy must be filed in the office of the county recorder of the county in which the mortgagor resides, or, if a nonresident of the State, in the office of the county recorder of the county in which the corn is stored.

South Dakota.—The chattel mortgage must be signed by the mortgagor in the presence of two persons who must sign as witnesses thereto, or it may be acknowledged before some officer qualified by the laws of the State of South Dakota to take acknowledgements. The original chattel mortgage, or an authenticated copy thereof, must be filed in the office of the register of deeds of the county where the property mortgaged, or any part thereof, is situated. A full, true, and complete copy of the mortgage must be delivered to the mortgagor, whose receipt therefor is contained in the body of the mortgage.

Tennessee.—Mortgage must be executed by the mortgagor, either in the presence of two witnesses or acknowledged before an officer authorized to take acknowledgments. The original or a duplicate copy of the mortgage must be registered in the office of the register of the county where the mortgagor resides, or, if the mortgagor is a nonresident of the State, it must be registered in the office of the register of the county where the corn is stored.

Virginia.—The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy of the mortgage must be filed for record in the office of the clerk of the circuit court of the county where the corn is stored. If the corn is stored in a city, then the mortgage must be filed for record in the office of the clerk of the corporation court of such city.

West Virginia.—Mortgage must be executed by the mortgagor either in the presence of two witnesses or acknowledged before an officer authorized to take acknowledgments. The original or a duplicate copy of the mortgage must be filed for record in the office of the county clerk of the county where the corn is stored.

Wisconsin.—The chattel mortgage must be executed by the mortgagor and spouse in the presence of two witnesses. The original mortgage must be filed with the register of deeds in the county in which the property is located.

Wyoming.—The mortgage must be executed and acknowledged by the mortgagor. The original or a duplicate copy must be filed for record in the office of the register of deeds in the county in which the corn is stored.

7. *Public warehouses.* — Commodity Credit Corporation will accept only negotiable, insured warehouse receipts, or receipts in form required by statute, representing shelled corn pledged as collateral to notes on 1938–39 C. C. C. Corn Form AA, issued by any warehouseman approved by the Loan Agency of Reconstruction Finance Corporation serving the district in which the warehouse is located. Warehousemen located in or adjacent to Southern Noncommercial Corn Area are advised to communicate with such Loan Agency of Reconstruction Finance Corporation concerning approval. Each approved warehouse must enter into an agreement with Commodity Credit Corporation which may be obtained from the Loan Agency. A list of approved warehouses may be obtained from any Loan Agency of Reconstruction Finance Corporation.

8. *Warehouse receipts.* — Commodity Credit Corporation will accept only negotiable, insured warehouse receipts, or receipts in form required by statute, dated on or prior to the date of the related note and properly assigned by an endorsement in blank so as to vest title in the holder, or issued to bearer, executed by warehousemen who are not owners of the corn. Commodity Credit Corporation will not accept warehouse receipts indicating any lien for charges prior to unloading in or delivery to the warehouse issuing such receipts. Lien for storage charges will be recognized by Commodity Credit Corporation only from December 1, 1938, or the dates of the warehouse receipts, whichever is later. Such receipts must set out in their written or printed terms the net weight or bushels and all specifications or factors necessary to determine the grade of corn represented thereby pursuant to the U. S. Grain Standards Act, viz, test weight per bushel, moisture content, cracked corn and foreign material, damaged kernels (corn and other grain), and heat-damaged kernels; and all other facts and statements required to be stated in the written or printed terms of a negotiable warehouse receipt under the provisions of section 2 of the Uniform Warehouse Receipts Act; provided, warehouse receipts in statutory form must be accompanied by a certificate of the warehouseman identified to the warehouse receipt, setting forth the information required above which may not be included in such statutory receipts, including the undertaking of the warehouseman covering insurance. Unless the warehouse receipts are stamped or printed "Insured" there must be attached, or included in, the certificate of the warehouseman the statement that the corn is insured for not less than market value against the hazards of fire, lightning, inherent explosion, and windstorm, cyclone, and tornado. The warehouse receipt shall be accompanied by an original or duplicate official weight and inspection certificate properly identified to the shelled corn covered thereby and issued by an inspector licensed under the U. S. Grain Standards Act.

9. *Liens.*—The corn collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in 1938–39 C. C. C. Corn Forms A–1 and AA. The names of the holders of all existing liens on the pledged or mortgaged corn, such as landlord, laborers, or mortgagees, must be listed in the space provided therefor in the mortgage or loan agreement. The waiver and consent to pledge or mortgage the corn and the payment of the proceeds of the loan and the proceeds of the sale of the corn solely to the producer as contained in the mortgage or loan agreement must be signed personally by all lienholders listed or by their agents, whose duly executed authority must be attached firmly; or, if corporations, by the designated officer thereof customarily authorized to execute such instruments, in which case the duly executed authority need not be attached. The producer may direct in the Letter of Transmittal (1938–39 C. C. C. Corn Form B) that the proceeds check for a direct loan from Commodity Credit Corporation be made payable to him and/or such other person or concern as he may direct thereon. Producers should read carefully all real estate or other mortgages previously given by them in order to be sure that crops are not covered thereby. Any fraudulent misrepresentation of fact made in the execution of the note and mortgage or loan agreement and related forms shall render the producer personally liable for the amount of the loan and subject to the provisions of the United States Criminal Code.

10. *Insurance:*

(a) *Corn stored on farms.*—All producers shall provide insurance on the corn stored on the farm for not less than the amount of the loan with accrued interest to maturity. Such insurance shall be evidenced by a certificate in the form printed at the end hereof, issued by a company or association licensed to do business in the State in which the corn is stored. The insurance coverage may be obtained through the customary channels and the form of certificate required shall be furnished by the agent writing same.

(b) *Corn stored in approved warehouses.*—With respect to corn stored in approved public grain warehouses, the warehouseman shall provide insurance against the perils of fire, lightning, inherent explosion, windstorm, cyclone, and tornado for the full market value thereof, so long as receipts are outstanding.

(c) *Insurance carried by Commodity Credit Corporation.*—In addition to the foregoing, Commodity Credit Corporation has obtained a blanket insurance policy which protects it in the event of any loss by or in consequence of damage to or destruction of the pledged or mortgaged corn arising from fire, lightning, inherent explosion, cyclone, tornado, windstorm, hail, theft, wrongful conversion, and flood. This policy covers errors and omissions and is in the nature of excess insurance. The cost is three-fourths of one cent per $100 per month on the daily average balance of loans outstanding. *Banks and other lending agencies desirous of insurance coverage in addition to the primary insurance provided by the producer on corn-securing notes on 1938–39 C. C. C. Corn Form A shall obtain such coverage at their own expense.* Banks and other lending agencies desiring coverage under the Corporation's blanket policy should write to Commodity Credit Corporation, Washington, D. C., and appropriate instructions will be issued, together with the necessary forms for reporting thereunder.

11. *Producer responsibility.*—The note and mortgage or loan agreement govern the responsibility of the producer and should be read carefully. In case the producer delivers the corn collateral in payment of his loan he shall deliver a quantity of shelled corn grading No. 3 or better corresponding to the number of bushels upon which the loan was computed. It is important that the producer place his corn in good storage structures and maintain such structures in good repair and protect the corn collateral against damage from weather, rodents, and insects. In those areas subject to insect infestation careful supervision must be maintained and infestation reported immediately to the county committee. Producers in the southernmost counties of the Commercial Corn Area must be prepared to shell, store, and fumigate their corn in tight bins when so instructed by Commodity Credit Corporation.

12. *County agricultural conservation committees.*—1938–39 C. C. C. Corn Form A–1 contains a certificate which must be signed in each instance by a member of a county agricultural conservation com-

mittee of the county in which the corn is stored. When a producer stores corn for a loan in a county other than the county in which the corn was produced, the committee for the county where the corn is stored must secure a written certification of eligibility from the county committee where the corn was produced before certifying the loan. 1938–39 C. C. C. Corn Form AA contains a certificate which must be signed in each instance by a member of a county agricultural conservation committee of the county in which the corn was produced.

13. *Forms:*

(a) *Corn stored on farms.*—The following documents must be submitted:

(1) Corn Producer's Note (1938–39 C. C. C. Corn Form A);

(2) Corn Chattel Mortgage (1938–39 C. C. C. Corn Form A–1)—original or duplicate copy;

(3) Producer's Letter of Transmittal (1938–39 C. C. C. Corn Form B) or Lending Agency Letter of Transmittal (1938–39 C. C. C. Corn Form C).

(4) Certificate of Insurance.

(b) *Corn stored in approved warehouses.*—The following documents must be submitted:

(1) Corn Producer's Note and Loan Agreement (1938–39 C. C. C. Corn Form AA);

(2) Producer's Letter of Transmittal (1938–39 C. C. C. Corn Form B).

(3) Warehouse receipts issued by an approved warehouse and accompanying documents as provided in section 8 hereof.

(c) *Lending agencies.*—Banks or others acting as lending agencies must also obtain and use the following forms:

(1) Contract to Purchase (1938–39 C. C. C. Corn Form D);

(2) Schedule of Repayments (1938–39 C. C. C. Corn Form E);

(3) Assignment of Chattel Mortgage (1938–39 C. C. C. Corn Form F).

14. *Source and preparation of documents.*—Forms will be obtainable from any county agricultural conservation committee in the areas designated in section 2 hereof. All blanks in 1938–39 C. C. C. Corn Forms A, A–1, and AA must be filled in with ink, typewriter, or indelible pencil, and no documents containing additions, alterations, or erasures will be accepted by Commodity Credit Corporation.

15. *Direct loans.*—Loans upon the security of shelled corn stored in approved public grain warehouses will only be made directly by Commodity Credit Corporation and such loans must be submitted to the Loan Agency of Reconstruction Finance Corporation serving the district in which the corn is stored. It is contemplated that loans secured by farm-stored corn will be obtained from banks and other local lending agencies, which, in turn, may sell the paper evidencing such loans to Commodity Credit Corporation. Producers may also obtain loans directly from Commodity Credit Corporation secured by farm-stored corn. Notes for direct loans shall be made payable to Commodity Credit Corporation and shall be delivered to the Loan Agency of the Reconstruction Finance Corporation serving the district in which the corn is stored. Paper for direct loans tendered by mail, in person, or otherwise, should be accompanied by a Producer's Letter of Transmittal on 1938–39 C. C. C. Corn Form B, in duplicate, and must be delivered or postmarked prior to April 1, 1939. The triplicate copy of this letter shall be retained by the producer as a memorandum. Upon delivery of all necessary documents properly executed and upon approval of the loan by the manager of the Loan Agency, payment shall be made pursuant to the Letter of Transmittal.

16. *Purchase of Loans.*—Commodity Credit Corporation will purchase, without recourse, eligible paper, as defined above, only from lending agencies which have executed and delivered to the Loan Agency to which notes are submitted Contract to Purchase, 1938–39 C. C. C. Corn Form D, obtainable only from Loan Agencies of the Reconstruction Finance Corporation. Each note and chattel mortgage tendered by a lending agency to Commodity Credit Corporation for purchase must be accompanied by an assignment on 1938–39 C. C. C. Corn Form F. The original or a duplicate copy of this assignment must have been filed for record in the office(s) of the recording official(s) of the county or counties in which the mortgage was filed or recorded. The original or duplicate copy of the assignment tendered to Commodity Credit Corporation must contain the executed receipt of the recording official indicating the date of filing or recordation. The same form of assignment (1938–39 C. C. C. Corn Form F) may be used for transfers between lending agencies and in such instances the original assignment or the duplicate copy thereof, indicating the date of filing or recordation, must be tendered to Commodity Credit Corporation with the note and mortgage. In the event duplicate copies of assignments are tendered, the Certification of True Copy must be completed by the recording official or a notary public. Paper held by lending agencies must be tendered to the Loan Agency of Reconstruction Finance Corporation holding the Contract to Purchase and serving the district in which the mortgaged corn is stored prior to July 1, 1939. The purchase price to be paid by Commodity Credit Corporation for notes accepted will be the face amount of such notes plus accrued interest from the respective dates to the date of payment of the purchase price at the rate of 2½ percent per annum. Under the terms of the Contract to Purchase, lending agencies are required to report monthly on 1938–39 C. C. C. Corn Form E all payments or collections on producer's notes held by them, and to remit promptly to Commodity Credit Corporation, Washington, D. C., an amount equivalent to one and one-half percent (1½%) interest per annum on the principal amount collected from the date of the note to the date of payment.

17. *Reconstruction Finance Corporation Loan Agencies.*—The locations of the Loan Agencies of the Reconstruction Finance Corporation previously referred to herein and the districts served by them under these instructions are shown below:

Atlanta	Area included in the 6th Federal Reserve District except areas attached to New Orleans and Nashville.
Chicago	Area in 7th Federal Reserve District attached to Chicago, except counties in Iowa attached to Omaha.
Cleveland	Area included in 4th Federal Reserve District.
Dallas	Area in 11th Federal Reserve District attached to Dallas and El Paso and San Antonio.
Denver	Area in 10th Federal Reserve District attached to Denver.
Detroit	Area in 7th Federal Reserve District attached to Chicago.
Houston	Area in 11th Federal Reserve District attached to Houston.
Kansas City	Area in 10th Federal Reserve District attached to Kansas City.
Louisville	Area in 8th Federal Reserve District attached to Louisville.
Minneapolis	Area included in 9th Federal Reserve District.
Nashville	Area in 6th Federal Reserve District attached to Nashville.
New Orleans	Area in 6th Federal Reserve District attached to New Orleans.
Oklahoma City	Area in 10th Federal Reserve District attached to Oklahoma City.
Omaha	Area in 10th Federal Reserve District attached to Omaha and following counties of Iowa: Adams, Adair, Appanoose, Audubon, Boone, Buena Vista, Calhoun, Carroll, Cass, Cerro Gordo, Cherokee, Clarke, Clay, Crawford, Dallas, Decatur, Dickinson, Emmet, Franklin, Fremont, Greene, Guthrie, Hamilton, Hancock, Hardin, Harrison, Humboldt, Ida, Jasper, Kossuth, Lucas, Lyon, Madison, Marion, Marshall, Mills, Monona, Monroe, Montgomery, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Pottawattamie, Ringgold, Sac, Shelby, Sioux, Story, Taylor, Union, Warren, Wayne, Webster, Winnebago, Woodbury, Worth, and Wright.
Richmond	Area included in 5th Federal Reserve District and Delaware.
St. Louis	Area in 8th Federal Reserve District attached to St. Louis, Little Rock, and Memphis.

18. *Release of collateral held by Commodity Credit Corporation.*—A producer may obtain the return of notes secured by corn upon his request in writing and payment of the principal amount due thereon with accrued interest and proper charges. The producer's note and mortgage or loan agreement, with the warehouse receipt(s) (if any) securing same, will be transmitted to an approved bank with instructions to deliver such documents to the producer, or his agent, upon the payment of the full amount due thereon with accrued interest and proper charges. Where such paper is sent to an approved bank for collection, instructions shall be given to return such paper to the sender if payment and release are not effected within 15 days. All charges and expenses of the collecting bank shall be paid by the producer. If the note is secured by farm-stored corn, county agricultural conservation committees will be requested to release the mortgage of record after payment in full either by the filing of an instrument of release or by a margin release on the county records. Partial releases of collateral will not be permitted.

If the producer's note is made payable directly to Commodity Credit Corporation and he desires to obtain the release of collateral upon payment, as aforesaid, he should notify the Loan Agency of Reconstruction Finance Corporation serving the district in which the corn is stored. If his note was made payable to a payee other than Commodity Credit Corporation, the producer should notify the payee named therein.

CERTIFICATE OF INSURANCE

CORN IN FARM STORAGE

Amount $_____
Premium_____
Term _____

Certificate No. _____
Agency at _____

1. THIS CERTIFIES that in consideration of _____ dollars premium (subject to all the terms and conditions of Open Policy No. _____ issued by this company or association) _____
(Company or association)
does insure _____ against all direct loss or damage by fire, lightning, windstorm, cyclone, tornado, and hail* in the sum of _____ dollars on _____ bushels of corn stored and sealed in the possession of the assured in structure(s) situated on the _____ quarter of section _____ township _____, range _____, county of _____, State of _____, for the term of one (1) year from the _____ day of _____, 19__, at 12 o'clock noon, to the _____ day of _____, 19__, at 12 O'clock noon, said structure(s) having been inspected and sealed in accordance with regulations issued by the Secretary of Agriculture pursuant to the Agricultural Adjustment Act of 1938, as amended.

2. Any loss which may be ascertained and proved to be due the insured under this contract shall be payable to the insured and or the holder of note secured by such corn as their respective interests may appear.

*Optional.

SPECIAL (CORN) ENDORSEMENT PROVIDING THE BASIS OF ADJUSTMENT IN CASE OF LOSS ON CORN MORTGAGED UNDER LOAN PROGRAM OF COMMODITY CREDIT CORPORATION

3. All or any part of the corn described herein having been mortgaged as security for a loan on 1938–39 C. C. C. Corn Form A, or any other form approved by Commodity Credit Corporation, it is a condition of this insurance that in event of loss or damage to any of such mortgaged corn the basis of adjustment shall be the actual cash market value at the time and place of the loss, except that if such actual cash market value is less than the loan value per bushel, plus accrued interest at four percent (4%) per annum, then such actual cash value shall be disregarded and the value of any corn so mortgaged shall be deemed to be the loan value per bushel plus accrued interest thereon.

4. The provisions of section 3 hereof shall attach and apply only so long as the note secured by the corn described herein is outstanding.

5. In witness whereof, this company or association has executed and attested these presents, but this certificate shall not be valid until countersigned by a duly authorized agent of this company or association.

Secretary. President.

Countersigned:
This _____ day of _____, 19__
(Agent)

Approved, November 17, 1938.

[SEAL] M. R. BUCK,
Assistant Secretary.

[F. R. Doc. 38–3705; Filed, December 9, 1938; 10:11 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDMENT OF RULE U–9C–3

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935 and particularly Sections 9 (c) and 20 (a) thereof and finding such action not detrimental to the public interest or the interest of investors or consumers and appropriate to carry out the purposes of said Act, the Securities and Exchange Commission hereby amends paragraph (8) of Rule U–9C–3 to read as follows:

SEC. 15.U–9C–3. (Rule U–9C–3). *Certain Acquisitions of Securities Exempted.*

Section 9 (a) [C. 687, sec. 9, 49 Stat. 817; 15 U. S. C., Sup. III, 79i] shall not apply to any acquisition of a security by a registered holding company or subsidiary company thereof which is permitted under the provisions of this rule:

(8) Any such company which owns, directly or indirectly, all the outstanding securities (except the minimum amount of stock required to qualify directors) of another company may acquire any security owned by such other company provided that, (a) upon completion of any such acquisition, the total consideration paid for all such acquisitions during the calendar year by the acquiring company will not exceed $50,000, and (b) the acquiring company values such securities on its books at a figure not in excess of the consideration paid therefor. The provisions of this paragraph shall not be applicable, however, to the acquisition of any securities from a company which has been exempted from the provisions of the Act by virtue of Section 3 (b) [C. 687, sec. 3, 49 Stat. 810; 15 U. S. C. Sup. III, 79c] or has pending an application for such an exemption.

Effective December 19, 1938.
By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3702; Filed, December 8, 1933; 3:48 p. m.]

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U–12F–1

Acting pursuant to the authority conferred upon it by Section 12 (f), 20 (a) and 27 (a) of the Public Utility Holding Company Act of 1935, the Securities and Exchange Commission deems it necessary and appropriate in the public interest and for the protection of investors and consumers, and to prevent the circumvention of the provisions of the Act, to adopt, and does hereby adopt a rule which shall be known as Rule U–12F–1 and shall read as follows:

Sec. 15.U–12F–1. (Rule U–12F–1). *Sale of Public Utility Securities and Utility Assets to Associate Companies or Affiliates.*

(a) No registered holding company or any subsidiary thereof shall, directly or indirectly, sell any security which it owns of any public utility company, or any utility assets, to any company in the same holding company system or to any affiliate of a company in such holding company system except upon application to the Commission and in compliance with an order of the Commission entered after opportunity for hearing upon such application.

(b) An application with respect to a sale of securities subject to this rule shall set forth the information prescribed in Form U–12D–1 [Sec. 17.U–12D–1]. An application with respect to a sale of utility assets subject to this rule shall set forth the information prescribed in Form U–12D–2 [Sec. 17.U–12D–2].

(c) The Commission, after opportunity for hearing, shall approve such application if it finds that the terms and conditions of such sale with respect to reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters, are not detrimental to the public interest or the interest of investors or consumers, and will not tend to circumvent the provisions of the

Act or any rules, regulations or orders of the Commission thereunder.

(d) Paragraph (a) of this rule shall not apply to the sale of any security if the acquisition of such security by the other party to such transaction is not subject to approval of the Commission pursuant to Sections 9 (a) and 10 [1] of the Act and if any of the following conditions are satisfied:

(1) The seller of the securities so sold, prior to such sale, owns less than 5 per cent of the class of securities so sold; or

(2) The security so sold is issued by a public utility company which does not operate, or have any subsidiary company which operates, in the United States; or

(3) Such sale is to a company which owns, directly or indirectly, all the outstanding securities (except the minimum amount of stock required to qualify directors) of the seller of such securities; or

(4) The consideration for such sale and all prior sales of securities of the same class during the same calendar year aggregates less than $50,000 and

(A) The security so sold is not a security of an associate company; or

(B) The security so sold is not a voting security or a security convertible into a voting security.

(e) Paragraph (a) of this rule shall not apply to the sale of any utility assets where

(1) The gross consideration, or book value of such assets, whichever is the greater, is less than $50,000; or

(2) The selling company has, prior to April 15, 1938, filed with the Federal Power Commission an application for approval of such sale.

(f) Paragraph (a) of this rule shall not apply to the sale of any utility assets to any person if a sale of securities or utility assets to a Federal or State government or any subdivision or instrumentality thereof is conditioned upon the consummation of the sale of such utility assets to such person *provided*, that (1) the consideration paid by the Federal or State government or the subdivision or instrumentality thereof is at least twice the consideration paid by such person and, (2) the utility assets to be sold to such person are physically interconnected with facilities already owned by such person. (C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 79l: C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t: C. 687, sec. 27, 49 Stat. 836; 15 U. S. C., Sup. III, 79z–1) [Rules and Regs., Rule U–12F–1, effective December 19, 1938].

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3701; Filed, December 8, 1938; 3:48 p. m.]

[1] C. 687, sec. 9, 49 Stat. 817; 15 U. S. C., Sup. III, 79i. C. 687, sec. 10, 49 Stat. 818; 15 U. S. C., Sup. III, 79j.

TITLE 20—EMPLOYEES' BENEFITS

UNITED STATES EMPLOYEES' COMPENSATION COMMISSION

AMENDMENT TO REGULATIONS GOVERNING ADMINISTRATION OF LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT OF MARCH 4, 1927

DECEMBER 9, 1938.

Section 31.2 of the regulations adopted by the U. S. Employees' Compensation Commission to govern the administration of the Longshoremen's and Harbor Workers' Compensation Act of March 4, 1927, effective June 1, 1938, is hereby amended to change the boundaries of the Sixth and Seventh Compensation Districts and the location of the headquarters of the Sixth Compensation District. The change in the boundaries of the said districts shall become effective January 1, 1939, and the change in location of the headquarters for the Sixth Compensation District shall become effective December 19, 1938. The pertinent paragraphs of section 31.2 of the said regulations, as hereby amended, shall hereafter read as follows:

"*District No. 6*, which comprises the States of South Carolina, Georgia, and Florida, with headquarters at Jacksonville, Florida.

"*District No. 7*, which comprises the States of Alabama, Mississippi, Louisiana, and Arkansas, excluding that part of the Mississippi River between Arkansas and Tennessee, with headquarters at New Orleans, Louisiana." (44 Stat. 1442; 33 U. S. C. 939)

Adopted by the Commission November 15, 1938.

WM. MCCAULEY,
Secretary.

[F. R. Doc. 38–3707; Filed, December 9, 1938; 10:59 a. m.]

TITLE 24—HOUSING CREDIT

FEDERAL HOUSING ADMINISTRATION

[General Order No. 4, Revised]

DELEGATION OF AUTHORITY IN CERTAIN CASES

To the Heads of all Divisions and Offices and Other Persons Concerned

General Order No. 4, revised July 18, 1938; July 27, 1938; August 1, 1938; August 3, 1938 and September 26, 1938 is hereby revised as follows:

I. Section 1 of Title I of the National Housing Act [1] provides in part as follows:

• • • In order to carry out the provisions of this title and titles II and III, the Administrator may establish such agencies, accept and utilize such voluntary and uncompensated services, utilize such federal officers and employees, and, with the consent of the State, such State and local officers and employees, and appoint such other officers and employees as he may find necessary, and may prescribe their authorities, duties, responsibilities, and tenure and fix their compensation, without regard to the provisions of other laws applicable to the employment or compensation of officers or employees of the United States. The Administrator may delegate any of the functions and powers conferred upon him under this title and titles II and III to such officers, agents, and employees as he may designate or appoint • • •

Pursuant to the foregoing provisions of the National Housing Act, I hereby designate the officials of the Federal Housing Administration hereinafter named and in the order in which they are named to act in my place and stead with the title of "Acting Administrator" with all the powers, duties, and rights conferred upon me by said National Housing Act, by any other act of Congress or by any Executive Order, in the event of my absence, illness, or inability to act, and all such powers, duties, and rights are hereby delegated to such officials in such order and for such period as I may be absent from Washington, D. C. or unable to perform my official functions.

The following named officials and designated in the following order shall have authority to act as "Acting Administrator", but no official shall have authority to act as "Acting Administrator" unless all those whose names appear before his are absent from their official post and unable to act:

1. Abner H. Ferguson, General Counsel.
2. Miles L. Colean, Assistant Administrator, Rental Housing.
3. Raymond T. Cahill, Assistant Administrator, Mutual Mortgage Insurance.
4. Frederick M. Babcock, Assistant Administrator, Underwriting.
5. Clyde L. Powell, Assistant Administrator, Rental Housing.
6. Jay Keegan, Assistant Administrator, Title I.
7. John M. Daiger, Financial Adviser.
8. Theodore B. Nickson, Comptroller.
9. Wesley Zane, Executive Assistant.

II. In pursuance of the provisions of Section 1 of Title I of the National Housing Act, the following delegations of functions and powers are hereby made:

(A) To the position of Assistant Administrator Title I and in his absence or inability to act to the Assistant to such Assistant Administrator:

1. To approve financial institutions as insured institutions under the provisions of Title I of the National Housing Act, and in the absence or inability of the Assistant Administrator in charge of Mutual Mortgage Insurance, approval of financial institutions to act as mortgagees under the provisions of Section 203 and in release clause operations under Sections 207 and 210 of Title II of the National Housing Act.

2. To cancel such approvals.

3. To issue and cancel Contracts of Insurance under Title I of the National Housing Act, and to transfer such contracts and the rights and benefits accruing thereunder between lending institutions.

4. To execute the power and authority vested in the Federal Housing Administrator by the Regulations governing property and obligations held by the Federal Housing Administrator and approved by the Acting Secretary of the Treasury on September 15, 1936, with the exception of the power and authority provided in Sections IIIc and VIII of said Regulations.

5. To approve forms necessary to carry out the insurance provisions of Title I of the National Housing Act.

(B) To a Collections Committee consisting of the Assistant Administrator, Title I, or in his absence, the Assistant to the Assistant Administrator, Title I, the Comptroller, or in his absence, the Assistant Comptroller, and the Counsel for Title I, or in his absence, the General Counsel, any two of which shall constitute a quorum:

To execute the power and authority provided for in Section IIIc and VIII of the Regulations Governing Property and Obligations held by the Federal Housing Administrator,[2] issued by the Administrator and approved by the Acting Secretary of the Treasury on September 15, 1936, and the power and authority to authorize and direct the execution of such documents as are necessary to carry out the conclusions of the Committee.

(C) To a Committee to be known as the Eligibility Committee, consisting of the Assistant Administrator in charge of Title I, or in his absence, the Assistant to the Assistant Administrator; the Counsel for Title I, or in his absence, the General Counsel; the Executive Assistant to the Administrator, or in his absence, the Assistant to the Executive Assistant; any two of which shall constitute a quorum:

To determine the eligibility for insurance of any loan or advance of credit made under the provisions of Section 2 and Section 6 of Title I of the National Housing Act.

(D) To a Committee to be known as the Compliance Committee, consisting of the Assistant Administrator in charge of Title I, or in his absence, the Assistant to the Assistant Administrator, Title I, the Counsel for Title I, or in his absence, the General Counsel; the Executive Assistant to the Administrator, or in his absence, the Assistant to the Executive Assistant; and the Comptroller, or in his absence, the Assistant Comptroller; any three of which shall constitute a quorum:

To waive compliance with regulations heretofore or hereafter prescribed with respect to the interest and maturity of, and the terms, conditions, and restrictions under which loans, advances of credit, and purchases may be insured under Section 2 and Section 6 of Title I, if in the judgment of the Committee the enforcement of such regulations would impose an injustice upon an insured institution which has substantially complied with such regulations in good faith and refunded or credited any excess charge made, and if such waiver does not involve an increase of the obligation of the Administrator beyond the obligation which would have been involved if the regulations had been fully complied with.

(E) To the position of Assistant Administrator, in charge of Mutual Mortgage Insurance, and in his absence or inability to act, to the position of Assistant to such Assistant Administrator:

1. To approve financial institutions to act as mortgagees under the provisions of Section 203 and in release clause operations under Sections 207 and 210 of Title II of the National Housing Act, and in the absence or inability of the Assistant Administrator, Title I, approval of financial institutions as insured institutions under the provisions of Title I of the National Housing Act.

2. To cancel such approvals.

3. To approved forms necessary (a) to carry out the insurance provisions of Section 203, and (b) with respect to release clause operations under Sections 207 and 210, of Title II of the National Housing Act.

4. To approve the sale of properties conveyed to the Administrator under Section 204 in connection with mortgages insured under Section 203 and release clause operations under Sections 207 and 210 and to execute in my official name, as my agent, all deeds, or other documents or instruments in connection with the conveyance of title thereto, and deeds of release or satisfaction of mortgages, deeds of trust, or other liens taken as security in connection with such sale.

5. To execute Certificates of Claim and Requisitions to the Treasury Department for the issuance of debentures in connection with mortgages insured under Section 203 and release clause operations under Sections 207 and 210.

(F) To the positions of Assistant Administrator in charge of Rental Housing, and to each of them, with respect to mortgages insured under Sections 207 and 210, except release clause operations:

1. To issue commitments for the insurance of mortgages.

2. To execute insurance contracts.

3. To approve an increase in the amount or the extension of the term of mortgages already accepted for insurance.

4. To execute all contracts, assignments, and other instruments and documents and any amendments thereof or supplements thereto, including the reassignment of securities assigned to the Administrator.

5. To approve or disapprove on behalf of the Administrator all matters arising out of the performance of any contract.

6. To approve all forms necessary to carry out the insurance provisions of such Sections.

7. To approve financial institutions as insured institutions under the provisions of Title I of the National Housing Act in the absence or inability of the Assistant Administrator, Title I, and the Assistant Administrator in charge of Mutual Mortgage Insurance, and approval of financial institutions to act as mortgagees under the provisions of Section 203 and in release clause operations under Sections 207 and 210 of the National Housing Act in the absence or inability of the Assistant Administrator, in charge of Mutual Mortgage Insurance, and the Assistant Administrator, Title I.

8. When a sale of a property or project conveyed to the Administrator under Sections 207 or 210 (except release clause operations) has been approved by the Administrator, to execute in my official name and as my agent, all deeds, or other instruments or documents in connection with the conveyance of title thereto, and deeds of release or satisfaction of mortgages, deeds of trust, or other liens taken as security in connection with such sale.

9. To execute Certificates of Claim and Requisitions to the Treasury Department for the issuance of debentures in connection with mortgages insured under Sections 207 and 210 except release clause operations.

(G) To the positions of Assistant Administrator in charge of Mutual Mortgage Insurance and Assistant Administrator in charge of Underwriting and to their respective Assistants in the event of their absence or inability to act, with respect to mortgage insurance under Section 203 and with respect to release clause operations under Sections 207 and 210:

1. To issue commitments for insurance.

2. To execute insurance contracts.

3. To approve the increase in amount or the extension of the term of mortgages already accepted for insurance.

4. To consent to the release of mortgagors.

5. To consent to the release of portions of the mortgaged property from the lien of the mortgage.

(H) To the positions of Deputy Administrator and to each of them and to their respective Assistants in the event of their absence or inability to act, and State, District, Associate, and Territorial Director, and Manager, Deputy Regional Director, and Executive Assistant (and in offices where there is no Associate Director or Executive Assistant, to the position of Office Manager):

1. To issue commitments for insurance of mortgages under Section 203.

2. To issue commitments for insurance of mortgages under Section 210, with respect to release clause operations, when authorized to do so by either the Assistant Administrator in charge of Mutual Mortgage Insurance or the Assistant Administrator in charge of Underwriting.

3. To execute insurance contracts by endorsement on the credit instrument

[1] 48 Stat. 1246.

[2] 1 F. R. 1375.

under Section 203, and under Section 210, with respect to release clause projects, and with respect to rental projects when expressly authorized to do so by the Assistant Administrator in charge of Rental Housing.

4. To approve the increase in amount or the extension of the term of mortgages already accepted for insurance under Section 203.

5. To consent to the release of mortgagors under Section 203.

6. With respect to mortgages insured under Section 203 and Section 210 (release clause operations) to consent to the release of portions of the mortgaged property from the lien of the mortgage in accordance with the terms of the mortgage, or, when authorized to do so by the Assistant Administrator in charge of Mutual Mortgage Insurance.

7. To execute all other incidental contracts, instruments and documents under Sections 207 and 210 with respect to release clause projects and with respect to rental projects when expressly authorized to do so by the Assistant Administrator in charge of Rental Housing.

(I) To the position of Zone Rental Manager:

1. To execute insurance contracts by endorsement on the credit instrument under Section 210, except with respect to release clause operations.

2. To execute all incidental contracts and other instruments and documents under Sections 207 and 210, with respect to rental projects, except contracts of mortgage insurance under Section 207 and commitments under Sections 207 and 210.

(J) To the positions of the Executive Assistant (Washington Office) or in his absence the Assistant to the Executive Assistant, or the Office Manager (Washington Office) (in the order named):

1. To authorize such expenditures, and the incurrence of such obligations as may be necessary to carry out the provisions of the National Housing Act, except as herein otherwise provided.

2. To approve telephone contracts.

3. To execute leases of property for FHA use.

4. To issue orders for travel in accordance with Government Travel Regulations as amended, Federal Housing Administration Appropriation Act, and the letter of the President in reference to air travel, dated July 5, 1938.

5. To issue all purchase orders, including printing and binding requisitions to the Government Printing Office.

6. To issue orders for publications of notices and advertisements in newspapers, magazines, and periodicals. (See Section 3828, Revised Statute.)

7. To execute contracts for purchase of equipment and supplies.

(K) To the positions of Comptroller, of Assistant Comptroller and of Assistant to the Comptroller (in the order named):

1. To requisition the advance of funds.

2. To approve all expenditure and receipt vouchers necessary to carry out the provisions of the National Housing Act.

3. To endorse checks for deposit or collection.

4. To certify financial statements.

5. To certify the findings of the Compliance Committee in regard to the Waiver of the Regulations under the provisions of Section 2 (e) of the National Housing Act, as amended.

6. To certify as to delegations of authority by the Administrator and as to the truth or accuracy of copies of original papers or documents in the possession of the Administration.

(L) To the position of Special Assistant to the Administrator in charge of Personnel, or, in his absence or inability to act, his Assistant:

1. To have charge of the appointment, promotion, demotion, separation, classification, transfer of personnel and other personnel functions.

(M) To a Committee to be known as the Property Management Committee, Section 203, consisting of the Chief of the Property Management Section, Mutual Mortgage Insurance, or in his absence or inability to act, his Assistant; Counsel having charge of conveyance of properties, or in his absence or inability to act, his Assistant; and the Deputy Administrator in charge of the zone in which the property being considered is located, or in his absence or inability to act, his Assistant:

1. To consider all offers to purchase or rent properties conveyed to the Administrator under Section 203 or release clause operations under Sections 207 and 210, and to forward to the Assistant Administrator in charge of Mutual Mortgage Insurance for his approval or disapproval, its recommendations in connection with offers for purchase and to approve or disapprove offers for rent. The Committee, before considering any offer, shall obtain from the State or District Director his recommendation in reference to such offer and shall consider the same in connection therewith but shall not be bound thereby.

(N) To the position of Chief of Property Management Section, Mutual Mortgage Insurance, or in his absence or inability to act, to his Assistant:

1. To manage all properties conveyed to the Federal Housing Administrator pursuant to the provisions of Section 204 in connection with mortgages insured under Section 203 and release clause operations under Sections 207 and 210, including authority to make such repairs to such properties as may be recommended by the State or District Director of the State or District in which the property is located.

2. To employ brokers and execute contracts with them in connection with the rental or sale of such properties and to execute leases.

3. To recommend to the Property Management Committee the rental or sale of such properties.

(O) To a Committee to be known as the Property Management Committee, Rental Housing, to consist of the two Assistant Administrators in charge of Rental Housing; the Chief Counsel, Rental Housing Division; and the Director of the Management Section, Rental Housing Division:

1. To consider all offers for the purchase of property conveyed to the Administrator under Section 207 or Section 204 in connection with mortgages insured under Section 210 other than release clause operations and to forward to the Administrator for his approval or disapproval of its recommendations in connection with such offers.

2. To operate, manage, and rent any properties conveyed to the Administrator under Section 207 or Section 210 (except release clause operations) until such time as said properties may be sold.

(P) To a committee to be known as the Credit Committee, consisting of the Assistant Administrator in charge of Title I, or in his absence, the Assistant to the Assistant Administrator; the Executive Assistant to the Administrator, or in his absence, the Assistant to the Executive Assistant; and the Chief of the Credit Section, or in his absence, the Assistant to the Chief; any two of which shall constitute a quorum;

Authority to reject or accept for insurance loans or advances of credit made under the provisions of Section 2 and Section 6 of Title I, which require the prior approval of the Administrator.

Dated at Washington, D. C., this 29th day of November, 1938.

[SEAL] STEWART McDONALD,
Administrator.

[F. R. Doc. 38-3708; Filed, December 9, 1938; 11:59 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Ex Parte MC-4]

ORDER IN THE MATTER OF QUALIFICATIONS OF EMPLOYEES AND SAFETY OF OPERATION AND EQUIPMENT OF COMMON CARRIERS AND CONTRACT CARRIERS BY MOTOR VEHICLE, WHICH ARE SUBJECT TO THE MOTOR CARRIER ACT, 1935, BUT THE OPERATIONS OF WHICH ARE EXEMPT FROM THE GENERAL PROVISIONS THEREOF, BY SECTION 203 (B)

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C. on the 3rd day of December, A. D., 1938.

It appearing, That by order dated August 21, 1936,[1] the Commission, division 5, entered upon an investigation into and concerning the matter of qualifications of employees and safety of operation and equipment of common carriers and contract carriers subject to the Motor Carrier Act, 1935;

It further appearing, That after investigation of the matter and things involved, the Commission, division 5, on December 23, 1936, made and filed a report containing its findings of facts and conclusions thereon, and by order of the same date prescribed rules and regulations[2] for all common carriers and contract carriers subject to the Motor Carrier Act, 1935, except as to the special operations set forth in section 203 (b); and that further hearings were had relative to the reasonableness of the rules prescribed by the order of December 23, 1936, for such special operations.

It further appearing, That a full investigation of the matters and things involved has been had, and the Commission, division 5, on the date hereof has made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof;[3]

It is ordered, That no rules and regulations shall be prescribed to apply to transportation covered by the exemption contained in section 203 (b) (8), and 203 (b) (9).

It is further ordered, That the order of December 23, 1936, be, and the same is hereby amended so as to provide that the regulations therein prescribed shall not apply to the transportation of passengers or property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone;

It is further ordered, That the rules and regulations prescribed by our order of December 23, 1936, be, and they are hereby approved, adopted and prescribed to apply to the transportation and vehicles exempted from the general provisions of the act by section 203 (b) (1), (2), (3), (4), (4b), (5), (6), (7), and (7a), except that Part III, section D (8) (a), which requires that each motor vehicle be equipped with the designated type of fire extinguisher, shall not apply to "taxicabs, or other motor vehicles performing a *bona fide* taxicab service, having a capacity of not more than six passengers and not operated on a regular route or between fixed termini". (Section 203 (b) (2).)

And it is further ordered, That common and contract carriers engaged in the transportation or operating the motor vehicles set forth in section 203 (b) (1), (2), (3), (4), (4b), (5), (6), (7), and (7a), of the Motor Carrier Act, shall comply with these regulations.

The regulations herein prescribed shall be effective on and after January 1, 1939.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3709; Filed, December 9, 1938; 12:10 p. m.]

[1] 1 F. R. 1396.
[2] 2 F. R. 113-121 (144-152 DI).
[3] Filed as a part of the original document with the Division of the Federal Register, The National Archives.

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Docket No. A-87 O-87]

NOTICE OF HEARING WITH RESPECT TO PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 3, AS AMENDED, REGULATING HANDLING OF MILK IN ST. LOUIS, MISSOURI, MARKETING AREA

Whereas, under section 8c of Title I of Public Act No. 10, 73rd Congress, as amended, the Secretary of Agriculture, hereinafter called the Secretary, issued an order regulating the handling of milk in the St. Louis, Missouri, Marketing Area, effective February 1, 1936, which order was amended effective April 17, 1936 and April 1, 1937;[1] and

Whereas, the Secretary tentatively approved a marketing agreement regulating the handling of milk in the said area on December 10, 1935, amendments to which tentatively approved marketing agreement were tentatively approved on March 30, 1936, and on March 16, 1937; and

Whereas, the Sanitary Milk Producers has proposed certain amendments to said order, as amended, and to said tentatively approved marketing agreement, as amended; and

Whereas, the Secretary has reason to believe that an amendment of said order, as amended, and of said tentatively approved marketing agreement, as amended, will tend to effectuate the declared policy of Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937; and

Whereas, under the aforesaid act notice of hearing is required in connection with a proposal to amend an order, and the General Regulations, Series A, No. 1, as amended,[2] of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice and opportunity for hearing upon amendments to marketing agreements and orders;

Now, therefore, pursuant to said act and general regulations, notice is hereby given of a hearing to be held on said proposals to amend the order, as amended, and the tentatively approved marketing agreement, as amended, regulating the handling of milk in the St. Louis, Missouri, Marketing Area, at the Chase Hotel, St. Louis, Missouri, at 10:00 a. m., c. s. t., December 14, 1938.

This public hearing is for the purpose of receiving evidence as to the necessity for (1) redefining the marketing area to coincide with that portion of the present marketing area which must now be supplied with milk of such quality as to meet the requirements of a health ordinance similar to those of the United States ordinance relative to milk, (2) revising the classification of milk, (3) revising the minimum prices provided in said marketing agreement, as amended, and said order, as amended, (4) clarifying the method of computation of the value of milk of each handler, (5) making changes in the wording of said marketing agreement, as amended, and said order, as amended, for the purpose of affording more effective administration thereof, and (6) changing any other provisions of said marketing agreement, as amended, and said order, as amended.

Copies of the proposed amendments to the said order, as amended, and the said marketing agreement, as amended, may be inspected in or procured from Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Dated December 9, 1938.

[F. R. Doc. 38-3710; Filed, December 9, 1938; 12:19 p. m.]

[1] 1 F. R. 185; 2 F. R. 616 (723DI).
[2] 1 F. R. 155.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of December, A. D. 1938.

[File No. 46-116]

IN THE MATTER OF HALSEY, STUART & CO., INC.

ORDER APPROVING ACQUISITION OF SECURITIES

Halsey, Stuart & Co., Inc., an affiliate of Central Illinois Public Service Company, which is a subsidiary of the Middle West Corporation, a registered holding company, has filed with this Commission an application pursuant to Section 10 of the Public Utility Holding Company Act of 1935 for the approval of the acquisition by Halsey, Stuart & Co., as one of several

underwriters, for resale to the public, of $3,000,000 principal amount of the proposed $38,000,000 principal amount First Mortgage Bonds, Series A, 3¾%, due December 1, 1968 of Central Illinois Public Service Company together with a pro rata share of $10,000,000 principal amount of Serial Debentures, 3½%–4%, due serially December 1, 1939–December 1, 1948. This application is related to the application filed by Central Illinois Public Service Company (File No. 32–117) requesting the exemption of the issuance and sale of the aforesaid securities from the provisions of the Public Utility Holding Company Act of 1935, which application the Commission has not finally considered.

A hearing having been held on such application after appropriate notice;[1] the record in the matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the acquisition of the aforesaid securities in the manner and on the terms and conditions set forth in the application be and the same is hereby approved, it being part of such conditions that this Commission do hereinafter enter its order in the matter of Central Illinois Public Service Company granting the exemption, heretofore referred to, to that company.

It is further ordered, That within ten days after the acquisition of the securities referred to above, the applicant shall file with the Commission a Certificate of Notification, showing that such acquisition was effected in accordance with the terms and conditions and for the purposes represented by such application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3703; Filed, December 8, 1938; 3:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of December, A. D. 1938.

[File No. 43–162]

IN THE MATTERS OF GREEN MOUNTAIN POWER CORPORATION, NEW ENGLAND POWER ASSOCIATION

ORDER

Green Mountain Power Corporation, a subsidiary of New England Power Association, a registered holding company, having filed a declaration with this Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the cancellation of 10,500 of the 22,500 shares of its common stock outstanding and the corresponding reduction of the capital represented by its common stock from $2,107,408 to $1,123,951; and

New England Power Association having filed an application pursuant to Section 12 (d) of the Public Utility Holding Company Act of 1935 and to Rule U–12D–1 thereunder for an order permitting it to surrender 10,500 shares without par value of the common capital stock of Green Mountain Power Corporation to permit such corporation to reduce its outstanding common capital stock by such an amount; and

A hearing on said declaration and application having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That said declaration of Green Mountain Power Corporation be and become effective forthwith subject to the following terms and conditions;

(1) That such corporate action and all matters connected therewith, or related thereto, shall be performed in all respects as set forth in, and for the purposes represented by, said declaration as amended;

(2) That except upon application to, and further order of, the Commission, Green Mountain Power Corporation shall not while any of its preferred shares are outstanding make any distribution on its common stock unless the earned surplus, whether or not capitalized through a common stock dividend, plus common capital paid into the company after January 1, 1939 shall, after such distribution, exceed $983,457.17, being the amount of the reduction in the common capital authorized by this order; provided, however, that this restriction shall not apply to dividends payable in common stock.

It is further ordered, That said application of New England Power Association be and the same is hereby granted; subject, however, to the condition that the Commission reserves jurisdiction as to the amount at which New England Power Association carries its investment in the common capital stock of Green Mountain Power Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3704; Filed, December 8, 1938; 3:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 8th day of December, A. D. 1938.

[File No. 50–5]

IN THE MATTER OF AMERICAN GAS AND POWER COMPANY AND BIRMINGHAM GAS COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

American Gas and Power Company, a registered holding company under the Public Utility Holding Company Act of 1935, and Birmingham Gas Company, a subsidiary of American Gas and Power Company, (hereinafter referred to as "American" and "Birmingham," respectively) having on December 6, 1938 filed a declaration under Rule U–12E–5 (c) by way of post-amendment number 7 in respect of follow-up letters of solicitation to be mailed to holders of American's Secured Debentures, Birmingham's 6% Notes and Birmingham's First Preferred Stock who have not voted upon or consented to Birmingham's Plan of Recapitalization, as amended, copies of which letters are annexed to said post-amendment; and

Said Declarants having in said post-amendment requested the Commission to permit said declaration to become effective before the expiration of the fifteen-day period provided in said Rule, due to the fact that said Plan by its terms is required to be consummated on or before February 28, 1939; and

The Commission having considered said declaration and forms of follow-up solicitation letters, and sufficient reason appearing for shortening the fifteen-day period, after which period said declaration will become effective;

It is ordered, That said declaration become effective on this, the 8th day of December, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3706; Filed, December 9, 1938; 10:58 a. m.]

[1] 3 F. R. 2750 DI.

[1] 3 F. R. 2751 DI.

DEC 15 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 241

Washington, Tuesday, December 13, 1938

Rules, Regulations, Orders

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[Amendment 26 [1] to Declaration No. 12]

DECLARING NAMES OF COUNTIES PLACED IN MODIFIED TUBERCULOSIS-FREE ACCREDITED AREAS

DECEMBER 1, 1938.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309,[2] as amended September 10, 1936, the following named counties in States named are hereby declared "Modified Accredited Areas" until the date given opposite each county named.

California: Yolo, December 1, 1941.
Puerto Rico: Coamo, December 1, 1941; Salinas, December 1, 1941.
Virgin Islands: St. John, December 1, 1941; St. Thomas, December 1, 1941.

In accordance with Section 2 of Regulation 7 of B. A. I. Order 309, as amended September 10, 1936, the following named counties in the States named having completed the necessary retests for re-accreditation, are hereby countinued in the status of "Modified Accredited Areas" until the date given opposite each county named.

Alabama: Coffee, December 1, 1941; De Kalb, December 1, 1941; Henry, December 1, 1941; Houston, December 1, 1941; Lawrence, December 1, 1941; Pike, December 1, 1941; Russell, December 1, 1941; Walker, December 1, 1941; Winston, December 1, 1941.
Arizona: Apache, December 1, 1941; Pima, December 1, 1941.
Arkansas: Franklin, December 1, 1941; Madison, December 1, 1941.
Connecticut: Litchfield, December 1, 1941; Windham, December 1, 1941.
Delaware: Kent, December 1, 1941.
Florida: Columbia, December 1, 1941; Hamilton, December 1, 1941.
Illinois: McDonough, December 1, 1941.
Indiana: Carroll, December 1, 1941; Huntington, December 1, 1941; Spencer, December 1, 1941.
Iowa: Appanoose, December 1, 1941; Ida, December 1, 1941.
Kentucky: Harrison, December 1, 1941; Metcalfe, December 1, 1941; Muhlenberg, December 1, 1941; Wayne, December 1, 1941.
Louisiana: De Soto, December 1, 1941; Jefferson, December 1, 1941; Madison, December 1, 1941; Richland, December 1, 1941.
Maine: Somerset, December 1, 1941.
Michigan: Oscoda, December 1, 1941; Otsego, December 1, 1941.
Minnesota: Nicollet, December 1, 1944; Wabasha, December 1, 1944.
Mississippi: Claiborne, December 1, 1941; Franklin, December 1, 1941; Harrison, December 1, 1941; Madison, December 1, 1941.
Missouri: Dallas, December 1, 1941; Newton, December 1, 1941; Putnam, December 1, 1941.
Montana: Big Horn, December 1, 1941; Blaine, December 1, 1941; Broadwater, December 1, 1941; Carbon, December 1, 1941; Chouteau, December 1, 1941; Fergus, December 1, 1941; Jefferson, December 1, 1941; Lake, December 1, 1941; Lewis & Clark, December 1, 1941; Lincoln, December 1, 1941; Madison, December 1, 1941; McCone, December 1, 1941; Meagher, December 1, 1941; Musselshell, December 1, 1941; Park, December 1, 1941; Stillwater, December 1, 1941; Sweetgrass, December 1, 1941; Wheatland, December 1, 1941; Yellowstone, December 1, 1941.
Nebraska: Nuckolls, December 1, 1941; Thayer, December 1, 1941.
New Mexico: Lea, December 1, 1941; Rio Arriba, December 1, 1941; Taos, December 1, 1941.
North Carolina: Bladen, December 1, 1941; Cumberland, December 1, 1941; Forsyth, December 1, 1941.
Ohio: Delaware, December 1, 1941; Lucas, December 1, 1941.
Pennsylvania: Cumberland, December 1, 1941; Northampton, December 1, 1941.

[1] Supplements footnote to 9 CFR 77.3.
[2] 1 F. R. 1338.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 9—ANIMALS AND ANIMAL PRODUCTS: Page
Bureau of Animal Industry:
Declaring name of counties placed in modified tuberculosis - free accredited areas 2903
TITLE 43—PUBLIC LANDS:
Bureau of Reclamation:
Deschutes Project, Oreg., first form reclamation withdrawal 2904
TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Alaska radio stations other than amateur and broadcast 2906
Rules repealed 2907
Emergency radio services, frequency rules amended 2905
Filing of information, contracts, reports, etc.; rules amended 2908
Fixed radio services, definitions amended 2905
General substantive rules, technical regulations amended 2904
Ship radio services, rules amended 2905
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
A. Johnston (Brotherhood of Locomotive Engineers, et al.), v. Atchison, Topeka & Santa Fe Railway Co., et al., order 2908

NOTICES

Civil Aeronautics Authority:
Western Air Express Corp., and United Air Lines Transport Corp., hearing on leasing of sleeper equipment 2908

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Department of Labor:
Wage and Hour Division: Page
Pecan Shelling Co., et al., hearing on applications to employ learners in pecan shelling industry at wage rates less than minimum specified 2908
Federal Power Commission:
West Tennessee Power & Light Co., notice of application 2909
Interstate Commerce Commission:
Substituted freight service 2909
Securities and Exchange Commission:
Central Maine Power Co., application granted for leave to intervene 2913
Postponement of hearing 2913
Laclede Gas Light Co., extension of bonds exempted 2910
Northern Natural Gas Co., notice of and orders for hearings 2912, 2913
Northern States Power Co., order 2911
Penn Western Gas & Electric Co., application approved 2910
Utilities Power & Light Corp., Ltd., et al., acquisition of securities approved, etc 2911
Social Security Board:
Oregon unemployment compensation law, hearing concerning effect of change in 2914

South Dakota: Armstrong, December 1, 1941; Butte, December 1, 1941; Dewey, December 1, 1941; Lawrence, December 1, 1941; Meade, December 1, 1941.

Tennessee: Cannon, December 1, 1941; De Kalb, December 1, 1941; Marshall, December 1, 1941; Robertson, December 1, 1941; Smith, December 1, 1941; Tipton, December 1, 1941.

Texas: Cherokee, December 1, 1941; Milam, December 1, 1941; Rains, December 1, 1941; Robertson, December 1, 1941; Titus, December 1, 1941; Uvalde, December 1, 1941; Van Zandt, December 1, 1941.

Vermont: Essex, December 1, 1941.

Wyoming: Niobrara, December 1, 1941.

Declaration No. 12, dated October 1, 1936, as amended,[1] is hereby further amended accordingly.

[SEAL] J. R. MOHLER,
Chief of Bureau.

[F. R. Doc. 38-3723; Filed, December 10, 1938; 12:22 p. m.]

TITLE 43—PUBLIC LANDS

BUREAU OF RECLAMATION

DESCHUTES PROJECT, OREGON

FIRST FORM RECLAMATION WITHDRAWAL

NOVEMBER 14, 1938.

THE SECRETARY OF THE INTERIOR.
(Through the Division of Grazing)

SIR: In accordance with the authority vested in you by the Act of June 26, 1936 (49 Stat. 1976) it is recommended that Department Order of October 21, 1935 establishing Grazing District No. 5, Oregon, under and pursuant to the provisions of the Act of June 28, 1934 (48 Stat. 1269) be revoked in so far as the following described lands are affected, and the said lands be withdrawn from public entry under the first form withdrawal, as provided in Section 3, Act of June 17, 1902 (32 Stat. 388).

DESCHUTES PROJECT, OREGON

WILLIAMETTE MERIDIAN

T. 15 S., R. 13 E.,
Sec. 21, SE¼NE¼ and NE¼SE¼.
Sec. 22, SW¼NW¼ and NW¼SW¼.

Respectfully,
JOHN C. PAGE,
Commissioner.

I concur November 18, 1938.

JULIAN TERRETT,
Acting Director, Division of Grazing.

NOVEMBER 10, 1938.

The foregoing recommendation is hereby approved and the Commissioner of the General Land Office will cause the records of his office and the local land office to be noted accordingly.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38-3719; Filed, December 10, 1938; 10:03 a. m.]

[1] 3 F. R. 2481 DI.

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER II.—GENERAL SUBSTANTIVE RULES

PART 23. TECHNICAL REGULATIONS

The Commission amended the following section to read:

SEC. 23.12 *Classification of emissions; Communication band width.* (a) Emissions shall be classified according to the purpose for which they are used; assuming their modulation or their possible keying to be only in amplitude, as follows:

1. Continuous waves:

Type A0.—Waves the successive oscillations of which are identical under fixed conditions.[1]

Type A1.—Telegraphy on pure continuous waves. A continuous wave which is keyed according to a telegraph code.

Type A2.—Modulated telegraphy. A carrier wave modulated at one or more audible frequencies; the audible frequency or frequencies or their combination with the carrier wave being keyed according to a telegraph code.

Type A3.—Telephony. Waves resulting from the modulation of a carrier wave by frequencies corresponding to the voice, to music or to other sounds.

Type A4.—Facsimile. Waves resulting from the modulation of a carrier wave by frequencies produced at the time of the scanning of a fixed image with a view to its reproduction in a permanent form.

Type A5.—Television. Waves resulting from the modulation of a carrier wave by frequencies produced at the time of the scanning of fixed or moving objects.[2]

2. Damped waves:

Type B.—Waves composed of successive series of oscillations the amplitude of which, after attaining a maximum, decreases gradually, to wave trains being keyed according to a telegraph code.

(b) Authorization for other types of emission may be issued and will be termed "special" in the instrument of authorization. When special emissions are authorized they will be described and limited as to band width by the instrument of authorization.

[1] These waves shall be used only in special cases, such as standard frequency emissions.

[2] "Objects" is used here in the optical sense of the word.

(c) The frequency bands authorized to be occupied by the above types of emission are as shown in the following table:

Type of transmission	*Total width of the band in cycles. For transmission with two sidebands*
A–0 Continuous waves, no signaling.	
A–1 Telegraphy, pure, continuous wave: Morse code, Baudot code, Stop-start printer.	Numerically equal to the telegraph speed in bauds for fundamental frequency, 3 times this width for the 3rd harmonic, etc. (For a code of 8 time elements (dots or blanks) per letter and 48 time elements per word, the speed in bauds shall be equal to 0.8 times the speed in words per minute.)
Scanning-type printer	300–1,000, for speeds of 50 words per minute, according to the conditions of operation and the number of lines scanned (for example, 7 or 12). Harmonics are not considered in the above values.
A–2 Telegraphy modulated to musical frequency.	Figures appearing under A–1, plus twice the highest modulation frequency.
A–3 Commercial telephony	Twice the number indicated by the CCIF Opinions (about 6,000 to 8,000).[1]
Broadcasting	15,000 to 20,000.
A–4 Facsimile	Approximately the ratio between the number of picture components[2] to be transmitted and the number of seconds necessary for the transmission.
A–5 Television	Approximately the product of the number of picture components[2] multiplied by the number of pictures transmitted per second.

[1] It is recognized that the band-width may be wider for multiple-channel radiotelephony and secret radiotelephony.

[2] Two picture components, one black and one white, constitute a cycle; thus, the modulation frequency equals one-half the number of components transmitted per second.

(d) The band width described herein is the maximum permissible for the type of emission indicated. In no case shall the band width emitted exceed the frequency separation band width as shown in the table of frequency allocations.[1] (Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i) [Rule 225, F. C. C., Dec. 5, 1938]

The Commission amended Section 23.03 in the following particulars:

j–2288 kc	---	Government
2292 kc	---	Special Emergency
j–2296 kc	---	Government
•	• • • • •	•
hk–4630 kc	---	Government
4635 kc – 4637.5 kc	---	Special Emergency
4640 kc		
4645 kc	---	Fixed

(Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)) [Rule 229, F. C. C., Dec. 5, 1938]

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3711; Filed, December 9, 1938; 1:26 p. m.]

CHAPTER VI. RULES GOVERNING FIXED RADIO SERVICES

PART 60. DEFINITIONS

The Commission amended the following sections to read:

[1] Section 23.03.

SEC. 60.06 *Radiotelegraph.* The term "Radiotelegraph" as hereinabove used shall be construed to include types A1, A2 and A4 emission. (Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)) [Rule 235, F. C. C., Dec. 5, 1938]

SEC. 60.08 *Radiotelephone.* The term "Radiotelephone" as hereinabove used shall be construed to include type A3 emission only. (Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)) [Rule 237, F. C. C., Dec. 5, 1938]

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3712; Filed, December 9, 1938; 1:26 p. m.]

CHAPTER VIII. RULES GOVERNING SHIP RADIO SERVICES

PART 80. IN GENERAL

The Commission amended the following section to read:

SEC. 80.44 *Damped waves.* (a) Licenses, or any other instruments of authorization for the operation of any radio station using, or proposing to use, transmitting apparatus employing damped-wave emission, will not be issued after December 31, 1939.

(b) Prior to January 1, 1940, a license will be issued for the operation of any ship radio station using, or proposing to use, transmitting apparatus employing damped-wave emission only if such apparatus was installed on board the ship prior to January 1, 1930. Subject to this limitation a license will be issued authorizing the operation of damped-wave transmitting apparatus aboard a ship station on the following frequencies:

375 kilocycles, 410 kilocycles, 425 kilocycles, 454 kilocycles, and 500 kilocycles, provided, however, that after September 1, 1939 no license will authorize the operation of a damped-wave transmitter on 454 kilocycles and, except for use on the Great Lakes, on 410 kilocycles.

(c) Nothing contained in the rules and regulations of the Commission shall prevent a ship station in distress from using any means available to it for drawing attention, signaling its position and obtaining help.

(d) These regulations supersede any authorization contained in existing ship station licenses issued by the Commission that may be in conflict therewith. (Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)) [Rule 293, F. C. C., Dec. 5, 1938]

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3713; Filed, December 9, 1938; 1:26 p. m.]

CHAPTER X. RULES GOVERNING EMERGENCY RADIO SERVICES

PART 111. GENERAL RULES

Frequencies

The Commission added the following new subsection to Section 111.25:[1]

(d) For fixed, land and portable-mobile stations of public utilities, with a maximum power of 50 watts:

2292 kc[2] (A–3 emission).
4637.5 kc day only[2] (A–3 emission).* #

PART 117. SPECIAL EMERGENCY STATIONS

The Commission amended the following section to read:

SEC. 117.02 *Selective calling system.* Notwithstanding the provisions of Section 111.25 (c) and (d), Types A–1 or A–2 emission may be used on 2726, 2292, and 4637.5 kc, for the sole purpose of establishing a selective calling system.* #

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3714; Filed, December 9, 1938; 1:27 p. m.]

[1] 3 F. R. 1735 DI.

[2] May be used subject to the condition that no interference is caused to other services and that the frequency is maintained within a tolerance of .02%.

* Promulgated under the authority contained in Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i).

Adopted by the F. C. C. on Dec. 5, 1938.

CHAPTER XIV. RULES GOVERNING RADIO STATIONS IN ALASKA—OTHER THAN AMATEUR AND BROADCAST

TABLE OF CONTENTS

Part
170. In General
171. Fixed Public Service
172. Public Coastal Service
173. Ship Service
174. Aviation Service

PART 170. IN GENERAL

Sec.
170.01 Scope of rules
170.02 Place of filing application
170.03 Emergency service which may be rendered

SEC. 170.01 *Scope of rules.* The general rules and regulations for individual services shall apply to stations located in the Territory of Alaska so far as may be consistent with this chapter.* #

SEC. 170.02 *Place of filing application.* An application for the operation of a station in Alaska other than a broadcast or amateur station, shall be filed with the Commission's Inspector in Charge at Seattle, Washington.* #

SEC. 170.03 *Emergency service which may be rendered.* Any station in Alaska, regardless of the class in which licensed, may transmit messages concerning sickness, death, weather, ice conditions or other matters relating to safety of life and property, provided:

(a) There is no established means of communication between the points in question.

(b) No charge is made for the communication service.[1]

(c) A copy of each message so transmitted is kept on file at the transmitting station for a period of one year, to be made available upon request by authorized Government representatives.* #

PART 171. FIXED PUBLIC SERVICE

Sec.
171.01 Frequencies for non-Government stations
171.02 Frequencies for communication from non-Government to Government stations
171.03 Frequencies for communication from non-Government to Government and between non-Government stations
171.04 Frequencies for short distances from non-Government to Government stations
171.05 Frequencies for short distances between non-Government stations

SEC. 171.01 *Frequencies for non-Government stations.* The following frequencies are allocated primarily for communication between non-Government stations using type A1 or A2 emission, subject to the condition that no interference is caused to other services: [3]

178 [3]	187 [3]	212	252	274 [3]
182	189	214	256	
183	209	227	262	
186	210 [3]	246 [3]	268 [3]	

* #

SEC. 171.02 *Frequencies for communication from non-Government to Government stations.* The following frequencies are allocated for communication from non-Government stations to Government stations using type A1 or A2 emission subject to the condition that no interference is caused to other services: [3]

187 210 246 262 [3] 268 274* #

SEC. 171.03 *Frequencies for communication from non-Government to Government and between non-Government stations.* The following frequencies are allocated for communication from non-Government to Government stations, and between non-Government stations, using type A3 emission subject to the conditions that no interference is caused other services: [3]

182 186 256 262* #

SEC. 171.04 *Frequencies for short distances from non-Government to Government stations.* The following frequencies are allocated primarily for short distance communication from non-Government to Government stations, using types A1, A2 and A3 emission provided the maximum power shall not exceed 100 watts and upon the condition that no interference will result to other services: [3]

2466	2632	2986		5207.5 [4]
2474	2912	5137.5 [4]		8070 [4]

(a) The frequencies 5207.5 and 8070 kilocycles are also available for unlimited time operation for stations located in the Aleutian Islands west of 165 degrees west longitude.* #

SEC. 171.05 *Frequencies for short distances between non-Government stations.* The following frequencies are allocated primarily for short distance communication between non-Government stations, using types A1, A2, and A3 emission, provided the maximum power shall not exceed 100 watts and upon the condition that no interference will result to other services: [3]

1540	1660	2430	2566	3190
1606	1708	2450	2616 [3]	3265 [3]
1622	2382	2482	2994 [3]	5167.5 [4]
1646	2422	2512	3092.5	

* #

PART 172. PUBLIC COASTAL SERVICE

Sec.
172.01 Frequencies for communication with ships in Alaskan waters
172.02 Frequencies for short distance communication from non-Government to Government stations and secondarily with ships in Alaskan waters
172.03 Frequencies for communication with any ship stations

SEC. 172.01 *Frequencies for communication with ships in Alaskan waters.* The following frequencies are allocated to public coastal harbor stations for communication with ships in Alaskan waters, using types A1, A2 and A3 emission, provided the maximum power shall not exceed 100 watts and upon the condition that no interference will result to other services:

1540	1646	2422	2512	2994 [3]
1592	1660	2430	2538	3092.5
1606	1708	2450	2566	3190
1622	2382	2482	2616 [3]	3265 [3]
				5167.5 [4]* #

SEC. 172.02 *Frequencies for short distance communication from non-Government to Government stations and secondarily with ships in Alaskan waters.* The following frequencies, allocated primarily for short distance communication from non-Government to Government stations, are available on a secondary basis to public coastal harbor stations for communication with ships in Alaskan waters, using types A1, A2, and A3 emission, provided the maximum power shall not exceed 100 watts and upon the condition that no interference will result to other services: [3]

2466	2632	2986		5207.5 [4]
2474	2912	5137.5 [4]		8070 [4]

(a) The frequencies 5207.5 and 8070 kilocycles are also available for unlimited time operation for stations located in the Aleutian Islands west of 165 degrees west longitude.* #

SEC. 172.03 *Frequencies for communication with any ship station.* The following frequencies are allocated to public coastal stations for communication with any ship station:

(a) Calling and working: 425 and 460 kilocycles, A1, A2 emission, maximum power 200 watts.

(b) Calling: 500 kilocycles, A1, A2 emission, maximum power 200 watts.* #

PART 173. SHIP SERVICE

Sec.
173.01 Service which may be rendered
173.02 Frequencies for communication between ships and with coastal harbor stations
173.03 Frequencies for communication from non-Government to Government stations and with coastal harbor stations on a secondary basis
173.04 Frequencies for ship stations

SEC. 173.01. *Service which may be rendered.* A ship in an Alaskan port where radio or wire communication is not provided, or when such radio or wire service is suspended, may accept messages for transmission to the nearest public coastal or coastal harbor station, and the radio equipment may be operated while the ship is along side the dock or at anchor in such port, without regard to the restrictions appearing in the general rules and regulations.[4] * #

SEC. 173.02 *Frequencies for communication between ships and with coastal harbor stations.* The following frequencies are allocated for communication between ships in Alaskan waters and to ship stations for communication with coastal harbor stations in Alaska, using types A1, A2, and A3 emission, provided the maximum power shall not exceed 100 watts and upon the condition that no interference will result to other services:

1540	1660	2430	2566	3190
1606	1708	2450	2616 [3]	3265 [3]
1622	2382	2482	2994 [3]	5167.5 [4]
1646	2422	2512	3092.5	

* #

SEC. 173.03 *Frequencies for communication from non-Government to Government stations and with coastal harbor stations on a secondary basis.* The following frequencies, allocated primarily for short distance communication from non-Government to Government stations, are available on a secondary basis for communication between ships in Alaskan waters and to ship stations for communication with coastal harbor stations in Alaska, using types A1, A2, and A3 emission, provided the maximum power shall not exceed 100 watts and upon the condition that no interference will result to other services: [3]

2466	2632	2986		5207.5 [4]
2474	2912	5137.5 [4]		8070 [4]

(a) The frequencies 5207.5 and 8070 kilocycles are also available for unlimited time operation for ship stations operating in the Aleutian Island waters, west of 165 degrees west longitude.* #

SEC. 173.04 *Frequencies for ship stations.* The following frequencies are allocated for use by ship stations in Alaskan waters in addition to those set forth in the general regulations: 1592 and 2538 kilocycles; A1, A2, A3 emission, maximum power 100 watts.[7] * #

PART 174. AVIATION SERVICE

Sec.
174.01 Service which may be rendered
174.02 Aircraft service in Alaska
174.03 Chain aviation frequencies
174.04 Off route service in Alaska

SEC. 174.01 *Service which may be rendered.* (a) Aeronautical stations in Alaska shall furnish emergency service to itinerant aircraft on request. Additional service may be rendered provided that suitable arrangements have been made between the licensee of the aeronautical station and the itinerant aircraft for cooperation in the cost of operation and maintenance.

(b) The licensee of every aeronautical station licensed for unlimited hours of operation in Alaska shall file with the Inspector in Charge of the Juneau Office of the Federal Communications Commission a statement of the hours that the station will be in service, and thereafter shall give immediate notice to that Inspector of any changes therein.

(c) All aeronautical stations, including those on the Orange and Green Chains, shall maintain listening watches during the hours of service as reported under the provisions of the preceding paragraph of this rule, on the following frequencies:

Local standard time of station:	*Frequency* [8]	*Emission* [8]
4 p. m. to 8 a. m.	3105 kc.	A1, A2, A3
8 a. m. to 4 p. m.	6210 kc.	A1, A2, A3 * #

SEC. 174.02 *Aircraft service in Alaska.* The frequencies 3105 and 6210 kilocycles are designated as calling and working frequencies for aircraft in Alaska.* #

SEC. 174.03 *Chain aviation frequencies.* The following frequencies are available on condition that no interference will result to other aviation services:

(a) Mid-Alaska Chain and Feeders (Orange).

(1) Available for aircraft and aeronautical stations on the route when the Civil Aeronautics Authority has authorized air carrier operations on a scheduled basis.

(i) A1, A2 emission only: 1638, 3082.5, 5692.5.

(ii) A3 emission only: 2946, 4742.5.

(2) Available for aircraft and aeronautical stations maintaining non-scheduled air carrier operations only.

(i) A1, A2 emission only: 2720, 5682.5.
(ii) A3 emission only: 2648, 5572.5.

(3) Available for aeronautical point-to-point stations of licensees of aeronautical stations on route where the Civil Aeronautics Authority has authorized air carrier operation on a scheduled basis.

(i) A1, A2 emission only: 1638, 4125, 6570, 8015.[4]

(ii) A3 emission only: 5602.5, 5887.5.

(4) Available for aeronautical point-to-point stations of licensees of aeronautical stations maintaining non-scheduled air carrier operations only.

(i) A1, A2 emission only: 4115, 5632.5, 8015.[4]

(ii) A3 emission only: 4967.5, 5122.5.

(b) Southern Alaska Chain and Feeders (Green).

(1) Available for aircraft and aeronautical stations on the route where the Civil Aeronautics Authority has authorized air carrier operation on a scheduled basis.

(i) A1, A2 emission only: 2608, 4690.
(ii) A3 emission only: 3162.5, 5032.5.

(2) Available for aircraft and aeronautical stations maintaining non-scheduled air carrier operations only.

(i) A1, A2 emission only: 2748, 5310.
(ii) A3 emission only: 2922, 5652.5, 6590.[4]

(3) Available for aeronautical point-to-point stations of licensees of aeronautical stations on the route where the Civil Aeronautics Authority has authorized air carrier operation on a scheduled basis.

(i) A1, A2 emission only: 4947.5, 5672.5, 8015.[4]

(ii) A3 emission only: 4952.5, 5582.5.

(4) Available for aeronautical point-to-point stations of licensees of aeronautical stations maintaining non-scheduled air carrier operations only.

(i) A1, A2 emission only: 4650, 5662.5, 8015.[4]

(ii) A3 emission only: 5042.5, 5622.5.* #

SEC. 174.04 *Off route service in Alaska.* (a) The frequencies 3105 and 6210 kilocycles may be assigned to aeronautical stations at locations in Alaska other than on the Orange and Green Chains.

(b) Aircraft and aeronautical stations in Alaska may use the frequency 8220 kilocycles when the aircraft is separated by more than 400 miles from the nearest aeronautical station.

(c) Scheduled aircraft which normally fly the Alaska chain routes may communicate on chain frequencies with chain stations when they are making special trips off the normal route.* #

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3715; Filed, December 9, 1938; 1:27 p. m.]

CHAPTER XIV. RULES GOVERNING ALASKA RADIO SERVICES

The Commission repealed the following rules, effective December 5, 1938:

416 C. F. R. Sec. 170.01.

417 (a) C. F. R. Sec. 170.02.
417 (b) C. F. R. Sec. 170.03.

418 (a) C. F. R. Sec. 172.01.
418 (b) C. F. R. Sec. 170.04.
418 (c) C. F. R. Sec. 173.01.
418 (d) C. F. R. Sec. 173.02.

419 C. F. R. Sec. 170.05.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3716; Filed, December 9, 1938; 1:27 p. m.]

See footnotes on p. 2907.

* Promulgated under the authority contained in Sec. 4 (i) 48 Stat. 1066; 47 U. S. C. 154 (i).

\# Adopted by the F. C. C. on December 5, 1938.

See footnotes in last column.

[1] The conditions under which common carriers are permitted to render free service are set forth in paragraph 16 of the Rules Governing the issuance of Telegraph Franks, adopted February 13, 1935.

[2] The main intra-Alaska communications routes are operated by the Alaska Communications System under the jurisdiction of the Signal Corps. Those desiring to handle message traffic with this system should coordinate their applications with the nearest representative of the A. C. S. before submitting applications in order to determine the proper frequency for transmission to the particular point or points desired.

[3] Available only to present licensees to the date of expiration of the current licenses.

[4] Not to be used between the hours of 6:00 p. m. and 6:00 a. m. P. S. T.

[5] May be used where originally authorized prior to March 1, 1937.

[6] Rule 289a (3) and (4).

[7] Rule 285a.

[8] Orange and Green Chain aeronautical stations will reply on their regular Chain frequencies and employ the type of emission for the category in which they are licensed to render service.

CHAPTER XXII. RULES GOVERNING THE FILING OF INFORMATION, CONTRACTS, PERIODIC REPORTS, ETC.

PART 342. CARRIER CONTRACTS, AGREEMENTS, ETC.

Telegraph

The Commission changed the words "in triplicate" to "in duplicate" in the opening paragraph of Sec. 342.03. (Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)) [Amendment to Telegraph Division Order No. 27, F. C. C., Dec. 5, 1938]

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3717; Filed, December 9, 1938; 1:27 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[No. 24049]

ORDER RELATIVE TO A. JOHNSON, GRAND CHIEF ENGINEER OF THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS, ET AL. V. THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, ET AL.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of December, A. D. 1938.

Upon further consideration of the record in the above-entitled proceeding and upon information from the Chief Counsel that suit to set aside the Commission's order of December 27, 1937,[1] herein was, on November 26, 1938, heard and submitted for decision in the United States District Court for the Northern District of Ohio, and upon the Chief Counsel's recommendation that the effective date of said order be further postponed to afford the Court time to consider and decide said case;

It is ordered, That the effective date of said order be, and it is hereby, further postponed from December 15, 1938, until February 1, 1939.

It is further ordered, That said order shall in all other respects remain in full force and effect.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-3740; Filed, December 12, 1938; 12:18 p. m.]

[1] 2 F. R. 2984 (3450 DI), 3 F. R. 2674 DI.

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

APPLICATIONS OF SOUTHERN PECAN SHELLING COMPANY (SAN ANTONIO), AND PECAN WORKERS UNION OF SAN ANTONIO, LOCAL NO. 172, UNITED CANNERY, AGRICULTURAL, PACKING AND ALLIED WORKERS OF AMERICA, C. I. O., FOR PERMISSION TO EMPLOY LEARNERS IN THE PECAN SHELLING INDUSTRY AT WAGE RATES LESS THAN THE APPLICABLE MINIMUM SPECIFIED

NOTICE OF HEARING

Whereas, applications have been made by the Southern Pecan Shelling Company (San Antonio), and the Pecan Workers Union of San Antonio, Local No. 172, United Cannery, Agricultural, Packing and Allied Workers of America, C. I. O., under Section 14 of the Fair Labor Standards Act of 1938 and regulations (Part 522—Regulations Applicable to the Employment of Learners pursuant to Section 14 of the Fair Labor Standards Act—Title 29, Labor, Chapter 5, Wage and Hour Division) [1] issued by the Administrator thereunder for permission to employ learners in the pecan shelling industry at wages less than the applicable minimum wage specified in Section 6 of the Act;

Now, therefore, pursuant to the Act and the regulations, notice is hereby given of a public hearing to be held on said applications in Bexar County Court House, San Antonio, Texas, to commence at 10:00 A. M., on December 19, 1938, to take testimony for the purpose of determining—

(a) what, if any, occupation or occupations in the pecan shelling industry require a learning period, and

(b) whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) if such necessity is found to exist, to determine at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

At this hearing, learner applications will be considered and acted upon on the basis of the needs of the employees and the employers in the industry as a whole rather than on the basis of the needs of individual employees or employers of the industry. Opportunity will be afforded to interested parties to present evidence relevant to the foregoing inquiry. All persons or associations desiring to avail themselves of this opportunity should, if possible, notify the Administrator in advance of the hearing.

Pursuant to authority vested in the Administrator by the Fair Labor Standards Act of 1938, Mr. Merle D. Vincent is hereby designated presiding officer to conduct the said hearing and to determine—

(a) what, if any, occupation or occupations in the pecan shelling industry require a learning period, and

(b) whether it is necessary in order to prevent curtailment of opportunities for employment, to provide for the employment of persons in occupations requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

(c) if such necessity is found to exist, to determine at what wages lower than the minimum wage applicable under Section 6 such employment of learners shall be permitted, and with what limitations as to time, number, proportion and length of service.

For the purpose of this hearing, the presiding officer shall have all the powers conferred on the Administrator in Section 9, relating to the attendance of witnesses and the production of books, papers and documents.

As used in this notice, the term "pecan shelling industry" means:

the cleaning, picking, (shelling), grading and packing of pecans with the aid of machines.

Signed at Washington, D. C., this 12th day of December, 1938.

ELMER F. ANDREWS, *Administrator.*

[F. R. Doc. 38-3739; Filed, December 12, 1938; 11:49 a. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 145]

IN THE MATTER OF THE LEASING BY WESTERN AIR EXPRESS CORPORATION AND UNITED AIRLINES TRANSPORT CORPORATION TO EACH OTHER OF DST SLEEPER EQUIPMENT BETWEEN LOS ANGELES AND POINTS EAST OF SALT LAKE CITY ON AIR MAIL ROUTE #1, UNDER AGREEMENT DATED MAY 31, 1938 FILED WITH THE AUTHORITY UNDER SECTION 412 OF THE CIVIL AERONAUTICS ACT OF 1938

ORDER INSTITUTING PROCEEDING AND NOTICE OF HEARING

DECEMBER 10, 1938.

Various questions concerning the above matter having arisen under the provisions of the Civil Aeronautics Act of 1938, a proceeding is hereby instituted with respect thereto and such proceeding is assigned for public hearing on December 21, 1938, 10 o'clock a. m. (eastern standard time) at the office of the Civil Aeronautics Authority (Hearing Room No. 951, Earle Building), Washington, D. C. before Examiner Lucian Jordan.

It is also contemplated that said proceeding will be set for oral argument before the Authority at its said office at a time subsequent to December 21, 1938 to be fixed by further order of the Authority in the proceedings.

By the Authority:

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-3738; Filed, December 12, 1938; 11:31 a. m.]

[1] 3 F. R. 2484 DI.

FEDERAL POWER COMMISSION.

[Docket No. IT-5534]

WEST TENNESSEE POWER & LIGHT COMPANY

NOTICE OF APPLICATION

DECEMBER 9, 1938.

Notice is hereby given that on November 16, 1938, an application was filed with the Federal Power Commission, pursuant to Section 203 of the Federal Power Act, by West Tennessee Power & Light Company, a corporation organized under the laws of the State of Florida and doing business in the State of Tennessee, with its principal office at Jackson, Tennessee, requesting an order authorizing and approving the sale of certain of its electric facilities as follows: to the City of Jackson, Tennessee, certain of its electric facilities located in the Cities of Jackson and Huntersville, Tennessee, and within Madison County, Tennessee; to the Mayor and Aldermen of Ripley, Tennessee, certain of its electric facilities located within the Cities of Ripley, Henning, Halls, and Gates, Tennessee, and within the territory adjoining and contiguous thereto; to the Commission of the City of Brownsville, Tennessee, certain of its electric facilities within the City of Brownsville and territory contiguous thereto; to the City of Humboldt, Tennessee, certain of its electric facilities within Humboldt and environs and to the Tennessee Valley Authority certain of its electric facilities in its Ripley, Brownsville, Humboldt, and Jackson Divisions in the southwestern part of Tennessee; which electric facilities sought to be sold are all of the electric facilities owned by West Tennessee Power & Light Company; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should on or before the 27th day of December, 1938, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.[1]

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-3722; Filed, December 10, 1938; 11:18 a. m.]

[1] 3 F. R. 1683 DI.

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. 129]

SUBSTITUTED FREIGHT SERVICE

ORDER IN THE MATTER OF SUBSTITUTION OF MOTOR VEHICLE SERVICE FOR RAIL OR WATER SERVICE AND OF RAIL OR WATER SERVICE FOR MOTOR VEHICLE SERVICE

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of December, A. D. 1938.

It appearing, That outstanding special permission No. 170824, R-M No. 1370, of October 11, 1938, authorizes rail and water carriers subject to Part I of the Interstate Commerce Act to publish in their tariffs, for interstate application, the following rule:

(a) *Substitution of Highway Vehicle Service for Rail Service Between Stations Served by Rail Carriers*

Wherever as to less-than-carload freight an originating or delivering railroad, party to this tariff, substitutes at its option highway vehicle service for actually available service by railroad between stations on its line, the rates and charges as published in this tariff, or as amended, will apply to the through service; the highway vehicle service in all cases to be limited to the most practicable highway routing nearest to the line of railroad making the substitution.

(b) *Substitution of Highway Vehicle Service for Water Service Between Ports Served by Water Carriers Named in Note 1*

Wherever as to less-than-carload freight a water carrier named in Note 1 below, substitutes at its option highway vehicle service for actually available service by its boats between ports on its line, the rates and charges as published in this tariff, or as amended, will apply to the through service; the highway vehicle service in all cases to be limited to the most practicable highway routing nearest to the route of the water carrier between the ports where the substitution is made.

It is further appearing, That certain other outstanding special permissions authorize certain common carriers by motor vehicle subject to Part II of the Interstate Commerce Act to publish in their tariffs, for interstate application, the following rule:

Substitution of Rail Service for Motor Carrier Service Between Points Served by Motor Carriers

(Applicable only on interstate traffic and limited to apply between points where there is actually available service by the motor carrier which substitutes rail for motor service.)

The rates and charges published in this tariff, as amended, will apply for the through joint service whenever any originating or delivering motor carrier, party hereto, substitutes at its option rail service for its own road-haul motor vehicle service. In all cases rail service may be substituted for motor carrier service only between points from and to which the motor carrier substituting rail for motor carrier service lawfully operates.

It further appearing, That certain common and contract carriers by motor vehicle substitute rail service for motor carrier service without providing for such substitution of service in their lawfully filed tariffs or schedules of minimum charges.

And it further appearing, That said special permissions provide that the tariff rules published pursuant thereto shall bear an expiration date "with December 6, 1939, unless sooner canceled" and that they are not to be construed as expressing any opinion as to the lawfulness of said rules; and the Commission having under consideration the matters and things involved in said special permissions and the practices of respondents herein:

It is ordered, That an investigation be, and it is hereby, instituted by the Commission, upon its own motion, into the lawfulness of the tariff rules published pursuant to said special permissions and the lawfulness of the practices of respondents herein in connection with the substitution of motor vehicle service for rail or water service and of rail or water service for motor vehicle service, with a view to making such decisions and orders in the premises as the Commission may find necessary or appropriate.

It is further ordered, That all common carriers of property by rail and by water subject to Part I of the Interstate Commerce Act and all common and contract carriers of property by motor vehicle subject to Part II of the Interstate Commerce Act be, and they are hereby, made respondents to this proceeding.

It is further ordered, That said respondents be, and they are hereby, directed to respond in writing on or before February 10, 1939, to the questions set forth in the Appendix attached hereto and made a part hereof, showing cause, if any cause there be, why the Commission should not find that the said special permissions should be rescinded and that the said practices are unlawful.

It is further ordered, That responses filed in compliance with the preceding paragraph hereof shall conform to Rule XXI of the Rules of Practice, and twenty copies of each of such responses

shall be furnished for the use of the Commission.

And it is further ordered, That a copy of this order be served upon each of said respondents and that notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

APPENDIX

Questionnaire To Be Responded to in Writing On or Before February 10, 1939, by Respondents in the Above Entitled Proceeding

1. Should not special permissions and each of them which are referred to in the order of which this Appendix is a part, be rescinded?

2. Should not the tariff rules permitted to be published under the authority of said special permission be condemned as amounting to a declaration by the carriers that at their option they will breach their contract with the shipper for a particular form of transportation and that, although not furnishing such transportation, they will assess their tariff charge applicable to such transportation?

3. Why, when such through transportation is performed in fact partly by a common carrier subject to Part I, and partly by a common carrier subject to Part II of the Interstate Commerce Act, as amended, should it not be performed only under duly filed joint rates in accordance with the provisions of Section 216 (c) of Part II of the Act and of Rule 31 of the Commission's Tariff Circular No. 20, as amended?

4. Why, when such through transportation is performed in fact partly by a common carrier subject to Part I and partly by a contract carrier by motor vehicle subject to Part II of the Act, should it not be prohibited as being the performance of a common carrier service and thus beyond the authority of the contract carrier to perform under its operating authority?

5. Why, if it be assumed that a contract carrier by motor vehicle may perform a part of such through common carrier service as the agent of a common carrier subject to Part I of the Act, should not the latter carrier be held to be engaging, as principal, in common carrier transportation by motor vehicle?

6. Why should not the operating authority of a common or contract carrier by motor vehicle who substitutes rail service for its own road-haul motor vehicle service in lieu of the latter, be revoked in whole or in part, whether the motor carrier is operating

(a) under a certificate or permit duly issued to it by the Commission, or

(b) under the provisions of Section 206 (a) or 209 (a) of the Motor Carrier Act which permit the continuance of lawful operations pending the determination of an application for operating authority duly filed with the Commission?

[F. R. Doc. 38-3741; Filed, December 12, 1938; 12:18 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 9th day of December, A. D. 1938.

[File No. 32-110]

IN THE MATTER OF THE LACLEDE GAS LIGHT COMPANY

ORDER EXEMPTING EXTENSION OF BONDS PREVIOUSLY AUTHORIZED BY A STATE COMMISSION

The Laclede Gas Light Company, a direct subsidiary of Utilities Power & Light Corporation, a registered holding company, having duly filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of that Act with respect to the extension of the maturity date of its Refunding and Extension Mortgage 5% Gold Bonds, dated April 1, 1904, from April 1, 1934 and/or April 1, 1939 to April 1, 1942; and

A hearing on said application having been duly held after appropriate notice;[1] the record having been duly considered; and the Commission having duly filed its findings herein;

It is ordered, That all extensions of such bonds above described which the applicant, after the time of the making of this order, shall make for the purposes set forth in such application and in accordance with the Plan and Agreement therein referred to, be, and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; subject, however, to the following conditions:

(1) that, in effecting such extensions of said bonds, applicant shall comply with the terms and conditions imposed by orders made by the Public Service Commission of the State of Missouri;

(2) that any modification of the Plan or any Substitute Plan adopted by applicant pursuant to Paragraph VI of the Plan and Agreement referred to in the application herein shall be subject to approval by further order of this Commission;

(3) that until further order of this Commission no dividend shall be declared or paid upon either the preferred or common stock of applicant; and

(4) that such exemption shall immediately terminate without further order of this Commission if at any time the authorization of any such extension by the Public Service Commission of the State of Missouri shall be modified, revoked or otherwise terminated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3721; Filed, December 10, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of December, A. D. 1938.

[File No. 51-16]

IN THE MATTER OF PENN WESTERN GAS & ELECTRIC COMPANY

ORDER APPROVING APPLICATION

Penn Western Gas & Electric Company, a registered holding company, having filed an application and one amendment thereto, pursuant to Rule U-12C-2 promulgated under Section 12 (c) of the Public Utility Holding Company Act of 1935, for an order approving the declaration and payment of a dividend or dividends out of capital or unearned surplus; and

A hearing on the application, as amended, having been duly held after appropriate notice,[1] the record in this matter having been examined, and the Commission having made and filed its findings therein;

It is ordered, That the application, as amended, is hereby approved, subject, however, to the following conditions:

(1) That applicant submit to this Commission copies of all letters, communications or proxies to be sent to stockholders of applicant regarding the proposed distribution and dissolution at least ten days preceding the date on which they are to be sent to such stockholders;

(2) That applicant, upon consummation of the proposed transactions, file with this Commission a statement showing compliance with the applicable provisions of the Delaware Corporation Laws;

(3) That the proposed dividend or dividends shall not be declared or paid except in accordance with, and for the purposes represented by, said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3720; Filed, December 10, 1938; 11:02 a. m.]

[1] 3 F. R. 2612 DI.

[1] 3 F. R. 2476 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 8th day of December, A. D. 1938.

[File No. 43-156]

IN THE MATTER OF NORTHERN STATES POWER COMPANY, A DELAWARE CORPORATION

ORDER

Northern States Power Company, a Delaware corporation and a registered holding company, having filed (a) an application, and amendments thereto, for a report of the Commission, pursuant to Section 11 (g) of the Public Utility Holding Company Act of 1935, on a plan for the recapitalization of said Company and for other action by said Company for the purpose of enabling it to comply with certain provisions of subsection (b) of Section 11 of said Act, and (b) a declaration, and amendments thereto, pursuant to Rule U-12E-5 adopted by the Commission, with respect to the solicitation of authorization of such matters by the stockholders of said Company; and

Hearings having been held[1] on said application and declaration, as amended, and the matters related thereto after appropriate notice, the Commission having considered the record in these matters heretofore made, and having made and filed herein its report on said plan and action, said report being in the form of a copy thereof attached to this order;

It is ordered, That said report be and the same hereby is approved and adopted as the report made by the Commission herein, and as the form of a copy of said report to be used by said Company in making solicitations in respect of the matters therein referred to pursuant to the provisions of Section 11 (g), and in substantial compliance with the terms and conditions of, and for the purposes represented by, said application, as amended; and

It is further ordered, That said declaration, as amended, with respect to such solicitation shall be and become effective forthwith.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3734; Filed, December 12, 1938; 10:03 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in City of Washington, D. C., on the 8th day of December, A. D. 1938.

[Files Nos. 46-69; 46-70]

IN THE MATTER OF UTILITIES POWER & LIGHT CORPORATION, LIMITED, ET AL.

ORDER APPROVING ACQUISITION OF SECURITIES AND REOPENING RECORD

Utilities Power & Light Corporation, Limited, a wholly owned subsidiary of Utilities Power & Light Corporation, a registered holding company (presently in reorganization proceedings under Section 77B of the Bankruptcy Act, the proceedings in which are pending in the District Court of the United States for the Northern District of Illinois, Eastern Division), and the trustee for the estate of the debtor, as intervening applicant, having filed an application, and amendments thereto, for an order of exemption under Section 9 (c) (3) of the Public Utility Holding Company Act of 1935, or, in the alternative, an order of approval under Section 10 of the Act with respect to the purchase by the applicant of outstanding debentures of Utilities Power & Light Corporation pursuant to tenders and at a price to be fixed by the Commission until a sum of $12,000,000 or such other sum as the Commission may fix, is exhausted; and

Having filed a second application, as amended, also seeking an exemption under Section 9 (c) (3) of the Act, or, in the alternative, an order of approval under Section 10 with respect to the acquisition by the applicant on the open market, to the extent of $3,000,000, of some securities of certain associate companies;

The two proceedings having been consolidated for the purpose of hearing; a public hearing having been held[1] on said applications pursuant to appropriate notice, at which hearing the following interested parties were permitted to intervene: Atlas Corporation; Associated Investing Corporation; Grace Stein Weigle; Harry Reid, Max McGraw and B. B. Robinson, constituting a General Protective Committee for Security Holders of Utilities Power & Light Corporation; Paul V. Shields, Joseph S. Maxwell and Charlton B. Hibbard, constituting a Protective Committee for Holders of the Preferred Stock of Utilities Power & Light Corporation; Hamilton Pell, Cecil P. Stewart, George Armsby and Aaron Colnon, constituting a Protective Committee for Utilities Power & Light Corporation Common Stock; and Trustees of Public Utilities Securities Corporation;

The applicants and intervenors having waived a trail examiner's report, having submitted requested findings, having filed briefs, and oral argument having been held before the Commission prior to the entry of the Commission's findings, opinion, and order; and the Commission having considered the record in these matters and having made and filed its findings and opinion herein;

It is ordered, That in accordance with and for the purposes represented by the first application, as amended (File No. 46-69), the acquisition by the applicant of outstanding debentures of the parent pursuant to tenders and at a price fixed by the Commission be, and the same hereby is, approved subject to the following terms and conditions:

(a) That the approval herein granted shall not become final until the court having jurisdiction over the 77B proceedings shall have approved the transactions proposed by said application;

(b) That the maximum amount to be used for the purposes of this application shall be $9,000,000, and that the privilege of tendering, within the limit of such maximum amount, shall be extended to all holders of claims of the same rank as the debentures, as well as to holders of debentures (except as stated in (g) below), at the same price and under the same conditions; without prejudice, however, to the right of the Commission to authorize, by further order and on the basis of the record in this proceeding, the use of an additional amount not to exceed $3,000,000 for such purposes;

(c) That after the 77B court authorizes the soliciting of tenders, the trustee shall mail to every known holder of debentures and claims a letter advising him of the privilege of tendering, and shall make or cause to be made to the debenture holders and claimants prior to or simultaneously with the sending of such letters, such disclosures as may be necessary or desirable for the purpose of enabling the holders of debentures and claimants to determine whether or not to tender, including data designed to show the effect of the contemplated acquisitions upon the creditors who do not tender and upon stockholders of the debtor: *Provided, however*, that the trustee shall submit to the Commission at least three days prior to the inviting of tenders, true copies of the letter inviting such tenders, and within said period the Commission reserves the right to order the trustee to make such changes as it considers necessary in the public interest and the interest of investors and consumers;

(d) That no tenders shall be accepted after fifteen days from the date of mailing the letter inviting tenders, and the letter shall so provide;

(e) That the price at which debentures, with accrued interest thereon, and claims, with interest thereon, shall be tendered and purchased shall be 70% of the principal amount;

(f) That if the price of 70 is not paid on any debenture or claim, the tender of which has been accepted, within 30 days after the closing date for tenders, the amount payable therefor in accordance

[1] 3 F. R. 2434, 2880 DI.

[1] 3 F. R. 1449 DI.

with the terms of the call for tender, shall bear interest from such closing date at 3%;

(g) That in the event more debentures and claims shall be tendered than the amount available for that purpose (in accordance with (b) above) will suffice to purchase, each lot tendered shall first be purchased up to $5,000 principal amount of the debentures and/or claims tendered, and purchases of any remaining amounts shall, to the extent practicable, be made pro rata: *Provided, however,* that no tender of debentures by Atlas Corporation or any subsidiary thereof shall be accepted until all other tenders of claims and debentures made within the fifteen day period within which tenders may be made have been accepted;

(h) That any debenture holder may tender all or any part of the debentures held by him, but tenders in more than one lot of debentures having the same beneficial owner shall not be permitted;

(i) That if tenders are received from holders of debentures or claims, to which any complete or partial defense has been established or is pending undetermined in legal proceedings, then the sum payable to such debenture holders or claimants shall be placed in escrow pursuant to an agreement which shall provide for payment to such debenture holders or claimants only when (1) such proceeding questioning his rights shall have been decided by the proper court, and all rights of review shall have been waived or terminated, or (2) the dispute settled by a compromise entered into by the debenture holder or claimant and the trustee for the estate of the debtor, and satisfactory to the 77B court. If the proceeding or dispute questioning the rights of the debenture holder or claimant shall be successful, and his claim ultimately allowed by the court be in a sum less than principal and accrued interest, the sum payable to such debenture holder or claimant on tender shall be reduced proportionately and the balance of the sum shall be released from escrow. Any debenture or claim placed in escrow shall not draw interest during the escrow period except as follows:

(i) If it is ultimately determined that the debenture or claim is entitled to share on the same basis with other debentures or claims tendered, the amount due on such debenture or claim at the tender price shall bear interest in accordance with the provisions of paragraph (f) above;

(ii) If it is ultimately determined that the debenture or claim is not entitled to share on the same basis with other debentures or claims tendered, the right of such debenture or claim to interest shall be determined in accordance with law as if it had not been placed in escrow;

(j) That the trustee shall submit to the Commission the name or names of the proposed depository with whom tenders shall be lodged, which shall be the depositary for that purpose unless the Commission within three days after the receipt of this information informs the trustee that depositary is unacceptable;

(k) That the applicant and intervening applicant shall file a statement with the 77B court waiving all rights, if any, to vote, or cause to be voted the debentures or claims acquired in accordance with this order in respect to any plan of reorganization of the debtor;

(l) That the Commission reserve jurisdiction for the purpose of passing upon the matters by the foregoing conditions required to be passed upon, and for the purposes of passing upon any other questions subject to its jurisdiction that may arise in connection with the tenders or acquisitions pursuant thereto.

It is further ordered, That the record in the second application, as amended (File No. 46-70) be, and the same hereby is, reopened to permit the applicant and the intervening applicant to supply by amendment such details as are necessary to enable the Commission to make findings under Section 10 of the Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3737; Filed, December 12, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of December, A. D. 1938.

[File No. 31-139]

IN THE MATTER OF NORTHERN NATURAL GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) (3) and section 2 (a) (4) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 30, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 25, 1939.

The matter concerned herewith is in regard to the applicant's request for an order under Section 3 (a) (3) of said Act exempting it from all provisions of Title I of said Act, and for an order under Section 2 (a) (4) declaring it not to be a gas utility company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3730; Filed, December 12, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of December, A. D. 1938.

[File No. 31-140]

IN THE MATTER OF NORTHERN NATURAL GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 30, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 25, 1939.

The matter concerned herewith is in regard to the applicant's request for an order under Section 2 (a) (8) of said Act declaring it not to be a subsidiary of Lone Star Gas Corporation of Dallas, Texas.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3731; Filed, December 12, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of December, A. D. 1938.

[File No. 31-390]

IN THE MATTER OF NORTHERN NATURAL GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 30, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 25, 1939.

The matter concerned herewith is in regard to the applicant's request for an order under Section 2 (a) (8) of said Act declaring it not to be a subsidiary of The United Light & Power Company and The United Light & Railways Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3733; Filed, December 12, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of December, A. D. 1938.

[File No. 31-391]

IN THE MATTER OF NORTHERN NATURAL GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 30, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Moore, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 25, 1939.

The matter concerned herewith is in regard to the applicant's request for an order under Section 2 (a) (8) of said Act declaring it not to be a subsidiary of The North American Company and North American Light & Power Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3732; Filed, December 12, 1938; 11:02 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of December, A. D. 1938.

[File No. 32-118]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

ORDER GRANTING APPLICATION FOR LEAVE TO INTERVENE

Russell B. Stearns of Dedham, Norfolk County, Massachusetts with a usual place of business at 24 Federal Street, Boston, Massachusetts, having duly filed with this Commission an application under Section 19 of the Public Utility Holding Company Act of 1935 and Rule 17 of the Commission's Rules of Practice for Leave to Intervene;

Whereas it appears that the matter concerned herewith is in regard to a proposed issue and sale by applicant, Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, of $4,500,000 principal amount of its First and Gold Mortgage Bonds, Series H, 3½% due 1966, and 5,000 shares of its no par common stock at the price of $100 per share; and

Whereas it appears that the said Russell B. Stearns owns or represents a substantial amount of the Prior Lien Preferred Stock of New England Public Service Company and has a bona fide interest in these proceedings;

The Commission being fully advised in the premises, and it appearing to the Commission that it is in the public interest, and for the protection of investors that said application be granted;

It is ordered, That said application be, and the same hereby is, granted, and that the said Russell B. Stearns be, and he hereby is, made a party of these proceedings.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3735; Filed, December 12, 1938; 11:03 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of December, A. D. 1938.

[File No. 32-118]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly

Reference

DEC 15 1938

filed with this Commission by the above-named party:

Whereas it was ordered on November 19, 1938 that a hearing on such matter be held [1] on December 7, 1938 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.;

And whereas, said hearing was postponed to December 22, 1938 by order of the Commission dated [2] December 3, 1938;

And whereas, it appears to be in the public interest that said hearing be further postponed;

It is ordered, That said hearing be, and the same hereby is, postponed until December 28, 1938 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated at any such hearing is hereby authorized to exercise all powers that are granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such postponement is hereby given to said applicant and to any other person whose participation in such proceedings may be in the public interest or for the protection of investors or consumers.

The matter concerned herewith is in regard to a proposed issuance and sale by applicant, Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, of

(a) First and Gold Mortgage Bonds, Series H, 3½%, due 1966, dated August 1, 1936 and maturing August 1, 1966, in the principal amount of $4,500,000, such issue and sale to be made by public offering through underwriters, and

(b) 5,000 shares of common stock, no par value at the price of $100 per share; such shares to be first offered to the holders of applicant's common stock and 6% preferred stock at said price on the basis of one share for every 27.2702 of outstanding shares then held by such holders.

A portion of the net proceeds of such sales will be used by the applicant for payment of the principal and interest to maturity of applicant's First Mortgage, 30 year, 5% Gold Bonds due November 1, 1939 in the principal amount of $3,303,000. The balance of said proceeds will be used to pay bank loans of the applicant now outstanding in the amount of $1,225,000 and for other regular corporate purposes of the applicant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3736; Filed, December 12, 1938; 11:03 a. m.]

[1] 3 F. R. 2766 DI.
[2] 3 F. R. 2875 DI.

SOCIAL SECURITY BOARD.

NOTICE OF OPPORTUNITY FOR HEARING CONCERNING EFFECT OF CHANGE IN OREGON UNEMPLOYMENT COMPENSATION LAW

Whereas, on the 23d day of December, 1935, the Social Security Board, pursuant to the provisions of section 903 (a) of the Social Security Act, approved the unemployment compensation law of the State of Oregon (Sp. Sess. Laws, 1935, Ch. 70, as amended Laws of 1937, Chs. 364, 398); and

Whereas, section 903 (b) of the Social Security Act provides that:

On December 31 in each taxable year the Board shall certify to the Secretary of the Treasury each State whose law it has previously approved, except that it shall not certify any State which after reasonable notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision;

and

Whereas, on the 8th day of November, 1938, the State of Oregon enacted into law an act, known as "An Act Regulating Picketing and Boycotting by Labor Groups and Organizations," which act provides in part as follows:

Whenever in any statute or other law of this State the term "labor dispute" is used, such term is hereby defined for all purposes to mean and include only an actual bona fide controversy in which the disputants stand in proximate relation of employer and the majority of his or its employees and which directly concerns matters directly pertaining to wages, hours, or working conditions of the employees of the particular employer directly involved in such controversy. Disputes between organizations or groups of employees as to which shall act for the employees in dealing with the employer shall not be classed as labor disputes, and the refusal of an employer to deal with either party to any such jurisdictional controversy shall not operate to make the dispute a labor dispute within the meaning of this act;

and

Whereas, the above-quoted provisions of said act appear to change the provisions of the unemployment compensation law of the State of Oregon, as previously approved by the Board;

Now, therefore, Pursuant to the provisions of section 903 (b) of the Social Security Act, notice is hereby given that an opportunity for hearing will be provided to the State agency, to wit, the Oregon Industrial Commission, and to other interested persons and organizations, beginning at ten o'clock on the 19th day of December, 1938, at the offices of the Social Security Board, 1712 G Street, Northwest, Washington, D. C., on the question of whether or not the State of Oregon has so changed its law that it no longer contains the provisions specified in subsection (a) of section 903 of the Social Security Act, and that upon the basis of the evidence adduced at said hearing and such other evidence as may be presented to the Board by the State and other interested persons and organizations the Board will determine whether or not the unemployment compensation law of the State of Oregon may be certified to the Secretary of the Treasury, as provided in subsection (b) of section 903 of the Social Security Act.

Any persons other than representatives of the State of Oregon who desire to appear in person and be heard at said hearing, shall file with the Board, on or before December 16, 1938, a written or telegraphic request for an opportunity to be heard, setting forth his name, and the persons or groups, if any, whom he represents.

December 6, 1938.

SOCIAL SECURITY BOARD,
[SEAL] By A. J. ALTMEYER, *Chairman.*

[F. R. Doc. 38-3718; Filed, December 9, 1938; 3:14 p. m.]

Reference DEC 15 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 242

Washington, Wednesday, December 14, 1938

Rules, Regulations, Orders

TITLE 30—MINERAL RESOURCES

NATIONAL BITUMINOUS COAL COMMISSION

[General Docket No. 15]

ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

IN RE PROPOSALS OF MINIMUM PRICES SUBMITTED BY THE DISTRICT BOARDS FOR DISTRICTS NOS. 16, 17 AND 18 (COMPRISING MINIMUM PRICE AREA NO. 6); DISTRICTS NOS. 19 AND 20 (COMPRISING MINIMUM PRICE AREA NO. 7); DISTRICT NO. 22 (COMPRISING MINIMUM PRICE AREA NO. 9), AND DISTRICT NO. 23 (COMPRISING MINIMUM PRICE AREA NO. 10)

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 9th day of December, 1938.

The Commission, on the 25th day of May, 1938,[1] having instituted the within proceedings entitled "In the Matter of the Establishment of Minimum Prices and Marketing Rules and Regulations, General Docket No. 15," for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937,[2] and thereafter, upon the 30th day of July, 1938, after Notice and Hearing,[3] having determined the weighted average cost, as provided in Section 4 II (a) of the Act, for each of Minimum Price Areas 6, 7, 9 and 10, did, on the said 30th day of July, 1938, by Order No. 245,[4] direct each of the districts within each of the aforesaid Minimum Price Areas to propose minimum prices in conformity with the provisions of said Section 4 II (a) of the Act, and, in accordance with the rules and regulations prescribed by said Order No. 245, and

Each of said District Boards having, thereafter, proposed such minimum prices, the Commission, by its Order entered in this proceedings on August 29, 1938,[5] directed that a hearing on such proposals be held in the Hearing Room of the Commission at the Albany Hotel, Denver, Colorado, commencing on the 14th day of September, 1938, at the hour of 10 o'clock, a. m., for the purpose of receiving evidence relating to said proposals to enable the Commission to approve such proposed minimum prices, or to enable the Commission to modify such proposed minimum prices so as to conform them to the requirements of Section 4 II (a) of the Act, in order that such proposed minimum prices, as approved, or modified, as the case may be, may serve as the basis for the coordination, as provided by Section 4 II (b) of the Act, and

Reasonable public notice thereof having been given, said Hearing was commenced at the time and place stated, and concluded on the 22nd day of September, 1938, at which Hearing all interested parties were afforded full opportunity to be heard, and

The evidence being adduced and the Commission being fully advised in the premises, and upon consideration thereof, the Commission made Findings of

[1] 3 F. R. 1200, 1226 DI.
[2] 50 Stat. 72.
[3] 3 F. R. 1893 DI.
[4] 3 F. R. 1895 DI.
[5] 3 F. R. 2132 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 30—MINERAL RESOURCES:	
National Bituminous Coal Commission:	
Districts Nos. 16, 17, 18, 19, 20, 22 and 23 (Minimum Price Areas Nos. 6, 7, 9, and 10):	
Minimum prices and marketing rules and regulations, findings as to the facts and conclusions	2917
Order directing coordination and submission of minimum prices and rules and regulations	2998
Order relative to proposals of minimum prices	2915
Order relative to proposals of rules and regulations	2916
TITLE 47—TELECOMMUNICATION:	
Federal Communications Commission:	
Destruction of records of telecommunication carriers, lists of accounts, etc	3000
General substantive rules, low power radio frequency electrical devices	2999

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

TITLE 49—TRANSPORTATION AND RAILROADS: Page

Interstate Commerce Commission:

Depreciation charges of carriers by water; change of date ---------- 3000

NOTICES

Department of the Interior:

National Bituminous Coal Commission:

Minimum Price Area No. 4, availability of cost reports of producers; reopening of hearing, weighted average of total costs of tonnage produced ------- 3000

Securities and Exchange Commission:

Green Mountain Power Corp., issue and sale of securities_ 3001

Hearings, change of presiding officer:

Federal Light & Traction Co__ 3002

Standard Oil Co. of Calif____ 3001

Public Service of Pa., Inc., status as holding company------- 3001

Walnut Electric & Gas Corp., effectiveness of application_ 3001

Fact and Conclusions[4] relating to the proposal of minimum prices submitted by each of the aforesaid District Boards, which Findings are on file in the office of the Secretary of the Commission at Washington, D. C., and by this reference are incorporated herein and made a part hereof, and

Included in the said Findings of Fact and Conclusions, relating to each of the aforesaid Districts, is an appendix entitled, "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination", which schedule embraces all modifications which the Commission determined to be necessary to conform the proposals of the respective districts to the requirements of Section 4 II (a) of the Act, and which the Commission has determined to be the proper basis to be used by the respective districts for the coordination provided for in Section 4 II (b) of the Act;

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs:

1. That in the coordination of minimum prices, as provided by Section 4 II (b) of the Act, to be hereafter directed by subsequent Order of the Commission, the District Boards will take, as a basis thereof, the schedules as approved herein and set out opposite their respective names as follows:

District No. 16.—Appendix to the Findings for District No. 16, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination".

District No. 17.—Appendix to the Findings for District No. 17, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination".

District No. 18.—Appendix to the Findings for District No. 18, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination".

District No. 19.—Appendix to the Findings for District No. 19, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination".

District No. 20.—Appendix to the Findings for District No. 20, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination".

District No. 22.—Appendix to the Findings for District No. 22, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination".

District No. 23.—Appendix to the Findings for District No. 23, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination".

2. The Secretary of the Commission be, and he is hereby, directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and to cause a copy hereof, together with the Findings of Fact, including the Appendix thereto, for each district, to be mailed to the Consumers' Counsel, to the Secretary of each District Board, to all interested parties who have entered their appearances in the hearing relating to said proposals, and to make copies of this Order and Findings of Fact, including the appendices thereto, available for inspection by interested parties at the office of the Secretary of the Commission, Washington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.
Dated this 9th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3725; Filed, December 12, 1938; 9:45 a. m.]

[General Docket No. 15]

ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

IN RE PROPOSAL OF RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS SUBMITTED BY THE DISTRICT BOARDS FOR DISTRICTS NOS. 16, 17, 18, 19, 20, 22 AND 23

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C. on the 9th day of December, 1938.

The Commission, on the 25th day of May, 1938,[1] having instituted the above-entitled proceedings for the purpose of carrying out the provisions of Subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937,[2] and having on the 30th day of July, 1938, by its Order No. 244,[3] directed the District Boards for Districts Nos. 16, 17, 18, 19, 20, 22 and 23 to propose reasonable rules and regulations incidental to the sale and distribution of coal by the code members of the respective districts in conformity with the provisions of Section 4, II (a) of the Act,

And each of the aforesaid District Boards having submitted such proposed rules and regulations together with the reasons upon which they were predicated, to the Commission in accordance with the provisions of said Order No. 244, the Commission did on the 29th day of August, 1938[4] direct that a hearing on said proposals be held in the Hearing Room of the Commission in the Albany Hotel in the City of Denver, Colorado at 10:00 A. M. commencing on the 14th day of September, 1938, for the purpose of receiving evidence to enable the Commission to approve such proposed marketing rules and regulations, or to enable the Commission to modify the proposed marketing rules and regulations as provided in Section 4, II, (a) of the Act in order that such proposed marketing rules and regulations, as approved or modified, as the case may be, may serve as the basis for the coordination provided by Section 4, II, (b) of the Act, and

After reasonable public notice having been given thereof, said hearing was commenced at the time and place stated and concluded on the 22nd day of September, 1938, at which time all interested parties were afforded a full opportunity to be heard, and the evidence being adduced, the Commission being fully advised in the premises has made Findings of Fact and Conclusions[5] relating to the proposals of each of said districts, which Findings of Fact and Conclusions are on file at the Office of the Secretary of the Commission, Washington, D. C., and which are by this reference incorporated herein and made a part hereof, and

The Commission having determined that the rules and regulations as set forth in the said Findings of Fact and Conclusions for each of the respective districts are reasonable and are not inconsistent with the requirements of Section 4 of the Act, and do conform to the standards of fair competition established by Section 4 of the Act, and form a proper basis for the coordination provided for by Section 4, II, (b) of the Act,

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby approves, for the purpose of coordination, the "Rules and Regulations incidental to the sale and distribution of coal by code members", as the same are set forth in the "Findings of Fact and Conclusions" by the Commission for each of Districts Nos. 16, 17, 18, 19, 20, 22 and 23 filed this date in the Office of the Secretary of the Commission, Washington, D. C.

The Secretary of the Commission is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and to cause a copy hereof, together with the "Findings of Fact and Conclusions" of the Commission, above referred to, to be mailed to the Consumers' Counsel, to the Secretary of each District Board, to all parties who have filed their appearances in the hearing relating to the aforesaid proposals, and to cause copies thereof to be made available for inspection by interested parties at the office of the Secretary of the Commission, Washington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.
Dated this 9th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3726; Filed, December 12, 1938; 9:45 a. m.]

[Docket No. 15]

MINIMUM PRICES AND MARKETING RULES AND REGULATIONS AS PROPOSED AND SUBMITTED TO THE NATIONAL BITUMINOUS COAL COMMISSION BY THE DISTRICT BOARDS FOR DISTRICTS 16, 17, 18, 19, 20, 22 AND 23 WITHIN MINIMUM PRICE AREAS 6, 7, 9 AND 10

FINDINGS AS TO THE FACTS AND CONCLUSIONS OF THE COMMISSION

Pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Congress, 1st Sess.), known as the "Bituminous Coal Act of 1937,"[1] and hereinafter referred to as the "Act," the National Bituminous Coal Commission, hereinafter referred to as the "Commission," under and by virtue of the authority granted in Section 4–II (a) of the Act, on the 30th day of July, 1938, issued its Orders No. 244 and No. 245 ordering and directing the District Boards for Districts 16, 17, 18, 19, 20, 22 and 23 within Minimum Price Areas 6, 7, 9 and 10, to propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coal by code members within said districts and minimum prices of kinds, qualities and sizes of coal produced in said districts, said proposals to be submitted to the Commission on or before the 24th day of August, 1938.

Said orders were published in the FEDERAL REGISTER under date of August 2, 1938,[2] and copies of said orders were mailed to each of the code members within said districts and to each of the Secretaries of the District Boards within Minimum Price Areas 6, 7, 9 and 10, as directed in said orders.

Order No. 245 directed each of the aforesaid District Boards to propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced by the code members in their respective districts, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as might be deemed proper and within the authority conferred by the Act. This order further provided that each district board should transmit its schedule of proposed minimum prices to each code member in the district before filing such schedule with the Commission in order to give code members an opportunity of protesting any proposed price classification.

Said Order No. 245 further directed that the minimum prices proposed by the several district boards should conform to the following standards therefor set out in Section 4–II (a) of the Act:

(a) The proposed minimum prices for each of the aforesaid districts shall yield a return, per net ton, for such districts, equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which such district is located, as said weighted average heretofore has been determined by orders of the Commission dated July 30, 1938, and August 1, 1938, in this proceeding.

(b) They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal to which they are applicable.

(c) They shall be just and equitable as between producers within the district.

(d) They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

(e) They shall not permit dumping.

Said Order No. 245 further directed that each schedule of proposed prices submitted by the district boards should include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

Order No. 244 directed each of the aforesaid District Boards to propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coals by the code members of their respective districts, such rules and regulations not to be inconsistent with the requirements of Section 4 of the Act and to conform to the standards of fair competition therein established. Said order directed the District Boards to transmit such proposed rules and regulations to all code members in order that they would be afforded an opportunity of studying such proposed rules and regulations and of protesting to any of such proposals and to suggest whatever added rules or regulations such code members deemed necessary to properly effectuate the purposes of Section 4 of the Act.

Upon receipt of said orders by the several District Boards within Minimum

[1] 3 F. R. 1200, 1226 DI.
[2] 50 Stat. 72.
[3] 3 F. R. 1894 DI.
[4] 3 F. R. 2132 DI.
[5] See next column.

[1] 50 Stat. 72.
[2] 3 F. R. 1894, 1895 DI.

[4] See page 2917.

Price Areas 6, 7, 9 and 10, said District Boards, as directed in said orders, proceeded to propose such minimum prices and marketing rules and regulations as in their judgment conformed to the requirements of said orders. Schedules evidencing such proposals were prepared by said District Boards and copies of same were transmitted to each code member within the respective districts in order that such code members, after due consideration of such schedules, might present to their respective District Boards whatever objections, if any, they might have to said schedules, and in order that the respective District Boards, after due consideration of such objections, if any, might revise such schedules in such manner as, in their judgment, would better conform to the requirements of Orders No. 244 and No. 245, as issued by the Commission, and to the requirements of Section 4–II (a) of the Act.

The schedules of minimum prices, as revised, together with the data upon which same were computed and the schedules of marketing rules and regulations, together with the reasons supporting same, were transmitted to the Commission as directed in said orders.

Subsequent to the receipt of said schedules, by the Commission, the Commission, on the 29th day of August, 1938,[3] issued its order giving notice to all interested parties of a hearing to be held upon the proposals of minimum prices and marketing rules and regulations as proposed and submitted to the Commission by the District Boards for Districts 16, 17, 18, 19, 20, 22 and 23, said hearing to be held on the 14th day of September, 1938, at the Albany Hotel, Denver, Colorado. As expressed in the face of said order, said hearing was to be held for the purpose of receiving evidence relating to the aforementioned proposals of minimum prices and marketing rules and regulations in order to enable the Commission to approve or modify such proposals to the end that such proposals, as approved or modified, may serve as the basis for the coordination of same as provided in Section 4–II (b) of the Act.

Said order giving notice of said hearing directed the Secretary of the Commission to cause copies of said proposals to be made available for inspection by interested parties at the office of the Secretary of the Commission at Washington, D. C., and at the office of each Statistical Bureau of the Commission within each of the districts within Minimum Price Areas 6, 7, 9 and 10; to cause a copy of said order to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper having a general circulation in each of the districts within Minimum Price Areas 6, 7, 9 and 10; to cause a copy of said order to be mailed to each of the code members within said districts, to the office of Consumers' Counsel, Washington, D. C., and to the Secretaries of each of the District Boards for the districts within Minimum Price Areas 6, 7, 9 and 10. A copy of said order was directed to be made available for inspection at each of the Statistical Bureaus of the Commission within said districts.

The aforesaid directions in said order were complied with. A copy of said order was made available for inspection at the office of the Secretary of the Commission at Washington, D. C., and at the office of each of the Statistical Bureaus of the Commission within each of the districts within Minimum Price Areas 6, 7, 9 and 10. A copy of said order was published in the FEDERAL REGISTER of date, August 31, 1938, and copies of said order were mailed to each of the code members within Minimum Price Areas 6, 7, 9 and 10; to the office of Consumers' Counsel, Washington, D. C.; to each of the Secretaries of the District Boards within Minimum Price Areas 6, 7, 9 and 10. A copy of said order was published two times consecutively in the Denver Post, Denver, Colorado; the Daily Sentinel, City of Grand Junction, Colorado; the Albuquerque Journal, Albuquerque, New Mexico; the Casper-Herald Tribune, Casper, Wyoming; the Great Falls Daily Tribune, Great Falls, Montana; and the Seattle Post-Intelligencer, Seattle, Washington, newspapers having a general circulation in each of the respective districts within Minimum Price Areas 6, 7, 9 and 10.

Due and reasonable notice of said hearing having been given all interested parties, said cause came on for hearing before the Commission on the 14th day of September, 1938, at the hour and place as specified in said order, to wit, at 10 A. M., at the Albany Hotel, Denver, Colorado; and, after said hearing had been duly and formally opened and all interested parties desiring to appear had entered their appearances in said cause, the Commission proceeded to receive evidence relative to the proposals of minimum prices and marketing rules and regulations as proposed to the Commission by the District Boards for Districts 16, 17, 18, 19, 20, 22 and 23. The hearing concluded on the twenty-second day of September, 1938.

At said hearing all interested parties were afforded full opportunity to be heard on the proposals of minimum prices and marketing rules and regulations which had been submitted by each of the aforesaid District Boards and each of said District Boards adduced evidence relating to such proposals and placed into this record as exhibits all of the data which such Boards had used as a basis for such proposals and each of the Boards by competent witnesses testified as to the factors which the Boards had considered in determining the marketing rules and regulations and the price relationships which had been proposed by the Boards in their respective schedules.

Each of the schedules of proposed minimum prices offered in evidence by the District Boards contained the clause previously quoted from Order No. 245 and thereby clearly indicated that the District Boards were proposing minimum prices free on board transportation facilities at the mines for kinds, qualities, and sizes of coal produced in each of the aforesaid districts without taking into consideration those additional factors and standards which are set forth in Section 4, Part II, Subsection (b) of the Act. The minimum prices so proposed as hereafter approved or modified will serve as a basis for coordination as provided in said Section 4–II (b) of the Act. Such proposals of minimum prices do not take into account differences in transportation methods and charges and their effect upon a reasonable opportunity to compete on a fair basis, nor competitive relationships between coal and other forms of fuel and energy as such matters constitute a part of the coordination of minimum prices and are properly a subject of consideration under said Section 4–II (b) of the Act.

The evidence adduced at said hearing having been duly reported and filed with the Commission, the Commission, after due consideration of same and being fully advised in the premises, makes this its findings as to the facts and its conclusions drawn therefrom:

MINIMUM PRICE AREA NO. 6—DISTRICT NO. 16

PROPOSED MINIMUM PRICES

In compliance with Order 245 of the Commission, directing the District Board for District 16 to propose minimum prices, free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced in said District, and classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, the District Board for District 16 held a number of meetings for the purpose of properly classifying the coals of each mine in relation to the coals of other mines in the District. As a result of said meetings a schedule of proposed minimum prices was drafted by said District Board and forwarded to each of the Code Members within District 16. Accompanying said schedule was a letter directed to the Code Members within District 16 informing such Code Members that they would be allowed a period of seven (7) days in which to file objections to said schedule of proposed minimum prices.

On August 20, 1938, a meeting was held by the District Board for District 16 for the purpose of considering protests to said schedule.

One complaint from El Paso County requested that the schedule provide a price for 3" x 2½" nut coal for the reason that mines in that County had built up a considerable business in such coal. The District Board agreed that such request was well taken and the tentative schedule of proposed minimum prices was amended accordingly. This amendment appears in Size Group No. 7 in the amended Schedule.

A request from one operator in the LaSalle Subdistrict, asking that provision be made in the Schedule for 1½" lump in said Subdistrict, same to take a lower price than 2½" lump, was denied.

Susequent to said meeting certain revisions were made in the classification schedule. Size Group No. 7 in the amended schedule was adopted as heretofore stated and two mines in Jackson County were reclassified as shown in the amended schedule to bring them more nearly in line with other mines producing coal of a comparable quality.

After said meeting had concluded and all protests and objections to the tentative schedule of proposed minimum prices had been considered and passed upon, a revised schedule of proposed minimum prices to be submitted to the Commission was drafted by the District Board for District 16. Said schedule of proposed minimum prices, together with the data upon which said schedule was computed, was submitted to the Commission and appears in the record as Exhibit No. 145.

In the preparation of the schedule of proposed minimum prices as submitted to the Commission by the District Board for District 16, twenty-one meetings of the District Board were held. In addition to numerous informal committee meetings, one member meeting and thirteen stated committee meetings were also held.

The schedule of proposed minimum prices as amended and finally submitted to the Commission by the District Board for District 16 was approved by the District Board and a copy thereof, together with the amendments thereto was transmitted to each of the Code Members within the district.

Testimony in support of minimum prices proposed by District Board 16 was adduced by two expert witnesses; one a statistician employed by the Board, and the other a member of the Board, both of whom were thoroughly familiar with the marketing and distribution of coals in District 16. Their knowledge of the coals in said District was based upon years of experience in the District. It appears that the members of the District Board of District 16 are all experienced coal men, familiar with producing and marketing coal in said District.

The schedule of proposed minimum prices as submitted to the Commission by the District Board for District 16 contains thirteen (13) size groups. These size groups were determined in the following manner: As far back as the year 1904, the mines in what is now known as District 16, with one exception, made only two screen sizes—lump over 2½" screens and slack through 2½" screens. There was considerable demand for straight mine run at that time. The one exception was a newly opened mine which started making a 4" x 2½" nut coal. Through the ensuing years, due to competition, one mine would put in a large lump screen, and others would be forced to follow suit. Eventually 6" x 2½" egg was prepared and has become a most popular size with the domestic consumers. In time, the practice of making pea size was started and the demand for them has steadily grown, especially with the increased use of small stokers. The preparation of these pea sizes resulted in the making of two slack sizes. The sizes shown in the schedule, as amended, were arrived at by including all these various sizes for which a considerable demand has arisen in said District and all of such sizes have a proper place in the schedule.

The District Board for District 16 determined to divide said District into 12 subdistricts, namely: 1—Louisville; 2—Lafayette; 3—Marshall No. 1; 4—Marshall No. 2; 5—Marshall No. 3; 6—Erie; 7—Marshall No. 4; 8—Frederick; 9—El Paso; 10—Jefferson; 11—Jackson, and 12—LaSalle, a particular description of each subdistrict being set forth on pages 5 and 6 of Exhibit 145 to which reference is made.

The boundaries of the Louisville, Lafayette, Erie and Frederick Subdistricts, as determined are the result of long years of marketing experience which has shown that the consuming public would not buy certain of the coals unless a proper price differential exists.

The other subdistricts lie further away from the above four subdistricts, except the four Marshall Subdistricts. The coals mined in them are fairly uniform in relation to each other and their classification and price differentials have been worked out by long marketing experience.

The four Marshall Subdistricts lie within the described boundaries of Louisville and Lafayette Subdistricts. The mines in these Subdistricts are all small truck mines and have intricate marketing problems which require separate classification in order to avoid price exceptions in the price schedule.

The coals produced in District 16 are subbituminous, soft, subject to rapid disintegration in handling and storing. High moisture content causes rapid air slacking after mining and the coals are subject to spontaneous combustion. Such coals consume rapidly under draft and hold fire well, and when once well ignited will not go out until entirely consumed. They are clean burning, have a lower B. t. u. content and tend to disintegrate in fire with considerable loss of heat in the ash.

The coals produced in the Louisville Subdistrict are the best in quality of those produced in Boulder County. The coal is bright, hard and brittle. Lying within the disturbed area, the coals have been cracked in the seam which causes them to break relatively smaller than in other subdistricts.

The coals produced in the Lafayette Subdistrict rank next to Louisville coals. They are bright, fairly hard, break large, some of the seams containing some grey coal. They are popular for domestic and industrial use.

The coals produced in the Marshall Subdistrict No. 1 compare favorably with Subdistriot No. 2—Lafayette, but are grouped separately because of location. The coals are bright, fairly hard, break large and there is some grey coal. The mines in this group are truck mines.

The coals produced in the Marshall Subdistrict No. 2 compare in most respects with Subdistrict No. 1—Louisville, but location and excessive brittleness require separate classification. The mines in this group are truck mines.

The coals produced in the Marshall Subdistrict No. 3 are quite good in quality, but location and other factors require separate classification. The mines in this group are truck mines.

The coals produced in Erie Subdistrict generally have a good appearance, though not so bright as the preceding group. Such coals are firm in structure and break large.

The coals produced in Marshall Subdistrict No. 4 are from truck mines only. The heat content would rank them with Louisville, but slow ignition, appearance, location and other factors require a lower classification.

The coals produced in Frederick Subdistrict rank slightly under Erie coals. They generally carry alkaline discoloration in vertical cracks, and break somewhat smaller than Erie coals, average higher in moisture and lower in heat content and are softer.

The coals produced in El Paso Subdistrict are all quite similar in most respects. The mines lie close to Colorado Springs, their principal market, and compete with other District No. 16 coals only in the Denver market and that to a very limited extent. Their main competition is from District 17 coals, natural gas and other competitive fuels.

The coals produced in Jefferson Subdistrict classify considerably under the Frederick District and are priced accordingly to enable them to compete in the Denver market. Their appearance, slower ignition, lower heat content, and other characteristics of performance require a lower price.

The coals produced in Jackson Subdistrict compete with other District 16 coals to a very limited extent. The two mines in this group are located in Jackson County in north central Colorado, the only rail outlet being north through Wyoming where District 19 coals are predominant.

The coals produced in LaSalle Subdistrict are poor in quality and require a very low price to market. The mines in this subdistrict are entirely truck mines.

The District Board for District 16 established market areas. A geographical description of such areas, together with their assigned numbers, is particularly set forth at pages 13–17, inclusive, of Exhibit 145. These market areas are, with but one exception, exactly the same

[3] 3 F. R. 2132 DI.

as promulgated by the Commission in 1937. The one exception is Lyman, Nebraska (143–A). This additional market area was necessary to avoid a price exception in the schedule since a price on slack coal to this one point from only one mine will appear in the final price schedule.

The District Board for District 16 classified the coals of the Code Members within said district. This classification was arrived at in this manner. All Code Members within the district were grouped into subdistricts. Mines with comparable coals in quality, analyses, physical characteristics, characteristics of performance, market acceptability are grouped together to take a common price on each as a rule. These groupings are the result of long marketing experience and were determined by the reaction of the consuming public. The two mines in Jackson County were grouped together by reason of their location being far removed from all the other mines in District 16.

The District Board for District 16 took the Louisville Subdistrict as a base for the reason that such subdistrict had been recognized as the base for many years. The letter "A" appearing in the classification was used to designate the price for each size of coal produced in said subdistrict. Any mine in any subdistrict in the alphabetical list of Code Member mines having the Letter "A" appearing under any size group for that mine will use the Louisville price for that size. This indicates that all mines producing such sizes will take the Louisville subdistrict prices for said sizes.

Long marketing experience has proven that the majority of mines in District 16 can compete on an equal basis on slack coals. This for the reason that most of these sizes are used in industrial plants where the individual characteristics that make price differentials so necessary for domestic use do not materially affect their efficiency.

Exhibit 149 shows the price differentials in cents per ton that apply between the coals in the various subdistricts using the Louisville Subdistrict as the base. This exhibit shows in cents per ton how much under Louisville Subdistrict prices each size will take for each subdistrict or individual mine. Certain mines in certain subdistricts were listed specifically in said Exhibit. Such specific listing is due to the fact that such mines have a price differential on certain sizes which varies from that of the particular subdistrict as a whole. The specific listing was made in order to avoid price exceptions in the schedule. In such cases marketing experience has shown that the sizes in question will not move in satisfactory volume at the subdistrict price for various reasons.

The Black Diamond Mine listed specifically on Exhibit 149 has a price differential on Size Group 2 for the reason that this mine contains considerable grey coal which breaks large and, therefore, occurs mostly in such size group. Such coal is not popular with domestic consumers and its presence in Size Group 2 requires a price differential.

The Morrison and Grant mines as shown by Exhibit 149 have a price differential on size groups 1 to 6, inclusive, due to individual characteristics of these two coals making them less popular with retail dealers and consumers and requiring a differential to enable same to compete.

The Marr and Moore mines (Jackson Subdistrict) are grouped together in one subdistrict but priced differently due to differences in the quality of coal produced by them.

The price differentials were arrived at in this manner. Long marketing experience has shown that a price differential is necessary on most sizes in District 16 to enable the mines in question to market their coals on a fair competitive basis. Many factors, such as appearance, comparative hardness, fracture, comparative rate of ignition, amount of ash, tendency to clinker, heat value, loss of heat in the ash and dustiness, render such differentials necessary. Domestic consumers, as well as retail dealers, also have very distinct ideas of what they prefer in coals and buy accordingly.

The reason for the varying differentials on the different sizes of coal is due to the purpose for which the various sizes are used. Lump and egg coal are largely used for the same purpose, to-wit, domestic heating, and will readily sell at the same price generally. Nut and pea coals are used for small heaters and cook stoves to a large extent. Nut coal will take a somewhat higher price than pea coal on account of its larger size and less fines. Modified pea is largely used in domestic stokers. Its size makes it ideal for that purpose and, having had the fines removed, it will make much less fly ash. Slack coals are largely used for industrial purposes.

Marketing experience over many years has shown that should any size of coal be priced too high, such coal will not move and must be repriced or the making of such size discontinued. Such process in District 16 has continued through many years and price differentials have been changed many times. Domestic consumers in District 16 using the large sizes of coal demand coal as free of fines as possible. This forces the screening out of slack sizes at the mines. Lack of sufficient market for these small sizes has forced the sale of slack at far below cost of production. Increasing use of stokers and of 2½" pea coal has made it possible to bring prices on large and small sizes gradually closer together.

These differentials, with but few exceptions, have existed for several years in District 16. The exceptions referred to are that the rapidly increasing demand for egg coal and the consequent falling off in demand for 6" lump coal has made it necessary to price 6" lump, 2½" lump and 6" x 2½" egg at the same level in most cases. The demand for egg coal makes it necessary to make 6" lump and experience in recent years has proven that the 6" lump will no longer take a premium price as many dealers, as well as consumers, do not want large coal. 2½" lump still continues in good demand largely through small retail dealers whose smaller sales make it impractical to have a car each of lump and egg on hand at the same time due to rapid air slacking. They take their egg coal out of the 2½" lump.

The schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District 16 contains a schedule of prices for coals for shipment into market areas. This appears at page 11 of Exhibit No. 145. These prices were arrived at in this manner: The present selling prices on Louisville lump, both rail and truck sales, were taken as the base and the weighted average realization on the same was used as the base price using 1937 reported tonnage. The remaining sizes on Louisville coals were priced by deducting the established differentials from the base price on each other size. Next the prices on the various sizes in the Lafayette Subdistrict were determined by subtracting the established differentials from the base Louisville prices and so on in the same manner for each of the other Subdistricts.

As shown on page 12 of Exhibit No. 145, the District Board proposed minimum prices reflecting the relative values of the various kinds, qualities and sizes of coals produced therein when used for railroad locomotive fuel. This exhibit shows that all kinds, qualities and sizes shall take the same price for that use, to wit, $2.57 per net ton f. o. b. transportation facilities at the mines, with the exception of mine run size which, when substituted for prepared sizes for the convenience of the producers, shall be priced at $2.20. The District Board proposed that, except when so substituted, mine run sizes be priced the same as other sizes, to wit, $2.57 when used for locomotive fuel in view of the possibility that improvements might be made in locomotive burning equipment that would cause that size to be of the same value for locomotive fuel use as the prepared sizes. At the present time mine run size is not desirable for locomotive fuel use in this district, however, the railroads in this district, in order to be of service to the producers when they are unable to load prepared sizes have in the past accepted mine run size in lieu of prepared sizes provided the price for such mine run was relatively lower than the price for the prepared sizes. The relative price for such substituted mine run to the prepared sizes was determined by the district board to be $2.20 as compared to $2.57.

As shown in Exhibit 147, pages 16 to 19 inclusive, the minimum prices proposed by the District Board for District No. 16 would yield $2.761 per ton as an average for the production of District No. 16. This realization was arrived at in this manner. The District Board for District No. 16 used the Commission's Form D–1 reports from rail mines which constituted 85.25 per cent of the total production of District 16. In addition to the above reports the monthly reports of the State Coal Mine Inspector for the State of Colorado were used as to truck mine tonnage. The total 1937 production of code members for all mines in District 16, as shown by said reports, was 2,443,790 tons, or 97.26 per cent of the entire production for District 16 in 1937.

Such tonnage was broken down into sizes as to each of the Subdistricts and then applied to the proposed prices for each size. Using the proposed prices for each kind and size, the realization for the entire district was arrived at by multiplying the 1937 tonnage for each size group and kind by its price. After making deductions of 15¢ per ton on coal shipped to the Great Western Sugar Company the realization computed in Exhibit No. 147 for District 16 is $2.761 per ton. The weighted average cost of production of Price Area 6 as determined by the Commission is $2.758. The difference, therefore, between realization computed in Exhibit No. 147 and cost is $.003 per ton.

The District Board for District 16 is composed of members thoroughly experienced in the production and sale of coals in District 16. In the judgment of the District Board and in the opinion of the expert witness for the Board the minimum prices as they appear in the amended schedule conform to all of the requirements of Order 245 of the Commission and to the provisions of Section 4–II (a) of the Act.

And now upon the record in this cause, upon the evidence both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the schedule of minimum prices, as amended, and submitted to the Commission by the District Board for District 16 should be corrected and revised in order that same may better conform to Order 245 of the Commission and to the provisions of Section 4–II (a) of the Act, and said schedule is in the following respects modified:

Item 1, on page 3 of the schedule, should be revised to read: "The prices listed herein are in cents per net ton of 2,000 pounds, f. o. b. transportation facilities at the mines."

Item 3, on page 3 of the schedule, should be deleted entirely as same is a matter for the coordination proceedings under Section 4–II (b) of the Act and improperly appears in the schedule of minimum prices proposed under Section 4–II (a) of the Act.

Item 4, on page 3 of the schedule, should be revised to read: "All size designations herein are for round hole screens, or their equivalent. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission."

Item 7, on page 3 of the schedule, should be deleted entirely. This clause is commonly referred to as a so-called "sugar differential." This appears as a matter to be properly considered in coordination proceedings provided for in Section 4–II (b) of the Act and same at this time improperly appears in the schedule. By deleting this clause the realization for District 16 experiences a slight change. The realization is thereby increased from $2.761 to $2.777.

Page 4 of the schedule should be revised by deleting the words in parenthesis (or 1¼") as the maximum bottom size in Size Groups 7 and 8 and the same language in maximum top size in Size Groups 9 and 11 for the reason that such is unnecessary and confusing.

Page 4 of the schedule should be further revised, in that, the note appearing at the bottom of the page should be revised to read: "When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced group and priced accordingly."

That the District Board for District 16, as directed in Order 245 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the district, and classification of coal and price variations of coal as to mines and consuming market areas.

That the District Board for District 16, as directed in Order 245 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District 16, as herein modified, reflect as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal produced within the district, are just and equitable as between producers within the district, have due regard to the interests of the consuming public, and do not permit dumping.

That the minimum prices proposed by the District Board for District 16, for any kind, quality or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the district.

That the minimum prices proposed by the District Board for District 16, as herein modified, yield a return per net ton for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area 6, the Price Area in which District 16 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District 16, as amended, corrected, modified, and revised, as hereinabove set forth, conforms to Order 245 of the Commission and to the requirements of Section 4–II (a) of the Act, and as so amended, corrected, modified, and revised, said schedule should be and the same is hereby approved by the Commission to serve as a basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule, as amended, corrected, revised and modified, appears in the Appendix for District 16.

APPENDIX FOR DISTRICT NO. 16

Schedule of Minimum Prices, as Modified and Approved, to Serve as a Basis for Coordination

Note: The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. McCULLOUGH,
Secretary.

Issued: December 9, 1938

TABLE OF CONTENTS

Price Instructions and Exceptions.
Size Groups.
Sub-District Identification.
Code Member List with Price Classification.
Price List.
Market Area Description.

PRICE INSTRUCTIONS AND EXCEPTIONS

Item No. 1.—Prices listed herein are in cents per net ton of 2,000 pounds, f. o. b. transportation facilities at the mine.

Item No. 2.—All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

Item No. 3.—All size designations herein are for round hole screens, or their equivalent. When other types of

screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission.

Item No. 4.—When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 25 cents per net ton shall be made.

Item No. 5.—When more than one size of coal is loaded in a car, an additional charge of 25 cents per net ton shall be made on the entire weight of the coal loaded in such car.

Item No. 6.—In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in U. S. funds.

Size Groups

Size group No.	Size	Single screened sizes: Screen size	Double screened sizes: Maximum top size	Double screened sizes: Maximum bottom size
1	Lump	Larger than 8".		
2	Lump	3" to 8" inclusive.		
3	Lump	2½".		
4	Egg		Larger than 8" x 2½"	
5	Egg		8" x 2½"	
6	Nut		4" x 2½"	
7	Nut		3" x 1½"	
8	Pea		2½" x 1½"	
9	Pea		1½" x ¾"	
10	Slack		2½" x 0"	
11	Slack		1½" x 0"	
12	Slack		Less than 1¼" x 0"	
13	Straight mine run.			

When any size of coal is sold in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher *priced* size group and priced accordingly.

IDENTIFICATION OF SUB-DISTRICT NUMBERS

Sub-District Number and Identification

1. *Louisville.*—That part of Boulder County, Colorado, lying on and west of the main line of the C. & S. Railroad extending from Broomfield to Boulder, and extending west to the western outcrop of the coal field near the town of Gorham, Colorado.

2. *Lafayette.*—That part of Adams and Boulder counties, Colorado, lying northwest and southwest of Irvington Station on the C. B. & Q. Railroad near the southwest corner of Weld County, including the station of Eversman, the town of Lafayette extending west and southwest to the eastern boundary of the Sub-District #1—Louisville.

3. *Marshall No. 1.*—Part of Boulder County and lies wholly in that area more particularly described above as Sub-District #2—Lafayette.

4. *Marshall No. 2.*—Part of Boulder County, and lies wholly in that area more particularly described above as Sub-District #1—Louisville.

5. *Marshall No. 3.*—Part of Boulder County, and lies partly in that area described above as Sub-District No. 1—Louisville, and partly in the area described above as Sub-District No. 2—Lafayette.

6. *Erie.*—That part of Weld and Boulder counties, Colorado, lying in township #1 N—Ranges 68 and 69—W—6 P. M.—lying south and west of the Imperial Mine and extending in a northwest-southeast direction through St. Vrains station on the U. P. Railroad, and the town of Erie, all points inclusive, and extending in a southwesterly direction to the eastern boundary of Sub-District #2—Lafayette, and extending in a northwesterly direction to the outcrop of the coal field.

7. *Marshall No. 4.*—Part of Boulder County and lies wholly in that area described above as Sub-District No. 1—Louisville.

8. *Frederick.*—That part of Weld County, Colorado, lying in township 1 and 2 N—Range 67 and 68 W—extending in a northeasterly direction from the northeast boundary of Sub-District No. 6—Erie, and including all mines from the Morrison Mine on the southwest to the coal ridge mine in Section 18—Township 2 N—Range 67 W, on the northeast side of the field, both inclusive; also extending in a northwesterly direction to the outcrop to the coal field.

9. *El Paso.*—All mines in El Paso County, Colorado.

10. *Jefferson.*—All mines in Jefferson County, Colorado.

11. *Jackson.*—All mines in Jackson County, Colorado.

12. *La Salle.*—All bituminous coal mines in Weld County, Colorado, not included in Sub-District No. 6—Erie, and Sub-District No. 8—Frederick.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown

Code Member	Mine	Sub-dist. No.	Kind	Price classifications and size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13
Altitude Fuel Co.	Altitude	9	S'chib	H	H	H	H	H	H	M	F	G	A	A	A	J
American Coal Co.	Evans	8	do	H	H	H	H	H	J	..	F	G	A	A	A	J
Black Diamond Fuel Co.	Black Diamond	2	do	B	C	B	A	A	B	..	A	A	A	A	..	B
Barnell, Geo. M.	Marr	11	do	B	B	B	B	B	..	..	..	..	..	A	..	..	B
Bohlender Coal Co.	Bohlender	12	do	S	S	S	S	S	S	..	S	S	S	S	..	..	S
Boulder Valley Coal Co.	Centennial	2	do	B	B	B	A	A	B	..	A	A	A	A	A	B
Boulder Valley Coal Co.	Boulder Valley	6	do	F	F	F	F	F	F	..	F	G	A	A	A	F
Boulder Valley Coal Co.	Buddy	12	do	S	S	S	S	S	S	..	S	S	S	..	..	..	S
Buddy Coal Co.	Busy Bee	9	do	H	H	H	H	H	H	M	F	G	A	A	A	J
Busy Bee Coal Co.	Clara Belle	9	do	H	H	H	H	H	H	M	F	G	A	A	A	J
Clara Belle Coal Co.	Clayton	6	do	F	F	F	F	F	F	..	F	G	A	A	A	F
Clayton Coal Co.	Morrison	8	do	L	L	L	L	L	L	..	F	G	A	A	A	J
Clayton Coal Co.	City	9	do	H	H	H	H	H	H	M	F	G	S	A	A	J
Colorado Springs Co.	Comet	12	do	S	S	S	S	S	S	..	S	S	S	..	..	..	S
Corbet Coal Co.	Baum	8	do	H	H	H	H	H	J	..	F	G	A	A	A	J
Consolidated Coal & Coke Co.	Cottonwood	9	do	H	H	H	H	H	H	M	F	G	A	A	A	J
Cottonwood Coal Co.	Crackerjack	4	do	E	E	E	E	E	D	..	A	A	A	A	A	E
Crackerjack Coal Co.	Climax	9	do	H	H	H	H	H	H	M	F	G	A	A	A	J
Danville Coal Co.	Eldorado	5	do	F	F	F	F	F	F	..	F	A	A	A	A	F
Eldorado Coal Co.	Economy	10	do	N	N	N	N	N	N	..	N	N	A	A	A	N
Economy Coal Co.	Regal	3	do	D	D	D	D	D	D	..	A	A	A	A	A	D
Gaspar, Louis	Graden	8	do	H	H	H	H	H	J	..	F	G	A	A	A	J
Graden Coal Co.	High View	5	do	F	F	F	F	F	F	..	F	A	A	A	A	F
High View Coal Co.	Imperial	6	do	F	F	F	F	F	F	..	F	G	A	A	A	F
Imperial Coal Co.	Virginia	10	do	N	N	N	N	N	N	..	N	N	A	A	A	N
Jefferson Coal Co.	Jimmy Camp	9	do	H	H	H	H	H	H	M	F	G	A	A	A	J
Jimmy Camp Auld Reekie Fuel Co.	Fireside	4	do	E	E	E	E	E	D	..	A	A	A	A	A	E
KO-Z Coal Co.	La Salle	12	do	S	S	S	S	S	S	..	S	S	S	..	..	..	S
La Salle Coal Co.	Leyden	10	do	N	N	N	N	N	N	..	N	N	A	A	A	N
Leyden Lignite Co.	Highway	2	do	B	B	B	A	A	B	..	A	A	A	A	A	B
Louisville-Lafayette Coal Co.	Gorham	4	do	E	E	E	E	E	D	..	A	A	A	A	A	E
McLaughlin Coal Co.	Sterling	8	do	H	H	H	H	H	J	..	F	G	A	A	A	J
McNeil Coal Corporation	Diamond	12	do	S	S	S	S	S	S	..	S	S	S	..	..	..	S
Mayer & Schwaerzler	Monarch	1	do	A	A	A	A	A	A	..	A	A	A	A	A	A
National Fuel Co.	Puritan	8	do	H	H	H	H	H	J	..	F	G	A	A	A	J
National Fuel Co.	Moore	11	do	F	F	F	F	F	F	..	..	..	..	A	..	..	F
North Park Coal Co.	Park	6	do	F	F	F	F	F	F	..	F	G	A	A	A	F
Park Coal Co.	Peerless	4	do	E	E	E	E	E	D	..	A	A	A	A	A	E
Peerless Coal Co.	Pikeview	9	do	H	H	H	H	H	H	M	F	G	A	A	A	J
Pikes Peak Fuel Div. of the Golden Cycle Corporation.	Pine Cliff	5	do	F	F	F	F	F	F	..	F	A	A	A	A	F
Pine Cliff Coal Co.	Pittsburg	7	do	H	H	H	H	H	H	..	F	G	A	A	A	H
Pittsburg Coal Co.	Pluto	4	do	E	E	E	E	E	D	..	A	A	A	A	A	E
Pluto Coal Mining Co.	Premier	7	do	H	H	H	H	H	H	..	F	G	A	A	A	H
Premier Coal Co.	Industrial	1	do	A	A	A	A	A	A	..	F	A	A	A	A	A
Rocky Mountain Fuel Co.	Columbine	6	do	F	F	F	F	F	F	..	F	G	A	A	A	F
Rocky Mountain Fuel Co.	Grant	8	do	K	K	K	K	K	K	..	F	G	A	A	A	J
Rocky Mountain Fuel Co.	New Ross	7	do	H	H	H	H	H	H	..	F	G	A	A	A	H
Ross Coal Co.	Russell	8	do	H	H	H	H	H	J	..	F	G	A	A	A	J
Russell, Wm. E. Coal Co.	Shamrock	8	do	H	H	H	H	H	J	..	F	G	A	A	A	J
Shamrock Coal Co.	New Keystone	9	do	H	H	H	H	H	H	M	F	G	A	A	A	J
Streenan, John	Van Winkle	10	do	N	N	N	N	N	N	..	N	N	A	A	A	N
Van Winkle Coal Co.	White Ash	12	do	S	S	S	S	S	S	..	S	S	S	..	..	..	S

Prices for Shipment Into Market Areas 101, 102, 104, 105, 107, 108, 109, 110, 111, 112, 113, 114, 128, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 143–A, 144, 145, 146, 150

PRICES IN CENTS PER NET TON OF 2,000 POUNDS, AND SIZE GROUP NUMBERS

Size Nos.	1	2	3	4	5	6	7	8	9	10	11	12	13
Price classification	Lump larger than 8"	Lump 3" to 8" (incl.)	Lump 2½"	Egg, top larger than 8"	Egg 8" x 2½" or less	Nut 4" x 2½"	Nut 3" x 1½" or 1¼"	Pea 2½" x 1½" or 1¼"	Mod. Pea 1½" or 1¼" x ¾"	Slack 2½" x 0"	Slack 1½" or 1¼" x 0"	Slack less than 1¼"	Mine run
A	505	455	455	480	430	390	.....	320	270	205	195	185	360
B	480	430	430	.....	.....	375	.....	.....	.....	.....	.....	.....	335
C	.....	415	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
D	455	405	405	455	405	365	.....	.....	.....	.....	.....	.....	330
E	440	390	390	440	390	.....	.....	.....	.....	.....	.....	.....	325
F	430	380	380	430	380	360	.....	305	.....	.....	.....	.....	320
G	.....	.....	.....	.....	.....	.....	.....	.....	255	.....	.....	.....	.....
H	420	370	370	420	370	350	.....	.....	.....	.....	.....	.....	315
J	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	310
K	410	360	360	410	360	340	.....	.....	.....	.....	.....	.....	.....
L	412½	362½	362½	412½	362½	342½	.....	.....	.....	.....	.....	.....	.....
M	.....	.....	.....	.....	.....	.....	315	.....	.....	.....	.....	.....	.....
N	385	335	335	385	335	315	.....	280	230	.....	.....	.....	285
S	335	285	285	335	285	265	.....	215	155	150	.....	.....	205

See "Size group" table. See "Price instructions and exceptions."

Prices Based on Special Uses From All Rail Mines in District 16

PRICES IN CENTS PER NET TON OF 2,000 POUNDS, AND SIZE GROUP NUMBERS

Special use	1 Lump, larger than 8"	2 Lump, 3" to 8" (incl.)	3 Lump, 2½"	4 Egg, top, larger than 8"	5 Egg, 8" x 2½" or less	6 Nut, 4" x 2½"	12 Mine run
Railroad Locomotive Fuel	257	257	257	257	257	257	257
Railroad Locomotive Fuel	.....	.....	.....	.....	.....	.....	*220

*Mine Run, when substituted for lump or egg for producers convenience.
See "Price instructions and exceptions."

GEOGRAPHICAL DESCRIPTION OF CONSUMING MARKET AREA TO WHICH PRICES APPLY

Market Area No. 101.—Beginning at the South Dakota-Minnesota-Iowa state line running east on the Minnesota-Iowa state line to a point just west of the C. R. I. & P. R. R. just southeast of Glenville, Minnesota; thence northwest, excluding points on the C. R. I. & P. R. R. to and excluding Albert Lea; thence northwest excluding points on the C. M. St. P. & P. R. R. to and excluding Wells; thence west and north excluding points on the C. M. St. P. & P. R. R. to and excluding Mankato; thence west excluding points on the main line of the C. & N. W. R. R. to the point of beginning.

Market Area No. 102.—Points east of a line beginning at a point west of Keokuk, Iowa, on the south bank of the Des Moines River; thence south including points on the C. B. & Q. R. R., passing just east of Maywood, continuing south crossing the C. B. & Q. R. R. east of Palmyra; thence south crossing the Wabash R. R. west of Oakwood, thence southwest including points on the St. L. & H. R. R., crossing the Alton R. R. west of Bowling Green; thence southeast crossing the C. B. & Q. R. R. west of Old Monroe; thence east running between the Wabash and the C. B. & Q. Railroads and continuing to the boundary of Market Area No. 26.

Market Area No. 104.—Beginning at a point southeast of Sioux City excluding Sioux City, running southeast on an airline to a point immediately north of Minden; thence east excluding points on the C. R. I. & P. R. R. to and excluding Atlantic; thence crossing the C. R. I. & P. R. R. east of Atlantic including points thereon, to and including Des Moines; thence crossing the railroad continuing east excluding points on the C. R. I. & P. R. R. to but excluding Grinnell; thence north excluding points on the Minneapolis and St. Louis R. R. to, but including Marshalltown; thence west excluding Minerva Junction; thence north excluding points on the Minneapolis & St. Louis R. R. to and excluding Eldora; thence northwest excluding points on the C. & N. W. R. R., excluding Iowa Falls, Alden, Dows, and Clarion; thence northeast excluding points on the Chicago, Great Western R. R. to and excluding Mason City; thence north excluding points on the C. R. I. & P. R. R. to the Minnesota-Iowa state line; thence west following the state line to the South Dakota-Iowa-Minnesota state line; thence south following the Iowa-South Dakota state line to the point of beginning, excluding Sioux City.

Market Area No. 105.—Beginning at a point just northwest from Eldora; thence north excluding points on the Minneapolis and St. Louis R. R. to and excluding Hampton; thence north including points on the C. R. I. & P. R. R. to but excluding Mason City; thence southwest including points on the C. G. W. R. R. to and including Clarion; thence southeast on an airline to the point of beginning, including Clarion, Dows, and Alden.

Market Area No. 107.—Beginning at a point just south of Muscatine, Iowa; thence west excluding points on the C. R. I. & P. R. R. to and excluding Thornburg; thence west to a point just south of New Sharon, Iowa; thence south including points on the Minneapolis & St. Louis R. R. to and including Oskaloosa; thence southeast excluding points on the C. R. I. & P. R. R. to and excluding Ottumwa; thence east including points on the C. B. & Q. R. R. to and including Burlington, Iowa; thence north up the Mississippi River to the point of beginning.

Market Area No. 108.—Beginning at a point on the Missouri-Iowa state line due south of Bloomfield, Iowa, running north excluding points on the Wabash to and excluding Ottumwa; thence east excluding points on the C. B. & Q. R. R. to the Mississippi River; thence south down the River to the Iowa-Illinois-Missouri state line; thence northwest and west on the Missouri-Iowa state line to the point of beginning.

Market Area No. 109.—Beginning at a point south of Sioux City, Iowa, running on an airline southeast to a point just north of Minden; thence east including points on the C. R. I. & P. R. R. to and including Atlantic; thence crossing the railroad east of Atlantic and excluding points on the C. R. I. & P. R. R. to and excluding Des Moines; thence continuing east including points on the C. R. I. & P. R. R. to a point just west of Grinnell; thence south excluding points on the Minneapolis and St. Louis R. R. to and excluding Oskaloosa; thence southeast including points on the C. R. I. & P. R. R. to and including Ottumwa; thence northwest including points on the C. B. & Q. R. R. to but excluding Frederic; thence west excluding points on the C. B. & Q. R. R. to the Missouri River; thence north up the Missouri River to the starting point of this area, excluding Council Bluffs, Omaha, and Sioux City.

Market Area No. 110.—Beginning at the Missouri-Iowa state line south of Bloomfield, Iowa; thence north including points on the Wabash R. R. to but excluding Ottumwa; thence northwest excluding points to but including Frederic; thence west including points on the C. B. & Q. R. R. to the Missouri River; thence south following the Missouri River to the Nebraska-Iowa-Missouri state line; thence east on the Iowa-Missouri state line to the point of beginning.

Market Area No. 111.—Omaha and Council Bluffs. Switching limits of Omaha, Nebraska, and Council Bluffs, Iowa.

Market Area No. 112.—Sioux City. Greater Sioux City.

Market Area No. 113.—Northwest Missouri. The counties of Andres, Atchison, Buchanan except St. Joseph, Clinton, DeKalb, Gentry, Holt, Nodaway, Platte, and Worth in the state of Missouri.

Market Area No. 114.—St. Joseph, Switching limits of St. Joseph, Missouri.

Market Area No. 128—General description.—Points east of Lamy.

Specific description.—Beginning at the tip of Market Area No. 127 just northeast of Santa Fe; thence running north (east of the D. & R. G. W.) to the New Mexico-Colorado state line; thence east on the Colorado-New Mexico state line to the New Mexico-Oklahoma state line; thence south on the Oklahoma-New Mexico state line to the Texas-New Mexico-Oklahoma state line; thence east on the Oklahoma-Texas state line to a point on the state line just east of Stratford; thence south on the east side of the P. & S. F. to its convergence with Market Area No. 125 at Amarillo, not including Amarillo; thence following the boundary of No. 125 in a southwesterly direction to the boundary line of No. 126 near Melrose; thence following the northern boundary of No. 126 to the boundary of No. 127 just southeast of Kennedy; thence following the boundary line of No. 127 to the point of beginning.

Market Area No. 132—General description.—Tennessee Pass and west.

Specific description.—To points in western Colorado and eastern Utah beginning at a point on the Colorado-Wyoming state line at the boundary line of Market Area No. 133 and running west on the Wyoming-Colorado state line to the Colorado-Utah state line; thence south on the Colorado-Utah state line to and including Watson, Rainbow Junction, Rainbow, and Dragon, Utah, to the Utah-Colorado state line; thence south to the junction of Colorado, New Mexico, Arizona and Utah; thence east to a point west of the Farmington branch line, dropping south including said branch line and returning to the state line; thence following the D. & R. G. W. (south of the D. & R. G. W.) to the vertex of Market Area No. 133 south of Antonito, Colorado; thence continuing on the boundary of No. 133 to the point of beginning.

Market Area No. 133—General description.—Colorado east of Tennessee Pass.

Specific description.—To points in Colorado not included in Market Areas 135 and 134 east of a line beginning at the Wyoming-Colorado state line just west of Slater, Colorado; thence on an airline south to a point just southwest of Craig; thence east to a point just west of Steamboat Springs; thence south crossing the D. & R. G. W. just southwest of Orested; thence southeasterly running north of Watts; thence south crossing the D. & R. G. W. just south of Deen; thence running south just west of the D. & R. G. W., crossing the D. & R. G. W. between Poncha Junction and Salida, again crossing the D. & R. G. W. west of Mears Junction; thence south to and including Center, Colorado; thence west to and including Creedo; thence southeast to the state line where it converges with the boundary of Market Area No. 131 on the Colorado-New Mexico state line immediately south of Antonito, including Antonito; thence east to the Colorado-Kansas state line; thence north on the Colorado-Kansas state line to the Colorado-Nebraska state line; thence west on the Colorado-Nebraska state line to the starting point of this area.

Market Area No. 134.—Pueblo.

Market Area No. 135.—Denver and environs including Clear Creek Valley to and including Silver Plume.

Market Area No. 136.—Points south of the main line of the Union Pacific Railroad, west of Market Area No. 139 in Kansas.

Market Area No. 137.—Kansas points on and north of the main line of the Union Pacific excluding Salina and points in Market Area No. 138.

Market Area No. 138.—Salina, Kansas.

Market Area No. 139.—Points on and east of a line from Marysville, Irving, Garrison, Manhattan, Salina (excluding Salina), McPherson, Newton, Wichita, and South Haven, Kansas to the Kansas state line.

Market Area No. 140.—Nebraska points on and east of a line from the Missouri River at Running Water through, but not including Bloomfield, Randolph, to and including Norfolk, thence southeast to and including Scribner, Fremont, and thence through Linwood to Wahoo, Valparaiso, Lincoln, Crete, DeWitt, Beatrice, and Wymore to the Kansas state line, excluding Lincoln and Omaha.

Market Area No. 141.—Lincoln, Nebraska; switching limits of Lincoln.

Market Area No. 142.—Western Nebraska C. & N. W. Wyoming line to, but not including Eli, Nebraska; C. B. & Q. Wyoming line to, but not including Grand Island, Nebraska.

Market Area No. 143.—Remainder of Nebraska, (except Lyman).

Market Area No. 143–A.—Lyman, Nebraska.

Market Area No. 144.—That part of South Dakota west of and including Rapid City and known as the Black Hills District and south of Market Area No. 147.

Market Area No. 145.—That portion of South Dakota east of Rapid City to and west of the Missouri River not included in Market areas Nos. 144 and 147.

Market Area No. 146.—That portion of South Dakota east of the Missouri River not included in Market Area No. 147.

Market Area No. 150.—State of Wyoming.

Minimum Price Area No. 6—District No. 17

PROPOSED MINIMUM PRICES

District Board No. 17 prepared a schedule of proposed minimum prices which was, in its best judgment, a compliance with Commission's Order No. 245. It then transmitted a copy of these proposed prices to each code member within the District. Thirteen protests were received to these proposed prices. Thereafter, the District Board held meetings, at which time the original protests were considered, and such modifications as were deemed proper by the District Board were made, and are now contained in the proposed schedule. After making these corrections they filed a copy of the proposed schedule of minimum prices, together with the data upon which it was computed, with the Commission, which schedule was received in evidence as Exhibit No. 150.

Testimony in support of the minimum prices proposed by District No. 17 was adduced by expert witnesses, to wit: the chairman and the secretary and treasurer of the District Board, who were thoroughly familiar with the marketing and distribution of coals in District No. 17. Their knowledge of the coals in the District was based upon years of experience in the District.

It appears that the District Board consists of nine members who, with the exception of the labor member, have each had many years of experience in the producing and marketing of coals produced within District 17, and are thoroughly representative of all the coals of that District. They are men who, by reason of their intimate knowledge of these coals, are fully conversant with the price relationships that should exist between the various kinds, qualities and sizes of such coals. The expert witnesses and the other members of the District Board prepared a schedule of proposed prices.

The schedule of minimum prices proposed by District No. 17 divides the District into twenty-one sub-Districts, as follows, to wit:

Sub-district Number and Identification

1. *Walsenburg.*—All mines in Huerfano County, Colorado, excluding that portion served by the C. & S. and D. & R. G. W. Railroads, Mayne to and including Bunker Hill, Huerfano County, Colorado.

2. *Canon No. 1.*—Mines in Fremont County, Colorado.

3. *Canon No. 2.*—Mines in Fremont County, Colorado.

4. *Oak Hills.*—That part of Routt County, Colorado, lying on and adjacent to the main line of the D. & S. L. Railroad, at and adjacent to the town of Oak Creek, and extending north along the line of the D. & S. L. Railroad, Phippsburg to Steamboat Springs, Colorado.

5. *Mount Harris.*—That part of Routt and Moffat Counties, Colorado, lying on and adjacent to the main line of the D. & S. L. Railroad, extending west from Steamboat Springs, Colorado, to the town of Craig in Moffat County, Colorado, and including all mines in Moffat County, Colorado.

6. *Aguilar.*—That part of Huerfano County, Colorado, served by the C. & S. and D. & R. G. W. Railroads, Mayne to Bunker Hill, and that portion of Las Animas County lying north of the Apishapa River, north to Bunker Hill, Huerfano County, Colorado.

7. *Trinidad No. 1.*—Mines in Las Animas County, Colorado, excluding the Aguilar Sub-District.

8. *Trinidad No. 2.*—Mines in Las Animas County, Colorado, excluding the Aguilar Sub-District.

9. *New Mexico No. 1.*—Mines in Colfax County, New Mexico.

10. *New Mexico No. 2.*—Mines in Colfax County, New Mexico.

11. *Crested Butte.*—All mines in Gunnison County, Colorado, lying on and adjacent to the branch lines of the D. & R. G. W. Railroad to the towns of Crested Butte and Baldwin.

12. *Somerset.*—All mines in Delta County, Colorado, located east of a line drawn north and south through the town of Hotchkiss, and those mines in Gunnison County located on and adjacent to the Somerset branch line of the D. & R. G. W. Railroad.

13. *Cedaredge No. 1.*—Mines in Delta County, Colorado, located west of a line drawn north and south through the town of Hotchkiss, Colorado.

14. *Cedaredge No. 2.*—Mines in Delta County, Colorado, located west of a line drawn north and south through the town of Hotchkiss, Colorado.

15. *Grand Junction No. 1.*—That part of Mesa and Garfield Counties, Colorado, lying on or adjacent to the main line of the D. & R. G. W. Railroad, extending from Mack to Cameo, both in Mesa County, and both inclusive.

16. *Grand Junction No. 2.*—That part of Mesa and Garfield Counties, Colorado, lying on or adjacent to the main line of the D. & R. G. W. Railroad, extending from Mack to Cameo, both in Mesa County, and both inclusive.

17. *Meeker.*—All mines in Rio Blanco County, except Rio Blanco Mine.

18. *Rifle-New Castle.*—That part of Garfield County lying north and south of the main line of the D. & R. G. W. Railroad, extending from the town of Rifle to the town of Glenwood Springs, and including Rio Blanco Mine in Garfield County, and the Rio Blanco Mine in Rio Blanco County.

19. *Durango-Cortez No. 1.*—Mines located in La Plata and Montezuma Counties, Colorado.

20. *Durango-Cortez No. 2.*—Mines located in La Plata and Montezuma Counties, Colorado.

21. *Montrose.*—All mines in Montrose, San Miguel and Ouray Counties, Colorado.

These sub-Districts are determined by the coal deposits in the State and represent substantially all of the different producing areas within the State. District No. 17 embraces the major portion of the State of Colorado and one northern county in New Mexico. These sub-Districts have been generally known by the names used by the Board for many years, and are recognized and accepted by the producers within the District as suitable coal-producing sub-Districts.

The total tonnage produced in the year 1937 in these sub-Districts was 5,459,831 tons. Of this amount 5,045,447 tons were produced by code members. In other words, during the year 1937 the code members produced 92.4 per cent of the entire production, and the non-code members produced 7.6 per cent.

The evidence shows there is a wide variety in the quality and characteristics of the coals produced in these twenty-one sub-Districts. Generally speaking, domestic sizes of the free-burning coals are the most popular for domestic use. There are, however, exceptions in the case of some of the semi-coking coals enumerated. The semi-coking coals are better adapted to steam and railroad uses. Coking coals are generally found in the extreme southern and southwestern part of Colorado and the northern part of New Mexico. The semi-coking coals are produced on the western slope of Colorado, in the Aguilar District of southern Colorado and from the Sugarite Mine in northern New Mexico.

It appears from the evidence and from Exhibits Nos. 150 and 154 that District Board No. 17 classified all of the coal in the District by placing the same in seven grade classifications ranging from Grade "A" to Grade "F," with a sub-class "C–1". These classifications resulted from this study of the quality of each size of the coal produced, and from this study it was found that the maximum range of seven prices was adequate to cover the variations in quality. In making these classifications, the Board took into consideration the appearance, structure, friability, marketability, based on past experience, consumers' acceptance, plant performance, the way the coal had withstood transportation en route to destination, the manner in which it stores in the hands of the trade, and, in a very few cases, they took into consideration analyses of the coal. However, analysis of coal was given little or no weight in such determination. In the schedule of proposed prices the letter "A" represents the highest price in each size group.

District No. 17 in its schedule of proposed prices sets up seventeen size groups, as will be shown in Exhibit No. 154. These size groups were determined by the Board from the past experience of the members in meeting consumers' demands over a long period of years. These size groups compare almost identically with the size groups established under prior regulated prices.

The evidence shows that District Board No. 17 used as a basis, to establish the proposed f. o. b. mine prices set forth in the schedule, standard 3'' lump, listed as "B" coal, from the Walsenburg District, as a starting point in deciding upon the price for this 3'' standard lump coal in this sub-District, and related all other size differentials to that price. The prices proposed for the various kinds, qualities and sizes of coal above or below the price of the standard 3'' lump, were arrived at by taking into consideration the kinds and qualities of each coal in each of the sizes prepared in each sub-District, applying thereto the standard differentials which had been recognized and accepted for a period of many years. In making these determinations the District Board took into consideration the appearance, structure, friability, marketability, based on past experience, consumers' acceptance, past performance, the way the coal withstands transportation en route to destination, the manner in which it stores in the hands of the trade, and, in rare instances, considered chemical analyses.

It appears from the evidence that District Board No. 17 sent out questionnaires to all the known producers of coal within the District who produced coal during the year 1937, to ascertain the total tonnage produced for that year. The Commission had previously determined the average weighted cost for minimum price area No. 6 to be $2.758 per ton. The District Board computed the total realization that would be derived from the sale of the tonnage of the various kinds, qualities and sizes of coal that were known to be sold in the year 1937, at the prices proposed in the schedule. This realization as shown in Exhibits Nos. 153, 154 and 154–A, yields an average weighted cost of $2.78 per ton, which amount was determined by the Board to be as nearly as may be to the average weighted cost of the minimum price area.

The evidence shows that the price between the various sizes, kinds and qualities of coal as reflected in the proposed price schedule, as amended, represents the combined judgment of all of the members of the District Board, and that said differentials are the ones that have prevailed for the most part for many years.

The following Exhibits were offered in evidence:

Exhibit No. 150.—"Letter of August 23, 1938, from F. O. Sandstrom to *All Code Members* in District No. 17 enclosing copy of revised proposed price schedule for District."

Exhibit No. 151.—"Booklet showing Geographical Description of Consuming Market Area to which Prices apply, District 17."

Exhibit No. 152.—"Chart showing 'Estimated realization to be derived from Proposed Minimum Prices using as a basis, 1937 Production reported by Code Members of District No. 17.'"

Exhibit No. 153.—"Table showing '1937 Production of Code Members of District 17 broken down to size groups showing the respective realization and the weighted average realization per ton for the District at prices proposed by District No. 17.'"

Exhibit No. 154.—"Chart showing 'District 17 Price Classification.'"

Exhibit No. 154–A.—"Chart showing 'Amendment to Price Classification' for District No. 17."

Exhibit No. 155.—"Certified copy of Resolution from Minutes of meeting of District Board No. 17—held August 1, 2 and 3, 1938."

Exhibit No. 156.—"Report of Mr. Whiteside to Bituminous Coal Producers Board for District No. 17."

Exhibit No. 157.—"Blueprint—Fremont County, Colorado, Coal Fields."

Exhibit No. 158.—"Table showing 'Freemont County Production,' under headings: 1937 Total: December, 1937; January, 1938; January, 1937."

Exhibit No. 159.—"Table showing 'Productive Capacity', under headings: Sub-District No. 2; Inspectors Report; Estimated: Sub-District No. 3; Inspectors Report; Estimated."

Exhibit No. 171.—"Table showing 'Production by Years from Canon City Sub-Districts, etc.'"

Exhibit No. 172.—"'Proximate Analyses of Samples from Corley Mine No. 6.'"

Exhibit No. 173.—"'Proximate Analyses of Samples from Nushaft and Rex Carbon Mines.'"

Exhibit No. 174.—"Protest of classification by McNeil Coal Corporation."

Items 10 and 11, as contained on page 4 of Exhibit No. 150, are commonly referred to as so-called "sugar differentials". The language contained in the item does not refer specifically to sugar companies, but states that all industries in certain specified counties containing certain specific storage facilities and placing those facilities at the disposal of the producers, may purchase coal at a certain stated price reduction below the list price in the price schedule. It appears from the evidence that most of the industries of this description in the specified counties, however, are sugar companies. It appears from the record that the sugar companies operate only two or three months in the fall after the beets are harvested, and consume their annual requirements of coal within this period. It also appears that it is impossible to furnish the requisite tonnage of slack coal in this particular period. The companies maintain storage facilities in certain cases under water and purchase surplus slack from the operators during the winter months after the active production season of sugar is over, and also gives the coal producers the privilege of shipping their surplus slack during other periods of the year. From the evidence it appears that in a certain sense this practice is a seasonal one. Due to the fact that natural gas is available to most of the sugar plants, it is thought by some of the producers that it is necessary to keep the coal price sufficiently low so that coal can compete with other forms of fuel. This being the state of the record, it appears that these special differentials are not proper differentials to be considered in this hearing, but are such differentials as should be considered in accordance with Section 4, part II (b), of the Act, under coordination.

The Canon Black Diamond Coal Company, the Nushaft Canon Coal Company, Rex Carbon Coal Company, Caldirola Coal Company and Douglas Corley, Jr., producers in sub-District No. 2 of Canon City filed protest before District Board No. 17 and subsequently before the Commission at this hearing. The protests filed and heard were to classification and minimum prices proposed by District Board No. 17.

It appears from the evidence in this record that it was admitted by both, protestants and District Board, that a difference in quality between Canon No. 1 and Canon No. 2 coals exists. The only point in controversy is the exact determination of this difference reflected in cents per ton.

The evidence shows that District Board No. 17 recognized and admitted a difference in the quality between these two coals and, according to their Exhibit #150, proposed differentials of 40¢ per ton for Size Groups 1 to 4, inclusive; 25¢ per ton for Size Group 5; 20¢ per ton for Size Group 6; 10¢ per ton for Size Group 8, with no differential for Size Groups 9 to 17, inclusive.

The record shows that the differentials obtaining in the past periods of nonregulation varied from $1.25 to $1.50 per ton on lump coal.

The evidence of the protestants indicates that a differential of 50¢ to 75¢ per ton on lump coal, Size Groups Nos. 1, 2, 3 and 4; 25¢ per ton on Size Groups 5 and 6, and 10¢ per ton on Size Group 8, would be proper. There is no evidence showing any differential for Size Groups 9 to 17, inclusive.

The Commission finds upon the evidence in the record that the coals produced in Canon No. 2 District should have a differential below Canon No. 1 District, as follows:

50¢ per ton on Size Groups 1, 2, 3, 4.
25¢ per ton on Size Groups 5, 6.
10¢ per ton on Size Group 8.

with no differential approved for Size Groups 9 to 17, inclusive.

The proposed prices of the coals produced at all mines listed in the schedule in Canon #2 Sub-District on each of the foregoing Size Groups be, and the same are hereby, modified accordingly, and the classifications of such coals are changed to reflect these modifications. Such revised classifications and prices appear in the Appendix for District No. 17.

A protest was filed before the Commission by McNeil Coal Corporation asking that a differential be established for its coal below prices of the coals of Mt. Harris sub-District No. 5, as follows:

Size Groups 1, 2, 3, 4, 50¢ per ton.
Size Group 5, 30¢ per ton.
Size Group 6, 35¢ per ton.
Size Group 8, 15¢ per ton.
Size Groups 11, 15, 17, 10¢ per ton.

The evidence submitted by the protestant is confined entirely to the quality of lump coal prepared at the McNeil Coal Company mine as against the quality of lump coal prepared in the Mt. Harris sub-District. The record indicates that the protestant's mine is on a separate and distinct seam from all other operations in the Mt. Harris District; that the coal is duller in appearance and softer; also, it possesses a higher ash content than other Mt. Harris coals.

Analyses submitted by this protestant indicate a higher ash content of approximately 4 per cent in the protestant's coal than the composite ash as shown for the other Mt. Harris District mines.

The Commission finds upon the evidence in the record that the coal of the McNeil Coal Corporation should be classified and priced under Mt. Harris sub-District mines as follows: 25¢ per ton on Size Groups 1, 2, 3, 4; 20¢ per ton on Size Group 5; 15¢ per ton on Size Group 6; 10¢ per ton on Size Group 8; with no differential on Size Groups 9 to 17, inclusive. The proposed prices of the coals produced at the mine of the McNeil Coal Corporation on each of the foregoing size groups are hereby modified accordingly, and the classifications of such coals are changed to reflect these modifications. Such revised classifications and prices are set forth in the Appendix for District No. 17.

A protest was filed before the Commission by the Southern Colorado Power Company requesting that protestant, a consumer, be allowed the so-called "sugar differential" which the schedule proposes for certain sugar companies. This protest is disposed of by the deletion of the "sugar differential" clauses from the schedule in accordance with the findings of the Commission hereinafter made.

The Commission finds, in accordance with the recommendation of the District Board for District No. 17, which is supported by the evidence, that the proposed price schedule (Exhibit #150, pp. 8, 11, 12, 18 and 19) should be, and the same is hereby, modified by the following changes in classifications and prices:

Code member	Mine name	Subdist.	Page	Column	Classification
American Smelt. & Ref. Co	Bon Carbo	8	8	15	Letter C to read A.
Colo. Fuel & Iron Co	Morley	8	11	15	Letter C to read A.
Deldosso Coal Co	Sopris	8	11	15	Letter C to read A.
Dick Coal Co	Dix	8	12	15	Letter C to read A.
Dolinar & Fatur	Bloom	8	12	15	Letter C to read A.
Santa Fe Coal Co	Santa Fe	8	18	15	Letter C to read A.
St. Louis, Rky. Mtn. & Pac	Sugarite	9	19	15	Letter A to read C.

The foregoing revised classifications and prices appear in the Appendix for District No. 17.

The Commission finds from the evidence that the proposed price schedule (Exhibit No. 150, p. 11), where it shows that the Colorado Fuel and Iron Company, Frederick Mine, is now listed as sub-District No. 7, should be amended and modified to read sub-District No. 8.

The Commission finds that *page 21* of *Exhibit No. 150* should be amended so as to include a classification of "A–1" preceding the classification "A," and in classification "A–1," Size Group Number 13, should be the figures "250;" also, to include a classification of "D–1" preceding the classification "D," and in classification "D–1," Size Group Number 6, should be inserted the figures "345;" also, to include a classification of "E–2" following the classification "E–1," and in classification "E–2," Size Group Number 5, should be inserted the figures "345," and under Size Group Number 6 should be inserted the figures "335."

The Commission finds from the evidence that *page 3* of *Exhibit No. 150*, reading as follows, should be deleted:

"DESCRIPTION OF SUB-MARKET AREAS

"132–A. Counties of Archuleta, Dolores, La Plata, Montezuma, San Juan and San Miguel, Colorado.

"133–A. City of Steamboat Springs, (Routt County) Colorado, and rail points west to, but not including, Craig (Moffat County), Colorado.

"133–B. City of Craig (Moffat County), Colorado.

"133–C. Cities of Leadville, Salida and Climax, Colorado, and intermediate points.

"133–D. All points in the Counties of Logan and Morgan, Colorado.

"133–E. Destinations on and south of the line of Denver & Rio Grande Western Railroad beginning just south of Mears Junction in Market Area 133 to and including Alamosa, thence west to Creede, thence following the line of the D. & R. G. W. Railroad south from Alamosa to and including Antonito in Market Area 133, thence following the line of the D. & R. G. W. Railroad south of Alamosa to and including Santa Fe, New Mexico, in Market Area 128."

The Commission finds that *Item 1* on *page 4* of *Exhibit No. 150*, should be deleted.

The Commission finds that *Item 4* of *Exhibit No. 150*, reading as follows, should be deleted:

"All prices herein are per net ton of 2,000 pounds f. o. b. transportation facilities at the mines, unless otherwise designated,"

and insert in lieu thereof the following language:

"The prices listed herein are in cents per net ton of 2,000 pounds f. o. b. transportation facilities at the mines."

The Commission finds that *Item 5*, *page 4*, of *Exhibit No. 150*, reading as follows, should be deleted:

"If any size is made for which a price is not designated herein, such size shall be sold at the price applicable to the next larger size,"

and insert in lieu thereof the following language:

"When any size of coal is sold in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced size group and priced accordingly."

The Commission finds that *Item 6*, *page 4*, of *Exhibit No. 150*, reading as follows, should be deleted:

"Not less than the actual cost of transportation of coal over the ordinary loading facilities at the mines to any consumer shall be added to the established minimum prices f. o. b. transportation facilities at the mines. The cost of such transportation is subject to review by the Commission on complaint or upon its own motion. In every case reviewed by the Commission the code members shall have the burden of establishing or proving that the cost so charged was an accurate cost for actual service rendered."

The Commission finds that *Item 9*, *page 4*, of *Exhibit No. 150*, reading as follows, should be deleted:

"The price of $2.50 applies on 'bone' coal from all Colorado sub-districts. 'Bone' coal is defined as slatey coal or carbonaceous shale carrying a minimum of 25 per cent ash."

The Commission finds that *Items 10 and 11*, on *page 4* of *Exhibit No. 150*, reading as follows, should be deleted:

"10. Industries located in the Counties of Logan and Morgan, Colorado, Sub-Market Area 133–D, which industries have storage facilities accommodating 30 per cent of their annual coal requirements and who place those facilities at the disposal of the producers, permitting producers to make shipments at their convenience during the year, may be granted a price of 30 cents per net ton below the standard list prices on slack coal."

"11. Industries located in the County of Delta, Colorado, Sub-Market Area 132, which industries have storage facilities accommodating 30 per cent of their annual coal requirements and who place those facilities at the disposal of the producers, permitting the producers to make shipments at their convenience during the year, may be granted a price of 15 cents per net ton below the standard list prices on slack coal."

The Commission finds that *page 5* of *Exhibit No. 150* should be amended so that the first item at the bottom, which reads as follows:

"When any size of coal is sold in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher size group and priced accordingly,"

should be deleted.

The Commission finds that the changes and modifications hereinbefore made in the price schedule will increase the realization in the amount of 8.44 cents. This increased amount added to the realization computed by the District Board shown by Exhibits Nos. 152 and 153, totals $2.8644 per ton. The evidence in the record shows that it will not disturb the price relationships between the various kinds, qualities and sizes of coal if a certain number of cents per ton be added to or deducted from all of the prices shown in the schedule, in order to bring the realization to a figure that will yield as nearly as may be the weighted average cost of production of the price area.

The Commission finds that a reduction of 10 cents per ton should be made on all prices contained in the proposed price schedule as hereinbefore modified, in order to arrive at a realization more nearly equal to the weighted average cost of Minimum Price Area No. 6. The price schedule is amended accordingly and, as revised, is set forth in Appendix for District No. 17. The resulting realization is $2.7644 as compared with the weighted average cost of Minimum Price Area No. 6 of $2.758.

And now, upon the record herein, upon the evidence, both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the District Board for District No. 17, as directed in Order No. 245 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the District, classification of coal and price variations as to mines and consuming market areas.

That the District Board for District No. 17, as directed in Order No. 245 of the Commission, submitted to the Commission a schedule of such proposed mini-

mum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 17, as herein modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal produced within the district; are just and equitable as between producers within the District; have due regard to the interests of the consuming public, and do not permit dumping.

That the minimum prices proposed by the District Board for District 17 for any kind, quality or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the District.

That the minimum prices proposed by the District Board for District 17, as herein modified, yield a return per net ton for the District equal as nearly as may be to the weighted average of the total costs per net ton of the tonnage of Minimum Price Area 6, the price area in which District 17 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District 17, as amended, corrected, modified and revised, as hereinabove set forth, conforms to Order No. 245 of the Commission and to the requirements of Section 4–II (a) of the Act, and as so amended, corrected, modified and revised, said schedule should be, and the same is hereby, approved by the Commission to serve as a basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule as amended, corrected, revised and modified appears in the Appendix for District 17.

APPENDIX FOR DISTRICT NO. 17

Schedule of Minimum Prices, As Modified and Approved, to Serve as a Basis for Coordination

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, Pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. MCCULLOUGH,
Secretary.

Issued: December 9, 1938.

TABLE OF CONTENTS

Code members.
Identification of sub-districts.
Prices.
Size groups.
Instructions and exceptions.
Description of consuming market areas.

PRICE INSTRUCTIONS AND EXCEPTIONS

1. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

2. In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in U. S. funds.

3. The prices listed herein are *in cents* per net ton of 2,000 pounds, f. o. b. transportation facilities at the mine.

4. When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher *priced* size group and priced accordingly.

5. An extra charge of 25¢ per ton shall be made for the "bulkheading" of coal in railroad cars, that is, permitting the loading of two or more sizes in the same car.

6. Where coal is subject to any chemical, oil or waxing process an additional charge of not less than 10¢ per ton shall be made on nut coal and all larger sizes, and not less than 25¢ per ton on pea and slack.

7. Washed coal all sizes from all subdistricts shall sell at 10¢ per net ton over the price on raw coal.

Size Groups

Size group No.	Lump maximum screen size	Double screened sizes	
		Maximum top size	Maximum bottom size
1	8″		
2	6″		
3	3″	8″	3″
4	1½″	6″	3″
5		8″	1¼″
6		6″	1¼″
7		3″	2¾″
8		3″	1″
9		1¼″	¾″
10		1¼″	0″
11		1¼″	0″
12		1″	0″
13		¾″	0″
14		¾″	0″
15	Mine run	12″	0″
16	Modified Mine Run	12″	0″
17	Modified Mine Run	8″	0″

All sizes are predicated on screen descriptions as published in the railroad tariffs. All sizes are predicated on perforated plates and when bar screens are used, the space between bars must conform to the standard equivalent.

IDENTIFICATION OF SUB-DISTRICT NUMBERS

Sub-District Number and Identification

1. *Walsenburg.*—All mines in Huerfano County, Colorado, excluding that portion served by the C. & S. and D. & R. G. W. Railroads, Mayne to and including Bunker Hill, Huerfano County, Colorado.

2. *Canon No. 1.*—Mines in Fremont County, Colorado.

3. *Canon No. 2.*—Mines in Fremont County, Colorado.

4. *Oak Hills.*—That part of Routt County, Colorado, lying on and adjacent to the main line of the D. & S. L. Railroad, at and adjacent to the town of Oak Creek, and extending north along the line of the D. & S. L. Railroad, Phippsburg to Steamboat Springs, Colorado.

5. *Mount Harris.*—That part of Routt and Moffat Counties, Colorado, lying on and adjacent to the main line of the D. & S. L. Railroad, extending west from Steamboat Springs, Colorado, to the town of Craig in Moffat County, Colorado, and including all mines in Moffat County, Colorado.

6. *Aguilar.*—That part of Huerfano County, Colorado, served by the C. & S. and D. & R. G. W. Railroads, Mayne to Bunker Hill, and that portion of Las Animas County, lying north of the Apishapa River, north to Bunker Hill, Huerfano County, Colorado.

7. *Trinidad No. 1.*—Mines in Las Animas County, Colorado, excluding the Aguilar Sub-District.

8. *Trinidad No. 2.*—Mines in Las Animas County, Colorado, excluding the Aguilar Sub-district.

9. *New Mexico No. 1.*—Mines in Colfax County, New Mexico.

10. *New Mexico No. 2.*—Mines in Colfax County, New Mexico.

11. *Crested Butte.*—All mines in Gunnison County, Colorado, lying on and adjacent to the branch lines of the D. & R. G. W. Railroad to the towns of Crested Butte and Baldwin.

12. *Somerset.*—All mines in Delta County, Colorado, located east of a line drawn north and south through the town of Hotchkiss, and those mines in Gunnison County located on and adjacent to the Somerset branch line of the D. & R. G. W. Railroad.

13. *Cedaredge No. 1.*—Mines in Delta County, Colorado, located west of a line drawn north and south through the town of Hotchkiss, Colorado.

14. *Cedaredge No. 2.*—Mines in Delta County, Colorado, located west of a line drawn north and south through the town of Hotchkiss, Colorado.

15. *Grand Junction No. 1.*—That part of Mesa and Garfield Counties, Colorado, lying on or adjacent to the main line of the D. & R. G. W. Railroad, extending from Mack to Cameo, both in Mesa County, and both inclusive.

16. *Grand Junction No. 2.*—That part of Mesa and Garfield Counties, Colorado, lying on or adjacent to the main line of the D. & R. G. W. Railroad, extending from Mack to Cameo, both in Mesa County, and both inclusive.

17. *Meeker.*—All mines in Rio Blanco County, except Rio Blanco Mine.

18. *Rifle-New Castle.*—That part of Garfield County lying north and south of the main line of the D. & R. G. W. Railroad, extending from the town of Rifle to the town of Glenwood Springs, and including Rio Blanco Mine in Garfield County, and the Rio Blanco Mine in Rio Blanco County.

19. *Durango-Cortez No. 1.*—Mines located in La Plata and Montezuma Counties, Colorado.

20. *Durango-Cortez No. 2.*—Mines located in La Plata and Montezuma Counties, Colorado.

21. *Montrose.*—All mines in Montrose, San Miguel and Ouray Counties, Colorado.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Sub-dist. No.	Price classifications and size group Nos.															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Dick Coal Co.	Dix	8	G	G	F	G	F	A	D	A	-	A	A	A	A	A	A	A	-
Dill, John	Dillon	20	G	G	F	G	F	A	D	A	-	D	A	A	A	A	A	A	A
Dillon, Fitzie	Dillon	6	B	B	B	B	B	B	B	B	-	B	B	A	A	A	A	A	A
Domestic Coal Co.	Mt. Streeter	3	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Double Dick Coal Co.	Double Dick	19	B	B	B	B	B	C	B	A	-	D	A	A	-	E	C	A	A
Durango Coal Co.	Durango	12	A	A	A	A	A	A	A	A	-	A	A	A	-	A	A	A	A
Dutch Oven Coal Co.	Dutch Oven	18	A	A	A	A	A	A	A	A	-	A	A	A	-	A	A	A	A
Eagle Coal Co.	Eagle No. 8	2	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Estes, Bros.	Estes	18	A	A	A	A	A	A	A	A	-	A	A	A	-	A	A	A	A
Evans Coal Co.	Bluff Springs #1	2	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Fawn Hollow Coal Co.	Fawn Hollow	2	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Freeman, Roy	Manco	19	B	B	B	B	B	C	F	F	-	D	A	A	-	A	A	A	A
Fuhlhum, Vincent	Hunter	16	E	E	E	E	E	E	E	E	-	D	A	A	-	A	A	A	A
Garfield Coal Co.	Daisy	15	B	B	B	B	B	C	C	C	-	D	A	A	-	C	A	A	A
Garfield Coal Co.	Garfield	15	B	B	B	B	B	C	C	C	-	D	A	A	-	C	A	A	A
Giordano Coal Co.	Mt. Garfield	7	E	E	B	B	B	C	F	F	-	D	A	A	-	C	A	A	A
Giuliano-Carrine Co.	Gem	3	B	B	B	A	B	C	C	C	-	D	A	A	-	C	A	A	A
Gonzer Coal Co.	Gordon Canon	17	B	B	B	A	B	C	F	F	-	D	A	A	-	C	A	A	A
Gonzer, Pete	Twelve Mile	13	C	C	B	B	B	C	C	C	-	D	A	A	-	C	A	A	A
Green Valley Coal Co.	Green Valley	14	C	C	B	B	B	C	C	C	-	D	A	A	-	C	A	A	A
Green Valley Coal Co.	Western Star	2	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Griffith Coal Co.	Griffith	5	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Hart, G. G.	James	5	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Hayden Coal Co.	Hayden #3	4	B	A	B	B	B	C	A	A	-	B	A	A	-	B	A	A	A
Hay Gulch Coal Co.	Hay Gulch	20	B	A	B	B	B	C	A	A	-	B	A	A	-	B	A	A	A
Heeley, William	Pine Glow	11	B	B	B	B	B	C	C	C	-	D	A	A	-	C	A	A	A
Hicks & Sons	Palisade	15	B	B	B	B	B	B	B	B	-	B	A	A	-	B	A	A	A
Hiland Coal Co.	Canon Tiger	3	E	E	F	F	F	F	G	F	-	D	A	A	-	A	A	A	A
Home Fuel & Supply Co.	Bowen	7	E	E	E	E	E	G	G	F	-	D	A	A	-	A	A	A	A
Huerfano Coal Co.	Ludlow	14	C	A	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Ingle Domestic Fuel Co.	Independent	18	A	A	B	B	B	C	A	A	-	D	A	A	-	A	A	A	A
Ingle, R. W.	Willie #2	2	B	B	B	B	B	C	B	A	-	D	A	A	-	A	A	A	A
James Bros.	Creston	6	B	E	E	E	E	E	E	E	-	D	A	A	-	A	A	A	A
Jewel Collieries Co.	King	12	A	A	A	A	A	A	A	A	-	A	A	A	-	A	A	A	A
Juanita Coal & Coke Co.	Willis Ash	12	A	A	A	A	A	A	A	A	-	A	A	A	-	A	A	A	A
Kathka, Martin	Klondyke	19	B	B	B	B	B	C	C	C	-	D	A	A	-	B	A	A	A
Kerr, W. B.	Cameo	16	C	C	C	C	F	F	-	D	A	A	-	C	A	A	-	D	A
Kerr Coal Co.	Keystone	4	A	F	F	F	G	F	-	D	A	A	-	A	A	A	-	E	A
Keystone Coal Co.	Forbes	7	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Kezele, John	Fruitdale No. 2, Fruitless 2	7	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Likus, John	Hidden Treasure	15	E	E	E	E	E	E	E	E	-	D	A	A	-	A	A	A	A
Lindsay, Martin	Kuchan	10	A	A	A	A	A	A	A	A	-	D	A	A	-	A	A	A	A
LoDonze & Dean	Harvey Gap	15	E	A	A	A	A	A	A	A	-	D	A	A	-	A	A	A	A
Longo, Joe	Little Johnny	3	E	E	E	(2)	(2)	(2)	(2)	(2)	-	D	A	A	-	A	A	A	A
Lowe Coal Co.	Lowe #1	18	A	C	A	A	A	A	A	A	-	D	A	A	-	A	A	A	A
Lowe, Thomas	McClintock	15	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
McMillen, Geo.	Nearing	13	B	B	B	C	C	C	C	C	-	D	A	A	-	A	A	A	A
MacGregor Coal Co.	MacGregor	5	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	-	C	B	A	E	-	E	C	C
McNeil Coal Corp.	Major	1	B	B	B	B	B	B	B	B	-	B	A	E	-	E	C	C	A
Major Coal Co.	Vulcan	8	E	E	E	E	E	E	E	E	-	D	A	A	-	A	A	A	A
Maloney, Joe	Maloney	9	E	E	E	E	E	E	E	E	-	D	A	A	-	A	A	A	A
Manning, Joe Co.	Manning #2	19	F	F	F	F	F	F	G	F	-	D	A	A	-	A	A	A	A
Manning, O. V.	Valley View	7	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Martorano, Mike	Martorano	15	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Martinelli, Mike	Martinelli	15	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Martin, Richard Co.	Blue Flame	16	E	E	E	E	E	E	F	F	-	D	A	A	-	A	A	A	A
Mavrakis, Steve & Nick	Mavrakis #1	1	B	B	B	B	B	B	B	B	-	B	A	A	-	B	A	A	A
Meagher, & Littleton	Baldy	7	E	E	E	E	E	E	G	F	-	D	A	A	-	A	A	A	A
Mesa Verde Coal Co.	Mesa Verde	19	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Michell, Pio	Rapson	6	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Midwest Red Arrow Co.	Midwest	15	B	B	B	B	B	C	C	C	-	D	A	A	-	A	A	A	A
Midwest Coal Co.	Midwest Quarry	4	A	A	A	A	A	A	A	A	-	A	A	A	-	A	A	A	A
Moffat Coal Co.	Moffat #1 & #2	4	A	A	A	A	A	A	A	A	-	A	A	A	-	A	A	A	A
Moffat Coal Co.	Oak Hills #2	4	A	A	A	A	A	A	A	A	-	A	A	E	-	E	C	C	A
Monarch Coal Co.	Williams	15	B	B	B	C	C	C	D	A	A	-	C	A	B	A	-	D	A

[1] E-1.
[2] E-2.

[1] C-1.
[2] D-1.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Sub-dist. No.	Price classifications and size group Nos.															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Abeyta, Alex	Frisco	7	F	F	F	G	F	-	F	E	-	D	A	A	-	A	A	A	-
Aguilar Black Diam. Coal Co.	Aguilar Black Diam	6	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	-
American Indep. Coal Co.	American #2	8	B	B	B	B	B	-	B	A	-	D	A	A	-	A	A	A	-
Anderson, Ref. Co.	American Ind. #2	20	B	B	B	B	B	-	B	A	-	D	A	A	-	A	A	A	-
Anderson, O. J.	Pinos Altos	19	B	B	B	B	B	C	B	A	-	D	A	A	-	A	A	A	B
Aztec Coal Mining Co.	Toltec	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Babson Coal Co.	Babson	5	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Balaridis, Sam	O. D. #1	2	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Baldwin Coal Co.	Bald	11	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A
Baldwin Fuel Co.	Star	12	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A
Barber Coal Co.	Carboneras	15	B	B	B	B	B	C	B	A	-	D	A	A	-	A	A	A	B
Bear Coal & Coke Co.	Bear	5	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Bear River Coal Co.	Bear River	19	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Bell, Chas.	Starkville	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Bell, Coal Co.	Big Six	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Black Cat Coal Co.	Black Cat	14	C	C	B	B	B	C	F	F	-	D	A	A	-	C	A	A	A
Black Diamond Coal Co.	Black Diamond	19	B	B	B	C	C	-	F	E	-	D	A	A	-	C	A	A	A
Black Diamond Coal Co.	Black Diamond	6	B	B	B	B	B	-	B	B	-	D	A	A	-	A	A	A	A
Blue Blaze Coal Co.	Dead Coon	2	B	B	B	B	B	-	B	A	-	D	A	A	-	A	A	A	A
Bluff Springs Coal Co.	American Ind. #2	20	B	B	B	B	B	-	B	A	-	D	A	A	-	A	A	A	A
Blume, Alfred	Peacock	2	B	B	B	B	B	-	B	A	-	D	A	A	-	A	A	A	A
Brewster Mining Co.	Brewster	2	B	B	B	B	B	-	B	A	-	D	A	A	-	A	A	A	A
Brookside Coal Mining Co.	Brookside	2	B	B	B	B	B	-	B	A	-	D	A	A	-	A	A	A	A
Burchfield & Clarke	Burchfield	6	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Butte Valley Coal Co.	Butte Valley	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Caddell, Ed.	Caddell	3	E	E	E	(2)	(2)	-	C	B	A	-	A	A	A	-	A	A	A
Caldirola Coal Co.	Caldirola	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Calente Coal Co.	Ravenwood	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Calente Coal Co.	Hallinan #2	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Calumet Fuel Co.	Somerset	12	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A
Canon Black Diam. Coal Co.	Canon Black Diam	3	E	E	E	(2)	(2)	-	C	B	A	-	A	A	A	-	A	A	A
Canon Black Hawk Coal Co.	Black Hawk	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Canon Blue Ribbon Coal Co.	Horse Shoe	2	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Canon Eagle Coal Co.	Canon Eagle Coal Creek	2	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	A
Canon Ideal Coal Co.	Eagle	3	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	A
Canon Imperial Coal Co.	Canon Ideal	2	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Canon Liberty Coal Co.	Canon Imperial	2	E	E	E	(2)	(2)	-	C	B	A	-	A	A	A	-	A	A	A
Canon Monarch Coal Co.	Canon Liberty	2	E	E	E	(2)	(2)	-	C	B	A	-	A	A	A	-	A	A	A
Canon Peacock Coal Co.	Canon Monarch #2	3	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	A
Canon Red Arrow Coal Co.	Pine Gulch	3	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	A
Canon Reliance Coal Co.	Canon Peacock	3	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	A
Canon Zenith Coal Co.	Canon Red Arrow	3	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	A
Carbon Coal Co.	Wolf Park #2	3	E	E	E	E	E	-	E	E	-	D	A	A	-	A	A	A	A
Carbon Creek Coal Co.	Canon Zenith	10	A	A	A	A	A	-	A	A	-	D	A	A	-	A	A	A	A
Carlone, Joe	Morning Star	11	A	A	A	A	A	-	A	A	-	D	A	A	-	A	A	A	A
Castle Coal Mining Co.	Farmers Mutual	15	B	B	B	C	C	-	C	B	A	-	D	A	A	-	A	A	B
Champion Fuels, Inc.	Carbon Creek	19	B	B	B	C	C	-	C	B	A	-	D	A	A	-	A	A	B
Coats, Milo Company	Castle	3	C	C	C	C	F	-	E	D	A	-	D	A	B	-	A	A	C
Colangelo, Pete	Champion	18	A	A	A	A	A	-	A	A	-	D	A	A	-	A	A	A	A
Coles, W. E.	Coats	10	(2)	(2)	(2)	D	A	-	A	A	-	D	A	A	-	A	A	A	B
Colo. Fuel & Iron Co.	Denton	18	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A
Colo. Fuel & Iron Co.	New Castle	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Colo. Fuel & Iron Co.	Robinson #4	1	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Colo. Fuel & Iron Co.	Rockvale #3	2	B	B	B	B	B	-	B	B	-	B	A	E	-	E	C	C	A
Colo. Fuel & Iron Co.	Frederick	8	F	F	F	G	F	-	F	A	D	A	-	A	A	A	-	A	A
Colo. Fuel & Iron Co.	Morley	18	G	G	G	F	G	-	F	A	D	A	-	A	A	A	-	A	A
Colo. & W. Fuel Co.	Crested Butte	11	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A
Coryell, Frank	Corley #6	3	E	E	E	(2)	(2)	-	C	B	A	-	D	A	A	-	A	A	A
Craig & Turner	Hayden Valley	15	B	B	B	C	C	-	C	B	A	-	D	A	A	-	A	A	B
Crested Butte Coal Co.	Peacock	11	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A
DeBoy, Frank	Hinkley #2	18	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A
Delisio, Frank Co.	Supplicant	8	G	G	G	F	G	-	F	A	D	A	-	A	A	A	-	A	A
Diamond Fuel Co.	Diamond	18	A	A	A	A	A	-	A	A	-	A	A	A	-	A	A	A	A

[1] F-1.
[2] F-2.

[1] C-1.
[2] A-1.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Sub-dist. No.	Price classifications and size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Morasky, Joe	Morasky	7	F	F	F	F	G	F	..	D	A	..	A	A	A	A	A	A	A
Moschetti, Dom	Canon Chief	3	E	E	E	E	(?)	(?)	..	C	B	A	E	..	E	C	A	A	A
Mundell, J. W	Black Diamond	15	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Murrell, James	Murrell	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Newton, Luther	Newton	10	E	E	E	E	E	E	..	D	A	..	A	A	A	A	A	A	A
Nushaft Canon Co	Nushaft	2	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Nushaft Canon Co	Rex Carbon	3	E	E	E	E	(?)	(?)	..	C	B	A	E	..	E	C	A	A	A
Oberding, William	Independence	21	E	E	E	E	H	G	..	F	D	..	F	E	F	E	D	..	E
O. K. Coal Co	O. K	19	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Old Slope Coal Co	Old Slope	2	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Oliver Coal Co	Oliver	12	A	A	A	A	A	A	..	A	A	..	C	A	B	B	A	..	C
Pavletich & Horack	Black	10	E	E	E	E	E	E	..	D	A	..	A	A	A	A	A	A	A
Peachey Coal Co	Ojo Canon	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Peachey Coal Co	Niggerhead	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Peachey Coal Co	Occidental	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Peachey Coal Co	Tompkins	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Perino, James	Newlan Creek	3	E	E	E	E	(?)	(?)	..	C	B	A	E	..	E	C	A	A	A
Phelan, C. G	Mt. Streeter	5	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Phelps Dodge Corp	Dawson	9	F	F	F	F	G	F	A	D	A	B	A	A	A	C	A	A	A
Pierce, Thos. G	Peerless	19	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Pollard, C. F	New Pollard	17	A	A	A	A	A	A	..	A	A	..	C	A	B	B	A	..	C
Pollo, John, Jr	Morgan	5	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Pryor Coal Mining Co	Pryor	6	E	E	E	E	E	E	..	D	A	..	D	D	(?)	A	A	A	A
Rathbun & Seidel	Rathbun	10	E	E	E	E	E	E	..	D	A	..	A	A	A	A	A	A	A
Red Ash Coal Co	Leader #2	6	E	E	E	E	E	E	..	D	A	..	D	D	(?)	A	A	A	A
Red Canon Coal Co	Red Canon	13	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Richardson, Elick D	Excelsior	19	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Rienau, R. C	Rienau	17	A	A	A	A	A	A	..	A	A	..	C	A	B	B	A	..	C
Riverside Farmers Co	Riverside	16	C	C	C	C	F	F	..	E	C	..	D	B	C	C	B	..	D
River View Coal Co	River View	16	C	C	C	C	F	F	..	E	C	..	D	B	C	C	B	..	D
Rocky Mountain Fuel Co	Alpine	11	A	A	A	A	A	A	..	A	A	..	D	C	D	D	A	..	B
Do	New Baldwin	11	A	A	A	A	A	A	..	A	A	..	D	C	D	D	A	..	B
Rolfes, George T	Argo Gulch #2	5	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Rolfes, George T	Webber	5	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Rouse Coal Mining Co	Rouse	6	E	E	E	E	E	E	..	D	A	..	D	D	(?)	A	A	A	A
Royal Gorge Coal Co	Royal Gorge	2	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Ruiz & Lucero	Starkville	7	F	F	F	F	G	F	..	D	A	..	A	A	A	A	A	A	A
Sacco, L	Jarvis	16	C	C	C	C	F	F	..	E	C	..	D	B	C	C	B	..	D
Sanchez, Dem	Sanchez	7	F	F	F	F	G	F	..	D	A	..	A	A	A	A	A	A	A
Santa Fe Coal Co	Santa Fe	8	G	G	G	F	G	F	A	D	A	..	A	A	A	A	A	A	A
Scappucci, Dan	Highway	7	F	F	F	F	G	F	..	D	A	..	A	A	A	A	A	A	A
Sellers, O. G	Sellers	3	E	E	E	E	(?)	(?)	..	C	B	A	E	..	E	C	A	A	A
Serroni, Otto	Supreme	20	B	B	B	B	B	C	..	D	A	..	C	A	B	B	A	..	C
Shamrock Coal Co	Shamrock	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Smith, Wilma G	Johnny Boy	17	A	A	A	A	A	A	..	A	A	..	C	A	B	B	A	..	C
Snedden, Geo. & Roy	Sun	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Sonchar Bros	Sonchar	10	E	E	E	E	E	E	..	D	A	..	A	A	A	A	A	A	A
South Canon Leasing Co	South Canon	18	A	A	A	A	A	A	..	A	A	..	C	A	B	B	A	..	C
Spring Canon Coal Co	Spring Canon	3	E	E	E	E	(?)	(?)	..	C	B	A	E	..	E	C	A	A	A
Staples, S. L	K. D	11	A	A	A	A	A	A	..	A	A	..	B	A	B	B	A	..	B
States, Welland W	Top	13	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
States-Hall Coal Co	States Red Mtn	14	C	C	C	C	F	F	..	E	C	..	D	B	C	C	B	..	D
St. Louis, Rky. Mtn. & Pac. Co	Van Houten	9	F	F	F	F	G	F	A	D	A	B	A	A	A	A	C	A	A
St. Louis, Rky. Mtn. & Pac. Co	Gardiner	9	F	F	F	F	G	F	A	D	A	B	A	A	A	A	C	A	A
St. Louis, Rky. Mtn. & Pac. Co	Sugarite	9	(?)	(?)	(?)	(?)	(?)	D	..	D	A	..	A	A	A	A	C	A	A
St. Louis, Rky. Mtn. & Pac. Co	Swastika	9	F	F	F	F	G	F	A	D	A	B	A	A	A	A	C	A	A
Stove Canon Coal Co	Stove Canon	15	B	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Temple Fuel Co	Brochead	6	(?)	(?)	(?)	(?)	(?)	D	..	D	A	..	A	A	A	A	A	A	A
Thor Fuel Co	Thor	7	F	F	F	F	G	F	..	D	A	..	A	A	A	A	A	A	A
Tipotsch, Frank	Tipotsch	20	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Tompkins & Sons	Tompkins	1	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Tomsco Bros	Sunshine	12	E	E	E	E	E	E	..	D	A	..	A	A	A	A	A	A	A
Torrid Coal Mining Co	Torrid	6	E	E	E	E	E	E	..	D	A	..	D	D	(?)	A	A	A	A
Turner, John	Turner	10	E	E	E	E	E	E	..	D	A	..	A	A	A	A	A	A	A
Vickers Coal Co	Kenneth	6	E	E	E	E	E	E	..	D	A	..	D	D	(?)	A	A	A	A
Victor-American Fuel Co	Chandler	2	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Victor-American Fuel Co	Pinnacle	4	A	A	A	A	A	A	..	A	B	A	E	..	E	C	A	A	A
Victor-American Fuel Co	Wadge	5	B	B	B	B	B	B	..	B	B	A	E	..	E	C	A	A	A
Victor-American Fuel Co	Delagua	7	F	F	F	F	G	F	..	D	A	..	A	A	A	A	A	A	A
White River Fuel Co	White River	17	A	A	A	A	A	A	..	A	A	..	C	A	B	B	A	..	C
Wilden Coal Co	Wilden	19	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Wood, L. W	Soda Springs	19	B	B	B	B	C	C	..	D	A	..	C	A	B	B	A	..	C
Yasbec, Frank	Frank	10	E	E	E	E	E	E	..	D	A	..	A	A	A	A	A	A	A
Zieseniss, Henry	Ziesenss	18	A	A	A	A	A	A	..	A	A	..	C	A	B	B	A	..	C

[1] E-1. [2] E-2. [3] C-1.

Prices for Shipment Into Market Areas Nos. 33, 34, 101, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
A-1													240				
A	470	460	440	415	380	365	300	315	280	250	190	165	160	95	305	275	270
B	445	435	415	390	360	350	....	305	275	230	185	155	155	90	295	....	265
C-1	420	410	390	365	....	....	....	....	....	....	....	....	....	....	....	....	....
C	410	400	380	355	355	340	....	295	270	....	175	145	145	80	275	....	240
D-1	....	....	....	....	....	335	....	....	....	....	....	....	....	....	....	....	....
D	405	395	375	350	345	330	....	290	230	....	165	140	135	75	255	....	230
E-1	....	....	....	....	340	....	....	....	....	....	....	....	115	....	....	....	....
E-2	....	....	....	....	335	325	....	....	....	....	....	....	....	....	....	....	....
E	395	385	365	340	330	315	....	285	....	....	160	115	110	40	....	....	190
F	370	360	340	315	320	305	....	240	....	....	125	....	105	....	....	....	....
G	355	345	315	....	315	290	....	....	....	....	....	....	....	....	....	....	....
H	....	....	....	....	305	....	....	....	....	....	....	....	....	....	....	....	....

See "Price instructions and exceptions."

GEOGRAPHICAL DESCRIPTION OF CONSUMING MARKET AREA TO WHICH PRICES APPLY

Market Area No. 33.—Beginning at the Minnesota-Iowa-Wisconsin state line running west on the Minnesota-Iowa state line to a point west of the C. M. St. P. & P. R. R.; thence northwest including all points on the C. M. St. P. & P. to but excluding Mankato; thence east excluding points on the main line of the C. & N. W. to the Mississippi River; thence down the Mississippi River to the starting point of this area.

Market Area No. 34.—Beginning at a point just south of and including Mankato; thence east including all points on the main line of the C. & N. W. to the Mississippi River including Minnesota City; thence northwest following the Mississippi River to a point just south of Hastings, Minn.; thence north including points on the C. M. St. P. & P. R. R. to and including Stillwater and Duluth Junction; thence west and southwest including points on the M. St. P. & S. S. M. to and including Minneapolis; thence southwest to a point just west of Chaska, including Chaska; thence south including points on the Minneapolis and St. Louis R. R. to and including Montgomery; thence southwest including points on the C. M. St. P. & P. R. R. to and including Kasota; thence south including points on the C. M. St. P. & P. from Kasota to Mankato, inclusive, the starting point of this area.

Market Area No. 101.—Beginning at the South Dakota-Minnesota-Iowa state line running east on the Minnesota-Iowa state line to a point just west of the C. R. I. & P. R. R. just southeast of Glenville, Minnesota; thence northwest, excluding points on the C. R. I. & P. R. R. to and excluding Albert Lea; thence northwest excluding points on the C. M. St. P. & P. R. R. to and excluding Wells; thence west and north excluding points on the C. M. St. P. & P. R. R. to and excluding Mankato; thence west excluding points on the main line of the C. & N. W. R. R. to the point of beginning.

Market Area No. 104.—Beginning at a point southeast of Sioux City, excluding Sioux City, running southeast on an airline to a point immediately north of Minden; thence east excluding points on the C. R. I. & P. R. R. to and excluding Atlantic; thence crossing the C. R. I. & P. R. R. east of Atlantic including points thereon, to and including Des Moines, thence crossing the railroad continuing east excluding points on the C. R. I. & P. R. R. to but excluding Grinnell; thence north excluding points on the Minneapolis and St. Louis R. R. to, but including Marshalltown; thence west excluding Minerva Junction; thence north excluding points on the Minneapolis & St. Louis R. R. to and excluding Eldora; thence northwest excluding points on the C. & N. W. R. R., excluding Iowa Falls, Alden, Dows, and Clarion; thence northeast excluding points on the Chicago, Great Western R. R. to and excluding Mason City; thence north excluding points on the C. R. I. & P. R. R. to the Minnesota-Iowa state line; thence west following the state line to the South Dakota-Iowa-Minnesota state line; thence south following the Iowa-South Dakota state line to the point of beginning, excluding Sioux City.

Market Area No. 105.—Beginning at a point just northwest from Eldora; thence north excluding points on the Minneapolis and St. Louis R. R. to and excluding Hampton; thence north including points on the C. R. I. & P. R. R. to but excluding Mason City; thence southwest including points on the C. G. W. R. R. to and including Clarion; thence southeast on an airline to the point of beginning, including Clarion, Dows, and Alden.

Market Area No. 106.—Points in eastern Iowa. Beginning at the northeast corner of Iowa on the Mississippi River; thence south down the river, excluding points on the C. M. St. P. & P. R. R. from Clinton to Davenport, both excluded; thence west following the river to a point south of Muscatine; thence west including points on the C. R. I. & P. R. R. to and including Thornburg; thence west on an airline to a point southwest of New Sharon, including New Sharon; thence north including points on the Minneapolis & St. Louis R. R. to but excluding Marshalltown; thence west including Minerva Junction; thence north including points on the Minneapolis & St. Louis R. R. to and including Hampton; thence north excluding points on the C. R. I. & P. R. R. to Mason City but including Mason City; thence north to the Minnesota-Iowa state line, including points on the C. R. I. & P. R. R.; thence east following the Minnesota-Iowa state line to the point of beginning.

Market Area No. 107.—Beginning at a point just south of Muscatine, Iowa; thence west excluding points on the C. R. I. & P. R. R. to and excluding Thornburg; thence west to a point just south of New Sharon, Iowa; thence south including points on the Minneapolis & St. Louis R. R. to and including Oskaloosa; thence southeast excluding points on the C. R. I. & P. R. R. to and excluding Ottumwa; thence east including points on the C. B. & Q. R. R. to and including Burlington, Iowa; thence north up the Mississippi River to the point of beginning.

Market Area No. 108.—Beginning at a point on the Missouri-Iowa state line due south of Bloomfield, Iowa; running north excluding points on the Wabash to and excluding Ottumwa; thence east excluding points on the C. B. & Q. R. R. to the Mississippi River; thence south down the River to the Iowa-Illinois-Missouri state line; thence northwest and west on the Missouri-Iowa state line to the point of beginning.

Market Area No. 109.—Beginning at a point south of Sioux City, Iowa running on an airline southeast to a point just north of Minden; thence east including points on the C. R. I. & P. R. R. to and including Atlantic; thence crossing the railroad east of Atlantic and excluding points on the C. R. I. & P. R. R. to and excluding Des Moines; thence continuing east including points on the C. R. I. & P. R. R. to a point just west of Grinnell; thence south excluding points on the Minneapolis and St. Louis R. R. to and excluding Oskaloosa; thence southeast including points on the C. R. I. & P. R. R. to and including Ottumwa; thence northwest including points on the C. B. & Q. R. R. to but excluding Frederic; thence west excluding points on the C. B. & Q R. R. to the Missouri River; thence north up the Missouri River to the starting point of this area, excluding Council Bluffs, Omaha, and Sioux City.

Market Area No. 110.—Beginning at the Missouri-Iowa state line south of Bloomfield, Iowa; thence north including points on the Wabash R. R. to but excluding Ottumwa; thence northwest excluding points to but including Frederic; thence west including points on the C. B. & Q. R. R. to the Missouri River; thence south following the Missouri River to the Nebraska-Iowa-Missouri state line; thence east on the Iowa-Missouri state line to the point of beginning.

Market Area No. 111.—Omaha and Council Bluffs. Switching limits of Omaha, Nebraska, and Council Bluffs, Iowa.

Market Area No. 112.—Sioux City. Greater Sioux City.

Market Area No. 113.—Northwest Missouri. The counties of Andres, Atchison, Buchanan except St. Joseph, Clinton, De Kalb, Gentry, Holt, Nodaway, Platte, and Worth in the state of Missouri.

Market Area No. 114.—St. Joseph, Switching limits of St. Joseph, Missouri.

Market Area No. 115.—North Missouri. Bounded on the north by the Iowa-Missouri state line; bounded on the east by the territory west of but not including towns on the main line of the C. B. & Q. Railroad, St. Louis north to the Iowa state line; on the west by the western county lines of Harrison, Daviess, Caldwell, and Clay counties; and on the south by the south boundary lines of Clay, Ray, Saline, Howard, Boone, Callaway, Montgomery, Warren, and St. Charles counties, and including the cities of Boonville, Missouri, and Jefferson City, Missouri, located on the south bank of the Missouri River.

Market Area No. 116.—Greater Kansas City. In Wyandotte and Johnson Counties, Kansas; Missouri Pacific River Route to a point approximately even with the Western University Annex on the West; thence to Welborn on the Leavenworth Electric Line; thence to Muncie on the Union Pacific and K. S. K. V. & W.; thence to Turner on the A. T. & S. F.; thence through Shawnee to Merriam on the Frisco; thence to Overland Park on the Missouri & Kansas Railroad. In Jackson County, Missouri; Martin City on the Missouri Pacific to the south; Grand View on the K. C. S. and Frisco; Raytown on the C. R. I. & P.; Independence on the Alton and Missouri Pacific.

Market Area No. 124.—States of Oklahoma and Texas except that portion described in Market Areas Nos. 125 and 128.

Market Area No. 125—General description.—Clovis, New Mexico to Amarillo, Brownwood, Spofford and west to El Paso, including the Pecos Valley Lines; Clovis, New Mexico to Pecos, Texas, and Southern Pacific Lines, Torrance to El Paso.

Specific description.—Following the eastern boundary of Market Area No. 129 from a point just southeast of Belen Junction at the convergence of Market Areas Nos. 126 and 129 to El Paso, crossing the S. P. between El Paso and Fort Bliss, and crossing the S. P. just west of Alfalfa; thence running in a southeasterly direction south of the T. & N. O. (S. P.) crossing the P. & S. F. just south of Paisano continuing south along the S. P. to and including Spofford; thence running in a northerly direction just west of Eden, excluding Eden; thence northeast crossing the P. S. & F. east of Brownwood; thence continuing northwest, north of the P. S. & F. to Sweetwater Junction; thence in a northwesterly direction just east of Crosbyton, continuing north on an airline to a point immediately east of Silverton; thence northwesterly on an airline to a point east of Amarillo; thence curving around Amarillo, including Amarillo, and crossing the C. R. I. & G. west of Amarillo; thence running in a southwesterly direction north of the P. & S. F. and Santa Fe to the boundary of No. 126 at a point near Melrose; thence continuing on the southern boundary of No. 126 to the point of beginning.

Market Area No. 126—General description.—Points east of Belen Junction, New Mexico, to and including Melrose and including Estancia Valley.

Specific description.—Beginning at a point southeast of Belen Junction at the point of beginning of No. 129, not including Belen Junction; thence running in an easterly direction south of the A. T. & S. F. crossing the S. P. at Torrance, thus continuing in an easterly direction to and including Melrose, rounding Melrose, and returning in a westerly direction north of the A. T. & S. F., crossing the S. P. just north of Vaughn; thence running to a point northeast of Willard; thence running north (east of the A. T. & S. F.) to a point south of Kennedy, excluding Kennedy, returning in a southwesterly direction crossing the A. T. & S. F. line from Willard to Kennedy just south of Kennedy to the starting point of this area near Belen Junction.

Market Area No. 127—General description.—Belen Junction, New Mexico to Santa Fe, New Mexico, inclusive.

Specific description.—Beginning at a point immediately south of Belen Junction, (at the conjunction of Nos. 125,

126, and 129) running north on the west boundary line of No. 126 to a point just southeast of Kennedy; thence crossing the A. T. & S. F. just east of Lamy; thence northwest running east of Santa Fe to a point northeast of Santa Fe; thence southwest, including Santa Fe but excluding Rio Grande, crossing the Denver and Rio Grande midway between Santa Fe and Rio Grande, continuing in a southwesterly direction in a curved line so as to include points on the Santa Fe, crossing both lines of the Santa Fe just east of Dalies where it joins Market Area No. 129; thence following No. 129 to the point of beginning.

Market Area No. 128—General description.—Points east of Lamy.

Specific description.—Beginning at the tip of Market Area No. 127 just northeast of Santa Fe; thence running north (east of the D. & R. G. W.) to the New Mexico-Colorado state line; thence east on the Colorado-New Mexico state line to the New Mexico-Oklahoma state line; thence south on the Oklahoma-New Mexico state line to the Texas-New Mexico-Oklahoma state line; thence east on the Oklahoma-Texas state line to a point on the state line just east of Stratford: thence south on the east side of the P. & S. F. to its convergence with Market Area No. 125 at Amarillo, not including Amarillo; thence following the boundary of No. 125 in a southwesterly direction to the boundary line of No. 126 near Melrose; thence following the northern boundary of No. 126 to the boundary of No. 127 just southeast of Kennedy; thence following the boundary line of No. 127 to the point of beginning.

Market Area No. 129—General description.—Points on the Santa Fe Railroad south of but not including Belen Junction, New Mexico, to El Paso, Texas, inclusive, and west thereof, except as described in Market Area No. 130.

Specific description.—Beginning at a point just southeast of Belen Junction east of the A. T. & S. F. and running south crossing the S. P. between Fort Bliss and El Paso, curving around and including El Paso; thence west on the New Mexico state line to the Arizona state line; thence west to the Colorado River; thence north following the Colorado River to a joint just south of Parker Cut-off; thence southeast on an airline to a point just south of Matthie and west of Griggs, but keeping south of the A. T. & S. F.; thence on an air line to a point southwest of Hassayampa but northwest of the S. P.; thence in a general easterly direction excluding points on the S. P. (W. Chandler, Florence, Winkelman, Christmas Sta.) but running north of the S. P. line from Yuma to Tucson via Maricopa; thence curving around Christmas Sta. crossing the Gila River just east of Christmas Sta.; thence in a northwesterly direction between Superior and Miami; thence curving gently to the northeast crossing Salt River; thence on an airline running just south of McNary to a point immediately south of Dalies and immediately west of Belen Junction; thence to the point of beginning.

Market Area No. 130—General description.—Santa Fe Lines, Dalies, New Mexico, to Needles, California, inclusive, including the Phoenix Branch and the Parker Cut-off.

Specific description.—That remaining innermost portion of Arizona and western New Mexico bounded on the north, east and south by Areas Nos. 126, 127, 129, and 131, and on the west by a line joining Areas Nos. 129 and 130, running north and south (west of the Colorado River) and including Needles, California.

Market Area No. 131—General description.—Points north of but not including Santa Fe, New Mexico.

Specific description.—Beginning at a point just northeast of Santa Fe on the boundary line of No. 128; thence following the boundary line of No. 128 north to the Colorado-New Mexico state line; thence west on the New Mexico-Colorado state line to a point just east of where the D. & R. G. W. crosses the Colorado-New Mexico state line just south of Antonito, Colorado, not including Antonito, where it joins Market Area No. 132; thence following the boundary line of Market Area No. 132 to the Colorado-Utah state line; thence following the Utah-Arizona state line to the Nevada-Arizona state line; thence south to the Colorado River; thence following the Colorado River to a point north of Needles, California at the vertex of the Colorado River and Nevada state line; thence in a northeasterly direction excluding all points on the Santa Fe to a point just north of Grand Canyon, Arizona; thence running in a gradual southeasterly direction excluding all points on the A. T. & S. F. to the boundary of No. 127 west of Isleta; thence following the western boundary of No. 127 to the point of beginning.

Market Area No. 132—General description.—Tennessee Pass and west.

Specific description.—To points in western Colorado and eastern Utah beginning at a point on the Colorado-Wyoming state line at the boundary line of Market Area No. 133 and running west on the Wyoming-Colorado state line to the Colorado-Utah state line; thence south on the Colorado-Utah state line to and including Watson, Rainbow Junction, Rainbow, and Dragon, Utah, to the Utah-Colorado state line; thence south to the junction of Colorado, New Mexico, Arizona and Utah; thence east to a point west of the Farmington branch line, dropping south including said branch line and returning to the state line; thence following the D. & R. G. W. (south of the D. & R. G. W.) to the vertex of Market Area No. 133 south of Antonito, Colorado; thence continuing on the boundary of No. 133 to the point of beginning.

Market Area No. 133—General Description.—Colorado east of Tennessee Pass.

Specific description.—To points in Colorado not included in Market Areas 135 and 134 east of a line beginning at the Wyoming-Colorado state line just west of Slater, Colorado; thence on an air-line south to a point just southwest of Craig; thence east to a point just west of Steamboat Springs; thence south crossing the D. & R. G. W. just southwest of Orested; thence southeasterly running north of Watts; thence south crossing the D. & R. G. W. just south of Deen; thence running south just west of the D. & R. G. W., crossing the D. & R. G. W. between Poncha Junction and Salida, again crossing the D. & R. G. W. west of Mears Junction; thence south to and including Center, Colorado; thence west to and including Creede; thence southeast to the state line where it converges with the boundary of Market Area No. 131 on the Colorado-New Mexico state line immediately south of Antonito, including Antonito; thence east to the Colorado-Kansas state line; thence north on the Colorado-Kansas state line to the Colorado-Nebraska state line; thence west on the Colorado-Nebraska state line to the starting point of this area.

Market Area No. 134.—Pueblo.

Market Area No. 135.—Includes the following cities and towns in the State of Colorado *and all intermediate points and all railroad sidings or stations serving said cities and towns:*

City or town	County location
Denver	Denver.
Englewood	Arapahoe.
Littleton	Do.
Aurora	Do.
Derby	Adams.
Westminster	Do.
Morrison	Jefferson.
Golden	Do.
Ralston	Do.
Edgewater	Do.
Arvada	Do.
Blackhawk	Gilpin.
Central City	Do.
Idaho Springs	Clear Creek.
Dumont	Do.
Lawson	Do.
Empire	Do.
Georgetown	Do.
Silver Plume	Do.

Market Area No. 136.—Points south of the main line of the Union Pacific Railroad, west of Market Area No. 139 in Kansas.

Market Area No. 137.—Kansas points on and north of the main line of the Union Pacific excluding Salina and points in Market Area No. 138.

Market Area No. 138.—Salina, Kansas.

Market Area No. 139.—Points on and east of a line from Marysville, Irving, Garrison, Manhattan, Salina (excluding Salina), McPherson, Newton, Wichita, and South Haven, Kansas to the Kansas State Line.

Market Area No. 140.—Nebraska points on and east of a line from the Missouri River at Running Water through, but not including Bloomfield, Randolph, to and including Norfolk, thence southeast to and including Scribner, Fremont, and thence through Linwood to Wahoo, Valparaiso, Lincoln, Crete, DeWitt, Beatrice, and Wymore to the Kansas state line, excluding Lincoln and Omaha.

Market Area No. 141.—Lincoln, Nebraska; switching limits of Lincoln.

Market Area No. 142.—Western Nebraska C. & N. W. Wyoming line to, but not including Eli, Nebraska; C. B. & Q. Wyoming line to, but not including Grand Island, Nebraska.

Market Area No. 143.—Remainder of Nebraska.

Market Area No. 144.—That part of South Dakota west of and including Rapid City and known as the Black Hills District and south of Market Area No. 147.

Market Area No. 145.—That portion of South Dakota east of Rapid City to and west of the Missouri River not included in Market Areas Nos. 144 and 147.

Market Area No. 146.—That portion of South Dakota east of the Missouri River not included in Market Area No. 147.

Market Area No. 147.—All of North Dakota and that part of South Dakota north of a line drawn east and west one mile south of Watertown.

Market Area No. 148.—All points in the state of Montana except that portion described in Market Area No. 149.

Market Area No. 149.—All points on the main line of the C. B. & Q. Railroad from the Wyoming-Montana state line to and including Billings via Toluca, Montana.

Market Area No. 150.—State of Wyoming.

Market Area No. 151.—To points in Utah south of a line running east and west through Ogden except that portion in Utah described in Market Area No. 132.

Market Area No. 152.—General Description: States of Nevada, California, and to points in extreme southeastern Idaho.

Specific description.—Beginning at a point on the northern boundary of No. 151 near Wahsatch, Utah, continuing westward on this boundary to the Nevada-Utah state line; thence south following the state lines of California and Nevada, following the western boundary of Nos. 130, 131, where possible, thus excluding Needles, returning northward via the Pacific Coast to the northwest corner of California; thence east on the state lines of California, Oregon, Nevada, and Idaho to a point just west of the "Ogden-Malad Line" of the O. S. L.; thence due north, excluding Malad, to a point just southwest of McCammon, Idaho; thence due east to the Idaho-Wyoming state line, excluding McCammon and Grace; thence south on the Wyoming state line to the point of beginning.

Market Area No. 153.—Oregon, Washington, and Idaho, except that area described in Market Areas Nos. 152, 154, 155, and 156.

Market Area No. 154.—City of Spokane, Washington, and adjacent points where freight rates on coal from Producing Areas on the Canadian Pacific and Spokane & International R. R. are as low or lower than the rates on the Northern Pacific R. R. from Roslyn and Bayne rate groups.

Market Area No. 155.—Points in Washington on the Great Northern R. R. east of the Cascade Tunnel to Wenatchee and north thereof.

Market Area No. 156.—City of Seattle, Washington.

MINIMUM PRICE AREA NO. 6—DISTRICT NO. 18

PROPOSED MINIMUM PRICES

In compliance with order No. 245 of the Commission the District Board for District No. 18 at a meeting commencing on August 5, 1938, at which more than 96% of the tonnage of bituminous coal produced in that District during the year 1937 was represented, a tentative schedule of proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the District, classification of coals, price variations as to mines, consuming market areas, values as to uses and seasonal demand was prepared. A copy of said schedule was transmitted to each and every code member of record August 12, 1938. At the time the schedule was transmitted each code member was advised by letter that a hearing would be held by the District Board August 19, 1938, for the purpose of permitting each code member to advise the District Board of any protest or objection such code member might have with regard to the tentative schedule of such proposed minimum prices.

The District Board conducted a hearing as noticed and as a result of the protests and further discussions relative to the prices which had been proposed in the tentative schedule a final schedule of proposed minimum prices was adopted and the required number of copies of such schedule were forwarded to the Commission and to each of the code members within the District. That schedule is the one on which testimony and evidence was taken before the full Commission at the hearing conducted in Denver, Colorado, and appears in the record as Exhibit No. 165. The District Board was represented at the hearing by the Secretary of the Board, a man thoroughly familiar with the problems of marketing and distributing of coals produced in District No. 18.

The schedule of proposed minimum prices, Exhibit No. 165, contains sixteen size groups which were determined in the following manner: the District Board through its Secretary requested all the coal operators in the District to advise the District Board of the total tonnage of each size of coal which they shipped during the year 1937. In compliance with that request more than 96% of the tonnage which the operators in the district distributed during that year was reported to the District Board. Upon receipt of that information the District Board determined from that data the various sizes of coal which was produced within District No. 18 that could be grouped together for price purposes, that is on which sizes the same price should apply for each mine in each producing subdistrict. Each size group specifies the maximum top and maximum bottom size of the sizes of coals which fell into each size group.

The District Board divided the producing District into eight subdistricts, namely, Gallup, Cerrillos, La Ventana, Rio Arriba, White Oaks, Carthage, Hagan, and San Juan. It was testified by the Secretary of the Board that the producing District had been so subdivided for many years and that the coals in each of those sub-districts are known generally by the name of the sub-district in which such coals are produced.

The Gallup and Cerillos sub-districts are the largest producing sub-districts. Approximately 93% of the total production of District No. 18 is produced in those sub-districts, 83% of the production of the District being from the Gallup sub-district.

The District Board designated the market areas into which the producers of District No. 18 shipped their coals on page 10 of the schedule, Exhibit No. 165. The market areas are designated by States, namely, New Mexico, Arizona, California, Texas and Colorado. Those market areas were more specifically identified by the District Board by numbers which were the same as those formerly given to such areas by the Commission, to wit, 125, 126, 127, 128, 129, 130, 131, 132, 133 and 152. A specific description of each numbered area appears in the record as Exhibit No. 186.

The District Board classified the coals of the code members within the District. The coals produced at the mines in subdistrict 1, namely, the Gallup sub-district, were determined to be comparable in quality, marketability, consumer acceptance and physical characteristics and such coals were therefore classified alike in all size groups. The coals produced in all of the other subdistricts were similarly classified. The "A" classification represents the highest price coal in each size group. The "B" and "C" classifications represent prices of coal which are values less than the "A" coals in descend-

ing orders of value. The same order of price values applies also to "D" and "E" classifications. The coals which were grouped together in a single size group by the District Board were designated by size group numbers 1 to 15 inclusive and are more specifically described on page 5 of the schedule, Exhibit No. 165. Size group number 16 was used as a designation for all sizes between 8" top and ½" bottom which the code members of the District sold for railroad locomotive fuel use. The coals in each of the size groups 1 to 15 inclusive were likewise arranged in their descending orders of value. The coals classified as "A" in size group number 1 were taken as the base or starting point for the proper pricing of other coals produced in the District in point of value.

Due to the varying conditions in the market areas of sub-districts 1 (Gallup) and 2 (Cerrillos) variations in differentials between certain sizes prepared by sub-districts 1 and 2, namely, size groups 1 and 4, do not remain constant into all markets, that is, in District No. 18, price variations between coals shipped from the Gallup and Cerrillos districts will change according to consumer acceptance in various markets. These price variations as to market areas appear in the record as Exhibit No. 166. The price differentials appearing on page 9 of Exhibit No. 165 existing between the size groups in the sub-districts, with the exception of those existing between the Gallup and Cerrillos sub-districts, remain constant and uniform into all market areas. As shown in Exhibit No. 166, the differential for size group 1 between sub-district No. 1 and sub-district No. 2 in market areas 125, 126 and 129, is 25 cents; in market areas 127, 128 and 131, the differential is 65 cents; in market area 130, the differential is 25 cents; in market area 152, the differential is 50 cents; and for size group 4, the differential between sub-district 1 and sub-district 2 is 60 cents in market areas 125 and 126; in market areas 127, 128 and 131, the differential is 10 cents; and in market areas 129 and 130, the differential is 20 cents.

Exhibit No. 166 shows a differential of 25 cents between the coals of sub-district 1 (Gallup) and sub-district 2 (Cerrillos) in size group 1 when such coals move into market areas 125, 126 and 129, the sub-district 2 coal having such differential over sub-district 1 coal; whereas, when these same coals move into market areas 127, 128 and 131, the sub-district 1 coal has a differential of 65 cents over sub-district 2 coal. Neither transportation charges nor costs due to the difference in transportation methods were taken into consideration in proposing any of such differentials. The reason for the variance in the differentials between the coals in size groups 1 and 4 of sub-district 1 and sub-district 2 is that the coals of sub-district 1 and sub-district 2 are not identical type coals. Such coals have different uses and are not competitive in certain areas due to outside factors, such as competition with other fuels. Thus, the differential relationship between such coals into the different markets is not constant. The proposed differentials have existed over a long period of years due to the specialized conditions encountered in the various market areas into which such coals have been shipped. Consumer demand and customer acceptance indicates, and has indicated, that such differentials are fair and equitable as between producers and give due regard to the interests of the consuming public. It was the judgment of the District Board for District No. 18 that the price differentials shown on page 9 of Exhibit No. 165 and supplemented by Exhibit No. 166 are just and equitable as between the producers in District No. 18 for the reason that, if differentials other than those shown in Exhibit No. 165 as supplemented by Exhibit No. 166 were different, same would not only be unjust and inequitable as between producers within the District but would disturb the normal flow of coal. It was also the judgment of the District Board for District No. 18 that the differentials shown on Exhibit No. 165, as supplemented by Exhibit No. 166, have due regard to the interests of the consuming public. This for the reason that consumers' demand and acceptance have set such differentials between various coals in each of the market areas in District No. 18.

The coals produced in sub-district No. 2 (Cerrillos) in District No. 18 are semi-coking bituminous coals, excellent for furnace use. The coals in sub-district No. 1 (Gallup) in District No. 18 are free burning sub-bituminous coals excellent for domestic purposes. The coals produced in the Gallup sub-district are similar, the characteristics being sub-bituminous, non-coking, free burning, and are used for domestic and commercial business. The coals produced in the Cerrillos sub-district are of a bituminous, semi-coking character, are friable and are used for commercial and industrial business. The general distinction between the coals produced in the Gallup and Cerrillos sub-districts is that the coal produced in the Gallup sub-district is a sub-bituminous friable, free burning, high moisture, long flame coal while that produced in the Cerrillos sub-district is a semi-coking coal, of low moisture content and less friable. There is a difference in the structure of said coals and in their appearance. The coals produced in sub-district No. 3 (La Ventana) in District No. 18 are sub-bituminous in nature, free burning, friable, and extremely high in moisture content. The coals produced in sub-district No. 4 (Rio Arriba) are bituminous in nature. Such coals are soft in nature and are excellent for coking, steam and domestic purposes. The coals produced in sub-district No. 5 (White Oaks) are bituminous in nature, free burning and excellent for steam raising purposes. Such coals are also used for domestic purposes. The coals produced in sub-district No. 6 (Carthage) are bituminous in nature and are excellent coals for coking and smithing purposes. The coals produced in sub-district No. 7 (Hagan) are free burning and similar to the coals produced in the Gallup sub-district. Such coals are hard in nature and of a very high grade and comparable with the coals produced in the Cerrillos sub-district. Such coals are for the most part used domestically. The coals produced in sub-district No. 8 (San Juan) are hard in structure, blocky, chunky and dull in appearance. They are high ash coals even to the extent of being flinty at times. Such coals are used for the most part domestically and are not comparable to any of the coals produced in the other sub-districts.

The differentials for the coals produced in District No. 18, as reflected in the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 18, are necessary. Such differentials could not be uniform for the reason that, if same were uniform, existing fair competitive relationships would be disturbed.

As shown in Exhibits Nos. 165 and 166, the prices as proposed would yield a return of $3.00 per net ton as an average for the production of District No. 18. Exhibits Nos. 165 and 166 were based upon tonnages for the year 1937 furnished the District Board for District No. 18 by the code members in District No. 18. Such tonnages were broken down into sizes and then applied to the prices proposed for each size. In making this computation, over 96% of the tonnage produced in District No. 18 for the year 1937 was used. Exhibit No. 169 shows a detailed breakdown of the 1937 distribution into size groups and shows the respective weighted average realization per ton for the district at the prices proposed. Exhibit No. 169 shows the 1937 production of code members in District No. 18 broken down into size groups showing the respective realization and the weighted average realization per ton for the district at prices proposed by the District Board for District No. 18 and submitted to the Commission. The weighted average cost of Minimum Price Area No. 6, the Minimum Price Area in which District No. 18 is located, as determined by the Commission is $2.758. There is, therefore, a difference of approximately 25 cents between the yield upon the tonnage under the prices as proposed by the District Board for District No. 18 and the weighted average cost of production for Minimum Price Area 6, as determined by the Commission. If an identical amount were deducted from each figure on the price schedule as submitted to the Commission by the District Board for District No. 18, such deduction would not disturb the price relationships as proposed by the District Board.

The District Board for District No. 18 is composed of producers experienced in the production and sale of coals in District No. 18 for many years. Said District Board is composed of nine members, six of whom participated in the preparation and adoption of the final minimum price schedule submitted to the Commission. In addition to the District Board members who participated in the preparation of said schedule, there were other producers who, together with the members of the District Board, represented more than 96% of the total tonnage produced in District No. 18. The District Board for District No. 18 approved the schedule of proposed minimum prices before submitting same to the Commission and, in the judgment of said Board, the prices proposed to the Commission under its Order No. 245 are just and equitable between the producers within the district, have due regard to the interests of the consuming public and do not, and will not, permit dumping. It was also the judgment of said Board that the prices as proposed to the Commission under its Order No. 245 reflect, as nearly as possible, the relative market values of the various kinds, qualities and sizes of coal produced in District No. 18; reflect price variations as to values and as to uses; reflect price variations as to consuming market areas of the various kinds, sizes and qualities of coals produced within the district; and conform to the requirements of Order No. 245 of the Commission.

The District Board for District No. 17 protested the schedule of minimum prices submitted to the Commission by the District Board for District No. 18. The protest involved relationships between sizes of coal inter-district. No relationships between sizes of coal intra-district were involved. The protest, therefore, is improperly before the Commission at this time as same involves issues to be considered in the coordination of prices under Section 4–II (b) of the Act. The Commission so rules and such ruling, for the present, sufficiently disposes of said protest.

The testimony of the witness for the District Board relative to the price proposed in size group No. 16 for coals sold to railroads for locomotive fuel use was to the effect that said price reflected the relative value of the various kinds, qualities and sizes of coals included in that size group when such coals were sold for such use. There was no testimony or evidence to the contrary. Hence the Commission finds that the price so proposed reflects a proper differential for coals sold included in that size group as compared with the coals included in the other size groups in terms of prices proposed in the schedule, Exhibit No. 165.

And now, upon the record in this cause, upon the evidence, both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the schedule of proposed minimum prices as submitted to the Commission by the District Board for District No. 18 should be and same is hereby further modified as hereinafter set forth in order that same may better conform to Order No. 245 of the Commission and to the provisions of Section 4–II (a) of the Act:

Item 1 on page 3 of the schedule which reads "Prices listed herein are per net ton of 2,000 pounds f. o. b. transportation facilities at the mines," shall be revised to read, "The prices listed herein are in cents per net ton of 2,000 pounds f. o. b. transportation facilities at the mines."

Item 3 on page 3 of the schedule which reads, "All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size" shall be revised to read, "All size designations herein are for round hole screens, or their equivalent, except when otherwise designated. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission."

Item 6 on page 3 of the schedule which reads, "When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the higher size group and priced accordingly" shall be revised to read, "When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced size group and priced accordingly."

Page 4 of the schedule shall be deleted entirely as same is duplicated on page 5 of the schedule.

The notes at the bottom of page 5 of the schedule shall be stricken since the subject matter is covered by the above and foregoing revisions relative to the price instructions on page 3 of the schedule.

Page 5 of the schedule shall be revised as to Size Groups 1, 2, 5, 6, 7, 8, 14 and 16. Size Group 1 is corrected so as to read, "All lump 4 inch round or larger, or 2½-inch bar or larger." Size Group 2 is corrected so as to read "2 inch lump." Size Group 6 is corrected by omitting the word "round" following "2½ inches" under maximum bottom size. Size Group 7 is corrected by adding the word "square" following "1½ inches" under maximum bottom size. Size Group 8 is corrected by deleting the word "round" following "1¼ inch" under maximum bottom size. Size Group 14 is corrected to read "screened mine run" under the heading "maximum top size." Size Group 16 is corrected to read "All engine coal for railroad and locomotive use—all sizes between 8 inch maximum top size and ½ inch minimum bottom size." The order of Size Groups 5 and 6 is reversed, making Size Group 5 read Size Group 6 and vice versa and pages 7, 8, and 9 of the schedule are corrected to reflect such changes.

Page 6 of the schedule is amended by the addition of "County" identification, as follows:

Subdistrict and Identification

1. Gallup—McKinley County, New Mexico, and Navajo County, Arizona.
2. Cerrilles—Santa Fe County, New Mexico.
3. LaVentana—West of Rio Grande River in Sandoval County, New Mexico.
4. Rio Arriba—Rio Arriba County, New Mexico.
5. White Oaks—Lincoln County, New Mexico.
6. Carthage — Socorro County, New Mexico.
7. Hagan—East of Rio Grande River in Sandoval County, New Mexico.
8. San Juan—San Juan County, New Mexico.

Page 7 of the schedule is corrected by striking therefrom the names of Mutual Coal, Light & Power Company (Mutual Mine) and Steve Poklar (White Ash Mine) as such code members are no longer producers.

The schedule of minimum prices as proposed by the District Board for District No. 18 is amended so as to incorporate therein Exhibit No. 166 showing the varying differentials by market areas; Exhibit No. 186 defining the geographical boundaries of the market areas.

That the District Board for District No. 18, as directed in Order No. 245 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the district, classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand.

That the District Board for District No. 18, as directed in Order No. 245 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationship.

That the minimum prices proposed by the District Board for District No. 18 reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal produced within the district; are just and equitable as between producers within the district; have due regard to the interests of the consuming public; and do not permit dumping.

That the minimum prices for any kind, quality or size of coal for shipment into any consuming market area, as proposed by the District Board for District No. 18, are just and equitable as between producers within the district.

That the minimum prices, as proposed by the District Board for District No. 18, are not proposed in such manner as to yield a return per net ton for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area No. 6, the Minimum Price Area in which District No. 18 is placed under the Act. The return, or net realization, per net ton for District No. 18, under the minimum prices as proposed for said district, is $3.00; whereas, the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area No. 6, as heretofore determined by the Commission, is $2.758. The difference resulting between cost and realization, therefore, is approximately twenty five cents (25¢). With such difference of 25 cents existing between cost and realization under the prices as proposed, the realization under such proposed prices is not equal "as nearly as may be" to the area cost of Minimum Price Area No. 6. By reducing each of the minimum prices, as proposed for said district, 25 cents, such prices will then yield a return per net ton for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the price area in which District No. 18 is located. Such reduction is proper and the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 18 should be modified, and the same is hereby modified, to such extent.

That the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 18 as amended, corrected, modified, and revised, as hereinabove set forth, conforms to Order No. 245 of the Commission and to the requirements of Section 4–II (a) of the Act and as so amended, corrected, modified, and revised, said schedule should be and the same is hereby approved by the Commission, to serve as the basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule as amended, corrected, revised, and modified appears in the Appendix for District No. 18.

APPENDIX FOR DISTRICT NO. 18

Schedule of Minimum Prices, as Modified and Approved, to Serve as a Basis for Coordination

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. MCCULLOUGH,
Secretary.

Issued: December 9, 1938.

TABLE OF CONTENTS

Price Instructions and Exceptions.
Size Groups.
Identification of Sub-District Numbers.
Alphabetical List of Code Members.
Price Classifications by Sub-Districts.
Prices.
Market Area Description.

PRICE INSTRUCTIONS AND EXCEPTIONS

Item No. 1.—Prices listed herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mine.

Item No. 2.—All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

Item No. 3.—All size designations herein are for round hole screens, or their equivalent, except when otherwise designated. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission.

Item No. 4.—When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 25 cents per net ton shall be made.

Item No. 5.—In the sale of coal to destined points outside the boundary of the United States, the prices stipulated herein are for payment in United States funds.

Item No. 6.—When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced size group and priced accordingly.

Size Groups

Size group No.	Maximum top size	Maximum bottom size
1		All lump 4" round or larger or 2½" bar or larger.
2		2" Lump.
3	8"	3".
4	6"	1¼".
5	2½" Bar	2½".
6	3"	1¼".
7	2½"	1¼" Square.
8	1¼" Square	¾".
9	1¼"	⅜".
10	¼"	31/64".
11	1¼"	0".
12	1"	0".
13	⅜"	0".
14	Screened Mine Run	⅜".
15	Straight Mine Run	
16	All engine coal for railroad and locomotive use—all sizes between 8" maximum top size and ¼" minimum bottom size.	

IDENTIFICATION OF SUB-DISTRICT NUMBERS

Sub-District Number and Identification

1. *Gallup.*—McKinley County, New Mexico, and Navajo County, Arizona.
2. *Cerrillos.*—Santa Fe County, New Mexico.
3. *La Ventana.*—West of Rio Grande River in Sandoval County, New Mexico.
4. *Rio Arriba.*—Rio Arriba County, New Mexico.
5. *White Oaks.*—Lincoln County, New Mexico.
6. *Carthage.*—Socorro County, New Mexico.
7. *Hagan.*—East of Rio Grande River in Sandoval County, New Mexico.
8. *San Juan.*—San Juan County, New Mexico.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown

Code member	Mine name	Sub-dist. No.	Seam or kind	Price classifications and size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Albuquerque & Cerrillos Coal Co.	Jones	2	Cook & White	C	B	A	A	A	A	B	A			A	B	A	A	B	
Aztec Coal Company	Aztec	1	Subbit		B		A		A		B			A	B				B
Benigar, George	Eagle Nest	4	Bit		B	C								B					D
Biava Coal Company	Biava	1	Subbit		A	B		A		A		B		A	B				B
Black Star Coal Co	Black Star	1	do		A	B		A		A		B		A	B				B
Boardman Coal Co	Boardman	1	do		A	B		A		A		B		A	B				D
Caranta, Barney	Caranta	4	Bit		B	C								B					D
Chiaramonte Coal Co	Chiaramonte	1	Subbit		A	B		A		A		B		A	B				B
Defiance Coal Company	Mentmore	1	do		A	B		A		A		B		A	B				B
El Cerro Coal Mining Co	Ella	6	Bit			A						A		A					A
Erler, Andy & Sons	Erler	4	do		B	C									B				D
Foutz, J. J	Candell	8	Subbit			E							B	B	C				E
Gallup American Coal Co	No. 5	1	do		A	B		A		A		B			A	B			B
Gallup Southwestern Coal Co	Atherton	1	do		A	B		A		A		B			A	B			B
George Coal Company	George	1	do		A	B		A		A		B			A	B			A
Gilmore, J. E	Kinney No. 2	6	Bit			A						A		A		A			
Giraudo, Mike	Tejon	7	Subbit			B							A			B	A		
Golden Smelting & Refining Co	Golden	6	Bit			A						A		A		A			A
Grenko Coal Company	Grenko	1	Subbit		A	B		A		A		B			A	B			B
Hart, John	Hart	6	Bit			A						A		A		A			A
Hayes, S. W	Hayes	3	Subbit			D													C
Hirsch, O. B	Hagan	7	do			B							A			B	A		
Higham & Clark	Hope	1	do		A	B		A		A		B			A	B			B
Hog Back Coal Company	Hog Back	1	do		A	B		A		A		B			A	B			B
James, John	James	3	do			D													C
Juliana Coal Company	Juliana	1	do		A	B		A		A		B			A	B			B
Kempton, L. D	Prewett	8	do			E							B	B	C				E
Kinney, B. H	Kinney No. 1	6	Bit			A						A		A		A			A
Kutz, Dan	Mesa-Verde	4	do		B	C									B				D
Morgan, George	Morgan-Thomas	8	Subbit			E							B	B	C				E
Morris, L. E	L. E. Morris	1	do		A	B		A		A		B			A	B			B

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Sub-dist. No.	Seam or kind	Price classifications and size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Navajo Mercantile Co	Garcia	4	Bit	B	C										B			D	
New Mexico Light & Power Co	White Oaks	5	do		A								A		A		A		A
Peisker, Edward F	Peisker	4	do		B	C										B		D	
Powell & Frastnelli	Diamond No. 3	1	Subbit	A	B		A		A		B				A	B		B	A
Rinehart, F. B	Rinehart	3	do		D													C	
Smouse, Mrs. Sam	Smouse	8	do		E								B	B	C			E	
Thomas, W. H	[illegible]	8	do		E								B	B	C			E	

Classification by Sizes for Each Sub-District

Producers	Sub-dist. No.	Price classification and size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
All Producers In Sub-Dist. 1	1	A	B		A		A		B			A	B			B	A
All Producers In Sub-Dist. 2	2	C	B	A	A	A	A	A	B	A		A	B	A	A	B	
All Producers In Sub-Dist. 3	3		D													C	
All Producers In Sub-Dist. 4	4	B	C									B				D	
All Producers In Sub-Dist. 5	5		A						A		A		A			A	
All Producers In Sub-Dist. 6	6		A						A		A		A			A	
All Producers In Sub-Dist. 7	7		H							A			B	A			
All Producers In Sub-Dist. 8	8		E							B	B	C				E	

Prices for Shipment Into All Market Areas

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
A	437	475	418	372	335	325	300	425	190	275	165	175	105	300	375	325
B	425	405						275	125	75	135	145			300	
C	418	375									25				240	
D		350													225	
E		225													175	

See "Price instructions and exceptions."

PRICE VARIATIONS AS TO MARKET AREAS

Size Group 1

Market Areas 125, 126, 129.—Sub-district 1, 4.25 (A); Sub-district 2, 4.50 (C).

Market Areas 127, 128, 131.—Sub-district 1, 4.25 (A); Sub-district 2, 3.60 (C).

Market Area 130.—Sub-district 1, 4.75 (A); Subdistrict 2, 4.50 (C).

Market Area 152.—Sub-district 1, 4.00 (A); Sub-district 2, 3.50 (C).

Size Group 4

Market Areas 125, 126.—Sub-district 1, 3.35 (A); Sub-district 2, 3.95 (A).

Market Areas 127, 128, 131.—Sub-district 1, 3.35 (A); Sub-district 2, 3.45 (A).

Market Areas 129, 130.—Sub-district 1, 3.75 (A); Sub-district 2, 3.95 (A).

See "Price instructions and exceptions."

GEOGRAPHICAL DESCRIPTION OF CONSUMING MARKET AREAS TO WHICH PRICES APPLY

The prices apply to the following geographical market areas: To the States of New Mexico; Arizona; California; Texas and Colorado.

Market Area No. 125—General description.—Clovis, New Mexico, to Amarillo, Brownwood, Spofford and west to El Paso, including the Pecos Valley Lines; Clovis, New Mexico, to Pecos, Texas, and Southern Pacific Lines, Torrance to El Paso.

Specific description.—Following the eastern boundary of Market Area No. 129 from a point just southeast of Belen Junction at the convergence of Market Areas Nos. 126 and 129 to El Paso, crossing the S. P. between El Paso and Fort Bliss, and crossing the S. P. just west of Alfalfa; thence running in a southeasterly direction south of the T. & N. O. (S. P.) crossing the P. & S. F. just south of Paisano continuing south along the S. P. to and including Spofford; thence running in a northerly direction just west of Eden, excluding Eden; thence northeast crossing the P. S. & F. east of Brownwood; thence continuing northwest, north of the P. S. & F. to Sweetwater Junction; thence in a northwesterly direction just east of Crosbyton continuing north on an airline to a point immediately east of Silverton; thence northwesterly on an airline to a point east of Amarillo; thence curving around Amarillo; including Amarillo, and crossing the C. R. I. & G. west of Amarillo; thence running in a southwesterly direction north of the P. & S. F. and Santa Fe to the boundary of No. 126 at a point near Melrose; thence continuing on the southern boundary of No. 126 to the point of beginning.

Market Area No. 126—General description.—Points east of Belen Junction, New Mexico, to and including Melrose and including Estancia Valley.

Specific description.—Beginning at a point southeast of Belen Junction at the point of beginning of No. 129, not including Belen Junction; thence running in an easterly direction south of the A. T. & S. F. crossing the S. P. at Torrence, thus continuing in an easterly direction to and including Melrose, rounding Melrose, and returning in a westerly direction north of the A. T. & S. F., crossing the S. P. just north of Vaughn; thence running to a point northeast of Willard; thence running north (east of the A. T. & S. F.) to a point south of Kennedy, excluding Kennedy, returning in a southwesterly direction crossing the A. T. & S. F. line from Willard to Kennedy just south of Kennedy to the starting point of this area near Belen Junction.

Market Area No. 127—General description.—Belen Junction, New Mexico, to Santa Fe, New Mexico, inclusive.

Specific description.—Beginning at a point immediately south of Belen Junction (at the conjunction of Nos. 125, 126 and 129), running north on the west boundary of No. 126 to a point just southeast of Kennedy; thence crossing the A. T. & S. F. just east of Lamy; thence northwest running east of Santa Fe to a point northeast of Santa Fe; thence southwest, including Santa Fe but excluding Rio Grande, crossing the Denver and Rio Grande midway between Santa Fe and Rio Grande, continuing in a southwesterly direction in a curved line so as to include points on the Santa Fe, crossing both lines of the Santa Fe just east of Dalies where it joins Market Area No. 129; thence following No. 129 to the point of the beginning.

Market Area No. 128—General description.—Points east of Lamy.

Specific description.—Beginning at the tip of Market Area No. 127 just northeast of Santa Fe; thence running north (east of the D. & R. G. W.) to the New Mexico-Colorado state line; thence east on the Colorado-New Mexico state line to the New Mexico-Oklahoma state line; thence south on the Oklahoma-New Mexico state line to the Texas-New Mexico-Oklahoma state line; thence east on the Oklahoma-Texas state line to a point on the state line just east of Stratford; thence south on the east side of the P. & S. F. to its convergence with Market Area No. 125 at Amarillo, not including Amarillo; thence following the boundary of No. 125 in a southwesterly direction to the boundary line of No. 126 near Melrose; thence following the northern boundary of No. 126 to the boundary line of No. 127 just southeast of Kennedy; thence following the boundary line of No. 127 to the point of beginning.

Market Area No. 129—General description.—Points on the Santa Fe Railroad south of but not including Belen Junction, New Mexico, to El Paso, Texas, inclusive, and west thereof, except as described in Market Area No. 130.

Specific description.—Beginning at a point just southeast of Belen Junction east of the A. T. & S. F. and running south crossing the S. P. between Fort Bliss and El Paso, curving around and including El Paso; thence west on the New Mexico state line to the Arizona state line; thence west to the Colorado River; thence north following the Colorado River to a point just south of Mathie and west of Griggs, but keeping south of the A. T. & S. F.; thence on an airline to a point southwest of Hassayampa but northwest of the S. P.; thence in a general easterly direction excluding points on the S. P. (W. Chandler, Florence, Winkelman, Christmas Sta.) but running north of the S. P. line from Yuma to Tucson via Maricopa; thence curving around Christmas Sta. crossing the Gila River just east of Christmas Sta.; thence in a northwesterly direction between Superior and Miama; thence curving gently to the northeast crossing Salt River; thence on an airline running just south of McNary to a point immediately south of Dalies and immediately west of Belen Junction; thence to the point of beginning.

Market Area No. 130—General description.—Sante Fe lines, Dalies, New Mexico, to Needles, California, inclusive, including the Phoenix Branch and the Parker Cut-off.

Specific description.—That remaining innermost portion of Arizona and western New Mexico bounded on the north, east and south by Areas Nos. 126, 127, 129, and 131, and on the west by a line joining Areas Nos. 129 and 130, running north and south (west of the Colorado River) and including Needles, California.

Market Area No. 131—General description.—Points north but not including Sante Fe, New Mexico.

Specific description.—Beginning at a point just northeast of Santa Fe on the boundary line of No. 128; thence following the boundary line of No. 128 north of the Colorado-New Mexico state line; thence west on the New Mexico-Colorado state line to a point just east of where the D. & R. G. W. crosses the Colorado-New Mexico state line just south of Antonito, Colorado, but including Antonito, where it joins Market Area No. 132; thence following the boundary line of Market Area No. 132 to the Colorado-Utah state line; thence following the Utah-Arizona state line to the Nevada-Arizona state line; thence south to the Colorado River; thence following the Colorado River to a point north of Needles, California, at the vertex of the Colorado River, and Nevada state line; thence in a northeasterly direction excluding all points on the Sante Fe to a point just north of Grand Canyon, Arizona; thence running in a gradual southeasterly direction excluding all points on the A. T. & S. F. to the boundary of No. 127 west of Isleta; thence following the western boundary of No. 127 to the point of beginning.

Market Area No. 132—General description.—Tennessee Pass and west.

Specific description.—To points in western Colorado and eastern Utah beginning at a point on the Colorado-Wyoming state line at the boundary line of Market Area No. 133 and running west on the Wyoming-Colorado state line to the Colorado-Utah state line; thence south on the Colorado-Utah state line to and including Watson, Rainbow Junction, Rainbow, and Dragon, Utah, to the Utah-Colorado state line; thence south to the junction of Colorado, New Mexico, Arizona, and Utah; thence east to a point west of the Farmington branch line, dropping south including said branch line and returning to the state line; thence following the D. & R. G. W. (south of the D. & R. G. W.) to the vertex of Market Area No. 133 south of Antonito, Colorado; thence continuing on the boundary of No. 133 to the point of beginning.

Market Area No. 133—General description.—Colorado east of Tennessee Pass.

Specific description.—To points in Colorado not included in Market Areas 135 and 134 east of a line beginning at the Wyoming-Colorado state line just west of Slater, Colorado; thence on an air-line south to a point just southwest of Craig; thence east to a point just west of Steamboat Springs; thence south crossing the D. & R. G. W. just southwest of Orestod; thence southeasterly running north of Watts; thence south crossing the D. & R. G. W. just south of Deen; thence running south just west of the D. & R. G. W., crossing the D. & R. G. W. between Poncha Junction and Salida, again crossing the D. & R. G. W. west of Mears Junction; thence south to and including Center, Colorado; thence west to and including Creede; thence southeast to the state line where it converges with the boundary of Market Area No. 131 on the Colorado-New Mexico state line immediately south of Antonito, including Antonito; thence east to the Colorado-Kansas state line; thence north on the Colorado-Kansas state line to the Colorado-Nebraska state line; thence west on the Colorado-Nebraska state line to the starting point of this area.

Market Area No. 152—General description.—States of Nevada, California, and to points in extreme southeastern Idaho.

Specific description.—Beginning at a point on the northern boundary of No. 151 near Wahsatch, Utah, continuing westward on this boundary to the Nevada-Utah state line; thence south following the state lines of California and Nevada, following the western boundary of Nos. 130, 131, where possible, thus excluding Needles, returning northward via the Pacific Coast to the northwest corner of California; thence east on the state lines of California, Oregon, Nevada and Idaho to a point just west of the "Ogden-Malad Line" of the O. S. L.; thence due north, excluding Malad, to a point just southwest of McCammon, Idaho; thence due east to the Idaho-Wyoming state line, excluding McCammon and Grace; thence south on the Wyoming state line to the point of beginning.

MINIMUM PRICE AREA NO. 7—DISTRICT NO. 19

PROPOSED MINIMUM PRICES

District Board No. 19 prepared a schedule of proposed minimum prices which was in its best judgment a compliance with the Commission's Order No. 245. It then transmitted a copy of these proposed prices to each Code Member within the District. No protests being received to these proposed prices, the District Board thereafter filed a copy of same, together with the data upon which it was computed, with the Commission, which schedule of proposed minimum prices was received in evidence as Exhibit No. 175.

Testimony in support of the minimum prices proposed by District Board No. 19 was adduced by an expert witness, to wit, the Chairman of the District Board, who was thoroughly familiar with the marketing and distribution of coals in District No. 19. His knowledge of the coals in said District was based upon years of experience in the District. It appears that the District Board consists of nine members, all of whom are thoroughly familiar with producing and marketing coal in said District. They have each had many years of experience and are thoroughly representative of all the Code Members within the District, and are men who, by reason of their intimate knowledge of their own coals and their familiarity with their competitor's coals, are fully capable of judging the price differentials and relationships between the kinds, qualities, and sizes of coal produced within the District.

The expert witness and the other members of the District Board prepared the schedule of proposed prices. The evidence shows that, while there were no protests received to this schedule of proposed prices, there was an objection to the method used by the Board in increasing the basic proposed prices by 8.22 per cent in order to arrive at a realization equal as nearly as may be to the weighted average cost of minimum price area No. 7, as determined by the Commission to be $2.235. These resulting prices are shown on page eleven of Exhibit No. 175. It appears from the evidence that the District Board recognized that, by using the percentage method, it had the effect of distorting the differential relationships as between the different sizes and qualities of coals. They found that, instead of adding 8.22 per cent, if they would add 15 cents per ton to each such basic proposed price, this would produce a realization of $2.235. A new page was prepared entitled "Prices for Shipment into all Market Areas, showing the average price per ton for each size group based upon the minimum prices which will return the producing cost of Area No. 7 of $2.235 per ton." The only difference between this sheet and the original page eleven in Exhibit No. 175 was that in this schedule sheet the realization of $2.235 per ton was reached by adding 15 cents per ton to each classification of coal in a size group instead of 8.22 per cent, as has been done on the original page eleven of Exhibit No. 175. This new revised schedule sheet was sent to each Code Member with instructions to insert it in lieu of the original page eleven of Exhibit No. 175. The new revised schedule sheet was received in evidence as Exhibit No. 177. It was never adopted by the Board. However, the evidence shows that differentials reflected in Exhibit No. 177 were fair and equitable in the opinion of the Board and in the opinion of the Code Members, and that no protests were received concerning it. It appears that this Exhibit No. 177 reflected all the factors that were considered by the Board in determining the relationships of the various coals produced within the District. As stated before, Exhibit No. 177 is entitled "Prices for Shipment into all Market Areas, showing the average price per ton for each size group based upon minimum prices which will return the producing cost of Price Area No. 7 of $2.235 per ton," the evidence shows that the word "average" used on this Exhibit should be deleted and the Commission so finds.

It appears that while Exhibit No. 177 was never adopted in just the form set forth in the Exhibit, the same method was used by the Board in adopting another amendment to the proposed price schedule. This amendment was adopted at a meeting of the Board held September 12, 1938. It was received in evidence as Exhibit No. 178, a document consisting of five pages entitled "District No. 19 Prices in Cents Per Ton of 2,000 Pounds for Shipment into Market Areas as Shown." The Board recommended that Exhibit No. 175 be amended by striking out page eleven and inserting in lieu thereof Exhibit No. 178. The price realization in Exhibit No. 178 was reached in the same manner and the same factors were considered as were considered in Exhibit No. 177, the difference between the two Exhibits being that Exhibit No. 177 shows the same f. o. b. mine prices or price differentials for shipment into all consuming markets of District No. 19, while Exhibit No. 178 shows the prices broken down into the various consuming market areas of the District. In view of the fact that the uncontradicted evidence in the record, as will be recited later, shows that the price relationships are different in the different consuming market areas of District No. 19, the Commission finds that Exhibit No. 178 should be substituted for page eleven of Exhibit No. 175.

The schedule of minimum prices proposed by District No. 19 divides the District into nine sub-Districts, as follows:

Sub-District No. 1, Kemmerer.
Sub-District No. 2, Rock Springs.
Sub-District No. 3, Hanna-Rawlins.
Sub-District No. 4, Evanston.
Sub-District No. 5, Gebo-Kirby.
Sub-District No. 6, Hudson.
Sub-District No. 7, Sheridan.
Sub-District No. 8, Gillette.
Sub-District No. 9, Great Plains.

These nine sub-Districts are the natural geographical divisions that have been recognized and accepted by common practice for many years in the past. The coals within each of the sub-Districts are generally comparable with a few minor exceptions, which exceptions have been recognized in the price schedule with a suitable separate classification.

The Commission finds from the record that page 6 of Exhibit No. 175 should be amended so that the sub-Districts will be described so as to read as follows:

"Sub-District No. 1, Kemmerer, Lincoln and Teton Counties.

"Sub-District No. 2, Rock Springs, Sweetwater County.

"Sub-District No. 3, Hanna-Rawlins, Albany and Carbon Counties.

"Sub-District No. 4, Evanston, Uinta County.

"Sub-District No. 5, Gebo-Kirby, Hot Springs, Big Horn, Park and Washakie Counties.

"Sub-District No. 6, Hudson, Fremont County.

"Sub-District No. 7, Sheridan, Sheridan County.

"Sub-District No. 8, Gillette, Campbell County.

"Sub-District No. 9, Great Plains, Converse, Johnson and Natrona Counties."

The coal production in the Great Plains sub-District is small. The coal from these counties, and others making up the sub-District of Great Plains, being of the same general characteristics and located in the same general area, are grouped together for price-fixing purposes. The coals produced in sub-Districts of Hudson, Sheridan, Gillette and Great Plains, will vary somewhat in quality, are of subbituminous character. These coals are high in moisture, degrading rapidly when exposed to the air, and are very fragile. Gebo-Kirby District coals are of a higher quality than other coals produced in northern Wyoming, and are more nearly comparable to the coals produced in the Kemmerer and Rock Springs sub-Districts. The coals produced in the Kemmerer and Rock Springs sub-Districts are of a higher quality than those produced in northern Wyoming, with the exception of the Gebo-Kirby sub-District coals. They are all lower in moisture than those described in the northern part of the State, and, while fragile, stand exposure to the air better than the northern Wyoming coal. Kemmerer District coals are approximately the same as those of Rock Springs District. They are lower in moisture than Rock Springs, and they stand handling and exposure somewhat better than Rock Springs coal. They are higher in ash. Hanna-Rawlins coals are high in moisture and high in ash, and are used mostly as furnace coal. The coals in the Evanston District are subbituminous in character and are used almost exclusively in the local market.

The Mine Inspector's report for the State of Wyoming shows the production of that State for the year 1937 to be 5,950,230 tons. Of this tonnage approximately 4,000,000 tons were sold to railroads, the balance being sold to industrial plants, and to retail dealers for resale to domestic consumers.

Exhibits received in evidence, other than those heretofore stated, were:

Exhibit No. 176, which was a letter dated August 18, 1938, sent to all Code Members, together with the schedule of proposed prices;

Exhibit No. 179, Description of Market Areas;

Exhibit No. 180, Table showing "District No. 19, Realization or Yield per ton, Based on Proposed Prices to Return Price Area No. 7 Producing, Administrative and Selling Cost of $2.235 per ton."

Exhibit No. 181, Table showing "District No. 19, Realization of Yield per ton, Based on Proposed Prices to Return Price Area No. 7 Producing, Administrative and Selling Cost of $2.235 per ton."

Exhibit No. 182, Table showing "District No. 19, Additional Tonnage Reported by Truck Mines on the Coal Commission Form D-2 Not Included in the preceding Statement."

Exhibit No. 188, Marketing Rules and Regulations, Incidental to the Sale and Distribution of Coals of Code Members within District No. 19 (Proposed).

The District Board in its schedule of proposed prices sets up fourteen size groups. These size groups are the outgrowth of dealer and consumer demand over a period of years, and represent the best judgment of the Board. The evidence supports the various size grouping, proposed by the Board, as a proper basis for co-ordination of size groups with other Districts.

The evidence shows that District Board No. 19 used as a basis to establish the proposed f. o. b. mine prices set forth in the schedule, standard lump as the base coal. It decided upon a price for standard lump for each sub-District, and related all other sizes differentially to that price. The prices proposed for the various kinds, qualities and sizes of coal above or below the prices of standard lump, were arrived at by taking into consideration the kinds and qualities of each coal in each of the sizes prepared in each sub-District, applying thereto the standard differentials which had been recognized and accepted for a period of many years. In making these determinations,

chemical analyses were not considered by the Board. This was due to the fact that coals in District No. 19 are not generally sold on an analysis basis.

The determination was based upon the knowledge and experience of the members of the Board and their familiarity with the marketability of the coals in the District.

The Board computed the total realization that would be derived from the sale of the tonnage of the various kinds, qualities and sizes of coal that were known to be sold in the year 1937, at the prices it fixed, reflecting these differentials. The realization shown on this basis was 16 cents below the average weighted cost of minimum price area No. 7. The Board then adjusted its prices are shown in Exhibits Nos. 177 and 178 by adding 15 cents per ton to each price proposed. By doing this the relationships were not disturbed.

Coals of comparable price, based on long experience were given the same letter classification in a particular size group. Letters are indices to the prices in each particular size group, the letter "A" representing the highest priced coal in each size group.

The evidence shows that the price differentials between the various sizes and kinds and qualities of coals, as reflected in the proposed price schedule, as amended, represent the combined judgment of the members of District Board No. 19, and that said differentials have for the most part prevailed for many years.

An examination of the proposed price schedule, as amended, shows that the prices provided for the larger sizes are considerably higher than the prices for the smaller sizes. The evidence shows that consumers require larger sizes, and, in order to satisfy the demand for prepared sizes, most operators are compelled to build a tipple at the mine, and extra power and labor are required to operate same. This entails a great expense to the operator, as well as a large investment.

Exhibit No. 178, as heretofore stated, shows "prices in cents per ton of 2,000 pounds for shipment into Market Areas as Shown." This Exhibit shows fluctuating differentials of the coals when sold in different consuming market areas. Such differences appear mostly in the Kemmerer and Rock Springs sub-Districts. The varying differentials between the prices of the various coals in the Kemmerer sub-District No. 1, Rock Springs, sub-District No. 2, Hanna-Rawlings, sub-District No. 3, and Evanston, sub-District No. 4, are based on dealer and consumer acceptance, and are the result of long experience in markets served by these coals. Such differentials as reflected in the Exhibit are approximately the same as have prevailed for a number of years. The coals from Kemmerer, sub-District No. 1, and Rock Springs, No. 2, serve different requirements and are not highly competitive. Rock Springs coal is sold to dealers for resale to be used mostly in stoves and ranges and in homes in which the construction is adaptable to this coal rather than that of a heavier grade. Due to the friability and high moisture content of Rock Springs coal, there is but little demand for the prepared sizes during the summer months.

Kemmerer coals are lower in moisture than Rock Springs coal, and are not so friable. Besides being used in limited quantities in domestic grates, it is used in large quantities for furnaces. There are many homes in states west of the mines where it cannot be burned as successfully as the Rock Springs coal, while, on the other hand, due to its handling qualities, it has greater dealer and consumer acceptance than Rock Springs coal. Rock Springs coal, because of its character, does not have the dealer and consumer acceptance in the territory east of the mines as does Kemmerer coal. Rock Springs coal, being a non-coking, clean coal, has greater dealer and consumer acceptance for stoker use than has Kemmerer.

The evidence shows that the true quality and size relationships are now reflected in Exhibit No. 178 between the various coals produced in District No. 19 for shipment into the consuming market areas specified.

The evidence shows that in making up the varying differentials for shipment into different consuming market areas, the District Board did not take into consideration the factor of differences in transportation charges. Exhibit No. 178, which shows price variations into the consuming market areas, should be incorporated into and made a part of the proposed price schedule, Exhibit No. 175, taking the place of page eleven, which should be deleted.

The consuming market areas referred to in Exhibit No. 178 are the same market areas that were previously established by the Commission, and are set out in Exhibit No. 179. These consuming market areas are the same consuming market areas in which the coals produced in District No. 19 have been sold for many years and in which they are now being sold.

The Commission finds that the description of these consuming market areas set forth in Exhibit No. 179 should be incorporated in and made a part of the proposed price schedule, Exhibit No. 175.

The Commission finds that, by the adoption of Exhibit No. 178, page 2 of Exhibit No. 175 serves no useful purpose, and should be deleted.

The Commission finds from the evidence that Item 3, page 4, of Exhibit No. 175, which reads as follows:

"All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size,"

should be deleted, and the following language should be inserted in lieu thereof:

"All size designations herein are for round hole screens, or their equivalent. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission."

The Commission finds from the evidence that Item 4, page 4, of Exhibit No. 175, which reads as follows:

"All prices herein are per net ton 2,000 lbs. f. o. b. transportation facilities at the mines unless otherwise designated,"

should be deleted, and the following language should be inserted in lieu thereof:

"The prices listed herein are *in cents* per net ton of 2,000 pounds, f. o. b. transportation facilities at the mine."

The Commission finds from the evidence that Item 6, page 4, of Exhibit No. 175, which reads as follows:

"If any size is made for which a price is not designated herein, such shall be sold at the price applicable to the next larger size,"

should be deleted, and the following language should be inserted in lieu thereof:

"When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced size group and priced accordingly."

It appears from the evidence that District Board No. 19 recommends that the words "all pea size not included in Group No. 7," shown under Size Group 8, page 5, of Exhibit 175, should be deleted, and the Commission finds that these words should be deleted as is recommended.

The evidence shows that the District Board recommends that Exhibit No. 175, page 5, under Size Group 9, be amended by adding: "and railroad locomotive fuel," so that it will read: "Mine Run 8" Resultant and Railroad Locomotive Fuel." The Commission finds that this amendment should be made.

And now upon the record herein, upon the evidence, both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the District Board for District No. 19 as directed in Order No. 245 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the district, classification of coal and price variations as to mines and consuming market areas.

That the District Board for District No. 19, as directed in Order No. 245 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 19, as herein modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal produced within the district; are just and equitable as between producers within the district; have due regard to the interests of the consuming public, and do not permit dumping.

That the minimum prices proposed by the District Board for District 19 for any kind, quality or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the district.

That the minimum prices proposed by the District Board for District 19, as herein modified, yield a return per net ton for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area 7, the price area in which District 19 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District 19, as amended, corrected, modified and revised, as hereinabove set forth, conforms to Order No. 245 of the Commission and to the requirements of Section 4–II (a) of the Act, and as so amended, corrected, modified and revised said schedule should be and the same is hereby approved by the Commission to serve as a basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule as amended, corrected, revised and modified appears in the Appendix for District 19.

APPENDIX FOR DISTRICT NO. 19

Schedule of Minimum Prices, as Modified and Approved, to Serve as a Basis for Coordination

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. McCULLOUGH,
Secretary.

Issued: December 9, 1938.

TABLE OF CONTENTS

Alphabetical list of Code Members.
Geographical description of Market Areas.
Identification of sub-district numbers.
Price Instructions and Exceptions.
Prices.
Size Groups.

PRICE INSTRUCTIONS AND EXCEPTIONS

Item No. 1.—The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by Code Members in the District shown on the title page hereof.

Item No. 2.—All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

Item No. 3.—When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher *priced* size group and priced accordingly.

Item No. 4.—All prices herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines.

Item No. 5.—When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 25 cents per net ton shall be made.

Item No. 6.—All size designations herein are for round hole screens, or their equivalent. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission.

Item No. 7.—In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in United States funds.

Size Groups

Size group No.	Sizes included
1	6″ Lump. 7″ Lump. 8″ Lump. 9″ Lump.
2	3″ Lump. 4″ Lump. 5″ Lump.
3	¼″ to 2¾″ Lump. 2¼″ x 9″ Lump.
4	2¼″ x 6″, 7″ or 8″ 3″ x 6″, 7″ or 8″ — Stove or grate.

Size Groups—Continued

Size group No.	Sizes included
5	1½″ x 6″, 7″ or 8″ 1⅝″ x 6″, 7″ or 8″ 2½″ or 3″ x 5″ — Fancy nut or grate nut.
6	1″ x 3″ 1½″ x 2½″, 3″, 4″ or 5″ 1⅝″ x 3″, 4″ or 5″ 2″ x 4″ — Egg nut or standard nut.
7	1½″ x ¾″ or 1″ 1⅝″ x 1″ or 1¼″ — No. 1, pea.
8	1⅝″ x ¼″, No. 2, Pea.
9	Mine run.
10	8″ resultant and railroad locomotive fuel.
11	6″ resultant.
12	7″ resultant.
13	2″ x 0″ 2½″ x 0″ — Slack.
14	1¼″ x 0″ 1½″ x 0″ 1⅝″ x 0″ — Slack.
	1″ x 0″, Screenings.
	Maximum top size: ½″; Maximum bottom size: 0″ — Dust.

IDENTIFICATION OF SUB-DISTRICT NUMBERS

Sub-District Number and Identification

1. *Kemmerer.*—Lincoln and Teton Counties.
2. *Rock Springs.*—Sweetwater County.
3. *Hanna-Rawlins.*—Albany and Carbon Counties.
4. *Evanston.*—Uinta County.
5. *Gebo-Kirby.*—Hot Springs, Big Horn, Park and Washakie Counties.
6. *Hudson.*—Fremont County.
7. *Sheridan.*—Sheridan County.
8. *Gillette.*—Campbell County.
9. *Great Plains.*—Converse, Johnson and Natrona Counties.

Alphabetical List of Code Members Showing Price Classification and Size Group Nos.

Code members	Mine name	Sub dist. No.	Seam or kind	Price classification and size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14
Ace of Spades Coal Co	Ace of Spades	5	#2	A	A	A	A	A	A	B	C	B				B	C	A
Barquin, James	Barquin	6	Subbit	C	C	D	D	D	E	E	D	C		A	D		
Bear River Coal Co	Almy #1	4	Almy		C	E			F		E	E		B			
Beeler, C. E	Beeler	3	#1	E	E	D	E	D	D		D	E	B		C	B	B
Bell Coal Company	Hudson 2	6	Hudson	D			D	D		E		C		C	E		
Best Coal Company	Morsch	9	Subbit	G	G	G	G	E	G		H	D			F		C
Blind Bull Coal Co	Blind Bull	1	Blind Bull #1	B	B	B	B	B	C	A	A				A	A	A
Boyle, Ray S	Boyle	6	Subbit	C	C	D	D	D	E	E	D	C		A	D		
Buffalo Coal Co	Buffalo	9	do	G	G	G	G	E	G		H	D			F		C
Buffalo-Wyoming Coal Co	do	9	do	G	G	G	G	E	G		H	D			F		C
Bunning, H. J	Bunning	9	do	G	G	G	G	E	G		H	D			F		C
Burd, R	Superior	9	do	G	G	G	G	E	G		H	D			F		C
Burnell, Pat	Gebo 2 and 4	5	Gebo #1	A	A	A	A	A	B	B		B			B	C	
Burns, H. P	Black Diamond	5	#1	A	A	A	A	A	A	B	C	B			B	C	A
Carbon County Coal Co	Carbon	3	#1	E	E	D	E	D	D		D	E	B		C	B	B
Carey, John	Carey	5	Bit	A	A	A	A	A	A	B	C	B			B	C	A
Colony Coal Company	Peacock	2	1 and 3	C	D	C	C	C	D	C	B	C	A		A	A	A
Do	Megeath	2	#7	C	D	C	C	C	D	C	B	C	A		A	A	A
Do	Dines	2	9–11–15	C	D	C	C	C	D	C	B	C	A		A	A	A
Cox & Romish	Jap	1	Bit	B	B	B	B	B	C	A	A	A			A	A	A
Cumberland Coal Co	#1	1	Bit	B	B	B	B	B	C	A	A	A			A	A	A
Custer Coal Company	Custer	7	Subbit	F	F	F	F	E	G	F	F				G		
Davis, Richard	Davis	9	do	G	G	G	G	E	G		H	D			F		C
Diamond Coal & Coke Co	Oakley #2	1	Kemmerer	B	B	B	B	B	C	A	A	A			A	A	A
Diehl, Virgil	Black Diamond	7	Subbit	F	F	F	F	E	G	F	F				G		
Domsalla, Fred	Badger	9	do	G	G	G	G	E	G		H	D			F		C
Duncan, Robert	Mantua	5	#1	A	A	A	A	A	A	B	C	B			B	C	A
Eagle Mine Company	Eagle	5	Bit	A	A	A	A	A	A	B	C	B			B	C	A
Elk Mount Valley Coal Co	Elk Mount	3	Subbit	E	E	D	E	D	D		D	E	B		C	B	B
Evans, D. L	Midwest	3	do	E	E	D	E	D	D		D	E	B		C	B	B
Ferelli, Joe	Ferelli	5	#1	A	A	A	A	A	A	B	C	B			B	C	A
Gaber, John & Petro, Paul	Hudson	6	#1	C	C	D	D	D	E	E	D	C		A	D		
Garretson, B. E	Black Nugget	9	Subbit	G	G	G	G	E	G		H	D			F		C
Goff Brothers	Goff	9	do	G	G	G	G	E	G		H	D			F		C
Gould, Frank	Pinebed	3	#1	E	E	D	E	D	D		D	E	B		C	B	B

Alphabetical List of Code Members Showing Price Classification and Size Group Nos.—Continued

Code members	Mine name	Sub dist. No.	Seam or kind	Price classification and size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14
Vail Coal Mining Co.	Vail	1	Bit.	B	B	B	D	C	A	A	A	-	A	A	A	-	-
Vail, J. George F.	Black Diamond	8	Subbit.	H	-	H	G	J	G	G	H	-	D	-	F	-	C
Wachtel, Wm.	Clearcreek	9	do.	G	G	G	E	G	F	F	H	D	-	-	-	G	-
Whitham, G. W.	Whitham	7	do.	F	F	F	E	G	F	F	H	-	D	-	-	G	-
Wilhelm, D. C.	Laur	8	do.	E	C	D	D	E	D	E	D	C	-	A	D	-	-
Howell, C. F.	Williams	6	do.	C	C	D	D	D	E	E	D	C	-	A	D	-	-
Hutchison Coal Co.	Jarvis #2	6	do.	C	C	D	D	D	E	E	D	C	-	A	D	-	-
Jarvis, John	Wright	5	#1	A	A	A	A	A	H	C	B	-	B	C	A	-	-
Johnson, J.	Wyodak	8	#2	J	-	J	G	E	G	-	H	H	-	E	G	-	C
Kampman, Issac	York	9	Subbit.	G	-	G	E	-	E	-	E	E	-	B	-	-	-
Kemmerer Coal Company	Kendall	4	do.	-	C	E	-	E	-	-	-	E	-	-	-	-	-

Prices for Shipment Into All Market Areas Showing the Price Per Ton for Each Size Group Based Upon Minimum Prices Which Will Return the Producing Cost of Price Area No. 7 of $2.235 Per Ton

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14
A	495	490	480	480	455	365	300	275	290	225	165	200	200	115
B	485	485	440	440	390	345	290	265	265	215	140	190	165	90
C	365	365	340	330	300	340	275	240	265	160	125	165	140	65
D	340	340	315	315	290	290	240	190	215	-	115	145	105	-
E	315	315	290	290	265	265	215	190	215	-	105	125	-	-
F	295	295	275	275	255	255	175	190	185	-	-	115	-	-
G	275	275	255	255	235	235	145	145	175	-	-	105	-	-
H	215	215	215	185	-	160	140	140	145	-	-	-	-	-
J	190	190	165	-	-	145	-	-	-	-	-	-	-	-
K	185	185	-	-	-	-	-	-	-	-	-	-	-	-

See "Price instructions and exceptions."

Prices in Cents Per Net Ton of 2,000 Pounds for Shipment Into Market Areas as Shown

FROM SUBDISTRICT NO. 1

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
132 to 143 Inclusive and 150	D340	B465	B440	B440	B390	C340	D300	A275	G175			A290	A300	A115
33, 34, 101, 104 to 116 Inclusive and 147	B485	B465		B440	B390	C340	A300	A275	A290			A290	A290	A115
144 and 145			B485	B465		B440	B390	C340	A300	A275	A290			A300	A300	A115
148, 149, 153, 154, 155, and 156	D290		B415	B400		B380	B325	C290	D260	A225	A290			A200	A185	A160
151 and 152	B415		B400			B380	B325	C290	A225	A225	A290			A200	A185	A160
157	B340		B330			B315										

FROM SUBDISTRICT NO. 2

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
132 to 143 Inclusive and 150	C365	D340	C340	C330	C300	D290	C275	B265	H215	C255	A225		A290	A200	A115
33, 34, 101, 104 to 116 Inclusive and 147	C340	D315		C300	C275	D265	C265	B265	H215	C255	A225		A290	A200	A115
144 and 145	D340	F315		C300	C275	D265	C265	B265	C255	A225			A290	A200	A115
148, 149, 153, 154, 155, and 156	C315	D290		C265	C245	D240	C240	B225	C255	A225			A290	A185	A160
151 and 152	C315	D290		C265	C245	D240	C240	B225	C255	A225			A290	A185	A160
157	C315	D290		C265	C245										

See "Price instructions and exceptions."

Prices in Cents Per Net Ton of 2,000 Pounds for Shipment Into Market Areas as Shown—Continued

FROM SUBDISTRICT NO. 3

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
109, 110, 111, 112, 114, 139, 140, 141 and 146	E290	E290	----	----	----	D265	----	D190	E215	B215	----	C165	B165	B90
144 and 145	E315	E315	----	----	----	D290	----	D190	E215	B215	----	C165	B165	B90
133, 135, 137, 138, 142, 143 and 150	E315	E315	D315	E290	D290	D290	----	D190	E215	B215	----	C165	B165	B90

FROM SUBDISTRICT NO. 4

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
148 to 156 Inclusive	----	C365	E290	----	----	F255	----	E165	E215	----	B140	----	----	----

[1] Applicable to area 150 only.

FROM SUBDISTRICT NO. 5

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
136, 137, 138, 142, 143, and 150	A495	A490	A480	A480	A455	B345	B290	----	B285	----	----	B190	C140	----
104, to 116, inclusive, 139, 140, and 141	A445	A440	A430	A430	A430	B320	B290	----	----	----	----	B190	C140	----
33, 34, and 101	A405	A390	A370	A370	A375	B315	B240	----	----	----	----	B175	C140	----
147	A430	A415	A395	A395	A375	B315	B240	----	----	----	----	B175	C140	----
144 and 145	A470	A465	A455	A455	A430	B320	B240	----	----	----	----	B175	C140	----
146	A445	A440	A430	A430	A430	B320	B240	----	----	----	----	B175	C140	----
148 and 149	A475	A460	A445	A445	A415	B350	B265	----	----	----	----	B175	C140	----
153, 154, 155 and 156	A475	A460	A445	A445	A415	B350	B265	----	B285	----	----	B215	C190	----
157	A400	A390	A375	A375	----	----	----	----	----	----	----	----	----	----

FROM SUBDISTRICT NO. 6

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
140 and 143	D215	----	----	D190	D165	----	E140	----	----	----	----	C125	E115	----
142	D285	----	----	D255	D235	----	E190	----	----	----	----	C140	E140	----
33, 34, 101, 104 to 116 inclusive and 141	D205	----	----	D185	D165	----	E140	----	----	----	----	C125	E115	----
145, 146, 147	D225	----	----	D205	D175	----	E155	----	----	----	----	C125	E115	----
144	D305	----	----	D275	D255	----	E190	----	----	----	----	C130	E130	----
150	D340	----	----	D315	D290	----	E190	----	C255	----	----	C125	E125	----

FROM SUBDISTRICT NO. 7

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
33, 34, 100, 101, 104 to 117, inclusive; 133, 137 to 141, inclusive, and 143	K190	----	----	H175	F150	H150	H135	----	----	----	E115	G105	----	----
142	K215	----	----	H190	F165	I155	H140	----	----	----	E140	G130	----	----
146 to 148 inclusive; 151 to 156, inclusive	K215	----	----	H190	F155	H155	H135	----	----	----	E115	G105	----	----
144	K215	----	----	H190	F165	H155	H140	----	----	----	E115	G105	----	----
149	K190	----	----	H175	F165	H155	H140	----	F185	----	E130	G115	D115	----
150	K185	----	----	H185	F185	H160	H140	----	F185	C160	E105	G105	D105	----

FROM SUBDISTRICT NO. 8

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
144 to 147, inclusive	J215	----	J190	----	----	----	J145	H140	----	----	----	E105	G105	----	----
149 to 143, inclusive, and 150	J190	----	J165	----	----	----	J145	H140	----	H145	----	E105	G105	----	----

FROM SUBDISTRICT NO. 9

Market areas	1	2	3	4	5	6	7	8	9	10	11	12	13	14
150	G275	G275	G255	G255	E235	G235	----	H140	D235	----	----	F115	----	C65

See "Price Instructions and Exceptions".

GEOGRAPHICAL DESCRIPTION OF CONSUMING MARKET AREA TO WHICH PRICES APPLY

The States of:

1. California.
2. Colorado.
3. Idaho.
4. Iowa.
5. Kansas.
6. Minnesota.
7. Missouri.
8. Montana.
9. Nebraska.
10. Nevada.
11. North Dakota.
12. Oregon.
13. South Dakota.
14. Utah.
15. Washington.
16. Wyoming; Alaska; Canada.

DESCRIPTION OF MARKET AREAS (IN DETAIL)

Market Area No. 33.—Beginning at the Minnesota-Iowa-Wisconsin state line running west on the Minnesota-Iowa state line to a point west of the C. M. St. P. & P. R. R.; thence northwest including all points on the C. M. St. P. & P. to but excluding Mankato; thence east excluding points on the main line of the C. & N. W. to the Mississippi River; thence down the Mississippi River to the starting point of this area.

Market Area No. 34.—Beginning at a point just south of and including Mankato; thence east including all points on the main line of the C. & N. W. to the Mississippi River including Minnesota City; thence northwest following the Mississippi River to a point just south of Hastings, Minn.; thence north including points on the C. M. St. P. & P. R. R. to and including Stillwater and Duluth Junction; thence west and southwest including points on the M. St. P. & S. S. M. to and including Minneapolis; thence southwest to a point just west of Chaska, including Chaska; thence south including points on the Minneapolis and St. Louis R. R. to and including Montgomery; thence southwest including points on the C. M. St. P. & P. R. R. to and including Kasota; thence south including points on the C. M. St. P. & P. from Kasota to Mankato, inclusive, the starting point of this area.

Market Area No. 100.—All points in northern Minnesota north and west of the following described line. Beginning at a point on the state line south of Elkton, South Dakota, and including all points on the C. & N. W. to and excluding Mankato; thence northeast excluding points on the C. M. St. P. & P. R. R. from Mankato to Montgomery, excluding Montgomery, Kasota, and Mankato; thence north excluding points on the Minneapolis & St. Louis R. R. to and excluding Carver and Chaska; thence northeast on an airline to a point north of Minneapolis; thence northeast excluding points on the M. St. P. & S. S. M. R. R. to the Wisconsin-Minnesota state line.

Market Area No. 101.—Beginning at the South Dakota-Minnesota-Iowa state line running east on the Minnesota-Iowa state line to a point just west of the C. R. I. & P. R. R. just southeast of Glenville, Minnesota; thence northwest, excluding points on the C. R. I. & P. R. R. to and excluding Albert Lea; thence northwest excluding points on the C. M. St. P. & P. R. R. to and excluding Wells; thence west and north excluding points on the C. M. St. P. & P. R. R. to and excluding Mankato; thence west excluding points on the main line of the C. & N. W. R. R. to the point of beginning.

Market Area No. 104.—Beginning at a point southeast of Sioux City, excluding Sioux City, running southeast on an airline to a point immediately north of Minden; thence east excluding points on the C. R. I. & P. R. R. to and excluding Atlantic; thence crossing the C. R. I. & P. R. R. east of Atlantic including points thereon, to and including Des Moines; thence crossing the railroad continuing east excluding points on the C. R. I. & P. R. R. to but excluding Grinnell; thence north excluding points on the Minneapolis and St. Louis R. R. to, but including Marshalltown; thence west excluding Minerva Junction; thence north excluding points on the Minneapolis & St. Louis R. R. to and excluding Eldora; thence northwest excluding points on the C. & N. W. R. R., excluding Iowa Falls, Alden, Dows, and Clarion; thence northeast excluding points on the Chicago, Great Western R. R. to and

excluding Mason City; thence north excluding points on the C. R. I. & P. R. R. to the Minnesota-Iowa state line; thence west following the state line to the South Dakota-Iowa-Minnesota state line; thence south following the Iowa-South Dakota state line to the point of beginning, excluding Sioux City.

Market Area No. 105.—Beginning at a point just northwest from Eldora; thence north excluding points on the Minneapolis and St. Louis R. R. to and excluding Hampton; thence north including points on the C. R. I. & P. R. R. to but excluding Mason City; thence southwest including points on the C. G. W. R. R. to and including Clarion; thence southeast on an airline to the point of beginning, including Clarion, Dows, and Alden.

Market Area No. 106.—Points in eastern Iowa. Beginning at the northeast corner of Iowa on the Mississippi River; thence south down the river, excluding points on the C. M. St. P. & P. R. R. from Clinton to Davenport, both excluded; thence west following the river to a point south of Muscatine; thence west including points on the C. R. I. & P. R. R. to and including Thornburg; thence west on an airline to a point southwest of New Sharon, including New Sharon; thence north including points on the Minneapolis & St. Louis R. R. to but excluding Marshalltown; thence west including Minerva Junction; thence north including points on the Minneapolis & St. Louis R. R. to and including Hampton; thence north excluding points on the C. R. I. & P. R. R. to Mason City but including Mason City; thence north to the Minnesota-Iowa state line, including points on the C. R. I. & P. R. R.; thence east following the Minnesota-Iowa state line to the point of beginning.

Market Area No. 107.—Beginning at a point just south of Muscatine, Iowa; thence west excluding points on the C. R. I. & P. R. R. to and excluding Thornburg; thence west to a point just south of New Sharon, Iowa; thence south including points on the Minneapolis & St. Louis R. R. to and including Oskaloosa; thence southeast excluding points on the C. R. I. & P. R. R. to and excluding Ottumwa; thence east including points on the C. B. & Q. R. R. to and including Burlington, Iowa; thence north up the Mississippi River to the point of beginning.

Market Area No. 108.—Beginning at a point on the Missouri-Iowa state line due south of Bloomfield, Iowa, running north excluding points on the Wabash to and excluding Ottumwa; thence east excluding points on the C. B. & Q. R. R. to the Mississippi River; thence south down the River to the Iowa-Illinois-Missouri state line; thence northwest and west on the Missouri-Iowa state line to the point of beginning.

Market Area No. 109.—Beginning at a point south of Sioux City, Iowa running on an airline southeast to a point just north of Minden; thence east including points on the C. R. I. & P. R. R. to and including Atlantic; thence crossing the railroad east of Atlantic and excluding points on the C. R. I. & P. R. R. to and excluding Des Moines; thence continuing east including points on the C. R. I. & P. R. R. to a point just west of Grinnell; thence south excluding points on the Minneapolis and St. Louis R. R. to and excluding Oskaloosa; thence southeast including points on the C. R. I. & P. R. R. to and including Ottumwa; thence northwest including points on the C. B. & Q. R. R. to but excluding Frederic; thence west excluding points on the C. B. & Q. R. R. to the Missouri River; thence north up the Missouri River to the starting point of this area, excluding Council Bluffs, Omaha, and Sioux City.

Market Area No. 110.—Beginning at the Missouri-Iowa state line south of Bloomfield, Iowa; thence north including points on the Wabash R. R. to but excluding Ottumwa; thence northwest excluding points to but including Frederic; thence west including points on the C. B. & Q. R. R. to the Missouri River; thence south following the Missouri River to the Nebraska-Iowa-Missouri state line; thence east on the Iowa-Missouri state line to the point of beginning.

Market Area No. 111.—Omaha and Council Bluffs. Switching limits of Omaha, Nebraska, and Council Bluffs, Iowa.

Market Area No. 112.—Sioux City. Greater Sioux City.

Market Area No. 113.—Northwest Missouri. The counties of Andew, Atchison, Buchanan except St. Joseph, Clinton, DeKalb, Gentry, Holt, Nodaway, Platte, and Worth in the state of Missouri.

Market Area No. 114.—St. Joseph, Switching limits of St. Joseph, Missouri.

Market Area No. 115.—North Missouri. Bounded on the north by the Iowa-Missouri state line; bounded on the east by the territory west of but not including towns on the main line of the C. B. & Q. Railroad, St. Louis north to the Iowa state line; on the west by the western county lines of Harrison, Daviess, Caldwell, and Clay counties; and on the south by the south boundary lines of Clay, Ray, Saline, Howard, Boone, Callaway, Montgomery, Warren, and St. Charles Counties, and including the cities of Boonville, Missouri, and Jefferson City, Missouri, located on the south bank of the Missouri River.

Market Area No. 116.—Greater Kansas City. In Wyandotte and Johnson Counties, Kansas; Missouri Pacific River Route to a point approximately even with the Western University Annex on the West; thence to Welborn on the Leavenworth Electric Line; thence to Muncie on the Union Pacific and K. S. K. V. & W.; thence to Turner on the A. T. & S. F.; thence through Shawnee to Merriam on the Frisco; thence to Overland Park on the Missouri & Kansas Railroad. In Jackson County, Missouri; Martin City on the Missouri Pacific to the south; Grand View on the K. C. S. and Frisco; Raytown on the C. R. I. & P.; Independence on the Alton and Missouri Pacific.

Market Area No. 117.—Bounded on the north by the Missouri River from Sibley, Missouri, east to the western county boundary line of Saline County, thence south to the southern boundary of Saline County, thence east and northeast following the boundary line of Saline County to the Missouri River, thence the Missouri River east to St. Louis, except the towns of Boonville and Jefferson City on the south bank of the Missouri River, bounded on the west by an imaginary line drawn from Sibley, Missouri, on the Missouri River south and west to Lees Summit in Jackson County, thence southward and east of the line of the Missouri Pacific Railroad, Lees Summit to Lamar, and excluding all points on the Missouri Pacific Railroad, thence eastward and north of the main line of the St. Louis and San Francisco Railroad, Lamar to Cape Girardeau and excluding all points on the main line of the St. Louis and San Francisco Railroad; bounded on the east by the Mississippi River, St. Louis to Cape Girardeau.

Market Area No. 132—General description.—Tennessee Pass and west.

Specific description.—To points in western Colorado and eastern Utah beginning at a point on the Colorado-Wyoming state line at the boundary line of Market Area No. 133 and running west on the Wyoming-Colorado state line to the Colorado-Utah state line; thence south on the Colorado-Utah state line to and including Watson, Rainbow Junction, Rainbow, and Dragon, Utah, to the Utah-Colorado state line; thence south to the junction of Colorado, New Mexico, Arizona and Utah; thence east to a point west of the Farmington branch line, dropping south including said branch line and returning to the state line; thence following the D. & R. G. W. (south of the D. & R. G. W.) to the vertex of Market Area No. 133 south of Antonito, Colorado; thence continuing on the boundary of No. 133 to the point of beginning.

Market Area No. 133—General description.—Colorado east of Tennessee Pass.

Specific description.—To points in Colorado not included in Market Areas 135 and 134 east of a line beginning at the Wyoming-Colorado state line just west of Slater, Colorado; thence on an air-line south to a point just southwest of Craig; thence east to a point just west of Steamboat Springs; thence south crossing the D. & R. G. W. just southwest of Orestod; thence southeasterly running north of Watts; thence south crossing the D. & R. G. W. just south of Deen; thence running south just west of the D. & R. G. W., crossing the D. & R. G. W. between Poncha Junction and Salida, again crossing the D. & R. G. W. west of Mears junction; thence south to and including Center, Colorado; thence west to and including Creede; thence southeast to the state line where it converges with the boundary of Market Area No. 131 on the Colorado-New Mexico state line immediately south of Antonito, including Antonito; thence east to the Colorado-Kansas state line; thence north on the Colorado-Kansas state line to the Colorado-Nebraska state line; thence west on the Colorado-Nebraska state line to the starting point of this area.

Market Area No. 134.—Pueblo.

Market Area No. 135.—Denver and environs including Clear Creek Valley to and including Silver Plume.

Market Area No. 136.—Points south of the main line of the Union Pacific Railroad, west of Market Area No. 139 in Kansas.

Market Area No. 137.—Kansas points on and north of the main line of the Union Pacific excluding Salina and points in Market Area No. 138.

Market Area No. 138.—Salina, Kansas.

Market Area No. 139.—Points on and east of a line from Marysville, Irving, Garrison, Manhattan, Salina (excluding Salina), McPherson, Newton, Wichita, and South Haven, Kansas to the Kansas State Line.

Market Area No. 140.—Nebraska points on and east of a line from the Missouri River at Running Water through, but not including Bloomfield, Randolph, to and including Norfolk, thence southeast to and including Scribner, Fremont, and thence through Linwood to Wahoo, Valparaiso, Lincoln, Crete, DeWitt, Beatrice, and Wymore to the Kansas state line, excluding Lincoln and Omaha.

Market Area No. 141.—Lincoln, Nebraska; switching limits of Lincoln.

Market Area No. 142.—Western Nebraska C. & N. W. Wyoming line to, but not including Eli, Nebraska; C. B. & Q. Wyoming line to, but not including Grand Island, Nebraska.

Market Area No. 143.—Remainder of Nebraska.

Market Area No. 144.—That part of South Dakota west of and including Rapid City and known as the Black Hills District and south of Market Area No. 147.

Market Area No. 145.—That portion of South Dakota east of Rapid City to and west of the Missouri River not included in Market Areas Nos. 144 and 147.

Market Area No. 146.—That portion of South Dakota east of the Missouri River not included in Market Area No. 147.

Market Area No. 147.—All of North Dakota and that part of South Dakota north of a line drawn east and west one mile south of Watertown.

Market Area No. 148.—All points in the state of Montana except that portion described in Market Area No. 149.

Market Area No. 149.—All points on the main line of the C. B. & Q. Railroad from the Wyoming-Montana state line to and including Billings via Toluca, Montana.

Market Area No. 150.—State of Wyoming.

Market Area No. 151.—To points in Utah south of a line running east and west through Ogden except that portion in Utah described in Market Area No. 132.

Market Area No. 152—General description.—States of Nevada, California, and to points in extreme southeastern Idaho.

Specific description.—Beginning at a point on the northern boundary of No. 151 near Wahsatch, Utah, continuing westward on this boundary to the Nevada-Utah state line; thence south following the state lines of California and Nevada, following the western boundary of Nos. 130, 131, where possible, thus excluding Needles, returning northward via the Pacific Coast to the northwest corner of California; thence east on the state lines of California, Oregon, Nevada, and Idaho to a point just west of the "Ogden-Malad Line" of the O. S. L.; thence due north, excluding Malad, to a point just southwest of McCammon, Idaho; thence due east to the Idaho-Wyoming state line, excluding McCammon and Grace; thence south on the Wyoming state line to the point of beginning.

Market Area No. 153.—Oregon, Washington, and Idaho, except that area described in Market Areas Nos. 152, 154, 155 and 156.

Market Area No. 154.—City of Spokane, Washington, and adjacent points where freight rates on coal from Producing Areas on the Canadian Pacific and Spokane & International R. R. are as low or lower than the rates on the Northern Pacific R. R. from Roslyn and Bayne rate groups.

Market Area No. 155.—Points in Washington on the Great Northern R. R. east of the Cascade Tunnel to Wenatche and north thereof.

Market Area No. 156.—City of Seattle, Washinton.

Market Area No. 157.—Territory of Alaska.

MINIMUM PRICE AREA NO. 7—DISTRICT NO. 20

PROPOSED MINIMUM PRICES

In compliance with Order No. 245 of the Commission, the District Board for District 20 proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the district and submitted a schedule of same, together with the data upon which same were computed, to the Commission. Said schedule of minimum prices as proposed by the District Board for District 20 and submitted to the Commission appears in the record as Exhibit No. 136.

Upon receipt of Order No. 245 of the Commission, the District Board for District 20 called a meeting to be held on August 9, 1938, the purpose of said meeting being to proceed to propose minimum prices as directed in said order. The District Board for District 20 held said meeting and the schedule of minimum prices proposed by the District Board for District 20 and submitted to the Commission was, at said meeting, passed upon and adopted by the Board.

After said schedule had been adopted by the District Board for District 20, a copy of same was transmitted to each of the code members within the district. Subsequent to the transmittal of copies of said schedule to the code members within the district, certain protests against same were received. Upon receipt of such protests, the District Board for District 20 issued a call for a special meeting to be held on August 22, 1938, for the purpose of considering the protests filed against said schedule. The above meeting failed for want of a quorum but a meeting was held later on August 31, 1938. At this meeting all protests to the schedule were considered and acted upon.

A protest was filed by the Independent Coal and Coke Company against the proposed price of $1.45 per ton on $\frac{3}{4}$'' x 0'' dust. The protest of the Independent Coal and Coke Company was granted by the Board by resolution (Exhibit 137), and a price of $1.70 per ton on $\frac{3}{4}$'' x 0'' dust was approved. A protest was also filed against said schedule by the Lion Coal Corporation. The protest of the Lion Coal Corporation was, after due consideration, denied. The change due to granting the protest of the Independent Coal and Coke Company does not appear in the price schedule submitted to the Commission by the District Board.

Another amendment to the schedule was found proper and by resolution was adopted by the Board. This amendment relates to additional charges to be made upon oiling, waxing, or otherwise chemically processing coal. The resolution appears in the record as Exhibit 138 and authorizes a charge of 25 cents per ton on all sizes of coal below and including $1\frac{5}{8}$'' x 0'' slack when so treated and a charge of 10 cents per ton upon $1\frac{5}{8}$'' x 1'' (Pea coal) and an additional charge of 10 cents per ton on all other sizes.

Testimony in support of minimum prices proposed by District Board No. 20 was adduced by an expert witness, namely, the Secretary of the District Board who is thoroughly familiar with the marketing and distribution of coals in District No. 20. His knowledge of the coals in said District is based upon years of experience in the District. It appears that the members of the District Board of District No. 20 are all experienced coal men, familiar with producing and marketing coal in said District.

The coals principally produced in Utah (District 20) are from the Book Cliffs Coal Field and the Wasatch Plateau Field. These fields extend over a distance of 150 miles. The Cliffs are from 1,000 to 2,000 feet higher than the lowlands lying south of the Cliffs and at points

reach a height of 6,000 feet above same. The outcrops occurring so far above the canyon floors are reached by long surface incline tramways necessary to bring the coal down to tipple sites accessible to the railroads. The coal beds in the Book Cliffs and Wasatch Plateau Fields range from five feet in thickness to thirty feet in thickness. More than 90% of the coal mined in Utah comes from Carbon and Emery Counties. The coal from this area is a high grade bituminous coal carrying from over 12,000 to 13,000 B. t. u.'s on an air dried basis, and is an excellent domestic and steam fuel. Analyses show that such coal contains a high percentage of volatile matter which makes it ignite readily. Such coal is hard and stores well. The coal beds in Grand, San Pete and Sevier Counties are an extension of those in Carbon and Emery Counties and have the same general characteristics. The above counties constitute Sub-district No. 1 in the schedule (Exhibit 136), namely, Castlegate - Hiawatha. Such coals have a proximate analysis of approximately 5% moisture, 42% volatile matter, 47% fixed carbon or coke, 6% ash, and 1% sulphur, and 12,800 B. t. u.'s. All the above coals in all sizes in the schedule take the price classification "A."

The coals in Sub-district No. 3, namely, "Coalville-Vernal," range from sub-bituminous to bituminous of a fair quality. All of the coals from this sub-district in all sizes as shown in the schedule (Exhibit 136) are classified for price purposes as "B". The sub-bituminous coal in the "Coalville" group has a heating value of from 10,000 to 11,000 B. t. u.'s but because of its high moisture content such coal crumbles and slacks on exposure to the air and is, therefore, not suitable for storage. When used soon after mining, such coal makes a good fuel for domestic and steam purposes. Such coals are generally known to analyze approximately 15% moisture, 38% volatile matter, 43% fixed carbon or coke, 4% ash, 1.5% sulphur, and B. t. u.'s, 10,800.

The coals mined in the Vernal group are very friable, soft and have poor stocking qualities. Such coals have a high ash content and are far removed from railroads and serve only local communities within the area known as the Uintah Basin.

Such coals generally analyze approximately 10% moisture, 33% volatile matter, 45% fixed carbon, 12% ash, 1% sulphur, and B. t. u.'s, 10,700.

The coals of Sub-district No. 2 identified as "Cedar City" in the schedule (Exhibit 136), mined in Garfield, Kane, Iron and Washington Counties, are classified in the price schedule in all size groups for price classification under the letter "B". Such coals are remote from railroads and are mined only to the extent necessary to meet the needs of the several communities. Coals produced in this field are used exclusively for domestic purposes.

The tonnage produced in District No. 20 in the year 1937 was 3,676,088 tons, of which 1,761,372 tons were consumed by the railroads, sugar companies, cement plants, milk plants, smelters, ice companies, metal mines, the United States Government and public utilities, including captive tonnage produced; 1,543,392 tons were consumed by domestic consumers; and 371,324 tons were consumed by small industries.

The District Board for District No. 20 proposed 15 size groups for the coals in said district, ranging from Size Group No. 1 (lump coal) with a maximum top size of eleven inches and maximum bottom size of eight inches to Size Group No. 15 (mine run), top size three inches, maximum bottom size zero.

The history of the various sizes produced and sold in the State of Utah was considered by the Board in determining the size groups in the schedule. The sizes appearing in the schedule, with but two exceptions, have been constantly and regularly sold in District 20 for many years in the past and constitute all of the sizes marketed in the past. The two exceptions are that with the advent and development of mechanical methods of burning coal and especially the development of the domestic stoker, it was found that a smaller size of slack was required. There was then produced Size Group 11, 1" x 0" slack, a size suitable for such type of equipment. Certain manufacturers and certain consumers demanded a coal with a proportion of the extreme fines removed. This occasioned Size Group 9, 1" x 3/16".

The evidence supports the various size groupings proposed by the Board as a proper basis for coordination of size groups with other districts.

In establishing the f. o. b. mine prices appearing in its schedule of proposed minimum prices, the District Board for District 20 first determined what should be the price of 8" x 11" lump, the top size, so that this price, when correlated with other sizes, would result in a proposed price schedule yielding approximately the weighted average cost of Minimum Price Area 7, as determined by the Commission, to wit: $2.235.

Many different samples of proposed minimum price schedules were considered by the District Board for District No. 20 before reaching a final determination. Said Board by its action established price relationships between the various sizes and qualities of coal which it considered to be fair and equitable as between code members in District 20 and to consumers.

The classification of coals in District No. 20 as "A" and "B" were determined by the Board in this manner. Class "A" coals are all of a very comparable character and meet equally in competitive markets. All the coals classified "B" are, from the standpoint of their acceptability in the market in the past, comparable. The differentials between coals classified "A" and coals classified "B," and between the sizes in each class, represent the considered judgment of the District Board as to the relative prices obtainable in the markets served by Utah producers making allowances for past customer practice, the expectation of demand of the trade, and the quality and preparation of the production. The judgment of the members of the Board was based upon their knowledge and experience and their familiarity with the marketability of the coals in the District.

In the judgment of the District Board, if the code members classified "B" had not been so classified and had been placed in "A" classification, the existing fair competitive relationships would have been destroyed and same would not be equitable as between the producers within the district. In addition, a substantial displacement of tonnage would result which would destroy the business of certain producers. Physical characteristics of coal reflecting its burning, weathering and storing ability are predominant factors in determining consumer demand and consumer acceptance. Such factors governed the District Board in its classification of coals marketed in District No. 20.

Analyses practically played no part in determining the classification of coals in District No. 20 by the Board. This for the reason that coals are not generally sold on an analysis basis in District No. 20.

The price differentials in the judgment of the District Board for District No. 20 correctly reflect the relative market value of the various kinds, qualities and sizes of coal to which they are applicable. Price differentials between coals, f. o. b. transportation facilities at the mines, are constant and remain the same in all markets during normal periods except for differences in transportation methods and charges.

The consuming market areas determined by the District Board as set forth in the price schedule reflect the markets in which coals from District No. 20 have been sold for many years in the past.

Values as to uses were not proposed by the District Board for District No. 20 for the reason that the coals in District No. 20 are considered an all-purpose fuel.

In the judgment of the members of District Board No. 20 and in the opinion of the expert witness who testified on behalf of the Board, the minimum prices proposed by District Board No. 20 conformed to the standards set out in Commission Order No. 245 and in Section 4–II (a) of the Act.

The United States Fuel Company filed a protest against the Resolution adopted by the District Board for District No. 20 (Exhibit 137). The protestant urged the Commission to establish a price of $1.45 per ton on 3/8" x 0" dust as originally proposed by the District Board for District No. 20, and in support of its protest, the protestant introduced evi-

dence to the effect that 3/8" x 0" is a dust coal and not a slack coal; that the market for dust coal is limited; that 3/8" x 0" dust is suitable only for use in powdered coal equipment and is not as desirable a fuel for such purpose as the slack sizes, either 1 5/8" x 0" or 1" x 0", both of which are used not only for powdered fuel but are used in chain grate stokers and hand-fired plants; that there is a greater difference in use value between 3/16" x 0" dust and 1" slack than there is between 1" slack and 1 5/8" slack, yet 1" slack and 1 5/8" slack are both generally used in steam plants with practically the same type of equipment; that a differential of 15 cents between 1" slack and 1 5/8" slack has existed for many years; that the realization from 1" x 3/8" stoker coal and 3/8" x 0" dust at the respective proposed prices of $2.10 and $1.45 per ton is $1.86 as against the proposed price of $1.70 per ton on 1" x 0" slack; and that 3/8" x 0" dust has never been actually sold at the price of $1.70 and a price on 3/8" x 0" dust lower than on 1" x 0" slack will not divert tonnage to the lower priced coal.

In view of the price variation shown between 1" slack and 1 5/8" slack, both of which are more or less interchangeable, a price variation should exist between 3/8" x 0" dust coal and 1" slack which sizes are not wholly interchangeable, and the schedule of proposed minimum prices as submitted to the Commission by the District Board for District No. 20 should be approved to the extent of establishing a differential of 25 cents on 3/8" x 0" under 1" x 0", retaining the price of $1.45 per ton on 3/16" x 0" dust originally proposed by the District Board.

As shown in Exhibits 139 to 142 inclusive, the minimum prices proposed by the District Board for District No. 20 would yield $2.2590 per ton as an average for the production of District 20.

Exhibit 139 contains a computation setting up the percentages according to sizes produced by Utah producers in the year 1937 and shows the application of the price schedule proposed and the return resulting from the application of the price schedule to the percentages of sizes. The realization resulting from this computation is shown to be $2.2349.

Exhibit 140 is supplemental to Exhibit 139. Exhibit 140 contains computations upon captive tonnage of 283,872 tons and truck mine tonnage of 82,485 tons. Said Exhibit also includes an additional charge of 25 cents per ton on 276,088 tons of coal treated chemically, etc. These elements were not taken into consideration in Exhibit 139. After such elements had been taken into consideration, the realization resulting was $2,2590. The realization computed in Exhibit 140 did not give effect to the District Board's increase in the price on 3/8" x 0" dust from $1.45 to $1.70. Accordingly, the modification of the schedule of minimum prices by reducing the price of 3/8" dust to $1.45, as originally proposed by the District Board, does not change the realization.

And now upon the record herein, upon the evidence, both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the schedule of minimum prices, as amended, and submitted to the Commission by the District Board for District No. 20 should be corrected and revised in order that same may better conform to Order No. 245 of the Commission and to the provisions of Section 4–II (a) of the Act, and said schedule is in the following respects modified:

Item 5 on page 3 of the schedule should be revised to read, "The prices listed herein are in cents per net ton of 2,000 pounds, f. o. b. transportation facilities at the mines."

Item 6 on page 4 of the schedule should be revised to read, "When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes schedule, then such coal must be included in the next higher priced size group and priced accordingly."

Item 3 on page 3 of the schedule should be revised to read, "All size designations herein are for round hole screens or their equivalent, except that sizes smaller than 1 5/8" may be screened other types of screens. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared with the approval of the Coal Commission."

Page 3 of the schedule should be amended by adding a new item thereto to be known as Item 7, the item so added to read, "When coal is subjected to any oil, wax, or chemical process, the following charges shall be made: Upon Size Groups Nos. 10, 11 and 12, a charge of 25 cents per ton shall be made; upon all other Size Groups, a charge of 10 cents per ton shall be made."

Page 4 of the schedule should be revised by deleting both notes at the bottom of the page since the subject matter in such notes is already covered by clauses on page 3 of the schedule.

Page 11 of the schedule should be amended by striking therefrom the price of $1.25 from Size Group 12, Classification "B". This, for the reason that no code member in District 20 produces "B" coal in such size group.

The schedule of proposed minimum prices as amended and submitted to the Commission by the District Board for District 20 should be revised by reducing the price on 3/16" x 0" dust from $1.70 to $1.45, establishing a differential of 25 cents on 3/16" x 0" under 1" x 0".

That the District Board for District No. 20, as directed in Order No. 245 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the district, classification of coal and price variations as to mines and consuming market areas.

That the District Board for District No. 20, as directed in Order No. 245 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 20, as herein modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal produced within the district; are just and equitable as between producers within the district; have due regard to the interests of the consuming public; and do not permit dumping.

That the minimum prices proposed by the District Board for District 20 for any kind, quality, or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the district.

That the minimum prices proposed by the District Board for District No. 20, as herein modified, yield a return per net ton for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area No. 7, the Price Area in which District 20 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District No. 20, as amended, corrected, modified and revised as hereinabove set forth, conforms to Order No. 245 of the Commission and to the requirements of Section 4–II (a) of the Act, and as so amended, corrected, modified and revised, said schedule should be and the same is hereby approved by the Commission to serve as a basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule, as amended, corrected, revised and modified, appears in the Appendix for District No. 20.

APPENDIX FOR DISTRICT NO. 20

Schedule of Minimum Prices, As Modified and Approved, To Serve as a Basis for Coordination

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. MCCULLOUGH,
Secretary.

Issued: December 9, 1938.

TABLE OF CONTENTS

Code Members.
Instructions and Exceptions.
Market Area Description.
Prices.
Size Groups.
Sub-Districts.

PRICE INSTRUCTIONS AND EXCEPTIONS

Item No. 1.—The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by code members in the District shown on the title page hereof.

Item No. 2.—All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

Item No. 3.—All size designations herein are for round hole screens, or their equivalent, except that sizes smaller than 1⅝" may be screened over other types of screens. When other types of screens are used the District Board shall determine the actual size designation of the coal so prepared with the approval of the Coal Commission.

Item No. 4.—In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in U. S. funds.

Item No. 5.—The prices listed herein are in cents per net ton of 2,000 pounds, f. o. b. transportation facilities at the mine.

Item No. 6.—When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced size group and priced accordingly.

Item No. 7.—When Coal is subjected to any oil, wax or chemical process, the following charges shall be made: Upon Size Groups Nos. 10, 11 and 12 a charge of 25 cents per ton shall be made; upon all other Size Groups a charge of 10 cents per ton shall be made.

Size Groups

Size group No.	Lump, maximum screen size	Double screened sizes	
		Maximum top size	Maximum bottom size
1	Lump	11"	8"
2	All lump over 8"		
3	All lump over 3"		
4	All lump over 1¾"		
5	Stove	8"	3"
6	Egg	8"	1¾"
7	Nut	3"	1⅜"
8	Pea	1⅜"	1"
9	Slack	1"	¾"
10	Slack	1¾"	0"
11	Slack	1"	0"
12	Dust	¾"	0"
13	Straight mine run		
14	Mine run	8"	0"
15	Mine run	3"	0"

IDENTIFICATION OF SUB-DISTRICT NUMBERS

Sub-District Number and Identification

1. *Castlegate - Hiawatha.*—All bituminous mines in Carbon, Emery, Grand, Sevier and Sanpete Counties.

2. *Cedar City.*—All bituminous mines in Garfield, Kane, Iron and Washington Counties.

3. *Coalville - Vernal.*—All bituminous mines in Summit, Uintah, and Daggett Counties.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown

Code member	Mine name	Sub-dist. No.	Seam or kind	Price classifications and size group Nos.														
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Adair, Ira H.	Adair Coal	2	Not named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Allen, Edgar	Comfort	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Arronco, John	Arronco Coal	1	Castlegate D	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Bailey Coal Co	Black Diamond	1	Castlegate C	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Baker & Nixon	Farrell	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Bell Bros. Coal Mine	Bell Brothers	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Campbell, H. C	Bog Valley	1		A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Carroll, Rulon J	Meeks Carroll	2	Upper Carmel	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Case, M. F	Cherry Creek	2	Not named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Chesterfield Coal Co	Chesterfield	1	Chesterfield	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Christensen, Albert	Christensen 1 & 3	1	Castlegate A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Christensen, L. Earl	Edgewood	1	Castlegate A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Christopherson, M. W	Metcalf	1	Castlegate E	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Columbia Steel Co	Columbia	1	Upper Sunnyside	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Comfort Coal Co	Comfort	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Costa, John	Clear Creek	1	Ivie	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Cowboy Coal Mine	Cowboy	1	Ferron L	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Castle Valley Fuel Co	Otteson	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Dods, Jack	Chidester #2	1	Gilson	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Duzett, E. H	Browning	1	I Bed	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Edwards, George Q	Otteson	1	Emery	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Foy, L. V	Crescent Canyon	1	Nelson	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Gibson, Emmet	Martin No. 3	1	Castlegate A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Grundvig, L. A	Grundvig	1	Rock Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Hansen, L. R	Willow Spring	1	Ferron A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Hardscrabble Coal Co	Hardscrabble	1	Castlegate A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Hi-Heat Coal Co	Rains #2	1	Mutual	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Howard, B. A	Deer Creek	1	Blind Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Howard, William	Freed	1	Blind Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Huntington Coal Assn	Community	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Independent Coal & Coke Company.	Aberdeen	1	Castlegate D Aberdeen	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Jaggi, Ernest	Blue J	1	Bear Canyon	*A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Jensen, Clarence	Little Water	3	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Johnson, J. B	Blu J	1	Bear Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Kidd, Alex C	Kidd	3	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Killian, J. Frank	Oliphant #2	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Klean Coal Co	Klean	2	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Klean-Heat Coal Co	Monay	1	Upper U. P	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Lance, J. Reed	Thompson Canyon.	1	Nelson	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Larson & Rigby	Larson & Rigby	1	Castlegate A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Leamaster, Martin	Mill Fork	1	Black Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Levanger, Chris	O. K	2	Upper Carmel	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Liberty Fuel Co	Liberty	1	Gordon Creek	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Lion Coal Corp	Wattis	1	Hiawatha	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Log Cabin Coal Co	Log Cabin	1	Ferron	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
MacLean Coal Company	MacLean	1	Gordon Creek	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Maple Creek Coal Co	Maple Creek	1	Gordon Creek	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
McKinnon, Malcolm N	American Fuel	1	Blind Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Munk, Leo D	Stump Flat	1	Blind Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Mutual Coal Co	Mutual	1	Gordon Creek	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
National Coal Co	National	1	Hiawatha	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Norgard, H. H	H. H. Norgard	3	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Parry, Chester	Corry	2	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Peerless Sales Co	Peerless	1	Gordon Creek	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Ray, Lewis F. and Vern A		2	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Rio Grande Coal Co	Rio Grande	1	Gilson	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Royal Coal Co	Royal	1	Castlegate D	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Sanders, John F	Arrowhead	1	Castlegate A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Sitterud, J. R	Oliphant	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Snow, Orrin L	Pace Canyon	1	Gilson	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Soldier Canyon Coal Company.	Soldier Canyon	1	Rock Canyon	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Spring Canyon Coal Co	Spring Canyon	1	Castlegate A Hiawatha	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Standard Coal Co	Standard	1	Hiawatha	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Straight Canyon Coal Company.	Straight Canyon	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Sweet Coal Co. of Utah	Sweet	1	Hiawatha	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Taylor, Moses C	Taylor	3	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Twin Cities Cooperative	Twin Cities Cooperative.	1	Hiawatha	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A
Twin Pine Coal Co	Twin Pine	3	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
United States Fuel Co	King No. 1	1	Hiawatha	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	King No. 2	1	Hiawatha															
	Panther	1	Castlegate B															
Utah Fuel Company	Castle Gate	1	Castlegate D	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	Clear Creek	1	Castlegate A															
	Sunnyside	1	Upper Sunnyside															
Webster, Ernest & Albert U. Nelson.	Webster and Nelson.	2	Lower Coal Creek	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Weeks, Nelson O	North Star	3	Not Named	B	B	B	B	B	B	B	B	..	B	B	..	B	B	B
Woodward, Gerald	Martin No. 1	1	Castlegate A	A	A	A	A	A	A	A	A	..	A	A	..	A	A	A

Prices for Shipment Into Market Areas Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
A	345	305	290	275	280	265	245	225	210	185	170	145	270	240	220
B	270	235	225	220	220	210	200	185	175	150	140	.....	225	200	185

See "Price instructions and exceptions"

GEOGRAPHICAL DESCRIPTION OF CONSUMING MARKET AREAS TO WHICH PRICES APPLY

Area No. and Description

1. Utah.
2. Idaho.
3. Oregon.
4. Washington.
5. Montana.
6. Nevada.
7. California.
8. Kansas.
9. Nebraska.
10. Territory of Alaska.
11. Colorado: That portion lying north of a line extended west from Curecanti, Colorado, to the Colorado-Utah state line, and west of a line extended north from Curecanti through Slater, Colorado, to the Colorado-Wyoming state line.
12. Also that portion lying east of a line extended from a point on the Colorado-Wyoming state line south of Carpenter, Wyoming, south to Pueblo, Colorado, and north of a line extended southeast from Pueblo just south of, and parallel to the Atchison, Topeka & Santa Fe Railroad to the Colorado-Kansas state line.
13. South Dakota: That portion lying west of the Missouri River and south of a line drawn east and west just north of Newell, South Dakota.
14. Iowa: That portion lying west of a line beginning at the Iowa-Minnesota state line north of Ocheyedan, Iowa, and extended south through Ocheyedan and Hamburg, Iowa, to the Iowa-Missouri state line.

MINIMUM PRICE AREA NO. 9—DISTRICT NO. 22

PROPOSED MINIMUM PRICES

District Board No. 22 prepared a schedule of proposed minimum prices for the kinds, qualities and sizes of coal produced within the District, which was, in the best judgment of the District Board, a compliance with Commission's Order No. 245. It then transmitted a copy of these proposed prices to each code member within the District. Five protests were filed with the District Board by code members within the District. Thereafter, the District Board filed a copy of the schedule of proposed prices, together with the data upon which it was computed with the Commission, which schedule of proposed minimum prices was received in evidence as Exhibit No. 160.

The code members who filed protests to the schedule of proposed prices were: Arthur Mills, Fred Nies, Whittle Brothers, Otto Pust and A. C. Elder. The District Board, after receiving these protests, held two meetings; one on August 23, 1938, and the other on September 3, 1938, to consider and determine what action, if any, should be taken in regard to the protests. The protest of A. C. Elder was in effect withdrawn by him; that of Otto Pust was tabled pending the decision of the Commission in regard to his application for exemption from the Bituminous Coal Act on the ground that he is producing lignite coal and does not come within the Act. The action of the Board on the other protests which were filed and heard is embodied in a resolution adopted by the District Board at a meeting held on September 10, 1938, which resolution was received in evidence as Exhibit No. 161. The protest of Fred Nies was denied by the District Board, because, in the opinion of the Board, there was no difference in the quality of his coal as compared with other coals in the same grouping. The District Board in its resolution (Exhibit No. 161) recommended that the price schedule be modified as to Arthur Mills on certain size groups, because the Board had been misinformed as to the seam of coal worked by Mills. The Board found that the seam in which he was working carried a higher moisture content and that the coal was inferior to other coals within the Roundup sub-District. The protest of Whittle Brothers was granted by the District Board because the Board found on investigation that the seam of coal mined by Whittle Brothers was of a lower grade than the Roundup seam and had an ash content greatly in excess of the Roundup seam, making the marketability very much inferior.

The District Board recommended that the proposed schedule of minimum prices (Exhibit No. 160) be amended as set out in two resolutions, one adopted by District Board in a meeting held September 10, 1938, and the other at a meeting held by the District Board on September 13, 1938, which resolutions were received in evidence as Exhibits Nos. 162 and 163.

Testimony in support of the schedule of proposed minimum prices proposed by District Board No. 22 was adduced by an expert witness, to wit: The Vice-Chairman of the District Board, who was thoroughly familiar with the marketing and distribution of coal within District No. 22. The witness has been engaged in the mining of coal practically all of his life, holding various positions in and around the mine from foreman to mine manager. He has resided in Montana for the past fourteen years, during which time he has been assistant manager or general manager of the coal operations of the Anaconda Copper Mining Company, and has been in charge of the production and marketing of coals produced by that Company. He has had many years' experience in the marketing of coals produced in Utah, Wyoming, Oregon and Montana. His knowledge of the coals in District No. 22 was based on years of experience in that District.

It appears that the District Board consists of seven members, each of whom, with the exception of a labor member, is an operator and is in charge of the production and marketing of coal for an operating company in the State of Montana. All of these seven members took an active part in the preparation of the proposed schedule of minimum prices. This Board represents approximately eighty per cent of the commercial tonnage in District 22. The members of this Board are all men who, by reason of their intimate knowledge of their own coals and their familiarity with their competitors' coals, are fully capable of judging the price differentials and relationships between the kinds, qualities and sizes of coal produced within District No. 22.

The schedule of minimum prices proposed by District No. 22, as set out in Exhibit No. 160, divides the District into twelve sub-Districts as follows:

Sub-District Number and Description

1. *Roundup.*—All mines operating in the Roundup and Carpenter Creek Seams in Musselshell County, north of Klein, and all mines operating in the Painted Robe and Franklin Seams in Golden Valley and Yellowstone Counties.
2. *Red Lodge.*—All mines in Carbon and Stillwater Counties.
3. *Rosebud.*—All mines in Custer, Rosebud, Big Horn, Garfield, Powder River, McCone and Prairie Counties.
4. *Lewistown.*—All mines in Fergus County.
5. *Great Falls No. 2.*—All mines in Judith Basin County except the mines in the Belt Creek Seam in Judith Basin County.
6. *Trail Creek.*—All mines in Park and Gallatin Counties.
7. *Great Falls No. 1.*—All mines in Cascade and Chouteau Counties, including the mines in the Belt Creek Seam in Judith Basin County.
8. *Havre.*—All mines in Hill, Blaine and Phillips Counties.
9. *Bull Mountain.*—All mines in Musselshell, Treasure, and Yellowstone Counties, except the Roundup Sub-District.

10. *Plentywood No. 1.*—All mines in Opheim and Glentana Fields in Valley County, Wolf Point Field in Roosevelt County, and Scobey Field in Daniels County.

11. *Plentywood No. 2.*—All mines in Dawson, Valley, Sheridan, Richland, Roosevelt and Daniels Counties, except Plentywood No. 10 Sub-District.

12. *Valier.*—All mines in Pondera, Teton, Glacier, Toole and Flathead Counties.

These sub-Districts were determined by the coal deposits in the State and represent all of the different producing areas within the State. These sub-Districts have been generally known by these names for a long number of years, and they are recognized by producers in the District as the natural geographical coal-producing areas. The total tonnage produced in the year 1937 in these sub-districts was 2,900,000 tons. Of that amount approximately 2,000,000 tons were controlled tonnage and the balance was commercial tonnage. Of this commercial tonnage approximately 235,000 tons were used by public utilities, cement plants and sugar beet factories. The remainder was used for domestic purposes and small steam plants.

The coals produced in the twelve sub-Districts of District No. 22 are described as follows:

Subdistrict No. 1.—The coal of this sub-District is subbituminous, it is bright in color, is reasonably free from impurities, and is free burning. All of these coals, with one or two exceptions, in this sub-District are comparable, and have been classified accordingly in the proposed price schedule.

Subdistrict No. 2.—The coals in this sub-District are similar in quality to the coals produced in sub-District No. 1. The same classification exists, except on four groupings. These exceptions are due to the fact that these sizes contain more impurities than the same sizes in sub-District No. 1.

Subdistrict No. 3.—The coals in this sub-District are subbituminous, bordering on lignite; their excessive moisture retards their burning ability. The coal degrades rapidly after being mined. Because of the non-storing characteristics of this coal, it is obvious that it must be utilized soon after it is mined.

Subdistrict No. 4.—The coals in the Lewistown Field of this sub-District are bituminous in character, quite firm in structure, handle and store with small amount of degradation. The seam is from 3½ to 4 feet in thickness. The coal is relatively free from impurities, and has good burning qualities. In the Winifred Field of this sub-district, the coal is of inferior quality as compared with the Lewistown Field.

Subdistrict No. 5.—This is low grade bituminous coal. The market for it is limited to a sparsely settled part of the State at or near the mines.

Subdistrict No. 6.—The coal in the Chestnut and Timberline Fields is of good quality. Some of it will coke. The coal in the Trail Creek Field of this sub-District is of inferior quality to the Chestnut and Timberline Fields, because of its fracture and friability.

Subdistrict No. 7.—Several seams of coal are being worked in this sub-District. The coal is of a low rank bituminous. The coal in color is black to a grayish-black. The various seams contain considerable impurities. The commercial sizes undergo expensive preparation process to remove the impurities.

Subdistrict No. 8.—The coal in this sub-district is subbituminous. The Havre and Goldstone Fields of this sub-District contain a lower grade of coal than the adjoining sub-Districts, and this is reflected in lower prices. The Chinook Field, the other field in this sub-District, produces a fair quality of bituminous coal. It is of a better grade than the Havre and Goldstone Fields, better prepared, and has a better appearance. These elements are reflected in the prices proposed for this coal.

Subdistrict No. 9.—This sub-District adjoins sub-District No. 1, and the coals are somewhat similar except that they contain more moisture and degrade more rapidly in storage.

Subdistrict Nos. 10 and 11.—A proceeding is pending before the Commission to determine whether the coal in this sub-District is lignite, as lignite is defined in the Act. Pending a decision by the Commission the Board proposed the same prices for this sub-District as were established in 1937.

Subdistrict No. 12.—The coal in Pondera and Toole Counties is a good grade of bituminous coal, but the seam is thin, being less than 30 inches in thickness, and contains bone partings. The mines in the District are located in a sparsely settled region and are wholly dependent on local markets, which markets are not sufficient to absorb all of the smaller sizes produced, with very little outlet for the smaller sizes. Flathead County has only one code member. The coal is subbituminous, with a high moisture content.

The Exhibits received in evidence are as follows:

Exhibit No. 160.—"Schedule of proposed minimum prices of District No. 22 pursuant to Order No. 245."

Exhibit No. 161.—"Resolution adopted at meeting of District Board No. 22 on protest of Arthur Mills, Fred Nies, Whittle Bros., and Alex Landice."

Exhibit No. 162.—"Resolution adopted at meeting of District Board No. 22 on revisions to be made in the schedule of proposed prices."

Exhibit No. 163.—"Resolution adopted at meeting of District Board No. 22 that prices for controlled tonnage as they appear in the proposed schedule of minimum prices be revised."

Exhibit No. 164.—"Tabulation Showing Tonnage and Realization Distribution in District No. 22 Based on 1937 Tonnage Using Proposed Minimum Prices."

Exhibit No. 194.—"Marketing Rules and Regulations, Incidental to the Sale and Distribution of Coals of Code Members within District No. 22."

The evidence shows that the schedule of minimum prices submitted by District Board No. 22 (Exhibit No. 160) as amended, proposes minimum prices f. o. b. transportation facilities at the mine for the various kinds, qualities and sizes of coal produced by code members in the District.

District Board No. 22, as shown by its Exhibit No. 162, proposes fourteen size groups ranging from Size Group No. 1, lump coal 6 inch and over, to Size Group No. 14, railroad mine run. These size groups are the outgrowth of dealer and consumer demand over a period of years, and represent the best judgment of the Board. They have been established as a result of marketing experience. Sizes having the same relative value according to sub-districts were grouped together by the Board under a letter classification, since they took the same price. The price variations between the various size groups were considered by the Board to be proper. In the opinion of the expert witness for the Board, they satisfy the requirements of the consumer and preserve, as nearly as possible, the normal production and distribution of the various sizes in accordance with the requirements of the consumer.

The evidence shows that District Board No. 22, in proposing these f. o. b. mine prices set forth in the schedule, first took the commercial tonnage. It determined the relative value one to the other of the various kinds and qualities of coal within the District, and the relative values one to the other of the various sizes of such coal, this determination being based upon the knowledge of the members of the Board, who were all experienced coal men, and their familiarity with the marketability of the coals in the District. As a starting point, the Board took the prevailing price for 2" lump from sub-Districts Nos. 1 and 2. It determined the proposed minimum prices of the other kinds, qualities and sizes of coal by relating them to that base, taking into consideration the differentials which had previously been determined. They then multiplied the tonnage of each of the kinds, qualities and sizes which were found to have been sold in the year 1937, by prices applicable to such coal, and arrived at the potential realization for the commercial coal on that basis. This realization was somewhat above the known weighted average cost of the commercial tonnage of $2.28½, as determined by the Commission. They then adjusted the price in a sufficient amount to be near that figure. At that time the Board was of the opinion that the minimum prices for the controlled tonnage should be proposed on the basis of its cost of production, and accordingly, it added to the sum of money which should be realized from the sale of commercial coal a sum which would be realized from the sale of the controlled coal on the basis of its cost of production for the year 1937. The result of this computation was the weighted average realization of $1.53 plus per net ton for all of the coal sold from District 22 for the year 1937.

After the Board had submitted the proposed minimum price schedule, it was advised that minimum prices for controlled coal must be proposed on the same basis as commercial coal, also that the prices proposed must yield a realization as near as may be to the figure which the Commission had determined as the weighted average cost of all the coal produced in Price Area No. 9 for the year 1937, namely, $1.59 per ton. Thereafter, the Board recomputed the realization for the controlled coal, applying to the controlled tonnage produced during the year 1937 the revised proposed minimum prices for this coal. It then weighted the new realization from the controlled tonnage with the realization which it had determined from the commercial tonnage. The District Board recommended that the prices set out in the original price schedule (Exhibit No. 160) be amended so as to conform to the changes for controlled tonnage contained in Exhibit No. 163.

From the evidence it appears that coals in the various sub-Districts in District No. 22 were grouped by the Board in letter classifications according to their relative value. The letters are indices to the prices in each size group. The letter "A" represents the highest priced coal in each size group. The letter classification for each mine is set forth on pages 6 to 6–j, inclusive, of Exhibit No. 160.

In determining the price relationships set up in the proposed minimum price schedule as amended, the evidence shows that analyses played a very small part in the price relationship, because coals sold in District 22 are seldom sold on an analysis basis.

It appears from the evidence that the market areas, as set out in the proposed schedule of minimum prices (Exhibit No. 160), as amended, were determined by the sale of Montana coal into these territories over a period of a great many years. These market areas represent the natural markets. Practically all of the controlled tonnage is sold within the State of Montana. As to the commercial tonnage, about eighty per cent of the entire production is consumed within the State, and the remainder is shipped into the following markets named in the order of their importance: North and South Dakota, Washington, Idaho, Minnesota, eastern Oregon, Wyoming and Iowa.

The evidence shows that the schedule of proposed minimum prices, as amended by District Board No. 22, will yield a return for the District equal as nearly as may be to the weighted average cost of the total cost per net ton of the tonnage of minimum Price Area No. 9 as determined by the Commission, namely, $1.59 per ton. The realization submitted will yield $1.60 per ton, being a difference of one cent per ton.

It appears from the evidence that the differentials shown on the proposed price schedule, as amended, correctly reflect the relative market value of the various kinds, qualities and sizes of coal to which they are applicable.

The expert witness for the District Board testified that the price classifications and price differentials reflected in the proposed schedule of minimum prices, as amended, were, in his judgment and in the judgment of the District Board, equitable as between code members in the District, and gave due regard to the interest of the consuming public. The evidence shows that the members of the District Board, before proposing such schedule of minimum prices, gave serious consideration to all of the factors in determining what they deem the proper relationship between the coals of the mines in the District. Every producer in the District had the opportunity to protest the proposed schedule. Except for the five protests heretofore mentioned, none of the code members protested to the price classifications and price relationships. The differentials between the proposed prices have in the main existed over a period of many years, and have proved acceptable to the consuming public. The consumers in the past have had a choice of any size of coal that would be suitable to their needs and have paid approximately the same differentials between the sizes.

The schedule of proposed prices, as amended, does not show any price variation due to seasonal demand. It was the opinion of the District Board that seasonal demand should have no effect on the prices in District No. 22. And neither do they show any price variation occasioned by value as to uses. This is due to the fact that the coals from District No. 22 are all-purpose coals.

In the opinion of the witness, the proposed prices do not permit dumping, for the reason that the prices proposed are fair, with fair differentials between the various kinds, qualities and sizes of coals produced in the District.

In order to make the price schedule proposed by District Board No. 22 (Exhibit No. 160) conform to the recommendations of the District Board contained in Exhibit Nos. 161, 162 and 163, and to conform to the evidence given in support of these Exhibits, the Commission finds that the proposed price schedule should be corrected modified and amended in the following respects, to-wit:

Item 1, page 3 thereof, which reads as follows:

"Prices listed herein are per net ton of 2,000 pounds f. o. b. transportation facilities at the mine,"

should be deleted, and the following language should be inserted in lieu thereof:

"The prices listed herein are in cents per net ton of 2,000 pounds f. o. b. transportation facilities at the mine."

The Commission finds that page 3 should be amended so as to include Item 4, which will read as follows:

"When any size coal is sold in which the maximum top or bottom size exceeds the size scheduled, then such coal must be included in the next higher priced size group and priced accordingly."

Page 3 should be amended so as to include Item 5, which reads as follows:

"All size designations herein are for round hole screens or their equivalent. When other types of screen are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission."

The Commission finds that page 4 should be deleted.

The Commission finds that page 4–A should be amended and corrected in the following respects:

The two paragraphs at the bottom of the page should be deleted. Said paragraphs read as follows:

"When any size of coal is sold, in which the maximum top or bottom size exceeds the size scheduled above, then such coal must be included in the next higher size group and priced accordingly."

"(a) All maximum screen sizes mentioned herein are based on round hole or the equivalent thereof."

Delete "(a)" at the head of "Maximum top sizes" and "Maximum bottom sizes."

The words "Fancy Lump over 6'', 7'', 8'' and 9'' ", under Side Group 1, should be deleted, and the following language inserted in lieu thereof: "Lump 6'' and over."

The words "Standard Lump over 2'' " appearing under Size Group 2, should be deleted and the following language inserted in lieu thereof: "2'' Lump."

Size Group 9, which reads: "Stoker maximum top size 1¼'' " should be amended to read: "Stoker maximum top size 1¼'', maximum bottom size ½'' ".

Page 5 should be corrected and amended as follows: sub-District No. 5 should be amended to read as follows:

"Great Falls No. 2.—All mines in Judith Basin County except the mines in the Belt Creek Seam in Judith Basin County."

Sub-District No. 7 should be amended to read as follows:

"Great Falls No. 1.—All mines in Cascade and Chouteau County, including

the mines in the Belt Creek seam in Judith Basin County."

Sub-District No. 10 should be amended to read:

"*Plentywood No. 1.*—All mines in Opheim and Glentana Fields in Valley County, Wolf Point Field in Roosevelt County, and Scobey Field in Daniels County."

Sub-District No. 11 should be amended to read:

"*Plentywood No. 2.*—All mines in Dawson Valley, Sheridan, Richland, Roosevelt, and Daniels County, except Plentywood No. 10 Sub-District."

The Commission finds that on pages 6 to 6–j inclusive, (Exhibit No. 160) wherever the seam or kind is designated "unknown", that the word "unknown" should be deleted, and the word "unnamed" should be inserted in lieu thereof.

The Commission finds that the price classification for Arthur Mills, as contained on page 6–f should be amended so that the same will read:

Size group:	Classification
1	C
2	G
3	C
5	B
7	B
8	A
9	C
10	A
11	C
12	B

The Commission finds from the evidence that the price classification for Alex Landice, page 6–e, should be amended to read as follows:

Size group:	Classification
1	D
2	H–1
3	A
5	E
7	B
8	A
9	D
10	A
11	D
12	B

The Commission finds that the price classification for Whittle Brothers on page 6–i should be amended so as to read:

Size group:	Classification
1	D
2	H–1
3	A
5	E
7	B
8	A
9	D
10	A
11	D
12	B

The Commission finds that the price classification for Whittle Brothers on page 6–i should be amended so as to read:

Size group:	Classification
1	D
2	H–1
3	A
5	E
7	B
8	A
9	D
10	A
11	D
12	B

The Commission finds from the evidence that the price schedule (Exhibit No. 160) page 7, should be amended so as to show a price classification "H–1," and the price under that classification in size group 2 should be "300."

The Commission finds that the proposed price schedule, pages 6 to 6–j, inclusive, should be amended in such a way as to put all of the code members in their alphabetical order.

The Commission finds that page 6–g, wherein it shows the price classifications and size groups for Roundup Coal Mining Company, should be amended so as to place an "A" classification under Size Group 14.

The Commission finds that page 6–c (Exhibit No. 160), wherein the price classification and size groups for Eagle Coal Company are set out, should be amended so as to put an "A" classification in Size Group 13, and an "A" classification in Size Group 14.

The Commission finds that pages 6 to 6–j, inclusive, (Exhibit No. 160) should be amended so as to add in their proper alphabetical order the names of the following code members and their classification:

Code member	Mine name	Sub-dist. No.	Seam or kind	Price classifications and size gronp Nos.													
				1	2	3	4	5	6	7	8	9	10	11	12	13	14
Brown, Reuben A	Mission	7	Unnamed	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Erickson, Carl	Erickson	7	....do	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Frame, Archibald	Frame	7	....do	A	D	..	..	B	..	..	..	D	..	B	..	..	..
Hover, Harold B		8	....do	..	D	..	..	..	..	D	..	D	..	B	A	..	..
Kernaghan, James		7	....do	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Mizuta & Krause		7	....do	B	E	A	..	A	..	B	A	C	A	C	B	..	..
Smith, Jasper	Skaggs	4	....do	..	D	..	..	..	..	..	..	D	A	..	..	..	..
Stinson, J. A		7	....do	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Kent Coal Co	Kent	2	....do	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Mus Coal Co		2	....do	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Snyder Coal Co		2	....do	B	E	A	..	B	..	C	B	D	A	C	B	..	..

The Commission finds that page 7 (Exhibit No. 160), wherein it reads as follows:

"Price Classification A, Size Group 14, 155;

"Price Classification B, Size Group 14, 140;

"Price Classification C, Size Group 14, 100."

should be amended and changed to read as follows:

"Price Classification A, Size Group 14, 165;

"Price Classification B, Size Group 14, 150;

"Price Classification C, Size Group 14, 110."

And now upon the record herein, upon the evidence, both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the District Board for District No. 22 as directed in Order No. 245 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the district, classification of coal and price variations as to mines and consuming market areas.

That the District Board for District No. 22, as directed in Order No. 245 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 22, as herein modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal produced within the district; are just and equitable as between producers within the district; have due regard to the interests of the consuming public; and do not permit dumping.

That the minimum prices proposed by the District Boad for District 22 for any kind, quality or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the district.

That the minimum prices proposed by the District Board for District No. 22, as herein modified, yield a return per net ton for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area No. 9, the Price Area in which District 22 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District No. 22, as amended, corrected, modified and revised as hereinabove set forth, conforms to Order No. 245 of the Commission and to the requirements of Section 4–II (a) of the Act and as so amended, corrected, modified and revised, said schedule should be and the same is hereby approved by the Commission to serve as a basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule as amended, corrected, revised and modified appears in the Appendix for District No. 22.

APPENDIX FOR DISTRICT NO. 22

Schedule of Minimum Prices, as Modified and Approved, to Serve as a Basis for Coordination

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are

subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. MCCULLOUGH,
Secretary.

Issued: December 9, 1938.

TABLE OF CONTENTS

Price Instructions and Exceptions.
Size Groups.
Identification of Sub-District Numbers.
Code Members and Schedules.
Prices.
Geographical Description of Consuming Market Area to which Coal Produced in District No. 22 is shipped.

PRICE INSTRUCTIONS AND EXCEPTIONS

Item No. 1.—Prices listed herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mine.

Item No. 2.—All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

Item No. 3.—When coal is subjected to any chemical, oil, or waxing process, an additional charge of not less than 25 cents per net ton shall be made.

Item No. 4.—When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher *priced* size group and priced accordingly.

Item No. 5.—All size designations herein are for round hole screens, or their equivalent. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission.

Size Groups

Size group No	Lump, maximum screen size	Double screened sizes	
		Maximum top size	Maximum bottom size
1	6" Lump and over		
2	2" Lump		
3	Furnace	9"	6"
4	Egg	6"	3"
5	Stove	6"	2"
6	No. 1 Nut	3"	2"
7	Nut	2"	1¼"
8	Chestnut	1¼"	1"
9	Stoker	1¼"	½"
10	Slack	1¼"	0"
11	....do	1"	0"
12	....do	½"	0"
13	Prepared Locomotive Coal	6"	1"
14	Railroad Mine Run		

IDENTIFICATION OF SUB-DISTRICT NUMBERS

Subdistrict No. and Identification

1. *Roundup.*—All mines operating in the Roundup and Carpenter Creek Seams in Musselshell County, north of Klein, and all mines operating in the Painted Robe and Franklin Seams in Golden Valley and Yellowstone Counties.

2. *Red Lodge.*—All mines in Carbon and Stillwater Counties.

3. *Rosebud.*—All mines in Custer, Rosebud, Big Horn, Garfield, Powder River, McCone, and Prairie Counties.

4. *Lewistown.*—All mines in Fergus County.

5. *Great Falls No. 2.*—All mines in Judith Basin County except the mines in the Belt Creek Seam in Judith Basin County.

6. *Trail Creek.*—All mines in Park and Gallatin Counties.

7. *Great Falls No. 1.*—All mines in Cascade and Chouteau Counties, including the mines in the Belt Creek Seam in Judith Basin County.

8. *Havre.*—All mines in Hill, Blaine and Phillips Counties.

9. *Bull Mountain.*—All mines in Musselshell, Treasure, and Yellowstone Counties, except the Roundup Sub-District.

10. *Plentywood No. 1.*—All mines in Opheim and Glentana Fields in Valley County, Wolf Point Field in Roosevelt County, and Scobey Field in Daniels County.

11. *Plentywood No. 2.*—All mines in Dawson, Valley, Sheridan, Richland, Roosevelt, and Daniels Counties, except Plentywood No. 10 Sub-District.

12. *Valier.*—All mines in Pondera, Teton, Glacier, Toole and Flathead Counties.

Alphabetical List of Code Members Showing Price Classification by Sizes for all Uses Except as Separately Shown

Code member	Mine name	Sub-district No.	Seam or kind	Price classifications and size group Nos.													
				1	2	3	4	5	6	7	8	9	10	11	12	13	14
Acme Coal Co		11	Unnamed	F	I	F	..	G	..	E	D	E	..	D	..	..	..
Almond, Richard	Blue Pony	7	....do	A	D	..	..	B	..	..	..	D	..	B	..	..	..
Alton, Charles	Alton	11	....do	F	I	F	..	G	..	E	D	E	..	D	..	..	..
Anderson, Ben		4	Middle	..	D	..	..	..	..	..	..	D	A	..	..	..	..
Anderson Coal Co		7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Anderson, E. M		7	Unnamed	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Anderson, W. C	Silvertip	1	Painted Robe	B	E	A	..	A	..	B	A	C	A	C	B	..	..
Anno, Walter	Anno	10	Unnamed	F	I	F	..	F	..	F	E	E	..	D	..	..	..
Bair-Collins Co	Prescott	1	Roundup	B	E	A	..	A	..	B	A	C	A	C	B	..	..
Baron, C. W	Charlies	4	Middle	..	D	..	..	..	..	..	..	D	A	..	..	..	..
Bearcreek Coal Co		2	Bearcreek	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Berkley Coal Co	Berkley	1	Roundup	B	E	A	..	A	..	B	A	C	A	C	B	..	..
Verten, Ben	Berten	9	Buckey	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Big Four Mining Co		2	Bridger	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Black Diamond Coal Co		2	....do	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Black Diamond Mine		11	Unnamed	F	I	F	..	G	..	E	D	E	..	D	..	..	..
Black Widow Mine		7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Booth, Earl	Booth	7	Unnamed	A	D	..	..	B	..	..	..	D	..	B	..	..	..
Bottamy, George H	Elk Horn	6	....do	B	..	..	..	B	..	..	..	C	..	..	..	..	..
Boustead, E. S	Hughes	5	....do	..	F	..	..	..	..	..	..	D	..	..	..	..	..
Brew Coal Co	Brew	4	Middle	..	D	..	..	..	..	..	..	D	A	..	..	..	..
Bridger Coal Co		2	Bridger	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Brodie Coal Co		7	Belt Creek	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Brown, R. A	Brown	4	Middle	..	D	..	..	..	..	..	..	D	A	..	..	..	..
Brown, Reuben A	Mission	7	Unnamed	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Brown & Latham		7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Brown Coal Co		5	Unnamed	..	F	..	..	..	..	..	..	D	..	..	..	..	..
Burns, Robert	Burns	2	Red Lodge	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Calone & Johnson		7	Belt Creek	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Campbell & Lehfeldt	Mackton #2	7	Unnamed	A	D	..	..	B	..	..	..	D	..	B	..	..	..
Carbon Coal Co		7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Carlile, James M	Carlile	7	Belt Creek	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Carlson, Carl H	Divide	9	Mammoth	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Carlson, Fred	Lewistown Fuel	4	Middle	..	D	..	..	..	..	..	..	D	A	..	..	..	..
Carlson, John E		9	Mammoth	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Caton, A. B		2	Red Lodge	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Clapp, Clyde		11	Unnamed	F	I	F	..	G	..	E	D	E	..	D	..	..	..
Clean Coal Co	Smokeless & Sootless.	2	Red Lodge	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Clean Coal Co		2	Bridger	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Conner & Fleming	Storm King	3	Unnamed	..	H	..	..	F	..	E	..	D	..	..	..	..	..
Cottonwood Coal Co	Giffen	7	....do	..	..	..	..	..	..	..	..	..	..	..	..	..	B
Cow Creek Coal Co		9	Mammoth	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Cowen, Hall	Cowen	4	Middle	..	D	..	..	..	..	..	..	D	A	..	..	..	..
Crosby, Gilbert		7	Unnamed	A	D	..	..	B	..	..	..	D	..	B	..	..	..
Culleton, Marc	Culleton	12	....do	..	B	..	..	..	..	..	..	B	..	B	..	..	..
Deep Vein Coal Co	Deep Vein	9	Buckey	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Dehl, Albert A	Dehl	8	Unnamed	..	D	..	..	..	..	D	..	D	..	B	..	..	..
Deyoe, Frank	Black Diamond	4	Middle	..	D	..	..	..	..	..	..	D	A	..	..	..	..
DiLulo, Mike	DiLulo	6	Unnamed	..	C	..	..	..	..	..	..	..	A	..	..	..	..
Di Pasquale, Sam	Grove Creek	2	Bridger	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Draper, R. H	Horse Creek	3	Rosebud	..	H	..	..	F	..	E	..	D	..	..	..	..	..
Eagle Coal Co	Foster Creek	2	Red Lodge	B	E	A	..	B	..	C	B	D	A	C	B	A	A
East Belt Coal Mine		7	Belt Creek	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Echelard, Prosper	Kinholt	8	Unnamed	..	F	..	..	..	..	..	..	D	..	B	..	..	..
Economy Coal Co		7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Ehnot, Steve	Jurasek	5	Unnamed	..	F	..	..	..	..	..	..	D	..	..	..	..	..
Elder, A. C	North Fork	12	....do	B	..	..	..	..	B	..	..	D	..	B	..	..	..
Erickson, Carl	Erickson	7	....do	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Evans, R. A	Beartooth	2	Red Lodge	B	E	A	..	B	..	C	B	D	A	C	B	..	..
Fairview Coal Co		11	Unnamed	F	I	F	..	G	..	E	D	E	..	D	..	..	..
Fisher, Carl	Fisher	12	....do	..	B	..	..	..	..	..	..	B	..	B	..	..	..
Flatness Coal Mine	Flatness	7	....do	A	D	..	..	B	..	..	..	D	..	B	..	..	..
Forest, Arthur	Nollar	7	Belt Creek	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Frame, Archibald	Frame	7	Unnamed	A	D	..	..	B	..	..	..	D	..	B	..	..	..
Francetich, Tony	Francetich	7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Fragacich, Sam	Union	9	Daugherty	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Gantor, Lucas	Gantor	9	Mammoth	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Gerber Coal Co		7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Gildroy Coal Company	Gildroy	9	Mammoth	C	G	..	..	D	..	C	..	D	B	..	..	..	..
Hall, Andrew Wilson	Sandy	8	Red No. 1	..	F	..	..	..	..	..	..	D	..	B	..	..	..
Hancock, James		11	Unnamed	F	I	F	..	G	..	E	D	E	..	D	..	..	..
Hendrickson, H. E		11	....do	F	I	F	..	G	..	E	D	E	..	D	..	..	..
Hill, John H	Diamond Coal	7	Sand Coulee	B	E	B	A	B	A	A	B	D	..	B	A	..	..
Hippe, Gustavo	Hippe	10	Unnamed	E	H	E	..	F	..	F	E	E	..	D	..	..	..

GEOGRAPHICAL DESCRIPTION OF CONSUMING MARKET AREA TO WHICH COAL PRODUCED IN DISTRICT 22 IS SHIPPED

Shipments of coal originating in District No. 22 are made to points in Montana, Idaho, eastern Oregon, and Washington as far west generally as the Columbia River; also shipments easterly, are made to points in North Dakota, South Dakota, Minnesota, Iowa, and Wyoming.

PRICE AREA NUMBER 10—DISTRICT 23

PROPOSED MINIMUM PRICES

In compliance with Order No. 245 of the Commission, the District Board for District No. 23 transmitted Order No. 245 to a standing committee, composed of long experienced coal operators and principal coal salesmen thoroughly familiar with the production and distribution of coal within District No. 23, including each of the sub-districts. This standing committee after careful compilations and consideration prepared a tentative schedule showing sub-districts, classifications of coal, sizes of coal and price relationships. This schedule was then presented to the District Board for District No. 23.

Upon receipt of said tentative schedule, the District Board for District 23 duly considered same and after revising and amending same in such manner as it deemed advisable, said District Board transmitted copies of same to each and every code member within the District.

The District Board for District 23 requested each of the code members within District 23 to study carefully said schedule and invited them to attend a formal hearing to be held by the District Board on August 15, 1938, at which hearing protests, objections, or suggestions relative to said schedule would be received. The District Board convened on said date and duly opened said hearing. Said hearing lasted four days and practically every code member of the State of Washington and representatives from Oregon and Alaska were present. At the close of said hearing after various inconsistencies in the tentative schedule had been pointed out, considered and passed upon, the District Board for District No. 23 unanimously approved a schedule of proposed minimum prices to be submitted to the Commission, all code members present apparently being in complete accord.

The District Board for District No. 23 submitted said schedule of proposed minimum prices, together with the data upon which same were computed, to the Commission. Said schedule appears in the record as Exhibit No. 183.

Subsequent to the submission of said schedule to the Commission by the District Board for District No. 23, certain changes as to the form of said schedule were deemed advisable. These changes were merely formal in nature for the most part and were deemed advisable to be made for purposes of uniformity and clarification. A meeting of the District Board for District No. 23 was called to be held September 12, 1938, at which meeting said changes and revisions were approved. The original schedule was redrafted to incorporate said changes together with revisions as to three price relationship items. Copies of said revised schedule were transmitted to all the code members within the District, same having been officially approved for submission to the Commission. Said revised schedule of minimum prices as proposed to the Commission by the District Board for District No. 23 appears in the record as Exhibit 184.

Testimony in support of minimum prices proposed by District Board No. 23 was adduced by an expert witness, namely, a member of the District Board, who was thoroughly familiar with the marketing and distribution of coals in District No. 23. His knowledge of the coals in said District was based upon years of experience in the District. It appears that the members of the District Board of District No. 23 are all experienced coal men, familiar with producing and marketing coal in said District.

At the meetings of the District Board for District No. 23 held for the purpose of proposing minimum prices, approximately 95% of the tonnage produced in District No. 23 was represented.

The revised schedule of proposed minimum prices (Exhibit 184) as submitted to the Commission by the District Board for District No. 23 differs from the original schedule (Exhibit 183) in that the Oregon and Alaska mines are included in the alphabetical size and price list of the members of the entire district. In the original schedule, the Oregon and Alaska mines were reported separately. In addition to the above, the revised schedule differs from the original schedule in that the various sizes of coals have been regrouped and consolidated, the revised schedule providing for twenty-six size groups, whereas in the original schedule forty size groups were provided. Such regrouping of the size groups in said revised schedule was, in the opinion of the District Board for District No. 23, more practical, allowing less change of misunderstanding and dispute, each group having been given specific maximum top and bottom size designations with no tolerance variations permitted.

The revised schedule contains a new set of letters representing the price relationships. This new set of letters was made necessary through bringing the Oregon and Alaska code members into the alphabetical list and through consolidating the sizes as set out above.

The changes appearing in the revised schedule have not effected any change in the price relationships, or prices, appearing in the original schedule with these exceptions. A slight inconsistency was found in the relationship of one price in the Bellingham, or "D" sub-district and one in the Cumberland, or "G" sub-district. One price in the Southwest, or "C" sub-district was overlooked in the original schedule. The above inconsistencies in the original schedule have been appropriately changed in the revised schedule and the prices overlooked have been added in the revised schedule.

The revised schedule also reflects a change in realization. At the time the original schedule of proposed prices was drawn up, the District Board for District No. 23 did not understand that the prices proposed should yield a return per net ton for the District equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area No. 10, the price area in which District 23 is placed under the Act. Upon re-examination of the involved tonnage of District No. 23, the District Board for District No. 23 found that five cents per ton should be added to each individual price in the original schedule to effect the above. Such addition was agreeable to the code members within the District and was unanimously approved by the District Board. The prices appearing in the revised schedule show this revision and the prices appearing in the revised schedule result in a weighted average realization in substantial conformance to the weighted average cost of Minimum Price Area No. 10.

The District Board for District No. 23 in revising its original schedule, made no changes in price differentials or relationships applicable to Oregon or Alaska coals and the method of including the prices applicable to coals for code members in Oregon and Alaska in the revised schedule was approved by the representatives of code members in Oregon and Alaska.

The changes appearing in the revised schedule as made in the Bellingham, or "D" sub-district group, the Cumberland, or "G" sub-district group, and the Southwest, or "C" sub-district group, were as follows:

In the original schedule in its Size Group 6, "3¼ x 1¾ nut," the Bellingham sub-district "D" mines were given a price of $4.50 per net ton. In Size Group 5, "3¾ x 1¾ nut," coals of those mines were given a price of $4.25 per net ton. The price relationship so proposed was obviously a mistake since the sizes of those coals were competitively comparable and should take the same price classification. Hence, the schedule was revised so as to give the price of $4.30 to each size group.

In the original schedule Size Group 8, "2¾ x 1⅝ nut," the Cumberland sub-district "G" mines were given a price of $4.00 per net ton. In Size Group 13, "plus ¾-inch steam" and Size Group 9, "3¼ x 1 steam," the same mines were given a higher price of $4.25 per ton. The District Board believed that such prices did not properly reflect the dif-

Alphabetical List of Code Members Showing Price Classification by Sizes for all Uses Except as Separately Shown—Continued

Code member	Mine name	Sub-district No.	Seam or kind	Price classifications and size group Nos.													
				1	2	3	4	5	6	7	8	9	10	11	12	13	14
Hoppe Coal Co.	Hoppe	8	do		F												
Horne, Robert A.	Cottonwood #2	6	do		D												
Hover, Harold H.		6	do		D	B	A				D	D		B			
Independent Coal Co.		7	Sand Coulee	B	E	A					D	D	A	B			
Jeffries, Charles	Jeffries	1	Roundup	B	E	A	A				B	A	B	D		B	A
Johnson Coal Co.	do	1	Unnamed	B	E	A	A										
Jones, E. R.	Johnson	7	Unnamed	B	E	B	A	B	D								
Jurasek, Paul	Birch Creek	12	Middle		D							B		D	A		
Kellogg, L. O.	Smith	4	Unnamed		F												
Kent Coal Co.	Skaggs	4	Middle		D												
Kerr, James		2	Unnamed	B	A		B				C	B	D	A	C	B	
Kingston, Joe	Square Deal	12	Roundup		E	A		B			B	A	C	B			
Klus, John		7	Unnamed	B	E	B	A	B	A	A	B	D		B	A		
Kohler, Albert		7	do	B	E	B	A	B	A	A	B	D	A				
Kolarich, Charly	Swanson	4	Middle		D												
Kolarich, Stanley		4	Unnamed	C	G						C	D	B				
Kosorok, John	Tiger Butte Coal Co.	7	Belt Creek	B	E	B	A	B	A	A	B	D		B	A		
Kubica, A. W		7	Unnamed		E	B	A										
Lagerquist, Gustaf A	Miller Coulee	3	Rosebud		H						E	D					
Landles, Alex		11	Unnamed	C	D												
Larson, O. E		8	Middle		D						C	D	A				
Latham, Edward A	Edward Latham	12	Unnamed		D							D	A				
Latham, James		7	do		D												
Latham, Thos., Sr	Lakeside	7	do		F						E	D		B			
Leskinen, Charles		7	do		F						E	D		D	A		
Lott, Caroline	Bickett	11	Unnamed		E												
Lott, Clarence		7	Middle		D												
Love, R. H	Love	7	Sand Coulee	B	E	B	A	A	B	D	D						
Lucas Coal Co.		7	do	B	E	B	A	B	A	A	B	D					
Mauer Bros	Maurer	6	Belt Creek	B	E	B	A	B	A	A	B	D					
Maxey Bros	Unnamed	12	Unnamed	B													
McDermott, Peter	McDermott	8	do		A						D						
McKay, Norman	Bean Creek	9	Mammoth		D						C	D					
Meged, Lillian Maud	P. M	7	Belt Creek	C	G						B	D					
Melstad, J. P	Millard	5	Unnamed	B	E	B	A	B	A	A	B	D					
Milan, John	Milan	6	Unnamed		C												
Miller, Thomas	Miller	1	Middle	C	C		B				B	A	C	A			
Mills, Arthur	Mills	6	Carpenter Creek	B	E	A		B			B	A	C	A			
Mizuta & Krause		2	Unnamed	B	E	A		B			C	H	D	A			
Montana Coal & Iron Co	Meintow	6	Red Lodge	B	E	A		B			C	H	D	A			
Murphey, Lee		2	Unnamed	B	E	A		B			B	A					
Murphy Coal Co	Chambers	7	Belt Creek	B	E	B	A	B	A	A	B	D					
McCormick, Edward J	Nies	7	Roundup	B	E	B	A	B	A	A	B	D					
Nies, Fred		7	Belt Creek	B	E	B	A	B	A	A	B	D					
Noble, W. T	Rosebud	3	Unnamed	A	D												
Northwestern Improvement Co	Sygard	7	do	A	D						B						
Nygard, E. E	Nygard	12	Sand Coulee	B	E	B	A	B	A	A	B	D					
Nygard, Otto		12	do	B	E	B	A	B	A	A	B	D					
Oertel, Paul W	Oertel	3	do	B	E	B	A	B	A	A	B	D					
O'Neil, Joseph	O'Neil	12	do	B	E	B	A	B	A	A	B	D					
Pavek, Edward W		3	Rosebud		H						F	E					
Pearson, Earl		4	Unnamed	A	D												
Peterson, Herman	Peterson	7	do	B	E	B	A	B	A	A	B	D					
Perkins, Spencer		8	do		D												
Pilati, Leo	Chinook	2	do	A	D												
Poe, Orville	McGuire	19	Red Lodge	B	E	A		B			C	H	D	B			
Pust, Otto	Antelope	11	Buckey	C	F												
Quality Coal Co		7	Unnamed	B	E	A		B			C	H	D	A			
Republic Coal Co	Klein #2	7	Belt Creek	B	E	B	A	B	A	A	B	D					
Rimmer, Tom	Rimmer	2	Unnamed	B	E	B	A	B	A	C	B	D	A				
Rom, Tony	C. O. D	2	Red Lodge	B	E	A		B			C	H	D	A			
Ross, Ray F	Timberline	1	Unnamed	B	E	A		A			B	A	C	A			
Roundup Coal Mining Co	Mine #3	1	Roundup	B	E	A		A			B	A	C	A			

See "Price instructions and exceptions."

H-1.

Prices

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers													
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
A	425	700	400	350	375	325	300	250	400	110	200	80	175	165
B	400	600	370		350	300	275	225	250	100	100	75		150
C	350	450	350		325		250	200	175		95	50		110
D	325	400	325		300		225	150	150		75			
E	250	375	250		275		200	125	125					
F	225	350	225		250		175		100					
G		325			225									
H-1		300												
H		250												
I		225												

ferential in values of the coals in those size groups and that the price proposed on those coals in Size Group 8 should be raised to $4.30 per net ton, hence, the revision.

In the revised schedule, the mines of Southwest Washington, sub-district "C" are placed at a price relationship of $2.40 on "1⅝ x ¼" special pea coal produced in said district. Such sub-district is small and detached, having small mines and strictly local markets and coming into but little contact with any of the coals from the other sub-districts of the state. The price relationship on the size referred to is consistent with the local marketing problems.

The above and foregoing changes are in line with other price relationships on the revised schedule. The addition of five cents to each of the prices proposed on the original schedule did not affect the price relationships as set forth in the original schedule but merely resulted in proposed prices which more nearly equalled the weighted average cost of production of the coals produced in Minimum Price Area 10 as that cost had been determined by the Commission.

The original schedule of proposed minimum prices as submitted to the Commission by the District Board for District No. 23 provided for forty sizes. These forty sizes represent the separate sizes and kinds of coals that are regularly, or at times during a normal year, produced and sold by one or more of the mines in the District. In the revised schedule twenty-six sizes are provided. The District Board believes that this number of sizes represents the minimum to which sizes of coals in District No. 23 could be reduced by groups which would include sizes of comparable value. If the sizes were further reduced, certain operators within the District would be prevented from continuing the production and sale of sizes of coals for which a legitimate market had been established and which certain consumers desired to continue to purchase.

The re-grouping and consolidation of sizes into twenty-six (26) size groups, as shown in the revised schedule, does not prevent the production and sale within the size limits set for those groups of the sizes and kinds of coals that were provided in the original forty size groups. To further reduce the number of size groups was deemed impractical since such would necessitate unwarranted physical changes and would more than likely subject many code members to tonnage losses in their markets which would result in upsetting long-standing relationships in the industry. Twenty-six sizes of coals in District No. 23 is not abnormal. The small tonnage area in said District is composed of the two far distant coal fields of Oregon and Alaska. In Washington there are seven separate and distinct fields as different in mining conditions and coal characteristics as if they were located in widely spread geographical areas in the United States. No single field, or sub-district, has an unusual number of sizes within itself. It was the judgment of the members of the District Board for District No. 23 that twenty-six size groups for the District would be sufficient to equitably cover its needs and that a less number than twenty-six sizes would cause irregularities and perhaps result in some injustices.

The realization resulting from the minimum prices proposed by the District Board for District No. 23 was determined in this manner. A study of the 1936 and 1937 tonnages produced at and sold from the various mines in the district showed clearly that the record of those years would not necessarily reflect the current market conditions prevailing in the district. The District Board for District No. 23, after consultation with practical men from each of the fields, decided to construct a readjusted year based upon 1937. Knowledge of changes that had taken place and were taking place in the fundamental items of marketing, as well as knowledge of the normal seasonal fluctuations, prompted such decision. Such a year in the belief of the District Board for District No. 23 would be representative of a normal year of production and distribution in each of the fields. Applying schedule prices to the various sizes in such a year, the average normal realization could be calculated.

Following this method, the District Board for District No. 23 took the actual figures for 1937 and added or deducted the fundamental items which the District Board knew had completely changed, such as the going out of business of a very large mine (Coronado) which mine produced practically all of the tonnage produced in one of the principal sub-districts. In addition, some large consumers of coal had gone to oil, or other kind of fuel. Taking into account the above factors known to exist, the District Board for District No. 23 readjusted the tonnage of the year 1937 in such manner as would be representative of present conditions.

The Secretary of the District Board for District No. 23 collected from the code members within the District their production and distribution of sizes shipped during 1937. With this information as a base, the Committee of practical men making the calculations for the District Board, added to or deducted from the 1937 individual figures those tonnages that they knew had been either increased or lost. Then applying the scheduled prices to the resultant individual figures of each sub-district, the District Board found the average realization of each sub-district as is shown on Exhibit No. 185. These were then recapitulated into the average for the District which also appears in Exhibit No. 185. As shown in Exhibit 185, the realization is $3.1999. This realization was increased to $3.2499 by the addition of five cents to each price (Exhibit 184). This realization is equal as nearly as may be to the weighted average cost of $3.2656 as previously determined by the Commission for Minimum Price Area No. 10, the price area in which District 23 is placed under the Act.

Coal production in District 23 is less than 2,000,000 tons annually. Less than 1,500,000 tons of such production is commercial coal. Of this quantity approximately 5% is lump coal, approximately 15% is egg and nut size, and 80% will pass through a 1¾ inch screen. While the above percentages will vary greatly in the different fields and mines, yet the average will be as above set forth. In District 23 there are mines with practically no large coal. More than 75% of the coal produced at such mines will pass through a one-half inch screen, some mines in the District having important tonnages which pass through a 3/32 inch screen. Practically all the coal of the District must be washed and most of the mines have a serious reject loss as high in some cases as 25%.

The District Board for District No. 23 placed what it considered consistent price relationships between the large variation of sizes and between the many areas and mines producing such widely different qualities and types of coal in the District in this manner. The various kinds of coal produced in the state of Washington enter the same general markets. Coals produced in Oregon and Alaska do not enter the markets reached by Washington coals nor do Washington coals enter the markets reached by the Oregon and Alaska fields. Such areas in the District are completely isolated. Some of the coal produced in the state of Washington enters southwestern Alaska which is so far away from the Alaska mines that none of their coals reach that market. Some of the sizes and grades of coals produced in the state of Washington and sold in Washington markets go to the same general type of consumers and are, therefore, directly competitive. Other sizes and grades appeal to, or are usable by, quite different types of consumers and, at times, in the same consuming areas. The tonnage represented by these special consuming requirements is a substantial one containing all of the railroad and most of the industrial demand.

Long experience in the field alone can enable one to differentiate between values of certain coals necessary for or desired by the consumers for these special demands. As to one use, experience and purchase over years may show an advantage in some size of a relatively poorer general grade of coal while in other cases there are uses for which certain sizes of the highest grades are almost exclusively demanded by the consumer. In its consideration of relationship of prices between sizes and between fields and grades of coal, the District Board for District 23 was fully possessed of an intimate knowledge of all of the above and foregoing factors. Such knowledge was equitably employed by the District Board in determining the relationships submitted in its schedule.

The District Board for District No. 23 was of opinion and concluded that the price breaks or differentials used in the various sizes and between the several grades of coals and fields, or sub-districts, will permit continuance of, and not cause disruption of, long standing competitive relationships between the districts, mines and fields in production, distribution and selling and that rather than causing any disadvantage to the consumer, they will enable the industry better to serve the interests of the consuming public. The prices as proposed will maintain conditions which have over the years been brought about largely by and because of consumers' demands and desires. In consideration of such price relationships, the District Board considered competition with cheap water borne oil, low cost of wood products, cheap hydro-electric power and unrestricted foreign fuels.

In the revised schedule (Exhibit No. 184) there appears double letters as well as the usual single letters designating price levels. The District Board for District 23 determined that by the use of double letters the mines of either Oregon or Alaska could better determine the prices set for their coals. Such method of lettering does not, in any manner, disturb the proposal of relative prices, or price relationships. Double "A" ("AA") is simply that price next above single "A," double "C" ("CC") is that price lying between single "B" and single "C" and so on. All are shown in proper rotation and relationship in the schedule. An operator of a mine in Alaska can, under this method, easily locate the prices for his coal without having to search through a confusing maze of price classifications proposed for coals produced in the Washington and Oregon fields, and the operators in those fields are similarly convenienced.

As shown in its schedule, the District Board for District No. 23 divided the Washington mines into seven sub-districts and those of Oregon and Alaska into two sub-districts, respectively, making a total of eleven sub-districts. This number of sub-districts and the groupings of same were determined in this manner.

The two sub-districts respectively in Oregon and Alaska were requested by the members of those fields in order that two distinctly different types of mines might be segregated. In Oregon there is a quite low grade sub-bituminous coal area and a slightly higher grade sub-bituminous coal area, in which areas the mining conditions and marketing characteristics of coal vary considerably.

In Alaska one group is a medium grade sub-bituminous area while the other group approaches a bituminous grade. In such area the mining conditions and marketing characteristics of coal are also quite different.

In Washington the causes for the seven-group segregation have existed for years. The mines in the several groups have quite different mining conditions and necessities of preparation and their coals are different in quality as well as in their marketing purposes.

The sub-districts of Oregon and Alaska have been heretofore generally described. Oregon produces approximately 7/10 of 1% of the total tonnage produced in District 23, while Alaska produces about 7%.

Sub-district "A" in Washington is on the eastern slope of the Cascade Mountains with comparatively easy mining conditions which permits mechanical production. Its coal is of a bituminous grade producing normal percentages of coarse sizes. In addition to being popular in the general domestic and steam markets, such sub-district contains the mines which produce the only large railroad fuel tonnage in the state. The railroad and commercial production is approximately 40% of the production in District 23.

Sub-district "B" is high up in the western foothills of the Cascade Mountains. Its coal is of high grade coking and heavy steaming grade but being in broken country its production is all of fine sizes. Its mining conditions are most unfavorable and costly and its preparation problems difficult. The last of the large mines in this sub-district closed early in 1937 because of high cost of production and the final disappearance of a formerly large coal market. Its present mines are very small, and being unable to equip themselves with machinery for washing and preparing their coals the shipments of such coals have deteriorated in quality and value. This accounts for the lower price relationships placed on such coals in the revised schedules. This sub-district at the present time produces only 2% of the production of District 23.

Sub-district "C" is a small field far off to itself in the southwestern part of the state of Washington. Its coal is of low sub-bituminous grade, high in moisture and closely approaches lignite. Its production, approximately 4% of the district's total, comes from small mines, largely truck operations. Its coal is limited to domestic and very light steaming purposes. Its coal disintegrates quickly in storage and its market is strictly a local one. Coals from this sub-district come into little competition with other coals of the district.

Sub-district "D" is off to itself in the extreme northwestern part of the state of Washington. Sub-district "F" is in the immediate vicinity of the City of Seattle. The coals from both of these sub-districts are of the same general quality being a good grade of sub-bituminous. The mines in sub-district "F" have less favorable mining conditions and the several seams worked at its different mines vary considerably in necessities of preparation and marketing characteristics. These coals need extensive washing and preparation facilities. Sub-district "D" produces approximately 12% of the total production of District 23 while Sub-district "F" produces approximately 19%. The coals from Sub-district "D" are used principally in cement plants while the coals from Sub-district "F" are used principally by domestic consumers and consumers using the larger powdered coals.

Sub-district "E" is distinctly different from all the other sub-districts. Its mines are all on one seam which for years past has been the principal producer of western Washington. Its larger resources have been depleted and smaller mines are being worked. The coal is very low in ash, of a free burning bituminous grade and is principally used for domestic and industrial purposes. It produces but small percentages of coarse sizes. It is this seam that necessitated the unusually small size of "3/32 x 0" appearing in the schedule. The reason for such a size is that same must be extracted to free the steam sizes of objectionable physical difficulties but its quantity is so large that it must be saved and marketed. There is a limited but important market for this small size, it being preferred by industrial consumers, but only in keen competition with oil. This sub-district produces approximately 12% of the total production in District 23.

Sub-district "G" lies close to Groups "E" and "F." The coals of "F" and "G" go into the same markets to a considerable extent. The coal in sub-district "G" is of a distinctly heavier grade than the coals in Sub-district "F," is a straight bituminous coal and has medium coking qualities. Its seams require extensive washing and preparation. Approximately 5% of the total production of District 23 is produced in this sub-district.

The market areas appearing in the revised schedule (Exhibit 184) are the market areas into which the producers in District No. 23 ship their coals. These market areas appear at page 9 of the revised schedule and are Alaska, British Columbia, Idaho, Oregon, and Washington, and it is to such areas that the minimum prices are proposed by the District Board for District No. 23 to apply (Exhibit 184, p. 9).

The District Board for District No. 23 is composed of members thoroughly experienced in the production and sale of coals in District 23. Said District Board approved the schedule of proposed minimum prices, as revised (Exhibit 184), before submitting same to the Commission and, in the judgment of said Board, the prices proposed to the Commission as they appear in the revised schedule are just and equitable between the producers within the district; have due regard to

the interests of the consuming public; and do not, and will not, permit dumping. It was also the judgment of the District Board for District No. 23 that the prices proposed in the revised schedule reflect, as nearly as possible, the relative market values of the various kinds, qualities, and sizes of coals produced in District No. 23; reflect price variations as to values and as to uses; reflect price variations as to consuming market areas of the various kinds, sizes and qualities of coals produced within the district; are just and equitable as between producers within the District for shipment into any consuming market area; and conform to the requirements of Order No. 245 of the Commission and to the provisions of Section 4–II (a) of the Act.

In establishing the proposed f. o. b. mine prices set forth in the schedule, both original and revised, the District Board for District No. 23 started with the largest size proposed of the largest producing district (Roslyn Sub-District "A") and then related the other sizes to that base, according to what the District Board considered to be the proper differentials. Then the costs of other sub-districts were related to those prices. The difference in prices appearing between the larger sizes and smaller sizes is due to salability. The differentials, or price relationships, as proposed by the District Board for District No. 23, are carried into the consuming markets.

And now, upon the record in this cause, upon the evidence, both documentary and otherwise, and upon the above and foregoing facts found to exist, the Commission finds:

That the revised schedule of minimum prices (Exhibit 184), as submitted to the Commission by the District Board for District 23, should be substituted in lieu of the original schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 23, and accepted by the Commission as the schedule of proposed minimum prices submitted to the Commission by the District Board for District No. 23.

That the revised schedule of proposed minimum prices (Exhibit 184) as submitted to the Commission by the District Board for District No. 23 should be corrected and revised in order that same may better conform to Order No. 245 of the Commission and to the provisions of Section 4–II (a) of the Act, and said schedule is in the following respects modified:

Page 3 of the revised schedule should be deleted entirely for the reason that same is not necessary to the schedule.

Item 3 on page 4 of the revised schedule should be revised to read, "All size designations herein are for round hole screens, or their equivalent. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission."

Item 4 on page 4 of the revised schedule should be revised and corrected to read, "The prices listed herein are in cents per net ton of 2,000 pounds f. o. b. transportation facilities at the mine."

Item 7 on page 4 of the revised schedule should be revised and corrected to read, "When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced size group and priced accordingly."

Item 1 on page 4 of the revised schedule should be deleted as same is not necessary to the schedule.

Item 6 on page 4 of the revised schedule should be revised and corrected to read, "When washed Mine Run is shipped from Sub-district 'A,' a charge of 25¢ per ton shall be added to Mine Run price."

The table of Size Groups on page 5 of the revised schedule should be revised and rearranged as follows:

Size group No.	Single screened	Double screened
1	4" Lump.	
2	3½" Lump.	
3	2" Lump.	
4	¾" Lump.	
5	⅜" Lump.	
6		4" x 2".
7		3½" x 2½".
8		3¼" x 1¾".
9		3½" x 1¼".
10		3" x 1¼".
11		2½ x ⅞".
12		2" x 1".
13		2" x ¾".
14		1¼" x ⅞".
15		1½" x ¾".
16		⅞" x ⅜".
17		1⅛" x ⅜".
18		1" x ⅜".
19	Mine Run.	
20	3½" x 0".	
21	2" x 0".	
22	1¼ x 0".	
23	1" x 0".	
24	¾" x 0".	
25	⅜" x 0".	
26	Railroad locomotive fuel—all sizes.	

The tables of classifications and of prices on pages 7, 7A and 8 of the revised schedule should be rearranged in conformity with the rearrangement of size groups. This is done in the "Schedule of Minimum Prices as Modified and Approved", attached hereto as an appendix to District 23.

That the District Board for District No. 23, as directed in Order No. 245 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the district, classification of coals and price variations as to mines, consuming market areas, and values as to uses. Seasonal demand was not taken into consideration.

That the District Board for District No. 23, as directed in Order No. 245 of the Commission, submitted to the Commission an original and revised schedule of such proposed minimum prices, together with the data upon which same were computed, including but without limitation, the factors considered in determining the price relationship.

That the minimum prices proposed by the District Board for District No. 23 as appear in its schedule, as revised, reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal produced within the district; are just and equitable as between producers within the district; have due regard to the interests of the consuming public; and do not permit dumping.

That the minimum prices for any kind, quality, or size of coal for shipment into any consuming market area, as proposed by the District Board for District 23 in its revised schedule, are just and equitable as between producers within the district.

That the minimum prices as proposed by the District Board for District 23 in its revised schedule are proposed in such manner as to yield a return per net ton for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area 10, the Minimum Price Area in which District 23 is placed under the Act.

That the revised schedule of proposed minimum prices (Exhibit No. 184) submitted to the Commission by the District Board for District No. 23 as amended, corrected, modified and revised, as hereinabove set forth conforms to Order No. 245 of the Commission and to the requirements of Section 4–II (a) of the Act and as so amended, corrected, modified and revised, the schedule should be and the same is hereby approved by the Commission, the same to serve as the basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule as amended, corrected, modified and revised appears in the Appendix for District No. 23.

APPENDIX FOR DISTRICT NO. 23

Schedule of Minimum Prices, as Modified and Approved, to Serve as a Basis for Coordination

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. MCCULLOUGH,
Secretary.

Issued: December 9, 1938.

TABLE OF CONTENTS

Front.
Table of Contents.
Price Instructions and Exceptions.
Size Groups.
Sub-Districts Identification.
Alphabetical List of Code Members.
Prices.
Market Areas.

Item No. and Price Instructions and Exceptions

1. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

2. All size designations herein are for round hole screens, or their equivalent. When other types of screens are used, the District Board shall determine the actual size designation of the coal so prepared, with the approval of the Coal Commission.

3. All prices herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines.

4. When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 10 cents per net ton shall be made.

5. When Washed Mine Run is shipped from sub-district A, an additional 25 cents per ton shall be added to Mine Run price.

6. When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled, then such coal must be included in the next higher priced size group and priced accordingly.

7. In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in United States funds.

Size Groups

Size group no.	Single screened	Double screened
1	4" Lump.	
2	3½" Lump.	
3	2" Lump.	
4	¾" Lump.	
5	⅜" Lump.	
6		4" x 2".
7		3½" x 2½".
8		3¼" x 1¾".
9		3½" x 1¼".
10		3" x 1¼".
11		2½ x ⅞".
12		2" x 1".
13		2" x ¾".
14		1¼" x ⅞".
15		1½" x ¾".
16		⅞" x ⅜".
17		1⅛" x ⅜".
18		1" x ⅜".
19	Mine Run.	
20	3½" x 0".	
21	2" x 0".	
22	1¼ x 0".	
23	1" x 0".	
24	¾" x 0".	
25	⅜" x 0".	
26	Railroad Locomotive fuel—All sizes.	

IDENTIFICATION OF SUB-DISTRICT LETTERS

Sub-district and Identification

A. Roslyn.
B. Pierce County.
C. Southwest Washington.
D. Bellingham.
E. McKay-Lawson.
F. Renton.
G. Cumberland.
H. Alaska-Healy River.
I. Alaska-All other Mines.
J. Oregon-Riverton.
K. Oregon-Marshfield.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown

Code member	Mine name	Sub-district	Seam	Size group no.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
Alpine Coal Co.	Alpine	J	Oregon	DD										EE			A	DD												
Acme Gem Coal Co.	Acme-Gem	B	Gem		B	A					A						A	A						B	A			A		
Apex Coal Co.	Apex	B	No. 4		A	B					A						A	A						A	A			D		
B. & R. Coal Co.	Automatic	B	No. 1		B	B				A	B						A	A						A	A			D		
	Grand Ridge	F	Grand Ridge		B	B					B						A	A						A	A			D		
Bellingham Coal Mines	Bellingham	D	Bellingham		B	B					B						A	A					C	B				A		
Bianco Coal Mines	Queen No. 1	F	Bagley		B	B					B						A	A						D						
Big 4 Coal Co.	Elk	G	Elk		B	B					B						A	A						D						
Black Beauty Coal Co.	Black Beauty	G	Unknown		B	B					B						A	A						D						
Black Nugget Coal Co.	Black Nugget	F	No. 1		B	B					B						A	A						D						
Black Prince Coal Co.	Black Prince	C	No. 1		B	B					B						A	A						D						
Blue Flame Coal Co.	Blue Flame	A	Plant		B	B					B						A	A						D						
Bonato Coal Co.	Bonato	B	Miller		B	B					B						A	A						D						
Buccola Mining Co.	Buccola	C	Seam No. 1		B	B					B						A	A						D						
Burnett Fuel Co.	Burnett	C	Bayne No. 3		B	B					B						A	A						D						
Carbonado Coal Co.	Carbon	B	No. 7		B	B					B						A	A						D						
Cedar Mountain Mines	Cedar Mountain	F	Jones		B	B					B						A	A						D						
Cle Elum Coal Co.	Curry	A	Cle Elum		B	B					B						A	A						D						
Commercial Coal Co.	Commercial	B	McKay No. 5		B	B					B						A	A						D						
Dale Coal Co.	Dale-McKay	E	McKay		B	B					B						A	A						D						
Depend. Wingate Coal Co.	Dependable	B	Wingate		B	B					B						A	A						D						
Domestic Coal Co.	Smith	C	Mendota		B	B					B						A	A						D						
Domestic Gem Coal Co.	Gem	B	Gem		B	B					B						A	A						D						
Evan Jones Coal Co.	Jonesville	H	Miller		B	B					B						A	A						D						
Gem Fuel Coal Co.	Gem Fuel	B	Miller		B	B					B						A	A						D						
Gem Coal Co.	Gem No. 2	F	Renton		B	B					B						A	A						D						
Glen Echo Coal Co.	Glen Echo	D	Miller		B	B					B						A	A						D						
Gourley & Jackson	Taylor	D	Hellingham		B	B					B						A	A						D						
Green River Gorge Coal Co.	Taylor	D	Taylor		B	B					B						A	A						D						
Hall Coal Co.	Cumberland	G	Cumberland		B	B					B						A	A						D						
Hanley Coal Co.	Golden Glow	C	No. 1		B	B					B						A	A						D						
Hi-Grade Coal Co.	Superior	F	Dolly Varden		B	B					B						A	A						D						
Hi-Heat Coal Co.	Henley	H	Alaska	BB	B	B					B						A	A						D						
Hickory Coal Co.	Hi-Grade	F	Renton		B	B					B						A	A						D						
Houston Fuel Co.	Hi-Heat	G	Cumberland		B	B					B						A	A						D						
Jonesville Coal Co.	Hickory	C	Seattle		B	B					B						A	A						D						
Kelly Coal Co.	Houston	I	Alaska		B	B					B						A	A						D						
Lake Coal Co.	Jonesville	A	Nos. 1, 2, 3		B	B					B						A	A						D						
Lincoln Coal Co.	Kelly	B	Wright No. 8		B	B					B						A	A						D						
	Lake	A	Miller		B	B					B						A	A						D						
	Lincoln	C	Midway		B	B					B						A	A						D						

proposed by District Board No. 16 with the rules proposed by District Board No. 17. In the opinion of the witness for District Board No. 16, the rules testified to by the witness for District Board No. 17 were reasonable and suitable for District No. 16 except as to such differences in the rules proposed by District No. 16 which the witness testified were justifiable.

District Board No. 16 in defining a "sales agent" in Rule 2 of Section I specifically excludes from the definition "an employee of the code member." The witness testified that the purpose of this exclusion was to make certain that an employee of a Code member could not be considered or construed in the rules and regulations as a "sales agent." The witness testified that the sales agent does not take title to the coal. In order to fully effectuate the purpose of excluding from the definition of a "sales agent" an employee of a Code member and also a person who purchases the coal, we are of the opinion that the definition should be modified and clarified in the manner that we modified the definition of the same term proposed by District Board No. 17 in Section I, Rule 2 of Exhibit No. 187. (See Rule 2 of Section I of Composite Findings for District No. 17).

The Board restricted the definition of a "sales agent" to a person who sells coal at wholesale only for and on behalf of a Code member. The witness for the District Board justified this restriction on the ground that District Board No. 16 does not want to permit the granting of commissions to persons who sell in less than carload quantites. We are of the opinion that the restriction of the definition of a sales agent to those persons who, as agents, sell coal at wholesale for and on behalf of a Code member is improper. We construe the purpose of Section I of the rules proposed by the District Board to define certain terms which have been used in those rules. The District Board has propsed no rule prohibiting the payment of a commission to a person who, as agent in law and in fact, sells coal in less than wholesale quantities. As proposed by the District Board, the restriction contained in the definition of "sales agent" cannot be construed to have that effect. Furthermore, this Commission is not authorized by law to promulgate a rule which would prohibit the payment of commissions by Code members to sales agents who sell in less than wholesale quantities.

We are of the opinion that definitions 17 to 22 contained in Section I of the composite findings hereinafter given are reasonable and desirable. The District Board did not define these terms although they appeared in various rules proposed by the Board.

Rule 5 of Section V provides for the review by the Commission of the reasonableness of the amount of commission paid to sales agents and of the amount of discount allowed to Registered Wholesalers or Registered Farmers' Cooperatives. It was the opinion of the witness that this rule should be eliminated. The rule in so far as it provides for review of the reasonableness of the amount of discounts paid is unnecessary for the reason that the Commission contemplates the establishment of maximum discounts pursuant to Section 4 II (h) of the Act before the marketing rules and regulations and minimum prices become effective. The Commission has jurisdiction to review the amount of commission paid to sales agents upon complaint of violation of the provision relating to the unfair methods of competition contained in the Act. Accordingly we modify Rule 5 of Section V to read as follows:

"Subject to further order of the Coal Commission, the amount of commission to be paid by a Code member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the provisions relating to unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission."

The witness stated that he concurred in the testimony of the witness for District Board No. 17 with respect to the elimination of a rule proposed by District Board No. 17 which is similar to Rule 1 of Section VI of the rules proposed by District Board No. 16. The testimony of the witness for District Board No. 17 was merely that such proposed rule would be unnecessary if there was in existence an order of the Commission similar in substance. We are of the opinion that all rules which are properly marketing rules and regulations should be contained in these rules and regulations. We are likewise of the opinion that Rule 1 of Section VI of the rules proposed by District Board No. 16 should be modified in the same manner and for the same reasons as the similar rule proposed by District Board No. 17 in Section VI, Rule 1, was modified in the findings of fact in respect to rules proposed by the latter District Board. (See Rule 1 of Section IV of Composite Findings for District No. 17.)

It was the opinion of the witness that the allowable over-shipment or under-shipment specified in Rule II C, Section VI, of Exhibit No. 189 should be increased from ten (10%) per cent to twenty (20%) per cent. The witness gave no reason for this suggested change except in so far as he concurred with the reasons given by the witness for District Board No. 17 to justify such change. We are of the opinion that Rule II C, Section VI, should be modified in like manner and for the reasons stated in the findings of fact for District Board No. 17 in respect to the modification of Rule II C, Section VI, proposed by the latter District Board. (See Rule II C of Section IV of Composite Findings for District No. 17.)

The witness testified that the Board did not want any rule permitting penalty and premium contracts for the reason that such contracts would encourage "chiseling" and cutting prices. The District Board, however, did not propose any rule prohibiting penalty and premium contracts. We are of the opinion that a Code member should not be permitted to enter into a contract made upon a penalty and premium basis which would permit the sale of coal at an aggregate contract price below the applicable minimum price for coal sold and delivered under such agreement subsequent to the effective date of the Marketing Rules and Regulations.

The witness testified that when the rules under Section IX, "Terms of Payment," were originally discussed, they were unsatisfactory to the District Board and the Code members; and that it was found necessary to appoint a special committee to meet with similar committees from Districts No. 17 and 19 with a view to working out acceptable rules. While the committees were unable to work out uniform rules satisfactory to the three District Boards, the Committee for District No. 16 was able to reach an agreement on rules as to terms of payment and a report rendered in respect thereto was found satisfactory by District Board No. 16. The special committee recommended certain changes in the rules as contained in Exhibit No. 189. It was recommended that Rule 2, Section IX, be amended to read as follows:

"Coals sold to an industrial consumer for its own use shall not be sold on more favorable terms than net cash on the 20th of each calendar month, for all coal shipped during the preceding calendar month, except as otherwise provided in this proposal, and paragraph 1, Section 9, hereof; no coal shall be sold on more favorable terms than net cash on the 10th of each calendar month for all coal shipped during the preceding calendar month. This paragraph, paragraph 1 of Section 9, hereof shall not be construed as requiring producers to extend to each purchaser the full credit terms herein permitted, but each producer shall be free to determine as to each purchaser whether credit be extended, and the terms of credit, if allowed, provided such terms are not more favorable than as herein provided for."

The committee also recommended the amplification of Rule 5, Section IX, to read as follows:

"Where payment is made by note, trade acceptance, or other form of indebtedness, the seller shall charge, and the buyer shall pay interest at the current market rate. Every code member, sales agent, registered wholesaler, and registered farmers' cooperative organization shall each month report to the Statistical Bureau, and the District Board for the district in which he is located, every case in which a note, trade acceptance, or other form of indebtedness, has been accepted in settlement of any account, setting forth all conditions of said note,

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
Monarch Coal Mining Co.		D	D		B			D				F	D		C	D			D	C	E		C	E		B
New Bik. Diamond Coal Co.		A	C							BB		D			CC				AA					D		
Newcastle-King Coal Co.		C	B				B	B	B	B	A	D		A	B	B			A	B				A		
New Lake Young Coal Co.		C	B				B	B	B	B	A	D	B	A	B	B			A	B			A	B		A
Northwestern Light Co.		B	A				B	B	B			B				A				C				C		
Overland Coal Co.		DD	C		B					DD					C											
Pacific Coast Coal Co.		C	B				B	B	B	A	A	D		A	B			A	A				D	A		
Palmer Coking Coal Co.		A	C		B			A	B	A	C	A		A		B		A		C	D		A	C		
		C	B					C	B	A	C	A				B				C	D		B	C		
Peoples Fuel Co.		D	C		B			C	B	C	A	E		A		B				D	E		B	E		
Pocahontas Coking Coal Co.		D	D		B			A	B	C	A	E	D	A	C	B				D	D		B	C		
Queen Coal Co.		B	A				A		B	C	A									B	A		A	A		B
Reliance Coal Co.		D	D		B			D				F	B		C	D				A	C			B		
Roslyn-Cascade Coal Co.		B	A		B							B	D		D					D				C		
Royal Coal Co.		D	D				B	D	B	DD	A	D		A		B				C	E		C	E		
Southport Coal Co.		C	D		B		B		B	B	A	F	D	A	B	D				D	C	E		D		
Springbrook Mining Co.		D	A				A	B	B	B	A	A	D	A	B	D				C	B	A		E		
Stoker Coal Mining Co.		A	C		B		B	A	A	B	A	A		A	B	B		A		B			C	A		
Strain Coal Co.		C	A		B		B	B	B	B	A	D		A	B	B					A	A		D		
Strain Coal Co.		C	C		B		B	B	B	B	A	D	A	A	B	B				A	D			D		
		B	C		A			A	C	B	C	A	E	A			B			B	C		B	A	C		
Tiger Mountain Coal Co.		A	B					C	B																	
T. & O. Coal Corp.																										
Wilkeson-Wingate Coal Co.																										
Wonder Coal Mines, Inc.																										

Prices for Shipment Into all Market Areas Showing the Average Price Per Ton for Each Size Group Based Upon Minimum Prices Which Will Return the Producing Cost of Price Area No. 10 of $3.206

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers										
	AA	A	BB	B	CC	C	DD	D	EE	E	F
1		480	430			470	455	405			
2	605	555		505		470	420	380			
3		505	430	430							
4		490		330							
5		430				490					
6		505		455		405		355			
7		530	455	405							
8		505	430								
9		505		405		380	355		305		
10		380	505								
11		405		330		405		340		305	
12		405	330	330	255	345	300	240	355		
13		340			330		155				
14		495	340	340		215		215			
15		355		330	330	305					
16		390									
17		405		305		355		280			
18	420	405		380		255	325				
19		395	380	370		330		305			
20		380									
21		355							215		
22		330		305		165					
23		310									
24		290		280		180	205	155	105		
25		165									
26		205		230							

See "Price instructions and exceptions."

GEOGRAPHICAL DESCRIPTION OF CONSUMING MARKET AREA TO WHICH PRICES APPLY

The States, Territory and Province of:

1. Alaska.
2. British Columbia.
3. Idaho.
4. Oregon.
5. Washington.

MINIMUM PRICE AREA No. 6—DISTRICT BOARD No. 16

PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 16, properly qualified as an expert in the marketing of coal in that District, introduced into evidence, as Exhibit No. 189, the marketing rules and regulations proposed by District Board No. 16, pursuant to Commission Order No. 244. The witness testified that these proposed rules and regulations were properly submitted, in compliance with the aforementioned Commission Order, to the Code Members within District No. 16, and that no protests were filed in respect thereto with the District Board.

As a basis for determining what rules and regulations should be submitted to the Commission, the District Board used the marketing rules and regulations which were promulgated by the Commission under date of December 16, 1937. A committee appointed to consider the subject, and the Board members, made a detailed study of each rule promulgated by the Commission. Where no good reason was found for changing the original rule, it was adopted and duly proposed by the Board.

The witness for District Board No. 16 testified that the rules proposed by District Board No. 16 are substantially similar to the rules proposed by District Board No. 17. The witness introduced into evidence Exhibit No. 191 which consists of extracts from rules proposed by District Board No. 17 as testified to by the witness for District Board No. 17. This exhibit contains rules which have been in substance proposed by both District Boards 16 and 17. The witness in testifying compared generally the rules

trade acceptance, or other form of indebtedness."

It is our opinion that the former amendment to the proposed rules of the District Board is reasonable, consistent with the requirements of Section 4 of the Act, and in conformity with the standards of fair competition as established in Section 4, Part II (i) of the Act.

As to the latter amendment, a discrimination appears in that no provision is made for the charging of interest in the case where payment is not made at the due date of the account, whether by default of the buyer or pursuant to an agreement for an extension of the term of credit, and where such extension of the term of credit is not evidenced by a note, trade acceptance or other form of indebtedness. We therefore find that such amendment is unreasonable, as submitted and should be amended to include a provision for the charging of interest under any circumstances when the account is not paid at the due date thereof.

In respect to the rules contained in Section X, relating to registration of devices for the crushing and pulverizing of coal with the Coal Commission, the witness for the Board concurred in the opinion of the witness for District Board No. 17 that such procedural rules be left out of the Marketing Rules and Regulations and be the subject of a separate rule or order promulgated by the Commission.

We are of the opinion that the words "except as provided in paragraph (i) following" in Rule 6 of Section XI and that paragraph (i) of Rule 8 of Section XI should be deleted for the reason that these provisions exempt captive or controlled coal which is not exempt under Section 4 II (1) of the Act from the prohibition against screening of mine run or re-screening of other grades of coal for the buyer's account and would permit the uncontrolled substitution upon a sale of the size of coal at a relatively low established minimum price, of a size or sizes of coal for which a higher minimum price was established. These provisions would obviously result in defeating the realization by a Code member of the amount of the return required by the Act.

We are also of the opinion that Rule 6 of Section XI should be modified to provide that all coal must be sold and invoiced on a price per ton basis. This modification, in our opinion, is necessary for a uniform procedure and method to govern the selling and invoicing of coal. We believe this rule is necessary or otherwise the Commission must either establish supplementary prices based simply on thermal efficiency or else the Commission must undertake to translate sales made on such a basis into a price per ton basis in order to determine whether the minimum price has been violated or evaded.

We are of the opinion that the second paragraph of Rule 8 (e) of Section XI should be deleted for the reason that it is impractical to enforce. Likewise, Rule 8 (f) of Section XI should be deleted for the reason that it creates an unreasonable discrimination.

Except as he testified specifically to the contrary, the witness for District Board No. 16 concurred, in his own opinion, with the opinions and testimony given by the witness for District Board No. 17 as to rules which were in substance proposed by both District Boards. After due consideration of all the testimony in the record, relating to the rules proposed by District Board No. 16, we are of the opinion that such of these rules as are referred to immediately hereunder should be modified and clarified in the same manner and for the same reasons that similar rules proposed by District Board No. 17, referred to immediately hereunder, have been modified and clarified in the composite findings for District Board No. 17:

DISTRICT BOARD NO. 16

Exhibit No. 189

Section I: Rules 2, 3, 4, 10.
Section II: Rules 3, 4, 7.
Sections III and IV: Rule 1.
Section V: Rules 2 and 5.
Section VI: Rules I, II, III, IV.
Section VII: Rules 1 and 3.
Section IX: Rule 5.
Section XI: Rules 3, 5, 7.

DISTRICT BOARD NO. 17

Exhibit No. 187

Section I: Rule 2 (Findings for Dist. 17, Rule 2, Sec. I), Rule 3 (Findings for Dist. 17, Rule 3, Sec. I), Rule 4 (Findings for Dist. 17, Rule 4, Sec. I), Rule 10 (Findings for Dist. 17, Rule 7, Sec. I).

Section II: Rule 3 (Findings for Dist. 17, Rule 3, Sec. II), Rule 4 (Findings for Dist. 17, Rule 4, Sec. II), Rule 7 (Findings for Dist. 17, Rule 7, Sec. II).

Sections III and IV: Rule 1 (Findings for Dist. 17, Rule 1, Sec. III).

Section V: Rule 3 (Findings for Dist. 17, Rule 1, Sec. III), Rule 6 (Findings for Dist. 17, Rule 8, Sec. II).

Section VI: Rule 1 (Findings for Dist. 17, Rule 1, Sec. IV), Rule 2 (Findings for Dist. 17, Rule 2, Sec. IV), Rule 3 (Findings for Dist. 17, Rule 2 (F), Sec. IV), Rule 4 (Findings for Dist. 17, Rule 2 (G), Sec. IV).

Section VII: Rules 1 and 2 (Findings Dist. 17, Rule 1, Sec. V), Rule 4 (Findings for Dist. 17, Rule 4, Sec. V).

Section IX: Rule 4 (Findings Dist. 17, Rule 4, Sec. VII).

Section XI: Rule 3 (Findings for Dist. 17, Rule 3, Sec. VIII), Rule 5 (Findings for Dist. 17, Rule 5, Sec. VIII), Rule 7 (Findings for Dist. 17, Rule 7, Sec. VIII).

After due consideration of all the testimony in the record, relating to the rules proposed by District Board No. 16, we are of the opinion that the following rules proposed by District Board No. 16, contained in Exhibit No. 189, should be deleted for the same reasons that similar rules proposed by District Board No. 17, referred to below, were deleted in the findings of fact for District No. 17:

DISTRICT BOARD NO. 16

Exhibit No. 189

Section I: Rules 5, 6, 7.
Section III: Rules 2, 3, 4, 5, 6.
Section IV: Rules 2, 3, 4, 5.
Section V: Rules 1 and 3.
Section X: Rules 1, 2, 3.

DISTRICT BOARD NO. 17

Exhibit No. 187

Section I: Rules 5, 6, 7.
Section III: Rules 2, 3, 4, 5, 6.
Section IV: Rules 2, 3, 4, 5.
Section V: Rules 1 and 4.
Section X: Rules 1 and 2.

After due consideration of all the testimony in the record relating to the rules proposed by District Board No. 16, we find the following rules and regulations incidental to the sale and distribution of coal by Code members in District No. 16, reflecting the deletions and modifications hereinbefore referred to, are reasonable, consistent with the requirements of Section 4 of the Act, and in conformity with the standards of fair competition established by Section 4, Part II (i) of the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 16 AS PROPOSED BY DISTRICT BOARD NO. 16 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I.—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, co-operatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: Provided, that "sales agent" shall not include an individual (herein referred to as a "Salesman") regularly and continuously employed by a code member, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

7. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

8. A "quotation" is an offer for the sale of coal at a price which the offerer may withdraw prior to its being acted upon by the offeree.

9. An "option" is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offerer may not withdraw the offer without consent of the offeree.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein, shall mean the Bituminous Coal Act of 1937.

12. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

13. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the district in which the coal involved in any transaction is produced, or the district in which is located a mine of a Code member affected by any order or regulation.

14. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

15. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

16. "Registration and Register" as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

17. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

19. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. "Coal" as used herein shall mean bituminous coal.

21. The term "bituminous coal" includes all bituminous, semi-bituminous, and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

22. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of sales agents by Code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each Code member shall require all his sales agents and agents and employees of sales agents to comply with the provisions of the Bituminous Coal Code and of all rules and regulations.

3. (a) Every contract for the appointment of a sales agent by Code members or by agents or authorized representatives of Code members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(b) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(c) Upon the expiration, termination, or rescission of any sales agency contract, the Code member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

4. (a) As to all coal sold by a Code member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code member, such Code member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(b) Not later than the fifteenth day of each month, each Code member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen regularly employed.

(c) Not later than the fifteenth day of each month, each Code member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

5. A list showing the names and addresses of sales agents and the Code members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by Code members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code member or sales agent of Code member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

8. No commission shall be paid to a sales agent by a Code member where the coal is delivered or sold to any person who, financially or otherwise, controls such agent in whole or in part.

Section III.—Discounts and Allowances

1. No Code member or sales agent of a Code member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Subject to further order of the Coal Commission, the amount of commission

to be paid by a Code member to his sales agent shall be fixed by agreement of the parties subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section IV.—Quotations, Options and Contracts

1. Subject to further order of the Coal Commission no Code member or sales agent of a Code member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement; Provided, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with such agencies of State or local governments, as are required by law to purchase coal for periods in excess of thirty (30) days, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum prices in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price.

In the case of governmental agencies, options may be given for a period not exceeding forty-five (45) days. Subject to further order of the Coal Commission, no option for the sale of coal may be given, except as herein specifically provided.

2. Upon the revocation or suspension of Rule 1 of this Section, Code members or sales agents of Code members may thereafter enter into contracts for the sale and delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

(a) No contract for the sale of coal shall provide for delivery over a period in excess of twelve (12) months, except by special permission from the Coal Commission upon a showing of the necessity of meeting long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

(b) No contract for the sale of coal shall provide for deliveries to commence at a time later than ninety (90) days from the date upon which such contract was entered into.

(c) All contracts shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal sold, the number of cars or tonnage to be shipped, the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (1) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (2) covering a buyer's requirements and specifying the tonnage to be shipped with an allowable overshipment or undershipment of not exceeding twenty (20) percent of the tonnage specified.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local Governments.

(d) Every contract shall express the entire agreement between the parties and no modification thereof shall be made except by written agreement which shall conform to all the requirements set forth in these rules and regulations.

(e) Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(1) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the lawful orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(2) No shipment consigned to any destination point may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(3) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(A) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(B) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

(f) In any case where a contract is made by a sales agent of a Code member, such sales agent shall not exercise the rights of the seller as defined in Item (e) (2) of rule 2 of this section without first securing the consent of the Code member producing such coal to be confirmed in writing.

(g) Upon the revocation or suspension of Rule 1 of this Section, quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days. If the minimum price is increased beyond the quoted price within such fourteen (14) days, any quotation or option not accepted or exercised prior to the effective date of the price change shall, without notice, be considered withdrawn and no longer effective. Every quotation or option shall contain a provision to the foregoing effect and shall further stipulate that any contract or spot order entered into thereunder shall be subject to these Marketing Rules and Regulations.

(h) The provisions of this Rule 2 (g) shall not apply to sealed bids on business of the United States Government or States or political subdivisions thereof, in which cases quotations and options at not less than the minimum price in effect at the time the bid is filed may be given for a period not exceeding forty-five (45) days from the final filing date of bids.

3. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus within fifteen (15) business days from the date of the making of the agreement. Such reports shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen business days.

Section V.—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

"(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price prescribed for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the date of this order, the unfilled portion of the order shall be cancelled and no delivery of such tonnage shall be made."

3. In any case where a sale is made by a sales agent of a Code member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this Section without first securing the consent of his Code member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 2 (c) of Section IV of these marketing rules and regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI.—Use of Coal Analyses

1. No analysis of coal shall be utilized by a Code member, sales agent, sales representative or wholesaler, or farmers' co-operative organization making a resale, in selling or offering for sale any coal produced by the Code member, unless such Code member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the district in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the Code member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British Thermal Units and ash softening temperature. Each analysis shall further show whether made on an "as received" or moisture "free" basis, and if on an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code member.

3. From and after the effective date of these rules and regulations, no Code member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section IX of these marketing rules and regulations.

Section VII.—Terms of Payment

The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code member or his sales agent through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. On railroad fuel, the date of payment shall be on or before the 25th of the month following the date of shipment.

2. Coals sold to an industrial consumer for its own use shall not be sold on more favorable terms than net cash on the 20th of each calendar month, for all coal shipped during the preceding calendar month, except as otherwise provided in this proposal, and paragraph 1, Section 7, hereof; no coal shall be sold on more favorable terms than net cash on the 10th of each calendar month for all coal shipped during the preceding calendar month. This paragraph, paragraph 2 of Section 7 hereof, shall not be construed as requiring producers to extend to each purchaser the full credit terms herein permitted, but each producer shall be free to determine as to each purchaser whether credit be extended, and the terms of credit, if allowed, provided such terms are not more favorable than as herein provided for.

3. Payment shall be made in full and on a net cash basis. No portion of the invoice price may be withheld by agreement by reason of any unadjusted claim of the buyer, nor shall any portion be withheld or deposited in escrow by reason of any alleged agreement relating to the constitutionality of any provision of the Act or the validity of any order of the Coal Commission.

4. Where payment is made by note, trade acceptance, or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge, and the buyer shall pay interest from and after the due date of account at the current rate in the locality to which the coal is shipped to the vendee. Every Code member or his sales agent shall each month report to the Statistical Bureau, and the District Board for the district in which he is located, every case in which an overdue payment or a note, trade acceptance, or other form of indebtedness, has been accepted in settlement of any account, setting forth all conditions of such overdue payment, note, trade acceptance, or other form of indebtedness.

5. Freight on rail shipments shall not be paid by a Code member or his sales agent, except to prepay stations as published in current railway tariffs, or to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

6. The agreement by a Code member, express or implied, to extend credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII.—Miscellaneous

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the Code member may sell the same at the best obtainable price; Provided, that in each case the Code member shall file with the Statistical Bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the price at which the coal was originally sold, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale, and that in making such resale the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All Code members shall promptly furnish to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

5. No allowance shall be made for any shipment of coal of substandard prepa-

ration or quality unless formal claim duly executed by or on behalf of the buyer and verified by affidavit setting forth the amount claimed by way of allowance and reasons for the claim is filed with the Code member or his sales agent within ten (10) days after the receipt of the coal.

The Code member or sales agent with whom such claim for allowance is filed shall immediately notify the Statistical Bureau and the District Board, furnishing an authentic copy of the buyer's claim together with a statement of the producer's views as to the validity of the claim, setting forth:

(a) The name and address of the consignee and the reason for the allowance.

(b) The amount of allowance or adjustment made.

(c) The price at which the coal was sold.

(d) The tonnage delivered.

(e) The name of the mine and the Code member.

(f) Date of shipment.

(g) Grade and size of coal and destination.

(h) A statement that the adjustment has not been made with the purpose or intent of evading the price or fair trade practice provisions of the Act.

6. The screening of mine run or re-screening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced on a price per ton basis and under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or lost, whichever may be the higher.

8. No substitution may be made upon any spot order or contract, of any grade or size of coal taking a minimum price higher than the price specified in such order or contract, except upon the following conditions:

(a) The proposed substitution shall not be an express or implied condition of the order or contract.

(b) The coal substituted must be coal which the Code member has already produced and loaded into transportation facilities and which cannot be sold promptly by the exercise of the usual sales effort, such substitution to be limited to a specific tonnage for shipment on a specific order and from a specific mine.

(c) The substitution must be reasonably necessary as an emergency measure in order to continue operation of the mine of the Code member.

(d) The substitution shall be acceptable to the purchaser of the coal, and shall not be made with the purpose or effect of conferring any advantage on the purchaser or securing any preference or advantage for the Code member over his competitors.

(e) Such substitution may be made only with the approval of a duly designated representative of the Commission and in such instance formal application therefor shall be made upon forms provided by the Commission and permits shall be issued prescribing the conditions of substitution in each case approved.

(f) Copies of substitution permits shall be mailed daily to the office of the District Board and weekly summaries of substitution permits shall be mailed to all District Boards within the Price Area. The Commission may from time to time publish the essential facts as to all substitution permits granted.

(g) In each case of coal shipped under a substitution permit each invoice shall specifically show the permit number and the size and grade of coal substituted.

(h) Pea or slack shall not be loaded for shipment in box cars.

9. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required or the party so filing, to the penalties of the Act and other penalties imposed by law.

10. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

MINIMUM PRICE AREA NO. 6—DISTRICT BOARD NO. 17

PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 17, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 187 the rules and regulations proposed by District Board No. 17 in compliance with Commission Order No. 244. This witness testified that these rules and regulations were properly submitted to Code Members within said District and that no protests concerning such proposals were received from Code Members. Accordingly, the Board, on August 3, 1938, adopted said rules and regulations and later submitted them to the Commission.

District Board No. 17 proposed the following definition of a sales agent, Exhibit No. 187, Section 1, paragraph 2:

"A 'sales agent' is a person who as agent, in law or in fact, sells coal for or on behalf of a code member."

Rule 4, Section 2, of Exhibit No. 187, providing for the filing with the Commission of certain data, differentiates a sales agent from a sales representative regularly employed as salesmen. It is apparent from this rule that the District Board did not intend that a sales representative regularly employed as a salesman should be included in the definition of a "sales agent". We are of the opinion that the definition of a "sales agent" should be clarified so as clearly to indicate this differentiation. For the purpose of further clarification, and to prevent the granting of discounts in the form of commissions, we are of the opinion that the definition of a sales agent should clearly indicate that persons who purchase coal do not come within the scope of the definition. Accordingly, we modify the definition of a "sales agent" contained in Section 1, rule 2, to read as follows:

"A 'sales agent' is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: Provided, that 'sales agent' shall not include an individual (herein referred to as a 'salesman') regularly and continuously employed by a code member, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer."

For the purpose of clarification, we modify the definition of a "commission" contained in Section 1, rule 3, to read as follows:

"A 'commission' is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal."

The witness for the District Board testified that by the use of the terms "wholesaler" and "farmers' cooperative organization" in the Board's rules relating to registration contained in Sections 3 and 4 of Exhibit No. 187, the District Board meant distributors as referred to in Section 4 II (h) of the Act. The witness for the District Board was of the opinion that a more effective compliance with the Act would be secured if the registration of the "wholesalers" and "farmers' cooperative organizations" would be complete before these marketing rules and regulations became effective. Accordingly, it was the witness' opinion that the rules relating to the registration of wholesalers and the rules relating to the registration of farmers' cooperative organizations proposed by the District Board should not be submitted in this hearing. Consideration of such rules in this hearing is improper for the reason that Order No. 244 only directed the various District Boards to propose rules and regulations incidental to the sale and distribution of coal by Code Members. It was the opinion of the witness, however, that rules providing that no discount should be granted except to persons properly registered with the Commission were proper in this hearing and the witness is correct in this respect.

In light of these views, we are of the opinion that any definition purporting to define what persons come within the term "distributor," as used in Section 4 II (h) of the Act, is improperly submitted in this hearing and that, accordingly, the definitions of a "wholesaler" and "farmers' cooperative organizations" proposed by the District Board in Section I, paragraph 4 and 5, should be deleted and that the following definition of a "registered distributor" is proper:

"A 'registered distributor' is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act."

We are of the opinion that the definition of a "wholesale discount" proposed in Section I, paragraph 6, is not a proper subject for consideration in this hearing but should be determined in a hearing held pursuant to Section 4 II (h) of the Act.

The term "retailing" appears only in a rule which provides that "no discount from minimum or other prices shall be paid or allowed on coal sold to any person for retailing by him."—Section V, rule 4, Exhibit No. 187. The term is defined as the selling of coal in lots of less than a cargo or railroad carload. It is apparent that the District Board intended to prohibit the payment of all discounts except as authorized by Section 4 II (h) of the Act. Since such a rule is in fact determinative of those persons who may receive discounts under Section 4 II (h) of the Act, we are of the opinion that it is not properly the subject of this hearing. Accordingly, the definition of "retailing" contained in paragraph 7 of Section I should be deleted.

For the purpose of clarification, we modify the definition of a "commitment" contained in paragraph 10 of Section I to read as follows:

"A 'commitment' is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing."

We are of the opinion that definitions 17 to 22 contained in Section I of the composite findings hereinafter given are reasonable and desirable. The District Board did not define these terms although they appear in various rules proposed by the Board.

Rule 3 of Section II requires all contracts for the appointment of sales agents by Code Members, or authorized representatives of Code Members, to be in writing and that copies of such agency contracts shall be filed with the Statistical Bureau. It is obvious that the purpose of this rule is to furnish necessary information to the Commission to enable it to determine whether or not the code is being violated by sales agents or by Code Members through the use of sales agents. In order fully to effectuate the purpose of this rule, we are of the opinion that the rule should be modified as hereinafter set forth in rule 3 of Section II of the composite findings, so as clearly to indicate that the contract shall set forth all the terms and conditions of the contract, including the amount or basis of the sales agents' commission, and, furthermore, that all agreements modifying sales agency contracts should likewise be in writing and filed with the Statistical Bureau. The District Board leaves a blank date for the time of filing such contracts entered into prior to the effective date of these rules and regulations. The witness for the District Board testified that dates were left blank in the District Board's proposals so that the Commission could fill in the effective date. We believe that a period of twenty (20) days after the establishment of the rules and regulations is a reasonable period within which to require the filing of sales agency contracts entered into on or prior to the effective date of these rules and regulations.

Rule 5 of Section II provides that the Commission should publish a list showing the names and addresses of sales agents and the Code Members for whom such agents act. In order that the Commission may properly carry out this rule and so that the lists published shall be accurate, we are of the opinion that the Code Member principal shall report to the Statistical Bureau the expiration, termination or rescission of all sales agency contracts as provided in rule 3 (c) of Section II of the composite findings hereinafter set forth.

It is apparent that the District Board, by rule 4, Section II, intended that each Code Member shall file monthly with the Statistical Bureau a statement showing the tonnage sold to wholesalers and the amount of discounts paid or allowed to them. We are of the opinion that this rule should be clarified so as clearly to require such filing as provided in rule 4 (c) of Section II in the composite findings hereinafter set forth.

It is apparent that the blank date in rule 7 of Section II was meant to conform to the blank date in rule 3; therefore, the period after which no Code Member shall pay any commission to a sales agent under this rule should be twenty (20) days after the effective date of these marketing rules and regulations. Furthermore, we are of the opinion that this rule should be clarified as set forth in rule 7 of Section II of the composite findings subsequently given.

Section V, rule 6, prohibits the payment of a commission to a sales agent where the coal is delivered or sold to any person who controls in whole or in part such sales agent. This rule, as it relates to sales agents, should be properly contained in Section II which is entitled "Sales Agents." Witness for the District Board testified that in his opinion the rule should be modified so as also to prohibit the payment of commissions where the sales agent controls the purchaser. In our opinion, this modification is improper for the reason that it is obviously intended to prevent possible price evasion through the use of subsidiaries or affiliated sales agencies. Such a rule comes within the provisions of Section 4 II (g) of the Act and, accordingly, should only be considered at a hearing held pursuant to the provisions of that section.

As previously stated, the witness for the District Board was of the opinion that rules relating to the registration of wholesalers and to the registration of farmers' cooperative organizations should not be considered in this hearing. In light of this testimony and in view of the fact that the Commission's Order related solely to the rules concerning the sale of coal by Code Members, we are of the opinion that rules 2, 3, 4, 5, and 6, of Section III, and rules 2, 3, 4, and 5, of Section IV, should be deleted and that rules I of Sections III and IV should be combined and modified to read as follows:

"No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale."

Rule 2 of Section V would permit the payment of a discount to a wholesaler or farmers' cooperative organization merely upon the filing of an application for registration. The witness was of the opinion that such a rule would not be desirable and that, in fact, the District Board only intended that a discount should be granted where registration had actually taken place. Accordingly, rule 2 of Section V should be deleted.

As previously stated, rule 4 of Section V, in light of the definition of "retailing" as proposed by the Board is determinative of the persons entitled to a discount under Section 4 II (h) of the Act, and accordingly, is not a proper subject for consideration in this hearing.

Witness for the District Board testified that rule 5 of Section V would not be desirable if the Commission were to establish maximum discounts before the prices became effective. The Commission contemplates the establishment of such maximum discounts prior to the effective date of minimum prices and, accordingly, rule 5 of Section V should be deleted.

In so far as rule 6 of Section V prohibits the payment of a discount to a wholesaler where the coal is delivered or resold to any person who controls in whole or in part the wholesaler, we are of the opinion that this rule cannot be properly enforced and, accordingly, should be deleted. In a proceeding against a Code Member for violation of this rule, a Code Member must be charged with knowledge of the fact that the wholesaler intended to resell the coal to a person who controls the wholesaler. It would be extremely difficult to prove such knowledge on the part of a Code Member. From the point of view of enforcement, the purpose of this rule could be properly effectuated only by a rule which would prohibit the wholesaler from receiving a discount on coal resold

to any person who controls him in whole or in part, and such a rule is the subject of consideration under a hearing held pursuant to Section 4, Part II (h) of the Act.

In proposing rule 1 of Section VI, prohibiting any agreement or order providing for delivery in excess of thirty (30) days, the District Board in its proposal left blank the period during which this rule was to be operative. The witness for the District Board testified that this rule should reasonably be in effect for a period of only sixty (60) days after the establishment of minimum prices, although the District Board in rule II of Section VI indicated that ninety (90) days would be a reasonable period. This rule is a drastic curtailment of the right to contract and is justified only by the absolute necessity of prohibiting inequities between Code Members as a result of long term contracts based upon prices which experience may prove to be incorrect. Since the time of revocation of the rule is dependent upon experience under regulated prices, such revocation date cannot be predetermined, but must be made subject to order of the Commission.

Rule II of Section VI, relating to the right to enter into contracts, provides that contracts may be entered into for the sale or delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract. The Act does not authorize the establishment of a different governing minimum price based simply on the maximum length of time for which contracts may be made. Accordingly, we are of the opinion that the governing minimum price while rule 1 is in effect should likewise be the price in effect at the time of the making of the contract. However, rule 1 provides an exception for sales to governmental agencies in that contracts may be made with such agencies for a period not exceeding one (1) year at prices not less than the minimum price in effect at the time of the delivery. In order to minimize the possible unfairness that might result from permitting contracts to be made for one (1) year to governmental agencies, we are of the opinion that the governing minimum price as to such contracts should be the price established by the Coal Commission in effect at the time of delivery. However, for deliveries during the first thirty (30) days of such a contract, the governing minimum price should be the price in effect at the time of the making of the contract, in order to place governmental agencies and other purchasers on an equal basis during the spot order period. Accordingly, we modify rule 1, Section VI of Exhibit 187 in the manner set forth in rule 1 of Section IV, of the composite findings subsequently given.

Rule II C of Section VI provides that all contracts shall be in writing and shall specify the date of execution, the effective date and expiration date, and the number of cars or tonnage to be shipped. While this rule is properly construed as to require that such writing shall specify all the essential terms of the contract, we are of the opinion that, for the purpose of clarification, the rule should specifically require that the writing should likewise state the price agreed upon; the terms of payment; the size and grade of the coal sold; the name of the Code Member producer and the originating mine; and, where the coal is purchased for consumption, the use to which the coal is to be applied.

In testifying as to the restrictions contained in this rule on an allowable over or under shipment where the contract covers a buyer's requirement and specifies the amount of tonnage to be shipped, the witness, in answer to a question whether twenty (20%) per cent would be a fairer percentage than the ten (10%) per cent, testified that, in his opinion, flexibility is required in certain exceptional instances as on sales to governmental agencies. The witness likewise testified that the ten (10%) per cent restriction is not desirable on sales to railroads and that on sales to governmental agencies as much as fifty (50%) per cent is sometimes necessary. In light of this testimony, we are of the opinion that the ten (10%) per cent restriction should be changed to twenty (20%) per cent and that an exception from the rule relating to quantity should be made in the case of contracts with agencies of the Federal, State, or local Government. Accordingly, we modify rule II C of Section VI in the manner set forth in rule 2C of Section IV of the composite findings subsequently given.

Rule II of Section VI provides that no contract shall be made for the delivery of coal for retailing at less than the minimum price in effect at the time of shipment. This rule makes an exception to the general rule contained in rule II, which provides that contracts may be entered into for the sale of coal at prices not less than the minimum price in effect at the time of the making of the contract. The witness for the District Board, on cross-examination, testified that this exception was justified in that industrial consumers must be protected by contracts at a price fixed at the time of the making of the contract and that such rule, if applied to retail dealers, would destroy the possibility of any satisfactory operation of the Act. It is our opinion that such discrimination as to retail dealers is unwarranted and unreasonable, and therefore Rule II E of Section VI should be deleted.

As stated by the witness for the District Board, rule II F 2 is necessary in order to prevent the sale below the minimum price by absorbing transportation charges. Accordingly, this rule should be deleted and considered separately in a hearing held pursuant to Section 4 II (g) of the Act, which prohibits such absorption.

We are of the opinion that rules 3 and 4 under paragraph 11 F of Section VI should be clarified as hereinafter set forth in rules 2 E 2 and 3 of Section IV of the composite findings hereinafter given.

Paragraph 5 of Rule II F of Section VI should be deleted for the reason that the witness for the District Board testified that the Board was never in favor of the rule as stated in such paragraph and was not interested in its inclusion in the proposed marketing rules.

Witness for the District Board testified that the second paragraph of rule IV of Section VI should be modified so as to delete the reference to coal purchased for the performance of governmental functions and that the rule should permit the giving of quotations and options on all proposed sales of coal to the United States Government or States or political subdivisions thereof. In light of this testimony, we are of the opinion that the suggested modification should be made.

The District Board did not propose any rule providing for the filing of contracts or the reporting of commitments. All contracts are required to be filed with the Statistical Bureau by Section 4 Part II (a) of the Act. We are of the opinion that a rule providing for the filing of a copy of every contract and of any agreement for modification thereof, within fifteen (15) business days from the date of execution, is desirable.

In order fully to inform the Commission as quickly as possible of every agreement for the sale of coal, we are also of the opinion that a report of every commitment should be filed within fifteen (15) days from the date of the making of the agreement unless the written contract itself has been filed in that period. Accordingly we are of the opinion that rule 3 of Section IV in the composite findings hereinafter set forth is reasonable and desirable.

Rule 1 of Section VII contained in Exhibit No. 187 should be clarified as hereinafter set forth in rule 1 of Section V of the composite findings. While a witness for the Board testified that in his opinion a copy of the invoice, if it covers a transaction, should be accepted as an acknowledgment of an order for the purpose of filing, we are of the opinion that such a rule is not desirable for several reasons. Section 4, Part II (a) of the Act required Code Members to report all spot orders to the Statistical Bureau. Furthermore, in order fully to effectuate the Act, it is necessary to require that all buyers of coal agree to certain conditions and in order to inform the Commission as to whether such conditions have actually been incorporated as part of the agreement, we are of the opinion that there should be filed with the Commission either an order or a written confirmation thereof, upon which such conditions are endorsed.

Rule 2 (a) of Section VII should be deleted for the same reason as previously given for the deletion of the same provision in Section VI, Rule II F 2.

In the light of the testimony given by the witness with reference to Rules 2 (b) and 2 (c) of Section VII, and for the purposes of clarification, these rules have been reworded in the manner set out in rules 2 (a) and (b) of Section II of the composite findings subsequently given.

The District Board does not propose any rule expressly requiring the filing of spot orders or any written confirmation thereof. However, the Board in Rule 4 of Section VII provided that any modification of the spot order must be made in writing and filed in the same manner as an order. We are of the opinion that rule 4 of Section V of the composite findings subsequently given expressly requiring the filing of spot orders or the written confirmation thereof, and requiring that any modification of spot orders must be made in writing and filed with the Statistical Bureau in the same manner as an order, is desirable and reasonable.

The District Board in Rules 4 and 5 of Section VIII provides that where agreements for the sale of coal are entered into upon a premium and penalty basis a statement setting forth the full terms of the premium and penalty provisions shall be filed with the Statistical Bureau. We are of the opinion that as a matter of law no Code Member may enter into or perform any agreement made upon a premium or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price for the coal sold and delivered after the effective date of these rules and regulations, although the buyer under any premium and penalty contract may nevertheless be entitled to a claim for substandard preparation or quality. Accordingly, rule 6 of Section VI, of the composite findings subsequently given, is, in our opinion, r e a s o n a b l e and desirable.

With reference to Rule 1, Section IX, the witness for the District Board said that in his opinion and in the opinion of the Board the rule should be modified as follows:

"On railroad fuel and on coal sold to industrial consumers for their own use, the date of payment shall be on or before the twenty-fifth (25th) of the month following the date of shipment."

Rule 4 of Section IX does not indicate as of what time interest at the current market rate should be charged where payment is made by note, trade acceptance, or other form of indebtedness. For the purpose of clarification, we believe the rules should be modified so as to provide that interest shall be charged from the due date of the account.

Furthermore, a discrimination appears and no provision is made for the charging of interest in the case where payment is not made, at the due date of the account, whether by default of the buyer or pursuant to the agreement for the extension of the term of credit, and where such extension of the term of credit is not evidenced by a note, trade acceptance or other form of indebtedness. We therefore find this rule is unreasonable in this respect and should be amended to include a provision for the charging of interest under any circumstances when the account is not paid at the due date thereof.

While the District Board provided in Section IX, relating to terms of payment, that the price and fair trade provisions of the Act shall not be violated by the use of terms of payment and that, in no instance, shall the term of payment be more favorable than as specified in the rules, the District Board did not propose any specific rule making the agreement, express or implied, to extend credit for a period of longer than that authorized by the rules, a violation of the code. We are of the opinion that such a rule as set forth in paragraph 6 of Section IX of the composite findings is necessary and reasonable in order fully to effectuate the rules proposed by the District Board relating to terms of payment.

An expert witness testified that Item 7 under Rule 2 of Section X could not be answered accurately and that the only way this information could be furnished would be by guessing. The witness further stated that although the registration of crushing devices might be valuable for the information of the Commission, he was of the opinion that such registration is an administrative requirement and not necessarily a rule or regulation. We are of the opinion that Section X should be deleted.

In order more fully to effectuate the purpose of Rule 3 of Section XI and so that the Commission will be informed of all relevant facts, we are of the opinion that the statement to be filed with the Statistical Bureau, where coal is refused by consignee in transit, should state the price at which the coal was originally sold.

With reference to Rule 5 of Section XI, we are likewise of the opinion that the statement to be filed with the Statistical Bureau should be of real value to the Commission and should, accordingly, contain all relevant information which is necessary to determine whether adjustments for substandard preparation or quality have been made bona fide and not with the intention of evading prices. We are of the opinion that the statement should show, in addition to the information required in the rule as proposed by the Board, the price at which the coal was sold, the tonnage delivered, the name of the mine, the code member, date of shipment, grade and size of coal, and the destination.

We are of the opinion that rule 6 of Section XI should be modified to provide that all coal must be sold and invoiced on a price per ton basis. This modification, in our opinion, is necessary for a uniform procedure and method to govern the selling and invoicing of coal. We believe this rule is necessary or otherwise the Commission must either establish supplementary prices based simply on thermal efficiency or else undertake to translate sales made on such a basis into a price per ton basis in order to determine whether the minimum price has been violated or evaded.

Rule 7 of Section XI provides that coal confiscated or lost in transit shall be invoiced to the carrier at the market value of the coal, but in no event at less than the minimum price therefor established by the Coal Commission. This Commission has no jurisdiction to compel the Code Member to invoice such coal at any price above the minimum price. Accordingly, this rule should be modified so as to provide that such coal shall be invoiced to the carrier at not less than the established minimum price therefor.

We are of the opinion that the second paragraph of rule 8 (e) of Section XI should be deleted for the reason that it is impractical to enforce. Likewise, rule 8 (f) of Section XI should be deleted for the reason that it creates an unreasonable discrimination.

The witness testified that he recommended an additional rule which would provide that every wholesaler, distributor or sales agent shall cause to be clearly set forth upon any form of solicitation, order, invoice and statement covering coal offered for sale or sold, the following: (1) Either the name of the producer or (2) the trade name established and generally used by the producer in designation of coal produced from the mine from which shipment was made or is to be made. Such a rule cannot be directed against distributors at this hearing, but we are of the opinion that this rule is desirable and reasonable with reference to sales agents.

The witness for District Board No. 17 testified generally that the rules proposed by the District Board were reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition contained in the Act, although the witness on examination, as already stated, likewise testified that certain clarifications and modifications of such rules would, in his opinion, be desirable. Except as to such rules which we have already stated should be modified, we are of the opinion that the rules proposed by the District Board are in accordance with the above requirements.

Accordingly, we find that the following rules and regulations incidental to the sale and distribution of coal by Code Members in District No. 17 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in

conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 17 AS PROPOSED BY DISTRICT BOARD NO. 17 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I.—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: Provided, that "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

7. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

8. A "quotation" is an offer for the sale of coal at a price which the offerer may withdraw prior to its being acted upon by the offeree.

9. An "option" is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offerer may not withdraw the offer without consent of the offeree.

10. "Coal Commission" as used herein shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein, shall mean the Bituminous Coal Act of 1937.

12. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

13. "Statistical Bureau" shall mean, unless otherwise specifically stated, the statistical bureau of the Commission for the district in which the coal involved in any transaction is produced, or the district in which is located a mine of a code member affected by any order or regulation.

14. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

15. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

16. "Registration and Register" as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

17. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

19. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. "Coal" as used herein shall mean bituminous coal.

21. The term "bituminous coal" includes all bituminous, semi-bituminous, and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

22. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of sales agents by code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

4. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen regularly employed.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

5. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent.

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

8. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who, financially or otherwise, controls such agent.

9. Every sales agent shall cause to be clearly set forth upon any form of solicitation, order, invoice and statement covering coal offered for sale or sold, the following:

(1) Either the name of the producer, or

(2) The trade name established and generally used by the producer in designation of coal produced from the mine from which shipment was made or is to be made.

Section III.—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

Section IV.—Quotations, Options and Contracts

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement: Provided, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with such agencies of State or local governments, as are required by law to purchase coal for periods in excess of thirty (30) days, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum prices in effect at the time of the making of the agreement;

(b) For deliveries thereafter at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price.

In the case of Governmental Agencies, options may be given for a period not exceeding forty-five (45) days. Subject to further order of the Coal Commission, no option for the sale of coal may be given, except as herein specifically provided.

2. Upon the revocation or suspension of Rule 1 of this Section, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

A. No contract for the sale of coal shall provide for delivery over a period in excess of twelve (12) months, except by special permission from the Coal Commission upon a showing of the necessity of meeting long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

B. No contract for the sale of coal shall provide for deliveries to commence at a time later than ninety (90) days from the date upon which such contract was entered into.

C. All contracts shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal sold, the number of cars or tonnage to be shipped, the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and specifying the tonnage to be shipped with an allowable overshipment or undershipment of not exceeding twenty (20) percent of the tonnage specified.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local Governments.

D. Every contract shall express the entire agreement between the parties and no modification thereof shall be made except by written agreement which shall conform to all the requirements set forth in these rules and regulations.

E. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(1) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the lawful orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(2) No shipment consigned to any destination point may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(3) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(a) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(b) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than applicable minimum price for such coal at time of diversion, for the use to which it is actually applied."

F. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item E (2) of rule 2 of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

G. Upon the revocation or suspension of Rule 1 of this Section, quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days. If the minimum price is increased beyond the quoted price within such fourteen (14) days, any quotation or option not accepted or exercised prior to the effective date of the price change shall, without notice, be considered withdrawn and no longer effective. Every quotation or option shall contain a provision to the foregoing effect and shall further stipulate that any contract or spot order entered into thereunder shall be subject to these Marketing Rules and Regulations.

H. The provisions of this Rule 2/G shall not apply to sealed bids on business of the United States Government or States or Political subdivisions thereof, in which cases quotations and options at not less than the minimum price in effect at the time the bid is filed may be given for a period not exceeding forty-five (45) days from the final filing date of bids.

3. A report of every commitment shall be filed by the Code Member or his sales

agent with the Statistical Bureau or Bureaus within fifteen (15) business days from the date of the making of the agreement. Such reports shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

Section V.—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provisions of the order:

"(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the date of this order, the unfulfilled portion of the order shall be cancelled and no delivery of such tonnage shall be made."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 2 (c) of Section IV of these marketing rules and regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI.—Use of Coal Analyses

1. No analysis of coal shall be utilized by a Code Member of his sales agent, in selling or offering for sale any coal produced by the Code Member, unless such Code Member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the District in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the code member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British Thermal units. Each analysis shall further show whether made on an "as received" or moisture "free" basis and if on an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the code member.

3. Any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or order, shall be filed by the Code Member with the proper Statistical Bureau and District Board, within ten (10) days after such adjustment is made and shall be subject to the provisions of Rule 2 herein.

4. No agreement or order for the sale of coal produced by a Code Member, made upon a premium and penalty basis, shall be entered into or accepted by a Code Member unless the analysis upon which the premium and penalty clause is based has been previously filed as required in Rule No. 1. Such analysis shall be accompanied by a statement setting forth in full terms of the premium and penalty provisions of the proposed contract or order.

5. In the case of premium and penalty agreements entered into prior to the effective date of these regulations, and claimed to be continuing in effect, the Code Member shall file a statement containing the information required under Rule No. 4, within fifteen (15) days from such effective date.

6. From and after the effective date of these rules and regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section IX of these marketing rules and regulations.

Section VII.—Terms of Payment

The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. On railroad fuel and on coal sold to industrial consumers for their own use, the date of payment shall be on or before the twenty-fifth (25th) of the month following the date of shipment.

2. Other coals shall not be sold on more favorable terms of payment than net cash thirty (30) days from date of shipment.

3. Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

No sales, delivery, or offer for sale of coal shall be made upon any condition, expressed or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, or made subject to rebate or refund by the seller, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or of the validity or applicability of any order of the Coal Commission.

4. Where payment is made by note, trade acceptance, or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

5. Freight on rail shipments shall not be paid by a Code Member or his sales agent except to prepay stations as published in current railway tariffs or to

the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

6. The agreement by a Code Member, express or implied, to extend credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII.—Miscellaneous

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price: Provided, that in each case the code member shall file with the Statistical Bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the price at which the coal was originally sold, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale, and that in making such resale the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All Code Members shall promptly furnish to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

5. No allowance shall be made for any shipment of coal of substandard preparation or quality unless formal claim duly executed by or on behalf of the buyer and verified by affidavit setting forth the amount claimed by way of allowance and reasons for the claim is filed with the Code Member or his sales agent within ten (10) days after the receipt of the coal.

The Code Member or sales agent with whom such claim for allowance is filed shall immediately notify the Statistical Bureau and the District Board, furnishing an authentic copy of the buyer's claim together with a statement of the producer's views as to the validity of the claim, setting forth:

(a) The name and address of the consignee and the reason for the allowance.
(b) The amount of allowance or adjustment made.
(c) The price at which the coal was sold.
(d) The tonnage delivered.
(e) The name of the mine and the Code Member.
(f) Date of Shipment.
(g) Grade and size of coal and destination.
(h) A statement that the adjustment has not been made with the purpose or intent of evading the price or fair trade practice provisions of the Act.

6. The screening of mine run or rescreening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced on a price per ton basis and under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

8. No substitution may be made upon any spot order or contract, of any grade or size of coal taking a minimum price higher than the price specified in such order or contract, except upon the following conditions:

(a) The proposed substitution shall not be an express or implied condition of the order or contract.

(b) The coal substituted must be coal which the Code Member has already produced and loaded into transportation facilities and which cannot be sold promptly by the exercise of the usual sales effort, such substitution to be limited to a specific tonnage for shipment on a specific order and from a specific mine.

(c) The substitution must be reasonably necessary as an emergency measure in order to continue operation of the mine of the Code Member.

(d) The substitution shall be acceptable to the purchaser of the coal, and shall not be made with the purpose or effect of conferring any advantage on the purchaser or securing any preference or advantage for the Code Member over his competitors.

(e) Such substitution may be made only with the prior approval of a duly designated representative of the Commission and in each instance formal application therefor shall be made upon forms provided by the Commission and permits shall be issued prescribing the conditions of substitution in each case approved.

(f) A monthly report of substitution permits shall be mailed by Code Members to the office of their Board. The Commission may from time to time publish the essential facts as to all substitution permits granted.

(g) In each case of coal shipped under a substitution permit each invoice shall specifically show the permit number and the size and grade of coal substituted.

9. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

10. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Section IX.—Unfair Methods of Competition

As provided in Section 4, Part II (i) of the Act, the following practices with respect to coal shall be unfair methods of competition and shall constitute violations of the code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, that coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports, when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or

the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of anlyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade-marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of any organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal.

MINIMUM PRICE AREA No. 6—DISTRICT BOARD No. 18

PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 18, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 192, the marketing rules and regulations proposed by District Board No. 18 in compliance with Commission Order No. 244. This witness testified that these rules and regulations were properly submitted to Code Members within said District and that no protests concerning such proposals were received from Code Members. Accordingly, the District Board, on August 19, 1938, adopted said rules and regulations, and later submitted them to the Commission.

The witness testified that the definitions of "general sales agent" and "sales agent" could, in his opinion, be clarified and still stay within the meaning of the District Board by combining the two definitions as follows:

"A Sales Agent is a person who as agent, in law or in fact, sells coal for or on behalf of a Code Member."

Therefore, we are of the opinion that the above-mentioned definitions should be so combined and modified.

The witness testified that, in his opinion, registration of persons entitled to receive discounts is a matter of procedure and not a proper proposal under marketing rules and regulations. However, it was the witness' opinion that there should be a requirement of such registration. Order No. 244 directed various District Boards to propose rules and regulations incidental only to the sale and distribution of coal by Code Members. Any definitions purporting to define what persons come within the term "distributor", as used in Section 4 II (h) of the Act, is improperly submitted in this hearing and accordingly the definition of a "wholesaler" as proposed by the District Board in Section I, paragraph 6, should be deleted, and the following definition of a "registered distributor" should be substituted:

"A 'registered distributor' is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act."

We are of the opinion that the definition of a "wholesale discount" is not a proper subject for consideration in this hearing, but should be determined in a hearing held pursuant to Section 4 II (h) of the Act.

The term "industrial consumer" appears only in a section which has been deleted for the reasons later set forth. Therefore, this definition is superfluous and should be deleted.

The definition of a "retail dealer" should be deleted for the reasons hereinbefore set forth in the findings of fact for District No. 17.

The witness recommended that the definition of a "spot order" be clarified as follows:

"A 'spot order' is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted."

We are of the opinion that this modification is a desirable one and that the definition of a "spot order", as proposed by District Board No. 18, should be so modified.

The witness testified that the definition of "public institutions" was, in his opinion, superfluous. Moreover, the only section in which this definition appears has been deleted for reasons later set forth and, therefore, we are of the opinion that this definition should be deleted.

We are of the opinion that definitions 13 to 20 contained in Section I of the composite findings, hereinafter given, are reasonable and desirable. The District Board did not define these terms although they appear in various rules proposed by the Board.

The District Board for District No. 18 did not propose that contracts of sales agents should be filed with the Statistical Bureau of the Commission.

The witness testified that, in his opinion, some regulation of that character would be decidedly helpful in carrying out the purposes of the Act.

We are of the opinion that the filing of sales agency contracts with the Statistical Bureau is a necessary requirement in order to determine whether or not such contracts come within the unfair trade practices of the Act and we, accordingly, modify Section II in the manner set forth in the composite findings subsequently given.

As previously stated, the witness testified that registration of persons entitled to receive discounts is a procedural matter and should not be contained in the marketing rules and regulations.

The witness further stated that there should be some requirement of registration before such discounts could be granted. Furthermore, the witness stated that rules pertaining to discounts should properly be proposed in the discount hearing, which the Commission has opened and which has, at the present time, been continued. Accordingly, for these reasons, and for the reasons hereinbefore set forth in the findings of fact for District No. 17, we are of the opinion that Sections III, IV and V of the proposed rules and regulations of District No. 18, should be combined into one section as follows:

Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowances prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

Section VII, entitled "spot sales," should be modified in accordance with the modification of the definition of "spot order" in Section I.

Rule 2 (a) of Section VIII pertains to the sale of coal below minimum price by absorbing transportation charges. Accordingly, this rule should be deleted and considered separately in a hearing held pursuant to Section 4 II (g) of the Act, which prohibits such absorption.

We are of the opinion that the fourth paragraph of Section IX should be modified so as to provide that all coal must be sold and invoiced on a price per ton basis. This modification, in our opinion, is necessary for a uniform procedure of method to govern the selling and invoicing of coal.

We are of the opinion that the paragraph relating to "Use of Crushers" in Section IX entitled "Miscellaneous" should be deleted because of illegality.

The witness for District Board No. 18 testified generally that the rules proposed by the District Board were reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition contained in the Act, although the witness, on examination, as already stated, likewise testified that certain clarifications and modifications of such rules would, in his opinion, be desirable. Except as to such rules which we have already stated should be modified, we are of the opinion that the rules proposed by the District Board are in accordance with the above requirements.

Accordingly, we find that the following rules and regulations, incidental to the sale and distribution of coal by Code Members in District No. 18, are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY THE CODE MEMBERS WITHIN DISTRICT NO. 18 AS PROPOSED BY DISTRICT BOARD NO. 18 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I.—Definitions

1. The term *Person* as used herein includes individuals, firms, associations, partnerships, corporations, trusts, trustees, trustees in bankruptcy, receivers, and all other recognized forms of business organizations.

2. A *Code member* as used herein designates one who is engaged in the operation of a coal mine and in the sale of coal produced therefrom and who has signed the Code and maintained his membership under Section 4 of the Bituminous Coal Act of 1937.

3. A *Sales agent* is a person who as agent, in law or in fact, sells coal for or on behalf of a Code Member.

4. A *Commission* is the total compensation granted by a Code Member to a Sales Agent for the services rendered by such agent.

5. A *Registered distributor* is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

6. A *Spot order* is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

7. A *Contract* is an agreement for the sale of coal covering shipments to be made for a longer period than that specified for a SPOT ORDER.

8. A *Commitment* is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

9. A *Quotation* is an offer for the sale of coal which the offerer may withdraw to its being acted upon by the offeree.

10. An *Option* is an offer for the sale of coal, to be accepted within a time certain, during which time the offerer may not withdraw the offer without consent of the offeree.

11. *Minimum price* shall mean a minimum price established and made effective by the Coal Commission.

12. *Maximum Price* shall mean a maximum price established and made effective by the Coal Commission.

13. *Coal Commission* as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

14. *Act* as used herein shall mean the Bituminous Coal Act of 1937.

15. *District Board* as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

16. The terms *reconsignment* and *diversion* as used herein shall mean the change in the original consignee or in the destination or route.

17. The term *transportation facilities* means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

18. *Coal* as used herein shall mean bituminous coal.

19. The term *bituminous coal* includes all bituminous, semi-bituminous, and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

20. The term *control* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of sales agents by code members or their agents or authorized representatives and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

4. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published by the Coal Commission from time to time.

5. All agency contracts filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

6. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established

by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

Section III.—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowances prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

Section IV.—Quotations and Options

1. Quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days. If the Code price is increased beyond the quoted price within such fourteen days and the quotation or option shall not have been accepted or exercised at that time, the quotation or option thereupon shall become null and void. Every quotation and option shall contain a provision to the foregoing effect. These provisions do not apply to sealed bids on Federal, State, County, Municipal or Township business.

2. Every quotation and option shall contain a provision that it is subject to the conditions and provisions specified in the Section hereof captioned *Contracts*.

3. Acceptances of quotations and exercise of options must be in writing. They shall then have the status of commitments and shall be filed with such agency as the Coal Commission may prescribe.

Section V.—Spot Sales

1. A Spot Order is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

Section VI.—Contracts

1. (a) To further the objectives of subsection (a) of Part II—*Marketing*, of Section 4 of the Act, every contract shall contain the following provisions (whose meaning and effect shall not intentionally be changed or altered by any other provision of the contract):

"It is agreed that the purchasing price for all shipments made after an increase or decrease in either wage rates or hours per day or in hours per week, shall be increased or decreased proportionately in the exact amount determined by the District Board after full consideration of the various cost factors involved, subject to the approval of the same by the National Bituminous Coal Commission, provided, that the price specified herein shall not be so varied unless the increase or decrease in wage rates or in hours of work is a part of a general increase or decrease in wage rates or in hours of work occurring in the District in which the mine producing the coal is located; likewise, any increase or decrease in the cost of production, caused by the imposition, or revocation, by State or Federal statutes, of a direct tax on coal, or on the sale or on the mining thereof, or by subsequent changes in the rate of such tax, or by any other regulations, State or Federal, increasing or decreasing the cost of production, shall correspondingly increase or decrease said price of coal on any tonnage thereafter shipped thereunder."

(b) After the effective date of any such general increase or decrease, a Code member shall increase or decrease all invoices by the amount determined by the District Board (subject to the approval of the same by the Coal Commission as provided in the preceding paragraph), and with respect to any coal shipped subsequent to said effective date and already invoiced at the price previously in effect, a Code member shall promptly issue a debit or credit memorandum, as the case may be, for the amount of any such increase or decrease.

2. Every contract shall contain the following clauses:

"(a) If any shipment consigned to any destination point be reconsigned en route or otherwise to any other destination point, notice of such reconsignment shall be given by the Buyer to the Code member who produced and sold such coal, and in case of any such reconsignment the Code member shall charge and the buyer shall pay not less than the Code price prescribed for such coal for delivery to the destination point to which such shipment shall be actually delivered.

"(b) The coal covered by this contract is to be used only in the plant or plants of the Buyer named herein and for the use stated, and is not to be sold or diverted by the Buyer to other destination or to other purposes without the consent of the Seller. If so diverted the Seller shall charge and the Buyer shall pay not less than the Code price prescribed for such coal for delivery to the destination point to which such shipments shall be actually delivered."

Section VII.—Miscellaneous

No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal.

The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

Resale of coal refused in transit or at destination.—Where coal is refused by consignee in transit or at destination, the shipper may sell the same at less than the Code price; provided, that in all cases the shipper shall file with the agency designated by the Commission, (1) a statement giving the name of the consignee and the reasons for refusal; (2) a copy of carrier's notice of refusal or notice of reconsignment; (3) the price received by the shipper for the coal so sold; and (4) a statement that in making such sale the shipper has not departed from any provisions of the Code or of the Rules and Regulations of the District Board other than as to price.

Allowance for substandard preparation or quality.—Where an allowance is demanded by the consignee on any shipment that is claimed to be of substandard preparation or quality, the shipper may settle with the consignee at less than the Code price; provided, that in all cases the shipper shall file with the agency designated by the Commission, (1) a statement giving the name of the consignee and the reason for the request for the allowance; (2) the amount of allowance or adjustment made by the shipper; (3) a statement that in making this adjustment the shipper has not departed from any provision of the Code or of the Rules and Regulations of the District Board other than as to price.

Screening for buyer's account.—The screening of mine run or other grades sold and billed as such, for the purpose of keeping the resultant products separate in the shipment thereof, is prohibited. All coal must be sold and invoiced on a price per ton basis and under the designation shown therefor in the price schedule published by the Coal Commission.

Substitution.—No substitution of grades or sizes of coal carrying a higher Code price may be made on spot orders or contracts, unless authorized by the District Board or by a committee thereof duly created for that purpose. Requests for permission to make substitutions shall be submitted to the Statistical Bureau in writing and shall be approved only upon satisfactory evidence that such substitution is necessary as a temporary and emergency measure and will not result in unfair advantage to either the Code member or the Buyer. Upon approval of a request for substitution, the Statistical Bureau will issue a permit to the Code Member in each instance, which permit shall be limited to a maximum number of tons for shipment during a period not to exceed thirty (30) days. No permit for substitution shall be issued in connection with the shipment of coal sold to a Retail Dealer. The issuance of such permits will be restricted for application to spot orders or contracts filed with such agency as may be prescribed by the Commission. All permits issued hereunder shall be consecutively numbered.

Mixed cars.—Mixed cars of more than one size of coal may be loaded for shipment.

Rules and regulations to effectuate subsection (g) part II section 4.—Established prices shall not be evaded or violated by or through the use of docks or other storage facilities or transportation facilities, or by or through the use of subsidiaries, affiliated sales or transportation companies or other intermediaries or instrumentalities, or by or through the absorption, directly or indirectly, of any transportation or incidental charge of whatsoever kind or character, or any part thereof.

Definition and establishment of consuming market.—The consuming market area for this district consists of the states of Texas, New Mexico, Arizona, California, Colorado.

Revision and amendment.—These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

MINIMUM PRICE AREA NO. 7—DISTRICT BOARD NO. 19

PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 19, qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 188, the Marketing Rules and Regulations proposed by District No. 19 in compliance with Commission Order No. 244. This witness testified that these rules and regulations were properly submitted to Code Members within said District, and that no protests concerning such proposals were received from Code Members. Accordingly, the Board, on August 9, 1938, adopted said rules and regulations and later submitted them to the Commission.

The witness testified that the rules proposed by District No. 19 are identical to those proposed by District No. 17; that their competitive markets are similar; that the two District Boards had the same factors under consideration in proposing their respective rules; and that the testimony given in behalf of the proposed rules for District No. 17 should be adopted as the testimony in support of the proposed rules of District Board No. 19. The witness further stated that the testimony with respect to certain desirable modifications of the proposals of District No. 17 was equally applicable to District No. 19, and should be applied to the rules proposed by District No. 19. Such modifications, in the opinion of the witness, would be reasonable; not inconsistent with the provisions of Section 4 of the Act, and in conformance with the standards of fair competition contained in the Act.

Accordingly, we are of the opinion that all deletions, modifications and clarifications determined by the Commission in the foregoing findings of fact for District No. 17 should apply to the proposed rules and regulations of District Board No. 19, and we, therefore, find that the following rules and regulations proposed by District Board No. 19, reflecting such deletions, modifications and clarifications, are reasonable; not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 19 AS PROPOSED BY DISTRICT BOARD NO. 19 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I.—Definitions

1. The term *person* as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A *sales agent* is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: Provided, that "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A *commission* is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A *registered distributor* is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A *spot order* is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A *contract* is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

7. A *commitment* is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

8. A *quotation* is an offer for the sale of coal at a price which the offerer may withdraw prior to its being acted upon by the offeree.

9. An *option* is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offerer may not withdraw the offer without consent of the offeree.

10. *Coal Commission* as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. *Act* as used herein, shall mean the Bituminous Coal Act of 1937.

12. *District Board* as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

13. *Statistical Bureau* shall mean, unless otherwise specifically stated, the statistical bureau of the Commission for the district in which the coal involved in any transaction is produced, or the district in which is located a mine of a code member affected by any order or regulation.

14. *Minimum Price* shall mean a minimum price established and made effective by the Coal Commission.

15. *Maximum Price* shall mean a maximum price established and made effective by the Coal Commission.

16. *Registration and Register* as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

17. The term *producer* includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms *reconsignment* and *diversion* as used herein shall mean the change in the original consignee or in the destination or route.

19. A *code member* means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. *Coal* as used herein shall mean bituminous coal.

21. The term *bituminous coal* includes all bituminous, semi-bituminous, and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

22. The term *control* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of sales agents by code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and

regulations, promulgations and determinations of the Coal Commission.

3. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

4. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen regularly employed.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

5. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent.

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

8. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who, financially or otherwise, controls such agent.

9. Every sales agent shall cause to be clearly set forth upon any form of solicitation, order, invoice and statement covering coal offered for sale or sold, the following:

(1) Either the name of the producer, or

(2) The trade name established and generally used by the producer in designation of coal produced from the mine from which shipment was made or is to be made.

Section III.—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

Section IV.—Quotations, Options and Contracts

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement: Provided, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with such agencies of State or local governments, as are required by law to purchase coal for periods in excess of thirty (30) days, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum prices in effect at the time of the making of the agreement;

(b) For deliveries thereafter at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price.

In the case of Governmental Agencies, options may be given for a period not exceeding forty-five (45) days. Subject to further order of the Coal Commission, no option for the sale of coal may be given, except as herein specifically provided.

2. Upon the revocation or suspension of Rule 1 of this Section, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

A. No contract for the sale of coal shall provide for delivery over a period in excess of twelve (12) months, except by special permission from the Coal Commission upon a showing of the necessity of meeting long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

B. No contract for the sale of coal shall provide for deliveries to commence at a time later than ninety (90) days from the date upon which such contract was entered into.

C. All contracts shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal sold, the number of cars or tonnage to be shipped, the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and specifying the tonnage to be shipped with an allowable overshipment or undershipment of not exceeding twenty (20) percent of the tonnage specified.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local Governments.

D. Every contract shall express the entire agreement between the parties and no modification thereof shall be made except by written agreement which shall conform to all the requirements set forth in these rules and regulations.

E. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(1) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the lawful orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(2) No shipment consigned to any destination point may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(3) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(a) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(b) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than applicable minimum price for such coal at time of diversion, for the use to which it is actually applied."

F. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item E (2) of rule 2 of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

G. Upon the revocation or suspension of Rule 1 of this Section, quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days. If the minimum price is increased beyond the quoted price within such fourteen (14) days, any quotation or option not accepted or exercised prior to the effective date of the price change shall, without notice, be considered withdrawn and no longer effective. Every quotation or option shall contain a provision to the foregoing effect and shall further stipulate that any contract or spot order entered into thereunder shall be subject to these Marketing Rules and Regulations.

H. The provisions of this Rule 2/G shall not apply to sealed bids on business of the United States Government or States or Political subdivisions thereof, in which cases quotations and options at not less than the minimum price in effect at the time the bid is filed may be given for a period not exceeding forty-five (45) days from the final filing date of bids.

3. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus within fifteen (15) business days from the date of the making of the agreement. Such reports shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

Section V.—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provisions of the order:

"(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the date of this order, the unfulfilled portion of the order shall be cancelled and no delivery of such tonnage shall be made."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 2 (c) of Section IV of these marketing rules and regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI.—Use of Coal Analyses

1. No analysis of coal shall be utilized by a Code Member of his sales agent, in selling or offering for sale any coal produced by the Code Member, unless such Code Member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the District in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the code member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British thermal units. Each analysis shall further show whether made on an "as received" or moisture "free" basis and if on an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the code member.

3. Any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or order, shall be filed by the Code Member with the proper Statistical Bureau and District Board, within ten (10) days after such adjustment is made and shall be subject to the provisions of Rule 2 herein.

4. No agreement or order for the sale of coal produced by a Code Member, made upon a premium and penalty basis, shall be entered into or accepted by a Code Member unless the analysis upon which the premium and penalty clause is based has been previously filed as re-

quired in Rule No. 1. Such analysis shall be accompanied by a statement setting forth in full terms of the premium and penalty provisions of the proposed contract or order.

5. In the case of premium and penalty agreements entered into prior to the effective date of these regulations, and claimed to be continuing in effect, the Code Member shall file a statement containing the information required under Rule No. 4, within fifteen (15) days from such effective date.

6. From and after the effective date of these rules and regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section IX of these marketing rules and regulations.

Section VII.—Terms of Payment

The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. On railroad fuel and on coal sold to industrial consumers for their own use, the date of payment shall be on or before the twenty-fifth (25th) of the month following the date of shipment.

2. Other coals shall not be sold on more favorable terms of payment than net cash thirty (30) days from date of shipment.

3. Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

No sales, delivery, or offer for sale of coal shall be made upon any condition, expressed or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, or made subject to rebate or refund by the seller, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or of the validity or applicability of any order of the Coal Commission.

4. Where payment is made by note, trade acceptance, or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

5. Freight on rail shipments shall not be paid by a Code Member or his sales agent except to prepay stations as published in current railway tariffs or to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

6. The agreement by a Code Member, express or implied, to extend credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII.—Miscellaneous

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price: Provided, that in each case the code member shall file with the Statistical Bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the price at which the coal was originally sold, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale, and that in making such resale the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All Code Members shall promptly furnish to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

5. No allowance shall be made for any shipment of coal of substandard preparation or quality unless formal claim duly executed by or on behalf of the buyer and verified by affidavit setting forth the amount claimed by way of allowance and reasons for the claim is filed with the Code Member or his sales agent within ten (10) days after the receipt of the coal.

The Code Member or sales agent with whom such claim for allowance is filed shall immediately notify the Statistical Bureau and the District Board, furnishing an authentic copy of the buyer's claim together with a statement of the producer's views as to the validity of the claim, setting forth:

(a) The name and address of the consignee and the reason for the allowance.
(b) The amount of allowance or adjustment made.
(c) The price at which the coal was sold.
(d) The tonnage delivered.
(e) The name of the mine and the Code Member.
(f) Date of Shipment.
(g) Grade and size of coal and destination.
(h) A statement that the adjustment has not been made with the purpose or intent of evading the price or fair trade practice provisions of the Act.

6. The screening of mine run or rescreening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced on a price per ton basis and under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

8. No substitution may be made upon any spot order or contract, of any grade or size of coal taking a minimum price higher than the price specified in such order or contract, except upon the following conditions:

(a) The proposed substitution shall not be an express or implied condition of the order or contract.

(b) The coal substituted must be coal which the Code Member has already produced and loaded into transportation facilities and which cannot be sold promptly by the exercise of the usual sales effort, such substitution to be limited to a specific tonnage for shipment on a specific order and from a specific mine.

(c) The substitution must be reasonably necessary as an emergency measure in order to continue operation of the mine of the Code Member.

(d) The substitution shall be acceptable to the purchaser of the coal, and shall not be made with the purpose or effect of conferring any advantage on the purchaser or securing any preference or advantage for the Code Member over his competitors.

(e) Such substitution may be made only with the prior approval of a duly designated representative of the Commission and in each instance formal application therefor shall be made upon forms provided by the Commission and permits shall be issued prescribing the conditions of substitution in each case approved.

(f) A monthly report of substitution permits shall be mailed by Code Members to the office of their Board. The Commission may from time to time publish the essential facts as to all substitution permits granted.

(g) In each case of coal shipped under a substitution permit each invoice shall specifically show the permit number and the size and grade of coal substituted.

9. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

10. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Section IX.—Unfair Methods of Competition

As provided in Section 4, Part II (i) of the Act, the following practices with respect to coal shall be unfair methods of competition and shall constitute violations of the code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, that coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports, when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade-marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of any organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal.

MINIMUM PRICE AREA NO. 7.—DISTRICT BOARD NO. 20

PROPOSED MARKETING RULES AND REGULATIONS

A qualified expert on the marketing of coal in District No. 20 testified that the District Board, pursuant to Commission Order No. 244, prepared and submitted to Code Members for that District, reasonable marketing rules and regulations incidental to the sale and distribution of coal by Code Members within the District. The witness further testified that no protests were received from Code Members, and accordingly, the District Board adopted the proposed marketing rules and regulations.

These marketing rules and regulations were transmitted to the Commission and were introduced into evidence as Exhibit No. 193. The witness testified that he had participated in the preparation of and was thoroughly familiar with Exhibit No. 193, and that they were reasonable rules and regulations incidental to the sale and distribution of coal by Code Members within the District, were not inconsistent with the requirements of Section 4 and did conform to the standards of fair competition set forth in Section 4, Part II (i) of the Act.

We are of the opinion that definitions 17 to 22 contained in Section I of the composite findings hereinafter given are reasonable and desirable. The District Board did not define these terms although they appear in various rules proposed by the Board.

We are also of the opinion that rule (b) of Section IV should be deleted for the reason that this rule attempts to enlarge the Commission's jurisdiction over a subject matter which is covered by paragraph 13 of Section 4 II (i) of the Act.

The witness testified that he was familiar with Exhibit No. 191, entitled "Extracts from Rules Proposed by District No. 17" and with the other marketing rules and regulations proposed by District No. 17 that he had heard the testimony of the expert witness for District No. 17, and that in his opinion the rules and regulations set forth in Exhibit No. 191, subject to certain exceptions to which the witness subsequently testified, and the other rules and regulations proposed by District No. 17 in so far as the latter are not in conflict with the rules and regulations proposed by District No. 20, were reasonable and necessary rules and regulations for District No. 20.

The first exception which the witness took to the rules and regulations in Exhibit No. 191 was to that part of Rule 5 of Section IX which permits the prepayment of freight on coal shipped "to the United States Government, states or political subdivisions thereof". The witness' objection to this clause was that the freight was frequently double the

amount of the price of the coal and for the Code Member to prepay the freight entailed upon him a financial burden which frequently precluded his active bidding for such business. It was the opinion of the witness that it would be a simple matter for the United States Government to issue Government Bills of Lading which make it unnecessary to prepay freight, thereby relieving the code member of that additional financial burden. On the basis of this testimony we are of the opinion that rule (c) of Section IX of Exhibit 193 should be modified to conform to Rules of Section IX of Exhibit 191 except that the words "or to the United States Government, States or political subdivisions thereof" should be deleted from the rule.

The witness testified that with respect to the rules of Section XI of Exhibit 191, a certain formula should be developed governing the amount of adjustment which can be made upon an equitable basis. The witness testified that such a formula suitable for District 20 is contained in Section III of the Rules proposed by District 20, and has been in use in District 20 for several years. We likewise approve for District 20 the modification of Rule 5 of Section XI of Exhibit 191 made in Rule 5 of Section VIII of the composite finding for District 17.

The third exception which the witness took to the rules and regulations in Exhibit No. 191 was to paragraphs (a), (b), (c), (d) and (e) of Rule 8 of Section XI referring to substitutions. The witness testified that he had reference to substitutions of coal for other than railroad coal purchases. It was his opinion that a broad uncontrolled and unlimited provision covering substitution would be manifestly unjust and would permit price evasion. The witness testified that this was the history of substitution in the coal industry. His objection to the rule as contained in Exhibit No. 191 was that it was too broad and gave too much latitude and opportunity for price evasion. In light of this testimony we are of the opinion that Rule X (b) of Exhibit 193, District 20's proposed rules should be modified to read as follows:

No substitution of grades or sizes of higher price coal may be made, except for railroad locomotive fuel, on spot orders or contracts, unless the higher price be applied to such substituted size. Substitutions on orders for railroad locomotive fuel may be made only upon the following conditions:

(a) The proposed substitutions shall not be an express or implied condition of the order or contract

(b) The coal substituted must be coal which the Code Member has already produced and loaded into transportation facilities and which cannot be sold promptly by the exercise of the usual sales effort, such substitution to be limited to a specific tonnage for shipment on a specific order and from a specific mine.

(c) The substitution must be reasonably necessary as an emergency measure in order to continue operation of the mine of the Code Member.

(d) The substitution shall be acceptable to the purchaser of the coal, and shall not be made with the purpose or effect of conferring any advantage on the purchaser or securing any preference or advantage for the Code Member over his competition.

(e) Such substitution may be made only with the prior approval of a duly designated representative of the Commission and in each instance formal application therefor shall be made upon forms provided by the Commission and permits shall be issued prescribing the conditions of substitution in each case approved.

The witness further testified that subsection (d) of Section VII of Exhibit No. 193 relating to the modification of prices by reason of cost increases resulting from wage increases and taxes, was not a proper subject for marketing rules and regulations and therefore suggested its deletion. We therefore find that subsection (d) of Section VII of Exhibit No. 193 should be deleted.

The witness further testified that subsection (d) of Section X of Exhibit No. 193 relating to assistance given by a code member to retailers was an unfair trade practice which, in his opinion, was sufficiently provided for in the Act and therefore recommended its deletion. We, therefore, find that subsection (d) of Section X of Exhibit No. 193 should be deleted.

The witness testified that in his opinion the rules proposed by District No. 17, with the exceptions to which he specifically testified, were reasonable and applicable to District No. 20. Rule 4 of Section IX for District No. 17 was modified in the findings of fact for District No. 17 so as to provide that where payment is made under any circumstances after the due date of the account, interest must be paid from the due date of the account. We are of the opinion that this rule, as modified, should be incorporated in the composite findings for District No. 20.

District Board No. 17 likewise proposed in Rule 6 of Section XI that all coal must be sold and invoiced under the designation shown therefore in the price schedule published by the Coal Commission. This rule has been modified so as to also provide that all coal must be sold and invoiced on a price per ton basis. We are of the opinion that the rule, as modified, should also be included in the composite findings for District No. 20.

We disapprove rules (b) and (c) of Section III for the reason that they are impractical to enforce and administer. On the basis of the testimony, we approve rule (a) of Section III and we likewise approve for District No. 20 modification of rule 5 of Section XI of Exhibit No. 191 made in rule 5 of Section VIII of the composite findings for District No. 17.

In light of the testimony of the witness that the rules proposed by District No. 17 contained in Exhibit 191 and the other rules proposed by District No. 20 were reasonable and necessary rules and regulations for District No. 20 with such exceptions as the witness specifically testified to, we are of the opinion that the rules and regulations proposed by District No. 20 should be modified to conform to the composite findings for District No. 17 except as to those instances where we have found that certain modifications of the rules proposed by District No. 17 were reasonable for District No. 20.

After due consideration of all the testimony in the record relating to the rules proposed by District No. 20, we find that the following rules and regulations incidental to the sale and distribution of coal by Code Members in District No. 20, reflecting the modifications, deletions and additions hereinbefore referred to, are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 20 AS PROPOSED BY DISTRICT BOARD NO. 20 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I.—Definitions

1. The term *person* as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A *sales agent* is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: Provided, that *sales agent* shall not include an individual (herein referred to as a *salesman*) regularly and continuously employed by a code member, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A *commission* is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A *registered distributor* is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A *spot order* is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A *contract* is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

7. A *commitment* is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

8. A *quotation* is an offer for the sale of coal at a price which the offerer may withdraw prior to its being acted upon by the offeree.

9. An *option* is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offerer may not withdraw the offer without consent of the offeree.

10. *Coal Commission* as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. *Act* as used herein, shall mean the Bituminous Coal Act of 1937.

12. *District Board* as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

13. *Statistical Bureau* shall mean, unless otherwise specifically stated, the statistical bureau of the Commission for the district in which the coal involved by any transaction is produced, or the district in which is located a mine of a code member affected by any order or regulation.

14. *Minimum Price* shall mean a minimum price established and made effective by the Coal Commission.

15. *Maximum Price* shall mean a maximum price established and made effective by the Coal Commission.

16. *Registration and Register* as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

17. The term *producer* includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms *reconsignment* and *diversion* as used herein shall mean the change in the original consignee or in the destination or route.

19. A *code member* means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. *Coal* as used herein shall mean bituminous coal.

21. The term *bituminous coal* includes all bituminous, semi-bituminous, and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

22. The term *control* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of sales agents by code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and all rules and regulations, promulgations and determinations of the Coal Commission.

3. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agents' commission. Certified copies of all such agency contracts entered into or prior to the effective date of the establishment of those rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

4. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen regularly employed.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

5. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

8. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who, financially or otherwise, controls such agent.

Section III.—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

Section IV.—Quotations, Options and Contracts

1. Subject to further order of the Coal Commission, no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement: Provided, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with such agencies of State or local governments, as are required by law to purchase coal for periods in excess of thirty (30) days, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum prices in effect at the time of the making of the agreement:

(b) For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price.

In the case of Governmental Agencies, options may be given for a period not exceeding forty-five (45) days. Subject to further order of the Coal Commission, no option for the sale of coal m / be given, except as herein specifically provided.

2. Upon the revocation or suspension of Rule 1 of this Section, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

A. No contract for the sale of coal shall provide for delivery over a period in excess of twelve (12) months, except by special permission from the Coal Commission upon a showing of the necessity of meeting long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem sufficient.

B. No contract for the sale of coal shall provide for deliveries to commence at a time later than ninety (90) days from the date upon which such contract was entered into.

C. All contracts shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal sold, the number of cars or tonnage to be shipped, the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and specifying the tonnage to be shipped with an allowable overshipment or undershipment of not exceeding twenty (20) per cent of the tonnage specified.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local Governments.

D. Every contract shall express the entire agreement between the parties and no modification thereof shall be made except by written agreement which shall conform to all the requirements set forth in these rules and regulations.

E. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"1. This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the lawful orders and regulations issued fhereunder by the National Bituminous Coal Commission.

"2. No shipment consigned to any destination point may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"3. The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption at the applicable minimum price, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

F. In any case where a contract is made by a sales agent or a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item E (2) of rule 2 of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

G. Upon the revocation or suspension of Rule 1 of this Section, quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days. If the minimum price is increased beyond the quoted price within such fourteen (14) days, any quotation or option not accepted or exercised prior to the effective date of the price change shall, without notice, be considered withdrawn and no longer effective. Every quotation or option shall contain a provision to the foregoing effect and shall further stipulate that any contract or spot order entered into thereunder shall be subject to these Marketing Rules and Regulations.

H. The provisions of this Rule 5 shall not apply to sealed bids on business of the United States Government or States or political subdivisions thereof, in which cases quotations and options at not less than the minimum price in effect at the time the bid is filed may be given for a period not exceeding forty-five (45) days from the final filing date of bids.

3. A report of every commitment shall be filed by the Code Member of his sales agent with the Statistical Bureau or Bureaus within fifteen (15) business days from the date of the making of the agreement. Such reports shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed with fifteen business days.

Section V.—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

"(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 2 (E) of Section IV of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau, or Bureaus, a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau, or Bureaus, in the same manner.

Section VI.—Use of Coal Analyses

1. No analysis of coal shall be utilized by a Code Member or his sales agent, in selling or offering for sale any coal produced by the Code Member, unless such Code Member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the District in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the Code Member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British Thermal units. Each analysis shall further show whether made on an "as received" or moisture "free" basis and if on an "as received" basis, the analysis shall include moisture content.

2. All anlyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classification of the coals produced by the code member.

3. Any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as a basis for an adjustment of price under any contract or order, shall be filed by the Code Member with the proper Statistical Bureau and District Board, within ten (10) days after such adjustment is made and shall be subject to the provisions of Rule 2 herein.

4. No agreement or order for the sale of coal produced by a Code Member made upon a premium and penalty basis, shall be entered into or accepted by a Code Member unless the analysis upon which the premium and penalty clause is based has been previously filed as required in Rule No. 1. Such analysis shall be accompanied by a statement setting forth in full the terms of the premium and penalty provisions of the proposed contract or order.

5. In the case of premiums and penalty agreements entered into prior to the effective date of these regulations, and claimed to be continuing in effect, the Code Member shall file a statement containing the information required under Rule No. 4, within fifteen (15) days from such effective date.

6. From and after the effective date of these rules and regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section IX of these Marketing Rules and Regulations.

Section VII.—Terms of Payment

The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. The date of payment shall be within thirty (30) days from the date of shipment.

2. Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date. No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

No sale, delivery, or offer for sale of coal shall be made upon any condition, expressed or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, or made subject to rebate or refund by the seller, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or of the validity or applicability of any order of the Coal Commission.

3. Where payment is made by note, trade acceptance or other form of indebtedness or where payment is made under any circumstances, after the due date of the account, the seller shall charge and the buyer shall pay interest from and after due date of account at the current rate in the locality to which the coal is shipped to the vendee.

4. Freight on rail shipments shall not be paid by a Code Member or his sales agent except to prepay stations as published in current railway tariffs. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

5. The agreement by a Code Member, express or implied, to extend credit for a period longer than that authorized by these rules and regulations shall constitute a violation of the code.

Section VIII.—Miscellaneous

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price; Provided, that in each case the code member shall file with the Statistical Bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the price at which the coal was originally sold, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal, or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale, and that in making such resale the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All code members shall promptly furnish to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

5. No allowance shall be made for any shipment of coal of substandard preparation or quality unless formal claim duly executed by or on behalf of the buyer and verified by affidavit setting forth the amount claimed by way of allowance and reasons for the claim is filed with the Code Member or his sales agent within ten (10) days after the receipt of the coal.

The Code Member or sales agent with whom such claim for allowance is filed shall immediately notify the Statistical Bureau and the District Board, furnishing an authentic copy of the buyer's claim together with a statement of the producer's views as to the validity of the claim, setting forth

(a) the name and address of the consignee and the reason for the allowance.
(b) the amount of allowance or adjustment made
(c) the price at which the coal was sold
(d) the tonnage delivered
(e) the name of the mine and the Code Member
(f) date of shipment
(g) grade and size of coal and destination
(h) a statement that the adjustment has not been made with the purpose or intent of evading the price or fair trade practice provisions of the Act.

Degradation in respect to sizes incident to its shipment and handling in the normal course of distribution in the regular retail channels of 3% of all sizes other than slack, is deemed to be standard or average and no adjustments or allowances shall be made for degradation except in excess of the said 3%.

6. The screening of mine run or rescreening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced on a price per ton basis, under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

8. No substitution of grades or sizes of higher price coal may be made, except for railroad locomotive fuel, on spot orders or contracts, unless the higher price be applied to such substituted size. Substitution on orders for railroad locomotive fuel may be made only upon the following conditions:

(a) The proposed substitution shall not be an express or implied condition of the order or contract.

(b) The coal substituted must be coal which the Code Member has already produced and loaded into transportation facilities and which cannot be sold promptly by the exercise of the usual sales effort, such substitution to be limited to a specific tonnage for shipment on a specific order and from a specific mine.

(c) The substitution must be reasonably necessary as an emergency measure in order to continue operation of the mine of the Code Member.

(d) The substitution shall be acceptable to the purchaser of the coal, and shall not be made with the purpose or effect of conferring any advantage on the purchaser or securing any preference or advantage for the Code Member over his competitors.

9. Every sales agent shall cause to be clearly set forth upon any form of solicitation, order, invoice and statement covering coal offered for sale or sold, the following:

(1) Either the name of the producer or

(2) The trade name established and generally used by the producer in designation of coal produced from the mine from which shipment was made or is to be made.

10. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

11. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Minimum Price Area No. 9—District Board No. 22

Proposed Marketing Rules and Regulations

The witness for District Board No. 22, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 194, rules and regulations proposed by District Board No. 22 in compliance with Commission Order No. 244.

The witness testified that upon receipt of Order No. 244, the District Board took the former marketing rules and regulations which were in effect from January 3 to February 25, 1938 and, using these as a basis, formulated the rules and regulations which were proposed to the Commission on August 9, 1938.

District Board No. 22 proposes the following definition of a "sales agent";

"A 'sales agent' is a person who as agent, in law or in fact, sells coal for or on behalf of a Code Member."

For the reasons hereinbefore set forth in the findings of fact for District No. 17, we are of the opinion that this definition should be modified in the manner outlined in the composite findings subsequently given.

For the purposes of clarification, paragraph 3 of Section I has been modified to read as follows:

"A commission is the total of all compensations and allowances received by a sales agent from a Code Member for services rendered in the sale of coal."

For the same reasons outlined in the findings of fact for District No. 17, paragraphs 4 and 5 of Section I should be deleted and the definition of a "registered distributor", as later shown in the composite findings for District No. 22, should be substituted.

The definitions of "wholesale discount" and "retailing", contained in paragraphs 6 and 7 in Section I, should likewise be deleted for the reasons set forth in the findings of fact hereinbefore stated for District No. 17.

We are of the opinion that definitions 17 to 22, contained in Section I of the composite findings hereinafter given, are reasonable and desirable. The District Board did not define these terms, although they appear in various rules proposed by the Board.

For the reasons hereinbefore stated in the findings of fact for District No. 17, we are of the opinion that Section II, in its entirety, should be modified in the same manner as Section II of the proposed rules and regulations for District No. 17. Furthermore, we are of the opinion that Rule 6 of Section V, in so far as it pertains to sales agents, should properly be contained in Section II, which is entitled "Sales Agents".

The witness testified that, in his opinion, the rules in Sections III and IV, pertaining to the registration of wholesalers and farmers' cooperative organizations, should be deleted. The witness was of the opinion, however, that persons should be required to register with the Commission before receiving any discount. With respect to discounts, the witness further testified that Rule 5 of Section V was meant to cover only discounts and not commissions. Rules pertaining to discounts should properly be proposed in the discount hearing which the Commission has opened and which has, at the present time, been continued. Furthermore, Order No. 244 directed the District Boards to propose reasonable rules and regulations governing the sale and distribution of coal by Code Members, and any rules purporting to regulate persons entitled to receive discounts are not properly submitted in this hearing. For those reasons, and for the reasons hereinbefore stated in the findings of fact for District No. 17, we are of the opinion that Sections III, IV and V of the proposed rules and regulations for District No. 22, with the exception of the unfair methods of competition, should be modified and combined into one section as follows:

Discounts

"1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale."

"2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowances prescribed by the Coal Commission upon such sales."

We are of the opinion that Section VI, in its entirety, should be modified and clarified in the same manner and for the same reasons hereinbefore set forth in the findings of fact for District No. 17.

For the reasons hereinbefore set forth in the findings of fact for District No. 17, we are of the opinion that Rule 2 (a) of Section VII should be deleted and Rules 1, 2 (b) and 2 (c) should be modified in the manner set forth in the composite findings later outlined for District No. 22.

The District Board in Rules 4 and 5 of Section VIII provides that where agreements for the sale of coal are entered into upon a premium and penalty basis, a statement setting forth the full terms of the premium and penalty provisions shall be filed with the Statistical Bureau. We are of the opinion that as a matter of law no Code Member may enter into or perform any agreement made upon a premium or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price for the coal sold and delivered after the effective date of these rules and regulations, although the buyer, under any premium and penalty contract, may nevertheless be entitled to a claim for substandard preparation or quality.

Rule 4 of Section IX does not indicate as to what time interest at the current market rate should be charged where payment is made by note, trade acceptance or other form of indebtedness. For the purpose of clarification, we believe the rule should be modified so as to provide that interest shall be charged from the due date of the account.

We are of the opinion that this rule should likewise be modified so as to provide that where payment is made under any circumstances after the due date of the account, interest must be charged. An unreasonable discrimination appears in this rule as it was proposed by the Board in that no provision is made for the charging of interest in a case where payment is not made at the due date of the account whether by default of the buyer or pursuant to an agreement for an extension of the term of credit and where such extension of the term of credit is not evidenced by a note, trade acceptance or other form of indebtedness.

While the District Board proposed in Section IX, relating to Terms of Payment, that the price and fair trade provisions of the Act shall not be violated by the use of terms of payment and that in no instance shall be terms of payment be more favorable than as specified in the rules, the District Board did not propose any specific rule making the agreement, express or implied, to extend credit for a period of longer than that authorized by the rules, a violation of the Code. We are of the opinion that such a rule is necessary in order fully to effectuate the rules proposed by the District Board relating to terms of payment.

We are of the opinion that Rule 6 of Section XI should be modified to provide that all coal must be sold and invoiced on a price per ton basis. This modification, in our opinion, is necessary for a uniform procedure and method to govern the selling and invoicing of coal. We believe this rule is necessary or otherwise the Commission must either establish supplementary prices based simply on thermal efficiency or else the Commission must undertake to translate sales made on such a basis into a price per ton basis in order to determine whether the minimum price has been violated or evaded.

For the reasons hereinbefore set forth in the findings of fact for District No. 17, we are of the opinion that Rules 3, 5 and 7 of Section XI should be modified and clarified in the manner set forth in the composite findings subsequently given.

The witness stated that he was of the opinion that the rules set forth in Exhibit No. 191 are reasonable and necessary for District No. 22. Rule 11 of Section XI of Exhibit No. 191 provides as follows:

"Every wholesale dealer, distributor or sales agent, shall cause to be clearly set forth upon any form of solicitation, order, invoice and statement covering coal offered for sale or sold, the following: (1) Either the name of the producer, or (2) the trade name established and generally used by the producer in designation of coal produced from the mine from which shipment was made or is to be made."

The rule cannot be directed against distributors at this hearing, but we are of the opinion that this rule is desirable and reasonable with reference to sales agents and should be included in the rules and regulations for District No. 22.

We are of the opinion that the second paragraph of Rule 8 (e) of Section XI should be deleted for the reason that it is impractical to enforce. Likewise, Rule 8 (f) of Section XI should be deleted for the reason that it creates an unreasonable discrimination.

The witness for District Board No. 22 testified generally that the rules proposed by the District Board were reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition contained in the Act, although the witness, on examination, likewise testified that certain clarifications and modifications of such rules would, in his opinion, be desirable. Except as to those rules which we have already stated should be modified, we are of the opinion that the rules proposed by the District Board are in accordance with the above requirements.

Accordingly, we find that the following rules and regulations incidental to the sale and distribution of coal by Code Members in District No. 22 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

Marketing Rules and Regulations Incidental to the Sale and Distribution of Coal by Code Members within District No. 22 as Proposed by District Board No. 22 and as Approved, Disapproved, or Modified for the Purpose of Coordination

Section I.—Definitions

1. The term *Person* as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A *Sales Agent* is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf; provided, that "Sales Agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A *Commission* is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A *Registered Distributor* is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A *Spot Order* is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A *Contract* is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

7. A *Commitment* is a contract or spot order after a quotation is accepted or an option is exercised and not reduced to writing.

8. A *Quotation* is an offer for the sale of coal at a price which the offerer may withdraw prior to its being acted upon by the offeree.

9. An *Option* is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offerer may not withdraw the offer without consent of the offeree.

10. *Coal Commission* as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. *Act* as used herein, shall mean the Bituminous Coal Act of 1937.

12. *District Board* as used herein, shall mean any District Board established un-

der the provisions of Section 4 Part I (a) of the Act.

13. *Statistical Bureau* shall mean, unless otherwise specifically stated, the statistical bureau of the Commission for the district in which the coal involved in any transaction is produced, or the district in which is located a mine of a code member affected by any order or regulation.

14. *Minimum Price* shall mean a minimum price established and made effective by the Coal Commission.

15. *Maximum Price* shall mean a maximum price established and made effective by the Coal Commission.

16. *Registration* and *Register* as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

17. The term *Producer* includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the busines of mining coal.

18. The terms *Reconsignment* and *Diversion* as used herein shall mean the change in the original consignee or in the destination or route.

19. A *Code Member* means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. *Coal* as used herein shall mean bituminous coal.

21. The term *Bituminous Coal* includes all bituminous, semi-bituminous, and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

22. The term *Control* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of sales agents by code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

4. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen regularly employed.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

5. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by the Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conferm to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all preper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

8. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who, financially or otherwise, controls such agent.

Section III.—Discounts and Allowances

As provided in Section 4, Part II (i) of the Act, the following practices with respect to coal shall be unfair methods of competition and shall constitute violations of the code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, that coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports, when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trademarks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of any organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal.

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discounts from minimum prices on sales of coal to registered distributors, not in excess of the maximum discount or price allowances prescribed by the Coal Commission upon such sales.

Section IV.—Quotations, Options and Contracts

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement: Provided, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with such agencies of State or local governments, as are required by law to purchase coal for periods in excess of thirty (30) days, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum prices in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery, if such price is higher than the contract price.

In the case of Governmental Agencies, options may be given for a period not exceeding forty-five (45) days. Subject to further order of the Coal Commission, no option for the sale of coal may be given, except as herein specifically provided.

2. Upon the revocation or suspension of Rule 1 of this Section, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

A. No contract for the sale of coal shall provide for delivery over a period in excess of twelve (12) months, except by special permission from the Coal Commission upon a showing of the necessity of meeting long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

B. No contract for the sale of coal shall provide for deliveries to commence at a time later than ninety (90) days from the date upon which such contract was entered into.

C. All contracts shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal sold, the number of cars or tonnage to be shipped, the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and specifying the tonnage to be shipped with an allowable overshipment or undershipment of not exceeding twenty (20) per cent of the tonnage specified.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local Governments.

D. Every contract shall express the entire agreement between the parties and no modification thereof shall be made except by written agreement which shall conform to all the requirements set forth in these rules and regulations.

E. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"1. This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the lawful orders and regulations issued thereunder by the National Bituminous Coal Commission.

"2. No shipment consigned to any destination point may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"3. The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(a) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(b) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

F. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item E (2) of Rule 2 of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

G. Upon the revocation or suspension of Rule 1 of this Section, quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days. If the minimum price is increased beyond the quoted price within such

fourteen (14) days, any quotation or option not accepted or exercised prior to the effective date of the price change shall, without notice, be considered withdrawn and no longer effective. Every quotation or option shall contain a provision to the foregoing effect and shall further stipulate that any contract or spot order entered into thereunder shall be subject to these Marketing Rules and Regulations.

H. The provisions of this Rule 2 G shall not apply to sealed bids on business of the United States Government or States or Political subdivisions thereof, in which cases quotations and options at not less than the minimum price in effect at the time the bid is filed may be given for a period not exceeding forty-five (45) days from the final filing date of bids.

3. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus within fifteen (15) business days from the date of the making of the agreement. Such reports shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

Section V.—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

"(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 2 (a) of Section IV of these marketing rules and regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI.—Use of Coal Analyses

1. No analysis of coal shall be utilized by a Code Member or his sales agent in selling or offering for sale any coal produced by the Code Member, unless such Code Member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the district in which the coal is produced copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the Code Member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British Thermal Units and ash softening temperature. Each analysis shall further show whether made on an "as received" or moisture "free" basis and if on an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the statistical bureau at any time during office hours by any interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

3. Any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or order shall be filed by the Code Member with the proper Statistical Bureau and District Board, within ten (10) days after such adjustment is made and shall be subject to the provisions of Rule No. 2 herein.

4. No agreement or order for the sale of coal produced by a Code Member, made upon a premium and penalty or penalty basis, shall be entered into or accepted by a Code Member unless the analysis upon which the premium and penalty clause is based has been previously filed as required in Rule 1. Such analysis shall be accompanied by a statement setting forth in full the terms of the premium and penalty provisions of the proposed contract or order.

5. In the case of premium and penalty agreements entered into prior to the effective date of these regulations, and claimed to be continuing in effect, the Code Member shall file a statement containing the information required under Rule 4, within fifteen (15) days from such effective date.

6. From and after the effective date of these rules and regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section IX of these marketing rules and regulations.

Section VII.—Terms of Payment

The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member or his sales agent through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. On rail shipments the date of payment of invoices for coal sold shall be on or before the twentieth day of the month following shipment.

2. On railroad locomotive fuel, the date of payment shall be on or before the twenty-fifth of the month following the date of shipment.

3. Payment shall be made in full and on a net cash basis. No portion of the invoice price may be withheld by agreement by reason of any unadjusted claim of the buyer nor shall any portion be withheld or deposited in escrow by reason of any alleged agreement relating to the constitutionality of any provision of the Act or the validity of any order of the Coal Commission.

4. Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

5. Freight on rail shipments shall not be paid by a Code Member or his sales agent except to prepay stations as published in current railway tariffs or to the United States Government, States or Political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

6. The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII.—Crushing and Pulverizing Coal

1. Each Code Member who maintains and operates at his mine or at any facility used in preparing coals for the market, any crushing or pulverizing device, shall register such device with the Statistical Bureau of the Coal Commission on forms submitted by the Coal Commission.

2. Such forms shall include the following:

1. Name and address of code member.
2. Name of mine or facility at which device is located.
3. Name and style or type of crushing or pulverizing device.
4. Hourly capacity of device.
5. Sizes of coal which device can crush and pulverize.
6. Sizes of coal resulting from crushing or pulverizing.
7. Number of tons crushed in 1936 and in each month of 1937.
8. Cost per ton of crushing or pulverizing in 1936.

3. Each Code Member shall on or before the tenth (10) days of each succeeding month, file with the Statistical Bureau on forms to be provided by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

(a) Number of tons of each size crushed or pulverized.
(b) Number of tons of each size resulting from crushing or pulverizing.

Section IX.—Miscellaneous

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price; Provided, that in each case the Code Member shall file with the Statistical Bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the price at which the coal was originally sold, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale, and that in making such resale the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All Code Members shall promptly furnish to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

5. No allowance shall be made for any shipment of coal of substandard preparation or quality unless formal claim duly executed by or on behalf of the buyer and verified by affidavit setting forth the amount claimed by way of allowance and reasons for the claim is filed with the Code Member or his sales agent within ten (10) days after the receipt of the coal.

The Code Member or sales agent with whom such claim for allowance is filed shall immediately notify the Statistical Bureau and the District Board, furnishing an authentic copy of the buyer's claim together with a statement of the producer's views as to the validity of the claim, setting forth:

(a) The name and address of the consignee and the reason for the allowance.
(b) The amount of allowance or adjustment made.
(c) The price at which the coal was sold.
(d) The tonnage delivered.
(e) The name of the mine and the Code Member.
(f) Date of shipment.
(g) Grade and size of coal and destination.
(h) A statement that the adjustment has not been made with the purpose or intent of evading the price or fair trade practice provisions of the Act.

6. The screening of mine run or re-screening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced on a price per ton basis under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or lost, whichever may be the higher.

8. No substitution may be made upon any spot order or contract, of any grade or size of coal taking a minimum price higher than the price specified in such order or contract, except upon the following conditions:

(a) The proposed substitution shall not be an express or implied condition of the order or contract.

(b) The coal substituted must be coal which the Code Member has already produced and loaded into transportation facilities and which cannot be sold promptly by the exercise of the usual sales effort, such substitution to be limited to a specific tonnage for shipment on a specific order and from a specific mine.

(c) The substitution must be reasonably necessary as an emergency measure in order to continue operation of the mine of the Code Member.

(d) The substitution shall be acceptable to the purchaser of the coal, and shall not be made with the purpose or effect of conferring any advantage on the purchaser or securing any preference or advantage for the Code Member over his competitors.

(e) Such substitution may be made only with the approval of a duly designated representative of the Commission and in each instance formal application therefor shall be made upon forms provided by the Commission and permits shall be issued prescribing the conditions of substitution in each case approved.

(f) Copies of substitution permits shall be mailed daily to the office of the District Board and weekly summaries of substitution permits shall be mailed to all District Boards within the Price Area. The Commission may from time to time publish the essential facts as to all substitution permits granted.

(g) In each case of coal shipped under a substitution permit each invoice shall specifically show the permit number and the size and grade of coal substituted.

9. Every sales agent shall cause to be clearly set forth upon any form of solicitation, order, invoice and statement covering coal offered for sale or sold, the following:

(1) Either the name of the producer or

(2) The trade name established and generally used by the producer in designation of coal produced from the mine from which shipment was made or is to be made.

10. Failure to file information required by the within Marketing Rules and Regulations of the filing of false information, wilfully made, will subject the party failing to file the information required

or the party so filing, to the penalties of the Act and other penalties imposed by law.

11. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

MINIMUM PRICE AREA NO. 10—DISTRICT BOARD NO. 23

PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 23, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 195 the rules and regulations proposed by District Board No. 23 in compliance with Commission Order 244. This witness testified that these rules and regulations were properly submitted to Code Members within said District, and that no protests concerning such proposals were received from Code Members. Accordingly the Board on August 18, 1938, adopted said rules and regulations and later submitted them to the Commission.

District Board No. 23 proposed the following definition of a sales agent, Exhibit No. 195, Section I, paragraph 2:

"A 'sales agent' is a person who as agent, in law or in fact, sells coal for or on behalf of a Code Member."

Rule 4, Section II of Exhibit No. 195, providing for the filing with the Commission of certain data, differentiates a sales agent from a sales representative merely employed as salesman. It is apparent from this rule that the District Board did not intend that a sales representative merely employed as a saleman should be included in the definition of a "sales agent". Furthermore, to prevent the granting of discounts in the form of commissions, we are of the opinion that the definition of a "sales agent" should clearly indicate that persons who purchase coal do not come within the scope of the definition. Therefore, we are of the opinion that the definition of a "sales agent" should be clarified in the same manner as hereinbefore set forth for District No. 17.

For the purpose of clarification, we modify the definition of a "commission" contained in Section I, rule 3, to read as follows:

"A 'commission' is the total of all compensations and allowances received by a sales agent from a Code Member for services rendered in the sale of coal."

The witness for the District Board testified that he was in accord with the reasons expressed by the expert witness for District No. 17, Mr. Thompson, with respect to the deletion of the provisions pertaining to the registration of wholesalers and farmers' cooperative organizations. It was the opinion of Mr. Thompson that rules providing that no discounts should be granted except to persons properly registered with the Commission were proper in this hearing and it was not the intention of the witness that such rules be deleted. Order No. 244 directed various District Boards to propose rules and regulations incidental only to the sale and distribution of coal of Code Members. Any definition purporting to define what persons come within the term "distributor" as used in Section 4 II (h) is improperly submitted in this hearing, and accordingly the definitions of a "wholesaler" and "farmers' cooperative organization" proposed by the District Board in Section I paragraphs 4 and 5 should be deleted and the following definition of a "registered distributor" should be substituted:

"A 'registered distributor' is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act."

We are of the opinion that the definition of a "wholesale discount" is not a proper subject for consideration in this hearing, but should be determined in a hearing held pursuant to Section 4 II (h) of the Act.

The definition of "retailing" should be deleted for the reasons hereinbefore set forth in the findings of fact for District No. 17.

For the purpose of clarification, we modify the definition of a "commitment" contained in paragraph 10 of Section I to read as follows:

"A 'commitment' is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing."

We are of the opinion that definitions 17 to 22 contained in Section I of the composite findings hereinafter given are reasonable and desirable. The District Board did not define these terms although they appear in various rules proposed by the Board.

Rule 3 of Section II requires all contracts for the appointment of sales agents by Code Members or authorized representatives of Code Members to be in writing, and that copies of such agency contracts shall be filed with the Statistical Bureau. It is obvious that the purpose of this rule is to furnish necessary information to the Commission to enable it to determine whether or not the Code is being violated by sales agents or by Code Members through the use of sales agents. In order fully to effectuate the purpose of this rule, we are of the opinion that the rules should be modified so as clearly to indicate that the contract shall set forth all the terms and conditions of the appointment, including the amount or basis of the sales agents' commission, and, furthermore, that all agreements modifying sales agency contracts should likewise be in writing and filed with the Statistical Bureau. The District Board leaves the time for such filing to be fixed by the Commission. We believe that a period of twenty (20) days after the establishment of the rules and regulations is a reasonable period within which to require the filing of sales agency contracts entered into on or prior to the effective date of the rules and regulations.

Rule 5 of Section II provides that the Commission shall publish a list showing the names and addresses of sales agents and the Code Members for whom such agents act. In order that the Commission may properly carry out this rule and so that the lists published shall be accurate, we are of the opinion that the Code Member principal shall report to the Statistical Bureau the expiration, termination or rescission of all sales agency contracts.

Rules 4 and 7 of Section II should be clarified for the same reasons hereinbefore set forth for District No. 17.

Section V, rule 6 prohibits the payment of a commission to a sales agent or discount to a wholesaler where the coal is delivered or resold to any person who controls in whole or in part the sales agent or wholesaler. The rule, as it relates to sales agent should be properly contained in Section II, which is entitled "Sales Agents." In so far as the rule prevents the payment of a discount to a wholesaler where the coal is delivered or resold to any person who controls in whole or in part the wholesaler, we are of the opinion that this rule cannot be properly enforced and accordingly should be deleted. In a proceeding against a Code Member for violation of this rule, a Code Member must be charged with knowledge of the fact that the wholesaler intended to resell the coal to a person who controls the wholesaler. It would be extremely difficult to prove such knowledge on the part of a Code Member and we are of the opinion that such a rule could be properly effectuated only by prohibiting the wholesaler from receiving a discount on coal resold to any person who controls him in whole or in part. Such a rule is the subject of consideration under a hearing pursuant to Section 4 II (h) of the Act, and is not the proper subject for consideration at this hearing.

For the reasons hereinbefore set forth in the findings of fact for District No. 17, the rules relating to the registration of wholesalers and farmers' cooperative organizations should be deleted with the exceptions of rules 1 of Sections III and IV, which should be combined and modified to read as follows:

"No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale."

As previously stated, Rule 4 of Section V, in light of the definition of "retailing" as proposed by the Board, is determinative of the persons entitled to a discount under Section 4 II (h) of the Act; therefore, this rule is not a proper subject of consideration at this hearing and should be deleted.

For the reasons hereinbefore set forth in the findings of fact for District No. 17, rule 5 of Section V should be deleted.

We are of the opinion that the entire Section VI should be modified and clarified in the same manner and for the same reasons hereinbefore set forth in the findings of fact for District No. 17.

Rule 1 of Section VII contained in Exhibit No. 195 should be clarified as hereinafter set forth in the composite findings. Rule 2 (a) of Section VII should be deleted for the same reasons as hereinbefore given fo rthe deletion of Rule II F 2 of Section VI for District No. 17. Rules 2 (b) and 2 (c) of Section VII, for the purposes of clarification, have been reworded in the manner set forth in the composite findings as later outlined.

The District Board does not propose any rules specifically requiring the filing of spot orders or any written confirmation thereof. However, the Board in Rule 4 of Section VII provided that any modification of a spot order must be made in writing and filed in the same manner as an order. We are of the opinion that a rule specifically requiring the filing of spot orders or the written confirmation thereof, and requiring that any modification of spot orders must be made in writing and filed with the Statistical Bureau in the same manner as an order, is desirable and reasonable.

For the same reasons hereinbefore set forth in the findings of fact for District No. 17, Rule 6 should be added to Section VIII in the manner set forth in the composite findings subsequently given.

Rule 4 of Section IX does not indicate as of what time interest at the current market rate should be charged where payment is made by note, trade acceptance or other form of indebtedness. For the purpose of clarification we believe this rule should be modified so as to provide that interest shall be charged from the due date of the account.

We are of the opinion that this rule should likewise be modified so as to provide that where payment is made under any circumstances after the due date of the account, interest must be charged. An unreasonable discrimination appears in this rule as it was proposed by the Board in that no provision is made for the charging of interest in a case where payment is not made at the due date of the account whether by default of the buyer or pursuant to an agreement for an extension of the term of credit and where such extension of the term of credit is not evidenced by a note, trade acceptance or other form of indebtedness.

For the reasons hereinbefore stated in the findings of fact for District No. 17, we are of the opinion that there should be included in Section IX a rule making the agreement, express or implied, to extend credit for a period of time longer than that authorized by the rules, a violation of the Code.

For the reasons hereinbefore set forth in the findings of fact for District No. 17, we are of the opinion that Rules 3, 5 and 7 of Section XI should be modified and clarified in the manner set forth in the composite findings subsequently given.

We are of the opinion that rule 6 of Section XI should be modified to provide that all coal must be sold and invoiced on a price per ton basis. This modification, in our opinion, is necessary for a uniform procedure and method to govern the selling and invoicing of coal. We believe this rule is necessary or otherwise the Commission must either establish supplementary prices based simply on thermal efficiency or else the Commission must undertake to translate sales made on such a basis into a price per ton basis in order to determine whether the minimum price has been violated or evaded.

We are of the opinion that the second paragraph of rule 8 (e) of Section XI should be deleted for the reason that it is impractical to enforce. Likewise, rule 8 (f) of Section XI should be deleted for the reason that it creates an unreasonable discrimination.

The witness testified that he was in accord with the testimony given by Mr. Thompson, making specific exceptions to modifications with which he was not in agreement. The witness did not except to the rule providing that every wholesaler, distributor or sales agent shall clearly set forth on any form of solicitation, order and statement covering coal offered for sale or sold, as follows:

(1) Either the name of the producer, or

(2) The trade name established and generally used by the producer in designation of coal produced from the mine from which shipment is made or should be made.

Such a rule cannot be directed against distributors at this hearing, but we are of the opinion that this rule is desirable and reasonable with reference to sales agents.

The witness for District Board No. 23 testified generally that the rules proposed by the District Board were reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition contained in the Act, although the witness on examination likewise testified that certain clarifications and modifications of such rules would, in his opinion, be desirable. Except as to those rules which we have already stated should be modified, we are of the opinion that the rules proposed by the District Board are in accordance with the above requirements.

Accordingly, we find that the following rules and regulations incidental to the sale and distribution of coal by Code Members in District No. 23 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 23 AS PROPOSED BY DISTRICT BOARD NO. 23 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section I.—Definitions

1. The term *Person* as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, co-operatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A *sales agent* is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: provided, that "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A *commission* is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A *registered distributor* is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A *spot order* is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the date upon which the order was accepted.

6. A *contract* is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than that specified for a spot order.

7. A *commitment* is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

8. A *quotation* is an offer for the sale of coal at a price which the offerer may withdraw prior to its being acted upon by the offeree.

9. An *option* is an offer for the sale of coal at a price to be accepted within a time certain, during which time the offerer may not withdraw the offer without consent of the offeree.

10. *Coal Commission* as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. *Act* as used herein, shall mean the Bituminous Coal Act of 1937.

12. *District Board* as used herein, shall mean any District Board established un-

der the provisions of Section 4, Part I (a) of the Act.

13. *Statistical Bureau* shall mean, unless otherwise specifically stated, the statistical bureau of the Commission for the district in which the coal involved in any transaction is produced, or the district in which is located a mine of a code member affected by any order or regulation.

14. *Minimum price* shall mean a minimum price established and made effective by the Coal Commission.

15. *Maximum price* shall mean a maximum price established and made effective by the Coal Commission.

16. "Registration and Register" as used herein, shall refer to registration with the Coal Commission pursuant to rules and regulations prescribed by the Commission for the administration of Section 4 of the Act.

17. The term *producer* includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms *reconsignment* and *diversion* as used herein shall mean the change in the original consignee or in the destination or route.

19. A *code member* means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

20. *Coal* as used herein shall mean bituminous coal.

21. The term *bituminous coal* includes all bituminous, semi-bituminous and subbituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

22. The term *control* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II.—Sales Agents

1. All appointments of sales agents by code members or their agents or authorized representatives, and the terms and conditions of such appointments shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each code member shall be responsible for the compliance by all his sales agents and agents and employees of sales agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. (A) Every contract for the appointment of a sales agent by Code Member or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

4. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen regularly employed.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

5. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published by the Coal Commission from time to time.

6. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

7. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent.

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

8. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who, financially or otherwise, controls such agent in whole or in part.

Section III.—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

Section IV.—Quotations, Options and Contracts

1. Subject to further order of the Coal Commission no Code Member or sales agent of a Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement: Provided, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with such agencies of State or local governments, as are required by law to purchase coal for periods in excess of thirty (30) days, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract at not less than the applicable minimum prices in effect at the time of the making of the agreement;

(b) For deliveries thereafter at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price.

In the case of Governmental Agencies, options may be given for a period not exceeding forty-five (45) days, Subject to further order of the Coal Commission, no option for the sale of coal may be given, except as herein specifically provided.

2. Upon the revocation or suspension of Rule 1 of this Section, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

A. No contract for the sale of coal shall provide for delivery over a period in excess of twelve (12) months, except by special permission from the Coal Commission upon a showing of the necessity of meeting long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

B. No contract for the sale of coal shall provide for deliveries to commence at a time later than ninety (90) days from the date upon which such contract was entered into.

C. All contracts shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal sold, the number of cars or tonnage to be shipped, the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and specifying the tonnage to be shipped with an allowable overshipment or undershipment of not exceeding twenty (20) percent of the tonnage specified.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local Governments.

D. Every contract shall express the entire agreement between the parties and no modification thereof shall be made except by written agreement which shall conform to all the requirements set forth in those rules and regulations.

E. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"1. This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the lawful orders and regulations issued thereunder by the National Bituminous Coal Commission.

"2. No shipment consigned to any destination point may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"3. The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(a) If the coal is sold for consumption it shall be used in the plant or plants named herein and for the use stated herein;

"(b) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

F. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item E (2) of rule 2 of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

G. Upon the revocation or suspension of Rule 1 of this Section, quotations and options for the sale of coal may be given for a period not exceeding fourteen (14) days. If the minimum price is increased beyond the quoted price within such fourteen (14) days, any quotation or option not accepted or exercised prior to the effective date of the price change shall, without notice, be considered withdrawn and no longer effective. Every quotation or option shall contain a provision to the foregoing effect and shall further stipulate that any contract or spot order entered into thereunder shall be subject to those Marketing Rules and Regulations.

H. The provisions of this Rule 2 (G) shall not apply to sealed bids on business of the United States Government or States or Political subdivisions thereof, in which cases quotations and options at not less than the minimum price in effect at the time the bid is filed may be given for a period not exceeding forty-five (45) days from the final filing date of bids.

3. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus within fifteen (15) business days from the date of the making of the agreement. Such reports shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen business days.

Section V.—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

"(a) No shipment consigned to any destination may be diverted or reconsigned without the consent of the seller confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the minimum price prescribed for such coal for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the date of this order, the unfilled portion of the order shall be cancelled and no delivery of such tonnage shall be made."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 2 (c) of Section IV of these marketing rules and regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bu-

reaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

Section VI.—Use of Coal Analyses

1. No analysis of coal shall be utilized by a Code Member or his sales agent, in selling or offering for sale any coal produced by the Code Member, unless such Code Member shall have previously filed with the Statistical Bureau of the Coal Commission and the District Board for the District in which the coal is produced, copies of such analysis, together with a certificate setting forth the time and manner of obtaining the sample analyzed, the name and address of the person or firm making the analysis and stating that such analysis is truly representative of the grade and size of coal as regularly produced by the Code Member. Each such analysis shall be not less than a proximate analysis showing ash, volatile matter, fixed carbon, sulphur and British Thermal Units. Each analysis shall further show whether made on an "as received" or moisture "free" basis and if on an "as received" basis, the analysis shall include moisture content.

2. All analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by an interested person, and may be used by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the code member.

3. Any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or order, shall be filed by the Code Member with the proper Statistical Bureau and District Board, within ten (10) days after such adjustment is made and shall be subject to the provisions of Rule 2 herein.

4. No agreement or order for the sale of coal produced by a Code Member, made upon a premium and penalty basis, shall be entered into or accepted by a Code Member unless the analysis upon which the premium and penalty clause is based has been previously filed as required in Rule No. 1. Such analysis shall be accompanied by a statement setting forth in full the terms of the premium and penalty provisions of the proposed contract or order.

5. In the case of premium and penalty agreements entered into prior to the effective date of those regulations, and claimed to be continuing in effect, the Code Member shall file a statement containing the information required under Rule No. 4, within fifteen (15) days from such effective date.

6. From and after the effective date of these rules and regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for substandard preparation or quality under Section IX of these marketing rules and regulations.

Section VII.—Terms of Payment

The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

1. On railroad fuel and on coal sold to industrial consumers for their own use, the date of payment shall be on or before the twenty-fifth (25th) of the month following the date of shipment.

2. Other coals shall not be sold on more favorable terms of payment than net cash thirty (30) days from date of shipment.

3. Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than due date.

No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

No sales, delivery, or offer for sale of coal shall be made upon any condition, expressed or implied, that any portion of the sale price may be withheld by the Buyer, or deposited in escrow, or made subject to rebate or refund by the seller, pending or based upon a determination of the constitutionality of any provisions of the Act, of the jurisdiction of the Coal Commission, or of the validity or applicability of any order of the Coal Commission.

4. Where payment is made by note, trade acceptance, or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

5. Freight on rail shipments shall not be paid by a Code Member or his sales agent except to repay stations as published in current railway tariffs or to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

6. The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions of the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII.—Crushing and Pulverizing Coal

1. Each code member who maintains and operates at his mine or at any facility used in preparing coals for market, any crushing or pulverizing device, shall register such device with the Statistical Bureau of the Coal Commission, on forms submitted by the Coal Commission.

2. Such forms shall include the following:

1. Name and address of code member.
2. Name of mine or facility at which device is located.
3. Name and style or type of crushing or pulverizing device.
4. Hourly capacity of device.
5. Sizes of coal which device can crush or pulverize.
6. Sizes of coal resulting from crushing or pulverizing.
7. Number of tons crushed in 1937 and in each month of 1938.
8. Cost per ton of crushing or pulverizing in 1937.

3. Each code member shall on or before the tenth (10th) day of each succeeding month, file with the Statistical Bureau on forms to be provided by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

(a) Number of tons of each size crushed or pulverized.

(b) Number of tons of each size resulting from crushing or pulverizing.

Section IX.—Miscellaneous

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. The price and fair trade practice provisions of the Act shall not be evaded by any payment or allowance by a Code Member, his agent, or representative, to any purchaser or purchaser's representative covering advertising, and the amount of expenditures for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

3. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price: *Provided*, That in each case the code member shall file with the Statistical Bureau, within five (5) days from the date of such resale a statement giving the name and address of the consignee and the reasons for the refusal, the price at which the coal was originally sold, the name and address of the purchaser upon resale and the price received by the seller upon resale, a copy of the carrier's notice of refusal or notice of reconsignment and such other pertinent facts as may be offered in proof of the necessity of such resale, and that in making such resale the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

4. All code members shall promptly furnish to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

5. No allowance shall be made for any shipment of coal of sub-standard preparation or quality unless formal claim duly executed by or on behalf of the buyer and verified by affidavit setting forth the amount claimed by way of allowance and reasons for the claim is filed with the Code Member or his sales agent within ten (10) days after the receipt of the coal.

The Code Member or sales agent with whom such claim for allowance is filed shall immediately notify the Statistical Bureau and the District Board, furnishing an authentic copy of the buyer's claim together with a statement of the producer's views as to the validity of the claim, setting forth:

(a) the name and address of the consignee and the reason for the allowance
(b) the amount of allowance or adjustment made
(c) the price at which the coal was sold
(d) the tonnage delivered
(e) the name of the mine and the Code Member
(f) date of shipment
(g) grade and size of coal and destination
(h) a statement that the adjustment has not been made with the purpose or intent of evading the price or fair trade practice provisions of the Act.

6. The screening of mine run or re-screening of other grades of coal sold and billed as such for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited. All coal must be sold and invoiced at a price per ton basis and under the designation shown therefor in the price schedule published by the Coal Commission.

7. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, which ever may be the higher.

8. No substitution may be made upon any spot order or contract, of any grade or size of coal taking a minimum price higher than the price specified in such order or contract, except upon the following conditions:

(a) The proposed substitution shall not be an express or implied condition of the order or contract.

(b) The coal substituted must be coal which the code member has already produced and loaded into transportation facilities and which can not be sold promptly by the exercise of the usual sales effort, such substitution to be limited to a specific tonnage for shipment on a specific order and from a specific mine.

(c) The substitution must be reasonably necessary as an emergency measure in order to continue operation of the mine of the code member.

(d) The substitution shall be acceptable to the purchaser of the coal, and shall not be made with the purpose or effect of conferring any advantage on the purchaser or securing any preference or advantage for the code member over his competitors.

(e) Such substitution may be made only with the approval of a duly designated representative of the Commission and in each instance formal application therefor shall be made upon forms provided by the Commission and permits shall be issued prescribing the conditions of substitution in each case approved.

(f) Copies of substitution permits shall be mailed daily to the office of the District Board and weekly summaries of substitution permits shall be mailed to all District Boards within the Price Area. The Commission may from time to time publish the esesntial facts as to all substitution permits granted.

(g) In each case of coal shipped under a substitution permit each invoice shall specifically show the permit number and the size and grade of coal substituted.

9. Every sales agent shall cause to be clearly set forth upon any form of solicitation, order, invoice and statement covering coal offered for sale or sold, the following:

(1) Either the name of the producer or

(2) The trade name established and generally used by the producer in designation of coal produced from the mine from which shipment was made or is to be made.

10. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

11. Failure to file information required by the within Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

12. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Section X.—Unfair Methods of Competition

As provided in Section 4, Part II (1) of the Act:

The following practices with respect to coal shall be unfair methods of competition and shall constitute violations of the code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent: Provided, however, That coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports when for application to any of the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination.

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona-fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade-marks,

trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, brokers' fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than these determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of any organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this Act.

13. Employing any person or appointing any sales agent, at a compensation obviously disproportionate to the ordinary value of the service or services rendered, and whose employment or appointment is made with the primary intention and purpose of securing preferment with a purchaser or purchasers of coal.

CONCLUSION

It is the conclusion of the Commission that the schedules of proposed minimum prices and marketing rules and regulations submitted to the Commission by the District Boards for Districts 16, 17, 18, 19, 20, 22 and 23, as amended, corrected, modified or revised, conform to the requirements of Section 4–II (a) of the Act and that same, as amended, corrected, modified, or revised, may properly be transmitted to the respective District Boards within Minimum Price Areas 6, 7, 9 and 10 to serve as a basis for the coordination as provided in Section 4–II (b) of the Act.

By the Commission.

[SEAL] PERCY TETLOW, *Chairman.*

Dated this 9th day of Dec., 1938.

[F. R. Doc. 38–3728; Filed, December 12, 1938; 9:47 a. m.]

[Order No. 253]

AN ORDER DIRECTING THE DISTRICT BOARDS FOR DISTRICTS NOS. 16, 17, 18, 19, 20, 22 AND 23, TO COORDINATE THE MINIMUM PRICES AND RULES AND REGULATIONS INCIDENT TO THE SALE AND DISTRIBUTION OF COAL APPROVED BY THE NATIONAL BITUMINOUS COAL COMMISSION TO SERVE AS THE BASIS FOR COORDINATION BY SAID DISTRICT BOARDS; AND DIRECTING SAID DISTRICT BOARDS TO SUBMIT TO SAID COMMISSION SUCH COORDINATED PRICES AND RULES AND REGULATIONS TOGETHER WITH THE DATA UPON WHICH THEY ARE PREDICATED; AND ESTABLISHING AND PROMULGATING RULES AND REGULATIONS UNDER WHICH SUCH COORDINATION SHALL BE ACCOMPLISHED

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937,[1] the National Bituminous Coal Commission hereby orders and directs:

1. That the District Boards for Districts Nos. 16, 17, 18, 19, 20, 22 and 23, shall forthwith proceed to coordinate the minimum prices and rules and regulations incident to the sale and distribution of coal, approved by the Commission to serve as a basis for coordination within and among the said districts, under authority of and in accordance with Section 4, Part II, of the Bituminous Coal Act of 1937, and the rules and regulations established and promulgated by this order. When said coordination shall have been accomplished, said District Boards shall submit said coordinated minimum prices and marketing rules and regulations to the Commission together with the data upon which they are predicated, as hereinafter provided.

2. That said District Boards shall coordinate in common consuming market areas upon a fair competitive basis said minimum prices and marketing rules and regulations. Such coordination of the minimum prices, among other factors, but without limitation, shall take into account the various kinds, qualities, and sizes of coal, and transportation charges upon coal. All minimum prices proposed for any kind, quality, or size of coal for shipment into any common consuming market area shall be just and equitable, and not unduly prejudicial or preferential, as between and among districts, shall reflect, as nearly as possible, the relative market values, at points of delivery in each common consuming market area, of the various kinds, qualities, and sizes of coal produced in the various districts, taking into account values as to uses, seasonal demand, transportation methods and charges and their effect upon a reasonable opportunity to compete on a fair basis, and the competitive relationships between coal and other forms of fuel and energy; and shall preserve as nearly as may be existing fair competitive opportunities. The minimum prices proposed as a result of such coordination shall not, as to any district, reduce or increase the return per net ton on all the coal produced therein below or above the minimum return as provided in subsection (a) of Section 4, Part II, of the Act by an amount greater than necessary to accomplish such coordination, to the end that the return per net ton upon the entire tonnage of the minimum price area shall approximate the weighted average of the total cost per net ton of the tonnage of such minimum price area.

3. That the rules and regulations incidental to the sale and distribution of coal by code members shall be so coordinated as to be reasonable and shall not be inconsistent with the requirements of the Act and shall conform to the standards of fair competition as set forth and established in Section 4, Part II, of the Bituminous Coal Act of 1937.

4. That the Commission hereby establishes and promulgates the following rules and regulations under which the minimum prices and rules and regulations incident to the sale and distribution of coal shall be coordinated:

I. Each District Board shall by appropriate resolution, designate and appoint one or more persons with power of delegation and substitution to represent the District Board in the work of coordination and fully empower such person or persons to act for the District Board in a meeting with other such representatives from the other District Boards named in this order.

II. Said representatives of the District Boards shall convene at the offices of the Commission in the City of Washington, D. C., at 10:00 o'clock A. M. on the 12th day of December, 1938, and begin the work of coordination as ordered and directed herein. Said meeting shall continue in session daily (Sundays and holidays excepted), and shall be completed on or before ten (10) days from the date of convening, which period shall not be extended for any District Board or Boards except upon good cause shown.

III. The presiding officer or the secretary of the meeting shall report daily to the Commission the progress of the work. In the event the representatives of the District Boards cannot agree upon all or any part of the work of coordination, they shall certify the fact to the Commission and to the District Boards represented, together with a detailed statement covering points upon which agreements have failed.

IV. When the representatives of said District Boards shall have finished the work of coordination assigned to them, and coordination has been fully or partially accomplished by agreement, a full report thereof shall be made to the Commission and to each of the Boards represented, together with the data upon which such prices and rules and regulations are predicated.

V. On receipt of the report made as provided in paragraph IV hereof, a meeting of the respective District Boards shall be called and held and said report of the coordination provided for in Section 4, Part II, of the Act shall be fully considered by said Boards, and said report shall, by appropriate resolution of the Board, be approved and adopted, modified and adopted, or disapproved. The action of the District Boards respectively shall be reported to the Commission. When each of the District Boards named in this order agree and coordination is reached and accomplished, the same shall be submitted to the Commission as provided in Section 4, Part II (b), of the Act. If coordination is not agreed upon and accomplished, and in the opinion of any one or more of said District Boards, cannot be agreed upon and accomplished, said fact shall be shown by appropriate resolution of such Board or Boards and duly certified to the Commission.

VI. At said meeting the representatives of the several District Boards shall determine the consuming market areas into which each District ships, and shall define the same in the most practical way by map or by geographic or territorial description in writing.

Common consuming market areas shall then be ascertained, determined, and identified, on the basis of the determination made pursuant to the next succeeding section.

VII. The representatives shall then ascertain and compute the total tonnage of each District moving into each consuming market area in 1937 as taken from the Commission D–1 and D–2 reports and other competent data, broken down by use, size, and quality classifications, seasonal demand, and transportation methods. The representatives of the Boards shall determine the competing coals in each consuming market area by size, quality, use, and seasonal demand, and by transportation methods. The size groupings by quality classification, use, and seasonal demand, shall be coordinated in each consuming market.

VIII. Minimum prices reflecting destination differentials shall then be ascertained and determined on all coals competing in each consuming market area according to the standards set forth in Section 4, Part II, of the Act. The representatives of the District Boards shall thereupon determine minimum prices, free on board transportation facilities at the mines for shipment into each consuming market area for each kind, quality and size of coal competing in said area or areas in accordance with the provisions of Section 4, Part II, of the Act.

IX. When the representatives have completed their work of coordination of minimum prices in all consuming market areas and reported the same to the Commission and to the District Boards, each District Board shall immediately convene for consideration and determination, and shall determine the minimum prices for all coal free on board transportation facilities at the mine for shipment into consuming market areas, according to the provisions of Section 4, Part II, of the Act.

X. When all minimum prices have been determined as provided in Section 4, Part II, of the Act and these rules and regulations, a schedule of such prices shall be prepared by the District Boards and submitted to the Commission together with the data upon which they are predicated including a statement showing the calculated returns for the coals of the Price Area, based upon the tonnages of the several Districts, determined as in paragraph VII herein provided. At the time of the submission of the schedule of minimum prices and the data upon which they are predicated, each District Board shall furnish a copy of the proposed price schedule to each code member within its District, and shall file with the Commission 250 copies of the proposed price schedule, and with each other District Board coordinating, 20 copies thereof. In addition thereto, each District Board shall file with the Commission 50 copies of the data upon which the proposed price schedule is predicated.

XI. The District Board representatives shall also, at the meetings in Washington provided for herein, coordinate the rules and regulations for the sale and distribution of coal for code members, called Marketing Rules and Regulations, as directed in paragraph 3 hereof.

XII. When coordination of the marketing rules and regulations is accomplished, either in whole or in part, as provided in paragraph III hereof, the same shall be reported to the Commission and to the District Boards, as provided in paragraph IV hereof, and considered and acted upon by the District Boards as provided in paragraph V hereof.

XIII. When all coordinated marketing rules and regulations have been determined, a schedule of such marketing rules and regulations shall be prepared by the District Boards and a copy shall be furnished to each code member, and 250 copies thereof shall be furnished to the Commission, and 20 copies to each other District Board coordinating. In addition thereto, each District Board shall file 50 copies of the data upon which such marketing rules and regulations are predicated with the Commission.

XIV. These rules and regulations are subject to modification or amendment, or may be supplemented by further order of the Commission.

5. The Secretary of the Commission is directed to cause a copy of this order, together with the rules and regulations contained therein, to be published forthwith in the FEDERAL REGISTER, and shall cause copies hereof to be mailed to each code member within the named districts, to the Consumers' Counsel, and to the Secretary of each District Board, and shall cause copies hereof to be made available for inspection by interested parties in each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 9th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38–3724; Filed, December 12, 1938; 9:45 a. m.]

[1] 50 Stat. 72.

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER II. GENERAL SUBSTANTIVE RULES

PART 24. CERTAIN LOW POWER RADIO FREQUENCY ELECTRICAL DEVICES

The Commission adopted the following new rules:

SEC. 24.01 *Applicability of provisions.* Pending the acquiring of more complete information regarding the character and effects of the radiation involved, the following provisions shall govern the operation of the low power radio frequency electrical devices hereinafter described.* [Rule 25.01, #]

SEC. 24.02 *Apparatus included defined; standards.* With respect to any apparatus which generates a radio frequency electromagnetic field functionally utilizing a small part of such field in the operation of associated apparatus not physically connected thereto and at a distance not greater than $\frac{157,000}{\text{f. (kc)}}$ ft. $\frac{(\lambda)}{(2\pi)}$ the existing Rules and Regulations of the Commission shall not be applicable, provided:

(a) That such apparatus shall be operated with the minimum power possible to accomplish the desired purpose.

(b) That the best engineering principles shall be utilized in the generation of radio frequency currents so as to guard against interference to established radio services, particularly on the fundamental and harmonic frequencies.

(c) That in any event the total electromagnetic field produced at any point a distance of $\frac{157,000}{\text{f. (kc)}}$ ft. $\frac{(\lambda)}{(2\pi)}$ from the apparatus shall not exceed 15 microvolts per meter.

(d) That the apparatus shall conform to such engineering standards as may from time to time be promulgated by the Commission.* [Rule 25.02, #]

SEC. 24.03 *Exception; radio interference.* The provisions of Section 24.01 and 24.02 shall not be construed to apply to any apparatus which causes interference to radio reception.* [Rule 25.03, #]

SEC. 24.04 *Inspection and test.* Upon request, the Commission will inspect and test any apparatus described in Sections 24.01 and 24.02, and on the basis of such inspection and test, formulate and publish findings as to whether such apparatus does or does not comply with the above conditions, and issue a certificate specifying conditions of operation to the party making such request.* [Rule 25.04, #]

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38–3743; Filed, December 13, 1938; 9:50 a. m.]

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*Promulgated under the authority contained in Sec. 4 (1), 48 Stat. 1066; 47 U. S. C. 154 (1)—Sec. 303 (f), 48 Stat. 1082; 47 U. S. C. 303 (f)—Sec. 303 (r), 50 Stat. 191; 47 U. S. C. 303 (r).

#Adopted by the F. C. C. on Nov. 21, 1938.

CHAPTER XVIII. RULES GOVERNING THE DESTRUCTION OF RECORDS OF TELECOMMUNICATION CARRIERS

PART 246. LIST OF ACCOUNTS, RECORDS, AND MEMORANDA, AND PERIODS OF RETENTION

The Commission amended Item 86 (d) of Section 246.01 to read:

(d) Copies of concurrences filed with the Interstate Commerce Commission or the Federal Communications Commission.—6 years after cancelation. (Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i))

[Promulgated by the F. C. C. on Nov. 9, 1938]

Notice

Attention is directed to the following typographical and other errors in the publication of Chapter XVIII of this Commission's Regulations in the issue of the FEDERAL REGISTER dated September 8, 1938 (Vol. 3, No. 175):[1]

The index to Part 246, "List of Accounts, Records and Memoranda, and Periods of Retention," contains a reference to "Sec. 246.02 Special provision relating to telephone companies." This entire reference should be deleted.

In Sec. 246.01, under the caption, "Description of Records and Period to be Retained":

Item I (a), Line 2: The apostrophe following the word "ledgers" should be deleted:

Item 41 (d), Line 3: The word "seals" should be "meals;"

Item 65 (c), Line 1: The word "Miners'" should be "Minors';"

Item 85 (b), Line 1: The word "last" should be "lost."

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3742; Filed, December 13, 1938; 9:50 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Order No. 15780]

DEPRECIATION CHARGES OF CARRIERS BY WATER

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 5th day of December, A. D. 1938.

Good cause appearing therefor:

It is ordered, That the order of August 1, 1935 in this proceeding, as amended April 2, 1936, March 17, 1937, November 22, 1937 and June 10, 1938,[2] be, and it is hereby, further amended by changing to January 1, 1940 all effective dates specified as January 1, 1939 in said order as amended. This change in the effective dates shall not be construed as changing the latest date as of which estimates of percentage rates shall be filed with the Commission. That date, as provided in paragraph (7) of the order as amended, is August 1, 1939.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-3749; Filed, December 13, 1938; 12:26 p. m.]

[1] 3 F. R. 2194 DI.
[2] 3 F. R. 1445 DI.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF CHANGE OF PLACE AT WHICH VERIFIED COST REPORTS OF THE INDIVIDUAL PRODUCERS WITHIN MINIMUM PRICE AREA NO. 4 WILL BE MADE AVAILABLE FOR INSPECTION, FROM WASHINGTON, D. C., TO DENVER, COLORADO; AND ORDER FOR AND NOTICE OF RE-OPENING OF HEARING IN THE MATTER OF THE DETERMINATIONS OF THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED IN MINIMUM PRICE AREA NO. 4

Whereas, the Commission, by its Order entered herein on the 6th day of December, 1938,[1] directed that the verified cost reports of the individual producers within Minimum Price Area No. 4, as submitted to the Commission pursuant to Orders Nos. 15 and 29,[2] be made available for inspection during business hours on and after December 15, 1938, at the offices of the Commission, Washington, D. C. by those interested parties who have filed appearances in this proceeding; and

Whereas, said Order further provided that the hearing in the matter of the weighted average of the total costs per net ton of the tonnage produced in Minimum Price Area No. 4 be re-opened, and interested parties be afforded further opportunity to introduce affirmative evidence and to cross-examine witnesses as to the correctness of said composite reports heretofore introduced in evidence at the aforesaid hearing of this proceeding, upon proper notice, at a time and place to be later designated by the Commission; and

Whereas, the Commission having determined that the said cost reports for Minimum Price Area No. 4 could be more conveniently, for all interested parties, made available for inspection in the office of the Statistical Bureau of the Commission, Central Savings Bank Building, Denver, Colorado, than in the City of Washington, as noticed:

Now, therefore, notice is hereby given that the verified cost reports of the individual producers within Minimum Price Area No. 4, submitted to the Commission pursuant to Orders Nos. 15 and 29, shall be made available for inspection during business hours, on and after December 15, 1938, at the office of the Statistical Bureau of the Commission, Central Savings Bank Building, Denver, Colorado, by those interested parties who have filed appearances in this proceeding, and the Secretary of the Commission is hereby directed to cause said verified cost reports to be made available as aforesaid instead of at the office of the Commission, Washington, D. C., as previously noticed.

Notice is further given that the hearing in the matter of the determination of the weighted average of the total costs per net ton of the tonnage produced in Minimum Price Area No. 4, as re-opened by Order of the Commission entered herein on the sixth day of December, 1938, will be held in the Hearing Room of the Commission, Albany Hotel, Denver, Colorado, on the 28th day of December, 1938, at ten o'clock, A. M., at which hearing all interested parties will be afforded a further opportunity to introduce affirmative evidence and cross-examine witnesses as to the correctness of said composite reports heretofore introduced in evidence in this proceeding.

At said hearing any interested party desiring to avail himself of the opportunity to introduce affirmative evidence, or to cross-examine any witness shall, not later than the 24th day of December, 1938, file with the Commission, at its office in the Central Savings Bank Building, Denver, Colorado, a written statement setting forth the nature of such affirmative evidence and/or the names of the witnesses to be cross-examined.

The Secretary of the Commission is hereby directed to cause a copy of this Order and Notice to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper of general circulation in District No. 14, and shall cause copies hereof to be mailed to each Code Member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission,

Dated this 9th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-3727; Filed, December 12, 1938; 9:46 a. m.]

[1] 3 F. R. 2886 DI.
[2] 3 F. R. 1893, 1905 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 9th day of December, A. D. 1938.

[File No. 30-160]

IN THE MATTER OF PUBLIC SERVICE OF PENNSYLVANIA, INC.

ORDER RELATIVE TO STATUS AS HOLDING COMPANY

Public Service of Pennsylvania, Inc., a registered holding company, having made application pursuant to Section 5 (d) of the Public Utility Holding Company Act of 1935 for an order, declaring that it has ceased to be a holding company; a hearing on said application having been held;[1] the record in the matter having been duly considered; and the Commission having thereon entered its findings and opinion on such application;

It is ordered, That Public Service of Pennsylvania, Inc., has ceased to be and at this time is not a holding company.

It is further ordered, That, if the gross revenues of Public Service of Pennsylvania, Inc., and its subsidiary companies derived from their operations as public utility companies exceed the sum of $150,000 in any fiscal year, Public Service of Pennsylvania, Inc., shall notify the Commission of such fact within sixty days after the close of such fiscal year.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3747; Filed, December 13, 1938; 11:09 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 9th day of December 1938.

[File No. 56-15]

IN THE MATTER OF WALNUT ELECTRIC & GAS CORPORATION

ORDER ALLOWING APPLICATION TO BECOME EFFECTIVE

Walnut Electric & Gas Corporation, a registered holding company, having filed with the Commission an application and amendments thereto pursuant to Section 12 (d) of the Public Utility Holding Company Act of 1935 regarding the sale by the applicant of 547 shares of common stock, that being all the outstanding capital stock, of Peoples Gas Company, a subsidiary of applicant for a total consideration of $5,000; a hearing on said application, as amended, having been held after appropriate notice;[2] the record in the matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That said application, as amended, be and become effective forthwith, on the condition, however, that the sale of said securities shall be effected in substantial compliance with the terms and conditions of, and for the purposes represented by, said application, as amended, and that within ten days after said sale the applicants shall file with this Commission a certificate of notification showing that such sale has been effected in accordance with the terms and conditions of, and for the purposes represented by, said application as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3748; Filed, December 13, 1938; 11:09 a. m.]

[1] 3 F. R. 2555 DI.
[2] 3 F. R. 2752 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 10th day of December, A. D. 1938.

[File No. 32-119]

IN THE MATTER OF GREEN MOUNTAIN POWER CORPORATION

ORDER RELATIVE TO ISSUE AND SALE OF SECURITIES

Green Mountain Power Corporation, a subsidiary of New England Power Association, a registered holding company, having filed an application and amendments thereto pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act of the issue and sale of $7,750,000 principal amount of its First and Refunding Mortgage Bonds, 3¾% Series, due December 1, 1963 and $1,375,000 principal amount of its Serial Notes, 4¼%, due 1940–1953;

A hearing on such application having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be, and the same hereby are, exempt from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon further condition that if the express authorization of the issue and sale of such securities by the Public Service Commission of the State of Vermont shall be revoked or otherwise terminated this exemption shall immediately terminate without further order of this Commission, and upon the further condition that within ten days after the issue and sale of the proposed bonds the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said amended application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3746; Filed, December 13, 1938; 11:09 a. m.]

[1] 3 F. R. 2751 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of December, A. D. 1938.

IN THE MATTER OF STANDARD OIL COMPANY OF CALIFORNIA

[File No. 31-59]

ORDER CHANGING OFFICER TO PRESIDE AT HEARING

The Commission having heretofore, on November 29, 1938,[1] designated Charles S. Moore, an officer of the Commission, to preside at a hearing to be held in the matter of the application of Standard Oil Company of California, in room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., at 10:00 A. M., on December 13, 1938,

It is ordered, That such designation of Charles S. Moore is hereby rescinded, and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be, and he hereby is, designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3745; Filed, December 13, 1938; 11:09 a. m.]

[1] 3 F. R. 2816 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its

office in the City of Washington, D. C., on the 13th day of December, A. D. 1938.

[File No. 43-163]

IN THE MATTER OF FEDERAL LIGHT & TRACTION COMPANY

ORDER CHANGING OFFICER TO PRESIDE AT HEARING

The Commission having heretofore, on November 28, 1938,[1] designated William W. Swift, an officer of the Commission, to preside at a hearing to be held in the matter of the declaration of Federal Light & Traction Company, in room 1101, Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., on December 14, 1938, at 10:00 A. M.,

It is ordered, That such designation of William W. Swift is hereby rescinded, and

It is further ordered, That Robert P. Reeder, an officer of the Commission be, and he hereby is, designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3744; Filed, December 13, 1938; 11:09 a. m.]

[1] 3 F. R. 2795 DI.

Reference

FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 3 NUMBER 243

Washington, Thursday, December 15, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—Q. 72]

WHITE-FRINGED BEETLE QUARANTINE No. 72

Introductory Note

The white-fringed beetle was first discovered in the United States in Okaloosa County, Fla., in the autumn of 1936. This pest is known to occur in South America and has recently been reported in New South Wales but the time and method of introduction into the United States are unknown.

The larvae of the beetle feed on a wide variety of plant roots and tubers, while the adults feed on leaves and tender shoots above ground.

Adults may be carried to other points by any moving thing, eggs may be transported from place to place in the movement of almost any article coming in contact with the ground, and larvae may be moved with various kinds of soil, peat, compost, and manure.

It is evident, therefore, that cosmopolitan food habits of the pest, its diverse means of spread in any stage of development, together with its parthenogenetic mode of reproduction, characterize the white-fringed beetle as a potentially serious threat to American agricultural and horticultural interests.

Summary

The restricted articles are prohibited movement interstate from any regulated area to or through any point outside thereof unless there is attached to the outside of the container a valid inspection certificate issued by an inspector duly authorized by the United States Department of Agriculture. This requirement applies in the case of all restricted articles and for the period of the year designated in regulation 3 unless the Chief of the Bureau has given formal notice to the public that modification has been made as to the articles, or areas, or periods of the years specified in the regulations.

The list of restricted articles and the period of the year when the certification requirement applies, are stated in regulation 3.

The regulated areas are designated in regulation 2.

Arrangements for inspection may be made by addressing the Bureau of Entomology and Plant Quarantine, Box 989, Gulfport, Miss.

LEE A. STRONG, *Chief.*

NOTICE OF QUARANTINE NO. 72

Approved December 14, 1938; effective January 15, 1939

I, H. A. Wallace, Secretary of Agriculture, have determined that a quarantine of the States of Alabama, Florida, Louisiana, and Mississippi is necessary to prevent the spread of dangerous infestations of the white-fringed beetle (*Naupactus leucoloma* Boh.), and a closely related species of *Naupactus*, two insect pests not widely prevalent within and throughout the United States.

Now, therefore, under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, and having given the public hearing required thereby,[1] I do quarantine the States of Alabama, Florida, Louisiana, and Mississippi and do order that (1) nursery stock or any other plants or plant products; (2) soil, independent of, or used in connection with nursery stock, plants, or plant products; or (3) other articles (as specifically named in the regulations supplemental hereto, in modifications thereof, or in administrative instructions as provided in the regulations supplemental hereto) which are capable of carrying the aforesaid insect infestations, shall not be shipped or offered for shipment to a common carrier by any person, or received for transportation or transported by a common carrier, or carried or transported by any person from any such State into or through any other State or Territory or District of the United States, under conditions other than those prescribed in the regulations supplemental hereto: *Provided*, That the restrictions of this quarantine and of the regulations supplemental hereto may be limited to such areas, designated by

[1] 3 F. R. 2045 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Bureau of Entomology and Plant Quarantine:	
White-fringed beetle quarantine	3003
TITLE 20—EMPLOYEES' BENEFITS:	
Social Security Board:	
Federal old-age benefits, regulations amended	3006
TITLE 46—SHIPPING:	
United States Maritime Commission:	
Wage scales, manning scales, working conditions upon cargo vessels owned by and operated for the account of the Commission	3006
TITLE 50—WILDLIFE:	
Bureau of Biological Survey:	
National wildlife refuges, administrative regulations amended	3009

NOTICES

Department of Agriculture:	
Food and Drug Administration:	
Hearings on definition and standard of identity for:	
Eggs, liquid whole eggs, etc.	3011
Tomato puree, tomato paste, etc	3012
Tomatoes (canned)	3009
Federal Power Commission:	
Iowa-Nebraska Light and Power Co., hearing	3013
Rural Electrification Administration:	
Allocation of funds for loans	3013

FEDERAL REGISTER

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the Secretary of Agriculture as regulated areas, in the quarantined States, as, in his judgment, shall be adequate to prevent the spread of the said pest or pests. Any such limitation shall be conditioned, however, upon the affected State or States providing for and enforcing the control of the intrastate movement of the restricted articles under the conditions which apply to their interstate movement under existing provisions of the Federal quarantine regulations, and upon their enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to prevent the intrastate spread therefrom of said insect infestation: *And provided further*, That whenever, in any year, the Chief of the Bureau of Entomology and Plant Quarantine shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the regulations supplemental hereto apply, making it safe to modify, by making less stringent, the restrictions contained in any such regulation, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulation should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

Done at the city of Washington this 14th day of December 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 72

Regulation 1. Definitions

(*a*) *The pests.*—The white-fringed beetle, *Naupactus leucoloma* boh., and a closely related species of *Naupactus*, in any stage of development.

(*b*) *Adults* and *larvae.*—Adults and larvae of *Naupactus leucoloma* and a closely related species of *Naupactus*.

(*c*) *Regulated area.*—Any area in a quarantined State which is now, or which may hereafter be, designated as regulated by the Secretary of Agriculture in accordance with the provisos to notice of Quarantine No. 72.

(*d*) *Restricted articles.*—Products or articles of any character whatsoever, the interstate movement of which is restricted by the provisions of the white-fringed beetle quarantine, and regulations supplemental thereto.

(*e*) *Inspector.*—Duly authorized Federal plant-quarantine inspector.

(*f*) *Certificate.*—An approved document, issued by an inspector, evidencing the apparent freedom of restricted articles from the pests.

(*g*) *Limited permit.*—An approved document, issued by an inspector, to allow movement of noncertified, restricted articles to or from designated and authorized manufacturing plants, mills, gins, or processing plants.

(*h*) *Dealer-carrier permit.*—An approved document issued to persons or firms approved for, and engaged in purchasing, assembling, exchanging, processing, or transporting restricted articles.

(*i*) *Administrative instructions.*—Administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine.

(*j*) *Infested or infestation.*—Infested by the white-fringed beetle, the closely related species, or both such pests, in any stage of development.

Regulation 2. Regulated Areas

The following counties, parishes, cities and towns or parts thereof, as described, are designated by the Secretary of Agriculture as regulated areas:

Alabama.—In *Conecuh, Monroe,* and *Wilcox Counties:* The W⅔ Tps. 5 and 6 N. and all of Tps. 7, 8, 9, 10, and S½ T. 11 N., R. 9 E. All of Tps. 5, 6, 7, 8, 9, and S½ T. 10 N., R. 8 E. Secs. 25, 26, 35, and 36, T. 7 N., R. 7 E., and Secs. 1 and 2, T. 6 N., R. 7 E.; In *Covington County:* T. 1 N., Rs. 17 and 18 E. and SE¼ T. 1 N., R. 16 E. and all south of both areas to the Alabama-Florida State line; In *Geneva County:* Secs. 31, 32, and 33, T. 1 N., R. 19 E. and south thereof to the Alabama-Florida State line; in *Mobile County:* That area bound on the east by Mobile River, on the south by Congress Street and a line extended therefrom to Mobile River in the city of Mobile, on the west by Joachim Street in the same city, to its intersection with One Mile Creek; thence northeast along One Mile Creek to Conception Street Road; thence northwest on said road to Three Mile Creek; thence east along Three Mile Creek to Mobile River.

Florida.—In *Escambia County:* All of the city of Pensacola; in *Okaloosa County:* T. 5 N., R. 22 W. and Secs. 1, 2, and 3 of T. 5 N., R. 23 W. and all lands north of both areas to the Florida-Alabama State line; in *Walton County:* T. 5 N., Rs. 20 and 21 W. and Secs. 31, 32, and 33, T. 6 N., R. 19 W. and all lands north of both areas to the Florida-Alabama State line; also Sec. 1–24 inclusive of T. 4 N., R. 19 W.

Louisiana.—All of Orleans Parish including the city of New Orleans, and all of *Saint Bernard Parish;* in *East Baton Rouge Parish:* T. 7 S., Rs. 1 and 2 E. and 1 W., including all of the city of Baton Rouge; in *Jefferson* and *Plaquemines Parishes:* Those parts lying north of the township line between Tps. 14 and 15 S.

Mississippi.—In *Harrison* and *Stone Counties:* That area bound by the east line of sec. 31, T. 7 S., R. 10 W. extending from a point where it intersects or would intersect with the Mississippi Sound if extended without change in direction to said sound; thence north to Bayou Bernard; thence following a general northwesterly direction along Bayou Bernard to east line of sec 22, T. 7 S., R. 11 W., thence north to intersection with Biloxi River, thence northwest along Biloxi River to intersection with the east line of sec. 5, T. 6 S., R. 11 W., thence north to SE corner sec. 32, T. 3 S., R. 11 W., thence west along township line to SE corner sec. 34, T. 3 S., R. 12 W., thence south to a point where the east line of sec. 15, T. 7 S., R. 12 W. intersects Landon Road, thence west along Landon Road to intersection of east line of sec. 9, T. 7 S., R. 12 W., thence south to Mississippi Sound, thence along the sound to starting point and including all property extendonto or over the waters of Mississippi Sound; in *Hinds County:* E½ T. 6 N., R 3 W., and W⅓ T. 6 N., R. 2 W.; in *Jackson County:* That area included within a boundary beginning at SE corner sec. 31, T. 7 S., R. 5 W., and extending north to Escatawpa River; thence west along said river to the Pascagoula River, thence south along Pascagoula River to township line between Tps. 7 and 8 S., thence east along the said township line to the starting point; in *Jones County:* That area included within a boundary beginning at SW corner sec. 14, T. 8 N., R. 12 W., thence east to SE corner sec. 16, T. 8 N., R. 11 W., thence north to NE corner sec. 9, T. 8 N., R. 11 W., thence east to NE corner sec. 11, T. 8 N., R. 11 W., thence

north to NE corner sec. 26, T. 9 W., R. 11, W., thence west to SE corner sec. 21, T. 9 N., E. 11 W., thence north to NE corner sec. 16, T. 9 N., R. 11 W., thence west to NW corner sec. 14 T. 9 N., R. 12 W., thence south to Tallahoma Creek, thence southerly along said creek to its intersection with the west line of sec. 11, T. 8 N., R. 12 W., thence south to starting point; in *Pearl River County:* All of T. 5 S., R. 16 W., and E½ T. 5 S., R. 17 W.

Regulation 3. Restricted Articles

(*a*) *Carriers of larvae.*—The interstate movement of the following articles from the regulated areas is regulated throughout the year:

(1) Soil, earth, sand, clay, peat, compost, and manure whether moved independent of, or in connection with or attached to nursery stock, plants, products, articles, or things.

(2) Potatoes and sweetpotatoes.

(*b*) *Carriers of eggs and adults.*—Except as provided in regulation 4 hereof, the interstate movement from any regulated area of the following products is regulated for the periods indicated:

From June 1 to November 30, inclusive, of each year.—(1) Sweetpotato vines, draws, and cuttings.

(2) Cordwood, pulpwood, stumpwood, and logs.

(3) Unused lumber, timbers, posts, poles, and crossties.

From June 1 to January 31, inclusive, of any 12-month period.—(1) Hay, roughage of all kinds, straw, leaves, and leaf mold.

(2) Peas, beans, and peanuts in shells, or the shells of any of these products.

(3) Seed cotton, cottonseed, baled cotton lint, and linters.

(4) Used implements and machinery, scrap metal, junk, and utensils or containers coming in contact with the ground.

(5) Brick, tiling, stone, and concrete slabs and blocks.

(6) Used lumber, timbers, posts, poles, crossties, and other building materials.

(7) Nursery stock and other plants, which are free from soil.

(*c*) *Designation of other restricted articles.*—Any other articles which, by reason of exposure or surroundings, may be found by the Chief of the Bureau of Entomology and Plant Quarantine to serve as carriers of the pest in any stage of development and which are so designated by him in administrative instructions, shall thereafter be subject to the restrictions of this quarantine and the regulations supplemental thereto.

Regulation 4. Conditions Governing Interstate Movement of Restricted Articles

(*a*) Restricted articles shall not be moved interstate from a regulated area to or through any point outside thereof unless accompanied by a valid inspection certificate issued by an inspector: *Provided*, That certification requirements as they relate to part or all of any regulated area and as they pertain to carriers of adults and eggs, may be waived, during part or all of the year, by the Chief of the Bureau of Entomology and Plant Quarantine, on his finding and giving notice thereof, in administrative instructions, that the State concerned has promulgated and enforced adequate sanitary measures on and about the premises on which restricted articles originate or are retained, or that adequate volunteer sanitary measures have been applied, or that other control or natural conditions exist which have eliminated the risk of egg or adult contamination.

(*b*) No certificates are required for interstate movement of regulated articles when such movement is wholly within contiguous regulated areas.

Regulation 5. Conditions Governing the Issuance of Certificates and Permits

(*a*) Certificates authorizing the interstate movement of soil, earth, sand, clay, peat, compost, or manure, originating in an infested area, may be issued only when such articles have been treated, fumigated, sterilized, or processed under methods approved by the Chief of the Bureau of Entomology and Plant Quarantine.

(*b*) Certificates authorizing the interstate movement of soil, earth, sand, clay, peat, compost, or manure, originating in noninfested parts of a regulated area, and of all other restricted articles from any part of a regulated area, may be issued upon determination by the inspector that the articles are (1) apparently free from infestation; or (2) have been treated, fumigated, sterilized, or processed under approved methods; or (3) were grown, produced, manufactured, stored, or handled in such a manner that, in the judgment of the inspector, no infestation would be transmitted thereby.

(*c*) *Limited permits for manufacturing and processing purposes.*—Limited permits may be issued for the movement of noncertified restricted articles to such manufacturing or processing plants, mills, or gins in nonregulated areas as may be authorized and designated by the Chief of the Bureau of Entomology and Plant Quarantine, for manufacture, processing, or treatment. As a condition of such authorization and designation, manufacturing or processing plants, mills, or gins in nonregulated areas shall agree in writing to maintain such sanitary safeguards against the establishment and spread of infestation and to comply with such restrictions as to the handling and subsequent movement of restricted products as may be required by the inspector.

(*d*) *Dealer-carrier permit.*—As a condition of issuance of certificates or permits for the interstate movement of restricted articles, all persons or firms engaged in purchasing, assembling, exchanging, processing, or carrying such restricted articles originating or stored in regulated areas, shall make application for a dealer-carrier permit to the Bureau of Entomology and Plant Quarantine, stipulating that the permittee will maintain an accurate record of receipts and sales, shipments, or services, when so required, which records shall be available at all times for examination by an inspector; and that he will carry out, under a signed agreement, any and all conditions, treatments, precautions, and sanitary measures which may be specified therein.

Regulation 6. Certification a Condition of Interstate Movement

Unless exempted by administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine, every container of restricted articles moved interstate from any regulated area shall have securely attached to the outside thereof a certificate or permit issued in compliance with these regulations, except that the certificate or permit issued (1) for lot shipments by freight shall be attached to one of the containers and a duplicate thereof shall be attached to the waybill, (2) for shipments by road vehicle shall accompany the vehicle, (3) for bulk carload shipments by freight shall accompany the waybill or conductor's manifest.

Regulation 7. Assembly of Restricted Articles for Inspection

Persons intending to move restricted articles interstate shall make application for certification as far as possible in advance of the probable date of shipment. Applications must show the nature and quantity of articles to be moved, together with their exact location, and if practicable, the contemplated date of shipment. Applicants for inspection may be required to assemble or indicate the articles to be shipped so that they may readily be examined by the inspector.

The United States Department of Agriculture will not be responsible for any cost incident to inspection or treatment other than the services of the inspector.

Regulation 8. Cancelation of Permits

Certificates or permits issued under these regulations may be withdrawn or canceled and further certification refused whenever, in the judgment of the Bureau of Entomology and Plant Quarantine, the further use of such certificates or permits might result in the dissemination of infestation.

Regulation 9. Shipments for Experimental and Scientific Purposes

Articles subject to restrictions may be moved interstate for experimental or scientific purposes, on such conditions as may be prescribed by the Chief of the Bureau of Entomology and Plant Quarantine. The container of articles so moved shall bear an identifying tag from the Bureau of Entomology and Plant Quarantine.

These regulations shall be effective on and after January 15, 1939.

Done at the city of Washington this 14th day of December, 1938.

Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3758; Filed, December 14, 1938; 12:23 p. m.]

TITLE 20—EMPLOYEES' BENEFITS

SOCIAL SECURITY BOARD

PART 402. FEDERAL OLD-AGE BENEFITS*#

REGULATIONS NO. 2 RELATING TO FEDERAL OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT AMENDED

Regulations No. 2, approved July 20, 1937, relating to Federal Old-Age Benefits under Title II of the Social Security Act, approved August 14, 1935 (Public, No. 271, Seventy-fourth Congress: 49 Stat. 620), are amended as follows:

The following sections of Part 402 are amended to read as follows:

"SEC. 402.302 *Applications for Lump-Sum Benefit Payment.* A lump-sum benefit will be certified for payment only upon application of the wage earner if he be living and competent; or if he be deceased or incompetent, upon application of his guardian, committee, or other legal representative, or of some person specified in article 311 or 312 (Secs. 402.311, 402.312), who is entitled under the laws of the State in which the deceased wage earner was domiciled, to receive payment.

"SEC. 402.303 *Prescribed Forms.* Application for lump-sum benefit should be made on the prescribed form or forms and shall be prepared in accordance with the instructions printed thereon or attached thereto and in accordance with these regulations. The prescribed forms may be obtained from any field office of the Social Security Board. Each application shall be prepared so as to set forth fully and clearly the data called for therein.

"SEC. 402.304 *Execution of Applications.* Each application executed within the United States by a person, other than a legal representative, shall be signed and witnessed in the prescribed manner.

"Applications executed outside of the United States shall be signed and verified under oath or affirmation before an officer duly authorized to administer oaths for general purposes or by a consular officer of the United States. If a foreign official having no seal acts as attesting officer, the authority of such attesting officer should ordinarily be certified to by an officer having knowledge of the appointment and official character of the attesting officer.

"An application signed by a legal representative and accompanied by the evidence of his appointment, as required by article 311 (Sec. 402.311), ordinarily need not be witnessed or verified under oath or affirmation.

"SEC. 402.305 *Place of Filing Application.* Applications and supporting data should be filed, by mail or otherwise, with any field office of the Social Security Board."

"SEC. 402.307 *Proof of Age.* * * *

"(b) (3) A statement of two other persons having knowledge thereof, executed as required in the prescribed form, or

"SEC. 402.308 *Proof of Death.* * * *

"(4) Where death occurs outside of the United States there shall be furnished a report of the death by a United States Consul, or other agent of the State Department, bearing the signature and official seal of the United States Consul, or a certified copy of the public record of death authenticated by the United States Consul or other agent of the State Department, or such other evidence as will establish death to the satisfaction of the Board."

"SEC. 402.310 *Proof of Wages.* Wages paid with respect to employment after December 31, 1936, will be evidenced by the wage records maintained by the Board and/or other evidence as may be acceptable to the Board.

"SEC. 402.311 *Applications by Guardian, Committee, Executor or Administrator.* Applications filed by a guardian, committee, executor or administrator shall be accompanied by a duly executed certificate of authority issued by the proper officer of the court of appointment. Such certificate may be in the form of letters of appointment, a certified copy thereof, a short form certificate, a certified copy of the order of appointment, or any other official document indicating that the applicant is at the time of certification qualified to act as such representative. A certification made more than one year prior to the date it is filed with the Board will not be acceptable. The Board may require recertification or other evidence at any time if, in its judgment, such action is necessary to establish the authority of the applicant.

"Application and supporting documents of a public administrator or other state official authorized by state law to receive and distribute estate moneys, or any portion thereof, must contain his full title, a description of his authority to receive the benefit, and such other evidence of his authority as the Board may require.

"SEC. 402.312[1] *Discretionary Payments Under Section 205.* The amount due the estate of a deceased wage earner, if not more than $500, may be paid to persons found by the Board to be entitled thereto under the law of the state in which the deceased was domiciled. The Board will exercise its discretion to effect payment to relatives only if each of the three following conditions exists:

"(1) No executor or administrator is duly authorized under the laws of the deceased's domicile to receive such payment and it appears that no such executor or administrator will be so authorized; and

"(2) The right to payment would not be affected by the validity of an instrument appearing to be a will but not duly determined by probate; and

"(3) No creditor (other than a relative or any member of the family with respect to funeral expenses) is entitled, and at least one person entitled is one of the following:

"(a) A spouse, child, grandchild, parent; or

"(b) Any relative (including relatives by marriage) or any member of the family, who has made a payment toward funeral expenses of the deceased from his or her own funds; or

"(c) A person whose right is evidenced to the satisfaction of the Board by court action or by a substitute therefor authorized by the law of the deceased's domicile.

"Even though the foregoing conditions are met, the Board may, in a particular situation, determine not to exercise its discretionary power to make payment under section 205, and in exceptional circumstances may waive the above requirements when it is fully satisfied as to the person entitled."

"SEC. 402.314 *Proof of Entitlement.* The responsibility of establishing entitlement to benefits payable under Title II of the Act rests upon the applicant."

"SEC. 402.316 *Reconsideration of claims.* The claimant will, upon completion of adjudicative action, be informed by the Board of the decision on the claim. The claimant shall have the right to have a reconsideration of his claim upon written notice to the Board."

Authority for Regulations

In pursuance of sections 205 and 1102 of the Act, the foregoing regulations this day adopted by the Board are hereby prescribed this December 8, 1938.

SOCIAL SECURITY BOARD,
[SEAL] A. J. ALTMEYER, *Chairman.*

[F. R. Doc. 38-3750; Filed, December 13, 1938; 2:49 p. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 19, Amended]

WAGE SCALES, MANNING SCALES, WORKING CONDITIONS UPON CARGO VESSELS OWNED BY, AND OPERATED FOR THE ACCOUNT OF THE COMMISSION

At a regular session of the United States Maritime Commission, held at its

*With the exception of Section 402.312 (for which see footnote to that section), sections 402.302 through 402.316 are issued under authority contained in Section 1102 of the Social Security Act (49 Stat. 647; 42 U. S. C., Sup. II, 1302).

#Section numbers used herein correspond to numbers assigned in the code of Federal Regulations. The numbers after the decimal point in each section number correspond to the article numbers assigned in Regulations No. 2 of the Social Security Board.

[1] Section 402.312 is issued under the authority contained in Section 205 of the Social Security Act (49 Stat. 624; 42 U. S. C., Sup. III, 405).

office in Washington, D. C., on November 25, 1938.

Upon consideration of the existing regulations with respect to wage scales, manning scales and working conditions upon cargo vessels owned by, and operated for the account of, the Commission and of the report and recommendations of the Director, Division of Maritime Personnel and the Director, Division of Operations and Traffic, submitted November 14, 1938, it is hereby

Ordered, That, effective at the time of the first signing of foreign or coastwise articles on or after December 15, 1938, General Order No. 19, adopted December 15, 1937, be, and hereby is, amended to read as hereinafter set forth, and any other regulation of the Commission, to the extent that it is in conflict herewith be, and hereby is, rescinded.

By order of the United States Maritime Commission.

[SEAL] RUTH GREENE,
Assistant Secretary.

Manning and Basic Wage Scales for Cargo Vessels

[Accommodating not more than 12 passengers]

Rating	Vessels with water-tube boilers		Vessels with scotch boilers		Diesel vessels	
	Number	Wages per month	Number	Wages per month	Number	Wages per month
Deck department						
Master	1	$330.00	1	$330.00	1	$360.00
Chief mate	1	190.00	1	190.00	1	190.00
Second mate	1	170.00	1	170.00	1	170.00
Third mate	1	152.50	1	152.50	1	152.50
Junior third mate	1	135.00	1	135.00	1	135.00
Radio operator	1	125.00	1	125.00	1	125.00
Carpenter (see Note 1)	1	85.00	1	85.00	1	85.00
Boatswain (see Note 2)	1	85.00	1	85.00	1	85.00
Utility man (see Note 3)					1	72.50
Able seaman	6	72.50	6	72.50	6	72.50
Ordinary seaman	3	55.00	3	55.00	3	55.00
Engine department						
Chief Engineer	1	300.00	1	300.00	1	330.00
First asst. engineer	1	190.00	1	190.00	1	209.00
Second asst. engineer	1	170.00	1	170.00	1	187.00
Third asst. engineer	1	152.50	1	152.50	1	167.75
Jr. third asst. engineer	1	135.00	1	135.00	1	148.50
Electrician					1	170.00
Watertender	3	82.50				
Oiler	3	82.50	3	82.50	3	82.50
Utility man (see Note 4)					1	82.50
Fireman	3	72.50	3	72.50		
Wiper	1	60.00	2	60.00	2	60.00
Steward's department						
Chief steward	1	125.00	1	125.00	1	125.00
Chief cook	1	110.00	1	110.00	1	110.00
Second cook and baker	1	90.00	1	90.00	1	90.00
Messman *	1	60.00	1	60.00	*2	60.00
Utility man	1	57.50	1	57.50	1	57.50
Messboy	2	55.00	2	55.00	2	55.00

Overtime.—The overtime rate of pay for licensed personnel shall be $1.00 per hour, and for unlicensed personnel, 70¢ per hour.

NOTE 1.—Carpenter's tools will be furnished by vessel.

NOTE 2.—Boatswains will be required to hold A. B. and lifeboat certificates.

NOTE 3.—Utility Men will be carried on Diesel vessels in the service of the American Pioneer Line only. Utility Men serving in the deck department will be required to hold A. B. and lifeboat certificates.

NOTE 4.—Utility Men serving in the engine department will be required to carry an oiler's certificate.

* On S. S. *Yomachichi* only one messman will be carried.

Night relieving officers.—Night relieving officers shall be employed on vessels in active operation in all domestic ports where a vessel is to remain for two or more nights and shall be compensated at the rate of $9.00 per night.

WORKING CONDITIONS FOR CARGO VESSELS

General Provisions

1. *Obedience.*—Prompt obedience shall be rendered to the orders of the master and other superior officers.

2. *Holidays.*—The following holidays shall be observed: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Armistice Day, Thanksgiving and Christmas Day. If a holiday falls on Sunday, the following Monday shall be observed as a holiday.

3. *Inspections.*—In order to insure cleanliness and orderliness, the heads of the various departments shall make a daily inspection of all crew accommodations. The master shall make an inspection of the entire vessel at least once every week with particular attention to officers' and crews' quarters and food. Daily inspections by department heads shall be entered in the chief mate's log book. The master's weekly inspections shall be recorded in the official log book.

4. *Drills.*—Fire and boat drills shall, weather permitting, be held weekly. Such drills shall be held without prior notice or preparation, but it shall not be made the regular practice to conduct such drills on Saturday afternoons, Sundays or holidays. The entire crew, except those on station required for safe navigation and management of the vessel, shall participate in such drills. The master shall enter a record of such drills in the log, giving a complete account of his estimate of the efficiency with which such drills are executed.

5. *Continuous service remuneration.*—All licensed and unlicensed personnel who have been continuously employed on vessels operated for the account of the Maritime Commission, beginning with any date subsequent to March 1, 1937, shall receive in addition to the basic pay of their respective ranks, grades or ratings, additional remuneration as follows:

(a) for continuous service in excess of 12 months, 3 per centum of the current basic pay; or

(b) for continuous service in excess of 24 months, a total of six per centum of the current basic pay; or

(c) for continuous service in excess of 36 months, a total of ten per centum of the current basic pay.

Continuity of service shall be deemed to be broken by voluntary separation from the service or by dismissal for cause. Continuity of service shall not be deemed to be broken by temporary furloughs from the service, but no time credit for continuous service remuneration shall accrue during the period of furlough. A furlough, for the purpose of this section, is defined as a leave of absence for a definite period of time, not to exceed three months, but capable of extension from time to time, granted with the approval of the District Manager of the Maritime Commission.

6. *Breaking and setting watches.*—Watches will be set or broken in the discretion of the master.

7. *Eight hour day.*—The standard working day for all licensed and unlicensed personnel shall be eight hours, at sea or in port. No licensed officer or unlicensed member of the crew shall be required to work in excess of eight hours between midnight and midnight of any day except in case of either of the following emergencies:

(a) work necessary for safety of the vessel, passengers, crew or cargo;

(b) saving life aboard other vessels in jeopardy.

Time in excess of eight hours used for fire and boat drills and in changing watches and relieving watches for meals shall not be computed in determining the eight hour day.

8. *Week-end and holiday lay-offs.*—No officer or member of the crew shall be laid off without pay over a Saturday afternoon, Sunday or holiday, if working immediately previous to and after such days.

9. *Complaints or suggestions for the good of the service.*—Whenever an officer or member of a crew has a suggestion or complaint he may submit it through his immediate superior to the master for adjustment.

Suggestions which the master does not adopt or which are not within his jurisdiction to effect shall be forwarded by him to the District Manager of the United States Maritime Commission with his comments.

The procedure for the adjustment of complaints will be as follows:

(a) Complaints, if not satisfactorily adjusted by the immediate superior of the complainant, may be taken to the department head and thence, if necessary, to the master. When a complaint is presented to the master it shall be in writing and bear the endorsement of the immediate superior and the department head with such comments as either may desire to make.

(b) Whenever possible, the master shall without delay, adjust and dispose of all complaints brought to him by any officer or member of the crew.

(c) Should the master be unable satisfactorily to adjust the complaint he shall refer the same in triplicate with his comments to the District Manager of the United States Maritime Commission. The District Manager shall retain one copy of the complaint and shall refer two copies with his comments to the United

States Maritime Commission at Washington.

Nothing herein contained shall be construed to restrict in any way the authority of the master or to permit any officer or member of the crew to disobey the lawful order of a superior.

Nothing herein contained shall preclude any employee or his representative from the exercise of any rights granted by law with respect to making of complaints.

10. *Workaways.*—Workaways shall be carried solely for the purpose of providing transportation and, in such case, shall be in addition to the regular crew.

Licensed Officers and Department Heads

11. *Vacations.*—After each year of continuous service subsequent to March 1, 1937, every licensed officer and department head who has been employed continuously on any vessels operated for the account of the Maritime Commission shall receive at the end of each such year, a vacation with full pay of 14 consecutive calendar days.

Such vacations may be cumulative, but not to exceed a total of 28 days, and shall be allowed at such time as may be convenient to the operating necessities of the service, upon the approval of the District Manager of the Maritime Commission. No cash allowance in lieu of vacation shall be made.

After 6 months of continuous service, if employment is terminated through no fault of the officer or department head, he shall be entitled to such vacation as has been accrued on the basis of 1/12th the annual period per month of continuous service.

Continuous service shall be computed in the same manner as provided by Section 5 for the purpose of continuous service remuneration.

12. *Travel.*—(a) When traveling in the course of employment from one vessel to another or from one port to another, licensed officers and department heads shall be paid regular wages while en route and shall be provided with transportation, including berth if overnight, and subsistence at the rate of $4.00 per day, except where subsistence is included with transportation.

(b) If prior to the completion of Shipping Articles, the vessel is withdrawn from service for any cause, including shipwreck, licensed officers and department heads shall be provided with transportation and subsistence, as provided in subsection (a) of this section, to the port where Shipping Articles were signed, unless another port is designated in the Shipping Articles. Full wages shall be paid up to the time of arrival at either of such ports. Application for such return transportation, subsistence and wages must be made within 15 days from the date of withdrawal of the vessel from service, except that in the case of shipwreck, such application must be made within 15 days from the date of arrival at a safe port. The money equivalent of return transportation provided for herein shall not be paid under any conditions.

13. *Subsistence.*—When meals are not furnished, licensed officers and department heads shall receive a subsistence allowance at the rate of $3.00 per day, and when required to sleep ashore, they shall receive an allowance of $2.50 per night for lodging.

14. *Overtime.*—Provisions of law relating to restriction of required employment to eight hours per day shall be strictly observed, but if voluntary work is performed in excess of eight hours, the following procedure shall govern.

Such overtime work shall be performed only upon the authorization of the department head with the prior approval of the master. His certification on the form provided therefor shall be the basis of overtime payments to the officers and crew.

All work in excess of eight hours in twenty-four required in docking and undocking the vessel shall be paid for at the overtime rate.

When overtime work performed is less than one hour, overtime for one full hour shall be paid. Where overtime work exceeds one hour, the overtime work performed shall be paid for in units of one half hour.

Overtime compensation shall be paid in cash promptly upon completion of the voyage, and, where practicable, at the same time regular wages are paid.

At Sea

Overtime will be paid only for duly authorized work in excess of that required under paragraph 7.

In Port

Port time shall commence when a vessel has been secured to her berth and "Finished with Engines" has been rung. Port time shall cease when "Stand By" is rung.

The normal working day in port shall not exceed eight hours, distributed as directed by the master as necessities of watches and other duties require. Overtime shall be paid for all work performed in excess of eight hours between midnight and midnight and for all work performed on Saturdays after 12:00 Noon and on Sundays and holidays, upon conditions herein prescribed.

Unlicensed Personnel (Other Than Department Heads)

15. *Vacations.*—For each year of continuous service after March 1, 1937, all unlicensed personnel other than department heads who have been continuously employed on any vessels operated for the account of the Maritime Commission shall receive at the end of each such year, a vacation with full pay of 7 consecutive calendar days after the first year of continuous service and of 14 consecutive calendar days after two or more years of continuous service.

Such vacations may be cumulative, but not to exceed a total of 28 days and shall be allowed at such time as may be convenient to the operating necessities of the service upon the approval of the District Manager of the Maritime Commission. No cash allowance in lieu of vacation shall be made.

After 6 months of continuous service, if employment is terminated through no fault of the employee, he shall be entitled to such vacation as has been accrued on the basis of 1/12th the annual period per month of continuous service.

Continuous service shall be computed in the same manner as provided by section 5 for the purpose of continuous service remuneration.

16. *Travel.*—(a) When traveling in the course of employment from one vessel to another or from one port to another, unlicensed personnel (other than department heads) shall be paid regular wages while en route and shall be provided with transportation, including berth if overnight, and subsistence at the rate of $3.00 per day, except where subsistence is included with transportation.

(b) If prior to the completion of Shipping Articles, the vessel is withdrawn from service for any cause, including shipwreck, unlicensed personnel shall be provided with transportation and subsistence, as provided in subsection (a) of this section, to the port where Shipping Articles were signed, unless another port is designated in the Shipping Articles. Full wages shall be paid up to the time of arrival at either of such ports. Application for such return transportation, subsistence and wages must be made within 15 days from the date of withdrawal of the vessel from service, except that in the case of shipwreck, such application must be made within 15 days from the date of arrival at a safe port. The money equivalent of return transportation provided for herein shall not be paid under any conditions.

17. *Subsistence.*—When meals are not furnished, unlicensed personnel, other than department heads, shall receive a subsistence allowance at the rate of $1.80 per day, and an allowance of $2.00 for lodging.

18. *Overtime.*—Provisions of law relating to restriction of required employment to eight hours per day shall be strictly observed, but if voluntary work is performed in excess of eight hours, the following procedure shall govern.

Such overtime work shall be performed only upon the authorization of the department head with the prior approval of the master. His certification on the form provided therefor shall be the basis of overtime payments to the officers and crew.

All work in excess of eight hours in twenty-four required in docking and undocking the vessel shall be paid for at the overtime rate.

When overtime work performed is less than one hour, overtime for one full hour shall be paid. Where overtime work exceeds one hour, the overtime work performed shall be paid for in units of one half hour.

Overtime compensation shall be paid in cash promptly upon completion of the voyage, and, where practicable, at the same time regular wages are paid.

At Sea

Overtime will be paid only for any duly authorized work in excess of that required under paragraph 7.

In Port

Port time shall commence when a vessel has been secured to her berth and "Finished with Engines" has been rung. Port time shall cease when "Stand By" is rung.

Deck and engine departments. In port, the normal working day shall be between 8:00 A. M. and 5:00 P. M., Monday to Fridays, both inclusive; and 8:00 A. M. and 12:00 Noon on Saturdays, except for the donkey and gangway watches.

All work performed at any time on Sundays or Holidays or after 12:00 Noon on Saturdays, including that of the donkey and gangway watches, shall be paid for at the overtime rate.

All work performed before 8:00 A. M. and after 5:00 P. M. Monday to Friday, both inclusive, shall be paid for at the overtime rate, except that of the donkey and gangway watches, who shall receive overtime pay only when the hours worked in any one day exceed eight, regardless of whether or not cargo is being worked.

Steward's department.—The working day at sea shall not exceed eight hours in a spread of twelve hours, and when practicable shall be between the hours of 6:00 A. M. and 6:00 P. M. In port, the working day shall not exceed eight hours in a spread of thirteen hours, and when practicable shall be between the hours of 6:00 A. M. and 7:00 P. M. At sea or in port, overtime shall be paid for work performed in excess of eight hours, subject to the general provisions regarding overtime. In port, overtime shall be paid for work performed after 12:00 Noon Saturdays, Sundays and Holidays.

[F. R. Doc. 38-3759; Filed, December 14, 1938; 12:58 p. m.]

TITLE 50—WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

AMENDMENT TO REGULATIONS FOR THE ADMINISTRATION OF NATIONAL WILDLIFE REFUGES UNDER THE JURISDICTION OF THE BUREAU OF BIOLOGICAL SURVEY

By virtue of authority conferred upon the Secretary of Agriculture by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), section 84 of the Act of March 4, 1909, 35 Stat. 1104, as amended by the Act of April 15, 1924, 43 Stat. 98, and section 401 of the Act of June 15, 1935, 49 Stat. 383, and otherwise, "Regulation 16—Impounding of Animals" of the "Regulations for the Administration of National Wildlife Refuges under the Jurisdiction of the Bureau of Biological Survey," issued November 23, 1937,[1] is hereby amended effective December 20, 1938, to read as follows:

REGULATION 16—IMPOUNDING OF ANIMALS

Domestic livestock and dogs trespassing on a refuge may be impounded by the officer in charge. If the owner is known, prompt written notice of the impounding will be served upon him and in the event of his failure to remove the impounded animal within 5 days from delivery of such notice it will be sold or otherwise disposed of as hereinafter prescribed. If the owner is unknown, no sale or other disposition of the animal shall be made until at least 15 days have elapsed from the date that a notice of the impounding is first published in a newspaper of general circulation in the county in which the trespass occurs and posted at the county courthouse. Regional directors and officers in charge of refuges are hereby authorized to order the publication of such notices in newspapers by direct transmittal to the publisher of the standard form of advertising order approved by the Comptroller General. The notice shall state when and where the animal was impounded, shall describe it by brand or earmark or both, or, in the absence of such distinguishing marks, by such other means as are necessary to identify such animal and shall specify the time and place it will be offered at public sale to the highest bidder in default of redemption by the owner on or before that date, and the right to reject any and all bids shall be reserved. Prior to such sale the owner may redeem the animal by submitting proof of ownership and paying all expenses incurred by the United States for capturing, advertising, pasturing, feeding, and impounding. Upon the sale of any animal in accordance with this regulation, the Chief of Bureau or his authorized representative shall issue a certificate of sale. If an animal impounded under this regulation is offered at public sale and no bid is received or the highest bid received is in an amount less than the amount of the claim of the United States or the officer's appraised value of the animal, whichever is the lesser amount, it may, in the discretion of the officer be sold at private sale for the highest amount obtainable, or be condemned and destroyed or converted to the use of the United States if of value for that purpose.

In all livestock trespasses on wildlife refuges the value of the forage consumed will be computed at the daily, monthly, or yearly commercial rates prevailing in the locality for the class of livestock found in trespass.

In addition to the damages to wildlife refuge property injured or destroyed, and in order to compensate the United States fully for any loss resulting from trespass by livestock and the impounding, sale, or other disposition thereof, a charge may be made and added to the value of the forage consumed, which shall include the pro rata salary of refuge officers for the time spent and the expenses incurred in and about the investigations, reports, and settlement or prosecution of the case.

Where the amount received in the sale of the animal either under bid or at private sale, or the appraised value thereof in case the animal is converted to the use of the Government, is insufficient to meet the amount of the Government's claim or when necessary to destroy the impounded animal without benefit to the Government, the facts shall be fully reported to the Chief of the Bureau for appropriate action to obtain full satisfaction of the Government's claim.

In testimony whereof, I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 13th day of December 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3751; Filed, December 13, 1938; 3:54 p. m.]

[1] 2 F.R. 2537 (2951 DI).

Notices

DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

NOTICE OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMULGATED. (A) FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY, STANDARD OF QUALITY, AND STANDARD OF FILL OF CONTAINER, FOR CANNED TOMATOES; AND (B) SPECIFYING FORM AND MANNER OF LABEL STATEMENTS FOR SUCH CANNED TOMATOES WHICH FALL BELOW SUCH STANDARD OF QUALITY, AND SUCH STANDARD OF FILL OF CONTAINER

In conformity with subsection (e) of Section 701 of the Federal Food, Drug, and Cosmetic Act [Sec. 701, 52 Stat. 1055; 21 U. S. C. 371 (e)], notice upon the proposals herein set forth is hereby given to all interested persons that a public hearing will be held beginning at 10 a. m., January 19, 1939, in Room 3036, Department of Agriculture, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., for the purpose of receiving evidence upon the basis of which, in pursuance of the authority vested in the Secretary of Agriculture by the provisions of section 401 of said act (Sec. 401, 52 Stat. 1046; 21 U. S. C. 341), regulations may be promulgated (a) fixing and establishing a definition and standard of identity, a standard of quality, and a standard of fill of container for canned tomatoes; and (b) in pursuance of the authority vested

in the Secretary of Agriculture by the provisions of sections 401 and 403 (h), (1) and (2), of said act [Secs. 401 and 403 (h), (1) and (2), 52 Stat. 1046 and 1047; 21 U. S. C. 341 and 343 (h), (1) and (2)], regulations may be promulgated specifying the form and manner of label statements for canned tomatoes which fall below such standard of quality and such standard of fill of container.

All interested persons are invited to attend this hearing and offer relevant evidence either in person or by representative. In lieu of personal attendance, affidavits may be offered either in person at the time of the hearing or by sending the same to John McDill Fox, Room 2311, South Building, Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., so as to be in his office by the date above stated. Such affidavits, if relevant and material, may be received, but the Secretary will consider the lack of opportunity for cross-examination in determining the weight that shall be given to such affidavits.

The proposed definition and standard of identity, standard of quality, and standard of fill of container for canned tomatoes, and the form and manner of label statements for such food which falls below such standards of quality and fill of container attached hereto and made a part hereof are subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the hearing may require.

Mr. John McDill Fox is hereby designated as presiding officer to conduct, in the place of the Secretary, the foregoing hearing, with authority to administer oaths, and to do all things necessary and appropriate to the proper conduct of such hearing as may be provided in the general procedural regulations which will be available at the hearing.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

DECEMBER 14, 1938.

TOMATOES—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE CANNED FOOD PRODUCT COMMONLY KNOWN AS TOMATOES

Tomatoes consist of one of the following optional tomato ingredients:

(1) (a) Clean, mature, red tomatoes which are sound or with imperfections removed by trimming, and which have been peeled and cored, with (b) the liquid obtained from such tomatoes in peeling, coring, trimming, and packing; or

(2) Tomato ingredient (1) (a) with a strained mixture consisting of clean, sound tomato trimmings and liquid obtained from tomato ingredient (1) (a) in peeling, coring, and trimming;

With or without one or more of the optional added ingredients:

(a) Salt.
(b) Sweet basil leaves.

Sealed in a container and processed by heat to prevent spoilage.

When optional tomato ingredient (2) or optional added ingredient (b) is used, that fact shall be stated on the label. (Form of declaration to be later specified.)

TOMATOES—PROPOSED STANDARD OF QUALITY FOR THE CANNED FOOD PRODUCT COMMONLY KNOWN AS TOMATOES

The food in the container meets the standard of quality when:

(a) The weight of tomatoes retained after draining for 2 minutes on an appropriate sieve, described below, equals or exceeds one-half the weight of water at 68° F. required to fill the container (such weight of water to be determined as specified in the accompanying method).

The sieve used shall have 2 meshes to the linear inch. The bottom shall be made of wire of a uniform diameter of 0.054" woven into square meshes with a uniform inside diameter of 0.446". For food in containers of less than 3 pounds net weight, such a sieve 8 inches in diameter shall be used. For food in containers of 3 pounds net weight or more, such a sieve 12 inches in diameter shall be used.

(b) The red color of the tomatoes is such that it complies with the following requirements: The pieces of tomatoes obtained in (a) are removed from the sieve and selected and cut in such manner as to successively segregate those portions in which the red color is least developed until they equal one-half of the total weight of the pieces of tomatoes obtained in (a). Such portions are reduced to a homogeneous mixture without removing or breaking the seeds. After freeing such mixture from air bubbles, a black container 1 inch deep is filled with the mixture and visible seeds are skimmed off or pressed below the surface. The color of the mixture in the black container is then compared in full daylight or its equivalent with a combination of the following blended Munsell color disks:

(1) 5R 2.6/13 (glossy finish).
(2) 2.5YR 5/12 (glossy finish).
(3) N 1/ (glossy finish).
(4) N 4 (mat finish).

If (1) the red color of the mixture is so well developed that it cannot be matched by any of these disks or any combination of them, or (2) if it is sufficiently developed to be matched by a combination in which the exposed area of disk (1) covers one-third or more of the circle, and the exposed area of disk (2) does not exceed that of (1) (regardless of the exposed area of disks (3) and (4)); the red color in either case meets the requirement of the standard.

(c) The tomatoes are so peeled that there is not more than ____ square inches (to be fixed at a point between 1 and 1.5 square inches) of peel per pound of net contents in the container.

(d) The fruit is so trimmed that the total of the maximum cross-sectional areas of all unsightly blemishes does not exceed ¼ square inch per pound of net contents in the container.

PROPOSED METHODS FOR DETERMINING IN CANNED TOMATOES (1) PERCENTAGE OF TOTAL CAPACITY OF CONTAINER OCCUPIED BY PRODUCT AND (2) WEIGHT OF WATER AT 68° F. REQUIRED TO FILL THE CONTAINER

(1) *For cylindrical metal containers.*—(a) Percent of total capacity of container occupied by total contents:

Measure carefuly to the nearest sixteenth of an inch the following, expressing as a whole number the total number of sixteenth inches:

A, the over-all height of the container;
B, the combined heights of the double seams of the closed container (sum of the vertical distances, taken at each end, from the top of the double seam to the point where the cover turns at right angles to the side wall);
C, the vertical distance from the top of the double seam to the highest point of the product (after carefully opening the container without disturbing the double seam).

Obtain the percent of total capacity of container occupied by total contents by the following formula:

$$\frac{A-(C+\frac{B}{2})}{A-B}\times 100$$

where *A*, *B*, and *C* are the measurements, expressed and designated as in (1) (a) above.

(b) Weight of water at 68° F. required to fill the container:

Measure over-all diameter of container at the highest point of the side to the nearest sixteenth of an inch (for use in Table A). Multiply measurement A minus measurement B, obtained and expressed as in (1) (a), by the avoirdupois ounces of water at 68° F. corresponding to each sixteenth inch of height of a container of the outside diameter above determined, such weight of water being obtained from Table A. The product of the above multiplication is deemed to be the weight of water at 68° F. required to fill the container.

TABLE A

Outside diameter at lid, in sixteenth inches:	*Avoirdupois Ounces Water at 68° F. per Each Sixteenth Inch Height*
34	0.120
40	.162
43	.188
45	.205
48	.234
49	.241
51	.264
55	.306
60	.371
65	.431
68	.487
82	.704
99	1.033
106	1.194

For containers with diameters not given in Table A, determine water capacity as described in (2) (b).

(2) *For square, or other non-cylindrical metal containers with vertical sides.*—(a) Percent of total capacity of container occupied by total contents:

Determine as in (1) (a). If a determination of water capacity is also necessary, open container as described in (2) (b).

(b) Weight of water at 68° F. required to fill the container:

With a hack saw make a level cut across the top of the container in such a manner as to just divide the lid into two approximately equal parts. Cut out one of such parts with a can opener. Remove contents and close, with adhesive tape or other convenient material, any saw cuts in the sides which extend below the level of the lid. Rinse container with water, dry, and weigh. Fill container with distilled water at 68° F. to the point where the lower surface of the lid meets the sides. Weigh again. The difference in weight is deemed to be the weight of water at 68° F. required to fill the container.

(3) *For metal containers with sloping sides, or otherwise irregular in shape.*—(a) Weight of water at 68° F. required to fill the container:

After cutting and removing part of lid as described in (2) (b), measure distance from the highest point of the side of container to the highest point of the product (for use in (3) (b)). Determine water capacity as described in (2) (b).

(b) Percent of total capacity of container occupied by total contents:

Draw off water used in determining water capacity under (3) (a) until the container is filled to the same point as that formerly occupied by the product. Determine the weight of water remaining and divide it by the water capacity as determined in (3) (a). The quotient multiplied by 100 gives the percent of total capacity of container occupied by total contents.

(4) *For glass or other non-metallic containers.*—(a) Weight of water at 68° F. required to fill the container:

Remove closure (lid or cap) and measure to the nearest sixteenth of an inch the distance from the highest point of the container to highest point of the product (for use in (4) (b)). After removing product, rinse, dry, and weigh container. Fill container completely with distilled water at 68° F. Weigh again. The difference in weight is deemed to be the weight of water at 68° F. required to fill the container.

(b) Percent of total capacity of container occupied by total contents:

Determine as described in (3) (b).

TOMATOES—PROPOSED STANDARD OF FILL OF CONTAINER FOR THE CANNED FOOD PRODUCT COMMONLY KNOWN AS TOMATOES

The food in the container meets the standard of fill when the total contents so fill the container that they occupy at least ____ percent (to be fixed at a point between 90 and 95 percent) of the total capacity of such container (such percentage to be determined as specified in the accompanying method).

LABELING OF SUBSTANDARD CANNED TOMATOES

(1) *Tomatoes which fall below the standard of quality.*—An article of food which falls below the standard of quality shall be labeled in the following form and manner:

Wherever the name of the food or a picture thereof appears, there shall also appear immediately above or below such name or such picture, without intervening material and against a strongly contrasting uniform background, a box legend of the following specifications:

Box.—Rectangular in shape, with a border not less than 6 points in width.

Wording enclosed in box.—First line, "Substandard Quality," in 12-point Cheltenham bold condensed caps for containers of less than 1 pound of total contents, and in 14-point Cheltenham bold condensed caps for containers of 1 pound or more of total contents. Second line, "Good Food—Not High Grade," in 8-point Cheltenham bold condensed caps for containers of less than 1 pound of total contents, and in 10-point Cheltenham bold condensed caps for containers of 1 pound or more of total contents.

(2) *Tomatoes which fall below the standard of fill of container.*—An article of food which falls below the standard of fill of container shall be labeled in the following form and manner:

For an article with total contents occupying an insufficient percentage of the total capacity of the container, the form and manner of labeling as to position, box and type shall be identical with that of (1). The wording of the first line in such box shall be "Substandard Fill" and the second line, "Excess Head Space."

Provided, That if the wordings specified in (1) and (2) are both applicable to a single article, they may be combined in a single box.

[F. R. Doc. 38-3755; Filed, December 14, 1938; 12:06 p. m.]

NOTICE OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH A REGULATION MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: EGGS, LIQUID WHOLE EGGS, LIQUID MIXED EGGS, FROZEN WHOLE EGGS, DRIED WHOLE EGGS, EGG YOLK, FROZEN EGG YOLK, DRIED EGG YOLK

In conformity with subsection (e) of Section 701 of the Federal Food, Drug, and Cosmetic Act [Sec. 701, 52 Stat. 1055; 21 U. S. C. 371 (e)], notice upon the proposals herein set forth is hereby given to all interested persons that a public hearing will be held beginning at 10 a. m., January 23, 1939, in Room 3036, Department of Agriculture, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., for the purpose of receiving evidence upon the basis of which, in pursuance of the authority vested in the Secretary of Agriculture by the provisions of section 401 of said act (Sec. 401, 52 Stat. 1046; 21 U. S. C. 341), regulations may be promulgated fixing and establishing a reasonable definition and standard of identity for each of the foods commonly known as *eggs, liquid whole eggs, liquid mixed eggs, frozen whole eggs, dried whole eggs, egg yolk, frozen egg yolk, and dried egg yolk.*

All interested persons are invited to attend this hearing and to offer relevant evidence either in person or by representative. In lieu of personal attendance, affidavits may be offered either in person at the time of the hearing or by sending the same to John McDill Fox, Room 2311, South Building, Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., so as to be in his office by the date above stated. Such affidavits, if relevant and material, may be received, but the Secretary will consider the lack of opportunity for cross-examination in determining the weight that shall be given to such affidavits.

The proposed definitions and standards of identity attached hereto and made a part hereof are subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the hearing may require.

Mr. John McDill Fox and Mr. Daniel P. Willis are hereby designated as presiding officers to conduct, either jointly or severally, in the place of the Secretary, the foregoing hearing, with power to administer oaths, and to do all things necessary and appropriate to the proper conduct of such hearing as may be provided in the general procedural regulations which will be available at the hearing.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

DECEMBER 14, 1938.

EGGS—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS EGGS

Eggs are the fully developed ova of the domestic hen.

LIQUID WHOLE EGGS—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS LIQUID WHOLE EGGS

Liquid whole eggs consist of the whites and unbroken yolks of eggs, sound and in their natural proportions, broken out of the shell after candling or otherwise

sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; packed in a suitable container.

LIQUID MIXED EGGS—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS LIQUID MIXED EGGS

Liquid mixed eggs consist of a homogeneous, strained mixture of the whites and yolks of eggs, sound and in their natural proportions; broken out of the shell after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; packed in a suitable container.

FROZEN WHOLE EGGS—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS FROZEN WHOLE EGGS

Frozen whole eggs consist of a homogeneous, strained mixture of the whites and yolks of eggs, sound and in their natural proportions; broken out of the shell after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; packed in a suitable container; and frozen in such a manner as to prevent spoilage.

DRIED WHOLE EGG—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS DRIED WHOLE EGG

Dried whole egg consists of a homogeneous, strained mixture of the whites and yolks of eggs, sound and in their natural proportions; broken out of the shell after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; dried to a maximum moisture content of ____ percent (to be fixed at a point between 7% and 8.5%); ground or unground; and packed in a suitable container.

EGG YOLK—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS EGG YOLK

Egg yolk consists of a homogeneous, strained mixture of yolks broken out of the shell, after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; so separated from whites as to yield a minimum egg solids content of ____ percent (to be fixed at a point between 43% and 45%); and packed in a suitable container.

FROZEN EGG YOLK—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS FROZEN EGG YOLK

Frozen egg yolk consists of a homogenous, strained mixture of yolks broken out of the shell, after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; so separated from whites as to yield a minimum egg solids content of ____ percent (to be fixed at a point between 43% and 45%); packed in a suitable container; and frozen in such a manner as to prevent spoilage.

DRIED EGG YOLK—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS DRIED EGG YOLK

Dried egg yolk consists of a homogeneous, strained mixture of yolks broken out of the shell, after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; so separated from whites as to yield, in the finished product, a minimum fat content on the dry basis of ____ percent (to be fixed at a point between 58.5% and 60%); dried to a maximum moisture content of ____ percent (to be fixed at a point between 4.5% and 5.5%); and packed in a suitable container.

[F. R. Doc. 38-3756; Filed, December 14, 1938; 12:06 p. m.]

NOTICE OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH A REGULATION MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: TOMATO PUREE, TOMATO PASTE, TOMATO CATSUP, TOMATO JUICE

In conformity with subsection (e) of Section 701 of the Federal Food, Drug, and Cosmetic Act [Sec. 701, 52 Stat. 1055; 21 U. S. C. 371 (e)], notice upon the proposals herein set forth is hereby given to all interested persons that a public hearing will be held beginning at 10 a. m., January 16, 1939, in Room 3036, Department of Agriculture, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., for the purpose of receiving evidence upon the basis of which, in pursuance of the authority vested in the Secretary of Agriculture by the provisions of section 401 of said act (Sec. 401, 52 Stat. 1046; 21 U. S. C. 341), regulations may be promulgated fixing and establishing a reasonable definition and standard of identity for each of the foods commonly known as *tomato puree, tomato paste, tomato catsup, and tomato juice.*

All interested persons are invited to attend this hearing and to offer relevant evidence either in person or by representative. In lieu of personal attendance affidavits may be offered either in person at the time of the hearing, or by sending the same to John McDill Fox, Room 2311, South Building, Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., so as to be in his office by the date above stated. Such affidavits, if relevant and material, may be received, but the Secretary will consider the lack of opportunity for cross-examination in determining the weight which shall be given to such affidavits.

The proposed definitions and standards of identity attached hereto and made a part hereof are subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the hearing may require.

Mr. John McDill Fox is hereby designated as presiding officer to conduct in place of the Secretary the foregoing hearing, with power to administer oaths, and to do all things necessary and appropriate to the proper conduct of such hearing as may be provided in the general procedural regulations which will be available at the hearing.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

DECEMBER 14, 1938.

TOMATO PUREE—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS TOMATO PUREE

Tomato puree is the product obtained from one of the following optional tomato ingredients:

(1) Clean, mature red tomatoes which are sound, or with imperfections removed by hand trimming; or

(2) Number (1) above with clean, sound tomato trimmings; or

(3) Number (1) above with clean, sound pomace obtained as a by-product in the manufacture of tomato juice; or

(4) Clean, sound tomato trimmings; or

(5) Clean, sound pomace obtained as a by-product in the manufacture of tomato juice; or

(6) A mixture of numbers (4) and (5) above; by crushing and straining free from skins, seeds and cores, with or without the application of heat; and by evaporating to a minimum tomato solids content of ____ percent (to be fixed at a point between 8.37 and 10.5 percent); it may or may not contain the optional ingredient added salt; it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

When optional tomato ingredient (2), (3), (4), (5) or (6) is used, that fact shall be stated on the label (form of declaration to be later specified).

TOMATO PASTE—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS TOMATO PASTE

Tomato paste is the product obtained from one of the following optional tomato ingredients:

(1) Clean, mature red tomatoes which are sound, or with imperfections removed by hand trimming; or

(2) Number (1) above with clean, sound tomato trimmings; or

(3) Number (1) above with clean, sound pomace obtained as a by-product in the manufacture of tomato juice; or

(4) Clean, sound tomato trimmings; or

(5) Clean, sound pomace obtained as a by-product in the manufacture of tomato juice; or

(6) A mixture of numbers (4) and (5) above; by crushing and straining free from skins, seeds and cores, with or without application of heat; and by evaporating to a minimum tomato solids content of ____ percent (to be fixed at a point between 22 and 26 percent); it may or may not contain one or more of the optional added ingredients:

(a) Sweet basil leaves.
(b) Oil of sweet basil.
(c) Salt.
(d) Sodium bicarbonate.

it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

When optional tomato ingredient (2), (3), (4), (5), or (6), or optional added ingredient (d), is used, that fact shall be stated on the label (form of declaration to be later specified).

CATSUP (OR TOMATO CATSUP)—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS CATSUP (OR TOMATO CATSUP)

Catsup (or *tomato catsup*) is the product obtained from clean, mature red tomatoes which are sound (or from which imperfections have been removed by hand trimming) by crushing and straining free from skins, seeds and cores, with or without application of heat; by evaporating so as to result in a finished product of thick consistency; by seasoning with sugar, salt, a vinegar, spice, spice oil and other seasoning; by straining to a smooth consistency; it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

TOMATO JUICE—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS TOMATO JUICE

Tomato juice is the product obtained from clean, mature red tomatoes which are sound (or with minor imperfections only) by removing any minor imperfections by hand trimming; by crushing and straining, with or without external application of heat, so as to produce a liquid carrying finely divided tomato flesh in suspension, and to exclude skins, seeds and cores together with a portion of the tomato flesh; it may or may not be homogenized; it may or may not contain the optional ingredient added salt; it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

[F. R. Doc. 38-3757; Filed, December 14, 1938; 12:07 p. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT-5535]

APPLICATION OF IOWA-NEBRASKA LIGHT AND POWER COMPANY

ORDER FIXING DATE OF HEARING

DECEMBER 13, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application filed December 5, 1938, by Iowa-Nebraska Light and Power Company, pursuant to Section 203 (a) of the Federal Power Act,[1] for an order authorizing the applicant to sell its electric facilities for the production, transmission, distribution and sale of electric energy and business incidental thereto in the State of Nebraska to The Central Nebraska Public Power and Irrigation District and Loup River Public Power District;

The Commission *orders* that:

A public hearing on said application be held on December 22, 1938, beginning at 10 o'clock a. m., in the Commission's hearing room, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3754; Filed, December 14, 1938; 11:02 a. m.]

[1] 49 Stat. 849.

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 312]

ALLOCATION OF FUNDS FOR LOANS

DECEMBER 12, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Alabama R9023C1 Pike	$239,000
Arkansas 9012B1 Miller	267,000
Arkansas 9013B1 Johnson	170,000
Indiana R9015B1 Fayette	50,000
Indiana R9088A2 Kosciusko	46,000
Kentucky R9003A1 Jackson	188,000
Kentucky R9021D1 Nelson	135,000
Kentucky R9023B1 Taylor	151,000
Kentucky R9050A1 Graves	219,000
Mississippi R9030A1 Jones	190,000
Mississippi R9031B1 Washington	170,000
Missouri R9030B1 Lawrence	263,000
Missouri R9034B1 Macon	231,000
Nebraska R9038A1 Hall	164,000
Nebraska R9062A1 Seward	274,000
North Carolina 9021B1 Sampson	76,000
Texas R9038C1 Hill	114,000
Texas R9054C1 Wood	118,000
Virginia R9031B2 Mecklenburg	78,000
Wisconsin R904G7 Chippewa	200,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3752; Filed, December 14, 1938; 9:44 a. m.]

[Administrative Order No. 313]

ALLOCATION OF FUNDS FOR LOANS

DECEMBER 12, 1938.

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Georgia R9066W2 Taylor	$10,000
Georgia R9086W1 Seminole	20,000
Indiana R9059W1 Wayne	5,000
Kentucky 9040W1 Jessamine	5,000
Louisiana 9010W1 Washington	5,000
Michigan R9039W4 Van Buren	10,000
Michigan R9043W1 Chippewa	15,000
Mississippi 9029W1 Oktibbeha	16,000
Texas R9074W1 Baylor	8,000
Wisconsin R9051W1 St. Croix	10,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-3753; Filed, December 14, 1938; 9:44 a. m.]

FEDERAL REGISTER

VOLUME 3 NUMBER 244

Washington, Friday, December 16, 1938

Rules, Regulations, Orders

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

ADOPTION OF RULE S–142

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, and deeming such action necessary to carry out the provisions of the Act and necessary and appropriate in the public interest and for the protection of investors, hereby adopts the following rule:

SEC. 5.S–142 (Rule S–142) *Definition of "Participates" and "Participation," as Used in Section 2 (11), in Relation to Certain Transactions.* (a) The terms "participates" and "participation" in Section 2 (11)[1] shall not include the interest of a person (1) who is not in privity of contract with the issuer nor directly or indirectly controlling, controlled by, or under common control with, the issuer, and (2) who has no association with any principal underwriter of the securities being distributed, and (3) whose function in the distribution is confined to an undertaking to purchase all or some specified proportion of the securities remaining unsold after the lapse of some specified period of time, and (4) who purchases such securities for investment and not with a view to distribution.

(b) As used in this rule—

(1) The term "issuer" shall have the meaning defined in Section 2 (4)[2] and in the last sentence of Section 2 (11).[3]

(2) The term "association" shall include a relationship between two persons under which one—

(A) Is directly or indirectly controlling, controlled by, or under common control with, the other, or

(B) Has, in common with the other, one or more partners, officers, directors, trustees, branch managers, or other persons occupying a similar status or performing similar functions, or

(C) Has a participation, direct or indirect, in the profits of the other, or has a financial stake, by debtor-creditor relationship, stock ownership, contract or otherwise, in the income or business of the other.

(3) The term "principal underwriter" shall have the meaning defined in Rule S–455 (Sec. 5.S–455).

(C. 38, sec. 19, 48 Stat. 85; c. 404, sec. 209, 48 Stat. 908; 15 U. S. C. 77s) [Gen. Rules and Regs., Rule S–142, effective December 14, 1938]

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38–3767; Filed, December 15, 1938; 11:36 a. m.]

[1] C. 38, sec. 2, 48 Stat. 74; c. 404, sec. 201, 48 Stat. 905; 15 U. S. C. 77b.

[2] C. 38, sec. 2, 48 Stat. 74; c. 404, sec. 201, 48 Stat. 905; 15 U. S. C. 77b.

TITLE 25—INDIANS

OFFICE OF INDIAN AFFAIRS

LAND ACQUIRED FOR USE OF ST. CROIX CHIPPEWA INDIANS PROCLAIMED AN INDIAN RESERVATION

NOVEMBER 28, 1938.

By virtue of authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. L., 984), the lands described below, acquired by purchase for the use and benefit of the St. Croix Chippewa Indians of one-half blood or more who may be designated by the Secretary of the Interior, until such time as they organize under Section 16 of the Indian Reorganization Act, and then for the benefit of such organization, as authorized in accordance with the provisions of Section 5 of that Act are hereby proclaimed to be an Indian Reservation:

NW¼NE¼, NW¼SE¼ and Government Lots 1, 2, 3, 7, 10, 11 and 12, Section 18,

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 17—COMMODITY AND SECURITIES EXCHANGES:
Securities and Exchange Commission: Page
Securities Act of 1933, adoption of Rule S–142 ("participates" and "participation" defined) ---------- 3015
TITLE 25—INDIANS:
Office of Indian Affairs:
St. Croix Chippewa Indians, land acquired for use of, proclaimed an Indian reservation ---------- 3015
TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF:
Veterans' Administration:
Accrued amounts due and unpaid at death---------- 3017
Burial and funeral expenses and transportation of bodies of veterans------- 3017
Claimants and beneficiaries, release of information concerning ---------- 3016
Death pension or compensation, effective dates of increase of ---------- 3017
Hospital and domiciliary care ---------- 3019
TITLE 43—PUBLIC LANDS:
General Land Office:
Ute Indian lands, Colo., revocation order ---------- 3021
Office of Secretary of Interior, Division of Grazing:
Arizona Grazing District No. 4, modification---------- 3021
Oregon Grazing District No. 5, modification---------- 3021

NOTICES

Federal Power Commission:
Copper District Power Co., hearing postponed---------- 3022

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Page

Interstate Commerce Commission:
Safety of operation of motor vehicles used in transporting property by private carriers, hearing postponed 3022
Securities and Exchange Commission:
Alabama Power Co., hearing ... 3022

Township 35 North, Range 15; Government Lots 1 and 2, Section 12, Township 35 North, Range 16; Government Lots 1, 2, 3, 4, 5, 6, 7 and 8, Section 3, Township 38 North, Range 15; Government Lots 2, 3, 4, 5, 6 and 7, Section 34, Township 39 North, Range 15; Government Lots 4 and 5, Section 22, Township 41 North, Range 16; and, N½NW¼ Section 27, Township 41 North, Range 16, all West of the 4th P. M.

All of said lands being within Burnett and Polk Counties, Wisconsin, containing a total of 996.96 acres, more or less.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 38-3763; Filed, December 15, 1938; 10:01 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

REVISION OF REGULATIONS

RELEASE OF INFORMATION CONCERNING CLAIMANTS AND BENEFICIARIES [1]

SEC. 1.311 (d) *Addresses.* (1) When an address or other information is requested in a claim in which the veteran served prior to April 21, 1898, it will be furnished free to any department or agency of the United States Government or of a State or municipal Government, to a Member of Congress, a social welfare organization, or any other agency or person interested in the welfare of the claimant. In any other case, if not prejudicial to the interests of the United States or of any living person, charge therefor will be made in conformity with Sec. 1.328.

(2) When an address is requested that may not be furnished under Secs. 1.310–1.331, because the veteran served after April 20, 1898, the person making the request will be informed that a letter enclosed in an unsealed envelope, bearing sufficient postage, without return address, with the name of the addressee thereon, will be forwarded by the Veterans Administration, but this procedure will be followed only when it does not interfere unduly with the functions of the service or division concerned. In no event will letters be forwarded to aid in the collection of debts. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.312 *Disclosure to Claimants; and concerning payments.* Disclosures of information from the files, records, reports, and other papers and documents pertaining to claims filed with the Veterans' Administration shall be made by the regional office or facility having possession of the case file:

(a) (1) To a veteran or his duly authorized representative, as to matters concerning himself alone when such disclosure would not be injurious to the physical or mental health of the veteran. If the veteran be deceased, matters concerning him may be disclosed to his widow, children, or next of kin if such disclosure will not be injurious to the physical or mental health of the person in whose behalf information is sought or cause repugnance or resentment toward the decedent.

(2) To a widow, child or dependent parent or the duly authorized representative of any of these persons, as to matters concerning such person alone when such disclosures will not be injurious to the physical or mental health of the person to whom the inquiry relates. If the person concerning whom the information is sought is deceased, matters concerning such person may be disclosed to the next of kin if the disclosures will not be injurious to the physical or mental health of the person in whose behalf the information is sought or cause repugnance or resentment toward the decedent.

(b) The amount of pension or compensation of any beneficiary shall be made known to any person who applies for such information. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.316 *Disclosure prejudicial to mental or physical health of claimant.* Determination of the question when disclosure of information from the files, records and reports, will be prejudicial to the mental or physical health of a claimant, beneficiary or other person in whose behalf information is sought will be made by the medical director, central office; or the chief medical officer in the regional office or facility having regional office activities; or the manager, in other facilities. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.320 (b) *Inspection of records or furnishing information therefrom when service was prior to April 21, 1898.* Any person may inspect the records and information may be given therefrom in cases of veterans who served prior to but not on or after April 21, 1898, when such inspection or the furnishing of such information, is not prejudicial to the interests of the Government or, so far as may be apparent, to the interests of any living person. The examination of records or other documents relating to claims for pension or bounty land or the furnishing of information therefrom shall not extend to confidential communications, including instructions regarding, or requests for special or field examinations, summaries and recommendations of inspectors or field examiners, reports relating to criminal charges and investigations, or to evidence obtained in cases involving crimes, forfeiture, or misconduct; nor shall it extend to reports from the Government departments, bureaus, or other agencies, except by permission of the head of the service concerned, or his designate. No person will be permitted to take copies from such reports. Inspection of reports of official physical or mental examinations will not be permitted in cases wherein payments are being made and no claim is pending. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.322 *Information to Commanding Officers of State Soldiers Homes.* When a request is received in a regional office or Veterans Administration facility, from the commanding officer of a State soldiers home, for information, other than information relative to the character of the discharge from the facility, concerning a veteran formerly domiciled in a Veterans Administration facility, who served subsequent to April 20, 1898, the provisions of Sec. 1.310 are applicable, and no disclosure will be made from the files, records, reports, and other papers and documents pertaining to any claim, whether pending or adjudicated, unless the request is accompanied by the authorization outlined in Sec. 1.312 (a). However, managers of regional offices or Veterans Administration facilities upon receipt of a request from the commanding officer of a State soldiers home, for the character of the discharge of a veteran from a Veterans Administration facility, will comply with the request, restricting the information disclosed solely to the character of the veteran's discharge from the facility. Such information will be disclosed only upon receipt of a specific request therefor from the commanding officer of a State soldiers home. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

[1] 3 F. R. 795 DI.

SEC. 1.328 *Schedule of fees:*

Post office addresses furnished under Sec. 1.311 (d) each	$0.25
Written copies, per 100 words	.25
Photostat copies, per sheet	.25
Certifications, each	.25

Information furnished under Sec. 1.323 shall be supplied without charge. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3768; Filed, December 15, 1938; 11:58 a. m.]

REVISION OF REGULATIONS

EFFECTIVE DATES OF INCREASE OF DEATH PENSION OR COMPENSATION

SEC. 2.2579 *Increase on account of posthumous child.* For the purposes of all laws granting compensation or pension to widows or children of veterans of any war or of the peace-time establishments, an increased rate based on the birth of a posthumous child, shall be made effective as of the date of birth of such child upon receipt of proof of birth in conformity with the requirements of Sec. 2.1046, provided mention of the expected child is made in the application for death benefits in the claim filed by the widow or the other children. (December 15, 1938) (43 Stat. 608; 46 Stat. 1016; 48 Stat. 9; 38 U. S. C. 2, 11, 11a, 426, 707)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3772; Filed, December 15, 1938; 11:59 a. m.]

REVISION OF REGULATIONS

ACCRUED AMOUNTS DUE AND UNPAID AT DEATH

SEC. 2.2660 *Accrued pension: Act of March 2, 1895.* Pension accrued under the laws relating to service prior to April 21, 1898, Special Acts, and laws reenacted by Section 30, Title III, Public No. 141, 73d Congress (Act of March 28, 1934), Public No. 269, 74th Congress (Act of August 13, 1935), and Public No. 541, 75th Congress (Act of May 24, 1938) shall be paid as provided in the Act of March 2, 1895 (28 Stat. 964). (December 15, 1938)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3771; Filed, December 15, 1938; 11:59 a. m.]

REVISION OF REGULATIONS

BURIAL AND FUNERAL EXPENSES AND TRANSPORTATION OF BODIES OF VETERANS

Payment of Burial Expenses of Deceased War Veterans

SEC. 2.2692 (A) *Death prior to March 20, 1933.* Where a veteran of any war who was not dishonorably discharged died prior to March 20, 1933, under conditions which warrant the payment of or reimbursement for, burial, funeral and transportation expenses, payment or reimbursement may be made in accordance with the laws in effect prior to March 20, 1933, if claim therefor was filed within three months from June 16, 1933, the date of enactment of Public No. 78, 73d Congress.

(B) *Death on or after March 20, 1933.* Where an honorably discharged or retired veteran of any war dies after discharge, and on or after March 20, 1933, amounts shall be allowed for burial and funeral expenses and transportation of the body (including preparation of the body) to the place of burial, as follows: Where death occurred on or after March 31, 1933 and before January 19, 1934 a sum not exceeding $75; on or after January 19, 1934, a sum not exceeding $100. If death occurred on or after March 28, 1934, an honorable discharge is not essential as to a war veteran in receipt of pension or compensation.

(C) *Limitation as to time for filing and perfecting claim.*[1] No allowance may be made for direct payment of or reimbursement for burial, funeral and transportation expenses, where burial occurred on or after March 31, 1933, unless there is filed within one year subsequent to the date of permanent burial or cremation of the veteran a specific claim for the benefit by the person entitled or by some person acting for him. In the event the claimant's application is not complete at the time of original submission, the claimant and the person acting for him, if any, will be notified of the evidence necessary to complete the application and if such evidence is not received within one year from the date of the request therefor no allowance may be paid. (December 15, 1938) (48 Stat. 11, 309; 38 U. S. C. 717, 718, 722)

Definition of "Veteran of Any War"

SEC. 2.2694 (A) *Persons included.* The term "veteran of any war" for the purpose of adjudicating claims for direct payment of or reimbursement for burial, funeral and transportation expenses incurred in behalf of deceased veterans where death was on or subsequent to March 20, 1933, will include: (1) Civil War, any honorably discharged member of the active military or naval service of the United States who served during the Civil War subsequent to April 11, 1861, and prior to May 27, 1865, including those persons who served as members of State organizations participating in the Civil War for whose services the State has been reimbursed by the United States Government. Nothing herein shall be construed to exclude from the definition any person who was receiving pension as a Civil War veteran under the Civil War service pension laws or who was not entitled to pension under such Civil War pension service laws solely because of length of service or as to whom any special act of Congress has been enacted which provides that such person shall be considered as having rendered military service during the Civil War; (2) Indian Wars, any veteran of any Indian War, as formerly contemplated by the provisions of Section 201 (1) of the World War Veterans Act, 1924, as amended, and regulations, precedents, and instructions issued pursuant thereto, or a person who at time of his death was receiving a pension in accordance with the provisions of the laws governing the payment of a pension as a veteran of an Indian War; (3) Spanish-American War, any honorably discharged officer or enlisted man who was employed in the active military or naval service of the United States on or after April 21, 1898 and before August 13, 1898, including those women who served as army nurses under contract during this period and including any honorably discharged person who died on or after March 19, 1935, and who served in the military or naval service of the United States between August 13, 1898 and July 4, 1902, both dates inclusive, who left the continental United States under orders for military or naval service in Guam, Cuba, or Puerto Rico, between such dates inclusive; (4) Philippine Insurrection, any honorably discharged officer or enlisted man employed in the active military or naval service of the United States including those women who served as army nurses under contracts, who actually participated in the Philippine Insurrection on or after August 13, 1898 and before July 5, 1902, provided, however, if the person was serving in the United States military forces engaged in the hostilities in the Moro Province the ending date shall be July 15, 1903; (5) Boxer Rebellion, any honorably discharged officer or enlisted man, including those women who served as army nurses under contracts, employed in actual participation in the Boxer Rebellion on or after June 20, 1900 and before May 13, 1901; (6) World War, any honorably discharged officer, enlisted man, member of the Army Nurse Corps (female), Navy Nurse Corps (female), who was employed in the active military or naval service of the United States on or after April 6, 1917 and before November 12, 1918, provided, however, that if the person was serving in the United States military forces in Russia the ending date will be extended to April 1, 1920, (the provisions of Section 5, Public No. 304, 75th Congress, are not applicable to burial claims); (7) any enlisted man or officer of the Army, Navy, or Marine Corps in retirement status at the date of death if shown to have served honorably during the period of any war. Where death occurs on or after March 28, 1934, (except as provided in (B), below), and the other requirements of this paragraph have been met, an honorable discharge will not be required if the veteran was in receipt of pension, compensation, or

[1] 1 F. R. 1695.

emergency officers retirement pay at the time of his death.

(B) *Persons not included.* Except as provided in Sec. 2.2696 (E) a discharged or rejected draftee; a member of the national guard who reported to camp in answer to the President's call, for World War service, but who when medically examined was not finally accepted for active military service; or an alien who does not come within the purview of Sec. 2.1001 (J), is not a "veteran of any war" within the meaning of that term as defined in paragraph (A) hereof, even though such person may have been in receipt of compensation or pension. (December 15, 1938) (48 Stat. 8, 9, 11, 525; 38 U. S. C. 366, 701, 704, 717, 718)

Death Occurring While Traveling Under Prior Authorization or in a Veterans' Administration Facility [1]

SEC. 2.2696 (A) When a person while traveling under proper prior authorization and at the expense of the Veterans' Administration, either to or from a Veterans' Administration facility or regional office, for the purpose of examination, treatment or care, dies enroute, burial, funeral and transportation expenses will be provided in all respects as though death occurred in a Veterans' Administration facility. (December 15, 1938)

(B) When death occurs in a Veterans' Administration facility on or subsequent to March 20, 1933 and prior to January 19, 1934, there will be paid the actual cost (not exceed $75) of burial and funeral and the body will be transported to the place of residence or to the nearest available National Cemetery or such other place as the next of kin may direct where the expense is not greater than the ascertained cost of transportation to place of residence or to the nearest available National Cemetery. When the ascertained cost of transportation to place directed by the next of kin exceeds the amount to be allowed as provided herein, the allowable amount shall be the amount payable to the place of residence or to the nearest available National Cemetery, whichever is the greater, which amount shall be available for reimbursement of expenses or partial payment of the expenses incurred for transportation. When death occurred on or after January 19, 1934, the amount to be allowed for the cost of burial and funeral will not exceed $100. (See Sec. 8.09) (June 6, 1933)

(E) Reimbursement shall be allowed for burial, funeral and transportation expenses in the case of a discharged or rejected draftee; a member of the National Guard who reported to camp in answer to the President's call for World War service, but who, when medically examined, was not finally accepted for active military service; who dies in a Veterans Administration facility, *to which properly admitted* under the provisions of Sec. 6.6047, in the same manner as for a veteran dying in a Veterans Administration facility. See Sec. 2.2694 (B).

(1) Reimbursement shall be allowed for burial, funeral and transportation expenses in the case of a veteran honorably discharged from a period of service other than war service who dies in a Veterans Administration facility, to which properly admitted under the provisions of Sec. 6.6047, in the same manner as a veteran of a war dying in a Veterans Administration facility.

(2) Where death of a person occurs in a Veteran Administration facility and it is determined that such person was not properly entitled to hospital treatment, no reimbursement of burial, funeral and transportation expenses will be allowed. (See Sec. 8.06 and currently approved supply procedure, concerning disposition of bodies of persons not entitled to statutory burial allowance.)

(G) The term "Veterans Administration facility" shall include any hospital or institution to which proper authorization for admission has previously been granted by the Veterans Administration. (December 15, 1938.) (48 Stat. 11; 38 U. S. C. 717, 718)

SEC. 2.2698 *Evidence required in case of unclaimed bodies.* If the body of a deceased veteran is unclaimed, there being no relatives or friends of the deceased veteran located who will claim the body, the amount provided for the burial allowance will be available for burial of the deceased upon the submission of a properly completed Claim for Burial Expense, Form 530, accompanied by a comprehensive statement made by the manager or other official acting in his stead covering all relevant facts in the case and showing specifically to what extent efforts were made to locate relatives or friends. The burial allowance will not be awarded, however, in any instance where an award would result in an escheat of any part of the estate. (December 15, 1938) (48 Stat. 11; 49 Stat. 2031; 38 U. S. C. 508, 717, 718)

Assets

SEC. 2.2699 (A) Assets are not a factor for consideration in cases of veterans who died on or after June 29, 1936. (Public No. 844, 74th Congress, Act of June 29, 1936)

(B) In those cases where death occurred prior to June 29, 1936, and assets were a factor, the then existing law and regulations relating to assets will govern. (December 15, 1938)

Filing of Claim for Unauthorized Burial, Funeral and Transportation Expenses

SEC. 2.2700 (A) Claims for burial, funeral and transportation expenses must be submitted on Form 530, Claim for Burial Expenses, and should be executed by the person claiming payment. If the undertaker has not been paid, he is the proper person to assert claim; if the undertaker has been paid, the proper person to assert claim is the person whose personal funds were used to make payment. If payment was made from funds of the veteran or other deceased person's estate the executor or administrator of such estate should assert claim or if no such officer was appointed then claim should be asserted by someone acting for the estate and distribution of the burial allowance should be made to the person or persons found to be entitled under the laws governing the distribution of intestate estates in the State of the decedent's personal domicile. See currently approved adjudication procedure. In addition to Form 530, claims for burial, funeral and transportation expenses should be supported by an itemized statement of account (preferably on the billhead of the undertaker), showing the cost of each service rendered and the name of the deceased veteran. Receipts must be furnished to cover charges for cremation, grave digging, grave space, firing squads, and for items not ordinarily carried in an undertaker's stock, or for services performed by persons other than the undertaker or his regular employees where these items and services are listed on an unpaid bill supporting a claim for the burial allowance and the other allowable items or services are not sufficient to cover the amount to be awarded. However, in any case when it is shown that a *casket* and *complete* funeral services were furnished at a stipulated price for the whole service, the amount of which is such that there is no doubt but that if required to be itemized such itemization would disclose allowable services aggregating $100 or more, an itemized statement need not be required. All statements of accounts where paid must show by whom payment was made and be properly receipted in the firm name of the undertaking concern, and should show the full name and capacity of the individual receipting for the firm.

(B) *Proof of death.* Proof of the fact of death shall be established in accordance with the provisions of Sec. 2.1055.

(C) *Service record in claim for reimbursement of burial, funeral and transportation expenses.* The service record of the veteran on account of whose death claim is filed for reimbursement of burial, funeral and transportation expenses, will be established by an official report from the service department in which the veteran served or by other official Governmental records. Awards of burial allowance will not be made upon the basis of discharge certificates or copies thereof.

(D) *Waiver by distributees.* In any instance where the burial, funeral and transportation expenses of a deceased veteran have been paid from the funds of the veteran or some other deceased person's estate and the identity and right of all persons to participate have been established, the amount of the statutory burial allowance payable to heirs may be awarded to one heir upon the unconditional written consent of all other heirs. No payment will be authorized where there are no heirs and the money, if paid, would escheat. (December 15, 1938) (48 Stat. 11; 38 U. S. C. 717, 718)

[1] 3 F. R. 794 DI.

Allowable Expenses of Burial, Funeral and Transportation

SEC. 2.2702 (A) (1) For the purpose of regulations governing the payment of burial, funeral and transportation expenses, the following items and articles will be considered as allowable: Embalming (Taharah in Jewish burials), shaving, washing, and dressing, casket or coffin, or in lieu thereof materials and labor used in the constructions of casket or coffin; steel or concrete vault (if a vault is used as a shipping case and also for burial, an allowance not exceeding $25.00 may be applied thereon as part of transportation expenses in those cases where transportation charges are payable, exclusive of the $100 burial allowance as provided in Sec. 2.2696, and any balance on such vault may be included in the burial allowance of $75.00 or $100 whichever applies), box not to exceed $25.00, removal of box to cemetery, undertaker's fees for personal or professional services, chapel, hearse, limousines or other conveyances, rental vault, digging of grave including materials used in walling or lining grave, single grave space (except where burial is in a plot owned by a member of the family of the deceased) perpetual care if compulsory under deed to lot or site, grave marker or monument, lowering device, tent, grave equipment, blanket, slumber robe, veil, tahlith, burial clothing not to exceed $50.00, chairs, cremation, candles, candelabra, crucifix, crepe, door badge, necessary fee for minister, music, or other religious services not to exceed $15.00; necessary fees for watchers not to exceed $10.00 for each or a total of $20.00; necessary fees for pall bearers not to exceed $2.00 each or a total of $12.00 (fees for minister, music, watchers and pall bearers must be supported by receipts), fees for firing squads; permits and such other necessary burial and funeral expenses as are reasonable, not to exceed $75.00 or $100, whichever applies. The cost of flowers (other than door badge), flower car, obituary notices and state tax will not be allowed. In cases where transportation of remains is a proper charge against the Veterans Administration exclusive of the $100 burial allowance as provided in Sec. 2.2696, and the transportation is accomplished by means other than by common carrier, the reasonable cost of such transportation shall be allowed as may be determined by employees authorized to make findings of fact and law in burial claims.

(2) *Items allowable as part of transportation.* In adjudicating claims where death of a person occurs in a Veterans Administration facility or while traveling under prior authorization of the Veterans Administration, either to or from a Veterans Administration facility or regional office, the following items will be considered as part of transportation expense, the cost of which will be allowed in addition to the statutory allowance of $100; procuring permit for shipment, outside case for shipment, sealing outside case (tin), sealing outside case (galvanized iron), hearse to common carrier, one removal from common carrier either to home of decedent, or to the undertaking establishment or direct to the place of burial. In those cases where the remains are transported overland by means other than common carrier the items of transportation enumerated in this paragraph will not be allowed in addition to the statutory allowance and the removal charge. (See Sec. 2.2696 (C))

(B) *Payments on burial by State, lodge, society, etc.* Nothing in Sec. 2.2692 to 2.2706, shall be construed to cause the disallowance of a claim by the Veterans Administration because of any payment made on burial and funeral (including transportation) by a State, county, or other political subdivision, lodge, union, fraternal organization, society, or beneficial organization, insurance company, workmen's compensation commission, state industrial accident board, or employer, unless the amount of expenses incurred is absorbed by the amount actually paid for burial and funeral (including transportation) purposes by such agencies or organizations named: provided that no claim shall be reduced more than the difference between the entire amount of expenses incurred, and the amount paid by any or all of the foregoing agencies or organizations, provided further, that in no instance shall the amount allowed exceed $100 or $75 whichever applies.

(C) *Cost of services furnished by a Veterans' Administration facility to be deducted.* In the adjudication of claims filed under Sec. 2.2696, the cost of services (burial and funeral) furnished by a Veterans' Administration facility will be deducted from the burial allowance.

(D) *Reimbursement for cost of flags.* Subsequent to April 14, 1933, no reimbursement may be allowed for burial flags privately purchased by relatives, friends, or other parties. (December 15, 1938) (48 Stat. 11; 38 U. S. C. 717, 718)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3770; Filed, December 15, 1938; 11:58 a. m.]

REVISION OF REGULATIONS

HOSPITAL AND DOMICILIARY CARE

SEC. 6.6046 *Hospitalization for treatment.* (A) Hospital treatment may be provided by the Veterans' Administration for the following:

(1) Applicants entitled by previous military or naval service, in the forces of the United States, in war or in periods other than war-time, including officers or enlisted men of the regular establishment on retirement or retainer pay.

(2) Applicants on the active or retired list of the United States Navy and members of the Fleet Reserve or Marine Corps Reserve, under authority of the Act of January 19, 1929 (Public No. 675), when hospitalization is requested for them by the Navy Department.

(3) Claimants and beneficiaries of the United States Employees Compensation Commission, including employees of the Forest Service, Department of Agriculture or other civil employees assigned to duty in CCC camps.

(4) Enrollees of and officers and enlisted men attached to the Civilian Conservation Corps.

(5) Employees of the Works Progress Administration, including the National Youth Administration, injured in performance of duty.

(6) Administrative employees of the Public Works Administration. Such persons are Government employees, potentially entitled to benefits under the Federal Employees Compensation Act. But employees on Public Works Administration projects are ordinarily performing work under private contractors, and thereby are not covered by the said Compensation Act, and not entitled to treatment by the Veterans' Administration.

(7) Pensioners of nations allied with the United States in the World War, upon authorization from accredited officials of the respective Governments.

(B) Applicants comprehended by (2) to (7) inclusive of paragraph (A) hereof may be supplied hospital treatment when beds are available in facilities under direct and exclusive jurisdiction of the Veterans' Administration after the needs of applicants under (1) are fully met. For governing conditions, including per diem rates, see currently approved medical procedure.

(C) Domiciliary (barracks) care may be provided applicants under (A) (1), except retired officers and retired enlisted men of the regular establishment. Domiciliary (barracks) care will not be provided for persons comprehended by (A) (2) to (7) inclusive.

(D) Retired emergency officers have potential entitlement under (A) (1) to hospital treatment at no per diem charge. (December 15, 1938) (45 Stat. 1090; 24 U. S. C. 31; 39 Stat. 742; 5 U. S. C. 751; 48 Stat. 22; 16 U. S. C. 585; 49 Stat. 117; 43. Stat. 621; 38 U. S. C. 488)

SEC. 6.6047 *Eligibility of ex-members of the military or naval forces for hospital or domiciliary care.*[1] Within the limits of Veterans' Administration facilities, hospital or domiciliary care may be furnished the following applicants, in the specified order of preference:

(B) Hospital treatment for: (1) Persons honorably discharged from the United States Army, Navy, Marine Corps or Coast Guard for disability incurred in line of duty, or who are in receipt of

[1] 1 F. R. 426.

pension for service-connected disability, when suffering from injuries or diseases incurred or aggravated in line of duty in the active service, and for which they are in need of hospital treatment. Cadets and midshipmen discharged from the acadamies at West Point or Annapolis who meet these requirements as to character of discharge or pension are eligible under this subparagraph, regardless of the requirement as to active military or naval service.

(2) For applicants not in receipt of pension for service-connected disability, the official records of the Army or Navy, respectively, relative to findings of line of duty for its purposes, will be accepted in determining eligibility for hospital treatment under this, subparagraph (B); except that where the official records of the Army or Navy show a finding of disability not incurred in line of duty and evidence is submitted to the Veterans' Administration which permits of a different finding, the decision of the Army or Navy will not be binding upon the Veterans' Administration, which will be free to make its own determination of line of duty incurrence upon the evidence so submitted. It will be incumbent upon the applicant to present such controverting evidence and, until he so acts and a determination favorable to him is made by the Veterans' Administration, the finding of the Army or Navy will control and hospitalization will not be authorized. Such controverting evidence, when received from an applicant, will be referred to the adjudicating agency which would have jurisdiction if the applicant were filing claim for pension or disability compensation, and the determination of such agency as to line of duty, which is promptly to be communicated to the manager of the facility receiving the application for hospitalization, will govern his disapproval or approval of admission, other eligibility requirements having been met. Where the official records of the Army or Navy show that the disability on account of which a veteran was discharged from his peace-time service was incurred in line of duty, such showing will be accepted for the purpose of determining his eligibility for hospitalization notwithstanding the fact that the Veterans' Administration has made a determination in connection with a claim for monetary benefits that the disability was incurred not in line of duty. See also Public No. 648, 75th Congress, defining line of duty, whether on active duty or authorized leave, relative to applicants whose only military or naval service was in a period other than war-time.

If the applicant's only service was in a period other than war-time, and his last discharge was not honorable, hospital treatment will be furnished only for a disease or injury incurred in line of duty in a period of service for which he was honorably discharged for disability incurred in line of duty.

(3) When the applicant is in receipt of a pension for a service-connected disability, inquiry will not be made as to the character of discharge from service. The same waiver as to character of discharge will be applicable to paragraph (D), following.

(4) In those exceptional cases where the official records of the Army or Navy show honorable discharge because of expiration of period of enlistment or any other reason save disability, but also show a disability incurred in line of duty during the said enlistment; and the disability so recorded is considered in medical judgment to be or to have been of such character, duration, and degree as to have justified a discharge for disability had the period of enlistment not expired or other reason for discharge been given, the medical director, upon consideration of a clear, full statement of the circumstances submitted to him, is authorized to approve admission of the applicant for hospital treatment, provided other eligibility requirements are met. A typical case of this kind would be one where the applicant was under treatment for the said disability recorded during his service at the time discharge was given for reason other than disability. (December 15, 1938)

(E) Hospital or domiciliary care for: Veterans who served, regardless of length of service, during a period of war as defined in paragraphs I and IV of Sec. 8.10, as amended, or in any war prior to the Spanish-American War; (1) who were not dishonorably discharged from their last period of war service; (2) who swear that they are unable to defray the expenses of hospitalization or domiciliary care, including the expense of transportation to and from a Veterans Administration facility; (3) and who are suffering from a disability, disease or defect which, being susceptible of cure or decided improvement, indicates need for hospital care, or which, being essentially chronic in type and not susceptible of cure, or decided improvement by hospital care, is producing disablement of such degree and of such probable persistency as will incapacitate from earning a living for a prospective period, and thereby indicates need for domiciliary care. The provisions of section 5, Public No. 304, 75th Congress, that "re-enlistment after November 12, 1918, and before July 2, 1921, where there was prior service between April 6, 1917, and November 11, 1918, shall be considered as World War service," etc., will have no application to Sec. 6.6047.

(F) Hospital treatment (only in facilities under direct and exclusive jurisdiction of the Veterans Administration) for: (1) Retired officers and enlisted men of the United States Army, Navy, Marine Corps or Coast Guard (regular establishment) who served in a period of war as defined in paragraphs I and IV of Sec. 8.10, as amended, or in any war prior to the Spanish-American War; and who are suffering from a disease or injury for which hospital treatment is needed. (December 15, 1938) (48 Stat. 9, 285, 525; 49 Stat. 729, 730; 38 U. S. C. 612, 621, 622, 662, 706, 707, 730 and 36 U. S. C. 122)

Sec. 6.6048, paragraph (3) canceled December 15, 1938.

Sec. 6.6049 canceled December 15, 1938.

SEC. 6.6050 *Utilization of facilities other than those under direct and exclusive jurisdiction of the Veterans' Administration.*[3] For the purposes of Sec. 8.10, paragraph XIX, defining "Veterans' Administration facilities", the following provisions will govern in authorizing admissions to facilities other than those under the direct and exclusive jurisdiction of the Veterans' Administration:

(B) *Private facilities* will not be used for hospitalization of beneficiaries except when facilities under direct and exclusive jurisdiction of the Veterans' Administration or other Government facilities are not feasibly available, or when the physical or mental condition of beneficiaries will not allow of their transfer from a private institution to a Government facility. Except for treatment of a medical emergency arising from a service-connected disorder, hospitalization of a *male* beneficiary will not be authorized in any private, municipal or State institution, whether under contract or not under contract. In such medically emergent cases, authorization for admission to such private, municipal or State hospital will be given subject to the conditions stipulated in (1) following; and when so given will be authority for the payment of vouchers covering the cost of such hospitalization:

(1) The chief medical officer or his designate, of the regional office or facility with regional office activities having jurisdiction of the territory in which the private, municipal or State hospital, contract or non-contract, is located, when informed of the medical emergency in time to authorize the admission, or when requested to issue an authorization to cover such admission after the patient has entered such hospital, will at once put the superintendent thereof on notice as follows: That all services or supplies furnished the beneficiary must be charged and may be paid for only at rates in accordance with the schedule of fees for medical treatment, Veterans' Administration, if the hospital concerned is not under contract, and at rates in accordance with the terms of the contract, if the hospital concerned is one under contract; that all items in the voucher covering such services or supplies will be subject to determination, by the chief medical officer or his designate, as to reasonable necessity therefor; and that, in conformity with the principles applying to utilization of facilities other than those under direct and exclusive jurisdiction of the Veterans' Administration, payment cannot be made for any such services or supplies that had been furnished prior to the date that such hospitalization had been authorized by the Veterans' Administration. (See also Sec. 6.6140 to 6.6148 inclusive) (December 15, 1938)

(J) An applicant whose entitlement to hospital treatment or observation has been established, either for a condition service-connected or not service-connected, whose admission to a Government facility has been approved, who has been supplied transportation, but who, while enroute to or from the designated facility, develops an unforeseen and unavoidable medical emergency requiring admission to a private hospital or treatment by a private physician, will be entitled to reimbursement for necessary extra transportation, services and supplies furnished in such circumstances, at rates in accordance with the schedule of fees for medical treatment, Veterans Administration. (December 15, 1938) (48 Stat. 9, 285, 525; 49 Stat. 729, 730; 38 U. S. C. 612, 621, 622, 662, 706, 707, 730 and 36 U. S. C. 122)

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3769; Filed, December 15, 1938; 11:58 a. m.]

[3] 3 F. R. 529 DI.

TITLE 43—PUBLIC LANDS

OFFICE OF SECRETARY OF INTERIOR, DIVISION OF GRAZING

ARIZONA GRAZING DISTRICT NO. 4

MODIFICATION

DECEMBER 9, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269); as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, the Departmental order of February 14, 1936, establishing Arizona Grazing District No. 4, is hereby modified to include within its exterior boundaries the following-described land:

ARIZONA

Gila and Salt River Meridian

T. 14 S., R. 27 E., all.

The Federal Range Code, revised to August 31, 1938, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 38-3761; Filed, December 15, 1938; 10:01 a. m.]

OREGON GRAZING DISTRICT NO. 5

MODIFICATION

NOVEMBER 19, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), the Departmental order of October 21, 1935, establishing Oregon Grazing District No. 5, is hereby revoked as far as it affects the following-described lands, such revocation to be effective upon the inclusion of the lands within the Deschutes National Forest:

OREGON

Willamette Meridian

T. 14 S., R. 10 E.,
secs. 1 to 24 and 28 to 34 inclusive;
T. 15 S., R. 10 E.,
secs. 3 to 10, 15 to 23, and 26 to 35 inclusive;
T. 16 S., R. 10 E.,
all;
T. 17 S., R. 10 E.,
secs. 1 to 6 and 8 to 15 inclusive, E½ sec. 16, secs. 22 to 26 inclusive, secs. 35 and 36;
T. 18 S., R. 10 E.,
secs. 1, 2, 3, 10 to 14 inclusive, 24, 25, and 36;
T. 16 S., R. 11 E.,
W½ secs. 30 and 31;
T. 17 S., R. 11 E.,
S½ sec. 4, NW¼, S½ sec. 5, secs. 6 to 9 inclusive, W½, W½SE¼ sec. 15, secs. 16 to 21 inclusive, W½E½, W½ sec. 22, secs. 27 to 34 inclusive;
T. 18 S., R. 11 E.,
secs. 3 to 10 inclusive, W½E½, W½ sec. 11, secs. 14 to 23 and 26 to 35 inclusive.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 38-3762; Filed, December 15, 1938; 10:01 a. m.]

GENERAL LAND OFFICE

UTE INDIAN LANDS, COLORADO

ORDER OF REVOCATION

DECEMBER 8, 1938.

Section 6 of the act of June 28, 1938, Pub. No. 754, 75th Congress, 3rd Session, provides in part,

• • • anything in any other Acts of Congress to the contrary notwithstanding, no lands in Colorado north of and including range [township] 35 formerly owned or claimed by the Ute Indians or any band thereof shall be restored to tribal ownership under the provisions of section 3 of the Act of June 18, 1934 (48 Stat. 984), and said lands to the extent that they have not been disposed of by the United States are hereby declared to be the absolute property of the United States:

The second proviso of section 6, *supra*, provides:

That any orders restoring or attempting to restore to tribal ownership any portion of the lands in Colorado north of range [township] 35 are hereby rescinded and annulled.

Departmental order of restoration to tribal ownership, Confederated Bands of the Ute Tribe of Indians, Colorado, dated November 13, 1937,[1] involved approximately 8,500 acres of land, said to be primarily valuable for minerals. These lands are situated within the exterior boundaries of the area specifically declared by section 6 of the act of 1938 to be the absolute property of the United States. Obviously, therefore, the second proviso of section 6 rescinded and annulled the order of November 13, 1937, and thereby declared the lands therein described to be the absolute property of the United States.

Accordingly, so much of the Departmental order of September 19, 1934, 54 I. D. 559, as temporarily withdrew any of the lands made the subject of the above-quoted provisions of the act of 1938, or any mineral deposits within the exterior boundaries of the areas made the subject of the above-quoted provisions of that act, is hereby revoked, this revocation to become effective January 31, 1939, at 9:00 a. m., when all lands and mineral deposits released by this order from the temporary withdrawal of September 19, 1934, will become subject to such use and disposition as is provided by the laws applicable thereto. In this connection, reference is made to Executive Order No. 6910 of November 26, 1934, as amended; the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, commonly called the Taylor Grazing Act, under which grazing act the land thus released will not be susceptible to entry through the homestead or any of the non-mineral land laws until classified as suitable for, and made subject to, such entry.

Applications may be filed prior to January 31, 1939, and any applications received before that date, together with those filed at 9:00 a. m. on January 31, 1939, will be treated as simultaneously filed, and the successful applicant determined by a public drawing in the manner provided under paragraph 4 of the instructions of May 22, 1914, 43 L. D. 254.

All applications received after 9:00 a. m. on January 31, 1939, will be disposed of in the order of their filing.

Applications for lands north of the township line between Townships 41 and 42 North, N. M. P. M., should be filed in the district land office at Denver, and those for lands south of that line, in the district land office at Pueblo, Colorado.

The first proviso of section 6, *supra*, provides:

"That there is hereby added to the existing Southern Ute Indian Reservation in tribal ownership . . . the vacant, undisposed of ceded lands within the following described boundaries: . . .

The description is that contained in Departmental Order of July 17, 1937. These lands are unaffected by this order of revocation.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-3764; Filed, December 15, 1938; 10:02 a. m.]

[1] 2 F. R. 2563 (2985 DI).

Notices

FEDERAL POWER COMMISSION.

[Docket No. DI-145]

IN THE MATTER OF COPPER DISTRICT POWER COMPANY

ORDER POSTPONING HEARING

DECEMBER 13, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

Copper District Power Company has requested postponement of the public hearing in the above cause now assigned to be held on December 19, 1938, in accordance with the order of the Commission adopted on November 29, 1938;[1] and, for good reason shown;

The Commission orders that:

The public hearing in the above cause now set for December 19, 1938, be and the same is hereby postponed to January 6, 1939, at the same time and place.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-3760; Filed, December 15, 1938; 10:01 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 3]

ORDER IN THE MATTER OF ESTABLISHING REASONABLE REQUIREMENTS TO PROMOTE SAFETY OF OPERATION OF MOTOR VEHICLES USED IN TRANSPORTING PROPERTY BY PRIVATE CARRIERS

HEARING POSTPONED

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 8th day of December, A. D. 1938.

It appearing, That by order dated October 31, 1938,[2] the above-entitled proceeding was set for hearing before Examiner R. W. Snow, at the times and places set forth in said order;

It further appearing, That the National Council of Private Motor Truck Owners has filed a petition requesting that the hearings in the above-entitled case be postponed; and good cause therefor appearing:

It is ordered, That that part of said order of October 31st which fixes the times and places of hearings be, and it is hereby, vacated, and that this proceeding be, and it is hereby, set for hearing before the Examiner at the following times and places:

February 20, 1939, 10 A. M. S. T. at the offices of the Interstate Commerce Commission, in Washington, D. C.

February 23, 1939, 10 A. M. S. T. at the Hotel New Yorker, New York, N. Y.

February 27, 1939, 10 A. M. S. T. at the Hotel Sherman, Chicago, Ill.

March 2, 1939, 10 A. M. S. T. at the Hotel Nicollet, Minneapolis, Minn.

March 6, 1939, 10 A. M. S. T. at the Hotel Spokane, Spokane, Wash.

March 8, 1939, 10 A. M. S. T. at the Hotel Multnomah, Portland, Ore.

March 13, 1939, 10 A. M. S. T. at the offices of the California Railroad Commission, Los Angeles, Calif.

March 17, 1939, 10 A. M. S. T. at the Hotel Fontenelle, Omaha, Nebr.

March 20, 1939, 10 A. M. S. T. at the Hotel Peabody, Memphis, Tenn.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-3765; Filed, December 15, 1938; 10:38 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of December, A. D. 1938.

[File No. 32-126]

IN THE MATTER OF ALABAMA POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

Application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 6, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 3, 1939.

The matter concerned herewith is in regard to an application by Alabama Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, for the exemption from the provisions of Section 6 (a) of the Act of the issue and sale of $1,500,000 principal amount of 2.73% Collateral Notes and $2,000,000 principal amount of First and Refunding Mortgage Bonds, 4½% Series, due 1967. Each note is to be secured by collateral consisting of the applicant's aforesaid bonds. The applicant proposes to issue its notes to the United States of America and to deliver the same to the Rural Electrification Administration for the purpose of obtaining funds to be used to finance the construction of electric lines or systems and facilities in rural areas in the State of Alabama. Each of the Collateral Notes is to be dated as of the approximate date the advance represented thereby is made, and is to mature in semiannual installments over a period of twenty years from date.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3766; Filed, December 15, 1938; 11:36 a. m.]

[1] 3 F. R. 2842 DI.
[2] 3 F. R. 2630 DI.

DEC 19 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 245

Washington, Saturday, December 17, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-1939, Supplement No. 1]

PART 701—1939 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1939 Agricultural Conservation Program Bulletin, as approved November 10, 1938, is hereby amended as follows:

Paragraph (b) of Section 701.3[1] is amended by the addition of the following:

(1) The national and State restoration land goals, as established by the Secretary, are as follows:*

	Acres
Colorado	1,050,000
Kansas	925,000
Montana	825,000
Nebraska	400,000
New Mexico	200,000
North Dakota	825,000
Oklahoma	275,000
South Dakota	825,000
Texas	550,000
Wyoming	125,000
Total	6,000,000

Done at Washington, D. C., this 14th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[F. R. Doc. 38-3773; Filed, December 15, 1938; 3:51 p. m.]

[1] 3 F. R. 2718 DI.

* Issued pursuant to Secs. 7-17, as amended, 49 Stat. 1148, 1915; 50 Stat. 329; 52 Stat. 31, 204; 16 U. S. C., Sup. III, 590g-590q.

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 15, Supp. 7a]

MINIMUM MANNING SCALES FOR THE S. S. ROBIN ADAIR, S. S. ROBIN GOODFELLOW, S. S. ROBIN GRAY, AND S. S. ROBIN HOOD, SUBSIDIZED VESSELS OF THE SEAS SHIPPING CO., INC.

At a regular session of the United States Maritime Commission held at its offices in Washington, D. C., on the 25th day of August, 1938.

The Commission having adopted, pursuant to Section 301 (a) of the Merchant Marine Act, 1936, General Order No. 15[1] providing for minimum wage scales, minimum manning scales, and reasonable working conditions for all subsidized vessels, and now desiring to complete the minimum manning scales for the S. S. *Robin Adair*, S. S. *Robin Goodfellow*, S. S. *Robin Gray*, and S. S. *Robin Hood*, subsidized vessels of the Seas Shipping Co., Inc. (referred to herein as Operator); and

The Commission finding that the minimum scales hereinafter adopted for the above named subsidized vessels of the Operator are reasonable, proper and lawful, such finding being based upon investigations referred to in General Order No. 15 and investigations of the Commission made thereafter; it is, therefore

Ordered, That the minimum manning scales attached hereto for the S. S. *Robin Adair*, S. S. *Robin Goodfellow*, S. S. *Robin Gray*, and S. S. *Robin Hood*, subsidized vessels of the Operator, be and the same hereby are adopted: *Provided*, that under extraordinary circumstances such as casualty or desertion, where it is impossible to procure sufficient officers or unlicensed seamen of any required grade or rating to permit the sailing of either of said vessels without undue delay, the said scales shall be inoperative to the extent required by such emergency, and the Operator shall forthwith report to the Commission any departure from said scales, stating in such report the extent of the departure and showing to the satisfaction of the Commission that suffi-

[1] 2 F. R. 2257 (2626 DI).

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Agricultural conservation program bulletin, 1939, Supplement No. 1 3023

TITLE 46—SHIPPING:
United States Maritime Commission:
Seas Shipping Co., Inc., minimum manning scales for certain vessels of 3023

TITLE 47—TELECOMMUNICATION:
Federal Communications Commission:
Miscellaneous radio services, rules governing 3024
Rules repealed 3026

NOTICES

Department of the Interior:
National Bituminous Coal Commission:
Minimum Price Areas 1-7, 9 and 10, postponement of date for inspection of individual cost reports of producers in 3026
What Cheer Clay Products Co., order relative to application for exemption 3027
Securities and Exchange Commission:
Washington Railway and Electric Co., exemption denied 3027

FEDERAL REGISTER

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cient reasons for such departure existed; and it is further

Ordered, That the minimum manning scales hereby adopted shall not relieve said Operator from complying with the manning requirements of the Bureau of Marine Inspection and Navigation and shall be without prejudice to the carrying of seamen in addition to those required hereby; and it is further

Ordered, That the minimum manning scales hereby adopted shall become effective for each of said vessels upon the first signing after September 15, 1938, of shipping articles for a subsidized voyage of said vessel, unless otherwise specified in the scales, and that the Operator be immediately served by registered mail with a copy of this Order and of the minimum manning scales hereby adopted.

By order of United States Maritime Commission.

W. C. PEET, JR.,
Secretary.

MINIMUM MANNING SCALE TO BE OBSERVED ON THE VESSELS ROBIN ADAIR, ROBIN GOODFELLOW, ROBIN GRAY AND ROBIN HOOD OF THE SEAS SHIPPING CO., INC.

Rating	*Minimum*
Deck department:	
Master	1
Chief Mate	1
Second Mate	1
Third Mate	1
Cadet Officer or Cadet	[1] 1
Radio Operator	[2] 1
A. B. Seamen	6
Ordinary Seamen	3
Engine department:	
Chief Engineer	1
First Assistant Engineer	1
Second Assistant Engineer	1
Third Assistant Engineer	1
Engineer Cadet Officer or Cadet	[1] 1
Engine department—Continued.	
Deck Engineer	[3] 1
Oilers	3
Firemen	3
Wipers	[3] 1
Steward's department:	
Steward	1
Chief Cook	1
Second Cook and Baker	1
Messmen	2
Messboy	1

[1] It shall not constitute a violation of this Manning Scale to detail any Cadet Officer or Cadet required to be carried hereby, to shore training after notice to, and approval by, the Director of Division of Maritime Personnel of this Commission, and in such case entry shall be made in the official logbook to this effect and no replacements of such Cadet Officers or Cadets shall be required. Such cadets also may be removed from vessel's complement at any time upon notice to the operator by the Director of the Division of Maritime Personnel, and such action shall not constitute a violation of this manning scale.

[2] With radio auto-alarm.

[3] The Deck Engineer and Wiper required by this Manning Scale are ratings covered by, and in no sense additions to, the respective ratings provided for by the Manning Scales set forth in General Order No. 15, issued October 21, 1937.

GENERAL NOTE.—Requirements of this Manning Scale will be deemed satisfied in the event that an employee is carried whose rating in the same department is superior to the rating prescribed.

[F. R. Doc. 38-3779; Filed, December 16, 1938; 12:20 p. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

RULES GOVERNING MISCELLANEOUS RADIO SERVICES*

TABLE OF CONTENTS

Part
130. Definitions
131. General Rules Governng Miscellaneous Services
132. Geological Stations
133. Special Press Service
134. Intermittent Service

PART 130. DEFINITIONS

GEOPHYSICAL SERVICE

Sec.
130.01 Geophysical service.
130.02 Geological station

SPECIAL PRESS SERVICE

130.20 Special Press Service
130.21 Mobile press station
130.22 Relay press station

INTERMITTENT SERVICE

130.30 Intermittent service
130.31 Motion picture station
130.32 Provisional station

Geophysical Service

SEC. 130.01 *Geophysical Service.*[1] The term "geophysical service" means a service conducted by stations used in connection with investigations of the physical properties of the earth and its surrounding atmosphere.* #

SEC. 130.02 *Geological station.* The term "geological station" means a station used primarily in the investigation of the surface of the earth and the physical characteristics of the strata below the surface of the earth.* #

Special Press Service

SEC. 130.20 *Special Press service.* The term "special press service" means a limited radio communication service for the transmission of news items or other related material to or from fixed and mobile stations.* #

SEC. 130.21 *Mobile press station.* The term "mobile press station" means a station open to public correspondence operating in the special press service for radiotelegraph communication between maritime mobile stations and land stations or with stations of scientific expeditions away from the United States.* #

SEC. 130.22 *Relay press station.* The term "relay press station" means a station licensed to transmit to or from points where other communication facilities are not available, news for publication, or orders, instructions, or inquiries concerning such news to be published by the licensee and other publishers of the same news, or to be disseminated by the news association with which the licensee is regularly affiliated.* #

Intermittent Service

SEC. 130.30 *Intermittent service.* The term "intermittent service" means a radiocommunication service that requires the use of radio for limited periods of time or at irregular intervals of time at locations where other facilities are not available or the use of other facilities is impracticable.* #

SEC. 130.31 *Motion picture station.* The term "motion picture station" means a station operating in the intermittent service for communication in connection with the filming of motion pictures.* #

SEC. 130.32 *Provisional station.* A "provisional station" means a station operating in the intermittent service for a limited period under restriction limiting the use of the radio facilities to situations involvng safety or where radiocommunication is of practical necessity in connection with projects affecting public welfare.* #

[1] The functions of stations in the geophysical service, other than geological, are in most instances, carried on by agencies of the Federal Government. The Commission has allocated no frequencies to these classes of stations nor have regulations been promulgated governing their operation. Authorizations for the type of service involved are issued under the rules governing experimental stations and contain appropriate limitations and privileges. The various classes of stations in the geophysical service, other than geological, are: *"ionosphere stations"*, operated primarily for the purpose of measuring and recording the characteristics of the ionized layers of the upper atmosphere; *"meteorological stations"*, engaged primarily in scientific studies of the atmosphere; *"radio sounding stations"*, meteorological stations sent aloft for the purpose of obtaining information regarding atmospheric conditions; *"hydrological stations"*, operated primarily for the purpose of measuring, recording, and studying the flow of water; *"oceanography stations"*, engaged primarily in studies of the ocean, the ocean shores, and the ocean bed, exclusive of surveying; *"geodesy stations"*, engaged primarily in determinations of the shape of the earth and its surface including surveying; *"seismology stations"*, engaged primarily in studies of earthquake phenomena; and *"volcanology stations"*, engaged primarily in studies of physics and phenomena of volcanoes.

*Promulgated under the authority contained in Sec. 4 (1), 48 Stat. 1066; 47 U. S. C. 154 (1)—Sec. 303 (f), 48 Stat. 1082; 47 U. S. C. 303 (f).

#Adopted by the F. C. C. on Dec. 12, 1938 to become effective Jan. 1, 1939.

PART 131. GENERAL RULES GOVERNING MISCELLANEOUS SERVICES

APPLICATIONS

Sec.
131.01 Individual and blanket applications
131.02 Special temporary authority

LICENSES

131.10 Term
131.11 Posting Fixed station licenses
131.12 Posting mobile or portable station licenses
131.13 Operator license
131.14 Logs
131.15 Inspection by Commission's representative

FREQUENCY TOLERANCE

131.20 Tolerance

FREQUENCY MEASUREMENT

131.30 Measurement procedure

TESTS

131.40 Equipment and service tests
131.41 Routine tests

NON-EXCLUSIVE USE OF FREQUENCIES

131.50 Non-exclusive frequencies; coordination

Applications

SEC. 131.01 *Individual and blanket applications.* Individual applications for instruments of authorization shall be submitted for each station to be located at a fixed location. Blanket applications for authorizations for identical mobile or portable-mobile radio stations submitted by a single applicant to cover equipment to be used in a single coordinated communication system will be accepted. A blanket application may be submitted by a single applicant for a license or modification of license, covering both the fixed transmitter and mobile or portable mobile transmitters used in a single coordinated communication system.* #

SEC. 131.02 *Special temporary authority.* A request for special temporary authority to operate on frequencies not allocated to stations in the miscellaneous service or to operate equipment of another class of station, must be received by the Commission not less than ten days prior to the actual operation thereof, and shall contain complete information concerning the frequencies requested, the license of the station to be used, and evidence that no interference will be caused by the proposed operation. In case of emergencies, which shall be fully explained in the request, the Commission may waive the ten-day requirement specified herein.* #

Licenses

SEC. 131.10 *Term.* The license term for stations in the miscellaneous service, other than provisional stations, (See Sec. 134.10), shall be for a period of one year. The date of expiration of license for stations in the miscellaneous service, unless otherwise specified, shall be the first day of October of each year.* #

SEC. 131.11 *Posting fixed station licenses.* The station licenses of stations in the miscellaneous service operated at fixed locations shall be conspicuously posted at the place where the control operator is located.* #

SEC. 131.12 *Posting mobile or portable station licenses.* The licenses of portable and portable-mobile stations shall be readily available for inspection by authorized Government representatives. Either the original authorization or a photocopy of that document shall be available at the portable or portable-mobile station involved.* #

SEC. 131.13 *Operator license.* The original license of each station operator shall be conspicuously posted at the place he is on duty, or, in the case of portable or mobile units, be kept in his personal possession.* #

SEC. 131.14 *Logs.* Each licensee shall maintain adequate records of the operation of the station including (a) hours of operation; (b) nature and time of each transmission; (c) name of operator on duty at the transmitter. In the cases of groups of stations, either fixed or fixed and mobile, operating as a single coordinated communication system controlled from a single point, a single log may be maintained at a central location, provided that such log records the required information with respect to all stations in the system.* #

SEC. 131.15 *Inspection by Commission's representative.* All stations in the miscellaneous service shall be made available for inspection upon request of a representative of the Commission; if any such station is actually engaged in communications which should not be interrupted, this station shall be made available for inspection immediately after conclusion of such communications.* #

Frequency Tolerance

SEC. 131.20 *Tolerance.* The equipment of stations licensed in the miscellaneous service must be capable of maintaining the assigned frequency within the tolerance set out below:

	Equipment authorized before Jan. 1, 1939	*Equipment authorized after Jan. 1, 1939*
Fixed stations on frequencies below 6000 kc.	0.03%	0.01%
Land stations on frequencies below 6000 kc.	.04	.02
Mobile stations on frequencies below 6000 kc.	.04	.02
Fixed and land stations on frequencies above 30000 kc	.05	.02
Portable and mobile stations on frequencies above 30000 kc	.05	.03
Portable and mobile stations of 1 watt or less power on frequencies above 30000 kc	.1	* #.1

Frequency Measurement

SEC. 131.30 *Measurement procedure.* The licensee of each station shall provide for measurement of the station frequency and established procedure for checking it as regularly as good engineering practice may require. These measurements of station frequency shall be made by means independent of the frequency control of the transmitter and shall be of such accuracy that the limit of error is within the frequency tolerance allowed the station.* #

Tests

SEC. 131.40 *Equipment and service tests.* Equipment and service tests as authorized in the rules and regulations may be conducted provided that the necessary precautions are taken to avoid interference.[1] * #

SEC. 131.41 *Routine tests.* The licensee of stations of this class are authorized to make such routine tests as may be required for the proper maintenance of the station provided that precautions are taken to avoid interference to other stations.* #

Non-Exclusive Use of Frequencies

SEC. 131.50 *Non-exclusive frequencies; coordination.* No frequency available to a station in any of the miscellaneous radio services will be assigned exclusively to any station or applicant. All licensees in each class of miscellaneous service are required to coordinate operation with other licensees in the same class so as to avoid interference and make the most effective use of the frequency or frequencies assigned.* #

PART 132. GEOLOGICAL STATIONS

Sec.
132.01 Service which may be rendered
132.02 Power
132.03 Frequencies

SEC. 132.01 *Service which may be rendered.* Geological stations may be used under specific circumstances where the use of radio is necessary in accomplishing the object of the geological operation.* #

SEC. 132.02 *Power.* A power exceeding 10 watts will not be authorized for

[1] See Sections 22.03 and 22.04.

geological stations, except in cases where the applicant makes a satisfactory showing that due to exceptional atmospheric conditions or other technical reasons 10 watts power is insufficient to accomplish the object of the geological operation in which case power not exceeding 50 watts may be authorized.*#

SEC. 132.03 *Frequencies.* The following frequencies are allocated for use by geological stations and are available for type A1, A2 and A3 emission:

1602 kilocycles. 30620 kilocycles.
1628 kilocycles. 31060 kilocycles.
1652 kilocycles. 33540 kilocycles.
1676 kilocycles. 35540 kilocycles.
1700 kilocycles.*#

PART 133. SPECIAL PRESS SERVICE

MOBILE PRESS STATIONS

Sec.
133.01 Frequencies

RELAY PRESS STATIONS (PORTABLE, MOBILE AND PORTABLE-MOBILE)

133.20 Eligibility for license
133.21 Special temporary authority
133.22 Frequencies
133.23 Availability of frequencies

Mobile Press Stations

SEC. 133.01 *Frequencies.* The following frequencies are allocated for use by mobile press stations and are available for Type A1 and A2 emission:

a. Stations east of the Mississippi River:

4705 8360 16750
6450 11355 22250

b. Stations west of the Mississippi River:

6440 11340 22225
8350 16700*#

Relay Press Stations (portable, mobile and portable-mobile)

SEC. 133.20 *Eligibility for license.* A license for a relay press station will be issued only to newspapers and press associations; *provided*, however, that in cases where it is impractical, impossible, or prohibited by laws or regulations for the newspaper or press association to install, operate or maintain the necessary equipment under its legal control, the Commission may grant special temporary authority for the purpose of covering a single specific event to other persons to operate as a relay press station equipment already licensed for another service, or equipment which may be installed without construction permit.*#

SEC. 133.21 *Special temporary authority.* Each request from a person other than a publisher of a newspaper or a press association, for temporary authority to operate a relay press station shall be accompanied by a supporting request from the publisher or press association for whom the news is to be collected.*#

SEC. 133.22 *Frequencies.* The following groups of frequencies are allocated for assignment to relay press stations and are available for type A1, A2 and A3 emissions:

Group A. For portable-mobile equipment and portable equipment of less than 1 watt power:

30860 kilocycles. 33260 kilocycles.
33980 kilocycles. 35180 kilocycles.
37420 kilocycles.

Group B. For low power portable equipment with maximum power of 50 watts:

31980 kilocycles. 33020 kilocycles.
33580 kilocycles. 35960 kilocycles.
39020 kilocycles. 39980 kilocycles.*#

SEC. 133.23 *Availability of frequencies.* Subject to the restrictions set forth in Section 133.22 any or all of the frequencies available for relay press stations may be authorized to any licensee.*#

PART 134. INTERMITTENT SERVICE

MOTION PICTURE STATIONS

Sec.
134.01 Notification of use
134.02 Restrictions on use
134.03 Frequencies

PROVISIONAL STATIONS

Sec.
134.10 Authorizations
134.11 Frequencies

Motion Picture Stations

SEC. 134.01 *Notification of use.* Motion picture station licenses will permit the use of the transmitter only after notification to the Commission and the Inspector-in-Charge of the district in which operation is to be conducted. The notification of intention to use must include the following:

1. A statement as to the period of use desired.
2. The exact points between which communication is desired.
3. A statement that no other means of communication is available or evidence that the use of other means of communication is impracticable.*#

SEC. 134.02 *Restrictions on use.* Upon receipt of notification of intention to use a motion picture station the Commission may, without notice or hearing, prohibit or terminate its use, or indicate special limitations under which operation may be conducted.*#

SEC. 134.03 *Frequencies.* The frequencies allocated for use by motion picture stations and available for type A1, A2 and A3 emission, with a maximum power of 250 watts, are as follows:

1652 kilocycles. 33540 kilocycles.
30620 kilocycles. 35540 kilocycles.
31060 kilocycles.*#

Provisional Stations

SEC. 134.10 *Authorizations.* Instruments of authorization for provisional stations when issued will be made upon a temporary basis for a specific period of time not to exceed one year under appropriate restrictions and subject to the condition that the authority granted may be revoked at any time without advance notice or hearing. In addition to other requirements of law and regulation, applications for renewal of such authority shall show that the use of the facilities is not intended as a permanent service.*#

SEC. 134.11 *Frequencies.* The following frequencies are allocated for use by provisional stations and are available for type A1, A2 and A3 emission, with a maximum power of 50 watts:

31020 kilocycles. 35460 kilocycles.
31180 kilocycles. 37140 kilocycles.
31540 kilocycles. 39140 kilocycles.
33460 kilocycles. 39540 kilocycles.
33620 kilocycles.*#

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3777; Filed, December 16, 1938; 10:41 a. m.]

RULES GOVERNING MISCELLANEOUS RADIO SERVICES

The Commission repealed the following rules[1] effective January 1, 1939:

Rule 297, C. F. R., Sec. 131.01.
Rule 298, C. F. R., Sec. 131.02.
Rule 299, C. F. R., Sec. 131.10.
Rule 300, C. F. R., Sec. 131.11.
Rule 301, C. F. R., Sec. 131.12.
Rule 349, C. F. R., Sec. 130.01.
Rule 350, C. F. R., Sec. 130.02.
Rule 351, C. F. R., Sec. 130.10.
Rule 352, C. F. R., Sec. 130.11.
Rule 353, C. F. R., Sec. 130.12.
Rule 354, C. F. R., Sec. 132.01.
Rule 355, C. F. R., Sec. 132.10.
Rule 357, C. F. R., Sec. 132.02.
Rule 358, C. F. R., Sec. 132.03.
Rule 359, C. F. R., Sec. 132.11.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3776; Filed, December 16, 1938; 10:41 a. m.]

[1] Subject to the proviso that frequencies authorized in existing licenses may be used until the expiration of the term of any such outstanding licenses.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS—DETERMINATIONS OF WEIGHTED AVERAGE OF TOTAL COSTS OF TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 1, 2, 3, 4, 5, 6, 7, 9 AND 10

NOTICE OF POSTPONEMENT OF DATE FIXED FOR INSPECTION OF INDIVIDUAL COST REPORTS OF PRODUCERS IN MINIMUM PRICE AREAS 1, 2, 3, 4, 5, 6, 7, 9 AND 10

Notice is hereby given that the date upon which individual cost reports of producers within Minimum Price Areas Nos. 1, 2, 3, and 5, as directed to be made available for inspection by interested parties by the Commission's Order entered herein on December 6, 1938,[1] and the date upon which the individual cost reports of producers within Minimum Price Area No. 4, as directed to be made available for inspection by interested parties by Commision's Order herein dated December 9, 1938,[2] and the date upon which individual cost reports of producers within Minimum Price Areas Nos. 6, 7, 9, and 10, as directed to be made available for inspection by interested parties by Commission's Order herein dated December 6, 1938, is hereby postponed from the 15th day of December, 1938 to a date to be later designated by further order of the Commission.

The Secretary of the Commission is hereby directed to cause a copy of this notice to be mailed forthwith to the Secretary of each District Board, to the Consumers' Counsel, to code members, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be posted for public inspection at each of the Statistical Bureaus of the Commission, at the Office of the Commission in the Central Savings Bank Building, Denver, Colorado, and at the Office of the Secretary of the Commission, Washington, D. C., and shall cause a copy of this notice to be published forthwith in the FEDERAL REGISTER.

By order of the Commission.

Dated this 14th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-3775; Filed, December 16, 1938; 10:23 a. m.]

[1] 3 F. R. 2886 DI.
[2] 3 F. R. 3000 DI.

[Docket No. 496-FD]

ORDER IN THE MATTER OF THE APPLICATION OF WHAT CHEER CLAY PRODUCTS COMPANY FOR EXEMPTION FROM THE PROVISIONS OF THE BITUMINOUS COAL ACT OF 1937

At a session of the National Bituminous Coal Commission held in its offices in Washington, D. C., on the 14th day of December, 1938.

It appearing, that pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, applicant, What Cheer Clay Products Company, on the 18th day of August, 1938, filed with the Commission its application for exemption seeking to avail itself of the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 in so far as the same relates to the bituminous coal alleged to be produced and consumed by it, or produced and transported to itself for consumption by it, and its clay products plant located at What Cheer, Iowa, which application was filed by virtue of the provisions contained in the second paragraph of Section 4-A of the Act; and

It further appearing, after considering the allegations made in the verified application of What Cheer Clay Products Company, that applicant is a member of the Bituminous Coal Code; that applicant is a corporation duly organized and existing under and by virtue of the laws of the State of Maine; that applicant is the owner and producer of bituminous coal from a mine located about one mile south of What Cheer, Keokuk County, Iowa; and that all the bituminous coal now produced at such mine is consumed by applicant in its clay products plant located at What Cheer, Iowa;

Now, therefore, it is hereby ordered:

That the provisions of Section 4, Part II (1) of the Bituminous Coal Act of 1937 do apply to so much of the bituminous coal produced by What Cheer Clay Products Company at its mine located about one mile south of What Cheer, Keokuk County, Iowa, as is consumed by What Cheer Clay Products Company in its clay products plant at What Cheer, Iowa, and such coal shall not be deemed subject to the provisions of Section 4 of the Bituminous Coal Act of 1937.

Within fifteen (15) days from the date of this Order all interested parties are afforded the opportunity of filing a protest to this determination requesting a hearing on the application and protest. If no such protest be filed, this Order shall become effective fifteen (15) days from this date.

Applicant shall apply annually hereafter, and at such other times as the Commission may require, for renewal of this Order, and on the fifteenth day of each month after the effective date of this Order, applicant shall file a report with the Commission setting forth, for the preceding month, the tonnage of coal produced at its mine located near What Cheer, Iowa, and consumed in its clay products plant at What Cheer, Iowa, the tonnage of coal sold, the name and address of each purchaser, and the sale price.

The Secretary of the Commission is directed forthwith to mail a copy of this Order to the applicant, to the Consumers' Counsel, and the Secretary of each District Board; and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 14th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-3774; Filed, December 16, 1938; 10:23 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of December, A. D. 1938.

[File No. 31-115]

IN THE MATTER OF WASHINGTON RAILWAY AND ELECTRIC COMPANY

ORDER DENYING EXEMPTION

Washington Railway and Electric Company having made application for exemption from the provisions of the Public Utility Holding Company Act of 1935; notice and opportunity for hearing on said application having been duly given; a hearing[1] having been held on said application; the record in this matter having been duly considered, and the Commission having made appropriate findings of fact as fully set forth in the Commission's Findings of Fact and Opinion this day issued:

It is ordered, That the application for exemption be and hereby is denied.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3778; Filed, December 16, 1938; 11:14 a. m.]

[1] 3 F. R. 2294 DI.

DEC 21 1938

THE NATIONAL ARCHIVES

FEDERAL REGISTER

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Washington, Tuesday, December 20, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

AMENDMENT NO. 1 TO "REGULATIONS GOVERNING (A) APPLICATIONS AND HEARINGS UNDER SECTION 363 OF TITLE III OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938 RELATING TO ADMINISTRATIVE REVIEW OF MARKETING QUOTAS FOR TOBACCO, CORN, WHEAT, COTTON AND RICE ESTABLISHED UNDER SAID TITLE AND (B) THE PUBLICATION AND NOTICE OF SUCH QUOTAS UNDER SECTION 362 OF SAID ACT (PUBLIC, NO. 430—75TH CONGRESS—52 STAT. 31, AS AMENDED)"[1]

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act of 1938, the above described regulations are hereby amended as follows:

Section 401 of Article IV is amended to read as follows:

"SEC. 401. *Establishment.* Three eligible farmers shall be designated to serve on a review committee for a county, a group of counties, a community, or group of communities, and of the farmers so designated one shall be named chairman, and another vice-chairman, of such committee. In the absence of the chairman, the vice-chairman shall perform the duties and exercise the powers of the chairman and in the absence of both the chairman and the vice-chairman, the other regular member shall, as acting chairman, perform the duties and exercise the powers of the chairman. No review committee shall include any member of the county or community committee through which was determined any matter relating to any quota for the review of which the review committee is established. Subject to the provisions of this section and of section 400 of this article, the same farmer may be designated to serve on more than one review committee. Not more than three additional eligible farmers may be designated as alternate members of the committee, to serve in the event of the absence of any regular members thereof or in case of any vacancies in the committee, provided that not more than two such alternates may serve concurrently. The alternates shall be called upon for service in the order of their appointment except where a hearing will be unduly delayed by this procedure, the person acting as chairman may call upon the alternate who is the most readily available for service."

Section 502 of Article V is amended to read as follows:

"SEC. 502. *Time and place of hearing.* Such hearing shall be held at the time and place set forth in the notice of hearing, or in any subsequent notice amending or superseding the prior notice, and also may, without notice other than an announcement at the hearing by the chairman of the review committee, in the exercise of the discretion of the committee, be continued from day to day, or adjourned to a different place in the county or to a later date, or to a date and place to be fixed in a subsequent notice to be issued in the manner provided in sections 500 and 501 of this article. In the event a full committee of three is not present, those members present, or in the absence of the entire committee, the clerk, shall postpone the hearing; provided, however, that at the request, or with the consent of the applicant, a hearing conducted by two members of the committee, one of whom shall be a regular member, shall be deemed to be a regular hearing of the committee as to such case, and the determination made by such members shall constitute the determination of the review committee."

Section 503 of Article V is amended to read as follows:

"SEC. 503 *Conduct and scope of hearing.* Except as otherwise provided in these regulations, every such hearing shall take place before the entire review committee and shall be presided over by the chairman thereof. The hearing shall be publicly conducted. The com-

[1] 3 F. R. 1749 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Administrative review of marketing quotas for tobacco, corn, wheat, cotton and rice, amendment of regulations governing ... 3029
TITLE 9—ANIMALS AND ANIMAL PRODUCTS:
Bureau of Animal Industry:
Livestock imported from or exported to Mexico, inspection and quarantine regulations ... 3030
Rinderpest and foot-and-mouth disease, amendment of order to prevent introduction of ... 3033
TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority:
Access to aircraft by duly qualified air carrier inspectors ... 3033
TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Cease and desist orders:
De Pinna, A., Co., Inc ... 3041
Fireside Industries, Inc ... 3035
Food Dish Associates of America, et al ... 3039
Gimbel Brothers, Inc ... 3039
Grove Laboratories, Inc ... 3036
Jackson University, etc ... 3038
Lipman Brothers ... 3041
Metzler-McKean Corp., etc ... 3040
Pittsburgh Plate Glass Co., et al ... 3034
Postal Co ... 3042
Raritan Distillers Corp ... 3034
Sweets Co. of America, Inc ... 3036
Woodbury, William A., Sales Co., Inc., et al ... 3037
TITLE 33—NAVIGATION AND NAVIGABLE WATERS:
Bureau of Marine Inspection and Navigation:
Overtime services, extra compensation for ... 3042

(Continued on next page)

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CONTENTS—Continued

TITLE 37—PATENTS AND COPYRIGHTS:
Copyright Office: Page
Registration of claims to copyright, rule amended 3043
TITLE 41—PUBLIC CONTRACTS:
Division of Public Contracts:
Prevailing minimum wages in manufacture of aeroplanes, aircraft engines, etc 3043
TITLE 46—SHIPPING:
United States Maritime Commission:
Cadet officers and cadets upon vessels operated under subsidy agreements 3044
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Employees and officials to be included within "Employee" under Railway Labor Act 3045

NOTICES

Civil Aeronautics Authority:
Mid-Continent Airlines, Inc., hearing on rates for transportation of mail, etc 3046
Pan American Airways Co., hearing on certificate of public convenience and necessity 3046
Western Air Express Corp., and United Air Lines Transport Corp., postponement of hearing 3046
Department of Agriculture:
Bureau of Animal Industry:
Young, G. T. (Brewton Livestock Commission Co.), notice under Packers and Stockyards Act 3045

CONTENTS—Continued

Department of Labor:
Wage and Hour Division:
Appointment of representatives to grant or deny applications for: Page
Special apprentice certificates 3045
Special handicapped worker's certificates 3045
Securities and Exchange Commission:
American States Utilities Corp., acquisition and retirement of preferred stock 3046
American States Utilities Corp., and Dearborn-Ripley Light & Power Co., sale of assets 3047
Dover Casualty Insurance Co., hearing 3049
Consolidation of hearings for stated purposes 3050
Hearings on status as:
Affiliate of other specified companies 3050
Subsidiary of certain holding companies 3050
Effectiveness of declarations:
Federal Light & Traction Co. 3046
Kentucky-Tennessee Light and Power Co., Associated Electric Co., and Central U. S. Utilities Co 3049
United Fuel Gas Co 3047
Notice of and orders for hearings:
Allegheny Ludlum Steel Corp., et al. (extension of unlisted trading privileges) 3048
Consolidated Electric and Gas Co 3047
Lexington Water Power Co., Southeastern Investing Corp 3048
Public Service Co. of Colo., withdrawal of declaration 3047
United States Civil Service Commission:
Apportionment at close of business December 15, 1938 3051

reviewed. The review committee shall not give consideration to any evidence which is irrevelant to the determination of the quota for the applicant. The hearing shall be conducted in a manner determined by the committee to be conducive to the proper dispatch of business and the attainment of justice."

Done at Washington, D. C., this 16th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3791; Filed, December 17, 1938; 12:24 p. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

BUREAU OF ANIMAL INDUSTRY

[B. A. I. Order 368]

EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

REGULATIONS GOVERNING THE INSPECTION AND QUARANTINE OF LIVESTOCK IMPORTED FROM OR EXPORTED TO MEXICO

DECEMBER 16, 1938.

By virtue of Article XII of a convention between the United States of America and the United Mexican States as ratified by the two Governments on January 17, 1930, and under the authority otherwise vested in the Secretary of Agriculture by law, the following regulations are hereby prescribed on the part of the United States governing the movement of livestock between the United States and Mexico in order to safeguard more effectually the livestock interests of the respective countries through the prevention of the introduction of infectious and contagious diseases. These regulations supersede all previous regulations governing the movement of livestock between the United States and Mexico, and shall become effective on January 16, 1939.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

PART 93—SPECIAL REGULATIONS GOVERNING EXPORT AND IMPORT OF LIVESTOCK TO AND FROM MEXICO[1]

Sec.
93.1 Definitions.
93.1 (a) Department.
93.1 (b) Bureau.
93.1 (c) Chief of Bureau.
93.1 (d) Inspector.
93.1 (e) Horses.
93.1 (f) Fever tick.
93.1 (g) Permitted dip.
93.2 Designated ports of entry.
93.3 Permits required.
93.4 Declaration of purpose.
93.5 Inspection at port of entry.
93.6 Animals for slaughter.
93.7 Cattle.
93.7 (a) Cattle from other than tick-infested areas.
93.7 (b) Cattle from tick-infested areas.
93.7 (c) Action in absence of certificates.
93.8 Tuberculin and Bang's disease tests for cattle.
93.8 (a) Tuberculin test.
93.8 (b) Bang's disease test.
93.9 Sheep and goats.
93.9 (a) Sheep and goats for purposes other than slaughter.
93.9 (b) Sheep and goats for slaughter.
93.10 Swine.
93.10 (a) Swine for breeding or feeding.
93.10 (b) Swine for slaughter.
93.11 Horses.
93.11 (a) Horses from tick-infested areas.
93.11 (b) Mexican horses for temporary stay.
93.11 (c) American horses returning after temporary stay in Mexico.
93.12 Inspection and certification.
93.13 Tuberculin test.
93.14 Form of certificate.
93.15 Disinfection of cars or other conveyances.

[1] Amends 9 CFR Part 93 (B. A. I. Order 327).

Regulation 1

SEC. 93.1 *Definitions.* Whenever in these regulations the following names or terms are used they shall be construed as follows:

(*a*) *Department.* United States Department of Agriculture.

(*b*) *Bureau.* Bureau of Animal Industry of the United States Department of Agriculture.

(*c*) *Chief of Bureau.* Chief of the Bureau of Animal Industry of the United States Department of Agriculture.

(*d*) *Inspector.* A veterinary inspector of the Bureau of Animal Industry of the United States Department of Agriculture.

(*e*) *Horses.* Horses, mules, and asses.

(*f*) *Fever tick.* Boophilus annulatus, including variety australis.

(*g*) *Permitted dip.* A dip permitted by the Bureau of Animal Industry to be used in the official dipping of cattle and horses for fever ticks and for dipping cattle and sheep for scabies. (34 Stat. 1263; 21 U. S. C. 80, 81, 82, 86; Secs. 4, 5, 23 Stat. 32 as amended; 21 U. S. C. 113; Sec. 1, 26 Stat. 833, 45 Stat. 789; 45 U. S. C. 75; Secs. 6, 7, 8, 10, 26 Stat. 416–417; 21 U. S. C. 102–105; Secs. 1 and 2, 32 Stat. 791, 792; 21 U. S. C. 111, 112, 113, 120)

IMPORTATIONS FROM MEXICO

Regulation 2

SEC. 93.2 *Designated ports of entry.* With the approval of the Secretary of the Treasury, the following-named ports and subports are hereby designated for the entry of livestock from Mexico:

On the seacoasts: Boston, Mass.; New York, N. Y.; Baltimore, Md.; Jacksonville, Fla.; San Juan, Puerto Rico; New Orleans, La.; Galveston, Tex.; San Diego, Los Angeles, and San Francisco, Calif.; and Seattle, Wash. Along the international boundary: Brownsville, Hidalgo, Rio Grande, Roma, Laredo, Eagle Pass, Del Rio, and El Paso, Texas; Douglas, Naco, and Nogales, Ariz.; and Calexico and San Ysidro, Calif.

All horses, ruminants, and swine for importation from Mexico shall be entered through one of the aforenamed ports: *Provided, however,* That in special cases other ports may be designated by the Chief of Bureau with the concurrence of the customs authorities. (Sec. 7, 26 Stat. 416; 21 U. S. C. 102)

Regulation 3

SEC. 93.3 *Permits required.* For ruminants and swine intended for importation by water from Mexico, the importer shall first obtain from the Secretary of Agriculture of the United States a permit in two sections, one for presentation to the American consul at the port of embarkation, the other for presentation to the collector of customs at the port of entry specified therein, providing for reception of the said animals at the specified port on the date prescribed for their arrival or at any time during 3 weeks immediately following, after which time the permit shall be void. A permit shall not be available for the landing of such animals at any port of entry other than the one mentioned therein, and they shall not be eligible for entry if shipped from or through any other foreign port than that designated in the permit. Permits will be issued for entry at any port named in section 93.2 (regulation 2) that the importer may elect, as far as quarantine facilities are there available, but permits for importation will not be granted in excess of the accommodations provided at any port. (Secs. 6, 7, 8, 10, 26 Stat. 416, 417 as amended; 21 U. S. C. 102–105)

Regulation 4

SEC. 93.4 *Declaration of purpose.* For all cattle, sheep, goats, and swine offered for importation from Mexico, there shall be presented to the collector of customs, at the time of entry, a statement signed by the owner or importer showing clearly the purpose for which said animals are to be imported. (Secs. 6, 7, 8, 10, 26 Stat. 416, 417 as amended; 21 U. S. C., 102–105)

Regulation 5

SEC. 93.5 *Inspection at port of entry.* Except as provided in paragraphs (b) and (c) of section 93.11 (regulation 11), all horses, ruminants, and swine offered for entry from Mexico, including such animals intended for movement by rail through the United States in bond for immediate return to Mexico, shall be inspected at the port of entry and all such animals found to be free from communicable disease and fever tick infestation, and not to have been exposed thereto, shall be admitted into the United States subject to the other provisions of these regulations. Animals found to be affected with a communicable disease or infested with fever ticks, or to have been exposed thereto, shall be refused entry, except as provided in sections 93.8 and 93.11 of this part (regulations 8 and 11 of this order). (Secs. 6, 7, 8, 10, 26 Stat. 416, 417 as amended; 21 U. S. C., 102–105)

Regulation 6

SEC. 93.6 *Animals for slaughter.* Cattle, sheep, goats, and swine imported from Mexico for slaughter shall be consigned from the port of entry to some recognized slaughtering center and there slaughtered within 2 weeks from the date of entry: *Provided* That, upon special permission obtained from the Chief of Bureau, they may be reconsigned to other points and there slaughtered within the period aforesaid. (Secs. 6, 7, 8, 10, 26 Stat. 416, 417 as amended; 21 U. S. C., 102–105)

Regulation 7

SEC. 93.7 *Cattle—(a) Cattle from other than tick-infested areas.* Except as provided in paragraph (b) of this section, all cattle offered for importation from Mexico shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government showing that he inspected the said cattle at the time of movement to the port of entry and found them free from any evidence of infectious or contagious disease, and that, as far as it has been possible to determine, they have not been exposed to any such disease, including splenetic, southern, or tick fever, during the preceding 60 days, and if shipped by rail the certificate shall further specify that the cattle were loaded into clean and disinfected cars for transportation direct to the port of entry. They shall also be accompanied by a certificate of the importer or his agent supervising the shipment, stating that while en route to the port of entry they have not been trailed or driven through any district or area infested with fever ticks.

(*b*) *Cattle from tick-infested areas.* Cattle which have been infested with or exposed to fever ticks may be imported from Mexico into the State of Texas, provided the following conditions are strictly observed and complied with:

(1) The cattle shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government showing that he has inspected the cattle and found them free from fever ticks and any evidence of infectious or contagious disease, and that, as far as it has been possible to determine, they have not been exposed to any such disease, except splenetic, southern, or tick fever, during the 60 days immediately preceding their movement to the port of entry.

(2) The cattle shall be shown by affidavit of the owner or his agent to have been dipped in an arsenical solution containing a minimum of 0.22 per cent of arsenious oxide in solution, within 7 to 12 days before being offered for entry.

(3) The importer, or his agent duly authorized thereto, shall first execute and deliver to an inspector at the port of entry an application for inspection and supervised dipping wherein he shall agree to waive all claims against the United States for any loss or damage to the cattle occasioned by or resulting from dipping, or resulting from the fact that they are later found to be still tick infested; and also for all subsequent loss or damage to any other cattle in the

possession or control of such importer which may come into contact with the cattle so dipped.

(4) The cattle when offered for entry shall receive a chute inspection by an inspector. If found free from ticks they shall be given one dipping in a permitted dip under the supervision of an inspector 7 to 14 days after the dipping required by sub-paragraph (2) hereof. If found to be infested with fever ticks, the entire lot of cattle shall be rejected and will not be again inspected for entry until 10 to 14 days after they have again been dipped in the manner provided by subparagraph (2) hereof.

(5) The cattle shall be imported through a port designated in section 93.2 of this part (regulation 2 of this order) equipped with facilities necessary for proper inspection and dipping.

(6) The conditions at the port of entry shall be such that the subsequent movement of the cattle can be made without exposure to fever ticks.

(c) *Action in absence of certificates.* In the absence of certificates specified in paragraphs (a) and (b) of this section (regulation), cattle otherwise eligible for importation may be allowed entry subject to such conditions as the Chief of Bureau may prescribe: *Provided*, That the provisions of section 93.8 of this part (regulation 8 of this order) must be strictly complied with. (Secs. 6, 7, 8, 10, 26 Stat. 416, 417; Sec. 2, 44 Stat. 775; 46 Stat. 1460; 21 U. S. C. 102–105)

Regulation 8

SEC. 93.8 *Tuberculin and Bang's disease test for cattle—(a) Tuberculin Test.* All cattle offered for importation from Mexico—except strictly range cattle[1] and those for immediate slaughter—shall be accompanied by a satisfactory certificate of tuberculin test signed by a salaried veterinarian of the Mexican Government, which test shall have been made within 30 days preceding the date of importation. The date and place of such testing and a description of the cattle, including breed, ages, and markings, shall be given in such certificate. In the absence of said certificate such cattle, if otherwise eligible for importation, shall be detained in quarantine at the port of entry for a period of not less than 3 days, during which time they shall be tuberculin tested.

(b) *Bang's disease test.* (1) All dairy or breeding cattle 6 months of age or older offered for importation from Mexico—except strictly range cattle and those for immediate slaughter—shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government showing that the animals have been subjected to a blood test for Bang's disease (infectious abortion), with negative results, within 30 days of the date of their exportation. The said certificate shall give the date and method of testing, names of the consignor and consignee, and a description of the cattle with breed, ages, and markings.

(2) In special cases and upon permission first obtained from the Chief of Bureau, said cattle unaccompanied by a certificate as provided in the preceding sub-paragraph (b) (1) may be quarantined at the port of entry and tested for Bang's disease by such method as may be approved by the Chief of Bureau; and those failing to pass said test shall be refused entry and, unless returned to the country of origin, shall be disposed of as provided by section 8 of the act of August 30, 1890. (26 Stat. 416) (Secs. 6, 7, 8, 10, 26 Stat. 416, 417; Sec. 2, 44 Stat. 775; 46 Stat. 1460; 21 U. S. C. 102–105)

Regulation 9

SEC. 93.9 *Sheep and goats*[2]*—(a) Sheep and goats for purposes other than slaughter.* Sheep and goats offered for importation from Mexico, for purposes other than slaughter, shall be accompanied by a certificate of a salaried veterinarian of the Mexican Government showing that, as a result of a careful physical examination by him of such sheep and goats on the premisse of origin, no evidence of infectious or contagious disease was found, and that, so for as it has been possible to determine, they have not been exposed to any such disease common to animals of their kind during the preceding 60 days; and, if the animals are shipped by rail, the certificate shall further specify that the animals were loaded into cleaned and disinfected cars for transportation direct to the port of entry. Notwithstanding such certificate, such sheep shall be detained at the port of entry until they have been dipped once under supervision of an inspector, in a permitted scabies dip. In the absence of such certificate, said sheep shall be held in quarantine for not less than 10 days and, at the discretion of the inspector, shall be again dipped under his supervision. Goats unaccompanied by such certificate shall be detained at the port of entry for a period of not less than 10 days, during which time they shall be subjected to such inspections and tests as may be deemed necessary by the Chief of Bureau to determine their freedom from disease.

(b) *Sheep and goats for slaughter.* Sheep and goats offered for importation from Mexico for slaughter shall be accompanied by a statement of the owner or vendor showing that no disease communicable to animals of their kind has existed on the premises on which they have been kept during the preceding 60 days. Such sheep and goats, when not accompanied by the statement specified, shall be detained at the port of entry for a period of not less than 3 days in order to determine their freedom from disease. Secs. 6, 7, 8, 10, 26 Stat. 416, 417; Sec. 2, 44 Stat. 775; 46 Stat. 1460; 21 U. S. C. 102–105)

Regulation 10

SEC. 93.10 *Swine*[3]*—(a) Swine for breeding or feeding.* All swine offered for importation from Mexico for breeding or feeding shall be accompanied by a certificate signed by a salaried veterinarian of the Mexican Government showing that for a period of 60 days prior to their movement from the premises on which they were kept no swine plague or hog cholera has existed within a radius of 5 miles therefrom. In addition, all such swine shall be immunized against hog cholera under the supervision of an inspector at the port of entry at the owner's expense in accordance with one of the methods recognized by the Department for preventing the spread of this disease. In the absence of the certificate as herein specified, such swine shall be detained at the port of entry for a period of not less than 2 weeks and, in addition to immunization against hog cholera, shall be subjected to such inspections and tests as may be deemed necessary by the Chief of Bureau to determine their freedom from disease.

(b) *Swine for slaughter.* All swine offered for importation from Mexico for slaughter shall be accompanied by a certificate of the kind specified in paragraph (a) of this section (regulation). In the absence of the required certificate, such swine shall be detained at the port of entry for a period of not less than 3 days to determine their freedom from disease. They shall be handled and shipped as specified under section 93.6 of this part (regulation 6 of this order). (Secs. 6, 7, 8, 10, 26 Stat. 416, 417; Sec. 2, 44 Stat. 775; 46 Stat. 1460; 21 U. S. C. 102–105)

Regulation 11

SEC. 93.11 *Horses—(a) Horses from tick-infested areas.* Horses offered for importation from tick-infested areas of Mexico shall be chute inspected unless in the judgment of the inspector a satisfactory inspection can be made otherwise. If they are found to be apparently free from fever ticks, before entering the United States they shall be dipped once in a permitted arsenical solution or be otherwise treated in a manner approved by the Chief of Bureau. If they are found to be infested with fever ticks they shall be refused entry but may be re-offered for importation following treatment as prescribed in paragraph (b) (2), of section 93.7 (regulation 7), for cattle from tick-infested areas.

(b) *Mexican horses for temporary stay.* Horses used in connection with stock raising (cow ponies) or mining and those for other purposes, whether for pleasure, driving, or teaming, may be admitted from the tick-free area of Mexico without inspection for a temporary stay at ports along the border, not exceeding a period of 10 days.

(c) *American horses returning after temporary stay in Mexico.* Horses may be returned to the United States from tick-free areas of Mexico without inspection, after a stay in Mexico of not to exceed 10 days. (Secs. 6, 7, 8, 10, 26 Stat. 416, 417; Sec. 2, 44 Stat. 775; 46 Stat. 1460; 21 U. S. C. 102–105)

EXPORTATIONS TO MEXICO

Regulation 12

SEC. 93.12 *Inspection and certification.* No horses, cattle, other domestic ruminants or swine shall be exported to Mexico until they have been inspected in the manner prescribed by the Chief of Bureau. If, upon such inspection, they are found to be free from communicable disease or exposure thereto, they shall be accompanied by a certificate to that effect issued or endorsed by an inspector. The inspection required by this section (regulation) may be made at any place at which an inspector is available; *Provided, however*, That in the case of livestock for shipment to Mexico by water a final inspection shall be made at the coast port of embarkation. (34 Stat. 1263; 21 U. S. C. 80, 81, 82; Sec. 10, 26 Stat. 417; 21 U. S. C. 105; Secs. 4, 5, 23 Stat. 32, Sec. 1, 32 Stat. 791; 21 U. S. C. 112, 113, 120)

Regulation 13

SEC. 93.13 *Tuberculin test.* No dairy or breeding cattle shall be exported to Mexico unless they are accompanied by a certificate showing that they have passed a tuberculin test within 30 days of the date of exportation or that they are from a tuberculosis free accredited herd or a modified accredited area. Such tests may be applied either by an inspector or a duly authorized veterinarian of the Mexican Government in the United States, or by an accredited veterinarian: *Provided*, That the certificate of such accredited veterinarians shall be endorsed by an inspector. Test charts and certificates shall include descriptions of the cattle with ages and markings. (34 Stat. 1263; 21 U. S. C. 80, 81, 82; Sec. 10, 26 Stat. 417; 21 U. S. C. 105; Secs. 4, 5, 23 Stat. 32, Sec. 1, 32 Stat. 791; 21 U. S. C. 112, 113, 120)

Regulation 14

SEC. 93.14 *Form of certificate.* Certificates provided for in section 93.12 and 93.13 (regulations 12 and 13) shall be issued in such form and number as required by the Department of Agriculture of Mexico. (34 Stat. 1263, 21 U. S. C. 81, 82, Sec. 1, 32 Stat. 791; 21 U. S. C. 121)

Regulation 15

SEC. 93.15 *Disinfection of cars or other conveyances.* Livestock destined to Mexico shall be transported from the point of inspection in cars or other conveyances which have been cleaned and disinfected: *Provided, however*, That express cars and other conveyances not regularly used for the transportation of livestock need not be so disinfected. If such animals are transported in crates, the crates shall be constructed of new material and shall not have been previously used. (Sec. 10, 26 Stat. 417; 21 U. S. C. 105; Secs. 4, 5, 23 Stat. 32; Sec. 1, 32 Stat. 791; 21 U. S. C. 112, 120)

[F. R. Doc. 38–3789; Filed, December 17, 1938; 12:23 p. m.]

[Amendment 4 to B. A. I. Order 366[1]]

AMENDMENT OF ORDER TO PREVENT THE INTRODUCTION INTO THE UNITED STATES OF RINDERPEST AND FOOT-AND-MOUTH DISEASE

DECEMBER 16, 1938.

SEC. 94.1 *Importation of domestic livestock or meats from countries where rinderpest or foot-and-mouth disease declared exists prohibited.* Under authority conferred by law upon the Secretary of Agriculture by Section 306 of the Tariff Act of 1930, the order to prevent the introduction into the United States of rinderpest and foot-and-mouth disease (B. A. I. Order 366), dated May 27, 1938, and effective June 1, 1938, as amended,[2] is hereby further amended by adding the names "Finland" and "Norway" to the list of countries in said order, as I have determined that foot-and-mouth disease exists in those countries and I have so officially notified the Secretary of the Treasury.

The effect of this amendment is to render commodities specified in B. A. I. Order 366, originating in Finland or Norway, subject to the provisions of said B. A. I. Order 366.

This amendment, which for purpose of identification is designated Amendment 4 to B. A. I. Order 366, (9 CFR 94.1), shall be effective on and after December 23, 1938. (Sec. 306, 46 Stat. 689, Sec. 2, 32 Stat. 792, 45 Stat. 59; 19 U. S. C. 1306 (a), (b), and (c), 21 U. S. C. 111). [B. A. I. Order 366, unnumbered paragraph 1, as amended by Amendment 1, August 27, 1938, Amendment 2, September 21, 1938, Amendment 3, November 15, 1938 and Amendment 4, December 16, 1938]

Done at Washington this 16th day of December 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3790; Filed, December 17, 1938; 12:23 p. m.]

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

[Regulation No. 605–B–1]

ACCESS TO AIRCRAFT BY DULY QUALIFIED AIR CARRIER INSPECTORS OF CIVIL AERONAUTICS AUTHORITY

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 16th day of December 1938.

Acting in accordance with the Opinion of the Authority dated September 1, 1938, and pursuant to the authority vested in it by the Civil Aeronautics Act of 1938 particularly sections 605 (b) and 205 (a) of said Act, and finding that its action is necessary to carry out the provisions of and to exercise its powers and duties under said Act, the Civil Aeronautics Authority hereby makes and promulgates the following:

REGULATION

(a) Every air carrier shall, subject to the provisions of this regulation, carry on any aircraft which it operates and to which access is sought, without charge therefor, any duly qualified air carrier inspector of the Authority (including supervising officers of such inspectors) whose name is contained in an official list of such inspectors supplied to such air carrier by the Authority;

(b) Upon applying for such transportation, each air carrier inspector shall exhibit to the appropriate agents of the air carrier proper credentials evidencing that he is such an inspector. He shall also sign and deliver to the carrier in duplicate a "Request for Access to Aircraft", (preferably, but not necessarily, on forms supplied by the Civil Aeronautics Authority) stating:

(1) That he is a duly qualified inspector of the Air Carrier Inspection Section of the Authority;

(2) That he desires access to a certain aircraft of the air carrier from a named point of departure on a designated date and hour to a named destination for the purpose of performing his official duties during flight of such aircraft; and

(3) The basis ("space available" or "must ride") on which such request for access to such aircraft is submitted and, if such request is submitted on a "must

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[1] It has been determined that the incidence of tuberculosis is much less than one-half of 1 percent among range cattle in the northern States of Mexico, where importations of this class of cattle originate. Such cattle, however, will be subject to the tuberculin-test requirements of the State of destination.

[2] Certificates will not be required for wild sheep, deer, and other wild ruminants originating in and shipped direct from Mexico, but said animals are subject to inspection at the port of entry as provided in section 93.5 of this part (regulation 5 of these regulations).

[3] A certificate as specified in this section (regulation) will not be required for wild swine for exhibition purposes, and such animals will not be required to undergo immunization against hog cholera but are subject to inspection at the port of entry as provided in section 93.5 of this part (regulation 5 of these regulations).

[1] Amending 9 CFR 94.1.

[2] 3 F. R. 1228, 2736 DI.

ride" basis, describing briefly but definitely the nature of his business.

The Air carrier shall retain one copy of each such request. On or before the tenth day of each month, each air carrier shall forward one copy of all such requests received by it during the second preceding calendar month to the secretary of the Civil Aeronautics Authority, Washington, D. C.

(c) This regulation shall become effective January 1, 1939, at 12:01 A. M., Eastern Standard Time.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3787; Filed, December 17, 1938; 10:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2442]

IN THE MATTER OF RARITAN DISTILLERS' CORPORATION

SEC. 3.96 (2) (5) *Using misleading name—Vendor—Producer or laboratory status of dealer:* SEC. 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Distiller:* SEC. 3.66 (g) *Misbranding or mislabeling—Producer status of dealer.* Representing in connection with sale, etc., of whiskeys, gins or other spirituous beverages, through use of word "distillers" in its corporate name, on its stationery, etc., and on the labels attached to the bottles in which it sells and ships its said product, or in any other way, etc., that it is a distiller; or that said products are by it made through the process of distillation; or that it owns, operates or controls a place or places where any such products are by it manufactured by a process of original and continuous distillation from mash, wort, or wash, through continuous closed pipes and vessels, until manufacture is complete, unless and until such is the fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Raritan Distillers Corporation, Docket 2442, December 3, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 3rd day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the said complaint and in opposition thereto, briefs filed herein, and oral arguments by PGad B. Morehouse, counsel for the Commission, and by John W. Hilldrop, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Raritan Distillers Corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of whiskeys, gins, cordials, liqueurs, vermouths, cocktails and other alcoholic beverages in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

Representing through the use of the word "distillers" in its corporate name on its stationery, invoices, bill heads, order blanks, and on the labels attached to the bottles in which it sells and ships its said products, or in any other way by word or words of like import;

(a) That it is a distiller of whiskeys, gins, or other spirituous beverages; or

(b) That the said whiskeys, gins, and other spirituous beverages are by it manufactured through the process of distillation; or

(c) That it owns, operates or controls a place or places where any such products are by it manufactured by a process of original and continuous distillation from mash, wort, or wash, through continuous closed pipes and vessels until the manufacture thereof is complete, unless and until respondent shall actually own, operate or control such a place or places.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3781; Filed, December 16, 1938; 1:30 p. m.]

[Docket No. 3491]

IN THE MATTER OF PITTSBURGH PLATE GLASS COMPANY ET AL.

SEC. 3.27 (b) (1) *Combining or conspiring—To eliminate competition—In conspirators' goods.* By agreement, and in connection with the sale in the glazing contracting business of plate, window and structural glass in interstate commerce in the St. Louis trade area, exchanging information, or entering into discussions or agreeing upon, as the case may be, as to prices, actual or contemplated, or as to bids to be submitted by the various agreeing members, or formulae to be used in computing same, or as to standards of cost, whether labor or material, or amount of any item or total, or preparing and circulating schedules or information among the members declaratory and explanatory of the policies and practices of the members in the aforesaid matters, or fixing the amounts to be bid by any member, or collectively agreeing with certain labor organizations and the individual officers thereof *re* minimum number of employees and wages and terms to be observed by member jobbers and their competitors as prerequisite to securing glaziers to make installation, and agreeing so to exchange information, etc.; on the part of the member manufacturer, and member distributors and dealers, and certain individuals, as officers and employees thereof; and persuading or inducing aforesaid member distributors to enter into such undertakings *re* minimum employees, wages and terms, as above set forth, and entering into such agreements with any two or more glazing contractors or distributors, on the part of such labor organizations and officers thereof; prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b). [Cease and desist order, Pittsburgh Plate Glass Company et al., Docket 3491, December 2, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 2nd day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF PITTSBURGH PLATE GLASS COMPANY, A CORPORATION; FRANK CLARKE, INDIVIDUALLY AND AS MANAGER OF THE ST. LOUIS, MO., BRANCH OF THE PITTSBURGH PLATE GLASS COMPANY; THE NURRE COMPANIES, INC., A CORPORATION; BELMONT W. BEINKE, INDIVIDUALLY AND AS MANAGER OF THE ST. LOUIS BRANCH OF THE NURRE COMPANIES, INC.; BURROUGHS GLASS COMPANY, A CORPORATION; HERBERT H. PIOU, INDIVIDUALLY AND AS VICE-PRESIDENT OF BURROUGHS GLASS COMPANY; HADLEY-DEAN GLASS COMPANY, A CORPORATION; LEO HADLEY, JR., INDIVIDUALLY AND AS MANAGER OF THE HADLEY-DEAN GLASS COMPANY; E. V. HANSER, INDIVIDUALLY AND AS SECRETARY OF THE SOUTHWEST DIVISION, NATIONAL GLASS DISTRIBUTORS' ASSOCIATION; DISTRICT COUNCIL NO. 2, OF THE BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, ST. LOUIS, MISSOURI, AN UNINCORPORATED ASSOCIATION; GLAZIERS' LOCAL UNION NO. 513, OF THE BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, ST. LOUIS, MISSOURI, AN UNINCORPORATED ASSOCIATION; LAWRENCE M. RAFTERY, INDIVIDUALLY AND AS SECRETARY OF DISTRICT COUNCIL NO. 2 OF THE BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA; JAMES F. EGAN, INDIVIDUALLY AND AS BUSINESS AGENT OF GLAZIERS' LOCAL UNION NO. 513, OF THE BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA; EDWARD W. HILL, INDIVIDUALLY AND AS BUSINESS AGENT OF GLAZIERS' LOCAL UNION NO. 513, OF THE BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and stipulations as to the facts entered into between the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provide, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein and each of them, findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents Pittsburgh Plate Glass Company, a corporation, The Nurre Glass Companies, Inc., a corporation, Burroughs Glass Company, a corporation, and Hadley-Dean Glass Company, a corporation, and their officers, directors, representatives and employees, including, specifically, respondents Frank Clarke, Belmont W. Beinke, Herbert H. Piou, Leo Hadley, Jr., and E. V. Hanser, hereinafter referred to as respondent distributors, in connection with the sale, in the glazing contracting business, of plate, window and structural glass in interstate commerce in the St. Louis trade area for installation of such glass in buildings and structures, do forthwith cease and desist from:

Agreeing among themselves, or with others, to engage in, pursuant to any agreement or understanding, directly or through any corporation or other device, and from engaging in any of the following acts, practices, or policies:

1. Exchanging information concerning prevailing prices, or contemplated or proposed changes in prices, for plate, window or structural glass used in the glazing contracting business.

2. Discussing or exchanging information concerning bids to be submitted by any individual respondent for supplying and installing glass in any structure or building.

3. Collectively agreeing upon any formula to be used in computing bids for supplying and installing glass in any structure or building; upon standards of cost, either of labor or material, or upon the amount of any item of such bids or the total amount thereof.

4. Preparing, publishing or circulating schedules or otherwise conveying information between or among themselves which set forth, directly or by implication, any such above policy and practice to be used in computing bids, standards of cost or other data which is designed to influence or determine the amount of any item of any contemplated bid or the total thereof.

5. Fixing or establishing by agreement the amount to be bid by any individual respondent for supplying and installing any such glass in any building or structure.

6. Collectively cooperating with respondent District Council No. 2 or Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators and Paperhangers of America, St. Louis, Missouri, or Lawrence M. Raftery, James F. Egan or Edward W. Hill, or any other labor organization or representative thereof, in requiring or agreeing that glazing contractors competing with respondent distributors be compelled to employ four glaziers, or any other specified number, steadily at the rate of $12.00 per day each, or any other specified figure, as a condition to securing glaziers to install glass in any structure or building, or collectively agreeing to any such requirement as applicable to themselves.

7. Collectively cooperating in any way with the respondents named in the preceding paragraph in requiring that glazing contractors competing with respondent distributors in supplying glass for installation in any building or structure must have such glass glazed on the premises as a condition to securing glaziers to install such glass, or collectively agreeing, to any such requirement as applicable to themselves;

8. Collectively continuing, renewing or by joint action complying with or carrying into effect any agreement to accomplish anything prohibited by this order.

It is further ordered, That respondents District Council No. 2 of the Brotherhood of Painters, Decorators and Paperhangers of America, St. Louis, Missouri, an unincorporated association, and Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators and Paperhangers of America, St. Louis, Missouri, an unincorporated association, and Lawrence M. Raftery, individually and as Secretary of said District Council No. 2, and James F. Egan and Edward W. Hill, individually and as business agents of said Glaziers' Local Union No. 513, in connection with the supplying and installation of glass in structures or buildings in interstate commerce in the St. Louis trade area, do forthwith cease and desist from:

1. Persuading or inducing respondent distributors collectively to agree among themselves to the requirement that they must employ four glaziers, or any other specified number, steadily at the rate of $12.00 per day each, or any other given figure, as a condition to securing glaziers to install glass supplied by such distributors for any structure or building, or the requirement that all such glass must be glazed upon the premises for which the same has been supplied by such distributors;

2. Entering into any collective agreement incorporating the above terms, conditions, or requirements with any two or more glazing contractors or distributors, or enforcing any such agreement heretofore made.

It is further ordered, That the respondents herein and each of them shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3780; Filed, December 16, 1938; 1:29 p. m.]

[Docket No. 3362]

IN THE MATTER OF FIRESIDE INDUSTRIES, INC.

SEC. 3.6 (e) *Advertising falsely or misleadingly—Dealer assistance:* SEC. 3.72 (1) *Offering deceptive inducements to purchase—Sales assistance.* Representing, in connection with the sale of its home study courses for the decoration of furniture, toys, lamp shades, and other novelties, that its customers have all of its resources at their command and these are available for their use and benefit, or that it purchases articles from its customers or acts as their sales agent, or does other than perform the function of an advisor and counsellor on sales problems, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Fireside Industries, Inc., Docket 3362, December 6, 1938]

SEC. 3.6 (f) *Advertising falsely or misleadingly—Demand or business opportunities:* SEC. 3.6 (h) *Advertising falsely or misleadingly—Fictitious guarantees:* SEC. 3.72 (i) *Offering deceptive inducements to purchase—Money back guarantee.* Representing, in connection with the sale of its home study courses for the decoration of furniture, toys, lamp shades, and other novelties, that financial failure is impossible for those who engage in the business advocated by respondent, and that it guarantees success to its customers, and that its offer to refund the purchase price to its customers is backed by a gold bond, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Fireside Industries, Inc., Docket 3362, December 6, 1938]

SEC. 3.6 (a) (19) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—*

[1] 3 F. R. 283 DI.

Organization and operation. Representing, in connection with the sale of its home study courses for the decoration of furniture, toys, lamp shades, and other novelties, that its organization is a guild or association of persons formed for mutual protection or aid, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Fireside Industries, Inc., Docket 3362, December 6, 1938]

SEC. 3.6 (w) *Advertising falsely or misleadingly — Refunds.* Representing, in connection with the sale of its home study courses for the decoration of furniture, toys, lamp shades, and other novelties, that its offer to refund the purchase price to its customers is backed by a gold bond, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Fireside Industries, Inc., Docket 3362, December 6, 1938]

SEC. 3.6 (a) (20) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Authorities and personages connected with.* Falsely representing, in connection with the sale of its home study courses for the decoration of furniture, toys, lamp shades, and other novelties, that it has counsellors or agents in Europe, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Fireside Industries, Inc., Docket 3362, December 6, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, briefs filed herein, oral argument not having been requested, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Fireside Industries, Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of home study courses for the decoration of novelties, unpainted and undecorated furniture, toys, lamp shades and other novelties, in interstate commerce or in the District of Columbia, do forthwith cease and desist representing:

(1) That its customers have all of its resources at their command and that these resources are available for their use and benefit;

(2) That financial failure is impossible for those who engage in the business advocated by it and that it guarantees success to its customers;

(3) That its organization is a guild or association of persons formed for mutual protection or aid;

(4) That its offer to refund the purchase price to its customers is backed by a gold bond;

(5) That it purchases articles from its customers or acts as their sales agent, or does other than perform the function of an adviser and counsellor on sales problems;

(6) That it has counsellors or agents in Europe when such is not the fact.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3784; Filed, December 17, 1938; 9:35 a. m.]

[1] 3 F. R. 1283 DI.

[Docket No. 2771]

IN THE MATTER OF THE GROVE LABORATORIES, INC.

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing that a preparation designated "Grove's Laxative Bromo Quinine," etc., or any other preparation containing the same or similar ingredients, etc., is a cold remedy; or a "complete" treatment for colds; or that it will kill, fix, or expel colds, or give the final touch in expelling colds; or will drive out or clean out poisonous infection or eliminate, destroy, or break up cold infection, or fortify the system; or that it has a germicidal effect; or will stop a cold in its tracks, or the first day, or in twenty-four hours, or in the fastest time on record; or that it will afford "thorough" and "complete" relief from colds; and making any representations of a like or similar import, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, The Grove Laboratories, Inc., Docket 2771, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the amended complaint of the Commission, the amended answer of respondent, stipulation as to the facts in lieu of testimony and documentary evidence, briefs filed herein, and oral argument by William T. Chantland, counsel for the Commission, and by W. Keane Small, counsel for respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, The Grove Laboratories, Inc., its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution in interstate commerce or in the District of Columbia of a preparation now designated variously as "Laxative Bromo Quinine," "Groves Laxative Bromo Quinine," and "Bromo Quinine," or any other preparation containing the same or similar ingredients or possessing the same or similar properties, whether sold under those names or under any other names, do forthwith cease and desist, directly or indirectly, or through any corporate or other device:

1. From representing: That said preparation is a cold remedy; that it is a "complete" treatment for colds; that it will kill, fix, or expel colds, or give the final touch in expelling colds; that it will drive out or clean out poisonous infection or eliminate, destroy, or break up cold infection, or fortify the system; that it has a germicidal effect; that it will stop a cold in its tracks, or the first day, or in 24 hours, or in the fastest time on record; or that it will afford "thorough" and "complete" relief from colds.

2. From making any representations of a like or similar import to those above set out.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3800; Filed, December 19, 1938; 9:29 a. m.]

[1] 2 F. R. 107 (137 DI).

[Docket No. 2959]

IN THE MATTER OF SWEETS COMPANY OF AMERICA, INC.

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., candy so packed, etc., that sales thereof to general public are to be, or may be, made by means of a lottery, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Sweets Company of America, Inc., Docket 2959, December 7, 1938]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., to dealers, packages or assortments of candy which are, or may be, used to conduct a lottery, etc., in the sale, etc., of said products to the public, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Sweets Company of America, Inc., Docket 2959, December 7, 1938]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., to dealers for sale to the public, packages or assortments of uniform individually wrapped pieces of candy and of different colors, with larger pieces or any other merchandise, which are to be, or may be given as prizes to purchasers procuring pieces of a particular color, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Sweets Company of America, Inc., Docket 2959, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Miles J. Furnas and William C. Reeves, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein and oral arguments by Henry C. Lank, counsel for the Commission, and Louis H. Solomon, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Sweets Company of America, Inc., its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candy in interstate commerce or in the District of Columbia, do forthwith cease and desist:

1. Selling and distributing candy so packed and assembled that sales of such candy to the general public are to be made or may be made by means of a lottery, gambling device or gift enterprise.

2. Supplying to or placing in the hands of dealers packages or assortments of candy which are used or which may be used to conduct a lottery, gambling device or gift enterprise in the sale or distribution of said candy contained in the said packages or assortments to the public.

3. Supplying to or placing in the hands of dealers for sale to the public packages or assortments of candy composed of individually wrapped pieces of candy of uniform size and shape and of different colors, together with larger pieces of candy or any other merchandise, which said larger pieces of candy or other merchandise are to be or may be given as prizes to the purchasers procuring pieces of said candy of a particular color.

It is further ordered That the respondent shall, within sixty days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3802; Filed, December 19, 1938; 9:30 a. m.]

[1] 2 F. R. 1948 (2278 DI).

[Docket No. 3113]

IN THE MATTER OF WILLIAM A. WOODBURY SALES CO., INC., ET AL.

SEC. 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer—Manufacturer.* Representing, in connection with the sale, etc., of cosmetics, dentifrices, shaving creams, toilet supplies, etc., that respondents, or any of them, are the manufacturers thereof, unless and until such respondents actually own and operate, etc., a factory wherein such products are actually so manufactured by them, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, William A. Woodbury Sales Co., Inc., et al., Docket 3113, December 8, 1938]

SEC. 3.6 (c) *Advertising falsely or misleadingly — Composition of goods:* SEC. 3.96 (a) (1) *Using misleading name — Goods — Composition.* Representing as "Turtle Oil Cream" any emulsion of fats and oils, or any other preparation, which does not have turtle oil as a principle ingredient therein, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, William A. Woodbury Sales Co., Inc., et al., Docket 3113, December 8, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 8th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF WILLIAM A. WOODBURY SALES CO., INC., A CORPORATION, WILLIAM A. WOODBURY, RICHARD PICARD, AND ARTHUR BAUM, INDIVIDUALLY AND AS OFFICERS OF WILLIAM A. WOODBURY SALES CO., INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, briefs filed herein by Floyd O. Collins, counsel for the Commission, and by Isaac Reiss, counsel for respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, William A. Woodbury Sales Company, Inc., a corporation, its officers, representatives, agents, and employees, and respondents, William A. Woodbury, Richard Picard, and Arthur Baum, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of face creams, dental creams, shaving creams, powders, rouge and other cosmetics, dentifrices, toilet supplies and accessories and an emulsion of fats and oils now designated as "Turtle Oil Cream", in interstate commerce or in the District of Columbia, do forthwith cease and desist:

1. Representing, directly or in any other manner, that respondents or any of them are the manufacturers of the various preparations sold and distributed by them, unless and until such respondents actually own and operate or directly and absolutely control a factory wherein such products are actually so manufactured by them;

2. Using the term "Turtle Oil Cream" to designate or describe any emulsion of fats and oils, or any other preparation, which does not have turtle oil as a principal ingredient therein.

It is further ordered, That the respondent shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3803; Filed, December 19, 1938; 9:30 a. m.]

[1] 3 F. R. 852 DI.

[Docket No. 3348]

IN THE MATTER OF JACKSON UNIVERSITY, ETC.

SEC. 3.6 (a) (14) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Individual or private business as educational institution:* SEC. 3.96 (b) (3) *Using misleading name—Vendor—Individual or private business being educational institution.* Representing, in connection with the sale, etc., of respondent's secretarial and business administration courses of instruction, through use of word "university" in trade name, catalogs, etc., or otherwise, that business conducted by respondent is a university or institution of higher learning, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

SEC. 3.6 (dd) *Advertising falsely or misleadingly—Special offers:* SEC. 3.72 (n) *Offering deceptive inducements to purchase—Special offers.* Representing that students or prospective students of respondent have been specially selected for an offer of enrollment in respondent's secretarial and business administration courses of instruction, and that respondent has limited the offer of his courses to a limited number of persons in a given locality, city or county, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

SEC. 3.6 (a) (19) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Organization and operation.* Representing, in connection with the sale, etc., of respondent's secretarial and business administration courses of instruction, that respondent operates a night school, unless and until such is the fact, or that respondent's school is the most original, independent and thoroughly modern, unless and until the equipment and teaching facilities justify such descriptions or descriptions of similar import, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

SEC. 3.6 (l) *Advertising falsely or misleadingly—Indorsements and testimonials:* SEC. 3.18 *Claiming indorsements or testimonials falsely.* Falsely representing, in connection with the sale, etc., of respondent's secretarial and business administration courses of instruction, that certain named individuals have given testimonials with respect to respondent's school, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

SEC. 3.6 (n) (2) *Advertising falsely or misleadingly—Nature—Product.* Falsely representing in connection with the sale, etc., of respondent's secretarial and business administration courses of instruction, that auditing, accounting and many different systems of bookkeeping are taught in respondent's courses of instruction, or that the "World's Desire Bureau" is anything other than a medium of advertising respondent's school, or that it is separate and independent institution, or that the wisdom, knowledge and experience of the world may be taught by said bureau, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

SEC. 3.6 (m) *Advertising falsely or misleadingly—Jobs and employment service.* Falsely representing, in connection with the sale, etc., of respondent's secretarial and business administration courses of instruction, that respondent will procure positions for those students who complete respondent's courses of instructions, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

SEC. 3.6 (a) (11) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Identity.* Representing, in connection with the sale, etc., of respondent's secretarial and business administration courses of instruction, that the "World's Desire Bureau" is anything other than a medium of advertising respondent's school, or that it is separate and independent institution, or that the wisdom, knowledge and experience of the world may be taught by said bureau, or that the "Educational Finance Company" is a business separate and apart from respondent's school and is an innocent purchaser of respondent's negotiable paper without notice, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp IV, sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

SEC. 3.51 *Enforcing payments wrongfully.* Representing, in connection with the sale, etc., of respondent's secretarial and business administration courses of instruction, that the "Educational Finance Company" is a business separate and apart from respondent's school and is an innocent purchaser of respondent's negotiable paper without notice, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C. Supp. IV, sec. 45b) [Cease and desist order, Jackson University, etc., Docket 3348, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF WALTER JACKSON, AN INDIVIDUAL DOING BUSINESS AS JACKSON UNIVERSITY, JACKSON UNIVERSITY OF BUSINESS, EDUCATIONAL FINANCE COMPANY, AND WORLD'S DESIRE BUREAU

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, Walter Jackson, an individual doing business as Jackson University, Jackson University of Business, Educational Finance Company, and World's Desire Bureau, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, brief filed by William L. Pencke, counsel for the Commission (respondent neither filing brief nor requesting oral argument), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Walter Jackson, individually and trading as Jackson University, Jackson University of Business, Educational Finance Company, and World's Desire Bureau, or under any other trade name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of courses of instruction in interstate commerce or in the District of Columbia do forthwith cease and desist from:

1. Representing, through the use of the word "university" in the trade name, catalogs, advertising literature or otherwise, that the business conducted by respondent is a university or institution of higher learning;

2. Representing that students or prospective students of respondent have been specially selected for an offer of enrollment in respondent's courses;

3. Representing that the respondent has limited the offer of his courses of instruction to a limited number of persons in a given locality, city or county;

4. Representing that respondent operates a night school, unless and until such night school is in fact operated by him;

5. Representing in his pamphlets, circulars or otherwise that certain named individuals have given testimonials with respect to respondent's school when such is not the fact;

6. Representing that respondent's school is the most original, most independent and most thoroughly modern, unless and until the equipment and teaching facilities justify such descriptions or descriptions of similar import;

7. Representing that auditing, accounting and many different systems of bookkeeping are taught in respondent's courses of instruction when such is not the fact;

8. Representing that respondent will procure positions for those students who complete respondent's courses of instruction;

9. Representing that the "World's Desire Bureau" is anything other than a medium of advertising respondent's school, or that it is separate and independent institute, or that the Wisdom, Knowledge and Experience of the World may be taught by said Bureau;

10. Representing that the "Educational Finance Company" is a business separate and apart from respondent's school and is an innocent purchaser of respondent's negotiable paper without notice;

11. Making any other representations of similar import and effect to those above set out.

It is further ordered, That the respondent shall, within sixty days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3807; Filed, December 19, 1938; 9:32 a. m.]

[Docket No. 3273]

IN THE MATTER OF GIMBEL BROTHERS, INC.

SEC. 3.6 (c) *Advertising falsely or misleadingly — Composition of goods:* SEC. 3.66 (a) *Misbranding or mislabeling—Composition.* Falsely representing ladies' panties and vests, etc., as composed of or containing silk, wool or other material, or as containing a greater percentage, proportion or quantity of such materials, or any other fibre, than is actually the fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Gimbel Brothers, Inc., Docket 3273, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein by respondent admitting all the material allegations of the complaint to be true, but denying that the acts complained of were intentional, and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Gimbel Brothers, Inc., a corporation, its officers, representatives, agents and employees, in connection with the offering for sale, sale and distribution of ladies' panties and vests and other like apparel in interstate commerce or in the District of Columbia, do forthwith cease and desist:

1. From representing, through labeling, branding or advertising, or through any other means or device, or in any manner, that said articles or commodities are composed of or contain silk, wool or other material, when such is not the fact;

2. From representing in any manner that any such article or commodity contains a greater percentage, proportion or quantity of silk, wool, or any other fiber or material, than is actually contained therein.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3801; Filed, December 19, 1938; 9:29 a. m.]

[Docket No. 3397]

IN THE MATTER OF FOOD DISH ASSOCIATES OF AMERICA ET AL.

SEC. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* Concertedly fixing or maintaining the prices, whether uniform or otherwise, in connection with the offer, sale and distribution of food dish trays in interstate commerce or in the District of Columbia, at which said food dish trays are thereafter to be sold, and doing any act or thing whatsoever for the purpose of carrying out or executing any agreement, understanding, arrangement or conspiracy to fix or maintain such prices, including the establishment of a price zoning system, on the part of respondent Food Dish Associates of America, respondent Durgin, individually and as secretary, treasurer and manager thereof, and various other corporations and individuals, as in the order named, and their respective officers, representatives, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Food Dish Associates of America et al., Docket 3397, December 9, 1938]

SEC. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* Concertedly receiving and exchanging price lists exhibiting the prices, whether uniform or otherwise, in connection with the offer, sale and distribution of food dish trays in interstate commerce or in the District of Columbia, at which said food dish trays are thereafter to be sold, and collecting and disseminating among themselves, either directly or indirectly, or through any one of them, any information whatsoever with the purpose and effect of fixing or maintaining prices on said products, whether uniform or otherwise, and whether through discounts, zones, or any other method, on the part of respondent Food Dish Associates of America, respondent Durgin, individually and as secretary, treasurer and manager thereof, and various other corporations and individuals, as in the order named, and their respective officers, representatives, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Food Dish Associates of America et al., Docket 3397, December 9, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF FOOD DISH ASSOCIATES OF AMERICA, A VOLUNTARY UNINCORPORATED ASSOCIATION, AND ALLAN P. DURGIN, INDIVIDUALLY, AND AS SECRETARY, TREASURER AND MANAGER THEREOF; CHAMPION NO-LEAK PAPER DISH COMPANY, A CORPORATION; SOUTHERN CHAMPION TRAY COMPANY, A CORPORATION; KEYES FIBER COMPANY, A CORPORATION; STEELE-WALLACE CORPORATION, A CORPORATION; BERST-FORSTER-DIXFIELD COMPANY, A CORPORATION; STEVENS & THOMPSON PAPER COMPANY, A CORPORATION; OVAL WOOD DISH CORPORATION, A CORPORATION; CRESCENT PAPER DISH COMPANY, INC., A CORPORATION; STANDARD CARTON COMPANY, A CORPORATION; PAPER SPECIALTY CORPORATION, A CORPORATION; ST. JOE-MULLEN CONTAINER CORPORATION, A CORPORATION; PAPER PLATE & TRAY, INC., A CORPORATION; SANITARY CONTAINER CORPORATION, A CORPORATION; AMERICAN PAPER SPECIALTY MANUFACTURING COMPANY, A CORPORATION; LINCOLN BOX COMPANY, A CORPORATION; F. M. LONGNECKER, AN INDIVIDUAL; JOHN M. HART COMPANY, A CORPORATION; GOOCH & COMPANY, INC., A CORPORATION; AND NEWARK PAPER COMPANY, A CORPORATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, Oval Wood Dish Corporation, Standard Carton Company, Sanitary Container Corporation, John M. Hart Company, Paper Plate & Tray,

[1] 3 F. R. 870.

Inc., and Keyes Fiber Company, and a stipulation as to the facts entered into between all of the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Food Dish Associates of America, Allan P. Durgin, individually, and as Secretary, Treasurer and Manager thereof; Champion No-Leak Paper Dish Company, Southern Champion Tray Company, Keyes Fiber Company, Steele-Wallace Corporation, Berst-Forster-Dixfield Company, Stevens & Thompson Paper Company, Oval Wood Dish Corporation, Crescent Paper Dish Company, Inc., Standard Carton Company, Paper Specialty Corporation, St. Joe-Mullen Container Corporation, Paper Plate & Tray, Inc., Sanitary Container Corporation, American Paper Specialty Manufacturing Company, Lincoln Box Company, F. M. Longnecker, an individual, John M. Hart Company, Gooch & Company, Inc., and Newark Paper Company, and the respective officers, representatives, agents and employees of them and each of them, directly or indirectly by any corporate or other device, or in any other way acting in conjunction or in concert, in connection with the offering for sale, sale and distribution of food dish trays in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Fixing or maintaining the prices, whether uniform or otherwise, at which said products are thereafter to be sold, and from doing any act or thing whatsoever for the purpose of carrying out or executing any agreement, understanding, arrangement or conspiracy to fix or maintain such prices, including the establishment of a price zoning system.

2. Receiving and exchanging price lists exhibiting the prices, whether uniform or otherwise, at which the said commodities are thereafter to be sold, and from collecting and disseminating among themselves either directly or indirectly or through any one of them any information whatsoever with the purpose and effect of fixing or maintaining prices on said products, whether uniform or otherwise, and whether through discounts, zones, or any other method.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3798; Filed, December 19, 1938; 9:28 a. m.]

[Docket No. 3399]

IN THE MATTER OF METZLER-McKEAN CORPORATION, ETC.

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing that use of respondent's facial cremes and cosmetics will build new tissues to replace old and broken-down tissues; prevent or remove wrinkles; eliminate sallowness and enlarged pores; and produce the lovely clear glow of natural youth, and that use of its acne creme will relieve or assist in the removal of acne, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Metzler-McKean Corporation, etc., Docket 3399, December 7, 1938]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing that respondent's "Youth Cup", or similar device, when used in conjunction with, or independent of, respondent's facial cremes and cosmetics, will prevent or remove wrinkles, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Metzler-McKean Corporation, etc., Docket 3399, December 7, 1938]

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing that respondent's lipstick and creme rouge are indelible, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Metzler-McKean Corporation, etc., Docket 3399, December 7, 1938]

SEC. 3.6 (a) (28) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Service.* Falsely representing, in connection with the sale of facial cremes and cosmetics, that respondent maintains a personal prescription service for its customers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Metzler-McKean Corporation, etc., Docket 3399, December 7, 1938]

SEC. 3.6 (g) *Advertising falsely or misleadingly—Earnings:* SEC. 3.80 (g) *Securing agents or representatives falsely or misleadingly—Earnings.* Representing that salesmen, representatives or dealers who solicit purchase orders for respondent's facial cremes and cosmetics earn $15 a day or any other amount or amounts, whether expressed in terms of money or in words indicative of the same, unless such salesmen, etc., consistently earn such amount or amounts in the ordinary course of business under normal conditions and circumstances, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Metzler-McKean Corporation, etc., Docket 3399, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF METZLER-McKEAN, A CORPORATION, DOING BUSINESS UNDER ITS OWN NAME AND UNDER THE TRADE NAMES OF LADY FRANCES LABORATORIES AND LADY FRANCES

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, and a stipulation as to the facts entered into between the respondent herein and Joseph C. Fehr, Trial Attorney for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Metzler-McKean, a corporation, doing business under its own name and under the trade names of Lady Frances Laboratories and Lady Frances, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of its facial cremes and cosmetics in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

(1) That the use of such facial cremes and cosmetics will build new tissues to replace old and broken-down tissues;

(2) That the use of respondent's acne creme will relieve or assist in the removal of acne;

(3) That the use of such facial cremes and cosmetics will prevent or remove wrinkles;

(4) That the use of respondent's "Youth Cup", or similar device, when used in conjunction with, or independent of, respondent's facial cremes and cosmetics, will prevent or remove wrinkles;

[1] 3 F. R. 2228 DI.

(5) That the use of such facial cremes and cosmetics will eliminate sallowness and enlarged pores;

(6) That the use of such facial cremes and cosmetics will produce the lovely clear glow of natural youth;

(7) That respondent's lipstick and creme rouge are indelible;

(8) That respondent maintains a personal prescription service for its customers, when such is not the fact;

(9) That salesmen, representatives or dealers of respondent who are engaged in the business of soliciting purchase orders for respondent's facial cremes and cosmetics earn $15.00 a day or any other amount or amounts, whether expressed in terms of money or in words indicative of the same, unless such salesmen, representatives, or dealers of the respondent consistently earn such amount or amounts in the ordinary course of business under normal conditions and circumstances.

It is further ordered, That the respondent shall, within sixty days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3806; Filed, December 19, 1938; 9:31 a. m.]

[Docket No. 3494]

IN THE MATTER OF LIPMAN BROTHERS

SEC. 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* SEC. 3.66 (a) *Misbranding or mislabeling—Composition.* Using, or assisting or cooperating in use of, words "Pure Dye", or any other word or words of similar meaning, in connection with offer, sale or distribution of women's wearing apparel under trade name "Klassic Kool", or of any other apparel composed in whole or in part of rayon, to describe, etc., fabrics or women's wearing apparel not composed wholly of unweighted silk, product of the cocoon of the silkworm, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Lipman Brothers, Docket 3494, December 7, 1938]

SEC. 3.6 (n) (2) *Advertising falsely or misleadingly — Nature — Product:* SEC. 3.66 (d) *Misbranding or mislabeling—Nature.* Advertising, describing, branding, labeling, or otherwise representing rayon fiber or yarn or thread, strands of fabric made therefrom, in connection with offer, sale or distribution of women's wearing apparel under trade name "Klassic Kool", or of any other apparel composed in whole or in part of rayon, as not being rayon, or without clear and unequivocal disclosure that such material or product is rayon, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Lipman Brothers, Docket 3494, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF JULIUS LIPMAN, HERMAN LIPMAN, AND SAMUEL LIPMAN, INDIVIDUALLY, AND AS COPARTNERS, TRADING AS LIPMAN BROTHERS

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Julius Lipman, Herman Lipman, and Samuel Lipman, individually and as copartners, trading as Lipman Brothers, or under any other trade name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale and distribution of women's wearing apparel designated by the trade name "Klassic Kool" or any other apparel composed in whole or in part of rayon, in interstate commerce, or in the District of Columbia, do forthwith cease and desist from:

1. Using, assisting or cooperating in the use of the words "Pure Dye", or any other word or words of similar import or meaning, to describe or designate fabrics or products which are not composed wholly of unweighted silk, the product of the cocoon of the silkworm.

2. Advertising, describing, branding, labeling, or otherwise representing, rayon fiber or yarn or thread, strands of fabric made therefrom, (a) as not being rayon; or (b) as being something other than rayon; or (c) without clear and unequivocal disclosure that such material or product is rayon.

It is further ordered That the respondents shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3805; Filed, December 19, 1938; 9:31 a. m.]

[Docket No. 3565]

IN THE MATTER OF A. DE PINNA COMPANY, INC.

SEC. 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* SEC. 3.66 (a) *Misbranding or mislabeling—Composition.* Using or causing use by others of words or terms "Silk/Rayon", "Silk-and-Rayon", "Rayon/Silk", or "Rayon-and-Silk", or any other words or terms of similar import and meaning, in connection with offer, sale and distribution of women's wearing apparel, in any manner to describe, etc., cloth or fabric in form of dresses or in any other form, unless such product is composed predominantly by weight of silk combined solely with rayon, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, A. De Pinna Company, Inc., Docket 3565, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, A. De Pinna Company, Inc., its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of women's wearing apparel, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. The use, or from causing the use by others, of the words or terms "Silk/Rayon" and "Silk-and-Rayon", or any other words or terms of similar import and meaning, in any manner to describe or to designate cloth or fabric in the form of dresses or in any other form unless such cloth or fabric is composed predominantly by weight of silk combined solely with rayon.

2. The use, or from causing the use by others, of the words or terms "Rayon/Silk" or "Rayon and Silk", or any other words or terms of similar import and meaning, in any manner to describe or to designate cloth or fabric in the form

of dresses or in any other form unless such cloth or fabric is composed predominantly of rayon combined solely with silk.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3804; Filed, December 19, 1938; 9:31 a. m.]

[Docket No. 3574]

IN THE MATTER OF THE POSTAL COMPANY

SEC. 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product.* Representing, directly or indirectly, that respondent's fortune telling, dream interpreting, and kindred books and booklets will enable the readers thereof to accurately and truthfully solve their most intimate and personal problems, tell their fortunes, interpret their dreams, take the guesswork out of life, correctly advise the readers thereof how to win a husband, and what they can and cannot do in order to obtain happiness and success in life, and making any other representations of the same or similar tenor and meaning, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, The Postal Company, Docket 3574, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF WALTER C. ELLY, AN INDIVIDUAL, TRADING AS THE POSTAL COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to the said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Walter C. Elly, an individual, trading as The Postal Company, or under any other trade name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of his books and booklets in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Representing, directly or indirectly, that said books and booklets will enable the readers thereof to accurately and truthfully solve their most intimate and personal problems, tell their fortunes, interpret their dreams and take the guesswork out of life;

(2) Representing, directly or indirectly, that said books and booklets will correctly advise the readers thereof how to win a husband and what they can and cannot do in order to obtain happiness and success in life;

(3) Making any other representations of the same or similar tenor and meaning,

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3799; Filed, December 19, 1938; 9:29 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

BUREAU OF MARINE INSPECTION AND NAVIGATION

EXTRA COMPENSATION FOR OVERTIME SERVICES

Pursuant to the power conferred by and the authority contained in Section 6 of the Act of May 27, 1936 (Public Law No. 622, 74th Cong., 49 Stat. 1380), as amended by the Act of May 11, 1938 (Public Law No. 503, 75th Cong., 3d Session, 52 Stat. 345), and by virtue of the authority conferred by Section 7 of the Act of May 27, 1936 (49 Stat. 1380), the following regulations relative to extra compensation for overtime services of local inspectors of steam vessels and their assistants, United States Shipping Commissioners and their deputies and assistants, and Customs officers and employees are hereby prescribed.

1. Local inspectors and their assistants, United States shipping commissioners and their deputies and assistants, and customs officers and employees, while performing duties in connection with the inspection of vessels or their equipment, supplying or signing on or discharging crews of vessels, at night or on Sundays and holidays, shall receive extra compensation, to be paid by the master, owner, or agent of the vessel.

2. The rates of extra compensation are payable in cases where the services of officers or employees have been duly requested and the officers or employees have reported for duty, even though no actual service may be performed.

3. The extra compensation for overtime services is in addition to the regular compensation paid by the Government in the case of officers and employees whose compensation is fixed on the ordinary per diem basis and those receiving compensation per month or per annum.

4. Extra compensation for "waiting time" will not be allowed unless and until an officer or employee actually reports for duty.

5. For the purpose of computing extra compensation the word "night" will be construed to mean the time from 5 p. m., to 8 a. m., and the term "holiday" shall include only national holidays, viz, January 1, February 22, May 30, July 4, the first Monday in September, November 11, Thanksgiving Day (when designated by the President), and December 25, and such other days as may be made national holidays.

6. For service performed after 5 p. m., on any day, including Sundays and holidays, one-half day's pay will be allowed for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 p. m., provided that the overtime is not less than one hour. The maximum amount which may be paid an employee for services between 5 p. m., and 8 a. m., shall not exceed two and one-half days' pay.

7. In computing the amount earned for overtime at the rate of "one-half day's pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 p. m.," one-half day's pay shall be one-half of the gross daily rate of pay; each two hours is the time period for the purpose of computation; at least one hour means the minimum service in each period for which extra pay may be granted. If service continues beyond a two hour period, it must extend for at least one hour into the following two hour period to be entitled to extra pay for the second period. When the overtime extends beyond 5 p. m., payment of extra compensation from 5 p. m., for services consisting of at least one hour is authorized, even though such services may not actually begin until 7 p. m., 9 p. m., or later: Provided, however, That the officer rendering the service remained on duty from 5 p. m., in which case the time between 5 p. m., and the time of beginning the actual service shall be computed as waiting time, and where the actual services begin as late as 9 p. m., there should be an affirmative statement that the officer was required to remain on duty between 5 p. m., and 9 p. m., if a charge for waiting time is made.

8. In computing extra compensation where the services rendered are in broken periods and less than two hours intervene between such broken periods, the time served should be combined with the waiting time and computed as continuous service.

9. Where two hours or more intervene between broken periods, one-half day's extra pay will be allowed for each distinct two hour period or part of a two hour period, if waiting time and actual service rendered within each period consists of at least one hour.

10. The same construction should be given the act when charging for waiting time as governs the charge for services actually rendered. No charge should be made unless after having reported for duty the waiting time amounts to at least one hour.

11. For authorized services performed on Sundays and holidays between 8 a. m., and 5 p. m., officers and employees shall be entitled to 2 days' pay in addition to their regular compensation.

12. When employees are in travel status overtime shall apply the same as at official station.

13. Payment of extra compensation for overtime services shall be subject to appropriations being made therefor by Congress.

14. Assessment and collection of fees against steamship companies for overtime services shall be made even though the payment to employees for such services may not be made until funds are appropriated for that purpose.

15. An application on a form prescribed by the Director of the Bureau of Marine Inspection and Navigation, and approved by the Secretary of Commerce, shall be filed with the office being requested to furnish overtime services before such assignment can be made.

16. Overtime services shall be billed to the steamship companies on collection voucher provided for that purpose. Remittance shall be made by postal money order or certified check payable to the "Collector of Customs, Treasury Department" and forwarded to that officer at the port indicated on the voucher, who shall in turn deposit such remittance to a properly designated receipt account.

17. Protests against the exaction of extra compensation shall be forwarded to the Director, Bureau of Marine Inspection and Navigation.

Approved December 17, 1938.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 38-3792; Filed, December 17, 1938; 12:25 p. m.]

TITLE 37—PATENTS AND COPYRIGHTS

COPYRIGHT OFFICE

REGISTRATION OF CLAIMS TO COPYRIGHT

RULE AMENDED

On December 15, 1938, Rule 45 of the Rules and Regulations for the Registration of Claims to Copyright (Copyright Office Bulletin No. 15) was, on the recommendation of the Register of Copyrights, approved by the Librarian of Congress, amended to read as follows:

"After the assignment has been duly recorded, the assignee may substitute his name for that of the assignor in the copyright notice on the work assigned. In addition to the fee for recording and certifying an assignment specified in Rule 44, the assignee shall pay a fee of ten cents for the placing of record in the Copyright Office the transfer of ownership of each title of a book or other article which is the subject matter of such assignment."

C. L. BOUVÉ,
Register of Copyrights.

Approved:

HERBERT PUTNAM,
Librarian of Congress.

DECEMBER 15, 1938.

[F. R. Doc. 38-3785; Filed, December 17, 1938; 10:30 a. m.]

TITLE 41—PUBLIC CONTRACTS

DIVISION OF PUBLIC CONTRACTS

DETERMINATION OF PREVAILING MINIMUM WAGES IN MANUFACTURE OF AEROPLANES, AIRCRAFT ENGINES, PROPELLERS, ACCESSORIES, AND MANUFACTURING AND FINISHING OF PARTS

This matter is before me pursuant to Section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C. Sup. III 35) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes." The Public Contracts Board, created in accordance with Section 4 of the said Act by Administrative Order dated October 6, 1936, held a hearing on March 10, 1938 in the above-entitled matter.

Notice of this hearing was sent to all known members of the industry, to trade unions, to trade publications, and to trade associations in the field. Invitation to attend the hearing was extended through the national press to all other interested parties.

Testimony at the hearing was presented by the Aeronautical Chamber of Commerce, by manufacturers, and by representatives of labor unions. On the basis of the record the Board made its recommendations that the Secretary find the prevailing minimum wage in the industry to be 60 cents an hour or $24.00 per week of 40 hours, and that the Secretary grant a tolerance not to exceed 15 per cent of the workers in any one establishment for those workers who are in fact learners or apprentices and provided that they be paid not less than 40 cents an hour, or $16.00 per week of 40 hours.

On June 24, 1938, the Administrator circularized the Board's recommendations in order that all parties might have full opportunity to register their objection or approval before the decision in the matter was made by the Secretary of Labor.

As a result of the large number of protests received from both employers and employees a second hearing was held in the matter on September 8, 1938 to permit the parties to produce additional evidence on controverted fact issues. Notice of the second hearing was sent to all the parties to whom the original notice was sent.

The Board advises me and the evidence of record indicates that instruments, accessories, radios, and parachutes are manufactured extensively by firms which are, not manufacturers of aeroplanes. For this reason these products will not be considered as the products of the aeroplane industry as defined for the purpose of this minimum wage determination.

The Board advises me and the evidence of record indicates that the Government does not make extensive purchases from the light or commercial branch of the aeroplane industry; that that branch pays a lower minimum than that prevailing in the manufacture of heavy type aeroplanes; and that the production methods of the manufacturers of light aeroplanes differ from the methods used in the manufacture of heavy aeroplanes. Accordingly, light or commercial aircraft shall not be considered products of the aeroplane industry as defined for the purposes of this decision.

The evidence of record indicates that there are approximately 31,500 workers in the industry as defined. The Aeronautical Chamber of Commerce has furnished information which shows that 9,085 employees receive 60 cents an hour or less which has been indicated to be the minimum entrance wage paid to semi-skilled or skilled mechanics. Of these 9,085 employees 3,922 are engaged either in occupations which pay less than 60 cents an hour, or as laborers. Few laborers in the industry receive more than 55 cents an hour, but some receive as high as 60 cents an hour. A wage frequency table showing the distribution of the 3,922 employees in wage intervals of 2.5 cents shows that the first significant concentration falls in the interval between 50 and 52.5 cents. In this interval appear 897 of the 3,922 employees.

The first significant concentration in a wage table showing by 2.5 cent intervals the wage distribution of all employees who receive 60 cents or less is also in the 50 to 52.5 cents bracket.

A considerable number of the employees receiving 60 cents per hour or less are engaged in occupations which never pay less than 50 cents an hour. The nature of these occupations indicates that they are skilled or semi-skilled occupations of the type in which learning periods may be necessary. It therefore appears that no tolerance below 50 cents for learners is necessary.

In the light of all the evidence now of record, the Board has recommended that

the minimum wage for the industry be found to be 50 cents an hour, or $20.00 per week of 40 hours, arrived at either upon a time or piece work basis, provided that apprentices may be employed at lower rates if their employment conforms to the standards of the Federal Committee on Apprenticeship.

I have examined the findings of the Board and the record of the hearings, together with the briefs filed, and in the light of the facts

I hereby determine the minimum wages for employees engaged in the performance of contracts with agencies of the United States Government, subject to the provisions of the Public Contracts Act (49 Stat. 2036; 41 U. S. C. Sup. III 35) for the manufacture or supply of aeroplanes, aircraft engines, and aircraft propellers, with the exception of light or commercial aircraft as distinguished from military and large transport aircraft, and with the exception of propellers and engines for light or commercial aircraft, to be 50 cents an hour, or $20.00 per week of 40 hours, arrived at either upon a time or piece work basis; provided that apprentices may be employed at lower rates if their employment conforms to the standards of the Federal Committee on Apprenticeship.

This determination shall be effective, and the minimum wage hereby established shall apply to all such contracts bids for which are solicited on or after December 29, 1938.

Dated, December 14, 1938.

[SEAL] FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-3788; Filed, December 17, 1938; 11:18 a. m.]

TITLE 46—SHIPPING

UNITED STATES MARITIME COMMISSION

[General Order No. 28]

REGULATIONS REGARDING SELECTION AND TRAINING OF CADET OFFICERS AND CADETS UPON VESSELS OPERATED UNDER SUBSIDY AGREEMENTS AND FOR THE ACCOUNT OF THE UNITED STATES MARITIME COMMISSION

At a regular session of the United States Maritime Commission held at its office in Washington, D. C., on December 13, 1938.

General Order No. 23 and amendments[1] thereto are hereby rescinded.

Application of this order.—This order is prescribed to regulate cadet officer and cadet selection and training on vessels receiving an operating differential subsidy as provided for in Section 23 of the standard long-range subsidy contracts, pursuant to provisions of the Merchant Marine Act of 1936, as amended, to the end that a merchant marine with a trained and efficient citizen personnel may be developed.

[1] 3 F. R. 639, 781 DI.

Persons in training under the system hereby established shall be designated "Cadet Officers" and "Cadets", pursuant to requirements hereinafter set forth.

CADET OFFICERS

1. *Qualifications*—(*a*) *Age.*—The applicant must be not less than 19 nor more than 25 years of age. (If less than 21 years of age, the application must contain written consent of a parent or guardian.)

(*b*) *License.*—The applicant must be the possessor of a license as Third Mate or Third Assistant Engineer.

(*c*) *Physical condition.*—The applicant must possess such physical qualifications as the Commission may prescribe.

(*d*) *Character.*—The applicant shall produce evidence of good moral character in the community in which he resides.

2. *Minimum wages and allowances.*—Minimum compensation for cadet officers shall be at the rate of $75.00 per month. Cadet officers shall receive the perquisites, privileges, and travel and subsistence allowances of a licensed officer.

3. *Quarters.*—Cadet officers shall be quartered aboard ship with licensed officers.

4. *Selection and assignment.*—(*a*) Applicants for cadet officer ratings shall be placed on an eligible list when it is determined the qualifications hereinbefore prescribed have been met.

(*b*) Assignments shall be made from the eligible list with preference to the candidates who have been on such eligible lists longest in point of time.

5. *Limitation.*—Cadet officers shall remain in such rating for a period of not longer than one year, except that if a voyage is commenced before the expiration of the year, the rating shall not be impaired until the conclusion of such voyage. The rating may be extended, for cause shown, in the discretion of the Commission.

CADETS

6. *Qualifications.*—(*a*) *Age.*—The applicant must be not less than 17 nor more than 25 years of age. (If less than 21 years of age, the application must contain written consent of a parent or guardian.)

(*b*) *Determination of eligibility.*—An official eligible list of cadets shall be compiled as follows: (1) An examination shall be conducted in every Congressional District in the United States. The subject matter of such examination and a minimum passing mark shall be approved by the Commission. For purposes of this order, the District of Columbia, Alaska and Hawaii shall be deemed the equivalent of Congressional Districts.

(2) Candidates shall be placed upon an eligible list when they attain the minimum passing mark and, in addition, either (i) the highest mark in the Congressional District in which the examination is taken, or (ii) a mark as high as the lowest mark qualifying under "(i)".

(3) The names on the eligible list shall be listed in the order of national competitive standing.

(*c*) *Physical condition.*—The applicant must possess such physical qualifications as the Commission may prescribe.

(*d*) *Character.*—The applicant shall produce evidence of good moral character in the community in which he resides.

7. *Minimum wages and allowances.*—Minimum compensation for cadets shall be at the rate of $50.00 per month.

8. *Travel allowance.*—While traveling in course of employment, cadets shall be furnished allowance for subsistence at the rate of $3.25 per day, except where subsistence is included with transportation.

9. *Subsistence.*—When meals are not furnished, cadets shall receive a subsistence allowance of $2.50 per day. When not furnished with quarters, they shall receive an allowance of $1.75 per night for lodging.

10. *Quarters.*—Cadets shall be quartered aboard ship with the licensed personnel.

11. *Selection and assignment.*—After examinations have been conducted in all Congressional Districts an eligible list for cadets shall be compiled as follows:

(*a*) The candidate receiving the highest mark in each Congressional District shall be placed on the eligible list, in the order of competitive standing.

(*b*) Any candidate receiving a mark higher than the lowest mark received by any candidate placed on the eligible list under the provisions of sub-section (a) of this section, shall also be placed on the eligible list, in his place of competitive standing on the entire list.

12. *Assignment.*—Cadets shall be assigned by the Maritime Commission to vessels in the order of their standing on the eligible list, subject to the approval of the cadet by the Master of the vessel to which he is assigned.

13. *Present candidates on eligible list.*—Those applicants now on the eligible list prescribed by General Order No. 23, Amended, shall be given equal opportunity to take the examination for eligibility under this Order. Upon compilation of the eligible list, prescribed by this order, the eligible list prescribed by General Order No. 23, Amended, shall be cancelled.

14. *Present cadets.*—Nothing contained in Sections 6, 11 or 12 shall be construed to affect or change the existing status of cadets now assigned to vessels. In all other respects, they shall be amenable to the provisions of this order.

ADMINISTRATION

15. Administration of the regulation and procedure required by this order is placed under the jurisdiction of the member of the Commission having supervision over training.

Training Courses

16. The Commissioner in charge of training shall recommend to the Commission such plans and courses, including shore training and extension courses for cadets enrolled in the Maritime Service as are deemed requisite for the development of competent merchant marine officers, and, upon approval by the Commission shall administer the same.

General

17. Nothing herein contained shall be construed in any manner to affect the operation of the United States Maritime Service as established by the Commission's General Order No. 25. Provisions of this order shall also apply to vessels owned by and operated for the account of the United States Maritime Commission.

Effective Date

18. This order shall become effective and operative as of January 1, 1939, except that the present eligible list shall remain in effect until such time as the competitive eligible list provided for herein may be established by the Commissioner in charge of training.

[SEAL] W. C. PEET, Jr.,
Secretary.

[F. R. Doc. 38-3782; Filed, December 16, 1938; 3:40 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 72 (Sub-No. 1)]

ORDER IN THE MATTER OF REGULATIONS CONCERNING THE CLASS OF EMPLOYEES AND SUBORDINATE OFFICIALS THAT ARE TO BE INCLUDED WITHIN THE TERM "EMPLOYEE" UNDER THE RAILWAY LABOR ACT

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 7th day of December, A. D. 1938.

It appearing, That the Dining Car Employees Union, Local No. 351 of the American Federation of Labor, has filed a petition herein requesting this Commission to amend or interpret its orders[1] defining and classifying employees and subordinate officials under paragraph 5 of section 1 of the Railway Labor Act,[2] as amended, so as to include the work of the persons described in the next succeeding paragraph hereof, and full investigation of the matters and things involved having been made, and the division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof: [1]

It is ordered, That the work defined as that of an employee or subordinate official in orders of this Commission now in effect be, and it is hereby, amended and interpreted so as to include the work of persons in the dining-car service on the Atchison, Topeka & Santa Fe Railway Company and affiliated lines embraced in the Santa Fe system, under the contract with Fred Harvey, and thus bring the persons performing such work within the term "employee" as used in the fifth paragraph of section 1 of the Railway Labor Act, as amended.

By the Commission, division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3786; Filed, December 17, 1938; 10:42 a. m.]

[1] 3 F. R. 2451 DI.
[2] 48 Stat. 1186.

Notices

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER PACKERS AND STOCKYARDS ACT[2]

DECEMBER 17, 1938.

To G. T. YOUNG,
Doing business as Brewton Livestock Commission Company, Brewton, Ala.

Notice is hereby given that after inquiry, as provided by Section 302 (b) of the Packers and Stockyards Act, 1921 (7 U. S. C. Sec. 202 (b)), it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as Farmers Community Sale, at Brewton, State of Alabama, is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers, and other persons concerned is directed to Sections 303 and 306 (7 U. S. C. Secs. 203 and 207) and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3819; Filed, December 19, 1938; 12:08 p. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives.
[2] Modifies list posted stockyards 9 CFR 204.1.

DEPARTMENT OF LABOR.

Wage and Hour Division.

[Administrative Order No. 8]

AMENDING ADMINISTRATIVE ORDER NUMBER 4[1] BY APPOINTING HENRY H. COLLINS, JR. IN ADDITION TO MERLE D. VINCENT, AS AUTHORIZED REPRESENTATIVE TO GRANT OR DENY APPLICATIONS FOR SPECIAL HANDICAPPED WORKER'S CERTIFICATES

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938,[2] I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, hereby designate and appoint severally Merle B. Vincent and Henry H. Collins, Jr. as my authorized representatives with full power and authority to grant or deny applications for special handicapped worker's certificates, and to sign and issue special certificates authorizing the employment of handicapped persons pursuant to the provisions of Section 14 of the Fair Labor Standards Act of 1938 and regulations Title 29—Labor, Chapter V—Wage and Hour Division, Part 524 (Regulations Applicable to Employment of Handicapped Persons pursuant to Section 14 of the Fair Labor Standards Act of 1938).

Signed at Washington, D. C., this 19 day of December 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3820; Filed, December 19, 1938; 12:47 p. m.]

[Administrative Order No. 9]

AMENDING ADMINISTRATIVE ORDER NUMBER 3[1] BY APPOINTING HENRY H. COLLINS, JR. IN ADDITION TO MERLE D. VINCENT, AS AUTHORIZED REPRESENTATIVE TO GRANT OR DENY APPLICATIONS FOR SPECIAL APPRENTICE CERTIFICATES

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938,[2] I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, hereby designate and appoint severally Merle D. Vincent and Henry H. Collins, Jr. as my authorized representatives with full power and authority to grant or deny applications for special apprentice certificates, and to sign and issue special certificates authorizing the employment of apprentices pursuant to the provisions of Section 14 of the Fair Labor Standards Act of 1938 and regulations Title 29—Labor, Chapter V—Wage and Hour Division, Part 521—(Regulations Applicable to Employment of Apprentices pursuant to Section 14

[1] 3 F. R. 2777 DI.
[2] 52 Stat. 1060.

of the Fair Labor Standards Act of 1938).

Signed at Washington, D. C., this 19 day of December 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3821; Filed, December 19, 1938; 12:47 p. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 37-401 (E)-1]

PAN AMERICAN AIRWAYS COMPANY

Application Under Section 401, for a Certificate of Public Convenience and Necessity as Follows:

(a) For a Permanent Certificate for Scheduled Operations in Foreign Air Transportation Carrying Passengers, Property and Mail on a General Route Between New York, N. Y., or Vicinity (Including Port Washington) and Bermuda, With a Right to Substitute Baltimore, Md., or Vicinity (Dundalk), or Charleston, S. C., as the Terminal Point in the United States

(b) For a Temporary Certificate for Scheduled Operations Between Baltimore, Md., or Vicinity (Dundalk), and Bermuda, With Intermediate Stop at New York, N. Y., or Vicinity (Including Port Washington)

NOTICE OF HEARING

DECEMBER 16, 1938.

The above-entitled proceeding is assigned for public hearing on December 28, 1938, 10 o'clock a. m. (eastern standard time) at the offices of the Civil Aeronautics Authority (Hearing Room No. 951, Earle Building, Washington, D. C., before Examiner F. A. Law.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3783; Filed, December 16, 1938; 3:47 p. m.]

[Docket No. 145]

IN THE MATTER OF THE LEASING BY WESTERN AIR EXPRESS CORPORATION AND UNITED AIR LINES TRANSPORT CORPORATION TO EACH OTHER OF DST SLEEPER EQUIPMENT BETWEEN LOS ANGELES AND POINTS EAST OF SALT LAKE CITY ON AIR MAIL ROUTE #1, UNDER AGREEMENT DATED MAY 31, 1938 FILED WITH THE AUTHORITY UNDER SECTION 412 OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF POSTPONEMENT OF HEARING

DECEMBER 16, 1938.

At the request of United Air Lines Transport Corporation, from which it appears (1) that such request is made with the consent of Western Air Express Corporation, and (2) that the parties to the above-mentioned agreement intend to cancel the same and to enter into a new agreement which will be filed with the Authority, the undersigned examiner designated to receive evidence at the public hearing in the above-entitled matter assigned to be held December 21, 1938 at 10 o'clock a. m. (eastern standard time) at the office of the Civil Aeronautics Authority, Washington, D. C.,[1] does hereby, pursuant to the authorization contained in the designation of the undersigned as such examiner, postpone said hearing until further notice.

[SEAL] LUCIAN JORDAN,
Examiner.

[F. R. Doc. 38-3793; Filed, December 17, 1938; 12:32 p. m.]

[Docket No. 3-406 (A)-1]

MID-CONTINENT AIRLINES, INC., PETITION FOR AN ORDER FIXING AND DETERMINING THE FAIR AND REASONABLE RATES OF COMPENSATION FOR THE TRANSPORTATION OF MAIL BY AIRCRAFT, THE FACILITIES USED AND USEFUL THEREFOR, AND THE SERVICE CONNECTED THEREWITH, OVER AIR MAIL ROUTE 26

NOTICE OF HEARING

DECEMBER 17, 1938.

The above entitled proceeding is assigned for public hearing on December 28, 1938, 10 o'clock a. m. (eastern standard time) at the office of the Civil Aeronautics Authority (Hearing Room 5044), Washington, D. C., before the Authority.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3794; Filed, December 17, 1938; 12:32 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of December 1938

[File No. 43-163]

IN THE MATTER OF FEDERAL LIGHT & TRACTION COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Federal Light & Traction Company, a registered holding company, and a subsidiary of Cities Service Power & Light Company, also a registered holding company having filed a declaration with this Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale of $1,500,000 collateral promissory notes to Irving Trust Company, New York; and

A hearing on said declaration having been held[2] after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That said declaration of Federal Light & Traction Company be and become effective forthwith subject to the following terms and conditions:

1. That the issue and sale of the notes shall be effected in accordance with the terms and conditions of, and for the purposes represented by, said declaration.

2. That within ten days after the issue and sale of these notes, the declarant shall file with this Commission a certificate of notification showing that such sale has been effected in accordance with the terms and conditions of, and for the purposes represented by, said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3797; Filed, December 17, 1938; 12:38 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of December, A. D. 1938.

[File No. 44-16]

IN THE MATTER OF AMERICAN STATES UTILITIES CORPORATION

ORDER APPROVING ACQUISITION AND RETIREMENT OF PREFERRED STOCK

American States Utilities Corporation, a registered holding company, having filed an application pursuant to Rule U12C-1 of the General Rules and Regulations under the Public Utility Holding Company Act of 1935 promulgated pursuant to the provisions of Section 12 (c) of the Public Utility Holding Company Act of 1935 for approval of the application of the proceeds received by it from the sale of the assets of its wholly owned subsidiary, Dearborn-Ripley Light & Power Company (File No. 57-2), to the purchase and retirement, by tender, of its $25 par value 5½% cumulative Preferred Stock; a hearing on said application, as amended, having been held[1] after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such acquisition and retirement of the aforesaid Preferred Stock by American States Utilities Corporation in accordance with the terms and conditions of, and for the purposes represented by, said amended application be and the same hereby is approved; provided that within ten days after such acquisition and retirement the applicant shall file with this Commission a Certificate of Notification showing that such acquisition and retirement have been effected in accordance with the terms and conditions of, and for the purposes represented by, said amended application, containing a statement of all tenders received by the applicant and a statement of all tenders accepted by American States Utilities Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3796; Filed, December 17, 1938; 12:38 p. m.]

[1] 3 F. R. 2908 DI.
[2] 3 F. R. 3002 DI.

[1] 3 F. R. 2387 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of December, A. D. 1938.

[File No. 57-2]

IN THE MATTER OF AMERICAN STATES UTILITIES CORPORATION, DEARBORN-RIPLEY LIGHT & POWER COMPANY

ORDER APPROVING SALE OF ASSETS

American States Utilities Corporation, a registered holding company, and its wholly owned subsidiary, Dearborn-Ripley Light & Power Company, having filed a joint application and amendments thereto pursuant to Rule U12D-1 of the General Rules and Regulations under the Public Utility Holding Company Act of 1935 promulgated pursuant to the provisions of Section 12 (d) of the Public Utility Holding Company Act of 1935, for approval of the sale of all of the physical assets of Dearborn-Ripley Light & Power Company to Public Service Company of Indiana for the sum of $65,000, such sum being subject to certain adjustments as set forth in the application; a hearing on said application, as amended, having been held[1] after appropriate notice; the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That such sale of the aforesaid utility assets in accordance with the terms and conditions of, and for the purposes represented by, said amended application be and the same hereby is approved; provided that within ten days after such sale, the applicants shall file with this Commission a Certificate of Notification showing that such sale has been effected in accordance with the terms and conditions of, and for the purposes represented by, said application; provided further that if the express authorization of the sale of such assets by the Public Service Commission of the State of Indiana shall be revoked or otherwise terminated this approval shall immediately terminate without further order of this Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3795; Filed, December 17, 1938; 12:38 p. m.]

[1] 3 F. R. 2387 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 9th day of December, A. D. 1938.

[Fuel No. 43-157]

IN THE MATTER OF UNITED FUEL GAS COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

United Fuel Gas Company, a subsidiary company of Columbia Gas & Electric Corporation, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the reduction of the par value of its authorized and outstanding 300,000 shares from a par value of $100 to $1 per share; a public hearing having been held[1] on the declaration as amended, pursuant to appropriate notice; declarant having prior to the entry of the findings, opinion and order of the Commission, waived a trial examiner's report, submission of proposed findings of fact to the Commission or requested findings of fact by counsel for the Commission, the filing of briefs with the Commission, and oral argument before the Commission; and the Commission having considered the record in this matter and having made and filed its findings herein:

It is ordered, That said declaration be and become effective forthwith, subject, however, to the following terms and conditions:

(1) All corporate action and all matters connected therewith or related thereto shall be performed in all respects as set forth in, and for the purposes represented by, the declaration;

(2) No charges shall be made either to "Special Capital Surplus" or to "Surplus at December 31, 1937" unless thirty days' prior notice of the making of such charge be given to this Commission, in which event the Commission reserves jurisdiction, after notice and opportunity for hearing, to disapprove such charge, on the basis of the record herein and any additional evidence that may be adduced by any interested party;

(3) With respect to any of such "Special Capital Surplus" or "Surplus at December 31, 1937" which is not used for the purposes outlined by the declarant, jurisdiction is reserved by this Commission with respect to the ultimate disposition of such balances;

(4) Except after thirty days' notice to this Commission as provided in the second condition herein, no charges shall be made to depletion or retirement reserve accounts as at December 31, 1937 except to remove therefrom the amounts applicable to property depleted, sold, abandoned or replaced in the normal conduct of declarant's business.

(5) All published balance sheets of declarant shall contain an appropriate footnote to the effect that neither "Special Capital Surplus" or "Surplus at December 31, 1937" are available for the payment of dividends.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3818; Filed, December 19, 1938; 10:52 a. m.]

[1] 3 F. R. 2375 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of December, A. D. 1938.

[File No. 43-165]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF COLORADO

ORDER GRANTING REQUEST FOR WITHDRAWAL OF DECLARATION

Public Service Company of Colorado having, on November 25, 1938, filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 relating to the issue and sale of $40,000,000 of 3¾%, Series due 1963, of First Mortgage Bonds, $10,000,000 of 4% Sinking Fund Debentures due 1948, and 50,000 shares of 5½% Cumulative First Preferred Stock, Series due 1948, $100 par, and

A hearing having been held[1] on such application after appropriate notice and the declarant thereafter and before action taken thereon by the Commission having on December 15, 1938, requested the withdrawal of said declaration;

It is ordered, That the aforesaid request of the declarant, dated December 15, 1938, be, and hereby is, granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3816; Filed, December 19, 1938; 10:51 a. m.]

[1] 3 F. R. 2796 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of December, A. D. 1938.

[File No. 31-417]

IN THE MATTER OF CONSOLIDATED ELECTRIC AND GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 3 (a) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 12, 1939, at

9:45 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commisison's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 6, 1939.

The matter concerned herewith is in regard to the application of applicant seeking exemption of The Islands Gas and Electric Company, Campagnie d' Eclairage Electrique des Villes de Port-au-Prince et du Cap Haitien, Campania Electrica de Santo Domingo, C. por A, Sociedad Anonima Industrial del Este, Gas y Electricidad, S. A., Manila Gas Corporation, Union Electrica de Canarias, S. A., Tranvias de Las Palmas, S. A., and Porto Rico Gas & Coke Company as subsidiaries of applicant from all the provisions of the Public Utility Holding Company Act of 1935, it being alleged that such companies derive no material part of their income, directly or indirectly from sources within the United States and that none of such companies is a public-utility company operating in the United States.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3811; Filed, December 19, 1938; 10:50 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 16th day of December, A. D. 1938.

[File No. 32-125]

IN THE MATTER OF LEXINGTON WATER POWER COMPANY, SOUTHEASTERN INVESTING CORPORATION

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 6 (b) and 10 (a) (1) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties; and it appearing that the hearings on such applications should be joined and consolidated;

It is ordered, That a hearing on such matter be held on January 17th, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 10th, 1939.

The matter concerned herewith is in regard to an application of Lexington Water Power Company, a direct subsidiary of Southeastern Electric and Gas Corporation, and an indirect subsidiary of General Gas & Electric Corporation, Associated Gas and Electric Corporation and Associated Gas and Electric Company, pursuant to section 6 (b), for an exemption from the provisions of section 6 (a) of the issuance of its 5% Serial Debentures in the aggregate principal amount of $3,000,000. Said debentures are to mature serially at the rate of $250,000 principal amount in each of the years 1939 to 1950, inclusive. Lexington Water Power Company proposes to issue these debentures to Southeastern Investing Corporation in exchange for a like principal amount of Lexington Water Power Company's presently outstanding 5½% Convertible Sinking Fund Debentures due January 1, 1953. The 5½% Convertible Sinking Fund Debentures to be reacquired are to be cancelled.

Lexington Water Power Company has also filed an application pursuant to section 10 (a) (1) of the Act seeking approval of the acquisition by it of the 5½% Convertible Sinking Fund Debentures which it hopes to acquire by exchange for the 5% Serial Debentures it proposes to issue.

Southeastern Investing Corporation has filed an application pursuant to section 10 (a) (1) seeking approval for the acquisition of the 5% Serial Debentures which Lexington Water Power Company proposes to issue. At the request of the applicant companies these applications have been consolidated and it is proposed to treat them as parts of one proceeding.

It is stated in the application that this proposed issue has not yet been authorized by the State commission. It is anticipated that such an order will be forthcoming shortly after January 1, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3809; Filed, December 19, 1938; 10:50 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 16th day of December 1938.

IN THE MATTER OF APPLICATIONS BY THE PHILADELPHIA STOCK EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO ALLEGHENY LUDLUM STEEL CORP., COMMON STOCK, NO PAR VALUE; ARMOUR & CO. OF ILLINOIS, COMMON STOCK, $5 PAR VALUE; ARMSTRONG CORK CO., COMMON STOCK, NO PAR VALUE; BRIDGEPORT BRASS CO., COMMON STOCK, NO PAR VALUE; CONGOLEUM-NAIRN, INC., COMMON STOCK, NO PAR VALUE; CONSOLIDATED AIRCRAFT CORP., COMMON STOCK, $1 PAR VALUE; CONTAINER CORP. OF AMERICA, CAPITAL STOCK, $20 PAR VALUE; CONTINENTAL BAKING CORP., COMMON CLASS B STOCK, NO PAR VALUE, $8 NON CUMULATIVE PARTICIPATING CLASS A COMMON STOCK, NO PAR VALUE; CRANE CO., COMMON STOCK, $25 PAR VALUE; DISTILLERS CORP. SEAGRAMS, LTD., COMMON STOCK, NO PAR VALUE; ENGINEERS PUBLIC SERVICE CO., COMMON STOCK, $1 PAR VALUE; GREYHOUND CORP., COMMON STOCK, NO PAR VALUE; INTERNATIONAL PAPER & POWER CO., COMMON STOCK, $15 PAR VALUE, 5% CUMULATIVE CONVERTIBLE PREFERRED STOCK, $100 PAR VALUE; LOCKHEED AIRCRAFT CORP., CAPITAL STOCK, $1 PAR VALUE; MARSHALL FIELD & CO., COMMON STOCK, NO PAR VALUE; GLENN L. MARTIN CO., COMMON STOCK, $1 PAR VALUE; NATIONAL GYPSUM CO., COMMON STOCK, $1 PAR VALUE; NATIONAL LEAD CO., COMMON STOCK, $10 PAR VALUE; NEWPORT INDUSTRIES, INC., CAPITAL STOCK, $1 PAR VALUE; PARAMOUNT PICTURES, INC., COMMON STOCK, $1 PAR VALUE; RICHFIELD OIL CORP., COMMON STOCK, NO PAR VALUE; SUPERIOR OIL CORP., COMMON STOCK, $1 PAR VALUE; TRANSCONTINENTAL & WESTERN AIR, INC., COMMON STOCK, $5 PAR VALUE; UNITED AIR LINES TRANSPORT CORP., COMMON STOCK, $5 PAR VALUE; WHITE MOTOR CO., COMMON STOCK, $1, PAR VALUE; WILSON & CO., INC., COMMON STOCK, NO PAR VALUE; WORTHINGTON PUMP & MACHINERY CORP. (DEL.), COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING

The Philadelphia Stock Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule X-12F-1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the above-mentioned securities; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, January 31, 1939, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3810; Filed, December 19, 1938; 10:50 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File Nos. 43-159, 56-14]

IN THE MATTER OF KENTUCKY-TENNESSEE LIGHT AND POWER COMPANY, ASSOCIATED ELECTRIC COMPANY AND CENTRAL U. S. UTILITIES COMPANY

ORDER PERMITTING DECLARATIONS TO BECOME EFFECTIVE AND APPROVING APPLICATION ON CONDITIONS

Kentucky-Tennessee Light and Power Company having filed with this Commission a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the sale of its note in the principal amount of $750,000 to be dated on or about November 14, 1938, and to mature on or about October 14, 1939; and

Central U. S. Utilities Company having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding an agreement by such company to advance to Kentucky-Tennessee Light and Power Company from time to time, such funds as the latter company may need in addition to its own cash to make periodic payments for principal and interest on the aforesaid note as hereinafter indicated.

Associated Electric Company and Central U. S. Utilities Company, registered holding companies, having filed a joint application pursuant to Section 12 (d) of the Public Utility Holding Company Act of 1935 for permission for Pennsylvania Investing Corporation to pledge $7,256,600 principal amount of Kentucky-Tennessee Light and Power Company First and Refunding Mortgage 5% Bonds, due May 1, 1954; and

A public hearing having been held[1] after appropriate notice; the Commission having heard oral argument; the record in this matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the declaration of Kentucky-Tennessee Light and Power Company, as amended, and the declaration of Central U. S. Utilities Company be permitted to become effective and the joint application of Associated Electric Company and Central U. S. Utilities Company be approved, all, however, subject to the following conditions:

(1) That the face amount of the proposed note issue be limited to $560,000.

(2) That the note mature eleven months from the date of issue.

(3) That the face amount of the note be reduced from time to time by monthly payments, for the first five months, of $50,000 each plus accrued interest, and for the seventh, eight, ninth and tenth months of $60,000 each plus accrued interest and that payment of the total unpaid balance be made at the date of maturity.

(4) That no change be made increasing the rate or basis upon which interest is presently accrued on the open account payable to Central U. S. Utilities Company.

(5) That Kentucky provide for depreciation or retirement of fixed assets by charging operating expense each year with an amount equal to 20% of gross operating revenues (after deducting the amounts expended for purchased power and purchased natural gas) less the amount expended for maintenance.

(6) That the note agreement with the bank shall contain a provision that in the event of any default on the proposed note, the bonds collateralizing the same shall not be sold by the bank except at an advertised sale and after written notice to the interested parties.

(7) So long as there is any unpaid balance on the proposed note or any note issued in renewal or substitution therefor or for the purpose of providing funds to liquidate the same, no payments of cash be made by the declarant (a) on the open account now owed by it to Central U. S. Utilities Company, (b) for interest on such open account heretofore or hereafter accrued, (c) for dividends heretofore or hereafter declared by it, (d) for redemption or retirement in whole or in part of its bonds except, out of the proceeds of sales of its physical property, to the extent required by the identures under which the said bonds or securities of its parents were issued, (e) for interest heretofore or hereafter accrued on its bonds, or (f) otherwise, to its parents, directly or indirectly (except that declarant may repay any sums hereafter advanced by its parents, directly or indirectly, provided that any such advances and repayments thereof shall be recorded in a separate account on the books of the company), and

(8) That the issue and sale of the aforesaid promissory note, the advancing of any funds by Central U. S. Utilities Company to meet the periodic payments on the proposed note, and the proposed pledge by Pennsylvania Investing Corporation shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by said declarations and application and, that within ten days after the said transactions the declarants or applicants, as the case may be, shall file with this Commission their Certificates of Notification showing that such transactions have been effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3817; Filed, December 19, 1938; 10:52 a. m.]

[1] 3 F. R. 2504, 2585 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File No. 31-453]

IN THE MATTER OF DOVER CASUALTY INSURANCE COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 2 (a) (8) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 9, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 4, 1939.

The matter concerned herewith is in regard to application of Dover Casualty Insurance Company, of Wilmington, Delaware, for an order declaring it not to be a subsidiary company of Associated Gas and Electric Company, Associated Gas and Electric Corporation, and Associated Utilities Corporation.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3812; Filed, December 19, 1938; 10:50 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File Nos. 31-453, 60-4, 60-5]

IN THE MATTER OF DOVER CASUALTY INSURANCE COMPANY

ORDER FOR CONSOLIDATION OF HEARINGS FOR STATED PURPOSES

The Commission now having pending before it the following related matters:

(1) *File No. 31-453.*—Application of Dover Casualty Insurance Company pursuant to Section 2 (a) (8) of the Public Utility Holding Company Act of 1935 to be declared not to be a subsidiary company of Associated Gas and Electric Company, Associated Gas and Electric Corporation and Associated Utilities Corporation.

(2) *File No. 60-4.*—Proceeding pursuant to Section 2 (a) (8) (B) of said Act to determine whether said Dover Casualty Insurance Company shall be declared to be a subsidiary company of Associated Gas and Electric Company, Associated Gas and Electric Corporation, and Associated Utilities Corporation, or any of them.

(3) *File No. 60-5.*—Proceeding pursuant to Section 2 (a) (11) (D) of said Act to determine whether said Dover Casualty Insurance Company shall be declared to be an affiliate of Associated Gas and Electric Company, Associated Gas and Electric Corporation, and Associated Utilities Corporation, or any of them.

It appearing that such proceedings involve common questions of law and fact; that evidence offered in respect to each matter may have a bearing on the others; that the parties in the respective matters are identical; and that substantial saving in time, effort and expense will result if the hearings on said matters are consolidated so that they may be heard as one matter and so that the evidence adduced in each matter may stand as evidence in the others for all purposes;

It is ordered, That the matters referred to in (1), (2), and (3) hereof, Commission's File Nos. 31-453, 60-4, and 60-5 be and they hereby are consolidated for the purpose of hearings thereon. The Commission reserves the right, if at any time it may appear conducive to an orderly and economical disposition of any of such matters, to order a separate hearing with respect to the same or any part thereof, or to close the record with respect thereto and/or to take action thereon prior to closing the record on said other matters.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3813; Filed, December 19, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File No. 60-4]

IN THE MATTER OF DOVER CASUALTY INSURANCE COMPANY

NOTICE OF AND ORDER FOR HEARING DECLARING SAID COMPANY TO BE A SUBSIDIARY OF CERTAIN HOLDING COMPANIES

The Commission having reasonable cause to believe that Dover Casualty Insurance Company, whose address is Delaware Trust Building, Wilmington, Delaware, stands in such relation to the following holding companies and each of them:

Associated Gas and Electric Company, of Ithaca, New York;
Associated Gas and Electric Corporation, of Wilmington, Delaware; and
Associated Utilities Corporation, of Wilmington, Delaware;

that its management and policies are subject to a controlling influence, directly or indirectly, by such holding companies (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary and appropriate in the public interest and for the protection of investors and consumers that said Dover Casualty Insurance Company be subject to the obligations, duties and liabilities imposed upon subsidiary companies of holding companies by the Public Utility Holding Company Act of 1935.

It is ordered, Pursuant to Section 2 (a) (8) (B) of said Act that a hearing be held to determine whether such relation exists and, if such relation is found to exist, to declare Dover Casualty Insurance Company to be a subsidiary of the above named holding companies and each of them.

It is further ordered, That such hearing be held on January 9, 1939 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to said Dover Casualty Insurance Company and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 4, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3814; Filed, December 19, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File No. 60-5]

IN THE MATTER OF DOVER CASUALTY INSURANCE COMPANY

NOTICE OF AND ORDER FOR HEARING DECLARING SAID COMPANY TO BE AN AFFILIATE OF OTHER SPECIFIED COMPANIES

The Commission having reasonable cause to believe that Dover Castualty Insurance Company, whose address is Delaware Trust Building, Wilmington, Delaware, stands in such relation to

Associated Gas and Electric Company, of Ithaca, New York,
Associated Gas and Electric Corporation, of Wilmington, Delaware, and
Associated Utilities Corporation, of Wilmington, Delaware,

and each of such companies that there is liable to be such an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest and for the protection of investors and consumers that said Dover Casualty Insurance Company be subject to the obligations, duties and liabilities imposed upon affiliates of a company by the Public Utility Holding Company Act of 1935;

It is ordered, Pursuant to Section 2 (a) (11) (D) of said Act that a hearing be held to determine whether such relation exists and, if such relation is found to exist, to declare said Dover Casualty Insurance Company to be an affiliate of the other above-named companies and each of them.

It is further ordered, That such hearing be held on January 9, 1939 at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to said Dover Casualty Insurance Company and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 4, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3815; Filed, December 19, 1938; 10:51 a. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS THURSDAY, DECEMBER 15, 1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico	589	41
2. Hawaii	140	15
3. California	2,164	782
4. Alaska	23	9
5. Texas	2,220	896
6. Louisiana	801	374
7. Michigan	1,846	878
8. Arizona	166	84
9. New Jersey	1,541	813
10. South Carolina	663	380
11. Ohio	2,534	1,521
12. Oklahoma	913	561
13. Mississippi	766	473
14. Alabama	1,009	625
15. Arkansas	707	443
16. New Mexico	161	102
17. Georgia	1,109	743
18. North Carolina	1,209	812
19. Kentucky	997	680
20. Tennessee	997	761
21. Wisconsin	1,120	859
22. Illinois	2,909	2,233
23. Connecticut	613	491
24. Oregon	364	318
25. Nevada	35	31
26. Indiana	1,235	1,095
27. Delaware	91	81
28. Florida	560	524
29. Idaho	170	160
30. Pennsylvania	3,672	3,489
31. New York	4,799	4,577
32. Utah	194	189
33. West Virginia	659	655
34. Kansas	717	715
QUOTA FILLED		
35. Wyoming	86	86

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1938
IN EXCESS			
36. Maine	304	305	−1
37. Massachusetts	1,620	1,630	+10
38. Missouri	1,384	1,402	−54
39. New Hampshire	177	180	+9
40. Vermont	137	142	−1
41. Washington	596	619	+50
42. Minnesota	977	1,020	−50
43. Colorado	395	414	+21
44. North Dakota	260	273	+17
45. Montana	205	221	−11
46. Rhode Island	262	290	+27
47. South Dakota	264	301	+9
48. Iowa	942	1,095	−3
49. Nebraska	525	627	−11
50. Virginia	923	1,938	−23
51. Maryland	622	1,843	−19
52. District of Columbia	186	8,760	−2

GAINS	
By appointment	217
By reinstatement	5
By transfer	34
Total	256
LOSSES	
By separation	50
By transfer	190
Total	240
Total Appointments	47,559

NOTE.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of Aug. 25, 1934, 14,464.

By direction of the Commission:

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 38-3808; Filed, December 19, 1938; 10:42 a. m.]

DEC 22 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 247

Washington, Wednesday, December 21, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Cotton 307]

PART 722—REGULATIONS PERTAINING TO COTTON MARKETING QUOTAS FOR THE 1939–1940 MARKETING YEAR

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, I do make, prescribe, publish, and give public notice of the following regulations governing cotton marketing quotas for the 1939–1940 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said act.[1]

CONTENTS

GENERAL

Section 722.111 Issuance of forms and instructions and definitions.
(a) Issuance of forms and instructions.
(b) Definitions.

ALLOTMENTS AND YIELDS

Sec. 722.112 National baleage allotment.
Sec. 722.113 State baleage allotments and State acreage allotments.
(a) State baleage allotment.
(b) State acreage allotment.
(c) Minimum State acreage allotment.
(d) State acreage reserve for new farms.
(e) Additional fund of four percent of State acreage allotment.
(f) Increases to provide for minimum farm acreage allotments.
Sec. 722.114 County acreage allotments.
(a) Regular county acreage allotments.
(b) Administrative areas.
Sec. 722.115 Apportionment of acreage allotments among established farms.
(a) Acreage available for allotment.
(b) Initial farm acreage allotments.
(c) Reserve for small farms.
(d) Apportionment on the basis of tilled land.
(e) Increases as a result of making initial farm acreage allotments.
(f) Increases in view of past production.
(g) Distribution of reserve for small farms.
(h) Certain minimum and maximum farm acreage allotments.
Sec. 722.116 Apportionment of acreage allotments among new farms.
Sec. 722.117 Normal yields.
(a) Farms for which normal yields will be established.
(b) Yields based on reliable records.
(c) Appraised yields.
(d) Adjustments in appraised yields.
Sec. 722.118 Applicability of detailed instructions.

[1] Unless otherwise indicated, all references in the text to sections relate to sections of these regulations. Unless otherwise indicated, all citations at the end of paragraphs are to sections of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 52 Stat. 31, as amended).

SEC. 722.111 *Issuance of forms and instructions and definitions*—(a) *Issuance of forms and instructions.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions (as parts of the general series referred to in Sec. 722.118) and such forms as may be required to carry out these regulations. Copies of such forms and necessary instructions shall be furnished free to persons needing them upon request made to the office of the appropriate county committee.

(b) *Definitions.* As used in these regulations and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural number:

(1) *Act.* The Agricultural Adjustment Act of 1938 and any amendments thereto.

(2) *Secretary of Agriculture.* The Secretary of Agriculture of the United States.

(3) *Administrator.* The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

(4) *Regional Director.* The director of the division of the Agricultural Adjustment Administration in charge of the administration of Sections 7 to 17, in-

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Cotton marketing quotas for 1939–40 marketing year, regulations 3053
TITLE 8—ALIENS AND CITIZENSHIP:
Immigration and Naturalization Service:
Del Bonita, Mont., port of entry for aliens 3057
TITLE 10—ARMY:
War Department:
Medical Corps, appointment of commissioned officers and chaplains 3057
TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Columbia Alkali Corp., et al. 3057
Julep Bottling Co., Inc. 3058
TITLE 30—MINERAL RESOURCES:
National Bituminous Coal Commission:
Districts Nos. 14, 16–20, 22 and 23, coordination of minimum prices, rules and regulations, etc. 3059
TITLE 32—NATIONAL DEFENSE:
National Guard:
Commissioned officers, regulations 3059
TITLE 45—PUBLIC WELFARE:
Civilian Conservation Corps:
Enrollment, discharge, hospitalization, etc., of enrollees; regulations amended 3063
TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission:
Freight commodity statistics 3064
Quarterly reports of revenue highway traffic of Class I steam railways 3064

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

Department of Agriculture:
Sugar Division: Page
Wage rates, production, etc., of 1939 crop of sugar beets, hearing 3065

Department of the Interior:
National Bituminous Coal Commission:
Minimum Price Areas Nos. 4, 6, 7, 9, and 10, postponement of reopened hearing, weighted average of total costs of tonnage produced 3064

Department of Labor:
Division of Public Contracts:
Notice of opportunity to show cause, discontinuance of tolerance for learners, etc., in:
Men's Raincoat Industry 3065
Seamless Hosiery Industry 3065
Work Glove Industry 3065
Wage and Hour Division:
Industry Committee No. 1, definition of "textile industry" amended 3065
Industry Committee No. 2, appointment of 3066

Federal Power Commission:
Orange and Rockland Electric Co. of N. J., and Rockland Electric Co., notice of application 3066

Securities and Exchange Commission:
Kent, Ralph C., registration revoked 3067
Withdrawal of applications:
Compania Mexicana de Gas, S. A. 3067

CONTENTS—Continued

Securities and Exchange Commission—Continued. Page
Withdrawal of applications—Continued.
Kentucky Utilities Co. 3067
New York State Electric and Gas Corp. 3067

clusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148) in the region.

(5) *Southern Region.* The area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

(6) *East Central Region.* The area included in the States of Delaware Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

(7) *Western Region.* The area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

(8) *North Central Region.* The area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

(9) *State Committee.* The group of persons designated within any State to assist in the administration of Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

(10) *Committee.* A committee within a county or community utilized under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act. "County committee", "community committee", or "local committee" shall have corresponding meanings in the connection in which they are used.

(11) *Review Committee.* The review committee appointed by the Secretary of Agriculture as provided in Section 363 of the Act.

(12) *Person.* An individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State. The term "person" shall include two or more persons having a joint or common interest.

(13) *Owner or landlord.* A person who owns farm land and rents such land to another person or who operates such land.

(14) *Cash tenant or standing-rent tenant or fixed-rent tenant.* A person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

(15) *Share tenant.* A person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

(16) *Sharecropper.* A person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

(17) *Operator.* A person who as a landlord or cash tenant or standing or fixed-rent tenant is operating a farm or who as a share tenant is operating a whole farm.

(18) *Producer or farmer.* A person who is entitled to a proportionate share of the cotton crop, or the proceeds thereof, produced on the farm in 1939, as owner, landlord, cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, or sharecropper. The term "producer" or "farmer" also includes a wage hand (or cropper) who as a laborer on a farm instead of receiving daily or other cash wages for his labor receives either all the cotton produced by him or another on an agreed or specified acreage or all the cotton produced on an agreed or specified portion of the acreage cultivated by him or another.

(19) *Buyer.* A person who buys cotton from a producer.

(20) *Transferee.* A person who receives cotton from a producer by barter or exchange.

(21) *Ginner.* A person who gins cotton.

(22) *Treasurer of the County Committee.* The treasurer of the county agricultural conservation association or the treasurer of the county committee, as the case may be.

(23) *Farm.* All adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, and

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that: (a) There is one crop rotation system on the entire area of land; (b) the yields and productivity of the different ownerships do not vary substantially; (c) the combination is not being made for the purpose of increasing acreage allotments or primarily for the purpose of effecting compliance; and (d) the several ownership tracts constitute a farming unit for the operator and will be regarded in the community as a farm in 1939. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

(24) *Farm marketing quota.* A cotton marketing quota established for a farm under Section 346 (a) of the Act.

(25) *Producer marketing quota.* A producer's share of a farm marketing quota.

(26) *Farm acreage allotment.* A cotton acreage allotment established for a farm under section 722.115 or 722.116 of these regulations.

(27) *Normal yield per acre of lint cotton.* The number of pounds of lint cotton established as the normal yield for the farm in accordance with section 722.117.

(28) *Actual production* of any number of acres of cotton on a farm. The actual average yield of lint cotton for the farm for 1939 times such number of acres.

(29) *Normal production* as applied to any number of acres of cotton. The normal yield per acre of lint cotton for the farm times such number of acres.

(30) *Cotton.* Any cotton other than long staple cotton.

(31) *Long staple cotton.* Cotton the staple of which is 1⅛ inches or more in length.

(32) *Lint cotton.* The fiber taken from seed cotton by ginning.

(33) *Seed cotton.* The harvested fruit of the cotton plant before it is ginned.

(34) *Ginning.* Separating lint cotton from the seed.

(35) *Market.* To dispose of by sale, barter, or exchange.

(i) The term "sale" means any transfer of title to cotton by a producer to another by any means other than barter or exchange.

(ii) The terms "barter" and "exchange" mean transfer of title to cotton by a producer to another in return for cotton or other commodities, services, or property in cases where the value of the cotton or such other commodities, services, or property is not considered in terms of money, or the transfer of title to cotton by a producer to another in payment of a fixed rental or other charge for land.

(iii) "Marketed," "marketing," and "for market," shall have corresponding meanings to the term "market" in the connection in which they are used.

(36) *Marketing year.* The period beginning on August 1, 1939, and ending with July 31, 1940, both dates inclusive.

(37) *Penalty.* The penalty provided in Section 348 of the Act.

(38) *State and county code number.* The applicable number assigned by the Agricultural Adjustment Administration to each county for the purpose of identification.

(39) *Serial number of the farm or farm serial number.* The serial number assigned to a farm.

(40) *Gin bale number or mark.* The number on the bale tag or any mark made or used by the ginner to identify a bale of cotton. (Sec. 375, 52 Stat. 66)

ALLOTMENTS AND YIELDS

SEC. 722.112 *National baleage allotment.* The national allotment of cotton for the calendar year beginning January 1, 1939, is 10,000,000 standard bales of 500 pounds gross weight, increased by that number of standard bales of 500 pounds gross weight equal to the production in 1939 of that number of acres required to be allotted for 1939 as set forth in Sec. 722.113 (c), relating to minimum State acreage allotments, and in Sec. 722.114 (b), relating to minimum county acreage allotments. The production in 1939 of the acreage allotment referred to in Sec. 722.113 (e), relating to, a special fund of acreage allotments consisting of 4 percent of the State acreage allotment, and in Sec. 722.113 (f), relating to minimum farm acreage allotments, shall be in addition to such national allotment. (Sec. 343 (a), (b), and (c), 52 Stat. 56)

SEC. 722.113 *State baleage allotments and State acreage allotments*—(a) *State baleage allotment.* Ten million standard bales of the national baleage allotment of cotton for the calendar year 1939 shall be apportioned among the several States on the basis of the average of the normal production of cotton in each State for the five years 1933 to 1937. The normal production of a State for each such year shall be (1) the quantity of cotton produced therein in such year plus (2) the normal production of the acres diverted from the production of cotton in all counties in the State under the agricultural adjustment or conservation program in such year. The normal production of the acres diverted from the production of cotton in any county in any year shall be the average yield per acre of the acres planted to cotton in such county in such year times the number of acres so diverted in such county in such year. [Sec. 344 (a)]

(b) *State acreage allotment.* A State acreage allotment shall be established for each State to which an allotment is made under paragraph (a). The State acreage allotment shall be that number of acres equal to the result obtained by dividing the number of standard bales allotted to the State under paragraph (a) by the average yield per acre for the State expressed in standard bales. The average yield per acre for any State shall be determined on the basis of the average of the normal production for the State for the five years 1933 to 1937 and the average, for the same period, of the acres diverted from the production of cotton in the State under the agricultural adjustment or conservation programs and the acres planted to cotton. [Sec. 344 (b)]

(c) *Minimum State acreage allotment.* Notwithstanding the foregoing provisions of this section, the State acreage allotment for any State which is less than 5,000 acres shall be increased to 5,000 acres if at least 3,500 bales of cotton were produced in such State in any of the five years 1934 to 1938. [Sec. 344 (e) (2)]

(d) *State acreage reserve for new farms.* An acreage not greater than two percent of the State acreage allotment shall be made available for apportionment to farms in the State on which cotton was not planted in any one of the three years 1936, 1937, and 1938. [Sec. 344 (c) (2)]

(e) *Additional fund of four percent of State acreage allotment.* In addition to the State acreage allotment, a special fund of acreage allotments equal to 4 percent of the State acreage allotment shall be established for each State for apportionment as set forth in Sec. 722.115 (b), (e), and (f). [Sec. 344 (g)]

(f) *Increases to provide for minimum farm acreage allotments.* There shall be available in each State for allotment to farms that number of acres equal to the total amount by which farm acreage allotments in the State are increased as set forth in Sec. 722.115 (h), relating to certain minimum and maximum farm acreage allotments. This increase shall be in addition to the State acreage allotment and the special fund of acreage allotments equal to 4 percent of the State acreage allotment. [Sec. 344 (h)] (Sec. 344, 52 Stat. 57, 203, 586)

SEC. 722.114 *County acreage allotments*—(a) *Regular county acreage allotments.* The State acreage allotment (less that part set aside under Sec. 722.113 (d) for apportionment to new farms) shall be apportioned among the counties in the State on the basis of the sum of (1) the acreage therein planted to cotton during the five years 1933 to 1937 and (2) in the applicable years, the acreage therein diverted from the production of cotton under agricultural adjustment and conservation programs, with adjustments for abnormal weather conditions and trends in acreage during such five-year period. The acreage allotment for each county to which an allotment is so apportioned shall be increased by the number of acres, if any, required to provide an acreage allotment for each such county of not less than 60 percent of the sum of (1) the acreage therein planted to cotton in 1937, and (2) the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program. [Sec. 344 (c) (1), Sec. 344 (e) (1)]

(b) *Administrative areas.* If in any county there are one or more areas which, because of difference in types, kinds, and productivity of the soil or other conditions, should be treated separately in order to prevent discrimination, each such area shall, in accordance with applicable instructions, be designated by the county committee and the county acreage allotment shall be apportioned among such areas (1) on the basis of the acreage in each such area

planted to cotton in 1937 plus the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program, or (2) if conditions affecting the acreage planted to cotton were not reasonably uniform throughout the county in 1937, on the basis of the cotton base acreage in each such area which was or could have been established in 1937 under the agricultural conservation program. [Sec. 344 (f).] (Sec. 344, 52 Stat. 57, 203, 586)

SEC. 722.115 *Apportionment of acreage allotments among established farms*—(a) *Acreage available for allotment.* The county committee, with the assistance of other local committees established in the county, shall apportion, in the manner set forth in this section, acreage allotments among all farms in the county on which cotton was planted in any one of the three years 1936 to 1938. The acreage allotments to be apportioned among such farms shall consist of (1) the regular county acreage allotment, consisting of an apportionment of the State acreage allotment made to the county, with such increase in the county acreage allotment as is necessary to provide for the county a minimum acreage allotment of not less than 60 percent of the planted plus diverted cotton acreage in the county in 1937, and (2) a distributive part, applicable to the county, of the special fund of acreage allotments consisting of that amount which is equal to 4 percent of the State acreage allotment. This distributive part, hereinafter referred to as the "special fund", is to be applied, insofar as the amount thereof will permit, and in the following order: (a) in supplying any deficiency in the regular county acreage allotment for the making of initial acreage allotments not exceeding five acres for each such farm; (b) in supplementing any acreage allotment made to any farm out of the regular county acreage allotment which, in consequence of the making of such initial acreage allotments, is inadequate and unrepresentative, and (c) in supplementing any acreage allotment made to any farm under this section which the county committee determines, in accordance with applicable instructions, is inadequate and unrepresentative. The committee shall not establish any farm acreage allotment which is not covered by the allotments mentioned above, except that after but not before the apportionment among farms of all the allotments mentioned above in this paragraph an additional farm acreage allotment shall be made, as set forth in paragraph (h), to any farm in respect to which the acreage allotment otherwise made is less than the minimum acreage allotment set forth in paragraph (h). The term "planted plus diverted cotton acreage", as used in this section, shall be taken to mean the sum of the acreage planted in cotton and the acreage diverted from cotton production under agricultural adjustment or conservation programs. [Sec. 344 (d), (e), (f), (g), (h).]

(b) *Initial farm acreage allotments.* The regular county acreage allotment shall be first apportioned among farms on which cotton was planted in any one of the three years 1936 to 1938, inclusive, and in making such apportionment there shall be first established for each such farm an initial acreage allotment equal to the highest planted plus diverted cotton acreage on the farm in any one of the three years 1936 to 1938, provided that no initial allotment shall exceed five acres for any such farm. These allotments shall be known as initial allotments and are referred to accordingly in this section. Any deficiency in the amount of the regular county acreage allotment for the making of such initial allotments shall be supplied by the use of the special fund of acreage allotments, insofar as said fund will permit. [Sec. 344 (d) (1), Sec. 344 (g) (1).]

(c) *Reserve for small farms.* In the event that the regular county acreage allotment is more than sufficient to make the initial allotments, there shall be set aside for increase of allotments to small farms, as set forth in paragraph (g), an amount of not more than 3 percent of that amount of the regular county acreage allotment which remains after making the initial allotments. [Sec. 344 (d) (2).]

(d) *Apportionment on the basis of tilled land.* The remainder of the regular county acreage allotment shall be apportioned among all farms on which the highest planted plus diverted cotton acreage in any one of the three years 1936 to 1938 was more than five acres. The acreage thus to be apportioned to each such farm shall, together with the initial allotment made to the farm, be a percentage (which shall be the same percentage for all farms in the county or administrative area within the county) of the acreage on the farm in 1938 which was tilled or was in regular rotation, excluding therefrom the acreage devoted to the production of sugarcane for sugar, wheat, tobacco, or rice for market, or wheat or rice for feeding to livestock for market. [Sec. 344 (d) (3).]

(e) *Increases as a result of making initial farm acreage allotments.* If, as a result of the making of initial allotments, the farm acreage allotments for farms made in accordance with paragraph (d) are substantially smaller than the farm acreage allotments which would have been made without regard to any provision for the making of initial allotments, the farm acreage allotments to such farms shall be increased to the acreage which would have resulted in the absence of any provision for the making of initial allotments, insofar as any portion of the special fund of acreage allotments not used in the making of initial allotments will permit. [Sec. 344 (d) (2).]

(f) *Increases in view of past production.* After allotments have been made from the special fund as provided in paragraphs (b) and (e), one-half of the remainder, if any, of the special fund shall be apportioned to farms for which the acreage allotment otherwise determined is less than 50 percent of the planted plus diverted cotton acreage on the farm in 1937, and the other one-half of the remainder, if any, of the special fund shall be available for increasing the allotments for any farms which are determined, in accordance with applicable instructions, to be inadequate and not representative in view of past production of the farm: Provided, That the cotton acreage allotment for any farm shall not be increased under this paragraph (f) above 40 percent of the acreage on such farm in 1938 which was tilled or was in regular rotation. [Sec. 344 (g) (3).]

(g) *Distribution of reserve for small farms.* Any farm acreage allotment made as aforesaid of more than five acres, but not exceeding 15 acres, may be increased from the reserve of not more than 3 percent of the county acreage allotment mentioned in paragraph (c). In making such increase due consideration shall be given to, and such allotments shall be made on the basis of, the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton. [Sec. 344 (d) (2).]

(h) *Certain minimum and maximum farm acreage allotments.* Notwithstanding any other provision of this section, (1) the farm acreage allotment made to any farm shall not exceed the highest planted plus diverted cotton acreage in any one of the three years, 1936 to 1938, and (2) any farm acreage allotment which after but not before the apportionment of all acreage allotments, as provided in the foregoing paragraphs of this section, is less than 50 percent of the planted plus diverted cotton acreage on the farm in 1937, shall be increased to such amount, provided that such increase shall not be so made as to raise the farm acreage allotment of the farm above 40 percent of the acreage on the farm in 1938 which was tilled or was in regular rotation. The acreage allotments required to effect this minimum provision shall be in addition to all acreage allotments represented by the regular county acreage allotment and by the special fund of acreage allotments. [Sec. 344 (d) (3), Sec. 344 (h).] (Sec. 344, 52 Stat. 57, 203, 586)

SEC. 722.116 *Apportionment of acreage allotments among new farms.* The county committee, with the assistance of other local committees, shall, in accordance with applicable instructions, apportion among farms on which cotton was not planted in any one of the three years 1936 to 1938 and on which cotton will be planted in 1939 the distributive part, applicable to the county, of acreage allotments which constitute a reserve of not more than 2 percent of the State acreage allotment. The basis of the apportionment shall be the land, labor, and equipment available on the farm for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton thereon. The acreage on the farm which will be tilled in 1939 or was tilled in 1938 shall, as a reflection of said factors, be regarded as the basic index of the farm's capacity for cotton production. (Sec. 344 (c) (2), 52 Stat. 57)

SEC. 722.117 *Normal yields*—(a) *Farms for which normal yields will be established.* The county committee, with the assistance of the other local committees established in the county, shall determine the normal yield per acre of lint cotton for each farm for which a farm acreage allotment is established.

(b) *Yields based on reliable records.* Where reliable records of the actual average yield of lint cotton per acre for all of the five years 1934 to 1938 are presented by the farmer or are available to the committee, the normal yield per acre of lint cotton for the farm shall be the average of such yields, adjusted, in accordance with applicable instructions, for abnormal weather conditions.

(c) *Appraised yields.* If for any year of the five-year period 1934 to 1938 (1) records of the actual average yield are not available, or (2) there was no actual yield because cotton was not planted in such year, the normal yield per acre of lint cotton for the farm shall be appraised by the county committee, taking into consideration the normal yield for the county, the yield in the years for which data are available, and the rainfall, temperature, and other weather conditions during the years for which data are available as compared with those for which data are not available, provided the appraised yield so obtained shall be adjusted in accordance with paragraph (d).

(d) *Adjustments in appraised yields.* The yields determined under paragraph (c) shall be adjusted so that the average of the normal yields per acre of lint cotton determined for all farms in the county or local administrative area therein (weighted by the cotton acreage allotments established for such farms) shall conform to but not exceed the county or administrative area normal yield per acre of lint cotton established for 1939 by the Secretary of Agriculture. (Sec. 301 (b) (13) (B) and (E), 52 Stat. 38)

SEC. 722.118 *Applicability of detailed instructions.* The provisions of Sec. 722.112 through Sec. 722.117 shall be carried out in detail in accordance with the provisions of Part I, "Determining 1939 Farm Cotton Acreage Allotments and Yields", of the following instructions applicable to the regions indicated below:

Southern Region.—Cotton 308–SR, "Instructions Pertaining to Cotton Marketing Quotas for 1939".

East Central Region.—Cotton 308–ECR, "Instructions Pertaining to Cotton Marketing Quotas for 1939".

Western Region.—Cotton 308–WR, "Instructions Pertaining to Cotton Marketing Quotas for 1939".

North Central Region.—Cotton 308–NCR, "Instructions Pertaining to Cotton Marketing Quotas for 1939". (Sec. 375, 52 Stat. 66)

Done at Washington, D. C., this 20th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3840; Filed, December 20, 1938; 12:21 p. m.]

TITLE 8—ALIENS AND CITIZENSHIP

IMMIGRATION AND NATURALIZATION SERVICE

[3d Supp. to General Order No. C-1[1]]

PORT OF ENTRY FOR ALIENS AT DEL BONITA, MONTANA

DECEMBER 17, 1938.

Pursuant to the authority contained in Section 23 of the Immigration Act of 1917 (Act of February 5, 1917, 39 Stat. 892; 8 U. S. C. 102), Del Bonita, Montana, is hereby designated as a port for the entry of aliens into the United States.

Sec. 1.31, Title 8, Code of Federal Regulations (Rule 3, Subdivision A, Paragraph 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936), is amended by inserting Del Bonita, Montana, between Babb, Montana, and Gateway, Montana, in the list of ports of entry for aliens in District No. 15.

[SEAL] JAMES L. HOUGHTELING,
Commissioner.

Approved:

FRANCES PERKINS,
Secretary.

[F. R. Doc. 38-3838; Filed, December 20, 1938; 12:54 p. m.]

TITLE 10—ARMY

WAR DEPARTMENT

CHAPTER VII—PERSONNEL

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS

Appointment in Medical Corps, Regular Army

10 CFR 73.05 (e) is rescinded. (Sec. 24, 41 Stat. 774; sec. 4, 35 Stat. 67, 10 U. S. C. 92, 93.) [Sec. III, Cir. No. 77, W. D., Dec. 15, 1938.]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3826; Filed, December 20, 1938; 9:53 a. m.]

[1] 3 F. R. 1657 DI.

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3519]

IN THE MATTER OF COLUMBIA ALKALI CORPORATION ET AL.

SEC. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* By agreement, etc., and in connection with the sale of calcium chloride in any form in interstate commerce or in the District of Columbia, fixing or maintaining uniform prices in the sale thereof in the United States, on the part of respondent corporations, their successors and assigns, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Columbia Alkali Corporation et al., Docket 3519, December 13, 1938.]

SEC. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* By agreement, etc., and in connection with the sale of calcium chloride in any form in interstate commerce or in the District of Columbia, (a) maintaining a uniform zoning system for the United States, (b) suggesting retail prices to their individual dealers or distributors, (c) exchanging information with reference to the prices each charges, (d) changing simultaneously their sales prices, and (e) offering identical bids for carload or less than carload lots to prospective purchasers; when any or all of said acts are done for the purpose of effectuating any agreement, combination or conspiracy to fix or maintain uniform prices in the United States for the sale of calcium chloride in any form; on the part of respondent corporations, their successors and assigns, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Columbia Alkali Corporation et al., Docket 3519, December 13, 1938.]

SEC. 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* By agreement, etc., and in connection with the sale of calcium chloride in any form in interstate commerce or in the District of Columbia, eliminating cash discounts for prompt payment by purchasers thereof, on the part of respondent corporations, their successors and assigns, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Columbia Alkali Corporation et al., Docket 3519, December 13, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF COLUMBIA ALKALI CORPORATION, DOW CHEMICAL COMPANY, MICHIGAN ALKALI COMPANY, SOLVAY SALES CORPORATION, SOLVAY PROCESS COMPANY, AND CALCIUM CHLORIDE ASSOCIATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of respondents, in which answers respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, admit, with respect to the period extending from November 1937 through January 1938, all the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and in which answer respondents, Solvay Process Company (The Solvay Process Company), and Calcium Chloride Association, each deny that they were parties to any of the unlawful acts and practices alleged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, and their respective successors and assigns, officers, representatives, agents and employees, directly or indirectly, or through or by means of any association, its officers, representatives and agents, or by any other means, in connection with the offering for sale, sale and distribution of calcium chloride in any form in interstate commerce or in the District of Columbia, do forthwith cease and desist from doing by agreement, combination, or conspiracy between or among any two or more of said respondents, or between or among any one of said respondents and any other competing manufacturer or distributor of calcium chloride in any form, the following acts and things:

(1) Fixing or maintaining uniform prices in the sale of calcium chloride in any form in the United States;

(2) (a) Maintaining a uniform zoning system for the United States, (b) suggesting retail prices to their individual dealers or distributors, (c) exchanging information with reference to the prices each charges for calcium chloride, (d) changing simultaneously their sales prices for calcium chloride in any form, (e) offering identical bids for carload or less than carload lots of calcium chloride in any form to prospective purchasers when any or all of said acts are done for the purpose of effectuating any agreement, combination or conspiracy to fix or maintain uniform prices in the United States for the sale of calcium chloride in any form;

(3) Eliminating cash discounts for prompt payment by purchasers of calcium chloride;

It is further ordered, That the case growing out of the complaint herein be, and the same hereby is, closed as to the respondents, Solvay Process Company (The Solvay Process Company) and Calcium Chloride Association, but without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume prosecution thereof in accordance with its regular procedure;

It is still further ordered, That the respondents, Columbia Alkali Corporation, Dow Chemical Company (The Dow Chemical Company), Michigan Alkali Company, and Solvay Sales Corporation, shall each, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3823; Filed, December 20, 1938; 9:45 a. m.]

[Docket No. 3583]

IN THE MATTER OF JULEP BOTTLING COMPANY, INC.

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., soda water so arranged, etc., that sales thereof to the general public are to be, or may be, made by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Julep Bottling Company, Inc., Docket 3583, December 7, 1938]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to dealers bottles of soda water capped with crowns, which caps or crowns have printed or impressed numbers therein, and are to be, or may be, used in selling, etc., said products to the purchasing public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Julep Bottling Company, Inc., Docket 3583, December 7, 1938]

SEC. 3.99 (b) *Using or selling lottery devices—In merchandising.* Furnishing to, etc., dealers bottles of soda water capped with crowns, which caps or crowns have printed or impressed numbers therein, or any other products, together with a device to be, or which may be used in selling, etc., said products to the purchasing public by means of a game of chance, etc., as specified, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Julep Bottling Company, Inc., Docket 3583, December 7, 1938]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commision upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and respondent further states that it waives hearing on the charges set forth in said complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Julep Bottling Company, Inc., a corporation, its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of soda water in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Selling and distributing said soda water so arranged and assembled that sales of such soda water to the general public are to be made or may be made by means of a game of chance, gift enterprise, or lottery scheme;

(2) Furnishing to dealers bottles of soda water capped with crowns, which caps or crowns have printed or impressed numbers therein, which said bottle caps or crowns are to be used or may be used in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme;

(3) Furnishing to or placing in the hands of dealers said products or any other products together with a device which said device is to be used or may be used in selling or distributing said products to the purchasing public by means of a game of chance, gift enterprise, or lottery scheme.

It is further ordered, That the respondent shall within sixty (60) days after service upon it of this order file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-3822; Filed, December 20, 1938; 9:45 a. m.]

TITLE 30—MINERAL RESOURCES

NATIONAL BITUMINOUS COAL COMMISSION

[Order No. 254]

DIRECTING DISTRICT BOARDS FOR DISTRICTS Nos. 14, 16, 17, 18, 19, 20, 22 AND 23 TO COORDINATE MINIMUM PRICES AND RULES AND REGULATIONS INCIDENTAL TO SALE AND DISTRIBUTION OF COAL APPROVED BY THE NATIONAL BITUMINOUS COAL COMMISSION TO SERVE AS THE BASIS FOR COORDINATION BY SAID DISTRICT BOARDS

DIRECTING SAID DISTRICT BOARDS TO SUBMIT SUCH COORDINATED PRICES AND RULES AND REGULATIONS TOGETHER WITH DATA UPON WHICH THEY ARE PREDICATED; AND ESTABLISHING AND PROMULGATING RULES AND REGULATIONS UNDER WHICH SUCH COORDINATION SHALL BE ACCOMPLISHED

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937,[1] the National Bituminous Coal Commission hereby orders and directs:

1. That Order No. 253[2] heretofore issued by the Commission on the 9th day of December, 1938, be and the same is hereby supplemented to include the following provisions:

(a) That the District Boards for Districts Nos. 16, 17, 18, 19, 20, 22 and 23, now engaged in coordination proceedings pursuant to the provisions of Order No. 253, shall forthwith proceed to coordinate the minimum prices and rules and regulations incidental to the sale and distribution of coal, approved by the Commission to serve as the basis for coordination for the respective districts, with the minimum prices and rules and regulations incidental to the sale and distribution of coal approved by the Commission to serve as a basis for coordination for District No. 14, and the District Board for District No. 14 shall forthwith proceed to coordinate with the said Districts Nos. 16, 17, 18, 19, 20, 22 and 23 pursuant to and in the same manner as provided by the provisions of said Order No. 253 prescribed for said Districts Nos. 16, 17, 18, 19, 20, 22 and 23.

(b) Said District Board No. 14 shall forthwith, by appropriate resolution, designate and appoint one or more persons with power of delegation and substitution to represent said District Board in the work of coordination and fully empower such person or persons to act for said District Board in a meeting with other such representatives from the other District Boards named in this Order, in the Offices of the Commission, Washington, D. C., commencing at 10:00 o'clock, A. M., on the 19th day of December, 1938.

(c) The provisions of Order No. 253, and the rules and regulations therein established for the coordination of minimum prices and for the coordination of the rules and regulations incidental to the sale and distribution of coal, be and the same are hereby incorporated herein, to the end that all of the provisions of said Order No. 253 shall be and the same are hereby declared to be applicable to District Board No. 14.

2. The Secretary of the Commission is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and shall cause copies hereof to be mailed to each code member within Districts Nos. 16, 17, 18, 19, 20, 22 and 23, to the Consumers' Counsel and to the Secretary of each District Board, and shall cause a copy hereof, together with a copy of said Order No. 253 to be mailed to each code member within District No. 14, and shall cause copies hereof to be made available for inspection by interested parties in each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 17th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-3834; Filed, December 20, 1938; 12:15 p. m.]

[1] 50 Stat. 72.
[2] 3 F. R. 2998 DI.

TITLE 32—NATIONAL DEFENSE

NATIONAL GUARD

COMMISSIONED OFFICERS

The following regulations supersede 32 C. F. R. 1.01 to 1.06, inclusive:*

SEC. 1.01 *Appointment* — (a) *General.* Section 8, article I, of the Constitution of the United States reserves to the States the appointment of officers of the militia. Therefore, as soon as a person is appointed an officer of the National Guard and has taken the prescribed oath of office, he has a State status under which he can function. These appointees, however, will not be considered officers of the National Guard in the sense of the National Defense Act until they have been Federally recognized. (See 1.02 for Federal recognition.)

(b) *Appointments for new units.* As soon as the Chief of the National Guard Bureau authorizes the formation of a headquarters or a unit, the State authorities should select and appoint the officers prescribed for that headquarters or unit.

(c) *Appointments to State staff*—(1) *The adjutant general*—(i) *Of a State.* The appointment of a person to the office of adjutant general of a State and his tenure of office are governed by the laws of the State.

(ii) *Of a Territory.* The adjutant general of a Territory is appointed by the President upon the recommendation of the Governor, with such rank and qualifications as the President may prescribe. However, no person shall be appointed adjutant general of a Territory, unless he be a citizen of that Territory.

(iii) *Of the District of Columbia.* The adjutant general of the District of Columbia is appointed by the President upon recommendation of the commanding general of the National Guard of the District of Columbia, with such rank and qualifications as the President may prescribe.

(2) *The United States property and disbursing officer.* The Governor of each State and Territory, and the commanding general of the National Guard of the District of Columbia shall appoint, designate, or detail, subject to the approval of the Secretary of War, the adjutant general or an officer of the National Guard of the State, Territory, or District of Columbia, who shall be regarded as property and disbursing officer of the United States. *Section 67, National Defense Act.* (See also 1.02 (d) (2) (viii).)

(3) *Other State staff officers.* See 1.02 (d) (2) (viii).

(d) *Appointments in grades lower than prescribed.* Appointments of officers in grades lower than those prescribed by the applicable tables of organization are authorized, provided that for each such appointment in a lower grade a vacancy is maintained in a higher grade in the same unit.

(e) *Oath of office.* An appointment is not complete until the officer has executed the prescribed oath of office (NGB Form No. 337). This oath will be forwarded through channels to the Chief of the National Guard Bureau with the officer's request for Federal recognition.* [NGR 20, July 8, 1938]

SEC. 1.02 *Federal Recognition*—(a) *Definition.* Federal recognition is the action of the War Department in acknowledging and recording that officers of the National Guard have met the qualifications and requirements prescribed by the National Defense Act and regulations, and are thereby entitled to receive Federal pay and allowances.

(b) *Effective date of recognition.* Recognition is not complete until granted by the War Department. It is effective from the date on which the requirements for recognition were met.

(c) *Persons eligible.* Persons commissioned as officers of the National Guard shall not be recognized as such under any of the provisions of these regulations unless they shall have been selected from the following classes, and shall have taken and subscribed to the oath of office prescribed in section 73 of the National Defense Act:

(1) Officers or enlisted men of the National Guard.

(2) Officers, active or retired, of the Army, Navy, or Marine Corps.

* Sections 1.01 to 1.06, inclusive, are issued under the authority contained in sec. 58, 39 Stat. 197; sec. 1, 43 Stat. 1075; sec. 5, 48 Stat. 155; 32 U. S. C. 4.

(3) Reserve officers, and former officers of the Army, Navy, or Marine Corps and enlisted men and former enlisted men of the Army, Navy, or Marine Corps who have received an honorable discharge therefrom.

(4) Graduates of the United States Military and Naval Academies.

(5) Graduates of schools, colleges, universities, and officers' training camps, when they have received military instruction under the supervision of an officer of the Regular Army who certified their fitness for appointment as commissioned officers.

(6) For the technical branches or staff corps and departments, such civilians as may be specially qualified for duty therein.

NOTE.—A civilian officer or employee of the United States or the District of Columbia who is appointed an officer of the National Guard will not be Federally recognized without the consent of the head of the department or service in which he is employed.

(d) *Requirements for recognition.* The Chief of the National Guard Bureau will not grant Federal recognition to an officer until he has evidence that the following requirements have been met:

(1) *Residence.* The candidate must live in the vicinity of the unit to which he is to be assigned.

(2) *Assignment*—(i) *To a company.* The company must be recognized.

(ii) *To headquarters of division special troops.* Over 50 percent of the units comprising the special troops must be recognized.

(iii) *To a battalion headquarters.* All the lettered or numbered companies of the battalion must be recognized.

(iv) *To a regimental headquarters—Lieutenant colonel and one staff officer.* All the companies of one battalion must be recognized and at least two other companies of the regiment.

The regimental commander and regimental staff. At least sixty-five percent of the companies of the regiment must be recognized.

(v) *To a brigade headquarters.* When the regiments of the brigade have been recognized.

(vi) *To a division headquarters.* The requirement set forth in (v) above must be fulfilled by two infantry brigades of the division; in addition, at least one-half of the companies that have been authorized for the division by the National Guard Bureau but which do not belong to these two brigades must be recognized.

(vii) *To split units.* The provisions of this paragraph from (i) to (vii) inclusive, apply with equal force to all split units.

(viii) *To State staff—Adjutant general.* If the person appointed adjutant general is a recognized officer he may retain that status or he may vacate his former commission and apply for recognition in the Adjutant General's Department. No professional examination is required but all other qualifications and requirements prescribed by Federal law and these regulations must be met before recognition will be granted. When recognized, a State adjutant general comes under the same regulations that apply to other recognized officers. (See the following table for authorized grades of State adjutants general for recognition.)

Rank and grade [1]	0 to 1,000	1,000 to 2,000	2,000 to 4,000	4,000 to 6,000	6,000 to 8,000	8,000 to 12,000	12,000 to 18,000	Over 18,000
Not above brigadier general			1	[2]1	[2]1	[2]1	[2]1	[2]1
Not above colonel		[2]1	2	6	6	6	6	6
Not above lieutenant colonel	[2]1		4	3	3	6	3	5
Not above major	4	4	2	3	6	7	5	5
Not above captain	3	3					10	15
Total commissioned	8	8	9	13	16	20	25	32

[1] A United States property and disbursing officer is included in the total number of commissioned officers provided for each strength classification in this table.
[2] The State adjutant general only.

United States property and disbursing officer. Any officer (other than the State adjutant general or an officer of the Finance Department or the Quartermaster Corps) who is appointed United States property and disbursing officer shall vacate his former commission and receive a new commission in the Finance Department or the Quartermaster Corps. If otherwise qualified, the United States property and disbursing officer may be recognized in the Finance Department or the Quartermaster Corps in any grade authorized in the foregoing table except the grade reserved for the adjutant general. Any officer (other than the State adjutant general or an officer of the Finance Department or the Quartermaster Corps) who was appointed United States property and disbursing officer prior to the publication of this regulation may request a transfer in grade to the Finance Department or the Quartermaster Corps. In the event the incumbent does not elect to request such transfer, he may continue in office in his existing grade and arm or service, until promotion. Upon promotion, he will be recognized only in the Finance Department or the Quartermaster Corps.

Other State staff officers. A person appointed as an officer of the National Guard and assigned to the State staff may, if otherwise qualified, be recognized provided he is commissioned and qualified in a staff corps or department appropriate to the staff position to which he is assigned, and further provided that the total number of officers so recognized in any State does not exceed the total authorized in the foregoing table. (For staff corps and departments see sec. 2, National Defense Act.)

(3) *Age.* No candidate will be examined for recognition who is less than 21 or more than 62 years old. No candidate for original commission as second lieutenant shall be more than 32; as first lieutenant, more than 36; as captain, more than 40; as major, more than 45; as lieutenant colonel, more than 50; as colonel, more than 62.

(4) *Examination.* The candidate must pass such physical, moral, and professional tests as the President may prescribe. (See 1.03.)

(e) *Termination of recognition.* Recognition of a National Guard officer terminates—

(1) When he has reached the age of 64 years.

(2) When his commission is vacated.

(3) When he is convicted of a felony.

(4) When he is transferred from a position in which he is recognized to a position for which there is no provision for recognition.

(5) When recognition is withdrawn from the organization to which the officer belongs, unless he is transferred to an existing vacancy in a recognized unit or to the inactive National Guard.

(f) *Withdrawal of recognition.* Recognition of a National Guard officer will be withdrawn—

(1) When he has been absent without leave for 3 months.

(2) When the annual physical examination or the findings of a medical board appointed under the provisions of 1.05 (b) (3) herein show that he is physically incapacitated for further service.

(3) When he is a member of the headquarters of a battalion or larger unit and that unit becomes so depleted that it no longer conforms to the prescribed recognition requirements. In such cases recognition of the commanding officer and his staff will be withdrawn 6 months after the date on which the unit became incomplete, unless the condition is corrected prior to the expiration of that period.

(4) When the time limit of a waiver granted under 1.04 (a) (3) (4) or (5) expires and the officer has not taken the prescribed examination or has failed to pass it.

(5) When an inspection conducted under the provisions of section 93, National Defense Act, shows that the individual is lacking in the required qualificatons. In such cases the War Department may summarily withdraw Federal recognition.

(6) When an efficiency board appointed under the provisions of section 76, National Defense Act, finds against him and those findings are approved by the Chief of the National Guard Bureau." [NGR 20, July 8, 1938]

SEC. 1.03 *Examination*—(a) *General*—(1) *Scope.* Every candidate for appointment or promotion will be examined to determine whether or not he is physically, morally, and professionally qualified. To this end the board will examine into the following matters in the order named (for waivers see 1.04):

(i) Physical qualifications.
(ii) Moral character.
(iii) General qualifications.
(iv) Professional qualifications:

Military knowledge qualifications.
Ability qualifications.

(2) *Marks.* The board's findings under all matters listed in (1) above, except "Military knowledge qualifications," will be reported on NGB Form No. 89, as "satisfactory" or "unsatisfactory." Each of the prescribed written examinations conducted under "Military knowledge qualifications" will be graded on a percentage basis and the grades will be shown on the list of subjects set forth in the record of proceedings. A grade of less than 65 percent in any subject will be considered unsatisfactory.

(b) *Physical examination.* In determining the physical qualifications of a candidate, the board will not be limited to an examination of the records submitted, but may, at its discretion, require additional evidence or a "reexamination." If the board finds a candidate physically disqualified, it shall conclude the examination and report the cause which has produced the disqualification.

(c) *Inquiry into moral character.* The board will inquire into the moral character of the candidate. The candidate will be carefully questioned and he may be required to submit in writing such information as the board may desire. The board is also authorized to seek verification of the candidate's statements or additional information from reliable sources. The candidate will be informed of any unfavorable statements of fact relative to his moral character and will be given an opportunity to refute or explain these statements.

(d) *Determination of general qualifications.* The board will determine whether or not the general qualifications of the candidate indicate suitability for the military service. To this end the board will carefully consider his general education, personality, appearance, and bearing, and his business, professional, and military experience. It will also take into consideration the efficiency of any military unit which may have been under his command. In determining sufficiency of education the board should bear in mind the duties and responsibilities that will devolve upon the candidate. Should any doubt exist as to the sufficiency of the candidate's education, he will be examined in such subjects as the board deems necessary. This examination will be conducted in the manner prescribed for the professional examination and the result will be incorporated in the report of that examination.

(e) *Professional examination*—(1) *General.* The professional examination will consist of two parts: a written examination to determine the candidate's military knowledge qualifications; and a practical test, conducted either with or without troops, to determine his ability qualifications. The examination will be sufficiently comprehensive to determine the candidate's professional qualifications but it will not involve feats of memory requiring the reproduction of statistics, data, or kindred matter ordinarily found in reference works.

(2) *Scope.* In determining the subjects under professional qualifications in which a candidate (except a general officer) is to be examined and the scope of the examination in each subject, the board will be governed by the following Army Regulations which set forth the minimum qualifications for appointment and promotion:

AR 140–22, Adjutant General's Department.
AR 140–23, Air Corps.
AR 140–24, Cavalry.
AR 140–25, Chaplains.
AR 140–26, Chemical Warfare Service.
AR 140–27, Coast Artillery Corps.
AR 140–28, Corps of Engineers.
AR 140–29, Field Artillery.
AR 140–30, Finance Department.
AR 140–31, Infantry.
AR 140–32, Judge Advocate General's Department.
AR 140–33, Medical Department.
AR 140–36, Ordnance Department.
AR 140–37, Quartermaster Corps.
AR 140–38, Signal Corps.

(3) *Initial appointment.* The professional examination of a candidate for initial appointment will include not only the tests specified for the grade and arm or service in which recognition is sought, but will also include (unless waived in accordance with these regulations) all tests required for appointment or promotion to all lower grades in the particular arm or service.

(f) *Method of conducting the professional examination*—(1) *General.* The written tests prescribed under "military knowledge qualifications" will be conducted by one or more members of the examining board as designated by the president of the board. The ability tests will be conducted by the board as a whole.

(2) *Military knowledge tests*—(i) *Use of texts.* Since the military knowledge tests are based on the application of principles and not on memorized portions of texts, candidates will be permitted to use any textbooks or references they may desire during the course of any test, except when such use is manifestly inappropriate.

(ii) *Certificate of candidate.* Each candidate is required to certify in writing that he has received no unauthorized assistance during the examination.

(3) *Ability tests*—(i) *Command of troops.* Whenever practicable, the ability of the candidate to perform the practical duties of the grade sought should be determined by giving him an opportunity to command the appropriate unit in suitable drill and tactical exercises. Regular Army units at military posts and stations, units of the National Guard and, with the consent of the proper authorities, units of the Reserve Officers' Training Corps and Citizens' Military Training Camps may be used for these tests.

(ii) *Terrain exercises.* When troops are not available appropriate terrain exercises, supplemented by oral examination, may be substituted.

(iii) *Alternate methods.* If it be impracticable to conduct the required ability tests by the methods outlined above, the candidate may be tested through the medium of map maneuvers, map problems, or such other exercises as the board may desire.

(iv) *Noncommand tests.* If the candidate is an applicant for service other than with troops, he should be given an opportunity to demonstrate his practical knowledge by the performance of duties incident to the commission for which he is a candidate.

(g) *Professional examination for general officers*—(1) *General.* The professional examination for candidates for the grade of general officer will consist of two parts, a written examination and an ability test. The examining board will prepare and mark the examination. The corps area commander will furnish such assistance as may be desired in the preparation of the examination. The result of the examination will be indicated in the record of proceedings as "satisfactory" or "unsatisfactory."

(2) *Written examination.* The written examination will consist of two map problems. The first will include requirements calling for a tactical decision and the troop leading of units appropriate to the grade sought; the second will be designed to test the candidate's knowledge of the principles of combat intelligence, communications, supply, evacuation, and administration.

(3) *Ability test*—(i) *How conducted.* The ability test will be conducted by actual command of the necessary troops, or through the medium of terrain exercises, command post exercises, terrain walks and rides, or by a combination of these methods, depending upon the facilities available. This test will be oral except for such messages, orders, train-

ing programs, reports, and requisitions as are ordinarily prepared by the commanders in question.

(ii) *Scope.* The candidate will demonstrate to the satisfaction of the board his ability to command the appropriate unit in the field, to direct the collection and dissemination of military intelligence for the unit, and to plan and order the operations of the unit.

(h) *Certificate of eligibility.* A certificate of eligibility (NGB Form No. 89a) is a written statement by the Chief of the National Guard Bureau that the individual named therein has satisfactorily completed the tests and met the qualifications prescribed for a particular grade in a particular arm or service and is therefore qualified for appointment in that grade and arm or service. If appointment or promotion to the office for which an applicant is certified as eligible is made within 2 years from the date shown on this certificate, Federal recognition will be extended without further examination other than physical.

(i) *Reexamination in case of failure.* A candidate who fails to pass the prescribed examination may be authorized by the State adjutant general to take another examination. In each case of reexamination, the candidate must appear in person before the board.

(j) *Notification of result of examination.* When the proceedings of an examining board have been approved, the Chief of the National Guard Bureau will notify the State adjutant general of the result of the examination. If the candidate is successful the notification will be given on NGB Form No. 3a which extends Federal recognition in the grade and arm or service for which the candidate has qualified, or, in the event there is no vacancy, on NGB Form No. 89a (Certificate of Eligibility). If the candidate fails to pass the examination, the State adjutant general will be informed of that fact by letter.* [NGR 20, July 8, 1938]

SEC. 1.04 *Waivers*—(a) *Waivers by the Chief of the National Guard Bureau*—(1) *General.* Upon request of a candidate and approval by the State adjutant general, the Chief of the National Guard Bureau may grant the waivers set forth below. In each case the request for waiver will state the special qualifications of the candidate and the specific reasons why the waiver should be granted. All such waivers must be obtained prior to the appearance of the candidate before the examining board.

(2) *Waiver of age limitations.* The Chief of the National Guard Bureau will not waive the age in grade requirements prescribed in 1.02 (d) (3) except for the gravest reasons. As prerequisites to consideration, it must be clearly shown that the request is based on the welfare of the National Guard rather than on that of the individual, and that no other person having the required qualifications is available.

(3) *Waiver of professional examination (except for Air Corps personnel).* The tests listed under professional qualifications may be modified or waived for not to exceed 1 year in the case of a candidate for initial appointment as second lieutenant, first lieutenant, or captain, who has had limited military experience or none at all, and where satisfactory evidence is presented that the candidate possesses adaptability for the military service. After this waiver has been granted, the candidate will be recognized upon satisfactory completion of the examination into his moral, physical, and educational qualifications. Within the time limit specified by the waiver, but in no case more than 1 year from the effective date of Federal recognition, the candidate's professional qualifications will be determined as prescribed in 1.03 (e) and (f). Unless this examination is completed successfully prior to the expiration of the period of waiver and a report of the result is received in the National Guard Bureau, Federal recognition will be withdrawn.

(4) *Waiver of professional examination for Air Corps personnel.* Candidates for recognition as Air Corps transportation officers may be granted a 1-year waiver of professional examination under the conditions set forth in (3) above. All other candidates for recognition as Air Corps officers are required to qualify for one of the authorized ratings before Federal recognition will be extended. If, however, the candidate has been selected to attend the Air Corps Training Center for pilot training and is otherwise qualified, the professional examination may be waived and Federal recognition extended during the period of training.

(5) *Waiver of technical tests upon transfer.* When an officer is transferred to a different arm or service, the examination in those technical subjects not common to the two arms or services may be waived for not more than 1 year.

(b) *Waivers by examining boards.* An examining board is authorized to grant the following waivers under the conditions set forth:

(1) *For candidates for the grade of general officer*—(i) *For brigadier general.* The professional tests prescribed for the grade of brigadier general may be waived if the candidate is a colonel or lieutenant colonel of the line of the Regular Army, or has had, immediately preceding the examination, 5 years' service as a colonel of the National Guard and a total of at least 20 years' commissioned service.

(ii) *For major General.* The professional tests prescribed for the grade of major general may be waived if the candidate is a colonel of the line of the Regular Army, or has had, immediately preceding the examination, 3 years' service as a brigadier general and a total of at least 20 years' commissioned service.

(2) *For other candidates*—(i) *Upon evidence of commission.* If the candidate produces evidence that he has been Federally recognized as an officer of the National Guard or that he has held a commission in the Regular Army, the Marine Corps, or the Officers' Reserve Corps or holds a valid certificate of capacity for commission in the Officers' Reserve Corps, the examining board may waive the professional tests prescribed for the grade and arm or service in which the candidate served. A warrant officer or enlisted man of the National Guard who is also an officer of the National Guard of the United States may be appointed an officer of the National Guard in the same grade and arm or service without further examination other than physical.

(ii) *Upon evidence of graduation from general and special service schools.* The examining board may accept evidence of satisfactory completion of appropriate courses of instruction for National Guard officers at general and special service schools in lieu of any or all of the service tests prescribed under proficiency qualifications.

(iii) *Upon presentation of certificate of proficiency.* If a candidate for commission as second lieutenant has obtained, by completion of a special course for noncommissioned officers of the National Guard at an appropriate service school, a certificate of proficiency in any subject prescribed under professional qualifications, the board may accept this certificate in lieu of examination in the subject covered.

(iv) *Upon evidence of graduation from the Senior Division, Reserve Officers' Training Corps.* If a candidate for commission as a second lieutenant has graduated from the Senior Division of the Reserve Officers' Training Corps within 3 years prior to the date of examination, and the arm or service in which he seeks recognition is the same as that of the unit from which he graduated, the board may accept evidence of this fact in lieu of any professional examination.

(v) *Upon evidence of satisfactory completion of extension courses.* If a candidate for original appointment has satisfactorily completed one or more extension courses within 3 years prior to date of examination, the board, upon presentation of evidence of this fact, may waive the examination in those subjects listed under military knowledge qualifications which have been covered by the courses completed.

If a candidate for promotion to any grade, except that of general officer, has satisfactorily completed the appropriate extension courses, the board may waive the examination in those subjects listed under military knowledge qualifications which have been covered by the courses completed. This waiver will be granted only to those officers whose service has been continuous since the completion of the courses in question.

(vii) *Upon evidence of graduation cations.* If an examining board finds

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that a candidate's record of service shows adequate evidence of the necessary ability qualifications, the board may waive the ability tests.

(vii) *Upon evidence of graduation from high school or higher educational institution.* When a candidate produces satisfactory evidence of graduation from a standard high school or from an equivalent or higher institution of learning, the board may accept this in lieu of any tests designed to determine the candidate's general education.* [NGR 20, July 8, 1938]

SEC. 1.05 *Separation from the service*—(a) *Authority.* The discharge of National Guard officers is a function of the State.

(b) *Causes.* The commission of a National Guard officer is terminated by reason of—

(1) Death.

(2) Attainment of the age of 64 years.

(3) *Physical disqualification.* Whenever the physical fitness of a National Guard officer is in question, the State authorities may order such officer to appear before a board of three medical officers to determine his fitness for further service.

(4) *Acceptance by proper authority of resignation.* An officer who desires to resign will submit his resignation to the State adjutant general through channels. The action taken by the authorities of a State on the resignation of an officer of the National Guard of that State will be final. Unless accepted by the State authorities, a resignation in itself has no effect.

(5) Absence without leave for three months.

(6) Dismissal pursuant to sentence by a general court martial.

(7) Other provisions of State laws.* [NGR 20, July 8, 1938]

SEC. 1.06 *Officers of the National Guard of the United States*—(a) *Eligibility for appointment.* Every Federally recognized officer of the National Guard is eligible for appointment in the National Guard of the United States in the grade and arm or service corresponding to that in which he is Federally recognized, and upon application may be so appointed.

(b) *Application for appointment.* Applications for appointment (NGB Form No. 62) will be forwarded in triplicate through channels to The Adjutant General of the Army. These channels will include the appropriate National Guard commanders, the State adjutant general, the corps area commander, and the Chief of the National Guard Bureau.

(c) *Authorized grades.* Authorized grades in which appointments may be made are major general and brigadier general of the line, brigadier general of The Adjutant General's Department, and second lieutenant to colonel, inclusive, in all sections except—

(1) Chaplains—First lieutenant to lieutenant colonel, inclusive.

(2) Medical Corps—First lieutenant to colonel, inclusive.

(3) Dental Corps—first lieutenant to major, inclusive.

(4) Veterinary Corps—first lieutenant to major, inclusive.

(5) Medical Administrative Corps — second lieutenant to captain, inclusive.

(6) Judge Advocate General's Department—captain to colonel, inclusive.

(d) *Promotion.* In time of peace, officers of the National Guard of the United States will not be promoted in that status. If, however, they are promoted as National Guard officers and so recognized, they may, upon application, be tendered new appointments in the National Guard of the United States in their increased National Guard grades.

(e) *Active duty.* In time of peace, officers of the National Guard of the United States will not be ordered to active duty, as prescribed in sections 5 and 81 of the National Defense Act, except by authority of the War Department, and then only with the consent of the officers and the State authorities concerned.

(f) *Duration of appointment.* Officers of the National Guard of the United States are appointed for the period during which they are Federally recognized in the same grade and arm or service in the National Guard. An appointment in force at the outbreak of war will continue in force until 6 months after the termination of the war. However, any officer of the National Guard of the United States will be relieved from active Federal service within 6 months after the termination of a war if he makes application for such relief.

(g) *Separations.* An appointment in the National Guard of the United States will terminate—

(1) At any time at the discretion of the President.

(2) Upon termination or withdrawal of Federal recognition. (See 1.02 (e) and (f).)* [NGR 20, July 8, 1938]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3825; Filed, December 20, 1938; 9:53 a. m.]

TITLE 45—PUBLIC WELFARE

CIVILIAN CONSERVATION CORPS

PART 3—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS

Section 3.21 is amended by changing paragraph (a) (4) and adding paragraph (f) as follows:

SEC. 3.21 *Medical Attendance*—(a) *Discharge for physical or mental disability.*

* * * * *

(4) Upon the discharge from the Civilian Conservation Corps of any enrollee or upon the discharge of any individual employed as a supervisor in connection with the work to be performed who is suffering from a reportable communicable disease, his name, prospective address, and the disease from which he is suffering will be reported to the board of health of the State in which he contemplates making his home. These instructions include the reporting of venereal disease as prescribed in 3.21 (f).

* * * * *

(f) *Disposition of venereal patients*—(1) *Transfer to hospital.* All members of the Civilian Conservation Corps developing venereal disease will be transferred promptly to a hospital for isolation and treatment and whenever practicable to a Government-owned institution. The transfer of a venereal case for treatment from a camp to a hospital in another State or district in a Government ambulance or other than common carrier is authorized.

(2) *Syphilis* (i) As soon as the diagnosis of syphilis is confirmed in hospital, notification, giving approximate date of prospective discharge, will be sent the proper State health officer that the enrollee, whose prospective address in that State will be given, will be discharged upon the completion of the anti-syphilitic treatment required to heal all of the early lesions of the disease. Such treatment will consist of a minimum of six doses of an approved arsenical and four doses of bismuth administered over a period of approximately six weeks.

(ii) The State health officer will be requested to acknowledge receipt of the communication. If he fails to reply or states that there are no facilities and that none can be made available for the treatment of the enrollee after discharge, the corps area commander will be so notified by the camp commander. This report will be forwarded by the corps area commander direct to The Surgeon General of the Army for transmission by him to the Surgeon General, United States Public Health Service, for his information and such assistance as he may be able to render.

(iii) When satisfactory arrangements for treatment of the enrollee after discharge are made, he will be discharged from the Civilian Conservation Corps with notification to proper authorities as provided in (4) below. If arrangements for treatment of the enrollee by the local health officer after discharge cannot be made, the following treatment will be carried out:

The enrollee will be continued in hospital until ten doses of the arsenical, including the six doses prescribed in (i) above, have been administered. He will then be returned to camp where the camp surgeon will administer weekly intra-muscular doses of bismuth (0.2 g. of bismuth subsalicylate in oil) for ten

weeks. During this period arrangements will be perfected for the administration of the next ten doses of an arsenical. The corps area surgeon will arrange when practicable to have the arsenical administered at a Government hospital or State dispensary in the vicinity of the camp, the enrollee being sent from the camp to the place of treatment and returned on the same day, or, if in his opinion the camp facilities, supplies, and personnel warrant it, neo-arsphenamine may be administered in camp dispensaries by the camp surgeon. Upon the completion of the administration of the second course of the ten doses of the arsenical, the enrollee will receive in camp ten weekly doses of bismuth. The enrollee will then be discharged from the Civilian Conservation Corps.

(iv) If reenrollment is necessary during the course of treatment outlined, the enrollee will be reenrolled if he consents, provided he has not reached his 24th birthday or has not had two years' service, unless he be excepted under the provisions of 3.04 (c).

(3) *Other venereal patients.* Enrollees infected with other venereal diseases will receive thorough and careful treatment in hospital to which they have been transferred as outlined in (1) above. When in the opinion of the responsible physician danger of transmission or infection of others is believed to have been passed, the enrollee will be discharged.

(4) *Notification on discharge.* When an enrollee who has received treatment during enrollment for any venereal disease is discharged, the camp commander will have prepared in triplicate a concise clinical summary of the case, setting forth the name of the enrollee, prospective address, date of discharge, clinical diagnosis, time of infection, treatment received, results obtained, any complications that may have occurred, and further treatment will be advised as indicated. The necessity for continued treatment will be explained carefully to syphilitics. One copy of the summary will be furnished to the enrollee for his guidance, one copy will be forwarded to the health officer of the State of prospective residence, and one copy will be filed with the medical records of the enrollee at corps area headquarters.

(5) *Treatment record.* A record of treatment will be kept on W. D., M. D. Form No. 52*a* (Index Record of Patients (Card)) of every syphilitic enrollee. When a diagnosis of syphilis is made for a Civilian Conservation Corps enrollee, the date, place, and method of diagnosis will be recorded. The date, place, and amount of each dose of a therapeutic drug administered will be noted on the card and initialed by the responsible officer. If the enrollee is transferred, this treatment record will be mailed to the hospital or camp to which he is sent. Upon completion of the treatment or the discharge of the enrollee, a true copy of the treatment record will be prepared and forwarded to the office of The Surgeon General. (50 Stat. 319) [C. C. C. Regs., W. D., Dec. 1, 1937; C 19, Dec. 15, 1938]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-3824; Filed, December 20, 1938; 9:53 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

QUARTERLY REPORTS OF REVENUE HIGHWAY TRAFFIC OF CLASS I STEAM RAILWAYS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 10th day of December, A. D. 1938.

The subject of Quarterly Reports of Revenue Highway Traffic of Class I Steam Railways being under consideration:

It is ordered, That each steam railway of Class I (except switching and terminal companies) shall make for each quarter of the calendar year 1939, and thereafter until further order, a report showing revenue tons carried, revenue tons carried one mile, revenue passengers carried, and revenue passengers carried one mile, based on traffic handled in (a) respondent's highway vehicles, and (b) highway vehicles of other carriers for respondent, as indicated in the form of report attached to and made a part of this order.[1]

It is further ordered, That said quarterly reports shall be filed in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., within 50 days after the end of the quarter for which the report is rendered.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3842; Filed, December 20, 1938; 12:46 p. m.]

FREIGHT COMMODITY STATISTICS

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 14th day of December, A. D. 1938.

The subject of freight commodity statistics being under consideration:

It is ordered, That the Commission's order of November 22, 1927, requiring carriers by steam railway, other than switching and terminal companies, to submit reports of freight commodity statistics, be amended as follows: Beginning with the first quarter of the year 1939, and thereafter until further order, each Class I steam railway, other than switching and terminal companies, shall segregate the freight traffic handled by forwarders in their quarterly reports of Freight Commodity Statistics and shall show for this class of traffic as a whole, the same information as to carloads, tons, and revenue that is required for each of the other commodity classes, said information to appear in a footnote against Class 701; Provided, that to avoid undue clerical labor, said footnote may be restricted to the principal forwarding companies or their subsidiaries originating in the aggregate not less than approximately 80 percent of such traffic handled on respondent's line.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3841; Filed, December 20, 1938; 12:46 p. m.]

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[General Docket No. 15]

ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

NOTICE OF POSTPONEMENT OF REOPENED HEARING, DETERMINATIONS OF WEIGHTED AVERAGE OF TOTAL COSTS OF TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS NOS. 4, 6, 7, 9 AND 10 FROM THE 28TH DAY OF DECEMBER, 1938, TO A DATE TO BE LATER DESIGNATED BY THE COMMISSION

Notice is hereby given that the hearing in the matter of the determinations of the weighted average of the total costs per net ton of the tonnage produced within Minimum Price Areas Nos. 4, 6, 7, 9 and 10, as previously set by Commission's Orders herein entered on the 6th day of December, 1938, and on the 9th day of December, 1938,[1] to be held in the hearing room of the Commission in the Albany Hotel, Denver, Colorado, commencing at the hour of 10:00 o'clock A. M. on the 28th day of December, 1938 is hereby postponed from said date of December 28, 1938 to a date and place to be later designated by further order of the Commission.

The Secretary of the Commission is hereby directed to cause a copy of this notice to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper or newspapers of general circulation in each of Districts Nos. 14, 16, 17, 18, 19, 20, 22 and 23, and shall cause copies hereof to be mailed to each code member, to the Consumers' Counsel, to the Secretary of each District Board, and to all parties who have entered appearances in this proceeding, and shall cause copies hereof to be made available for inspection by interested parties at each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 19th day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3835; Filed December 20, 1938; 12:15 p. m.]

[1] 3 F. R. 2886, 3000 DI.

DEPARTMENT OF AGRICULTURE.

Sugar Division.

DETERMINATION OF WAGE RATES FOR PERSONS EMPLOYED IN PRODUCTION, CULTIVATION OR HARVESTING OF 1939 CROP OF SUGAR BEETS

NOTICE OF HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public, No. 414, 75th Congress).

Notice is hereby given that public hearings for districts in which factories are located will be held as follows:

For the lower peninsula of Michigan, Ohio, and Indiana, at Detroit, Michigan, in Room 715 Federal Building, on January 9, 1939, at 9:30 a. m.

For Wisconsin, Iowa, Minnesota, and the upper peninsula of Michigan, at Minneapolis, Minnesota, in the Andrews Hotel, on January 12, 1939, at 9:30 a. m.

For Montana and northern Wyoming, at Billings, Montana, in the Commercial Club, on January 16, 1939, at 9:30 a. m.

For Washington, at Seattle, Washington, in the New Washington Hotel, on January 19, 1939, at 9:30 a. m.

For Oregon, Utah, and Idaho, at Salt Lake City, Utah, in the Newhouse Hotel, on January 23, 1939, at 9:30 a. m.

For Colorado and Kansas, at Denver, Colorado, in the Albany Hotel, on January 26, 1939, at 9:30 a. m.

For Nebraska, southern Wyoming, and South Dakota, at Scottsbluff, Nebraska, in the Bluff Theatre Building, on January 30, 1939, at 9:30 a. m.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1939 crop of sugar beets on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1939 crop of sugar beets to be paid, under either purchase or toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugar beets.

Any of such hearings, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

Robert B. Tyler, Charles M. Nicholson, Otis E. Mullikon, and Bernhard H. Benidt are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 20th day of December 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3839; Filed, December 20, 1938; 12:21 p. m.]

DEPARTMENT OF LABOR.

Division of Public Contracts.

IN THE MATTER OF THE PROPOSED DISCONTINUANCE OF THE TOLERANCE FOR LEARNERS, HANDICAPPED OR SUPERANNUATED WORKERS IN THE WORK GLOVE INDUSTRY

NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the continuance of the tolerance for learners, handicapped or superannuated workers in the above industry as provided for in the Secretary of Labor's decision of July 28, 1937,[1] In the Matter of the Prevailing Minimum Wage in the Work Glove Industry are hereby given until and including January 19, 1939 witnin which to file briefs with the Administrator of the Division of Public Contracts showing reasons of law or fact why the aforementioned decision of the Secretary should not be amended by the revocation of the tolerance for learners, handicapped or superannuated workers.

Dated this 19th day of December, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3843; Filed, December 20, 1938; 12:54 p. m.]

IN THE MATTER OF THE PROPOSED DISCONTINUANCE OF THE TOLERANCE FOR LEARNERS, HANDICAPPED OR SUPERANNUATED WORKERS IN THE MEN'S RAINCOAT INDUSTRY

NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the continuance of the tolerance for learners, handicapped or superannuated workers in the above industry as provided for in the Secretary of Labor's decision of July 28, 1937,[2] In the Matter of the Prevailing Minimum Wage in the Men's Raincoat Industry are hereby given until and including January 19, 1939, within which to file briefs with the Administrator of the Division of Public Contracts showing reasons of law or fact why the aforementioned decision of the Secretary should not be amended by the revocation of the tolerance for learners, handicapped or superannuated workers.

Dated this 19th day of December, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3844; Filed, December 20, 1938; 12:54 p. m.]

IN THE MATTER OF THE PROPOSED DISCONTINUANCE OF THE TOLERANCE FOR LEARNERS, HANDICAPPED OR SUPERANNUATED WORKERS IN THE SEAMLESS HOSIERY INDUSTRY

NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the continuance of the tolerance for learners, handicapped or superannuated workers in the above industry as provided for in the Secretary of Labor's decision of July 28, 1937,[1] In the Matter of the Prevailing Minimum Wage in the Seamless Hosiery Industry are hereby given until and including January 19, 1939, within which to file briefs with the Administrator of the Division of Public Contracts showing reasons of law or fact why the aforementioned decision of the Secretary should not be amended by the revocation of the tolerance for learners, handicapped or superannuated workers.

Dated this 19th day of December, 1938.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 38-3845; Filed, December 20, 1938; 12:54 p. m.]

Wage and Hour Division.

[Administrative Order No. 6]

AMENDING DEFINITION OF "TEXTILE INDUSTRY" AS CONTAINED IN ADMINISTRATIVE ORDER NO. 1 APPOINTING INDUSTRY COMMITTEE NO. 1

By virtue of and pursuant to the authority vested in me by the "Fair Labor Standards Act of 1938",[2] and pursuant to recommendations submitted to me by Industry Committee No. 1, I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, do hereby amend the definition of the term "textile industry" as contained in paragraph 2 of Administrative Order No. 1, dated September 13, 1938,[3] to read as follows:

As used in this order, the term "textile industry" means

(a) The manufacturing or processing of yarn or thread and all processes pre-

[1] 2 F. R. 1339 (1597 DI).
[2] 2 F. R. 1336 (1594 DI).

[1] 2 F. R. 1338 (1596 DI).
[2] 52 Stat. 1060.
[3] 3 F. R. 2313 DI.

paratory thereto, and the manufacturing, bleaching, dyeing, printing and other finishing of woven fabrics (other than carpets and rugs) from cotton, silk, flax, jute or any synthetic fibre, or from mixtures of these fibres; except the chemical magufacturing of synthetic fibre and such related processing of yarn as is conducted in establishments manufacturing synthetic fibre;

(b) The manufacturing of batting, wadding or filling and the processing of waste from the fibres enumerated in clause (a);

(c) The manufacturing, bleaching, dyeing, or other finishing of pile fabrics (except carpets and rugs) from any fibre or yarn;

(d) The processing of any textile fabric, included in this definition of this industry, into any of the following products: bags; bandages and surgical gauze; bath mats and related articles; bedspreads; blankets; diapers; dish-cloths, scrubbing cloths and wash-cloths; sheets and pillow cases; table-cloths, luncheloths and napkins; towels; and window-curtains;

(e) The manufacturing or finishing of braid, net or lace from any fibre or yarn;

(f) The manufacturing of cordage, rope or twine from any fibre.

Signed at Washington, D. C., this 19th day of December 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3827; Filed, December 20, 1938; 10:58 a. m.]

[Administrative Order No. 7]

APPOINTMENT OF INDUSTRY COMMITTEE No. 2

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938,[1] I, Elmer F. Andrews, Administrator of the Wage and Hour Division, Department of Labor, do hereby appoint for the apparel industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

For the Public:

Louis E. Kirstein, Chairman, Boston, Mass.;
Delos Walker, Vice Chairman, New York City, N. Y.;
Miss Charlotte Carr, Chicago, Ill.;
Jonathan Daniels, Raleigh, N. C.;
John P. Devaney, Minneapolis, Minn.;
Miss Marion Dickerman, New York City, N. Y.;
Harrold English, Los Angeles, Calif.;
Herman Feldman, Hanover, N. H.;
Louis B. Hopkins, Crawfordsville, Ind.;
Neville Miller, Louisville, Ky.;
Mark McCloskey, New York City, N. Y.;
Harriss Newman, Wilmington, N. C.;
Arthur J. Patton, New York City, N. Y.;
Charles W. Pipkin, Baton Rouge, La.;
Charles Ray, Goodyear, Conn.;
Sumner H. Slichter, Boston, Mass.;

For the Employees:

Morris Bialis, Chicago, Ill.;
Hyman Blumberg, Baltimore, Md.;
Joseph Catalanotti, New York City, N. Y.;
David Dubinsky, New York City, N. Y.;
Harry Greenberg, New York City, N. Y.;
Sidney Hillman, New York City, N. Y.;
Julius Hochman, New York City, N. Y.;
Elizabeth M. Hogan, New York City, N. Y.;
Sam Levin, Chicago, Ill.;
Joseph P. McCurdy, Baltimore, Md.;
Isidore Nagler, New York City, N. Y.;
Meyer Perlstein, St. Louis, Mo.;
Jacob S. Potofsky, New York City, N. Y.;
Elias Reisberg, Harrisburg, Pa.;
Frank Rosenblum, Chicago, Ill.;
Nathan Sidd, Boston, Mass.;

For the Employers:

Frank Coll, Alpena, Mich.;
Oscar J. Groebl, San Francisco, Cal.;
W. C. Harris, Winder, Ga.;
S. L. Hoffman, New York City, N. Y.;
Samuel W. Levitties, Philadelphia, Pa.;
A. A. Lipshutz, Atlanta, Ga.;
Nathan Schwartz, New York City, N. Y.;
Jack Mintz, New York City, N. Y.;
A. W. Patterson, Denison, Tex.;
Alexander Printz, Cleveland, Ohio;
Raymond H. Reiss, Chicago, Ill.;
Victor Riesenfeld, New York City, N. Y.;
Herman Rosenblum, Louisville, Ky.;
Jesse Rosenfeld, New Orleans, La.;
Louis E. Rosensweig, New York City, N. Y.;
J. J. Wolkerstorfer, St. Paul, Minn.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. As used in this order, the term "apparel industry" means:

The manufacture of all apparel, apparel furnishings and accessories made by the cutting, sewing, or embroidery processes, except: knitted outerwear, knitted underwear, hosiery, men's fur felt, wool felt, straw and silk hats, and bodies, ladies' and children's millinery, furs, and boots and shoes.

3. The industry committee herein created, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder,[2] shall investigate conditions in the apparel industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said act are "engaged in commerce or in the production of goods for commerce", excepting employees exempted by virtue of the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Signed at Washington, D. C. this 19th day of December, 1938.

ELMER F. ANDREWS,
Administrator.

[F. R. Doc. 38-3828; Filed, December 20, 1938; 10:58 a. m.]

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[1] 52 Stat. 1060.

[2] 3 F. R. 2744 DI.

FEDERAL POWER COMMISSION.

[Docket No. IT-5536]

IN THE MATTER OF ORANGE AND ROCKLAND ELECTRIC COMPANY OF NEW JERSEY, AND ROCKLAND ELECTRIC CO.

NOTICE OF APPLICATION

DECEMBER 17, 1938.

Notice is hereby given that on December 16, 1938, an application was filed with the Federal Power Commission, pursuant to Section 203 of the Federal Power Act, by Orange and Rockland Electric Company of New Jersey, a corporation organized under the laws of the State of New Jersey and doing business in said State with its principal office at Monroe, New York, and the Rockland Electric Company, a corporation organized under the laws of the State of New Jersey and doing business in the States of New York and New Jersey with its principal office at Nyack, New York, seeking an order authorizing and approving the disposition by sale of all the facilities (excepting cash on hand and in bank and such property and assets as are situated outside of its franchise territory) of the first named company to the last named company. The facilities proposed to be disposed of are described in said application as follows: Distribution lines commencing at the following points on the New York-New Jersey State line: (1) West shore of Greenwood Lake, northeast of Lakeside; (2) East shore of Greenwood Lake, south of Sterling Forest; (3) About one mile east of Hope Mine; (4) About one mile west of Sheppard Pond. From these points these lines extend generally through West Milford Township and Borough of Ringwood, Passaic County, New Jersey, which constitutes the entire franchise territory of the Orange and Rockland Electric Company of New Jersey. In addition to the aforementioned distribution lines, it is proposed to sell other fixed capital assets consisting of the franchises in West Milford Township and Borough of Ringwood, land and rights of way, services, transformers and devices, meters, and general equipment. The proposed disposition of facilities of Orange and Rockland Electric Company of New Jersey includes all of its operating facilities except a small amount of property in Vernon Township, Sussex County, New Jersey, all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 3rd day of January 1939, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3833; Filed, December 20, 1938; 12:09 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of December 1938.

IN THE MATTER OF RALPH C. KENT, DOING BUSINESS AS RALPH C. KENT & CO., 7 SOUTH DEARBORN STREET, CHICAGO, ILLINOIS

MEMORANDUM OPINION AND ORDER REVOKING REGISTRATION

This is a proceeding pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, to determine whether the registration of Ralph C. Kent, doing business as Ralph C. Kent & Co., as a broker and dealer, effective January 1, 1936, should be revoked or suspended.

At a hearing held, pursuant to the Commission's order on September 26, 1938,[1] and October 10, 1938, at Chicago, Illinois, registrant failed to appear personally or by counsel, although notice of the hearing was received personally by him. The Trial Examiner filed an advisory report in which he found that the registrant had been convicted on or about April 20, 1937, of a felony arising out of the conduct of the business of a broker and dealer in securities, and that the registrant had violated Rule X-15B-2 in failing to inform the Commission of a change in his business address, of the conviction referred to above, and of the cancellation, in April 1937, of his license to sell securities in the State of Illinois. On an independent review of the record we adopt the Examiner's findings, and find further that it is not in the public interest to continue to permit Kent the use of the mails and instruments of interstate commerce in securities transactions on over-the-counter markets.

It is therefore ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, that the registration of Ralph C. Kent, doing business as Ralph C. Kent & Co., be and the same is hereby revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3830; Filed, December 20, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File No. 31-202]

IN THE MATTER OF KENTUCKY UTILITIES COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the above-captioned application, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3831; Filed, December 20, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 17th day of December, A. D. 1938.

[File No. 31-428]

IN THE MATTER OF COMPANIA MEXICANA DE GAS, S. A.

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PURSUANT TO REQUEST OF APPLICANT

Upon the request of the applicant, the Commission consents to the withdrawal of the above-captioned application, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3832; Filed, December 20, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of December, A. D. 1938.

[File No. 32-122]

IN THE MATTER OF NEW YORK STATE ELECTRIC AND GAS CORPORATION

ORDER OF WITHDRAWAL OF APPLICATION

New York State Electric and Gas Corporation having filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, concerning the issue and sale of First Mortgage Bonds, 4% Series, due 1965, in the principal amount of $14,000,000;

The Commission having due regard to the public interest and the interest of investors and consumers, upon the request of the applicant consents to withdrawal of the application contained in Commission's File No. 32-122, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3829; Filed, December 20, 1938; 11:04 a. m.]

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[1] 3 F. R. 2165 DI.

DEC 27 1938

DEC 27 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 248

Washington, Thursday, December 22, 1938

Rules, Regulations, Orders

TITLE 14—CIVIL AVIATION

CIVIL AERONAUTICS AUTHORITY

AMENDMENT NO. 2 OF CIVIL AIR REGULATIONS AS ADOPTED BY THE AUTHORITY AND ISSUED PURSUANT TO REGULATION 601-A-1, PROMULGATED AUGUST 20, 1938, AMENDING PART 24, MECHANIC RATING

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 19th day of December 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly Sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends Regulation 601-A-1,[1] Safety Rules, and the Civil Air Regulations adopted thereunder, as follows:

By amending Part 24, Mechanic Rating, Civil Air Regulations so that the same shall read as follows:

PART 24—MECHANIC RATING

24.0 Provision for rating.
24.1 Minimum requirements.
24.10 Aircraft mechanic rating.
24.11 Aircraft engine mechanic rating.
24.2 Mechanic competency certificate.
24.20 Provision for issuance.
24.21 Application.
24.22 Issuance.
24.23 Display.
24.24 Duration.
24.25 Renewal.
24.26 Non-transferability.
24.27 Suspension or revocation.
24.28 Surrender.
24.29 Re-application.
24.3 Examinations and tests.
24.30 General.
24.31 Time and place.
24.32 Inspection.
24.33 Standard of performance
24.34 Reports.
24.4 Mechanic regulations.
24.40 General prohibition.

24.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedure as the Authority may find necessary to provide adequately for safety in air commerce, airmen engaging as mechanics in the navigation of aircraft while under way or who are directly in charge of the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances (except parachutes), will be rated in accordance with the provisions of the following regulations.

24.00 Mechanic ratings will be as follows:

(a) Aircraft Mechanic Rating
(b) Aircraft Engine Mechanic Rating

24.1 *Minimum requirements.* To be eligible for a mechanic competency rating, an applicant shall comply with the following minimum requirements prescribed for the particular rating sought.

24.10 *Aircraft mechanic rating.*—To be eligible for an aircraft mechanic rating, an applicant shall comply with the following minimum requirements.

24.100 *Age.* Applicant shall be at least 18 years of age.

24.101 *Character.* Applicant shall be of good moral character.

24.102 *Citizenship.* Applicant may be a citizen of any nationality.

24.103 *Education.* Applicant shall be able to read, speak, write and understand the English language.

24.104 *Aeronautical knowledge.* Applicant shall have theoretical and practical knowledge of aircraft structure and rigging, including the control systems, and aircraft appliances, shall know how to properly inspect, maintain, overhaul, and repair the same, and shall be familiar with the provisions of Parts 00, 01, 02, 04, 14, 15, 18 and 24.

24.105 *Aeronautical experience.* Applicant shall have had at least one year of practical experience, or what is deemed by the Authority to be its equivalent, in the construction, inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances (except parachutes), or in the navigation of aircraft while under way or who are directly in charge of the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances (except parachutes), will be rated in accordance with the provisions of the following regulations.

[1] 3 F. R. 2051 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 14—CIVIL AVIATION:
Civil Aeronautics Authority: Page
Civil Air Regulations amended — Safety rules, mechanic rating 3069
TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Imported sawed timber, dutiable and taxable status of 3071
TITLE 22—FOREIGN RELATIONS:
Department of State:
Tin-plate scrap, issuance of licenses for exportation of, during 1939 3071
TITLE 29—LABOR:
Wage and Hour Division:
Fair Labor Standards Act regulations, "area of production" defined 3072
TITLE 30—MINERAL RESOURCES:
National Bituminous Coal Commission:
Proposal of minimum prices, District Nos. 14 and 15 3074
Minimum prices and marketing rules and regulations, Districts 9–12, 14 and 15, findings, etc. 3074
Proposal of rules and regulations, District Nos. 14 and 15 3073

NOTICES

Securities and Exchange Commission:
Adams, Nelson & Williamson, change of hearing date and presiding officer 3117
Lancaster, Robert E. (alias used by Martin A. Leach), etc., hearing on registration 3115
McCord Radiator and Manufacturing Co., application granted 3116
New York and Richmond Gas Co., hearing 3116
Province of Buenos Aires gold bonds, listing and registration 3115

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

Page

Securities and Exchange Commission—Continued.
United Corp., petition to intervene ---------- 3115
United States Maritime Commission:
American Export Lines, Inc., hearing on reduction in minimum manning scales for certain vessels of------ 3117

nance, overhaul, or repair of aircraft or aircraft appliances, or both. Compliance with § 24.115 shall not be deemed equivalent.

24.106 *Aeronautical skill.* Applicant shall satisfactorily demonstrate, by means of written, oral and practical tests, his ability with respect to the subject matters prescribed in § 24.104.

24.11 *Aircraft engine mechanic rating.* To be eligible for an aircraft engine mechanic rating, an applicant shall comply with the following minimum requirements:

24.110 *Age.* Same as in § 24.100.

24.111 *Character.* Same as in § 24.101.

24.112 *Citizenship.* Same as in § 24.102.

24.113 *Education.* Same as in § 24.103.

24.114 *Aeronautical knowledge.* Applicant shall have theoretical and practical knowledge of aircraft engines, propellers, and their appliances, including ignition systems, shall know how to properly inspect, maintain, overhaul and repair the same, and shall be familiar with the provisions of Parts 00, 01, 02, 04, 13, 14, 15, 18 and 24.

24.115 *Aeronautical experience.* Applicant shall have had at least one year of practical experience, or what is deemed by the Authority to be its equivalent, in the construction, inspection, maintenance, overhaul, or repair of aircraft engines, propellers, and their appliances, or either or any of the same. Compliance with § 24.105 shall not be deemed equivalent.

24.116 *Aeronautical skill.* Applicant shall satisfactorily demonstrate, by means of written, oral and practical tests, his ability with respect to the subject matters prescribed in § 24.114.

24.2 *Mechanic competency certificate.*

24.20 *Provision for issuance.* An appropriate mechanic certificate of competency will be issued to a natural person by the Authority upon approval of an application made and satisfactory proofs submitted, and if, upon inspection and examination, is found by the Authority to meet the appropriate minimum requirements prescribed in § 24.1 and is, therefore, rated as competent to engage as a mechanic in the navigation of aircraft while under way or to be in direct charge of the inspection, maintenance, overhaul and repair of aircraft and aircraft appliances, or aircraft engines, propellers, and their appliances, as classified by Section 24.00 (a) and (b).

24.200 Each holder of a valid engine mechanic's license or a valid airplane mechanic's license on November 1, 1937 may perform service pursuant to such authority until the expiration thereof, and then, upon compliance with the provisions for renewal herein, have issued to him a mechanic competency certificate with an aircraft mechanic rating or an aircraft engine rating thereon, as the case may be, as provided for herein.

24.201 Each holder of a valid mechanic certificate of competency on the effective date of this Part may perform service as if such certificate had been issued pursuant to this Part.

24.202 Each holder of a valid mechanic's license or mechanic certificate, whenever issued, shall be subject to reexamination at any time by the Authority in any theoretical or practical test prescribed as requisite for certificates issued pursuant to this Part.

24.203 *Identification Card.* In the discretion of the Authority, an appropriate mechanic's identification card will be issued with any mechanic certificate.

24.21 *Application.* Application for a mechanic certificate, subscribed under oath, shall be made to the Authority upon a form supplied for that purpose.

24.210 *Application to amend.* When any change in a mechanic competency certificate is desired, the applicant shall file a written request therefor with the Authority or may make oral or written request of the local inspector of the Authority.

24.211 *Proceeding to amend.* A proceeding to amend a mechanic competency rating may be instituted by the Authority when, in its opinion, the mechanic is no longer competent in respect of some matter specified in the certificate. Notice of such proceeding shall be addressed to the mechanic with opportunity for a hearing. In the interim, the certificate may be suspended in whole or in part by the Authority. Following the hearing, the Authority may issue a re-rating as to competency.

24.22 *Issuance.* Upon approval of an application duly made, proofs submitted, and examinations and tests satisfactorily completed, a mechanic certificate of competency will be issued in an appropriate form.

24.220 *Temporary certificate.* Following application made for a mechanic certificate of competency, but prior to approval thereof and issuance of the certificate, a temporary mechanic certificate may be issued by the Authority. Likewise, for the period of time elapsing between application for renewal of a certificate and the issuance of the renewal, a temporary certificate may be issued by the Authority.

24.23 *Display.* A mechanic certificate shall be kept in the personal possession of the mechanic at all times when he is serving in connection with aircraft, and shall be presented upon the demand of any passenger in, or owner of, such aircraft upon which such mechanic has worked, or of any authorized official or employee of the Authority or of any State or municipal official charged with the duty of enforcing local laws or regulations involving Federal compliance, or upon the reasonable request of any other person.

24.24 *Duration.* A mechanic certificate, unless sooner suspended or revoked in accordance with the provisions of § 24.27, will remain in force for two years after the date of issue.

24.25 *Renewal.* A mechanic certificate may be renewed, for a like period as the original certificate, upon application within 30 days prior to the expiration thereof and upon satisfactory showing that, during the term of the last certificate, the holder has rendered any type of service, under his certificate, during at least one-half of the term thereof, and that he complies with all of the appropriate minimum requirements prescribed in § 24.1. The service so rendered shall be described in written statement under oath subscribed by the applicant.

24.26 *Non-transferability.* A mechanic certificate is not transferable.

24.27 *Suspension or revocation.* A mechanic certificate may be suspended or revoked by the Authority by reason of any of the following, on the part of the holders thereof:

24.270 (a) Any false statement in an application for a certificate or any renewal thereof, or in any report required by the Authority.

24.271 (b) Using or displaying the certificate for any fraudulent purpose.

24.272 (c) Refusal to exhibit the certificate upon proper demand.

24.273 (d) Carelessness or inattention to duty.

24.274 (e) Any demonstration of incompetency in the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or their appliances.

24.275 (f) Being under the influence of, or using, or having personal possession of intoxicating liquor, cocaine, or other habit-forming drugs while on duty.

24.276 (g) Doing any act in connection with aircraft, aircraft engines, propellers, or their appliances, which is contrary to the public safety or interest, or detrimental to the morale of airmen.

24.277 (h) Violation of any provisions of the Civil Aeronautics Act of 1938 or of any of the rules or regulations duly issued thereunder.

24.28 *Surrender.* Upon notice of the revocation by the Authority of a mechanic certificate, or upon demand for such certificate in the event of its suspension by the Authority, the holder thereof shall immediately deliver such certificate to the Authority. Notwithstanding any failure or refusal to surrender a mechanic certificate, it, in the case of revocation, shall be deemed canceled and of no further force or effect, and in the case of suspension, shall be deemed of no force or effect, during the period of suspension.

24.29 *Re-application.* An applicant for a mechanic certificate of competency who has failed to successfully accomplish the prescribed theoretical or practical tests may apply for reexamination at any time after the expiration of 90 days, from the date of such failure.

24.3 *Examinations and tests.*

24.30 *General.* The examinations and tests prescribed in this Part will be conducted by a duly authorized inspector of the Authority.

24.31 *Time and place.* All examinations and tests will be held at such times and places as the Authority may provide.

24.32 *Inspection.* The applicant for any mechanic certificate of competency shall offer full cooperation in respect of any inspection and examination which may be made of said applicant upon proper demand by any authorized representative of the Authority prior or subsequent to the issuance of a mechanic certificate of competency.

24.33 *Standard of performance.* All practical or theoretical examinations and tests shall be accomplished to the satisfaction of the Authority, and the minimum passing grade in any subject of examination or test shall be 70 per cent.

24.34 *Reports.* The person giving any examination or test in behalf of the Authority will promptly report the result thereof to the Authority.

24.4 *Mechanic regulations.* The following rules pertaining to mechanic certificates will govern mechanic services in relation to aircraft.

24.40 *General prohibition.* No person shall engage as a mechanic in the navigation of aircraft while under way or be directly in charge of the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances except parachutes), unless said person is possessed of a valid airman certificate certifying his competency to serve in such capacity.

For the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-3846; Filed, December 20, 1938; 1:18 p. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49764]

COLLECTORS OF CUSTOMS INSTRUCTED RELATIVE TO THE DUTIABLE AND TAXABLE STATUS OF IMPORTED SAWED TIMBER

To Collectors of Customs and Others Concerned:

Reference is made to T. D. 49662, approved July 27, 1938,[1] in which collectors of customs were instructed to continue the existing practice of collecting estimated duties and import taxes on sawed timber under the provision for lumber in section 601 (c) (6) of the Revenue Act of 1932 (U. S. C. title 26, foot-note at end of chap. 20), pending the issuance of a ruling as to the taxable status of such timber.

The decision of the United States Customs Court in the case of *Laurence Phillips Lumber Co.* v. *United States*, (1938) T. D. 49624, holding certain timber 6" x 6" or over in cross section, and not less than 6" on any one side, to be excluded from the provision for lumber, has become final in the absence of an appeal and the Treasury Department acquiesces therein. Under the second proviso to item 601 (c) (6) of the Canadian Trade Agreement (49 Stat. 3982), concluded on November 15, 1935, the provisions of article IV and schedule II of that agreement are, therefore, not applicable to sawed timber of the dimensions above described. In view of the Department's ruling in T. D. 49662 to the effect that the second sentence of section 704 (a) of the Revenue Act of 1938 (Public, No. 554, 75th Congress) will not be effective unless and until certain obligations assumed in the Canadian Trade Agreement are terminated otherwise than in connection with the undertaking by the United States of new obligations of like effect, no import tax should be imposed under section 601 (c) (6) of the Revenue Act of 1932 with respect to sawed timber entered for consumption or withdrawn from warehouse for consumption prior to the expiration of the effective period of article IV of the trade agreement concluded between the United States and Canada on November 15, 1935. Under the terms of the trade agreement between the United States and Canada, signed November 17, 1938, as proclaimed by the President on November 25, 1938, article IV of the trade agreement concluded between the United States and Canada on November 15, 1935, as proclaimed by the President on December 2, 1935, will be inoperative on and after January 1, 1939.

Sawed timber entered for consumption or withdrawn from warehouse for consumption before January 1, 1939, if properly dutiable under paragraph 401 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1001, par. 401) and excluded from the operation of the import tax provided in section 601 (c) (6) of the Revenue Act of 1932 pursuant to the decision of the Customs Court in T. D. 49624, is not subject to the reduction provided in item 401 of the Canadian Trade Agreement (49 Stat. 3978), signed November 15, 1935. Such sawed timber should be assessed with duty at the rate of $1 per thousand feet, board measure, under the provisions of paragraph 401 of the Tariff Act of 1930, if covered by unliquidated entries or by liquidated entries as to which timely protest has been or shall be filed against the assessment of the import tax under section 601 (c) (6) of the Revenue Act of 1932.

Item 601 (c) (6) of the trade agreement between the United States and Canada, signed on November 17, 1938,[2] provides for "lumber, including sawed timber", thereby recognizing the definition of lumber contained in the second sentence of section 704 (a) of the Revenue Act of 1938. The Department is accordingly of the opinion that there is no conflict between the amendment contained in the second sentence of section 704 (a) of the Revenue Act of 1938 and article VII of the above-mentioned trade agreement, which will be effective on and after January 1, 1939. Therefore, as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after January 1, 1939, the term "lumber", as used in section 601 (c) (6) of the Revenue Act of 1932, is held to include sawed timber.

[SEAL] JAMES H. MOYLE,
Commissioner of Customs.

Approved, December 15, 1938.

STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3854; Filed, December 21, 1938; 11:39 a. m.]

[1] 3 F. R. 1888 DI.

[2] 3 F. R. 2808 DI.

TITLE 22—FOREIGN RELATIONS

DEPARTMENT OF STATE

RULES OF PROCEDURE GOVERNING THE ISSUANCE OF LICENSES FOR THE EXPORTATION OF TIN-PLATE SCRAP DURING THE CALENDAR YEAR 1939

DECEMBER 16, 1938.

In furtherance of the purposes of the Act of Congress approved February 15, 1936, which, as stated therein, are:

to protect, preserve, and develop domestic sources of tin, to restrain the depletion of

domestic reserves of tin-bearing materials, and to lessen the present costly and dangerously dependent position of the United States with respect to resources of tin,

and in order to assure in the public interest the fair and equitable consideration referred to in Section 2 of the Act which reads as follows:

> There shall not be exported from the United States after the expiration of sixty days from the enactment of this Act any tin-plate scrap, except upon license issued by the President of the United States. The President is authorized to grant licenses upon such conditions and regulations as he may find necessary to assure in the public interest fair and equitable consideration to all producers of this commodity.

The Acting Secretary of State, acting under and by virtue of the authority vested in him by Executive Order No. 7297 of February 16, 1936, hereby prescribes, by and with the advice and consent of the National Munitions Control Board, the following rules of procedure to govern the issuance of licenses for the exportation of tin-plate scrap during the calendar year 1939 under the regulations governing the export of that commodity prescribed on December 7, 1936: [1]

(1) *Requests for allotments.*—Each producer of tin-plate scrap who desires to export that commodity during the calendar year 1939, as well as every producer whose scrap is sold to and ultimately exported by third parties, should submit to the Secretary of State *not later than January 10, 1939*, a request for an allotment, specifying in long tons the quantity of tin-plate scrap which he desires to export or to sell for export between January 11 and December 31, 1939.

(2) *Original allotments.*—Allotments will be granted to producers of tin-plate scrap only and will be assigned on January 11, 1939, to producers whose applications have been submitted in accordance with the provisions of paragraph (1). Allotments will be based on the individual producer's request therefor with the provision that no allotment of more than 25 long tons shall exceed in amount 20 percent of the quantity of tin-plate scrap produced by him during the calendar year 1937. Requests for allotments of 25 long tons or less may be granted in full, without reference to the quantity of tin-plate scrap produced during the calendar year 1937, provided the producer concerned presents convincing evidence, in the form of a sworn statement, establishing that he will, so far as can be foreseen, during the calendar year 1939, produce at least the equivalent of the allotment which he requests. No allotment assigned under the provisions of this paragraph to any one producer, including his affiliated or associated companies, shall exceed 2,000 long tons.

(3) *Sworn statement of 1937 production.*—No producer shall be eligible to receive an allotment under the provisions of paragraph (2) until the Secretary of State has received from him a sworn statement setting forth the quantity of tin-plate scrap, in long tons, produced by him during the calendar year 1937. Sworn statements submitted under the provisions of this paragraph shall include the name and address of the producer, the name and location of each factory, and the quantity of tin-plate scrap produced at each factory.

(4) *Apportionment of total allotments.*—In the event that it shall be necessary, in order that the quantity of tin-plate scrap to be exported during the calendar year 1939 shall not exceed the total figure to be agreed upon by the National Munitions Control Board, such total shall be apportioned among the applicants for allotments on the basis of 1937 production, with the provision that no allotment shall exceed the quantity specified in the individual producer's request therefor. If an apportionment is unnecessary, further allotments may be granted after January 11 in the order of the receipt of requests therefor until the total figure referred to has been exhausted.

(5) *Additional allotments.*—In the event that conditions then existing shall warrant such action, additional allotments may be granted after July 1, 1939, upon such conditions as may be agreed upon by the National Munitions Control Board and announced by the Secretary of State.

(6) *Fair and equitable consideration.*—An allotment may be granted at any time during the calendar year 1939, without regard to previous assignments of allotments, to any producer of tin-plate scrap who presents to the National Munitions Control Board, through the Secretary of State, convincing evidence that he is not receiving the fair and equitable consideration referred to in Section 2 of the Act approved February 15, 1936. Allotments assigned under the provisions of this paragraph shall be granted in such quantities as will assure in the public interest fair and equitable consideration to the producer concerned. All applications for allotments under the provisions of this paragraph shall be accompanied by sworn statements, in quintuplicate, setting forth complete and detailed information in support thereof.

(7) *Licenses.*—No tin-plate scrap may be exported unless a license authorizing such export shall have been issued by the Secretary of State. Licenses may be issued to any producer who has been assigned an allotment or to any other person or persons authorized by such producer to export tin-plate scrap under his allotment, provided that licenses will not be issued during the first six months of the calendar year for the exportation of tin-plate scrap in quantities in excess of 50 percent of any allotment of 50 long tons or more.

(8) *Licenses issued to persons other than producers of tin-plate scrap.*—Any producer who has received an allotment may, if he so desires, authorize any other person or persons to apply for license to export under his allotment tin-plate scrap produced at his factory or factories. The Department of State should be informed promptly of such authorizations when made. Persons other than producers should, in submitting applications for license, assure themselves that an allotment has been assigned covering the particular tin-plate scrap which they desire to export and they should include in the application a statement setting forth the name and address of the factory or factories at which the tin-plate scrap was produced and the quantity produced at each factory.

(9) *General statement.*—As stated in paragraph (3) of the regulations governing the exportation of tin-plate scrap, the Secretary of State will issue export licenses to cover proposed shipments of tin-plate scrap when, in the opinion of the National Munitions Control Board, the issuance of such licenses may be consistent with the purposes of the Act approved February 15, 1936. The National Munitions Control Board may revoke, cancel, or modify at any time allotments or licenses granted under the rules of procedure herein announced and may modify these rules of procedure whenever, in its opinion, such action is required in order to carry out the purposes of the Act.

[SEAL] SUMNER WELLES,
Acting Secretary of State.

[F. R. Doc. 38-3847; Filed, December 21, 1938; 9:44 a. m.]

[1] 1 F. R. 2123.

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 536—REGULATIONS DEFINING THE TERM "AREA OF PRODUCTION" AS USED IN SECTION 7 (C) AND IN SECTION 13 (A) (10) OF THE FAIR LABOR STANDARDS ACT

The following amendments to Regulations—Part 536—(Regulations Defining the Term "Area of Production" as Used in Section 7 (c) and in Section 13 (a) (10) of the Fair Labor Standards Act)[1] are hereby issued. The first of said amendments amends Section 536.1 by adding an alternative paragraph numbered "(c)" applicable to dry edible beans. The second of said amendments amends Section 536.2 by adding an alternative paragraph numbered "(c)" applicable to dry edible beans. The third of said amendments amends Section 536.3. Said amendments shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in force and effect until repealed by regulations hereafter made and published.

Signed at Washington, D. C., this 20th day of December, 1938.

ELMER F. ANDREWS,
Administrator.

SEC. 536.1 *"Area of production" as used in Section 7 (c) of the Fair Labor Standards Act.* An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity during seasonal operations within the "area of production" within the meaning of Section 7 (c)

(a) if the first processing is conducted on a farm and is performed on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the commodities processed are obtained from farms in the immediate locality of the processing establishment and the number of employees there engaged in such processing does not exceed seven, or

(c) with respect to dry edible beans, if he is so engaged in an establishment which is a first concentration point for the processing of such beans into standard commercial grades for marketing in their raw or natural state. As used in this subsection (c), "first concentration point" means a place where such beans are first assembled from nearby farms for such processing but shall not include any establishment normally receiving a portion of the beans assembled from other first concentration points.*

SEC. 536.2 *"Area of production" as used in Section 13 (a) (10) of the Fair Labor Standards Act.* An individual shall be regarded as employed in the "area of production" within the meaning of Section 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven, or

(c) with respect to dry edible beans, if he is so engaged in an establishment which is a first concentration point for the processing of such beans into standard commercial grades for marketing in their raw or natural state. As used in this subsection (c), "first concentration point" means a place where such beans are first assembled from nearby farms for such processing but shall not include any establishment normally receiving a portion of the beans assembled from other first concentration points.*

SEC. 536.3 *Petition for amendment of regulations.* Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their views either in support of or in opposition to the proposed changes.*

[F. R. Doc. 38-3855; Filed, December 21, 1938; 11:45 a. m.]

[1] 3 F. R. 2536 DI.

* Section 536.1 through Section 536.3, as amended December 20, 1938, issued under the authority contained in Sections 7 (c) and 13 (a) (10), 52 Stat. 1060.

TITLE 30—MINERAL RESOURCES

NATIONAL BITUMINOUS COAL COMMISSION

[General Docket No. 15]

ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

PROPOSAL OF RULES AND REGULATIONS INCIDENTAL TO SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS SUBMITTED BY DISTRICT BOARDS FOR DISTRICT NOS. 14 AND 15

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 17th day of December 1938.

The Commission, on the 25th day of May, 1938,[1] having instituted the above-entitled proceedings for the purpose of carrying out the provisions of sub-sections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937,[2] and having on the 20th day of August, 1938, by its Order No. 250,[3] directed the District Boards for Districts Nos. 14 and 15 to propose reasonable rules and regulations incidental to the sale and distribution of coal by the code members of said districts in conformity with the provisions of Section 4 II (a) of the Act,

And said District Boards Nos. 14 and 15 having submitted such proposed rules and regulations, together with the reasons upon which they were predicated, to the Commission in accordance with the provisions of said Order No. 250, the Commission, by its Order entered herein on the 11th day of October, 1938, and by its Notice of Postponement entered on the 21st day of October, 1938, and its Notice and Order for Hearing dated October 29, 1938, directed that a hearing on said proposals be held in the Hearing Room of the Commission in the Morrison Hotel, Chicago, Illinois, commencing on the 14th day of November, 1938, at 10 o'clock, A. M., for the purpose of receiving evidence to enable the Commission to approve such proposed marketing rules and regulations, or to enable the Commission to modify the proposed rules and regulations, as provided in Section 4 II (a) of the Act, in order that such proposed marketing rules and regulations, as approved or modified, as the case may be, may serve as the basis for the coordination provided by Section 4 II (b) of the Act, and

After reasonable public notice having been given thereof, said Hearing was commenced at the time and place stated and concluded on the 6th day of December, 1938, at which time all interested parties were afforded a full opportunity to be heard, and the evidence being adduced, the Commission being fully advised in the premises has made Findings of Fact and Conclusions relating to and which are by this reference incorporated herein and made a part hereof, and

The Commission having determined that the rules and regulations as set forth in the said Findings of Fact and Conclusions for said Districts Nos. 14 and 15 respectively are reasonable and are not inconsistent with the requirements of Section 4 of the Act, and do conform to the standards of fair competition established by Section 4 of the Act, and form a proper basis for the coordination provided for by Section 4 II (b) of the Act,

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby approves, for the purpose of coordination, the "Rules and Regulations incidental to the sale and distribution of coal by code members," as the same are set forth in the "Findings of Fact and Conclusions" by the Commission for said Districts Nos. 14 and 15 respectively filed this date in the Office of the Secretary of the Commission, Washington, D. C.

The Secretary of the Commission is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and to cause a copy hereof, together with the "Findings of Fact and Conclusions" of the Commission, above referred to, to be mailed to the Consumers' Counsel, the Secretary of each District Board, to all parties who have filed their appearances in the hearing relating to the aforesaid proposals, and to cause copies thereof to be made available for inspection by interested parties at the Office of the Secretary of the Commission, Washington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.

Dated this 17th day of December 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3836; Filed, December 20, 1938; 12:15 p. m.]

[1] 3 F. R. 1200, 1226 DI.
[2] 50 Stat. 72.
[3] 3 F. R. 2058 DI.

[General Docket No. 15]

ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

PROPOSALS OF MINIMUM PRICES SUBMITTED BY DISTRICT BOARDS FOR DISTRICTS NOS. 14 AND 15 (COMPRISING MINIMUM PRICE AREAS NOS. 4 AND 5)

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 17th day of December 1938.

The Commission, on the 25th day of May, 1938,[1] having instituted the within proceedings entitled "In the Matter of the Establishment of Minimum Prices and Marketing Rules and Regulations, General Docket No. 15," for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937,[2] and thereafter, upon the 19th day of August, 1938, after Notice and Hearing, having determined the weighted average cost, as provided in Section 4, II (a) of the Act, for Minimum Price Areas Nos. 4 and 5 respectively, did, on the 20th day of August, by Order No. 249,[3] direct the District Boards for District Nos. 14 and 15, within Minimum Price Areas Nos. 4 and 5 to propose minimum prices in conformity with the provisions of Section 4, II (a) of the Act, and, in accordance with the rules and regulations prescribed by said Order No. 249, and

Said District Boards Nos. 14 and 15 having, thereafter, proposed such minimum prices, the Commission, by its Order entered in this proceeding on October 11, 1938, and Notice of Postponement issued by the Commission on the 21st day of October, 1938, and by Notice and Order of the Commission dated October 29, 1938, directed that a hearing on such proposals be held in the Hearing Room of the Commission in the Morrison Hotel, Chicago, Illinois, commencing on the 14th day of November, 1938, at the hour of 10 o'clock, a. m., for the purpose of receiving evidence relating to said proposals to enable the Commission to approve such proposed minimum prices, or to enable the Commission to modify such proposed minimum prices, so as to conform them to the requirements of Section 4, II (a) of the Act, in order that such proposed minimum prices, as approved, or modified, as the case may be, may serve as the basis for the coordination, as provided by Section 4, II (b) of the Act, and

Reasonable public notice thereof having been given, said Hearing was commenced at the time and place stated, and concluded on the 6th day of December, 1938, at which Hearing all interested parties were afforded full opportunity to be heard, and

The evidence being adduced, and the Commission being fully advised in the premises, and upon consideration thereof, the Commission made Findings of Fact and Conclusions relating to the proposals of minimum prices submitted by said District Boards Nos. 14 and 15, which Findings of Fact and Conclusions are on file in the office of the Secretary of the Commission at Washington, D. C., and by this reference are incorporated herein and made a part hereof, and

Included in the said Finding of Fact and Conclusions, relating to each of the aforesaid districts, is an appendix entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination," which schedule embraces all modifications which the Commission determined to be necessary to conform the proposals of the respective districts to the requirements of Section 4, II (a) of the Act, and which the Commission has determined to be the proper basis to be used by the respective districts for the coordination provided for in Section 4, II (b) of the Act;

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs:

1. That in the coordination of minimum prices as provided by Section 4, II (b) of the Act, to be hereafter directed by subsequent Order of the Commission, the District Boards for Districts Nos. 14 and 15 will take, as a basis thereof, the schedule as approved herein and described as follows:

District No. 14.—Appendix to the Findings for District No. 14, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination."

District No. 15.—Appendix to the Findings for District No. 15, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination."

2. The Secretary of the Commission be, and he is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and to cause a copy hereof, together with the Findings of Fact, including the appendices thereto, for Districts Nos. 14 and 15, to be mailed to the Consumers' Counsel, to the Secretary of each District Board, to all interested parties who have entered their appearances in the hearing relating to said proposals, and to make copies of this Order and Findings of Fact, including the appendices thereto, available for inspection by interested parties at the office of the Secretary of the Commission, Washington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.

Dated this 17th day of December 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[Docket No. 15]

MINIMUM PRICES AND MARKETING RULES AND REGULATIONS AS PROPOSED AND SUBMITTED BY DISTRICT BOARDS FOR DISTRICTS 9, 10, 11, 12, 14, AND 15 WITHIN MINIMUM PRICE AREAS 2, 4, AND 5

FINDINGS AS TO THE FACTS AND CONCLUSIONS OF THE COMMISSION

Pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Congress, 1st Sess.), known as the "Bituminous Coal Act of 1937", and hereinafter referred to as the "Act," the National Bituminous Coal Commission, hereinafter referred to as the "Commission," under and by virtue of the authority granted in Section 4 II (a) of the Act, on the 20th day of August 1938, issued its Orders No. 249 and No. 250 ordering and directing the District Boards for Districts 9, 10, 11, 12, 13, 14, and 15 to propose to the Commission minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced in said districts and reasonable rules and regulations incidental to the sale and distribution of coal by code members within said districts, the minimum prices and marketing rules and regulations to be proposed by the District Board for District 13 to be limited to that part of District 13 known as Minimum Price Area 3, said proposals to be submitted to the Commission on or before the 14th day of September 1938.

Said orders were published in the FEDERAL REGISTER under date of August 23, 1938, and copies of said orders were mailed to each of the code members within said districts and to each of the Secretaries of the District Boards within Minimum Price Areas 2, 3, 4 and 5, as directed in said orders.

Order No. 249 directed each of the aforesaid District Boards to propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities, and sizes of coal produced by the code members in their respective districts, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as might be deemed proper and within the authority conferred by the Act. This order further provided that each District Board should transmit its schedule of proposed minimum prices

[1] 3 F. R. 1200, 1226 DI.
[2] 50 Stat. 72.
[3] 3 F. R. 2057 DI.

to each code member in the district before filing such schedule with the Commission in order to give code members an opportunity of protesting any proposed price classification.

Order No. 249 further directed that the minimum prices proposed by the several district boards should conform to the following standards therefor set out in Section 4 II (a) of the Act:

(a) The proposed minimum prices for each of the aforesaid districts shall yield a return per net ton for such districts equal, as nearly as may be, to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which such district is located, as said weighted average heretofore has been determined by order of the Commission dated August 19, 1938, in this proceeding.

(b) They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal to which they are applicable.

(c) They shall be just and equitable as between producers within the district.

(d) They shall be just and equitable as between producers within the district for any kind, quality or size of coal for shipment into any consuming market area.

(e) They shall not permit dumping.

Order No. 249 further directed that each schedule of proposed minimum prices submitted by the district boards should include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

Order No. 250 directed each of the aforesaid District Boards to propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coals by the code members of their respective districts, such rules and regulations not to be inconsistent with the requirements of Section 4 of the Act and to conform to the standards of fair competition therein established. Said order directed said District Boards to transmit such proposed rules and regulations to all code members in order that they would be afforded an opportunity of studying such proposed rules and regulations and of protesting to any of such proposals and to suggest whatever added rules or regulations such code members deemed necessary to properly effectuate the purposes of Section 4 of the Act.

Upon receipt of said orders by the several District Boards within Minimum Price Areas 2, 3, 4 and 5, said District Boards, as directed in said orders, proceeded to propose such minimum prices and marketing rules and regulations as in their judgment conformed to the requirements of said orders. Schedules evidencing such proposals were prepared by said District Boards and copies of same were transmitted to each code member within the respective districts in order that such code members, after due consideration of such schedules, might present to their respective District Boards whatever objections, if any, they might have to said schedules, and in order that the respective District Boards, after due consideration of such objections, if any, might revise such schedules in such manner as, in their judgment, would better conform to the requirements of Orders No. 249 and No. 250, as issued by the Commission, and to the requirements of Section 4 II (a) of the Act.

The schedules of minimum prices, as revised, together with the data upon which same were computed and the schedules of marketing rules and regulations, together with the reasons supporting same, were transmitted to the Commission as directed in said orders.

Subsequent to the receipt of said schedules by the Commission, the Commission, on the 11th day of October 1938, issued its order giving notice to all interested parties of a hearing to be held upon the proposals of minimum prices and marketing rules and regulations as proposed and submitted to the Commission by the District Boards for Districts 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn Counties in Tennessee), 14 and 15 within Minimum Price Areas 2, 3, 4 and 5, said hearing to be held on the 26th day of October 1938, at the Hearing Room of the Commission, 15th and Eye Streets, N. W., Washington, D. C. As expressed in the face of said order, said hearing was to be held for the purpose of receiving evidence relating to the aforementioned proposals of minimum prices and marketing rules and regulations in order to enable the Commission to approve or modify such proposals to the end that such proposals, as approved or modified, may serve as the basis for the coordination of same as provided in Section 4 II (b) of the Act.

Said order giving notice of said hearing directed the Secretary of the Commission to cause copies of said proposals to be made available for inspection by interested parties at the office of the Secretary of the Commission at Washington, D. C., and at the office of each Statistical Bureau of the Commission within Minimum Price Areas 2, 3, 4 and 5; to cause a copy of said order to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper having a general circulation in each of the districts within Minimum Price Areas 2, 3, 4 and 5; and to cause a copy of said order to be mailed to each of the code members within said districts, to the Office of Consumers' Counsel, Washington, D. C., and to the Secretaries of each of the District Boards for the districts within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was also directed to be made available for inspection at each of the Statistical Bureaus of the Commission within said districts.

The aforesaid directions in said order were complied with. A copy of said order was made available for inspection at the office of the Secretary of the Commission at Washington, D. C., and at the office of each of the Statistical Bureaus of the Commission within each of the districts within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in the FEDERAL REGISTER of date October 14, 1938, and a copy of said order was mailed to each of the code members within Minimum Price Areas 2, 3, 4 and 5, to the Office of Consumers' Counsel, Washington, D. C., and to each of the Secretaries of the District Boards within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in two consecutive issues of The Des Moines Register, Des Moines, Iowa; The Birmingham News, Birmingham, Alabama; the Illinois State Register, Springfield, Illinois; The Terre Haute Tribune, Terre Haute, Indiana; The Louisville Times, Louisville, Kentucky; The Kansas City Star, Kansas City, Missouri; and the Arkansas Democrat, Little Rock, Arkansas, newspapers having a general circulation in each of the respective districts within Minimum Price Areas 2, 3, 4 and 5.

Subsequent to the issuance and service of the aforementioned order giving notice of hearing upon the proposed minimum prices and marketing rules and regulations as proposed by the District Boards for Districts 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn Counties in Tennessee), 14 and 15, the Commission, on the 21st day of October 1938, issued its order giving notice of postponement of said hearing, the date of said hearing being postponed from the 26th day of October 1938 to the 3d day of November 1938.

Said order giving notice of the postponement of said hearing directed the Secretary of the Commission to cause a copy of same to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper having a general circulation in each of the aforesaid districts. Said order further directed the Secretary of the Commission to mail a copy of same to each of the code members within Minimum Price Areas 2, 3, 4 and 5, to the Office of Consumers' Counsel, and to the Secretary of each of the District Boards within said Minimum Price Areas. The Secretary of the Commission was also directed to make a copy of said order available for inspection at each of the Statistical Bureaus of the Commission within Minimum Price Areas 2, 3, 4 and 5.

The aforesaid directions in said order were complied with. A copy of said order was published in the FEDERAL REGISTER of date October 25, 1938, and copies of said order were mailed to each of the code members within Minimum Price Areas 2, 3, 4 and 5; to the Office

of Consumers' Counsel, Washington, D. C.; and to each of the Secretaries of the District Boards for Districts 9, 10, 11, 12, 13, 14 and 15. A copy of said order was made available for inspection at each of the Statistical Bureaus of the Commission within said districts. A copy of said order was published in two consecutive issues of the Birmingham News, Birmingham, Alabama; The Des Moines Register, Des Moines, Iowa; Illinois State Register, Springfield, Illinois; Arkansas Democrat, Pulaski County, Arkansas; The Terre Haute Tribune, Terre Haute, Indiana; The Kansas City Star, Kansas City, Missouri; and The Louisville Times, Louisville, Kentucky, newspapers having a general circulation in each of the respective districts within Minimum Price Areas 2, 3, 4 and 5.

The Commission on the 29th day of October 1938 issued its order giving notice that the hearing in the matter of the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Boards for Districts 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn Counties in Tennessee), 14 and 15 as previously set by order of the Commission for the 3d day of November 1938, at 10 a. m. in the Hearing Room of the Commission at 15th Street and Eye Street, N. W., Washington, D. C., had been separated so as to provide for that part of the hearing relating to Minimum Price Area No. 3 to be held in the City of Washington, D. C., on the 9th day of November 1938 and that part of the hearing relating to Minimum Price Areas 2, 4 and 5 to be held in the City of Chicago, Illinois, on the 14th day of November 1938.

Said order further gave notice that the date for the hearing in the matter of the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Board for District 13 (except Van Buren, Warren and McMinn Counties in Tennessee) as previously set by order of the Commission for the 3d day of November 1938, at 10 a. m. in the Hearing Room of the Commission at 15th and Eye Streets, N. W., Washington, D. C. had been postponed to November 9, 1938, the hearing to be held at the same hour and place.

Said order also gave notice that the date for the hearing in the matter of the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Boards for Districts 9, 10, 11, 12, 14 and 15 as previously set by order of the Commission for the 3d day of November 1938, at 10 a. m. in the Hearing Room of the Commission at 15th and Eye Streets, N. W., Washington, D. C., had been postponed to the 14th day of November 1938, said hearing to open at 10 a. m. in the Hearing Room of the Commission in the Morrison Hotel, Chicago, Illinois.

Said order giving notice of the separation and postponement of said hearing directed the Secretary of the Commission to cause a copy of same to be published forthwith in the FEDERAL REGISTER and in a newspaper having a general circulation in Districts 9, 10, 11, 12, 13, 14 and 15. The Secretary of the Commission was further directed to cause copies of said order to be mailed to each of the code members within said districts, to the Office of Consumers' Counsel, Washington, D. C., to the Secretaries of each of the District Boards within Minimum Price Areas 2, 3, 4 and 5, and to make available for inspection a copy of said order in each of the Statistical Bureaus of the Commission within said districts.

The aforesaid directions in said order were complied with. A copy of said order was made available for inspection at the office of each of the Statistical Bureaus of the Commission for each of the districts within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in the FEDERAL REGISTER of date November 1, 1938, and copies of said order were mailed to each of the code members within Minimum Price Areas 2, 3, 4 and 5; to the Office of Consumers' Counsel, Washington, D. C.; and to each of the Secretaries of the District Boards within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in two consecutive issues of The Louisville Times, Louisville, Kentucky; The Illinois State Register, Springfield, Illinois; The Des Moines Register, Des Moines, Iowa; The Terre Haute Tribune, Terre Haute, Indiana; The Arkansas Democrat, Little Rock, Arkansas; The Birmingham News, Birmingham, Alabama; and The Kansas City Star, Kansas City, Missouri.

Due and reasonable notice of the separate hearing upon the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Boards within Minimum Price Areas 2, 4 and 5, as postponed, having been given all interested parties, said cause came on for hearing before the Commission on the 14th day of November 1938, at the hour and place as specified in the order of the Commission dated October 29, 1938, to wit, at 10 a. m., in the Hearing Room of the Commission at the Morrison Hotel, Chicago, Illinois; and, after said hearing had been duly and formally opened and all interested parties desiring to appear had entered their appearances in said cause, the Commission proceeded to receive evidence relative to the proposals of minimum prices and marketing rules and regulations as proposed to the Commission by the District Boards for Districts 9, 10, 11, 12, 14 and 15, said hearing being duly concluded on the 6th day of December 1938.

At said hearing all interested parties were afforded full opportunity to be heard on the proposals of minimum prices and marketing rules and regulations which had been submitted by each of the District Boards within Minimum Price Areas 2, 4 and 5. Each of the District Boards within said Minimum Price Areas adduced evidence relating to such proposals and placed into the record as exhibits all of the data which such District Boards had used as a basis for such proposals and each of the District Boards through competent witnesses testified as to the factors which the District Boards had considered in determining the price relationships and the marketing rules and regulations which had been proposed by the District Boards in their respective schedules.

Each of the schedules of proposed minimum prices offered in evidence by the District Boards contained the above clause previously quoted from Order 249 which clearly indicated that the District Boards were proposing minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced in each of the aforesaid districts without taking into consideration those additional factors and standards which are set forth in Section 4, Part II, subsection (b) of the Act. The minimum prices so proposed, as hereafter approved or modified, will serve as a basis for coordination as provided in Section 4 II (b) of the Act. Such proposals of minimum prices do not take into account differences in transportation methods and charges and their effect upon a reasonable opportunity to compete on a fair basis, or competitive relationships between coal and other forms of fuel and energy as such matters constitute a part of the coordination of minimum prices and are properly a subject of consideration under Section 4 II (b) of the Act.

The Commission, after hearing the evidence adduced with respect to the minimum prices and marketing rules and regulations proposed by the District Boards for Districts Nos. 14 and 15, upon due consideration thereof, and being fully advised in the premises, makes Findings of Fact and Conclusions as follows:

MINIMUM PRICE AREA NO. 4—DISTRICT NO. 14

PROPOSED MINIMUM PRICES

Pursuant to Order No. 249 of the Commission, the District Board for District No. 14 prepared a schedule of proposed minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced by the various code members within the District, and such classification of coals and price variations as to mines and consuming market areas, and values as to uses and seasonal demands as it deemed proper and within the authority conferred by the Act, and transmitted a copy thereof to each and every code member within District No. 14.

Twenty-five protests thereto were received by District Board No. 14, all of which were set for hearing at a regular meeting of said Board. Eleven of the protestants either failed to appear at the hearing or withdrew their protests. The other fourteen protestants were heard and their protests acted upon by the Board, some of which were denied and others of which were granted, either in whole or in part. The District Board then revised its proposed schedule of minimum prices to incorporate the changes it had made as a result of the hearing on the protests and reserved the schedule as thus amended upon each and every code member within the District. A copy of the proposed schedule as thus revised, together with the data upon which the proposed minimum prices were computed and the factors considered in determining the price relationships, were submitted to the Commission, and said amended schedule was introduced in evidence herein as Exhibit No. 711.

District Board No. 14 received several protests to its amended schedule of proposed minimum prices, but instead of hearing these protests at a regular meeting as it did the original protests it adopted a resolution and appointed an impartial Board of Arbitration to hear them. None of the members of this Board of Arbitration were in any way connected with the coal industry at the time of their appointment to the Arbitration Board, but all of them had had previous experience in the coal business and were competent to decide such matters as were presented by the protests.

All code members within District No. 14 were notified of the establishment of the Board of Arbitration and the protests directed to the amended schedule of proposed minimum prices were set for hearing before said Board on November 8, 1938. The Board of Arbitration met on that date. After hearing and considering all of the evidence introduced by the protestants and by the Chairman and the Secretary of District Board No. 14 the Board of Arbitration filed a written report of its findings and decisions thereon with the District Board, which report was adopted by District Board No. 14 and introduced in evidence herein as Exhibit No. 713.

The schedule of minimum prices proposed by District Board No. 14 was prepared by the entire District Board, and the Chairman and the Assistant Secretary of said District Board, both of whom are thoroughly familiar with the marketing and distribution of coals produced in District No. 14, testified in support thereof. Their knowledge of the coals of District No. 14 is based upon years of experience in said District.

District Board No. 14 consists of thirteen members, all of whom have been connected with the coal industry for a good many years and practically all of whom have had long experience in the mining and marketing of coal. Most of the members of the District Board derived their experience in the coal industry from work therein in the State of Arkansas, and some of them who are of middle age have been connected with the industry practically all of the working period of their lives. Some members of the District Board have had much longer experience in the industry than others but the average experience of all members of the Board is in excess of fifteen years. The labor member of the Board has also had wide experience in the coal industry in Eastern Pennsylvania. The members of the District Board represent production from each subdistrict into which they divided the District, and they have an intimate knowledge of the relative values of the coals produced in each of said subdistricts. By reason of their intimate knowledge of the coals produced in each subdistrict they are fully capable of judging the price differentials and relationships between the kinds, qualities and sizes of coal produced within the District.

The District Board obtained from its code members, by means of a questionnaire, distribution data showing by tons the various sizes of coal produced by each code member during the calendar year 1937. These data, which represent more than 87 percent of the tonnage produced within the District during the year 1937, were introduced in evidence as Exhibit No. 714. It then conducted a series of meetings running from day to day for about a week at which the various kinds, qualities and sizes of coals produced within the District were discussed and their relative values considered.

The schedule of minimum prices proposed by the District Board divides the production field in District No. 14 into eleven subdistricts, based on the geographical location of each field, as follows:

(1) Includes all mines in Pope County, and all mines in the "Spadra field" of Johnson County, Arkansas.

(2) Includes all mines in the Denning-Coal Hill and Altus fields and the Philpott field of Johnson and Franklin Counties, Arkansas.

(3) Includes all mines in the "Paris Field" of Logan County, Arkansas, and mines in Franklin County located in the Paris Basin.

(4) Includes all mines in the "Charleston Field" in Franklin County, Arkansas.

(5) Includes all mines in Sebastian County, Arkansas.

(6) Includes all mines in the "Panama Field" of Leflore County, Oklahoma.

(7) Includes mines in the "Bokoshe and Milton Field" of Leflore County, Oklahoma, mines in the McCurtain field of Haskell County and all mines in Sequoyah County, Oklahoma.

(8) Includes all mines in the "Poteau-Wister field" in Leflore County, Oklahoma.

(9) Includes all mines in the "Howe-Heavener field" of Leflore County, Oklahoma, and all mines in the "Bates field" in Scott County, Arkansas.

(10) Includes all mines in the "Stigler-Kanima field" in Haskell County, Oklahoma.

(11) Includes all mines in the "Scranton field" of Logan County, Arkansas.

There is only one vein of coal in each subdistrict, although there are three different veins of coal being mined in the entire area which constitutes District No. 14, but because of the geographical distribution of the various producing fields that constitute the District, the District Board deemed it necessary, in order to properly relate the coals one to another, to divide the area into the subdistricts designated above.

The coal produced in subdistrict No. 1 is mined from what is known as the lower Hartshorne seam and comprises the so-called Arkansas anthracite coal. This coal is high in fixed carbon, is low in volatile matter and moisture, is non-coking and runs between 14,000 and 15,000 B. t. u. content. It is a so-called hard coal and is sold almost entirely for domestic purposes, with the exception of the fines or slack coal which are sold almost exclusively to the smelters as a flux or reducing agent. This coal stands shipment well and is considered a high grade coal.

Most of the coals produced in subdistrict No. 2 are mined from the lower Hartshorne seam and in considering the quality and nature of the coals from this subdistrict they must be considered separately. This seam generally consists of two benches of coal which are somewhat different in quality. The coal produced in the Altus field in this subdistrict is no doubt mined from one of the benches of the lower Hartshorne seam, but it is in another district from where the two benches of that seam are worked together. The coal from this subdistrict is lower in fixed carbon and somewhat higher in volatile matter than the coal produced in subdistrict No. 1. It is also low in moisture and has practically no agglutinating or coking properties. In price classification the coal from the Altus field ranges with that which the District Board has designated in its proposed schedule as Paris grade A coal. The rest of the coals produced in subdistrict No. 2 outside of the Altus field range in price with the coals produced in the mines in subdistrict No. 5.

The Philpott field of Johnson and Franklin Counties, which has been included in subdistrict No. 2, is a separate field of coal that is considered to be one of the benches of the lower Hartshorne seam. The mines in this field have no railroad connections and the coal produced therein is shipped by wagon and truck and ranges slightly lower in price than the coal which the District Board has designated in its proposed schedule as Paris grade B coal. Chemically it is a very superior coal, but is softer than the other coals in subdistricts Nos. 1 and 2.

The coals produced in subdistrict No. 3 are mined from a small vein of coal known as the McAllister seam, which lies about 1,000 feet above the Hartshorne

seams. These coals are low in moisture, high in fixed carbon, low in volatile matter and hard. The average precentage of fixed carbon therein is about 72 to 76 per cent and volatile matter ranges from 16 to 18 per cent. These coals vary slightly, stand shipment well and range slightly below the coals produced in subdistrict No. 1 in price.

The coal produced in subdistrict No. 4 is mined from a small vein of coal which lies above the McAllister or Paris seams of coal. In the past it has been mined almost exclusively from strip pits, but at the present time the strip mining has been abandoned, and it is now being mined by a number of small truck and wagon haul mines only. This coal is similar in chemical analysis to most of the coal produced in sub-district No. 2 and to the Paris coal, but it is considerably higher in sulphur content and is not as high-grade as any of the coals produced in subdistricts Nos. 1, 2 and 3. It ranges in price with the coals produced in subdistricts Nos. 8 and 9.

Subdistrict No. 5, which comprises all mines in Sebastian County, Arkansas, includes several divisions with coal varying in quality and price, so that in speaking of the quality of the coal in this subdistrict it is necessary to separate the coal into the natural divisions as they occur. Most of the coal mined in this subdistrict is from the lower Hartshorne seam, the analysis of which is similar to the coal mined from the Denning-Coal Hill fields, but it is not quite as hard as the coal from that field, having somewhat more of a coking nature. These coals run about 71 to 75 or 76 per cent fixed carbon and about 17 to 19 per cent volatile matter, but the ash and sulphur contents are practically the same as they are in the coal from the Denning-Coal Hill fields of Franklin and Johnson Counties, Arkansas.

The Excelsior coal produced in subdistrict No. 5 is mined from the upper Hartshorne seam. This coal is low in moisture and high in fixed carbon, the fixed carbon content ranging from 74 to 77 per cent, with volatile matter averaging about 17 per cent. It is also lower in ash and sulphur content than most of the other coals produced in District No. 14. This coal generally has a superior analysis, but it is rather soft and friable, and on this account it has a price lower than the Paris coal, the differential between Excelsior grade A coal and Paris grade A coal being thirty-five cents per ton.

Subdistrict No. 6, which includes all mines in the Panama Field of Leflore County, Oklahoma, adjoins subdistrict No. 5 and all of the mines in this subdistrict, with the exception of that of the Acme Coal Company which mines its coal from the lower Hartshorne seam, mine their coal from the upper Hartshorne seam. The coal produced in this subdistrict has practically the same analysis as to fixed carbon and volatile matter as the coal produced in subdistrict No. 5, but is generally superior thereto in the matter of ash and sulphur content. It is considered to be of about the same hardness as the coal from subdistrict No. 5 and generally sells at a slightly higher price than the coal from that subdistrict, with the exception of the coal produced in the Excelsior Field. The coal produced by the Acme mine from the lower Hartshorne seam in subdistrict No. 6 is considered to be slightly harder than the coal produced in the same district from the upper Hartshorne seam, but at the present time the price is the same for all of the different mines in subdistrict No. 6.

Subdistrict No. 7 includes mines in the Bokoshe and Milton Fields in Leflore County, mines in the McCurtain Field in Haskell County, and all mines in Sequoyah County, Oklahoma. Most of the coal in this subdistrict is mined from the Bokoshe Field. A much smaller amount is mined from the Milton and McCurtain Fields, but only small mines operate in Sequoyah County. At the present time all of the coal produced in this subdistrict is mined from the lower Hartshorne seam. The coal generally produced in this subdistrict is similar in analysis to the coals produced in subdistricts Nos. 5 and 6, but it is somewhat softer and the price is lower on account of its friability. There are two marked exceptions, however, in the general characteristics of the coal produced by the Keener Coal Company and the Gillie Coal Company in the Bokoshe field. The coal produced by these mines has a superior analysis to, and is harder than, the coal produced by the other mines in subdistrict No. 7, and the price from these mines is in the same bracket with the best mines in subdistrict No. 6.

Practically all of the coal produced in subdistrict No. 8 comes from the Poteau field and is mined from the Poteau vein, which is a vein located above the McAllister seam. This coal is high in fixed carbon and is low in volatile matter, being similar in these respects to the coal produced in subdistrict No. 5, but it is rather high in sulphur content. However, it is hard and ships well, and on account of its hardness it ranges in price slightly below the coals produced in subdistrict No. 6. The coal produced in the Wister field in subdistrict No. 8 is practically the same as that produced in the Poteau field, but there is very little coal mined from this part of subdistrict No. 8.

Subdistrict No. 9 includes all mines in the Howe-Heavener field of Leflore County, Oklahoma and all mines in the Bates field in Scott County, Arkansas, but it is necessary to consider the production of these fields separately. Howe and Heavener are two small towns about five or six miles apart with a continuous seam of coal lying between and adjacent thereto. The coal produced in this field is mined from the lower Hartshorne seam. It has a good analysis similar or slightly superior to the coal produced in subdistrict No. 5, with the exception of the Excelsior coal produced in that District, but it is soft and friable and does not generally make a first class domestic coal. It is also of a coking or agglutinating nature and coke ovens have been operated in this part of subdistrict No. 9 in the past, but they have been abandoned for several years. The price classification of this coal is similar to the poorer class coals of subdistrict No. 7.

The coal produced in the Bates field in subdistrict No. 9 is mined from one bench of the lower Hartshorne seam. This coal is somewhat lower in fixed carbon and higher in volatile matter than the coal produced in other mines in District No. 14. It is rather low in ash and sulphur content, however, and is hard and screens well, and now ranges in price with the coal which the District Board has designated in its proposed schedule as Excelsior grade A coal.

The coal produced in subdistrict No. 10 is mined from a small seam of clean coal supposed to be the McAllister seam. It has a very good chemical analysis, but is soft and friable and is sold almost entirely for blacksmithing purposes, except for local use. Blacksmithing coal, which requires special characteristics, must be low in sulphur content and have agglutinating or coking properties so that it will run together in the forge and make a mound into which tools, steel or iron may be projected and the structure stand up without falling into a mass of slack. This coal has these characteristics and is shipped in box cars and sometimes in sacks and the District Board placed a special price thereon for blacksmithing purposes.

The coal produced in subdistrict No. 11 is mined from the lower Hartshorne seam in what is known as the Scranton field, which is an extension of the Spadra field south of the Arkansas River. This coal has an analysis similar to the Spadra coal produced in subdistrict No. 1 and is somewhat similar in analysis to the coal mined from the lower Hartshorne seam in subdistrict No. 2, but in chemical analysis it seems to come somewhere between the coals produced in subdistricts Nos. 1 and 2. It is probably not quite so hard as the coal in subdistrict No. 1 and is not screened into many sizes. This coal was formerly classified with Paris coal, but is now in a subdistrict by itself, as it is not mined from the same seam of coal as the Paris coal and differs considerably therefrom in chemical analysis. It now takes the same price as the Paris grade B coal. In considering the coals produced in this subdistrict it must be kept in mind that practically all of the coals produced in Pope County and in the Spadra field in subdistrict No. 1 are run through a breaker before being screened, and that very little lump coal is sold from those two fields, as most of the coal therefrom is broken down into sizes smaller than lump.

The District Board designated by states the consuming market areas into which the producers of District No. 14 ship their coals on page 11 of the proposed schedule of minimum prices, Exhibit No. 711. Said areas are as follows:

Area No. 1.—Arkansas, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma and Texas.

Area No. 2.—Minnesota, North Dakota and South Dakota.

Area No. 3.—Illinois, Western Mississippi, Western Tennessee and Wisconsin.

The minimum prices proposed by the District Board are the same for all of said consuming marketing areas.

The schedule of minimum prices proposed by the District Board contains twenty-one size groups numbered from one to twenty-one and seventeen price classifications ranging from A to Q. The Board found from its study of the distribution data submitted by its code members for the year 1937 that twenty-one size groups were necessary to properly reflect the relative values of coals in District No. 14, and included only those sizes which were comparable competitively in the same size group.

It then determined that Size Group No. 5, which included the predominant tonnage in the District was the base size group and that the coal mined in the Paris field in subdistrict No. 3 was the base quality coal in the District. Then, by using the coal from the Paris field and Size Group No. 5 as bases, it related the coals of all of the code members in the District according to their values based on analyses, physical characteristics and market history.

The classifications which the board proposed for the coals of each code member are set forth on pages 5 to 9, inclusive, of Exhibit No. 711, and the price classifications therefor by size groups are set forth on Page 10 of the same exhibit. The "A" classification represents the highest price coal in each size group. The "B" to "Q" classifications, inclusive, represent prices of coal that have values less than the "A" coals in descending orders of value.

The data as to the analyses of the various coals that were used by the District Board in determining its price classifications were introduced in evidence as Exhibit No. 712. A considerable part of the analyses shown in this exhibit were made by geologists of the United States Geological Survey according to the United States Bureau of Mines standards of sampling. Others were taken from reports of the Arkansas State University, but a considerable number of them were simply analyses furnished by different code members. There are probably some of these analyses that are out of line, but practically every member of the District Board is familiar with the coal produced in the entire District, and where the analyses were very far out of line they were recognized by the District Board, so that the price relationships which the Board has proposed were not affected thereby.

District No. 14 coals are only sold on an analyses basis in a few instances and it is not possible to rely entirely upon the analyses of coals in that District to show their relative market values. In many instances the physical characteristics are more important in the trade sales territory served by District No. 14 than the chemical analyses. A coal that makes a large amount of degradation or slack is not favored by the retail dealers in that territory, although the analyses may be superior to a harder coal. For example, the Paris coal is inferior in chemical characteristics to the Excelsior coal, but on account of its superior hardness and less degradation in handling, it is graded above Excelsior coal.

Size groups Nos. 1 and 2 cover lump solid-shot coal screened over bars spaced not more than ¾" and 1½" apart, respectively, and size group No. 3 covers like coal screened over perforated plates with round holes not larger than 2½" in diameter. Size groups 4 and 5 cover lump machine-cut coal screened over perforated plates with round holes less than, and larger than, 2½" in diameter, respectively.

The witness for the District Board explained that it was necessary to make this distinction between solid-shot coal and machine-cut coal, because District Board No. 14 does not consider solid-shot coal comparable in value to machine-cut coal and the retailers in the markets to which the producers ship these coals favor the machine-cut coal over solid-shot coal. Coal shot from the solid is more friable than machine-cut coal and has greater degradation as it will not stand handling or storing as well as the machine-cut coal. Consequently, the machine-cut coal brings a better price in the market than the solid-shot coal. The explanation and justification given by the District Board for the inclusion of these proposed sizes appears to be adequate, and their inclusion in the proposed schedule is hereby approved.

Size Groups Nos. 6 to 18, inclusive, have been used to designate the different sizes of coal that are sold under trade names, the sizes which are included in each size group being the sizes that are sold under the trade name designated therein. Size Group No. 19 was used as a designation for all mine-run coal sold by code members of the District for use as railroad locomotive fuel, and includes mine-run coal as designated in Size Group No. 18, and mine-run coal with all or part of the lump, grate, furnace, or egg coal removed therefrom.

The witness for the District Board testified that while very little mine-run coal is sold by the rail mines in District No. 14 for use other than as railroad locomotive fuel, the District Board deemed it advisable to propose a graduated scale of prices for mine-run coal sold for other purposes, because the mine-run coal from the Paris field, and from some other fields from which it is sold in a relatively smaller degree than the Paris field, is almost as good as the lump coal from said fields, and the Board felt that it would be unfair to permit the mines in said fields to sell their mine-run coal for other purposes at prices that were much less than their lump coal prices. On the other hand, the experience of the producers in District No. 14 has shown that the railroads obtain about the same efficiency from the different qualities of coals produced in the District when they are used for locomotive fuel. Consequently, the Board believed that only one price for coal used for railroad locomotive fuel would be necessary.

The difference between the single minimum price which the District Board has proposed for coal used for railroad locomotive fuel, designated as Size Group 19, and the various minimum prices which the Board has proposed for the different qualities of mine-run coal used for other purposes, designated as Size Group No. 18, is not only due to these facts, but to the fact that the railroads furnish a constant service to the producers that other consumers are not able to afford, namely: they purchase railroad locomotive fuel during all seasons of the year, and also help balance the production of the producers, because the sizes that they need for burning in their locomotives are not as important as they are to many other consumers.

The District Board believes that the price which it has proposed for railroad locomotive fuel coal is just and equitable as to all of the producers in District No. 14 and that it also gives due regard to the interests of the railroads. It also believes that if it had proposed a greater minimum price therefor, the tonnage which has in the past moved to railroads for such purposes might well be dislocated, since the railroads might turn to oil or purchase their coal for such use from other fields. The minimum price which the District Board has proposed is the price that the railroads have been willing to pay and have paid for railroad locomotive fuel in District No. 14 in the past. No testimony or evidence was presented in objection thereto. The Commission finds that said proposed price reflects the relative value of the kind, quality and sizes of coals included in that size group when such coals are sold for said use and it is approved. One of the witnesses for the District Board also testified that it would clarify the intent of the Board to add the word "locomotive" wherever the words "railroad fuel" appear in the schedule of proposed minimum prices so as to read "railroad locomotive fuel" and the Commission finds that this should be done.

Size group No. 20 was used as a designation for dead coal used by smelters. All of this coal is classified as "A" coal and is uniformly priced at $1.65 per ton.

As explained by an expert witness for the District Board it is coal that is mined by strip mining along the outcrop where it has weathered for ages. It is coal that has lost some of its value for ordinary domestic and commercial purposes, as it will not burn by itself and is used only by smelters for ore reduction. This coal is sold in competition with Bernice and Spadra slack coal produced in subdistrict No. 1. It is not as good as those coals and is sold at a lower price. Any slack that is low in volatile matter and is non-fusing or non-coking, however, will serve the same purpose as this dead coal. For these reasons the District Board deemed it necessary to establish a minimum price therefor, and since there is no opposition thereto and said minimum price appears to reflect the relative value of said coal, the Commission finds that said price should be approved and it hereby is approved for inclusion in the proposed schedule.

Size group No. 21 was used as a designation for coal used for blacksmithing purposes. With the exception of the first five size groups wherein the District Board differentiated the size groups into solid-shot coal and machine-cut coal, the size groups are numbered in descending order as to size. A witness for the District Board testified that if the first five size groups were rearranged in the same descending scale of sizes in the same manner as the Board grouped the other sizes it would not in any way affect the price relationship set up in the proposed schedule. This can be accomplished by transposing size groups Nos. 1 and 2 and size groups Nos. 4 and 5, which would necessitate a clerical rearrangement of pages 5 to 10, inclusive, of the proposed schedule. The Commission finds that such changes should be made.

One of the expert witnesses for District No. 14 testified that there is very little coal washed in the District and that the District Board did not propose any charge or differential therefor, but stated that if any of the producers in the District installed washers, the Board would request permission of the Commission to provide an additional charge for washing. The Commission finds, therefore, that no differential should be made for washed coal in District No. 14 at this time.

The District Board proposed ten price instructions and exceptions, all of which are set forth on page 1 of the proposed schedule, Exhibit No. 711. Item three thereof provides that:

"All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size."

but an expert witness for the Board testified that the following language more accurately states what the District Board had in mind:

"All size designations herein are for round hole screens, or their equivalents, except when otherwise designated. When other types of screens are used, the District Board, subject to the approval of the Commission, shall determine the actual size designation of coal so prepared."

The Commission finds that the language of Item 3 as it now appears on page 1 of the proposed schedule, Exhibit No. 711 should be deleted and that the language above quoted should be inserted in lieu thereof.

Item No. 4, page 1, of the proposed schedule provides that:

"All prices herein are per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines unless otherwise designated."

The minimum prices proposed by the District Board are on a cents per ton basis and the Commission finds that the language of the above item should be clarified by inserting the words "in cents" after the word "are" in the first line thereof so that it will read as follows:

"All prices herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines."

The Commission also finds that page 10 of Exhibit No. 711 should also be clarified by deleting the dollar sign under size group one, and by eliminating all of the decimal points on said page so that the prices enumerated thereon will be expressed in cents per ton and not in dollars and cents per ton.

Item No. 5, page 1 of the proposed schedule provides that:

"*Crushed Coal.*—Where any coal is crushed the minimum price therefor shall be the minimum price established for the original size, before crushing, plus five cents per ton."

One of the expert witnesses for the Board testified that when the District Board formulated this price instruction, it had in mind a practice in the Spadra field of mining so-called Arkansas anthracite coal, the slack from which is used as a flux in the reduction of zinc ore. It appears that the mining of coal in this field is largely seasonal, that in the summertime no coal is mined for domestic purposes, and that no slack is produced in the summer for smelter use. During this period in the past some of the producers have crushed their mine-run coal into slack and sold it to the smelters at a slack price. The intention of the District Board was to compel such producers to get the minimum price proposed on the original size of the coal before it is crushed, plus five cents as a service charge to the customer for the crushing.

The witness testified further that as a general proposition the crushing does not add to the value of the coal, but when the use to which the coal is put is taken into consideration crushing does add to the value thereof in this particular case, because of the fact that it saves the consumer the cost of crushing the coal. In addition, there is a lower freight rate on slack coal in this territory than there is on large sizes, and where the coal is crushed to slack it saves the consumer the difference in the freight rate. Consumers could not purchase screenings of the sizes to which the coal would be crushed at the season of the year referred to as there are no screenings made at these mines during the summer season, because of the fact that there is no demand for prepared sizes during such season and no screenings are available. Consequently, if the smelter plants were able to buy enough of the crushed mine-run coal during the summer season to take care of their needs throughout the balance of the year, it is obvious that distribution of the screenings would be distorted during the balance of the year, as there is no other market for the screenings except to the smelters and a small amount to a briquetting plant in Kansas City. The Commission finds that said item is properly included in the proposed schedule and it hereby approves the inclusion thereof in said schedule.

Item No. 6, page 1 of the proposed schedule, Exhibit No. 711, provides that:

"Fifteen cents per net ton extra shall be charged for all coal loaded into box cars."

A witness for the District Board testified that this charge was based partly on the cost of loading and partly on custom, but that it developed in subdistrict No. 10 where blacksmithing coal is loaded into box cars that it has been the custom not to make an extra charge therefor and that the minimum price proposed by the Board for such coal is sufficiently high to include the cost of loading as well as the sacking of the coal. He also testified that the District Board was of opinion that the cost of loading into box cars in most subdistricts was 25 cents per ton, and that it fixed this amount as the cost to be included therefor in the first instance, but that some producers in subdistrict No. 1 appeared before the Board and objected to the charge of 25 cents per ton because they had only been charging 15 cents per ton for such service and were not in a position to increase their charge therefor. He stated further that as a result of its investigation the District Board desired to modify its proposed price instruction with respect thereto by deleting the language above quoted as it now appears under Item 6, page 1, of Exhibit No. 711, and by inserting the following language in lieu thereof:

"Fifteen cents per ton shall be charged on all coal loaded in box cars, produced in Subdistrict 1, and that 25 cents per ton shall be charged for all coal loaded in box cars, in all subdistricts, except Subdistricts Nos. 1 and 10 of District No. 14. For blacksmithing coal loaded in Subdistrict No. 10, no extra charge is to be made for coal loaded in box cars."

It appears from the evidence that the recommendation is in accordance with

the practice of the industry for several years. The Commisison finds that the proposed substitution should be made and the recommendation of the District Board in that respect is hereby approved.

Items Nos. 7, 8, 9 and 10, page 1, of the proposed schedule, Exhibit No. 711, provide as follows:

(7) "Slack coal, Size Groups 14, 15, and 16, moving to Oklahoma County, Oklahoma—In this area a minimum price of 80 cents per ton f. o. b. the mine, will apply on slack coal shipped from mines having a freight rate of not more than $1.00 a ton. All mines having a freight rate to this market area of more than $1.00 per ton shall have a minimum f. o. b. mine price for slack coal moving to that territory which will result in a delivered price of not less than $1.80 per ton."

(8) "All coal except Lump to Twin Cities shall take a price of 35 cents per ton below prices as shown on list."

(9) "All coal to Greater St. Louis to take 35 cents per ton less than price as shown on list."

(10) "The following sizes of coal when shipped into the City of Paris, Arkansas, Logan County, shall take prices f. o. b. mines as follows: $2.80 per ton on Mine-run, 90 cents per ton on 2½" Nutrun, and 60 cents per ton of ⅞" Slack."

The Commission finds that the differentials provided for in these price exceptions are not proper differentials to be considered in this hearing, as they involve issues to be considered in the coordination of prices under Section 4-II (b), of the Act, and they shall be deleted from the schedule.

One of the witnesses for the District Board testified that since the Board had submitted its proposed schedule of minimum prices to the Commission it had made an investigation of the relative value of coals that are oil treated as compared with coals that are not so treated, and had authorized him to recommend to the Commission that its proposed schedule be amended so as to include the following price instruction and exception:

"A minimum charge of 10 cents per ton on all prepared sizes of coals shall be added for oil, or other similarly treated coal."

The Commission finds that this proposed price instruction and exception is proper and reasonable and that it should be inserted in the proposed schedule as Item No. 7, page 1, in lieu of Item No. 7 now appearing thereon which has been deleted.

The following note appears on page 4 of the proposed schedule:

"All sizes are predicated on perforated plates with round holes, or equivalent (except size groups 1 and 2) and when bar screens are used the space between bars must conform to the standard equivalent as specified in railroad freight tariffs."

The Commission finds that this note should be deleted entirely as same has already been covered in the schedule by the change that has been made in the language of Item 3 on page 1 of Exhibit No. 711.

The following note also appears on page 4 of the proposed schedule, Exhibit No. 711:

"When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher price group."

The District Board recommends that this note be clarified by striking out the last two words of the note and by substituting in lieu thereof the words "priced sized group and priced accordingly", so that said note shall read as follows:

"When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher priced sized group and priced accordingly."

The Commission finds the recommendation of the District Board in this respect to be necessary and proper and it is hereby approved.

The classification of the Great Western Coal Company in size group No. 11 appears on page 6 of the proposed schedule, Exhibit No. 711, as Class "E." One of the witnesses for the District Board testified that this was a clerical error and that said classification should be changed to "F." The Commission finds that this change should be made to give effect to the determinations of the District Board.

Protests were filed with the District Board by the Victor Coal Company, Collier-Dunlap Coal Company, Harding Coal Company, Smokeless Coal Company, Gillie Coal Company, Keener Mining Company, Lewis Coal Company, and the Davis & Swindle Coal Company to the District Board's proposed schedule of minimum prices, Exhibit No. 711. These were heard by the impartial Board of Arbitration on November 8, 1938. That Board denied the protest of the Victor Coal Company, Collier-Dunlap Coal Company, Harding Coal Company, and the Smokeless Coal Company, but recommended that the classifications of the Gillie Coal Company, The Keener Mining Company, Lewis Coal Company, and Davis & Swindle Coal Company as shown on pages 6 and 7 of Exhibit No. 711 be modified as follows:

Gillie Coal Company and *The Keener Mining Co.*, change as follows:

5–D to 5–E
6–E to 6–F
7–E to 7–F
8–E to 8–F
9–E to 9–F

Lewis Coal Company and *Davis & Swindle Coal Company*, change as follows:

3–D to 3–E

The District Board adopted the findings of the Board of Arbitration and also recommends that said changes be made. The reasons for the recommendations are set forth in full in the report of the Board of Arbitration, Exhibit No. 713. The Commission finds that the recommended changes are reasonable and proper and should be made and said recommendations are hereby approved.

In addition to the above named protests, the Buck Creek Coal Mining Company and the D. A. McKinney Coal Company submitted protests to the Commission but did not send copies thereof to the District Board. Neither did they submit their cases to the Board of Arbitration and neither of them appeared before this Commission when their protests were called for hearing at Chicago on November 28, 1938. The protests of these two companies are, therefore, denied.

Exhibit No. 714 shows the 1937 production of code members in District No. 14, which represents more than 87 percent of the tonnage produced within the District during that year, broken down into size groups showing the respective realization and the weighted average realization per ton for the District at the prices proposed by the District Board for said District and submitted to the Commission in Exhibit No. 711.

The average realization to be expected from the minimum prices proposed by the District Board has been computed by the District Board at $3.63 per ton as shown on Exhibit No. 714. The weighted average cost of Minimum Price Area No. 4 in which District No. 14 is located, as determined by the Commission is $3.617 per ton. There is, therefore, a difference of only about 1.3 cents between the average yield upon the tonnage under the prices as proposed by the District Board for District No. 14 in Exhibit No. 711, and the weighted average cost of production for Minimum Price Area No. 4, as determined by the Commission. The awards of the Board of Arbitration herein referred to will reduce this realization by $0.004 which will bring the computed realization still closer to the weighted average cost of production for Minimum Price Area No. 4, as determined by the Commission, and within 1 cent of that average cost. The only other change in the realization involved in the recommendations herein approved is the inclusion of the new item establishing an additional charge for oil treatment of coal. This, however, involves a change of only about one hundredth of a mill, namely, $0.00001.

District Board No. 14 approved the schedule of proposed minimum prices

which it submitted to the Commission and, in the judgment of said Board, the prices which it proposed to the Commission in said schedule, Exhibit No. 711, under the Commission's Order No. 249, are just and equitable between the producers within the District, have due regard to the interests of the consuming public, and do not and will not permit dumping. It was also the judgment of the District Board, that the prices it proposed to the Commission under the Commission's Order No. 249 reflect, as nearly as possible, the relative market values of the various kinds, qualities and sizes of coal produced in District No. 14, and that said schedule of proposed minimum prices also reflects price variations as to values and as to uses, price variations as to consuming market areas of the various kinds, sizes and qualities of coal produced within the District, and conform to the requirements of said Order No. 249 of the Commission.

And now, upon the record herein, and upon the evidence submitted, both oral and documentary, and upon the foregoing facts found to exist, the Commission finds:

That the District Board for District No. 14, as directed in Order No. 249 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the District, classification of coal and price variations as to mines and consuming market areas, and values as to uses and seasonal demand.

That the District Board for District No. 14, as directed in Order No. 249 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 14, as herein modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal produced within the district; are just and equitable as between producers within the District; have due regard to the interests of the consuming public, and do not permit dumping.

That the minimum prices proposed by the District Board for District 14 for any kind, quality or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the District.

That the minimum prices proposed by the District Board for District 14, as herein modified, yield a return per net ton for the District equal as nearly as may be to the weighted average of the total costs per net ton of the tonnage of Minimum Price Area 4, the price area in which District 14 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District 14, as amended, corrected, modified and revised, as hereinabove set forth, conforms to Order No. 249 of the Commission and to the requirements of Section 4–II (a) of the Act, and as so amended, corrected, modified and revised, said schedule should be, and the same is hereby, approved by the Commission to serve as a basis for the coordination provided for in Section 4–II (b) of the Act. A copy of said schedule as amended, corrected, revised and modified appears in the Appendix for District 14.

APPENDIX FOR DISTRICT NO. 14

SCHEDULE OF MINIMUM PRICES AS MODIFIED AND APPROVED TO SERVE AS A BASIS FOR COORDINATION

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. MCCULLOUGH,
Secretary.

Issued: December 17, 1938.

PRICE INSTRUCTIONS AND EXCEPTIONS

1. The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by Code Members in the District shown on the title page hereof.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. All size designations herein are for round hole screens, or their equivalents, except when otherwise designated. When other types of screens are used, the District Board, subject to the approval of the Commission, shall determine the actual size designation of coal so prepared.

4. All prices herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines.

5. *Crushed coal.*—Where any coal is crushed the minimum price therefor shall be the minimum price established for the original size, before crushing, plus five cents per net ton.

6. 15 cents per ton shall be charged on all coal loaded in box cars, produced in Sub-district 1, and 25 cents per ton shall be charged for all coal loaded in box cars in all Sub-districts except Subdistricts No. 1 and 10. For Blacksmithing coal loaded in Sub-District No. 10 no extra charge is to be made for coal loaded in box cars.

7. A minimum charge of 10 cents per ton on all sizes of coals shall be added for oil or other similarly treated coal.

SIZE GROUPS

Sizes Included

Size group No. 1. Lump—Solid Shot Coal, screened over bars spaced not more than 1½" apart.

Size group No. 2. Lump—Solid Shot Coal, screened over bars spaced not more than ¾" apart.

Size group No. 3. Lump—Solid Shot Coal, screened over perforated plates with round holes not larger than 2½" in diameter.

Size group No. 4. Lump—Machine Cut Coal, screened over perforated plates with round holes larger than 2½" in diameter.

Size group No. 5. Lump—Machine Cut Coal, screened over perforated plates with round holes not larger than 2½" in diameter.

Size group No. 6. Grate—Includes all sizes of coal having a top size of 7½" and a bottom size of 5½".

Size group No. 7. Furnace—Includes all sizes of coal having a maximum top size of 12" and a maximum bottom size of 4".

Size group No. 8. Egg—Includes all sizes of coal having a maximum top size of 6" and a maximum bottom size of 2½".

Size group No. 9. Small Egg—Includes all sizes of coal having a maximum top size of 4" and a maximum bottom size of 2".

Size group No. 10. Stove—Includes all sizes of coal having a maximum top size of 3" and a maximum bottom size of 1½".

Size group No. 11. Nut—Includes all sizes of coal having a maximum top size of 2½" and a maximum bottom size of 1½".

Size group No. 12. Range—Includes all sizes of coal having a maximum top size of 2½" and a maximum bottom size of ⅞".

Size group No. 13. Chestnut—Includes all sizes of coal having a maximum top size of 1½" and a maximum bottom size of ⅞".

Size group No. 14. Nutrun—Includes all sizes of coal having a maximum top size of 2½", with no coal removed.

Size group No. 15. Slack—Includes all sizes of coal having a maximum top size of 1¼", with no coal removed.

Size group No. 16. Slack—Includes all sizes of coal having a maximum top size of ⅞", with no coal removed.

Size group No. 17. Pea—Includes all sizes of coal having a maximum top size of 1¼" and a maximum bottom size of ⅜".

Size group No. 18. Minerun—Includes all coal as it comes from the mine with no part of the small coal removed.

Size group No. 19. Minerun for railroad locomotive fuel—Includes minerun as shown in size group 18 or minerun coal with all or part of the lump, grate, furnace, or egg coal removed.

Size group No. 20. Dead coal—Coal used by smelters for Ore reduction.

Size group No. 21. Smithing Coal—Coal used for blacksmithing.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher priced size group and priced accordingly.

IDENTIFICATION OF SUB-DISTRICT NUMBERS

Identification

Subdistrict No. 1. Includes all mines in Pope County, all mines in the "Spadra field" of Johnson County, Arkansas.

Subdistrict No. 2. Includes all mines in the Denning-Coal Hill and Altus fields of Franklin and Johnson Counties, and all mines in the Philpott field of Johnson and Franklin Counties, Arkansas.

Subdistrict No. 3. Includes all mines in the "Paris Field" of Logan County, Arkansas, and mines in Franklin County located in Paris Basin.

Subdistrict No. 4. Includes all mines in the "Charleston Field" in Franklin County, Arkansas.

Subdistrict No. 5. Includes all mines in Sebastian County, Arkansas.

Subdistrict No. 6. Includes all mines in the "Panama Field" of Leflore County, Oklahoma.

Subdistrict No. 7. Includes mines in the "Bokoshe and Milton Field" of Leflore County, Oklahoma, mines in the McCurtain field of Haskell County and all mines in Sequoyah County, Oklahoma.

Subdistrict No. 8. Includes all mines in the "Poteau-Wister field" in Leflore County, Oklahoma.

Subdistrict No. 9. Includes all mines in the "Howe-Heavener field" of Leflore County, Oklahoma, and all mines in the "Bates field" in Scott County, Arkansas.

Subdistrict No. 10. Includes all mines in the "Stigler-Kanima field" in Haskell County, Oklahoma.

Subdistrict No. 11. Includes all mines in the "Scranton field" of Logan County, Arkansas.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown

Code member	Mine name	Subdist. No.	Price classifications and size group Nos.																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Acme Coal Co.	Acme	2			F																		
Acme Semi-Anth. Coal Co.	Cameron No. 2	6				E			F	F	F	H	E		D		B			Q	A		
A & M Coal Company	Gaither	3				C			C	D	D	E	D		D	B	B	B	A	M	A		
Arkansas Anth. Coal Co.	No name	1				B			B	A	A	B	A	A	A	B	C	C	A	C	A		
Arkansas Excel. Coal Co.	No. 1	5				I			K	K	K	J	A	B		D	B	B	B	A	A		
Leo Bach Coal Co.#	Bach Strip	5			F												B			Q	A		
Banner Mining Co.	Mine No. 18	5				J	B	M	M	M	M	L	L	I		D	B	B	B	N	A	A	
J. M. Bates Coal Co.	Stewart	5			E												B			Q	A		
Bell Coal Company	Bell	7			D												B			Q	A		
P. P. Bennight Coal Co.#	Bennight	5			F												B			Q	A		
Bernice Anthr. Coal Co.	Bernice	1				B		B	A	A	B	A	A	A	A	A	A	A		Q	A		
O. W. Bevel Coal Co.	No. 16	7			D												B			Q	A		
Black Boy Coal Company*	Black Boy	10			B												B			Q	A		A
Black Diamond Coal Co.	Black Diamond	7			D												B			Q	A		
Black Diamond Coal Co.	Black Diamond	8				F		G	G	G	G	H	E		D	B	B	B	A	E	A		
Blue Blaze Coal Co.	Blue Blaze	1				B		B	A	A	B	A	A	A	A	B	A	A		Q	A		
Blue Flame Coal Co.#	Blue Flame	5			F												B			Q	A		
Blue Star Coal Co.	Blue Star	2				C		C	D	D	C	D	D		D	B	B	B	A	F	Q		
Bonner-Porter Coal Co.	Bonner-Porter	7			D												B			Q	A		
Boyd Excel. Operating Co.	Boyd-Excelsior	5				D		E	E	E	H	G	F		D	B	B	B	A	J	A		
Boyd-Sicard Coal Co.	Boyd No. 3	5				G		H	H	H	I	G			D	B	B	B	A	N	A		
Tom Bradford Coal Co.*	Bradford	10			B												B				A		A
Buck Creek Coal Mining Co.	Buck Creek	6				E		F	F	F	F	H	E		D	B	B	B	A	M	A		
*Bill Burch Coal Company	Woodson	5			F												B			Q	A		
A. Bussey Coal Co.*	No. 1	5			F												B			Q	A		
Callahan & Ramey Coal Co.	Dawes	9			E												B			Q	A		
Carbon Coal Co. No. 1	No. 1	3				A		A	B	B	A	C	C		D	B	B	C	C	Q	A		
Carbon Coal Co. No. 2	No. 2	3				C		C	D	D	C	E	D		D	B	B	C	C	Q	A		
Carter-Templeton Coal Co.	Brown	5			E												B			Q	A		
Caston-Creek Coal Co.	Caston Creek	8				F	A	G	G	G	K		E		D	B	B	B		Q	A		
Charleston Coal Co.	Charleston	4			E												B			Q	A		
A. D. Clark Coal Co.	Woodson	6				E		F	F	F	F	H	E		D	B	B	B	A	M	A		
A. D. Clark Coal Co.	Bates	9				D		E	E	E	E	G	F		D	B	B	B	A	H	A		
Clay Coal Co.#	Clay	5			F												B			Q	A		
Coaldale Smokeless Coal Co.	No name	9			C												B			Q	A		
Coleman Coal Company	Coleman	4			E												B			Q	A		
Collier-Dunlap Coal Co.	Collier-Dunlap	1				B		B	A	A	B	A	A	A	A	A	A	A		Q	A		
Couch Coal Company#	Couch	5			F												B			Q	A		
Dane Coal Company	Dane	8				F		G	G	G	G	H	E		D	B	B	B	A	E	A		
Davis & Swindle Coal Co.	D&S Mine	7			E												B			Q	A		
Dawes Bros. Coal Co.	Dawes No. 1	9			E												B			Q	A		
Dixie Fuel Company	Dixie	3				A		A	B	B	A	C	C		D	B	A	C	C	A	A		
Diamond Anthracite Coal Co.	Diamond	1				D		D	C	C	E	B	B		D	B	A	A	A		A		
Eastern Coal Company	Eastern	7			D											B	B			Q	A		
Eastern Excelsior Coal Co.	Eastern	5				D		E	E	E	E	G	F		D	B	B	B	A	J	A		
Economy Coal Company	Economy	3				C		C	D	D	C	E	D		D	B	B	C	C	A	A		
Lee Elder Coal Company	No. 1	9			E												B			P	A		
John H. Elery Coal Co.	Elery	2			A	G		H	H	H							B			Q	A		
Emerson Coal Company	Emerson	1	A	A											C	B	A	A		A	A		
Eureka Coal Company	Eureka	3				A		A	B	B	A	C	C		D	B	B	C	A	B	A		
Excelsior Mining Corp.	Boyd No. 1	5				D		E	E	E	G	F		D	B	B	B	A		Q	A		
Excelsior Smokeless Coal Co.	Excel. Smo. No. 1	5				D		E	E	E	G	F		D	B	B	B	A		Q	A		
Excelsior Thin Vein Coal Co.	Excel. Smo. No. 2	5				I		K	K	K	J	K	H		D	B	B	A		Q	A		
Excelsior Valley Coal Co.	Excel. Valley	5			C												B			P	A		
Farley & Daffron Coal Co.#	No. 1	5			F												B			Q	A		
Fernwood Coal Mining Co.	Fernwood	1				B		B	A	A	B	A	A	A	A	A	A	A		Q	A		
Fort Smith-Bonanza Coal Co.	No. 1, 2–135	5			E			L	N	N	N	M	L	K		D	B	B	B	A	Q	A	
Penny Freeman Coal Co.#	No. 1	5			F												B			Q	A		
Gabbard & Gaston Coal Co.	Old Victor	3			C												B			P	A		
Garland Coal Mining Co.	Garland	10																			A		
Gillie Coal Company	No. 5	7				E		F	F	F	F	G	F		D	B	B	B	A	K	A		
Goodin Coal Company#	Goodin	5			F												B			Q	A		
L. R. Gragg Coal Co.*	Gragg	10			B												B				A		A
Great Western Coal Co.	Great Western	5				H		K	K	K	I	I	F		D	B	B	B	A	L	A		
Green Coal Company	Green	2				A	G		H	H	H						B			I	A		
Grigg & Blaylock Coal Co.	Grigg-Blaylock	2				A	G		H	H	H						B			I	A		
Green Coal Company#	Green	5			F												B			Q	A		
Hammond Coal Company	Hammond	7			D												B			Q	A		
Harding Coal Company	Harding	1				B		B	A	A	B	A	A	A	A	A	A	A		A	A		
Henson Coal Company*	Henson Strip	10			B												B				A		A
Hiawatha Coal Company	Herbert	9			E												B			Q	A		
A. M. Hobbs Coal Co.	Old No. 4	5			E												B			Q	A		
M. J. Hobbs & Son Coal Co.	Hobbs Mine	5			E												B			Q	A		
Hulvey Coal Company*	Hulvey	10			B												B				A		A
Hundley Coal Company	Sans Bois No. 9	7				J		M	M	M	L	L	I		D	B	B	B	A	G	A		
Hunter Coal Company#	No. 3	5			F												B			Q	A		
Ideal Coal Company	No. 1	3				C		C	D	D	C	E	D		D	B	B	C	C	A	C		
Independent Coal Company	Independent	7			D												B			Q	A		
Jewel Mining Company	Jewel	3				A		A	B	B	A	C	C		D	B	B	C	C	A	A		
Jink Jones Coal Company#	No. 1	5			F												B			Q	A		
Jones Coal Company	Jones	7			D												B			Q	A		
K. & S. Coal Company	K & S	11				E		F	F	F	D	F	E		C	A	A	A	A	G	A		
Kanima Smithing Coal Co.#	No. 3	10															B						A
Keener Mining Co.	Keener	7				E		F	F	F	F	G	F		D	B	B	B	A	K	A		
Keeton & Maggard Coal Co.	Keeton-Magg	1	A	A											C	A	A	A		A	A		
Henley Kirby Coal Co.	Kirby	2			A	G		H	H	H						B				I	A		
Perry King Coal Co.	Perry King	4			E											B				Q	A		
Bill Koch Coal Co.	Koch	3			C											B				P	A		
J. S. Kuykendall Coal Co.	Red Turkey	3			C											B				Q	A		
LeFlore-Potean Coal Co.	No. 1	8				F		G	G	G	G	H	E		D	B	B	B	A	E	A		
Lewis Coal Company	No. 12	7			E											B				Q	A		
Lewis & Rush Coal Co.#	Lewis & Rush	5			F											B				Q	A		
Lewis Bros. Coal Co.	No name	1	A	A											C	A	A	A		A	A		
Liberty Coal Company	Liberty	2				C		C	D	D	C	D	D		D	B	B	B	A	F	A		
Litchford & McGlown Coal Co.#	No. 1	5			F											B				Q	A		
Little Ben Coal Company	Majestic	5				H		I	I	I	I	J	E		D	B	B	B	A	L	A		

#Indicates price on *Filler* and *Stained* Coal.
*Indicates Smithing Coal (*if sacked*) $1.50 per ton extra.

Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued

Code member	Mine name	Subdist. No.	Price classifications and size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Little Three Coal Company#	Little Three	5			F											B				Q	A		
Looper Coal Company#	Looper	5			F											B	C	C	A	Q	A		
Mack Coal Company	Mack	3				A		A	B	B	A	C	C		D	B	A	A		A	A		
Mars Coal Company	Mars	1	A	A											C	A	A			Q	A		
Meyers Coal Company	Meyers	7			D											B					A		
Midway Coal Company*	Midway	10			B											B					A		A
Midland Coal Mining Co	Midland	5				H		I	I	I	I	J	E		D	B	B	B	A	I	A		
R. J. Moore Coal Co	None	3			C											B				P	A		
John B. Mumey Coal Co	East	5			E											B				Q	A		
John B. Mumey Coal Co.#	West	5			F											B				Q	A		
S. A. McAdoo Coal Co	McAdoo	5			E											B				Q	A		
Geo. McAlpine Coal Co.*	McAlpine	10			B											B					A		A
D. A. McKinney Coal Co	McKinney	1				D		D	C	C	E	B	B	B	B	A	A	A		A	A		
New Excelsior Coal Co	New Excelsior	5			C											B				P	A		
New Shockley Coal Co	Shockley	3				A		A	B	B	A	C	C		D	B	C	C	A	B	A		
New Superfuel Coal Co	Superfuel	3				A		A	B	B	A	C	C		D	B	C	C	A	B	A		
New Union Coal Company	New Union	3				A		A	B	B	A	C	C		D	B	C	C	A	B	A		
Roy Nichols Coal Co	Nichols	2			A	G		H	H	H						B				I	A		
North Milton Coal Co	None	7			D											B				Q	A		
Oliver-McGuire Coal Co	Oliver-McGuire	5			C											B				P	A		
Paris Development Co	Horseshoe	3				A		A	B	B	A	C	C		D	B	C	C	A	B	A		
Paris Purity Coal Co	Grand No. 3	3				A		A	B	B	A	C	C		D	B	C	C	A	B	A		
Peerless Coal Co	Peerless	5				I		J	J	J	J	K	H		D	B	B	B	A	O	A		
Petty-McClain Coal Co.#	Petty	5			F											B				Q	A		
Philpott Valley Coal Co	Philpott Valley	2			B	K		L	L	L						B				N	A		
Pioneer Coal Company	Pioneer	8				F		G	G	G	K	K	I		D	B	B	B	A	E	A		
Premium Smokeless Coal Co	No. 17	7				J		M	M	M	L	L	L		D	B	B	B	A	O	A		
Quality Coal Co	Quality No. 1	2				A		B	E	E	B	C	C		D	B	B	B	A	D	A		
Quality Coal Co	Quality No. 2	5				D		E	G	G	G	F	E		D	B	B	B	A	J	A		
Quality Coal Co	Quality	8				F		G	G	G	G	H	E		D	B	A	A	A	E	A		
Ra-Ja-Da Anthr. Coal Co	Ra-Ja-Da	1				B		B	A	A	A	A	A			B					A		
Chas. Rogers Coal Co.*	Rogers No. 1	10			B											B					A		A
Wm. Rogers Coal Co.*	Rogers	10			B											B					A		A
Royal Smokeless Coal Co	Royal	8				F		G	G	G	G	H	E		D	B	B	B	A	E	A		
Royal Superior Coal Min. Co	Royal Superior	9				C		D								B				Q	A		
Russell-Grayston Coal Co	None	7				D		D								B				Q	A		
S.A.R. Coal Company	S.A.R	7				D		F								B				Q	A		
Sharp Coal Company#	Sharp	5				F		B								B					A		
Shower Creek Coal Co.*	Shower Creek	10				B										B					A		A
Skidmore Bros. Coal Co	Skidmore Bros	1	A	A											C	A	A	A		A	A		
Smith Coal Co	Smith	1	A	A											C	A	B	B	A	F	A		
R. H. Smith Coal Co	R. H. Smith	2				C		C	D	D	C	D	D			B				I	A		
S. W. Smith Coal Co	S. W. Smith	2				G		H	H	H						B					A		
Smokeless Coal Co	Smokeless Nos. 1 and 2.	1				B		B	A	A	B	A	A	A	A	A	A	A		I	A		
Spessard & Henry Coal Co.#	No. 1	5			F											B				Q	A		
Stanfill Coal Co.#	Stanfill	5			F											B				Q	A		A
Stewart Coal Co	Mine No. 2	2			C	L										B	B	B		Q	A		
Stewart Smokless Coal Co	2½ Denning	2				C		C	D	D	C	D	D		D	B	B	A		F	A		
Stinnett Coal Co	Stinnett	7			D											B				Q	A		
Sublett Coal Co	Sublett	5			C											B				P	A		
Sugar Creek Coal Co	No. 1	9			C											B				Q	A		
Sullivan Coal Co	Sullivan	3				A		A	B	B	A	C	C		D	B	C	C	A	B	A		
Sun Smokeless Coal Co	Sun	5				D		E	E	E	G	F			D	B	B	A		J	A		
Timms Herndon Coal Co.#	No name	5			F											B				Q	A		
Robt. Thompson Coal Co	Thompson	2			A											B				J	A		
Triple C Coal Co.#	Sweeney	7			E											B				P	A		
S. A. Tucker Coal Co	Tucker	3			C											B				Q	A		
John Turner Coal Co	No. 2	5			F											B				Q	A		
J. F. Turnipseed Coal Co	Nos. 1-2 and 3	8				F		G	G	G	G	H	E		D	B	B	B		E	A		
Vandermeulen Coal Mng. Co.#	Vandermeulen	5				P										B				Q	A		
Victor Coal Co	Victor	3				C		C	D	D	C	E	D		D	B	C	C	A	C	A		
Watson Coal Co	Watson	3				A		A	B	B	A	C	C		D	B	C	C	A	B	A		
Weaver & Knauls Coal Co.#	No. 1	5			F											B				Q	A		
Western Coal Co	Powell	7				J	B	M	M	M	L	L	I		D	B	B	B	A	O	A		
White Pullet Coal Co	White Pullet	2			E											B					Q	A	
Wilson Coal Co	No. 8	7			D											B					Q	A	
Yaffe-Excelsior Coal Mg. Co	Yaffe	5				G		H	H	H	H	I	G		D	B	B	B		N	A		
R. A. Young & Son Coal Co	No. 19	5				H		I	I	I	I	J	E		D	B	B	B	A	L	A		

#Indicates price on *Pillar* and *Stained* Coal.
*Indicates Smithing Coal (*ij sacked*) $1.50 per ton extra.

District No. 14.—Price for Shipment Into All Market Areas

Price classification	Price in cents per ton of 2,000 pounds and size group numbers 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
A	450	425	425	480	410	480	485	495	455	520	520	495	460	200	200	200	185	450	250	165	500
B			400	465	405	470	480	480	440	500	500	475	440	135	115	105		445			
C			385	460		460	465	475	435	495	390		250		95	80		435			
D			370	445		450	460	460	430	395	370		200					415			
E			355	435		445	445	445	420	385	365							390			
F			335	430		435	435	435	410	380	355							385			
G				425		430	430	430	405	370	335							365			
H				420		425	425	425	400	360	325							360			
I				415		420	420	420	395	350	315							350			
J				405		415	415	415	390	345	310							345			
K				400		405	405	405	385	340								340			
L				385		400	400	400	380	330								335			
M						395	395	395	345	310								330			
N						385	385	385		295								325			
O																		315			
P																		280			
Q																		270			

NOTE.—See Price Instructions and Exceptions.

COMMON CONSUMING MARKET AREAS PROPOSED BY DISTRICT BOARD NO. 14

Area No. 1.—Includes the States of Arkansas, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma and Texas.

Area No. 2.—Includes the States of Minnesota, North Dakota, and South Dakota.

Area No. 3.—Includes the States of Illinois, Western Mississippi, Western Tennessee, and Wisconsin.

MINIMUM PRICE AREA NO. 4—DISTRICT NO. 14

PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 14, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 829 the rules and regulations proposed by District Board No. 14 in compliance with Commission Order No. 250. The witness testified that these rules and regulations were properly submitted to the Code Members within said District and that no protests concerning such proposals were received from Code Members. Accordingly, the Board, on August 26, 1938, adopted said rules and regulations and later submitted them to the Commission.

The witness testified that he was thoroughly familiar with the testimony of Mr. Brown, the expert witness for the Marketing Division of the Commission, and that the clarifications, modifications and additions to District No. 14's proposed rules, as testified to by Mr. Brown, were reasonable and desirable. The witness further stated that the rules testified to by Mr. Brown, as contained in Exhibit No. 825, would better effectuate the purposes of the rules proposed by District Board No. 14, and that in his opinion the rules proposed by District Board No. 14 should be modified to conform to the rules contained in Exhibit No. 825.

Rule 1 (b), Section IV of Exhibit No. 825, reads as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery."

The expert witness for the Marketing Division testified that this rule was written for the purpose of minimizing the injustice that might otherwise result from the privilege to make contracts in excess of thirty (30) days with governmental agencies that purchased through competitive bidding. We are of the opinion that the purposes of this rule will be better effectuated if the rule is modified to read as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price."

Rule 1 (I), Section VII, of Exhibit No. 825, reads as follows:

"Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest at not less than the current market rate from and after the due date of the account."

We are of the opinion that this rule should be clarified to read as follows:

"Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee."

Rule 1, under "Advertising," Section XI of Exhibit No. 825, provides that no deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising which would have the effect of reducing the invoice price below the applicable minimum price. District Board No. 14 in Exhibit 829 proposes a rule which prohibits any deduction or allowance whatsoever from invoice prices for advertising. We are of the opinion that such a rule better effectuates the purposes of the Act and that the similar rule contained in Exhibit No. 825 should be modified accordingly.

Rule 2 under "Advertising," Section XI of Exhibit No. 825, provides:

"The price and fair trade practice provisions of the Act shall not be evaded by any payment or allowance by any Code Member, his agent, or representative, to any purchaser or purchaser's representative covering advertising. The amount of expenditures incurred by a Code Member, his agent or representative, for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

We are of the opinion that this rule should be modified to read as follows:

"Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

Rule 1 under "Coal Confiscated or Lost in transit," Section XI of Exhibit No. 825, provides:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the established minimum price therefore."

We are of the opinion that this rule should be clarified to read as follows:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher."

The witness for the Marketing Division testified that Exhibit No. 825 contained no rules relating to substitution or the crushing of coal. The witness further stated that the Exhibit is not to be construed as representing any modifications or deletions of such rules as they may have been proposed by the various District Boards. District Board No. 14 proposed rules relating to the crushing and pulverizing of coal in Section X of Exhibit No. 829, and we are of the opinion that these rules are reasonable and desirable with the exception of rule 4. This rule, in effect, proposes a different price for crushed or pulverized coal and we are of the opinion that such a rule, pertaining to price proposal, is not properly submitted as a marketing rule and regulation. Therefore, this rule should be deleted.

The expert witness for the Marketing Division testified that in his opinion the rules contained in Exhibit No. 825 represented clarifications and desirable modifications of the rules proposed by the various District Boards and that such rules were reasonable, not inconsistent with the provisions of Section 4 of the Act and were in conformity with the standards of fair competition contained in the Act.

With the exception of those rules which we have already stated should be modified, we are of the opinion that the rules contained in Exhibit No. 825 are in accordance with the standards governing Marketing Rules and Regulations contained in Section 4 II (a) of the Act. These rules, according to the testimony of the expert witness for District No. 14, are desirable and reasonable and would better effectuate the purposes of the rules and regulations proposed by District No. 14.

Accordingly, we find that the following rules and regulations incidental to the sale and distribution of coal by Code Members in District No. 14 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 14 AS PROPOSED BY DISTRICT BOARD NO. 14 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

Section 1—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the effective date of the order, such effective date to be not more than fifteen (15) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offerer may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offerer may not withdraw the offer without the consent of the offeree.

9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

12. "Retailing" is the buying of coal for resale and selling such coal in lots or upon conditions other than those which would entitle a person to be registered with the Coal Commission as a distributor under Section 4 II (h) of the Act.

13. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

14. "Statistical Bureau" shall mean, unless otherwise specifically stated, the

Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

15. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

16. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

17. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

19. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

20. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

21. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.

22. "Cargo shipment" is a quantity of coal loaded in a vessel, boat, or barge for transportation via water.

23. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

24. "Coal" as used herein shall mean bituminous coal.

25. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

26. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Section II—Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each Code Member shall be responsible for the compliance by all his Sales Agents and agents and employees of Sales Agents and agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. Each Code Member shall require all his sales agents clearly to set forth upon any offer, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's Commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of business or at a regularly established sales office, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau or Bureaus a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

9. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section III—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discount from minimum prices or sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Comission upon such sales. Only one such discount may be allowed on any such sale.

3. Except as expressly authorized in rules and regulations or orders promulgated by the Coal Commission, no Code Member or sales agent may grant or allow any discount or reduction, including any allowance for shipping on a Government Bill of Lading, from the applicable minimum prices upon the sale of coal to any person, including agencies of the Federal Government or agencies of state or local governments.

4. Every sale of coal to a distributor upon which a discount is allowed shall be made subject to the express condition that the distributor is authorized to receive the discount.

Section IV—Limitation of Orders, Agreements, Options, and Quotations

1. Subject to further order of the Coal Commission no Code Member or sales agent of the Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement or order: *Provided*, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the contract is entered into through competitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum prices in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price.

Provided, further, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

2. While the preceding rule is in effect, no option may be given by a Code Member or sales agent for the purchase of coal. When the above rule is suspended or revoked by the Coal Commission, options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void; *Provided, however*, That in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

3. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that time, the quotation thereupon shall become null and void.

4. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

5. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Section V—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

(a) "No shipment consigned to any destination may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied."

(b) "The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

(c) "If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section VI of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

5. All spot orders for the sale of coal, the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at time of delivery as established at the time of the making of the spot order.

Section VI—Contracts

Upon the revocation or suspension of rule 1 of Section IV of these Marketing

Rules and Regulations, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal upon the following terms and conditions:

1. Every contract shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and stating the estimated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local governments in case the terms required to be submitted in a bid or offer for such contract are in conflict with such provisions.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. All contracts for the sale of coal the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at the time of delivery as established at the time of the making of the contract.

5. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

6. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

7. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

8. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(a) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the proper orders and regulations issued thereunder by the National Bituminous Coal Commission."

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

9. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 8 (b) of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

10. The making of a contract for the sale of coal at a price below the minimum or above the maximum thereof established by the Commission at the time of the making of the contract shall constitute a violation of the code and such contract shall be invalid and unenforceable.

11. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

Section VII—Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal supplied for American vessels shall be made on or before the twentieth day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivering into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the day of payment shall be not more than sixty (60) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On all coal sold to railroads, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applicability of any order of the Coal Commission.

(I) Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditor's composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VIII—Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau and the District Board for the District in which the coal is produced, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

(a) The name of the Code Member producer.
(b) The name of the mine.
(c) The name or geological number of the seam or seams from which the coal is produced.
(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.
(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.
(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.
(g) That each such analysis is not less than a promixate analysis showing moisture content, ash, volatile matter, fixed carbon, sulphur and British thermal units and ash softening temperature.

2. Every analysis used in selling, or offering for sale, any particular kind, quality, or size of coal shall be accompanied by a statement to the effect that a copy of such analysis has been properly filed with the Statistical Bureau, the Coal Commission and the District Board.

3. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

4. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

5. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for sub-standard preparation or quality under Section X of these Marketing Rules and Regulations.

Section IX—Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within five (5) business days from the date of such resale, a statement giving the following information:

(a) Name of consignee.
(b) Address of the consignee.
(c) Original destination of the coal.
(d) Name of Code Member.
(e) Originating mine.
(f) The grade and size of coal shipped.
(g) Price at which coal sold.
(h) Reasons for the refusal.
(i) Facts resulting from the investigation of the complaint.
(j) Name of ultimate purchaser upon resale.
(k) Address of purchaser upon resale.
(l) Ultimate destination of the coal.
(m) Price received by the seller upon resale.
(n) Amount of commission, if any, paid upon the resale.
(o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.
(p) A signed and verified statement that the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall properly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

Section X—Substandard Preparation or Quality

1. Where any claim of allowance or counterclaim is requested by a buyer for any delivery of coal claimed to be substandard in preparation or quality, or where it is claimed by the buyer that due to an error on the part of the shipper the buyer has incurred additional and extraordinary expense in accepting the shipment, the Code Member or his sales agent may, within a reasonable time after delivery of the coal, make settlement and agree with the buyer upon an amount reasonably to be deducted for such inferior coal or on account of such error, and may accept payment therefor at less than the applicable minimum price: Provided, that in each such case the Code Member shall within five (5) business days after granting such allowance file with the District Board and the Statistical Bureau of the Coal Commission a verified statement giving the following information:

(a) The name and address of the consignee and the reason for the request for the allowance.
(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.
(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reason for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

Section XI — Crushing and Pulverizing Coal

1. Each code member who maintains and operates at his mine or at any facility used in preparing coals for market, any crushing or pulverizing device, shall register such device with the Statistical Bureau of the Coal Commission, on or before the _____ day of _____ on forms submitted by the Coal Commission.

2. Such forms shall include the following:

1. Name and address of code member.
2. Name of mine or facility at which device is located.
3. Name and style or type of crushing or pulverizing device.
4. Hourly capacity of device.
5. Sizes of coal which device can crush or pulverize.
6. Sizes of coal resulting from crushing or pulverizing.
7. Number of tons crushed in 1937 and in each month of 1938.
8. Cost per ton of crushing or pulverizing in 1937.

3. Beginning with the month of _____ each code member shall on or before the tenth (10th) day of each succeeding month, file with the Statistical Bureau on forms to be provided by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

(a) Number of tons of each size crushed or pulverized.

(b) Number of tons of each size resulting from crushing or pulverizing.

Section XII—Miscellaneous

General

1. The minimum prices established by the Commission shall not apply to coal sold and shipped outside the domestic market as defined in the Act and in these Marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code: Provided, that the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

Advertising

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

Screening for Buyer's Account

1. The screening of mine run or rescreening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Penalties

Section 5 (b) of Bituminous Coal Act:

The membership of any such coal producer in such code and his right to an exemption from the taxes imposed by section 3 (b) of this Act, may be revoked by the Commission upon written complaint by any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, after a hearing, with thirty days' written notice to the member, upon proof that such member has wilfully violated any provision of the code or any regulation made thereunder; and in such a hearing any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, or any consumer or employee, and the Commissioner of Internal Revenue, shall be entitled to present evidence and be heard: *Provided*, That the Commission, in its discretion, may in such case make an order directing the code member to cease and desist from violations of the Code and regulations made thereunder and upon failure of the code member to comply with such order the Commission may apply to a circuit court of appeals to enforce such order in accordance with the provisions of subsection (c) of section 6 or may reopen the case upon ten days' notice to the code member affected and proceed in the hearing thereof as above provided.

Section 5 (c) of Bituminous Coal Act:

Any producer whose membership in the code and whose right to an exemption from the tax imposed by Section 3 (b) of this Act shall have been revoked and canceled may apply to the Commission and shall have the right to have his membership in the code restored upon payment by him to the United States of double the amount of the tax provided in section 3 (b) upon the sales price at the mine, or the market value at the mine if disposed of otherwise than by sale at the mine, or if sold otherwise than through an arms' length transaction, of the coal sold or disposed of by the code member in violation of the code or regulations thereunder (but in no case shall such sales price or market value be taken to be less than the minimum price established by the Commission for such coal and in effect at the time of such sale or other disposal), as found by the Commission under subsection (b) hereof. The Commission shall thereupon certify to the Commissioner of Internal Revenue and to the collector of internal revenue for the internal revenue collection district in which the producer resides the amount of the required payment as found under clause (5) of subsection (b), and upon payment of such amount to the Commissioner or the collector such officer shall notify the Commission thereof.

Section 10 (c) of Bituminous Coal Act:

If any producer required by this Act or the code or regulation made thereunder to file a report shall fail to do so within the time fixed for filing the same, and such failure shall continue for fifteen days after notice of such default, the producer shall forfeit to the United States the sum of $50 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the producer has his principal office or in any district in which he shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeiture.

Section 35 of the Criminal Code as amended by the Act of June 18, 1934, c. 587, 48 Stat. 996 (U. S. C., Title 18, sec. 80):

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

Section 37 of the Criminal Code (U. S. C. 88):

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both. (R. S. Sec. 5440; May 17, 1879, c. 8, 21 Stat. 4; Mar. 4, 1909, c. 321, Sec. 37, 35 Stat. 1086)

MINIMUM PRICE AREA NO. 5—DISTRICT NO. 15

PROPOSED MINIMUM PRICES

In compliance with Order No. 249 of the Commission, the District Board for District No. 15 proposed minimum prices f. o. b. transportation facilities at the mines for kinds, qualities, and sizes of coal produced by Code Members in said District. It also proposed classifications and price variations as to mines within said District, consuming market areas, and values as to uses as said Board deemed proper and within the authority conferred by the Act. A schedule of same was submitted together with the data upon which said prices were computed which data included the factors considered in determining the price relationship between the various kinds, qualities, and sizes of coal produced by Code Members within said District.

At a hearing before this Commission held in Chicago, Illinois, on November 22, 1938, the District Board presented its case in justification of its said proposed minimum price and classification schedule. Two witnesses testified in support of said schedule, identifying and introducing into the record five exhibits, being numbered 705, 706, and 706–A to 708, inclusive. The testimony of these witnesses appears in Transcript Volume No. 11, dated Chicago, Illinois, November 22, 1938, pages 5552 to 5624, both inclusive, under General Docket No. 15.

First Witness—W. E. Blucher

Mr. W. E. Blucher, Kansas City, Missouri, was sworn and testified in substance concerning his experience and qualifications. He has been Manager of the Kansas City Wholesale Coal Credit Bureau since 1920, Secretary Kansas City Coal Service Institute since 1928, Secretary Southwest Coal Bureau since 1929, Secretary-Treasurer Bituminous Coal Producers Board District No. 15 since its organization in June, 1937; he has been connected with the coal industry for approximately 22 years, during all that time having worked for coal companies collectively and never having been employed by any individual coal company; his first connection with the coal industry was in 1916 when he was employed by the Southwest Coal Bureau, a statistical and wholesale credit organization; he worked with the United States Fuel Administration as Manager of its statistical office in Zone 17 during the World War; he is generally familiar with marketing of coals produced in District 15. He identified and introduced into evidence a document marked for identification as Exhibit No. 705 and entitled "Schedule of Minimum Prices Proposed Pursuant to National Bituminous Coal Commission's Order No. 249" and stated that it represented the proposal of District Board 15 of minimum prices for the kinds, qualities, and sizes of coal produced in said District.

The schedule was prepared in the office and under the instructions of the District Board; two meetings were held by the Board at their offices on August 30 and September 13, 1938. Upon receiving Order No. 249 of the Commission, the Chairman of the Board called a meeting, including its Advisory Committee, for the purpose of having said committee make recommendations to the District Board. It instructed such committee to give consideration immediately to any and all orders of the National Bituminous Coal Commission and to be prepared to make recommendations to the District Board on all matters affecting coal produced in the District. The Advisory Committee was appointed by the Chairman of such Board, he having been authorized for that purpose on August 17, 1937. The appointment of the committee was approved by the Board on September 7, 1937. The Advisory Committee is composed of four members of the District Board supplemented by eleven sales executives and sales managers of coal companies operating within the District. They have had long years of experience in the actual marketing of coal produced within the District and have knowledge of the value of the various coals, one to the other. All are Code Members who represent organizations selling more than 50 per cent of all coal produced within the District. The witness testified that he is ex officio Secretary of such committee and that the committee, anticipating Order No. 249 of the Commission, had given considerable thought at various times to the proposal of minimum prices, and that actual work on its recommendations to the Board concerning such minimum price schedule closely followed August 20, 1938, the date on which Order No. 249 of the Commission was issued.

On August 30, 1938, the Advisory Committee reported its actions and recommendations to the District Board through formal report, together with a draft of the proposed minimum price schedules. The minutes and all other information and data in the possession of the Advisory Commitee used in the preparation of such recommendations were made available to the Board. With the information and data, in addition to the knowledge of the individual members of the committee of the marketing conditions within the District, the committee had available and submitted to the Board, (a) the analyses of various coals, (b) the price relationships existing in approved N. R. A. schedules, (c) relationships proposed under the Bituminous Coal Conservation Act of 1935, (d) the prices and relationships proposed under the Bituminous Coal Act of 1937 approved by the National Bituminous Coal Commission under date of December 16, 1937, and effective on January 3, 1938, and (e) the records of the consideration given to applications and petitions for changes.

In explaining the nature of these particular data, the witness identified and introduced into evidence as Exhibit No. 706, a document containing all of the analyses submitted to the District Board by Code Members within District 15, used by the Advisory Committee in making its recommendations, and also as a part of the underlying data submitted to the District Board. Exhibit No. 706–A, a document entitled "Basis for Classification of Mines in District No. 15," which document contains the average analyses.

Action of the District Board in Compliance With Statute and Commission Order No. 249

In compliance with the statute and Order No. 249 of the Commission, the Board gave consideration to the underlying data hereinbefore mentioned and to the proposed minimum price schedule. It ordered one revision thereof to be made immediately in relation to the 1¼ x 0 screenings in Production Group No. 2. Upon such revision it approved such minimum price schedule and ordered, in accordance with Rule III of Commission's Order No. 249, a copy thereof to be mailed to all Code Members within the District, together with a letter of transmittal advising such Code Members of their right to protest.

After the submission to the various Code Members within the District of the initial price schedule as approved by the District Board, a total of 58 protests were received; three protests were received from Production Group No. 1; six from Group No. 2; eighteen from Group No. 3; fourteen from Groups Nos. 4 and 5; one from Group No. 6; and sixteen from Oklahoma Groups Nos. 7, 10, 11, and 12.

Hearings on Protests

The District Board arranged, in accordance with Rule IV of Order No. 249, for hearings to be conducted by the Advisory Committee on such protests and authorized the Secretary to keep stenographic records of the hearings. Dates for hearings were set, protestants notified, hearings were held, and recommendations in connection therewith were

made by the Advisory Committee to the District Board. In its meeting on September 13, 1938, in further compliance with Rule IV, the District Board granted some of the protests and denied others. The initial proposed schedule was corrected to accord with the relief granted.

After consideration of the protests and such revision and amendments necessitated thereby, the District Board ordered the preparation of the proposed minimum price schedule to be put in form to meet Order No. 249 of the Commission. In compliance with Rules VI and VII one-hundred copies were ordered to be filed with this Commission; five copies were ordered to be filed with each of the other District Boards, and, in accordance with Rule V a copy of such proposed minimum price schedule as changed and corrected was mailed to all Code Members within the District, together with a letter of transmittal.

Proposed Schedule of Minimum Prices

The proposed minimum price and classification schedule, as submitted at the hearing of District Board No. 15 and identified as Exhibit 705, consists of twenty pages including an index; price instructions; size groupings; definition of producing groups; definition of consuming market areas; alphabetical list of Code Members showing price classification by sizes for various uses; and prices for shipment into market areas 1 to 20, inclusive, except as noted in price instructions.

Item No. 7 on page 4 of the schedule provides for an additional charge of not less than ten cents per ton when coal is subjected to any chemical, oil or waxing process. This additional charge is based upon the experience within this District which demonstrates that coals so treated to allay dust have a value enhanced by at least ten cents per ton over the coals not so treated.

Item No. 8 on page 4 of the above mentioned minimum price schedule refers to the f. o. b. mine price on "shelly" offgrade coal. Testimony at the hearing developed that a large portion of the tonnage in District 15 is produced from strip mines. The part of this coal which lies near the outcrop is frequently of inferior quality and is known locally as "shelly" coal. A maximum discount of fifteen cents per ton on Sizes Nos. 1 to 7 of this type of coal is provided for the reason that past market history has demonstrated that coal of this nature is generally sold at approximately that amount below the current prices of coal for similar coals of standard quality.

The purpose of providing an increase of fifteen cents per ton in Item 9 on the above mentioned page to the prices on Sizes Nos. 1 to 10 inclusive, when such coals are washed, was in order to reflect the fact that the washing of such sizes enhanced their value by the amount of the differential.

It appears from page 5 thereof that the coals in this District have been grouped into twenty-one separate size groupings generally consisting in the following order of (1) Fancy Lump, (2) Lump, (3) Furnace or Egg, (4) Egg-Nut, (5) Fancy Nut, (6) Standard Nut, (7) No. 2 Nut, (8) Chestnut, (9) Mine Run, (10) Nut Run, (11) Special Stoker, (12) Raw Prepared Screenings, (13) Washed Screenings, (14) Screenings, (15) Raw Dust, (16) Special Purpose coal produced in Production Group No. 12; this special purpose coal is defined as "Crushed Mine Run—Bulk", (17) Special Purpose coal produced in Production Group No. 12; this Special Purpose coal is defined as "Crushed Mine Run—Sacked", (18) Special Purpose coal produced in Production Group No. 12; this Special Purpose coal is defined as "Lump over 2½ inches", (19) Railroad Locomotive Fuel, (20) Railroad Locomotive Special Stoker, and (21) Railroad Locomotive Screenings.

The size of each of the above twenty-one classifications is set forth on this page. It further appears from this exhibit that District 15 has been divided into thirteen Production Groups and on page 6 such Production Groups are defined by the political boundaries within which they are located, the counties and states being specifically named.

Pages 7, 8, and 9 indicate that there are twenty-nine consuming market areas. These areas are defined specifically at the above pages of the exhibit.

Pages 10 to 24, both inclusive, set forth the name of the Code Member, the name of the mine, production group, the seam or kind of coal mined by such Code Member, and the price, classification and size group numbers. It appears from this part of the schedule, among other things, that there are 616 Code Members operating mines within the thirteen production groups; that size groups 1 to 14, both inclusive, are designated as coals dedicated to "Domestic and Commercial Use"; size groups 12 to 15 are coals for "Industrial Use"; groups 16 to 18 are coals for "Special Purpose Use"; and size groups 19 to 21 are coals used for "Railroad Locomotive Fuel."

Page twenty-five of this exhibit indicates the price in cents per net ton of 2000 pounds and the size group numbers of the "Domestic-Commercial and Industrial," "Special Purpose," and "Railroad Locomotive" coals. There is a wide range of prices: Size groups 1, 2, and 3 each carry forty-seven separate price classifications. Letter designations indicating the price for each separate classification start with A, run through the entire alphabet, and continue with the double alphabet down to and including UU, each letter of the alphabet indicating a five cent differential in price. This gives a price range of from $7.17 per ton for coal classified as "Special Purpose," No. 17 Mine Run Crushed—Sacked, to thirty cents per ton for "Commercial Industrial" coal, No. 14 Raw Screenings.

Factors Considered in Determining Price Relationships

In compliance with Order No. 249 of the Commission, the District Board directed its Secretary to assemble all data upon which the proposed minimum prices were computed. Such Secretary kept a record of all matters presented to the Board in its proceedings and compiled a document identified and introduced into evidence as Exhibit No. 708, entitled "Statement of the Data Including, but Without Limitation, the Factors Considered in Determining the Price Relationships as Proposed to the National Bituminous Coal Commission in Response to Order No. 249." This document contains a statement of the information which the District Board had before it in proposing its minimum price schedule, together with such other factual data as had been compiled for the use of the Board by the Advisory Committee, including (1) a description of District No. 15 defining the producing groups therein, (2) a statement of average analyses, (3) a key reflecting the relationships between the standard coals in the various producing groups, and (4) the steps taken by the District Board in proposing the minimum prices.

Attached to this Exhibit is a map designating the various coal producing fields in the District; the names and experience of the members of the Advisory Committee; the average analytical and physical description of the coals produced within each production group; a designation of the base groups; a key reflecting the relationships between the standard coals in the various producing groups within the Districts, in cents per ton; a statement as to the relationships between raw and washed coal; a realization table; and the names and addresses of the members of the District Board.

Second Witness—E. M. Douthat

Mr. E. M. Douthat of Kansas City, Missouri, was sworn and testified in substance concerning his experience and qualifications as follows: that for approximately twenty-five years, he has been engaged in the sale and production of coal in the southwestern states, and in Illinois and Kentucky for a lesser period of time; that at present he is Vice President of the Sinclair Coal Company, a selling agency of Kansas City; Vice President of the Huntville-Sinclair Mining Company, a Code Member in producing group No. 3 of District 15; President of the Thebold Coal Company, a Code Member in producing group No. 2; Vice President of the Delta Coal Mining Company, a Code Member in District 10; and Vice President of the Sentry Coal Mining Company, a Code Member in District No. 9. He has had approximately twenty-five years experience in the marketing of coal and has been Vice-Chairman of District Board No. 15 since its organization. His testimony developed the following facts.

Production Groups Within District 15

Bituminous coal is produced by Code Members in District 15, with the exception as noted within the Texas producing group. Production is carried on in the northern tier of counties in the State of Missouri, ranging down through the State of Missouri in a southwesterly direction into southern Kansas, and on down through east and central Oklahoma to a short distance north of the Texas line. It extends north and south for a distance of approximately 500 miles.

The District Board has grouped the coals in this District according to geographical areas because for many years it has been generally accepted by all producers within such District that all coals produced within certain geographical areas are generally comparable in character and interchangeable for the general uses to which they are put. During N. R. A., attempts were made to more definitely define these various geographical areas. As a result of this effort and further studies made pursuant to the Bituminous Coal Acts of 1935 and 1937, the producing groups as proposed by the District Board were created. The coals within each producing group are directly competitive with each other and there are quality differentials existing between such groups as indicated by the chemical and physical characteristics and their generally recognized use values.

Producing Group No. 1

The major portion of the coal produced in this group is by surface or strip method. Quite a volume, however, is produced by shaft or underground methods. The mine equipment ranges from the most modern to the most primitive. Preparation is generally by shaker screens, although some smaller mines are equipped only with stationary screens. The coal averages approximately 12,500 B. t. u.'s as received. In appearance, it ranges from a dull black to a dark gray. It is a coking and caking coal, with excessive pyrites, disintegrates considerably in shipping and handling, will not store satisfactorily, and discolors in storage due to calcite partings.

The performance of this coal is usually more satisfactory where uniform high furnace temperatures are required.

Coal mined by this group is transported both by rail and truck, quite a number of the smaller mines being exclusively truck mines with no rail facilities.

This coal meets with competition from oil and gas in practically every market it reaches and is also in competition with water power produced by the Bagnell Dam in southern Missouri and other small power dams scattered throughout the Ozark region.

It is principally used for railroad and industrial purposes, although a portion of the production is sold for domestic use.

All of the coals produced in this group are of such structure and character that they are generally interchangeable for all uses for which there is a market.

Producing Group No. 2

The major portion of the production in this group is also by surface or strip method, although there are a number of small shaft and slope mines with a smaller production volume. The equipment in this group also ranges from the most modern to the most primitive.

Preparation is generally by shaker screens, the smaller mines using stationary screens.

This coal averages about 11,300 B. t. u.'s, as received. In appearance, it ranges from a dull black to a dark gray. It is a slightly coking coal although freerer burning than the coals from group No. 1. It disintegrates in shipping and handling, will not store satisfactorily and discolors due to calcite partings. This coal is transported both by rail and truck, a great number of the mines, however, having no rail facilities. It is in competition with oil and gas in practically every market it reaches; also with water power as in the case of group 1 coals. Its use, structure, and interchangeability are also comparable to group 1 coals.

Producing Group No. 3

Coals in this group are produced by surface and strip method as well as through shaft and slope mines. Preparation equipment ranges from modern to primitive. Screening is generally done by shaker screen, the smaller mines using stationary screens.

The coal averages approximately 11,400 B. t. u.'s, as received. is similar in general characteristics to the coals in Production Group No. 2, although somewhat less caking and is generally interchangeable in common markets with such coals. Transportation is both by rail and truck, trucks however transporting a substantial volume. It is in competition with oil and gas in the majority of its markets and generally it is used for railroad and industrial purposes, a portion of the tonnage being sold for domestic use.

All the coals produced within this group are generally interchangeable for all uses for which there is a market.

Producing Group No. 4

Coals produced in this group are entirely by shaft or slope methods. Mining is carried on both by pick and undercutting machines. The seam is very thin and produces block coal with very little slack; as the coal is usually loaded by hand in the mine the only slack loaded is that small amount resulting from degradation caused by handling.

The coal averages approximately 11,700 B. t. u.'s, as received; in appearance, it ranges from a dull black to a dark gray. It is a flashy free burning coal, disintegrates rapidly in shipping and handling, does not store satisfactorily, has numerous calcite partings which, when wet or exposed to the air, cause disintegration.

The coal is transported both by rail and truck, the major portion by truck as many mines in this group have no rail facilities.

There is competition in all markets with gas and fuel oil.

The production is used principally for domestic purposes, although a substantial portion is used for railroad and small industrial demand. These coals are generally interchangeable with each other for all uses.

Producing Group No. 5

This coal is produced entirely by shaft or slope method and mining is carried on both by pick and under-cutting machines.

It averages approximately 11,300 B. t. u.'s, as received, and is very similar to coal produced in Producing Group No. 4. It is generally interchangeable in the markets; however, there is not so much degradation in shipping and handling as in the coal from Producing Group No. 4.

The majority of the tonnage is transported by trucks, many of the mines having no rail facilities.

There is competition with oil and gas in practically all of its markets and it is used principally for domestic and railroad purposes.

All coals in this group are similar in structure and character and are generally interchangeable with each other for all uses.

Producing Group No. 6

Surface or strip and shaft and slope mining methods are used in the production of coal in this area. Underground mining is largely by pick although there are very few under-cutting machines.

The coal produced is much the same type as in Producing Groups 4 and 5. It averages approximately 10,500 B. t. u.'s, as received.

It disintegrates rapidly in handling due to numerous calcite partings. Transportation is almost entirely by truck, only approximately one per cent being transported by rail.

This coal is in competition with oil and gas in all its markets and is used principally for domestic purposes, only a very small amount being used for steam purposes in small plants in nearby towns.

Producing Group No. 7

Coal mining in this area is carried on by shaft and slope methods, both pick and under-cutting machines being used. Preparation is by shaker and stationary screen. Some coal is hand-picked in the mines. It averages approximately 13,700 B. t. u.'s, as received. Coal is known as the McAlester seam coal and is the highest grade produced in this District for domestic and industrial purposes. In appearance, it is dense black, has small calcite partings not sufficient to cause excessive degradation. It is a

slightly coking coal, is low in sulfur and ash, high in heat value, hard, and will store for a long period of time.

Transportation is by rail and truck. The coal is sold in competition with oil and gas and used principally for domestic purposes, a small portion being disposed of for railroad and industrial use. All coals in this group are generally interchangeable.

Producing Group No. 8

The coal in this area is produced by shaft and slope methods both by pick and under-cutting machines. Its preparation is usually by shaker and stationary screens, although there is some hand picking.

This coal produces approximately 13,800 B. t. u.'s, as received, and is higher in volatile matter as compared with coals in Group No. 7. It does not stand up well in handling and storing and tends to disintegrate in storage due to numerous calcite partings.

It is transported by rail and truck, is sold in competition with gas and oil, and is used principally for domestic purposes, only a small portion being disposed of for railroad and industrial use.

These coals are generally interchangeable with each other.

Producing Group No. 9

The mining in this area is by shaft and slope method, both pick and under-cutting machines being used. Preparation is by stationary and shaker machines with some hand picking in the mine. This coal is similar in quality and appearance to that mined in Production Group No. 8 and has been classified accordingly.

Transportation is entirely by truck. The coal is sold in competition with oil and gas, it being used almost entirely for domestic purposes, although some is disposed of for steam and industrial use.

The coals in this group are generally interchangeable with each other.

Producing Group No. 10

This coal is also mined through shaft and slope operations both by pick and under-cutting machines. Preparation is by shaker and stationary screens, some of the smaller mines using hand picking methods.

The coal is non-coking, free burning, and averages approximately 15,600 B. t. u.'s, as received. Its appearance is black and glossy, and it disintegrates rapidly in handling and storage.

Transportation is both by rail and truck and the coal is sold in competition with gas and oil; it is used principally for domestic, railroad, and industrial purposes.

The coals mined in this production group are generally interchangeable with each other.

Producing Group No. 11

Surface or strip mining and shaft and slope mining are the methods commonly used in producing coal in this particular group. The underground mining is carried on both by pick and under-cutting machines. Preparation is by shaker and stationary machines, although some of the smaller mines employ only hand picking methods.

This is a slightly coking coal and averages approximately 13,000 B. t. u.'s, as received. It is black and glossy in appearance; however, it is friable and disintegrates rapidly in handling and storage. Transportation is by rail and truck and this coal meets competition with oil and gas. It is used for railroad, industrial, and domestic purposes. These coals are generally interchangeable with each other.

Producing Group No. 12

Shaft and slope methods of mining are employed in this area. The coal is of a low volatile rank, very soft in structure, but of high chemical purity. It contains approximately 14,300 B. t. u.'s, as received. It is used principally for blacksmithing purposes and generally is not regarded as competitive with any other coal produced in District 15.

Transportation is by rail and truck, and the coals are of such structure and character that they are generally interchangeable with each other.

Producing Group No. 13

There is only one shipping mine in this group, with the exception of the State-owned mine at the Kansas penitentiary, which is located at Leavenworth, Kansas. This mine has recently gone into receivership and its status was unknown at the time of the hearing.

Some very small local mines operate at times in this area. There is no average analysis available for their coals; however, such coal is regarded by the District Board as being of a value comparable to the coal produced in Groups 4 and 5 and has been so classified by the Board.

Producing Groups in Texas

Most of the coal produced in Texas is lignite and accordingly not subject to the Bituminous Coal Act. However, there are five Code Members in this area apparently producing a bituminous coal. The District Board was unable to obtain sufficient data on these members to properly classify their coals as they do not enter into any known competition with other mines in District 15 and they are all small truck mines with an aggregate annual production of less than 3,000 tons. When additional data and information are obtained by the District Board, it reports that it will take such steps as may be necessary to propose minimum prices and classifications on these coals to the Commission.

Instructions to Advisory Committee Relative to Proposal of Minimum Prices

The Advisory Committee had standing instructions from the District Board to meet and formulate recommendations to such Board in respect of any and all matters required by any Order of the Commission. Upon receipt of Order No. 249 of the Commission, such Committee was called into session and proceeded to prepare its recommendations to the District Board as to the proposed minimum price and classification schedule.

In this connection, the Committee first divided the District into the above mentioned 13 geographically defined production groups so arranged, to include as nearly as possible in each group, all mines from which coal of similar quality, structure and performance characteristics was produced.

Size groups were then established to facilitate the pricings of all sizes of coal which, information available to the Committee indicated, were needed and desirable to meet the requirements of Code Members and their customers.

Differentials to reflect the relative market values of the standard coals produced in each production group that were sold in competition with the standard coals produced in every other production group were then established by the Committee and each size of coal loaded by each Code Member was classified to express the proper valuation thereof in its relation to the standard coals of the same size within the same production group.

Recommendations by the Advisory Committee were made to the District Board for each kind, quality, and size of coal produced by Code Members in District No. 15, together with the price thereof expressed in cents per ton of 2000 pounds f. o. b. the mines. These recommendations were believed by the Advisory Committee to reflect the relative market values thereof at a level that would yield a return for the District equal as nearly as may be to the weighted average of the total cost per net ton of the tonnage of Minimum Price Area No. 5, as determined by the Commission.

Factors Considered in Determining Value Differentials

Coals produced within each producing group, with the possible exception of Group No. 13, vary from each other in value, and in arriving at the price differentials the value of standard coals in each production group was determined in relation to their value to the standard coals of each of the other producing groups. The price differential between coals of substandard quality in each group was related or compared to the standard coals in each group in order to reflect the difference in value.

In arriving at the proposed relationships, the District Board assumed that all coals from all production groups moved to all markets on identical transportation charges per ton.

Consideration was given also to the factors of chemical analysis, appearance, physical characteristics, characteristics of performance, market history, values as to uses, and consumer acceptance.

Method of Determining Size Groupings

In its proposed classification and minimum price schedule, the District Board designated 21 different size groupings.

A thorough survey of the available distribution reports of Code Members disclosed that 21 separate size groupings would be required to be proposed for the reason that this number of different sizes was actually loaded within this District. Size Groups 1 to 15, inclusive, embrace all sizes of coal actually loaded for Domestic, Commercial, and Industrial use, or in other words, for all purposes other than special uses, whereas Size Groups Nos. 16 to 21, inclusive, include Special Purpose use and Railroad Locomotive fuel. All sizes within any one size group have equal market value.

Determination of Price Differentials

In determining the price differentials, the District Board selected the coals produced by Production Group No. 1 as the base coals for the reason that such group is located near the center of District 15 and the coals which it produces compete with practically every other producing group. The experience of this producing District discloses that the coals coming within Size Groups Nos. 1, 2, and 3 are of equal market value and accordingly the District Board so priced them. The difference in market value between the several size groups proposed by the District Board was ascertained from experience and the Board proposed prices therefor at a level which would return the weighted average cost, as nearly as may be, of the minimum price area and which would reflect, as nearly as possible, the relative market values of the various sizes.

Realization

The District Board caused the proposed price schedule to be tested for realization and a document entitled "Realization Based on 1937 Tonnage and Calculated at Proposed Prices" was identified and introduced into evidence as Exhibit 707.

Consideration of this Exhibit shows that it contains 6 tables. Table 1 is the "Recapitulation of Realization for Rail and Truck Shipments" based on 1937 tonnage. Table 2 is the "Realization of Rail and Truck Shipments" based on 1937 tonnage. Table 3 is the "Recapitulation of Realization on Rail Shipments" based on 1937 tonnage. Table 4 is the "Realization on Rail Shipments" based on 1937 tonnage. Table 5 is the "Recapitulation of Realization on Truck Sales" based on 1937 tonnage, whereas Table 6 is the "Realization on Truck Sales" on such tonnage.

In 1937 a total of 5,335,989 tons were produced for commercial use; this tonnage calculated at the proposed prices would realize $10,182,276 or $1.9082 per ton for this type of coal, whereas 1,916,535 tons of coal were produced for railroad use in 1937, which tonnage calculated at the proposed prices would realize $4,009,222 or $2.0919 per ton for this type of coal. It further appears from Table 5 that the total truck sales in 1937 amounted to 912,964 tons, which calculated at the proposed prices as set forth in the proposed minimum price schedule would realize $2,017,983.92 or $2.2104 per ton.

An examination of Table 1, which is in fact a recapitulation of the total realization from all rail and truck shipments based on 1937 tonnage, calculated at the prices as proposed in Exhibit 705, indicates that such total realization for all coal of the various kinds, qualities, and sizes as listed in the schedule is $1.9568, there having been produced 7,252,524 tons of coal by this District in 1937, which tonnage calculated at the prices proposed in the schedule would realize $14,191,498 or $1.9568 per ton as above stated.

Correction of Error in Realization and Proposed Minimum Price Schedule

In the process of arriving at minimum prices, f. o. b. transportation facilities at the mine, the District Board ascertained the relative value of the coals in the market, and proceeded to relate that value to an f. o. b. mine price, but in the conversion of prices and differentials for the coal in size groups 1, 2, 3, and 4 in all producing groups to an f. o. b. mine price, the District Board made an error in failing to eliminate the effect of transportation charges upon such prices, with the result that the prices for size groups 1, 2, 3, and 4 in all producing groups, as proposed in the schedule submitted by District Board 15, are forty cents per ton lower than they should be to conform to the requirements of Section 4 II (a) of the Act. The schedule submitted by District Board 15 should, therefore, be modified by increasing the prices for size groups numbers 1, 2, 3, and 4 in all producing groups forty cents per ton. This increase in the four size groups will in no way affect the relationships as intended to be proposed by the Board for the remaining size groups and qualities. However, such correction, modification, or adjustment will have the effect of increasing the realization now calculated (as above set forth) from $1.9568 per ton to $2.0615 per ton, which is within 0.0125 cent per ton of the weighted average cost of production of Minimum Price Area No. 5.

Modifications of Proposed Minimum Price and Classification Schedule

Upon consideration of all the evidence, both oral and documentary, introduced at the hearing on the submission by District Board No. 15 of its proposed schedule of minimum prices and classifications and under the authority conferred upon this Commission by the applicable provisions of the Bituminous Coal Act of 1937, the Commission finds that said proposed schedule should be, and the same is hereby, modified in the following respects:

(1) The cover page of said proposed schedule is hereby modified and amended by substituting therefor the cover page as submitted and approved by the Legal Division of this Commission and appearing as a part of said approved schedule attached hereto as an appendix.

(2) Item No. 3 on page 4 of said schedule is hereby modified by inserting the words "in cents" after the word "are" and by deleting the last three words of the sentence contained in said Item 3 so that same will read as follows: "All prices herein are in cents per net ton of 2000 pounds f. o. b. transportation facilities at the mine."

(3) Item 5 on page 4 of said schedule reading as follows: "The substitution on any order of a grade or size of coal taking a minimum price higher than the grade or size ordered is not authorized or permitted" is modified by the complete deletion thereof for the reason that said item is a marketing rule or regulation and not a price instruction.

(4) The first paragraph at the top of page 5 of said schedule which reads: "All size designations herein are for round hole screens. When other types of screen are used, the round hole equivalent shall control the size" is hereby modified by the complete deletion thereof and the following is hereby inserted in its place and stead: "All size designations herein are for round hole screens. When other types of screens are used, the equivalent as determined by the District Board subject to the approval of the National Bituminous Coal Commission shall govern the size."

(5) The second paragraph on page 5 of said schedule reading "If any size coal is made for which a size is not designated herein, such coal shall be sold at the price applicable to the next larger size" is hereby modified by deleting the last two words, "larger size," and inserting in their place and stead the words "higher priced size group."

(6) The definition for Size Group 21 as same appears on page 5 of said schedule is hereby modified to read as follows: "No. 21—Railroad Locomotive Screenings—2" x 0" Washed and 2" x ¼" Raw." This modification is made for the reason that it appeared at the hearing that some Code Members within this District have recently been preparing and selling this additional size for railroad locomotive fuel.

(7) All classifications of coal in Size Groups 1 (Fancy Lump), 2 (Lump), 3 (Furnace or Egg), and 4 (Egg-Nut) are hereby modified by increasing each and every price in such four size groups 40 cents per ton in order to correct the error of the District Board in designating the various prices for said classifications. This modification has the effect of changing the realization as originally computed by the District Board from $1.9568 to $2.0615, which latter realization is within 0.0125 cent of the weighted average cost of production of Minimum Price Area No. 5 and accordingly is equal as nearly as may be to the weighted average costs of such minimum price area.

All of the above modifications appear in the approved schedule of minimum prices

used in producing coal in this particular | Commission. Upon receipt of Order No. | designated 21 different size groupings

	forth in the proposed minimum price	and appearing as a part of said ap-	the approved schedule of minimum prices

as modified and attached hereto as an appendix.

Protests

Three protests were filed by Code Members with the Commission, complaining of the prices and classifications of certain of the coals produced by them as contained in the minimum price and classification schedule proposed and submitted by the District Board. The Middle River Coal Company of Fulton, Missouri, and the Moniteau Coal Company at Higbee, Missouri, were called during the hearing to provide such protestants an opportunity to introduce evidence in support of their various protests, but no one appeared for said protestants or either of them and, accordingly, the subject matter of the protests having been heard before the District Board, such protests are hereby denied and no modification or revision of the proposed minimum price schedule, as submitted by the District Board, is made with reference to the price or classifications of the coals of the above named protestants.

Upon motion of the Legal Division of the Commission, however, the protest of the Middle River Coal Company above mentioned, together with 6 letters and 3 analyses of coal, was identified and introduced into evidence as Exhibit No. 709. The gist of the complaint as contained in this protest is that a differential in price that would be consistent with the difference in analyses of washed or unwashed coals is desired and it is the desire of the protestant to offer for sale, mine run coals running at least 35 percent screenings, it being contended that many steam plants cannot burn coal of as low fuel value as the protestant's raw screenings. As the District Board proposed higher prices on mine run containing 35 percent screenings for steam use than it did on washed screenings, it is further requested that mine run containing 35 percent screenings or more, for steam use, should be allowed a price not higher than that of washed screenings which are not higher in analysis.

In consideration of the fact that this same protest was heard and considered by the District Board, and since no additional evidence has been presented to the Commission in support of said protest, the Commission approves the action of the District Board in denying the same, without prejudice however, to the protestant or other interested parties re-asserting their claim and supporting the same by other and additional evidence.

The Robinson Coal Company, operating a strip mine in Foster, Bates County, Missouri, appeared by R. S. Leavitt, its Vice President in charge of Sales, and was heard by the Commission concerning the subject matter of its protest.

The protest was identified and introduced in evidence as Exhibit No. 710 and requests a 15 cent per ton differential between washed and unwashed coals of Sizes 1 to 10, inclusive, from mines located in Producing Groups Nos. 2 and 3. The protestant's mine is not equipped with a washer and it contends that the washing process improves and enhances the quality of coals in Groups 2 and 3 to the same extent as in Group 1. The District Board gave consideration to this protest and permitted a 10 cent differential but denied the requested 15 cent differential.

The Commission approves of the action of the District Board in this regard and, accordingly, denies the request of this protestant with regard to the 15 cent differential claimed between Sizes 1 to 10, inclusive, produced in Producing Groups Nos. 2 and 3.

This protest further requests the establishment of a 35 cent differential between washed and unwashed screenings for industrial purposes from Groups Nos. 1, 2, and 3. The District Board established a differential of 25 cents and 20 cents, respectively. The protestant claims that due to the large quantity of impurities contained in its raw screenings, it has been found impossible to compete with raw or washed screenings from Group 1 or washed screenings from Groups Nos. 2 and 3, and that Group No. 1 raw and washed screenings and Groups Nos. 2 and 3 washed screenings represent a much greater comparative value at the proposed prices than raw or unwashed screenings from the protestant's (Robinson) mine in Group No. 2. The protestant further claims that the Robinson mine was forced to suspend operations due to a large accumulation of screenings.

In this connection the Commission finds that the evidence adduced by the protestant is not of such a persuasive nature, when weighed against the considerations, deliberations and opinions of the members of the District Board and its advisory committee, to warrant the Commission in modifying the proposal made by the District Board. The request of the protestant is therefore denied.

Conclusion

And now upon consideration of all the evidence, both oral and documentary, introduced at the hearing on the submission of the minimum price and classification schedule as proposed by District Board No. 15 at Chicago, Illinois, on November 22, 1938, the Commission hereby finds:

(1) That the District Board for District No. 15 as directed by Order No. 249 of the Commission proposed minimum prices free on board transportation facilities at the mines for kinds, qualities, and sizes of coal produced by Code Members within the District, and classifications of coal and price variations as to mines, consuming market areas, and values as to uses.

(2) That said District Board submitted to the Commission a schedule of such proposed minimum prices and classifications, together with the data upon which the prices contained in said schedule were computed, and upon which the classifications of coal were determined, including without limitation, the factors considered in determining the price relationship.

(3) That the prices contained in said schedule as modified and revised by the Commission reflect as nearly as possible the relative market value of the various kinds, qualities, and sizes of coal produced by Code Members within the District; are just and equitable as between producers within the District; have due regard to the interests of the consuming public, and do not permit dumping.

(4) That the minimum prices contained in said schedule, as modified and revised by the Commission, for any kind, quality, or size of coal for shipment into any consuming market area, are just and equitable as between producers within the District.

(5) That the minimum prices contained in said schedule, as modified and revised by the Commission, for any kind, quality, or size of coal for shipment into any consuming market area, are proposed in such manner so as to yield a return per net ton for the District equal as nearly as may be to the weighted average of the total cost, per net ton, of the tonnage of Minimum Price Area No. 5; the return or realization, per net ton, for said District 15, under said schedule as modified and revised being $2.0615, whereas the weighted average of the total cost per net ton of the tonnage of Minimum Price Area No. 5 as determined by the Commission is $2.049.

(6) That the proposed minimum price and classification schedule submitted to the Commission by District Board No. 15 as modified, amended, corrected, and revised, a copy of which said schedule appears as an appendix attached hereto, is in reasonable compliance and conformity with Order No. 249 of the Commission and with the requirements of Section 4 II (a) of the Bituminous Coal Act of 1937.

The Commission further hereby finds that said schedule as so modified, amended, corrected, and revised, should be, and the same is hereby, approved by the Commission to serve as a basis for coordination, as provided in Section 4 II (b) of said Act.

APPENDIX FOR DISTRICT NO. 15

SCHEDULE OF MINIMUM PRICES AS MODIFIED AND APPROVED TO SERVE AS A BASIS FOR COORDINATION

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. MCCULLOUGH,
Secretary.

Issued: December 17, 1938.

PRICE INSTRUCTIONS AND EXCEPTIONS

1. The relationships reflected herein are divided into four parts reflecting the value as to uses, namely, Domestic and Commercial Coal Use, Industrial Coal Use, Special Purpose Coal Use, Railroad Locomotive Fuel Use.

(a) Domestic and Commercial Coal Use applies: First, on all sales in retailing of coal. Second, on all sales of coal to consumers using coal principally for space heating. Third, on all other sales except as provided for in the Industrial Coal Use Part, Special Purpose Coal Use Part, and Railroad Locomotive Fuel Use Part.

(b) Industrial Coal Use applies where sale is made by the producer code member, his authorized agent, or a registered wholesaler or jobber, and where the coal moves direct from the mine of the producer to consumers using fuel principally for: First, the purpose of driving steam engines or turbines. Second, the purpose of manufacturing or processing if fuel is required each day of the year products of the consumer are produced.

(c) Special Purpose Coal Use applies to all coal produced in what is known as the Briartown District in Oklahoma.

(d) Railroad Locomotive Fuel Use applies to all coal sold to railroads for locomotive fuel.

2. The schedule of prices shown herein applies F. O. B. transportation facilities at mines on all coal produced by Code Members in the District shown on the title page hereof.

3. All prices herein are in cents per net ton of 2,000 pounds F. O. B. transportation facilities at the mine.

4. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

5. In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in United States funds.

6. When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. The F. O. B. mine price on shelly, offgrade coal may be reduced a maximum of 15¢ per ton on Sizes Nos. 1 to 7, inclusive, when due notice is given by a Code Member to the Statistical Bureau of the National Bituminous Coal Commission that he has such coal to dispose of and the coal is inspected and so classified by an authorized representative of the Commission.

8. Prices shown herein for Sizes Nos. 1 to 10, inclusive, from Production Group No. 1 are for unwashed coal. When these sizes are washed, 15¢ shall be added to the prices indicated.

9. On Size No. 17, Special Purpose Coal Produced in Production Group No. 12, the price indicated may be reduced $1.75 per ton when buyer furnishes the sacks.

SIZE GROUPS

Size group No. 1. *Fancy lump.*—Coal passing over a screen with round hole openings larger than 3".

Size group No. 2. *Lump.*—Coal passing over a screen with round hole openings of ½" to 3", inclusive.

Size group No. 3. *Furnace or egg.*—Coal passing through a screen with round hole openings not over 10" and over a screen with round hole openings of not less than 1½".

Size group No. 4. *Egg-nut.*—Coal passing through a screen with round hole openings not over 10" and over a screen with round hole openings not over 1¼".

Size group No. 5. *Fancy nut.*—Coal passing through a screen with round hole openings not over 3" and over a screen with round hole openings not over 2".

Size group No. 6. *Standard nut.*—Coal passing through a screen with round hole openings not over 3" and over a screen with round hole openings not over 1¼".

Size group No. 7. *No. 2 nut.*—Coal passing through a screen with round hole openings not over 2" and over a screen with round hole openings not over 1¼".

Size group No. 8. *Chestnut.*—Coal passing through a screen with round hole openings not over 1¼" and over a screen with round hole openings of not over 1".

Size group No. 9. *Mine run.*—Coal shoveled at the face from which no coal has been removed either at the face, preparation plant, or when loading into transportation facilities, and shall contain not less than 30% screenings that will pass through an 1¼" round hole screen. Run of mine containing less than 30% screenings that will pass through an 1¼" round hole screen shall be classified as Lump coal and sold at not less than the Lump coal price.

Size group No. 10. *Nut run.*—Coal passing through not larger than a 3" round hole screen or its equivalent, from which no coal has been removed, and it shall contain not less than 50% screenings that will pass through an 1¼" round hole screen. Nut Run containing less than 50% screenings that will pass through an 1¼" round hole screen shall be classified as 3" Nut coal and sold at no less than the price applying on Standard Nut.

Size group No. 11. *Special stoker.*—Coal passing through a screen with round hole openings not over 1¼" and over a screen with round hole openings not over ⅜".

Size group No. 12. *Raw prepared screenings.*—Coal dry-cleaned passing through a screen with round hole openings not over 1¼" and over a screen with round hole openings not over ¼".

Size group No. 13. *Washed screenings.*—1¼" x 0"—Washed coal passing through a screen with round hole openings not over 1¼" from which no coal has been removed.

Size group No. 14. *Screenings.*—1¼" x 0"—Coal passing through a screen with round hole openings not over 1¼" from which no coal has been removed.

Size group No. 15. *Raw dust.*—¼" x 0"—Coal that has not been washed passing through a screen with round hole openings not over ¼" from which no coal has been removed.

Size group No. 16. *Special purpose coal produced in production group No. 12.*—Crushed Mine Run—Bulk.

Size group No. 17. *Special purpose coal produced in production group No. 12.*—Crushed Mine Run—Sacked.

Size group No. 18. *Special purpose coal produced in production group No. 12.*—Lump over 2½".

Size group No. 19. *Railroad locomotive fuel.*

Size group No. 20. *Railroad locomotive special stoker.*—3" x 0" with ½ of the screenings removed.

Size group No. 21. *Railroad locomotive screenings.*—2" x 0"—Washed and 2" x ¼" Raw.

All size designations herein are for round hole screens. When other types of screens are used the equivalent as determined by the District Board subject to the approval of the National Bituminous Coal Commission shall govern the size.

If any size coal is made for which a size is not designated herein, such coal shall be sold at the price applicable to the next higher priced size group.

IDENTIFICATION OF PRODUCING GROUP NUMBERS

Group No. 1. All mines located in Cherokee, Crawford, Bourbon, Neosho, Labette and Wilson Counties, Kansas; and Barton, Jasper, Dade, Cedar, and that portion of Vernon County lying south of an east and west line drawn through the town of Nevada, Missouri.

Group No. 2. All mines located in Linn County, Kansas; and Bates, Henry, St. Clair, Morgan, Pettis and Johnson Counties; and that portion of Vernon County lying north of an east and west line drawn through the town of Nevada in Missouri.

Group No. 3. All mines located in Boone, Callaway, Audrain, Randolph, Macon, Linn, Grundy, Harrison, Adair, Chariton, Schuyler, Putnam, Cole, Howard, Monroe, Warren, and Ralls Counties in Missouri.

Group No. 4. All mines located in Ray, Clay, Caldwell, Daviess, Clinton, and Carroll Counties in Missouri.

Group No. 5. All mines located in Lafayette County, Missouri.

Group No. 6. All mines located in Osage, Franklin, Lyon, and Coffey Counties, Kansas.

Group No. 7. All mines operating on the genuine McAlester seam in Pittsburg and Latimer Counties, Oklahoma.

Group No. 8. All mines operating on the Wilburton-Hartshorne seams in Pittsburg and Latimer Counties, Oklahoma.

Group No. 9. All mines located in Coal County, Oklahoma.

Group No. 10. All mines located in Okmulgee County, Oklahoma.

Group No. 11. All mines located in Tulsa, Wagoner, Rogers, Nowata and Craig Counties, Oklahoma.

Group No. 12. All mines located in Muskogee County, Oklahoma.

Group No. 13. All mines located in Johnson, Leavenworth, and Wyandotte Counties, Kansas.

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers: Domestic and commercial use 1	2	3	4	5	6	7	8	9	10	11	12	13	14	Industrial use 12	13	14	15	Special purpose use 16	17	18	R. R. Loco. fuel use 19	20	21
1. A. & G. Coal Co.	A. & G.	6	Osage	LL	LL	LL	GG																				
2. A. & P. Coal Co.	A. & P.	8	Hartshorn	K	K	K	K		K			A	A												L		
3. Acme Coal Co.	Acme	11	Tulsa	FF	FF	FF	BB		X		A	F	P	F				A							L		
4. Acme Coal & Mng. Co.	Acme	10	Henryetta	Z	Z	Z	Y		X		F	M	M	F				F									
5. Adams, C. J.	Adams	9		K	K	K	K		K		F	A	A	A				A									
6. Adamson Coal Co., H. L.	H. L. Adamson	12																				A+	A+	A+			
7. Albertson & Son Coal Co.	South Point	4		TT	TT	TT	OO	K	JJ	K	S		N		G	A	Y	N		FF	A						
8. Alston Coal Co., The	Alston	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	A	I	H	H	O	A				L		
9. Amershek, John	Valley	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	N		O	A						
10. Anderson Coal Co.		4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	K		FF	A						
11. Anderton, L. B.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
12. Anesi, Pete	Big Valley	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
13. Aper Coal Co., The	Aper	1	Lightning Creek	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A			I	H		O	A				L		
14. Appleby Coal Co.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	A		U	K		BB	A						
15. Arms Coal Co.	No. 21	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		
16. Ashing, J. G.	Ashing	10		Z	Z	Z	Y		X		F	M	M	F				F									
17. Atkins, Eugene		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	A		U	K		BB	A						
18. Atkinson Coal Co.	No. 4	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	M	D	A		I	H		O	A				L		
19. Atlas Coal Corporation	Atlas	10	Henryetta	Z	Z	Z	Y		X		F	S	M	F				F							L		
20. Atwood, Geo. M.	Atwood	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	K		FF	A						
21. Avery, John	Avery	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	A		U	K		BB	A						
22. Bailey, Scott		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	A		U	K		BB	A						
23. Bainter Coal Co.	Bainter	1		JJ	JJ	JJ	EE	A	Z	A	I	R	Y	D	A		U	H		O	A						
24. Balotto Coal & Mng. Co.	Balotto	3	Bevier	QQ	RR	QQ	LL	J	H	J	R	Y	M	D		D	A	K		BB	A				L		A
25. Baird & Gesslein Coal Co.	No. 1	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A			A	H		O	A						
26. Baker Coal Co.	Baker	7	McAlester	A	A	A	A		A		S		N	D	A		Y	N		FF	A						
27. Ballard, Russell & Harold	Ballard Coal Co.	4		TT	TT	TT	OO	K	JJ	K	S		N	D		G		N		FF	A						
28. Baker, Russell	Baker	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
29. Baldwin, E. E.	Baldwin	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	A	D		K		BB	A						
30. Banks & Sons, Ira O.	Banks	5	Higginsville	TT	TT	TT	OO	K	JJ	K	S		N	F		G		N		FF	A						
31. Barfield, P. L.	Barfield	10		Z	Z	Z	Y		X		F	M	M	F				F									
32. Barron, W. M.	Jarred	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D		D	A	K		BB	A						
33. Barton Valley Coal Co., Inc.	No. 1	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	N		G		H		O	A						
34. Bates Coal Co.	Bates	4		TT	TT	TT	OO	K	JJ	K	S		N			G		Y		FF	A						
35. Bell Coal Co.	Bell 2 & 3	6		LL	LL	LL	GG																				
36. Ben Hur Coal Co.	Sun	10	Henryetta	Z	Z	Z	Y		X		F	M	M	F				F							L		
37. Ben Hur Coal Co.	Blackstone	10	Henryetta	Z	Z	Z	Y		X		F	M	M	F				F							L		
38. Bennett Coal Co., E. G.	Bennett	11		FF	FF	FF	BB		X		F	P	M	F				F									
39. Bennett, Wm.	Garstner	10		Z	Z	Z	Y		X		F	M	M	F				F									
40. Bennett & Fuller Coal Co.	Bennett-Fuller	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
41. Benson Coal Co.	Benson	3	Bevier	QQ	QQ	QQ	LL	J	H	J	R	Y	M	F		D		U	K		BB	A						
42. Berkey Coal Co., Joe	Wadsworth	10		Z	Z	Z	Y		X		F	M	M	F				F									
43. Bernardi Coal Co.	Bernardi	7	McAlester	A	A	A	A		A		F		A	F				A							L		
44. Big Four Coal Co.	Big Four	10		Z	Z	Z	Y		X		F	M	M	F				F									
45. Big Sandy Coal Co.	Big Sandy	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
46. Binkley Mining Co. of Missouri	Bee-Veer	3	Bevier	QQ	QQ	QQ	LL	J	H	GG	R	P	R	D	D	D	U	K	K	BB	A				L		A
47. Bird, Robert		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D	D	U	K		BB	A						
48. Bischof Coal Co.	Bischof	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	A	D	U	K		BB	A						
49. Bishop, W. R.	Bishop	1		JJ	JJ	JJ	EE	A	Z	A	I	R	Y	M	D	A	U	H		O	A						
50. Black Bottom Coal Co.	Black Bottom	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D	D	U	K		BB	A						
51. Black Diamond Coal Co.	Black Diamond	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
52. Black Diamond Coal Co.	Black Diamond	11		FF	FF	FF	BB		X		F	P	M				F										
53. Black Jack Coal Co	Black Jack	12																				A+	A+	A+			
54. Blacksmith Coal Co.	Blacksmith	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
55. Blair Coal Co.	Blair	4	Lexington	TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
56. Blair Coal Co., Dave		4		TT	TT	TT	OO	K	JJ	K	J		N		G		Y	N		FF	A						
57. Blakemore, W. R.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
58. Blanco Mining Co.	No. 3	7	McAlester	A	A	A	A		A		F		A					A							L		
59. Blaue, A. E.	Blue Flame-White Ash	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		T	A						
60. Blue Bluff Coal Mine	Coal Bluff	4		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D	A	U	K		BB	A						
61. Blue Ridge Coal Co.	Blue Ridge Strip	1		JJ	JJ	JJ	EE	A	Z	A	I	R	Y	M	D	A	U	H		O	A						
62. Boothe Coal Co.	Boothe No. 1	4	Lexington	TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
63. Bowen Coal Co.	Bowen	2	Tebo	QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		T	A						
64. Boyce Coal Co., Thos.	Boyce	4	Richmond	TT	TT	TT	OO	K	JJ	K	J		N		G		Y	N		FF	A						
65. Boyer, E. L.		1		JJ	JJ	JJ	EE	A	Z	A	I	R	Y	D		A	I	H		O	A						
66. Bradley Coal Co.	Bradley	1	Bevier	QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	A	D	U	K		BB	A				L		A
67. Bramhall, F. M.	Bramhall	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D		D	U	K		BB	A						
68. Brandow, Wm.	Brandow	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M	D		D	U	K		BB	A						
69. Brennan Coal Co.	Brennan	1	Sunshine	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		
70. Briartown Coal Co.	Briartown	12	Briartown																			A+	A+	A+			
71. Brindle, L. F.		6		LL	LL	LL	GG																				

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers: Domestic and commercial use 1	2	3	4	5	6	7	8	9	10	11	12	13	14	Industrial use 12	13	14	15	Special purpose use 16	17	18	R. R. Loco. fuel use 19	20	21
72. Bristol Ridge Coal Co.	Bristol Ridge	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		P	K		T	A						
73. Brooks Coal Co.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
74. Brooks & Shephard	Monkey	10	Henryetta	Z	Z	Z	Y		X		F	M	M	F				F									
75. Brown Bros.	Brown Bros.	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
76. Brown & Crowe	No. 1	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
77. Brownfield Coal Co.	1, 2, 3, & 4	3		QQ	QQ	QQ	LL	J	H	J	R	S			D		U	K		BB	A						
78. Bryant-Harrison Coal Co.	No. 14	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A				A		
79. Bryce Coal Co.	Tilly Coal Mine	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
80. Bucklin Coal Co.	Bucklin	3	Tebo	QQ	QQ	QQ	LL	J	H	J	R	I	Y	M	D	D	A	K		BB	A				L		A
81. Budd, C. C.	Budd	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
82. Bunker Hill Coal Works	Bunker Hill	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
83. Burger, Claude	Burger	8		K	K	K	K		K		A		A					A									
84. Burgin Coal Co., Earl	Burgin	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
85. Burkhardt, G. H.	Mears	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
86. Burns, Joe	Burns	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
87. Burrow, James	Black Diamond	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
88. Cain Bros.	Cain Bros.	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
89. Calvert Bros.	Calvert's	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
90. Calvin Coal Co.	Calvin	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
91. Camden Coal Co.	No. 2	4		TT	UU	TT	OO	L	KK	L	S		N		G		Y	N		FF	A			A			
92. Caple, G. H.		6		LL	LL	LL	GG																				
93. Caple, John		6		LL	LL	LL	GG																				
94. Carman, John & Son	Carman	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
95. Carnagey Coal Co.	Carnagey	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
96. Carpenter & Smith	Carpenter & Smith	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		P	K		T	A						
97. Carr & Morgan	Scranbur	3		LL	LL	LL	GG																				
98. Casady, C. R.	Casady	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
99. Cassady, Elvin		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
100. Central Coal Co.	Central	6		LL	LL	LL	GG																		I		
101. Central Valley Coal Co.	Central Valley	10		Z	Z	Z	Y		X		F	M	M	F				F									
102. Charlton River Coal Co.	Charlton River	3		QQ	RR	QQ	LL	J	H	J	R	I	Y	M	D	A	A	U	K	BB	A				L		A
103. Cherokee County Line Coal Co.	Cherokee County L.	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A				L		
104. Cherry Creek Coal Co., Inc.	Mackie J.	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		
105. Chetopa Coal Co.	Chetopa	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
106. Choctaw Coal Co.	Choctaw	11	Tulsa	FF	FF	FF	BB		X		F	P	F				F										
107. Chorlton Coal Co.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
108. City Coal Co.	No. 1	8	Wilburton Hartshorne	K	K	K	K		K		A		A					A									
109. Clark Coal Co.	Clark	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
110. Clemens Coal Co.	No. 22	1	Weir Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	A	I	H	H	O	A				L		
111. Clemens Coal Co.	No. 23	1	Lightning Creek	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A			I	H		O	A				L		
112. Coalton Coal Co., The	Coalton	10		Z	Z	Z			X		F	M	M	F				F							L		
113. Coffman Coal Co.	Coffman	6		LL	LL	LL	GG																				
114. Cognard, Rene	Rene Cognard	5	Lexington	TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
115. Cole, W. W.	Cole's	11		FF	FF	FF	BB		X		F	P	M	F				F									
116. Clay, Chester	Clay	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
117. Collis, Walter	Collis	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
118. Collins Coal Co.	Collins	7	McAlester	A	A	A	A		A		F		A	M				A							L		
119. Collinsville Coal Co.	Robb	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D	A		U	K		BB	A						
120. Commercial Fuel Co., The	No. 2	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	A	I	H	H	O	A				L		
121. Conklin, George	Holcomb	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
122. Conley, Pat		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
123. Conrow Coal Co.	Conrow	4	Richmond	TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
124. Cook, Lawrence	Cook	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
125. Corder, Austin	Corder's	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
126. Corkle & Son Coal Co.	Corkle & Son	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
127. Cornell Coal Co., The	Cornell	1	Mulkey	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		
128. Couch Coal Co.	No. 1	6		LL	LL	LL	GG																				
129. County Line Coal Mine	County Line	2	Windsor	QQ	QQ	QQ	LL	J		J	R	Y	M		D	A		P	K	H	T	A						
130. Cox Creek Coal Co.	Cox Creek No. 1	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
131. Craig Coal Co.	Craig	7	McAlester	A	A	A	A		A		F		A	M				A									
132. Crawford, A. L.	Crawford	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D	G		U	K		BB	A						
133. Crescent Coal Co.	Crescent Lake	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
134. Crescent Coal Co., The	Crescent	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		
135. Cribbs Coal Co.	Cribbs	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
136. Cronan, James		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
137. Cross, J. M.	Cross	1		JJ	JJ	JJ	EE	A	Z	A	I	R	Y	D		A		U	H		O	A						
138. Cross & Sons, Lee	Cross	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
139. Crosswhite, J. J.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
140. Crowe Coal Co.	Reliance	2	Tebo	QQ	QQ	QQ	LL	H	GG	H	R	P	Y	K	D	D	D	P	K	K	T	A				L	A	
141. Crowe-Brady Coal Co.	Crowe-Brady	2	Tebo	QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	D	D		P	K		T	A				L	A	
142. Crowe-Fulton-Spangler Coal Co.	Crowe-Fulton-S.	2	Clinton	QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	D	D		P	K		T	A				L	A	

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers																					
				Domestic and commercial use													Industrial use				Special purpose use			R. R. Loco. fuel use		
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	12	13	14	15	16	17	18	19	20	21
143. Cunningham Coal Co	No. 1	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
144. Custom Coal Co	Custom Coal Co	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
145. Daniels Coal Co	Daniels	3	Bevier	QQ	QQ	QQ	LL	J	II	J	I	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
146. Dauben Coal Co	Dauben	1	Drywood	JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
147. Davis, Boyd	Davis	10		Z	Z	Z	Y	----	X	----	F	M	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
148. Davis & Anderton		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
149. Dawley, Roland M. & Yalch, F. J	Dawley & Yalch	9		K	K	K	K	----	K	----	A	A	D	----	----	----	A	----	----	----	----	----	----	----	----	----	----
150. DeGasperi Coal Co	DeGasperi	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
151. Desiderio, John	Desiderio	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
152. Diamond Coal Co., The	Mulberry No. 3	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
153. Didier & Parre	Didier & Parre	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
154. Dittman & Wachter Coal Co	No. 2	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
155. Dockery Coal Co	Dockery	4	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
156. Dodd, Russell	Dodd	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
157. Doleshy, Wm	Doleshy	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
158. Domestic Coal Co	Imperial	5	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	J	----	----
159. Donalson-Ryan Coal Co	No. 5	2	Rich Hill	QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	T	A	----	----	----	----	----	----
160. Dow Coal Co	Dow No. 10	7	McAlester	A	A	A	A	----	A	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	L	----	----
161. Dow-Pioneer Coal Co	No. 10	7	McAlester	A	A	A	A	----	A	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	L	----	----
162. Driskell, Claud W	No. 21	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
163. Drywood Coal Co	Drywood	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
164. Due Coal Co	Due	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
165. Dunn, Mode	Mode Dunn	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
166. Duvall Coal Co	Crowsnest	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
167. E & C Coal Co	E & C	9	Hartshorne	K	K	K	K	----	K	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	L	----	----
168. Eagle-Cherokee Coal Mng. Co	Eagle	1	Limestone	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
169. East End Coal Co	East End	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
170. Eastabrooks Coal Mine	Eastabrooks	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
171. East Fork Coal Co	East Fork	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
172. Eaton Coal Co	Eaton	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
173. Economy Coal Co	Economy	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
174. Eckles & Sons	Eckles'	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
175. Edgar & Edgar	Clark	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
176. Edgar, Pearl H	Edgar	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
177. Ellis Coal Co	Ellis	1	Sunshine Mud	JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
178. Elliott, G. W	Elliott's	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
179. Elm Branch Coal Co	No. 1	1	Limestone	JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	L	----	----
180. Elmira Coal Co	Elmira	4	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	G	G	----	Y	N	----	FF	A	----	----	----	A	----	----
181. Endsley, Jewell	Hickory Grove	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
182. England Bros	England	3		QQ	QQ	QQ	LL	J	I	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
183. Enloe, B. W	Ronans Ace	13		TT	TT	TT	OO	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
184. Eravi, Joe	Eravi	3		QQ	QQ	QQ	LL	J	I	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
185. Esry, Ed	Esry	3		QQ	QQ	QQ	LL	J	I	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
186. Evans Coal Co	C. L. Evans	10		Z	Z	Z	Y	----	X	----	F	M	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
187. Fallman, Edward	Fallman	5	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
188. Farmers Coal Mining Co	No. 7	5	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	G	G	----	Y	N	----	FF	A	----	----	----	D	----	----
189. Farmers Coal Mining Co	No. 10	5	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	G	G	----	Y	N	----	FF	A	----	----	----	D	----	----
190. Filkins, C. O	Filkins	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
191. Fielding & Lafoon		5		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
192. Finck-Calnen Coal Co., Inc	F-C Coal Co	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
193. Fisher Bros		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
194. Fisher, Faron	Roberts	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
195. Flake, J. W	Flake Pit	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	T	A	----	----	----	----	----	----
196. Flener, L. C	Flener	8	Wilburton Hartshorne	K	K	K	K	----	K	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	L	----	----
197. Fletcher, Waddell & Reynolds	F. W. & R.	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
198. Floyd, Virgil	Floyd	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
199. Fogle Mfg. & Mining Co		6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
200. Ford, Walter	Ford	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
201. Four Coal Co		1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
202. Four Coal Co	Four Coal Co	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	T	A	----	----	----	----	----	----
203. Fox Bros. Coal Co	Fox Bros.	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
204. Franks, W. N	Franks	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	T	A	----	----	----	----	----	----
205. Freeman, M. L		2	Mulkey	QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	T	A	----	----	----	----	----	----
206. Frew Brothers	Frew Bros.	10		Z	Z	Z	Y	----	X	----	F	M	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
207. G & A Coal Co	G & A Coal Co	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
208. Gallamore, Ed	Gallamore	8		K	K	K	K	----	K	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
209. Gann, L. R	Camp Ground	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
210. Garr & Hays	Garr & Hays	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
211. Gant, J. M		4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
212. Gaskey & Bergstadt	G & B	5	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
213. Geiger & Veal	Catoosa	11		FF	FF	FF	BB	----	X	----	F	P	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers																					
				Domestic and commercial use														Industrial use				Special purpose use			R. R. Loco. fuel use		
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	12	13	14	15	16	17	18	19	20	21

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers																							
				Domestic and commercial use													Industrial use				Special purpose use			R. R. Locomotive fuel use		
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	12	13	14	15	16	17	18	19	20	21
204. Franks, W. N.	Franks	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		P	K		T	A						
205. Freeman, M. L.		2	Mulkey	QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		P	K		T	A						
206. Frew Brothers	Frew Bros.	10		Z	Z	Z	Y		X		F	M	F														
207. G & A Coal Co.	G & A Coal Co.	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
208. Gallamore, Ed	Gallamore	8		K	K	K	K		K		A	A	A														
209. Gaun, L. R.	Camp Ground	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
210. Garr & Hays	Garr & Hays	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		G		Y	N		BB	A						
211. Gant, J. M.		4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
212. Gaskey & Bergstadt	G & B.	5	Lexington	TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
213. Geiger & Veal	Catoosa	11		FF	FF	FF	BB		X		F	P	F														
214. Gertis, Mike	Mike Gertis	8		K	K	K	K		K		A	A	A				A										
215. Glasco & Miller	Glasco & Miller	9		K	K	K	K		K		A	A	A				A										
216. Goddard, Wilbur	Caldwell Coal Co.	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
217. Gohring Coal Co.	Gohring	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
218. Golay Bros.	Golay	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
219. Goode Coal Co., C. S.	Goode	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		T	A						
220. Gordon, W. H.	Wine	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
221. Gorham, J. E.	Gorham	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
222. Goring, Frank & Helliker, Ed.	Goring & Helliker	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
223. Gott Brothers		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
224. Graham Coal Co.	Reading Coal Co.	6		LL	LL	LL	GG																				
225. Grant, Harry		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
226. Gray, C. E. & Reeves, R. H.	Gray & Reeves	12																				A+	A+	A+			
227. Gray, Wm. & Sons	Gray	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
228. Green & Avery Coal Co.	Green & Avery	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		A
229. Green, Victor W.	Green	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
230. Grimes Coal Co., Major	Major Grimes	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
231. Gubbio Coal Co.	Gubbio	1	Pittsburg Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A			L	L		A
232. Gunther City Coal & Mining Co.	Cordes	11		FF	FF	FF	BB		X		F	P	F														
233. H & H Coal & Mining Co.	H & H	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		A
234. Half & Half Coal Co.	No. 1	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		A
235. Hall, Carl	Hall	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
236. Hall Coal Co.	Hall	2	Rich Hill	QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		T	A						
237. Hamilton Coal Co.	Foster	2	Foster	QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	D		P	K		T	A						
238. Hamilton & Son Coal Co.	Hamilton	5	Higginsville	TT	TT	TT	OO	K	JJ	K	S		N		D		Y	K		T	A				L	A	
239. Hannah & Sons Coal Co.	Hannah	3	Bevier	QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		FF	A						
240. Hardie, John W.	Hardie	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
241. Harlan, Newman & Wolf	H. N. & W.	11		FF	FF	FF	BB		X		F	P	F														
242. Harris, Martin	Harris	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
243. Harris & Morris	Harris & Morris	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
244. Harrison County Coal Co.	H. C. Coal Co.	3	Mulkey	QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
245. Hartshorne Coal Co.	No. 1	8	Hartshorne	K	K	K	K		K		A	A	A												L		
246. Hartshorne Valley Coal Corp.	H. V. Coal Corp.	8	Hartshorne	K	K	K	K		K		A	A	A												L		
247. Hartwig Brothers	Hartwig Bros.	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A				L		A
248. Hatfield, P. O. & Cartano, R.	Deep Vein Coal Co.	Tex.																									
249. Hawkins, E. D.	Hawkins	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
250. Hawkins, H. D.	Hawkins	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
251. Hawkins, J. D.	Hawkins	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
252. Haynes, Lee	Haynes	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
253. Hays, Arthur	Hays	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		T	A						
254. Hayward, B.	Wegener	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
255. Headrick, George	Headrick	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
256. Hedges Coal Co.	Hedges	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
257. Heiple, Charles	Erdman's	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
258. Heiple, Harry	Heiple Coal Co.	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
259. Hendren, W. S.	Hendren	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
260. Henrietta Coal Co.	Henrietta	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
261. Hestand Coal Co., J. H.	Hestand	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		P	K		T	A						
262. Hicks Coal Co.	A. L. Hicks	12																									
263. Hickory Coal Co.	Old Hickory	11	Dawson	FF	FF	FF	BB		X		F	P	F	A			F					A+	A+	A+			
264. Hill, Okel	Hill Coal Co.	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A				L		
265. Hill Coal Co.	Hill's	3	Vevier	QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	D		U	K		BB	A				L		A
266. Hilling, J. B.	Oak Ridge	8		K	K	K	K		K		A	A	A														
267. Hodges & Kemper		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
268. Hollopeter, W. I.	Hollopeter	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		T	A						
269. Holt, Robert	Holt No. 1	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	K		O	A						
270. Hopewell, C. C.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
271. Home Coal Co. of Macon	No. 1	3	Mulkey	QQ	QQ	QQ	LL	J	H	J	R	Y	M	D	D		U	K		BB	A						
272. Home Riverside Coal Mng. Co.	No. 1	13	Leavenworth	TT	TT	TT	OO																		L		A
273. Homer Brothers	Homer	7	McAlester	A	A	A	A		A		A	A	A				A								L		
274. Hoover, Wm. & Gordy, Fred	Hoover & Gordy	3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
275. House & Byrnes		Tex.	PA No. 7																								
276. Hromek, J. W.	Lucky Strike	2		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		P	K		T	A						
277. Hudson-Frazer Coal Co.	Hudson-Frazer	2	Tebo	QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		P	K		T	A						
278. Hume-Sinclair Coal Mng. Co.	Tiger	2	Mulberry	QQ	QQ	QQ	LL	H	GG	H	P	Y	K	D	D	D	P	K	K	T	A						
279. Huntsville-Sinclair Mining Co.	Mark Twain	3	Bevier	QQ	QQ	QQ	LL	H	GG	H	P	Y	K	D	D	D	P	K	K	BB	A				L	A	
280. Imperial Fuel Co.	Imperial	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A				L		A
281. Independent Const. Co.		1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A				L		
282. Ivy Bros.		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
283. Ivy, Harley		3		QQ	QQ	QQ	LL	J	H	J	R	Y	M		D		U	K		BB	A						
284. J. C. Coal Co.	Curley	6		LL	LL	LL	GG																				

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers: Domestic and commercial use 1	2	3	4	5	6	7	8	9	10	11	12	13	14	Industrial use 12	13	14	15	Special purpose use 16	17	18	R. R. Loco. fuel use 19	20	21
285. J & P Coal Co	J & P	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
286. J & W Coal Co	J & W	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	T	A	----	----	----	----	----	----
287. James Coal Co. (L. E. James)		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	BB	A	----	----	----	----	----	----
288. Jellcic & Hotmer Coal Co., Inc	No. 1 or Daisy	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
289. Jellcic & Hotmer Coal Co., Inc	No. 2 or Hartman	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	D	----	----	----
290. Jellcic & Hotmer Coal Co., Inc	No. 3	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
291. Jenks Coal Co	Jenks	11		FF	FF	FF	BB	----	X	----	F	P	N	F	----	----	F	----	----	----	----	----	----	----	----	----	----
292. Jenkins, David	Jenkins	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
293. Johnson & Son, C. F	Johnson Field	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
294. Johnson, John A		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
295. Johnson & Bates	Pierce	8		K	K	K	K	----	K	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
296. Jones, G. A	Jones	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
297. Jones, Perry	Perry Jones	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
298. Jones Coal Co., Tom, Inc	No. 1	9		K	K	K	K	----	K	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
299. Jones, Robert L	Jones	11		FF	FF	FF	BB	----	X	----	F	P	Y	----	----	----	F	----	----	----	----	----	----	----	----	----	----
300. Jonnum Coal Co	Jonnum	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
301. Jorman, Milo	Oakdale	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
302. Kallenberger, F. V		4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
303. Kallenberger, Willard		4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
304. Kansas Coal Co., The	Kansas Coal Co	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
305. Kansas Fuel Co	Kansas Fuel Co	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
306. K. C. Midland Coal & Mining Co	Midland No. 8	3		QQ	RR	QQ	LL	J	II	J	R	Y	M	D	D	----	U	K	----	BB	A	----	----	----	L	----	A
307. Karras, John	No. 2	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
308. Keene & Winterbalter		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
309. Kelly, Chester	Old Karras	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
310. Kelly-Carter Coal Co., The	Kelly-Carter	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	H	O	H	----	FF	A	----	----	----	L	----	----
311. Kelso & Hughes Coal Co	Kelso-Hughes	5		TT	TT	TT	OO	K	JJ	K	S	R	N	M	G	D	----	H	----	FF	A	----	----	----	----	----	----
312. Keots Coal Co		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D	----	----	K	----	BB	A	----	----	----	L	----	A
313. Kierl Brothers Coal Co	Dinky	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
314. Kinser & Son	West Side	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
315. Kivett, J. T		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
316. Klondike Coal Co	Klondike	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
317. Knowles, J. F	Talbot	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
318. Kolosick, Tony A	Kolosick	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
319. Kosmiski & Son		5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
320. Kramer Coal Co., N	Kramer	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
321. Kribbs Coal Co., W. F	W. F. Kribbs	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
322. Kronsbein, Henry	Kronsbein	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
323. Kruger, Herman	Herman Kruger	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
324. Kurent, Adolf	Kurent Coal Co	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
325. Lafayette County Coal Co	Lafayette Cty	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
326. Lane Coal Co	Lane	2	Tebo	QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
327. Laurence, W. F	Hall's	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
328. Lawson & Chick		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
329. Lee Coal Co	Lee	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
330. Lee, Arthur	Lee	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
331. Lee & Phalen Coal Co	Lee & Phalen	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
332. Ledford, Ed	Ledford	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
333. Leeper Coal Co	Leeper	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
334. Leeper, J. W	Vestal	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
335. Lenrini Coal Co., Ralph	Morell	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
336. Lewis, Mark	Lewis	3	Bevier	QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
337. Lewis & Moore		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
338. Lexington Coal Co	Lexington	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
339. Lexington Coal & Mining Co	Blue Label	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
340. Liberty Coal Co	Liberty	11	Dawson	FF	FF	FF	BB	----	X	----	F	P	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
341. Lightening Creek Coal Co	Lightening Creek	11	Lightening Creek	FF	FF	FF	BB	----	X	----	F	P	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
342. Linn Coal Co	Roberts	3		QQ	QQ	QQ	QQ	LL	J	II	J	A	Y	M	D	----	I	K	----	BB	A	----	----	----	----	----	----
343. Little, Warren	Double Eagle	1		JJ	JJ	JJ	EE	A	Z	I	R	Y	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
344. Lone Star Coal Co	Lone Star	1	Lightening Creek	JJ	JJ	JJ	EE	A	Z	I	R	Y	D	D	A	----	I	H	----	O	A	----	----	----	L	----	----
345. Lovell Coal Company	Busy Bee	3	Bevier	QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D	----	U	K	----	BB	A	----	----	----	L	----	A
346. Lucas, Joseph A	Lucas	11		FF	FF	FF	BB	----	X	----	F	P	Y	----	----	----	F	----	----	----	----	----	----	----	----	----	----
347. Lucas, W. L	W. L. Lucas	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
348. Luntsford, Grover		2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
349. Lynn, V. T. & Sons	Edwards	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
350. McAlester-Alderson Coal Co	No. 1	7	McAlester	A	A	A	A	----	A	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
351. McAlester Coal Mining Co	Banner No. 4	7	McAlester	A	A	A	A	----	A	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
352. McAlpine, Geo	McAlpine	12	Stigler	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	A+	A+	A+	----	----	----
353. McCluskey Coal Co	McCluskey	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
354. McCutcheon Bros	McCutcheon	8		K	K	K	K	----	----	----	A	----	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
355. McComb Coal Co	McComb	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers: Domestic and commercial use 1	2	3	4	5	6	7	8	9	10	11	12	13	14	Industrial use 12	13	14	15	Special purpose use 16	17	18	R. R. Loco. fuel use 19	20	21
356. McDannald & Minear		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
357. McGee Coal Co	McGee	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
358. McGennis Coal Co	McGennis	10	Henryetta	Z	Z	Z	Y	----	X	----	F	M	F	----	----	----	F	----	----	----	----	----	----	----	L	----	----
359. McGrath & Son Coal Co	McGrath & Son	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	M	----	A	----	I	H	----	O	A	----	----	----	----	----	----
360. McHenry Brothers		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
361. McKay Coal Co	No. 1	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	M	A	----	I	H	----	O	A	----	----	----	----	----	----
362. McKinley, Chester	McKinley	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
363. McMahan & Waller Const. Co	Strip Mine No. 1	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
364. McMahan & Waller Const. Co	Strip Mine No. 2	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
365. McNabb Coal Co	McNabb	11		FF	FF	FF	BB	----	X	----	F	P	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
366. M. L. & G. Coal Co	M. L. & G.	9	Lehigh	K	K	K	K	----	K	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
367. Machine Coal Co., The	Machine	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
368. Macon County Coal Co	No. 68	3	Bevier	QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D	----	U	K	----	BB	A	----	----	----	L	----	A
369. Magic City Coal Co	Trojan	12		----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	A+	A+	A+	----	----	----
370. Mahan Coal Co	No. 1	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
371. Mammen, Harold	H. F. Mammen	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
372. Maple-Wood Coal Co	Maple Wood	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
373. March, Virgil	March	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
374. Markley, Perry		1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
375. Marriott-Reed Coal Co	Marriott-Reed	3	Bevier	QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
376. Marth, Otto H	Marth	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
377. Martin & Geary	Martin & Geary	10		Z	Z	Z	Y	----	X	----	F	M	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
378. Martinsburg Coal & Mng. Co	Martinsburg	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
379. Maxey, L. H		2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
380. Mayberry, F. M	Mayberry Pit	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
381. Mead, Andy		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
382. Medlin & Mark	Medlin & Mark	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
383. Megonnigil, J. A	Megonnigil	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
384. Meisner, C. Floyd	Meisner	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
385. Menghini Coal Co	Menghini	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
386. Mercantile Coal Mng. Co	No. 17	1	Mineral	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
387. Mertz, Frank	Frank Mertz	4	Richmond	TT	UU	TT	OO	K	LL	KK	L	A	N	D	G	----	Y	N	----	FF	A	----	----	----	A	----	----
388. Mertz, Geo	Geo. Mertz	1	Pittsburg Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	M	A	----	I	H	----	O	A	----	----	----	----	----	----
389. Middle River Coal Co	Middle River	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	M	A	----	I	H	----	O	A	----	----	----	----	----	----
390. Midway Coal Co	Midway	3	Bevier	QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
391. Mid-Western Coal Co	Mid-Western	9		K	K	K	K	----	K	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	----	----	----
392. Miller Coal Co., Bert	Bert Miller	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
393. Minear, Gail	Gail Minear	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
394. Mineral Products Co	Plant No. 1	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	A	U	K	H	BB	A	----	----	----	----	----	----
395. Miners Fuel Co	Miners Fuel	1		----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
396. Missouri City Coal Co	Missouri City	6	Osage	LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
397. Mooney, Robert	Mooney	4	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	I	----	----
398. Moore Coal Co	Moore Coal Co	12		----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	A+	A+	A+	----	----	----
399. Moore, Art & Moore, Hallie	Art Moore	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
400. Moore, Cain	Cain Moore	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
401. Monteau Coal Co	No. 11	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
402. Montgomery & Sullivan		3	Bevier	QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D	----	Y	K	----	FF	A	----	----	----	L	----	A
403. Morelock, Homer	Morelock	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	D	U	K	----	BB	A	----	----	----	----	----	----
404. Mosby Coal & Development Co	Mosby	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	D	U	K	----	BB	A	----	----	----	----	----	----
405. Moss, Frank	Moss	4	Lexington	TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	A	----	----
406. Mound City Coal Co	No. 1	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
407. Mud Creek Coal Co	Mud Creek	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D	----	P	K	----	T	A	----	----	----	L	A	----
408. Mulberry-Cherokee Coal Co	Mulberry-Cherokee	1	McAlester	A	A	A	A	----	A	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	L	----	----
409. Mullen Coal Co	Julian	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A	----	I	H	----	O	A	----	----	----	L	----	----
410. Munden, Basil	Bunkerhill	1	McAlester	A	A	A	A	----	A	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	L	----	----
411. Munson Coal Mine	Munson	3		QQ	QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	----	I	K	----	BB	A	----	----	----	----	----	----
412. Murrell, Ted	Murrell	11		FF	FF	FF	BB	----	X	----	F	P	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
413. Myers & Son	Gulfey	5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
414. Neher Coal Co	Neher	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D	----	U	K	----	BB	A	----	----	----	----	----	----
415. Nejedly Bros. Coal Co	Nejedly Bros	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	----	A	----	I	H	----	O	A	----	----	----	----	----	----
416. New Blanco Coal Co	New Blanco	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
417. Nichols Coal Co	Nichols	7	McAlester	A	A	A	A	----	A	----	A	A	A	----	----	----	A	----	----	----	----	----	----	----	L	----	----
418. Nienober Bros. Coal Co	Nienober	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
419. No. 7 Coal Co	No. 7	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	U	K	----	BB	A	----	----	----	----	----	----
420. Noble, Bert	Noble	6		LL	LL	LL	GG	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
421. Noel, Frank M	Noel	4		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
422. Norris, W. S		2		QQ	QQ	QQ	LL	J	II	J	R	Y	M	----	D	----	P	K	----	T	A	----	----	----	----	----	----
423. Obel, G. H	Obel's	11		FF	FF	FF	BB	----	X	----	F	P	F	----	----	----	F	----	----	----	----	----	----	----	----	----	----
424. Obert, James	Jack's	Tex.		----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----
425. Odell & Hawkins		5		TT	TT	TT	OO	K	JJ	K	S	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
426. Ol' Elliott Producers Assn	Ol' Elliott	4		TT	TT	TT	OO	K	JJ	K	----	----	N	----	G	----	Y	N	----	FF	A	----	----	----	----	----	----
		3	Bevier	QQ	QQ	QQ	LL	H	GG	H	P	Y	K	D	D	D	U	K	K	BB	A	----	----	----	L	----	A

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers: Domestic and commercial use 1	2	3	4	5	6	7	8	9	10	11	12	13	14	Industrial use 12	13	14	15	Special purpose use 16	17	18	R. R. Loco. fuel use 19	20	21
427. Osage City Coal Co	No. 30	6	Osage	LL	LL	LL	GG	J	II	J	R	Y	M		D		F	K		T	A						
428. Osage Coal Co	Osage	2		QQ	QQ	QQ	LL		JJ		S		N		G		Y	N		FF	A				L		
429. Ottman Bros. Coal Co	Ottman	4		TT	TT	TT	OO	K		K	F	P	F				F								L		
430. Owens & Bradley		11		FF	FF	FF	BB		X		R	P	M				U										
431. Palmatory, Clayton		3		QQ	QQ	QQ	LL	J	II	J	F	P	F		D		F	K		BB	A						
432. Parker, Guy F	Parker's	11	Papaw	FF	FF	FF	BB		X																		
433. Parkins Coal Co	No. 2	6		LL	LL	LL	GG										F										
434. Patch, John W	Patch	11		FF	FF	FF	BB		X		F	P	F				F								L		
435. Paterson Coal Co	No. 1	1	Cherokee	JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A						
436. Peacock Coal Co	Peacock	4		TT	TT	TT	OO	K	II	K	S	Y	N		G		U	N		FF	A				L		
437. Pearson & Son	Minear	3		QQ	QQ	QQ	LL	J	JJ	J	R	M	M		D		Y	K		BB	A						
438. Pearson, J. D	Pearson	2		QQ	QQ	QQ	LL	J	II	K	S	Y	N		G		Y	K		T	A						
439. Peek Coal Co., H. S	Peek's	5		TT	TT	TT	OO	K	JJ	K	R	M	N		D		U	N		FF	A						
440. Peek Coal Mng Co., Frank	Wilson	6		QQ	QQ	QQ	LL	J	II	J	Y	M	M		D		P	K		T	A						
441. Pence Coal Co	Pence	2	Tebo	QQ	QQ	QQ	LL	J	II	J	Y	R	M		D		Y	K		BB	A						
442. Penrod, George, Sr		3		QQ	QQ	QQ	LL	J	II	J	Y	Y	M		D		U	K		BB	A						
443. Perfater, J. H		3																				A+	A+	A+			
444. Perry Coal Co	Perry	12	Briartown						K		A		A				A										
445. Phifer & Masco	Phifer & Masco	8		K	K	K	K		K		A		A				A	N		FF	A				A		
446. Phillips Coal Co	Phillips	9		K	K	K	K		K		A		N		G		Y	N		FF	A				A		
447. Pickering Coal Co	No. 12	4	Richmond	TT	UU	TT	OO	L	KK	L	S		M		G		P	K		FF	A						
448. Pickering Development Co., Geo	No. 11	4	Richmond	TT	UU	TT	OO	L	KK	L	S		M		D		U	K		T	A						
449. Pierce Coal Co	Pierce	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		Y	K		BB	A						
450. Pierson Coal Co., Clyde	Clyde Pierson	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		Y	K		FF	A						
451. Pioneer Coal Co	Pioneer	1	Baxter & Limestone	JJ	JJ	JJ	EE	J	ZZ	J	I	R	D	A	A		A	H		O	A				L		
452. Piper, Arthur A	Sand Spring	5	Lexington	TT	TT	TT	OO	A	K	A	I	Y	M		D		A	H		FF	A						
453. Pittsburg & Midway Coal Mng. Co	No. 15	1	Mud & Baxter	JJ	JJ	JJ	EE	A	ZZ	A	I	R	D	A	A		A	H		O	A				LL		
454. Pittsburg & Midway Coal Mng. Co	No. 17	1	Mud & Baxter	JJ	JJ	JJ	EE	A	ZZ	A	I	R	D	A	A		A										
455. Pocahontas Producer Coal Co	Pocahontas	8	Hartshorne	K	K	K	K		K		A		A				A										
456. Popejoy, John	Popejoy	5		TT	TT	FF	OO	K	JJ	K	S	F	N	F	G		F	N		FF	A						
457. Porter Coal Co	Porter	11		FF	FF	FF	BB		X		A	F	F	A			A										
458. Possum Ridge Coal Co	No. 1	8		K	K	K	K		K		F		F				F										
459. Purity Mining Co	P & M	10	Henryetta	Z	Z	Z	Y		X		M	A	M				A								L		
460. Randle Coal Co., Horace	No. 10	4		TT	TT	TT	OO	K	JJ	K	S	Y	N		G		Y	N		FF	A				A		
461. Ray Coal Co	No. 1	4	Richmond	TT	TT	TT	OO	K	JJ	K	S	Y	N		G		Y	N		FF	A				A		
462. Ray County Coal Co	No. 23	4	Lexington	TT	UU	TT	OO	K	KK	L	S		N		G		Y	N		FF	A						
463. Rayville Coal Co	Rayville	4	Richmond	TT	UU	TT	OO	L	KK	L	S		N		G		Y	N		FF	A				A		
464. Red Top Coal Co	Red Top	6		LL	LL	LL	GG										Y					A+	A+	A+			
465. Reeves, R. H	Reeves	12																									
466. Rice Coal Co	Rice	4	Lexington	TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
467. Richardson, John T. & Bro	No. 1	1	Cherokee	JJ	JJ	JJ	EE	A	ZZ	A	I	R	D	A	A		A	H		O	A				L		
468. Riedt, Jerry	Kali-Inla No. 1	8	Hartshorne	K	K	K	K		K		A		A				A								L		
469. Riedt, Jerry	Kali-Inla No. 4	8	Hartshorne	K	K	K	K		K		A		A				A										
470. Ritchie Coal Co	Ritchie	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		T	A						
471. Riverside Coal Co	Riverside	3		QQ	RR	QQ	LL	J	II	J	R	Y	M	D	D		A	K		BB	A				L		A
472. Robbins Coal Co	Lost Mine	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
473. Roberts & Sons	Dinky	1		JJ	JJ	JJ	EE	A	ZZ	A	I	R	D		A		A	H		O	A						
474. Robinson, Luke		1		JJ	JJ	JJ	EE	A	ZZ	A	I	R	D		A		A	H		O	A						
475. Robinson Coal Co	Mohawk	2	Mulberry	QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D		A	K		T	A				L	A	
476. Rock Valley Coal Co		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
477. Rogers County Coal Co	Sequoyah	11		FF	FF	FF	BB		X		F	P	F	A			F								L		
478. Rogers Bros	Rogers	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A				L		
479. Rolstin, Guy	Munday	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
480. Rose Hill Coal Co	Rose Hill	3	Bevier	QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
481. Rose & Lockhardt	Rose & Lockhardt	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
482. Rowland & Sparks	Rowland & Sparks	1	Cherokee	JJ	JJ	JJ	EE	J	ZZ	J	I	R	D	A	A		A	H		O	A				L		
483. Royal-Cherokee Coal Co	Mulberry No. 2	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
484. Rumsey & Hatfield	Rumsey & Hatfield	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
485. Ryals, L. O., & Sons	Ryals	5		K	K	K	K	L	K		A	A	A				P	K		T	A				L		
486. S & P Coal Company	S & P	7	McAlester	A	A	A	A	J	II	J	A	Y	M		D		A	K		BB	A						
487. Samples Coal Mining Co	No. 4	9		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
488. Sampson, Elzia	Sampson	3		K	K	K	K		K		A		A				A										
489. Samuel's Coal Co., J. W	No. 21	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
490. Sartor-Mosley Coal Co	Sartor-Mosley	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
491. Schaefer, Leo	Leo Schaefer	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
492. Schaefer, Raymond	Raymond Schaefer	3		TT	TT	TT	OO	K	JJ	K	S	Y	N		G		U	N		FF	A						
493. Schieber, Wm	Schieber	5		TT	TT	TT	OO	K	JJ	K	S	Y	N		G		U	N		FF	A						
494. Schowengerdt & Muck Coal Co	S. & M	5		TT	TT	TT	OO	K	JJ	K	S	Y	N		G		U	N		FF	A						
495. Schumacher, Edward	Schumacher	5		TT	TT	TT	OO	K	JJ	K	S	Y	N		G		U	N		FF	A						
496. Scott Mine, Arthur	Arthur Scott	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers: Domestic and commercial use 1	2	3	4	5	6	7	8	9	10	11	12	13	14	Industrial use 12	13	14	15	Special purpose use 16	17	18	R. R. Loco. fuel use 19	20	21
497. Scott Coal Co., Robert L	Robt. L. Scott	11		FF	FF	FF	BB		X		F	P	F				F										
498. Seneca Coal & Coke Co	No. 2	11		FF	FF	FF	BB		X		F	P	F	A			F								L		
499. Seneca Coal & Coke Co	No. 4	11		FF	FF	FF	BB		X		F	P	F	A			F								L		
500. Servaes, P. W	Servaes	6		LL	LL	LL	GG										F								L		
501. Seven Coal Co	Mayer No. 7	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D	A	A		I	H		O	A						
502. Sexton & Cornelison	Sexton & Cornelison	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		G		U	K		BB	A				L		
503. Sharp, M. H	Sharp	4		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
504. Sheets, Catherine	Brair	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
505. Shelby, J. C	Dover	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
506. Shelton, J. S	Star Valley	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		T	A						
507. Short, Joseph H	Short	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		A	H		O	A						
508. Shroke, Ollie & Son	Shroke	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
509. Simmons-Stokesberry Coal Co	S-S	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		A	H		O	A						
510. Simone Coal Co., Mike	Mike Simone	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		I	H		O	A						
511. Singleton, C. B	Singleton's	Tex.																									
512. Skinner, Harold Q		2																									
513. Smarr, George W	Garret	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		P	K		T	A						
514. Smith, P. B	P. B. Smith	5		TT	TT	TT	OO	K	JJ	K	S	Y	N		D		U	K		BB	A						
515. Smith, Clyde A	Smith	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		G		U	N		FF	A						
516. Smith, W. F	Smith	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
517. Smith, Erwin	Erwin Smith	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
518. Smith & Hurley	Smith & Hurley	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		A	H		O	A						
519. Smith & Sanders Coal Co	Smith & Sanders	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
520. Smith & Walker	Smith & Walker	4		TT	TT	TT	OO	K	JJ	K	S		N		G		U	N		FF	A						
521. South Radley Coal Co	Newland & Haynie	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
522. Spiteanfsky, Chas	Banner	1	Cherokee	JJ	JJ	JJ	EE	A	ZZ	A	I	R	D	A	A		A	H		O	A				L		
523. Sporman, Walter		2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		T	A						
524. Standard Coal Co	Standard	1		JJ	JJ	JJ	EE	A	Z	A	I	R	D		A		A	H		O	A						
525. Stark, J. B		6	Osage	LL	LL	LL	GG										F										
526. Starkebaum, Walter J. C	Starkebaum	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
527. Star Cooperative Coal Mine	Star Coop	5		TT	TT	TT	OO	K	JJ	K	S	Y	N		G		P	N		FF	A						
528. Starr Coal Co	Starr	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		F	K		T	A						
529. Steele Bros	Steele	10	Henryetta	Z	Z	Z	Y		X		M	F					U								L		
530. Steele & McCurrey	S & M	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M	A	D		A	K		BB	A						
531. Stevens Coal Co	Stevens	8		K	K	K	K		K		A		A				U										
532. Stone, D. D	D. D. Stone	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
533. Stone, Denver	Stone	1		JJ	JJ	JJ	EE	A	ZZ	A	I	R	D		A		U	H		O	A						
534. Stoneman Bros	Stoneman Bros	1		JJ	JJ	JJ	EE	A	ZZ	A	I	R	D		A		A	H		O	A						
535. Stoner, Ed		2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		T	A						
536. Sukenis, A. L	No. 4	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
537. Summers, Emmet	Summers	7	McAlester	A	A	A	A		A		A		A				A										
538. Sunflower Coal Co	Sunflower	5	Lexington	TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A				L		
539. Swain, Paul	Swain	6		LL	LL	LL	GG										Y										
540. Swartz, Otto		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
541. T. B. M. Coal Co	Old Forty	1		JJ	JJ	JJ	EE	A	ZZ	A	I	R	D		A		A	H		O	A						
542. 21 Coal Co	21½	8		K	K	K	K		K		A		A				A								L		
543. T & F Coal Co	T & F	7	McAlester	A	A	A	A		A		A		A				A								L		
544. Taylor, James R	Taylor	1		JJ	JJ	JJ	EE	A	ZZ	A	I	R	D	M	A		I										
545. Tebo Coal Co	Tebo	2	Jordon	QQ	QQ	QQ	LL	J	II	J	R	Y	M	D	D		P	H		O	A						
546. Tebo, Dave	Tebo Coal Co	2		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		P	K		T	A				L	A	
547. Teter & Webster		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
548. Tharp, Ed. Coal Co	Tharp	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
549. Thomas Bros. Coal Co	Albany	4		TT	TT	TT	OO	K	JJ	K	S		N		G		U	N		FF	A						
550. Thomas Hill Coal Mng. Co	Thomas Hill	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
551. Thorn, Hugh E	Thorn	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
552. Thornhill Coal Co	Thornhill	1		JJ	JJ	JJ	EE	A	ZZ	A	I	R	D		A		A	H		O	A						
553. Tiger Coal Co	Tiger	10	Henryetta	Z	Z	Z	Y		X		M	F					U										
554. Tisdel, Oscar		3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
555. Titus & Kiser	Titus & Kiser	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
556. Tornow Coal Company	Tornow	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
557. Tracey, Norman	Holthoff	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
558. Traver, W. E	Traver	10		Z	Z	Z	Y		X		M	F					U										
559. Trenton Mng. Co	Trenton	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		A	K		BB	A						
560. Tullis Coal Co	Tullis	1		JJ	JJ	JJ	EE	J	ZZ	A	I	R	D		A		A	H		O	A						
561. Twyman, Fred	Stone	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
562. Tyler, Bryan	Tyler	5		TT	TT	TT	OO	K	JJ	K	S		N		G		Y	N		FF	A						
563. Umbria Coal Co	Umbria	1	Cherokee	JJ	JJ	JJ	EE	A	ZZ	A	I	R	D	A	A		A	H		O	A				L		
564. Utterback, T. H	Schmay Pit	11		FF	FF	FF	BB		X		F	P	F				F										
565. V. & C. Coal Co	V. & C	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						
566. Valentine, Roy	Valentine	3		QQ	QQ	QQ	LL	J	II	J	R	Y	M		D		U	K		BB	A						

Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Price classification and size group numbers

Code member	Name of mine	Prod. group No.	Seam or kind	Domestic and commercial use: 1	2	3	4	5	6	7	8	9	10	11	12	13	14	Industrial use: 15	16	17	18	Special purpose use: 19	20	21	R. R. Loco. fuel use
587. Vanduker, Frank, Sr.	Vanduker	1																							
588. Vestal, J.	Vestal	3																							
589. Vibbard Mining Co.	Vibbard	4	Richmond	JJ	JJ	JJ	EE	A	Z	J	I	R	I		A	A	I	H				A			
590. Victor Coal Co.	No. 7 Adamson	7	McAlester	QQ	QQ	QQ	LL	J	H	K	R	Y	R		D	A	O	K				L			
591. Victor Fuel Coal Co.	Victor	1	Cherokee	TT	TT	TT	OO	A	K	A	A	A	A		A	A	O	N				A			
592. Wagoner, Claude	Wagoner	1					A	A	A	A	A	A	A		A	A	O	H				A			
593. Walden Fuller Coal Co.	Walden	1		JJ	JJ	JJ	EE	J	Z	J	I	R	I		A	A	I	H				A			
594. Warden Coal Co.	Warden	10	Hearyetta																						
595. Warren County Coal Co.	Warren County	3		QQ	QQ	QQ	Y	A	Z	A	S	Y	Y		D	A	O	K				L			
596. Warren, Ray	Warren	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
597. Waterman, H. A	Waterman	1		TT	TT	TT	OO	A	K	R	R	A	A		A	A	O	K				A			
598. Welsamp & Brondel	Welsamp & Brondel	3																							
599. Wellington Coal Co.	No. 3	4		KK	KK	KK	EE	K	K	K	K	K	K		K	K	K	K				K			
600. Wells Coal Co.	Wells	5	Lexington																						
601. Westbrook Coal Co.	Westbrook	8	Lehigh																						
602. Western Coal & Mining Co.	No. 22	1	Williamson, Harshorne, Lower Weir Pittsburg																						
603. Western Coal & Mining Co.	No. 24	1																							
604. Western Coal & Mining Co.	West	5	Lexington																						
605. Western Coal & Mining Co.	Woodrow	5	Lexington																						
606. Western Fuel Co.	No. 11	6	Ossge	LL	LL	LL	EE	K	K	K	K	K	K		K	K	K	K				K			
607. West Union Coal Co., The	West Union	1	Cherokee	JJ	JJ	JJ	LL	J	H	J	A	Y	R		A	A	I	H				A			
608. Whetstone & Kennedy Coal Co.	Whetstone & Ken.	Tex.																							
609. Whiskey Creek Coal Mine	Whiskey Creek	3																							
610. White, Searcy		5		QQ	QQ	QQ	LL	K	Z	K	I	Y	I		D	A	O	K				L			
611. Wilcoxon & Co., N. T.	Wilcoxon	1		TT	TT	TT	EE	A	H	A	R	A	I		A	A	I	H				A			
612. Wilkinson Coal Co.	Wilkinson	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
613. Williams, W.		3		QQ	QQ	QQ	K	J	K	A	S	A	A		A	A	I	H				A			
614. Williams Energy	Williams	5		TT	TT	TT	OO	A	K	R	R	A	A		A	A	O	K				A			
615. Williams, Alvin	Williams	3		JJ	JJ	JJ	EE	J	Z	J	I	R	I		A	A	I	H				A			
616. Willsie, James G.	Willsie	5		TT	TT	TT	OO	A	K	R	R	A	A		A	A	O	K				A			
617. Wilson Mfg. Co.	Wilson	1		JJ	JJ	JJ	EE	J	Z	J	I	R	I		A	A	I	H				A			
618. Wilson, Liberty Mfg. & Leasing Co.		4																							
619. Winder, Percy, Jos.	Seaton	1		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
620. Windsor, Wilson		3		QQ	QQ	QQ	K	J	K	A	S	A	A		A	A	I	H				A			
621. Windsor Coal Co.	Windsor	2	I-Bevier	TT	TT	TT	OO	A	K	R	R	A	A		A	A	O	K				A			
622. Wine Coal Co., Harvey	Wine	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
623. Wisely, D. E.	Stolin	5		TT	TT	TT	OO	A	K	R	R	A	A		A	A	O	K				A			
624. Winfrey, D. E.	Riley	5		TT	TT	TT	OO	A	K	R	R	A	A		A	A	O	K				A			
625. Winkler, T. M.	Winkler	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
626. Winston Coal Co.	Winston	4		JJ	JJ	JJ	LL	K	K	K	K	K	K		K	K	K	K				K			
627. Wisdom, J. B.	Wisdom	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
628. Woods Coal Co.	No. 1	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
629. Woods Coal Co.	Woods	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
630. Workers' Mining Assn.	Adamson	11	Dawson																						
631. Worley Bros.		3	Weir-Cherokee																						
632. Wyatt Coal Co.	Wyatt	3																							
633. Wyatt, Raymond	Wyatt	3		QQ	QQ	QQ	LL	J	H	J	A	Y	R		A	A	I	H				A			
634. Yarnell, Andrew	No. 1	8	Harlshorne	QQ	QQ	QQ	K	J	K	A	S	A	A		A	A	I	H				A			
635. Zerngast, Andrew		1																							

Prices for Shipment Into Market Areas, Nos. 1 to 20, Inclusive, Except as Noted in Price Instructions

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers: Domestic, commercial and industrial 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	Special purpose 16	17	18	R. R. locomotive fuel 19	20	21
	Fcy. lump	Lump	Fur. or egg	Egg nut	Fcy. nut	Std. nut	No. 2 nut	Chestnut	Mine run	Nut run	Spec. stoker	Raw F. P. Sizes	Wash. Sizes	Raw Sizes	Raw dust	M. run Cr. bulk	M. run Cr. sacked	Lump, over 2½	R. R. Loco. fuel	R. R. Spec. stoker	R. R. 2 r 0 Sizes.
A+	465	465	465	440	265	375	235	250	295	210	180	160	160	185	35	522	717	572	265	195	170
A	490	490	460	435	260	370	230	245	290	205	175	155	155	180					260		
C	455	455	455	430	255	365	225	240	285	200	170	150	150	175					255		
D	450	450	450	425	250	360	220	235	280	195	165	145	145	170					250		
E	445	445	445	420	245	355	215	230	275	190	160	140	140	165					245		
F	440	440	440	415	240	350	210	225	270	185	155	135	135	160					240		
G	435	435	435	410	235	345	205	220	265	180	150	130	130	155					235		
H	430	430	430	405	230	340	200	215	260	175		125	125	150					230		
I	425	425	425	400	225	335	195	210	255	170		120	120	145					225		
J	420	420	420	395	220	330	190	205	250	165		115	115	140					220		
K	415	415	415	390	215	325	185	200	245	160		110	110	135					215		
L	410	410	410	385	210	320	180	195	240	155		105		130					210		
M	405	405	405	380		315		190	235	150		100		125							
N	400	400	400	375		310		185	230	145		95		120							
O	395	395	395	370		305		180	225					115							
P	390	390	390	365		300		175	220					110							
Q	385	385	385	360		295		170	215					105							
R	380	380	380	355		290		165	210					100							
S	375	375	375	350		285		160	205					95							
T	370	370	370	345		280			200					90							
U	365	365	365	340		275			195					85							
V	360	360	360	335		270			190					80							
W	355	355	355	330		265			185					75							
X	350	350	350	325		260			180					70							
Y	345	345	345	320		255			175					65							
Z	340	340	340	315		250								60							
AA	335	335	335	310		245								55							
BB	330	330	330	305		240								50							
CC	325	325	325	300		235								45							
DD	320	320	320	295		230								40							
EE	315	315	315	290		225								35							
FF	310	310	310	285		220								30							
GG	305	305	305	280		215															
HH	300	300	300	275		210															
II	295	295	295	270		205															
JJ	290	290	290	265		200															
KK	285	285	285	260		195															
LL	280	280	280	255																	
MM	275	275	275	250																	
NN	270	270	270	245																	
OO	265	265	265	240																	
PP	260	260	260																		
QQ	255	255	255																		
RR	250	250	250																		
SS	245	245	245																		
TT	240	240	240																		
UU	235	235	235																		

NOTE.—See Price Instructions and Exceptions.

CONSUMING MARKET AREAS DEFINED

No. 1. *Greater Kansas City.*—In Wyandotte and Johnson Counties, Kansas: Missouri Pacific River Route to a point approximately even with the Western University Annex on the west; thence southwest through Welborn to Muncie on the Union Pacific and K. C. K. V. & W.; thence east to Turner on the A. T. & S. F.; thence south to Shawnee; thence east to Merriam on the St. L.-S. F.; thence south to Overland Park on the Mo. & Kans. R. R.; thence east to the western boundary of Jackson County, Missouri.

In Jackson County, Missouri: Beginning at Martin City on the Mo. Pac. to the south; thence east to and including Grandview on the K. C. S. and St. L.-S. F.; thence northeast to but not including Lees Summit; thence northeast to and including Blue Springs; thence northeast to and including Buckner; thence north to and including Sibley on the Missouri River.

In Clay County, Missouri: North Kansas City only.

No. 2. *St. Joseph.*—Switching limits of St. Joseph, Missouri.

No. 3. *Omaha.*—Switching limits of Omaha, Nebraska.

No. 3A. *Council Bluffs.*—Switching limits of Council Bluffs, Iowa.

No. 4. *Lincoln.*—Switching limits of Lincoln, Nebraska.

No. 5. *Sioux City, Iowa.*—Switching limits of Sioux City in Iowa.

No. 6. *South Dakota.*—All of the state of South Dakota.

No. 7. *Minnesota.*—All of the state of Minnesota.

No. 8. *Iowa.*—Beginning at a point southeast of Sioux City, excluding Sioux City, running southeast on an airline to a point immediately north of Minden; thence east excluding points on the C. R. I. & P. R. R. to and excluding Atlantic; thence crossing the C. R. I. & P. R. R. east of Atlantic including points thereon, to and including Des Moines; thence crossing the railroad continuing east excluding points on the C. R. I. & P. R. R. to but excluding Grinnell; thence north excluding points on the Minneapolis & St. Louis R. R. to, but including Marshalltown; thence west excluding Minerva Junction; thence north excluding points on the Minneapolis & St. Louis R. R. to and excluding Eldora; thence northwest excluding points on the C. & N. W. R. R. excluding Iowa Falls, Alden, Dows, and Clarion; thence northeast excluding points on the Chicago, Great Western R. R. to and excluding Mason City; thence north excluding points on the C. R. I. & P. R. R. to the Minnesota-Iowa state line; thence west following the state line to the South Dakota-Iowa-Minnesota state line; thence south following the Iowa-South Dakota state line to the point of beginning, excluding Sioux City.

No. 8A. *Iowa.*—Beginning at a point just northwest from Eldora; thence north excluding points on the Minneapolis and St. Louis R. R. to and excluding Hampton; thence north including points on the C. R. I. & P. R. R. to but excluding Mason City; thence southwest including points on the C. G. W. R. R. to and including Clarion; thence southeast on an airline to the point of beginning, including Clarion, Dows and Alden.

No. 8B. *Iowa.*—Points in eastern Iowa. Beginning at the northeast corner of Iowa on the Mississippi River; thence south down the river, excluding points on the C. M. St. P. & P. R. R. from Clinton to Davenport, both excluded; thence west following the river to a point south of Muscatine; thence west including points on the C. R. I. & P. R. R. to and including Thornburg; thence west on an airline to a point southwest of New Sharon, including New Sharon; thence north including points on the Minneapolis & St. Louis R. R. to but excluding Marshalltown; thence west including Minerva Junction; thence north including points on the Minneapolis & St. Louis R. R. to and including Hampton; thence north excluding points on the C. R. I. & P. R. R. to Mason City but including Mason City; thence north to the Minnesota-Iowa state line, including points on the C. R. I. & P. R. R.; thence east following the Minnesota-Iowa state line to the point of beginning.

No. 8C. *Iowa.*—Begining at a point just south of Muscatine, Iowa; thence west excluding points on the C. R. I. & P. R. R. to and excluding Thornburg; thence west to a point just south of New Sharon, Iowa; thence south including points on the Minneapolis & St. Louis R. R. to and including Oskaloosa; thence southeast excluding points on the C. R. I. & P. R. R. to and excluding Ottumwa; thence east including points on the C. B. & Q. R. R. to and including Burlington, Iowa; thence north up the Mississippi River to the point of beginning.

No. 8D. *Iowa.*—Beginning at a point on the Missouri-Iowa state line due south of Bloomfield, Iowa, running north excluding points on the Wabash to and excluding Ottumwa; thence east excluding points on the C. B. & Q. R. R. to the Mississippi River; thence south down the

River to the Iowa-Illinois-Missouri state line; thence northwest and west on the Missouri-Iowa state line to the point of beginning.

No. 8E. *Iowa.*—Beginning at a point south of Sioux City, Iowa, running on an airline southeast to a point just north of Minden; thence east including points on the C. R. I. & P. R. R. to and including Atlantic; thence crossing the railroad east of Atlantic and excluding points on the C. R. I. & P. R. R. to and excluding Des Moines; thence continuing east including points on the C. R. I. & P. R. R. to a point just west of Grinnell; thence south excluding points on the Minneapolis and St. Louis R. R. to and excluding Oskaloosa; thence southeast including points on the C. R. I. & P. R. R. to and including Ottumwa; thence northwest including points on the C. B. & Q. R. R. to but excluding Frederic; thence west excluding points on the C. B. & Q. R. R. to the Missouri River; thence north up the Missouri River to the starting point of this area, excluding Council Bluffs and Sioux City.

No. 8F. *Iowa.*—Beginning at the Missouri-Iowa state line south of Bloomfield, Iowa; thence north including points on the Wabash R. R. to but excluding Ottumwa; thence northwest excluding points to but including Frederic; thence west including points on the C. B. & Q. R. R. to the Missouri River; thence south following the Missouri River to the Nebraska-Iowa-Missouri state line; thence east on the Iowa-Missouri state line to the point of beginning.

No. 9. *Northwest Missouri.*—The counties of Andrew, Atchison, Buchanan except St. Joseph, Clinton, DeKalb, Gentry, Holt, Nodaway, Platte and Worth in the state of Missouri.

No. 10. *North Missouri.*—Bounded on the north by the Iowa-Missouri state line; bounded on the east by the western boundary line of Market Area No. 11; bounded on the west by the western county lines of Harrison, Daviess, Caldwell and Clay Counties, except North Kansas City; bounded on the south by the Missouri River from North Kansas City to the Western boundary of Saline County, thence south to the southern boundary of Saline County; thence east following the southern boundary of Saline County to the Missouri River; thence the Missouri River to St. Louis and including the towns of Boonville, Jefferson City, Algoa and Algoa Farms, located on the south bank of the Missouri River.

No. 11. *Northeast Missouri.*—Points east of a line beginning at a point west of Keokuk, Iowa, on the south bank of the Des Moines River; thence south including points on the C. B. & Q. R. R., passing just east of Maywood, including Quincy, Ill., continuing south crossing the C. B. & Q. R. R. east of Palmyra; thence south crossing the Wabash R. R. west of Oakwood; thence southwest including points on the St. L. & H. R. R., crossing the Alton R. R. west of Bowling Green; thence southeast crossing the C. B. & Q. R. R. west of Old Monroe; thence east running between the Wabash and the C. B. & Q. R. R. and continuing to and including St. Louis, Mo.

No. 12. *Central Missouri.*—Bounded on the north by the Missouri River from Sibley, Missouri, east to the western county boundary line of Saline County, thence south to the southern boundary of Saline County; thence east and northeast following the boundary line of Saline County to the Missouri River; thence the Missouri River east to St. Louis, except the towns of Boonville, Jefferson City, Algoa and Algoa Farms on the south bank of the Missouri River; bounded on the west by an imaginary line drawn from but not including Sibley, Missouri, on the Missouri River to but not including Buckner; thence southwest to but not including Blue Springs; thence southwest to but not including Lees Summit; thence southward and east of the line of the Missouri Pacific R. R., Lees Summit to Lamar, and excluding all points on the Missouri Pacific R. R.; thence eastward and north of the main line of the St. Louis-San Francisco R. R. Lamar to Cape Girardeau through Springfield and Willow Springs and excluding all points on the main line of the St. Louis-S. F. R. R.; bounded on the east by the Mississippi River, St. Louis to Cape Girardeau.

No. 13. *South Missouri.*—Towns on and west of the Missouri Pacific R. R., Lees Summit to Lamar, both inclusive; all towns on and south of the main line of the St. L.-S. F. R. R., Lamar to Cape Girardeau, through Springfield and Willow Springs; all towns in Cherokee County, Kansas, and that part of Jackson County, Missouri, not included in Market Areas Nos. 1 and 12.

No. 14. *Central & Western Nebraska.*—Central and western Nebraska excluding Market Area No. 14–B.

No. 14A. *Eastern Nebraska.*—Nebraska points on and east of a line from the Missouri River at Running Water through, but not including Bloomfield, Randolph, to and including Norfolk, thence southeast to and including Scribner, Fremont, and thence through Linwood, Wahoo, Valparaiso, Lincoln, Crete, DeWitt, Beatrice, and Wymore to the Kansas state line, excluding Lincoln and Omaha.

No. 14B. *Central-Western Nebraska.*—Part of C. B. & Q. and C. & N. W. C. & N. W. Wyoming line to but not including Eli, Nebraska; C. B. & Q. Wyoming line to but not including Grand Island, Nebraska.

No. 15. *Arkansas.*—All of the state of Arkansas.

No. 16. *Oklahoma and Texas.*—All of the states of Oklahoma and Texas.

No. 17. *Kansas—Zone 1.*—That part of Kansas on, north and east of the following lines: Towns on and north of the C. R. I. & P. R. R. beginning at the Kansas-Colorado state line to Colby; thence on and north of the Union Pacific R. R. Plainville Branch to and including Salina; thence southwest on and east of the Mo. Pac. R. R. to Marquette, thence an imaginary line southwest crossing the A. T. & S. F. R. R. west of Windom to and including Wherrey on the St. L.-S. F. R. R.; thence on and east of the St. L.-S. F. R. R. through Medora to the northern county line of Sedgwick County; thence east along the Sedgwick County line to the western county line of Butler County; thence south along the western boundary lines of Butler and Cowley Counties to the Oklahoma state line, excluding Cherokee County, the towns of Atchison and Leavenworth and that part of Wyandotte and Johnson Counties included in Market Area No. 1 (Greater Kansas City).

No. 18. *Atchison and Leavenworth.*—Switching limits of Atchison and Leavenworth, Kansas.

No. 19. *Southwest Kansas—Zone 2.*—That part of Kansas south and west of Market Area No. 17 except Sedgwick and Sumner Counties.

No. 20. *Kansas—Zone 3.*—Sumner and Sedgwick Counties, Kansas.

Minimum Price Area No. 5—District No. 15

Proposed Marketing Rules and Regulations

A witness for District Board No. 15, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 827, the rules and regulations proposed by District Board No. 15 in compliance with Commission Order No. 250. The witness testified that these rules and regulations were properly submitted to Code Members within said District and that no protests concerning such proposals were received from Code Members. Accordingly, these rules were adopted by the District Board and submitted to the Commission.

The witness stated that he agreed with the testimony of Mr. Brown, the expert witness for the Marketing Division of the Coal Commission, as to certain modifications, clarifications and deletions of the rules proposed by District Board No. 15, and it was his further opinion that, with the exception of the rule in Section IV of Exhibit No. 825 relating to limitation of contracts, the rules proposed by District Board No. 15 should be modified to conform to the rules contained in Exhibit No. 825, which, in the opinion of the witness, represented desirable clarifications, modifications and deletions of the rules proposed by the District Board.

Rule 1 E of Section VI of the rules proposed by District No. 15 provides that no contract shall be made for the delivery of coal for retailing at less than minimum prices in effect at the time of shipment. The witness testified that the District Board wanted this rule so as to confine the right of contract at a fixed price with industrial plants and to prohibit the right to so contract with retailers. This rule makes an exception to the general rule proposed by the District Board which provides that contracts may be entered into for the sale of coal at prices not less than the minimum price in effect at the time of the making of the contract. We are of the opinion that such discrimination as to retail dealers is unwarranted and unreasonable.

The witness testified that District Board No. 15 was opposed to any rule limiting Code Members to thirty (30) day contracts for a period of time after the establishment of minimum prices. The witness testified that such a rule would not be desirable for District No. 15 and that it was necessary for Code Members within his District to enter into a contract for a period of twelve (12) months immediately upon the establishment of minimum prices. Except for this limitation of the right to contract contained in Rule 1 of Section IV of Exhibit No. 825 and except for the absence of any rule prohibiting Code Members from entering into contract with retailers at a fixed price, the witness was of the opinion that the rules contained in Exhibit No. 825 more clearly effectuated the purposes of the rules proposed by District Board No. 15. It is apparent from the testimony of the witness, and from the proposal of Rule III of Section VI of Exhibit No. 827, that the witness did not mean to include in his exceptions to the rules contained in Exhibit No. 825, the rules governing the quotations and options.

Rule 1 (b), Section IV of Exhibit No. 825, reads as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery."

The expert witness for the Marketing Division testified that this rule was written for the purpose of minimizing the injustice that might otherwise result from the privilege to make contracts in excess of thirty (30) days with governmental agencies that purchased through competitive bidding. We are of the opinion that the purposes of this rule will be better effectuated if the rule is modified to read as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price."

Rule 1 (I), Section VII, of Exhibit No. 825, reads as follows:

"Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest at not less than the current market rate from and after the due date of the account."

We are of the opinion that this rule should be clarified to read as follows:

"Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee."

Rule 1, under "Advertising", Section XI of Exhibit No. 825, provides that no deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising which would have the effect of reducing the invoice price below the applicable minimum price. District Board No. 15 in Exhibit No. 827 proposes a rule which prohibits any deduction or allowance whatsoever from invoice prices for advertising. We are of the opinion that such a rule better effectuates the purposes of the Act and that the similar rule contained in Exhibit No. 825 should be modified accordingly.

Rule 2 under "Advertising", Section XI of Exhibit No. 825, provides:

"The price and fair trade practice provisions of the Act shall not be evaded by any payment or allowance by any Code Member, his agent, or representative, to any purchaser or purchaser's representative covering advertising. The amount of expenditures incurred by a Code Member, his agent or representative, for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

We are of the opinion that this rule should be modified to read as follows:

"Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

Rule 1 under "Coal Confiscated or Lost in Transit", Section XI of Exhibit No. 825, provides:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the established minimum price therefor."

We are of the opinion that this rule should be clarified to read as follows:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher."

The witness for the Marketing Division testified that Exhibit No. 825 contained no rules relating to substitution or the crushing of coal. The witness further testified that the Exhibit is not to be construed as representing any modifications or deletions of such rules as they may have been proposed by various District Boards. District Board No. 15 proposed rules relating to substitution in Section X of Exhibit No. 827, and we are of the opinion that these rules are reasonable with the exception of the second paragraph of Rule 8 (e). This paragraph should be deleted as the provision contained therein is impractical to enforce.

The expert witness for the Marketing Division testified that in his opinion the rules contained in Exhibit No. 825 represented desirable clarifications and modifications of the rules proposed by the various District Boards and that such rules were reasonable, not inconsistent with the provisions of Section 4 of the Act, and were in conformance with the standards of fair competition contained in the Act.

With the exception of those rules which we have already stated should be modified, we are of the opinion that the rules contained in Exhibit No. 825 are in accordance with the standards governing Marketing Rules and Regulations contained in Section 4 II (a) of the Act. These rules, according to the testimony of the expert witness for District No. 15, are reasonable and it was the witness' opinion that the rules proposed by District Board No. 15 should be modified to conform to the rules contained in Exhibit No. 825 with the exception of the modifications and deletions hereinbefore discussed and as reflected in the composite findings hereinafter given.

Accordingly, we find that the following rules and regulations incidental to the sale and disposition of coal by Code Members in District No. 15 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

Marketing Rules and Regulations Incidental to the Sale and Distribution of Coal by Code Members within District No. 15 as Proposed by District Board No. 15 and as Approved, Disapproved, or Modified for the Purpose of Coordination

Section I. Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual

(herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the effective date of the order, such effective date to be not more than fifteen (15) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offerer may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offerer may not withdraw the offer without the consent of the offeree.

9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

12. "Retailing" is the buying of coal for resale and selling such coal in lots or upon conditions other than those which would entitle a person to be registered with the Coal Commission as a distributor under Section 4 II (h) of the Act.

13. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

14. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

15. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

16. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

17. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

19. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

20. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

21. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.

22. "Cargo shipment" is a quantity of coal loaded in a vessel, boat or barge for transportation via water.

23. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

24. "Coal" as used herein shall mean bituminous coal.

25. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

26. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership or voting securities, by contract, or otherwise.

Section II. Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each Code Member shall be responsible for the compliance by all his Sales Agents and agents and employees of Sales Agents and agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. Each Code Member shall require all his sales agents clearly to set forth upon any offer, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of business or at a regularly established sales office, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau or Bureaus a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

9. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

Section III. Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discount from minimum prices or sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

3. Except as expressly authorized in rules and regulations or orders promulgated by the Coal Commission, no Code Member or sales agent may grant or allow any discount or reduction, including any allowance for shipping on a Government Bill of Lading, from the applicable minimum prices upon the sale of coal to any person, including agencies of the Federal Government or agencies of state or local governments.

4. Every sale of coal to a distributor upon which a discount is allowed shall be made subject to the express condition that the distributor is authorized to receive the discount.

Section IV. Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

"(a) No shipment consigned to any destination may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section V of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

5. All spot orders for the sale of coal, the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at time of delivery as established at the time of the making of the spot order.

Section V. Quotations, Options, and Contracts

Code Members or sales agents of code members may enter into contracts for the sale or delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

1. Every contract shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and stating the es-

timated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local governments in case the terms required to be summitted in a bid or offer for such contract are in conflict with such provisions.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. All contracts for the sale of coal the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at the time of delivery as established at the time of the making of the contract.

5. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

6. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

7. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: *Provided, however*, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

8. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(a) This contract and the performance of all the provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the proper orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

9. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 8 (b) of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

10. The making of a contract for the sale of coal at a price below the minimum or above the maximum therefor established by the Commission at the time of the making of the contract shall constitute a violation of the code and such contract shall be invalid and unenforceable.

11. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

12. Options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void: *Provided*, however, that in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

13. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that time, the quotation thereupon shall become null and void.

14. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

15. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

Section VI. Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal supplied for American vessels shall be made on or before the twentieth day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivered into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the date of payment shall be not more than sixty (60) days from the date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On all coal sold to railroads, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applicability of any order of the Coal Commission.

(I) Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditor's composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

Section VII. Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau and the District Board for the District in which the coal is produced, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

(a) The name of the Code Member Producer.

(b) The name of the mine.

(c) The name or geological number of the seam or seams from which the coal is produced.

(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.

(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.

(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.

(g) That each such analysis is not less than a proximate analysis showing moisture content, ash, volatile matter, fixed carbon, sulphur and British thermal units and ash softening temperature.

2. Every analysis used in selling, or offering for sale, any particular kind, quality, or size of coal shall be accompanied by a statement to the effect that a copy of such analysis has been properly filed with the Statistical Bureau, the Coal Commission and the District Board.

3. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

4. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

5. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for sub-standard preparation or quality under Section X of these Marketing Rules and Regulations.

Section VIII. Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within five (5) business days from the date of such resale, a statement giving the following information:

(a) Name of consignee.
(b) Address of the consignee.
(c) Original destination of the coal.
(d) Name of Code Member.
(e) Originating mine.
(f) The grade and size of coal shipped.
(g) Price at which coal sold.
(h) Reasons for the refusal.
(i) Facts resulting from the investigation of the complaint.
(j) Name of ultimate purchaser upon resale.
(k) Address of purchaser upon resale.
(l) Ultimate destination of the coal.
(m) Price received by the seller upon resale.
(n) Amount of commission, if any, paid upon the resale.
(o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.
(p) A signed and verified statement that the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall properly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

Section IX. Substandard Preparation or Quality

1. Where any claim of allowance or counterclaim is requested by a buyer for any delivery of coal claimed to be substandard in preparation or quality, or where it is claimed by the buyer that due to an error on the part of the shipper the buyer has incurred additional and extraordinary expense in accepting the shipment, the Code Member or his sales agent may, within a reasonable time after delivery of the coal, make settlement and agree with the buyer upon an amount reasonably to be deducted for such inferior coal or on account of such error, and may accept payment therefor at less than the applicable minimum price: Provided, that in each such case the Code Member shall within five (5) business days after granting such allowance file with the District Board and the Statistical Bureau of the Coal Commission a verified statement giving the following information:

(a) The name and address of the consignee and the reason for the request for the allowance.

(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.

(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reasons for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

Section X. Miscellaneous

General

1. The minimum prices established by the Commission shall not apply to coal sold and shipped outside the domestic market as defined in the Act and in these Marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefore established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code; Provided, that the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

Advertising

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

Screening for Buyer's Account

1. The screening of mine run or rescreening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

Penalties

Section 5 (b) of Bituminous Coal Act:

The membership of any such coal producer in such code and his right to an exemption from the taxes imposed by section 3 (b) of this Act, may be revoked by the Commission upon written complaint by any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, after a hearing, with thirty days' written notice to the member, upon proof that such member has wilfully violated any provision of the code or any regulation made thereunder; and in such a hearing any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, or any consumer or employee, and the Commissioner of Internal Revenue, shall be entitled to present evidence and be heard: Provided, that the Commission, in its discretion, may in such case make an order directing the code member to cease and desist from violations of the code and regulations made thereunder and upon failure of the code member to comply with such order the Commission may apply to a circuit court of appeals to enforce such order in accordance with the provisions of subsection (c) of section 6 or may reopen the case upon ten days' notice to the code member affected and proceed in the hearing thereof as above provided.

Section 5 (c) of Bituminous Coal Act:

Any producer whose membership in the code and whose right to an exemption from the tax imposed by section 3 (b) of this Act shall have been revoked and canceled may apply to the Commission and shall have the right to have his membership in the code restored upon payment by him to the United States of double the amount of the tax provided in section 3 (b) upon the sales price at the mine, or the market value at the mine if disposed of otherwise than by sale at the mine, or if sold otherwise than through an arms' length transaction, of the coal sold or disposed of by the code member in violation of the code or regulations thereunder (but in no case shall such sales price or market value be taken to be less than the minimum price established by the Commission for such coal and in effect at the time of such sale or other disposal), as found by the Commission under subsection (b) hereof. The Commission shall thereupon certify to the Commissioner of Internal Revenue and to the collector of internal revenue for the internal revenue collection district in which the producer resides the amount of the required payment as found under clause (5) of subsection (b), and upon payment of such amount to the Commissioner or the collector such officer shall notify the Commission thereof.

Section 10 (c) of Bituminous Coal Act:

If any producer required by this Act or the code or regulation made thereunder to file a report shall fail to do so within the time fixed for filing the same, and such failure shall continue for fifteen days after notice of such default, the producer shall forfeit to the United States the sum of $50 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the producer has his principal office or in any district in which he shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeiture.

Section 35 of the Criminal Code as amended by the Act of June 18, 1934, c. 587, 48 Stat. 996 (U. S. C., Title 18, sec. 80):

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

Section 37 of the Criminal Code (U. S. C. 88):

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both. (R. S. § 5440; May 17, 1879, c. 8, 21 Stat. 4; Mar. 4, 1909, c. 321, § 37, 35 Stat. 1088)

CONCLUSION

It is the conclusion of the Commission that the schedules of proposed minimum prices and marketing rules and regulations submitted to the Commission by the District Boards for Districts Nos. 14 and 15, as amended, corrected, modified or revised, conform to the requirements of Section 4 II (a) of the Act and the same, as amended, corrected, modified, or revised, are hereby approved to serve as a basis for the coordination as provided in Section 4 II (b) of the Act.

By the Commission.

[SEAL] PERCY TETLOW, *Chairman.*

Dated this 17th day of December, 1938.

[F. R. Doc. 38-3837; Filed, December 20, 1938; 12:16 p. m.]

Notices

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of December 1938.

[File No. 1-2416]

IN THE MATTER OF PROVINCE OF BUENOS AIRES (ARGENTINE REPUBLIC) 6% REFUNDING EXTERNAL SINKING FUND GOLD BONDS, DUE MARCH 1, 1961, (UNSTAMPED)

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 6% Refunding External Sinking Fund Gold Bonds, due March 1, 1961, (Unstamped) of Province of Buenos Aires (Argentine Republic); and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on December 29, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3849; Filed, December 21, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of December, A. D. 1938.

[File No. 63-1]

IN THE MATTER OF THE APPLICATION OF THE UNITED CORPORATION

ORDER ALLOWING PETITION TO INTERVENE

The United Corporation, a registered holding company, having filed an application pursuant to Rule U-9C-4 of the Public Utility Holding Company Act of 1935 for approval of an investment program of said applicant, and a petition for leave to intervene in said matter having been filed by Fidelity-Philadelphia Trust Company, Girard Trust Company, Provident Trust Company, The Pennsylvania Company for Insurances on Lives and Granting Annuities, The Insurance Company of North America, Alliance Insurance Company, Philadelphia Fire and Marine Insurance Company, and Indemnity Insurance Company of North America, and it appearing from said petition that each of the aforesaid petitioners is, either in its corporate capacity or in a fiduciary capacity as trustee or agent, the owner of shares of preferred stock (and as to certain of said petitioners, of common stock) of The United Corporation, applicant herein; and

The Commission having heard[1] oral arguments upon said intervening petition, having considered the merits of said petition for leave to intervene and the objections advanced thereto, it appearing to the Commission that the petitioners are security holders with an interest in the subject matter of these proceedings, and said petitioners having at said oral argument waived any right to introduce evidence not already in the record and having waived any right to oral argument in this proceeding, and the Commission being fully informed in the premises;

It is hereby ordered, That the intervening petition of said Fidelity-Philadelphia Trust Company, Girard Trust Company, Provident Trust Company, The Pennsylvania Company for Insurances on Lives and Granting Annuities, The Insurance Company of North America, Alliance Insurance Company, Philadelphia Fire and Marine Insurance Company, and Indemnity Insurance Company of North America to be made parties to the said proceeding be and the same is hereby granted subject to all proceedings heretofore taken herein, and subject to the waiver by said petitioners of any right to introduce evidence not already in the record and subject to the waiver by said petitioners of any right to oral argument in this proceeding.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3848; Filed, December 21, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of December 1938.

IN THE MATTER OF ROBERT E. LANCASTER AN ALIAS USED BY MARTIN A. LEACH AND ROBERT E. LANCASTER & COMPANY, INC., 110 EAST 42ND STREET, NEW YORK, NEW YORK

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCATION AND/OR SUSPENSION OF REGISTRATION

Robert E. Lancaster filed with the Commision on March 6, 1936, an application for registration on Form 1-M pursuant to Rule MA2 of the Rules then governing the over-the-counter markets adopted by the Commission under Sections 15 and 23 of the Securities Exchange Act of 1934; registration became effective on March 18, 1936, in accordance with the Commission's Rules, and by virtue of Section 10 of the Act of Congress approved May 27, 1936, providing for the registration of over-the-counter brokers and dealers, Robert E. Lancaster became registered and is registered under Section 15 (b) of the Securities Exchange Act of 1934, as amended; and

Robert E. Lancaster & Company, Inc., a New York Corporation, filed with the Commission on April 29, 1936, an application for registration on Form 1-M pursuant to Rule MA2 of the Rules aforementioned, and on June 11, 1936, filed a request that the said application be considered as an application for registration as a broker and dealer pursuant to the Securities Exchange Act of 1934, as amended, and the Rules and Regulations adopted by the Commission thereunder; the said application and request were executed on behalf of the corporation by Robert E. Lancaster, its president and one of its directors; registration of said corporation pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, became effective on July 11, 1936 and is still in effect.

The Commission has reasonable grounds to believe:

(1) That the said Robert E. Lancaster is Martin A. Leach who was convicted on or about January 28, 1929, in the State of California of a certain felony or misdemeanor involving the purchase or sale of securities or arising out of the conduct of the business of a broker or dealer and who, until November, 1938, was a fugitive from justice in California on the said conviction.

(2) That the said Martin A. Leach using the name of Robert E. Lancaster willfully made certain statements which were, at the time and in the light of the circumstances under which they were made, false and misleading with respect to material facts in his application for registration, to wit;

(a) Under Item 20, that he had not within the last ten years been convicted of any felony or misdemeanor involving the purchase or sale of securities or arising out of the conduct of the business of

[1] 3 F. R. 2842 DI.

a broker or dealer; whereas, in truth and in fact, as he well knew, he had been so convicted as alleged in paragraph 1 above;

(b) Under Item 22 that he had not used or been known by any name other than Robert E. Lancaster; whereas, in truth and in fact, as he well knew, his real name is Martin A. Leach, and is the person referred to in paragraph 1 above.

(3) That the said Martin A. Leach, using the name Robert E. Lancaster, willfully made and caused to be made in the aforementioned application for registration filed by Robert E. Lancaster & Company, Inc., a New York Corporation, certain statements which were at the time and in the light of the circumstances under which they were made, false or misleading with respect to material facts, to wit:

(a) Under Item 20, that Lancaster, one of the persons named under Item 6 of the application, had not within the last ten years been convicted of any felony or misdemeanor involving the purchase or sale of securities or arising out of the conduct of the business of a broker or dealer; whereas, in truth and in fact, as he well knew, he had been convicted as alleged in paragraph 1 above.

(b) Under Item 22, that Lancaster, one of the persons named under Item 6 of the application, had not used or been known by any name other than Robert E. Lancaster; whereas, in truth and in fact, as he well knew, his real name is Martin A. Leach, the person referred to in paragraph 1 above.

(4) That Robert E. Lancaster (whose real name is Martin A. Leach) is enjoined by decree of the Court of Chancery of the State of New Jersey entered on or about October 15, 1936, from engaging in or continuing certain conduct or practices in connection with the purchase and sale of securities;

(5) That Robert E. Lancaster & Company, Inc., is permanently enjoined by decree of the Supreme Court of the State of New York, County of New York, entered on or about October 20, 1938, from engaging in or continuing certain conduct or practices in connection with the purchase and sale of securities.

(6) That Robert E. Lancaster is enjoined by decree of the Supreme Court of the State of New York, County of Kings, entered on or about May 13, 1935, from engaging in or continuing certain conduct or practices in connection with the purchase and sale of securities.

(7) That it is in the public interest to revoke or suspend registration.

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

It is ordered, That proceedings be held to determine whether the registrations of the said Robert E. Lancaster (whose real name is Martin A. Leach) and Robert E. Lancaster & Company, Inc., should be revoked or suspended pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended.

It is further ordered, That a hearing for the purpose of taking testimony begin on January 24, 1939, at 10:30 A. M. at the Commission office, 120 Broadway, New York, New York, and that the said hearing be continued at such other time or place as the Commission or the officer conducting such hearing may determine; that for the purpose of said hearing Adrian C. Humphreys be and he is hereby designated as the officer of the Commission to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on Martin A. Leach, alias Robert E. Lancaster and Robert E. Lancaster & Company, Inc., personally or by registered mail not less than seven (7) days prior to the time of said hearing or in the event of failure to serve registrants personally or by registered mail that this order and notice be published in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission, and transmit same with a record of the hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3853; Filed, December 21, 1938; 10:52 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commision, held at its office in the City of Washington, D. C., on the 19th day of December 1938.

IN THE MATTER OF MCCORD RADIATOR AND MANUFACTURING COMPANY 15-YEAR SINKING FUND 6% GOLD DEBENTURES, DUE FEBRUARY 1, 1943, STAMPED TO INDICATE, AMONG OTHER THINGS, EXTENSION OF MATURITY DATE TO FEBRUARY 1, 1948 IN ACCORDANCE WITH "SUPPLEMENTAL AGREEMENT" DATED JULY 31, 1938

ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the New York Curb Exchange in the 6% 15-Year Sinking Fund Debenture Gold Bonds, due February 1, 1943, of McCord Radiator and Manufacturing Company having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule X-12F-2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

It is ordered, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule X-12F-2 (b) promulgated thereunder, that the determination sought by said application is made and the application is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3850; Filed, December 21, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December, A. D. 1938.

[File No. 43-175]

IN THE MATTER OF NEW YORK AND RICHMOND GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered That a hearing on such matter be held on January 11, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis R. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 6, 1939.

The matter concerned herewith is in regard to a declaration, filed by New York and Richmond Gas Company, a subsidiary of Washington and Suburban Companies, a registered holding company, regarding the reduction of the capital represented by its 150,000 shares of common stock from $1,500,000 to $850,000, without reducing the number of shares outstanding.

The declaration states that the reduction will be effected in the manner prescribed by the laws of the State of New York (including approval by the Public Service Commission of the State of New York), under the laws of which State the declarant is organized.

In addition to the common stock, the declarant has outstanding 19,302 shares of $100 par 6% Cumulative Preferred Stock, and $2,125,000 principal amount of First Refunding Mortgage 6% Bonds dated May 1, 1921, and maturing May 1, 1951.

It is stated that such reduction of capital must be approved by a vote of two-thirds of the outstanding stock of the declarant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3851; Filed, December 21, 1938; 10:51 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of December, A. D. 1938.

[File No. 55-12]

IN THE MATTER OF ADAMS, NELSON & WILLIAMSON

NOTICE AND ORDER CHANGING OFFICER TO PRESIDE AT HEARING AND DATE OF HEARING

The Commission having heretofore, on November 30, 1938, designated Richard Townsend, an officer of the Commission, to preside at a hearing ordered to be held in the matter of the application of Adams, Nelson & Williamson in Room 1101, Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., on December 28, 1938, at 10:00 A. M.;[1]

It is ordered, That such order of the Commission designating Richard Townsend as an officer to preside at such hearing and fixing the above-named date and place for such hearing is hereby rescinded; and

It is further ordered, That the hearing in this matter be held in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., on January 9, 1939, at 10:00 A. M.; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and he hereby is, designated to preside at any such hearing and authorized to exercise all powers granted to the Commission under section 18 (c) of the Public Utility Holding Company Act of 1935 and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3852; Filed, December 21, 1938; 10:52 a. m.]

[1] 3 F. R. 2818 DI.

UNITED STATES MARITIME COMMISSION.

IN THE MATTER OF APPLICATION OF AMERICAN EXPORT LINES, INC. FOR REDUCTION IN MINIMUM MANNING SCALES FOR CERTAIN OF ITS VESSELS

ORDER FOR HEARING

At a regular session of the United States Maritime Commission, held at its office in Washington, D. C., on the 20th day of December 1938.

Application having been made to the Commission by the American Export Lines, Inc., for a hearing to consider changes in the minimum manning scales for the engine departments of the steamship *Extavia, Exmouth, Examelia, Executive* and *Exhibitor*, and it appearing from said application that said vessels have been altered so as to reduce their power-tonnage from that of Class C to that of Class D, it is hereby

Ordered that a hearing be held upon the application of the American Export Lines, Inc., to determine whether a change should be made in the minimum manning scales for the engine departments of said steamships; and it is further

Ordered that said hearing be conducted by Daniel S. Ring, an officer of this Commission, to commence at 10 a. m., January 4, 1939, at the offices of the Commission, 45 Broadway, New York City, and at such other times and places as said officer may designate; and it is further

Ordered that at the conclusion of said hearing said officer shall submit the record of said hearing, together with his report and recommendations thereon, to the Commission; and it is further

Ordered that public notice of this Order be given by publication in the FEDERAL REGISTER and by posting in the office of the Commission at 45 Broadway, New York City, for at least ten (10) days before the date of the hearing ordered herein.

By the Commission.

[SEAL] W. C. PEET, JR.
Secretary.

[F. R. Doc. 38-3856; Filed, December 21, 1938; 12:01 p. m.]

Reference

DEC 27 1938

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 249

Washington, Friday, December 23, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Cotton 226]

STATE AND COUNTY COTTON ACREAGE ALLOTMENTS FOR 1938

The State and county cotton acreage allotments established with respect to the marketing year beginning August 1, 1938, in accordance with the provisions of Section 344 of the Agricultural Adjustment Act of 1938 for the purposes of the cotton marketing quota provisions (Part IV, Subtitle B, Title III) of said Act are as follows:

ALABAMA

County and Cotton Acreage Allotment

	Acres
Autauga	29,949
Baldwin	7,620
Barbour	38,178
Bibb	12,736
Blount	32,701
Bullock	29,287
Butler	32,886
Calhoun	28,602
Chambers	40,209
Cherokee	35,595
Chilton	27,450
Choctaw	18,935
Clarke	23,168
Clay	19,676
Cleburne	13,532
Coffee	40,334
Colbert	32,391
Conecuh	27,811
Coosa	12,570
Covington	41,588
Crenshaw	34,766
Cullman	52,508
Dale	26,487
Dallas	66,497
DeKalb	44,867
Elmore	41,859
Escambia	20,971
Etowah	30,408
Fayette	22,907
Franklin	26,643
Geneva	38,953
Greene	28,597
Hale	38,784
Henry	33,172
Houston	51,078
Jackson	38,309
Jefferson	15,348
Lamar	26,452
Lauderdale	47,994
Lawrence	50,274
Lee	37,680
Limestone	63,153
Lowndes	29,819
Macon	40,966
Madison	80,621
Marengo	49,318
Marion	26,116
Marshall	49,461
Mobile	7,018
Monroe	38,965
Montgomery	34,922
Morgan	43,665
Perry	40,132
Pickens	37,132
Pike	43,177
Randolph	30,498
Russell	31,909
St. Clair	19,196
Shelby	15,382
Sumter	33,682
Talladega	42,124
Tallapoosa	30,888
Tuscaloosa	39,199
Walker	20,966
Washington	6,783
Wilcox	30,933
Winston	16,032
Total county allotments	2,221,829
Unused portions of reserves:	
(1) For 1938 new growers	31,755
(2) Portion of allotments under subsection (g) not needed	11,213
(3) Allotments released by growers and not yet reapportioned	3,013
Total reserve	45,981
State allotment—Alabama	2,267,810

ARIZONA

Cochise	32
Gila	9
Graham	13,113
Greenlee	1,037
Maricopa	114,748
Mohave	18
Pima	6,734
Pinal	44,867
Santa Cruz	564
Yuma	16,473
Total county allotments	197,595
Unused portions of reserves:	
(1) For 1938 new growers	1,887
(2) Portion of allotments under subsection (g) not needed	901
(3) Allotments released by growers and not yet reapportioned	0
Total reserve	2,788
State allotment—Arizona	200,383

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:

Agricultural Adjustment Administration: Page

Agricultural conservation program bulletin, 1938:

Supplement No. 12 3125

Supplement No. 19 3125

Marketing quota regulations, 1938–39, amendments relative to transfer of quota:

Burley tobacco 3125

Fire-cured and dark air-cured tobacco 3126

State and county cotton acreage allotments for 1938 3119

TITLE 24—HOUSING CREDIT:

Federal Home Loan Bank Board:

Federal Home Loan Bank System, appointment and compensation of attorneys 3126

TITLE 29—LABOR:

Wage and Hour Division:

Industries of seasonal nature, regulations amended 3127

TITLE 30—MINERAL RESOURCES:

National Bituminous Coal Commission:

Districts Nos. 14, 16–20, 22 and 23, amendment relative to coordination of minimum prices and rules incidental to sale and distribution of coal 3127

Districts Nos. 14–20, 22 and 23, coordination of minimum prices and rules incidental to sale and distribution of coal 3128

TITLE 31—MONEY AND FINANCE: TREASURY:

Public Debt Service:

United States Savings Bonds, regulations governing 3128

United States Savings Bonds, Series D, offering of 3135

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

	Page
TITLE 36—PARKS AND FORESTS:	
Forest Service:	
National forest timber, modification of Regulation S-16	3137
TITLE 43—PUBLIC LANDS:	
General Land Office:	
Stock Driveway Withdrawals Nos. 3 and 44, Wyoming Nos. 1 and 8, adjusted	3137
TITLE 49—TRANSPORTATION AND RAILROADS:	
Interstate Commerce Commission:	
Steam railway companies, switching and terminal companies of Class I and II, annual reports	3137
TITLE 50—WILDLIFE:	
Bureau of Fisheries:	
Whaling, joint regulations of Secretary of Treasury and Secretary of Commerce	3138
NOTICES	
Department of the Interior:	
National Bituminous Coal Commission:	
District No. 10, filling of vacancy on Board for	3140
Western Pennsylvania Coal Corp., provisional approval as marketing agency	3140
Federal Trade Commission:	
General Baking Co., complaint and notice of hearing	3141
Securities and Exchange Commission:	
Citizens Public Service Co., hearing	3143
Consumers Power Co., and Cities Service Power & Light Co., acquisition and sale of utility assets, etc	3143
Securities and Exchange Commission—Continued.	
Consumers Power Co., and Commonwealth & Southern Corp., issuance and acquisition of securities	3143
General Public Utilities, Inc., effectiveness of declaration	3142
Huntington Gas Co., application approved	3142

ARKANSAS	Acres
Arkansas	16,786
Ashley	43,554
Baxter	4,064
Boone	524
Bradley	19,176
Calhoun	15,599
Carroll	12
Chicot	50,392
Clark	26,236
Clay	45,073
Cleburne	16,993
Cleveland	26,089
Columbia	55,939
Conway	42,073
Craighead	72,384
Crawford	10,521
Crittenden	105,593
Cross	46,876
Dallas	12,303
Desha	48,124
Drew	30,033
Faulkner	49,929
Franklin	11,961
Fulton	8,297
Garland	4,063
Grant	10,550
Greene	34,996
Hempstead	49,144
Hot Spring	11,854
Howard	24,785
Independence	27,584
Izard	16,030
Jackson	58,910
Jefferson	95,767
Johnson	10,639
Lafayette	40,455
Lawrence	37,103
Lee	61,316
Lincoln	52,164
Little River	33,117
Logan	27,325
Lonoke	88,235
Marion	2,921
Miller	49,541
Mississippi	189,456
Monroe	41,965
Montgomery	6,839
Nevada	33,359
Newton	745
Ouachita	18,642
Perry	11,479
Phillips	74,493
Pike	11,775
Poinsett	58,998
Polk	8,125
Pope	37,650
Prairie	20,317
Pulaski	44,265
Randolph	24,937
St. Francis	81,459
Saline	5,419
Scott	11,330
Searcy	2,607
Sebastian	14,434
Sevier	13,522
Sharp	13,184
Stone	4,141
Union	29,479
Van Buren	13,750
Washington	103
White	58,303
Woodruff	45,458
Yell	36,830
Total county allotments	2,403,094

ARKANSAS—Continued	Acres
Unused portions of reserves:	
(1) For 1938 new growers	7,616
(2) Portion of allotments under subsection (g) not needed	54,050
(3) Allotments released by growers and not yet reapportioned	1,272
Total reserve	62,938
State allotment—Arkansas	2,466,032
CALIFORNIA	
Fresno	92,486
Imperial	8,849
Kern	77,510
Kings	41,427
Madera	50,675
Merced	28,307
Riverside	12,355
San Benito	180
San Bernadino	61
San Diego	67
San Joaquin	65
Stanislaus	1,358
Tulare	89,132
Total county allotments	402,472
Unused portions of reserves:	
(1) For 1938 new growers	1,655
(2) Portion of allotments under subsection (g) not needed	2,757
(3) Allotments released by growers and not yet reapportioned	0
Total reserve	4,412
State allotment—California	406,884
FLORIDA	
Alachua	282
Baker	194
Bay	135
Bradford	0
Calhoun	818
Columbia	3,390
Dixie	0
Escambia	4,299
Gadsden	483
Gilchrist	0
Hamilton	3,929
Holmes	9,613
Jackson	16,726
Jefferson	3,950
Lafayette	1,094
Leon	5,107
Levy	188
Madison	6,463
Marion	0
Okaloosa	4,930
Santa Rosa	9,107
Sumter	92
Suwannee	4,842
Taylor	57
Union	0
Wakulla	108
Walton	5,043
Washington	2,857
Total county allotments	83,707
Unused portions of reserves:	
(1) For 1938 new growers	1
(2) Portion of allotments under subsection (g) not needed	0
(3) Allotments released by growers and not yet reapportioned	5,641
Total reserve	5,642
State allotment—Florida	89,349
GEORGIA	
Appling	9,844
Atkinson	3,621
Bacon	5,475
Baker	9,219
Baldwin	8,761
Banks	11,271

GEORGIA—Continued	Acres
Barrow	16,930
Bartow	28,259
Ben Hill	10,191
Berrien	8,049
Bibb	4,874
Bleckley	14,818
Brantley	477
Brooks	16,736
Bryan	1,270
Bulloch	35,575
Burke	59,325
Butts	10,100
Calhoun	11,035
Camden	21
Candler	12,085
Carroll	44,731
Catoosa	5,106
Charlton	60
Chatham	390
Chattahoochee	3,347
Chattooga	13,082
Cherokee	15,260
Clarke	8,209
Clay	9,350
Clayton	7,827
Clinch	642
Cobb	20,691
Coffee	14,425
Colquitt	29,196
Columbia	12,456
Cook	6,125
Coweta	20,443
Crawford	7,564
Crisp	18,779
Dade	1,787
Dawson	2,937
Decatur	8,866
DeKalb	9,042
Dodge	33,279
Dooly	34,754
Dougherty	5,796
Douglas	9,622
Early	26,762
Echols	615
Effingham	4,512
Elbert	23,690
Emanuel	38,730
Evans	6,483
Fayette	13,628
Floyd	24,502
Forsyth	16,331
Franklin	24,014
Fulton	17,246
Gilmer	861
Glascock	8,349
Glynn	18
Gordon	20,343
Grady	7,495
Green	12,100
Gwinnett	31,031
Habersham	4,075
Hall	20,190
Hancock	15,530
Harelson	13,129
Harris	9,920
Hart	27,796
Heard	13,913
Henry	26,859
Houston	15,275
Irwin	16,933
Jackson	28,980
Jasper	11,241
Jeff Davis	4,657
Jefferson	35,475
Jenkins	23,096
Johnson	24,064
Jones	4,880
Lamar	9,383
Lanier	1,637
Laurens	56,471
Lee	7,385
Liberty	1,543
Lincoln	10,044
Long	1,396
Lowndes	7,670
Lumpkin	1,888
McDuffie	15,283
McIntosh	18
Macon	26,942
Madison	22,766
Marion	10,576
Meriwether	26,434
Miller	10,201
Mitchell	24,821
Monroe	8,732
Montgomery	12,357
Morgan	20,806
Murray	9,807
Muscogee	3,975
Newton	16,446
Oconee	14,943
Oglethorpe	21,372
Paulding	14,899
Peach	9,249
Pickens	5,528
Pierce	4,910
Pike	16,377
Polk	17,699
Pulaski	15,625
Putnam	7,012
Quitman	4,287
Rabun	0
Randolph	22,373
Richmond	10,897
Rockdale	8,089
Schley	9,050
Screven	31,129
Seminole	7,902
Spalding	11,516
Stephens	7,143
Stewart	11,857
Sumter	27,175
Talbot	6,584
Taliaferro	8,399
Tattnall	11,313
Taylor	15,131
Telfair	15,108
Terrell	22,666
Thomas	12,113
Tift	11,856
Toombs	17,812
Treutlen	12,432
Troup	16,075
Turner	12,910
Twiggs	9,807
Upson	7,865
Walker	11,693
Walton	31,805
Ware	3,017
Warren	21,802
Washington	29,476
Wayne	6,909
Webster	6,298
Wheeler	13,986
White	4,090
Whitfield	10,868
Wilcox	25,264
Wilkes	19,196
Wilkinson	9,004
Worth	28,088
Total county allotments	2,181,525
Unused portions of reserves:	
(1) For 1938 new growers	15,181
(2) Portion of allotments under subsection (g) not needed	16,417
(3) Allotments released by growers and not yet reapportioned	16,676
Total reserve	48,274
State allotment—Georgia	2,229,799
ILLINOIS	
Alexander	3,634
Jackson	0
Pulaski	1,813
Williamson	0
Total county allotments	5,447
Unused portions of reserves:	
(1) For 1938 new growers	100
(2) Portion of allotments under subsection (g) not needed	0
(3) Allotments released by growers and not yet reapportioned	0
Total reserve	100
State allotment—Illinois	5,547

KANSAS	Acres
Chautauqua	44
Cowley	3
Montgomery	946
Wilson	3
Total county allotments	996
Unused portions of reserves:	
(1) For 1938 new growers	0
(2) Portion of allotments under subsection (g) not needed	36
(3) Allotments released by growers and not yet reapportioned	0
Total reserve	36
State allotment—Kansas	1,032
KENTUCKY	
Ballard	21
Barren	12
Calloway	1,823
Carlisle	635
Fulton	10,626
Graves	746
Hickman	4,318
Logan	0
McCracken	30
Marshall	790
Trigg	6
Total county allotments	19,007
Unused portions of reserves:	
(1) For 1938 new growers	42
(2) Portion of allotments under subsection (g) not needed	0
(3) Allotments released by growers and not yet reapportioned	1,338
Total reserve	1,380
State allotment—Kentucky	20,387
LOUISIANA	
Acadia	26,613
Allen	5,086
Ascension	1,724
Assumption	27
Avoyelles	37,177
Beauregard	3,842
Bienville	43,590
Bossier	45,939
Caddo	71,878
Calcasieu	5,473
Caldwell	9,935
Cameron	4,983
Catahoula	17,830
Claiborne	55,244
Concordia	16,527
DeSoto	50,317
East Baton Rouge	8,951
East Carroll	32,428
East Feliciana	14,728
Evangeline	31,748
Franklin	58,073
Grant	10,296
Iberia	2,472
Iberville	1,442
Jackson	13,851
Jefferson	86
Jefferson Davis	8,680
Lafayette	30,967
LaFourche	1,174
LaSalle	3,278
Lincoln	39,120
Livingston	2,858
Madison	25,406
Morehouse	38,770
Natchitoches	52,050
Orleans	31
Ouachita	23,874
Pointe Coupee	17,835
Rapides	30,279
Red River	33,577
Richland	51,218
Sabine	22,920
St. Charles	1
St. Helena	6,884

Louisiana—Continued	Acres
St. James	79
St. John the Baptist	2
St. Landry	57,149
St. Martin	11,712
St. Mary	269
St. Tammany	2,740
Tangipahoa	8,428
Tensas	28,584
Terrebonne	8
Union	35,399
Vermilion	21,876
Vernon	10,982
Washington	21,335
Webster	37,064
West Baton Rouge	1,518
West Carroll	32,786
West Feliciana	6,804
Winn	11,079
Total county allotments	1,246,996
Unused portions of reserves:	
(1) For 1938 new growers	3,128
(2) Portion of allotments under subsection (g) not needed	9,665
(3) Allotments released by growers and not yet reapportioned	8,470
Total reserve	21,263
State allotment—Louisiana	1,268,259

Mississippi

Adams	12,468
Alcorn	22,742
Amite	26,406
Attala	28,786
Benton	13,728
Bolivar	169,154
Calhoun	21,608
Carroll	26,924
Chickasaw	28,360
Choctaw	12,103
Claiborne	14,334
Clarke	15,712
Clay	19,661
Coahoma	108,006
Copiah	22,030
Covington	24,813
DeSoto	51,576
Forrest	6,615
Franklin	10,602
George	5,178
Greene	4,528
Grenada	19,145
Hancock	749
Harrison	923
Hinds	56,566
Holmes	60,662
Humphreys	61,708
Issaquena	20,505
Itawamba	22,537
Jackson	499
Jasper	22,232
Jefferson	15,259
Jefferson Davis	29,203
Jones	27,429
Kemper	26,819
Lafayette	24,985
Lamar	9,883
Lauderdale	23,091
Lawrence	19,060
Leake	29,013
Lee	42,371
Leflore	95,136
Lincoln	27,191
Lowndes	30,160
Madison	56,822
Marion	24,802
Marshall	39,529
Monroe	47,833
Montgomery	17,870
Neshoba	35,706
Newton	28,876
Noxubee	36,260
Oktibbeha	15,493
Panola	55,769
Pearl River	5,749
Perry	5,814
Pike	24,108
Pontotoc	31,493
Prentiss	24,034
Quitman	63,432
Rankin	22,622
Scott	23,327
Sharkey	38,310
Simpson	25,645
Smith	25,766
Stone	1,818
Sunflower	166,693
Tallahatchie	69,750
Tate	33,133
Tippah	26,295
Tishomingo	17,171
Tunica	61,976
Union	26,205
Walthall	27,849
Warren	14,980
Washington	110,509
Wayne	14,876
Webster	17,261
Wilkinson	11,349
Winston	23,985
Yalobusha	18,502
Yazoo	66,747
Total county allotments	2,668,819
Unused portions of reserves:	
(1) For 1938 new growers	10,844
(2) Portion of allotments under subsection (g) not needed	34,030
(3) Allotments released by growers and not yet reapportioned	105
Total reserve	44,979
State allotment—Mississippi	2,713,798

Missouri

Barton	5
Bollinger	117
Butler	13,186
Carter	30
Cape Girardeau	124
Dunklin	83,774
Howell	545
Mississippi	32,944
New Madrid	88,586
Oregon	1,392
Ozark	798
Pemiscot	108,230
Ripley	5,186
Scott	18,633
Stoddard	34,265
Taney	223
Wayne	17
Total county allotments	388,055
Unused portions of reserves:	
(1) For 1938 new growers	3,059
(2) Portion of allotments under subsection (g) not included	74
(3) Allotments released by growers and not yet reapportioned	0
Total reserve	3,133
State allotment—Missouri	391,188

New Mexico

Chaves	23,367
Curry	1,068
DeBaca	87
Dona Ana	35,809
Eddy	25,173
Grant	19
Harding	241
Hidalgo	414
Lea	1,447
Luna	1,969
Otero	502
Quay	3,406
Roosevelt	17,819
Sierra	764
Socorro	66
Total county allotments	112,151
Unused portions of reserves:	Acres
(1) For 1938 new growers	330
(2) Portion of allotments under subsection (g) not needed	11
(3) Allotments released by growers and not yet reapportioned	0
Total reserve	341
State allotment—New Mexico	112,492

North Carolina

Alamance	1,704
Alexander	5,140
Anson	34,389
Beaufort	7,327
Bertie	10,234
Bladen	10,327
Brunswick	1,060
Burke	1,598
Cabarrus	14,980
Caldwell	434
Camden	3,397
Carteret	1,504
Caswell	86
Catawba	15,716
Chatham	8,125
Chowan	5,049
Cleveland	50,846
Columbus	5,167
Craven	3,521
Cumberland	25,557
Currituck	2,374
Davidson	4,550
Davie	6,829
Duplin	11,535
Durham	1,153
Edgecombe	26,417
Forsyth	781
Franklin	19,899
Gaston	16,373
Gates	6,650
Granville	2,486
Greene	9,258
Guilford	1,107
Halifax	40,440
Harnett	28,285
Hertford	7,112
Hoke	18,652
Hyde	3,771
Iredell	25,264
Johnston	44,260
Jones	3,447
Lee	6,366
Lenoir	9,569
Lincoln	19,710
McDowell	44
Martin	7,166
Mecklenburg	27,699
Montgomery	5,731
Moore	4,595
Nash	25,527
New Hanover	113
Northampton	26,587
Onslow	3,428
Orange	2,550
Pamlico	4,134
Pasquotank	3,460
Pender	3,066
Perquimans	6,367
Person	8
Pitt	15,559
Polk	5,561
Randolph	1,502
Richmond	16,355
Robeson	56,377
Rockingham	8
Rowan	17,932
Rutherford	26,055
Sampson	38,565
Scotland	26,118
Stanley	11,202
Tyrrell	1,201
Union	43,969
Vance	6,130
Wake	21,565
Warren	18,221
Washington	3,020
Wayne	26,384
Wilkes	264

North Carolina—Continued	Acres
Wilson	19,893
Yadkin	733
Total county allotments	999,477
Unused portions of reserves:	
(1) For 1938 new growers	5,989
(2) Portion of allotments under subsection (g) not needed	19
(3) Allotments released by growers and not yet reapportioned	20
Total reserve	6,028
State allotment—North Carolina	1,005,505

Oklahoma

Adair	376
Alfalfa	268
Atoka	18,473
Beckham	97,477
Blaine	28,957
Bryan	50,054
Caddo	122,633
Canadian	19,219
Carter	22,505
Cherokee	6,097
Choctaw	28,778
Cleveland	16,401
Coal	17,271
Comanche	43,967
Cotton	48,032
Craig	706
Creek	39,347
Custer	34,858
Delaware	183
Dewey	16,894
Ellis	2,219
Garfield	1,057
Garvin	50,026
Grady	81,806
Grant	68
Greer	84,269
Harmon	63,591
Harper	69
Haskell	27,723
Hughes	35,056
Jackson	103,533
Jefferson	50,782
Johnston	19,156
Kay	444
Kingfisher	7,577
Kiowa	96,504
Latimer	5,543
LeFlore	38,999
Lincoln	37,500
Logan	22,339
Love	25,685
McClain	53,465
McCurtain	43,201
McIntosh	50,801
Major	2,262
Marshall	17,214
Mayes	7,654
Murray	10,366
Muskogee	60,005
Noble	3,955
Nowata	1,302
Okfuskee	47,493
Oklahoma	12,799
Okmulgee	38,673
Osage	10,732
Ottawa	40
Pawnee	9,290
Payne	17,171
Pittsburg	35,873
Pontotoc	22,305
Pottawatomie	31,474
Pushmataha	8,738
Roger Mills	51,372
Rogers	6,986
Seminole	25,598
Sequoyah	23,656
Stephens	47,010
Tillman	113,057
Tulsa	9,988
Wagoner	36,052
Washington	340
Washita	116,975
Woods	36
Woodward	1,367
Total county allotments	2,283,692
Unused portions of reserves:	
(1) For 1938 new growers	9,081
(2) Portion of allotments under subsection (g) not needed	68,658
(3) Allotments relased by growers and not yet reapportioned	35,825
Total reserve	113,564
State allotment—Oklahoma	2,397,256

South Carolina

Abbeville	28,966
Aiken	45,910
Allendale	17,540
Anderson	83,570
Bamberg	23,130
Barnwell	33,052
Beaufort	3,282
Berkeley	12,248
Calhoun	25,867
Charleston	2,965
Cherokee	30,266
Chester	28,401
Chesterfield	45,293
Clarendon	33,687
Colleton	19,938
Darlington	35,526
Dillon	27,074
Dorchester	14,032
Edgefield	20,603
Fairfield	19,131
Florence	30,044
Georgetown	3,573
Greenville	53,197
Greenwood	24,635
Hampton	15,625
Horry	5,000
Jasper	4,781
Kershaw	36,353
Lancaster	23,606
Laurens	48,269
Lee	39,450
Lexington	23,310
McCormick	13,431
Marion	12,967
Marlboro	49,606
Newberry	27,267
Oconee	27,994
Orangeburg	90,235
Pickens	25,104
Richland	20,067
Saluda	21,158
Spartanburg	81,155
Sumter	47,359
Union	22,816
Williamsburg	29,266
York	42,708
Total county allotments	1,369,462
Unused portions of reserves:	
(1) For 1938 new growers	12,047
(2) Portion of allotments under subsection (g) not needed	1,359
(3) Allotments released by growers and not yet reapportioned	7,900
Total reserve	21,306
State allotment—South Carolina	1,390,768

Tennessee

Bedford	3,802
Benton	7,715
Bradley	5,423
Cannon	187
Carroll	27,299
Chester	15,668
Coffee	3,230
Crockett	29,157
Davidson	26
Decatur	9,039
DeKalb	102
Dickson	14
Dyer	45,005
Fayette	64,237
Franklin	8,293
Gibson	52,236
Giles	17,580
Grundy	295
Hamilton	2,746
Hardeman	27,915
Hardin	15,294
Haywood	48,578
Henderson	27,249
Henry	14,172
Hickman	102
Humphreys	166
Knox	43
Lake	30,944
Lauderdale	37,935
Lawrence	27,901
Lewis	732
Lincoln	18,211
Loudon	23
McMinn	6,318
McNairy	26,424
Madison	41,934
Marion	1,022
Marshall	1,001
Maury	724
Meigs	1,637
Monroe	1,847
Moore	275
Obion	22,364
Overton	12
Perry	414
Polk	4,661
Rhea	53
Roane	1
Rutherford	15,903
Sequatchie	9
Shelby	75,756
Stewart	83
Tipton	52,474
VanBuren	5
Warren	2,173
Wayne	5,600
Weakley	18,640
White	422
Williamson	470
Wilson	313
Total county allotments	821,854
Unused portions of Reserves:	
(1) For 1938 new growers	6,951
(2) Portion of allotments under subsection (g) not needed	837
(3) Allotments released by growers and not yet reapportioned	0
Total reserve	7,788
State allotment—Tennessee	829,642

Texas

Anderson	45,090
Andrews	2,382
Angelina	19,124
Aransas	2,973
Archer	10,031
Armstrong	3,449
Atascosa	34,620
Austin	33,369
Bailey	65,728
Bandera	230
Bastrop	48,964
Baylor	32,319
Bee	35,714
Bell	125,538
Bexar	27,808
Blanco	4,565
Borden	14,700
Bosque	44,115
Bowie	56,547
Brazoria	18,751
Brazos	40,161
Brewster	0

TEXAS—Continued	*Acres*
Briscoe	25,434
Brooks	7,408
Brown	26,665
Burleson	56,786
Burnet	22,944
Caldwell	61,434
Calhoun	20,851
Callahan	25,610
Cameron	50,936
Camp	14,910
Carson	645
Cass	62,510
Castro	9,904
Chambers	2,123
Cherokee	55,669
Childress	65,542
Clay	47,008
Cochran	44,666
Coke	20,678
Coleman	76,734
Collin	135,604
Collingsworth	81,332
Colorado	28,726
Comal	5,484
Comanche	30,729
Concho	44,903
Cooke	43,665
Coryell	60,515
Cottle	75,295
Crockett	0
Crosby	95,307
Culberson	0
Dallam	0
Dallas	87,337
Dawson	125,724
Deaf Smith	580
Delta	51,396
Denton	67,909
DeWitt	56,500
Dickens	64,256
Dimmit	955
Donley	44,985
Duval	31,450
Eastland	14,875
Ector	527
Ellis	181,893
ElPaso	31,737
Erath	38,987
Falls	128,817
Fannin	112,442
Fayette	59,772
Fisher	101,923
Floyd	52,948
Foard	26,777
Fort Bend	90,565
Franklin	19,185
Freestone	50,089
Frio	5,019
Gaines	18,617
Galveston	466
Garza	37,645
Gillespie	6,592
Glasscock	4,337
Goliad	26,918
Gonzales	63,085
Gray	8,354
Grayson	100,416
Gregg	13,179
Grimes	46,774
Guadalupe	71,360
Hale	77,183
Hall	92,264
Hamilton	15,945
Hansford	0
Hardeman	63,817
Hardin	1,149
Harris	21,353
Harrison	67,943
Hartley	0
Haskell	113,213
Hays	24,230
Hemphill	10,298
Henderson	49,716
Hidalgo	78,931
Hill	162,173
Hockley	125,204
Hood	11,925
Hopkins	77,713
Houston	78,326
Howard	73,752
Hudspeth	8,176
Hunt	133,724
Hutchinson	68
Irion	1,283
Jack	10,957

TEXAS—Continued	*Acres*
Jackson	31,554
Jasper	7,417
Jeff Davis	0
Jefferson	2,732
Jim Hogg	10,514
Jim Wells	43,115
Johnson	74,984
Jones	146,433
Karnes	98,567
Kaufman	118,397
Kendall	569
Kenedy	144
Kent	30,801
Kerr	362
Kimble	1,763
King	11,942
Kinney	32
Kleberg	14,697
Knox	71,133
Lamar	88,933
Lamb	140,376
Lampasas	15,838
LaSalle	6,967
Lavaca	54,835
Lee	27,375
Leon	41,643
Liberty	10,648
Limestone	129,076
Lipscomb	661
Live Oak	37,804
Llano	4,333
Loving	0
Lubbock	173,176
Lynn	153,863
McCulloch	52,510
McLennan	159,168
McMullin	3,828
Madison	31,568
Marion	14,964
Martin	59,568
Mason	6,910
Matagorda	20,252
Maverick	128
Medina	2,533
Menard	4,274
Midland	23,633
Milam	111,356
Mills	15,390
Mitchell	75,558
Montague	25,285
Montgomery	10,232
Moore	244
Morris	17,646
Motley	45,135
Nacogdoches	48,831
Navarro	167,525
Newton	4,620
Nolan	48,523
Nueces	155,694
Ochiltree	172
Oldham	0
Orange	576
Palo Pinto	9,800
Panola	51,221
Parker	18,611
Parmer	22,057
Pecos	6,365
Polk	14,688
Potter	0
Presidio	4,653
Rains	20,971
Randall	211
Reagan	0
Real	36
Red River	64,930
Reeves	5,604
Refugio	20,456
Roberts	46
Robertson	75,575
Rockwall	32,043
Runnels	114,092
Rusk	68,058
Sabine	12,080
San Augustine	18,816
San Jacinto	11,423
San Patricio	100,185
San Saba	17,489
Schleicher	10,366
Scurry	79,618
Shackleford	7,811
Shelby	49,913
Sherman	0
Smith	71,354
Somervell	5,268
Starr	22,338

TEXAS—Continued	*Acres*
Stephens	4,949
Sterling	1,072
Stonewall	44,230
Sutton	116
Swisher	8,685
Tarrant	27,811
Taylor	69,808
Terrell	40
Terry	90,968
Throckmorton	13,205
Titus	27,162
Tom Green	49,142
Travis	68,402
Trinity	16,045
Tyler	5,289
Upshur	38,780
Upton	0
Uvalde	2,842
Val Verde	0
Van Zandt	82,656
Victoria	39,094
Walker	21,384
Waller	17,109
Ward	8,023
Washington	53,294
Webb	4,819
Wharton	83,763
Wheeler	58,047
Wichita	28,271
Wilbarger	80,318
Willacy	49,815
Williamson	155,130
Wilson	32,034
Winkler	0
Wise	22,919
Wood	41,986
Yoakum	9,453
Young	35,273
Zapata	3,822
Zavala	1,301
Total county allotments	9,998,876
Unused portions of reserves:	
(1) For 1938 new growers	130,671
(2) Portion of allotments under subsection (i) not needed	165,762
(3) Allotments released by growers and not yet reapportioned	134,556
Total reserve	430,989
State allotment—Texas	10,429,865
VIRGINIA	
Amelia	8
Brunswick	8,104
Charlotte	687
Chesterfield	32
Dinwiddie	1,425
Fluvanna	4
Greensville	8,270
Halifax	312
Isle of Wight	2,750
Lunenburg	1,433
Mecklenburg	8,624
Middlesex	0
Nansemond	6,469
New Kent	61
Norfolk	1,144
Northampton	4
Nottoway	270
Pittsylvania	22
Prince Edward	11
Prince George	302
Princess Anne	283
Southampton	12,920
Surry	406
Sussex	3,931
Total county allotments	57,472
Unused portions of reserves:	
(1) For 1938 new growers	371
(2) Portion of allotments under subsection (g) not needed	0
(3) Allotments released by growers and not yet reapportioned	1,733
Total reserve	2,104
State allotment—Virginia	59,576

Done at Washington, D. C., this 21st day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3859; Filed, December 21, 1938; 12:21 p. m.]

[ACP-1938-15]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 12

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended February 19, 1938, and as amended by Supplements Nos. 3 to 11, inclusive,[1] is hereby further amended by inserting the following new paragraph 5 in subsection B of Section 1 to show the State cotton acreage allotments established for the purposes of said program:

5. The State acreage allotments of cotton are as follows:

	Acres
Alabama	2,267,810
Arizona	200,383
Arkansas	2,466,032
California	406,884
Florida	89,349
Georgia	2,229,799
Illinois	5,547
Kansas	1,032
Kentucky	20,387
Louisiana	1,268,259
Mississippi	2,713,798
Missouri	391,188
New Mexico	112,492
North Carolina	1,005,505
Oklahoma	2,397,256
South Carolina	1,390,768
Tennessee	829,642
Texas	10,429,865
Virginia	59,576
Total	28,285,572

Done at Washington, D. C., this 21st day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3857; Filed, December 21, 1938; 12:21 p. m.]

[ACP-1938-22]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 19

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended on February 19, 1938,[2] and as amended by Supplements Nos. 3 to 18, inclusive, is hereby further amended as follows:

The definition of "early potato-producing area" in Section XVIII is hereby amended to read as follows:

"Early potato-producing area means all the States in the East Central and Southern Regions, the States of Missouri and Kansas, the counties of Kern, Los Angeles, Riverside, San Bernardino, San Diego, and Santa Barbara in the State of California, the counties of Clark, Floyd, and Harrison in the State of Indiana, and the counties of Dawson and Buffalo in Nebraska."

Done at Washington, D. C., this 21st day of December 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3858; Filed, December 21, 1938; 12:21 p. m.]

[Form 38-Tobacco 72—Supp. 1]

PART 724—REGULATIONS PERTAINING TO BURLEY TOBACCO MARKETING QUOTAS FOR THE 1938-39 MARKETING YEAR[1]

SUPPLEMENT 1—AMENDMENTS TO CERTAIN SECTIONS PERTAINING TO THE TRANSFER OF QUOTA.

Sec. 724.61 is amended by striking out paragraph (a) therein and inserting in lieu thereof the following:

"(a) satisfy himself that the authorization for transfer has been duly executed by the operator of the farm from which the transfer is to be made, and, if the transfer is to be made to a farm designated by the county committee, that the farm to which the transfer is to be made has been duly designated by the committee; and that the requested transfer is proper (i. e., that the amount of quota to be transferred from the one farm is available for transfer in accordance with these regulations, and that the transfer to the other farm will not exceed the amount of the unused transfer allotment apportioned to the card on which the transfer is to be entered);"

Sec. 724.62 is amended by striking out the section and inserting in lieu thereof the following:

"SEC. 724.62 *Direct transfers.* (a) Direct transfers shall be made from one farm to another farm designated by the operator of the farm from which the transfer is to be made or from one farm to another farm designated by the county committee pursuant to authority from the operator of the farm from which the quota is to be transferred.

"(b) If the transfer is to be made directly from one farm to another farm designated by the operator of the farm from which the transfer is to be made, the marketing cards for the respective farms, together with the authorization (Form 38-Tobacco 64) of the operator of the farm from which the transfer is to be made, shall be presented, for appropriate entries, to a field assistant or person in the county office authorized to make transfers.

"(c) If the transfer is to be made to a farm which is to be designated by the county committee, the marketing card for the farm from which the transfer is to be made shall be presented to the county committee, together with the authorization (Form 38-Tobacco 64, with insertions necessary to accommodate the form to this use) of the operator of the farm from which the transfer is to be made, empowering the committee to designate the farm to which the transfer is to be made, and to arrange the transfer without consideration. Quota made available for transfer in this manner shall be distributed among farms in such manner and in such amounts as seems fair and equitable to the county committee. Producers desiring to obtain quota made available in this manner shall make application to the county committee therefor, and shall present the marketing cards for their farms to the county committee. If, in its discretion and within the limits of the rules governing transfer of quota, the county committee determines to designate the farm of any producer applying for a transfer, it shall execute on the back of the authorization form a statement of its designation of the farm to which the transfer is to be made. The marketing cards for the respective farms, together with the authorization, shall then be presented by the county committee, for appropriate entries, to a person in the county office authorized to make transfers."

Sec. 724.63 is amended by adding at the end thereof the following paragraph:

"(e) Quota available for transfer through the county office transfer book of one county may, with the approval of the State office of the State or States wherein are located the counties involved, be transferred to the county office transfer book of another county upon payment of the amount of the deposits made for the quota (i. e., 5 cents per pound) requested in such other county. A record of such transfer shall be made by the execution of Form 38-Tobacco 65 and the making of appropriate entries in the respective county office transfer books."

Sec. 724.65 is amended by adding at the end thereof the following paragraph:

"(c) If the transfer is made directly between farms as the result of the designation of the county committee, no money or other valuable consideration shall be charged to or received from any producer on account of such transfer; but no such transfer shall be made unless all the producers on the farm from

[1] 3 F. R. 563, 1939 DI.
[2] 3 F. R. 563 DI.

[1] 3 F. R. 2848 DI.

which quota is to be transferred have consented thereto."

Sec. 724.67 is amended by adding at the end thereof the following sentence:

"If the quota transferred to the farm is acquired from quota made available for transfer, without consideration, to farms designated by the county committee, each producer on the farm shall have the same proportionate right in the quota so transferred as he had in the quota established for the farm as provided in Sec. 724.36 of these regulations."

Done at Washington, D. C., this 22d day of December, 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3873; Filed, December 22, 1938; 12:23 p. m.]

[Form 38-Tobacco 69—Supp. 1]

PART 726—REGULATIONS PERTAINING TO FIRE-CURED AND DARK AIR-CURED TOBACCO MARKETING QUOTAS FOR THE 1938-39 MARKETING YEAR [1]

SUPPLEMENT 1—AMENDMENTS TO CERTAIN SECTIONS PERTAINING TO THE TRANSFER OF QUOTA

Sec. 726.61 is amended by striking out paragraph (a) therein and inserting in lieu thereof the following:

"(a) satisfy himself that the authorization for transfer has been duly executed by the operator of the farm from which the transfer is to be made, and, if the transfer is to be made to a farm designated by the county committee, that the farm to which the transfer is to be made has been duly designated by the committee; and that the requested transfer is proper (i. e., that the amount of quota to be transferred from the one farm is available for transfer in accordance with these regulations, and that the transfer to the other farm will not exceed the amount of the unused transfer allotment apportioned to the card on which the transfer is to be entered);"

Sec. 726.62 is amended by striking out the section and inserting in lieu thereof the following:

"SEC. 726.62 *Direct transfers.* (a) Direct transfers shall be made from one farm to another farm designated by the operator of the farm from which the transfer is to be made or from one farm to another farm designated by the county committee pursuant to authority from the operator of the farm from which the quota is to be transferred.

"(b) If the transfer is to be made directly from one farm to another farm designated by the operator of the farm from which the transfer is to be made, the marketing cards for the respective farms, together with the authorization (Form 38-Tobacco 66) of the operator of the farm from which the transfer is to be made, shall be presented, for appropriate entries, to a field assistant or person in the county office authorized to make transfers.

"(c) If the transfer is to be made to a farm which is to be designated by the county committee, the marketing card for the farm from which the transfer is to be made shall be presented to the county committee, together with the authorization (Form 38-Tobacco 66, with insertions necessary to accommodate the form to this use) of the operator of the farm from which the transfer is to be made, empowering the committee to designate the farm to which the transfer is to be made, and to arrange the transfer without consideration. Quota made available for transfer in this manner shall be distributed among farms in such manner and in such amounts as seems fair and equitable to the county committee. Producers desiring to obtain quota made available in this manner shall make application to the county committee therefor, and shall present the marketing cards for their farms to the county committee. If, in its discretion and within the limits of the rules governing transfer of quota, the county committee determines to designate the farm of any producer applying for a transfer, it shall execute on the back of the authorization form a statement of its designation of the farm to which the transfer is to be made. The marketing cards for the respective farms, together with the authorization, shall then be presented by the county committee, for appropriate entries, to a person in the county office authorized to make transfers."

Sec. 726.63 is amended by adding at the end thereof the following paragraph:

"(e) Quota available for transfer through the county office transfer book of one county may, with the approval of the State office of the State or States wherein are located the counties involved, be transferred to the county office transfer book of another county upon payment of the amount of the deposits made for the quota (i. e., 2 cents per pound) requested in such other county. A record of such transfer shall be made by the execution of Form 38-Tobacco 67 and the making of appropriate entries in the respective county office transfer books."

Sec. 726.65 is amended by adding at the end thereof the following paragraph:

"(c) if the transfer is made directly between farms as the result of the designation of the county committee, no money or other valuable consideration shall be charged to or received from any producer on account of such transfer; but no such transfer shall be made unless all the producers on the farm from which quota is to be transferred have consented thereto."

Sec. 726.67 is amended by adding at the end thereof the following sentence:

"If the quota transferred to the farm is acquired from quota made available for transfer, without consideration, to farms designated by the county committee, each producer on the farm shall have the same proportionate right in the quota so transferred as he had in the quota established for the farm as provided in Sec. 726.36 of these regulations."

Done at Washington, D. C., this 22d day of December, 1938. Witness my hand and seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3874; Filed, December 22, 1938; 12:23 p. m.]

TITLE 24—HOUSING CREDIT

FEDERAL HOME LOAN BANK BOARD

AMENDMENT TO THE RULES AND REGULATIONS FOR THE FEDERAL HOME LOAN BANK SYSTEM

PROVIDING THAT THE APPOINTMENT AND COMPENSATION OF ATTORNEYS OF EACH BANK SHALL BE SUBJECT TO THE SPECIFIC APPROVAL OF THE BOARD; AND PROVIDING THAT PERSONS WORKING FOR A BANK SHALL NOT ACT IN ANY CAPACITY FOR INSTITUTIONS ELIGIBLE FOR BANK MEMBERSHIP

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by sections 12 and 17 of the Federal Home Loan Bank Act (12 U. S. C. 1432 and 1437), paragraph a of section 2.005 of the Rules and Regulations for the Federal Home Loan Bank System is hereby amended to read as follows:

"PAR. a. *Selection and compensation.* The election of the officers of a Bank shall be in accordance with the by-laws of such Bank. Each Bank may select, employ and fix the amount and form of compensation of each of its officers and legal counsel, subject to the approval of the Board. Each Bank may select, employ and fix the amount and form of compensation of all other employees and agents within the limits set forth in its approved budget. No full-time officer, employee or attorney of any Bank shall act in any capacity for any institution that is a Bank member or is of a type which is eligible for Bank membership without the approval of the Board. The Board disapproves the practice of nepotism in the selection of personnel. A bonus not exceeding $10 in any one year may be awarded to any one person."

Adopted by the Federal Home Loan Bank Board on December 20, 1938.

[SEAL] R. L. NAGLE,
Secretary.

[F. R. Doc. 38-3862; Filed, December 22, 1938; 9:41 a. m.]

TITLE 29—LABOR

WAGE AND HOUR DIVISION

PART 526—REGULATIONS APPLICABLE TO INDUSTRIES OF A SEASONAL NATURE PURSUANT TO SECTION 7 (B) (3) OF THE FAIR LABOR STANDARDS ACT OF 1938

The following amendment to Regulations—Part 526—(Regulations Applicable to Industries of a Seasonal Nature Pursuant to Section 7 (b) (3) of the Fair Labor Standards Act of 1938) [1] is hereby issued. Said amendment to Part 526 amends Section 526.90 by extending the period of the temporary exemption for industries of a seasonal nature from December 31, 1938, until January 31, 1939. Said amendment shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this 20th day of December 1938.

ELMER F. ANDREWS,
Administrator.

SECTION 526.90 TEMPORARY REGULATION OF ADMINISTRATOR RELATING TO EXEMPTIONS FOR INDUSTRIES OF A SEASONAL NATURE UNDER SECTION 7 (B) (3) OF THE FAIR LABOR STANDARDS ACT

(a) Subject to objection by any person interested as hereinafter provided in paragraph (d), the Administrator (without prejudice to the possible subsequent inclusion of other industries as of a seasonal nature within the meaning of Sec. 526.3) temporarily until January 31, 1939, finds the following industries to be of a seasonal nature:

Industries which both:

(1) Engage in the handling, extracting, or processing of materials during a season or seasons occurring in regularly, annually recurring part or parts of the year; and cease production, apart from the work of maintenance, repair, and clerical employees, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials handled, extracted, or processed in the form in which such materials are handled, extracted, or processed, are not available in the remainder of the year; and which

(2) Produce 50 per cent or more of their annual output in a period or periods amounting in the aggregate to not more than 14 work weeks.

(b) Such industries may, until January 31, 1939, for a period or periods of not more than 14 work weeks in the aggregate, employ employees 12 hours in any workday and 56 hours in any work week without payment of time and one-half: *Provided, however,* That such employees receive compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any work week, as the case may be, at a rate not less than one and one-half times the regular rate at which they are employed. Industries seeking exemption beyond January 31, 1939 must make application pursuant to Section 526.4.

(c) Any employer, group of employers, or trade association representing employers, who are not a part or the whole of an industry within the terms of Paragraph (a) because 50 per cent or more of the annual output is not produced within a period or periods of 14 work weeks, or who are in doubt as to whether they are a part or the whole of such industry, should make application to the Administrator for exemption in accordance with the Administrator's regulations Sections 526.1–526.7.

(d) Any employee, or group of employees, who are employed by an employer or employers claiming to be a part or the whole of an industry within the terms of Paragraph (a) of this section, or any employee labor organization representing such employees, or any other person interested, may make written objection to the Administrator and request a hearing on the ground that such employer or employers are not entitled to exemption as a part or the whole of an industry of a seasonal nature.

If objection and request for hearing is received, the Administrator or his authorized representative will hold a hearing and any further proceedings in accordance with the procedure set forth in Sections 526.6–526.7.

The finding of the Administrator or his authorized representative following such procedure shall be published in the same manner and have the same force and effect as if the hearing had been had upon application for exemption under Section 526.4, and the exemption upon a finding of an industry of a seasonal nature shall become effective in accordance with the provisions of Sections 526.6–526.7: *Provided, however,* That if the industry is within the terms of Paragraph (a) of this Section, the finding of the Administrator or his authorized representative shall so state, and the exemption upon such finding shall be effective as of October 24, 1938.*

[F. R. Doc. 38-3870; Filed, December 22, 1938; 11:52 a. m.]

TITLE 30—MINERAL RESOURCES

NATIONAL BITUMINOUS COAL COMMISSION

[Order No. 255]

AN ORDER AMENDING ORDER NO. 253 AS SUPPLEMENTED BY ORDER NO. 254 PROVIDING FOR COORDINATION OF MINIMUM PRICES AND RULES AND REGULATIONS INCIDENTAL TO SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS BY DISTRICT BOARDS FOR DISTRICTS NOS. 14, 16, 17, 18, 19, 20, 22 AND 23

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That Paragraph VII of Section 4 of Order No. 253, as supplemented by Order No. 254 [1] be and the same is hereby amended by adding thereto the following:

"The shipment of any size and grade of coal into a consuming market area in the calendar year 1937, as reflected in such Commission D-1 and D-2 Forms and in the other competent data shall prima facie establish that such coal is a competitive coal in such consuming market area: *Provided, however,* That if the District Boards shall determine that any tonnage of any size and grade of coal shipped into any consuming market area in 1937 from a particular district is of such an unsubstantial amount as to indicate that such coal is in fact not a competitive coal in said market, no proposal of a coordinated minimum price shall be made therefor for shipment into such market: *Provided, further,* If the District Boards shall determine from competent data with respect to the movement of any tonnage into a consuming market area for a period other than the year 1937 that any size and grade of coal, not reflected in the 1937 tonnage distribution, is actually competitive in such consuming market area, the Boards shall propose a coordinated minimum price for such coal and shall determine the tonnage of such coal for inclusion in the calculation of the price area return from such competent evidence as may be available."

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[1] 3 F. R. 2822 DI.

[1] 3 F. R. 2534 DI.

* This section 526.90, as amended December 20, 1938, issued under the authority contained in Section 7 (b) (3), 52 Stat. 1060.

[1] 3 F. R. 2998, 3059 DI.

2. The Secretary of the Commission is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and shall cause copies hereof to be mailed to each code member within the named districts, to the Consumers' Counsel, and to the Secretary of each District Board, and shall cause copies hereof to be made available for inspection by interested parties in each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 21st day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3878; Filed, December 22, 1938; 12:44 p. m.]

[Order No. 256]

AN ORDER SUPPLEMENTING ORDERS NOS. 253 AND 254, BY DIRECTING DISTRICT BOARDS FOR DISTRICTS NOS. 14, 15, 16, 17, 18, 19, 20, 22, AND 23, TO COORDINATE MINIMUM PRICES AND RULES AND REGULATIONS INCIDENTAL TO SALE AND DISTRIBUTION OF COAL TO SERVE AS BASIS FOR COORDINATION BY SAID DISTRICT BOARDS

DIRECTING SAID DISTRICT BOARDS TO SUBMIT SUCH COORDINATED PRICES AND RULES AND REGULATIONS TOGETHER WITH DATA UPON WHICH THEY ARE PREDICATED; AND ESTABLISHING AND PROMULGATING RULES AND REGULATIONS UNDER WHICH SUCH COORDINATION SHALL BE ACCOMPLISHED

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Cong., 1st. Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That Orders Nos. 253 and 254[1] heretofore issued by the Commission on December 9th and December 17th, 1938, respectively, as amended by Order No. 255 be and the same are hereby supplemented to include the following provisions:

(a) That the District Boards for Districts Nos. 14, 16, 17, 18, 19, 20, 22 and 23, now engaged in coordination proceedings pursuant to the provisions of Orders Nos. 253 and 254, shall forthwith proceed to coordinate the minimum prices and rules and regulations incidental to the sale and distribution of coal, approved by the Commission to serve as the basis for coordination for the respective districts, with the minimum prices and rules and regulations incidental to the sale and distribution of coal approved by the Commission to serve as a basis for coordination for District No. 15, and the District Board for District No. 15 shall forthwith proceed to coordinate with the said Districts Nos. 14, 16, 17, 18, 19, 20, 22 and 23 pursuant to and in the same manner as provided by the provisions of said Orders Nos. 253 and 254 prescribed for said Districts Nos. 14, 16, 17, 18, 19, 20, 22 and 23.

(b) Said District Board No. 15, shall forthwith, by appropriate resolution, designate and appoint one or more persons with power of delegation and substitution to represent said District Board in the work of coordination and fully empower such person or persons to act for said District Board in a meeting with representatives from the other District Boards named in this Order or with the representatives of such of these districts with which District No. 15, competes in common consuming market areas, as determined pursuant to the standards prescribed in Order No. 253, in the offices of the Commission, Washington, D. C., commencing at 10:00 o'clock A. M., on the 4th day of January, 1939.

(c) The provisions of Orders Nos. 253 and 254, and the rules and regulations therein established for the coordination of minimum prices and for the coordination of the rules and regulations incidental to the sale and distribution of coal, be and the same are hereby incorporated herein, to the end that all of the provisions of said Orders Nos. 253 and 254 shall be and the same are hereby declared to be applicable to District Board No. 15 for those consuming market areas common to the districts named herein.

2. The Secretary of the Commission is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and shall cause copies hereof to be mailed to each code member within Districts Nos. 14, 16, 17, 18, 19, 20, 22 and 23, to the Consumers' Counsel and to the Secretary of each District Board, and shall cause a copy hereof, together with a copy of said Orders Nos. 253 and 254 to be mailed to each code member within District No. 15, and shall cause copies hereof to be made available for inspection by interested parties in each of the Statistical Bureaus of the Commission.

By order of the Commission.

Dated this 21st day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3879; Filed, December 22, 1938; 12:45 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

PUBLIC DEBT SERVICE

[1938—Dept. Circ. 530, 2d Rev.]

REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS

DECEMBER 15, 1938.

To Owners of United States Savings Bonds, and Others Concerned:

Department Circular No. 530, Revised,[1] dated December 16, 1936, as amended, is hereby amended, effective January 1, 1939, to read as follows:

The following regulations governing United States Savings Bonds are published for the information and guidance of all concerned:

I. REGISTRATION

1. *General.*—A United States Savings Bond will be issued only in registered form in substantially one of the forms of registration authorized herein. The name and complete post-office address of the owner or owners and designated beneficiary, if any, and the date as of which the bond is issued will be inscribed thereon at the time of issue by an authorized issuing agent.[2] The form of registration used should express the actual ownership of and interest in the bond and, except as otherwise specifically provided in these regulations, the Treasury Department reserves the right to treat as conclusive the ownership of and interest in the bond expressed in the registration. No designation of an attorney, agent, or other representative to request or receive payment on behalf of the owner may be made in the registration; for example, registration in the form "John G. Brown, payable to David R. Green, attorney in fact" will not be permitted. Registration will not be permitted in a form which purports to restrict the right of the owner or other person named in the registration to receive payment of the bond in accordance with these regulations; for example, registration in the form "John S. Smith, under Article 10 of the will of Henry A. Jones", or "John S. Smith, legal guardian of Miss Mary B. Jones, subject to the order of the probate court of Washington County", will not be permitted.

2. *Forms of registration.*—The following forms of registration are authorized:

(a) *Natural persons (individuals).*—In the names of natural persons (individuals), whether adults or minors, in their own right, as follows:

(1) In the name of one person, as for example, "John A. Jones".

(2) In the names of two (but not more than two) persons in the alternative, as for example, "John A. Jones OR Mrs. Ella S. Jones." No other form of registration establishing coownership as between natural persons (individuals) in their own right is authorized.

(3) In the name of one person, payable on death to a single designated beneficiary in his own right, as, for example, "John A. Jones, payable on death to Miss Mary E. Jones." Only a natural person (an individual) may be designated as a beneficiary.

The full name of the owner, and that of the coowner or beneficiary, if any, should be given; except that if there are two given names an initial may be substituted for one. The name should be preceded by "Mrs." or "Miss" when appropriate and may be preceded by any applicable title such as "Dr.," "Capt.," etc. A married woman's own given name should be used, not that of her husband, for example, "Mrs. Mary A. Jones," not "Mrs. Frank B. Jones." The name of a minor for whose estate a guardian or other legal representative has been appointed by a court of competent jurisdiction should be followed by the words "a minor under legal guardianship". The name of an incompetent should be followed by the words "an incompetent under legal guardianship" or words of similar import.

(b) *Executors, administrators, guardians, trustees, etc.*—In the names of fiduciaries, as follows:

(1) In the name of one or more executors, administrators, or guardians or other legal representatives of a single estate followed by reference to the estate, as, for example, "John A. Smith, executor of the will (or administrator of the estate) of Henry J. Smith, deceased," or "William C. Jones, guardian (or conservator, curator, committee, etc.) of the estate of James B. Brown, a minor (or an incompetent)." If a guardian or other legal representative holds a common fund for the account of two or more estates, bonds should be registered in the name of the representative for each such estate separately, even though the representative was appointed in a single proceeding. *Registration in the names of natural or voluntary guardians is not authorized.*

(2) In the name of one or more trustees, or other fiduciaries of a single trust estate, followed by reference to the trust instrument, or other authority governing the trust, or by other words clearly identifying the trust, and the name of the persons or organizations who are beneficiaries under the trust, as, for example, "John C. Brown and the First National Bank of Boston, trustees under the will of Henry C. Brown, for the benefit of Mrs. Mary J. Brown," or "The Second National Bank of Salem, trustee under an agreement of trust executed by George E. White, dated February 1, 1935, for the benefit of Mrs. Mary B. White and Miss Ella May White."

The names of all duly qualified executors, administrators, guardians, trustees, or other fiduciaries must be included in the registration: *Provided*, That in the case of unincorporated lodges, churches, societies, or similar organizations the title to whose property is held by trustees, registration may be in their titles, omitting their names, as, for example, "Trustees of the First Baptist Church, Akron, Ohio, an unincorporated association"; *Provided further*, That in cases where the instrument governing the trust establishes a board of trustees acting as a board and not individually, registration may be in the title of the board, as, for example, "Board of Trustees of the Holton Cemetery Association". All beneficiaries of a trust having present interests therein should likewise be named, if possible, except that if they are too numerous two or three of the principal beneficiaries should be named, followed by the words "et al". In any case the Treasury Department may require that the names of all beneficiaries having present interests and the extent of such interests should be furnished. Beneficiaries entitled as remaindermen may be indicated by the words "with remainder over to ----------." If the identity of the beneficiaries cannot be presently ascertained, the class of persons to which they belong may be indicated, or, in the case of a charitable trust, the purpose or object of the trust may be expressed in the registration. In any case the Treasury Department may require a copy of the trust instrument.

(c) *Private corporations and associations.*—In the name of any private organization, whether incorporated or unincorporated, as follows:

(1) A private corporation, followed by the words "a corporation," as, for example, "Smith Manufacturing Company, a corporation."

(2) An unincorporated association, such as a lodge, church, or society, or similar body, followed by the words "an unincorporated association," as, for example, "The Lotus Club, an unincorporated association." The term "an unincorporated association" should *not* be used to designate a trust fund, a partnership, or a business conducted under a trade name but wholly owned by one person.

(3) A partnership, followed by the words "a partnership," as, for example, "Smith and Brown, a partnership."

The full legal name of the corporation, unincorporated association, or partnership, as the case may be, should be given in the registration. No officer or member of the organization may be named in the registration. Reference may be made, if desired, to a particular fund, as for example, "Lafayette Post No. 1, The American Legion (Building Fund), an unincorporated association."

(d) *States and public corporations.*—In the name of the owner or custodian of public funds, as follows:

(1) Any State or any public corporation, such as a county, city, town, village, or school district, as, for example, "County of Middlesex, Massachusetts," or "Town of Takoma Park, Maryland;"

(2) Any duly constituted public board or commission, as, for example, "Maryland State Highway Commission;"

(3) Any public officer, designated by title only, as, for example, "Treasurer, City of Boston."

The registration should include the full name of the State or public corporation, and may include reference to a particular fund, as, for example, "Treasurer, School District No. 2 of Morris County, Kansas (Cafeteria Fund)."

II. LIMITATION ON TRANSFER

1. *Not transferable.*—A United States Savings Bond is not transferable and is payable only to the owner named thereon except in the case of disability or death of the owner or as otherwise specifically provided herein, but in any event only in accordance with the provisions hereof. Accordingly, a savings bond is not suitable for use as collateral for a loan (see Section XVI).

III. LIMITATION ON HOLDINGS

1. *Amount which may be held.*—Section 22 of the Second Liberty Bond Act, as amended, provides that it shall not be lawful for any one person at any one time to hold savings bonds issued during any one calendar year in an aggregate amount exceeding $10,000 (maturity value). Under this provision any one person may hold up to $10,000 (maturity value) of savings bonds issued during any one calendar year and up to an additional $10,000 (maturity value) issued in any other calendar year (January 1 to December 31), so long as these bonds are offered for sale. In determining whether this limitation is exceeded at any time by any person (including a corporation, an unincorporated association, or a partnership), there must be taken into account the aggregate present interest of that person in the maturity value of all savings bonds issued during any one calendar year, as shown by the issue dates thereon, including, but not limited to:

(a) The entire maturity value of (1) bonds registered in the name of that person and (2) those registered in his name with another named as coowner, and

(b) The extent of his present interest in (1) those held for his benefit by a fiduciary (see paragraph 2 of this section) and (2) those in which he has acquired a present interest because of the death of another or on the happening of any other event.

Bonds of which the person is merely the designated beneficiary in case of the death of the owner, bonds which are held by him in a fiduciary capacity only, or bonds in which he has only a future beneficial interest need not be included.

2. *Calculation of present interest.*—The extent of a person's present interest in bonds held in trust is deemed to be determined by his relative share of the income from the trust, whether such share is payable periodically or is to be accumulated for future distribution, and may be calculated in accordance with the following general rules:

(a) If his share does not exceed a certain fractional part of the entire income from the trust, he will be charged only with a corresponding fractional interest in the bonds.

(b) If he is entitled to the entire income from the trust, or if he is entitled to a stipulated sum or other share which

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[1] 3 F. R. 2998, 3059 DI.

[1] 3 F. R. 2233 DI.

[2] The date of maturity also will be inscribed on savings bonds of Series D.

may exceed any definite fractional part of the entire income, he must be charged with the entire interest in the bonds.

Where the identity of the beneficiaries of a trust cannot be presently determined, or where the trust is charitable in nature with indefinite beneficiaries, $10,000 (maturity value), but no more, of bonds issued during any one calendar year may be held for the trust.

3. *Disposition of excess holdings.*—If any person at any time acquires an aggregate present interest in savings bonds issued during any one calendar year in an amount exceeding $10,000 (maturity value), he should immediately surrender the excess, which will be redeemed at the redemption value current on the date the excess arose, but at no higher value.

IV. LOST, STOLEN, MUTILATED, DEFACED OR DESTROYED BONDS

1. *Relief.*—A substitute may be issued for, or payment made of, an unmatured savings bond, and payment made of a matured savings bond upon proof of the loss, theft, mutilation, defacement or destruction of the bond. Relief will be granted in such cases only in accordance with the provisions of applicable statutes and will be governed in general by the regulations contained in Department Circular No. 300,[3] as amended. Application for relief on account of loss, theft or destruction should be made only on Form P. D. 1048, copies of which may be obtained from the Treasury Department, Division of Loans and Currency, or from any Federal Reserve bank. In cases of mutilation, defacement or partial destruction Form P. D. 1028 should be used, and the bond or so much thereof as remains should be carefully packed and forwarded to the Treasury Department, Division of Loans and Currency.

2. *Notice of loss, etc.*—The Treasury Department, Division of Loans and Currency, Washington, D. C., should be immediately notified of the loss, theft or destruction of any savings bond, reference being made to the series, year of issue, date and serial number of the bond, and the name and address of the registered owner. If such bond is subsequently recovered immediate notice of recovery should be given to the Department in order that delay may be avoided should the recovered bond be presented for payment.

V. SAFEKEEPING FACILITIES

1. A savings bond will be held in safekeeping without charge by the Secretary of the Treasury if the holder so desires, and in such connection the facilities of the Federal Reserve banks as fiscal agents of the United States will be utilized.[4] Postmasters will not act as safekeeping agents. Arrangements for safekeeping may be made at the time of purchase or subsequently, and postmasters, upon request, will furnish appropriate application blanks (Form P. D. 1423) and envelopes to be used in forwarding bonds for safekeeping. The forwarding will be as the risk of the owner and the use of registered mail is recommended (postage and registration fee to be paid by the sender).

2. Upon receipt of the savings bond the Federal Reserve bank will place it in safekeeping and issue a receipt which, unless delivered in person, will be mailed to the depositor at the address given in the application. The Federal Reserve bank will at any time deliver the bond to the owner or person entitled to possession thereof at his risk and expense upon his application and upon such identification through the return of the safekeeping receipt or otherwise, as may be required.

VI. GENERAL PAYMENT PROVISIONS

1. *General.*—A savings bond will be paid at or after maturity at its full value, or, at the option of the owner, will be redeemed prior to maturity (but not within 60 days after the issue date) at the appropriate redemption value as shown on the face of each bond. In order to secure payment a request for payment must be properly executed and the bond must be presented and surrendered, as provided in the following paragraphs of this section; unless otherwise directed by the Treasury Department, the form of request appearing on the back of the bond should be used.

2. *Execution of request for payment.*—

(a) The registered owner in whose name the bond is inscribed, or such other person as may be entitled to payment under the provisions of these regulations, should go before one of the officers authorized by the Secretary of the Treasury to certify requests for payment (see paragraph 3 below), establish his identity, and in the presence of such officer sign the request for payment in ink or indelible pencil and add his current post-office address. A signature to a request for payment made by mark (X) must be witnessed by at least one person in addition to the certifying officer, and must be attested by an endorsement on the blank line substantially as follows: "Witness to the above signature by mark" followed by the signature and address of the witness.

(b) No request signed in behalf of the owner by an agent or a person acting under a power of attorney will be recognized by the Treasury Department except as specifically provided in Section XVI hereof. If the name of the registered owner or other person entitled to payment, as it appears in the registration or in evidence on file in the Treasury Department, Division of Loans and Currency, has been changed by marriage or in any other legal manner, the signature to the request for payment should show both names and the manner in which the change was made, as, for example, "Miss Mary T. Jones, now by marriage Mrs. Mary T. Smith", or "Jung Smelt, now by court order John Smith". In the case of a change of name other than by marriage, the request must be supported by satisfactory proof of such change unless the evidence is already on file. If the change was made by divorce or other court proceeding the proof may be in the form of a duly certified copy of the court's decree or a certificate by the clerk of the court under court seal.

(c) After the request for payment has been signed by the owner, the certifying officer should complete and sign the certificate provided (see paragraph 4 of this section), and the bond should then be presented and surrendered as provided in paragraph 5 of this section.

(d) *All signatures must be made in ink or indelible pencil.*

3. *Certification of request for payment.*—The request for payment must be signed in the presence of, and be certified by, one of the following officers, who are hereby authorized to certify requests for payment:

(a) *At United States post offices.*—

(1) At any post office of any class: The postmaster, acting postmaster, or inspector in charge; and in addition

(2) At any post office of the first class (main office): The assistant postmaster, superintendent of mails, the postal cashier, superintendent of money orders, money order cashier, assistant cashier, bookkeeper, or foreman, or clerk temporarily in charge of the office; and

(3) At any post office of the second or third class: The assistant postmaster or, if there is none, the clerk temporarily in charge of the office in the absence of the postmaster; and

(4) At any classified branch or station: The superintendent, assistant superintendent, assistant cashier, bookkeeper, or foreman, or, in the absence of all such officials, the clerk temporarily in charge of the branch or station. (For instructions see paragraph 4 (a) and (b) below.)

(b) *At banks and trust companies and branches thereof.*—

(1) Any executive officer of any bank or trust company incorporated in the United States or its organized territories, including officers at domestic or foreign branches who are certified to the Treasury Department as executive officers;

(2) Executive officers of incorporated banks and trust companies in the organized territories and insular possessions of the United States and in the Commonwealth of the Philippines doing business under Federal charter or organized under Federal law;

(3) Executive officers of Federal Reserve banks and branches thereof, including managing directors, assistant managers, cashiers and assistant cashiers; and Federal Reserve agents and assistant Federal Reserve agents;

(4) Executive officers of Federal Land banks;

(5) Executive officers of Federal Home Loan banks.

(For instructions to such officers see paragraph 4 (a) and (c) of this section.)

(c) *United States officials.*—Judges, clerks and deputy clerks of United States courts, including United States courts for the organized territories, insular possessions and the Canal Zone; United States attorneys; United States collectors of customs and their deputies; United States collectors of internal revenue and their deputies; Commanding officers of the United States Army, Navy, Marine Corps and Coast Guard (but only for members of their respective commands).

(For instructions see paragraph 4 (a) of this section.)

(d) *Officers authorized in particular localities.*—In addition to the officers listed above, the following officers are authorized to certify requests for payment of United States Savings Bonds in the localities specified:

(1) Washington, D. C.: certain officers of the Treasury Department;

(2) Alaska: Governor, Treasurer and United States Commissioners;

(3) Canal Zone: Governor, paymaster or acting paymaster, collector or acting collector, the Panama Canal, and also postmasters and acting postmasters in the Bureau of Posts;

(4) Commonwealth of the Philippines: Treasurer of the Commonwealth and the City Treasurers of Manila and Baguio; Judges and clerks of courts of record whose signatures and official positions are certified by the Secretary of Justice;

(5) Guam and American Samoa: Governors, and Naval and Marine officers authorized to administer oaths for naval justice and administration;

(6) Hawaii: Governor and Treasurer;

(7) Puerto Rico: Governor and Treasurer;

(8) Virgin Islands: Governor and Commissioner of Finance.

(For instructions for such officers see paragraph 4 (a) of this section.)

(e) *In foreign countries.*—In a foreign country requests for payment may be signed in the presence of and certified by any United States diplomatic or consular representative, or the manager (or other executive officer in charge) or the assistant manager of a foreign branch of a bank or trust company incorporated in the United States. If such an officer is not available, requests for payment may be signed in the presence of and certified by a notary or other officer authorized to administer oaths, but his official character and jurisdiction must be certified by a United States diplomatic or consular officer under the seal of his office.

(For instructions see paragraph 4 (a) below.)

(f) *Special provision.*—In the event none of the officers authorized to certify requests for payment of savings bonds is readily accessible, the Commissioner of the Public Debt is authorized to make special provision for any particular case.

4. *Instructions to certifying officers.*—

(a) *In General.*—Certifying officers should require positive identification of the person executing the request for payment as the person whose name appears on the face of the bond as owner, or the person entitled to payment under the provisions of these regulations, and will be held fully responsible therefor. In all cases the certifying officer must affix to the request for payment his official signature, title, address and seal and the date of execution. If the officer does not possess an official seal, that fact should be made known and attested. Special instructions to post office officials and bank officers follow in subparagraphs (b) and (c), respectively.

(b) *Post office officials.*—If any designated post-office officials other than a postmaster, acting postmaster, or inspector in charge of an office certifies a request for payment, he should certify in the name of the postmaster, acting postmaster, or inspector in charge, followed by his own signature and official title, as, for example, "John Doe, postmaster, by Richard Roe, postal cashier". In the case of a clerk in charge of an office, branch, or station, the official title should be followed by the name of such office, branch, or station, as, for example, "John Doe, postmaster, by Richard Roe, clerk in charge, Main Street Station". The certification of any post-office official must be authenticated by a legible imprint of a dating stamp of his post office.

(c) *Bank officers.*—(1) At the principal office of an incorporated bank or trust company, the signature of the certifying officer should be authenticated by a legible impression seal of the bank or trust company; (2) At a branch, if the corporate seal is not available, the signature of the certifying officer and his official title should be certified to the Treasury Department, Division of Loans and Currency, by the parent bank or trust company under its seal, unless such certificate is already on file in that division.

5. *Interested person not to certify.*—No person authorized to certify requests for payment may certify a request for payment of a bond of which he is the owner, or in which he has an interest, either in his own right or in any representative capacity.

6. *Presentation and surrender.*—After the request for payment has been duly executed by the owner and the certifying officer as above provided, the bond must be presented and surrendered as follows:

(a) If a savings bond is registered in the name of a natural person (individual) in his own right (see Section I, paragraph 2 (a)), in the name of a private organization in its own right (see Section I, paragraph 2 (c)), or in the name of a state, public corporation, public board or commission, or public officer (see Section I, paragraph 2 (d)), and payment is to be made to the registered owner, the bond, after the request for payment has been duly executed as above provided, should be presented and surrendered to a Federal Reserve bank,[5] or to the Treasurer of the United States, Washington, D. C.

(b) If a savings bond is registered in the name of a fiduciary (see Section I, paragraph 2 (b)), or if payment is to be made to any person other than the registered owner, the bond, after the request for payment has been duly executed as above provided, should be presented and surrendered to the Treasury Department, Division of Loans and Currency, Washington, D. C., or to a Federal Reserve bank.

(c) In all cases presentation will be at the expense and risk of the owner, and, for his protection, the bonds should be forwarded by registered mail if not presented in person. Payment will be made by issuance of a check drawn to the order of the registered owner or other person entitled to payment and mailed to him at the address given in his request for payment.

7. *Partial redemption.*—A savings bond in a denomination other than $25 may be redeemed in part at the appropriate redemption value corresponding to any authorized denomination or denominations, upon presentation and surrender of the bond in accordance with the provisions of this section. In any such case before the request for payment is executed the first sentence of the request should be amended (with pen and ink or typewriter) by adding in the blank space provided: "to the extent of the current redemption value of $_____ maturity value", inserting the proper maturity value. Upon payment of a savings bond in part the remainder will be reissued, subject to the provisions of Section XVII hereof.

VII. MINORS

1. *Payment to legal guardians.*—If a savings bond is registered in the name of a minor for whose estate a guardian or other legal representative has been appointed by a court of competent jurisdiction or is otherwise legally qualified, and if the Treasury Department is properly advised of such fact, payment will be made only to such guardian, or other legal representative. In any such case the request for payment appearing on the back of the bond should be signed by the guardian or other representative as such, as, for example, "John A. Jones, guardian of the estate of Henry W. Smith, minor". The request for payment must be supported by proof of the rep-

[1] 3 F. R. 2998, 3059 DI.
[2] 3 F. R. 2233 DI.
[3] F. R. 1566 DI.
[4] For a list of the Federal Reserve banks, see footnote 5.
[5] The Federal Reserve banks are located at Boston, Mass.; New York, N. Y.; Philadelphia, Pa.; Cleveland, Ohio; Richmond, Va.; Atlanta, Ga.; Chicago, Ill.; St. Louis, Mo.; Minneapolis, Minn.; Kansas City, Mo.; Dallas, Texas; and San Francisco, Calif.

resentative's authority. Such proof may consist of a court certificate, or a certified copy of the representative's letters of appointment, issued by the court having jurisdiction. The certificate, or the certification to the letters, must be under the seal of the court, must contain a statement that the appointment is in full force, and should be dated within six months of the date of presentation of the bonds for payment. For requests for payment where the representative is a corporation see Section XI–2.

2. *Payment to minor.*—If the Treasury Department has not been properly advised that a guardian or other legal representative of the estate of a minor owner of a savings bond has been appointed or is otherwise legally qualified, payment will be made direct to such minor owner, provided such minor is, at the time payment is requested, of sufficient competency and understanding to sign his name to the request and to comprehend the nature of such act. In general, the fact that the request for payment has been signed by the minor and duly certified in accordance with Section VI hereof will be accepted as sufficient proof of such competency and understanding. If such minor owner is not of sufficient competency and understanding to execute the request for payment, payment will be made to either parent of the minor with whom he resides, or if not residing with either parent, then to the person with whom he does reside. The parent or such other person should sign the request for payment in his own name, in behalf of the minor, and a certificate in substantially the following form:

I certify that I am the _____ (State relationship) of John C. Jones and the person with whom he resides. He is _____ years of age and is not of sufficient competency and understanding to sign this request.

should be typed or written on the back of the bond and signed by the person requesting payment. The Treasury Department may in any particular case require further proof that the minor is not of sufficient competency and understanding to execute the request for payment.

VIII. DISABILITY OF OWNERS

1. *Payment to legal guardian.*—If the owner of a savings bond has been judicially declared to be incompetent to manage his affairs and the Treasury Department has been properly advised that a guardian or other legal representative of his estate has been appointed by a court of competent jurisdiction, payment will be made only to such guardian or other legal representative. In this case the request for payment should be signed: "Thomas S. Gray, guardian (curator, conservator or committee as the case may be) of the estate of Benjamin W. Smith, an incompetent." The request for payment must be supported by proof of the representative's authority. Such proof may consist of a court certificate or a certified copy of the representative's letters of appointment, issued by the court having jurisdiction. The certificate, or the certification to the letters, must be under the seal of the court, must contain a statement that the appointment is in full force, and should be dated within six months of the date of presentation of the bond for payment. For requests for payment where the representative is a corporation see Section XI–2.

2. *Payment to voluntary guardian.*—In any case where the owner of a savings bond has been judicially declared incompetent, or his incompetency, in the opinion of the Secretary of the Treasury, is otherwise established and no guardian or other legal representative of his estate has been appointed or is otherwise legally qualified, and the entire gross value of his personal estate does not exceed $500, payment will be made to a member of his family standing in the position of voluntary guardian, upon presentation of proof satisfactory to the Secretary of the Treasury that the proceeds of the bonds are required, and are to be used, for the purchase of necessaries for the incompetent or for his wife or minor children or other persons dependent upon him for support. Form P. D. 1461, copies of which may be obtained from the Treasury Department, Division of Loans and Currency, Washington, D. C., or any Federal Reserve bank, may be used in making application. The request for payment should not be executed, nor the bond presented, until the application has been approved and instructions have been given by the Treasury Department.

IX. COOWNERS

1. *Payment or reissue.*—A savings bond registered in the names of two persons as coowners, as, for example, "John A. Jones OR Mrs. Mary C. Jones", will be paid or reissued as follows:

(a) The bond will be paid (*but not reissued*) to either coowner, until the Treasury Department has received notice of his death, upon his individual request without requiring the signature of the other coowner on the bond; and upon payment to either coowner the other person shall cease to have any interest in the bond. If the request is signed by both coowners, and duly certified, payment will be made by check drawn to the order of both, in the form, for example, "John A. Jones and Mrs. Mary C. Jones".

(b) After the Treasury Department has received notice of the death of one coowner who has not requested payment and presented the bond for payment to a Federal Reserve bank or the Treasury Department, a bond so registered will be paid only to the surviving coowner upon his request. Upon proof of the death of one coowner and appropriate request by the surviving coowner, it may be reissued in the name of such survivor alone, or in his name payable on death to a single designated beneficiary. If a coowner dies after he has properly executed the request for payment and after the bond has actually been received for payment by a Federal Reserve bank or the Treasury Department, payment of the bond or check, if one has been issued, will be made to the estate of such deceased coowner. (See Section XIV for the person entitled in such a case.)

(c) After the death of both coowners, a bond so registered will be paid or may be reissued as though it had been registered in the name of the last deceased coowner alone. (See Section XIV.)

X. BENEFICIARIES

1. *Payment during life of registered owner.*—A savings bond registered in the name of one person as owner, payable on death to another person as beneficiary, as, for example, "Henry W. Ash, payable on death to John C. Black", will be paid to the registered owner, until the Treasury Department has received notice of his death, upon his request, as if the beneficiary were not named on the savings bond. If the beneficiary should predecease the registered owner, the bond will be paid as though no beneficiary had been named in the registration.

2. *Reissue during life of registered owner.*—A savings bond registered in the name of one person payable on death to a designated beneficiary may not be reissued during the life of such beneficiary so as to eliminate his name. If such beneficiary should predecease the registered owner, the bond may, upon appropriate request by the registered owner, and proof of the death of the beneficiary, be reissued in the name of the registered owner alone, or in his name payable on death to a new beneficiary.

3. *Payment or reissue to beneficiary.*—Upon proof of the death of the registered owner and proof of the survivorship of the beneficiary, the bond will be paid only to the latter or may, upon appropriate request, be reissued in his name alone or in his name payable on death to a single designated beneficiary: *Provided*, That if the registered owner dies after he has properly executed the request for payment and after the bond has actually been received for payment by a Federal Reserve bank or the Treasury Department, payment of the bond or check, if one has been issued, will be made to the estate of such deceased registered owner. (See Section XIV for the person entitled in such a case.)

4. *Payment or reissue after death of owner and later death of beneficiary.*—Upon proof of the death of the registered owner and of the subsequent death of the beneficiary, the bond will be paid or may be reissued as though the beneficiary had been the registered owner. (See Section XIV.)

5. *Reissue to add a beneficiary.*—A savings bond registered in the name of one natural person (an individual) not under any legal disability, upon appropriate request by such person, may be reissued in whole or in part, in authorized denominations only, in his name payable on death to a single designated beneficiary.

XI. FIDUCIARIES

1. *Payment to fiduciary named on bond.*—A savings bond registered in the name of a fiduciary will be paid to such fiduciary without proof of his authority upon presentation of the savings bond with the request for payment duly signed by him and certified in accordance with Section VI hereof. The request for payment should be signed by the fiduciary in exactly the same manner as his name and designation as fiduciary appear on the face of the savings bond.

2. *Corporate fiduciaries.*—A request for payment before maturity executed on behalf of a corporate fiduciary must be authorized by a resolution of the governing body of the corporation or by a standing bylaw, a certified copy of which must be filed with the Treasury Department, Division of Loans and Currency, Washington, D. C., unless already on file.

3. *Payment or reissue to successors.*—A savings bond registered in the name of a fiduciary who is no longer acting as such will be paid to, or reissued in the name of, a succeeding fiduciary, upon appropriate request and satisfactory proof of his successorship.

4. *Boards of trustees.*—A savings bond registered in the name of a board of trustees will be paid to such board upon a request for payment signed in the name of the board, executed by an officer or agent thereof authorized by resolution of the board, a certified copy of which must be filed with the Treasury Department, Division of Loans and Currency, unless already on file.

5. *Trustees of lodges, etc.*—A savings bond registered in the titles, without the names, of trustees of an unincorporated lodge, church, society, or other similar organization will be paid to the trustees of such organization for the time being, upon appropriate request by them as such trustees, and satisfactory proof of their incumbency.

6. *Payment or reissue upon termination of trust.*—A savings bond held by a fiduciary to which a beneficiary has become entitled, in whole or in part, under the terms of the trust, will be paid to such beneficiary or reissued in his name, in authorized denominations only, to the extent of his interest, upon the request of the fiduciary and his certification that such person is entitled to payment or reissue in his name and has agreed thereto: *Provided*, That a request for reissue in the name of a fiduciary individually must be supported by an order of court or other satisfactory proof that he is the person entitled, unless it is shown that at least one cofiduciary joining in the request has no beneficial interest in the trust. If there is no fiduciary acting, such payment or reissue will be made upon the request of the persons beneficially entitled upon satisfactory proof of the facts.

7. *Payment or reissue upon termination of guardianship.*—A savings bond registered in the name of a guardian or other legal representative of the estate of a minor or incompetent will be reissued in the name of the ward upon the request of the representative or will be paid to, or reissued in the name of, the ward upon his request, supported in either case by satisfactory proof that the former minor has attained his majority or that the former incompetent has been restored to competency. Certification by the representative that the former minor has attained his majority will ordinarily be accepted as sufficient.

XII. PRIVATE CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS, ETC.

1. *Payment to corporations or unincorporated associations.*—A savings bond registered in the name of a private corporation or an unincorporated association will be paid upon a request for payment signed by a duly authorized officer thereof. The signature to the request should be in the form, for example, "The Jones Coal Company, a corporation, by William A. Smith, President," or "The Lotus Club, an unincorporated association, by John Jones, Treasurer". A request for payment so signed and duly certified in accordance with Section VI hereof will ordinarily be accepted without further proof of the officer's authority.

2. *Payment to partnerships.*—A savings bond registered in the name of a partnership will be paid upon a request for payment signed by any general partner. The signature to the request should be in the form "Smith and Jones, a partnership, by John Jones, a general partner". A request for payment so signed and duly certified in accordance with Section VI hereof will ordinarily be accepted as sufficient proof that the person signing the request is a general partner.

3. *Successors to corporations or unincorporated associations.*—A savings bond registered in the name of a private corporation or an unincorporated association which has been succeeded by operation of law by another corporation or unincorporated association as the result of merger, consolidation, conversion or reorganization, duly effected by authority of law, will be paid to, or reissued in the name of, the succeeding corporation or unincorporated association, upon proper request and satisfactory proof of successorship. This applies only to legal succession and not to a general assignment by one organization to another.

XIII. STATES, PUBLIC CORPORATIONS, AND PUBLIC BOARDS, COMMISSIONS AND OFFICERS

1. *In names of States, public corporations and public boards.*—A savings bond registered in the name of a State or of a county, city, town, village or other public corporation, or in the name of a public board or commission, will be paid upon a request for payment signed in the name of such State, corporation, board, or commission by a duly authorized officer thereof. A request for payment so signed and duly certified in accordance with Section VI hereof will ordinarily be accepted without further proof of the officer's authority.

2. *In names of public officers.*—A savings bond registered in the title, without the name, of an officer of a State or public corporation, such as a county, city, town or village, will be paid upon a request for payment signed by the designated officer. The fact that the request for payment is signed and duly certified in accordance with Section VI hereof will ordinarily be accepted as sufficient proof that the person signing is the incumbent of the designated office.

XIV. DECEASED OWNERS

1. *Payment or reissue on death of owner.*—Upon the death of the owner of a savings bond, not survived by a coowner or designated beneficiary, the bond will be paid or reissued as hereinafter provided:

(a) *In course of administration.*—If the estate of the decedent is being administered in a court of competent jurisdiction, the bond will be paid, or reissued in authorized denominations, upon the request of the duly appointed and qualified representative of the estate. If payment is desired, the request for payment on the back of the bond should be executed. Payment will be made only to the representative. If reissue is desired, the representative should execute a request on Form P. D. 1455 and should certify thereon that the persons in whose names reissue is requested are entitled to the bond as heirs or legatees, to the extent specified with respect to each, and have agreed to such reissue. The request for payment or reissue should be signed in the form, for example, "John A. Jones, administrator of the estate (or executor of the will) of Henry W. Jones, deceased." Reissue will be made in the name of the person entitled, payable on death to a designated beneficiary, upon appropriate request on Form P. D. 1077 by the person entitled, in addition to the request and certification by the representative on Form P. D. 1455, but will not be made in the names of two or more persons as coowners. The request for payment or reissue must be supported by proof of the representative's authority. Such proof may consist of a court certificate or a certified copy of the representative's letters of appointment, issued by the court having jurisdiction. The certificate, or the certification to the letters, must be under the seal of the court, must contain a statement that the appointment is in full force, and should be dated within six months of the date of presentation of the bond for payment or reissue. If the representative is himself the person entitled and desires reissue in his own name a special order of court, show-

ing that he is entitled to the bond in his own right, must be furnished. (For request for payment executed by corporate representatives see Section XI–2.)

(b) *After settlement through court proceedings.*—If the estate of the decedent has been settled in a court of competent jurisdiction, the bond will be paid to, or reissued in authorized denominations in the name of, the person or persons entitled thereto as heirs or legatees, as shown by the final account, decree of distribution or other court records, supplemented, if there are two or more persons having any apparent interest in the bond, by an agreement executed by all such persons. The person or persons entitled should execute appropriate requests for payment or reissue, using Form P. D. 1459 for requesting reissue in the name of the person entitled alone, and Form P. D. 1077 for requesting reissue in the name of the person entitled, payable on death to a designated beneficiary. Reissue will not be made in the names of two or more persons as coowners. The request for payment or reissue, and the agreement, if required, must be supported by duly certified copies of the necessary court records.

(c) *Without administration.*—If no legal representative of the decedent's estate has been or is to be appointed, and if it is established to the satisfaction of the Secretary of the Treasury either that the gross value of the personal estate does not exceed $500 or that administration of the estate is not required in the state of the decedent's last domicile, the bond will be paid to, or reissued in authorized denominations in the names of, the person or persons entitled thereto as heirs or legatees pursuant to an agreement of all persons entitled to any share in the estate, without requiring administration on the estate. The person or persons entitled should execute appropriate requests for payment or reissue, using Form P. D. 1459 for requesting reissue in the name of the person entitled alone, and Form P. D. 1077 for requesting reissue in the name of the person entitled, payable on death to a designated beneficiary. Reissue will not be made in the names of two or more persons as coowners. The request for payment or reissue must be supported by (1) affidavits by all persons entitled to any share in the estate, setting forth the facts in detail, and their agreement for the distribution of the bond, (2) proof that the debts of the decedent and of his estate have been paid or provided for, (3) affidavits of credibility by two disinterested persons having personal knowledge of the decedent and his family and (4) a death certificate or other proof of the death of the decedent. (Use Form L&C 285, copies of which may be procured from the Treasury Department, Division of Loans and Currency, Washington, D. C., or from any Federal Reserve Bank.) No payment or reissue will be permitted without administration if any of the persons entitled are minors or incompetents, except to them or in their names, in whole or to the extent of their interests in the decedent's entire personal estate, or upon compliance with the provisions of Sections VII and VIII hereof governing payment of savings bonds registered in the names of such persons.

XV. CREDITORS' RIGHTS AND JUDICIAL PROCEEDINGS

1. *Judicial proceedings.*—A savings bond will be paid to, but not reissued in the name of, the person found entitled thereto through judicial proceedings, upon presentation and surrender of the bond: *Provided, however,* That no such proceedings will be recognized if they would give effect to an attempted voluntary transfer of the bond or would defeat or impair the rights of survivorship conferred by these regulations upon coowners and beneficiaries. Such payment will be made to the extent of the interest determined, at the redemption value current thirty days after the proceedings have become final or current at the time the bond is presented for payment, whichever is earlier. In appropriate cases the Treasury Department will require proof that the court acting had jurisdiction over the parties and subject matter, and proceeded in due course of its jurisdiction, and that the judgment or decree is final and conclusive, that it has fully and effectually transferred the title of the owner, and that it is not open to attack in any jurisdiction whatever. For this purpose duly authenticated copies of the complaint, order and proof of service, all pleadings and records of other proceedings, the final judgment, order or decree of the court and any further proceedings thereunder, must be furnished, together with a certificate, under seal, from the clerk of the court showing that no appeal, motion for new trial, or other proceeding which may result in modifying the judgment has been taken, made, or applied for; that the time for such action has expired (or that any such proceedings have been finally terminated), and that the judgment is in full force and effect and has become final under the laws of the jurisdiction. In addition, reference should be furnished to the constitution or statutes of the state conferring jurisdiction upon the court and regulating the manner in which such jurisdiction may be exercised. The Secretary of the Treasury in any case may require such further information, documents, and security as he deems necessary.

2. *Bankruptcy or insolvency.*—Payment (but not reissue) of a savings bond will be made to a duly qualified receiver or trustee in bankruptcy of the estate of the registered owner, adjudicated bankrupt or insolvent, upon request for payment duly executed by such receiver or trustee and supported by satisfactory proof of his appointment and qualification.

XVI. PLEDGE WITH SECRETARY OF TREASURY

1. *Use in lieu of surety under Department Circular No. 154.*—Notwithstanding any other provisions of this or any other circular, a savings bond may be pledged by the registered owner in lieu of surety under the provisions of Department Circular No. 154, amended: *Provided,* That the bond approving officer is the Secretary of the Treasury. In such cases an irrevocable power of attorney shall be executed authorizing the Secretary to request payment, and payment of the bond will, if it becomes necessary, be made upon such request at the then appropriate redemption value. No pledge to a bond approving officer other than the Secretary of the Treasury will be permitted. In no other case are savings bonds suitable for use as collateral, nor will a power of attorney to request payment be recognized in any other case.

XVII. REISSUE AND DENOMINATIONAL EXCHANGE

1. *In general.*—Reissue of a savings bond in a different form of registration will be made only in the following instances:

(a) To correct an established error in the original issue;

(b) To show a change in the name of the owner whether by marriage or in any other legal manner;

(c) As specifically provided in this circular.

Reissues pursuant to (b) and (c) above will be made only at the Treasury Department, Division of Loans and Currency, Washington, D. C., and requests therefor should be made on appropriate forms, copies of which may be obtained from that Division or from any Federal Reserve bank. Bonds held in excess of the lawful limit, calculated in accordance with Section III hereof, will not be reissued.

2. *Restrictions on denominational exchange.*—Exchange as between authorized denominations of savings bonds will not be permitted except in cases of partial redemption or authorized cases of reissue.

3. *Description of new bonds.*—In all cases of reissue the savings bonds will be of the same series, will bear the same issue dates as the savings bonds surrendered and will mature on the same dates.

XVIII. FURTHER PROVISIONS

1. *Regulations prescribed.*—These regulations are prescribed by the Secretary of the Treasury as governing United States Savings Bonds issued under the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, and the provisions of Treasury Department Circular No. 300, as amended, have no application to such savings bonds except as hereinbefore specifically provided.

2. *Additional proof; bond of indemnity.*—The Secretary of the Treasury, in any case arising under these regulations, may require such additional proof as he may consider necessary or advisable in the premises; and may require a bond of indemnity with satisfactory sureties, or an agreement of indemnity, in any case where he may consider such a bond or agreement necessary for the protection of the interests of the United States.

3. *Supplements or amendments.*—The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing United States Savings Bonds.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

[F. R. Doc. 38–3860; Filed, December 21, 1938; 3:45 p. m.]

[1938—Dept. Circ. 596]

OFFERING OF UNITED STATES SAVINGS BONDS, SERIES D

DECEMBER 15, 1938.

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, approved September 24, 1917, as amended, offers for sale, to the people of the United States, through the Postal Service and other designated agencies (see paragraph 6), an issue of bonds of the United States, designated United States Savings Bonds, Series D, which will be issued on a discount basis, in amounts of $25 (maturity value) and multiples thereof, will mature in 10 years from the issue date, but will be redeemable before maturity at the option of owners. These bonds will be placed on sale beginning January 1, 1939, and will continue to be on sale until this offering is terminated by notice given by the Secretary of the Treasury to the Postmaster General and to other designated sales agencies.

2. By notice heretofore given to the Postmaster General and to other designated sales agencies, the sale of United States Savings Bonds of Series C pursuant to Department Circular No. 571,[1] dated December 16, 1936, as amended, will terminate on December 31, 1938. All applications for United States Savings Bonds received by mail subsequent to December 31, 1938, will be treated as applications for Series D bonds. Savings bonds of any series prior to Series D may not be purchased after December 31, 1938.

DESCRIPTION OF BONDS OFFERED

3. United States Savings Bonds, Series D, will be issued only in registered form, in denominations of $25, $50, $100, $500, and $1,000 (maturity values), at prices hereinafter set forth, and each bond will have inscribed thereon by the authorized postmaster (or other agent) at the time of original issue the name and address of the owner, the date as of which issued, and the date of maturity and will bear an imprint of the dating stamp (with current date) of the postmaster or other issuing agent in the circle in the lower left corner of the bond. Each bond will also bear the facsimile signature of the Secretary of the Treasury, and the seal of the Treasury will be impressed thereon. All such savings bonds will be dated as of the first day of the month in which the issue price (or the application accompanied by remittance to cover the issue price) is received by an authorized agent; they will mature and be payable 10 years from such issue date. Savings bonds may not be called for redemption by the Secretary of the Treasury prior to maturity, but they may be redeemed prior to maturity (but not within 60 days after the issue date) at the owner's option, in accordance with the table of redemption values appearing at the end of this circular. Partial redemption of savings bonds of denominations other than $25 (maturity value) will be permitted in accordance with regulations prescribed from time to time by the Secretary of the Treasury (see paragraph 14). No interest will be paid on savings bonds, but they increase in redemption value at the end of the first year from issue date, and at the end of each successive half-year period thereafter until their maturity, when the face amount becomes payable. The increment in value is payable only upon redemption of the bond. A table of redemption values for each bond appears on the face thereof. The purchase price of savings bonds has been fixed so as to afford as investment yield of about 2.9 percent per annum compounded semiannually if the bonds are held to maturity; if the owner exercises his option to redeem a bond prior to maturity the investment yield will be less (see table at the end of this circular).

4. The savings bonds will not be transferable, and will be payable only to the owner named thereon, except in case of death or disability of the owner or as otherwise specifically provided in regulations prescribed from time to time by the Secretary of the Treasury (see paragraph 14), and in any event only in accordance with such regulations. Accordingly they may not be sold and may not be hypothecated as collateral for a loan. Savings bonds shall be valid only if inscribed with the owner's name and address, dated the first day of the month in which the issue price (or the application accompanied by remittance to cover the issue price) is received, and duly delivered by an authorized postmaster or other issuing agent; if issued by a postmaster they will bear the postoffice dating (money-order) stamp, and if issued by another agent they will bear the dating stamp of that agent.

5. Each of the bonds issued hereunder will be entitled to such exemption from taxation as may be authorized by the law in effect on its issue date. Under the law in effect on the date of this circular (December 15, 1938) the bonds are exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States or by any local taxing authority, except (a) estate or inheritance taxes, or gift taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations; the interest on an amount of bonds authorized by the Second Liberty Bond Act, approved September 24, 1917, as amended, the principal of which does not exceed in the aggregate $5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in clause (b) above; and further, for the purposes of determining taxes and tax exemptions, the increment in value of savings bonds represented by the difference between the price paid and the redemption value received (whether at or before maturity) shall be considered as interest.

PURCHASE

6. Savings bonds of Series D may be purchased for cash at post offices of the first, second, and third classes, and at selected post offices of the fourth class, at any time while this offer is in effect; and, subject to regulations prescribed by the Board of Trustees of the Postal Savings System, the withdrawal of postal savings deposits will be permitted for the purpose of acquiring savings bonds. Savings bonds may also be purchased by mail upon application to the Treasurer of the United States, Washington, D. C., or to any Federal Reserve Bank,[2] accompanied by a remittance to cover the issue price. Any Federal Credit Union or Federal Savings and Loan Association which has been designated and has qualified for employment as fiscal agent of the United States for the purpose may accept, from its members only, applications for United States Savings Bonds, accompanied by remittance of the issue price, and will transmit such applications and remittances to the appropriate Federal Reserve Bank for issue of the bonds.[3] The issue prices of the various denominations of savings bonds of Series D follow:

Denomination (maturity value)	$25.00	$50.00	$100	$500	$1,000
Issue (purchase) price	18.75	37.50	75	375	750

[1] 2 F. R. 2752 (3186 DI).

[2] The Federal Reserve Banks are located at Boston, Mass., New York, N. Y., Philadelphia, Pa., Cleveland, Ohio, Richmond, Va., Atlanta, Ga., Chicago, Ill., St. Louis, Mo., Minneapolis, Minn., Kansas City, Mo., Dallas, Tex., and San Francisco, Calif.

[3] For regulations governing Federal Savings and Loan Associations and Federal Credit Unions, as fiscal agents of the United States, in connection with the sale of United States Savings Bonds to their members, see Department Circular No. 568, dated September 15, 1936.

LIMITATION OF HOLDINGS

7. Section 22 of the Second Liberty Bond Act, as amended, provides that it shall not be lawful for any one person at any one time to hold savings bonds issued during any one calendar year in an aggregate amount exceeding $10,000 maturity value. In determining whether this limitation is exceeded at any time by any one person, there must be taken into account the aggregate present interest of that person at such time in the maturity value of all savings bonds issued during any one calendar year including, but not limited to, (a) the entire maturity value of (1) bonds registered in the name of that person alone, (2) those registered in his name with another named as coowner; as well as (b) the extent of his present interest in (3) those held for his benefit by a fiduciary and (4) those in which a present interest has been acquired by him on the death of another or on the happening of any other event. Bonds of which the person is merely the designated beneficiary in case of the death of the owner, or bonds which are held by him in a fiduciary capacity only, or those in the income and principal of which he has only a future interest need not be included. Any one person may hold up to $10,000, maturity value, of savings bonds issued during any one calendar year and up to an additional $10,000, maturity value, issued in any other calendar year (January 1 to December 31), so long as these bonds are offered for sale. If any person at any time acquires a present interest in savings bonds issued during any one calendar year in an amount exceeding $10,000, maturity value, he should immediately surrender the excess, which will be redeemed at the redemption value current on the date the excess arose.

AUTHORIZED FORMS OF REGISTRATION

8. United States Savings Bonds may be registered (1) in the name of any natural person (that is, an individual) whether an adult or a minor, (2) in the names of two (but not more than two) natural persons as coowners, (3) in the name of one natural person payable on death to a single designated natural person, (4) in the name of any incorporated or unincorporated body, (5) in the name of a fiduciary, and (6) in the name of the owner or custodian of public funds. Full information as to the authorized forms of registration for United States Savings Bonds will be found in the regulations prescribed from time to time by the Secretary of the Treasury (see paragraph 14). These regulations may be seen at any post office and may be obtained from the Treasury Department, Division of Loans and Currency, Washington, D. C., or from any Federal Reserve Bank.

DELIVERY AND SAFEKEEPING OF BONDS

9. Postmasters and other agents from whom savings bonds may be purchased are authorized to deliver such bonds duly inscribed and dated upon receipt of the issue price. Delivery should not be accepted by any purchaser until he has verified that the correct name and address are duly inscribed on the face of the bond, that the bond is duly dated as of the first day of the month in which payment of the issue price was received by the agent, that the maturity date (10 years after the issue date) is entered thereon, and that the dating stamp (with current date) of the postmaster or other issuing agent is imprinted in the circle in the lower left corner of the bond.

10. A savings bond will be held in safekeeping without charge by the Secretary of the Treasury if the holder so desires, and in such connection the facilities of the Federal Reserve Banks as fiscal agents of the United States will be utilized.[4] Arrangements may be made for such safekeeping as provided in regulations prescribed from time to time by the Secretary of the Treasury (see paragraph 14), at the time of purchase or subsequently. Postmasters generally will assist holders in arranging for safekeeping, but will not act as safekeeping agents.

PAYMENT AT MATURITY OR ON REDEMPTION PRIOR TO MATURITY

11. (a) *General.*—Any savings bond will be paid in full at maturity, or, at the option of the owner, will be redeemed in whole or in part at the appropriate redemption value prior to maturity (but not within 60 days after the issue date), in accordance with the terms of the regulations prescribed from time to time by the Secretary of the Treasury (see paragraph 14), following presentation and surrender of the bond, by registered mail or otherwise, at the expense and risk of the owner, to the Treasury Department, Washington, D. C., or to any Federal Reserve Bank,[4] with a request for payment properly executed. Unless otherwise directed by the Department the form of request appearing on the back of the bond should be used.

(b) *Execution of request for payment.*—The registered owner, or other person entitled to payment under the regulations of the Treasury Department, must appear before one of the officers authorized by the Secretary of the Treasury to witness and certify requests for payment (see paragraph (c), below), establish his identity, and in the presence of such officer sign the request for payment adding his current post-office address. After the request for payment has been so signed, the witnessing officer should complete and sign the certificate provided, and the bond should then be presented and surrendered as provided in subparagraph (d), following.

(c) *Officers authorized to witness and certify requests for payment.*—The officers authorized to witness and certify requests for payment of savings bonds are set forth in regulations prescribed from time to time by the Secretary of the Treasury, such officers including United States postmasters and certain other post-office officials, and executive officers of any bank or trust company incorporated in the United States or its organized territories, including officers at domestic and foreign branches who are certified to the Treasury Department as executive officers. For a complete list of officers now authorized to witness and certify requests for payment of savings bonds see Section VI, paragraph 3, of Treasury Department Circular No. 530, Second Revision, dated December 15, 1938.

(d) *Presentation and surrender.*—After the request for payment has been duly executed by the owner and the certifying officer, the bond must be delivered to the Treasury Department or to a Federal Reserve Bank at the expense and risk of the owner and, for his protection, the bond should be forwarded by registered mail if not presented in person.

(e) *Disability or death.*—In case of the disability of the registered owner or the death of a registered owner not survived by a coowner or designated beneficiary instructions should be obtained from the Treasury Department, Division of Loans and Currency, Washington, D. C., before the request is executed.

(f) *Methods of payment.*—Postmasters generally will assist owners in securing payment at or before maturity but they will not make payment of savings bonds. Payment in all cases will be made by the issuance of a check drawn to the order of the registered owner or other person entitled to payment, and mailed to the address given in the request for payment.

(g) *Partial redemption.*—Partial redemption of a savings bond of a denomination higher than $25 (maturity value) at current redemption value is permitted, but only in multiples of $25 (maturity value). In case of partial redemption the remainder will be reissued in authorized denominations bearing the same issue date as the bond surrendered for partial redemption.

AUTHORIZED REISSUES

12. Reissue of savings bonds in a different form of registration is authorized in certain instances, concerning which full information is given in regulations prescribed from time to time by the Secretary of the Treasury (see paragraph 14).

SERIES DESIGNATION

13. Savings bonds of Series D, offered hereunder, to be issued during the calendar year 1939, will be designated Series D–1939, and those which may be issued in subsequent years will be similarly designated by the series letter followed by the year of issue. The designations of savings bonds heretofore issued, as evidenced by their series letters and the respective years of issue inscribed thereon, follow:

Series A–1935 for bonds of Series A issued during 1935.

Series B–1936 for bonds of Series B issued during 1936.

Series C–1937 for bonds of Series C issued during 1937.

Series C–1938 for bonds of Series C issued during 1938.

GENERAL PROVISIONS

14. All savings bonds issued pursuant to this circular shall be subject to regulations prescribed from time to time by the Secretary of the Treasury. Such regulations may require, among other things, reasonable notice in case of presentation of savings bonds for redemption prior to maturity. The present regulations governing savings bonds issued hereunder are contained in Treasury Department Circular No. 530, Second Revision, dated December 15, 1938.

15. The Secretary of the Treasury may designate agencies other than those herein designated for the sale of United States Savings Bonds of Series D, and he reserves the right to refuse to issue or permit to be issued hereunder any such savings bonds in any case or class or classes of cases if he deems such action to be in the public interest.

16. Postmasters of the first, second, and third classes, and selected postmasters of the fourth class, under regulations promulgated by the Postmaster General, and Federal Reserve Banks and designated and qualified Federal Credit Unions and Federal Savings and Loan Associations, as fiscal agents of the United States, are authorized to perform such fiscal agency services as may be requested of them in connection with the issue, delivery, safekeeping, redemption, and payment of savings bonds.

17. The Secretary of the Treasury may at any time or from time to time supplement or amend the terms of this circular, information as to which will be promptly furnished to the Postmaster General and other agents acting as fiscal agents of the United States in connection with savings bonds.

[SEAL] HENRY MORGENTHAU, JR.,
Secretary of the Treasury.

Table Showing How United States Savings Bonds of Series D Increase in Redemption Value During the Successive Half-Year Periods Following Issue,[1] and the Approximate Investment Yield at the Beginning of each Such Period Shown as Rate Percent per Annum, Compounded Semiannually

Maturity value / Issue price	$25.00 / $18.75	$50.00 / $37.50	$100 / $75	$500 / $375	$1,000 / $750	Approximate investment yield at beginning of each half-year period
Period after issue date	Redemption values during each period					
						Percent
First year	$18.75	$37.50	$75.00	$375.00	$750.00	None
1 to 1½ years	19.00	38.00	76.00	380.00	760.00	1.33
1½ to 2 years	19.25	38.50	77.00	385.00	770.00	1.76
2 to 2½ years	19.50	39.00	78.00	390.00	780.00	1.97
2½ to 3 years	19.75	39.50	79.00	395.00	790.00	2.09
3 to 3½ years	20.00	40.00	80.00	400.00	800.00	2.16
3½ to 4 years	20.25	40.50	81.00	405.00	810.00	2.21
4 to 4½ years	20.50	41.00	82.00	410.00	820.00	2.24
4½ to 5 years	20.75	41.50	83.00	415.00	830.00	2.26
5 to 5½ years	21.00	42.00	84.00	420.00	840.00	2.28
5½ to 6 years	21.25	42.50	85.00	425.00	850.00	2.29
6 to 6½ years	21.50	43.00	86.00	430.00	860.00	2.29
6½ to 7 years	21.75	43.50	87.00	435.00	870.00	2.30
7 to 7½ years	22.00	44.00	88.00	440.00	880.00	2.30
7½ to 8 years	22.50	45.00	90.00	450.00	900.00	2.45
8 to 8½ years	23.00	46.00	92.00	460.00	920.00	2.57
8½ to 9 years	23.50	47.00	94.00	470.00	940.00	2.67
9 to 9½ years	24.00	48.00	96.00	480.00	960.00	2.76
9½ to 10 years	24.50	49.00	98.00	490.00	980.00	2.84
At maturity	25.00	50.00	100.00	500.00	1,000.00	2.90

[1] This table also applies to United States Savings Bonds of prior series issued on or before December 31, 1938.

[F. R. Doc. 38–3861; Filed, December 21, 1938; 3:46 p. m.]

TITLE 36—PARKS AND FORESTS

FOREST SERVICE

NATIONAL FOREST TIMBER

MODIFICATION OF REGULATION S–16

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat. 628), amendatory of the Act of June 4, 1897 (30 Stat. 11, 35), I, H. A. Wallace, Secretary of Agriculture, do hereby amend Regulation S–16 of the rules and regulations governing the occupancy, use, protection and administration of the National Forests by modifying the last paragraph thereof to read as follows:

REG. S–16. * * *

National Forest timber sold on scale shall be scaled by the Scribner Decimal C log rule, or, if the advertisement and agreement or permit so state, by the International ¼ inch log rule or by the cubic volume rule, each as used by the Forest Service.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 22d day of December 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3875; Filed, December 22, 1938; 12:23 p. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

STOCK DRIVEWAY WITHDRAWALS NOS. 3 AND 44, WYOMING NOS. 1 AND 8, ADJUSTED

DECEMBER 12, 1938.

It is ordered that so much of departmental order of October 20, 1917, as defined Stock Driveway Withdrawal No. 3, Wyoming No. 1, in secs. 31 to 34, inclusive, T. 43 N., R. 84 W., 6th P. M., be construed in conformity with the official plat of independent resurvey approved by the General Land Office on November 9, 1934, and so much of departmental order of January 31, 1920, as defined Stock Driveway Withdrawal No. 44, Wyoming No. 8, in sec. 34, T. 49 N., R. 103 W., be construed in conformity with the plat of resurvey and the supplemental plat approved August 8, 1907, and March 25, 1921, respectively, to read as follows:

SIXTH PRINCIPAL MERIDIAN

T. 43 N., R. 84 W.,
sec. 31, Lots 5 to 11, inclusive, NE¼SW¼ and N½SE¼,
sec. 32, Lots 3 to 7, inclusive, and NW¼SW¼,
sec. 33, Lots 5 to 8, inclusive,
sec. 34, Lots 1 and 2;
T. 49 N., R. 103 W.,
sec. 34, NE¼NE¼, Lots 1, 3, 4, 8, 9 and 10.

HARRY SLATTERY,
Under Secretary of the Interior.

[F. R. Doc. 38–3863; Filed, December 22, 1938; 9:43 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

ORDER IN THE MATTER OF ANNUAL REPORTS FROM STEAM RAILWAY COMPANIES AND SWITCHING AND TERMINAL COMPANIES OF CLASS I AND CLASS II

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 12th day of December, A. D. 1938

The subject of the requirement of annual reports from steam railway companies and switching and terminal companies of Class I and Class II being under consideration:

It is ordered:

1. That the order of this Commission dated December 28, 1937,[1] in the Matter

[4] For locations of Federal Reserve Banks see footnote 1 above.

[1] 3 F.R. 22 DI.

of Annual Reports from Steam Railway Companies and Switching and Terminal Companies of Class I and Class II, is hereby annulled.

2. That all steam railway companies and switching and terminal companies of Class I and Class II subject to the Interstate Commerce Act be, and they hereby are, required to file annual reports for the year ending December 31, 1938, and for each succeeding year until further order, in accordance with Annual Report Form A (Large and Medium Steam Roads and Switching and Terminal Companies), which is hereby approved and made a part of this order:[2] *Provided, however*, That in lieu of the footnotes to the balance sheet on pages 201 and 201B reading "*Includes $------ taxes vouchered and unpaid" and "#Excludes $----- taxes in litigation in formal court proceedings not accrued" there shall be substituted a separate and more complete return on attached form designated "Tax Liabilities and Contingencies" which is hereby approved and made a part of this order.[2]

It is further ordered, That the annual report shall be filed in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3872; Filed, December 22, 1938; 12:14 p. m.]

TITLE 50—WILDLIFE

BUREAU OF FISHERIES

JOINT REGULATIONS OF THE SECRETARY OF THE TREASURY AND THE SECRETARY OF COMMERCE CONCERNING WHALING

Pursuant to the authority of the Whaling Treaty Act of May 1, 1936, 49 Stat. 1246 (U. S. C., Sup. III, title 16, secs. 901–915), to give effect to the Convention between the United States and certain other countries for the regulation of whaling, concluded at Geneva, September 24, 1931, signed on the part of the United States March 31, 1932, and effective January 16, 1935 (49 Stat. pt. 2, 3079), and the International Agreement for the Regulation of Whaling, signed at London, June 8, 1937, and effective May 7, 1938 (52 Stat. 1460), we, the Secretary of the Treasury and the Secretary of Commerce, hereby make, prescribe, and promulgate the following joint regulations:

Art. 1. When used in these regulations, the term—

(a) "Convention" means the Convention between the United States and certain other countries for the regulation of whaling, concluded at Geneva, September 24, 1931, signed on the part of the United States, March 31, 1932, and effective January 16, 1935 (49 Stat. pt. 2, 3079).

(b) "Act" means the Whaling Treaty Act of May 1, 1936, 49 Stat. 1246 (U. S. C., Sup. III, title 16, secs. 901–915).

(c) "Agreement" means the International Agreement for the Regulation of Whaling, signed at London, June 8, 1937, and effective May 7, 1938 (52 Stat. 1460).

(d) "Inspector" means any officer of the United States Coast Guard assigned to duty in connection with whaling operations by the Commandant, United States Coast Guard.

(e) "Factory ship" means a ship in which or on which whales are treated whether wholly or in part.

(f) "Whale catcher" means a ship used for the purpose of hunting, taking, towing, holding on to, or scouting for whales.

(g) "Land station" means a factory on the land, or in the territorial waters adjacent thereto, or a factory ship which remains moored in territorial waters in one position during a whaling season, in which or at which whales are treated whether wholly or in part.

(h) "Length" in relation to any whale means the distance measured on the level in a straight line between the tip of the upper jaw and the notch between the flukes of the tail.

(i) "Baleen whale" means any whale having blades of whalebone attached to the roof of its mouth.

(j) "Right whale" means any whale known by the name of Atlantic right whale, Arctic right whale, Biscayan right whale, bowhead, great polar whale, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, pigmy right whale, southern pigmy right whale, or southern right whale.

(k) "Gray whale" means any whale known by the name of gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

(l) "Blue whale" means any whale known by the name of blue whale, Sibbald's rorqual, or sulphur bottom.

(m) "Fin whale" means any whale known by the name of common finback, common finner, common rorqual, finback, fin whale, herring whale, razorback, or true fin whale.

(n) "Humpback whale" means any whale known by the name of bunch, humpback, humpback whale, humpbacked whale, hump whale, or hunchbacked whale.

(o) "Sei whale" means any whale known by the name of sei whale, Bryde's whale, pollock whale, or Rudolphi's whale.

(p) "Least rorqual whale" means any whale known by the name of least rorqual whale, Davidson's piked whale, little piked whale, Minke's whale, or sharpnosed finner.

(q) "Sperm whale" means any whale known by the name of sperm whale, spermacet whale, cachalot, or pot whale.

Art. 2. The provisions of the Convention, the Agreement, the Act, and these regulations apply to any national, vessel, or boat of the United States, or whale catcher operating pursuant to a whaling license issued under the Act, in any waters in the world and to any person, vessel, or boat in the United States, its territories or possessions, including the territorial waters thereof.

Art. 3. Calves, suckling whales, immature whales, or the young of any whale include, among others, whales having a length less than the following dimensions:

	Feet
Blue whales	70
Fin whales	55
Humpback whales	35
Sei whales	40
Least rorquals	18
Sperm whales	35

Art. 4. Except as provided in Articles 5 to 10 inclusive of these regulations, the hunting, taking, capturing, killing, possession, sale, purchase, shipment, transportation, carriage, import, or export of any baleen whale, or the possession, sale, purchase, shipment, transportation, carriage, import, or export of any part or product thereof, is compatible with the terms of the Convention and the Agreement and is permitted by these regulations.

Art. 5. The hunting, taking, capturing, killing, possession, sale, purchase, shipment, transportation, carriage, import, or export of any right or gray whale, or of any calf, suckling whale, immature whale, or the young of any whale, or of any female whale accompanied by any calf or suckling whale, or the possession, sale, purchase, shipment, transportation, carriage, import, or export of any part or product thereof, is incompatible with the terms of the Agreement and is prohibited by these regulations.

Art. 6. (a) The use of a factory ship or a whale catcher operated in connection therewith for the purpose of taking or treating baleen whales in any waters south of 40° South Latitude, except during the period from the 8th day of December to the 7th day of March following, both days inclusive, is incompatible with the terms of the Agreement and is prohibited by these regulations.

(b) When any factory ship or whale catcher operated in connection therewith has been used south of 40° South Latitude for the purpose of taking or treating baleen whales during the period from the 8th day of December to the 7th day of March following, its further use elsewhere within a period of twelve months from the said 7th day of March, for the purpose of taking or treating baleen whales is incompatible with the terms of the Agreement and is prohibited by these regulations.

Art. 7. The use of a land station or a whale catcher operated in connection therewith for the purpose of taking or treating whales in any area or in any waters for more than six months in any period of twelve months, such period of six months to be continuous, is incompatible with the terms of the Agreement and is prohibited by these regulations.

Art. 8. The use of a factory ship or a whale catcher operated in connection therewith for the purpose of taking or treating baleen whales in any of the following areas, is incompatible with the terms of the Agreement and is prohibited by these regulations:

(1) in the Atlantic Ocean north of 40° South Latitude and in the Davis Strait, Baffin Bay and Greenland Sea;

(2) in the Pacific Ocean east of 150° West Longitude between 40° South Latitude and 35° North Latitude;

(3) in the Pacific Ocean west of 150° West Longitude between 40° South Latitude and 20° North Latitude;

(4) in the Indian Ocean north of 40° South Latitude.

Art. 9. The delivery to any factory ship or land station of a greater number of whales than can be treated efficiently, in accordance with Article 11 of these regulations, by the plant and personnel therein within a period of 36 hours from the time of killing of each whale, is incompatible with the terms of the Agreement and is prohibited by these regulations.

Art. 10. The provisions of Articles 5 to 9 inclusive of these regulations, shall not apply—

(a) To whales killed, taken, or treated for scientific purposes under a special permit issued by the Secretary of Commerce: *Provided*, That, in case of the importation or exportation of any such whale or the product of any such whale, including oil, meat, bone, meal, or fertilizer, competent evidence that the Secretary of Commerce has authorized the killing, taking or treating thereof, must be presented to the Collector of Customs at the port of importation or exportation.

(b) To whales killed, taken, or treated by natives or Eskimos engaged in whaling who use only canoes or other native craft propelled by oars or sails, do not carry firearms, are not employed by others than natives or Eskimos, and are not under contract to deliver products or their whaling to any third person: *Provided*, That, in the case of the importation or exportation of any such whale or the produce of any such whale, including oil, meat, bone, meal, or fertilizer, the Collector of Customs for the Customs Collection District of Alaska (No. 31) may require, and all other collectors of customs for all other customs collection districts shall require, the presentation at the port of importation or exportation of satisfactory evidence of such facts.

Art. 11. The fullest possible use shall be made of all whales taken. Except in case of whales or parts of whales intended for human food or for feeding animals, the oil shall be extracted by boiling or otherwise from all blubber, meat (except the meat of sperm whales) and bones other than the internal organs, whale bone and flippers, of all whales delivered to the factory ship or land station.

Art. 12. (a) Each factory ship and land station shall have such inspectors on the ship or at the station as may be assigned to such duty by the Commandant, United States Coast Guard. The owner of any factory ship or land station shall notify the Commandant, United States Coast Guard, of the date on which the ship will depart on any whaling cruise, or of the date on which the station will begin whaling operations, at such time in advance thereof as will permit inspectors to report to the ship prior to its departure, or to report at the station before it begins whaling operations.

(b) The master or person in charge of any factory ship or land station shall provide inspectors with suitable and adequate subsistence and accommodations. For every day that each inspector is provided with subsistence and accommodations as aforesaid, he shall pay to the master or person in charge of the factory ship or land station a pro-rata share of the cost of subsisting the personnel of the factory ship or land station, not to exceed one dollar per day.

(c) Inspectors are authorized to be present at any whaling operations conducted by a factory ship, land station, or any vessel operated in connection therewith; to address inquiries to the master, person in charge, members of the crew, or any other employee of any such ship, station or vessel concerning such operations; to measure any whales taken; and to inspect and examine any such whales or the parts or products thereof.

(d) Inspectors shall report as soon as practicable to the Commandant, United States Coast Guard, the violation of any provision of the Convention, the Agreement, the Act, or these regulations. If the violation involves the taking of any whale, such report shall state all the facts relative thereto, and the amount of oil and other products derived from such whale.

Art. 13. (a) The master or person in charge of any factory ship or land station shall keep an accurate daily record of whaling operations including (1) the number of whales taken and the number of whales injured or killed and not recovered by the whale catchers; and also the time and place of taking, injuring, or killing such whales; (2) the species, sex, and length of each whale taken, and if any such whale contains a foetus, the length and sex, if ascertainable, of the foetus; (3) whether any whale taken was producing milk; and (4) the aggregate amounts of oil each grade and the quantities of meal, fertilizer, and other products derived from whales taken; and also shall forward a signed and dated report containing the foregoing data to the Commissioner of the Bureau of Fisheries within six weeks after the close of each whaling season. The master or person in charge of any factory ship or land station shall have available in his possession copies of the contracts of the gunners and members of the crew of such ship or station or any whale catcher operated in connection therewith. He shall also have available in his possession an accurate account showing the monthly pay of such persons and the factors upon which such pay is based and shall furnish within three months after the close of each whaling season, to the Secretary of Commerce, an account showing the total emolument of each gunner and member of the crew and the manner in which the emolument of each of them is calculated.

(b) The master or person in charge of any factory ship or land station shall permit any officer authorized to enforce the provisions of the Convention, the Agreement, the Act, or these regulations, to examine and inspect any such record, contract or account, and to make copies thereof, or excerpts therefrom at any time; shall furnish any such officer with such other data or information as may be required by the Secretary of the Treasury or the Secretary of Commerce pursuant to law and shall render all possible assistance to, and fully cooperate with, any such officer.

Art. 14. Nothing in these regulations shall be construed as applying to dolphins or porpoises, or permitting any act contrary to the laws or regulations of any State or Territory made for the purpose of giving further protection to whales when such laws or regulations are not inconsistent with the Convention, the Agreement, or the Act.

Art. 15. Nothing in these regulations shall be construed to limit or restrict the exercise of any authority conferred upon such inspectors or any other officers of the United States by any other provision of law or regulation.

Art. 16. Copies of the Act and these regulations shall be posted in a conspicuous and accessible place on each factory ship and at each land station.

Art. 17. The joint regulations concerning whaling approved May 18, 1938, are hereby superseded.

— [SEAL] DANIEL C. ROPER,
Secretary of Commerce.
H. MORGENTHAU, JR.,
Secretary of the Treasury.

DECEMBER 20, 1938.

Approved:

FRANKLIN D ROOSEVELT
The President,
The White House.

[F. R. Doc. 38-3871; Filed, December 22, 1938; 12:11 p. m.]

[2] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

Notices

DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 257]

AN ORDER PROVIDING FOR A MEETING OF THE CODE MEMBERS WITHIN DISTRICT NO. 10 FOR THE PURPOSE OF ELECTING A PERSON TO FILL A VACANCY EXISTING ON BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 10; PROVIDING FOR A TIME AND PLACE FOR SUCH MEETING, AND GIVING NOTICE THEREOF

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in the bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937 and to the bylaws of Bituminous Coal Producers Board for District No. 10, the National Bituminous Coal Commission hereby orders:

1. That all code members within District No. 10, as such district is defined in said Act, shall meet on the 5th day of January, 1939, at the hour of ten o'clock A. M., at the office of the District Board, 105 West Monroe Street, in the City of Chicago, Illinois, for the purpose of electing a person to fill the vacancy on Bituminous Coal Producers Board for District No. 10 created by the resignation of George W. Reed, elected a member of said board by votes cast in the proportion of the annual tonnage output of the code members in the district.

2. That the election to be held shall be in the manner provided in Section 4, Part I (a) of the Act and in conformity with Article III, Section 2 of the bylaws for Bituminous Coal Producers Board for District No. 10 which provides in part as follows:

"SEC. 2. *Vacancies.*—In the case of any vacancy among the producer members of the Board, by death, resignation or otherwise, either in the member elected by tonnage votes or in the member elected by the majority in number of the Code Members of the District represented at the election of the District Board, the Commision shall promptly order an election of a successor member of the Board to be held by the qualified Code Members of the District upon ten (10) days' notice. If such vacancy among the producer members of the Board is in a place formerly filled by a member elected by tonnage votes, the election of the successor member of the Board shall be by tonnage votes, * * *."

3. That the term of office of the member of the Board elected at said meeting shall be the unexpired term of his predecessor in office and until his successor is elected.

4. Each code member within said district may attend the meeting provided for herein and vote in the manner provided in said Act and Bylaw either in person or by proxy, and shall be entitled to cast votes equal to the number of tons produced by said code member during the calendar year 1937. No person other than a code member or his duly authorized proxy shall have any vote or voice at such meeting or the right to participate in such meeting. All proxies shall be in the form attached to this order, designated as Form No. DBE–1 and to be valid shall be executed in accordance with instructions thereon and filed in fact not less than twenty-four hours prior to the date and hour fixed for said meeting with Bituminous Coal Producers Board for District No. 10, and addressed to said board as follows: J. R. Henderson, Secretary, Bituminous Coal Producers Board for District No. 10, 105 West Monroe Street, Chicago, Illinois.

5. That J. R. Henderson, Secretary Bituminous Coal Producers Board for District No. 10, is hereby designated to act as Chairman of said meeting, with authority to prescribe rules for the proper conduct of said meeting.

6. That said J. R. Henderson, within ten days after said meeting, shall file with the Commission at Washington, D. C., a full report of the proceedings of said meeting.

7. The Secretary of the Commission is directed to mail a copy of this order, together with two copies of Form No. DBE–1, to each code member within District No. 10; to mail a copy of this order to the Secretary of Bituminous Coal Producers Board for District No. 10; and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 21st day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

FORM NO. DBE–1

The undersigned, a code member within District No. 10, as defined by the Bituminous Coal Act of 1937, does hereby make, constitute, and appoint _____ his, her, or its true and lawful proxy and attorney, to attend the meeting of code members of said district, to be held at ____ o'clock, __ m., on the _____ day of _____ 1939, and any adjournment or adjournments of said meeting, and there to cast any and all votes which the undersigned could or would cast, if personally present, in electing a person to fill vacancy existing on Bituminous Coal Producers Board for District No. 10; hereby ratifying and confirming any and all lawful acts of the said proxy and attorney done in conformity herewith.

In witness whereof the undersigned has caused these presents to be duly executed at _____, State of _____, this _____ day of _____, 193__.

Witness: _____

(1) _____ [SEAL]
(Individual, receiver, trustee, etc.)

(2) _____
(A partnership)

(3) _____
(A corporation)

By _____
(Name and title of officer)

Attest:

_____
(Name and title of officer)

[CORPORATE SEAL]

INSTRUCTIONS

Every proxy must be signed and acknowledged before an officer qualified to take acknowledgments, and must be accompanied by an acknowledgment conforming to the laws of the State in which the proxy was executed. Proxies on behalf of partnerships must be signed and acknowledged by a partner. Proxies on behalf of corporations must be acknowledged by a duly authorized principal officer or officers of the corporation, and certified copies of resolutions of the Board of Directors or other corporate authority must accompany each corporation proxy.

Attention is called to the fact that, if a code member desires to vote by proxy at the aforesaid meeting an executed and acknowledged original of this form must be filed with (actually in the possession of) Bituminous Coal Producers Board for District No. 10 at least 24 hours prior to the date and hour fixed for said meeting.

[F. R. Doc. 38–3876; Filed, December 22, 1938; 12:43 p. m.]

[Docket No. 498–FD]

ORDER IN THE MATTER OF THE APPLICATION OF WESTERN PENNSYLVANIA COAL CORPORATION FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY

At a special session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 21st day of December 1938.

It appearing that the above-named applicant, Western Pennsylvania Coal Corporation, a Pennsylvania corporation authorized to engage in business in the State of Pennsylvania, filed its application for provisional approval as a marketing agency on the 11th day of August 1938, pursuant to Order No. 6[1] of the Commission, and the matter being assigned to Trial Examiner David C. McCurtain, and proper notice having been given,[2] the same came on for hearing before the said Examiner on the 3rd day of October 1938, and at said hearing of the applicant having duly appeared and representatives of the Legal Division of the Commission and of the Consumers' Counsel having entered their respective appearances therein, the evidence was adduced; and

It further appearing that the Trial Examiner having received said evidence did, on the 30th day of November, 1938, file, with the Commission, his report and proposed findings of fact, together with his recommendations that said application be granted, and it appearing that true copies of said report and proposed findings of fact of the Examiner were duly served upon all parties appearing at said hearing, on the 2nd day of December, 1938, and more than 15 days having elapsed since the service of said report, no exceptions having been filed thereto; and

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[1] 2 F. R. 1078 (1287 DI).
[2] 3 F. R. 2233 DI.

The Commission having considered the application, the Report, the Proposed Findings of Fact, and Recommendation of the Examiner, and being fully advised of the evidence as the same is contained in the official transcript thereof finds that the "Findings of Fact" as proposed by the Examiner are in all respects true and correct, and are hereby adopted as the findings of the Commission, with the exception that the Commission finds that the requirement in the contract between the applicant and its producer members, to the effect that applicant must obtain the prior consent of a producer member as to contracts calling for future delivery of specified amounts of coal beyond a period of thirty days, was intended to be operative only as permitted by rules and regulations of the Commission, which, together with the applicable provisions of the Bituminous Coal Act of 1937, are controlling. That such was the intention is revealed by other provisions of the aforesaid contract in which the applicant and its producer members agree to comply with the provisions of the Act, the Code, and rules and regulations of the Commission; therefore, the Examiner's recommendation that the provisions of the applicant's contract relating to the aforesaid requirement be amended or stricken, is disapproved.

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937 the National Bituminous Coal Commission hereby orders:

That the application of the Western Pennsylvania Coal Corporation for provisional approval as a marketing agency be and the same is hereby granted and the said Western Pennsylvania Coal Corporation be and the same is hereby considered to be a marketing agency and provisionally approved as such within the purview of Section 12 of the Bituminous Coal Act of 1937 until further order of the Commission.

By order of the Commission.

Dated this 21st day of December, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-3877; Filed, December 22, 1938; 12:44 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

[Docket No. 3669]

IN THE MATTER OF GENERAL BAKING COMPANY

COMPLAINT

Pursuant to the provisions of an act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), as amended by an act approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C., Title 15, Section 13) and for other purposes" (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that General Baking Company, a corporation, is violating and has been violating the provisions of the said Clayton Act, as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, General Baking Company, is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business located at 420 Lexington Avenue, New York, N. Y.

PAR. 2. Respondent corporation is now and has been since June 19, 1936, engaged in the business of manufacturing, offering for sale, selling, and distributing bread, pastries, and allied products. Respondent sells and distributes said products in commerce between and among the various states of the United States and the District of Columbia, and preliminary to or as a result of such sales, causes said products to be shipped and transported from the place of origin of the shipment to the purchasers thereof who are located in states of the United States other than the state of origin of the shipment. There is and has been at all times herein mentioned a continuous current of trade and commerce in said products across state lines between respondent's factories and the purchasers of said products. Said products are sold and distributed for use, consumption, and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships, and firms engaged in the business of manufacturing, selling, and distributing bread, pastry, and allied products in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, since June 19, 1936, respondent has been and is now discriminating in price between different purchasers buying said products of like grades and qualities sold by the respondent in interstate commerce for use, consumption, and resale, by giving and allowing certain of its said purchasers of said products lower prices than given or allowed other of its said purchasers. Said discrimination in price is brought by the following practice and policy pursued by the respondent, to wit: In certain trade areas or localities respondent sells certain of its products, particularly bread, of the same grade, quality and weight at lower prices than it sells the identical product in other trade areas or localities, to illustrate: Respondent from its District of Columbia plant distributes bread to customers not only within said District but also to customers in the State of Virginia. Within the District of Columbia and to a designated point within the State of Virginia, to wit: Quantico, customers of respondent pay 10 cents for a 20-ounce loaf of bread. Beyond Quantico, Virginia, and within the trade area designated as Fredericksburg, customers of the respondent pay 8 cents for the identical loaf of bread that is sold to the customers previously referred to for 10 cents per loaf. To further illustrate, customers within the Norfolk, Virginia, trade area pay 18 cents for a 48-ounce loaf of bread and 9 cents for a 25-ounce (club) loaf of bread while other customers served from the Norfolk plant of the respondent pay 24 cents for the 48-ounce loaf of bread and 12 cents for the 25-ounce club loaf.

PAR. 5. The general effect of said discriminations in price so made by the respondent as above set forth has been or may be (a) substantially to lessen competition, or (b) to injure, destroy or prevent competition between the respondent and its competitors in the sale and distribution of such products, or (c) to tend to create a monopoly in respondent in said line of commerce in the various localities or trade areas in the United States in which such competitors, respectively, are engaged in business.

PAR. 6. The foregoing alleged acts and practices of said respondent are violations of Subsection 2 (a) of Section 1 of said Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C., Title 15, Section 13), and for other purposes."

Wherefore, the premises considered, the Federal Trade Commission on this 17th day of December, A. D., 1938, issues its complaint against said respondent.

NOTICE

Notice is hereby given you, General Baking Company, respondent herein, that the 20th day of January, A. D., 1939, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or fail-

ure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

* * * * *

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 17th day of December, A. D., 1938.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3864; Filed, December 22, 1938; 10:39 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File No 43-164]

IN THE MATTER OF GENERAL PUBLIC UTILITIES, INC.

ORDER RELATING TO EFFECTIVENESS OF DECLARATION

General Public Utilities, Inc., a registered holding company, having filed a declaration and amendments thereto with this Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue of a maximum of 15,212 shares of its no par common stock in connection with the payment of a proposed dividend on the outstanding common stock of the declarant; such proposed dividend is to be payable at the option of the stockholders either in the amount of $1.50 cash or in the amount of one-tenth of one share for each share of no par common stock held;

A public hearing having been held on the declaration pursuant to appropriate notice;[1] the Commission having considered the record in this matter and having made its findings herein;

It is ordered, That such declaration be and become effective forthwith subject to the following conditions:

(1) That the issue of the aforesaid no par common stock shall be effected in substantial compliance with the terms and conditions set forth in, and for the purposes represented by, said declaration, as amended.

(2) That within ten days after the issue of the aforesaid no par common stock, the declarant shall file with the Commission a certificate of notification showing the amount of cash paid and the number of shares issued and that such issue has been effected in accordance with the terms and conditions of, and for the purposes represented by, said declaration, as amended.

(3) That International Utilities Corporation and Commonwealth Distributions, Inc., affiliates of the declarant file applications pursuant to Section 10 of the Act for the approval of the Commission in regard to the acquisition of such securities as such companies have elected to receive in connection with the aforesaid dividend.

It is further ordered, That the Commission retain its jurisdiction in this matter to pass upon any application under Section 10 which may be filed by International Utilities Corporation or Commonwealth Distributions, Inc., affiliates of the declarant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3869; Filed, December 22, 1938; 11:01 a. m.]

[1] 3 F. R. 2818 DI.

United States of America—Before the Securities and Exchange Commisison

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of December, A. D. 1938.

[File No. 54-7]

IN THE MATTER OF HUNTINGTON GAS COMPANY

ORDER APPROVING APPLICATION

Huntington Gas Company, a registered holding company and a wholly owned subsidiary of Columbia Gas & Electric Corporation, also a registered holding company, having filed an application under Sections 12 (c) and 12 (d) of the Public Utility Holding Company Act of 1935 seeking approval for the transfer of 14,443 shares (99.9%) of the 6% Cumulative Preferred Stock of Huntington Development and Gas Company, a subsidiary, and of 39,871 shares (99.7%) of Huntington Development's common stock, all of which stock is presently held by the applicant; and also seeking approval of the acquisition and retirement by Huntington Gas Company of the outstanding shares of its own common stock; and

A public hearing having been held after appropriate notice;[1] a trial examiner's report, the right to submit findings of fact to the Commission and to have submitted to its proposed findings of fact by counsel to the Commission, the right to file briefs and the right to oral argument before the Commission having been waived:

It is hereby ordered, That the said application of Huntington Gas Company be and hereby is approved subject to the following condition:

That nothing in this record or these findings shall be held to bind the Commission with respect to the amounts of the accounting entries to be used in recording the value of the assets to be received by Columbia Gas & Electric Corporation upon dissolution of Huntington Gas Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3866; Filed, December 22, 1938; 11:00 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December, A. D. 1938.

[1] 3 F. R. 2845 DI.

[File No. 30-52]

IN THE MATTER OF CITIZENS PUBLIC SERVICE COMPANY, BY WILLIAM W. BATTLES, WINTHROP H. BATTLES, JOSEPH B. KEEN, AND SAMUEL H. REYNOLDS, JR., LIQUIDATING DIRECTORS AND TRUSTEES

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 5 (d) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on January 10, 1939, at ten o'clock in the a. m. of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 5, 1939.

The matter concerned herewith is in regard to the application of the Liquidating Directors of the above company for an order of the Commission declaring that such company has ceased to be a holding company by reason of the fact that its sole assets were securities of Eastern Utilities Service Company and less than $100 cash, which company has effected a dissolution and distribution of its assets under the laws of the state of Delaware.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3865; Filed, December 22, 1938; 11:00 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of December, A. D. 1938.

[File Nos. 47-28 and 43-172]

IN THE MATTER OF CONSUMERS POWER COMPANY, THE COMMONWEALTH & SOUTHERN CORPORATION

ORDER APPROVING ISSUANCE AND ACQUISITION OF SECURITIES

Consumers Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, having filed declarations with this Commission pursuant to Section 7 of the Public Utility Holding Company Act of 1935, regarding the issuance and sale of 43,636 shares of no-par common stock at an aggregate stated value of $1,200,000 and $10,168,000 principal amount of First Mortgage Bonds, 3¼% Series of 1936, due 1966; and The Commonwealth & Southern Corporation having filed an application pursuant to Section 10 of the Act for the approval of the acquisition of said common stock;

A joint hearing on said declarations and application having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That the declarations of Consumers Power Company with respect to the issuance and sale of the bonds and common stock be and become effective forthwith; and that the application of The Commonwealth & Southern Corporation be and the same hereby is approved, subject to the condition that the Commission reserves jurisdiction as to the amount at which The Commonwealth & Southern Corporation carries its investment in the common capital stock of Consumers Power Company; provided, that the declarant and the applicant, within ten days after such sale and acquisition shall file, respectively, with this Commission certificates of notification showing that such sale and acquisition have been effected in accordance with the terms and conditions of, and for the purposes represented by, said declarations and application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3868; Filed, December 22, 1938; 11:01 a. m.]

[1] 3 F. R. 2677, 2879 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of December, A. D. 1938.

[File Nos. 47-28, 57-3]

IN THE MATTER OF CONSUMERS POWER COMPANY, CITIES SERVICE POWER & LIGHT COMPANY

ORDER APPROVING ACQUISITION AND SALE OF UTILITY ASSETS AND OTHER INTERESTS

Consumers Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, having filed an application with this Commission pursuant to Section 10 of the Public Utility Holding Company Act of 1935, for the approval of the acquisition by it of all the utility assets and other interests of The Citizens Light & Power Company, a subsidiary of Cities Service Power & Light Company, a registered holding company, for a consideration of $3,200,000; and Cities Service Power & Light Company having filed an application pursuant to Rule U-12D-1 promulgated under the Act for approval of the sale by it of all the said utility assets and other interests;

A hearing on said applications having been held after appropriate notice;[1] the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered, That such acquisition of the aforesaid utility assets and other interests by Consumers Power Company and such sale of the aforesaid utility assets and other interests by Cities Service Power & Light Company in accordance with the terms and conditions and for the purposes represented by said applications be and the same hereby are approved;

It is further ordered, That within ten days after such acquisition and sale the applicants shall file with this Commission certificates of notification showing that such acquisition and sale have been effected in accordance with the terms and conditions of and for the purposes represented by said applications.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3867; Filed, December 22, 1938; 11:00 a. m.]

[1] 3 F. R. 2677 DI.

DEC 27 1938

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Rules, R

TITLE

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II. Rapides,
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[1] 50 Stat. 903.

DEC 27 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 250

Washington, Saturday, December 24, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

SUGAR DIVISION

DETERMINATION OF (1) NORMAL YIELD OF COMMERCIALLY RECOVERABLE SUGAR PER ACRE AND (2) ELIGIBILITY FOR PAYMENT WITH RESPECT TO ABANDONMENT AND CROP DEFICIENCY FOR FARMS IN THE MAINLAND CANE SUGAR AREA

Pursuant to the provisions of Section 303 of the Sugar Act of 1937,[1] I, H. A. Wallace, Secretary of Agriculture, do hereby determine:

1. That the normal yield of commercially recoverable sugar per acre for any farm in the mainland cane sugar area on which sugarcane was grown and marketed (or processed by the producer) for the extraction of sugar shall be the product of the average number of hundredweights of sugar, raw value, recovered per short ton of sugarcane processed for the extraction of sugar during the 1935–36 and 1936–37 crop seasons in the district in which the farm is located and (1) the average yield of sugarcane for sugar per acre, in short tons, for the farm during the crop years 1935 and 1936, if sugarcane for sugar was grown on the farm during both of such crop years, or (2) the average yield per acre, in short tons, of sugarcane for sugar harvested during the crop years 1935 and 1936 on similar farms in the community in which the farm is located, if sugarcane for sugar was not grown on the farm in both of such crop years.

2. That for the purposes of paragraph 1 above, a district shall be any one of the following groups of parishes or counties:

I. Iberia, Lafayette, Acadia, St. Martin, St. Mary and Vermilion parishes, Louisiana.

II. Rapides, St. Landry, Evangeline, Avoyelles and West Feliciana parishes, Louisiana.

III. Assumption, La Fourche and Terrebonne parishes, Louisiana.

IV. Ascension, Iberville, Pointe Coupee, East Baton Rouge, West Baton Rouge, St. Charles, St. James, St. John, St. Bernard, Jefferson and Plaquemines parishes, Louisiana.

V. Indian River county, Florida.

VI. All other counties in Florida where sugarcane is grown and processed for the extraction of sugar.

3. That any farm located in a parish or county in which the actual yields of commercially recoverable sugar from the sugarcane for farms comprising 10 percent or more of the acreage of such sugarcane were 80 percent or less of the normal yields therefor, because of drought, flood, storm, freeze, disease or insects, shall be eligible for abandonment and deficiency payments, pursuant to section 303 of the said act.

Done at Washington, D. C. this 22d day of December 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary.

[F. R. Doc. 38–3896; Filed, December 23, 1938; 12:38 p. m.]

[1] 50 Stat. 903.

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

COMMODITY EXCHANGE COMMISSION

United States of America—Before the Commodity Exchange Commission

[Hearing Docket C. E. A. No. 3]

IN THE MATTER OF LIMITS ON POSITION AND DAILY TRADING IN WHEAT, CORN, OATS, BARLEY, RYE, AND FLAXSEED, FOR FUTURE DELIVERY

FINDINGS OF FACT, CONCLUSIONS, AND ORDER

As used herein, the word "grain" includes wheat, corn, oats, barley, rye, and flaxseed, and the word "person" includes individuals, associations, partnerships, corporations, and trusts.

CONTENTS

RULES, REGULATIONS, ORDERS

	Page
TITLE 7—AGRICULTURE:	
Sugar Division:	
Mainland cane sugar area, determination of normal yield of commercially recoverable sugar per acre, etc	3145
TITLE 17—COMMODITY AND SECURITIES EXCHANGES:	
Commodity Exchange Commission:	
Limits on position and daily trading in wheat, etc., for future delivery; findings of fact, etc	3145
TITLE 21—FOOD AND DRUGS:	
Bureau of Narcotics:	
Extension of time within which order forms for narcotics may be filled	3147
TITLE 26—INTERNAL REVENUE:	
Bureau of Internal Revenue:	
Income tax; income from transmission of messages from points within to points without the United States	3147
TITLE 34—NAVY:	
Navy Department:	
Bureau of Supplies and Accounts Manual, articles superseded	3147
TITLE 47—TELECOMMUNICATION:	
Federal Communications Commission:	
Commercial radio operators, rules governing	3155
Filing of information, etc.; damage claims relating to traffic	3158
General substantive rules, provision relating to common carriers	3154
Professional radio operators, rules repealed	3158
Tariffs, posting, filing, etc., of; changes in schedules	3158

(Continued on next page)

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CONTENTS—Continued

TITLE 49—TRANSPORTATION AND RAILROADS:
Interstate Commerce Commission: Page
Class I motor carriers of property and passengers, annual reports 3158
Motor carrier employees, maximum hours of service 3158

NOTICES

Department of the Interior:
Division of Territories and Island Possessions:
Alaska Railroad, excursion fares 3159
Department of Labor:
Wage and Hour Division:
Employers of industrial home workers, hearing on keeping of special or additional records by 3159
Federal Communications Commission:
Renewal of commercial radio operator licenses 3159
Securities and Exchange Commission:
Pennsylvania Investing Corp., hearing 3160
Utilities Employees Securities Co., New England Capital Corp., withdrawal of application 3160

Findings of Fact

Pursuant to the provisions of Section 4a of the Commodity Exchange Act (U. S. C., 1934 ed. and Supp. III, title 7, sec. 6a), the Commodity Exchange Commission, after full consideration of the record made at a public hearing [1] held in Chicago, Illinois, beginning December 1, 1937, of which due public notice had been given, and at which all persons were given opportunity to hear, present, refute, and comment upon evidence in the premises, does hereby find the following:

A. Except as otherwise stated herein, trading in any one grain for future delivery on a contract market, by a person who holds or controls a speculative net position of more than 2,000,000 bushels, long or short, in any one future or in all futures combined, in such grain on such contract market, tends to cause sudden and unreasonable fluctuations and changes in the price of such grain not warranted by changes in the conditions of supply or demand, and is not needed to maintain market liquidity or to facilitate hedging on such contract market.

B. A speculative long or short position in excess of 2,000,000 bushels consisting of spreads in any one grain between markets is less likely to cause sudden and unreasonable fluctuations and changes in price than that mentioned in paragraph A hereof.

C. Except as otherwise stated herein, speculative buying or speculative selling by any person during one business day of more than 2,000,000 bushels in any one future, or in all futures combined, in any one grain on any one contract market, tends to cause sudden and unreasonable fluctuations and changes in the price of such grain not warranted by changes in the conditions of supply or demand, and is not needed to maintain market liquidity or to facilitate hedging on such contract market.

D. The buying or selling of amounts in excess of 2,000,000 bushels in any one future is less likely to cause sudden and unreasonable fluctuations and changes in price than that mentioned in paragraph C hereof if such buying or selling consists of spreads in any one grain between markets.

Conclusions

Upon the foregoing facts, it is concluded that in order to diminish, eliminate, or prevent the undue burden of excessive speculation in grain futures which causes unwarranted price changes, it is necessary to establish limits on the amount of speculative trading, under contracts of sale of grain for future delivery on contract markets, which may be done by any one person; that 2,000,000 bushels is a reasonable limitation on the net long or net short position which any person may hold or control and upon the daily purchases or sales which any person may make, in any one grain on any one contract market, in any one future or all futures combined; that a higher limitation should be fixed for net position and for purchases and sales if any part thereof represents spreading in the same grain between markets, and 3,000,000 bushels is a reasonable limitation under such circumstances, but in no event should the increase over 2,000,000 bushels exceed the amount of the net position represented by spreading nor should a spread include more than 2,000,000 bushels in any one future.

Order

It is hereby ordered, That the following limits on the amount of trading under contracts of sale of grain for future delivery on or subject to the rules of contract markets which may be done by any person be, and they are hereby, proclaimed and fixed, to be in full force and effect on and after December 31, 1938:

Position Limits

1. The limit on the maximum net long or net short position which any one person may hold or control in any one grain on any one contract market, except as specifically authorized by paragraph 2 hereof, is: 2,000,000 bushels in any one future or in all futures combined.

2. To the extent that the net position held or controlled by any one person in all futures combined in any one grain on any one contract market is shown to represent spreading in the same grain between markets, the limit on net position in all futures combined set forth in paragraph 1 hereof may be exceeded on such contract market, but in no case shall the excess result in a net position of more than 3,000,000 bushels in all futures combined nor more than 2,000,000 bushels in any one future.

Daily Trading Limits

3. The limit on the maximum amount which any person may buy, and on the maximum amount which any person may sell, of any one grain on any one contract market during any one business day, except as specifically authorized by paragraph 4 hereof, is: 2,000,000 bushels in any one future or in all futures combined.

4. To the extent that purchases or sales of any one grain on any one contract market during any one business day made by any person are shown to represent spreading, or the closing of spreads, in the same grain between markets, the limit set forth in paragraph 3 hereof may be exceeded on such contract market, but in no case shall the excess result in total purchases of more than 3,000,000 bushels, or total sales of more than 3,000,000 bushels, and in no event shall such person's total purchases or total sales, during any one business day, in any one future exceed 2,000,000 bushels.

The foregoing limits upon position and upon daily trading shall not be construed

[1] 2 F. R. 2460 (2859 DI).

to apply to bona fide hedging transactions as defined in paragraph (3) of section 4a of the Commodity Exchange Act.

Nothing contained in these Findings of Fact, Conclusions, or Order shall be construed to affect any provisions of the Commodity Exchange Act relating to manipulation or corners, nor to relieve any contract market, or its governing board, from responsibility to prevent manipulation and corners under paragraph (d) of section 5 of the Commodity Exchange Act.

In testimony whereof we have hereunto affixed our respective signatures this 22d day of December, 1938.

H. A. WALLACE,
Secretary of Agriculture, Chairman.
DANIEL C. ROPER,
Secretary of Commerce.
HOMER CUMMINGS,
Attorney General.

[F. R. Doc. 38-3895; Filed, December 23, 1938; 12:38 p. m.

TITLE 21—FOOD AND DRUGS

BUREAU OF NARCOTICS

[T. D. 29]

AMENDING NARCOTIC REGULATIONS TO EXTEND TIME WITHIN WHICH ORDER FORMS FOR NARCOTICS MAY BE FILLED

Pursuant to the authority contained in Section 1 of the Act of December 17, 1914 (38 Stat. 785; U. S. Code (1934 Ed.) Title 26, Sec. 1049), as amended by Section 703 of the Revenue Act of 1926 (44 Stat. 9, 96) and Section 806 of the Revenue Act of 1936 (49 Stat. 1648, 1745), Article 82 of Narcotic Regulations No. 5, approved June 1, 1938,[1] is hereby amended to read as follows:

"ART. 82. *Filling of orders.*—The consignor shall enter upon the order form the number and size of the stamped packages furnished on each item and the date when each item is filled. When an order can not be filled in its entirety it may be filled in part and the balance supplied by additional shipments within 60 days from the date of the order form. A notation, covering each shipment, showing the actual quantities supplied and the date of delivery, shall be made by the vendor on the original and by the vendee on the duplicate."

[SEAL] H. J. ANSLINGER,
Commissioner of Narcotics.
GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, December 16, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3890; Filed, December 23, 1938; 11:59 a. m.]

[1] 3 F. R. 1299 DI.

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4877]

INCOME TAX

INCOME FROM TRANSMISSION OF MESSAGES FROM POINTS WITHIN THE UNITED STATES TO POINTS WITHOUT THE UNITED STATES

To Collectors of Internal Revenue and Others Concerned:

Regulations 94, approved November 12, 1936,[1] and Regulations 86, approved February 11, 1935, are amended as follows:

(a) Article 119-14 of Regulations 94 and 86 is redesignated "Article 119-15."

(b) A new article is added after article 119-13 of Regulations 94 and 86 to read as follows:

"ART. 119-14. *Telegraph and cable service.*—A foreign corporation carrying on the business of transmission of telegraph or cable messages between points in the United States and points outside the United States derives income partly from sources within and partly from sources without the United States.

"(1) *Gross income.*—The gross income from sources within the United States derived from such services shall be determined by adding (a) its gross revenues derived from messages originating in the United States and (b) amounts collected abroad on collect messages originating in the United States and deducting from such sum amounts paid or accrued for transmission of messages beyond the company's own circuit. Amounts received by the company in the United States with respect to collect messages originating without the United States shall be excluded from gross income.

"(2) *Net income.*—In computing net income from sources within the United States there shall be allowed as deductions from gross income determined in accordance with paragraph (1), (a) all expenses incurred in the United States (not including any general overhead expenses) incident to the carrying on of the business in the United States, (b) all direct expenses incurred abroad in the transmission of messages originating in the United States (not including any general overhead expenses or maintenance, repairs and depreciation of cables and not including any amount already deducted in computing gross income), (c) depreciation of property (other than cables) located in the United States and used in the trade or business therein, and (d) a proportionate part of the general overhead expenses (not including any items incurred abroad corresponding to those enumerated in (a), (b) and (c)) and of maintenance, repairs and depreciation of cables of the entire cable system of the enterprise based on the ratio which the number of words originating in the United States bears to the total words transmitted by the enterprise."

This Treasury Decision is issued under the authority contained in sections 62 and 119 of the Revenue Acts of 1936 and 1934.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, December 22, 1938.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 38-3891; Filed, December 23, 1938; 11:59 a. m.]

[1] 1 F. R. 1802.

TITLE 34—NAVY

NAVY DEPARTMENT

BUREAU OF SUPPLIES AND ACCOUNTS MANUAL[1]

SEC. 4.1014 *Methods of purchase (ashore and afloat).* Three methods of purchase are established:

Purchase after newspaper advertisement.

Purchase after advertising by means of circulars, letters, or bulletins.

Purchase in a manner common among business men.

Forms of agreement.—

The two forms of agreement used are as follows:

Formal contracts: The transaction is reduced to writing and signed by both parties at the end thereof.

Less formal contracts: When the amount involved is $500 or less and the transaction is completed with an order, written proposal and acceptance, or an oral agreement immediately executed.

SEC. 4.1015 *Methods of purchase by Bureau of Supplies and Accounts—Routine procedure.* The following is a description of the routine followed by the Bureau of Supplies and Accounts in the purchase of stock materials for the supply departments of yards, stations, and supply depots.

Advertising. The manner of advertising as required by law is one of departmental discretion, but the Bureau of Supplies and Accounts relies principally on the distribution of schedules. Newspaper advertising, as required by Sec. 3718, R. S., 34 U. S. C. 561, is resorted to when time permits.

Schedules. At such times as the stock requests (S. and A. Form 235) and requisitions (S. and A. Form 76) received from yards and stations render purchase by the bureau necessary and market conditions are favorable, the bureau consolidates these requests and requisitions in the form of schedules for distribution to prospective bidders. Three copies are sent to each dealer in the particular commodity to be purchased as shown by the bureau's mailing list of bidders. Sched-

[1] Supersedes the articles bearing same numbers in Code of Federal Regulations.

ules are printed or mimeographed and contain such essential data as—

The schedule number, date, and hour of opening bids.

The material required, by quantities, and divided into classes by commodities and delivery points.

The points of delivery.

The specifications.

Navy leaflet specifications are not sent with the schedule. If a bidder does not have them in his possession, he may apply to the Bureau of Supplies and Accounts or to any navy yard, supply depot, or purchasing office for copies. Copies of schedules are also mailed to the supply activities at the delivery points concerned as notice to supply officers of the bureau's action.

Standard Form 31, Navy edition (Standard Government Form of Bid, Supply Contract. With each schedule are mailed two copies of Standard Form 31, Navy edition, which, after being filled out in accordance with the detailed instructions printed thereon, serves bidders as a transmitting letter, guaranty, and cover for schedule. Standard Form 31 and the schedule, both filled out, constitute the formal proposal or bid.

Opening bids. Three weeks is the average time allowed between the time schedules are sent out and date bids are opened. When bids are received, they are placed in locked boxes where they remain until the advertised hour for opening, when they are removed and opened, concurrently and publicly, under the supervision of an officer. All bids are read aloud in the presence of bidders, press representatives, and representatives of bonding companies, and are immediately recorded in books which are at all times open for inspection. Late bids are not considered unless it can be shown by post marks, registry receipts or otherwise, that they were mailed in sufficient time to have arrived by the hour set for the opening, and where it is clearly evident that no unfair advantage has accrued to the late bidder by reason of the delay. Telegraphic bids are not considered, unless asked for, but telegraphic modifications or withdrawals are accepted if received prior to the hour of opening. After all bids have been read and recorded, the duplicate copies thereof are placed on a counter where they may be examined by all interested parties.

Awards. Awards are made to the lowest responsible bidder offering material in accordance with the specifications, except in a few cases of statutory exemption where the Government is not required to accept the low bid. Tie bids are decided by lot. The Navy always reserves the right to award by item rather than by class; to reject all bids; and to accept modified bids if this can be done without injustice to other bidders. Awards are made as soon as a decision is reached. Awards which involve no technical consideration are made immediately. Bids which require the recommendation of a technical bureau or a navy yard are submitted thence, and awards made as soon thereafter as practicable. Telegraphic notice of award is made in important cases. A formal award is made in all cases.

Bureau contract or order—Contracts. After award is made, a formal contract is prepared on Standard Form 32, Navy edition, if the amount involved is over $500. A blank form for bond is printed on the back of the contract form and is prepared by the bureau for execution by the contractor in each case except where the contractor has an annual bond on file. The original contract, unsigned, is mailed to the contractor for signature and execution of bond. With the contract the bureau sends, for the contractor's retention, a memorandum containing all the essential data of the contract and a statement by the Paymaster General that a contract has been entered into by the Navy. The orginal contract, after being executed by the contractor, is returned to the bureau. It is then signed by the purchasing officer and forwarded to the General Accounting Office. The Navy signs and requires a contractor to sign but one copy of a contract.

Bureau orders (N. S. A. Form 526). Bureau orders are prepared where the amount involved is $500 or less, no contract or bond in such cases being required.

Copies. Copies of bureau contracts and orders are prepared and distributed to bureaus, supply officers, inspectors, and others concerned. Certified copies of contracts, together with the necessary affidavit form and all bids received are filed with the Returns Office of the General Accounting Office in accordance with Sec. 3744, R. S., 41 U. S. C. 16.

S. and A. contract bulletins. The Bureau of Supplies and Accounts distributes bulletins and circular letters showing articles covered by the Bureau of Supplies and Accounts annual and quarterly contracts, such as packings, coal, gasoline and distillate, lubricating oil, fuel oil, boiler gaskets, CO_2 gas, and tool steel.

SEC. 4.1017 *Purchases in the manner common among business men (ashore and afloat)—Authority.* The authority to make purchases "in the manner common among business men" is contained in the Act of March 2, 1907 (34 Stat. 1193), 34 U. S. C. 571.

Ashore. All shore stations where there is a regularly organized supply department and all Navy purchasing offices are authorized to make sundry purchases of articles and to procure services on approved requisitions in a direct manner such as is "common among business men."

Requisition necessary. Purchase may be made under annual requisition for sundry purchases, annual requisition for certain supplies or services, or duly approved individual requisition.

Method of purchase not to be used for certain materials. No article, material, or services may be purchased in this manner which, under other instructions, require procurement thereof from or through some other department or establishment of the Government.

Services of a temporary nature only may be procured under this authority. Services of a continuous nature, such as towel service, water, etc., required from month to month will be procured under written contract in the usual manner.

Printing machinery or equipment shall not be purchased in this manner.

Limitation on cost of items purchased. The limit of cost of any one item or group of items of similar material that may be so purchased at industrial navy yards, Navy purchasing offices, naval supply depots, the Naval Torpedo Station, Newport, the Naval Aircraft Factory, and the Naval Air Stations, Pensacola, San Diego, and Norfolk, is $500 and at other shore activities $200, unless otherwise specifically authorized by the Bureau of Supplies and Accounts.

Procedure. Under this authority, the purchasing officer may purchase any article or services required within the limits of the requisition without advertisement and without formal bids or written awards. Bids may be obtained orally (over the counter), by telephone, by telegraph, or by written invitations. Competition should be secured whenever it is practicable to do so without delaying procurement, unduly increasing the work involved in the procurement, or otherwise obviating the benefits derived by this method of purchase. A written record showing the form of bids (oral, telephonic, telegraphic, or written) will be made of bids received, and kept in the files of the purchasing (supply) officer. When competition is obtained, the order will be placed with the dealer quoting the lowest price for satisfactory delivery. The order may be placed in writing, or orally (over the counter), by telephone, or by telegraph; and written confirmation is not required.

Public voucher (Standard Form 1034) will be prepared, based on dealer's invoice in the prescribed manner. When purchase is made on annual requisitions, the word "sundry" will be entered following the requisition number. In the administrative certificate on the face of the public voucher, the blank following "No." will be filled in by the figure "4"; on the back of the public voucher, the "Method or absence of advertising" will be filled in by entering opposite "4" the words "Act of March 2, 1907 (34 Stat. 1193)." No formal contract or other written agreement being required, no statement and certificate of award (Standard Form 1036) will be required.

Afloat. Ships operating directly under the general supply system may employ the method of purchase described above under the following additional restrictions:

The authority contained herein is not intended to be used as a means to circumvent the established methods of procurement nor to obtain special or nonstandard material in contravention of instructions issued by cognizant bureaus or contained in Navy Regulations.

The limit of cost of any one item or group of items of similar material that may be so purchased is $50, unless otherwise specifically authorized by the Bureau of Supplies and Accounts.

When a ship is at a navy yard or naval station, no item shall be purchased unless and until the ship has ascertained that the item cannot be supplied from stock by the supply activity on shore. When the item cannot be supplied from stock, the ship may requisition same for purchase by the supply activity.

Purchases made under annual requisitions will be taken up in Class 201 and immediately expended to use.

Annually, each ship operating directly under the general supply system shall forward to the Bureau of Supplies and Accounts for approval an annual requisition covering purchases authorized by this article, for the amount stated in the Bureau of Supplies and Accounts Memoranda.

SEC. 4.1028 *Special instructions—List of bidders—Mailing list.* All purchasing officers ashore shall keep an up to date mailing list of bidders.

Manufacturers to be invited to bid. Purchasing officers will whenever practicable, encourage manufacturers to submit bids direct. Manufacturers will be furnished with proposals, accompanied by a letter requesting them to bid and pointing out the advantages of doing business direct with the Government. (See Sec. 4.1043.)

Defaulting contractors not to be invited to bid. See Sec. 4.1081.

Inviting bids when making an award is uncertain. Purchasing officers shall avoid sending out proposals and asking for bids when not reasonably certain that an award will be made. It is unfair to put manufacturers or contractors to the trouble and expense of drafting bids unnecessarily.

Specifications. Specifications should contain all the essential or minimum requirements without naming details which are not essential and would limit competition.

Whenever possible, specifications shall include a clause to the effect that bids to furnish other designs or material than that specified will be considered. Under such liberal specifications the right is had to reject any bid covering an article not suitable in every respect for the purpose for which desired.

The description of a proprietary article will not be used unless nothing else will answer the needs of the service and such a proprietary certificate is made on the requisition.

Acceptable list of approved materials. The Acceptable List of Approved Materials, issued by the Bureau of Supplies and Accounts covers materials which require extended test prior to purchase in order to determine suitability for Naval use. The purpose of this list is to facilitate the purchase of satisfactory materials: (1) When the time required for complete test after execution of a contract is so great as to delay delivery; (2) and/or the cost of inspecting is prohibitive; (3) and/or the necessary tests require complicated or expensive testing apparatus not in general commercial use; (4) and/or the technical requirements cannot be fully described by a specification; (5) and/or the material is of an experimental nature.

Bid forms for items on the Acceptable List of Approved Materials will be distributed not only to the manufacturers and regular dealers listed but also to other prospective sources of supply. Such bid forms will contain a notation as follows:

Name of manufacturer (not the dealer)____
Type or brand offered____

Manufacturers not listed should be encouraged to apply to have their products tested.

The applicable one of the following acceptable list clauses will be inserted on bid forms for items on the Acceptable List of Approved Materials:

(1) *When the specification contains no reference to prior test requirement and the item is listed in the Acceptable List of Approved Materials:*

The right is reserved to reject bids on (here insert "brands" or "types" as applicable) of (here insert name of material) which have not been subjected to the required tests and found satisfactory. The attention of manufacturers is called to this requirement, and they are urged to forward samples of the articles they propose to offer the Navy in the future in order that the tests may be made. These tests will be conducted at the expense of the manufacturers. Information with reference to the expense involved and as to where samples should be sent will be supplied upon application to the Bureau of Supplies and Accounts, Navy Department, Washington, D. C. In the case of failure of the sample submitted to prove satisfactory consideration will be given to the requests of manufacturers for additional tests only after it has been clearly shown that changes have been made in the product with reference to design, method of manufacture, etc., which the Bureau considers sufficient to warrant additional tests.

(2) *When the specification contains the acceptable list clause quoted under subpar. (1):*

The attention of bidders is invited to paragraph —— of the specifications, wherein it will be noted that the right is reserved to reject any bids on (brands) (types) of (here insert name of material) which have not been subjected to the required tests and found satisfactory. The attention of manufacturers is called to this requirement, and they are urged to take the necessary steps to have their product tested. For information regarding tests, apply to the Bureau of Supplies and Accounts, Navy Department, Washington, D. C.

(3) *When the old type of test clause or "service test" clause appears in the specification:*

Except as amended below the —— shall be in strict accordance with specification ——, issued by the Navy Department ——. Paragraph —— is amended to read as follows: (Quote clause given under subpar. (1).)

When Government is to furnish material. When the Government proposes to furnish the raw materials to be fabricated by contractors, schedules will specify whether the Government retains title to all raw materials furnished. If the title is retained, a clause will be incorporated in the advertisement to the effect that bond or insurance shall be furnished by the contractor in an amount representing the value of the material, to protect the Government against loss by fire, theft, etc.

Where partial payments are to be made. (a) See Sec. 3648, R. S.; 31 U. S. C. 529.

(b) The Act of Aug. 22, 1911 (37 Stat. 32), 34 U. S. C. 582, authorizes partial payments during the progress of work under contracts, not in excess of the value of work already done. Whenever proposals or schedules are issued in which partial payments as the work progresses are provided for, the following provision will be incorporated therein:

When partial payments are made as herein provided, it is understood that the Government has a lien on the articles or material covered by this contract, such lien to be paramount to all other liens upon the same and this bid is submitted under the express condition that such lien is given.

A bond on contract covering this class will be required in an amount sufficient to cover the partial payments to be made in addition to the delivery bond regularly provided for.

Readvertising for bids. Readvertisement or a supplementary opening of bids should be avoided as far as practicable.

Precautions against unbalanced bids on estimated quantity contracts. An unbalanced bid is one submitted by a bidder who bids high on certain items in a class, and so low on other items which are less frequently, even seldom, required, that he is certain to underbid competitors on such items—his quotations being so figured that his total bid for the class is low—the bidder making it as sure as he can, by shrewd judgment or otherwise, that his low-cost items will not be called for. Contractors are able at times to do this, as, with the exception of provisions, ships' stores and commissary stores stocks, awards of contracts are generally made to the lowest responsible bidder on an entire class, except when, in accordance with a right always to be reserved in the stipulated conditions of bidding,

the saving to the Government from award by items will be material or when the result of the bidding shows that the material has not been properly classified, in which case awards are made by items. Purchasing officers should carefully guard against unbalanced bids by preparing proposals with the articles to be bought so classified as to nature, quantities, and sizes needed that prospective bidders will find it practically impossible to submit unbalanced bids with any hope of success.

Representations and stipulations prescribed by Act of June 30, 1936. The Act of June 30, 1936 (49 Stat. 2036, 41 U. S. C., Supp. II, 35), provides that certain representations and stipulations be included in bids and contracts exceeding $10,000, except when such bid or contract covers certain items specifically exempted in the act (statutory) or by the Department of Labor under authority of the act (administrative).

Exemptions. The exemptions in so far as the Navy is concerned are as follows:

Contracts for $10,000 or less.

Contracts for perishables, including dairy, livestock and nursery products. This covers products subject to decay or spoilage, but not products canned, salted, smoked, or otherwise preserved. Invitations for bids and contracts for perishables within the scope of the exemption will be confined to such products, and not include any products or supplies subject to the stipulations.

Contracts with a common carrier for carriage of freight or personnel by vessel, airplane, bus, truck, express, or railway line, where published tariff rates are in effect. Contracts for drayage and transportation of household effects are exempted from the stipulation only when the prices are based on published tariff rates.

Contracts for the furnishing of service by radio, telephone, telegraph, or cable companies, subject to the Federal Communications Act of 1934.

Contracts for public utility services including electric light and power, water, steam, and gas.

Contracts which are to be performed outside the geographic limits of the United States, its territories, and the District of Columbia, except when such performance requires a shipment from within such geographic limits.

Contracts covering purchases against the account of a defaulting contractor when the stipulations were not included in the defaulted contract.

On all bids other than those exempted, the following stipulations shall be included, and subsequently incorporated in the contract:

Representations and stipulations pursuant to Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C., Supp. II, 35). It is understood and agreed that this bid is submitted, and any contract awarded thereon in any amount exceeding $10,000.00 will be performed, subject to the representations and stipulations of Public Act No. 846, 74th Congress, and regulations issued by the Secretary of Labor pursuant thereto, as follows:

(a) The contractor is the manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract.

(b) All persons employed by the contractor in the manufacture or furnishing of the materials, supplies, articles, or equipment used in the performance of the contract will be paid, without subsequent deduction or rebate on any account, not less than the minimum wages as determined by the Secretary of Labor to be the prevailing minimum wages for persons employed on similar work or in the particular or similar industries or groups of industries currently operating in the locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under the contract: Provided, however, That this stipulation with respect to minimum wages shall apply only to purchases or contracts relating to such industries as have been the subject matter of a determination by the Secretary of Labor.

(c) No person employed by the contractor in the manufacture or furnishing of the materials, supplies, articles, or equipment used in the performance of the contract shall be permitted to work in excess of 8 hours in any 1 day or in excess of 40 hours in any 1 week, unless such person is paid such applicable overtime rate as has been set by the Secretary of Labor.

(d) No male person under 16 years of age and no female person under 18 years of age and no convict labor will be employed by the contractor in the manufacture or production or furnishing of any of the materials, supplies, articles, or equipment included in the contract.

(e) No part of the contract will be performed nor will any of the materials, supplies, articles, or equipment to be manufactured or furnished under said contract be manufactured or fabricated in any plants, factories, buildings, or surroundings or under working conditions which are insanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of the contract. Compliance with the safety, sanitary, and factory inspection laws of the State in which the work or part thereof is to be performed shall be prima-facie evidence of compliance with this subsection.

(f) Any breach or violation of any of the foregoing representations and stipulations shall render the party responsible therefor liable to the United States of America for liquidated damages, in addition to damages for any other breach of the contract, in the sum of $10 per day for each male person under 16 years of age or each female person under 18 years of age, or each convict laborer knowingly employed in the performance of the contract, and a sum equal to the amount of any deductions, rebates, refunds, or underpayment of wages due to any employee engaged in the performance of the contract; and, in addition, the agency of the United States entering into the contract shall have the right to cancel same and to make open-market purchases or enter into other contracts for the completion of the original contract, charging any additional cost to the original contractor. Any sums of money due to the United States of America by reason of any violation of any of the representations and stipulations of the contract as set forth herein may be withheld from any amounts due on the contract or may be recovered in a suit brought in the name of the United States of America by the Attorney General thereof. All sums withheld or recovered as deductions, rebates, refunds, or underpayments of wages shall be held in a special deposit account and shall be paid, on order of the Secretary of Labor, directly to the employees who have been paid less than minimum rates of pay as set forth in such contracts and on whose account such sums were withheld or recovered: Provided, That no claims by employees for such payments shall be entertained unless made within 1 year from the date of actual notice to the contractor of the withholding or recovery of such sums by the United States of America.

(g) The contractor shall post a copy of the stipulations in a prominent and readily accessible place at the site of the contract work and shall keep such employment records as are required in the Regulations under the act available for inspection by authorized representatives of the Secretary of Labor.

(h) The foregoing stipulations shall be deemed inoperative if this contract is for a definite amount not in excess of $10,000.00.

A bidder or contractor shall be deemed to be a "manufacturer" or "regular dealer" within the meaning of stipulation (a) if he falls within one of the following categories:

(a) A manufacturer is a person who owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(b) A regular dealer is a person who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.

Every bid received from any bidder who does not fall within one of the foregoing categories shall be rejected.

Until otherwise set by the Secretary of Labor, the rate of pay for any overtime performed under the conditions of stipulation (c) shall be one and one-half times the basic hourly rate or piece rate received by the employee. Overtime in any one week or part thereof an employee is engaged in work covered by the contract stipulations, shall be computed after eight hours in any one day or after 40 hours in any one week during which no single daily total of employment may be in excess of eight hours without payment of the overtime rate.

The stipulations affecting employees shall be deemed applicable only to employees engaged in or connected with the manufacture, fabrication, assembling, handling, supervision, or shipment of materials, supplies, articles, or equipment required under the contract and shall not be deemed applicable to office or custodial employees.

An contractor subject to the representations and stipulations embodied herein shall maintain the following records of employment which shall be available for the inspection and transcription of authorized representatives of the Secretary of Labor.

(a) Name, address, sex, age, and occupation of each employee covered by the contract stipulations.

(b) Wage and hour records for each such employee including the rate of wages and the amount paid each pay period, the hours worked each day and each week, and the period during which each such employee was engaged on a Government contract with the number of such contract.

Such records shall be kept on file for at least one year after the termination of the contract.

Stipulation (b), with respect to wages, is inoperative until the Secretary of Labor, prior to the invitation for bids, has made a determination of the prevailing minimum wage for the industry or group of industries producing or marketing materials within the scope of the contract, and the determination of prevailing minimum wages or changes therein are so indicated in the invitation for bids.

When the stipulations are incorporated in the invitation to bid by the use of a separate sheet, standard Government form of bid (Standard Form 31), signed by the bidder, will include a clause as follows:

This bid is made subject to the representations and stipulations of Act of June 30, 1936 (49 Stat. 2036; 41 U. S. C., Supp. II, 35) attached hereto, where applicable.

Specific exemptions may be authorized by Department of Labor.

SEC. 4.1044 *Making awards—Release of bids on account of errors therein.* The United States is not responsible for mistakes in price made by a bidder, and an accepted bid is binding unless the prices bid are so disproportionate as to put the contracting officer on notice and their enforcement would be unconscionable. A contract must be considered as a whole and certain items may not be singled out for settlement on the basis of a quantum meruit.

Relief in case of manifest error. If award has not been made, the bidder may be permitted to withdraw his bid and the award should then be made to the next lowest bidder.

After award the discretion vested in the purchasing officer to release a bidder ceases, and requests received from contractors for release on contracts based on bids made in error will be forwarded to the Bureau of Supplies and Accounts accompanied by full data, comment, and recommendation for decision and action. Relief may then be obtained only by submission of the whole matter to the General Accounting Office.

Lowest unqualified bid to win award. The lowest eligible bidder offering to deliver articles in accordance with specifications is, in the absence of specific laws and regulations to the contrary entitled to the award. (See Sec. 3718, R. S., 34 U. S. C. 561.) While purchases under Sec. 3721, R. S., 34 U. S. C. 569, need not be made from the lowest bidder, yet other things being equal, the lowest bid, if more than one has been obtained, shall be accepted.

Bids that offer the lowest net transportation rate available to the Government may be considered, provided the result of such equalization can be readily and accurately determined before award is made.

Tie bids, all other things being equal, will be decided by public drawing of the names of the tie bidders. This drawing may be witnessed by bidders or their representatives present at the time of the drawing. When so requested by a bidder, drawing will be at a set time after due notice to all interested parties.

Acceptance of one bid constitutes rejection of others. The acceptance of one bid is a rejection of all other bids, and one of the bids so rejected can not be subsequently accepted so as to hold a guarantor of such rejected bid to his guaranty that such bidder would enter into a contract within 10 days after notice of acceptance of his bid. (Digest of Opinions, J. A. G., U. S. Army, 1912, p. 301.)

Award to a higher bidder in error. If an award is made to a higher bidder in error and the contractor has proceeded with manufacture and delivery before the error has been discovered, the contract should be considered complete with deliveries already made, and payment shall be made not in excess of the lowest satisfactory bid which was received at the original opening. The contractor should then be advised that he may submit a claim to the General Accounting Office for the difference between his price and the price quoted by the lowest satisfactory bidder. He may also submit a claim to the General Accounting Office for any damages which he may have sustained through the suspension of deliveries under his contract.

Rejection of bids on account of fraud. The United States may reject a bid in a case of fraud, as where the lowest bidder is in collusion with other bidders or with the representative of the United States to impose a high price upon the Government. In such a case the bids of all bidders concerned in the fraud may be rejected. (Digest of Opinions, J. A. G., U. S. Army, 1912, p. 302.)

Rejection of bids on account of absence of competition. Absence of competition is a good reason for rejecting all bids and asking for new ones.

Readvertisement equivalent to rejection. A readvertisement is equivalent to a rejection of all bids previously received.

Determination of award where discounts are offered. The determination of award where discounts are offered in bids is a matter for decision by the purchasing officer. If, by reason of the offered discount, a bid is low and there appears, in the judgment of the purchasing officer, reasonable certainty that the performance of the necessary administrative duties in connection with receipt, inspection, and payment is practicable of accomplishment, the bid should be accepted; if not, the bid should not be regarded as low.

When specifications refer to Acceptable List of Approved Materials. Award will be made to the lowest bidder offering material of a brand or trade name on the Acceptable List of Approved Material.

When it may be to the interest of the Government to accept a lower bid offering material not of an approved brand or if there are any indications that the low bidder is offering material which may have been tested and approved, the bids will be referred to the Bureau of Supplies and Accounts for instructions prior to award.

When rejection is made of a lower bid based on material which has not been tested and approved, the rejection certificate will be worded as follows:

The bid of ------ is rejected for the reason that the material bid on has not been tested and approved as required by the specifications.

Modification of bids by contracting officers prohibited. In awarding the contract to the lowest bidder the contracting office can not modify the terms of his bid in regard to the time of delivery or any other of its material elements. (4 Op. Atty. Gen. 334.) While the Government may not force the bidder to accept award under terms different from those contained in his bid, modifications may, after award, be made with bidder's consent, and the changes mutually agreed upon may be embodied in the contract.

No modification of the bid shall be permitted after the opening, and no ne-

gotiations shall be conducted with the bidder which so modifies or changes the bid as to affect the award. (See also 9 Comp. Gen. 24.)

Awards to delinquent contractors. See Sec. 4.1081 for instructions.

Awards to be made within a reasonable time. An obligation lies upon the Government to make an award within a reasonable length of time after an opening of bids. What constitutes a reasonable time is something that can not be definitely defined. An award should be made at the earliest practicable moment after the opening of bids. A bidder can not, after notice by the Government of acceptance thereof, withdraw his bid. (See Sec. 4.1042.)

Notice of award not binding upon the Government. Although a contractor is obligated once the award is made to him, the Government is not bound legally by a notice of award which has not been followed by a contract. The Government is bound by practice, however, and in good faith to follow the notice of award with a contract, if not otherwise illegal. If this was not done, the contractor might refuse to proceed until a signed contract had been issued to him; resulting in a great loss of time in securing material.

Action necessary where bids exceed requisition estimates. Awards may be placed at the discretion of the purchasing officer on bids exceeding the estimated cost of the approved requisition, except that under any of the following conditions the bids should be referred via the bureau concerned to the Bureau of Supplies and Accounts for instructions:

When, after reference to the yard department concerned, the purchasing officer does not feel warranted in placing award at the apparently excessive amount.

When the requisition distinctly indicates thereon that bids are to be referred to the bureaus concerned prior to award.

On requisitions for materials for a purpose other than for stock, e. g., an expensive machine for which a special allotment may have been made, when the lowest acceptable bid exceeds the estimated cost by 15 per cent or more and the amount of the bid is more than $100.

These instructions are not to be applied to the total of all items on a requisition, but to each item or if there is a group of items of a similar nature such that they would ordinarily be bid upon by anyone dealing in that particular line, to the total of that group.

While the telegraph and long distance telephone should not be used when ordinary correspondence can be made to serve, these means of communication with the Bureau of Supplies and Accounts relative to the bids treated in this paragraph will be used when in the judgment of the purchasing or supply officer circumstances demand it.

Reference of bids. When necessary, bids will be referred by purchasing officers ashore to the yard department, the ship, or bureau concerned for recommendation as to award.

Bids to furnish machinery and machine tools will be referred to the bureau having cognizance of the machine in question, for recommendation as to award. In the case of field purchases, the bids, together with the required data, will be referred to the bureau concerned, via head of the division of the yard concerned, for recommendation as to award.

Acceptance of bids to be in writing. When bidders' proposals are submitted in writing, the purchasing officer will indorse over his own signature the word, "Accepted," or "Accepted as to items Nos. ——," on the proposal winning the award. Acceptance of a bid shall always be in writing.

Certificates on proposals as to acceptance must be actually signed by the officer of the Supply Corps detailed as purchasing officer except when he is absent. In such cases they will be signed by the officer of the Supply Corps who is assistant to the purchasing officer if there is one, or if none, by the pay clerk detailed to duty in the office.

Forms of awards. When an award is made to a bidder, it will be embodied either in the form of an order or of a formal contract. If the amount of the purchase is $500 or less, regardless of the time of delivery, the order will be used.

SEC. 4.1054 *Contract provisos—Provision in regard to quantities—Use of term "estimated quantities," in contracts.* Under a running contract covering estimated quantities, delivery can not be required of more than a reasonable excess above the estimated quantity stated in the contract. The custom is generally established of considering an increase of 25 per cent as about the maximum which can be required. The Supreme Court of the United States, has repeatedly held that "the addition of the qualifying words, 'about,' 'more or less,' and the like * * * is only for the purpose of providing against accidental variations arising from slight and unimportant excesses or deficiencies in number, measure, or weight."

In other than annual, semi-annual, quarterly, or monthly contracts, the exact quantities desired shall be stated. Any variation in the quantity specified, not exceeding 10 percent, will be accepted as a compliance with the contract when caused by conditions of loading, packing, or allowances in manufacturing processes, as provided for in the standard bid, contract, and order forms.

In annual, semi-annual, quarterly, and monthly contracts, one of the following clauses shall be used:

When the requirements can be estimated:

The quantities specified are estimated only, and it is agreed that the Government is obliged to order not less than 75 per cent of the material contracted for. It is further agreed that the contractor will furnish any quantities of the material specified which may be ordered for the Naval service at the places designated during the period ending ——, 19——, irrespective of the estimated quantity for each item, provided the aggregate quantity ordered will not exceed by more than 25 per cent the aggregate quantity specified in the estimates.

When it is impossible to determine the quantity or quantities required within a reasonable limit:

The uncertain and varying needs of the Navy make it impossible to determine the quantity or quantities of the articles and materials described herein that may be required during the contemplated period of the contract. Estimated quantities are stated for information only. It is mutually understood and agreed that the Government will order and the contractor will deliver the quantities of the kinds of articles and materials described in the specifications that in the judgment of the ordering officer may be required during the contract period, except as may be otherwise indicated in the bid. These supplies will be ordered from time to time during the life of the contract in such quantities for delivery in such forms and to such places provided for by the contract as the needs of the Naval service require. Bids made with the proviso that the total deliveries will not exceed a certain specified quantity will be considered, but the right is reserved to reject any bid which provides that the Government shall guarantee to take any definite quantity.

Specifications governing partial deliveries. In all contracts calling for deliveries covering a period of time the following clause will be used to specify such delivery conditions:

To be delivered, all transportation charges paid, to the Supply Officer, Navy Yard, ——, at such times and in such quantities as may be ordered during the period ending ——, each delivery to be made within —— days after receipt of order from the supply officer.

Under the prescribed wording, difficulties and objections as to orders placed toward the end of a contract period will be avoided, as the clause clearly provides that orders may be placed during the whole contract period.

Patterns and molds furnished by the Government. All contracts based on requisitions specifying that the Government shall furnish contractors with necessary patterns or molds to manufacture the required articles shall include a clause specifically stating whether the Government or the contractor shall bear the transportation charges on such patterns or molds when shipped to the contractor, and also when returned by the contractor.

Provision for inspection—(a) Factory inspection. Unless specifically provided otherwise in the contract, inspection will be made at the place of manufacture or point of shipment, unless mill or factory inspection is subsequently waived. (See Sec. 4.1093.)

All handling of material necessary for purposes of inspection shall be done at the expense of the contractor, and all tests shall be made and all test specimens and drillings for check analysis, necessary for the determination of the quality of the material, shall be furnished by the contractor without expense to the United States.

Where unauthorized shipment is made before Government inspection, the United States reserves the right to return the material at the contractor's expense to the place of manufacture for inspection.

Where useless trips of inspector are caused by incorrect information given by the contractor, the United States reserves the right to charge the expense of such trips to the contractor and to deny inspection at the plant.

If the contractor places orders with a subcontractor for all or any portion of the services or materials contracted for, quadruplicate copies of such orders must be furnished to the inspector representing the bureau concerned in the inspection district in which the contractor's works are located. Such orders will state all details concerning the material ordered, including the purpose for which same is used, when stated in the contract. Such orders shall be considered suborders and must contain the number of original contract. In case material requires special treatment, after leaving the manufacturer's works, other than machining, such orders must state explicitly the nature of the treatment.

Inspection after delivery. All contracts and orders for material to be inspected after delivery will be plainly stamped (original and copies) in prominent letters as follows: "SUBJECT TO INSPECTION ON DELIVERY."

Inspection must be made by Government inspectors. No contracts of the Navy Department should contain any provision for final inspections and acceptances by agencies other than those connected with and a part of the Government. (Comp. Gen. Oct. 20, 1928.)

Insurance charges. A contract provision that the contractor carry insurance for the benefit of the Navy must state that the terms of the insurance policy will be satisfactory to the Secretary of the Navy. The policy will be delivered to the purchasing officer, and by him forwarded to the Bureau of Supplies and Accounts for transmission to the Judge Advocate General.

Insurance as a part of the cost of material furnished. The Government does not pay insurance on property belonging to it unless such payment is specifically authorized by Congress in making the appropriation involved. Decisions of the Comptroller of the Treasury apparently permit a contractor to insure property prior to its delivery to the Government and include the premiums paid as a part of the necessary cost of such material. Under a contract the terms of which provided for the payment to the contractor of "the actual cost of necessary labor and material, plus 10 per cent," liability insurance of 4.2 per cent of the cost of labor was allowed as a legitimate charge in making up the amount to be paid to the contractor under the terms specified. (22 Comp. Dec. 261, Dec. 11, 1915.) When a contractor is given a definite price for material plus the cost of delivery at any other point to which he is required to forward it, and insurance for safe delivery is a normal and legitimate expense, the cost of such insurance may be included in the expense bill as a separate item, provided the charge is a reasonable one, described as "Insurance paid by the contractor while the (name of material) was in his possession and at his risk prior to its delivery into the possession of the Government."

SEC. 4.1093 *Bureaus' material inspectors.* The various technical bureaus have inspectors stationed throughout the United States to inspect material under contract at place of manufacture. These inspectors will be furnished with copies of all contracts, both formal (Standard Form 32) and less formal (S. and A. Form 105) providing for factory inspection and with copies of all orders placed thereunder. (See Sec. 4.1053.)

When material is ready for inspection, the contractor will notify the inspector concerned and prepare for delivery to him the requisite number of copies of reports of material shipped (Form I. N. M. 10). Upon completion of inspection, the inspector will forward certified copies of the report of material shipped to the various offices concerned, two copies being usually forwarded to the supply officer of the yard to which shipment is made.

Waiver of inspection at point of manufacture. If not other otherwise required by the contract, inspection at place of manufacture or point of shipment may be waived by the bureau concerned, or by its local representative, and inspection made after delivery, when the value of material is small or the distance from an inspection office great (so that the cost of inspection would be large in comparison with the value of the material), or when for other reasons inspection at destination is desirable. In such case the manufacturer shall ship the material at his own risk, subject to inspection after delivery. Inspectors are not authorized to waive inspection of material purchased f. o. b. contractor's works without having first obtained permission from the bureau concerned, the bureau making necessary modifying arrangements with contractors.

Inspection at point of manufacture—Acceptance as final. Unless specifically provided otherwise in the contract, inspection at the factory or point of shipment is final as to quality. (See Art. 1611 (2), N. R., Sec. 1.1611, Part I hereof.)

Material accepted f. o. b. contractor's works must not be shipped by contractor on commercial bill of lading. No action toward shipment by contractor should be taken pending receipt of instructions with Government bill of lading. (See Sec. 4.1121.)

Shipment on Government bill of lading. Inspection of material covered by contracts which provide for delivery f. o. b. works is to be made before shipment; the material will then be shipped under Government bill of lading.

In rare cases when it is impracticable for material to be inspected before shipment, and it is desired to ship it as Government property under Government bill of lading, provision may be made in the contract for the acceptance of the material without inspection before shipment under the contractor's guaranty to provide for an inspection after delivery at destination, and in case of rejection for failure to comply with the specifications the contractor to accept the return of the material and to replace the same at the point of destination at his own expense with satisfactory material. Under such a guaranty contained in the contract, shipment may be made under Government bill of lading to be furnished by the inspecting officer or under his instructions.

The method outlined in the preceding paragraph is followed only when some distinct advantage to the Government will accrue thereby. In all other cases, if it is impracticable to inspect material before shipment, awards are to be based on delivery by the contractor at the point of destination.

When a chemical analysis of articles or supplies on contracts which provide for delivery f. o. b. works is necessary, shipment will not be made on Government bill of lading until a satisfactory report of the result of analysis is received by the inspector from the laboratory, except in cases where the contract provides for a guaranty as outlined herein. Under contracts which provide for delivery f. o. b. destination, the contractor may be authorized to make the shipment prior to receipt of report of chemical analysis, in which case the inspector will note such fact on the reports of material shipped, and upon receipt of report of chemical analysis will notify the offices concerned by letter of the result of the chemical test.

SEC. 4.1123 *Inspection of material in general—Inspection mandatory.* All purchased material and supplies of every character shall be subjected to inspection and approval as to quantity and quality before payment. (See Sec. 4.1054.)

Duties of supply officers and inspecting officers. Persons conducting inspections shall inspect carefully as to quantity and

quality; making or causing to be made such tests as may be required. No material shall be passed unless the inspecting officer is satisfied that it conforms to the requirements of the specifications as included in the requisition or contract. In cases of special emergency minor defects in material needed for immediate use may be waived, by specific authority of the commandant. The inspecting officer shall sign his name to the inspection report (S. and A. Form 65) or prepare a memorandum form, whichever is the station routine, certifying to the fact that the material has been inspected and passed both as regards quality and quantity, or that it has been rejected, stating fully the reasons for the rejection.

Procedure where Navy standard specifications do not exist. Where Navy standard specifications do not exist and contracts or orders are, therefore, placed on the basis that the material used in manufacture or construction shall be in accordance with specifications prepared locally, the methods of inspection as given in the standard leaflet specifications and the latest edition of the General Specifications for Inspection of Material, will be followed where applicable.

Rejections. In case of rejection, notice thereof shall be sent by the supply officer to the contractor, giving the reasons for the rejection and stating that the supplies are held subject to the contractor's order and at his risk. If not removed by him within 10 days, the supplies so rejected may be returned at the contractor's expense, after due notification, in whatever way the supply officer may consider most convenient.

Rejected material shall in no case be delivered to a contractor's representative except upon surrender of the rejection notice, or upon presentation of an itemized receipt from the contractor or his representative. When rejected material is returned to a contractor by freight or express, the bill of lading or express receipt shall contain an itemized list of such material. The notice, receipt, copy of bill of lading, or express receipt having been indorsed with a statement (signed by the supply officer) of the date, number, and contents of the pass upon which the rejected articles were allowed to leave the yard, shall be filed as a permanent record with the requisition or contract to which it pertains.

Decision of inspecting officer questioned. See Art. 1400 (3), N. R.; Sec. 1.1400, Part I hereof.

Acceptance of rejected material at a reduced price. Material delivered under a contract and rejected as not conforming to specifications will not be accepted at a reduced price except when—

It is actually needed for Government purposes,

It is entirely fit for Government use,

The reduction in price on bureau contracts and in general, on field contracts, in other than minor cases or in emergency, is approved by the Bureau of Supplies and Accounts before acceptance.

Provisions will not be accepted under any conditions if there is the slightest doubt as to their purity or nutritive value.

Inspection of special material—Hemp and similar products of variable weight. Hemp and similar products whose weight varies with the humidity of the atmosphere should be weighed and tagged upon receipt, and subsequent issues made on the basis of such tagged weights. If the difference between the quantity billed and the quantity received is not excessive, inspection reports will be certified for payment on the basis of the billed weights and the difference covered by survey and taken up in or expended from the stock records, as the case may be.

Lumber. If check measurements made after delivery of material are within 4 per cent of the original measurement reported by an inspector making inspection at the mill, the original measurement will be accepted as correct without further controversy or investigation, and payment will be made, based on the original measurement. If, however, the check measurement differs by more than 4 per cent from the original measurement, further investigation will be made before settlement is made for the material involved. Lumber culled out for off grade in check inspection after delivery should be included in the 4 per cent tolerance.

When contracts for lumber and timber provide for acceptance of the material f. o. b. contractor's works, mill inspection, acceptance, and shipment by the Government under Government bill of lading is conclusive, unless otherwise stipulated by provisions of the contract. However, check measurements of timber and lumber covered by f. o. b works contracts should be made after delivery; and shortages in excess of 4 per cent investigated.

SEC. 4.2000 *Sales—Condemned and surplus material—Terms of sale.* Each catalog shall include a statement of the terms of sale, clearly defining all the conditions of the sale, prior inspection, method of payment and delivery, and the bidder's risk and the Government's liability.

Conditions and terms of sale (S. and A. Form 248), which will be an integral part of each catalog, covers the standard conditions of sale. Any restrictions applicable to special materials will be incorporated in the catalog.

The Act of July 9, 1918 (40 U. S. C. 314), provides that the sale of guns and ammunition shall be limited: to other departments of the Government; to foreign states or governments engaged in war against any government with which the United States is at war; to members of the National Rifle Association; and to other recognized associations organized in the United States for the encouragement of small arm target practice. When such articles are offered for sale, conditions necessary to carry this Act into effect will be included.

Sealed bid sales. Bids received prior to the date of opening shall be kept in the supply officer's safe.

Bids received by mail after the time advertised for the opening shall be handled as directed in Sec. 4.1042.

Conduct of sale—Awards. Awards shall be made by the supply officer as soon as possible after the opening of bids.

No modification of the award price shall be made because of deterioration in the material discovered after award, nor any allowance by delivery of additional material or other material, or in any other manner. When commodities offered for sale are not as advertised, the facts and circumstances shall be referred to the Bureau of Supplies and Accounts for decision.

As soon as practicable after the opening of bids, letters of award shall be prepared by the supply officer and forwarded to the successful bidders.

Letters of award shall enumerate the various lots and items awarded, setting forth the amount bid, the total amount purchased, the amount deposited, and the balance due the Government or the purchaser as the case may be. The method of paying the balance due the Government and the time limit allowed for removal of the material shall be stated in the letter of award, as shall also any special condition stipulated in the terms of sale as applying to any particular material or classes of material.

Deposits by bidders. Should a bidder desire to apply his deposit on unsuccessful bids in payment on account of accepted bids, the amount so applied shall be included in the column for deposits on account of accepted bids.

Deliveries. Deliveries shall be made in accordance with the terms of sale, unless an extension is granted by the contracting officer. An extension will be given only when, in the opinion of the contracting officer, it is in the interest of the Government. Any extension granted will be in writing. No delivery shall be made until final payment for the entire purchase has been received.

[SEAL] W. B. WOODSON,
Judge Advocate General of the Navy.

DECEMBER 21, 1938.

[F. R. Doc. 38-3887; Filed, December 23, 1938; 11:05 a. m.]

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

CHAPTER II. GENERAL SUBSTANTIVE RULES

PART 25. SPECIAL PROVISIONS RELATING TO COMMON CARRIERS

The Commission adopted the following new rule:

SEC. 25.01 *Cost of projects; disclosures.* Each application by a radiotelegraph or radiotelephone common carrier for any authorization by the Commission, shall include a statement showing the estimated cost of the project. If such cost is in excess of $10,000 the principal items of property and the purposes represented by such cost shall be shown. Where any such authorization is granted by the Commission for a project involving expenditure in excess of $10,000, the applicant, permittee, or licensee shall file with the Commission, within 90 days after completion of the project authorized, a statement showing a summary of expenditures made and the accounting performed in connection therewith. (Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)—Sec. 308 (b), 48 Stat. 1084; 47 U. S. C. 303 (b)—Sec. 319 (a), 48 Stat. 1089; 47 U. S. C. 319 (a)) [Section 26.01, F. C. C., Dec. 19, 1938]

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38-3880; Filed, December 22, 1938; 2:41 p. m.]

CHAPTER XIII—RULES GOVERNING COMMERCIAL RADIO OPERATORS

TABLE OF CONTENTS

Part
160 General.
161 Applications.
162 Examinations.
163 Scope of authority.
164 Miscellaneous

PART 160—GENERAL

Section
160.01 Licensed operators required.
160.02 Classes of licenses.
160.03 Dual holding of licenses.
160.04 Term of licenses.

PART 161—APPLICATIONS

161.01 Procedure.
161.02 Special provisions, radiotelegraph first class.

PART 162—EXAMINATIONS

162.01 Examination elements.
162.02 Examination requirements.
162.03 Form of writing.
162.04 Passing mark.
162.05 New class, additional requirements.
162.06 Cancelling and issuing new licenses.
162.07 Eligibility for reexamination.
162.08 Renewal examinations and exceptions.

CODE TESTS

162.21 Transmitting speed requirements.
162.22 Transmitting test procedure.
162.23 Receiving speed requirements.
162.24 Receiving test procedure.
162.25 Computing work or code groups.

PART 163—SCOPE OF AUTHORITY

163.01 Operators' authority.
163.02 Special privileges.
163.03 Operator's responsibility.

PART 164—MISCELLANEOUS

164.01 Issue of duplicate license.
164.02 Exhibiting signed copy of application.
164.03 Supervision of examinations for permit.
164.04 Verification card.
164.05 Posting license or verified statement.

SERVICE

164.06 Endorsement of service record.
164.07 Aviation service endorsements.
164.08 Service acceptability.
164.09 Statement in lieu of service endorsement.

PART 160—GENERAL

SEC. 160.01 *Licensed operators required.*[1] Unless otherwise specified by the Commission, the actual operation of any radio station for which a station license is required shall be carried on only by a licensed radio operator of the required class.[2] * #

SEC. 160.02 *Classes of licenses.* The classes of commercial operator licenses issued by the Commission are:

a. *Commercial radiotelephone group.*

(1) Radiotelephone second class operator license.

(2) Radiotelephone first class operator license.

b. *Commercial radiotelegraph group.*

(1) Radiotelegraph second class operator license.

(2) Radiotelegraph first class operator license.

c. *Restricted commercial group.*

(1) Restricted radiotelephone operator permit.

(2) Restricted radiotelegraph operator permit.* #

SEC. 160.03 *Dual holding of licenses.* A person may not hold more than one radiotelegraph operator license (or restricted radiotelegraph permit) and one radiotelephone operator license (or restricted radiotelephone operator permit) at the same time.* #

160.04 *Term of licenses.* Commercial operator licenses are normally issued for a term of five years from the date of issuance.* #

PART 161—APPLICATIONS

SEC. 161.01 *Procedure.* The application form in duplicate for operator license, properly completed and signed, shall be submitted in person or by mail to the office at which the applicant desires to be examined, which office will make the final arrangements for conducting the examination. If the application is for renewal of license, it must be submitted during the last year of the license term and if the service requirements are fulfilled[3] the renewal license may be issued by mail. A renewal application shall also be accompanied by the license to be renewed.* #

SEC. 161.02[4] *Special provisions, radiotelegraph first class.* An applicant for the radiotelegraph first class operator license must be at least twenty-one years of age at the time the license is issued and shall have had an aggregate of one year of satisfactory service as a radiotelegraph operator manipulating the key of a manually operated radiotelegraph station on board a ship or in a manually operated coastal telegraph station.* #

PART 162—EXAMINATIONS

SEC. 162.01 *Examination elements.* Written examinations will comprise questions from one or more of the following examination elements:

(a) *Basic law.* Provisions of law and regulation with which every operator should be familiar.

(b) *Basic theory and practice.* Technical matters appropriate for every class of license except restricted radiotelephone operator permit.

(c) *Radiotelephone.* Additional matters, both legal and technical, including radiotelephone theory and practice.

(d) *Advanced radiotelephone.* Theory and practice applicable to broadcast station operation.

(e) *Radiotelegraph.* Additional matters, both legal and technical, including radiotelegraph theory and practice.

(f) *Advanced radiotelegraph.* Radiotelegraph theory and practice of wider scope, particularly with respect to ship radio matters (direction finders, ship radiotelephone stations, spark transmitters, etc.).* #

SEC. 162.02. *Examination requirements.* Applicants for original licenses will be required to pass examinations as follows:

(a) *Radiotelephone second class operator license.*

(1) Ability to transmit and receive spoken messages in English.

(2) Written examination elements: one, two, and three.

(b) *Radiotelephone first class operator license.*

(1) Ability to transmit and receive spoken messages in English.

(2) Written examination elements: one, two, three, and four.

(c) *Radiotelegraph second class operator license.*

(1) Ability to transmit and receive spoken messages in English.

(2) Transmitting and receiving code test of sixteen (16) code groups per minute.

(3) Written examination elements: one, two, five, and six.

(d) *Radiotelegraph first class operator license.*

(1) Ability to transmit and receive spoken messages in English.

(2) Transmitting and receiving code test of twenty-five (25) words per minute plain language and twenty (20) code groups per minute.

(3) Written examination elements: one, two, five and six.

* Promulgated under the authority contained in Sec. 4 (i), 48 Stat. 1066; 47 U. S. C. 154 (i)—Sec. 303 (l), 48 Stat. 1083; 47 U. S. C. 303 (l).

Adopted by the F. C. C. Dec. 19, 1938, to become effective May 1, 1939.

[1] Wherever the term "license" is used generally to denote an authorization from the Commission, it includes both "license" and "permit."

[2] See Section 163.01.

[3] See Section 162.08.

[4] Radiotelegraph first class licenses now held by persons under 21 years of age may be renewed without regard to the age limit provided by Sec. 161.02.

(e) *Restricted radiotelephone operator permit.*

(1) Ability to transmit and receive spoken messages in English.

(2) Written examination element one.

(f) *Restricted radiotelegraph operator permit.*

(1) Transmitting and receiving code text of sixteen (16) code groups per minute.

(2) Written examination elements one, two, and five.* #

SEC. 162.03 *Form of writing.* Written examinations shall be in English and shall be written by the applicant in longhand in ink, except that diagrams may be in pencil.* #

SEC. 162.04 *Passing mark.* A passing mark of 75 per cent of a possible 100 per cent will be required on each element of a written examination.* #

SEC. 162.05 *New class, additional requirements.* The holder of a license, who applies for another class of license, will be required to pass only the added examination elements for the new class of license.* #

SEC. 162.06 *Cancelling and issuing new licenses.* If the holder of a license qualifies for a higher class in the same group, the license held will be cancelled upon the issuance of the new license. Similarly, if the holder of a restricted operator permit qualifies for a first or second class operator license of the corresponding type, the permit held will be cancelled upon issuance of the new license.* #

SEC. 162.07 *Eligibility for reexamination.* An applicant who fails an examination element will be ineligible for two months[6] to take an examination for any class of license requiring that element. Examination elements will be graded in the order listed,[7] and an applicant may, without further application, be issued the class of license for which he qualifies.* #

SEC. 162.08 *Renewal examinations and exceptions.* A license may be renewed without examination provided the service record on the license[7] shows at least three years satisfactory service in the aggregate during the license term and while actually employed as a radio operator under that license; or shows at least two years service in the aggregate, under the same conditions, of which one year must have been continuous and immediately prior to the date of application for renewal.

If the above requirements have not been fulfilled, but the service record shows at least three months satisfactory service in the aggregate, while actually employed as a radio operator under the license during the last three years of the license term, a license may be renewed upon the successful completion of a renewal examination which may be taken at any time during the last year of the license term.

Renewal examinations will consist of the same elements as for original licenses. However, the written examination will be directed toward a determination of the applicant's qualifications to continue to hold the license for which he has previously qualified. If the renewal examination is not successfully completed before expiration of the license sought to be renewed, or if the service is not acceptable, the applicant will be examined as for the original license.* #

CODE TESTS

SEC. 162.21 *Transmitting speed requirements.* An applicant is required to transmit correctly in the International Morse Code for one minute at the rate of speed prescribed in these rules for the class of license desired.* #

SEC. 162.22 *Transmitting test procedure.* Transmitting tests shall be performed by the use of the conventional Morse key except that a semi-automatic key, if furnished by the applicant, may be used in transmitting code tests of twenty-five words per minute.* #

SEC. 162.23 *Receiving speed requirements.* An applicant is required to receive the International Morse Code by ear, and legibly transcribe, consecutive words or code groups for a period of one minute without error at the rate of speed specified in the rules for the class of license for which application is made.* #

SEC. 162.24 *Receiving test procedure.* Receiving code tests shall be written in longhand either in ink or pencil except that in the case of the twenty-five words per minute code test a typewriter may be used when furnished by the applicant.* #

SEC. 162.25 *Computing word or code groups.* Each five characters shall be counted as one word or code group. Punctuation marks or figures count as two characters.* #

PART 163—SCOPE OF AUTHORITY

SEC. 163.01 *Operators' authority.* The various classes of commercial operator licenses issued by the Commission authorize the holders thereof to operate radio stations, except amateur, as follows:

(a) *Radiotelephone Second Class Operator License.* Any station while using type A–0, A–3, A–4 or A–5 emission except standard broadcast stations, International Broadcast stations or ship stations licensed to use power in excess of 100 watts and type A–3 emission for communication with coastal telephone stations.

(b) *Radiotelephone First Class Operator License.* Any station while using type A–0, A–3, A–4, or A–5 emission except ship stations licensed to use a power in excess of 100 watts and type A–3 emission for communication with coastal telephone stations.

(c) *Radiotelegraph Second Class Operator License.* Any station while using type B, A–0, A–1, A–2, A–3 or A–4 emission except

(1) Any of the various classes of broadcast stations other than a relay broadcast station, or

(2) On a passenger[8] vessel required by treaty or statute to maintain a continuous radio watch by operators or on a vessel having continuous hours of service for public correspondence, the holder of this class of license may not act as chief operator.

(3) On a *vessel* (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be *equipped* with a *radiotelegraph* installation, the holder of this class license may not act as chief or sole operator until he has had at least six months' satisfactory service as a qualified radiotelegraph operator on a vessel of the United States.

(d) *Radio telegraph first class operator license.* Any station while using type B, A–0, A–1, A–2, A–3, or A–4 emission except

(1) Any of the various classes of broadcast stations other than a relay broadcast station.

(2) On a *cargo vessel* (other than a vessel operated exclusively on the Great Lakes) required by treaty or statute to be *equipped* with a *radiotelegraph* installation, the holder of this class license may not act as chief or sole operator until he has had at least six months' satisfactory service as a qualified radiotelegraph operator on a vessel of the United States.

(e) *Restricted radiotelephone operator permit.* Any station while using type A–0, A–3, or A–4 emission; provided that,

(1) Such operator is prohibited from making adjustments that may result in improper transmitter operation.

(2) The equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation.

(3) Any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or in the presence of an operator holding a first or second class license, either telephone or telegraph, who shall be responsible for the proper operation of the equipment.

Exceptions:

(1) The permit is not valid for the operation of any of the various classes of broadcast stations other than a relay broadcast station.

(2) The permit is not valid for the operation of a coastal telephone station or a coastal harbor station other than in the Territory of Alaska.

(3) The permit is not valid for the operation of a ship station licensed to use type A–3 emission for communication with coastal telephone stations.

(f) *Restricted radiotelegraph operator permit.*

Any station while using type B, A–0, A–1, A–2, A–3, or A–4 emission; provided that, in the case of equipment designed for and using type A–3 or A–4 emission,

(1) Such operator is prohibited from making adjustments that may result in improper transmitter operation.

(2) The equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation.

(3) Any needed adjustments of the transmitter which may affect proper operation of the station are regularly made by or in the presence of an operator holding a first or second class license, either telephone or telegraph, who shall be responsible for the proper operation of the equipment.

Exceptions:

(1) The permit is not valid for the operation of any of the various classes of broadcast stations other than a relay broadcast station.

(2) The permit is not valid for the operation of a ship station licensed to use type A–3 emission for communication with coastal telephone stations.

(3) The license is not valid for the operation of a radiotelegraph station on board a vessel required by treaty or statute to be equipped with a radio installation.

(4) The license is not valid for the operation of any ship telegraph, coastal telegraph, or marine-relay station open to public correspondence.* #

SEC. 163.02 *Special privileges.*

(a) Any operator may operate any station in the experimental service, while using frequencies above 300,000 kilocycles.

(b) Subject to the limitations set forth herein[9] the holder of any class radiotelephone operator license may operate a radiotelephone point-to-point station, a coastal harbor, or coastal telephone station while using A–1, or A–2 emission, for testing or other transmission entirely secondary and incidental to the service of such station.* #

SEC. 163.03 *Operator's responsibility.* The licensed operator responsible for the maintenance of a transmitter may permit other persons to adjust a transmitter in his presence for the purpose of carrying out tests or making adjustments requiring specialized knowledge or skill, provided that he shall not be relieved thereby from responsibility for the proper operation of the equipment.* #

PART 164—MISCELLANEOUS

SEC. 164.01 *Issue of duplicate license.* An operator whose license or permit has been lost, mutilated, or destroyed, shall immediately notify the Commission. A sworn application for duplicate should be submitted to the office of issue embodying a statement attesting to the facts thereof. If a license has been lost, the applicant must state that reasonable search has been made for it, and further, that in the event it be found either the original or the duplicate will be returned for cancellation. The applicant must also give a statement of the service that has been obtained under the lost license.* #

SEC. 164.02 *Exhibiting signed copy of application.* When a duplicate operator license or permit has been requested, or request for renewal upon service has been made, the operator shall exhibit in lieu thereof a signed copy of the application for duplicate, or renewal, which has been submitted by him.* #

SEC. 164.03 *Supervision of examinations for permit.* Persons other than employees of the Commission may be authorized to supervise examinations for Restricted Radiotelephone Operator Permits for one or more employees of a division of local or State Government, provided:

a. That the absence of such employees for the purpose of taking an examination at a field office or designated examining city would interfere with the proper functioning of the division, and

b. That the chief of police, director of public safety, or other official of equal responsibility furnish the names of the persons to be examined and designate an official by name and title to supervise the examination. The application for supervisory examination shall be made to the inspector in charge of the district in which the applicants are located.* #

SEC. 164.04 *Verification card.* The holder of an operator license who operates any station in which the posting of an operator license is not required, may, upon filing application[10] in duplicate, accompanied by his license, obtain a Verification Card.[11] This card may be carried on the person of the operator in lieu of the original operator license, provided the license is readily accessible within a reasonable time for inspection upon demand by an authorized Government representative.* #

SEC. 164.05 *Posting license or verified statement.* The holder of a radiotelegraph or radiotelephone first or second class license who is employed as a service and maintenance operator at stations operated by holders of Restricted Operator Permits shall post at such station his operator license or a verified statement from the Commission[12] in lieu thereof.* #

SERVICE

SEC. 164.06 *Endorsement of service record.* A station licensee, or his duly authorized agent, or the master of a vessel acting as the agent of a licensee, shall endorse the service record appearing on said operator license, showing the call letters and types of emission of the station operated, the nature and period of employment and quality of performance of duty.* #

SEC. 164.07 *Aviation service endorsement.* If the operator has operated more than three stations in the aviation service, the service may be shown by giving the name of the aviation chain or company in lieu of listing the call letters of the several stations.* #

SEC. 164.08 *Service acceptability.* Credit will be allowed only for satisfactory service obtained under conditions that required the employment of licensed operators, or when obtained at United States Government stations.* #

SEC. 164.09 *Statement in lieu of service endorsement.* The holder of a Radiotelegraph License or a Restricted Radiotelegraph Operator Permit desiring an endorsement to be placed thereon attesting to an aggregate of at least six months' satisfactory service as a qualified operator on a vessel of the United States, may, in the event documentary evidence cannot be produced, submit to any office of the Commission, a statement under oath accompanied by the license to be endorsed, embodying the following:

(1) Names of ships at which employed;
(2) Call letters of stations;
(3) Types of emission used;
(4) Type of service performed as follows:

(a) Manual radiotelegraph operation only; and
(b) Transmitter control only; or
(c) Combination of (a) and (b) running concurrently;

(5) Whether service was satisfactory or unsatisfactory;
(6) Period of employment;
(7) Name of master, employer, licensee or his duly authorized agent.* #

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 38–3881; Filed, December 22, 1938; 2:41 p. m.]

[1] A month after date is the same day of the following month, or if there is no such day, the last day of such month. This principle applies for other periods. For example, in the case of the two month period to which this note refers, an applicant examined December 1 may be reexamined February 1, and an applicant examined December 29, 30, or 31 may be reexamined the last day of February, while one examined February 28 may be reexamined April 28.

[6] See Section 162.02.

[7] See Sections 164.06 to 164.09, inclusive.

[8] A ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than twelve passengers. A cargo ship means any ship not a passenger ship.

[9] Section 163.01.

[10] Form 756.

[11] Form 758–F.

[12] Form 759.

CHAPTER XIII. RULES GOVERNING PROFESSIONAL RADIO OPERATORS

The Commission repealed the following rules by Order of December 19, 1938, to become effective May 1, 1939:

422	C. F. R. Sec. 161.02
423	C. F. R. Sec. 161.03
424	C. F. R. Sec. 161.04
425	C. F. R. Sec. 161.10
426	C. F. R. Sec. 161.11
427	C. F. R. Sec. 161.12
428	C. F. R. Sec. 161.13
429	C. F. R. Sec. 161.20
430	C. F. R. Sec. 161.21
431	C. F. R. Sec. 161.22
432	C. F. R. Sec. 161.23
433	C. F. R. Sec. 160.50
434	C. F. R. Sec. 160.51
435	C. F. R. Sec. 160.52
436	C. F. R. Sec. 160.53
437	C. F. R. Sec. 160.54
438	C. F. R. Sec. 160.55
439 (2)[1]	C. F. R. 160.25
439 (3)	C. F. R. 160.26
439 (4)	C. F. R. 160.27
439 (5)	C. F. R. 160.28
439 (6)	C. F. R. 160.29
439 (7)	C. F. R. 160.30
440	C. F. R. 160.35
441	C. F. R. 160.20
442	C. F. R. 160.10
443	C. F. R. 162.01
444	C. F. R. 162.02
445	C. F. R. 162.03
446	C. F. R. 162.04
448	C. F. R. 160.01

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3882; Filed, December 22, 1938; 2:41 p. m.]

CHAPTER XVII. RULES GOVERNING POSTING, FILING, ETC. OF TARIFFS

PART 227. CHANGES IN SCHEDULES

The Commission amended the following section, effective January 1, 1939, to read as follows:

SEC. 227.07 *Schedules attributable to foreign carrier or administration.* When any change is made in a charge by a foreign carrier or foreign administration not subject to the Act and such charge is used as a factor of through charges published and filed by a carrier subject to the Act, for communications between points in the United States and points in any foreign country, a change in such through charges may be established by the carrier subject to the Act on not less than one day's notice to the Commission and to the public; provided (1) that the carrier subject to the Act has no control over such charge of such foreign carrier or foreign administration by contract or otherwise, (2) that the change in through charges shall reflect only the difference in through charges caused by the change in such charge of such foreign carrier or foreign administration, (3) that a tariff, supplement or revised page shall be filed each time a reduction is made in the charge of such foreign carrier or foreign administration, as well as when increases are made, and (4) that every such tariff, supplement and revised page shall be accompanied by a memorandum showing the portion of the through charges accruing to the carrier subject to the Act. (Sec. 203 (a), 48 Stat. 1070; 47 U. S. C. 203 (a)) [Rule 8 (g), Tariff Circular No. 1, as amended by Order No. 12-E, F. C. C., Dec. 19, 1938]

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3883; Filed, December 22, 1938; 2:42 p. m.]

CHAPTER XXII. RULES GOVERNING THE FILING OF INFORMATION, CONTRACTS, PERIODIC REPORTS, ETC.

PART 343. SPECIAL REPORTS

Damage Claims Relating to Traffic

The Commission repealed Telegraph Division Order No. 24, effective December 19, 1938. This had the effect of repealing Sections 343.01, 343.02, and 343.03.

Effective December 19, 1938, the Commission adopted the following sections, embodying the requirements of Telegraph Division Order No. 24:

SEC. 343.01 *Separate files for each claim.* Each telegraph carrier subject to the Communications Act of 1934 shall maintain separate files for each damage claim or complaint of a traffic nature filed with or against the carrier, including those upon which message tolls or revenues are returned to the claimant, showing the name and address of claimant, the nature of the claim, disposition made and all correspondence, reports, and records pertaining thereto. These files shall be maintained in accordance with existing rules and regulations regarding destruction of records (Chapter XVIII of Federal Communications Commission Regulations), and at points (one or more) to be specifically designated by each carrier.* #

SEC. 343.02 *Summary of claims to be reported: verification.* Each telegraph carrier subject to the Communications Act of 1934 shall report to the Commission a summary of claims or complaints described in Sec. 343.01, in duplicate. Such reports shall be submitted to the Commission annually for each year from January 1 to December 31, on a form prescribed by the Commission, and shall be filed with the Commission within three months after the close of the year for which the report is made. The responses must be verified upon the oath of the officer of the reporting carrier under whose direction and supervision they are compiled.* #

SEC. 343.03 *Certain claims or complaints not included.* The provisions of Sections 343.01 and 343.02 shall not extend to claims or complaints which are not reduced to writing by the complainant and on which no payment or return of tolls is made.* #

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3884; Filed, December 22, 1938; 2:42 p. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-2]

ORDER IN THE MATTER OF MAXIMUM HOURS OF SERVICE OF MOTOR CARRIER EMPLOYEES

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 22nd day of December, A. D. 1938.

Upon further consideration of the record in the above-entitled proceeding and good cause therefor appearing:

It is ordered, That the effective date of the Commission's order of July 12, 1938,[1] in said proceeding, prescribing hours of service regulations applicable to drivers employed by common and contract carriers in interstate and foreign commerce, heretofore postponed to December 31, 1938, be, and it is hereby, further postponed to January 31, 1939, insofar as it applies to common and contract carriers of property and their employees.

It is further ordered, That the effective date of the provisions of Rule 5 of the Regulations prescribed by said order of July 12, requiring the maintenance of a driver's log, heretofore postponed to December 31, 1938, be, and it is hereby, further postponed to January 31, 1939, insofar as said Rule 5 applies to common and contract carriers of passengers and their employees.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-3892; Filed, December 23, 1938; 12:12 p. m.]

ORDER IN THE MATTER OF ANNUAL REPORTS FROM CLASS I MOTOR CARRIERS OF PROPERTY AND CLASS I MOTOR CARRIERS OF PASSENGERS

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 21st day of December, A. D. 1938.

The subject of the requirement of annual reports from Class I motor carriers being under consideration

It is ordered, That all Class I Motor Carriers of Property and all Class I Motor Carriers of Passengers, subject to the Interstate Commerce Act be, and they hereby are, required to file annual reports for the year ending December 31, 1938, in accordance with Annual Report Form (Class I Motor Carriers of Property or Passengers) which is hereby approved and made a part of this order.[1]

It is further ordered, That the annual report shall be prepared in triplicate, two copies filed in the Bureau of Motor Carriers, Interstate Commerce Commission, Washington, D. C., on or before March 31, 1939, and the third copy retained by respondent.

By the Commission, division 5.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 38-3893; Filed, December 23, 1938; 12:12 p. m.]

[1] Shall remain in effect with respect to renewal of three year licenses outstanding on May 1, 1939.

*Promulgated under the authority contained in Sec. 4 (1), 48 Stat. 1066; 47 U. S. C. 154 (1)—Sec. 206, 48 Stat. 1072; 47 U. S. C. 206.

Adopted by the F. C. C., Dec. 19, 1938.

[1] 3 F. R. 2194, 3000 DI.

[1] 3 F. R. 1876.

Notices

DEPARTMENT OF THE INTERIOR.

Division of Territories and Island Possessions.

[I. C. C. No. 252 [2]]

THE ALASKA RAILROAD

LOCAL PASSENGER TARIFF NO. 192-C NAMING ROUND TRIP EXCURSION FARES BETWEEN STATIONS ON THE ALASKA RAILROAD ACCOUNT CHRISTMAS

Issued under authority of Rule 52 Interstate Commerce Commission Tariff Circular No. 18-A. Issued, December 1, 1938. Effective, December 20, 1938. Authority: Act, March 12, 1914 and Executive Order No. 3861. Issued by O. F. Ohlson, General Manager, Anchorage, Alaska.

General Rules and Regulations

1. *Stations from and to which this tariff applies.*—This tariff applies from and to all rail line stations. Conductors picking up passengers at non-agency stations will handle passenger to first agency station where ticket must be secured from originating station to final destination.

2. *Dates of sale.*—December 20, 1938 to December 31, 1938, both dates inclusive.

3. *Final return limit.*—January 6, 1939.

4. *Fares.*—One first class fare and a third for the round trip. First class fares are shown in Local Passenger Tariff No. 42-B, I. C. C. No. 177, supplements thereto and reissues thereof. Agents in selling round trip tickets under this tariff will add sufficient to make fare end in "0" or "5" for the round trip.

5. *Stopovers.*—Stopovers will be permitted at all points within final return limit on both going and return trip. Stopover will be granted on application to conductor who will endorse on reverse side of ticket "Off at ------ station, date ------, train No. ------." This endorsement will be signed and transportation returned to passenger.

6. *Tickets.*—Use Form L-14 Round Trip excursion ticket.

7. *Children.*—Tickets may be sold at one-half the fares named herein for children five (5) years of age and under twelve (12) years of age, sufficient to be added to make fare end in "0" or "5". Children under five (5) years of age will be carried free when accompanied by parent or guardian.

8. *Baggage.*—For baggage rules including free allowances, excess charges, etc., see Local Baggage Tariff No. 2, I. C. C. No. 22 (Alaskan Engineering Commission Series), supplements thereto and reissue thereof. Excess baggage charges will be made on basis of the one-way fares shown in Local Passenger Tariff No. 42-B, I. C. C. No. 177, supplements thereto and reissues thereof.

9. *Tickets non-transferable.*—All tickets sold at fares named herein are non-transferable.

The above is hereby confirmed.

RUTH HAMPTON, *Assistant Director.*

[F. R. Doc. 38-3886; Filed, December 23, 1938; 10:40 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO PART 516 OF REGULATIONS WITH RESPECT TO THE KEEPING OF SPECIAL OR ADDITIONAL RECORDS BY EMPLOYERS OF INDUSTRIAL HOME WORKERS

Whereas, Section 11 (c) of the Fair Labor Standards Act of 1938 provides that every employer subject to any provision of this Act or of any order issued under this Act shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Administrator as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder.

Whereas, the Administrator of the Wage and Hour Division, on October 21, 1938, issued Title 29, Chapter 5, Part 516, entitled Regulations on Records to be kept by Employers Pursuant to Section 11 (c) of the Fair Labor Standards Act of 1938 (52 Stat. 1060);[1] and

Whereas, the Administrator is considering the desirability of amending Part 516 of said regulations to require special or additional records to be kept by employers of industrial home workers, such as: date work is given to and returned by industrial home workers, amount of work given and returned, list of articles worked on, operations performed and hours worked;

Now, therefore, notice is hereby given of a public hearing to be held on January 4, 1939, at 10:00 o'clock A. M., at the Raleigh Hotel, located at Pennsylvania Avenue and Twelfth Street, Washington, D. C., before Mr. Merle D. Vincent, the presiding officer hereby designated, at which interested parties will be heard on the following question:

What, if any, amendments should be made to Part 516 of regulations issued under section 11 (c) of the Fair Labor Standards Act of 1938, to require special or additional records to be kept by employers of industrial home workers.

Interested persons will also be heard on all aspects of the application of the Fair Labor Standards Act to employers of industrial home workers and to the employees employed by them.

Written briefs dealing with this subject will be considered.

Signed at Washington, D. C., this twenty-third day of December 1938.

ELMER F. ANDREWS, *Administrator.*

[F. R. Doc. 38-3894; Filed, December 23, 1938; 12:21 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

RENEWAL OF COMMERCIAL RADIO OPERATOR LICENSES

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C., December 19, 1938

Whereas, The Commission has this day adopted, effective May 1, 1939, revised rules governing commercial radio operator licenses, and

Whereas, it appears necessary to provide for a certain transition period during which the present holders of licenses may continue to operate radio stations and may have a reasonable opportunity to obtain renewal of such licenses in accordance with the revised rules,

It is ordered, That all licenses outstanding as of this date shall continue

[1] Filed as a part of the original document with the Division of the Federal Register, The National Archives; requests for copies should be addressed to the Interstate Commerce Commission.

[1] No supplement will be issued to this tariff except for the purpose of cancelling the tariff.

[1] 3 F. R. 2533 DI.

in force for the remainder of their respective terms. However, a licensee may apply for renewal under the terms of the new regulations at any time during the remainder of the license period.

It is further ordered, That all outstanding radiotelegraph licenses bearing an endorsement granting privileges comparable with a radiotelephone license of any class shall be considered as two separate licenses and application for renewal thereof shall be made separately.

It is further ordered, That radiotelegraph first class licenses now held by persons under twenty-one years of age may be renewed without regard to the age limit provided by Section 161.02.

It is further ordered, That Rules 422 to 448, inclusive, *be and they are hereby*, repealed as of May 1, 1939, except that Paragraph (2) of Rule 439 shall remain in effect with respect to renewal of three-year licenses outstanding on May 1, 1939.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-3885; Filed, December 22, 1938; 2:42 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of December, A. D. 1938.

[File Nos. 31-419, 60-1]

IN THE MATTER OF UTILITIES EMPLOYEES SECURITIES COMPANY, NEW ENGLAND CORPORATION

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION UNDER SECTION 2 (A) (8) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Upon the request of Applicant, the Commission consents to the withdrawal of the application in File No. 31-419. Such application and all amendments thereto and all other documents heretofore made part of the Record in the consolidated hearing on File Nos. 31-419 and 60-1 shall continue to stand as part of the Record in File No. 60-1, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3889; Filed, December 23, 1938; 11:10 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 23 day of December, A. D. 1938.

[File No. 58-2]

IN THE MATTER OF PENNSYLVANIA INVESTING CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 12 (F) and Rule U-12F-1 promulgated thereunder of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named part;

It is ordered, That a hearing on such matter be held on January 5th, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before December 31st, 1938.

The matter concerned herewith is in regard to an application pursuant to Rule U12c-1 filed by Pennsylvania Investing Corporation, a direct subsidiary of the Central U. S. Utilities Company and an indirect subsidiary of the Associated Electric Company seeking approval of the sale by it to Kentucky-Tennessee Light and Power Company, an Associated company of the latter company's First and Refunding Mortgage 5% bonds due May 1, 1954. The proposed sale is to be made to the issuing company and the bonds acquired are immediately to be retired. The proposed selling price will be the average cost thereto to the applicant, plus an amount equal to the applicable amortized discount on said bonds to date of tender without adjustment for accrued interest thereon.

By a previous Order of this Commission such bonds may only be retired by funds derived from the sale of the physical assets of Kentucky-Tennessee Light and Power Company. It is stated that the funds to be employed in the purchase were or are to be so derived. It is stated that the Trustee under the mortgage of Kentucky-Tennessee dated January 1, 1923, now holds on deposit the sum of $260,000, the proceeds of the sale of certain property of said Company and that it is anticipated that $972,000 additional amount will be available in the near future from the sale of additional physical property of Kentucky-Tennessee.

The applicant proposes to sell $1,400,000 principal amount of said bonds for the total sum of $1,232,000 which is stated to be at the rate described above.

The applicant also requests that this application be the basis for the approval of similar transactions in the future until all of said bonds are retired.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3888; Filed, December 23, 1938; 11:10 a. m.]

DEC 29 1938

FEDERAL REGISTER

VOLUME 3 NUMBER 251

Washington, Wednesday, December 28, 1938

The President

EXECUTIVE ORDER

CHANGING THE TITLE OF EXECUTIVE DIRECTOR OF NATIONAL YOUTH ADMINISTRATION TO ADMINISTRATOR OF THE NATIONAL YOUTH ADMINISTRATION

By virtue of and pursuant to the authority vested in me as President of the United States, it is hereby ordered that the title of the officer appointed and designated to have the immediate supervision of the National Youth Administration be changed from Executive Director to Administrator of the National Youth Administration.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 24, 1938.

[No. 8028]

[F. R. Doc. 38-3898; Filed, December 27, 1938; 10:18 a. m.]

Rules, Regulations, Orders

TITLE 21—FOOD AND DRUGS

FOOD AND DRUG ADMINISTRATION

PROMULGATION OF REGULATIONS UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND REPEAL OF CERTAIN REGULATIONS HERETOFORE PROMULGATED THEREUNDER

Under the authority of section 701 (a) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq.; 21 U. S. C. 301 et seq.), the following regulations for the enforcement of the Act are hereby promulgated.

These regulations shall take effect on June 25, 1939; except that, to the extent that they may relate to the enforcement of sections 502 (j), 505, or 601 (a) of the Act, they shall take effect on the date hereof.

The regulations [1] under sections 201 (p), 505, and 702 (b) of the Act, which were promulgated on July 22, 1938, are hereby repealed effective on the date hereof.

December 22, 1938.

[SEAL] H. A. WALLACE, *Secretary of Agriculture.*

[1] 3 F. R. 1846 DI.

REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

GENERAL REGULATION

(a) The provisions of regulations promulgated under the Act with respect to the doing of any act shall be applicable also to the causing of such act to be done.

(b) The definitions and interpretations of terms contained in section 201 of the Act shall be applicable also to such terms when used in regulations promulgated under the Act.

(*The caption of each of the following regulations designates the section of the Act under which the regulation is issued.*)

SECTION 201 (M)

Labeling includes all written, printed, or graphic matter accompanying an article at any time while such article is in interstate commerce or held for sale after shipment or delivery in interstate commerce.

SECTION 201 (N)

The existence of a difference of opinion, among experts qualified by scientific training and experience, as to the truth of a representation made or suggested in the labeling is a fact (among other facts) the failure to reveal which may render the labeling misleading, if there is a material weight of opinion contrary to such representation.

SECTION 201 (P)

Newness of a drug may arise by reason (among other reasons) of—

(1) the newness for drug use of any substance which composes such drug, in whole or in part, whether it be an active substance or a menstruum, excipient, carrier, coating, or other component;

(2) the newness for drug use of a combination of two or more substances, none of which is a new drug;

CONTENTS

THE PRESIDENT

Executive Order: Page

National Youth Administration, title of executive director changed to Administrator of the National Youth Administration ---------- 3161

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:

Sugar Division:

Sugar consumption requirements and quotas for calendar year 1939 ---------- 3171

Determination of proportionate shares for farms in domestic beet sugar area for 1939 crop ---------- 3172

TITLE 17—COMMODITY AND SECURITIES EXCHANGES:

Securities and Exchange Commission:

Public Utility Holding Company Act of 1935:

Amendment of rule U-12F-1 ---------- 3173

Amendment of rule U-17C-11 ---------- 3173

TITLE 18—CONSERVATION OF POWER:

Federal Power Commission:

Directing natural gas companies to submit information specified in provisional rules and regulations ---------- 3173

TITLE 21—FOOD AND DRUGS:

Food and Drug Administration:

Promulgation of regulations under Federal food, drug, and cosmetic act; repeal of certain previous regulations ---------- 3161

(Continued on next page)

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CONTENTS—Continued

NOTICES

Civil Aeronautics Authority:
Petition for order determining rates of compensation for transportation of mail by aircraft: Page
Inland Air Lines, Inc., Air Mail Route No. 35 ---------- 3174
Pan American Airways Co., route between San Francisco, Cal., and Hong Kong, China ---------- 3174
Securities and Exchange Commission:
Arkansas Western Gas Co., and Southern Union Gas Co. ---- 3174
Monongahela West Penn Public Service Co., and American Water Works and Electric Co., Inc ---------- 3175
Pennsylvania Power Co., The Commonwealth & Southern Corp ---------- 3175

(3) the newness for drug use of the proportion of a substance in a combination, even though such combination containing such substance in other proportion is not a new drug;

(4) the newness of use of such drug in diagnosing, curing, mitigating, treating, or preventing a disease, or to affect a structure or function of the body, even though such drug is not a new drug when used in another disease or to affect another structure or function of the body; or

(5) the newness of a dosage, or method or duration of administration or application, or other condition of use prescribed, recommended, or suggested in the labeling of such drug, even though such drug when used in other dosage, or other method or duration of administration or application, or different condition, is not a new drug.

SECTION 301 (H)

In case of the giving of a guaranty or undertaking referred to in section 303 (c) (2) or (3) of the Act, each person signing such guaranty or undertaking shall be considered to have given it.

SECTION 303 (C)

(a) A guaranty or undertaking referred to in section 303 (c) (2) of the Act may be—

(1) limited to a specific shipment or other delivery of an article, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery; or

(2) general and continuing, in which case, in its application to any shipment or other delivery of an article, it shall be considered to have been given at the date such article was shipped or delivered by the person who gives the guaranty or undertaking.

(b) The following are suggested forms of guaranty or undertaking under section 303 (c) (2) of the Act:

(1) (Limited Form for use on invoice or bill of sale)

(Name of person giving the guaranty or undertaking) hereby guarantees that no article listed herein is adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, or is an article which may not, under the provisions of section 404 or 505 of the Act, be introduced into interstate commerce.

(Signature and post-office address of person giving the guaranty or undertaking)

(2) (General and Continuing Form)

The article comprising each shipment or other delivery hereafter made by (name of person giving the guaranty or undertaking) to, or on the order of (name and post-office address of person to whom the guaranty or undertaking is given) is hereby guaranteed, as of the date of such shipment or delivery, to be, on such date, not adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, and not an article which may not, under the provisions of section 404 or 505 of the Act, be introduced into interstate commerce.

(Signature and post-office address of person giving the guaranty or undertaking)

(c) The application of a guaranty or undertaking referred to in section 303 (c) (2) of the Act to any shipment or other delivery of an article shall expire when such article, after shipment or delivery by the person who gave such guaranty or undertaking, becomes adulterated or misbranded within the meaning of the Act, or becomes an article which may not, under the provisions of section 404 or 505 of the Act, be introduced into interstate commerce.

(d) A guaranty or undertaking referred to in section 303 (c) (3) of the Act shall state that the shipment or other delivery of coal-tar color covered thereby was manufactured by a signer thereof. It may be a part of or attached to the invoice or bill of sale covering such color. If such shipment or delivery is from a foreign manufacturer, such guaranty or undertaking shall be signed by such manufacturer and by an agent of such manufacturer who resides in the United States.

(e) The following are suggested forms of guaranty or undertaking under section 303 (c) (3) of the Act:

(1) (For domestic manufacturers)

(Name of manufacturer) hereby guarantees that all coal-tar colors listed herein were manufactured by him, and are from batches certified in accordance with the applicable regulations promulgated by the Secretary of Agriculture under the Federal Food, Drug, and Cosmetic Act.

(Signature and post-office address of manufacturer).

(2) (For foreign manufacturers)

(Name of manufacturer and agent) hereby severally guarantee that all coal-tar colors listed herein were manufactured by (name of manufacturer), and are from batches certified in accordance with the applicable regulations promulgated by the Secretary of Agriculture under the Federal Food, Drug, and Cosmetic Act.

(Signature and post-office address of manufacturer).

(Signature and post-office address of agent)

(f) For the purpose of a guaranty or undertaking under section 303 (c) (3) of the Act the manufacturer of a shipment or other delivery of a coal-tar color is the person who packaged such color.

(g) A guaranty or undertaking, if signed by two or more persons, shall state that such persons severally guarantee the article to which it applies.

(h) No representation or suggestion that an article is guaranteed under the Act shall be made in labeling.

SECTION 305

(a) Presentation of views under section 305 of the Act shall be private and informal. The views presented shall be confined to matters relevant to the contemplated proceeding. Such views may be presented by letter or in person by the person to whom the notice was given, or by his representative. In case such person holds a guaranty or undertaking referred to in section 303 (c) (2) or (3) of the Act applicable to the article on which such notice was based, such guaranty or undertaking, or a verified copy thereof, shall be made a part of such presentation of views.

(b) Upon request, seasonably made, by the person to whom a notice appointing a time and place for the presentation of views under section 305 of the Act has been given, or by his representative, such time or place, or both such time and place, may be changed if the request states reasonable grounds therefor. Such request shall be addressed to the office of the Food and Drug Administration which issued the notice.

SECTION 403 (A)

(a) Among representations in the labeling of a food which render such food misbranded is a false or misleading representation with respect to another food or a drug, device, or cosmetic.

(b) The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

SECTION 403 (E)

(a) If a food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such food, such as "Manufactured for and Packed by ———", "Distributed by ———", or other similar phrase which expresses the facts.

(b) The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

(c) If a person manufactures, packs, or distributes a food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such food was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

(d) The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any food from the requirement that its label shall not be misleading in any particular.

(e) (1) The statement of the quantity of the contents shall reveal the quantity of food in the package, exclusive of wrappers and other material packed with such food.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such food and which give accurate information as to the quantity thereof. But if no general consumer usage in expressing accurate information as to the quantity of such food exists, the statement shall be in terms of liquid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity.

(f) (1) A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and, except in case of frozen food which is so consumed, shall express the volume at 68° Fahrenheit (20° Centigrade). A statement of dry measure shall be in terms of the United States bushel of 2150.42 cubic inches and peck, dry quart, and dry pint subdivisions thereof; or in terms of the United States standard barrel and its subdivisions of third, half, and three-quarters barrel. However, in the case of an export shipment, the statement may be in terms of a system of weight or measure in common use in the country to which such shipment is exported.

(2) A statement of weight or measure in the terms specified in subdivison (1) of this paragraph may be supplemented by a statement in terms of the metric system of weight or measure.

(3) Unless an unqualified statement of numerical count gives accurate information as to the quantity of food in the package, it shall be supplemented by such statement of weight, measure, or size of the individual units of the food as will give such information.

(g) Statements shall contain only such fractions as are generally used in expressing the quantity of the food. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places.

(h) (1) If the quantity of food in the package equals or exceeds the smallest unit of weight or measure which is specified in paragraph (f) of this regulation, and which is applicable to such food under the provisions of paragraph (e) (2) of this regulation, the statement shall express the number of the largest of such units contained in the package (for example, the statement on the label of a package which contains one quart of food shall be "1 quart", and not "2 pints" or "32 fluid ounces"), unless the statement is made in accordance with the provisions of subdivision (2) of this paragraph. Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in small units, if any smaller is specified in such paragraph (f) (for examples, 1¾ quarts may be expressed as "1 quart 1½ pints" or 1 quart 1 pint 8 fluid ounces"; 1¼ pounds may be expressed as "1 pound 4 ounces"). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f)) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for examples, instead of "1 quart 16 fluid ounces" the statement shall be "1½ quarts" or "1 quart 1 pint"; instead of "24 ounces" the statement shall be "1½ pounds" or "1 pound 8 ounces").

(2) In the case of a food with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in the package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.

(i) The statement shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.

(k) Where the statement does not express the minimum quantity—

(1) variations from the stated weight or measure shall be permitted when caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure;

(2) variations from the stated weight, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting individual packages which occur in good packing practice.

But under subdivision (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the food is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

(l) The extent of variations from the stated quantity of the contents permissible under paragraphs (j) and (k) of this regulation in the case of each shipment or other delivery shall be determined by the facts in such case.

(m) A food shall be exempt from compliance with the requirements of clause (2) of section 403 (e) of the Act if—

(1) the quantity of the contents, as expressed in terms applicable to such food under the provisions of paragraph (e) (2) of this regulation, is less than one-half ounce avoirdupois, or less than

one-half fluid ounce, or (in case the units of the food can be easily counted without opening the package) less than six units; or

(2) the statement of the quantity of the contents of the package, together with all other words, statements, and information required by or under authority of the Act to appear on the label, cannot, because of insufficient label space, be so placed on the label as to comply with the requirements of section 403 (f) of the Act and regulations promulgated thereunder.

SECTION 403 (F)

(a) A word, statement, or other information required by or under authority of the Act to appear on the label may lack that prominence and conspicuousness required by section 403 (f) of the Act by reason (among other reasons) of—

(1) the failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;

(2) the failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;

(3) the failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;

(4) insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;

(5) insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device; or

(6) smallness or style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

(b) No exemption depending on insufficiency of label space, as prescribed in regulations promulgated under section 403 (e) or (i) of the Act, shall apply if such insufficiency is caused by—

(1) the use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;

(2) the use of label space to give greater conspicuousness to any word, statement, or other information than is required by section 403 (f) of the Act; or

(3) the use of label space for any representation in a foreign language.

(c) (1) All words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear thereon in the English language.

(2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label shall appear thereon in the foreign language.

(3) If the labeling contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear on the labeling in the foreign language.

SECTION 403 (I)

(a) The name of an ingredient (except a spice, flavoring, or coloring which is an ingredient of a food other than one sold as a spice, flavoring, or coloring), required by section 403 (i) (2) of the Act to be borne on the label of a food, shall be a specific name and not a collective name. But if an ingredient (which itself contains two or more ingredients) conforms to a definition and standard of identity prescribed by regulations under section 401 of the Act, such ingredient may be designated on the label of such food by the name specified in the definition and standard, supplemented, in case such regulations require the naming of optional ingredients present in such ingredient, by a statement showing the optional ingredients which are present in such ingredient.

(b) No ingredient shall be designated on the label as a spice, flavoring, or coloring unless it is a spice, flavoring, or coloring, as the case may be, within the meaning of such term as commonly understood by consumers. The term "coloring" shall not include any bleaching substance.

(c) An ingredient which is both a spice and a coloring, or both a flavoring and a coloring, shall be designated as spice and coloring, or flavoring and coloring, as the case may be, unless such ingredient is designated by its specific name.

(d) A label may be misleading by reason (among other reasons) of—

(1) the order in which the names of ingredients appear thereon, or the relative prominence otherwise given such names; or

(2) its failure to reveal the proportion of, or other fact with respect to, an ingredient, when such proportion or other fact is material in the light of the representation that such ingredient was used in fabricating the food.

(e) (1) A food shall be exempt from the requirements of clause (2) of section 403 (i) of the Act if all words, statements, and other information required by or under authority of the Act to appear on the label of such food, cannot, because of insufficient label space, be so placed on the label as to comply with the requirements of section 403 (f) of the Act and regulations promulgated thereunder. But such exemption shall be on the condition that, if the omission from the label of the statement of the quantity of the contents affords sufficient space to state legibly thereon all the information required by such clause (2), such statement of the quantity of the contents shall be omitted as authorized by regulation (m) (2) under section 403 (e) of the Act, and the information required by such clause (2) shall be so stated as prominently as practicable even though the statement is not of such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase.

(2) In the case of an assortment of different items of food, when variations in the items which make up different packages packed from such assortment normally occur in good packing practice, and when such variations result in variations in the ingredients in different packages, such food shall be exempt from compliance with the requirements of clause (2) of section 403 (i) of the Act with respect to any ingredient which is not common to all packages. But such exemption shall be on the condition that the label shall bear, in conjunction with the names of such ingredients as are common to all packages, a statement in terms which are as informative as practicable and which are not misleading, indicating that other ingredients may be present.

SECTION 403 (K)

(a) (1) The term "artificial flavoring" means a flavoring containing any sapid or aromatic constituent, which constituent was manufactured by a process of synthesis or other similar artifice.

(2) The term "artificial coloring" means a coloring containing any dye or pigment, which dye or pigment was manufactured by a process of synthesis or other similar artifice, or a coloring which was manufactured by extracting a natural dye or natural pigment from a plant or other material in which such dye or pigment was naturally produced.

(3) The term "chemical preservative" means any chemical which, when added to food, tends to prevent or retard deterioration thereof; but does not include common salt, sugars, vinegars, spices or oils extracted from spices, or substances added to food by direct exposure thereof to wood smoke.

(b) A food which is subject to the requirements of section 403 (k) of the Act shall bear labeling, even though such food is not in package form.

(c) A statement of artificial flavoring, artificial coloring, or chemical preservative shall be placed on the food, or on its container or wrapper, or on any two or all of these, as may be necessary to render such statement likely to be read by the ordinary individual under customary conditions of purchase and use of such food.

(d) A food shall be exempt from compliance with the requirements of section 403 (k) of the Act if it is not in package form and the units thereof are so small that a statement of artificial flavoring, artificial coloring, or chemical preservative, as the case may be, cannot be placed on such units with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

SECTION 405

(a) (1) An open container is a container of rigid or semi-rigid construction, which is not closed by lid, wrapper, or otherwise.

(2) An open container of a fresh fruit or fresh vegetable, the quantity of contents of which is not more than one dry quart, shall be exempt from the labeling requirements of paragraphs (e), (g) (2) (with respect to the name of the food specified in the definition and standard), and (i) (1) of section 403 of the Act; but such exemption shall be on the condition that if two or more such containers are enclosed in a crate or other shipping package, such crate or package shall bear labeling showing the number of such containers enclosed therein and the quantity of the contents of each.

(b) Except as provided by paragraphs (c) and (d) of this regulation, a shipment or other delivery of a food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than that where originally processed or packed, shall be exempt, during the time of introduction into and movement in interstate commerce and the time of holding in such establishment, from compliance with the labeling requirements of section 403 (c), (e), (g), (h), (i), (j) and (k) of the Act if—

(1) the person who introduced such shipment or delivery into interstate commerce is the operator of the establishment where such food is to be processed, labeled, or repacked; or

(2) in case such person is not such operator, such shipment or delivery is made to such establishment under a written agreement, signed by and containing the post-office addresses of such person and such operator, and containing such specifications for the processing, labeling, or repacking, as the case may be, of such food in such establishment as will insure, if such specifications are followed, that such food will not be adulterated or misbranded within the meaning of the Act upon completion of such processing, labeling, or repacking. Such person and such operator, shall each keep a copy of such agreement until all of such shipment or delivery has been removed from such establishment, and shall make such copies available for inspection at any reasonable hour to any officer or employee of the Department who requests them.

(c) An exemption of a shipment or other delivery of a food under clause (1) of paragraph (b) of this regulation shall, at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment, become void ab initio if the food comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the Act when so removed.

(d) An exemption of a shipment or other delivery of food under clause (2) of paragraph (d) of this regulation shall become void ab initio with respect to the person who introduced such shipment or delivery into interstate commerce upon refusal by such person to make available for inspection a copy of the agreement, as required by such clause.

(e) An exemption of a shipment or other delivery of a food under clause (2) of paragraph (b) of this regulation shall expire—

(1) at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment if the food comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the Act when so removed; or

(2) upon refusal by the operator of the establishment where such food is to be processed, labeled, or repacked, to make available for inspection a copy of the agreement, as required by such clause.

SECTION 501 (B)

(a) The name by which a drug is designated shall be clearly distinguishing and differentiating from any name recognized in an official compendium unless such drug complies in identity with the identity prescribed in an official compendium under such recognized name.

(b) The term "drug defined in an official compendium" means a drug having the identity prescribed for a drug in an official compendium.

(c) A statement that a drug defined in an official compendium differs in strength, quality, or purity from the standard of strength, quality, or purity set forth for such drug in an official compendium shall show all the respects in which such drug so differs, and the extent of each such difference.

SECTION 502 (A)

(a) Among representations in the labeling of a drug or device which render such drug or device misbranded is a false or misleading representation with respect to another drug or device or a food or cosmetic.

(b) The labeling of a drug which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such drug in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

SECTION 502 (B)

(a) If a drug or device is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such drug or device, such as "Manufactured for and Packed by ————," "Distributed by ————," or other similar phrase which expresses the facts.

(b) The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

(c) Where a person manufactures, packs, or distributes a drug or device at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such drug or device was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

(d) The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any drug or device from the requirement that its label shall not be misleading in any particular.

(e) (1) The statement of the quantity of the contents of a package of a drug shall reveal the quantity of such drug in the package, exclusive of wrappers and other material packed with such drug.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers and users of such drug to express quantity thereof and which give accurate information as to such quantity. But if no general usage in expressing accurate information as to the quantity of such drug exists among consumers and users thereof, the statement of the quantity of a drug which is not in tablet, capsule, ampul, or other unit form shall be in terms of weight if the drug is solid, semisolid, or viscous, or in terms of measure if the drug is liquid; the statement of the quantity of a drug which is in such unit form shall be in terms of the numerical count of such units, supplemented, when necessary to give accurate information as to the quantity of such drug in the package, by such statement (in such terms, manner, and form as are not misleading) of the weight or measure of such units, or of the quantity of each active ingredient in each such unit, as will give such information.

(3) The statement of the quantity of a device shall be expressed in terms of numerical count.

(f) A statement of weight shall be in terms of the avoirdupois pound, ounce,

and grain, or of the kilogram, gram, and milligram. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, fluid ounce, and fluidram subdivisions thereof, or of the liter, milliliter, or cubic centimeter, and shall express the volume at 68° Fahrenheit (20° Centigrade).

(g) Statements of the quantity of a drug shall contain only such fractions as are generally used in expressing the quantity of such drug. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than three places, except in the case of a statement of the quantity of an active ingredient in a unit of a drug.

(h) (1) Unless made in accordance with the provisions of subdivision (2) of this paragraph, a statement of the quantity of a drug, in the terms of weight or measure applicable to such drug under the provisions of paragraph (e) (2) of this regulation, shall express the number of the largest unit specified in paragraph (f) of this regulation which is contained in the package (for example, the statement on the label of a package which contains one pint of a drug shall be "1 pint," and not "16 fluid ounces"). Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units, if any smaller is specified in such paragraph (f) (for example, 1¼ pounds may be expressed as "1 pound 4 ounces"). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f)) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for example, instead of "1 quart 16 fluid ounces" the statement shall be "1½ quarts" or "1 quart 1 pint").

(2) In the case of a drug with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in the package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.

(i) The statement of the quantity of a drug or device shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement, except in the case of ampuls, shall be considered to express the average quantity. The statement of the quantity of a drug in ampuls shall be considered to express the minimum quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure of a drug caused by ordinary and customary exposure, after such drug is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large. In the case of a liquid drug in ampuls the variation above the stated measure shall comply with the excess volume prescribed by the National Formulary for filling of ampuls.

(k) Where the statement does not express the minimum quantity—

(1) variations from the stated weight or measure of a drug shall be permitted when caused by ordinary and customary exposure, after such drug is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure;

(2) variations from the stated weight, measure, or numerical count of a drug or device shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages which occur in good packing practice.

But under subdivision (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the drug or device is below the quantity stated and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

(l) The extent of variations from the stated quantity of the contents permissible under paragraphs (j) and (k) of this regulation in the case of each shipment or other delivery shall be determined by the facts in such case.

(m) A drug or device shall be exempt from compliance with the requirements of clause (2) of section 502 (b) of the Act if—

(1) the statement of the quantity of the contents, as expressed in terms applicable to such drug or device under the provisions of paragraph (e) (2) of this regulation, together with all other words, statements, and information required by or under authority of the Act to appear on the label of such drug or device, cannot, because of insufficient label space, be so placed on the label as to comply with the requirements of section 502 (c) of the Act and regulations promulgated thereunder; or

(2) the quantity of the contents of the package, as expressed in terms of numerical count in compliance with paragraph (e) (2) or (3) of this regulation, is less than six units, and such units can be easily counted without opening the package.

SECTION 502 (C)

(a) A word, statement, or other information required by or under authority of the Act to appear on the label may lack that prominence and conspicuousness required by section 502 (c) of the Act by reason (among other reasons) of—

(1) the failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;

(2) the failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;

(3) the failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;

(4) insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;

(5) insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device; or

(6) smallness or style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

(b) No exemption depending on insufficiency of label space, as prescribed in regulations promulgated under section 502 (b) or (c) of the Act, shall apply if such insufficiency is caused by—

(1) the use of label space for any word statement, design, or device which is not required by or under authority of the Act to appear on the label;

(2) the use of label space to give greater conspicuousness to any word, statement, or other information than is required by section 502 (c) of the Act; or

(3) the use of label space for any representation in a foreign language.

(c) (1) All words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear thereon in the English language.

(2) If the label contains any representation in a foreign language, all words, statements, and their information required by or under authority of the Act to appear on the label shall appear thereon in the foreign language.

(3) If the labeling contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear on the labeling in the foreign language.

SECTION 502 (D)

(a) (1) The name of a substance or derivative required by or under authority of section 502 (d) of the Act to be borne on the label of a drug shall be the name by which such substance is designated in such section 502 (d), or such derivative is designated in regulations promulgated thereunder.

(2) A statement on the label of a drug of the name of a constituent, which constituent is a chemical derivative of a substance named in section 502 (d) of the Act, shall show the substance from which such constituent is derived and that such constituent is a derivative thereof.

(b) (1) If the drug is in tablet, capsule, ampul, or other unit form, the statement of the quantity of such substance or derivative contained therein shall express the weight or measure of such substance or derivative in each such unit. If the drug is not in such unit form the statement shall express the weight or measure of such substance or derivative in a specified unit of weight or measure of the drug. Such statement shall be in terms which are informative to the ordinary consumer and user of the drug.

(2) The statement of the percentage of such substance or derivative contained in a drug shall express the percentage by weight; except that, if both the substance or derivative and the drug are liquid, the statement may express the percentage by volume at 68° Fahrenheit (20° Centigrade), but in such case the statement shall be so qualified as to show definitely that the percentage is expressed by volume.

(c) The names, quantities, and percentages of all such substances and derivatives, and the statement "Warning—May be habit forming," shall immediately follow (without intervening written, printed, or graphic matter) the name by which such drug is titled in the part or panel of the label thereof which is presented or displayed under customary conditions of purchase.

(d) A drug shall not be considered to be misbranded under section 502 (d) of the Act by reason of failure of its label to bear the statement "Warning—May be habit forming," if such drug is not suitable for internal use and is distributed and sold exclusively for such external use as involves no possibility of habit formation.

SECTION 502 (E)

(a) (1) The name of an ingredient, substance, derivative, or preparation required by section 502 (e) (2) of the Act to be borne on the label of a drug shall be the name thereof which is listed in such section 502 (e) (2), or, if not so listed, shall be a specific name and not a collective name. But if an ingredient (which itself contains two or more such ingredients, substances, derivatives, or preparations) complies with the specifications set forth for an article in an official compendium, such ingredient may be designated on the label of such drug by the common or usual name under which such specifications are so set forth.

(2) An abbreviation or chemical formula shall not be considered to be a common or usual name. The name "acetophenetidin" shall be considered to be the same as the name "acetphenetidin", "aminopyrine" the same as "amidopyrine." The name "alcohol," without qualification, means ethyl alcohol.

(b) (1) A derivative or preparation of a substance named in section 502 (e) (2) of the Act is an article which is derived or prepared from such substance by any method, including actual or theoretical chemical action.

(2) A statement on the label of a drug of the name of a constituent thereof, which constituent is a derivative or preparation of a substance named in section 502 (e) (2) of the Act, shall show the substance from which such constituent is derived or prepared and that such constituent is a derivative or preparation thereof.

(c) (1) If the drug is in tablet, capsule, ampul, or other unit form, the statement of the quantity or proportion of a substance, derivative, or preparation contained therein shall express the weight or measure of such substance, derivative, or preparation in each such unit. If the drug is not in such unit form the statement shall express the weight or measure of such substance, derivative, or preparation in a specified unit of weight or measure of the drug, or the percentage of such substance, derivative, or preparation in such drug. Such statement shall be in terms which are informative to the ordinary consumer and user of the drug.

(2) A statement of the percentage of alcohol shall express the percentage of absolute alcohol at 68° Fahrenheit (20° Centigrade). A statement of the percentage of a substance, derivative, or preparation other than alcohol shall express the percentage by weight; except that, if both the substance, derivative, or preparation and the drug containing it are liquid, the statement may express the percentage by volume at 68° Fahrenheit (20° Centigrade), but in such case the statement shall be so qualified as to show definitely that the percentage is expressed by volume.

(d) In case a statement of the quantity or proportion of a derivative or preparation in a drug is not as informative, to consumers or users of such drug, of the activity or consequences of use thereof as a statement of the quantity or proportion of the substance from which such derivative or preparation is derived or prepared, the quantity or proportion of such substance shall also be stated on the label of such drug.

(e) A label of a drug may be misleading by reason (among other reasons) of—

(1) the order in which the names of ingredients, substances, derivatives, or preparations appear thereon, or the relative prominence otherwise given such names; or

(2) its failure to reveal the proportion of, or other fact with respect to, an ingredient, substance, derivative, or preparation, when such proportion or other fact is material in the light of the representation that such ingredient, substance, derivative, or preparation is a constituent of such drug.

(f) (1) A drug shall be exempt from the requirements of clause (2) of section 502 (e) of the Act if all words, statements, and other information required by or under authority of the Act to appear on the label of such drug, cannot, because of insufficient label space, be so placed on the label as to comply with the requirements of section 502 (e) of the Act and regulations promulgated thereunder. But such exemption shall be on the condition that, if the omission from the label of the statement of the quantity of the contents affords sufficient space to state legibly thereon all the information required by such clause (2), such statement of the quantity of the contents shall be omitted as authorized by regulation (m) (1) under section 502 (b) of the Act, and the information required by such clause (2) shall be so stated as prominently as practicable even though the statement is not of such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase.

(2) A drug shall be exempt from the requirements of clause (2) of section 502 (e) of the Act with respect to the alkaloids atropine, hyoscine or hyoscyamine contained in such drug, if such alkaloid is contained therein as a constituent of belladonna, hyoscyamus, acopola, stramonium, or other plant material, or any preparation thereof, which was used as an ingredient of such drug, and no practical and accurate method of analysis exists for the quantitative determination of each such alkaloid in such ingredient. But such exemption shall be on the condition that the label of such drug shall state the quantity or proportion of total alkaloids contained therein as constituents of such ingredient:

SECTION 502 (F)

(a) Directions for use may be inadequate by reason (among other reasons) of omission, in whole or in part, or incorrect specification of—

(1) directions for use in all conditions for which such drug or device is prescribed, recommended, or suggested in its labeling, or in its advertising disseminated or sponsored by or on behalf of its manufacturer or packer, or in such other conditions, if any there be, for which such drug or device is commonly and effectively used;

(2) quantity of dose (including quantities for persons of different ages and different physical conditions;

(3) frequency of administration or application;

(4) duration of administration or application;

(5) time of administration or application (in relation to time of meals, time of onset of symptoms, or other time factor);

(6) route or method of administration or application; or

(7) preparation for use (shaking, dilution, adjustment of temperature, or other manipulation or process).

(b) A shipment or other delivery of a drug or device shall be exempt from compliance with the requirements of clause (1) of section 502 (f) of the Act—

(1) with respect to directions for common uses, adequate directions for which are known by the ordinary individual;

(2) if the label of such drug or device bears the statement *"Caution: To be used only by or on the prescription of a ——"* (the blank to be filled in by the word *"Physician"*, *"Dentist"*, or *"Veterinarian"*, or any combination of such words), and all representations or suggestions contained in the labeling thereof with respect to the conditions for which such drug or device is to be used appear only in such medical terms as are not likely to be understood by the ordinary individual, and if such shipment or delivery is made for use exclusively by, or on the prescription of, physicians, dentists, or veterinarians licensed by law to administer or apply such drug or device; but such exemption shall expire when such shipment or delivery, or any part thereof, is offered or sold or otherwise disposed of for any use other than by or on the prescription of such a physician, dentist, or veterinarian, except such use as renders the article not a drug or device within the meaning of section 201 (g) and (h) of the Act; or

(3) if the label of such drug or device bears the statement *"For manufacturing use only"*, and the labeling thereof contains no representation or suggestion with respect to the effect of such drug or device, and if such shipment or delivery is made for use exclusively in the manufacture of another drug or device; but such exemption shall expire when such shipment or delivery, or any part thereof, is offered or sold or otherwise disposed of for any use other than in such manufacture, except such use as renders the article not a drug or device within the meaning of section 201 (g) and (h) of the Act.

(c) The expiration of an exemption under paragraph (b) of this regulation shall not be considered to render invalid the exemption existing up to the time of expiration. The causing by any person of such exemption so to expire shall be considered to be an act of misbranding for which such person shall be liable.

SECTION 503 (A)

(a) Except as provided by paragraphs (b) and (c) of this regulation, a shipment or other delivery of a drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than that where originally processed or packed, shall be exempt, during the time of introduction into and movement in interstate commerce and the time of holding in such establishment, from compliance with the labeling and packaging requirements of sections 501 (b) and 502 (b), (d), (e), (f), and (g) of the Act if—

(1) the person who introduced such shipment or delivery into interstate commerce is the operator of the establishment where such drug or device is to be processed, labeled, or repacked; or

(2) in case such person is not such operator, such shipment or delivery is made to such establishment under a written agreement, signed by and containing the post-office addresses of such person and such operator, and containing such specifications for the processing, labeling, or repacking, as the case may be, of such drug or device in such establishment as will insure, if such specifications are followed, that such drug or device will not be adulterated or misbranded within the meaning of the Act upon completion of such processing, labeling, or repacking. Such person and such operator shall each keep a copy of such agreement until all such shipment or delivery has been removed from such establishment, and shall make such copies available for inspection at any reasonable hour to any officer or employee of the Department who requests them.

(b) An exemption of a shipment or other delivery of a drug or device under clause (1) of paragraph (a) of this regulation shall, at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment, become void ab initio if the drug or device comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the Act when so removed.

(c) An exemption of a shipment or other delivery of a drug or device under clause (2) of paragraph (d) of this regulation shall become void ab initio with respect to the person who introduced such shipment or delivery into interstate commerce upon refusal by such person to make available for inspection a copy of the agreement, as required by such clause.

(d) An exemption of a shipment or other delivery of a drug or device under clause (2) of paragraph (a) of this regulation shall expire—

(1) at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment if the drug or device comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the Act when so removed; or

(2) upon refusal by the operator of the establishment where such drug or device is to be processed, labeled, or repacked, to make available for inspection a copy of the agreement, as required by such clause.

SECTION 505 (A)

A new drug shall not be deemed to be subject to section 505 of the Act if it is a drug which is licensed under the Virus, Serum, and Toxin Act of July 1, 1902 (U. S. C., 1934 ed., title 42, ch. 4), or the Virus, Serums, Toxins, Antitoxins and Analogous Products Act of March 4, 1913 (U. S. C., 1934 ed., title 21, ch. 5).

SECTION 505 (B)

An application which is on its face incomplete in that it does not contain all the matter required by clauses (1), (2), (3), (4), and (6) of section 505 (b) of the Act shall not be accepted for filing; the Food and Drug Administration shall notify the applicant of such non-acceptance and shall specify the clauses in respect of which such application is on its face incomplete. Otherwise the date on which an application is received by the Department shall be considered to be the date on which such application is filed, and the Food and Drug Administration shall notify the applicant of such date. If the applicant withdraws his application, such application shall be considered as not having been filed.

SECTION 505 (C)

If the Secretary determines, before the date prescribed by section 505 (c) of the Act for an application to become effective, that he has no cause to issue an order under section 505 (d) of the Act refusing to permit such application to become effective, the Food and Drug Administration shall so notify the applicant in writing and such application shall become effective on the date of the notification.

SECTION 505 (I)

A shipment or other delivery of a new drug shall be exempt from the operation of section 505 (a) of the Act if—

(1) the label of such drug bears the statement "For investigational use only.";

(2) such shipment or delivery is made only to, and solely for investigational use by, an expert qualified by scientific training and experience to investigate the safety of drugs; and

(3) the person who introduced such shipment or delivery into interstate commerce holds a signed statement from such expert to the effect that he has adequate facilities for the investigation to be conducted by him, and that such drug will be used solely by him or under his direction for the investigation, unless and until an application under section 505 (b) of the Act becomes effective with respect to such drug.

SECTION 601 (A)

The term "coal-tar hair dye" includes all articles containing any coal-tar color or intermediate which color or intermediate alters the color of the hair when such articles are applied to the hair under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual.

SECTION 602 (A)

(a) Among representations in the labeling of a cosmetic which render such cosmetic misbranded is a false or misleading representation with respect to another cosmetic or a food, drug, or device.

(b) The labeling of a cosmetic which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such cosmetic in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

SECTION 602 (B)

(a) If a cosmetic is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such cosmetic, such as "Manufactured for and Packed by ——", "Distributed by ——", or other similar phrase which expresses the facts.

(b) The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

(c) Where a person manufactures, packs, or distributes a cosmetic at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such cosmetic was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

(d) The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any cosmetic from the requirement that its label shall not be misleading in any particular.

(e) (1) The statement of the quantity of the contents shall reveal the quantity of cosmetic in the package, exclusive of wrappers and other material packed with such cosmetic.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such cosmetic and which give accurate information as to the quantity thereof. But if no general consumer usage in expressing accurate information as to the quantity of such cosmetic exists, the statement shall be in terms of liquid measure if the cosmetic is liquid, or in terms of weight if the cosmetic is solid, semisolid, or viscous, or in such terms of numerical count, or numerical count and weight or measure, as will give accurate information as to the quantity of the cosmetic in the package.

(f) (1) A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and shall express the volume at 68° Fahrenheit (20° Centigrade). However, in the case of an export shipment, the statement may be in terms of a system of weight or measure in common use in the country to which such shipment is exported.

(2) A statement of weight or measure in the terms specified in subdivision (1) of his paragraph may be supplemented by a statement in terms of the metric system of weight or measure.

(3) Unless an unqualified statement of numerical count gives accurate information as to the quantity of cosmetic in the package, it shall be supplemented by such statement of weight, measure, or size of the individual units of the cosmetic as will give such information.

(g) Statements shall contain only such fractions as are generally used in expressing the quantity of the cosmetic. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places.

(h) (1) If the quantity of cosmetic in the package equals or exceeds the smallest unit of weight or measure which is specified in paragraph (f) of this regulation, and which is applicable to such cosmetic under the provisions of paragraph (e) (2) of this regulation, the statement shall express the number of the largest of such units contained in the package (for example, the statement on the label of a package which contains one pint of cosmetic shall be "1 pint" and not "16 fluid ounces"), unless the statement is made in accordance with the provisions of subdivision (2) of this paragraph. Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units, if any smaller is specified in such paragraph (f) (for examples, 1¾ quarts may be expressed as "1 quart 1½ pints" or "1 quart 1 pint 8 fluid ounces"; 1¼ pounds may be expressed as "1 pound 4 ounces"). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f)) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for examples, instead of "1 quart 16 fluid ounces" the statement shall be "1½ quarts" or "1 quart 1 pint"; instead of "24 ounces" the statement shall be "1½ pounds" or "1 pound 8 ounces").

(2) In the case of a cosmetic with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in the package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.

(i) The statement shall express the minimum quantity, or the average quantity, of the contents of the package. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the cosmetic is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.

(k) Where the statement does not express the minimum quantity—

(1) variations from the stated weight or measure shall be permitted when caused by ordinary and customary exposure, after the cosmetic is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure;

(2) variations from the stated weight, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting individual packages which occur in good packing practice.

But under subdivision (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the cosmetic is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

(l) The extent of variations from the stated quantity of the contents permissible under paragraphs (j) and (k) of this regulation in the case of each shipment or other delivery shall be determined by the facts in such case.

(m) A cosmetic shall be exempt from compliance with the requirements of clause (2) of section 602 (b) of the Act if the quantity of the contents of the package, as expressed in terms applicable to such cosmetic under the provisions of paragraph (e) (2) of this regulation, is less than one-fourth ounce avoirdupois, or less than one-eighth fluid ounce, or (in case the units of the cosmetic can be easily counted without opening the package) less than six units.

SECTION 602 (C)

(a) A word, statement, or other information required by or under authority of

the Act to appear on the label may lack that prominence and conspicuousness required by section 602 (c) of the Act by reason (among other reasons) of—

(1) the failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;

(2) the failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;

(3) the failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;

(4) insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the Act to appear on the label;

(5) insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device; or

(6) smallness or style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

(b) (1) All words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear thereon in the English language.

(2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label shall appear thereon in the foreign language.

(3) If the labeling contains any representation in a foreign language, all words, statements, and other information required by or under authority of the Act to appear on the label or labeling shall appear on the labeling in the foreign language.

SECTION 603

(a) Except as provided by paragraphs (b) and (c) of this regulation, a shipment or other delivery of a cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than that where originally processed or packed, shall be exempt, during the time of introduction into and movement in interstate commerce and the time of holding in such establishment, from compliance with the labeling requirements of sections 601 (a) and 602 (b) of the Act if—

(1) the person who introduced such shipment or delivery into interstate commerce is the operator of the establishment where such cosmetic is to be processed, labeled, or repacked; or

(2) in case such person is not such operator, such shipment or delivery is made to such establishment under a written agreement, signed by and containing the post-office addresses of such person and such operator, and containing such specifications for the processing, labeling or repacking, as the case may be, of such cosmetic in such establishment as will insure, if such specifications are followed, that such cosmetic will not be adulterated or misbranded within the meaning of the Act upon completion of such processing, labeling, or repacking. Such person and such operator shall each keep a copy of such agreement until all such shipment or delivery has been removed from such establishment, and shall make such copies available for inspection at any reasonable hour to any officer or employee of the Department who requests them.

(b) An exemption of a shipment or other delivery of a cosmetic under clause (1) of paragraph (a) of this regulation shall, at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment, become void ab initio if the cosmetic comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the Act when so removed.

(c) An exemption of a shipment or other delivery of a cosmetic under clause (2) of paragraph (d) of this regulation shall become void ab initio with respect to the person who introduced such shipment or delivery into interstate commerce upon refusal by such person to make available for inspection a copy of the agreement, as required by such clause.

(d) An exemption of a shipment or other delivery of a cosmetic under clause (2) of paragraph (a) of this regulation shall expire—

(1) at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment if the cosmetic comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the Act when so removed; or

(2) upon refusal by the operator of the establishment where such cosmetic is to be processed, labeled, or repacked, to make available for inspection a copy of the agreement, as required by such clause.

SECTION 702 (B)

(a) (1) When any officer or employee of the Department collects a sample of a food, drug, or cosmetic for analysis under the Act, the sample shall be designated as an official sample if records or other evidence is obtained by him or any other officer or employee of the Department indicating that the shipment or other lot of the article from which such sample was collected was introduced or delivered for introduction into interstate commerce, or was in or was received in interstate commerce, or was manufactured within a Territory. Only samples so designated by an officer or employee of the Department shall be considered to be official samples.

(2) For the purpose of determining whether or not a sample is collected for analysis, the term "analysis" includes examinations and tests.

(3) The owner of a food, drug, or cosmetic of which an official sample is collected is the person who owns the shipment or other lot of the article from which the sample is collected.

(b) When an officer or employee of the Department collects an official sample of a food, drug, or cosmetic for analysis under the Act, he shall collect at least twice the quantity estimated by him to be sufficient for analysis, unless—

(1) the amount of the article available and reasonably accessible for sampling is less than twice the quantity so estimated;

(2) the cost of twice the quantity so estimated exceeds $10;

(3) the article is perishable;

(4) the sample is collected from a shipment or other lot which is being imported or offered for import into the United States;

(5) the sample is collected from a person named on the label of the article, or his agent, and such person is also the owner of the article;

(6) the sample is collected from the owner of the article, or his agent, and such article bears no label or, if it bears a label, no person is named thereon; or

(7) the analysis consists principally of rapid analytical procedures, organoleptic examination, or other field inspection examinations or tests, made at the place where the sample is collected or in a mobile or temporary laboratory.

In addition to the quantity of sample prescribed above the officer or employee shall, if practicable, collect as part of the sample such further amount of the article as he estimates to be sufficient for use as exhibits in the trial of any case that may arise under the Act based on the sample.

(c) After the Food and Drug Administration has completed such analysis of an official sample of a food, drug, or cosmetic as it determines, in the course of analysis and interpretation of analytical results, to be adequate to establish the respects, if any, in which the article is adulterated or misbranded within the meaning of the Act, or otherwise subject to the prohibitions of the Act, and has reserved an amount of the article it estimates to be adequate for use as exhibits in the trial of any case that may arise under the Act based on the sample, a part of the sample, if any remains available, shall be provided for

analysis, upon written request, by any person named on the label of the article, or the owner thereof, or the attorney or agent of such person or owner, except when—

(1) after collection, the sample or remaining part thereof has become decomposed or otherwise unfit for analysis, or

(2) the request is not made within a reasonable time before the trial of any case under the Act, based on the sample, to which such person or owner is a party.

The person, owner, attorney, or agent who requests the part of sample shall specify the amount desired and make advance payment of the cost thereof. A request from an owner shall be accompanied by a showing of ownership, and a request from an attorney or agent by a showing of authority from such person or owner to receive the part of sample. When two or more requests for parts of the same sample are received the requests shall be complied with in the order in which they were received so long as any part of the sample remains available therefor.

(d) When an official sample of a food, drug, or cosmetic is the basis of a notice given under section 305 of the Act, or of a case under the Act, and the person to whom the notice was given, or any person who is a party to the case, has no right under paragraph (c) of this regulation to a part of the sample, such person or his atttorney or agent may obtain a part of the sample upon request accompanied by a written waiver of right under such paragraph (c) from each person named on the label of the article and owner thereof, who has not exercised his right under such paragraph (c). The operation of this paragraph shall be subject to the exceptions, terms, and conditions prescribed in paragraph (c) of this regulation.

(e) The Food and Drug Administration is authorized to destroy—

(1) any official sample when it determines that no analysis of such sample will be made;

(2) any official sample or part thereof when it determines that no notice under section 305 of the act, and no case under the Act, is or will be based on such sample;

(3) any official sample or part thereof when the sample was the basis of a notice under section 305 of the Act, and when, after opportunity for presentation of views following such notice, it determines that no other such notice, and no case under the Act, is or will be based on such sample;

(4) any official sample or part thereof when the sample was the basis of a case under the Act which has gone to final judgment, and when it determines that no other such case is or will be based on such sample;

(5) any official sample or part thereof if the article is perishable;

(6) any official sample or part thereof when, after collection, such sample or part has become decomposed or otherwise unfit for analysis;

(7) that part of any official sample which is in excess of three times the quantity it estimates to be sufficient for analysis.

[F. R. Doc. 38-3897; Filed, December 23, 1938; 12:39 p. m.]

TITLE 7—AGRICULTURE

SUGAR DIVISION

[General Sugar Quota Regulations, Series 6, No. 1]

SUGAR CONSUMPTION REQUIREMENTS AND QUOTAS FOR CALENDAR YEAR 1939

DECEMBER 23, 1938.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937, I, H. A. Wallace, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give public notice of these regulations, which shall have the force and effect of law and shall remain in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

SEC. 821.21 *Consumption requirements for 1939.* It is hereby determined, pursuant to Section 201 of the Sugar Act of 1937 (hereinafter referred to as the "act"), that the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1939 is 6,832,157 short tons of sugar, raw value. (Sec. 201, 50 Stat. 904; 7 U. S. C., Sup. III, 1111)

SEC. 821.22 *Quotas for domestic areas.* (a) *Original quotas.* There are hereby established, pursuant to section 202 of the said act, for domestic sugar-producing areas, for the calendar year 1939, the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Domestic beet sugar	1,584,524
Mainland cane sugar	429,553
Hawaii	958,994
Puerto Rico	815,810
Virgin Islands	9,115

(Sec. 202, 50 Stat. 905; 7 U. S. C., Sup. III, 1112)

SEC. 821.23 *Other quotas*—(a) *Original quotas.* There are hereby established, pursuant to section 202 of the said act, for foreign countries and the Commonwealth of the Philippine Islands, for the calendar year 1939, the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Commonwealth of the Philippine Islands	1,052,854
Cuba	1,954,303
Foreign countries other than Cuba	27,004

(Sec. 202, 50 Stat. 905; 7 U. S. C., Sup. III, 1112)

SEC. 821.24 *Proration of quota for foreign countries other than Cuba.* (a) *Original prorations.* The quota for foreign countries other than Cuba is hereby prorated, pursuant to section 202 of the said act, among such countries as follows:

Country:	*Prorations in pounds*
Argentina	15,771
Australia	221
Belgium	318,423
Brazil	1,295
British Malaya	28
Canada	610,433
China & Hongkong	311,721
Colombia	289
Costa Rica	22,285
Czechoslovakia	284,875
Dominican Republic	7,214,853
Dutch East Indies	228,704
Dutch West Indies	7
France	189
Germany	126
Guatemala	362,342
Haiti, Republic of	997,126
Honduras	3,713,814
Italy	1,895
Japan	4,337
Mexico	6,526,095
Netherlands	235,716
Nicaragua	11,058,456
Peru	12,024,728
Salvador	8,881,104
United Kingdom	379,399
Venezuela	313,763
Sub-total	53,508,000
Unallotted reserve	500,000
Total	54,008,000

(Sec. 202, 50 Stat. 905; 7 U. S. C., Sup. III, 1112)

SEC. 821.25 *Direct consumption portion of quotas.* (a) *Domestic areas.* The quotas established in Sec. 821.22 hereof for the following listed areas may be filled by direct consumption sugar not in excess of the following amount for each such area:

Area:	*Amount of direct consumption sugar in terms of short tons, raw value*
Hawaii	29,616
Puerto Rico	126,033
Virgin Islands	0

(b) *Other areas.* The quotas established in Sec. 821.23 hereof for the following listed areas may be filled by direct consumption sugar not in excess of the following amount for each such area:

Area:	*Amount of direct consumption sugar in terms of short tons, raw value*
Commonwealth of the Philippine Islands	80,214
Cuba	375,000

(Sec. 207, 50 Stat. 907; 7 U. S. C., Sup. III, 1117)

SEC. 821.26 *Liquid sugar quotas.* There are hereby established, pursuant to section 208 of the said act, for foreign countries, for the calendar year 1939, quotas for liquid sugar as follows:

Country:	*In terms of wine gallons of 72% total sugar content*
Cuba	7,970,556
Dominican Republic	830,894
Other foreign countries	0

(Sec. 208, 50 Stat. 908; 7 U. S. C., Sup. III, 1118)

SEC. 821.27 *Restrictions on marketing and shipment.* (a) For the calendar year 1939, all persons are hereby forbidden, pursuant to section 209 of the said act, from bringing or importing into the continental United States from the Territory of Hawaii, Puerto Rico, the Virgin Islands, the Commonwealth of the Philippine Islands, or any foreign country, any sugar or liquid sugar after the quota for such area, or the proration of any such quota, has been filled.

(b) For the calendar year 1939, all persons are hereby forbidden, pursuant to section 209 of the said act, from shipping, transporting or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets or sugarcane grown in either the domestic beet sugar area or the mainland cane sugar area after the quota for such area has been filled. (Sec. 209, 50 Stat. 906; 7 U. S. C., Sup. III, 1119)

SEC. 821.28 *Inapplicability of quota regulations.* These regulations (Secs. 821.21–821.27) shall not apply to (1) the first 10 tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba; (2) the first 10 tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba, for religious, sacramental, educational, or experimental purposes; (3) liquid sugar imported from any foreign country, other than Cuba, in individual sealed containers not in excess of one and one-tenth gallons each; or (4) any sugar or liquid sugar imported, brought into, or produced or manufactured in, the United States for the distillation of alcohol, or for livestock feed, or for the production of livestock feed. (Sec. 212, 50 Stat. 909; 7 U. S. C., Sup. III, 1122)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 23d day of December, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3907; Filed, December 27, 1938; 12:18 p. m.]

DETERMINATION OF PROPORTIONATE SHARES FOR FARMS IN DOMESTIC BEET SUGAR AREA FOR 1939 CROP

DECEMBER 23, 1938.

Whereas Section 302 of the Sugar Act of 1937 provides in part as follows:

(a) The amount of sugar or liquid sugar with respect to which payment may be made shall be the amount of sugar or liquid sugar commercially recoverable, as determined by the Secretary, from the sugar beets or sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm, as determined by the Secretary, of the quantity of sugar beets or sugarcane for the extraction of sugar or liquid sugar required to be processed to enable the producing area in which the crop of sugar beets or sugarcane is grown to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

(b) In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of sugar beets and sugarcane marketed (or processed) for the extraction of sugar or liquid sugar and the ability to produce such sugar beets or sugarcane, and the Secretary shall, insofar as practicable, protect the interests of new producers and small producers and the interests of producers who are cash tenants, share-tenants, adherent planters, or share-croppers.

and

Whereas subsection (c) of section 301 of said act provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(c) That there shall not have been marketed (or processed) an amount (in terms of planted acreage, weight, or recoverable sugar content) of sugar beets or sugarcane grown on the farm and used for the production of sugar or liquid sugar to be marketed in, or so as to compete with or otherwise directly affect interstate or foreign commerce, in excess of the proportionate share for the farm, as determined by the Secretary pursuant to the provisions of section 302, of the total quantity of sugar beets or sugarcane required to be processed to enable the area in which such sugar beets or sugarcane are produced to meet the quota (and provide a normal carryover inventory) as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

and

Whereas the Secretary of Agriculture, on September 15, 1938, estimated the amount (in terms of planted acreage) of sugar beets required to be processed from the 1939 crop to enable the beet sugar area to fill its quota (and provide a normal carryover inventory), estimated for the calendar year during which the larger part of the sugar from such crop normally would be marketed, to be 1,030,000 acres:

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, do hereby determine that the proportionate share of sugar beets in terms of planted acres for any farm in the beet sugar area for the 1939 crop shall be the acreage established as follows:

A. In a district in which the total acreage requested for proportionate shares does not exceed the acreage allocation hereinafter made for such district, the proportionate share shall be the acreage requested.

B. In a district in which the total acreage requested for proportionate shares exceeds the acreage allocation hereinafter made for such district, the proportionate share for a farm for which a proportionate share is requested shall be calculated upon the basis of the average acreage of sugar beets planted on the farm during a period of not less than three and not more than ten consecutive years, including the year 1938 (the same years to be included for all farms in the district), and from the figure so obtained there shall be deducted (a) the acreage obtained by multiplying such average acreage for the farm by the percentage that the total of such average acreages for all farms in the district exceeds the district allocation, (b) the acreage by which the average acreage for the farm, as adjusted in (a) above, exceeds the acreage requested for the farm, and (c) any acreage by which the average acreage for the farm, as adjusted in (a) and (b) above, exceeds the ability to produce sugar beets, as hereinafter defined; and to the figure thus obtained there shall be added any acreage apportioned to the farm from the amount by which the total of such figures for all farms in the district is less than the acreage allocated to the district. In making such apportionment there shall be taken into consideration, first, requests from small producers, second, requests from new producers who are not small producers, and, third, requests from producers, other than small or new producers, requesting acreages in excess of their average acreage as adjusted in (a) above, and in all three cases consideration shall be given to ability to produce sugar beets, as measured by availability and suitability of land, area of available fields, availability of irrigation water, adequate drainage, availability of production and marketing facilities, and the production experience of the producer.

Provided, however, That the total of the proportionate shares established for farms by districts shall not be in excess of the following:

State and District	*Acres*
California:	
Alvarado, Tracy, and Hamilton City	37,628
Manteca and Woodland	52,044
Salinas	23,651
Clarksburg	14,954
Betteravia	13,834
Oxnard	18,071
Los Alamitos	6,001
Dyer (Santa Ana)	7,712
Colorado:	
Brush	8,860
Brighton	10,779
Eaton	16,903
Fort Collins	13,902
Fort Morgan	13,363
Fort Lupton	11,326
Greeley	13,264
Longmont	16,517
Loveland	11,015
Ovid	16,158
Sterling	14,348
Windsor	11,474
Sugar City	6,764
Rocky Ford	17,203
Swink	10,257
Delta Gr. Junct	8,598

State and District	*Acres*
Idaho:	
Upper Snake	31,260
Twin Falls	14,928
Burley-Rupert	12,617
Preston	7,921
Indiana:	
Decatur	14,228
Iowa:	
Mason City	14,183
Kansas:	
Garden City	10,310
Michigan:	
Alma	11,901
Caro	12,418
Croswell	10,493
Lansing	9,700
Saginaw	11,653
Sebewaing	11,366
Holland	5,436
St. Louis	10,595
Bay City	16,687
Mt. Clemens	8,661
Mt. Pleasant	11,769
Blissfield	11,414
Menominee	7,532
Minnesota:	
East Grand Forks	26,483
Chaska	14,089
Montana:	
Billings	26,735
Chinook	14,577
Missoula	11,585
Sidney	17,485
Hardin	11,638
Nebraska:	
Bayard	13,066
Gering	10,774
Lyman	7,172
Minatare	10,742
Mitchell	7,892
Scottsbluff	10,029
Grand Island	12,328
Ohio:	
Findlay	11,743
Fremont	10,920
Ottawa	9,208
Paulding	10,442
Oregon: Nyssa	16,322
South Dakota: Belle Fourche	10,513
Utah:	
Brigham-Garland	10,702
Spanish Fork and West Jordan	13,747
Centerfield	6,766
Ogden	7,035
Lewiston	11,200
Layton	5,723
Washington:	
Bellingham	3,118
Toppenish	14,310
Wisconsin:	
Green Bay	7,125
Janesville	6,893
Wyoming:	
Wheatland	7,825
Lovell	11,566
Torrington	20,935
Worland	13,474
Sheridan	6,140
Total	1,030,000

For the purposes of this determination:

1. A producer shall be deemed to be a small producer if in 1939 he operates a farm for which the proportionate share requested is less than 35% of the average planted sugar beet acreage per farm for the district in which such farm is included.

2. A producer shall be deemed to be a new producer if in 1939 he operates a farm on which sugar beets have not been planted during the period used as the measure of history of planted sugar beet acreage for the district in which such farm is included.

3. A district shall be deemed to include the farms with respect to which the operators signify intention to contract for the production of sugar beets for delivery to the beet sugar factory or factories identifying the district (specified above), and shall include only the farms located within the territory in which sugar beets are normally contracted for delivery to such factory or factories.

The proportionate shares for farms shall be established in accordance with this determination by a committee of sugar beet producers designated for the district by the appropriate Division of the Agricultural Adjustment Administration.

Done at Washington, D. C., this 23d day of December 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3908; Filed, December 27, 1938; 12:18 p. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDMENT OF RULE U-12F-1 [1]

Pursuant to authority conferred upon it by Sections 12 (f), 20 (a) and 27 (a) of the Public Utility Holding Company Act of 1935, and deeming it appropriate in the public interest and for the protection of investors and consumers, the Securities and Exchange Commission hereby amends subparagraph (2) of paragraph (e) of Rule U-12F-1 [Sec. 15. U-12F-1] entitled "Sale of Public Utility Securities and Utility Assets to Associate Companies or Affiliates" by striking out of said sub-paragraph (2) the words "April 15, 1938," and inserting in lieu thereof "December 19, 1938."

Effective December 24, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3904; Filed, December 27, 1938; 11:12 a. m.]

[1] 3 F. R. 2897 DI.

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDMENT OF RULE U-17C-11 [1]

Pursuant to authority granted by the Public Utility Holding Company Act of 1935 and particularly Sections 17 (c) and 20 (a) thereof and finding that such action will not adversely affect the public interest or the interest of investors or consumers and is appropriate to carry out the provisions of said Act, the Securities and Exchange Commission hereby amends Rule U-17C-11 [Sec. 15.U-17C-11] entitled "Independent Officers or Directors" by striking out of paragraph (c) of said rule the words "January 1, 1939," and by inserting in lieu thereof "April 1, 1939."

Effective December 31, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3903; Filed, December 27, 1938; 11:12 a. m.]

TITLE 18—CONSERVATION OF POWER

FEDERAL POWER COMMISSION

[Order No. 57]

DIRECTING NATURAL-GAS COMPANIES HAVING AGREEMENTS PROVIDING FOR PERIODIC CHANGES IN RATES TO SUBMIT INFORMATION AND DATA SPECIFIED IN PROVISIONAL RULES AND REGULATIONS

DECEMBER 20, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

(a) Part 54, Section 54.3 C [2] of the Provisional Rules of Practice and Regulations Under the Natural Gas Act, provides that all rate schedules making a change in any rate, charge, classification or service, on file with the Commission, or in any rule, regulation or contract relating thereto, shall be filed with the Commission not less than thirty days prior to the proposed effective date thereof, unless a shorter period of time is authorized by the Commission; and as to each proposed change there shall be submitted to the Commission at the same time—(1) a statement outlining the reasons for the proposed change and the desirability thereof; (2) pertinent data supporting the statements in (1) above; and (3) an estimate of the probable sales and revenue under the rate after the proposed change becomes effective, for a period of 12 months thereafter;

(b) In many instances agreements of natural-gas companies, filed pursuant to Section 4 (c) of the Natural Gas Act, contain provisions whereby changes in rate schedules are to become effective periodically upon dates subsequent to the filing of such agreements, and in con-

[1] 2 F. R. 2197 (2555 DI).
[2] 3 F. R. 1687 DI.

nection with such changes certain natural-gas companies have not submitted the information and data specified in Part 54, Section 54.3 C of the Provisional Rules of Practice and Regulations Under the Natural Gas Act;

The Commission *orders* that:

Each natural-gas company having on file with the Commission an agreement or agreements providing for periodic change or changes therein, to become effective subsequent to the date of filing of such agreement or agreements shall, within not less than 30 days prior to the effective date of such change or changes, submit to the Commission the information and data specified in Part 54, Section 54.3 C of the Provisional Rules of Practice and Regulations Under the Natural Gas Act.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 38-3899; Filed, December 27, 1938; 11:10 a. m.]

Notices

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 26-406 (A)-1]

PETITION BY INLAND AIR LINES, INC. FOR AN ORDER FIXING AND DETERMINING FAIR AND REASONABLE RATES OF COMPENSATION FOR TRANSPORTATION OF MAIL BY AIRCRAFT OVER AIR MAIL ROUTE NO. 35 AND FOR SERVICES CONNECTED THEREWITH

NOTICE OF HEARING

DECEMBER 23, 1938.

The above-entitled proceeding is assigned for public hearing on January 10, 1939, 10 o'clock a. m. (eastern standard time) at the offices of the Civil Aeronautics Authority (Hearing Room No. 5044), in Washington, D. C., before the Authority.

By the Authority:

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-3905; Filed, December 27, 1938; 11:53 p. m.]

[Docket No. 6-406(A)-1]

APPLICATION BY PAN AMERICAN AIRWAYS COMPANY TO FIX AND DETERMINE FAIR AND REASONABLE RATES OF COMPENSATION FOR TRANSPORTATION OF MAIL BY AIRCRAFT, AND FACILITIES USED AND USEFUL THEREFOR, AND SERVICES CONNECTED THEREWITH, ON ROUTE BETWEEN SAN FRANCISCO, CALIFORNIA, AND HONG KONG, CHINA

NOTICE OF HEARING

DECEMBER 27, 1938.

The above-entitled proceeding is assigned for public hearing on January 16, 1939, 10 o'clock a. m. (eastern standard time) at the offices of the Civil Aeronautics Authority (Hearing Room No. 5044), Washington, D. C., before the Authority.

By the Authority:

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-3906; Filed, December 27, 1938; 11:53 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of December, A. D. 1938.

[File No. 32-111]

IN THE MATTERS OF ARKANSAS WESTERN GAS COMPANY AND SOUTHERN UNION GAS COMPANY

ORDER

Arkansas Western Gas Company, a subsidiary of Southern Union Gas Company, a registered holding company, having filed applications pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, and Rule U-12C-1 promulgated thereunder, in respect of (1) the issue and sale of $750,000 principal amount of its First Mortgage, Series A, Fifteen Year 6% Sinking Fund Bonds, (2) the issue and sale of 2,500 shares of its 6% Cumulative Preferred Stock, par value $50 per share, in exchange for $125,000 principal amount of its Five Year 7% Gold Debentures, and (3) the acquisition of $125,000 principal amount of its 7% Debentures, and having requested an order permitting a declaration to become effective pursuant to Section 7 of the Act regarding such "exercise of any privilege or right to alter the priorities, preferences, voting power or other rights of an outstanding security of such company" within the meaning of Section 6 (a) (2) of the Act as may be involved in (a) the reduction in the stated value of its no par common stock from $80 to $35 per share, and (b) changes in voting power incident to the issuance of the above-designated preferred stock; and

Southern Union Gas Company, a registered holding company, having filed an application, pursuant to Rule U-12D-1, for approval of the sale of said Debentures to Arkansas Western Gas Company; and

Public hearings on said matters having been held[1] after appropriate notice and the Commission having considered the record in these matters and having made and filed its findings and opinion herein:

It is ordered, That the applications filed pursuant to Section 6 (b) of the Act and Rule U-12C-1 by Arkansas Western Gas Company be granted, subject, however, to the following terms and conditions: (1) that the issue, sale, and exchange of said securities by Arkansas Western Gas Company shall be effected in accordance with the terms and conditions of, and for the purposes represented by, said applications; (2) that if the express authorization of the issue and sale of said bonds and preferred stock by the Department of Public Utilities of the State of Arkansas shall be revoked or otherwise terminated, the exemption provided in respect of such issue and sale shall immediately terminate without further order of this Commission; and (3) that within ten days after the issue and sale, and the acquisition, of said securities the applicant shall file with this Commission a Certificate of Notification showing that such issue and sale, and such acquisition have been effected in accordance with the terms and conditions of, and for the purposes represented by, said applications.

It is further ordered, That declarations regarding such alterations in the priorities, preferences, voting power or other rights as are involved in the reduction in stated value of Arkansas Western Gas Company's no par common stock from $85 to $35, and in the issuance by Arkansas Western Gas Company of 2,500 shares of its 6% Cumulative Preferred Stock, par value $50 per share, be and become effective forthwith, on the condition, however, that such matters shall be performed in all respects as set forth in said applications.

It is further ordered, That the application of Southern Union Gas Company, pursuant to Rule U-12D-1, is hereby approved, subject, however, to the condition that such sale shall be effected in compliance with and for the purposes represented by said application, and upon the further condition that Southern Union Gas Company shall file with this Commission, within ten days after the sale of said debentures, a Certificate of Notification to that effect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR. *Secretary.*

[F. R. Doc. 38-3902; Filed, December 27, 1938; 11:12 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of December, A. D. 1938.

[1] 3 F. R. 2601 DI.

[File No. 43-119]

IN THE MATTER OF MONONGAHELA WEST PENN PUBLIC SERVICE COMPANY AND AMERICAN WATER WORKS AND ELECTRIC COMPANY, INCORPORATED

ORDER

Monongahela West Penn Public Service Company, a subsidiary of American Water Works and Electric Company, Incorporated, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the reduction of the par value of its common stock from $25 per share to $15 per share and regarding the issue and sale of 200,000 additional shares of its common stock having such reduced par value; and said American Water Works and Electric Company, Incorporated, having filed an application pursuant to Section 10 (a) (1) of said Act for approval of the acquisition of such additional shares for the consideration of $3,000,000 or $15 per share;

Public hearings having been held[1] on the above matters after appropriate notice; and the Commission having made and filed its findings herein:

It is ordered, That said declaration by Monongahela West Penn Public Service Company be and become effective forthwith, subject however to the following conditions: That no charges (other than those required by other regulatory bodies having exclusive jurisdiction in the premises) shall be made to the capital surplus resulting from the reduction in the par value of declarant's stock unless prior notice of the making of such charge be given to this Commission, in which event the Commission reserves jurisdiction, after notice and opportunity for hearing, to disapprove such charge on the basis of the record herein and any additional evidence that may be adduced by any interested party; and in the event that the Commission shall notify declarant to show cause why such charge should not be approved, the charge in question shall not be made until expressly authorized by order of this Commission;

It is further ordered, That the application of American Water Works and Electric Company, Incorporated, be and the same hereby is approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3900; Filed, December 27, 1938; 11:11 a. m.]

[1] 3 F. R. 2879 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December, A. D. 1938.

[File No. 43-170]

IN THE MATTER OF PENNSYLVANIA POWER COMPANY, THE COMMONWEALTH & SOUTHERN CORPORATION

ORDER

Pennsylvania Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, having filed an application and declarations pursuant to Sections 6 (b) and 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale of 42,000 shares of its $5 cumulative no-par preferred stock, 10,000 shares of its no-par common stock, and its 1½% promissory note in the principal amount of $3,000,000;

The Commonwealth & Southern Corporation having filed an application pursuant to Section 10 of the Act for the approval of the acquisition by it of the aforesaid 10,000 shares of no-par common stock to be acquired at the stated value of $300,000;

A joint hearing having been held[1] on said applications and declarations after appropriate notice, and the Commission having considered the record in this matter and having made and filed its findings herein;

[1] 3 F. R. 2859 DI.

It is ordered, That the issue and sale of 42,000 shares of such preferred stock be and the same hereby are exempted from the provisions of Section 6 (a) of the Act;

It is further ordered, That the declarations with respect to the aforesaid 10,000 shares of common stock and the promissory note in the principal amount of $3,000,000 be and become effective forthwith;

It is further ordered, That the acquisition of the aforesaid 10,000 shares of common stock by The Commonwealth & Southern Corporation is hereby approved; the Commission, however, reserves jurisdiction as to the amount at which The Commonwealth & Southern Corporation carries its investment in the common capital stock of Pennsylvania Power Company;

It is further ordered, That this order be subject to the following terms and conditions:

(1) That all acts in connection with said declarations and applications shall be performed in all respects as set forth in, and for the purposes represented by, said applications and declarations; and

(2) That in the event that the order of the Pennsylvania Public Service Commission expressly authorizing the issuance of the preferred stock shall be revoked, rescinded, or otherwise terminated, the exemption granted herein shall immediately terminate without further notice or order; and

(3) That within ten days after the issuance of the securities referred to herein, and the acquisition of the common stock, the declarant and applicants shall, respectively, file with this Commission certificates of notification showing that such issue and sale and acquisition have been effected in accordance with the terms and conditions of, and for the purposes represented by, the declarations and applications.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3901; Filed, December 27, 1938; 11:11 a. m.]

Reference

FEDERAL REGISTER

VOLUME 3 NUMBER 252

Washington, Thursday, December 29, 1938

The President

EXECUTIVE ORDER

DOCUMENTS REQUIRED OF ALIENS ENTERING THE UNITED STATES

By virtue of and pursuant to the authority vested in me by the act of May 22, 1918, 40 Stat. 559, as extended by the act of March 2, 1921, 41 Stat. 1205–1217, I hereby prescribe the following regulations pertaining to documents required of aliens entering the United States (which regulations shall be applicable to Chinese and to Philippine citizens who are not citizens of the United States except as may be otherwise provided by special laws and regulations governing the entry of such persons):

PART I

1. Nonimmigrants must present unexpired passports or official documents in the nature of passports issued by the governments of the countries to which they owe allegiance or other travel documents showing their origin and identity, as prescribed in regulations issued by the Secretary of State, and valid passport visas, except in the following cases:

(a) A nonimmigrant alien coming within a category and domiciled in a country, island, or territory of the Western Hemisphere, specified in regulations issued by the Secretary of State, passing in transit through the United States or entering the United States temporarily.

(b) A nonimmigrant alien lawfully admitted into the United States who later goes in transit from one part of the United States to another through foreign contiguous territory.

(c) A nonimmigrant alien child born subsequent to the issuance of the passport visa of an accompanying parent, the visa not having expired.

(d) An alien who has previously been legally admitted into the United States with a diplomatic visa or with a passport visa as a nonimmigrant as defined by Section 3 (1) or Section 3 (6) of the Immigration Act of 1924 (43 Stat. 153, 154), and who has departed temporarily therefrom and returned within six months, not having proceeded to any place outside the countries, islands, and territories of the Western Hemisphere specified in regulations issued by the Secretary of State, and not having relinquished the status in which he was originally admitted.

2. A nonimmigrant alien not included in any of the foregoing exceptions who is passing in transit through the United States may present, in lieu of a passport visa, a transit certificate granted by an authorized officer of the United States.

3. A nonimmigrant alien not included in any of the exceptions specified in the preceding paragraphs who enters the United States for a period not exceeding ten days, landing temporarily while the vessel on which he is a passenger is in port or crossing the border, entering and departing via the same port of entry, may present, in lieu of a passport visa, a limited entry certificate granted by an authorized officer of the United States.

4. The Secretary of State is authorized in his discretion to waive the passport and visa requirements in cases of emergency for nonimmigrants, except that the Governor of the Virgin Islands is authorized in his discretion to waive the requirements in cases of emergency for nonimmigrant aliens applying for admission at a port of entry of the Virgin Islands.

5. No passport visa, transit certificate, or landing certificate shall be granted to an alien whose entry would be contrary to the public safety.

PART II

1. Immigrants must present unexpired passports, or official documents in the nature of passports, issued by the governments of the countries to which they owe allegiance, or other travel docu-

CONTENTS

THE PRESIDENT

Executive Order: Page
Aliens entering United States, documents required of 3177

RULES, REGULATIONS, ORDERS

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES:
Securities and Exchange Commission:
Public Utility Holding Company Act of 1935, adoption of Rule U–12F–2 3178

NOTICES

Federal Trade Commission:
Drushell, J. D., trading as J. D. Drushell Co., and Smith, Laurence A., hearing 3179
Securities and Exchange Commission:
Hearings:
Badger Paper Mills, Inc 3180
Colonial Beacon Oil Co 3179
North American Finance Corp 3180
Orders:
Columbus and Southern Ohio Electric Co., issue and sale of bonds exempted 3180
Northeastern Water Co's., Inc., consenting to withdrawal of application 3181
Northern States Power Co. (Del.) (Minn.) (Wis.), approving applications and declarations, as amended 3180
Walling, William English, II, executor of Willoughby G. Walling, deceased, application for final compensation disapproved 3182

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ments showing their origin and identity, prescribed in regulations issued by the Secretary of State, and valid immigration visas granted by the consular officers of the United States in accordance with the requirements of the Immigration Act of 1924 and the regulations issued thereunder, except in the following cases:

(a) An alien immigrant child born subsequent to the issuance of the immigration visa of an accompanying parent, the visa not having expired.

(b) An alien immigrant child born during the temporary visit abroad of an alien mother who has previously been legally admitted into the United States for permanent residence, under such regulations as may be prescribed.

(c) An alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed temporarily therefrom and returned within six months, not having proceeded to any place outside the countries, islands, and territories of the Western Hemisphere specified in regulations issued by the Secretary of State.

(d) An alien immigrant who has previously been legally admitted into the United States for permanent residence, re-entering from a journey beginning in an American port, without transshipment from the original vessel to another vessel.

(e) An alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed therefrom and has returned from a temporary visit abroad, and who presents an unexpired permit to re-enter, issued pursuant to section 10 of the Immigration Act of 1924.

2. An alien who has previously been legally admitted into the United States as a nonquota immigrant student, has departed temporarily therefrom and returned within six months, not having proceeded to any place outside the countries, islands, and territories of the Western Hemisphere specified in regulations issued by the Secretary of State and not having relinquished his student status, may re-enter without an immigration visa.

3. An immigrant Spanish national who on April 11, 1899 (whether adult or minor), was a *bona fide* resident of Puerto Rico or adjacent islands which comprised the Province of Puerto Rico, and who, in conformity with Article IX of the treaty between the United States and Spain of April 11, 1899, has preserved his allegiance to Spain, may present a passport visa, in lieu of an immigration visa, for entry into Puerto Rico. Such aliens may be admitted into Puerto Rico without regard to the provisions of the Immigration Act of 1924, except section 23. (Act of May 26, 1926, ch. 400, 44 Stat. 657).

4. In such classes of cases and under such conditions as may by regulations be prescribed, the immigration visa requirements may be waived, under section 13 (b) of the Immigration Act of 1924, and the passport requirements may also be waived, for an alien immigrant who has previously been legally admitted into the United States for permanent residence, has departed therefrom, and is returning from a temporary visit abroad.

5. In such classes of cases and under such conditions as may by regulations be prescribed by the Secretary of State, the passport requirements may be waived for any immigrant.

PART III

The Executive Secretary of the Panama Canal is hereby authorized to issue passport visas, transit certificates, landing certificates, and immigration visas to aliens coming to the United States from the Canal Zone. The Governor of American Samoa is hereby authorized to issue passport visas, transit certificates, landing certificates, and immigration visas to aliens coming to the United States from American Samoa. The Governor of Guam is hereby authorized to issue passport visas, transit certificates, landing certificates, and immigration visas to aliens coming to the United States from Guam.

PART IV

The documentary requirements for aliens applying for admission into American possessions outside the United States are to be prescribed by the competent authorities in such possessions, except in the case of the Philippine Islands, which are covered by separate Executive order.

PART V

The definitions contained in section 28 of the Immigration Act of 1924 shall be regarded as applicable to this order, except as otherwise specified herein.

PART VI

The Secretary of State and the Secretary of Labor are hereby authorized to make such additional rules and regulations, not inconsistent with this order, as may be deemed necessary for carrying out the provisions of this order and the statutes mentioned herein.

PART VII

This order shall take effect immediately and shall supersede the provisions of Executive Order No. 7865 [1] of April 12, 1938, entitled, "Documents Required of Aliens Entering the United States", but shall not supersede Executive Order No. 4049 of July 14, 1924, entitled, "Documents Required of Aliens Entering the United States on Airships", or Executive Order No. 7797 [2] of January 26, 1938, entitled, "Documents Required of Bona Fide Alien Seamen Entering the United States".

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Dec. 27th 1938

[No. 8029]

[F. R. Doc. 38-3917; Filed, December 28, 1938; 11:15 a. m.]

Rules, Regulations, Orders

TITLE 17—COMMODITIES AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U-12F-2

Acting pursuant to the Public Utility Holding Company Act of 1935, and particularly section 20 (a) thereof, and finding such action necessary and appropriate to carry out the provisions of sections 6 (b), 7 (d) (4), 10 (b) (2), 12 (d), 12 (f), 12 (g), 13 (e) and 13 (f) [3] thereof, the Securities and Exchange Commission hereby adopts a rule to be designated Rule U-12F-2 and to read as follows:

SEC. 15.U-12F-2 (Rule U-12F-2). *Payment of Fees to Associates and Affiliates in Connection with an Acquisition or Sale of Securities.*

(a) In connection with an issue, sale or acquisition of any security with respect to which an application or declaration is required by sections 6, 7, 9, 10 or 12 (d), (f), or (g) [4] of the Act, no underwriter's or finder's fee shall be paid to—

(1) any company in the same holding company system as the applicant or declarant, or

(2) any affiliate of such company, or

(3) any person who the Commission finds stands in such relation to the declarant or applicant, or to the person by whom the fee is to be paid, that there is liable to be or to have been an absence of arm's-length bargaining with respect to the transaction. The Commission shall not make such finding unless it has issued an order to show cause why such finding should not be made, which order to show cause shall be returnable on the date and at the place fixed for hearing upon the application or declaration to which it is ancillary, unless the Commission otherwise orders. Proceedings on the order to show cause and on the application or declaration shall be consolidated, unless the Commission shall otherwise order. In appropriate cases, the Commission up application may make a finding or render an opinion for purposes of this paragraph in advance of any issue, sale, or acquisition of any security. Except for purposes of this rule, a finding by the Commission under this paragraph shall not constitute a finding for purposes of section 2 (a) (11) (D) [5] of the Act.

(b) Paragraph (a) of this rule shall not apply in respect of any underwriter's fee if it appears to the Commission that—

(1) appropriate and diligent effort was made to obtain competitive bids for the securities which are the subject of the application or declaration, by publication or otherwise, and the affiliate's bid was not less favorable than that of any other bidders'; or

(2) such effort was not practicable and (a) the fee to be paid does not exceed customary fees for similar services where the parties are dealing at arm's length, (b) the service rendered is necessary, and (c) the remuneration is reasonable in view of the cost of rendering the service, the time spent therein and other relevant factors.

(c) Paragraph (a) of this rule shall not apply in respect of any finder's fee if the necessity for the employment of the finder and the reasonableness of the fee are established by a fair preponderance of the evidence.

(d) An underwriter's fee within the meaning of this rule shall include any fee, commission, discount or other remuneration (except a finder's fee) paid in connection with a public offering of any securities to an underwriter as defined in the Securities Act of 1933, *Provided, however*, That the term shall not include any fee paid to an underwriter whose participation does not exceed 5% of the total offering, if such underwriter does not receive any commission or remuneration (whether for originating the issue or otherwise) in addition to the fee computed at the rate applicable to other underwriters who take the same or similar participation in the offering.

(e) A finder's fee is a fee (other than an underwriter's fee) paid for services (other than attorneys', accountants' and similar technical services) in connection with the negotiation or consummation of an acquisition, issue, or sale of securities or for services in securing underwriters, sellers or purchasers of securities. (C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t) [Rules and Regs., Rule U-12F-2, effective March 1, 1939]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3918; Filed, December 28, 1938; 12:35 p. m.]

[1] 3 F. R. 885 DI.
[2] 3 F. R. 253 DI.
[3] C. 687, sec. 6, 49 Stat. 814; 15 U. S. C., Sup. III, 79f; C. 687, sec. 7, 49 Stat. 815; 15 U. S. C., Sup. III, 79g; C. 687, sec. 10, 49 Stat. 818; 15 U. S. C., Sup. III, 79j; C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 79l; C. 687, sec. 13, 49 Stat. 825; 15 U. S. C., Sup. III, 79m.
[4] C. 687, sec. 6, 49 Stat. 814; 15 U. S. C., Sup. III, 79f; C. 687, sec. 7, 49 Stat. 815; 15 U. S. C., Sup. III, 79g; C. 687, sec. 9, 49 Stat. 817; 15 U. S. C., Sup. III, 79i; C. 687, sec. 10, 49 Stat. 818; 15 U. S. C., Sup. III, 79k; C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 79l.
[5] C. 687, sec. 2, 49 Stat. 804; 15 U. S. C., Sup. III, 79b.

Notices

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3642]

IN THE MATTER OF J. D. DRUSHELL, TRADING AS J. D. DRUSHELL COMPANY, AND LAURENCE A. SMITH

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Tuesday, January 3, 1939, at ten o'clock in the forenoon of that day (central standard time), in room 1123 New Post Office Building, 433 West Van Buren Street, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 38-3909; Filed, December 28, 1938; 9:43 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 27th day of December 1938.

[File No. 1-246]

IN THE MATTER OF COLONIAL BEACON OIL COMPANY COMMON STOCK, WITHOUT PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the Common Stock, Without Par Value, of Colonial Beacon Oil Company; and

The Commission deeming it necessary for the protection of investors, that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, January 24, 1939 at the office of the Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3912; Filed, December 28, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C. on the 27th day of December 1938.

[File No. 1-2827]

IN THE MATTER OF NORTH AMERICAN FINANCE CORP. 80¢ CUM. PRIOR PFD. STOCK, AND CLASS "A" COMMON STOCK PURCHASE WARRANTS

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Board of Trade of the City of Chicago, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 80¢ Cumulative Prior Preferred Stock and Class "A" Common Stock Purchase Warrants of North American Finance Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, January 24, 1939 at the office of the Securities and Exchange Commission, 105 West Adams St., Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3911; Filed December 28, 1938, 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 27th day of December 1938.

[File No. 1-2904]

IN THE MATTER OF APPLICATION OF BADGER PAPER MILLS, INC. TO WITHDRAW ITS COMMON STOCK, NO PAR VALUE, FROM LISTING AND REGISTRATION ON CHICAGO STOCK EXCHANGE

ORDER CHANGING TRIAL EXAMINER

The Badger Paper Mills, Inc., pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the Chicago Stock Exchange; and

The Commission having ordered [1] that the matter be set down for hearing before Henry Fitts, an officer of the Commission, at 10 A. M. on January 4, 1939, at the office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois; and

It appearing that Henry Fitts will not be available to preside at said hearing;

It is ordered, That Arthur E. Boroughf, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3916; Filed, December 28, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of December, A. D. 1938.

[File No. 32-123]

IN THE MATTER OF COLUMBUS AND SOUTHERN OHIO ELECTRIC COMPANY

ORDER EXEMPTING ISSUE AND SALE OF BONDS

Columbus and Southern Ohio Electric Company, a subsidiary of Continental Gas and Electric Corporation, a registered holding company, having filed an application and an amendment thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of section 6 (a) of the Act of the issue and sale of $1,900,000 principal amount of its First Mortgage and Collateral Trust Bonds, 3¼% Series due 1968;

A hearing on such matter having been held [2] after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein;

It is ordered That the issue and sale of the aforesaid bonds in accordance with the terms and conditions set forth in, and for the purposes represented by, said amended application, be, and the same hereby are, exempted from the provisions of section 6 (a) of the Public Utility Holding Company Act of 1935, subject, however, to the following conditions:

(a) That if the express authorization of the issue and sale of such bonds by the Public Utilities Commission of Ohio shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission;

(b) That all matters in connection with said application, as amended, shall be performed in all respects as set forth in and for the purposes represented by said application, as amended, provided, however, that no fee shall be paid to Dillon, Read & Co. in connection with the issue and sale of the said bonds pending further order of this Commission; and

(c) That within ten days after the issue and sale of such bonds the applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by, said application, as amended, and in accordance with the terms of this order; and

It is further ordered, That the Commission reserves jurisdiction to determine, at a later date, whether the fee to be paid Dillon, Read & Co., in connection with the issue and sale of the said bonds, is or is not reasonable.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3915; Filed, December 28, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of December, A. D. 1938.

[File Nos. 43-156 and 56-4; 32-94; 46-102]

IN THE MATTERS OF NORTHERN STATES POWER COMPANY (DELAWARE), NORTHERN STATES POWER COMPANY (WISCONSIN), NORTHERN STATES POWER COMPANY (MINNESOTA)

ORDER APPROVING APPLICATIONS AND DECLARATIONS, AS AMENDED

Northern States Power Company, a Delaware corporation, a registered holding company and a subsidiary of Standard Gas and Electric Company, also a registered holding company, Northern States Power Company, a Minnesota corporation, and Northern States Power Company, a Wisconsin corporation, having filed the following applications and declaration and amendments thereto, pursuant to Section 11 (e), Section 10, Section 6 (b) and Section 7 of the Public Utility Holding Company Act of 1935, and pursuant to Rule U-12D-1 adopted by this Commission under that Act:

1. An application (File No. 43-156) by Northern States Power Company, a Delaware corporation, for approval of a plan of recapitalization to effect a reduction in the capital of its Class B common stock from $7,291,663.33 to zero and in the capital of its Class A common stock from $34,155,100 to $8,538,775, to reduce the par value of the Class A common stock from $100 to $25 per share, to terminate the voting power of the Class B common stock on January 1, 1941 and to provide for the cancellation of said stock on January 1, 1944, except as hereinafter provided, to reduce the stated value of the assets of said corporation, and to take certain other action and to make certain accounting adjustments in connection therewith;

2. An application (File No. 56-4) by Northern States Power Company, a Delaware corporation, for approval, pursuant to Rule U-12D-1, of its sale to Northern States Power Company, a Minnesota corporation, of an aggregate principal amount of $2,117,500 of bonds issued by Northern States Power Company, a Wisconsin corporation, and 44,472 shares of the 7% Cumulative Preferred Stock and 25,000 shares of the common stock issued by said Wisconsin corporation and all of the outstanding shares of capital stock of Midland Public Service Company;

3. An application (File No. 46-102) by Northern States Power Company, a Minnesota corporation, for approval, pursuant to Section 10, of its acquisition of the securities referred to in paragraph (2) above to be sold to it by Northern States Power Company, a Delaware corporation, and of its acquisition of 80,000 shares of common stock to be issued by Northern States Power Company, a Wisconsin corporation, in satisfaction, in part, of said Wisconsin corporation's open account indebtedness to said Minnesota corporation in the amount of $16,980,000 and, in part, upon the condition of the cancellation of the balance of said indebtedness;

4. An application (File No. 32-94) by Northern States Power Company, a Wisconsin corporation, for exemption, pursuant to Section 6 (b), from the provisions of Section 6 (a) of said Act of the issue and sale of 80,000 shares of its common stock of a par value of $100 each, said shares to be issued to Northern States Power Company, a Minnesota corporation, for the purposes and upon the considerations as stated in paragraph (3) above, and for the issuance to holders of shares of preferred stock of said Wisconsin corporation of additional shares of its common stock through the exercise by the holders of said preferred shares of the right (which they will receive by amendment to the articles of incorporation of said Wisconsin corporation) to convert said shares of preferred stock into common stock of said Wisconsin corporation; the issue and sale of all of such common stock as aforesaid having been expressly authorized by the Public Service Commission of Wisconsin, and a declaration, pursuant to Section 7, with respect to the exercise by said Wisconsin corporation of the privilege or right to alter the priorities, preferences, voting power and other rights of the holders of the outstanding preferred stock of said Wisconsin corporation, including changing the preferred stock dividend rate from 7 per cent per annum to 5 per cent per annum after December 31, 1938 and providing that the holders of such preferred stock, at their option, may convert such stock into common stock upon the basis of one share of common stock for each share of preferred stock if the conversion is made on or before March 1, 1939 and one share of common stock for each one and fifteen-hundredths share of preferred stock if the conversion is made after March 1, 1939.

Public hearings on said matters having been held [1] after appropriate notice, and the Commission having considered the record in these matters and having made and filed its findings herein;

It is ordered, That said plan of recapitalization of Northern States Power Company, a Delaware corporation, be and it is hereby approved and that the applications and declarations, as amended, of the three corporations named in the caption of this order be and the same are hereby granted and shall be and become effective forthwith, all subject, however to the following terms and conditions:

(a) That the consummation of the plan of recapitalization of Northern States Power Company, a Delaware corporation, be effected in substantial compliance with the terms and conditions of, and for the purposes represented by, the application pertaining thereto above referred to;

(b) That Standard Gas and Electric Company, a Delaware corporation, forthwith execute (with the blanks appropriately filled) an agreement to be entered into between said corporation and Wilmington Trust Company, of Wilmington, Delaware, in the form of the agreement heretofore submitted to this Commission and made a part of the record in these proceedings, and deposit thereunder all shares of the Class B common stock of Northern States Power Company, a Delaware corporation, owned by said Standard Gas and Electric Company;

(c) That all appropriate and necessary corporate proceedings be taken forthwith by the three Companies which are named in the caption of this order to carry out the plan of recapitalization of Northern States Power Company, a Delaware corporation, approved by this order, and the other things to be done as described in the several applications and declaration, as amended, filed herein;

(d) That a statement to the effect that these conditions have been complied with, together with a copy of the agreement above referred to, as executed, be filed with the Commission on or before January 10, 1939.

It is further ordered, That all the outstanding shares of Class B common stock of Northern States Power Company, a Delaware corporation, shall be cancelled not later than January 1, 1944 and, for the purpose of facilitating such cancellation all certificates for said shares of Class B common stock shall be surrendered to said corporation not later than January 1, 1944 for cancellation, unless on or prior to said date this Commission shall have entered an order finding that during any period of twelve consecutive calendar months ending after January 1, 1939, and prior to January 1, 1944, the consolidated net income of the Delaware Company and its subsidiaries available for dividends after provision for fair and reasonable depreciation shall have exceeded the sum of (a) the dividend requirements for such period and dividends in arrears at the end of such period on any stock of the Company and of any of its subsidiaries entitled to a preference in the distribution of earnings (other than stock owned by the Company or any of its subsidiaries) and (b) the net income applicable to minority interests in the common stocks of its subsidiaries.

It is further ordered, That for the purposes of said plan and in accordance with the application, as amended, filed herein by Northern States Power Company, a Delaware corporation, Standard Gas and Electric Company forthwith execute the agreement referred to in clause (b) of the second preceding paragraph of this order and deposit thereunder the shares of Class B common stock of Northern States Power Company, a Delaware corporation, referred to in said clause (b).

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-3910; Filed, December 28, 1938; 11:04 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of December, A. D. 1938.

[File No. 52-11]

IN THE MATTER OF NORTHEASTERN WATER COMPANIES, INC.

ORDER CONSENTING TO WITHDRAWAL OF APPLICATION PURSUANT TO REQUEST OF APPLICANT

Northeastern Water Companies, Inc., having on July 25, 1938 filed an application pursuant to Section 11 (f) and Rule U-11F-1 thereunder, of the Public Utility Holding Company Act of 1935, for approval of a plan of reorganization, which it was stated the applicant proposed to submit to the United States District Court for the Northern Division of New York in proceedings for its reorgan-

[1] 3 F. R. 2875 DI.
[2] 3 F. R. 2859 DI.

[1] 3 F. R. 2434, 2911 DI.

Interior
JAN 2 1939

ization under Section 77–B of the Federal Bankruptcy Act, and

Northeastern Water Companies, Inc., by a letter dated October 21, 1938 and filed with this Commission on October 22, 1938, having requested that it be permitted to withdraw its application;

It is ordered That upon the request of the applicant, the Commission consents to the withdrawal of the above named application, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3914; Filed, December 28, 1938; 11:05 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its offices in the City of Washington, D. C., on the twenty-second day of December, A. D. 1938.

[File No. 55–9]

IN THE MATTER OF WILLIAM ENGLISH WALLING, II, EXECUTOR OF WILLOUGHBY G. WALLING, DECEASED

ORDER FOR FINAL COMPENSATION DISAPPROVED

William English Walling, II, as executor under the last will and testament of Willoughby G. Walling, deceased, having filed application pursuant to Rule U–11F–2, promulgated under Section 11 (f) of the Public Utility Holding Company Act of 1935, for the approval of final compensation to Willoughby G. Walling in a maximum amount of $25,000 of which $14,000 has heretofore been paid, for services rendered in connection with the reorganization of Utilities Power & Light Corporation, a Virginia corporation, under Section 77B of the Bankruptcy Act, as amended, now pending in the District Court of the United States for the Northern District of Illinois, Eastern Division;

A public hearing having been held[1] on said application, after appropriate notice; the applicant having waived a trial examiner's report, submission by him of proposed findings of fact to the Commission, submission to him of requested findings of fact by counsel to the Commission, the filing of briefs with the Commission and oral argument before the Commission; and the Commission having considered the record in this matter and having made and filed its findings and opinion herein:

It is ordered That the application of William English Walling, II, as executor of the will of Willoughby G. Walling for final compensation, be and hereby is, disapproved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3913; Filed, December 28, 1938; 11:05 a. m.]

[1] 3 F. R. 1871 DI.

Reference

JAN 2 1939

FEDERAL REGISTER

VOLUME 3 NUMBER 253

Washington, Friday, December 30, 1938

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

RESULTS OF FLUE-CURED TOBACCO REFERENDUM

A PROCLAMATION BY THE SECRETARY OF AGRICULTURE

I, H. A. Wallace, Secretary of Agriculture, acting under and pursuant to, and by virtue of, the authority vested in me by Sec. 312 of the Agricultural Adjustment Act of 1938, as amended, do hereby make the following proclamation:

SECTION 727.103 *Results of flue-cured tobacco referendum.* In the referendum of farmers who were engaged in production of the 1938 crop of flue-cured tobacco, conducted by the Secretary of Agriculture on the 10th day of December, 1938, to determine whether such farmers were in favor of or opposed to the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1939, the total number of votes cast was 233,393; and of the total number of votes so cast 132,460 votes, or 56.8 percent, were in favor of, and 100,933 votes, or 43.2 percent, were opposed to, such marketing quota. The national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1939, proclaimed by the Secretary of Agriculture on the 21st day of November, 1938,[1] is, therefore, terminated. (Sec. 312, 52 Stat. 46).

Done at Washington, D. C., this 29th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3925; Filed, December 29, 1938; 12:31 p. m.]

[1] 3 F. R. 2769 DI.

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, AND PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

AMENDMENT TO RULES OF PRACTICE

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, [C. 38, sec. 19, 48 Stat. 85; C. 404, Sec. 209, 48 Stat. 908, 15 U. S. C. 17s] the Securities Exchange Act of 1934, as amended, particularly Section 23 (a) thereof, [C. 404, sec. 23, 48 Stat. 901; C. 462, sec. 8, 49 Stat. 1379; 15 U. S. C. 78W and Sup. III] and the Public Utility Holding Company Act of 1935, particularly Sections 19 and 20 (a) thereof, [C. 687, sec. 19, 49 Stat. 832; 15 U. S. C., Sup. III, 79s: C. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t] and finding such action necessary and appropriate to carry out the provisions of those Acts, hereby amends Rule XVII [Sec. 1.XVII] of the Rules of Practice of the Commission to read as follows:

SEC. 1.XVII (Rule XVII) *Intervention.*

(a) Any interested representative, agency, authority, or instrumentality of the United States, and any interested State, State commission, State securities commission, municipality, or other political subdivision of a State, shall be permitted to intervene in any proceeding upon written request. Any other person may be permitted to intervene in any proceeding upon written application to the Commission showing that he possesses or represents a legitimate interest which is or may be inadequately represented in such proceeding, but no person will be permitted to intervene if after examination the Commission finds that, for any reason (including the existence of undesirable conflicts in the interests possessed or represented by the applicant), his participation in the proceeding would not be in the public interest, or for the protection of investors, or, in a proceeding under the Public Utility Holding Company Act of 1935, for the protection of consumers. Intervention shall be subject to such terms and conditions as the Commission may prescribe, which may

CONTENTS

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration: Page
Flue-cured tobacco referendum results 3183

TITLE 17—COMMODITY AND SECURITIES EXCHANGES:
Securities and Exchange Commission:
Rules of Practice, amendment relative to intervention 3183

TITLE 48—TERRITORIES AND ISLAND POSSESSIONS:
Division of Territories and Island Possessions:
Alaska Railroad, laboratory fees for Anchorage Hospital 3184

NOTICES

Department of Agriculture:
Agricultural Adjustment Administration:
Agricultural conservation program bulletin, 1938, Supplement No. 20 3184

Securities and Exchange Commission:
Commonwealths Distribution, Inc., acquisition of securities 3186
International Utilities Corp., acquisition of securities 3186
Lone Star Gas Co., sale of securities approved 3185
Lone Star Gas Co., et al:
Acquisition of securities approved 3185
Effectiveness of declarations 3185

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include a requirement that the applicant divest himself of specified interests which might conflict with the interests upon which his intervention is based.

(b) Any person filing an application to intervene shall file therewith an affidavit setting forth in detail his interest or the interest to be represented by him in the proceedings, and stating whether the position which he may propose to take with respect to the pending matter is one already taken by any other party to the proceedings. In the case of a person desiring to intervene in a representative capacity, his affidavit in addition (1) shall state all relevant material facts bearing upon the existence of any interest of the applicant or of any person represented by him which may conflict with the interests of any other person represented by him, including all affiliations of the applicant or of any person represented by him with any other party to the proceedings; (2) if requested by the Commission shall state the names and addresses of the persons represented; and (3) shall be accompanied by copies of all circulars, other general literature, and forms of authorization used or intended to be used by the applicant.

(c) Upon request by any party or by counsel for the Commission, the Trial Examiner or the Commission may for good cause shown order the applicant to submit himself for examination with respect to his application.

Effective January 3rd, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3927; Filed, December 29, 1938; 12:54 p. m.]

TITLE 48—TERRITORIES AND ISLAND POSSESSIONS

DIVISION OF TERRITORIES AND ISLAND POSSESSIONS

THE ALASKA RAILROAD

ANCHORAGE HOSPITAL LABORATORY FEES

ANCHORAGE, ALASKA,
November 28, 1938.

Effective December 1, 1938, the following laboratory fees are established for the Anchorage Hospital.

LABORATORY FEES

PRIVATE PATIENTS

Individual	
Urinalysis	$2.00
Urinalysis 24 hr. Specimen	3.00
Urinalysis Obstetrical or Part Urinalysis	1.00
Kidney Function	3.00
Gastric Analysis	5.00
Blood:	
White Count	2.00
Red Count	2.00
Platletts	1.00
Clotting time	1.00
Differential	3.00
Hemoglobin	1.00
Complete	7.50
Blood, Chem:	
N. P. N	5.00
Urea N	5.00
Creatinin	5.00
Sugar	2.50
Kahn	5.00
Blood:	
Matching, alone	3.00
Blood typing and blood matching	5.00
Smears, simple	1.00
Smears for study	2.50
Sputum	2.50
Colloidal Gold	5.00
Duodenal Drainage	5.00
Blood Typing	2.00
Quan. Sugar—determination in urine	1.00
Sugar tolerance	10.00
Spinal fluid incl. Col. gold & Kahn	10.00
Kidney Cons. test without urinalysis	1.00
Tissue (Miscroscopic)	5.00
Co2 Combining Power	3.00
Basal Metabolic Rate	7.50
Elliott Treatment	1.25
Electrocardiograph	7.50
Infra red treatment	1.00
Ultra violet light	1.00
Diathermy	1.50
Groupings	
Urine, Kahn, Hemoglobin, W. B. C	7.50
Blood Smear using Wright's Stain, R. B. C, W. B. C, Hemoglobin, Differential	7.50
Urine, Urea N, Creatinin	7.50
Urea N, Sugar	6.50
Feces complete (partial feces examinations in proportion)	5.00

O. F. OHLSON,
General Manager.

The above is hereby confirmed.

RUTH HAMPTON,
Assistant Director.

DECEMBER 20, 1938.

[F. R. Doc. 38-3919; Filed, December 29, 1938; 10:23 a. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP-1938-23]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 20

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended,[1] is hereby further amended as follows:

Subsection B of Section I is hereby further amended by the addition of the following:

The national and State acreage allotments of flue-cured tobacco are as follows:

	Acres
Alabama	400
Florida	13,700
Georgia	83,000
North Carolina	590,000
South Carolina	95,000
Virginia	91,500
Total	873,600

The national and State acreage allotments of Burley tobacco are as follows:

	Acres
Alabama	188
Arkansas	75
Georgia	175
Illinois	50
Indiana	12,650
Kansas	560
Kentucky	311,000
Missouri	6,900
North Carolina	9,700
Ohio	16,900
Oklahoma	7
South Carolina	125
Tennessee	76,100
Virginia	12,800
West Virginia	5,050
Total	452,280

The national and State acreage allotments of fire-cured and dark air-cured tobacco are as follows:

	Acres
Indiana	500
Kentucky	88,900
Tennessee	55,500
Virginia	26,300
Total	171,200

The national and State acreage allotments of cigar filler and binder tobacco are as follows:

	Acres
Connecticut	12,077
Florida	818
Georgia	307
Illinois	20
Indiana	130
Massachusetts	4,914
Minnesota	780

[1] 3 F. R. 3125 DI.

	Acres
New Hampshire	54
New York	927
Ohio	19,092
Pennsylvania	24,903
Vermont	27
Wisconsin	23,150
Total	87,199

Done at Washington, D. C., this 29th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3926; Filed, December 29, 1938; 12:31 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of December, A. D. 1938.

[File No. 43-142]

IN THE MATTER OF LONE STAR GAS CORPORATION

SUPPLEMENTAL ORDER APPROVING SALE OF SECURITIES

Lone Star Gas Corporation, a registered holding company, having filed an application and amendments thereto pursuant to Rule U-12D-1, promulgated under the Public Utility Holding Company Act of 1935, regarding the sale to Lone Star Gas Company, Texas Cities Gas Company, Council Bluffs Gas Company, The Dallas Gas Company, County Gas Company, Community Natural Gas Company, and Guthrie Gas Service Company, of securities issued by such subsidiary companies but held by the Corporation, in exchange for which the Corporation will receive other securities in lieu thereof.

A public hearing having been held on said applications, as amended, after appropriated notice;[1] the Commission having considered the record in this matter and having made and filed its findings herein;

It is ordered, That the sale of such securities in the manner and subject to the terms set forth in such amended application be and the same is hereby approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3923; Filed, December 29, 1938; 11:07 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of December, A. D. 1938.

[File No. 43-142]

IN THE MATTERS OF LONE STAR GAS COMPANY, TEXAS CITIES GAS COMPANY, COUNCIL BLUFFS GAS COMPANY, THE DALLAS GAS COMPANY, COUNTY GAS COMPANY, COMMUNITY NATURAL GAS COMPANY, GUTHRIE GAS SERVICE COMPANY

SUPPLEMENTAL ORDER APPROVING ACQUISITION OF SECURITIES

Lone Star Gas Company, Texas Cities Gas Company, Council Bluffs Gas Company, The Dallas Gas Company, County Gas Company, Community Natural Gas Company, and Guthrie Gas Service Company, all subsidiary companies of Lone Star Gas Corporation, a registered holding company, having filed joint and combined applications and amendments thereto pursuant to Rule U-12C-1, promulgated under the Public Utility Holding Company Act of 1935, regarding the acquisition from Lone Star Gas Corporation, and the cancellation thereafter, of certain notes and stocks issued by such applicants and now held by said Corporation.

A public hearing having been held on said applications, as amended, after appropriate notice;[1] the Commission having considered the record in this matter and having made and filed its findings herein;

It is ordered, That the acquisition by applicants of such securities in the manner and subject to the terms set forth in such amended applications be and the same is hereby approved.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3922; Filed, December 29, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of December, A. D. 1938.

[File No. 43-142]

IN THE MATTERS OF LONE STAR GAS COMPANY, TEXAS CITIES GAS COMPANY, COUNCIL BLUFFS GAS COMPANY, THE DALLAS GAS COMPANY, COUNTY GAS COMPANY, COMMUNITY NATURAL GAS COMPANY, GUTHRIE GAS SERVICE COMPANY

SUPPLEMENTAL ORDER RELATIVE TO EFFECTIVENESS OF DECLARATIONS

Lone Star Gas Company, Texas Cities Gas Company, Council Bluffs Gas Company, The Dallas Gas Company, County Gas Company, Community Natural Gas Company and Guthrie Gas Service Company, all subsidiary companies of Lone Star Gas Corporation, a registered holding company, have filed joint and combined declarations and amendments thereto pursuant to section 7 of the Public Utility Holding Company Act of 1935 regarding the issue and sale by each of said declarants of the following described securities:

Lone Star Gas Company:	
4½% note due August 1, 1953	$6,385,000
4½% note due August 1, 1953	1,345,000
4½% note due August 1, 1953	6,770,000
Texas Cities Gas Company:	
4½% note due August 1, 1953	3,400,000
30,000 shares common capital stock, par value $100 per share	3,000,000
10,000 shares common capital stock, par value $100 per share	1,000,000
Council Bluffs Gas Company:	
4½% Income note due August 1, 1953	1,350,000
12,000 shares common capital stock, par value $100 per share	1,200,000
The Dallas Gas Company:	
4½% note due August 1, 1953	300,000
6,530 shares common capital stock, par value $100 per share	653,000
County Gas Company:	
4½% note due August 1, 1953	100,000
Community Natural Gas Company:	
4½% note due August 1, 1953	4,000,000
4½% note due August 1, 1953	1,000,000
4½% note due August 1, 1953	2,000,000
50,000 shares common capital stock, par value $100 per share	5,000,000
Guthrie Gas Service Company:	
4½% Income note due August 1, 1953	25,000
4½% Income note due August 1, 1953	15,000

A joint hearing on these declarations, as amended, having been held after appropriate notice;[1] the Commission having duly considered the record in such matters and having filed its findings herein:

It is ordered, That such declarations be and become effective forthwith upon the condition, however, that the issue and sale of the aforesaid securities shall be effected in compliance with the terms and conditions set forth in and for the purposes represented by such declarations, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3820; Filed, December 29, 1938; 11:06 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its

[1] 3 F. R. 1881, 2097, 2642, 2751 DI.

Reference

JAN 2 1939

office in the City of Washington, D. C., on the 27th day of December, A. D. 1938.

[File No. 46–125]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION

ORDER APPROVING ACQUISITION OF SECURITIES

International Utilities Corporation, a registered holding company, having filed with this Commission an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 for the approval of the acquisition by International Utilities Corporation of 395 shares of no par common stock of General Public Utilities, Inc., which stock is to be issued in payment of a dividend declared by General Public Utilities, Inc.;

A hearing having been held on such application; the record in the matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the acquisition of the aforesaid no par common stock in the manner set forth and for the purposes represented in the application be and the same hereby is approved;

It is further ordered, That within ten days after the acquisition of the securities referred to above, the applicant shall file with this Commission a Certificate of Notification, showing that such acquisition was effected in accordance with the terms and conditions and for the purposes represented by such application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3924; Filed, December 29, 1938; 11:07 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of December, A. D. 1938.

[File No. 46–126]

IN THE MATTER OF COMMONWEALTHS DISTRIBUTION, INC.

ORDER APPROVING ACQUISITION OF SECURITIES

Commonwealths Distribution, Inc., a registered holding company, having filed with this Commission an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935 for the approval of the acquisition by Commonwealths Distribution, Inc., of 1,161 shares of no par common stock of General Public Utilities, Inc., which stock is to be issued in payment of a dividend declared by General Public Utilities, Inc.;

A hearing having been held on such application; the record in the matter having been duly considered; and the Commission having filed its findings herein;

It is ordered, That the acquisition of the aforesaid no par common stock in the manner set forth and for the purposes represented in the application be and the same hereby is approved;

It is further ordered, That within ten days after the acquisition of the securities referred to above, the applicant shall file with this Commission a Certificate of Notification, showing that such acquisition was effected in accordance with the terms and conditions and for the purpose represented by such application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38–3921; Filed, December 29, 1938; 11:06 a. m.]

Reference

JAN 2 1939

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 3 NUMBER 254

Washington, Saturday, December 31, 1938

The President

EXECUTIVE ORDER

TRANSFER OF LANDS FROM THE COCHETOPA NATIONAL FOREST TO THE RIO GRANDE NATIONAL FOREST

COLORADO

By virtue of and pursuant to the authority vested in me by the act of June 4, 1897, 30 Stat. 11, 36 (U. S. C., title 16, sec. 473), and upon the recommendation of the Secretary of Agriculture, it is ordered that the following-described area be transferred from the Cochetopa National Forest to the Rio Grande National Forest:

NEW MEXICO PRINCIPAL MERIDIAN

All the area in Saguache County, Colorado, in Townships 42 North, Ranges 4 and 5 East; Townships 43 North, Ranges 4, 5, and 6 East, inclusive, and Townships 44 North, Ranges 4 and 5 East, lying within the boundaries of the Cochetopa National Forest and south and east of the divide between the Saguache Creek drainage and the Carnero Creek drainage, from Bowers Peak northeasterly, over Lookout Mountain, and Lake Mountain to the boundary line of the Cochetopa National Forest on the eastern section line of Section 3, Township 43 North, Range 6 East.

It is not intended by this order to give any publicly-owned lands a national-forest status which do not now have such a status, or to remove any publicly-owned lands from a national-forest status.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 29th, 1938.

[No. 8030]

[F. R. Doc. 38–3928; Filed, December 30, 1938; 10:00 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 723—RESULTS OF RICE REFERENDUM, 1939–40 MARKETING YEAR

I, H. A. Wallace, Secretary of Agriculture, acting under and pursuant to, and by virtue of, the authority vested in me by Section 355 of the Agricultural Adjustment Act of 1938, as amended, do hereby make the following proclamation:

SECTION 723.3 *Results of rice referendum.* In the referendum of producers who would be subject to the national marketing quota for rice for the marketing year beginning August 1, 1939, conducted by the Secretary of Agriculture on the 10th day of December, 1938, to determine whether such producers were in favor of or opposed to such quota, the total number of votes cast was 7,890; and of the total number of votes so cast 3,806 votes, or 48.2 percent, were in favor of, and 4,084 votes, or 51.8 percent, were opposed to, such marketing quota. The national marketing quota for rice for the marketing year beginning August 1, 1939, proclaimed by the Secretary of Agriculture on the 26th day of November, 1938,[1] shall not, therefore, become effective. (Sec. 355, 52 Stat. 62)

Done at Washington, D. C., this 30th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38–3934; Filed, December 30, 1938; 12:51 p. m.]

PART 724—RESULTS OF BURLEY TOBACCO REFERENDUM

I, H. A. Wallace, Secretary of Agriculture, acting under and pursuant to, and by virtue of, the authority vested in me by Sec. 312 of the Agricultural Adjustment Act of 1938, as amended, do hereby make the following proclamation:

SECTION 724.103 *Results of Burley tobacco referendum.* In the referendum of farmers who were engaged in production of the 1938 crop of Burley tobacco, conducted by the Secretary of Agriculture on the 17th day of December, 1938, to determine whether such farmers were in favor

[1] 3 F. R. 2784 DI.

CONTENTS

THE PRESIDENT

Executive Order: Page
Colorado, land transfer between Cochetopa and Rio Grande National Forests---------- 3187

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Agricultural Adjustment Administration:
Results of referendum on:
Burley tobacco---------- 3187
Fire-cured and dark air-cured tobacco---------- 3188
Rice, 1939–40 marketing year ---------- 3187
Sugar Division:
Hawaii and Puerto Rico, sugar consumption requirements for 1939----- 3188
TITLE 16—COMMERCIAL PRACTICES:
Federal Trade Commission:
Baby Chick Industry, trade practice rules---------- 3188

NOTICES

Department of Labor:
Wage and Hour Division:
Handlers of flue-cured, etc., tobacco, application for partial exemption from maximum hours provisions---------- 3192
Securities and Exchange Commission:
Orders reopening hearings, etc.:
Griffith, Franklin T., et al, voting trustees:
Common stock of Pacific Northwest Public Service Co., now Portland Electric Power Co----- 3192
Second preferred stock of Portland Electric Power Co---------- 3193
Portland Electric Power Co., Portland General Electric Co---------- 3193

FEDERAL REGISTER

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of or opposed to the national marketing quota for Burley tobacco for the marketing year beginning October 1, 1939, the total number of votes cast was 217,339; and of the total number of votes so cast 129,123 votes, or 59.4 percent, were in favor of, and 88,216 votes, or 40.6 percent, were opposed to, such marketing quota. The national marketing quota for Burley tobacco for the marketing year beginning October 1, 1939, proclaimed by the Secretary of Agriculture on the 29th day of November, 1938,[1] is, therefore, terminated. (Sec. 312, 52 Stat. 46)

Done at Washington, D. C., this 30th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3936; Filed, December 30, 1938; 12:51 p. m.]

PART 726—RESULTS OF FIRE-CURED AND DARK AIR-CURED TOBACCO REFERENDUM

I, H. A. Wallace, Secretary of Agriculture, acting under and pursuant to, and by virtue of, the authority vested in me by Sec. 312 of the Agricultural Adjustment Act of 1938, as amended, do hereby make the following proclamation:

SECTION 726.103 *Results of fire-cured and dark air-cured referendum.* In the referendum of farmers who were engaged in production of the 1938 crop of fire-cured and dark air-cured tobacco, conducted by the Secretary of Agriculture on the 17th day of December, 1938, to determine whether such farmers were in favor of or opposed to the national marketing quota for fire-cured and dark air-cured tobacco for the marketing year beginning October 1, 1939, the total number of votes cast was 43,736; and of the total number of votes so cast 26,419 votes, or 60.4 percent, were in favor of, and 17,317, or 39.6 percent, were opposed to, such marketing quota. The national marketing quota for fire-cured and dark air-cured tobacco for the marketing year beginning October 1, 1939, proclaimed by the Secretary of Agriculture on the 29th day of November, 1938,[1] is, therefore, terminated. (Sec. 312, 52 Stat. 46)

Done at Washington, D. C., this 30th day of December, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3935; Filed, December 30, 1938; 12:51 p. m.]

SUGAR DIVISION

[G. S. Q. R. Series 6, No. 2]

PART 821—SUGAR QUOTAS

SUGAR CONSUMPTION REQUIREMENTS FOR THE CALENDAR YEAR 1939 FOR THE TERRITORY OF HAWAII AND FOR PUERTO RICO

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, approved September 1, 1937, I, H. A. Wallace, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give public notice of these regulations, which shall have the force and effect of law and shall remain in force and effect until amended or superseded by orders or regulations hereafter made by the Secretary of Agriculture.

SEC. 821.31 *Consumption requirements and quotas*—(a) *Original consumption requirements.* It is hereby determined, pursuant to Section 203 of the Sugar Act of 1937 (hereinafter referred to as the "act"), that the amount of sugar needed to meet the requirements of consumers in the Territory of Hawaii for the calendar year 1939 is 29,412 short tons of sugar, raw value, and that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1939 is 70,812 short tons of sugar, raw value.

(b) *Original local consumption quotas.* There are hereby established, pursuant to section 203 of the said act, for local consumption in the Territory of Hawaii and in Puerto Rico, for the calendar year 1939, the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Hawaii	29,412
Puerto Rico	70,812

(Sec. 203, 50 Stat. 905; 7 U. S. C., Sup. III, 1113)

SEC. 821.32 *Restrictions on marketing.* For the calendar year 1939, all persons are hereby forbidden, pursuant to section 209 of the said act, from marketing in the Territory of Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the year has been filled. (Sec. 209, 50 Stat. 908; 7 U. S. C., Sup. III, 1119)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 29th day of December 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-3937; Filed, December 30, 1938; 12:52 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 30th day of December, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[File No. 21-335]

IN THE MATTER OF TRADE PRACTICE RULES FOR THE BABY CHICK INDUSTRY

PROMULGATION

Due proceedings having been held[1] under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of December 31, 1938.

STATEMENT BY THE COMMISSION

Trade practice rules for the Baby Chick Industry, as herein set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure.

The general purpose of the rules is to foster and promote fair competitive conditions and the protection of the purchasing and consuming public, and to this end to eliminate and prevent misrepresentation, deceptive concealment, and other unfair methods of competition or unfair or deceptive acts or practices.

In the course of the proceedings an industry's conference was held in St. Paul, Minnesota, under the Commission's auspices, and proposed trade practice rules were submitted by members of the industry. Subsequently, tentative action was taken by the Commission on the rules so submitted and a draft of proposed rules was made available upon public notice of at least fifteen days, in pursuance of which all interested and affected parties were afforded opportunity to present such pertinent facts, suggestions or objections as they desired and to be heard in respect to the proposed rules. At the public hearing held in Washington, all matters submitted orally or in writing were received and filed in the proceeding.

Thereafter, and upon consideration of the entire matter, final action was taken and the rules in the form appearing herein under Group I and Group II were respectively approved and received by the Commission.

The rules for the Baby Chick Industry herein promulgated supersede and replace prior rules for the industry as published by the Federal Trade Commission on November 25, 1933.

These rules promulgated by the Commission are designed to foster and promote fair competitive conditions in the interest of the industry and the public. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

The unfair trade practices which are embraced in these Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited, within the purview of the Federal Government, by acts of Congress, as construed in the decisions of the Federal Trade Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation or other organization, of such unlawful practices in or directly affecting interstate commerce.

Definition.—The term "baby chicks" as used in these rules shall be understood as including turkey poults, goslings, ducklings, or other live young poultry to be raised for breeding purposes or for the production of eggs and other poultry products.

RULE 1. *Misrepresentation of products.*—It is an unfair trade practice, in the course of or in connection with the offering for sale, sale or distribution of baby chicks, to make or publish, or cause to be made or published, directly or indirectly, any false, misleading or deceptive statement or representation (whether in the form of advertisement, guarantee, warranty, testimonial, endorsement, depiction, illustration, or other form of representation, however disseminated or published):

(a) Concerning the grade, quality, quantity, breed, pedigree, type, sex, sexing, quick maturity, uniform development, character, nature, origin, weight, color or size of such baby chicks; or

(b) Concerning the production, sale or distribution of any such baby chicks; or

(c) Concerning the purported supervision, endorsement or approval of any poultry breeding, hatching or other operation by Federal, State or other authority; or

(d) Concerning any other matter in relation to such baby chicks.

RULE 2. *Deceptive concealment of material facts.*—In advertising, offering for sale or selling baby chicks, it is an unfair trade practice for any member of the industry to conceal or fail or refuse to disclose any material facts for the purpose or with the effect of thereby misleading or deceiving purchasers, as for example:

(a) Filling baby chick orders with cockerels which have been obtained from sexed chicks or from other sources without having disclosed to the purchaser at the time of sale the fact that the baby chicks delivered are cockerels;

(b) Adding surplus cockerel chicks to so-called "straight-run" chicks and offering for sale, selling or delivering same to customers without informing the respective purchasers of the fact that such surplus or added cockerels have been included and without obtaining such purchasers' consent thereto.

NOTE.—The above examples are but a few illustrations of the scope of Rule 2.

RULE 3. (*a*) *Misuse of words "Guaranteed to Live", etc.*; (*b*) *Use of deceptive guarantees as to livability of baby chicks, etc.*—(a) It is an unfair trade practice to advertise, guarantee, describe or otherwise represent that baby chicks sold or offered for sale are "guaranteed to live", or to make similar statements or representations, with the purpose or with the tendency and capacity or effect of misleading or deceiving purchasers or prospective purchasers into the erroneous belief that the said baby chicks possess extraordinary stamina or other qualities which prevent disease or death.

(b) It is an unfair trade practice to make or publish, or cause to be made or published, directly or indirectly, any false, misleading or deceptive statement, guarantee, warranty or other representation concerning the livability, health or stamina of baby chicks sold or offered for sale.

RULE 4. *Misrepresentation as to yields of eggs.*—It is an unfair trade practice to advertise, guarantee, describe or otherwise represent, directly or indirectly, that very high yields of eggs are received from all flocks of a particular seller or producer when such is not the fact, or when such statement or representation is true only as to a small percentage or proportion of his flocks.

RULE 5.—*Misrepresentation as to blood testing, etc.*—(a) It is an unfair trade practice to advertise, guarantee, describe or otherwise represent, directly or indirectly, that all baby chicks or other poultry sold or offered for sale have been blood tested, pullorum tested, vaccinated, inoculated, or otherwise treated for any disease when such is not the fact, or when only a portion of the flocks supplying the eggs have been so treated or tested during the current season.

(b) It is an unfair trade practice to use any disease control term such as "pullorum tested", "blood tested", or the like, in advertising or otherwise, in such manner as to have the tendency and capacity or effect of misleading or deceiving purchasers or prospective purchasers into the belief that officially approved methods have been used in making these tests when such is not the fact.

RULE 6. *Deceptive substitution of inferior chicks for those ordered.*—It is an unfair trade practice to advertise, guarantee, describe or otherwise represent that the flocks of a particular seller or producer possess certain good qualities, such as ability to resist disease or to produce high yields of eggs, or the like, and then upon receipt of customers' orders for baby chicks from the flocks advertised, filling same from flocks of an inferior quality, without informing the purchasers of such substitution.

RULE 7. *Deceptive sale of chicks at purported bargain prices.*—It is an unfair trade practice to sell or offer to sell baby chicks of poor grade or quality at so-called "bargain prices" or at any other prices, through adverstisements or otherwise, from a farm or hatchery advertised or bearing a reputation for high grade production, without informing purchasers or prospective purchasers as to the poor grade or quality of such chicks and with the tendency and capacity or effect of thereby misleading or deceiving them into the erroneous belief that they are receiving a bargain when such is not the fact.

RULE 8. *Misrepresentation as to egg production qualities of poultry.*—In the case of a producer of baby chicks mating with his flocks a limited number of males having a record for transmitting high egg production qualities while mating therewith other males having no such record, it is an unfair trade practice to offer baby chicks for sale from his flocks, through advertising or otherwise, in such manner as to have the tendency and capacity or effect of misleading or deceiving purchasers into the belief that all of such chicks possess the same high egg production qualities as the said males of high pedigree, or that such flocks have been mated exclusively with males having a record for transmitting high egg production qualities, when such is not the fact.

RULE 9. *Deceptive use of "Leaders".*—It is an unfair trade practice to offer for sale, advertise or otherwise represent baby chicks as being of a certain high grade or quality, offered at claimed "bar-

[1] 3 F. R. 2801 DI.

[1] 3 F. R. 2801 DI.

[1] 3 F. R. 2293 DI.

gain prices" and under circumstances which have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into the belief that an adequate supply of such chicks is available to purchasers at such prices, or that all chicks so offered for sale or sold under such representations and conditions are of the same high grade or quality, when such is not true in fact.

RULE 10. *Misuse of words "Hatchery", "Chickery", "Chick Nursery", "Farm", "Poultry Farm", "Breeding Farm", "Incubators", etc.*—(a) It is an unfair trade practice for any person, partnership or corporation by trade or corporate name, through advertising or otherwise, to hold himself or itself out as owning or operating a hatchery, chickery, chick nursery, farm, poultry farm, breeding farm, incubators or the like, when such is not the fact.

(b) In the sale or offering for sale of baby chicks, through advertising or otherwise, it is an unfair trade practice for any person, partnership or corporation to represent that such chicks have been produced by the said person, partnership or corporation, or have been produced under certain conditions, when such is not the fact.

RULE 11. *Deceptive guarantees or representations as to percentage of chicks alive at buyer's destination.*—It is an unfair trade practice to make false, misleading or deceptive guarantees, warranties, or other representations to the effect that a certain percentage of the chicks shipped will be alive at buyer's destination, and then fail to adjust losses pursuant to representations made, with the purpose or with the tendency and capacity or effect of misleading or deceiving purchasers or prospective purchasers.

RULE 12. *Misrepresenting chicks sold at auction, through shipment to fictitious consignees, through agents, salesmen or dealers, etc.*—It is an unfair trade practice to cause baby chicks to be sold under deceptive or misleading conditions, at auction sales, through shipment to fictitious consignees, or through agents, salesmen, dealers, or otherwise, whether by means of false, misleading or deceptive statements or representations or by means of deceptive concealment of material facts.

RULE 13. *Deceptive testimonials.*—It is an unfair trade practice for any member of the industry to publish or use misleading or deceptive testimonials regarding exceptional results alleged to have been obtained by buyers of his chicks, which testimonials are so worded as to have the tendency and capacity or effect of inducing purchasers or prospective purchasers to believe that all of such member's chicks may be expected to produce similar results for all buyers when such is not the fact.

RULE 14. *Misuse of word "Free".*—The use of the word "free", or the equivalent thereof, where not properly or fairly qualified when the article is in fact not free, with the tendency or capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.

RULE 15. *Misrepresenting chicks as from stock entered in egg-laying contests or poultry shows, etc.*—It is an unfair trade practice to advertise, guarantee, describe or otherwise represent that baby chicks sold or offered for sale are from, or are closely related to, stock entered in egg-laying contests or poultry shows, or the like, when such is not the fact.

RULE 16. *Misuse of terms "trapnest", "trapped", etc.*—It is an unfair trade practice to use the terms "trapnest", "trapped", or the like, in such manner as to have the tendency and capacity or effect of misleading or deceiving purchasers or prospective purchasers into the belief that all baby chicks sold or offered for sale are hatched from eggs produced by hens that are actually being trapped, or have been trapped for at least one year, when such is not the fact.

RULE 17. *Deceptive depictions.*—It is an unfair trade practice to use photographs, cuts, engravings, illustrations, or pictorial or other depictions or devices, in catalogues, sales literature or advertisements, or otherwise, in such manner as to have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the size, importance or location of the premises occupied by a member of the industry, as to such member's equipment, as to his breeding flocks or poultry products, or as to any phase of his poultry hatching, breeding, or other operations.

RULE 18. *Deceptive representations as to earnings, etc.*—It is an unfair trade practice to make false, misleading or deceptive statements or representations regarding opportunities for making money or actual or probable earnings of agents or dealers handling hatching eggs, baby chicks or other poultry, or of purchasers raising baby chicks or other poultry, which products are being offered for sale or sold by a member of the industry.

RULE 19. *Deception as to transportation charges.*—(a) It is an unfair trade practice to sell or offer to sell baby chicks, through advertising or otherwise, in such manner as to mislead or deceive purchasers or prospective purchasers into the belief that the prices quoted for such chicks are the prepaid or delivered prices when such is not the fact.

(b) It is an unfair trade practice, by failing correctly to inform customers or by other deception, to cause purchasers to believe that transportation costs will not be charged against them in C. O. D. charges or otherwise, when such is not true in fact.

RULE 20. *Publishing or circulating of false or misleading price quotations, price lists, etc.*—The publishing or circulating by any member of the industry of false or misleading price quotations, price lists, terms or conditions of sale, with the tendency and capacity or effect of misleading or deceiving purchasers or prospective purchasers, is an unfair trade practice.

RULE 21. *Misrepresenting offer as "special".*—It is an unfair trade practice to represent an offer as "special" when it is in fact a "regular" offer.

RULE 22. *Fictitious prices.*—Offering baby chicks for sale at prices purported to be reduced from what are in fact fictitious prices, or offering such chicks for sale at a purported reduction in price when such purported reduction is in fact fictitious, with the tendency and capacity or effect of misleading or deceiving purchasers or prospective purchasers, is an unfair trade practice.

RULE 23. *Misrepresenting offer as limited to time, etc.*—It is an unfair trade practice to represent an offer to be limited as to time or otherwise when such is not the fact.

RULE 24. *Bogus independents.*—It is an unfair trade practice to sell or offer to sell industry products through a pretended independent concern in such manner as to mislead or deceive purchasers or prospective purchasers into the erroneous belief that such concern is independent and in competition with that member of the industry owning or controlling such concern.

RULE 25. *Schemes involving lottery, misrepresentation or fraud.*—The offering or giving of prizes, premiums or gifts in connection with the sale of industry products or as an inducement thereto by any scheme which involves lottery, misrepresentation or fraud, is an unfair trade practice.

RULE 26. *Misuse of word "guarantee", etc.*—It is an unfair trade practice to use the word "guarantee", or any other word, expression or representation of similar import, in such manner as to have the tendency and capacity or effect of misleading or deceiving purchasers or prospective purchasers.

RULE 27. *Defamation of competitors or disparagement of their products.*—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies or services, is an unfair trade practice.

RULE 28. *"Loss leaders".*—The practice of selling any product of the industry below the seller's cost as a "loss leader" to induce the purchase of any other product of the industry, the sale of the latter being used to recoup the loss sustained on the "loss leader" product so sold, with the tendency or capacity to mislead or deceive purchasers or prospective purchasers, is an unfair trade practice.

RULE 29. *Inducing breach of contract.*—Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 30. *Enticing away the employees of competitors.*—Wilfully enticing away the employees of competitors, with the purpose and effect of unduly hampering, injuring or prejudicing competitors in their businesses, is an unfair trade practice.

RULE 31. *Espionage.*—The securing of information from competitors concerning their businesses by false or misleading statements or representations or by false impersonation of one in authority and the wrongful use thereof to unduly hinder or stifle the competition of such competitors is an unfair trade practice.

RULE 32. *Coercing purchase of one product as a prerequisite to the purchase of other products.*—The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade is an unfair trade practice.

RULE 33. *Consignment selling.*—It is an unfair trade practice for any member of the industry to use the practice of shipping goods to dealers or distributors on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade; provided, however, that nothing herein shall be construed or used as restricting or preventing consignment shipping or marketing of commodities in good faith, and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

RULE 34. *Selling below cost.*—The selling or offering for sale of baby chicks or "started chicks" below the seller's cost with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or unreasonably restrain trade is an unfair trade practice; all elements recognized by good accounting practice as proper elements of such cost shall be included in determining cost under this rule.

RULE 35. (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc.,*[1] *which effect unlawful price discrimination.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential,[2] where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[2] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[2] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them: *Provided, however,*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce[2] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.*—It is an unfair trade practice for any member of the industry engaged in commerce,[2] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.*—It is an unfair trade practice for any member of the industry engaged in commerce[2] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or by furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Illegal price discrimination.*—It is an unfair trade practice for any member of the industry or other person engaged in commerce,[2] in the course of such commerce, to discriminate in price in any other respect contrary to Section 2 of the Clayton Act as amended by the Act of Congress approved June 19, 1936 (Public No. 692, 74th Congress), or knowingly to induce or receive a discrimination in price which is prohibited by such section as amended.

RULE 36. *Aiding or abetting use of unfair trade practices.*—For any member of the industry knowingly to aid or abet another member, or any other person, firm or corporation, in the use of unfair trade practices, is an unfair trade practice.

Group II

The trade practices embraced in Group II rules do not, *per se*, constitute vio-

[1] Paragraph (a) of Rule 35 shall not be construed as embracing practices prohibited by paragraphs (b), (c) and (d) of this rule.

[2] As herein used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That this shall not apply to the Philippine Islands.

lations of law. They are considered by the industry either to be unethical, uneconomical or otherwise objectional; or to be conducive to sound business methods which the industry desires to encourage and promote. Such rules, when they conform to the above specifications and are not violative of law, will be received by the Commission, but the observance of said rules must depend upon and be accomplished through the cooperation of the members of the industry concerned, exercised in accordance with existing law. Where, however, such practices are used in such manner as to become unfair methods of competition in commerce or a violation of any law over which the Commission has jurisdiction, appropriate proceedings will be instituted by the Commission as in the case of violation of Group I rules.

RULE A. The industry condemns the practice of disposing of baby chicks by shipping them to fictitious consignees or without an order or other consent of the consignee, necessitating the sale of such undeliverable shipments at public auction by agents of the common carrier in order to secure payment for transportation costs. Such practice is deemed by the industry to be harmful to the chicks and to facilitate the spread of disease.

RULE B. The industry condemns the practice of failing to give proper notice to purchasers of baby chicks of any change in the shipping schedule of an order thereby causing inconvenience and loss to purchasers.

RULE C. The industry condemns the practice of failing to ship baby chicks to customers as promptly as has been agreed upon, which practice frequently results in injury to the chicks and inconvenience and loss to customers.

RULE D. The industry approves the practice of handling business disputes between members of the industry and their customers in a fair and reasonable manner, coupled with a spirit of moderation and good will, and every effort should be made by the disputants themselves to compose their differences. If unable to do so they should, if possible, submit these disputes to arbitration.

RULE E. Lawful contracts are business obligations which should be performed in letter and in spirit. The repudiation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

A Committee on Trade Practices is hereby created by the industry to cooperate with the Federal Trade Commission and to perform such acts as may be legal and proper to put these rules into effect.

Promulgated and issued by the Federal Trade Commission as of December 31, 1938.

[SEAL] C. G. DUGANNE,
Acting Secretary.

[F. R. Doc. 38-3933; Filed, December 30, 1938; 11:30 a. m.]

Notices

DEPARTMENT OF LABOR.

Wage and Hour Division.

IN THE MATTER OF THE APPLICATION OF HANDLERS OF FLUE-CURED, BURLEY, FIRE-CURED, AND DARK AIR-CURED TOBACCO FOR PARTIAL EXEMPTION FROM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT PURSUANT TO SECTION 7 (B) (3) OF SAID ACT

Whereas, applications have been made by the Tobacco Association of the United States and sundry other parties engaged in the buying, handling, stemming, redrying, packing and storing of leaf tobacco of types 11, 12, 13, 14, 21, 22, 23, 24, 31, 35, 36 and 37 (as defined by the Bureau of Agricultural Economics of the United States Department of Agriculture), pursuant to Section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of regulations issued thereunder,[1] for partial exemption from the maximum hours provisions of Section 7 (a) of said Act pursuant to the provisions of said Section 7 (b) (3) applicable to industries found by the Administrator of the Wage and Hour Division to be of a seasonal nature, and

Whereas, it appears from said applications that:

(1) the operations of buying, handling, stemming, and redrying, of green leaf tobacco of the types above enumerated and the packing and storing thereof include operations essential to the preservation of a perishable agricultural product, and

(2) the plants of the green leaf tobacco handlers wherein said operations are performed, close at the end of the operating season each year except for maintenance, repair, clerical and sales work, and

(3) the earliest season begins about August first and the latest about January first and that the shortest season is about four weeks and the longest about four months, and

(4) green tobacco, being the materials used by the industry, is available for natural reasons only at the above indicated times of the year when the plants are in operation.

Now, therefore, upon consideration of the facts and reasons stated in said applications, the Administrator hereby determines, pursuant to Section 526.5 (c) of said Regulations, that a *prima facie* case has been shown for the granting of an exemption, pursuant to Section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Section 526.3 of the Regulations issued thereunder, to that branch of the tobacco industry engaged in the buying, handling, stemming, and redrying of green leaf tobacco of the types set forth in said application and the packing and storing thereof.

In accordance with the procedure set forth in Section 526.5 of the regulations issued under said Act, the Administrator will receive objection to the granting of the exemption and request for hearing from any person interested for fifteen days following the publication in the FEDERAL REGISTER of this preliminary determination. If such objection and request for hearing is received, the Administrator will set the application for hearing before the Administrator or an authorized representative.

If no objection and request for hearing is received within fifteen days, the Administrator will make a finding upon the *prima facie* case shown upon said applications. The exemption shall become effective upon the publication of the finding in the FEDERAL REGISTER.

The said applications may be examined at Room 5321, U. S. Department of Labor, Washington, D. C.

Signed at Washington, D. C., this 30th day of December, 1938.

PAUL SIFTON,
Deputy Administrator.

[F. R. Doc. 38-3929; Filed, December 30, 1938; 10:57 a. m.]

[1] 3 F. R. 2534 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1938.

[File No. 31-127]

IN THE MATTER OF THE APPLICATION OF FRANKLIN T. GRIFFITH, J. C. AINSWORTH AND E. B. MAC NAUGHTON, AS VOTING TRUSTEES UNDER THAT VOTING TRUST AGREEMENT DATED NOVEMBER 1, 1932 BETWEEN SAID TRUSTEES AND THE HOLDERS OF SHARES OF THE COMMON STOCK OF THE PACIFIC NORTHWEST PUBLIC SERVICE COMPANY (NOW PORTLAND ELECTRIC POWER COMPANY), FOR EXEMPTION FROM THE PROVISIONS OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ORDER REOPENING HEARING AND NOTICE THEREOF

An application for exemption pursuant to Section 3 (a) (1) of the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above-named parties;

A hearing having been held on said application on the 17th day of January, 1936, before Charles S. Lobinger, an officer of the Commission, which hearing was closed on said date; and counsel for the Commission having moved that such hearing be reopened for the purpose of taking additional testimony and receiving additional evidence;

It is ordered, That a hearing on such matter be held on January 16, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 11, 1939.

The matter concerned herewith is in regard to the application for exemption as a holding company, filed by Franklin T. Griffith, J. C. Ainsworth and E. B. MacNaughton as Voting Trustees under that Voting Trust Agreement dated November 1, 1932 between said Trustees and the holders of shares of the Common Stock of the Pacific Northwest Public Service Company (now Portland Electric Power Company), for exemption from the provisions of the Act pursuant to Section 3 (a) (1) wherein it is alleged that the applicant and every subsidiary company thereof which is a public utility company from which such holding company derives, directly or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such applicant and every such subsidiary company thereof are organized.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3932; Filed, December 30, 1938; 11:10 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1938.

[File No. 31-128]

IN THE MATTER OF THE APPLICATION OF PORTLAND ELECTRIC POWER COMPANY, PORTLAND GENERAL ELECTRIC COMPANY

ORDER REOPENING HEARING AND NOTICE THEREOF

An application for exemption, pursuant to Section 3 (a) (1) of the Public Utility Holding Company Act of 1935, and pursuant to Section 2 (a) (8) of said Act for an order declaring Seattle Gas Company not to be a subsidiary of Portland General Electric Company, having been duly filed with this Commission by the above-named companies;

A hearing having been held on said application on the 17th day of January, 1936, before Charles S. Lobingier, an officer of the Commission, which hearing was closed on said date; and counsel for the Commission having moved that such hearing be reopened for the purpose of taking additional testimony and receiving additional evidence;

It is ordered, That a hearing on such matter be held on January 16, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 11, 1939.

The matter concerned herewith is in regard to the application for exemption as holding companies filed by Portland Electric Power Company and Portland General Electric Company pursuant to Section 3 (a) (1) of the Act and for an order declaring Seattle Gas Company not to be a subsidiary company of Portland General Electric Company, pursuant to Section 2 (a) (8) of said Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3930; Filed, December 30, 1938; 11:10 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1938.

[File No. 31-179]

IN THE MATTER OF THE APPLICATION OF FRANKLIN T. GRIFFITH, J. C. AINSWORTH AND E. B. MAC NAUGHTON, TRUSTEES UNDER THAT DECLARATION OF TRUST MADE BY FRANKLIN T. GRIFFITH ON NOVEMBER 26, 1935, IN RE THE HOLDING OF 51,414 SHARES OF THE SECOND PREFERRED STOCK OF THE PORTLAND ELECTRIC POWER COMPANY FOR EXEMPTION FROM THE PROVISIONS OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ORDER REOPENING HEARING AND NOTICE THEREOF

An application for exemption pursuant to Section 3 (a) (1) of the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above-named parties;

A hearing having been held on said application on the 17th day of January, 1936, before Charles S. Lobingier, an officer of the Commission, which hearing was closed on said date; and counsel for the Commission having moved that such hearing be reopened for the purpose of taking additional testimony and receiving additional evidence;

It is ordered, That a hearing on such matter be held on January 16, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 11, 1939.

The matter concerned herewith is in regard to the application for exemption as a holding company, filed by Franklin

T. Griffith, J. C. Ainsworth and E. B. MacNaughton, Trustees under that Declaration of Trust made by Franklin T. Griffith on November 26, 1935, in re the holding of 51,414 shares of the Second Preferred Stock of the Portland Electric Power Company for exemption from the provisions of the Act pursuant to Section 3 (a) (1) wherein it is alleged that the applicant and every subsidiary company thereof which is a public utility company from which such holding company derives, directly or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such applicant and every such subsidiary company thereof are organized.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3931; Filed, December 30, 1938; 11:10 a. m.]